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TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES

IN THE

Supreme Court of the United States

October Term, 1952

No. 548 1

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

Volume I
(Pages 1 to 516)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In .... Volumes

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Appeals from the United States District Court,
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In the United States District Court, Northern District of California, Southern Division

No. 32117-R

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY RENTON BRIDGES, HENRY SCHMIDT, and J. R. ROBERTSON,

Defendants.

INDICTMENT

Vio. 18 U.S.C., Section 88, now 18 U.S.C., Section 371—conspiracy to violate Naturalization Laws; 8 U.S.C., Section 746(1) and Section 746(5)—Naturalization Laws.

A true bill,

/s/ GEORGE SIELER,
Foreman.

Bail, $5,000.00 for each defendant.

PENALTY: 1st Count—Imprisonment not exceeding 2 years, or fine not exceeding $10,000.00, or both;

2nd and 3rd Counts—Imprisonment not exceeding 5 years, or fine not exceeding $5,000.00, or both, on each count.

First Count

(18 U.S.C., Section 88; now 18 U.S.C., Section 371)

The Grand Jury charges: That Harry Renton Bridges, Henry Schmidt, and J. R. Robertson (hereinafter called "said defendants") on or about the 23rd day of June, 1945, and continuing thereafter until on or about October 1, 1945, and for some time prior thereto, the exact time being to the Grand Jury unknown, at the City and County of San Francisco, State of California, within said Division and District, did conspire with each other, and with divers other persons to the Grand Jury unknown, to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws, in the manner following, to wit: By having said defendant Harry Renton Bridges fraudulently petition for and obtain naturalization in a naturalization proceeding in the Superior Court of the State of California, in and for the City and County of San Francisco, by falsely and fraudulently stating and representing to the said Court in said proceeding numbered 28152 in the records of said Superior Court, that he, said defendant Harry Renton Bridges, had never belonged to the Communist Party in the United States; that said statement and representation so agreed to be made, and made, as aforesaid, as said defendants, and each of them at all times herein mentioned well knew, were false and fraudulent in this, that said defendant Harry Renton Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including said 17th day of September, 1945; that said statement and representation were material to said naturalization proceeding.

That in pursuance of such conspiracy, and during the existence thereof, and in furtherance, and to effect the objects thereof, said defendants, respectively, did and performed the following overt acts:

1. On the 23rd day of June, 1945, defendant Harry Renton Bridges filed at the office of the Immigration and Naturalization Service, in the City of San Francisco, State of California, an application for a Certificate of Arrival and preliminary form for petition for naturalization.

2. On or about the 8th day of August, 1945, said defendant Harry Renton Bridges appeared before Lloyd H. Garner, a Naturalization Examiner of the United States, at San Francisco, State of California, in the office of the County Clerk in and for the City and County of San Francisco, and gave testimony in the matter of the application of said defendant Harry Renton Bridges for naturalization.

3. On or about the 8th day of August, 1945, said defendants Henry Schmidt and J. R. Robertson, and each of them, at the office of the County Clerk in and for the City and County of San Francisco, State of California, signed as witnesses a petition for naturalization in the case of defendant Harry Renton Bridges.

4. On or about the 17th day of September, 1945, said defendants Harry Renton Bridges, Henry Schmidt, and J. R. Robertson, and each of them, appeared in the Superior Court of the State of California, in and for the City and County of San Francisco, and gave testimony in support of the

petition of defendant Harry Renton Bridges for naturalization.

Second Count

(18 U.S.C., Section 746(1), now 18 U.S.C., Sec 1015(1).)

The Grand Jury further charges: That on the 17th day of September, 1945, at the City and County of San Francisco, State of California, in the Superior Court of the State of California, in and for the City and County of San Francisco, Honorable Thomas M. Foley, Superior Judge, presiding, there came on for hearing a naturalization proceeding, numbered 28152 in the records of said Superior Court, on the petition of defendant Harry Renton Bridges for naturalization under the Nationality Act of October 14, 1940; that defendant Harry Renton Bridges then and there was called and produced as a witness in said proceeding then on for hearing, and took an oath before said Court that he, the said defendant, would testify truly in said proceeding, and said Court then and there had competent authority to administer said oath, and did administer it; that defendant Harry Renton Bridges did then and there wilfully and knowingly make a false statement under oath in certain matters which were material to the issues of said proceeding then and there being heard, giving the following answers to questions asked, to wit:

> "Q. Do you now, or have you ever, belonged to the Communist Party in the United States?
>
> "A. I have not; I do not."

That said answers so stated and testified to by defendant Harry Renton Bridges were, and each of them was, as said defendant then and there knew, wilfully false and contrary to his said oath, and said defendant did not then and there believe said answers, or any of them, to be true, and the said answers were, and each of them was, then and there believed and known by him to be false.

That in truth and in fact said defendant at the time of so testifying belonged to and was a member of the Communist Party in the United States, and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945.

That said statement and testimony of said defendant, and said answers given by him as aforesaid, were upon a material matter, and were material in and to the issues of said proceeding.

Third Count

(8 U.S.C., Section 746(a)(5).)

The Grand Jury further charges: That said defendants, Henry Schmidt and J. R. Robertson, on or about the 17th day of September, 1945, at the City and County of San Francisco, State of California, within said Division and District, did wilfully and knowingly encourage, aid, advise and assist a person, to wit, Harry Renton Bridges, not then and there entitled thereto, to obtain, accept and receive a Certificate of Naturalization, which was to be procured, and was procured by fraud, as said defendants, and each of them, at all times herein mentioned well knew, said fraud consisting of false and fraudulent statements and representations made in a naturalization proceeding before the Superior Court of the State of California in and for the City and County of San Francisco, numbered 28152 in the records of said Superior Court, and said Harry Renton Bridges did not belong to the Communist Party in the United States and had never belonged to the Communist Party in the United States, whereas in truth and in fact said Harry Renton Bridges then and there, as said defendants Henry Schmidt and J. R. Robertson, and each of them, then and there well knew, belonged to and was a member of the Communist Party in the United States, and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945.

A True Bill.

/s/ GEORGE SIELER,
Foreman.

/s/ FRANK J. HENNESSY,
United States Attorney.

/s/ F. JOSEPH DONOHUE,
Special Assistant Attorney General.

/s/ JOHN P. BOYD,
Special Assistant Attorney General.

[Endorsed]: Filed May 25, 1949.

District Court of the United States, Northern
District of California, Southern Division

At a Stated Term of the Southern Division of the United States District Court for the Northern District of California, held at the Court Room thereof, in the City and County of San Francisco, on Thursday, the 16th day of June, in the year of our Lord one thousand nine hundred and forty-nine.

Present: The Honorable Michael J. Roche,
District Judge.

[Title of Cause.]

ARRAIGNMENT OF HENRY SCHMIDT; PLEA OF NOT GUILTY ENTERED BY EACH DEFENDANT; ORDER ALLOWING DEFENDANTS TO SEPTEMBER 1, 1949, TO FILE MOTIONS FOR BILL OF PARTICULARS

Case came on regularly this day for arraignment of defendant Henry Schmidt; hearing of motion for bill of particulars, etc., and motion for enlargement; hearing re time within which to file motions; also for entry of pleas. Robert B. McMillan, Esq., Asst. U. S. Atty., was present for the United States. Defendants Harry Renton Bridges, Henry Schmidt and J. R. Robertson were present with their attorney, Herbert Resner, Esq.

Defendant Henry Schmidt was arraigned upon Indictment, stated his true name to be as contained therein, and thereupon Mr. Resner waived reading of Indictment. Copy of Indictment was handed to defendant Henry Schmidt, who stated he understood the charge against him.

Defendants were called to plead and thereupon defendants Harry Renton Bridges, Henry Schmidt and J. R. Robertson each pleaded "Not Guilty" to the Indictment filed in this case.

After hearing the arguments of the attorneys, it is Ordered that the defendants have to and including September 1, 1949, within which to file motions for bill of particulars, etc., as will more fully appear in an order this day signed and filed.

Ordered case continued to September 1, 1949, for hearing of motions to be filed herein and to be set for trial.

[Title of District Court and Cause.]

MOTION OF HARRY RENTON BRIDGES TO DISMISS THE INDICTMENT AND THE FIRST AND SECOND COUNTS THEREOF

To the Honorable Michael J. Roche, Judge of the Above-entitled Court:

Comes now Harry Renton Bridges, one of the defendants herein, by his counsel Richard Gladstein, Esq., per George R. Andersen, Esq.; Herbert Resner, Esq.; Norman Leonard, Esq., and Irvin Goodman, Esq., and moves the above-entitled Court for its order dismissing the indictment herein and the first and second counts thereof, upon each and all of the grounds hereinafter set forth:

I.

Motion to Dismiss Indictment
Statute of Limitations

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof is barred an tolled, and the Court is entirely without jurisdiction, by the operation of the statute of limitations, namely, Title 18 U.S.C. §3282, since the indictment and the first and second counts thereof were not found within three years next after the alleged offenses were committed.

II.

Motion to Dismiss Indictment
Former Jeopardy

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof puts him in jeopardy of his life or limb for alleged offenses for which he has heretofore been so subjected to jeopardy on four prior, separate and distinct occasions, contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

III.

Motion to Dismiss Indictment
Former Acquittal

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof constitutes a prosecution against him for alleged offenses for which he has been tried on four prior, separate and distinct occasions; and this prosecution of the defendant Bridges therefore is contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirely by reference hereto.

IV.

Motion to Dismiss Indictment
Due Process of Law

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof deprives him of his life, liberty or property without due process of law and it is unfair, arbitrary, unreasonable, capricious, a perversion of justice and a persecution of this defendant and the labor union, namely, International Longshoremen's and Warehousemen's Union, of which he is president, and its members, contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States, in that the present prosecution is the fifth in a series of such proceedings against this defendant, all based upon the same charges and alleged evidence, and which proceeding has been instituted against defendant, as have been the four prior proceedings, because defendant is an effective labor leader and has dared to exercise the freedom that belongs to him as a human being and is guaranteed to him by the Constitution of the United States.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

V.

Motion to Dismiss Indictment
Due Process of Law
Res Judicata

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof constitutes a deprivation of the defendant Bridges' life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States, and this prosecution is capricious, arbitrary, unreasonable, a perversion of justice and a persecution of this defendant in that all of the issues raised by said indictment and the first and second counts thereof have been adjudicated between the parties hereto on four prior separate and distinct occasions and all and each of said prior adjudications have been resolved in favor of the defendant Bridges; and therefore said prior adjudications have rendered the prosecution raised by this indictment and the first and second counts thereof res judicata, and the instant prosecution is therefore barred and without basis in law.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

VI.

Motion to Dismiss Indictment
Due Process of Law
Estoppel

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof deprives him of life, liberty or property without due process of law, contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States in that the conduct and actions of the plaintiff in this cause estop it from proceeding herein and from prosecuting this defendant under this indictment and the first and second counts thereof in that the plaintiff agreed, consented and admitted to the naturalization as a citizen of the United States of this defendant, which naturalization proceedings are the basis for this prosecution and indictment, and that at the time of said naturalization proceedings the plaintiff had in its possession full knowledge of all of the defendant's activities for the entire period of time covered by this indictment, and with said knowledge the plaintiff stated in open court at said time that it had no objection that defendant Bridges be and thereupon he was naturalized.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

VII.

Motion to Dismiss Indictment
Due Process of Law
Failure to Rely

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof deprives him of his life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States in that the plaintiff did not and could not have relied upon any alleged false statements or misrepresentations of the defendant Bridges claimed to have been made at the time of his naturalization since there had been four prior, separate and distinct proceedings in which the plaintiff had the full and complete opportunity to, and it did, inquire into the subject matter of the said alleged false statements and misrepresentations.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

VIII.

Motion to Dismiss Indictment
Due Process of Law
Equal Protection of the Law

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof deprives defendant Bridges of his life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States in that it denies to him the equal protection of the laws since the defendant Bridges, alone of all persons in the country, has been singled out and prosecuted on five separate and distinct occasions for the same alleged offenses.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

IX.

Motion to Dismiss Indictment
Due Process of Law
Liberty of Expression and Action

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof deprives defendant Bridges of his life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States and invades and deprives him of his rights of freedom of speech, press, assembly, petition and opinion contrary to and in violation of the provisions of the First Amendment to the Constitution of the United States in that said indictment was found and the prosecution of the defendant Bridges ~~the~~reunder is being conducted because of his labor union activities, and said indictment was found and said prosecution is being conducted by plaintiff for the purpose of harassing, intimidating and silencing defendant Bridges in his said labor union activities and in the expression of his opinions and beliefs in connection therewith.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

X.

Motion to Dismiss Indictment
Due Process of Law
Bad Faith

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof constitutes a deprivation of defendant Bridges' life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States in that the said indictment and the first and second counts thereof was found and the prosecution of the defendant Bridges is being conducted thereunder in bad faith and for ulterior purposes and not for the purpose of enforcing the naturalization or any other laws of the United States.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

XI.

Motion to Dismiss Indictment
Due Process of Law
Misconduct of Prosecution

The prosecution of the defendant Harry Renton Bridges under this indictment and the first and second counts thereof deprives defendant Bridges of his life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States in that the plaintiff has been guilty of prejudicial misconduct upon the basis of which it obtained a return of this indictment and is proceeding with the prosecution in the following respects:

1. The plaintiff has offered improper inducements to witnesses to testify against defendant Bridges.

2. The plaintiff has utilized illegal methods to obtain evidence against defendant Bridges.

3. The plaintiff created an atmosphere of hysteria before the Grand Jury which found the indictment,

and said indictment was returned upon the basis of bias and prejudice as a result thereof.

4. The prosecution improperly swore witnesses before the Grand Jury which found this indictment to secrecy in violation of Rule 6(e) of the Rules of Criminal Procedure for the United States District Courts.

5. The Attorney General of the United States, under whose direction this indictment was found and this prosecution undertaken, has made prejudicial statements against defendant Bridges, and has admitted the defendant Bridges is being prosecuted because of his labor activities.

6. The plaintiff's attorneys improperly, prejudicially, and without basis impugned activities of counsel for defendant Bridges.

7. The plaintiff has engaged in public activities and statements creating an atmosphere of hysteria, unfairness, bias and prejudice against defendant Bridges rendering an impartial trial of said defendant impossible.

The affidavits of defendant Bridges, Herbert Resner, and Harold M. Sawyer, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, are made a part hereof in their entirety by reference hereto.

XII.

Motion to Dismiss Indictment
Due Process of Law
Illegally Obtained Evidence

The indictment and the first and second counts thereof against the defendant Harry Renton Bridges is without authority in law and said indictment and the first and second counts thereof are void and of no legal effect whatsoever in that the evidence which was presented to the Grand Jury which returned said indictment and the first and second counts thereof was illegally secured, obtained and presented by representatives or agents of the plaintiff herein, contrary to and in violation of the rights of the defendant Bridges as guaranteed to him by the First, Fourth, Fifth and Sixth Amendments to the Constitution of the United States, and, contrary to the provisions of the Federal Communications Act (47 U.S.C. §605).

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

XIII.

Motion to Dismiss Indictment
Due Process of Law
Incompetent, Illegal or Insufficient Evidence Before the Grand Jury

The prosecution of the defendant Harry Renton Bridges under the indictment and the first and second counts thereof deprives him of his life, liberty or property without due process of law and is unfair, arbritrary, unreasonable, capricious, a perversion of justice and a persecution of this defendant, contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States, in that no legal or competent evidence was or could have been presented to the Grand Jury which found said indictment in support of the allegations of the said indictment or the first or second counts thereof, or which justified or sustained or could have justified or sustained said Grand Jury in returning the said indictment and the first and second counts thereof against this defendant.

The defendant Bridges' affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, is made a part hereof in its entirety by reference hereto.

XIV.

Motion to Dismiss Indictment
Unauthorized Persons Present in the Grand Jury Room

The indictment and the first and second counts thereof against the defendant Harry Renton Bridges is void and of no legal force or effect whatsoever and the present prosecution is without authority in and is contrary to law, in that during the time that the plaintiff presented alleged evidence to the Grand Jury, which found this indictment and upon the basis of which this indictment was returned there were persons not authorized by law present before said Grand Jury and during its sessions, contrary to and in violation of the Rules of Criminal Procedure for United States District Courts.

The affidavits of Roy A. Pyle and Frank Slaby, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, are made a part hereof in their entirety by reference hereto.

XV.

Motion to Dismiss Indictment
Failure to State an Offense

The said indictment and the first and second counts thereof against the defendant Harry Renton Bridges do not state facts sufficient to constitute an offense or offenses against the United States.

XVI.

Motion to Dismiss Indictment
Failure to State an Offense
No Fraud

The said indictment and the first and second counts thereof against the defendant Harry Renton Bridges do not state facts sufficient to constitute an offense or offenses against the United States in that it does not appear from the said indictment or the first and second counts thereof how or in what manner the statements, representations and conduct alleged therein to have been made and done by the defendant Bridges did defraud or could have defrauded the United States, or constitute a conspiracy to defraud the United States.

XVII.

Motion to Dismiss Indictment
Failure to State an Offense
No Materiality

The said indictment and the first and second counts thereof against the defendant Harry Renton Bridges do not state facts sufficient to constitute an offense or offenses against the United States, in that it does not appear from the said indictment and the first and second counts thereof how or in what manner the statements representations and conduct therein alleged to have been made and done by this defendant were or could be material to the naturalization proceedings therein referred to.

XVIII.

Motion to Dismiss Indictment
Failure to State an Offense
No Reliance by Plaintiff

The said indictment and the first and second counts thereof against the defendant Harry Renton Bridges do not state facts sufficient to constitute an offense or offenses against the United States, in that it does not appear from the said indictment or the first or second counts thereof how or in what manner the plaintiff relied or could have relied upon the statements, representations and conduct therein alleged to have been made and done by said defendant.

XIV.

Motion to Dismiss Indictment
Failure to State an Offense
Essential Elements or Ingredients Not Alleged

The said indictment and the first and second counts thereof against the defendant Harry Renton Bridges do not state facts sufficient to constitute an offense or offenses against the United States, in that said indictment or the first or second counts thereof do not set forth with sufficient clearness, precision, definiteness, and certainty every essential element or ingredient of the offenses charged so as to enable defendant Bridges to prepare his defense and to permit him to assert the judgment in bar of a subsequent prosecution.

XX.

Motion to Dismiss Indictment
Failure to State an Offense
An Essential Element or Ingredient Not Alleged in Count 1

The said indictment and Count 1 thereof against the defendant Harry Renton Bridges does not state facts sufficient to constitute an offense against the United States in that the allegations of said count "on or about October 1, 1945, and for some time prior thereto, the exact time being to the Grand Jury unknown," do not set forth with sufficient clearness, precision, definiteness and certainty an essential element or ingredient of the offense charged so as to enable the defendant Bridges to prepare his defense and to permit him to assert the judgment in bar of a subsequent prosecution.

XXI.

Motion to Dismiss Indictment
Failure to State an Offense
A Second Essential Element or Ingredient Not Alleged in Count 1

The said indictment and Count 1 thereof against the defendant Harry Renton Bridges does not state facts sufficient to constitute an offense against the United States in that the allegations of said count "from the year 1933 up to and including said 17th day of September, 1945," do not set forth with sufficient clearness, precision, definiteness and certainty an essential element or ingredient of the offense charged so as to enable the defendant Bridges to prepare his defense and to permit him to assert the judgment in bar of a subsequent prosecution.

XXII.

Motion to Dismiss Indictment
Failure to State an Offense
An Essential Element or Ingredient Not Alleged in Count 2

The said indictment and Count 2 thereof against the defendant Harry Renton Bridges does not state facts sufficient to constitute an offense against the United States in that the allegations of said count "from 1933 up to and including the said 17th day of September, 1945," do not set forth with sufficient clearness, precision, definiteness and certainty an essential element or ingredient of the offense charged so as to enable the defendant Bridges to prepare his defense and to permit him to assert the judgment in bar of a subsequent prosecution.

This motion and the various parts thereof is based upon all of the files, records, papers and proceedings in the above-entitled cause, the affidavits of Harry Renton Bridges, of Herbert Resner, Harold M. Sawyer, Roy A. Pyle, and Frank Slaby, served and filed herewith, and upon memoranda of law and points and authorities served and filed herewith, and upon such other documents, memoranda, affidavits, evidence and presentments as defendant may make.

Wherefore, defendant Harry Renton Bridges moves the Court that this indictment and the first and second counts thereof be forthwith dismissed.

Dated: San Francisco, Calif., September 1, 1949.

RICHARD GLADSTEIN,
Attorney for Defendant,
Harry Renton Bridges.

Per:

/s/ GEORGE R. ANDERSEN,

/s/ HERBERT RESNER,

/s/ NORMAN LEONARD,

/s/ IRVIN GOODMAN.

[Endorsed]: Filed September 1, 1949.

[Title of District Court and Cause.]

MOTION OF HENRY SCHMIDT TO DISMISS THE INDICTMENT AND THE FIRST AND THIRD COUNTS THEREOF

To the Honorable Michael J. Roche, Judge of the Above-Entitled Court:

Comes now Henry Schmidt, one of the defendants herein, by his counsel Richard Gladstein, Esq., per George R. Andersen, Esq.; Herbert Resner, Esq.; Norman Leonard, Esq., and Irvin Goodman, Esq., and moves the above-entitled Court for its order dismissing the indictment herein and the first and third counts thereof, upon each and all of the grounds hereinafter set forth:

I.

Motion to Dismiss Indictment Statute of Limitations

The prosecution of the defendant Henry Schmidt under this indictment and the first and third counts thereof is barred and tolled, and the Court is entirely without jurisdiction, by the operation of the statute of limitations, namely, Title 18 U.S.C. §3282, since the indictment and the first and third counts thereof were not found within three years next after the alleged offenses were committed.

II.

Motion to Dismiss Indictment Due Process of Law

The prosecution of the defendant Henry Schmidt under this indictment and the first and third counts thereof deprives him of his life, liberty and property without due process of law, and it is unfair, arbitrary, unreasonable, capricious, a perversion of justice, and a persecution of this defendant and the labor union, namely, International Longshoremen's and Warehousemen's Union, of which he is an International Representative, and its members, contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States, in that the present prosecution is the fifth in a series of such proceedings against an officer of said labor union, one of defendant Henry Schmidt's co-defendants, to wit, defendant Harry Renton Bridges, all based upon the same charges and alleged evidence, and which proceeding has been instituted against this defendant as well as against said defendant's co-defendant Bridges, as have been the four prior proceedings, because this defendant and the said co-defendant Bridges are effective labor leaders and have dared to exercise the freedom that belongs to them as human beings and that is guaranteed to them by the Constitution of the United States.

The affidavits of the defendants Schmidt, Bridges and Robertson, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, are made a part hereof in their entirety by reference hereto.

III.

Motion to Dismiss Indictment
Due Process of Law
Estoppel

The prosecution of the defendant Henry Schmidt under this indictment and the first and third counts thereof deprives him of life, liberty and property without due process of law, contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States in that the conduct of the plaintiff in this cause estopped it from proceeding herein and from prosecuting this defendant under this indictment and the first and third counts thereof in that the plaintiff agreed, consented and admitted to the naturalization as a citizen of the United States of this defendant's co-defendant, Harry Renton Bridges, which naturalization proceedings are the basis for this prosecution and indictment, and at the time of said naturalization proceedings the plaintiff had in its possession full knowledge of all of this defendant's co-defendant Bridges' activities for the entire period of time covered by this indictment, and with said knowledge the plaintiff stated in open court at said time that it had no objection that this defendant's co-defendant Bridges be and thereupon he was naturalized; and, further, in that the plaintiff agreed, consented and stated in open court that this defendant was a satisfactory witness at the hearing of the naturalization proceedings of this defendant's co-defendant Bridges, which naturalization proceedings are the basis for this prosecution and indictment, and further stated in open court at the said hearing that it had no further questions to ask of this defendant.

The affidavits of the defendants Schmidt, Bridges and Robertson, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, are made a part hereof in their entirety by reference hereto.

IV.

Motion to Dismiss Indictment
Due Process of Law
Failure to Rely

The prosecution of the defendant Henry Schmidt under this indictment and the first and third counts thereof deprives him of his life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States in that the plaintiff did not and could not have relied upon any alleged false statements and misrepresentations of this defendant himself or this defendant's co-defendant Bridges claimed to have been made at the time of the latter's naturalization since there had been four prior, separate and distinct proceedings in which the plaintiff had the full and complete opportunity to, and it did, inquire into the subject matter of the said alleged false statements and misrepresentations.

The affidavits of the defendants Schmidt, Bridges and Robertson, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, are made a part hereof in their entirety by reference hereto.

V.

Motion to Dismiss Indictment
Due Process of Law
Liberty of Expression and Action

The prosecution of the defendant Henry Schmidt under this indictment and the first and third counts thereof deprives the defendant Schmidt of his life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States and invades and deprives him of his rights of freedom of speech, press, assembly, petition and opinion contrary to and in violation of the provisions of the First Amendment to the Constitution of the United States in that said indictment was found and the prosecution of the defendant Schmidt thereunder is being conducted because of his labor union activities, and said indictment was found and said prosecution is being conducted by plaintiff for the purpose of harassing, intimidating and silencing defendant Schmidt in his labor union activities and in the expression of his opinions and beliefs in connection therewith.

The defendant Schmidt's affidavit, the defendant Bridges' affidavit, and the defendant Robertson's affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United

States District Courts, are made a part hereof in their entirety by reference hereto.

VI.

Motion to Dismiss Indictment
Due Process of Law
Bad Faith

The prosecution of the defendant Henry Schmidt under this indictment and the first and third counts thereof constitutes a deprivation of defendant Schmidt's life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States in that the said indictment and the first and third counts thereof was found and the prosecution of the defendant Schmidt is being conducted thereunder in bad faith and for ulterior purposes and not for the purpose of enforcing the naturalization or any other laws of the United States.

The defendant Schmidt's affidavit, the defendant Bridges' affidavit, and the defendant Robertson's affidavit, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, are made a part hereof in their entirety by reference hereto.

VII.

Motion to Dismiss Indictment
Due Process of Law
Misconduct of Prosecution

The prosecution of the defendant Henry Schmidt under this indictment and the first and third counts thereof deprives defendant Schmidt of his life, liberty or property without due process of law contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States in that the plaintiff has been guilty of prejudicial misconduct upon the basis of which it obtained a return of this indictment and is proceeding with the prosecution in the following respects:

1. The plaintiff has offered improper inducements to witnesses to testify against defendant Schmidt.

2. The plaintiff has utilized illegal methods to obtain evidence against defendant Schmidt.

3. The plaintiff created an atmosphere of hysteria before the Grand Jury which found the indictment, and said indictment was returned upon the basis of bias and prejudice as a result thereof.

4. The prosecution improperly swore witnesses before the Grand Jury which found this indictment to secrecy in violation of Rule 6(e) of the Rules of Criminal Procedure for the United States District Courts.

5. The Attorney General of the United States, under whose direction this indictment was found and this prosecution undertaken, has made prejudicial statements against defendant Schmidt, and has admitted the defendant Schmidt is being prosecuted because of his labor activities.

6. The plaintiff's attorneys improperly, preju-

dically, and without basis impugned activities of counsel for defendant Schmidt.

7. The plaintiff has engaged in public activities and statements, creating an atmosphere of hysteria, unfairness, bias and prejudice against defendant Schmidt rendering an impartial trial of said defendant impossible.

The affidavits of defendants Schmidt, Bridges and Robertson, and of Herbert Resner and Harold M. Sawyer, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, are made a part hereof in their entirety by reference hereto.

VIII.

Motion to Dismiss Indictment
Due Process of Law
Illegally Obtained Evidence.

The indictment and the first and third counts thereof against the defendant Henry Schmidt is without authority in law and said indictment and the first and third counts thereof are void and of no legal effect whatsoever in that the evidence which was presented to the Grand Jury which returned said indictment and the first and third counts thereof was illegally secured, obtained and presented by representatives or agents of the plaintiff herein, contrary to and in violation of the rights of the defendant Schmidt as guaranteed to him by the First, Fourth, Fifth and Sixth Amendments to the Constitution of the United States, and contrary to the provisions of the Federal Communications Act (47 USC §605).

The affidavits of the defendants Schmidt, Bridges and Robertson, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts are made a part hereof in their entirety by reference hereto.

IX.

Motion to Dismiss Indictment
Due Process of Law
Incompetent, Illegal or Insufficient Evidence Before the Grand Jury

The prosecution of the defendant Henry Schmidt under the indictment and the first and third counts thereof deprives him of his life, liberty or property without due process of law and is unfair, arbitrary, unreasonable, capricious, a perversion of justice and and a persecution of this defendant, contrary to and in violation of the provisions of the Fifth Amendment to the Constitution of the United States, in that no legal or competent evidence was or could have been presented to the Grand Jury which found said indictment in support of the allegations of the said indictment or the first or third counts thereof, or which justified or sustained or could have justified or sustained said Grand Jury in returning the said indictment and the first and third counts thereof against this defendant.

The affidavits of the defendants Schmidt, Bridges and Robertson, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, are made a part hereof in their entirety by reference hereto.

X.

Motion to Dismiss Indictment
Unauthorized Persons in the Grand Jury Room

The indictment and the first and third counts thereof against the defendant Henry Schmidt is void and of no legal force or effect whatsoever and the present prosecution is without authority in and is contrary to law, in that during the time that the plaintiff presented alleged evidence to the Grand Jury which found this indictment and upon the basis of which this indictment was returned there were persons not authorized by law present before said Grand Jury and during its sessions, contrary to and in violation of the Rules of Criminal Procedure for United States District Courts.

The affidavits of Roy A. Pyle and Frank Slaby, filed concurrently herewith, pursuant to Rule 47, Rules of Criminal Procedure for the United States District Courts, are made a part hereof in their entirety by reference hereto.

XI.

Motion to Dismiss Indictment
Failure to State An Offense

The said indictment and the first and third counts thereof against the defendant Henry Schmidt, do not state facts sufficient to constitute an offense or offenses against the United States.

XII.

Motion to Dismiss Indictment
Failure to State an Offense
No Fraud

The said indictment and the first and third counts thereof against the defendant Henry Schmidt do not state facts sufficient to constitute an offense or offenses against the United States in that it does not appear from the said indictment or the first and third counts thereof how or in what manner the statements, representations and conduct alleged therein to have been made and done by the defendant Schmidt did defraud or could have defrauded the United States, or constitute a conspiracy to defraud the United States.

XIII.

Motion to Dismiss Indictment
Failure to State an Offense
No Materiality

The said indictment and the first and third counts thereof against the defendant Henry Schmidt do not state facts sufficient to constitute an offense or offenses against the United States, in that it does not appear from the said indictment and the first and third counts thereof how or in what manner the statements, representations and conduct therein alleged to have been made and done by this defendant were or could be material to the naturalization proceedings therein referred to.

XIV.

Motion to Dismiss Indictment
Failure to State an Offense
No Reliance by Plaintiff

The said indictment and the first and third counts thereof against the defendant Henry Schmidt do not state facts sufficient to constitute an offense or offenses against the United States, in that it does not appear from the said indictment or the first or third counts thereof how or in what manner the plaintiff relied or could have relied upon the statements, representations and conduct therein alleged to have been made and done by said defendant.

XV.

Motion to Dismiss Indictment
Failure to State an Offense
Essential Elements or Ingredients Not Alleged

The said indictment and the first and third counts thereof against the defendant Henry Schmidt do not state facts sufficient to constitute an offense or offenses against the United States, in that said indictment or the first or third counts thereof do not set forth with sufficient clearness, precision, definiteness, and certainty every essential element or ingredient of the offenses charged so as to enable defendant Schmidt to prepare his defense and to permit him to assert the judgment in bar of a subsequent prosecution.

XVI.

Motion to Dismiss Indictment
Failure to State an Offense
An Essential Element or Ingredient Not Alleged in Count 1

The said indictment and Count 1 thereof against the defendant Henry Schmidt does not state facts sufficient to constitute an offense against the United States in that the allegations of said count "on or about October 1, 1945, and for some time prior thereto, the exact time being to the Grand Jury unknown," do not set forth with sufficient clearness, precision, definiteness and certainty an essential element or ingredient of the offense charged so as to enable the defendant Schmidt to prepare his defense and to permit him to assert the judgment in bar of a subsequent prosecution.

XVII.

Motion to Dismiss Indictment
Failure to State an Offense
A Second Essential Element or Ingredient Not Alleged in Count 1

The said indictment and Count 1 thereof against the defendant Henry Schmidt does not state facts sufficient to constitute an offense against the United States in that the allegations of said count "from the year 1933 up to and including said 17th day of September, 1945," do not set forth with sufficient clearness, precision, definiteness and certainty an essential element or ingredient of the offense charged so as to enable the defendant Schmidt to prepare his defense and to permit him to assert the judgment in bar of a subsequent prosecution.

XVIII.

Motion to Dismiss Indictment
Failure to State an Offense
An Essential Element or Ingredient
Not Alleged in Count 3

That said indictment and Count 3 thereof against the defendant Henry Schmidt does not state facts sufficient to constitute an offense against the United States in that the allegations of said count "from 1933 up to and including said 17th day of September, 1945," do not set forth with sufficient clearness, precision, definiteness and certainty an essential element or ingredient of the offense charged so as to enable the defendant Schmidt to prepare his defense and to permit him to assert the judgment in bar of a subsequent prosecution.

XIX.

Motion to Dismiss Indictment
Statute Repealed

Said indictment and Count 3 thereof against the defendant Henry Schmidt are based upon a statute; namely, 8 U.S.C. §746(5), which has been repealed by C. 645, 80th Congress, Second Session, Public Law 772, §21.

This motion and the various parts thereof is based upon all of the files, records, papers and proceedings in the above-entitled cause, the affidavits of Henry Schmidt, Harry Renton Bridges, J. R. Robertson, Herbert Resner, Harold M. Sawyer, Roy A. Pyle and Frank Slaby, served and filed herewith, and upon memoranda of law and points and authorities served and filed herewith, and upon such other documents, memoranda, affidavits, evidence and presentments as defendant may make.

Wherefore, defendant Henry Schmidt moves the Court that this indictment and the first and third counts thereof be forthwith dismissed.

Dated: San Francisco, California, September 1, 1949.

/s/ RICHARD GLADSTEIN,
Attorney for Defendant
Henry Schmidt,

Per

GEORGE R. ANDERSEN,

HERBERT RESNER,

NORMAN LEONARD,

IRVIN GOODMAN.

[Endorsed]: Filed September 1, 1949.

[Title of District Court and Cause.]

AFFIDAVIT OF HARRY RENTON BRIDGES

Territory of Hawaii,
City and County of Honolulu—ss.

Harry Renton Bridges, being first duly sworn, deposes and says:

I am one of the defendants above named. I am also the President of the International Longshoremen's and Warehousemen's Union, affiliated with the Congress of Industrial Organizations, a labor organization whose membership of approximately 70,000 consists primarily of workers in the longshoring, warehousing and allied industries on the Pacific Coast of the United States and in the Territory of Hawaii. My co-defendant R. J. Robertson is also an officer of that union; he is its First Vice-President. My co-defendant Henry Schmidt is presently International Representative of that union. I am executing this affidavit in Hawaii because I am on this date in Hawaii in connection with union affairs pursuant to permission granted to me by the Court to remain outside of its jurisdiction until September 15, 1949.

I.

My personal history insofar as it is material to this case is reviewed in part in the report of the Hon. James M. Landis which was returned in 1939 after the first deportation proceeding in which I was involved—a report which I understand my attorneys in this case have already filed with the Court. I refer the Court to that report.

Briefly, however, I should like to state for the Court's information that my legal entry into the United States occurred in 1920 when I was approximately nineteen years old. After some intermittent employment as a seaman, I settled down in San Francisco in 1922 or 1923 and after a while commenced to work as a longshoreman on the San Francisco waterfront. I continued to earn my living in this way and so far as I know I was indistinguishable from the other thousands of longshoremen who worked on the San Francisco waterfront until 1934. During this period of time, so far as I know, I was not the subject of any particular inquiry or investigation on the part of the Government or any of its branches or agencies.

As the Court knows, there was a longshoremen's strike which commenced in May, 1934, and which was then extended to other waterfront and maritime groupings. I was elected chairman of the Joint Strike Committee and played an active role in the leadership of the strike. Thereafter I was elected President of the longshoremen's local in San Francisco and subsequently I became President of the Pacific Coast District of the International Longshoremen's Association, the labor organization with which the longshoremen were then affiliated, and still later I became, and still am, the President of the International Longshoremen's and Warehousemen's Union. I am now, and have been for many years, a member of the Executive Board of the Congress of Industrial Organizations. In addition, during the period from 1934 to the present

I have had official positions in other labor organizations such as the Maritime Federation of the Pacific.

It was shortly after I became chairman of the Joint Strike Committee during the 1934 waterfront strike in San Francisco that the Government and its various agencies and agents undertook an investigation of me, my political beliefs, affiliations, memberships, and so forth. That investigation, as the public records to which I will refer in a moment show, has been one continuous, unremitting thing.

The forces behind that investigation which rapidly took the form of a persecution, prosecution and harassment, were the forces which stood to lose by the attacks which the longshoremen under my leadership were making upon what the judges of the Circuit Court of this Circuit described when my case was before them in 1944 as the "most vicious and inhumane practices toward longshoremen" (Bridges v. Wixon, 144 F. 2d at 938). Prior to the 1934 strike the longshoremen's wages were 85c an hour; it was necessary for longshoremen to "shape up" several times a day in order to obtain employment (that is to say, it was necessary for them to congregate around the pier-heads or the employment offices of the various stevedoring employers and bid against each other for what jobs were available); under such a system it is obvious that there would be and there was much discrimination, favoritism, so-called "kick-backs" in which men actually paid straw-bosses and foremen for the privilege of working; there was no such thing for longshoremen as paid vacations or compulsory safety codes, limitations on the size of loads, scheduled days off, or any of the decent working conditions which we now think of as normally appurtenant to the American working man's job.

As a result of the struggles of the longshoremen's union under my leadership throughout the years, vast improvements in working conditions have been obtained. We succeeded as a result of the 1934 strike in abolishing the "shape up" and it became possible for longshoremen to be dispatched to their employment through a centralized hiring hall in which work was rotated and equalized insofar as possible and in which there was no discrimination against longshoremen because of race, color, creed or national origin, and in which "kick-backs" and favoritism were eliminated. During the years since 1934 we have succeeded in obtaining for longshoremen vacations with pay, the arbitration of grievances, a compulsory safety code, limitations on the size and weight of loads thereby reducing the number of accidents and deaths suffered by longshoremen on the job. We have also been able to obtain a scheduled day off for longshoremen so that despite the continuous nature of the operation, a longshoreman can know in advance when his day off will be and plan to have a decent kind of social life with his family.

On the wage front alone we have made impressive gains. In 1933 longshoremen were earning 75c an hour; prior to the 1934 strike they were earning 85c an hour; as a result of the award of the Longshore Board which terminated the strike in 1934 they were earning 95c an hour.

In February, 1941, their wages went up to $1.00 an hour.

In February, 1942, their wages went up to $1.10 an hour.

In October, 1944, their wages went up to $1.15 an hour.

In October, 1945, their wages went up to $1.37 an hour.

In November, 1946, their wages went up to $1.52 an hour.

In January, 1947, their wages went up to $1.57 an hour.

In February, 1948, their wages went up to $1.67 an hour.

In December, 1948, their wages went up to $1.82 an hour, which is the present straight-time wage rate for longshoremen.

Of course, since the end of the 1934 strike, longshoremen have enjoyed a six-hour work day so that their actual hourly earnings since 1934 are really greater than what is reflected by the foregoing figures.

As I have said, as a result of my assuming the leadership of the longshoremen in this long struggle to improve their conditions, I found myself the target of a tremendous campaign against me. Seizing upon the technical excuse of my alienage, the campaign took the form of a campaign to deport me. If I had not been an alien, I suppose some other approach would have been taken by those who resisted at every step the efforts the union under my leadership was making to improve the working conditions of the longshoremen.

II.

In 1934 and 1935, while the strike was still on, or almost immediately after its conclusion, an investigation of me was conducted by the District Director of Immigration and Naturalization in San Francisco. As a result of the investigation, the District Director reported to the Commissioner of Immigration and Naturalization as follows:

> "The investigation of the alien referred to above has failed to show that he is in any manner connected with the Communist Party, or with any radical organization.
>
> "The Crime Prevention Detail of the local police department, comprising eleven officers and the Captain of Police in charge, one of whose chief duties is to investigate activities of radicals and of leaders of the Communist Party in particular, have likewise been unable to date to obtain any evidence that the alien has ever been a member of the Communist Party or in any manner directly affiliated therewith, or a member of any radical organization.
>
> "In discharging the duties of my detail at the city prison in investigations of aliens arrested and charged with crime, and of aliens arrested and charged with Communistic or radical activities, I have maintained a very

> close contact with the Crime Prevention Detail from a period long antedating the general strike in S. F. until the present date. I, therefore, know that the officers of said detail have made constant effort to obtain evidence that would in any way connect the alien with radical organizations, or show his membership therein, but with the result heretofore set forth."

This report is contained in a "Memorandum for the Commissioner of Immigration and Naturalization" prepared in 1936 by W. W. Brown, Legal Advisor; Thomas S. Finucane, member of Board of Review, and Joseph Savoretti, Chief Examiner, Legal Branch. In addition to the report of the District Director of Immigration and Naturalization in San Francisco, California, Messrs. Brown, Finucane and Savoretti further reported:

> "It was reported to the District Director at S. F. that Bridges was implicated in the criminal destruction of a railroad bridge in Australia prior to his arrival in the U. S. and that he had a criminal record in Australia. If true, this would make him deportable. The report was investigated at the request of this service by the American Consul in Melbourne, Australia, who, under date of November 5, 1934, reported that the police authorities at Melbourne had no record of Bridges.
>
> "It was also reported that Harry Bridges was identical with one Harold Harvey, a known Communist, whose activities were referred to

> in the Fish Committee hearings, but when Bridges' thumbprint, obtained from seamen's identification cards, was compared with the corresponding thumbprint of Harold Harvey, on file in the Bureau of Identification of the New Orleans Police Department, it was established that Harold Harvey and Harry Bridges were two entirely different individuals.
>
> "A report that Harry Bridges had recently visited Canada was also carefully investigated, as he would be deportable if he had reentered the U. S. without examination. No evidence of this alleged visit to Canada was found, but it was discovered that he had apparently been impersonated there on one occasion by an individual bearing some slight resemblance to Bridges, who sought to cash in on the latter's notoriety.
>
> "In short, whenever any legal ground for the deportation of Bridges has been brought to the attention of the Department of Labor, it has been investigated but, invariably, it has been found that he was in the clear, and that his status as an immigrant was entirely regular."

After this administrative investigation which completely cleared me of charges that I was a member of or affiliated with the Communist Party, there was another investigation which inquired into the same subject matter conducted by George D. Reilly, then Solicitor of the Department of Labor under the jurisdiction of which the Immigration and Naturalization Service at that time came. During the course of said investigation, I was sworn by Mr. Reilly and on October 18, 1937, testified under oath as follows:

> Q. Were you—or are you—a member of the Communist Party? A. No.
>
> Q. Are you a member of any organization or society which believes or teaches or publishes matters teaching or advocating the overthrow of the Government by force? A. No.
>
> Q. Do you yourself believe or advocate such doctrines? A. No.

As a result of this investigation, no action was taken by the Department of Labor against me.

Despite the fact that these two investigations had cleared me of charges that I was a member of or affiliated with the Communist Party, the Secretary of Labor in 1938 issued a warrant which was amended in 1939 for my arrest with a view to my deportation, upon the ground that I was a member of or affiliated with the Communist Party of the United States. A true and correct copy of this warrant of arrest reads as follows:

"Warrant
For Arrest of Alien
United States of America
Department of Labor
Washington

"55973/217

"To District Director of Immigration and Naturalization, Baltimore, Maryland, or to any Immigrant Inspector in the service of the United States.

"Whereas, from evidence submitted to me, it appears that the alien Alfred Renton Bryant Bridges alias Harry Renton Bridges alias Harry Dorgan alias Canfield alias Rossi, who entered this country at San Francisco, California, ex SS 'Ysabel,' on the 12th day of April, 1920, has been found in the United States in violation of the immigration laws thereof, and is subject to be taken into custody and deported pursuant to the following provisions of law, and for the following reasons, to wit: The Act of October 16, 1918, as amended by the Act of June 5, 1920:

"(a) In that after he entered the United States he became and now is a member of an organization, association, society and group that believes in, advises, advocates and teaches the overthrow by force and violence of the Government of the United States;

"(b) In that after he entered the United States he became and now is affiliated with an organization, association, society and group that believes in, advises, advocates and teaches the overthrow by force and violence of the Government of the United States;

"(c) In that after he entered the United States he became and now is a member of an organization, association, society and group that causes to be written, circulated, distributed, printed, published and displayed printed matter advising, advocating and teaching the overthrow by force and violence of the Government of the United States;

"(d) In that after he entered the United States he became and now is affiliated with an organization, association, society and group that causes to be written, circulated, distributed, printed, published and displayed printed matter advising, advocating and teaching the overthrow by force and violence of the Government of the United States.

"I, by virtue of the power and authority vested in me by the laws of the United States hereby command you to take into custody the said alien and grant him a hearing to enable him to show cause why he should not be deported in conformity with law. The expenses of detention, hereunder, if necessary, are authorized payable from the appropriation 'Salaries and Expenses, Immigration and Naturalization Service, 1938.' Pending further proceedings the alien may be released from custody upon his own recognizance.

"For so doing, this shall be your sufficient warrant.

"Witness my hand and seal this 2nd day of March, 1938.

"/s/ TURNER W. BATTLE,

"TURNER W. BATTLE,
"Assistant to the
Secretary of Labor.

"Amended and reissued this
12th day of June, 1939."

In partial response to a request for a bill of particulars filed by my attorneys in that proceeding, the Government replied that the organization referred to in the warrant was the Communist Party of the United States of America.

Thereafter, pursuant to this warrant, a hearing on the issues raised by it was held before the Hon. James M. Landis, duly designated as Trial Examiner in the case by the Secretary of Labor. The hearing commenced on the 10th day of July, 1939, and the taking of testimony was concluded on the 14th day of September, 1939. The stenographic transcript of the hearing comprises 7724 pages; 138 exhibits were introduced on behalf of the Government, and 136 were introduced on my behalf. A total of 60 witnesses were sworn and appeared. The issues of the case were therefore exhaustively litigated.

During the course of the hearing, while under examination by Government counsel on July 10, 1939, I testified under oath as follows:

> Q. Are you now a member of the Communist Party? A. No.
>
> Q. Or have you at any other time in the past been a member of the Communist Party?
>
> A. No. (P. 11)

Again, during the course of the hearing, while under examination by Government counsel on August 2, 1939, I testified under oath as follows:

> Q. Do you belong to any organizations whatsoever in this country outside of the Longshoremen's Association? A. No.
>
> Q. None whatsoever?
>
> A. None whatsoever. (P. 2465)

Subsequently, on the same day and under the same circumstances and still under oath, I testified as follows:

> Q. Have you ever been a member of a Communist Fraction?
>
> A. I believe you have to be a member of the Party to be a member of the Fraction, and I have not. (P. 2490)

During the course of said proceeding the Government produced many witnesses who testified in support of its contention that I was a member of the Communist Party.

After the taking of testimony had been concluded, an opportunity was afforded to both the Government and my attorneys to file briefs on the questions of fact and law which were raised by the amended warrant and the evidence adduced by both sides in relation to those issues, and such briefs were filed. Upon a full and complete consideration of the entire record and the briefs filed, the Trial Examiner, the Hon. James M. Landis, did on the 28th day of December, 1939, transmit to the Secretary of Labor his findings and conclusions on the matter before him. The findings and conclusions, a true and correct copy of which, as I have said, my attorneys have already filed with the Court in this proceeding, comprise a printed bulletin of 150 pages. They represent, as an examination of them will show, a careful and considered evaluation of the testimony adduced and of the points of law involved by a truly competent and discerning examiner. The conclusion of the Hon. James M. Landis reads as follows:

> "The evidence therefore establishes neither that Harry R. Bridges is a member of nor affiliated with the Communist Party of the United States of America."

The Secretary of Labor approved the findings of Dean Landis and his conclusion, and canceled the warrant of deportation.

One would have thought, and I did, that with two investigations and one completely exhaustive hearing, exonerating me of membership in or affiliation with the Communist Party of the United States, the "case of Harry Bridges" would have been closed.

However, Dean Landis' decision only led to demands that the deportation laws be changed to make certain that I would be deported. A special bill was introduced and actually passed the House of Representatives directing the Attorney General forthwith to take me into custody and deport me "notwithstanding any other provisions of law" (H.R. 9766, 76th Cong., 3rd Sess.). This bill died in a Senate committee after Mr. Justice (then Attorney General) Jackson denounced it as inconsistent with the American practice and tradition of due process of law (S. Rep. 2031, 76th Cong., 3rd Sess., p. 9).

Thereupon Congress amended the deportation law, overturning a Supreme Court decision (Kessler v. Strecker, 307 U. S. 22, 283 L.Ed. 1082, 59 S. Ct. 694 [1939]) in the process, so that it might be possible to proceed against me again. The author of the amendment did not conceal his purpose. He said:

> "It is my joy to announce that this bill will do, in a perfectly legal and constitutional manner, what the bill specifically aimed at the deportation of Harry Bridges seeks to accomplish. This bill changes the law so that the Department of Justice should now have little trouble in deporting Harry Bridges and all others of similar ilk." (76th Cong. Rec. 9031.)

The prophecy was quickly realized and the new Attorney General, Francis Biddle, directed the Federal Bureau of Investigation to reopen the "Bridges case" and after having received a report of that agency, a report which incidentally impugned the judicial integrity of the Hon. James M. Landis, issued a new warrant for my arrest and deportation upon substantially the same grounds as had been set forth in the earlier warrant. This occurred just a little over a year after the Secretary of Labor had canceled the warrant of deportation as a result of the Landis findings and conclusion.

The warrant of 1941 reads as follows:

"Warrant
For Arrest of Alien
United States of America
Department of Justice
Washington

"No. 55973/217

"To District Director, Immigration and Naturalization Service, San Francisco, Calif. Or to any Immigrant Inspector in the service of the United States.

"Whereas, from evidence submitted to me, it appears that the alien

"Alfred Renton Bryant Bridges or Harry Renton Bridges, who entered this country at San Francisco, California, on the 12th day of April, 1920, has been found in the United States in violation of the immigration laws thereof, and is subject to be taken into custody and deported pursuant to the following provisions of law, and for the following reasons, to wit: The Act of October 16, 1918, as amended by the Acts of June 5, 1920, and June 28, 1940, in that after entering the United States he has been a member of or affiliated with an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force and violence of the Government of the United States; that, after entering the United States he has been a member of or affiliated with an organization, association, society, or group that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue or display, written or printed matter advising, advocating, or teaching the overthrow by force or violence of the Government of the United States.

"I, by virtue of the power and authority vested in me by the laws of the United States, hereby command you to take into custody the said alien and grant him a hearing to enable him to show cause why he should not be deported in conformity with law. The expenses of detention, hereunder, if necessary, are authorized payable from the appropriation 'General Expenses, Immigration and Naturalization Service, 1941.' Pending further proceedings the alien may be released under bond in the sum of $3,000.

"For so doing, this shall be your sufficient warrant.

"Witness my hand and seal this 12th day of February, 1941.

"W. W. BROWN,
"Chief, Warrant Branch."

Membership in or affiliation with the Communist Party constituted the conduct claimed by the Government in the second proceedings as the ground for deportation.

Government counsel (Clarence N. Goodwin) in his opening statement made that clear. He said:

> "A ground on which the Government demands the deportation of the alien is that after entering the United States he has been a member of or affiliated with the Communist Party . . . " (P. 32)
>
> "The evidence will show that . . . the Communist Party sought and obtained the membership, affiliation, cooperation and aid of the alien whose case is now being heard." (P. 39-40)
>
> "We will further show that subsequently he became a member of and became affiliated with the Community Party . . ." (P. 40)

Pursuant to the warrant, a hearing on the issues raised was held before the Hon. Charles B. Sears, duly designated as Presiding Inspector in the said cause by the Attorney General. The hearing commenced on the 31st day of March, 1941, and the taking of testimony concluded on the 12th day of July, 1941. The stenographic transcript of the hearing comprises 7546 pages; 297 exhibits were introduced on behalf of the Government, and 62 were introduced on my behalf. A total of 63 witnesses were sworn and appeared, only two of whom were witnesses at the 1939 hearing before the Hon. James M. Landis, and both of whom had on both occasions appeared on my behalf.

The issue of my membership in the Communist Party was one of the issues on which evidence was submitted. All of the issues raised by the warrant were exhaustively litigated. After the taking of testimony had been concluded, an opportunity was afforded to both the Government and to my attorneys to file briefs on the questions of fact and law which were raised by the warrant and the evidence adduced by both sides, and such briefs were filed.

Thus it appears as a matter of record that not only had two investigations exonerated me of charges that I was a member of or affiliated with the Communist Party, but that two full-dress hearings occurred in which this issue was litigated. Together, those hearings consumed in point of time a period of almost six months; the total stenographic record ran to a total of 15,270 pages; the total number of exhibits introduced was 663; and the total number of witnesses sworn and testifying was 122.

Thus it appears that the simple question of my membership in or affiliation with the Communist Party has been subjected to the most exhaustive kind of litigation one could imagine.

The litigation which was instituted by the issuance of the warrant of arrest in 1941 was finally determined by a decision of the Supreme Court of the United States in 1945 (Bridges v. Wixon, 326 U. S. 135, 89 Ed. 2103, 65 S. Ct. 1443). The stages of the proceeding which intervened from the time of the hearing before the Hon. Charles B. Sears to the decision of the Supreme Court were succinctly summarized by Mr. Justice Douglas, speaking for that Court:

> "The inspector designated to conduct the hearings and make a report, Hon. Charles B. Sears, found . . . that after entering this country Harry Bridges had been affiliated with both organizations [the Communist Party and the Marine Workers Industrial Union] and had been a member of the Communist Party. He recommended deportation. The case was heard by the Board of Immigration Appeals which found that Harry Bridges had not been a member of or affiliated with either of those organizations at any time after he entered this country. The Attorney General reviewed the decision of the Board and rendered an opinion in which he made findings in accordance with those proposed by the inspector and ordered Harry Bridges to be deported. A warrant of deportation was issued. Harry Bridges sur-

> rendered himself to the custody of respondent and challenged the legality of his detention by a petition for a writ of habeas corpus in the District Court for the Northern District of California. That court denied the petition and remanded petitioner to the custody of respondent. 49 F.Supp. 292. The Circuit Court of Appeals affirmed by a divided vote. 144 F.(2d) 927, 944. The case is here on a petition for a writ of certiorari which we granted because of the serious character of the questions here presented." (326 U. S. 139-140.)

The Supreme Court reversed the judgment of the Ninth Circuit Court of Appeals which had affirmed the District Court's denial of the petition for a writ of habeas corpus, and said:

> "Since Harry Bridges has been ordered deported on a misconstruction of the term 'affiliation' as used in the statute and by reason of an unfair hearing on the question of his membership in the Communist Party, his detention under the warrant is unlawful." (326 U. S. 156.)

III.

The nature and character of the case adduced by the Government in these prior proceedings is illustrated by the observations of the various administrative and judicial officers who have had occasion to pass upon it. The report of Dean Landis speaks for itself. In his letter of transmittal to the Secretary of Labor, he stated his conviction with respect to the Government's case as follows:

> "What is paraded as truth bears the unmistakable marks of falsehood." (iii)

This conviction of Dean Landis is amply borne out by the record before him. It is an inescapable conclusion from the analysis which he makes of the key government witnesses in that case.

Of the first witness who was sworn on behalf of the Government (Laurence A. Milner), the Trial Examiner concluded that he was a man "who has no regard for an oath," and that he could best be dismissed as a "self-confessed liar, a man who has admittedly tried twice—once successfully—to make falsehood parade as truth." (pp. 17, 19)

With respect to another Government witness (Aaron Sapiro), the Dean characterized him as a "disbarred and repudiated attorney" to whom "truth matters little." (pp. 86, 87)

Of Miles Humphries, a Government witness, the Dean concluded that his testimony was "a morass of prevarication." (p. 89) He also stated with respect to this witness that his "tendency toward prevarication was almost pathological." (p. 110)

With respect to the Government's witness James W. Engstrom, the Trial Examiner concluded that he "left a convincing impression that he was not telling the truth." (p. 110)

Of another witness produced by the Government, Ida Castor, the Trial Examiner found that "Her testimony . . . is both contradictory and meaningless;" that she became involved "in a series of amazing contradictions and impossible situations;" and that "further efforts at prevarication took place which simply involved [her] more deeply in the pit that she had dug for herself." (p. 116)

The foregoing is not a complete or exhaustive listing of the witnesses whose testimony was found by the Trial Examiner, appointed by the Secretary of Labor, to be totally unworthy of belief. It is illustrative, however, of the nature and character of the persons from whom the Government sought to adduce testimony to establish its contention that I was a member of, or affiliated with, the Communist Party.

More significant than all of the foregoing is another facet of the case which was developed against me in the hearing before Dean Landis. That is the impropriety of the conduct of the Government officials in charge of the preparation of the case. The record revealed that responsible Government officials sought by means of improper inducements to procure certain testimony to establish that I was a member of the Communist Party with knowledge that the testimony sought was false.

After detailing the evidence which shows that a responsible Government officer suggested that false testimony might result in the release of innocent prisoners at San Quentin, and after noting that the Government made no effort whatsoever to deny, meet or explain this testimony, the Dean said:

> "The extraordinary nature, to say the least, of this conduct is patent . . . no one would

> question the impropriety of a Government official threatening to throw an innocent man in jail on a groundless charge unless he produced certain testimony. There is little substantial distinction between such conduct and that here involved—withholding action that might release an assumedly innocent man from jail unless he produced certain testimony." (p. 73)

The nature and character of the case against me in the proceedings before Judge Sears was substantially the same. The Attorney General's Board of Immigration Appeals which reviewed the record in the proceedings, commented that the Presiding Inspector's rejection of the testimony of most of the Government's witnesses was "more than justified" and added:

> It is unnecessary to detail here the patent contradictions and extreme improbabilities which riddle the testimony of Richard A. St. Clair; nor need we recreate the atmosphere of complete unreliability which the cold words of the record eloquently convey. The tortuous convolutions of Maurice J. Cannalonga's testimony rendered it worthless on its face. No consideration need be given to the suggestion of improper conduct on the part of the F.B.I. in coercing him into appearing. That he lied freely is evident; and if it were not, his story was confused and unimpressive to a degree which would have rendered it valueless had there been no cross-examination or subsequent impeach-

ment. William C. McCuistion appears in a light scarcely more favorable. The episode to which he and Innes testified contained initially strong elements of the improbable. His testimony as to how and where he met Bridges varied. He attempted to bolster it by connecting it with an alleged attempt on Bridges' part to "get" Lundeberg at a time when the record shows Bridges and Lundeberg were on terms of friendship and mutual cooperation. And, finally, his testimony is replete with statements which suggest a mental state bordering on egomania. Indeed, although there are other adequate grounds, one of the strongest factors tending to discredit Peter J. Innes, another witness, is the fact that his testimony dovetails so perfectly with that of McCuistion. Neither is worthy of credence. John C. Thompson is another discredited witness whose testimony merits no analysis here. Insofar as Ezra Chase and the Lovelaces gave testimony requiring comment, they are discussed below on the point of affiliation. Nathaniel Honig's testimony presents a slightly more complex problem. Whether other Service witnesses testified only to isolated Communist meetings at which they claimed to have seen Bridges, Honig remembered at least sixteen. He did not, however, remember the address or the name of the owner of any of the homes where they took place, apparently because he was instructed to forget them (1462). He also remembered little or

> nothing specific which occurred at them. He was the only witness whom Bridges might have been expected to remember, had they had the alleged contacts, but whom he denied ever having met. The Alien's testimony on this point was corroborated by Schmidt. The evidence of Amos Kelley, Thomas Laurence and Sam Diner presents no elements worthy of mention here beyond those detailed by the Presiding Inspector:" (In re Harry Renton Bridges, Before the Board of Immigration Appeals, in Deportation Proceedings, Jan. 3, 1942, pp. 5-6.)

Of Diner, the Presiding Inspector himself had said:

> "Diner was not an impressive witness. His story as to the Trade Union Meeting, where he was removed from office, is not convincing. We have the fact that he made threats of bodily harm, found in the proceeding under which he was bound over to keep the peace." (In the Matter of Harry Renton Bridges, Memorandum of Decision, Sept. 26, 1941, pp. 140-141.)

After the hearing before Judge Sears was concluded I went to New York on union business. While there I discovered that the telephone in my hotel room was being tapped by FBI agents. My attorneys thereupon directed a motion to Judge Sears calling this matter to his attention. This motion was supported by the following affidavits which I am submitting here as exhibits:

Harry Bridges, Aug. 29, 1941, Exhibit "A."

Leon Goodelman, Aug. 28, 1941, Exhibit "B."

Lawrence Kemmet, Sept. 2, 1941, Exhibit "C."

Virginia Gardner, Sept. 2, 1941, Exhibit "D."

Carol King, Sept. 2, 1941, Exhibit "E."

In disposing of the said motion the Hon. Charles B. Sears said as follows:

> "To understand the motion, it is not necessary to detail the facts contained in the original affidavits. Suffice it to say that there is enough in them to show that telephone wires in the room of Harry Bridges in the Edison Hotel in New York City, having interstate connections, were tapped by agents of the Federal Bureau of Investigation from August 5, 1941, to August 22, 1941, so that communications by telephone were intercepted and heard by agents of the F.B.I. The affidavits show a violation of Section 605 of the Federal Communications Act (47 U.S.C. Section 605), during the period mentioned.
>
> "Evidence obtained directly or indirectly by such procedure, by Government Agents, cannot be received in the United States Courts of justice; Nardone v. United States, 308 U. S. 338; Nardone v. United States, 302 U. S. 379; Olmstead v. United States, 277 U. S. 438. The same rule should, in my opinion, be applied in administrative proceedings such as this. The rule of procedure upon which the alien relies

is stated thus, in the opinion of Mr. Justice Frankfurter in Nardone v. United States, 308 U. S. 338, 341. 'The burden is, of course, on the accused in the first instance to prove to the trial court's satisfaction that wire tapping was unlawfully employed. Once that is established * * * the trial judge must give opportunity, however closely confined, to the accused to prove that a substantial portion of the case against him was a fruit of the poisonous tree.'

"The hearing in this case was closed on June 12, 1941, and the evidence was then complete. More than a month and a half elapsed before wiretapping occurred.

"It is self-evidence that the wiretapping referred to as occurring in August could have had no relation to evidence offered or received at the preceding hearing."

IV.

As the Supreme Court's summary of the subsequent proceedings in the Sears hearing shows, the District Court's denial of the writ of habeas corpus was affirmed by the Circuit Court of Appeals for the Ninth Circuit by a divided Court (114 F. 2d 927). The vote of the Court was three to two, with Judges Healey and Garrecht dissenting, and with Judge Stephens, who joined with the majority, stating in a concurring opinion that his careful attention to the evidence in the case had not left in his mind "the pleasurable satisfaction that . . . the truth has been revealed." Judge Stephens furthermore was authorized to state that Judges

Wilbur and Matthews (the other Judges who constituted the majority) were in agreement with this expression. (144 F. 2d 938.)

Judge Healey, writing for himself and Judge Garrecht, analyzed the evidence carefully and concluded his dissenting opinion by saying:

> "Rather than deport the alien on evidence which would be condemned and proscribed without hestitation by any American Court, it would seem a more forthright procedure to do what was proposed in the first place, deport him by legislative resolution 'notwithstanding the provisions of any other law.'
>
> "I think the judgment should be reversed with directions to grant the petition." (144 F. 2d 943-4.)

Thus it appears that two of the five Judges of the Circuit Court were satisfied that the evidence aduced against me would have been "condemned and proscribed in any American Court." It is also clear that all five of the Judges of the Circuit Court were not satisfied that the truth was revealed in the record upon which the finding of Communist Party membership had been made by the Attorney General, but that for technical reasons only, three of them felt that they had to affirm.

As indicated, the Supreme Court reversed the lower tribunals. It found that there had been a misconstruction of a portion of the statute and that there had been an unfair trial on one of the issues. In a concurring opinion, the late Mr. Justice Murphy said:

> "The record in this case will stand forever as a monument to man's intolerance of man. Seldom if ever in the history of this nation has there been such a concentrated and relentless crusade to deport an individual because he dared to exercise the freedom that belongs to him as a human being and that is guaranteed to him by the Constitution."

In Mr. Justice Murphy's concurring opinion he analyzes the forces behind the "relentless crusade" against me to which I have referred briefly above and shows that they represent the economic, political and social groupings both in and out of Government which had the most to gain from the exploitation of the longshoremen on the Pacific Coast. He shows that this crusade was pressed irrespective of the violence that it did to our traditional concepts of law simply because I played a role in alleviating to some extent that exploitation.

The Supreme Court's decision exonerating me of the charges that I was affiliated with or a member of the Communist Party was rendered on June 18, 1945. Immediately thereafter I proceeded with the steps necessary to complete my pending application for naturalization. On June 23, 1945, five days after the Supreme Court's decision, I filed my application for certificate of arrival and preliminary form for petition for naturalization, which was witnessed by my co-defendant Schmidt. On August 8, 1945, I appeared before a naturalization examiner and gave testimony in connection with my application for naturalization. On the same day my co-defendants Schmidt and Robertson witnessed my petition for naturalization. On September 17, 1945, all three of us appeared in Judge Foley's court and gave testimony in the naturalization proceedings, and my certificate of naturalization was issued. All of this occurred within three months of the Supreme Court's decision. These are the actions which are the basis for the present indictment against us.

Having investigated me administratively twice, having conducted hearings in connection with the case twice and my case having gone to the Supreme Court of the United States, which exonerated me in June, 1945, the Government interposed no objection to the granting of my naturalization in September, 1945.

I am attaching to this affidavit, marked Exhibit "F," a full, complete, true and correct copy of the "Application for Certificate of Arrival and Preliminary Form for Petition for Naturalization" which was made and executed by me on or about the 23rd day of June, 1945, and I desire to incorporate that document into this affidavit and make it a part of this affidavit.

There is attached hereto and marked Exhibit "G" a full, complete, true and correct copy of the "Petition for Naturalization" which was made and executed by me on or about the 8th day of August, 1945, and I desire to incorporate that document into this affidavit and make it a part of this affidavit.

There is attached hereto and marked Exhibit "H" a full, complete, true and correct copy of the transcript of the testimony taken before the Honorable Thomas J. Foley, Judge of the Superior Court of the State of California in and for the City and County of San Francisco on September 17, 1945, in my naturalization proceedings, and I desire to incorporate that document into this affidavit and make it a part of this affidavit.

The indictment refers to certain conduct on the part of the defendants as having taken place on June 23, 1945. The execution by me and the witnessing by my co-defendant Schmidt of the document marked Exhibit "F" is the action taken by us on June 23, 1945, in connection with the naturalization proceedings.

The indictment refers to certain conduct on the part of the defendants as having taken place on August 8, 1945. The execution by me and the witnessing of my co-defendants Schmidt and Robertson of the document marked Exhibit "G" is the action taken by us on August 8, 1945, in connection with the naturalization proceedings.

The indictment refers to certain action taken by the defendants on September 17, 1945. The testimony given by us, as recorded in Exhibit "H," is the only action taken by us (except that I took my oath of allegiance, too) on September 17, 1945, in connection with the naturalization proceedings.

The Exhibits, "F," "G," and "H" attached to this affidavit show all of the action taken by us in connection with the naturalization proceedings. As appears from these exhibits, the Government at the time of my naturalization, made no objection to the granting of the citizenship.

V.

For the Government now (four years later) to contend that I have all along been a member of the Communist Party and that I and my co-defendants were parties to a conspiracy to defraud the Government because we engaged in the simple routine acts of completing my citizenship application seems to me, in the light of this whole history, to be a continuing of the campaign which has been directed against me throughout all these years. Now that I am a citizen, the forces opposed to me and to the program of my union under my leadership, are not able to utilize a deportation proceeding as the basis for an attack against me and what I have come to represent. So they have developed this new case. As this affidavit and the public records upon which it is based show, the fifteen-year crusade against me has been motivated by the interests which my union has opposed. That this still is the case appears not only from the context in which this case is now placed but from the statements of the chief Government attorney himself, the man who was responsible for the institution of the prosecution against me. The Attorney General of the United States who instituted this prosecution against me and my co-defendants made crystal clear the purpose of this prosecution when, in discussing the present longshoremen's strike in Hawaii, he said in Milwaukee on June 26, 1949:

> "... **I think that the case against Bridges has already been of some help in the Hawaii situation.**
>
> "If we are successful in our prosecution of

> Bridges . . ., it may be that we can break the Hawaiian situation without any other intervention."

I am attaching to this affidavit, marked Exhibit "I," a full, complete, true and correct photostatic copy of an article to this effect which appeared in the Milwaukee Journal on June 27, 1949. The Court of course already knows that my co-defendant Schmidt is actively participating in the Hawaiian strike on behalf of the longshoremen.

I wish to state to the Court that the Hawaiian strike is a struggle on the part of the Hawaiian longshoremen of the same significance, character and magnitude as was the strike of the Pacific Coast longshoremen in 1934. The nature of the economic interests against which the longshoremen are struggling today in Hawaii is best described in an opinion rendered by three Federal Judges who had occasion to review the situation in Hawaii within the past year and who described in great detail the feudal nature of the Hawaiian employers' economy and their efforts to beat down the aspirations of the workers of Hawaii, many of whom have been organized under the banner of the International Longshoremen's and Warehousemen's Union. That opinion gives possibly more clearly than I could, and from a source which the Court might be more inclined to credit, the picture of the background of the current struggle which the union under my leadership is engaging in in Hawaii today. The opinion is I.L.W.U. vs. Ackerman, 82 F.Supp. 65, and was rendered by Circuit Judge Biggs, District Judge Metzger, and District Judge Harris, one of this Court's colleagues.

When the Attorney General who instituted this prosecution against me and my co-defendants admits that this prosecution "can break the Hawaiian situation," it is perfectly clear that he either wittingly or unwittingly is carrying forward the campaign against me which I have already discussed.

I am not a lawyer but it seems to me that there must be some end to the continuing prosecution and persecution of me because I have tried to be an honest and effective labor leader. My attorneys will argue the legal points involved, but I submit to your Honor that I should not be tried time and again and again on the same issues and for the same reasons and under the same circumstances for which I have heretofore been tried and concerning which I have heretofore been vindicated.

/s/ HARRY RENTON BRIDGES.

Subscribed and sworn to before me this 29th day of August, 1949.

[Seal] /s/ EILEEN N. FUJIMOTO,
Notary public in and for the Territory of Hawaii.
City and County of Honolulu.

My Commission Expires July 31st, 1951.

Territory of Hawaii
City and County of Honolulu—ss.

I, W. H. Tilley, Clerk of the Circuit Court of the First Judicial Circuit, Territory of Hawaii, the same being a Court of Record and having a seal, do hereby certify that Eileen N. Fujimoto before whom the foregoing acknowledgment was taken, was at the time of taking the same, a Notary Public duly commissioned and sworn for the First Judicial Circuit of the Territory of Hawaii and duly authorized by the laws of said Territory to take and certify acknowledgments or proofs of deeds of land, etc., in said Territory in the manner aforesaid; that I am well acquainted with the handwriting of said Eileen N. Fujimoto and verily believe that the signature to said certificate of acknowledgment is genuine. And further, that said acknowledgment was taken in accordance with the laws of the Territory of Hawaii; that I have compared the impression of the seal affixed thereto with a specimen impression thereof deposited in my office and that I believe the impression of the seal upon the original certificate is genuine.

In Testimony whereof I have hereunto set my hand and affixed the seal of said court at Honolulu aforesaid this 29th day of August, 1949.

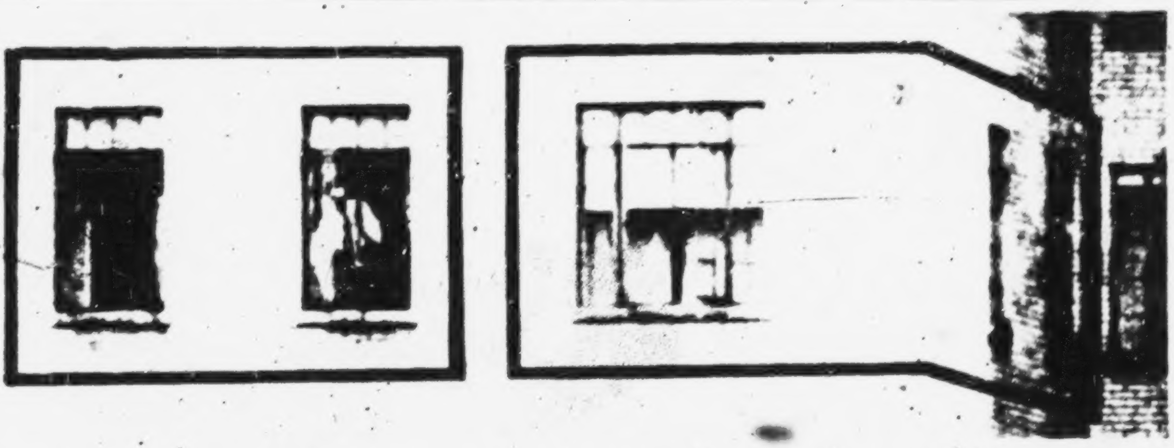
/s/ W. H. TILLEY,
Clerk, Circuit Court, First Judicial Circuit, Territory of Hawaii.

Exhibit A

State of New York
City of New York
County of New York—ss.

Harry Bridges, being duly sworn, deposes and says:

...PM Reporter Tells How He Found Hidden Mike



The windows at the left are Mr. Bridges'. He can be seen leaning out. Those at the right belong to the men who spied on him.

Watched Men Bob Up and Down From Room in Another Hotel

[illegible]

[illegible] the lights went out in Mr. Bridges' room.

I could see Mr. Bridges and [illegible] clearly through the open windows and the drawn curtains. It was as though I were looking at a silent movie. [illegible]

Wore Earphones

[illegible] earphones. [illegible]

Mr. Bridges and his guest were sitting and conversing. Presently the [illegible] Mr. Bridges put on his jacket, opened the door and switched off the lights.

In the next room the man wearing the earphones went down on the floor again. It was only a few moments before both men came up. One went back to the bed. The other seated himself at the typewriter on a table pushed against the [illegible] paper.

Mr. Bridges came to my room.

[illegible]

Watched Three Days

[illegible]

[illegible] Mr. Bridges [illegible]

Radio Drowns Sound

We warned the [illegible]. The first place to look was the [illegible] the phone box. With a [illegible] opened the box.

There it was, the size of a [illegible] watch: the dictagraph.

We called the hotel manager, [illegible] to the room. Mr. Bridges pointed to the dictagraph and said:

"My room's been tapped [illegible] the FBI. [illegible] going to do about it?"

Mr. Connors [illegible] What did Mr. Bridges want him to do about it?

At that moment there were distinct noises from the other [illegible] the phone box. [illegible] The apparatus was [illegible] disconnected.

"That thing there," said Mr. Bridges, pointing [illegible]

"Yes," said Mr. Connors. "[illegible] We can't break into the room. We don't have the right."

"Well, they call him on my phone," Mr. Bridges suggested.

Easy to Get In

Mr. Connors agreed to call but not on Mr. Bridges' phone. He left the room. A few moments later the house detective appeared with an assistant manager, R. T. Tucker, a tall, good-looking Southerner [illegible]

"[illegible] without the help of the management get into this room to install that thing," Mr. Bridges demanded.

"Anyone can walk [illegible] the door and ask for the key [illegible]," Mr. Tucker [illegible]

"[illegible] the house detective," said Mr. Bridges. "[illegible] You can demand [illegible] open up."

[illegible] Mr. Bridges [illegible] the power [illegible]

"You can knock [illegible] easily enough [illegible]

[illegible] This is a matter for the police."

Turning to Mr. Tucker, Mr. Bridges asked:

"Why did [illegible] putting this room which I [illegible]? And why [illegible]"

"Well, Mr. Bridges, you know you kept [illegible] Besides there were times when no other rooms were available."

Later [illegible] Mr. Connors telephoned [illegible] asked him whether he had any wire tapping equipment. He said the man had [illegible]

The [illegible] agreed to have a man from the telephone company come up.

Not Regulation

At [illegible] the man from the telephone company arrived [illegible]

He [illegible] the box.

"[illegible] that thing [illegible]"

He [illegible] "Your guess is as good as mine. That's not regulation telephone equipment, I can tell you that."

He left [illegible] phone in bad repair. We couldn't [illegible] remove the dictagraph.

Then we called two radio technicians. Both agreed that the dictagraph was a sensitive microphone that could pick up all conversation in the room and could in addition pick up telephone conversations through the induction coils in the phone box.

This is one of the spies with a tube of glue pasting together scraps from Mr. Bridges's wastebasket.

[illegible] minutes later a bellhop arrived [illegible] He stood in the door. I gave him [illegible] and he started to make change. At that moment a door slammed. I walked to [illegible]

He was taking a break.

[illegible] the agent [illegible] just about to round the corner of the corridor when the picture was taken. [illegible] the corner. Apparently he [illegible] down the fire [illegible]

Happened Before

[illegible] the management [illegible] Mr. Bridges and [illegible] the room. [illegible]

[illegible] Mr. Bridges had a telephone [illegible] directly into the box.

"[illegible] really think [illegible]," Mr. Bridges asked me. "[illegible] a dictagraph [illegible]"

Draft Boards to Aid Men Let Out of Army

Brig. Gen. Lewis B. Hershey, director of Selective Service, announced in Washington yesterday that a re-employment program had been worked out for soldiers selectees to be released this fall. The War Department expects to release 200,000 men by Christmas.

The Selective Service Act, Gen. Hershey pointed out, requires employers to restore selectees to their old jobs without loss of seniority unless the employers' circumstances have changed and makes re-hiring impossible.

Gen. Hershey said state Selective Service directors will appoint re-employment committeemen for local boards. These committeemen will get in touch with employers to find out if the soldiers' old jobs are available. If not the committeeman and the State Employment office will both try to find jobs [illegible]

I am the President of the International Longshoremen's and Warehousemen's Union, C. I. O., with a membership of some 30,000. My office address is at 593 Market Street, Room 317, San Francisco, California.

On or about the 12th day of February, 1941, a warrant for my arrest was issued by the Immigration and Naturalization Service, Department of Justice, and thereafter from the 31st day of March for a period of approximately eleven weeks hearings in connection with these warrant proceedings were conducted in San Francisco, and the matter is now pending decision.

During the months of July and August, 1941, I have been intermittently at the Hotel Edison located at 228 West 47th Street, Borough of Manhattan, City, County and State of New York.

Shortly after I began to reside at the Hotel Edison I became suspicious that my actions were being watched and my conversations listened in on. This suspicion became a certainty on or about the 5th day of August, 1941. On that day, in the lobby of the Hotel Edison, I saw a person I recognized as an agent whom I had previously seen on the West Coast. Thereafter I went back to my room, Room 1027, and looked under the door between Room 1027 and the adjoining room, Room 1025, and saw equipment in Room 1025 which I recognized as wiretapping equipment.

Beginning on or about the 21st day of July I had been located at the Hotel Edison in Room 827. On or about July 31st when I returned to the hotel I was assigned to Room 1027. I left the hotel on August 1st, and when I came back on August 4th I asked for a single room, not a room with double beds, and a room higher up. My suspicions were aroused by the fact that I was again assigned to Room 1027 which I stated I did not want.

Shortly after I saw this equipment on the floor, which consisted of earphones, wires, and a portable recording machine. I 'phoned a number of trade unionists with whom I transacted business explaining to them that my wires were being tapped and that confidential information should not be conveyed to me over the telephone.

On or about August 7th or 8th I secured a pair of field glasses and later a pair of binoculars. I thereupon went to the roof of the Hotel Piccadilly, located at 227 West 45th Street, Borough of Manhattan, City, County and State of New York, and from there was able to look into Room 1025 of the Hotel Edison. The curtains of Room 1025 were open as were also the windows, and the wiretapping equipment was lying partly on the bed and partly on the floor.

On the following day I rented Room 1231 at the Hotel Picadilly, and with my binoculars I saw three or four persons in Room 1025 of the Hotel Edison. I gave up this Room 1231 in the Piccadilly on or about August 15th.

On or about August 18 Lawrence Kammet rented Room 929 at the Hotel Piccadilly for the use of the newspaper PM. Thereafter Leon Goodman, a reporter for that newspaper and Eugene Badger, a camera man for the same paper, were in the room a large part of the time. Both from Room 1231 and Room 929 of the Hotel Piccadilly, I and my friends observed the occupants of Room 1025 of the Hotel Edison. We saw them using earphones and otherwise engaged in what appeared to be listening in on conversations and 'phone calls of Room 1027 at the Hotel Edison. So that I could observe this at times friends of mine went to Room 1027 at the Hotel Edison, and at other times so that the observers in the Piccadilly could witness it, I went to my room at the Hotel Edison, Room 1027.

On Tuesday morning, August 19, I realized that Room 1025 at the Hotel Edison was not occupied for the first time as far as I knew since I had occupied Room 1027. I turned on the radio, put through a call on the telephone, and then unscrewed the cover of the telephone box and opened it. At this time Lawrence Kammet was in my room. When the telephone box was opened he and I observed a black microphone attached to the other wires in the telephone box. I thereupon screwed back the cover of the telephone box.

On Thursday, August 21, in the evening of that day, Leon Goodelman, Eugene Badger, Lawrence Kammet, and I were in Room 1027 at the Hotel Edison. I called the manager, Hugh J. Conners, again unscrewed the telephone box and showed him the mechanism. Eugene Badger took pictures of the box with the cover open. I told Mr. Conners that my wire was being tapped by the occupants of the next room, Room 1025, and I wanted to know what the hotel proposed to do with it. Mr. Conners disclaimed any knowledge or responsibility for what was going on and stated that he could not disturb the occupants of the next room. He called the house detective, Fred Collier, and I asked Mr. Collier whether he had been in the adjoining room. He denied having been in there although I had seen him leave that room. The occasion on which I had seen him leave that room was when he came into my room when my telephone had gone dead, and he stopped to tell me that it was off the hook, when in fact this was not the case until Collier himself shoved the telephone so that it was partly off the hook.

On Thursday evening after I had opened the telephone box in Room 1027 I heard the telephone bells in Room 1025 tinkle, and likewise heard a sound as though wires were being clipped and suitcases being hastily shut. At this time my telephone rang and the operator asked me if I was calling downstairs, which was quite impossible otherwise the operator downstairs could not have gotten me. I stated to the operator that apparently the next room had gotten their wires crossed, and called upon Conners and Collier to witness this episode. I asked Conners to call the occupants of the next room, Room 1025 from my room, Room 1027, but he refused to do so but agreed to call them from downstairs. Meanwhile the camera man, Badger, sat down in the hallway just outside my room and said in a loud voice that he would stay there for thirty days if necessary, but that he would take a picture of the occupants of Room 1025.

Thereafter an employee of the telephone company, who identified himself as J. Seuss, came to Room 1027 and I showed him the microphone and asked him what it was. He would go no further than to say that it was not standard telephone equipment but refused to give it a name. After a time he did say, "Your guess is as good as mine."

At my request Oliver M. Salisbury, vice-president of the American Communications Association, who was a licensed electrician, came with a friend of his who was identified as employed for fifteen years by the Radio Corporation of America as a radio technician. Both Mr. Salisbury and his friend identified the mechanism in my telephone box as a radio induction microphone which was not standard equipment in a telephone box. They stated that it was capable of picking up the conversation in the room and over the telephone.

At about 2:30 a.m. on Friday morning, August 22, the occupant of Room 1025 opened his door and ran out. The camera man, Badger, took a flash-light picture of his back as he fled down the hall.

At about 3 a.m. on August 22 one of the owners of the hotel, Nathan Kramer, came to my room and I asked him to open Room 1025. He refused to do this but agreed to go into the room himself if all of the persons in Room 1027 would go back into that room and close the door. Thereafter Mr. Kramer came back into Room 1027 and stated that Room 1025 was unoccupied.

At about 4 a.m. on Friday morning three plainclothes men, one of them Lieutenant Jacobs of the New York Police force, came to my room and stated they came upon the request of the hotel management. After I told them that the F.B.I. had been tapping my wires they said they would rather not have anything to do with the matter. They did ask the manager to let them go into Room 1025, but when he refused to do so they left about 6 a.m.

At about 3 p.m. on Saturday, August 23, Mr. Shepard, the assistant manager, finally let me and Lawrence Kammet look into Room 1025. He found a clamp attached to the radiator and connected to it was a length of rubber insulated wire containing two strands which had apparently been clipped. We also found three pieces of black wiring tape about an inch or an inch and a half in length. In the dresser drawer there were two pieces of carbon paper, and by holding this up to the light we discovered that each piece carried the same words, and that the words at the end of the sheet were

"Evelle J. Younger
Special Agent."

I asked Mr. Shepard to put this material in the hotel safe, and he placed all of it in a large envelope which he sealed.

On information and belief, that the tapping of my telephone wire from at least on or about the 5th day of August, 1941, to and including the 22nd day of August, 1941, was instigated and carried out by the Federal Bureau of Investigation. On information and belief, that a substantial portion of the evidence introduced at the deportation hearing against me was obtained, directly or indirectly, thru the tapping of telephone wires of myself and other witnesses at the said hearing. The sources of my information and the grounds of my belief are the fact that the Federal Bureau of Investigation has been tapping my wires subsequent to the said hearing, and that there was even more reason to tap telephone wires of myself and other witnesses prior to and during the said hearing.

I discovered the said tapping of my telephone wires as a result of the fact that I was suspicious that my wires would be tapped because public authorities had listened in on my conversations in the past, as for instance, during the 1937 Convention of the Maritime Federation at Portland, Oregon, when Doyle and Brown of the Portland Police Department concealed a dictaphone in my room which I discovered. (Cf. Findings and Conclusions of the Trial Examiner, p. 57).

On Saturday, August 23, I moved from the Hotel Edison and moved to Room 929 at the Hotel Piccadilly, in which I am now residing.

On Monday, August 25, I was informed by Mr. Goodelman and Mr. Kammet that the package containing the articles discovered in Room 1025 had been given to the former occupants by the Hotel Edison. I thereupon looked in the telephone book for the name Evelle J. Younger and found that he was listed as residing at 307 East 44th Street.

Borough of Manhattan, New York City, with the telephone number of Murray Hill 6-7490.

/s/ HARRY R. BRIDGES.

Sworn to before me this 29th day of August, 1941.

SALLY R. FUCHS,
Notary Public New York
County.

Commission expires March 30, 1942.

EXHIBIT B

State of New York,
City of New York,
County of New York—ss.

Leon Goodelman, being duly sworn, deposes and says:

I reside at 41 Horatio Street, Borough of Manhattan, City, County and State of New York.

I am a reporter for the newspaper PM.

Attached hereto and made a part hereof are articles written by me which appeared in the said newspaper on the 25th, 26th and 28th days of August, 1941. I can say that the facts stated in the said articles are true of my own knowledge.

LEON GOODELMAN.

Sworn to before me this 28th day of August, 1941.

SALLY R. FUCHS,
Notary Public, New York
County.

Commission expires March 30, 1942.

Harry Bridges Finds Wires Tapped in Edison Hotel ...

FBI Men Suspected of Planting Illegal Apparatus in Room

By Leon Goodelman

An "induction mike," one of the most efficient devices for tapping telephone wires and overhearing conversations within a room, was planted in Harry Bridges's room in the Hotel Edison during his stay there.

I saw the microphone. PM's Gene Badger photographed it.

Mr. Bridges, West Coast CIO leader, is here on business pending a decision in the Department of Justice's action to deport him to his native Australia. He was accused of being a Communist, a charge which he denies.

Mr. Bridges told me he was certain that the wire tapping—which is against federal law—was done by FBI men.

I tried to reach the FBI and ask them if they were spying on Bridges and if so what their purpose was. I was told that the only person authorized to make a statement was B. Edwin Sackett, chief of the New York area, and that he was "out of town and unavailable for comment."

My four days on this story, my personal knowledge of the facts and subsequent checking of other sources leave little doubt in my mind that the men spying on Bridges were FBI agents.

Kept Long Vigil

It was because of a series of coincidences that Mr. Bridges himself discovered that his wires were being tapped. First he saw in the hotel a man he recognized as an FBI man who had attended the Bridges deportation hearing in San Francisco. Second, he was unable to get the hotel management to give him another room. Third, he looked under the door of an adjoining room and saw a suspicious-looking mass of apparatus.

After Mr. Bridges became suspicious, he notified friends, who invited me to verify his suspicions.

Four days and nights I occupied a room in a hotel across the street. Day and night, through high-powered binoculars, I watched the men in the room next to Mr. Bridges's.

I made tests to satisfy myself that these men were spying on Mr. Bridges.

For example: One night I noticed one of the men repeatedly get up from his chair and run to the left corner of his room.

A Ring—A Dash

It developed that this action took place each time the phone rang in Mr. Bridges's room. I arranged to have Mr. Bridges telephoned to at certain times. Each time he was called, one of the men ran to the corner.

I reasoned then that in the left corner of the room near the window lay the wire-tapping apparatus. This substantiated Mr. Bridges's story that he had seen a portable recording machine and other equipment lying on the floor when he looked under the connecting door between his and their room. The apparatus later was shifted to the corner and out of sight.

It was no coincidence, either, that each time Mr. Bridges entered his room the men made a mad dash for the floor and came up wearing earphones.

Harry Bridges

Jigsaw Letters

When Mr. Bridges was alone they relaxed. When he was with someone they continued to listen through the phones until Mr. Bridges was alone or the room empty.

The men frequently used a typewriter. They never used it when Mr. Bridges was in his room. Often the typing began the moment he left and ceased abruptly upon his return.

At other times the men could be seen piecing together little scraps of paper and gluing them onto white or blue backing. Mr. Bridges suspected that the scraps were from his waste basket. He deliberately tore a sheet of paper into shapes that he would recognize. He then ran to another hotel room opposite the Edison and watched through glasses. He told me the pieces being pasted together were from his wastebasket.

To make certain that the men did not relax their duties during the time they were being watched, Mr. Bridges would call important New York trade union leaders and arrange for conferences in his room. More often than not these conferences did not actually take place. Other persons substituted for the men who were supposed to be there.

Harry Bridges checked into the Edison on July 2. He often left town and on his return would check in again. Each time, the hotel gave him a different room.

On July 31 he asked for a $3.50 room. He was told, he says, that no $3.50 room was available but that he would be put into a $4 room for the same rate because he was staying only a few days. That room was 1027.

It's Always 1027

On Aug. 4 Mr. Bridges returned from his week end. He asked for a room higher up and cheaper. He planned to stay for some time. He told me he was told that no other rooms were available but that he could have 1027 again at the $3.50 rate.

"It was then that I spotted this FBI monkey in the lobby," he said.

On Aug. 9 he checked out for the week end. He made arrangements when he left for a room at a special monthly rate of $75 on a higher floor.

On Monday he returned. Again he was told that there were no rooms available of the type he wanted. However, if he wanted to go back to 1027 he could have it for $3 a day and would have to pay for only 13 out of the first 14 days he was there. Thereafter he would pay for six out of every seven he was in the room.

Mr. Bridges again took the room. A half hour later he went to a pay phone and called the hotel. He said that he asked for a $3 single room with a southern exposure above the 10th floor and was told that such a room was available.

The Edison management maintains that there was no significance to the fact that Bridges was continually assigned to 1027 at lower rates.

On Aug. 12 Mr. Bridges picked up his phone. It was dead.

Suspicious Sounds

"I could hear sounds through the wall," he said. "I could see apparatus spread all over the floor from under my door. I saw someone walk into the room. There was a whispered conversation for three or four minutes. Then the person left. As their door closed there was a knock on mine. It was the house detective, Jeff Collier, with a note saying my phone was off the hook. I showed him that it wasn't. He picked it up. It was working again."

It was then Mr. Bridges believes, that his phone was tapped.

One of the strongest indications that the men in the room adjoining Mr. Bridges's were FBI men came after Mr. Bridges had confronted hotel employes with evidence of wire tapping. [*Leon Goodelman's day-to-day account of his experience on this assignment appears on the next page.*] The hotel employe professed to know nothing of the wire tapping and said they were unable to do anything about it.

A friend of Mr. Bridges thereupon called in two police officers and told them of Mr. Bridges's suspicions.

The police officers looked at the telephone box dubiously and one of them said, "We can't do anything about this if it is an FBI case."

"But the law is being broken," the friend insisted.

"We can't do anything about it now. We'll have to check."

The officers returned some hours later.

"We can't do anything about it," the spokesman said.

"Do you mean it's an FBI job?" I asked.

"We can't do anything about," was the answer.

Bridges finally prevailed on the management to open room next to his in his presence. Inside, according to Bridges, they found a 12-foot length of heavily insulated wire, hidden behind and clamped to the radiator, three pieces of electrical tape under the phone box which was directly behind the box in Bridges' room, a tube of LePage's glue, and two pieces of carbon paper.

By holding the carbon paper up to the light Bridges and another witness could see, they say, that they were investigation reports made out by an individual who signed himself "special agent."

For years the FBI has been trying to obtain evidence on which to deport the Australian-born Bridges. Wherever he goes, there goes the FBI.

In the middle of December, 1940, J. Edgar Hoover, sunning himself in Miami, stated to the press that "the evidence we have submitted to the Department of Justice is sufficient to justify the deportation of Harry Bridges."

This statement was made one year after Dean Landis of Harvard Law School, after extended hearings had cleared Mr. Bridges of being a Communist and of advocating the overthrow of the Government.

Subsequently Mr. Bridges was accused again. It is on this accusation that he is now awaiting a verdict.

This is the sensitive dictograph found in Mr. Bridges's room. Telephone man said it was no amateur job.

Photo by Gene Badger, PM Staff

Book Guild Files Charges

The Book and Magazine Guild has filed charges with the National Labor Relations Board charging E. P. Dutton & Co., book publishers, with unfair labor practices. The union, which recently lost an election among the firm's employes, said that the company had influenced its workers in an unfair manner by creating an anti-union atmosphere.

(91)

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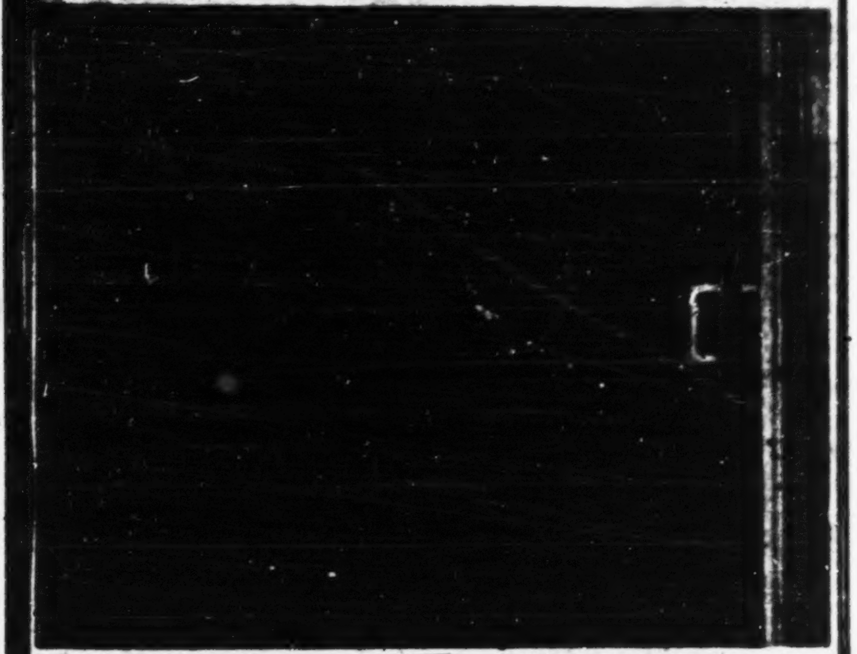
87



Mysterious Listener photographed by PM's Gene Badger as he made a break from his room in the Hotel Edison from which Harry Bridges's phone was tapped. The picture was made from Mr. Bridges's doorway.

FBI Passes Up the Opportunity To Deny Spying on Harry Bridges

By Leon Goodelman

The FBI, in New York and in Washington, is keeping comparatively mum on charges that it tapped Harry Bridges's phone in the Hotel Edison during his stay there.

After the appearance of PM on the newsstands yesterday with its detailed exposure of the hidden microphone, reporters asked the New York office of the FBI for a statement.

My story described how for four days and nights I watched listeners at work in the room next to Mr. Bridges's tapping phone calls and ordinary conversations. It told, too, how the dictograph was discovered in the phone box next to Mr. Bridges's bed.

B. Edwin Sackett, chief of the New York area of the FBI, met the press at noon. At first he requested that he be allowed to speak off the record. When reporters insisted on a quotable statement, he said:

"I have no comment whatsoever to make. It is contrary to the policy of the FBI to comment on allegations of alleged investigations we may or may not be conducting."

From Washington came a like reply.

Meanwhile, Mr. Bridges, militant West Coast CIO leader, made a new statement:

"I knew the FBI was listening in on and recording every conversation and phone call in my room in the Hotel Edison. I challenge them to play these records for the press, at a public meeting or on the radio over a nation-wide hookup.

"I have charged in the past that the FBI is an instrument of labor spying. What has happened in the Edison Hotel just bears this out. Nothing other than labor business was transacted in my room."

When the listener in Room 1025 fled at 2 a.m. Friday, Aug. 22, nine hours after the discovery of the dictograph in Mr. Bridges's phone box, the hotel management refused to let anyone enter the room. Two days later Mr. Bridges finally prevailed on the hotel to let him look around.

With the hotel detective and an assistant manager, he searched the room. Among other things they found two sheets of carbon paper, one of which, according to Mr. Bridges and another witness, bore the name "Evelle J. Younger, Special Agent."

The articles found in the room were sealed by the hotel. I went to the Edison yesterday hoping for a look at them. Richard K. Shepard, assistant manager, said the persons who had occupied the room had claimed the articles, including the carbons, at noon—shortly after PM was on the newsstands.

The room had been registered in the name of Fred West, 1427 N. State St., Chicago. Investigation revealed that there was no Fred West known at that address and that it was the home of a prominent Chicago attorney.

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Witness Who Listened In Confirms Bridges's Charges

It Was the FBI All Right, Says Visitor to 'Mr. West's' Room

By Leon Goodelman

First-hand evidence to confirm the fact that it was the FBI that tapped Harry Bridges's phone and planted a dictograph in his room in the Hotel Edison is now in PM's possession.

This evidence was given to me by a person who was present in room 1025 in which the wire tapping operations took place while an FBI agent engaged in these activities.

I talked with this person yesterday. Before this witness would talk I was required to promise I would withhold any identification. I shall therefore refer to this person as X.

I have obtained permission, however, to disclose the true identity of X to the proper officials in the event of an investigation or prosecution conducted by a responsible governmental agency.

Room 1025, Hotel Edison, was taken by an FBI agent under the pseudonym of Fred West. At the address given by Fred West in Chicago no Fred West is known.

X watched 'Fred West' at his [illegible] engage in wire tapping.

I know 'Fred West's' true identity.

An FBI agent who worked under 'West' is Evelle J. Younger. Younger's name was found typed on a sheet of carbon paper left behind in room 1025 after the discovery of the dictograph in Bridges's room. Appended to his name were the words Special Agent.

I checked Evelle J. Younger. He is an FBI agent. He gave up his New York residence last week after the dictograph was discovered in his room. The forwarding address he left was the FBI Seattle [illegible].

Here is the story told to me by X:

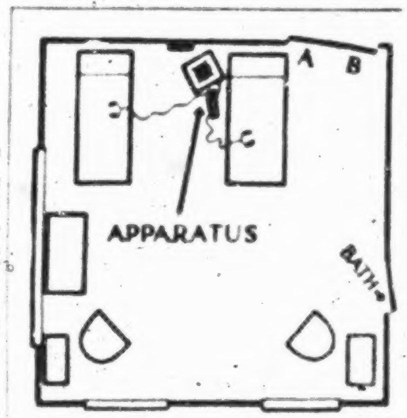
"I was invited by Fred West to see how the FBI works. When I went to room 1025 at the Hotel Edison I had no idea that the person in room 1027 was Harry Bridges or that his wires were being tapped.

"I went to room 1025 out of sheer curiosity. There were two beds in the room. Between them was a phone box. Under the phone box was a mass of apparatus.

"One of the things I saw was a recording machine. It had a number of recording discs on it.

The dictograph planted in Bridges phone box

Photo by Gene Badger, PM Staff



This is a reconstruction of room 1025 from a rough sketch by X. A is the locked door between 1025 and Harry Bridges' room. B is the entrance to 1025.

"Then there was a large box that looked like a radio. It had dials on it which Fred West would adjust when listening in on conversations in Mr. Bridges's room. He could bring the sound up or make it softer.

"Attached to this apparatus were two sets of earphones. On one set you could hear only what was said in Mr. Bridges's room. On the other you could hear both ends of a telephone conversation.

"I personally put on one of the sets of earphones and listened to Mr. Bridges. I heard him make a number of phone calls. During the time I was in room 1025 Mr. Bridges was alone.

"My first information of the fact that it was Mr. Bridges who was in the next room was when he answered the phone and said 'This is Harry Bridges speaking.'

"During phone conversations Fred West, who had on the two-way earphones, took the conversations down in writing.

"I questioned Fred West on the legality of wire tapping. He dismissed my question in an off-hand manner and I didn't get a satisfactory answer.

"I was shocked to discover that this sort of activity was going on. I didn't think it fair that anyone should attempt to get something on another person in such an underhanded and reprehensible way.

"I don't know Mr. Bridges. I never met him or spoke with him. I know little about him and never took any great interest in his case. Yet I knew that if this could be done to him it could be done to anyone. To me it seemed un-American. It embarrassed me. It was like reading someone else's private mail or listening behind a door or peeping through a keyhole. It violated my conception of civil liberties and a person's right to the privacy of his own home.

"These are my reasons for giving you this information."

X's story bears out in every way the observations I made while for four days and nights I watched the agents at work.

Two days ago I saw husky, pipe-smoking B. Edwin Sackett, chief of the New York area of the FBI. I asked him then for a comment on my story. He leaned back in his chair, smiled and said:

"Your story is so silly and ridiculous that I wouldn't dignify it by either a denial or a confirmation."

[Endorsed]: Filed September 21, 1949.

Exhibit C

State of New York,
City of New York,
County of New York—ss.

Lawrence Kammet, being duly sworn, deposes and says:

I reside at 500 St. Johns Place, in the Borough of Brooklyn, County of Kings, City and State of New York.

I am a publicity writer on the staff of the Greater New York Industrial Council, C. I. O.

On Wednesday, August 13th, I was in Room 1231 at the Hotel Piccadilly with Virginia Gardner and Harry Bridges for several hours, from about 7:30 or 8 p.m. to about 9:30 or 10 p.m. I was stationed at the window sitting on the floor with field glasses. The lights in the room were out and the shade was partially drawn but was raised enough so that I could look out and see a man sitting at a typewriter in Room 1025 at the Hotel Edison. He was apparently just sitting and not typing.

After a while Harry Bridges and I went to Room 1027 at the Hotel Edison. We had a conversation in that room and then I went back to Room 1231 at the Hotel Piccadilly. Through my field glasses I could see Harry Bridges telephoning in Room 1027 of the Edison and the regular lights were out in Room 1025. However, there seemed to be a light on the floor. I saw a man get up with earphones on his ears and a wire coming down from each earphone to a single cable under the man's chin. He stood up for a few minutes, then knelt down and went out of sight. He appeared to be a tall and large man.

On Monday, August 18, I rented a room on the south side of the Hotel Piccadilly, Room 929. I was in the room from about 7 p.m. until midnight. I observed Harry Bridges come into his room, Room 1027 at the Hotel Edison. Prior to that the next room in the Edison, Room 1025, was dark. When Bridges entered Room 1027 the light in the adjoining room, Room 1025, went on and the shade was pulled down. The room remained in that condition for about an hour until Harry Bridges left Room 1027, at which time the shade in Room 125 was raised and the light in that room went out. On this occasion there were with me in my room, Room 929 at the Hotel Piccadilly, Leon Goodelman, a reporter for the newspaper PM, and Euguen Badger, a camera man for the same paper. On Tuesday morning a Big Bertha Camera was delivered to Room 929 at the Hotel Piccadilly for the said Badger. On several occasions on Tuesday, August 19, Wednesday, August 20, and on Thursday, August 21, I saw two different individuals, one apparently light-haired, and one apparently dark-haired, in Room 1025 at the Hotel Edison. On one occasion, I do not quite remember on which of these days, I saw as I recall it, the light-haired man pasting together scraps of paper with a yellow tube of glue.

On Tuesday morning, August 19, I went into Room 1027 which was then occupied by Harry Bridges. On that occasion Bridges began to hunt around his room. He unscrewed the cover of the telephone box and opened the box. When the box was open both Bridges and I plainly saw a black microphone attached to the other wires in the telephone box with shiny, new, chromium or steel wires. After seeing this Bridges screwed back the cover of the telephone box.

On Thursday, August 21, at or about 5 p.m. the said Goodelman, said Badger, Bridges and myself were in Room 1027 at the Hotel Edison, Bridges called the manager, Hugh J. Conners, and showed him the microphone. Bridges said his wire was being tapped by occupants of the next room and he wanted to know what the hotel was going to do about it. Mr. Connors said it was all new to him, and he disclaimed knowledge or responsibility. He said he could not disturb the occupants of the next room. Conners called the house detective, Fred Collier, and Bridges asked Collier whether he had ever been in the adjoining room. The house detective disclaimed having been in the next room although he had been seen to leave that room to tell Bridges that his telephone was off the hook when in fact this was not the case. While the individuals aforesaid were in Room 1027 I heard the telephone bells tinkle in Room 1025, and heard a noise that sounded like wires being clipped and suitcases being shut. There was a general commotion in Room 1025. Bridges' telephone rang. Bridges said, apparently in answer to a question, that the persons in the next room had apparently gotten their wires crossed, and called upon Conners and Collier to witness this episode. Conners agreed to call the occupants of the next room from downstairs. Meanwhile Badger sat down on a chair in the hallway with his camera focused on the doorway of Room 1025 and said in a loud voice that he would keep vigil for thirty days if necessary, but that he would take a picture of the occupants of that room.

A telephone man who identified himself as J. Seuss came to Room 1027 and stated that the microphone was not standard equipment, that he did not care to name it, and added, "Your guess is as good as mine," or words to that effect.

Thereafter one, Oliver M. Salisbury, vice-president of the American Communications Association, a licensed electrician, arrived with a friend identified as employed for fifteen years by the Radio Corporation of America as a radio technician. Both agreed that the mechanism which was not standard equipment in the telephone box was a radio induction microphone capable of picking up the conversation in the room and over the telephone.

After these persons had been in Room 1027 I went back to Room 929 at the Hotel Piccadilly and lay on the bed there with my field glasses trained on Room 1025 of the Hotel Edison. The shades were down, the lights were out, and the room was in darkness, as it was by then 9 P.M. At or about 2:30 A.M. I heard a commotion from Room 1027 which sounded as if there were about six people in the room, and I saw a flash on that side of the Hotel Edison. Thereafter I went back to Room 1027 at the Hotel Edison.

At or about 3 A.M. Nathan Kramer, the manager of the Hotel Edison, was asked by Bridges to open Room 1025, but refused to do so. He was willing, however, to go in that room himself if the persons in Room 1027 would close the door. We did so and Mr. Kramer thereafter came back and reported that Room 1025 was unoccupied. He stated nothing about any luggage in the room.

At about 4 A.M. of that morning, Friday, August 22, three plainclothes men, one of them Lieutenant Jacobs of the New York Police, came to Room 1027. After Bridges said that the F.B.I. had been tapping his wire the plainclothes men said that they would rather not be in the middle. They were not sure about the law and they would rather check on it. However they did ask the manager to let them in on a friendly basis which the management refused to do. The detectives left at about 6 A.M.

At about 3 P.M. on Saturday, August 23, the assistant manager, Mr. Shepherd, let Bridges and myself look in Room 1025. One bed was not made up and the shades were drawn. One window on the court side was open. It was about three feet from the window of an adjoining room. We found a clamp commonly used in grounding listening devices attached to the radiator, and affixed to it was a twelve foot length of rubber insulated wire containing two strands of wire which had been clipped. We also found three pieces of black wiring tape about one and a half inches in length. In the dresser drawer there was some carbon paper. I held up a sheet and at the bottom saw the words

"Evelle J. Younger
Special Agent."

There was also a tube of LePages glue. Mr. Shepherd took all of these articles and placed them in a large envelope sealed. He stated that they were the property of the occupants of Room 1025.

A short time after Bridges and myself had investigated Room 1025 at the Hotel Edison a representative of the New York Telephone Company came to Room 1027 of the Hotel Edison at Bridges' request, and was asked by Bridges to remove the microphone from the telephone in that room. In order to do so he had to go into Room 1025, and Bridges and I accompanied him into that room in the presence of the assistant manager, Mr. Shepherd. The representative of the telephone company thereupon opened the terminal box of the telephone in Room 1025 and found that the wires from the microphone which were in the telephone box in Room 1027 were attached to the wires in the box in Room 1025. He thereupon unfastened the wires. I was asked to go into Room 1027 and remove the microphone from the telephone box in that room, and I did so, at the same time pulling out the wires which were connected to the telephone box in Room 1025.

On Monday, August 25, Goodelman and I went to the Hotel Edison. We were informed by Mr. Conners that the package containing the articles discovered in Room 1025 had been picked up by the occupants of the room at about 12 o'clock of that day. He refused to disclose the claimants and said he had no comment to make.

Thereafter on that day we went to 307 East 44th Street, New York City, and asked for Evelle J. Younger, that being his address as it appears in the New York telephone book. The house man stated that Younger had checked out an hour before. We went to the desk clerk and found that a forwarding address had been left, Evelle J. Younger, Federal Bureau of Investigation, Seattle, Washington.

LAWRENCE KAMMET.

Sworn to before me this 2nd day of September, 1941.

SALLY R. FUCHS,
Notary Public, New York
County.

Commission expires March 30, 1942.

Exhibit D

State of New York
City of New York
County of New York—ss.

Virginia Gardner, being duly sworn, deposes and says:

I am the secretary of the Citizens Committee for Harry Bridges with offices at 1265 Broadway, Borough of Manhattan, City, County and State of New York, Room No. 619.

On or about Wednesday, the 13th day of August, 1941, I went into a room at the Hotel Piccadilly, located at 227 West 45th Street, Borough of Manhattan, City, County and State of New York. I went to this room at or about 6 P.M. with Harry Bridges and Lawrence Kammet. I stationed myself at a window. I looked through a pair of binoculars at Room 1025 of the Hotel Edison, located at 228 West 47th Street, Borough of Manhattan, City, County and State of New York. Through the curtains of that room I could see a man sitting at a typewriter.

After he had been with me for some time in the room at the Hotel Piccadilly, Lawrence Kammet left, taking Mr. Bridges' key to his Edison room, No. 1027. When Kammet entered that room, the man at the typewriter in Room 1025 dived to the floor, but soon returned to his position at the typewriter. In about fifteen minutes, Kammet returned to the room where Mr. Bridges and I were watching through glasses. Mr. Bridges then left and went over to the Edison, and shortly thereafter we saw him come to the window of No. 1027.

Kammet and I waited for about half an hour in the room at Hotel Piccadilly. Meanwhile, three friends joined Mr. Bridges, whom we observed. There was a red glow from the floor in Room 1025 at the Hotel Edison. At the close of about half an hour Kammet left the Hotel Piccadilly and went to Room 1027 at the Hotel Edison. At this time I knelt on the floor holding the binoculars for about thirty minutes. During this time I saw the man in

Room 1025 getting up in a crouching position. He rose a little further, perhaps in a kneeling position. The short window curtains were slightly apart at the windows in his room, and I got a profile view of the man and could see an attachment across his head and earphones at his ears. I saw a profile view of his face. He had a ruddy complexion and dark hair which, I believe, was parted in the middle. He had a rather broad face. He was wearing a 5 white shirt. The light went out in Bridges' room, Room 1027, and the man in the next room went down to the floor. At that point my telephone rang, and shortly thereafter the telephone in Room 1025 likewise rang. The man in that room stood up. He was very tall and I could see him speaking at the telephone. At this time he wore no earphones. After he had answered the telephone he dropped down to the floor again where he remained until I left the room at the Hotel Piccadilly.

VIRGINIA GARDNER.

Sworn to before me this 2nd day of September, 1941.

SALLY R. FUCHS,
Notary Public, New York
County.

Commission expires March 30, 1942.

Exhibit F

State of New York
City of New York
County of New York—ss.

Carol King, being duly sworn, deposes and says:

I am one of the attorneys for Harry R. Bridges in connection with the deportation proceedings now pending against him.

Upon the basis of the facts set forth in the annexed affidavits of Harry Bridges, verified the 29th day of August, 1941, of Leon Goodelman, verified the 28th day of August, 1941, and of Lawrence Kammet and Virginia Gardner, both verified the 27th day of August, 1941, it seems plain that Bridges' telephone in Room 1027 of the Hotel Edison, 228 West 47th Street, Borough of Manhattan, City, County and State of New York, was tapped by agents of the Federal Bureau of Investigation from at least on or about August 5, 1941, until August 22, 1941.

The warrant of arrest against Bridges issued on or about February 12, 1941. He was put under arrest and released on bail February 14, 1941. The application by counsel for additional time to prepare for the hearing was opposed by Lemuel B. Schofield, Special Assistant to Attorney-General in Charge of Immigration and Naturalization Service, and the hearing commenced on March 31, 1941.

Before and during the hearing, counsel did not have facts at their disposal to establish that wiretapping was unlawfully employed, either directly or indirectly, by the Federal Bureau of Investigation or the Immigration and Naturalization Service in the securing of evidence which was presented at the said hearing.

In Nardone v. U. S., 302 U. S. 379, the United States Supreme Court had reversed convictions for frauds on revenue because "a vital part of the prosecution's proof" consisted of telephone messages intercepted in violation of 47 U.S. § 605.

Section 605 of the Federal Communications Act, United States Code, Title 47, in part provides:

> ". . . no person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect or meaning such intercepted communication to any person."

When the Nardone case came before the United States Supreme Court a second time, the judgment was again reversed. Nardone v. U. S., 668. At that time, Mr. Justice Frankfurter recognized that the only question open to the United States Supreme Court was " 'whether the [trial] judge improperly refused to allow the accused to examine the prosecution as to the uses to which it had put the information' which Nardone v. U. S., supra, found to have vitiated the original conviction." Mr. Justice Frankfurter said:

> "A sensible way of dealing with such a situation—fair to the intendment of § 605, but fair also to the purposes of the criminal law—ought to be within the reach of experienced trial

> judges. The burden is, of course, on the accused in the first instance to prove to the trial court's satisfaction that wire-tapping was unlawfully employed. Once that is established—as was plainly done here—the trial judge must give opportunity, however closely confined, to the accused to prove that a substantial portion of the case against him was a fruit of the poisonous tree."

United States v. Weiss, 34 F. Supp. 99, likewise arose after the reversal by the Supreme Court of a conviction based upon evidence secured by wire-tapping (Weiss v. United States, 308 U. S. 312). The government stipulated among other things that:

> "whereas the defendants in the above named case intend to apply to this Court for an order:
>
> * * *
>
> "B. Directing the United States to submit to an examination with respect to the uses made by it of such intercepted messages and facts ascertained by it as a result of such use:"

The court granted subdivision B as set forth above.

In the case at bar, contrary to the situation presented in the second Nardone and second Weiss case, the wiretapping was discovered only after the hearing had been conducted. But that does not change the applicable principle. In view of the fact that any adjournment of the hearing was opposed by Major Schofield who was actively engaged in preparing the Government's case, and he refused to furnish defense counsel with prior statements of government witnesses, opportunity to discover wire-tapping before or during the hearing was seriously circumscribed. If the F.B.I. was tapping Bridges' wires after the hearing, it is a fair inference that they had tapped not only his wires but those of other witnesses when the case was being prepared for hearing. This cannot be definitely ascertained without an examination of the appropriate government officials. To paraphrase the words of Mr. Justice Frankfurter in the second Nardone case: having proved, as is plainly done by the annexed affidavits, that wire-tapping was unlawfully employed, the Presiding Inspector must give opportunity to Bridges "to prove that a substantial portion of the case against him was a fruit of the poisonous tree."

CAROL KING.

Sworn to before me this 2nd day of September, 1941.

SALLY R. FUCHS,
Notary Public, New York County.

Commission expires March 30, 1942.

Exhibit F

Form N-400 No. . . . .
(Old A-2214)
U. S. Department of Justice
Immigration and Naturalization Service
(Edition of 7-15-42)

Type or Print

Application for a Certificate of Arrival and Preliminary Form for Petition for Naturalization

For use in searching records of arrival:

Records Examined

Card index . . . .
Index books . . . .
Manifests . . . .
. . . .

(Use Form N-215 in issuing certificate of arrival on this application)

Record Found

Place . . . .
Name . . . .
. . . .
Date . . . .
Manner . . . .
Marital status . . . .

. . . .
(Signature of person making search)

To the Applicant: Do Not Write Above This Line. Read Carefully and Follow the Instructions on Last Page Hereof.

Take or mail this application and your money order to: Immigration and Naturalization Service.

Date: June 23, 1945

I, Harry Renton Bridges, residing at 14 Cragmont Avenue, San Francisco, California, desire to file a petition for naturalization in the Superior Court at San Francisco. I submit herewith a statement of facts to be used in filing such petition, three photographs of myself, each of which I have signed, and my declaration of intention (first paper), if one is required.

I hereby apply for a certificate of Arrival (if required) showing my lawful entry into the United States for permanent residence and enclose money order No. .... ~~for $2.50, payable to the order~~ of the "Commissioner of Immigration and Naturalization, Washington, D. C." ~~in payment~~ therefor. ~~(See reference to "Money Order," page 4.)~~

(1) I arrived in the United States through the port of San Francisco, California under the name of Harry Renton Bridges on April 12, 1920 (see attached page, paragraph (1).) on the vessel Ysabell. (If otherwise than by vessel, show manner of arrival.)

(If arrival was through (Canada) (Mexico) I arrived at the port of .... (Canada) (Mexico) on (Month) (Day) (Year) .... on the vessel ....)

(2) I have not been absent from the United States as follows: except as a seaman on American vessels between 1920 and 1922 (see attached page, paragraph (2).)
(Dates of departure and return, ports of entry, and names of vessels or other means.)
I have not been absent at any other time.

(3) I have not used another name in this country than that given above. (If so) it was .... I used that name because ....

(4) The full name of the person shown on my steamship ticket was
No ticket; arrived as deserting seaman.

(5) I was born in Melbourne, (City or town) Australia (Country) on July 28, 1901 (Month, day, year) (see attached page, paragraph (3).)

(6) My father's full name is/was Alfred Ernest Bridges.

(7) My mother's maiden name was Julia Dorgan

(8) (If a married woman) My maiden name was.........................

(9) My last foreign residence was Melbourne, (City or town) Australia (Country).

(10) The place where I took the ship or train which landed me in the United States was Auckland, (City or town) New Zealand (Country).

(11) The ticket on which I came to this country was bought at
No ticket (City or town) (Country) (see attached page, paragraph (4).)

(12) (If arrival by ship) Name of steamship line was Spreckels Company; first, second, or third cabin............ (State which) I arrived as a passenger, stowaway, seaman, member of crew, or otherwise seaman (State which, giving particulars).

(13) I traveled on (an immigration visa, a passport, or permit to reenter)............ (State which).

(14) I paid $8.00 head tax at San Francisco (City or town) California (State or country) on April 24, 1920 (Month) (Day) (Year).

(15) I was........examined by United States immigration officers at San Francisco (City or town) California (State or country).

(16) (If not examined, state why, and give the circumstances of your entry)..................

(17) The person in the United States to whom I was coming was No person.

(18) The place in the United States to which I was going was San Francisco, California.

(19) The names of some of the passengers or other persons I traveled with and their relationship to me, if any, are Don't remember any.

(20) In what places in the United States have you resided: New Orleans, (City or town) Louisiana (State) From February (Month) 1921 (Year) to October (Month) 1921 (Year) (not continuously); San Francisco (City or town) California (State) From February (Month) 1922 (Year) to date (not continuously).

See attached page, paragraph (5)

(City or town) (State) From (Month) (Year) to (Month) (Year)

(21) What were the names, occupations, and addresses of your employers during the last 5 years?
Int'l Longshoremen's & Whsemen's Union, (Employer's name) (Occupation) 604 Montgomery St. (Number and street)
San Francisco, (City) California (State) During all of last 5 years. (Dates of employment) (Trade Union)

(22) Do you understand the principles of government of the United States? I do.

(23) Do you fully believe in the form of government of the United States? I do.

(24) Are you ready to answer questions as to the principles and form of government of the United States? Yes. What have you done to prepare yourself for an examination on the government of the United States? I have read

the Constitution, the Declaration of Independence, books on American history and the American form of government.

(25) Have you read the following oath of allegiance? Yes.

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely without any mental reservation or purpose of evasion: So Help Me God.

Are you willing to take this oath in becoming a citizen? Yes.

In what country are you now a citizen or subject? Great Britain.

(26) If necessary, are you willing to take up arms in defense of this country? Yes.

Have you ever, during the time this country was at war, deserted the military or naval forces of the United States, or departed from the jurisdiction of the enrollment district or the United States to avoid draft into the military or naval forces of the United States? No.

(27) If not now married, have you ever been married? Yes.

Are you divorced? No, but divorce proceedings pending.

(28). Are you a believer in anarchy or the unlawful damage, injury, or destruction of property, or sabotage? No. Do you belong to or are you associated with any organization which teaches or advocates anarchy or the overthrow of existing government in this country? No.

(29) Have you ever been an inmate of an insane asylum? No.

(30) Have you ever been arrested or charged with violation of any law of the United States or State or any city ordinance or traffic regulation? Yes. If so, give full particulars: See attached page (paragraph (6).)

(31) (a) In what place in the United States did you meet for the first time your first witness named on the opposite page? Santa Cruz (City or Town) California (State)

How often have you seen this witness each month since the date you first met him (her)? At least once a month.

At what places Santa Cruz and San Francisco, California.

(b) In what place in the United States did you meet for the first time your second witness named on the opposite page? San Francisco, (City or town) California (State)

How often have you seen this witness

each month since the date you first met him (her)? Probably 2 or 3 times each month, frequently daily for long periods. At what places? Mainly San Francisco, California.

(32) Have you ever been deported from the United States, or are deportation proceedings now pending against you? Have never been deported.
If so, state all facts See attached page, paragraph (6), subdivision three.

(33) Was your father or mother ever a citizen of the United States? No If so, give full particulars ....

(34) Did you register under the Alien Registration Act of 1940? Yes.
If so, state the number of your Alien Registration Receipt Card 5800844 (Registration number)

(35) Did you yourself fill out this form? Yes.
If not, give the name and address of the person who did ....

I certify that all of the statements made by me in this application and form are true to the best of my knowledge and belief.

....
(Signature of applicant)

....
(Address at which applicant receives mail)

Statement of Facts to Be Used By the Clerk of Court in Making and Filing My Petition for Naturalization

(1) My full, true, and correct name is Harry Renton Bridges (Full, true name, without abbreviation, and any other name which has been used must appear here)

(2) My present place of residence is (Number and street) (County) City or town) 14 Cragmont Avenue.

(3) My occupation is Union Official.

(4) I am 43 years old.

(5) I was born on (Month) (Day) (Year) July 28, 1901* (City or town) in Melbourne, (County, district, province, or state) (Country) Australia.

(6) My personal description is as follows: Sex, Male; color, White; complexion, Fair; color of eyes, Grey; color of hair, Brown; height, 6 feet, 0 inches; weight, 155 pounds; visible distinctive marks, none; race, White; present nationality, British (Australian).

(7) I am married; the name of my wife or husband is Agnes Bridges. We were married on (Month) (Day) (Year) (City or town) (State or county) See attached page, Paragraph (7). He or she was born in Glasgow, Scotland, on (Month) (Day) (Year) June 28, 1900, entered the United States at (City

or town) (State) New York, New York, on (Month) (Day) (Year) May ..., 1912, for permanent residence in the United States and now resides at (City or town) (State or country) San Francisco, California, and was naturalized on — (Month) (Day) (Year) ....., (City or town) (State) .... certificate No. ....; or became a citizen by former marriage.

(8) I have one child and the name, sex, date and place of birth, and present place of residence of each of said children who is living are as follows: Betty Jacqueline, female, born December 26, 1924, at San Francisco, California, residing at New York City, New York; and one step-child, Kenneth McCley, male, born June 27, 1916, Marshfield, Oregon, now a member of the United States Army.

(9) My last place of foreign residence was (City or town) Melbourne, (County, district, province, or state) (Country) Australia.

(10) I emigrated to the United States from (City or town) Auckland, (Country) New Zealand.

(11) My lawful entry for permanent residence in the United States was at (City or town) San Francisco, (State) California, under the name of Harry Renton Bridges on (Month) (Day) (Year) April 12, 1920, (see attached page, paragraph (1).) On (Name of vessel or other means of conveyance) the Ysabell.

(12) Since my lawful entry for permanent residence I have not been absent from the United States, for a period or periods of 6 months or longer as follows except:

~~Departed from the United States. Returned to the United States expect Port (Month, day, year) Date: Vessel or Other Means of Conveyance. Port Date (month, day, year). Vessel or Other Means of Conveyance.~~

Between March 6, 1922, and October 4, 1922, I sailed as a merchant seaman on the USS Lydonia, an American vessel of the U. S. Coast Geodetic Survey.

(13) I declared my intention to become a citizen of the United States on (Month) (Day) (Year) March 28, 1939, in (Name of Court) the U. S. District Court of Northern Calif., Dist. of Calif. at (City or town) (State) San Francisco, Calif. (See attached page, paragraph (8).)

(14) It is my intention in good faith to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty of whom or which at this time I am a subject or citizen, and it is my intention to reside permanently in the United States.

(15) I am not, and have not been for the period of at least 10 years immediately preceding

the date of this statement, an anarchist; nor a believer in the unlawful damage, injury, or destruction of property, or sabotage; nor a disbeliever in or opposed to organized government, nor a member of or affiliated with any organization or body of persons teaching disbelief in or opposition to organized government.

(16) I am able to speak the English language, unless physically unable to do so.

(17) I am, and have been during all of the periods required by law, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States.

(18) I have resided continuously in the United States of America since (see attached page, paragraph (9)). (Month) (Date) (Year) ...... and continuously in the State of..... where I now live since (Month) (Day (Year) ....

(19) I have not heretofore made petition for naturalization number .... on (Month (Day) (Year) ...., at (City or town) (County) ...... (State) ...... in the (Name of Court) ...., and such petition was dismissed or denied by that court for the following reasons and causes, to wit........, and the cause of such dismissal or denial has since been cured or removed.

(20) Attached hereto and made a part of this Statement (if required) are my Declaration of Intention to become a citizen of the United States, three photographs of myself, and a money order for $2.50 payable to the order of "Commissioner of Immigration and Naturalization, Washington, D. C."

(21) I wish the naturalization court to change my name to (Give full name desired)

(22) (1st witness) (Name) Paul Schnur. (Occupation) Union official, residing at (Number and street) 1832 - 25th Street, (City or town) San Francisco, (State) California. I first met this witness in the United States on (Month) (Day) (Year) Approximately 1937 or 1938.

(23) (2nd witness) (Name) Henry Schmidt. (Occupation) Union official, residing at (Number and street) 1156 Sanchez Street, (City or town) San Francisco, (State) California. I first met this witness in the United States on (Month) (Day) (Year) approximately 1932. *See attached page, paragraph (3).

I certify that the above statement of facts has been read by me and that the statement is true to the best of my knowledge and belief.

(Note.—Have you enclosed (if required) your

Declaration of Intention, Three Photographs of Yourself, and Money Order for $2.50?)

....
(Signature of applicant)

....
(Address at which applicant receives mail)

Do Not Fill in Blanks Below

Affidavit of witnesses to show residence of petitioner as follows:

United States ....
State ....
Examiner ....

Do Not Fill in Blanks Below

Corrections numbered ...... to ...... in this Preliminary Form for Petition for Naturalization, N-400, were made by me or at my request.

Applicant ....
Date ....

Instructions to the Applicant

Pages 1, 2, and 3 of this form must be completely filled out (preferably on the typewriter).

Immigrant Identification Cards and Alien Registration Receipt Cards. Every alien who entered the United States for permanent residence on the basis of an immigration visa on or after July 1, 1928, and prior to August 27, 1940, should be in possession of an immigrant identification card. Every alien in the United States should be in possession of an alien registration receipt card. You need not forward either card with this application. However, you will be required to present these cards when you appear to file your petition for naturalization and to surrender them at the time you are admitted to citizenship. You should therefore carefully save your immigrant identification card and your alien registration receipt card.

Photographs. You are required to send with this application three photographs of yourself taken within 30 days of the date of this application. These photographs must be 2 by 2 inches in size with the distance from the top of head to point of chin approximately 1¼ inches, must not be pasted on a card or mounted in any other way, must be on thin paper, have a light background, and clearly show a front view of your face without hat. Snapshots, group or full-length portraits will not be accepted. Each of these photographs must be signed by you on the margin and not on the face or the clothing.

Money Order. If you are not within one of the classes named below in this paragraph, you must get a United States postal money order in the sum of $2.50, payable to the order of the "Commissioner of Immigration and Naturalization, Washington, D. C.," in payment for the issuance of a certificate of your arrival in the United States. The money order must be attached to this application when you send it or take it to the immigration and naturalization office at the address given on the first page of this form. You do not have to send a money order if (1) your arrival in the United States was on or before June 29, 1906; or (2) your declaration of intention (first paper) is dated on or after July 1, 1929; or (3) you filed a petition for naturalization on or after July 1, 1929; or (4) you are otherwise excused by law from the requirement of a certificate of arrival.

Date of Your Arrival. If you do not know the exact date of your arrival in the United States, or the name of the vessel or port, and you cannot obtain this information by consulting your family or friends who came over with you, give the facts of your arrival as you remember them in the appropriate blank spaces on the first page of this form. Your immigrant identification card or your passport, ship's card, or baggage labels, if you have them, may help you to answer these questions.

Nationality and Race. Nationality in statement No. 6, page 3, refers to the country of which you are a citizen or subject. As to "race" in the same statement, Section 303 of the Nationality Act of 1940 provides that only white persons, persons of African nativity or descent, and descendants of races indigenous to the Western Hemisphere are eligible for naturalization. There are certain exceptions, in the cases of native-born Filipinos who have served honorably in the United States Army, Navy, Marine Corps, or Coast Guard for a period of at least 3 years, and in the cases of women who have lost United States citizenship through marriage.

As stated above, the following races are eligible for naturalization:

White.
African or African descent.
Filipino.
Indian.
Eskimo.
Aleutian.

State to which of these classifications you belong.

Witnesses. The names, occupations, and addresses of two citizens you expect to bring with you as witnesses when you appear for examination to file your petition should be stated in items (22) and (23) on page 3. (These witnesses must have personal knowledge of your residence in the State where you now reside and have resided for the past 6 months, and of your character and other qualifications. A foreign-born witness must bring proof of his citizenship.)

Penalty for Falsely Swearing in Naturalization Cases

It is a felony, punishable by a fine of not more than $5,000 or imprisonment for not more than 5 years, or both, for an alien or other person, whether an applicant for naturalization or citizenship, or otherwise, knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship. (Nationality Act of 1940, Sec. 346 (a) (d).)

Result of Examination

To the Applicant—Do not write on these lines

....

....

....

Examiner.........................

U. S. Government Printing Office 16-11311-1

Attached Page

(1) Answer to Question No. (1), Page 1 of Application:

My certificate of arrival shows that I arrived in San Francisco April 12, 1920, but in previous declaration of intention, not having the certificate available and not being certain of the date, I gave my best recollection at that time as "on or about May 7th, 1920."

(2) Answer to Question No. (2), Page 1 of Application:

I have resided continuously in the United States since my entry on April 12, 1920, except when absent as a seaman on American vessels; and continuously in the State of California, where I now live, since February, 1922, except for an absence as a seaman from March 6, 1922, to October 4, 1922, an interval when I sailed as a seaman aboard the USS Lydonia, of the U. S. Coast Geodetic Survey; and the further exception of a brief residence at Coos Bay, Oregon, in November and December of 1923.

(3) Answer to Question No. (5), Page 1 of Application:

In previous applications and declarations, I have given my birth date as July 28 or July 29, 1899; and also July 28, 1900. Until a few years ago, I was uncertain of the date. This was due to the fact that, during the first war, I wished to ship out as a merchant seaman on vessels that were going into war zones, and because I was then too young to be accepted, I advanced my age two or three years as the necessity required. Later, as I grew older, I switched my age back one or two years. I did this so many times that I finally wound up not sure of my birth date. For a time I believed it was July 28 or July 29, 1899, and later I thought it was 1900. About four or five years ago, I wrote to my family in Australia about this, and they advised me that my correct birth date was July 28, 1901.

(4) Answer to Question No. (11), Page 1 of Application:

I did not come to this country on a ticket of passage, but I signed my seaman's articles at Auckland, New Zealand.

(5) Answer to Question No. (20), Page 2 of Application:

Directly after making my entry at San Francisco in 1920, I began to sail on American vessels. In February, 1921, I became a resident of New Orleans, Louisiana, and continued to reside there until about October 4, 1921, although during that period I also made short voyages as a seaman on American vessels. I left New Orleans as a seaman on an American vessel about October 14, 1921, and returned to San Francisco to begin my residence there about February 27, 1922. About March 6, 1922, I took employment as a seaman aboard the USS Lydonia, and this employment lasted until about October 4, 1922, when I resumed my San Francisco residence. This was continued to date, except for a brief residence at Coos Bay, Oregon, in November and December, 1923.

(6) Answer to Question (30) Page 2 of Application:

During the last twenty years I have been charged with violations of traffic ordinances—improper parking (several times), and improper driving (probably three or four times). These occurred in San Francisco and in Los Angeles. In all cases, charges were disposed of either with a warning or with a small fine. I was also arrested for picketing as a Union man during a strike in New Orleans, Louisiana, in 1921. The charge against me was dismissed.

On December 26, 1936, I was arrested in Los Angeles and charged with negligent homicide. After investigation, the District Attorney's office pronounced it as an unavoidable accident, and on the District Attorney's motion, the charges against me were dismissed.

In 1938 I was arrested in Baltimore, Maryland, on a charge of being subject to deportation. My case was tried in 1939 at Angel Island before Dean

James M. Landis. He found and held that the charges against me were untrue, and recommended that the warrant of arrest be canceled. The Secretary of Labor accepted this recommendation and ordered the proceedings dismissed and the warrant of arrest canceled. In 1941 I was again arrested in San Francisco under a warrant, charging me with being subject to deportation. I was tried before Judge Charles Sears, whose adverse recommendations were rejected by the U. S. Board of Immigration Appeals. This board found that the charges against me were untrue, and that they should be dismissed. However, Attorney-General Biddle overruled the Board's decision. I brought Habeas Corpus proceedings in the Federal Court, and these proceedings have just been terminated with a decision of the U. S. Supreme Court on June 18, 1945, reversing the lower court because it had refused to hold my deportation invalid, and granting a writ of habeas corpus.

(7) Answer to Question (7), Page 3 of Application:

Agnes Bridges and I were married at Coos Bay, Oregon, approximately December 2, 1923, and later remarried on May 1, 1934, at San Francisco, California.

(8) Answer to Question (13), Page 3 of Application:

I previously filed a declaration of intention on July 13, 1921, at New Orleans, Louisiana, and a preliminary form for petition for naturalization on June 15, 1928, at San Francisco, but when I brought my witnesses to the hearing, I was told that the papers had expired. I then filed a new declaration of intention on August 9, 1928, at San Francisco, and a preliminary form for a declaration of intention on May 7, 1936, at San Francisco.

(9) Answer to Question (18), page 3 of Application:

My original residence began at San Francisco on April 12, 1920, when I entered this country. However, this residence was broken up with trips as a seaman on American vessels up until October 4, 1922. Since this date I have continuously resided in the United States. I have also continuously resided in San Francisco, California, since October 4, 1922, except for a brief residence in November and December, 1923, at Coos Bay, Oregon.

13-167
Rev. 4-10-45

(Notice to Appear for Filing Petition)
(Appointment Letter)

Immigration and Naturalization Service
United States Department of Justice
San Francisco, Cal.
630 Sansome Street

If you write, refer to this No. 22-56274

July 17, 1945

Mr. Harry Renton Bridges,
604 Montgomery Street,
San Francisco, California.

Dear Sir or Madam:

The Government has made arrangements to aid you in filing your petition for naturalization. For this purpose please meet an Examiner at:

Place: Room 314 City Hall, San Francisco
Date: August 8, 1945
Hour: 9:00 a.m.

Bring two witnesses who have personal and continuous knowledge of you for the past five years, or for as much of this period as you have been in the place where you now reside. These witnesses must be citizens of the United States, and, if naturalized citizens, they must bring their certificate of naturalization.

Please bring with you the documents indicated by check mark:

- (X) Your Alien Registration Receipt Card.
- (X) Your Selective Service (Draft) Card.
- ( ) Your Certificate of Identification. (Pink Book.)
- ( ) Enclosed Forms. (Filled out by you as directed thereon.)
- ( ) Your marriage certificate.
- ( ) Birth certificate of your husband/wife.
- ( ) Certificate of citizenship of your husband/wife.
- ( ) Final divorce decree or death certificate to show termination of any former marriages of either you or your spouse.
- (X) If you have attended school, also present your school certificate or attendance record.

Be sure to be present, as your absence will delay the filing of your petition. The filing fee will be $8.00.

Very truly yours,

IMMIGRATION AND NATURALIZATION SERVICE.

By H. HART,
Chief, Nationality and
Status Section.

Please Have Your
Witnesses Read This
Letter Prior to Appearing.

Exhibit G

Original
(To be retained by
Clerk of Court)

No. 28152

United States of America
Petition for Naturalization

[Under General Provisions of the Nationality Act of 1940 (Public No. 853, 76th Congress.)]

To the Honorable the Superior Court of the State of California at San Francisco, California.

This petition for naturalization, hereby made and filed, respectively shows:

(1) My full, true and correct name is Harry Renton Bridges. (Full, true name, without abbreviation, and any other name which has been used, must appear here.)

(2) My present place of residence is (Number and street) 14 Cragmont Ave., (City or town) (County) (State) San Francisco, Calif.

(3) My occupation is Union Official.

(4) I am 44 years old.

(5) I was born on (Month) (Day) (Year) July, 28, 1901, at (City or town) (County, District, Province or State) Melbourne, Australia.

(6) My personal description is as follows: Sex Male, color white, complexion fair, color of eyes grey, color of hair brown, height 6 feet .. inches, weight 155 lbs., visible distinctive marks none, race white, present nationality British (Australian).

(7) I am married; the name of my wife is Agnes; we were married on (Month) (Day) (Year) Dec. 2, 1923, at (City or town) (State or Country) at Coos Bay, Oregon. She was born at (City or town) (County, District, Province or State) Glasgow, Scotland, on May, 1912, and entered the United States at (City or town) (State) New York, N. Y., on May, 1912, for permanent residence in the United States, and now resides at (Number and street) (City or town) (County and State), San Francisco, Calif., and was naturalized on (Month) (Day) (Year)...... at (City or town) (State)......, certificate No. .... or became a citizen by former marriage.

(8) I have one child, and the name, sex, date and place of birth, and present place of residence of each of said children who is living, are as follows:

Betty Jacqueline (f.), Dec. 26, 1924, San Francisco, Calif. New York, N. Y.

(9) My last place of foreign residence was Melbourne, Australia.

(10) I emigrated to the United States from Auckland, New Zealand.

(11) My lawful entry for permanent residence in the United States was at (City or town) (State) San Francisco, Calif., under the name of Bridges, Harry, on (Month) (Day) (Year) April 12, 1920, on the (Name of vessel or other means of conveyance) SS "Ysabel" as shown by the certificate of my arrival attached to this petition.

(12) Since my lawful entry for permanent residence I have been absent from the United State, for a period or periods of six months or longer, as follows:

Departed From the United States

Port (Month, Day, Year) Vessel or other means of conveyance.

Returned to the United States

Port (Month, Day, Year) Vessel or other means of conveyance.

Between March 6, 1922, and Oct. 4, 1922, I sailed as a merchant seaman on the U.S.S. Lydonia, an American vessel of the U. S. Coast Geodetic Survey.

(13) I declared my intention to become a citizen of the United States on (Month) (Day) (Year) March 28, 1939, in the (Name of Court) District Court of United States at (City or town) (State) San Francisco, Calif.

(14) It is my intention in good faith to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, State, or sovereignty of whom or which at this time I am a subject or citizen; and it is my intention to reside permanently in the United States.

(15) I am not, and have not been for the period of at least ten years immediately preceding the date of this petition, an anarchist; nor a believer in the unlawful damage, injury, or destruction of property, or sabotage; nor a disbeliever in or opposed to organized government; nor a member of or affiliated with any organization or body of persons teaching disbelief in or opposition to organized government.

(16) I am able to speak the English language (unless physically unable to do so).

(17) I am, and have been during all of the periods required by law, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States.

(18) I have resided continuously in the United States for the term of five years at least immediately preceding the date of this petition, to wit, since (Month) (Day) (Year) April 12, 1920, and continuously in the State in which this petition is made for the term of six months at least immediately preceding the date of this petition, to wit, since (Month) (Day) (Year) Oct., 1922.

(19) I have not heretofore made petition for naturalization: No..... on (Month) (Day) (Year) ..... at (City or town) (County) (State) ..... in the (Name of Court) ......, and such petition was dismissed or denied by that court for the following reasons and causes, to wit: ...... and the cause of such dismissal or denial has since been cured or removed.

(20) Attached hereto and made a part of this, my petition for naturalization, are my declaration of intention to become a citizen (if such declaration of intention be required by the naturalization law), a certificate of arrival from the Immigration and Naturalization Service of my said lawful entry into the United States for permanent residence (if such certificate of arrival be required by the naturalization law), and the affidavits of at least two verifying witnesses required by law.

(21) Wherefore, I, your petitioner for naturalization, pray that I may be admitted a citizen

of the United States of America, and that my name be changed to ……

(22) I, aforesaid petitioner, do swear (affirm) that I know the contents of this petition for naturalization subscribed by me, that the same are true to the best of my own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters I believe them to be true, and that this petition is signed by me with my full, true name, So Help Me God.

/s/ HARRY RENTON BRIDGES.

(Full, true, and correct signature of petitioner, without abbreviation.)

c16-19120
(Reverse)

Affidavit of Witnesses

The following witnesses, each being severally, duly and respectively sworn, depose and say:

My name is J. R. Robertson, my occupation is Labor Union Official, I reside at (Number and Street) (City or town) (State) 1815 Powell St., S. F., Cal.

My name is Henry Schmidt, my occupation is Union Official - ILWU. I reside at (Number and Street) (City or town) (State) 1156 Sanchez St., S. F., Cal.

I am a citizen of the United States of America; I have personally known and been acquainted in the United States with Harry Renton Bridges, the petitioner named in the petition for naturalization of which this affidavit is a part, since (Month) (Day) (Year) August 1, 1940. To my personal knowledge the petitioner has resided, immediately preceding the date of filing this petition, in the United States continuously since the date last mentioned, and at (City or town) San Francisco in the State of California continuously since (Month) (Day) (Year) August 1, 1940, and I have personal knowledge that the petitioner is and during all such periods has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States, and in my opinion the petitioner is in every way qualified to be admitted a citizen of the United States.

I do swear (affirm) that the statements of fact I have made in this affidavit of this petition for naturalization subscribed by me are true to the best of my knowledge and belief; So Help Me God.

/s/ HENRY SCHMIDT.
(Signature of Witness.)

/s/ J. R. ROBERTSON.
(Signature of Witness.)

Subscribed and sworn to before me by the abovenamed petitioner and witnesses in the respective forms of oath shown in said petition and affidavit in the office of the Clerk of said Court at San Francisco, California, this 8th day of August, Anno Domini 1945. I hereby certify that certificate of arrival No. 22-56274 from the Immigration and

Naturalization Service, showing the lawful entry for permanent residence of the petitioner above named, together with declaration of intention No. 103785 of such petitioner, has been by me filed with, attached to, and made a part of this petition on this date.

H. A. VAN DER ZEE,
Clerk.

By /s/ H. J. GUDELJ,
Deputy Clerk.

Oath of Allegiance

I hereby declare, on oath, that I absolutely and entirely renounce and abjure all allegiance and fidelity to any foreign prince, potentate, state or sovereignty of whom or which I have heretofore been a subject or citizen; that I will support and defend the Constitution and laws of the United States of America against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I take this obligation freely without any mental reservation or purpose of evasion: So Help Me God.

/s/ HARRY RENTON BRIDGES.
(Signature of Petitioner.)

Sworn to in open court, this 17th day of September, A.D. 1945.

H. A. VAN DER ZEE,
Clerk.

By /s/ H. J. GUDELJ,
Deputy Clerk.

Note: In renunciation of title or order of nobility, add the following to the oath of allegiance before it is signed: "I further renounce the title of (giving title or titles) which I have heretofore held," or "I further renounce the order of nobility (give the order of nobility) to which I have heretofore belonged."

Petition Granted: Line No. 3 of List No. 93 and Certificate No. 6405274 issued. 9-19-1945.

Petition Denied: List No. ....

Petition Continued from ......, to .... Reason.

U. S. Government Printing Office 16-19120

Exhibit H

In the Superior Court of the State of California in and for the City and County of San Francisco, Department No. 3

Honorable Thomas M. Foley, Judge Presiding.

Naturalization Proceedings of
Harry Bridges, Petitioner

September 17, 1945

REPORTER'S TRANSCRIPT

Appearances:

For the United States Government:
LLOYD H. GARNER, ESQ.

For the Petitioner:
RICHARD GLADSTEIN, ESQ. [1*]

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*Pagination in original transcript.

EXHIBIT I

EXHIBIT I

Sports, Business News
Classified Ads

FIRST by Merit

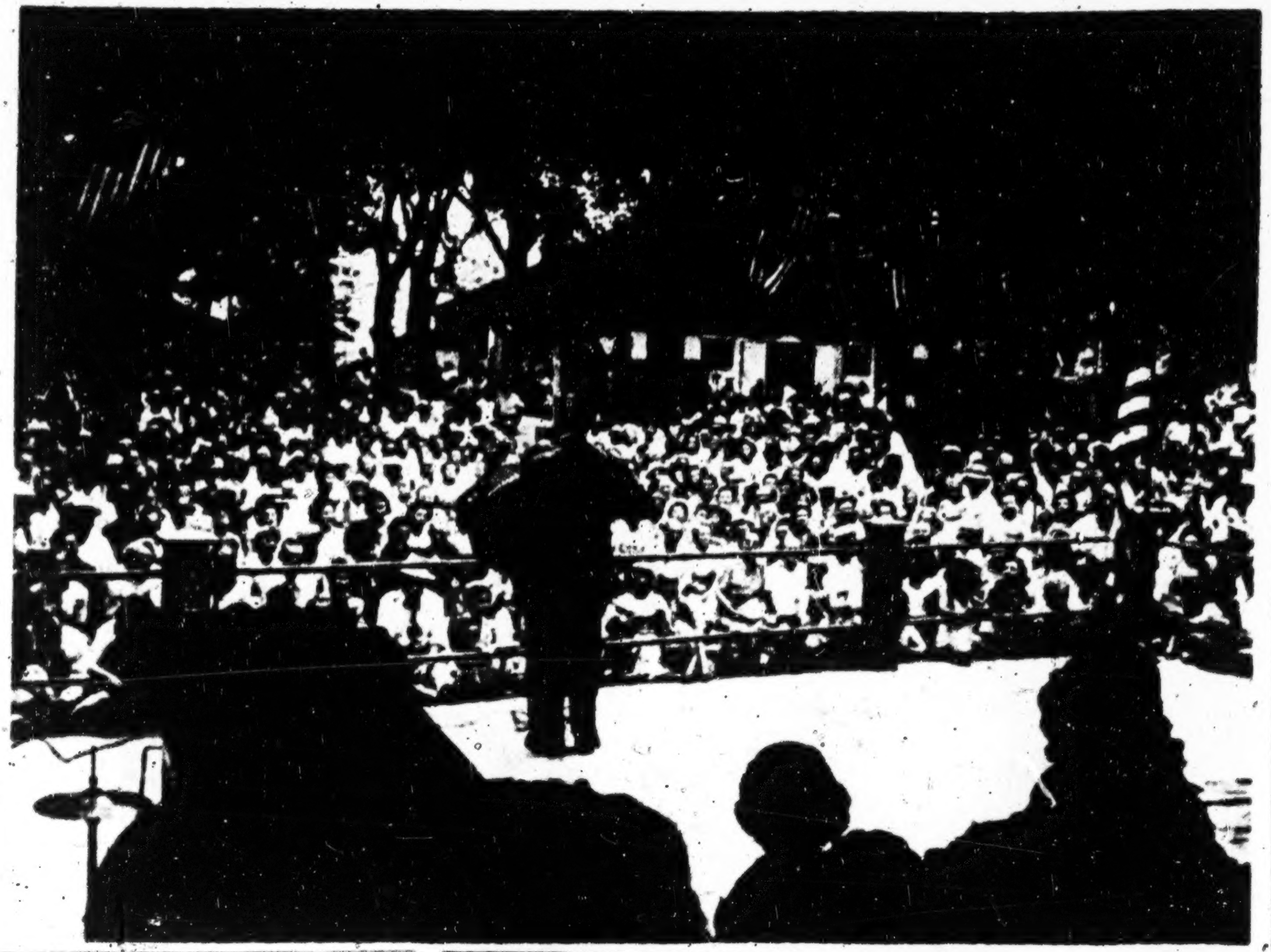
THE MILWAUKEE JOURNAL

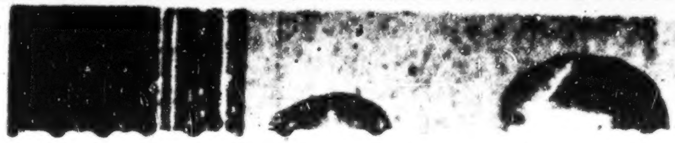
The PAPER with the WANT ADS

Local News, Features
Picture Page

★ ★ ★

Monday, June 27, 1949





'Red Problem Under Control'

Attorney General Says Subversives on the Run Except in Hawaii

The justice department and the federal bureau of investigation, without indulging in witch hunts or endangering the democratic rights of individuals, have the Communist problem under control, except perhaps in Hawaii, Atty. Gen. Tom C. Clark said Sunday.

He spoke to about 5,000 persons at the German Relief Day festival at Old Heidelberg park. Later, at a dinner at the University club, he discussed many of the nation's domestic and foreign problems.

A dozen persons, among them known Communists, picketed the the club while Clark was there.

Membership Off 40%

In his talk at the dinner, Clark reported that:

"Some drastic action" may be needed to combat subversives in Hawaii but elsewhere subversion is on the run.

September 17, 1945

(After the Petitioner, Harry Renton Bridges, and the two witnesses appearing in his behalf, J. R. Robertson and Henry Schmidt, were first duly sworn by the Deputy County Clerk, Walter Castagnetto, the following proceedings took place.)

Mr. Garner: Harry Renton Bridges, J. R. Robertson and Henry Schmidt.

Q. The witnesses are both citizens of the United States?

Mr. Robertson: Yes.

Mr. Schmidt: Yes.

Q. You each have known the petitioner for the last five years or longer?

Mr. Robertson: Yes.

Mr. Schmidt: Yes.

Q. And you know him to be a resident of this county at this time?

Mr. Robertson: Yes.

Mr. Schmidt: Yes.

Q. Do you each vouch for his loyalty to the United States?

Mr. Robertson: Yes.

Mr. Schmidt: Yes.

Q. Do you recommend him as a person of good moral character?

Mr. Robertson: Yes.

Mr. Schmidt: Yes. [2]

Q. Do you recommend him to this Court for citizenship?

Mr. Robertson: I do.

Mr. Schmidt: I do.

Mr. Garner: These witnesses are satisfactory, your Honor.

The Court: All right.

Mr. Castagnetto: (The Clerk): Now, the applicants will remain in the courtroom. The witnesses can go home if they want. They don't have to wait, but the applicants must wait for examination.

The Court: The witnesses may remain if they wish, or leave as they wish; but the applicants will all remain.

Examination of the Petitioner, Mr. Bridges, by Mr. Garner

Q. (By Mr. Garner): Where do you live, Mr. Bridges?

A. No. 14 Graystone Terrace, San Francisco.

Q. Your occupation?

A. Union official at the present time.

Q. Where were you born?

A. Melbourne, Australia.

Q. How long have you been in the United States?

A. All told, I would say from 1920. That includes the years I went to sea on American ships.

Q. Your home has been here since then continuously? A. Yes.

Q. In the United States—your home has been in the United States since 1920?

A. Since 1923 ashore, and two or three years before that sailing on American ships. [3]

Q. You are married? A. I am.

Q. You have one child?

A. Yes, that is right.

Q. Have you ever been arrested for anything at all? A. On one occasion.

Q. When was that, please?

A. 1921 in New Orleans.

Q. What was the charge? A. Picketing.

Q. And the outcome, what was it, a fine or imprisonment?

A. Neither. I was kept in the county jail overnight, or substation, and released the next morning without being held or booked. I was arrested for deportation on a couple of occasions, I forgot to mention that.

Q. Outside of the deportation cases, that is the only criminal offense with which you have been charged?

A. Would that include traffic violations?

Q. Have you ever been arrested on traffic violations?

A. Yes. Well, not—I was arrested once for an automobile accident.

The Court: I might say deportation proceedings have been held not to be criminal proceedings.

The Witness: I was arrested for an automobile accident in December, 1946, in Los Angeles, and held in the police station for a few hours, and eventually released on bail, and the charge—I have forgotten what the charge was. But anyway, a little boy was killed, and the case was dismissed later as an unavoidable accident.

Mr. Garner: The case was dismissed, then, against you? [4] A. That is right.

Q. Mr. Bridges, do you believe in the form of government we have in the United States at the present time? A. I do.

Q. Do you know what the highest law in the United States is?

A. The Constitution of the United States.

Q. The Constitution divides the form of government into three branches. Can you tell me why we have three branches of government?

A. To prevent the concentration of power in the hands of any one branch.

Q. Do you believe in that principle of the Constitution. A. I certainly do.

Q. Can the Congress of the United States make laws for the entire—for instance, for the various states, for the states as individual states?

A. No, not necessarily. Congress has certain delegated powers. Congress cannot make law that governs all the states, but certain states' rights are reserved by the states.

Q. Under the Constitution of the United States, there is a provision that no property can be taken for the public use without compensation. Do you believe in that principle of government?

A. I do.

Q. Do you believe in the private ownership of property? A. I do.

Q. Do you believe in the private ownership of the means of production of wealth and property?

A. I believe in private ownership, but I also believe in some [5] regulation.

Q. Do you believe in the private ownership of railroads and mines, and other public utilities, like the telegraph companies? A. I do, right.

Q. Do you now, or have you ever, belonged to any organization that advocated the overthrow of the government by force or violence? A. No.

Q. Do you now, or have you ever, belonged to the Communist Party in the United States?

A. I have not, I do not.

Q. And have you belonged to any organizations that are affiliated with the Communist Party?

A. I have belonged to organizations that have been accused of affiliation with it.

Q. (By the Court): In your mind is there any ground for the accusation?

A. None at all. I mean, your Honor, certain labor organizations have been accused.

The Court: Well, of course, Mr. Bridges, we are all cognizant of the history of your petition for citizenship and the deportation proceedings. They have all become a part of this proceeding and involve the question. One of the main questions was the question of your affiliation with any organization that in any way advocated the overthrow of this government by force or violence. Now, "affiliation" is a pretty broad word, and one of the questions was at the time of making the application, "Were you ever a member?" [6]

I know you are, and your counsel, Mr. Gladstein, is very familiar with those cases. Now, your testimony is that you do not now, or ever have been, ever affiliated with ~~any~~ organization that advocated the overthrow of the United States Government by force or violence? A. That is right.

Q. (By Mr. Garner): Have you ever been known, or used, any other name at any time?

A. No.

Mr. Garner: If the Court please, I have no further evidence. I have an affidavit which was received by the Department on Friday of last week. I have had no opportunity to make any investigation of it. I merely offer it for what it is worth. (handing to Court).

The Court: This is an affidavit of Agnes Bridges. Is that Mrs. Bridges?

The Witness: My wife, yes, sir.

Mr. Garner: It contains certain statements there that——

The Court: Well, I think this—I don't think that this affidavit can be used as substantive evidence.

Mr. Garner: I am not offering it as evidence.

The Court: But, however, the information in it can be used as a basis for questioning the Petitioner, if you see fit to.

Mr. Garner: It sets out there that he has been known under another name. I have asked him and he has denied it. [7]

Q. (By the Court): It states here that meetings of the Communist Party were held at 3249½ Harrison Street, in which you presided at those meetings. Is that correct?

A. No, never, your Honor.

Q. It further states that the said Harry Bridges deeming the hiding place for his Communist membership party book unsafe where it was hidden in said bathroom under the linoleum, then with his knife over the lintel of a door leading from the kitchen of said home to a rear porch made a slit back of said lintel, and between the plaster, so that the membership book could be hidden therein.

That is incorrect, is it?

A. That is right. It is true I searched my house many times, your Honor, because I was afraid that at certain times when things were pretty hectic that someone would try to plant things there. But at no time was there any incident like that, nor does it have any substance at all, and it is an incorrect statement.

Q. It states further that your affiant during the summer of 1934 and during the 1934 strike went to the State of Oregon for a time on a visit to relatives. That upon her return your affiant was instructed by said Harry Bridges, through one Kasperson, or Casperson, to remove said Communist membership book in the Communist Party from its hiding place over the aforesaid door to a place of safety, as he had been informed that someone was going out to get it. [8]

Is that statement correct?

A. I only know one person—I had a friend by the name of Kasperson who was never in my house, if that is the person referred to. But, of course, the rest of it is untrue.

Q. It states in substance that the membership book held by Harry Bridges in the Communist Party was held under the name of one Harry Dorgan, the name used to designate Harry Bridges by the Communist Party.

Is that correct?

A. That name came up in my trial at Angel Island when counsel for the government introduced a book in evidence merely for identification, because it had been used as the basis for a warrant issued against me. But they stated at that time they were not offering it in evidence, because they had no connection between the alleged book and myself. I know they sold that book, and they sold for $500 a copy. That is the origin of that book.

The Court: Do you wish to look at that affidavit, Mr. Gladstein? (handing to Mr. Gladstein).

Q. (By Mr. Garner): You deny that you have ever used any other name than Bridges?

A. No, never any other name at all.

Mr. Gladstein: May I say we have just concluded a trial before Judge Deasy in which the applicant was the plaintiff in a divorce action, and it is rather significant that his wife testified during the course of that trial, [9] as evidence of her faithfulness and loyalty to him, and of her having been a good wife, that she had made affidavits stating truthfully that the charges against Mr. Bridges that he had been a Communist were wholly false, and it is true that she had made such affidavits.

The Court: She so testified in the divorce case?

Mr. Gladstein: Yes. There is an affidavit in which she deposes and states that certain testimony given by a man named Lundeberg during the second deportation trial, accusing Mr. Bridges of being a Communist, was wholly false.

I suppose your Honor knows the old adage that hell hath no fury like a woman scorned.

The Court: Well, her statement as to the veracity of Lundeberg's testimony would not be of any use. But if she impeached herself——

Mr. Gladstein: Yes, she did, as a matter of fact, and her counsel offered no testimony on her part to show she had been a good wife.

Now, the significance in the action was merely this, that while she gave the affidavit at the time, that affidavit was not admissible in evidence, and when she was asked to testify in the case, to merely testify as to what she had been willing to put in the affidavit, she said she wouldn't walk into a courtroom and testify to it. Judge Deasy considered that an element of lack of conjugal cooperation. That was the only point in that case. [10]

There have been two questions that would be regarded as significant in this application. One is whether Mr. Bridges' political and ideological views and activities during his life here would qualify him or bar him from citizenship; and the other is whether he has acted as a man of good moral behavior. As I understand it, the government today takes no position——

The Court: Well, I think maybe you'd better let the government express their views.

Mr. Gladstein: Yes, your Honor.

Teh Court: However, I will say this, the examination prescribed by the law, the examination of an applicant, provides that he shall be questioned as to the relationship of the individual in the United States to the government, national, state and local, and the rights and privileges drawn from that relationship, and also the duties and responsibilities which arise from it.

Mr. Gladstein: Yes, your Honor.

The Court: These questions have been directed to that part of the law that prescribes that part of an examination of an applicant.

Q. Do you know when the Constitution of the United States was formally adopted?

A. The actual date?

Q. Yes.

A. I don't, your Honor. It was some one, two or three years after it was ratified.

The Court: It was adopted on September 17, 1787. This [11] is the 158th anniversary of the adoption of the Constitution described by William Gladstone as the most remarkable work known to him in modern times, and to have ever been produced by the human intellect. So today is a memorable occasion.

You also realize that by taking citizenship you have certain duties and responsibilities that go with American citizenship?

The Witness: Yes.

Q. That you have become a partner in the great American commonwealth of people?

A. I do, your Honor.

Q. And that means in the future every action of yours, whether it be in your work in labor service or business or finance, it is to redound to the general welfare of everybody.

A. I have had a chance to learn that, your Honor.

Q. And you subscribe to that and are willing to conduct yourself according to that pattern in the future? A. Whole-heartedly.

The Court: Do you have any further questions?

Mr. Garner: The government has no further questions.

The Court: Well, do you have any objection?

Mr. Garner: No objection, your Honor.

The Court: Now, Mr. Gladstein.

Mr. Gladstein: I simply think, now, your Honor, in view of the fact that the government takes the position it has no objection, and in view of the thorough investigation that this case has had over the course of years, I believe [12] that the applicant has more than qualified himself on the record for citizenship.

The Court: I think now in view of the long history of this case I will now accord the applicant, Mr. Bridges, an opportunity to make a statement for himself, if he would like to.

Mr. Gladstein: Thank you, your Honor.

The Witness: Well, your Honor, I am not going to make a speech.

The Court: Well, just make any statement you like.

The Witness: I think I have possibly had more opportunity and I think more good reason to recognize and appreciate that citizenship is a priceless possession and privilege than most people who apply for it, and if I am awarded citizenship it will really be the result of a seventeen-year attempt to prevent citizenship. However, all during the time, it seemed to me that eventually the machinery of government and the governmental forms would operate the way I believe they will operate, and confer upon me the privileges of citizenship.

I know the freedoms and particularly those freedoms that go with citizenship and the laws that govern citizenship and the nation, and it is certainly my intention to cherish those privileges and to apply them in such a way that I hope they will apply to more people than they do now, and to apply them in such a way that the government and its institutions [13] will be strengthened instead of weakened.

The Court: I will say this, that anyone who has had such a struggle for citizenship as this applicant has had should make one of our best citizens, in view of that long struggle. [14]

I, John H. McDaniels, official reporter of the Superior Court of the City and County of San Francisco, do hereby certify:

That the foregoing fourteen pages contain a true, full and correct transcript of the testimony of the witnesses and the proceedings given and had on September seventeenth, 1945 in relation to the Naturalization Proceedings of Harry Bridges, and taken by me in shorthand at the time and place mentioned, and thereafter transcribed into longhand typewriting, and that the same is a correct statement of the case.

San Francisco, California, May 26, 1949.

JOHN H. McDANIELS. [15]

12
YOUR
PURGE
LIST
MR CLA

discussed many of the [illegible] domestic and foreign problems.

A dozen persons, among them known Communists, picketed the the club while Clark was there.

Membership Off 40%

In his talk at the dinner, Clark reported that:

"Some drastic action" may be needed to combat subversives in Hawaii but elsewhere subversion is on the run.

He and J. Edgar Hoover, FBI chief, had agreed on the necessity of continuing the spy trial of Miss Judith Coplon even though it meant disclosure of some FBI secrets. "To drop the case would have given a green light to espionage in the United States," he said. He denied that Hoover had planned to resign because of the trial's disclosures, as was reported last week.

The FBI is so well in control of the subversive problem that "if anything happens" it could within 24 hours take all steps necessary to insure the nation against sabotage.

Communist party membership has dropped about 40% in the United States in the last few years.

There is "some spy hysteria" that is not warranted.

Gospel of Brotherhood

In his talk at the picnic, Clark said that America must "carry the gospel of brotherhood everywhere."

"Ours," he said, "is the challenge to help build a world in which people may live free from fear and terror, where children may grow up unafraid, where justice reigns among all men. This is no fantastic dream—it is exemplified in Chicago, in Milwaukee, and in a thousand other communities in the United States."

At the dinner-meeting, Clark said that as a cabinet member he had gained the impression that the United States was in a much better position in the cold war than it was a year ago.

"The English perhaps are recovering from the war slower than we

[Title of District Court and Cause.]

AFFIDAVIT OF HENRY SCHMIDT

Territory of Hawaii,
City and County of Honolulu—ss.

Henry Schmidt, being first duly sworn, deposes and says:

I am one of the defendants in the above-entitled action. I am presently an International Representative of the International Longshoremen's & Warehousemen's Union, CIO. I am executing this affidavit in Hawaii because I am on this day in Hawaii in connection with union affairs, pursuant to permission granted to me by the Court to remain outside of its jurisdiction until September 15, 1949.

I have read the affidavit of Harry Renton Bridges executed this day, and so far as facts therein stated are within my knowledge I know them to be true and correct. The facts in that affidavit which are within my own knowledge are those relating to the wages and working conditions of longshoremen on the Pacific Coast, both before and after the 1934 strike, the part played by Harry Renton Bridges as a leader in the efforts of the longshoremen to better their lot, and the continued harassment and persecution of Harry Renton Bridges as a consequence.

With respect to Harry Renton Bridges' naturalization proceedings, the statements in his affidavit concerning my part in those proceedings are true and correct. I did nothing more than to witness the "Application for Certificate of Arrival and Preliminary Form for Petition of Naturalization," a copy of which is attached to Harry Renton Bridges' affidavit and marked Exhibit "F," to witness the

"Petition for Naturalization," a copy of which is attached to Harry Renton Bridges' affidavit and marked Exhibit "G," and to testify at the proceeding before Judge Foley as is recorded in the court reporter's transcript, a copy of which is attached to Harry Renton Bridges' affidavit and marked Exhibit "H."

/s/ HENRY SCHMIDT.

Subscribed and sworn to before me this 29th day of August, 1949.

[Seal] /s/ EILEEN N. FUJIMOTO,
Notary Public in and for the City and County of Honolulu, Territory of Hawaii.

My Commission Expires July 31st, 1951.

Territory of Hawaii,
City and County of Honolulu—ss.

I, W. H. Tilley, Clerk of the Circuit Court of the First Judicial Circuit, Territory of Hawaii, the same being a Court of Record and having a seal, do hereby certify that Eileen N. Fujimoto before whom the foregoing acknowledgment was taken, was at the time of taking the same, a Notary Public duly commissioned and sworn for the First Judicial Circuit of the Territory of Hawaii and duly authorized by the laws of said Territory to take and certify acknowledgments or proofs of deeds of land, etc., in said Territory in the manner aforesaid; that I am well acquainted with the handwriting of said Eileen N. Fujimoto and verily believe that the signature to said certificate of acknowledgment is genuine. And further, that said acknowledgment was taken in accordance with the laws of the Territory of Hawaii; that I have compared the impression of the seal affixed thereto with a specimen impression thereof deposited in my office and that I believe the impression of the seal upon the original certificate is genuine.

In Testimony whereof I have hereunto set my hand and affixed the seal of said court at Honolulu aforesaid this 29th day of Aug., 19....

[Seal] /s/ W. H. TILLEY,

Clerk, Circuit Court First Judicial Circuit, Territory of Hawaii.

[Endorsed]: Filed September 1, 1949.

[Title of District Court and Cause.]

AFFIDAVIT OF J. R. ROBERTSON

State of California,
City and County of San Francisco—ss.

J. R. Robertson, being first duly sworn, deposes and says:

I am one of the defendants in the above-entitled cause. I am also the First Vice-President of the International Longshoremen's and Warehousemen's Union, CIO. I have read the affidavit of Harry Renton Bridges executed on the 29th day of August, 1949, and so far as the facts therein stated are within my knowledge, I know them to be true and correct. The facts in that affidavit which are within my own knowledge are those relating to the wages and working conditions of the longshoremen on the Pacific Coast both before and after the 1934 strike, the part played by Harry Renton Bridges as a leader in the efforts of the longshoremen to better their lot, and the continuing harassment and persecution of Harry Renton Bridges as a consequence. With respect to my own participation in these events and the participation of my co-defendant Henry Schmidt in these events, I desire to inform the Court as follows:

In 1934 I was engaged in organizational activities among the warehousemen in San Francisco, which activities led up to the organization of Local 38-44 of the International Longshoremen's Association on July 14, 1934. That organization was the predecessor of the present warehousemen's union in San Francisco which is now known as Local 6 of the International Longshoremen's and Warehousemen's Union. I was elected to the Executive Board of the local union in 1935 and I was a busines representative of the local union in 1936. In 1937 I functioned as an organizer for the entire Pacific Coast district of the International Longshoremen's Association, the labor organization which was the predecessor of the present International Longshoremen's and Warehousemen's Union. During the year 1937 my duties as organizer for the International Association took me for a time to the Northwest, both in Portland and Seattle, and for a time somewhat later in the year into the Southern part of California around the Los Angeles area. After the change of affiliation from the International Longshoremen's Association to the International Longshoremen's and Warehousemen's Union, I was assigned by the ILWU Convention to organize warehouse workers in and around New Orleans into the International Longshoremen's and Warehousemen's Union. I worked at this task during the year 1938. In 1939

I was elected the First Vice-President of the International Longshoremen's and Warehousemen's Union, my primary responsibilities being to oversee the organizational work of the union. I have remained in that capacity and served in that capacity ever since 1939. From 1938 to 1949 I have been an elected delegate from the International Longshoremen's and Warehousemen's Union to the National Convention of the Congress of Industrial Organizations.

My co-defendant Henry Schmidt's connection with the organization of longshoremen is substantially as follows:

He participated with my other co-defendant, Harry Renton Bridges, in organizing the San Francisco longshoremen in 1933 and 1934. He was a member of the union's strike committee during the 1934 and the 1936 strikes. He was a delegate from the longshoremen's local (which was then the International Longshoremen's Association, Local 38-79) to the San Francisco Labor Counsel (American Federation of Labor) in 1935. He was a member of the same local union's Executive Board in 1935. He was a member of the International Longshoremen's Association's Pacific Coast District Executive Board in citaion's Pacific Coast District Executive Board in 1937. He was elected President of the San Francisco Longshoremen's Local in 1937 when it was still affiliated with the International Longshoremen's Association. He was elected President of the same local after its affiliation with the International Longshoremen's and Warehousemen's Union when it became and is now known as Local 10 of the International Longshoremen's and Warehousemen's Union. He was President of that local in 1939, and parts of 1940 and 1941. He served as a member of the local union's Labor Relations Committee (that is the group that meets with the employer group for the purpose of adjusting grievances and endeavoring to work out the problems that arise under the terms of the collective bargaining contract between the union and the employers) in the years 1935, 1938, 1941, and 1942. He has served as a delegate from his local union to the Maritime Federation of the Pacific which, as its name indicates, was a federation of maritime unions on the Pacific Coast. He served in that capacity during the years 1935, 1936 and 1937. He was a delegate to the California State Federation of Labor (American Federation of Labor) in 1935 and 1936, a delegate to the Convention of the International Longshoremen's Association in 1937, a delegate to the San Francisco CIO Council (after the longshoremen became affiliated with the Congress of Industrial Organizations) in 1938, 1939, 1943, 1944, 1945, 1948 and 1949. He was a delegate to the California State CIO Convention in 1938 and 1940. He was a member of his local's Executive Board in 1947, 1948 and 1949. He was a member of the International Executive Board of the ILWU in 1937 and 1938. He was a member of the Pacific Coast Maritime Industry Board from 1942 to 1945, a member of the Coast Labor Relations Committee (which has the same function on a Pacific Coast-wide basis as does the local Labor Relations Committee referred to above) from 1943 to 1949. He has been a delegate from his local to many conventions of the International Longshoremen's and Warehousemen's Union, and in the years 1946, 1947, 1948 and to the present time, he is an International Representative of the International Longshoremen's and Warehousemen's Union in Hawaii.

The foregoing paragraphs indicate to some extent the degree to which both my co-defendant Schmidt and I have participated with my co-defendant Harry Renton Bridges in organizing longshore workers and warehouse workers, and in endeavoring to lend our efforts to his attempts to improve the lot of these workers.

With respect to Harry Renton Bridges' naturalization proceedings, the statements in his affidavit concerning my part in those proceedings are true and correct. I did nothing more than to witness the "Petition for Naturalization," a copy of which is attached to Harry Renton Bridges' affidavit and marked Exhibit "G," and to testify at the proceeding before Judge Foley as is recorded in the Court Reporter's transcript, a copy of which is attached to Bridges' affidavit and marked Exhibit "H."

/s/ J. R. ROBERTSON.

Subscribed and sworn to before me this 31st day of August, 1949.

[Seal] /s/ PEARL STOCKWELL,

Notary Public in and for the City and County of San Francisco, State of California.

My Commission Expires January 14, 1953.

[Endorsed]: Filed September 1, 1949.

[Title of District Court and Cause.]

AFFIDAVIT OF HAROLD M. SAWYER

State of California,
City and County of San Francisco—ss.

Harold M. Sawyer, being first duly sworn, deposes and says:

He is a member of the law firm of Gladstein, Andersen, Resner & Sawyer, with offices at 240 Montgomery Street, San Francisco, California. He is admitted to practice in the above-named Court and in the United States Court of Appeals for the Ninth Circuit.

On June 6, 1949, at or about the hour of 10 o'clock in the morning, he appeared on behalf of Herman Mann and others, appellants, appealing from an order previously made by Honorable Michael J. Roche, Judge of the above-entitled Court, denying a motion to quash and set aside purported Grand Jury subpoenas directed to appellants and each of them. At said time and place there appeared in opposition to said appeal F. Joseph Donohue, Esq., Special Assistant to the Attorney General of the United States.

During the course of argument it developed that persons sworn as witnesses before the Grand Jury were likewise sworn not to reveal the substance of their testimony or the proceedings before the Grand Jury at which they were present. And during the course of the argument affiant pointed out that under Rule 6(e) of the Rules of Criminal Procedure for the United States District Courts, there was no legal justification or power to impose any obligation of secrecy upon witnesses inasmuch as they did not fall within the category of persons who under the terms thereof might be sworn to secrecy.

At or about the close of the argument, the said F. Joseph Donohue said to the Court that an oath of secrecy had been imposed upon witnesses, but that in the future no such oath would be imposed on any witnesses summoned before the Grand Jury with respect to the cause then before the said Court of Appeals or who were represented by affiant's law firm or attorneys associated therewith.

/s/ HAROLD M. SAWYER.

Subscribed and sworn to before me this 31st day of August, 1949.

[Seal] /s/ PEARL STOCKWELL,
Notary Public in and for the City and County of San Francisco, State of California.

My Commission Expires January 14, 1953.

[Endorsed]. Filed September 1, 1949.

In the District Court of the United States for the Northern District of California, Southern Division

No. 32117-R

UNITED STATES OF AMERICA,
Plaintiff,
vs.
HARRY RENTON BRIDGES, HENRY SCHMIDT, and J. R. ROBERTSON,
Defendants.

FRANK J. HENNESSEY,
U. S. Attorney;
San Francisco, Calif.

R. B. McMILLAN,
Deputy U. S. Attorney;
San Francisco, Calif.

F. JOSEPH DONOHUE,
Special Ass't to Attorney General;
Washington, D. C.

JOHN P. BOYD,
Special Ass't to Attorney General;
Seattle, Washington.

GEORGE R. GALLAGHER,
Special Attorney, Dept. of Justice;
Washington, D. C.

Attorneys for Plaintiff.

GLADSTEIN, ANDERSEN, RESNER & SAWYER By

HERBERT RESNER,

NORMAN LEONARD,

GEORGE ANDERSEN,

240 Montgomery Street,
San Francisco 4, California.

IRVIN GOODMAN,
Portland, Oregon.

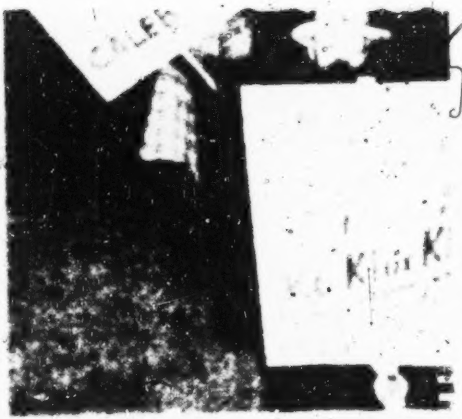
LAWRENCE FLY,
Washington, D. C.

Attorneys for Defendants.

MEMORANDUM OPINION AND ORDER

An indictment was found and returned against defendants Harry Renton Bridges, Henry Schmidt, and J. R. Robertson. The several counts, embraced in the indictment, are as follows, to wit:

First Count: (18 U.S.C., Section 88; now 18 U.S.C. Section 371) . . . . on or about the 23rd day of June, 1945, and continuing thereafter until on or about October 1, 1945, and for some time prior thereto, the exact time being to the Grand Jury unknown, at the City and County of San Francisco, State of California, within said Division and District, did conspire with each other, and with divers other persons to the Grand Jury unknown, to defraud the United States by impairing, obstructing and defeating the proper administration of its nat-



—Journal Staff

The annual festival of American Relief for Germany was held Sunday afternoon at Old Heidelberg park with Tom Clark, United States attorney general, as the feature speaker. At top, Carl Elmer, 2605 N. 36th st., entertained the large crowd with an accordion solo. Center, at the University club Sunday night, Robert Uihlein, 3252 N. Lake dr., was host at a dinner honoring Clark. Shown are (from left) Uihlein, Clark, Judge Robert E. Tehan and Otto R. Hauser, 1918 Wauwatosa av., president of American Relief for Germany. During the dinner, members of Wisconsin Civil Rights Congress picketed (bottom) in front of the club.

a year ago.

"The English perhaps are recovering from the war slower than we would like to see," he said. "This slowness I believe is because they have abandoned the free enterprise system which is what made England great in the past and what has made our nation great.

"Not Witch Hunting"

"In our own country, we are not witch hunting nor are we indulging in any raids, but we are progressing steadily against the Communists. Without endangering the democratic rights of anyone, we are insuring protection to the mass of loyal Americans.

"Hawaii is the only spot at the present time where our domestic Communist problem is serious. We may have to take some drastic action there. But I think that the case against Bridges (Harry Bridges, president of the leftist CIO International Longshoremen's union who is under indictment for perjury) has already been of some help in the Hawaii situation.

"If we are successful in our prosecution of Bridges, as I am certain we will be, it may be that we can break the Hawaiian situation without any other intervention."

Langer Was Speaker

Appearing with Clark at the Relief day program, sponsored by American Relief for Germany, Inc., were Senator Langer (Rep., N. D.), Senator Wiley (Rep., Wis.) and federal, state and city officials.

Langer, speaking in German, urged a "more sensible" policy toward Germany. He said that German industrial recovery was vital to the defense of the entire western world.

Wiley said that immigration laws and bills applying to displaced persons should be revised to permit a new flow of German immigration.

Schuhplattlers, yodelers and costomed singing and dancing groups lent a gay, Germanic air to the festival. Proceeds are to be used for the needy in Germany.

Endorsed : Filed September 1, 1949.

uralization laws, in the manner following, to wit: By having said defendant Harry Renton Bridges fraudulently petition for and obtain naturalization in a naturalization proceeding in the Superior Court of the State of California, in and for the City and County of San Francisco, by falsely and fraudulently stating and representing to the said Court in said proceeding numbered 28152 in the records of said Superior Court, that he, said defendant Harry Renton Bridges, had never belonged to the Communist Party in the United States; that said statement and representation so agreed to be made, and made, as aforesaid, as said defendants, and each of them at all times herein mentioned well knew, were false and fraudulent in this, that said defendant Harry Renton Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including said 17th day of September, 1945; that said statement and representation were material to said naturalization proceeding.

That in pursuance of such conspiracy, and during the existence thereof, and in furtherance, and to effect the objects thereof, said Defendants, respectively, did and performed the following overt acts:

1. On the 23rd day of June, 1945, defendant Harry Renton Bridges filed at the office of the Immigration and Naturalization Service, in the City of San Francisco, State of California, an application for a Certificate of Arrival and preliminary form for petition for naturalization.

2. On or about the 8th day of August, 1945, said defendant Harry Renton Bridges appeared before Lloyd H. Garner, a Naturalization Examiner of the United States, at San Francisco, State of California, in the office of the County Clerk in and for the City and County of San Francisco, and gave testimony in the matter of the application of said defendant Harry Renton Bridges for naturalization.

3. On or about the 8th day of August, 1945, said defendants Henry Schmidt and J. R. Robertson, and each of them, at the office of the County Clerk in and for the City and County of San Francisco, State of California, signed as witnesses a petition for naturalization in the case of defendant Harry Renton Bridges.

4. On or about the 17th day of September, 1945, said defendants Harry Renton Bridges, Henry Schmidt, and J. R. Robertson, and each of them, appeared in the Superior Court of the State of California, in and for the City and County of San Francisco, and gave testimony in support of the petition of defendant Harry Renton Bridges for naturalization.

Second Count: (8 U.S.C., Section 746(1), now 18 U.S.C., Section 1015(1).) * * * on the 17th day of September, 1945, at the City and County of San Francisco, State of California, in the Superior Court of the State of California, in and for the City and County of San Francisco, Honorable Thomas M. Foley, Superior Judge, presiding, there came on for hearing a naturalization proceeding, numbered 28152 in the records of said Superior Court, on the petition of defendant Harry Renton Bridges for naturalization under the Nationality Act of October 14, 1940; that defendant Harry Renton Bridges then and there was called and produced as a witness in said proceeding then on for hearing, and took an oath before said Court that he, the said defendant, would testify truly in said proceeding, and said Court then and there had competent authority to administer said oath, and did administer it; that defendant Harry Renton Bridges did then and there wilfully and knowingly make a false statement under oath in certain matters which were material to the issues of said proceeding then and there being heard, giving the following answer to questions asked, to wit:

> "Q. Do you now, or have you ever, belonged to the Communist Party in the United States? A. I have not; I do not."

That said answer so stated and testified to by defendant Harry Renton Bridges were, and each of them was, as said defendant then and there knew, wilfully false and contrary to his said oath, and said defendant did not then and there believe said answers, or any of them, to be true, and the said answers were, and each of them was, then and there believed and known by him to be false.

That in truth and in fact said defendant at the time of so testifying belonged to and was a member of the Communist Party in the United States, and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945.

That said statement and testimony of said defendant, and said answers given by him as aforesaid, were upon a material matter, and were material in and to the issues of said proceeding.

Third Count: (8 U.S.C., Section 746(a)(5).) * * * that said defendants, Henry Schmidt and J. R. Robertson, on or about the 17th day of September, 1945, at the City and County of San Francisco, State of California, within said Division and District, did wilfully and knowingly encourage, aid, advise and assist a person, to wit, Harry Renton Bridges, not then and there entitled thereto, to obtain, accept and receive a Certificate of Naturalization, which was to be procured, and was procured by fraud, as said defendants, and each of them, at all times herein mentioned well knew, said fraud consisting of false and fraudulent statements and representations made in a naturalization proceeding before the Superior Court of the State of California in and for the City and County of San Francisco, numbered 28152 in the records of said Superior Court, that said Harry Renton Bridges did not belong to the Communist Party in the United States and had never belonged to the Communist Party in the United States, whereas in truth and in fact said Harry Renton Bridges then and there, as said defendants Henry Schmidt and J. R. Robertson, and each of them, then and there well knew, belonged to and was a member of the Communist Party in the United States, and had belonged to and was a member of the Communist Party in the United States, and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945.

A series of Motions to Dismiss were filed herein by the defendants. These Motions are, in the main, identical as to each defendant, save and except as to the defendant Harry Bridges; he raises the additional grounds that the instant prosecution is barred by reason of the application of the doctrines of res adjudicata and double jeopardy. In this respect he asserts that the indictment, and the whole of the prosecution, must fall as a result of asserted constitutional infirmities. The Court will take up hereafter the several grounds of the motions.

Elaborate briefs have been presented in association with extended oral argument and the Court is now fully advised.

The principal objection presented is that the Statute of Limitations has barred the prosecution. This objection applies to all defendants.

Defendants have also moved for a Bill of Particulars and also for Discovery. By stipulation of counsel these several matters are to be heard at a later date and the Court reserves ruling on said motions.

(1) The asserted bar of the Statute of Limitations:

Defendants' Motion to Dismiss the indictment, based upon the operation of the Statute of Limitations (Title 18, Section 3282) is without merit.

The first count of the indictment alleges a violation of the general conspiracy statute (18 U.S.C., 371, formerly Section 88). The date of the offense alleged is "on or about the 23rd day of June, 1945, and continuing thereafter until on or about October 1, 1945."

The plaintiff concedes that more than three years have elapsed prior to bringing the indictment (approximately three years and seven months); but plaintiff contends that the Wartime Suspension of Limitations Act has intervened and tolled the operation of the statute. See Section 590(a), Title 18, U.S.C., now Section 3287[1].

This interpretation of the statute is based upon the clear, concise, and realistic holding of Judge

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[1] "When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment, for, interim financing, cancellation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until three years after the termination of hostilities as proclaimed by the President or by the concurrent claimed by the President or by concurrent resolution of Congress. * * *"

Learned Hand in U.S. v. Gottfried, 165 Fed. 2d, 360 (certiori denied 333 U.S. 860; petition for rehearing denied 333 U.S. 883), 367:

> "* * * The argument—drawn from the Congressional debates—is that (the statutory) language should be confined to frauds of those who contracted with the United States. * * * And that it does not include interference even though fraudulent which results in no pecuniary loss. Textually this reasoning has nothing to commend it, except so far as the word 'fraud' may imply pecuniary loss; and, whatever might be said as a new matter for so circumscribing that word, it has been the law, at least since 1910, that in the statute under which this indictment was drawn, 'fraud' includes any conduct, 'calculated to obstruct or impair its' (the United States') 'efficiency and destroy the value of its operations and reports.' We see no reason for reading the words, 'defrauding the United States' in the statute of limitations now in question less comprehensively; certainly there was not enough ground for that in the debates of Congress. Besides, the purpose of the amendment was not to let crimes pass unpunished which had been committed in the hurly-burly of war, an overriding motive which perfectly fits the situation at bar."

Counts two and three of the indictment charge violations of Sections 746 (1) and 746 (a) (5) of Title 8. These alleged violations arose under the

Nationality Act. The period of limitations in Title 8, Section 746 (g) provided for a period of five years before prosecutions were barred.

The Government contends that the general saving provision contained in Section 21, Title 18, Act of June 25, 1948, is applicable to preserve this five-year limitation period, in addition to the extension afforded by the Wartime Suspension of Limitations Act. Section 21 reads as follows:

> "The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal."

Defendants assert that the general three-year period, as provided in Section 3282, Title 18, has de-limited the five-year period and that, therefore, both of these counts are likewise barred by the statute. Defendants contend that Section 3282 is retrospective in effect. This contention is untenable. I have concluded that the general saving provision, supra, continues the "rights and liabilities" theretofore existing under the Sections of the Nationality Act upon which the instant prosecution is grounded.

We are confronted here with an extremely broad provision which seeks to preserve "rights and liabilities" of the parties. Advisedly, the saving clause sought to encompass within its scope the preservation of all such rights and liabilities which were in existence at the effective date of the enactment, September 1, 1948. It is reasonable to conclude that Section 21 carried with it and preserved not only the criminal liability for the perpetration of the offenses charged in Title 8 but likewise kept alive the applicable five-year Statute of Limitations under which the government might prosecute the offenders. If defendants' contention were correct then we would be confronted with the anomalous situation of keeping alive a right, while at the same time failing to preserve the remedy afforded by the applicable Statute of Limitations.

The said provision preserves the status quo of all rights and liabilities. This applies equally to the Government as well as to the Defendants and, accordingly, I have concluded that the five-year period of limitations applies to the offenses theretofore arising under the Nationality Act, more particularly embraced in counts two and three of the indictment.

The Government also advances the contention that the general saving clause, as embraced in Section 109, Title I, is applicable to all three of the counts. It is unnecessary to pass upon this contention for, as the Court has concluded, the Statute of Limitations has been tolled as a result of the application of the Wartime Suspension of Limitations Act as well as Section 21, supra.

The Government contends that the Wartime Suspension of Limitations Act is equally applicable to all three counts on the general theory that fraud is implicit in each count. Reliance is placed upon Knauer v. U. S., 328 U.S. 654,[1a] 672, 673; U. S. v.

[1a] "Fraud connotes perjury, falsification, concealment, misrepresentation." p. 657.

Ness, 245 U.S., 319, 324. This contention is no doubt sound for when we examine the statute in question, subdivision one (F.N. 1, supra), it is manifest that the language used is broad, sweeping and all-inclusive as to fraud in a generic sense, perpetrated "in any manner, whether by conspiracy or not."

Defendants' contention that the fraud contemplated must involve transactions involving pecuniary loss to the Government or having to do with government wartime contracts is not borne out by even a casual examination of the Suspension Statute. It is abundantly clear that Section I must be interpreted as involving the specific type of fraud that is involved as a result of false swearing under the Nationality Act. Note, that the fraud may be perpetrated "in any manner" and is not limited to the area as contended for under the case of Marzani v. U. S., 168 Fed. 2d. 133.[1b] Cf. U. S. v. Gilliland, 312 U.S. 86; U. S. v. Agnew, 6 F.R.D. 566, 568; U. S. v. Curley, 122 Fed. 738.

Mr. Chief Justice Hughes in Gilliland v. U. S., supra, p. 93, said in speaking of the type of fraud with which we are dealing:

> "* * * The statute (false claims) was made to embrace false and fraudulent statements or representations where these were knowingly and wilfully used in documents or affidavits 'in

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[1b] Affmd. by divided Ct., 335 U.S. 895. See Hertz v. Woodman, 218 U.S. 205, 213, 214. See recent expression in Heald v. U.S., 175 Fed. 2d. 878, 880 (decided July 7, 1949).

any matter within the jurisdiction of any department or agency of the United States.' In this, there is no restriction to cases involving pecuniary or property loss to the Government. The Amendment indicated the Congressional intent to protect the authorized functions of governmental departments and agencies from the perversion which might result from the deceptive practices described. *We see no reason why this apparent intention should be frustrated by construction.*" (Italics ours.)

Accordingly, the Motions of defendants to Dismiss the indictment grounded upon the assertion that the Statute of Limitations has barred each and every count contained in the indictment are, and each of them is, Denied.

(2) Jeopardy, Former Acquittal, and Res Adjudicata:

The defendant, Bridges, invokes the doctrines of double jeopardy, former acquittal, etc., as a basis for the dismissal of the indictment.

Defendant Bridges says, "But this is not a simple prosecution. This case has become a cause celebre, taking its place in history with the prosecution of Peter Zenger, the Witchcraft Crimes of the early Colonial days, the Alien and Sedition prosecutions of the post-period of World War I, and prosecutions of the Haymarket Riot, Tom Mooney, and Sacco and Vanzetti."

It is contended that the institution of this criminal prosecution places Harry Bridges in jeopardy because "he has heretofore been so subjected to jeopardy on four prior, separate and distinct occasions, contrary and in violation of the provisions of the Fifth Amendment." This contention, of historic and atmospheric background, does not provide a legal basis for the dismissal of the indictment.

It appears affirmatively from the record that defendant Bridges has never been subjected to criminal prosecution under the statutes which form the basis for the present indictment, nor has he ever been subjected to criminal prosecution by the United States Government, prior to the bringing or institution of the within prosecution. There has been no double jeopardy within the meaning of the said Amendment to the Constitution of the United States. Defendant concedes that the earlier proceedings against him were not "technically criminal prosecutions," but argues that, because the result of the earlier civil proceedings, such as the deportations hearings, might have ended in a more severe penalty than a criminal penalty, that the civil proceedings should be considered criminal in nature and extent. The Court has not been referred to any rule or principle of law or reason which would support this novel contention. Counsel for defendant, however, with great force seeks to have this Trial Court depart from well-known principles and launch upon some heroic venture and, at this stage of the proceeding, strike the criminal indictment down and render ineffectual the efforts of the Government in the prosecution of what the

Government regards as felonious conduct upon the part of the defendant Bridges. If more compelling reasons were present than may appear in the case at Bar, this Court, under accepted and well-recognized rules, is foreclosed from deciding the case at this stage upon constitutional grounds. See Baker v. Grice, 169 U.S. 284, 292; Ark. Fuel Oil Co. v. La., 304 U.S. 197, 202.

Suffice, in disposing of this branch of the defendant's arguments to say:

(a) Defendant Bridges has never been the subject of criminal prosecution under any statute arising out of the facts and circumstances present in the case at bar.

(b) The "double jeopardy" provision of the constitution requires that there be a second prosecution for the same offense.

(c) No Court of the United States, so far as I know, has ever held that a prior civil action or proceeding may be considered a criminal prosecution for the purpose of invoking this provision of the Fifth Amendment to the Constitution.

See Helvering v. Mitchell, 303 U. S. 391, 399.

(3) Due Process of Law:

The instant ground urged by the defendant Bridges as well as the other two defendants is that of the Due Process Clause. He says in this connection that under the indictment he is deprived of his life, liberty and property without Due Process in that the instant proceeding, criminal in nature, is the fifth of a series of such proceedings. This contention on Mr. Bridges' part is based upon the erroneous predicate that the prior proceedings were criminal in their nature. As to the defendants Robertson and Schmidt, the contention is devoid of any merit and, accordingly, the several Motions based upon this ground are, and each of them is, Denied.

(4) Estoppel:

The defendants assert that the doctrine of Estoppel might be invoked against the Government in this criminal case. It is contended, in effect, that the Government had in its possession knowledge of the defendants' activities at the time of the naturalization proceeding and entered no objection at that time. It is further contended that the Government is, therefore, foreclosed from prosecuting a violation of a criminal law which grew out of proceedings in naturalization.

This contention is, in the light of the record, novel. However novel it may be, it is without merit. Accordingly, the several Motions based upon this ground are Denied.

(5) Reliance on Statements Made by Defendant:

The next ground for dismissal is that the Government of the United States did not rely on the statements made by the defendant Bridges in the naturalization proceedings.

This is not a matter which affects the sufficiency of the indictment and cannot serve as a basis for the dismissal. See U. S. v. Eisler, 75 Fed. Supp., 634, 638. The question of relevancy is not open to one who, as alleged, knowingly makes false statements with the intent to mislead the officials of the Government.

This ground is asserted by all of the defendants and, accordingly, the several motions are, and each of them is, Denied.

(6) Equal Protection of the Law:

This ground is based upon the assertion "the defendant Bridges alone of all persons in the country has been singled out and prosecuted on five separate and distinct occasions for the same alleged offense."

This assertion is, as already indicated, without merit and does not comport with the facts. It affirmatively appears in the record that Harry Bridges has not been prosecuted on five separate occasions for the same offense. The Motion, therefore, of the defendant Bridges in this respect is Denied.

(7) Bad Faith:

In this connection all the defendants have moved to dismiss upon the ground of Bad Faith in the prosecution, alleging that, among other acts, the prosecution presented illegal evidence to the Grand Jury. They refer to this Court's opinion in I.L.W.U. v. Ackerman, 82 Fed. Supp. 65. This decision is unavailing. See U. S. v. McGuire, 64 Fed. 2d. 485, 492; Kastel v. U. S. 23 Fed. 2d, 156, 158. There is no evidence before this Court that the Government, through and by its agencies, acted in Bad Faith in connection with the criminal proceedings more recently instituted. This is pure assumption at this stage of the proceedings and is immaterial. Ordinarily, the motive of the prosecutor is immaterial. Cf. Laughlin v. Garnett, 138 Fed. 2d, 931; Laughlin v. Rosenman, 163 Fed. 2d, 838.

The Motions to dismiss on the ground of Bad Faith are and each of them is, Denied.

In addition to the foregoing grounds, defendants assert, in support of Motions to Dismiss, the asserted misconduct of the prosecution; alleged illegally obtained and incompetent evidence; allegedly unauthorized persons in the jury room.

The Court has painstakingly examined the record, and there is no basis in fact or in law for the said grounds and the assertion thereof. The several motions, therefore, based upon said grounds are, and each of them is, Denied. In this connection it might be said in passing that the attack made by the defendants in this respect is somewhat reminiscent of that urged in U. S. v. Foster, p. 482, supra.

(8) Failure to State Offense:

The next ground worthy of comment is the asserted failure of the indictment to state an offense. The Government contends in this connection that the indictment complies with the provisions of said Criminal Rules (7)(c) in that each count embraced in the indictment represents a clear and concise statement containing all the essential elements of the offense.

The defendants' Motions are based on the following:

(a) That the indictment does not state sufficient facts to constitute an offense.

(b) That it does not appear from the indictment how the alleged false statements did or could have defrauded the Government of the United States.

(c) That it does not appear in the indictment how or in what manner the alleged false statements would or could be material to the naturalization proceedings.

(d) That it does not appear in the indictment in what manner the Government relied on the false statements.

(e) That the allegations concerning the date of the offense are not clear.

These several grounds are without merit.

The indictment, as drawn, complies in the fullest extent with the revised Rules of Criminal Pleading. The pronouncements of the Court of Appeals for this Circuit have been fully met and complied with. See Rose v. U. S., 149 Fed. 2d, 755; Tagum v. U. S., 110 Fed. 2d, 555; Sutton v. U. S., 157 Fed. 2d, 661. The statutes upon which the counts of the indictment have been predicated are neither vague nor are they general in their terms. The authorities are uniform and in agreement that, where the statute violated is clear upon its face and the elements are named, then an indictment which follows the language of the statute is not insufficient.

The Court has concluded that the test, as indicated in Haggner v. U. S., 285 U.S. 427, 431, has been met and complied with and that the charges are sufficiently definite that it will afford the protection of the constitutional prohibition of jeopardy in the event of a subsequent proceeding growing out of the same facts.

With respect to the assertion that the indictment does not show how the alleged false statements defrauded the United States:

If the defendant Bridges' answer to the question of whether he was a member of the Communist Party was, as alleged, a false statement which was given to an agency of the United States Government in a naturalization proceeding, then his answer constituted fraud. Cf. U. S. v. Curley, 130 Fed., 1, 8; Haas v. Hinkle, 216 U.S. 462, 479; U. S. v. Goldsmith, 108 Fed. 2d, 917. See Gearhard Sisler v. U. S., 176 Fed. 2d, 21, 24, wherein the Court said:

> "* * * It is common knowledge that the Communist Party, in whatever country it exists, is under the authority and control of the Party heads in the Soviet Union. Even the name of the organization known as 'Communist International' indicates it is the overlord of Communists everywhere."

Defendants lay particular stress upon the ground that it allegedly does not appear how the false statements "were or could be material to the naturalization proceedings referred to therein."[2] The Section in question, upon which the prosecution is in particular grounded (Section 1015 (a), Title 18, U.S.C.), makes no reference to "materiality." It provides:

> "* * * Whoever knowingly makes any false statement under oath in any case, proceeding or matter relating to or under or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens" * * * shall be punished according to law.

In Prevost v. U. S., 149 Fed. 2d, 747, 748, the Court said in part:

> "* * * Appellant contends that counts one and two were defective in failing to show how and in what manner, if at all, the replies mentioned were material. The sub-sections of which counts one and two charged violations say nothing about materiality. The Motion was properly denied."

However, the question of relevancy is not open to one who knowingly makes false statements with intent to mislead officials of the Government. See U. S. v. Eisler, supra; Kay v. U. S., 303 U. S. 1.

The defendants, not only in their oral arguments before the Court, but also in the moving papers, have repeatedly asserted that they are entitled to know from the indictment when and where the defendant Harry Bridges allegedly became a member of the Communist Party, as a matter of pleading. There is no occasion to be any more precise than to state that from 1933 up to and including September 17, 1945, the defendant, Bridges, belonged to the Communist Party.[3]

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[2] Defendant Bridges contends that the question propounded to him concerning his asserted Communist affiliation was irrelevant. This Court has held to the contrary. See Van Laeken v. Wixon, 84 F. Supp., 958. Cf. opinion of late Judge A. F. St. Sure, 22 Fed. Supp., 145.

(9) Challenge of the Defendant to the Grand Jury:

The defendants charge that the Grand Jury which returned the indictment was not selected according to law, that the Grand Jurors were disqualified, and they challenge the entire Grand Jury array.

This Court has already passed upon the subject matter of this objection; it is settled and at rest. See Thiel v. Southern Pacific, 67 Fed. Supp. 934; affirmed 169 Fed. 2d, 30; certiori denied 69 Supreme Court, 162. See also opinion of Judge Fee in Local 36, et al., v. U. S., No. 11,638 (Ninth Circuit), September 28, 1949.

(10) Defendants' Request for Minutes of Grand Jury:

There is no showing made before this Court that would impel the conclusion that there was no legal evidence before the Grand Jury which justified the return of the indictment. See U. S. v. Foster, supra, p. 483; Stewart v. U. S. 300 Fed. 769; U. S. v. Antonelli Fireworks Co., 53 Fed. Supp. 870, 876. There is no merit to the request; therefore, it is Denied.

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[3] Authorities such as U. S. v. Cruikshank, 92 U. S. 542, and Fontana v. U. S. 262 Fed. 283, cited by defendants are distinguishable.

Accordingly, all and singular, the Motions, including the Motions to Dismiss, on the part of the defendants are, and each of them is, Denied.

The Court reserves ruling on the Motions for Discovery and Bill of Particulars.

The Government may present herein an order based upon the foregoing.

Dated: October 12, 1949.

/s/ GEORGE B. HARRIS,
United States District Judge.

[Endorsed]: Filed October 12, 1949.

United States District Court for the Northern District of California, Southern Division

At a Stated Term of the United States District Court for the Northern District of California, Southern Division, held at the Courtroom thereof, in the City and County of San Francisco, on Tuesday, the 22nd day of November, in the year of our Lord one thousand nine hundred and forty-nine.

Present: the Honorable George B. Harris,
District Judge.

[Title of District Court and Cause.]

MINUTE ORDER ADJUDGING VINCENT HALLINAN GUILTY OF CONTEMPT OF COURT; SENTENCE

The parties hereto and the jury impaneled herein being present as heretofore, the further trial of this case was this day resumed.

Vincent Hallinan, Esq., attorney for defendant Harry Renton Bridges, continued his opening statement to the Court and jury. John H. Shoemaker continued his testimony on behalf of the United States. Ordered jury excused during argument before the Court.

In the absence of the jury, Vincent Hallinan, Esq., attorney for defendant Harry Renton Bridges, was Adjudged Guilty of Contempt of Court. Ordered that Vincent Hallinan be, and he is hereby, sentenced to serve Six (6) Months in an institution to be designated by the United States Attorney General or his authorized representative.

Ordered that the contemnor, Vincent Hallinan, be remanded to the custody of the United States Marshal and that judgment be entered herein accordingly.

It Is Further Ordered that the Clerk of this Court deliver a certified copy of the order on contempt, together with accompanying certificate, to the United States Marshal or other qualified officer, and that the copy serve as the commitment of the contemnor.

It Is Further Ordered that Vincent Hallinan's name be stricken from the Roll of Attorneys admitted to practice in this Court.

After hearing the defendant Harry Renton Bridges and James Martin MacInnis, Esq., attorney for defendants Henry Schmidt and J. R. Robertson, It Is Ordered that execution of sentence of imprisonment as to Vincent Hallinan be stayed until the completion of the trial of this case.

The jury thereupon was recalled into Court and, after being duly admonished, was excused until Wednesday, November 23, 1949, at 10 a.m.

In the United States District Court for the Northern District of California, Southern Division

In the Matter of

CONTEMPT OF COURT ON THE PART OF VINCENT HALLINAN

No. 32117-H

Title 18, U.S.C. 401(1)

ORDER ON CONTEMPT

On the 22nd day of November, 1949, the defendant appeared in person.

It is adjudged that the defendant is guilty of contempt of court for misconduct during the judicial proceeding in United States v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, No. 32117-H, as specified in the accompanying certificate.

It is adjudged that the defendant is sentenced to serve six (6) months in an institution to be designated by the United States Attorney General or his authorized representative.

It is ordered that the clerk deliver a certified copy of this order on contempt and the accompanying certificate to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant. Execution of this judgment and sentence will take effect upon the conclusion of the trial stages in United States v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson.

/s/ GEORGE B. HARRIS,
United States District Judge.

April 25, 1950.

[Endorsed]: Filed Nov. 28, 1949.

In the United States District Court for the Northern District of California, Southern Division

In the Matter of

CONTEMPT OF COURT ON THE PART OF VINCENT HALLINAN

Title 18, U.S.C. 401(1)

CERTIFICATE IN CONFORMITY WITH RULE 42(a), FEDERAL RULES OF CRIMINAL PROCEDURE

In conformity with Rule 42(a), Federal Rules of Criminal Procedure, I hereby certify that the conduct for which the defendant is punished for criminal contempt was committed in my presence and was seen and heard by me during sessions of the United States District Court for the Northern District of California, Southern Division, under the following circumstances:

Beginning on the 17th day of November, 1949, and continuing up to and including the 21st day of November, 1949, the events hereinafter recited, and annotated by me,[1] took place in the courtroom.

The Court: * * * Adverting to the proceedings on Thursday, November 17, 1949, it became apparent to the Court that defense counsel, Vincent Hallinan, was not making an opening statement in any judicial sense, but was using it as a medium and sounding board for dragging in before the jury irrelevant, incompetent and inflammatory matter, with the studied and avowed purpose of prejudicing this prosecution in the light of events, incidents and characters, having no place in the proceeding before the jury. Hopeful that I might define the responsibilities of counsel both for prosecution and defense and the Court, we engaged in a lengthy discussion in the absence of the jury, attempting to avoid any further conduct on Mr. Hallinan's part in the future, to the end that the trial proceed in an orderly judicial fashion.

Now, from time to time, Mr. Reporter, I shall make reference to page and line in the transcript, and if by chance I am inarticulate or you fail to understand me, may I ask that you halt and I will give you the exact page and line.

The Reporter: Yes, Your Honor.

The Court: We start our journey through the transcript at page 528, line 24, wherein the Court said in part:

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[1] Contained in pages 776 to 809, 869 to 874, inclusive, Transcript of Record, in United States v. Harry Renton Bridges et al., No. 32117-H, which said transcript is annexed hereto and made a part of this certificate for all purposes.

> "Now, I think, Mr. Hallinan, that you are anticipating much of the Government's case; you are indulging in speculation on speculation. And in addition, creating an atmospheric quantity at this stage designed to prejudice and inflame the jury in connection with any sage, considered judgment they may have on the evidentiary matters. Now, that is my judgment."

At page 529, line 16, Mr. McMillan made his position clear on behalf of the Government. I shall not read it into the record, the excerpt from his comment, but it may be found at page 529, line 16, to and including page 530, line 9.

At page 530, after additional colloquy between Court and counsel, the Court:

> "Mr. Hallinan, I am loath to interrupt a lawyer in the course of a statement. I think, and unless it be a very, very material interruption that it is unfair as a rule."

I then spoke of your skill as well as the skill of the prosecution counsel. And I meant what I said. And I said further,

> "And dealing with skilled men, I always feel very comfortable about it. I feel that we haven't that ineptitude that sometimes attaches to a trial. I say that to you frankly."

I then was hopeful, perhaps naively so, that you would heed my rulings and my orders. My comment appears further at page 531, lines 1 to and including lines 22; and even a casual reading or listening to what I had to say would tend to convince or lead one to believe that my rule was firm and that my orders clear. Mr. Hallinan, page 531, line 23:

> "Mr. Hallinan: I have no (and then several dashes). Any ruling Your Honor has made I have no quarrel with. I think you have been very fair and very proper."

At page 532, again counsel, Court—Court, counsel comments. Mr. Hallinan referred to the fact that he had only three weeks to prepare.

> "The Court: You have the benefit, of course, of associate counsel—the old firm no doubt are helping a little bit?
>
> "Mr. Hallinan: Yes;"——

this was in an undertone, a sort of an aside or stage whisper, but the Reporter captured it.

> "Mr. Hallinan: Yes—who made the motions that Your Honor treated with contempt."

That was only a few moments before that, Mr. Hallinan had stated he was in complete accord with the Court's rulings on the preliminary motion, that he felt my rule on the question of res adjudicata, estoppel, prior adjudication, was correct, and that they were correct. And I believe the written opinion which I have rendered and which is on file memorializes my views in that respect, subject to any view that may be had hereafter in any court of competent jurisdiction on appeal, if there be an appeal.

We now turn to page 535, wherein the Court again was very clear as to what my rule was, what it would be.

> "The Court: Well, for the immediate pur-

> poses, then, Mr. Hallinan, I shall sustain objections interposed to that type of presentation at this stage of the proceedings."

We were then trying to adjust ourselves in the light of Mr. Hallinan's rather broad, somewhat intemperate views of an opening statement. I was attempting to bring him down to date so that the following morning we might proceed in an orderly fashion before the jury.

More discussion, Mr. MacInnis made some comments, much matter gone over. And then the Court, at page 540, after the lengthy colloquy, the exchange of views, the sifting and re-sifting of matters that counsel had in mind.

> "The Court: Counsel, I have made my ruling and that is going to be the rule tomorrow morning."
>
> "Counsel——," speaking to Mr. Hallinan—"I have made my ruling and that is going to be the rule tomorrow morning."

I was then referring to the matter of the continuity of the opening statement to be addressed to the jury the following court day.

The following morning, having contented myself, and with the reassurance from Mr. Hallinan that he would refrain from the avenues which he had been traveling in the opening statement, unbridled as he was, I had occasion to talk to the jury. They were called in, and at page 541 I spoke to the jury for probably ten or fifteen minutes, somewhat colloquially, but yet I believe aptly, and I told the jury the province of the opening statement. I distinguished between the opening statement and the closing arguments. I spoke of inflammatory matter and prejudice. I spoke of admonitions and the request for admonitions, so that the jurors might fully understand the proceedings. Those remarks occupy considerable comment in the transcript and at page 545, in the presence of the jury, at line 5, I said:

> "Now, with that general statement in mind, I ask Mr. Hallinan to proceed, having in mind the limitations under which I desire the opening statement to be made."

Mr. Hallinan, who was in entire accord, further said:

> "I might say I have since last night discarded much of what I intended to say in deference to Your Honor. I am sorry to create any impression in your mind that I may be going beyond what is fair, because certainly you do not deserve such treatment. You have been very fair to everybody in this case."

We then settled down, hopefully expecting that some recognition would be given to the Court's orders, which I had so painstakingly and carefully prepared and made, in the exercise of the discretion which I regarded as sound, and which I now regard as sound. However, it was not long until Mr. Hallinan, unbridled again, lapsed into a violation of the orders. At page 550 the Court had occasion to sustain an objection interposed by Mr. McMillan to matters that should not have been brought in on an opening statement and to matters which should not have been brought before the jury. At page 554, line 5, Mr McMillan, a patient man, a man whom I have known for many years for his extreme patience, orderly conduct and forbearance, said:

> "Mr. McMillan: May it please Your Honor, we are obliged——"

and a pause——

> "Patience has always been a very predominant feature in my nature, but I can't let these matters go by."
>
> "The Court: The objection is sustained."

I shall not attempt to advert to the long dissertation on Mr. Hallinan's part that had to do with some internal warfare between the CIO and the A.F. of L. I had already admonished Mr. Hallinan that we were not concerned with this internal warfare and we were not trying any labor union or unions.

Again, at page 555, line 5, Mr. McMillan:

> "Well, may it please Your Honor, the difficulty about this whole matter is, it is historical and it is argumentative; it properly belongs in an argument, not an opening statement. In an opening statement it is not intended to take a shotgun——"
>
> "The Court: The objection is sustained.
>
> "Mr. Hallinan: Now, an organization of sailors on the Pacific Coast, a member of the Maritime Federation of the Pacific, was controlled by a man who will appear before you. His name is Harry Lundeberg, one of the most

remarkable of the witnesses that will be produced. He is like a character from Jack London, a typical bucko mate, with a reputation for violence and ferocity as wide as the Seven Seas, a man who has been arrested for brawling and assaults in half the courts of the world. Dominating this union with an iron hand, he burned the ballots that were taken——"

"Mr. McMillan: If Your Honor please,——

"Mr. Hallinan: ——by his union concerning the federation——

"Mr. McMillan: Just one moment.

"Mr. Hallinan: Pardon me. You want to talk?

"Mr. McMillan: I want to make an objection, Mr. Hallinan. You as a lawyer, with your wide experience, know that you have no such statements to prove in this court.

"The Court: This—I again repeat another admonition to the jury, that what Mr. Hallinan has to say is in reality that type of matter that may be reserved for closing argument, if the facts demonstrate it. This wild anticipation of the Government's case is to my mind novel; I have never experienced it before in these courts, and I am naturally indulgent toward counsel on both sides, to the end that this case be heard fairly and impartially and that we have all the evidence before us. But I think, Mr. Hallinan, that these excoriations and vituperative matter bearing upon Mr. Lundeberg and others has no place at the present time.

"Mr. Hallinan: Very well.

"Mr. McMillan: May I interrupt, just to give a good example? He has stated Mr. Lundeberg has been arrested in every port——

"The Court: I noticed that. I noticed that. All parts of the world. And I will instruct the jury to disregard that statement."

Only a few seconds or minutes after, page 558, Mr. Hallinan again lunged or launched into the same demeanor, same conduct, persistent, studied as it was. 561, again, we find at line 4. Reference was to the prior page, 560. The Court sustained an objection.

"The Court: Objection sustained.

"The prior reference by counsel, Mr. Hallinan, was to the Government agents.

"Mr. McMillan: It is quite eloquent, but——

"The Court: The objection is sustained.

"Mr. Hallinan: The strength and extent to which these people were willing to go may be learned from the fact that as early as 1936 they caused a warrant for Mr. Bridges' arrest on a deportation inquiry to be issued by the Secretary of Labor. The result of that deportation inquiry I am not going to go into, but the fact that one existed is one of the utmost importance and is one of the things that the jury will have to take into consideration in analyzing what the witnesses are saying. And I will presently explain to you why. The United States House of Representatives passed against Harry Bridges the only bill of attainder ever passed in the United States, and——"

"Mr. McMillan: Your Honor, if Your Honor please, that is argumentative. He is not in some conference now.

"The Court: Objection sustained.

"Mr. McMillan: Counsel has been indicating everybody. I think he, as Edmund Burke says—you can't indict a whole nation."

Then at 562, Mr. Hallinan, line 5:

Now he has stooped to the level of personalities and indulged himself adequately at the expense of the Government counsel:

"Mr. Hallinan: Of course, what I should have done is have some little pest along with me so I wouldn't have the burden of quarreling with people. Now, Mr. Donohue sits elegantly by and urbanely surveys this, while Mr. McMillan, who is very friendly——

"Mr. Donohue: ——"

Mr. Donohue finally came to the surface.

"Well, I think it is about time, if your Honor please."

Up to this moment he had been sitting by and Mr. McMillan was carrying the brunt.

"The Court: Yes, I think it is about time for the Court to say a few words, Mr. Hallinan——

"Mr. Hallinan: Now, your Honor, did you take cognizance of the oratory that Mr. McMillan just engaged in, in stating you cannot indict —quoting Edmund Burke, and so forth?

"The Court: I am going to direct my attention to your characterization concerning Mr. Donohue, his urbane manner in sitting there, and so forth. This is no courtroom wherein to indulge yourself, Mr. Hallinan, in these general characterizations that sometimes have room or harbor in other tribunals. This is a most serious matter. I have treated it as a serious matter. The Government will, and I hope you do. We are not going to get any place in the trial of this case by any such characterization or personalities indulged in. If you desire to indulge yourself in that direction, I suggest you do it elsewhere.

"Mr. Hallinan: Well, I apologize for it, your Honor. I didn't mean——

"The Court: There is no apology necessary.

"Mr. Hallinan: I will not fall into that again, your Honor.

"The Court: There is no apology necessary to the Court, because I do not deal in apologies. I deal in more stringent matters."

Here the warning started to come. The dawn is breaking on what inevitably results this morning.

At 565, no sooner had I concluded my remarks, the ink was not dry on the reporter's pen, 565, line 2, Mr. Hallinan again in one of the flights which so characterize the alleged opening statement:

"In 1937 Mr. Bridges attended a convention in Seattle, and agents of the Immigration Department dictographed his hotel room and tapped his telephone wire. And that being discovered was made a matter of such public record that it cannot be disputed, because Mr. Bridges and his union forthwith communicated with the United States Government protesting what, whether right or wrong, they called an infringement of his liberties, of his constitutional rights. The papers ran great articles upon it, and it was widely broadcast everywhere, and letters of indignation and protest rained upon the responsible parties."

"Mr. McMillan: Now, may it please your Honor——

"The Court: I waited for an objection. I think in the absence of the prosecution noting an objection, the Court will intrude itself. There is no question involved in this case of wire-tapping. I take it from assurances given to me on the motion to dismiss, there will be no effort made on the part of the Government to introduce any evidence as to the result of any unlawful enterprise?

"Mr. Donohue: I renew that assurance.

"The Court: You renew that assurance?

"Mr. Donohue: Yes, your Honor."

He rose to renew his assurance again to the Court.

"The Court: The objection is sustained. The jury is admonished to disregard the statement, of any kind, character or description, bearing upon that matter."

Quiet prevailed for one page of the transcript, and at page 567 again the barrage of interruptions.

Reference was made to the alleged mistress of Harry Lundeberg. At this juncture Mr. Hallinan was stooping to an all-time low. Page 566, line 15:

> "Now, as early as 1936 there had been introduced into Harry Bridges' union and into his personal office as his private secretary a woman employed by the Waterfront Employers Association, and she was also the mistress of Mr. Harry Lundeberg. And at that time Mr. Bridges"——

And then Mr. McMillan:

> "Object to these statements, may it please your Honor.
>
> "Mr. Hallinan: The same purpose, your Honor."
>
> "Mr. McMillan: I can't understand why counsel feels that he is obliged to lug in a mistress here and there.
>
> "Mr. Hallinan: We didn't lug her in; they sent her in."

Page 567:

> "We want to show your Honor this is a complete"——

and there is a break in the thought. Then the Court:

> "The Court: Now, this is not an opening statement, Mr. Hallinan, either traditionally or in any concept that I have ever heard of. I have already stated my position."

"Mr. Hallinan: Now, aside from any general matter, such as I have"——

"The Court: And an opening statement, if I may amplify one step further, is not a sounding board wherein you may give vent to the external and immaterial matters that ~~have existed~~ over a period of many, many years. I think it rather an extreme situation that reference be made to this woman at this juncture, without any evidence before this Court or jury. You might well in the same breath condemn, indict, destroy, burn at the stake, any person in the City and County of San Francisco, by a bland statement. Now, you gentlemen are asking for a fair trial, the essentials of constitutional rights. And I think you had better"——

Then Mr. Hallinan interrupted.

By reference to the headlines in the paper, again transcending, bridging, the orders made by the Court with reference to news articles.

The Court again: "Mr. Hallinan, am I entirely obtuse in the trial of this case? Or have we descended into another strata of judicial process? I admonished this jury categorically, unequivocally, with every bit of vigor I have,—which vigor is expending itself in my colloquy with you—that you are not to read the newspapers (addressing the jury) under any conditions. And this Court, mindful of the admonition to you, does not indulge himself in the reading of the newspapers. Now, Mr. Hallinan indi-

> rectly has given you part of what the headlines are, which is a direct reflection upon this Court's admonition to you."

Quiet again prevailed for another page of transcript. At page 569, line 1, an objection was interposed. The Court:

> "Mr. Hallinan, let us pause momentarily and analyze just what we say. You characterized wholesale all of these witnesses as perjurers, low people, characterized them with vile, vituperative terms. 125 in number. I do not know at the present time the identity of any witness about to be called for the United States Government, and I dare say that in large part you do not. Now, I think it highly unfair to this Court, indulgent as I have been with you, to continue on that line or that particular vein."
>
> "Mr. Hallinan: All right, your Honor."
>
> "The Court: I can't say any more."
>
> "Mr. Hallinan: Well, we will drop that."

The transcript would seem to indicate a strain at that moment—the feeling was growing. The Court's patience was being exacted.

Several pages without interruption—perhaps that dull sort of a trial that Mr. Hallinan enjoys to remain away from; characterization was made that the Court should not indulge in a dull trial. So that seemingly it became him to create some mild degree of excitement. At page 571, line 22, or line 11, Mr. Hallinan:

> "The motives of the witnesses who will tes-

> tify, whether they are Communists, ex-Communists, rival union leaders or Government agents, are equally open to inquiry by the jury. Bridges was possessed of a faculty that may do him more harm in these matters than all his serious philosophy."

Then he adverted to the espionage activities of the FBI in New York City. He then concluded his remarks:

> "If he (Mr. Bridges) went into a hotel lobby, a young man would be looking through a hole cut in a newspaper.
>
> "Mr. McMillan: I object to that.
>
> "The Court: Sustained."

Then page 574, the Court, again responding to an objection urged by Mr. McMillan, and to matters that were incompetent and irrelevant. The Court, addressing myself to Mr. Hallinan:

> "The Court: What you propose to do is perfectly plain to me, Mr. Hallinan, and that is to assassinate in advance every witness who might take this stand without any evidence before this Court of the general characterizations and vituperations."

I shall not pause to read many matters which otherwise might be adverted to, by reason of the limitations of time.

I pause, however, at page 577, line 25. Mr. Hallinan, still launching forward in his discussion, or so-called "opening statement":

"However, Mr. Bridges has made the mistake of not taking the $50,000 that was offered to him back in 1934 to throw the strike and go back to Australia——

"Mr. McMillan: That is objected to.

"Mr. Hallinan: We will show that.

"The Court: The objection is sustained and the jury is instructed to disregard the statement."

Page 580, referring to the powerful feudal Five Companies of Hawaii, Mr. Hallinan stated:

"The situation there was the renewal of about what had happened in San Francisco—poison gas and clubs for the workers and a storing up of the"——.

And then there was an interruption.

"Mr. McMillan: If it please your Honor,——

"Mr. Hallinan: This is not ancient history; this happened within the last year.

"Mr. McMillan: The poison gas, rocks, stones——

"The Court: The objection is sustained, Mr. McMillan."

At page 582, line 5, Mr. McMillan again interrupted:

"If your Honor please, if this is not an argument after all the evidence is in, I do not know what I am talking about.

"Mr. Hallinan: If I may finish one paragraph, I will do so."

Then the Court, after all this colloquy:

> "It is unnecessary for me to admonish the jury again to disregard these statements."

Then we come to the first witness; this barrage had only died in its echoes off the walls and its reverberations through the courtroom, when Mr. Lloyd Garner took the stand. There is a very significant mention of a date at the very threshold of his testimony, and this date may prove, and is, a focal point around which my comments hereafter hinge.

Page 586, line 24, Mr. Donohue examining the witness:

> "When were you first employed by the Bureau of Immigration in the City of San Francisco? A. From April, 1941.
>
> "Q. And that employment here continued for how long?
>
> "A. Until about April, 1948."

Now, mark you, for the record,—from April, 1941, he was employed in the San Francisco office of the Bureau of Immigration in the City of San Francisco. Bearing that date in mind, we examined painstakingly, carefully, assiduously, the transcript. What do we find? The same tactics, the same studied performance, the same desire to introduce irrelevant, incompetent and inflammatory matters before the jury.

Page 705, line 10. This is during the course of the examination of Mr. Lloyd Garner. Mr. Hallinan had launched into a dissertation upon the deportation proceedings. I have not counted the number of times, but I dare say the record is replete with my rule that the deportation proceedings had no bearing in fact or in law upon this trial or any part thereof; and the record is replete with Mr. Hallinan's acquiescence as a matter of law. Yet we find his transgressions:

> "The Court: I remark and I reiterate, Mr. Hallinan, as I did with your colleague, Mr. MacInnis, that there is no issue with respect to the deportation proceedings before this Court, there is no issue upon which the Supreme Court decision would be controlling as a matter of fact or as a matter of law. Now, what this man may have done with respect to matters of prior consequence would not aid or determine any issue in this case."

By "this man" I referred to Mr. Garner.

We now attempt—and I sought to find it, if I could, before reaching a determination—to find Mr. Hallinan's good faith. Good faith—with respect to his conduct in his asking the questions; because behind these matters and behind the pages of transcript, in making a determination of this character, we must perforce look for good faith or the absence of good faith. So I sought it, if it did exist.

At page 706, line 17, Mr. Hallinan, adverting to the credibility of Mr. Garner:

> "And your Honor will remember that there is a serious question of credibility involved in that this defendant supplies something that is

entirely missing from anybody else in the prosecution's case—that is, the question of whether or not the co-defendants were ever questioned concerning affiliation or membership in the Communist Party. A very serious question of this witness' credibility in that. And we are entitled to explore that to the farthest limits."

He referred to the examination conducted by Mr. Garner in the preliminary sense of the co-defendants, Messrs. Schmidt and Robertson. In that Mr. Hallinan then took the position and now takes the position, no doubt, that the question was not addressed to them concerning their Communist affiliation or membership.

Page 706, line 17, Mr. Hallinan takes the position that he is entitled to examine the witness Garner concerning the Supreme Court decision and the Landis decision, because a serious question has arisen concerning the witness' credibility; that is, whether the co-defendants, Schmidt and Robertson, were ever questioned concerning affiliation or membership in the Party, the Communist Party.

Without any further or more exacting examination, it must be apparent, as it was to me last evening and as it is now, that there is a complete lack of good faith, fair dealing, on Mr. Hallinan's part in attempting to lug in or haul by the ears the Supreme Court decision or Mr. Landis' decision. For—and I mark for the record—neither Mr. Schmidt nor Mr. Robertson were involved in the prior poceedings. They were not identified therein in any manner, and questions addressed to the prior record would not be proper under any theory concerning Messrs. Robertson and Schmidt. So, where is the good faith in asking the questions?

Also, I examined page 713, at line 14, wherein Mr. Hallinan made what I regarded as a rather unusual statement, if not amazing. Page 713, line 14, again addressing himself to Messrs. Robertson and Schmidt, in seeking to seize upon a theory wherein he might haul in paragraphs from the opinion of the Chief Justice or the Supreme Court, and from Mr. Landis, and have those paragraphs culled and capsuled, so that the jury might have them. 713, line 14:

> "Mr. Hallinan: But now if those witnesses get on the witness stand and should say, 'I am a Communist and have been all along, a member of the Communist Party, and I wasn't asked that question, but I did say that Mr. Bridges was not or that he was eligible for citizenship,' then they have undermined him now by coming in and cutting the ground from under their feet and saying to the jury, 'Here they lied to this man on a question of their own citizenship,' and it is a very important card in the prosecution's case, as your Honor will see when the evidence finally develops."

The same persistent theory, the same persistent apparent lack of good faith.

Then we advert to page 730, all the time in the questions seeking good faith; what is Mr. Hallinan attempting to do? Page 730, line 9. At page 729 there had been a dissertation about the wire-tapping episodes, a reference to Dean Landis' opinion, a reference to the Supreme Court decision. Then at page 730, again I reiterate my rule, so there would be no misunderstanding about it, so that it would deeply embed itself in Mr. Hallinan's mind, so that there could be no mistake about it to any person in the courtroom or to counsel or to the jurors or to any other person. The Court:

> "I will hold to the lines, I will hold right to the line on the evidentiary matters I will hold right to the line in the exercise of a sound discretion, and I have made the announcement to the jury, I have announced to the jury and to your predecessors lawyers"—(I meant by that Messrs. Gladstein, Resner, Andersen and Sawyer and others) "that these matters of prior consequence had no legal bearing upon this matter. Now, what would it serve this case to pry into all of these prior matters, the determinations therein, legal, extrajudicial or however it appear? It would not be binding upon the jury or the Court as a factual matter."

Next at page 734, line 24, Mr. Hallinan, addressing his questions now to Mr. Garner, cross-examining. The record is riddled with objections. 734, line 24, Mr. Hallinan, addressing himself to Mr. Garner:

> "Now, did you read that portion of the decision of the Supreme Court of the United States which charged the Federal agents with illegal wire-tapping of Harry Bridges?

> "Mr. Donohue: I object to the question, if your Honor please.
>
> "Mr. Hallinan: This goes to his participation"——

speaking of Garner's participation. Mindful, Mr. Garnier came into the Government service in 1941. Bear that factor in mind through all this discussion.

> "The Court: The objection is sustained that it is not in conformity with the ruling, Mr. Hallinan, and is an attempt to bring before the jury matters in obviation of my ruling. I admonish the jury to disregard any implications in the question."

We now turn to page 738. The strain of the proceedings became a little more apparent—tempers a little more raw. 737, Mr. Paisley is first heard. Page 737, from lines 12 to 25, there is a colloquy between Mr. Paisley and Mr. Hallinan.

> "Mr. Hallinan: I think I am permitted to finish my question without interruption by counsel," and so forth.
>
> "Mr. Paisley: No guesswork, your Honor.
>
> "Mr. Hallinan: If he would, he would blush." Referring to Mr. Paisley. Then the question:
>
> "Now, I want to ask this question: You do have information that the Government indulged in illegal wire-tapping upon the two previous"——

Mr. Paisley—mildly, Southern drawl, temperate:

> "Just a moment, counsel."

Then the question, continuing:

> "—— two previous deportation proceedings, have you not?
>
> "Mr. Paisley: If your Honor please, if this is not contempt of court, I have never seen it in my career.
>
> "Mr. Hallinan: That is the first time I have ever heard counsel make a statement—I ask the jury be admonished——
>
> "The Court: The objection is sustained, the jury is admonished to disregard any implications contained in the question. I have heretofore"——

I was interrupted by Mr. Hallinan.

> "Mr. Hallinan: I have asked your Honor to ask the jury to disregard the statement that counsel just made. It is a highly improper statement.
>
> "The Court: The statement made by counsel may well be within the realm of his province to make. I shall not instruct the jury to disregard his statement.
>
> "Mr. Hallinan: We enter an exception, if the Court please."

And then the Court; this is the first indication on my part, I say, that I had reached or was about to reach the extreme ends of my patience:

> "And I say to you, Mr. Hallinan, your persistent conduct along this line, studied as it appears to be, may well eventuate in the situation that counsel refers to."

"Mr. Hallinan: We enter an exception to that statement:

"The Court: The objection is overruled.

"Mr. Hallinan: Very well."

Now, that colloquy was no sooner over, the Court's admonition was still echoing when Mr. Hallinan asked the following question of Mr. Garner:

"Now, did you yourself in the period preceding, that is, looking toward the deportation of Harry Bridges, and during that time—not at the present time—receive any information from any federal official or agency that Harry Bridges' wires were being illegally tapped?

"Mr. Donohue: I object to the question, if Your Honor please.

"The Court: Sustained."

Bear in mind, again, keep it ever present in mind, that Mr. Garner, on the testimony before the Court, first came into the government service in 1941. Mr. Hallinan pounding through again?

"Have you at any time throughout the origin of the proceedings"—now bear in mind the origin of the proceedings against Harry Bridges, back in 1937 or 1938, up to the present time, that is, up to today—"made any protest of any kind to any agent of the government or any attorney of the government that there was or has been an illegal wire-tapping of Harry Bridges?

"Mr. Donohue: I object, if Your Honor please.

"The Court: Sustained.

"Mr. Hallinan: Did you at any time in the course of your connection with this case state to any official or agent of the Government that you would not be a party to an illegal effort to injure this man?

"Mr. Donohue: I object to the question, if Your Honor please, and again I ask Your Honor to admonish counsel to confine his cross-examination to the well-established rule of law to which Your Honor invited his best attention.

"The Court: The objection is sustained.

"Mr. Hallinan: Very well."

Mr. Hallinan, again driving through, notwithstanding the objections and the ruling of the Court, made manifestly clear, again by Mr. Hallinan:

"In your study, whatever study you did make of the Landis position, you learned that 62 witnesses had been presented by the Government against Harry Bridges, and that Dean Landis had rejected all of them as liars and perjurers? Didn't you find that out?

"Mr. Donohue: I object to the question and again state to Your Honor that Mr. Hallinan's deliberate and repeated questions, which he knows as a lawyer are beyond the scope of the limitation defined by Your Honor, is highly contemptuous of the decision of this Court.

"The Court:" I responded, I suppose, rather feebly by this time.

"The Court: It is an attempt to circumvent the ruling of this Court and place before this jury by indirection matters that have been ruled out, matters that are immaterial and that are irrelevant.

"Mr. Hallinan: Your Honor, we have no ruling upon any such question as that. There has been nothing said in that matter."

I was rather astounded and somewhat taken aback. I said:

"That has been before the recess period, at least 45 minutes in discussion.

"Mr. Hallinan: What it amounts to, Your Honor, is rendering it almost impossible to find out. This witness has now a seal of objections thrown around him that prevents the defense from finding out what his real interest in the case is."

Now the thread is drawn closely. Now the web is woven. Now Mr. Hallinan's adroitness is being felt. He is completely dethroning this witness. He is stabbing him in the back.

"The Court: That observation is uncalled for, unwarranted, purely gratuitous and part of a studied plan.

"Mr. Hallinan: Now, I ask Your Honor—pardon me—I enter an objection to that statement and I ask that the jury be instructed to ignore it.

"The objection is not well taken, Mr. Hallinan.

"Mr. Hallinan: And I except to the Court's refusal to so instruct the jury."

Now, up to this juncture and including a review of the record thus far, it appeared to me manifestly clear that the questions were not asked in good faith, that the wholesale barrage and attack made upon witnesses in advance was not made in good faith, that it represented merely an attempt to besmirch and belittle the witnesses without any basis for an excursion or departure into the prior deportation proceedings, without any basis in fact or in law for a departure into or an inquiry with reference to the Landis decision or any other decision in the prior deportation proceedings, including, of course, the Supreme Court decision. The questions, the manner, the deportment and the decorum represented, in the opinion of the Court, a studied plan to destroy in advance the effectiveness and the asserted truthfulness of the witness placed upon the stand by the bland assertion that somewhere, some time, he might have been associated with an alleged conspiracy, which, of course, Mr. Hallinan has referred to as somewhat fantastic.

At page 748, again in my quest for good faith, again, naively I thought I might find it some place, at 748, line 23, this question, as I recall, was presented vigorously, in a commanding voice. This was addressed to Mr. Lloyd Garner, then on the stand on cross-examination:

> "Q. Prior to the deportation proceedings, which were tried—tried—"——

Now let us take the key word, tried. In 1939, if the deportation proceedings were tried in 1939, it follows as the night the day that the subject matter of the inquiry addressed to Mr. Garner had long since preceded 1939——

> "were tried in 1939 before Dean Landis, did you personally (and here is the vice—now we find the vice)—did you personally have anything to do with installing a wire-tapping device in Harry Bridges' room in the Hotel Multnomah in Portland?"

Again I say for the record, and so that our mental equanimity may not be disturbed, that Mr. Lloyd Garner first came into the government service in April, 1941. Where is the good faith? Where are the dulcet tones of tying this man into an alleged conspiracy?

At 749, Mr. Paisley,—he comes to the front again——

> "Your Honor, I object to it on the same ground that Your Honor has sustained us on, I was about to say a hundred times, and to show how ridiculous it is.
>
> "Mr. Hallinan: I object to an argument in the presence of the jury on a question of fact."

I think even Mr. Hallinan must have smiled at that comment.

> "The Court: You had your argument. I will let counsel argue a bit here.
>
> "Mr. Paisley: To show how ridiculous——"

and there are three key words in what Mr. Paisley said——

> "ridiculous or how uninformed or insincere the remarks of counsel are, I am told this witness

did not come with the government until 1941."

If there be any inaccuracy in ~~Mr.~~ Paisley's statement, it is with reference to the fact that he was told. He heard it. It came out of the mouth of the witness on the direct examination. It was in this courtroom for all to hear.

> "Mr. Hallinan: Well, I don't know."

Mr. Hallinan doesn't know when Mr. Garner came with the government service, and yet at page 587 of the transcript, as I already adverted to, Mr. Garner stated categorically that he came with the service in 1941, and up to the time of this colloquy and up to the time of this misconduct, no one in this courtroom ventured to suggest that Mr. Garner did not come in the government service prior to that time.

> Continuing—"Mr. Hallinan: Well, I don't know.
>
> "The Court: He so testified.
>
> "Mr. Hallinan: I want an answer to the question, if the Court please.
>
> "The Court: Did you enter an objection, counsel?
>
> "Mr. Paisley: Oh, yes, certainly.
>
> "The Court: The objection is sustained, Mr. Hallinan."

Notwithstanding that, he questioned again Mr. Garner, driving him now, in the vernacular, with rights and lefts, trying to destroy him, to beat him to the ground, beat him over the head, stab him in the back.

> "Mr. Hallinan: Did you personally in the

> year 1941 have any part, or did you participate in any wire-tapping of a telephone in Harry Bridges' room in a hotel in New York City?"

Here is Mr. Lloyd Garner, the mild-mannered deputy, an administrative officer of the United States Government, whom Mr. Hallinan has translated into an alleged nefarious trafficker in installing dictographs in hotel rooms in New York City. Absurd, preposterous.

> "Mr. Paisley: Just a moment. That presumes, Your Honor, that occurred. Counsel is thereby attempting to testify that such an occurrence took place, it seems to me.
>
> "The Court: The objection is sustained.
>
> "Mr. Hallinan: Did you personally have any contact with any persons employed, employees of the United States Government, engaged in the tapping of telephone wires of Harry Bridges in a hotel in New York City in 1941?"

A persistent, studied continuity of conduct, not bordering on contempt, but contemptuous in every form and degree.

> "Mr. Paisley: Same objection on the same ground.
>
> "The Court: The objection is sustained.
>
> "Mr. Hallinan: Might I have a moment? That is all."

Mr. Donohue then took up redirect examination having to do, as I recall, with an affidavit of the wife or former wife of the defendant Harry Bridges. I think it was finally ruled out on the ground of hearsay. However that may be, it becomes unimportant to the instant discussion.

At page 754 Mr. Hallinan, dissembling with the Court, seeking to justify a non-existent reason for his course of studied conduct, seeking to jettison the witness.

> "Mr. Hallinan (Referring to Garner): I want to ask the witness now, I want to read off portions of the decision of the Supreme Court and Judge Landis' decision and ask him if those were the parts that he read before he asked these two defendants whether or not they were members of the Communist Party. I want to ask him the specific things because he says he does not believe he read them all, that he read excerpts from them."

It is needless for me to reiterate, to repeat or to restate that there is no reason, logically or in law, for the attempted excursion of Mr. Hallinan into the recesses of the past records on deportation looking toward the ferreting out of the truth of Mr. Garner's testimony in and with respect to the two defendants, co-defendants, Mr. Schmidt and Mr. Robertson. That is manifestly clear.

"The Court——" ——after Mr. Hallinan's wheedling and somewhat dissembling, said he wanted a ruling from me. He now wanted a ruling. We have now reached page 755 and he was asking me to rule. Up to this point I had ruled persistently with continuity and with some degree of grave thoroughness.

> "The Court: Counsel, thus far you have not had much regard for my rulings whether I made them formally or informally, in the presence of the jury or in the absence of the jury."

At Page 755 I continued:

> "It is a sort of travesty at this late stage again to tell me about it. Do you have an objection to it, counsel?
>
> "Mr. Paisley: I certainly do, Your Honor.
>
> "The Court: The objection is sustained.
>
> "Mr. Hallinan: There isn't any question, Your Honor, to which an objection should be made."

I thought there was.

Page 755, line 19, Mr. Paisley again, I suppose somewhat amazed with reference to our western type of practice.

> "Mr. Paisley: I not only object to that procedure and that question, Your Honor, but I must object to counsel continually standing before this bar and disregarding the rulings of this Court on this line of testimony. He has been told a dozen times that what went on in these prior proceedings had nothing to do with the simple issues in this case. He stands here repeatedly showing his utter contempt of Your Honor's rulings."

Mr. Hallinan at this juncture asked for a mistrial, which I promptly denied. Page 756, line 17. Then there were matters of an assorted offer of proof by Mr. Hallinan on page 758, which came as a sort of anti-climax or an epilogue, if you please, to the little drama that I have so carefully read.

We will now take a recess.

Certified this 22nd day of November, 1949, at San Francisco, California.

/s/ GEORGE B. HARRIS,
United States District Judge.

[Endorsed]: Filed November 28, 1949.

[Title of District Court and Cause.]

MEMORANDUM OPINION AND ORDER OVERRULING OBJECTIONS TO TESTIMONY OF THE WITNESS, JOHN H. SCHOMAKER

During the course of the examination of the witness, John H. Schomaker, produced by the prosecution, the following occurred:

P. 886, line 9:

Q. (By Mr. Donohue): Under the ruling of his Honor will you tell his Honor and the members of the jury your recollection of the conversation had at the time you and Herman Mann were present with Mr. Bridges at Mr. Bridges' home?

The Court: Have you specified the date?

Q. (By Mr. Donohue): Did you state the date earlier?

A. It was in—it was in the latter part of October, 1933.

Mr. Hallinan: Now, your Honor, I want to make the objection which I said goes to a disposition of the case, or a disposition of a large part of any possible proof that this witness might introduce hereafter. While your Honor has ruled on certain matters as to their legal significance, in the matter of the decision itself, there is another matter that is involved in the same thing. While a decision may not constitute once in jeopardy or a final judgment, still matters that have been decided in it are res adjudicata. Now, res adjudicata is not a question addressed to the Court alone. Res adjudicata, as you will bear me out, is a mixed question of law and fact and addressed to the jury, and while it has been held error, and reversible error, for the Court not to permit the offer of res adjudicata to be made in the presence of the jury, still in deference to other discussions that have taken place, I suggest that we be permitted now to make the objection and make a tender of proof on the judgment that I have discussed here, that is, the Supreme Court decision of 1945, to limit any testimony relating to any possible membership in the Communist Party of Mr. Bridges from June, 1945, to the time that the naturalization proceedings took place, which would be in August,

> I would like to make that in a formal manner, and I would like to be heard to argue on it. Mr. Cleary has prepared an argument on it. It will take some little time to present, and if your Honor would permit us to do that—if you wish, we will make the offer in the presence of the jury. If you would prefer, let the Jury stand by or be excused until two o'clock.

The basis for the objection is that the decision of the Supreme Court in Bridges v. Wixon, 326 U. S. 135, has decided the question of alleged membership of the defendant, Bridges, in the Communist Party. Accordingly, it is said this Court is foreclosed from again considering this point.[1]

The problem is now posed specifically by pertinent objection to the introduction of evidence bearing upon this particular factual issue. Counsel for the defendant concedes that there has been no double jeopardy within the meaning of the Fifth Amendment to the Constitution, but claims that the prosecution is now foreclosed from introducing evidence with respect to Bridges' alleged membership in the Communist Party, during the years from 1933 and following, on the basis that the Supreme Court in Bridges v. Wixon, supra, finally passed upon this factual consideration.

Prescinding to the issue which obtained in

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[1] Heretofore on the Motion to Dismiss, this Court heard elaborate arguments on the question of "double jeopardy" and "res adjudicata" and decided these legal issues in bar, among others, against the defendants.—F. Supp.——

Bridges v. Wixon, supra, it is apparent, from even a casual reading of the decision, that there is no merit to defendant's contention that the Supreme Court finally passed upon the said issue of membership in the Communist Party. The majority opinion did not declare that the evidence, given its full weight, was insufficient as a matter of law. To the contrary, the Court held that evidence had been admitted improperly and in violation of regulations intended as procedural safeguards. Under such circumstances the Court did not declare on the evidence, but rather upon the admissibility of certain unsworn statements emanating from one O'Neal. It appeared, therefore, that the crucial finding by the Attorney General was arrived at in reliance upon incompetent evidence in violation of a regulation of a department, designed to insure fair hearings and to safeguard the rights of aliens. The Supreme Court's opinion is not res adjudicata of the issue challenged by the defense. Pierson v. Williams, 202 U. S. 281, Harris v. Biszkowicz, 100 Fed. 2d. 854, 856.

The key to the Supreme Court's reasoning in granting the writ of habeas corpus may not be extracted from broad generalizations, but is to be found in statements appearing on pages 154 and 156 of the Opinion, and culminating with this very cogent language:

> "Since it was error to admit O'Neal's unsworn statements against Bridges, since they were so crucial to the findings of membership, and since that issue was so close, we are un-

able to say that the order of deportation may be sustained without them."

To sustain the plea of res adjudicata, it is essential, among other things, either that the cause of action be the same or that the exact point was in issue and decided. (See Sourino v. U. S. 86 F. 2d. 309, 310.) The cause of action in the present case is distinct from that in the deportation proceeding while the point decided by the Supreme Court in the prior proceeding was one of procedure and practice and was not upon the merits. (See 50 Corpus Juris Secundum, Sec. 696; Clegg v. U. S. 112 F. 2d. 886, 887; Cf. Gilbert v. American Surety Co. 121 Fed. 499, 501.)

Accordingly, It Is Ordered that the objections interposed be and the same hereby are Overruled.

Dated: November 28, 1949.

/s/ GEORGE B. HARRIS,
United States District Judge.

[Endorsed]: Filed November 28, 1949.

In the Southern Division of the United States District Court for the Northern District ~~of Cali~~fornia, First Division

No. 32117

THE UNITED STATES OF AMERICA,

vs.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON.

VERDICT

We, the Jury, find Harry Renton Bridges, the defendant at the bar, guilty on the 1st Count of the Indictment, guilty on the 2nd Count of the Indictment.

/s/ GLENN LEO CHRISTENSEN,
Foreman.

[Endorsed]: Filed April 4, 1950.

In the Southern Division of the United States District Court for the Northern District of California, First Division

No. 32117

THE UNITED STATES OF AMERICA,

vs.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON.

VERDICT

We, the Jury, find Henry Schmidt, the defendant at the bar, guilty on the 1st Count of the Indictment, guilty on the 3rd Count of the Indictment.

/s/ GLENN LEO CHRISTENSEN,
Foreman.

[Endorsed]: Filed April 4, 1950.

In the Southern Division of the United States District Court for the Northern District of California, First Division

No. 32117

THE UNITED STATES OF AMERICA,

vs.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON.

VERDICT

We, the Jury, find J. R. Robertson, the defendant at the bar, guilty on the 1st Count of the Indictment, guilty on the 3rd Count of the Indictment.

/s/ GLENN LEO CHRISTENSEN,
Foreman.

[Endorsed]: Filed April 4, 1950.

[Title of District Court and Cause.]

MOTION IN ARREST OF JUDGMENT

The defendant Harry Renton Bridges moves the Court to arrest judgment for the following reason: The indictment does not state facts sufficient to constitute an offense against the United States.

Dated: April 10, 1950.

/s/ VINCENT HALLINAN,
Attorney for Defendant
Harry Renton Bridges.

[Endorsed]: Filed April 10, 1950.

[Title of District Court and Cause.]

MOTION IN ARREST OF JUDGMENT

The defendant Henry Schmidt moves the Court to arrest judgment for the following reason: The indictment does not state facts sufficient to constitute an offense against the United States.

Dated: April 10, 1950.

/s/ JAMES MARTIN MacINNIS,
Attorney for Defendant
Henry Schmidt.

[Endorsed]: Filed April 10, 1950.

[Title of District Court and Cause.]

MOTION IN ARREST OF JUDGMENT

The defendant J. R. Robertson moves the Court to arrest judgment for the following reason: The indictment does not state facts sufficient to constitute an offense against the United States.

Dated: April 10, 1950.

/s/ JAMES MARTIN MacINNIS,
Attorney for Defendant
J. R. Robertson.

[Endorsed]: Filed April 10, 1950.

[Title of District Court and Cause.]

MOTION FOR NEW TRIAL

The defendant Harry Renton Bridges moves the Court to grant him a new trial for the following reasons:

1. The Court erred in denying a directed verdict of acquittal.

2. The verdict is contrary to the weight of the evidence.

3. The verdict is not supported by substantial evidence.

4. The Court erred in charging the jury, and in refusing to charge the jury, as requested.

5. The defendant Harry Renton Bridges was substantially prejudiced and deprived of a fair trial by reason of the following circumstances:

A. Misconduct of Court.

B. Misconduct of counsel for the United States.

C. Fraud, corruption and bribery of witnesses by agents of the prosecution.

6. The Court erred in denying the defendant's motions for a mistrial.

7. The Court erred in sustaining objections to the admissibility of evidence tendered by the defendant.

8. The Court erred in admitting evidence tendered by the Government over objection of the defendant.

9. The defendant's prosecution is barred by the operation of the statute of limitations.

Dated: April 10, 1950.

/s/ VINCENT HALLINAN,
Attorney for Defendant
Harry Renton Bridges.

[Endorsed]: Filed April 10, 1950.

[Title of District Court and Cause.]

MOTION FOR NEW TRIAL

The defendant Henry Schmidt moves the Court to grant him a new trial for the following reasons:

1. The Court erred in denying a directed verdict of acquittal.

2. The verdict is contrary to the weight of the evidence.

3. The verdict is not supported by substantial evidence.

4. The Court erred in charging the jury, and in refusing to charge the jury, as requested.

5. The defendant Henry Schmidt was substantially prejudiced and deprived of a fair trial by reason of the following circumstances:

    A. Misconduct of Court.

    B. Misconduct of counsel for the United States.

    C. Fraud, corruption and bribery of witnesses by agents of the prosecution.

6. The Court erred in denying the defendant's motions for a mistrial.

7. The Court erred in sustaining objections to the admissibility of evidence tendered by the defendant.

8. The Court erred in admitting evidence tendered by the Government over objection of the defendant.

9. The defendant's prosecution is barred by the operation of the statute of limitations.

Dated: April 10, 1950.

/s/ JAMES MARTIN MacINNIS,
Attorney for Defendant
Henry Schmidt.

[Endorsed]: Filed April 10, 1950.

[Title of District Court and Cause.]

MOTION FOR NEW TRIAL.

The defendant J. R. Robertson moves the Court to grant him a new trial for the following reasons:

1. The Court erred in denying a directed verdict of acquittal.

2. The verdict is contrary to the weight of the evidence.

3. The verdict is not supported by substantial evidence.

4. The Court erred in charging the jury, and in refusing to charge the jury, as requested.

5. The defendant J. R. Robertson was substantially prejudiced and deprived of a fair trial by reason of the following circumstances:

A. Misconduct of Court.

B. Misconduct of counsel for the United States.

C. Fraud, corruption and bribery of witnesses by agents of the prosecution.

6. The Court erred in denying the defendant's motions for a mistrial.

7. The Court erred in sustaining objections to the admissibility of evidence tendered by the defendant.

8. The Court erred in admitting evidence tendered by the Government over objection of the defendant.

9. The defendant's prosecution is barred by the operation of the statute of limitations.

Dated: April 10, 1950.

/s/ JAMES MARTIN MacINNIS,
Attorney for Defendant
J. R. Robertson.

[Endorsed]: Filed April 10, 1950.

United States District Court for the Northern District of California, Southern Division

At a Stated Term of the United States District Court for the Northern District of California, Southern Division, held at the Courtroom thereof, in the City and County of San Francisco, on Monday, the 10th day of April, in the year of our Lord one thousand nine hundred and fifty.

Present: The Honorable George B. Harris,
District Judge.

[Title of Cause.]

ORDER DENYING MOTIONS FOR NEW TRIAL AND IN ARREST OF JUDGMENT; SENTENCE

This case came on this day for hearing of motions for new trial, motions in arrest of judgment, and for pronouncing of judgment. The defendant Harry Renton Bridges was present with his attorney, Vincent Hallinan, Esq., and defendants Henry Schmidt and J. R. Robertson were present with their attorney, James Martin MacInnis, Esq., J. Joseph Donohue, Esq., Special Assistant to the Attorney General of the United States, and Robert B. McMillan, Esq., Assistant United States Attorney, were present on behalf of the United States.

Mr. Hallinan, filed, in open Court, a motion for new trial and a motion in arrest of judgment on behalf of defendant Harry Renton Bridges.

Mr. MacInnis filed, in open Court, a motion for new trial and a motion in arrest of judgment on behalf of each of defendants Henry Schmidt and J. R. Robertson.

After hearing Mr. Hallinan and Mr. MacInnis on behalf of the defendants, and Mr. McMillan on behalf of the United States, It Is Ordered that each of said motions be, and the same is hereby Denied.

Thereupon the defendant Harry Renton Bridges was called for judgment and sentence. Mr. Hallinan made a motion that the case of the defendant Harry Renton Bridges be referred to the Probation Officer of this Court for pre-sentence investigation and report, which motion was ordered Denied. The Court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant Harry Renton Bridges, having been convicted upon his plea of not guilty and a verdict of guilty of the offense charged in the First and Second Counts of the Indictment filed herein against him, be and he is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years on Count One of the Indictment, and Five (5) Years on Count Two of the Indictment.

It Is Further Ordered that the sentences of imprisonment imposed on said defendant on Counts

One and Two of the Indictment shall commence and run Concurrently.

(Defendant Harry Renton Bridges is not mentioned in Count Three of Indictment.)

It Is Ordered that the Clerk of this Court deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

It Is Ordered that judgment be entered herein accordingly.

Mr. Hallinan, on behalf of the defendant Harry Renton Bridges, presented to the Clerk a Notice of Appeal. After hearing Mr. Hallinan and Mr. McMillan, It Is Ordered that the amount of bail for release of defendant pending determination of appeal be fixed in the sum of Twenty-five Thousand Dollars ($25,000.00). Ordered that the defendant be remanded to the custody of the United States Marshal.

Thereupon the defendant Henry Schmidt was called for judgment and sentence. Mr. MacInnis made a motion that the case of the defendant Henry Schmidt be referred to the Probation Officer of this Court for pre-sentence investigation and report, which motion was ordered Denied. The Court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court, It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant Henry Schmidt, having been convicted upon his plea of not guilty and a verdict of guilty of the offense charged in the First and Third Counts of the Indictment filed herein against him, be and he is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years on Count One of the Indictment, and Two (2) Years on Count Three of Indictment.

It Is Further Ordered that the sentences of imprisonment imposed on said defendant on Counts One and Three of Indictment shall commence and run Concurrently.

(Defendant Henry Schmidt is not mentioned in Count Two of Indictment.)

It Is Ordered that the Clerk of this Court deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

It Is Ordered that judgment be entered herein accordingly.

Mr. MacInnis, on behalf of defendant Henry Schmidt, presented to the Clerk a Notice of Appeal. After hearing Mr. MacInnis and Mr. McMillan, It Is Ordered that the amount of bail for release of defendant pending determination of appeal be fixed in the sum of Ten Thousand Dollars ($10,000.00).

Ordered that the defendant be remanded to the custody of the United States Marshal.

Thereupon the defendant J. R. Robertson was called for judgment and sentence. Mr. MacInnis made a motion that the case of the defendant J. R. Robertson be referred to the Probation Officer of this Court for pre-sentence investigation and report, which motion was ordered Denied. The Court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted.

It Is Adjudged that the defendant J. R. Robertson, having been convicted upon his plea of not guilty and a verdict of guilty of the offense charged in the First and Third Counts of the Indictment filed herein against him, be and he is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years on Count One of the Indictment, and Two (2) Years on Count Three of Indictment.

It Is Further Ordered that the sentences of imprisonment imposed on said defendant on Counts One and Three of Indictment shall commence and run Concurrently.

(Defendant J. R. Robertson is not mentioned in Count Two of Indictment.)

It Is Ordered that the Clerk of this Court deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

It Is Ordered that judgment be entered herein accordingly.

Mr. MacInnis, on behalf of defendant J. R. Robertson, presented to the Clerk a Notice of Appeal. After hearing Mr. MacInnis and Mr. McMillan, It Is Ordered that the amount of bail for release of defendant pending determination of appeal be fixed in the sum of Ten Thousand Dollars ($10,000.00). Ordered that the defendant be remanded to the custody of the United States Marshal.

Thereafter, the parties hereto not being present, and the attention of the Court having been called to the fact that the Notice of Appeal as to each of the defendants had not been properly drawn, It Is Ordered that said Notice of Appeal be not filed.

District Court of the United States for the Northern District of California, Southern Division

No. 32117

UNITED STATES OF AMERICA,

vs.

HARRY RENTON BRIDGES.

JUDGMENT AND COMMITMENT

On this 10th day of April, 1950, came the attorney for the government and the defendant appeared in person and with counsel;

It Is Adjudged that the defendant has been convicted upon his plea of not guilty and a verdict of guilty of the offense of violation of Title 18 USC., Sec. 88; now 18 U.S.C. Sec. 371; and Title 8 USC., Sec. 746 (1) now 18 U.S.C. Sec. 1015 (1), Counts 1 and 2, defendant unlawfully did conspire with divers other persons to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws, and defendant wilfully and knowingly did make a false statement under oath in certain matters during a naturalization proceeding, as charged in the Indictment, Counts 1 and 2 and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years on Count One of the Indictment, and Five (5) Years on Count Two of the Indictment.

It Is Further Ordered that the sentences of imprisonment imposed on said defendant on Counts One and Two of the Indictment, shall commence and Run Concurrently.

Defendant Bridges is not mentioned in Count Three of said Indictment.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ GEORGE B. HARRIS,
United States District Judge.

/s/ EDWARD A. MITCHELL,
Deputy Clerk.

[Endorsed]: Filed and entered April 10, 1950.

District Court of the United States for the Northern District of California, Southern Division

No. 32117

UNITED STATES OF AMERICA,

vs.

HENRY SCHMIDT.

JUDGMENT AND COMMITMENT

On this 10th day of April, 1950, came the attorney for the government and the defendant appeared in person and with counsel;

It Is Adjudged that the defendant has been convicted upon his plea of not guilty and a verdict of guilty of the offense of violation of Title 18 USC., Sec. 88; now Title 18 U.S.C. Sec. 371; and Title 8 USC, Sec. 746(a)(5), Counts 1 and 3, of Indictment. Defendant unlawfully did conspire with divers other persons to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws, and defendant did wilfully and knowingly encourage, aid, advise and assist a person to obtain, accept and receive a Certificate of Naturalization, said person not being entitled thereto, as charged in the Indictment, Counts 1 and 3 and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years on Count One of the Indictment, and Two (2) Years on Count Three of the Indictment.

It Is Further Ordered that the sentences of imprisonment imposed on said defendant on Counts One and Three of the Indictment, shall commence and Run Concurrently.

Defendant Henry Schmidt is not mentioned in Count Two of said Indictment.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ GEORGE B. HARRIS,
United States District Judge.

/s/ EDWARD A. MITCHELL,
Deputy Clerk.

[Endorsed]: Filed and entered April 10, 1950.

District Court of the United States for the Northern District of California, Southern Division

No. 32117

UNITED STATES OF AMERICA,

vs.

J. R. ROBERTSON.

JUDGMENT AND COMMITMENT

On this 10th day of April, 1950, came the attorney for the government and the defendant appeared in person and with counsel;

It Is Adjudged that the defendant has been convicted upon his plea of not guilty and a verdict of guilty of the offense of violation of Title 18 USC., Sec. 88; now Title 18 U.S.C Sec. 371; and Title 8 USC., Sec. 746 (a) (5), Counts 1 and 3, of Indictment. Defendant unlawfully did conspire with divers other persons to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws, and defendant did wilfully and knowingly encourage, aid, advise and assist a person to obtain, accept and receive a Certificate of Naturalization, said person not being entitled thereto, as charged in the Indictment, Counts 1 and 3 and the court having asked the defendant whether he has anything to say why judgment should not be pronounced, and no sufficient cause to the contrary being shown or appearing to the Court,

It Is Adjudged that the defendant is guilty as charged and convicted

It Is Adjudged that the defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of Two (2) Years on Count One of the Indictment, and Two (2) Years on Count Three of the Indictment.

It Is Further Ordered that the sentences of imprisonment imposed on said defendant on Counts One and Three of the Indictment, shall commence and Run Concurrently:

Defendant J. R. Robertson is not mentioned in Count Two of said Indictment.

It Is Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer and that the copy serve as the commitment of the defendant.

/s/ GEORGE B. HARRIS,
United States District Judge.

/s/ EDWARD A. MITCHELL,
Deputy Clerk.

[Endorsed]: Filed and entered April 10, 1950.

In the United States District Court for the Northern District of California, Southern Division

No. 32117-H

UNITED STATES OF AMERICA,

Plaintiff,

vs.

HARRY RENTON BRIDGES, et al.,

Defendants.

NOTICE OF APPEAL

Name and address of appellant: Harry Renton Bridges, 150 Golden Gate Avenue, San Francisco, California.

Name and address of appellant's attorney: Vincent Hallinan, 345 Franklin Street, San Francisco, California.

Offense: Count I—Conspiracy to defraud the United States. Count II—False swearing in a naturalization proceeding.

Concise statement of judgment or order, giving date, and any sentence: Apr. 10, 1950—Imprisonment for 2 years on first count—imprisonment for 5 years on 2nd count. Both sentences to run concurrently.

Name of Institution where now confined, if not on bail: On bail.

I, the above-named appellant, hereby appeal to the United States Court of Appeals for the Ninth Circuit from the above-stated judgment.

Dated: April 10, 1950.

/s/ VINCENT HALLINAN,
Attorney for Defendant
Bridges.

[Endorsed]: Filed April 11, 1950.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Name and address of appellant: Henry Schmidt, 150 Golden Gate Avenue, San Francisco, California.

Name and address of appellant's attorney: James Martin MacInnis, 345 Franklin Street, San Francisco, California.

Offense: Count I—Conspiracy to defraud the United States.

Count III—Aiding and abetting an unauthorized person to procure naturalization.

Concise statement of judgment or order, giving date, and any sentence: April 10, 1950—Imprisonment for 2 years on First Count—Imprisonment for 2 years on 3rd Count; both sentences to run concurrently.

Name of institution where now confined, if not on bail: On Bail.

I, the above-named appellant, hereby appeal to the United States Court of Appeals for the Ninth Circuit from the above-stated judgment.

Dated: April 10, 1950.

/s/ JAMES MARTIN MacINNIS,
Attorney for Defendant
Schmidt.

[Endorsed]: Filed April 11, 1950.

[Title of District Court and Cause.]

NOTICE OF APPEAL

Name and address of appellant: J. R. Robertson, 150 Golden Gate Avenue, San Francisco, California.

Name and address of appellant's attorney: James Martin MacInnis, 345 Franklin Street, San Francisco, California.

Offense: Count I—Conspiracy to defraud the United States.

Count III—Aiding and abetting an unauthorized person to procure naturalization.

Concise statement of judgment or order, giving date, and any sentence: April 10, 1950—Imprisonment for 2 years on First Count—Imprisonment for 2 years on 3rd Count; both sentences to run concurrently.

Name of institution where now confined, if not on bail: On Bail.

I, the above-named appellant, hereby appeal to the United States Court of Appeals for the Ninth Circuit from the above-stated judgment.

Dated: April 10, 1950.

/s/ JAMES MARTIN MacINNIS,
Attorney for Defendant
Robertson.

[Endorsed]: Filed April 11, 1950.

[Title of District Court and Cause.]

INSTRUCTIONS TO THE JURY SUBMITTED BY DEFENSE

"Not Given"

GEORGE B. HARRIS,
United States District Judge.

Come now the defendants Harry Renton Bridges, Henry Schmidt and J. R. Robertson and respectfully request this Honorable Court to give the following instructions in the above-entitled cause:

Defendants' Proposed Instruction No. 1

The Court advises the jury to return a verdict of Not Guilty in favor of the defendants Harry Renton Bridges, Henry Schmidt and J. R. Robertson.

This advice from the Court, relative to your duties in respect to deliberations upon the case is given because, in the opinion of the Court, the evidence adduced by the Government is not sufficient to warrant a verdict of conviction against any defendant.

Hence the Court advises the jury to find all of the defendants Not Guilty.

(If the foregoing suggestion of an advised verdict of acquittal for all defendants is refused, then, in lieu thereof, defendants propose the following instruction which will become Defendants' Proposed Instruction No. 2.)

Not given:

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 2

The Court advises the jury to find the defendants Henry Schmidt and J. R. Robertson Not Guilty.

This advice of the Court in respect to your deliberations upon the defendants Schmidt and Robertson is based upon the opinion of the Court to the end that there does not exist in the record of this case sufficient evidence to support a verdict of conviction against either of the defendants Henry Schmidt or J. R. Robertson.

Hence, the Court advises you to return a verdict of Not Guilty in favor of the defendants Schmidt and Robertson.

Concerning the defendant Harry Renton Bridges, the issue of his guilt or innocence becomes a question of fact for you to determine, based upon your evaluation of the weight of evidence in this case and gauged by the instructions upon the law which I shall read you.

In leaving to the determination of the jury the issue of whether or not the defendant Harry Renton Bridges is guilty or innocent, the Court in no wise expresses or intends to express any opinion, one way or the other upon the merits of the case, but leaves this entire issue to be determined by the jury as regards the defendant Harry Renton Bridges.

(If the foregoing suggestion for an advised verdict of acquittal in favor of the defendants Schmidt and Robertson is adopted by the Court, the following proposed instruction, to be designated Defendants' Instruction No. 3, is offered, to be read along with the foregoing instruction.)

Defendants' Proposed Instruction No. 3

In advising the jury to return a verdict of Not Guilty in favor of defendants Schmidt and Robertson and leaving to the determination of the jury only the issues surrounding the accusation brought against the defendant Harry Renton Bridges, the Court has concluded that there is no evidence in the record of this case to support the charge of any unlawful or fraudulent conspiracy between the three defendants.

Hence the only matter toward which you may properly direct your deliberations under the foregoing advice is the Second Count of the indictment returned in this cause, by whose language the defendant Harry Renton Bridges, alone, is charged, in substance, with falsely answering the question put to him before the Superior Court of the State of California at San Francisco in his citizenship hearing: "Question: Do you now, or have you ever, belonged to the Communist Party in the United States? Answer: I have not; I do not."

And unless the evidence shows the guilt of the defendant Harry Renton Bridges as to the matters contained in the above-described accusation to a moral certainty and beyond a reasonable doubt, he too must be found Not Guilty.

(In the event that the Court refuses to give defendants' proposed instructions 2 and 3, as offered above, the remaining instructions, covering various phases of this case, are proposed.)

Defendants' Proposed Instruction No. 6

Of course you may not decide any issue in this case on the basis of passion or prejudice or upon suspicion, conjecture or surmise.

The fact that the personal viewpoint of the defendant Bridges may have antagonized many people of more conservative leanings is no evidence whatsoever of his guilt in this case.

In this case the ultimate issue to be determined by you is this: "Does the evidence show to a moral certainty and beyond reasonable doubt that the defendant Bridges is guilty as charged?"

If the evidence fails to demonstrate the guilt of the defendant Bridges to a moral certainty and beyond reasonable doubt it will be your duty to find him Not Guilty.

Bridges vs. Wixon,
(1945) 326 U.S. 135, 65 S. Ct. 1443.

Not given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 7

I instruct you that if you find, from all the evidence in this case, that there would be no motive upon the part of defendants, or any of them, to commit the crime charged in the indictment, you shall consider the absence of such motive as a circumstance in determining your verdict in this case.

Schmidt vs. United States
133 Fed 257 (CCA 9th) at page 263.

> "The absence of apparent motive, while not ground for an instruction on the part of the court that such absence might be considered as favorable to the defendant, should always be taken into consideration by the jury as a circumstance in determining the question of whether or not the accused himself committed the offense. It is also a sound principle of interpretation that where no apparent motive appears, the offense charged shall be referred to the operation of the least guilty motive."

Wharton's Criminal Evidence
11th Ed Vol 1 p 326-7 (Emphasis added).

Not given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 11

Any witness, produced either by the prosecution or by the defense, who is found by you to be false in one part of his testimony, may be distrusted by you in all other parts of his testimony.

Code of Civil Procedure, 2061.

Refused—covered elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 13

The motives which may affect the credibility of a witness are those arising from interest, relationship, bias or prejudice..

In a criminal case the motives of a prosecuting witness may also be impeached by proof that such witness has participated in the action for the purpose of revenge (or because of duress).

People v. Mitchell,
5 Cal. App. 45.

Refused—covered elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 15

The credibility of any witness may be impeached by showing that he is biased against the person against whom he testifies, or by showing that he has an interest adverse to such party.

Cal. Jur. Vol. 27, pp. 122-3,
article on "Witnesses."

Refused—covered elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 16

Independently of a showing of conviction of a felony, a witness may, in a proper case, be impeached by showing that he is, or has been, charged with crime by way of raising the inference that his testimony may have been influenced by an expectation of leniency or immunity.

Cal. Jur. 27, 141-2,
article on "Witnesses."

Not given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 18

The credibility of a witness may be impeached by the ascertainment not only of the fact that such witness is interested in the prosecution or biased against the defendants but also by showing of the degree of such interest or bias in order that the jury may measure the depth and violence of his prejudice.

(People v. Fleming
166 Cal. 357 Cal. Jur. Vol. 27, p. 131,
article on "Witnesses."

Refused—covered elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 19

A witness for the prosecution in a criminal case may also be impeached by showing that such witness assisted in the preparation of the prosecution's case in order to show an unfair desire on the part of such witness to procure a conviction.

People v. Nihell,
144, Cal. 200;
People v. Burch,
46, Cal. App. 391;
People v. Gilman,
Vol. 43, Cal. App. 451, 454.

Not given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 20

If you find that any witness for the prosecution has been produced by compulsion of any kind or character you may consider such compulsion, including the kind or degree of it, in judging the credibility of such witness.

Cal. Jur. Vol. 27, p. 121,
article on "Witnesses."

Not given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 21

A witness called by the prosecution may not terminate your inquiry into his credibility because of past inconsistent statements by merely offering his declaration to the jury: "I was a member of the Communist Party at that time and I followed a policy of deceiving other people; now that I have left the Communist Party I am telling the truth."

The jurors are entitled to examine independently any propensity for false statements on the part of such witness and the jurors are not bound by the declaration of such witness renouncing his past inclinations to deceive; to the contrary, the jury, in estimating the total credit that should be accorded the testimony of such witness, may consider such admissions of prior deceptions and accord to them such weight as human experience may dictate.

Not given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 22

In judging the credibility of any witness who appears before you you are naturally entitled to determine, at the outset, whether the recollection of such witness be extensive or vague, clear or indistinct.

You may also consider whether or not a witness purports to present a perfect memory as to events long since past as contrasted to a want of recollection concerning more recent events of equal importance.

You should look with some caution upon the testimony of any witness who offers detailed evidence concerning supposed events occurring long ago but whose memory is indistinct or lacking as concerns more recent events of equal importance in his life.

Davis v. California Powder Works,
84 Cal. 617 (1890).

(In the case above cited the validity of a Mexican land grant was in question. The witness Alvarado testified to signing the same as governor on a particular date forty years before. He was cross-examined as to many other events in his life of great importance but was unable to recollect any dates. It was held that this was a proper means of cross-examination to indicate the probability that he was mistaken. The California Supreme Court used the following language: "A shrewd witness, who is swearing falsely to something which cannot be disproved by direct testimony, will confine his recollection wholly to that single fact, professing a want of recollection of all the facts and circumstances attending it. An inexperienced witness, whose willingness to oblige his friend exceeds his judgment, will endeavor to give verisimilitude to his tale by a recital of imaginary circumstances. A stringent cross-examination will generally involve the latter in a web of contradictions, which will be in a measure evaded by the other, with the answer that he 'does not recollect'.")

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 23

The jury has the right, and even the duty to compare the testimony of any witness as to the details given concerning events of the past with the lack of ability of such witness to offer details of incidents of equal importance occurring almost contemporaneously with his appearance in court.

If there is such a difference in the purported abilities of the witness, his testimony in such instances should be viewed with caution.

Davis v. California Powder Works,
84 Cal. 617 (1890);
Sharp v. Hoffman,
79 Cal. 404 (1889);
Witkin, Summary of California Law (1946),
article on "Evidence," Sec. 275.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 25

Where the prosecution relies entirely upon circumstantial evidence in its effort to prove the charges, such circumstantial evidence must not only be consistent with the hypothesis of guilt, but must exclude to a moral certainty and beyond a reasonable doubt every other rational conclusion.

In other words, where the circumstantial evidence is susceptible of two or more hypotheses or interpretations, each of which is based upon reason, it is the duty of the jury to reject that hypothesis or interpretation which leads to the conclusion of guilt, and to acquit the defendants, unless the hypothesis or interpretation favoring the conclusion of innocence is not based on reason, and is excluded beyond a reasonable doubt and to a moral certainty.

Further, where the prosecution relies upon a series or chain of circumstances in its effort to prove its charges, each necessary link or fact necessary to support the conclusion of guilt must be proved to you beyond a reasonable doubt. The chain of evidence is no stronger than its weakest link, and if one necessary fact is not proved to you beyond a reasonable doubt, then the conclusion of guilt must fall and it would become your duty to acquit the defendants.

People v. Bender,
27 Cal. (2d) 164;
People v. Dick,
32 Cal. 213;
People v. Chenault,
74 Cal. App. (2d) 487;
People v. Rayol,
65 Cal. App. (2d) 462;

People v. Hatchett,
63 Cal. App. (2d) 144;
People v. Kinowski,
39 Cal. App. (2d) 376.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 26

Each material fact and circumstance necessary to complete a chain of independent facts and circumstances relied upon by the prosecution to establish the commission of a crime, and to identify the accused as perpetrator, must be established to the same degree of certainty as the main fact sought to be established by such circumstantial evidence, that is, to a moral certainty and beyond a reasonable doubt. No incriminating circumstance relied upon by the prosecution may rest on conjecture alone.

People v. Phipps,
39 Cal. 326;
People v. Flores,
58 C.A. (2d) 764.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 27

Where the evidence concerning the happening of any event alleged to constitute a crime is circumstantial, such evidence must not only be consistent with the theory of guilt, but it must be inconsistent with any rational theory of innocence, otherwise, upon the basis of circumstantial evidence, it must be the duty of the jury to acquit.

People v. Staples
(1906), 149 Cal. 405.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 29

The right of a jury to return a verdict of guilty is not an arbitrary right; no jury has the right to forfeit the liberty of a defendant upon mere suspicion; in this case, if the jury finds that the facts upon which any suspicion of guilt might be raised against the defendants are entirely consistent with the theory of his innocence, the defendants must be acquitted.

People v. Staples
(1906), 149 Cal. 405.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 30

In order to convict, where circumstantial evidence is relied upon by the prosecution, such evidence must be irreconcilable with the theory of innocence.

People v. Hatchett,
63 Cal. App. (2d) 144.

In connection with the foregoing rule of law, you are instructed that the word "irreconcilable" is defined as follows:

> "Not reconcilable; implacable, incompatible; inconsistent; as, irreconcilable enemies, statements."

Webster's Collegiate Dictionary,
Fifth Edition.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 32

The witness, Lloyd H. Garner, an officer of the Immigration and Naturalization Service of the United States, testified, among other things, that he had certain oral interviews with the defendant Henry Schmidt and with the defendant J. R. Robertson, respectively, during the course of which interviews he asked each of said defendants whether or not they had ever belonged to the Communist Party of the United States; he stated that each of said defendants answered this question in the negative.

The defendants Schmidt and Robertson have denied that they were ever members of the Communist Party and they have also denied that any such oral conversation with the witness Lloyd H. Garner ever took place.

In connection with the evidence outlined above, you are instructed that Rule 150.1 (c) of the regulations of the Immigration and Naturalization Service provides as follows:

> "All statements secured from the alien or any other person during the investigation which are to be used as evidence, should be taken down in writing; and the investigating officer shall ask the person interrogated to sign the statement * * *"

You are advised that you may consider the applicability of the foregoing rule of the regulations of our Immigration and Naturalization Service in connection with your deliberations upon the truth or falsity of the statements thus made by the witness Lloyd H. Garner.

Bridges vs. Wixon (1945),
326 U.S. 135, 65 S. Ct. 1443.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 33

The Government does not contend that the defendants Schmidt and Robertson made any statement before the Superior Court of the State of

California at San Francisco in the citizenship hearing of Harry Bridges concerning the issue of whether or not Bridges had ever been a member of the Communist Party. The Government does contend, however, that, in an alleged oral interview had between the witness Lloyd H. Garner and the defendants Schmidt and Robertson, respectively, they were asked by Garner whether or not Harry Bridges was a member of the Communist Party and that they replied in the negative.

In connection with the foregoing state of evidence as well as with all evidence concerning the alleged oral interview between the witness Lloyd H. Garner and the defendants in this case, you are instructed that evidence as to alleged oral statements or admissions attributed to any of the defendants must be viewed by you with caution.

Transcript, U. S. v. Bridges, etc., No. 32117-H, p. 598, C.C.P. Section 2061 (4).

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 36

I instruct you that the crime of conspiracy includes the following essential elements:

(1) There must be a combination of two or more persons;

(2) There must be a real agreement, combination, or confederation with a common de-

sign; mere passive cognizance of the crime or unlawful act to be committed or more negative acquiescence is not sufficient;

(3) There must exist an unlawful purpose or act to be accomplished or done or a lawful purpose to be accomplished by unlawful means.

If any one of the foregoing elements be lacking, no conspiracy will have been proved and you must find the defendants Not Guilty.

Am. Jur. Vol. 11, Sec. 4, pages 544-5 (Conspiracy).

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 37

I instruct you that you cannot find the defendants or any one or more of them guilty of the offense of conspiracy as charged in the First Count of the indictment unless you are convinced from the evidence to a moral certainty and beyond a reasonable doubt that on or about the 23rd day of June, 1945, or some time prior thereto (and, in any event not later than the proceeding in the Superior Court in the State of California at San Francisco on September 17, 1945, in which defendant Harry Renton Bridges was admitted to citizenship) at least two of the three defendants had a conversation or exchanged communications, either oral or in writing or partially oral and partially in writing.

during the course of which conversations or exchange of communications the matter of the petition or contemplated petition of Harry Renton Bridges was discussed and that in such discussion some one of the defendants stated or suggested or intimated or implied that Harry Renton Bridges was not truly qualified under the laws of the United States to obtain citizenship and that for him to obtain citizenship it would be necessary to deceive the aforesaid Superior Court by falsely and fraudulently stating and representing to such Court in the proceeding on the petition of Harry Renton Bridges that he, the said defendant Bridges, had never belonged to the Communist Party of the United States.

Unless you find from the evidence that there was such a false and fraudulent statement, suggestion, intimation or implication, thereupon agreed to and acted upon by two or more of the defendants, you must find all of the defendants Not Guilty upon the charge of conspiracy.

Not Given.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 38

I instruct you that a criminal intent is an essential ingredient of the crime of conspiracy and if, from all the evidence in this case, you are not convinced beyond a reasonable doubt that a criminal intent existed, you must find the defendants, Bridges, Schmidt and Robertson Not Guilty of the First Count in the indictment.

Am. Jur. Vol. 11, Sec. 39, p. 571, citing numerous authorities inculding Agnello v. U. S. 269 U. S. 20, 70 L. ed. 145, 46 S. Ct. 4, 51 ALR 409.

Refused—Covered Elsewhere.

/s/. HARRIS,
Judge.

Defendants' Proposed Instruction No. 40

I instruct you that a conspiracy to obtain that to which one is legally entitled is not punishable as a conspiracy to defraud the United States.

In other words, if the defendant Harry Renton Bridges was entitled to become a citizen of the United States under our laws, no conspiracy to assist him in the obtaining of his citizenship could ever be punishable as a crime.

Corpus Juris Secundum, Vol. 15, p. 1092, citing United States v. Biggs, 157 F. 264 D.C. Colo, affirmed in 211 U.S. 507, 53 L. ed. 305, 29 S. Ct. 181.

See also Marine v. United States, 91 F. (2d) 691; 113 ALR 975 at page 978.

Not Given. Covered in 35.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 43

The defendants Schmidt and Robertson are charged, in substance, with unlawfully and fraudulently conspiring to defeat the laws of the United States by aiding Harry Bridges in his application for citizenship.

Of course, if Harry Bridges was lawfully entitled to obtain his citizenship in the United States, then no crime could have been committed by any person who aided him in the effectuation of this desire.

But one of the questions to be resolved by the jury in relation to the conduct of the defendants Schmidt and Robertson, who appeared as witnesses for the defendant Bridges upon his citizenship petition, is this:

What was the basis for the statements given by the defendants Schmidt and Robertson before the Superior Court of the State of California at San Francisco? Were the statements then and there made by the defendants Schmidt and Robertson made with reasonable reliance upon information, public or otherwise, which they then and there possessed concerning the defendant Harry Bridges?

If the jury finds that the defendants Schmidt and Robertson reasonably relied upon information of a public nature concerning the defendant Harry Bridges and that they based their testimony in the citizenship hearing of Bridges upon their reliance in the verity of such information, then they cannot be found guilty of any act of fraud, and it will become the duty of the jury to find defendants Schmidt and Robertson Not Guilty.

Hyde v. U. S.,
15 Fed. (2d) 816 (4th Circuit, 1926);
Miller v. U. S.,
120 Fed. (2) 968 (10th Circuit, 1941);
Spark v. U. S.,
241 U. S. 777 (1917);
Potter v. U. S.,
155 U. S. 438 (1894);
Harrison v. U. S.,
200 Fed. 662 (6th Circuit, 1912).

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 44

In support of the charges brought against them by the prosecution, the defendants Schmidt and Robertson are accused of giving the following testimony before the Superior Court of the State of California at San Francisco in support of the petition by the defendant Harry Bridges for citizenship:

> "The witnesses are both citizens of the United States?"
>
> Answers: "Mr. Robertson: Yes." "Mr. Schmidt: Yes."
>
> Question by you: "You each have known the petitioner for the last five years or longer?"
>
> "Mr. Robertson: Yes." "Mr. Schmidt: Yes."

By you: "And you know him to be a resident of this country at this time?"

"Mr. Robertson: Yes." "Mr. Schmidt: Yes."

By you: "Do you each vouch for his loyalty to the United States?"

"Mr. Robertson: Yes." "Mr. Schmidt: Yes."

Your question: "Do you recommend him as a person of good moral character?"

"Mr. Robertson: Yes." "Mr. Schmidt: Yes."

"Do you recommend him to this court for citizenship?"

"Mr. Robertson: I do." "Mr. Schmidt: I do."

The defendants Schmidt and Robertson admit that they gave such testimony.

In uttering the statements, observations and/or recommendations just now read, the defendants Schmidt and Robertson were entitled to rely, not only upon such independent knowledge as each may have possessed concerning the life of Harry Bridges but they were entitled further to base such reliance upon any public documents discussing the involved subject matter, including the opinion of the Supreme Court of the United States in the previous cause in which the deportation of the defendant Harry Bridges was attempted.

Under our law, the intent to defraud is of the essence of any alleged criminal scheme or artifice.

If such essence be lacking, there is no such scheme or artifice, and hence no crime.

Hence if the defendants Schmidt and Robertson placed a reasonable reliance in the verity of the statements of the Supreme Court of the United States in the decision already mentioned and gave their testimony in the citizenship hearing of Harry Bridges based, either in whole or in part upon the language contained in such decision of our Supreme Court, then they cannot have committed any crime and they must be found Not Guilty.

Hyde v. U. S.,
  15 Fed. (2d) 816 (4th Circuit, 1926);
Miller v. U. S.,
  120 Fed. (2) 968 (10th Circuit, 1941);
Spark v. U. S.,
  241 U. S. 777 (1917);
Potter v. U. S.,
  155 U. S. 438 (1894);
Harrison v. U. S.,
  200 Fed. 662 (6th Circuit, 1912).

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 45

If the defendants Schmidt and Robertson read the opinion of the Supreme Court of the United States in the previous cause involving the attempted deportation of Harry Bridges and believed in the statements therein made and endorsed by the Supreme Court of the United States and then and there formed their own beliefs concerning the status of Harry Bridges, relying, either in whole or in part upon such statements as uttered by the Supreme Court of the United States to the end that they, the defendants Schmidt and Robertson gave testimony before the Superior Court of the State of California at San Francisco in support of the application of defendant Harry Bridges for admission to citizenship, relying thereon, they cannot be held to have committed any crime at all and they must be then found by you to be Not Guilty.

Hyde v. U. S.,
  15 Fed. (2d) 816 (4th Circuit, 1926);
Miller v. U. S.,
  120 Fed. (2d) 968 (10th Circuit, 1941);
Spark v. U. S.,
  241 U. S. 777 (1917);
Potter v. U. S.,
  155 U. S. 438 (1894);
Harrison v. U. S.,
  200 Fed. 662 (6th Circuit, 1912).

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 46

The defendants Schmidt and Robertson are charged with having conspired to defraud the Government of the United States and they have asserted that any statements made by them, respectively, in connection with the application of Harry Bridges for citizenship, were made upon reliance, among other things, upon the language of the Supreme Court of the United States in the previous cause in which the deportation of Bridges was attempted.

You are instructed that the matter of intent is always an essential element of fraud. Whenever the belief of a person or the motive of his act or conduct is in issue, he may not only testify directly that he had no intent to defraud, but he may buttress such statement or denial with the testimony of relevant circumstances including the reading of properly authenticated public documents contending to support his own statements.

If you find that the defendants Schmidt and Robertson, in taking part, or aiding the defendant Harry Bridges in the advancement of his petition for citizenship, read the decision of the Supreme Court of the United States in the matter referred to and relied upon the verity of the same, then they have negatived the assertion of any intent to defraud, and the jury must consider such circumstances in passing upon their guilt or innocence.

Hyde v. U.S.,
 15 Fed. (2d) 816 (4th Circuit, 1926);
Miller v. U.S.,
 120 Fed. (2) 968 (10th Circuit, 1941);
Spark v. U.S.,
 241 U.S. 777 (1917);
Potter v. U.S.,
 155 U.S. 438 (1894);

Harrison v. U.S.,
200 Fed. 662 (6th Circuit, 1912);

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 47

If the jury find that the defendants Schmidt and Robertson, in the formulation of their own respective states of mind concerning the status of Harry Bridges, read and relied upon the language of the Supreme Court of the United States in the previous cause in which the deportation of Bridges was attempted, and if you further find that they were led by the language of such decision to believe in the fitness of the defendant Harry Bridges to be admitted to citizenship, in such event no crime has been proved against the defendants Schmidt and Robertson and they must be found Not Guilty.

Hyde v. U.S.,
15 Fed. (2d) 816 (4th Circuit, 1926);
Miller v. U.S.,
120 Fed. (2) 968 (10th Circuit, 1941);
Spark v. U.S.,
241 U.S. 777 (1917);
Potter v. U.S.,
155 U.S. 438 (1894);

Harrison v. U.S.,
200 Fed. 662 (6th Circuit, 1912).

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 48

If the defendants Schmidt and Robertson relied, either in whole or in part, upon the language of the Supreme Court of the United States in the previous matter involving Harry Bridges as a basis for their statements and/or recommendations concerning Bridges in the course of the advancement of his citizenship petition, they then possess the right to recount the language of the United States Supreme Court upon which they thus relied to obtain the benefit of whatever persuasiveness such language may carry.

Hyde v. U.S.,
15 Fed. (2d) 816 (4th Circuit, 1926);
Miller v. U.S.,
120 Fed. (2) 968 (10th Circuit, 1941);
Spark v. U.S.,
241 U.S. 777 (1917);
Potter v. U.S.,
155 U.S. 438 (1894);
Harrison v. U.S.,
200 Fed. 662 (6th Circuit, 1912).

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 50

Willful fraud is of the essence of the accusation brought against the defendants Schmidt and Robertson.

Hence the jury may consider any testimony bearing directly upon the question of the intent or the motives of the defendants Schmidt and Robertson in giving testimony in support of the citizenship petition of Harry Bridges.

If the jury finds that the defendants Schmidt and Robertson relied upon the language of the Supreme Court of the United States in the previous cause involving the attempted deportation of Bridges and were led thereby to believe that Harry Bridges was eligible to citizenship, they must be found Not Guilty.

Hyde v. U.S.,
  15 Fed. (2d) 816 (4th Circuit, 1926);
Miller v. U.S.,
  120 Fed. (2d) 968 (10th Circuit, 1941);
Spark v. U.S.,
  241 U.S. 777 (1917);
Potter v. U.S.,
  155 U.S. 438 (1894);
Harrison v. U.S.,
  200 Fed. 662 (6th Circuit, 1912).

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 52

The indictment contains the phrase "material matter" and, in this connection, I instruct you that in order to constitute a crime the testimony contained in the Second Count of the indictment and alleged to be false must relate to a matter material to the naturalization proceedings of Harry Renton Bridges, and if, from all the evidence in this case, you are not convinced beyond a reasonable doubt that the testimony contained in Count Two of the indictment and alleged to be false relates to a matter material to the naturalization proceedings of Harry Renton Bridges, you must return a verdict of Not Guilty, as to the Second Count in the indictment.

> "The materiality of the testimony assigned in perjury is always a question of law, and not of fact; hence, the judge, and not the jury, is to pass upon the materiality of the testimony; but, like many other questions of law, it may become a mixed question both of law and of fact, in which case the court should admit it, limited by proper instructions. However the materiality of the alleged false testimony cannot be proved by the mere opinion of witness: the witnesses are no more competent to prove correct conclusions in this respect than the jury trying the cause, and, for this reason, the opinion of witnesses as to the materiality of such testimony must always be excluded. It is the duty of the court to instruct the jury as to what facts constitute "material testimony."

(Emphasis added.) Wharton's Criminal Evidence, 11th Ed. Vol. 1 pp 589-590.

"It is unquestionably true that the materiality of the evidence adduced upon the former trial was a question to be determined by the trial judge. This was a question of law, but in a charge of perjury the question of materiality of the evidence adduced upon the former trial is necessarily a mixed question of law and fact. That is, it is not an abstract question of law, but depends upon what occurred upon the former trial. Materiality depends primarily upon the issues involved in the former trial and upon the evidence adduced in support of these issues. What the evidence was, and what the pleadings were upon that trial is a question of fact. Whether the testimony alleged to be perjured was material to such issue is a question of law" * * * (Emphasis added.)

Judge Wilbur in Luse v. United States,
49 Fed. 2d p 241 at 245 (CCA 9th)

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 54

I instruct you that under the Second Count in the indictment, namely the perjury count, the evidence submitted by the Government must be clear, convincing, and direct. It must be of a more direct and positive character than is required to justify a verdict of guilty of other offenses. I therefore instruct you that unless evidence of the character that I have just mentioned has been presented to you by the Government in this case, you must return a verdict of not guilty against the defendant, Harry Renton Bridges, under the Second Count of the indictment.

Hart v. United States,
131 Fed. (2d) 59 (CCA 9th) (1942)

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 56

I instruct you that there are other essential elements of the crime of perjury, each of which the Government must prove to your minds beyond all reasonable doubt, in addition to the essential elements that are alleged in the Second Count in the indictment. If the Government fails to prove them, or any one of them, to your minds beyond all reasonable doubt, you should return a verdict of not guilty. These other essential elements include the following:

1. That the statements allegedly sworn to by defendant, Harry Renton Bridges, if false, must have been made with criminal intent.

2. That the statements allegedly sworn to by defendant, Harry Renton Bridges, must have

been made with intent that they be taken as true.

> "It is also well settled that the false statement upon which a charge of perjury is based must be made with criminal intent. The statement must be false and wilfully and deliberately given with intent that it be taken as true, and with knowledge that it is false." 41 Am Jur Sec. 8 p 7.
>
> "Each and every material and necessary fact upon which a conviction depends must be proved beyond a reasonable doubt." 20 Am Jur (Evidence) Sec. 1258 p 1111.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 58

Even if you find from the evidence that the general aims of the defendant Bridges have been "radical" in the common or colloquial sense, you must consider, in determining the issues presented by this prosecution whether or not the methods sought to be employed by the defendant Bridges have been other than those that the framework of our democratic and constitutional government permits.

And if you find that the methods employed by the defendant Bridges have always been those sanctioned or permitted under the framework of our democratic and constitutional government, you may give consideration to this circumstance along with all of the other facts of the case.

Bridges vs. Wixon,
(1945), 326 U.S. 135, 65 S. Ct. 1443.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 59

In determining the question of whether or not the activities of the defendant Harry Renton Bridges went beyond the mere enlistment of Communist Party aid in legitimate union matters, you may consider all of the evidence in this case, including evidence concerning the opposition by the defendant Bridges to the Communist tactics of fomenting strikes and including evidence concerning the belief by the defendant Bridges in the policy of arbitration and direct negotiation to settle labor disputes, with the weapon of the strike reserved only as a last resort.

Bridges vs. Wixon,
(1945), 326 U.S. 135, 65 S. Ct. 1443.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 61

Even if you should find that the Communist Party of the United States may have had the illegitimate objective of overthrowing our government by force, you are advised that the evidence shows it also had the lawful objective of improving the lot of working people in the normal trade union sense. Under our law, one who cooperated with the Communist Party in promoting legitimate objectives could not, by that fact alone, be said to sponsor or approve of any other or unlawful objectives.

Bridges vs. Wixon,
(1945) 326 U. S. 135, 65 S. Ct. 1443.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 62

You cannot reach the finding that the defendant Harry Bridges or any other defendant in this case was a member of the Communist Party of the United States merely because of evidence that they or any one of them may have cooperated with the Communist Party in any activities in relation to the labor movement.

"Individuals, like nations, may cooperate in a common cause over a period of months or years though their ultimate aims do not coincide. Alliances for limited objectives are well known. Certainly those who joined forces with Russia to defeat the Nazis may not be said to have made an alliance to spread the cause of Communism. An individual who makes contributions to feed hungry men does not become 'affiliated' with the Communist cause because those men are Communists. A different result is not necessarily indicated if aid is given to or received from a proscribed organization in order to win a legitimate objective in a democratic controversy."

You are hence instructed that the defendants Harry Renton Bridges, Henry Schmidt and J. R. Robertson must be acquitted unless the evidence shows to a moral certainty and beyond a reasonable doubt that the defendant Bridges was actually a member of the Communist Party of the United States within the periods of time discussed in this case.

Bridges vs. Wixon,
(1945) 326 U.S. 135, 65 S. Ct. 1443.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 63

I instruct you that during the entire period of time covered by the indictment in this case, there has been no law making it illegal for a person to associate with, or be connected with, or affiliated with, or to be a member of, the Communist Party in the United States.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 64

I instruct you that your approval or disapproval of the beliefs, teachings, and program, of the Communist Party and whatever your ideas about, or attitude toward, that Party may be, are not to be considered by you in arriving at your verdict.

Each defendant has denied under oath that he is or ever has been a member of the Communist Party and a verdict in favor of the defendants would in no wise constitute an embracement by the jury of any of the so-called principles or teachings of the Communist Party.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 66

I instruct you that in order for defendant, Harry Renton Bridges, to have been a member of the Communist Party in the United States, you must be convinced beyond a reasonable doubt from all the evidence in this case, (1) that defendant signed an application blank for membership in the Communist Party in the United States (2) that defendant accepted membership therein and (3) that said Communist Party in the United States accepted defendant as a member.

If the foregoing elements are not proved by the Government to a moral certainty and beyond doubt, the defendants must be found Not Guilty.

The following are some of the cases that seem to indicate the correctness of the foregoing instruction:

U.S. ex rel Kettunen v. Reimer Comm of Immi 79 Fed (2) 315 (CCA 2nd) Circuit

Judge Chase said * * * "His application was held in abeyance pending the next meeting which he was told to attend. He did attend, but by that time changed his mind about becoming a member and requested the secretary to wait a while before sending his application to Minneapolis. As a result, his application was never sent to headquarters; he never received a membership book, and did not become a member of the Communist Party." "His application for membership would indicate his then sympathy with its aims, but his reconsideration and failure to join shows his unwillingness to let his sympathy control his actions, and there is no proof which shows any mutual recognition that cooperation was to be expected from him."

Wolch vs. Weedin, Comm of Immi,
58 Fed (2d) 929 (CCA 9th);
Bridges vs. Wixon,
326 U.S. 135; 89 L ed 2103.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 66-B

There are several issues in this case, some pertaining to the First Count of the indictment, some pertaining to the Second Count of the indictment, some pertaining to the Third Count of the indictment, some pertaining to the defendant Harry Renton Bridges, some pertaining to the defendant

Henry Schmidt, some pertaining to the defendant J.R. Robertson, some pertaining to the credibility of witnesses and some pertaining to other related matters.

But this is the basic issue, for it pertains to all of the defendants, to all of the counts of the indictment and to each offense charged against each defendant. No one of the three defendants can be lawfully convicted of any offense charged in the indictment unless the evidence proves to a moral certainty and beyond a reasonable doubt that at some time during the period commencing with the year 1933 and ending with the 17th day of September, 1945, the defendant Harry Renton Bridges was in fact and actually a member of the Communist Party in the United States.

Bridges vs. Wixon,
(1945) 326 U.S. 135, 65 S. Ct. 1443;
U.S. v. Riemer,
79 Fed. (2d) 315, 317.

Refused—Covered Elsewhere.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 66-E

I have instructed you that to be a member of the Communist Party within the meaning of that term as used in the indictment, a person must be more than merely in sympathy with some or all of its aims and more than merely willing to aid it in a casual or intermittent way * * * I now instruct you that such expressions of sympathy or cooperation coupled with personal independent action directed toward the accomplishment of some or even all of those aims would not be sufficient to establish that the particular person who possesses such sympathy and engages in such activities is, in fact, a member of the Communist Party.

Bridges vs. Wixon,
(1945) 326 U.S. 135, 65 S. Ct. 1443;
U.S. vs. Riemer,
79 Fed. (2d) 315, 317.

Refused—Covered Elsewhere.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 67

The defendants have offered testimony of witnesses concerning their reputation and, with reference to such testimony, I instruct you that a good reputation, if you believe from all the evidence that the defendants have a good reputation, creates a presumption that the defendants did not commit the crime charged in each and every count in the indictment in this case.

It is often said, in our law, that evidence of good reputation comes to the aid of the presumption of innocence.

> "Evidence of good character is applicable to both the commission of the crime and the grade of the crime. Proof of this character strengthens the presumption of innocence, and by establishing good character a presumption is created that the accused did not commit the

crime. This view proceeds upon the theory that a person of good character and high reputation is not likely to have committed the act charged against him."

20 Am Jur Sec 324 p 303 citing Edgington v. US 164 US 361, 41 L. ed 467, 17 S. Ct. 72; White v. US 164 US 100, 41 L. ed. 365, 17 S. Ct. 38; and others.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 67-A

"* * * The circumstances of a case may be such that an established reputation for good character standing alone may create a reasonable doubt as to guilt, even though without such evidence of good character, the evidence of guilt might be convincing * * *"

(Verbatim from the argument of the Government pp. 7590-1.)

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 71

You are instructed that evidence is to be estimated not only by its own intrinsic weight, but also according to the evidence which it is in the power of one side to produce and the other to contradict;

and therefore, that if weaker and less satisfactory evidence is offered when it appears that stronger and more satisfactory was within the power of the party, the evidence offered should be viewed with distrust.

C.C.P. Section 2061, (6) and (7).

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 72

I instruct you that the Government and the defendants are entitled to the individual opinion of each juror on the issues of fact in this case. It is the duty of each of you to consider and weigh all the evidence in the case and from such evidence to determine, if you can, the question of guilt or innocence of the defendants. When you have so determined that question, you should not be influenced in giving your verdict by the mere fact that any number of all of your fellow jurors may have reached a different conclusion. If, after careful consideration of all the evidence, your mind is fairly made up, and you are convinced that you are right, it will be your duty to stand by your decision. But each juror should freely and fairly discuss with his fellow jurors the evidence and the deductions to be justly drawn therefrom; that it is his duty to do. If, after such a full and fair discussion, any juror is satisfied that his original decision was wrong, then he should unhesitatingly abandon such decision and render his verdict according to such final decision.

From instructions given by Leon R. Yankwich, Judge US Dist. Ct. Southern Dist. Calif., Central Division, May 5, 1943, in US v. Bell et al. 48 F. Supp. 986. This instruction is cited in Federal Rules Decisions Vol. 3, page 134. The case is based upon an indictment under Sec. 34 of Title 50 USCA.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 73

It is your duty as jurors not only to receive and to evaluate all evidence admitted before you by the court, but to give your attention to the arguments of counsel as to the weight or interpretation of the evidence. You should not arbitrarily disregard the arguments of counsel in the case unless such arguments are at variance with the evidence itself, for the purpose of permitting extensive argument by both counsel in a major case is that either or all of such counsel may be of assistance to the jury in the exercise of logic or deductive reasoning in an attempt to ascertain the truth.

In listening to such arguments of counsel, you are entitled to be mindful that each represents a partisan theory which he is bound to uphold, although at the same time you are instructed that the interest of a prosecutor in a criminal case is not, and should not be, that the prosecution shall win its case, but only that justice shall be done. The prosecutor is, in a very definite sense, a servant of the law itself, whose two-fold aim is that guilt shall not escape and similarly, that innocence shall not suffer. It is as much the duty of the prosecutor to refrain from improper methods calculated to produce a wrongful conviction as it is for him to use every legitimate means to bring about a just one.

People v. Lynch,
(1943), 60 Cal. App. (2d) 133.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 74

The presumption of innocence, which surrounds and protects any defendant accused of crime under the American system of law, is not a mere literary phrase. It is a real and practical safeguard and it derives from our constitution and from the Bill of Rights, which guarantee to our citizens their general civil liberties.

Our constitution is not a silent or anemic witness to this, or any other criminal proceeding. It will not stand idly by while one of its subjects finds his liberty endangered in the absence of the fullest proof required by the law.

Thus, you are advised that the presumption of innocence surrounds each defendant in this case at the moment of his accusation. It continues to surround each defendant during all stages of the trial and it persists even into the moments of your deliberations in the jury room.

In a proper case, the presumption of innocence alone may suffice to rebut an entire prosecution. In a case such as the present one where each of the defendants has given testimony in his own behalf, the presumption of innocence surrounds each of such defendants during the giving of his testimony.

No such presumption attaches to any witness produced by the prosecution.

Therefore, you are admonished that in your deliberations you must consider all of the evidence adduced throughout this entire case in the light of the presumption of innocence to the end that, if any reasonable doubt exists as to the guilt of any defendant, it will become your duty to find such defendant Not Guilty.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 74-A

In a criminal case the presumption of innocence, which attaches to any defendant, takes precedence over any other presumption.

For example, as to any witness giving testimony in any particular case, a disputable presumption exists to the effect that such witness is telling the truth, although, as you have been advised, this presumption may be repelled by the character or quality of the testimony of the witness, by the witness's manner of testifying, or by impeaching or contradictory evidence.

Any ordinary presumption of our law, such as the presumption concerning witnesses, is outweighed by the presumption of innocence, which attaches only to defendants in criminal cases.

Under our system of law the presumption of innocence is so important that it is deemed better that one hundred guilty persons go free than that one innocent person should suffer an unjust conviction.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 76

I instruct you that a reasonable doubt is an actual doubt that you are conscious of after going over in your minds the entire case, giving consideration to all the testimony and every part of it. If you then feel uncertain and not fully convinced that the defendants are guilty, and believe that you are acting in a reasonable manner, and if you believe that a reasonable man in any matter of like importance would hesitate to act because of such a doubt as you are conscious of having, that is a reasonable doubt, of which the defendants are entitled to have the benefit. I further instruct you that if you have found one fact necessarily inconsistent with the guilt of the defendants, then, in that event, you must return a verdict of Not Guilty.

> (The above instruction was approved by Justice Holmes in Holt v. U.S., 218 U.S. p. 1021 at page 1030. Case appealed to U.S. S. Ct. from Western Dist. of Wn.)

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 78

The doctrine of reasonable doubt means exactly what the phrase implies. It means that state of the record, viewed conscientiously by you, in which you cannot say you feel an abiding conviction to a moral certainty of the truth of the charges.

True, an imaginary or fanciful doubt will not give rise to the operation of the doctrine of reasonable doubt because the essence of this principle of our law demands a doubt based on reason.

But if, upon your examination of the evidence there does exist a doubt based upon reason as to whether or not the guilt of the defendants or of any defendant, has been satisfactorily shown, then it must follow that you cannot possess an abiding conviction of the truth of the charges.

The defendants are not obliged to produce the greater weight of evidence in order to entitled themselves to an acquittal, because the burden of proof, which is upon the prosecution, never changes.

All tnat the defendants need establish, out of the whole of the evidence, is a reasonable doubt and if a reasonable doubt does exist it will become your duty to find the defendants Not Guilty.

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 78-A

I instruct you that if you find from the evidence that any of the attorneys, representatives, or agents of the Government who are connected with the prosecution of this case, or who engaged in the preparation of this case, have offered improper inducements in any form to any person or persons to testify in this proceeding, you may conclude from such evidence that the case of the prosecution is a weak or an unfounded one. This inference is not limited to any specific fact in the case but operates against the whole mass of facts constituting the case.

Allen v. U.S.,
164 U.S. 492.
Craig dem Annesley v. Earl of Angelsea,
17 How St Tr 1217.
Egan v. Bowker,
5 All (Mass) 449
I Wigmore, Evidence, Sec. 278.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 78-B

I instruct you that if you find from the evidence that any of the attorneys, representatives, or agents of the Government who are connected with the prosecution of this case, or who engaged in the preparation of this case, have knowingly used false testimony for the purpose of obtaining a conviction in this case, such conduct is inconsistent with the rudimentary demands of justice and you should reject the entire case proffered by the prosecution. Such conduct, if you find it to exist, constitutes a violation of the fifth amendment to the Constitution of the United States and has no place in the trial of a case in these courts.

Constitution of the United States, Amendment 5

Frank v. Mangum
237 U.S. 309

Mooney v. Holohan
294 U.S. 103.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 78-C

I instruct you that if you find that any of the attorneys, representatives, or agents of the Government who are connected with the prosecution in this case, or who engaged in the preparation of this case, have concealed or attempted to conceal any documents, files, records, or parts thereof, relevant or material to any of the issues in this proceeding, or which bear or could bear on the credibility of any of the witnesses called in this proceeding, you may conclude that such files, documents, records, or parts thereof, are adverse to the prosecution, and you may further conclude that the case of the prosecution insofar as those documents are relevant and material to it, is a weak and unfounded one.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 79

I instruct you that the Supreme Court of the United States on June 18, 1945, delivered an opinion wherein it reversed a judgment of the lower federal courts which had denied the defendant Bridges' application for a writ of habeas corpus which he sought to procure his release from the custody of the Attorney General of the United States who was holding him in custody on a warrant for his deportation based upon a charge that the defendant Bridges was or had been a member of the Communist Party in the United States.

In view of these circumstances I instruct you that you are not to consider any evidence in this case relating to the defendant Bridges' alleged membership in the Communist Party in the United States prior to the 18th day of June, 1945, those matters having been previously adjudicated.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 80

I instruct you that the Board of Immigration Appeals, an agency of the Department of Justice, did on January 3, 1942, direct that a certain warrant of arrest against the defendant Bridges be cancelled and that certain proceedings against him be closed. That warrant of arrest and those proceedings were directed toward the deportation of the defendant Bridges and were based upon a charge that the defendant Bridges was or had been a member of the Communist Party in the United States.

In view of these circumstances I instruct you that you are not to consider any evidence in this case relating to the defendant Bridges' alleged membership in the Communist Party in the United States prior to the 3rd day of January, 1942, those matters having been previously adjudicated.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 81

I instruct you that pursuant to a warrant issued by the Attorney General of the United States under the applicable statutes, a hearing inquiring into the charges that the defendant Bridges was or had been a member of the Communist Party in the United States was concluded before a presiding Inspector of the Immigration and Naturalization Service of the Department of Justice on July 12, 1941, and that thereafter pursuant to subsequent legal proceedings in that case the said warrant was cancelled and the proceedings closed.

In view of these circumstances I instruct you that you are not to consider any evidence relating to the defendant Bridges' alleged membership in the Communist Party in the United States prior to the 12th day of July, 1941, those matters having been previously adjudicated.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 82

I instruct you that on the 8th day of January, 1940, the Secretary of Labor, who at that time under the laws of the United States was the officer charged with such matters, cancelled a warrant which had been previously issued for the deportation of the defendant Bridges. This warrant had been issued upon the ground that the defendant Bridges was a member of the Communist Party. The cancellation of the warrant occurred after the Secretary of Labor accepted the findings of a Trial Examiner appointed pursuant to the applicable statutes to inquire into the truth or falsity of the charges.

In view of these circumstances I instruct you that you are not to consider any evidence in this case relating to the defendant Bridges' alleged membership in the Communist Party of the United States prior to the 8th day of January, 1940, those matters having been previously adjudicated.

Not Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 83

I instruct you that pursuant to a warrant issued by the Secretary of Labor of the United States under the applicable statutes, a hearing inquiring into the alleged membership of the defendant Bridges in the Communist Party was concluded before a Trial Examiner on September 14, 1939, and that thereafter pursuant to subsequent legal proceedings the said warrant was cancelled and the proceedings closed.

In view of these circumstances I instruct you that you are not to consider any evidence relating to the defendant Bridges' alleged membership in the Communist Party of the United States prior to the 14th day of September, 1939, those matters having been previously adjudicated.

Not Given.

/s/ HARRIS,
Judg

Defendants' Proposed Instruction No. 84

In a criminal case the defendants are not required to produce any evidence in proof of their own asserted innocence.

The defendants themselves may either testify or not testify in their own behalf, as they choose.

Since the defendants are presumed to be innocent in any criminal case, the burden of proof, as I have heretofore instructed you, remains always with the prosecution.

In order to entitle any defendant to a verdict of acquittal it will be sufficient if a reasonable doubt exists; no other burden is cast by law upon the defense.

(This instruction is proposed because of the repeated statements, made in the argument for the Government, upon the subject of whether or not the defense should have produced certain specified witnesses.)

Refused—Covered Elsewhere.

/s/ HARRIS,
Judge.

In the District Court of the United States for the Northern District of California, Southern Division

No. 32117-H

UNITED STATES OF AMERICA,
Plaintiff,

vs.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Defendants.

INSTRUCTIONS TO THE JURY SUBMITTED BY DEFENSE, "GIVEN"

GEORGE B. HARRIS,
United States District Judge.

Defendants' Proposed Instruction No. 4

You are instructed that the fact that an indictment has been returned against the defendants in this case by the Grand Jury constitutes no evidence whatsoever against the defendants.

The indictment in this case is merely a formal accusation. It is part of the machinery by which a criminal trial is conducted under our system of law.

To each of the charges in the indictment, which has been read to you, each of the defendants pleaded Not Guilty.

By their respective pleas of Not Guilty the defendants put into issue every fact material to the accusations brought against them.

The burden is thus cast upon the Government to prove the guilt of the defendants to a moral certainty and beyond a reasonable doubt.

In the absence of proof of such degree, the defendants are entitled to be acquitted.

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 5

I instruct you that the Government must prove to your minds, beyond all reasonable doubt, the truth of each and every essential element alleged in each and every count in the indictment and if, from all the evidence in this case, you are not convinced beyond all reasonable doubt of the truth of each and every essential element alleged in each and every count in the indictment you must return a verdict of Not Guilty as to such count, or counts, in the indictment.

> The Government must prove every essential element of the charge. See Gibson, et al., vs. U. S. 31 Fed (2d) 19 (CCA 9th).
>
> "Each and every material and necessary fact upon which a conviction depends must be proved beyond a reasonable doubt. 20 Am Jur (Evidence) sec. 1258, p 1111.

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 8

I instruct you that each count alleged in the indictment constitutes a separate and distinct crime, and I further instruct you that the Government must prove to your minds, beyond all reasonable doubt, each and every essential element of each and every count alleged in the indictment, and if from all the evidence in this case, you are not convinced beyond all reasonable doubt of the truth of any one essential elements in any of the counts in the indictment then you must return a verdict of Not Guilty as to such count.

> Each and every count in the indictment is a separate and distinct crime. Thomas v. Rudspeth 127 Fed. (2d) 976 (CCA Kansas) (1942).
>
> The Government must prove every essential element of the charge, Gibson, et al., v. United States, 31 Fed. (2d) 19 (CCA 9th).

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 9

A witness is presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testifies, by the character of his testimony, or by evidence affecting his character for truth, honesty and integrity, or his motives, or by contradictory evidence; and the jury are the exclusive judges of the credibility of the witnesses.

Code of Civil Procedure, 1847.

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 10

You are instructed that a witness false in one part of his testimony is to be distrusted in others.

C.C.P. Section 2061 (3).

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 12

A witness may be impeached by the party or parties against whom he was called by contradictory evidence . . . or by evidence that such witness has made, at other times, statements inconsistent with his present testimony.

C.C.P. 2051-2.

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 14

The credibility of a witness may be assailed by proof of prior acts or declarations which demonstrate hostility toward the party against whom such witness is called.

People v. Ryan,
152, Cal. 364;
People v. Anderson,
105, Cal. 32;
People v. Mack,
14, Cal. App. 12.

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 24

If any witness produced before you has displayed what purports to be an almost exact memory for matters occurring in the past and upon which he was questioned during his direct examination by the counsel producing such witness,—but who has displayed an apparent lack of memory concerning incidents, dates, places and details when questioned as to more recent events of equal importance upon cross-examination, it will be your duty to consider such apparent conflicts in the memory of such witness as bearing upon his credibility.

Davis v. California Powder Works,
84 Cal. 617 (1890);
Sharp v. Hoffman,
79 Cal. 404 (1889);
Witkin, Summary of California Law,
(1946) article on "Evidence," Sec. 275.

Given as modified.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 28

If you find, in this case, that every circumstance relied upon as incriminating is equally compatible with the innocence of the defendants, then there has been a failure of the proof necessary for the defendants' conviction and your verdict must be Not Guilty.

People v. Staples,
(1906), 149 Cal. 405.

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 31

I instruct you that there has been no direct evidence presented in this courtroom that the defendants or any of them met together and agreed or conspired with each other or with any other persons to defraud the United States Government in any manner as alleged in the First Count of the indictment. The only evidence of such a meeting together, agreement, or conspiracy is purely circumstantial, if it exists at all, and therefore the instructions I have just given you with respect to the standards which you must apply to circumstantial evidence are to govern you in your consideration of whatever evidence there is of the existence of the conspiracy.

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 34

The crux or core or heart of the offense charged in the First Count of the indictment is conspiracy.

If the defendants did not conspire to do the unlawful things which the First Count of the indictment charges them with having conspired to do they are not guilty of the offense thus charged against them.

Given.

/s/ HARRIS,
Judge.

Defendants' Proposed Instruction No. 35

I instruct you that a conspiracy is a partnership in criminal purposes. (1)

I instruct you that a conspiracy may also be defined as "a combination of two or more persons, by concerted action, to accomplish a criminal or unlawful purpose, or some purpose not in itself criminal or unlawful, by criminal or unlawful means." (2)

If the above elements are not found by you to be present in the case at bar, no conspiracy will have been proved and you must find the defendants Not Guilty as to the first count.

(1) Justice Holmes in U. S. v. Kissel 218 U.S. 601, 608, 54 L. ed 1168, 1179 31 S. Ct. 24 (Also referred to in notes to Mr. Justice Jackson's concurring opinion in Kruelwitch v. U.S. S. Ct. Law Ed Advance opinions (1948-0) Vol. 93 No. 11 p. 628.)

In these notes it is also stated that the definition of conspiracy in Pinkerton v. U.S. 328 U.S. 640, to wit, "A conspiracy is a partnership in crime" is inaccurate.

(2) Marino v. U.S.
91 F (2d) 691 CCA 9 (1937) 113 ALR 975.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 41

The defendants Schmidt and Robertson ~~are~~ charged in the first count with entering into a conspiracy.

As in the case of any defendant accused of crime, every material allegation of the indictment must be proved before any verdict of guilt can be entertained.

If the jury finds that there is no evidence whatsoever concerning any conspiracy entered into between the defendants Schmidt and Robertson, or between them, or either of them, with any other persons, the charges brought against these defendants must be rejected and a verdict of Not Guilty must be returned, as to the 1st count.

Indictment, U.S. v. Bridges, etc., No. 32117-H.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 42

Since the defendants Schmidt and Robertson are charged with entering into a conspiracy to defraud the United States, the question of whether or not they possessed any criminal intent becomes material to the discussions of the jury.

In any crime, as the Court has heretofore explained, there must be a necessary union of act plus intent, and if one of these two elements be lacking, then no crime at all will have been proved.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 49

As concerns the defense offered on behalf of the defendants Schmidt and Robertson, of course, the crucial question is whether or not there was any intent upon the part of either of these defendants to deceive and defraud the Government of the United States.

The asserted good faith, the intent, the purpose and the motive of what was done by the defendants Schmidt and Robertson, constitute the vital and important element of the whole case brought against them. Hence the jury may consider any material explanation of their motives and purposes in determining the character of their participation in the citizenship hearing of the defendant Harry Bridges.

Hyde v. U. S.
15 Fed. (2d) 816 (4th Circ. 1926).

Miller v. U. S.
120 Fed. (2) 968 (10th Circ. 1941).
Spark v. U. S.
241 U. S. 777 (1917)
Potter v. U. S.
155 U. S. 438 (1894)
Harrison v. U. S.
200 Fed. 662 (6th Circ. 1912)

Given as Modified.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 55

In summary, I instruct you that a statement upon which perjury may be assigned must have the following legal characteristics: (1) It must be competent testimony; (2) it must be material and relevant to the issue; (3) it must be a declaration of fact, and not a conclusion of the witness; (4) it must be such that it would properly influence the tribunal before which it is made, in its determination of the issue under investigation; (5) it must be false; (6) its falsity must be known to the witness when made, and must be wilfully and deliberately deposed to.

> "It is a general rule, supported by an even current of all the authorities, that to constitute perjury the statement alleged to be false must relate to a matter material to the issue, and that the same rule applies where the alleged false testimony was pro-

duced before the grand jury. A statement upon which perjury may be assigned must have the following legal characteristics: (1) It must be competent testimony; (2) it must be material and relevant to the issue; (3) it must be a declaration of fact, and not a conclusion of the witness; (4) it must be such that it would properly influence the tribunal before which it is made, in its determination of the issue under investigation; (5) it must be false; (6) its falsity must be known to the witness when made, and must be wilfully and deliberately deposed to." (Emphasis added)

From Sec. 88 Wharton's Criminal Evidence Vol. 1 Tenth Edition, pp. 271-2. (This identical quote is also found in Wharton's 11th Ed., Vol. 1, pp. 588-589.)

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 57

I instruct you that two elements must enter into a determination that corroborative evidence is sufficient. The first element is that the evidence, if true, substantiates the testimony of a single witness who has sworn to the falsity of the alleged perjurious statement. The second element is that the corroborative evidence is trustworthy.

If either of the foregoing elements be lacking, no perjury will have been proved.

Weiler v. United States
323 U. S. 606; 89 L. ed. 495.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 60

If the sum total of the evidence shows merely that the defendant Bridges cooperated at times with officers or members of the Communist Party with the view of advancing the cause of unionism, under our law, such evidence alone is not sufficient to show actual membership by the defendant Harry Renton Bridges in the Communist Party of the United States.

Bridges vs. Wixon
(1945), 326 U. S. 135, 65 S. Ct. 1443.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 65

The law recognizes various legal relationships that may exist between an individual and an organization. I shall not attempt to enumerate all such possible relationships, but among them, are such as association between a person and an organization, connections of a business, professional, or other similar nature, affiliation and membership.

Mere associations between an individual and an organization do not constitute membership. The same is true of business, professional, social, or other similar connections. A person may approve some or all of the aims or activities of an organization, yet this does not make him a member of such organization. Even sympathy for the program of an organization, or contributions of money to that organization, do not create the legal status of membership.

The law also recognizes that active cooperation with an organization in its activities does not create the legal status of membership. I have also mentioned the legal relationship which the law designates as affiliation. Affiliation is defined as conduct of a person which indicates an adherence to, or a furtherance of, the purposes or objectives of an organization. Even affiliation, if you should find it to exist in this case, would not constitute the same legal status as membership, for the reason that membership refers to something more than, and different from affiliation. Therefore, even if you find that the defendant, Harry Renton Bridges, has established or maintained a relationship with the Communist Party in the United States consisting of associations, cooperation in its activities or objectives, or affiliation, but if you nevertheless are not convinced beyond a reasonable doubt and to a moral certainty from all the evidence that the defendant Harry Renton Bridges was ever a member of such Communist Party in the United States, then I instruct you that the answers given by the defendant, Harry Renton Bridges, in the naturalization proceedings would be truthful answers and the defendant, Harry Renton Bridges, would not be guilty thereby of false swearing as charged in this indictment.

See Bridges v. Wixon

> 326 U. S. 135; 89 L. ed 2103 wherein Mr. Justice Douglas, speaking for the Court, said in part:
>
> "The legislative history throws little light on the meaning of 'affiliation' as used in the statute. It imports, however, less than membership but more than sympathy. . . . But he who cooperates with such an organization only in its wholly lawful activities cannot by that fact be said as a matter of law to be 'affiliated' with it. Nor is it conclusive that the cooperation was more than intermittent and showed a rather consistent course of conduct. Common sense indicates that the term 'affiliation' in this setting should be construed more narrowly. Individuals, like nations, may cooperate in a common cause over a period of months or years though their ultimate aims do not coincide. . . . An individual who makes contributions to feed hungry men does not become 'affiliated' with the Communist cause because those men are Communists. . . . Whether intermittent or repeated the act or acts tending to prove 'affiliation' must be of that quality which indicates an

adherence to or a furtherance of the purposes or objectives of the proscribed organizations as distinguished from mere cooperation with it in lawful activities. The act or acts must evidence a working alliance to bring the program to fruition."

". . . Affiliation means something less than membership." Page 2105 of 89 L. ed. Supra.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 66-A

One of the basic issues in this case is whether at any time within the period commencing with the year 1933 and ending on the 17th day of September, 1945, the defendant Harry Renton Bridges was a member of the Communist Party in the United States.

This is one of the first issues which you must resolve for the reason that unless you are convinced from the evidence to a moral certainty and beyond a reasonable doubt that at some time within that period the defendant Harry Renton Bridges was actually a member of the Communist Party in the United States it will be your duty under the law and under the oath which you have taken as jurors to return verdicts finding each of the three defendants Not Guilty of each offense charged against him.

Bridges v. Wixon
(1945) 326 U. S. 135, 65 S. Ct. 1443

U. S. v. Riemer
79 Fed. (2d) 315, 317

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 66-C

Because of the nature of the evidence which has been received during the trial and because of the contentions made by the prosecution and by the defense with respect to the significances and the meanings of such evidence, it is necessary that I instruct you concerning the legal meaning of the phrase "membership in the Communist Party in the United States" as used in each of the three counts of the indictment and, more particularly, that I instruct you concerning the distinction between membership in the Communist Party and certain other acts and conditions and/or states of mind which, as a matter of law, fall short of constituting membership in the Communist Party.

Bridges vs. Wixon
(1945) 326 U. S. 135, 65 S. Ct. 1443
U. S. vs. Riemer
79 Fed. (2d) 315, 317

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 66-D

To be a member of the Communist Party within the meaning of that term as used in the indictment, a person must be more than merely in sympathy with some or all of its aims; he must be more than merely willing to aid it in a casual or intermittent way; he must be more than merely willing to accept aid from it in furtherance of his own objectives or the objectives of his labor union. As a matter of law such sympathies and/or activities as I have just described fall short of constituting affiliation with the Communist Party and as a matter of law even affiliation with the Communist Party falls short of constituting membership in the Communist Party.

Bridges vs. Wixon
(1945) 326 U. S. 135, 65 S. Ct. 1443
U. S. vs. Riemer
79 Fed. (2d) 315, 317

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 68

You are instructed that you must view with caution evidence of oral admissions or statements alleged to have been made by any of the defendants.

C.C.P. Section 2061 (4).

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 69

From time to time during the reception of evidence presented by the Government objections have been made to testimony concerning alleged activities of the Communist Party or of its alleged members outside of the presence of the defendants in this case.

Upon the occasions the Court permitted such evidence to be introduced for purposes explanatory of the testimony of particular witnesses, but in each of such instances the Court instructed the jury that such testimony was in no wise binding upon the defendants in this case.

By such admonishment the Court meant to inform the jury and the Court now repeats that the jury may not consider any of the evidence heretofore submitted concerning alleged activities of the Communist Party or of its alleged members taking place outside of the presence of the defendants in this case as tending to show the guilt of any defendant at bar as to the charges for which he stands accused.

You may consider such evidence only for the limited purposes indicated by the Court, but you must remember that such evidence may not be used by you in your deliberations in support of any finding of guilt, because such evidence is not binding upon the defendants.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 70

You are instructed that you are not bound to decide in conformity with the declarations of any number of witnesses which do not produce conviction in your minds against a less number, or against a presumption or other evidence satisfying your minds.

In this connection you are advised that, in a criminal case, the strongest of all presumptions is the presumption of innocence, which outweighs any presumption opposing it.

C.C.P., Section 2061 (2)

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 75

I instruct you that if the evidence in this case is susceptible of two constructions or interpretations, each of which appears to you to be reasonable, and one of which points to the guilt of the defendants, and the other to their innocence, it is your duty, under the law, to adopt that interpretation which will admit of the defendants' innocence and reject that which points to their guilt.

People v. Richards
(Calif) 1946 168 Pac 2d 433 at page 442,
74 Cal. App. 2d 279

Given.

/s/ GEORGE B. HARRIS,
Judge.

Defendants' Proposed Instruction No. 77

I instruct you that the defendants are not required to prove themselves innocent for the reason that, at the outset of the trial, they are presumed to be innocent. Now this presumption of innocence remains with the defendants throughout the entire trial and it stands as a shield to protect them unless the Government has proved to your minds, beyond all reasonable doubt, each and every essential element in each and every count in the indictment. I further instruct you that the burden of proof never shifts to the defendants for the reason that the defendants have entered a plea of Not Guilty and that such plea puts in issue each and every essential element in each and every count in the indictment. I further instruct you that it is your duty to reconcile the evidence in this case with the presumption of innocence.

See 20 AM Jur Sec. 134, page 137

Given.

/s/ GEORGE B. HARRIS,
Judge.

[Endorsed]: Filed April 12, 1950.

[Title of District Court and Cause.]

INSTRUCTIONS TO THE JURY SUBMITTED BY PROSECUTION

"GIVEN"

George B. Harris, United States District Judge.

General Instructions

It is requested that the Court give its usual instructions upon the following subjects:

1. Province of Court and Jury.

2. Effect of indictment.

3. Presumption of innocence, and burden of proof.

4. Duration of presumption of innocence.

5. Definition of reasonable doubt.

6. Presumption that one intends natural consequence of acts.

7. Credibility of witnesses.

8. Falsus in uno, falsus in omnibus.

9. Oral admissions (if instruction requested by accused).

10. Failure of accused to testify (if instruction requested by accused).

11. Weighing testimony of accused.

12. Effect of evidence of good character (if applicable to evidence).

13. Arguments of counsel.

14. Duty to construe instructions as a whole.

15. Circumstantial evidence.

Instruction No. 1

The term reasonable doubt means a doubt for which a good reason can be given in the light of all evidence. It means a doubt which is substantial and not merely shadowy. It does not mean a doubt which is merely capricious or speculative. Neither does it mean a doubt born of reluctance on the part of a juror to perform an unpleasant duty, or a doubt arising out of sympathy for a defendant or out of anything other than a candid consideration of all the evidence presented.

(Charge of Murrah, D. J., Western District of Oklahoma. Pietch v. United States, 110 F. (2d) 817 (C.C.A. 10); cert. den. 310 U. S. 648.)

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 2

The law says we have no power to ascertain the certain condition of a man's mind. The best we can do is to infer it more or less satisfactorily from his acts. A person is presumed to intend what he does. A man who performs an act which it is known will produce a particular result is from our common experience presumed to have anticipated that result and to have intended it.

(Allen v. United States,
164 U. S. 492, 496.)

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 3

There are certain well defined rules which apply as to how you shall weigh and consider testimony. Among them are such as these: First, you have the right to observe the witness upon the stand and to consider the impression he makes upon you with respect to telling the truth or telling a falsehood. You have the right to observe his demeanor, his attitude, whether he appears consciously to be telling to the best of his ability the truth, or whether he appears to be suppressing something, or coloring his testimony in a manner not to reveal the truth. If the witness has the appearance of attempting to the best of his ability to tell the truth, and other circumstances tend to establish that situation, then you give full credit to his testimony. But if you are impressed that the witness is attempting to hide something or is not telling the whole truth, then you have the right to give only such consideration to his testimony as you think it is entitled to receive.

In considering these matters, you are confined to the case itself. You are not entitled to go outside of and beyond the facts and circumstances which this trial develops and make an assumption or reach conclusions with respect to the facts in the case, but as you said in answer to questions when being selected as jurors, you could and would try this case solely upon the facts and law as they are presented here.

> (Charge of Dawkins, D. J., Western District of Louisiana. Leche v. United States, 118 F. (2d) 246 (C.C.A. 5); cert. den. 314 U. S. 617.)

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 4

Expressed in another way, conspiracy is an unlawful agreement entered into by two or more persons to commit a crime against the United States, or to defraud the United States. To sustain a charge of conspiracy, it must be shown that one of the members of the conspiracy did some act, commonly called an overt act, in furtherance of the object of the conspiracy. The overt act need not be criminal in nature if considered separately and apart from the conspiracy; it may be as innocent as the act of a man walking across the street or driving an automobile or using a telephone. But if during the existence of the conspiracy the overt act is done by one of the conspirators to effect the object of the conspiracy, the crime is complete, and it is complete as to every party found by you to be a member of the conspiracy, no matter which one of the parties did the overt act.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 5

In order to find the existence of a conspiracy, it is not necessary that you find that all these defendants met together and formed an express agreement, for probably when men enter into a plan of the character here charged, they do not expressly agree. Much probably is left to unexpressed understanding and it is not necessary that there should have been any time at which all met and with any formal expression of words agreed upon a plan or conspiracy. They are usually entered into more or less secretly and carried out in a manner so as to leave as little proof or evidence for detection by anyone later. Rarely in conspiracies is there direct proof of the purposes and intentions of the parties; but direct proof is not indispensable. The object of a conspiracy and a defendant's connection with it may be partly or entirely revealed as shown by the facts and the circumstances and the reasonable inferences and conclusions to be drawn from them. But every fact and every circumstance from which the inference is drawn and a conclusion based, must be proved beyond a reasonable doubt.

If persons act together for a common purpose, and that purpose is the illegal act charged as the object to be accomplished, and the acts of the parties so fit together as to show a common understanding or concert of action as to things to be done, that shows a conspiracy.

(United States v. Potash, et al., District Court for Southern District of New York; affirmed as to four defendants, United States v. Potash, 118 F. (2d) 54 (C.C.A. 2); cert. den. United States v. Potash, 313 U. S. 584).

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 8

I think I should further charge you that all persons working together in the furtherance of a common design are members of the conspiracy, although the part anyone is to take is subordinate, or is to be executed at a remote distance. It is not necessary that each conspirator participate in each step or stage of the common general design. One of them may do one thing, another may do a different thing. Some may take major parts, while the participation of others may be in a minor degree. The mere knowledge, acquiescence, or approval of an unlawful act, without cooperation, or agreement to cooperate, is not sufficient to constitute one a party to a conspiracy. It requires more than proof of a mere passive cognizance of a crime on the part of a defendant to sustain a charge of conspiracy to commit it. And you must find that the defendant did some act, or made some agreement, showing an intention to participate in some way, in such conspiracy.

One who aids or abets a conspiracy, after its formation, with understanding of its purpose, becomes a party to it. One who comes into a conspiracy after it has been formed, with knowledge of its existence, and with a purpose of forwarding its designs, is equally as guilty as though he had participated in its original formation.

> (United States v. Braverman, et al., United States District Court for the Eastern District of Michigan; affirmed, 125 F. (2d) 283; reversed on other grounds, viz., for resentencing of defendants, 317 U. S. 49.)

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 10

You should especially look to the interest which the respective witnesses have in the trial or in its result. Where the witness has a direct personal interest in the result of the trial the temptation is strong to color, pervert, or withhold the facts. The law permits the defendant, at his own request, to testify in his own behalf. The defendants here have availed themselves of this privilege. Their testimony is before you and you must determine how far it is credible. The deep personal interest which they may have in the result of the trial should be considered by the jury in weighing their evidence and in determining how far or to what extent, ~~if at all~~, it is worthy of credit.

The fact that one is a defendant does not condemn him as unworthy of belief, but at the same time it creates an interest greater than that of any other witness, and to that extent affects the question of credibility. It is a familiar rule that the relations of a witness to the matter to be decided are legitimate subjects of consideration in respect to the weight to be given to his testimony.

(Charge of trial Judge approved in Reagan v. United States, 157 U. S. 301, 304-306.)

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 11

On the question of the materiality of the alleged perjurious testimony, I charge you that before you would be justified in finding the defendants guilty you must be convinced beyond a reasonable doubt by the evidence presented in the case—

(1) That Harry Bridges did in fact apply for citizenship, as alleged in the indictment;

(2) That Harry Bridges appeared before Judge Foley, as alleged, in the naturalization proceeding.

(3) That he was duly sworn, as alleged.

(4) That, after having been duly sworn, he gave

under oath the testimony as alleged, that is, that he was not a member of the Communist Party and had never been a member of the Communist Party;

(5) That the testimony so given was false;

(6) That Harry Bridges, at the time he so testified, knew of the falsity of his testimony; and

(7) That he gave the false testimony wilfully and with criminal intent to deceive.

On the question of materiality of the alleged false testimony, however, I further charge you that it is my duty, as the trial judge, to determine whether or not the alleged false testimony was material testimony in the naturalization proceeding before Judge Foley. I charge you, therefore, that if you find that Harry Bridges gave the answers as alleged in the indictment, then such answers were material answers in the naturalization proceeding.

To state it more briefly, whether or not the alleged false testimony was given in the circumstances alleged is a fact question for you to decide. Whether or not the ~~alleged~~ false testimony was material testimony is a law question for the court to decide. I charge you that the alleged false testimony was material, and that if you find the ~~alleged~~ false testimony was given as alleged you are not to concern yourselves further with the question of materiality of the testimony.

Authorities:

Carroll v. United States,

16 Fed. 2d 951 (2nd C.C.A.); cert. den. 273 U. S. 763

United States v. Slutzky
  79 F. 2d 504 (3rd C.C.A.)
United States v. Singleton
  54 Fed. 488 (D.C. Ala.)
Blackmon v. United States
  108 F. 2d 572 (5th C.C.A.)
Travis v. United States
  123 F. 2d 268 (10th C.C.A.)
United States v. Garnett
  35 F. S. 644 (D.C. Mich.)
United States v. Weiler
  143 F. 2d 204 (3rd C.C.A.)
United States v. Shinn
  14 Fed. 447 (C.C. Oregon, 1882)
Sinclair v. United States
  279 U. S. 263, 298

The 2nd, 3rd, 5th, and 10th Circuits hold materiality a question of law for the trial judge to determine. The Supreme Court denied certiorari in the Carroll case. We know of no cases to the contrary.

As to the Luse case in this Circuit, 49 F. 2d 241, the opinion is not contrary to the other circuits. It clearly recognizes that materiality is a question of law, and that whether or not the testimony was in fact given is a jury question.

In that case appellant himself urged upon the trial court that materiality was a question of law for the court to decide (p. 245) and not a proper question to submit to the jury. Appellant complained that the prior testimony was prejudicial; that "it was a psychological impossibility for the jury to follow" an instruction to the effect that the transcript of testimony in the former trial was for the court and not the jury.

The 9th Circuit opinion then goes on to recognize that materiality is a "question of law to be determined by the trial judge." "What the evidence was, and what the pleadings were" upon the former trial, "is a question of fact. Whether the testimony alleged to be perjured was material to such issues is a question of law."

A careful reading of page 245 shows that the trial judge's instructions took from the jury the question whether or not the alleged false testimony was in fact given. Court and counsel assumed the pleadings and the transcript conclusive upon the parties on that issue of fact, but counsel did not stipulate it. Therefore, the jury under the court's instructions had nothing upon which to base a finding that the alleged false testimony was even given.

The stipulation as to accuracy of the transcript did not remove "from the consideration of the jury the question of fact involved * * * namely, as to whether the evidence offered to show materiality was actually given in the former trial." In the following paragraph on page 246 the opinion confirms that materiality is a question for the trial judge. See the following language of the opinion on page 246: "Assuming that the evidence read from the transcript was actually given upon the trial of the former case, it was for the court to say whether or not the false evidence was material, and for the jury to say whether the false evidence was given wilfully."

There is nothing in a subsequent opinion in the same case after retrial that is contrary. (64 F. 2d 776; cert. den. 290 U. S. 651.)

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 12

Each count of the indictment alleges that "Harry Renton Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including said 17th day of September, 1945."

The Court charges you that dates do not have to be proved precisely as alleged, it being sufficient if the allegation of the indictment and proof as to dates substantially correspond.

(Berger v. United States,
295 U. S. 78,
Neely v. United States,
145 F. 2d 828,
United States v. Perlstein,
126 F. 2d 789, and cases cited Vol. 34, Fed. Digest, Key 176.)

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 13

The motive of the prosecution is not relevant to the ordinary criminal procedure; the material questions ordinarily are whether the defendant has committed the act or acts alleged and whether the act or act constitute a crime. In the instant case, the basic crime charged against the defendant, Bridges, is that of perjury. Though a defendant in a criminal case may show by proper evidence the hostility, bias, or interest of any witness, the motive of the prosecution in instituting the present-criminal action is immaterial unless you believe that such alleged motive constitutes evidence establishing the innocence or guilt of the accused.

(See ILWU v. Ackerman,
82 Fed. Supp. 65, 111;
People v. Casanova,
54 Cal. App. 439, 202 P. 45;
State v. Nodine,
121 Or. 567, 256 P. 387;
Hart v. State,
14 Ga. App. 364, 80 S.E. 909.)

Given

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 14

In the trial of the case, it became necessary for both the prosecution and the defense to call upon persons with asserted knowledge of the facts to serve as witnesses. Neither side can control the background, the experience, the associations, nor the antecedents of its witnesses.

In the course of the present trial, many terms have been used by counsel to characterize certain individuals on the witness stand. Such terms as labor spy, stool pigeon, liar, perjurer, reformed Communist, and confessed Communist have been applied to ~~several~~ witnesses. In passing upon the credibility or lack of credibility of witnesses characterized by such terms of opprobrium, the jury shall apply the same standards that it utilizes for evaluating the testimony of any other witness.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 15

In order to delineate for the jury what this case is about as to issues and background, I should point out clearly what it is Not about:

We are not concerned with the following issues that have crept in by insinuation and by indirection, but which may be regarded as immaterial:

(1) Neither the International Longshoremen's and Warehousemen's Union nor any other labor organization or association is on trial.

(2) The relative merit or demerit of the A. F. of L. as compared to the CIO is not a question for determination.

(3) Asserted police brutality in connection with

the 1934 waterfront strike and with respect to other incidents referred to by the witnesses should not be taken by you as tending to prejudice the prosecution in this case, nor should any sympathy be extended to the defendants, or either of them, by and as a result of such activities. The said issue is foreign to the case before this Court and jury.

(4) Asserted wire tapping by any Government agency or any other persons is not an issue in this case, and the defendants do not claim that any evidence introduced by the Government was obtained as a result of the alleged wire tapping. Therefore, the whole matter of wire tapping is not relevant to the issues in this trial and should be disregarded by you.

(5) Communism, as such, is not on trial in this case.

(6) The prior deportation proceedings against Harry Bridges held before Bureau of Immigration Examiners are in no way in issue in this case, nor are any Court decisions, which have been frequently mentioned, relevant to the issues in this trial. They should consequently be disregarded by you.

(7) The merits or demerits of any internal controversies between Labor Unions or Labor Leaders are not in dispute in this trial.

Given.

/s/ GEORGE B. HARRIS,
Judge.

Instruction No. 16

I charge you that whether or not the defendant, Bridges, was a member of the Communist Party is a question of fact which you are to determine from all the evidence. In reaching this determination, you are to consider all the evidence offered by the respective parties bearing upon this issue.

Membership in the Communist Party may be established by direct as well as circumstantial evidence and by statements or admissions of a party whose membership is in question.

In this case the Government has offered testimony to the effect that the defendant, Bridges, made application for membership, paid dues and received certificates of membership or books evidencing membership, and that the defendant, Bridges, was elected to office in the Communist Party. Government witnesses have testified that the defendant, Bridges, on one occasion stated he was a member of the Communist Party and suggested that others join the Communist Party. Witnesses have also testified that the defendant, Bridges, was present and participated in meetings the attendance at which was restricted to Communist Party members.

In determining whether or not the defendant, Bridges, was a member of the Communist Party, you should take into consideration the testimony offered by the Government to establish membership.

as well as the denials of membership and all the other evidence offered by the defendant, Bridges.

Given.

/s/ GEORGE B. HARRIS,
Judge.

[Endorsed]: Filed April 12, 1950.

[Title of District Court and Cause.]

DESIGNATION OF RECORD ON APPEAL

To the Clerk of the Above-Entitled Court:

You Are Hereby Notified that the appellants above named hereby designate as their record on appeal in the above-entitled cause the entire contents of the record of said cause. This designation includes the following:

1. The indictment.

2. The plea.

3. The pre-trial motions filed by the defendants, together with the affidavits in support thereof.

4. The answers to the foregoing motions filed by the Government, together with the affidavits in support thereof.

5. The memorandum opinion and order denying the foregoing pre-trial motions, dated October 12, 1949.

6. Substitution of attorneys, dated October 28, 1949.

7. Motion for continuance and the denial thereof, dated October 28, 1949.

8. The order and certificate in re the contempt of Vincent Hallinan, and the affidavits and motions filed in connection therewith, dated November 22 and November 28, 1949, and April 4, 1950.

9. Opinion and order overruling the objections to the testimony of the witness John Schomaker, dated November 28, 1949.

10. The order and certificate in re the contempt of James M. MacInnis, and the affidavits and motions filed in connection therewith, dated February 3, 1950, and April 4, 1950.

11. All of the instructions proposed by the defendants.

12. All of the instructions proposed by the Government.

13. All of the instructions given by the Court.

14. The memorandum on instructions to the clerk re deliberations of the jury, dated April 1, 1950.

15. The verdicts against each of the three defendants.

16. The motions in arrest of judgment on behalf of each of the three defendants.

18. The order denying the foregoing motions.

19. The judgments and sentences against each of the three defendants.

20. The notices of appeal filed by each of the three defendants.

21. The reporter's transcript in its entirety, from the commencement of the trial, November 14, 1949, to its termination, April 4, 1950.

22. All of the exhibits received in evidence.

23. All of the exhibits marked for identification on behalf of the defendants but excluded from evidence by the Trial Court.

24. The association of attorneys dated April 22, 1950.

25. The statement of points to be relied on, dated April 24, 1950.

26. This designation of record on appeal.

Dated: April 24, 1950.

GLADSTEIN, ANDERSEN,
RESNER & SAWYER,

By /s/ NORMAN LEONARD,
Attorneys for Defendants-
Appellants.

Receipt of copy acknowledged.

[Endorsed]: Filed April 24, 1950.

[Title of District Court and Cause.]

STATEMENT OF POINTS TO BE RELIED ON

Come now the defendants above named and pursuant to the rules in such case made and provided, hereby state the points upon which they intend to rely in connection with the appeal in the above-entitled cause:

I.

The defendants were substantially prejudiced and deprived of a fair trial by reason of the misconduct of the Court.

II.

The defendants were substantially prejudiced and deprived of a fair trial by reason of the misconduct of counsel for the Government.

III.

The defendants were substantially prejudiced and deprived of a fair trial by reason of the fraud, corruption and bribery of witnesses by agents of the prosecution.

IV.

The Court erred in denying a directed verdict of acquittal for the defendants and each of them.

V.

The verdict is contrary to the weight of the evidence.

VI.

The verdict is not supported by substantial evidence.

VII.

The Court erred in charging the jury and in refusing to charge the jury as requested.

VIII.

The Court erred in denying the defendants' motions for a mistrial.

IX.

The Court erred in sustaining objections to the admissibility of evidence tendered by the defendants and each of them.

X.

The Court erred in admitting evidence tendered by the Government over the objections of the defendants and each of them.

XI.

The Court erred in denying the defendants' motions, and each of them, to dismiss the indictment:

(a) The return of the indictment and the bringing of the prosecution denied to the defendants, and particularly to the defendant Harry Renton Bridges, the due process of law guaranteed by the First and Fifth Amendments to the Constitution of the United States.

(b) The prior proceedings were res judicata of the issues involved in this proceeding.

(c) The indictment failed to state facts sufficient to constitute an offense against the United States.

(d) The prosecution was barred by the operation of the statute of limitations.

(e) The question to which the alleged false answer was given was not material to the naturalization proceeding.

Dated: April 24, 1950.

GLADSTEIN, ANDERSEN,
RESNER & SAWYER,

By /s/ NORMAN LEONARD,
Attorneys for Defendants-
Appellants.

Receipt of copy acknowledged.

[Endorsed]: Filed April 24, 1950.

[Title of District Court and Cause.]

SUPPLEMENTAL STATEMENT OF POINTS TO BE RELIED UPON

Come now the defendants above named and hereby supplement the statement of points to be relied upon filed with the Clerk of the above-entitled Court on April 24, 1950, as follows:

I.

XI(f) This proceeding, following the prior proceedings, put the defendant Harry Renton Bridges twice in jeopardy of his life and limb for the same offense.

(g) This proceeding deprives the defendant Harry Renton Bridges of the equal protection of the laws.

(h) Government counsel was guilty of misconduct prior to and during the trial of this proceeding.

(i) There was no legal or competent evidence before the grand jury which returned the indictment.

II.

XII The Court erred in instructing the jury.

III.

XII The Court erred in refusing to instruct the jury as requested by the defendants.

Dated: May 3, 1950.

GLADSTEIN, ANDERSEN,
RESNER & SAWYER,

By /s/ NORMAN LEONARD,
Attorneys for Defendants-
Appellants.

Receipt of copy acknowledged.

[Endorsed]: Filed May 3, 1950.

[Title of District Court and Cause.]

SUPPLEMENTAL DESIGNATION OF THE RECORD ON APPEAL

To the Clerk of the Above-Entitled Court:

You Are Hereby Notified that the defendants above named hereby supplement their Designation of record on appeal, filed with you on April 24, 1950, by designating in addition to the matters therein referred to, the following:

I.

27. The supplemental statement of points to be relied upon, dated May 3, 1950.

II.

28. This supplemental designation of the record on appeal, dated May 3, 1950.

Dated: May 3, 1950.

GLADSTEIN, ANDERSEN,
RESNER & SAWYER,
By /s/ NORMAN LEONARD,
Attorneys for Defendants-Appellants.

Receipt of copy acknowledged.

[Endorsed]: Filed May 3, 1950.

[Title of District Court and Cause.]

ORDER EXTENDING TIME TO FILE TRANSCRIPT OF RECORD

Good cause appearing therefor, It Is Hereby Ordered, that the defendants and appellants be, and they are hereby, granted until July 8, 1950, within which to file the Record on Appeal and docket the cause herein with the Clerk of the United States Court of Appeals for the Ninth Circuit.

Dated: May 16, 1950.

/s/ GEORGE B. HARRIS,
Judge of the U. S. District Court.

[Endorsed]: Filed May 16, 1950.

In the District Court of the United States for the
Northern District of California, Southern Division

Before: Hon. George B. Harris,
Judge.

No. 32117-H

UNITED STATES OF AMERICA,
Plaintiff,

v.

HARRY RENTON BRIDGES, HENRY
SCHMIDT and J. R. ROBERTSON,
Defendants.

REPORTER'S TRANSCRIPT
Thursday, November 17, 1949

Appearances:

For the United States:

FRANK J. HENNESSY, ESQ.,
United States Attorney.

F. JOSEPH DONOHUE, ESQ.,

JOHN P. BOYD, ESQ.,

GEORGE R. GALLAGHER, ESQ.,

WILLIAM P. PAISLEY, ESQ.,
Special Assistants to the Attorney
General.

ROBERT B. McMILLAN, ESQ.,
Assistant United States Attorney.

For the Defendant Harry Renton Bridges:

VINCENT HALLINAN, ESQ.

For the Defendants Henry Schmidt and
J. R. Robertson:

JAMES MARTIN MacINNIS, ESQ.

The Court: May it be stipulated, gentleme that the jurors are present, together with the fou alternate jurors?

Mr. MacInnis: Yes.

The Court: So stipulated?

Mr. McMillan: So stipulated.

The Court: Ladies and gentlemen, we have no arrived at the time of the trial when the gover ment will outline for you in a general fashion t nature of the prosecution and the proof they expe to elicit. You may make your opening statemen

Opening Statement on Behalf of the Government

Mr. McMillan: May it please the court, and yo ladies and gentlemen of the jury: At this time is appropriate, indeed it is required of the gover ment, that it make its opening statement of t nature of this case and of what it expects to pro in order to substantiate the charges in the indi ment against the defendants on trial here, M Bridges, Mr. Schmidt and Mr. Robertson.

Now it will necessarily be short, rather sketch as it were. The purpose is simply to advise y generally of the nature of the case and concisel of the evidence we expect to introduce here. Th will enable you, advising you so generally, to follow the proof as it comes in, the evidence, more understandingly as it comes in, unfolds and [477*] develops. It should be kept steadily in sight, ladies and gentlemen of the jury, that statements of counsel at this time or at any stage of the case by any counsel, are not evidence. The evidence, as his Honor has stated, must come from the lips of the witnesses who will appear here under oath upon that stand, and from documents and records which will be introduced here for your inspection, examination and consideration. Always these matters are under the control, the guidance and instructions of his Honor as to the law.

Now the indictment in this case reads as follows. I shall give it to you in full. This indictment was returned by the Federal Grand Jury for this district on May 25, 1949. It charges the defendants in this case as follows: First count: The Grand Jury charges that Harry Renton Bridges, Henry Schmidt and J. R. Robertson, hereinafter called "said defendants," on or about the 23rd day of June 1945, and continuing thereafter until on or about October 1, 1945, and for some time prior thereto, the exact time being to the Grand Jurors unknown, at the City and County of San Francisco, State of California, within said division and district, that is to say, in the United States District Court for the Northern District of California, Southern Division, did conspire with each other and with divers other persons to the Grand Jury unknown, to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization [478] laws in the manner following, to wit, by having said defendant, Harry Renton Bridges, fraudulently petition for and obtain naturalization in a naturalization proceeding in the Superior Court of the State of California, in and for the City and County of San Francisco, by falsely and fraudulently stating and representing to the said court in said proceeding No. 28152, in the records of said Superior Court, that he, said defendant Harry Renton Bridges, had never belonged to the Communist Party in the United States; that said statement and representation so agreed to be made and made as aforesaid, as said defendants and each of them at all times herein mentioned well knew, were false and fraudulent in this; that said defendant Harry Renton Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including said 17th day of September, 1945; that said statement and representation were material to said naturalization proceeding; that in pursuance of such conspiracy and during the existence thereof, and in furtherance to and to effect the object thereof, said defendants respectively did and performed the following overt acts:

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* Page numbering appearing at top of page of original Reporter's Transcript of Record.

1. on the 23rd day of June, 1945, defendant Harry Renton Bridges filed at the office of Immigration and Naturalization Service in the City of San Francisco, State of California, an application for certificate of arrival and preliminary form [479] for petition of naturalization;

2, on or about the 6th day of August, 1945, said defendant Harry Renton Bridges appeared before Lloyd H. Garner, a naturalization examiner of the United States, at San Francisco, California, in the office of the County Clerk, in and for the City and County of San Francisco, and gave testimony in the matter of the application of said defendant Harry Renton Bridges for naturalization;

3, on or about the 8th day of August 1945, said defendants Henry Schmidt and J. R. Robertson, and each of them, at the office of the County Clerk in and for the City and County of San Francisco, State of California, signed as witnesses a petition for naturalization in the case of defendant Harry Renton Bridges;

4, on or about the 17th day of September, 1945, said defendants Harry Renton Bridges, Henry Schmidt and J. R. Robertson, and each of them, appeared in the Superior Court of the State of California in and for the City and County of San Francisco and gave testimony in support of the petition of defendant Harry Renton Bridges for naturalization.

Second count: The Grand Jury further charges that on the 17th day of September 1945, at the City and County of San Francisco, State of California, in the Superior Court of the State of California, in and for the City and County of San Francisco, Hon. Thomas M. Foley, Superior Judge, [480] presiding, there came on for hearing a naturalization proceeding, No. 28152 in the records of said Superior

Court on the petition of defendant Harry Renton Bridges for naturalization under the Nationality Act of October 14, 1940; that defendant Harry Renton Bridges then and there was called and produced as a witness in said proceeding then on for hearing and took an oath before said court that he, the said defendant, would testify truthfully in said proceeding, and said court then and there had competent authority to administer said oath and did administer it; that defendant Harry Renton Bridges did then and there wilfully and knowingly make a false statement under oath in certain matters which were material to the issue of said proceedings then and there being heard, giving the following answers to questions asked, to wit,

> "Q. Do you now, or have you ever belonged to the Communist Party in the United States?
> "A. I have not, I do not.";

that said answers, so stated and testified to by defendant Harry Renton Bridges, were, and each of them was, as said defendant then and there knew, wilfully false and contrary to his said oath; and said defendant did not then and there believe said answers or any of them to be true; and that said answers were, and each of them was, then and there believed and known by him to be false; that in truth and in fact said defendant, at the time of so testifying, belonged to and was a member of the [481] Communist Party in the United States and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945; that said statement and testimony of said defendant and said answers given by him as aforesaid were upon a material matter and were material in and to the issues of said proceeding.

Third count: The Grand Jury further charges that said defendants Henry Schmidt and J. R. Robertson, on or about the said 17th day of September, 1945, at the City and County of San Francisco, State of California, within said division and district, did wilfully and knowingly encourage, aid, advise and assist a person, to wit, Harry Renton Bridges, not then and there entitled therefor, to obtain, accept and receive a certificate of naturalization which was to be procured and was procured by fraud, as said defendants and each of them at all times herein mentioned well knew, said fraud consisting of false and fraudulent statements and representations made in a naturalization proceeding before the Superior Court of the State of California, in and for the City and County of San Francisco, No. 28152 in the records of said Superior Court; that said Harry Renton Bridges did not belong to the Communist Party in the United States and had never belonged to the Communist Party in the United States, whereas in truth and in fact said Harry Renton Bridges then and there, as said defendants Henry Schmidt and J. R. Robertson and each of them then [482] and there well knew, belonged to and was a member of the Communist Party in the United States and had belonged to and been a member of said Communist Party in the United

States from 1933 up to and including said 17th day of September, 1945.

Now ladies and gentlemen, in support of the indictment which I have just read, the government will produce here witnesses whose testimony will show and establish to a moral certainty and beyond all reasonable doubt that the defendants named, Bridges, Schmidt and Robertson, were, on the 17th day of September, 1945, members of the Communist Party of the United States. We shall prove not only the fact that each of these defendants was a member of the Communist Party, but that each knew that the other was such.

We will prove to you that in the summer of 1945 the defendant Bridges was an alien and that in June of that year he filed with the office of the Bureau of Immigration and Naturalization in the City of San Francisco, an application for certificate of arrival and preliminary form for petition for naturalization; that on or about August 8 of that year the defendant Bridges appeared before Lloyd H. Garner, a naturalization examiner of the United States, at the City of San Francisco, in the office of the County Clerk in and for the City of San Francisco, and then and there gave certain testimony concerning his application for naturalization; that on the same day, August 8, 1945, the defendants Schmidt and Robertson [483] appeared with the defendant Bridges at the office of the County Clerk and before the naturalization examiner of the United States, Mr. Lloyd H. Garner, and that they, the defendants Schmidt and Robertson, signed as witnesses the petition for naturalization of the defendant Bridges; that on the 17th day of September, 1945, all three defendants gave testimony in support of the petition for naturalization of the defendant Bridges before the Superior Court of the State of California in and for the City and County of San Francisco, and that in consequence of the testimony of the three defendants, a certificate of naturalization was fraudulently obtained by the defendant Bridges.

We shall prove to this jury to a moral certainty and beyond all reasonable doubt that the defendants, Bridges, Schmidt and Robertson, conspired and agreed that they would make false answers to questions put to them in the naturalization proceedings referred to already, in that they conspired and agreed that they and each of them would deny membership in the Communist Party with respect to themselves and that they, the defendants, Schmidt, Robertson, would deny that they had any knowledge of the membership of the defendant Bridges in the Communist Party.

We shall thus establish that the three defendants and each of them conspiring with each other to defraud the United States by impairing, obstructing and defeating the proper [484] administration of the naturalization laws of the United States.

Now ladies and gentlemen, specifically, with reference to the defendant Bridges, we shall prove to a moral certainty and beyond all reasonable doubt that on the 17th day of September, 1945, and before the Hon. Thomas M. Foley, Superior Judge, when he, the defendant Bridges, upon his oath stated that he was not then nor had he ever been a member of the Communist Party of the United States, that he wilfully and knowingly made a false statement; for we shall prove that on that day and many years preceding that day, he was an active, energetic, dues-paying member of the Communist Party of the United States. We shall show the extreme care and caution which both the defendant Bridges and the Communist Party exercised over the many years of his membership to conceal that fact, even from the rank and file of its own membership. We will prove it by the positive testimony of men and women who, by reason of their own position in certain labor organizations and by reason of their own position in the Communist Party, are able to testify to and will so testify positively, to the fact that defendant Bridges during the per[illegible]d alleged in the indictment was a member of the Communist Party of the United States.

Ladies and gentlemen, we shall produce witnesses here whose testimony will show and establish to a moral certainty and beyond all reasonable doubt that some time late in 1933 or [485] early 1944, at a place to be described by such witness or witnesses, the defendant Bridges was solicited to join the Communist Party of the United States as a member. We shall prove that he agreed to become a member. We shall prove that he signed an application for membership, that his application was accepted, and that a membership card in the Communist Party was issued and given to him. We shall prove that at that time, and in conformity with the Communist Party plan of keeping secret the membership of persons prominently identified with the labor movement, the membership card issued to the defendant Harry Bridges was issued in the name of Harry Dorgan, that being the family name of his mother. We shall prove that thereafter the defendant Bridges paid dues as a card-carrying member of the Communist Party, and that his old card was turned in annually and a new card issued, though by a procedure quite different from that usually followed—but followed in the instance of the defendant Bridges for the purpose as stated already, of keeping the fact of his membership from becoming too widely known.

These facts we shall prove by the Communist Party member who was commissioned by the district organizer of the Communist Party to solicit the membership of the defendant Bridges, and who in fact procured his signature to that application; and by the unit organizer of the Communist Party, to whom the Bridges membership book was given for the purpose of a more [486] direct delivery to the district membership secretary.

Ladies and gentlemen, we shall prove by witnesses produced here who were close to the defendant Bridges in the Communist Party and in some instances both in the Communist Party and in the labor movement, that he has attended a number of meetings of top faction Communists, meetings the attendance at which was restricted to persons who were only party members. We shall prove the purpose of these meetings, we shall show present at some of these meetings top functionaries of the Communist Party, and we shall show the role of the defendant Bridges, played at these meetings, the times and places of all such meetings shall be given and described by the witnesses testifying.

We shall show by the testimony of those who were present and who cast their ballots for him, that the defendant Bridges, and again under an assumed name—this time under the name of Rossi—was elected in 1936 and again in 1938 to membership in the Central Committee of the Communist Party of the United States at the national convention of the party held in each of these two years. We shall prove that the defendant Bridges at least on one occasion took issue on a question of policy with the leadership of the Communist Party, which thereupon gave consideration to the matter of his expulsion. This we shall prove by witnesses who were present when and where the expulsion was under consideration. We shall prove [487] to your complete satisfaction that the defendant Bridges was not only a member of the Communist Party, but a party-disciplined Communist. By similar character and degree of proof we shall show that the defendants Schmidt and Robertson were active members of the Communist Party; that they attended Communist Party meetings at which the defendant Bridges was present, that they knew defendant Bridges to be a member of the Communist Party of the United States, and that they not only wilfully and knowingly conspired with the defendant

Bridges to defraud the United States, but that they aided and abetted the defendant Bridges to procure his, Bridges', naturalization by fraud.

In short, ladies and gentlemen of the jury, the government intends to, and will, prove to a moral certainty and beyond all reasonable doubt, every material allegation contained in the indictment, and in so proving it, to the degree which I have stated, we shall respectfully ask and confidently expect at your hands a verdict of guilty on all three counts of the indictment.

The Court: Mr. McMillan, do you desire to make a correction with respect to the date? You mentioned 1933 and then adverted to the following date, 1944; did you mean 1934?

Mr. McMillan: 1934.

The Court: You wish the record corrected accordingly? Mr. McMillan: I do. [488]

The Court: Do you desire to make an opening statement, Mr. Hallinan?

Mr. Hallinan: I would like to.

Opening Statement on Behalf of the Defendants

Mr. Hallinan: Now, if the court please, and ladies and gentlemen of the jury, there is no use reiterating the purpose of the opening statement. As the court says, it channels the testimony so that the court and the jury know the direction that the direct examination and cross-examination of witnesses is taking, and the purpose that counsel has in mind in asking questions while the witnesses are out of the room, and the jury will know when the witness is on the stand the questions being asked;

what is the probable effect that is intended to be adduced from it. And frequently, and almost always, I would say, defendants reserve the opening statement until the close of the prosecution's case, so that they may know exactly what is being said against them, that they may form their defenses in the light of the testimony that has been introduced, and they may not expose their hands in advance. And particularly where people are guilty of a charge, that is always the only procedure that can be safely followed.

However, we have no such intention. We intend to lay all the cards face up on the table for the court, jury and prosecution to determine what we have to say, what we mean and what we are trying to do. [489]

Now, as has been said to you, too, the statements of counsel in an opening statement are not evidence and cannot be accepted by you as evidence, yet it must follow, it must be taken for granted, that in making an opening statement an attorney puts his credit at the risk of what he says in this statement. He would certainly expect to excite the animosity of the jury by saying something that he did not sincerely believe and that he did not sincerely expect to prove. Therefore, in what I say in the opening statement, you may take this, that I have bound myself to this obligation, that anything that we tell you we will prove conclusively by evidence introduced from witnesses upon the stand—not by any arguments, suggestions, or anything of that kind, but by clear and unequivocal evidence.

But one might say, well, how can you assume to prognosticate so accurately what you are going to be able to do? And I will say this, that we can tell you because it is an old story. As has been indicated to you before—and in suggesting this I am not going to mention the results of these matters or comment on the propriety or impropriety of them—but this is the fifth inquiry into this subject.

Mr. Donohue: Excuse me, sir.

Mr. Hallinan: Go ahead.

Mr. Donohue: If your Honor please, this is not the fifth, this is the first. We have raised this question with [490] Mr. Hallinan before. I think he knows the government's position, and I think he knows your Honor's.

Mr. Hallinan: I don't want to mislead anyone.

The Court: I think Mr. Hallinan knows the position of the court. We made it clear in the examination of the jurors upon their qualifications, and I am sure he does not desire to transgress upon my ruling, any ruling of the court.

Mr. Hallinan: That is correct, but there is going to be—Why conceal the thing? Where witnesses are going to be cross-examined as to this testimony in other proceedings. So, as I say, we are not going to discuss what happened in any such proceeding or anything of that kind; just as in discussing the motives of witnesses that will be produced here we are not going to, in this statement—though we might in closing argument—characterize or attempt to define or fix a moral sanction upon their conduct. But not now. I am just going to say, whether or not, the controversy exists between a witness who is going to take the stand and my client, without saying who is right or wrong, and let the jury start off in the trial with the assumption that maybe Mr. Bridges is wrong in it. So I am not going into the merits or demerits of it. And as counsel says, this is the first criminal charge that has been brought. The reason, as I say, that I can express myself so freely is that this is the third open, full dress inquiry before an inquiring administrative body or court which passed [491] upon this exact question.

Mr. Donohue: I must object, if your Honor please.

The Court: The objection is sustained, Mr. Donohue.

Mr. Donohue: May I further object, if your Honor please, on the ground that this is not an opening statement by Mr. Hallinan; it is an argument. His tone is argumentative.

The Court: Well, you might consider this in a preliminary sense and not anticipate. I have sustained the objection. I think Mr. Hallinan realizes the ruling.

Mr. Hallinan: Now counsel has said that they will prove certain things to a moral certainty and beyond any reasonable doubt. I will tell you that they will not prove any of those things that they have claimed they are going to prove, so that even scintilla of honest suspicion exists. If they could prove the things that they say they are going to prove, why then, hereafter there will be no certainty in life at all, but everything will be chance, fiction and illusion. That they will produce witnesses who will testify under oath to the facts and conclusions that he has predicted, I freely grant. And the chief reason why I wish to make an opening statement at this time at all, is to direct the jury's inquiry as each witness takes the stand into the reasons why that witness is testifying to what is not the truth. The jury, viewing each witness in the light of what I am going to tell you, will be able to determine whether or not that witness is [492] probably lying, and will be able to determine that almost as soon as the witness takes the stand.

Now we have been told that counsel is going to prove that there was a conspiracy. And there was. There was a conspiracy and a criminal conspiracy. And when a jury is required to determine whether a conspiracy exists, the causes for it, what its purposes may be, it is never sufficient merely to look at the final product; but the jury must go down into the sources and beginnings, the hidden roots and channels, the veins and arteries that supply the final product. In this case a conspiracy will be proven, and the jury is going to see something like—not to use this as argument, but merely by way of illustration—what are those cryptogramic fungi that grow in the jungles of the East Indies that have their roots in mycelium, deep hidden in the dark ground beneath the undergrowth of the thickets, that spring up in a single night and establish themselves there, monstrous, seven feet in diameter, fetid, nauseous, horrible—grow at a terrific speed in the darkness of the jungle in the night and as soon as the sunlight shines upon them in the morning, wither and fade away.

The conspiracy that you are going to have proven to you here—as counsel has [illegible] there is a conspiracy, and we agree—will disclose itself as having certain tap roots that penetrate into the soil from which it derives its sustenance. [493] I will presently explain to you the direction from which each root draws, because the directions are disparate and in many instances one would think contradictory and even hostile. But they all accumulate together to accomplish the same purpose. And these roots feed upon greed, hate, malice, man's inhumanity to man. Because the conspiracy that will be demonstrated here to a moral certainty and beyond any reasonable doubt is not a conspiracy of these poor men to help one of them attain citizenship; we will show the jury that the witnesses who take the stand, one and all, the principals who directed and placed them upon the stand—I am not referring to counsel, because the principals are outside the scope of what counsel has to say—but the persons who animate the whole growth of this noxious plant are engaged in a mean and criminal and fraudulent and inhuman conspiracy to destroy one man. Why should people come forward and do the things that you are going to see people do? Things that are going to shock you! I would not impose upon the credulity of the jury, and I would reserve these matters to a closing argument, so as to allow the jury to slowly assimilate the impact of this one uncontrovertible fact, because a jury might think, "Well, how can this fellow expect us to believe so remarkable a tale as that on his mere statement?" And I would not attempt to pronounce in advance these things, except that I know they will be proven to a moral certainty and beyond any reasonable doubt, because [494] I know that they cannot and will not even be attempted to be honestly denied or questioned, even, by counsel for the government. And I would not say them if I thought that even the extremest diligence of counsel could conceal them from you.

To determine why a great number of witnesses—because in this case there are 125 witnesses that we know of, 125 witnesses!—to determine why those people should enter into a conspiracy which springs to its worst flower in this court room, it is necessary to go back quite a few years to around the time that counsel mentioned, 1933 or '34. And then the first branch of the conspiracy started to grow, somewhat remote from these orderly halls which we now occupy—down in a bloody and terrible struggle on the San Francisco waterfront.

Harry Renton Bridges was born in Australia in 1901, of what counsel consider a respectable family. They weren't even working class people. His father had been an official of the government, descendant of some of those old Irish who immigrated there, probably under force during the rebellions of 1798 that we younger Irish used to recite poems about in our childhood. And he followed the sea himself, became an ordinary sailor before the mast. Interested himself in the Australian labor movement. At that time, back in 1920, a very advanced and liberal labor movement. Did all sorts of things there that we consider now to be quite great achievements in labor relations. Minimum wages, maximum hours, vacations with pay, [495] old age retirement funds after men had worked even as a laborer for a reasonable length of time, maternity leaves with pay for women who were going to have children. But Harry Bridges carried in his heart a love for America, a love of the United States, that surpassed the love of his native land. And he always dreamed of the day when he would come to the United States and become an American citizen in the land of ultimate freedom, justice and equality. And so he carried his life that finally he landed in San Francisco as a common seaman. He stepped from the deck to the wharf and engaged his activities in the longshore occupation. Without making any criticism, other than to say that the situation existed, and without ascribing it to anybody's fault, possibly the mere chance and so forth, he found the conditions on the waterfront such as he thought, rightly or wrongly—I don't care which—should be changed in manners that a great many of the men on the waterfront were hopeful of achieving.

The only union that was in existence at the time was an organization of what is known as a company union, whose primary function was to see that persons who were a little bit too radical in their union notions were quickly separated from any further activity on the docks. He, just as one of the grains of and among all the men along the waterfront, participated in the formation of a union consisting at that time of 400 men. They were immediately blacklisted, put off [496] the waterfront and unable to obtain any work there. And any effort to produce an independent union was by that example immediately crushed and nullified. Bridges entered upon a career of poverty. And that career of poverty was all——

Mr. Donohue: Pardon me; if your Honor please, I know that the court allows a wide latitude of questions with respect to opening statement, but I can see in no way wherein the statements being made now by Mr. Hallinan constitute an offer of proof on the charges which are contained in this indictment. I wish to respectfully say to your Honor that his remarks ought to be circumscribed within a fair field which may be considered as an offer of proof to the allegations of the indictment, not resting purely as a personal history of one of the defendants.

Mr. Hallinan: Pardon me. The very sentence that I was finishing will be pertinent in this inquiry and was inquired into in the court by Judge Foley. That is the reason why he did not become a citizen at an earlier time. That will be pertinent in this case, because that was one of the matters that was inquired into and will appear in the transcript that is produced here. If counsel objects to my discussion of Mr. Bridges' economic situation at that time, I don't want to offend him, but I think it is perfectly proper. What is your Honor's ruling?

The Court: You may proceed.

Mr. Hallinan: Thank you. [497]

The wages of longshoremen at that time were averaging around $10 a week, and it was impossible for Bridges to obtain the $20 to get a citizenship. That is one of the reasons that was deferred to the late time that it was.

Now with the coming of the NRA and the accession to the presidency of Franklin Roosevelt, an impetus was given to workingmen's organizations. They were encouraged, directly, under the NRA law, to engage in activities for their protection and the employers were required to deal with them collectively. So a great impetus was given to the union movement along the Pacific Coast, and an American Federation of Labor union, an AFofL union, called the "International Longshore Association," or, as it will probably be called here, the "ILA,"—because in these unions we have as many alphabetical designations that you have in dealing with agencies of the U. S. government, you finally lose all sight of what they mean. This union came up into new vigor, because of the encouragement under the NRA regulations. And the men united in a union that became quite strong and vigorous.

At the same time, other ILA unions, or other AFofL unions, such as the Sailors' Union of the Pacific, and organizations of that kind, received a similar impetus of vigor. The time appearing propitious in the year 1934, a demand was made by this new union upon the shipowners and dock employers of the entire Pacific Coast for certain demands which the union [498] considered essential and which the owners considered not. Simply put it that way again, without discussing the merits.

The Court: Mr. Hallinan, we have reached the afternoon recess period.

Mr. Hallinan: Very well, your Honor.

The Court: And without interrupting you unduly, we full well appreciate the genesis behind the labor movement in the United States, as well as in the State of California; and perhaps the waterfront travail that is written large in the history of this city as well as the state. Much of it is now written in granite, probably, in the history of this state. I cannot see altogether at this juncture,—I am not interrupting you unduly, I want to feel the matter out as we go along.—I cannot feel at this juncture how this historical narrative, however interesting it may be to all of us, would tend to prove or disprove any of the material allegations in this indictment contained. The focal point, as I take it, of the indictment has to do with the alleged false swearing of Mr. Bridges, the alleged conspiracy of his colleagues, Mr. Schmidt and Mr. Robertson, before the Hon. Thomas M. Foley, having to do with the matters now, which have become rather deeply engrained upon our memory in this trial. The question was asked him at that time whether he was or had been a Communist. He denied it categorically. Now I suppose, in the natural genesis and development of your historical statement, [499] that you will come to the matter of the motives underlying these witnesses——

Mr. Hallinan: Correct.

The Court: I assume that is the next step?

Mr. Hallinan: That is the next step.

The Court: In the natural and logical order of things.

Mr. Hallinan: And immediately.

The Court: I would assume that to be the juncture.

Mr. Hallinan: That's correct.

The Court: And if we reach that point, as to the motives of these individuals, be it good or bad, and in treating the matter historically as you are, reaching that particular subdivision of your thinking, which is always logical, we come to this natural inquiry: How or in what manner would these people, how could they, be they affected by improper motives—I mean these persons 125 in number who allegedly are going to swear themselves falsely in this court room,——

Mr. Hallinan: I will show you, Judge.

The Court: That is, as you point out. How are they, in what manner would they, cause Mr. Bridges to swear falsely, if he did swear falsely, before the Hon. Thomas Foley?

Mr. Hallinan: That isn't the point. The point is, why do they testify he swore falsely?

The Court: We will take a recess and you think that over for a few minutes.

(Recess.) [500]

The Court: You may proceed, Mr. Hallinan.

Mr. Hallinan: Thank you. It must be understood, ladies and gentlemen, and remembered that Mr. McMillan stated that the witnesses who would be produced here were going to testify to events that happened back in 1933 and 1934. So we are compelled to go back to 1933 and 1934 to explain the reasons why they are doing so. Now, His Honor suggested the controversy on the waterfront might be somewhat remote to be mentioned at this time, and I might say this: While the Judge and all San Franciscans are probably very familiar with these things, a great many persons on the jury have lived in other parts of the country prior to coming here and may not be so familiar with them. I might say also I want the jury to understand one thing. Some of the jurors have not sat before. Every once in a while the Court corrects counsel, instructs counsel as to what limitation should be imposed on what he says and what he does, and counsel sometimes retorts by presenting what argument he may have to the Court to ask the Court to change his mind. Well, don't get the idea from that that the slightest disrespect or controversy is intended toward the Court. The Court concedes to counsel the right to do that and wishes him to do it and does not take exception to it.

I might say, too, parenthetically, so that the jury may have a good concept as to some of the rulings, that we frequently try cases before judges who have no experience in trying [501] cases themselves.

Until his appointment to the bench, Judge Harris was one of the best known trial lawyers in the State of California and his judgment as a lawyer would be respected if his authority as a judge would not be. So you may understand the limitation the judge intends to impose is not a criticism of me, but a proper limitation that he makes. I think I am not exceeding my rights in making that suggestion, Judge Harris.

The Court: That is a fair observation—not as to any qualification on my part.

Mr. Hallinan: That is the one point I insist upon. People remember the famous Flood Estate and the late John Taaffe, who was Judge Harris' associate, and they will back me up and support me on that.

At any rate, ladies and gentlemen, the union—and this comes directly to these charges of Communist discipline and so forth—the union that took up the aegis of the working cause under the ILA was an extremely democratic, militant and sensible body of men, having in mind certain definite purposes that they were determined to attain. To describe Harry Bridges as their leader is to use the word in a special and limited sense, because he was not their leader any more than they made him the articulate organ of their determinations, and he by no means walked ahead of them, but side by side and shoulder to shoulder with the rank and file, a position that, while his leadership and the respect that the unions have reposed in him have [502] constantly increased, he has never changed from; that he has always been only the representative and never the boss of the union.

We will show the jury, as the case proceeds, that this union is one in which there could be no boss, a union that would take direction from nobody, officer, member, outsider, party, organization or individual; that after democratic processes and considerations it arrived at determinations of its own, and instead of Mr. Bridges saying to them, "Do thus," and they did it, they said to him, "Do so," and he did it. He was energetic, active, and worked with great diligence and sincerity for the mutual purposes.

We will show the jury that he is a plain man, without formal education, without those elegances that are usually associated with representatives of great bodies, but of sterling character, granite integrity, unbending and unpurchasable, a man who has resisted the temptations of wealth that have been offered to him, and who has defied the forces of violence and injury that have been administered against him.

He came finally to represent in the eyes of the persons who profited from the existing conditions on the waterfront the sole core of the resistance of the longshoremen to what they considered, at least, vicious and inhuman practices and exploitation. As I say, he was by no means that but he was so represented, and he was so conceived by those interests which then set in train the processes which now have selected you as the instrument of [503] his destruction. The employers on the waterfront, the industrial associations of San Francisco, the Associated Farmers of California and other reactionary organs and agencies combined with, I am glad to say, with a small portion of that veterans' organization that calls itself the American Legion, to produce red squads of the Portland and Los Angeles police departments, because San Francisco has always been a kind of liberal city and did not have the red squads to do the work, professional labor spies, groups of private detectives, and that type of person who could profit from such things were now amalgamated into a close organization under the leadership of one of the group, a man named Harper Knowles, who combined and brought them all together to produce the evidence that Mr. McMillan says will be produced here, to groom, educate and coach people to tell the lies that he says will be told here, and they started an almost fantastic conspiracy that now thrusts its head finally into this courtroom, a conspiracy that has grown and augmented and has drawn to itself other growths and other vines to add to its already noxious growth.

Knowles produced another man, a man named Stanley Merton Doran, and the assistance of Police Chief Keegan—not police chief, Captain Keegan, head of the Portland red squad, to endeavor to get Harry Bridges deported out of the country, and the route they took was strangely different from the route of the [504] conspiracy that its convolutions have since assumed, because they instructed the

United States Immigration Department, represented by these gentlemen here, that they had conclusive proof that Harry Bridges was agent of the British Government, sent here to destroy American shipping interests, and they proceeded along that line in an endeavor to have him taken away from the head of this union that had become so militant, so threatening, and seemed to be on the verge of causing them to lose a great deal of money, and transported back to the land from which he had come. But inquiry being made, and Mr. Bridges', if you pardon me, hostility towards the very concept of the British Empire being a sufficient answer to that implication, they cast around for a new mode by which they might destroy him.

At that time Communists, Communism and the Communist Party had not the invidious connotations which have since attached to it. It was then, maybe now, I don't know, a legitimate political party whose members went up and registered on the list of voters just as Republicans and Democrats did, and nominated and ran people all over the United States for office, a miniscule party, but one which nothing very much was said about, but which did have a certain vigor, determination and resolution, and at least, apparently, so far as he was able to judge, a sincere desire to better the conditions of working men all over the world, particularly on the waterfront of San Francisco.

And so Mr. Bridges did not hesitate, and he will not pretend [505] to you, and he will lash his tongue in his mouth before he lies or tries to protect himself by any crawling, weaseling or withdrawing from a position he has since assumed. Mr. Bridges was quite glad, confronted with the tremendous forces that were operating against the little union that he had, to enlist the help of Communists, Republicans, Democrats, any color of political creed or skin that might offer itself as an auxiliary, and if Communists wished to give him advice, he took advice, and if deemed expedient to him, he went before his union and presented it as a possibility, and because of their experience with the black list, being thrown out of work and other far more dangerous things, he and his associates frequently met in secret, in silence, and in dread to determine what might next be done.

So Mr. Knowles and Mr. Doran, who will sit up here and confront you, having now discarded the British agent hypothesis, lay upon a Communist membership or at least a Communist affiliation, and discarding, without even looking at it, the stalking horse that had served them to that thing, they directed their attention now to concocting a new identity for Harry Bridges.

The strike having taken place and being in progress, a terrible struggle now ensued, both on the surface of the field and underneath it, in the recesses where the eyes of ordinary people did not penetrate.

While the striking longshoremen fought with fists and rocks and brickbats against guns and poison gas, the employers and [506] their agents worked assiduously to start the plot that would get rid of the man whom they assumed to be the leader and against whom the utmost hatred was now concentrated. They notified now the Department of Immigration, not that he was a British agent, but that he was a notorious Communist named Henry Harvey, and that Henry Harvey had created disturbances here, there and everywhere, and was as mysterious and fleeting as these other pseudonyms will turn out to be under whom he is now designated, but unfortunately the Immigration Department had a passport or a card of identification of Henry Harvey with his thumbprint on it and, alas, it turned out to be not the thumbprint of Harry Bridges and that collapsed.

So then he was claimed to be a certain Communist named Kentfield, and I see now from what Mr. McMillan says that that is abandoned.

And then he was claimed to be a certain Communist named Rossi, and we see that we still have the ectoplasm of that charge at least. But best of all is this, that they had some belief or knowledge or suspicion that there existed a man some place in the United States—God knows where—named Harvey Dorgan who was a Communist, and seizing upon the fact that Harry Bridges' mother's name was Dorgan, that was it—he was Harry Dorgan. And so a demand was made to the Immigration Department now that Harry Bridges be kicked out of the country as a Communist. And the Immigration Department made a conscientious [507] survey of the situation, and in 1936 they brought Harry Renton

Bridges in before an official of the Immigration Departent and swore him to tell the truth, the whole truth and nothing but the truth, and asked him then and there if he was then or ever had been a member of the Communist Party, and he said, "I am not and I have not." They sent to Australia and they brought up all the records that they could find out about him there, to such an extent that the chief of police said it looked like a recommendation for a man for a very good position, and after they got through with it, they notified a Congressional inquiry board, because such dignity had this man, not for himself but his representation, had assumed, it had gone back to the United States government that there was no proof of any such thing.

But the diligence of these gentlemen was not to be so easily disappointed. By this time the longshore strike was under process of settlement. The President of the United States appointed a committee headed by the Catholic archbishop of the diocese of San Francisco, and after hearings had been had, the committee recommended certain changes in the situation on the waterfront, and that being by now supported by the whole background of public opinion of the City and County of San Francisco, as the Judge said, as the struggle was now written in granite, the concessions were all made, wages went up, hours were shortened, loads were reduced, and, the greatest innovation of [508] all put in, the hiring hall, and the hiring hall enters directly into this matter, as I shall show, as the testimony develops. The hiring hall meant this:

that when men were wanted to unload a ship, the stevedores went to this hiring hall, which is maintained by the union, and a call was put in by the hiring hall: "Send," let us say, "20 stevedores to Pier 36." And the 20 men in order of seniority who were entitled to the work went down and went to work, and the other men sat there or stayed at home until the call came in to them. Prior to that time early in the morning every man in San Francisco engaged in that occupation had to go down to the docks, wait to see if a ship came in, and then stand half in hope and half in despair, while the sturdiest and the strongest were selected by the gang boss to do the unloading, or, worse, while the men who paid part of the miserable fee back to the gang boss were selected to do the work. That was the system known as the shape-up.

These things all being granted, the strike ended. It was the longest and bloodiest strike in California history. It lasted 85 days. In one two-day fight, two stevedores were killed and 400 wounded. The strike cost the waterfront employers of the City and County of San Francisco two billion dollars, being chiefly the difference what they had been accustomed to keep themselves and what they now had to pay to the men for the work—two billion dollars —and that will give you some basis upon which you can estimate the importance of the people that [509] they employed, this Harper Knowles, Doran and Keegan, to thrust them in their activity.

The Court: We have reached 4:00 o'clock, Mr. Hallinan. I should like to discuss several matters with counsel at the conclusion of today's proceedings in the absence of the jury.

Ladies and gentlemen of the jury, we have reached the adjournment period, it now being 4:00 o'clock, and I again repeat to you, under no conditions discuss this matter with any person or persons. You are not to form or express an opinion on this case until it is finally submitted to you for decision. As I indicated at the outset, our court day commences at 10:00 o'clock. We have our 12:00 o'clock to 2:00 o'clock noon period, and we adjourn as promptly as we can at 4:00 o'clock. I realize many of you ladies and gentlemen have long journeys. You have your home duties and the like; so we adjourn at 4:00 o'clock.

One added note: I advised you earlier in the day that if anyone attempted to intrude himself or herself upon your thinking, that is, by any attempt to bring to your notice any external matters that might bear upon your ultimate judgment in this case, that you report immediately to this Court, to Mr. Mitchell of the Court, if the Court is not available. I mean by that, the intrusion of any written matter, telephonic communications or the like to your home. It is my hope and purpose that this jury remain inviolate and untrammeled by any external force or forces or any person, and I think without my dilating on the [510] matter, you know precisely what I have in mind. I do not believe in my brief career I have been more painstaking with a jury, to the end that we obtain a fair cross section. Now, I believe we have discharged that obligation and a great deal rests on you, an awful lot rests on you, and I know that you will recognize your obligation to the Government and to the defendants. This case is not a case of one day's duration or two days' nor a week. As I indicated to you, it may well run into many weeks. Our estimate is pure speculation at this time. The Government says six to eight weeks. Let us say eight weeks for the purpose of illustration. During that time many events, many incidents, many occurrences may obtain, and I ask you under your oath and in every fine tradition of our jury system under our Constitution, that you keep that oath inviolate.

Tomorrow morning at 10:00 o'clock You may retire.

(The jury thereupon retired from the courtroom.)

The Court: Is it stipulated the jurors are absent?

Mr. Hallinan: So stipulated.

Mr. Donohue: Yes, Your Honor.

The Court: There are no jurors in the courtroom. I noticed during the course of the remarks of Mr. Hallinan in his opening statement that, at the later stages, you were prone to interrupt, Mr. Donohue, and then you desisted and remained seated.

Mr. Donohue: Yes, Your Honor.

The Court: I anticipated that you decided at that time to [511] enter an objection.

Mr. Donohue: I did. Your Honor.

The Court: And then took it upon yourself to refrain.

Mr. Donohue: Yes, Your Honor.

The Court: Will you tell the Court precisely what you have in mind? I assume you desire a definition of the issues.

Mr. Donohue: Yes, Your Honor.

The Court: What have you in mind?

Mr. Donohue: It seems to me, if Your Honor pleases,——

The Court: It is still noisy here. You might use the microphone.

Mr. Donohue: I would be ashamed to have to use that microphone. I am big enough to be able to speak so I may be heard. I am not quite accustomed to the acoustics of this room, but I think I will be soon so accustomed.

I have in mind, if Your Honor please, that Mr. Hallinan by indirection is doing what he has been told by the Court he may not do directly, and that is to call to the attention of this jury the fact that there has been a prior administrative hearing with respect or looking to the deportation of Mr. Bridges. Those matters are wholly different from the question at issue, the rules are different, the charges different, the proof is different, and while I listened with a great deal of interest to the recitation of Mr. Hallinan, particularly interested in the historical allusions that he makes, I respectfully [512] say to Your Honor that thus far I have seen no statement at all, have heard no statement by Mr.

Hallinan, which could be considered in the nature of a statement to this jury of what he for the defendant expects to prove by way of answer to the simple perjurious allegation in the indictment, and while such a recitation might conceivably go on forever, I think its scope should be defined.

The Court: I am going to have a definition of it at this juncture.

Mr. McMillan, do you have anything to say? You have lived with this proceeding on the motions to dismiss, long since past, when this Court heard great oratory echo and reecho off these walls. This is merely a repetition of the motion to dismiss. Mr. Resner, Mr. Andersen and his colleagues argued this matter at length. I take the position now that, one, these earlier proceedings are in no wise determinative of the issue at bar.

Mr. Hallinan: I concede that, Your Honor. I do not mean that.

The Court: I want to define my own thinking on the matter. I may be obtuse. It may be it is late in the afternoon, and so help me, it may be your convincing manner and mode of presentation belie my thinking, because I felt I was retracing my steps to matters that I had long since passed upon.

Mr. Hallinan: Your Honor, might I suggest this: You will [513] find now in the case—we might as well be frank with each other——

The Court: We have to be frank.

Mr. Hallinan: Every one of the witnesses, or practically every one of the witnesses who takes the witness stand, is going to be confronted with either something he did say or he did not say in those preceding matters. Now, I understand your position on it. I do not think the contention that those things are res judicata or anything like that—pardon me, once in jeopardy. I have always contended that has not constituted previous jeopardy. And I am not even going to mention the result of those things. But the fact that the witnesses took the stand and testified on them both enables me to know what the situation is, and those witnesses are going to be on this witness stand. [514]

Now, we have to—it is impossible to have the jury in the course of cross-examination and the suggestions of interest made to the witnesses on the stand without having some background of understanding of what would motivate it. Now, Judge, You know all about it.

The Court: No.

Mr. Hallinan: Well, I mean, you have heard the motion to dismiss, so you have the preceding history. That is what I mean. So you can see why a witness might come in and perjure himself. And what strings might lead up from the controversies between Mr. Bridges and other people.

The Court: No. Now, on cross-examination, let us assume John Doe is on the stand, you have had a transcript of the proceedings before Judge Sears or Judge Rowe or Judge Black—as it may appear. You are laying the foundation for impeachment in the interrogation of that witness in an orderly way. Now, what has happened thus far with the jury,—it isn't prejudicial, in my opinion, because I will erase it, I think, in one fell swoop—but I think that we are going to retry; perhaps, by indirection, many matters that are long since historical. This case——

Mr. Hallinan: I will promise you I will not endeavor to do that.

The Court: Mr. Hallinan, this case involves the alleged false swearing of Mr. Bridges before Judge Foley. It alleges [515] the unlawful concert of action of Messrs. Robertson and Schmidt. Now, that is the issue at bar. I have ruled that the question of jeopardy, former acquittal and res adjudicata were out of the case. In colloquial expression.

Mr. Hallinan: I accept that.

The Court: That they are not binding. I gave the matter great thought. I heard Mr. Resner argue it at length. I heard his colleagues, Mr. Norman Leonard—an extremely able young man—argue the law here for hours. I took the matter under submission, I gave it mature consideration; I ruled against it. Now I hold as a matter of law that these matters are moot, irrelevant and immaterial, and I am going to consistently, persistently tell the jury so. Now, how far you may go in an opening statement concerning the narrative background with respect to Mr. Bridges' benign influence on the waterfront will not affect the ultimate issue at bar. "Did Mr. Bridges swear falsely?" I full well recognize; many people in this jurisdiction feel that he has had a benign influence on that waterfront, that he has done certain things for the working people there; other people feel directly to the contrary. And I think we had an exposition of that from our jury, in selecting these people. In a very forthright manner. Some said that they were prejudiced, others said that they had an open mind.

Now, to take us back into the gory days of the bloody warfare on that waterfront and raise matters of hysteria and [516] inflammatory matter before this jury is not going to answer this case, in my humble opinion.

Mr. Hallinan: Could I ask Your Honor one thing, Your Honor?

The Court: Yes.

Mr. Hallinan: I think that this will change your view upon that. It is the rule that where either an accusation or a defense sounds in conspiracy, that any facts which tend to establish the conspiracy may be introduced in evidence and may be stated in advance in an opening statement; that the scope of the entire inquiry is greatly widened. The prosecution charges a conspiracy on the part of these three defendants to defraud the government. We charge, and we will sustain, a conspiracy on the part of the witnesses produced by the government to destroy Harry Bridges. Now there is the basis under which all of this becomes relevant. I don't care anything about the previous transactions, of previous hearings.

The Court: Well, I think, coming to the elemental question that I addressed to you before the recess, let us for the purpose of only our instant discussion, and without admitting that it is relevant at all to claim this monstrous growth of lush origin that you refer to,—of tropical origin—let us assume that for the moment; how or in what manner has this monstrous conspiracy so overcome Mr. Bridges as to cause him, allegedly, in the year 1945 to swear falsely before His Honor Thomas [517] Foley?

Mr. Hallinan: Your Honor, there are two elements here, two items. First, Mr. Bridges testified before Judge Foley that he was not a Communist.

The Court: Yes, sir.

Mr. Hallinan: All right. Now, that is supposed to be a piece of perjury. A whole host of witnesses are going to take the witness stand and testify he was a Communist. I won't ask you, because I know that it would be offensive to suggest it, that Your Honor would not think of foreclosing us, as the Government is entitled to show there was a conspiracy to commit the one perjury, that we could not show there was a conspiracy to commit the other perjury. But I am going to show to this Court and to this jury, so that Your Honor feels that at the end of this case you will feel it conclusively, you yourself,—because we are as much interested in assuring you as the jury—that there exists a conspiracy of witnesses to take the witness stand and swear to a falsehool, namely, that Harry Bridges was or is a member of the Communist Party.

Now, they are entitled to show the perjury on the one hand and the conspiracy from which it resulted. We are entitled to show the conspiracy on the other hand and the perjury resulting from it. That is the only point. As I say, I know that the mere suggestion is enough to turn Your Honor's mind in that direction. In other words, you will not question—I don't say [518] that it may not sound fantastic. I do not say that it, maybe, sounds unreasonable, because I concede it does. I concede it sounds unreasonable. I concede it sounds almost unbelievable. And I assure you, Your Honor, that I have been in the case only three weeks, and I know nothing about it. I am infinitely shocked by what I have learned of this case. We will show conclusively that a conspiracy now exists between the witnesses who take the stand and persons in the background of those witnesses who are directing, coaching and instructing them, a conspiracy which has its roots in the hatred incited against Harry Bridges from that strike back in 1934, and that has persisted, and which is the thing that is persuading each of these witnesses to take the stand and testify falsely.

Now, suppose, Your Honor, we have something like this: A man is a member of some organization with whom he afterwards falls into difficulty and it is intended to destroy him. How? By convicting him of murder, having him hanged. The defense shows a conspiracy among the witnesses to take the stand and falsely swear to facts that will send that man to the gallows. Why, that has been done many times, and it has been proved in courts many times, and we are entitled to show it. And I know you don't question that. I assume that all Your Honor does——

The Court: I assume from the trend of your opening statement that you sought to elicit before this jury and to demonstrate before the jury that all of these administrative matters [519] ended in the results which obtained therein, without dilating upon the results. That was your purpose, then, as I gathered. It is my purpose to discuss this, to determine our state of mind.

Mr. Hallinan: Yes.

The Court: To get our frank expressions. Your purpose was to go behind the Court's ruling with respect to my firm belief that the doctrine of res adjudicata is not applicable here. And that there is no estoppal against the Government as a matter of fact, as a matter of law. The gentlemen preceding you argued entrapment, that the Government entrapped Mr. Bridges into this alleged false swearing—upon what theory entrapment rested I do not know. It was a novel thing for me to hear. But all conceivable matters have been presented to me. Now, I hope to, and will, God willing, limit the issue in this case to what I believe to be the essentials.

Mr. Hallinan: We won't quarrel with that, Judge.

The Court: I am never inclined to, nor will I, foreclose a defendant from presenting a fair defense. If, as you say, there is a conspiracy here on the part of witnesses, 125 in number, it is quite a large conspiracy with many spokes, no doubt.

Mr. Hallinan: But you won't, and Your Honor would not, question my right to present that, would you?

The Court: Mr. Donohue, may I hear from you? Mr. [520] McMillan, I think I have your thinking on it.

Mr. McMillan: Yes, Your Honor. I would just like to add one thing.

The Court: This is an important discussion.

Mr. McMillan: I am very well aware,—I was here and heard all the motions and I read all the motions and read all the briefs. Now, in short, Your Honor has already determined the law of this case. You have written an opinion in the matter. Your Honor has determined the law of this case. Now, what counsel is doing, he is seeking in a historical way, rehearsing everything that took place upon the waterfront, all about the life of Mr. Bridges and so forth,—none of which could be received in evidence. It could give a general history, and so forth, of Mr. Bridges. But what a great man that he is here, upon what meat this cedar has fed that he has grown so great, he can bring in character witnesses who can testify here. But all this laudatory statement that he has made here would never be introduced in evidence. Now, what he is doing, he is anticipating a defense. He is not making a statement of facts, he is stating that the time—The proper time to go ahead and attack the motives of witnesses is when the witnesses take the stand and there, upon cross examination, attack their credibility. Now, he is stating that a conspiracy existed. If a conspiracy existed, he could state that very simply, charge that conspiracy and that in furtherance of the conspiracy they [521] did thus and so. But to start in as he has there and give us the whole history of the waterfront—we have here all kinds of poisonous plants and weeds growing here in this courtroom, and there are nuts, bolts and rocks and everything else being tossed around this courtroom and around this jury. And if he proceeds to throw enough of those, and these plants keep growing around here, I don't know—I don't know but what there may very well be inflammatory matter there as far as the jury is concerned. And he can not in the trial of this case——

The Court: That is the point I am making in my own mind. In the trial of the case Mr. Hallinan could not assume in the wildest stretches of a ruling, to introduce in support of this statement the evidentiary matter which is now in part crept before the jury. However, I believe my admonition will tend to deflect any improper notion they may have. Mr. Donohue, may I hear from you on this subject?

Mr. Donohue: If Your Honor please, of course I don't want at this juncture to disclose too much of our case. I am frank to say to Your Honor, however, that my distinguished adversary has mentioned a great many names, the historical importance of which is known to me. I have no thought of calling them as witnesses. And therefore I can say to Your Honor that many of the premises upon which his argumentative opening statement were made will not be supported by fact. Of course, I deny any conspiracy on the part of the witnesses we shall call to testify, [522] but I say to Your Honor, as I said at the very outset, while I know you will allow a reasonable latitude to counsel in making an opening statement, my distinguished colleague, Mr. McMillan, has succinctly stated it when he said no one of these matters he is now discussing would he be permitted to prove. I am sure in the light of what Your Honor has said, if not in the light of the observations of Mr. McMillan and myself, Mr. Hallinan tomorrow, perhaps, will come closer to following the rule and stating to us what he expects to prove by his defense.

Mr. Hallinan: Could I say one final thing, Judge? Do me the charity of supposing that I will try to try the case fairly and properly. I have no desire to introduce extraneous matters or say anything that isn't proper. A lawyer who works with a case and knows what the things are that confront him, who has gone into evidence at great length, and who has evolved a theory upon it, might assume to know the line which he is driving at. The Court might not see that immediately. I know that Your Honor is sufficiently experienced in such matters that you would give a wide range, that you would concede to an attorney the right even to be wrong in his theory, but still the right to develop it. Now, I am willing to state to this jury that I make no point of any previous finding by these administrative bodies or by the Supreme Court or anyone else for the purposes of this motion; though we will address things on that later to you, Judge. I don't even wish to mention the results [523] of them. But I say this, and I think Your Honor has my position clearly in mind: I think you have expressed it as clearly as I can myself. Suppose that, as I said before, a conspiracy existed among certain persons to destroy another person by sending him to prison or by causing him to be executed. Those witnesses came in, suppose, and swore falsely that the man had been guilty of some crime. I don't care whether it is murder, perjury, fraud or whatever it may be. And suppose those persons were all actuated and bound together by some hatred of that defendant and some desire to destroy him. Then a court not only would permit inquiry into it, but the court, solicitous of its own honor, would insure that there was a proper inquiry into it, so that an injustice wouldn't be done, so that some innocent man might not be sent to prison upon a concocted story.

Now, the mere fact that the witnesses, as they are presented, are presented by officers of the Government, does not mean anything because they could deceive the government officers as well as anyone else. Your Honor raises your eyebrows at the suggestion of 125 witnesses. They are there.

The Court: Well, not with any more reality than you do when you say it is fantastic.

Mr. Hallinan: I see; I say that. It is fantastic. But still, what things have you experienced in your life that happen in courts that were fantastic and still were true? And with these people, Your Honor, we can point to previous records. [524] They have testified already. It isn't any invention. Now, counsel says that they don't intend to use certain of them. I assure you that the testimony of those witnesses will be brought before the Court properly and before the jury. And our entire position is this: They charge a conspiracy to commit a crime, to wit: false swearing, of fraud by these three gentlemen. We charge a conspiracy to commit a crime, to wit: to commit perjury in this court so as to cause the ruin of those three gentlemen.

We do not say that they haven't the right to inquire into that, whatever may be said about matters of past moment, res adjudicata, and so forth. We give them the right. But in God's name, haven't we got the right to show the conspiracy to destroy them? Haven't we the right to show that these people are taking the stand, are themselves a conspiracy and a false and fraudulent and criminal one? And I assure you, Judge Harris, that you will feel as convinced of it by the end of this case as anyone else and you will concede, too, that it is fantastic but true. And all I want, all we ask here, —we don't want any rulings that will promise us or assist us; we don't want any more than what the law allows us. But we ask that, and we ask not to be limited by a narrow closing, an artificial stricture, of proof, where the law has clearly and expressly said that where a conspiracy, where a prosecution or a defense sounds in conspiracy, wide scope should be given to prove it [525] and to argue it.

Mr. McMillan: Now, may it please Your Honor, the conspiracy to which he refers is the most illogical thing that I have ever heard of. How could men conspire together to get a man in a case of this kind? The issue here is simple. It is a single issue. Fundamentally it is this: that false statements were made in order to obtain citizenship in a naturalization proceeding. Now, how could they conspire, anyone, to get Mr. Bridges, for example, to go over to the City Hall and make a false statement?

Mr. Hallinan: That is assuming he is guilty.

Mr. McMillan: Unless they conspired together to hypnotize him and put him under a spell and take him over there to make a false statement. What he is thinking of is another thing; his reference is with reference to a trial for Communism or something. Now, all these matters he speaks of, I repeat, those are rules of evidence—attack upon credibility of witnesses as they arise. The difficulty with his opening statement, may it please Your Honor, is that it is purely argumentative; secondarily,——

The Court: I hold, gentlemen, as a matter of law, that the bulk of the opening statement thus far is immaterial to any rationalization of the charges at bar. I agree with counsel for the government that matters of interrogation of witnesses may be gone into; certainly impeachment may be indulged in to [526] your heart's content, Mr. Hallinan. You may cross-examine without limitation on your part. I believe in latitude on cross-examination. But to have this Court sit while you dilate upon matters that pertain to waterfront problems, trade union problems, employer-employee relationships, is to degenerate this case into a hearing far divorced from an indictment which is before me.

Mr. Hallinan: Might I ask this, Your Honor?

The Court: Yes, sir.

Mr. Hallinan: Now, counsel in making the statement that how could a conspiracy induce Mr. Bridges to go over and take the oath, and so forth, assumes that the statements were false, that he was not a Communist. And yet will he say that we can not show a conspiracy to put witnesses on the stand, and that the conspiracy has the purpose of committing perjury and saying that he was a Communist? We don't say that there was a conspiracy——

The Court: Would you, for the purpose of that theory, delineate when the conspiracy commenced, the agents immediately associated in the conspiracy, whether there were one or several?

Mr. Hallinan: Or a hundred.

The Court: Or a hundred. When did it commence?

Mr. Hallinan: In 1934.

The Court: 1934.

Mr. Hallinan: And its activities, Judge,—There are three [527] men here on trial whose future happiness, the happiness of their families, the happiness of a great many people whom they represent, depends upon. I don't have the power by a few statements made to a jury to change the effect of the evidence that will be introduced. But I have the right to delineate to the jury what our theory is and what we will attempt to prove; and nobody's hurt by giving us a little leeway and crediting me with some common sense in—Now, if I should say to this jury that I will prove a conspiracy of this kind and at the end of it they say, "He has lied to us and he has deceived us," is that going to help my client? I say I will prove the conspiracy to put perjured testimony on the stand, to say that Mr. Bridges was a Communist.

Now, there is the thing that I am attacking.

The Court: Mr. Hallinan, no one in this courtroom, and certainly not the Court, disputes your common sense. Now, I think where our problem becomes unwieldly, if it is unwieldly, is due to a situation wherein you are presently anticipating the calling on the part of the Government of a number of witnesses who may or may not be called. Now, bear in mind, I reiterate again, I do not know the trend of the Government's witnesses; I do not know the names or the identity or the personnel of the various gentlemen who are going to take this stand —125 or 1 in number. Now, I think, Mr. Hallinan, that you are anticipating much of the Government's case; you are indulging [528] in speculation on speculation. And in addition, creating an atmospheric quantity at this stage designed to prejudice and inflame the jury in connection with any sage, considered judgment they may have on the evidentiary matters. Now, that is my judgment.

Mr. Hallinan: Your Honor, may I say this?

The Court: Yes.

Mr. Hallinan: I am not relying upon what the prosecution produces. I know what the prosecution will produce. But I am counting also on what we will produce. The evidence will be competent, it will go to the credibility, the purpose and the motive of the witnesses who will be produced here, and to the assertion by the prosecution that Harry Bridges was or is a Communist. Directly! Directly! It is the kind of evidence that not to offer to the Court would be criminal.

Mr. McMillan: Now, may it please Your Honor, there is a time and place for everything, and a trial must be orderly. Now, to get up and under the guise of an opening statement, make what should be, we will say, a beautiful, eloquent closing argument by counsel, and get before this jury, although counsel says, "I am not going to tell what the findings were,"—but he has spent an hour rehearsing all these proceedings and exuding all these poisonous matters, and of course the jury will be very curious; "I wonder what did happen in those proceedings. Where there is some smoke there must be some fire." [529]

Now you can't go ahead and make an attack upon witnesses in advance. You can't start in and make this attack under a guise of an opening statement, because here is what would take place. If you throw enough mud at every one of these witnesses before they take the stand, in the hope that some of it will stick, why, the jurors will look at all of these witnesses when they take the stand, one right after another, after Mr. Hallinan makes the statement,—they will look at them to see if they haven't got horns. Now——

Mr. Hallinan: They will.

Mr. McMillan: Now, the time for him to make the attack upon the witnesses is after he has testified and after they have testified on cross-examination, to attack their credibility. But not in advance.

Mr. Hallinan: Wouldn't it be nice if the defense lawyers, in the position that Your Honor has often occupied,—because Your Honor never was a prosecutor—wouldn't it be nice if the defense lawyers were limited in their manner of conducting their defense by what the prosecution wishes to direct? Now, I see Your Honor's entire position; I see Your Honor's entire position. I know you don't want to have extraneous matters in. I won't bring them in.

The Court: Mr. Hallinan, I am loath to interrupt a lawyer in the course of a statement. I think, and unless it be a very, very material interruption, that it is unfair as a rule. [530] Both of you men, Mr. McMillan, Mr. Donohue, you and your associate, are skilled men. And dealing with skilled men, I always feel very comfortable about it. I feel that we haven't that ineptitude that sometimes attaches to a trial. I say that to you frankly. I feel very comfortable about this trial; all the men are skilled men. And when I rule, I rule with some consideration given to the pleadings, to the law, to the issue. I hold, as I reiterate, that all of these administrative matters are moot, irrelevant and immaterial.

I hold that with respect to those matters you may for purposes of cross-examination surely refer to the transcript for the purpose of impeachment and the like. I hold that any reference to this jury at this stage of the proceeding will tend to prejudice, rather than clarify, the issue. I of course am at a loss presently to indicate to you how we may delimit your presentation at this time. I am loath, as I say, to constantly entertain objections. Mr. Donohue is very gracious and was gentleman enough to be seated. I indicated, because it was then a quarter of four, that I thought we then might thrash the matter out. I assume that you will adhere to my ruling. That is my ruling and I assume it will be accepted with the finality that sometimes attaches to my rulings.

Mr. Hallinan: I have no—Any ruling Your Honor has made I have no quarrel with. I think you have been very fair and very proper. [531]

The Court: I feel that this case is important, certainly to your clients. It is probably as important a case as you have ever tried in your career.

Mr. Hallinan: The most.

The Court: It is probably an important case to the United States Government, no doubt. We have marshalled here some of the finest talent, I suppose, on the Coast, as well as elsewhere. I hope that I will be able to define these issues with whatever little talent I have, and whatever energy at my command; and I feel that my ruling now is correct. I know that tomorrow morning when you approach the matter of this opening statement you will be guided accordingly. I say to you, let this evidence unfold. You are not foreclosed from full, clear and sweeping cross-examination. You are not foreclosed from resort to the transcripts. No doubt you have studied them very carefully, as you know how to study transcripts.

Mr. Hallinan: In three weeks that many transcripts (indicating).

The Court: You have the benefit, of course, of associate counsel—the old firm no doubt are helping a little bit?

Mr. Hallinan: Yes—who made the motions that Your Honor treated with contempt.

The Court: I am satisfied, knowing how zealous Messrs. Resner, Andersen, Gladstein and Sawyer were in behalf of Mr. Bridges,—I am satisfied they are shoulder to shoulder with you. [532] But be that as it may, I feel you are well equipped to proceed, and tomorrow morning I hope that you adhere to my ruling.

Mr. Hallinan: Now, Your Honor, I would ask you to give one thought, Your Honor, during the night,—just one thought to this, and make your limitation based upon that. And that is, I know that you concede to us the right to show that a conspiracy of the witnesses produced by the Government exists to commit perjury on the witness stand by claiming falsely that Harry Bridges was a member of the Communist Party.

The Court: If such a conspiracy exists, I adopt your terminology—it is one of the most fantastic defenses that I have had presented to me.

Mr. Hallinan: Yes, but you will see how true it is.

The Court: To say that 125 witnesses have conspired over a period of many, many years is somewhat fantastic, but——

Mr. Hallinan: Do you know who said it, Judge? The Supreme Court of the United States.

The Court: This is not a matter in which the Supreme Court had anything to do. This matter has never been reviewed by the Supreme Court. The supreme Court has never heard any of the witnesses.

Mr. Hallinan: Yes, it has.

The Court: That will be present in this case, so far as I presently know.

Mr. Hallinan: Yes, but you are wrong in that. [533]

The Court: So far as I presently know. I am not bound by the assertions, by the pronouncements nor by the opinion of any member or members of the Supreme Court. We are trying this case on an indictment concerning which we have had no review. Now, it may well be, to quote from the Justices, for whom I have the highest regard,—but at the same time, it is wholly irrelevant to this proceeding, as I see it.

Mr. Hallinan: But what I am saying is this: Your Honor finds fantastic what the Supreme Court found to be the fact.

The Court: I adopt your phraseology.

Mr. Hallinan: That a conspiracy existed between these people to testify falsely against this man. The same conspiracy is now producing witnesses on the stand, and they will again testify falsely. And if they do not produce the witnesses, then we will show the production of the witnesses to testify falsely. We will show the conspiracy independently of their witnesses.

The Court: That may be, that may be your province—that may be your province. It may be anticipating matters now. We may be pretrying it.

Mr. McMillan: Yes. Not only anticipating matters, because if he makes this showing of which he speaks, I have no doubt Your Honor at the conclusion of this trial will instruct the United States Attorney to present the matter to the grand jury to have them indicted for conspiracy. And if he would continue [534] this inflammatory speech before the jury, I suppose the jury would wonder why you do not stop these proceedings and have an investigation made to indict all these people.

The Court: Well, for the immediate purposes, then, Mr. Hallinan, I shall sustain objections interposed to that type of presentation at this stage of the proceedings.

Mr. MacInnis: May I make a suggestion.

The Court: Yes, sir.

Mr. MacInnis: Well, now, Your Honor, I would like to call to your attention another facet of the case, involving largely the defendant Harry Bridges, but involving to a lesser extent defendants Robertson and Schmidt, whom I represent. There is a blanket allegation in the indictment which Your Honor has many times read.

The Court: I have read it.

Mr. MacInnis: It was read this afternoon by Mr. McMillan to the jury. That blanket allegation supplements what is charged about Harry Bridges at the time he was naturalized before Judge Foley. And that blanket allegation, even though it can be offered in one sentence, either by Mr. McMillan or out of the lips of the indictment, is that from 1933 onward, continuously, up to the present time, Harry Bridges was a member of the Communist Party. The plea of not guilty by Harry Bridges puts into issue every allegation in the indictment. That one, too. [535]

Now, Mr. McMillan has the right either to make a complete opening statement, telling the jury what he will prove by what witnesses and in what fashion, or he may choose to adopt the manner he assumed today, merely to read from the indictment and tell the jury that he will prove the case to a moral certainty and beyond a reasonable doubt.

The defense, however, is not to be strictured because brevity seems the best strategy for the prosecution at this time. If Harry Bridges is charged with being a Communist, a member of the Communist Party, continuously from 1933 up to the present time, we have a right to inquire—you must inquire and the jury must listen, to evidence concerning what this man did from 1933 continuously up to the present time. And everything he did, everything affecting the problems which will naturally be discussed in this case, bears upon the truth or falsity of that charge. Whether he was or was not a Communist. That is not a problem that you could decide as a judge or that a jury could decide by itself, by any formula. You won't find in the case books any definition of what a Communist is. You can't say; that the Government must say he is and the defendant must say he isn't—and that is all there is to it.

The Court: Well, the Government claims the co-defendants are likewise——

Mr. MacInnis: I am going to come to that in a moment. We are told by the Government that there is some secret kind of [536] understanding between people by which a man can be a member of the Communist Party and still conceal that from the so-called rank and file members of the Communist Party. We are to assume from that that the man doesn't have to have a membership card or any of the ordinary incidentals that attach themselves to a man's membership in any organization. [536-A]

So I say again, under the evidence, what will be the test of whether this man was or was not, whether he is or is not, a member of the Communist Party? It will be the sum total of all of the acts of his life; it will be the sum total of all these acts.

The Court: I disagree with you, counsel. I cannot see that the sum total of all of a man's life should become, as a composite, the criteria of whether he be a member of a party or any particular party, or whether he be a Communist.

Mr. MacInnis: I think, your Honor, that we will both understand that I don't mean by that his private life, his life at home, his meals, his hours of leisure. We don't mean that at all. Those parts of his life which have to do with political activities which may or may not under a given set of facts, which may or may not under the cricumstances presented, constitute a finding, or the basis for a finding, of membership in the Communist Party. Those things will come into evidence, and if the government says in effect, "We will show you that the man did this, he did that, and he did something else, and that he is a member of the Communist Party because of it," the defendant on the other hand would have a right to outline all of these activities and to show that in spite of them, there was no membership in the Communist Party.

Now you mentioned the other defendants. We learned today for the first time out of the lips of Mr. McMillan that Mr. [537] Robertson and Mr. Schmidt are accused of being members of the Communist Party. Up to the time that brief statement was made today, we were completely in the dark as to what these charges might be involving Mr. Robertson and Mr. Schmidt. We knew that they were alleged to have conspired falsely to conceal the fact of Harry Bridges' alleged membership in the Communist Party, but other than that we were told nothing. Now we are told by Mr. McMillan without any delineation of proposed evidence, "We will show you that Robertson and Schmidt were members of the Communist Party." When? We are not told that.

The Court: I assume that he will place witnesses on the stand to that effect.

Mr. MacInnis: Yes. Now in the indictment these men are charged with conspiring. When? At a time to the Grand Jurors unknown. At places to the Grand Jurors unknown. Now merely because the prosecution, perhaps necessarily, adopts language of such mystery, esoteric words that mean nothing now, that doesn't mean that the defense cannot, as Mr. Hallinan said, lay all of its cards on the table right now. We have a right to show this court and to demonstrate to the jury that Bridges, Robertson and Schmidt, from 1933 up to the present time, were never members of the Communist Party. We have a right to show all of their political activities. We have a right to show those things which might constitute, in the expression [538] of an opinion by a judge, or by a prosecutor, affiliation, negotiations, doing business with members of the Communist Party. And we have a right to distinguish for the court and for the jury the dividing line, showing that while they did certain things, as Mr. Hallinan has suggested, they were still not members of the Communist Party. Now it seems to me that your Honor would never foreclose the defense from showing completely and unequivocally and definitely that these men——

The Court: That has not been Mr. Hallinan's opening statement.

Mr. MacInnis: I am merely adding to the position.

The Court: That is a far cry from Mr. Hallinan's opening statement. Anything you said now was a far cry from it.

Mr. MacInnis: It is merely a different facet from the same historical outline.

The Court: Different as night from day.

Mr. MacInnis: It is offering your Honor another different reason for the reception of the same evidence, because the outline is the same in either event.

The Court: No, no.

Mr. MacInnis: And both reasons are——

The Court: No, the pigments used by Mr. Hallinan on the canvas are altogether different from the general mosaic that we seek to paint at the present time.

Mr. MacInnis: Well, we wouldn't hesitate to change a [539] pigment if it would come within the purview of your Honor's ruling.

The Court: Counsel, I have made my ruling and that is going to be the rule tomorrow morning. I should rather not have to interrupt Mr. Hallinan constantly, but if that trend of opening statement is made, I shall sustain objections to such matter as shall be regarded as irrelevant and immaterial. I think we have reached a late period, and we may weary otherwise. Tomorrow morning at ten o'clock.

(Thereupon an adjournment was taken until tomorrow morning, Friday, November 18, 1949, at 10:00 o'clock.) [540]

Friday Morning Session, November 18, 1949

The Clerk: The case of United States of America v. Harry Renton Bridges, Henry Schmidt, and J. R. Robertson, on trial.

The Court: Is it stipulated that the jurors are present, gentlemen?

Mr. McMillan: Yes, Your Honor.

Mr. Hallinan: Yes.

The Court: Before Mr. Hallinan launches into the balance of his opening statement, I desire to address the jury quite briefly. (My reason in waiting, ladies and gentlemen, is not because of my impatience at all with people coming in and out but because it is difficult to hear and I will wait until the audience is settled.)

To reiterate, before Mr. Hallinan launches into the balance of his opening statement, it is my desire to acquaint you in a more specific sense, rather than general sense, with the province of an opening statement. The Government, through Mr. McMillan, read to you an outline of the Government's case. That is a general outline of what they expect to prove. An opening statement is distinguished from a closing argument in the very nature of things, for the very obvious reason that in an opening statement presented by the defense, it is impossible to conceive all of the eventualities of the litigation in terms of the witnesses to be produced, the nature of their testimony and [541] the like. I therefore ask you to have in mind that primary distinction between the opening statement and the closing statement. When the evidence is unfolded, when the day is done, when the examination, both direct and the cross-examination, are over, when all of the witnesses, plaintiff, government and defendant, have been heard, both direct, defense and in rebuttal, then the closing arguments are had. The closing arguments perforce must be confined to the issues and must be confined to the testimony. Now, although latitude is allowed in the course of argument, the opening statement or closing argument, the courts are wary——

(Mr. Marshal, I left word with the custodian last week that a sign be placed in the alley or areaway, that loud and unusual noises be refrained and abstained from. May I have a sign posted down there? It is extremely difficult to conduct an important case.)

The courts are wary, apprehensive and diligent in avoiding the consequences of what may be regarded as inflammatory matter. Can you hear me all right?

A Juror: This window is up. It is really difficult.

The Clerk: May I close the window?

The Court: I realize that. My note of impatience is not with the conduct of business but it is one of the situation of the courtroom itself. We have problems here and we have to do the best we can. I would appreciate, Mr. Mitchell, if you [542] would see that they would carry out that slight suggestion. I say it with great humility.

The Clerk: I will see that it is done today.

The Court: The courts are wary, as I said, not repeating myself, but merely to bring you up to date with what we had to say before we were interrupted, the courts are wary to protect the record and protect jurors in the introduction of extraneous and inflammatory matter. Inflammatory matter may be of that character which can not be erased from the minds of the jury, notwithstanding any admonition given by the court. Usually a court will admonish with respect to the alleged misconduct of counsel during the course of the trial one or more counsel. One counsel or the other may say, "We regard that as misconduct and we ask the Court to admonish the jury to disregard it." You may hear that, and you may hear the Court in response to that request grant it and give that admonition, a statement more or less general or specific, that you are to disregard the statements of counsel and seek to erase the same from your minds.

Now, erasing matter from your mind again presents psychological and psychiatric features. To erase matters obnoxious or noxious or inflammatory from your minds is sometimes highly impossible and improbable. Therefore it is the province of the Court—not only province but duty—to interrupt an argument when the Court feels that counsel is indulging in matters that [543] are far removed from the issue. The issue, as I announced during the course of your examination, is one confined within the indictment: Did Mr. Bridges, acting in concert with the alleged co-conspirators, swear falsely on the date mentioned in that did he testify untruthfully when he was asked as to his being a Communist? He said, "No."

Now, it is difficult for me to anticipate precisely what Mr. Hallinan has in mind with the balance of his opening statement. I said to him last evening, and I repeat now for the record, that I believe there has been no prejudice thus far attached to anything that was said. I asked Mr. Hallinan to confine himself to the issue involved, not to engage in a closing argument, for the reason that the witnesses have not been heard. It is impossible, if not improbable, that all the witnesses referred to by Mr. Hallinan will be called here.

I might supplement what I say by telling you that counsel must confine their remarks to the issue of the case, the applicable law, the pertinent evidence, and legitimate inferences which may be drawn from the evidence. That would apply to an opening statement or a closing statement or a closing argument.

Now, an opening statement in the very nature of things contemplates an outline of what is expected to be proved, a mere outline, without filling in the parts of the mosaic, the parts of the painting. Mr. Hallinan adopted my particular terminology when he said that the province of an opening [544] statement is to channelize the evidence that you may better understand it and to orient yourselves to the case at bar. Equally it applies to the Court. It gives me an opportunity to orient myself to the issue.

Now, with that general statement in mind, I ask Mr. Hallinan to proceed, having in mind the limitations under which I desire the opening statement to be made. What I have to say, of course, ladies and gentlemen, is no reflection on Mr. Hallinan at all in connection with anything that was said. I think you understand the general nature of it.

Mr. Hallinan: Entirely. And I might say I have since last night discarded much of what I intended to say in deference to Your Honor. I am sorry to create any impression in your mind that I may be going beyond what is fair, because certainly very fair to everybody in this case. The thing is, of course, I feel differently on it. I offer the matter but I am not trying to be obstinate about it.

We will be relieved from further difficulty, I think, by the fact that the transcript of what the prosecution said it was going to prove has been written up, and I will confine myself to matters, to a large extent, that are discussed in that transcript, and which counsel says he is going to prove to you, and which I tell you he is not going to prove to you, and I will tell you why he is not going to prove it to you, and there [545] won't be any question in anybody's mind that this case revolves around a charge of conspiracy, made by the prosecution, in which they charge that Harry Bridges and his co-defendants falsely, under oath, stated that he was not a Communist, and we will show you to a moral certainty and beyond any reasonable doubt that the actual conspiracy is a conspiracy of people who will appear before you and swear falsely under oath that he was a Communist, and there is the entire issue and, of course, inquiry must be made as to why people do those things. They are entitled to show why Harry Bridges should have sworn falsely to get his citizenship. They would be entitled to show why Mr. Robertson and Mr. Schmidt collaborated with him in that design. We are entitled to show that the witnesses who take the stand here and say he is a Comumnist are liars and perjurers and we are entitled to show why they nevertheless take the stand and so assert. Now, I will narrow everything down to that question. I might say this: I stated to the jury yesterday that we would show—and when I say "we will show," my friends, unless I qualify it by saying that "I believe we will show" or "We will probably show," or "I think we can show," or "That it will emanate from us," I mean we will show it conclusively from the prosecution and its witnesses themselves, and from things that they can not deny, and they can not take back, and they can not challenge, because while the results of previous hearings can not be discussed in front of the jury, the fact that they [546] have occurred puts both prosecution and defense into channels, as the Court suggests, from which they can not remove themselves now. So we know what the story is.

Now, I have told you that they started off by saying that Mr. Bridges was a certain Communist, a sailor named Harold Harvey, and that that being disproved by finding Mr. Harvey's passport with a thumbprint on it, somebody then shifted over that he was another Communist name Canfield.

Mr. Donohue: I am sorry, Mr. Hallinan. I think I must object. I am certain that no part of this historical recitation which Mr. Hallinan began yesterday is within the purview of Your Honor's instructions given to him late yesterday afternoon, and for that reason I object to that line of argument.

The Court: Specifically, what have you to object to as to this last assertion?

Mr. Donohue: Mr. Hallinan is now suggesting, if Your Honor please, that in the first instance, as he stated, without coming to the conclusion which was reached that there were other prior proceedings involving the same issues or the same charge as is here under discussion, that is not true.

The Court: No, he said prior proceedings which he would not advert to excepting the testimony of the witnesses.

Mr. Donohue: And then he follows by suggesting at one time someone charged Mr. Bridges with having been a Communist. [547]

Mr. Hallinan: I am getting up to the genesis of the Harry Dorgan name and to show the beginning and the truth of it to direct the jury's attention to that matter.

The Court: I have no doubt what Mr. Hallinan has in mind, but I suppose that he proposes to show by his cross-examination he is going to develop some of these matters.

Mr. Hallinan: Correct, Your Honor, and unless you know it in advance, unless the jury knows it in advance, they won't know what we are talking about and then every few minutes we will have to stop and explain what the purpose of the question is.

The Court: I will have to indulge myself to this extent, Mr. Hallinan, to abide at the present time in what I regard is your regard for my limitation of the argument at this juncture.

Mr. Hallinan: I will do that. They told you they were going to show you that this gentleman had a Communist Party ticket, card or application issued under the name of Harry Dorgan and will show you the genesis of this Harry Dorgan fable which went through the names that I have indicated, including that of Rossi. And the ridiculous part is the remainder of that man's name was Angelo J. Rossi. Somebody had used the name of the mayor of San Francisco, probably from some of these eastern sources, whence these gentlemen emanate, as being a member of the Communist Party. But finally, to get down to the Dorgan story, and to show you how much merit there is to that, [548] in 1925 a convention of a rival labor organization was held in Seattle, at which it was attempted then to blacken, to defame

Harry Bridges, and a man named Paul Scharrenberg, a rival union leader, got up on the floor of that convention and claimed that he had in his possession a book of the Communist Party issued to Harry Dorgan, and that Harry Dorgan was in reality Harry Bridges. And the conclusive proof of that was that Harry Bridges' mother's maiden name was Dorgan, and Mr. Scharrenberg paid $500 to what he described as an inside spy to get him that book. But, alas, the spy had sold a dozen books under that name or other names to various persons interested, describing and pretending that Harry Dorgan was Harry Bridges and this was his book.

Now, from the records of the Immigration Service itself you will learn this, that in addition to the effort to get Bridges by these witnesses, by pretending that he was Harry Dorgan, a Communist, if there was a Harry Dorgan, a Communist, they also said that he had left the country illegally, gone to Canada, and returned without having gone through the forms that an alien was required to do, and a great hullaballoo, hue and cry ensued upon that, and then it was discovered—and that is not our testimony; it is the Immigration Department's testimony under oath—that having discovered the man who had gone to Canada and disported himself, as the Immigration Department puts it, capitalizing on the notoriety of Bridges, they discovered [549] it was not Bridges at all, but some man who, relying upon somewhat of a similarity of face and figure to our hero here, capitalized upon it in Canada and had a good time around in the labor unions before returning to the United States. So there is all sorts of matters of that kind, impersonations of Bridges, people who think they saw Bridges, people who five years ago identify him as the man they saw at a particular place.

Now, Mr. McMillan says that they will bring into this trial certain labor leaders, former associates of Harry Bridges. Unfortunately they will, because the labor movement, as you may have all observed, at times in its career turns back on itself and rends and destroys itself and engages in internecine quarrels that destroy its utility.

Mr. McMillan: If Your Honor please, is that a statement of what they expect to prove?

Mr. Hallinan: Yes, certainly.

Mr. McMillan: It seems to me that it is an argumentative statement.

Mr. Hallinan: Oh, it is not. We are entitled to show the quarrels between these labor unions as modifying and explaining the witnesses who take the stand.

The Court: I will interrupt you momentarily, Mr. Hallinan, to admonish the jury and admonish you that we are not trying warfare or alleged warfare between any union or any group and the like. This case involves Mr. Harry Bridges, Mr. Robertson [550] and Mr. Schmidt. Witnesses will be produced here. Now, the general trend of this opening statement is purely speculative, so far as the Court is concerned. It appears to be a blanket assertion of an attempt on Mr. Hallinan's part to discredit all the witnesses produced by the government in one fell swoop. I am not going to limit you but, Mr. Hallinan, I say to you again it is not serving any particular purpose to the Court—it may to the jury, but I doubt it—to have these blanket assertions made. I think in the final analysis you should reserve your closing argument to the close of this case, realizing your extreme eloquence. At the present time, may I suggest that you give an outline of what you have in mind?

Mr. Hallinan: Very well, Your Honor; but Your Honor has very accurately defined the purpose. Every witness that the prosecution will produce will be impeached in advance by the interest, the motive and his prior conduct to Harry Bridges, and that is all I want to tell the jury. In other words, I want the jury to look at these witnesses as they take the stand and not be deceived, but reserve judgment as to whether we will not show those things.

I suppose if I deceive this jury, or if I say something that I can not prove to the extent that I have promised to prove it, then my credit with the jury and the credit of the entire defense lapses. And I am willing that that should be so. Now, I can't see how I could be more sincere than that. And I [551] will also say this, Your Honor, that if the Reporter takes down the statements that I am making, at the end of this case the jury, yourself and the prosecutors will admit that every word of it has been properly introduced in evidence.

Now, I should not, and I know you will not force me to be called upon to disclose the exact fashion of that.

We have heard from the gazettes, which is the common source of most of our information, that counsel has some surprises for the defense. We are not going to allow our western hospitality to be outdone by the Lochinvars from the East, and I will tell counsel that we have some surprises, a box of surprises.

Mr. McMillan: That is not appropriate to an opening statement.

Mr. Hallinan: I am explaining to the Court. This is an opening statement.

Mr. McMillan: This is an argumentative statement that would be very eloquent in a closing argument.

Mr. Hallinan: No, I want to tell you in advance so you will not be misled. You do not want to mislead us and I wouldn't want to mislead you. I want to tell you that we have a trunk of surprises.

The Court: Mr. Hallinan, what you have to say is argumentative, anticipatory.

Mr. Hallinan: Very well, Your Honor. I think, Your Honor, what has happened is the gentlemen on my left got together last [552] night and resolved that about every other sentence I uttered they would get up and make some objection. All right, I don't want to quarrel with that.

Mr. McMillan: That is not an opening statement either, Your Honor.

Mr. Hallinan: There is one sentence—three intervals of objection, so we will go on to the fourth. This source of witnesses that counsel has told you he is going to produce here, comes very close to the matter that I am now going to discuss with you. I have said that a certain company union had existed on the waterfront and was replaced by an American Federation of Labor union, and then the American Federation of Labor assigned a certain committee called the Committee for Industrial Organization under John L. Lewis to organize industries on a total basis. We all know prior to that time most unions were local craft unions, rather loosely amalgamated, and they were not industrial unions. But the new union, under the NRA matter, the CIO, the Committee of Industrial Organization, became very active and very successful and finally some difficulty—we won't inquire into that unless it be considered argumentative—caused the American Federation of Labor to quarrel with the CIO and ultimately to expel them. The CIO was then considered what is called a left-wing organization, democratic, with no discriminations against anybody for race, religious belief or political belief, and it was called by the A. F. of L. Communistic. [553]

And Harry Bridges, who was then an officer of the A. F. of L., was expelled from the Union as Communistic, because he encouraged the amalgamation of the Longshoremen with the CIO. There again, a great——

Mr. McMillan: May it please your Honor, we are obliged—patience has always been a very predominant feature in my nature, but I can't let these matters go by.

The Court: The objection is sustained.

Mr. Hallinan: Getting away from that point of it and coming directly to a witness who will be brought in here, and to two other witnesses who will be the agents of that particular witness, the difficulty as to what master organization these unions would associate with being resolved by the longshoremen, the ILWU, in favor of the Committee for Industrial Organization, by an enormous vote of the Industrial Organization; by an enormous vote that union left the American Federation of Labor and associated with the Committee for Industrial Organization. A number of unions along the Pacific Coast engaged in maritime and longshore work had been amalgamated for some years in a federation called the Maritime Federation of the Pacific. The longshore workers' union was the largest of the——

Mr. McMillan: May it please your Honor again, I object to this historical matter. I can't for the life of me see at any stage of this case where this historical situation [554] would be admissible.

Mr. Hallinan: If counsel would give me five minutes, I will show him in an instant and I will define one of his witnesses for him within the five minutes.

Mr. McMillan: Well, may it please your Honor, the difficulty about this whole matter is, it is historical and it is argumentative: it properly belongs in an argument, not an opening statement. In an opening statement it is not intended to take a shotgun——

The Court: The objection is sustained.

Mr. Hallinan: Now, an organization of sailors on the Pacific Coast, a member of the Maritime Federation of the Pacific, was controlled by a man who will appear before you. His name is Harry Lundeberg, one of the most remarkable of the witnesses that will be produced. He is like a character from Jack London, a typical bucko mate, with a reputation for violence and ferocity as wide as the Seven Seas—a man who has been arrested for brawling and assaults in half the courts of the world. Dominating this union with an iron hand, he burned the ballots that were taken——

Mr. McMillan: If your Honor please——

Mr. Hallinan: ——by his union concerning the Federation——

Mr. McMillan: Just one moment.

Mr. Hallinan: Pardon me. You want to [555] talk?

Mr. McMillan: I want to make an objection, Mr. Hallinan. You as a lawyer, with your wide experience, know that you have no such statements to prove in this court.

The Court: This—I again repeat another admonition to the jury, that what Mr. Hallinan has to say is in reality that type of matter that may be reserved for closing argument, if the facts demonstrate it. This wild anticipation of the Government's case is to my mind novel; I have never experienced it before in these courts, and I am naturally indulgent toward counsel on both sides, to the end that this case be heard fairly, impartially and that we have all the evidence before us. But I think, Mr. Hallinan, that these excorations and vituperative matter bearing upon Mr. Lundeberg and others has no place at the present time.

Mr. Hallinan: Very well.

Mr. McMillan: May I interrupt, just to give a good example? He has stated Mr. Lundeberg has been arrested in every port——

The Court: I noticed that. I noticed that. All parts of the world. And I will instruct the jury to disregard that statement.

Mr. McMillan: Well, the point that I had——

The Court: I was hopeful that we might get into the evidentiary matter, have the case under way. I am not going to foreclose Government counsel or defense counsel from the [556] widest argument at the close of this case. I am not going to foreclose them on time.

Mr. McMillan: Yes.

The Court: I never have. I assure you, Mr. Hallinan, that I will give you ample time, as well as your colleague, Mr. MacInnis, to argue the matter from its fullest picture. But at the present time I say again to you, with the mild degree of patience that I command, that you are going far afield from any opening statement that I have ever heard in this court or any other court.

Mr. McMillan: Your Honor, what I wished to point out definitely is this: Those statements with reference to arrest; now, Mr. Hallinan is a skilled lawyer, and knows that if that witness takes the stand and he seeks to impeach that witness, the only question that he could ask him is, "Have you ever been convicted of a felony?"

The Court: I understand.

Mr. Hallinan: I don't intend to prove it by that witness; I will prove it by one of your own witnesses. One of his own, his other witnesses. Of course, what they want me to do is tell them precisely what we have, and what we are going to confront some of the—I almost used an adjective again—some of the people that they are going to put on the stand. But I don't intend to do that. As far as I can, I want to acquaint the Court and the jury with the outline of [557] what we have to say, without disclosing, without uncovering, our truckload of surprises in exchange for their concealing the few that they have promised us. That is all. But I will prove it by another witness of yours.

Now, when Bridges and his union left the American Federation of Labor and went over to the CIO, they incurred and he incurred the hatred and animosity and the antagonism of Harry Lundeberg, and another character as formidable, at least, Dave Beck of the Teamsters Union; and other men who were heads of the American Federation of Labor unions, disturbed and upset by the decrease in their power and their income from the defection of these unions to the ILWU. And these people who will be witnesses here and who will have groomed and instructed witnesses who will appear here, by no means confine themselves to mere oratory or testimony on the witness stand. We will show you in impeachment of them, and getting right down to the impeachment, as counsel insists, that they not only employed a known thug and murderer to kill Harry Bridges,—we will prove that out of their witnesses—but that they sent two men, including another of their witnesses, to New Orleans, and did in fact kill and murder some poor man down there who was an organizer for the CIO; that that is the kind of people they are; and that the perjury that they will commit upon the witness stand is only dessert to the heavy meal they would be willing to serve out to those who [558] are opposed to them.

Now, I will say no more about that, because I don't want to transgress upon the order of the Court, and I want to bring this to a conclusion, and I will do so as rapidly as I may be permitted. Of course, the more interruption, I suppose the more difficulty I will have to conclude rapidly.

In all the machinations of these conspirators,—Now, Lundeberg and Beck and the employer groups that I have mentioned amalgamated together for the time being, disregarding their mutual conflicts, to strike at the common enemy. And Harper Knowles, Doyle, the other stool pigeons were ably augmented by the goon squads, the killers and the perjurers, under the control of Mr. Lundeberg and Mr. Beck. And fuel was added to their fire and their pretense is somewhat justified by what I say, the open-handed manner in which the longshore workers and warehousemen's union refused to witch-hunt on Communists or expel them from the union or to disassociate from them or treat them with contempt or anything else—granting to them the same right of political faith that they advocated for themselves.

But Mr. Bridges never took any position, and he never did one single thing, and he could not have done one single thing, except as he was instructed by the union to do; and they will not be able to produce one word, one resolution, one order executed by this union in accordance with the [559] philosophy or the dictates or the orders of anybody, Communist Party, Communist officials, Harry Bridges, or anybody else except the rank and file of the International Longshore Workers and Warehousemen's Union.

The next category of people that counsel says will take the stand and testify here are certain Government officials. Now, it is not to be supposed that people of the power and strength of Mr. Bridges' enemies could not enlist certain Government officials in their activities. And they did, to a considerable extent. But let me say this right now for the jury, that any mention that is made of the activity of the Government officials in that connection does not mean the United States Government as a whole, or does not mean the majority of the officials or any officials other than the ones designated, because at every juncture of his career, when his safety and his happiness were threatened, some fine, upstanding, granite-honest American official,—and usually in a high place—leaned down and lifted Harry Bridges and delivered him from the coils——

Mr. McMillan: If your Honor please——

Mr. Hallinan: ——of the conspiracy that had wound around him.

Mr. McMillan: Just a moment, counsel, I want——

Mr. Hallinan: So we are not making any criticism——

Mr. McMillan: If your Honor please, that is also part [560] of a closing argument. It is purely argumentative.

The Court: Yes, objection sustained.

Mr. McMillan: It is quite eloquent, but——

The Court: The objection is sustained.

Mr. Hallinan: The strength and extent to which these people were willing to go may be learned from the fact that as early as 1936 they caused a warrant for Mr. Bridges' arrest on a deportation inquiry to be issued by the Secretary of Labor. The result of that deportation inquiry I am not going to go into, but the fact that one existed is of the utmost importance, and is one of the things that the jury will have to take into consideration in analyzing what the witnesses are saying. And I will presently explain to you why.

The United States House of Representatives passed as against Harry Bridges the only bill of attainder ever passed in the United States, and——

Mr. McMillan: Your Honor, if your Honor please, that is argumentative. He is not in some conference now.

The Court: Objection sustained.

Mr. McMillan: Counsel has been indicting everybody. I think he, as Edmund Burke says,—you can't indict a whole nation.

Mr. Hallinan: You are trying to indict a large part of it, the whole labor movement.

Mr. McMillan: Beg pardon? [561]

Mr. McMillan: You are trying to indict a large part of it, the whole labor movement.

You will find that this indictment is confined to three persons.

Mr. Hallinan: Of course, what I should have done is have some little pest along with me so I wouldn't have the burden of quarreling with people. Now, Mr. Donohue sits elegantly by and urbanely surveys this, while Mr. McMillan, who was very friendly——

Mr. Donohue: Well, I think it is about time, if your Honor please,——

The Court: Yes, I think it is about time for the Court to say a few words. Mr. Hallinan,——

Mr. Hallinan: Now, your Honor, did you take cognizance of the oratory that Mr. McMillan just engaged in, in stating you cannot indict—quoting Edmund Burke, and so forth?

The Court: I am going to direct my attention to your characterization concerning Mr. Donohue, his urbane manner in sitting there, and so forth. This is no courtroom wherein to indulge yourself, Mr. Hallinan, in these general characterizations that sometimes have room or harbor in other tribunals.

This is a most serious matter. I have treated it as a serious matter. The Government will, and I hope you do. We are not going to get any place in the trial of this case by any such characterizations or personalities [562] indulged in. If you desire to indulge yourself in that direction, I suggest you do it elsewhere.

Mr. Hallinan: Well, I apologize for it, your Honor. I didn't mean——

The Court: There is no apology necessary.

Mr. Hallinan: I will not fall into that again, your Honor.

The Court: There is no apology necessary to the Court, because I do not deal in apologies; I deal in more stringent matters. Now, I say to you, with every bit of sincerity that [illegible] have, that we continue this case in an orderly way. I indicated at the threshold, when we empaneled this jury, that your clients would receive a fair trial. They will continue to get a fair trial. The Government is entitled to a fair trial, and the Government will get a fair trial. Now, these unfortunate characterizations may be part and parcel of your particular manner of presentation—sometimes we cultivate things over the years. But I say to you, leave those characterizations outside the courtroom door. That is all.

Mr. Hallinan: Of course, your Honor, I might crave indulgence upon the natural exasperation that happens to a person when he is constantly interrupted, and that is all. That is all that it amounts to.

The Court: I will willingly agree to that extent. As our Circuit Court said in the Fredericks Case, United States [563] of America v. Fredericks, wherein we agree that there is always some give and take in the trial of a case. The trial of a case to a certain extent is a combat. There is give and take. But there are extreme limitations to the give and take in the trial of a case. Now, Mr. Hallinan knows the limitations as well as I do—just as well, if not better. And I am asking Mr. Hallinan now, without my again reiterating, not to indulge yourself further.

Mr. Hallinan: Very well, your Honor. And of course I apologize to Mr. McMillan. We have been friends for years, and we have barked at each other once or twice before.

Mr. McMillan: You don't have to apologize, Mr. Hallinan; I have reached the age where it is not necessary to apologize to me for anything.

Mr. Hallinan: Well, now, we will get into the opposite thing and we will be lauding and extolling each other to where it is even worse, because when people quarrel with each other and then exchange courtesies——

Now, to discuss the activities of certain Government officials in this, as to point the complete destruction of any case that the prosecution could even attempt to put on. In 1935, as I informed you, Paul Scharrenberg at a convention in Seattle, charged that Harry Bridges was a Communist and a book had been issued to him under the name of Harry Dorgan. And Harry Bridges employed counsel and filed an action for [564] libel against Mr. Scharrenberg.

In 1937 Mr. Bridges attended a convention in Seattle, and agents of the Immigration Department dictographed his hotel room and tapped his telephone wire. And that being discovered was made a matter of such public record that it cannot be disputed, because Mr. Bridges and his union forthwith communicated with the United States Government protesting what, whether right or wrong, they called an infringement of his liberties, of his constitutional rights. The papers ran great articles upon it, and it was widely broadcast everywhere, and letters of indignation and protest rained upon the responsible parties.

Mr. McMillan: Now, may it please your Honor,—

The Court: I waited for an objection. I think in the absence of the prosecution noting an objection, the Court will intrude itself. There is no question involved in this case of wire-tapping. I take it from assurances given to me on the motion to dismiss, there will be no effort made on the part of the Government to introduce any evidence as a result of any unlawful enterprise?

Mr. Donohue: I renew that assurance.

The Court: You renew that assurance?

Mr. Donohue: Yes, your Honor.

The Court: The objection is sustained, the jury is admonished to disregard the statement, of any kind, character [565] or description, bearing upon that matter.

Mr. Hallinan: Now, your Honor, might I be heard on that?

The Court: Yes, sir.

Mr. Hallinan: Might I be heard on that? These people pretend that Harry Bridges had himself elected to the central committee of the Communist Party, and put his safety at the risk of every bum who came along, every stool pigeon, every liar, when he knew all along that twenty-four hours a day he was under constant surveillance, for the last fifteen years, by the efficient operators of the United States Government—that his wires were tapped, that he was spied upon, that pictures were taken of him. Now, that is my purpose, Judge.

Mr. McMillan: If your Honor please, we object to that.

The Court: The objection is sustained.

Mr. Hallinan: Now, as early as 1936 there had been introduced into Harry Bridges' union and into his personal office as his private secretary a woman employed by the Waterfront Employers Association, and she was also the mistress of Mr. Harry Lundeberg. And at that time Mr. Bridges——

Mr. McMillan: Object to these statements, may it please your Honor.

Mr. Hallinan: The same purpose, your Honor.

Mr. McMillan: I can't understand why counsel feels that he is obliged to lug in a mistress here and there.

Mr. Hallinan: We didn't lug her in; they sent her in. [566] We want to show your Honor this is a complete—And it just amounts to this:——

The Court: Now, this is not an opening statement, Mr. Hallinan, either traditionally or in any concept that I have ever heard of. I have already stated my position.

Mr. Hallinan: Now, aside from any general matter, such as I have——

The Court: And an opening statement, if I may amplify one step further, is not a sounding board wherein you may give vent to the external and immaterial matters that have existed over a period of many, many years. I think it rather an extreme situation that reference be made to this woman at this juncture, without any evidence before this Court or jury. You might well in the same breath condemn, indict, destroy, burn at the stake, any person in the City and County of San Francisco, by a bland statement. Now, you gentlemen are asking for a fair trial, the essentials of constitutional rights. And I think you had better——

Mr. Hallinan: Did your Honor see the headlines in today's papers, which said that the Government was going to prove not only that Harry Bridges was a member of the Communist Party but had been elected to high office in it? What concern was there made for reservation——

Mr. McMillan: Your Honor has instructed the jury not to read the papers. [567]

The Court: Mr. Hallinan, am I entirely obtuse in the trial of this case? Or have we descended into another strata of judicial process? I admonished this jury categorically, unequivocally, with every bit of vigor that I have,—which vigor is expending itself in my colloquy with you—that you are not to read the newspapers (addressing the jury) under any conditions. And this Court, mindful of the admonition to you, does not indulge himself in the reading of the newspapers. Now, Mr. Hallinan indirectly has given you part of what the headlines are, which is a direct reflection upon this Court's admonition to you.

Mr. Hallinan,——

Mr. Hallinan: Your honor, all the paper did was repeat what counsel said to the jury yesterday. Now, they said that they would show that in conformity with Communist Party plans of keeping secret the membership of persons prominently identified, that membership cards issued to the defendant were issued in the name of Harry Bridges, that he was some kind of a secret, hidden conspirational sort of member; that he was elected under some sort of secret and guilty idea. Now, they can come out and say that in an opening statement and try to blacken these gentlemen before anything starts. But because we mention some woman, without revealing her name at all, but who we suppose and expect is going to be a witness here, and who if we haven't——[568]

The Court: No. Now, Mr. Hallinan,——

Mr. Hallinan: We will produce the evidence on it.

The Court: Mr. Hallinan, let us pause momentarily and analyze just what we say. You characterized wholesale all of these witnesses as perjurers, low people, characterized them with vile, vituperative terms. 125 in number. I do not know at the present time the identity of any witness about to be called for the United States Government, and I dare say that in large part you do not. Now, I think it highly unfair to this Court, indulgent as I have been with you, to continue on that line or that particular vein.

Mr. Hallinan: All right, your Honor.

The Court: I can't say any more.

Mr. Hallinan: Well, we will drop that.

Now, you must remember—and this will be shown to you—that from that time up to the present, aside from inferring any impropriety upon them, because let's say that they were properly in there, every one of them, and that nothing wrong should be said about them—Harry Bridges knew that every instant of his life was an open book, that he lived in a goldfish bowl; that he was spied upon, observed, seen, that his friends, his family, everybody connected with him were questioned and interrogated by able and diligent representatives of the Government. So that unless he were insane, he could not or would not do the things that these gentlemen [569] so blandly say they are going to show you he did.

Mr. McMillan: May it please your Honor, that is purely argumentative again. There is no difference there than in saying that a man could not have committed this crime because he is too stupid; he wouldn't know how to commit it. Now, he is saying Mr. Bridges, because he was being watched all the while by these "bums" and "stool pigeons," and the scum of the earth, and he knew that, that he wouldn't have done these things. That is purely argumentative.

The Court: We will take the morning recess, gentlemen. I again admonish you not to discuss the case under any conditions nor to form or express an opinion until it is finally submitted to you.

(Recess.) [570]

The Court: Is it stipulated that the jurors are present, together with the four alternate jurors?

Mr. McMillan: Yes, Your Honor.

The Court: Throughout the progress of the trial, may we have that same stipulation of counsel without the necessity of my repeating the same?

Mr. McMillan: Yes, Your Honor.

Mr. Hallinan: Yes.

Mr. MacInnis: Yes.

The Court: Thank you.

Mr. Hallinan: The motives of the witnesses who will testify, whether they are Communists, ex-Communists, rival union leaders or government agents, are equally open to inquiry by the jury. Bridges was possessed of a faculty that may do him more harm in these matters than all his serious philosophy. In the year 1941 a convention was held in New York City and the espionage activities of the Federal Bureau of Investigation witnesses reached ridiculous proportions, that is to say, there were four or five men constantly following him. If he went into a hotel lobby, a young man would be looking through a hole cut in a newspaper.

Mr. McMillan: I object to that.

The Court: Sustained.

Mr. Hallinan: This is all proper, Your Honor, I submit. Can't we show the activities and motives of the witnesses who are agents of the government? Are they exempt? [571]

The Court: I do not know that they are being produced. The matter at this stage of the proceedings is irrelevant and immaterial, and I sustain the objection, Mr. Hallinan.

Mr. McMillan: We do not even know that he is going to bring in that newspaper.

Mr. Hallinan: Ridicule is a very dangerous instrument. People's pride is a sensitive part of their organization. Harry Bridges gave two articles, one to a New York newspaper and the other to a magazine, the New Yorker, which in 1941 described all the boyish workings of the FBI in this case, and excited thereby additional hatred for him in the ranks of an organization that, of course, takes itself seriously.

Mr. McMillan: If Your Honor please, we are obliged to object again. The newspaper articles that he speaks of would be self-serving as a legal proposition.

Mr. Hallinan: Your Honor, it all goes to show the knowledge of the espionage and furthermore, the giving of an amusing article——

The Court: Is it your present theory that the FBI were part and parcel of this conspiracy?

Mr. Hallinan: I will say so. We will show that scores of them have for years been following this man interviewing his clients, his friends, berating witnesses, threatening them, doing all sorts of them, trying to build up a case.

The Court: You reserve your comment concerning them until [572] you finish your cross-examination and argue the matter to the jury. At this time it is irrelevant and immaterial.

Mr. Hallinan: Your Honor, I do not want to argue the points and I do not want to take exceptions on a thing that might be sort of neutral, but I certainly feel that I am being very closely restricted in this matter.

The Court: An opening statement, in the very nature of things, is given in a restricted sense.

Mr. Hallinan: Then let us get to the next category and root of their false and fraudulent charge, and I hope that these gentlemen are not entitled to the instant protection that Mr. McMillan affords the government agents. They will produce here, they tell us, ex-members of the Communist Party who will testify to certain things. And there are such witnesses. The most fantastic of all that will be produced, to name a few of them, they have Benjamin Kiplau, who occupied most of his life as a labor spy. There was Manning Johnson, a negro, who was raised by the Communist Party from a cafeteria busboy to some sort of organizer and is now qualified as a government witness. There is Louis Budenz who deserted a somewhat impecunious position on a Communist newspaper and returned or went into the Roman Catholic church and is now——

Mr. McMillan: Just a moment.

Mr. Hallinan: We are entitled to talk about these people, Your Honor. [573]

Mr. McMillan: There is nothing said in our opening statement as to who the witnesses will be.

Mr. Hallinan: I know who they are. They produced some of these people before the grand jury. We are entitled to discuss them and warn the jury what is coming, to inform them, to have them look at them with inquisitive eyes. We do not have to keep quiet about every witness that they are going to put on. If we had such a witness that they knew of, they could characterize him, tell about his testimony, why he would be biased or motivated. That goes right to the credibility of the witness. We can test all of that on cross-examination. I think if anything is proper on an opening statement, that is. All they want to do, Judge, is sort of write out an opening statement for the defense and say, "You can say this and no further."

The Court: What you propose to do is perfectly plain to me, Mr. Hallinan, and that is to assassinate in advance every witness who might take this stand without any evidence before this Court of the general characterizations and vituperations.

Mr. Hallinan: All right, and that is just what I say, Your Honor.

The Court: That procedure may be extant or it may be the procedure in some other courts. It has never been the procedure in the federal courts. I sustain the objection.

Mr. Hallinan: I will have to enter an exception.

The Court: You may enter an exception, yes, sir. [574]

Mr. Hallinan: I want to make a statement. I want to introduce evidence. I want to make a statement now as to the character of these witnesses.

The Court: You can make your offer of proof in the absence of the jury.

Mr. Hallinan: Very well.

Now, we will show you—and we only know it from the statement of this gentleman on the opening statement, and I daresay he will permit me to comment on that—that there is an organization called the Communist Party apparently. I do not know, but he says there is, and that it has some sort of central organization called the Central Committee, did you call it? The National Central Committee? That is what you call it, and so far as I can learn, they have elections every two years, is that correct?

Mr. McMillan: I do not know. We are only concerned about the election in which Mr. Bridges participated.

Mr. Hallinan: Could you tell us, so I could get something, the number of persons who comprise that board?

Mr. McMillan: May it please Your Honor——

Mr. Hallinan: I will withdraw the question.

Mr. McMillan: He is making an opening statement; I am not answering questions.

Mr. Hallinan: We are going to be shown, then, by these gentlemen that for two years this Mr. Harry Bridges, who has [575] been so in terror of being deported and now in terror of being sent to jail, who testified under oath in 1937 that he was not and never had been a member of the Communist Party, who testified under oath in 1939 that he was not and never had been a member of the Communist Party, and who testified under oath in 1941 that he is not and never had been a member of the Communist Party, who testified under oath in 1945 that he is not and never had been a member of the Communist Party, that some fellow, whom he does not know, and it is going to come out here, Mr. McMillan tells us, will testify that this man had placed his safety and his happiness in the safekeeping of numerous persons, whose names he does not even know, elected officials of a party back in New York.

Mr. McMillan: ——To say that Mr. Bridges does not even know this man. He may know him.

Mr. Hallinan: Their first chance we will have to find out who he even is is when he takes the stand, the first of the box of surprises.

As about everything I say seems to offend and upset somebody, I had better conclude as rapidly as possible lest I upset and offend the Court and jury and do my clients more harm than good. I have told the jury that we would prove this conspiracy that I mentioned, and you will understand that persons may be members of the conspiracy who did not participate in its formation but who endure it and embrace it during the course of [576] its progress, and that people who initially started the conspiracy may drop out of it, be no longer interested in its purposes, and it is still the same conspiracy. We will show you that these people whom I have mentioned have come into this conspiracy since its inception. The original shipowners of the Pacific Coast have withdrawn from it so completely and thoroughly that the one thing that they would want less than anything else is to have Harry Bridges deported, and we will produce evidence to show you that, because they have found him an honest, reliable labor leader with whom they can deal, whose word is good, and whose integrity is rock-bound.

Mr. McMillan: We object to that, if Your Honor please.

Mr. Hallinan: I think we are entitled to show the character of the defendant.

Mr. McMillan: You have the right to show character.

Mr. Hallinan: I think you will conceed us that one thing.

Mr. McMillan: In the trial of this case, as far as he wishes, he may show the character of the defendant or bring in character witnesses who will testify to his truth, honesty and integrity.

The Court: I assume that that is what Mr. Hallinan says he is going to do.

Mr. Hallinan: Yes.

The Court: You may proceed.

Mr. Hallinan: However, Mr. Bridges has made the mistake of [577] not taking the $50,000 that was offered to him back in 1934 to throw the strike and go on back to Australia——

Mr. McMillan: That is objected to.

Mr. Hallinan: We will show that.

The Court: The objection is sustained and the jury is instructed to disregard the statement.

Mr. Hallinan: Because, embracing some sort of philosophy that fate is inevitable and that no precautions could ward off all evil, he has plodded along on his same path that he started out on way back in 1933, a lonely and solitary figure, who can not trust the members of his family, his friends, associates or anyone else.

Mr. McMillan: I object to that, if Your Honor please. It appears to be a beautiful peroration coming along in favor effusively of Mr. Bridges.

Mr. Hallinan: I do not see how that persistent——

The Court: Mr. Hallinan has about reached the end of his opening statement, I assume. Probably this is a fitting time to speak of those matters.

Mr. Hallinan: He embarked upon a dangerous enterprise which revivified and directly brought to a head this conspiracy as you now see it, and that is, that partly to preserve their own living standards from the competition of cheaper labor, at the behest of the Pacific Coast Shipowners and Canners and partly from a humane intent to aid others less frightened than [578] those associated with them——

Mr. McMillan: These observations, if it please Your Honor, are no part of an opening statement and this is purely argumentative.

Mr. Hallinan: The merest use of a preposition or an adjective is supposed to do something. In other words, the bar is to be so stilted in what it says, beaten into such forms and cliches that a man is restricted by the limitations of some gentleman who thinks that any word consisting of more than two syllables is inflammatory and overelegant or argumentative or something. I do not think, Your Honor, a trial has to be such a dull and dry thing that we are limited in the very words we use.

The Court: The trial does not have to be a dull and dry thing. But it has to be a decent thing in a judicial atmosphere, and that is what I intend to conduct.

Mr. Hallinan: I do not say it should not, and we have not shown any other disposition at all. I am now talking about Mr. McMillan's objections.

The Court: Have you concluded your opening statement?

Mr. Hallinan: Not quite.

The Court: Proceed.

Mr. Hallinan: The International Longshore Workers Union went down to Hawaii and organized the disorganized and exploited workers there, and they drew down upon themselves and upon [579] Bridges anew the malice, hatred and revenge that has flowered this conspiracy anew of the powerful feudal five companies of the New Hawaii, and that is the immediate cause of what is now confronting us. The situation there was the renewal of about what had happened in San Francisco—poison gas and clubs for the workers and a storing up of the——

Mr. McMillan: If it please Your Honor;——

Mr. Hallinan: This is not ancient history; this happened within the last year.

Mr. McMillan: The poison gas, rocks, stones——

The Court: The objection is sustained, Mr. McMillan.

Mr. Hallinan: The agents of those organizations stirred up anew the conspiracy, revived it, revitalized it, and now, four years after Harry Bridges swore under oath in the Superior Court that he was not and never had been a member of the Communist Party, a perjury charge comes on for trial before you ladies and gentlemen, and we will show by the witnesses for the prosecution that the express and avowed reason for the institution that was to break the strike in Hawaii, and so said Tom Clark publicly, the Attorney General of the United States, and we will show you that that was the exact and only purpose of fomenting this persecution.

My opening statement has been criticized by admirable judges. The trial procedure may invoke criticism by jurors and even spectators. The sources of inquiry here cover a period of [580] many years. Whether it sounds fantastic or not, there were 125 witnesses. The preparation for the proper trial of such case would consume months. The testimony of all people in previous matters must be read over. I assume, Your Honor, that I should not mention any decision of any court no matter how relevant I consider it to be. I am not going to transgress on your patience.

The Court: We have already discussed those matters at length, Mr. Hallinan.

Mr. Hallinan: These 125 people have testified under oath in numerous matters. The so-called ex-members of the Communist Party have run from New York to Hawaii to San Francisco to Louisiana —any place where they could pick up a few honest dollars of government treasury compensation testifying against Communists here, labor leaders here, school teachers there, willing to say anything that would bring them a few dollars, typical of the kind of people that come up in circumstances and periods such as we are going through now ready for a few dollars, for fame or what they call fame, to keep themselves in the limelight, to swear any man's life away for a hundred dollars. They are perjurers of the worst kind—one of them who will come and hear the very tightest oaths of the Communist Party, the very soul of this sort of thing, hired informers, spies, turncoats, the very swill of humanity, these ex-Communists, experts who have now turned upon their old comrades and [581] associations, and finding the pickings more profitable in the safe environment of the government's protectorate, will come in here and swear any man's life away whether they ever saw him before or not.

Mr. McMillan: If Your Honor please, if this is not an argument after all the evidence is in, I do not know what I am talking about.

Mr. Hallinan: If I may finish one paragraph, I will do so.

Mr. McMillan: Can you make it in a paragraph?

Mr. Hallinan: In one paragraph and I won't even make it long.

The Court: It is unnecessary for me to admonish the jury again to disregard these statements.

Mr. Hallinan: As I said, I was apologizing for the manner in which we are going to have to try the case. I have been in the case three weeks. Mr. MacInnis, less than two. We have not been able to adequately prepare the case. A motion for a continuance was made—I always say that to excuse our own faults——

Mr. McMillan: This I object to.

The Court: Mr. Hallinan, you know better than that.

Mr. Hallinan: I am not going to say anything criticizing anyone except myself.

The Court: The motion was denied, and you know the reasons underlying it. [582]

Mr. Hallinan: I do not question it, Your Honor, and I was going to say that the Court calendar and the preparation of the trial was such that the Court could not grant the motion. That is certainly not criticizing anyone, but I certainly should be entitled to say to the jury the reason why we have to paw through innumerable documents instead of having them in order ready to examine witnesses as they come up, ~~and~~ why we will probably have to ask Your Honor on occasion if we can defer to an afternoon session or the next morning with cross-examination of witnesses that may be produced. That is all that I was going to say about that. [583]

I don't want the jury to think that Mr. MacInnis or I are negligent or that we haven't prepared, as far as may be done, because we have. We have worked very hard in the two and three weeks that we have had. I only say that as explaining why we will not be able to immediately pick up a document and may impose upon your patience by having to fix through and find such impeaching records as we have.

Now, from my paragraph, if I may. We will ask the jury to reserve judgment until the entire case is submitted, as the Court will direct you; because when the flower that is going to bloom in here from the roots of this conspiracy first presents itself, the first shoots may seem fair and decent enough. But if you continue to examine it, it will grow again, noxious, fetid, horrible, as it expands. Keep looking at it. Turn upon it the light of the search for truth, and it will wither before your eyes. You may have to hold your noses.

The Court: Will the Government call your first witness?

Mr. MacInnis: Pardon me. May it please the Court, on behalf of the defendants Robertson and Schmidt, because we still don't know anything about the character of the case which is to be brought against them, we would like to ask leave to reserve an opening statement until the prosecution has been presented against these two men. Will that be your Honor's ruling? [584]

The Court: You may reserve your opening statement. Mr. Hallinan assumes to know all of the witnesses, you assume to know none of the witnesses!

Mr. MacInnis: I will be very glad to answer the comment of your Honor. I had hoped that one of the Government prosecutors, in making an opening statement, would tell us for the first time the reason for the inclusion of Mr. Robertson and Mr. Schmidt in this case. The indictment which your Honor has read to the jury says that at a time to the Grand Jurors unknown, and with persons to the Grand Jurors unknown, they went into a conspiracy. We don't know yet what that time was, who those persons are. We are told, for the first time yesterday, by Mr. McMillan; and these two men, Mr. Robertson and Mr. Schmidt, are now accused, although the indictment doesn't show that, of being members of the Communist Party. The matter of Harry Bridges is a matter of open history, to anyone in San Francisco. It is easy to find out people who would have an animus against him. Mr. Robertson and Mr. Schmidt are not so fortunate that a quick endeavor will disclose persons who might testify against them. So that is my answer to your Honor's observation.

The Court: All right. Your statement may be reserved, Mr. MacInnis.

Mr. Donohue: Mr. Lloyd H. Garner.

The Clerk: Call Mr. Lloyd Garner. [585]

LLOYD H. GARNER

called for the Government; sworn.

Direct Examination

By Mr. Donohue:

Q. Will you state your full name, Mr. Garner?

A. Lloyd H. Garner.

Q. And where do you live?

A. Los Angeles.

(Testimony of Lloyd H. Garner.)

Q. What is your occupation?

A. Naturalization examiner.

Q. How long have you been associated with the Bureau of Immigration and Naturalization?

A. About nine years.

Q. Are you now employed by that Bureau in the City of Los Angeles? A. Yes, I am.

Q. And how long have you been there in Los Angeles?

A. A year and a half in Los Angeles.

Q. And prior to going to Los Angeles, where were you employed?

A. With the Bureau in San Francisco.

Q. And when you say "the Bureau," you refer to the Bureau of Immigration?

A. Immigration and Naturalization Service.

Q. When were you first employed by the Bureau of Immigration in the City of San Francisco? [586]

A. From April, 1941.

Q. And that employment here continued for how long? A. Until about April, 1948.

Q. Mr. Garner, do you know Mr. Harry Bridges?

A. I have seen him, met him.

Q. Do you see him in the courtroom?

A. Yes, I see him here.

Q. Would you indicate to the Court and to the jurors where he is in the courtroom.

A. Mr. Bridges is sitting at the table at my left, at the far corner of the table, in the left corner.

Q. Do you know the gentleman who is seated to Mr. Bridges' left?

(Testimony of Lloyd H. Garner.)

A. Mr. Bridges' left—Mr. Schmidt.

Q. Do you know Mr. J. R. Robertson?

A. Mr. Robertson is seated on Mr. Bridges' right hand, with the exception of one man between.

Q. Would you step down from the witness chair and touch Mr. Robertson on the shoulder.

A. (Putting on glasses and leaving witness stand) According to my recollection, I would say this is Mr. Robertson (indicating).

Mr. Donohue: May the record show, identifying the distinguished counsel, Mr. Hallinan?

Mr. Hallinan: I am glad I am neither Mr. Harvey, Mr. [587] Canfield, Mr. Dorgan, nor Mr. Rossi, at any rate.

Mr. Donohue: Will you resume the witness stand.

(Witness resumes witness stand.)

Q. (By Mr. Donohue). On how many occasions have you seen Mr. Bridges?

A. Only on two occasions.

Q. And on how many occasions have you seen Mr. Schmidt?

A. Two occasions, the same occasions.

Q. And Mr. Robertson?

A. The same two occasions.

Q. Can you tell us now the date on which each of those two occasions occurred?

A. Yes. I saw Mr. Bridges on three occasions. The first time was when he came to the Immigration and Naturalization Service office in San Francisco, in June of 1945, to submit his application, to file a

(Testimony of Lloyd H. Garner.)

petition for naturalization. The second time was the first part of August, 1945, when I conducted the hearing for—to file the petition for naturalization.

Q. And where was that hearing conducted?

A. That was in the City Hall in San Francisco.

Q. In what part of the City Hall?

A. In the office of the deputy County Clerk, the naturalization office.

Q. And the third occasion when you saw Mr. Bridges?

A. The third occasion was in September, 1945, in the courtroom, [588] Superior Court in San Francisco.

Q. And when was the first occasion on which you saw Mr. Henry Schmidt?

A. I first saw Mr. Schmidt on the day the petition was filed. That would be in August, 1945.

Q. And when you say "petition," you refer to the petition of Mr. Bridges for naturalization?

A. For naturalization.

Q. And when did you see Mr. Schmidt the second time?

A. In the courtroom, Superior Court in San Francisco, in September, 1945.

Q. And on each of the occasions when you saw Mr. Schmidt, was he in company with Mr. Bridges?

A. Yes, they were together.

Q. And when did you see Mr. J. R. Roberison?

A. The first time on the morning in August when

Mr. Bridges appeared in the City Hall at San Francisco to file his petition for naturalization.

Q. And was Mr. Robertson at that time with Mr. Bridges and with Mr. Schmidt? A. Yes, sir.

Q. And when did you see Mr. Robertson on the second occasion?

A. In the Superior Court in San Francisco on the morning of the naturalization hearing, in September, 1945.

Q. And on that occasion also was Mr. Robertson with both Mr. [589] Bridges and Mr. Schmidt?

A. They were all present in the court at that time.

Q. I hand you what I shall ask the reporter to mark as Government's for identification No. 1 (handing to clerk).

The Court: So ordered.

The Clerk: Marked Government's 1 for identification.

> (Application to file petition for naturalization was marked Government's Exhibit 1 for identification.)

Q. (By Mr. Donohue): Would you look at this and tell, if you can, whether you can identify it. (Handing to witness).

A. I identify this document as the application to file a petition for naturalization.

Mr. MacInnis: May we see the document?

Mr. Donohue: I am very sorry.

Mr. MacInnis: May I see it, please?

(Testimony of Lloyd H. Garner.)

Mr. Donohue: Yes. I hope you will forgive me. I am sorry.

Mr. MacInnis: Oh, indeed I will. Thank you (examining).

Mr. McMillan: Your Honor, may I be excused at this time?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Garner, when and where did you first see that document (handing to witness)?

A. This document first came to my attention when it was presented over the information desk or counter in the Appraiser's [590] Building in the office of the Immigration and Naturalization Service, in June—June 23, 1945.

Q. Now, what, if anything, did you do with respect to that document?

A. Nothing other than accept it. It was submitted as an application to file a petition. It so happened that although my usual duties do not take me in the information desk, I was relieving the clerk that day temporarily, and Mr. Bridges presented it while I happened to be on duty in there.

Q. And is it your present recollection that on the 23rd of June 1945, you received that across the information desk from Mr. Bridges personally?

A. That is my recollection, yes, sir.

Q. What if anything did you do subsequently with respect to that document?

A. I did nothing further with it then, other than

(Testimony of Lloyd H. Garner.)

place it in the basket for such documents for processing in the usual channels.

Q. And then did there come a time later when that document came back into your personal possession? A. Yes.

Q. When was that?

A. It was on the morning that Mr. Bridges and his witnesses appeared in the office of the County Clerk in the City Hall at San Francisco to file his petition for citizenship. [591]

Q. Can you tell us when that morning was, the date?

A. It was in August of 1945. I recollect the date as being somewhere around the 8th of August.

Q. And when Mr. Bridges and his two witnesses came to your office, did you then take physical possession of that document?

A. Yes, I had it in my possession at that time.

Q. And then what did you do with respect to Mr. Bridges and his witnesses and that document?

A. I conducted the preliminary examination, using this document as a base for my questioning.

Q. Now, I am sure that you are wholly familiar with the process of conducting a preliminary examination. Perhaps his Honor is not, and I am sure the members of the jury are not. Would you tell us exactly what you did, what you characterize as conducting a preliminary examination?

A. With the application before me, I called Mr. Bridges, the applicant, into my presence in the

(Testimony of Lloyd H. Garner.)

examination room, swore him to tell the truth in connection with the proceeding, and undertook then to verify the information as it is set down in the application.

Q. And how do you go about doing that?

A. I did that by reading the questions that appear on the application and asking for his responses. And the responses as he gave them were checked against the questions asked on [592] the application form.

Q. And those, what appear to be penciled check marks against each question, were they put there by you and at that time?

A. They were put there by me at the time I asked the questions, yes, sir.

Q. Is there anything on that application, Mr. Garner, which would indicate by whom that application was prepared?

A. On page 2 of the application, question No. 35, "Did you yourself fill out this form?" The typewritten answer is "Yes," and the document is signed "Harry Renton Bridges."

Q. Now, after having checked Mr. Bridges' answers as you have indicated, what did you further do?

A. After I had completed the examination of Mr. Bridges, then I called for his two witnesses. I asked him to leave the examination room and the witnesses or persons whom he offered as witnesses in his behalf came into my presence in the room.

The Court: Have you reached a convenient time, Mr. Donohue?

Mr. Donohue: I was just about to suggest it.

The Court: All right, we have reached the noon hour, ladies and gentlemen, and may I again admonish you not to discuss the case with any person or persons, not to form nor express an opinion thereon until this matter is finally submitted to you. We will resume, then, at two o'clock this afternoon.

(Thereupon, a recess was taken until 2:00 p.m. this date.) [593]

Friday, November 18, 1949, 2:00 o'Clock

The Clerk: The case of United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed.

The Clerk: The witness on the stand is Lloyd Garner, heretofore sworn.

Direct Examination (Continued)

By Mr. Donohue:

Q. Mr. Garner, directing your attention again to the date that you state as about the 8th of August, you saw Mr. Henry Schmidt in some portion of the City Hall Building? A. Yes, sir.

Q. Where directly or exactly was it that you had this conversation with Mr. Schmidt after Mr. Bridges had left the room?

(Testimony of Lloyd H. Garner.)

A. In the portion of the Deputy County Clerk's office on the third floor of the City Hall, San Francisco, the room that was set aside for the use of the naturalization deputy there. We used a portion of the room as a hearing room.

Mr. Donohue: At this time, if Your Honor please, may I ask the Clerk to mark as Government's for identification No. 2 this document?

The Court: So ordered.

(A document was thereupon marked United States Exhibit No. 2 for identification.) [594]

Q. (By Mr. Donohue): Mr. Garner, I hand you what has been marked by the Clerk as Government's No. 2 for identification and ask you to tell His Honor and the ladies and gentlemen of the jury if you can identify that document.

A. Yes, this document is a petition for naturalization filed in the Superior Court of the State of California by Harry Renton Bridges. It is the document or a copy of the document that was filed at that time.

Q. Is that a copy of an original which was filed with the Court?

A. Yes, this is a triplicate. The petition is typed in three parts, the original, duplicate and triplicate. This is the triplicate, with part of the original petition.

Q. And where is that triplicate portion of that petition now?

(Testimony of Lloyd H. Garner.)

A. That becomes a part of the file of the Immigration and Naturalization Service in San Francisco.

Q. And did you bring that document to the Court today from the files of that service?

A. Yes, sir, I did.

Q. Did there come a time when you had that particular piece of paper which is now in your hand, in your hand before?

A. Yes, sir, the first time was on the 8th of August, 1945, at which time the petition was filed. We had the preliminary examination; following the examination the petition was typed and filed.

Q. Where was that petition typed and filed, if you know? [595]

A. In the room of the Deputy County Clerk, Naturalization Department of the City Hall, San Francisco.

Q. Is that document signed?

A. The document is signed at the bottom on the face by Harry Renton Bridges.

Q. Now, directing your attention to the time and place on the 8th day of August, 1945, when you conducted an examination which you have described as a preliminary examination of the defendant Henry Schmidt, did you have that document in your hand which is now in your hand?

A. Yes, I did.

Q. And did you make any notations on that piece of paper?

(Testimony of Lloyd H. Garner.)

A. Yes, I made notations on the reverse of this paper.

Q. Will you tell His Honor and the ladies and gentlemen of the jury just what you did, what was said or by Mr. Schmidt on this occasion?

A. Mr. Schmidt appeared as a witness on behalf of the applicant, Mr. Bridges. I swore him in the usual manner to tell the truth, all the statements to be made by him under oath.

Q. And when you say you swore him, do you mean you swore the defendant Henry Schmidt?

A. I swore the witness Henry Schmidt, the defendant here. Then I proceeded to inquire of him as to his qualifications as a witness.

Q. What questions did you ask him which would qualify him as a [596] witness?

A. I asked him where he was born—first name and his address and his occupation, and I asked him where he was born.

Q. And he made answer?

A. He answered he was born in Germany. I asked him then whether he was a naturalized citizen. He said he was, and he offered to me in proof of that a naturalization certificate issued in his own name through the United States District Court in San Francisco under date of July 11th, 1927, certificate No. 2,588,949, according to the record I made at that time.

I then asked him if he was acquainted with the applicant, Harry Bridges. He said he was.

I asked him how long he had known Mr. Bridges. He told me he had known him since about 1932 or 1933.

I asked him then about how often he saw the applicant Mr. Bridges. He stated that he saw him on an average of at least once a month or oftener.

I asked him under what circumstances he usually saw the applicant, whether in business or socially. He replied in business, that they were both officers or officials of the same union, the ILWU.

I then asked him whether he was a Communist or a member of the Communist Party. He said he was not.

Q. When you say you asked him whether he was a member of the Communist Party and he said that he was not, do you mean that [597] you asked Mr. Schmidt if he, Mr. Schmidt, was a member of the Communist Party?

A. I was speaking about Mr. Schmidt, the witness. My questions were all directed to him as a witness. I asked him personally whether he was.

Q. His answer was what?

A. No. The answer was in the negative, that he was not. I asked him whether the applicant was a member of the Communist Party and he answered negatively at that time.

Q. By the applicant, you mean the defendant Harry Bridges?

A. You mean the defendant Harry Bridges here. At that time there was no petition. He was merely an applicant to file a petition.

(Testimony of Lloyd H. Garner.)

Q. Was there any further questioning of Mr. Schmidt as a qualifying witness?

A. Yes, I asked him whether in his opinion the applicant, Mr. Bridges, was attached to the principles of the Constitution and qualified for citizenship, and he said he believed so. He gave me the impression that that was his understanding.

I asked him whether the applicant, Mr. Bridges, had been out of the United States during the period of his acquaintance. He said no, he did not know of any such—he gave me the impression he did not know of any absenses. [598]

Mr. MacInnis: Pardon me. I think, your Honor, the witness should state what his recollection may be as to the conversation, and not what impression he now says he has, four years after the event.

The Court: Yes, that observation is well taken, counsel.

Mr. Donohue: I quite agree with you.

Q. Would you just confine, in so far as you possibly can under his Honor's directions, your answer to the recollection of what the witness actually said, Mr. Garner. What is your best recollection of what the witness Schmidt said with respect to the question as to whether or not he believed that Mr. Bridges, the applicant, was devoted to the Constitution of the United States?

A. That he was.

Q. Then you asked him further with respect to whether or not to his knowledge Mr. Bridges had been out of the United States?

(Testimony of Lloyd H. Garner.)

A. That was my next question.

Q. To that what answer did he make?

A. The response was "No." I then asked him whether the applicant, Mr. Bridges, had been arrested, and he stated that he had not been. I then asked him, I asked Mr. Schmidt, the witness, as to himself, whether he had been arrested, and he stated he had not. And I asked him whether he had been out of the United States since his naturalization, and he [599] stated that he had been in Mexico and Canada, but only for brief periods.

Q. Have you told us in so far as you can recall the extent of the examination of Mr. Schmidt?

A. That, so far as I recall, is all of the questioning of the witness Mr. Schmidt.

Q. And did I understand you to say that at the time that you conducted this preliminary examination of Mr. Schmidt that neither Mr. Bridges nor Mr. Robertson were present? A. That is true.

Q. Now, what followed upon your completion of your examination of Mr. Schmidt?

A. I undertook examination of the second witness, one Paul Schnurr, who sat in the room during this period. And the first question to him, after I had sworn him in the same manner I had sworn the witness Schmidt,——

Mr. MacInnis: Pardon me. If I may interrupt, unless I misunderstand the trend of the testimony, it would appear that this gentleman is now estopped to tell us that a different person was present. As I understood his testimony this morning, subject

(Testimony of Lloyd H. Garner.)

to whatever impression your Honor has, he said that he met Mr. Schmidt and Mr. Robertson for the first—at least, Mr. Robertson—for the first time on this day in the office of which he spoke. Now he says that he questioned a witness named Schnurr. I think that unless this is cross-examination [600] of the Government's witness, that the original answer must stand.

The Court: The objection is overruled. You may answer.

Mr. MacInnis: May I inquire, your Honor, for my own purposes, what the testimony before has been?

Mr. Donohue: If your Honor wishes, I shall be glad to——

The Court: What purpose is that going to serve? Isn't the situation here that Mr. Paul Schnurr appeared and then thereafter, by reason of unfitness, departed?

Mr. Donohue: By reason of his inability to qualify.

The Court: Yes. The objection is overruled, counsel.

Mr. MacInnis: The point of the objection, your Honor, was merely so that we would know the chronological order of these events. I understood him to testify——

The Court: Take the chronology as you go along, Mr. Witness.

Q. (By Mr. Donohue): May I ask you, in order to clarify the record, when Mr. Bridges came

(Testimony of Lloyd H. Garner.)

to this office to which you make reference, with Mr. Schmidt on the 8th day of August, by whom was he accompanied when you first saw Mr. Schmidt and Mr. Bridges?

A. I can't state as to all the persons present.

Q. Well, may I ask you this, then: Who came with him, other than Mr. Schmidt, to appear as a qualifying witness for Mr. Bridges? [601]

A. As soon as I had finished the examination of the applicant Mr. Bridges and asked for his witnesses, he presented Mr. Schmidt and Mr. Paul Schnurr.

Q. And in order that the time element may be determined, was Mr. Robertson there at that time?

A. He was not.

Q. When was it, with reference to that time, when you first met Mr. Schnurr and Mr. Schmidt, that Mr. Robertson appeared in your office?

A. Subsequent to my examination of Mr. Schmidt and immediately after I started the examination of Mr. Schnurr and disqualified him. I called for another witness and Mr. Robertson came in.

Q. Now, under his Honor's ruling, would you state to his Honor and the ladies and gentlemen of the jury what occurred between you and Mr. Schnurr?

A. I asked—I had already sworn Mr. Schnurr as a witness. I examined him and asked him where he was born. He told me in Germany. I asked him whether he was a naturalized citizen and he

(Testimony of Lloyd H. Garner.)

said no, he was a citizen through his father by derivation. He offered me a certificate of citizenship in evidence. I examined the certificate. It was made to Mathias Schnurr, had been issued by the probate court of Belmont County, Ohio, on December 28, 1900. He volunteered the information that it related to his father, that he was a derivative citizen [602] through that naturalization. I asked him then for further proof of his relationship to the naturalized person, and his birth date, in order to qualify him as a derivative citizen. He said he had no such evidence or documents to establish those facts. I told him that without definite evidence of his citizenship I could not accept him as a witness in that matter.

Q. And how long thereafter was it until Mr. Robertson appeared in your office for the purpose of qualifying as a witness for Mr. Bridges in his naturalization application?

A. It was immediately following. I stepped to the door of the hearing room, where Mr. Bridges and his attorney, other members of his party were waiting outside, called Mr. Gladstein, his attorney, and explained the situation to him, that the case was going to have to go over to another day or, if possible, he could substitute a witness who was qualified. After a conversation outside of my presence with—I presume——

Q. Well, no, don't presume. Just tell us what you recall.

(Testimony of Lloyd H. Garner.)

A. After a conversation outside of my presence, he returned with Mr. Robertson and said that he thought Mr. Robertson could qualify as being a native-born citizen.

Q. Now would you tell us the conversation or examination you had of Mr. Robertson?

A. I swore Mr. Robertson in, and had him seated, asked him where he was born. He told me he was born in Texas. I asked [603] him if he had ever lived outside of the United States. He said he had not. I deduced from that that he was a citizen of the United States by birth, and I accepted him as being eligible as a citizen to testify. I then asked him about how long he had known the applicant, Mr. Bridges. He testified that he had known him since about 1934. I asked him how frequently he had seen the applicant in the past few years, and he said that he had seen him on an average of about weekly or thereabouts. I asked him in what connection he usually saw the applicant, whether business or socially, and he said that they were both officers of the same organization, the union, ILWU. He saw him in connection with his work there. I asked him then whether he was a member of the Communist Party and he said he was not. I asked him whether the applicant, Mr. Bridges, was a member of the Communist Party, and he said he was not. I asked him whether in his opinion the applicant was qualified for citizenship, that is, attached to the principles of the Constitution as required by law, and he said he was.

I asked him if the applicant, Mr. Bridges, had been out of the United States at any time during his acquaintance, and he said he had not. I asked him whether the applicant, Mr. Bridges, had been arrested at any time during his acquaintanceship, and he said he had not. And I asked him if—that is, I asked the witness if he personally had been arrested. He said he had not. And I [604] asked him whether he had been out of the United States at any time, and he said that he had made brief trips out of the United States but for no extended length of time. That concluded my examination of that witness.

Q. And now may I ask you, Mr. Garner, what was the purpose of your examination of the witnesses Henry Schmidt and J. R. Robertson?

Mr. MacInnis: Pardon me. I think that is asking the witness to testify as to a conclusion of law.

Mr. Donohue: No, he has a certain——

The Court: Overruled, counsel.

Mr. MacInnis: Oh, I think a witness, your Honor, may not state the purpose for which he had a conversation.

The Court: The objection is overruled. He may answer.

Q. (By Mr. Donohue): What was your purpose in asking the questions you have testified to of both the witness Henry Schmidt and the witness J. R. Robertson?

A. The purpose was to fulfil the duties imposed upon me by law as a naturalization examiner, to

(Testimony of Lloyd H. Garner.)

test the qualifications of the applicant and the witnesses in a naturalization proceeding. [605]

Q. And it was your duty at that time to test both the qualifications of the applicant for naturalization and of his qualifying witnesses?

A. That is true.

Q. Upon having completed your examination of the witnesses, what did you next do with respect to the application which you have identified?

A. I excused the witnesses from the hearing room and handed the petition form, of which this is the triplicate, together with the application form which I previously held, noted as Government's Exhibit No. 1, I believe, for identification, handed these documents to the deputy clerk of the court, who was present in the room, or in an adjoining portion of it, for the purpose of having the petition typed preparatory to signing it. I had nothing further to do with it. That was the official duty of the clerk.

Q. Where did you go then?

A. As I recall, I had concluded my duties. I left the hearing room, left the building.

Q. What did you next see, with respect to the two documents and their purpose, defendant Mr. Bridges?

A. I next saw the defendant Mr. Bridges in the courtroom of the Superior Court in San Francisco on the morning of the naturalization hearing.

Q. What is your best recollection as to the date of that [606] hearing?

(Testimony of Lloyd H. Garner.)

A. The date, as I recall, was on or about September 17th, 1945.

Q. At that time was either the defendant Henry Schmidt or the defendant J. R. Robertson with Mr. Bridges?

A. They were both present in the courtroom, yes.

Q. Can you tell us who the presiding judge was on that occasion, if you happen to know?

A. As I recall, it was the Hon. Thomas Foley.

Q. Did you have occasion at that time to ask of the defendant Henry Schmidt or of the defendant J. R. Robertson any question or questions?

A. Yes, they were both there for the purpose of acting as qualifying witnesses, and I did examine them as to their statutory qualifications.

Q. And did you ask any question or questions of the defendant Harry Bridges?

A. I conducted the examination of him or cross-examination, it may be, in the court.

Q. Are you able to tell His Honor and the ladies and gentlemen of the jury whether or not at any time during the proceedings you are now describing you asked the defendant Harry Bridges any question with respect to his membership or non-membership in the Communist Party?

Mr. MacInnis: If it please the Court, Mr. Donohue has indicated to me that he has an official copy of the transcript, [607] which I think would be the best evidence.

The Court: I think Mr. Donohue is entitled to present his case in his own way. The objection is overruled.

Mr. MacInnis: I think, Your Honor, if he asks for a conversation he may not direct the attention of the witness to a part of the conversation merely by a leading question.

The Court: The objection is overruled.

Q. (By Mr. Donohue): Do you remember the question, Mr. Garner?

A. Will you state the question again, please?

(Question read.)

A. Yes, I asked the questions relative to that point.

Q. What answer was made, if you can tell us?

A. I asked him whether he is now or has been a member of the Communist Party and he replied in the negative, that he is not and had not been.

Q. Now, you have indicated that over and above asking questions of the defendant Bridges you asked certain qualifying questions of the defendants Henry Schmidt and J. R. Robertson, true?

A. That is true.

Q. You were in court during the entire proceeding involving the application for the naturalization of Harry Bridges?

A. I was present in court during the whole proceeding.

Q. Can you tell us whether or not prior to the time when you asked the questions of the three defendants here whether or not [608] each of these defendants was sworn in that courtroom?

A. Yes, each had been sworn by the Clerk of the Court.

Q. And that swearing took place before you asked the question and received the answer you have just testified with respect to?

A. That is true.

Q. Did you remain in the court after the proceeding had been completed for any length of time?

A. Not for any great length of time. After the proceeding was completed, my work being done, I departed.

Q. Were you present in the courtroom of the Hon. Thomas M. Foley when the oath of citizenship was given to Mr. Bridges?

A. That is part of the proceeding. I was present during that period.

Q. Then you were present when Mr. Bridges' application for citizenship was granted?

A. I was.

Q. And the oath of allegiance was taken by him?

A. It was.

Mr. Donohue: Will Your Honor indulge me for just a moment, please?

At this time, if Your Honor please, I offer in evidence what has heretofore been marked as United States No. 1 for identification and United States No. 2 for identification.

The Court: In evidence?

(Testimony of Lloyd H. Garner.)

Mr. Donohue: In evidence, if Your Honor please. [609]

The Court: It may be marked in evidence and each of them may be marked appropriately by the Clerk.

(United States Exhibits Nos. 1 and 2 for identification were thereupon received in evidence.)

Mr. Donohue: As they are lengthy documents, if Your Honor please, I do not wish at this time to ask Your Honor's permission to read them in their entirety to the jury, but there is one question and answer contained in what has been marked now Government's in evidence No. 1 which I should like permission from Your Honor to read to the jury.

The Court: So ordered.

Mr. Donohue: Ladies and gentlemen of the jury, with respect to what has been marked as United States in evidence No. 1, which has been identified by the witness as an application for a certificate of arrival and a preliminary form for petition for naturalization, which bears the signature "Harry Renton Bridges, 601 Montgomery Street, San Francisco," and on page 1 thereof, on the printed form appears the question No. 7: "My mother's maiden name was——," and filled in in answer thereto "Julia Dorgan."

At this time I have no further questions of the witness, if Your Honor please.

(Testimony of Lloyd H. Garner.)

Cross-Examination

By Mr. MacInnis:

Q. Mr. Garner, will you tell us, please whether or not I heard you correctly this morning when you told [610] us that on a day in August of the year 1945 Harry Bridges was met by you, that you asked him some questions that you then questioned the two witnesses, Mr. Schmidt and Mr. Robertson, is that correct?

A. That is right.

Q. This afternoon you altered that statement somewhat by telling us that there was first brought into your office, that is, the office that you were allowed to use in the County Clerk's office, a man named Schnurr, is that right?

A. That is right.

Q. Have you refreshed your memory in some fashion since this morning?

A. Not in the least, sir.

Q. You have not looked at any document and you have not consulted any person as to what the facts may be, is that true?

A. None whatever. That is true.

Q. So that any testimony which you give in this matter is based entirely upon your own memory? A. That is true.

Q. Not amplified from any source, is that true?

A. That is true with the exception of the document I have used, the petition form, on which I have certain notations as to dates, et cetera.

(Testimony of Lloyd H. Garner.)

Q. Where did you say this petition was filed by Harry Bridges, the petition for his admission to citizenship? [611]

A. On August 8, 1945.

Q. And the hearing was had some time later, is that right?

A. The court hearing was had in September, yes.

Q. Now, I noticed that in giving answers to the questions put to you by the government prosecutor that you apparently were able to answer as to certain conversations or interrogations that you had with these men without looking at any notes? A. That is right.

Q. In other words, have you kept all of these matters in your memory for four years which have ensued?

A. I have been conversant with the case for a number of years, that is true.

Q. How many years, Mr. Garner?

A. Since 1945.

Q. Were you employed by the Immigration and Naturalization Service before that time?

A. Yes, I have been in the service since 1941.

Q. Had you heard anything about this case before the events of 1945 upon which you have given testimony today?

A. There was no such case. This case was not in existence before that.

Q. You had never heard of Harry Bridges before that date?

(Testimony of Lloyd H. Garner.)

A. I have read the newspapers, I presume. I knew who Harry Bridges was, but there was no petition for citizenship until the day he brought the application into the office. [612]

Q. The case was a new matter, is that true?

A. New so far as I was concerned, yes, sir.

Q. You have brought us, you say, the entire triplicate copy of the official petition for naturalization, is that correct? A. Yes, sir.

Q. I have in my hand a piece of paper, which I shall show you in a moment as soon as I show it to the government prosecutor, and it purports to be a copy taken from the files of the Court in which the hearing was, and it is quite a bit longer than the piece of paper that you bring here. Can you tell us whether that looks like a copy (handing a document to the witness)?

A. It appears to be a typewritten copy of the same thing.

Q. The same thing?

A. Of the petition which is on file, probably on file in the Clerk's office. This is headed "Original to be retained by Clerk of the Court." The copy you have is a triplicate.

Q. What you have brought us here, as I see now, is a piece of paper bearing this seal, not of the court where this petition was filed, if I may direct it to your attention, but a signature of Mr. Barber, one of the men connected with the Immigration Service.

(Testimony of Lloyd H. Garner.)

Mr. Donohue: If Your Honor please, my distinguished adversary knows, because the witness told him, that this was a triplicate copy of a petition which was kept in the files of the Bureau of Immigration and Naturalization. He testified he [613] brought it here to court today from those files, and in order that they may not make objection, following the rules of the Court, we have had it certified and sealed by Mr. Barber, who is the Director of Immigration for the City of San Francisco. It is improper cross-examination, and improper questioning, and I object to it.

The Court: The witness might explain it in the light of any questions asked.

Mr. MacInnis: I should think so. It is an incomplete copy, Your Honor. It has only about half of the things that are in the petition.

Mr. Donohue: I object to his stating, if Your Honor please, that it is an incomplete petition.

The Court: Allow the witness to answer that. I think he is thoroughly conversant with the records.

The Witness: I think the explanation of it would be that your typewritten copy naturally takes more space than the small type on the printed document. You will find by comparison they cover the same things, perhaps. I have not verified it, but it appears that way.

Q. (By Mr. MacInnis): Is it your testimony under oath that the document that you brought today representing the copy retained by the Immigration Service is exactly the same document as the other sheaf of papers handed to you?

A. I am afraid I do not understand the nature of your question. [614]

Q. May I have the documents a moment?

A. Surely.

Q. I call your attention to the part "Statement of Applicant" and the part "Statement of Witnesses."

A. Yes. Do you desire explanation of that, counsel?

Q. Is that the same as the material on this page?

Mr. Paisley: Your Honor, should counsel not have his paper that he has produced marked as an exhibit so that the record will be straight here?

Mr. MacInnis: I plan to offer it in evidence, Your Honor, naturally.

The Court: You may mark it at the present time for identification.

The Witness: The difference is that the typewritten copy you have is the copy of the original which is on file in the Clerk's office of the Superior Court, San Francisco.

Mr. MacInnis: Yes, it is a true copy.

The Witness: The copy I have is the same thing with the exception that on the reverse it does not contain the oath of allegiance and the material following which you have. In lieu of that, we have a reference here to the court hearing and the examination, but the petition itself is and the affidavit of the witnesses are identical.

Mr. MacInnis: That is precisely the point, Your Honor. So the record will be complete as to what was done in reference to [615] that petition, may we offer the copy taken from the files of the Court in which the hearing was had, which contains all of the documents filed at that moment?

The Court: They may be marked.

The Clerk: In evidence, Your Honor?

Mr. Donohue: May we object, Your Honor, to his offering in evidence at this time.

The Court: What is the purpose of your objection?

Mr. Donohue: I think the proper time for the defendant to offer evidence is when he puts on his case.

Mr. MacInnis: We can discuss these matters.

Mr. Donohue: I have no objection to its being marked for identification.

The Court: Is there any dispute concerning the document at all?

Mr. Donohue: None in the world.

The Court: Can there be any dispute?

Mr. Donohue: No, sir.

The Court: If so, I will order the original from the Superior Court.

Mr. Donohue: No. I withdraw my objection.

The Court: And can any purpose be served?

Mr. Donohue: No. I withdraw my objection.

The Court: It may be marked.

(Testimony of Lloyd H. Garner.)

(Document referred to was thereupon received in evidence [616] and marked Defendant's Exhibit A.)

Q. (By Mr. MacInnis): You told us a moment ago, Mr. Garner, that the reason that you were able to testify from memory to the conversations you say you had with Mr. Bridges, Mr. Robertson and Mr. Schmidt is because you have been following this case since that date, is that true?

A. That is true [616-A]

Q. In other words, you have devoted some attention to the matter?

A. From time to time, yes, sir.

Q. And for that reason your memory is good?

A. That's right.

Q. And although you can tell us literally word for word a conversation you say you had in an office with these men in 1945, this morning when asked to identify Mr. Robertson you walked over and put your hand on the shoulder of one of the attorneys. True? A. True.

Q. Now, by the way, are you a lawyer in the Government service?

A. I am a member of the California bar.

Q. Yes. And you have been a lawyer for a number of years A. Yes, sir.

Q. And your title in the Immigration and Naturalization Service is what?

A. Naturalization Examiner.

Q. And your duties are not purely ministerial, you are not just a man who receives papers for filing; but you have some discretionary powers, don't you? A. I think so.

Q. Yes. In other words, you examine witnesses, you conduct inquiries, and you make conclusions of your own? [617] A. Right, sir.

Q. Which become the conclusions of the Immigration Service, is that true?

A. I presume so.

Q. And you acted in your official capacity in the matter of the petition for citizenship of Harry Renton Bridges? A. Yes.

Q. And in fact, you appeared in court before his Honor Judge Thomas Foley as the Government's representative, did you not?

A. I did.

Q. Did you make any investigation into the truth of the things which you say were said to you by these men in the inquisition conducted in the office? A. I did not.

The Court: You refer to that as an "inquisition" or a "hearing"? What is the ordinary description given to that?

The Witness: "Preliminary examination," Your Honor.

Mr. MacInnis: The word "inquisition"——

The Court: That has a connotation, counsel.

Mr. MacInnis: That has no odious connotation.

The Court: All right.

8 — Mr. MacInnis: Whether your Honor finds that word repugnant or not,——

(Testimony of Lloyd H. Garner.)

The Court: I don't find it repugnant; I didn't want any [618] connotation to be drawn or inferred from it, that is all. It is a rather unusual term.

Mr. MacInnis: I hadn't attached any significance to it, and when I use pointed phrases I think your Honor will recognize them.

The Court: Well, I sometimes do and I sometimes do not. But at least as to that we have an understanding that you are not using it in any unfavorable connotation.

Mr. MacInnis: I hadn't intended any. Certainly this man was conducting the duties of his office.

The Court: All right.

Mr. MacInnis: Would you read me the last question, before we get involved in this discussion on semantics?

(Question and answer read.)

Q. (By Mr. MacInnis): In other words, although you were a hearing officer of the Immigration Service with discretionary duties and the duties to make an investigation, you will tell us now that you accepted the truth of what these men said, is that right?

A. In a measure it is right; it is not my duty to make investigations.

Q. If a man applying for citizenship comes before you as a hearing officer, and you determine either from evidence in your possession or from suspicion that the man may not be telling the truth, there are official ways in which you [619] can act, isn't that so? A. That is true.

Q. In this case you took no such action?

A. That is not true.

Q. What action did you take?

A. The application and petition filed, the triplicate copy of which we have here, was referred back to my office, and with the recommendation that a proper investigation be made.

Q. Was such an investigation made?

A. I presume it was.

Q. Well, if you please,——

A. I didn't make it myself.

Q. If you please, will you tell us whether or not you were informed as to the result of the investigation?

A. All I know is that at the time I took it into court, I was informed to present the matter to the Court.

Q. You were not requested to put in any objection to the petition for citizenship by Mr. Bridges, were you? A. I was not.

Q. Did you make any objection?

A. I did not.

Q. Did you tell the trial court that you were satisfied?

A. I did not. I told the trial court that I had no further evidence to offer.

Mr. MacInnis: Mr. Donohue, may I please have the official [620] copy of the transcript? Thank you very much. And, Mr. Donohue, on behalf of the Government, you will stipulate that this is a true and correct copy of all of the proceedings had before his Honor Judge Foley on the occasion which we now discuss?

Mr. Donohue: Perhaps I can obviate the necessity of that stipulation, if your Honor please, by doing what I purposed to do when the witness had been—his cross-examination had been completed. That is, to introduce in evidence as Government's in evidence No. 3 a certified and authenticated copy of the transcript of the testimony taken at the hearing in question.

The Court: It may be received and marked appropriately in evidence No. 3.

Mr. Donohue: And when the examination is concluded, I would ask permission from your Honor to read certain portions of it to the jury.

The Court: You may.

The Clerk: Marked Government's No. 3 in evidence.

(The transcript was marked Government's Exhibit 3 in evidence.)

Q. (By Mr. MacInnis): I will defer the matter of this document for just a moment, Mr. Garner. When you sent the matter of the application of Harry Renton Bridges to your superiors in the Immigration Service for further investigation, you knew who Bridges was, didn't you? [621]

A. Yes, sir.

Q. And you knew of the history of the pre-

(Testimony of Lloyd H. Garner.)

vious hearings before your department, did you not? A. By hearsay, yes, sir.

Q. You had those in mind when you questioned Harry Bridges, did you not?

A. Vaguely, perhaps; I wasn't too familiar with it.

Q. Yes. You knew that as early as 1937, Harry Bridges himself made a request of Madam Perkins, who was then the Secretary of Labor, and asked that a hearing be had on his status?

Mr. Donohue: Object, if your Honor please; in the first place, I fail to see its materiality. In the second place, it is not proper cross-examination. In the third place, obviously this witness wouldn't know.

The Court: Sustained.

Mr. MacInnis: May it please the Court, rather than argue, and also since I don't think I am required to disclose the purpose of all the questions, I will hand your Honor a note upon what I believe to be the basis of these questions. I think it is highly proper.

The Court: We will take the matter up at recess.

Mr. MacInnis: Well, I think the cross-examiner may not be required to disclose the purpose to the other side during cross-examination. I have that in mind. Does your Honor [622] wish to take a recess now?

The Court: Well, we may pursue the matter

(Testimony of Lloyd H. Garner.)

then and go to another field in the examination now.

Mr. MacInnis: I will return to that matter, then, with your Honor's permission, a little later.

Q. Now, you told us this morning that on the day that Harry Renton Bridges, J. R. Robertson and Henry Schmidt met with you in an office in the City Hall, you already had in your possession the petition of Harry Bridges for citizenship, is that true?

A. You refer to August in 1945?

Q. Whatever date you say it was. I certainly don't know what the date was.

A. I didn't have a petition in my custody or control at the time that we first met, at the time of the preliminary examination. There was no petition in existence at that time; there was merely an application to file a petition.

Q. Did you have that application in your possession at that time?

A. I had that. It is introduced in evidence.

Q. Now, did the application contain substantially the same things as the petition later contained?

A. Yes, the application as to page 3 thereof was the basis for the petition.

Q. The application as to page 3? [623]

A. The application is known as a N-400 in our parlance—page 3 of the application is the basis for the petition.

(Testimony of Lloyd H. Garner.)

Q. And it was on this application that you proceeded to do those procedural things that were necessary to the petition, coming on for hearing?

A. That is true.

Q. And by the way, in this application, which is now introduced as Government's Exhibit No. 1 in this case——

Mr. Donohue: No, I am sorry; I think it is Government's Exhibit No. 2.

Mr. MacInnis: This says 1 here.

Mr. Donohue: This says 2, and I think this is the petition.

Mr. MacInnis: Well, this says "Application" and this says "Petition." It seems to me this is the petition. You see?

Mr. Donohue: That's right. I am sorry.

Mr. MacInnis: You concede?

Mr. Donohue: I just didn't want you to get into error.

Mr. MacInnis: I am sure you will correct me if you find me to get into error. You concede that the petition, as I suggested, is Exhibit No. 2?

Mr. Donohue: Correct.

Mr. MacInnis: And that the application is Exhibit No. 1; true? [624]

Mr. Donohue: Correct.

Q. (By Mr. MacInnis): In this application the applicant, Harry Bridges, not only filled in the forms in which there are questions in small print, with relatively limited space for the answer, but

(Testimony of Lloyd H. Garner.)

he attached one, two and a half typewritten pages about his own background, is that true?

A. I presume it is true; if it is part of the document.

Q. Well, Mr. Garner, a few moments ago you said that your memory was so good on these matters that you could tell us from memory alone what these men said.

A. I have no idea who attached it.

Q. Pardon me?

A. I have no idea who attached it, counsel. When I received it, it was attached.

Q. And the part that was attached bore the signature of Harry Renton Bridges?

A. That is right.

Q. Now, in the materials that were attached, in the very application that you have before you, was the history of the deportation proceeding had against Harry Bridges in 1939; true?

A. Possible.

Q. Possible! (Handing document to witness.) That is the matter that you said you may have had vaguely in your mind?

A. Yes, I see that it is attached there. I hadn't thought about it in that connection. [625]

Q. It is not only there, it is not only possibly there, it is there? A. It is there.

Q. You read this matter, did you not?

A. I read it previously, yes, sir.

Q. That was part of your duty to read it, wasn't it? A. That's right.

(Testimony of Lloyd H. Garner.)

Q. And this entire application, or a copy of it, was sent on to your superiors, was it not?

A. Well, it was sent on through official channels. I presume my superiors saw it.

Q. Yes. You did the ordinary thing that you would do in any naturalization matter, did you not?

A. Well, at the time it was submitted, it went through channels, of course.

Q. In other words, in his application, which the applicant Harry Renton Bridges had presented to you, and which, as you say, you had in your possession, the day you talked to these three men, and asked the questions which you say are now engraved on your memory so that you need not refresh your memory, you had this before you:

> "In 1938 I was arrested in Baltimore, Maryland, on a charge of being subject to deportation. My case was tried in 1939 at Angel Island before Dean James M. Landis. He found and held that the charges against me were [626] untrue and recommended that the warrant of arrest be canceled. The Secretary of Labor accepted this recommendation and ordered the proceedings dismissed and the warrant of arrest canceled. In 1941 I was again arrested in San Francisco under a warrant charging me with being subject to deportation. I was tried before Judge Charles Sears, whose adverse recommendations were rejected by the

(Testimony of Lloyd H. Garner.)

> United States Board of Immigration Appeals. This Board found that the charges against me were untrue and that they should be dismissed. However, Attorney General Biddle overruled the Board's decision. I brought habeas corpus proceedings in the Federal Court, and these proceedings have just been terminated with a decision of the United States Supreme Court on June 18, 1945, reversing the lower court, because it refused to hold my deportation invalid, and granting a writ of habeas corpus."

You had read that, hadn't you? A. I had.

Q. And you understood it when you read it, didn't you? A. Yes, sir.

Q. You understood that in 1939 Harry Bridges had been charged with being subject to deportation upon the allegation that he was a Communist; you knew that, didn't you? A. I did.

Q. And you knew that the court found that that was not so, [627] true?

A. I knew the history as it is set out there, yes.

Q. Yes. And you knew that in 1941 he was charged with being subject to deportation upon the identical charge, and that the United States Supreme Court had held that there was no evidence to show that he was a Communist?

A. That is true.

Q. Yes. You had all those things before you on the day that you had this discussion with these

(Testimony of Lloyd H. Garner.)

three men, which you now can give us verbatim from your position in the witness chair?

A. (No audible response.)

Mr. MacInnis: May I suggest a recess, your Honor?

The Court: Well, yes, we will take the recess. Mr. Mitchell, will you enclose that in an envelope, please. I will take it with me to chambers.

Mr. MacInnis: Pardon me, your Honor?

The Court: I will take this message with me to chambers and consider it in chambers and return it to the clerk of the court.

Mr. MacInnis: I think, your Honor, it is unnecessary; because there is something else that has been brought into evidence. The point has already been answered upon the last questions. That is exactly what I was pointing out in the note.

The Court: This note becomes moot, then? [628]

Mr. MacInnis: Yes.

The Court: All right.

Ladies and gentlemen of the jury, we will take the afternoon recess. The same admonition to you, not to discuss the case under any circumstances nor to form nor express an opinion thereon until it is finally submitted to you.

(Recess.) [628-A]

Q. (By Mr. MacInnis): Did I understand you to tell us within the last hour that when the petition of Harry Renton Bridges was presented to you that

(Testimony of Lloyd H. Garner.)

you made notes upon the back as to the conversations you had with the three men?

A. I made the notations on the back of the triplicate copy of the form before there was a petition typed.

Q. Is that the form that you brought here today?

A. That is the form that was offered in evidence.

Q. And anything that is written upon that form constitutes the notes that you made at that time?

A. That is true.

Q. Is it fair to say that those were the only notes you made?

A. Yes, that is the only notes that were made at that time.

Q. So that your memory of the questions put to these men and the answers they gave is bolstered by the notes that you made at that very time?

A. In so far as the notes go, yes, sir.

Q. And the notes are the only memorial, so far as your mind is concerned, as to what was said at that time?

A. I have no other source of notations, that is right.

Q. Handing you Government's Exhibit No. 2, I will ask you, please, to look at the back of it, the place where you took these notes and point out to us where you made a note as to one of the facts that you tell us occurred, the fact that you allege that you asked Mr. Robertson and Mr. Schmidt whether they were [629] members of the Communist Party. Can you point to that?

(Testimony of Lloyd H. Garner.)

A. There are no notations to that examination. The only thing I have on this is that both witnesses are members of the same union, the ILWU.

Q. Yes.

Q. In other words, you have come here to court today to give testimony about an event that happened more than four years ago. You first tell us that you made notes at the time so that these important matters would not escape your memory. You tell us you asked these two men, Mr. Robertson and Mr. Schmidt, whether or not they were members of the Communist Party, and you haven't got the slightest note that would refresh your memory one way or the other on that, have you?

A. No notes on there as to the petitioner either.

Q. No, you haven't any note as to whether you asked them that question? A. That is right.

Q. We know that Judge Foley put the question to Mr. Bridges during the hearing, but as to this conversation——

A. I put the question to the petitioner myself at the hearing.

Q. At the time when you tell us now—I am speaking now about these talks that you had with the three men—at the time when you were alone with each of the men respectively, is that right?

A. That is right.

Q. And it is true that nowhere upon this document which is the [630] only notation, the only memorial of the whole thing, does there appear any

(Testimony of Lloyd H. Garner.)
reference to these questions which you say you put to Mr. Robertson and Mr. Schmidt?

A. That is true. There is no space on there to make such notations.

Q. No space on the paper and hence you did not make the notes. You had some other paper, I suppose, at the time? Pardon me?

A. I presume I did. I had other paper, yes.

Q. Was that an important question that you say you asked them?

A. Yes, of course, it was material.

Q. But you made no notations of it?

A. I only had to be satisfied in my own mind.

Q. Were you satisfied in your own mind?

A. I accepted the testimony they offered.

Q. In other words, Mr. Garner, having in mind, of course, that you were doing just what an official in your position would ordinarily do with any witnesses, you were satisfied with the answers that they give you, true?

A. I had no evidence to contradict it.

Q. And you had no feeling about them and no suspicion about Mr. Robertson and Mr. Schmidt at that time after they gave you the answers, is that true?

A. Well, my feeling in the matter, I do not know that it was material, except as you will note I continued the whole thing for investigation. [631]

Q. Did you accept their answers as they gave them to you? That is what I am trying to find out now.

(Testimony of Lloyd H. Garner.)

A. I did not pursue the inquiry any further, yes. I accepted it as they gave it.

Q. If that is true, Mr. Garner, why did you write in the bottom of the portion devoted to the witnesses Mr. Robertson and Mr. Schmidt the following: "Your recommendation: Investigate loyalty and attachment to Constitution and police report."

A. Because I wanted further investigation made on it.

Q. So you did not accept their statements. You caused an investigation to be made even as you indicated earlier this afternoon, right?

A. I do not know that I follow you. That is true that I did continue it for investigation.

Q. And as you said before, these papers or copies of them went to your superiors in the Immigration Service and an investigation was conducted?

A. I presume that is true, yes, sir.

Q. The investigation was on your recommendation, wasn't it?

A. Yes, sir, I expect it was.

Q. You know it was, don't you?

A. I say I know it was, yes.

Q. In fact, it says here that "recommendation of preliminary examiner, investigate loyalty and attachment to Constitution," so that you not only accepted what these men said but you had [632] an investigation, and after that investigation did you receive any order from your superiors in the Immigration Department?

(Testimony of Lloyd H. Garner.)

A. I heard nothing from it further until I was assigned to attend the court hearing.

Q. You do not have the feeling that somebody merely slipped up and did not perform the investigation, do you?

A. You mean now or at that time?

Q. At that time.

A. No, I felt that they had conducted an investigation.

Q. Your superiors from whom you received orders did not tell you to oppose the naturalization of Harry Bridges, did they? A. No.

Q. They did not tell you that you should not accept the statements of Mr. Schmidt or Mr. Robertson, did they?

A. I do not recall that they gave me any instructions as to that.

Q. You know that the investigation was made, do you not? A. Only by hearsay.

Q. That is the only way anyone in a large department could understand what was done to follow up any procedural matter, isn't that true?

A. That is true.

Q. And what instructions did you receive upon the date of the hearing in the Bridges naturalization case?

A. The instructions I received then were to present the facts [633] to the court.

Q. And that you did? A. That I did.

Q. By the way, since you wrote down your own

(Testimony of Lloyd H. Garner.)

impressions about Mr. Robertson and Mr. Schmidt, that impression being that their loyalty should be investigated when they told you that they believed that Harry Bridges was not a member of the Communist Party, did you probe the matter further?

A. No, sir.

Q. Did you ask them how did they know?

A. No, sir.

Q. You did not ask that question at all?

A. No, sir.

Q. Were you interested?

A. I was only interested to get their reaction.

Q. Whatever their reaction was and whatever investigation followed it, you received no orders to probe further into the matter?

A. Personally, no, sir.

Q. On the day when these three men were interviewed by you in your office, was any change made in the application of Harry Renton Bridges for citizenship? By the application I mean Government's Exhibit 1.

A. There may have been minor corrections made to it.

Q. What kind, do you remember? [634]

A. They appear on the face of the document. As I recall, there were very few corrections.

Q. When the petition was filed, was any change made in the petition? A. No, sir.

Q. None at all?

A. The petition was signed as it was typed.

Q. No change at all was made on it?

A. There was not.

Q. Pardon me?

A. To the best of my recollection, that is true.

Q. Well, I show you the extent of your recollection on that point (handing to witness); change was made by scratching out the name——

A. Sorry, sir; that is not a part of the petition that I had in mind. I thought you were talking about the face of the petition. That part does not constitute a part of the original petition itself. That is my notes. That document. The signature of Harry Renton Bridges at the base of the page there constitutes the full petition for citizenship, plus the affidavits of the witnesses on the reverse.

Q. You mean to say that this is not the original document?

A. It is so stipulated, isn't it, that is the triplicate?

Q. I don't understand what you mean, then, when you say that part of this is not the petition.

A. The notes themselves, my notes, are not a part of the petition for citizenship.

Q. I am not speaking of your notes; I am speaking about the change in the names of witnesses—Mr. Robertson in place of Mr. Schnurr.

A. There is ~~no~~ such change in the petition itself, if counsel will note. The affidavit at the top there, it is signed without any corrections or alterations. I refer to Exhibit 2.

Q. Well, now, was the same correction made

(Testimony of Lloyd H. Garner.)

upon the application, which is Exhibit No. 1 of the Government?

A. Oh, yes, the application form was amended as changed. [636]

Q. So that we will all understand just the purpose of these questions, this is what happened, isn't it: Harry Renton Bridges filed an ordinary application on your forms, that is, the forms of your department, that he be permitted citizenship, is that right?

A. He be permitted to file a petition, yes, sir.

Q. Yes. And the two witnesses who were named in the original application, were Mr. Schmidt, who is Mr. Henry Schmidt, sitting here as a defendant, and a man named Schnurr; is that true?

A. That is true.

Q. And on the petition in that part that you say concerns only the witnesses, the name of Mr. Schnurr, Paul Schnurr, is scratched out and the name of J. R. Robertson inserted in its place?

A. That is true.

Q. And you have given us the reason; you said that this Mr. Schnurr came in and his answers didn't satisfy you, or his credentials were not perfect so far as his own citizenship was concerned, correct? A. That's right.

Q. So you raised the question and you suggested that some other witness would have to qualify?

A. That's right.

Q. And upon that notice, upon your decision, Mr. Robertson was brought in, isn't that true? [637]

A. That is true.

(Testimony of Lloyd H. Garner.)

Q. And then for the first time Mr. Robertson became a person to whom you asked questions in this matter? A. That is true.

Q. Do you know what this case is about, generally, the case that we are now trying, Mr. Garner?

A. Generally, yes, sir.

Q. Yes. You understand that Mr. Robertson, considering him alone for just a moment, is accused by the Grand Jury, by the United States Government, of entering into a conspiracy to conceal guilty knowledge that he had about Bridges' membership in the Communist Party? You understand that?

A. I understand.

Q. You understand that he is charged with agreeing with other people to swear falsely in the matter, don't you? A. Yes, sir.

Q. And you tell us now that it is true, that which we have always known to be true, that the only reason Robertson's name appears there is that he was substituted for Mr. Paul Schnurr because of your decision on Schnurr's disqualification, isn't that right? A. That's right.

Q. He was brought into the matter with the passage of one or two minutes and as a substitute witness, wasn't he, this man who was accused of conspiring to conceal these matters for some time; right? [638] A. Right.

Q. Have you ever discussed this case with any of the representatives of the Government?

A. To some extent, yes.

(Testimony of Lloyd H. Garner.)

Q. Have you been told that any person who would have been brought into the room at that time would have found himself now indicted in the case?

A. No, sir.

Mr. Donohue: I object, if your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): Now, speaking, as we were, about the duties of your office, you were of course a lawyer and a hearing officer as well, in the Immigration Service, is that true?

A. That is true.

Q. And you told us your duties are discretionary; in other words, you have illustrated that you made a discretionary decision in the matter of this witness, Paul Schnurr? A. That's right.

Q. You decided he was not a person who could at that moment qualify, and you told him, told them they would have to get a substitute witness, true?

A. That is true.

Q. And the duties of your office in addition to your training as a lawyer are duties which require experience and skill, [639] true?

A. That's right.

Q. And you want to know that the persons who talk to you and answer your probing questions are the persons they represent themselves to be, true?

A. True.

Q. And with the memory that you ascribe to yourself, without any notes about these conversations, it is still true that when asked by the Gov-

(Testimony of Lloyd H. Garner.)

ernment prosecutor to identify Mr. Robertson, you walked over and placed your hand near the shoulder of Mr. Hallinan? I beg your pardon?

A. Are you stating a fact or asking me a question?

Q. Both. Is that true? Is it not?

A. That is true.

Q. Now, to come to a point from which I had digressed a few minutes before the recess, you told me, I believe, in response to a question which I put to you that when you were before his Honor Judge Thomas Foley, you at no time expressed yourself as being satisfied with the witnesses; is that true?

A. I had in mind by that that I was satisfied with the case. I was presenting the facts to the court without a recommendation. It wasn't up to me to be satisfied or anything else.

Q. Pardon ~~me.~~ Did you wish to say something else?

A. As I say, I was starting to say; I merely apprised the [640] court that I had no further evidence to offer.

Q. Have you since the hearing in this matter—I mean, the Bridges naturalization hearing—read over the transcript of evidence at any time?

A. Yes, I have seen it.

Q. Did you see it today? A. No, sir.

Q. Have you seen it fairly recently?

A. Sometime within the week.

Q. So that you know generally its contents?

A. Generally, yes, sir.

(Testimony of Lloyd H. Garner.)

Q. It is fair to say, I suppose, that you read it over so that you would know what you were talking about on the witness stand?

A. I presume so. You could make that conclusion.

Q. You tell us that you didn't at any time say that the witnesses were satisfactory?

A. No, I didn't say that. I didn't know you were referring to the witnesses; I thought you were referring to the conclusion of the case, whether I was satisfied with the case.

Q. Well, the conclusion of the case was this, wasn't it: that his Honor Judge Foley granted citizenship to Harry Renton Bridges?

A. That's right.

Q. That was the order of the court? [641]

A. That's right.

Q. And the oath of citizenship was thereupon administered to Mr. Bridges?

A. That's right.

Q. And that was a hearing in which you participated as a representative of the United States Government, is that true? A. That is true.

Q. I will ask you if this colloquy took place between you as the lawyer conducting the examination and Mr. Robertson and Mr. Schmidt as persons questioned by you before Judge Foley——

Mr. MacInnnis: Do you have a copy so you can follow?

Mr. Donohue: No. That's quite all right.

(Testimony of Lloyd H. Garner.)

Mr. MacInnis: Thank you.

Q. Referring to page 2, I believe page 1 is merely the cover, your Honor, of this document—this document, by the way, is Government's Exhibit No. 3 in the case. Questions put by you to Mr. Robertson and Mr. Schmidt:

> "Mr. Garner: Harry Renton Bridges, J. R. Robertson and Henry Schmidt."

That was an announcement you made, introducing the three persons to the Court. Question by you:

> "The witnesses are both citizens of the United States?" [642]
>
> Answers: "Mr. Robertson: Yes." "Mr. Schmidt: Yes."
>
> Question by you: "You each have known the petitioner for the last five years or longer?"
>
> "Mr. Robertson: Yes." "Mr. Schmidt: Yes."
>
> By you: "And you know him to be a resident of this county at this time?"
>
> "Mr. Robertson: Yes." "Mr. Schmidt: Yes."
>
> By you: "Do you each vouch for his loyalty to the United States?"
>
> "Mr. Robertson: Yes." "Mr. Schmidt: Yes."
>
> Your question: "Do you recommend him as a person of good moral character?"
>
> "Mr. Robertson: Yes." "Mr. Schmidt: Yes."

"Do you recommend him to this court for citizenship?"

"Mr. Robertson: I do." "Mr. Schmidt: I do."

Your observation: "These witnesses are satisfactory, your Honor."

Correct?

A. Correct, sir.

Q. Now, the last observation of yours, which I have just read you, was made on September 17, 1945, about a month or more after the three men had appeared in your office and were questioned by you; true? A. True.

Q. And at the time you questioned Mr. Robertson and Mr. [643] Schmidt, your impression was such that you recommended that their loyalty to the Constitution be investigated; correct?

A. That is true.

Q. And after such investigation as may have been had, you were then directed to proceed with the case? A. That's right.

Q. So that when called upon, or when it became your duty to assist the Court by making a comment concerning these men, you had in mind the entire situation, including your original reaction, didn't you?

A. I did, but in making the recommendation, I was following the custom of the court,

Q. Yes. And what you said was, "These witnesses are satisfactory, you Honor": after their loyalty had been checked—true?

A. True. But if I may interpolate there, it was the understanding of the Court that the witnesses were satisfactory procedurally as to the qualifications to act as witnesses.

Mr. MacInnis: I suggest, your Honor, that this gentleman's self-serving statement as to what may have been in the mind of his Honor Judge Foley is no explanatory answer here. I suggest it be stricken.

Mr. Donohue: If your Honor please, the question was asked of him by the Court. He must have had in mind what the Court had in mind or he couldn't have made an answer to it. [644]

Mr. MacInnis: There is no question by the Court, Mr. Donohue. I think I had better give you a copy of this so you can follow it, because——

Mr. Donohue: Let me have my own.

Mr. MacInnis: Well, you don't have it any more. It is now in evidence and it now belongs to the Court and jury, so I will give you the typewritten copy. That way you will then be able to see what questions were put and what questions were not put by the Court, and so forth.

Mr. Donohue: Thank you. I still object to the question, if your Honor please.

The Court: Is there a question before the witness? I assumed he answered it. Did you answer the question?

The Witness: Yes.

Mr. Donohue: I think he answered the question.

Mr. MacInnis: I think he had, your Honor.

(Testimony of Lloyd H. Garner.)

Q. Now, Mr. Garner, after questioning these witnesses, I mean, Mr. Robertson and Mr. Schmidt, and indicating your satisfaction with them to his Honor Judge Foley, you then proceeded to interrogate the applicant himself, Mr. Bridges, didn't you?

A. That's right.

Q. And you asked him a complete range of questions, didn't you? A. Yes, sir.

Q. You asked all the questions which occurred to your mind [645] to be proper at that time?

A. That's right, yes, sir.

Q. And again, either in asking those questions or in making such preparation that day that would enable you to follow the trend of your own mind, you thought about the entire Bridges case, did you not?

A. Oh, I presume it was vaguely in the back of my mind, yes, sir. [645-A]

Q. Well, when Harry Bridges himself, forgetting for the moment the witnesses Robertson and Schmidt, whose reactions and whose reactions in your mind have we discussed, did you make any recommendation concerning Bridges when he filed the petition?

A. Only such as are generally noted there. My notation is not as to any particular one or two of the parties, persons there. It says as to the case.

Q. You have already stated this, that you knew about the previous history and the previous attempts to accuse Harry Bridges of being a Communist and you knew of the contents of his application, Government's Exhibit 1, which was already in your possession, true? A. True.

Q. And a general investigation was had after the day these three men appeared in your office—and I mean an investigation of Mr. Robertson, Mr. Schmidt and Mr. Harry Bridges—so that you received some order from your superiors with reference to the case, didn't you? A. Of course.

Q. And whatever that order may have been, it was not an order commanding you to resist Mr. Harry Bridges' application for citizenship, was it?

A. That is true.

Q. However, you had certain thoughts in your mind about Bridges based upon his background with the Immigration Service, [646] didn't you?

A. It covers a wide range. I had certain thoughts, undoubtedly.

Q. Yes, I am about to read your thoughts, Mr. Garner, as you expressed them at that time, not as you might express them today. In fact, before His Honor Judge Foley on the 17th of September of 1945 you had in your possession an affidavit by a lady who was formerly married to Mr. Bridges, a person inimical to him, who made new accusations against him to the end that he was a Communist, didn't you? A. An affidavit, yes, sir.

Q. You had it in your hand, didn't you?

A. Yes, sir.

Q. And you presented it to Judge Foley, didn't you? A. Yes, sir.

(Testimony of Lloyd H. Garner.)

Q. So the entire matter was again aired before our Superior Court with the government participating: true?

A. It was not introduced in evidence.

Q. You say that the matter was not considered?

A. I say it was not introduced in evidence.

Q. I will come to that in just a moment, Mr. Garner. After the entire matter was discussed, Judge Foley made his order admitting Harry Renton Bridges to citizenship, did he not?

A. He did.

Q. Tell me whether or not this was the colloquy that you had between you, questions by you, answers by Mr. Bridges, except [647] where I mention the Court:

> Your question: "Where do you live, Mr. Bridges?
>
> "Answer: No. 14 Graystone Terrace, San Francisco.
>
> "Question: Your occupation?
>
> "Answer: Union official at the present time.
>
> "Question: Where were you born?
>
> "Answer: Melbourne, Australia.
>
> "Question: How long have you been in the United States?
>
> "Answer: All told, I would say from 1920. That includes the years I went to sea on American ships.
>
> "Question: Your home has been here since then continuously?
>
> "Answer: Yes.

(Testimony of Lloyd H. Garner.)

"Question: In the United States? Your home has been in the United States since 1920?

"Answer: Since 1923 ashore and two or three years before that sailing on American ships.

"Question: You are married?

"Answer: I am.

"Question: You have one child?

"Answer: Yes, that is right.

"Question: Have you ever been arrested for anything at all?

"Answer: On one occasion.

"Question: When was that, please?

"Answer: 1921 in New Orleans.

"Question: What was the charge?

"Answer: Picketing. [648]

"Question: And the outcome, what was it? A fine or imprisonment?

"Answer: Neither. I was kept in the county jail overnight, or substation and released the next morning without being held or booked. I was arrested for deportation on a couple of occasions. I forgot to mention that.

"Question (By you): Outside of the deportation cases, that is the only criminal offense with which you have been charged?

"Answer: Would that include traffic violations?

"Question: Have you ever been arrested on traffic violations?

"Answer: Yes. Well, not—I was arrested once for an automobile accident.

"The Court (Judge Foley): I might say deportation proceedings have been held not to be criminal proceedings.

"The Witness: I was arrested for an automobile accident in December, 1946, in Los Angeles, and held in the police station for a few hours, and eventually released on bail, and the charge—I forgot what the charge was. But anyway, a little boy was killed, and the case was dismissed later as an unavoidable accident.

"Mr. Garner (Yourself): The case was dismissed, then, against you?

"Answer: That is right. [649]

"Question: Mr. Bridges, do you believe in the form of government we have in the United States at the present time?"

His answer (turning to defendant): I do.

Your question: "Do you know what the highest law in the United States is?"

His answer (turning to defendant): The Constitution of the United States.

Your question: "The Constitution divides the form of government into three branches. Can you tell me why we have three branches of government?"

His answer (turning to defendant): "To prevent the concentration of power in the hands of any one branch."

(Testimony of Lloyd H. Garner.)

Your question: "Do you believe in that principle of the Constitution?

"Answer: I certainly do.

"Question: Can the Congress of the United States make laws for the entire—for instance, for the various states, for the states as individual states?

"Answer: No, not necessarily. Congress has certain delegated powers. Congress can not make law that governs all the states, but certain states' rights are reserved by the states.

Your question: "Under the Constitution of the United States there is a provision that no property can be taken for the [650] public use without compensation. Do you believe in that principle of government?

"Answer: I do.

"Question: Do you believe in the private ownership of property?

"Answer: I do.

"Question: Do you believe in the private ownership of the means of production of wealth and property?"

His answer (turning to defendant Bridges): I believe in private ownership, but I also believe in some regulation.

"Question: Do you believe in the private ownership of railroads and mines and other public utilities, like the telegraph companies?

"Answer: I do, right.

(Testimony of Lloyd H. Garner.)

"Question: Do you now, or have you ever, belonged to any organization that advocated the overthrow of the government by force and violence?

"Answer: No.

"Question: Do you now, or have you ever, belonged to the Communist Party in the United States?

"Answer: I have not; I do not.

"Question: And have you belonged to any organizations that are affiliated with the Communist Party?

"Answer: I have belonged to organizations that have been accused of affiliation [651] with it."

"The Court (Judge Foley): Q. In your mind is there any ground for the accusation?

"Answer: None at all. I mean, your Honor, certain labor organizations have been accused."

The Court (In the person of Judge Foley): "Well, of course, Mr. Bridges, we are all cognizant of the history of your petition for citizenship and the deportation proceedings. They have all become a part of this proceeding and involve the question. One of the main questions was the question of your affiliation with any organization that in any way advocated the overthrow of this government by force or violence. Now, 'affiliation' is a pretty broad word, and one of the questions was at the time of making the application, 'Were you ever a member?'

(Testimony of Lloyd H. Garner.)

> "I know you are, and your counsel, Mr. Gladstein, is very familiar with those cases. Now, your testimony is that you do not now, or ever have been, ever affiliated with any organization that advocated the overthrow of the United States Government by force or violence?
>
> "Answer: That is right."

I might say in reference to one of those documents that you introduced or brought here today, a part of which was read by the government prosecutor, that part involving the maiden name of Mr. Bridges' mother as being Dorgan, that at this proceeding you then asked this question of Mr. Bridges: [652]

> "Q. Have you ever been known, or used, any other name at any time? Answer: No.
>
> "Mr. Garner: If the Court please, I have no further evidence. I have an affidavit which was received by the Department on Friday of last week. I have had no opportunity to make any investigation of it. I merely offer it for what it is worth."

And the text then shows that you handed it to the Court.

Q. True? A. True.

> Mr. MacInnis: "The Court: This is an affidavit of Agnes Bridges. Is that Mrs. Bridges?
>
> "The Witness: My wife, yes, sir.
>
> "Mr. Garner: It contains certain statements there that——

(Testimony of Lloyd H. Garner.)

> "The Court: Well, I think this—I don't think that this affidavit can be used as substantive evidence.
>
> "Mr. Garner: I am not offering it as evidence."

Q. Did you say that? A. That is right.

Q. In other words, your notions of the contents of this paper was such that you did not even attempt to offer it into evidence to enlighten the Court or for any other purpose. The Court then read the affidavit, didn't he?

The Witness: I think he did. [653]

Q. You are sure he did, aren't you?

A. I do not know what transpired through his mind. I know he looked at it.

> Mr. MacInnis: Because the Court then said this: "But, however, the information in it can be used as a basis for questioning the Petitioner, if you see fit to.
>
> "Mr. Garner: It sets out there that he has been known under another name. I have asked him that and he has denied it."

The Court (Then addressing Mr. Bridges, I think): Is that correct?

The Witness: I think the context so shows.

Mr. MacInnis: "It states here that meetings of the Communist Party were held at 3249½ Harrison Street, in which you presided at those meetings. Is that correct?

(Testimony of Lloyd H. Garner.)

"His Answer: No, never, your Honor.

"Question: It further states that the said Harry Bridges deeming the hiding place for his Communist membership party book unsafe where it was hidden in said bathroom under the linoleum, then with his knife over the lintel of a door leading from the kitchen of said home to a rear porch made a slit back of said lintel, and between the plaster, so that the membership book could be hidden therein.

"That is incorrect, is it?

"Answer: That is right. It is true I searched my house [654] many times, your Honor, because I was afraid that at certain times when things were pretty hectic that someone would try to plant things there. But at no time was there any incident like that, nor does it have any substance at all, and it is an incorrect statement.

The Court, Question: "It states further that your affiant during the summer of 1934 and during the 1934 strike went to the State of Oregon for a time on a visit to relatives. That upon her return your affiant was instructed by said Harry Bridges, through one Kasperson or Gasperson, to remove said Communist membership book in the Communist Party from its hiding place over the aforesaid door to a place of safety, as he had been informed that someone was going out to get it.

"Is that statement correct?

(Testimony of Lloyd H. Garner.)

And his answer: "That name came up in my trial at Angel Island when counsel for the government introduced a book in evidence merely for identification, because it had been used as the basis for a warrant issued against me. But they stated at that time they were not offering it in evidence, because they had no connection between the alleged book and myself. I know they sold that book, and they sold it for $500 a copy. That is the origin of that book."

"The Court (Judge Foley): Do you wish to look at that affidavit, Mr. Gladstein?" [655]

He was Mr. Bridges' counsel in that hearing. Handing it, then, so the record shows, to him.

"Mr. Garner: Question: You deny that you ever used any other name than Bridges?

"Answer: No, never any other name at all.

"Mr. Gladstein: May I say we have just concluded a trial before Judge Deasy in which the applicant was the plaintiff in a divorce action, and it is rather significant that his wife testified during the course of that trial, as evidence of her faithfulness and loyalty to him, and of her having been a good wife, that she had made affidavits stating truthfully that the charges against Mr. Bridges that he had been a Communist were wholly false, and it is true that she had made such affidavits.

"The Court (Judge Foley): She so testified in the divorce case?

(Testimony of Lloyd H. Garner.)

> "Mr. Gladstein: Yes. There is an affidavit in which she deposes and states that certain testimony given by a man named Lundeberg during the second deportation trial, accusing Mr. Bridges of being a Communist, was wholly false.
>
> "I suppose your Honor knows the old adage that hell hath no fury like a woman scorned."

Do you remember that? A. I do.

Q. And that it was brought out subject to investigation that the [656] person who had made that affidavit had herself sworn a few days earlier in the court of Judge Deasy that all of the charges against Harry Bridges were false and that she knew them to be false, true?

A. I knew nothing about it at the time, other than what the affidavit said.

Q. You mean——

A. That affidavit came into my possession the morning of the hearing.

Q. Really?

A. It was received by the Department on the Friday previous.

Q. That is what you say. The Department received it on the Friday before the hearing and you say now that your interest in this matter was so slight that you did not pursue the ordinary sources for gaining information?

A. I am not saying that.

Q. Of course not.

(Testimony of Lloyd H. Garner.)

A. I am saying I did not ask for a continuance of the case, that is all.

Q. In fact, you thought it of no importance at all because the Dorgan name was an old story to you, just as it was in that affidavit, isn't that right?

A. You mean that it had been brought out before as specified there, yes.

Q. It had been brought out before. [657]

A. I had no further evidence in the matter. Nothing to present to the Court.

Q. And it has specifically been found to be a lie, hadn't it?

A. That I am not prepared to say: I do not know, as to that.

Q. Let me ask you this: In his answers at that hearing, when Harry Bridges said that something happened at the Angel Island hearing, you understood as an immigration official that referred to the year 1939, did you not? A. Yes.

Q. And you know that in 1939 the Dean of the Harvard Law School, Dean Landis, was appointed by the President, I presume, to preside over the deportation hearing of Mr. Bridges?

A. I was aware of the history of the case.

Q. And you know that in that hearing there was an alleged book in the name of Harry Dorgan which the government did not even pretend could be used in evidence? You know that, too, don't you?

A. That is true.

Q. So the Dorgan story was brought up and found false way back in 1939, true?

(Testimony of Lloyd H. Garner.)

A. Yes, I guess that is true.

The Court: We have reached the 4:00 o'clock recess period, counsel. Ladies and gentlemen of the jury, we will take the adjournment until next Monday at 10:30 or 11:00 o'clock.

The Clerk: May I suggest 11:00, your [658] Honor?

The Court: We have several matters on the calendar Monday morning that need and require attention on the part of the Court. Accordingly, this case will stand regularly adjourned until next Monday at 11:00 o'clock — not 10:00 o'clock — 11:00 o'clock next Monday, and in the interim I again admonish you, as I have in the past, not to discuss the case with any person or persons and not to form or express an opinion thereon until it is finally submitted to you for decision.

(Thereupon an adjournment was taken to Monday, November, 21, 1949, at 11:00 o'clock a.m.) [659]

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IN EIGHTEEN VOLUMES**

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IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume II
(Pages 517 to 998)

**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In .... Volumes

Volume II
(Pages 517 to 998)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

(Testimony of Lloyd H. Garner.)

November 21, 1949, at 10:00 o'Clock

The Clerk: The case of the United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed, counsel.

The Clerk: The witness on the stand is Lloyd H. Garner, heretofore sworn.

Cross-Examination
(Continued)

By Mr. MacInnis:

Q. Now, Mr. Garner, you told us yesterday, or Friday rather, all of those things which came into your mind as having transpired four years ago when you took part in the naturalization proceedings of Harry Bridges, is that right?

A. Yes, sir.

Q. And when I asked you if you indicated to his Honor Judge Foley that you, as a representative of the government, were satisfied with the proceedings, you told us now, that all you did was apprise the court that you had no further evidence to offer, is that true?

A. I believe I so testified. I may have misunderstood your question as to what you meant by satisfied. I think I did use that term.

Q. With reference to the possibility of your misunderstanding me, Mr. Garner, we both understand that you are a lawyer, don't we? [660]

A. That is right.

(Testimony of Lloyd H. Garner.)

Q. And that you are hearing officer of the Immigration Department of the United States?

A. Yes, sir.

Q. You are skilled and trained in your particular occupation, are you not? A. I think so.

Q. And you are familiar with the decision law in respect of these matters, aren't you?

A. Yes, sir.

Q. And with the regulations of your department? A. Yes.

Q. So that there is little chance for you misunderstanding me on any particular work, is there?

A. (No oral response.)

Q. Let me ask you this: You said precisely as follows: I merely apprised the court that I had no further evidence to offer: True? You said that on Friday last, didn't you?

A. Yes, that is right.

Q. Actually his Honor Judge Foley turned to you and asked you if the government of the United States had any objections to the admission of Harry Bridges to citizenship, and your reply was, "No objections, your Honor"?

A. Yes, I think that is true.

Q. Now, as to the meaning of that phrase, if I understand it, [661] in your work with the Department of Immigration or the Immigration and Naturalization Service, as it may be called, the Bureau rarely recommends prospective persons to citizenship, isn't that true?

A. No, that is not true.

(Testimony of Lloyd H. Garner.)

Q. Does the Bureau make adverse findings on occasion? A. If the facts warrant, yes.

Q. In other words, if the Bureau—and by the Bureau I mean the entire Immigration Department—from its records and its research—decides that a person has not told the truth about himself or that he is not a proper candidate for citizenship, an adverse recommendation is made to the trial judge, true?

A. If there is substantial evidence, yes, anything of an adverse nature to present.

Q. And in this case when that question was put to you, you, the representative of our government, said, "No objections"?

A. That is right, I did.

Q. And when you made that reply, Mr. Garner, you had it in your mind, and you had previously studied all of the history of this case, had you not?

A. Well, I was familiar with it.

Q. You were familiar with the lengthy hearing held here at Angel Island in 1939; true?

A. I had no part in it, only as hearsay.

Q. You read it though, did you not? [662]

A. I read excerpts from it.

Q. And you read the opinion of Dean Landis of Harvard, did you not?

A. No, I do not know that I ever read his opinion.

Q. You knew what the result was, however?

A. I knew that there was a finding that the man was not deportable.

(Testimony of Lloyd H. Garner.)

Q. Yes, that he was not a member of the Communist Party, to be specific?

A. No, I do not know that.

Q. You said you did Friday.

A. I said that I know that there was a finding that he was not deportable, that they had not established that he was a member of the Communist Party.

Q. Have you discussed this matter with any persons representing the government, over the weekend? A. No, I have not.

Q. You have not talked with anybody about your testimony?

A. Not about my testimony, no, sir.

Q. Nothing about this case either?

A. No, sir.

Q. And you knew, of course, that the 1941 hearing against Harry Bridges had resulted as you indicated Friday in an opinion of the Supreme Court of the United States?

A. Yes, I know what the Supreme Court held there. [663]

Q. You read that opinion, too?

A. I do not know that I have ever read the opinion. I have read excerpts from it. I know about what they held.

Q. And you knew they held that Harry Bridges was not a Communist? A. No.

Q. For our better understanding, Mr. Garner, on some of the matters which you testified Friday, let me hearken back to one or two parts of your

(Testimony of Lloyd H. Garner.)

testimony. You told us that when Mr. Robertson and Mr. Schmidt came into your office in the City Hall you had a conversation with them in which you asked them certain questions, which you purported to narrate from the witness stand, true?

A. Yes.

Q. And you told the jury further that, although more than four years had passed since you interviewed those two men, that you had no notes as to the contents of the conversation and no other independent memoranda; true?

A. That is true.

Q. So that you offered us your negative memory alone, is that true? A. That is right.

Q. When these men were in your office individually, as you told us, did you ask them the same questions that you later put to them when they were on the witness stand in Judge Foley's court? [664]

A. To some extent, yes, not exactly.

Q. Did you ask them substantially the same questions?

A. I did not ask them substantially the same questions on the witness stand in court that I did in the private hearing, no.

Q. You did not? A. No.

Q. You asked Bridges substantially the same questions in court as you had asked him in the room, did you not?

A. To a great extent, yes, I did. [665]

Q. But when one looks at the transcript of the

(Testimony of Lloyd H. Garner.)

hearing, which we have already read to you, it is found that you don't claim to have asked either Mr. Robertson or Mr. Schmidt two particular questions: One, are you a member of the Communist Party, and the other question, have you ever been arrested? You didn't put those questions to them in court, did you?

A. Not in the court hearing, no, sir.

Q. Well, in your duties and in the course of them, as a naturalization officer, you interview many people at one time, do you not? I should say in the course of one day.

A. In the course of my duties I do, yes.

Q. And the day upon which you first spoke with Mr. Robertson and Schmidt was an ordinary day, was it not?

A. Well, I don't know that it was an ordinary day; I only had that one case that day.

Q. You talked to no other people, no other witnesses on that day?

A. Had no other petitions or applications for hearing that day.

Q. How about the day that Mr. Bridges went to court before His Honor Judge Foley? Were there other persons admitted to citizenship at the same time?

A. As I remember, there was a group of people of 15 to 20.

Q. And they were all admitted to citizenship, were they? A. I think they were, yes.

(Testimony of Lloyd H. Garner.)

Q. Did you ask all those people the same questions that you had [666] put to these three men?

A. Yes.

Q. You asked every one basically the same questions?

A. As to—you are referring as to the witnesses?

Q. Yes.

A. As to the witnesses, they were all asked identical questions.

Q. And in your private interviews with those witnesses, were they asked the same questions?

A. If the nature of the case so indicated, yes.

Q. In other words, there is no statute or directive of your department which impels you to ask of the prospective witnesses for any applicant, any person who applies for citizenship, such questions as you now tell us, based on your memory alone, you put to Mr. Robertson and Mr. Schmidt?

A. Only the law itself.

Q. What law is that?

A. There is no regulation. I am referring to Section 705, I think, of the Nationality Act, which makes it a duty of an examiner to determine whether a person is a member of a subversive organization.

Q. Yes. And when you saw these three men, it was only two months beyond the date upon which the Supreme Court of the United States had made its designation in the Harry Bridges matter?

A. I think you are right, approximately. [667]

(Testimony of Lloyd H. Garner.)

Q. And you had seen at least excerpts from that decision, too?

A. Yes. If I hadn't, I heard about the decision. I don't know that I had read it, but I had heard of it, yes.

Q. Well, didn't you have the whole file of the Harry Bridges matter before you?

A. Not the deportation file, no, sir.

Q. You didn't? A. No, sir.

Q. Well, now, don't all of these files bear the same number in the Immigration Service?

A. No, sir.

Q. They don't? A. They do not.

Q. Well, isn't it true that so far as the files of the Court itself are concerned, the 1939 hearing and the 1941 hearing bear the same number?

A. You are speaking of the deportation hearing?

Q. Yes.

A. With which I had nothing to do. I am referring to my knowledge of the naturalization hearing. It bears a different number.

Q. And you say that the statute directs you to ask these questions of the three men, although two months before, the Supreme Court of the United States had made its opinion holding that under the evidence Harry Bridges was not a Communist and holding [668] further that there was no evidence showing that the Communist Party had any direction to overthrow the government. You knew that, didn't you?

(Testimony of Lloyd H. Garner.)

A. Yes, I knew the outcome of that decision.

Mr. MacInnis: I have shown Mr. Donohue a photostatic copy of the decision to which I referred. May it be marked for identification, Your Honor?

The Court: It may be marked solely for identification.

(Thereupon, photostatic copy of Supreme Court decision referred to above was marked Defendant's Exhibit B for identification.)

Q. (By Mr. MacInnis): Now, I show you the exhibit that is now called Defendant's B for identification, the opinion of the Supreme Court of the United States. Does that appear to be the document concerning which you told us that you had read excerpts?

Mr. Donohue: I must object at this time, if Your Honor please. The witness in the first place had said that he has never read the opinion, though he had seen excerpts, which would make it impossible for him to identify what has been marked for identification as a photostatic copy of an opinion of the Supreme Court. I object on the further ground that as the witness has himself stated, the proceeding resulting in that opinion was a deportation proceeding which is so foreign from either the application for naturalization handled by the [669] witness or this proceeding as to make it wholly inadmissible.

Mr. MacInnis: May I be heard on that, Your Honor?

The Court: Yes.

(Testimony of Lloyd H. Garner.)

Mr. MacInnis: It appears to me that this man was a representative of the government in the naturalization proceeding involving Harry Bridges. The proceeding was not an ex parte proceeding, it was not one in which the applicant merely filed papers and made a statement without opposition before our Superior Court. Mr. Garner tells us he interviewed these men and that he sent the matter back to his superiors for investigation. Whatever information was then sent to Mr. Garner, he was not requested to oppose the proceeding. So the government was a party to that proceeding. Now, the government in this case claims that these men conspired to defraud the government. Now, for that reason, any knowledge that this man had, as the government's representative at that time, would be very pertinent to show us whether or not the government could possibly have been defrauded, after the many investigations which it had conducted. And it would also to the interest of the witness, the knowledge of the witness, the possible bias of the witness, the motivation of the witness in giving a certain answer or answers involving the remarkable memory that he attributes to himself here.

The Court: The objection is sustained. I have taken the position on the part of the Court that I have instructed the [670] jury consistently and persistently that the deportation proceedings and results thereof as well as the opinion of the Supreme Court of the United States of America, has no binding effect upon the issues involved in this case.

Mr. MacInnis: We do not claim it has.

The Court: Accordingly the objection is sustained.

Mr. MacInnis: May I suggest, Your Honor, we don't claim that the opinion is binding upon Your Honor or upon the jury.

The Court: Nor upon the jury.

Mr. MacInnis: Of ~~course not~~. Because that would be in derogation of Your Honor's ruling. But this is cross-examination of a government witness, who is a government officer. Now, if this man,—I think Your Honor will bear with me—performed his duties as conscientiously as we must deem he did, he must have read that decision. And if he read that decision, it was part of the background in everything that he did in this case, and questions upon that would become very pertinent.

The Court: Objection sustained.

Mr. MacInnis: Well, now, Mr. Garner, having before you the document which you say you didn't read in full, but which was a decision of the Supreme Court two months before you saw these men, isn't this true, that your state of mind was that you respected that decision and were not interested in any particular inquiry? Is that the fact?

A. I respected the decision undoubtedly. But whether your [671] statement that I was not interested in the facts—that is not true. I was interested

(Testimony of Lloyd H. Garner.)

as an examiner there of determining whether there was anything of an adverse nature to present to the naturalization court:

Q. Yes. Well, here is the thought that I am trying to express to you, Mr. Garner, however ineffectually. You were a hearing officer of the Immigration Service. The Immigration Service was a party to the Bridges case. The case represented by that decision, isn't that true, the case is entitled Bridges against Wixon? I believe Wixon is the name of the director of your service, isn't that true?

A. At that time he was the director, yes, sir.

Q. Yes. And despite the recent nature of that decision, these three men came before you and you nevertheless put all the old questions to them, and although they all gave answers which of themselves would excite no suspicion, you wrote down upon the back of the petition, which would be Government's Exhibit 2 in this case, "Investigate loyalty and attachment to Constitution;" true?

A. I wrote it down on the date of my hearing, yes. I don't know what had transpired before the date of the hearing. I don't know what had transpired between the time of the decision, let us say, and the date of that hearing.

Q. Exactly. In other words, the only thing that you could have possibly interested yourself in would have been matters taking [672] place within that narrow island of time, between what would have been June of 1945 and August of 1945, when

(Testimony of Lloyd H. Garner.)

you talked to those men, because everything else you were satisfied had been determined, isn't that right?

A. I knew that it had been determined that the Government had not sufficient evidence to show that those men were members of the Communist Party or that the defendant was.

Q. And the only reason that you put down on your notes, which is the only material available to me now for inspection, was this, about the two witnesses: "Both witnesses work with applicant on ILWU." You put that right next to the line, "Investigate loyalty and attachment to Constitution."?

A. That's right.

Q. And yet you knew, as a citizen and as a lawyer employed by our government, that that very year the ILWU had been decorated by our government for meritorious service during the war?

Mr. Donohue: I object to that.

The Court: The objection is sustained. The jury is instructed to disregard the statement, and the implications contained therein.

Mr. MacInnis: I suggest it might go to the knowledge of the witness, Your Honor.

Q. Well, that is the reason that you put on this application, "Investigate loyalty and attachment to the Constitution," and then in a parentheses "Both witnesses work with applicant on [673] ILWU;" true?

A. The reason I put it there was because I expected the investigation to be brought down to date.

(Testimony of Lloyd H. Garner.)

Q. Well, now, was it brought down to date?

A. At the time I went into court it was down to date on that time, yes, sir.

Q. Did you receive a communication from your associates or superiors in the Immigration Service?

A. I have received many of them. What do you refer to?

Q. At this time, in response?

A. As to what?

Q. Mr. Garner, can it be that you misunderstand that we are talking about this matter, Mr. Robertson and Mr. Schmidt?

A. I understand that; you asked if I had received a communication.

Q. Did you receive any communication about these men whom you had asked be investigated?

A. No, sir.

Q. None at all?

A. I don't recall any communication I ever received about them.

Q. Did you receive any communication directing you to take any position or to refrain from taking any position in the matter of the application of Harry Bridges for citizenship?

A. Yes. [674]

Q. When did you receive that communication?

A. On the morning of the hearing, on September 17th.

Q. Is that communication in the possession of these gentlemen who are the government counsel here?

(Testimony of Lloyd H. Garner.)

A. I received oral instructions or communications on it.

Q. Oh, the matter was not one which permitted any written correspondence?

Mr. Donohue: I object, if Your Honor please, to the form of the question and to its substance.

The Court: Objection sustained.

Mr. MacInnis: On what ground, may I ask Your Honor, so that I may be guided in the phrasing of the next question?

The Court: You asked him whether he had had any written instruction, and the implication contained in your question was such that communication would not bear the written memorial. That was the implication I got.

Mr. MacInnis: Well, yes, I will reframe it, then.

The Court: Yes, I think you should. [675]

Q. Now, Mr. Garner, you tell us that in this matter upon which you had requested that an investigation be made, you received no written communication from anybody, either associated with you in the Immigration Service or superior to you?

A. I had no written instructions, no.

Q. And any instruction you received was oral only? A. That is right.

Q. Given you person to person or by telephone?

A. Conveyed to me through channels, through my immediate superior.

Q. Through what channels? You say this was oral, Mr. Garner?

(Testimony of Lloyd H. Garner.)

A. The instruction I received was from my immediate superior, orally.

Q. And he did not tell you to make any objection, did he?

A. He didn't tell me that. He told me not to make any objection, if that is what you mean.

Q. Yes. Did he tell you that a further investigation was going to be made of Harry Bridges nonetheless? A. He did not.

Q. He did not tell you that. Now, here is something that comes to my mind based on your memory alone. As we have said many times before, you told his Honor and the jury on Friday last that in the case of Mr. Robertson and Mr. Schmidt both you put this question: "Have you ever been arrested?" And each of those men said, "No"; true? [676] A. Yes.

Q. Isn't this the fact, Mr. Garner, that Mr. Schmidt admitted to you that he had been arrested for picketing during the 1934 strike, a matter of public record, isn't that true?

A. I have no notations on that. I do not recall that he told me that.

Q. You have no notations on asking this man about being a member of the Communist Party, either, have you? A. No.

Q. And you have no notations about the arrest?

A. If they had testified that they were, I would have had a notation on it.

Q. Do you think that Mr. Schmidt in a matter

(Testimony of Lloyd H. Garner.)

of that importance would attempt to deceive you and thus spoil the whole naturalization process for his friend?

A. No, I do not think so. My experience with that is he may have known also that the court is not interested in arrests outside of the five year period that the law specifies.

Q. Did you tell him that?

A. I do not know that I did.

Q. You gave us the complete conversation the other day. Do you want to amend it now?

A. I didn't give you the complete conversation. Many things transpired, of course, in the course of the hearing, naturally.

Q. I am speaking about the private conversation you had with [677] each of these men alone, with you in the room. A. That is right.

Q. Did you say to them, "Now, don't tell me about anything that took place more than five years ago"?

A. No, I do not know that I did. But I have frequently indicated in the course of an examination that the court is interested in matters within the statutory period.

Q. You have indicated that to whom, Mr. Garner?

A. I mean in the course of my usual conduct, my examination.

Q. How would they know what you said to other people with whom you have dealt in your lifetime?

A. They wouldn't know that.

(Testimony of Lloyd H. Garner.)

Q. Why do you tell us that?

A. However, if they had given me any adverse answers I would have made notations of the fact.

Q. You knew that Henry Schmidt had testified in the 1941 Bridges case and that all of his background was revealed, and that he had freely admitted then, as he does always, that he was arrested once for picketing in 1934? You knew that?

A. Yes, I knew it.

Q. Just to clarify what appears to be a difference of opinion at the moment, is this the case: If a man who is applying for citizenship, any man, comes in and is interviewed by you in the usual way, and then brings in his two witnesses, whom you talk to respectively, you probably ask each person if he has [678] ever been arrested, don't you?

A. Yes.

Q. And, depending upon his answer, you had a police checkup, don't you.

A. If I am suspicious of it, yes. If it is necessary, I will ask for a police report.

Q. In other words, you ask for and obtain a police report so that any discrepancy would be revealed, is that true? A. That is true.

Q. In this case I take it you did not deem it necessary to ask for any police report?

A. No, I did not request a police report in this case.

Q. And you made no request of anybody to that end? A. That is right.

(Testimony of Lloyd H. Garner.)

Q. Mr. Garner, where is that exhibit? Why do you tell us that when here in your own handwriting—— A. Other than this.

Q. Here is a request for a police report (handing document to the witness).

A. I did not ask them anything specific other than is contained in here.

Q. Read it. What does it say?

A. I know that. I have testified to that.

The Court: Mr. MacInnis, you may not be familiar with the rule that is somewhat traditional in these courts with respect [679] to exhibiting documents to the witness, and so forth. You might do that through the clerk, and I suggest that during the course of the examination of all witnesses—this applies to the government as well as to the defense counsel—I ask you to stand at the rostrum or immediately adjacent thereto.

Mr. MacInnis: That is perfectly all right with me, your Honor. I did not know I was violating any tradition of the court.

The Court: I should have announced it at the outset.

Mr. MacInnis: And be assured I do not intend to invoke any quarrel with the court. Our burden is difficult enough in this case.

Q. Now, Mr. Garner, having in mind what you just told me the jury under oath——

A. I have already——

Q. Pardon me—that you made no request for

(Testimony of Lloyd H. Garner.)

any police report, what do you say now when I show you your own handwriting in which you wrote down after your investigation, "Police Report."

A. I have already testified that I asked for a further investigation. That indicates "Investigate loyalty, attachment and police report."

Q. You think that is a good explanation, do you?

A. That is what I had in mind at the time I made the notation.

Q. Isn't it fair, Mr. Garner, to assume that if you wrote down the request "Police Report" along with your notation "Investigate [680] loyalty and attachment to constitution," that you would have received a police report, either you or persons working with you in the Immigration Service?

A. As a matter of fact, this investigation called for, and the recommendation was as to the petitioner, not as to the witnesses particularly.

Q. Mr. Garner, read the line where those marks appear, and you will see that they refer only to the witnesses and not to the applicant, isn't that true?

A. No, that is not correct. It may be that it is printed below that, it is true, but in the course of our duties it refers to the case. Then we make it refer to whether it is to one, the other, or both.

Q. Do you mean in the course of your duties you can make any word apply to anything you choose when the occasion demands?

(Mr. Mitchell, will you get the document for me, please?)

(Testimony of Lloyd H. Garner.)

Q. When you wrote the words "Police Report" upon this paper, it was idle because you did not receive any police report, is that it?

A. No, I wouldn't say that.

Q. What would you say?

A. I would say that the police report was requested. I did not request it myself, because the application there went back to the office and it was taken care of. I did not do those things myself. [681]

Q. If a police report was requested, in the ordinary course it would have been obtained, would it not? A. It doubtless was.

Q. And if you found that someone had lied to you in the interim of time that passed between the date the petition was filed and the date you went to court with Mr. Robertson, Mr. Schmidt and Mr. Bridges, you would at least have looked into the matter, wouldn't you?

A. As a matter of fact, I would say that there was no police report obtained as to the witnesses. It was as to the petitioner himself.

Q. In other words, these are just meaningless words that you wrote down?

A. No, they are not meaningless words. It was Mr. Bridges' petition that the court was interested in.

Q. Isn't this the fact, that when you asked Mr. Robertson if he was arrested, he told you that he was not only arrested in New Orleans for attempting to organize a union there, but that his skull was fractured, his kidney punctured, and five of his ribs broken at the same time; he told you that, didn't he?

A. I do not have any recollection of that personal history, no, sir.

Q. Would you say that you could not possibly be wrong on this recollection that you attempt to give us about a conversation four years ago upon which you made no notes? [682]

A. I can't be wrong, counsel, on things that were material, that I considered material to the case.

Q. We are not asking you, in all respect to yourself, what you consider material. Is it your answer that you could not be wrong in these things?

A. I would not go so far as to hold myself impervious of error, no.

Q. So that each of these men who were, to say the least, interviewed by you as witnesses for a very controversial person, Mr. Harry Bridges, whom the government had twice attempted to deport, would have held his fate so lightly that they would have taken a chance on deceiving you on a couple of minor arrests?

Mr. Donohue: I object.

The Court: Objection sustained upon the ground it is argumentative.

Q. (By Mr. MacInnis): Mr. Garner, did you testify before the Grand Jury in this case?

A. Yes, sir.

(Testimony of Lloyd H. Garner.)

Q. Did you give the same testimony that you have given here? A. I think so.

Mr. MacInnis: May I ask the government prosecutor if a copy of this witness' testimony before the Grand Jury is available?

Mr. Paisley: Your Honor, he knows better than that. [683]

Mr. MacInnis: I do not know whether this gentleman knows what I know about anything, your Honor, and if there is a possibility of any contrary statement, it certainly would not surprise me, in view of this testimony, if the defense should be allowed to see that document.

The Court: The request is denied. The objection is sustained.

Mr. MacInnis: For the record we make a formal request that we be allowed to inspect the testimony previously given by this man, a government lawyer, before the Grand Jury which has indicated the three defendants.

The Court: The request is made of record.

Q. (By Mr. MacInnis): Have you had any correspondence with your superiors or your associates of the Department of Immigration following the date you went in court with Harry Bridges on his naturalization proceeding? I mean correspondence affecting this matter, the matter of Harry Bridges?

A. I do not understand what you mean by correspondence. Do you mean have I made any reports to them?

(Testimony of Lloyd H. Garner.)

Q. Let me put it this way: Did you receive any further directives or requests from your associates or superiors after the day in September when you appeared in court with Harry Bridges? And I mean by that the 17th of September, 1945.

A. No, sir.

Q. Did you deliver any further reports about this man? [684]

A. Only in the course of my duties immediately following the hearing I reported the outcome of the hearing.

Q. That was all? A. That was all.

Q. And you have not taken part in this case in any way since then?

A. I do not follow you. Of course, I have talked with my superiors about it from time to time. The thing comes up occasionally, naturally.

Q. When first, according to your best memory, did the matter of Harry Bridges come up for discussion after September 17, 1945?

A. I think about the spring of 1949.

Q. About the spring of 1949 and not until then?

A. I do not recall anyway any discussion about it until then.

Q. Who first spoke to you about it?

Mr. Donohue: I object, if your Honor please. These are all incidents that occurred subsequent to his participation in the naturalization proceeding. They could in no wise reflect upon what he did or said at that time.

(Testimony of Lloyd H. Garner.)

Mr. MacInnis: They reflect, your Honor, however, upon the testimony which he has given us here, because, of course, he testified here following the spring of 1949. It would go to his knowledge, his interest and the like.

The Court: The objection is sustained, counsel. I [685] cannot see that it would aid or help the court or jury in making a determination.

Q. (By Mr. MacInnis): Mr. Garner, before I finish this transcript, there are one or two more questions of a different nature I would like to put to you. When you asked the question of Mr. Harry Bridges, either in your office, if you did, or at the hearing before Judge Foley, "Are you now or have you ever been a member of the Communist Party of the United States," you knew exactly what the question meant, didn't you? A. Yes.

Q. In other words, you were a lawyer; you were an official of the government and one familiar with the Bridges cases? A. Yes.

Q. And you knew by that question, and you intended to imply by your asking of it, and in your interrogation as to whether or not he was ever actually a member of a certain political party which you then named, is that right?

A. That is right.

Q. You knew that the question did not imply any mere association. You knew that, didn't you?

A. I asked him pertaining to membership, yes.

Q. You knew that the previous decisions had held that the fact that Mr. Bridges had frankly done

(Testimony of Lloyd H. Garner.)

business with Communists and with people of any creed who could assist him in [686] the labor movement, you know that that was not a matter involved in the case?

Mr. Donohue: I object, if your Honor please.

The Court: Objection sustained.

Q. (By Mr. MacInnis): You asked Harry Bridges this question both in court and possibly in the private session in your office: "Have you ever been known by any other names," did you not? [686A]

Q. And by that question you had in mind the names with which he had been accused of using, did you not?

A. I may have had that in mind, with other things.

Q. Yes. In other words, you knew that in 1934, going back that far, he had been accused by the Immigration Department of using the name of Canfield?

Mr. Donohue: If it please Your Honor, I object to this line of questioning. The best way to find out what the witness had in his mind when he asked the question is to ask him that question—not try to tell him what he had in mind.

The Court: Sustained.

Mr. MacInnis: I suggest, Your Honor, that if I followed the kind directions of Mr. Donohue, I would not get answers very favorable.

Mr. Donohue: You would follow the rule if you did.

(Testimony of Lloyd H. Garner.)

Q. (By Mr. MacInnis): Now, you knew that in 1934 and 1935 charges had been brought against Harry Bridges and that he was cleared before the Immigration Department?

Mr. Donohue: I object to this, if the Court please.

The Court: Sustained.

Mr. MacInnis: It was brought up Friday without objection, and this witness has already given answers upon the subject.

Mr. Donohue: I object upon the ground of redundancy.

Mr. MacInnis: It is hardly redundant, because I asked him on one subject last Friday, when he told us he knew that the charge of using the name "Harry Dorgan" had been brought up [687] before and had been found to be false.

Q. You knew also that the charge of using the name of Rossi in the Communist Party had been brought up before and had been found to be false, in the Landis decision?

Mr. Donohue: I object to that.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Now, having in mind the knowledge that you had in putting these questions to Harry Bridges, you did know this, that before Dean Landis in 1939, when Harry Bridges was a witness under oath, the question was put to him, "Are you a member of the Communist Party?" and he said, "No"; you knew that, don't you, or didn't you?

Mr. Donohue: I object again, if Your Honor please, on the same ground.

The Court: The objection is sustained.

Mr. MacInnis: Your Honor, this is preliminary to one question which I think the Court will perceive in a moment. I have one or two preliminary questions, and I think the point will be entirely demonstrable in a moment.

The Court: The objection is sustained, counsel.

Q. (By Mr. MacInnis): And you knew that in 1941 Harry Bridges, while under oath, had been asked, "Are you a member of the Communist Party?" and he had again answered, "No"?

Mr. Donohue: I object, if Your Honor please.

The Court: Objection sustained. [688]

Q. (By Mr. MacInnis): And as a lawyer, Mr. Garner, you knew when you asked Harry Bridges the question before His Honor Judge Foley, "Are you now or have you ever been a member of the Communist Party?" that if he had answered "Yes," he would have been indicted for perjury, because he had previously answered "No," under oath and the courts had found that he was correct. You knew that, didn't you?

Mr. Donohue: I object, Your Honor.

The Court: The objection is sustained.

Mr. MacInnis: Pardon me, Your Honor; is the objection sustained?

The Court: Yes.

Mr. MacInnis: As to all parts of the question?

(Testimony of Lloyd H. Garner.)

The Court: All parts and the whole thereof.

Q. (By Mr. MacInnis): Well, is this true, Mr. Garner, that whichever answer Harry Bridges had given in court when you put the question to him, either "Yes" or "No," he would have found himself charged with false swearing?

Mr. Donohue: I object to the question, if Your Honor please.

The Court: The objection is sustained.

Mr. MacInnis: I have reached a point, I believe, on page 11 of the previous hearing, Your Honor, parts we were reading on Friday last about the naturalization proceeding of Harry Bridges. I am sorry, I hadn't quite reached that point. [689]

Q. We had reached a point when we discussed the fact that you handed an affidavit to His Honor, Judge Foley. We were reading the comments of the attorneys.

> "The Court: Well, her statement as to the veracity of Lundeberg's testimony would not be of any use. But if she impeached herself——"

and then there was apparently an interruption. Now, you knew what that meant, didn't you?

A. Yes, I knew the purport of it.

Q. Yes. You knew that the Immigration Service had produced as a witness against Harry Bridges an old enemy of his, Harry Lundeberg, did you not?

Mr. Donohue: I object to the form of the question, as well as to the substance of it.

The Court: Sustained.

Q. (By Mr. MacInnis): And the lawyer then replied:

> "Yes, she did, as a matter of fact, and her counsel offered no testimony on her part to show she had been a good wife. Now, the significance in the action was merely this, that while she gave the affidavit at the time, that affidavit was not admissible in evidence, and when she was asked to testify in the case, to merely testify as to what she had been willing to put in the affidavit, she said she wouldn't walk into a courtroom and testify to it. Judge Deasy considered that an element of lack of conjugal cooperation. That was the only point in that case." [690]

You understood that was in reference to the divorce case of Mr. Bridges, did you not?

A. That was what was being talked about.

> Q. "There have been two questions that would be regarded as significant in this application. One is whether Mr. Bridges' political and ideological views and activities during his life here would qualify him or bar him from citizenship; and the other is whether he has acted as a man of good moral behavior. As I understand it, the government today takes no position——"

(Testimony of Lloyd H. Garner.)

and then The Court, Judge Foley, interrupting:

> "Well, I think maybe you'd better let the government express their views."

The Government was yourself in that hearing, true? A. That's right.

Q. And then Mr. Gladstein:

> "Yes, Your Honor."

Then the Court again:

> "However, I will say this, the examination prescribed by the law, the examination of an applicant, provides that he shall be questioned as to the relationship of the individual in the United States to the government, national, state and local, and the rights and privileges drawn from that relationship, and also the duties and responsibilities which arise from it." [691]

Then Mr. Gladstein:

> "Yes, Your Honor."

Then the Court again:

> "These questions have been directed to that part of the law that prescribes that part of an examination of an applicant."

And then question:

> "Do you know when the Constitution of the United States was formally adopted?"

And the answer: "The actual date?"

(Testimony of Lloyd H. Garner.)

Then the question. "Yes."

> "Answer: I don't, Your Honor. It was some one, two or three years after it was ratified."

And then the Court:

> "It was adopted on September 17, 1787. This is the 158th anniversary of the adoption of the Constitution described by William Gladstone as the most remarkable work known to him in modern times and to have ever been produced by the human intellect. So today is a memorable occasion. You also realize that by taking citizenship you have certain duties and responsibilities that go with American citizenship?"

Then the witness (Mr. Bridges): "Yes."

Then the question from the Court:

> "That you have become a partner in the great American Commonwealth of people?" [692]
>
> "I do, Your Honor."

Question by the judge:

> "And that means in the future every action of yours, whether it be in your work in labor service or business or finance, it is to redound to the general welfare of everybody."

And then Mr. Bridges:

> "I have had a chance to learn that, Your Honor."

(Testimony of Lloyd H. Garner.)

> "The Court: And you subscribe to that and are willing to conduct yourself according to that pattern in the future?"

And the answer: "Wholeheartedly."
Then the Court:

> "Do you have any further questions?"

And then Mr. Garner:

> "The Government has no further questions."

Then the Court:

> "Well, do you have any objection?"

Then Mr. Garner:

> "No objection, Your Honor."

And the Court: "Now, Mr. Gladstein."
And he said:

> "I simply think now, Your Honor, in view of the fact that the Government takes the position it has no objection, and in view of the thorough investigation that this case has had over the course of years, I believe that the applicant has more than qualified himself on the record for citizenship." [693]

And the Court, Judge Foley:

> "I think now in view of the long history of this case I will now accord the applicant, Mr. Bridges, an opportunity to make a statement for himself, if he would like to."

The lawyer said: "Thank you, Your Honor."

And then the witness Mr. Bridges said this:

"Well, Your Honor, I am not going to make a speech."

The Court:

"Well, just make any statement you like."

And then Mr. Bridges said this to the Court:

"I think I have possibly had more opportunity and I think more good reason to recognize and appreciate that citizenship is a priceless possession and privilege than most people who apply for it, and if I am awarded citizenship it will really be the result of a 17-year attempt to prevent citizenship. However, all during the time, it seemed to me that eventually the machinery of government and the governmental forms would operate the way I believe they will operate, and confer upon me the privileges of citizenship. I know the freedoms and particularly those freedoms that go with citizenship and the laws that govern citizenship and the nation, and it is certainly my intention to cherish those privileges and to apply them in such a way that I hope they will apply to more people than they do [694] now, and to apply them in such a way that the government and its institutions will be strengthened instead of weakened."

And His Honor, Judge Foley, in response to what Mr. Bridges said, made this remark:

> "I will say this, that anyone who has had such a struggle for citizenship as this applicant has had should make one of our best citizens, in view of that long struggle."

Correct? Is that what the Court said?

A. You have the transcript.

Q. Yes. That is what Mr. Bridges said and that is what the Court said at that time, is that true? A. That's right.

Mr. MacInnis: Now, may I inquire, if the Court please, of Mr. Donohue: Do you have the judgment of the Court at that time?

Mr. Donohue: Yes. In order to facilitate the procedure, if Your Honor please, may I ask the Clerk at this time to mark as U. S. Exhibit for identification number——

The Clerk: 4.

Mr. Donohue: 4. And may I then offer it in evidence as U. S. Exhibit No. 4?

Mr. MacInnis: No objection.

Mr. Donohue: It is a certified, authenticated copy of a copy of the judgment of the Superior Court.

The Court: May I see it, Mr. Clerk? [695]

The Clerk: Yes, Your Honor (handing to Court).

Marked 4 in evidence.

(Testimony of Lloyd H. Garner.)

The Court: You wish to have that marked in evidence?

Mr. Donohue: Yes, if I may. I offer it now in evidence.

The Court: It may be marked in evidence.

(Thereupon certified copy of judgment of Superior Court was received in evidence and marked United States Exhibit No. 4.)

Q. (By Mr. MacInnis): Mr. Garner, without presenting this document to you, for your inspection again, you are familiar with it?

A. Yes, I have seen it.

Q. It is a certified copy of the action of the Superior Court of the State of California on the 17th of September of 1945? In granting citizenship to a number of persons—I think 18 or 19 in number; and the third of those persons is Harry Renton Bridges, is that correct?

A. Yes, I have seen that. It appears that way. But I didn't—I have never seen it previously. It is a matter of court record there and it is not a matter of the Immigration file.

Q. Yes. And the judgment of the court was this, in respect of all those persons: They were all foreign to this proceeding except Mr. Bridges?

A. They were all admitted to citizenship at that time.

Q. Yes. This was the Court's judgment:

"Upon consideration of the petitions for naturalization [696] listed below on lines 1 to

(Testimony of Lloyd H. Garner.)

> 18, inclusive, the affidavits in support thereof and testimony taken in open court and the Court having found that each of the petitioners so listed herein intends to reside permanently in the United States, had in all respects complied with the naturalization laws of the United States in each such case applicable, and was entitled to be admitted a citizen, and each of such petitioners having taken the oath of allegiance required by the naturalization laws and regulations, it is hereby ordered that each of such petitioners be and hereby is admitted to become a citizen of the United States of America. By the Court this 17th day of September, 1945; Thomas M. Foley, Judge."

You have read that before?

A. I have seen it before, yes, sir.

Mr. MacInnis: May I ask that Mr. Mitchell hand this to His Honor? In reference to this exhibit, I wish to make a very serious statement, Your Honor. Because of it, we object to the taking of any evidence in this case against Mr. Robertson and Mr. Schmidt.

The Court: I will hear the argument in the absence of the jury. I suppose it is a legal argument?

Mr. MacInnis: It is one that can be said in one sentence, Your Honor, without argument. [697]

The Court: All right.

Mr. MacInnis: Upon the ground that any evi-

(Testimony of Lloyd H. Garner.)

dence attempted to be presented against Mr. Robertson or Mr. Schmidt in this case would constitute an attempt collaterally to impeach the judgment of a court of record.

The Court: The objection is overruled.

Mr. MacInnis: I have no further questions of the witness at this time.

Mr. Donohue: May we proceed with redirect examination of the witness?

The Court: Yes.

Redirect Examination

By Mr. Donohue:

Q. Mr. Garner, you have been asked a series of questions by Mr. MacInnis concerning an affidavit executed by Agnes Bridges, and which came into your possession on the morning of this hearing.

Mr. Donohue: With Your Honor's permission, may I ask the Clerk to mark it only United States for identification No. 5?

(Thereupon affidavit of Agnes Bridges was marked United States Exhibit No. 5 for identification.)

Mr. Donohue: Would you hand it to the witness?

(United States Exhibit No. 5 handed to the witness by the Clerk.)

Q. (By Mr. Donohue): Just tell us whether or not this, which has been marked for identification

(Testimony of Lloyd H. Garner.)

No. 5 is the affidavit [698] concerning which Mr. MacInnis has been questioning you?

A. Yes, this is the affidavit which has been referred to.

Mr. MacInnis: It now being noon, Your Honor, I suggest that we take the recess. Here is an affidavit that we would like to read.

The Court: Yes, I think that would be a good suggestion for the noon hour. You might go over that document. Have you any other documents that you desire to reoffer?

Mr. Donohue: At this time, no, Your Honor.

The Court: If you have, you might show them to counsel.

Mr. Donohue: Yes, sir.

The Court: Ladies and gentlemen of the jury, we have reached the noon hour, and may I suggest to you, as I have in the past, not to discuss this case with any person or persons, not to form nor express an opinion thereon until it is finally submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [699]

Monday, November 21, 1949, at 2:00 o'Clock

Mr. Hallinan: Your Honor, I should like to say that I did not understand Mr. Donohue was going on with respect to this affidavit, but they were obviously trying to keep me from the small right of cross-examination. I did not understand that

(Testimony of Lloyd H. Garner.)

Mr. MacInnis had finished his cross-examination and I had some on behalf of the defendant Bridges.

The Court: There was some noise and I didn't hear you.

Mr. Hallinan: I said Mr. MacInnis apparently concluded his cross-examination but I did not hear what he said, and then Mr. Donohue got up and had an affidavit, which he showed Mr. MacInnis, and I did not understand that he was taking up redirect examination, because I have some questions to ask myself. I might suggest, too, your Honor, in order to save time, hereafter where an objection is made or an offer of proof or an exception taken that it be deemed to be done by all of the defendants without the necessity of each separate attorney getting up and saying, "I participate in that motion," unless the defendant gets up and designates that he does not want to be included in it, if that is agreeable to the court.

The Court: I have no objection.

Mr. Hallinan: I might make another suggestion, your Honor, that I think might save some vexation and annoyance on the matter of presenting documents to the witness. The rule [700] that your Honor cited is a difficult one, and time is given a witness—not this witness, but certain witnesses might have time to reflect upon an answer if they have much time. Now, I know Mr. MacInnis won't take umbrage at my saying this: He made a sort of a clatter in getting up there with his document.

(Testimony of Lloyd H. Garner.)

The Court: He was at least dramatic in his approach.

Mr. Hallinan: I noticed on at least three occasions before that Mr. Donohue had presented documents to the witness and had done it in so quiet and urbane a fashion as not to cause comment.

The Court: We will say quiet, not urbane.

Mr. Hallinan: He is a Washingtonian. If that is not urbane I do not know what is. That is a big city.

The Court: That word "urbane" seems to have nettled you a little.

Mr. Hallinan: No, your Honor. I like it. I consider myself urbane. All it means is a city man. I am a San Franciscan. Mr. Donohue, yourself and all of us are.

The Court: Let us get down to procedure. The procedure that I announced——

Mr. Hallinan: I was going to suggest that we present the documents and then if there is some difficulty on it your Honor for the first time invoked that rule, because it is not within the printed rules—— [701]

The Court: The rule as I announced will be brought into full play in this case, Mr. Hallinan, for I am fearful, one, that the documents, valuable as they are, may be lost or otherwise misplaced. The responsibility is a grave one in a case like this. Some of these documents are of long standing.

(Testimony of Lloyd H. Garner.)

Mr. Mitchell is responsible for them. I am sure we will not be handicapped in dispatching the matter to the witness and thereupon examining him on the document.

Mr. Hallinan: I hate to see poor Ed Mitchell jumping up and sitting down. But I do not press the matter; I merely make the suggestion, and if the court has another idea it is all right with me.

Cross-Examination

By Mr. Hallinan:

Q. Mr. Garner, as was suggested by Mr. MacInnis, you handled this matter with some thoroughness and not merely in a perfunctory fashion, isn't that correct?

A. You are referring, sir, to the filing of the petition, the naturalization petition?

Q. All the matters that you testified to.

A. Yes, all of that was done in an official capacity.

Q. As also suggested, your capacity was not merely a clerical one, but you were an administrative officer and endowed with a certain amount of discretion and judgment in the matter, isn't that correct? A. That is true.

Q. You were charged with determining in advance for yourself [702] whether or not Mr. Bridges should be admitted to citizenship at that time; that is right, isn't it?

A. I had nothing to do with whether he was admitted. I had to determine whether the department would make any exception.

(Testimony of Lloyd H. Garner.)

Q. Don't you think that is just quibbling, Mr. Garner?

A. It is the court's duty to admit them.

Q. But then it is your duty to determine whether any protest should be lodged with the court, if you want to make it so specific as that?

A. Yes, that is right. That is the extent of my duties.

Q. In other words, the duty of presenting such objection as may exist in the court devolved upon you?

A. I do not think I would even go that far, quite. It is my duty to make a recommendation to my superiors as to what I think should be done.

Q. In this case, how long had you been working on the Bridges' application before you appeared in Judge Foley's court?

A. Matter of about five or six weeks.

Q. Prior to his application and the reference of the matter to you, had you had any interest in the prior proceedings against Harry Bridges?

A. None whatever.

Q. Had you made any study or investigation before Mr. Bridges' application came into your hands?

A. No, not what you would call any study of it. I was a little [703] bit aware of what had happened by hearsay. Having had no part in it, I knew nothing further than that.

Q. As part of your duties as government attorney, Mr. MacInnis asked you and, as you answered, it is your duty to keep abreast of the current decisions touching such matters as immigration, is that right?

Mr. Donohue: I object, if your Honor please. I do not think there is any such evidence.

Mr. Hallinan: All right, I will ask him the question in another way. [704]

Q. Is it your custom as an attorney for the government to keep abreast of the current decisions of the Supreme and Circuit Court of Appeals relating to immigration matters?

Mr. Donohue: I object to the question, if Your Honor please; his custom in prior matters is not in issue. The question is what he did in this instance.

Mr. Hallinan: That would help bring out what he did here, what resulted when the ordinary course of events has been followed.

The Court: I remark and I reiterate, Mr. Hallinan, as I did with your colleague, Mr. MacInnis, that there is no issue with respect to the deportation proceedings before this Court, there is no issue upon which the Supreme Court decision would be controlling as a matter of fact or as a matter of law. Now, what this man may have done with respect to matters of prior consequence would not aid or determine any issue in this case.

Mr. Hallinan: Of course, Your Honor, we will still have to go ahead and offer such evidence, attempt to adduce such matters, on cross-examination,

(Testimony of Lloyd H. Garner.)

as we may feel advised. And while, of course, we are bound by the rulings of the Court, we can not afford to fall into the folly of refraining from asking questions which we deem proper, and having a ruling upon them, so as to preserve a correct record. Now, I understand that an objection was made to the last ruling, but I have heard no ruling on it. [705]

The Court: The objection is sustained.

Q. (By Mr. Hallinan): Now, from the time that the Bridges application came into your possession, I assume that you procured some files or records in your department and made a study of them bearing upon his eligibility to citizenship, did you? A. I did not.

Q. When did you read the parts of the Supreme Court decision that you mentioned?

Mr. Donohue: I object, if Your Honor pleases.

The Court: Objection sustained.

Q. (By Mr. Hallinan): When did you read the portions of Dean Landis' findings that you have mentioned?

Mr. Donohue: I object, if Your Honor please.

Mr. Hallinan: Your Honor, this goes to the interest and activity of the witness.

The Court: Sustained.

Mr. Hallinan: And Your Honor will remember that there is a serious question of credibility involved in that this defendant supplies something that is entirely missing from anybody else in the prosecution's case, that is, the question of whether or not the co-defendants were ever questioned concerning affiliation or membership in the Communist Party. A very serious question of this witness' credibility in that. And we are entitled to explore that to the farthest limits.

If I may be allowed, Your Honor, to very briefly argue this [706] matter, I would like to do. That is the question of the extent to which cross-examination is permitted to go, in questing into the credibility or interest of a witness. Now, Your Honor, to cite from the chief authority on the matter—that is Wharton's Criminal Evidence, volume 3 in the 11th Edition—there is this language, and I am abstracting certain portions of it:

> "Now the defendant has a right on cross-examination of a witness for the prosecution to draw out from him evidence which tends to contradict material evidence which has been given by another witness for the prosecution. A witness may be cross-examined as to any matter tending to impeach his testimony in chief. The cross-examination can elicit from him anything tending to contradict, weaken, modify, or explain his testimony on direct examination or anything which tends to affect his credibility."

May I suggest, Your Honor, that the jury might consider that a witness such as this has had his credibility weakened by saying that he did not read so important a matter touching it. But now, to pursue, Your Honor——

The Court: I have already instructed the jury——

Mr. Hallinan: We are not concerned, Your Honor, about the decision. That is not what we are concerned with. We are concerned about the effect upon this gentleman's thinking, so as to cast grave doubt upon whether or not he asked those questions, [707] whether he did not himself believe that that matter was now closed.

Now, say, for instance, Your Honor, that this witness said this: "I asked these questions as to whether or not these men were members of the Communist Party." But on cross-examination he would say, "I had no interest in that question. I considered it a closed question." Wouldn't that bear on his credibility as to whether he asked the questions or not? That is the point that we make. Now, if I may be allowed to pursue this, Your Honor:

> "Although a witness may not be cross-examined as to collateral, immaterial, irrelevant or incompetent matters merely for the purpose of impeaching him by cross-examination or of eliciting something at which to direct contradictory evidence, or of affording an opportunity subsequently to discredit him, thereby prejudicing the jury against him, he may be cross-examined as to collateral matters which

(Testimony of Lloyd H. Garner.)

tend to affect his credibility for impeachment purposes, to test his veracity or credibility subject to the constitutional privilege against self-incrimination. Evidence relevant to the question of credibility is in no sense collateral since it goes to the weighing of his testimony. So that great latitude should be allowed in cross-examination upon matters bearing upon the witness' credibility. Any cross-examination which serves substantial justice by permitting an insight into the credibility of the witness is perfectly permissible. Inasmuch as the jurors are the sole judges of the credibility of the witness, any matter which will properly assist the jurors in forming a correct judgment from all the facts ought to be shown in evidence. The witness may therefore be asked any question which will test his veracity or affect his credibility, even though it is on a collateral matter. Specific acts tending to discredit it may be inquired into on such cross-examination, although the transaction inquired about must be one which bears directly upon the present veracity of the witness. Neither a witness nor a party may shut off such cross-examination by his mere testimony or admission that the witness made false statements inconsistent with his testimony at the trial. The cross-examiner has the right to prove by his adversary's witness what inconsistent statements were made,

(Testimony of Lloyd H. Garner.)

not only in general, but in every material detail, since the more specific and substantial the contradictory statement is, the less credible is the testimony of the witness. Thus a prior written statement made by a witness to the prosecuting attorney which is contradictory to his direct testimony may be used for cross-examination to test his credibility. The right of cross-examination as to such statement is not affected by the fact that the cross-examining party has attempted to prove such statements to some [709] extent in its main case. Now, a witness may also be cross-examined as to conduct inconsistent with his testimony, for the purpose of laying a foundation for impeachment. Thus the witness may be cross-examined as to whether he made a disclosure of the facts testified to on a previous occasion when he had an opportunity to speak and it was his duty to speak. It is elementary that a witness who upon direct examination denies making statements relevant to the issue may be cross-examined with respect to conduct on his part inconsistent with this denial, such as his failure to deny such matter at a prior trial. So a witness may be asked where he does not claim his privilege against revealing confidential communication, whether in giving his statement to the prosecuting attorney, he disclosed important facts to which he testified at the trial."

And finally:

> "Questions as to the sincerity and motive of witness. Great latitude should be allowed in cross-examining a witness to ascertain his disposition to speak truthfully. Thus a witness may be cross-examined to test his candor or sincerity. He may also be cross-examined as to his motives or as to any fact showing motive, and may be compelled to answer such question. A great or wide latitude and range are permitted to the cross-examiner with regard to a witness' motives, The inquiry as to motive may concern either the witness' [710] desire to aid or injure another or his wish to benefit himself. It is held proper to discredit a witness by his own admissions in cross-examination as to prior inconsistent statements."

And this is important, Your Honor, and a modification that a great many lawyers do not know:

> "Without calling his attention to the time, place, cricumstance and persons present."

You know that, except when it is direct impeachment.

Now, this case, Your Honor, we want to show the motive of this witness as part of the procedure that we outlined in the opening statement. I want to show that this witness is actually, himself, part of that conspiracy to destroy Harry Bridges, and the only way we can show it, Your Honor—when

(Testimony of Lloyd H. Garner.)

I tried to tell that to you and the jury in an opening statement, you said I could show it by cross-examination, but I could not show it in the opening statement.

The Court: Mr. Donohue?

Mr. Donohue: If it please Your Honor——

The Court: What you have read is from Wharton's Criminal Practice, is it?

Mr. Hallinan: Yes, yes.

Mr. Donohue: If it pleases Your Honor, I have no quarrel with Mr. Wharton and generally, of course, what he says is the law. [711]

The Court: Will you speak just a little louder?

Mr. Donohue: We had anticipated, if Your Honor pleases, that this question would arise and I think perhaps at this time it might be well if Your Honor would excuse the jury and let us define for Your Honor, as we find it in the authorities, the limits of cross-examination. I think it is a question of law that ought to be argued in the absence of the jury.

The Court: All right.

Ladies and gentlemen of the jury, during the discussion of legal matters from time to time, we have occasion to excuse the jurors, until a definition is reached with respect to the limitations in the presentation. Accordingly, you may retire until called. The same admonition to you, not to discuss the case.

(Testimony of Lloyd H. Garner.)

(Whereupon the jury left the courtroom, and the following proceedings were had without the presence of the jury:)

The Court: Mr. Reporter, would you read the last few questions?

(Record read.)

Mr. Hallinan: Might I suggest, Your Honor—just to clear our position on that—we claim that this gentleman, this witness, did not ask the two witnesses the questions that he said he asked. So we are impeaching his credibility. To do so, we want to show his motives, his interest, what he did that he should not have done, and what he failed to do that he should [712] have done.

The Court: You claim that he did not ask the particular questions which he testified to?

Mr. Hallinan: Yes, yes.

The Court: All of them?

Mr. Hallinan: The two very important ones, that he asked these two co-defendants if they were members of the Communist Party. Very important. Your Honor will see that presently because here is why—suppose these two men were members of the Communist Party; that would not estop them from, or lay any blame upon them for, saying that Mr. Bridges was not, especially if they knew that he was not. That it has never been claimed in the indictment or anywhere else that any such question was ever put to them. But now if those witnesses get on the witness stand and should say, "I am a Communist and have been all along, a member of the Communist Party, and I wasn't asked that question, but I did say that Mr. Bridges was not or that he was eligible for citizenship," then they have undermined him now by coming in and cutting the ground from under their feet and saying to the jury, "Here they lied to this man on a question of their own citizenship," and it is a very important card in the prosecution's case, as Your Honor will see when the evidence finally develops. Now, I think we are entitled to go into his credibility just as much as any other witness who will come on.

The Court: You claim, then, that the question pointing to the witness with respect to reading Dean Landis' decision has some materiality upon that phase of it?

Mr. Hallinan: Yes, exactly, my only point being this——

The Court: What relevancy would that have? You anticipate my question.

Mr. Hallinan: I will tell you what it is. He is a lawyer. He reads a decision. In his opinion that decision forecloses further contention that Bridges is a member of the Communist Party.

The Court: Right here let us pause. How could that decision in any manner foreclose subsequent inquiry as we have at bar or subsequent inquiry by this witness in a naturalization proceeding? Pro forma questions are asked. Those formalities are engaged in, I would say, through routine process. That process is asked as a matter of routine, whether a man is a Communist, whether he has an intention to overthrow the government, and the like.

Mr. Hallinan: Let me suggest this. The questions of fact, the reasonableness or unreasonableness we are argue to the jury.

The Court: Yes, but if the witness did not ask those questions I assume he would be derelict in his duty.

Mr. Hallinan: What would you think he would be if he did not ask the questions but nevertheless took the witness [714] stand and testified that he did? He would not only be derelict in his duty, he would be part of a criminal conspiracy? Now, we are not taking this gentleman at his own asserted value. We are asserting here that he is lying, that he is not telling the truth.

The Court: You assert that he is one of the 125?

Mr. Hallinan: Correct.

The Court: All right. I want a definition. Now, Mr. Donohue?

Mr. Donohue: If it pleases your Honor, on the general subject of the extent to which cross-examination may be had of witnesses, I would ask your Honor to consider the case of the United States vs. Klass and another, decided February 11, 1948, and reported in 166 Federal Reporter, 2d Series.

Mr. Hallinan: What page?

Mr. Donohue: I shall quote from page 376.

(Testimony of Lloyd H. Garner.)

The Court: What was the citation again?

Mr. Donohue: United States vs. Klass, 166 Federal 2d, page 373.

Mr. Hallinan: Could we have the district from which that comes?

Mr. Donohue: The third circuit. Quoting from page 376 of that opinion:

> "Insofar as the extent of cross-examination is a matter resting within the sound discretion of the [715] trial court, the learned trial judge properly ruled that the testimony with which we are now concerned was inadmissible for the purpose of attacking the credibility of the appellants. There is, indeed, a conflict as to whether acts of misconduct not resulting in conviction are the proper subject of cross-examination to impeach a witness."

citing a number of cases from the various circuits and the United States Supreme Court:

> "* * * 'we believe the rule with respect to impeachment for former conviction, as generally applied by federal courts in criminal cases, to be that it is only conviction for felony or misdemeanors amounting to crimen falsi which are admissible to impeach a witness' credibility.' This reflects the true purpose of impeaching evidence, to disclose the personal turpitude of the witness and his insensibility to the obligations of his oath to speak the truth. Coulston

> vs. United States, 10 Cir., 1931, 51 F. 2d 178, 180. There is no reason why the standard should be less exacting where no conviction is involved."

In the case of Smith vs. the United States, cited at 10 Federal Reporter, 2d Series, at page 787, this being an opinion from the Ninth Circuit dated February 23, 1926, and reading therefrom from page 788: [716]

> "Upon rebuttal, the prosecution called two witnesses, one of whom, in answer to the question whether he knew that the accused was engaged in any other business than that to which he had testified, testified that he did, and that his business was selling drugs. The other witness, in answer to a similar question, testified that the plaintiff in error was engaged in the business of selling narcotics. To these questions objection was interposed that the testimony was irrelevant, not proper cross-examination, and that to ask the questions was misconduct on the part of the United States attorney. In charging the jury the court instructed them that the rebuttal evidence as to the occupation of the plaintiff in error was to be regarded only as affecting his credibility.
>
> "We think the admission of that testimony was error for which the judgment must be reversed. When the plaintiff in error offered himself as a witness, he subjected himself to

(Testimony of Lloyd H. Garner.)

> the rules applicable to all witnesses, and he was subject to cross-examination as to any matter which he had testified to on his direct examination, or which was germane thereto. To impeach his testimony he might properly have been asked whether he had been convicted of a crime, and, if he denied that he had been convicted, it would have been permissible [717] to produce the record in rebuttal.
>
> "But here he was cross-examined as to a matter collateral to the subject under inquiry. While being tried on a charge of selling narcotics at a time and place specified, he was asked whether or not he had been engaged in the business of selling narcotics. His denial that he had been in that business should have ended the inquiry. The prosecution was bound by the reply. Bullard v. United States, 245 F. 837, 158 C.C.A. 177.; Fisk v. United States (C.C.A) 279 F. 12, 17. Otherwise, the jury will be required to determine the preponderance of the evidence in relation to collateral matters, instead of confining their consideration to the real question in controversy."

I take it, if your Honor pleases, if the purpose of the last question which was asked of the witness is to impeach his credibility as a witness, that it may not be done under the rule. Certainly the question is not germane, and I most respectfully say to your Honor that insofar as it would appear that in

(Testimony of Lloyd H. Garner.)

the federal court the extent of cross-examination is a matter resting within the sound discretion of the court, and in the light of the fact that your Honor has repeatedly stated that the matters which are the subject matter of these questions on cross-examination are not properly at issue before this court, I most definitely say to your Honor that [718] the objection to the question at issue should be sustained.

Mr. Hallinan: May I be heard a moment in rebuttal, your Honor? I will give you that citation that I just read from, which is Wharton's Criminal Evidence, Volume 3, 11th Edition, Section 1306, et seq, up to 1356. Now, your Honor, I want to read you one short paragraph from a decision of Dean Landis, James M. Landis. Now, while James M. Landis is not a judge of a court and while, of course, his opinion is not binding upon the court, still he is the dean of Harvard Law College and he is an eminent lawyer. Here was his comment on the scope of the examination on the hearing he conducted. This is only preliminary.

> "Due to the fact that the defense sounded in conspiracy, the range of cross-examination and defense testimony was made much broader than would have normally been the case. This, however, is the normal concomitant of any attempt to prove conspiracy either by way of prosecution or defense. See one Wigmore Evidence 370."

(Testimony of Lloyd H. Garner.)

Now, if I might be permitted to assign a judgment to some of your Honor's comment on the case, we charge a conspiracy, and I admitted it sounded fantastic, and you conceded that as I expressed it it sounded fantastic. But that does not make it unprovable or incredible. Now, I have seen many cases in which the defense were striving to keep out all kinds of [719] evidence to prove alleged criminal conspiracies on their part, but I have never seen such activities exercised by officers of the law to prevent the showing of a criminal conspiracy by the witnesses produced upon them. They are entitled to no such protection, Judge. You may not, at the close of this case, although I think you will—I think at the close of this case you will see that every intendment that I made in the opening argument has been fulfilled, and every promise I have made has been filled—I think you will—I think when you see the evidence you will be shocked. But suppose you do not. Suppose at the end of the case you think it is as fantastic as you probably now think it is. Suppose you think it is unproved. What will the twelve people in that box think? That is the question the court must address himself to, not limited down so as to bring it within the range of what you will say, "This is as far as I would go in believing a thing like that." You would have to say, "How far would the ordinary person go in sifting these things?" It may be ridiculous, it may be fantastic. And yet there it is. It is up to the jurors to pass upon it. Yes, as I say, I think we will convince your Honor, too. That is all we ask, to extend the scope of the cross-examination so as to attack the credibility of the witnesses, who seem to be only casual witnesses, who seem to be here only to provide a document but who, in reality, are here to supply a vital defect in the case that the prosecution has [720] worked out in this matter. All we ask is now a special favor, not any consideration at all beyond the narrow limits that the law allows us.

Mr. Donohue: If your Honor please, there is one further authority which I think is pertinent and that I would like to call to your Honor's attention. It is the case of Coulston vs. the United States, cited at 61 Federal 2d, page 178. I am reading to your Honor at page 180 thereof as follows. This case, by the way, came out of the Tenth Circuit decided June 29, 1931.

> "In the civil law, and very early in the common law, evidence of other crimes was admitted on the theory that a person who has committed one crime is apt to commit another. The inference is so slight, the unfairness to the defendant so manifest, the difficulty and delay attendant upon trying several cases at one time so great, and the confusion of the jury so likely, that for more than two hundred years it has been the rule that evidence of other crimes is not admissible."

(Testimony of Lloyd H. Garner.)

> "If the defendant takes the witness stand, a different rule comes into play. He steps out of his character as a defendant, for the moment, and takes on the role of a witness, and as such becomes subject to cross-examination in the same manner and to the [721] same extent as any other witness. The rules of evidence in criminal cases may not, in the same jurisdiction, be the same as the evidentiary rules in civil cases, sections 858 and 914 of the Revised Statutes (title 28, U.S.C. par. 631, 724 (28 USCA par. 631, 724)) having no application to criminal cases. In criminal cases, the competency of witnesses is determined by the common law of the jurisdiction as it existed when the states was admitted into the Union."

citing Neal vs. The United States, 1 Fed. 2d page 637, subject to such changes as may be brought about by judicial authority or congressional enactment.

> "In criminal cases, there may therefore be differences arising from variations in the common law in the different jurisdictions at the time of their admission into the Union. It may however be said that, subject to possible variants so arising, it is well settled in criminal cases in the federal courts that cross-examination must be confined to the subjects of the direct examination."

(Testimony of Lloyd H. Garner.)

citing a number of opinions from the circuit courts and from the Supreme Court.

> "that the credibility of a defendant who has testified may be impeached in the same manner and to the same extent as any other witness, and no further," [722]

citing a number of authorities.

> "questions asked on cross-examination for the purposes of impeachment should be confined to acts or conduct which reflect upon his integrity or truthfulness, or so 'pertain to his personal turpitude, such as to indicate such moral depravity or degeneracy on his part as would likely render him insensible to the obligations of an oath to speak the truth'; when such a question is asked and answered, the inquiry is ended; the government is bound by the answer in that it may not, on rebuttal, offer countervailing proof. To this latter rule, there is one exception: In criminal cases a witness may be asked, for purposes of impeachment, whether he has been convicted of a felony, infamous crime, petit larceny, or a crime involving moral turpitude, and on rebuttal the record of such conviction is admissible."
>
> "A witness may not be asked if he has been accused or arrested for a crime, for the sufficient reason that it calls for hearsay evidence, and because accusation carries no implication of guilt."

(Testimony of Lloyd H. Garner.)

> "Tested by these rules, the questions asked on cross-examination of the defendant were improper."

And so I most respectfully say again to your Honor that for several reasons the questions asked of the witness on cross-examination [723] are objectionable.

Mr. Hallinan: Your Honor, one short addition to what I have said, because there are questions I want to ask this witness about his activities in this case, and his knowledge of activities of other persons involved in it as bearing upon his interest.

The Court: What do you have in mind in that respect, Mr. Hallinan?

Mr. Hallinan: To show that he was cognizant of wire-tapping, illegal invasions of this man's privacy, that he was part of it, that he either actively participated in it or did nothing to stop it. Now, if I may read from what Dean Landis said in this matter, "scope of the inquiry at the hearing"——

Mr. Donohue: Your Honor——

Mr. Hallinan: This is a matter of law.

Mr. Donohue: Would you excuse me for just a moment?

Mr. Hallinan: Yes, surely.

Mr. Donohue: I would like to address myself to the question of fact and not the matter of law. You suggested to the court a moment ago a fact, and I know Mr. Hallinan knows that this witness has no such knowledge of any of the matters he just addressed himself to your Honor about.

(Testimony of Lloyd H. Garner.)

Mr. Hallinan: I have never heard of the witness until he took the stand yesterday. I never heard of him before.

Mr. Donohue: Then why do you say he knew something about [724] wire tapping?

Mr. Hallinan: I want to ask him about it.

The Court: Mr. Reporter, read the statement of Mr. Hallinan.

(Record read.)

Mr. Donohue: Now he says he never heard of this gentleman until yesterday.

Mr. Hallinan: I never saw the witness, and yet I will show—I never heard his name, and yet I will show he knew this man's privacy was illegally invaded. He can't get away from saying he knew about it. And yet I never heard his name before. This matter of trying to say to counsel, "How do you know these things? Hand your proof over to the prosecution. Let them pass upon it. Let us go over this and see if you are going to be permitted to show those things." That is a novel form of trying a case, as far as I am concerned. What is the harm of asking the witness? How does anyone know what this witness knows? I know certain facts which I think I can force this witness to admit as to criminal activity. I may not be able to, but I am sure that does not stop me from attempting to.

May I cite another point of law—not questions of fact. They won't even tell us the names of the witnesses they have. We do not know who they are.

(Testimony of Lloyd H. Garner.)

They have carefully concealed them. We are told of surprises they have. We are challenged [725] at every step. What is the purpose of it? "Vainly is the net spread in sight of the bird." If we tell them our purposes we might as well keep our mouths shut. I have had judges ask, "What is the purpose of that question?" And you know as soon as you tell them you might as well not ask the question. The witness is alarmed and he will try to cover up. Merely because a man is a lawyer and a member of a government staff does not foreclose cross-examination. If I may go on to a legal point, it is a short one. Here is another statement of Dean Landis':

> "On the other hand, evidence that officials of the Department of Labor who are engaged in the preparation of this case had offered improper inducements to witnesses to testify in this proceeding would be admissible under strict common law principles even if all those witnesses were never called by the government,"

citing Allen v. United States, 164 U. S., 17 Howard, and so forth—three cases.

> "The admissibility of such evidence rests upon the ground that a party's fraud in the preparation and presentation of this case is some evidence for concluding that the case is a weak or unfounded one. The extent of the inference to be drawn from such evidence does

> not apply itself necessarily to any specific fact in the clause that operates indefinitely, [726] though strongly, against the whole mass of alleged facts constituting this case."

1 Wigmore, Evidence Section 278.

> "A second ground upon which the relevancy of improper inducements to witnesses can be projected stems from the connection that may be shown to exist between the offerers of the inducement and the officials connected with the preparation and presentation of the case. Relevancy here exists irrespective of whether the witnesses had been called to the stand."

16 Northeastern at 32.

> "The degree of connection that must be shown to exist between the offerers of the inducements and the officials conducting the case depends not upon any technical ground of agency but rather upon finding the existence of actual moral connivance between them."

citing three other cases. [727]

Mr. Hallinan: Now, to explain particularly this matter and to come directly to it, here is a piece of language that Your Honor might ponder. And it is a short paragraph:

> "For more than a decade, powerful economic and social forces have combined with public and private agencies to seek the deportation of

(Testimony of Lloyd H. Garner.)

> Harry Bridges, who came to this country in 1920 from Australia. Emerging from the Pacific Coast maritime strike of 1934 as a recognized labor leader in that area, Bridges incurred the hatred and hostility of those whose interests coincided directly or indirectly with the vicious and inhumane practices toward longshoremen (144 Fed. 2d. 927) that Bridges was combating. His personal viewpoint on certain matters also antagonized many people of more conservative leanings. Agitation for his deportation arose. Industrial and farming organizations, veterans' groups, city police departments and private undercover agents all joined in an unremitting effort to deport him on the ground that he was connected with organizations dedicated to the overthrow of the government of the United States by force and violence."

Now listen to this next sentence, Judge:

> "Wire-tapping, searches and seizures without warrants and other forms of invasion of the right of privacy have been widely employed in this deportation drive."

And, Your Honor, concluding, that language that I just read [728] is from the opinion of the Supreme Court of the United States upon this identical case; that is, the last deportation proceeding. That is the decision that was handed down in 1945.

(Testimony of Lloyd H. Garner.)

Now, the Supreme Court had all these days and days of evidence before it. It had a transcript of testimony, Your Honor, that occupied three or four feet on the shelf of their library. It saw these things and it recognized them. You have had one day, and you can't foreclose yourself—suppose we were trying the case before you without a jury at all. Why, you would listen to all this. You might say, "I start out not believing it. It seems incredible that the United States officials should stoop so low." And I said to you, Judge, that United States officials also stooped down from high positions to protect this man against that sort of thing, as we expect you to stoop down to protect him. But if you close your mind to it and say, "I won't listen to it, it isn't so, there is such a thing as a witch and I don't believe that 50 people came in here and testified that a person was a witch, if there were no such thing"—why, where would we get off? We can't talk just to the jury alone. We appeal to you to open your mind and listen to what we have to say. If it is fantastic, wrong or faulty, all right. You waste some of your time and some of your effort and some of your attention. But if it is true, then you prevent a great injustice, and that is what I want to do, and I know you well enough and I have known you long enough to feel we can trust in your [729] sincerity and desire to do justice here.

The Court: No injustice will be perpetrated either to the government or the defendant. I think you are perfectly aware of that. And by the mere

(Testimony of Lloyd H. Garner.)
bland assertion, Mr. Hallinan, that the whole world has entered into a conspiracy against this man, I am not going to relax the elemental rules of evidence.

Mr. Hallinan: I don't ask you to, I just ask you to hold to them.

The Court: I will hold to the lines, I will hold right to the line on the evidentiary matters. I will hold right to the line in the exercise of a sound discretion, and I have made the announcement to the jury, I have announced to the jury and to your predecessors—lawyers—that these matters of prior consequence had no legal bearing upon this matter. Now, what would it serve this case to pry into all of these prior matters, the determinations therein, legal, extrajudicial or however it appear? It would not be binding upon the jury or the Court as a factual matter. Now, to say that this man, to paraphrase or adopt your reasoning, did not ask Messrs. Robertson and Schmidt whether or not they were Communists, and to say that the government did not include that reference in the indictment—perforce there was no reason to include it in the indictment, as a matter of charging part—and it would probably be immaterial if the Government did. But be that as it may. How and in what manner would this attempt to cross-examine on your part, bearing upon [730] Judge Sears, Judge Landis or any other eminent jurist, or hearing officer,—how would that have any particular bearing upon the answer to that particular question? Now, I realize the latitude on cross-examination, but I realize in addition that we must keep this case within the ken or that rule. Accordingly I sustain the objection.

Mr. Hallinan: Might I make another suggestion, Your Honor, and I am—I won't argue on the objection. I might say this: It seems to me that some suggestion or talk or feeling has come to you that what we expect to rely upon are the previous decisions or that we expect to evade the rule that you have already made and which I agree with you on, that those do not constitute former jeopardy——

The Court: I say you may well agree with me on it in principle, but you are constantly trying to erode it.

Mr. Hallinan: Now, there is the difficulty and I see the initial one. That is what you think. You think that here we have agreed with you that these matters are not former jeopardy, that they do not constitute former jeopardy, and they do not constitute a defense to this charge. And I say, I agree with you. I agree that that is so. Now, however, these decisions have a bearing upon other phases of the case. For instance, the credibility of the witnesses. I have pointed out to you the witness saying, "I am a lawyer, I read this decision of the Supreme Court." I want to ask him, "Didn't that make you [731] believe that you are concluded on this inquiry?" I nevertheless inquired. All right.

Now, Your Honor says, "Well, that is an attempt to get in indirectly what I told you you couldn't get in directly." But that isn't it. Isn't this so: However harmful and however improper a piece of evidence may be when put in one channel, it may be perfectly proper and received when it comes in in another way?

The Court: Mr. Hallinan, without interrupting you, let us assume that the witness testified on a prior proceeding, and let us assume that you have solid grounds for impeachment, or attempted impeachment of that witness by the records in the prior proceeding. No doubt counsel for the Government would not have any serious objection for you laying the foundation for that.

Mr. Hallinan: It would be too bad if he would; that would be a rather primitive privilege we were granted, I would say.

The Court: Now, we will just take that primitive notion as to that phase of the matter. You make the bland assertion that this witness on the stand, Mr. Garner, has in some manner, at some place unidentified,——

Mr. Hallinan: "To the grand jury unknown."

The Court: ——joined a conspiracy. When he joined the conspiracy, of course, is problematical, speculative and wholly in the limbo of uncertainty. He has joined in it some time. This unwholesome conspiracy that started in 1934, is that the [732] date? Or thereabouts. And that this chain of co-

conspirators that is gained and augmented in force and number, until now it reached the proportions of 125 people, all of them, all of them are out of step with Harry Bridges.

Now, to ask this Court to relax the vigilance which is traditional under the rules of evidence as I learned them, and as I think we both learned them together, would be in my opinion to broaden the scope to a point of unheralded dominion, and to a point wherein there would result, prejudice to the prosecution as well as to the defendants at bar. I think——

Mr. Hallinan: I will simply have to take the position, Your Honor, that I consider very much in error your position, and I will have to continue to ask the questions and build a record and ask such questions as I may deem advised, and I say that you have no right to make your mind up as to whether a conspiracy of these witnesses exists or does not exist; that that is something direct to the jury.

The Court: You ask me to relax the rules of evidence upon that basis, and I say to you that I am not going to relax the elemental rules of evidence that apply on cross-examination of this witness.

Mr. Hallinan: Why, I have read off the rules, Your Honor, and it is not a question of asking you to relax them, it is a question of whether you will restrict them and whether you will put a new circle around the rules of evidence and say that [733] certain questions that are proper to be asked may not be asked. That is the point. It isn't a question of asking you to relax them, it is a question of protesting against an improper stricture of the rules of evidence.

The Court: Mr. Hallinan, you have my ruling. You may call the jurors.

Mr. Hallinan: It is now five minutes to three, Your Honor.

The Court: We might take a recess. Five minute recess.

(Recess.)

(The jury reentered the courtroom, assumed their position in the jurybox and the following occurred in the presence of the jury:)

The Court: You may proceed.

Mr. Hallinan: Thank you.

Q: Now, Mr. Garner, I suppose it would be a fair conclusion that if you did not read all the decision of the Supreme Court, at least you read most of it, is that right?

Mr. Donohue: I object, if Your Honor pleases. That question is——

Mr. Hallinan: It is preliminary.

Mr. Donohue: ——not in conformity with the ruling which Your Honor made just a few minutes ago.

The Court: The objection is sustained.

Q. (By Mr. Hallinan): Now, did you read that portion of the decision of the Supreme Court of the United States which [734] charged the federal agents with illegal wire-tapping of Harry Bridges?

Mr. Donohue: I object to the question, if Your Honor please.

Mr. Hallinan: This goes to his participation.

The Court: The objection is sustained that it is not in conformity with the ruling, Mr. Hallinan, and is an attempt to bring before the jury matters in obviation of my ruling. I admonish the jury to disregard any implications in the question.

Q. (By Mr. Hallinan): Have you any independent knowledge—now, aside from any designation of any court—have you any independent knowledge of your own or information from any person in the government's employ that at any time during the course of this proceeding or of the previous—We will withdraw that—the course of this proceeding, any wire-tapping was done on Harry Bridges' telephone?

Mr. Donohue: I object, if Your Honor please, and now suggest to Your Honor that it would appear from the fact that Mr. Hallinan has intentionally asked three questions, all in my judgment contrary to the ruling of this Court, that he is doing exactly what he said he would do, and that is, despite Your Honor's ruling, he would continue to ask these questions for the purpose of preserving some kind of record. I ask that he be admonished at this time not to continue this line of questioning.

(Testimony of Lloyd H. Garner.)

Mr. Hallinan: May I be heard in that, Your Honor? As I [735] understand it,——

The Court: Just a moment, Mr. Hallinan. The objection is sustained, the jury is admonished to disregard it.

Mr. Hallinan: Your Honor, this does not relate to any hearing, this means presently and now. I want to know if this gentleman indulged in any illegal activity in connection with procuring a verdict in this case.

The Court: You had it in a two-way thrust before.

Mr. Hallinan: I withdrew that. I said I withdrew that.

The Court: You may answer the question.

Mr. Hallinan: I withdrew that. Might I have the question read?

(Previous stion read.)

Mr. Donohue: I have no objection to the question as to this proceeding, Your Honor.

Mr. Paisley: Well, I understand, Your Honor, he is bound by an answer on the collateral matter of that type.

Mr. Hallinan: Well, just so long as I am allowed to move my feet. When I get bound like that, I don't know the extent of the binding, but I hope I can, at the conclusion of the questioning be permitted to walk out of the court. I didn't know what is meant by being "bound" by the matter.

(Testimony of Lloyd H. Garner.)

I asked the gentleman, as a matter of testing his interest in the case, that.

The Court: You may answer the question. [736]

A. I have no knowledge of any wire-tapping in this case.

Q. This case. In other words, it is now your testimony that you have received no information at all from within the government, employees or agents, that is, as regards this case, that is, the case that we are now trying,—Harry Bridges' wires were tapped, is that right?

A. That's right. I have no such information or knowledge.

Q. Have you information that around the time that he was admitted to citizenship, that is, shortly prior to that time and up to the time that he was admitted to citizenship, his wires were so tapped?

Mr. Donohue: I object, if Your Honor please.

The Court: Sustained.

Q. (By Mr. Hallinan): You have information, however, that in each of the two previous deportation matters——

Mr. Paisley: Your Honor, that is obviously——

Mr. Hallinan: Pardon me; permit me to finish my question.

Mr. Paisley: I know what your question was.

Mr. Hallinan: Well, you haven't any right to anticipate that.

Q. Mr. Witness would you answer this question:——

(Testimony of Lloyd H. Garner.)

Mr. Hallinan: I think I am permitted to finish my question without interruption by counsel. Here counsel is saying that he can guess into my mind——

Mr. Paisley: No guesswork, Your Honor. [737]

Mr. Hallinan: If he would, he would blush.

Q. Now, I want to ask this question: 'You do have information that the government indulged in illegal wire-tapping upon the two previous——

Mr. Paisley: Just a moment, counsel.

Q. (Continuing): ——two previous deportation proceedings, have you not?

Mr. Paisley: If Your Honor please, if this is not contempt of court, I have never seen it in my career.

Mr. Hallinan: That is the first time I have ever heard counsel make a statement,—I ask the jury be admonished——

The Court: The objection is sustained, the jury is admonished to disregard any implications contained in the question. I have heretofore——

Mr. Hallinan: I have asked Your Honor to ask the jury to disregard the statement that counsel just made. It is a highly, improper statement.

The Court: The statement made by counsel may well be within the realm of his province to make. I shall not instruct the jury to disregard his statement.

Mr. Hallinan: We enter an exception, if the Court please.

The Court: And I say to you, Mr. Hallinan, your persistent conduct along this line, studied as it appears to be, may well eventuate in the situation that counsel refers to.

Mr. Hallinan: We enter an exception to that statement of [738] the Court and ask that the jury be instructed to ignore it.

The Court: The objection is overruled.

Mr. Hallinan: Very well.

Q. Now, did you yourself, in the period preceding, that is, looking toward, the deportation of Harry Bridges, and during that time—not at the present—receive any information from any federal officer or agency that Harry Bridges' wires were being illegally tapped?

Mr. Donohue: I object to the question, if Your Honor please.

The Court: Sustained.

Q. (By Mr. Hallinan): Have you at any time throughout the origin of the proceedings against Harry Bridges, that is, back in 1937 or '8 up to the present time, that is, up to today, made any protest of any kind to any agent of the government or any attorney of the government that there was or had been illegal wire-tapping of Harry Bridges?

Mr. Donohue: I object, if Your Honor please.

The Court: Sustained.

Q. (By Mr. Hallinan): Did you at any time in the course of your connection with this case state to any official or agent of the government that you would not be a party to an illegal effort to injure this man?

(Testimony of Lloyd H. Garner.)

Mr. Donohue: I object to the question, if Your Honor please, and I again ask Your Honor to admonish counsel to confine his [739] cross-examination to that well established rule of law to which Your Honor invited his attention just a few moments ago.

The Court: The objection is sustained.

Mr. Hallinan: Very well.

Q. (By Mr. Hallinan): In your study, whatever study you did make, of the Landis decision, you learned that 62 witnesses had been presented by the government against Harry Bridges and that Dean Landis had rejected all of them as liars and perjurers, didn't you find that out?

Mr. Donohue: I object to the question and again state to Your Honor that Mr. Hallinan's deliberate and repeated questions, which he knows as a lawyer are beyond the scope of that limitation defined by Your Honor, is highly contemptuous of the decision of this Court.

Mr. Hallinan: Your Honor, that is a highly improper statement for counsel to make, and that puts the defendant and his counsel in an invidious light with the jury. Now, we have the right to ask that question. I am entitled to inquire into this gentleman's mind and what his attitude is toward such findings and such statements as that.

The Court: The objection is sustained, Mr. Hallinan.

Mr. Hallinan: And I might ask you this, Your Honor—

The Court: It is an attempt to circumvent the ruling of this Court and place before this jury by indirection matters that have been ruled out, matters that are immaterial, that are [740] irrelevant.

Mr. Hallinan: Your Honor, we have had no ruling upon any such question as that at all. There has been nothing said in that matter.

The Court: We spent, before the recess period, at least 45 minutes in discussion.

Mr. Hallinan: What it amounts to, Your Honor, is rendering it almost impossible to find out—This witness has now a shield of objections thrown around him that prevents the defense from finding out what his real interest in the case is.

The Court: That observation is uncalled for, unwarranted, purely gratuitous, and part of a studied plan.

Mr. Hallinan: Now I ask that Your Honor— Pardon me. I enter an objection to that statement and I ask that the jury be instructed to ignore it.

The Court: The objection is not well taken.

Mr. Hallinan: And I except to the Court's refusal to so instruct the jury.

Q. (By Mr. Hallinan): Now, getting away from these two proceedings that seem to involve me in so much criticism, you do know this, that 60 witnesses, different from those that testified before Landis, testified before Sears and that Sears rejected all but one of them as liars and perjurers; isn't that right, Mr. Witness?

(Testimony of Lloyd H. Garner.)

Mr. Donohue: I again object——

Mr. Hallinan: Might I be heard on this, Your Honor? [741]

Mr. Donohue: ——and I again ask Your Honor to instruct counsel that he confine his questions to the limitations set by Your Honor just a few minutes ago, and suggest to Your Honor that his failure to do so is only a deliberate and purposeful plan on his part to call to the attention of the jury matters which as a matter of law Your Honor has said may not be properly called to their attention.

Mr. Hallinan: Might I be heard on this, Your Honor? Might I have this to say on the question? Now, a man is known by the company he keeps, and if a witness takes the stand and will admit that he knows that there has been a conspiracy of persons to commit perjury and to tell lies about Mr. Bridges, and that then he thereafter enters into an almost identical sort of proceeding, isn't that something to test the credibility of the witness? Suppose, for instance, Your Honor, that a witness comes in in an ordinary case, not this case at all, let's say, but a civil case. And suppose he takes a certain position. Couldn't he be asked, "Now, don't you know that 20 or 30 persons conspired together to defraud the opposite party in this by testifying falsely and they were so found by the Court?" Now, he says, "Yes, I know that." Then isn't it proper to then ask him what is his attitude toward that, whether he takes the position that he is now engaged in the

(Testimony of Lloyd H. Garner.)

same occuption, and whether he is not assisting and collaborating with those people to do that sort of thing? By putting the witness on the [742] stand, they open him to that. We told him in advance what our position was. There is no reason why—And if Your Honor will bear with me, one thing further: You have commented, yourself, on the 124 witnesses. I have made an effort now to show 122 of them. I can't show it all in one question. I have to bring them in one at a time. I have to bring them in by witnesses as they are put on. I can't do it all by one piece of evidence, but I am entitled to show it. I am entitled to show the whole thing and to find out whether or not this gentleman is in contact with them, whether he has talked to those people, whether he bases any statement he has made upon anything that any such person told him. Now, there is a great delicacy about it. I don't know why. I don't know why, if witnesses in other matters testified falsely, there should be any protection around them. What is the objection to showing that? If he could show—let me say this: If we could show that this witness or any other witness produced any such witnesses, knowing that they would testify falsely, or suspecting or believing they would, or having put on witnesses of one kind in one case, produced a similar type of witnesses in another type of case, that would come right within the language I cited to Your Honor from Dean Landis, affecting the whole status of the government's case. [743]

The Court: The objection is sustained.

Mr. Hallinan: I want to identify this. I want to mark for identification a copy of the findings and the conclusion of the trial examiner in the original proceedings taken in 1939 in which Dean James M. Landis presided. I want them marked for identification as the defendant's exhibit next in order.

The Court: They may be marked for identification.

> (The findings referred to were thereupon marked Defendant's Exhibit C for identification.)

Mr. Hallinan: Would you show that to the witness, please?

Q. Do you recognize that document that you have just been shown?

Mr. Donohue: I object to the question, if your Honor please.

The Court: The objection is sustained.

Q. (By Mr. Hallinan): Is that the decision that you testified you read some portion of?

Mr. Donohue: I object to the question, your Honor.

The Court: Sustained.

Mr. Hallinan: We now offer that decision in evidence, if the court please, as the defendant's exhibit next in order.

Mr. Donohue: I object to that, if your Honor please.

The Court: Objection sustained.

(Testimony of Lloyd H. Garner.)

Mr. Hallinan: We have it marked for identification? [744]

The Clerk: It is marked C for identification.

Mr. Hallinan: We now offer in evidence, if the court please, defendant's exhibit B for identification, being the decision of the United States Supreme Court, which the gentleman said he read parts of.

Mr. Donohue: I object to it, if your Honor please.

The Court: Sustained.

Mr. Hallinan: Your Honor, I want to ask specific questions of this witness from those documents, and I want to make an offer of proof with respect to them, and in view of the solicitude that the jury might be prejudiced by them, I suggest that that might be done outside of the presence of the jury.

Q. (By Mr. Hallinan): Do you feel any prejudice or ill-will against Harry Bridges?

A. Presently, sir.

Q. Yes, sir. A. I do not.

Q. Have you in the past? A. I have not.

Q. Why did you modify it by asking "Presently?"

A. I want to know what the trend of your question is.

Q. You have not felt any in the past?

A. I have not.

Q. Have you heard any resentment expressed by any members of your office or offiicals of the

(Testimony of Lloyd H. Garner.)

government arising from any [745] charges of conspiracy made by Mr. Bridges against them?

Mr. Donohue: I object, if your Honor please. That is not a proper question.

Mr. Paisley: He may answer for himself, your Honor, but I do not suppose he can answer for others.

The Court: The objection is sustained.

Mr. Hallinan: Of course, counsel's objection that he may answer for himself—I asked him if he heard any such statement. He could only hear them personally.

The Court: Sustained.

Q. (By Mr. Hallinan): Did you participate in any discussions with other members of your office or your staff or of any agents of the government in which resentment was expressed against Harry Bridges because he had on several occasions and in sworn pleadings accused any of those persons of a conspiracy to injure him? A. No, sir.

Q. You never participated in any such discussion? A. I never have.

Q. Did you ever hear that subject discussed in your presence? A. No, sir.

Q. You received no instructions from anybody based upon that matter? A. No, sir.

Q. Did you know from any of the documents you read that [746] that defense had been made in the past by Harry Bridges? A. No, sir.

Q. You never knew that he charged any such

(Testimony of Lloyd H. Garner.)

conspiracy, is that right? A. That is right.

Q. After the hearing before Judge Foley, did you receive a letter from an attorney representing Mr. Bridges at that time asking for a copy of the affidavit of Agnes Bridges?

Mr. Paisley: Your Honor, suppose he did? What is the materiality of that question and the answers he expects to get as to the issues in this case?

The Court: Sustained.

Mr. Hallinan: Would you show the witness that letter?

Mr. Donohue: May we have it marked for identification?

(Letter asking for copy of affidavit of Agnes Bridges was thereupon marked Defendant's Exhibit D for identification.)

The Court: So ordered.

Q. (By Mr. Hallinan): You wrote that letter, didn't you? A. I did.

Mr. Hallinan: That, your Honor, is in answer to the letter that was written to this witness asking for the copy of the affidavit, and I expect if you rule that improper, you would rule this.

The Court: Have you seen the letter?

Mr. Donohue: I have seen the letter. It is not in [747] evidence. It is marked for identification. I do not think it ought to be further pressed by Mr. Hallinan.

(Testimony of Lloyd H. Garner.)

Mr. Hallinan: I am just calling the attention of the court to it so that he may know what it is. He may look at it if he wishes. I am going to offer it into evidence.

Mr. Donohue: I object to it.

The Court: Sustained.

Mr. Hallinan: We offer in evidence the document marked Defendant's Exhibit D for identification.

The Court: The objection is sustained.

Q. (By Mr. Hallinan): You considered the affidavit of Agnes Bridges a confidential document, did you not?

Mr. Paisley: I object to that, your Honor, as immaterial. What difference does it make how he considered the affidavit? It is utterly immaterial.

The Court: Sustained.

Q. (By Mr. Hallinan): You did, however, turn that affidavit over to the prosecuting forces in this case, didn't you?

Mr. Paisley: Same objection. I do not see that it makes any difference.

The Court: I do not see the materiality. The objection is sustained.

Q. (By Mr. Hallinan): Prior to the deportation proceedings, which were tried in 1939 before Dean M. Landis, did you personally have anything to do with installing a wire-tapping [748] device in Harry Bridges' room in the Hotel Multnomah in Portland?

(Testimony of Lloyd H. Garner.)

Mr. Paisley: Your Honor, I object to it on the same ground that your Honor has sustained us on, I was about to say, a hundred times, and to show how ridiculous it is——

Mr. Hallinan: I object to an argument in the presence of the jury on a question of fact.

The Court: You had your argument. I will let counsel argue a bit here.

Mr. Paisley: To show how ridiculous or how uninformed or insincere the remarks of counsel are. I am told this witness did not come with the government until 1941.

Mr. Hallinan: Well, I don't know.

The Court: He so testified.

Mr. Hallinan: I want an answer to the question, if the court please.

The Court: Did you enter an objection, counsel?

Mr. Paisley: Oh, yes, certainly.

The Court: The objection is sustained, Mr. Hallinan.

Q. (By Mr. Hallinan): Did you personally in the year 1941 have any part, or did you participate in any wire tapping of a telephone in Harry Bridges' room in a hotel in New York City?

Mr. Paisley: Just a moment. That presumes, your Honor, that that occurred. Counsel is thereby attempting to testify that such an occurrence took place, it seems to me. [749]

The Court: The objection is sustained.

Q. (By Mr. Hallinan): Did you personally

(Testimony of Lloyd H. Garner.)

have any contact with any persons, employees of the United States government engaged in tapping of telephone wires of Harry Bridges in a hotel in New York in 1941?

Mr. Paisley: Same objection on the same grounds.

The Court: The objection is sustained.

Mr. Hallinan: Might I have a moment? That is all.

Redirect Examination

By Mr. Donohue:

Q. Mr. Garner, did any information contrary to the information contained in the affidavit about which Mr. MacInnis inquired of you come to your attention from any source other than the statement made by Mr. Gladstein at the heating before Judge Foley?

Mr. Hallinan: Just a moment. I object to it as incompetent, irrelevant and immaterial, calling for hearsay, and not binding on the defendant.

The Court: What is the purpose of that question, counsel?

Mr. Donohue: Mr. MacInnis read to the jury, if your Honor pleases, that portion of the record of the proceedings before Judge Foley in which Mr. Gladstein made a certain comment about an affidavit which stated facts contrary to the facts stated in this affidavit, and I ask him now whether he had any information concerning that prior affidavit ex-

(Testimony of Lloyd H. Garner.)

cept such as came to his attention by Mr. Gladstein's statement made in [750] the proceeding before Judge Foley.

The Court: Aren't you calling for hearsay, counsel? I think you are. I will sustain the objection.

Q. (By Mr. Donohue): Then may I ask you whether or not at that hearing any person other than Mr. Gladstein made a statement that Agnes Bridges had retracted the subject matter of this affidavit?

Mr. Hallinan: I object to that as incompetent, irrelevant and immaterial, calling for hearsay and not binding on the defendants.

The Court: Sustained.

Mr. Donohue: I have no further questions, if your Honor please.

Mr. MacInnis: Pardon me. We may have another question, if your Honor will detain the witness.

Recross-Examination

By Mr. MacInnis:

Q. Mr. Garner, you heard, of course, the reading of the proceedings had before his Honor Judge Foley in which you participated as a representative of the government, did you not? A. I did.

Q. I would like to call to your attention and to the attention of his Honor Judge Harris, because this is a mixed question of fact and law, as I perceive it, the following remark of his Honor Judge Foley: [751]

"The Court: ——

reading from page 6 of what is the government's exhibit 3 in this case——

> "—— Well, of course, Mr. Bridges, we are all cognizant of the history of your petition for citizenship and the deportation proceedings. They have all become a part of this proceeding and that involved the question——"

Mr. Paisley: Your Honor, this is recross-examination, and it seems to me that it should be limited to that. Otherwise we will be here until next year.

Mr. MacInnis: Pardon me, if I may be heard on that.

Mr. Paisley: It has been read once.

Mr. MacInnis: I am amazed that the lawyer for the government objecting to the reading of their own exhibit, something they have offered.

Mr. Paisley: We object to it being read twice, your Honor.

Mr. MacInnis: The point is, your Honor, the exhibit was mentioned by the government just a moment ago which certainly offers to the threshold for mentioning the same document again, but having read this portion is calling that portion to your Honor's attention, we now offer on behalf of the defendants Robertson and Schmidt the opinion of the Supreme Court of the United States into evidence upon the ground that there was specifically made in the language of Judge Foley, [752] a part of the very naturalization proceeding which is implicit in the transcript brought here by the government.

Mr. Donohue: We object to it, if your Honor please.

The Court: Sustained.

Mr. MacInnis: We make the same offer with respect to the exhibit now marked for identification on behalf of the defense, being the opinion of Dean Landis in the 1939 attempt to deport Harry Bridges.

Mr. Donohue: I object, if your Honor please.

The Court: Sustained.

Mr. MacInnis: That is all.

Mr. Hallinan: As I understand it, your Honor, there are questions, as I said, I wanted to ask this witness out of those two opinions and I suggested, since I didn't want to make it appear even that I was transgressing upon the court's ruling, that this witness would be further cross-examined in the absence of the jury. Isn't that the rule that you made? Isn't that what you said would be done? Otherwise what I want to do is ask specific questions now out of those two documents and ask him whether those are parts of the things that he said he read in them. I do not want to seem to be showing bad faith. I could probably ask them before the jury and allow objections to be sustained, but I do not want to entrench even on the spirit of the court's ruling.

Mr. Paisley: Your Honor, it has always been my [753] understanding that once counsel under-

(Testimony of Lloyd H. Garner.)

stands the court's ruling as to allowing testimony, he cannot stand up before the court and repeatedly ask the same questions over again.

The Court: I know of no such rule that would permit Mr. Hallinan to adopt that course of procedure or practice.

Mr. Hallinan: Might I suggest this, your Honor: If not then, I would have to ask them in the presence of the jury, and then that is going to excite some argument. I want to ask the witness now—I want to read off portions of the decisions of the Supreme Court and Judge Landis' decision and ask him if those were parts that he read before he asked these two defendants whether or not they were members of the Communist Party. I want to ask him the specific things because he says he does not believe he read them all, that he read excerpts from them. I want to find out what those excerpts were and whether those excerpts would bear upon the probability as that he then asked those other questions. I have to, to be consistent, ask those questions. If you wish, I will go ahead and ask them in the presence of the jury, unless you will tell me now, if you wish, that I will not be permitted to ask any such questions, and then I will just make an offer of proof and let it go at that.

The Court: Counsel, thus far you have not had much regard for my rulings, whether I made them formally or informally, in the presence of the jury or in the absence of the jury. [754] It is a sort of a travesty at this late stage again to tell me about it. Do you have an objection to it, counsel?

Mr. Paisley: I certainly do, your Honor.

The Court: The objection is sustained.

Mr. Hallinan: There isn't any question, your Honor, to which an objection could be made.

The Court: I thought there was.

Mr. Hallinan: I will make this statement, without discussing what the matter is: I now ask leave to question this witness as to each separate paragraph in defendant's exhibit B for identification and defendant's exhibit C for identification and to ask this witness as to each separate paragraph whether or not he read that paragraph, and thereupon to question the witness further as to the bearing such reading had upon his determinations in the matter of the naturalization proceedings, and to question him with reference to them as to his credibility and ask the questions that he states he put to the three defendants.

Mr. Paisley: I not only object to that procedure and that question, your Honor, but I must object to counsel continually standing before this bar and disregarding the rulings of this court on this line of testimony. He has been told a dozen times that what went on in those prior proceedings had nothing to do with the simple issue in this case. He stands here repeatedly showing his utter contempt of your Honor's [755] rulings.

Mr. Hallinan: Your Honor, that is prejudicial misconduct. I assign it as such. I ask that the jury be instructed to ignore it. I now ask for a mistrial upon that statement. There is something coming from an officer of the government, a direct charge against another officer of the court who is trying to do his duty, just as much as your Honor is trying to do yours so he is trying to do his, and to have him come up and stand up and accuse me of misconduct because I do what I conscientiously believe I am not only permitted to do but obligated and bound to do. Now, I offer to make the statement in the absence of the jury. I offered to put it in such fashion that there could be no question of any prejudice, if any could exist at all, if the jury were that easy to prejudice, and I assign the making of that statement by counsel as misconduct and I now ask for a mistrial in this case, your Honor.

The Court: Motion for mistrial is denied.

Mr. Hallinan: Then I will ask that the jury be asked to ignore that statement of counsel, that it be stricken from the record.

The Court: The request is denied and the motion is denied.

Mr. Hallinan: Then I enter an exception to the ruling upon that motion.

The Court: You may have an exception, Mr. Hallinan. [756]

Mr. Hallinan: My understanding of your Honor's ruling is I will not be permitted to ask those questions either in the presence of the jury or outside the presence of the jury.

The Court: You may ask them outside the presence of the jury.

Mr. Hallinan: That is what I asked the court at the beginning of this colloquy. There is the exact thing. I came up and asked the court if I could be permitted to cross-examine the witness further out of the presence of the jury and explain in advance before I concluded the cross-examination what that purpose was, and even when I stand up and ask that, that the jury now be excused for that, counsel gets up and makes the objections. I certainly gathered the imprission your ruling was I could not ask them outside the presence of the jury, so I said therefore I will have to make the offer now.

The Court: You may make them outside the presence of the jury. Call the next Witness.

Mr. Donohue: Call John H. Schomaker.

Mr. Hallinan: Will the witness be here?

The Court: He will be here. I instruct the witness to remain during the whole of these proceedings until released by respective counsel and by stipulation.

Mr. Hallinan: Why not excuse the jury? It is ten minutes to four. We can ask a large amount of them by that time and probably finish them up in the morning. Let the jury come at [757] half past ten and we won't have transgressed upon their time.

Mr. McMillan: May it please the court, why is it necessary to ask these questions before the jury or in the absence of the jury? From what he has already stated, it is apparent now that it would be violative of your Honor's rulings in this case, and also violative of the law of this case which your Honor has laid down in your decision and repeatedly ruled upon in this case. It is apparent now that the matter that he wants to question about is absolutely improper and violative of your Honor's ruling. Why ask any questions outside the presence of the jury or in the presence of the jury when that so obviously appears?

Mr. Hallinan: They may be improper. Your Honor may sustain objections to them and would be perfectly correct in that, but I have to ask them to preserve them in the record, don't I? What other way have I to go about that?

Mr. McMillan: Your Honor, on an offer of proof it must appear, first, that the offer is made in good faith, and it must appear that the offer of proof is not violative of the ruling of the court.

Mr. Hallinan: I certainly will not go to the prosecution for any examples of good faith in this proceeding, when I want to make the offer. I do not care when it is made or how it is made, and if the court will not permit me—I thought the court had already ruled I could ask the questions. [758] Why all this colloquy?

The Court: Outside the presence of the jury. Do you have the next witness?

Mr. Donohue: Yes.

The Court: Let him be sworn. [758A]

JOHN H. SCHOMAKER

called on behalf of the United States; sworn.

Q. (By the Clerk): Will you state your full name to the Court and jury, please?

A. Schomaker, John H. Schomaker.

Direct Examination

By Mr. Donohue:

Q. Mr. Schomaker, where do you live?

A. At 698 Menlo Oaks Drive, Menlo Park.

Q. How long have you lived at Menlo Park?

A. About 14 months.

Q. Prior to your taking up residence at Menlo Park, where did you live?

A. Well, I lived in Palo Alto.

Q. And can you tell us during what period of time you lived in Palo Alto?

A. Well, lived there, I would say, about nine months.

Q. When did you first come to the State of California to live? A. About 1922.

Q. And to what part of the state did you come?

A. To Mare Island, California.

Q. And from where did you come to the State of California? A. From Portland, Oregon.

Q. Where were you born, Mr. Schomaker?

A. I was born in southern Illinois, in a little mining town, O'Fallon, it was, in southern Illinois.

Q. And in what year?

A. That was February 2, 1903.

(Testimony of John H. Schomaker.)

Q. And how long did you continue to live in O'Fallon, Illinois?

A. Well, up to 1922, the end of '21.

Q. Before you left O'Fallon, and during the time when you were living there, what was your occupation, if any?

A. Well, after I left school, I went in the coal mines.

Q. When did you leave school?

A. In about 19—either 1919 or 1920.

Q. And how far had you gone in school when you left? A. Through high school.

Q. How long did you continue to work in the coal mines in Illinois?

A. Well, I worked from that period, 19—whatever it was on, 1919 or 1920—the early part that is, of 1920, up until 1922.

Q. And then you came to the West?

A. I did, yes.

Q. And where did you go in 1922?

A. Well, like all young guys that want to see the country, I just traveled around. I guess you would call it just bumming the country.

Q. And in 1922 did you join some organization?

A. In 1922?

Q. Yes.

A. No—I joined the United Mine Workers when I went to work in [760] the mines—that is, the United Mine Workers of America.

Q. And you remained a member of the United

(Testimony of John H. Schomaker.)

Mine Workers union while you were working in the coal mines? A. I did, yes.

Q. Did there come a time when you joined the Marine Corps? A. I did.

Mr. Hallinan: Just a moment. I object to that as incompetent, irrelevant and immaterial, your Honor, and ask the answer be stricken out.

The Court: Overruled.

Q. (By Mr. Donohue): When did you join the Marine Corps, if you did? A. In July, 1922.

Q. And how long did you remain a member of the United States Marine Corps?

A. Well, until my discharge in 1925, in August.

Q. Did you continue thereafter as a member of the Marine Corps Reserve?

A. Then, before I was discharged, I joined the Marine Corps Reserve and served four years.

Q. Now, after your discharge from active duty in the Marine Corps in 1925, where did you go to live? A. I went to Santa Barbara.

Q. And what was your occupation while you were in Santa Barbara? [761]

A. Hod carrier.

Q. And while you were a hod carrier at Santa Barbara, did you belong to any union?

A. I belonged to the Hod Carriers' Union, the International of Hod Carriers.

Q. When did you leave Santa Barbara?

A. It was in the middle of 1926.

Q. And where did you go?

(Testimony of John H. Schomaker.)

A. Well, I toured the western states again—through most of the western states.

Q. And can you recall when it was that you came back to California?

A. I came back—that winter I came back.

Q. The winter of——? A. 1926.

Q. '26. And what occupation did you take then?

A. Well, I spent the winter here in San Francisco, and then in the spring I went to Palo Alto and got a job in the Veterans Hospital there.

Q. What kind of work were you doing in the Veterans Hospital?

A. Well; I worked as a guard and as an attendant and as a gardener.

Q. Can you tell us how long you remained employed at the Veterans Hospital at Palo Alto?

A. Well, from 1927, and I quit in 1928, and I attended one term [762] in the St. Ignatius College. Then I went back again in the winter and stayed there again until 1933.

Q. So you were there five or six years at the Veterans Hospital?

A. Yes, I guess it was five or six years.

Q. Now, while you were employed at the Veterans Hospital, were you a member of any union?

A. I joined the Federal Workers, I think it was—some kind of a federal union, anyway, of the government employees.

Q. Union of Federal Employes?

A. I think it was.

Q. Now, when you left the Veterans Hospital at Palo Alto, what was your next occupation and where?

A. Well, I came to San Francisco and went to work on the waterfront.

Q. What year, do you recall, was it when you came to San Francisco?

A. Well, it was '33—October of 1933.

Q. And what kind of work did you engage in on the waterfront?

Mr. Hallinan: Pardon me. Did he say in October, 1933? Was that the answer? Might I have that read?

Q. (By Mr. Donohue): When was it you came to work? A. It was in October of 1933.

Q. October of 1933.

Mr. Hallinan: Thanks. [763]

Q. And what kind of work did you engage in on the waterfront?

A. Well, regular longshore work when I could get a job.

Q. Did there come a time when, you became a member of a union while you were engaged in that kind of work? A. There was.

Q. And about when was it?

A. Well, I joined the ILA in, I think, November, 1933.

Q. And how long did you continue as a member of the ILA or the International Longshoremen's Association?

A. Well, I was a member continuously of the

(Testimony of John H. Schomaker.)

ILA, and when they swung over to the ILWU, I continued as a member.

Q. Do you recall when the change came and the ILA became the ILWU?

A. That was in July of 1937.

Q. And you continued a member of the ILWU until when?

A. Well, until the war, 1943; I went into the Navy Seabees.

Q. In 1943? A. Yes.

Q. And how long did you remain in the naval service after you went in in 1943?

A. Well, I was discharged in June, 1945.

Q. And you returned here to California, San Francisco?

A. I returned to California, San Mateo, and I went back to work on the 'front as a longshoreman.

Q. Then you returned to your longshoreman's duty in 1945, after [764] your discharge from the Navy? A. That's right.

Q. Were you at that time a member of the ILWU?

A. Certainly. I was a member of the ILWU.

Q. Did there come a time when you stopped doing work as a longshoreman?

A. Well, when I come back, I was suffering from a sinus condition, so I went and saw the union attorney—union doctor, Dr. Lagan, and he give me a sick withdrawal, saying that as soon as the sinus condition had cleared up, why, allowed me to come back to work on the 'front.

Q. Then when—this was in 1945?

A. That was in September, 1945.

Q. Then in September of 1945 you were on a withdrawal, sick status from the ILWU?

A. In 1945 was I——?

Q. Yes.

A. Well, I still am, for that matter.

Q. Then, to your knowledge, are you today a member of the ILWU?

A. To the best of my knowledge, I am, yes.

Q. You have never been notified to the contrary?

A. Well, not yet, no.

Q. Now, when you left San Francisco and gave up your work as a longshoreman, what kind of work did you then take up?

A. Well, I went back to packing a hod. Which I am doing now. [765]

Q. You had been a hod carrier before?

A. And I am a hod carrier now, yes.

Q. And where are you employed as a hod carrier? A. In San Mateo County.

Q. Are you a member of a union today?

A. I am a member of the Hod Carriers International.

Q. And how long have you been a member of that union?

A. Oh, from September, 1945, up until the present time.

Q. Mr. Schomaker, are you a married man?

A. I am.

Q. Are you living with your wife?

(Testimony of John H. Schomaker.)

A. I certainly am.

Q. Do you have a family?

A. Two children, yes.

Q. And you are living with your wife and two children? A. I am.

Q. And at the address you gave us when you first took the stand?

A. That's right, Menlo Oaks Drive.

Q. Mr. Schomaker, during the period of time when you were working on the waterfront, and were a member of first the ILA and then the ILWU, did you ever occupy any position in the union?

A. Well, I did, yes.

Q. Would you tell us about when, to your best recollection, and what the position was? [766]

A. Well, I was a business agent of the ILWU from 1937, Steptember, '37, until September, '38.

Q. Now, over and above the period of time during which you acted as its business agent, did you occupy any other official position?

A. No, I wouldn't say an official position. I had—I was a member of the various committees.

Q. Would you indicate generally the nature of the committee upon which you served for either or both of these organizations?

A. Well, I served on the publicity committee for quite a number of years—as chairman of the publicity committee. There was three members, and the one who received the highest number of votes generally was the chairman, so I was the chairman.

(Testimony of John H. Schomaker.)

And during the '36 and '37 strike, I was the chairman of the joint publicity committee of the Bay Area.

Mr. Hallinan: What? Pardon me? I didn't——

Mr. Donohue: "Joint publicity committee of the Bay Area."

A. (Continuing): And that carried on all the publicity for all the maritime unions, and subsequently in the following years I was—I don't remember the exact dates, but I was the publicity chairman for the local of the Longshore Union. And I also was on the editorial board of the Voice of the Federation, which was the official organ of the Maritime Federation of the Pacific, which comprised all the maritime unions. And I also was the member of the Longshore Labor Relations Board, which carried on [767] industrial relations with the employers. Now, the number of years—I know it was at least two years, and I was a member of that board when I went into the labor—into the Longshore—Labor Relations Committee. And besides being a delegate to the various conventions.

Q. Did you represent your union as a delegate to various conventions? A. I did, yes.

Q. At where?

A. Union conventions, that is——

Q. Pardon? A. Trade union conventions.

Q. Yes. Trade union conventions.

A. And you mean state conventions, held in the State of California?

A. That is A. F. of L. conventions.

Q. Yes. Mr. Schomaker, did there come a time when you became a member of the Communist Party? A. Yes.

Mr. Hallinan: Just a moment. Ask that be stricken out, object to it first. I will ask it go out first, so I may have an opportunity to object.

The Court: All right; you may have it go out.

Mr. Hallinan: I object to it as incompetent, irrelevant and immaterial; also that it is calling for the conclusion and [768] opinion of the witness. Now, the witness may state the steps he took and if I may be heard on that, your Honor, I have the cases pretty squarely in point in matters—and other matters of a similar nature, and it might be well if we are advised on the law of it before it goes too far.

Mr. Donohue: May I suggest, if counsel is to be heard on this question of law, it might be an opportune time to excuse the jury?

The Court: Yes.

Mr. Hallinan: That is all right, surely.

The Court: Ladies and gentlemen of the jury, we have now reached a period after 4:00 o'clock and I admonish you by reason of the fact that we will take our recess or adjournment until tomorrow morning, not to discuss the case under any conditions, nor to form nor express an opinion thereon until the matter is finally submitted to you for decision. You may now retire.

(Whereupon the jury left the room, and the following proceedings were had outside the presence of the jury:)

The Court: Are all the jurors absent from the courtroom?

Mr. Hallinan: Yes.

The Court: Is it so stipulated?

Mr. Donohue: It appears so, your Honor.

Mr. Hallinan: I just want to read the Court one—are these your matters?

Mr. Donohue: Thank you. [769]

Mr. Hallinan: I just wanted to read the Court one excerpt from Rogers, on expert testimony, the Third Edition, and it cites certain cases. Now, it will be probably important, because I imagine that there will be questions addressed not only to whether the person himself is a member of the Communist Party, but also as to whether other persons are. Here is the language:

> "Further illustrative of the conclustory testimony ——"

and that means testimony that is barred as being conclusions of the witness—conclusory testimony——

> "are statements by partners that another man is a member of the partnership. A witness may testify to facts which it is contended constitute the partnership relation between certain persons, but not to an opinion as to the existence of the relation, which is a question of law."

I think, addressing—it cites two cases, Healey v. Hintermann, and Mack v. Mayhew. The first of them is a 1924 case, in 260 Southwest, and the second from 86 South.

The Court: The book itself is Rogers?

Mr. Hallinan: Rogers on Expert Testimony, Third Edition, page 24. And my point is simply this, Judge, that whether or not a person is a member of a particular organization or faith or race or anything of that kind is necessarily a conclusion of the witness. And the person can adduce the testimony upon which a court or a jury could base a conclusion, but can not itself express an opinion or conclusion on it. [770]

The Court: Counsel?

Mr. Donohue: If your Honor pleases, whether or not a partnership relationship exists between A and B is obviously a question of law, and I find no quarrel with the statement of law which says that a partner, either A or B, may not create a partnership by his own testimony that such a thing exists. But certainly this witness is entitled to answer, to this Court and before this jury, whether or not he is or is not a member of any organization. No one should know better than he. We may ask him or my friend might ask him what did he do in order that he attained the status which he ascribes to himself. But certainly the member of any organization is qualified to tell the Court and the jury whether he is or is not a member of that organization. I most respectfully say it is a proper question.

Mr. Hallinan: I would suggest only this, your Honor, that counsel has put the cart before the horse, that the question should be asked what he did, which might indicate or from which it might be concluded that he was a member. He can not be asked for the opinion and conclusion and then asked, "Well, what is your reason for saying that?"

The Court: Have you referred to several of those cases in the instructions prepared?

Mr. Donohue: I am not familiar with it, your Honor.

The Court: May I have those citations again?

Do you have any citations, Mr. Donohue? [771]

Mr. Donohue: None at the moment, if your Honor please. We are prepared to give them to your Honor.

The Court: Are there any offers at this time of any kind in the light of the record? Any offers of proof?

Mr. Hallinan: What is that?

The Court: I should like to meet with counsel at 9:30 in the morning or thereabouts.

Mr. Hallinan: Very well.

The Court: To discuss some of these legal matters.

Mr. Hallinan: Would you want to have, instead of asking the witness those questions, make it in the form of an offer of proof?

The Court: Counsel, you have guided your own destiny pretty well with respect to what you have done thus far.

Mr. Hallinan: All right.

The Court: Without asking much assistance on my part, I have tried to make the ruling, but unfortunately you have seen fit to depart from them, consistently and persistently. I think we will meet at 9:30 and discuss the matter.

Mr. Hallinan: Very well.

The Court: We will adjourn until tomorrow morning at 9:30 in chambers, otherwise for court at 10:00 o'clock.

> (Thereupon an adjournment was taken in the matter until 9:30 o'clock tomorrow in chambers and 10:00 o'clock in court, Tuesday, November 22, 1949.) [772]

November 22, 1949, 9:30 o'Clock A.M.

> (The following proceedings were had outside of the presence of the jury:)

The Clerk: The case of United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Are counsel present?

Mr. Donohue: Yes, your Honor.

The Court: In this matter there are several phases to be referred to. Particularly the Court has been concerned about the events of recent days, and in particular I refer to the course of conduct of Mr. Vincent Hallinan representing the defendant Mr. Harry Bridges. The record of the events which I am about to refer to presents a series of acts of misbehavior on the part of Vincent Hallinan which, if allowed to continue without comment on my part or official judicial action, might well disrupt the orderly processes of this trial. I might parenthetically ask counsel if it can be stipulated now that all the jurors are absent from the courtroom. I observe they are not here in the box. I desire to have that stipulation.

Mr. Donohue: Yes, your Honor.

Mr. Hallinan: So stipulated.

The Court: I should not like to have further interruptions, Mr. Mitchell. In addition, Mr. Vincent Hallinan, by his studied, persistent and inflammatory course of conduct in flouting the [773] authority and orders of the Court has attempted to impair the effectiveness of this Court as an instrument of the judicial process. That he was wilfully attempting to evade the rulings and orders of the Court is manifest from the record of the proceedings of the trial, all of which occurred in my presence.

Yesterday afternoon, Monday, November 21st, it became quite apparent to the Court that Vincent Hallinan, would, unless prevented by prompt and firm judicial action, run unbridled and roughshod in the further progress of this trial. I was prompted then and there to make the order and findings which I am now about to make. However, to the end that I review coldly and dispassionately the transcript in the more pleasant environment of my chambers rather than attempt precipitous conduct, I read and reread and studied the transcript of the Court's proceedings from the very inception of the trial until the close of the proceedings, and I so read until the very early morning hours.

As I read and continued to read, coldly, dispassionately, my path became clearer and the course of my judicial conduct became manifest. The primary obligation imposed upon this Court or any Court worthy of the name is to maintain the orderly processes of the law and the due and proper administration of justice. These federal courts represent a bulwark of our democracy and respect for them must be maintained by the judicial officers charged with that responsibility. I say to you, Mr. Hallinan, long after the case of United States v. Harry Bridges [774] has become judicial history, long after this Court has gone to whatever happy reward judges may have, these courts will remain as beacons in our judicial system, wherein, we hope, expect and pray that the rights of men may be adjudicated without regard for station in life or race, color or creed.

However, there is an anomaly apparent throughout the country today and exemplified, perhaps, in some of our more recent trials, in that those who cry so earnestly for protection under the mantle and cloak of our Constitution of the United States would at the same time destroy and seek to destroy every vestige of decency and judicial goodness and sanctity inherent in the federal judicial system. If I permitted this matter to go on unheeded, it would in my opinion, represent a tragic commentary on our system, orderly as it is, in the administration of justice. My present task is not a pleasant one, and I approach it with a degree of care and a detached judicial aloofness.

Accordingly, to the end that there shall be no mistake hereafter in the record concerning my views and the conclusions I reach, I shall review the record as the basis for an order and certificate of contempt required under Title 18, Section 401, paragraph 1. [775]

Mr. Hallinan: Your Honor, before you proceed further might I make a motion at this time, if not made now, I assume it will be waived? Now until you enter——

The Court: Before you interrupt me, I desire to conclude my remarks. Then you may make them.

Mr. Hallinan: But before any order is made——

The Court: I am not making the order at the present juncture. You may reserve your comments.

Mr. Hallinan: I mean before the final findings are made, before you announce any findings, there is a legal motion that I would like to make.

The Court: Yes. Under Title 18, Section 401, subsection 1 and Rule 42, of the Rules of Criminal Procedure.

Adverting to the proceedings on Thursday, November 17, 1949, it became apparent to the Court that defense counsel, Vincent Hallinan, was not making an opening statement in any judicial sense, but was using it as a medium and sounding board for dragging in before the jury irrelevant, incompetent and inflammatory matter, with the studied and avowed purpose of prejudicing this prosecution in the light of events, incidents and characters, having no place in the proceeding before the jury. Hopeful that I might define the responsibilities of counsel both for prosecution and defense and the Court, we engaged in a lengthy discussion in the absence of the jury, attempting to avoid any further conduct on Mr. Hallinan's part in the [776] future, to the end that the trial proceed in an orderly judicial fashion.

Now, from time to time, Mr. Reporter, I shall make reference to page and line in the transcript, and if by chance I am inarticulate or you fail to understand me, may I ask that you halt and I will give you the exact page and line.

The Reporter: Yes, your Honor.

The Court: We start our journey through the transcript at page 528, line 24, wherein the Court said in part:

> "Now, I think, Mr. Hallinan, that you are anticipating much of the Government's case; you are indulging in speculation on speculation. And in addition, creating an atmospheric quantity at this stage designed to prejudice and inflame the jury in connection with any sage, considered judgment they may have on the evidentiary matters. Now, that is my judgment."

At page 529, line 16, Mr. McMillan made his position clear on behalf of the Government. I shall not read it into the record, the excerpt from his comment, but it may be found at page 529, line 16, to and including page 530, line 9.

At page 530, after additional colloquy between Court and counsel, the Court:

> "Mr. Hallinan, I am loth to interrupt a lawyer in the course of a statement. I think, and unless it be a very, very material interruption that it is unfair as a rule." [777]

I then spoke of your skill as well as the skill of the prosecution counsel. And I meant what I said. And I said further,

> "And dealing with skilled men, I always feel very comfortable about it. I feel that we haven't the ineptitude that sometimes attaches to a trial. I say that to you frankly."

I then was hopeful, perhaps naively so, that you would heed my ruling and my orders. My comment appears further at page 531, lines 1 to and including lines 22; and even a casual reading or listening to what I had to say would tend to convince or lead one to believe that my rule was firm and that my orders clear. Mr. Hallinan, page 531, line 23:

> "Mr. Hallinan: I have no (and then several dashes). Any ruling your Honor has made I have no quarrel with. I think you have been very fair and very proper."

At page 532, again counsel, Court—Court, counsel comments. Mr. Hallinan referred to the fact that he had only three weeks to prepare.

> "The Court: You have the benefit, of course, of associate counsel—the old firm no doubt are helping a little bit?
>
> "Mr. Hallinan: Yes;"——

this was in an undertone, a sort of an aside or stage whisper, but the Reporter captured it.

> "Mr. Hallinan: Yes—who made the motions that your Honor treated with contempt."

That was only a few moments before that, Mr. Hallinan had stated [778] he was in complete accord with the Court's rulings on the preliminary motion, that he felt my rule on the question of res adjudicata, estoppel, prior adjudication, was correct, and that they were correct. And I believe the written opinion which I have rendered and which is on file memorializes my views in that respect, subject to any views that may be had hereafter in any court of competent jurisdiction on appeal, if there be an appeal.

We now turn to page 535, wherein the Court again was very clear as to what my rule was; what it would be.

> "The Court: Well, for the immediate purposes, then, Mr. Hallinan, I shall sustain objections interposed to that type of presentation at this stage of the proceedings."

We were then trying to adjust ourselves in the light of Mr. Hallinan's rather broad, somewhat intemperate views of an opening statement. I was attempting to bring him down to date so that the following morning we might proceed in an orderly fashion before the jury.

More discussion, Mr. MacInnis made some comments, much matter gone over. And then the Court, at page 540, after the lengthy colloquy, the exchange of views, the sifting and resifting of matters that counsel had in mind.

> "The Court: Counsel, I have made my ruling and that is going to be the rule tomorrow morning." [779]
>
> "Counsel—" speaking to Mr. Hallinan—"I have made my ruling and that is going to be the rule tomorrow morning."

I was then referring to the matter of the continuity of the opening statement to be addressed to the jury the following court day.

The following morning, having contented myself, and with the reassurance from Mr. Hallinan that he would refrain from the avenues which he had been traveling in the opening statement, unbridled as he was, I had occasion to talk to the jury. They were called in, and at page 541 I spoke to the jury for probably ten or fifteen minutes, somewhat colloquially, but yet I believe aptly, and I told the jury the province of the opening statement. I distinguished between the opening statement and the closing arguments. I spoke of inflammatory matter and prejudice. I spoke of admonitions and the request for admonitions, so that the jurors might fully understand the proceedings. Those remarks occupy considerable comment in the transcript and at page 545, in the presence of the jury, at line 5, I said:

> "Now, with that general statement in mind, I ask Mr. Hallinan to proceed, having in mind the limitations under which I desire the opening statement to be made."

Mr. Hallinan, who was in entire accord, further said:

> "I might say I have since last night discarded much of what I intended to say in deference to your Honor. I am sorry to create any impression in your mind that I may be going [780] beyond what is fair, because certainly you do not deserve such treatment. You have been very fair to everybody in this case."

We then settled down, hopefully expecting that some recognition would be given to the Court's orders, which I had so painstakingly and carefully prepared and made, in the exercise of the discretion which I regarded as sound, and which I now regard as sound. However, it was not long until Mr. Hallinan, unbridled again, lapsed into a violation of the orders. At page 550 the Court had occasion to sustain an objection interposed by Mr. McMillan to matters that should not have been brought in on an opening statement and to matters which should not have been brought before the jury. At page 554, line 5, Mr. McMillan, a patient man, a man whom I have known for many years for his extreme patience, orderly conduct and forbearance, said:

> "Mr. McMillan: May it please your Honor, we are obliged——"

and a pause——

> "Patience has always been a very predominant feature in my nature, but I can't let these matters go by.
>
> "The Court: The objection is sustained."

I shall not attempt to advert to the long dissertation on Mr. Hallinan's part that had to do with some internal warfare between the CIO and the AFL. I had already admonished Mr. Hallinan that we were not concerned with this internal [781] warfare and we were not trying any labor union or unions.

Again, at page 555, line 5, Mr. McMillan:

> "Well, may it please your Honor, the difficulty about this whole matter is, it is historical and it is argumentative; it properly belongs in an argument, not an opening statement. In an opening statement it is not intended to take a shotgun——"
>
> "The Court: The objection is sustained.
>
> "Mr. Hallinan: Now, an organization of sailors on the Pacific Coast, a member of the Maritime Federation of the Pacific, was con-

trolled by a man who will appear before you. His name is Harry Lundeberg, one of the most remarkable of the witnesses that will be produced. He is like a character from Jack London, a typical bucko mate, with a reputation for violence and ferocity as wide as the Seven Seas, a man who has been arrested for brawling and assaults in half the courts of the world. Dominating this union with an iron hand, he burned the ballots that were taken——"

"Mr. McMillan: If your Honor please——

"Mr. Hallinan: ——by his union concerning the federation——

"Mr. McMillan: Just one moment.

"Mr. Hallinan: Pardon me. You want to talk?

"Mr. McMillan: I want to make an objection, Mr. Hallinan. You as a lawyer, with your wide experience, know that you have on such statements to prove in this court. [782]

"The Court: This—I again repeat another admonition to the jury, that what Mr. Hallinan has to say is in reality that type of matter that may be reserved for closing argument, if the facts demonstrate it. This wild anticipation of the Government's case is to my mind novel; I have never experienced it before in these courts, and I am naturally indulgent toward counsel on both sides, to the end that this case be heard fairly and impartially and that we have all the evidence before us. But I think, Mr. Hallinan, that these excoriations and vituperative matter bearing upon Mr. Lundeberg and others has no place at the present time.

"Mr. Hallinan: Very well.

"Mr. McMillan: May I interrupt, just to give a good example? He has stated Mr. Lundeberg has been arrested in every port——

"The Court: I noticed that. I noticed that. All parts of the world. And I will instruct the jury to disregard that statement."

Only a few seconds or minutes after, page 558, Mr. Hallinan again lunged or launched into the same demeanor, same conduct, persistent, studied as it was. 561, again, we find at line 4. Reference was to the prior page, 560. The Court sustained an objection.

"The Court: Objection sustained.

"The prior reference by counsel, Mr. Hallinan, was to the [783] Government agents.

"Mr. McMillan: It is quite eloquent, but——

"The Court: The objection is sustained.

"Mr. Hallinan: The strength and extent to which these people were willing to go may be learned from the fact that as early as 1936 they caused a warrant for Mr. Bridges' arrest on a deportation inquiry to be issued by the Secretary of Labor. The result of that deportation inquiry I am not going to go into, but the fact that one existed is one of the utmost importance and is one of the things that the jury will have to take into consideration in analyzing what the witnesses are saying. And I will presently explain to you why. The United States House of Representatives passed against Harry Bridges the only bill of attainder ever passed in the United States, and——"

"Mr. McMillan: Your Honor, if your Honor please, that is argumentative. He is not in some conference now.

"The Court: Objection sustained.

"Mr. McMillan: Counsel has been indicting everybody. I think he, as Edmond Burke says—you can't indict a whole nation."

Then at 562, Mr. Hallinan, line 5: [784]

Now he has stooped to the level of personalities and indulged himself adequately at the expense of the Government counsel:

"Mr. Hallinan: Of course, what I should have done is have some little pest along with me so I wouldn't have the burden of quarreling with people. Now, Mr. Donohue sits elegantly by and urbanely surveys this, while Mr. McMillan, who is very friendly——

"Mr. Donohue: ——"

Mr. Donohue finally came to the surface.

"Well, I think it is about time, if your Honor please."

Up to this moment he had been sitting by and Mr. McMillan was carrying the brunt.

"The Court: Yes, I think it is about time for the Court to say a few words. Mr. Hallinan——

"Mr. Hallinan: Now, your Honor, did you take cognizance of the oratory that Mr. McMillan just engaged in, in stating you cannot indict —quoting Edmund Burke, and so forth?

"The Court: I am going to direct my attention to your characterization concerning Mr. Donohue, his urbane manner in sitting there, and so forth. This is no courtroom wherein to indulge yourself, Mr. Hallinan, in these general characterizations that sometimes have room or harbor [785] in other tribunals. This is a most serious matter. I have treated it as a serious matter. The Government will, and I hope you do. We are not going to get any place in the trial of this case by any such characterization or personalities indulged in. If you desire to indulge yourself in that direction, I suggest you do it elsewhere.

"Mr. Hallinan: Well, I apologize for it, your Honor. I didn't mean——

"The Court: There is no apology necessary.

"Mr. Hallinan: I will not fall into that again, your Honor.

"The Court: There is no apology necessary to the Court, because I do not deal in apologies. I deal in more stringent matters."

Here the warning started to come. The dawn is breaking on what inevitably results this morning.

At 565, no sooner had I concluded my remarks, the ink was not dry on the reporter's pen, 565, line 2, Mr. Hallinan again in one of the flights which so characterize the alleged opening statement:

"In 1937 Mr. Bridges attended a convention in Seattle, and agents of the Immigration Department dictographed his hotel room and tapped his telephone wire. And that being discovered was made a matter of such [786] public record that it cannot be disputed, because Mr. Bridges and his union forthwith communicated with the United States Government protesting what, whether right or wrong, they called an infringement of his liberties, of his constitutional rights. The papers ran great articles upon it, and it was widely broadcast everywhere, and letters of indignation and protest rained upon the responsible parties."

"Mr. McMillan: Now, may it please your Honor——

"The Court: I waited for an objection. I think in the absence of the prosecution noting an objection, the Court will intrude itself. There is no question involved in this case of wire-tapping. I take it from assurances given to me on the motion to dismiss, there will be no effort made on the part of the Government to introduce any evidence as to the result of any unlawful enterprise?

"Mr. Donohue: I renew that assurance.

"The Court: You renew that assurance?

"Mr. Donohue: Yes, your Honor."

He rose to renew his assurance again to the Court.

> "The Court: The objection is sustained. The jury is admonished to disregard the statement, of any kind, character or description, bearing upon that matter."

Quiet prevailed for one page of the transcript, and at page 567 again the barrage of interruptions. [787]

Reference was made to the alleged mistress of Harry Lundeberg. At this juncture Mr. Hallinan was stooping to an all-time low. Page 566, line 15:

> "Now, as early as 1936 there had been introduced into Harry Bridges' union and into his personal office as his private secretary a woman employed by the Waterfront Employers Association, and she was also the mistress of Mr. Harry Lundeberg. And at that time Mr. Bridges"——

And then Mr. McMillan:

> "Object to these statements, may it please your Honor.
>
> "Mr. Hallinan: The same purpose, your Honor."
>
> "Mr. McMillan: I can't understand why counsel feels that he is obliged to lug in a mistress here and there.
>
> "Mr. Hallinan: We didn't lug her in; they sent her in."

Page 567:

> "We want to show your Honor this is a complete"——

and there is a break in the thought. Then the Court:

> "The Court: Now, this is not an opening statement, Mr. Hallinan, either traditionally or in any concept that I have ever heard of. I have already stated my position."
>
> "Mr. Hallinan: Now, aside from any general matter, [788] such as I have"——
>
> "The Court: And an opening statement, if I may amplify one step further, is not a sounding board wherein you may give vent to the external and immaterial matters that have existed over a period of many, many years. I think it rather an extreme situation that reference be made to this woman at this juncture, without any evidence before this Court or jury. You might well in the same breath condemn, indict, destroy, burn at the stake, any person in the City and County of San Francisco, by a bland statement. Now, you gentlemen are asking for a fair trial, the essentials of constitutional rights. And I think you had better"——

Then Mr. Hallinan interrupted.

By reference to the headlines in the paper, again transcending, bridging, the orders made by the Court with reference to news articles.

The Court again: "Mr. Hallinan, am I entirely obtuse in the trial of this case? Or have we descended into another strata of judicial process? I admonished this jury categorically, unequivocally, with every bit of vigor I have,—which vigor is expending itself in my colloquy with you—that you are not to read the newspapers (addressing the jury) under any conditions. And this Court, mindful of the admonition to you, does not indulge [789] himself in the reading of the newspapers. Now, Mr. Hallinan indirectly has given you part of what the headlines are, which is a direct reflection upon this Court's admonition to you."

Quiet again prevailed for another page of transcript. At page 569, line 1, an objection was interposed. The Court:

> "Mr. Hallinan, let us pause momentarily and analyze just what we say. You characterized wholesale all of these witnesses as perjurers, low people, characterized them with vile, vituperative terms, 125 in number. I do not know at the present time the identity of any witness about to be called for the United States Government, and I dare say that in large part you do not. Now, I think it highly unfair to this Court, indulgent as I have been with you, to continue on that line or that particular vein."
>
> "Mr. Hallinan: All right, your Honor."
>
> "The Court: I can't say any more."
>
> "Mr. Hallinan: Well, we will drop that."

The transcript would seem to indicate a strain at that moment—the feeling was growing. The Court's patience was being exacted.

Several pages without interruption—perhaps that dull sort of a trial that Mr. Hallinan enjoys to remain away from; characterization was made that the Court should not indulge in [790] a dull trial. So that seemingly it became him to create some mild degree of excitement. At page 571, line 22, or line 11, Mr. Hallinan:

> "The motives of the witnesses who will testify, whether they are Communists, ex-Communists, rival union leaders or Government agents, are equally open to inquiry by the jury. Bridges was possessed of a faculty that may do him more harm in these matters than all his serious philosophy."

Then he adverted to the espionage activities of the FBI in New York City. He then concluded his remarks:

> "If he (Mr. Bridges) went into a hotel lobby, a young man would be looking through a hole cut in a newspaper.
>
> "Mr. McMillan: I object to that.
>
> "The Court: Sustained."

Then page 574, the Court, again responding to an objection urged by Mr. McMillan, and to matters that were incompetent and irrelevant. The Court, addressing myself to Mr. Hallinan:

> "The Court: What you propose to do is per-

fectly plain to me, Mr. Hallinan, and that is to assassinate in advance every witness who might take this stand without any evidence before this Court of the general characterizations and vituperations."

I shall not pause to read many matters which otherwise [791] might be adverted to, by reason of the limitations of time.

I pause, however, at page 577, line 25. Mr. Hallinan, still launching forward in his discussion, or so-called "opening statement":

> "However, Mr. Bridges has made the mistake of not taking the $50,000 that was offered to him back in 1934 to throw the strike and go back to Australia——
>
> "Mr. McMillan: That is objected to.
>
> "Mr. Hallinan: We will show that.
>
> "The Court: The objection is sustained and the jury is instructed to disregard the statement."

Page 580, referring to the powerful feudal Five Companies of Hawaii, Mr. Hallinan stated:

> "The situation there was the renewal of about what had happened in San Francisco—poison gas and clubs for the workers and a storing up of the"——

And then there was an interruption.

> **"Mr. McMillan: If it please your Honor,——**

> "Mr. Hallinan: This is not ancient history; this happened within the last year.
>
> "Mr. McMillan: The poison gas, rocks, stones——
>
> "The Court: The objection is sustained, Mr. McMillan."

At page 582, line 5, Mr. McMillan again interrupted:

> "If your Honor please, if this is not an argument after all the evidence is in, I do not know what I am [792] talking about.
>
> "Mr. Hallinan: If I may finish one paragraph, I will do so."

Then the Court, after all this colloquy:

> "It is unnecessary for me to admonish the jury again to disregard these statements."

Then we come to the first witness; this barrage had only died in its echoes off the walls and its reverberations through the courtroom, when Mr. Lloyd Garner took the stand. There is a very significant mention of a date at the very threshold of his testimony, and this date may prove, and is, a focal point around which my comments hereafter hinge.

Page 586, line 24, Mr. Donohue examining the witness:

> "When were you first employed by the Bureau of Immigration in the City of San Francisco?
>
> "A. From April 1941.

> "Q. And that employment here continued for how long?
>
> "A. Until about April 1948."

Now, mark you, for the record,—from April 1941 he was employed in the San Francisco office of the Bureau of Immigration in the City of San Francisco. Bearing that date in mind, we examined painstakingly, carefully, assiduously, the transcript. What do we find? The same tactics, the same studied performance, the same desire to introduce irrelevant, incompetent and inflammatory matters before the jury. [793]

Page 705, line 10. This is during the course of the examination of Mr. Lloyd Garner. "Mr. Hallinan had launched into a dissertation upon the deportation proceedings. I have not counted the number of times, but I dare say the record is replete with my rule that the deportation proceedings had no bearing in fact or in law upon this trial or any part thereof; and the record is replete with Mr. Hallinan's acquiescence as a matter of law. Yet we find his transgressions":

> "The Court: I remark and I reiterate, Mr. Hallinan, as I did with your colleague, Mr. MacInnis, that there is no issue with respect to the deportation proceedings before this Court, there is no issue upon which the Supreme Court decision would be controlling as a matter of fact or as a matter of law. Now, what this man may have done with respect to matters of prior con-

> sequence would not aid or determine any issue in this case."

By "this man" I referred to Mr. Garner.

We now attempt—and I sought to find it, if I could, before reaching a determination—to find Mr. Hallinan's good faith. Good faith—with respect to his conduct in his asking the questions; because behind these matters and behind the pages of transcript, in making a determination of this character, we must perforce look for good faith or the absence of good faith. So I sought it, if it did exist.

At page 706, line 17, Mr. Hallinan, adverting to the [794] credibility of Mr. Garner:

> "And your Honor will remember that there is a serious question of credibility involved in that this defendant supplies something that is entirely missing from anybody else in the prosecution's case—that is, the question of whether or not the co-defendants were ever questioned concerning affiliation or membership in the Communist Party. A very serious question of this witness' credibility in that. And we are entitled to explore that to the farthest limits."

He referred to the examination conducted by Mr. Garner in the preliminary sense of the co-defendants, Messrs. Schmidt and Robertson. In that Mr. Hallinan then took the position, and now takes the position, no doubt, that the question was not addressed to them concerning their Communist affiliation or membership.

Page 706, line 17, Mr. Hallinan takes the position that he is entitled to examine the witness Garner concerning the Supreme Court decision and the Landis decision, because a serious question has arisen concerning the witness' credibility; that is, whether the co-defendants, Schmidt and Robertson, were ever questioned concerning affiliation or membership in the Party, the Communist Party.

Without any further or more exacting examination, it must be apparent, as it was to me last evening and as it is now, that there is a complete lack of good faith, fair [795] dealing, on Mr. Hallinan's part in attempting to lug in or haul by the ears the Supreme Court decision or Mr. Landis' decision. For—and I mark for the record—neither Mr. Schmidt nor Mr. Robertson were involved in the prior proceedings. They were not identified therein in any manner, and questions addressed to the prior record would not be proper under any theory concerning Messrs. Robertson and Schmidt. So, where is the good faith in asking the questions?

Also, I examined page 713, at line 14, wherein Mr. Hallinan made what I regarded as a rather unusual statement, if not amazing. Page 713, line 14, again addressing himself to Messrs. Robertson and Schmidt, in seeking to seize upon a theory wherein he might haul in paragraphs from the opinion of the Chief Justice or the Supreme Court, and from Mr. Landis, and have those paragraphs culled and capsuled, so that the jury might have them. 713, line 14:

"Mr. Hallinan: But now if those witnesses

> get on the witness stand and should say, 'I am a Communist and have been all along, a member of the Communist Party, and I wasn't asked that question, but I did say that Mr. Bridges was not or that he was eligible for citizenship,' then they have undermined him now by coming in and cutting the ground from under their feet and saying to the jury, 'Here they lied to this man on a question of their own citizenship,' and it is a very important [796] card in the prosecution's case, as your Honor will see when the evidence finally develops."

The same persistent theory, the same persistent apparent lack of good faith.

Then we advert to page 730, all the time in the questions seeking good faith; what is Mr. Hallinan attempting to do? Page 730, line 9. At page 729 there had been a dissertation about the wire-tapping episodes, a reference to Dean Landis' opinion, a reference to the Supreme Court decision. Then at page 730, again I reiterate my rule, so there would be no misunderstanding about it, so that it would deeply embed itself in Mr. Hallinan's mind, so that there could be no mistake about it to any person in the courtroom or to counsel or to the jurors or to any other person. The Court:

> "I will hold to the lines, I will hold right to the line on the evidentiary matters. I will hold right to the line in the exercise of a sound discretion, and I have made the announcement to

the jury, I have announced to the jury and to your predecessors—lawyers"—(I meant by that Messrs. Gladstein, Resner, Andersen and Sawyer and others) "that these matters of prior consequence had no legal bearing upon this matter. Now, what would it serve this case to pry into all of these prior matters, the determination therein, legal, extra-judicial or however it appear? It would not be binding upon the jury or the Court as a factual matter." [797]

Next at page 734, line 24, Mr. Hallinan, addressing his questions now to Mr. Garner, cross-examining. The record is riddled with objections. 734, line 24, Mr. Hallinan, addressing himself to Mr. Garner:

"Now, did you read that portion of the decision of the Supreme Court of the United States which charged the Federal agents with illegal wire-tapping of Harry Bridges?

"Mr. Donohue: I object to the question, if your Honor please.

"Mr. Hallinan: This goes to his participation"——

speaking of Garner's participation. Mindful, Mr. Garner came into the Government service in 1941. Bear that factor in mind through all this discussion.

"The Court: The objection is sustained that it is not in conformity with the ruling, Mr. Hallinan, and is an attempt to bring before the jury matters in obviation of my ruling. I admonish the jury to disregard any implications in the question."

We now turn to page 738. The strain of the proceedings became a little more apparent—tempers a little more raw. 737, Mr. Paisley is first heard. Page 737, from lines 12 to 25, there is a colloquy between Mr. Paisley and Mr. Hallinan.

"Mr. Hallinan: ~~I think~~ I am permitted to finish my question without interruption by counsel," and so forth. [798]

"Mr. Paisley: No guesswork, your Honor.

"Mr. Hallinan: If he would, he would blush." Referring to Mr. Paisley. Then the question:

"Now, I want to ask this question: You do have information that the Government indulged in illegal wire-tapping upon the two previous"——

Mr. Paisley—mildly, Southern drawl, temperate:

"Just a moment, counsel."

Then the question, continuing:

"——two previous deportation proceedings, have you not?

"Mr. Paisley: If your Honor please, if this is not contempt of court, I have never seen it in my career.

"Mr. Hallinan: That is the first time I have ever heard counsel make a statement—I ask the jury be admonished——

> "The Court: The objection is sustained, the jury is admonished to disregard any implications contained in the question. I have heretofore"——

I was interrupted by Mr. Hallinan.

> "Mr. Hallinan: I have asked your Honor to ask the jury to disregard the statement that counsel just made. It is a highly improper statement.
>
> "The Court: The statement made by counsel may well be within the realm of his province to make. I shall not instruct the jury to disregard his statement. [799]
>
> "Mr. Hallinan: We enter an exception, if the Court please."

And then the Court; this is the first indication on my part, I say, that I had reached or was about to reach the extreme ends of my patience:

> "And I say to you, Mr. Hallinan, your persistent conduct along this line, studied as it appears to be, may well eventuate in the situation that counsel refers to." [799-A]
>
> "Mr. Hallinan: We enter an exception to that statement:
>
> "The Court: The objection is overruled.
>
> "Mr. Hallinan: Very well."

Now, that colloquy was no sooner over, the Court's admonition was still echoing, when Mr. Hallinan asked the following question of Mr. Garner:

"Now, did you yourself in the period preceding, that is, looking toward the deportation of Harry Bridges, and during that time—not at the present time—receive any information from any federal official or agency that Harry Bridges' wires were being illegally tapped?

"Mr. Donohue: I object to the question, if Your Honor please.

"The Court: Sustained."

Bear in mind, again, keep it ever present in mind, that Mr. Garner, on the testimony before the Court, first came into the government service in 1941. Mr. Hallinan pounding through again:

"Have you at any time throughout the origin of the proceedings"—now bear in mind the origin of the proceedings against Harry Bridges, back in 1937 or 1938, up to the present time, that is, up to today—"made any protest of any kind to any agent of the government or any attorney of the government that there was or has been an illegal wire-tapping of Harry Bridges? [800]

"Mr. Donohue: I object, if Your Honor please.

"The Court: Sustained.

"Mr. Hallinan: Did you at any time in the course of your connection with this case state to any official or agent of the Government that you would not be a party to an illegal effort to injure this man?

"Mr. Donohue: I object to the question, if

> Your Honor please, and again I ask Your Honor to admonish counsel to confine his cross-examination to the well-established rule of law to which Your Honor invited his best attention.
>
> "The Court: The objection is sustained.
>
> "Mr. Hallinan: Very well."

Mr. Hallinan, again driving through, notwithstanding the objections and the ruling of the Court, made manifestly clear, again by Mr. Hallinan:

> "In your study, whatever study you did make of the Landis position, you learned that 62 witnesses had been presented by the Government against Harry Bridges, and that Dean Landis had rejected all of them as liars and perjurers? Didn't you find that out?
>
> "Mr. Donohue: I object to the question and again state to Your Honor that Mr. Hallinan's deliberate and repeated questions, which he knows as a lawyer are beyond the scope of the limitation defined by Your Honor, is highly contemptuous of the decision of this Court. [801]
>
> "The Court: ——"

I responded, I suppose, rather feebly by this time.

> "The Court: It is an attempt to circumvent the ruling of this Court and place before this jury by indirection matters that have been ruled out, matters that are immaterial and that are irrelevant.
>
> "Mr. Hallinan: Your Honor, we have no

ruling upon any such question as that. There has been nothing said in that matter."

I was rather astounded and somewhat taken aback. I said:

> "That has been before the recess period, at least 45 minutes in discussion.
>
> "Mr. Hallinan: What it amounts to, Your Honor, is rendering it almost impossible to find out. This witness has now a seal of objections thrown around him that prevents the defense from finding out what his real interest in the case is."

Now the thread is drawn closely. Now the web is woven. Now Mr. Hallinan's adroitness is being felt. He is completely dethroning this witness. He is stabbing him in the back.

> "The Court: That observation is uncalled for, unwarranted, purely gratuitous and part of a studied plan.
>
> "Mr. Hallinan: Now, I ask Your Honor—pardon me—I enter an objection to that statement and I ask that the jury be instructed to ignore it. [802]
>
> "The objection is not well taken, Mr. Hallinan.
>
> "Mr. Hallinan: And I except to the Court's refusal to so instruct the jury."

Now, up to this juncture and including a review of the record thus far, it appeared to me manifestly clear that the questions were not asked in good faith, that the wholesale barrage and attack made upon witnesses in advance was not made in good faith, that it represented merely an attempt to besmirch and belittle the witnesses without any basis for an excursion or departure into the prior deportation proceedings, without any basis in fact or in law for a departure into or an inquiry with reference to the Landis decision or any other decision in the prior deportation proceedings, including, of course, the Supreme Court decision. The questions, the manner, the deportment and the decorum represented, in the opinion of the Court, a studied plan to destroy in advance the effectiveness and the asserted truthfulness of the witness placed upon the stand by the bland assertion that somewhere, some time, he might have been associated with an alleged conspiracy, which, of course, Mr. Hallinan has referred to as somewhat fantastic.

At page 748, again in my quest for good faith, again naively I thought I might find it some place, at 748, line 23, this question, as I recall, was presented vigorously, in a commanding voice. This was addressed to Mr. Lloyd Garner, then on the stand on cross-examination: [803]

> "Q. Prior to the deportation proceedings, which were tried—tried"——

Now let us take the key word, tried. In 1939, if the deportation proceedings were tried in 1939, it follows as the night the day that the subject matter of the inquiry addressed to Mr. Garner had long since preceded 1939——

> "were tried in 1939 before Dean Landis, did you personally (and here is the vice—now we find the vice)—did you personally have anything to do with installing a wire-tapping device in Harry Bridges' room in the Hotel Multnomah in Portland?"

Again I say for the record, and so that our mental equanimity may not be disturbed, that Mr. Lloyd Garner first came into the government service in April, 1941. Where is the good faith? Where are the dulcet tones of tying this man into an alleged conspiracy?

At 749, Mr. Paisley,—he comes to the front again——

> "Your Honor, I object to it on the same ground that Your Honor has sustained us on, I was about to say a hundred times, and to show how ridiculous it is.
>
> "Mr. Hallinan: I object to an argument in the presence of the jury on a question of fact."

I think even Mr. Hallinan must have smiled at that comment.

> "The Court: You had your argument. I will let counsel argue a bit here. [804]
>
> "Mr. Paisley: To show how ridiculous——"

and there are three key words in what Mr. Paisley said——

> "ridiculous or how uninformed or insincere the remarks of counsel are, I am told this witness did not come with the government until 1941."

If there be any inaccuracy in Mr. Paisley's statement, it is with reference to the fact that he was told. He heard it. It came out of the mouth of the witness on the direct examination. It was in this courtroom for all to hear.

> "Mr. Hallinan: Well, I don't know."

Mr. Hallinan doesn't know when Mr. Garner came with the government service, and yet at page 587 of the transcript, as I already adverted to, Mr. Garner stated categorically that he came with the service in 1941, and up to the time of this colloquy and up to the time of this misconduct, no one in this courtroom ventured to suggest that Mr. Garner did not come in the government service prior to that time.

> Continuing—"Mr. Hallinan: Well, I don't know.
>
> "The Court: He so testified.
>
> "Mr. Hallinan: I want an answer to the question, if the Court please.
>
> "The Court: Did you enter an objection, counsel?
>
> "Mr. Paisley: Oh, yes, certainly.
>
> "The Court: The objection is sustained, Mr. Hallinan."

Notwithstanding that, he questioned again Mr. Garner, driving [805] him now, in the vernacular, with rights and lefts, trying to destroy him, to beat him to the ground, beat him over the head, stab him in the back.

> "Mr. Hallinan: Did you personally in the year 1941 have any part, or did you participate in any wire-tapping of a telephone in Harry Bridges' room in a hotel in New York City?"

Here is Mr. Lloyd Garner, the mild-mannered deputy, an administrative officer of the United States Government, whom Mr. Hallinan has translated into an alleged nefarious trafficker in installing dictographs in hotel rooms in New York City. Absurd, preposterous.

> "Mr. Paisley: Just a moment. That presumes, Your Honor, that occurred. Counsel is thereby attempting to testify that such an occurrence took place, it seems to me.
>
> "The Court: The objection is sustained.
>
> "Mr. Hallinan: Did you personally have any contact with any persons employed, employees of the United States Government, engaged in the tapping of telephone wires of Harry Bridges in a hotel in New York City in 1941?"

A persistent, studied continuity of conduct, not bordering on contempt, but contemptuous in every form and degree.

> "Mr. Paisley: Same objection on the same ground.

> "The Court: The objection is sustained.
>
> "Mr. Hallinan: Might I have a moment? That is all." [806]

Mr. Donohue then took up redirect examination having to do, as I recall, with an affidavit of the wife or former wife of the defendant Harry Bridges. I think it was finally ruled out on the ground of hearsay. However that may be, it becomes unimportant to the instant discussion.

At page 754 Mr. Hallinan, dissembling with the Court, seeking to justify a non-existent reason for his course of studied conduct, seeking to jettison the witness,

> "Mr. Hallinan (Referring to Garner): I want to ask the witness now, I want to read off portions of the decision of the Supreme Court and Judge Landis' decision and ask him if those were the parts that he read before he asked these two defendants whether or not they were members of the Communist Party. I want to ask him the specific things because he says he does not believe he read them all, that he read excerpts from them."

It is needless for me to reiterate, to repeat or to restate that there is no reason, logically or in law, for the attempted excursion of Mr. Hallinan into the recesses of the past records on deportation looking toward the ferreting out of the truth of Mr. Garner's testimony in and with respect to the two defendants, co-defendants, Mr. Schmidt and Mr. Robertson. That is manifestly clear.

"The Court——"

after Mr. Hallinan's wheedling and somewhat dissembling, said he wanted a ruling from me. He now wanted [807] a ruling. We have now reached page 755 and he was asking me to rule. Up to this point I had ruled persistently with continuity and with some degree of grave thoroughness.

> "The Court: Counsel, thus far you have not had much regard for my rulings whether I made them formally or informally, in the presence of the jury or in the absence of the jury."

At page 755 I continued:

> "It is a sort of travesty at this late stage again to tell me about it. Do you have an objection to it, counsel?
>
> "Mr. Paisley: I certainly do, Your Honor.
>
> "The Court: The objection is sustained.
>
> "Mr. Hallinan: There isn't any question, Your Honor, to which an objection should be made."

I thought there was.

Page 755, line 19, Mr. Paisley again, I suppose somewhat amazed with reference to our western type of practice.

> "Mr. Paisley: I not only object to that procedure and that question, Your Honor, but I must object to counsel continually standing before this bar and disregarding the rulings of this Court on this line of testimony. He has

been told a dozen times that what went on in these prior proceedings had nothing to do with the simple issues in this case. He stands here repeatedly showing his utter contempt of Your Honor's rulings." [808]

Mr. Hallinan at this juncture asked for a mistrial, which I promptly denied. Page 756, line 17. Then there were matters of an asserted offer of proof by Mr. Hallinan on page 758, which came as a sort of anticlimax or an epilogue, if you please, to the little drama that I have so carefully read.

We will now take a recess.

(Recess.) [809]

The Court: The basic rules upon which the Court predicates its findings and the ultimate judgment herein are Rule 42 of Criminal Procedure, labeled and captioned "Criminal Contempt," subdivision (a) of Rule 42:

> "A criminal contempt may be punished as summary, if the judge certifies that he saw or heard the conduct constituting the contempt and that it was committed in the actual presence of the court. The order of contempt shall recite the facts and shall be signed by the judge and entered of record."

Under Title 18, the new Title 18 of U. S. Code, crimes and criminal procedure, Section 401, captioned "Contempts, Constituting Crimes. Power of Court."

> "A court of the United States shall have power to punish by fine or imprisonment at its discretion such contempt of its authority, and none other, as, (1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice."

Section 402, the last part of the last paragraph, states that in proceedings under Section 401, punishment may be meted out in conformity with the prevailing usages at law.

I need not make more specific findings than I have already made in the course of my narrative discussion of the transcript. I have found therein——

Mr. Hallinan: Pardon me, your Honor. You promised me [810] an opportunity to make a legal objection before a finding was made, so if you are about to pronounce a finding, I would like to make that objection for the purposes of the record.

The Court: What is the nature of your objection? Because I contemplate, so that you may be guided accordingly, the preparation of a formal order in conformity with Rule 42.

Mr. Hallinan: Yes, I understand.

The Court: And a formal certificate.

Mr. Hallinan: Yes, I understand. But before that——

The Court: There will be nothing precipitous about it.

Mr. Hallinan: I see. Well, when does your Honor contemplate doing that? I mean, at the termination of this case, or sometime during the——

The Court: I intend to have the order and the certificate prepared as promptly as circumstances will permit.

Mr. Hallinan: Very well, then, your Honor. I want to make this motion and objection on it, and this is the proper time to do it. I want to ask the Court first to disqualify himself from proceeding further upon this matter.

Now, your Honor will understand that we have two elements involved in a matter of this kind. One is the defendants whom we represent in the matter, and the other is my personal self. And of course, this motion now applies to the matter relating to my personal self. And under the circumstances, of course, your Honor should not make a finding upon the [811] matter and should not make any certificate of any judgment. But your Honor should take the matters that you have read off, and which I assure you do not constitute contempt in any part, and transfer it to another judge, for the reason,—and if your Honor will not concede this and stipulate to it, then I will ask to be sworn and make a formal motion of the matter—that within the last three years your Honor appeared as a witness in a case in which I was sued by your close and intimate friend, Eugene Aureguy, in which he sued me for the sum of $10,000. And your Honor will remember you appeared in the Superior Court as a witness and testified in his behalf. And your Honor will also remember that prior to that time you endeavored privately in your chambers, as a justice in the city courts, to persuade me to deliver Mr. Aureguy $10,000 which he claimed.

The Court: That is false and untrue.

Mr. Hallinan: Oh, well, I will ask to be sworn and I will ask your Honor to be sworn in this. I am going to make a motion—I say, if your Honor won't stipulate to it, then I want to make a formal motion. And that after that time, your Honor, that you have constantly—although prior to that time our relations were very good, and you employed me to try cases for you that were rather difficult—but subsequent to that time, your personal hatred and dislike for me has been quite obvious. Now, I certainly did not carry any [812] resentment at that attitude into this court. You were welcome to have what attitude toward me you pleased, until my personal safety is concerned, in a thing like this. And I assumed and proposed that any such dealing as you had against me would under no circumstances enter into your conduct and determination in this case, and I do not say it has. But now as regards this personal matter, in which my own well-being and my own safety is concerned, I think your Honor should be magnanimous enough not to pursue a mean or spiteful feeling or advantage that you have on me, placed as I am in such an inferior position in this respect, but should deliver the matter to some judge who has no feeling one way or the other and permit him to make a finding. Do you think that would be the sporting, the proper and just thing?

The Court: Mr. Hallinan, I say to you as a man and as a judge that I have no rancor or ill-will toward you or against you.

Mr. Hallinan: Did you ever make the statement that you were going to get me?

The Court: I made no such statement of any kind, character or description, and I am not going to be examined by you. I merely state for the record that in the course of conduct of this trial I will stand on the record and my deportment and my conduct with respect to my fairness toward you and fairness toward the defendants. I made no [813] such statement of any kind, character or description. If you believed that in any sense I was disqualified or I would entertain any matters that you now bring to bear in this record, and that you now conceive at this time out of whole cloth, then I say to you, Mr. Hallinan, you should have made that known long since and prior to the trial.

Mr. Hallinan: No, because, as I say, they did not enter into the matter. I did not intend to make my personal quarrel with you, or your personal quarrel with me, rather——

The Court: I have no personal quarrel.

Mr. Hallinan: You did, your Honor. You did within the three years last past in the Superior Court against me on behalf of Eugene Aureguy, who I think you will concede is a close and intimate friend of yours, is he not?

The Court: Mr. Hallinan, the motion to transfer the cause is denied.

Mr. Hallinan: Your Honor, may I be permitted to make a formal motion? If your Honor will not disqualify yourself, will you give me time in which to prepare an affidavit in which I will recite the matters I am now saying, and then if I recite them improperly or untruly, there would be all sorts of hazardous consequences. I am perfectly prepared to take the stand now and testify or furnish an affidavit setting them forth.

The Court: The motion is denied. [814]

Mr. Hallinan: I want to make another motion, your Honor, and this one now relates to the case, and I think the slightest reflection will convince your Honor of its force or validity. I now move to disqualify you from further participation in this case and to ask you either to declare a mistrial, or, better yet, substitute another judge, because the statements you have made in reading out this document that you went through, or the record that you went through, having in it every intendment of vigor and intemperance, shows that you prejudged the case of the defendants. You have said that the attempt to show that a Government witness was a part of the conspiracy, which is an essential part of the defendants' case, is preposterous. You have characterized him as "this quiet gentleman," and you accept, without question of the possibility of impeachment, his statement that he took no part in the case until 1941. You desire to preclude the defendant from establishing that that witness is capable of telling an untruth upon the stand. As far as other statements concerning whether or not a woman was the mistress of an enemy of Mr. Bridges, you called that "descending to a new low." How do you know if she was a mistress or not, the mistress of another man who is the enemy of Mr. Bridges? You have disqualified yourself upon the statements that you have read off this morning completely.

Now, if your Honor will not do that, which you should do, now you have found a place where your duty is clear, you will [815] concede, I think, that the defendants are entitled to be tried not only before a fair and impartial jury but a fair and impartial judge. You are supposed to be a thirteenth juror here. You are not supposed to have your mind made up as to who is right or who is wrong or what witnesses are telling the truth or what witnesses are immune from impeachment or above impeachment merely because they are Government witnesses. So I ask you now to disqualify yourself, to substitute another judge, or to declare a mistrial, and if the Court will not do it, then this afternoon I will prepare and file a formal motion to that effect.

The Court: The motions, all and singular, are denied.

Mr. Hallinan: Will your Honor grant us leave—I will do it without that. I will file a formal motion this afternoon addressed to you.

The Court: The matter of the presentation of the certificate and the order I request be prepared. We will proceed this afternoon. We have the jury available now?

The Clerk: Yes, your Honor, the jury is still in the jury room.

The Court: Bring them in. Call Mr. Schomaker.

(The jury was thereupon brought into the courtroom.)

Mr. Hallinan: Your Honor, in view of the motions that were made just before the jury came in and my statement that we would file a formal motion to the same effect at two o'clock [816] I would ask that no further proceedings be taken between this time and two o'clock, the jury being excused until then so that there be no contention or possible contention that there is any sort of waiver of our right to proceed in the direction that I indicated.

The Court: Mr. Donohue?

Mr. Donohue: I see no reason at all, if your Honor please, for complying with the request just stated by Mr. Hallinan. I think this case should proceed as your Honor intends it to proceed in an orderly fashion.

The Court: That was my intention. Accordingly, call the witness.

The Clerk: Call Mr. Schomacher.

JOHN H. SCHOMAKER

recalled; previously sworn.

The Clerk: The witness on the stand is John H. Schomaker, heretofore sworn.

Mr. Donohue: If it please your Honor, the last question which was asked of the witness just before adjournment yesterday and to which objection was made by counsel, and upon which your Honor had not yet ruled, was the question: "Mr. Schomaker did there come a time when you became a member of the Communist Party?"

(Testimony of John H. Schomaker.)

I most earnestly suggest to your Honor whether or not [817] the witness was a member of that organization is a matter which could only be peculiarly within his own knowledge.

The Court: Counsel, I looked into the matter last evening and examined the authorities, and I have concluded under the decision of United States v. Marzini the question is proper. I do not have the citation before me. It is on my desk.

Mr. Donohue: I have it here, if your Honor please.

The Court: You might supply the citation to Mr. Hallinan.

Mr. Donohue: The case of Marzini v. the United States is found in 168 Fed. Rep., 2nd Series.

The Court: Paragraph 8.

Mr. Donohue: Paragraph 8.

Mr. Hallinan: What page, Mr. Donohue?

Mr. Donohue: Page 140.

The Court: Paragraph 8 reads that questions of this character are admissible in this type of proceeding.

Mr. Hallinan: My objection was, if I may repeat the objection then to the question being asked, that it is not the best evidence, that the records of the party itself would be the best evidence, or some such formal indication. But this is calling for an opinion and conclusion of the witness on an ultimate fact and invading the province of the jury.

The Court: The objection is overruled. [818]

(Testimony of John H. Schomaker.)

Direct Examination
(Resumed)

By Mr. Donohue:

Q. Mr. Schomaker, did there come a time when you became a member of the Communist Party?

Mr. Hallinan: Just a minute, sir. Will it be understood, then, the question being repeated, the entire objection precedes this?

The Court: Yes, the objection may run to this continuity of examination along this general line, and Mr. MacInnis joins in that objection.

Mr. MacInnis: Yes.

Mr. Hallinan: We made a stipulation that the Court concurred in, that any objection, motion or exception that was made should be made on behalf of all the defendants without specifying that, that if it were desired by counsel, that no exception or objection be made by any particular defendant, that that would be so indicated.

The Court: The Court will recognize that stipulation. That escaped my memory, Mr. Hallinan.

Q. (By Mr. Donohue): Under his Honor's directions, Mr. Schomaker, you may now answer the question.

A. Well, there definitely came a time when I became a member of the Communist Party.

Q. Will you tell his Honor and the ladies and gentlemen of the jury from your best recollection what that time was?

A. Well, to the best of my recollection it was the

(Testimony of John H. Schomaker.)

winter of [819] 1931, that is, the fall, the early fall or winter of 1931.

Q. May I ask where you were employed at the time you became a member of the Communist Party?

A. I was employed at the Veterans Hospital in Palo Alto.

Q. Where you had been employed some years prior to that time? A. That is right.

Q. Will you tell us the circumstances under which you became a member? What did you do in order that you should subsequently become a member?

Mr. Hallinan: I object to that as not binding on the defendants, things done between other persons, under the rule described as res inter aliasacta, being hearsay and not binding upon these defendants.

The Court: The objection is overruled.

Q. (By Mr. Donohue): What did you do in order that you might become a member of the Communist Party?

A. Well, I signed an application blank.

Q. Where did you sign that application blank?

A. In San Francisco here.

Q. Do you recall specifically a building or place in San Francisco where you signed the application?

Mr. Hallinan: Pardon me. I ask the statement that he signed an application blank be stricken out as stating a conclusion of the witness as to what the nature of some document was that he signed. [820]

The Court: Ask him to describe the document.

what it was, the context, what it said on it, and so forth.

Mr. Hallinan: Might we have the statement that it was an application blank stricken?

The Court: It may be stricken.

Mr. Donohue: I may say to your Honor——

Mr. Hallinan: Do you have the document?

Mr. Donohue: —— Mr. Hallinan just a few minutes ago objected to the witness stating as a conclusion of his that he had joined the Communist Party, and now for the purpose of making every step which he took, in order that he may justify that conclusion, it seems a bit strange that Mr. Hallinan now sees fit to object.

Mr. Hallinan: I have seen stranger things in this court than I have ever seen in my life before, and that there should be a few more would not be astonishing.

Mr. Donohue: May I proceed, your Honor?

Q. Would you tell to his Honor and the ladies and gentlemen of the jury the circumstances under which you signed what you have called an application?

Mr. Hallinan: Pardon me. By counsel repeating the question, the necessity arises of repeating the objection. I think the proper procedure is to have the reporter read the question.

The Court: Yes. Read the question. [821]

(Question read as follows: "Q. Do you recall specifically a building or place in San Francisco where you signed the application?")

The Court: I think it was suggested by the Court that the paper he signed be described.

Mr. Hallinan: Yes, I have that recollection on the subject. What did it look like?

Mr. Donohue: I will be glad to ask that question.

Q. Mr. Schomaker, can you describe for us the document which you signed, what it looked like?

Mr. Hallinan: I make the same objection, as incompetent, irrelevant and immaterial, no proper foundation, and not the best evidence, and matters done between other persons when the defendants were not present.

The Court: Overruled.

Mr. Donohue: Will you answer the question, Mr. Schomaker? Describe the document that you signed.

A. I didn't sign it—I mean, I signed it, but first I had to make it out. It asked your name, where you were employed, the number of workers employed there, and whether or not you belonged to a trade union.

Q. Was there any printed matter on that document?

A. There was an official insignia of the Communist Party of the United States.

Mr. Hallinan: Just a minute. I ask that that be [822] stricken out as the opinion and conclusion of the witness, if the Court please, and not responsive to the question.

The Court: Motion denied.

Mr. Hallinan: He described it as an official insignia.

(Testimony of John H. Schomaker.)

The Court: We asked him to describe it to the best of his recollection, what was on it.

Mr. Hallinan: How it appeared, the context of it.

The Court: If he recalls, let him answer.

Q. (By Mr. Donohue): How else may you describe it, Mr. Schomaker?

A. Well, it had an official insignia of the Communist Party of the United States and it so plainly stated.

Mr. Hallinan: Just a minute. I move to strike that out, if the Court please, as stating an opinion and conclusion of the witness as to whether it was an official insignia of the Communist Party of the United States.

The Court: Motion denied.

Q. (By Mr. Donohue): Was there any other printed matter on it that you recall?

A. There was—stated this was the application blank to membership in the Communist Party of the U.S.A., and, as I said, it asked your name and the other things which I have stated, and finally it had "Proposed by" with a blank, proposed by two persons who would sign it, and also the name which you would assume when you entered the Communist Party. [823]

Q. Were you given any instructions at that time with respect to the use of a name other than your own as a party member?

A. No, not at that particular time I wasn't, no.

Q. What did you do with that application after you signed it?

(Testimony of John H. Schomaker.)

Mr. Hallinan: Just a moment. The same objection, if Your Honor please, not binding on the defendants. They weren't present. Hearsay, res inter alia acta.

The Court: Overruled.

Q. (By Mr. Donohue): What did you do with that document after you signed it?

A. Well, I received——

Mr. Hallinan: Pardon me a minute, if you please, sir. By the repetition of the question, Your Honor, again I must repeat the objection. I think that the Reporter should reread the question.

The Court: All right. You have the question in mind, Mr. Witness?

The Witness: No, I haven't. I don't know what it is all about.

The Court: All right, Mr. Reporter, will you read the question?

(Record read.)

A. Well, since I was in a public meeting it was a meeting called for the unemployed and they were asking if anyone present wished to join the Communist Party. They passed out the blanks, [824] I filled it in and signed it.

Mr. Hallinan: Pardon me. I ask that be stricken out, Your Honor, as not responsive. He was asked what he did with the application. He has described matters that happened some place where the defendants were not present. He speaks about people making requests of others to join the Communist Party.

That is not binding, that is hearsay. I ask the answer be stricken out.

Mr. Donohue: I think, if Your Honor pleases, that this witness ought to be permitted to testify to matters which obviously are peculiarly within his own knowledge, and which are necessary for the witness to testify to in order that we may understand his subsequent testimony. And I think he ought to be permitted to do so without these constant and unnecessary interruptions by Mr. Hallinan.

The Court: Let me have the last question and last answer, Mr. Reporter. I may have missed part of it.

(Record read.)

The Court: The motion is granted. Mr. Schomaker, may I ask you in answering or responding to questions by Mr. Donohue that you attempt to confine your answer to the specific question. It may be difficult on occasion, but I wish you would adhere to that practice. That may obviate some of the objections.

Q. (By Mr. Donohue): What did you do with the application after [825] you signed it?

Mr. Hallinan: Same objection, if the Court please; incompetent, irrelevant and immaterial, not binding on the defendant, res inter alia acta.

The Court: Overruled.

The Witness: What is the question?

Mr. Donohue: Would you read the question, Mr. Reporter?

(Record read.)

(Testimony of John H. Schomaker.)

A. I turned it in to the person who gave it to me.

Q. Did there come a time subsequently when you heard something from that application which you had filed?

Mr. Hallinan: Just a moment. Object to that as leading and suggestive and calling for the opinion and conclusion of the witness, both as to what he heard and whether it was in response to any application.

The Court: Overruled.

A. Yes, I got a response to it.

Q. (By Mr. Donohue): And what was that response?

Mr. Hallinan: Object to that as calling for hearsay.

The Court: Overruled.

A. What was the response? Why, I was told to enroll in a school and attend a school for a period of three weeks.

Mr. Hallinan: Your Honor, I ask that be stricken out as hearsay, a statement made by some person to him who is not connected with the defendant, and we don't know—that is certainly [826] hearsay. I ask it be stricken out.

The Court: Overruled. The motion is denied.

Q. (By Mr. Donohue): What school was it which you attended?

Mr. Hallinan: The same objection, Your Honor —not binding on the defendants, incompetent, irrelevant and immaterial.

The Court: Overruled.

(Testimony of John H. Schomaker.)

A. It was called the Beginners School for Communist Party Members.

Q. And where was that school conducted or held?

Mr. Hallinan: The same objection, if the Court please; incompetent, irrelevant and immaterial, not binding on the defendants.

The Court: Overruled.

A. If I recall correctly, it was 1178 Market St.

Q. Here in the City of San Francisco?

A. San Francisco.

Q. And how long did you attend that school?

Mr. Hallinan: Same objection.

The Court: Overruled.

A. I attended for the—to complete the course.

Q. Did there come a time when you received from the Communist Party a membership card or book issued to you?

Mr. Hallinan: Just a moment, sir. I object to this, Your Honor, as not the best evidence. And furthermore, calling for an opinion and conclusion of the witness, both as to what the [827] book was, by whom it was issued, and furthermore, it is not binding upon the defendants. It is matters done between other persons outside their presence.

The Court: Overruled.

A. Yes, I was issued a book, a Communist Party book.

Mr. Hallinan: Ask that be stricken as stating an opinion and conclusion of the witness.

The Court: Motion denied.

(Testimony of John H. Schomaker.)

Q. (By Mr. Donohue): Did there come a time subsequently, Mr. Schomaker, when you occupied any official position in the Communist Party?

Mr. Hallinan: We object to that, if the Court please, furthermore, as being not the best evidence, that the record of the Communist Party itself should prove that, that it is calling for the opinion and conclusion of the witness upon a matter of expert testimony, at least.

Mr. Donohue: If Your Honor pleases, I may say in observation thereto that no one should know better than Mr. Hallinan that the Communist Party is very careful about permitting such records being kept.

Mr. Hallinan: I never heard anything about the Communist Party until I entered this case. I know nothing about it. You flatter me if you think that.

Mr. Donohue: I don't mean that.

Mr. Hallinan: I can tell you all about the Jesuit School and [828] St. Ignatius and things of that kind you may not be familiar with. I know nothing whatever about the Communist Party.

The Court: The objection is overruled. You may answer.

Mr. Donohue: Will you read the question to the witness?

(Record read.)

A. I occupied various official positions in the Communist Party.

Q. (By Mr. Donohue): Will you tell us what positions you did in fact occupy?

(Testimony of John H. Schomaker.)

Mr. Hallinan: The same objection, if the Court please; no proper foundation, not the best evidence and calling for the opinion and conclusion of the witness.

The Court: The objection is overruled.

Mr. Donohue: And may I at this time, if Your Honor please, ask Your Honor to instruct Mr. Hallinan as counsel for the defense to occupy the proper place in the courtroom? I don't think he should be standing here next to me, interfering with my examination of the witness.

Mr. Hallinan: I don't want to interfere with your examination, but where there are numerous——

The Court: I can't see that it interferes with you. If he feels a desire to stand there, I have no objection.

Mr. Hallinan: It is only to save time. It is much more——

The Court: I have no desire to request him to be seated. There are matters—— [829]

Mr. Hallinan: I will keep out of his way, if it annoys or vexes him.

Mr. Donohue: It doesn't annoy me.

Mr. Hallinan: But if I stand here, it saves jumping up.

Q. (By Mr. Donohue): Will you tell us those positions, Mr. Schomaker?

Mr. Hallinan: Pardon me just a moment, Mr. Schomaker. Same objection, if the Court please.

(Testimony of John H. Schomaker:)

Incompetent, irrelevant and immaterial, calling for his opinion and conclusion, and not the best evidence.

The Court: Overruled.

A. Well, I was unit organizer. I was—also handled what they call the Department of Agitation and Propaganda. I was the section organizer, and I also was a member of the District Committee of the Communist Party.

Q. Now, will you tell us what your duties were as unit organizer of the Communist Party?

A. Well——

Mr. Hallinan: Just a moment, sir. Object to that if the Court please, upon the same grounds; it calls for his opinion and conclusion, it is not binding upon the defendants, and is not the best evidence.

The Court: Overruled.

A. Well, the unit organizer is the same as the chairman of a group, and a unit was generally a small group, between seven and [830] ten members. And his duties were to—he was a contact man between the small group and the section. He brought back all the information or decisions that were made, he reported on the activity of the unit to the section, and in return he brought back the duties and assignments that were given to the unit, and he kept the unit members lined up, and the various other small duties which may arise, as in any small group which is organized for a specific purpose.

Q. And what were your duties as agitation and propaganda director?

(Testimony of John H. Schomaker.)

Mr. Hallinan: The same objection, if the Court please: calling for the opinion and conclusion, not binding upon the defendants, not the best evidence.

The Court: Overruled.

A. Well, an agitation and propaganda director was generally a person who, his duties were to take care of any meetings or to write any propaganda, and to take care of any of the publications, that is, to have them distributed properly and to give them any news if necessary. So, in other words, you were a reporter and you were a distributor, besides organizing meetings.

Q. And did you carry out those functions as agitation and propaganda director?

Mr. Hallinan: Same objection, if the Court please.

The Court: Overruled. [831]

A. I did.

Q. (By Mr. Donohue): And what were your duties as a member of the District Committee?

Mr. Hallinan: Just a minute. Same objection, if the Court please.

The Court: Overruled.

Mr. Hallinan: Calling for the opinion and conclusion.

The Court: Overruled.

A. Well, the District Committee member, the same as an executive board of a corporation or a company or a trade union, the same thing.

Q. Then you were a member of the District Committee of the Communist Party? A. I was.

(Testimony of John H. Schomaker.)

Mr. Hallinan: Just a moment. Ask the answer be stricken out so I may make the objection.

The Court: The motion is granted to strike.

Mr. Hallinan: All right. We make the objection it is incompetent, irrelevant and immaterial, calling for hearsay and a conclusion of the witness, and not binding on the defendant.

The Court: The objection is overruled.

Q. (By Mr. Donohue): Now, would you answer the question, Mr. Schomaker? Were you a member of the District Committee?

A. I was, yes. [832]

Q. And what was the province of the District Committee?

Mr. Hallinan: The same objection.

The Court: Overruled.

Q. (By Mr. Donohue): What was the District Committee?

A. Well, the District Committee was, since this was District 13 of the Communist Party, it comprised California and I think parts of Arizona and Nevada. As I recall correctly. I think portions of Arizona and Nevada. And their job, as I say, was the same as an executive board—took up higher matters, made decisions and passed them on, and so on. In other words, direct the policy of the Communist Party for California.

Q. Then it is your testimony that you were a member of the executive board of the Communist Party which had jurisdiction over California, parts of Arizona and Nevada? A. That's right.

Mr. Hallinan: Just a moment. Ask the answer be stricken out so I may make the objection, if the Court please.

The Court: The motion is granted; you may enter the objection.

Mr. Hallinan: The same objection, calling for his opinion and conclusion, not binding on the defendants, not the best evidence.

The Court: The objection is overruled.

Q. (By Mr. Donohue): Then it is your testimony, Mr. Schomaker, that you were a member of the executive committee of—— [833]

Mr. Hallinan: Pardon me. By repeating the question, then I have to repeat the objection. I don't know why——

The Court: The objection is overruled.

Mr. Hallinan: Yes, but, then, if you ask the question again, I have to make the objection again or the Court will hold that I have waived it.

Mr. Donohue: Mr. Reporter, would you reread it?

Mr. Hallinan: It should be read to the witness, if he can't remember it.

The Court: (Nodding in assent.)

(Previous question read.)

A. That's right.

Q. (By Mr. Donohue): How long did you continue as a member of the Communist Party?

Mr. Hallinan: Just a moment. Same objection,

(Testimony of John H. Schomaker.)
calling for his opinion and conclusion, not the best evidence.

The Court: Objection is overruled.

A. I would say the latter part of '39 and the first part of 1940.

Q. Mr. Schomaker, do you know the defendant Harry Bridges?

A. Do I know Harry Bridges?

Q. Yes, sir.

A. Well, I would know Harry Bridges—his wife Agnes used to call him "Bill." That must be the same person, I guess.

Q. Do you see the man whom you knew as "Harry Bridges" sitting [834] in the courtroom?

A. He is—sitting right there behind Mr. Hallinan. I can't see him for Mr. Hallinan.

Q. You know Mr. Hallinan?

A. No, I don't. Never had the pleasure—Yes, pardon me, I did. I met him once.

Q. And you know Mr. Bridges?

A. I do, yes.

Q. Do you know the defendant Henry Schmidt?

A. I do.

Q. Can you point him out in the courtroom?

A. Sitting over there at the end of the table.

Q. And do you know Mr. J. R. Robertson?

A. I do.

Q. Will you point him out to us?

A. He is sitting right behind Mr. McMillan (indicating).

(Testimony of John H. Schomaker.)

Mr. McMillan: May the record show, counsel, that the witness has identified the defendants?

Mr. Hallinan: I don't know what the record shows.

Mr. McMillan: Well, will you stipulate that he has identified these defendants?

Mr. Hallinan: I suggest this, Mr. McMillan, that I am not too sure of the fairness of the prosecution. I will therefore request you kindly not to ask the defendants or their counsel to make any statements or to introduce any evidence against [835] themselves.

Mr. McMillan: I see. The ordinary stipulations that take place between counsel during trials——

Mr. Hallinan: I have never before, for instance, in a court, heard an attorney get up and move the court that his opponent should be declared guilty of contempt of court. I have never seen that before. I am not going to consider that there is anything ordinary or commonplace about this case. I will make no stipulation at all in the matter, so kindly don't ask for it.

Mr. McMillan: Well, we will not do it.

Q. (By Mr. Donohue): Mr. Schomaker, will you please walk across and put your hand on Mr. Harry Bridges' shoulder, if you can identify him?

A. Certainly.

(Thereupon the witness left the witness stand, proceeded to a position behind the defendant Harry Bridges and put his hand upon Mr. Bridges' shoulder.)

(Testimony of John H. Schomaker.)

A. (Continuing): This is Mr. Harry Bridges.

Q. And now will you identify Mr. Henry Schmidt? A. This is Mr. Henry Schmidt.

Q. And Mr. J. R. Robertson?

A. Mr. J. R. Robertson (indicating).

Q. Will you resume your seat on the stand, please?

(The witness resumed witness stand.) [836]

Mr. McMillan: Now, may it please your Honor, may the record show that the witness has identified all three defendants?

The Court: The record may so show.

Mr. Donohue: May we take the usual recess at this time, if your Honor please?

The Court: You may.

Ladies and gentlemen of the jury, the matters of legal concern arose this morning, and we have a note of apology to make to you for your long absence from the courtroom. I desire to readmonish you concerning this trial. You may recall, at the outset, that I asked all of you under oath not to read any newspaper accounts of the trial. You agreed you would not. And I took you at your word. And you agreed also with me that you would not listen to any comment or commentators on the air. I asked you particularly at this stage of the proceeding, and at all stages in fact, not to engage in that type of conduct. In addition, I desire to readmonish you, which I have done persistently and consistently, not to discuss the case with any person or persons, not to

(Testimony of John H. Schomaker.)

suffer any person to converse with you on any subject of the trial; not to form nor express an opinion on this case until it is finally submitted to you for your ultimate decision.

We will resume, ladies and gentlemen, at 2:15 o'clock this afternoon. 2:15 p.m. this afternoon.

(Thereupon a recess was taken to 2:15 o'clock p.m.) [837]

November 22, 1949, 2:15 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Hallinan: Your Honor, at this time I file a motion and certificate and an affidavit on the contempt proceeding with your Honor.

Mr. Donohue: At this time, if your Honor pleases, I would like to be heard.

Mr. Hallinan: Your Honor, I understand that a contempt proceeding is a matter between the Court and counsel. I think it invidious enough that opposing counsel should get up and try to have an opponent put in contempt of court. As I say, it is something I have never heard of before; and then that they should get up and defend the thing and make an argument on it seems to me to be out of the bounds of all decency, all propriety and all sportsmanship.

Mr. Donohue: If it please your Honor,——

Mr. Hallinan: Pardon me. If I may be permitted to say this,——

Mr. Donohue: You have been permitted to talk for a week.

Mr. Hallinan: The Court has plenty of power, plenty of force, and you do not need to add anything to it whenever Mr. Donohue may wish to add. I want to present my motion.

Mr. Donohue: May I be heard? [838]

The Court: Yes, sir.

Mr. Donohue: If it pleases your Honor, this counsel this morning in this court told your Honor, and I quote from the record,——

The Court: State the page, please.

Mr. Donohue: Page 816 of the record, beginning at the end of line 7:

"So I ask you now to disqualify yourself and substitute another judge or to declare a mistrial, and if the Court will not do it, then this afternoon I will prepare and file a formal motion to that effect."

Now, of course, if your Honor pleases, Mr. Hallinan knows or should know that he would have no right to file such a motion to the effect as he stated this morning his motion would take, because Mr. Hallinan knows or should have known that if he had any basis upon which he may move to disqualify your Honor from the trial of this case, that the rules provide the time when such motion may be filed. Mr. Hallinan has been practicing law too long not to know that if he alleges any misconduct or prejudice on the part of the Court during the progress of the trial, that the forum with which that prejudice or that bias on the part of the Court should be heard is in the appellate court upon appeal, should there be an appeal in the instant case. Now, instead of carrying out what he said this morning he would do, Mr. Hallinan comes into court this [839] afternoon and asks your Honor to permit him to file a motion, not to disqualify your Honor in the instant case of United States v. Bridges and others, but in which Mr. Hallinan asks your Honor to further disqualify himself from further proceedings in the matter of a pending citation for contempt, and attached to this Mr. Hallinan includes a certificate that the motion and the affidavit in support thereof is filed in good faith, and I challenge that statement to your Honor. I say that this motion, this certificate, and this affidavit is not filed in good faith. And I say it, if your Honor pleases, because no one ought to know better than Mr. Hallinan himself that your Honor and your Honor alone is the forum which can consider his contemptuous conduct, and I say that to your Honor because I cite to your Honor the case of In Re Hallinan in which Mr. Hallinan himself was found guilty of like contemptuous conduct before a state court in this jurisdiction. [840]

The Court: What is that, 72 Cal.——

Mr. Donohue: That is 126 California Appellate Reports, if your Honor please, reading from page 128. I am sorry—reading, if your Honor please, from the bottom of page 129:

"In other words, as aptly stated by our Supreme Court, in Otis v. Superior Court, supra, 'Every court is the exclusive judge of its own contempt.'"

Mr. Hallinan knows that. In addition, if your Honor please, Mr. Hallinan brings here, hands us a copy, and asks the clerk of this court to accept and be filed a scurrilous and scandalous affidavit, which is impertinent and contemptuous on its face. And I most respectfully say to your Honor that there must be some rights to which the United States Government is entitled. There must be some right to which the people of the United States are entitled.

The United States came into this court before your Honor on Monday of last week, after careful preparation, to prepare and present to your Honor and this jury the case of the United States of America v. Harry Bridges and others. We expected to present that case with dignity to the United States, carefully safeguarding the rights of these three defendants. And I most respectfully observe to your Honor that while the contemptible and contemputuous conduct of Mr. Hallinan, who has roamed this courtroom since Monday of last week like a mad dog, disregarding the rights of everyone, including your Honor—I say, if your Honor please, that the integrity of the courts of the United States require of your Honor at [[illegible]] this time that action be taken that we not be subjected to this kind of conduct in the future.

I earnestly say to your Honor that this affidavit ought not to be filed; there is no authority for it.

Mr. Hallinan: Of course, that is just pouring kerosene upon a fire already lit. The first time that I came into collision with the Court was this morning. I had no notice or supposition that the Court intended any such tirade or action as took place today. And I was surprised and shocked, as a great many other people. But do you contend this: Mr. Donohue, with all your talk about fairness and the courts, that I should be judged and tried upon a matter of that kind by a personal enemy?

Mr. Donohue: I say, Mr. Hallinan, as a lawyer, particularly as one——

Mr. Hallinan: I asked you that one question.

Mr. Donohue: Yes, because you have already been tried and convicted of the same thing, and you ought to know what the law is.

Mr. Hallinan: Whenever I have come into—in a matter that I think—Withdraw that.

Whenever I have come into a position where my rights are invaded, or more particularly, where the rights of my clients are invaded, I have done what I could to assert and defend them. Now, in my younger days, when I was less cautious [842] than I am now—because you will find before you are through, Mr. Donohue, that I have not exceeded the bounds of propriety in this case—why, sometimes my youthful intemperance might have run away with me and I went a little further than I might have gone. Others, warm-blooded people, have succumbed to the same difficulty. And counsel cites a matter there—I don't know just particularly what it is—I think it was a matter in which I was trying to break up the jury-fixing system in the Superior Court. (To the Court.) You helped me at that time. That is when we were friends. You were out and testified, and you could have been cited for contempt, just as I was.

But in this presentation—Since that time, unfortunately, our relationship has degenerated into a position where you obviously entertain such a personal rancor and hatred for me that you can no longer discuss the matter reasonably. And——

The Court: Mr. Hallinan——

Mr. Hallinan: And why should a judge who entertains a personal malice for a man descend to trying him on the matter? Now, here the record speaks for itself.

Mr. Donohue: If it please your Honor——

Mr. Hallinan: If you will please not interrupt me. I allowed you to talk all the way through. Now I will ask——

Mr. Donohue: I shall not pardon you.

Mr. Hallinan: I ask the gentleman be asked to step back [843] from the lectern, if the Court please, while I am standing here.

The Court: Mr. Hallinan, I stand on the record in this trial. I stand on your own encomiums of pleasure, judicial and lawyerlike satisfaction, that you have had. First, with my rather painstaking examination of the jury. I said for the record, I say to you now, that in my career on the bench—going back to 1941, and then latterly in this Court, since 1946—I never tried so hard, with so much sincerity of purpose at my command to accord a defendant or defendants a fair and impartial trial. I say to your client, Mr. Harry Bridges, sitting there, as I have said to other defendants, that I sit right at that counsel table. When you said that I never prosecuted in my career, you are correct; I defended all my life.

Mr. Hallinan: I never said that.

The Court: You said I never prosecuted in my career. I am not going to indulge in colloquy with you.

Mr. Hallinan: I don't remember making such a remark or statement. I am merely talking about this bitterness you have.

The Court: I sit at the counsel table for defense —not only in one case but in every case. And the United States Attorney will tell you that.

I helped select a jury in the trial of this case that I [844] thought I would like to be tried before. When I look in those faces, I look through those eyes, I look at the recesses of the brain, I say to myself, "George Harris, would you like to be tried by twelve people in their frame of mind?" When you gentlemen finally said you were satisfied, I felt satisfied. I have felt that that jury was fair, clean, democratic, represented a proper cross-section of this community, and I felt perfectly at ease and comfortable in examining my own conscience, and I have a conscience, that Mr. Bridges, Mr. Robertson and Mr. Schmidt would get a fair and impartial trial. And I say to you, Vincent Hallinan, you, your colleague, Mr. MacInnis—an able young fellow, a man of ability—that you would have had no trouble in this case, but you saw fit to take the reins, ride rough-shod over my orders, impugn the integrity of the Court. I say no more. I think you know in your own heart, your own conscience, as you stand there, that everything you have said this morning is false, untrue, unfair, and scurrilous. Man to man, in an alley or in a courtroom, you couldn't look me in the eye and say that.

Mr. Hallinan: Let me put it—Let me file an affidavit making the charge, and charge me with perjury, sir.

The Court: You will not file the affidavit.

Mr. Hallinan: Then we will try it out.

The Court: You will not file any affidavit before me, Mr. Vincent Hallinan. [845]

Mr. Hallinan: Well, I will file it with the clerk upstairs, your Honor. I am entitled to my rights in this court, too, and I am entitled to not be tried by a personal enemy on a contempt proceeding.

The Court: It will be stricken from the files.

Mr. Hallinan: You haven't read the affidavit, have you? I haven't filed it yet. The charges——

Mr. Donohue: The Court says you may not file the affidavit.

Mr. Hallinan: The charges I have made are of such a nature that your Honor should answer them, in some way, and simply not pass them over.

The Court: I think the world at large will consider that I need not ever make any response to you, Mr. Vincent Hallinan.

Mr. Hallinan: Uh-huh. Well, I have your Honor's own testimony in two other cases to support the affidavit, so that I don't think you could well contradict them.

The Court: All right, sir. I have heretofore made my formal findings in this matter——

Mr. Hallinan: Well, before you do that, I offer now for the record a motion to disqualify you from proceeding further in the contempt proceeding. I offer for the record a certificate of counsel that it is taken in good faith for the purposes of the record, and I offer for the purposes of the [846] record my own affidavit charging you not with relation to the Harry Bridges case, understand——

Mr. Donohue: I object to this.

Mr. Hallinan: ——but as to myself personally.

Mr. Donohue: I object, if your Honor please, to this man——

Mr. Hallinan: With personal bias, rancor and prejudice. Might I finish my sentences without this—— [846-A]

Mr. Hallinan: Might I finish my sentences without this man yelling in my ear? He objects to me standing here and then he has the effrontery to come up and stand here. I don't know who he is trying to tempt. At an earlier day, your Honor, the temptation would be acceded to. But, as I say, I am getting more urbane as I get older.

The Court: They tell me, Mr. Hallinan, perhaps when we grow older we become a little more temperate.

Mr. Hallinan: It does not seem so to me. I do, your Honor, but others do not.

The Court: I believe so.

Mr. Hallinan: I hope so.

The Court: I think so. Let us have the degree of harmony which I think I am entitled to. This is not a pleasant task, Mr. Hallinan, to the Court, as you know.

Mr. Hallinan: I don't think that. If I thought you were acting judiciously and calmly and I had done something improper, I would be the last one to say anything. Just like in the matter counsel cited here. If the Court decided I was in contempt, I had no quarrel with him. That was Judge Ward. I have been friendly since. I have never said a word to him or against him. But this is a different situation.

The Court: All right, sir. I have heretofore made my formal findings in this matter under Title 18, Section 401 and Rule 42 of the Rules of Criminal Procedure; and I specifically [847] find that Vincent Hallinan's contemptuous conduct and misbehavior in the presence of the Court obstructed the administration of justice. It is therefore adjudged that Vincent Hallinan has been found guilty of contempt of court for misconduct committed in the presence of the Court and in the course of this judicial proceeding, to wit, United States of America v. Harry Bridges. It is adjudged that you, Vincent Hallinan, be and you are hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for the term and period of six months. The defendant is remanded to custody.

It is my further order that the defendant named be stricken from the roll of lawyers of this federal court. Mr. United States Attorney, I request that your formal order that I must sign be prepared so I may sign it today in conformity with the rule.

Mr. Donohue: It will be prepared at once, if your Honor please.

Mr. Hallinan: Might we, in the interest of the defendants, who also have some stake in this matter, ask for a stay until the termination of the case? Now, your Honor, there is something that you have asserted, your Honor, there is something that you have asserted, the fairness that you have towards these defendants. Here is a man on trial, the most serious thing that could happen to him. I have been in the case three [848] weeks representing him. It is a difficult thing. It is impossible ~~that~~ anybody should now prepare and adequately continue the matter, and I now ask your Honor, since you have asserted what a fair trial you are going to give him and how fairly you feel, and as I am not going to evade the processes of the Court, escape from the jurisdiction or anything of that kind, that you now grant a stay in the matter until the termination of this case.

Mr. Paisley: It seems to me, your Honor, that this man is in the custody of the marshal and his name has been stricken from the roll of lawyers.

The Court: Mr. Hallinan may speak. What is your position?

Mr. Paisley: I say it seems to me this man is in the custody of the marshal. He stands here, a prisoner, his name is stricken from the rolls of this court.

Mr. Hallinan: The Court can always make the order operative at a later date. I ask now for a stay of the Court's order so I may continue to represent the defendant.

The Court: I should like to have the view of the United States Attorney's office on this. This is a matter that transcends anything that I have ever encountered in my career. The case is an important one to the Government. It is important to your defendant, Mr. Bridges, Mr. Robertson and Mr. Schmidt. It has been suggested to this Court that he might very well obtain counsel. Mr. MacInnis has shown a tremendous ability in the [849] presentation of this matter on behalf of the two codefendants——

Mr. Hallinan: Mr. MacInnis is not familiar with the matter at all. He knows nothing of the background of it. I have worked on the case diligently for three weeks, worked hard on it, and prior to that time I had read some of the legal matters on the case for a week or so before. Mr. MacInnis was in the case less than two weeks from the time it started. He hasn't the background to fit. He doesn't know enough about it. It is impossible that he should represent Mr. Bridges.

The Court: Is Mr. Richard Gladstein available?

Mr. Hallinan: Mr. Richard Gladstein is not available. Mr. Richard Gladstein has a fate somewhat similar to the one you have just bestowed on me. He is not available, and, furthermore, Mr.

Gladstein is not prepared to try this case. He has been out here only a week or so. Certainly it will do nobody any harm, and if in the course of the proceedings you feel that I again transgress your rulings, why, then it is time enough to take such a drastic step in the matter. But for the honor of the Court, I think it is imperative——

The Court: What I have just done, Mr. Hallinan, is for the honor of the Court. I have no personal view.

Mr. Hallinan: I think for the honor of the Court it is imperative that the counsel selected by the defendant should be permitted to finish the case for him, and I say to your Honor that it would be a gross, a grave miscarriage of justice, a [850] terrible thing to remove from the defendant the spokesman whom he has selected to represent him, the attorney who knows what his case is about, on whom he relies, and whom he has selected to represent him. And I say to your Honor that I think removal from the case would, in addition, be prejudicial error of the highest kind. Now, I am not quarreling at this time with your decision; if you feel that way, so be it. But in the interest of Mr. Bridges, I think it would be atrocious that I not be permitted to continue and finish the trial. Don't you think that, having expressed your regard for his welfare and looking out for him, that he would be put in the most invidious position?

The Court: Mr. Hallinan, under my oath I am duty bound to protect his welfare as well as the welfare of the government. I have a duty.

Mr. Hallinan: That is what I say.

The Court: I have a duty.

Mr. Hallinan: That is what I say.

The Court: I have a duty. I recognize it. There is no question about it. I have taken an oath.

Mr. Hallinan: Yes, your Honor. Will your Honor grant a stay of your order?

The Court: Mr. McMillan, may I hear from you? I have great respect for your considered judgment, and your temperament.

Mr. McMillan: If it please the Court, I believe the [851] orderly administration of justice and the proper respect to be shown to the Court far exceeds the Bridges case. I think it far more important that the integrity of our courts and the respect due our courts should be upheld. I see no reason at all for any stay of execution.

Mr. Hallinan. I am surprised to hear that, Mr. McMillan.

Mr. McMillan: Because I believe that this thing will continue every day and we would just reach a stage sooner or later where we shall conclude we have just been putting off the evil day. That is what will take place. I am going to suggest to your Honor that this trial be recessed, we will say, until December 5th, and that your Honor instruct Mr. Bridges that meanwhile he procure additional counsel to get prepared to proceed to trial on that date and also announce at this time that if he has not counsel then, that you notify Mr. MacInnis that you are going to assign him to act as counsel and instruct him to act as counsel.

Now, so far as Mr. MacInnis is concerned, he is a partner of Mr. Hallinan. There is no conflict of interest here. Your Honor has observed from the start that in the examination of jurors, when challenges were made, they were made jointly and so far as objections were made, the same there. There isn't anything in the nature of the case where there is a suggestion of any conflict of interest. Furthermore, I have reason to believe that assisting these gentlemen are members of the firm of Gladstein, Andersen, Resner and the other members of the firm [852] because the reporter's transcript is being delivered to Mr. Norman Leonard of that firm.

Mr. Hallinan: He is the only one who is available or who has given us any help at all. I haven't seen any of the other gentlemen whose names were mentioned in the case. And I say that I am surprised to think that Mr. McMillan would get up and make that motion. I thought Mr. McMillan and I were friends. We have known each other for years. We have expressed mutual regard for each other, and that Mr. McMillan should want to do my client the damage of having me put out of the case and have other counsel brought in and be prepared in a week or so, surprises me. I suggest, your Honor, that you do not follow such procedure.

The Court: I am going to look to Mr. McMillan. I, like you, Mr. Hallinan, knew him over the years in the practice of law. I have always found him a very considerate, fine gentleman. I have seen him in the trial of criminal cases here when he has leaned over backwards to give defendants a fair and square deal. I think that when he has reached that conclusion he does so probably looking at the whole scene very objectively.

Mr. McMillan: May it please your Honor, it is quite true I am very fond of Mr. Hallinan personally. I like him very much.

Mr. Hallinan: Especially in jail.

Mr. McMillan: No. I say the respect that I owe the Court [853] and the administration of justice, standing as I do in an official capacity, not being in the private practice of the law, that surpasses the liking I have for Mr. Hallinan.

The Court: Mr. Donohue, you represent the United States as a special prosecutor. May I have your view on this matter?

Mr. Donohue: If your Honor pleases, I do not concede that the removal of Mr. Hallinan from the representation of Mr. Bridges will operate to the the detriment of Mr. Bridges. I quite definitely feel to the contrary. I concur thoroughly and wholly in what Mr. McMillan has said. I think we have a situation to meet; we must meet it now. I concur in one suggestion that your Honor adjourn this trial until the 5th day of December and at that time instruct Mr. Bridges to be here with counsel to continue the progress of this trial.

The Court: Mr. Paisley, may I address myself to you? You have participated in some rather outstanding trials, including the United States v. May, the Congressman, the Garson trial; I do not know whether you had any participation in the more recent trial in New York before Judge Medina, but I feel that you are a pretty temperate fellow. I have seen you in court here. We are dealing with a brother lawyer. In effect, we are all lawyers. How do you feel toward the situation?

Mr. Paisley: Your Honor, I have never seen any such performance as this in my life. Your Honor has indicated that you have never seen any such contemptuous conduct in a courtroom. [854] I dare say that no appellate court will ever receive such a record as this. Mr. Hallinan—I will not refer to him as counsel—I will not prostitute the word by using it in relation to this matter, He has desecrated this temple of justice.

Mr. Hallinan: What a shabby fraud, your Honor, to be called upon to make a statement in the court in the respectful attitude you adopted toward him and the way you questioned him and then have counsel to make a statement like that about a man who is helpless to do anything about it.

The Court: Mr. Hallinan, you are remanded to custody, sir.

Mr. Paisley: Your Honor, this is the temple of justice. He is trying to make this a bawdy house.

Mr. Hallinan: Your Honor, may I remain? Am I to be excluded from the courtroom during this discussion?

The Court: There will be no discussion during your absence. Mr. Paisley, thank you very much.

Mr. Hallinan: May I find out what the consequence of this is?

The Court: Yes. Mr. Bridges, may I ask you to step forward, please? You can come up here and sit down a minute.

(Defendant Bridges sat in the witness chair.)

The Court: Mr. Hallinan, can you hear my discussion with Mr. Bridges?

Mr. Hallinan: I will if the bailiff will unhand me for a minute. [855]

The Court: They are very, very gentle people, Mr. Hallinan. You will become accustomed to them after a while. Mr. Bridges, you have been in court during this whole unfortunate matter.

Mr. Bridges: I have, your Honor.

The Court: I intend to recess this case until December the 5th, which is a full two weeks hence. Is that correct, Mr. Mitchell?

The Clerk: December 5th, if your Honor please, is a Monday. A week from next Monday.

The Court: Let us put it down for later in the week.

The Clerk: Two weeks would be the 6th.

The Court: The 6th. I am going to continue this matter by stating to the jury that the matter stands over regularly until December 6th. I request you, Mr. Bridges, to obtain counsel of your own choosing. I say to you that many of the men from Mr. Gladstein's office have been before me on the motion to dismiss—Mr. Norman Leonard, an extremely able man; Mr.——

Mr. Donohue: Herbert Reaser, your Honor.

The Court: Herbert Resner has tried I do not know how many cases before me. I have never had one word with Herbert Resner of an unfortunate consequence. I tried some matters in Honolulu. Miss Harriet Busilog appeared before me for a period of—I do not know—several weeks. I had no differences in that case. [856]

With Judge Biggs and others, we handed down a decision, I think, in that matter. Now, what I am coming to is that you have a selection of counsel. It is not as if you were stranded without someone to aid and assist you. I feel that in good conscience, you can obtain someone in the course of two weeks to aid and assist you, to collaborate with Mr. MacInnis. And that shall be my order. Now, do you have anything to say, sir?

The Defendant Bridges: I might have, your Honor, but what good would it do? What use would it be? I have selected counsel that I want, but he is not available any more. What I would like to have would be to have the trial wait until he is available, and that is quite a long time, it seems here. I don't think that by December 5, or for some time after December ~~5, I will be able to~~ get a counsel that I have as much confidence in as I have in Mr. Hallinan. I spent a lot of time with him lately, going over this case, and over a period of years—not with Mr. MacInnis, whom of course we have a lot of confidence in, too. I presume, if the Court orders it, we have to do the best we can. But if things go wrong, I will never, never think that it was a square deal. If you want me to speak frankly, that is what I am doing.

Mr. MacInnis: May I say something, your Honor?

The Court: Yes, sir.

Mr. MacInnis: Now again, not that I think it would do any [857] good, not that I think that anything is going to be changed by what I say now, but at the conclusion of this proceeding, which it is not our province to argue now, your Honor turned to the bench where these gentlemen (indicating), who have come from Washington or some other jurisdiction to enlighten us with their prowess as prosecutors, and asked them for guidance in your decision respecting Mr. Hallinan. You thus reposed faith in the judgment of two men, one of whom but yesterday had risen before you and asked you to hold another lawyer in contempt of this court, and in another man who but five minutes before had stood up and had referred to his adversary in this case as a "mad dog." Now, I don't know to what extent I am going to participate in this case from now on. But in my participation, any participation that I have in it, I will be mindful of the things that you said today and I will be mindful of the things that these men have said in court. No one would be able to forget those things, because I don't come into this court and start any trial as though I were living in a vacuum. I bring into every trial the experience that I have had in other cases. And I have tried a good many cases—I have tried at least as many as you. And I have been in cases where I have been opposed by friends, I have been in cases where I have been opposed by enemies. I have been in cases where one side or the other had quarrels with the judge over the admission or the [858] exclusion of evidence. And I have never seen anything like this morning. Maybe this is not the forum for free exchange of ideas, but I think it is. When you were talking this morning, based upon something that you had prepared, based on what I think you said was arrived at out of the complacent environment of your chambers——

The Court: Rather than the torrid atmosphere of the courtroom. I meant by that the cloistered atmosphere.

Mr. MacInnis: Whatever you meant. When you were saying those things, I turned to Harry Bridges, who was sitting next to me, and said, "This isn't really happening; you are just dreaming. Forget about it." I have never seen anything like it. And with respect to the United States District Court and to yourself as the judge, I want to say this: This is what I think has happened. In many criminal cases where notoriety attaches, where there is a great public interest, where there is prejudice one way or the other, or a lot of people have an interest either in a conviction or in an acquittal, the judge comes to the bench fraught with all of the cares of the case. Of course, the judge comes to the bench always with the thought that he is going to do a good job and do justice for both sides. But here is what I think happened in this case: In the ordinary criminal case, particularly where there is something inflammatory involved in it, you find the defendants usually striving to keep something [859] out of evidence, fighting to keep the Government's case from coming in. In this case you had something much more remarkable; you had the converse of that. You have the United States Government, zealously striving to keep out of this case the opinion of the highest authority in our land. More remarkable still, these men represent the United States Government. The opinion that they tried to keep out, that they still try to keep out, was an opinion in a matter between the United States on one hand and Harry Bridges on the other. These men zealously tried to keep those matters out and in some way your Honor, believing that they were correct, became filled with a notion that any attempt to get that kind of evidence before the jury constituted misconduct.

The Court: Counsel——

Mr. MacInnis: Your Honor had that notion.

The Court: You might have your own view in that regard. I stand on the record as read into our record this morning. That is your view and you are entitled to it.

Mr. MacInnis: Might I finish this? I am not going to dwell too long upon what has been done.

The Court: Certainly.

Mr. MacInnis: Mr. Hallinan made an opening statement, and I am not going to argue with you now as to whether he should or shouldn't have said certain things. He said, both to the Court and to the jury, in unfolding the theory of his defense, that [860] he would show the Court and the jury that there was a great conspiracy of at least 125 persons to destroy Harry Bridges. We had a hearing outside the ears of the jury, and your Honor discussed the matters back and forth. As your Honor said, to say the least—Mr. Hallinan had said before to you, "You may think it fantastic,"—and you seized upon that word. You said, to say the least, "That is fantastic."

Now, as I said a moment ago, I don't come to the start of any case living in a vacuum, and I don't expect that the Judge does either. Particularly yourself. I think that you, who passed judgment upon all the preliminary motions of this case, know much better than I the contents of the decision of Bridges v. Wixon, the opinion of Mr. Justice Douglas of our Supreme Court, the concurring opinion of the late Mr. Justice Murphy. But unless a man puts his mind in a vacuum, he raises all of the background of experience on a particular matter, I do not see how a mind could pivot its attention only upon the contents of this indictment and say this to himself, "Now, I can see that the Supreme Court found exactly what Hallinan said he was going to prove, a monster conspiracy engaged in by agents of the Government, along with men engaged in private industry." In the words of Mr. Justice Murphy, "Fifteen years of relentless effort to deport one man." City police departments, wire-tapping, all of the other ingredients of the [861] case.

And yet here we were told that the same conspiracy, in order to be continued within these halls—because this is a criminal case and not merely the administrative process before the immigration officials—we were told that that was fantastic.

Now, I think that by some process your Honor came to the conclusion that any attempts to bring that matter into this case, either by the superficial route which was adopted yesterday, out of the lips of Mr. Garner—and I certainly believe that it was the Government that introduced that matter into the case; Exhibit No. 2, admitted in evidence by your Honor, contains a recital by Harry Bridges of the previous matters; Exhibit No. 3 is the transcript by which his Honor Judge Foley said that all of the proceedings were before him at that time—although Mr. Garner denied that under oath. Well, that is my point of view. I think that your Honor just made up his mind that that was improper and hence thought that anything done to further that end was an intrusion upon the dignity of the Court. I just—I can't see that such a thing took place. We have been accused of adopting inflammatory tactics. I don't know whether you accused me along with Mr. Hallinan. You may well have. How about the inflammatory tactics of charging Mr. Robertson and Mr. Schmidt with being members of the Communist Party, when they are not accused of that in the indictment at all? Yet we listened [862] silently when Mr. McMillan made that offer. Your Honor made a comment upon the merits of the case today, as well as yesterday. In commenting that it was ridiculous to think that Mr. Garner would tell a lie about the matter of whether or not he asked certain questions of Robertson and Schmidt. And I say, I am just amazed at what has taken place. I don't—and maybe I don't have the right perspective. Maybe I have to think it over for a couple of days. I have seen the same kind of remark, the same kind of colloquy, between court and counsel. You may draw the invidious conclusion that I haven't been before the right kind of court. I don't know. But I have been with some of our well-known prosecutors, some of our well-known judges. I have seen prosecutors in the same position as Mr. Hallinan now finds himself, so far as the asking of questions may be concerned.

Mr. McMillan arose to his feet and was sustained by you during Mr. Hallinan's opening statement, because he commented upon the arrests of Harry Lundeberg, and he pointed out to your Honor that that was obviously improper, because the only kind of arrest that could come into evidence would be a conviction of a felony under our rules. Your Honor nodded that that was so. Yet in the first exhibit introduced by the Government in this case, there is a whole history of the minor arrests of Harry Bridges. And Harry Bridges isn't merely a witness in this case; he is the defendant, who is presumed to [863] be innocent and who is guarded by the doctrine of doubt.

The Court: That was part of the application, was it?

Mr. MacInnis: Yes.

The Court: Well, that is a pro forma matter.

Mr. MacInnis: Yes. And every other matter to which reference has been made would have come into evidence through legitimate channels, even though it would appear at first glance that those things might not find their way into the record.

Now, as I say, to say that I am astonished is a weak word. I listened—And I would like to ask you to read over the record again and judge your own conduct in this case. Now, here is what you did. Now, I am not an impartial observer, of course; I am very much biased in favor of the defendants, whom we represent. I am biased in favor of my partner. You came out this morning and prepared to read part of the record in certification of a ruling which you had made up your mind to endorse. Whenever you came to a part where there was a colloquy on behalf of Mr. Paisley, whose brilliance you have extolled here, or Mr. Donohue, you spoke of them as being mild, temperate men.

Mr. McMillan: May it please your Honor, I am obliged to object. I can see no place in him standing here and reproving the Court.

Mr. MacInnis: I am not reproving the [864] Court.

Mr. McMillan: Now, the situation is this: The Court has made its order, counsel has been remanded to the custody of the marshal. The statement that counsel is making now, if they are motions to modify the judgment, why, I suppose he could properly review all these matters. But to stand here now and undertake to dissect what the Court said, and to reprove the Court, it is out of place.

Mr. MacInnis: I don't have that intention, and I will come to a conclusion in a moment.

When your Honor referred to himself—and I assume your Honor did devote some time to this matter——

The Court: Until three o'clock this morning, sir.

Mr. MacInnis: You spoke of your own efforts as being painstaking, assiduous, careful. But when you spoke of Mr. Hallinan, you said, "Unbridled, Mr. Hallinan was at it again." You said that he "lugged" certain evidence into the case. He "lugged" the Supreme Court opinion.

The Court: I used that expression? I may have used it.

Mr. MacInnis: I read it. You did.

The Court: "Lugged" has a connotation, too—lug, hauling.

Mr. MacInnis: Yes. You said that he stabbed the witness in the back. Well, now, it would be idle to repeat those comments. But now we have come to our decision, which I think we all conceive and concede is without parallel. I have never [865] read of such a decision; possibly your Honor has. To say the least, it is invoking the extreme of the Court's powers against a man who has been hired to represent a defendant. Now, it shouldn't matter whether the defendant be well-known or little-known—

Mr. McMillan: If your Honor please; I will have to object. The Court has made its decision and your Honor has read the Supreme Court decisions, and all our decisions. Now, if your Honor has made an erroneous judgment——

The Court: Mr. MacInnis is an officer of this court, I look upon him as such. I will hear him out, on the condition that he not be too long.

Mr. MacInnis: We have a jury empaneled in this case. The present disposition of the Court, guided by these men in whom the Court apparently reposes faith, is to put this case over on the calendar and to order the defendant in effect to obtain new counsel. The new counsel, to say the least, will not be counsel of his first choice. That is obvious. What will the jury think? Suppose they all zealously try to follow your Honor's order not to read the papers. That is possible, but it isn't possible that word of these proceedings will not leak to the ears of the jury. It would be impossible to describe the prejudice that would result to the chief defendant, Mr. Harry Bridges, and to the other two men, Mr. Robertson and Mr. Schmidt, who are indicted with him in [866] this case, that a new man, a new personality, must now come into the case and attempt to carry on—and who must perforce be expected to make a prodigious effort in memory within a matter of days or weeks. I think that regardless of whether you are right or wrong upon the matter of contempt, that you would do the right thing, you would feel better with yourself, if——

The Court: Counsel, you have done just what perhaps I would do or any lawyer would in like circumstances—you talked for your colleague, your office associate. It is fair, it is a decent thing, it is a lawyerlike thing to do. I have in juxtaposition the rights of this man to my right, Mr. Bridges, in obtaining counsel. I realize the enormity of this case. No one realizes any better than I do, Mr. MacInnis. I worked with those exhibits on the motions to dismiss. I have had all them before me, all these matters. I do not know that if we continue on in the present vein that Mr. Hallinan might again launch into these matters under which he has been brought under my condemnation, my order—whether, as you say, it be right or wrong, still brought under. The trial of the case cannot be made a shambles, as Mr.—~~counsel~~ for the Government, Mr. McMillan, pointed out. The case of the United States v. Harry Bridges is one matter, the question of maintenance of order in the court, and dignity and its preservation, another matter. They have [867] to be weighed in juxtaposition. I suppose I am rather peculiar sort of a fellow. I can't harbor malice. I can't harbor the subject matter that Mr. Hallinan poured into this court today. All his statements, all those things, are untrue. He knew it. If Mr. Gladstein were available, I assume there would be no problem. He has represented this man in other matters, two in number.

I should like to have about ten or fifteen minutes to consider this matter. In the meantime let us have the jury remain where they are. We will resume at a quarter to four, and I should like to consider this alone, in the light of everything that has been said.

Will you hold the jury, Mr. Mitchell, as they are.

Mr. McMillan: May it please your Honor, there is one matter I lost sight of. There is a very distinguished lawyer associated in this case. For about fifteen years he was Deputy Attorney General. Mr. William Cleary. He just left a few moments ago.

Mr. Hallinan: He is an ill man and cannot try a case.

Mr. McMillan: What?

Mr. Hallinan: He is an ill man and cannot try a case.

Mr. McMillan: Well, he is a very able man.

Mr. MacInnis: I don't think that the advice of Mr. McMillan can aid Mr. Bridges in choosing counsel.

The Court: I haven't heard of Mr. Cleary being very [868] active in recent years. He represented the Attorney General. I have argued criminal matters against him in the District Court of Appeals. He represented the Attorney General for many years.

We will take until a quarter to four.

(Recess.) [868-A]

The Court: Mr. Hallinan, may I ask you to rise so I can address these remarks to you? We have given consideration to the matter—I say "we" colloquially—the Court has given consideration to the request of your colleague ~~Mr.~~ MacInnis, your office associate, as well as your client, Mr. Harry Bridges. You remain in this case for the furtherance of the trial and in the representation of Mr. Bridges as his counsel. Mr. Bridges made a forthright request. Out of regard for the fact that in a criminal case, the defendant is entitled to a lawyer of his own choosing, it might be a circumstance that would interfere with the orderly administration of justice to require him to obtain counsel in the course of two weeks. The Court therefore is inclined to and will grant a stay of execution in the matter of your contempt and the judgment and sentence meted out to you until you have completed all of the trial responsibilities in this case, that is to say, to and excluding ~~the~~ ultimate verdict of the jury, be it guilt or innocence of the deefndant, but I would say until the trial stages have been completed, and accordingly that stay is granted. In granting the stay to you and to your client, Mr. Bridges, I need not repeat to you that the Court will demand obedience to the orders of the Court and to my rulings. I have never in my career taken a position that a lawyer could not preserve his record. I believe in a lawyer preserving his record. You may make your offers of proof out of the presence of the jury.. When I [869] spoke of your unbridled conduct, I meant just what I said, attempting to introduce matter foreign to the issue. I shall not retrace my steps. You know precisely what I have in mind. I have been talking since ten o'clock this morning. I am sure I am weary; I am sure that counsel is weary. This case is important to the United States Government. I have a responsibility as an officer of this court to the United States Government. I have a responsibility in continuing the trial of this case. Accordingly, I ask counsel on both sides, that is, Mr. MacInnis, Mr. Hallinan, the government counsel, to compose, in the spirit of a fair trial, all differences that have heretofore existed. Let us put aside this rancor, whatever ill will may have been generated in the last 24 hours. Let us try this case like gentlemen. Let us try it like lawyers. Let us try it like Americans. That is all.

Mr. Hallinan: I consider your action, so far as the defendant is concerned, magnanimous. I do not criticize you, Judge, though I feel I may do so justly. Whatever I expressed was sincere and well felt, and I am grateful for the concession that you make, not for my own account, but because I think it interferes with my client's safety. I am glad to see your Honor has done that.

As I told you before from the start, I conceded that you were entirely fair in the matter, so far as you saw the thing, but the only question was, something like Mr. MacInnis said, [870] that you had set out with the idea that we were trying to intrude matters into the record that should not have been put in, and I think you were a little inflexible in it, that you refused to yield.

The Court: Counsel, I carry no feeling in a case. I can't carry a feeling. If I did that, I would get off this bench. I would retire from this bench.

Mr. Hallinan: I am glad to hear that.

The Court: I cannot try a man when his freedom is involved having a feeling of rancor or ill will toward him. I can't do that.

(The Clerk spoke to the Court.)

The Court: Automatically, by granting the stay of execution of judgment and sentence, Mr. Hallinan is restored to all rights of this court as practitioner, counselor and solicitor. How else could he practice before the Court if I did not set aside that part of the order?

Now we have the jury to consider. They have been out practically all day. I realize there is always a very slender thread by which the matter of possible prejudice might attach. I have been trying to carefully safeguard the rights of the defendants in that respect by admonition, and even if I say, Mr. MacInnis, with respect to the admonition—with some pardonable pride I repeat myself—we do try to admonish them consistently and persistently. Now, I will admonish them not to read [871] the papers, not to listen to the radio, and I assume they will obey my command. With respect to those matters bearing upon any adjudication of contempt of Mr. Bridges' lawyer, counsel on both sides necessarily shall refrain from any comment thereon, either expressly or impliedly, during the course of this trial, so that no prejudice will result.

Mr. MacInnis, I say to you on behalf of your colleague, Mr. Hallinan, you have shown a fine lawyer-like attitude, an admirable quality. Long before we were on this bench and long before you appeared today, they had lawyers and they had judges.

Mr. MacInnis: What I wanted to suggest at this time, for the benefit of the jury only, would be this: and I think it would be fair to both sides in the case: If your Honor instructs the jury that quarrels between counsel upon what the law is or should be or argues with the Court upon what evidence is admissible or ought to be excluded, are not matters for them to speculate upon and they are not to speculate upon whether one lawyer or another was right or whether the Court was right or the Court was wrong. I think if you would give that kind of instruction you can do much to eliminate what you call the slender thread by which prejudice may hang.

The Court: There is a slender thread sometimes.

Mr. MacInnis: Yes.

The Court: All right, Mr. Mitchell, call the jurors.

> (Thereupon the jurors, at 4:00 p.m., returned to the [872] courtroom.)

The Court: It is stipulated the jurors are present?

Mr. Donohue: Yes, your Honor.

The Court: Ladies and gentlemen of the jury, the Court again must offer you a note of apology. We have kept you all day, perhaps unwittingly on our part, because the time has gone by quite rapidly. I say to you the day has been engaged in the refinement of many legal matters, differences existing between counsel, matters of refinement between the Court and counsel, and under the circumstances I desire to admonish you that in the course of a trial many matters occur between Court and counsel. There are colloquies, discussions, matters of viewpoint, sometimes very definite, fixed viewpoints, and that whatever they may be, and however they may exist, to what degree that may be pronounced or affirmed by the Court or by counsel is in no manner or degree to interfere with your ultimate judgment on the facts of the case. As I have indicated to you at the start when you were impaneled, I reindicate to you again, you are the sole and exclusive arbiters of the facts. That is your sole and sacred responsibility in the trial of a case. No matter what the Court may say to you, by direction or indirection, no matter how you may think and feel about a case is no criterion of your conduct. I say to you at the threshold, and I will repeat to you when I finally charge you, I have no feeling one way or the other about the defense or the guilt or innocence of the [873] defendants on trial. That is exclusively your province. During the course of the trial I need not again repeat my admonition in that respect. I will hereafter charge you very briefly and very explicitly. Counsel may on both sides argue that matter to you. But in the light of these lengthy arguments today, may I particularly at this time charge you to remove any such effects from your mind if they do exist. The day has been spent. Tomorrow morning brings a new day. We will resume the taking of testimony of the gentleman who only recently left the stand for further direct examination by Mr. Donohue.

In the interim, I admonish you not to discuss this case with any person or persons, not to suffer any person to converse with you on any subject of the trial, not to form nor express an opinion on it until it is finally submitted to you for decision. You may now retire until 10:00 o'clock tomorrow morning.

(Thereupon the jury retired from the courtroom.)

The Court: This Court will stand adjourned until tomorrow morning at 10:00 o'clock.

(Thereupon an adjournment was taken to tomorrow, Wednesday, November 23, 1949, at 10:00 o'clock a.m.) [874]

November 23, 1949, 10:00 A.M.

The Clerk: The case of United States of America v. Harry Renton Bridges, Henry Schmidt, and J. R. Robertson, on trial.

Mr. Donohue: If it please your Honor, with respect to the witness Garner, who is here under your Honor's direction to remain until excused, I wonder if he might be permitted to return to his duties in Los Angeles? We can have him back here in a matter of hours if counsel wishes.

The Court: Is there any objection, counsel?

Mr. Hallinan: I think not.

The Court: So ordered, subject to call upon notice.

Mr. Donohue: Yes, your Honor.

JOHN H. SCHOMAKER

resumed; previously sworn.

The Clerk: The witness on the stand is John H. Schomaker, heretofore sworn.

Direct Examination

By Mr. Donohue:

Q. Mr. Schomaker, you testified on Monday that during the period of your membership in the Communist Party you have served as a unit director, as agitation and propaganda director, and as a

(Testimony of John H. Schomaker.)
member of the District Committee. I ask you now whether or not during the period of your [875] membership you served in any other capacity.

Mr. Hallinan: Just a minute. I object to that as incompetent, irrelevant and immaterial and also res inter alias acta. I might suggest this, your Honor, in order to save time, constant interruptions, and in order to preserve the record, as we must do: If the Court will accept the agreement that any question asked of the witness as to activities outside of the presence or outside of the knowledge of the defendants is res inter alias acta, that is, matters done between other persons, hearsay and not binding on the defendants—is that agreeable, counsel, that that should be done?

Mr. Donohue: Of course.

Mr. Hallinan: And then I won't have to make that same objection on each occasion, although other objections may be necessary.

The Court: So ordered.

Mr. Donohue: You may answer the question, Mr. Schomaker.

A. Why, yes, I served as a section organizer.

Q. Would you distinguish for his Honor and the members of the jury between a unit and a section in the Communist Party?

A. Well, a unit is the basic organization, that is, all members are assigned to a unit, whereas the section—and the unit organizers are responsible to the section organizers for carrying out their work, and of course the section organizer is responsible in turn for all the unit organizers in [876] his section and responsible to the District Commitee for his section.

Q. Would you be able to tell us how many units were under your jurisdiction as section organizer?

A. Well, on the waterfront there was two.

Q. Do I understand from your answer that your section was the waterfront section of the Communist Party? A. It was.

Q. Can you tell us how many members constituted the District Committee of the Communist Party? A. I couldn't tell you, no.

Q. Could you tell us whether it was a large number or a small number?

A. Quite a large number. I would say it was over twelve.

Q. During the period of your membership in the Communist Party did you pay dues?

A. That is one of the stipulations of the Communist Party. You must pay weekly dues, when I was a member.

Q. Will you tell us the manner in which dues were paid by you?

A. Well, not only by me—that is, the way it was paid by me, you have to attend to the stipulation to be a member of the Communist Party. You must be an active member and you must attend weekly meetings, and at those weekly meetings you must pay your weekly dues. [877]

Q. And how are the dues paid? What is the physical manner in which the dues are paid?

(Testimony of John H. Schomaker.)

A. Well, you plunk down your dough and you get a stamp in return.

Q. And will you tell us what this stamp is and what you do with the stamp?

A. Well, the dues is paid on a graduated basis. If you are unemployed, for instance, you paid two cents per week. And of course it graduated up. If you made $15 or $20—and the maximum dues to be paid would be a dollar. However, if you made—I think when I was a member the maximum wage to be earned was, I think, $40. And over that, why, then, you paid for each additional $5.00, I think. You paid a certain amount. But generally it was $1.00 for those who were working.

Q. And to whom did you pay your dues?

A. To the unit dues secretary.

Q. And you received in return what kind of a stamp?

A. In turn, received a little—well, an ordinary stamp that you would—well, the way it worked, generally worked, when you went to the unit, the dues secretary sat alone, and you went in and put down your book. The dues secretary would examine it and say, "You owe for a week's dues." You would give him the money and he would, or she—whoever it would be—would stamp the book, initial the stamp and give it back to you. Now, of course, some people carried their own books and some people left their books [878] with the secretary.

Q. Did you carry your own book?

A. Well, I carried my own, yes.

(Testimony of John H. Schomaker.)

Q. Now, during the period of your membership in the Communist Party, was your membership book issued to you in the name of John Henry Schomaker? A. No, it wasn't.

Q. In what name was the book issued?

A. My book was issued in the name of John Delaney.

Q. And is that the name that you gave to the Communist Party for the purpose of having your book issued in that name?

A. Oh, sure, certainly.

Q. Mr. Schomaker, can you tell us where it was that you first met the defendant Harry Bridges?

A. Where I first met Bridges?

Q. Yes, sir.

A. Well, it was at his home. He lived on Harrison Street.

Q. Here in San Francisco?

A. In San Francisco, yes.

Q. And what is your best recollection of the year in which you first met the defendant Bridges?

A. It was 1933.

Q. And over how long a period of time did you know Mr. Bridges?

A. Well, I have known him since.

Q. How often have you seen Mr. Bridges during the period of [879] time from when you first met him until today, in your best recollection?

A. I didn't get that.

Q. What is your best recollection of how often

(Testimony of John H. Schomaker.)

you saw Mr. Bridges over the period of years from when you first met him until today?

A. Well, that varied. The early days I saw him every day. And later, of course, when he had different positions, why, I didn't see him quite so often. And since 1945 I have seen him very—not very frequently.

Q. Was there ever a time at which you lived close to where Mr. Bridges also lived?

A. We were neighbors on Pine Street, San Francisco.

Q. And when you say neighbors, were you living next door to each other?

A. No, there was an apartment between, I think—that is, an apartment or a flat in between the——

Q. When, as you now recall it, was it that you and Mr. Bridges were neighbors living on Pine Street? A. Well, it must have been in 1935.

Q. And over how long a period?

A. Well, it was from—the summer in 1935 until 1937.

Q. About how long a period of time did that situation continue?

A. Well, I would say it would be more or less two years.

Q. Now, going back to 1933 when you first saw Mr. Bridges at his [880] home, did you go to Mr. Bridges' home alone or were you accompanied by any other person?

A. I went out there with another guy.

(Testimony of John H. Schomaker.)

Q. Do you recall who that person was?

A. Yes, he was a fellow longshoreman, Herman Mann.

Q. I asked you whether or not at the time you went to Mr. Bridges' home with Herman Mann, that Herman Mann was also a member of the Communist Party.

Mr. Hallinan: Just a moment. Object to that as calling for opinion and conclusions from the witness, if the Court please, and an ultimate fact.

The Court: Overruled.

A. Yes, Herman—may I answer the question?

Q. Yes, his Honor said so.

A. Well, Herman Mann at that time, he was the unit organizer of the Communist Party.

Mr. Hallinan: I ask the answer be stricken out, if the Court please, as stating an opinion and conclusion of the witness.

The Court: The motion is denied.

Q. (By Mr. Donohue): And at that time did you occupy any position in the Communist Party?

A. No, other than being a member.

Q. And will you state to his Honor and the ladies and gentlemen of the jury, as you now recall it, the conversation that was [881] had at Mr. Bridges' home when you and Herman Mann were there present, whether it was something that you said or Mr. Mann said or Mr. Bridges said?

Mr. Hallinan: Just a moment. Now, if the Court please, we have an important objection that goes to the disposition or the possible disposition of the

(Testimony of John H. Schomaker.)

entire case. Now preliminary to that, I want to make a motion to strike out the statement of this witness, as stating a conclusion and not facts from which a conclusion could be drawn, because, your Honor, while a man may be able to identify another person, say, as a negro or a white man, or a person of a certain height or even, if he were experienced in it, a person of a certain nationality, to just come out flatly and say the man was a Communist is certainly invading the province of the jury 100 per cent. Why, then any person can be so designated; all that you have to have is a witness take the stand, characterize some man as a Communist, and then state what that person said, what his relations to the defense was. Why, it seems to me, your Honor, that that is reaching into conclusions about as far as can be gone. What is there to distinguish a Communist from any other person? For all that anyone knows, any person might or might not be a member of any political party or any religious creed or anything of that kind. And I submit that the answer given by the witness should be stricken out; that he hasn't any right to point out some particular person and say he was a member of the Communist [882] Party. There is no foundation laid.

The Court: Mr. Donohue?

Mr. Donohue: Of course, if your Honor pleases——

The Court: Would you establish for the record the length of time this gentleman knew Mr. Mann?

Mr. Donohue: Surely.

(Testimony of John H. Schomaker.)

The Court: The nature of the relationship?

Mr. Donohue: Of course, sir.

The Court: The depth, the extent and all the ramifications. Then ask the question.

Mr. Donohue: Yes, sir, glad to.

The Court: Opportunities for knowledge.

Mr. Hallinan: Meanwhile, is the answer stricken out in advance of that?

The Court: Yes, the motion is granted to strike at this time.

Q. (By Mr. Donohue): Mr. Schomaker, when did you first meet Herman Mann?

A. You mean the time?

Q. Yes, sir, your best recollection.

A. Well, it was some time in, I suppose, the summer of 1933.

Q. And under what circumstances did you first meet him?

A. Well, I met Herman at the Communist Party headquarters at 37 Grove Street.

Q. And where was the Communist Party headquarters situated? [883] A. 37 Grove Street.

Mr. Hallinan: We make the same objection as to all this line, as to res inter alios actae, if the Court please, and calling for the opinion and conclusion of the witness, without the necessity of interposing the objection to each question.

The Court: That objection stands as a running objection to the questions, Mr. Hallinan.

Mr. Hallinan: Thank you.

(Testimony of John H. Schomaker.)

Q. (By Mr. Donohue): Would you answer the question?

A. You asked where was the Communist Party headquarters?

Q. Yes. A. 37 Grove Street. [884]

Q. How frequently would you see Mr. Mann at the Communist Party headquarters at 37 Grove Street?

A. Well, it varied, I suppose. I would say quite frequently.

Q. And you stated, I believe, that Herman Mann was the unit organizer for the Communist Party?

A. He was.

Q. Did you ever pay any dues to Herman Mann as unit organizer?

A. Well, no, I never did pay dues to Herman Mann, no.

Q. He was the unit organizer of your unit, was he not?

A. No, you didn't pay dues to the unit organizer; you paid to the unit dues secretary.

Q. Did you ever attend any meetings of the Communist Party at the Communist Party headquarters at which Mr. Herman Mann was also present? A. I have, yes.

Q. And you knew him as a member of the Communist Party? A. Definitely so.

Q. Did you ever discuss with Mr. Herman Mann matters of policy within the Communist Party or Communist Party policy?

Mr. Hallinan: Just a minute. In addition to that, this is calling for hearsay, if the Court please.

The Court: Overruled.

A. I have discussed matters of policy with Herman Mann.

Q. (By Mr. Donohue): And this was prior to the time that you went with Herman Mann to see Mr. Bridges? [885] A. It was.

Mr. Donohue: I submit, if your Honor please, the witness is qualified.

The Court: You may ask the question.

Mr. Hallinan: I object, your Honor, on the ground that no proper foundation has been laid. It is calling for an opinion and conclusion.

The Court: The objection is overruled.

Q. (By Mr. Donohue): Under the ruling of his Honor will you tell his Honor and the members of the jury your recollection of the conversation had at the time when you and Herman Mann were present with Mr. Bridges at Mr. Bridges' home?

The Court: Have you specified the date?

Q. (By Mr. Donohue): Did you state the date earlier?

A. It was in—it was in the latter part of October, 1933.

Mr. Hallinan: Now, your Honor, I want to make the objection which I said goes to a disposition of the case, or a disposition of a large part of any possible proof that this witness might introduce hereafter. While your Honor has ruled on certain matters as to their legal significance, in the matter of the decision itself, there is another matter that

(Testimony of John H. Schomaker.)

is involved in the same thing. While a decision may not constitute once in jeopardy or a final judgment, still matters that have been decided in it are res adjudicata. Now, res adjudicata is not a question addressed to the Court alone. Res [886] adjudicata, as you will bear me out, is a mixed question of law and fact addressed to the jury, and while it has been held error, and reversible error, for the Court not to permit the offer of res adjudicata to be made in the presence of the jury, still in deference to other discussions that have taken place, I suggest that we be permitted now to make the objection and make a tender of proof on the judgment that I have discussed here, that is, the Supreme Court decision of 1945, to limit any testimony relating to any possible membership in the Communist Party of Mr. Bridges from June, 1945, to the time that the naturalization proceedings took place, which would be in August. I would like to make that in a formal manner, and I would like to be heard to argue on it. Mr. Cleary has prepared an argument on it. It will take some little time to present, and if your Honor would permit us to do that—if you wish, we will make the offer in the presence of the jury. If you would prefer, let the jury stand by or be excused until two o'clock.

The Court: Are there any other matters that we may take up so we may pursue the matter of taking testimony?

Mr. Donohue: I am afraid this is an issue which should be met at this time, if your Honor please.

It is very difficult to examine the witness further unless we do it chronologically.

The Court: Do you anticipate you will have completed it [887] by noon?

Mr. Hallinan: I think so, but probably not much before.

The Court: With that suggestion, then, ladies and gentlemen of the jury, you are excused until two o'clock this afternoon. Again I admonish you not to discuss the case under any conditions nor to form or express any opinion thereon until it is finally submitted to you. This matter will be recessed, so far as the jury is concerned, until two o'clock, so the Court may hear these legal arguments. As I announced to you, from time to time matters of this kind come up, particularly in a trial of this nature. Mr. Schomaker, you may step down.

Two o'clock this afternoon, ladies and gentlemen.

(Thereupon the jury was excused and retired from the courtroom.)

The Court: You gentlemen are prepared to argue this matter?

Mr. Donohue: Of course, we do not know what the matter is, but I think we will be prepared to argue it.

The Court: Is Mr. Cleary taking up this phase of the case?

Mr. Hallinan: Yes, if your Honor please.

The Court: Mr. Cleary?

Mr. Cleary: May it please the Court, prior to the commencement of this trial certain pleas in bar were made and [888] ruled upon by your Honor. One of the pleas in bar was that the matter was res adjudicata. The doctrine of res adjudicata has two uses. It may be urged as a plea in bar——

Mr. Hallinan: Pardon me. It is difficult to hear. May we ask that the microphone be used?

The Court: I was going to make the suggestion, Mr. Cleary, that you use the amplifier.

Mr. Cleary: The doctrine of res adjudicata has two uses. It may be urged as a plea at bar and it also may be urged as a rule of evidence. At this time we are urging it as a rule of evidence. In the motion to dismiss the indictment made in this case the question of res adjudicata was raised. In response thereto counsel for the Government stated in their written argument that it was "another attempt to invoke a rule of the civil law in a criminal proceeding."

Immediately following that statement Government counsel said, "It is the result of assuming a false premise, to wit, that the issues heretofore repudiated are the same as those involved in the present criminal proceeding, the points 2 and 3 above, wherein the allegations of double jeopardy and former acquittal were discussed; we have exposed the assumptions indulged herein. In the light of the discussion of those two points, no further discussion is deemed necessary here."

And I may say in discussing the discussions under points 2 and 3 there was barely any mention of the doctrine of res adjudicata. The argument was confined to double jeopardy and [889] former acquittal. In your Honor's memorandum opinion, ruling upon the pleas in bar, your Honor, beginning on page 8, in the heading wrote, "Double Jeopardy, Former Acquittal, and Res Adjudicata." That is the only mention of res adjudicata in your Honor's discussion of the matter. The fact is in the first sentence your Honor said, "The defendant Bridges invokes the doctrine of double jeopardy, former acquittal, et cetera." The "et cetera" is the only other reference to res adjudicata.

Government counsel's statement that the raising of the question of res adjudicata in this case is an attempt to invoke a rule of civil law in a criminal proceeding implies that the doctrine of res adjudicata is without application in criminal proceedings. Nothing could be further from the truth. As a matter of historical fact, the doctrine of res adjudicata first came into the common law of England in a criminal case and from there spread to the other branches of the common law of England.

Moreover, that doctrine was well and long established when the Constitution of the United States was drafted and ratified.' As a result, it became or was a part of the due process of law which came into the fundamental law of our land with the ratification of the Fifth Amendment. But we need not rest this point on such a general premise. We have direct and abundant authority to the effect that the doctrine [890] of res adjudicata has application in criminal proceedings.

In the case of Frank v. Mangum, 237 U. S. 309, the court on pages 33 and 334 said:

> "It is a fundamental principle of jurisprudence arising from the very nature of courts of justice and the objects for which they are established, that a question of fact or of law distinctly put in issue and directly determined by a court of competent jurisdiction cannot afterwards be disputed between the same parties."

Citing Southern Pacific Railroad v. United States. The court continued:

> "The principle is as applicable to the decisions of criminal courts as to those of civil jurisdiction. As to its application, in habeas corpus cases, with respect to decisions by such courts of the facts pertaining to the jurisdiction over the prisoner, see Ex Parte Terry and Ex Parte Columbia Gorge."

I am leaving out the citation of volume and page.

In the case of United States v. Oppenheimer, 242 U. S. 85, the defendant was indicted. He pleaded the one-year statute of limitations, which he contended was applicable to the offense. The trial court, deciding it was applicable, quashed the indictment. Subsequently on the appeal of another case an appellate court of the United States decided that the three-year statute was applicable to such an [891] offense.

On the strength of that appellate court decision, Oppenheimer was reindicted. He made a motion to quash the indictment on the ground that the court's decision quashing the previous indictment was res adjudicata, barring further prosecution for the same offense. The trial court ruled with him on that contention, and the United States Supreme Court affirmed the trial court. The decision of the Supreme Court in that case is of interest not only because it shows that the doctrine of res adjudicata is applicable in criminal proceedings but also it reveals that the Attorney General of the United States and the Solicitor General of the United States in that case made the same mistake which government counsel have made in this one, namely, in assuming that the plea of double jeopardy displaces in criminal cases the doctrine of res judicata.

Commencing on page 87, the Supreme Court of the United States in that case said:

> "Upon the merits the proposition of the government is that the doctrine of res judicata does not exist for criminal cases except in the modified form of the Fifth Amendment that a person shall not be subject to the same offense to be twice put in jeopardy of life or limb; and the conclusion is drawn that a decision upon a plea in bar can not prevent a second trial when the defendant never has been in jeopardy in the sense of being before a jury upon the facts of the offense charged. It seems that the mere statement of [892] the position should be its own answer. It can not be that the safeguards of the person, so often and so rightly mentioned with solemn reverence, are less than those that protect from a liability in debt. It can not be that a judgment of acquittal on the ground of

the statute of limitations is less a protection against a second trial than a judgment upon the ground of innocence, or that such a judgment is any more effective when entered after a verdict than if entered by the government's consent before a jury is impaneled; or that it is conclusive if entered upon the general issue, (citing a case), but if upon a special plea of the statute, permits the defendant to be prosecuted again. We do not suppose that it would be doubted that a judgment upon a demurrer to the merits would be a bar to a second indictment in the same words. (Citing cases.)

"Of course, the quashing of a bad indictment is no bar to a prosecution upon a good one, but a judgment for the defendant upon the ground that the prosecution is barred goes to his liability as matter of substantive law and one judgment that he is free as matter of substantive law is as good as another. A plea of the statute of limitations is a plea to the merits, (citing a case), (United States v. Barber,) and, however the issue was raised in the former case, after judgment upon it, it could not be reopened in a later prosecution. We may adopt in its application to [893] this case the statement of a judge of great experience in the criminal law:——"

and here the court quotes:

"'Where a criminal charge has been adjudicated upon by a court having jurisdiction to hear and determine it, that adjudication, whether

> it takes the form of an aquittal or conviction, is final as to the matters so adjudicated upon, and may be pleaded in bar to any subsequent prosecution for the same offense. . . . In this respect the criminal law is in unison with that which prevails in civil proceedings.' "

That is the end of the inner quotation, and the court cites Hawkins, Judge, in The Queen v. Miles, 24 Queens Bench Dec. 423, 431. And the court continues:

> "The finality of a previous adjudication as to the matters determined by it is the ground of decision in Commonwealth v. Evans, 101 Mass. 25, the criminal and the civil law agreeing, as Mr. Justice Hawkins says. Commonwealth v. Ellis, 160 Massachusetts 165. Britain v. Kinnard, 1 Brod. and B. 432. Seemingly the same view was taken in Frank v. Mangum . . . as it was also in Coffey v. United States. . ."

Now, the next sentences, the next paragraph of the decision, I want to stress:

> "The safeguard provided by the Constitution against the gravest abuses has tended to give the impression that [894] when it did apply in terms, there was no other principle that could. But the Fifth Amendment was not intended to do away with what in the civil law is a fundamental principle of justice (citing a case), in order, when a man once has been acquitted on the merits, to enable he government to prosecute him a second time."

Now, I want the Court to observe that in that case the Court regarded and treated and referred to the judgment quashing the indictment on the ground that the one year statute of limitations had been exceeded, was an acquittal on the merits. Those are the words of the Court. Even though an acquittal was based upon a mistake of law, and even though the defendant had never faced a jury to determine the question of his guilt or innocence. This discussion reveals that the fact that double jeopardy is mentioned in the Fifth Amendment does not prevent the doctrine of res judicata from being applied in criminal cases where the plea of double jeopardy is not strictly applicable; but that the doctrine of res judicata is.

The next case which we call to this Court's attention is Coffey v. United States, 116 U. S. 427. It was decided by the Supreme Court of the United States so long ago as 1886, and even then was founded upon more ancient authority and is still being cited and followed by the Supreme Court of the United States. It establishes the proposition that a decision in a criminal case can be res judicata in a civil case, and by logic [895] and necessary implication, that the reverse is also true, namely, that a judicial decision in the civil case or proceeding can be res judicata in a criminal case.

In the case of Coffey v. United States, there was involved an appeal from a judgment in rem, declaring a forfeiture. Such judgment was reversed. The Supreme Court, commencing upon page 442, said:

"The principal question is as to the effect of the indictment, trial, verdict and judgment of acquittal set up on the fourth paragraph of the answer. The information is founded on Sections 3257, 3450, and 3453; and there is no question, on the averments, in the answer, that the fraudulent acts and attempts and intents to defraud, alleged in the prior criminal information and covered by the verdict and judgment of acquittal, embraced all the acts, attempts and intents averred in the information in this suit. The question, therefore, is distinctly presented, whether such judgment of acquittal is a bar to this suit. We are of the opinion that it is.

"It is true that Section 3257, after denouncing the single act of a distiller defrauding or attempting to defraud the United States of the tax on the spirits distilled by him, declares the consequences of the commission of the act to be (1) that certain specific property shall be forfeited; and (2) that the offender shall be fined and [896] imprisoned. It is also true that the proceeding to enforce and forfeiture against the res named must be a proceeding in rem and a civil action, while that to enforce the fine and imprisonment must be a criminal proceeding, as was held by this court in The Palmyra, 12 Wheat. 1, 14. Yet, where an issue raised as to the existence of the act or fact denounced has been tried in a criminal proceeding instituted by the United States, and a judgment of acquittal has been rendered in favor of a particular person, that judgment is conclusive in favor of

> such person, on the subsequent trial of a suit in rem by the United States, where, as against him, the existence of the same act or fact is the matter in issue, as a cause for the forfeiture of the property prosecuted in such suit in rem."

Now, let me pause in my quotation from that decision to point out that a case in rem is not one against the person; but here the Court looked behind the form to the substance and found an identity of parties. Now, continuing to read from the decision:

> "It is urged as a reason for not allowing such effect to the judgment, that the acquittal in the criminal case may have taken place because of the rule requiring guilt to be proved beyond a reasonable doubt, and that on the same evidence, on the question of preponderance of proof, there might be a verdict for the United States, in the suit in [897] rem. Nevertheless, the fact or act has been put in issue and determined against the United States; and all that is imposed by the statute, as a consequence of guilt, is a punishment therefor. There could be no new trial of the criminal prosecution after the acquittal in it; and a subsequent trial of the civil suit amounts to substantially the same thing, with a difference only in the consequences following a judgment adverse to the claimant."

And the Court continued:

> "When an acquittal in a criminal prosecution in behalf of the Government is pleaded, or offered in evidence, by the same defendant, in an action against him by an individual, the rule does not apply, for the reason that the parties are not the same; and often for the additional reason, that a certain intent must be proved to support the indictment, which need not be proved to support the civil action. But upon this record, as we have alrady seen, the parties and the matter in issue are the same."

Then the Court continued:

> "Whether a conviction or an indictment under Section 3257 could be availed of as conclusive evidence in law for a condemnation, in a subsequent suit in rem under that section, and whether a judgment of forfeiture in a suit in rem under it would be conclusive evidence in law, for a conviction on a subsequent indictment under it, are questions [898] not now presented.
>
> "The conclusion we have reached is in consonance with the principles laid down by this Court in Gelston v. Hoyt, 3 Wheat., 246. In that case Hoyt sued Gelston, the collector, and Schenck, the surveyor, of the Port of New York, in trespass, for taking and carrying away a vessel. The defendants pleaded that they had seized the vessel, by authority of the President, as forfeited for a violation of the statute against fitting out a vessel to commit hostilities

against a friendly foreign power, and that she had been so fitted out and was forfeited. At the trial it was shown that, after seizure, the vessel was proceeded against by the United States, by libel, in the United States District Court for the alleged offense, and Hoyt had claimed her, and she was acquitted, and ordered to be restored, and a certificate of reasonable cause of seizure was denied. The defendants offered to prove facts showing the forfeiture. The trial court excluded the evidence. In this court the question was presented whether the sentence of the District Court was or was not conclusive on the defendants, on the question of forfeiture. This Court held that the sentence of acquittal, with a denial of a certificate of reasonable cause of seizure was conclusive evidence that no forfeiture was incurred, and that the seizure was tortious; and that these questions could not again be litigated in any forum. [899]

"This doctrine is peculiarly applicable (the Court says) to a case like the present, where, in both proceedings, criminal and civil, the United States are the party on one side and this claimant the party on the other. The judgment of acquittal in the criminal proceeding ascertained that the facts which were the basis of that proceeding, and are the basis of this one, and which are made by the statute the foundation of any punishment, personal or pecuniary, did not exist. This was ascertained once for all between the United States and the

> claimant, in the criminal proceeding, so that the facts can not be again litigated between them as the basis of any statutory punishment denounced as a consequence of the existence of the facts. This is a necessary result of the rules laid down in the unanimous opinion of the judges in the case of Rex v. Duchess of Kingston, 20 Howell's State Trials 355, 538 and which were formulated thus: The judgment of a court of concurrent jurisdiction, directly upon the point, is, as a plea in bar, a bar or, as evidence, conclusive, between the same parties, upon the same matter, directly in question in another court; and the judgment of a court of exclusive jurisdiction, directly upon the point, is, in like manner, conclusive upon the same matter, between the same parties, coming incidentally in question in another court for a different purpose. In the present case the Court is the [900] same court and had jurisdiction, and the judgment was directly on the point now involved, and between the same parties."

May we have a recess?

The Court: We will take the morning recess.

(Recess.) [900-A]

The Court: You may proceed.

Mr. Cleary: May it please the Court, in the decision of the Supreme Court of the United States in the case of United States v. Coffey the Court will observe that the Supreme Court of the United States applied to the civil court the doctrine of res adjudicata arising out of a case which had been tried in a criminal court. The Court will also observe that in one of the cases discussed, a previous decision in the Supreme Court of the United States, in Gelston v. White, the court applied in the civil court res adjudicata on a determination which had been made in a court of admiralty. From this it would appear that it is not a question of what particular jurisdiction the first court happened to be in, as long as it had jurisdiction, that the decision of that court was res adjudicata in all other courts where the same issue of fact or of a group of facts arise in another court.

The next case to which we would direct your Honor's attention is that of the New Orleans v. Citizens Bank, 167 U. S. 371. It is important for two principal reasons: First, because it reveals that where an administrative action has been reviewed by a court of competent jurisdiction, and the decision of that court has become final, that decision is res adjudicata as between parties on all matters of law and fact actually litigated and actually or unofficially determined in that judicial proceeding. The case of New Orleans v. [901] Citizens Bank is also important because it reveals that such a decision is res adjudicata between such parties not only with relation to the demand made or liability asserted in that action but also with relation to other demands and asserted liabilities, even demands and asserted liabilities thereafter arising, to the extent that the matters of law and fact actually litigated and actually or unofficially determined in that judicial proceeding are involved in those other demands and asserted liabilities.

The Citizens Bank was organized by legislative charter in 1833, which charter was amended in 1836. Under such charter the shares of stock were issued in exchange for interest-bearing notes secured by mortgages on real estate. Under such charter the working capital was procured by a loan from the State to the bank of State bonds, which bonds were endorsed by the bank and sold in the open market. There were other bilateral contractual obligations between the State and the bank specified in the charter. For example, it was provided that a certain number of directors should be appointed by the State, and it was further provided that the bank should pay off the Government bonds, and for that purpose a limitation was put upon the distribution of profits to the stockholders until the bonds were paid off.

By the amendment of the charter in 1836 it was provided, "The capital of said bank shall be exempt from any tax levied [902] by the State or by a parish or body politic under the authority of the State during the continuance of its charter." The charter by its terms was to expire in 1844. In 1874, or ten years before the expiration date, the legislature passed an act extending the charter to the year 1911. The State constitution in force at the time the charter was issued apparently prohibited the tax exemption given to the bank by the charter. Two subsequent State constitutions, those of 1868 and 1879, apparently prohibited such a tax exemption. The constitution of 1868 was in force when the Act of 1874 was passed, and the constitution of 1879 was in force when the original charter expired and the bank commenced to operate under the State.

From 1833 to 1877 no attempt was made by the State or any of its political subdivisions to tax the capital of the bank. In 1878 such an assessment was made. The State filed a petition in the county court of the State, or, rather, the bank filed a petition in a county court of a State, that is, a State court corresponding to a superior court in California seeking to enjoin the tax so assessed upon the ground that its enforcement would impair the obligations of the contractor. The assessors contended that the clause of the charter exempting the bank from taxation violated the constitution of 1912 and that it also violated the constitution of 1868.

The trial court first issued a preliminary injunction [903] and thereafter, declaring the assessment to be null and void, perpetuated the injunction. On appeal the Supreme Court of Louisiana affirmed the trial court. While that case was pending in the Supreme Court of Louisiana, but before it was decided, certain of the tax assessors brought a suit to enforce the collection of the tax. It was decided by the trial court after the decision of the Supreme Court of the State of Louisiana in favor of the bank, that is, the trial court's decision was in favor of the bank, and no appeal was taken. Thereafter three other cases were taken to various county courts involving similar assessments, two of said actions being brought by the bank, and then I have already referred to the one that was brought by the assessors. All resulted in judgments declaring the assessments void. Two of those cases occurred subsequent to the time that the original charter expired. They were commenced in 1886 and 1887. They were decisions of the trial court. No appeals were taken from those decisions. In 1892 the bank filed a bill in the Circuit Court of the United States (for the first time the matter comes into the Federal jurisdiction) against the various assessors involved to restrain them from assessing the bank for the years 1889, 1890, 1891 and 1892 as such assessors threatened to do. [904]

Now, may it be observed that the four years for which the assessors threatened to make assessments were subsequent to the decisions of the trial court in 1886 and 1887.

On that suit in the United States Circuit Court, a restraining order was issued. After answer, a trial was had and a decree was entered against the assessors. They appealed to the Supreme Court of the United States, and it was on such appeal that the case of New Orleans v. Citizens Bank was decided by the Supreme Court of the United States. That Court held that the judgments of 1886 and 1887, that is, the judgments for tax years subsequent to the expiration of the original charter, were res adjudicata in relation to tax demands for subsequent years. The following statements appear in the decision and are of particular interest:

> "The proposition that because a suit for a tax of one year is a different demand from the suit for a tax for another, therefore res adjudicata, cannot apply; whilst admitting in form the principles of the things adjudged, in reality substantially denies and destroys it. The estoppel resulting from the things adjudged does not depend upon whether there is the same demand in both cases, but exists although there be different demands, when the question upon which the recovery of the second demand depends has under identical circumstances and conditions been previously concluded by a judgment [905] between the parties or their privies. This is the elemental rule stated in the textbooks, and enforced by many decisions of this Court. A previous review of some of the leading cases will make this perfectly clear."

The Court continues:

> "In Bank v. Beverley, 1 Howard 134, 139," —and, by the way, 1 Howard goes back a long ways—"it was held that a construction of a will affecting the rights of parties must govern in subsequent controversies between the same parties, without reference to the different nature of the demand. (Citing two cases.) In Mason Lumber Company v. Buchtel, 101 U. S. 638, it was held that when the proper construction of a contract was in controversy, the con-

struction adjudged by the court would bind the parties in all future disputes.

"In Cromwell v. Sac. County, 94 U. S. 351, 353, after a full statement of the nature of the estoppel resulting from the thing adjudged where the demand was the same in both cases, the court then considered the extent of the estoppel, where the causes of action were distinct, and said:

"'But where the second action between the same parties is upon a different claim or demand, the judgment in the prior action operates as an estoppel only as to those matters in issue or points controverted upon the [906] determination of which the finding or verdict was rendered. In all cases, therefore, where it is sought to apply the estoppel of a judgment rendered upon one cause of action to the matters arising in a suit upon a different cause of action, the inquiry must always be as to the point or question actually litigated and determined in the original action, not what might have been thus litigated and determined. Only upon such matters is the judgment conclusive in another direction.'"

A little further, the court said:

"And the law of Louisiana is exactly in accord with the rulings of this court, for, as said by the Supreme Court of Louisiana in Heroman, et al., v. Louisiana Institute Deaf and Dumb, et al., * * *:

" 'No principle of law is more inflexible than that which fixes the absolute conclusiveness of such a judgment upon the parties and their privies. Whether the reasons upon which it was based were sound or not, and even if no reasons at all were given, the judgment imports absolute verity, and the parties are forever estopped from disputing its correctness. (Citing Cooley on Constitutional Limitation, page 47 et sec., and authorities there cited.)

" 'Matters once determined in a court of competent jurisdiction may never again be called in question by [907] parties or privies against objection, though the judgment may have been erroneous and liable to, and certain of, reversal in a higher court.' "

And the inner quote continues:

" 'The estoppel extends to every material allegation or statement which, having been made on one side and denied on the other, was at issue in the cause, and was determined therein.' (Citing authorities.)"

And that is the end of the inner quote. Now we go back to the words of the Supreme Court of the United States:

"It follows, then, that the mere fact that the demand in this case is for a tax for one year and the demands in the adjudged cases were for taxes for other years, does not prevent the operation of the thing adjudged, if, in the prior cases, the question of exemption was necessarily presented and determined upon identically the same facts upon which the right of exemption is now claimed."

The next case which we would call to the Court's attention is that of United States v. De Angelo, 138 Fed. (2d), page 466. In that case De Angelo and two other persons were by one indictment charged with the offense of robbing a national bank messenger, and by another indictment with having conspired to rob the same messenger. The charge of robbery was first tried. The jury acquitted De Angelo and convicted the other two. The charge of conspiracy was then tried. All three [908] defendants were convicted, De Angelo alone appealed.

In the second conspiracy trial, the Government put in evidence, as it had in the first, or robbery trial, testimony concerning De Angelo's presence and participation in the robbery. In the conspiracy trial the Government put in evidence additional testimony relating to conversations which De Angelo had had with others preceding the robbery, which the appellate court held was sufficient, without evidence of De Angelo's presence and participation in the robbery itself, to warrant his conviction on the charge of conspiracy. After the Government had introduced evidence of De Angelo's presence and participation in the robbery, his counsel offered to prove by the robbery indictment, the evidence given at the robbery trial, the instructions given to the jury in that trial and the jury's verdict of acquittal, that the question of his presence and participation in such robbery had been put in issue in the trial of that charge and had been determined by the jury in his favor. The trial court rejected such offer of proof. It merely allowed to go into the record in the clerk's possession the robbery indictment. But under specific directions that it be not shown to the jury. On appeal it was contended that the rejection of such offer of proof constituted reversible error. The Circuit Court of Appeals, after stating the facts and the question, cited and quoted from Frank v. Mangum and the Oppenheimer case. It [909] then proceeded as follows:

> "The conclusiveness of a fact which has been competently adjudicated by a criminal trial is not confined to such matter only as is sufficient to support a plea of double jeopardy. Even though there has been no former acquittal of the particular offense on trial, a prior judgment of acquittal on related matters has been said to be conclusive as to all that the judgment determined. (Citing United States v. Adams, a Supreme Court decision.) The matter is one of collateral estoppel of the prosecutor. Nor can there be any requirement of mutuality with respect to a criminal judgment's conclusiveness. An accused is constitutionally entitled to a trial de novo of the facts alleged and offered in support of each offense charged against him and to a jury's independent finding with respect thereto. [910]
>
> "But a 'rule of evidence' has been recognized

'which accords to the accused the right to claim finality with respect to a fact or group of facts previously determined in his favor upon a previous trial,' citing United States v. Carlisi.

"The pertinency of the foregoing rule depends upon what facts at the verdict of acquittal in the former criminal trial served to conclude and whether the facts so determined are again put in issue by the Government's allegations and proofs at a subsequent trial of the same defendant for another criminal offense. Here the robbery indictment had been alleged De Angelo's presence at and his participation in the robbery; and the Government had offered proof in support of these allegations. The appellant's plea of not guilty to the indictment had here put in issue every material allegation of fact contained in the indictment (citing two cases). And throughout the trial for the robbery the defendant's plea of not guilty served as his continuing denial of the evidence offered against him by the prosecution pursuant to its ever-present burden of proof (citing two cases).

"Among the facts so litigated and submitted before the jury's determination of the trial for the robbery were the questions as to whether De Angelo was present [911] at and had participated in the robbery as the driver of the car used in the perpetration of the robbery. The jury, by its verdict of acquittal as to De Angelo, determined those issues adversely to the Government's allegations. They should not therefore have been gone into again at the trial of the conspiracy indictment; and, when reintroduced by the Government, the appellant was entitled to show the former verdict of acquittal and what it had concluded as to the facts. We think that the trial court's rejection of the appellant's offers, which became relevant because of the Government's allegations and evidence, constituted substantial error (citing Crawford v. The United States).

"It was of course unnecessary for the Government, in the light of the evidence as to the co-conspirators, to prove that De Angelo was the actual perpetrator of one of the overt acts alleged. But, for the Government to relitigate in the conspiracy trial the facts as to De Angelo's alleged presence at and participation in the robbery and the resubmission of those issues allowed the jury in the conspiracy case to find the facts in such regard contrary to the findings as impliedly established by the verdict of acquittal of the robbery. Such a finding by the jury in the conspiracy case was capable of directly influencing the verdict to the appellant's [912] harm.

"The former acquittal was not, however, a bar to the prosecution of the conspiracy indictment. No question of double jeopardy is involved. The first trial was for robbery and the second for conspiracy, both relating to the same unlawful transaction, it is true, but separate and distinct offenses nonetheless. Nor were the facts as established by the verdict of ac-

> quittal of the robbery a defense to the conspiracy charge. As established by the verdict at the robbery trial, such facts became relevant and material in the conspiracy trial only because of the Government's reintroduction of the particular issues.
>
> "The judgment of the District Court is reversed and the case remanded with directions that a new trial be granted the appellant."

Now, that case was decided by the Circuit Court on October 28, 1943. It has since been cited, with approval and as authority, on the subject of res adjudicata in criminal cases by the Supreme Court of the United States.

Your Honor, it is going to take me at least half an hour or three-quarters of an hour to finish what I have to present. It is now noon.

The Court: We will run, then, through the noon hour, twelve to one. [913]

Mr. Hallinan: It seems to me, your Honor, if a reply is made and then some rebuttal possibly, it would consume longer than I had anticipated and it might be advisable to let the jury go at two o'clock and conclude, because we will probably take until half past three or so with this argument. I suppose the Government will have some rebuttal.

The Court: Mr. Donohue, how long will you take?

Mr. Donohue: I should say not over a half hour.

The Court: Let us run on then.

Mr. Hallinan: There is an hour and a half there, your Honor. That will run to half past three.

The Court: We will run through the noon hour, twelve to one. We will take one to two for the lunch period. You may proceed.

Mr. Cleary: This is a personal matter, your Honor. I have been suffering from a physical disability for the last few years, and if I stand on my feet for more than an hour at a time——

Mr. Hallinan: That is one reason why I suggested that it might be continued to two.

The Court: We have a situation with the jury that has become a little bit——

Mr. Hallinan: We would just as soon hurry it along ourselves, but this is such an important point, and I know what Mr. Cleary's difficulty is. [914]

The Court: Let us do this, gentlemen. I am always appreciative of anyone's illness or the like. Let us take the noon hour from twelve to one and resume at one o'clock.

Mr. Cleary: That would be satisfactory.

The Court: Is that agreeable?

Mr. Hallinan: Yes.

The Court: We will resume, then, at one o'clock.

(Thereupon a recess was taken until 1:00 p.m. this date.) [914-A]

* * *

Wednesday, November 23, 1949, 1:00 o'Clock

The Clerk: United States of America v. Harry Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed. If you would be more comfortable counsel, the matter of standing or sitting would make no particular difference in the presentation. I suggest, if you would be more comfortable, that you be seated.

Mr. Cleary: I would prefer to stand. I think better on my feet.

The Court: Whatever you wish.

Mr. Cleary: May it please the Court, just before the noon recess, I said that the De Angelo case, while only a decision of the Circuit Court of Appeal, had been cited with approval and as authority by the United States Supreme Court.

We had reference to the case of Sealfon v. United States, 337 U. S. 575, decided only last year. As decisions go, it is so recent that we can say the ink with which it was written is still wet. The decision is a short one, and it is so crammed with pertinent reasoning that we feel constrained to quote it in its entirety, and before beginning to quote it, I am going to jump into the middle of it and pick out one sentence. The Court said:

> "We granted the petition for writ of certiorari because of the importance of the question in our administration of the [915] criminal law."

Mr. Justice Douglas delivered the opinion of the Court. It reads as follows:

"This case presents the question of whether an acquittal of conspiracy to defraud the United States precludes subsequent prosecution for the commission of the substantive offense on the particular facts here involved. Two indictments were returned against the petitioners and others. One charged a conspiracy to defraud the United States of its governmental function of conserving and rationing sugar by presenting false invoices and making false representations to a ration board to the effect that certain sales of sugar products were made to exempt agencies. The other indictment charged petitioner and Greenburg with the commission of a substantive offense, viz., uttering and publishing as true the false invoices. The conspiracy indictment was tried first and the following facts were shown:

"Defendant Greenburg manufactured syrup and approached Sanford Doctors, a salesman for a brokerage concern, to sell vanilla syrup. Doctors negotiated some sales to petitioner, who did a wholesale business under the name of Sero Syrup Co. Thereafter Greenburg asked Doctors to get a lease from petitioner showing the places where petitioner made sales and told him that if any sales were made to exempt agencies, Greenburg could sell to petitioner [916] in larger quantities. Doctors so informed petitioner, and some time thereafter petitioner wrote to Greenburg saying, 'At the present time some of our syrups are being sold at the Brooklyn Navy Yard' and various defense plants. The petitioner did sell some of his syrup to a vending company which had machines at the Navy Yard, but it was not vanilla syrup and no sales were made to the Navy Yard as such.

"Greenburg thereafter presented a series of false invoices to the ration board purporting to show sales to petitioner for delivery to the Navy Yard. Petitioner's letter was never shown to the board. On the basis of these invoices, Greenburg received replacement certificates for 21 million pounds of sugar, 10 million of which he sold to petitioner in the form of vanilla syrup, and which was by petitioner sold to non-exempt consumers, mostly National Biscuit Company. Petitioner had first made payments to Greenburg by check, but thereafter gave checks to his trucker, which he later cashed, deducted his trucking fee and paid Greenburg. The jury returned a verdict of not guilty as to petitioner. Thereafter trial was had of the other indictment which charged petitioner and Greenburg with uttering and publishing as true the false invoices introduced in the conspiracy trial. Greenburg pleaded guilty and the trial proceeded against the petitioner on the theory that he aided and abetted Greenburg in the commission [917] of the substantive offense. The false invoices, the let-

> ter from petitioner to Greenburg, and essentially the same testimony were again introduced against petitioner.
>
> "In addition, it was brought out on cross-examination that petitioner had unsuccessfully sought replacement certificates from his ration board for sugar contained in syrup sold at the Navy Yard and defense plants. Greenburg gave testimony from which the jury could conclude that petitioner was a moving factor in the scheme to defraud which was constructed around petitioner's letter, and that he was familiar with Greenburg's intention to submit false invoices."

I ask the Court to pay particular attention to the next statement in the opinion:

> "Greenburg further testified that petitioner received $500,000 in cash under the agreement as a rebate of two cents a pound on all replacement sugar which Greenburg received on Navy Yard invoices, whether or not it was used in syrup sold to petitioner. This time the jury returned a verdict of guilty, and petitioner was sentenced to five years' imprisonment and fined $12,000. Petitioner moved to quash the second indictment on the ground of double jeopardy, abandoned in this court, and res judicata; and also objected to the introduction of the evidence adduced at the first trial. The District Court ruled against petitioner, and the Court below affirmed. We granted the

petition for a writ of [918] certiorari because of the importance of the question to the administration of the criminal law. It has long been recognized that the commission of the substantive offense and a conspiracy to commit are separate and distinct offenses (citing Pinkerton v. United States). Thus, with some exceptions, one may be prosecuted for both crimes. But res judicata may be a defense in a second prosecution. That doctrine applies to criminal as well as civil proceedings (citing U. S. v. Oppenheimer and U. S. v. De Angelo and also see Frank v. Mangum) and operates to conclude those matters in issue which the verdict determined, though the offenses be different. (See U. S. v. Adams.) Thus the only question in this case is whether the jury's verdict on the conspiracy trial was a determination favorable to petitioner of the facts essential to conviction of the substantive offense. This depends upon the facts adduced at each trial, and the instructions under which the jury arrived at its verdict at the first trial. Respondent argues that the basis of a jury's verdict can not be known with certainty, that the conspiracy trial was presented on the theory that petitioner was a party to an overall conspiracy, ultimately involving petitioner, Greenburg, and the Barron Corporation. Thus it is said that the verdict established with certainty only that petitioner was not a member of such conspiracy and that therefore the prosecution was not foreclosed from [919] showing in the second trial that petitioner wrote the letter pursuant to an agreement with Greenburg to defraud the United States. The theory is that under the instructions given, the jury might have found that petitioner conspired with Greenburg and yet refused to infer that he was a party to the overall conspiracy. The instructions under which the verdict was rendered, however——"

and I ask Your Honor to pay close attention to this——

"——must be set in a practical frame, and viewed with an eye to all the circumstances of the proceeding. We look to them only for such light as they shed on the issues determined by the verdict (citing a case). Petitioner was the only one on trial under the conspiracy indictment. There was no evidence to connect him directly with anyone other than Greenburg. Only an agreement with at least Greenburg was inferred by the jury, could petitioner have been convicted; and in the only instruction keyed to the particular facts of the case, the jury was told that petitioner must be acquitted if there was reasonable doubt that he conspired with Greenburg. Nowhere was the jury told that to return a verdict of guilty it must be found that petitioner was a party to a conspiracy involving not only Greenburg but with the Barron Corporation as well. Viewed in this setting the verdict is a determination that petitioner, who concededly wrote and sent the letter, did not do so pursuant to an [920] agreement with Greenburg to defraud.

"So interpreted, the earlier verdict precludes a later conviction of the substantive offense. The basic facts in each trial were identical. As we read the records of the two trials, petitioner could be convicted of either offense only on proof that he wrote the letter pursuant to an agreement with Greenburg. Under the evidence introduced, petitioner could have aided and abetted Greenburg in no other way. Thus the core of the prosecution's case was in each case the same. The letter, the circumstances surrounding it and to be inferred from it and the false invoices. There was, of course, additional evidence on the second trial, adding detail to the circumstances leading up to the alleged agreement, petitioner's participation therein, and what he may have got out of it. But at most this evidence——"

now listen to this——

"——only made it more likely that petitioner had entered into the conspiracy under the agreement. It was a second attempt to prove the agreement which at each trial was crucial to the prosecution's case, and which was necessarily adjudicated in the former trial to be non-existent. That the prosecution may not do. Reversed."

Now, may it please the Court, the doctrine of res judicata is an uncompromising doctrine, an uncompromising rule of law. [921] Sometimes it is harsh in its application. But it cuts straight and it cuts deeply through all obstructions without favor and without pity. In civil matters it often operates to preserve to the cheat and the deceiver the fruits of his wrongful conduct. In civil matters it often cuts off the right of compensation and redress to one who in truth and in justice is entitled to it. In criminal matter it often keeps in prison one who has been mistakenly or wrongfully convicted, but who, at the time of trial and within that short period after trial, when a motion for a new trial can be made, is unable to discover or to locate the witnesses or the documentary evidence necessary to prove his innocence. These facts are all well known to the lawmakers and ~~to the courts~~, yet the doctrine of res judicata ~~is~~ cherished. It is regarded as a fundamental principle of justice, to use the Supreme Court's statement in the Oppenheimer case, and is said by Mr. Justice Holmes, in Frank v. Mangum, to be a fundamental principle of jurisprudence arising from the very nature of the courts of justice and the objects for which they are established, that a question of fact or of law distinctly put in issue and directly determined by a court of competent jurisdiction, can not afterwards be put in issue between the same parties.

The reason for this rule of res judicata is clearly and briefly stated in Wisconsin v. Torres, 9 Northwestern 725, as follows: [922]

> "The doctrine of res adjudicata, or estoppel by judgment, as it is sometimes less accurately termed, is a rule of law founded on the soundest consideration of public policy. It means that if an action be brought and the merits of the question be discussed between the parties and a final judgment be obtained by either party, the parties are concluded and can not again canvass the same question in another action. It is founded upon two maxims of law, one of which is that 'a man should not be twice vexed for the same cause,' and the other is that it is for the public good that there be an end of litigation."

We say that the doctrine of res adjudicata is an uncompromising rule of law. The full doctrine is expressed not in one maxim but in a number of maxims, each beginning with the two words "Res adjudicata." I am not going to quote the Latin of those maxims, but I am going to quote the English translation as given by the Encyclopedia of Law and Procedure. One is as follows: "Matter judicially decided begets a perpetual exception." Another is: "A question adjudicated between the parties after hearing them makes the law of the question." A third is: "A thing adjudged is taken for the truth." A fourth is: "A thing adjudged is held to be true." Now, listen to this one, because in more forceful words than I could construct, put together, it states the essence, the uncompromising essence, of the rule: "A thing adjudged [923] makes white black, black white, the crooked straight, and the straight crooked."

This brings me to the case of Bridges v. Wixon. Before I go further with that case, let me make this statement. The question of whether res adjudicata is applicable in any particular instance is a mixed question of law and fact. The decisions of the courts on when res adjudicata is applicable constitute the law in the matter. The particular facts asserted in support of a question that the doctrine be applied are the facts, the factual half of the mixed question of law and fact. If I may use a simile, the law is the horse and the facts constitute the wagon. If the horse is a wooden one or decrepit, it will not pull the wagon very far. And on the other hand, if the wagon breaks down, the horse is unable to pull it. There must be a union of law and fact. And we are citing the case, the decision of the Supreme Court of the United States in the case of Bridges v. Wixon, as the facts, or the fact, in our request that the rule of res adjudicata be here applied. Mr. Justice Douglas delivers the opinion of the Court. He said:

> "Harry Bridges is an alien who entered this country from Australia in 1920. In 1938 deportation proceedings were instituted against him on the ground that he both had been and then was a member of or affiliated with the Communist Party of the United States, and that that Party [924] advised and taught the overthrow by force of the Government of the United States and caused printed matter to be

circulated which advocated that course. Under the statute then in force, past membership or past affiliation was insufficient for deportation; present membership or present affiliation being required. Kessler v. Strecker, 307 U. S. 22. A hearing was had. The examiner, the Honorable James M. Landis, concluded that the evidence established neither that Harry Bridges is a member of nor affiliated with the Communist Party of the United States. The Secretary of Labor sustained the Examiner and dismissed the proceedings. That was in January, 1940. By the Act of June 28, 1940, Congress amended the statute so as to provide for the deportation of any alien who was at the time of entering the United States or has been at any time thereafter a member of or affiliated with an organization of the character attributed to the Communist Party in the first proceeding. [925]

"A second deportation proceeding was instituted against Harry Bridges under the amended statute on the ground that he had been a member of or affiliated with that organization. Another hearing was had. The inspector designated to conduct the hearings and make a report, Hon. Charles B. Sears, found that the Communist Party of the United States was an organization of the character described in the statute, that the Marine Workers' Industrial Union was affiliated with the Communist Party and was an organization of the same character, and that after entering this country Harry

Bridges had been affiliated with both organizations and had been a member of the Communist Party. He recommended deportation. The case was heard by the Board of Immigration Appeals which found that Harry Bridges had not been a member of or affiliated with either of those organizations at any time after he entered this country. The Attorney General reviewed the decision of the Board and rendered an opinion in which he made findings in accordance with those proposed by the inspector and ordered Harry Bridges to be deported. A warrant of deportation was issued. Harry Bridges surrendered himself to the custody of respondent and challenged the legality of his detention by a petition for a writ of habeas corpus in the District Court for the Northern District of California. That court denied the petition and remanded petitioner to custody of respondent. [926] 49 F. Supp. 292. The Circuit Court of Appeals affirmed by a divided vote. 144 F. 2d 927, 944. The case is here on a petition for a writ of certiorari which we granted because of the serious character of the questions which are presented.

"As we have said, Harry Bridges came here from Australia in 1920. He has not returned to Australia since that time. He was a longshoreman. In 1933 he became active in trade union work on the water front in San Francisco. The Attorney General found that he had done much to improve the conditions that existed among the longshoremen. He reorganized and headed up the International Longshoremen's Association, an American

Federation of Labor union. He led the maritime workers' strike on the Pacific Coast in 1934. He was president of the local International Longshoremen's Association from 1934 to 1936 and was Pacific Coast president in 1936. In 1937 his union broke with the American Federation of Labor, changed its name to International Longshoremen and Warehousemen's Union, and became affiliated with the Committee for Industrial Organization. Bridges was elected Pacific Coast District President of that union and has held the office ever since. He also holds several important offices in the C.I.O.

"The two grounds on which the deportation order rests—that Harry Bridges at one time had been both 'affiliated' [927] with the Communist party and a member of it—present different questions with which we deal separately.

"Affiliation. The statute defines affiliation as follows:

"For the purpose of this section: (1) the giving, loaning or promising of money or any thing of value to be used for the advising, advocacy, or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and (2) the giving, loaning or promising of money or any thing of value to any organization, association, society, or group, of the character above described shall constitute affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching, or affiliation." 41 Stat. 1009, 8 U.S.C. cf. 137f.

"The doctrine referred to is the overthrow of the government by force or violence. The organizations or groups referred to are those which advise and teach that doctrine or which write, circulate, display and the like or have in their possession for such purpose any written or printed matter of that character.

"In ruling on the question whether an alien had been 'affiliated' with the Communist Party and therefore could be deported, the court in United States v. Reimer, 79 F. 2d 315, 317, said that such an affiliation was not proved [928] 'unless the alien is shown to have so conducted himself that he has brought about a status of mutual recognition that he may be relied on to cooperate with the Communist Party on a fairly permanent basis. He must be more than merely in sympathy with its aims or even willing to aid it in a casual, intermittent way. Affiliation includes an element of dependability upon which the organization can rely which, though not equivalent to membership duty, does rest upon a course of conduct that could not be abruptly ended without giving at least reasonable cause for the charge of a breach of good faith.' The same idea was expressed by Dean Landis in the first Bridges' report. After stating that 'affiliation' implies a 'stronger bond' than 'association,' he went on to say: 'In the corporate field its use embraces not the casual affinity of an occasional similarity of objective, but ties and connections that, though less than that complete control which parent possesses over subsidiary, are nevertheless sufficient to create a continuing relationship that embraces both units within the concept of a system. In the field of eleemosynary and political organization the same basic idea prevails.' And he concluded: 'Persons engaged in bitter industrial struggles tend to seek help and assistance from every available source. But the intermittent solicitation and acceptance of such help must be shown to have ripened into those bonds of mutual [929] cooperation and alliance that entail continuing reciprocal duties and responsibilities before they can be deemed to come within the statutory requirement of affiliation. * * * To expand that statutory definition to embrace within its terms and cooperation on objectives whose pursuit is clearly allowable under our constitutional system, or friendly associations that have not been shown to have resulted in the employment of illegal means, is warranted neither by reason nor by law.'

"The legislative history throws little light on the meaning of 'affiliation' as used in the statute. It imports, however, less than membership but more than sympathy. By the terms of the statute it includes those who contribute money or anything of value to an organization which believes in, advises, advocates, or teaches the overthrow of our government by force or violence. That example throws light on the meaning of the term 'affiliation.' He who renders financial assistance to any organization may generally be said to approve of its objectives or aims. So Congress declared in the case of an alien who contributed to the treasury of an organization whose aim was to overthrow the government by force and violence. But he who cooperates with such an organization only in its wholly lawful activities cannot by that fact be said as a matter of law to be 'affiliated' with it. Nor is it conclusive [930] that the cooperation was more than intermittent and showed a rather consistent course of conduct. Common sense indicates that the term 'affiliation' in this setting should be construed more narrowly. Individuals, like nations, may cooperate in a common cause over a period of months or years though their ultimate aims do not coincide. Alliances for limited objectives are well known. Certainly those who joined forces with Russia to defeat the Nazis may not be said to have made an alliance to spread the cause of Communism. An individual who makes contributions to feed hungry men does not become 'affiliated' with the Communist cause because those men are Communists. A different result is not necessarily indicated if aid is given to or received from a proscribed organization in order to win a legitimate objective in a domestic controversy. Whether intermittent or repeated, the act or acts tending to prove 'affiliation' must be of that quality which indicates an adherence to or a furtherance of the purposes or objectives of the proscribed organization as distinguished from mere cooperation with it in lawful activities. The act or acts must evidence a working alliance to bring the program to fruition.

"We are satisfied that the term 'affiliation' was not so construed either by Judge Sears or by the Attorney General. The reports made in this case contain no precise formulation of the standard which was employed. But the way [931] in which the term 'affiliation' was used and applied convinces us that it was given a looser and more expansive meaning than the statute permits. Judge Sears in his report stated that 'Affiliation is clearly a word of broader content than membership, and of narrower content than sympathy. Generally, there will be some continuity of relationship to bring the word into application.' But he concluded that that was not necessarily so in view of the statutory definition. And he added: 'Affiliation may doubtless be shown circumstantially. Assisting in the enterprises of an organization, securing members for it, taking part in meetings organized and directed by or on behalf of the organization, would all tend to show affiliation. The weight to be given to such evidence is, of course, determined by the trier of the fact.' That view was apparently shared by the Attorney General. But the broad sweep which was given the term in its application to the facts of this case is illustrated by the following excerpt from the Attorney General's report:

"Judge Sears summarizes Bridges' attitude towards the Communist Party and its policies by saying that the 'isolated instances,' while not evidence to establish membership in or affiliation with the Communist Party, nevertheless show a sympathetic or cooperative attitude on his part to the Party, and form 'a pattern which is more consistent [932] with the conclusion that the alien followed this course of conduct as an affiliate of the Communist Party, rather than as a matter of chance coincident.' This conclusion, said Judge Sears, was strengthened by his consistently favoring nondiscrimination against union men because of Communist membership; and by his excoriating "red baiters," as he called those who took an opposite view, which "amounted to cooperation with the Communist Party in carrying out its program of penetration and boring from within."

"But when we turn to the facts of this case we have little more than a course of conduct which reveals cooperation with Communist groups for the attainment of wholly lawful objectives.

"The associations which Harry Bridges had with various Communist groups seem to indicate no more than cooperative measures to attain objectives which were wholly legitimate. The link by which it is sought to tie him to subversive activities is an exceedingly tenuous one, if it may be said to exist at all. The Trade Union Unity League was found to be a Communist organization. It chartered the Marine Workers' Industrial Union in 1930, which continued until 1935 and was found to be a proscribed organization. That union launched the Waterfront Worker, a mimeographed sheet, in 1932. The Attorney General sustained Judge Sears' finding that Bridges sponsored it and was responsible for [933] its publication shortly after it first appeared in 1932 and down to its abandonment in 1936. The paper acknowledged the assistance of the MWIU prior to September 15, 1933. The question when Bridges took over the paper was closely contested, the Board of Immigration Appeals finding that Bridges became connected with it about September 15, 1933, after the MWIU had abandoned it. The finding of Judge Sears, approved by the Attorney General, that the paper was an instrument of the MWIU and the Communist Party from December, 1932, to its abandonment in 1936 and that it was under the domination and control of those organizations during that period rested primarily on the following grounds: '(1) The acknowledged cooperation with the M.W.I.U., in the early issues of the paper and subsequent favorable treatment of the M.W.I.U., T.U.U.L., and other Communist-sponsored organizations during the paper's entire existence. (2) Consistent attacks upon the so-called "reactionary" leaders of the A. F. of L. (3) Support of the Communist candidates for political office. (4) Advice to read Communist literature. (5) The use of addresses of Communists or Communist-affiliated organizations.' But when the evidence underlying these findings is examined it is found to be devoid of any showing that the Waterfront Worker advocated overthrow of the government by force. It was a militant trade union journal. It aired the grievances [934] of the longshoreman. It discussed national affairs affecting the interests of working men. It declared against war. But we have found no evidence whatsoever which suggests that it advocated the overthrow of the government by force. Nor is there any finding that Bridges took over this project with the view of doing more than advancing the lawful cause of unionism." [934-A]

"The advice to support for office certain candidates said to be Communists was based entirely on the platform on which they ran—cash relief; abolition of vagrancy laws; no evictions; gas, water and electricity for the unemployed; and unemployment relief. The advice to read Communist literature was not general; it was specifically addressed to the comparative merits of those publications and other papers on the truthfulness of labor news. The use of addresses of Communist organizations, especially stressed by the Attorney General, was said by Judge Sears to demonstrate 'a close cooperation with the Communists and Communist Organizations.' But close cooperation is not sufficient to establish an 'affiliation' within the meaning of the statute. It must evidence a working alliance to bring the proscribed program to fruition.

"It must be remembered that the Marine Workers' Industrial Union was not a sham or pretense. It was a genuine union. It was found to have, and we assume it did have, the illegitimate objective of overthrowing the government by force. But it also had the objective of improving the lot of its members in the normal trade union sense. One who cooperated with it in promoting its legitimate objectives certainly could not by that fact alone be said to sponsor or approve of its general or unlawful objectives. But unless he also joined in that over-all program, he would [935] not be 'affiliated' with the Communist cause in the sense in which the statute uses the term.

"Whether one could be a member of that union without becoming 'affiliated' with the Communist Party within the meaning of the statute, we need not decide. For Harry Bridges was never a member of it."

Now that is the Supreme Court of the United States talking, in making a decision.

> "To say that his cooperation with it made him in turn 'affiliated' with the Communist Party is to impute to him belief in and adherence to its general and unlawful objectives. In that connection, it must be remembered that although deportation technically is not criminal punishment (citing cases), it may nevertheless visit as great a hardship as the deprivation of the right to pursue a vocation or a calling. (Citing cases.) As stated by Mr. Justice Brandeis speaking for the Court in Ng Fung Ho v. White, 259 U.S. 276, 284, deportation may result in the loss 'of all that make life worth living.' "

Well, there the Supreme Court was quoting itself to that effect.

> "We cannot assume that Congress meant to employ the term 'affiliation' in a broad, fluid sense which would visit such hardship on an alien for slight or insubstantial reasons. It is clear that Congress desired to have the [936]

> country rid of those aliens who embraced the political faith of force and violence. But we cannot believe that Congress intended to cast so wide a net as to reach those whose ideas and program, though coinciding with the legitimate aims of such groups, nevertheless fell far short of overthrowing the government by force and violence. Freedom of speech and of press is accorded aliens residing in this country. (Citing Bridges v. California, 314 U.S. 252.) So far as this record shows the literature published by Harry Bridges, the utterances made by him were entitled to that protection. They revealed a militant advocacy of the cause of trade-unionism. But they did not teach or advocate or advise the subversive conduct condemned by the statute."

Again the Supreme Court of the United States is making a finding of fact.

> "Inference must be piled on inference to impute belief in Harry Bridges of the revolutionary aims of the groups whose aid and assistance he employed in his endeavor to improve the lot of the working men on the water front. That he enlisted such aid is not denied. He justified that course on the grounds of expediency—to get such help as he could to aid the cause of his union. But there is evidence that he opposed the Communist tactics of fomenting strikes; that he believed in the policy of arbitration and [937] of direct negotiation

to settle labor disputes, with the strike reserved only as a last resort. As Dean Landis stated in the first report:

"'Bridges' own statement of his political beliefs and disbeliefs is important. It was given not only without reserve, but vigorously as dogma and faiths of which the man was proud and which represented in his mind the aims of his existence. It was a fighting apologia that refused to temper itself to the winds of caution. It was an avowal of sympathy with many of the objectives that the Communist Party at times has embraced, an expression of disbelief that the methods they wished to employ were as revolutionary as they generally seem, but it was unequivocal in its distrust of tactics other than those that are generally included within the concept of democratic methods. That Bridges' aims are energetically radical may be admitted, but the proof fails to establish——' "

Now listen to this——

"'——but the proof fails to establish that the methods he seeks to employ to realize them are other than those that the framework of democratic and constitutional government permits.' "

That is the end of the inner quote from Landis. The Court continues:

"That observation is equally pertinent to the record [938] before us."

Now there the Supreme Court of the United States, in those words, is adopting what it has just quoted from the Landis report. It is another finding of fact.

> "We cannot construe 'affiliation' as used in the statute to bring such conduct and attitudes within its reach. Whether the evidence would justify a finding of 'affiliation' in the strict sense in which the statute uses the term is not for us to say. An act innocent on its face may be done with an evil purpose. But where the fate of a human being is at stake the presence of the evil purpose may not be left to conjecture. In these habeas corpus proceedings we do not review the evidence beyond ascertaining that there is some evidence to support the deportation order. (Citing a case.) But detention under an invalid order of deportation is established where an alien is ordered deported for reasons not specified by Congress."

Now there is a holding by the Supreme Court of the United States, a factual holding, that the reasons cited by the Attorney General to support the charge of affiliation were not those specified by Act of Congress. That is the case here. For our review of the record convinces us that the finding of affiliation was based on too loose a meaning of the term.

May I have a short recess? I feel a little faint.

The Court: All right. I suppose you can conclude rather [939] abruptly now? Do you propose to conclude very shortly?

Mr. Cleary: Yes. I am going to finish the reading of the case, but I would like to sit down for a few minutes.

The Court: Yes. I wanted to know just precisely how much longer you might take, so I might be guided accordingly.

Mr. Cleary: Well, I am now at the bottom of page 149 and I propose to read to the top of 157. It is coming to new matter, the matter of membership.

The Court: All right, we will take a short recess.

(Recess.) [940]

(At 2:25 p.m. the jury was brought back into the courtroom, and in their presence the following occurred:)

The Court: Ladies and gentlemen of the jury, I have discussed this matter generally with counsel earlier in the day and I believe I presently have their wholehearted stipulation that the jury be excused until Monday next. You may look forward to the intervening holiday with some degree of pleasure, as will the Court as well as counsel. We necessarily will occupy the balance of the day, I take it, in the furtherance of legal arguments. The defense has not as yet completed their matters. Government counsel is entitled to argue. We may well run over the four o'clock period. Our estimate this morning was a little inaccurate. At the threshold of the trial many matters arise of legal consequence that occupy perhaps more time than necessarily will be occupied at a later stage in the trial. It is like any other undertaking. Under the circumstances, then, this jury is excused until next Monday, November 28, at ten o'clock in the morning. Is that clear to everyone now? There are to be no further hearings or court matters until next Monday, November 28, at ten o'clock. I renew the same admonitions to you. Again I repeat particularly and specifically not to discuss the case with any person or persons, or not to suffer any person to converse with you on any subject of the trial, and not to form or express an opinion thereon until the case [941] is finally submitted to you. You may now retire.

(Thereupon the jury was excused, and the following proceedings were had:)

The Court: You may proceed, Mr. Cleary.

Mr. Cleary: By the way, the reporter tells me that my citation of Sealfon v. The United States was inaccurate. My notes here are 337 U.S. at 575. I may say I have the date of the decision filed as January 5, 1948.

Mr. Donohue: That is correct. I have it here. (332 U.S., 575.)

Mr. Cleary: Now I resume the reading of the decision of the Supreme Court of the United States in the case of Bridges v. Wixon. Resuming on page 149 with the heading "Membership," the Court said:

> "The evidence of 'affiliation' was used not only to support the finding that Harry Bridges

had been 'affiliated' with the Communist Party but also to corroborate the finding that at one time he had been a member of that organization. We may assume that such evidence, though falling short of the requirements of 'affiliation,' might be admissible for the latter purpose. But the difficulty is that the finding of membership, like the finding of affiliation, has an infirmity which *which* may be challenged in this attack on the legality of Harry Bridges' detention under the deportation order. [942]

"Rule 150.1(c) of the Regulations of the Immigration and Naturalization Service (8 C.F.R., 1941 Supp., 150.1(c)) provides: 'All statements secured from the alien or any other person during the investigation which are to be used as evidence, shall be taken down in writing; and the investigating officer shall ask the person interrogated to sign the statement. Whenever such a recorded statement is to be obtained from any person, the investigating officer shall identify himself to such person and the interrogation of that person shall be under oath or affirmation. Whenever a recorded statement is to be obtained from a person under investigation, he shall be warned that any statement made by him may be used as evidence in any subsequent proceeding.' And Rule 150.6 (i) provides in part: 'A recorded statement made by the alien (other than a general Information Form) or by any other person during an investigation may be received in evidence only if the maker of such statement is unavailable or refuses to testify at the warrant hearing or gives testimony contradicting the statements made during the investigation.'

"O'Neil was a government witness. He was intimate with Harry Bridges. During the course of the examination, O'Neil was asked about statements which he allegedly had made to investigating officers some months earlier. [943] These statements were not signed by O'Neil. They were not made by interrogation under oath. And it was not shown that O'Neil was asked to swear and sign; or that, being asked, he refused. They were not read into the record and verified by the stenographer who took them down. And an officer testified that later O'Neil had repeated the statements to him and to other witnesses. These statements were that O'Neil joined the Communist Party in December, 1936; that he walked into Bridges' office one day in 1937 and saw Bridges pasting assessment stamps in a Communist Party book; and that Bridges reminded O'Neil that he had not been attending party meettings. O'Neil admitted making statements to the investigating officers but denied making those particular statements.

"Judge Sears admitted the statements not for purposes of impeachment but as substantive evidence. The Board of Immigration Appeals and the Attorney General both conceded that the statements were admitted in violation of Rules 150.1(c) and 150.6(i). The Board held that it was error to consider the statements as affirmative, probative evidence. The Attorney General ruled: 'Had the alien raised the question at the time of the hearing, compliance with the Departmental Regulations would have been obligatory and a deliberate rejection of a request to exclude the testimony would have rendered appropriate [944] the objections now raised by the Board. No objection having been raised by the alien throughout the hearing, however, he waived the right to object on the technical ground that the statement was not taken in accordance with the rules.' One difficulty with that position is that Bridges did protest before Judge Sears over the use of the statement. He maintained that they were erroneously received and were without probative value though he did not rest his objection on the regulations. But there is a more fundamental difficulty. The original deciding body is not the inspector who hears the case. He merely submits a memorandum setting forth the evidence adduced at the hearing, his proposed findings of fact and conclusions of law, and a proposed order. The case then is heard by the Board of Immigration Appeals, which is authorized to perform the functions of the Attorney General in relation to deportation. 8 C.F.R., 1940 Supp., Sections 90.2, 90.3. And the case may then go to the Attorney General for decision. If the objection to evidence on the ground that it violates the governing regulations is made before the agency entrusted with the duty of deciding whether a case for deportation has been established, it is made soon enough. Objection to the use of these statements as probative evidence was made before both the Board and the Attorney General. It was specifically [945] objected that the statements did not qualify under the regulations.

"The rules are designed to protect the interests of the alien and to afford him due process of law. It is the action of the deciding body, not the recommendation of the inspector, which determines whether the alien will be deported. The rules afford protection at that crucial stage of the proceedings or not at all. The person to whom the power to deport has been entrusted is the Attorney General or such agency as he designates. 8 U.S.C., Section 155. He is an original trier of fact on the whole record. It is his decision to deport an alien that Congress has made 'final.' 8 U.S.C., Section 155. Accordingly, it is no answer to say that the rules may be disregarded because they were not called to the attention of the inspector.

"It was assumed in Bilokumsky v. Tod, 263 U.S. 149, 155, that 'one under investigation with a view to deportation is legally entitled to insist upon the observance of rules promulgated by the Secretary pursuant to law.' We adhere to that principle. For these rules are designed as safeguards against essentially unfair procedures. The importance of this particular rule may not be gainsaid. A written statement at the earlier interviews under oath and signed by O'Neil would have afforded [946] protection against mistakes in hearing, mistakes in memory, mistakes in transcription. Statements made under those conditions would have an important safeguard

—the fear of prosecution for perjury. Moreover, if O'Neil had been asked to swear to and sign the statements and had refused to do so, the fact of his refusal would have weight in evaluating the truth of the statements.

"The statements which O'Neil allegedly made were hearsay. We may assume they would be admissible for purposes of impeachment. But they certainly would not be admissible in any criminal case as substantive evidence. Hickory v. United States, 151 U.S. 303, 309, United States v. Block, 88 F. 2d 618, 620. So to hold would allow men to be convicted on unsworn testimony of witnesses—a practice which runs counter to the notions of fairness on which our legal system is founded. There has been some relaxation of the rule in alien exclusion cases. See United States v. Corsi, 65 F. 2d 564. But we are dealing here with deportation of aliens whose roots may have become, as they are in the present case, deeply fixed in this land. It is true that the courts have been liberal in relaxing the ordinary rules of evidence in administrative hearings. Yet as was aptly stated in Interstate Commerce Commission v. Louisville & Nashville R. Co., 227 U.S. 88, 93, 'But the more liberal the practice in admitting testimony, [947] the more imperative the obligation to preserve the essential rules of evidence by which rights are asserted or defended.'

"Here the liberty of an individual is at stake. Highly incriminating statements are used against him—statements which were unsworn and which under the governing regulations are inadmissible.

We are dealing here with procedural requirements prescribed for the protection of the alien. Though deportation is not technically a criminal proceeding, it visits a great hardship on the individual and deprives him of the right to stay and live and work in this land of freedom. That deportation is a penalty—at times a most serious one—cannot be doubted. Meticulous care must be exercised lest the procedure by which he is deprived of that liberty not meet the essential standards of fairness.

"On the record before us it is clear that the use of O'Neil's ex parte statements was highly prejudicial. Those unsworn statements of O'Neil and the testimony of one Lundeberg were accepted by the Attorney General as showing that Bridges was a member of the Communist Party. There was other testimony but it was so 'untrustworthy, contradictory, or unreliable' as to be rejected by the Attorney General. If the finding as to Lundeberg's testimony was treated by the Attorney General independently of [948] his finding as to O'Neil's, we would have a different case. Then we would have to determine whether the testimony of Lundeberg alone was sufficient to sustain the order. [948-A]

"But the Attorney General, unlike Judge Sears, did not separate the testimony of Lundeberg and that of O'Neil for the purpose of his finding as to membership. He lumped them together and found that between them their total weight was sufficient to tip the scales against Harry Bridges. He ruled that if the unsworn statements of O'Neil and the testimony of Lundeberg were believed, the doubt is decided. It is thus apparent not only that the unsworn statements of O'Neil weighed heavily in the scales, but also that it took those unsworn statements, as well as Lundeberg's testimony, to resolve the doubt on this sharply contested and close question, whether the findings would have been made on this record from the testimony of Lundeberg alone is wholly conjectural and highly speculative. Not only was Lundeberg admittedly hostile to Bridges, not only did the Attorney General fail to rule on the basis of Lundeberg's testimony alone that he had been a member of the party, but beyond that, the Board of Immigration Appeals significantly concluded that apart from O'Neil's unsworn statements, the evidence of Bridges' membership was too flimsy to support a finding. It is thus idle to consider what the Attorney General might have ruled on the basis of other evidence before him. Citing U. S. v. Dutton. The issue of membership was too close and too crucial to the case to admit of mere speculation. Since it was error to admit O'Neil's unsworn statements against Bridges, since they were so crucial to the findings of membership, and [949] since the issue was so close, we are unable to say that the order of deportation may be sustained without them."

May it please the Court, that is both a finding of fact and a conclusion of law, that the evidence was insufficient. The Court continues:

> "In these habeas corpus proceedings, the alien does not prove he had an unfair hearing

merely by proving the decision is wrong or by showing that incompetent evidence was admitted and considered. (Citing a case.) But the case is different where evidence was improperly received, and but for that evidence it is wholly speculative whether the requisite finding would have been made. Then there is deportation without fair hearing, which may be corrected on habeas corpus (citing a case). Since Harry Bridges has been ordered deported on a misconstruction of the term 'affiliation' as used in the statute, and by reason of an unfair hearing on the question of his membership in the Communist Party, his detention under the warrant is unlawful. Accordingly, it is unnecessary to consider larger constitutional questions which have been advanced in the challenge to the legality of petitioner's detention under the deportation order. The judgment below is reversed."

Now, may it please the Court, the ordinary or extraordinary—in the criminal case it is the duty of the jury to find the defendant not guilty unless he has been proven guilty beyond [950] all unreasonable doubt. It is true that the verdict is not guilty, but in fact, looking from the form to the substance, the verdict is not proven guilty beyond a reasonable doubt. And that verdict, as the cases which we have cited to Your Honor show, is an adjudication, not merely that he has not been proven guilty beyond a reasonable doubt, but that the facts which the Government or the prosecution presented against him, and on which to convict him, were not true.

Now, here we have a verdict, as it were, of the Supreme Court of the United States. It isn't a general verdict of not guilty, it is one that goes into detail to point out not only that Harry Bridges was not proven guilty beyond a reasonable doubt, but that he was not even proven guilty by that scintilla of competent evidence which would make the decision of the Attorney General conclusive. We point out that in the Bridges case, Bridges v. Wixon, there were two questions presented for decision and only two. One was whether Harry Bridges then was or had ever been, since his entry into the United States in 1920, a member of the Communist Party. And the other was whether Harry Bridges then was or ever had been, since his entry into the United States in 1920, affiliated with the Communist Party. Those were the ultimate issues of fact which were presented to the Supreme Court for its decision, and those are the issues of fact upon which the Supreme Court decided, and which we are here citing as being res judicata as far as the introduction of [951] any evidence tending to show that Harry Bridges was a member of the Communist Party at any time prior to the date of the decision of the Supreme Court of the United States in Bridges v. Wixon.

Thank you.

Mr. Donohue: If Your Honor pleases——.

The Court: We might take a short recess, five or ten minutes.

Mr. Donohue: Thank you, Your Honor.

(Recess.)

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes, sir.

Mr. Donohue: If it pleases Your Honor, I am certain that the reading of the opinion of the Supreme Court of the United States in the case of Bridges v. Wixon did not bring to Your Honor's attention that decision for the first time, because I can recall Your Honor saying some six weeks ago when I thought we had concluded an examination into the questions of law when reference was made into th[illegible] case, Your Honor saying, "Please don't read it to me; the Court is quite familiar with it. If there is some portion to which you would like to direct my attention, the Court would be glad to hear. And thus in spite of the fact it has just been read to Your Honor, I would like to invite to Your Honor's attention what seems to be an apparent fact from the case of Bridges v. Wixon and that is that [952] after certain testimony was taken before the Hon. Judge Sears, he made a finding of fact in consequence of which that finding of fact was sent to the Board of Immigration Appeals and ultimately to the Attorney General. In that finding of fact, as the Supreme Court says, he eliminated the testimony of a great many witnesses on the ground that the evidence resulting therefrom was too flimsy to consider; and he based his conclusion on the testimony of two persons, the sworn testimony of Harry Lundeberg and the unsigned, unsworn statements of O'Neil which were admitted in evidence. The trial examiner said either one of these two bits of evidence alone, justify a finding of membership which entitles the United States to deport. When that opinion was reviewed by the Attorney General, the Attorney General grouped the two, and he said on the testimony of Harry Lundeberg, supported by that evidence of O'Neil, unsigned and unsworn to, together, support a finding of membership upon which the Attorney General ordered a deportation.

The Supreme Court of the United States, in the opinion just read, by Justice Douglas and read by my colleague, said the evidence of O'Neil, unsworn to, unsigned, was improperly admitted by Judge Sears; therefore could not be considered by the Attorney General. Since the Attorney General had made his finding of fact on the evidence of O'Neil, plus Lundeberg, and since O'Neil's testimony was declared illegally before the Attorney General by the Supreme Court, it had to find, and [953] found only, that because of the illegal admission of the evidence of O'Neil that the Attorney General could not sustain the order of deportation because he had stated he drew that order and issued that order on the combination of O'Neil and Lundeberg. And that is as far as the Supreme Court of the United States goes, despite the repeated statements I heard in this court that the Supreme Court of the United States has found Harry Bridges not a member of the Communist Party. The Supreme Court of the United States has only said that the Attorney General of the United States, having found him a member of the Communist Party and subject to deportation, on a combination of the testimony of Lundeberg and O'Neil, finding O'Neil's testimony illegally admitted, that the judgment could not be sustained on the uncorroborated testimony of Mr. Lundeberg; and even in so finding, the Supreme Court said, "We do not have to decide what our position would be had the Attorney General said, as Judge Sears said, on the testimony of Lundeberg alone, 'I find Bridges a member of the Communist Party and order him deported.' "

So that point wasn't even decided by the Supreme Court because, of course, it wasn't before it. And so as a practical matter, in asking a simple question of a witness about a conversation had between him and one of these defendants, and the raising of the issue of res judicata, I say, with deep respect to Your Honor, and in full accord with the opinion of the Supreme Court in the case of Bridges v. Wixon, that if there was any [954] matter excluded by the Supreme Court of the United States, it was only a determination that the Attorney General's decision, based upon a combination of the evidence of two men, could not be sustained, when the evidence of one of those men was held illegally admitted because it was unsigned and [954-A] unsworn to.

And so as a matter of fact, there could not be any question of res adjudicata in this matter. I hope, if your Honor please, what once and for all that will settle the case of Bridges v. Wixon as far as this proceeding is concerned, just as I think your Honor completely settled the issue, and I ask your Honor's indulgence to briefly read for the record, because I think it should be in the record, following the statement just made by Mr. Cleary, from your Honor's own opinion rendered in consequence of four days of lengthy argument, argument which was perhaps longer but equally eloquent with the presentation made by Mr. Cleary today, in which Mr. James Lawrence Fly, in which Mr. Herbert Resner, in which Mr. Norman Leonard, and in some slight measure Mr. George Andersen, participated.

The Court: Including Mr. Goodman from Seattle.

Mr. Donohue: Including Mr. Goodman from Seattle; in consequence of which, on the question of double jeopardy, former acquittal and res adjudicata, your Honor found as follows:

> "The defendant Bridges invokes the doctrines of double jeopardy, former acquittal, and so forth, as a basis for the dismissal of the indictment.
>
> "Defendant Bridges says, 'But this is not a simple prosecution. This case has become a cause celebre, taking its place in history with the prosecution of Peter Zenger, [955] the witchcraft crimes of the early Colonial days, the alien and sedition prosecutions of the post-period of World War I, and prosecutions of the

Haymarket riot, Tom Mooney, and Sacco and Vanzetti.'

"Your Honor, it is contended that the institution of this criminal prosecution places Harry Bridges in jeopardy because 'He has heretofore been so subjected to jeopardy on four prior separate and distinct cases contrary and in violation of the Fifth Amendment.'

"This contention of the historic and atmospheric background does not provide a legal basis for the dismissal of the indictment. It appears affirmatively from the record that the defendant Bridges has never been subjected to criminal prosecution under the statutes which form the basis for the present indictment, nor has he ever been subjected to criminal prosecution by the United States Government prior to the bringing or institution of the within prosecution. There has been no double jeopardy within the meaning of the said Amendment to the Constitution of the United States. The defendant concedes that the earlier proceedings against him warrant 'technically criminal prosecutions,' but argues because the result of the earlier civil proceedings, such as the deportation hearings, might have ended in a more severe penalty than a criminal penalty, that the civil proceedings should be [956] considered criminal in nature and extent.

"The Court has not been referred to any rule or principle of law or reason which would support this novel contention. Counsel for the defendant, however, with great force seeks to have this trial court depart from well-known principles and launch upon some heroic venture, and at this stage of the proceedings strike the criminal indictment down and render ineffectual the efforts of the Government in the prosecution of what the Government regards as felonious conduct on the part of the defendant Bridges. If more compelling reasons were present than may appear in the case at bar, this court under accepted and well recognized rules is foreclosed from deciding the case at this stage upon constitutional grounds. See Baker v. Greeve, 169 U. S. page 284, 292; Arkansas Fuel Oil Company v. Louisiana, 304 U. S. page 197 and 202.

"Suffice in disposing of this branch of the defendant's argument to say, (a) defendant Bridges has never been the subject of a criminal prosecution under any statute arising out of the facts and circumstances present in the case at bar.

"(b) The 'double jeopardy' provision of the Constitution requires that there be a second prosecution for the same offense.

"(c) No court of the United States, as far as I know, [957] has ever held that a prior civil action or proceeding may be considered a criminal prosecution for the purpose of invoking this provision of the Fifth Amendment to the Constitution. See Helvering v. Mitchell, 303 U. S. page 391 to page 399.

"(d) Due process of law. The instant ground urged by the defendant Bridges, as well as the other two defendants, is that of the due process clause. He says in this connection that under the indictment he is deprived of his life, liberty and property without due process in that the instant proceeding, criminal in nature, is the fifth of a series of such proceedings. This contention on Mr. Bridges' part is based upon the erroneous predicate that the prior proceedings were criminal in nature. As to the defendants Robertson and Schmidt, the contention is devoid of any merit, and accordingly the several motions based upon this ground are and each of them is denied." [958]

I think there is no reason for further support to the position which your Honor took then on the point which is exactly the point which is raised, but with your Honor's indulgence, may I briefly call your attention to two cases. One is the case of Sourins v. United States, which is reported in 86 Fed. 2d at page 309, and which was decided in the Fifth Circuit of the Court of Appeals on November 17, 1936, Circuit Judge Holmes.

> "This appeal is from a decree canceling the appellant's certificate of naturalization upon findings that it had been fraudulently and illegally procured. The proceeding was in accordance with Section 405, Title 8 of United States Code. It was instituted by the District Attorney after an indictment under Section 414 of said title, referring to Title 8, U.S.C.A., page 414, for fraudulent procurement of his naturalization, which resulted in a verdict of not guilty, and a judgment discharging the appellant."

Then skipping a recitation of the facts and coming to the opinion of the Court:

> "The principal issue for our determination is the sufficiency of the plea of res adjudicata to sustain which it is essential, among other things, either that the cause of action be the same or that the exact point was in issue and decided."

Citing numerous cases including Cromwell v. Sac County, 94 U. S. at page 351, and the case of Russell v. [959] Place, 94 U. S. at page 606. This proceeding to cancel appellant's certificate of naturalization is not the same cause of action as the prosecution by indictment referred to, but it is an additional remedy for correcting an error in the original proceeding granting naturalization. It was designed to afford cumulative protection against fraudulent or illegal naturalization. The fact that naturalization may be revoked as an incident to conviction of fraudulent or illegal procurement thereof does not give the required identity to the two proceedings or to the thing previously sought to be obtained by them, nor does it appear that any issue here in controversy was adjudicated in the criminal prosecution where the sole issue was the bar of the statute of limitations. It follows that the facts shown by this record do not sustain a plea either of res adjudicata or estoppel by prior judgment.

One other opinion, if your Honor please, which was found in Volume 186 of the Federal Reporter at page 479, the case of Williams, Immigration Commissioner, v. the United States, to the use of Bougadis, an appeal from the Circuit Court of the United States from the Southern District of New York, habeas corpus proceeding, on the relation of Antonios Bougadis against William Williams, Commissioner of Immigration, from an order discharging realtor, the Commissioner appeals.

> "Circuit Judge Coxe: The appellee, Antonios Bougadis, an alien, arrived here March 28, 1910, on the steamship Martha [960] Washington, where he had taken a second cabin passage from Greece under the name of Dimitrios Papos. He was admitted as a citizen upon the production of citizenship papers issued to said Papos by the County Court of Westchester County, N. Y. He was arrested upon a warrant issued by the Department of Commerce and Labor, and the facts were fully investigated before a board of special inquiry, which found that he had secured admission to this country by false representations as stated. On these facts the board recommended his deportation.
>
> "(1) There can be no doubt whatever that the appellee came here under the name of Dimitrios Papos, and secured admission as a citizen by falsely representing himself to be Dimitrios Papos, and presenting naturalization papers issued to said Papos. In other words, he secured his admission to this country by fraud. The immigration act of 1907 provides that any alien who shall enter this country in

violation of law shall be deported to the country from whence he came. We are of the opinion that an alien who falsely represents himself to be a citizen, and by such artifice and fraud secures admission to this country, has entered contrary to and in violation of law. Any other construction would render the act abortive, if the alien succeeds in consummating his fraud. The most undesirable immigrant may in this way secure admission to the country. [961] He may be diseased, a criminal and a pauper, and yet evade the law intended to discover his physical, moral and financial status. One who by fraud succeeds in circumventing the law, and who thus secures advantages to which he is not entitled, violates the law.

"(2) In our judgment, the direction of the verdict upon the trial of the indictment is not res judicata of the present proceeding. That was a criminal trial, under section 79 of the Criminal Code (U. S. Comp. St. Supp, 1909, p. 1414), in which the government was required to establish the defendant's guilt beyond a reasonable doubt. This is a proceeding under an entirely different law, instituted by executive officers of the government to ascertain whether an alien should be deported. It is not a criminal trial. No punishment has been or can be inflicted. The department charged with the administration of the law has decided, on ample evidence, that the appellee was improperly admitted to this country. As was said by the Supreme Court in Turner v. Williams, 194 U. S. 279, at page 289, 24 Sup. Ct. 719, at page 722, 48 L. Ed. 979:

> "'Repeated decisions of this court have determined that Congress has the power to exclude aliens from the United States; to prescribe the terms and conditions on which they may come in; to establish regulations for sending out of the country such aliens as have entered in violation [962] of law, and to commit the enforcement of such conditions and regulations to executive officers; that the deportation of an alien who is found to be here in violation of law is not a deprivation of liberty without due process of law, and that the provisions of the Constitution securing the right of trial by jury have no application.'
>
> "The order discharging the appellee is reversed."

There could certainly be no doubt in Your Honor's mind, from Your Honor's own familiarity with the law in this case, that the proceedings involving the defendant Harry Bridges before an administrative officer of the Immigration Service, looking to the question of his deportation, in which it was endeavored to prove at that time either that he was one who was affiliated with the Communist Party or that he was a member of the Communist Party or that the Communist Party sought, taught and advocated the overthrow of the government of the United States by force and violence, which question did not come before the Supreme Court, because of its decision on the question of affiliation and on the question of membership. Your Honor can not certainly confuse that matter of an administrative hearing before an officer of the Immigration Service and the present indictment in which the United States is still a party, in which the defendant Harry Bridges is still a party, and in which also the defendants Schmidt and Robertson are parties. The question is not the same. The degree of proof is not the [963] same. The facts are not the same. There can be no more problem in determining whether or not the rule of res judicata applies here than there is difficulty in determining that there is a difference between a deportation proceeding under the Naturalization Act and an indictment, a criminal indictment, charging in substance the perjurious answer to a material question.

I most respectfully say, if Your Honor pleases, that the line of questioning as suggested by the instant question before the witness, the witness should be permitted to answer, and that the objection should be overruled.

The Court: One moment, counsel. Mr. Cleary raises the point or issue that the problem presented is one of a mixed question of law and fact. What have you to say on that phase?

Mr. Donohue: I have not heard any authority on that proposition, if Your Honor please.

The Court: He raises it. He asserted it.

Mr. Donohue: I say, of course, whether or not the doctrine of res judicata applies, just the same as the question whether or not the doctrine of double jeopardy applies, is wholly a matter of law, and that matter of law has already been decided by Your Honor, and that the present discussion as a matter of fact is precluded.

While I am here, may I suggest one more case in the event Your Honor should care to read it? It is the case of United [964] States v. Ness, found in 38 Supreme Court Reports at page 118, holding that though under Section 409 of the Immigration Act the government appears and opposes a petition for failure to file a certificate of arrival, an order of naturalization does not preclude a suit subsequently to cancel that certificate. I think that is also a point. [964]

Mr. Cleary: May it please the Court, I thought that in my argument I had made it clear that we were not now urging the plea of double jeopardy, that we were raising an entirely different issue. Yet counsel in his reply spent about half of his time going over the matter of double jeopardy and pointing out why it was not applicable. I admit that it is not applicable at this time. It isn't a rule of evidence, the doctrine of res adjudicata is a rule of evidence.

Now, concerning the two cases from which counsel read, the first sustains our contention; in that case there was no issue of the guilt or innocence of the defendant decided. There was merely an adjudication that the statute of limitations had run, and of course an adjudication that the statute of limitations had run is not an adjudication that the offense charged was not proven. As to the second of the two authorities cited, I may call your attention to the fact that it is contrary to the holding of the Supreme Court of the United States in the case of Coffey v. The United States, and that the decision in Coffey v. The United States is still being cited and followed by the Supreme Court of the United States. And I will give your Honor one case in which, subsequent to that decision, it was cited with approval and followed, and that is the case of United States v. Oppenheimer, which we have already discussed.

Now, certainly res adjudicata is applicable in civil [965] cases. In civil cases the burden is upon the plaintiff to establish his claim by a preponderance of the evidence. A jury's verdict finding for one of the parties and against the other, unless there are special interrogatories, makes no finding on any of the facts in issue. The decision is for the plaintiff or for the defendant. Yet your Honor knows that once one of the parties has obtained such a judgment and it has become final, it bars out of any action between those parties at any other time or in that court or any other court the facts covered by the pleadings which were put in issue by the pleadings and which were determined by the verdict, merely on the basis, in case the decision is for the defendant, not proven by a preponderance of the evidence. We say that in the decision of the Supreme Court of the United States in Bridges v. Wixon it is in legal effect not only a holding that Bridges was not proven to be a Communist, a member of the Communist Party, that it was not proven so beyond all reasonable doubt, which would be the case in a criminal case—and lacking that proof, he would get a verdict of acquittal. It not only held that Bridges was not proven to be a Communist by a preponderance of the evidence, but it went so far, in effect, as to hold that Bridges was not proven to be a Communist by that scintilla of competent evidence which is sufficient on habeas corpus proceedings to sustain the action of the Attorney General. But it is in effect a general verdict [966] of not guilty, of not proven. And that is the factual basis upon which 90 per cent of your cases of res adjudicata are involved.

We submit our objection to the question.

The Court: Mr. Donohue, do you have anything further?

Mr. Donohue: No further reply, if your Honor please.

The Court: All right. We have now reached a time after the four o'clock adjournment period. We have had a rather extended two or three days, and we will take our adjournment until Monday, November 28, at ten o'clock. The matter may stand submitted.

Mr. MacInnis: May I hold the Court a moment on another question?

The Court: Yes, sir.

Mr. MacInnis: I think that some time would be saved over the week-end if we could be permitted to withdraw the instructions that we have proposed.

I have several amendments in mind, and I have discovered several typographical errors, and if I may have the instructions returned, I can augment them and have them back in your hands Monday.

The Court: I will hand them to Mr. Mitchell, and you may have them. The court will then stand regularly adjourned in this trial until next Monday, November 28, at ten o'clock.

(Thereupon an adjournment was taken until Monday, November 28, 1949, at 10:00 [967] a.m.)

November 28, 1949, 10:00 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: I am filing herein a memorandum opinion and order overruling the objections to the testimony of the witness John Schomaker.

Mr. Hallinan: Pardon me, Your Honor; before that point might I make an objection?

The Court: The order is filed.

Mr. Hallinan: Would Your Honor permit me to make the objection before the filing of the order?

The Court: The copies may be distributed to counsel. Now, Mr. Hallinan?

Mr. Hallinan: I had an objection to make, Your Honor, to the filing of the order. I wanted to make it, of course, before the order was made. Might it be considered the objection is made before the order?

The Court: What is the purpose?

Mr. Hallinan: The purpose is we filed on Saturday under Rule 25 of the Judicial Code an affidavit and certificate to disqualify Your Honor from further participation in this proceeding, and the rule plainly states that upon the filing of such affidavit the Court shall take no further proceeding in the matter, and so we object to the filing of this order and to [968] this judge proceeding further.

The Court: Mr. Hallinan, I have read the affidavit filed herein by Mr. Bridges, as well as the accompanying document. It is the opinion of this Court that the affidavit and/or the affidavits were not filed timely. There is no good cause shown for the failure to file timely, and that the affidavit or affidavits and the motion itself are and each of them is legally insufficient as a matter of law, and in support of my statement, Mr. Hallinan, I refer you to Price v. Johnston, 125 Fed. 2d. 806 at 811; Sanders v. Allen, 58 Fed. Sup. 417 at 419; the decision of Judge Yankwich in Cole v. Loew's Incorporated, 76 Fed. Sup. 872; in re Beecher, 50 Fed. Sup. 530 at 532; Refoir v. Lansing Drop Forge Company, 124 Fed. 2d. 440 at 444.

Mr. Hallinan: Might we add this, Your Honor, in order to have the record straight, that Your Honor's order refusing to disqualify yourself precedes the ruling upon the motion or the objection to Schomaker's testimony, because obviously the first thing before the Court is the motion of disqualification, because if it were good, you would concede that this order could not be made. If Your

Honor rules it not good, that should precede the ruling upon the objection.

The Court: In terms of sequence of procedural technique, I suppose that, in the light of the filing of the motion on Saturday, as you did, the matter comes before the Court. I have disposed of it. In the light of the sequences, then, the order [969] with respect to the examination of Mr. Schomaker may be deemed made in subsequent point of time to my other order, and in connection with the order I have made in connection with the affidavit claiming bias and prejudice, they are and each of them is taken from the files of this court.

Mr. Cleary: May it please the Court——

The Court: Yes, sir.

Mr. Cleary: I have not had a chance to read the Court's memorandum opinion.

The Court: A copy is being presented to you.

Mr. Cleary: Yes, but for the purpose of the record I now want to make the same objection, but instead of specifying the date upon which the decision of the Supreme Court of the United States was filed, I wish to specify the date upon which the opinion or order of the Attorney General was filed. Will you make the same ruling?

The Court: I do not follow you, Mr. Cleary. I have made my order. This is the second time in point of procedure that I have ruled on this particular motion. I have ruled on it in advance of trial after lengthy arguments. [970] And I listened to you the other day patiently, and I think with a degree of patience that might at times be wearing on me. Now I have ruled. My ruling is sufficient unto the day. It is recorded in this court and you have copies thereof. You may review it hereafter if the occasion should arise.

Mr. Cleary: If I may say a word. The present objection upon which your Honor ruled was that the decision in Bridges v. Wixon was res adjudicata as to all evidence tending to show that Bridges was a Communist, up to the date of that decision. There may be a question, the appellate court may at some time in the future raise the question, "Well, the objection was good had it been made as of some previous date."

The Court: Counsel, I shall not assume to be prophetic as to what the appellate courts may have in mind. I have made a very clear order and an exposition of my views, and that suffices. That is all, sir.

Mr. Cleary: Well, I just want to establish for the record——

The Court: All right.

Mr. Cleary: I now make the motion, or the objection, that it is res adjudicata as of the day the Attorney General's opinion or decision was filed. I assume your Honor is going to——

The Court: I think——

Mr. Cleary: ——sustain that.

The Court: I think the order will stand and will probably [971] answer your question.

Mr. Cleary: Well, I woud like a direct ruling.

Mr. Donohue: May I be heard?

The Court: The ruling is on file, Mr. Cleary.

Mr. Donohue: If your Honor please, I think if Mr. Cleary looks, as I just have, at the order which your Honor has just filed, particularly with reference to page 3, to the statement in your Honor's opinion that "It appeared thereafter that the crucial finding of the Attorney General was arrived at in reliance upon incompetent testimony in violation of a regulation of the Department designed to insure fair hearing and to safeguard the rights of aliens" that it answers the question of counsel, and would indicate that your Honor's ruling would be as well toward the admissibility of this evidence subsequent to the date of the finding of the Attorney General, and subsequent to the date of the opinion of the Supreme Court.

The Court: Call the next witness, Mr. Schomaker.

Mr. Cleary: May the record show an exception?

The Court: Yes, sir. It isn't necessary, counsel, to take exception. That rule has long since been dispensed with in these courts.

The Clerk: Call Mr. Schomaker. Call the jury.

(The jury then came into the courtroom and assumed their respective places in the jury box.)

The Court: Is it stipulated that the jurors are present? [972]

Mr. Hallinan: Yes.

Mr. Donohue: Yes, your Honor.

The Court: You may proceed. Call Mr. Schomaker, please. Mr. Schomaker is called for further direct examination by Mr. Donohue.

JOHN H. SCHOMAKER

resumed.

Direct Examination
(Continued)

The Court: You may direct the witness' attention to the last question.

The Clerk: The witness on the stand is John H. Schomaker, heretofore sworn.

By Mr. Donohue:

Q. Mr. Schomaker, on Wednesday last I asked you this question, to which objection was made, and his Honor has ruled that you may answer the question: "And will you state to his Honor and the ladies and gentlemen of the jury, as you now recall it, the conversation that was had at Mr. Bridges' home when you and Herman Mann were there present, whether it was something that you said or Mr. Mann said or Mr. Bridges said?"

Mr. Hallinan: Pardon me. To identify the time, as I have forgotten it, is that sometime in 1933?

Mr. Donohue: On page 880 of the record——

The Court: The record reflects that it was in 1933 in the fall of the year. [973]

Mr. Donohue: Yes. Page 880. In the fall of the year.

Mr. Hallinan: In the fall of the year?

(Testimony of John H. Schomaker.)

The Court: October, I think; is that correct, sir?

Mr. Donohue: Yes, sir.

A. Well, after he went into the room, why, Bridges was introduced to me and I was introduced to him. And the purpose of our visit was to discuss the——

Mr. Hallinan: Just a moment. Object to that, your Honor, as stating something not responsive to the question, stating an opinion and conclusion. He is asked as to the conversation, not as to the purpose of his visit.

Mr. Donohue: May I meet the objection by another question, if your Honor please?

The Court: Yes, sir.

Q. (By Mr. Donohue): Did you state to Mr. Bridges the purpose of your visit?

Mr. Hallinan: Just a moment. Object to that, if your Honor please, as leading and suggestive. He should ask for what conversation took place.

The Court: Overruled.

Mr. Donohue: You may answer the question, Mr. Schomaker.

A. Well, the reason we were there was to discuss the problems on the waterfront and to——

Mr. Hallinan: Just a moment. Your Honor, I ask that that be stricken out as not responsive and as stating an [974] opinion and conclusion. This witness is asked as to a conversation that took place. He is now stating what his opinion and

(Testimony of John H. Schomaker.)

conclusion is with regard to the purpose of the visit.

The Court: Mr. Schomaker, may I interrupt you? Will you state the conversation to the best of your recollection, the parties present at that time and place, what Mr. Bridges said to you, what you said to him, to the best of your recollection?

The Witness: Well, Bridges says, "What's doing?" And I answered, "We are out here to get an article for the Waterfront Worker, and to discuss with you the problems on the waterfront," which we did. And the upshot of the meeting was that I was——

Mr. Hallinan: Just a moment. Pardon me. Object to that, your Honor. Now he has stated the conversation, and the rest of this is——

The Court: You may address another question to him.

Q. (By Mr. Donohue): Mr. Schomaker, will you tell his Honor and the ladies and gentlemen of the jury what was said by Mr. Bridges at any time during this meeting at his home, just his conversation.

A. Well, Bridges said that it was time that something was being done to revitalize the ILA.

Q. And did you make any response to that?

A. "That is the reason that we are here, is to write an article [975] for the Waterfront Worker, to do just that." And the upshot of it was that Mr. Bridges agreed to write an article.

(Testimony of John H. Schomaker.)

Mr. Hallinan: Just a moment, Mr. Schomaker. Object to that——

Q. (By Mr. Donohue): What did Mr. Bridges say he would do?

A. He said he would write an article for the Waterfront Worker.

Mr. Hallinan: Pardon me. Object to it again as leading and suggestive and as assuming something not in evidence. Now, your Honor, he should state the conversation.

The Court: Well, he has, to some extent. I will strike the word "upshot" or "the upshot of the conversation"; that perhaps was his own observation.

Q. (By Mr. Donohue): What did Mr. Bridges say with respect to or in response to your question?

A. Bridges said he would write an article.

Q. And was that the end of the visit and the end of the conversation?

A. Well, we discussed other things. That is, the general situation on the waterfront.

Q. Can you recall at any time, or can you recall now anything that Mr. Bridges may have said with respect to the situation on the waterfront or anything that you may have said to him or that Mr. Mann may have said to him?

A. Well, as I explained, we discussed the situation. And as Bridges said, we needed to take some action to revitalize the ILA. [976]

Q. Did he offer any suggestion, meaning by "he" Mr. Bridges?

(Testimony of John H. Schomaker.)

Mr. Hallinan: Just a moment. Object to that as leading and suggestive. He hasn't stated——

The Court: Yes, that is correct, counsel.

Mr. Donohue: I agree with your Honor. I withdraw the question.

Q. What did Mr. Bridges say with respect to the conditions on the waterfront?

A. Well, that the action needed to be taken to overcome the leadership of the people who were elected officials of the ILA at that time.

Q. And what did he say about those officials and what was he going to do about it, what he suggested to do about it?

Mr. Hallinan: Pardon me: May I state that my understanding of the rule in matters of this kind is this: that the witness is asked the conversation; now, he is supposed to state the conversation in the exact words, if he can, and if he can't in the context. And unless he says that he cannot remember anything further, these leading questions cannot be asked. Now, counsel hasn't done that. He is simply putting words in the witness' mouth.

The Court: Mr. Donohue, may I ask you to refrain from any suggestion of a leading question?

Mr. Donohue: Yes, your Honor. Your Honor of course understands that this witness is testifying as to his recollection [977] of a conversation which occurred a good many years ago. I think it is quite apparent even to Mr. Hallinan that his recollection of his distinct words, and those which were said by any of the persons there, was exhausted soon after he was inquired of with respect to this particular meeting.

Mr. Hallinan: Might I suggest, your Honor, that Mr. Schomaker claims to have been present at the conversation. I don't understand Mr. Donohue was. So if Mr. Schomaker does not remember what was said, I don't think the deficiency can be supplied from Mr. Donohue's memory.

Q. (By Mr. Donohue): Mr. Schomaker, have you told us everything that you recall, either by way of the exact words of Mr. Bridges or Mr. Mann or yourself, or the context of what they have said or did say? [978]

A. Well, no, there was more to the conversation than that, but I can't tell you with all these objections. I am not a lawyer, you know.

Mr. Hallinan: Just a minute. I ask that the last remark of the witness be stricken out and that the jury be instructed to disregard it.

The Court: Yes, the last remark of the witness, Mr. Schomaker, to the effect that he is not a lawyer may be stricken from the record and the jury is admonished to disregard the statement. You might, in the light of the objections, address the question to Mr. Schomaker mindful that the years relate to 1933, is that correct?

Mr. Donohue: Yes, sir.

Q. Mr. Schomaker, have you exhausted your recollection of the conversation that was had among you three persons at Mr. Bridges' home?

A. Why, no, there was more to it than that.

(Testimony of John H. Schomaker.)

Q. Will you state in your best manner what you do recall of that conversation?

A. Well, when the objection was raised to the officials of the ILA that something needed to be done, and it was not quite clear just what was needed to be done, whether to continue to make the fight in the ILA or to divert it to the MWUI and make the fight through the MWUI, which was an industrial union comprising mostly seamen, we kicked that around for quite a while [979] and the conclusion that was drawn——

Mr. Hallinan: Just a minute. I object to the statement.

Q. (By Mr. Donohue): What was stated——

The Court: One moment. The conclusion may go out.

Q. (By Mr. Donohue): What was stated by any of the persons present, Mr. Schomaker?

Mr. Hallinan: Just a minute. Your Honor, that is asking the witness, disregarding Your Honor's ruling, to state a conclusion. The witness is testifying to a conversation and doing all right.

Q. (By Mr. Donohue): What was stated by any of the persons present, Mr. Schomaker?

A. I think it was Mann who suggested that we should run an article on the basis of having the men pay up, those who were delinquent in their dues in the ILA, that we should stress the fact that the members who were members of the ILA should pay up their dues and those who were not members should join.

(Testimony of John H. Schomaker.)

Q. At that time were you a member of the ILA?

A. I was, yes.

Q. And to your knowledge, was Mr. Herman Mann a member of the ILA?

Mr. Hallinan: Just a minute. I object to that as calling for an opinion and conclusion and, Your Honor, again it is not the best evidence. There is no showing that the records of these organizations are not available. This is asking for an [980] opinion and conclusion.

The Court: The objection is overruled, and I base my ruling on the Marzani case.

Mr. Hallinan: Your Honor, could I say something on the Marzani case? It will only take a minute.

The Court: Yes.

Mr. Hallinan: In the Marzani case, Your Honor will remember the Court pointed out that no objection had been made in asking the question. The Court said that no objection was made to any of those questions. However, every answer contained some sort of conclusion of fact.

The Court: Mr. Hallinan, I have analyzed that in the light of your anticipated objection and the objection heretofore made. It may go to the weight of the evidence, but you have full scope of cross-examination to cross-examine him throughly on the basis of his knowledge.

Q. (By Mr. Donohue): Will you answer the question?

A. If Herman Mann was a member?

(Testimony of John H. Schomaker.)

Q. To your knowledge.

A. To my knowledge, Hermann Mann was a paid-up member of the ILA.

Q. To your knowledge, was Mr. Bridges a member of the ILA?

Mr. Hallinan: Just a moment. I object to that as calling for the opinion and conclusion of the witness and not the best evidence, if the Court please.

The Court: Overruled. [981]

A. Well, whether Bridges was a member of the ILA or not I don't know. I know several times he was delinquent in his dues——

Mr. Hallinan: Just a minute, Mr. Schomaker, please. I think when an objection is made the witness should be asked to desist from continuing his answer until the objection is finished. He has answered the question that he does not know. He starts now to give an argument upon which a conclusion might be based.

Q. (By Mr. Donohue): Mr. Schomaker, how long did you remain at Mr. Bridges' home on the occasion you have been testifying to?

A. That evening, you mean?

Q. Yes.

A. Oh, I imagine we were there two and a half hours.

Q. You have mentioned that you were discussing articles for the Western Worker?

A. No, the Waterfront Worker.

Q. Will you tell us what the Waterfront Worker was?

(Testimony of John H. Schomaker.)

Mr. Hallinan: Just a minute. Same objection, Your Honor, asking for an opinion and conclusion of the witness.

The Court: Overruled.

A. The Waterfront Worker is a paper that was a mimeographed paper that was published at first bi-monthly and later weekly. It was a paper that was published by a group of longshoremen who were members of the Communist Party——

Mr. Hallinan: Pardon me. Might I make this further objection, [982] Your Honor? I do not like to be continually objecting, but Your Honor realizes my position. I have to make the objection or they are deemed waived. No proper foundation is laid to show this gentleman's knowledge of what the Waterfront Worker was, who founded it.

The Court: Counsel, may I ask you to give more scope to these questions? Make a little picture as to what that is. We hear it for the first time. I hear it and I am interested.

Q. (By Mr. Donohue): Mr. Schomaker, did you have any official connection with the Waterfront Worker?

A. In 1933 and 1934 and up until the time it was liquidated I was the editor.

Q. At the time when you were at Bridges' home with Herman Mann, did you have any official position with the Waterfront Worker?

A. No, I had no official position with the Waterfront Worker at that time.

(Testimony of John H. Schomaker.)

Q. When did you obtain or attain an official position with that publication?

A. It was around Thanksgiving of 1933.

Q. That is the same year?

A. The same year.

Q. Will you tell His Honor and the ladies and gentlemen of the jury what the Waterfront Worker was?

A. Well, the Waterfront Worker was a mimeographed paper put out—issued in those years, 1933 and 1934, the early part of [983] 1934, as a bi-monthly paper, and later it became a weekly, and this paper was edited by Communist Party members——

Mr. Hallinan: Just a minute. I object to that, if the Court please, and I also have to make the objection now, Your Honor, and offer in evidence a document that I do not want to discuss, because I do not want to have some further visitation inflicted upon me, but this is also res judicata as to the nature of this paper. That has heretofore been passed upon. It is not what the gentleman just said it is. I ask that his answer be stricken.

Mr. Donohue: Your Honor, the witness is testifying as to the nature of a publication of which he was the editor. As Your Honor has suggested, Mr. Hallinan has the right and will have the right of cross-examination to determine by cross-examination of this witness whether he is qualified to speak and to describe the publication of which he was the

(Testimony of John H. Schomaker.)

editor, but certainly the question itself is proper, the foundation having been laid, and I think the witness should be permitted to answer.

Mr. Hallinan: That is not my point. The point is, in the Landis decision it was specifically passed upon. The nature of this paper was specifically determined. We make the objection it was res judicata.

The Court: The objection is overruled, Mr. Hallinan.

Q. (By Mr. Donohue): Will you answer the question, Mr. [984] Schomaker?

A. What is the question?

Q. The nature of the Waterfront Worker at the time when you were editor of that publication. What was it?

A. The nature of the Waterfront Worker was to publish news of the waterfront and to receive the men's grievances, and to raise—editorials generally contained the policy of the union—the correct policy which the progressive forces or the Communist Party members——

Mr. Hallinan: Just a minute. Your Honor, I ask that that be stricken out and I make the further objection, Your Honor, that now this witness is invading squarely the province of the jury. No explanation is made as to why some copies of the Waterfront Worker are not produced here. I suppose they are available and the jury is entitled to make up its own mind as to the nature of it.

The Court: This man, Mr. Hallinan, apparently

(Testimony of John H. Schomaker.)
was the editor and as editor he is entitled to make observations as to the scope and purpose thereof, subject to whatever questions you may address to him. The objection is overruled.

Q. (By Mr. Donohue): Will you continue, Mr. Schomaker?

A. Well, in the editorials it sought to lay down the policy which the Communists thought would be the correct policy for the union. Also it published, sought letters from the rank and file of their grievances, of being short-timed and being worked [985] overtime without being paid, heavy loads and any injustices or grievances from which they suffered were given voice in this paper. And as I said, the two principal reasons why it was published was, first, to direct the policy or lay down a policy which the Communists felt was the correct thing to follow; secondly, it was to hear the grievances of the men; and thirdly, to receive contributions from the men to keep up its publication.

Q. At any time, Mr. Schomaker, during the period when you were the editor of the Waterfront Worker, did that publication receive any contributions by way of articles for publication from the defendant Harry Bridges?

Mr. Hallinan: Just a minute.

A. Numerous times.

Mr. Hallinan: Just a minute. I ask that that be stricken out, Your Honor, until I can get the objection in. I object to that as calling for the opinion and conclusion of the witness and no founda-

(Testimony of John H. Schomaker.)

tion laid. There is no foundation laid as to what he knows about it. It is calling for the opinion and conclusion of the witness.

The Court: Overruled.

Q. (By Mr. Donohue): You may answer the question, Mr. Schomaker.

A. In determining each issue, we had a meeting of the editorial board and as the events occurred on the waterfront, we would try to determine what editorial needed to be written and [986] to be printed for the men to follow, and it was agreed that certain people would write certain editorials or certain stories and numerous times Bridges—it was ruled that he should write certain editorials, and I would like to say we had a hell of a time getting them from him. I had to visit him two or three times to get an article.

Q. Did he ultimately deliver them?

A. He ultimately delivered them after pressure, yes.

Q. Were they published, to your knowledge?

A. They were published, yes.

Q. Can you recall, Mr. Schomaker, when it was that you again met the defendant Harry Bridges and where?

A. Well, I wouldn't remember the exact place, no.

Q. After this first visit to his home in 1933, on how frequent occasions did you see him?

A. Well, it would be at the rate of two or three times a week.

(Testimony of John H. Schomaker.)

Q. Can you tell us generally where it was or under what circumstances it was that you saw him?

A. Well, either it would be at his home, at a prearranged—either at his home or other prearranged meeting place, and occasionally on the waterfront, either going to work or coming from work.

Q. Mr. Schomaker, do you know a man by the name of B. B. Jones?

A. Bruce B. Jones? I know him very well, yes.

Q. How long have you known him?

A. Well, Jones I have known since about the middle of the [987] depression, about 1931.

Q. Over how long a period of time did your acquaintance with him continue?

A. Why, up to the present time.

Q. Do you know of your own knowledge whether or not B. B. Jones or Bruce B. Jones, as you have described him, was a member of the Communist Party?

Mr. Hallinan: Just a minute, Mr. Schomaker. I object to that, if the Court please, as not the best evidence, calling for an opinion and conclusion of the witness. The records of the Communist Party itself, or Mr. B. B. Jones, would be the best proof of his membership of non-membership, and there is no reason——

The Court: Will you withdraw that question and lay a foundation for the asking thereof?

Mr. Donohue: Yes, Your Honor.

The Court: The question is withdrawn, Mr. Hallinan.

(Testimony of John H. Schomaker.)

Q. (By Mr. Donohue): Mr. Schomaker, at any time during the period when you were a member of the Communist Party, did you ever attend a meeting, the attendance at which was restricted to the members of the Communist Party at which Mr. F. B. Jones was present?

Mr. Hallinan: Same objection, if the Court please, and this is widening the scope now, calling for the opinion and conclusion of the witness, and not the best evidence. [988]

The Court: Overruled. State all the circumstances surrounding this meeting.

Q. (By Mr. Donohue): Can you describe to His Honor——

Mr. Hallinan: Furthermore,—pardon me, Your Honor,—this is also subject to the objection that it was all apparently outside the presence of the defendants. It is not binding on them.

Mr. Donohue: I am going to bring it directly into the presence of the defendant, if counsel will permit a preliminary question.

Mr. Hallinan: The necessary preliminary question would be, first, that the defendant was present at some such meeting.

The Court: I assume Mr. Donohue is coming to that point. If he does not come to that point, it will be stricken.

Mr. Hallinan: Your Honor, I think the foundation should be laid first.

Mr. Donohue: I withdraw the question.

The Court: You withdraw the question?

(Testimony of John H. Schomaker.)

Mr. Donohue: I withdraw the question.

Q. Mr. Schomaker, did you ever meet the defendant Harry Bridges in company with Mr. Bruce B. or Mr. B. B. Jones?

Mr. Hallinan: Just a moment. That is objected to as leading and suggestive, if the Court please.

The Court: Overruled. [989]

A. You asked if I ever met Bridges with B. B. Jones?

Q. (By Mr. Donohue): Yes.

A. Numerous times. Numerous times.

Q. Did you and Mr. B. B. Jones ever meet with the defendant Harry Bridges when no other persons were a party to your conversation, the meeting taking place in the cooperative restaurant at Stewart and Market Streets in the City of San Francisco?

Mr. Hallinan: I object to that as leading and suggestive and telling the witness what to say, Your Honor. Here is the whole thing, the whole statement.

The Court: Overruled.

Q. (By Mr. Donohue): Will you answer the question?

A. The question of the cooperative restaurant —if that is 1933, there was a restaurant on the corner of Stewart and Market, but it was not a cooperative restaurant, I don't think.

Q. What is your best recollection of the name of the restaurant?

A. I don't remember. It may have been Boyd's

(Testimony of John H. Schomaker.)

Restaurant. I think the cooperative restaurant went into operation in the early part of 1934, but there was a series of restaurants from the corner of Stewart Street to the Embarcadero. Olson's Restaurant was in there at one time.

Q. Did you ever meet in a restaurant on the corner of Stewart and Market Streets in 1933?

A. Lots of times I did.

Mr. Hallinan: Just a minute. I object to this as leading [990] and suggestive.

Mr. Donohue: Would you mind if I finished the question?

Mr. Hallinan: The witness has started to answer already. The witness answers so rapidly I have to make the objection so it won't go in at all.

Mr. Donohue: I withdraw the question.

The Court: The question is withdrawn.

Q. (By Mr. Donohue): Did you meet with Mr. Bridges and Mr. B. B. Jones in a restaurant at or near the corner of Stewart and Market Streets in the City of San Francisco?

Mr. Hallinan: I will ask that the witness wait until an objection can be made before snapping out an answer. We object to that as leading and suggestive.

The Court: Overruled. [991]

A. There is not a restaurant on the waterfront that I didn't meet with some member of the Communist Party, whether it was Jones or any other people.

Mr. Hallinan: Just a moment. Ask that be stricken out as not responsive, if the Court please.

The Court: The motion is granted.

Q. (By Mr. Donohue): The question is whether you met in a restaurant with Mr. Bridges and Mr. Jones on a particular occasion.

A. I did, yes.

Q. What is your best recollection of where and when that meeting took place?

A. Well, that meeting took place in—well, whether you call it fall or winter—November or December of 1933. So it must have been what you term the winter of 1933. And——

Q. Yes? A. The occasion was that——

Q. You may not state the occasion, Mr. Schomaker, but you may state to his Honor and to the ladies and gentlemen of the jury what you said to Mr. Bridges or what Mr. B. B. Jones said to Mr. Bridges as to the reason for your meeting with him, if you recall it.

Mr. Hallinan: If your Honor please, pardon me. I don't think that counsel has correctly enunciated to the witness what his rights and duties are. The witness' duties and [992] rights are to answer questions. Now, counsel says to him, "You may state to the jury so-and-so." Now, that is not a question; it is a direction to the witness. I think a question should have been asked.

The Court: Objection sustained.

Q. (By Mr. Donohue): Mr. Schomaker, will you state to the jury and to his Honor what was said by either you or Mr. B. B. Jones to Mr. Bridges as to the purpose of your meeting with him.

(Testimony of John H. Schomaker.)

Mr. Hallinan: And pardon me; one other objection, your Honor. And might we have somewhat the same sort of agreement that we had before, that in view of the motion that was addressed to you by Mr. Cleary, we should propose an identical objection to each question, that all these matters are res adjudicata. Now, if it be understood that we make the objection that everything preceding the decision in 1945 is res adjudicata, I will not make that objection as to each separate question asked.

The Court: Mr. Donohue, will you stipulate to counsel to the end that we have a clear, definite statement in the record?

Mr. Donohue: Gladly, your Honor.

Mr. Hallinan: Thank you.

Q. (By Mr. Donohue): Do you recall the question, Mr. Schomaker?

A. Well, I remember the one in there, the first thing Jones [993] says, "How about buying the coffee, Harry?" So, a cup of coffee was only a nickel in those days, so he went and got three cups of coffee and sat down.

Mr. Hallinan: I think, your Honor, that "a cup of coffee was only a nickel" should be stricken out, as it is a reminded of the sad conditions where we now exist, where it has gotten up to 15 cents a cup.

Mr. Donohue: I think, if your Honor please, it was only a recitation of a historical fact; certainly wasn't prejudicial to either side.

(Testimony of John H. Schomaker.)

The Court: No one can be injured by a nickel cup of coffee.

Mr. Donohue: I think not.

The Court: All right.

A. So they brought the coffee back to the table and proceeded to discuss the situation on the front. That was, all stevedores did that in those days, how lousy conditions were, and things that needed to be done to correct them. So when, in the course of the conversation, Jones put the $64 question to Mr. Bridges—

Q. (By Mr. Donohue): What was the question he put to Mr. Bridges?

A. The question was, "When are you going to join the Party, Harry?" And since Bridges already had the application,—

Mr. Hallinan: Just a moment. Ask that be stricken out, if your Honor please, as stating an opinion and conclusion and [994] not responsive.

Mr. Donohue: I have no objection to that going out.

The Court: Yes, that last part may go out.

Q. (By Mr. Donohue): With reference to an application, did you see an application, Mr. Schomaker, in the possession of Mr. Bridges?

A. I know in those days we always packed three or four applications with us.

Q. You didn't actually at that time see one in the possession of Mr. Bridges?

A. No, but Jones had one.

Q. You saw one in the possession of Mr. Jones?

(Testimony of John H. Schomaker.)

A. Oh, yes.

Q. And did you have one yourself?

A. Oh, yes, I had several.

Q. Now, what was Mr. Bridges' response to the question of, "When are you going to join the Party?"

A. Well, Bridges acted kind of coy, you know, like he wanted to be coaxed a little bit. So,——

Mr. Hallinan: Ask that be stricken out.

Mr. Donohue: I have no objection, if your Honor please.

The Court: Yes, it may go out.

Q. (By Mr. Donohue): What did he, Mr. Schomaker, say?

A. Well, his objection was, he says, "What about the name?" And so Jones said, "Well, that should be pretty easy to figure [995] out a name." He says, "Pick out any name, like T. J. Plant, for instance. That would be a good name."

So Bridges laughed, said, "That would be a joke on Plant, wouldn't it, if I would get a Party book in Plant's name and drop it in front of the Waterfront Employers down there and let someone pick it up and let a little heat go on Plant for a change?" So, and then he says, "No, that wouldn't be a good name either."

So Jones said, "The best thing to do is what is generally done; use a name that you are familiar with, so you won't forget it. And I would suggest you use your mother's name."

So we discussed that for, oh, on that basis for a while, and then some guy called in, came in and called me outside for some reason, I don't remember what, and I went out and stayed 15 or 20 minutes, and then as I was going back in, Jones was coming out.

Q. Now, you may not state any conversation that was had between you and Mr. Jones while Mr. Bridges was absent, and I take it that when you met Mr. Jones coming out, Mr. Bridges was not with him? A. That's right.

Q. Now, where did you and Mr. Jones go, if you went together after you left this restaurant at the end of this conversation?

A. Well, we walked up Market Street. [996]

Q. And where did you go?

A. To 37 Grove.

Q. And may I ask you what was at 37 Grove Street?

Mr. Hallinan: Same objection, your Honor; it is calling for an opinion and conclusion of the witness and not the best evidence, incompetent, irrelevant and immaterial.

The Court: Overruled.

A. Well, 37 Grove Street was the editorial office of the Western Worker and the headquarters of the Communist Party of California and San Francisco.

Q. (By Mr. Donohue): Now, while you were in transit from the restaurant where this conversation was had, and Communist Party Headquarters at 37 Grove Street, did Mr. Jones show you anything? A. He did, yes.

Q. What was it?

Mr. Hallinan: Just a moment. Object to that as calling for hearsay, not in the presence of the defendant. I understand the defendant was not present at any of this time.

Mr. Donohue: This isn't hearsay, if your Honor please. I am not asking for conversation; I am asking the witness if he was exhibited or shown anything by the witness Jones. He certainly can describe the fact.

The Court: He can state the fact if something was shown to him. [997]

Mr. Donohue: Yes.

Mr. Hallinan: I think action, if your Honor pleases, is as much hearsay as words; in other words, showing a thing outside the presence of a party is as much making a statement as what was said. It is purely hearsay.

The Court: The objection is overruled.

A. He showed me an application of the Communist Party.

Q. (By Mr. Donohue): And will you describe that application for his Honor and the members of the jury.

Mr. Hallinan: Same objection, that it is hearsay, not binding on the defendant, words and acts that took place between this gentleman and Mr. B. B. Jones outside the presence of the defendant.

The Court: Do you have subsequent testimony with respect to the same document, conversations with reference thereto between this witness, Jones and Bridges?

Mr. Donohue: No, your Honor; but between this witness and Mr. Bridges.

The Court: The objection is overruled.

Q. (By Mr. Donohue): You may describe the document, his Honor has said, or the application, as you call it.

A. This application blank was an orange card. It was about the same sized card as the ordinary postal card, and on it was the insignia of the Communist Party of America. In the left-hand corner, I think, in that particular application [998] it was. And it had some fine print which, in a few sentences, explained the aims of the Communist Party. And then it had the name of the applicant, the address, "Are you a trade union member?", "the number of workers employed in your plant," the— Then it had two blank spaces for sponsors. And then at the end it had the name of the applicant.

Mr. Hallinan: Pardon me, your Honor. I ask that all that be stricken out, and I have here this further objection, if the Court please, that have not proved the unavailability of that document, and what this witness is purporting to do now is give secondary evidence of its contents without the foundation laid of its unavailability. I ask the answer be stricken out.

Mr. Donohue: We obviously cannot prove it is unavailable until we have first proven its existence, if your Honor please.

Mr. Hallinan: Well, your Honor, they should try to prove that first. Now, if the card existed, there are means they could use for getting it or showing why it wasn't available, and this is putting in secondary evidence of the contents of a written instrument without first accounting for the fact that the written instrument is not available.

The Court: The objection is overruled.

Mr. Hallinan: May that objection precede the answer of the witness?

The Court: Yes, sir. [999]

Q. (By Mr. Donohue): Have you stated as best you can recall it the nature of this piece of paper you have been describing?

A. That's right; and on the reverse side it asked the—I think it also had a space there for the name that you were to use, your Party name.

Q. At that time you were yourself a member of the Communist Party?

Mr. Hallinan: Just a moment. The same objection has been made before, that it has been asked and answered, your Honor.

The Court: Overruled.

Mr. Donohue: I think it is proper at this time, if your Honor please.

The Court: Overruled. He has answered it several times, Mr. Donohue.

Mr. Donohue: I understand.

Q. May I ask you, Mr. Schomaker, was the document which you have just described similar to the application blank for membership in the Communist Party which you had yourself signed on some prior occasion?

Mr. Hallinan: Just a moment, sir. We make the objection that that is again calling for secondary evidence. Now, at least the application that this gentleman says that he has been handling around ought to be available, and there is no reason for introducing secondary evidence in that event. I object [1000] to it as calling for the opinion and conclusion of the witness.

The Court: The objection is overruled.

A. It was quite similar. Maybe there had been a few minor changes made in the text of the application.

Q. (By Mr. Donohue): Now, where were you when you first saw this application which you have just described?

A. We were walking along Market Street and we were just opposite the Lincoln Hotel.

Q. And when you say "we" you refer to yourself and B. B. Jones?

A. B. B. Jones and myself.

Q. Did you observe any handwriting on this application which you have described?

A. Oh, I did, because Jones showed it to me.

Q. And what handwriting did you see?

Mr. Hallinan: Now, just a moment. Same objection, if the Court please; calling for hearsay, opinion and conclusion of the witness, it is not the best evidence, and no reason is shown why secondary evidence should be introduced as to the contents of this document. No showing that the original is not available.

The Court: Overruled.

Q. (By Mr. Donohue): Will you answer the question.

A. Oh, it was the handwriting of H. R. Bridges.

Mr. Hallinan: Now, just a moment. Ask that be stricken [1001] out, if the Court please, and no foundation has been laid for that, and that is calling for an expert opinion.

The Court: That answer may go out. Will you ask this witness questions that may be considered as foundation for his observation that the handwriting was that of Mr. Bridges?

Mr. Donohue: But, if your Honor please, at this moment the witness has only stated that he saw in the handwriting of a H. R. Bridges. He has not yet said it was the handwriting of this defendant.

The Court: All right; H. R. Bridges.

Mr. Donohue: I expect to ask him whether he could identify it.

The Court: I was incorrect. I thought he had made the observation it was Mr. Bridges'.

Mr. Donohue: No, sir.

Mr. Hallinan: That is what I thought he had said, too. In fact, I think that's——

The Court: With that understanding, being in the record, it is stricken, then.

(Testimony of John H. Schomaker.)

Mr. Hallinan: Because, your Honor, you understood it correctly.

The Court: That was my understanding, counsel.

Mr. Hallinan: Yes.

Q. (By Mr. Donohue): Mr. Schomaker, prior to the day about which you have been testifying, had you ever seen the defendant [1002] Harry Bridges write his name? A. I have, yes.

Q. And on how many occasions would you say?

A. Well,——

Q. And under what circumstances?

A. I have already said he submitted articles for the Waterfront Worker, written in longhand, which had to be typed first into a dummy and then later transposed onto a mimeograph sheet, or stencil.

Q. And how often had you seen specimens of his handwriting?

A. Well, I wouldn't specify whether they were a dozen or two dozen times, but it had been numerous times.

Q. Had you observed anything unusual about the handwriting of the defendant Harry Bridges?

Mr. Hallinan: Just a moment. Object to it as incompetent, irrelevant and immaterial, calling for a conclusion and on a matter that he has not been qualified to pass upon.

The Court: I think so, counsel. I think it is asking for the unusual characteristics of a man's handwriting.

(Testimony of John H. Schomaker.)

Mr. Donohue: If your Honor please, I think the law is pretty well settled that any one of us is able to testify, having seen the handwriting of an individual, as to whether or not in our opinion a sample or type of his handwriting is or is not from our past experience the handwriting of that individual. [1003]

The Court: Similar to.

Mr. Donohue: And I think we are all—yes, your Honor, similar to. And I think we are all capable of stating whether or not in our layman's analysis of one's handwriting, there was any peculiarity in the formation of characters or any other peculiarity which comes to our attention. That is all I have asked the witness.

The Court: How many occasions prior to this particular occasion had this gentleman seen or observed the handwriting and the signature—particularly the signature—of Mr. Bridges?

Mr. Donohue: Well, he has only testified as to the handwriting, your Honor. At least a dozen and perhaps two dozen times.

Mr. Hallinan: Might I ask this, your Honor; I think this is something the Court is entitled to know now, with fairness.

The Court: Yes.

Mr. Hallinan: Is the prosecution in possession of this alleged document? Now, if they are, then it is the best evidence, and in good faith it should be produced.

(Testimony of John H. Schomaker.)

The Court: I cannot ask the prosecution whether they are presently in possession of it. I have to rule on these matters as they proceed.

Mr. Hallinan: But then that would go to the good faith [1004] of such inquiry, your Honor, as to whether or not this man is qualified to make such a determination, whether he is also, in addition to being an expert hod carrier, an expert handwriting expert.

Mr. Donohue: Are you questioning our good faith in asking the question?

The Court: What was the last question? Will you read it back, Mr. Reporter.

(Question read.)

The Court: This goes to the general handwriting, the characteristics that may be present in Mr. Bridges' handwriting.

Mr. Donohue: Correct, your Honor.

The Court: And his opinion as a lay person with respect to those characteristics.

Mr. Donohue: Yes, your Honor, and no further.

The Court: The objection is overruled.

Mr. Donohue: Will you answer the question.

A. Well, whether I am an expert hod carrier, or what?

The Court: No, no.

Mr. Donohue: No.

The Court: No, no. The last question, please, Mr. Reporter?

(Question read.)

The Court: You may answer that.

A. Well, the handwriting of Mr. Bridges is very legible, for [1005] one thing, and he writes very large, and his capitals, capital letters, that is, are generally made with a flourish and his signature is generally written, the H stretches like an S, and he runs them all together, the H, R, B. are generally run without—run in one letter without taking his pencil off the paper or pen off the paper.

Q. (By Mr. Donohue): Mr. Schomaker, when you testified shortly ago that on numerous occasions you had seen articles submitted to the Western Worker in the handwriting of the defendant Harry Bridges, may I ask you now whether or not those articles were signed by Mr. Bridges?

A. Well, they weren't articles for the Western Worker. The articles were for the Waterfront Worker.

Q. I am sorry; the Waterfront Worker.

A. No, I don't think they were signed, no.

Q. Then on how many occasions have you actually seen Mr. Bridges sign his name or his name signed?

A. Well, I have saw it when he had written resolutions either to be submitted to the local trade union—that is, the local meeting—or we had a group functioning in the Albion Hall, where numerous resolutions were submitted. And there I saw his signature.

Q. His name was affixed to those resolutions?

A. Yes, they were.

Mr. Donohue: May we take our recess at this time? [1006]

The Court: Yes. Ladies and gentlemen of the jury, we will take the morning recess and the same admonition to you as I have given in the past, not to discuss the case under any conditions nor to form or express an opinion until it is finally submitted to you. You may step down, Mr. Schomaker.

(Recess.)

The Court: You may proceed.

Mr. Donohue: Mr. Schomaker, from your stated familiarity with the signature of the defendant Harry Bridges, are you able to tell us whether or not in your opinion the name H. R. Bridges which you saw in the application you have described was or was not in the handwriting of the defendant Harry Bridges?

A. Definitely it was in the handwriting of Bridges.

Mr. Hallinan: I ask that that be stricken out. That is not the question he was asked. He was asked whether or not in his opinion he could give an opinion. I ask that the answer go out.

The Court: Yes.

Mr. Donohue (To the Witness): The answer be either yes, you can give an opinion, or no, you can not give such an opinion.

The Court: The answer may go out pending the preliminary question.

Mr. Donohue: Yes.

Q. Are you able to state, in your opinion, whether it was or was not the signature of the defendant Harry Bridges? Will you answer the question yes or no? A. Yes, it was.

Mr. Hallinan: I ask that that go out.

The Court: The "yes" may stand. "It was" may go out.

Q. (By Mr. Donohue): In your opinion, whose signature was it [1007] that you saw on the application you have described to the Court and jury?

Mr. Hallinan: I object to it, if the Court please, as calling for the opinion and conclusion of the witness, and not the best evidence, again attempting to prove a document which has not been explained by secondary evidence, and calling for the opinion and conclusion of the witness on a matter for which no proper foundation has been laid.

The Court: The objection is overruled.

A. In my opinion, it was the signature of that of Harry Bridges?

Mr. Donohue: I am sorry. I didn't hear.

The Witness: This interruption kind of confuses me. What is the question? In my opinion, was the signature that of Harry Bridges?

(Testimony of John H. Schomaker.)

Q. (By Mr. Donohue): Yes, the Court stated you may give your opinion as to whether it was or was not the signature of Harry Bridges.

A. In my opinion, it was Harry Bridges' signature.

Q. Mr. Schomaker, when you and B. B. Jones went to Communist Party headquarters, did you see anything happen with respect to that application that you have described to the jury?

Mr. Hallinan: Just a minute. We object to that, if the Court please, as res inter alios actae, matters done outside the presence of the defendant, not binding on the defendants, [1008] transactions between other persons, and hearsay.

The Court: I will overrule the objection on the condition that you attempt to fix the date, the persons present, and the place with more particularity.

Q. (By Mr. Donohue): What is your best recollection of the time at which the incident which you have described with respect to this application took place?

A. Well, it was about 10:00 o'clock in the morning in the fall or winter, ~~whatever you~~ want to term it, of 1933.

Q. In the City of San Francisco?

A. In the City of San Francisco, County of San Francisco.

Q. Can you tell us your best recollection of the time when you and Mr. Jones reached Communist Party headquarters?

A. We walked up Market Street, since we didn't have any money—short of dough in those days, so we walked up. I imagine it took us about 45 minutes. We arrived at headquarters about 11:00 o'clock.

Q. Who was present at headquarters whom you can now recall when you got there?

A. We saw different people there. George Morris was there. He was the editor of the Western Worker. There was a little guy there who sold literature. I don't recall his name. But we went upstairs. They had a mezzanine floor. We went up on this mezzanine floor into the office of Sam Darcy, who was a district organizer of District 13. [1009]

Mr. Hallinan: Just a minute. I ask that that be stricken out as stating the opinion and conclusion of the witness.

The Court: In what particular?

Mr. Halllinan: About Sam Darcy, what his occupation was.

The Court: That may go out.

Mr. Hallinan: He was just asked as to who were the people there. He can give the persons and then a description might be asked for.

The Court: That is correct. Give the parties present.

Q. (By Mr. Donohue): You say a man whom you have called Sam Darcy was there?

A. Yes, Sam Darcy was there.

Q. Will you tell His Honor and the ladies and gentlemen of the jury who Sam Darcy was? Now, don't answer until counsel has had an opportunity to object.

Mr. Hallinan: I object to that for the same reason. Of course, it is very difficult to have to get up and object to every question. I am afraid the jury will get a bad impression. They will understand if I do not make these objections, I waive them.

The Court: I will say to the jury at this juncture, Mr. Hallinan, if you desire, that counsel for the defendant is entitled to interpose objections to questions which in his opinion he believes to be incompetent, irrelevant and immaterial or hearsay. Those questions are addressed to the Court. I have ruled on them as you have observed. That is my function and my province exclusively. As I indicated to you, your province is to pass upon the facts, and as I further indicated, we work as a sort of team to that extent in channeling this evidence. Mr. Hallinan has urged these objections. It may well be—I am not saying that with particular reference to any phase of the testimony—if he did not urge the objections, he would be foreclosed hereafter from urging them in any reviewing court if the matter ever reaches such court; unless, of course, if counsel will stipulate with government counsel that an objection runs to a certain line of testimony. That procedure apparently could not be adopted here because the interrelation of the questions is such, I take it, he must interpose an objection. Is that satisfactory?

Mr. Hallinan: Thank you, and where it has been possible to get a stipulation, I have done that, on two occasions, to save the annoyance.

The Court: I say to you, ladies and gentlemen of the jury, not to be prejudiced in any sense at all by Mr. Hallinan's interposing these objections.

Mr. Donohue: May I say, if the Court please, with respect to the pending objection and the instant question, the question being, "Mr. Schomaker, are you able to tell us who Mr. Sam Darcy was?"

Mr. Hallinan: Pardon me. I hadn't finished the objection. [1011] I object, too, if the Court please, on the ground that it is not the best evidence. There is no reason why Mr. Sam Darcy can not be produced to testify himself, or no reason shown why records can not be produced to identify who he was. It is calling for an opinion and conclusion and not the best evidence.

The Court: What particular bearing on this particular phase of the case has Mr. Darcy?

Mr. Donohue: I may say, if Your Honor please, to object to a question as to who Mr. Darcy was would be like, in my judgment, objecting to a police officer who might be on the stand being asked the question, "Who is the chief of police?" Or if a man was sitting on the stand, and was a member of Post No. 1 of the San Francisco American Legion, objecting to the question, "Who is the commander of your post?" It certainly is within his knowledge.

The Court: Bear in mind, Mr. Donohue, both the Court and jury meet the impact of this evidence for the first time.

Mr. Donohue: I quite understand it, but I never can develop who Mr. Darcy was if I am going to meet that objection to a question put to a witness who has qualified himself as the unit organizer and as a section organizer.

The Court: Let us as a preliminary question ask the witness the length of time he has known Mr. Darcy, and so forth, so there is some foundation laid for this question to which Mr. [1012] Hallinan objects as his conclusion and without foundation.

Mr. Hallinan: And might I suggest, Your Honor, this in direct connection with what counsel said: Ordinarily a witness is put on the stand and a question, "Who is the chief of police?" or "Who is the head of your order?" is not a matter of great moment. Nobody cares. But where the great issue is who is the chief of police, or where that becomes a material matter—I might point out to Your Honor that so important is a matter of that kind that after the 1906 fire in San Francisco, when Eugene Schmidts was sentenced to prison for accepting bribes, it was reversed on appeal because of the failure of the prosecution properly to prove that Eugene Schmidts was there in San Francisco. We can not take judicial notice of who else is of the government, officers of the city government, let alone

(Testimony of John H. Schomaker.)

from a witness who gets on the stand and sui spondi identifies people who are not directly related to the charge against the defendant.

Q. (By Mr. Donohue): Mr. Schomaker, when did you first meet Mr. Sam Darcy?

A. Well, it was in the depression of the '30's, 1930 or early 1931, I met Sam Darcy.

Q. Where did you first meet him?

Mr. Hallinan: I object to that as incompetent, irrelevant and immaterial, and not binding on the defendants, res inter alios actae. [1013]

The Court: Overruled. The purpose of this line of evidence is to determine whether this witness had a capacity to identify him at the time and place in question more recently referred to in the evidence, and that is the reason and solely the reason for this background.

Q. The Court has indicated that you may tell us where it was you first met Sam Darcy.

A. Why, he was speaking at a meeting of the unemployed over on—in the California Hall. I think it is on Larkin Street. Anyway, it is the California Hall. Now, what street it is, I don't recall.

Q. Now, from that time until 1930 or '31, when you first met Mr. Darcy, until the day in 1933 about which you have recently testified, how often did you see Mr. Sam Darcy?

A. Well, I met him occasionally up to October, 1933, and then after 1933 up until the middle of or the end of '34, let's say—that is, 1933, October, November, to the end of 1934; that is, the fall of

(Testimony of John H. Schomaker.)

1934, I saw him sometimes two and three times a day.

Q. Now, in the interim between 1930 and '31 and October of 1933, when you saw Mr. Sam Darcy occasionally, where did you see him?

Mr. Hallinan: Just a moment. Same objection, if the Court please.

The Court: Overruled.

A. Why, I saw him at 37 Grove Street in San Francisco.

Q. (By Mr. Donohue): And at what part or place at 37 Grove Street, San Francisco, did you see him?

Mr. Hallinan: The same objection again.

The Court: Overruled. [1014]

A. You mean in what part of the building was he?

Q. (By Mr. Donohue): Yes.

A. Oh, why, he had an office on the mezzanine floor at 37 Grove Street.

Q. Well, what was at 37 Grove Street?

A. Well, that was the——

Mr. Hallinan: Just a moment. Object to that as having been already asked and answered.

The Court: It has been, two or three times, sir.

Q. (By Mr. Donohue): Now, in the interim between October of 1933 and some date which you gave us in 1934, when you say you saw Mr. Darcy sometimes twice a day, where was it that you had then seen him?

(Testimony of John H. Schomaker.)

Mr. Hallinan: Same objection, if the Court please.

The Court: Overruled. You may answer.

A. You mean where I met him in this time?

Q. (By Mr. Donohue): Yes. Where would you meet him?

A. Oh, at various places—at homes, at offices, and at 37 Grove Street, on the street, in restaurants.

Q. And would you tell his Honor and the ladies and gentlemen of the jury the purpose of your meeting Mr. Darcy during this period of time?

Mr. Hallinan: Now, there is a matter that is between other persons, not in the presence of the defendant, calling for hearsay, opinion and conclusion of the witness, asking him [1015] the purpose of his meetings.

Mr. Donohue: If your Honor please, the purpose of this question, as your Honor has indicated to counsel, is not to bind either of the three defendants by the answer of a witness, but merely to qualify him as one capable of stating to your Honor and the ladies and gentlemen of the jury, in order to meet the objection of counsel, why it was he is able to tell us.

The Court. All right. For that limited purpose, ladies and gentlemen, the evidence is elicited from this witness to show background for knowledge and recollections of events, to the end that he may answer, if he can, and identify a particular witness —by means of questions as to his occupation and

(Testimony of John H. Schomaker.)

identity. For that limited purpose the evidence may proceed, and for no other purpose.

Q. (By Mr. Donohue): What was the purpose of the meetings that you had?

Mr. Hallinan: Pardon me. Just a moment. I will ask that—I have to repeat the objection when he repeats the answer. Your Honor suggested to him——

Mr. Donohue: Can't we stipulate that——

Mr. Hallinan: And what he does is make the objection negligible by simply repeating the question. That requires me to repeat the objection.

Mr. Donohue: In the economy of time, your Honor, may we [1016] not stipulate that it will be unnecessary for you to repeat the objection should I again repeat the question? It would save a great deal of time from asking the reporter to go back and read it.

Mr. Hallinan: I think it would be better if counsel simply learned, if for the first time, the proper procedure in such matters instead of inventing a new form of stipulation that we must enter to accommodate him.

Mr. Donohue: I shall be guided by your Honor's judgment in the matter.

The Court: I think you should proceed, then, along this line. Counsel may object for continuity. You may proceed.

Q. (By Mr. Donohue): Do you now recall the——

The Court: If he is so advised.

(Testimony of John H. Schomaker.)

Q. (By Mr. Donohue, continuing): Do you now recall the question, Mr. Schomaker?

A. What position Sam Darcy held?

Q. No. The question——

I will ask the reporter to read it.

(Question read.)

A. Well, Sam Darcy was the district organizer of the Communist Party, I was the section organizer.

Mr. Hallinan: Just a moment. Ask that be stricken out as not responsive, if the Court please.

The Court: The motion is granted; not responsive. [1017]

Q. (By Mr. Donohue): Would you answer the question as to the purpose of the meetings which you had with Sam Darcy?

Mr. Hallinan: Now, there we have fallen into the same vice, and I will have to repeat the objection again. It should be easy for counsel to have the Court direct the reporter to read the question, where an objection has been made and the Court has ruled upon it.

The Witness: Why, to carry on Communist Party business.

Mr. Donohue: Just a moment until his Honor rules, Mr. Schomaker.

The Witness: Oh, pardon me.

The Court: The objection is overruled.

A. I met with Sam Darcy to carry on Communist Party business.

Mr. Hallinan: We ask that be stricken out as stating an opinion and conclusion, hearsay and not binding on the defendants, if the Court please.

Mr. Donohue: I think your Honor just told the jury it was not binding on the defendant.

The Court: The motion is denied and the answer may stand. The jury, of course, is instructed, as I have indicated before, as to the limitations of the scope of this testimony, at this juncture.

Q. (By Mr. Donohue): Now, I ask you the question, Mr. Schomaker, when you went to the Communist Party headquarters following the meeting between yourself, B. B. Jones and Harry [1018] Bridges, who was the Sam Darcy who you say was present at the Communist Party headquarters?

Mr. Hallinan: Same objection, not binding on the defendant, hearsay, opinion and conclusion of the witness.

The Court: Overruled.

A. To turn in the application we received from Harry Bridges to join the Communist Party.

Q. (By Mr. Donohue): And to whom was that application turned in?

A. Turned in to Sam Darcy.

Mr. Hallinan: Will your Honor instruct the witness to wait until——

The Court: Yes. Mr. Schomaker, may I ask you, in the light of the objections which you have heard, not to answer the question until Mr. Hallinan has an opportunity to interpose the objection and I rule on it? If I sustain it, of course, your answer is not given. If I overrule it, you may answer.

The Witness: I am sorry I answered it, your Honor.

The Court: No reflection on you.

Mr. Hallinan: I ask that the answer be stricken so I may make the objection.

The Court: Yes, the answer may be stricken.

Mr. Hallinan: We object to it as calling for the [1019] opinion and conclusion, not binding on the defendants, hearsay, not done in their presence, and no proper foundation laid; and furthermore, it is not the best evidence, in giving secondary evidence concerning a document, and its disposition, without explaining the inability to produce primary evidence.

The Court: Overruled.

Mr. Donohue: Would you repeat the question, please.

(Question read.)

A. It was turned in to Sam Darcy.

Q. And who was Sam Darcy?

Mr. Hallinan: Now, if your Honor please—pardon me. That has already been asked and answered.

Mr. Donohue: No, it was not answered. I think the witness went over and answered something else.

The Court: It went out of the record on a motion, Mr. Hallinan. I struck it out on one occasion.

Mr. Hallinan: We object to that as calling for an opinion and conclusion and not the best evidence,

(Testimony of John H. Schomaker.)

that the records of the Party and Mr. Sam Darcy, or whoever it is alleged he may be, is the best evidence. This is stating an opinion and conclusion.

Mr. Donohue: If your Honor please, with respect to that objection, this witness has heretofore testified that sometime early in 1930 or '31 he became a member of the Communist Party. He has testified that on various and varying days he was one [1020] time the unit organizer or a unit organizer for the Communist Party, that he was the agitation and propaganda director for the Communist Party, that he was at one time a section organizer for the Communist Party, that he was editor of a publication for the Communist Party, that he was a member of the executive committee of the district for the Communist Party. He has heretofore testified that he met Mr. Sam Darcy in 1930 or 1931, and saw him on frequent occasions at Communist Party headquarters, and on other occasions to discuss Communist Party business. I certainly suggest to your Honor that we have established a foundation to permit the witness to answer the question as to who Sam Darcy was in the light of the fact that your Honor has correctly and carefully instructed the jury that these statements on the part of this witness are not binding upon the defendants or any one of them, but are only purposed to state his qualifications to draw the conclusion as to who Sam Darcy was. Mr. Hallinan, reserving a right, which I am sure he will exercise, to cross-examine this witness completely to determine whether or not he was qualified, did in fact know who Sam Darcy was.

The Court: Objection overruled.

Mr. Donohue: Now would you repeat the question, Mr. Reporter.

(Question read.)

A. He was district organizer of the Communist Party of the [1021] United States of America for the State of California, District 13.

Q. (By Mr. Donohue): Now, you have stated that you saw B. B. Jones turn over the application you have testified concerning, to Mr. Sam Darcy?

A. I did, yes.

Mr. Hallinan: Just a moment. Ask the answer be stricken out and object to that, your Honor. That is not a question; that is a statement, and leading and suggestive.

Mr. Donohue: I have merely asked the witness if he has so testified as a preliminary to a further question, your Honor. [1022]

Mr. Hallinan: It isn't proper to ask the witness—

The Court: Objection sustained.

Mr. Hallinan: And the answer may go out, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): How long did you remain at the Communist Party headquarters on this occasion, Mr. Schomaker?

A. Oh, 45 minutes or an hour.

(Testimony of John H. Schomaker.)

Q. Now, may I ask you whether or not, subsequent to the date you have been testifying about, you ever received from or delivered to Harry Bridges personally a membership card in the Communist Party?

Mr. Hallinan: Just a moment. Object to that as calling for an opinion and conclusion, if the Court please, as to its being a membership card in the Communist Party and calling for secondary evidence. No explanation made as to why primary evidence is not produced.

The Court: Overruled.

Q. (By Mr. Donohue): Do you remember the question?

A. Have I ever delivered to Harry Bridges a Communist Party book? I have, yes.

Q. Will you state to His Honor and the ladies and gentlemen of the jury the circumstance as to time, place, purpose and so forth, when you delivered such a book?

A. Well, it happened in parallel situations; at the end of each year—— [1023]

Mr. Hallinan: Object to that, ask that be stricken.

The Court: "It happened in parallel situations" may go out.

Q. (By Mr. Donohue): At the end of each year?

A. At the end of each year the Communist Party calls for a turning in of all the books.

Mr. Hallinan: Object to that as not responsive; ask it be stricken out.

The Court: The motion is granted.

Q. (By Mr. Donohue): Will you state with particularity what you——

Mr. Hallinan: Pardon me. There is a pending question.

The Court: There is a question before the witness.

Mr. Donohue: I understood Your Honor granted the objection of counsel.

The Court: No, the answer was not responsive. I granted a motion to strike.

Mr. Donohue: Then I take it there is no question?

The Court: He was speaking of parallel situations, practice and custom in the Communist Party. The question was a very direct question, calls for a direct answer. (To the Reporter) Would you read the question?

(Record read.)

The Court: Now you may answer.

A. Well, in 1934 in the month of December the Communist Party asked—— [1024]

Mr. Hallinan: Just a moment. Object to that now. He is putting in something else, too. He can easily answer that question that was addressed to him.

Mr. Donohue: Without reference to what the Communist Party did.

(Testimony of John H. Schomaker.)

Mr. Hallinan: Now, pardon me, Your Honor. I ask that counsel not direct the witness. There is a pending question, and as Your Honor has expressed it, there is a question that is simple and concise and calls for a direct answer. Let him tell us.

The Court: Yes, sir. I think the question calls for a direct answer.

A. Well, I got the time in there. I got December, 1935. And Harry Bridges gave me his Communist Party book——

Mr. Hallinan: Just a moment, Your Honor. The question has been asked and answered.

Mr. Donohue: The question has not been answered, if Your Honor please. I can understand why he objected to the answer, but it is the first time the question has been answered.

The Court: You may continue, Mr. Witness.

A. (Continuing): Well, it was in December of 1935 and Harry Bridges gave me his Communist Book to be what they call "controlled." The old book would be turned in and the new book would be granted.

Q. Now, on the occasion in 1935 when Harry Bridges gave you [1025] his Communist book, did you give him anything in return?

A. At that particular time, no.

Q. Yes. Did you subsequently give him anything in return?

A. Later, yes; subsequently means later. I did get it later, yes, give him a book later.

Q. Will you say when it was, subsequent to

(Testimony of John H. Schomaker.)

December of 1931, and the circumstances under which you gave him something and describe that something.

A. Well, it was December, 1935; and then next year it would be in January, the latter part of January. No, it would be earlier than that; it would be about the middle of January, 1936, when I received the books from the Communist Party headquarters and gave them to each individual member.

Q. And do you now state that in January of 1936 you gave such a book to the defendant Harry Bridges?

Mr. Hallinan: Just a moment. Object to that as leading and suggestive, if the Court please.

The Court: Overruled.

A. Why, yes, I gave him a book.

Q. (By Mr. Donohue): Can you recall where it was or where Mr. Bridges was when you gave him the Communist Party book in 1936?

A. It was at a Communist Party meeting, that is, a unit meeting and the particular place I can't recall.

Mr. Hallinan: Pardon me. Just a moment. Ask that that be stricken out, that it was a unit meeting, that it was a [1026] meeting of the Communist Party, as stating an opinion and conclusion and no proper foundation laid.

The Court: Overruled.

Q. (By Mr. Donohue): Mr. Schomaker, will you state for us whether this was the only instance in which you received from or gave to Harry Bridges a book or membership in the Communist Party?

A. No, it was not the only instance.

Q. Then will you state your best recollection of any other instance or instances?

A. Well, the same procedure went on in '36 and —that is, the winter of '36—the old book turned in and the new one received in '37.

Q. Now, will you state for us why it was that you turned in or you received from Mr. Bridges his old book and turned over to him a new book?

Mr. Hallinan: Object to that as incompetent, irrelevant and immaterial; calling for an opinion and conclusion.

Mr. Donohue: If our Honor please——

The Court: Overruled. He might have answered it before in part with respect to certain proceedings. He may answer.

A. I was the section organizer of the waterfront.

Q. And was Mr. Bridges within your jurisdiction as a section organizer of the waterfront section of the Communist Party?

A. He was in my jurisdiction, yes. [1027]

Mr. Hallinan: Just a moment. Your Honor, the witness constantly— And the witness has shown an interest in the thing by the statement, "Well, we got in the date anyhow." Now, I think he is purposely trying to fill in with an answer before an objection can be gotten in. I will ask Your Honor

(Testimony of John H. Schomaker.)

to again instruct him to wait until an objection can be made.

The Court: I will instruct the witness accordingly, Mr. Hallinan, and in addition, I will instruct the ladies and gentlemen of the jury that the observations made by counsel with respect to the admissibility of evidence may not be regarded by you as evidence in the case. I have already instructed you fully on that score. And the observation made by Mr. Hallinan with respect to what he got in—he, the witness, got in—and so forth are not to be considered by you as a reflection upon the witness at this particular time.

Mr. Hallinan: No, pardon me, Your Honor; that is not what I said. I said that the witness said that. The witness said, "Well, we got in the date anyhow." Do you remember him making that remark?

The Court: No, I don't.

Mr. Hallinan: Yes, he said, "Well,"—he said, "December, 1935," and then he said, "Well, we got in the date anyhow." I didn't—I am not saying that. I say he said that. And it shows, I think, and I suggest to the Court, his intention to try to assist the prosecution by answering it too quickly before an [1028] objection can be made.

The Court: You may examine him on that.

Mr. Donohue: I am only too happy to have the remark stricken, if Your Honor pleases, but I think Mr. Hallinan has tried too many——

The Court: Where are we now, Mr. Donohue?

(Testimony of John H. Schomaker.)

Mr. Donohue: We are about to ask another question, if Your Honor pleases.

The Court: All right.

Q. (By Mr. Donohue): Mr. Schomaker, you have heretofore described the process by which upon the payment of dues by a member in the Communist Party, stamps are issued which are pasted by the member in a book——

Mr. Hallinan: Pardon me, Your Honor——

Mr. Donohue: Would you let me finish the question, please?

Mr. Hallinan: No, it is always held improper to recite to a witness a compendium of what he has already stated. Now, that is always held improper. It is leading and suggestive, making resumes and arguments in advance of the proper time, and there is no disability shown in this witness' part to be able to remember the events, and no necessity for resumes of this sort.

The Court: The objection is sustained.

Q. (By Mr. Donohue): Mr. Schomaker, did you ever see the defendant Harry Bridges pay his dues as a member in the Communist [1029] Party?

Mr. Hallinan: Just a moment. That is certainly calling for an opinion and conclusion, if the Court please. He could be asked what was done and what he saw and what was said, but he is calling for a direct opinion and conclusion as to whether money passed, whether that constituted dues, for what purpose.

The Court: The objection is overruled.

(Testimony of John H. Schomaker.)

A. I saw Mr. Harry Bridges on numerous times pay dues to the unit secretary for dues in the Communist Party.

Mr. Hallinan: Ask that be stricken out, and further point out, Your Honor, that it is not the best evidence, that the testimony of the unit secretary, as he said, would be the best evidence.

The Court: The motion is denied, Mr. Hallinan.

Q. (By Mr. Donohue): Are you able to tell us, Mr. Schomaker, on any of these occasions who the unit secretary was?

Mr. Hallinan: The same objection, if the Court please; calling for an opinion and conclusion, identifying now and describing some third person not a party to these proceedings.

The Court: The objection is overruled.

The Witness: Shall I answer it?

Q. (By Mr. Donohue): The Court says you may answer the question.

The Court: When I overrule it, that means you may answer automatically, unless otherwise indicated. You might answer [1030] it, sir.

A. Thank you, Your Honor. In the early days Herman Mann was the unit secretary, and later, after the strike, Norma Perry was the unit dues secretary. Later J. C. Clark was the dues secretary, and also B. B. Jones was a unit dues secretary.

Q. Now, in order that we may be clearly——

A. Pardon me. Another guy in there, too. An old man—he was an old unemployed seaman. Arnold

(Testimony of John H. Schomaker.)

—old man Arnold. He was the—he was one of the first.

Q. Now, to which of these named persons was it that you saw Harry Bridges pay dues?

A. Well, I saw him pay dues to Herman Mann and Norma Perry and J. C. Clark, and they all squawked that he was very bum pay.

Q. Mr. Schomaker——

Mr. Hallinan: Just a moment. I ask that that be stricken.

Mr. Donohue: I have no objection, if Your Honor pleases.

The Court: Yes, the last part of the answer may go out.

Mr. Donohue: May we take the usual recess at this time, if Your Honor please?

The Court: We shall recess at 12:15 and resume at 2:15.

Q. (By Mr. Donohue): Mr. Schomaker, did Harry Bridges ever on any occasion make any request of you with respect to his Communist Party membership book?

A. Yes, he has. Yes. He had, rather.

Q. Will you state when and where and what the request made [1031] of you by Harry Bridges was?

A. Well, he told me to get up to his house and get rid of his Communist book before the reporters got up there.

Q. Now, will you tell us when that was and the

(Testimony of John H. Schomaker.)
circumstances under which that statement was made?

A. Well, that was—well, either the latter part of 1935 or the first part of '36. That is, either the winter months of '35 or the spring of '36.

Q. Now, tell us, if you know, where Harry Bridges was living at that time?

A. He was living on Pine Street, right two doors from me.

Q. And will you state what the circumstances were under which he made this request of you with respect to his party book?

A. Well, I came home from work, working on the waterfront; came home from work, it was around in the evening, around 6:00 o'clock, as close as I can recall. And as I came up, it must be Broderick Street, the one—either Broderick Street or there is a cross street there, or the next street up. I don't know which, whether it was Baker. Anyway, I got off the car, a No. 2 car, walked up the street and turned into Pine, and there was a big crowd in front of the street there, and an ambulance there. And as I started across the street, why, Bridges came across, met me halfway. And he says, "Jesus Christ, there is a lady fell out the window." And I says, "What?" And he said, "The old lady fell out the window." And he says, "Get up there and [1032] don't let anybody in, get up there and keep those snooty reporters from getting in there."

Mr. Hallinan: Pardon me. Keep what?

The Witness: Keep the snooty reporters—of

(Testimony of John H. Schomaker.)

course, I didn't agree with that as being snooty, but he said, "Get up there and keep those snooty reporters out of there."

I said, "I can't do it. I just came home from work." I says, "I will get Rosie, my wife."

So I went home. My wife was cooking supper. I told her, I said——

Mr. Hallinan: Just a minute. I object to any statements that he told his wife.

The Court: Sustained.

Q. (By Mr. Donohue): Did you in fact go in and get Mr. Bridges' book at the time you have just—— A. I did not, no.

Mr. Hallinan: Just a minute. I object to that as leading and suggestive. He can ask him what he did next.

Q. (By the Court): What, if anything, did you do, Mr. Schomaker, after the events of the lady falling out of the window?

A. I went home and took a shower and then I had supper.

Q. (By Mr. Donohue): You had no further discussion with Mr. Bridges at that time?

A. I had no further discussion with him, no.

Q. Mr. Schomaker, have you ever heard the defendant Harry Bridges solicit persons to join the Communist Party? A. I have, yes. [1033]

Q. Will you state for us the date, the circumstances and the place?

A. This is some time in 1938, and it was at the home of Jack Shaw on Pine Street.

(Testimony of John H. Schomaker.)

Mr. Hallinan: I didn't get that name.

The Witness: Jack Shaw; just like George Bernard Shaw. Jack Shaw on Pine Street, and the number I don't recall. But it was right—there is a Japanese church on the corner opposite his home. It is on Pine Street. Just what the number was, I don't recall. Anyway, that is where we met quite frequently in Jack Shaw's house because it was a large home, quite a large room there, and we called a meeting for those people who were interested in the Communist Party, and it was there that Bridges made a speech and solicited membership for the Communist Party.

Q. Can you recall at this time anything that Mr. Bridges may have said on that subject?

A. Well, he spoke about the international situation and the necessity of the workers joining a political party that would fight in the interests of the workers, particularly in view of the international situation that existed then, the rise of Fascism in the world and the threat of a new war, and he stated very emphatically that all workers who were interested in stopping these things should join the Communist Party, because he was a member of the Communist Party and he was there to fight [1034] such goings on.

Q. And you heard Harry Bridges make that statement?

A. I did, yes.

Mr. Hallinan: I object to that as leading and suggestive.

(Testimony of John H. Schomaker.)

The Court: Sustained.

Q. (By Mr. Donohue).: Mr. Schomaker, are you able to tell us now the name or names of any person or persons who may have been present at the meeting you have just described?

A. There was quite a few people there.

Q. Will you state your best recollection of the person or persons whose identity you can now recall as having been there?

A. Well, of course, Jack Shaw was there and Slim Melin.

Q. (By the Court): How do you know Melin?

A. M-e-l-i-n. Mae Waugaman.

Q. (By Mr. Donohue). How do you spell Waugaman?

A. W-a-u-g-a-m-a-n. Whether there are two n's on that I don't know. There is one n anyway. And there is Charles Waugaman, and I am pretty sure Henry Schmidt was there that night, too.

Q. By Henry Schmidt, do you mean the defendant Henry Schmidt seated here in court?

A. That is correct. There was quite a few other people. Some were strangers to me and I didn't know any too well. But there was quite a few people there.

Q. In what year did you say this meeting took place, Mr. Schomaker? [1035]

A. That was in the early fall of 1938.

Q. Will you tell us at that time in the early fall of 1938, who was then the district organizer for District 13 of the Communist Party?

(Testimony of John H. Schomaker.)

Mr. Hallinan: Same objection, if the Court please, calling for the opinion and conclusion of the witness.

The Court: Overruled.

A. Why, William Schneiderman was the district organizer of the Communist Party then.

Q. (By Mr. Donohue): Who is today the district organizer of District 13 of the Communist Party?

Mr. Hallinan: Just a minute. Same objection, and this is certainly of no consequence.

The Court: What bearing or relevancy would that have in the controversy at bar?

Mr. Donohue: Only to show the continuity in office of a certain person, and also to refresh the recollection of the witness.

Mr. Hallinan: It is not shown the witness requires any such refreshment.

The Court: It might go to his familiarity and general knowledge of the overall picture.

Mr. Donohue: Yes, Your Honor.

The Court: It might affect his—that suffices. I will overrule the objection. [1036]

Q. (By Mr. Donohue): Will you answer the question? Read the question.

(Question read.)

A. Well, since I have no personal contact I don't know. I have no personal contact with the Communist Party now.

Q. (By Mr. Donohue): Are you able to tell

(Testimony of John H. Schomaker.)

us, Mr. Schomaker, who was district organizer for District 13 of the Communist Party at the time when you severed your membership with that party?

Mr. Hallinan: Same objection, if the Court please; too remote.

Mr. Donohue: Same principle, if Your Honor please.

The Court: Overruled.

Mr. Hallinan: We have not yet found out when he severed his connection. He should give the time.

Mr. Donohue: He told us, but I fear by asking him to repeat it you will just object again.

The Court: You may answer.

A. You mean who was the district organizer when I severed my relations? Why, it was William Schneiderman.

Q. (By Mr. Donohue). Are you able to tell us now whether or not William Schneiderman was present at Jack Shaw's house on the occasion when Harry Bridges solicited persons to join the Communist Party?

Mr. Hallinan: Just a minute, sir. Your Honor, that is [1037] leading and suggestive. He has already been asked to name the persons he remembers. He remembers certain ones. Counsel makes this suggestion to him.

Mr. Donohue: He said he named all that he could recall. Now under the rule I have a right to refresh his recollection.

Mr. Hallinan: How does he know? How could he refresh his recollection? You weren't there.

Pardon me. Counsel wasn't there. He has no right to fill in other names.

Mr. Donohue: I am only asking the witness if he was there. I think it is proper, but I will bow to Your Honor's judgment if you think to the contrary.

The Court: Yes, for the record now, so that hereafter there may be no question, I will ask him to the best of his recollection to name, identify all of the persons then and there present on the occasion when it is asserted by the witness Mr. Bridges made this talk.

Mr. Hallinan: That is the proper procedure, surely.

The Court: Let us find out, without specification of one or two individuals. Let us find out.

Q. (By Mr. Donohue): Will you, in response to His Honor's suggestion, name all the persons whom you can recall as having been present on the occasion you have just testified about?

Mr. Hallinan: I do not want to be captious, Your Honor, but isn't it also held that where an objection is sustained on a matter like that and counsel simply repeats it, all the harm [1038] that was involved in the original question is still present? Isn't the decent thing to wait and ask it later so that it does not look like a trick?

The Court: There is a question before the Court, Mr. Hallinan. Let us address that question to the witness and let him say to the best of his recollection the identity of those present at that particular

(Testimony of John H. Schomaker.)
time when, as he says, Mr. Bridges made the talk concerning Communism and affiliation thereto.

The Witness: Shall I name those people whom I have already named?

Q. (By Mr. Donohue): Yes.

A. There was Mae and Charles Waugaman, Jack Shaw, William Melin and Walter Lambert, Bill Schneiderman—there was quite a few. I can't recall all the other people who were there.

Q. Have you exhausted your present recollection of the names of the persons who were there?

A. I have, yes.

The Court: May I ask the witness through you or directly, counsel——

Mr. Donohue: Yes, surely.

Q. (By the Court): How many persons were there at the time in terms of numbers?

A. I would estimate between 30 and 40.

Q. Where was this meeting held? In the rooms in front of the house, the back—— [1039]

A. This was an old mansion on Pine Street. The living room was an enormous room and it was cut through, including the dining room.

Q. The time in the evening or morning?

A. This was in the evening, at night.

Q. What was the duration of the meeting, if you recall?

A. That lasted about, I would say, two and a half hours.

Q. Were there any other talks or any other con-

(Testimony of John H. Schomaker.)

versations had at that time other than Mr. Bridges' conversation?

A. There was. There was a discussion and other people wished to take the floor could do so. After the meeting refreshments were served.

Q. And the meeting was discontinued at what time?

A. I would say around 10:30.

Q. Who served the refreshments?

A. The women who were present.

Q. Could you identify any of the women now by name?

A. I can recall Mae Waugaman, Mrs. Melin was there.

Q. The wife——

A. The wife of William Melin.

Q. Were there any other wives present?

A. There certainly were, but I can't recall them.

Q. That is the extent of your best recollection upon the attendance aspect?

A. That is correct. [1040]

The Court: We will take the noon adjournment and resume at 2:15. The same admonition to you, ladies and gentlemen, not to discuss the case under any conditions or form or express an opinion until it is finally submitted to you. You may now retire.

(Thereupon an adjournment was taken to 2:15 o'clock p.m.) [1040-A]

Afternoon Session, Monday, November 28, 1949, 2:15 o'Clock

The Clerk: In the case of United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

JOHN H. SCHOMAKER

resumed the stand;

Direct Examination (Continued)

By Mr. Donohue:

Your Honor, with Your Honor's permission, I would like to ask a question which I overlooked this morning; for that reason it is out of sequence.

Q. Mr. Schomaker, at the time when you accepted from the defendant Harry Bridges, in December of 1936 and again in 1937, the Communist Party membership book, and returned a renewal thereof to him in January of 1937 and 1938, will you tell His Honor and the ladies and gentlemen of the jury whose name or in what name that book was issued?

Mr. Hallinan: We object to that as calling for the opinion and conclusion of the witness. It might be competent, in view of the Court's ruling, for the witness to say what name was on the book, but in whose name it was issued is a totally different thing.

Mr. Donohue: I will accept the suggestion of counsel and amend the question.

The Court: Yes, the name or identity of the person in the book.

A. The only thing about those dates, though,—I

(Testimony of John H. Schomaker.)

don't—you [1041] said,—was that '35 and '36 or '36 and '37?

Q. (By Mr. Donohue): Is that the period of time in which the incident we just asked you about occurred?

A. That is the period of time that I can recall, yes.

Q. Then at that time will you state to His Honor and the members of the jury what name appeared on that Communist Party book?

A. Well, for the years '35 and '36, '36 and '37, Harry Dorgan.

Q. And——

A. ——was the name on the book.

Q. And how was that name spelled on the book?

A. It was spelled D-o-r-g-a-n.

Q. Mr. Schomaker, at any time did you ever carry any Communist Party instructions from Sam Darcy, whom you have identified as organizer of District 13, to the defendant Harry Bridges?

Mr. Hallinan: Just a moment. We object to that as calling for an opinion and conclusion of the witness, not the best evidence.

The Court: Ask him what he carried from Mr. Darcy, apart from a characterization as to "instructions." Let us find that out ourselves.

Q. (By Mr. Donohue): Mr. Schomaker, did you ever carry any instructions or messages from Sam Darcy to the defendant Harry Bridges? [1042]

Mr. Hallinan: Now just a moment. Your Honor, that is evading the instructions of the Court. The Court suggested that——

Q. (By the Court): Have you at any time had any communication from Mr. Darcy to the defendant Bridges during the period of time related?

A. Numerous times.

Q. Will you state them?

A. Well, you want me to state all of them or just——

Q. All of them.

A. Well, there is, starting at the very beginning in 1933, our instructions were to recruit Harry Bridges into the Communist Party, which we did.

Mr. Hallinan: Pardon me. That is not an answer. I ask that that be stricken out. The Court asked first whether any document or any communication was carried. Now, if that is anwered, why, then, the witness is now starting in to fill in what would be an answer to the next question. The contents of such documents, or the purport or meaning of them. I ask the answer be stricken, if the Court please, that part of it.

The Court: Well, there was no limitation in the question I posed to the witness, and to that extent I may have interrupted Mr. Donohue in his presentation of the question. But the question I asked was a general one. Will you repeat it for me, Mr. Reporter? I have lost the context myself.

(Question read.) [1043]

(Testimony of John H. Schomaker.)

Mr. Hallinan: Is your Honor asking the time or the nature of the communications?

The Court: He fixed the time and then the nature of the communications. He said he had many of them. He asked me about the time and I said, "State them in their orderly sequence as best you can."

The Witness: I can do that all right.

The Court: Do so.

The Witness: As I say, the first instructions——

Mr. Hallinan: Just a minute. I have to put in another objection. I object to this as calling for an opinion and conclusion and not the best evidence; no foundation has been laid to show that the original statements or communications are not available.

The Court: Overruled.

A. This is going to take quite a long time.

The Court: All right.

The Witness: We were instructed to——

Mr. Hallinan: Just a minute, your Honor. That is what he was instructed. He was to state what the statements conveyed to Mr. Bridges were.

The Court: I assume you are coming to that?

The Witness: Give me a chance. I can't do everything——

The Court: Go ahead. The objection is overruled.

The Witness: We were instructed to recruit Harry Bridges [1044] into the Communist Party, to get a leader for the waterfront longshore union. That we did.

(Testimony of John H. Schomaker.)

The next instruction was to build the union, and we formed a group of longshoremen which met in the Albion Hall every Sunday for quite a length of time, and that was direct orders from Sam Darcy to Harry Bridges to take part in those meetings.

The fourth thing of the convention of the ILA, which was scheduled for May, and we had it through our efforts and the instructions of Sam Darcy held in February of 1934.

Then we received instructions to Harry Bridges that—from Sam Darcy to Harry Bridges that we should raise the demands of the men from the employers, and that was done.

And then the instructions from Sam Darcy to Harry Bridges that they should proceed up and down the coast with the Rank and File committee to get the sentiment in the other ports—Seattle, Portland and San Pedro, and that was done. Not only once, but numerous expeditions went out from San Francisco to seek out the sentiment of the unions in the other ports.

Then the calling—the setting of a date of a strike on May 9 was done at the express order of Sam Darcy to Harry Bridges, and because—pardon me. That was not May 9, but in March; the strike was set for March, and through the intervention of President Roosevelt it was called off.

Then the strike was set for May 9, and expressly Sam Darcy wrote a resolution that the strike should not come off [1045] on May 9, because it was sent back the workers were not prepared for it, and we had the resolution the night before the strike was called. We went to the meeting together, Harry Bridges and I sat together on May 8, at the hall at 14th and Guerrero Streets. We were to submit this resolution, and we saw that the sentiment had not been built up enough to go through with the strike, and because the sentiment had not been built up, we were to let it go by. We didn't submit the resolution. That resolution in particular was written by Sam Darcy. And all throughout the strike the strategy and conduct of the 1934 maritime strike was conducted by Sam Darcy and nobody else.

Mr. Hallinan: Just a minute. I ask that that be stricken out, your Honor. If the objection is to be overruled, at least he can state what the statements were, not the result. Let him state now what Darcy said to Bridges and what communications be addressed.

The Court: The objection is overruled. You may proceed.

The Witness: Throughout the 1934 strike every action that was done, the strategy and tactics of that strike was worked out by the Communist Party and transmitted through the strike committee, through Melin, through Harry Bridges, Henry Schmidt and the other people who were Communist Party members at that time, and subsequent to the strike, the settlement of the strike, that is, after the formation of the [1046] Longshore—the U. S. Longshore Board appointed by President Roosevelt, that was thoroughly discussed by Sam Darcy and Harry

(Testimony of John H. Schomaker.)

Jackson, Walter Lambert and myself, Harry Bridges, Schmidt, and others who were members of the Party at that time. All the decisions that related to the strike were discussed and were carried by orders from Sam Darcy to Harry Bridges. The question of the Maritime Federation of the Pacific, the organization of the Maritime Federation of the Pacific, was carried out through instructions from Sam Darcy through myself and other messages, and so forth. The question of the texture, the set-up of the organization, how it should be organized particularly was Sam Darcy's brain child. Any action that the opposition made to checkmate or to forestall the Martime Federation to organize all the maritime workers into one group, the strategy of that and the tactics that were put into force was the brain child of Sam Darcy, and later when Sam Darcy was transferred it became the duty of Walter Lambert, who was the trade union director, to make those decisions.

Mr. Hallinan: Just a minute. I move that that be stricken out as not responsive to the question.

Q. (By the Court): Were these communications brought to the attention of Mr. Bridges by you or to your knowledge any other person?

A. Mr. Bridges was under the discipline of the Communist Party and he had to carry out those decisions. [1047]

Mr. Hallinan: I ask that that be stricken out.

The Court: That may go out.

Q. My question was whether these communica-

(Testimony of John H. Schomaker.)

tions were addressed to Mr. Bridges directly, or indirectly to your knowledge.

A. They were definitely, yes.

The Court: You may continue.

The Witness: Through Sam Darcy—Sam Darcy left San Francisco in the early part of 1935, so any connection that Bridges may have had with Sam Darcy was terminated at that time, because Sam Darcy left the community.

Q. (By Mr. Donohue): Who took Sam Darcy's place?

Mr. Hallinan: Just a minute. I object to that as calling for the opinion and conclusion of the witness and not the best evidence.

The Court: Best place where? Socially, economically——

Mr. Donohue: He had not permitted me to finish my question. I was about to say, Who took Sam Darcy's place as organizer for District 13 after Sam Darcy left?

Mr. Hallinan: I object to that as calling for the opinion and conclusion of the witness and not the best evidence.

The Court: The objection is overruled.

A. William Schneiderman.

Q. (By Mr. Donohue): Can you tell us how long a hiatus there was between Sam Darcy's leaving and the appointment of Mr. Schneiderman as district director? [1048]

Mr. Hallinan: Same objection, if your Honor please.

The Court: Overruled.

A. I do not know what you mean by "hiatus."

The Court: I was going to suggest that we eliminate "hiatus."

Mr. Donohue: I think that is a good suggestion.

Q. What interval of time was there between the leaving of Sam Darcy and the time when William Schneiderman took over as district organizer?

Mr. Hallinan: Just a minute. Same objection, if the Court please, calling for the opinion and conclusion of the witness and not the best evidence.

The Court: Overruled.

A. I would say there was a lapse of three or four months. That is approximately. I could not say the exact number of days, but I would estimate it was three or four months between the leaving of Sam Darcy and William Schneiderman coming on the scene.

Q. (By Mr. Donohue): Subsequently when Mr. Schneiderman took over in Mr. Darcy's place did you carry any instructions from Mr. Schneiderman to Mr. Bridges?

Mr. Hallinan: Just a minute. Just a minute. I object to that as calling for an opinion and conclusion, hearsay, and not binding on the defendants.

The Court: Overruled. [1049]

A. Not only did I carry instructions——

Q. (By the Court): Did you carry instructions?

A. I did, yes.

Q. (By Mr. Donohue): Will you tell his Honor and the members of the jury what instructions you

(Testimony of John H. Schomaker.)

carried to the defendant Harry Bridges from William Schneiderman?

A. Practically of the same nature, but allow me to say this: that William Schneiderman is not the man Sam Darcy was in doping out strategy and tactics and furthering the interests of the Communist Party, trade unions, or anything else. He had much less to say because he didn't know what to say, but I met with William Schneiderman and Harry Bridges numerous times in my Clay Street—in my house on Pine Street, I mean, and the messages were numerous.

Q. Mr. Schomaker, during the period of your membership in the Communist Party did you attend few or many Communist Party meetings?

Mr. Hallinan: Just a minute. I object to that again as calling for the opinion and conclusion of the witness on an ultimate fact, if the Court please.

The Court: Overruled.

A. My period in the Communist Party I attended a meeting every day at least, and on Saturdays and Sundays two or three meetings a day.

Q. (By Mr. Donohue): During the period, Mr. Schomaker, when [1050] you were a member of the Communist Party did you attend any meetings of the Communist Party at which the defendant Harry Bridges was also present?

Mr. Hallinan: Just a minute. Same objection, calling for an opinion and conclusion, if the Court please, no proper foundation laid.

The Court: Overruled.

(Testimony of John H. Schomaker.)

A. I attended numerous meetings with Harry Bridges.

Q. (By Mr. Donohue): During the period of your membership in the Communist Party did you attend any Communist Party meetings at which the defendant Henry Schmidt was present?

Mr. Hallinan: Same objection, if the Court please.

The Court: Overruled.

A. I attended numerous meetings when Henry Schmidt was present, Communist Party meetings.

Q. (By Mr. Donohue): During the period of your membership in the Communist Party did you attend any Communist Party meetings at which the defendant J. R. Robertson was present?

Mr. Hallinan: Same objection, if the Court please, calling for an opinion and conclusion and no proper foundation laid.

The Court: Overruled.

A. I cannot recall any with Robertson, no.

Q. (By Mr. Donohue): Directing your attention to the defendant Harry Bridges, can you state to his Honor and the members of the jury whether ~~or not~~ you attended a meeting with the [1051] defendant Harry Bridges at a place called Grants Pass in the State of Oregon?

Mr. Hallinan: Same objection.

The Court: When and where?

Mr. Donohue: If he says he did or did not, I will ask him if your Honor please.

A. I attended a meeting——

Mr. Hallinan: Just a minute. Just a minute. We object to that also as incompetent, irrelevant and immaterial and calling for a conclusion. That meetings is one of the things that is res judicata under Judge Landis' decision.

The Court: The objection is overruled, Mr. Hallinan.

Q. (By Mr. Donohue): Did you attend such a meeting? A. I did, yes.

Q. Will you state and tell us where and when that meeting took place.

A. That meeting took place in Grants Pass in 1936 and it was——

Q. Can you tell us the nature of the place?

A. It was a hot summer month.

Mr. Hallinan: Pardon me. Let him finish. He was going to tell us the time and place.

The Witness: I couldn't give you the hour, but I would say it was 1936. It was a hot summer month. I would say it was in August, either August or the very first part of [1052] September.

Q. (By Mr. Donohue): Will you tell us by whom you were directed to attend that meeting?

Mr. Hallinan: Just a minute. I object to that as calling for hearsay.

The Court: A statement as to a direction received by him?

Mr. Donohue: Yes, your Honor.

The Court: The objection is overruled.

A. Walter Lambert—Lambert came out to our

(Testimony of John H. Schomaker.)

house and Bridges was called in, and there we were directed to proceed to Grants Pass, Oregon.

Q. (By Mr. Donohue): When you received that direction from Walter Lambert Mr. Bridges was present? A. He was.

Mr. Hallinan: Just a minute. I object to that, your Honor, as leading and suggestive.

The Court: Yes, it is.

Mr. Donohue: He just so stated.

Mr. Hallinan: That does not give counsel the right to repeat.

The Court: The observation of Mr. Hallinan is well taken.

Mr. Donohue: I am sorry, your Honor.

The Court: Please refrain from any suggestion of leading.

Mr. Donohue: I shall do my best, if your Honor please. [1053]

The Court: All right.

Q. (By Mr. Donohue): Will you tell us what the instructions were which you received?

A. Well, Walter Lambert told us to proceed to Grants Pass, and to be parked in the courthouse square at twelve o'clock noon, and there someone would come and direct us where to go.

Q. Will you tell us, if you recall, about what time of day you left San Francisco?

A. We left about—it was around 9:30. It was about 9:30 in the morning.

Q. How did you proceed to Grants Pass?

A. Well, I met Bridges at 11th and Mission Streets. There is a service station there. I was picked up and we proceeded to drive in a Ford, a V-8 Ford. It was a coach model with only one door on each side, and we drove to Grants Pass, Oregon.

Q. Was there anyone in the car other than yourself and Mr. Bridges?

A. Well, the first day we drove up to the mountains and we picked up a hitch-hiker in the late afternoon. Bridges was driving, and I out of the corner of my eye—we had our coats in the back because it was hot—in the corner of my eye I saw this young kid going through our pockets. We stopped the car and bounced him out. He was going through the pockets of the coats.

Q. Did any other incident occur on this trip which calls it to [1054] your attention?

A. Several incidents occurred. The first is the fact that I met Bridges at 11th and Mission, which is quite a ways from the waterfront, but that is what he wanted because he said it wouldn't look good to be picking you up near the waterfront, people seeing us leave and being gone for a couple of days. I would be out of the office for a couple of days. And secondly, it was a new car, and we took turns driving, and so I drove rather slowly, around 60, and when he took the wheel he drove 80 and 85, which I objected to, the speed of the car, and then it became so hot that we stopped at a stream there and took a swim in the afternoon before we met this young

(Testimony of John H. Schomaker.)

hitchhiker. After we got in the mountains we ran into a hailstorm, a terrific hailstorm. [1055]

Mr. Hallinan: I think, Your Honor, that the recital of these meteorological incidents scarcely throws light upon the subject of the discussion; I object to it.

The Court: I suppose that might go to his credibility, the story itself.

Mr. Donohue: I think so.

The Court: All right, overruled.

A. Well, as I say, we run into a hailstorm and we had to stop while the—was it the meteorological—or whatever it was—this hailstorm stopped. And after it stopped, we proceeded. And then at night we stopped at one of those roadside cabins and stayed there that night and proceeded on the next day.

Q. Now, what occurred when you reached the point to which you had been directed?

A. Well, we pulled up into the courthouse square in Grants Pass and we parked and some fellow came along and said,—just looked at us and said, "Follow me," and we followed him.

Q. And where did you go?

A. Well, we drove out of Grants Pass. It wasn't very far, two or three miles, I imagine. And we came to a—turned into a lane and parked the car at this farmhouse under a big tree. Parked the car and stopped.

Q. Did you meet any person or persons there?

A. Well, when we drove up there was two people underneath the tree, and so as we got out of the car, why, they walked over [1056] toward us.

Q. Can you identify those two persons for us?

A. Well, one was Bert Nelson. He was a section organizer of the Communist Party in Seattle.

Mr. Hallinan: Ask that be stricken out, the latter part, Your Honor, as not responsive. He was asked for the persons. He can give the name without describing them.

The Court: Well, part of the identity at that time would be his occupation.

Mr. Hallinan: Well, we ask that it be stricken out as stating an opinion and conclusion, Your Honor, on another person; in other words, now here without any foundation being laid——

The Court: Pardon me. One moment. I may have been misled. What was the question?

(Question read.)

The Court: Objection sustained.

Mr. Hallinan: And that part is stricken out?

The Court: Yes, stricken out.

Q. (By Mr. Donohue): Can you tell us the name or names of the two persons who met you at the place you have just described?

A. Well, one was Bert Nelson.

Q. And the other? A. Morris Rappaport.

Q. Did you know Bert Nelson on this occasion when you met him there? [1057]

A. The first time I ever saw Bert Nelson.

Q. Did you know Morris Rappaport?

(Testimony of John H. Schomaker.)

A. I did, yes.

Q. How long had you known Rappaport prior to the occasion of this meeting?

A. Well, I had met Rappaport in 1931, in San Francisco, here.

Q. And had you met him at any time in the interim between 1931 and the date you have just indicated?

A. Well, I saw him in '31 quite frequently; '31 and possibly the early part of 1932.

Q. Where was it that you met Mr. Rappaport?

A. At the Communist Party headquarters in San Francisco.

Q. Do you know whether or not Morris Rappaport was a member of the Communist Party?

Mr. Hallinan: Just a moment. Object to that as incompetent, irrelevant and immaterial; calling for his opinion and conclusion; and too remote; and the foundation isn't laid, Your Honor. He says he knew him in 1931 or '32, and this meeting took place some time in 1936, a four year span in there. Anything might have happened.

The Court: What have you to say about that, Mr. Donohue?

Mr. Donohue: Well, I can't change the facts, if Your Honor please. It would seem to me that this witness having testified that on at least two occasions prior to 19——

The Court: He met Nelson for the first time. [1058]

Mr. Donohue: Yes, sir.

The Court: Rappaport he knew.

Mr. Donohue: He met on at least two occasions at Communist Party headquarters in San Francisco.

Mr. Hallinan: 1931.

The Court: The objection is overruled. You may answer.

The Witness: What is the question?

Mr. Donohue: Would you repeat the question, please?

(Previous question read.)

A. Why, yes, I knew Morris Rappaport to be a member of the Communist Party.

Q. (By Mr. Donohue): Are you able to tell us what position, if any, was occupied in the Communist Party by Morris Rappaport?

Mr. Hallinan: Now just a moment. The same objection, Your Honor: calling for his opinion and conclusion, no foundation, nothing at all except asking a man—Why, he can identify anybody in the world by saying, "Yes, he was a member of the Communist Party; she was a member of the Communist Party." Nothing that the jurors can go on at all except this man's unvarnished statement, and I think that is improper. That is not a way to prove a case. A person is at the mercy—anybody is at the mercy of an individual witness who simply makes identification like that.

The Court: Overruled.

Mr. Hallinan: And furthermore, Your Honor, I point out [1059] this, that this meeting is in 1936

(Testimony of John H. Schomaker.)

and this man says he knew him in 1931, and he knew him then to be a member of the Communist Party. Now, according to this man's own statement, he was a member in 1943 or so, and no longer is.

The Court: Well, I suggest you cross-examine him on that very thoroughly. You may answer.

A. I forget the question again.

Mr. Donohue: Would you read the question, please?

(Record read.)

A. He was the district organizer of that district in the Northwest. Now, whether it is District 12, I don't recall. But it was the Pacific Northwest where he was district organizer.

Q. (By Mr. Donohue): Mr. Bridges was with you when you met Mr. Rappaport?

Mr. Hallinan: Just a moment. Object to that as leading and suggestive.

The Court: Sustained. This was the meeting in Grants Pass when you had the rendezvous with these men?

The Witness: That's right.

The Court: Mr. Bridges was with him; that is foreordained He was with him. That has been testified to?

Mr. Donohue: Correct, Your Honor.

Q. Mr. Schomaker, did Mr. Rappaport tell you and Mr. Bridges who Mr. Bert Nelson was?

Mr. Hallinan: Just a moment. Now, that is leading and [1060] suggestive, if the Court please. He might ask him what conversation took place, but trying to lead the witness into a statement——

The Court: I would suggest——

Mr. Donohue: I agree, Your Honor.

The Court: Mr. Donohue, I would suggest you ask for the conversation.

Q. (By Mr. Donohue): Mr. Schomaker, can you tell us what conversation took place among you four persons at the time and place you have just stated?

A. Well, as I say, we pulled up to the lane and parked under this tree, and I got out on the right side and Bridges got out on the left and walked around the car, and Rappaport and Bert Nelson came toward us, and Rappaport—the first thing he said was, "Well, you old wolf, I see you made it." Everybody laughed. I don't know, didn't know what he was supposed to make, but everybody laughed. And then Bridges says, "Well, how's things in the Northwest?" "Oh," he says, "everything is fine. Didn't we elect you district president of the ILA?" And then he said, "Yes," he says, "but the guys in Tacoma—" —and Rappaport again says, "Yes, but the guys in Tacoma are not satisfied and they are making things kind of tough up here for us." So then he says, "Well, how about Bert here?" He says, "I don't think you have met Bert, one of our—he is section organizer of the waterfront in Seattle." So he introduces Bert [1061] to Bridges and myself. And then we walked over to

(Testimony of John H. Schomaker.)

the—there was a chicken house there, and walked over into this chicken house and we took a seat and began to discuss the business we came there for.

Q. Can you relate to us at this time any portion of the discussion?

A. Well, yes, the discussion was around the question of determination of the waterfront agreements with the employers, and Rappaport particularly stressed the fact that the people in Tacoma, that is, the longshore group in Tacoma, were rather hostile to the way the elections went. That was the first year that the rank and file had a chance to vote for the district officials, and the result was that the old line officials were booted out and the so-called progressive militants were put into office. And he says, "I think they are going to cause considerable trouble when the agreements terminate, particularly among the seafaring crafts." And we discussed the ways and means to bring the two—that is, the Northwest maritime groups—closer to the California and Southern California groups. And that was the extent of the discussion, was what needed to be done to do it. And the—well, that was the general text of the discussions, along those lines.

Q. About how long is your recollection of the duration of that meeting?

A Well, we left there in the early evening, I would say around [1062] 4:00 o'clock or 4:30.

Q. How long have you known Walter Lambert?

A. Well, that was in the middle of the depression, about 1931.

(Testimony of John H. Schomaker.)

Q. From 1931 until the day you have just described, when he gave certain instructions to you and Mr. Bridges, how often had you seen Walter Lambert?

A. Well, during the waterfront strike in 1934, why, we saw him maybe two and three times a day. And then later, after the men returned to work, why, I saw him less often—possibly two or three times a week.

Q. What was the occasion for your so frequently seeing Walter Lambert during the 1934 strike?

A. Well, Walter Lambert was next in rank to Sam Darcy, and——

Mr. Hallinan: Just a moment. Ask that be stricken out, if the Court please. That isn't stating the occasion for him seeing him.

The Court: Motion granted.

Q. (By Mr. Donohue:) What was the occasion for your seeing Walter Lambert?

A. Well, to discuss strategy and tactics—you mean, the period of the waterfront strike in 1934?

Q. Correct.

A. Was to discuss strategy ~~and tactics of~~ the 1934 maritime strike. [1063]

Q. Mr. Schomaker, can you tell us whether or not, of your own knowledge, you know if Walter Lambert was a member of the Communist Party?

Mr. Hallinan: Just a moment. Make the same objection, Your Honor: here is still another person now who is being pointed out as a member of the Communist Party without any foundation, no record.

(Testimony of John H. Schomaker.)

The Court: Lay the foundation, Mr. Donohue, if you can.

Mr. Donohue: Here, if Your Honor pleases, is a man who said that from 1931 to 1936, he knew Walter Lambert, saw him frequently, particularly during the period of the 1934 strike. He saw him several times a day.

Mr. Hallinan: Might I suggest this, Your Honor, that one of the reasons for requiring a witness to lay a foundation for identifying a person or saying he was there or giving times, places, persons and circumstances is so that the witness may be contradicted, if a contradiction exists.

The Court: That is true.

Mr. Hallinan: But if the witness just states a conclusion and opinion, names any person whomsoever, how can it be contradicted?

The Court: In the light of the objection, counsel,—

Mr. Donohue: May I perhaps clarify the situation, Your Honor?

Q. Mr. Schomaker, during the period of your acquaintance with Mr. Walter Lambert, did you occupy any official position in the [1064] Communist Party?

Mr. Hallinan: Pardon me. That question has been asked and answered, Your Honor; no use making the objection all over.

The Court: Well, we take it on his testimony that he did?

Mr. Donohue: Well, I want to directly find out, if Your Honor pleases, what position he occupied during this particular time.

The Court: All right.

Mr. Hallinan: We will then have to make an objection again, as calling for his opinion and conclusion and not the best evidence.

The Court: All right. Overruled.

Mr. Donohue: Would you repeat the question?

(Previous question read.)

A. You mean the period of '34?

Q. (By Mr. Donohue): Yes.

A. I was the section organizer of the Communist Party on the waterfront.

Q. In your official function as section organizer on the waterfront, did you have occasion to come in contact with Mr. Walter Lambert. A. I did.

Q. And what was the occasion for your coming in contact at that time with Mr. Walter Lambert?

Mr. Hallinan: Object to that as calling for his opinion [1065] and conclusion, if the Court please; and further, the question is ambiguous, asking what was the occasion.

The Court: Overruled.

Mr. Donohue: I think the witness——

The Court: Overruled.

Mr. Donohue: Would you read the question, please?

(Record read.)

A. Well, Walter Lambert would bring the instructions and advice, what to do, and what not to do.

Mr. Donohue: Now, I submit, if Your Honor please, the witness is qualified to answer the question.

Q. As of the date when Walter Lambert gave you and Mr. Bridges the instructions you have just described, do you know of your own knowledge whether or not he was or was not a member of the Communist Party?

Mr. Hallinan: Just a moment. Object to that as calling for an opinion and conclusion of the witness and an ultimate fact and no proper foundation laid.

The Court: Overruled.

Mr. Donohue: The Court said you may answer the question. I will have to ask the Reporter to read the question again.

(Question read.)

A. Oh, he was a member of the Communist Party.

Q. (By Mr. Donohue): Did he occupy any official position in the Communist Party at that time? [1066]

Mr. Hallinan: Just a moment. Object on the ground it is calling for his opinion and conclusion and not the best evidence.

The Court: Overruled.

A. He was a trade union director of the Communist Party, had charge of all the work in the trade unions.

(Testimony of John H. Schomaker.)

Q. (By Mr. Donohue): Mr. Schomaker, did you ever attend a meeting of the Communist Party at which meeting attendance was restricted to members of that party, which took place at the home of Herman Mann?

Mr. Hallinan: Just a moment. That is calling for several conclusions, Your Honor: One, as to its being restricted to members of the Communist Party, and also whether or not it was restricted and by whom restricted.

The Court: You might ask him if he attended a meeting in Mr. Mann's home.

Q. (By Mr. Donohue): Mr. Schomaker, did you ever attend a meeting at the home of Herman Mann?

A. I did. Numerous meetings in the home of Herman Mann.

Q. Did you ever attend a meeting at the home of Herman Mann at which the defendant Harry Bridges was present?

A. I attended numerous meetings there when Harry Bridges was present.

Q. Did you ever attend a meeting at the home of Herman Mann at which time the defendant Harry Bridges was present and the subject matter of the meeting was Harry Bridges' secretary, [1067] Norma Perry?

Mr. Hallinan: Just a moment. Your Honor, I think that is leading and suggestive, and the question should be asked as to conversations. Now, this question should be skipped by, because it is——

(Testimony of John H. Schomaker.)

The Court: Well, this is directing his attention to a particular meeting?

Mr. Donohue: Yes, Your Honor.

The Court: I will allow it.

A. If I attended that meeting when Bridges was there with his secretary, Norma Perry? Is that what you asked?

Q. (By Mr. Donohue): Yes.

A. Yes, I did.

Q. Can you tell us when that meeting was held?

A. Well, that meeting—if this is the meeting—was in the early part of 1935.

Q. By whom were you notified that such a meeting was to be held?

A. Well, I wasn't notified by anyone. I think that I was responsible for calling the meeting.

Q. Whom did you ask to attend that meeting?

Mr. Hallinan: I object to that as calling——

Mr. Donohue: He said he called it, if Your Honor ~~pleases~~.

The Court: Yes. Objection overruled.

A. Well, present at that meeting was Sam Darcy, Norma Perry, [1068] I, Bridges, and Schmidt, Henry Schrimpf, and Herman Mann.

Q. Will you tell us what the purpose of that meeting was, you having called the meeting?

Mr. Hallinan: Pardon me. Your Honor, I think we ought to have the place and the time a little more exactly.

(Testimony of John H. Schomaker.)

Mr. Donohue: It is in '35, he has said, Your Honor—early in 1935, and at the home of Herman Mann.

The Court: Yes.

Q. (By Mr. Donohue): Can you fix the time any more specifically than that, Mr. Schomaker?

Mr. Hallinan: Well, that is all right; I didn't get that this was one of the meetings at the home of Mr. Mann he was testifying to. I got sidetracked off of it.

A. Well, Mann then lived on Germania Street. That is right off Fillmore. I think it is two small streets down from Page, that is, going that way (indicating). It is two small, two alleys in there and then comes Germania, and it is on the other street, it is Fillmore. And as I can recall, it was on a Sunday. It was warm—it may have been in December of 1934 or January of '35. It was a sunshiny day, it was a Sunday and we met kind of early. It was 9:00 o'clock in the morning, and it was a meeting to discipline Norma Perry.

Q. Did you notify the persons whom you have stated as being present? A. I did, yes. [1069]

Mr. Hallinan: Just a moment. Ask that that be stricken as calling for hearsay, if the Court please.

The Court: Overruled.

A. Well, I notified—either I notified them or Henry Schrimpf notified them.

(Testimony of John H. Schomaker.)

Q. Now, will you tell us what was discussed at this meeting?

A. Well, Norma Perry was secretary to Bridges, who was president, of the ILA Local, No. 3879; and Norma Perry being a Communist Party member, was subject to the discipline of the Communist Party. However, she did certain things which wasn't proper to do. That is, what we thought wasn't proper to do. And Henry——

Mr. Hallinan: Your Honor, pardon me. He should state what the conversation or the discussion was, not what the final impression is that he had of it, or some conclusion or opinion of it.

Q. (By Mr. Donohue): Can you recall, Mr. Schomaker, any of the conversation, who said what at this meeting? A. Well, I can, yes.

Q. Will you recall that for us, then, please?

A. Norma Perry, as I say, was the secretary for the local president, and Henry Schrimpf brought charges against her. I remember very distinctly him saying, "Norma, you are a little stool pigeon." And of course, Norma, being a very vigorous person, why, she denied it. And Henry says, "I have got the dope here to prove you are a stool pigeon, and you are consorting [1070] with people that you have no business being with, and they told me certain things, what they should not have known." Well, as I say. Norma was a very vigorous person, and she denied it very emphatically, and it wound up to quite a dogfight, where accusations were made on one side and accusations on the other. But with Henry

(Testimony of John H. Schomaker.)
Schrimpf and myself being the chief accusers. So the meeting wound up, that particular meeting, that there wasn't—we were advised that she should mend her ways and everything would be O.K.

Q. Was there a subsequent meeting on the same subject? A. There was one later, yes.

Q. And when was that meeting and where was it held?

A. The next meeting concerning Norma Perry was held at 121 Haight Street, which had a little different composition.

Q. And again, what was 121 Haight Street?

A. That was Communist Party headquarters.

Q. And was it so at that time, at the time of the meeting that you are about to describe?

A. When we met there it was, yes.

Q. Who was present at the subsequent meeting?

A. Well, at that meeting it was Sam Darcy and Pop Hanoff and Henry Schrimpf and Schomaker and Jones and Norma Perry, of course, and Ed Harris. Did I say Darcy? And also Lambert was there. I think that is about—that about comprises it.

Q. Was the defendant Bridges at the second meeting? [1071]

A. Bridges was there, and so was Schmidt.

Q. And by "Schmidt" you mean the defendant Henry Schmidt? A. Henry Schmidt, yes.

Mr. Hallinan: Just a moment. Object to that as leading and suggestive, if the Court please. Now, there he puts the words right in the man's mouth. I ask the answer be stricken out.

The Court: Well, counsel,——

Mr. Donohue: I have no objection. I will ask the question another way, Your Honor.

The Court: All right, it may go out.

Q. (By Mr. Donohue): Will you describe——

Mr. Hallinan: Counsel has the habit, Your Honor, of making these resumes, and they are always held to be improper or leading and suggestive. He has no right to repeat the statement of the witness or to make another suggestion or to state it as a fact to be assumed as proven.

Mr. Donohue: I have no objection to the question being stricken and the answer, too.

The Court: So ordered.

Q. (By Mr. Donohue): Who was the Schmidt to whom you just made reference as being present?

Mr. Hallinan: Well pardon me. That, Your Honor, is improper and that is indulging in trickery, because here first he asked his leading question. When an objection was sustained, [1072] he just makes it into a non-leading question, with the answer having already been given to the witness.

The Court: Well, you might clarify it, Mr. Donohue, by the elimination of any other Schmidts. Was there any other Schmidt identified?

Mr. Donohue: I will be glad to follow Your Honor's suggestion.

The Court: Then we will not have the objection, if we eliminate any other Schmidts. We might come to the Schmidt on trial.

Mr. Donohue: At this meeting, Mr. Schomaker, was there more than one person named Schmidt present?

A. Well, the only person named Schmidt was Henry Schmidt, who was present at that meeting.

Q. And who is the Henry Schmidt whom you say was present at that meeting?

A. Who is he?

Q. Who is he, yes.

A. Well, he is a member of the Longshoremen's Union.

Q. Do you see the Henry Schmidt whom you say was present at that meeting in the courtroom?

A. He is sitting over there at the table (indicating).

Q. Did you send out the notices of the second meeting which was held at the place you have just described?

Mr. Hallinan: Just a moment. Object to that as leading, Your Honor. He should ask him who sent them out. Every question—— [1073]

Mr. Donohue: I will be glad to follow your suggestion. I have no objection to the question being stricken, if Your Honor pleases.

The Court: All right.

Q. (By Mr. Donohue): Who sent out the notices of the second meeting?

Mr. Hallinan: Pardon me. I make the same objection, Your Honor: This is following a leading question. Having given the suggestion to the witness with another question that is not leading, but which obviously expects the same answer that the first question directed. Numerous times counsel has done that.

Mr. Donohue: May the witness answer the question?

The Court: Yes, sir.

A. Well, in the second meeting Walter Lambert sent out the notices for that meeting.

Q. Now, going back for a moment to the first meeting, to your knowledge, was every person who was present at that meeting a member of the Communist Party?

Mr. Hallinan: Just a moment. Object to that as leading and suggestive, in addition to calling for his opinion and conclusion. Your Honor, that is a question where he bunches all the people together and then asks for a yes or no. Now, he didn't ask the witness to identify these people as being members in any way that would allow the witness any discrimation [1074] but simply asks him, "Were, to your knowledge, all these people members of the Communist Party?" That is obviously a leading question. In addition, it calls for the opinion and conclusion of the witness on all the——

Mr. Donohue: If it pleases Your Honor, if I had done as counsel suggested, and asked individually, I would be faced with the same result.

Mr. Hallinan: And moreover, the question has been asked and answered. He first asked about every person who was there, and then the witness answered. Now he bunches them all together and asks the question again.

Mr. Donohue: If it pleases Your Honor, if I may be permitted to say to you, sir, this witness has identified himself as one who was not only a member of the Communist Party, but one who had occupied certain offices, the highest being a member of the Central or District Committee. He has testified on the subject matter of this first meeting, that he called the meeting. I think certainly he has a right to tell us whether or not that the persons whom he has stated were present and who were there at his call were members of the Communist Party.

Mr. Hallinan: Your Honor, he first asked each of the people individually. The witness says, "Yes." Now he comes back, groups them all in a bunch and asks him the question again. Now repetition of questions like that is improper. It is [1075] stressing and trying to pound in things that aren't entitled to have that degree of force put on them by counsel. It is repeating the same question, grouping them all together and asking it again, forcing us to make the same objection over and over; having identified them as such; which he has done, why, this is repetition of it, now in a group form. I make the objection, Your Honor, that the question has been asked and answered in effect, and furthermore, it is again calling for his opinion and conclusion.

Mr. Donohue: This question has not been answered, if Your Honor pleases. If your Honor would prefer, I would be glad to ask the question with respect to each of the persons who were named as being present by the witness.

Mr. Hallinan: Those questions have been asked and answered.

Mr. Donohue: The question was neither asked nor answered, Mr. Hallinan.

The Court: Mr. Hallinan's objection goes to the wholesale characterization. Now,——

Mr. Donohue: No.

The Court: You have already specified the individual numbers of it, the constituents of the meeting.

Q. (By the Court): Well, what was the nature of this meeting, Mr. Schomaker?

A. Well, both meetings were Communist disciplinary meetings.

Q. Now, would you in the ordinary course of your duties as an [1076] executive meeting, call in non-members to those meetings? A. No.

Q. Would you proscribe that to so-called inner circle members of your party?

Mr. Hallinan: Just a moment. I have to object to that.

The Court: Your objection is well taken; I will sustain it. Maybe I was imbued with my own question. Perhaps I will let Mr. Donohue ask the question.

Mr. Hallinan: Now he will do it, of course, having learned a little technique from Your Honor.

The Court: No, there is no technique at all. I long since have lost my technique.

Mr. Donohue: Apparently you are not alone in that respect, Your Honor.

The Court: Yes. If I ever had any.

Q. (By Mr. Donohue): What opportunity did you have to determine whether or not the persons who were present at the first meeting you described at Herman Mann's house as being or not being members of the Communist Party?

Mr. Hallinan: I submit, Your Honor, we are right back where we started. That question has been asked and answered, and if each one has already been identified, why bunch them together and ask for a general characterization?

Mr. Donohue: Again I say, Mr. Hallinan, each person has not been so identified. If you will concede that they have, then I [1077] will pass on to something else.

The Court: Your objection is overruled.

A. Well, since I was the section organizer of the Communist Party in the waterfront, I certainly wouldn't go up and invite the employers to come down there to sit in at a disciplinary meeting, where we were going to discipline one of our members.

Q. (By Mr. Donohue): And did you as section organizer restrict your invitations to persons who were known to you to be members of the Communist Party? A. Definitely so.

Mr. Hallinan: Just a moment. Ask that be stricken out so I can make the objection.

The Court: The answer may go out.

Mr. Hallinan: All right. I object to it as incompetent, irrelevant and immaterial, calling for an opinion and conclusion, and again, as leading.

The Court: The objection is overruled.

Mr. Donohue: Now, would you read the question, please?

(Record read.)

A. Definitely so.

Q. (By Mr. Donohue): Mr. Schomaker, did you ever attend a Communist Party meeting in the city of San Diego?

Mr. Hallinan: Just a moment. Same objection, if the Court please.

The Court: The date? [1078]

Mr. Donohue: I will ask him if he says he did, Your Honor.

The Court: All right, you may answer that.

A. Well, I have attended several meetings in San Diego as a Communist Party member.

Q. (By Mr. Donohue): Did you ever attend a Communist Party meeting in San Diego at which the defendant Harry Bridges was present?

A. I did, yes.

Q. Did you attend more than one such meeting that you can recall?

(Testimony of John H. Schomaker.)

A. I can recall one where he was present.

Q. Will you tell us when this meeting took place and where in San Diego?

A. That was during—that was the 1935 state convention of the American Federation of Labor; that is, the California State Federation of Labor.

Q. And the place? A. Pardon?

Q. And the place?

A. Well, the convention of the California State Federation of Labor was held in San Diego in the fall of 1935, and I believe it was the month of September.

Q. And where was the meeting at which Mr. Bridges was also present held in the city of San Diego?

A. Well, I don't know the streets of San Diego too well, although [1079] I have been there numerous times, but coming in from the—that is, up the—Broadway runs up from the waterfront, and there is a large hotel right opposite the Plaza. The Plaza in the center of the town. And this large hotel, whatever it is—it couldn't be the Senator Hotel, but there is a large hotel there, anyway. [1079-A]

Well, this meeting that we attended continued through the Plaza up around about seven blocks, and then instead of turning right to go to Tijuana, which I generally went to when I went to San Diego, to Tijuana, this time we turned left about two or three blocks, so that was the general direction where this meeting was held.

(Testimony of John H. Schomaker.)

Q. By whom were you notified as to this meeting? A. Walter Lambert.

Q. Can you recall whether the meeting took place in the daytime or in the nighttime?

A. It was held in the early afternoon about this time, I suppose, 3:30.

Q. Whom do you now recall as having been present at this meeting?

A. Well, they were all delegates to the California State Federation of Labor convention and most of them were from San Francisco, although there was a few from San Diego and Los Angeles, and as nearly as I can recall there was myself, Schomaker, and Bridges, John Larson, Henry Schmidt, and some sailors, Harry McNeill, John— J. C. Clark, Stanley Hancock, who was from the southern part of the State, Emil Ratin, who was from the Cleaners and Dyers, I think, and Walter Lambert, and there was a guy out here from the East, from the Central Committee, Jack Johnston, and I believe William Schneiderman.

Q. Can you tell us, Mr. Schomaker, whether or not the defendant [1080] Harry Bridges participated in the discussion which took place at this meeting?

A. Yes, he gave a report. Bridges gave a report at that meeting.

Q. What is your recollection of the nature of that report?

A. Well, at that particular time in 1935 the beef centered around the sailors, the Sailors Union

(Testimony of John H. Schomaker.)

of the Pacific, and Paul Scharrenberg was secretary, and in that summer the sailors—Paul Scharrenberg was also secretary of the California Federation of Labor, and the sailors in that year, that summer, they expelled him from the Sailors Union of the Pacific, although he still held his job as the California secretary of the State Federation of Labor. The sailors were pretty hot about this being so. They wanted him removed not only as the secretary of the Sailors, but also removed as the California State Federation of Labor secretary, and that was the main point in the convention as far as—that was one of the main points in the convention, that is, as far as we were concerned, as far as the maritime workers were concerned, and men, of course—the maritime unions had no representation outside of Scharrenberg in the Federation, so they sought and put some of our men either as vice president of one—I think our sub-district was No. 9, and we endeavored to get one of our persons as a vice president and also to run opposition, if possible, against Scharrenberg as secretary. [1081]

The Court: Is this a convenient time to recess?

Mr. Donohue: I think so.

The Court: We will take our afternoon recess. Ladies and gentlemen, I give you the same admonition not to discuss the case under any conditions and not to form or express an opinion until it is finally submitted to you.

(Recess.)

Mr. Donohue: May I proceed, your Honor?

The Court: Yes, sir.

Q. (By Mr. Donohue): Referring still to the meeting in San Diego, about which we have been inquiring, are you able to state whether or not the membership or attendance at this meeting was restricted to the persons who were members of the Communist Party?

Mr. Hallinan: Just a minute. I object to that for the same reason, calling for the opinion and conclusion of the witness, and here we have still more people who have not appeared before now and they are being identified in the same general identification, your Honor.

Mr. Donohue: I only asked the question whether or not he could, if your Honor please.

The Court: Why not ask him as to the formative period with respect to the data and the surrounding incidents? That might lead to the composition of the meeting?

Q. (By Mr. Donohue): Will you tell us, Mr. Schomaker—— [1082]

If your Honor please, I think unless I am permitted to ask a preliminary question as to whether or not the witness is able to classify this meeting, then I can ask him the reasons for his so classifying.

The Court: Mr. Donohue, I say in deference

(Testimony of John H. Schomaker.)

to you the question as phrased is not that type of question.

Q. (By Mr. Donohue): Mr. Schomaker, with respect to the persons whom you have identified as having been present at that meeting, would you again repeat them, and with respect to each tell us how long you have known that person and where you met him.

A. Well, Bridges I had known since—this was 1935—I had known him since October, 1933.

Q. Had you attended prior to this time——

Mr. Hallinan: Pardon me, your Honor. The question is not answered. He asked him as to each of the persons to repeat their names and state how long he had known them. We might as well have an answer to that question. Now there is an intervening question that stops that off.

The Court: I think the witness has in mind the general nature of the question. (To the witness) Without interruption you may continue on this phase of it.

A. As I said, all the people who were there were delegates to the convention with the exception of one, Stanley Hancock, who was the Communist organizer for San Diego County.

Mr. Hallinan: I ask that that be stricken out as not responsive. He was asked one question. He was asked to [1083] repeat the names of the persons and tell how long he had known them.

Mr. Donohue: May I withdraw the question, if your Honor please?

The Court: Yes.

Mr. Hallinan: I ask that the statement that Stanley Hancock was an organizer for the San Diego County Communist Party be stricken out.

Mr. Donohue: I have no objection.

The Court: It may go out.

Q. (By Mr. Donohue): Mr. Schomaker, what opportunities, if any, did you have in order to determine the nature of this meeting?

A. Well, the meeting was called by Walter Lambert, who was the Communist Trade Union director for District 13, and he give notices for the meeting, and he checked the people who came to the meeting in at the door. And the chairman of the meeting was Stanley Hancock. He was not a delegate to the convention, but he chairmaned the meeting.

Q. Did you know Stanley Hancock?

A. I knew Stanley Hancock, yes.

Q. How long had you known him prior to this meeting?

A. Well, that is in 1935. I would have known Hancock about three years, I suppose, prior to that.

Q. Under what circumstances had you known him? [1084]

A. I met Hancock at the Communist Party headquarters at 37 Grove Street and also at 121 Haight Street when he came up here for Communist Party meetings, that is, statewide meetings.

Mr. Hallinan: I ask that that latter part be stricken out as stating not this gentleman's conclusion but Hancock's conclusion, when he came up for certain purposes. I ask that that part of the answer be stricken out, if the Court please.

Mr. Donohue: I have no objection to the latter part being stricken, if your Honor please.

The Court: It may go out.

Mr. Donohue: I submit, if your Honor please, this witness is qualified to answer the question which I now put to him:

Q. Mr. Schomaker, to your knowledge was the attendance at this meeting restricted to persons who were members of the Communist Party?

Mr. Hallinan: Just a minute. I object to that as calling for an opinion and conclusion, and the proper foundation has not been laid.

The Court: Overruled.

A. Everyone who attended that meeting, to the best of my knowledge, was a member of the Communist Party of the United States of America and were affiliated with the California District of the Communist Party.

Mr. Hallinan: I ask that that be stricken out, your Honor, and the witness has qualified it now with "to the best [1085] of my knowledge."

The Court: Motion denied.

Mr. Hallinan: Pardon me. Now, your Honor, you see the vice of that sort of question. Here persons whom he has not identified before, and whom he may have met for the first time, or never met before, and did not know who they were when

(Testimony of John H. Schomaker.)

they came in, by a sort of blanket statement like that he puts them all in the same category, and that is just evading asking him about each separate person and what he knows about him. I notice the names of a couple of sailors, McNeill and Clark. [1086]

The Court: Well, those persons are not on trial, are they?

Mr. Hallinan: Well, apparently they are. Everybody is on trial now. We are just sweeping in everybody in the labor movement on the Pacific Coast at that time, seems to be identified by this gentleman as a member of this Party.

Mr. Donohue: If your Honor please, this is just the reverse of the objection made just prior to our recess.

The Court: The objection is overruled.

Q. (By Mr. Donohue): I ask you again, Mr. Schomaker,—

Mr. Hallinan: Now, your Honor, I object to counsel repeating the question. Then we have to repeat the objection again.

Mr. Donohue: ~~If it pleases~~ your Honor, your Honor sustained a motion to strike a portion of the answer, and for that reason I think I am entitled to repeat the question.

The Court: All right, proceed.

Q. (By Mr. Donohue): I ask you again, Mr. Schomaker, whether or not to your knowledge all of the persons who were present at the meeting in San Diego concerning which you have testified were members of the Communist Party.

Mr. Hallinan: Just a moment. Object to that as having just been asked and answered.

The Court: Overruled.

A. They were, to the best of my knowledge; they were all [1087] members of the Communist Party.

Q. (By Mr. Donohue) Mr. Schomaker, do you recall any other Communist Party meeting or—strike that, please.

Mr. Schomaker, did you ever attend a Communist Party meeting at Sokol Hall?

Mr. Hallinan: Just a moment. Object, your Honor, as calling for the opinion and conclusion of the witness and no proper foundation laid as to whether it was a Communist Party meeting or not.

Mr. Donohue: May I strike the question, if your Honor please?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Schomaker, did you ever attend any kind of meeting in the Sokol Hall?

A. I attended numerous meetings at the Sokol Hall.

Q. And where is Sokol Hall located?

A. It is on Paige Street, and to the best of my recollection it is in the 700 block, or maybe it was the 600 block. But anyway, it is along in that adjacent vicinity there.

(Testimony of John H. Schomaker.)

Q. What was the nature of the meetings which you attended in Sokol Hall?

Mr. Hallinan: Object, if your Honor please, calling for his opinion and conclusion on an ultimate fact.

The Court: Overruled.

Mr. Hallinan: No circumstances of time, place or persons [1088] present; simply a blank statement of the witness.

The Court: Overruled.

A. The meetings that I attended at Sokol Hall were generally Communist Party meetings.

Q. (By Mr. Donohue): Did you ever attend a Communist Party meeting at Sokol Hall at which the defendant Harry Bridges was present?

Mr. Hallinan: Just a moment. Same objection; containing opinion and conclusion, designating the type of meeting.

The Court: Overruled.

A. Yes, I can recall one meeting.

Q. (By Mr. Donohue): When?

A. That Harry Bridges attended.

Q. When was that meeting?

A. That meeting was the year 1935. It would be in the fall of the year 1935; it was the early fall of 1935.

Q. Can you tell us who was present at that meeting?

A. Well, there was quite a few people present.

Q. About how many?

(Testimony of John H. Schomaker.)

A. But what distinguished this meeting was the fact that——

Mr. Hallinan: Just a minute. Object to this as not responsive.

The Court: He has asked a particular question. Yes, the motion is granted.

Q. (By Mr. Donohue): How many persons were present? [1089]

A. Oh, the number of people. There was quite a number. I would say between 17 and 23, or somewhere along in there.

Q. Whom can you now recall as having been there?

A. Well, Bill Schneidermann was there, and myself, of course; Pop Hanoff, Betty Ganat, and Harry Bridges, and Hnery Schmidt and Bill Schneiderman, Lawrence Ross, and the other big brass of the Communist Party in California.

Mr. Hallinan: Just a moment. Ask that be stricken out, if the Court please, as constituting an opinion and conclusion of the witness. He was asked the names.

Mr. Donohue: I have no objection, if your Honor please.

The Court: That may go out.

Q. (By Mr. Donohue): Mr. Schomaker, is there anything or was there anything about this meeting which peculiarly calls it to your attention?

A. Why, definitely so, because that was the meeting where Bill Schneidermann was officially,

(Testimony of John H. Schomaker.)

well, greeted, I guess you could say, as the State organizer of the Communist Party.

Q. Do you recall whether or not—do you recall anything that anyone said at that meeting particularly?

A. Well, I can recall Lawrence Ross was the chairman.

Q. And who was Lawrence Ross?

A. Well, he was the editor of the Western Worker at that time and had been for some time.

Q. How long did you know Lawrence Ross? [1090]

A. Well, I have known Lawrence Ross, at that time, I would say, from the depression days, 1931, to that particular time.

Q. What opportunity, if any, had you to determine whether or not Lawrence Ross was a member of the Communist Party?

A. Well, when he was appointed editor of the Western Worker, Sam Darcy and I brought the decision to him of the District Committee that he was made editor of the Western Worker.

Q. Do you recall anyone else making a speech or report of any character at this meeting?

A. Well, Bill Schneiderman made a report on. I think it was the 7th Congress of the International—of the Comintern.

Q. What did he say about it?

A. Well, he had quite a bit to say. Naturally, in those day,——

Mr. Hallinan: I object to this, if the Court please, and ask that those "days" be stricken.

(Testimony of John H. Schomaker.)

Mr. Donohue: No objection.

Q. What is your best recollection of what Mr. Schneiderman had to say?

A. Well, he had just come back from the International Congress. With the question of Fascism and the threat of war, it was an international question, and the security of each country was of paramount importance. So he delivered a report along those lines.

Q. Did Mr. Schneiderman say where the 7th International Congress [1091] had been held?

A. Well, I don't recall, no. It was in Europe somewhere; just where, I don't recall.

Q. What opportunities were yours in order to determine whether or not this particular meeting was one the attendance at which was restricted to members of the Communist Party?

Mr. Hallinan: Now, just a moment. Object to that as incompetent, irrelevant and immaterial, calling for an opinion and conclusion, and further, assuming something not in evidence and leading and suggestive.

The Court: Overruled.

A. Well, it was announced that this was a meeting of the District Committee to welcome Schneiderman to District 13.

Q. (By Mr. Donohue): Were you at that time a member of the District Committee of the Communist Party? A. I was, yes.

Q. By whom were you notified of this meeting?

(Testimony of John H. Schomaker.)

A. Well, I was notified by Walter Lambert.

Q. Can you tell us of any security measures that may have been taken at the time and place of the meeting?

A. Well, at that particular time there was two persons at the door, and they let each one in after they were recognized, and the same thing on departure.

Q. Do you recall who those two persons were?

A. Well, they were two fellows that—one was, he handled [1092] the sale of literature at 121 Haight Street. Now, just what his name was I don't recall. And the other fellow was one of the fellows who stayed around 121 Haight Street all the time.

Q. Of your own knowledge, Mr. Schomaker, was the meeting concerning which you have just testified a Communist Party meeting?

Mr. Hallinan: Just a moment. Now, object to that again, if the Court please, as calling for his opinion and conclusion, no proper foundation laid, not binding on the defendants.

The Court: Overruled.

A. Why, it was definitely a Communist Party meeting.

Mr. Donohue: Would your Honor indulge me just a moment, please?

The Court: Surely.

Mr. Donohue: We have no further questions of the witness, if your Honor please.

(Testimony of John H. Schomaker.)

Mr. Hallinan: Might we adjourn until tomorrow?

The Court: Yes. We have reached the four o'clock period, gentlemen, and we have had a long day.

Under the circumstances, may I again admonish the jury not to discuss the case with any person, not to suffer any person to converse with you on any subject of this trial, not to form or express an opinion on it until it is finally submitted to you for decision. You may now retire.

> (Thereupon an adjournment was taken until Tuesday, November 29, 1949, at 10:00 a.m. [1093]

CERTIFICATE OF REPORTER

We, Official Reporters, certify that the foregoing transcript of 968-1093 pages is a true and correct transcript of the matter therein contained as reported by us and thereafter reduced to typewriting, to the best of our ability.

/s/ F. JOSEPH SWEENEY,

/s/ EDWIN W. RICH,

/s/ W. A. FOSTER. [1093-A]

Tuesday Morning Session, November 29, 1949,
10:00 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. Bring in the jury, please. Call Mr. Schomaker.

(Whereupon the jury entered the courtroom and assumed their respective positions in the jury box, and the prior witness resumed the witness stand.)

The Court: You may proceed.

Mr. Donohue: If Your Honor pleases, there is one further matter I would like to inquire of Mr. Schomaker about, with Your Honor's permission; a matter that did not come to my attention until last night.

The Court: All right.

JOHN H. SCHOMAKER

resumed the stand.

Direct Examination
(Continued)

By Mr. Donohue:

Q. Mr. Schomaker, did you ever meet a man by the name of Earl Browder?

Mr. Hallinan: Earl what?

Mr. Donohue: Browder.

A. Well, I have met Earl Browder several different occasions.

Q. Where was the occasion of your first meeting?

(Testimony of John H. Schomaker.)

A. Well, the first meeting, where I was formally introduced to him, was in San Mateo—no, in Santa Clara County.

Q. Can you describe more particularly the place in Santa [1094] Clara County?

A. Well, it was a shack in a prune orchard or a prune ranch.

Q. Can you tell us when this meeting took place?

A. Well, that meeting took place in—it was during the maritime strike of 1934, and it was in that period. Now, it was in—it was prior to the general strike, so it must have occurred in June, June, 1934.

Q. Will you tell us, if you were accompanied by any person or persons on your visit to that prune ranch in Santa Clara County?

A. Well, there was quite a group of persons that went down there.

Q. Will you tell us by what means you went and with whom?

A. Well, I was driven there in—it was a large green Packard sedan, and in the car—that is driving the car was Walter Lambert. And in the car was Henry Schmidt and myself and Harry Bridges and Henry Schrimpf, and another longshoreman named Elmer Wheeler.

Q. Can you tell us what occurred when you reached your destination?

A. Well, we drove down the Peninsula and we turned off the highway 101 and went over toward the foothills and drove into this ranch and there was some people there already outside, and drove up to this little shack on this prune ranch. And there was a table spread out under the trees, it was a lunch. So we pulled up, and evidently the people who had been there [1095] ahead of us had eaten, because when we got out of the car, why, Henry Schrimpf was one of the first out. He dove into this lunch and began to eat. So I says to him, I says, "Well, Henry, how about giving somebody else a chance?". So I jumped in, too, and then we had a little lunch there, and then, as I say, we were there, got there late and the other people had eaten. So then we went inside of this cabin and I was introduced, well, all of us were introduced to a fellow there, by "Earl Browder." So I raised the question, I said, "Well, that don't look like Browder to me." And Walter Lambert said, "No, he shaved his mustache off."

Q. Was Mr. Bridges with you at the time he was introduced to Mr. Browder?

A. Yes, he was.

Q. Was Mr. Bridges introduced to Mr. Browder?

A. Well, he was there in the cabin; he certainly must have been introduced to him.

Q. Was anything said by anyone while you and Mr. Bridges were there together?

A. Why, yes, we began discussing the strike and the progress it had made, and the general situation concerning the strike.

Q. Can you tell us what person or persons were

(Testimony of John H. Schomaker.)

present other than those who went down with you in this automobile?

A. Well, when we got there, there was—I remember very distinctly—Minnie Carson, a person named Minnie Carson was there, and [1096] Sam Darcy was there, and this person who was introduced as Earl Browder. And there was another fellow there, but I don't recall his name; he was a stranger to me.

Q. On this occasion, did Mr. Bridges have anything to say?

A. Well, yes. As I say, we all discussed the strike and the aspects of it and what was to be expected in it, and the future conduct of it.

Q. Did Mr. Browder have anything to say?

A. Why, he had quite a bit to say, yes.

Q. Can you tell us, your best recollection, what Mr. Browder said?

A. Well, the best of my recollection was that, the fact that there was quite a bit of terror being exerted on the strike from various sources, from the police and private agencies, tear gas salesmen that were applying pressure in the form of shooting tear gas into the strikers. And in general, the atmosphere was one of tension and Browder suggested that what needed to be done was to get more support for the strike. That is, more support for it, to line up people on the side of the strikers against these forces that were of terror and violence against them.

Q. Can you recall by whom you were notified of this meeting?

A. Walter Lambert notified us.

(Testimony of John H. Schomaker.)

Q. And it was in his car you went to——

A. Well, he drove the car. He drove that car during the [1097] strike. It was a green Packard, a large Packard with those extra seats behind the front seat.

Mr. Donohue: I have no further questions of the witness, if Your Honor please.

The Witness: Oh, by the way. There was one thing that I——

Mr. Hallinan: Just a moment. Object to any volunteering of a statement from the witness.

Mr. Donohue: I think if the witness has something to say, he should be allowed to say it.

The Court: Is this part of the last answer?

The Witness: No, something I testified to yesterday.

Mr. Hallinan: Well, ask that——

The Court: You desire to clarify something?

The Witness: I would like to.

The Court: You may.

The Witness: And regarding that second meeting at 121 Haight Street, with Norma Perry, the disciplinary meeting.

Q. (By Mr. Donohue): Yes?

A. Well, I placed Henry Schrimpf in that meeting, and he wasn't there. That is the meeting, the second disciplinary meeting, which was held at 121 Haight Street. But Henry Schrimpf did not attend that meeting.

Q. You testified, I believe, yesterday that he attended two meetings?

(Testimony of John H. Schomaker.)

A. I testified he did attend that meeting, [1098] yes.

Q. And you now say that he was at the first but not the second meeting?

Mr. Hallinan: I object to this. He has already made his statement and——

The Court: I think it was clear in the record, Mr. Donohue. The witness has already testified, as of yesterday, with respect to the second meeting.

Mr. Donohue: I have no further questions, Your Honor. [1099]

Cross-Examination

By Mr. Hallinan:

Q. You talked that matter over with Mr. Schrimpf last night? A. Pardon?

Q. You talked that matter over with Mr. Schrimpf last night?

A. Did I talk it over with Mr. Schrimpf last night?

Q. Yes.

A. No, I haven't seen Henry Schrimpf for years.

Q. At that meeting at Shaw's house when Harry Bridges made a speech did you recruit any people?

A. Did I recruit any people?

Q. Yes.

A. No, I was a silent spectator at that particular meeting.

Q. Did you see any recruited?

A. Evidently there must have been people recruited.

Q. You made a couple of statements here, in one

(Testimony of John H. Schomaker.)

of which you were talking about some conversation about conditions, and you said the lousy conditions on the waterfront, and at another place you said, "We talked about the terrible conditions on the waterfront." Just now you told us about a conversation that you had with a number of people including Mr. Browder, and you spoke about the future aspects of the strike, quite a bit of terror by the police, private organizations, tear gas salesmen, and so forth. Going back to the first conversation at which you said that you, Mr. Mann and Mr. [1100] Bridges talked about these matters, will you enlarge upon the conversation. Tell us what was said.

A. You mean with Browder at the prune ranch?

Q. No, the prior ones, the ones that you had before the strike back in 1933 preceding the time at which you say Bridges signed an application for the Communist Party. You stated in your testimony that you had conversations with him and Mr. Mann in that restaurant at the time about these lousy conditions on the waterfront and the terrible conditions that all the stevedores were talking about. Do you remember that you so testified?

A. I don't remember that, no.

Q. You do not remember testifying to that?

A. Herman Mann wasn't there. Either you are crossed up or I am.

Q. Who is the person who was there?

A. I don't know what meeting you are speaking about.

Q. The one in the restaurant at which you said

Mr. Bridges signed the Communist Party application. Who was there?

A. B. B. Jones was there.

Q. Do you remember yesterday testifying that you had a conversation, you, Mr. Bridges, Mr. B. B. Jones, about the terrible conditions on the waterfront, and, as you put it, the "lousy conditions on the waterfront"? A. I recall that, yes. [1101]

Q. You recall that you said that yesterday. Tell us what was said about that. Give us the whole conversation on that subject.

A. I couldn't do it verbatim.

Q. You do not have to do it verbatim. Do it as well as you can.

A. As I said, as we went into the restaurant evidently on that particular morning Bridges at that time was working——

Q. Pardon me. Will you please tell us what conversation you had on the subject I just discussed.

A. I am trying to get a background.

Q. We have a background.

A. What I am trying to do—after all, you asked me a question. I can't snap it out of thin air. I have to get a background in my own mind first. Bridges was working with a gang on the Hawaiian docks. On that particular morning he evidently had a late start because he was in the restaurant when we walked in. Jones said to Harry, "Harry, how about buying the coffee?"

So Bridges proceeded to buy the coffee. As I say, it was a nickel a cup at that time. He could easily

(Testimony of John H. Schomaker.)

afford it. We got the coffee and we sat down and began to talk about conditions on the front, particularly about the case of a fellow who was killed—I think it was on the Encinal Terminals—a heavy load of canned goods. The winch fall carried away. He [1102] was underneath the load and it killed him, he and his brother were working together, and we were talking about that particular thing, that due to the excessive speed-up and the big loads, here was a guy whose life was sacrificed. And from that we discussed the other conditions, that something more—action needed to be taken and the officers of the ILA at that time were not doing enough to rectify these things.

Q. What conditions did you talk about? What conditions were being complained of?

A. Well, for instance, the selection of men to be picked for a job.

Q. How was that worked?

A. That was done on the basis of a shape-up where the boss picked his men.

Q. Describe what you mean by the "shape-up."

A. A group of men assembled on the waterfront every morning, on the Embarcadero, right off of Market, and there the boss picked John, Dick and Harry to fill out his gang, and of course it wasn't always the best workers who got the jobs, and generally the guys who were the quietest and were able to kick back maybe a little thing to the boss—maybe a bottle of whisky, a ham or something, so he would get a job—in other words, favoritism.

(Testimony of John H. Schomaker.)

Q. Was that the consistent procedure that was being followed on the waterfront at that [1103] time?

A. Very consistent, certainly it was.

Q. When you said a gang of men would line up for this shape-up, how many men would line up?

A. I wouldn't say they would line up in numerical order or alphabetical order.

Q. I did not mean to say that.

A. I mean they ganged up there, generally the union—it was a blue book union, and those guys generally worked, and those fellows who belonged to the ILA or those who did not were generally ganged on the waterfront in the early morning where they were selected or not selected for work.

Q. What time in the morning?

Mr. Paisley: We are only concerned with what was said in the conversation rather than describing conditions.

Mr. Hallinan: That is what I asked him.

The Court: You may proceed.

Q. (By Mr. Hallinan): Go ahead.

A. I think the guys who were the hungriest and needed the work the most got there pretty early, maybe five o'clock.

Q. Then did you men in this discussion say that that was an unfair, unjust or vicious sort of practice?

A. Well, I wouldn't say at that particular meeting we discussed that, but that was one of the paramount issues we had discussed later, the question of

(Testimony of John H. Schomaker.)

a hiring hall where we had an equalized system of hiring. [1104]

Q. What was said about a hiring hall? What was proposed in that connection?

A. I wouldn't say at this particular meeting.

Q. At any time.

A. At any time it was a question of establishing a hiring hall where everyone had an equal chance to do the work.

Q. How did that work?

A. That involved quite a bit of discussion and argument, because quite a lot of people said you couldn't establish a hiring hall on the waterfront because you didn't have anyone to run it. Like I remember very distinctly Burglar Lewis and Curly Cutwright getting up and shouting on the floor of the meeting, "Who the hell is going to run the hiring hall when you get it?"

Q. Who the hell did run it?

A. We got guys from the union to run it. Bill Morrow, for one, when they first established the hiring system.

Q. Was anything said about wages on the waterfront at that time?

A. That is true, they discussed the question of wages.

Q. Was anything said about what the average wage of a stevedore on the waterfront was during that period?

A. You couldn't strike an average wage because the star gangs, as Bridges was in, would make $75

(Testimony of John H. Schomaker.)

or $80 a week, where fellows who worked in casual gangs or extra men would make $10 a week. [1105] We proposed to establish a wage at a dollar an hour and a 30-hour week on the basis of a six-hour day. That would be enough to carry—a 30-hour week, 30—that would be enough to live on.

Q. In other words, while the star gang men, those who were cutting back to the bosses, and so forth, could make as much as $75 a week, there were a great many men on the waterfront making as little as $10 a week; is that correct?

A. I wouldn't establish it at $10. They made a dollar or maybe they wouldn't make anything.

Q. They might go down there morning after morning and assemble under the conditions you described and not make a nickel?

A. That is correct.

Q. Was that very frequent?

A. What do you mean, "frequent"?

Q. Did that happen all the time? Were there men who went through that day after day after day?

A. I would say they would get maybe a day now and then. After all, they couldn't go down there day after day after day and not make something, or they couldn't get down there; they couldn't exist, pay for their food and lodging.

Q. Coming to the period of 1934, when you say you went down and talked to Mr. Earl Browder, at that time the 1934 strike was on, is that correct?

A. Yes, that was possibly June of 1934. [1106]

Q. In the meantime there had been a great deal

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(Testimony of John H. Schomaker.)

of difficulty reorganizing the ILA and making a union out of it, isn't that right?

A. That is very correct.

Q. Prior to that time there had been a company union, what they call a blue book union is that right? A. That is right.

Q. The great difficulty that you men were in caused you to get the men to desert this company union and form a union of their own or revitalize the ILA, is that correct?

A. I wouldn't pose a question like that, no.

Q. Do you mean it was not difficult to do it, or what do you mean?

A. In my opinion the blue book union was not a factor concerning the men, because I would say half of the men did not belong to the blue book. It was not a factor of overcoming, that is, getting the men away from the blue book.

Q. What was the difficulty about the blue book union?

A. Do you want to let me answer this question?

Q. Yes.

A. I am not too bright, but I try to get this thing chronological so I can explain it. It wasn't a factor of getting the men away from the blue book. It was a factor of getting all men into the ILA or as many as we possibly could.

Q. The strike that happened in 1934 lasted 85 days. Do you [1107] remember that?

A. Well, 84 or 85 days, yes.

Q. Was it a very violent strike?

(Testimony of John H. Schomaker.)

A. Well, I would think it was an extremely violent strike.

Q. When you went down to San Jose sometime in June of 1934 the strike had then been on for some time, is that right?

A. In June it would have been on since May 9, yes. We didn't go to San Jose. Let us get that straight.

Q. San Mateo, or wherever it was.

A. Santa Clara County.

Q. Santa Clara County. Will you tell us now what the conversation with Mr. Browder and these other people who had driven down there, including yourself and Mr. Bridges, was in connection with these subjects that you mentioned, that they discussed the subject, its future aspects, quite a lot of terror by the police, private organization, tear gas salesmen, and so forth? Tell us what was said.

A. You mean the conversation that we had——

Q. Yes, on that subject.

A. As I say, I couldn't repeat that verbatim, but the text of it would be that Browder was there and Darcy was there, and it was after Joe Ryan, who was the International president of the ILA, had come out and had signed an agreement with the Waterfront Employers, and which was later repudiated by the membership, and then the fact that there were certain [1108] people on the West Coast here, that is, in an official capacity, who were working with Ryan to sign an agreement which the men would have nothing to say about. That was one

(Testimony of John H. Schomaker.)

angle. Now, the other angle was the fact that there was so much terror, and because the police were raiding the picket lines and arresting MWIU men, beating up everybody they run across, and besides invading your homes and things of that nature, the question was how could we get more strength for the strike? And that was the general line which was followed.

Q. What was said about private operators?

A. Private operators?

Q Yes, private agencies. What was said about that? A. I don't get that.

Q. By that you mean private detectives?

A. You mean stool pigeons?

Q. Yes. What were they doing? What was said that they were doing?

A. They were all lumped together.

Q. Tell us what was said about it. What was the discussion about that? You say here that you talked about this terror on the waterfront, the police were beating up and arresting strikers, invading homes. What do you mean by "invading homes"?

A. For instance, they would come out to your home and knock—possibly the door was unlocked and they would walk right in.

Q. And do what? [1109]

A. And begin to question you, or possibly they even tried to install dictaphones in places where they were meeting. They were raiding the—they raided the various union halls where the workers were congregating.

Q. Who did that?

(Testimony of John H. Schomaker.)

A. Well, now, I say I don't know who did it. They claimed the vigilantes did it under the organization of the Police Department.

Q. And those vigilantes were actually hired agents of the Waterfront Employers, isn't that right?

A. I couldn't say that, no. I don't know.

Q. They were men who were doing this constantly, that is, beating up strikers and going into their homes, dictagraphing, trying to collect evidence, trying to send men to jail and things of that kind, isn't that correct?

A. Whether it was by the Waterfront Employers, I couldn't say that. It was being done, but who was responsible for it—certainly the union weren't doing it.

Q. The union was on the receiving end?

A. That is right, getting beat up.

Q. When you talk about the police beating up the men, what do you mean by that?

A. Well, the pickets and the picket line, there was several men beaten. They would pick out men who were in the chow line there on the Embarcadero, where they had a soup kitchen. [1110] And they would go along and ask people for their strike cards which would identify them with an organization that they belonged to, and if they carried a green industrial workers' union card, they were intimated and beaten, but, as I say, we had honest leaders and we combatted that to a great extent.

Q. Were they beaten with fists, clubs, or what?

(Testimony of John H. Schomaker.)

A. I don't know. I know I was beaten with a club; I suppose the others were beaten the same—clubbed, kicked. . .

Q. Would they beat these men even though they were doing nothing offensive or nothing illegal?

A. I don't know what you call legal or illegal. Picketing was a legal right.

Q. You mean the men who would get beaten were not being unduly noisy or attacking anybody?

A. No, not to my experience they hadn't, no.

Q. What about this tear gas that you spoke about? Tell us about that.

A. I don't know what you mean to tell them about.

Q. You said part of the reign of terror was from tear gas salesmen. They were pouring tear gas on the pickets and on the strikers.

A. That happened in instances where—I think it was the end of May where the police attacked a picket line and they shot tear gas. Whether they threw them—I think in those days they generally threw them. That is, they ignited them [1111] in some fashion and, like throwing a football. And then they had another—I think the guy came in—his name was McCarthy. He was a tear gas salesman. He demonstrated a new type of tear gas which is fired by a pistol. Well, on July 3 they fired numerous tear gas before the ranks of the strikers, and again on July 5 they did this, and subsequently a couple of people were killed. Two strikers were killed. [1111-A]

(Testimony of John H. Schomaker.)

Q. There was a day called "Bloody Thursday": when was that? A. That was July 5th.

Q. Was that the day the two men were killed or approximately?

A. Well, yes, somewhere around that. One was killed and I think one was killed a day or two later, or so.

Q. What means brought about their death? What particular type of violence—tear gas?

A. Well, gunshot, I think—gunshot wounds.

Q. In addition to the two men who were killed, about 400 men were wounded, weren't they, that day?

A. Well, I wouldn't say, estimate the number. There was a considerable number was gassed and wounded, yes.

Q. Now, with relation to the Communist headquarters that you describe, up on Grove Street, were the dead bodies of the slain men taken up there? A. Well, not that I recall.

Q. Were any of the wounded taken up there, laid out on the floor for treatment?

A. Well, it is very possible.

Q. Now, the union had a union hall down there on the waterfront, didn't it?

A. 113 Stewart Street, yes.

Q. And were any of the wounded men taken there?

A. There were considerable number inside there, yes.

Q. And then after the wounded men were in

(Testimony of John H. Schomaker.)

there, laid out on [1112] the floor, didn't the police come in and throw them out and take them out and lock them up in the City Prison?

A. No, I don't recall that. I do recall them shooting tear gas into 113 Stewart Street, but I don't think any police invaded the hall.

Q. In other words, after the injured men had been brought in there, then the police fired tear gas bombs into the building, isn't that right?

A. Well, they did that, yes.

Q. And then after that, why, you and Mr. Bridges and a number of other men went down to Santa Clara County to talk to Mr. Browder and find out if he had any suggestions as to how public interest might be turned in favor of these men who were being treated that way, isn't that correct?

A. Well, I wouldn't say that we went down there specifically to see what Browder had to say; we were taken down there primarily to meet Sam Darcy. Now, I didn't know that Browder was there, because I had never met Browder before. But Browder was there.

Q. But I say, that was the problem that you went there to consider and discuss, is that right—how to awake, how to arouse public sympathy and public indignation against this treatment?

A. That is precisely correct.

Q. And that was the thing that was discussed, is that right? A. That's right. [1113]

Q. And that was the thing that was arrived at, isn't that right? A. That's correct.

(Testimony of John H. Schomaker.)

Q. There wasn't any recommendation by anybody to retaliate in kind and shoot policemen and stool pigeons, was there?

A. Why, no, sir; certainly not.

Q There wasn't any fund attempted to be raised to buy tear gas to fire back at the people that were assailing you and your men, was there?

A. I don't get that "my men." I don't know what you mean by that.

Q. Well, the other men who were—there were no such suggestions as that, were there?

A. There was no suggestion, no.

Q. There was no recommendation that force be met with force or violence with violence, was there? A. No.

Q. In other words, all that was discussed there was what means could be employed to rouse the decent people of the community to awaken their indignation and protest against this treatment, isn't that correct? A. That's correct.

Q. Now, after that the strike continued for some time, did it? A. You mean after what?

Q. After you went down and met Mr. Browder at this place that [1114] you mentioned.

A. Well, that was June and July. It continued until the termination, yes.

Q. And was that the first time that this group of men met Mr. Darcy to discuss the matters that you have mentioned?

A. You mean—what group of men do you mean?

(Testimony of John H. Schomaker.)

Q. The men who went down there on that occasion.

A. You mean Bridges and I and Schmidt?

Q. Yes. A. Why, no, certainly not.

Q. Was it after that that Mr. Darcy had you transmit messages and recommendations to Mr. Bridges?

A. You mean before Bridges joined the party or after he joined the party?

Q. No, I mean after this visit to Santa Clara, was it after that that Mr. Darcy had you carry these messages?

A. Why, certainly not. Mr. Sam Darcy instructed Herman and I—Herman Mann and I—when I first came up here that we were to recruit Harry Bridges into the Communist Party, and from that day up to the time that I severed my relations with the Communist Party, I carried messages from, particularly in that period of '33 and '34, from Sam Darcy to Harry Bridges and to other members on the waterfront.

Q. That was after Mr. Bridges had joined, as you say, the Communist Party? [1115]

A. Well, even before, that he actually signed an application, that they was meetings with Communist groups with Bridges.

Q. Before Mr. Bridges joined the Communist Party, then, he had meetings with Communist groups, is that right?

A. With the understanding that—well——

Q. Just answer yes or no, if you will.

(Testimony of John H. Schomaker.)

A. Well, let me explain.

Q. I will let you explain afterwards.

A. The——

Q. No, I ask an answer to the question.

A. Well, I have to answer it, certainly I have to answer it. The——

Q. Now, you answered this, that before Mr. Bridges joined the Communist Party, he had meetings with the Communist members. Is that correct or not? A. Well, that is correct, yes.

Q. And at those meetings matters were discussed relating to conditions on the waterfront, is that right? A. That's correct.

Q. And matters were discussed relating to the wages that the men were getting, this shape-up system, the necessity of a hiring hall, and similar related matters, is that right?

A. Well, until it reached a point.

Q. All right.

A. It reached a point at these meetings where the proposition [1116] was put clearly to Bridges, "Are you going to join the Communist Party?"

Q. Well, that isn't what I asked. Coming to that, we have a long time ahead of us, Mr. Schomaker; so let's not be in a hurry.

A. I am not impatient; all I want to do is make this thing clear.

Q. We will see that you make it so clear that a blind man could see it. You needn't fear. Now, before Mr. Bridges joined the Communist Party there; as you say, he had meetings that members of the Communist Party attended relating to, and

(Testimony of John H. Schomaker.)

had discussions with them in these meetings related to, these conditions on the waterfront; that is right, isn't it?

A. For a very short period of time it is, yes. A short period of time—less than 30 days, I would say.

Q. All right, less than 30 days. Now, how many days less than 30 days?

A. Well, I got up here in the middle of October, so, oh, I wouldn't say how many days less or how many days more, but it was around in that neighborhood of about 30 days or about a month.

Q. All right. And at these meetings, Mr. Bridges attended meetings at which everybody was a Communist except he, is that right?

A. Well, that is pretty correct, yes. [1117]

Q. And what was the largest number of people present at one of those meetings that you can now remember?

A. What do you mean, in that particular period?

Q. Yes.

A. Well, I can name them. There would be——

Q. No, just give us the number.

A. That is the only way I can fix it in my mind, is recall the people who were there.

Q. Well, recall them to yourself and then tell us the sum total.

A. Well, there would be three or four.

Q. Three or four. And that, you say, concerned the matters that we have been heretofore discussing.

(Testimony of John H. Schomaker.)
Now, at those meetings were recommendations made by the officials of the Communist Party to Mr. Bridges? A. Were recommendations made?

Q. Yes.

A. Well, the policy was discussed and recommendations weren't made directly to Mr. Bridges, they were made to the group.

Q. At which Mr. Bridges was present?

A. At which Mr. Bridges was present, yes.

Q. In other words, between Mr. Bridges and these members of the Communist Party, these officials, I take it, were they?

A. Officials of——?

Q. Of the Communist Party. [1118]

A. You mean the people that were there?

Q. Yes.

A. Well, being an official in the Communist Party is not, possibly, like being an official of a corporation, where they can veto any—that is, take an action. A Communist Party member was a Communist Party member, where things were discussed, and a decision was made, and you didn't ask whether he was an organizer or he was—he was accepted.

Q. No. Pardon me. I am afraid you have misunderstood me. You say that for a period of about 30 days prior to the time that you say Mr. Bridges signed an application for membership in the Communist Party, he had meetings with persons who were Communists—all persons being present, all

(Testimony of John H. Schomaker.)

persons who were present being Communists except Mr. Bridges? And you said that the number of Communists who would be there would be three or four. And I say, in those instances, were those three or four members of the Communist Party also officers of the Communist Party?

A. Well, you could term them officials of the Communist Party in that sense, yes.

Q. Well, I can't term them anything. I know nothing about them. I ask you, were they or weren't they officers of the Party?

A. Well, I can tell you; Harry Jackson was there, and he was——

Q. Pardon me.

Mr. Hallinan: Your Honor, I want to get an answer to it. [1119] He knows whether they were or not. Now, he can answer it yes or no.

The Court: Well, I think he is entitled to explain to you. You may proceed.

A. (Continuing): Well, I say, being, as I say, a Communist Party member, he doesn't run around with a tag on his back, "I am a unit organizer," "I am a section organizer." I can say yes, that Herman Mann was a unit organizer, I was a section organizer and Jackson—I don't know his precise title, but he was a pretty brainy guy, and he made a lot of good suggestions and he was hooked up with the Marine Workers Industrial Union.

Mr. Hallinan: Now, your Honor, that is not in answer to the question.

(Testimony of John H. Schomaker.)

A. (Continuing): So I would say yes, they were officials of the Communist Party.

Q. Well, that is all you had to say in the first place.

A. I am trying to tell the truth and get this thing cleared, so yourself and myseff——

Q. Oh, are you, Mr. Schomaker? All right.

Now, at those meetings suggestions were made concerning the waterfront situation and what should be done about it, is that right?

A. That's correct.

Q. And recommendations were made by these officers of the Communist Party to Mr. Bridges as to the reasonable course to [1120] be followed, is that right?

A. Well, I wouldn't say they were made to Mr. Bridges. They were made to the group and since Herman Mann and I were members of the longshoremen, that we carried out decisions that Bridges wouldn't dare touch in those days.

Q. I see. In other words, the recommendations were to the group and not to Mr. Bridges specifically?

A. As an individual. That is correct.

Q. And Mr. Bridges, though not a member of the Communist Party, participated in those meetings, is that right?

A. Well, he was there. Now, what you mean by "participating" is another question. But he——

Q. I mean, he talked and discussed back and forth the problems, too; didn't he?

(Testimony of John H. Schomaker.)

A. That's correct, yes.

Q. All right. And you say that you and the other gentlemen whose name you mentioned, being members of the Communist Party, were also members of the Longshore Workers Union, is that right? A. The ILA, yes.

Q. But there were members of the Communist Party present who were not members of the Longshore Workers Union, is that right?

A. That's right, yes.

Q. All right. But these men, I suppose, had some special experience or knowledge of labor relations or trade union activities that enabled them to make some suggestions that were [1121] advisable, is that right? A. Sure they did.

Q. All right. A. Absolutely.

Q. Where were those meetings held?

A. They were held, some in Bridges' home, and were held some in Herman Marin's home, and we held some in the MWIU headquarters, and they held some where I was living.

Q. Any place else?

A. Well, there must have been others, but I mean, these particular places, because I can recall them pretty well.

Q. How about the Communist Party headquarters? Were any of them held there?

A. And there were some held at 37 Grove Street, too.

Q. Which were the Communist Party headquarters? A. That's correct.

(Testimony of John H. Schomaker.)

Q. And then where was Mr. Mann's residence?

A. Well, the closest I can recall, where he lived then, was on Germania Street in a basement flat.

Q. Where is Germania Street?

A. Well, Germania Street runs parallel to Haight—now, I don't know where it begins, but it is a short street, it is more of an alley than it is a thoroughfare.

Q. And what other streets is it between?

A. Well, it runs—Haight and the cross street is Fillmore, so [1122] it is in that triangle there.

Q. So it is out some place, then, in the neighborhood of Haight and Fillmore Streets?

A. That's correct, yes.

Q. And there were meetings held there?

A. That's right.

Q. Yes. And that there were meetings held where you lived? A. That's right.

Q. And where did you live then?

A. At 1027 Page Street.

Q. 1027 Page. Near what street is that?

A. That is right off of Divisadero.

Q. And then there were meetings held at Mr. Mann's house, and where was he living?

A. That is what I told you, on Germania.

Q. Oh.

A. As close as I can recall him now, we met at Herman Mann's house, yes.

Q. Pardon me. Where was Mr. Bridges' home then?

(Testimony of John H. Schomaker.)

A. Well, he lived out on Harrison Street then.

Q. Out on Harrison and what other street?

A. Well, I think it was a park there, and I think the cross streets was Army, up above Army Street. I think it was the last block on Harrison.

Q. So that is a considerable distance away from the section [1123] around Haight, from Fillmore to Divisadero?

A. That's right; it was quite a ways out there.

Q. Some miles?

A. Well, I wouldn't say how far, but it is quite a distance.

Q. Now, you testified here that you carried messages and instructions from Sam Darcy to Harry Bridges, and I will go presently into a list of the matters that you say you carried such instructions on. But were those instructions oral or in writing?

A. Well, I don't know just what you mean by "instructions" now.

Q. Well, you used the word or term yourself, sir: "The next instruction was to build the union. Then we received instructions to Harry Bridges that, from Sam Darcy to Harry Bridges, we should raise the demands of the men from the employers." Now you tell us what you mean by "instructions." A. Well, just exactly that.

Q. All right. A. Now, on the——

Q. No. Then let's get back to the original question. Were the instructions written or by word of mouth?

A. The way these instructions came about——

(Testimony of John H. Schomaker.)

Q. No.

Mr. Hallinan: Your Honor, I will ask an answer to it.

Q. Now, you say that certain instructions were given to you by [1124] Sam Darcy to transmit to Harry Bridges. Did Sam Darcy put those instructions in writing and deliver it to you to hand to Mr. Bridges or did he tell you what you should say to Mr. Bridges?

A. Well, the point is this: Now I have no legal —I have no legal background, and perhaps the word that I used has a different meaning than what you have.

Q. I don't care what——

A. So the question——

Q. ——word you use, whether it was instructions or directions.

A. ——of instructions or directions.

Q. Well, you used the word.

A. I know. I say, I am not a student of the English. And if I was, possibly I wouldn't be packing that hod down there. But the point is, the question of instructions, maybe you put a different interpretation——

Q. I don't know anything about them, sir. You said you got instructions from Mr. Darcy to Mr. Bridges. Now, did you get instructions from Mr. Darcy to Bridges?

A. Well, if you would allow me to explain, I will explain it:

(Testimony of John H. Schomaker.)

Mr. Hallinan: He can answer it first and then explain it, if it is ambiguous.

The Court: I think it is clear, Mr. Witness. You might answer the question and then explain it in your own way.

The Witness: O. K. Thank you, Your [1125] Honor.

A. Well, the question of instructions, I think—I mean, yes, I received instructions from Sam Darcy to carry to—not only to Harry Bridges, but to other people of the Communist Party on the waterfront. The point is this: The question of instructions——

Q. Now, just a moment.

A. You have a different interpretation than I have.

Mr. Hallinan: Just a moment. I will ask the witness not to volunteer anything. We will be rambling all over the place.

The Witness: The point is, I have got to get this clear. But what I meant by "instructions"——

Mr. Hallinan: I am asking Your Honor—all the witness has to do is answer the question. He doesn't have to participate in the results of this or concern himself with what impression is being made. That is for the jury to determine.

The Witness: The point is, though, that the question is not answered, it is still up in the air.

Mr. Hallinan: Well, we will bring it down and step on it.

Q. Now, you received what you call instructions.

Now, will you tell us just what definition you give the word "instructions"?

A. O. K. Shall I explain that?

Q. No, just define the word instructions for us as you understand it. Now, what do you mean yourself by the word "instructions"? [1126]

A. Well, in this particular case——

Q. No, I mean generally, your ordinary——

A. Well, instructions have different meanings. In this particular case of instructions, that a meeting would be held, Communist Party functionaries, and there the policy would be formulated, and the policy which was formulated, the question of revitalizing the ILA and the plans from which it would be revitalized. That to me was instructions. That was my instructions.

Q. All right.

A. So that was carried to those people, since I was a section organizer of the Communist Party —was carried to those people who didn't attend, and to see that it was carried out, as to those people who did attend. So that to me was my instructions.

Q. All right. Now, will you come back and answer the question, were those instructions in writing or were they by word of mouth?

A. Well, no, the policy of the Communist Party was never to keep records of their meetings. [1127]

Mr. Hallinan: I ask that that be stricken out, if the Court please.

The Court: The motion is denied.

(Testimony of John H. Schomaker.)

Q. (By Mr. Hallinan): Will you simply state whether they were written or not?

A. I can't tell you except what I know. I have no legal background. That kind of confuses me at times.

Q. Who told you to say "I have no legal background" every time you feel yourself jammed a bit?

A. I am no Little Abner. I am not so stupid that I don't know my way around.

Q. How stupid is Little Abner?

A. Maybe he is stupid as I am, I don't know, but the point is this——

Q. Just a minute, sir. When you received instructions from the Communist Party or when these resolutions were arrived at, were they reduced to writing or weren't they?

A. Because the policy of the Communist Party was not to reduce——

Mr. Hallinan: Your Honor, I will ask that the witness answer yes or no.

The Witness: Let's hear the question again.

The Court: Were those instructions reduced to writing?

A. No, they were not reduced to writing.

Q. (By Mr. Hallinan): So that they were transmitted orally [1128] to you, is that right?

A. Well, no, you are getting the wrong interpretation on it. They were not transmitted to me.

Q. You attended the conversation and you heard what was said?

(Testimony of John H. Schomaker.)

A. That is right, and I participated in the discussion and helped formulate this decision, and possibly Bridges was there helping to formulate these——

Q. We are coming to bat in a few moments.

A. Undoubtedly we will.

Q. Then according to your statement you received instructions from Sam Darcy to Harry Bridges. When you conveyed the instructions to Harry Bridges did you put them in writing?

A. Well, that is——

Q. Will you answer that yes or no?

A. Well, you are putting the wrong interpretation on it.

Mr. Hallinan: Your Honor, might I have answers from this witness?

The Court: In this instance you are entitled to a yes or no answer.

Q. (By Mr. Hallinan): When you transmitted the instructions to Harry Bridges did you put them in writing?

A. No. Neither did I ask——

Q. Just a minute. You have answered the question. A. The answer is no. [1129]

Q. You stated yesterday in answer to a request to state in an orderly sequence as best you can the instructions that you conveyed from the Communist Party to Mr. Bridges—you were asked, "State them in their orderly sequence as best you can"—you stated, "This is going to take quite a long time." And over the objections of some per-

(Testimony of John H. Schomaker.)

son whom we won't mention you stated this: "The next instruction was to build a union, and we formed a group of longshoremen which met in the Albion Hall every Sunday for quite a length of time, and that was direct orders from Sam Darcy to Harry Bridges."

Now, tell us what you told Harry Bridges Sam Darcy was directing him to do on that subject.

A. Applying the same interpretation to the question of instructions——

Q. I don't know what you call them, instructions, directions, or whatever you want—we are not quibbling on the meaning of words. You used the word "instructions." You have been trying to show here that Harry Bridges was taking instructions or directions from the Communist Party. Now, stay with it. What did you say to him on that subject?

A. You mean what I actually said verbatim?

Q. As well as you can put it. What did you tell Harry Bridges Sam Darcy wanted him to do or ordered him to do or instructed him to do or suggested him to do with regard to forming a group of longshoremen to meet in the Albion [1130] Hall?

A. If you will allow me I can do it easily.

Q. Go ahead.

A. You will have to allow me to do it in my own words. The question of instructions, we have a different interpretation. You have a different interpretation than I do. But the decision was arrived at as to the best method of how to revitalize

(Testimony of John H. Schomaker.)

the ILA and to involve the greatest number of men in doing it.

Q. Are you telling me now what you told Harry Bridges that Sam Darcy said to say to him?

A. If you give me a chance I will tell you.

Q. I do not want the background. We have got all that. A. No, you haven't.

Q. I want you to tell us this: When Sam Darcy gave you instructions to carry to Harry Bridges to form a group of longshoremen to meet in the Albion Hall, what did you say to Harry Bridges that he was to do or that he had been told to do or that he was directed to do? What did you say to him?

A. Just give me a chance and I will tell you. So, as I say, the decisions were made, an order to revitalize the ILA and to involve the greatest number of men in doing it. The Albion Hall was formed and Bridges, Schmidt and various other members, various other people, were very glad to come to those meetings because it was a chance to build a union, and that is the measures we took to revitalize the ILA.

When the message was carried to Bridges, possibly he [1131] was at the meeting when such a decision was made. I don't recall, but no doubt he was there.

Q. Just a minute. You testified that you acted as a messenger from Sam Darcy to the defendant Bridges, and you were asked these questions——

(Testimony of John H. Schomaker.)

A. If you will give me a chance I will finish the answer without reading that, if you want me to.

Q. What I want you to tell us is the message that you conveyed to Mr. Bridges now. Tell us that. What did you say to him?

A. That is the point I am getting to now, if you will just allow me. You keep interrupting. I have to start over every time you interrupt, because my train of thought is interrupted.

Q. You are not a lawyer?

A. No, I am not a lawyer.

Q. And you are not Little Abner. We have that established. Now, tell us what you said to Harry Bridges on that subject as conveying some instruction from Sam Darcy to him.

A. It was my duty as section organizer of the Communist Party—my duty was to see that this decision was carried out, and I carried it out to the extent of getting those people to the meeting. I would say that is my instructions.

Q. On direct examination when you were being led along by Mr. Donohue, you were asked, "Did you ever carry any instructions from Sam Darcy to the defendant Harry Bridges?" [1132] The answer, after objection: "Numerous times."

"Will you state them.

"A. Well, you want me to state all of them or just——

"Q. All of them.

"A. Well, there is, starting at the very begin-

(Testimony of John H. Schomaker.)

ning in 1933, our instructions were to recruit Harry Bridges into the Communist Party."

A. And that we did. We did that.

Will you please listen and keep your ears open and your mouth shut, as they say colloquially, for about a minute?

"Q. State them in their orderly sequence as best you can.

"A. I can do that all right.

"The Court: Do so.

"The Witness: As I say, the first instruction—this is going to take quite a long time.

"Q. All right.

"A. We were instructed to——" And then some objection.

"The next instruction was to build the union and form a group of longshoremen to meet in the Albion Hall."

You understand that you have testified that you got orders from Sam Darcy which you were to deliver to Harry Bridges to recruit a group of longshoremen and build the Albion Hall group. You so testified, didn't you?

A. As the section organizer of the Communist Party that was [1133] my duty——

Q. I say, you testified to that yesterday, didn't you? You testified to the language I just read?

A. You read it correctly. I did, yes.

Q. You remember you testified to that yesterday?

A. I don't remember the exact words, but I

(Testimony of John H. Schomaker.)
would say the text of it is correct, because that was our instructions and that is what we did.

Q. Tell us what instruction you gave Harry Bridges on that subject that came from Sam Darcy. What did you say to Harry Bridges on the subject?

A. Well, as I say, my position as section organizer of the Communist Party was to see that these decisions were carried out, and we carried them out. That is all I can say about the proposition, because no doubt Harry Bridges was at this meeting when it was discussed, and, as I say, my instructions were to form an Albion Hall group, and that is what we did.

Q. Now you are changing ground. You said yesterday you were given instructions by Sam Darcy to Harry Bridges that he was to get to work to form a group of longshoremen into the Albion Hall group. Now you are changing that, are you?

A. Well, no, I don't think I am changing it, no.

Q. Will you say now that Sam Darcy never gave you any instruction to convey to Harry Bridges to form a group of longshoremen to meet in the Albion Hall? [1134]

A. I will say this: That Sam Darcy, being the district organizer of the Communist Party, he was my boss. The decision was made. I was responsible to Darcy——

Mr. Hallinan: Just a minute. I object to this discursive discourse, your Honor. I asked him one

(Testimony of John H. Schomaker.)

question and that is whether or not Sam Darcy ever did give him any instruction to convey to Harry Bridges to form a group of longshoremen to meet in the Albion Hall.

Q. Now, did he or didn't he?

A. If you will allow me to explain——

Q. No, answer it yes or no.

A. Did Sam Darcy—well——

Q. Yes.

A. As head of the Communist Party, yes, because the Communist Party decision was made.

Q. He did give you that instruction, then, did he?

A. Will you please repeat that? You said did he give me that instruction?

Q. Yes. A. As I say——

Q. Did he?

A. He didn't come out and say, "Schomaker, you go down there or I will beat you to death, and give this message to Harry Bridges." No, he didn't say that.

Q. What part of that did he leave out? That he would beat you [1135] to death?

A. Pardon? You got me a little bit rattled here. I don't know what you mean by direct instructions. It is a Communist Party decision, and that is what I did. I carried it out.

Q. Do you remember who was testifying on the witness stand here yesterday, the name of the person who was testifying here?

A. You mean during this trial?

Q. Yes.

A. I guess I was here part of the time.

Q. Have you seen me on the witness stand at all?

A. Don't let me go into that. I saw you on your feet considerable time yesterday. I don't know whether you were the witness or I was.

Q. You didn't hear me testifying as to any instructions that you were supposed to have received from Sam Darcy to convey to Harry Bridges, did you?

A. Certainly not. You were objecting, I think.

Q. But you testified under oath that you had received certain instructions from Sam Darcy to convey to Harry Bridges yesterday, didn't you?

A. In a sense; the decision was made and that was my instructions.

Q. So you never received any instruction from him to convey to Harry Bridges? [1136]

A. From the Communist Party I did. Sam Darcy was its head, and I was responsible to Sam Darcy.

Q. So you want to take back this story about instructions from Sam Darcy to Harry Bridges?

A. No, sir, don't get that impression. I'm not taking back anything. That is the truth; that is all I can say.

Q. "Then we received instructions to Harry Bridges—from Sam Darcy to Harry Bridges that we should raise the demands of the men from the employers and that was done." Now, if I may

(Testimony of John H. Schomaker.)

remind you, this is your language under oath and not mine, so don't tell me that I am putting interpretations. "Then we received instructions to Harry Bridges that—from Sam Darcy to Harry Bridges that we should raise the demands of the men from the employers, and that was done." Now, what was that instruction?

A. It was on the same basis, a meeting was held and there it was discussed, the proper methods to use in raising these demands of the men to the employers.

Q. What were the demands that were to be raised?

A. The question of the wages, a dollar an hour, and the six-hour day—that is, the principal demands were a dollar an hour and a six-hour day and a 30-hour week, and a hiring hall.

Q. And Sam Darcy gave you instructions that you should go to Harry Bridges and tell him that those demands should be raised in the manner that you have just indicated, is that [1137] right?

A. Not in the sense of the interpretation you are making on it, no.

Q. So this did not happen either, then?

A. Oh, yes, it did happen, too. Don't say that.

Q. Did this happen or didn't it happen? I want you to answer this yes or no.

A. What happen?

Q. "Then we received instructions to Harry Bridges that—from Sam Darcy to Harry Bridges

(Testimony of John H. Schomaker.)

that we should raise the demands of the men from the employers." Did that happen?

A. Well, yes, it happened.

Q. You did receive those instructions, did you?

A. On the basis which I explained to you, how it occurred, a decision of the Communist Party.

Q. Did you receive the instructions from Sam Darcy to convey to Harry Bridges instructing him to increase the demands of the men from the employers? Did you receive such instructions?

A. Increasing the demands—I don't know what you mean by "increasing the demands." Is that the way the recorder took it? There is a question of raising the demands of the men to the employers, yes.

Q. So you never conveyed such an instruction to him?

A. Oh, yes, I did convey, not only to Harry Bridges but to [1138] all of the Communist Party members.

Q. Let us forget the rest of them.

A. You can't do that.

Q. Tell us what you said to Harry Bridges on that subject. After you got these instructions from Sam Darcy what did you say to Harry Bridges?

A. The Communist Party decision, and that Harry Bridges was expected to carry this decision out.

Q. All right. Now we have got it.

The Court: We might take the morning recess. Ladies and gentlemen of the jury, the same admoni-

(Testimony of John H. Schomaker.)

tion to you not to discuss the case under any conditions nor to form or express an opinion about it.

(Recess.) [1139]

Q. (By Mr. Hallinan): All right. Now, we received from you at the close of the last session a confirmation of your previous testimony that you had conveyed instructions from Sam Darcy to Harry Bridges. And I asked you then just what you told Harry Bridges as to the instructions from Sam Darcy to Harry Bridges that "we should raise the demands of the men from the employers." I want to know just what you said to Mr. Bridges on that subject. I mean, on the subject of Sam Darcy having given you some instructions to convey to him.

A. Well, the question of the raising the demands of the longshoremen, that was discussed at a meeting and that was the—as I enumerated—the demands that were raised.

Q. That isn't what I asked you. Now, you have told us here yesterday all sorts of conversations that took place, statements that were made in speeches, people who were present and things of that kind, and now what I want you to do is this: I want you to tell me what you said to Harry Bridges, what was the language you used to him or the context of the language, at the time that you conveyed instructions to him from Sam Darcy to raise the demands of the men from the employers. What did you say to Bridges?

A. It wasn't a personal conversation between

Bridges and I, it was a decision that was made by the Communist Party and which Bridges was a member and I was a member, and my duty as a section organizer was to see that they were carried out, which they [1140] were.

Q. So then this was a falsehood yesterday?

A. By no means was it a falsehood.

Q. Beg your pardon?

A. I said by no means was it a falsehood.

Q. Do you want to take this back: "Then we received instructions to Harry Bridges that from Sam Darcy to Harry Bridges that we should raise the demands of the men from the employers." Now do you want to take that back?

A. I certainly don't want to take it back.

Q. And you know very well what I mean when I am asking you to relate the conversation that you had with Mr. Bridges conveying these alleged instructions from Sam Darcy to him, don't you?

A. Well, no, I don't quite follow you. I don't, to be frank with you.

Q. As a matter of fact, you never in your life received any instructions from Sam Darcy to convey to Harry Bridges, did you?

A. Yes, I most certainly did, on numerous times, numerous occasions.

Q. All right. Well, let's see if we can hook the next one. "And then the instructions from Sam Darcy to Harry Bridges that they should proceed up and down the Coast with the rank and file committee to get the sentiment of the other ports,

(Testimony of John H. Schomaker.)
Seattle, Pedro and San Francisco." Now; you will remember that this is part of a list of instructions that you started out to [1141] give that you testified under oath Sam Darcy gave you to convey to Harry Bridges. Do you remember that that is so, that you so testified?

A. Well, in that particular case, if I can recall correctly, I did convey an oral message to Bridges that a——

Q. Wait a minute. Now, hold it. Oh, we finally have something. All right, you conveyed an oral message to Bridges. Now, tell us what you said to him in that message.

A. That the—the text of it was that since the things—there had been a convention held in Portland, I believe, of the ILA, and there was something to do with phoning up the minutes, and in this particular case, decision was made to send a committee up, I think it was to Portland to find out and to bring to them the sentiment of the guys in the Bay Area regarding that particular convention, and to lay the basis to call in another convention, rank and file convention.

Q. That is what you said to Mr. Bridges?

A. Well, that was the sense of it, yes.

Q. And you said, "Sam Darcy told me to give you this instruction," is that right?

A. Well, I don't think I said it in those many words. I said it in a basis, "Well, Harry, the deal is this, that we discussed this thing and the best thing to do is to get a rank and file committee to-

(Testimony of John H. Schomaker.)
gether and to tour the Coast and to create the sentiment for a rank and file convention." I think he and a guy [1142] named Dutch Dietrich. Now, I am not too positive about that, but he and some other guy went up.

Q. It may be Frenchy Dietrich?

A. Well, I don't know if there was any Frenchy Dietrich. I said Dutch Dietrich.

Q. What you are telling us now is what you professed to be your advice to Mr. Bridges. What I want to know is, what was the message that you gave to him in which you relayed to him instructions that you had received from Sam Darcy to convey to him. Tell us that.

A. The instructions from the Communist Party, of which Sam Darcy was the head, was conveyed to Mr. Bridges.

Q. Well, what did you say to him, did you say something like that, "Now, Harry, Sam Darcy and the Communist Party issued these instructions that you shall go out and organize the other ports on the Coast and find out what the sentiment of the rank and file is"? Did you say something like that to him?

A. Oh, I didn't say anything like that.

Q. Nothing like that?

A. Nothing that loud, at least.

Q. Did you use the word "instruction" to him at all?

(Laughter in audience.)

The Bailiff: Order in the court.

(Testimony of John H. Schomaker.)

Q. (By Mr. Hallinan): Did you tell him at all that you had any instructions to give to him from Sam Darcy? [1143]

A. Why, certainly I did. On numerous times.

Q. You did tell him that? You said to him, "I have instructions from Sam Darcy to you"; is that right?

A. Just not like that. I would say, "Bridges, here is the scoop, that we discussed this thing and Sam Darcy and——" ——I didn't enumerate the guys who were there, but said, "Here is the scoop, Harry; the group decided this, and it would be a good idea to send a delegation up and down the Coast to see what is cooking up there, what's cooking down at Pedro."

Q. Uh-huh. Well, these—now you switched over to where the instructions were not from Sam Darcy, but from some group, is that right?

A. Communist Party. Referred to them as a group or "the church"; we had a lot of different names for it. Didn't go around and holler, "Hey, wait a minute. I have got a message from Sam Darcy." My God, it's that simple.

Q. When you were testifying yesterday, you said nothing about a group, you said "Sam Darcy," didn't you?

A. Well, I looked upon Sam Darcy as head of the Communist Party and all decisions that were made, we were responsible to carry them out through the head of the Communist Party, was Sam [1144] Darcy.

(Testimony of John H. Schomaker.)

Q. (By Mr. Hallinan): Now, will you listen to this and see if you remember this as your testimony:— A. I certainly will.

Q. "All the decisions which related to the strike were discussed and were carried by orders from Sam Darcy to Harry Bridges: the question of the Maritime Federation of the Pacific, the organization of the Maritime Federation of the Pacific was carried out through instructions from Sam Darcy through myself." Is that true or false?

A. It is true.

Q. Will you now tell us what instructions you gave Harry Bridges that you had received from Sam Darcy relating to the strike, and I want the message that you conveyed to Mr. Bridges, not the general idea of what "a group of us boys" got together and decided, but what you told Mr. Bridges Sam Darcy had instructed.

A. Listen, there was a thousand decisions made in that strike, at least a thousand, and luckily—not luckily, but I would say thank God the correct ones were made by the Communist Party and ordered us to win it. So the decisions that were made, since I was a section organizer of the Communist Party, it was my duty to see that they were carried out, and they were.

Q. You also testified to this yesterday: "The setting of a date of strike on May 9 was done at the express orders of [1145] Sam Darcy to Harry Bridges." Is that right?

(Testimony of John H. Schomaker.)

A. Will you please read that again?

Q. "Then the calling, the setting of a date of strike on May 9 was done at the express orders of Sam Darcy to Harry Bridges." Is that right?

A. I read that myself last night and that is not correct, because the reporter—the reporter didn't catch my meaning on that.

Q. Where did you read it, Mr. Schomaker?

A. I read it after I left here.

Q. What time?

A. It must have been around midnight, I guess.

Q. Where? A. In the room upstairs.

Q. Upstairs where?

A. In the Postoffice Building.

Q. In this building? A. That is correct.

Q. Whose room?

A. There is an office upstairs, isn't there? There is a lot of offices.

Q. Whose office were you in?

A. I was in the defense attorney's offices—the prosecution offices, rather.

Q. Who else was with you? [1146]

A. Well, there was one other person.

Q. What was his name? A. Mr. Kaiser.

Q. Nobody else in there at all during the time?

A. There was other people there, but they weren't right in that room.

Q. When did you first get there?

A. Oh, it was quite late.

Q. What time?

A. I would say it was around midnight.

(Testimony of John H. Schomaker.)

Q. That you got there?

A. No, it was before that.

Q. What time?

A. I say it was before midnight.

Q. What time before midnight? Will you tell us that?

A. Fifteen minutes before midnight.

Q. Fifteen minutes before midnight you got there? A. Yes.

Q. This other gentleman, Mr. Kaiser, was there, is that right? A. That is right.

Q. What was the number of the room, do you remember? A. It is 434.

Q. What is written on the door? "United States Attorney" or anything like that? [1147]

A. It is Room 434.

Q. How did you happen to go there a little before midnight?

A. I was told to go over there. I was brought there.

Q. By whom? Who told you to go there?

A. By Mr. Kaiser.

Q. Who is Mr. Kaiser?

A. Well, who is—Mr. Kaiser is a gentleman. That is all I know.

Q. Do you know what his position is?

A. I wouldn't say. No, I really don't know. He is connected with the Immigration Department, but what branch—I mean, what particular job, I don't know.

(Testimony of John H. Schomaker.)

Q. An immigration official is not like a Communist, that you can tell them by looking at them, is that right?

Mr. Donohue: I object to that question, if the Court please. I think it is improper. No one has ever suggested that you could tell a Communist by looking at him. It is too bad you can't.

Q. (By Mr. Hallinan): Can you tell them by looking at them? A. You mean a Communist?

Q. Yes.

A. Why, certainly not, any more than you can tell a Democrat or Republican.

Q. There is nothing distinctive about them that would enable [1148] one to recognize him when he sees him, is that right?

A. Well, no, you generally tell them by the action they participate in.

Q. These people you have named here, these many, many people whose names you have given us as members of the Communist Party, you did not know that merely by looking at them? They didn't bear some singular mark which identified them or something like that, is that so?

A. No, because of the fact—any more than you can tell a person of the Waterfront Employers or a lawyer.

Q. A member of the Ku Klux Klan or anything like that?

A. Do you want me to answer that question or don't you?

(Testimony of John H. Schomaker.)

Q. No, because I am really a little disappointed. I thought maybe if B. B. Jones came rolling in, we could all recognize that obviously there is a Communist, you know. [1149]

Now, how long did you stay in this office upstairs?

A. It wasn't very long.

Q. How long?

A. I would say a half hour or so.

Q. Did you read all the testimony that you gave yesterday?

A. Well, I read the biggest part of it, yes. Of course, I didn't read the objections.

Q. Was the testimony that you read marked out? Was there pencil lining on it?

A. No, there was no pencil lining on it whatsoever.

Q. Did you take it away with you or did you leave it in the office?

A. No, I didn't take it away. I read it for 15 minutes, left it there, and walked out.

Q. You say you got instructions from somebody to go there shortly before midnight, is that right?

A. That is right.

Q. Where had you been up to that time?

A. In the hotel.

Q. What hotel?

A. The Marine Memorial Hotel—the Marine Memorial. I don't know whether they call it hotel or not.

Q. What were you doing there?

A. What was I doing there?

Q. Yes. [1150]

(Testimony of John H. Schomaker.)

A. I was laying in the bed, I imagine. I don't remember exactly what I was doing, but I was resting anyway.

Q. You had gone to bed and then got up and went to this building?

A. No, I think I was reading a detective story, a magazine.

Q. Was anybody in the room with you?

A. No, there wasn't.

Q. You were told to come to this office at a quarter to twelve, is that right?

A. That is right.

Q. And when you got there, you met Mr. Kaiser, is that right?

A. Oh, no, I came over here with him.

Q. Where did you meet him?

A. At the lobby of the Marine Memorial.

Q. By prearrangement?

A. No, it was not prearrangement, I don't think.

Q. How did you happen to meet him in the lobby of the Marine Memorial?

A. He called me on the telephone. They have a telephone service there.

Q. What time did he call you?

A. I would say around 11:30.

Q. What did he say to you?

A. Shall I give the exact conversation? [1151]

Q. As closely as you can.

A. He said, "Hello." I said, "Hello." He said, "This is Bill." I said, "This is John."

(Testimony of John H. Schomaker.)

He said, "Can you come down to the lobby of the hotel?" I said, "Sure."

Q. You went down and then what happened?

A. Well, he says, "You want to see the text of the proceedings?" So we proceeded over here.

Q. What did you say when he asked you if you wanted to see the text of the proceedings?

A. I didn't say anything.

Q. Is that the language that he used, "Do you want to see the text of the proceedings?"

A. I wouldn't swear it was the exact language, no.

Q. What were the exact words as close as you can give them?

A. That was the general conversation, yes.

Q. The text of the proceedings. Did you understand then what he meant by text of proceedings?

A. I imagine—I wouldn't say that was exact language, but he said the proceedings of the trial.

Q. And what did you say? "Yes."?

A. I said, "Yes."

Q. Did he tell you his object in coming there so late at night to have you study the text of the proceedings?

A. It wasn't a question of studying. I read the same thing in [1152] the Examiner and the Chronicle, so it wasn't any news to me.

Q. So then he took you over here and you read through your testimony that you gave yesterday, is that so? A. That is correct.

(Testimony of John H. Schomaker.)

Q. And did you talk over the testimony with Mr. Kaiser while you were reading it?

A. No, I did not.

Q. Did he point out any matters to you?

A. No, he did not.

Q. Was he sitting in the same room with you until you had finished?

A. He may have went out. While I was reading, I didn't notice whether he stayed in there or not.

Q. Did you go over the text of the proceedings after that and before you testified today?

A. No, I just read through them and left.

Q. Did he go out with you?

A. We left together, yes.

Q. Where did you go then?

A. I think I had a cup of coffee and turned in.

Q. Did he have a cup of coffee with you?

A. No, I think he had tea.

Q. He went to the restaurant with you?

A. He did, yes.

Q. And stayed with you how long? [1153]

A. Well, you can imagine from here over to where the building of the Marine Memorial, which is the Women's old Federated Club, however far that is.

Q. You read over this testimony that you were questioned on here and you say you made a mistake?

A. I knew it after yesterday's proceedings. I knew I made a mistake by putting Schrimpf in a meeting where he wasn't.

Q. Do you want to take back, then, the state-

(Testimony of John H. Schomaker.)

ment that the setting of a date of strike on May 9th was done at the express orders of Sam Darcy to Harry Bridges? Do you want to change that?

A. No, I don't want to take it back. I want to explain what was meant by that.

Q. I understand what was meant by it. Let me ask you this: This is one of the instructions that you say you conveyed from Sam Darcy to Harry Bridges. You realize that, don't you?

A. That is true, yes.

Q. So did you come from Sam Darcy to Harry Bridges and say, "Sam Darcy wants the date of the strike set for May 9th"?

A. No, I didn't say that. What I did say is, "Harry, I got a resolution given to me by Walter Lambert, and because the strike had been postponed or set back by governmental order in March, that in that space of time between March and May 9th, when the strike date had been set, Sam Darcy had felt that the sentiment of the men may have ebbed for the calling of the [1154] strike on May 9th. So we had this resolution. Bridges had a copy and I had a copy to submit in case that the sentiment in the meeting was such that enough preparation had not been made for the strike to be called on May 9th, that we would have submitted this resolution holding back the strike date, setting it at a future date.

Q. And you conveyed that to Mr. Bridges, did you?

(Testimony of John H. Schomaker.)

A. I conveyed it to him. I gave him the resolution and I retained a copy. This resolution was written by Sam Darcy, by the way.

Q. That was a written communication, was it?

A. That was a written resolution.

Q. Did you hand that to Harry Bridges?

A. I gave him a copy and I retained a copy.

Q. And you told him that Sam Darcy told you to convey this to him, did you?

A. I didn't say it like that. I said, "Bridges, here is a resolution that Sam Darcy has written. Look it over."

Q. Out of all these instances that you have recited here, in which you say you conveyed instructions from Sam Darcy to Harry Bridges, can you tell us any one in which you said to Harry Bridges, "Here are instructions from Sam Darcy," or "Sam Darcy sends these instructions to you," or anything to that effect.

A. I am just telling you about this resolution written to [1155] postpone the date of the strike on May 9th.

Q. Did you ever say that to him concerning any other instruction?

A. Well, I have. Certainly I have.

Q. Which instruction?

A. Well, there was a lot of instructions that I carried to Bridges: "This is the dope, Harry. It comes directly from Sam Darcy. Sam Darcy wants to see you in a certain spot, Harry. Let's get going." And we did.

(Testimony of John H. Schomaker.)

Q. Tell us some of these instructions which you gave to Harry Bridges, which you preceded by saying, "This is what Sam Darcy wants you to do. These are instructions from Sam Darcy."

A. You mean individual instances?

Q. Yes.

A. Well, I would say during the strike every day that occurred, that possibly I would see Herman Mann or Walter Lambert somewhere, around the street corner, and he would say, "The dope is——"

Q. We are not talking about Herman——

A. If you will allow me, I will finish my answer. I can do it.

Mr. Hallinan: Your Honor, that is not responsive. The witness is evading. The questions are very, very plain. He simply evades answering them by talking about general things. I asked him simply to tell us one single instruction in addition [1156] to the resolution that he talks about now that he gave to Harry Bridges, which he stated to Harry Bridges to be given to him upon an instruction from Sam Darcy.

The Court: All right. Will you answer that?

The Witness: Certainly. Sam would send word down to the front to contact me and tell Bridges to be at a certain place that evening when the strike was in progress, and because I had a car—I had a Ford—we loaded up and we would go to the designated spot.

Q. (By Mr. Hallinan): So that all the Sam

(Testimony of John H. Schomaker.)

Darcy was using you for then was a messenger to convey information to Harry Bridges that he wanted to see him, is that right?

A. It was more than that—to see that Bridges carried out these instructions, decisions.

Q. Tell us what instructions.

A. Any of the policy of the strike—for instance, the June 16th agreement, that they got the word before we did that an agreement had been signed, and we met the night before and we discussed that, the question of the June 16th agreement and what should be done in order to nullify it.

Q. You stated that Sam Darcy also gave you instructions to convey to Harry Bridges, Henry Schmidt and other people about the settlement of the strike. That is after the formation of the longshore, the U. S. Longshore Board appointed by President Roosevelt. Now, did Sam Darcy give you any instructions to [1157] convey to Harry Bridges as to what he should do about this U. S. Longshore Board? A. Yes, he did.

Q. What did he tell you?

A. Well, I remember one meeting that he sent word down, he said, "Bring Bridges," and we met with Darcy and Lambert, and the longshore hearing was in progress then, and Bridges was a witness, and Sam looked at the paper, he had the Call-Bulletin in his hand—"Geez, these reporters are a bunch of stupid bastards." He said, "Look what it says. Even a guy with a high forehead can be intelligent." That was Bridges testifying, of course. So Sam says, "They're really stupid. Even a worker can get up there and explain his position and make it understood to everybody." And then he proceeded to outline to Harry what question to raise, and the procedure.

Q. You still haven't told us any instruction that Sam Darcy gave to you that you conveyed to Harry Bridges, have you?

A. I am telling you at that particular meeting, during the longshore board meeting, that I brought Harry to the meeting, and Sam Darcy and Walter Lambert were both there.

Q. In other words, Sam Darcy nor nobody else of any importance ever gave you any instructions to transmit to anybody, did he, but they simply used you as a messenger boy to pick someone up and bring him out?

A. I wouldn't say that. I wouldn't say that at all. [1158]

Q. You have not told us yet one instruction that you conveyed from this long list that you gave off here yesterday—you have not told one instruction that you conveyed to Harry Bridges as being an instruction from Sam Darcy, have you?

Mr. Donohue: I object to that question, if your Honor please, because it is not accurate. If the Court please, the witness has just testified to a resolution.

(Testimony of John H. Schomaker.)

The Court: Gentlemen, this is a convenient hour to take our recess period?

Mr. Hallinan: Yes.

The Court: We will resume at 2:00 o'clock, ladies and gentlemen of the jury. The same admonition to you, not to discuss the case with any person under any condition or form or express any opinion.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [1159]

Afternoon Session, Tuesday, November 29, 1949, 2:00 o'Clock

(The following occurred outside the presence of the jury:)

The Clerk: In the matter of the hearing on motion to set aside contempt order.

Mr. Olshausen: This motion is withdrawn and may go off calendar. I am filing the written withdrawal now (handing to the Clerk).

The Court: The motion heretofore made and filed by Vincent Hallinan through his attorney George Olshausen, to set aside the contempt order, is hereby withdrawn of record. So ordered.

The Clerk: In the matter of the United States v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. Bring in the jury. Call Mr. Schomaker.

(Whereupon the jury entered the courtroom and assumed their respective positions in the jury box.)

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TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES

IN THE

Supreme Court of the United States

October Term, 1952

No. 548 1

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume III

(Pages 999 to 1444)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In .... Volumes

Volume III
(Pages 999 to 1444)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

JOHN H. SCHOMAKER

resumed the stand.

The Court: You may proceed, Mr. Hallinan.

The Clerk: The witness on the stand is John H. Schomaker, heretofore sworn.

Cross-Examination (Continued)

By Mr. Hallinan:

Q. Now, Mr. Schomaker, so far as I have been able to determine from your testimony, the matters which Sam Darcy or the Communist Party determined should be done in [1160] the waterfront strike were substantially the same thing that the men themselves wanted, isn't that correct?

A. Well, they possibly wanted them, but they didn't—they weren't able to express themselves, to the point that would lead them in the direction which to obtain them.

Q. In other words, Darcy, as a man of superior experience and education and so forth, was able to put the things in a more comprehensive and understandable and forceful form, is that about right?

A. Well, I guess there was a little bit more to it than that. Not only was it in a forceful form, but in a manner to which they were able to grasp and to—the ultimate conclusion would be to their benefit.

Q. Now, you stated already that the matters which Sam Darcy advised Mr. Bridges to hold out for, and increasing his demands to the employers,

(Testimony of John H. Schomaker.)

were an increase in wages, the hiring hall, doing away with the shape-up, and lessening of loads and shortening of hours. Those were approximately the four things that were involved, is that right?

A. Well, that is about it, that is about it.

Q. And then ultimately President Franklin Roosevelt appointed an arbitration board to pass upon the merits of the controversy, isn't that correct?

A. Well, I wouldn't say it was an arbitration board. I think it was more of a longshore fact-finding board. [1161]

Q. Well, whatever we call it. And that board was headed by the Roman Catholic archbishop of San Francisco, Archbishop Hanna, is that right?

A. Well, to the best of my knowledge, it is, yes.

Q. And that board made recommendations that precisely those four things should be granted, isn't that correct?

A. That is to the best of my knowledge what was done. That was the verdict.

Q. Now, to throw your memory back a little ways, the wages at that time were not a dollar an hour, but 75 cents an hour, isn't that correct?

A. Well, there was a 10 cent increase. Now, whether it was from 65 to 75—I think that was what it was, from 65—prior to the strike there was a raise granted, a 10 cent an hour increase. Now, whether that was from 75 to 85 or from 65 to 75, I am just exactly not clear on that, but I think it was from 65 to 75.

(Testimony of John H. Schomaker.)

Q. Did you attend any of the hearings that were had before the President's Longshore Board?

A. No, I was working then. I was working as a longshoreman.

Q. And of course, you haven't any concept or belief that Archbishop Hanna was under the discipline of the Communist Party or anything of that kind, have you?

A. Have I any knowledge that he was, or any——

Q. Or any belief that he was. [1162]

A. Not the slightest, no.

Q. I wouldn't imagine, offhand, that he was; would you, Mr. Schomaker?

A. Well, I haven't got much of an imagination.

Q. All right. Now you told us that when you went down to Santa Clara, at the meeting that has been discussed, that another thing that was discussed were dictographs that were being installed. Now, will you tell us what you mean by that?

A. Well, no, I think if I made that impression, I want to correct it. There wasn't no question of discussing dictographs. [1163]

Q. Those were not discussed down there?

A. No, if I made that impression I want to correct it, because there was no discussion of dictaphones, dictagraphs, or anything of that nature.

Q. Have you read over your testimony at noontime, the testimony that you gave this morning?

A. No, I read the San Francisco News.

(Testimony of John H. Schomaker.)

Q. Was anybody with you at the time you read it?

A. Why, no. I don't know if there was or not. There was somebody in the room, I imagine.

Q. Was it Mr. Kaiser?

A. It is very possible he was there. I don't know. He could have been in or he could have been out. I don't recall.

Q. Where did you read it?

A. Where? Well, I read it partially in the street, walking down the street I was reading it—not crossing the thoroughfare, of course—and I finished it in one of the upstairs rooms.

Q. At the time you went down to Santa Clara with these other gentlemen there had been prior discussions about the planting of dictagraphs in the union headquarters, isn't that right?

A. I don't remember any such discussion.

Q. Coming now to the statement that you made concerning Mrs. Perry and the actions and steps that were taken with regard to her in December, 1934 or January, 1935, according to your testimony, you and Henry Schrimpf made certain accusations [1164] against Mrs. Perry. Now, just what were the allegations? What were the accusations made against her?

A. Well, at that time, being section organizer, Schrimpf raised the question with me that since Norma Perry was secretary to the Longshore president, Harry Bridges—I am just trying to recall if

(Testimony of John H. Schomaker.)
she was secretary at that particular time or not—anyway, she was connected with the waterfront. She came down there during the strike of 1934, the early days of the strike, and she worked with the strike committee—I think it was on publicity and any other way she could make herself useful as a stenographer, and after the strike she continued to work. Just what her capacity was I don't recall. Then when Bridges was elected president of the local she became his secretary. Now, just what month these were I don't remember distinctly, but she was there all this time.

Q. Well, now, tell us what took place at the meeting at which you said she was reprimanded or disciplined, or whatever it may be.

A. I was coming to that. As I say, because she was connected with the waterfront—that is, the Longshore Union—Schrimpf raised the question with me because I was a section organizer of the Communist Party that she was not doing the proper things, that she was consorting with people who were unfriendly to the progressive, militant leadership, and particularly the Communist Party members.

Q. What people? [1165]

A. I am trying to explain it. She was unfriendly—I mean the people who were unfriendly to the Communist Party members and the progressive militants in the local.

Q. I want the names.

(Testimony of John H. Schomaker.)

A. Do you mean who she was consorting with?

Q. Yes.

A. She was consorting with the secretary-treasurer of the local, whose name was Scotty Frater, and the business agent at that time was Curly Cutwright, and Burglar Lewis—I think he was the district president of the ILA of the Pacific Coast District.

Q. What about Lundeberg?

A. Lundeberg? Well, he wasn't in San Francisco at that particular time.

Q. Had she been consorting with him?

A. As I say, she couldn't consort with him when he wasn't here. He was in Seattle.

Q. When did he move down here? When did he come into San Francisco?

A. Let's get this other point straight first. Lundeberg didn't enter into this picture at all. Schrimpf raised the question with me that she was consorting with these people, and he had evidence to prove that she was carrying information that these people shouldn't have, that it was endangering our position, because she was intimate with different [1166] people, knew the decisions that were being made, and she was carrying these decisions to these people which were detrimental to us.

Q. By "us" did that include Bridges?

A. Why, very definitely—Bridges, Schmidt, and I say all the Communist Party members, and we thought it endangered the progressive role of the longshoremen. So when Schrimpf raised this question with me, why, the best thing we could do is get her before the group and see what needs to be done, and that was the procedure.

Q. Let me ask you this now: You testified that Henry Schrimpf brought charges against her. Do you remember very distinctly his saying, "Norma, you are a little stool pigeon"? What did that mean?

A. Now we have got to the point where we were calling the meeting, haven't we?

Q. Yes. What is the meaning of the term "stool pigeon"?

A. As I say, you being a lawyer, you could explain that much more easily.

Q. I do not think it is a legal expression.

A. It isn't a legal expression?

Q. I don't think it is a legal expression.

A. I am glad to hear that.

Q. Tell us what you mean by that.

A. I would say a stool pigeon is a person that is supposed [1167] to be one thing and is not and carries information to people who are—well, he divulges things to people who are enemies of the other side. That is the best I can say.

Q. For hire ordinarily?

A. I wouldn't say for hire, not always, no.

Q. Were you and Schrimpf making the accusations that Mrs. Perry resisted and denied that she was a stool pigeon, is that right?

A. Norma Perry was a rather vigorous, enticing woman and naturally she resented this.

(Testimony of John H. Schomaker.)

Q. You think enticing women resist more than non-enticing women?

Mr. Donohue: I object, if your Honor please. That is an improper question.

Mr. Hallinan: He made the qualification of the woman. It is not important.

Q. Let me ask you this: Do you remember an occasion in which Harry Bridges stated about Norma Perry that he had been informed by one of the waterfront employers that she was in their hire?

Mr. Donohue: I object to the question, if your Honor please.

Mr. Hallinan: That is perfectly proper.

The Court: Overruled.

The Witness: Shall I answer? [1168]

Mr. Hallinan: Yes.

A. At this particular time, about the meeting we were in, that was at Herman Mann's place, Bridges had very little to say concerning Norma at that time.

Q. At a later time was there some accusation made by Mr. Bridges in which he accused Norma Perry in front of you people or in front of some of you that he had been informed by some of the waterfront employers that she was in the pay of the Waterfront Employers Association?

A. We will get to that. Later—it must have been three or four months later, I would estimate—Bridges brought charges against Norma through Communist Party channels and we had her up at 121

Haight Street, and there at that particular meeting Bridges was the principal accuser.

Q. What was the nature of his accusation?

A. Along those lines, that she was answering the telephone; answering the telephone, writing letters, and signing his signature to them—in other words, taking over the functions of the local president when she was only the secretary to him.

Q. Had he discharged her as secretary?

A. Well, at that particular time I don't recall whether he had discharged her then or not.

Q. Did she subsequently, so far as you know, enter into some alliance with Lundeberg? [1169]

A. Just what do you mean by "alliance"?

Q. Well, any kind of relationship. I don't know.

A. I understood that, yes, later she went—there was quite a bit—well, six or seven months later she did go to work for Lundeberg, yes, to the best of my understanding. I just heard it on the waterfront.

Q. You know nothing further about her relation with Lundeberg except she went to work for him?

A. That was my understanding, yes.

Q. Now, to move to another subject, do you remember your discussion about the meeting that took place where Mr. Bridges made a speech in 1938—that was at whose house? Mr. Shaw. You remember the talk about Mr. Shaw's residence. Will you tell me now, enlarge a little, just what Mr. Bridges said at that meeting. Oh, no; pardon me. I withdraw

(Testimony of John H. Schomaker.)
that a minute. There is something I want preliminary to that.

In the latter part of 1935 or the early part of 1936 you related an incident in which Agnes Bridges, Bridges' former wife, had fallen out a window of their home. Do you remember that?

A. Do I remember Mrs. Bridges falling out of a window?

Q. You remember telling us about it yesterday?

A. That is correct, I do, yes.

Q. At that time Bridges asked you to go to his house and get his Communist book before the reporters got there, is [1170] that correct?

A. Before the snooty reporters got it.

Q. You also testified that when Harry Bridges first signed an application with the Communist Party a book was issued to him under the name of Harry Dorgan, is that correct?

A. That I testified that a book was issued to Harry Bridges under the name of Harry Dorgan?

Q. Yes. A. That is correct.

Q. Can you tell us what was the purpose of having the book issued under the name of Harry Dorgan? A. What was the purpose of it?

Q. Yes.

A. Well, it was one of the peculiar things that was the standing practices of the Communist Party, is that when you did sign up, you always signed under a fictitious name. The book was issued, rather, in a fictitious name. Now, just why, I never did quite understand that myself.

(Testimony of John H. Schomaker.)

Q. Was it always issued in a fictitious name?

A. Well, possibly not always, no. But they always recommended that and urged that it should be done.

Q. Was that for purposes of concealment?

A. Yes, I imagine it would be. As I say, I imagined it would be, yes.

Q. Well, now, when you talked to Mr. Bridges with B. B. Jones in the restaurant there was a discussion about what name he would use and a recommendation was made that he use his mother's maiden name, is that right?

A. Well, I wouldn't say you would call it a recommendation; it was a suggestion, yes.

Q. A suggestion. All right. And do you remember that at the time Mr. Bridges had difficulty in remembering what his mother's maiden name was?

A. No, I don't recall it, no.

Q. Well, now, don't you remember that he took a couple of pieces of paper that he had started out to write out, to figure [1172] out, what his mother's maiden name was, and he wrote Harvey on one piece of paper, then he wrote Canfield on another piece of paper. And he put those on one side. Then he wrote Dorgan on another piece of paper and Rossi on a fourth piece of paper and put those to one side. And then he tossed a coin to see which of the two piles he would select the name from. Do you remember that?

A. No. That sounds to me like some guy had been smoking marijuana. That doesn't sound like Bridges to me.

Q. Oh. Well, then, don't you remember that the choice of the coin falling to the Rossi-Dorgan axis, that he then separated those names and tossed the coin again, postulating his choice upon the falling of the obverse uppermost ~~on the~~ Dorgan name, and that that is what in effect ensued. Do your remember that? A. Certainly not.

Q. That never——

A. That sounds like one of those things out of a dime detective story or something.

Q. Yes. The whole thing does; it is nuts?

(Witness laughed.)

Q. Now, at the meeting that took place in the gentleman's home that you have testified to, you say that Mr. Bridges gave a talk. And let's see if I can find what you said Mr. Bridges said. Jack Shaw's house. "We called a meeting for those people who were interested in the Communist Party." Now, of course, [1173] all these people were not Communists, as you have already said; isn't that right?

A. That's correct.

Q. All right. 30 or 40 people. What percentage of them, would you say, were Communists?

A. Well, at that time—oh, I would say about 50 per cent.

Q. All right. And "It was there that Bridges made a speech and solicited membership for the

(Testimony of John H. Schomaker.)

Communist Party." You remember him having done that, don't you?

A. He made the pitch, yes, that is correct.

Q. "And he stated very emphatically that all the workers who were interested in stopping these things should join the Communist Party because he was a member of the Communist Party and he was there to fight such goings on." You heard him say that, didn't you?

A. Why, to the best of my recollection, yes.

Q. How long did his talk take?

A. Well, making a very rough estimate, I would say about 45 minutes.

Q. Well, now, let's see if I can't refresh your recollection as to one or two other things that he said in that talk, and ask you if he didn't say this, if he didn't say to the people there, "Now, ladies and gentlemen, I want to tell you now that I myself am a member of the Communist Party and that I have so much faith in all the people who are assembled here, even [1174] though I know hardly any of you, that I am now taking my safety and my liberty and putting them in your hands." Did you hear him say that?

A. No, I didn't. I don't recall any such remarks.

Q. Didn't you hear him say that, Mr. Schomaker?

A. Well, no, sir, I didn't. That is, I don't recall him saying those words, no.

Q. Well, now, didn't he go on and say this: "And I want to tell you how I am going to do that, ladies and gentlemen, On October 18, 1937, I, the man who is now talking to you, appeared before Gerard D. Reilly, Solicitor for the Department of Labor of the United States of America in the City of New York. Now, that is to say, about a year ago. And I then and there swore under oath that I am not and never have been a member of the Communist Party." You heard him tell the people that, didn't you? A. No, sir.

Q. Oh, Mr. Schomaker! And didn't he say to them: "And now any one of you can go forth from here and inform on me and put me in the penitentiary and have me put out of the country." Now, he said that, didn't he, Mr. Schomaker?

A. Why, absolutely not; you are thinking of some other meeting. That wasn't the meeting you spoke of there.

Q. Oh, not this meeting. Well, didn't he go and continue further: "Now, ladies and gentlemen, members of the Communist [1175] Party, strangers, undercover agents of the FBI: To show you what an utterly reckless fellow I am, I now inform you further that in March of this year, that is to say, five or six months ago, a warrant for my deportation was issued by the Department of Labor to put me out of this country as an undesirable alien and member of the Communist Party and the trial is set before Dean M. Landis in San Francisco for next January." Didn't he say that, Mr. Schomaker?

A. Why, it is impossible. He couldn't speak that eloquent.

(Testimony of John H. Schomaker.)

Q. Well, didn't he say something to that effect?

A. Well, I don't recall it, no.

Q. You don't recall him saying that?

A. No, absolutely not.

Q. You don't recall him saying so important a thing as that? A. Got me beat.

Q. And didn't he go on and address them as follows: "Now, ladies and gentlemen, you 30 or 40 strangers, of whom I know a bare handful, undercover agents for the FBI; potential informers and stool pigeons: I have now delivered myself into your hands; when the trial comes up next January, flock you in and sell this information that you have just heard enunciated and all my efforts to stay in this great land will be frustrated by my own folly in telling you here that I am a member of the Communist Party." Did you not hear him say that, Mr. Schomaker?

Mr. Donohue: Just a moment, Mr. Schomaker. If your Honor [1176] pleases, I think we have been exceedingly patient in the matter of objection because I know that your Honor, and properly, will allow a wide latitude, in the matter of cross-examination. While I am enjoying this spectacle, I think we have reached the point where the witness should be permitted to testify and not Mr. Hallinan. I object to the question.

Mr. Hallinan: I am entitled to ask the witness leading questions and to ask him if things were not said, your Honor. I think it is perfectly proper.

The Court: The objection is overruled.

Q. (By Mr. Hallinan): Now, let me ask you this, Mr. Schomaker: When did you forget that a warrant for Harry Bridges' arrest for deportation had been issued in March, 1948?

A. When did I forget?

Q. Yes.

A. I don't recall that I ever knew it.

Q. Now, let me ask you this further, Mr. Schomaker——

Mr. Hallinan: '38, I said. I hope. '38, of course. I said I would have to do a lot of pawing, Judge, and this is where the pawing commences. But I will ask to be excused, because I haven't had the chance to get them all in proper order.

The Court: If at any time you request a recess, I will be willing to grant it, Mr. Hallinan.

Mr. Hallinan: No, I will find it all right without doing [1177] that.

Q. Now, Mr. Schomaker, in the year 1937, in the summer of 1937, you attended a convention of the ILA in Portland, didn't you?

A. In 19—an ILA convention held in Portland in '37? The answer is no.

Q. Oh. Sorry. It was a convention of the Maritime Federation of the Pacific Coast. Do you remember that? A. That is correct, I did.

Q. And where was that held?

A. That was the Maritime Federation of the Pacific, the convention was held in Portland in the year, 1937.

(Testimony of John H. Schomaker.)

Q. Now, you attended the session, did you not?

A. I did, yes.

Q. You were a delegate, weren't you?

A. I imagine so; I wouldn't be there for any other reason than being a delegate.

Q. Well, do you remember a gentleman named R. P. Bonham, district director of the United States Immigration Service?

The Court: How do you spell that?

Mr. Hallinan: Bonham, B-o-n-h-a-m.

Q. Do you remember that gentleman's name?

A. I have heard reference made to that name.

Q. Well, do you remember this conversation or discussion taking place in that convention on the 16th of June, 1937, Mr. Bonham [1178] appearing and making this statement: "I wish to thank you for the courtesy of your invitation to speak to you. I think it is a very evident manifestation of your sense of fair play. I have no criticism of any action taken by this convention or any individual at this convention. I am not here for that purpose, but thought you would like to know what the facts are. You understand that it is the function of the Department of Immigration to investigate any report with the appearance of reliable information that an alien is in the United States unlawfully. Any suggestion that any of you may have heard that the

Department of Labor officials are prejudiced against labor is certainly erroneous. We have to make investigations of all reports that may come to us with the appearance that they are true. I thought it was only fair to tell you personally that this investigation was made very painstakingly. I have definitely established that no immigration official placed a dictaphone in the room of any delegate to this convention or entered legally or illegally the room of any delegate to this convention or took any documents or papers whatsoever. The thing simmers down to this, that a certain individual had certain information of value, and for that reason he was summoned to the Immigration office. He there made a statement that he did not desire to talk, and he was immediately allowed, without any pressure, to proceed about his business. I was told that he was there no more than ten or fifteen minutes. I know very [1179] positively and very definitely that while it may, from time to time, develop that some labor man is subject to deportation, that the Immigration Department does not go about that duty any more readily than they would if the man were the president of one of the big corporations. I am sure of that. I am talking to you with all the sincerity and frankness that I possess. I am not here to criticize any action taken here in the past. In a sense of fair play, I have come here simply to tell you what the facts are.

"Harrington: Did you ever hear of the case of David Nordhoff or Sig Sternberg, the Buford or the Lusk Commission? Some dirty stool pigeon turned my wife in to the Immigration Department and she was questioned as to her legal entry in this country. Has any member of the Chamber of Commerce been held for investigation or deportation by your department?

"Bonham: These matters that you mention are not within my knowledge personally.

"Bridges: I would like to ask if you interviewed the management of the Multnomah Hotel.

"Bonham: No, Mr. Bridges, I did not. For the very good reason that my office limits me to an investigation of the Immigration Department activities. I have no authority to investigate activities or individuals or organizations, or even one of your own members.

"Bridges: You did not interview the management of the [1180] Multnomah Hotel or you did not look in the room?

"Bonham: No. However, I feel that I am quite competent to know how to conduct an investigation. You ought to realize that my mission here was to investigate activities of Immigration Department and nothing else."

Now, Schrimpf: "Inasmuch as Mr. Bonham has mentioned an individual here, and inasmuch as it is common knowledge that he refers to me, I believe, having been a permanent resident of this country for the past 18 years, and having entered the country legally, I at this time certainly take exception and

(Testimony of John H. Schomaker.)

wish Mr. Bonham to know that in my opinion it is far apart from the democratic spirit of this country to molest an individual in the way of subpona to appear before some government hearing in which he did not wish to be a willing party. And I also wish to state, as long as I am a resident of this country, and not carrying out a policy which conflicts with the setup of this country, I would at all times like to reserve the right as a resident of this country to stand by my democratic rights in doing things voluntarily. And what's more, I wish to state that in my opinion, it was not acting along the lines of a democratic policy to go to my room and force me to appear before certain government officials and, as Mr. Bonham stated, that he did not force me, but their intent was to force statements from me, which, in my opinion, was the matter for government officials to find out. Any difference I might have had with any member [1181] of the Federation I feel I am quite capable of straightening through the union and rank and file. And I will endeavor to pursue this policy, and I believe that when the government of this country has absolutely a legitimate reason for asking any one as a resident of this country to give information, they should at least try to live up to the real democratic policy which they advocate and allow that information be made voluntarily and not forced out through the means which was brought forth at the Federal Building in Portland.

"Schomaker: Why did three persons appear at

(Testimony of John H. Schomaker.)

Room 12 of the Sherwood Hotel and ask where John Schomaker was? Not being satisfied that I was in, they went to 314, the adjoining room, and made absolutely certain I was not in that room. I want to know what the immigration authorities wanted with me; also if they are still looking for me.

"Bonham: I was told I would have perhaps five minutes to talk to you, and not a one-man debate. You do me credit. I might say I never heard of John Schomaker. I don't know who was looking for you, but the immigration authorities are not. I hope that will reassure you and restore your confidence."

Now, Mr. Schomaker, the man whose affiliation they were investigating at that time and whose deportation they were looking to was Harry Bridges, wasn't it?

A. Who Mr. Bonham was referring to?

Q. Yes.

A. It was undoubtedly Harry Bridges. [1182]

Q. At the dinner at Mr. Shaw's, or at the party at Mr. Shaw's a year and a half later didn't Mr. Bridges inform all the people present that if they would consult with Mr. Bonham, who had been investigating him for at least a year and a half, they could probably profit by handing out the information? Didn't he say that?

A. He may have, yes.

Q. Aren't you sure he did say it?

A. I am not absolutely positive, no.

Q. But you think he did?

(Testimony of John H. Schomaker,)

A. I say it is very possible that he did make such a statement.

Q. Your recollection now is that something was said that might have included that, is that right?

A. It is very possible, yes.

Q. Now that your memory has suddenly freshened up, can't you remember that he also told him about the wararnt being issued for his arrest for a deportation proceeding about six months previous?

A. I don't recall that, no.

Q. Did you attend any of the hearings before Dean Landis on Angel Island in 1939?

A. Me attend hearings over there?

Q. Yes.

A. I don't see how I possibly could. I couldn't get a seat [1183] on the motorboat. It was impossible for a section organizer of the Communist Party to finagle a seat over there.

Q. Without arguing the whys and wherefores, did you attend any of the sessions?

A. I never attended a session, no.

Q. Did you read the papers that were giving accounts of the hearings over there?

A. I undoubtedly read the papers, yes.

Q. And the proceedings were, of course, a matter of great moment in the union, weren't they?

A. They were of concern to the union, yes.

Q. And they were discussed at great length in the union, weren't they? A. The proceedings?

Q. Yes. A. They may have been, yes.

Q. And those workingmen dug up what money

(Testimony of John H. Schomaker.)

they could to assist Harry Bridges in his defense, didn't they?

A. I contributed considerable money myself.

Q. And you also solicited funds from other people who were in the union, did you not?

A. Well, I don't think I directly solicited funds. I perhaps urged them to buy stamps. There was an assessment and there were voluntary assessments which I probably urged the fellows to buy; yes. I myself bought a considerable amount. [1184]

Q. And you were on the publicity committee of the union, weren't you?

A. What was that year again? 1937?

Q. 1938.

A. Oh, 1938. I don't know. I was a business agent from September, 1937, to September, 1938. Whether I was on the publicity committee, I don't recall that. I hardly think I was. It is possible that I may have been.

Q. And you stood up at meetings and you made a great many statements concerning the hearing with relation to Harry Bridges' deportation at Angel Island, didn't you?

A. That is very possible, yes.

Q. And you said that anyone who said that Harry Bridges is a Communist is a perjurer and a liar, didn't you?

A. I couldn't—if you give me more of the speech and where it occurred——

Q. No, that one sentence. Didn't you use that one sentence in addressing the meeting?

A. I wouldn't agree—I mean admit that until I had heard where it was.

The Court: The witness is entitled to the time, place, circumstances, and the parties present.

Mr. Hallinan: Might I say this, your Honor: I want to make one point on that. That is true with regard to impeachment, and I will presently do that, but prior to that a witness [1185] may be asked these questions without such limitations, if I may read you——

The Court: Could you state the date of the meeting or some indication?

Mr. Hallinan: The thing is, of course, your Honor, the willingness of the witness now to deny he has made certain statements, when he thinks there isn't any impeaching evidence, also goes to his credibility. For instance, I want to show that this witness, unless he has the direct record before him, is willing to deceive, but if the record is shown to him, then he will try to explain.

The Court: If he has made a statement in writing he is entitled to have the statement exhibited to him.

Mr. Hallinan: This is not in writing at this time. Here is the law on the matter, your Honor, from the same authority I cited to you before on cross-examination, Wharton's Criminal Evidence, Volume III, 11th Edition.

The Court: Mr. Hallinan, if you are laying the foundation for the impeachment or possible impeachment of the witness, he is entitled to be shown the matter to which you refer.

Mr. Hallinan: That is right. I am not now laying a foundation for impeachment. At this time I want to follow this rule: "It is proper to discredit a witness by his own admission on cross-examination as to prior inconsistent statements without calling his attention to the time, place, [1186] circumstances and persons present." If it is afterward attempted to impeach him by confronting him with a document in which he made the statements, then it is true——

The Court: In this instance I shall adopt the rule which has been uniform at least in this court in my career on this bench, to permit the witness to be refreshed as to time, persons present, and so forth, in traditional fashion, notwithstanding the general rule announced by the text writer.

Mr. Hallinan: Might we have a recess, then, for a few minutes until we dig these up?

The Court: Yes. We will take a short recess. Ladies and gentlemen of the jury, I admonish you again not to discuss the case with anyone under any condition or to form or express an opinion until it is finally submitted to you.

(Recess.)

The Court: You may proceed, Mr. Hallinan.

Q. (By Mr. Hallinan): At a meeting of the membership of the ILWU held in the Coliseum Bowl on September 16, 1939, while the Landis hearing was proceeding, did you or did you not state orally to the meeting that witnesses who testified that Bridges was a Communist are perjuers and stool pigeons?

A. Well, I can't recall making such a statement.

Q. At any time?

A. Well, there is one thing to making a statement in a conversation and another thing to making a statement in an open [1187] meeting. As I say, just cold like that, I can't recall it, no.

Q. What were the conversations that you said that in? With whom did you have those conversations?

A. It is possible—I may have said it in a conversation with individuals, yes, but I can't recall saying it in an open meeting, no. I say it is very possible in a conversation, yes.

Q. You understand the discussion I was having about taking the four names and putting them apart down in that restaurant that I really did not think anything like that ever happened. You understand that, don't you?

A. Listen. I can't look into your mind and see what you are thinking. I wouldn't have the slightest idea what you are thinking.

Q. Did you know that Mr. Bridges had been at various times accused of being a Communist under the separate names of Harvey, Canfield, Rossi and Dorgan?

A. I can truthfully say the only names I heard

(Testimony of John H. Schomaker.)

him being accused of being a Communist were Dorgan.

Q. And you understand it is my position that the conversation that you said took place between B. B. Jones, yourself and Harry Bridges in that restaurant never occurred at all, any part of it—the names, the signing of a card or anything like that, so you may be sure what we understand. [1188]

A. It isn't clear—I don't understand what you are getting at.

Q. As part of your duties with the union, you were the publicity director for some time, were you not? A. I was, yes.

Q. During what time?

A. Well, I was the publicity director—I am rather certain in 1936. I am definitely certain it was. During the 1936 and 1937 strike I was publicity director for the maritime unions and then later, possibly in 1939 and 1940, it is very possible I was the publicity director for the union.

Q. Weren't you in 1941 also?

A. It is very possible, yes.

Q. You stated you left the Communist Party sometime in 1939 or 1940, is that right?

A. To the best of my recollection.

Q. When did you separate from the union?

A. Well, 1943, when I went into the Navy, and then when I came back in 1945 I was a member for several months until I took sick withdrawal.

Q. So early as 1937 you had already realized that a very effective way to injure a person without possible retaliation on yourself was to call him a Communist or a Red, isn't that right?

A. Well, I don't quite follow you on that. [1189]

Q. So early as 1937 you had realized that an effective way to damage a person, to get revenge on a person, was to start spreading a rumor that he was a Communist or a Red, isn't that right?

A. Well, no, I can't go along with that.

Q. Well, now, I want to cite a statement of yours in the bulletin, ILWU Bulletin, for Wednesday, ~~September 8th—the ILA Bulletin for Wednesday,~~ September 8, 1937, in which you quote Monsignor John A. Ryan, in a Labor Day sermon at St. Mary's Cathedral, in which he says this: "He decried the use of such terms as 'Communists' and 'Reds' among laboring men. 'Sometimes', Father Ryan said, 'it seems the easiest way to dispose of a man is to call him a Communits.'" Do you remember that?

A. Well, allow me to explain that a lot of people called me a Communist when I was a member of the Communist Party. It didn't worry me a bit. And I don't believe it hurt me any. But to rely on red-baiting and to obscure the real issue, that is another question, entirely different question, to red-bait in order to obscure a fundamental issue in a trade union or any place else. Certainly it is not ethical or it is not politically correct.

Q. That isn't what I asked you. I asked you this: You realized as early as 1937 that if you wanted to dispose of a man, an easy way to do it would be to call him a Communist, isn't that right?

(Testimony of John H. Schomaker.)

A. I don't endorse that, never did endorse that 100 per cent, calling a man a Communist that you were going to—just sometimes it has the opposite effect. In those days it did.

Q. Well, what did you mean when you didn't—Withdraw that. [1190]

At the time you put this into your bulletin, apparently the suggestion had made a considerable impression upon you, that Father Ryan had said, and you quoted: "Sometimes it seems the easiest way to dispose of a man is to call him a Communist." That was something that must have made a considerable impression on you in order for you to print what Father Ryan said in the ILA Bulletin, isn't that right?

A. It made a tremendous impression on me for these reasons, as I have already stated——

Q. Now just a moment.

Mr. Hallinan: I don't want the reasons, Your Honor; I asked if it made an impression and he said yes.

The Court: All right.

Q. (By Mr. Hallinan): Now, that impression has continued right along with you, hasn't it?

A. Not exactly, no.

The Court: Mr. Hallinan, interrupting momentarily, if he admits that it did make an impression, I believe that the witness is entitled to supplement his answer with respect to the reasons underlying the impression, if any existed.

(Testimony of John H. Schomaker.)

The Witness: Can I explain now what my position was?

The Court: Yes, sir.

The Witness: As I already explained, to call a man a Communist doesn't mean that—in those days, now get this, that was from 1934 to about '38, to call a man a Communist in those [1191] days, in my opinion, you weren't deriding him, neither were you defaming his character. But to go out and red-bait him, to deliberately red-bait, to obscure a particular issue, then that was a different question entirely, because I knew that the Communist Party was the only, sole organization that made, changed the conditions on the waterfront and give the men the correct leadership to change them. That is the reason why in those particular years I was a Communist, and that is the reason why Father Ryan's statement made an impression on me.

Q. (By Mr. Hallinan): Well, let me ask you this: Do you consider it detrimental to a man's character to now call him a Communist?

A. Why, no, just to call a man a Communist, no, I don't.

Q. Because you said at that time. I was wondering if you made a distinction between the times that you were a Communist and the times you were not a Communist.

A. I said, "particularly in those days."

Q. Uh-huh: Now——

A. I tried to qualify it somewhat.

(Testimony of John H. Schomaker.)

Q. Now, you had something to do with the discovery of the dictaphone in Mr. Bridges' room in 1937 in the Multnomah Hotel, didn't you?

A. Well, I didn't discover it.

Mr. Donohue: I think, if Your Honor pleases—just a moment, Mr. Witness. I think these matters have been ruled on [1192] by Your Honor before. Not, of course, on the subject matter of cross-examination, but for another reason. And I at this time object to the question.

Mr. Hallinan: Of course they are asked, Your Honor, with a view toward the improbability of the conduct that they have been testifying of Mr. Bridges, going around declaring himself in open meetings to strangers, "I am a Communist," knowing he is under surveillance, knowing he has been dictographed, knowing he has been investigated, knowing a warrant is out. They are all pertinent for that purpose, at least.

The Court: The objection is overruled.

Mr. Hallinan: I am not trying to introduce or show anything about impropriety. I don't care about that.

Q. Now, will you tell us just what were the circumstances attending the discovery of that so far as you saw it? A. You mean——

Q. Yes, that is what I mean.

A. How I found it out?

Q. Yes.

Mr. Paisley: Now, is this a dictaphone in Bridges' room?

(Testimony of John H. Schomaker.)

Mr. Hallinan: Yes.

Mr. Paisley: Counsel says yes, so if that is the case——

Mr. Hallinan: Was a dictaphone mentioned in anybody else's room?

Q. Go ahead, Mr. Schomaker. [1193]

A. Well, the dictaphone wasn't in Bridges' room, to be very exact about it. It was in the room adjoining, and the hole was bored through the wall, and I don't know much about dictaphones. There was some kind of device to record, I guess, any motions or any conversations that were conducted in that particular room.

Q. Who discovered the actual device there, did you?

A. I don't understand that word "discover."

Q. Who first saw it? Who first called the others' attention to it?

A. Well, as close as I can remember, the Maritime Federation convention was in session, and there was a guy came up to me during the noon recess and says, "Get ahold of Bridges. I have got some important news for him." And I said, "Well, what's cooking?" and he says, "Well, there's a dictaphone in his room." So, right away, being a little Dick Tracy in me, too, I said, "How did you know?" And he says, "Well, I was going up the stairs and I heard a conversation between two people, and they said, 'Get that dictaphone out of there,'" so he says, "I listened and I found out

(Testimony of John H. Schomaker.)

there was a dictaphone in Bridges' room. So naturally I went over and told Bridges. He said—I said, "There is a dictaphone in your room." He says, "Yes? By God, I guess that's true. Every time I push my bed away I come back and it is pushed back in the same position it was before." And, well, he says, "Get ahold of some guys and we will go up and take a look." So he says, "I got the same information [1194] a few minutes ago." So we went and got some people together and we proceeded to go to the Multnomah Hotel, and we got up there and on the way we picked up a radio operator who was supposed to be an expert on these things, on those kind of gadgets, and so we got up into the room and we pushed the bed back and noticed there was some plaster on the floor, looked like there was a drill pushed through the wall. And we got down and looked, and sure enough, you could see a device in there, looked like a wheel turning around or a plate, and this guy's name was Krolek, a member of the Radio Operators, and he said, "Yes, that's it; that is a dictaphone." All right, so we got on the telephone and I called the Portland police and I told them to come over there. And also we called the hotel clerk down below, wherever—down below anyway—and so immediately, soon the manager came up and he took a look and says, "That is no dictaphone. No dictaphone." And he says, "I will give you any room in the house. I will give you a new room, any room you want in the house." But this—he was in a terrible flustrated state, and a little later the police came, and well, they stalled around there, and that was about the extent of it. So we took it into the convention and made a report that there was a dictaphone found in Harry's room and some guy made a remark, "Well, he shouldn't stay in a scab hotel." So that was the content, that is all I know about the deal. [1195]

Q. (By Mr. Hallinan): What were the names of the other people who went up to the room with you?

A. As I say, there was Bridges and Krolek—he is the radio operator—Schomaker and a Clark from Seattle—I think his name was Tom Clark. It may have been possible Roy Donnelly from Pedro may have been there, but I am not sure about that.

Q. At the convention immediately following that, you being present, there was this discussion that took place:

> "Brother Bridges asked for a special privilege to bring up an important matter before the recess. Brother Bridges made a motion that the following telegram be sent to Madame Perkins, Labor Department, Washington, D. C., and the Lafollette Investigating Committee, Washington, D. C.:
>
> " 'Maritime Federation Convention now convened Portland, Oregon, emphatically protests

(Testimony of John H. Schomaker.)

actions of Immigration Department agents here stop. Delegates whose only offense is carrying out the membership instructions are being deliberately intimidated by such agents forcing entrance into delegates' hotel rooms stop. Various delegates to the convention are being openly pursued and taken into custody and illegally questioned in endeavors of Department agents to intimiated delegates and disrupt convention stop. [1196] Dictaphone discovered installed in delegate's room and in addition room was rifled and papers stolen stop. Dictaphone incident and room burglarizing now followed by action of Immigration officials indicates to us collusion by Government agency with forces hostile to labor stop. We in convention assembled demand immediate investigation such illegal un-American actions of local Immigration Department by the Secretary of Labor under whose jurisdiction that department functions stop. Copy this wire forwarded to the Lafollette Senate Investigating Committee.'

"Brother Schrimpf stated that a Federal agent had given him a subpoena last evening and tried to make him give information to them, which he refused to do. Brother Schrimpf said he had also been visited by Government agents, who inquired for the whereabouts of Brother Schomaker and Lundeberg.

> Brother Maskel stated he was picked up about a week ago."

Now, while this convention was in session there was some difficulty which arose from the type of extent of the publicity which was sent to the paper edited by the Maritime Federation called "The Voice of the Federation." Do you remember that?

A. The Voice of the Federation?

Q. Yes. [1197]

A. Definitely, and Jim O'Neil was editor at that time, if I recall correctly.

Q. Jim O'Neil was the editor of the Voice of the Federation. I want to read this of June 18, 1937, and ask you if you remember this:

> "The secretary made a special request for instructions on how the publicity should be handled. Editor O'Neil had informed the secretary that no information had come through the publicity committee; and he had instructed Schomaker to cover this convention for the Voice of the Federation. Schomaker replied that he sent information to the Voice concerning the ILA only. Schrimpf spoke in favor of having news passed directly through the publicity committee. Moved and seconded that the publicity committee stand instructed that it would send daily press releases by airmail special delivery, return receipt requested, after each daily procedure to the editor of the Voice, and that the whole publicity committee shall

(Testimony of John H. Schomaker.)

> be responsible that this procedure gets to the editor of the Voice. Schrimpf first, Stivelar second. Harrington informed the convention he had given news to Schomaker. Amendment, that this convention go on record as notifying editor O'Neill that no news is official from this convention unless it comes through the publicity committee and the secretary of the Maritime Federation." [1198]

Do you remember the difficulty that arose on that criticism of you acting as the special agent for O'Neil in sending publicity?

A. Do I remember the objections, do you mean?

Q. Yes. A. Why, I do, yes.

Q. And then you know that O'Neil sent a wire to the Voice asking that you be on the job of handling the publicity solely? Do you remember that?

A. You mean O'Neil sent a wire to the Federation convention?

Q. Yes. A. It is possible he did, yes.

Q. "The following wire was read from San Francisco dated June 16, 1937: 'May I respectfully request the convention to designate some one member of the publicity committee to contact Voice. Last Wednesday at 4 p.m. I was forced to telephone Portland to get details of the convention. No news has been received at Voice office from publicity committee since convention opened. Have been contacting Schomaker, who covered ILA convention for Voice and did excellent job. Schomaker is experienced publicity man handling San Francisco

(Testimony of John H. Schomaker.)

publicity during strike. If committee would designate Schomaker as contact man for Voice all difficulties would be removed. As a matter of fact, someone [1199] from Voice should be covering convention but then neglect is not of my making. Must have news from a newspaper angle. Membership flooding office with inquiries and for first week my answer had to be, "I don't know." Signed, Jim O'Neil, Acting Editor, Voice of the Federation.'

"Moved and seconded that the convention notify O'Neil he would get publicity through the publicity committee and no one else. Howard first. Motion carried."

You and O'Neil were quite friendly at that time, weren't you?

A. I don't know just what you mean by "friendly." Do you mean a personal friendship?

Q. Uh-huh.

A. I always admired O'Neil, yes. He was a very competent newspaperman and, as far as I know, he was a reliable person.

Q. Still a friend of yours?

A. I haven't seen O'Neil since he took that perjury rap, long before that.

Q. What was the perjury rap that you are talking about?

A. Something to do with the deportation hearing of Bridges. I think O'Neil testified or gave a statement to the effect that he saw Bridges pasting

(Testimony of John H. Schomaker.)

Communist Party stamps in his book, and later—well, anyway, something happened that he [1200] said he didn't see it, and he went up for perjury. That is all I know.

Q. He later had to take it back under oath and they sent him to prison for perjury, didn't they?

A. I guess that is what they did, when you perjure yourself. They send you to prison, I guess.

Q. And if they get a statement from you, you are gone, aren't you?

A. I am not that much of a legal person to understand all those details, so I couldn't say Yes or No.

Q. You gave them a statement, though, didn't you? A. Gave who?

Q. The FBI or the Immigration agents or the Federal authorities investigating this matter.

A. You mean O'Neil gave them a statement?

Q. You. A. Certainly I did, absolutely.

Q. When?

A. I gave them two statements, I think.

Q. When was the first one?

A. The first one was—it was a shorter one I gave first, in May.

Q. It started a long time earlier than that. It was away back in 1940, wasn't it?

A. Who? That I gave a statement? [1201]

Q. Yes. A. Not to my knowledge, no.

(Testimony of John H. Schomaker.)

Q. Weren't you interviewed on this matter by two agents named Cassidy and Lish in November, 1940? A. In November?

Q. Yes.

A. Well, I was interviewed by two fellows. It was at 111 Sutter Street. But to my knowledge the statement was not taken. It was not visibly taken. Whether it was taken now is another question.

Q. What place was that?

A. I think it was 111 Sutter Street.

Q. Yes, but I mean what office? The office of what organization?

A. Gee, you got me beat.

Q. I beg your pardon?

A. I say that beats me. I don't recall seeing any notice on the door.

Q. They questioned you then about your membership in the Communist Party, didn't they?

A. Well, it was an extensive questioning. What they mean or what they didn't mean. It is quite a while ago. I can't recall all the details.

Q. And you told them you joined the Communist Party in 1934 didn't you? [1202]

A. Gee, I don't recall. It has been quite a while. I don't remember what—I say, a statement wasn't taken, visibly taken. It may have been recorded, but there wasn't anything visible there.

Q. Yes, but——

A. I have been fooled a lot of times.

Q. You told them you were signed up by George Morris, didn't you?

A. As I say, I can't recall, but he is the guy who signed me up.

Q. Didn't you tell them that?

A. I may have and I may not have. I don't know.

Q. Then they asked you if Harry Bridges was a member of the Communist Party and you told them you didn't know, isn't that right?

A. That is very possible, yes.

Q. No. Isn't that so?

A. I say that is very possible.

Q. Mr. Schomaker, anything is possible. It is so, isn't it? A. I wouldn't say so, no.

Q. You wouldn't say unless you were shown the document, would you?

A. That wouldn't prove anything, because these people didn't sit down and take a statement. If they took it, it was on the basis of a recording device, and I can't recall if I said [1203] Yes or No. It is very possible I said I don't know.

Q. And then they gave you the statement. They put you under oath, didn't they?

A. No, I can't recall being under any oath. I would be stupid if they put me under oath and not take any visible statement. I'm not that stupid, I don't think. I am pretty dumb, but not that dumb.

Q. You testified here that during your membership in the Communist Party, a period which ex-

(Testimony of John H. Schomaker.)

tended from 1931 to 1939 or 1940, that you had a meeting every day and that on Saturdays and Sundays two or three. Do you remember that testimony?

A. Yes, that is more or less correct.

Q. And as I say, you remained in the Communist Party from 1931 until 1939; that is approximately eight years; right?

A. That is about it, yes.

Q. So that as a quick calculation you had about 3,752 meetings of the Communist Party in that period?

A. About that many. There seemed to be more than that even.

Q. Then in addition to that you were a member of the union and attended a great many union meetings, isn't that right?

A. I tried to attend as many as I could, yes.

Q. How many did you attend?

A. Well, they met—I think at one time they met every two weeks, but anyway, we will say they met every week, and I tried to attend every meeting.

Q. When did that start? When did you join the union? A. In October, 1933.

Q. And you left it?

A. In, we will say, 1945. You know what I mean, to cover all the years.

Q. At least a period of ten years. So you were at 520 or more. Now, have you any memorandum

(Testimony of John H. Schomaker.)

that you have prepared upon which you have based the testimony that you gave in this case?

A. No, I haven't any memorandum.

Q. Have you any document in your pocket now that gives any names of persons or places or dates?

A. No, I have not.

Q. Did you ever see any such document? Was any such document exhibited to you by any person?

A. What document? I don't get that.

Q. Withdraw it. Did anybody tell you what you were to testify before you took the stand here?

A. Do you mean tell me what to say?

Q. Yes.

A. Why, certainly not. How could they? I don't follow that question. I don't quite understand.

Q. Did you discuss with anybody what you were going to say?

A. I discussed—I discussed with people the Bridges case, but not what I was going to say.

Q. Did you discuss with anybody what your testimony would be if you were called to the witness stand?

A. It would be on a question of the Bridges case.

Q. Did you discuss with any person the details of what you would testify to?

A. Well, I discussed with them the questions of the meetings I had attended and particular meetings, yes, I discussed it with them.

Q. Were you shown any statement taken or

(Testimony of John H. Schomaker.)

given by yourself or by anybody else which contained the matters that you were going to testify on?

A. Well, now, I may have been shown my statement, but I had never seen anyone else's statement, no, never.

Q. What is the date of the statement that you were shown?

A. Well, I say it is possible it was when—I wasn't even shown my own statement except—wait a minute—except when I dictated it, and then it was taken in shorthand and transposed and came back and I signed each page, and I haven't seen it from that day to this.

Q. When was that?

A. Well, one was taken in May and another was taken in—three, four or six weeks ago.

Q. May of what year? A. This year.

Q. May of 1949. Then who was present when that statement [1206] was taken?

A. Which one? In May?

Q. In May, 1949.

A. There was Mr. John Boyd and of course the stenographer, and there was one other person. It could have been Mr. Kaiser, but—John Boyd was there and the stenographer, and there was one other person that I can't recall at this moment exactly who it was.

Q. Was it John Hoey? A. Who?

(Testimony of John [illegible]. Schomaker.)

Q. Didn't you say John Hoey? A. Boyd.

Q. You do not know whether Mr. Kaiser was there or not?

A. As I say, there was some other person there and I can't recall if it was Kaiser or not.

Q. Was it a woman or a man?

A. It was a man.

Q. Where was the statement taken?

A. It was a hotel room.

Q. What hotel?

A. I am trying to think. A lot of those hotels in San Francisco. Was it the Canterbury? Worthington, or something? It is on the same street as the Marines' Memorial, I am pretty sure.

Q. Is it on the same side of the street as the Marines' [1207] Memorial?

A. On this side of the street going out.

Q. What is the name of the hotel?

A. I am trying to think. It is either the Canterbury—it slips my mind right now.

Q. What room was it taken in?

A. The seventh floor, but what room I wouldn't recall.

Q. What time of day did you first go there?

A. It was in the evening.

Q. What time?

A. Well, I came in on the train. It was, I imagine, around seven o'clock.

Q. Did you go there alone, or were you accompanied by somebody else?

(Testimony of John H. Schomaker.)

A. I came in on the train and took a cab up there.

Q. Alone, or were you accompanied by someone?

A. The cab driver driving the cab.

Q. But there was nobody who came with you?

A. Nobody came along, no.

Q. Did you go to that hotel directly, to the Worthington, the Canterbury, or whatever its name is?

A. I did, yes.

Q. That was the first place you went when you got off the train in San Francisco. You took a cab and went directly there? [1208]

A. That was my destination, yes.

Q. Where did you leave? You left your home in San Mateo—no, Palo Alto, is that right?

A. Menlo Park.

Q. What time did you get on the train?

A. Well, as I say, it was an evening train. I would say between six and seven.

Q. When you got to the hotel, whatever the name of it may be, who was the first person that you met there?

A. Well, I walked into the lobby and said I wanted to see Mr. Boyd.

Q. Whom did you state that to?

A. Well, there was—you know how it is in a hotel, they have a desk and they have a clerk and a girl.

Q. Well, did you state it to the clerk?

A. I said to whoever the fellow might be at the desk that I would like to see Mr. Boyd, and he took, mentioned to the girl, and she rung upstairs and he spoke to someone, he said, "Send him up." So I went up. Said the seventh floor, and I got off at the seventh floor and someone was there.

Q. Who was there?

A. As I say, I can't recall this third person. As I say, I don't remember the third person.

Q. What did he look like?

A. Oh, an average guy. I can't——

Q. Had you ever seen him before?

A. I don't think I had, no.

Q. How tall was he?

A. Oh, he was the average size guy.

Q. Did you learn his name?

A. No, I didn't, no.

Q. I see.

A. Except later, except later in the room when we got discussing this thing, why, each of them brought out a card and gave me their—I mean, showed me their card and their identification. But as I say, that third name slips my mind at this time. [1210]

Q. You heard his name, but you don't remember it now? A. That is possible, yes.

Q. You did know it, though?

A. Naturally I knew that he was introduced, but I can't recall his name now.

Q. Was Mr. Boyd there at that time?

A. Boyd?

(Testimony of John H. Schomaker.)

Q. Yes. A. He was there, yes.

Q. Was it he that introduced you to the other man? A. That's right.

Q. Had you met Boyd before?

A. Prior to that?

Q. Yes.

A. I think—yes, he came down to the house one time.

Q. When?

A. Oh, I think about two weeks prior to that.

Q. Now, at this hotel that evening, then, you gave a statement, is that right?

A. Well, they asked questions and I answered the questions.

Q. They were taken down by a stenographer?

A. They were.

Q. And then they were reduced to typewriting, is that correct? A. That's right.

Q. And you signed each page? [1211]

A. Whether I initialed each page—I guess I signed each page, yes.

Q. Well, it was you that said you signed it; which was it, do you know?

A. Well, I say I signed each page, yes.

Q. All right. And how long were you at that hotel, in that room?

A. Oh, I don't—it wasn't too long. It was, oh, I would say about two and a half hours.

Q. And you remained there while the document was being typed out, did you?

(Testimony of John H. Schomaker.)

A. Well, yes, the girl—yes, I remained there until it was finished.

Q. Did you leave the room at all from the time you dictated it until it was finished?

A. No, the girl typed it in the adjoining room. There is a hallway where you could——

Q. And how many pages were in that document?

A. Well, there wasn't any more than 15.

Q. Not more than 15?

A. Well, I say, maybe there was; maybe it was about over—about 22, I would say, to be——

Q. You don't know whether it was 15 or 22, is that right?

A. Well, it was between, around that number. Now, whether it was—I think it was around 22.

Q. Uh-huh. And prior to your coming there, who was the last person connected with the Government or this prosecution or the investigation whom you had talked to before arriving at the hotel?

A. That particular day, you mean?

Q. Yes. A. Oh, I didn't see anyone.

Q. Did you talk to anyone? Did you receive a phone call or anything of that kind?

A. Let's see. How did that finally come about? I know I worked that day, and I think I received a call the previous day, I think it was.

Q. From whom?

A. I think it was Jack MacGowan.

Q. And who is Jack MacGowan?

(Testimony of John H. Schomaker.)

A. Well, he is an immigration official, or just what his position is I don't know.

Q. Now, you received this phone call, then, the day before you came up to—in May, to make this statement, is that right?

A. That's correct.

Q. What date was that in May, do you know?

A. No, I don't recall.

Q. What day of the week was it?

A. It was in the middle of the week because I had to get a fellow to replace me. I think it was a Wednesday, a Wednesday [1213] night.

Q. So then on Tuesday you received the phone call, is that right?

A. Either Monday or Tuesday, yes; one of those days.

Q. And this was a phone call from Mr. MacGowan. Did you get it personally? Did you answer the phone?

A. No, my wife took the phone.

Q. You didn't talk to him on that occasion?

A. No, I don't think I did, no.

Q. And was a message left for you?

A. It was.

Q. And what was the message?

A. The message was to, I think, to call him. And I called—I had the number, so I called him and got the instructions to come up.

Q. Where did you call him?

A. Well, at this particular address—I mean, this particular telephone number.

(Testimony of John H. Schomaker.)

Q. At the hotel?

A. No, I imagine—I don't say. It was a San Francisco number. I called it and that was it.

Q. I see. Now, prior to that time had you spoken to Mr. MacGowan before?

A. MacGowan had come down there on, I think, two pervious occasions. [1214]

Q. What was the first time?

A. What do you mean, what was the first time?

Q. That he came down. You said he came down on two previous occasions. When was the first time?

A. Well, it was around—I would say in January.

Q. 1949? A. Yes.

Q. At that time did he come down in the daytime or in the evening?

A. No, he and Bruce Barbour came down. It was in the evening after work.

Q. Now, did they come by appointment? Had you a previous appointment to meet them?

A. No, they came down and they parked their car in front and they rung the bell and I, inquisitive that I am, I went out to see who it was. And I went out to see who it was, and here they were, MacGowan and Barbour. And they introduced themselves, and I said, "Come on in, gentlemen." And they came in and sat down and we began to talk and discussed football and the marines, and then first one thing and then another—religion, possibly.

Q. Religion?

A. We discussed religion, too.

Q. What was the discussion about religion?

A. Well, different things; different religious sects and so on. [1215] Very casual and broad discussion.

Q. How did it happen that they discussed religious sects?

A. Well, you know how it is.

Q. Were you and they of the same religious sect?

A. I don't know what religion they are.

Q. Well, didn't they tell you then?

A. No, they did not.

Q. Did you, or did they ask you what your religion was?

A. They did not, no. It was one of those informal discussions.

Q. How long did they stay there?

A. Oh, we had quite a discussion, I guess; it lasted, oh, about 10:30. And they went out to leave and they couldn't start their car.

Q. What time did they get there?

A. Oh, I imagine it was around 8:30.

Q. All right. And then when did you next see Mr. MacGowan?

A. Oh, it must have been about a month later, I imagine.

Q. Well, now, can't you be more specific than that?

A. Why, no, I can't, because it didn't have any

(Testimony of John H. Schomaker.)

particular significance to me. I can't place it any sooner or later. It was——

Q. Do you know what month it was in?

A. It was just one of those visits, casual visits, and there was no specific significance attached to it as far as I was concerned. [1216]

Q. Do you know what month it was in?

A. Well, I would say in the latter part of February or along in there.

Q. Did he come there that time by appointment?

A. I think he did call up.

Q. When did he call up?

A. Well, when I came home from work, why, my wife told me that MacGowan had called and he was going to come that evening if it was convenient.

Q. Did you phone him then?

A. No, I did not.

Q. And did he come down?

A. He did, yes.

Q. Alone or accompanied by somebody else?

A. He was alone.

Q. And did you have a talk with him again?

A. We had a discussion, yes.

Q. What time did he get there?

A. Well, it was in the evening. I imagine around 8:00, 8:00 o'clock.

Q. And what time did he leave?

A. It wasn't too late. It was around, since I had to work the next day, I imagine he left around 10:00 o'clock.

(Testimony of John H. Schomaker.)

Q. Well, now, do you know or do you imagine?

A. Well, I say, I didn't put a stop-watch on the guy. Since I [1217] worked, I had to go to bed so I could get some rest so I could give the boss a fair day's work for a fair day's pay.

Q. Now, did you see anybody connected with the prosecution from that time until you got the message to come to the hotel?

A. Then later I saw Mr. Boyd.

Q. When did he come?

A. Well, prior—about a week prior to—it was on a Sunday, it was a Sunday afternoon. Mr. Boyd and Mr. Kaiser and some other person came down.

Q. Who?

A. I can't recall. That third person is—I can't recall who that third person was.

Q. Was it somebody you had known before?

A. Very possibly it was MacGowan.

Q. It wasn't anybody you had been working with on the waterfront or anything like that?

A. No, no. Anderson and Jones, they came down later.

Q. All right. Now, you talked—John Boyd came down with Kaiser. What is Kaiser's first name?

A. Bill; William, I think—William Kaiser.

Q. And you think MacGowan?

A. There was a third person in there, and I have reason to believe that it was MacGowan.

(Testimony of John H. Schomaker.)

Q. Did they all come into your house?

A. No, in the back of the house there was a small patio, or [1218] there was a small patio there and we sat there a while and discussed a few things——

Q. Did all three of them sit in the patio with you?

A. Well, if you will allow me to finish——

Q. No, I asked you, did all three——

A. No, none of them sat down. All of them stood up.

Q. All three went into the patio, though, is that right? A. They did, yes.

Q. All right. Now, whom did you see next, after that, connected with the Government?

A. I don't understand what you mean.

Q. Well, now, you have given us the MacGowan —that he came down first with some other man, Bruce Barbour. And then MacGowan came down alone, and then Boyd came down with Kaiser and a third person. Now, who was the next person who came down?

A. Well, the next guy who came down stuck me with a subpoena to appear before the grand jury.

Q. When was that?

A. That was the—let's see. They were there Sunday and then I think it was the next day. The next was Monday, and I think they give me the—the guy came down and give me the subpoena to

(Testimony of John H. Schomaker.)

appear before the grand jury, I think it was on a—either a Tuesday or a Wednesday.

Q. Of what month? [1219]

A. Well, that would be May.

Q. Beg your pardon?

A. I am pretty sure that was in May. Whenever that grand jury was in session in San Francisco.

Q. Well, now, do you know?

A. What do you mean, do I know?

Q. Do you know when it was in session in San Francisco?

A. Well, to the best of my—I didn't know any more until I got this. He give me the subpoena, I went there, I went before the grand jury.

Q. That isn't what I wanted to know. I want to know when you got the subpoena.

A. I say, to the best of my recollection, it was either a Monday or a Tuesday in May.

Q. In May?

A. What the—I may have the subpoena at home yet. I don't know just now.

Q. No. But I want your recollection now.

A. Pardon?

Q. I want your recollection now.

A. Well, I say, it is along in the early part of May, first or second week in May.

Q. Well, now, did he give you the subpoena

(Testimony of John H. Schomaker.)

before or after you made that statement in the hotel room?

A. Oh, he gave me the subpoena before I made the statement in [1220] the hotel room.

Q. Now, did you testify before the grand jury before or after you made the statement in the hotel room?

A. I testified to the grand jury, made the statement that night; the next day I appeared before the grand jury.

Q. So you made the statement in the hotel room before you appeared before the grand jury, is that right?

A. That is prior to my appearance before the grand jury.

Q. Now, you hadn't received any subpoena to go to the hotel or anything of that kind?

A. Well, I had the subpoena in my pocket.

Q. Well, to go to the hotel. You went there on a telephone call, is that right?

A. Well, I didn't know you had to have a subpoena to go to a hotel.

Q. That's right. The subpoena was to appear before a grand jury, not to go to the hotel?

A. That's right.

Q. All right. Now prior to the time that MacGowan had come down to see you in January, who had you spoken to who was connected with the government or the investigation of this matter, before you first talked to MacGowan in January?

(Testimony of John H. Schomaker.)

A. Well, we lived on McKendrie Drive; that is in North Palo Alto. And there was two fellows came down.

Q. What were their names? [1221]

A. I can recall one name. It was Phillips. But who the second person was I can't recall his name.

Q. Did you hear his name?

A. Well, they give me their cards, yes.

Q. And what organization were they connected with or what department of the government?

A. The Immigration Service.

Q. They gave you cards, is that right?

A. Well, they had—the way it occurred, we were out and when we came home, the card was under the mail, it was stuck in the mailbox, and it had their names written—that is, I remembe a Phillips. There was Phillips' card and an additional name there, and their identity for the Immigration Service.

Q. When was this?

A. When we lived on McKendrie Drive. It must have been in the spring of, or early summer of '48.

Q. Can you tell us what month?

A. Well, no, other than that—I say, there was no particular significance to me that—to imprint anything on my memory.

Q. Well, when you got the card, did you call Phillips or the other man?

A. Yes, I think my wife did. She called Phillips.

(Testimony of John H. Schomaker.)

Q. And then did he come to see you?

A. That was the message on the card. It stated, "Will you please call this number?" And my wife called and—— [1222]

Q. Where was that number? Was it a San Francisco number or a number down there?

A. It was a San Francisco number. [1222-A]

Q. All right. And then did Phillips come to see you?

A. Then he came—I think it was two or three days later, and he came down.

Q. With whom?

A. As I say, I don't recall that second person. I remember—some particular reason I remember the name of Phillips. It was because it was his card that was left there.

Q. And that was sometime in the spring or early summer of 1948; you can't remember the month, is that right?

A. That's right; I don't remember.

Q. Did you have a conversation with those men?

A. I did.

Q. Where?

A. When we lived on McKendrie Drive.

Q. What part of the premises? Did you have a patio there?

A. Oh, no, they came in and sat in the sitting room and we just chewed the fat.

Q. Wha time did they get there?

A. Oh, it was in the evening after work.

Q. What time would you say?

A. Well, one of those deals where—around eight o'clock.

Q. And what time did they leave?

A. Oh, about ten o'clock, I imagine; or maybe earlier. They didn't stay too long.

Q. And did you discuss this matter with him, anything [1223] concerning what you have testified here?

A. Oh, we just—it was a general conversation about G.I. housing and so on.

Mr. Hallinan: I guess we might as well adjourn.

The Court: It has now reached shortly after four o'clock, Mr. Hallinan. If agreeable, we will take up in the morning at ten o'clock, ladies and gentlemen of the jury. The same admonition to you, not to discuss the case under any conditions or circumstances and not to form nor express an opinion until it is finally submitted to you. You may now retire.

(Thereupon an adjournment was taken until Wednesday, December 1, 1949, at 10:00 a.m.)

Wednesday Morning Session,
November 30, 1949, 10:00 o'Clock

The Clerk: Case of the United States v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

(Testimony of John H. Schomaker.)

The Court: Call the jury, please.

The Clerk: Call Mr. Schomaker.

(Whereupon the jury entered the courtroom and assumed their respective positions in the jurybox. The previous witness, Mr. Schomaker; resumed the witness stand.)

The Clerk: The witness on the [illegible]and is John H. Schomaker, heretofore sworn.

The Court: You may proceed, Mr. Hallinan.

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. Well, did you have a talk with these gentlemen last night again, Mr. Schomaker?

A. I don't know what gentlemen you are referring to, Mr. Hallinan.

Q. Did you talk with anybody connected with the prosecution last night after your testimony here?

A. Why, I did; I talked to quite a few of the people who were connected with the prosecution.

Q. Last night after you left here?

A. Yes, last night.

Q. Well, now, tell us what you worked out toward getting out of that story in Shaw's house in 1938; what changes are you [1225] going to make in that?

Mr. Donohue: I object to that question as being wholly improper, if Your Honor please.

The Court: Sustained.

(Testimony of John H. Schomaker.)

Mr. Hallinan: I submit it is proper cross-examination, Your Honor.

The Court: Sustained. Not in that form, Mr. Hallinan.

Q. (By Mr. Hallinan): Well, tell us now, give us some—did you work out some kind of an explanation with these gentlemen that would get you out of the Shaw meeting? Was that discussed?

Mr. Donohue: I again object, if Your Honor please.

The Court: Sustained. Ask him what, if anything, he did last night.

Q. (By Mr. Hallinan): Whom did you have your talks with last night?

A. Oh, I don't quite understand what you mean by "talks." We talked about baseball and football and——

Q. Well, after you left the court here, what persons connected with the prosecution did you have a conversation with?

A. My God, I talked to—you mean all the shoeshine boys and newspaper boys and all that?

Q. Let me get that gentleman's first initials.

A. You mean the shoeshine boys, things like that?

Q. I asked you what persons connected with the prosecution. Don't pretend you don't understand if you do, Mr. Schomaker. [1226] You understand what I meant, don't you?

A. Well, to be frank, I really don't, no.

(Testimony of John H. Schomaker.)

Q. Well, do you remember the names? Do you remember the names of any person connected with the prosecution of this case to whom you talked after you left the witness stand here yesterday evening?

A. Well, I think, to make it easier for both of us, I will say that everyone connected with the prosecution I talked to.

Q. Last night? A. Yes, everyone.

Q. I see. A. Blanket endorsement.

Q. Let's have their names.

A. Well, I can start with Mr. Paisley and Mr. Donohue.

Q. All right. Who else?

A. And Mr. Boyd and Mr. Gallagher, and Mr. Kaiser. You don't want anyone else I talked to? Well, that's about it, I guess.

Q. Anyone connected with the prosecution of this case whom you talked to?

A. I think that is the sum of it.

Q. You think—now, where did the conversations take place?

A. You don't want me to tell you that, do you? Some of the places were in the bathroom and some was in the room, the offices upstairs, and some of it was in the restaurant and some was on the street. It was, you know, general—everywhere, I [1227] suppose.

Q. Well, all right. Let's start in now. After court convened last night around 4:00 o'clock, who was the first person you had a conversation—withdraw that.

In the conversations you had with these gentlemen last night, you discussed matters concerning what you ~~had~~ testified to, did you?

A. Well, I imagine we must have. I don't recall any particular incident. But I would say they might have referred to them. I don't know.

Q. May have referred to them?

A. I don't know.

Q. You are not sure?

A. Well, I wouldn't—I wouldn't depend on it. I say, I wouldn't swear my life on it, that I talked to them referring to any particular incident.

Q. Well, did you talk to any of them concerning the subject of this trial at all?

A. Well, I'll tell you. Well, as a general attitude, I said, "Mr. Hallinan had a beautiful orange tie."

Q. Never mind that.

A. And they agreed with me.

Q. Just answer the question.

Mr. Hallinan: If Your Honor please——

A. Well, that was it. [1228]

Mr. Hallinan: Well—I object to this——

The Court: You asked for the conversation, Mr. Hallinan.

Mr. Hallinan: No, I asked him if he talked with, if he had any conversations concerning the subject of this trial. Then we will go into that subject afterwards.

(Testimony of John H. Schomaker.)

The Court: Well, the tie may be attributed to the trial. I don't know. [1228-A]

Q. Did you talk to any of these people about any matter that you testified concerning yesterday?

A. Well, I say we discussed the trial, yes, and the prosecution and the defense in a general way.

Q. Did you talk to anybody about any subject that you had testified concerning yesterday?

A. My answer would be No.

Q. Your answer would be No?

A. That is right, no.

Q. You did not talk about anything that you had discussed on the witness stand yesterday?

A. Except in a general way.

Q. What do you mean by "in a general way"?

A. Well, I said, "Hallinan is a smart guy," for instance, and I think Mr. Donohue said, "No, I think Mr. MacInnis is smarter." That is the way it went.

Q. Is that all that was said on the subject of your testimony?

A. In the general conversation, that is all.

Q. Did you spend some time in the room upstairs here last night?

A. Well, I remember I went up there.

Q. What time did you go up there?

A. We left—court was adjourned, we walked down, took the elevator and went up to the room.

Q. What time did you get up there?

A. I imagine eight or nine minutes after we

(Testimony of John H. Schomaker.)

left here. And by the way, my wife was there, and I said, "I think we want to go"——

Q. Pardon me. We are a little ahead of the story. A. I see.

Q. About 4:10 you arrived at the room upstairs, is that right? A. About that.

Q. What room is that? A. Room 434.

Q. Whose room is it?

A. You got me beat. It is in the Post Office Building.

Q. Was there a name on the door? A. No.

Q. Is it connected with any suite of offices?

A. It is a single room with a basin in one corner.

Q. Was it the room you were in the preceding night when you read over the testimony that Mr. Kaiser talked about? A. That is correct.

Q. There are two rooms together?

A. No; all I saw was one room. There is a door going to the next room, but I think it is locked.

Q. When you got up there who else was present?

A. Well, my wife was there.

Q. What is her name? [1230]

A. Rosa Schomaker.

Q. She was there when you got there, is that right? A. That is correct.

Q. And who else was there?

A. Well, there was a secretary sitting there.

Q. Anyone else?

A. Several agents of the Immigration Service.

(Testimony of John H. Schomaker.)

Q. What were their names?

A. I think Mr. Maxwell was there, and Mr. Wooley.

Q. Wooley?

A. I believe that is it. I am not certain about that, but phonetically it sounds like Wooley.

Q. Who else?

A. Well, to be frank, I didn't pay particular attention who was in there except my wife. You know how it is. You meet your wife; you want to talk things over.

Q. Do you remember who else was in the room?

A. I can't—I didn't pay particular attention.

Q. How many persons were in that room?

A. I would say roughly—in a rough estimate seven or eight. Who they were, I couldn't say.

Q. How long did you stay there?

A. Well, we stayed longer than I thought was necessary.

Q. How long did you stay there?

A. I would say we left there about fifteen minutes of five. [1231]

Q. You left about 4:45, is that right?

A. Yes, because my wife had to exchange some shoes at Macy's and I know she left at 4:30.

Q. While you were there did anybody else come in?

A. Gee, they were coming and going all the time.

Q. Do you remember any person who came in while you were there, anyone connected with the prosecution in this case?

A. Well, when I first arrived, I don't believe the prosecution had come in the room yet. They came in after I was seated.

Q. Who came in?

A. Mr. Donohue, Mr. Paisley and Mr. Boyd, and I think Mr. Kaiser was also in the group. Oh, Mr. McMillan, I think, was there, too. I am not quite sure about it.

Q. Did he come in or had he been there before?

A. I think he came staggering in there with an armload of books, if I can remember correctly.

Q. How long had you been there when these gentlemen came in?

A. Well, you can estimate it from four—I imagine they arrived—between 4 and 4:30, before my wife had left.

Q. Did any of them talk to you then?

A. They may have said—as I say, they may have said then, "Mr. Hallinan is a pretty smart guy."

Q. Did they talk to you about the facts in this case at all?

A. I do not know what you mean by the "facts of the case." [1232]

Q. Did they talk to you about anything you had testified concerning yesterday?

A. I don't think they did, no.

Q. Why did you remain there after your wife left? Did you have an appointment with these gentlemen to talk to them?

A. No, it was a question of transportation, I

(Testimony of John H. Schomaker.)

believe, and I said I would just as soon go back to the hotel and rest.

Q. Transportation to where?

A. To where I am staying at the Marines' Memorial.

Q. What was the question concerning transportation to that place?

A. Well, I mean, how could you get over there? It is a question of transporting myself from here over to the Marines' Memorial on Sutter Street. I don't know how else I could get over there unless I transported myself.

Q. That is the reason you went up to the room, to discuss your transportation?

A. No, my hat was up there. I had to go back and get my hat.

Q. Your wife left around 3:30, is that right?

A. No, 4:30, it was.

Q. I beg your pardon?

A. She attended the trial and had her picture taken here yesterday, and then she left. It must have been after four, so it must have been 4:30.

Q. Then you left about fifteen minutes later, is that right?

A. About that, I guess, fifteen or twenty minutes. I will tell you. I didn't even look at the time because I wasn't going anyplace.

Q. After you left that room where did you go?

A. I thought we were going back to the hotel. That was my impression, and I found we were

(Testimony of John H. Schomaker.)

headed—wound up at the Appraisers' Building down there on Sansome Street.

Q. How did you get to the Appraisers Building on Sansome Street?

A. In the vehicle I got in out here and drove down.

Q. Whose car is that?

A. I guess it belongs to the taxpayers. It had a Government license on it.

Q. It is a Government car, is that right?

A. I didn't even look at the license, but I presume it to be a Government car.

Q. Then you went down to the Appraisers Building. Who else was in the car with you?

A. Well, there was Mr. Wooley was driving, and there was a stenographer, a Mr. Kaiser, a Mr. Maxwell and myself.

Q. What time did you get to the Appraisers Building?

A. Well, it took quite a while. I recall now that Mr. Donohue told Mr. Kaiser, or, rather, he called the Appraisers Building while I was in the room upstairs and he told them to inform [1234] his wife that he would see her at five minutes after, five or ten minutes after five. So when we got down there I looked at my watch, and Mrs. Donohue was coming out of the Appraisers Building. So Kaiser told her that "Your husband" would see her in a few minutes because then it was about ten after five. So Bill sat in the car when we went upstairs.

(Testimony of John H. Schomaker.)

Q. Then you went into the building?

A. Yes.

Q. Where did you go in the building?

A. Well, we went up to the thirteenth floor, the offices—they have offices in one end. That is the far end from the elevator. We walked down there.

Q. Do you know whose office that was?

A. Well, I assume it to be the Immigration Service's.

Q. Did you see anything written on the door?

A. No, I don't think there was a thing on the door, no writing, at least.

Q. Had you ever been in that building before?

A. I have, yes.

Q. Several times? A. Several times.

Q. Recently? A. Recently, yes.

Q. Had you been in that same office before that you went to on the thirteenth floor? [1235]

A. Oh, yes, numerous times.

Q. When you went into that office who went with you?

A. Well, the people who I came up, drove up there with, yes.

Q. Was anybody else in the office when you got there?

A. Well, I think Mr. McGowan was there.

Q. Do you think or do you know?

A. He was there definitely. My little daughter was there. Susan was there, too.

Q. Anybody else?

(Testimony of John H. Schomaker.)

A. And Mr. Wooley's wife and Mr. Gallagher's wife.

Q. Anyone else?

A. I only went as far as the first office, and because my daughter was there I stopped to chat with her, and I didn't go any further into the offices.

Q. Then what time did you leave the Appraisers Building, or leave that office, rather?

A. Well, it must have been around six o'clock.

Q. You got there a few minutes after five and you left there about six? A. That is right.

Q. Did you talk to anybody in the meantime in that office besides your daughter?

A. No, I talked to—she told me where she had been that day. I think Mrs. Wooley had taken her to the movies—Macy's and saw Santa Claus at Macy's, and went up to—I think it was the [1236] Emporium, she said, and they rode on the merry-go-round and things up there.

Q. Mrs. Wooley is the wife of one of the agents of the Immigration Department, is she?

A. That is correct, and we discussed—general conversation with Mrs. Wooley and Mrs. Gallagher.

Q. They were in the office with you?

A. We were in the hallway. There is the hallway and this one office.

Q. You left there at 6 p.m.?

A. I would say it was around 6 p.m., yes, approximately.

Q. Then where did you go?

A. Then from there we got in a car.

(Testimony of John H. Schomaker.)

Q. The same car?

A. The same car, with Mr. Wooley driving, and we drove to—that is, Mrs. Gallagher and the stenographer and Mr. Kaiser, and we drove to the Marines Memorial Building.

Q. What happened there?

A. Well, Mr. Kaiser went inside the building. He got his key and we proceeded to go to the room.

Q. Kaiser went in and got his key?

A. You know, the lobby of the building. He got his key from the clerk and proceeded to go—got on the elevator and went up to the room.

Q. What room? [1237]

A. The hotel room.

Q. Whose room? A. Mr. Kaiser's room.

Q. Is that where you have been living, too?

A. Well, you know the question of expenses—I only get $9 a day, I think. It is a question of economy with me. So I have a bed there and I sleep there.

Q. If you will just listen to the questions and answer them.

A. I am answering to the best of my ability.

Q. Kaiser went in and got the key to a room, and then you went up to the room with him?

A. Mrs. Kaiser, myself and this agent, and I can't recall his name now. It is rather an odd name.

Q. Had you met that agent before?

A. Yes, I have, yes.

Q. How many times?

A. Oh, I wouldn't—I would say six times, but

(Testimony of John H. Schomaker,)

for the sake of argument, to avoid any argument about it——

Q. I am not going to argue about it. You met him about six times? A. Casually, you know.

Q. You can't remember his name?

A. I may have been introduced to him, but as I say, I don't go around memorizing people's names. It is no point to me.

Q. Who else was in the room besides Kaiser, yourself and this [1238] agents? Anyone else?

A. No.

Q. Is that the room that you occupy now?

A. Well, I sleep there, yes.

Q. How long have you been staying there?

A. Since—what is this, Wednesday? Monday night.

Q. Is the room registered in your name?

A. No, it is not. All I did, Mr. Kaiser has the room, rented it, and when I came in I just signed as a second party to the room.

Q. What are they—twin beds in the room?

A. Definitely, yes.

Q. Does Kaiser occupy one of them at night?

A. He occupies one and I occupy the other.

Q. Where does your wife live now?

A. She lives where we maintain our home.

Q. Is that where she is living now?

A. Well, I have been here since Monday, and I certainly hope she is there.

Q. Where has she been staying this week since Monday?

A. She was here yesterday. She has been occupying the home at Menlo Park.

Q. And coming up here for the trial?

A. She came here yesterday morning, yes.

Q. When you, Kaiser and the agent got in this room how long [1239] did you stay there?

A. Well, Kaiser went to the bathroom and washed his hands, and then I went and washed my hands, and the agent, he went and washed his hands, and that was it.

Q. Then what did you do?

A. I put on my coat. We put on our coats and went upstairs to the barroom.

Q. How long did you stay in the room then? Five or ten minutes only?

Mr. Donohue: If your Honor please, there used to be a rule that cross-examination was limited to the subject matter of the direct examination.

The Court: Overruled.

Q. (By Mr. Hallinan): How long did you stay in the room?

A. When we got there my wife—by the way, when we went into the lobby my wife—there was—this is—when my wife went to exchange her shoes at Macy's, this agent—he accompanied her to Macy's when she exchanged her shoes, and then he brought her to the Marines' Memorial. We met her in the lobby. That is the way that deal worked out. And so when we arrived at Marines' Memorial she was sitting in the lobby. So then when the stenographer

(Testimony of John H. Schomaker.)

and Mrs. Gallagher came in, then she accompanied them to the stenographer's room to freshen up, and we went up to Kaiser's room. [1240]

Q. And then, or to your room, whichever you want to call it, is that right?

A. Well, certainly to ours; it makes no difference, my room or his room, whatever you want to call it.

Q. And then you say you stayed in this room how long?

A. Just enough for each of us to wash our hands.

Q. Well, was it five minutes or ten minutes or what?

A. Well, I would say seven or eight minutes.

Q. All right. And then you went up to the bar, as you say? A. That's right.

Q. Where is the bar?

A. That is in the top of the last floor on the building.

Q. And did the same two men go up with you, this agent and Mr. Kaiser? A. That's right.

Q. And how long did you stay there?

A. Oh, we stayed there, had a few drinks, a couple of drinks; I would say we stayed there, oh, an hour.

Q. Who bought the drinks?

A. Well, Mr. Kaiser paid for one round and I think that—no, I think he paid for both rounds. Must have been flush or something, 'cause he paid for both rounds.

Q. All right. Now, while you were up there at

(Testimony of John H. Schomaker.)

the bar, did any other person join you up there, your wife or anyone?

A. Well, as I say, when we went in, my wife and Mrs. Gallagher [1241] was already there.

Q. No, I asked you after you went up to the bar, now, did anyone join you up at the bar?

A. Well, you asked me if my wife did. She was already there.

Q. Yes. And then?

A. And we sat down at that table, we had a couple of drinks, we sat there an hour and looked at the view. And by the way, I could look right down there and I saw the Cartwright Hotel, where—that is the hotel I couldn't remember yesterday. That is two blocks below on Sutter Street.

Q. And now you stayed at the bar for about an hour, is that right?

A. Well, that was a rough estimate, yes.

Q. And who was present seated at the table now? There was Kaiser, yourself, the agent, your wife, and anybody else? A. Mrs. Gallagher.

Q. Who is Mrs. Gallagher?

A. She is the wife of George Gallagher, one of the prosecution attorneys.

Q. And then where did you go?

A. Well, we went then from there to—went back to the tenth floor to the dining room. In the meanwhile, Mrs. Gallagher excused herself and that left the four of us.

Q. All right. And you had dinner there?

A. We had—we did, yes. [1242]

(Testimony of John H. Schomaker.)

Q. And just the same people whom you have mentioned, less Mrs. Gallagher. And then how long were you at dinner?

A. I think it was until—we stayed there until about 9:00 o'clock.

Q. And then where did you go?

A. Well, my wife had to go home and Mr. Kaiser and the agent left to pick up my daughter Suzanne to go home to Menlo Park, and I went up to the hotel, I mean, went up to the room. Went back to the room and took a shower.

Q. So Kaiser and the agent then picked up your daughter and took her down to Menlo Park, is that right?

A. Well, they left with my wife and they went to pick up my daughter, Suzanne, yes.

Q. They drove your wife and daughter back to Menlo Park?

A. That is, they had to go and pick up my daughter first.

Q. In this same government car, I take it? Is that true?

A. I didn't see the car. I don't know whether they flew down there or took a street car or what. I don't know.

Q. Then you went to bed, you say?

A. I took a shower, yes.

Q. At what time did you go to bed?

A. Oh, I would say it was about 9:10. I had a very good sleep, by the way, too.

Q. Did Mr. Kaiser return to the room that night?

(Testimony of John H. Schomaker.)

A. Well, he did, I think. But I don't think I even awakened [1243] when he came in.

Q. Did you see him there in the morning when you waked up?

A. That is what I did: I woke up in the morning and looked and he was there.

Q. He was asleep in bed, or——

A. I wouldn't say he was asleep. He was there.

Q. Are you in custody now, Mr. Schomaker? Have you been in custody of these people?

A. What do you mean, under arrest?

Q. Yes.

A. Well, certainly not. How do you arrive at that conclusion?

Q. Now, you didn't talk to any of these people at all then,—except very casually—any of the things that happened yesterday or that were testified to yesterday, is that right?

A. Well, I would say yes. I didn't discuss any—that is, with these people, what the context of the trial——

Q. I see.

A. Except, as I said, that Mr. Hallinan is a very smart guy.

Q. Well, you said that and you have gotten two laughs already, so don't be——

A. Well, I am just telling you what I said, that is all.

Q. And then Mr. Donohue said that Mr. MacInnis was smarter, so that we are all in on the joke.

A. Well, that's the general idea, yes.

(Testimony of John H. Schomaker.)

Q. These three men never did you any harm or wrong, did they? [1244] A. Who is that?

Q. The three defendants who are on trial.

A. Well, I wouldn't want to go into that now, because, after all——

Q. Well, go ahead into it. What harm have they done you? A. Personally?

Q. Yes.

A. Not a thing, not a thing. In fact,——

Q. You don't blame Harry Bridges that you were defeated for election as president of the union in 1938, do you?

A. Why, certainly not. In fact, as I say, a lot of things that Mr. Bridges did, a lot of things that Mr. Bridges did I admire very much. And the same goes for Mr. Schmidt. In fact, maybe a lot of things that Henry did I thought much more of than what Mr. Bridges did, because of various reasons—physical and otherwise.

Q. And you can take the witness stand and laugh about trying to send them to the penitentiary, isn't that right?

A. No, sir, I am laughing at something entirely different. Doesn't cocnern Mr. Bridges nor Mr. Schmidt whatsoever.

Q. Let's get back to this again. You testified yesterday—I will get away from that.

When were you first brought to San Francisco or came to San Francisco, prior to your testimony here? What was the time immediately preceding

(Testimony of John H. Schomaker.)

your appearance here last Monday that [1245] you came to San Francisco?

A. Well, there is this fellow, an agent that lives in Half Moon Bay, who came by about twenty minutes of eight Monday morning.

Q. What is his name?

A. His first name is Larry, and I generally heard him referred to as Larry, and I don't recall his last name.

Q. When did you last meet him?

A. I don't think I have seen him since when he brought me in.

Q. When was that?

A. Oh, Monday morning.

Q. You drove up from Half Moon Bay with him?

A. No, I say he lives in Half Moon Bay.

Q. I mean, you drove up from Menlo Park?

A. That's right; he drove by to pick me up and I wasn't ready and he waited until I got ready and then we came up together.

Q. How many times had you met him prior to that time? A. Oh, five or six.

Q. And you called him an agent—an agent for what?

A. Oh, I mean—that is a general term. I imagine—He does work for the Immigration Service, so I referred to him as an agent.

Q. Have you heard his last name?

A. I have, yes, but I don't recall it.

Q. Who introudced you to him? [1246]

(Testimony of John H. Schomaker.)

A. I think Jack McGowan.

Q. When?

A. Oh, that was—oh, I would say roughly two months ago.

Q. And then you met him five or six times from that time up until Monday, is that right?

A. Oh, roughly five or six times, yes.

Q. Well, all right. Now, where did McGowan introduce you to this man Larry?

A. In the Appraisers Building.

Q. And that was about two months ago, you say?

A. Well, roughly, yes; two months ago. October, September—yes, I would say some time in September.

Q. And did the same man drive you down home that same day, or anything like that?

A. No, I brought my other shirt and suitcase with me, and I left it in the—drove to the garage on Sansome Street. I packed that suitcase over to the Appraisers Building.

Q. Well, now, this is Monday?

A. Monday morning, yes.

Q. All right. Now, when you came here Monday did you have an interview with the attorneys for the prosecution?

A. I don't know what you mean by an interview. You mean, sit down——

Q. Did you have a talk with them?

A. Why, no. I don't recall any talk with them. I said—naturally, [1247] when I met them, said good morning, they said good morning and so on.

(Testimony of John H. Schomaker.)

Q. Well, had you had a talk with any of them prior to that time, any of the attorneys who are seated here?

A. Why, certainly I talked to them.

Q. All right. Well, now, when was the time that you last talked to them preceding your appearance on the witness stand?

A. Well, the last court appearance was on a Wednesday, wasn't it? That is the day before Thanksgiving, and I must have spoken to them before I went home.

Q. You said you came up here on Monday?

A. That's right.

Q. With this Larry? A. That's right.

Q. Had you been up here before that time while this case was in progress?

A. Well, I was here the week previous. You should remember that.

Q. What was that?

A. I was here the week previous, Monday and Tuesday and Wednesday, wasn't I? And we adjourned for Thanksgiving and then come back here Monday.

Q. Well, were you up here the preceding week also?

A. Brother, you've got me. I don't know. Didn't I testify here? I don't know. [1248]

Q. You were here—you have been here Monday, Tuesday and this is Wednesday. Now, were you here all last week also?

A. Well, I was here—wasn't I here Monday?

(Testimony of John H. Schomaker.)

In fact, I came up that preceding Friday and I wasn't called to the stand, so I went back to the home. On Saturday and Sunday. And I came back here the next—that time I come up on a Sunday night, and I think Monday, Tuesday and Wednesday, then went back Wednesday night.

Q. All right. So you have been here for all last week and part of this week. Now, what is the——

A. I wouldn't say all last week, no. I was here until Wednesday, Thanksgiving Eve.

Q. Now, when was it that this agent, Larry, drove you up? Was it on your return after Thanksgiving or your first appearance?

A. Well, it was this Monday, last Monday.

Q. That was the day before yesterday?

A. Well, what is this, Wednesday? Well, if today is Wednesday, certainly Monday must have been preceding from Tuesday, isn't it?

Q. That is the time that this Larry drove you up here, is that right?

A. That is absolutely correct.

Q. Now, did somebody drive you up on the preceding Monday?

A. No, on the preceding Monday they drove me up on Sunday. [1249]

Q. Who drove you up then?

A. Well, I think Mr. Maxwell came down, came down and picked me up.

Q. What is Mr. Maxwell's first name?

A. Gee, I don't know. All they called him is "Max," and I called him "Max," too.

(Testimony of John H. Schomaker.)

Q. And you say you think it was Mr. Maxwell, is that right?

A. Well, I am positive it was Mr. Maxwell.

Q. You are positive it was him. All right. So Sunday Mr. Maxwell came down, about what time?

A. Oh, it was around 4:00 o'clock Sunday afternoon.

Q. And was anybody with him?

A. No, he was alone.

Q. All right. And what time did you leave your home?

A. I say, well, he got there around 4:15.

Q. Was that by a prior arrangement?

A. That's right. I think McGowan called me up in the morning, and asked if I wanted to come up Sunday night, and I said it was O.K. with me.

Q. And then Maxwell appeared Sunday, took you in his car and drove you to San Francisco, is that right? A. That's right.

Q. Where did he take you?

A. He took me to the Appraisers Building.

Q. Now, whom did you meet there? [1250]

A. Well, there was Jack McGowan and a Mr. Kaiser.

Q. Anyone else?

A. Well, there were other people there, but they weren't in the office where I was.

Q. Well, did anybody else question you or talk to you at that time? A. No, no.

Q. You say there are other people, but they weren't in the office that you were in?

(Testimony of John H. Schomaker.)

A. Well, maybe I can get it better, explain it—there is an office, other offices there. And used to be a hospital, I think. And they have got a cage there where——

Q. Well, you just mean that people were working there, stenographers and so forth?

A. Well, there were people there. I wouldn't know whether they were working or walking back and forth. So I wasn't any Dick Tracy, running around seeing what each guy was doing.

Q. That was Sunday afternoon?

A. That's right.

Q. After 5:00 o'clock? A. That's right.

Q. People were working in that Appraisers Building, is that right?

A. Well, I said—now, whether they were working or shooting craps or playing pinochle, I don't know. I didn't—— [1251]

Q. You didn't know that?

A. No. Well, that was none of my business.

Q. All right. Now, when you got up there, Mr. McGowan and Mr. Kaiser were there. Did you have a talk with them then about your testimony here or what you were going to testify to or what you knew about this matter? A. No, sir, no.

Q. Did you read over any statement that you had written?

A. No, I didn't read over anything except the paper.

Q. Did you read any memoranda that they had prepared or that they presented?

A. Memoranda? I don't quite understand what you mean.

Q. Well, then, after that, what time did you leave the Appraisers Building?

A. Well, I don't think we stayed there very long. Mr. Kaiser says, "We might as well go over to the hotel." That is, the Marines Memorial. And that is where we proceeded.

Q. What time did you get to the Appraisers Building?

A. Well, at 4:15,—we must have got there around 5:30.

Q. All right. What time did you leave there?

A. Oh, it must have been around 6:00.

Q. And what time did you—then you went directly to the Marines hotel, is that right?

A. That's right, yes.

Q. All right. Did you meet anybody else there?

A. No, sir.

Q. Well, were you taken any other place or did you go any other place that evening?

A. Well, we went up and had a bottle of beer.

Q. Did you leave the building?

A. No, sir, I didn't leave the building, no.

Q. Did you have any interview with any lawyer that night?

A. No, no, I couldn't say any lawyer.

Q. No one connected with the prosecution?

A. If you call Mr. Kaiser a lawyer—I don't know.

(Testimony of John H. Schomaker.)

Q. Well, is he?

A. That is something I couldn't say.

Q. You call him "Bill," don't you?

A. Yes, Bill—William.

Q. You don't know if he is a lawyer or what his official capacity is, is that right?

A. All I know, he is connected with the Immigration Service, and I imagine he is an agent.

Q. All right. Now, you say that Mr. Maxwell came down on Sunday under an arrangement that you had made with Mr. McGowan, is that correct?

A. That's right. That is substantially correct.

Q. All right. Now, when, prior to Sunday, to that Sunday, had you seen any of these people?

A. Well, I was here the preceding Friday. [1253]

Q. Well, but then you were up here in San Francisco the preceding Friday? A. That's right.

Q. Where did you go then?

A. Well, I came home from work—see, we work six hours down there, that is, the hod carriers and plasterers work—they have a six hour day.

Q. Whom were you working for?

A. For a plastering contractor.

Q. What is his name?

A. His name is Paul E. Keene.

Q. What kind of a job is he working on? Is it a government job or anything like that?

A. No.

Q. All right.

A. We did the racetrack. That is the Bay

(Testimony of John H. Schomaker.)

Meadows racetrack. We did, that is, the remodeling of it.

Q. All right. Now, so was this the Friday after Thanksgiving or the preceding Friday?

A. That was the Friday preceding the Monday that I came up here.

Q. All right. Now, and whom did you see on that day?

A. Well, as I say, I came home from work and my wife said that Mr. McGowan had called and "he wants you to come to the city tonight because you may take the stand tomorrow." [1254]

Q. And did you go to the City?

A. I did. He said, "There will be someone down to pick you up," and to be ready.

Q. And did someone pick you up?

A. They did.

Q. Who? A. Mr. Maxwell.

Q. And where did you go then?

A. What do you mean, where did I go? After——

Q. Where did he take you?

A. The same deal, same deal—went to the Appraisers Building.

Q. That was on Friday night?

A. That's right. Wait a minute now. That wasn't on Friday, that was on Thursday night. I said I came home on Thursday after working.

Q. No. I am pretty sure you said that was Friday.

(Testimony of John H. Schomaker.)

A. Well, you can't put words in my mouth. After all,——

Q. Well, now,——

A. Just coasting along here.

Q. Well, which is it, Thursday or Friday?

A. Well,——

Q. I don't care which.

A. Maybe you don't, but I do. So I came home on Thursday.

Q. It was Thursday, not Friday?

A. That's right, because the reason I remember, because Friday [1255] is payday and I thought, "Well, I'll have to go to the city and I won't be able to get my check for Friday," you know.

Q. Uh-huh. So then you came up to the Appraisers Building on Thursday evening?

A. Thursday night.

Q. What time did you get here?

A. Well, I say, I got home from work around 4:00 and I took a shower and monkeyed around and so he came around 5:00, I guess—a little after 5:00 and drove up here to the Appraisers Building.

Q. And you—did you get here, then, around 5:30 or 6:00 o'clock some place?

A. Well, so long as it takes to drive from Menlo Park here. I imagine an hour and a half.

Q. And whom did you meet at the Appraisers Building Thursday night?

A. On Thursday night we met Mr. Kaiser and Mr. McGowan.

Q. No one else?

(Testimony of John H. Schomaker.)

A. Oh, there was other people there, yes.

Q. That you met?

A. Well, no; I just met Mr. Kaiser and Mr. McGowan.

Q. Yes. Did you see any of the attorneys present?

A. No, I didn't see any of the attorneys.

Q. All right. Then did you have a conversation with those gentlemen on that night, Kaiser and McGowan? [1256]

A. Well, general conversation, yes.

Q. All right. And what time did you leave the Appraisers Building?

A. Well, on that night I think we went out to dinner.

Q. Where?

A. It was a restaurant near there. I have never been there before.

Q. Just you three?

A. No, I think there was some other person joined the party, but I don't remember who it was now. I can't recall him.

Q. A man or a woman? A. A man.

Q. What was his name?

A. I say, it is pretty vague. I didn't pay much attention.

Q. How long were you at dinner?

A. Oh, about an hour and a half, I guess.

Q. How did you address this man?

A. I don't think I addressed him.

Q. Were you introduced to him?

(Testimony of John H. Schomaker.)

A. Yes, I think I knew him previously, but I didn't pay any attention to him.

Q. Where had you known him from previously?

A. From around the Appraisers Building.

Q. Was he an agent also?

A. Well, I wouldn't know if he was an agent or just what he was, [1257] what capacity he fulfills, but he was a person——

Q. What was the name of the restaurant that you four went to dinner at?

A. It was near—I think it was on Montgomery Street, right directly across from the old ILWU headquarters. I think it is a French restaurant—serve French Food, or supposed to be French food.

Q. On Montgomery Street?

A. Well, I am pretty sure that is Montgomery Street; yes.

Q. Between what other streets?

A. Gee, I didn't pay any particular attention.

Q. And then what time did you leave there, leave that restaurant?

A. Well, just long enough, when we ate.

Q. You say you stayed about an hour and a half?

A. Well, generally—how long it took us to eat dinner.

Q. All right. Then where did you go?

A. Well, I think we went back to the Appraisers Building and I picked up my suitcase and Mr. Kaiser and I drove over to the Marines Memorial.

Q. And you stayed there then at the Marine

(Testimony of John H. Schomaker.)

Memorial that night? A. That's right.

Q. In the same room that you have testified that you went to yesterday, is that right? [1258]

A. In the same room, but different beds.

Q. I see. And did you see anybody else that night then connected with the government, any agent or lawyer or anyone else of that kind?

A. No, I didn't, no.

Q. After you had finished dinner, you just went up to the room and shortly went to bed without leaving the place again, without leaving the hotel again?

A. Well, I think Mr. Kaiser showed me over, first time I had been there, he showed me the different rooms, the bar and the library and so on.

Q. Did you go up and have some drinks with Mr. Kaiser that night?

A. I think we had a bottle of beer, is all.

Q. Did you have drinks at dinner?

A. I think I had a bottle of beer, yes.

Q. All right. Now, when did you leave that hotel and did you go back down to Menlo Park the next day? A. Why, no, next day was Friday.

Q. All right. Then Friday you didn't testify?

A. That's right.

Q. But did you have any talk with anybody else on Friday?

A. Why, no, I didn't have a talk with anyone.

Q. What did you do Friday?

A. Why, I spent a very miserable day—as far as I was concerned. [1259] Friday morning I went

(Testimony of John H. Schomaker.)

down to the Appraisers Building and I read back over some of the old Voices of the Federation. They had a file there. and I read the Voices of the Federation.

Q. How long were you in the Appraisers Building on Friday on this occasion, the first time you went there?

A. That Friday I stayed there the biggest part of the day.

Q. A good part of the day, you say. What time did you get there in the morning?

A. Oh, around 9:00 o'clock. [1260]

Q. And then did you leave for lunch?

A. Yes, we went out and had a sandwich.

Q. Whom did you have lunch with?

A. Mr. Maxwell and I went out and had a sandwich together.

Q. Just you two? A. Just us two, yes.

Q. What room were you in on Friday in the Appraisers Building?

A. Gee, I don't think they are even numbered.

Q. What floor was it on?

A. The thirteenth floor.

Q. Who stayed in the room with you, if anybody, from nine o'clock until noon when you went out to eat? A. No one.

Q. You were given some material to read, were you? A. I wasn't given it. I asked for it.

Q. What was it that you asked for?

A. Old copies—they had a file of the Voice of the Federation. Since I was once on the editorial

(Testimony of John H. Schomaker.)

board, I wanted to see some of my previous writings.

Q. What years did you ask for?

A. I looked at all of them, from the very first to the very last.

Q. What years do they cover?

A. Well, from '35 to '41.

Q. Did you read anything else, any other magazines or [1261] documents at that time?

A. If you read all those Voice of Federation papers from 1935 to 1941, why, you got quite a job on your hands.

Q. After lunch you went back there again?

A. That is right.

Q. How long did you stay there then?

A. I think around two o'clock.

Q. And then where did you go?

A. They called up and said, "You had better come over to the Post Office," and so I was brought over here.

Q. Who brought you over? A. Maxwell.

Q. Drove you over?

A. No. Mr. Wooley drove, and Mr. Maxwell and I rode.

Q. When you got to the Post Office, where did you go? A. We went to Room 434.

Q. Whom did you meet there?

A. I wouldn't say "meet." I saw people here.

Q. Did you talk to anybody there?

A. Naturally you can't walk in a room and see people standing there and not talk to them.

Q. How long did you stay in Room 434?

A. I stayed there the rest of the afternoon, I guess.

Q. Until what time?

A. Until what time? I think we came down—about three o'clock [1262] we came down and went to Mr. Erskine's court and sat there for quite a while.

Q. And then what did you do?

A. Stayed in court.

Q. Then I say after you left this court what did you do?

A. Went back home. I didn't go home right away; I went back to Room 434.

Q. What time did you get back in Room 434 again?

A. I would say it was around—after four o'clock.

Q. How long did you stay there?

A. Oh, about five o'clock.

Q. What were you doing then?

A. Sitting down.

Q. Were you reading anything?

A. I may have casually glanced—yes, I think I was reading a story in the Saturday Evening Post.

Q. Did you read anything connected with this case? A. In the Saturday Evening Post?

Q. In any document. A. No, no.

Q. Did you read anything connected with this case from two o'clock to three when you went down to Judge Erskine's court?

(Testimony of John H. Schomaker.)

A. I don't think it is proper to read in a courtroom, is it?

Q. Did you have a talk with anybody? Were you talking with any of the attorneys in Room 434?

A. I may have spoken to them, yes.

Q. Did you talk to them about your testimony, what you were going to say or anything like that?

A. I can truthfully say I didn't say one word to them about my testimony.

Q. What attorney did you talk to on that occasion? A. I evidently talked to Mr. Paisley.

Q. Anyone else? A. Mr. Donohue.

Q. Anyone else? A. And Mr. Boyd.

Q. Anyone else?

A. I may have talked to other people in there, yes.

Q. Who?

A. Mr. Maxwell, I guess. We talked about football and things of that sort.

Q. Anyone else?

A. I don't think so, no. I remember Mr. Paisley said, "My God, that man can sure talk!" That is referring to Mr. Hallinan. I remember that very well, because I hadn't been in here and I didn't know anything about the courtroom.

Q. Then you say you went back home, did you?

A. Went back to Menlo Park.

Q. How did you get down there?

A. Mr. Wooley drove me home. [1264]

Q. What time did you get there?

A. Oh, it must have been about 6:30, I guess.

(Testimony of John H. Schomaker.)

Q. Then did he leave immediately?

A. Yes, he did; he left right away, yes.

Q. Was anybody in the car with him on the way down besides yourself? A. No, just he and I.

Q. When did you next see anyone connected with the prosecution or any agent of the Immigration Service?

A. As I say, next Sunday then—that was Friday —Saturday and Sunday I was home.

Q. You didn't see any of them on Saturday?

A. No.

Q. Did you have any telephone communication with any of them on Saturday?

A. On Saturday? I can't recall of any, no.

Q. Then Sunday you came up here again, is that right?

A. Yes. I think Jack McGowan called and said, "Someone will be there around four o'clock, if you want to come up." I said, "O.K."

Q. A week ago last Friday—we have now identified to a week ago last Friday your activities, and you came up the Thursday before. When prior to that had you last seen any of these gentlemen?

A. Well, I would say it had been thirty days. Prior to that—— [1265]

Q. That is about two weeks from tomorrow; two weeks ago tomorrow you were picked up and brought up here to San Francisco, and you have narrated your activities from that time. I want to get the time preceding.

(Testimony of John H. Schomaker.)

A. That is what I am trying to recall. It must have been a considerable time in days.

Q. How many days?

A. I would estimate it to be around thirty days.

Q. Do you know what date it was that you saw these gentlemen on that Thursday? That would be the 17th of November, the Thursday that you came up? A. That is right, yes.

Q. Was it the Thursday preceding Thanksgiving? A. That is correct.

Q. That was the 17th of November. Now, you last saw prior to that time—the time that you had last seen anyone connected with the prosecution was around October 17, is that right?

A. Roughly, yes. As I say, there is nothing that stands out in my mind, no particular event that makes it stand out. I can't say exactly.

Q. Taking that as the date, whom did you see on that occasion?

A. Mr. McGowan—let's see. There is an angle in there somewhere. It was about thirty days, I would say, I saw Mr. [1266] McGowan and Larry.

Q. Who?

A. The Larry I referred to before.

Q. That was the agent who lives in Half Moon Bay whose name you can't remember?

A. That is right.

Q. Where did you see them?

A. They were at the Appraisers Building.

Q. What day of the week was that, do you know?

(Testimony of John H. Schomaker.)

A. It was in the latter part of the week. It was a Friday or Saturday.

Q. How had you gotten to the Appraisers Building that day?

A. I think—on that occasion I think that Mr. Maxwell came down and picked me up.

Q. Aren't you sure?

A. As I say, these people—you can't remember every action that you take in your life, when there is no particular event that makes it stand out. I am pretty certain it was Mr. Maxwell who came down and picked me up, yes.

Q. What time did he pick you up?

A. It was after work one night.

Q. What time.

A. Well, I worked six hours a day, go home around 4:15, 4:30, so it must have been about 5 o'clock.

Q. He took you up to the Appraisers Building, is that right? [1267] A. That is right.

Q. What room did you go to?

A. The thirteenth floor.

Q. You still haven't noticed what offices those were or who occupied them, is that right?

A. Certainly, I noticed who occupied them. The Immigration Service occupied them.

Q. How long did you stay there?

A. I stayed there quite late that night. It must have been midnight, I guess, before I got out.

Q. Whom did you talk to there?

A. I talked to Mr. McGowan.

(Testimony of John H. Schomaker.)

Q. Anyone else?

A. Well, Larry was there.

Q. Anyone else?

A. There may have been a few more fellows there, but I don't distinctly recall them.

Q. Any persons whom you were introduced to?

A. I say there may have been people there.

Q. How many people participated in any part of the conversation with you, McGowan and Larry?

A. I would say Schomaker, McGowan and Larry.

Q. Any other persons join in? A. No.

Q. How many people were you introduced to that night at [1268] that place?

A. I don't think I was introduced to anyone person that night.

Q. And you talked to McGowan and Larry from about—let us say six o'clock, the time you got up there, until twelve midnight?

A. I wouldn't say it was six..

Q. What time?

A. We got there maybe about 7:30.

Q. Had you had dinner with them?

A. That is right, I had dinner with them.

Q. Where?

A. I think it was some hamburger joint in that neighborhood.

Q. Anyone else present at dinner?

A. No, I don't think so.

Q. After dinner you went to the Appraisers Building and you talked to them from about 7:30

to 12 p.m., is that right? A. That is right.

The Court: We will take the morning recess. Ladies and gentlemen, the same admonition to you not to discuss the case under any conditions or form or express an opinion until it is finally submitted to you.

(Recess.) [1269]

Q. (By Mr. Hallinan): Now, you testified just before the recess that approximately a month ago last Thursday, or around October the 17th, that you were at the Appraisers Building from about 7:30 to 12:00 p.m., and you talked there to McGowan and his Larry who had driven you up. Is Larry in the courtroom now? Have you seen him in the courtroom?

A. Well, I don't—sitting here I don't no.

Q. Well, have you seen him in and out of the court within the last few days?

A. Well, no; I don't believe I have.

Q. How about McGowan? Have you seen him in the court today?

A. Well, McGowan walked in the courtroom here at noon—I mean, at the recess he walked in and then he walked out again. I didn't——

Q. How about Kaiser?

A. Well, Kaiser is sitting in the courtroom. I can see him from where I am sitting here.

Q. Which is Mr. Kaiser?

A. He is the gentleman there right behind the

(Testimony of John H. Schomaker.)

rail there on the outside—in the first row, the gentleman with the glasses.

Q. First man in the first row?

A. That's right.

Q. On your right hand as you are facing him?

A. That is correct.

Q. How about Mr. Wooley? [1270]

A. Mr. Wooley?

Q. Have you seen him in the court?

A. Well, sitting here, from here I can't see him, no.

Q. How about Mr. Phillips?

A. Mr. Phillips?

Q. Yes.

A. Well, I have only seen him once in my life, and that was quite a while ago.

Q. How about the other man who was with him? Have you seen him in the court?

A. Well, to be frank with you, I don't think I would even recognize him if I saw him again.

Q. All right. Now, when you were at the Appraisers Building, then, about October 17, and you talked to McGowan and Larry, did they both—were they both talking to you during all that period?

A. No. Well, yes, I guess you would say they were.

Q. Anybody else join in the conversation?

A. No, they didn't.

Q. All right. And you were talking about your testimony on this case, were you?

A. Well, they were taking a statement.

(Testimony of John H. Schomaker.)

Q. They were taking a statement?

A. That's right.

Q. And did they take a statement? [1271]

A. They did.

Q. In what form, an oral statement or a written statement?

A. I don't know how you can take an oral statement. I mean, I give it orally; is that what you mean?

Q. You didn't write it out?

A. No, no, didn't write it out.

Q. A stenographer took down what you were saying, is that right? A. That's right.

Q. And how long did it take to take that statement?

A. Well, that evening, that particular statement?

Q. Yes, that evening. Did it consume almost the entire four and a half or five hours that you were there, taking your statement?

A. Oh, no, no.

Q. How long?

A. Well, you mean—we have a stop-watch and now "I am going to give a statement," and boom. Is that what you mean?

Q. No. You just tell us approximately how long it took to take that statement from you.

A. Well, I was in the building from 7:30 to—I wouldn't say it was midnight, maybe it was—well, closer to 11:00 than 12:00.

Q. Well, let's say four hours instead of five.

A. Four hours. [1272]

(Testimony of John H. Schomaker.)

Q. What part of the four hours was consumed in taking the statement from you?

A. Oh, I would roughly estimate three hours.

Q. All right.

A. Two and a half hours.

Q. Then was the statement reduced to writing that you saw? A. That's right, it was.

Q. That same evening?

A. No, not that same evening, no.

Q. Well, when did you next see the statement?

A. The next time I saw that statement, there was another trip in there. I can't recall exactly how that came about but there was another trip where I saw the statement, yes.

Q. All right. How long was that after this trip of October 17th?

A. Well, I would say it was—oh, a day or so, I think, or three days later.

Q. What was the——

A. It was the same deal.

Q. Three days later, you say?

A. Well, somewhere around there. It happened—it was a series of days, and it wasn't far apart when the statement was taken, and I reread it and signed it and that was it.

Q. Well, now, you think it was on Friday or Saturday that you were brought up by Larry and McGowan and to the Appraisers [1273] Building?

A. That's right.

Q. And you think that Mr. Maxwell picked you up. You went about 5:00 p.m. to the 13th floor, then

(Testimony of John H. Schomaker.)

you went out to some hamburger place and had something to eat and then you got back there around 7:30, and you left some place between 11:00 and midnight? A. That's right.

Q. Now, how did you get back home that day?

A. I was driven home by Larry. Since he lives in Half Moon Bay, he made it all in one trip.

Q. All right. And during that interval, a statement was taken from you that consumed about three hours to take, and that statement was afterwards reduced to writing, but not on that occasion. You came back afterwards and saw the statement written out, is that right?

A. And I read it and initialed it and made corrections and so on.

Q. All right, wait a minute. And you think that you returned about three days afterwards on the occasion that you read the statement, is that right?

A. That is about correct.

Q. Now, how did you happen to come up three days afterwards?

A. Well, McGowan called and said, "We have your statement in writing. Would you care to read it?", and I said, "Yes." [1274]

Q. Did McGowan phone you?

A. Yes, he did.

Q. Or did he call? Which did he do?

A. Well, he called up on the telephone.

Q. At your home in Menlo?

A. That's right.

Q. And when?

(Testimony of John H. Schomaker.)

A. Oh, I think he called—called while I was at work, and my wife relayed the message to me, said McGowan had called, "and he wants you to sign the statement that you had made."

Q. Then what did you do? Did you come to San Francisco? A. That's right.

Q. How did you get up here?

A. The same deal, where a car came down and picked me up and brought me to the Appraisers Building. And I read the statement, signed it and went back home.

Q. Well, wait a moment. We are a little ahead of ourselves now. A car called. Who was driving the car on that occasion?

A. Well, Mr. Maxwell was driving it.

Q. And what time did he pick you up?

A. Oh, at about the same time, around 5:30.

Q. Around 5:30. Did you have dinner with him?

A. No. Wait a moment. I don't think it was Maxwell in that case. I think it was Larry, came down. He came down in a car.

Q. Larry. All right. [1275] A. Yes.

Q. And then did you have dinner with him?

A. Well, we didn't have dinner, we had a hamburger over here by the SP depot.

Q. All right. And then where did you go, up to the Appraisers Building again?

A. That's right.

Q. What day of the week was this?

A. Well, it was the early part of the week, Tuesday or Wednesday I would say.

(Testimony of John H. Schomaker.)

Q. Tuesday or Wednesday. Well, then, as you were up here on the preceding occasion on Friday or Saturday, it was not three days but four or five days afterwards, would you say that?

A. Well, I would say it was an interval of time, and the best of my recollection, that is what it was.

Q. All right.

A. I can't be precise on these things.

Q. All right. Because three days would take it to either Sunday or Monday, and five days would take it to a Wednesday; but you are not sure which it was? A. No, you can figure it out there.

Q. All right. Now, what time did you get to the Appraisers Building that evening?

A. Well, we stopped and had this hamburger, as I said; it was around 7:30 or 8:00 o'clock. [1276]

Q. And what time did you leave there?

A. Leave the Appraisers Building?

Q. Yes.

A. Well, it didn't take long to read that statement and to sign it, and I went back home.

Q. I asked you what time did you leave the Appraisers Building?

A. Oh, around 9:00 o'clock, I imagine—9:30.

Q. All right. Now, on that occasion whom did you talk to? A. Well, McGowan and Larry.

Q. And the statement then had been typed out already, is that right? A. That is correct.

Q. And you read it? A. I did.

Q. How many pages was it?

A. It was quite long.

(Testimony of John H. Schomaker.)

Q. How many?

A. Well, I would say—it was quite a lengthy statement.

Q. How many pages was it?

A. How many pages? Now let me see. It was quite long; it must have been close to 100 pages, I would say.

Q. How long did it take you to read it?

A. Well, it took me quite a while. Well, I mean,—quite a while—like reading a story. If I got there at 7:00 and then [1277] 8:30,——

Q. How long did it take you to read it?

A. Oh, I would say an hour.

Q. Did you sign it? A. I did, yes.

Q. Did you sign it on each page?

A. No, I don't think I signed each page. I made corrections and I initialed those corrections. Now, I don't—whether I signed on each page, I don't think so. I know I signed the last page and a few of the first pages.

Q. A few? How many of the first pages?

A. Oh, four or five, I would say.

Q. How did you happen to sign the first four or five pages? Did somebody ask you to do so?

A. Yes, McGowan said, "Sign each page." And after I signed five of them and saw the length of them, I said, "Well, that is just a little too long. I will just sign the last one."

Q. Didn't he insist that you sign each page?

A. No, he didn't. It wasn't——

Q. He asked you to sign each page, but after you

(Testimony of John H. Schomaker.)

had signed four or five, you refused to continue, is that right?

A. No, I didn't refuse it. I just thought to myself, he gave me the statement and sat down in this office and I began to read it and I saw the length of it and I began to sign. And I signed about five pages and I says, "What the——;" I couldn't see the point to signing each page, so I didn't do it. So I gave the statement back to him and he didn't say nothing, he took it and that was it.

Q. You say you made some corrections on it?

A. Well, you know—made some corrections, yes.

Q. How many? A. Oh, a couple is all.

Q. Were they just clerical errors or were they errors of fact?

A. No, they were not factual errors; it was just clerical errors.

Q. And you initialed those? A. I did, yes.

Q. And that statement was about 100 pages long, is that right?

A. Well, I wouldn't say a hundred exactly. It may have been a few pages less or it may have been a few pages more.

Q. And then when you left, how did you get home again?

A. Well, Larry—since he lives in Half Moon Bay drove me home. [1279]

Q. Then we have a meeting at the Appraisers Building about October 17 of this year; then another one three to five days afterwards. Now, when had you had any meeting prior to October 17?

(Testimony of John H. Schomaker.)

A. On October 16.

Q. Where? A. In the same building.

Q. How did you happen to go there on that occasion? A. By previous appointment.

Q. Who made the appointment?

A. Jack McGowan.

Q. By telephone or directly to you?

A. No, by word of mouth.

Q. Where did you meet him?

A. In the Appraisers Building.

Q. On October 16 you had a meeting——

A. I won't say that is the exact date.

Q. No, but the day before the one you gave the statement on.

A. Yes, before I gave the statement.

Q. Who was present at that meeting?

A. McGowan and Larry.

Q. No one else? A. And the stenographer.

Q. What time was that meeting held?

A. Approximately the same time. [1280]

Q. In the evening also? A. Yes.

Q. How long did it last?

A. Well, from around 8 o'clock to between 11 and 12.

Q. Was a statement taken then?

A. A partial statement, yes.

Q. Did you see that reduced to writing?

A. That is correct.

Q. The stenographer took that down also?

A. That is correct.

(Testimony of John H. Schomaker.)

Q. The following night she took down a different statement, a new statement, is that right?

A. It is what you call a supplement of the previous statement, an addition or whatever you want to call it.

Q. In other words, you gave a statement on October 16. Was that reduced to writing? Did you see that reduced to writing? A. Yes, I did.

Q. How many pages was that?

A. The 100 pages comprise the total statement.

Q. In other words, the statement that was reduced to writing and comprised 100 pages included part of the statement you had given one day and part of the statement you had given the next day?

A. That is correct.

Q. It was not all given at one session? [1281]

A. That is correct, absolutely correct.

Q. So on October 16, then, using that date as a basis, you gave a statement that lasted about as long as the one you gave the following evening?

A. That is correct.

Q. The two of them were combined in the one written statement about 100 pages in length and you signed it? A. That is absolutely correct.

Q. You had gotten directions from Jack McGowan to be at the Appraisers Building on the October 16 date; he would bring you up or you were to be brought there?

A. He said, "I will give you a ring tomorrow night, and if you wish to come in, we'll come down, get a car there and you can come up."

(Testimony of John H. Schomaker.)

Q. Did they do that? A. Yes, they did.

Q. Who drove the car that brought you up?

A. I think Mr. Maxwell.

Q. Anybody with him?

A. I don't believe there was, no.

Q. You say that you had gotten a notification from Mr. McGowan that you were to be picked up on the 16th from McGowan personally at the Appraisers Building, is that correct?

A. That is correct.

Q. When were you at the Appraisers Building prior to October [1282] 16, taking the 16th just arbitrarily? A. The night before.

Q. Let us call that October 15. How long were you at the Appraisers Building October 15?

A. Approximately the same length of time.

Q. That would be from about 8 to 12, or 7:30 to 12? A. I wouldn't say 12.

Q. 11:30. A. Yes, between 11 and 12.

Q. Who was there on that day?

A. Well, the stenographer and Mr. McGowan and Larry.

Q. Had you gotten there by the same route that somebody drove you up? A. That is correct.

Q. Who drove you up?

A. Maxwell, I imagine, drove me up. As close as I can recall, it was Maxwell.

Q. What time did Mr. Maxwell pick you up?

A. Around 5 o'clock, 5:15.

Q. Did you have dinner again with him?

A. We stopped and had dinner, yes.

(Testimony of John H. Schomaker.)

Q. Where?

A. I think it was a restaurant over close to the Appraisers Building.

Q. How many of you went to dinner there?

A. I think it was Larry, I, and McGowan that went to dinner that particular night.

Q. But not Maxwell? A. No, he didn't go.

Q. Then on that occasion what were you doing in the Appraisers Building from 8 to 11:30?

A. I was giving a statement.

Q. Did the statement take about the same length of time that the succeeding two did?

A. We sat there and talked, took time out for coffee—you know, didn't sit down from 8 o'clock, or whatever time it was, 8:30 until 11 and give the statement.

Q. Was the stenographer taking down that statement also?

A. She took down what statement was to be taken; she took it, yes.

Q. Was that conversation included in the 100 pages that you referred to?

A. That is correct.

Q. Prior to that time when had you met anybody connected with the prosecution?

A. Prior to that? Well, as close as I can recall, I think McGowan may have come down previous to that, yes, maybe two weeks previous to that.

Q. You have told us how you happened to get to the Appraisers Building on the 17th; that is, you were told by Mr. McGowan [1284] someone would

(Testimony of John H. Schomaker.)

pick you up, and you told us how you happened to get there on the 16th, that McGowan had told you on the previous evening someone would pick you up. How did you happen to go there on the 15th of October? A. He called up, telephoned.

Q. Did he talk to you personally?

A. On that occasion he did, yes.

Q. Where did he talk to you?

A. He was on the telephone, wherever he was. I don't know where he was.

Q. Where were you? A. I was home.

Q. What did he say to you then?

A. He said, "Hello."

And I said, "Hello."

He said, "How is the family?"

I said, "Fine. How is your family?"

Q. What did he say about coming up to the Appraisers Building?

A. He said, "How about picking you up tomorrow night and coming up to the Appraisers Building?"

Q. And did he pick you up?

A. You mean that night?

Q. The following night.

A. He didn't, no, but I was picked up by a driver, yes. [1285]

Q. What was the driver's name?

A. I am pretty sure it was Maxwell.

Q. Do you remember what time he picked you up?

A. As I say, it was after work, around 5 o'clock.

Q. Did you have dinner again that night?

Q. Yes, we had dinner.

Q. Who?

A. Myself, McGowan and this Larry.

Q. Where did you eat dinner that night?

A. In a restaurant, I think it was on Broadway—the New Broadway, I think it was—not the New Broadway; New Joes', I think it was.

Q. Taking, as I say, this night of October 15 arbitrarily as being the first of the three nights upon which you gave this statement, and then McGowan having phoned you the day before that he would pick you up, he would send somebody to pick you up, when prior to that had you last seen anyone connected with this investigation or the prosecution?

A. I think it was on a Sunday that McGowan happened to drive up and he stopped in.

Q. How long prior to this date that we have selected of October 15?

A. That was, I imagine, two or three weeks prior.

Q. Can you come closer than that, whether it was two or three weeks? [1286]

A. It is the best of my recollection, it was somewhere along in there. I wouldn't want to pin it down.

Q. It was a Sunday, and would you say it was about October 1?

A. Well, I would say it was two or three weeks prior to my coming in to take the statement.

Q. About two or three weeks prior to your coming up to take the statement?

(Testimony of John H. Schomaker.)

A. That is right.

Q. Let's say it would be about Sunday, October 1. You say McGowan called. Who was McGowan? We have used his name without identifying him. What is he? A. His name is John McGowan.

Q. Where does he live? Do you know that?

A. He lives in San Francisco some place; I don't know.

Q. Do you know what his occupation is?

A. Well, he is with the Immigration Service.

Q. Mr. McGowan came to your home then—selecting an arbitrary day again, October 1—about what time of day?

A. It was in the afternoon.

Q. About what time?

A. Oh, I would say around three o'clock.

Q. Was he alone or accompanied by anybody else? A. I think he was alone.

Q. How long did he stay?

A. Oh, he didn't stay long. He said he was down there on [1287] other business and he thought he would drop in and say hello.

Q. How long did he stay?

A. Oh, I would say 45 minutes.

Q. How long? A. I would say 45 minutes.

Q. At that time did you discuss anything that you knew about this matter or your possible testimony in a proceeding of this kind?

A. I don't think we did, no. He was looking for a place to live, that is, he though he might want to move down the Peninsula, and since I got

(Testimony of John H. Schomaker.)

around quite a bit in the building trades, I was giving him an idea of what homes were costing in that area, and we discussed mainly housing.

Q. So then taking Sunday, October 1, as the day that he called in, you have told us that you then went up and saw these people in the Appraisers Building on the 15th of October, then on the 16th of October, then on the 17th of October, and thereafter certain dates that lead up to the present time. When last prior to October 1, using that date as the date on which McGowan called at your home, had you seen anybody connected with this case or the prosecution?

A. Well, as I say, generally—not generally, but occasionally when McGowan would be down the Peninsula on other business he would drop in.

Q. Can you tell me when prior to this October 1 date had you [1288] last seen anyone connected with this case?

A. That is pretty tough, because, as I say, it didn't impress me where it would indent itself in my memory, because there was no reason for it. It is like a friend dropping in and saying hello, and that is all there was to it.

Q. Can you tell us when it was that he dropped in prior to October 1?

A. I couldn't—I would rather—I can give a blanket—say in the last six months he dropped in four or five times, I would say.

Q. Your testimony before the Grand Jury was in May, wasn't it?

(Testimony of John H. Schomaker.)

A. Yes, that was in May, I suppose.

Q. Shortly before your testimony before the Grand Jury you had made out a statement; you had signed a statement, hadn't you?

A. That is right.

Q. Taking, let us say, May 15 arbitrarily—that would be about four and a half months from your appearance before the Grand Jury in May—let us say five months—to this date of October 1, within that length of time how many times would you say you met McGowan?

A. Oh, I would say to the best of my recollection it was six or seven times.

Q. And on each such occasion did he call at your home? A. Yes, he did, yes. [1289]

Q. And during the same period what other agents, if any, or persons connected with the Immigration Department or the Government did you meet? A. Mr. Barber came several times.

Q. What is Mr. Barber's first name?

A. Bruce—Bruce Barber.

Q. What is his occupation, do you know?

A. Well, I think it is connected with the Adjudications Department of the Immigration Service, if I get it correctly. Adjudications, is it? Whatever that is. It is some legal term, anyway.

Q. I have noticed, I think, some of your editorials that I will produce later, and you can use quite elegant English, can't you?

A. I can write better than I can speak.

Q. Did anybody tell you it would be more im-

(Testimony of John H. Schomaker.)
pressive to go down to a workman's south-of-market act?

A. After all, a hod carrier is not a guy who has a great capacity for words. I don't think he is a brilliant legal genius. He couldn't be.

Q. This morning in describing a word you said it was "phonetic." That was a slip of the tongue?

A. No, that is one word I can pronounce. I like to use it. "Phoentic" sounds good.

Q. You were the editor of this Voice of the Federation? [1290]

A. Editor? No, sir, I was not.

Q. What were you?

A. I was on the editorial board in the Voice.

Q. You wrote a good many editorials, didn't you?

A. I don't know about editorials. I wrote a lot of stuff for the Voice which I thought was pretty good.

Q. The stuff that you were reading down in the Appraisers Building that night?

A. That is right, and I got a lot of laughs out of that, too.

Q. We will see if we can't get a few, too. Mr. Barber—you say that he dropped in to see you, too. Let us take that period from the time you finished testifying before the Grand Jury up to this October 1. How many times did Mr. Barber drop in to see you?

A. Well, I don't think it was over four. That is approximately—four or five times, I would say.

(Testimony of John H. Schomaker.)

Q. On any occasion when he came was he accompanied by any other person?

A. The only person he came there with was McGowan. Now, whether or not he came when Mr. Boyd came down, I can't recall. But generally the times I remember he was always with Jack McGowan.

Q. Now, on the occasion Mr. McGowan came in there, the six times, was he accompanied by anybody else?

A. Well, no. I say including the six times, whatever that [1291] approximate figure was the times that he and Barber came.

Q. In other words, the four times that Mr. Barber came, or not over four times, he accompanied McGowan? A. That is correct, yes.

Q. He never came alone? A. Mr. Barber?

Q. Yes, during that period.

A. I don't recall of him ever being there alone.

Q. Is McGowan a married man, so far as you know? A. As far as I know, he is, yes.

Q. Did you meet his wife? A. I have, yes.

Q. When?

A. Well, I think that they were out house hunting and they dropped in one day.

Q. Did she stay for the 45 minutes, too, that he stayed?

A. Oh, no, they only stayed a few minutes on that particular day. They were looking at a house in the neighborhood there.

(Testimony of John H. Schomaker.)

Q. And you said that he stayed about 45 minutes. Do you change that now?

A. That was a different occasion.

Q. You say that Mr. Barber was there. Can you tell us a little more accurately the approximate dates that he was there during that period?

A. We moved where we live now in September or August of 1948, [1292] and Mr. Barber came—visited since we have lived in the place where we are living now. So just what the dates were——

Q. In August of 1948?

A. This is 1949, a year previous, yes. We were living there since August, 1948.

Q. We are talking now about a period from May 15, taking that as being the date. You say you testified before the Grand Jury, up to October 1, 1949. You said that in that period Mr. Barber called on you about four times?

A. My impression was he was not talking—the impression that I have, at least, that you were discussing all the times that McGowan or Mr. Barber had seen me where I am living. I didn't get the impression that you were asking from May until October. If that was the case, that would have been ten visits and, my God, that would have been almost every night, and there were lapses of maybe thirty days before I saw anyone, McGowan, Barber, or anybody else, that is, from the Immigration Department. [1293]

Q. Well, we will start again then, taking May 15 this year. A. That was the grand jury.

(Testimony of John H. Schomaker.)

Q. Do you know when it was?

A. That was the grand jury.

Q. Well, do you remember when you testified before the grand jury?

A. Remember I testified before the grand jury, yes.

Q. When? A. Well, the year of 1949.

Q. What month?

A. The closest I can recall, it was in May.

Q. What part of May?

A. Well, I would say the middle of May.

Q. All right. Well, then, from that time up to October 1st, how many times did Mr. McGowan call at your home?

A. Oh, it wouldn't have been over two or three times.

Q. In that same period—Now, when was the time, last prior to Sunday, October 1st, that he called at your home?

A. Well, as I say—now I can't give you any specific date, but between the grand jury, when I got the subpoena to appear before the grand jury, and the taking of this statement, well, I couldn't give any specific date when he did call. There was times when he did call, that's all.

Q. And was it in that period that he appeared there with his wife on two occasions. [1294]

A. No, it was prior to that.

Q. Prior to that? A. Yes.

Q. Since——

(Testimony of John H. Schomaker.)

A. On two occasions—? I said he appeared there once with his wife.

Q. Oh, I thought you said once he appeared and stayed for about ten minutes and then that he stayed for about 45 minutes.

A. That's right; he was alone.

Q. I see. On the 45-minute occasion?

A. His wife was there once, if I can recall it correctly.

Q. All right. Now, from the period May the 15th to October 1st, how many times did Mr. Barber call?

A. I am trying to think. I don't believe he called at all in that particular period.

Q. Not, since you testified before the grand jury? A. That's right.

Q. All right. Well, now, who, if anybody, else connected with the government or the Immigration Department or interested in this matter called upon you in that period?

A. Well, just prior to the grand jury?

Q. No, after the grand jury.

A. Oh, after the grand jury. Well, I don't—the only person I can recall after the grand jury hearing was Mr. McGowan.

Q. All right. Now, prior to the grand jury hearing, however, [1295] some other person had called, is that right? A. That's right.

Q. And taking the date of May 15th as the day you came up and testified here, when, last prior

(Testimony of John H. Schomaker.)

to that, had somebody connected with the United States government called upon you?

A. Well, my appearance before the grand jury, I am pretty sure was on a Wednesday. No, on a Tuesday, I think. And the previous Sunday Mr. Boyd came down with Mr. Kaiser.

Q. Now, you told us already, but just because it has slipped my mind, when was it? How long before or prior to your testimony before the grand jury did you give the statement that you signed?

A. Well, that was the——

Q. Another statement that you signed?

A. That was the first statement, you mean?

Q. Yes.

A. That was the night before I appeared before the grand jury.

Q. So if you testified before the grand jury on May 15th, you gave and signed a statement on May 14th, is that right? A. That's right, yes.

The Court: We will take the noon adjournment. Ladies and gentlemen, we will resume at 2:00 o'clock this afternoon. The same admonition to you, not to discuss the case under any conditions.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [1296]

Wednesday, November 30, 1949
2:00 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is John H. Schomaker, heretofore sworn.

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. During the noon recess did you have any talk with anyone connected with the prosecution about the testimony you had given on the stand?

A. I did, yes.

Q. With whom?

A. Well, with Mr. Jack McGowan and Mr. Kaiser and Mr. Maxwell.

Q. Where did the conversation take place?

A. Well, principally in the restaurant where we were having lunch.

Q. You had lunch with those three gentlemen?

A. I did, yes.

Q. Anybody else present?

A. Well, what do you mean, present?

Q. You know what I mean. Did anyone else accompany you to lunch besides those three men?

A. No, I mentioned the people who were with me.

Q. Yes. And what restaurant did you go to?

A. It was the restaurant on Sixth Street.

Q. Do you know the name of it? [1297]

(Testimony of John H. Schomaker.)

A. No, it was one of those greasy spoons down there. I guess that is what you would call it.

Q. And how long were you with those gentlemen? A. Well, oh, I imagine an hour.

Q. And during that time you discussed the testimony that you had given on the witness stand, is that right? A. I did, yes.

Q. Was anything said about the incident of the alleged meeting at Shaw's house?

A. No, there wasn't.

Q. Was there anything that they suggested to you that you should in the interests of helping procure a conviction, change?

A. No, sir; concerning the testimony that was given this morning.

Q. All right. Now, did they make some corrections in the testimony you have given this morning?

A. Well, I couldn't call it a correction.

Q. They just pointed out to you where you have been in error, is that correct?

A. No, that wasn't it at all.

Q. All right. Well, now, you were back to——

The Court: You are entitled to answer what, if anything, you did discuss, in view of the inference or implication that might be contained therein.

Mr. Hallinan: Well, Your Honor, of course, I just said [1298] they didn't.

The Court: I know, but there is an implication. He is entitled to make an explanation.

The Witness: Well, what Mr. Kaiser said, he

(Testimony of John H. Schomaker.)

said, "Not only do I think Mr. MacInnis is a smarter lawyer"——

Mr. Hallinan: I object to this as being hearsay, Your Honor.

The Court: Motion denied; objection overruled.

The Witness: Well, I am telling you what the man said concerning the testimony. He says, "Not only do I think Mr. MacInnis is a smarter attorney," he says, "I think he is better looking."

Q. (By Mr. Hallinan): Have you any more little comic things?

A. That is exactly what was stated, and I am telling the truth.

Q. Now, you said in your last testimony that from May 15th until October 1st, approximately, Mr. McGowan had called at your home not over three times, that Mr. Barber had not called during that period. Did anybody else connected with the government call during that period?

A. Well, there was a fellow came down there one Saturday night, and he said he represented the Bridges, Schmidt, Robertson defense, and he was from Mr. Hallinan's office.

Q. Well, now, that isn't anyone connected with the government. We are coming to that in about an hour or two. So just hold your horses, if you will. Now what about government agents [1299] or persons connected with the government? Anybody else besides Mr. McGowan that came down and interviewed you between your testimony before the grand jury and October 1st?

(Testimony of John H. Schomaker.)

A. The only person—well, the closest I can recall, the only person, if they came down, it was McGowan, in that period from May, the grand jury —when I was subpoenaed before the grand jury and until I gave the statement, the only person that I can recall now that came down there from the government was Jack McGowan. [1300]

Q. Now, prior to May 15, prior to your appearance and testifying before the Grand Jury, who had last called upon you representing the Government?

A. As I say, it is all pretty vague. Well, I would say it was Mr. McGowan accompanied by Mr. Barber.

Q. Mr. McGowan accompanied by whom?

A. Mr. Barber, or Mr. Barber accompanied by Mr. McGowan, either way.

Q. When did they appear next preceding coming to San Francisco to make the statement which preceded your testimony before the grand jury? How long before that?

A. You mean the visit they made, and what visit they had made before that?

Q. The last visit they made before you came to San Francisco and gave that statement.

A. They did not. At the time I appeared before the Grand Jury, and the statement in October, I said the only person that I can recall, if there was in that period, was McGowan.

Q. That is not what I asked you. I asked you

(Testimony of John H. Schomaker.)

preceding, before your testimony before the Grand Jury.

A. I just answered it was McGowan and Barber.

Q. Yes, and I asked you when they came to your place prior to your appearing before the Grand Jury.

A. You mean the length of time between their appearance and my appearance before the Grand Jury? [1301]

Q. That is right.

A. The last—the Sunday prior to the Tuesday on which I appeared before the Grand Jury Mr. Boyd and Mr. Kaiser came down.

Q. You said that Mr. McGowan and Mr. Barber were the ones who came next preceding your appearance before the Grand Jury?

A. Yes, before; before.

Q. Now, did they come before Mr. Boyd or afterwards?

A. By "before" do you mean weeks before the Grand Jury hearing?

Q. Listen. You came up here and testified before the Grand Jury approximately on the 15th of May. We agreed we would take that date more or less arbitrarily, and you said the date before that you had given a 22-page statement which you had signed. A. Yes, that is correct.

Q. In the office of the Department here. Now, before you gave that statement you say Mr. McGowan and Mr. Barber were the last persons repre-

(Testimony of John H. Schomaker.)

senting the Government who had called on your house, is that correct?

A. That is not correct.

Q. Who were the last ones?

A. The last ones who called before I appeared before the Grand Jury was Mr. Boyd and Mr. Kaiser, and they appeared the Sunday prior to the Tuesday.

Q. Did they come to your house by appointment or otherwise?

A. No, they just came down, that is all. [1302]

Q. You had no appointment with them?

A. No, I had not, no. ✓

Q. What time of day did they arrive?

A. They came down—it was early afternoon, I imagine around two o'clock.

Q. How long did they stay?

A. They didn't stay—I would say about an hour.

Q. Was anybody else present during your conversation with them?

A. Yes, I think my wife was present.

Q. Anyone else?

A. Well, no, just they and us.

Q. Now, they stayed about an hour. That was the Sunday preceding your appearance before the Grand Jury? A. That is right.

Q. When next preceding that did you talk to anybody connected with the case?

A. That was the Barber-McGowan visit then.

Q. When?

(Testimony of John H. Schomaker.)

A. I can't put the exact date. As I say, we moved there in September——

Q. Approximately how long before the visit of Mr. Boyd and Mr. Kaiser?

A. I would say—let's see—the approximate date, I would say at least thirty days. [1303]

Q. About thirty days before that. Were they alone or accompanied by anyone else?

A. They were together. Barber and McGowan were together.

Q. How long did they stay there?

A. They stayed about three hours, I believe.

Q. Was anybody else present during their visit in your house? A. My wife was present, yes.

Q. What time did they arrive there?

A. Oh, it was after supper. It was around, oh, I would say seven o'clock.

Q. That would take it back, then, to around April 10, let's say. Do you think it would be around that time?

A. I wouldn't want to make a specific date, because I couldn't swear to that.

Q. You say on Sunday prior to your appearance before the Grand Jury, which we assume to be May 10, Messrs. Boyd and Kaiser appeared, and about six days prior to that Mr. McGowan and Mr. Barber came, so that would bring it to approximately April 10? A. Yes.

Q. When next prior to that had anyone called upon you?

A. You are going a little bit—I say, we moved

(Testimony of John H. Schomaker.)

there in September, and in that length of time they came six or seven times. I wouldn't know whether it was a week apart, two weeks apart, or a month. [1304]

Q. What was the address to which you moved in September?

A. 698 Menlo Oaks Drive, Menlo Park.

Q. 698 What? A. Menlo Oaks.

Q. You moved there when?

A. It wasn't September—rather in August.

Q. What part of August, do you know?

Mr. Donohue: If your Honor please, I understand, of course, the scope of cross-examination is largely within ~~the discretion~~ of the Court. For that reason I have sought not to intrude, but I seriously question if there is any real purpose to this cross-examination.

The Court: What is the basis of your objection?

Mr. Donohue: Your Honor, I say that it bears no materiality to any issue that is before this Court. If Mr. Hallinan would state to his Honor he had some objective, I would withdraw my objection. It seems to me we are wasting time.

Mr. Hallinan: I have an objective.

The Court: You may proceed.

Q. (By Mr. Hallinan): What part of August?

A. I would say it was—as close as I recall, it was the first part of August.

Q. 1948? A. That is correct.

Q. From that time up until your testimony before the Grand [1305] Jury, you say you had about

(Testimony of John H. Schomaker.)

a half dozen visits from different officials of the Government, is that right?

A. More or less, yes.

Q. Will you give us the names of all the persons who appeared at your home from the time you moved in August, 1948, until your appearance before the Grand Jury?

A. You mean all the people——

Q. Agents or officials of the Government who appeared at your home.

A. I think you meant anyone who ever visited us. You mean the Government people who came down there? That is what you mean's isn't it?

Q. At least that is what I asked.

A. Heh-heh-heh. There was Mr. Jack McGowan and Mr. Bruce Barber, Mr. John Boyd——

Mr. Paisley: Shouldn't he be required, your Honor, to ask if there were others? What is the use of sitting here and going over the same list? He has mentioned them a half dozen times.

Mr. Hallinan: One thing, it helps test his memory. It gives a list of persons. If he repeats, there aren't so many that it will harm to repeat them again.

The Witness: And Mr. Donohue, I think.

Q. (By Mr. Hallinan): What is Mr. Donohue's first name?

A. Gee, I really don't know. [1306]

Q. Do you mean the attorney in court here now, or do you mean some official connected with the Immigration Department?

(Testimony of John H. Schomaker.)

A. He is the attorney who is sitting behind you, if my eyes don't deceive me.

Q. That is Mr. F. Joseph Donohue. You do not know his first name?

A. Mr. Donohue is all.

Q. You did not know his name was F. Joseph?

A. I did not, no, sir.

Q. You did not observe that in the newspapers or anything of that kind?

A. There was no particular reason why I should.

Q. You didn't know it. Who else?

A. Mr. Barber, Mr. McGowan, Mr. Donohue, Mr. Boyd, Mr. Kaiser.

Q. Who else?

A. I think to the best of my recollection, that is the sum of it.

Q. You have named already Mr. Maxwell, haven't you?

A. He came, but he stayed generally outside. He didn't come in the house.

Q. I don't care whether he stayed. I want to know what Government agents appeared. Mr. Maxwell?

A. If you want to consider Mr. Maxwell, yes, and Mr. Wooley and Larry—I can't recall his last name—but I don't think they ever even entered the house. [1307]

Q. When did Mr. Donohue appear?

A. I believe it was one Sunday afternoon he happened to be driving by and he dropped in to say hello, and that was it. He said hello and departed as gracefully as he came.

Q. Is your house very contiguous to the ordinary traffic routes down around that section?

A. You have to explain what "contiguous" is. That beats me.

Q. Is it right close to some main traveled highway?

A. It is, I would say, a quarter of a mile from the Bayshore.

Q. A quarter of a mile from the Bayshore?

A. Approximately now.

Q. In which direction?

A. Well, from the Bayshore it would be towards the foothills.

Q. And Mr. Donohue, like some of these other gentlemen, just happened to be passing by and dropped by to see you?

A. He dropped in. He said, "I happened to be driving by, had dinner down here and dropped by to say hello." He said hello and departed.

Q. Was anybody with him?

A. I think his wife was in the car. She didn't get out.

Q. When was this?

A. I think just before the trial. I mean about a week previous to the trial, just before the trial begun anyway, maybe four or five days before the trial begun. [1308]

Q. Why didn't you tell us about that before?

A. Well, it was so unimportant, I believe it was

(Testimony of John H. Schomaker.)

so unimportant. He dropped in and said hello. He wasn't there over three or four minutes and he left.

Q. Are we to gather that you have omitted other people you considered unimportant?

A. I don't think I have, no.

Q. You decided it would be unimportant for the jury to know that Mr. Donohue had been down there and you omitted him?

(Mr. Donohue arose.)

The Court: Objection sustained.

Q. (By Mr. Hallinan): So about a week before the trial Mr. Donohue dropped in. Do you mean a week before you appeared or a week before the date the trial was first set for?

A. I say now approximately a week before the trial began, before the opening date of the trial.

Q. The trial began on the 14th of November and that would be about the 6th of November, the Sunday preceding the week before the trial?

A. It was a holiday. It may have been Armistice Day.

Q: What date was that?

A. The 11th day of November was Armistice Day.

Q. Which date was it?

A. I didn't set a specific date, because when a person drops in, you don't run to a calendar and check it down. This guy [1309] came about 2 o'clock and left at 2:15.

Q. Mr. Donohue dropped in. It may have been

Armistice Day or it may have been a day five or six days before that?

A. No, it wouldn't be that far. Around that period of time, the 10th or 11th, in that particular week, I would say. I don't know the exact date, no.

Q. What time of day was it?

A. It was late afternoon—I would say 4 or 4:30.

Q. Were you home at the time?

A. How could I see the guy if I wasn't home? Will you tell me that?

Q. Had you been working that day?

A. It was a holiday. I was home. I hadn't worked that day.

Q. Are you sure it was not Saturday?

A. It could have been Saturday or it could have been Armistice Day.

Q. Or it could have been Sunday, November 6?

A. I don't know if it was Sunday, November 6, or not. [1310]

Q. Could it have been as far back as October the 30th? A. Why, certainly.

Q. What is that?

A. Why—how could it be—it was the week previous to the trial, so how could it be any other date than that particular week?

Q. Well, the 11th isn't a week previous to the trial, but only three days previous.

A. I said the week previous.

Q. It was in the week previous to the trial?

A. That's correct.

(Testimony of John H. Schomaker.)

Q. But you can't tell us what day it was, except that you know that it was a holiday?

A. And I was home, yes.

Q. Now, could it have been the 13th? That would be the day before the trial.

Mr. Paisley: Your Honor, shouldn't counsel be required to state to the Court what his purpose is in this lengthy cross-examination about obviously immaterial matters?

Mr. Hallinan: I think the Court sees the purpose, and it is always held in cross-examination counsel not be required to state a purpose.

Mr. Paisley: Well, he could come to the bench and state it. Your Honor, the jury's time is worth something in this case.

Mr. Hallinan: I think His Honor sees it just about as well as anyone does. [1311]

The Court: Well, whatever I may see can not be ascribed to me by you, Mr. Hallinan, alone. I may describe whatever I may see personally and individually.

Mr. Hallinan: I don't see any reason why I should go up to the bench and whisper.

The Court: There is no reason at all. If you state you have legitimate purpose, to me, you may continue.

Q. (By Mr. Hallinan): Now I take it he came in an automobile?

A. It was a black automobile.

Q. And where did he park it, as far as you were able to observe?

A. Parked it in front of the house.

Q. Did he come into your house?

A. I think I was taking a shower when he came in.

Q. I say, did he come into your house?

A. I was taking a shower, and I heard my wife speaking to someone in the kitchen and she said, "John, come out here." I said, "Let's take it easy; I am taking a shower. I will be out there as soon as I get ready." And I continued to take the shower, and she shouted again, "Come out here, someone to see you." I said, "Just take it easy, I will get out there when I finish." So after I had finished, I walked out and there Mr. Donohue was sitting in the kitchen.

Q. And how long did he remain there?

A. Well, it was only a few minutes. He said, "I just came in, [1312] happened to be down this way."

Q. How many minutes did he stay there after you got out of the shower?

A. Well, I say, if I had a stop-watch I would have——

Q. No, give us an estimate.

A. Oh, it wasn't over five, ten minutes at the very most.

Q. He told you he just happened to be down there and dropped in to see you?

A. Exactly what he said, yes.

Q. All right. Now, was that the first time you had ever met him?

(Testimony of John H. Schomaker.)

A. Why, certainly not. He was at the grand jury.

Q. Well, was the grand jury session the first time you ever met him?

A. I think it was, yes.

Q. Was he present at the time that you gave the statement on the night preceding your appearance before the grand jury?

A. No, he wasn't, no.

Q. And the night that the grand jury met, at what time did you meet Mr. Donohue?

A. The night the grand jury met?

Q. Yes, the night you testified before it.

A. It was no nighttime.

Q. Was it in the daytime?

A. It was in the daytime. [1313]

Q. All right. What time did you testify?

A. I think it was in the afternoon, if I recall, if I—I think it was around 2:00 o'clock in the afternoon.

Q. Do you know what day of the week it was?

A. Well, as close as I can recall, it was either a Tuesday or a Wednesday.

Q. All right. And how long prior to going to the grand jury room, if at all, did you meet Mr. Donohue?

A. I didn't meet Mr. Donohue that day at all. I didn't know Mr. Donohue from a—anyone else, any other stranger.

Q. So when you went into the grand jury room, you had not yet met Mr. Donohue, is that right?

(Testimony of John H. Schomaker.)

A. Well, even when I got in there, I didn't know who Mr. Donohue was.

Q. And then after the grand jury, after your testimony had finished to the grand jury, did you then meet Mr. Donohue?

A. No, I did not meet, after I testified, I did not meet Mr. Donohue.

Q. So then you never met Mr. Donohue except on the one occasion that he dropped in at your house at Menlo Park a week or so before this trial opened, is that right?

A. Well, when he was at the grand jury hearing, why, he questioned me, yes. I met him then.

Q. But then you didn't stand and talk with him, have any personal interview with him on that occasion, did you? [1314]

A. No, no, I had no personal——

Q. How long were you in the grand jury room with Mr. Donohue?

A. Oh, I would say about 45 minutes, somewhere in that length of time. I wouldn't pin it down to so many minutes, but it was around 45 minutes.

Q. And Mr. Donohue, of course, was in the room during all that time with you?

A. Well, along with me and the other people, 20 or 30 people that were in there.

Q. But then when your testimony was finished, did you leave immediately?

A. Leave the room?

Q. Leave the building. Did you return home?

(Testimony of John H. Schomaker.)

A. Well, I think I went down to another room and then——

Q. What room?

A. And then my wife she went in to testify.

Q. Did your wife testify, too?

A. Yes, she went into the grand jury room, yes.

Q. I see. And how long was she in there?

A. Oh, I wouldn't say. Now, wait a minute. That is incorrect. I was recalled then after—I appeared before the grand jury twice. That is how this thing occurred. That is, the second time—after Mr. Andersen and B. B. and Slim Melin come down, then I was recalled to the grand jury, and that is when my wife accompanied me on the second visit. [1315]

Q. I see. Now, how long was that after you first appeared, after your first appearance before the grand jury?

A. Well, as close as I can—let's see; as close as I can recall, the second visit to the grand jury occurred, I would say, about a week after my first appearance.

Q. All right. Now, in the second appearance, how long were you in the grand jury room?

A. Oh, I would say about 20 minutes.

Q. About 20 minutes?

A. Approximately 20 minutes.

Q. Now, had you met Mr. Donohue before going in on that occasion? A. No, I did not.

Q. Did you meet him afterwards?

A. No, I did not.

Q. Now, when you went to the grand jury room on the first occasion, how did you get there? Did somebody drive you up as usual, one of these agents?

A. Yes, I stayed at the Cartwright Hotel. That is the hotel I couldn't think of yesterday. The Cartwright. And I was driven over here in a Yellow taxicab.

Q. And when did you arrive at the Cartwright Hotel? A. When?

Q. Yes, preceding your testimony before the grand jury.

A. That was the night before I came in on the train. [1316]

Q. I see. You came up on the train on that occasion, is that right? A. That's correct.

Q. And you stayed at the Cartwright Hotel?

A. That's correct..

Q. But before staying for the night at the Cartwright Hotel, you had appeared and given the 22 page statement that you testified to, isn't that right?

A. That's correct.

Q. And where was that statement given?

A. At the—yes, I couldn't recall the name, but today I recall it, it was the Cartwright Hotel on Sutter Street.

Q. And was the statement given there? Yes, the statement was given at the Cartwright Hotel, wasn't it? A. That's right.

Q. And did you stay at the Cartwright Hotel also on that occasion? A. I did, yes.

Q. And what room did you have there?

(Testimony of John H. Schomaker.)

A. I don't recall what room it was. I mean, the number. No, I don't recall the number.

Q. Did you rent the room yourself?

A. No, I didn't.

Q. Whose name was the room in, do you know?

A. I do not know. [1317]

Q. Who showed you the room?

A. Mr. Kaiser said, "Here's where you are going to sleep tonight." And I tested the bed and it seemed O.K., so that was O.K. with me.

Q. That was his room also?

A. I do not know.

Q. Did anybody occupy the room with you that night?

A. No, nobody did. In fact, I was routed out of bed in the morning, because a stenographer was using it as an office in the daytime.

Q. I see. All right. Now you came up on the train and went to the Cartwright Hotel that night; that is, the night preceding the testimony before the grand jury? A. That's right.

Q. And then you testified before the grand jury, and how did you get home after testifying before the grand jury? Were you driven down there? Did you get down on the train or what?

A. Oh, I left here and I went back on the train. I went over and saw a movie and then went home.

Q. Now, when you returned the next time to testify before the grand jury, how did you arrive? How did you come to San Francisco?

A. Well, my wife accompanied me that time and

(Testimony of John H. Schomaker.)

they—I am trying to think. I had to think about what we did with the children that particular day. Whether we brought them along [1318] or did we leave—I can't—trying to think what we did with the children. And we drove in. Yes, we drove in and left the children with—no, that's—they sent a car for us and we came in in the automobile of the government, that the prosecution had down there.

Q. Who drove that car?

A. Mr. McGowan, I believe.

Q. Was he alone?

A. Well, he wasn't alone after we got in the car, no.

Q. When he came down there, was he?

A. When he came down, alone, yes.

Q. All right. And who drove up in your car, just you and the wife?

A. The wife and I, yes.

Q. What about the children?

A. Well, the woman across the street, she took them that particular day, as we exchange back and forth.

Q. And then what time did you go back home again that day?

A. We went back, it was dark, and I remember that the children were asleep and we had to carry them across, that is, had to waken them and bring them home with us.

Q. Who took you back?

A. Oh, Mr. McGowan.

Q. Now, do you remember what time of the day

(Testimony of John H. Schomaker.)

that you got to the grand jury room that day? [1319]

A. It was the—I would say right after lunch.

Q. And what time do you mean by that?

A. Well, 12:00 o'clock—it was about 1:00 o'clock, I would say, or 1:30, or something like that.

Q. And what time did you leave the grand jury room, you and your wife?

A. Oh, it was early in the afternoon.

Q. About what time? A. Well, 2:30 or so.

Q. Now, where were you from that time until the time you started for home?

A. Well, as I say, we went to a show and we had dinner, and we met Mr. McGowan and by appointment he drove us home.

Q. Mr. McGowan wasn't with you at dinner?

A. No. We had to do some shopping.

Q. Or none of the officials of the government?

A. No, we were alone in the afternoon.

Q. Now, prior to your appearance—on the second appearance before the grand jury, you say that that was after B. B. Jones and Ralph Melin, is that his name? A. No, Slim Melin.

Q. Slim Melin and George Andersen?

A. That is George Andersen.

Q. Had called upon you?

A. That's right. [1320]

Q. They had called upon you shortly after your appearance, your first appearance before the grand jury, is that right? A. That's right.

Q. And how long had you known Mr. Melin?

A. You mean Slim?

(Testimony of John H. Schomaker.)

Q. Yes.

A. Why, he is a boss on the waterfront. I have known him since 1933.

Q. And how long had you known Mr. Jones?

A. Oh, I have known B.B. since the middle of the depression, 1931.

Q. And how long had you known Mr. Andersen?

A. You mean George Andersen? That is the attorney. Well, I knew George—well, about since 1932 or so.

Q. Now, after they left your place, what did you do, phone to some government agent and tell him that they had been there?

A. What did I do? I didn't do anything.

Q. I say, did you phone to some government agent and tell them those three men had been there?

A. No, no, I didn't phone to anyone.

Q. Well, who did? Who did phone?

A. Well, listen. Your guess is as good as mine. The guys come down to visit me, I don't know who did phone to them or didn't.

Q. No, I say—after they left you phoned to someone didn't you? [1321]

A. I certainly did not.

Q. Didn't you phone to one of the government officials and tell them that those three men had been there to visit you? A. I did not, no.

Q. Well, do you know how you happened to be recalled to the grand jury to testify about that visit?

A. Well, don't ask me how I happened to be called. I can't stop George Andersen from giving

(Testimony of John H. Schomaker.)

a statement to the press or anyone else.

Q. Well, who asked you to come back up and testify again before the grand jury?

A. Who asked me?

Q. Yes.

A. Why, they told me that I was going to be subpoenaed before the grand jury again.

Q. And were you given a subpoena?

A. Not in that sense, no. I wasn't given an actual subpoena, but they come down and told me I was going to appear.

Q. Who came down?

A. I told you, Jack McGowan came down.

Q. Well, you said they came down.

A. Well, I mean, they is—as I say, I had no legal background. I can't distinguish—

Q. And how long between Mr. Andersen, Melin and Jones had [1322] left, did Mr. McGowan show up?

A. Why, he never did show up until the next—well, I think he appeared on a Sunday, and George Andersen gave the statement to the press on Monday, and I guess McGowan showed up about Wednesday, I would say, or Thursday, that week.

Q. And then you went back and testified before the grand jury about the visit of these three gentlemen to your house, is that right?

A. They asked me questions about the visit, yes, and I answered truthfully.

Q. Now, in the meantime, had you met anybody else connected with the prosecution, between those

(Testimony of John H. Schomaker.)

two visits to the grand jury?

A. Between the visit of Andersen?

Q. Yes. A. And the visit of McGowan?

Q. Yes. A. No.

Q. All right. Now, who were the persons that you spoke to, who were the next persons you spoke to connected with the government, next preceding the visit which resulted in your coming to San Francisco to testify before the grand jury the first time?

A. You mean, that would be the visit of Boyd and Kaiser?

Q. Well, I don't know. Was that who it [1323] was?

A. Well, Sunday, yes; the Sunday previous to my appearance in the grand jury was Boyd, Mr. Boyd and Mr. Kaiser.

Q. All right.

A. And then preceding that was the visit of Mr. Barbour and Mr. Kaiser.

Q. All right. Now, how long before Boyd—Mr. Boyd and Mr. Kaiser called, did Mr. Kaiser and Mr. Barbour call?

A. Well, Mr. Kaiser and Mr. Barber did not call together, it was Mr. McGowan and Mr. Barber.

Q. You just said Mr. Kaiser and Mr. Barber?

A. I am sorry; I made a mistake; I am sorry.

Q. Well, how long prior to Mr. Boyd and Mr. Kaiser calling, did Mr. McGowan and Mr. Barber call?

A. Well, as I say, I don't recall the exact time, but it was 30 days or so.

Q. Well, now, let me ask you this: Prior to your

(Testimony of John H. Schomaker.)

statement the night preceding the testimony before the grand jury, had you given any of those gentlemen another statement?

A. If I had given a statement prior to the statement I give to——?

Q. Yes. A. Why, no, I did not.

Q. You had never written out, you had never signed any written statement, is that correct?

A. I had signed written statements, yes, but not prior to that particular one, no. [1324]

Q. No. Prior to the one—the one on May 15th or May 14th, you had never signed any written statement, is that right, to the Government on this subject?

A. No, not that I can recall, any at this particular time, no.

Q. Were you ever shown any that you were alleged to have signed?

A. No, sir, I never was shown any statement. In fact, the other statements that I did sign I only saw the day I signed them. I haven't seen them since. Maybe they are not in existence even. I don't know.

Q. Now, in addition to the one that was signed on May 15th and the one that was signed in October, have you seen any other statement?

A. Well, in this statement, that extremely long one, there was supplements—you know what I mean, they were written——

Q. Well, you spent three days, three evenings, rather—October 15th, 16th and 17th, we took to be the days? A. Yes.

(Testimony of John H. Schomaker.)

Q. Now, subsequent to that time, have you signed other statements also?

A. No, except the one the night——

Q. Except what?

A. I say, that one statement I signed on what you call May 15th. I signed that statement, yes.

Q. But no other than those? [1325]

A. Well, I say, not to my knowledge, my memory, that I can recall at this particular time, no.

Q. Well, now, dropping back from the time that Mr. Boyd came to see you before your appearance before the grand jury, that being preceded by a visit from Mr. McGowan and Mr. Barber, how long prior to that had somebody been to see you last, connected with the Government?

A. Well, I don't—I didn't space these visits, or I didn't exactly——

Q. Well, approximately.

A. Well, approximately, it would be more or less a guess. Any more than a friend, maybe a friend drops in now and then. That is the way these people dropped in, occasionally.

Q. Can you tell me about how long prior to the visit, the Sunday visit of Mr. Boyd and Kaiser, Mr. McGowan and Mr. Barber had called upon you?

A. Well, I would say it was not less than 30 days.

Q. About 30 days?

A. I said not less. It may have been more, I don't think it was any less.

Q. All right. Well, then, that would take it back to some time around April, around April 10th or so.

(Testimony of John H. Schomaker.)

Now, how long prior to that had it been that somebody from the Government had called upon you?

A. Well, I am trying to explain that from September, or August, [1326] rather, to the present time, it was maybe six or seven visits.

Q. All right. Well, then, let's go back to September, 1948, before you moved to this new house. Where were you living prior to that time?

A. On MacKendrie Drive.

Q. MacKendrie? A. MacKendrie Drive.

Q. Where is that, what town?

A. The post office address is in Palo Alto.

Q. All right. And you moved from there in September, 1948. Now, how long prior to your moving from there had any government agent or official called on you?

A. Well, we lived in MacKendrie Drive, there was two people came down, Mr. Phillips and some other person, and they visited us while we lived there.

Q. What was the other person's name?

A. I can not recall it.

Q. And how long did they stay?

A. Oh, I would say about an hour and a half.

Q. Now, do you know what department those gentlemen were connected with, or did they tell you?

A. Well, as I say, we were out and they left their card in the mail box. And it said, I think, "Immigration and—"; I believe it said "Immigration and Naturalization Service."

(Testimony of John H. Schomaker.)

Q. And then you called up Mr. Phillips, did you? [1327]

A. Well, I didn't; my wife did.

Q. And he came over to see you?

A. And he made an appointment and came out one evening after I came home from work.

Q. And he had a talk with you, did he?

A. Oh, we had a discussion, yes.

Q. Did it relate to Harry Bridges?

A. Well, I don't—we discussed so many things.

Q. Did they ask you anything about Harry Bridges?

A. I know they asked me about my—if I was ever a member of the Communist Party. I remember that.

Q. Did they ask you anything about Harry Bridges?

A. That is what I am trying to recall. And there were so many things discussed, it was a general conversation. And whether or not they asked me about Harry Bridges, I couldn't answer that.

Q. Now, that was sometime in April, 1948, you think, is that right.

A. Oh, no, it was, I would say, in May or June of 1948.

Q. I see. And from that time, from May or June, 1948, up until you moved to the other house, no other government agents called upon you, from that visit up until you moved, is that right?

A. Anything prior to that, no; no one ever had talked to me.

Q. No, I say subsequent to that. Not prior to that, prior to [1328] May or June, 1948, had any government agent called upon you?

A. You mean before that?

Q. Yes. A. No.

Q. None at all? A. None at all.

Q. You had never discussed with any other government agent, except, let us say, back in 1940 or '41, when you were up to that office, the matter of Harry Bridges, is that right?

A. Well, at that particular time I can't recall of any discussion I had with any government agent prior to that. I can not recall it at this particular time, no. [1329]

Q. (By Mr. Hallinan): Prior to the time, then, that Mr. Phillips left his card, in May or June, 1948, no Government agent had called upon you in any connection, is that right?

A. In any connection? That is pretty broad. I don't know—you have got to explain what a government agent is. Maybe some Post Office——

Q. I don't mean that. I mean some person who came down to question you either about Communist affiliations of your own or anything connected with Harry Bridges, Henry Schmidt or Bob Robertson.

A. As I say, I cannot recall any at this particular time, no.

Q. Now, you say that you never had any conversation with Mr. Donohue of any kind except that he questioned you before the grand jury, is that right?

A. When I walked in the grand jury?

(Testimony of John H. Schomaker.)

Q. Yes.

A. The gentleman was standing there. I didn't know who he was.

Q. Two days thereafter Mr. Donohue dropped in your house one Sunday afternoon about a week before this trial, to say hello, is that right?

A. That is right.

Q. Didn't you sit down and talk with him then?

A. I did not, no.

Q. You had no conversation with him then up to that time, [1330] had you?

A. Not that I can recall, no.

Q. Have you had any conversations with Mr. Donohue since that time.

A. Since the grand jury, you mean?

Q. No, since the day he dropped in at your house, about a week before this trial?

A. I see him every day now since I have been up here.

Q. But you have not had any conversations with him, is that right?

A. Certainly I have had conversations with him.

Q. About the facts of this case?

A. We have discussed the case, yes.

Q. When was the last time that you discussed the case with him?

A. I think this morning when he came into his office.

Q. What time was that?

A. What time did he come there?

Q. No, what time did you have the discussion?

(Testimony of John H. Schomaker.)

A. Oh, it was a short discussion. That was when he mentioned the fact that he thought Mr. MacInnis was a smarter man than Mr. Hallinan.

Q. That was this morning?

A. That was this morning, yes.

Q. About what time? [1331]

A. I would say—I was there about ten minutes to nine, and he must have—about 9:15, I would estimate, somewhere in that period of time.

Q. You got there about ten minutes to nine?

A. Somewhere around nine o'clock, yes.

Q. Did you remain in that office until you appeared here in court to testify?

A. I think I went out in the hall.

Q. Were you talking to any of the officials or men connected with the Government during that time?

A. Well, I talked with Mr. Donohue, I talked to Mr. Paisley, I talked to Mr. Boyd, I talked to Mr. Kaiser.

Q. Did you talk to them about this case?

A. Why, naturally, we mentioned the case.

Q. Did you talk to them about any of the facts that were being testified to in the case?

A. Concerning my testimony?

Q. Yes.

A. I don't think so. It was a general discussion.

Q. You say "I don't think so." Do you remember?

A. I do remember. But you say "facts." Well, maybe your definition of a fact is different from my definition of a fact.

Q. Have you had any other conversation with Mr. Donohue from the time that he saw you in your home about a week before the trial up to the present time aside from the one that you had [1332] this morning?

A. I say every day I speak to him.

Q. Let us take yesterday. Did you have a conversation with him yesterday?

A. I would say yes; every day since I have been here.

Q. Where did you have a conversation with him yesterday? A. In the office.

Q. At what time?

A. Well, it was in the morning, again in the evening.

Q. What time did you have it in the morning?

A. It had to be before ten o'clock, between nine and ten.

Q. What time did you get to his office?

A. It was around nine o'clock.

Q. Did you see him at that time?

A. To have a conversation with him, I certainly must have seen him.

Q. At nine o'clock he arrived, is that right?

A. I wouldn't say nine o'clock. It was around there, yes.

Q. Dow long did the conversation last?

A. I know one thing, I am going to keep a stopwatch on this conversation angle after this.

Q. Yes.

(Testimony of John H. Schomaker.)

A. About ten minutes, I would say. I don't know.

Q. Only ten minutes? A. Yes. [1333]

Q. Did it relate to any testimony that you were going to give here today?

A. No, I don't think it did. No,—because he doesn't know what testimony I am going to give, I don't think, or no one else does.

Q. Then you had another conversation with him in the evening, you say? A. I think I did, yes.

Q. What time did that conversation take place?

A. Court adjourned around 4 o'clock, 4:15. I went upstairs and my wife was there and we had a little conversation.

Q. How long did you stay there?

A. We didn't stay there very long. What I mean by "long," I would say from—I left there 20 minutes to 5 or so.

Q. All right. Now, the day prior to that did you have a conversation with Mr. Donohue?

A. That would be Monday, wouldn't it?

Q. Yes. A. Sure we did.

Q. When?

A. In the morning and again in the afternoon.

Q. You got there at nine o'clock?

A. Around nine o'clock.

Q. How long did you talk to him then?

A. You know—I said "Good morning." He said, "Good morning. [1334] How well you are looking, looking fine."

"Did you sleep well last night?"

"I did."

"What do you think of Mr. Hallinan?"

"I think he is a very smart guy." And "I don't think he is a smart guy."

Q. I am not complimented.

A. I am telling you how we talked. You are asking me and I am answering you. That is all I can do.

Q. How long did the conversation last?

Mr. Paisley: Your Honor, I guess he is still promising us he is going to show us where this is material.

Mr. Hallinan: I am entitled to inquire in the conversations he has had with adverse counsel.

Q. What is your answer on that?

A. Will you please restate the question?

Q. You say you had a conversation with him Monday morning before court starting at nine o'clock. How long did the conversation last?

A. I would say ten minutes.

Q. Then did you have another conversation with him in the evening after court?

A. Naturally I did.

Q. For how long did that conversation last?

A. It wasn't very long. I don't think I am that important [1335] that he is going to stop and discuss the legal aspects of this case. He said—maybe ten minutes, that is all.

Q. What did he say? You are what, "doing very well"? "Keep it up"? Something like that?

A. He said, "I have seen better witnesses and I have seen worse."

(Testimony of John H. Schomaker.)

Q. I want to read you just a short excerpt from your testimony this morning, and I asked you if you had a discussion with any of these gentlemen last evening, that is, yesterday, after you had finished testifying here, and you said you did. Then I asked you these questions——

Mr. Paisley: I think that is improper, your Honor. Shouldn't he be required to ask the witness, "Didn't you testify so-and-so on such-and-such an occasion"?

The Court: You might address him with respect to the record.

Q. (By Mr. Hallinan): In answer to these questions did you not give these answers: I think that is also another formal way of putting it. This is from page 1228 of this morning's testimony:

> "In the conversation you had with these gentlemen last night you discussed matters concerning what you had testified to, did you?
>
> "A. (By you): Well, I imagine we must have. I don't recall any particular incident, but I would say they [1336] might have referred to them. I don't know.
>
> "Q. You may have referred to them?
>
> "A. I don't know.
>
> "Q. You aren't sure?
>
> "A. Well, I wouldn't—I wouldn't depend on it. I say I wouldn't swear my life on it. But I talked to them, referring to any particular incident."

(Testimony of John H. Schomaker.)

That was your testimony this morning, wasn't it?

A. Well, if you are reading from the transcript, it certainly must be.

Q. Don't you remember yourself that you gave that testimony?

A. I say if you are reading from the transcript, that must be my testimony.

Q. Aside from my reading it, do you remember so testifying?

A. It sounds very much like my language, yes.

Q. Forgetting that you do not remember Larry's first name or the name of the man who accompanied Mr. Phillips or any of those other things that happened, I want to read you some testimony that you gave on Monday, November 28, and ask you whether or not you now remember in answer to these questions giving this testimony:

> "Mr. Donohue: Will you tell us what the instructions were which you received.
>
> "A. Pardon me."

This is back in 1936, thirteen years ago. [1337]

The Witness: That is a long time all right.

Mr. Hallinan: Thirteen years ago. Now listen to this:

> "Well, Walter Lambert told us to proceed to Grants Pass and to be parked in the courthouse square at twelve o'clock noon and there someone would come and direct us where to go.
>
> "Q. (By Mr. Donohue): Will you tell us if you recall about what time of day you left San Francisco?

(Testimony of John H. Schomaker.)

"A. We left about—it was around 9:30. It was about 9:30 in the morning.

"Q. Now, how did you proceed to Grants Pass?

"A. Well, I met Bridges at 11th and Mission Streets. There is a service station there. I was picked up and we proceeded to drive in a Ford, a V-8 Ford. It was a coach model with only one door on each side, and we drove to Grants Pass, Oregon."

skipping a page.

"Well, as I say, we ran into a hailstorm and we had to stop while the—was it the meteorological or whatever it was, this hailstorm stopped, and after it stopped we proceeded, and then at night we stopped at one of those roadside cabins and stayed there that night and proceeded on the next day.

"Q. Now, what occurred when you reached the point to which you had been directed? [1338]

"A." ——

Mr. Paisley: Your Honor, what is this, a filibuster, or is he asking a question? He is reading some of his testimony given——

Mr. Hallinan: I am going to ask his explanation for his keen recollection of such events thirteen years ago contrasted with his inability to remember a subject this morning.

Mr. Paisley: He can argue that to the jury.

(Testimony of John H. Schomaker.)

The Court: The objection is sustained. The question is argumentative.

Mr. Hallinan: I want to ask him if he made this statement.

The Court: He did; he conceded he did.

Mr. Hallinan: He has not heard it yet, Judge.

Mr. Paisley: On that theory, your Honor, he could read his entire testimony.

Mr. Hallinan: Yes, I think we could.

The Court: The witness said if it be reported, if it is contained in the transcript, he concedes he made it. Correct?

The Witness: That is absolutely correct, your Honor.

Mr. Hallinan: You said originally in your cross-examination that you did not have any memorandum of these events that you have testified to, isn't that right?

A. Do you mean if I had any memorandum on my person?

Q. Yes. [1339]

A. Why, certainly I haven't.

Q. And you did not have any memorandum that you had read, isn't that right?

A. If there is any memorandum I have read?

Q. Yes.

A. Why, no, there isn't any memorandum I have read.

Q. And you said nobody had refreshed your recollection as to the events, no third person, isn't that right?

(Testimony of John H. Schomaker.)

A. I don't think that is correct, no.

Q. And you said that you were testifying from your recollection, your own independent recollection, didn't you?

A. Well, let us get this straight now. I discussed this with other people.

Q. Let me ask you this: Did anybody tell you to say this: "Well, we pulled up into the courthouse square in Grants Pass and we parked and some fellow came alongside, just looked at us and said, 'Follow me' and we followed him." Now, did you remember that incident, or did somebody tell you to say that, or were you just making it up?

A. If anyone told me to say it, it would be Mr. Harry Bridges, because he and I and this third party were the only people there. How could anybody tell me to say that?

Q. So you remember this from your own recollection?

A. I certainly do, and I remember a lot of other things, too.

Q. Did you remember this without any memorandum: [1340]

> "Q. And where did you go?
>
> "A. Well, we drove out of Grants Pass. It wasn't very far, two or three miles, I imagine, and we came to, oh—turned into a lane and parked the car at this farmhouse under a big tree, parked the car and stopped."

Did you remember that of your own recollection?

(Testimony of John H. Schomaker.)

A. I certainly did.

Q. And then did you remember this of your own recollection:

> "Mr. Donohue: Mr. Schomaker, can you tell us what conversation took place among you four persons at the time and place you have just stated?"

And this, as I say, sir, is thirteen years ago.

> "A. Well, as I say, we pulled up to the lane and parked under this tree, and I got out on the right side and Bridges got out on the left, and we walked around the car."

Did you remember that of your own recollection?

A. He was more left that I was, I guess.

Q. You remembered that of your own recollection, did you? A. I certainly did.

Q. "And Rappaport and Bert Nelson came toward us, and Rappaport, the first thing he said was, 'Well, you old wolf. I see you made it.' "

A. That is what he said.

Q. You remember Mr. Rappaport saying [1341] that? A. I remember it very distinctly.

Q. You remember the two men coming toward you and that Mr. Rappaport said that?

A. I certainly do.

Q. And then do you remember this:

> "Everybody left. I didn't know what he was supposed to make, but everybody left, and then Bridges says, 'Well, how's things in the Northwest?' "

Do you remember his saying that?

A. I do.

Q. " 'Oh' he says, 'everything is fine. Didn't we elect a new president of the ILA?' "

Do you remember saying that?

A. That is the reason I remember that incident, because, after all, after that long, hard struggle we had, at last we elected Bridges president of the ILA. That is why I remember.

Q. That is not what I asked you. Do you remember that having been said at that time, that language?

A. That is the reason why I remembered it.

Mr. Paisley: The witness has a right to say why he remembers it.

The Court: He stated the reason.

Q. (By Mr. Hallinan): Then do you remember this: "And then he says, 'Yes,' he says, 'but the guys at Tacoma'—and Rappaport again says, 'Yes, but the guys at Tacoma aren't [1342] satisfied and they are making things kind of tough up here for us.' " Do you remember Mr. Rappaport saying that?

A. Would you be satisfied after you lost your district secretaryship as Patty Morris did? Would you be happy over it?

Q. Do you remember making that statement: " 'Yes, but the guys in Tacoma aren't satisfied and they are making things kind of tough up here'."

A. And the guys in Tacoma are still making things tough for Mr. Bridges.

Q. I asked you, did you remember Mr. Rappaport making that statement?

A. Yes, I recall that, yes.

Q. After these thirteen years?

A. Yes, I do.

Q. "So then he says"—now, let's see if you remember his saying this: " 'How about Bert here?' " he says. " 'I don't think you have met Bert, one of our—he is section organizer on the waterfront in Seattle.' " Do you remember Mr. Rappaport making that statement?

A. Yes, because that was the first time I had ever seen Bert Nelson.

Q. "So he introduces Bert to Bridges and myself and then we walk over. There was a chicken house there, and walked over into this chicken house"——

Mr. Paisley: Your Honor, this has degenerated into [1343] an argument between counsel and the witness as to how he can remember.

Mr. Hallinan: I just asked him if he remembers these things of his own recollection. The Court and jury can compare those with the manifest deficiencies in his recollection of the things that happened in the last few hours.

Mr. Donohue: That is unfair.

Mr. Hallinan: I want to know if he remembers these things or he is just giving some reviewed stories.

Mr. Donohue: I object, if your Honor please, and I ask your Honor to instruct the jury to disregard

Mr. Hallinan's improper suggestion that there are manifest differences in his ability to remember.

The Court: I think the jury understands, up to this point at least, my earlier admonition in this case that the discussions of counsel on the admissibility of evidence may not be regarded by you as testimony or as evidence, and any characterization by Mr. Hallinan may not be regarded by you as evidence in this matter. The evidence is elicited through the witness. You are the sole judges of this man's credibility as well as the credibility of every witness in this case. I need say no more on that score. I think that is clear and well-defined admonition: I have said it now three or four times. I see no occasion to repeat it, unless there be some specific reason underlying the request. I shall permit Mr. Hallinan [1344] to continue on this one extra question. Have you one other matter?

Mr. Hallinan: Yes, there is one, and then I will finish.

The Court: Then we will take a recess.

Q. (By Mr. Hallinan): Can you relate to us at this time any portion of the discussion—you understand, Mr. Witness, what you are now being asked for is a discussion that took place between you, Mr. Bridges, Mr. Rappaport, and Mr. Bert Nelson, in Grants Pass, Oregon, more than thirteen years ago. You understand that, don't you?

A. I understand it very well, yes.

Q. When you gave this answer were you stating this from your recollection of the events as you sat on that witness stand:

> "A. Well, yes. The discussion was around the question of determination of the waterfront agreements with the employers, and Rappaport particularly stressed the fact that the people at Tacoma, that is, the longshore group in Tacoma, were rather hostile to the way the elections went. That was the first year that the rank and file had a chance to vote for the district officials, and the result was that the old-line officers were butted out and the so-called progressive militants were put into office, and he says, 'I think they are going to cause considerable trouble when the agreement terminates, particularly among the seafaring crafts,' and we discussed ways and [1345] means to bring that about, that is, the Northwest maritime groups, closer to the California and Southern California groups, and that was the extent of the discussion, what was needed to be done, to do it, at my—well, that was the general text of the discussion along those lines."

Do you remember that conversation taking place up there at that time?

A. Could anyone not remember the depression days and the hunger and starvation that existed in the country at the time? That is the reason——

Q. Will you please answer the question I am asking you.

A. That is what I am answering. I am answering that certainly I remember that, because after all this struggle that we had had, since 1933, in organizing the union and fighting the people who were using the organization not for the benefit of the membership but for themselves, and the struggle that we had to get a rank and file vote, to get people who were progressive and militant, we won that in the conventions and we had Bridges elected, why certainly I remember it. How could I forget it?

Q. That was thirteen years ago and you do not remember whether Mr. Donohue came down to see you on the 11th or the 6th, the first, last and only time he was in your house, a week before you appeared here to testify; isn't that right?

A. I have friends—— [1346]

Mr. Donohue: I object to the question.

The Court: The objection is sustained. Argumentative.

Ladies and gentlemen of the jury, we will take the afternoon recess. The same admonition to you not to discuss the case.

(Recess.) [1346-A]

Q. (By Mr. Hallinan): Now, Mr. Schomaker, on the subject that I hadn't quite finished yet, you testified to certain instructions that had been given to you by Sam Darcy to convey to Harry Bridges, and pursuing that a step further, you also gave this testimony. Now, see if you can remember this:

(Testimony of John H. Schomaker.)

"Will you tell His Honor and the members of the jury what instructions you carried to the defendant Harry Bridges from William Schneidermann?"

Answer: "Practically of the same nature."

That follows the discussion of the instructions that you carried, if you did carry them, from Mr. Darcy to Mr. Bridges. Now, do you remember any instructions that you carried to the defendant Harry Bridges from William Schneidermann?

A. You mean personally, personal instructions?

Q. Yes. A. Why, yes, I do.

Q. All right. Well, now, will you tell us what you said to Harry Bridges in delivering such instructions?

A. Well, in one particular case that I can recall, I was living on Pine Street then, and it had to do with—there was a thief on the waterfront about the Grace Line ships. Something, I think it was the Californian, loaded with hot cargo, and it avoided, I think this is the instance. Now, maybe—I mean, that started this trend of events to work. And it skipped Pedro and came to San Francisco. And there was quite a beef [1347] about it. And it resulted in a stoppage of work. And so the Labor Relations Committee, Bill Marlowe and I think it was Frenchy Gallet, and some other older person I don't—I can't recall his name, he was on the Labor Relations Committee at that particular time. So they had a meeting with the employers and they

(Testimony of John H. Schomaker.)

signed a memorandum which called for, that the Central Labor Council of the American Federation of Labor here in San Francisco or, rather, the California—whether it was the California State Federation of Labor or the San Francisco Labor Council, should underwrite all the agreements signed by the ILA. So Bill Schneidermann or Walter Lambert brought word to me that—well, anyway, I am a little ahead of my story. Now, this memorandum was signed by Bill Marlowe and I am pretty sure it was Frenchy Gallet, and it was late at night when this meeting was held. And they signed it without bringing it back to the membership to discuss it, see. So it was late at night when they come out of the conference, and evidently—Bridges was president of the local at that particular time. He lived on Pine Street, too. So Marlowe, and as I say, the other members of the board, I can't recall any too clearly. Anyway, Marlowe came to my house. It was about 2:00 o'clock in the morning and he rung the bell. So I answered it and went out and it was a surprise to me to see Marlowe because he and I were on opposite sides of the fence. So I says—he says, "Come here, John; read this thing over." And I said, "Read what over?" And he says, "Read [1348] this memo and see if you can see anything wrong with it." So I put on some clothes and went over to Bridges' house. It was only two doors down. And so I read it and I saw this in there, where the agreement should be underwritten by the California State —either—well, anyway, Vandeleur was at the head

(Testimony of John H. Schomaker.)

of it. Now, whether he was president of the San Francisco Labor Council and later he was president of the California State Federation of Labor—now, whether it was the California State Federation of Labor should underwrite these contracts or not, I don't recall that. Well, anyway, he says, "Can you see anything wrong with them?" I said, "No." Well, I says, "It doesn't mean anything anyway." That in my opinion it wouldn't mean anything. So Bill said, "See? It doesn't mean a thing." Well, Bridges took the opposite view. So it created quite a furor, quite a bit of dissension, with Bridges saying it did, and as far as I was concerned, it didn't make much difference to me, in my opinion. So the next day Walter Lambert got wind of this and he saw me and says, "Get ahold of Bridges and let's discuss this memorandum." And I says, "O.K." So I got ahold of Bridges, and so that night at my house on Pine Street, Bridges and I and Bill Schneidermann discussed this memo. So that was one particular instance

Q. Well, now, here was what you testified to about carrying messages:

> "By Mr. Donohue: When Mr. Schneidermann took over in Mr. [1349] Darcy's place, did you carry any instructions from Mr. Schneidermann to Mr. Bridges?"
>
> Answer: "Not only did I carry instructions——."
>
> The Court: "Did you carry instructions?"
>
> Answer: "I did, yes."

"Mr. Donohue: Will you tell His Honor and the members of the jury what instructions you carried to the defendant Harry Bridges from William Schneidermann?"

The Answer: "Practically of the same nature."

Now, you have just told us of some meeting that took place in which you, Mr. Bridges and Mr. Schneidermann discussed the advisability of taking a certain position on a certain quarrel that some people had with one of the shipowners.

A. Well, it wasn't just that, it was more than that to it.

Q. Yes. But what I asked you is to tell us—you repeated that you did carry instructions from William Schneidermann to Harry Bridges of the same nature as the instructions that you said you carried from Sam Darcy to him. I asked you to tell us what you said to Harry Bridges in carrying that instruction from William Schneidermann to Harry Bridges. Now, do you understand the question? Do you understand what I am trying to get at? Or do you simply desire to evade it?

A. I am not evading anything, I am trying to answer to the best of my ability. As I say, you have one interpretation of instructions, and I evidently have another. [1350]

Q. Well, yes. Well, let me give you what interpretation there may be, so there is no misunderstanding.

A. Well, go right ahead.

(Testimony of John H. Schomaker.)

Q. From what you testified here at this time about carrying instructions, you attempted to make it look as though Mr. Bridges was taking some instructions from these persons and then carrying out a program in conformity with the——

Mr. Donohue: I object to the question.

Q. (By Mr. Hallinan): Now, what I want to do is find out if that be so, what were those instructions that were delivered. And you have failed yet to tell us what any one of them was.

The Court: The objection is sustained; argumentative, characterization of the witness' testimony.

Q. (By Mr. Hallinan): Now, you were a member of the Communist Party and you were also a member of the Longshore Workers Union, is that right?

A. Well, it wasn't a longshore workers' union, it was the International Longshoremen's Association.

Q. The ILA, whatever—All right. Mr. Bridges was a member of the ILA. That's right, isn't it?

A. And a member of the Communist Party.

Q. We will skip that for the moment. We will come to that. He was a member of the ILA, wasn't he?

A. And a member of the Communist Party, yes.

Mr. Hallinan: I will ask that be stricken out and the [1351] witness directed to answer the question, if the Court please.

The Court: What was the specific question?

Mr. Hallinan: I asked him if Mr. Bridges was

(Testimony of John H. Schomaker.)

also a member of the ILA. That calls for a yes or no answer.

The Court: Yes, the answer may go out..

A. Well, he was a member of the International Longshoremen's Association, yes.

Q. (By Mr. Hallinan): Now, Mr. Schneidermann was a member of the Communist Party, wasn't he?

A. He was a district organizer of the Communist Party.

Q. Was he a member of the ILA?

A. Well, not to my knowledge, he wasn't. Now there was honorary memberships given.

Q. But so far as now appears, Mr. Bridges denying that he was a member of the Communist Party, you were the only one who was admittedly a member of both organizations of those three, isn't that right?

A. Well, I wouldn't—I knew that Mr. Schneidermann was a member of the Communist Party and I knew that Mr. Bridges was a member of the Communist Party and I knew that I was a member of the Communist Party. And there we were, we all sit there and discuss this particular problem.

Q. And as a matter of fact, you did convey messages to Mr. Darcy, from Mr. Darcy, Mr. Schneidermann to Mr. Bridges, but only for this reason, that you were a member of both parties, the [1352] Communist Party and the ILA; Bridges was a member only of the ILA and Schneidermann and Darcy were only members of the Communist Party. So they sent the message through a third person who happened to be a member of both, isn't that right?

Mr. Donohue: I object to the question, if your Honor pleases; patently argumentative.

The Court: Yes, it is argumentative.

Q. (By Mr. Hallinan): Now let me ask you this question, too: At the time that this—well, withdraw that.

When you would have a message for Mr. Bridges from Mr. Darcy, I would like to know just what you did. You would go galloping off to Mr. Bridges and tell him that you had a message, or this instruction from Mr. Darcy, would you?

A. Why, no, you have got entirely the wrong picture of it. The decision of the Communist Party would be made and because I was responsible for the Communist Party work on the waterfront, why, I expected all the Communist Party members to carry out those decisions, and because Mr. Bridges was a member of the Communist Party, he had to carry out those decisions, too.

Q. So then you transmitted those decisions to Mr. Bridges?

A. And Mr. Bridges and other members of the Communist Party who didn't attend any meetings where any decision was made.

Q. Yes. And then I suppose you would go galloping back to Sam Darcy or William Schneidermann and say, "Tovarich," meaning, "It is accomplished," or something like that, is that right? [1353]

Mr. Donohue: I object, if Your Honor please;

(Testimony of John H. Schomaker.)

his supposition is unimportant, it is purely argumentative.

The Court: Does he understand the definition of "Tovarich"?

Mr. Hallinan: I asked him if that is what it meant.

Q. Is that what it means?

A. I can't speak any foreign language; I can barely speak the English language.

Q. Let me ask you this, or whether you know whether the telephone was invented and it was in use at that time.

Mr. Donohue: Objected to, if Your Honor pleases; it certainly has no bearing.

The Court: Sustained.

Q. (By Mr. Hallinan): Do you know any reason, do you know whether Mr. Darcy or Mr. Schneiderman was able to use the telephone or had a telephone?

Mr. Donohue: Object, if Your Honor pleases.

The Court: Overruled.

A. Well, the fact of the matter was that, being a section organizer and a link between the district, the Communist Party and the lower part of the Communist Party, it was my duty to see that those decisions were transmitted.

Q. You were a high part of the Communist Party and Mr. Bridges was a low part of the Communist Party?

A. Well, I wouldn't say that, no; absolutely not. If I give that impression, I want to correct it if I can. I didn't want [1354] to give that impression whatsoever. We were all members of the Communist Party together.

Q. Now, you told us some of the things that the Communist Party recommended with regard to handling this strike, and as nearly as I had it established, the—— Withdraw that for a minute. You told about these conditions that existed down on the waterfront in which men were making as little as $10 a week, some men, standing around in the cold and the rain or the sun for hours and hours and hours, not knowing whether they would get employment or not.

Mr. Paisley: Object to the form of the question, Your Honor, as characterizing the testimony.

The Court: Well, wait until Mr. Hallinan finishes.

Mr. Paisley: Well, I am trying to save time, Your Honor, obviously.

The Court: All right. Have you finished?

Q. (By Mr. Hallinan): And then being picked out by certain bosses, some of whom would go, some of the men would go to work and the others simply go without work. You have told us about that, is that right?

A. That's correct, absolutely correct.

Q. And then you told us how the weights that they were supposed to lift were too great and some of them had broken and killed some men, is that right? What is your answer?

A. That is right, certainly. [1355]

(Testimony of John H. Schomaker.)

Q. And then they had a speed-up system under which certain——

The Court: Counsel is going to object, and I think that I will sustain the objection. I anticipated what you have in mind, counsel. This is a mere narration.

Mr. Paisley. Repetitious. [1355-A]

Q. Then it is your testimony that they had some sort of speedup system in which men were required to work against each other so as to get each ounce of energy out of the——

The Court: The objection is sustained on the basis it is argumentative, a narration of the transcript, and not proper cross-examination.

Q. (By Mr. Hallinan): These conditions that existed on the waterfront, whatever they may be, wouldn't it have been possible to have settled them all and gotten increased wages and had some kind of reasonable means of allocating the work to the men by simply going and asking the employers for those concessions?

A. You are asking me that?

Q. Yes.

A. Why, certainly, I think it would have been a pleasure for everyone and much easier for everyone if such a thing had occurred.

Q. Why didn't you do that?

A. For some reason the ILA was not recognized as the bargaining agent for the longshoremen in San Francisco or in any port on the Pacific Coast.

Q. Was it your impression if they had been so recognized they could have gotten those concessions by asking for them?

Mr. Donohue: First we are asked for an opinion and then for an impression. [1356]

Q. (By Mr. Hallinan): Well, is it your impression?

Mr. Donohue: I object to the opinion also.

Mr. Hallinan: He has testified fully on the matter.

The Court: Overruled.

Q. (By Mr. Hallinan): What is your answer to that?

A. Will you please restate it?

Q. I asked you if in your opinion it would have been sufficient to secure any amelioration of those conditions or any lessening of those conditions to just ask the employers?

A. Listen. If I could look into the minds of the Waterfront Employers and look into your mind or anyone else's mind I would be a genius or something. I don't know.

Q. Let me ask you this: In your opinion was the strike the struggle, a necessary one to get what was obtained?

A. It was an absolute necessity.

Mr. Donohue: This is immaterial. We are not trying that issue.

The Court: Sustained.

Q. (By Mr. Hallinan): With regard to what the Communist Party advised, or members of the Communist Party advised that you have already testified that they advised as to delaying this strike so that the President's board would have a chance to intervene—is that right?

A. No, sir, that is not correct.

Q. What did they advise on that subject? [1357]

A. You mean at that particular time in 1934?

Q. What did the Communist Party advise with regard to having the strike or withholding the strike? A. Delayed, you mean?

Q. Yes.

A. As I say, in those days the Communist Party was a party that in my opinion really represented the American workers, and before they took any action there was a thorough discussion on it, and they went to every angle on it, and at that particular time when Burglar Lewis received a telegram from Washington to delay the strike, after the strike date had been set, he did it without consulting anyone. So in the period then from when the original strike date until the strike date of May 9 —I mean the strike date which was later set at May 9—when this period of time elapsed, why, Sam Darcy, Walter Lambert and others, I suppose, discussed this and there was a possibility, due to this loss of time, that the workers who were going to be involved in the strike may have lost a certain amount of interest or enthusiasm for it and they were considering that angle, and that is the reason that resolution was drawn up by Sam Darcy and one copy given to me and one copy given to Bridges, that in case sentiment in the meeting was such that

(Testimony of John H. Schomaker.)

the workers were hesitant about going on strike, we should submit this resolution to delay it, and then build up enthusiasm for it so it could be called at a [1358] later date.

Q. But that would be an ordinary trade labor tactic wouldn't it?

A. Sam Darcy and Walter Lambert were extremely able trade union tacticians and strategists, extremely able.

Q. So that in that particular matter, in the matter of this strike on the longshore front, Sam Darcy, Walter Lambert and the other men you mentioned were interested in securing the benefits that the longshoremen felt they were entitled to and not merely in furthering the interests of the Communist Party, is that right?

A. At that particular time the aim of the Communist Party was to better the conditions of the American workers, and, as I say, on the waterfront strike that is exactly what they did.

Q. And then they afterwards made suggestions as to the minimum demands which should be made against the shipowners, is that right?

A. That is correct, yes.

Q. And that included raise in pay, shorter hours, lighter loads, and particularly the hiring hall, is that correct?

A. That is correct, hours, wages and working conditions and the hiring hall specifically.

Q. And then those things were also only ordinary trade union tactics, weren't they?

(Testimony of John H. Schomaker.)

A. As I say, Sam Darcy, Walter Lambert and Harry Jackson were [1359] extremely able people.

Q. And this had nothing to do with Communism, did it?

A. Certainly it didn't have anything to do with Communism.

Q. Then afterwards when a board was appointed by President Roosevelt those same gentlemen whose names you have mentioned recommended to Mr. Bridges and the other men that they accept such decisions as that board would render, didn't they?

A. That is not exactly correct, to say it, put it in such a fashion.

Q. What did they do in that connection?

A. I remember we had a meeting. Bridges was there. Darcy and various other members were there, and we discussed this, how far they thought the Labor Board would go, and would it be possible, if they refused the demands of the men, what should be done. However, when the men went back to work, they didn't go back to work, that is, they stayed away from the docks, and all the hiring that was done was done through the union hall, and we established our own hiring hall, and that was a tactic that was devised by the Communist Party.

Q. And that was a good trade union tactic?

A. Absolutely.

Q. And it had nothing to do with Communism, did it?

A. Except the officers of the Communist Party developed this tactic.

Q. As trade unionists? [1360]

A. That is correct, as trade unionists.

Q. And then when the final negotiations had been finished, and so forth, and this board had made its award, these men advised that they be accepted, is that correct?

A. That is true. Of course, we knew under the circumstances—because I remember very distinctly that Harry Bridges and myself and Walter Lambert and Sam Darcy went out Third Street, out there in the direction of Candlestick Cove. We got out of the car and walked around that cove. There was a road there and some eucalyptus trees. We walked up that road and we discussed this, and Sam stated very clearly, he said, "This is turning out much better than what I anticipated, but as long as the workers can control the hiring, why, you guys are sitting together."

So, as I say, we walked along that road. There was no houses at that time in those days to what there are now, and we discussed—it was twilight in the evening—we discussed this thing, and that was the sum of the conclusion of the discussion.

Q. Was it also the condition at that time throughout the strike that in your opinion, the opinion of other leaders of the strike, the position of the workingmen was being misrepresented to the public?

A. I don't understand that question.

Q. That the men were being put in a bad light,

(Testimony of John H. Schomaker.)

that they were [1361] not getting the publicity that the cause deserved? Was that one of the problems that confronted you?

A. Well, there was a lot of problems and the question of bringing our story to the public was a problem which we met and solved.

Q. Wasn't that an important problem?

A. A very important problem.

Q. Was that one of the things which these gentlemen like Mr. Darcy told Mr. Bridges and the other less experienced men how to go about?

A. I think that is one reason why Norma Perry was brought down there.

Q. What was done in that connection? What was done towards exciting public interest and sympathy for the strikers?

A. Well, there was a paper here. The Communist Party publication at that time here was the Western Worker, and the editor of the Western Worker, who was George Morris, appeared before the Longshoremen's strike committee to explain that the paper was there for their use. So the result was the strike committee adopted the Western Worker as the official organ of the San Francisco longshoremen's strike committee, and, as I say, I went up and saw Sam and he said we should have a secretary. There was none down there that could do secretarial work. He got hold of Norma Perry and she came down there under the precise orders of Sam Darcy. [1362]

(Testimony of John H. Schomaker.)

Q. So this Western Worker took up the banners for the striking longshoremen?

A. In a very vigorous and efficient manner, yes.

Q. Were there any other newspapers that did it?

A. There was a Catholic publication that give us a pretty fair shake.

Q. That was Father York's Leader, I suppose, wasn't it?

A. I can't really recall the name of it, but it was a Catholic publication anyway.

Q. What side did the big daily papers take?

A. At that time Mr. Hearst was very anti-labor. I guess he still is, for that matter.

Q. How about the other papers?

A. Well, you have the Chronicle. That wasn't too bad. And the San Francisco News wasn't too bad either. But the Call-Bulletin, of course, being controlled by Hearst, didn't give us much of a shake on it. But, of course, they have changed their policy considerable since.

Q. They have been kinder to you?

A. Kinder to me! Heh-heh-heh! I don't know why they should be kinder to me than kinder to you.

Q. Sometime around the year 1937 there was a great deal of conflict within the union circles themselves relating to the division of the CIO from the AFL; do you remember that?

A. I remember it very well. [1363]

Q. Now, certain persons, certain officials of the AFL unions at that time were also trying to get

(Testimony of John H. Schomaker.)

something upon Harry Bridges which would cause his deportation, isn't that right?

Mr. Donohue: I object to the question, if the Court please.

Mr. Hallinan: It goes to the same thing.

Mr. Donohue: I understood we were not to try any union differences either between or within a union.

Mr. Hallinan: What I am trying to do, your Honor, is the same thing that relates to these previous efforts, the dictagraph, and so forth, to show the improbability of these express and open avowals of Communist affiliation by Mr. Bridges, when he was being looked at and searched by everyone. I want to show, and I can show through this witness exactly what was being done.

Mr. Donohue: I believe it is quite apparent, if your Honor please, that counsel is attempting to do by the cross-examination of this witness what your Honor has heretofore stated he may not do.

Mr. Hallinan: I think what the Court said was that we would be permitted a wide scope on cross-examination if these things were material to show the interests of the witnesses, and so forth, that we could inquire into them. The Court's objection was to making them in an opening statement. Is that about correct? [1364]

Mr. Donohue: I somehow cannot describe the scope of this cross-examination to be anything except wild.

(Testimony of John H. Schomaker.)

The Court: I have granted considerable latitude.

Mr. Hallinan: I grant that.

The Court: I believe this question is objectionable on the basis I have heretofore outlined as not tending to prove or disprove any issue in this case, as I see it. Accordingly, the objection will be sustained.

Q. (By Mr. Hallinan): Now, I questioned you prior to this as to certain releases you had made while in charge of the publicity department of the Bulletin and as to whether or not you had made certain statements relating to the people who testified against Harry Bridges. Now, I want to ask you if you remember this release with you as publicity director. See if you recognize the language.

Mr. Donohue: I must object, if your Honor please. I know no authority in the law by which Mr. Hallinan may be permitted to seek to contradict the testimony of this witness by reference to some publication——

The Court: Mr. Hallinan takes the position, as I understand it, that this gentleman is the author of these articles.

Mr. Hallinan: Yes, and furthermore, I have other ones that I want to show.

The Court: Have you a legal discussion?

Mr. Donohue: Yes, your Honor. [1365]

The Court: It is four o'clock. We may take it up. But I understand Mr. Hallinan's position is he was the author of these articles.

Mr. Hallinan: That is correct.

The Court: Ladies and gentlemen of the jury, we have reached the four o'clock period. We have a legal matter which will be heard in your absence. You may now retire. You are not to discuss the case under any circumstances nor suffer any person to discuss it with you and not to form or express an opinion on the matter until it is finally submitted to you. You may now retire.

(Thereupon the jury was excused until Thursday, December 1, 1949, at 10:00 a.m., and in the absence the following occurred:)

The Court: Let me first, Mr. Donohue, understand Mr. Hallinan's precise position.

Mr. Hallinan: No, you have expressed it.

The Court: Is that clear?

Mr. Hallinan: Surely.

Mr. Donohue: If your Honor please, as I understand Mr. Hallinan's position, he is seeking to impeach or question the credibility of this witness with respect to an answer made by this witness on the stand by introducing through his reading a statement which obviously was written by this witness in a publication at some other time. On this point, if your Honor please, I would like to read rather briefly from the case of [1366] United States v. Klass, cited in 166 Fed. (2d) at page 373, decided February 11, 1948, in the Third Circuit, in which the court said this:

> "Insofar as the extent of the cross-examination is a matter resting within the sound dis-

> cretion of the trial court, the learned trial judge properly ruled that the testimony with which we are now concerned was inadmissible for the purpose of attacking the credibility of the appellants. There is indeed a conflict as to whether acts of misconduct not resulting in conviction are the proper subject of cross-examination to impeach a witness."

Citing numerous cases and also citing Wigmore on Evidence.

> "We believe the rule with respect to impeachment for former conviction"—it will become more pertinent in a moment, your Honor —"as generally applied by federal courts in criminal cases"——

The Court: Didn't you cite this on the doctrine of res adjudicata some time ago? Didn't you include this?

Mr. Donohue: I may have.

Mr. Hallinan: Yes, it was.

The Court: I remember now the Klass case. I made a note of it.

> Mr. Donohue: "We believe the rule with respect to impeachment for former conviction as generally applied by federal courts in criminal cases to be that it is only [1367] convictions for felonies or misdemeanors amounting to crimini falsi which are admissible to impeach a witness' credibility. This reflects the true purpose of impeaching evidence, to disclose the

(Testimony of John H. Schomaker.)

> personal turpitude of the witness, and his insensibility to the obligation of his oath to speak the truth," citing Goldstein v. the United States, which is perhaps the authority I have heretofore cited.

There is no reason why the standard should be less exacting——

The Court: Yes, U. S. v. Klass was cited November 21 in the afternoon session 166 Fed. (2d) 373 at 376, Third Circuit.

Mr. Donohue: Yes. Now I would like to read, if I may, the last paragraph on page 376:

> "In this instant case the government urged that the impeaching substance lay not only in the commission of another similar offense but also in the contradiction of the appellant's testimony on cross-examination by the rebuttal testimony of two named witnesses. Except in the event of a record of conviction contradictory extrinsic evidence is not admissible, it being long settled that the answer of the witness on cross-examination with respect to a collateral matter introduced for impeachment purposes concludes the inquiry."

Citing as its authority the case of United States v. Novak, [1368] decided at 124 Fed. (2d) 104, in which certiorari was denied by the Supreme Court in 315 U. S. 813; also the cases of United States v. Mittel, Cohen v. United States, and others.

Now, it is conceded, I think, that the witness'

(Testimony of John H. Schomaker.)

testimony which he now seeks to impeach is on a collateral matter, not on a matter which is pertinent to the substance and subject matter of this indictment. If that be true——

The Court: What is the basis for your statement that this course of conduct on Mr. Hallinan's part seems to impinge on a collateral matter?

Mr. Donohue: Are we in accord, your Honor, that if it be a collateral matter, whether this witness may or may not at some other time have said that persons who testified against Harry Bridges are perjurers?

The Court: I of course cannot anticipate precisely what Mr. Hallinan is coming to in these declarations.

Mr. Donohue: He has stated as his premise that in order to impeach his credibility upon the basis of the statement that he made at some prior time, he made a statement, or at least Mr. Hallinan asked if he had made the statement, that persons who testified against Harry Bridges are perjurers and liars, and he asked him, by the way, if he had made a statement at a public meeting in some hall and, as I recall, and I think my recollection is fairly accurate, his answer was he was sure he did not make any such statement in a public [1369] hall, although he may have said something in a personal conversation. Now, apparently from what Mr. Hallinan said he seeks to impeach his credibility by reading from some purported and, let us say, some factual statement which was written or edited by

(Testimony of John H. Schomaker.)

this witness in a publication, which I assume tends to show that he did at some time say that persons who testified against Harry Bridges were perjurers or stool pigeons or whatever the context of the statement may be. I say, if that be true, that he is seeking by extrinsic evidence to impeach the credibility of the witness on cross-examination on a collateral matter, and if my conclusion or my premise be true, and this being the law, except in the event of a record of conviction, contradictory extrinsic evidence is not admissible, it being long settled that the answer of the witness on cross-examination with respect to a collateral matter introduced for impeachment purposes concludes the inquiry.

In other words, whenever Mr. Hallinan asks this witness for the purpose of impeaching or contradicting his prior testimony any question which refers to a collateral matter, then he may proceed no further than procuring the answer of the witness. He may not then by extrinsic evidence seek further to impeach his credibility. And I think the reason for the rule is apparent, because if it were not for the rule we could never try a single case. We would be trying a hundred other cases arising out of cross-examination on [1371] these contradictory matters which are raised wholly with respect to a collateral issue. If this question were raised with respect to the direct issue here, that is, whether or not in fact the defendant Harry Bridges and his two co-defendants did conspire as charged in the first count, if Harry Bridges did

(Testimony of John H. Schomaker.)

falsely swear as charged in the second count, and if his two co-defendants did aid and abet Harry Bridges in the fraudulent procurement of his naturalization, then I would not raise the same objection, but obviously what the witness may have said with respect to a witness who may or may not appear against the defendant Bridges on some other occasion is a matter which is collateral and not pertinent to this issue, and ~~as such~~ this offer of evidence or this kind of cross-examination is improper. I object to the question. [1372]

Mr. Hallinan: If the Court please, if the question of Mr. Bridges being a member of the Communist Party is a collateral matter, then that would be correct. But these things go directly. Suppose we had, for instance, an affidavit from this witness saying that anyone who ever said Mr. Bridges was a member of the Communist Party was a perjuror. He says it is not admissible.

The Court: What is the precise question that you addressed?

Mr. Hallinan: That he stated that anyone who said Bridges is a Communist is a perjurer and a stool pigeon. If that is collateral, I do not know the meaning of it. A collateral matter would be something relating to some past transaction that might affect the thing slightly one way or another, but here is a matter directly in issue. Here is the man committing himself in the past to definite statements, and this gentleman says that is a collateral matter.

Mr. Donohue: If Your Honor please, it would seem to me that what Mr. Schomaker said with respect to a characterization of any person or persons who may testify against Mr. Bridges is not evidence either that Mr. Bridges is or is not a Communist, because one who is not a Communist might be just as likely to make the statement as one who is. It certainly is not probative evidence in this matter. It is certainly a question which seeks to introduce into this court a collateral issue. [1373]

And if we are thus to try these collateral issues judging by the extent of the cross-examination in the last two days, we will be wearing long gray beards before we ever get down to trying the issue.

Mr. Hallinan: There goes the rule against prior inconsistent statements.

The Court: I will take the matter under submission. I will read the transcript of this matter. Have you any other authorities?

Mr. Donohue: Not on that point, if Your Honor please. I am sorry to say that I didn't until this noon procure this issue. But there are four federal cases cited, and we will be glad, if Your Honor would like, to——

The Court: I am familiar with the rule on impeachment on collateral matters; that is an elemental rule.

Mr. Donohue: Yes, sir. And——

The Court: And the only question that arises is whether or not this is collateral matter.

Mr. Donohue: Correct, sir.

(Testimony of John H. Schomaker.)

The Court: What is your view, Mr. Paisley? You are a——

Mr. Paisley: Well, Your Honor, I think, as Your Honor says, this principle is well established.

The Court: There is no question; we accept that.

Mr. Paisley: The witness has testified that Bridges and Schmidt, and I believe perhaps the other defendant, were members [1374] of the Communist Party. Now, if counsel can confront him with a statement that he has made out of court that they were not members of the Communist Party he may lay a foundation to impeach him. Certainly he may do that. But what I am wondering is whether he is going to get beyond that. Now, when he gets beyond that, why, we reserve the right to object. I certainly think that would be competent. He could ask him on cross-examination, "Didn't you at a certain time and place make a contrary statement?"

The Court: Well, there isn't any question about that.

Mr. Donohue: No, that isn't the question, though.

The Court: There isn't any question—that is not the question before me.

Mr. Donohue: Not did John Schomaker ever say that Harry Bridges was not a Communist, but did John Schomaker say that anyone who testifies against Harry Bridges is, or who says he is a Communist, is a perjurer or stool pigeon. That is not the same thing.

(Testimony of John H. Schomaker.)

Mr. Hallinan: It is the same thing in just a different direction.

Mr. Donohue: Oh, no.

Mr. Hallinan: In other words, the only way that you could impeach a person is not by showing an inconsistent statement but a direct contradiction. For instance suppose that the statement had been, "I know that all these charges about Harry [1375] Bridges being a Communist are false." Well, would that be admissible? Or, "Anyone who says that Harry Bridges is a Communist doesn't know what he is talking about." Would that be an inconsistent statement? Anything that the Court can reasonably interpret as showing a contrary opinion at another time is a prior inconsistent statement. Now, if it is a collateral matter, might be—suppose that we asked the man, "What is your wife's name?" and he said, "Her name is Rose." And then we tried to impeach him by proving that some time before he said it was Florence. That would be a collateral matter. But here is a matter directly at issue. Why, this is the very question. The only thing that this witness testifies to is that Harry Bridges was a member of the Communist Party. Now, if we can show that he said that anyone who said that was a perjuror, can anything be more inconsistent? The whole thing is that these gentlemen think that they can make some kind of a little pattern and the defense must fit its testimony into that matter, and if it doesn't do so, that then they can persuade Your Honor that we are not entitled to proceed in our way to prove the matter, in a proper fashion.

Mr. Donohue: The lack of truth in that assertion, if Your Honor pleases, is evidenced by the fact that every question I asked this witness on direct examination, Mr. Hallinan objected to, almost without exception—to the form of the question and to the substance. He objected if I repeated a question. For two [1376] days he has repeated himself consistently in the most minute, picayunish way. Now, I don't think Your Honor is going to permit us to substitute Hallinan on criminal procedure; I think Your Honor is going to insist that we follow the rules.

Mr. Hallinan: It would be safer than Donohue.

Mr. Donohue: I am not so sure of that, Professor.

Mr. Paisley: Your Honor, we started out to read something. I presume some periodical that the witness has published. My point is that he ought to ask him, "Are you the author of this article?" If he puts it that way, I would have no objection.

The Court: He states, Mr. Hallinan states that the witness is the author of the article.

Mr. Paisley: Yes, but he can't testify. I think he ought to ask the witness.

The Court: No, I know; I assume that as a predicate.

Mr. Paisley: Yes, sir.

The Court: That Mr. Hallinan shows good faith with the Court on that particular offer that he is going to establish at some stage that the witness was and is the author. I don't doubt that for a moment. He said he would do that.

Mr. Paisley: Or if he says he was not the author, I think he could ask him, "Did you subscribe to that editorial when it was published?"

The Court: Pardon me, Mr. Hallinan. Then Mr. Paisley, is your objection withdrawn or invalidated to the extent that Mr. [1377] Hallinan may establish the witness to be the author of the particular periodical or statement?

Mr. Paisley: Well, that is my view of it, Your Honor. I think he can lay a foundation to impeach him by contradictory statements.

The Court: Inconsistent statements heretofore made.

Mr. Paisley: Heretofore made.

The Court: And to what extent were the statement or statements contained in the literature at hand inconsistent with any statement made by the witness.

Mr. Paisley: Well, I should think we would have to wait to hear the question.

The Court: All right.

Mr. Hallinan: And furthermore, Your Honor, now Mr. Paisley made the point exactly that I was going to make. It isn't necessary for a person to be the author. If he embraces or endorses the statement. For instance, in recent cases they have been sending people to the penitentiary because organizations to which they belong send out certain material, certain books containing violent advice or subversive suggestions or something of that kind. Now, we have other evidence that this witness embraced and recommended and took unto himself utterances of other people, not the one that I am reading now, but I intend to offer those afterwards. And I don't—I suppose you don't doubt that that would make them admissible? [1378]

Mr. Donohue: No, I think every Communist does that, if Your Honor pleases. I think that is accepted.

The Court: Well, this witness, Mr. Hallinan, I assume, is not bound by gratuitous statements made by other persons on the waterfront with respect to policies and the like, nor could you impeach him on that basis.

Mr. Hallinan: Unless he embraces it.

The Court: Not in this type of examination. Not in this type of examination.

Mr. Hallinan: Well, I will find some authority —I think that on the matter of his one contradictory statement, his own inconsistent statements, there is no question about that.

The Court: Well, as I understand Mr. Paisley's position now, he takes the position that if in fact you can establish by the direct question, "Did you or were you the author of the particular statement which you have in your hand?" and if the witness admits he was, and if that be in the nature of an impeaching statement or impeachment of any matter heretofore stated, that you haven't any objection to that type of examination?

Mr. Paisley: I would not, Your Honor. I should think he would.

The Court: On the basis of prior or alleged prior inconsistent statements.

Mr. Paisley: Yes, sir. Or if he says this: "If people [1379] say Bridges is a Communist, they are perjurors." If he can prove that—he can prove that, in my opinion.

Mr. Hallinan: And furthermore, on some of these matters this man was on a publicity committee that edited a certain document or certain papers. Now, by editing the paper as part of the committee, he embraces the document in it. So he wouldn't have to be the direct author of it. It comes out under his direction and under his authority.

The Court: Well, I think that you would have to accompany that type of examination with some explanatory note and permission on the part of the witness to make a full and complete exposition concerning the surrounding circumstances.

Mr. Hallinan: That may be true.

The Court: And point up the examination to the extent that you have a full and complete, detailed examination with respect to all of the implemented situations and surrounding circumstances.

Mr. Hallinan: I think that would be so. In other words——

The Court: I, of course, am in the usual and traditional position of a trial court. I can not anticipate what you have in mind altogether and I am naturally going to protect the record to the extent that I shall rule as and when you make your particular offer and as and when you examine the witness.

Mr. Hallinan: Your Honor, might I suggest this: Suppose, [1380] for instance, that I appeared with an editorial from a paper and handed it to you and said, "Here, read this and follow that; this is the truth; here is a true statement of the situation." Then afterwards, if I took a position contrary to that, and the matter were not collateral, that statement could be introduced to impeach me anyhow, because I had embraced it. Now, I think Mr. Paisley, for whatever I may say about his courtesy to other lawyers, seems to have a sound notion of the law and evidence. I will ask him if that isn't the true rule.

Mr. Paisley: I wasn't following you, counsel.

The Court: Well, of course, whatever Mr. Paisley has to say will not lead the Court one way or the other. I merely asked the opinion of counsel.

Mr. Hallinan: Well, I think we agree upon it.

The Court: I merely asked the opinion of counsel for whatever it is worth. I will not go so far, I will tell you in advance, as to subscribe to whatever theory that the witness may embrace, as a generic quantity; and I will rule as the matter arises. I will take the matter under submission.

Mr. Hallinan: Would Your Honor look into that point of embracing things? Because that point will come up immediately. I will get some authorities upon it if there is any question.

The Court: As far as the looking up of law is concerned, I am a little weary of looking up the law. I will ask counsel [1381] to look it up.

All right, we will take the afternoon adjournment.

(Thereupon an adjournment was taken to tomorrow, Thursday, December 1, 1949, at 10:00 o'clock a.m.) [1381-A]

Thursday, December 1, 1949—10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Before calling the jury, we have further discussion in the matter of the legal question arising with respect to the question propounded to the witness Schomaker.

Mr. Hallinan: I would like to call your Honor's attention to one or two matters in connection with that. In a case, Estate of Gaines, 15 Cal. (2d), Supreme Court case, at page 262, this is a general rule:

> "One does not admit everything he recounts or describes merely by reason of the relating of it. On the other hand, it is equally well settled that there may be admissions other than statements made by the party himself; that is,

statements of another may in some circumstances be treated as admissions of the parties. The situations are (1) where the person who makes the statement is in privity with the party against whom it is offered, as in the case of agency, partnership, etc., and (2) where the statement of the other is adopted by the party as his own, either expressly or by conduct. Familiar examples of this second situation are the admissions by silence, where declarations of third persons made in the presence of a party give rise to admissions, [1382] the conduct of the party in the face of the declaration constituting the adoption of the statement to form an admission (See 2 Wigmore, Evidence, Sections 1062, 1069 and 1071.)

"It would seem that in the instant case, when appellant repeated the declaration of decedent without challenging it, it became an admission against him."

Now, in 37 Corpus Juris at page 15 the general rule on adoption of matters of this kind includes also that of libel.

> "A vendor or publisher is liable in libel if he had knowledge that the newspaper distributed contained libelous matter."

And that is even a criminal prosecution for libel.

> "And in many cases in which the criminal syndicalism act was invoked, the distribution of literature with such circumstances as to indi-

> cate the distributor had knowledge of the contents. was held sufficient to support criminal convictions."

And here is the general rule, 3 Wigmore on Evidence, Third Edition, Section 1041:

> "There is only one proper inquiry, namely, Is there within the broad statement of opinion on the general question some implied assertion of fact inconsistent with the assertion made on the stand? If there is, it ought to be received whether or not it is clothed in or [1383] associated with the expression of opinion."

And I cite four cases sustaining that: Woody v. Utah Power and Light Company, 54 Fed. (2d) 227; Order of Commercial Travelers of Averica v. Tripp, 63 Fed. (2d) 37; Martin v. Cobb, 110 Fed. (2d) 159; and Snohomish v. Great Northern Railway, 130 Fed. (2d) 996.

There are dozens of State cases, but those are the four United States cases that I found within the short time I have devoted to it.

The Court: Mr. Hallinan, so we may have a definition of the situation and a clarification, so that my ruling may be properly understood, you take a dual position, as I understand it:

(1) A proper foundation may be laid for the asserted impeachment of the witness Schomaker through writings heretofore made by the witness Schomaker allegedly inconsistent with statements made on the stand and allegedly inconsistent with matters implicit in his testimony.

Your secondary position, as I understand it, is briefly that you will seek or attempt to seek to impeach him with respect to matters which the prosecution regards as collateral, having to do with statements and utterances made by others in this publication in which he may have impliedly or by necessary implication joined.

Is that about your position? [1384]

Mr. Hallinan: Well, except as to the collateral matter.

The Court: Of course, that is the contention of the prosecution.

Mr. Hallinan: Of course, I concede in a collateral matter you can't impeach a witness, but these are direct statements as to whether or not Harry Bridges was a Communist during the time which this witness testified that he was. In other words, I want to show that this man distributed and approved statements in publications authored by other persons but distributed by him, in which the flat assertion was made that Harry Bridges was not a member of the Communist Party, and which the flat assertion was made that anyone who said that Harry Bridges was a member of the Communist Party was a perjurer and stool pigeon. That is my position.

The Court: Counsel for the Government? [1385]

Mr. Donohue: If Your Honor pleases, as I see the problem, it is twofold: number one, with respect to the question of whether or not this witness may have assisted in the distribution of literature or publications——

The Court: Let us take the first proposition, in natural sequence.

Mr. Donohue: Yes, sir.

The Court: Let us take the first proposition in the light of your colleague's statement last evening; that is, Mr. Paisley's statement. What is your attitude as to the proposition, number one, with respect to the statement made by the defendant himself, allegedly made?

Mr. Donohue: I think there is no question, if Your Honor pleases, but that any statement made by the defendant himself on the stand may be impeached upon a proper foundation having been laid by proof that at some time he made a statement to the contrary. But with respect to that statement, may I respectfully invite Your Honor's attention to page 1187 of the record, wherein this question, upon the answer to which counsel now seeks to impeach the witness, was asked.

The Court: One moment. 1187?

Mr. Donohue: 1187, if Your Honor pleases, beginning at line 17.

Mr. Hallinan: "Question: At a meeting of the membership of the ILWU, held in the Coliseum Bowl on September 16, 1939, [1386] while the Landis hearing was proceeding, did you or did you not state orally to the meeting that witnesses who testified that Bridges was a Communist were perjurers and stool pigeons?"

By the Witness: "Well, I can't recall making such a statement."

Question: "At any time?"

The answer: "Well, there is one thing to making a statement in a conversation and another thing to making a statement in an open meeting. As I say, just cold like that, I can't recall it, no."

The Court: Well, to that extent the examiner, to impeach, was bound by the statement made by the witness. There is no question about that. That is elementary.

Mr. Donohue: Yes, sir.

The Court: And that is not our precise problem now. Our precise problem now, as I understand it, is where the impeacher, Mr. Hallinan, seeks by the proffer of a record, matters which it is alleged or asserted by him were written in effect by the defendant, or witness, Schomaker, and dissemination given thereto through the medium of a paper.

Mr. Donohue: Well, I see no basis upon which that can be used for an impeachment purpose, if Your Honor pleases, unless the witness is first asked, "Did you write——"

The Court: We must assume, I would assume that we dispose of the elemental things that we all agree upon. [1387]

Mr. Donohue: Yes, Your Honor.

The Court: The only differences we may have are those wherein refinements upon refinements may be made; but we all agree on the elementals of that. Number one, the proper foundation must be laid for the impeachment, or the attempted impeachment of the witness, and that has been held in this Circuit, in the Zamorra case, Zamorra v. United States, Judge Garrecht, our late and distinguished Judge Garrecht, said:

"Aside from any statute——"

and we, of course, are mindful of the statute, the California statute on the subject.

Mr. Donohue: Yes, Your Honor.

The Court: "——it is the general law that a sufficient foundation must be laid before the credibility of a witness may be attacked."

Citing the Osborne case, 17 Fed. 2d 246, wherein the late Judge Rudkin was the author of the opinion for the Circuit Court.

Now, we establish that premise. And then we take the second, again elemental, position with respect to foundation:

> "Most courts regard it as important that the practice should be so regular that the witness may have full opportunity to admit, deny or explain any statement which is assailed in such manner. Accordingly, it is held in the great majority of jurisdictions, at least where the matter is not already in the record in proper form as a result of [1388] direct examination, that a foundation must be laid on cross-examination of the particular witness by calling his attention specifically——" (Not generically, but specifically) "——to the acts or statements sought or intended to be shown as inconsistent with his previous testimony before such inconsistent acts or statements may be shown by other witnesses or evidence."

Now, that is from Jones on Evidence, Volume 6, at Section 3402 at page 4734. The text is identical as I read it, save and except for the interpolated matters, the matters which I have interpolated.

Now, coming to the Estate case, which Mr. Hallinan refers to, note how the Court pointed out the relationship of partnership or some privity of relationship that is not present in the case at bar. To be bound by a declaration of, let us say, Harry Bridges—to bind this witness, Mr. Schomaker, by a statement made by the defendant Harry Bridges, would not be within the ken of the relationship. Now, Mr. Bridges, according to Mr. Schomaker, wrote editorials. He had occasion to make statements. Whether or not Mr. Bridges said in those editorials, "Any man who testifies against Harry Bridges is a stool pigeon, a liar, a knave or a cheat," as it may appear, is a matter that we may determine upon. Let us assume that Mr. Bridges wrote that. Would Mr. Schomaker be bound by that?

Mr. Donohue: Obviously not, Your Honor. [1389]

The Court: Would that be impeachment?

Mr. Donohue: No, Your Honor.

The Court: Then, therefore, we come to the conclusion which I have reached: one, that the record must be presented to the witness, Mr. Schomaker; that he have an opportunity to examine the alleged impeachment matter, that he be asked the question categorically, did he make such and such a statement at such and such a time, fixing the time, place and parties present, or the periodical in question; that he then answer the question and have a full and complete opportunity to make such explanation as he may determine upon or as he may be advised. That will be the rule.

Mr. Hallinan: Might I be heard one moment before you conclude yourself? I have a short suggestion. The question of impeachment is so well known and the method of impeaching a witness, that long discussion on it would seem to be out of place in a court—more confined to a school of evidence. However, every question asked of a witness intended to show contradictory statements is not an impeaching question. Impeachment has one definite meaning; in other words, that you intend afterwards to produce some statement or document of the witness which contradicts the testimony that he gives. However, the right to ask a witness questions as to whether he made prior inconsistent statements is not confirmed to impeachment. Now, if you simply look up the matter of impeachment, then you will find [1390] the rule exactly as you stated. But Witkins Sixth Edition, gives some cases here:

> "Now where foundation is unnecessary. Not every question asked concerning a witness' prior statements is intended as an impeachment; and therefore a preliminary question may not be objectionable for failure to lay the foundation for impeachment. This point was explained in People v. Jones, 116 Cal. 359, where defendant's counsel asked a prosecution witness, 'did you not testify that you did not know the man until later at the preliminary examination?' Frequently such questions are designed to test the recollection of the witness, and frequently, as in the instance before us, the question is proper, though ultimately, and according

> to the answer which may be made, it will or will not be followed by a strictly impeaching question. Thus it was proper to ask the witness if he had so testified. His answer might have been that he did not. When an impeaching question would properly follow, his answer might have been that he did so testify, with explanation of the variances between his answers; in which case no impeaching question would be necessary."

And that part is in quotations from the Supreme Court's decision.

> "See also LaSeuer v. Dow, 30 C.A., holding:
>
> "'No need to lay foundations before party can be asked if he [1391] had a conversation or what the conversation was or if he made a statement, what the statement was.' 13 Cal. Law Review."

So that the rule is this: Now you can question a witness. Suppose the witness is a dishonest witness, and he knows that he has put nothing in writing, or he questions whether you can produce a witness to impeach him directly. But he doesn't know whether you have or not. And you ask him the question, "Now have you ever made a statement to this effect?" The witness is puzzled as to whether he could be caught if he says yes or no. So he finally says, "Yes, I made such a statement." All right. Then you inquire, "Well, to whom did you make that statement?" He tells you. "When?" "Well, how do you explain that statement and its inconsistency with the statement you made just now?" if you want to pursue it that far. But now suppose the witness says, "No, I never made such a statement." Now, then, if you want to pursue it further and lay the ground for impeachment, then you have to say to him, "All right, now——" (because of the code section) "——on such and such a time as close as you can approximate, to such and such a person, did you not make this statement?" Then if the witness says, "No, I didn't make the statement," then you bring that person to impeach him. But an inquiry as to whether he ever made such a statement, whether he made it to different persons or at different times, statements inconsistent with his present statement, [1392] are not impeachment, but only cross-examination.

The Court: Mr. Hallinan, I have to assume, from the bale of paper you had before you, earmarked as they are, that you were assuming to examine this witness on editorial matter, and the like, to which he may or may not have participated. That was my own fault. I can not conjecture as to what you have in mind.

Mr. Hallinan: That isn't my only purpose, Judge.

The Court: And I say that under those conditions, the man is entitled to have shown to him the statements alleged to have been made by him.

Mr. Hallinan: Now, for instance, I want to show him documents which he distributed, sent out, in which he says this, or the author of the documents, said:

> "Actually Bridges is not a member of the Communist Party, in spite of forged documents and faked evidence to the contrary."

Now, I am entitled under this rule, and what I propose to do, and there is no use of arguing it out if Your Honor is sold on the particular proposition of law, though I doubt if you would be so intransigeant that you would take a position that was invariable; I want to ask him, "Did you not distribute these documents, didn't you hand them out at meetings, and didn't you suggest and recommend and send to other people to have them distributed, these documents, making this statement?" Now, I [1393] don't know what he is going to say, whether he will say yes or no. But my intent is to show that he has adopted the language in these documents by having distributed them. Now, I am not going to say to him, "Did you on the 30th day of September, 1937, in John Smith's——"

The Court: Mr. Hallinan, I certainly can't anticipate at this juncture precisely what you have in mind in the course of your examination. I must meet these matters as they arise and meet them in the light of the rules as I may apply them.

Mr. Hallinan: But that is the point of law, I mean——

The Court: Of course, this is the first time that I have had any knowledge as to the precise matter that you have in mind. This is the first time you have disclosed it to me, thus far. I haven't inspected any of these documents.

Mr. Hallinan: Of course, Your Honor, isn't this true, too, that a person has to take a sort of general attitude on those things, because you told the prosecution what the point is. Well, of course, they may not say anything to the witness, but they may go out and say to the witness, "Now, as soon as this is presented, 'no,' you say, 'I never saw it.' 'Say you never saw it.'" Now, that is the trap we walk into by having to explain the purpose of our cross-examination, and that is why the Court is, under the rules, required or supposed to repose some confidence in the cross-examiner's integrity that he has some purpose in it. Now, I really esteem that because of the [1394] lapse of time overnight, that all these will be met by this witness saying, "I never saw them"; whereas, if I had been able to confront *him them* without all the discussion, without giving him an opportunity to be forearmed——

The Court: Well, I do not regard your veiled allusions, as well taken, nor the ascribing to the prosecution any of the matter that you ascribe to them in connection with overnight matters and the like. I have been looking for the solution to a problem of law, and I have been looking for a sound rule of discretion. Now this is the first time that I had any disclosure from you as to what you proposed to do.

Mr. Hallinan: But, Your Honor, the point that disturbs me on the rulings that you have made on these things is, they do not relate to this directly but to the more general principle. And I have seen all sorts—I have had the exact same ruling that you have made, I have been confronted with it a hundred times. A judge will take the position that any question addressed to the witness as to a prior inconsistent statement is the basis for impeachment only.

The Court: Mr. Hallinan, up to this juncture, will you say and admit to this Court that your cross-examination has not been circumscribed by this Court?

Mr. Hallinan: I think it is as fair as I have ever met.

The Court: All right. Now, the background is clear.

Mr. Hallinan: And I am not saying, [1395] Judge——

The Court: Let us try to continue that way.

Mr. Hallinan: Yes. Well, Judge, you do not understand that I do not by any manner suggest or suppose or assume or intend that that suggestion on the distinction between a question of the witness to test his credibility or to draw an admission and that on impeachment, that Your Honor is taking any flat position. I only say that I think you have not made, as to this witness, the necessary distinction; that what I am trying to do, first, is to see whether the witness admit prior inconsistent statements.

The Court: Mr. Hallinan, will your now admit to me that this is the first time I have had any notion what you have in mind?

Mr. Hallinan: I do, yes.

The Court: You made your disclosure to me just now. This is the first time I have had any notion or knowledge. Mr. Paisley, what have you to say about this matter?

Mr. Paisley: Well, Your Honor, I think we all understand what the law is.

The Court: Yes, sir.

Mr. Paisley: What I hope we can avoid in this case is, it may be that counsel doesn't intend to do it, but I don't think he has the right to take these editorials and these papers—I have never seen one of them, they may be one paper, they may be 20 pages—I don't think he can stand up here and read at [1396] length from some editorial or from some news item in the paper, or whatever it is, and thus get before the jury a lot of immaterial, irrelevant and incompetent matter that the jury shouldn't have before it. I think he should, if he has something in writing, submit it to the witness, submit it to counsel; rather than get up here and read it in the presence of the jury. That is what I anticipate—I hope I am wrong, and I hope I can avoid that. That is my feeling.

Mr. Hallinan: Well, there isn't any question that if the matter doesn't relate to a contradiction—although I do say this: I have other cases and a great many of them, where the contradiction is not a direct contradiction of what the witness said, but even the statement of an opinion, which contains a contradiction of what he said; that that is admissible, too.

The Court: Well, now, the point I have in mind is one step perhaps beyond anything we have said thus far. And it has to do with, no doubt, encomiums of praise contained in those editorials concerning

Mr. Bridges, benign statements and the like, no doubt set forth with good faith by the editorial writer. Now, to say that Mr. Schomaker is to be bound in this current examination by these extrajudicial statements, made long since and years ago by other persons, certainly is not within the ken of any rule I know.

Mr. Hallinan: No, I think you are right on that.

The Court: No. [1397]

Mr. Hallinan: It is only that whether he has embraced the thing or adopted it. Now, here is——

The Court: And that would be a matter of proper foundation by asking the precise question.

Mr. Hallinan: Yes. But then, of course, it comes down to this, that finally, whether a witness has adopted the statement or opinion of another, is pretty much a matter of fact for the jury. The court can say, "Well, here is the limit that I won't exceed, to the jury. There is so little evidence of adoption by this conduct that I don't think the jury should be entitled to weigh it." But from that point on, whether or not the witness has adopted that opinion is a question for the jury. Now, here is a matter from the same book I read, a prior opinion.

> "The inconsistent statement may be an opinion."

In Hanton v. Pacific Electric Railway Company, 178 Cal. 616, a personal injury suit. Plaintiff's witness testified that she saw plaintiff close to and walking fast toward the car, lost sight of him and about fifteen seconds later the car started. On cross-examination her prior written statement was produced, in which she said the car had started, "and I am sure it was moving before he could have gotten to it." That was held to be inadmissible.

The Court: I read that case.

Mr. Hallinan: I had some case, Gaksteder against the Market [1398] Street Railway Company.

The Court: I am familiar with that.

Mr. Hallinan: It was tried about five times.

The Court: It was tried twice.

Mr. Hallinan: No, it was tried five times.

The Court: Five times, was it.

Mr. Hallinan: And in one of them a police officer whom I had as a witness testified that the car was going 30 miles an hour. That was all he said. And that the motorman told him the child came from the opposite side of the street. They asked him on cross-examination, "Didn't you state that in your opinion the motorman made a fine stop and was not at fault?" So I objected, that was not inconsistent; the objection was sustained, and it was reversed on that point alone. They held that the statement,—that the jury were entitled to consider whether the statement that the conductor was not at fault was or was not consistent with his previous testimony, that the car was going 30 miles an hour. [1399]

The Court: Let us call Mr. Schomaker and the jury. I think we have a fairly good definition of what we have in mind, and we will meet the objections to the offers when we arrive at them.

Mr. McMillan: May it please your Honor, may

I interrupt for just a moment in order to avoid some possible confusion as to the application of the rules of evidence in a criminal trial in the Federal Court. It will be remembered that Mr. Hallinan has been referring to a great many California cases. The Estate matter to which he referred arose under a statute of California. He has referred to Witkin's summary of California law. The other decisions he referred to are all California cases. I am familiar with the case of People v. Hart; I am familiar with the case of People v. Jones. One is by Judge Melville and the other was by Judge Henshaw as to the proposition of law that you can examine a witness, testing his credibility and his recollection, without laying a foundation for impeachment. It is only after he gives his answer that you may lay that foundation.

The Court: Counsel, I read the Federal rule of Judge Rudkin and Judge Garrecht.

Mr. McMillan: That is exactly what I want to call to your Honor's attention. We are dealing with California cases, damage cases and others mentioned by Mr. Hallinan, civil cases. Here is the rule in the Federal Court that must never [1400] be lost sight of in the application of the rules of evidence and the principles of evidence in the Federal Court. This is Rule 26 of the Federal Rules of Criminal Procedure:

> "In all trials the testimony of witnesses shall be taken orally in open court, unless otherwise provided by an act of Congress or by these rules. The admissibility of evidence and the com-

petency and privileges of witnesses shall be governed, except when an act of Congress or these rules otherwise provide, by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience."

Now, it is true under the Federal Rules of Civil Procedure that you may adopt, where there is no rule or decision or act of Congress with reference to a rule of evidence in a civil matter, you may then adopt the rule prevailing in the State in which the action is tried, but that is not true with reference to criminal cases.

The Court: That is so under the doctrine of Erie v. Tompkins.

Mr. McMillan: That is right. Your Honor has correctly expressed the rule that governs in the Federal Court when your Honor referred to the decision of the Osborn case by Judge Rudkin and also referred to that decision by His Honor Judge Garrecht. We are governed here by the rules of the common [1401] law and also by Federal decisions and acts of Congress, not by the rules of the State practice.

The Court: Mr. McMillan, I appreciate your comment. I shall attempt to adhere to the rules that are traditional to these courts.

Mr. Hallinan: Your Honor, could I bother you to read one short excerpt more that sustains the position I was taking:

"Inconsistency in effect rather than contradiction in express terms is the test. Even though no particular contradiction is found, if the general purport of the testimony is compared with the whole statement and they appear to be the result of inconsistent application, the prior statement is admissible."

Now, as you pointed out, in some of these documents there were statements laudatory of Harry Bridges and encomiums about him. I think under this rule they would be admissible, but I do not propose to offer those, at least with this witness. As I say, I think that the cross-examination has been treated with great fairness. You have given us scope and extent in it, and I hope I justified the reason I had in mind.

The Court: The reason for this extended discussion is to understand our road and where we are going.

Mr. Hallinan: I say I want to be fair with the Court and not put in something that would be inadmissible, in my opinion. [1402]

The Court: Thank you, Mr. Hallinan.

Call the jury and the witness.

(Thereupon the jury returned to the courtroom and, being seated in the jury box, the following proceedings were had:)

The Clerk: The witness on the stand is John H. Schomaker, heretofore sworn.

The Court: You may proceed, Mr. Hallinan, with further cross-examination.

JOHN H. SCHOMAKER

resumed.

Cross-Examination

(Continued)

By Mr. Hallinan:

Q. Mr. Schomaker, you testified about a certain card that you say was signed by Harry Bridges sometime back in 1933 in a restaurant at which you and B. B. Jones were present, and I think you said what, so far as you know, became of that card. What was done with the card, as far as you remember?

A. You mean after it came in Jones's possession?

Q. Yes. You told about walking up the street, and so forth. What was its final disposition, and so forth, so far as you observed?

A. Well, we walked up Market Street——

Q. No, you testified to that. You said you got to Communist headquarters and then something was done with the card. What was that? [1403]

A. We entered 37 Grove Street. That was the address, 37 Grove Street.

Q. What was done with the card?

A. Well, we entered 37 Grove Street and went up onto the mezzanine floor and to the office of Sam Darcy.

Q. And what was done with the card?

A. Oh, then Jones turned it in to Sam Darcy.

Q. Had you ever turned in similar cards before, cards of other persons? A. I had, yes.

Q. How many, approximately?

A. Well, it was a considerable number. Over a

(Testimony of John H. Schomaker.)

period of years it would run into a considerable number, yes.

Q. As many as a hundred or two hundred?

A. I would say, to be conservative, I would say 100.

Q. Do you know what was done with those cards when they were turned in there? To whom were they turned in? Mr. Darcy? Withdraw that.

Don't you remember that you testified it was given to some secretary or some girl there?

A. I testified to that?

Q. Yes. Wasn't that your testimony? Well, do you remember?

A. I certainly do remember. Certainly I remember.

Q. To whom was it handed?

A. In this particular case Jones and I went into 37 Grove, [1404] went up on the mezzanine floor, and Jones, with a smile, gave the card to Samuel Darcy.

Q. To Darcy himself?

A. The district organizer of the Communist Party.

Q. When did you get the book that you said bore the name Harry Dorgan on it?

A. Well, every Saturday they had a meeting and the section organizers attended, and there they got —well, they had a meeting and they discussed the situations in the various sections——

Q. That is not what I asked you. Will you confine your answers to the questions. I asked you, When did you get the book with "Harry Dorgan" on it? When?

A. Do you mean the exact date?

Q. About. How long after you turned in this application that you talked about?

A. I am just trying to give you the background.

Q. Just approximately in time.

A. Well, in the case of the Bridges book there was a peculiar incident about that, because it was——

Q. I am coming to that later.

Mr. Paisley: I think he can answer.

Mr. Hallinan: Your Honor, that is not an answer to the question.

The Court: Mr. Hallinan asked a specific question. I think he is entitled to an answer to it and any explanation [1405] the witness may make is quite all right, but he is entitled to an answer.

Q. (By Mr. Hallinan): Was it a week after, a month after, or what was it that you got the Harry Dorgan book that you testified to?

A. It was longer than the average time that would elapse to get an ordinary book, yes.

Q. What was the average time?

A. The average time would be, if you turned the application in on a Monday, why, that next Saturday the book would be issued.

Q. Was there some sort of a meeting that would pass upon the application?

A. That is correct. It was a membership—I think they referred to it as a membership committee

(Testimony of John H. Schomaker.)

or application committee, and any applicants that would apply to join the Communist Party had to be proposed by someone, and from there it would go to a membership committee, who would carry on an investigation as best as possible, and then the book would be issued if the person was considered safe-worth, and so forth—met the qualifications of being a Communist.

Q. How many people were on the membership committee?

A. I didn't have too much connection with the membership committee.

Q. Approximately. [1406]

A. I would say three or four persons..

Q. Was this procedure that you have testified to the procedure in all cases of admission to the Communist Party you knew of?

A. No, it was not. The Bridges case was an exceptional case.

Q. So ordinarily this application would be submitted to three or four persons, is that right?

A. Well, no, it would not be submitted.

Q. I say ordinarily an application would be submitted to three or four persons?

A. No, that is not correct. The way you pose the question is not correct. The persons who made the applications out, who recruited a certain person to join, for membership in the Communist Party, they turned the applications in to the unit organizer, and the unit organizer turned it over to the section

(Testimony of John H. Schomaker.)
organizer. The section organizer turned it in to 37 Grove Street, and later to 121 Haight Street, and there they had a membership committee which met and would carry on an investigation as best as possible of the proposed member. But in the Bridges instance it was entirely different.

Q. I am asking about the ordinary one, not the Bridges one.

A. I am telling you the ordinary one and I am telling you the exception.

Q. We will come to that in a moment. So that ordinarily a membership application was delivered first to a unit organizer [1407] and by him to a section organizer and by him it was delivered or it was turned over to a membership committee to pass upon the application, is that right—ordinarily?

A. That was the general rule, yes.

Q. When the application was passed upon verbally, what was done with the application card?

A. Well, I never saw the application card again.

Q. Do you know what was done with it? Was it filed? Was it sent to some central headquarters, sent elsewhere, or what?

A. As far as I know, it was filed for a certain length of time and then destroyed.

Q. How long was it filed?

A. That is something I cannot answer. I don't know.

Q. Would it be for several years?

A. I don't know. I don't have the slightest idea.

(Testimony of John H. Schomaker.)

Q. Who had charge of the files in which they were contained?

A. I was down on the waterfront as a section organizer and had no connection whatsoever with the filing or any of the office work that was carried on there at 37 Grove Street or 121 Haight Street. I have no conception whatsoever of what they did there.

Q. In addition to Mr. Darcy at 37 Grove Street, were there other officials of the Communist Party who had their offices there and who functioned from that address? A. Well, yes, there was. [1408]

Q. How many?

A. I think that your conception of the Communist Party is so——

Q. If you don't mind, we won't bother with my conception of the Communist Party. I asked you how many officials of the Communist Party in addition to Mr. Darcy performed their functions from No. 37 Grove Street, that is, that they had offices there, had office space, or they came and went and did certain work in that building. How many?

A. As I say, in those days the Communist Party was a vest-pocket organization.

Q. How many?

A. Well, the Western Worker had their offices there.

Q. How many people were in the Western Worker?

A. Well, they had the editor and they had the assistant editor.

(Testimony of John H. Schomaker.)

Q. Anyone else?

A. Well, then the circulation manager—the circulation manager and the advertising manager was the same.

Q. Who else?

A. Then you had the trade union director.

Q. Anyone else?

A. And you had the membership director.

Q. Anyone else?

A. And you had the agitation and propaganda director. [1409]

Q. All right. Who else?

A. To the best of my recollection, there was more, but that is the best of my recollection.

Q. Were there any stenographers working there?

A. Well, yes. I thought you just wanted the directors of the Communist Party.

Q. These are all the directors that you can remember, is that correct. A. That is correct.

Q. You think there were some more, but you can't remember them, is that right?

A. I say, to the best of my recollection that was the total of the functionaries of the Communist Party at the headquarters.

Q. That would be, then, in addition to Mr. Darcy there were five other persons whom you remember?

A. Yes, that is correct.

Q. Were there office stenographers there?

A. There was, yes.

Q. How many?

A. Mr. Darcy had a stenographer. She did other

(Testimony of John H. Schomaker.)

work, too, but, as I say, the Communist Party was a vest-pocket organization.

Q. Any other stenographer?

A. I don't know if you could classify them as stenographers [1410] or they doubled for other jobs, too.

Q. How many? How many people were doing that kind of work, either stenographers or doubling in their jobs?

A. That kind of work was mostly voluntarily and if a person had a day off on their jobs they would come down and help out, so it would vary from day to day.

Q. Would there be as many as ten or fifteen people who did that off and on?

A. I wouldn't want to give a figure, because——

Q. Well, roughly.

A. As I say, I came to the office maybe once a day some days, maybe two or three times a day on other days. I was in and out. I didn't stick my nose in each office and check up on each person and what he was doing there. It didn't concern me.

Q. There were people who would act as volunteer workers when they had a day or two off?

A. That is right.

Q. You do not know how many there may have been. There might have been as many as twenty or as few as five or six?

A. It varied with the campaign that was under way. If there was a vigorous campaign under way there would be more. When things slacked off there would be less.

(Testimony of John H. Schomaker.)

Q. Was there any file clerk or anything like that?

A. I wouldn't know whether there was or not. [1411]

Q. When you had books issued for the numerous people you described, who gave you those books?

A. As I say, we had meetings of the section organizers.

Q. Let us forget that for a minute.

A. I am trying to explain how the books were issued.

Q. You said at the end of the year, for instance, you turned in the old books and had new books issued. To whom did you turn in the old books?

A. That is what I am trying to explain if you will permit me.

Q. What was the name of the person to whom you turned them in?

A. There was a Kay McGee at one time.

Q. What was her job there or her office?

A. She generally was secretary to Sam Darcy, at times, I say. I think she was the director of the membership drives.

Q. Then who were some of the other people who occupied that same position?

A. Betty Gannett occupied the position of membership director.

Q. Did you get some of the books from her or turn in some books to her on occasion?

A. That is right.

Q. Anybody else?

A. It was mostly a woman, that is, generally a

(Testimony of John H. Schomaker.)

woman, and at this time those are the two people that stand out prominently that I remember. [1412]

Q. But there may have been more, is that right?

A. There may have been more, yes.

Q. You do not know where in the office they filed these applications, is that right?

A. Well, to be very frank, I don't think they filed them in that office.

Q. Where did they send them?

A. I haven't the slightest idea. For security reasons they didn't tell me what they were going to do with the confidential data they had.

Q. You do not know where those applications were sent?

A. It was no concern of myself at all. It was no concern of myself whatsoever.

Q. You said that a book was issued in the name of Harry Dorgan and that book was turned over to you and you delivered it to Harry Bridges?

A. Personally; that is correct.

Q. And that book had the name of the member, as I take it, Harry Dorgan? A. That is right.

Q. But there was no place for the signature of Harry Dorgan, is that right?

A. As close as I can recall, at the head of the book there was the name that was either typed or written in, and then at the bottom I think the member could sign it. [1413]

Q. But he didn't have to sign it?

A. That is correct. That is as much as I can recall. I haven't seen a book for so long that——

(Testimony of John H. Schomaker.)

Q. Do you have your own book, the book that was issued to you at the time? A. No, I have not.

Q. How many separate books were issued to you?

A. Well, at the end of each year they called in the old books and issued new ones.

Q. Where was the last one that you got?

A. The last one I got was at Jack Shaw's house.

Q. I say, where is it now?

A. I haven't got the slightest idea where it is.

Q. What did you do with it when you got it?

A. When I got it?

Q. Yes. A. I kept it.

Q. What name was it issued in?

A. John Delaney.

Q. Was it signed by you?

A. As I say, the page of the book—whether a member had it signed—I know that Sam Darcy signed it and later Schneidermann, and it was initialed, the membership stamp was initialed by what they called the control director. Now, whether or not the member had to sign it, that is—I can't [1414] recall whether he did or not.

Q. You say that some books, some membership books were held in the office of the Communist Party itself, is that right?

A. I don't understand what you mean.

Q. You testified that at the end of the year you would pick up the books of people with whom you were in contact, take them out, and the new books would be issued and you would deliver those books back, but you said some of the books were not

(Testimony of John H. Schomaker.)
delivered back to the persons because they wanted them held at the headquarters of the Communist Party itself. Do you remember so testifying?

A. That is correct, yes.

Q. So that a person could leave his book in the files or in the office of the Communist Party and not have it in his home or in his personal office at all, is that right?

A. Not exactly correct, no. What would happen, the section organizer would pick up the books at the headquarters and deliver them to the unit, the unit dues secretary or the unit organizer, and there it was up to the disposition of each member whether he or she wanted their books to be held by the unit dues secretary or when the meeting was held he would pick it himself, if they wanted to carry it themselves.

Q. But if he didn't want to carry it himself, the Party would hold it for him, is that right?

A. That is, the unit dues secretary would hold it for him. [1415]

Q. Where would the unit dues secretary keep those books?

A. Your guess is just as good as mine on that.

Q. During the time you were acting in the capacity that you have testified were there certain members whom you had recorded or with whom you were in touch whose books were retained by the dues secretary? A. Why, there was, yes.

Q. About how many?

A. Well, it varied according to the membership.

(Testimony of John H. Schomaker.)

Q. The only books that you ever saw issued, you say, to Harry Bridges bore the name Harry Dorgan, is that right?

A. That is all I saw, yes.

Q. You never saw any book issued to him under any other name, did you?

A. No, I did not, not during my term in the Communist Party I did not, no.

Q. You left the Communist Party in 1939 or 1940, did you?

A. That is right, but before I——

Q. Which one? A. Pardon?

Q. Which year?

A. It was either in the fall or winter of 1940. It was during the time of the Russian-Finnish war.

Q. What was the highest position you held in the Communist Party? [1416]

A. Well, it was section organizer and also membership district committee, if you call those high positions; that is what I occupied.

Q. What is the highest position you have held in the ILA?

A. You mean a paid position, do you mean?

Q. Any position.

A. I suppose that would be a matter of opinion.

Q. What were the names of the positions?

A. The positions I held—I was the business agent from 1937 to 1938, that is, one year, and I was the publicity director. I was on the Labor Relations Board. Now, in some people's opinion maybe the Labor Relations Board is more important than being a business agent, I don't know, or being a director is

(Testimony of John H. Schomaker.)

more important than being a labor relations committee man.

Q. You never knew of any cards being issued to Harry Bridges under the name of Harold Harvey, did you?

A. No, I can seriously say I never have, no.

Q. You never heard of any Party book being issued to him under the name of Canfield, did you?

A. That is all news to me.

Q. You never heard of any Party book being issued to him under the name of Rossi, did you?

A. Seems to me Rossi—there was some member in the unit that had that name, but who it was—it wasn't Bridges, I [1417] know, but it was someone else.

Q. You never heard of Bridges being so designated in the Party?

A. No, his Party name was Harry Dorgan.

Q. You never heard of Harry Bridges being elected to any office in the Communist Party, did you?

A. He was a member of the district committee—there was some angle in there some way—of the district committee, whereas like persons like myself, I was a member of the district committee, and I met with these extraordinary sessions that they held, but there was some connection with Bridges there that is kind of vague, that there was some connection with the district committee where he met with the Bureau in some fashion or another, that they would meet, not with the large group of the district committee, but as the Bureau would meet, the Bureau being the

(Testimony of John H. Schomaker.)

executive Committee of the district committee. [1418]

Q. How big was the district, what geographical space did it cover?

A. Well, it covered, to the best of my recollection, it covered California, parts of Nevada, and a part of Arizona.

Q. Were you ever present at any meeting at which Mr. Bridges attended any such bureau meeting as you just mentioned?

A. Well, you could call the meetings with Sam Darcy and myself and Harry Jackson and Henry Schmidt, in a sense they were bureau meetings.

Q. All right. Now, will you tell me this: You said that Mr. Bridges' application, that there was something extraordinary about it, that they didn't go through, or the application did not go through, the ordinary channels. Is that roughly correct?

A. That is correct.

Q. And the reason for that, I take it, is that he was an alien and subject to deportation if he were known to be a member of the Communist Party, and hence his membership had to be kept concealed, is that right?

A. Well, not only for those reasons, because every member, his membership was kept concealed. But in Bridges' case, extraordinary precautions were taken.

Q. For that reason that I just enunciated, is that right?

A. Well, primarily, I guess you are correct on that.

(Testimony of John H. Schomaker.)

Q. All right. So that at the time—Now, did you narrate the [1419] whole conversation relating to Mr. Bridges joining the Communist Party that you and B. B. Jones had with him in the restaurant?

A. Well, to the best of my recollection, I did, yes.

Q. Now, at that time, then, so we can get it clearly, Mr. Bridges, who was in danger of being deported as an alien, and who, you knew and he knew, would be deported as an alien if it were known that he joined the Communist Party——

Mr. Donohue: If Your Honor pleases, this type of question is obviously argumentative.

The Court: The question hasn't been completed.

Q. (By Mr. Hallinan): Went through a procedure, therefore, a little different from the ordinary means of applying for a membership in the Communist Party, is that correct?

A. That is not wholly correct, no.

Q. All right. Now when Mr. Bridges,—At the time that you say you got an application for the Communist Party for Mr. Bridges, you had had discussions, I take it, with Mr. Bridges or had heard discussions, in which it was pointed out that if he were known to be a member of the Communist Party, he would be immediately deported. That's right, isn't it?

A. Why, it is ridiculous.

Q. All right. Now, at the time that Mr. Bridges signed this application for you, he had known you about a month, isn't that right? [1420]

A. Well, that is approximately correct. The date

(Testimony of John H. Schomaker.)
—I mean, the time element; whether it was 30 days or 45 days or 60 days, I can not specify a certain time, no. But it was around—I would say between 30 and 60 days, yes.

Q. What happened, what in your experience happened to a member of the Communist Party who failed to pay his dues?

A. That was the cardinal law of the Communist Party. In order to be an active Communist, you had to pay dues and you had to be an active member. Otherwise you weren't a member.

Q. Did you have to have filed an application?

A. You mean, to join the Communist Party?

Q. Yes.

A. Why, certainly. How else could you become a member?

Q. Did you have to have, had a card issued to you? A. That's correct, yes.

Q. Well, do you know of any instances in which persons were accepted into membership in the Communist Party where they hadn't signed an application?

A. Well, in my experience in the Communist Party, I never heard of any such instance, no.

Q. Did you ever hear of any instance in which a person was allowed to remain in the Communist Party without paying any dues?

A. No, I said, that was the cardinal principle of the Communist Party. [1421]

Q. Did you ever know of anybody being in the Communist Party without having any book issued to him?

A. Well, on the waterfront among the longshoremen and seamen and bargemen and scalers, why, it wasn't the case. But in the higher circles it may have been, with the intelligentsia. They may be a member and not a book issued. I don't know anything about that. But in the waterfront where the longshoremen and seamen were, you had to have a book and pay weekly dues and attend weekly meetings.

Q. Well, did you ever know, personally know, regardless of what might have been the rule, did you ever encounter personally a situation in which a person became a member without having a book issued to him and paying dues?

A. No, I say, the cardinal principle of the Communist Party, which was stressed, which made the Communist Party so effective, was the fact that you had to pay weekly dues, you had to attend a weekly meeting and assume the voluntary discipline of the Communist Party.

Mr. Hallinan: Should we take a recess now, Judge?

The Court: Yes, we might take a short recess this morning, shorter than ordinarily would be taken, so we will recess around 11:40 for the reason that John Fixa is to be installed as the postmaster; the oath of office is to be administered to him here. So with that in mind, we will take a short recess. The same admonition to you, ladies and gentlemen of the jury. [1422]

(Recess.)

(Testimony of John H. Schomaker.)

Q. (By Mr. Hallinan): You say that shortly after you came to San Francisco you received directions from Mr. Darcy to recruit Harry Bridges for the Communist Party, is that right?

A. Well, it didn't come about just like that.

Q. Well, you did receive directions from him to recruit Harry Bridges, you so testified, didn't you?

A. Well, I say, I didn't walk into the office and Sam Darcy didn't say to me, "Get down to the waterfront and recruit Harry Bridges into the Communist Party." No, it wasn't like that at all. It came about after meetings, several meetings, and a thorough discussion of the situation on the waterfront.

Q. And he told you then, after all this preliminary, to recruit Harry Bridges, did he?

A. Well, as I say, it didn't come out just like that.

Q. Well, how did it come out?

A. Well, as I say, I moved into San Francisco and just—since I was a member of the Communist Party, after I got settled, I reported to the district headquarters of the Communist Party, and since I had some connections on the waterfront, I was willing to go to work on the waterfront, or seek work there at least. And I was assigned to the waterfront, what they call the "downtown waterfront section." And there Herman Mann was the principal Communist carrying work on on the waterfront.

Q. Well, just a moment. We have gotten into

(Testimony of John H. Schomaker.)

a rambling [1423] background of this. I want to know this: You testified now originally that you received some orders or directions or recommendations or advice—I don't care what you call it—from Sam Darcy to recruit Harry Bridges into the Communist Party. Is that right or is it wrong?

A. Well, if you will allow me to explain, when the question was asked me before, if I can recall correctly, due to the objections it wasn't made clear exactly how this came about.

Q. All right. Well, then,——

A. So at this time I would like to have permission to explain it.

Q. You can explain it afterwards. Answer it first and then if there is any explanation necessary, you can give it. Did or did not Sam Darcy suggest to you or tell you or recommend to you to recruit or attempt to recruit Harry Bridges into the Communist Party? A. Yes, he did.

Q. All right.

A. And now I would like to explain it.

Q. No, I don't think any explanation is necessary.

Mr. Paisley: I think he can, Your Honor.

Mr. Hallinan: An explanation is supposed to be an explanation of an answer which may be ambiguous, not an explanation of why a person did a thing or the conduct of it. We are not interested in that. [1424]

The Witness: Well, you put me in a very unfair advantage, so to say, that I tried to explain before, that this didn't just come about out of thin air;

certainly conditions existed on the waterfront that we discussed thoroughly, and that was——

Q. What position do you think you occupied in this case that you are to be placed at an advantage or disadvantage?

Mr. Paisley: Your Honor, I ask that the witness be allowed to explain. He said that the answer in a simple yes or no doesn't explain it.

The Court: He has partially made an explanation now, and now the question posed is as to what position he occupies. He may answer that.

Mr. Paisley: I think he was cut off.

The Court: I think the witness is capable of answering it.

The Witness: What is it?

The Court: The question addressed to you; (to the Reporter) Would you read that, please?

(Record read.)

A. Well, I am up here as a witness, trying to tell the truth, which I am doing to the best of my ability. But by this constant heckling, I am interrupted, and as I say, you take an unfair advantage of me by opposing these objections, because I haven't got a legal background or, why, at times you absolutely confuse me, speaking very frankly.

Q. (By Mr. Halliman, clicking tongue): I regret it [1425] exceedingly. The last thing I would want to do is to do you any harm or cause you any embarrassment. Now let me ask you this: You came to San Francisco in October of 1933, is that right?

(Testimony of John H. Schomaker.)

A. Well, it was, I would say, the latter part or from the middle of—I mean, yes, the middle of October, 1933, is as best I can recollect. And——

Q. And you went to the Communist headquarters, is that right, some time after that?

A. Well, after I got settled I did, yes.

Q. And when you went to the Communist headquarters, did you meet Mr. Sam Darcy?

A. Well, I always met—if he was in, I generally had a talk with him, yes.

Q. Now, I mean, when you first went there, did you meet Mr. Darcy?

A. Oh, yes, that was the general program.

Q. Had you ever known him before?

A. Pardon?

Q. Had you known Mr. Sam Darcy prior to that time?

A. Why, yes, I knew Sam Darcy.

Q. Had you—— A. Personally.

Q. Had you met him before?

A. Why, certainly. How could you know a person—I was intimate [1426] with him, that is what I wanted to say.

Q. When you first came to San Francisco, you had already been intimate with Sam Darcy, is that right?

A. Well, I sat in meetings with him and I discussed a lot of problems with him, yes.

Q. Before coming to San Francisco?

A. That's correct.

Q. All right. Now, Sam Darcy, then, finally

(Testimony of John H. Schomaker.)

wanted you to recruit Harry Bridges as a member in the Communist Party, is that right?

A. Because the situation——

Q. No. Answer it yes or no.

Mr. Paisley: He has already answered it, Your Honor.

Mr. Hallinan: "Because of the situation——".

Mr. Paisley: He can't ask him the same questions over and over again. Less than two minutes ago he answered that affirmatively. Now he asks him again.

Q. (By Mr. Hallinan): Let me ask you this: Did he tell you to recruit Harry Bridges personally or just to recruit an officer of the union? Which?

A. Well, the way you pose that question, I can't answer it yes or no; it is impossible.

Q. All right, then never mind it. Now, you say that Harry Bridges was considered to be at that time an important candidate or an important person to get into the Communist party, is [1427] that right?

A. Well, no, that is not exactly correct either.

Q. All right. Now, did Sam Darcy say to you that he considered it important to get Harry Bridges into the Communist Party?

A. Well, after a discussion, and we considered other candidates, yes.

Q. All right.

A. Considering other people first, we come to the conclusion that Harry Bridges was the best person to lead the union on the waterfront.

Q. And why?

A. Well, now, can I explain that now?

Q. Tell us what reason you had to arrive at why he would be the person who should be selected.

A. Well, as I say, I didn't know Harry Bridges from a cargo hook when I came to San Francisco, and as I say, because I was a member of the Communist Party and I went to work on the waterfront, or sought work on the waterfront, I joined the union with the first paycheck that I made, and then because I was a Communist, I became active to strengthen the union. And we had a discussion——

Q. Pardon me.

Mr. Hallinan: Your Honor, that isn't what—I asked him why it was discussed or what reason was given why Harry Bridges should be an important person to recruit. Now, not all the [1428] previous history that he has stated and restated.

The Court: Well, the question may require, Mr. Hallinan, in this instance, some background as to——

Mr. Hallinan: But he has given it ten times. He has already told us ten times.

Q. I only want to know this: If any reason was given why Harry Bridges was an important person to recruit.

A. Oh, all I can explain it, that the situation was so complicated on the waterfront——

Q. Just a moment.

Mr. Hallinan: Your Honor, I object to that.

Q. Was or was not any reason given to you why Harry Bridges—now not the situation or you or

(Testimony of John H. Schomaker.)

anything else, but any reason given to you why Harry Bridges would be an important person to recruit for the Communist Party.

A. Well, Your Honor, I can't answer that until I get some background to explain why the decision was reached. It is impossible.

Q. All right. Well, was anything said that it was important to recruit Harry Bridges into the Communist Party because he was some high officer in the ILA?

A. Well, at that time, to the best of my recollection, Harry Bridges was a member of the executive board of the ILA, Local 3879.

Q. And that is all, isn't it? [1429]

A. No, that was not all, certainly not.

Q. And you found that out since you gave your first testimony in this case, didn't you?

A. Listen, I knew this from 1933 and give me permission to explain it, I can explain it.

The Court: All right. Now at this juncture you may explain it in the light of your answer, what you have in mind. As briefly as possible.

The Witness: As briefly as I can, in these words, that as the situation on the waterfront was extremely complicated. That is, the Wagner Act had just been passed and the so-called "New Deal" was just in its first stages and developing. You had a company union on the one hand with a part of the men belonging to it; you had the ILA union, affiliated to the American Federation of Labor, on the other, with part of the men belonging to that. You

(Testimony of John H. Schomaker.)

had the Marine Workers Industrial Union in the background, and you had the Communist Party. Now, the background was so confused, that is, when the Wagner Act went into effect, why, immediately they began organizing the ILA and Harry Bridges was not a part of that organization committee. They elected officers and there was a program to boycott the election, even, of the ILA, because it wasn't clear what union was to eventually assume leadership. So after that first upsurge of organization, why, then it slacked off because the ILA didn't take any active part, because certain men [1430] were being blacklisted. There was a suit pending with the Labor Relations, the National Labor Relations Board, on account of this blacklisting, and it was an extremely confused situation. That is when I arrived there. So the Communist Party wasn't as active as what Sam Darcy and other people, members, thought it should be. So we discussed the situation. I got a background of it, and at that discussion Herman Mann, myself and Sam Darcy asked —he says, "Who would be the best man down there to head this thing up?" Well, naturally, it wouldn't have been me—just on the 'front a very short time, a very few people knew me, and Herman Mann was in the same position, although Herman was a very capable person. So he said, "Who down there could do it?" So we considered men from the Matson dock. Most of them were young Irish fellows, didn't know much about trade unionism, but they were militant and they were willing to fight because

(Testimony of John H. Schomaker.)

of the extreme conditions that existed on the Matson dock at that time. And we even considered a few of those people. In fact, Herman and I went out to see one in particular who had contributed articles to the Waterfront Worker. So it was no go there, after talking to the guy a few minutes. We could see it was no go, so we come back. And so Sam says, "What did you figure out on this thing?" So Herman says, "The best guy down there is this guy Bridges." And "Why?" "Because he had spoken several times at the street meetings and he had worked with the waterfront workers group." So Sam says, "For Christ sake, [1431] go down and get him." And that is exactly what we did. We proceeded to go down and get him, and that is what we did—we got him, with membership, signed up in the Communist Party, functioning, disciplined member of the Communist Party.

Q. (By Mr. Hallinan): You found out since you started testifying here that you had made a wrong guess on Bridges' being an officer of the union at that time, didn't you?

A. I didn't make no wrong guess, because I am telling the truth.

Q. Yes. You testified originally here that the reason that you were sent down to get Harry Bridges in was that he was president of a waterfront union, didn't you?

A. (Laughing): That is absolutely incorrect, because we—the Communist Party, was able to put

Harry Bridges in as president of Local 3879. And if you will listen, I will tell you how it was done.

Q. Who was president in 1933?

A. Who was president?

Q. Yes.

A. Why, Lee J. Holman, "Ashcan" Holman they called him later on.

Q. Uh-huh. "Ashcan" Holman. I am going to make a note of that because I can use it a little later on, along with——

A. Well, I used it a lot of times, too. Ashcan.

Q. Ashcan. All right. Now, around that same time a man named Jim Branch, who was an alien, an English citizen, was deported [1432] from the United States because he was a member of the Communist Party, isn't that right?

A. In 1933? You are asking if that happened in 1933?

Q. Yes.

A. Well, the best of my recollection, I knew Branch—I have been to his house, and I knew him fairly well.

Q. Was he deported?

A. Well, let me explain. I think it was later than 1933.

Q. Well, was he deported?

A. Well, eventually he was deported, yes, and he died in this last war, I understand—killed in action, the British forces.

Q. And was he deported because he was an alien and a member of the Communist Party?

(Testimony of John H. Schomaker.)

A. I do not know the exact circumstances of his deportation, no.

Q. Now, what year did you say you were born in? A. 1903.

Q. 1903. So at that the time that you first met Harry Bridges you were 30. That's correct, more or less? Now, you gave us some of your personal history; you said you had been a miner, and then you said, "I was bumming the country." Now, what did you mean by that?

A. Well, at that time I think Mr. Hearst had carried the banner that said, "See America First," and being a very impressionable youth, I decided to see America first. [1433]

Q. And in what fashion did you go seeing it

A. Well, principally by the boxcar route.

Q. And how long did that last?

A. Well, in the period of that, 1922, I bummed over the biggest part of the western states; that is, west of the Mississippi.

Q. For how long a period?

A. Well, from the spring of 1922 to July the 31st.

Q. You were a tramp, is that right?

A. Absolutely correct, a tramp—a hobo.

Q. All right. Then you worked for some various organizations, and in 1926 you say, "I toured the western states again." That means you were again a tramp, is that right?

A. Well, I was in a little different circumstances then.

(Testimony of John H. Schomaker.)

Q. Beg your pardon?

A. Financially I was in a little different circumstances in 1926.

Q. Well, in 1926 were you again riding boxcars?

A. No, I came out of the Marine Corps in 1925 and I had worked a year, or approximately a year, in Los Angeles as a hod carrier—I mean, in Santa Barbara, driving a truck and as a hod carrier. And I had a little money. I bought a car and we toured—well, the western states; wound up in Salt Lake City.

Q. Who were "we"?

A. Well, there was two more fellows, ex-Marines, and myself.

Q. Were you carrying your blankets? [1434]

A. In the car, you mean?

Q. Yes.

A. Well, I think we did have a couple of blankets in there. We had a couple of trunks and a couple of blankets.

Q. Wouldn't you call yourself a tramp for the period of 1926 on that tour? Is that right?

A. Well, maybe some people would have called us tramps, I suppose.

Q. Well, then, you afterwards worked at the Veterans Hospital, is that correct?

A. Yes, 1927 I went to work at the Veterans Hospital.

Q. You were a guard and an attendant and a gardener, you said? A. That's correct.

Q. Were you a patient in that hospital at all prior to that time?

A. Why, no, how could I be? I don't think a patient in a veterans' hospital can work and draw wages. That is my impression there; I may be wrong on that.

Q. Now, could you tell me now what the wages of stevedores on the waterfront is, how much an hour? A. No.

Q. $1.85 an hour, isn't it?

Mr. Paisley: Now, if Your Honor please, we object——

The Court: The objection is sustained; incompetent, irrevevant, immaterial. [1435]

The Witness: I can tell you what the wages of a hod carrier is.

Q. (By Mr. Hallinan): When you first appeared on the waterfront you weren't known as "John Schomaker," were you? Weren't you using a different name?

A. Well, I don't know. Possibly I was known by "John Delaney Schomaker," yes.

Q. Well, weren't you just known as "John Delaney"?

A. Well, maybe some people did know me as John Delaney.

Q. Well, isn't that the name you gave yourself on the waterfront when you met people?

A. Well, perhaps it was. My party name was John Delaney, and a lot of times I was introduced as John Delaney.

Q. And where did you get the name John Delaney from?

A. Well, I just picked it out of the thin air. I liked it phonetically—liked it—Delaney.

Q. Is it your mother's name?

A. It is not, no.

Q. And it is also the name under which you were registered in the Communist Party, is that right? A. That's correct, John Delaney.

Q. And cards had been issued to you under that name?

A. Well, all cards or all books that I had were issued in the Communist Party under the name of John Delaney. [1436]

Q. Then how long did you work on the waterfront under the name of John Delaney?

A. Well, when I signed up in the union I signed as John Delaney Schomaker. I received my book under that name and then later—that went on to about—I would say about 1940 or so, when I went before—and then when I registered as a longshore, see, after the strike in 1934 they registered all the longshoremen, and to work there you had to have a registration that is agreed to by the longshoremen's union and by the employers, and so I registered under that name, John Delaney Schomaker. Hoowever, later, as close as I can estimate it, in 1940 or so, I went before the Longshore Board and had that middle initial changed to H.

(Testimony of John H. Schomaker.)

Q. What does the H stand for? A. Henry.

Q. Did you ever testify under oath that you were not a member of the Communist Party?

A. Well, not that I can recall. I don't think I have ever been under oath too many times before this.

Q. Will you give yourself a little more thought. Did you ever testify under oath that you were not a member of the Communist Party?

A. At this time—not that I can recall at this time.

Q. Do you remember an occasion on which you were injured by a goon squad attack on the waterfront? [1437]

A. That is right. I remember it very well.

Q. You subsequently saw some affidavits made by a man named Loughran, who was one of the men who had attacked you, is that right?

A. If I saw the affidavits?

Q. Yes.

A. I may have, but I don't recall at this time.

Q. Do you remember that the situation was that you fell victim, you were one of the victims in a plot by certain of these people to murder Bridges, and Henry Schmidt and yourself?

Mr. Donohue: If your Honor please, I think that is an improper question.

Mr. Hallinan: It is preliminary.

Mr. Donohue: If your Honor will have the question read back, I think you will find it includes a conclusion on the part of the examiner as to what is in the mind of the witness.

Mr. Hallinan: We will come to the court proceeding presently.

Mr. Donohue: Maybe we will, maybe we won't

Mr. Hallinan: I think we will.

Mr. Donohue: May we have the question read?

(Question read.)

The Court: What is the purpose of this question?

Mr. Hallinan: I want to lead up to his testimony——

The Court: If you are coming to a court proceeding, let [1438] us come to it. Objection sustained.

Q. (By Mr. Hallinan): Do you remember testifying in a proceeding involving a matter of a plot of that kind?

A. I remember this case—I mean, the particular case where I was attacked and I went to court, but where a murder plot was concerned——

Q. Do you remember testifying in that hearing that you were not a member of the Communist Party?

The Court: What is the hearing?

Mr. Hallinan: In the court hearing that he said he appeared in.

The Court: Where is the court?

Mr. Hallinan: I wanted to ask him those things. This is not impeachment yet. I want to see what his recollection is to see whether it is good or bad.

(Testimony of John H. Schomaker.)

A. As I say, at that hearing I cannot recall at this time whether that question was asked or not, whether I was a member of the Communist Party.

Q. You mean you were prepared if it were asked to testify you were not?

A. No, but since you asked, I am trying to answer to the best of my ability, to the best of my recollection.

Q. Do you remember being questioned at that proceeding about your name?

A. Well, now, listen. Let's get this straight. There were [1439] two hearings. One was conducted by a lawyer by the name of McCarthy and another by a lawyer—the lawyer that conducted the lawsuit against Henry Ford on racial prejudice and won it.

The Court: Aaron Sapiro.

The Witness: Aaron Sapiro, that is correct. He represented the defendants in one and McCarthy, I think, in the other.

Q. (By Mr. Hallinan): Do you remember being asked these questions and giving these answers in the hearing before Donald Geary, Judge of the Superior Court:

> "Q. Did you ever go under the name of Delaney?
>
> "A. Yes, I was nicknamed Delaney, yes."

Do you remember that?

A. Yes, I can recall that now, yes.

(Testimony of John H. Schomaker.)

> "Q. Were you working on the waterfront in 1934 under the name of John Delaney?
>
> "A. Yes, as a nickname, John Delaney Schomaker.
>
> "Q. I said John Delaney, is that correct?
>
> "A. No, that is not exactly correct.
>
> "Q. You were known on the waterfront as John Delaney?
>
> "A. No, not known as John Delaney. I was known as John Delaney Schomaker."

Do you remember those questions?

A. That is correct.

Q. Do you remember being asked this question: [1440]

> "Q. Are you a member of the Communist Party?
>
> "A. Who? Me? No."

A. That is very possible, but I don't recall——

Q. Did you say it?

A. I don't recall saying it in that words, no.

Q. What words did you use?

A. Well, I don't know.

Q. Did you deny that you were a member of the Communist Party, whatever words you used?

A. Why, certainly not, but just to pull a statement out of the testimony there, I can't answer that unless I see it and see the preceding questions and see the questions that come after it. I don't even know what hearing you have there, whether that is the McCarthy or the Sapiro.

(Testimony of John H. Schomaker.)

The Court: In the light of the direct question and answer will you submit that transcript to counsel?

Mr. Hallinan: I have some other questions I want to ask before I do anything like that, your Honor. You wanted to take a recess?

The Court: I would like to, yes. Ladies and gentlemen, we will take the recess and resume at two o'clock this afternoon. The same admonition to you not to discuss the case under any conditions nor to form or express an opinion thereon.

(Thereupon a recess was taken until 2:00 p.m. this date.) [1441]

Thursday, December 1, 1949, 2 o'Clock

The Clerk: United States v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed.

JOHN H. SCHOMAKER

resumed the stand:

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. Now, Mr. Schomaker, just before the Court convened, I asked you if in this hearing in the Loughran case you were asked these questions:

"Are you a member of the Communist Party?" You replied, "Who, me? No," I asked if you made that statement. And you stated that you couldn't tell unless you saw the transcript that I had here. Is that correct?

Mr. Donohue: Just a moment, please, Mr. Witness. If Your Honor pleases, at this time may I make a request?

Mr. Hallinan: No. Your Honor, I don't think a request should be made in the presence of the defendant or anything of that kind. We are entitled now to test his credibility.

The Court: Well, I think in deference to the request of Mr. Hallinan that any suggestion be refrained from until the completion of this particular question.

Mr. Hallinan: I think so.

The Court: Having in mind precisely what you have in mind, Mr. Donohue, and I say it, of course, respectfully toward you, [1442] but I think in this particular type of examination Mr. Hallinan should be able to proceed.

Mr. Donohue: I have no objection to the examination, if Your Honor please, except that——

Mr. Hallinan: Well, I object to any statement, if Your Honor please.

Mr. Donohue: I think I have a right to make a statement.

Mr. Hallinan: Then the witness is apprised of something.

Mr. Donohue: Well, take the witness out, if you are worried about it.

(Testimony of John H. Schomaker.)

The Court: You are mindful of my suggestion; I will accept the statement.

Mr. Donohue: I think we should have the transcript. I think it should be identified, marked for identification and counsel should be permitted to look at it.

Mr. Hallinan: If Your Honor please, that is telling the witness something. Now, we shouldn't have any such thing. This is for a totally different reason. I have a different object and purpose in mind, and counsel has no right trying to slide me into a purpose of his own.

Mr. Donohue: I am not trying to slide you into any purpose.

Mr. Hallinan: This is just trying to tip off the witness.

Mr. Donohue: He should have followed Your Honor's suggestion and asked the question. The transcript is quoted from, Your Honor, and the damage is being done. [1443]

Mr. Hallinan: "The damage is being done!" Well, that is a funny one. Well, in other words, if the witness' credibility is damaged, why, it is too late then for counsel to restore it.

Mr. Donohue: When it has been well discussed——

The Court: Let us do this now, momentarily, to interrupt you. There is no occasion ~~to~~ admonish the jury again. (To the jury.) You are the sole and exclusive judges of the credibility. Examination is conducted by respective counsel. Now, I

(Testimony of John H. Schomaker.)

do not personally have in mind the nature of this transcript. It hasn't been determined upon. But I assume that at some definite stage in this examination it will be disclosed?

Mr. Hallinan: It may or it may not, now, Your Honor.

Mr. Donohue: That is just the point, if Your Honor please.

Mr. Hallinan: If I may be permitted to conduct my examination, then the Court will see the purpose.

The Court: All right, proceed.

Mr. Hallinan: In other words, we have agreed already that questions of this kind are directed not only to impeachment, but to other things in the credibility of the witness.

Mr. Paisley: But, Your Honor, he had reached the point, as I remember it, where he announced that he now was going to lay the ground for impeaching the witness.

Mr. Hallinan: Oh, no.

Mr. Paisley: Where,—or he is going to present some paper to the witness. We feel it should be marked, given a number, [1444] and that counsel should see it. They are not lax in wanting to see any papers that we have here, I noticed. We are entitled to the same courtesy, if he has a paper or transcript of the man's testimony; we are entitled to see it.

Mr. Hallinan: All in good time, Your Honor. If I may be permitted——

(Testimony of John H. Schomaker.)

The Court: What is the precise——

Mr. Hallinan: If I may be permitted——

The Court: What is the precise question before the Court and jury?

Mr. Hallinan: Instead of that, may I go back a couple of questions and recite the questions that have already been asked?

(To Reporter Sweeney:) Would you please, Joe, take the first part of this inquiry concerning this testimony, not relating to the name, but relating to the Communist Party?

Mr. Hallinan: And will you pay attention to it, please, Mr. Schomaker, to what the Reporter will read?

(Record read by Reporter.)

The Court: I make my ruling: In the light of the answer made by the witness to the question addressed to him by Mr. Hallinan, he is entitled now to be confronted with the transcript and the immediate question and answer elicited and given in connection with the proceeding before Judge Geary.

Mr. Hallinan: That is only in the case of impeachment, [1445] Your Honor; I wanted it for a different purpose now.

The Court: He is entitled to see it.

Mr. Hallinan: Your Honor, what I want to ask this witness now is an explanation of his questions or of his answers, that it is very possible, but I don't recall that he testified in that fashion. [1445-A]

(Testimony of John H. Schomaker.)

The Court: He is entitled to see the transcript.

Mr. Hallinan: Your Honor, then I would like to ask some further questions of the witness at this time. I never heard that there was any specific time within which a person had to do things even though it were impeachment, and I know of no rule that requires that a lawyer or an examiner, having elicited an answer like that, that then he had to confront the person with the document. He can be satisfied with the answer as it stands.

The Court: Upon that theory an examiner might examine on a vagrant document without foundation in truth or fact, wave it in the presence of the witness and on that theory, that inference at least, lead the witness to believe a certain condition existed which did not exist. The witness has very frankly stated to you he does not recall.

Mr. Hallinan: No, he said, "That is very possible."

The Court: In view of the state of the record——

Mr. Hallinan: Might I argue this with your Honor: Now, here this witness' credibility is an important factor in this case. If we ask questions that show that this witness has a disposition of mind whereby he isn't sure whether he testified falsely on the preceding occasion as to a material thing on this matter, then that affects his credibility very badly. Suppose, for instance, that Harry Bridges should take the stand here and he should be asked, "Mr. [1446] Bridges, have you ever testified under oath that you were a member of the

Communist Party?" and he should say, "I don't recall whether I did or not. Show it to me and then I will answer."

The Court: Mr. Hallinan, I think the rule is firm and uniform that in connection with court proceedings and prior proceedings to this trial or any other trial, the witness is entitled to be confronted with the record therein in connection with matters of this character.

Mr. Hallinan: I do not claim, your Honor, that the questions and answers that I asked him were given in any record. I asked him whether he said them or not.

The Court: Oh, no, I misunderstood you, then. I asked you, Mr. Hallinan, whether those proceedings were court proceedings. You said before Judge Geary.

Mr. Hallinan: Yes.

The Court: I think in terms of authenticity of the record and in terms of the integrity of the record, at the present stage of the proceedings we are entitled to have that disclosed to the witness and likewise we are entitled to have it disclosed to counsel representing the other side and marked for identification; for otherwise, Mr. Hallinan, a lawyer might—I am not accusing you—but a lawyer might well bring in a vagrant, unauthenticated document wherein there might appear any sort of situation. [1447]

Mr. Hallinan: Judge, haven't you yourself even gone up to a witness suspected of not telling the

(Testimony of John H. Schomaker.)

truth and saying, "Haven't you written a letter to so-and-so?"

The Court: That is a different situation.

Mr. Hallinan: And have no letter at all but just depend upon your own judgment?

The Court: We will not argue the technique of strategy in a trial. I am now saying to you that the rule is uniform, memorialized on many occasions in this tribunal, that the witness at the present stage is entitled to see the transcript with respect to the subject matter of your examination.

Mr. Hallinan: Could I ask him one more question in advance of that?

The Court: Yes.

Q. (By Mr. Hallinan): Have you read during the noon hour the transcript of your testimony before Judge Geary?

A. You mean of those hearings?

Q. Yes.

A. Certainly not. I haven't seen those transcripts, well, since 1938 when it occurred.

Mr. Hallinan: Now, your Honor, I do not claim that the statements that I asked the witness if he made are contained in any transcript. I asked the witness the question to see if the witness would show a disposition, not knowing what he [1448] had testified, to commit perjury when it suited him; in other words, if the witness' disposition is this: when it suited him to deny he was a member of the Communist Party under oath he would do so. When it suited him to affirm he was a member of the Communist Party under oath, he would do so.

The Court: I cannot presently recall what the witness testified.

Mr. Hallinan: Here is his very testimony: "That is very possible, but I don't recall." In other words, we have the witness admitting the possibility, and the admission is only limited by his recollection. He leaves himself an outlet that it is very possible that he committed perjury in Judge Donald Geary's court on the issue whether he was a member of the Communist Party or not. Your Honor, what could be a greater direct frontal assault on a witness' testimony than to say to him, "Now, haven't you testified under oath directly opposite to what you have testified here?" and the witness say, "It is very possible, but I don't recall." What more could we have? That is almost saying, "Yes." Suppose the witness said, "Yes." Then would I have to confront him with the document?

I have no intention of producing a document to confront this witness with, and now I suppose I am divested of the opportunity to ask other questions of a similar nature which I intended to ask and see if I could trick him into saying [1449] things that would disclose his manifest unreliability as a witness; in other words, his willingness under any circumstance to say what suits his purpose at the time. I submit, if I may be permitted to finish with one more sentence, I do not know anything that impeaches a witness more than to ask him a question whether under oath on a previous occasion he did not state the exact opposite of what he has stated under oath here, and the witness replies, "That is very possible, but I don't recall."

Now, I am satisfied with the answer, and that is all I want. If they want to clear up the matter and produce some transcript, let them do it.

Mr. Donohue: May I ask this: In order to determine whether the witness has been tricked by Mr. Hallinan, I ask your Honor to ask the reporter to read the statement that was made by Mr. Hallinan as a premise to asking the witness certain questions to determine whether or not Mr. Hallinan did not lead us all to believe that he was reading from a transcript, and if that is so, I think he should now produce that transcript.

The Court: It certainly was my understanding Mr. Hallinan was reading from a transcript when he addressed those other questions.

Mr. Hallinan: And I will say that is the impression I tried to convey, not to your Honor or the jury, but I tried to [1450] convey it to the witness to see if the witness, as I say, having no reliability, was willing to testify to anything, thinking, "He has a transcript. I had better say 'Yes' or at least give a guarded statement."

The Court: He did not say "Yes." I do not know that his remark would be regarded——

Mr. Hallinan: That is up to the jury.

(Testimony of John H. Schomaker.)

The Court: Mr. Donohue, what have you to say?

Mr. Donohue: I think, if your Honor please, that we were all led to believe by the questions that Mr. Hallinan asked of this witness that he was reading from a transcript of that testimony of this witness at a prior proceeding. This jury have a right to believe that.

The Court: I will say for the record I believed it.

Mr. Donohue: And this jury, if your Honor please, had a right to believe when he waved that document that this witness did make that answer.

The Court: I believed further Mr. Hallinan's assurance to me that he was going forward in good faith. I accepted his statement.

Mr. Donohue: It appears now he never did have such a transcript.

Mr. Hallinan: Your Honor, I do not think we should have a discussion of that kind.

The Court: I say I believed. [1451]

Mr. Hallinan: If we have such a discussion, I think I convince your Honor very easily. I told you this, when we had the discussion about impeaching this witness, which I abandoned at the time—I was going into these documents and circulars he had distributed around and I abandoned that for the moment. We had the discussion of their admissibility and I told the Court I would mark off on the document certain portions of them and wouldn't say anything about them; they were other people's encomiums of Harry Bridges, that

(Testimony of John H. Schomaker.)

I would display good faith to the Court in that connection. But to say, your Honor, that counsel is forbidden the ordinary devices that lawyers have employed for hundreds of years to trick witnesses in lies and to show a disposition on the witness' part to lie when it is convenient to do so, that is to take away all the weapons for the discovery of truth. Why, he can be required to expose all of his plots and stratagems to a witness whom he distrusts and whom he does not believe is telling the truth. If these other gentlemen are so naive that they fall into the same thing, I am not required to watch out for them. They can bring their nurses along. But the witness is one skilled in this art and I was confronted with the duty to see if I could get him to make the admission, either direct or implied, that he was willing to testify falsely accordingly as it stands, and I think that it is arguable—it should not have to be argued to the Court, but it is [1452] arguable to the jury that when he was asked, "Did you give this testimony under oath at another proceeding? 'Are you a member of the Communist Party? Who? Me? No.' " that his answer was, "That is very possible, but I don't recall." I think that is complete impeachment and it is a complete assault on the witness' credibility, and no apology has to be made for the manner in which it is elicited. The object is to elicit it. We are not playing games here. We have people's lives and liberties at stake, and we are entitled to trap a witness whose reliability we have no confidence in and who we think is lying

(Testimony of John H. Schomaker.)

in any fashion that is afforded. There is no matter here of courtesies to lawyers in displaying transcripts. Anything I can do to show that this man is lying, I am entitled to do it, and I am entitled to do it in any way I can, and I will stand upon that, your Honor, and I will not accept counsel's statement that dictates a formula of producing documents and showing them. Then certainly he would say, "No, I didn't testify to that."

Mr. Donohue: Maybe your Honor would permit me to say that I believed, and I am sure the witness and the jury believed, that when Mr. Hallinan asked the question—and the record will support it—he was reading from what he said he was, a transcript of the testimony. I believed it until I made inquiry during the recess whether there was ever such a transcript, and now he concedes that there is not. This is [1453] not a game at all, but there is a rule of decency that ought to be followed. But you would not know it.

Mr. Hallinan: I can understand counsel's embarrassment.

Mr. Donohue: I am not embarrassed, but you should be embarrassed.

Mr. Hallinan: When the witness commits himself to that statement, "Did you testify under oath in a previous Superior Court proceeding as follows: 'Are you a member of the Communist Party Who? Me? No.' " and he answers, "That is very possible"—Now, that is very possible, that I testified falsely under oath in a previous hearing on

(Testimony of John H. Schomaker.)

the very matter I have been testifying here on, but I don't recall! That is very possible.

In other words, my disposition towards testimony on the witness stand is ~~such that~~ it is possible! I may have testified falsely in any court!

Why, your Honor, he has impeached himself in everything he has said by that one admission, and here I am to be criticized and I am to have procedure pointed out that prevents eliciting the condition and state of mind of the witness so the jury can understand what manner of man he is. We might as well abandon all mentality. We might as well say that any force or vigor of intellect is to be discarded in a courtroom, and that there is some kind of parley between the witness on the stand and the attorney, so you ask him graciously and kindly and give him time to figure out what [1454] his answer is going to be, so it becomes impossible to detect him in a fraud or a lie. I submit to your Honor everything I have asked here is perfectly proper, and that I am under no obligation to provide any transcript, and I am under no obligation to confront him with it. I am satisfied with his answer.

Mr. McMillan: If it please your Honor, fundamentally a witness should always be treated fairly and he cannot, as Mr. Hallinan suggests, by any trickery he may think of, be misled. But the fundamental difficulty is this: No counsel has a right to stand here and indicate he has a transcript and that he is reading questions and answers from a

(Testimony of John H. Schomaker.)

transcript for this reason, regardless of the witness: He has no right to mislead the Court and he has no right to mislead the jury. That is the fundamental vice of this thing.

Mr. Hallinan: In a matter of this kind the court is not in a position to be misled. The Court just makes rulings on the admissibility or non-admissibility of evidence.

The Court: That is not altogether correct.

Mr. Hallinan: The Court does not say, "Here is a witness who is entitled to courtesy. You will try not to expose any lie. You should spread your net in the sight of the bird."

The Court: Mr. Hallinan, the Court is not presumed to sit here as a legal automaton. But I did believe you were reading from the transcript, authenticated at least, and [1455] containing the subject matter of your examination. Otherwise I should have precluded you from advancing into this particular situation.

Mr. Hallinan: You mean I should not have been permitted to ask the witness the questions I asked him?

The Court: Let us depart from this matter. I would like to review the transcript in its full text. We will take it up at the recess. I think everyone has had his say on this particular matter. I will take it up at the recess. I think it is better that I do that rather than take segmented views of it. You may proceed.

(Testimony of John H. Schomaker.)

Mr. Hallinan: I would like to have a discussion, too, on the question we had this morning: the purpose of these questions over and above impeachment.

Q. (By Mr. Hallinan): As part of your duties in charge of publicity for the union you did distribute certain pamphlets that were printed by the union relating to the deportation proceedings against Harry Bridges, didn't you?

A. I do not recall of distributing any pamphlets. You should be more specific. What do you mean by "pamphlets"?

Q. I mean printed documents that were distributed to the members of the union relating to the deportation proceedings against Harry Bridges.

A. Are you asking if I went down to the Bridges Defense Committee and picked up pamphlets concerning the deportation proceedings [1456] and then passed them out to different people?

Q. Not if you did personally yourself, but you gave them out to people to be distributed, didn't you? A. I may have and I may not have.

Q. In the matter of publicity you were charged in part with the collection, and the authoring and the distribution of such pamphlets, weren't you?

A. Well, I don't recall that as being one of my duties, no. [1457]

Q. Did you have any talk with any of the gentlemen representing the prosecution at noontime on that subject?

(Testimony of John H. Schomaker.)

A. On that particular subject?

Q. Yes.

A. Why, it never even entered my mind.

Q. Did it enter theirs, so far as you know?

A. As I say, I can't pry into people's minds and see what is lurking there.

Q. They didn't say anything to you about disclaiming any activity in that direction?

A. I swear on my honor I have never talked over the——

Q. You can swear on your what?

A. On your honor or on my honor, that I have never discussed a question—that Bridges' defense with anyone, particularly the prosecution attorneys or——

Q. Now, as head of this publicity department, or as a member of this publicity department, what were you doing?

A. On what particular time?

Q. Well, during the time that deportation proceedings were pending against Harry Bridges. Let's take from the year 1938 through the year 1941; were you on the publicity committee then?

A. 1938—'38, '39, '40—it's possible that I was.

Q. And '41, isn't that right?

A. '41; it is very possible that I was. In certain years I [1458] know that I was a member of the publicity committee.

Q. What is that, certainly what?

A. In certain years, yes; I wouldn't say I was a

(Testimony of John H. Schomaker.)

member all four years, but I know in one or two years I must have been.

Q. All right. Now, as part of your publicity obligations, you distributed or caused to be distributed some of these circulars that were printed, didn't you? A. Oh, not necessarily, no.

Q. Did you read any of the circulars that were printed?

A. It is very possible that I read some.

Mr. Hallinan: Would you show him this one, Mr. Mitchell?

Mr. Donohue: We would like an opportunity to see it.

The Court: You may.

(Handed to Mr. Hallinan by Clerk. Examined by Government counsel.)

Mr. Donohue: Thanks. I might say, if Your Honor please, we object to any question being asked about this document unless it can be established that this witness had something to do with it. It doesn't so appear from the document.

The Court: Unless the witness had something to do with it; that is a very bland, general statement.

Mr. Donohue: I apologize.

Mr. Hallinan: I will see if I can lay a proper foundation. It may be possible that I can not, but I will try.

Q. Now, do you recognize that document? [1459]

The Court: You keep it, Mr. Witness.

(Testimony of John H. Schomaker.)

A. Well, I have seen documents like that, or similar to it.

Q. Yes. Well, now, didn't you cause copies of that document to be distributed?

A. Well, maybe you have a wrong impression of the publicity committee. The publicity committee, that is in our local, Local 3879, wasn't a question—it was different than the agitation and propaganda department of the Communist Party, for instance.

Q. I am talking about the publicity committee of the union.

A. That's correct, that is what I am trying to explain. It was different.

Q. Well, now, as part of your duties as a publicity director of the union, didn't you cause that precise document there to be distributed among the members? A. No.

Q. You did not? A. I did not.

Q. And nobody has told you to say "No," is that right?

A. The duties of the publicity committee of the local was to write publicity, not distribute it.

Q. Well, the duties of the local, of the publicity committee, was also to go over and determine what should be written and distributed, isn't that right?

A. Why, as I say, you have completely the wrong impression of [1460] the publicity committee. The publicity committee in the local, the Harry Bridges Defense Committee, was a separate organization, had nothing to do with the Harry Bridges Defense Committee at any time.

(Testimony of John H. Schomaker.)

Q. But then the Harry Bridges Defense Committee gave to the publicity committee these circulars, didn't they?

A. No, not to my knowledge they didn't. I believe, if I can recall correctly, that the financial secretary, Ed Wright, was one of the members of the publicity committee and they handled the literature. I was a working longshoreman and all I do was, once a week, write an article for the weekly bulletin, or on some extraordinary situation, if it came up, why, I took a day off and was paid by the local $9.00, and I wrote additional publicity. It wasn't that of a distributor.

Q. What do you mean by a "local bulletin"?

A. Well, the longshoremen put out a weekly bulletin.

Q. What was it called?

A. Well, it was the ILA, 3879 Bulletin.

Q. Well, now, would you ask him this——

Mr. Hallinan: Would you show him that, if you will?

Mr. Paisley: Shouldn't it be marked for identification?

Mr. Hallinan: Not unless we are going to introduce it in evidence or it is going to be declined in evidence.

The Court: This is for foundational purposes merely, as I understand it. [1461]

Mr. Hallinan: That is all. If we are going to offer it, and it is refused in evidence, then we just retain it unless we want it marked to put in the record.

Mr. Donohue: If he is going to ask him questions about papers and slip the papers back into his bags,——

Mr. Hallinan: I am not slipping them back in the bags, they are right here on the desk.

Mr. Paisley: Both sides are entitled to see and have marked in evidence any paper that is used to refresh——

The Court: Not in evidence, sir, no.

Mr. Paisley: I mean, for identification. It may not later be admitted in evidence, but if he is asking about some paper, then on redirect we are entitled to have the paper.

The Court: He has not addressed any question to the witness at all concerning that paper.

Mr. Paisley: Well, I presumed that he was just about to do so, Your Honor.

The Court: I think he was.

Mr. Paisley: I don't know why he passed it up there then.

Mr. Hallinan: Would you get it back from him, then?

(Paper returned to counsel by the Clerk.)

The Court: Well, we had determination with respect to the rule I laid down, that unless the foundation were laid, no question would be addressed to the witness.

Mr. Hallinan: Exactly. [1462]

(Document examined by the witness.)

Mr. Hallinan: I don't want the witness to read

(Testimony of John H. Schomaker.)

the whole thing. I just wanted to have him identify them as being——

The Witness: Oh, that's right, that is the ILWU Bulletin.

Q. (By Mr. Hallinan): Of which you were the director?

A. I wouldn't say that, but I am trying to make clear in my mind by reading those couple of paragraphs—don't recognize my writing, because of the fact that there was three members on the publicity committee and they took turns in writing the bulletins. Now, those bulletins,—pardon me, in those bulletins that I wrote, generally they were signed by whoever served that particular week.

Q. Yes, but each one of the three members, of course, read all the material that was put in the bulletin before it was published, isn't that right?

A. No. I explained that we took turns, like, I think it was on a Tuesday, I think, after the weekly meeting or whatever day it was in the week, that one day I would take—I mean, one week I would take a day off and write the bulletin. The next week the other member would take the day off and write the bulletin. And we didn't see it until it come off the mimeograph machine.

Q. Well, now, did you ever enter any protests in the union or to the other men against any bulletin that had been published?

A. There may at times have been that I criticized certain things in the bulletin, yes. [1463]

Q. Well, now, I want to ask you about the bulletin of January 4, 1939, whether or not you didn't distribute this bulletin or whether it was not distributed under the authority of the committee of which you were a member, to the members of the ILWU. A. Well, could I see the bulletin?

(Document handed to the witness by the clerk.)

Mr. Hallinan: Well, I don't think it is necessary for him to read the entire bulletin, Your Honor, for him to determine whether or not——

The Witness: Well, I have to see if it—yes, I would say—I think I would say that I wrote this particular bulletin, yes, on this particular date, January 4, 1939.

Mr. Paisley: Now, as I understand it, Your Honor, he has a sheaf of them there. We don't know which ones now the witness has identified. Unless——

The Court: Mr. Hallinan will show it to you, I assume, the one identified by the witness, Mr. Paisley; so you may have in mind the content of whatever it contains.

Mr. Paisley: I just wanted it identified so we will know.

Mr. Hallinan: Well, now, we offer in evidence the issue of January 4, 1939, which the witness has just identified, as one that he distributed.

Mr. Donohue: At this time I object to it, if Your Honor pleases. In the first place, we haven't even had an opportunity [1464] to look at it.

The Court: Now you have an opportunity.

(Testimony of John H. Schomaker.)

Mr. Donohue: Thank you, your Honor. (Examining document.)

We object to the introduction of this piece of evidence, if Your Honor pleases, and suggest that if Your Honor will just take a look at it, you will find that it has no relation whatsover to any issue before this Court.

Mr. Hallinan: I want to show Your Honor, if there is any question, the article that I wanted to read. I will mark it on the paper on the back, and it bears directly on the subject that we discussed this morning.

(Document handed to the Court by the Clerk.)

The Court: The objection is sustained.

Mr. Hallinan: Does Your Honor consider that none of that is admissible as contradicting what the witness has said?

The Court: Yes, sir. If you would like to discuss it at the recess, I will be glad to discuss it with you, Mr. Hallinan.

Mr. Hallinan: Well, I will ask it be marked for identification. We offer it in evidence as the defendant's exhibit next in order.

The Court: The objection is sustained to the offer; it may be marked appropriately in evidence as Defendant's Exhibit for identification next in order, with particular reference to that part thereof having been marked in pencil by Mr. Hallinan.

Mr. Hallinan: Yes. [1465]

(Thereupon document dated January 4, 1939, was marked Defendant's Exhibit E for identification only.)

Mr. Hallinan: I now offer in evidence, if the Court please, the document that was shown to the witness, and particularly with reference to pages 9 and 10. And if you will read that, why,——

(Document handed to the Court by the Clerk.)

The Court: I will read it at recess.

Mr. Hallinan: Would you prefer that?

The Court: Yes. It is two full pages of reading.

Mr. Hallinan: Yes, very well. That is pages 9 and 10.

The Court: It isn't fair to your offer to ask me to read it hurriedly. I would like to read it fully.

Mr. Hallinan: Very well. I only offer to read into the record those two pages. I do not offer to read——

Mr. Paisley: Does Your Honor recall——

Mr. Hallinan: Why, if Your Honor pleases, if you will put it aside?

Mr. Paisley: Just a moment. We have some rights in the courtroom.

The Court: No one has disputed your rights, sir.

Mr. Paisley: Well, he interrupts the Court and as well, counsel, sir, when we are trying to make a statement. I want to call the Court's attention, to save you reading two pages there, that the witness said he knew nothing about that, that [1466] that

(Testimony of John H. Schomaker.)

was published by the Bridges Defense Committee, that he didn't write it, that he didn't cause it to be distributed. Now he offers it in evidence.

The Court: I am mindful of that, sir. I might read it, though.

Mr. Hallinan: Of course an inference——

Mr. Paisley: I thought maybe Your Honor had missed that.

The Court: No.

Mr. Paisley: I was trying to save you time.

Mr. Hallinan: Just from the position and occupation of a person, an inference will arise as to whether he did or did not do a thing. That is my position here.

The Court: Thank you, Mr. Paisley. I have that general answer in mind.

Q. (By Mr. Hallinan): Now, you know Mr. George Andersen, do you, an attorney?

A. I know George Andersen, the attorney, yes.

Q. And you know a man named Charles Lamport? A. I do, yes.

Q. And a man named Carlton Melin?

A. I do, yes.

Q. And a man named B. B. Jones you have already identified? A. B. B. Jones I know, yes.

Q. On May 31, 1949, those gentlemen calling at your home at 685 Menlo Oaks Drive, Menlo Park, about 4:50 in the evening? [1467]

A. Well, no; I do not recall those gentlemen calling on me at 685 Menlo Oaks Drive, Menlo Park, at any time.

(Testimony of John H. Schomaker.)

Q. Where did they call on you?

A. At 698 Menlo Oaks Drive.

Q. Oh, 698. All right. And you had a conversation at that time with those gentlemen concerning your testimony before the grand jury, isn't that right?

A. Well, we had a conversation; I will say that.

Q. Now, I will ask you whether or not at that time you didn't—this was not the conversation: that Mr. Andersen first advised you that he was representing the defense in the case of United States v. Harry Bridges, Robertson and Schmidt; that he asked you if you would give him a statement regarding your knowledge of those people, particularly with reference to membership in the Communist Party; that you told Mr. Andersen that you had already testified before the grand jury; that you could not remember what you said before the grand jury and did not want to give a statement to other lawyers regarding what you said because nobody tells the same story twice and you could not remember really what you said before the grand jury or to the men representing the government, to whom you had spoken; that you said representatives from the government had called at your house only once, served you with subpoena; that you went to San Francisco and testified before the grand jury and was paid a full day's wages plus your expenses for testifying; that [1468] you said on many occasions that you did not want to give a statement because you did not want to get mixed up; that you did not know whether or not Harry Bridges was a Communist; that you did not want to give Mr. Andersen a statement because you wanted to protect yourself; that Bridges was a good guy, a great labor leader; that you had many arguments with Bridges; that Bridges had called you a Communist and had called other people Communists; that Bridges had nothing to worry about in this case; that you had contributed money to the Bridges case because you believed Bridges was innocent. Was that statement made?

A. Did I make a statement like that?

Q. Approximately.

A. Absolutely not. Do you want to know what actually transpired down there?

Q. Well,——

A. I will tell you what transpired.

The Court: You are entitled to state what transpired.

Q. (By Mr. Hallinan): Go ahead. Tell us what your conversation with Mr. Andersen was.

The Witness: Do you want everything?

The Court: State the full conversation.

The Witness: Well, it is going to be pretty rough in spots, if you want to hear it.

The Court: All right, you may answer; you may state it. [1469]

Mr. Hallinan: Of course, Your Honor, here is one thing; may I say this: Now, on impeachment a witness is asked whether or not he made a statement, a certain statement, and he says no. Then

(Testimony of John H. Schomaker.)

the person asking the question may impeach him. But the witness is then permitted to give the conversation. But the witness is not permitted to start off on a rampage now and give a conversation not embraced within this question. I would like to ask him seriatim these separate items here, whether he said that.

The Court: You have asked him the general text of the question. He has denied it categorically.

Mr. Hallinan: Yes, he has denied it categorically. [1470]

Mr. Hallinan: Now I want to ask him each of the separate elements of it and not have the witness give the statement itself.

The Witness: Can I have something to say, Your Honor?

The Court: Certainly.

The Witness: I can say this: that that statement is false, and I never made any such statement whatsoever, and if he asks me these questions he is just trying to put words in my mouth. I have to say Yes or No, and there is no basis in fact for any of those things he has in that statement, suppositions. There is no basis in fact for it.

The Court: That may be regarded as the witness' repudiation of the statement and a categorical denial.

Mr. Hallinan: Might we have a recess now?

The Witness: Haven't I a chance to answer this, your Honor?

The Court: You might answer it when counsel for the Government on redirect examination asks you the question: What, if anything, transpired at that time, Mr. Schomaker? And I will at that juncture permit you to make a full and complete disclosure of every event, every fact and every circumstance of that meeting.

The Witness: Thank you.

The Court: We will take a recess.

(Recess.) [1471]

Q. (By Mr. Hallinan): In the course of your examination you stated that a gentleman representing himself to be from my office called upon you at your home on one occasion, is that right?

A. Yes, a person did come down there. He stated that he was from your office, but I didn't hardly believe it.

Q. A young man named Harold Lipset? Is that the way he introduced himself?

A. He introduced himself. It was Lip-something. I wouldn't be positive. It sounded—phonetically, yes, it was Lip-something.

Q. He went into your home, did he?

A. He did come into my home, yes.

Q. Sat down and talked with you and your wife? A. He did, yes.

Q. And he questioned you regarding your knowledge of the matters concerning which Harry Bridges was being prosecuted, is that right?

A. Well, yes and no.

(Testimony of John H. Schomaker.)

Q. Let me ask you this: When was it that he called, approximately?

A. It was under very peculiar circumstances.

Q. No, the time, the date.

A. As I recall it—as I say, it was under very peculiar circumstances. It was on a Saturday night. It was one of those [1472] rare instances where I could recall the time very definitely. It was eight o'clock on a Saturday night.

Q. Do you remember the date?

A. No, I can't recall the date.

Q. About what month it was in?

A. It was four or five weeks ago. As I say, I can recall the night and the time because I was lying in bed and reading a book.

Q. And he told you he was from my office and he wanted to find out, that we wanted to find out what you had to say with regard to this prosecution of Harry Bridges, is that right?

A. Well, no. As I say, he came into the house under very peculiar circumstances.

Q. He didn't drop through the roof, I take it; he rang the bell and walked through the door, is that right?

A. Do you want me to explain how this occurred?

Q. No, I want to find out what the peculiar circumstances were. He didn't fly in on a broomstick, did he?

A. He could very well have done it, because I didn't see him coming in.

(Testimony of John H. Schomaker.)

Q. At any rate, he went into your house and you had a conversation with him, is that right?

A. We did have a conversation.

Q. (By the Court): How did he enter? [1473]

A. I was laying in bed that Saturday night, eight o'clock. I was reading a book, "San Francisco, the Port of Gold." I heard the bell ring and I didn't pay any attention to it, and my wife came in the bedroom door and she said, "There's a fellow from the south to see you."

It happened to be that we were working in Burlingame, the south port of Burlingame, and we got a lot of material that day and we had to pile it near the sidewalk, and for some strange reason, when she said, "A fellow is here from the south," my mind immediately went to this incident where we parked all this material next to the sidewalk, and when we did that I thought, "Maybe someone will run into this."

Mr. Hallinan: Your Honor, I do not see what bearing this has on the conversation. I just want to lay a foundation for the conversation. I want to see if he will admit an answer he made, and that is all. The man got in and he had a talk with him.

The Court: I am interested in how he got in.

Q. How did he get in?

A. My wife came in the door and said, "There is a man from the south to see you."

My mind snapped at this. I don't know why. I threw on a robe. I thought somebody had run into this material. When I walked out this fellow rushed up and said, "My name is Blah-blah-blah." [1474]

I said, "Yes."

He said, "Anything about the case?"

I said, "What case are you talking about?"

He said, "You know the case."

And, as I say, my mind went on the question of this material and somebody running into it. Here is a lawsuit.

I said, "I don't know what the hell you are talking about a case."

He said, "Sure, you know, the Bridges case."

I said, "What the hell have I got to do with the Bridges case?"

He said, "I would like to talk to you about it."

And I said, "Who do you represent? Who sent you down here?"

I thought he said "Hooligan." He said, "Mr. Hooligan sent me here."

And I said, "I don't know any Hooligan."

My wife said, "No, no; Mr. Hallinan sent him down."

I said, "Sit down."

He sat down in a settee across the room.

Q. (By Mr. Hallinan): Now I think we have arrived at the peculiar circumstances under which he entered the house.

The Court: He didn't enter on a broomstick and he didn't come down the chimney.

Mr. Hallinan: That seems to be clearly established. [1475]

(Testimony of John H. Schomaker.)

The Court: Yes.

Mr. Hallinan: We also got in another funny-book character about Hooligan.

The Witness: That is exactly what the man said.

Q. (By Mr. Hallinan): I want to ask you, on that occasion did you not state to Mr. Lipset that you did not know whether or not Harry Bridges was a Communist?

A. Permit me to repeat the question he asked me.

Q. I want to know this: Did you or did you not state to that gentleman on that occasion that you did not know whether or not Harry Bridges was a Communist?

A. He didn't ask the question in that fashion whatsoever, and I gave him a truthful answer. Now, shall I tell you the question he asked me?

Q. Yes.

A. And that is the reason why I couldn't understand.

Q. Just tell us what the question was.

A. The question was this: "Do you know"—and all the time he was sitting out like this on the edge of the couch, and he was doing like this; his face was going like the guy was hopped up or something.

Q. That is what he thought about you.

A. That is what I thought about him. It was the screwiest thing I ever saw in my life.

Q. That is what he thought about you. [1476]

(Testimony of John H. Schomaker.)

A. He said, "Do you know"—he was going like this with his tie—He said, "Do you know if Mr. Bridges is a Communist or if Mr. Schmidt is a Communist or if Mr. Robertson is a Communist?"

And I repeated the question. I said, "Did you ask me if Mr. Bridges was a Communist, if Mr. Robertson is a Communist or Mr. Schmidt is a Communist?"

And he said, "Yes, that is the question."

I said, "Why, no, I haven't seen the guy for five years. How should I know whether he is a Communist or not? I haven't had any contact with him for five years."

His eyes rolled and he went back, and I said, "Who do you represent?" I didn't think a brilliant man like Mr. Hallinan would hire a clown like this to ask me a question, "Is he a Communist?" when I haven't seen the guy for five years. So I began to ask him a question. I said, "Who are you? Are you one of these private eyes?"

He said, "Yes."

I said, "Do you handle divorce cases?"

He said, "Yes, I handle divorce cases."

I said, "You are like this guy Moulton in San Jose."

He said, "Yes, that's me."

I said, "When was the last time you peeked through a keyhole?"

He said, "Sir, I never peeked through a keyhole in my [1477] life."

I said, "Brother, it is about time you are learning if you want to make a wage as a private eye."

He said, "I make a good living as a private detective."

As I say, it was the screwiest thing I ever heard in my life. I didn't know whether I was batty or he, the way the thing went on.

Q. Let us toss a coin. Did he tell you he was a lieutenant in the United States Army intelligence in France and had received a citation for service?

A. No, he said he had been in the Army for five years and he asked me to——

Q. Did he tell you he had been a lieutenant?

A. I don't recall that, no. He said he had been in the Army five years and he liked California.

Q. Was he fixing his tie when he said that?

A. That tie episode was the payoff.

Q. Did he then ask you if you knew whether or not Harry Bridges ever had been a member of the Communist Party, and you said you didn't know whether he was or not?

A. He never asked me that question, whether he had been. He said, "Is he a member?"

Q. Let me ask you this——

A. That wasn't all the interview by any means.

Q. Let me ask you this: You mentioned a couple of people [1478] here in the course of your testimony. You said in one place, "I'm not as stupid as Little Abner." Who is Little Abner?

A. Do you mean to take a different interview that Mr. Lipset had with me, or is that a different question?

Q. Will you please answer the question.

A. I think I made some kind of statement about Little Abner.

Q. Who is he?

A. He is a comic book character.

Q. And then in another place you said, "I am no Dick Tracy." Who is Dick Tracy?

A. He is a private eye, I think. Takes an awful beating sometimes, too.

Q. Is he some person you know?

A. No more than I read the funnies, I see the guy there.

Q. What is that?

A. When I read the funnies I see Dick Tracy in some kind of jam.

Q. What do you mean by "the funnies"?

A. The funny paper.

Q. Then you told us that when you were in the hotel room the other night you were reading a detective story when Mr. Kaiser appeared and brought you over here at midnight to go over your testimony, is that right?

A. Well, I was reading a magazine.

Q. You said a detective story, didn't you? [1479]

A. Possibly it was a detective story.

Q. Have you been promised a job in the Government?

A. Well, the other night when I went home my boss—he's the guy I work for, a hod carrier—he asked me when I was coming back to work.

(Testimony of John H. Schomaker.)

Q. Have you been promised a job in the Government? A. Absolutely not.

Q. Have you applied for a job as an investigator with the Department of Immigration?

A. Certainly not. I'm a hod carrier, not a private detective.

Q. And you are a funny-book reader?

A. I read nothing too strenuous. I read, like "San Francisco, the Port of Gold," and I read other fiction magazines, historical books.

Q. You have an ambition to be a private eye or public eye, yourself? A. No, absolutely not.

Q. And you expect after this is over you will get employment with the United States Government as some sort of investigator, is that right?

A. Why, certainly not.

Q. In giving the 22-page statement, you are only putting the finger on Bridges, Robertson and Schmidt, but in giving the 100-page statement you put the finger on everybody you know, didn't you? [1480]

Mr. Donohue: I object to the form of the question.

The Court: Sustained.

Q. (By Mr. Hallinan): You are starting out now on a career of being a kind of professional stool pigeon, aren't you.

Mr. Donohue: I object, if your Honor please.

The Court: Sustained.

Q. (By Mr. Hallinan): Will you tell us who are some of the other people you met at the Grand Jury who were witnesses or professed to be witnesses or are going to be witnesses?

Mr. Donohue: I object to that.

The Court: Sustained. [1481]

Q. Now all the things that you testified here about Mr. Bridges' alleged membership in the Communist Party, you knew in 1939 and you knew in 1941, isn't that right?

A. I didn't get that question. Will you repeat it, please?

(Record read.)

A. Yes, certainly I knew it.

Q. All right. You did not appear as a witness before Dean Landis on the deportation hearing did you? A. Well, I wasn't subpoenaed.

Q. All right. You did not appear before Judge Sears in the deportation hearing in 1941, did you.

A. I wasn't subpoenaed.

Q. Now, I want to show you a resolution, a copy of a resolution, that you introduced,—you and other persons introduced in the convention of the International Longshoremen's & Warehousemen's Union in Los Angeles in April, 1941.

Mr. Paisley: I object to the form of the question, if Your Honor pleases. He can ask if he introduced it, but he can't testify that he did introduce it. I make that objection to the question.

(Document examined by counsel for the Government.)

(Testimony of John H. Schomaker.)

Mr. Donohue: We reserve the right to object to it at the proper time.

Mr. Hallinan: I might show it to the Court. If Your Honor would like to read it, why, then it might save time: [1482]

(Document handed to the Court by the Clerk.)

Mr. Hallinan: Those are all the questions I had, Judge. So if you want to—if you were going to discus the other matters except relating to those documents, why,——

The Court: I had occasion to glance at the pages marked in this booklet, "Harry Bridges," and there was no foundation laid for the introduction of it. Accordingly, I sustain the general objection interposed by the prosecution. It may be marked for identification.

Mr. Hallinan: Then it may be offered for identification.

The Court: Yes, sir. Now, in this resolution, this resolution would possibly come within the category of that which we regarded as possible encomium and praise and so forth.

Mr. Hallinan: It would, but in the meantime it comes under a general opinion contrary to what the witness has been testifying to.

The Witness: Well, no. Is there an objection to this?

Mr. Donohue: Yes, Your Honor.

The Court: The objection is sustained.

Mr. Hallinan: Then might we do this, might we have an agreement that it isn't necessary to display it to the witness, to save that time and trouble?

The Court: It may be marked for identification.

Mr. Hallinan: That even if the witness identifies it as having been his resolution, the Court would nevertheless sustain [1483] an objection to it, is that the situation?

The Court: Yes, sir.

Mr. Hallinan: Well, we will offer it in evidence and ask that it be marked as Defendant's exhibit next in order for identification.

The Court: The objection is sustained, interposed by the prosecution. It may be marked appropriately as defendant's next in order for identification.

The Clerk: That will be G. And may the record show, Your Honor, that this pamphlet marked "Harry Bridges" is Defendant's F for identification only.

(Thereupon pamphlet "Harry Bridges" and document "Proceedings Fourth Annual Convention, International Longshoremen's & Warehousemen's Union, page 273 thereof, were respectively marked Defendant's Exhibits F and G for identification only.)

The Court: It may go in as G, the page thereof, not the book.

The Clerk: Yes, Your Honor. Page 273.

The Court: All right. Redirect examination.

Mr. Donohue: Would Your Honor indulge me for just a moment?

The Court: Yes, sir. Do you desire a short recess, gentlemen, while you compose your questions?

Mr. Donohue: No, I think we will be ready in half a minute, if Your Honor pleases.

The Court: All right. [1484]

Mr. Donohue: Would Your Honor give us five minutes, please?

The Court: Five minutes.

Mr. Donohue: Thank you, sir.

The Court: We will take a five minute recess, ladies and gentlemen of the jury, or ten minutes; same admonition to u, not to discuss the case under any conditions.

(Recess.) [1484-A]

The Court: You may proceed, Mr. Donohue.

Mr. Donohue: We have no further questions, may it please your Honor, of this witness. May he be excused from further attendance as a witness?

The Court: Yes, sir. We have now reached the period of 3:50. There are only ten minutes left in the afternoon. Do you have another witness available?

Mr. Donohue: Yes, we have.

The Court: You may proceed, if that is convenient. The witness is excused. Did you have something to say?

The Witness: No, sir.

Mr. Donohue: Call Mr. Henry Schrimpf.

(After a pause). I am sorry, your Honor. I thought he was just outside the door. He will be here in a minute.

HENRY JOSEPH SCHRIMPF

called for the Government; sworn.

The Clerk: Will you state your full name to the Court and jury.

The Witness: My name is Henry Joseph Schrimpf.

Direct Examination

By Mr. Paisley:

Q. Do you pronounce the "f," Mr. Schrimpf, on the end of your name?

A. That is the correct pronunciation, Schrimpf.

Q. Where and when were you born? [1485]

A. I was born in Queensland, Australia, in 1896 on the 12th day of May.

Q. How much schooling have you had?

A. I was taken out of school at a very early age, I believe around thirteen, on account of my eyes. I had what they call a tropical disease of granulated eyelids: I couldn't continue.

Q. Did you then enter school after that?

A. No, only what my mother gave me.

Q. How many grades had you completed at that time?

Mr. MacInnis: Pardon me. Just a moment. Unless it be the intention to qualify this man as an expert, I see no reason to inquire into his education, the extent of it or the lack of it.

The Court: The objection is overruled.

Q. (By Mr. Paisley): You may answer.

A. Well, we have a little different setup in our schooling there. We have first and second class,

(Testimony of Henry Joseph Schrimpf.)

we call it, known as the grades here, and the top is the top sixth class. I believe I was in the fifth class when I was taken out of school.

Q. When did you come to the United States?

A. I came to the United States the latter end of 1920. I believe it was the end of November.

Q. And you were then about twenty-four years old? A. That is right. [1486]

Q. Had you been in the armed forces of the United Kingdom?

A. Yes, I joined the Australian army in May, 1915, and I was discharged in the latter end of 1917, I believe it was. I have my discharge papers over in the safe deposit box, physical disability from wounds during the war.

Q. Where did you land in the United States when you first came here?

A. I landed in San Francisco at Pier 33.

Q. Did you find a job?

A. Yes, I went out with a friend of mine I came over here with, a fellow named Davy Jones, and his father was working out at the Union Iron Works. So we went out there with my friend and we both got a job as helpers in the iron works.

Q. Did there come a time after that when you went to work on the San Francisco waterfront?

A. Yes, I started to work on the San Francisco waterfront first, I would say, around 1923.

Q. What type of work had you been doing in the meantime generally?

A. After the shipyards had slackened off—I

(Testimony of Henry Joseph Schrimpf.)

don't know just how long—it may have been a period of six or seven months—and then I went to work out in a foundry on Drake Street or Dreak Street, I think it is, out in the Mission, and after that I sold for Collier's magazine for a short period, and also I was clerk and janitor at the Tivoli Hotel at the [1487] corner of Eddy street and Mason.

Q. How long did you continue on the San Francisco waterfront?

A. Well, I stayed on the San Francisco waterfront from 1923 up to the present time.

Q. What kind of work have you been doing during that time?

A. Well, I was doing longshoring and at the present time I am now working in the same department. They call it the walking boss's division. It is all longshore work.

Q. Do you now belong to the union?

A. I now belong to 91 of the MWIU.

Q. That is Local 91?

A. That is right.

Q. That is Maritime what—MWIU? What does that mean?

A. The International Warehousemen's and Longshoremen's Union.

Q. ILWU? A. ILWU.

Q. Of what other unions have you been a member, if any?

A. Yes, we had a union back home. I just forget its name now. It was an affiliate of the sheepshearers' union. It was for the other department—I mean, it was connected with the shearing.

Q. Do you know who is the president of your present union?

A. Yes, our—well, we don't call him the president. [1488]

Q. What is his title?

A. Well, we call him secretary. It is Ralph Malin.

Q. You are speaking of your local?

A. Of my union, I understood the question was, yes.

Q. You mean your local? A. Yes.

Q. I mean your international organization. Who is the president of it?

A. Well, Harry Bridges is president of the international.

Q. Are you personally acquainted with Harry Bridges? A. Yes, I know Bridges.

Q. How long have you known him.

A. Well, I have known him over a period of many years, but I first knew him personally in 1933.

Q. Have you been in meetings with him frequently, union meetings?

A. Union meetings?

Q. Yes. A. Not recently.

Q. Have you had occasion to talk with him in the past? A. Is that recently?

Q. Well, any time in the past.

Mr. MacInnis: It would seem to me that this line of questioning is rather vague, unless a foundation is being laid. He should ask the date or he should ask the witness [1489] some question.

The Court: The objection is overruled. This is preliminary.

A. Yes, I have been in many meetings with Harry Bridges.

Q. (Mr. Paisley): Are you acquainted with Henry Schmidt? A. I know Henry Schmidt.

Q. How long have you known Henry Schmidt?

A. Well, I believe the time element would be similar to that of Harry Bridges, although he came to the 'front after Bridges, and while I did know of him, I didn't become personally acquainted with him until around the latter end of 1933.

Q. Have you been in union meetings with him, too?

A. Yes, I have been to many meetings with him.

Q. Is he a member of the ILWU, too?

A. Yes, so far as I know, he still is. [1490]

Q. Do you know the defendant J. R. Robertson?

A. Only very casually.

Q. How long have you been acquainted with him?

A. Well, I have never been very closely acquainted with him. I have met him on very few occasions; I would say not more than three or four times altogether.

Q. Were you working on the waterfront, Mr. Shrimpf, when they had the strike back in 1934, I believe it was?

A. Yes, I was working on the waterfront.

(Testimony of Henry Joseph Schrimpf.)

Q. Did there come a time when you took steps to join the Communist Party? A. Yes——

Mr. MacInnis: Pardon me just a moment. I think at this time, Your Honor, the objection should be made as to all testimony to be elicited from the lips of this witness upon the ground that the decision of Dean Landis in the year 1939 and the decision of the Supreme Court of the United States in 1945 are each res judicata upon the matters to be elicited during the years 1933 and thereafter, up to the time of the making of the decision of the United States Supreme Court in 1945. We therefore object to all testimony during that intervening period of years, upon the ground that they would be barred by the previous decisions, that questions of fact have been decided, that the matters hostile or prejudicial to the defendants in this case have specifically been found false already by proper [1491] tribunals.

The Court: Counsel, one moment, please. One moment. An objection is one thing and an argument is quite another. I think your objection is in the record; I shall rule on it. I ruled on it before. There is no occasion for this lengthy discourse. The objection is overruled for the reasons, upon the grounds heretofore stated by the Court, both orally and in writing.

Mr. MacInnis: Your Honor will appreciate that if the objection is not made, it is waived.

The Court: I appreciate that, counsel; I full well appreciate it. We are full well in accord.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Well, now, may I suggest this, Your Honor. In view of Your Honor's expression, which I assume would be the same in the instance of every witness, if the same objection were made, may the understanding be had with you that the same objection, as to the doctrine of res judicata, would be made as to each witness? May it be considered as having been made and Your Honor's order having been made in the same respect?

The Court: Counsel, we have that, or I have that understanding with Mr. Hallinan.

Mr. MacInnis: I think not on that——

Mr. Hallinan: Only on the one witness, as to each question put to one witness, we had agreed to that. And I think the [1492] same thing as to each witness. I think we had better make it as to each respective witness. In other words, we will not have to repeat any objections.

The Court: The procedure we adopted in connection with the last witness may be adopted in connection with this, and the record saved to your objection.

Mr. Paisley: And as to all future witnesses, I hope, Your Honor?

Mr. Hallinan: Well, we will let it go as to other witnesses.

The Court: I think when that occasion arises, you may enter your objection.

Mr. MacInnis: I think this, Your Honor: the only danger is, we can not just say all objections to all conceivable subjects are preserved. This is a specific objection on those two matters.

The Court: You are perfectly entitled to make your objection, Mr. MacInnis, and to enter it of record to save your points. And I overrule the objection for the reason indicated.

Mr. Paisley: Would you read the question, please?

(Record read.)

Mr. MacInnis:. May that answer be stricken pending the making of the objection, Your Honor?

The Court: Yes.

Mr. MacInnis: The objection to that question is, further, that it specifically calls for the opinion and conclusion of [1493] the witness; that, secondly, it is not the best evidence, it is an attempt to elicit by secondary evidence that which can be produced otherwise.

The Court: The objection is overruled. Now you may answer, Mr. Schrimpf.

A. Yes, there did come a time when I joined the Communist Party.

Q. (By Mr. Paisley): And what did you do to join the Communist Party?

Mr. MacInnis: Pardon me. This same objection may be preserved as to all questions relative to whatever this gentleman may choose to say about joining the Communist Party? May that be the understanding?

The Court: Well, let us have a definition on the basis of the objection, so that there will not be a question arise hereafter. Your objection is based upon the ground that the question calls for the opinion and conclusion of the witness?

Mr. MacInnis: That is one ground, and the other ground is that it is, that the answer would not be the best evidence in any event.

The Court: You may have that same running objection, then, to the particular line of testimony now being elicited.

Mr. MacInnis: To questions as to anything done by this witness as to the alleged joining of the Communist Party?

The Court: All right, sir. [1494]

Mr. Paisley: Would you read the question?

(Previous question read.)

A. Well, if I may, I would like to answer in my way. I want it understood that——

Mr. MacInnis: Pardon me. I think, your Honor, that volunteer statements have no place in the record. The witness may answer the question, which was simply put. I think your Honor should strike from the record the portion of the answer already volunteered.

The Court: Well, the witness had some preliminary statement, I assume, that he desired to make for his own reason?

The Witness: That's right.

The Court: You may make that, sir.

The Witness: Well, the statement is this: I did not pursue the Communist Party, the Communist Party pursued me. The reasons——

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: That is a volunteer statement.

The Court: Yes, that may go out. You may answer the question, "Did you become a member of the Communist Party?", and the answer is whatever it may be. It is either yes or no.

The Witness: I answered that already, if your Honor please. I did become a member.

The Court: All right. Next question.

Q. (By Mr. Paisley): What steps did you take to become a member of the Communist [1495] Party?

A. Am I permitted this; to answer, then, I will have to qualify it, that—"Take the steps"——

The Court: Well, Mr. Schrimf, you can answer the question to the best of your ability. If the answer requires a qualification or explanation or amplification on your part, you may give that, on the condition that you not make any generalized speech on the subject. The question will be addressed to you by counsel, you answer it to the best of your ability. If you feel it requires some explanation in fairness to yourself, you make it. We will see how we get along then.

Mr. Paisley: I might withdraw that question and try——

The Court: All right.

Mr. Paisley: I think I probably know what he has in mind.

Q. Were you solicited to join the party or did you yourself seek admission?

Mr. MacInnis: Oh, I think, your Honor, that in

(Testimony of Henry Joseph Schrimpf.)

the first place, that is a leading question, suggestive of its own answer; and secondarily, it would be immaterial in any event.

The Court: Well, perhaps it would be immaterial whether he be solicited or not. I don't know that has any particular bearing.

Mr. Paisley: Well, I don't either, your honor; but I gathered that that is what the witness had in mind, and he wanted to state that.

The Court: All right. [1496]

Q. (By Mr. Paisley): Will you tell us the circumstances surrounding your entry into the Communist Party, in your own way?

A. We were on strike and I was quite active in the strike. The formula we used to form our strike committee, we selected one man off each dock who had been spokesman for that dock prior to the strike. As I said, I had been active, and things I was doing certainly did not go by unnoticed, evidently, to some of the Communist Party members and——

Mr. MacInnis: Oh, I think that answer must be stricken as a further opinion and conclusion.

The Court: The last part, as to what might not have gone unnoticed, may go out as his opinion and conclusion and so forth.

Mr. MacInnis: I think it might be helpful if the date of this undertaking were mentioned.

Mr. Paisley: Well, we will get around to that if you will give us time. Did the Court rule on it?

The Court: Yes, sir. Proceed. I struck out just that last part.

(Testimony of Henry Joseph Schrimpf.)

Q. (By Mr. Paisley): Well, will you proceed, Mr. Schrimpf?

A. Then one day, I would say towards the end of May, I was approached to join the Communist Party.

Q. What year? A. In 1934.

Q. And do you remember who it was? [1497]

A. I do.

Q. That approached you? A. I do.

Q. Who was it?

A. It was Henry Schmidt.

Q. And what did he say?

A. We were up at the mezzanine floor where we were carrying on our strike activities, and as far as I can recollect, he walked by and handed me some kind of a card and said, "Here, look this over," or "Get next to yourself and sign this up," or something, some words to that effect. I put the card in my pocket and filled it out later.

Q. Mezzanine floor of what place or building?

A. It was 13 Stewart Street, or 113 Stewart Street, I believe it is.

Q. Well, what kind of a building or what place was it?

A. Oh, it was an old hall that had been used for various occasions and we had taken it over as our temporary union headquarters.

Q. Who had taken it over?

A. Local 3879 of the ILA which was then the number and name of our union.

(Testimony of Henry Joseph Schrimpf.)

Q. I see. Was he a member of that union at that time? A. He was.

Q. Well, you filled the card out, you say? [1498]

A. I did.

Q. What did you do with it?

A. I don't recall who picked the card up, it could have been Norma Perry; I am not so sure, but after filling it out, the card was picked up by someone. I believe—or, it could have been Norma Perry.

Q. Well, where did you leave it?

A. I didn't leave it, it was picked up, it was taken off me from the hall.

Mr. MacInnis: Pardon me. May the answer go out pending the objection? The further objection to this line of testimony, your Honor, is that it calls for activities and conversations outside the presence of the defendant. It calls for res inter alios acta, and we make the objection upon that ground.

The Court: The objection is overruled.

Mr. Paisley: What was the question?

(Question read.)

Mr. MacInnis: Pardon me. May that same objection be preserved in the same fashion as to questions put to this witness about the activities of third persons other than the defendants?

The Court: Yes.

Q. (By Mr. Paisley): Well, when you say that she picked it up, do you mean that you laid it down somewhere and she later picked it up? Will you explain that, Mr. Schrimpf? What did [1499] you mean by "she picked it up"?

A. Well, she took it, took the card back off me, as far as I can recall, because, as I said, I can't make no positive statement on that. It is so long ago. But to the best of my recollection, it was picked up, and it could have been Norma Perry who took the card back off me after it was filled out.

Mr. MacInnis: Pardon me just a minute. I suggest, your Honor, that that answer is not responsive to any question. Unless this man says that of his own knowledge, and with his own eyes, he saw some person picking up this card of which he speaks.

The Court: The motion is denied. It has now reached 4:15, counsel for the respective parties, and ladies and gentlemen of the jury, I assume that is an appropriate time to take the recess. We have run a bit overtime.

Mr. Paisley: Yes, sir.

The Court: May I again admonish you ladies and gentlemen not to discuss the case under any conditions, nor to form nor express an opinion until it is finally submitted to you for decision. We will adjourn until tomorrow morning at 10:00 o'clock. You may now retire.

(Thereupon the jury retired.)

The Court: We will adjourn until tomorrow morning at 10:00 o'clock.

(Thereupon an adjournment was taken to tomorrow, Friday, December 2, 1949, at 10:00 o'clock a.m.) [1500]

Friday, December 2, 1949, 10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed.

The Clerk: The witness on the stand is Henry Joseph Schrimpf, heretofore sworn.

HENRY JOSEPH SCHRIMPF

resumed.

Direct Examination (Continued)

By Mr. Paisley:

Q. Mr. Schrimpf, how long did you keep the card which you say Mr. Henry Schmidt gave you before you filled it out? A. I don't recall.

Q. What is your best recollection?

A. Well, it could have been handed in by the next day. I don't recall definitely how long I kept the card.

Mr. MacInnis: I think, your Honor, that answer must be stricken; "It could have been handed in by the next day" is only a speculation. It is not even an estimation or it is not his best thought. It is just a pure guess.

The Court: The motion is denied.

Q. (By Mr. Paisley): How often before you received the card from Mr. Schmidt had you talked with Mr. Schmidt? [1501]

(Testimony of Henry Joseph Schrimpf.)

A. I talked to him on many occasions, especially inasmuch as [1501] we were in or on strike.

Q. Did you sign your name on the card?

A. That is something that I cannot remember definite on either.

Q. Can you describe the card for us, as best you can remember?

A. As far as I can recall, it was comparable to the size of the average postcard. The color, I don't recall.

Q. You say you filled it out. Do you remember what you wrote on there?

A. No, outside of my name and address, which I gave as Union Headquarters, and my occupation; as far as I recollect, there was nothing else of importance on the card.

Q. How long had you known Norma Perry before you say you think she is the one who picked it up?

A. I first became acquainted with Norma Perry after we had gone on strike, so that would be sometime after the 9th of May.

Q. How often had you seen her?

A. I saw Norma Perry after we had gone on strike, I would say every day, because she was working in the office on the publicity committee, with our strike publicity committee.

Q. For the union? A. Of the union.

Q. Was she a member of this union? [1502]

A. At that time, no.

Q. Did she later become a member?

(Testimony of Henry Joseph Schrimpf.)

A. She was made an honorary member, and I believe was given a registered brass.

Q. What do you mean by that?

A. Well, as part of our victory we entered into an agreement with the employers that we would determine who was entitled to work on the waterfront by registering each man. This is what we call the "registered brass." It was determined—I can't remember exact on the time, but I believe it was those who had worked a period of six months in a given period of from two to three years. They were eligible for registration regardless of their union affiliation to work on the waterfront, and Norma later on, I understand, received one of these registration brasses.

Q. Had you been in meetings with Norma Perry prior to the time that you say she got this card from you?

A. Norma Perry was present at some meetings, and I can only say it is my belief she was present at some meetings before I was given this card.

Q. Were these union meetings?

A. No.

Q. What kind of meetings were they?

A. Well, I was invited out to a place where she was staying at one time. It was a restaurant. It was the Spreckels Old [1503] Mansion. It is out on Scott Street, I believe. I don't know whether it is still on the corner. She was staying there, and I had visited up there.

Q. Did you know when she took the card, picked

(Testimony of Henry Joseph Schrimpf.)

it up, as you say, whether or not she was then a member of the Communist Party?

Mr. MacInnis: Pardon me. Just a moment. That assumes something not in evidence, in the first place. If your Honor will read the last remark of this witness yesterday, he told the Court and jury in effect that he did not know, but it could have been Norma Perry who picked up the card. Now the prosecutor gratuitously adopts that language, and now has the witness saying it was Norma Perry who picked up the card. I think that is a leading and suggestive question and assumes something not in evidence. [1504]

The Court: Yesterday he testified in response to the question of Mr. Paisley:

"Well, she took it, took the card back off me, as far as I can recall, because, as I said, I can't make no positive statement on that. It is so long ago. But to the best of my recollection, it was picked up, and it could have been Norma Perry took the card back off me after it was filled out."

Mr. MacInnis: Exactly.

The Court: You might, counsel——

Mr. Paisley: Yes.

Q. Well, are you sure that it was Norma Perry who took the card, Mr. Schrimpf?

Mr. MacInnis: Pardon me. That is cross-examination of his own witness and another leading and suggestive question.

The Court: Overruled.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Well, may I make the further objection, your Honor: Having elicited one remark from the witness, which your Honor says may stand in the record, which your honor says is now responsive, the prosecutor cannot now strengthen the remark by asking his witness to boost his own credibility by answering that he is sure that the other remark was correct.

The Court: The objection is overruled.

Q. (By Mr. Paisley): Just tell us, Mr. Schrimpf, whether or not you are sure. [1505]

A. No, I won't make a positive or definite statement, other than what I have already entered into the record. It could have been Norma Perry who picked this card up.

Mr. MacInnis: On that basis we move that his testimony be stricken, your Honor. We are here to elicit facts, and not suppositions.

Mr. Paisley: I think he ought to specify what testimony he wants stricken.

The Court: He has; his previous testimony.

Mr. MacInnis: All testimony concerning the picking up of any suppositious card by Norma Perry whom the witness first said could have picked the card up, but he wasn't positive; and whom the witness now refuses to state was actually the person, in answer to the question, "Are you sure that it was Norma Perry?"

The Court: I will reserve ruling on it, on the motion, counsel.

Q. What is the basis of your statement, Mr.

(Testimony of Henry Joseph Schrimpf.)

Schrimpf, that Norma Perry could have picked the card up? What basis have you in your recollection or in fact for that statement?

A. My basis for this is that she was serving on the publicity committee with Henry Schmidt and Ralph Malin, and as I mentioned in the record, she was spending a lot of her time in the office and being and working very close with Henry Schmidt. Henry giving me the card, and I can't make any definite or [1506] positive statement that she did pick it up, but from those conclusions, it is possible that she could have picked it up, because they were working together.

Q. It is from that that you draw the inference that she did pick it up, from those surrounding facts and circumstances?

A. Yes. It could have been that, yes.

The Court: Counsel?

Mr. Paisley: I think the jury is entitled to his best recollection, and that is what he is giving, your Honor, as to who the individual was. I don't think it is very important what individual it was, anyway.

The Court: Well, probably it would go to the weight of the witness' testimony with respect to the fact or the alleged fact or the asserted fact that Norma Perry picked the card up.

Mr. MacInnis: Well, may I suggest this, your Honor?

The Court: Yes.

Mr. MacInnis: In all respect to your Honor, the question which you just now put to the witness was

(Testimony of Henry Joseph Schrimpf.)

one which might be asked on cross-examination of a witness: "What is your basis for saying that?"

The Court: I am entitled to ask that question, counsel.

Mr. MacInnis: I am not criticizing your right to ask the question, your Honor.

Mr. Paisley: I could have asked that myself.

Mr. MacInnis: I am merely analyzing what has transpired [1507] here.

The Court: I merely tried to elicit what may be the basis for it.

Mr. MacInnis: Yes, but he gives you now just a statement it is possible because certain other things remain in his memory, that she was working there. I think that is hardly a basis for an assertion of fact.

The Court: Yes, I am inclined to agree with you, counsel, that the basis for his testimony or inference drawn that Norma Perry picked the card up is quite indefinite, and I shall grant the motion to strike.

Mr. Paisley: All right.

Q. How long, Mr. Schrimpf, did you keep the card after you filled it out?

Mr. MacInnis: Pardon me. That is asked and answered, your Honor, about three minutes ago. He said he didn't know.

The Court: What was the question?

(Question read.)

Mr. MacInnis: I would suggest, your Honor, if there is any doubt we could ask the shorthand reporter to read the previous question and answer, which was the identical question, which elicited an indefinite answer.

The Court: Would you read it?

The Reporter: That must have been in the previous take, your Honor; I do not see it in my take. [1508]

The Court: You may repeat the question. The reporter does not have it.

Q. (By Mr. Paisley): How long did you keep it, Mr. Schrimpf, according to your present recollection, after you filled it out?

A. That is something I can't be positive on either, but I believe previously in the record I did say it could have been not longer than the next day. I have no positive recollection of when they picked the card up.

Mr. MacInnis: Now I suggest that that answer must be stricken, your Honor. First, on the basis of no positive recollection, secondly, the witness now refers to people in the plural when "they" picked it up. It is entirely unresponsive, entirely indefinite, not a statement of fact against men who are on trial in the criminal case.

The Court: The motion is denied.

Q. (By Mr. Paisley): Do you know, sir, that you delivered it to someone?

A. Very definite.

Q. And thereafter did you receive anything, any evidence of membership in the Communist Party?

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Well, that is obviously a leading question, your Honor, that counsel puts half a question and waits for the witness who makes no answer—then he adds the leading words to suggest the answer. [1509]

Mr. Paisley: Well, let's go back to the original question.

Q. Thereafter did you receive anything?

The Court: The objection is sustained.

Mr. MacInnis: Yes, and now having suggested the answer, of course the repetition of the proper question will elicit the desired answer.

A. Yes, I received later on a Communist Party book.

Q. (By Mr. Paisley): Do you have it now?

A. I have not.

Q. Do you know what became of it?

A. I believe I destroyed it.

Q. Will you describe it to the Court and jury as best you remember?

A. My best recollection is, it was a size, say, around four inches by three inches, or maybe four and a half by three inches. It wasn't a thick book or pamphlet; it was maybe ten or fifteen pages in it.

Q. And can you describe it any further? Were there any insignia of any kind on it?

A. Well, there was places in there for the stamps for your dues, dues stamps, and I cannot recall the insignias if any were on it.

Q. Was your name on it?

A. No, the name of Henry Lowman was on the book.

Q. And do you know how that came [1510] about?

A. Yes, it was explained to me it was not allowed——

Mr. MacInnis: Pardon me just a minute. If any explanation is to be offered as to what some third person said to this man, we should be informed as to the identity of that person.

Mr. Paisley: Well, if you will sit down, maybe the witness will tell you.

Mr. MacInnis: Well, I am not required to sit down when I make an objection. I am addressing his Honor.

The Court: Yes. I think he is entitled to have, at some place in the narrative testimony, the identity of the person who informed him as to certain facts or circumstances.

Mr. Paisley: Yes.

Q. The question was, Mr. Schrimpf, if you know how it was that your name was not on there and the name of Lowman was on there.

A. I was told—and incidentally, I will say I don't know just who told me——

Mr. MacInnis: Then I suggest, your Honor, that no such conversation can be given. Why, it would be frustrating of every attempt to defend any case if a man could take the stand and say some person whom he doesn't know told him this, but it is binding on these three men who are on trial.

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: Oh, of course it wouldn't be binding on them, your Honor, unless they said it themselves or unless they were present. We won't get anywhere if we are going to have these captious objections continually. [1511]

Mr. MacInnis: We won't get anywhere unless there are proper questions and ordinary answers. Now, I suggest this, your Honor: Without being critical, we have seen in this court the amount of preparation engaged in by the prosecution, and I suggest that adequate opportunity has been had to prepare this witness so that he may give answers consistent with the ordinary rules of evidence. I am not suggesting that the witness must be a lawyer, but a direct question should be followed by a direct answer. [1511-A]

The Court: Did you complete your answer, Mr. Schrimpf? A. No, I did not.

Q. You complete the answer and then I will rule on the matter.

A. I was told by a party or parties then—I shall qualify it—whom I don't recall, that it was not regulations or customs to keep a record of your real name on any of the records of the Communist Party, and this was the accepted opinion for me and all other comrades, Party members, whom I was acquainted with.

Mr. MacInnis: The accepted opinions of unknown persons, your Honor, could be of no probative value in a criminal case. A volunteer statement impossible to test, frustrative of any cross-examina-

(Testimony of Henry Joseph Schrimpf.)

tion because the identity of the person could never be known, impossible of impeachment. I think, your Honor, it would be ridiculous to allow a statement like that.

The Court: Mr. MacInnis, do you contest the fact or the asserted fact that the internal operations of the Communist Party were held in secret or certain secret formulae may have been adopted with respect to the identity of the individual members? Do you contest that?

Mr. MacInnis: Do you assert that?

The Court: No, I do not assert it. I merely reiterate what this witness has stated.

Mr. MacInnis: I have no knowledge of that. [1512]

The Court: I make no assertion at all.

Mr. MacInnis: But these men are charged with a crime, and the crime involves the smear of Communist affiliation. Whatever the ultimate fact may be about the Communist Party and its doings, if we are to receive evidence about the undertakings of those people, it ought to be real evidence and not fictitious evidence, not what imaginary people or what forgotten people or people whose names have passed beyond the lips of any witness may have said. or what this man may now think they may have said, or what he has been told they said. We cannot receive evidence of that kind.

Mr. Paisley: Your Honor, that has already been testified to, as I remember, in previous proceedings in this case.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: The previous objection was as to the form of the question and the ordinary admissibility, when a witness was apparently willing to state the source of his conversations; but certainly there was no problem before the Court before about completely anonymous persons.

Mr. Paisley: Since when, your Honor, cannot a witness testify as to what the customs were in his club, church, or any other organization to which he belonged?

Mr. MacInnis: I blush at that kind of statement, for it reflects upon the law of evidence. May I say one thing on that, your Honor. Let us suppose that instead of being engaged here in an inquiry as to a highly controversial subject, the [1513] matter of Communism or its affiliation, we were trying to determine if a particular person was a member of one of our churches, as the prosecutor suggests. Let us say that the inquiry was whether you or I were members of the Catholic Church. Now, could that be proved by some person saying, "I saw him come out of a church; hence he is a member"? Or could it be proved by some other person saying——

Mr. Paisley: That would be one circumstance.

The Court: Counsel, may I interrupt momentarily? There is no particular parallel or parity of reasoning in the illustration you gave us and the testimony. As I recall, the testimony of this witness was that the book was returned to him—Mr. Paisley, may I ask you to participate with me in this colloquy?

Mr. Paisley: Oh, yes, your Honor.

The Court: I did not want you to remove yourself from this interesting discussion.

Mr. Paisley: He invites me to go home.

The Court: I invite you to remain.

Mr. MacInnis: No, I asked him not to go home, your Honor.

The Court: The witness testified the book was returned to him in the name of another person. He stated that was the practice and custom at the time of his party. Now there has been testimony given by the prior witness as to the practice [1514] and custom. I shall allow it, Mr. MacInnis.

Mr. MacInnis: Within the limitations of your allowance of that testimony, may I ask that you instruct the jury that it is not binding on the defendants?

The Court: I will accordingly instruct the jury that the testimony of this witness with respect to the internal operations and the formulae adopted by or asserted to be adopted by the Communist Party, the agents and representatives thereof, is not to be considered at this stage of the proceedings as binding upon the defendants or either or any of them. The testimony elicited is for the purpose and the sole purpose at this juncture of determining the operations and the reasons, if they do exist, for the return of the book in the name or names of other persons rather than the true name of the person who subscribed to the Party or the Communist Party. You may proceed.

(Testimony of Henry Joseph Schrimpf.)

Q. (By Mr. Paisley): After you had received your book did you attend any meetings of the Communist Party?

A. I attended regular meetings, known as my unit meeting, the unit to which I was assigned or placed in. These meetings used to take place every Thursday night.

Q. Where did they take place?

A. They would take place in a great number of places. That was the custom of the Communist Party, to very seldom hold——

Mr. MacInnis: Pardon me just a moment. The witness [1515] has not been asked to narrate any custom in this question. He was asked, Where did these meetings take place? That is a question to which our previous objections are preserved by our agreement with the Court. He was not asked to say anything except the places.

The Court: Objection is overruled.

Mr. MacInnis: Then I move that the volunteer statement be excluded from the record. He was asked to narrate places.

The Court: The motion is denied because he used the word "custom" as part of the context of his statement with respect to the situs or site of these various meetings, and I assume, only for the purpose of our instant discusson; that he may relate that the meetings were held from place to place and at various places, clandestine or otherwise. I don't know.

Mr. MacInnis: I do not think he was asked to state whether they were clandestine or not.

(Testimony of Henry Joseph Schrimpf.)

The Court: I am making the ruling on the basis of what no doubt is the trend of the testimony. Of course, what I say is not to be regarded by the jury as testimony. The testimony is elicited from the witness. You are not to regard what I say in that respect any more than you are to believe that the testimony comes from Mr. MacInnis. Proceed, counsel.

Q. (By Mr. Paisley): I asked you to tell us where you remembered that you attended these unit meetings. [1516]

A. I repeat, I attended the meetings in many places. Some of the places were at John Larson's home in the Mission—incidentally, this is over fifteen years ago and I don't recall the street or number. I attended a meeting at John Schomaker's father-in-law's or mother-in-law's; I believe they lived out on Paige Street. I attended meetings in the Mission on more than one occasion, and if I may have this in the record, the way they would arrange these meetings and the contact which——

Mr. MacInnis: Pardon me. This witness has no right to choose things which he would like to insert in the record, your Honor.

Q. (By Mr. Paisley): All right. Just tell us any other places that you remember where you attended these unit meetings.

A. There was another place right at the start of the approach to the Twin Peaks Tunnel. I don't know the number of that house. I attended meetings west of Van Ness; it could have been on Pine Street.

(Testimony of Henry Joseph Schrimpf.)

Q. Do you know who selected the meeting place?

Mr. MacInnis: Pardon me. That is now asking for the opinion and conclusion of some person not before the Court:

Mr. Paisley: No, it is asking him if he knows.

The Court: Overruled.

Q. (By Mr. Paisley): Do you know who selected the meeting [1517] places?

A. We never knew in advance.

Q. How were you notified?

A. Someone would come around and inform me. Very often Norma Perry phoned me as many times as any other individual where I was to meet, and these meetings, as I attempted to say before, were never given in advance and the address very often wasn't given to you. They would pick you up in a car. Norma Perry had a car and she was a very busy little woman in those days, and she would drive you around to the various places. And incidentally, to make it more difficult to remember these places, the Communists were overly cautious because many times I can honestly say I would travel eight blocks to go two blocks.

Mr. MacInnis: I think your Honor, the volunteer remark has no place in the answer, and the witness' remark as to what he can honestly say is another attempt to boost his own credit. It does not answer the question at all.

Mr. Paisley: I think it is all relevant and competent.

The Court: The motion is denied.

(Testimony of Henry Joseph Schrimpf.)

Q. (By Mr. Paisley): Was Norma Perry a member of your particular unit?

A. No, not that I can recall. She was not.

Q. Did she attend the meetings of your unit?

A. I recall her at some of the meetings collecting dues and [1518] giving stamps.

Q. Was Henry Schomaker a member of your particular unit?

Mr. MacInnis: That is a new character, your Honor.

Mr. Paisley: Is that right? What is his name? He is supposed to be in this conspiracy.

Mr. MacInnis: This is some new member of the cast, Henry Schomaker.

Mr. Paisley: What is his first name? John.

Q. Was John Schomaker a member of your unit?

A. Not that I recollect.

Q. Did he attend any of your unit meetings?

A. No, not that I recall.

Q. Do you recall the names of any persons who attended your unit meetings?

A. I recall John Larson.

Mr. MacInnis: I want to make a motion to strike, your Honor. I think that a part of this testimony is self-frustrative. A moment ago he said he attended unit meetings of the Communist Party at the home of John Schomaker. Now he says that he never attended a meeting with John Schomaker.

Mr. Paisley: It may not be unit meetings, your Honor.

Mr. MacInnis: He has answered about unit meet-

(Testimony of Henry Joseph Schrimpf.)

ings. He has characterized them as unit meetings.

Mr. Paisley: It may have been meetings of the Communist Party other than unit meetings. [1519]

Mr. MacInnis: I dislike to interfere with the preparation of the prosecution, your Honor, but this man has characterized every meeting as a unit meeting. The prosecutor cannot now say there may have been some other kind of meeting.

The Court: The motion is denied.

Q. (By Mr. Paisley): You say all meetings were on Thursday. Was it nighttime or daytime customarily? A. Always at nighttime.

Q. What part, if any, did you take in your unit meetings?

A. I was just a regular dues-paying member, accepting the regular assignments which ~~—~~

Mr. MacInnis: I think, your Honor, we are not interested in this transaction and the part that this man played in some activity.

Mr. Paisley: Well, if he objects to that, let us go on to something else, your Honor. It is not too important.

Mr. MacInnis: Why do you ask it, then?

Mr. Paisley: Well, the jury is entitled to hear all the facts and circumstances surrounding his membership and his activity, I think.

Q. Did you pay dues to the Communist Party?

A. I did.

Q. To whom did you pay your dues?

A. That depended on who was there at each meeting to give you stamps to collect your [1520] dues.

(Testimony of Henry Joseph Schrimpf.)

Q. How often did you pay your dues?

A. Well, I believe I kept them pretty well paid up for the few months I was in there.

Q. How often did they become due?

A. You paid according to your earnings. It was a sliding scale. They determined the amount of dues you would pay on your income. During the strike when I first started, I think I paid them $2 a month.

Q. Did you pay that monthly or weekly, or do you remember?

A. I don't recall. I had a regular schedule for paying the dues.

Q. Do you remember what kind of receipt, if any, you would receive when the membership dues were paid?

A. No, they just put a stamp in your book.

Q. Did you keep your book on your person or otherwise? A. Yes, I had my book.

Q. Did there come a time, sir, when you resigned or left the Communist Party?

A. Well, you might put it I just faded out of the picture. I just refused to function. That was not later than June, 1935.

Q. So you were in about a year, approximately?

A. Approximately.

Q. While you were a member of the Communist Party did you see Harry Bridges? [1521]

A. I saw Harry Bridges many times during that period.

Q. Approximately how many times?

(Testimony of Henry Joseph Schrimpf.)

A. Well, during the strike I saw him, I would say, every day. After the strike I didn't see him quite as frequent.

Q. Where would you see him?

A. Well, during the strike Bridges was chairman of the strike committee and on more than one occasion through being detained somewhere—where, I don't know—word would come to me that I was to go ahead and call the strike committee meeting, which convened every day, and carry on with the regular strike policy for that day.

Q. How many were on that strike committee?

A. As I started to enter into the record yesterday, the selection of that strike committee was by selecting a spokesman from each dock. This spokesman originated prior to his going on strike. We agreed—I say "we"—I mean the union agreed there would be some man on each dock during our organization of the ILA local to keep things straightened out. If there was any discrimination against anyone on the dock he was to be spokesman for him to try to straighten it out, so when the strike came along, that is the way they selected the strike committee. This spokesman was taken from each dock giving the strike committee a very broad representation of longshoremen from all the docks, and knowing generall~~y all the con~~ditions on the 'front. [1522]

A. And Mr. Bridges was chairman?

A. He was elected chairman.

Q. About how many men on the committee were there?

(Testimony of Henry Joseph Schrimpf.)

A. Approximately there was fifty members.

Q. How often would it meet?

A. We would meet definitely every day. Very often the strike committee was called to meet two or three times in a single day.

Q. Full attendance usually?

A. Not always a full attendance. There was times there when the members couldn't attend. We had the various committees set up to——

Q. Were you on the committee?

A. I was in charge of all the picketing committees.

Q. While you were a member of the Communist Party did you see Henry Schmidt?

A. As I previously reported in the record, I saw Henry Schmidt practically every day until such time as he moved to a room somewhere conveniently there because there was too much noise. It was getting too congested around the hall. So he could get the right class of publicity out. Then I won't say I saw him every day after that, but most every day during the strike after that.

Q. Was he a member of the strike committee?

A. He was a member of the strike [1523] committee.

Q. While you were a member of the Communist Party did you ever see the defendant John Robertson?

A. No, I never knew Robertson in those days.

Q. When did you meet him?

A. I just can't recall when, but it was in recent

(Testimony of Henry Joseph Schrimpf.)

years, way after the strike and after we organized.

Q. Do you know of a Herman Mann?

A. I know of a Herman Mann on the waterfront.

Q. What type of work did he do?

A. Herman Mann was a longshoreman.

Q. He belonged to your same union?

A: That is right.

Q. Did you have any opportunity to learn whether or not he was a member of the Communist Party?

A. I believed he was a member of the Communist Party. I met at his house several times.

Mr. MacInnis: Pardon me. I think that answer must be stricken, your Honor.

The Court: I think you might lay a foundation for the statement that he believed he was a member of the Communist Party, if there be such foundation. It may go out at the present juncture.

Mr. MacInnis: May I say this, too, your Honor: If this man named a thousand people who were members, what good would it do here? [1524]

The Court: Counsel, I granted the motion.

Q. (By Mr. Paisley): What opportunity would you have, if any, to form an opinion as to whether or not Herman Mann was a member of the Communist Party?

A. Well, he was a functionary in connection with the policy of the Party. He used to ~~come~~ around and give us information and inform us of meetings. [1524-A]

Q. Had you been in the Communist Party meetings with him?

A. Well, I would call them Communist Party meetings, yes.

Mr. MacInnis: Pardon me, Your Honor. There is a great deal of doubt already, as the record shows, as to what is a Communist Party meeting and what may be a meeting in which certain Communists are present.

The Court: Again I admonish the jury—I hope that I will not have to repeat these admonitions—to disregard the statements made by counsel in connection with the objections interposed to the questions. Mr. MacInnis' characterization that there is grave doubt about certain meetings being Communist or otherwise is for the ultimate determination of the jury. You are the sole and exclusive arbiters of the fact. Accordingly, I admonish you to disregard that particular statement at this juncture.

Mr. MacInnis, may I respectfully say to you that in connection with the objections interposed to question, that you refrain, so far as you are able, and consistent, of course, with the defense of your clients, from lengthy arguments. I think I know your purposes, I think I know the reasons underlying your objections; and if you will be good enough to interpose your objections, state the grounds, the foundation, omitting the argument, I shall rule as promptly as I may. I think that is a request that I should have addressed, perhaps, a little earlier. [1525]

(Testimony of Henry Joseph Schrimpf.)

Now, the witness has a question before him?

Mr. MacInnis: No. Pardon me. There was an answer given. The motion was to strike the answer. That is the matter before the Court.

The Court: Yes. I think—I doubt the foundation as to the characterization that Mann was a Communist. I grant the motion. Then Mr. Paisley asked a question in the nature of a foundational question; and then I lost track in the light of our discussion. What is the state of the record, Mr. Reporter?

(Record read.)

The Court: Well, I think he should state the time and place of these meetings, to the best of his recollection, and the parties present and characterize them—not generically as Communist Party meetings, but lay a foundation to that extent. I observe your suggestion and your objection—rather, sustain them.

Q. (By Mr. Paisley): Now, tell us in your own way, Mr. Schrimpf, what opportunity you have had to form an opinion as to whether or not Mann, Herman Mann was a member of the Communist Party.

Mr. MacInnis: Pardon me. The form of that question asks this witness to offer us an opinion on his own credibility.

Mr. Paisley: It is about as fair a question as a lawyer could ask, Your Honor. I am not attempting to lead him, I am [1526] asking him to tell us what his opportunities were. I could lead him by suggesting meetings and such things as that, but I don't want to do that. I want to be fair. I want him to tell us what opportunities he has had.

Mr. MacInnis: Now the prosecutor extols his own fairness. I would ask the question be read back to Your Honor. I think Your Honor will see what I mean by the objection.

Mr. Paisley: I could ask him if he was ever present when he paid dues to the Communist Party. That would be a leading question then, I think; it would be suggesting an answer. But this question asks him to tell us what opportunities he has had, and by doing that, determining that in his own mind. And the jury is entitled—often a lay witness can give an opinion, and if he tells the jury why he thinks so, then they can evaluate his opinion.

Mr. MacInnis: So, Your Honor, he now suggests to the witness during his discussion with Your Honor the answer that he expects; and thus demonstrates his own fairness.

Mr. Paisley: Well, Your Honor, we will leave it to the jury as to whether we are trying to be fair or whether you are.

The Court: Would you read the last question, Mr. Reporter?

(Record read.)

The Court: The objection is overruled. Now, Mr. Schrimpf, you may answer that.

(Testimony of Henry Joseph Schrimpf.)

The Witness: Yes. [1527]

The Court: To the best of your recollection.

A. It is my opinion that Herman Mann was a party member. I did not see him paying any dues. I never saw his book. Incidentally, I saw very few Communist books or saw very few of them paying dues. And I would like to have this also in the record: I could not definitely and honestly swear that any one sitting in this courtroom could be an American unless they would say they were or they give me some documentary proof. And that is exactly the status of the Communist Party in this particular case. I met at Herman Mann's house, in my opinion, they were Communist Party meetings. I did meet there with unit meetings. And incidentally, in this unit meeting, to clear up a previous misstatement in the record,——

Mr. MacInnis: Well, I think, Your Honor, we are not interested in volunteer statements.

The Witness: It is not a volunteer statement.

Mr. MacInnis: If there is a misstatement, counsel may clear it up.

The Court: You may proceed, Mr. Schrimpf.

A. (Continuing): We have had unit meetings there in Herman Mann's place, but Herman Mann, to my recollection, was not in my unit. You may hold them at any Communist Party member's house, and he would go and his wife would sit doing her knitting and he would be out playing with the kids. Not necessary that he would have to attend the unit meeting. But there was one [1528] meeting

(Testimony of Henry Joseph Schrimpf.)

which I recalled very vividly happened at Herman Mann's house. It was an important meeting from the Communist point of view, their side.

Mr. MacInnis: Pardon me just a minute. Now we are having the witness characterize by opinion and conclusion the importance of the things to which he is testifying.

The Court: The objection is overruled. Proceed.

Q. (By Mr. Paisley): Proceed, Mr. Schrimpf.

A. Well, as I was saying, it was from the Communist point of view a very important meeting. It was a meeting called to discipline one of its members for certain acts which was in violation of Communist policy. This party was Norma Perry. The accusations and charges were that she was being too friendly with a company which were not seeing eye to eye with policy of the Communist Party. Now, I want this part clear for the record. This was not an official meeting to decide and pass judgment on Norma Perry; it was a meeting called there to determine whether or not there was any basis for these accusations and charges. And present at that meeting were Sam Darcy, Herman Mann, John Schomaker, myself, Harry Bridges, Henry Schmidt and there could have been others at this meeting. And to the best of my recollection, it was on a morning, and I believe it was a Sunday morning. And it took place in the front room of Herman Mann's place, house. The outcome of this meeting was, this girl Perry tried to defend her right of talking [1529] and seeking company outside of her business or her work, and I remember her very well saying, "After all," she says, "if I go out with this company, I may get additional information for the party from this company." Now, is it in order here to continue as regards to the information she had reference to?

Q. That's right. Proceed, and tell us what happened at that meeting, anything that you remember.

A. Well, Miss Perry was very active during the strike, and the party saw a good opportunity of having Miss Perry placed in a very important and key position within the union.

Mr. MacInnis: Pardon me, Your Honor. This is a narrative certainly of something foreign to the meeting which this man now purports to describe.

Mr. Paisley: Your Honor, the testimony is that Bridges and Schmidt were both present. What went on at that meeting, what was discussed there—that is certainly competent evidence.

The Court: The objection is overruled.

A. (Continuing): Well, this is all a part of the cause of calling the meeting. As I said, Norma Perry, she was active as a Communist Party member, and she had done good work during the strike. She was a very hard working woman, and the Communist Party saw and seized upon this opportunity to have Norma Perry placed in a key position within the union. Her job in that union, incidentally, which was a strict violation of our union constitution—and she was so informed as an employee of [1530] our union, that all records must be confi-

(Testimony of Henry Joseph Schrimpf.)

dential. But the Communists, seeing this great opportunity, they put Norma Perry in there with one major specific purpose. She was to——

Mr. MacInnis: Pardon me just a moment. Is that part of a conversation, Your Honor? He is now making a speech about what he says, from his perspective in this case, the so-called Communists were doing with a certain person at a certain time. He has been asked under Your Honor's rulings to narrate what happened at a meeting. Now, I think, Your Honor, that anything that he says by way of criticism or by way of peroration or speech of any kind must go out.

The Court: The motion is denied. As I understand it, he was attempting to give the cause or relationship as to the background with respect to bringing this lady before a meeting.

Mr. Paisley: That's right, as I understand it.

The Court: Objection overruled.

The Witness: If I may continue?

Mr. Paisley: Yes.

A. Her assignment by the Communist Party in this union, responsible job, was to compile and collect a complete record of the name, the address, the affiliation of every member of our union. This was to be a great tool in the hands of the Communist Party, such a compilation of such data. They could contact personally or by mail any time they wished every longshoreman on the beach, and that, to the Communist Party, is very [1531] important. And this was her assignment.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Pardon me just a moment. Now, Your Honor, you may deem that I am being vexatious by making further objections, but here is the difficulty now.

The Court: Well, what I may deem is truly within my province, counsel, and any suggestions on your part are gratuitous. I think we well understand one another.

Mr. MacInnis: Well, yes, that is gratuitous. Here is what I want to propose, Your Honor. By this testimony the witness tells us now again the doings of third persons, whose names were not told. He tells us that unknowns asked Norma Perry to do something. He doesn't state who was present, whether the defendants were present or not.

Mr. Paisley: Just a moment. Two of them were present at this meeting.

Mr. MacInnis: He is now giving, under Your Honor's rulings,——

The Court: I assume the focal point of the testimony, if there be a focal point, is this meeting, Mr. Paisley?

Mr. Paisley: This meeting. It is corroborative of some of the testimony of Schomaker. He testified about this meeting.

Mr. MacInnis: May I suggest now that Your Honor make the same admonition to the jury in respect to the prosecutor's statement?

The Court: Yes, I think so. The statements made by counsel with respect to the offering of testimony, the objection [1532] interposed to the

(Testimony of Henry Joseph Schrimpf.)

question and the like are not to be regarded by you as testimony or as evidence. I think I have made that clear at the very outset of the case when you were impaneled as jurors. You sit there as the sole and exclusive arbiters of the fact. The testimony comes from these witnesses. Naturally in the trial of a case, counsel make observations, the Court has to make observations, and those observations are not to be considered by you as evidence.

You may proceed.

Q. (By Mr. Paisley): Now, let me ask you this, Mr. Schrimpf: At the time of this meeting in Herman Mann's home, at which charges were preferred or discussed against Norma Perry, you were a member both of the union and of the Communist Party, right? A. That's right.

Q. Now, were these matters that you now are testifying about discussed at that meeting, about the fact that she had been put into the——

A. That was what the meeting was called for.

Mr. MacInnis: Pardon me. That is a leading and suggestive question, as are all questions of this type.

The Court: Yes, the question was what, if anything, was discussed at those meetings.

Mr. Paisley: Well, I want to be sure. Counsel was objecting; I think he is objecting in good faith. I want to be sure [1533] that these matters were discussed. And if they weren't, why, it is not competent.

(Testimony of Henry Joseph Schrimpf.)

The Court: All right.

Mr. Paisley: That is why I asked it.

Q. Were these matters discussed in the meeting, sir?

A. That is what the meeting was called for, to discuss these matters.

Mr. MacInnis: Pardon me——

Mr. Paisley: I think it is purely competent.

Mr. MacInnis: Now he asks a leading question. Your Honor concurs that the subject matter is leading, and now following the discussion he now suggests to the witness, "Now, were these matters discussed?"; in other words, he repeats in a different form the same leading question.

The Court: What, if anything, was discussed at the meeting, Mr. Schrimpf?

A. Well, this particular meeting, as already entered in the record, was for this specific purpose, of taking the disciplining of Norma Perry for her action not considered in line with Communist Party policy.

Q. (By Mr. Paisley): All right. Now, tell us in general what charges were brought and what discussion was had on it?

A. That was the discussion, her being too friendly with individuals who were considered not seeing eye to eye or exactly friendly to the Communist Party. One of these individuals, [1534] incidentally, was a man named Scotty Freitas, and also Cox was in the office, and he was quite a conservative.

(Testimony of Henry Joseph Schrimpf.)

Q. Well, who was Scotty Freitas?

A. He was financial secretary of our union.

Q. Why was it that you didn't—you people didn't want her talking or being friendly with Scotty Freitas?

A. Well, the Communist Party, all they live for, they live on a program of hate. And anyone who can't see eye to eye with them, if I may so, if God was to descend to the earth tomorrow and they couldn't see eye to eye with him, they would start tearing him to pieces. That is the Communist Party policy.

Mr. MacInnis: Pardon me. Is that something we are to take as part of this policy, Your Honor, under your rulings? Under your rulings he can give the background—here we are hearing a speech.

The Court: You make a motion?

Mr. MacInnis: I make a motion to strike the voluntary speech.

The Court: It may be stricken.

Mr. MacInnis: Will Your Honor instruct the jury to disregard the speech so far as the defendants in the case are concerned? I think they are not to be bound by what this man says of the Communist Party. They are not members of the party; they have pleaded not guilty, Your Honor.

The Court: Do you request these constant admonitions, [1535] counsel? If you do, I think I have attempted in the best manner I know how to acquaint the jury with the principle that attaches throughout the trial.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Well, may I say this, Your Honor: —

The Court: I will do it again if you wish, but I see no occasion for it.

Mr. MacInnis: Well, I think in all respect to Your Honor and in all respect to the government of the United States, when witnesses are produced in a serious case of this kind, I think it would be elemental to require the prosecution to instruct witnesses regarding of the witness' personal feelings not to make speeches in the case, and when I see repeated speeches, I get the feeling that the prosecutor is not only not instructing this witness, but I have the feeling that something else has been said to him or to them. That is why I make this repeated objection, Your Honor.

The Court: We may assume that in the ordinary procedure, the prosecution has not assumed to instruct witnesses one way or the other, nor the defense, to instruct witnesses one way or the other. We assume that the witness takes the stand and unadorned tells his testimony. Now, this observation made by the witness, Mr. Schrimpf, is one of his own personal viewpoint; it will not tend to prove or disprove any particular immediate issue in this case, and accordingly I instruct the jury to disregard the same and its full context. [1536]

We will now take the morning recess.

May I again admonish you not to discuss the case among yourselves under any conditions nor to

(Testimony of Henry Joseph Schrimpf.)

form nor express an opinion thereon until it is finally submitted to you.

(Recess.) [1536-A]

Mr. Paisley: May I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Paisley): What was Freitas' first name?

A. All I knew, he was called Freitas.

Q. How do you spell that last name?

A. Well, I was informed here now that it was F-r-a-t-t-a. I thought it had an "i" in it.

Q. What was his position with your union?

A. He was——

Mr. MacInnis: Pardon me. If the witness is going to make a statement now about what he was informed or knew, I think those things should be divulged and we should know who the declarant was.

Q. (By Mr. Paisley): Let us divulge them. What was the name of the declarant? Who told you that that was the way to spell it?

A. Someone asked me here—I don't know who it was—and I referred him to Smith. He would know the correct spelling of the name.

Q. Then it was not some Government agent, attorney?

A. No. It was some lady there. I don't know who it was. I don't know anyone in this courtroom.

Q. I presume you knew him as Scotty, is that right? A. Scotty Freitas.

(Testimony of Henry Joseph Schrimpf.)

Q. What position did he hold with your [1537] union?

A. He was financial secretary.

Q. Were there other persons with whom Norma Perry was charged with being too friendly?

A. Those two names were mentioned. I can definitely recall Freitas and Cox.

Q. What was Cox's position?

A. Cox was secretary.

Mr. MacInnis: Might we have his full name, please?

Q. (By Mr. Paisley): Do you know his full name?

A. No, I can't recall it now. I know it, but I can't recall it, his first name.

Q. You say he was secretary. Of what was he secretary?

A. He was secretary of 3897 Local, ILA.

Q. Were these persons with whom she was accused of being too friendly members of the Communist Party? A. No.

Q. Who was it who had this list of the membership of the union to which you say she was seeking to gain access?

A. I never said anyone had a list, but we have the name and address of all our members on a ledger, on a record, and she was supposed to get access to that ledger and compile a complete list of all members' names, addresses and affiliation.

Q. Did you object to that in this particular meeting at Herman Mann's house? Were you objecting to that? [1538]

(Testimony of Henry Joseph Schrimpf.)

A. No, I never objected to that assignment when I knew what she was going in for. I never objected to it.

Q. I know, but this discussion at Herman Mann's house, when she was charged, did it relate to the fact that she was getting this information from the union?

A. No, it wasn't saying she was falling down on her job and not getting information. She was just being too friendly to persons not in accord with—well, not sympathetic towards the Communist Party.

Q. How long had you been in the Party at that time?

A. Oh, I was only a newcomer to the Party. I would say no more than six weeks, a couple of months, maybe.

Q. Did Schomaker do any talking at the meeting?

A. Yes, Schomaker and myself, we thought that she was being too friendly and we expressed ourselves along those lines.

Q. Were there any other accusers in the meeting, persons who were accusing her?

A. Not outright accusers like, I recall, Bridges—he was trying to be fair in the matter. He pointed out she was very efficient and she was doing a work. But I recall also he was critical, too, and he believed she was being a little too friendly with some of these fellows.

Q. What position did Darcy take about it?

(Testimony of Henry Joseph Schrimpf.)

A. Darcy in this particular issue, he had not such a lot to say at this meeting. He was more or less, by hearing the source [1539] of this, by rumors and charges, whatever you want to call them, he was more interested in getting an all-around picture.

M. MacInnis: Pardon me. Are the rules now to be relaxed so that he can tell us what another man was interested in, your Honor? May that be stricken?

Mr. Paisley: I think he is trying to say what position took in the meeting at which time the two defendants were present.

Mr. MacInnis: Your Honor has several times remarked, and very wisely, that one person cannot read the mind of another, and for this man, though he is a Government witness, to be allowed to reach back into the mind of this other man because of the prosecution's question, I think is entirely inadmissible.

Mr. Paisley: I think the witness has already demonstrated, your Honor, he is the kind of witness who does not purport to delve into persons' minds. I do not think counsel's objections are well taken. The witness is trying to tell us what position Darcy took.

Mr. MacInnis: May that portion be read back to your Honor?

The Court: The objection is overruled. I have in mind the particular point to which you direct your objection. It is overruled.

Q. (By Mr. Paisley): What position, if any, did the defendant Henry Schmidt take in that meeting? [1540]

A. I don't recall Henry offering any opinion.

Q. Do you recall whether he said anything at all in that meeting?

A. No, I can't recall him offering any opinion at all.

Q. Did anyone defend Norma Perry at the meeting?

A. This meeting was more or less a tentative meeting to hear the rumors and charges, as were quite current around—among the members, and this was just more or less a first hearing of the charges.

Q. Did she make any statement in her own defense? A. She did.

Q. What did she say?

A. She tried to defend herself by saying, after all, after work she was entitled to certain privileges, and I think it is already in the record where I also mentioned she bolstered that up by saying that, after all, "I may get some important information off those guys."

Q. Well, was any decision made in the matter at that particular meeting?

Mr. MacInnis: Pardon me. Shouldn't the question be, "What was said?", your Honor, so we won't have more characterizations?

The Court: We had a reference to what may have been said. You may answer. What eventuated? What finally happened? [1541]

A. The last I recall of the meeting was Norma

Perry, in conclusion of her defense, she said she was not satisfied with the rumors, and she would certainly take this up to a higher body, meaning of the Communist Party.

Mr. MacInnis: Pardon me. Now, is the witness allowed to tell us what she meant? I think that must be stricken, your Honor.

The Court: What did she say, Mr. Schrimpf, to the best of your recollection?

Mr. MacInnis: I think your Honor must rule on the answer of this witness.

The Court: I will rule on it. It may go out.

The Witness: Well, I can't recall the exact words. That is over fifteen years ago. As I said, that is my last recollection. She was not satisfied and she left that thought there. She was going to appeal it to a higher bureau of the Communist Party. She was not satisfied with the rumors, and she said they were unfair and unfounded.

Q. (By Mr. Paisley): Do you know what measures, if any, were taken to insure the privacy of this particular meeting?

A. What was done to conclude the findings of the meeting?

Q. No, no. Do you know what was done to assure the privacy of this meeting?

A. No, none other than the regular precautions taken by the Party. I don't recall how I went there. It was not my first [1542] visit to Mann's house. He sat in the front room. As far as I recall, Mann's wife was there. I think she was back in the kitchen.

(Testimony of Henry Joseph Schrimpf.)

Q. Were persons outside of the Communist Party permitted to attend the meeting?

A. Well, it was my opinion that they were all Party members there at this meeting.

Mr. MacInnis: I take it that that may be stricken, your Honor. He was asked a direct question and he gives an entirely different answer that is a conclusion.

The Court: It may go out.

Q. (By Mr. Paisley): Did you ever attend any other meetings with John Schomaker?

A. Oh, I attended several meetings. One other I considered an important meeting from the Communist Party policy point of view was a meeting held one Sunday. It was down the Peninsula.

Q. Whereabouts down the Peninsula?

A. I can't recall the name of the place. It was a prune orchard or plum orchard, something of the kind.

Q. How did you go to that meeting?

A. Well, I was taken down by automobile.

Q. Do you recall who was in the car?

A. If I am not mistaken, as far as I can recollect, Walter Lambert was in the car, John Schomaker was definitely in the car, and there was other persons in the car. I wouldn't positively [1543] swear.

Q. Were they party members?

A. It was the accepted opinion that they were party members.

Mr. MacInnis: May that answer go out, pending the objection, Your Honor?

The Court: Yes, the answer may go out.

Mr. MacInnis: In the previous answer, the witness expresses himself as not able to remember the other persons. Now, if he can't remember them, how can the prosecutor then ask him to say in a blanket answer that they were Communist Party members?

Mr. Paisley: That would be entirely possible, Your Honor; he might not remember the individuals, but you could remember what kind of group you were in.

The Court: Well, you might ask the question with particular reference to those persons whom he recalled as present.

Q. (By Mr. Paisley): Well, were Lambert and Schomaker members of the Communist Party?

A. I was told they were members of the Communist Party, yes.

Mr. MacInnis: I take it that that may be stricken, your Honor? "I was told they were members of the Communist Party, yes."

Mr. Paisley: All right, let that be stricken, then.

The Court: It may go out of the record.

Q. (By Mr. Paisley): What opportunity had you had at that time to know whether or not Lambert or Schomaker were members of the [1544] Communist Party?

A. Well, I will repeat what is already in the record; I never saw a Communist Party book of either Lambert or Schomaker. But from their functions and their policies, and I repeat again, it

(Testimony of Henry Joseph Schrimpf.)

was the accepted opinion that they were party members.

Mr. MacInnis: Your Honor, that is a deduction of the witness, to say that he thinks that a certain party was a Communist because of his activities. Particularly in these days, that is a dangerous kind of observation. I think, Your Honor, that that must be stricken. It is opinion and conclusion, purely, of the witness.

The Court: The objection is overruled.

Q. (By Mr. Paisley): Now, when was this particular meeting, as you remember it, Mr. Schrimpf?

A. I can't recall the exact date, but it was some time preceding the general strike, which was called in July.

Q. How far in advance of the general strike of July was it, approximately, as best you can remember?

A. I couldn't say the number of days.

Q. Well, was it——

A. I would only be guessing and it would be ruled out anyhow. I could only make a guess or an estimate at it.

Q. Well, what is your best guess?

A. Maybe two weeks.

Q. What is your best recollection? For instance, would it be [1545] more than a month?

A. No, I wouldn't say it was over a month. I would say it was within the month.

(Testimony of Henry Joseph Schrimpf.)

Q. Was the martime strike in effect on the waterfront at the time? A. That's right.

Q. Now, will you tell us who, if anyone, you saw after you got down to this place?

A. Will you repeat that question?

Q. I say, what other persons do you now remember were present down at this place where you met?

A. Well, there was Sam Darcy there when I got there. I was introduced to Earl Browder. And there was some other woman there, whose name I do not know. And Norma Perry was present at that meeting. I can't say for sure whether she was there when I got there, or—it could have been possible for her to be in the automobile with us. I don't recall that.

Q. Any others?

A. Well, at the meeting I don't know what part of it was in the record, but as I said, there was Earl Browder, Darcy, some unknown woman, Norma Perry, John Schomaker, Henry Schmidt, myself, Bridges.

Q. What Bridges? To what Bridges do you refer? A. Harry Bridges.

Q. Now, just to the best of your recollection, Mr. Schrimpf, [1546] tell us where this place was; describe it to us.

A. It was somewhere down the Peninsula. I remember going through Palo Alto. We turned off a little way out of Palo Alto.

Q. Do you remember in which direction you turned and upon what highway you had been traveling?

A. No, I can't. It is too far back. I can't recall the direction. We turned off somewhere just after we got through Palo Alto.

Q. Well, after you turned off, do you remember about how far you proceeded?

A. We stopped again after we turned off from Palo Alto at some small restaurant or soft drink parlor, whatever it may be, and I recall there, there was—I don't believe it was a paved highway, it was a dirt highway or a dirt road, before we proceeded from there into this prune ranch, plum orchard.

Q. Had you ever met Earl Browder before?

A. Never before.

Q. Do you remember who it was that introduced you to him? A. That I don't.

Q. Was there a formal meeting there, called to order in the usual customary way, or was it an informal thing?

A. To the best of my recollections, there was a meeting, and Browder did not do a lot of talking. It was—he was more or less an attentive listener. And Darcy done quite a bit of [1547] talking about the general situation, and the functions of the strike. I don't recall of any positive action being taken there as to the next movement of the strike, or the future policy. It was more or less a general discussion. But what appeared to me to be important was to sell the idea to us how important this strike was in having such a top mogul of the Communist

(Testimony of Henry Joseph Schrimpf.)

Party come all the way from New York to get a report on it.

Mr. MacInnis: Pardon me. Is that not pure opinion and conclusion of the witness upon his criticism of the meeting? I move that that be stricken, Your Honor.

The Court: The motion is denied.

A. (Continuing): And it wasn't my opinion alone. We even discussed that, to have a man like that; the party members are funny characters. They act like children in many ways, such as a big personage coming or one of their top members going to speak before a meeting. They get all hepped over it like a bunch of hopheads. If President Brown is on the stand, it boosts up their morals.

Mr. MacInnis: Pardon me, Your Honor; are we now to have the philosophy of this witness binding on the defendants in this case? His philosophy about how Communists may act, I think, must be stricken, Your Honor.

The Court: The motion is denied.

Q. (By Mr. Paisley): Well, now, do I understand, Mr. Schrimpf, [1548] that the subject of a possible general strike was discussed at that time?

A. Well, the most important thing with our strike at this stage was holding the men together. The men, they had gone through an awful lot of hard times and abuse on the waterfront. But they were very short of money. We had no money when we went out, and most of the men were caught

(Testimony of Henry Joseph Schrimpf.)

short, never had a chance to put a nest egg away. So the real object was in continuing this strike, how to bolster up the morale of the men. And naturally, an important issue of all strikes in supporting and building up and holding the morale of the men, is to continue to gather strong support from the outside. This I do recall was one of the facts there, and what would be the best means and the best result and how we would get more support from not only organized labor, but from the general public. Such a thing as a general strike, of a general strike, could have been mentioned there.

Q. Do you recall whether or not Mr. Bridges made any talk or any statement there?

A. No, I don't recall any special or particular part there taken by Bridges.

Q. Do you remember whether or not Mr. Schmidt made any statement or speech?

A. No.

Q. Was that the last time you ever saw Browder or did you see [1549] him on some other occasion?

A. No, I saw Browder several times after that in—back east. Do you want me to qualify that?

Q. Well, was Bridges or Schmidt or Robertson present when you saw him back east? A. No.

Q. Well, then, we won't go into that, if they were not present. Do you recall any other meetings at which Harry Bridges was present, outside of the city?

A. Yes, there were meetings. I am just trying to think of the meetings which are made more or less mentally clear to me on account of they are a little more important. There was one meeting we held—this was another critical time of the strike. It was held out near Harding's golf course. The best of my recollections, it was along around dusk when we gathered there. And those present, outside of myself, was Bridges, I think Larson, a fellow named Harry Jackson from the Marine Workers Industrial Union, Schomaker, Bridges, Norma Perry, Sam Darcy and Walter Lambert. There may have been others. As far as I can recollect, those persons were present.

Q. How did it happen that you held a meeting on a golf course? Where was it, in the clubhouse or just where was it?

A. Well, I will repeat what is already in the record; the Communist Party is very cautious in arranging such meetings and inasmuch that the policy, the whole strategy of the strike was [1550] being met by bigwigs of the Communist Party, they did not want their connection with the strike exposed.

Mr. MacInnis: Pardon me. That volunteer statement is certainly not binding upon the defendant, nor is it responsive to the question. It is a speech.

Mr. Paisley: Your Honor, I think it is. Here is a man who says he was a member of the party.

The Court: The objection is overruled, the motion is denied.

Q. (By Mr. Paisley): Go ahead.

A. Well, as I said before, that was the strategy of the Communist Party. They are a very overcautious bunch, and in as much as they were controlling the operation and policy of the strike, it was from the Communist Party that we got our ideas, and I might mention here, at the time and right today, I don't regret; except some of the policy which they offered,—because we were a bunch of green union men, most of us never being in a strike, and we were fighting with great odds against us on the waterfront. And as I said, I will repeat, that today I have no regret that such meetings did take place. And they did help to a big degree in getting us what we did in that strike. It was a lot of their policy, and I want this clear: I hardly recall of any action ever taken at all during that strike which was not at first formulated by some such meeting. These meetings were often and frequent.

Q. Now, do you remember,—— [1551]

The Court: Have you reached a convenient time?

Mr. Paisley: Yes, Your Honor.

The Court: Therefore we will take our noon adjournment, ladies and gentlemen. And the same admonition to you, not to discuss the case under any conditions nor to form nor express an opinion thereon until it is finally submitted to you.

(Thereupon a recess was taken to 2:00 o'clock p.m.) [1551-A]

Afternoon Session 2:00 P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: May it please your Honor, I would like to renew a motion that was made previously, one of which was reserved by your Honor for ruling and others of which were acted upon, and I would like to cite to your Honor a case which I seriously believe is exactly in point with some of our problems.

In the case of People v. Ware, a 1924 decision reported at 67 Cal. App. at page 81: The defendant was charged with being a member of an organization, the IWW, advocating criminal syndicalism. Witnesses testified as to the purposes and attitude of the organization as learned from conversations with members thereof. It was held that this was reversible error. Testimony as to such declarations, said the Court, must normally be confined to the language itself, as nearly as it can be recalled. The witness may not give inferences drawn therefrom, nor can he be allowed to place his own construction on words by stating what he understood them to mean.

Your Honor, we had about four instances of this witness putting his own inference on conversations, stating what he knew some other person not now before the Court meant. And in the light of that decision—I found no contrary [1552] authority, I might say, in the Federal cases; it is the only decision closely in point, as I have discovered—in the light of that law I suggest that the motions to strike ought to be granted as to those answers.

The Court: Mr. Paisley?

Mr. Paisley: Your Honor, that is a State case. I confess I have not read it. I do not know whether your Honor has read it or not.

The Court: Yes.

Mr. Paisley: Certainly you would have to read it to get more facts. I do not believe your Honor has erred in any of your rulings, and I should think he would have to move to strike particular testimony rather than just lump it in one bracket here. So far as I know, we do not know just what the witness' knowledge of the situation was. As I understood it, it was a case where the witness could only relate what was said, not his conclusions from it. I have no quarrel with that proposition.

The Court: I shall adhere to my ruling heretofore made, Mr. MacInnis.

Q. (By Mr. Paisley: Mr. Schrimpf, how did you spell your Communist Party name?

A. Loman, L-o-m-a-n.

Q. What was the first name?

A. Henry. [1553]

Q. Calling your attention to the meeting in the home of Herman Mann, at which time you say Norma Perry was charged with misconduct or the matter was under preliminary investigation, do you know what the particular job or position, if any, was that she held with the union at that time?

Mr. MacInnis: That has been asked and answered twice.

The Court: Yes it has been.

Mr. Paisley: Well, if it has, it has escaped my memory.

Q. I believe you said she was secretary?

Mr. MacInnis: If you know what he said, then it has been answered.

Q. (By Mr. Paisley: Do you know whether or not she worked for Harry Bridges?

A. She was doing secretarial work in the union office, and while Bridges may have used up a lot of her time, she was on call for other officials of the union.

Q. Did she work in the same office where Mr. Bridges had his office?

A. I would say part time. There was two or three offices there. She may spend some time in the main office and some time in the private office, the president's office.

Q. Mr. Schrimpf, will you state to the Court and jury briefly why you joined the Communist Party and why you left it.

Mr. MacInnis: Judge, it seems to me most obvious that the reasons of this man, whether they were good or whether [1554] they were capricious, whatever they might be, would not be material to this case.

The Court: Mr. Paisley, what is the purpose of that question?

Mr. Paisley: I believe I am reasonable in be-

(Testimony of Henry Joseph Schrimpf.)

lieving that argument will be made to the jury that the witness' testimony is incredible because he was a member of the Communist Party, and I think that this goes to his credibility. He was a member for about a year, and I think the jury is entitled to know perhaps in weighing his testimony——

The Court: I can understand the reasons underlying your question as to the termination of his association or relationship with the Communist Party as it might go to any asserted bias, prejudice or the like. His reasons for entrance into the particular party, of course, are more remote in evidentiary quantum than the latter. I shall allow it.

Mr. MacInnis: Your Honor, the prosecutor now having stated his reason to the Court, it appears that all that he is doing is anticipating cross-examination.

The Court: That may well be. I will allow it, counsel.

A. The reason, in answer to the question, what prompted me to join the Communist Party, and my reason for deserting it, as has been drawn out in the testimony here, we were working on the waterfront under conditions subject to those of a serf in many cases and any group or any individual who had anything to [1555] offer in helping us free ourselves of those bonds, I was willing to listen to, and the Communist Party, through individuals around the waterfront, seemed to have something closely related to a progressive trade union, and it was along this line that, when I was given the card and we were in the midst of a bitter struggle, and after hearing some of their ideas on helping trade union movement, I thought I could help the trade union by placing myself or making myself a part of the Communist Party. [1556]

Mr. MacInnis: Now pardon me. I move to strike that, Your Honor, as being incompetent, as being not probative of any issue in this case, as being only a self-serving statement of this witness in an attempt to bolster his own credibility; and I suggest that the purpose is now manifest.

The Court: The motion is denied.

Q. (By Mr. Paisley): Now, will you tell us, Mr. Schrimpf, why you left the Communist Party?

A. Yes.

Mr. MacInnis: Pardon me. The same objection, Your Honor: incompetent, irrelevant and immaterial.

The Court: The objection is overruled.

A. The reason I deserted—I will use that word—the party, was brought around or provoked by many unpleasant actions on the part of the party. First of all, I was not a member very long, and I was given to understand in no uncertain terms that I must learn to take orders.

Mr. MacInnis: Pardon me. Your Honor, again this is a narration of acts or asserted conversations between third persons not parties to this case. Not binding in any way on these defendants. Now we move to strike these volunteer and non-responsive answers.

(Testimony of Henry Joseph Schrimpf.)

The Court: The motion is denied.

A. (Continuing): Well, if I may continue, as I said, first, you must—and they give you to understand—take orders. These—I [1557] will mention three fundamental basic policies of the Communist Party, which is a part of their operation and one of the reasons why they must exact so much discipline of the members. Number one, there is no minority opinion in the Communist Party. None whatever. Two, there will be definitely no mass concentration of thought. And three, there shall be no organized opposition of Communist Party policy. Now, this, the members of the Communist Party must, one hundred per cent adhere to. And above that, it is this policy that they do train their members, and try and have them exact and placed on even those outside the Communist Party. That is just number one issue.

Number two issue, I mentioned earlier in the record; I saw Earl Browder several times after the meeting in the country. I don't know why he picked on me. Of course, I am continually interrupted to say that I am trying to bolster myself. But I have got to bring it out because it is the facts.

Mr. MacInnis: Now, pardon me. I suggest, Your Honor instruct the witness it is not part of his job to criticize either of the counsel in the case.

The Court: Well, I think the witness understands that. I do not believe he has been critical in that sense. Perhaps he has been a little sensitive as to "bolstering," the word "bolstering." (To the

(Testimony of Henry Joseph Schrimpf.)

Witness): There is no reflection upon you. You understand that? [1558]

The Witness: No, I will take that back, if there was any reflection. I don't want to reflect on their integrity or intent.

The Court: You may proceed.

A. (Continuing): Well, it was during the actions of the strike, there was many occasions down there where we had to act very impulsively. For instance, the day the port was open, the 3rd of July, it was a very hectic day. The port was quiet then on the 4th of July, being our national holiday, and on the 5th there was a renewed attempt once more to carry out the threat of the employers to open up the port. Incidentally, that was the day two of our men were killed on the waterfront. I, as being in charge of the pickets, went and commandeered, I believe it was three automobiles, and with, I would say, approximately around 12 men in those three automobiles, we made a trip way far out the Mission to Daly City stopping at many corners, trying to convey our message to the public. I was in the party at that time, and although they condoned me for the action, they couldn't quite understand anyone with being so impulsive to do these things, and they admitted it was a wonderful thing, it was a great thing, but I was asked at one of our—just general meetings of the party why I didn't consult someone on this thing. And I told them, this thing couldn't wait. Well, leading up to my visit to Browder, it was such incidents happened on the

(Testimony of Henry Joseph Schrimpf.)

5th and many other cases, breaking [1559] through lines and trying to get in on the docks. Maybe that was one of the reasons which attracted attention that I should be chosen to go back to New York. And as I mentioned in the record, I was speaking to the strike committee quite a lot, and in Bridges' absence. They told me that there was lots of work to do back there, to get the story over to the waterfront workers in New York, and on top of that there was a mission there that I was lined up to take. That was a trip to Moscow. So I arrived in New York, I believe it was on a Sunday morning in the early part of September, maybe the 1st. It was the first week. Now, there may be a question how I can remember some dates and not others. The reason I remember, it was that week the Morro Castle was burned. And I did read the story, and on the date, that is how I am sure of that time. It was, I believe, on a Sunday morning. And I went up to their headquarters on 13th Street there—by "they," the Communists. I can't say definitely on that Sunday whether Earl Browder was there or not, but we had no extended conversation. I spent very little time there. And I recall very vividly the meeting of Monday morning, and it is for this reason. I want to place this in line before the others; one of my real reasons for being disillusioned with the party. It was Earl Browder, there was his first lieutenant at that time, Starchel, Sam Darcy and myself. They were there when I entered.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Pardon me. Now, if Your Honor please, it [1560] seems to me the most fundamental rule that a conversation which this man says he participated in in New York with the people he describes now could have no probative value in this case; even this prosecutor recognized that toward the end of this morning, when he told this witness not to relate a conversation unless it was in the presence of the defendants.

The Court: This, I assume, is limited to the sole purpose, or the sole avowed purpose, of Mr. Paisley to elicit from this witness the reasons for his departure?

Mr. Paisley: That's right.

The Court: From the Communist Party. And I instruct the jury that that is the sole purpose of this testimony, and it is to be limited to that sole and only purpose. You are instructed that it is not binding on the defendant in any respect save and except as it shows, if it does show, the reasons underlying this man's departure, or as he says, his desertion of the party. You may proceed, sir.

Mr. MacInnis: Pardon me.

The Witness: Thank you, Your Honor.

Mr. MacInnis: May I be heard?

The Court: Yes, sir.

Mr. MacInnis: Would it in any way devolve upon the truth or the falsity of the prosecution in this case what this man's reason might be to leave the Communist Party unless it were connected with one or more of these three men? [1561]

The Court: Well, reference has been had to men in like vein in rather uncomplimentary terms so I suppose that that is the prosecution's motive or purpose. I do not know. I sit here and rule as we proceed. What is your purpose, Mr. Paisley?

Mr. Paisley: Well, Your Honor, as I said in the beginning, I think the jury is entitled to hear from this witness why he joined and why he left, as affecting his credibility. Moreover, I am not so certain, as a matter of fact, that it is not binding upon the defendants because there has already been a great deal of testimony that Bridges and Schmidt met and talked with Browder in these Communist Party meetings held out in the country.

The Court: At this juncture it is limited to that sole purpose.

Mr. Paisley: Yes, sir.

Mr. MacInnis: Why, Judge, to say that they would be bound, that it would be binding upon these defendants,——

Mr. Paisley: As to their knowledge of the policies of the Communist Party.

Mr. MacInnis: Someone could bind me now by having a conversation with somebody else?

The Court: I have made my ruling, Mr. MacInnis. I have limited it to the particular purpose, and to that extent we may have it elicited from the witness. [1562]

The Witness: May I continue?

The Court: Yes, sir.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Will the record show the objection, Your Honor, and the motion to strike?

The Court: Yes, the motion is denied.

A: (Continuing): Well, I shall take up as near as I can where I left off. This Monday morning, it was, when we entered the office, when I entered it, the three parties mentioned herein were in there, and there was immediately an outburst from Browder. He picked on one thing. He picked on why we had let the general strike get out of control. Now, I can't give you a verbatim wording by this man, but he was like a caged animal, and all he done there for two hours was march up and down the hall and scream out, mostly at Darcy—once in a while at Comrade Schrimpf—but mostly at Darcy, "Here you are in charge of the operations out here; we dreamed for years, we have something given into our hands and you give it up, you let it get free, you let it get away from you. Why? Why? What is the reason? How did you lose control of this?" That is what he screamed all the time. So before we——

Mr. MacInnis: Pardon me. It now appears to me that the purpose of this question is decidedly other than as expressed by the prosecutor. I think Your Honor should again entertain the motion to strike.

Mr. Paisley: Your Honor,——[1563]

Mr. MacInnis: If these men acted like wild animals, if they acted like beasts, if they reviled this man, if they treated him badly, what would that have to do with the case at bar? And why are we concerned with the reasons that this man is now a confessed ex-Communist?

Mr. Paisley: Your Honor, there is much testimony in this record already as to the intimate association between Bridges and Schmidt with Sam Darcy, who was present in New York with Starchel and Browder and this witness, who was himself an active Communist. It is for this jury to say whether or not on all the evidence Bridges and Schmidt were Communist Party members and knew of the Communist policy. Now, all of that testimony that they have heard, they may take into consideration in determining whether or not they were cognizant of the purposes of the Communist Party. And certainly the testimony is admissible as to why this witness left, because it bears upon his credibility. They will argue—they will not deny it now, I believe—to the jury that witnesses we produce are not worthy of belief because they were members of the Communist Party.

Mr. MacInnis: Right, now, may it please Your Honor,——

Mr. Paisley: If the man was there only a year, many American workmen, doubtless, have been inveigled into that Communist Party and have left it and if they were called as witnesses and they are maligned because they were members of the Communist Party, they ought to be able to tell the Court and jury why they [1564] joined and why they left.

Mr. MacInnis: Your Honor, in speaking now of

(Testimony of Henry Joseph Schrimpf.)

the virtue that he ascribes to this witness, the prosecutor refers to the record in the case, and he tells Your Honor that the record now shows an intimate relationship between Mr. Bridges, one of the defendants, and the man called Browder. Unless I am in some other sphere, the records shows they met once.

The Court: No. You omitted the link Darcy, because he asserted Darcy——

Mr. MacInnis: I am going to come to that, Judge, and I will stand on my memory, that he mentioned an intimate relationship with Browder.

The Court: Not as I remember the record.

Mr. MacInnis: And if the record is read back, that will be revealed. The intimacy of the alleged relationship between Bridges and Darcy is shown, apparently, by the fact that Darcy had to send messages by a go-between to Bridges. The witness Schomaker, who but recently departed from the stand. If that is a showing of an intimate relationship, Your Honor, then my ideas of fact and reality must disappear entirely.

The Court: The motion is denied, counsel.

A. (Continuing): If I may continue, before we were through on that Monday, there was a discussion on whether or not I should continue with plans for my trip out of this country, namely, Moscow, or whether or not I should be immediately sent back to [1565] the Pacific Coast and try and throw some fuel onto this fire which may be still smoldering, which was the general strike and the strike feeling. And as far as I can recall, I said to Browder, "Why, Browder," I said, "after all, the men out there, they have had a great victory. Their gains have been really revolutionary. They never expected anything like that." And anybody, to be honest, would say the same thing; they never. Well, he didn't say much more on that, realizing that from my point of view it was the trade unions, from his point of view it was international politics for the Communist Party.

That was my first, or the biggest setback, I will say, that I had from my short relations with the party. There was a man, after going through a lot of sacrifices, pitched battles, and making gains for a trade union movement, and he is trying to convey to me the thought, "Go back to the Coast and get it going again." [1566]

Mr. MacInnis: Your Honor, having told what he states is his reason, he now argues the reason to the jury. He stated his reason and then he gives an argument as to why it is a good reason. That certainly is not proper in this case or in any case.

Mr. Paisely: I do not think so. I think he is stating his reason, your Honor.

The Witness: May I continue?

The Court: Yes.

The Witness: That, as I said, is one of my best and greatest reasons for beginning to become very skeptical with the Party. Anyhow, I convinced them that I was not going to come back here and

(Testimony of Henry Joseph Schrimpf.)

be such a fool or attempt to try to work up a feeling for a strike.

Q. (By Mr. Paisley): You mean a general strike?

A. Yes, eventually—a strike and then a general strike. That was the dream, a national general strike.

Q. Had you had some agreements with the employers at that time favorable to the longshoremen?

A. We had very, very good agreements, although we had a board out here picking up the loose ends. The gains were much more than any of us expected.

Q. What did you mean by your statement that he was taking you men, you and Darcy, to task for letting the general strike get out of control? [1567]

Mr. MacInnis: Pardon me. Now the question asks for this witness to give an opinion and conclusion upon testimony already given.

The Court: I think he has covered that pretty throughly, counsel.

Q. (By Mr. Paisley): Are there any other reasons that you can give us, Mr. Schrimpf?

A. Well, there are two primary reasons, and as I mentioned, among the first their ~~program of~~ creating hate, and their trade union interests is secondary to an international movement of a political nature.

Mr. MacInnis: It seems to me that part of the script was given before, your Honor. He has given identically the same answer in another part of his reasons, and I suggest that that must go out.

(Testimony of Henry Joseph Schrimpf.)

The Court: The motion is denied.

Q. (By Mr. Paisley): Mr. Schrimpf, do you see in the courtroom the Harry Bridges and the Henry Schrimpf concerning whom you testified?

Mr. MacInnis: I do not think Henry Schmidt should be vilified by being identified as Henry Schrimpf. For the past fourteen years he has had trouble enough having his name confused with this witness.

The Witness: Yes, that goes for me, too.

Mr. MacInnis: I do not think the Government prosecutor [1568] has the right to make that kind of mistake.

The Court: That was an inadvertent mistake.

Mr. Paisley: Counsel, I am not perfect any more than you are.

The Court: I think it was inadvertent. There is no occasion for any alarm about it. You might identify these gentlemen if you wish to.

The Witness: With my remark?

The Court: You wish him to identify the persons?

Mr. Paisley: Yes, your Honor. I had better take them one at a time.

The Court: You can identify them over here, Mr. Bridges and Mr. Schmidt?

The Witness: Well, we all know we know each other. The Court knows now. There is Bridges and Schmidt, the third and fourth party from the right, and from my left.

(Testimony of Henry Joseph Schrimpf.)

The Court: Is there any question about the identification?

Mr. MacInnis: About what?

The Court: About the gentleman's identification of the two co-defendants?

Mr. MacInnis: It seems to me, I am quite sure he has met Mr. Bridges and Mr. Schmidt.

The Court: I suppose we will have to be more formal.

Mr. MacInnis: I won't object if your Honor makes a [1569] statement.

The Court: Counsel, I am merely trying to obviate the attendant——

Mr. MacInnis: No, I have no wish to make him come down and place his hand. I will admit he has pointed out the right people. There is no doubt about that at all.

Mr. Paisley: Then you may cross-examine the witness.

Cross-Examination

By Mr. MacInnis:

Q. You say that you became active on the waterfront the first time when the strike broke, is that right? A. No.

Q. You said that under oath this morning.

A. No, I did not.

Q. When did you first become active on the waterfront?

A. It is already in the record that prior to the strike, and in the course of our organizing, that

(Testimony of Henry Joseph Schrimpf.)

there was a spokesman elected on each dock to lay down the groundwork——

Q. Pardon me. That is not the question. I asked this man when he became active on the waterfront.

Mr. Paisley: Just a moment, counsel. You are interrupting the witness.

The Court: You may continue.

A. Well, that is it. As I pointed out, it is in the record where there was a spokesman to take up beefs when anyone was [1570] discriminated against or any such happenings. Maybe partially responsible for this was the firing of Henry Schmidt and Wheeler from the Admiralty docks. They created quite a bit of discussion on the beach, and they were fired because I don't think they tried to organize the men down there, and maybe that is what prompted such action to have the spokesman on the dock. The dock I was on at the time was 39. I was very active on it. We had more than one beef and I acted as spokesman on it.

Q. (By Mr. Paisley): When did you first become active, in point of date, on the waterfront?

A. I would say the middle of '33.

Q. What was the occasion that prompted you to become active? Was it some situation involving wages, hours and working conditions, and the like?

A. The first important issue that I can recall myself as an individual in trying out just how far we could get with this type of operation was down at 39, and another ex-official of ours named Dutch

Dietrich, who was working on the dock. Now, his claim was that he had to lay off to go to a funeral, but he had been active, like a lot of us, in organizing the men. So when he came back the next morning they refused to hire this man, refused to take him back, with the pretense that he shouldn't have laid off the day before, although he had a very just cause, and that was one of the first major [1571] assignments. I was taken to task—we'll put it that way—on my particular dock. I had quite a discussion with a man named Horstmann, who was part owner in the contracting stevedoring company for which I was working, and which extended for some time. As I say, there were other issues not quite so important. From time to time things were coming up. Once in a while they would pick on some man and let him go.

Q. Whom do you mean by that?

A. The operating employers, the stevedoring contractors.

Q. You mean the employers? A. Yes.

Q. At a time immediately preceding the strike about which we have spoken, were conditions good or bad on the waterfront?

A. Conditions were terrible.

Mr. Paisley: Just a moment. I do not think that is material, your Honor. He said they were terrible. What difference does it make?

Mr. MacInnis: Your Honor, it goes to the testimony already given. This man can't question him on the subject and then foreclose the cross-examination.

The Court: Overruled.

Mr. Paisley: I just do not want to try the merits of the dispute between the employers and the [1572] union.

The Witness: Do you wish me to continue that answer?

Q. (By Mr. MacInnis): Yes.

A. You asked me a question about conditions. Do you wish me to continue?

Q. Yes.

A. Conditions were terrible on the waterfront, and if I may quote you one or two very specific happenings with which I was directly concerned, one night, it was along around in 1931—it was just after the big ships—used to call them the White ships—had moved down from Pier 22 to Pier 39. We didn't get much work. The gang I was in got no ships every other week, and we used to go to work Monday morning and work through to noon on Tuesday, and then be ordered back on Friday. Once in a great while on Thursday, if there was much trade; but when we were ordered back on Friday we continued right through until the ship sailed on Saturday noon.

It was such an occasion, Friday night, one of those very miserable San Francisco nights—cold, miserable, raining—it was along in the late fall—it was very close to the late fall or early winter—I had eaten my paltry lunch and I came back to the docks and I stepped inside out of the rain. A fel-

(Testimony of Henry Joseph Schrimpf.)

low came to me—and I will tell you his name, His name was Donovan. He was port captain of the Marine Terminals at that time. He said, "Get out!" That is exactly the way he said it. [1573]

I said, "What do you mean, get out? I am working here."

He said, "You aren't working now."

Well, I said, "We always come here when it is raining. It's blowing outside."

"That makes no difference," he said. "If we leave you in on these docks you will start to mess all the docks up." I can't use his word.

So I went outside, and on my way out there was a customs man there, and he gave me the key to his car and he said, "Here, Bud," or something like that, "get in my car. I never knew it was this way in America." That was his own words.

And I was so bitter that I really cried with temper. I thought, Well, maybe our day will come some day. It was such happenings as this—and I can quote you others just as important—which had built up a feeling of bitterness not only within me but in the overwhelming majority of the longshoremen on the beach. They were willing to make any sacrifice rather than go back under the conditions they had down there.

Q. And the strike resulted in ultimate victory, as you say? A. A great victory.

Q. Will you tell us in what particulars you considered it a great victory?

Mr. Paisley: Now, your Honor, haven't we gone

(Testimony of Henry Joseph Schrimpf.)

into that? I don't think we are here to try the question whether the [1574] employers were inhuman, aided by the police, if you will, or vigilantes, if you will. That is not the issue in this case.

Mr. MacInnis: Your Honor, I think I can ask that question. I have a purpose in finding out the state of mind of this man.

Mr. Paisley: I have no doubt the witness is telling the truth.

Mr. MacInnis: I think this man's observations must go out on the credibility of a witness at this time, and I ask your Honor to instruct the jury to disregard it.

Mr. Paisley: We both can't talk at once, your Honor. I have made my objection. I just think it is immaterial.

The Court: I might say to the jury the background of events on the waterfront as depicted by this gentleman and the witness who preceded him, and as referred to more or less generously by the attorneys at times, is not altogether material in this cause, nor will the fact of the conditions on the waterfront, be they good or bad, tend to prove or disprove any issue in this case. This matter of conditions on the waterfront has crept into this witness' testimony, as I take it, with respect to the reasons underlying, No. 1, his joining the Communist Party, and, secondly, the aftermath, his departure from the Party. The matter was opened by Mr. Paisley on that issue, and on that basis, and for that reason I shall permit counsel to dwell upon

(Testimony of Henry Joseph Schrimpf.)

it. It has been opened. [1575] But as to its materiality I instruct the jury accordingly as I have indicated. You may proceed.

Mr. MacInnis: Will you read the question.

(Question read.)

A. Well, among the greatest gains was a sense of security of living on the waterfront. To qualify the word "security," before this time there was various ways of picking their men. First of all, you had to be fairly young and husky, put up with a lot of abuses, and be a good guy, in other words, on the job. Else, if you batted an eye you were told, "There's your coat." When I say we got the security which we never had before, after we settled the strike or won the strike, we had a preference of employment, as I have already mentioned in this record, whereby first preference would be given to registered longshoremen, and the qualifications, without going into them, for others is now a matter of record.

Later on, following that, which was all built up from this first phase of security, we were allowed to build up a system of rotating, restricting the men to a certain amount of work, for the reasons that the work would be equally divided. That, I believe, is No. 1 of the gains gotten from the strike. Of course, there were many other terrible conditions, such as I have mentioned in the record, working unlimited shifts, and, for example, I will tell you the longest shift I worked on the waterfront. I went to work at seven [1576] o'clock one Friday morning and got through at two a.m. on Sunday morning, believe it or not. That is not a brag; that is one of the shifts. The lists eliminated such as that. We started on a 12-hour—12 hours with a 2-hour leeway to start—that was 14 hours—and then we gradually decreased that to 10—now it is down to 9, and, as I mentioned, anyone who was able and wanted to work could get his share of work within the number of hours which they put out each week. That was also—I would say that was the No. 2 gain in the strike.

Of course, we got certain conditions, many of which had been in the rules of the blue book, the old blue book, but they were never lived up to. There were many clauses in there, but there was no way of enforcing them. In fact, we had taken many of the rules, such as travel time, meals, and so forth, practically word for word out of the old blue book rules, and I don't know if I have mentioned in this record yet, we got a nickel raise for the time being and, above all, the spirit of the men went back—the spirit of the men when they went back to work was higher than it had ever been in the history of the San Francisco waterfront.

Q. The gains you had made in the strike were gains for the labor movement, were they not?

A. They were great gains.

Q. And the answers that you have just given here represented [1577] part of the basis for the statement that you made at the end of this morning:

(Testimony of Henry Joseph Schrimpf.)

"I do not regret that we followed the Communist Party's suggestions during the strike?"

A. During that strike.

Q. You did not regret that at all?

A. I have no retractions to make on that statement whatsoever.

Q. As a matter of fact, many people working with you who were working in related jobs, who were not Communists at all, accepted the benefits of the Communist Party's suggestions and had their gains out of the strike, too, is that right?

A. That is right. That is correct.

Q. And you do not regret that at all?

A. I don't regret anyone, if he is a workingman or any human being, who gets gains in life; that is, if they don't hurt anybody.

Q. And the fact that the other members of the labor union, men who were admittedly not members of the Communist Party, accepted the same suggestions, went along with the strike policies and ultimately accepted the gains does not brand them in your eyes at all, does it?

Mr. Paisley: Are we concerned how he feels about it, your Honor?

The Witness: There are two or three questions at once.

The Court: The objection is sustained. [1578]

Q. (By Mr. MacInnis): You do not regret it, in any event, that union men generally attained benefits, the benefits that you described?

Mr. Paisley: Same objection.

(Testimony of Henry Joseph Schrimpf.)

The Court: Objection sustained. This ground has been covered.

Q. (By Mr. MacInnis): You told us at the time of the strike you and the people you were working with were green union men; right?

A. That is correct.

Q. You did not have any experience in the strategy of conducting strikes?

A. That is right.

Q. And that became important if you expected to win the strike, is that true?

A. I would say it was very necessary.

Q. So that when you went down, to cite an example that you have offered us, to a prune orchard in the Santa Clara Valley and met with Earl Browder, you still do not regret that you accepted his suggestions on that day?

A. No, I have no regrets of that meeting.

Q. Everything that he suggested to you on that day, if you put it into practice, were things that helped the labor movement, is that right?

A. He made very few suggestions that day. I think that is [1579] in the record. He was more or less listening.

Q. I think you did mention that one of the matters discussed, at least in the presence of Browder, at that meeting was the search for some method to combat adverse publicity in the local press, is that right?

A. Well, I never mentioned those words, but that could be part of the purpose, and the part I

(Testimony of Henry Joseph Schrimpf.)

mentioned was to win, to get more support merely from the public generally and the trade union movement.

Q. In fact, you told us earlier this afternoon that on one occasion you were driving out as far as Daly City talking to people in an attempt to get information over to members of the public about the real purposes of the strike? A. That is right.

Q. And the reason you had to do that was that the ordinary press was entirely silent as to the things proposed by the workingmen?

A. We got very little support from the press.

Q. In fact, the press labeled everybody engaged in the strike as Communistic, isn't that true?

A. No, not everybody communistic; I wouldn't say that.

Q. What is your notion of the attitude taken by the press, the attitude that you were trying to avoid by these strikes——

A. The press did leave the inclination there that it was communistic-inspired, that it was communistic-led. The [1580] testimony will prove there was quite a lot of truth in that so far as the leadership.

Q. Now, you were an alien at the time of the strike, weren't you? A. That is right.

Q. Most of our local papers carried editorials urging deportation for any alien engaged in the strike as an agitator, isn't that right?

A. I can't recall just what they had published.

Q. Well, if I may refresh your memory, I will show you an article that I have in my hand.

The Court: Will you permit counsel to examine that?

Mr. MacInnis: Oh, yes (handing a paper to counsel for the Government). [1581]

Mr. Paisley: Your Honor, I have read enough of this to see the nature of it. There is no year on the typing here, the print, so we don't know what year it is. Assuming, however, that it is in 1934 when the strike was on, I just don't think that it has any possible materiality in this case. I would like the Court to look at it.

Mr. MacInnis: There is no question before the Court at this time.

The Court: No question.

Mr. MacInnis: Would you hand that to the witness, please?

(Document handed to the witness by the Clerk.)

Mr. Paisley: Now, what is the question, Your Honor? I would like to know what the question is. He just asked him to read it.

Mr. MacInnis: You will have to wait for me to ask it before you can find that out.

Mr. Paisley: Well, will you instruct the witness to wait until he has been asked a question?

The Court: Yes. Mr. Witness, there is no question before the Court. May I ask you to refrain from reading that until you get a question.

The Witness: Yes, sir.

The Court: Let's see what the question is.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: The purpose of handing him the paper to read was so I could ask a question to see if that refreshes his [1582] memory.

The Court: What is the question, counsel?

Mr. MacInnis: There was a previous question and answer in which the witness gave an indefinite reply. I think he said he didn't know whether or not there was anything about deporting aliens as agitators, connected with the strike.

The Witness: Well, I haven't read this complete report, but——

The Court: One moment now. Let us have a question, a precise question, in the nature of a question, so I may be able to rule on it, counsel. I can't quite orient myself.

Mr. MacInnis: I haven't asked a question yet. I was asked to state a purpose and I did so.

The Court: All right.

Q. (By Mr. MacInnis): Now, Mr. Schrimpf, having looked at the document that has been handed you, can you now tell us whether or not your memory is refreshed as to whether or not the local papers urged the deportation of striking aliens on the ground that they were agitators?

A. Well, I haven't read this all——

Mr. Paisley: Just a moment. Would you wait, Mr. Schrimpf, until I have a chance to object?

The Court: Pardon me. May I say this to you, Mr. Schrimpf? Counsel for the Government has the right to object to questions, and until the ob-

(Testimony of Henry Joseph Schrimpf.)

jection is ruled upon, I ask you to refrain [1583] from answering, please.

The Witness: Yes.

Mr. Paisley: I am unable, Your Honor, to see the materiality of the question and the answer he expects to get, as to whether or not the newspapers were making any such campaign. Now, that is a news item. It is not an editorial. But I can't see the materiality of it, as to whether or not the newspapers were urging that aliens who were engaged in the strike be deported. I can't see the materiality. Maybe counsel can show it in his argument.

Mr. MacInnis: May I be heard on that, Your Honor? Well, it seems to me that the prosecutor in this case elicited over objection on my part a great number of matters. He elicited, among other things, the motion that one of the problems which this man and others faced during the strike was the fact that the public could not be informed about the real situation. He said that he had been forced to ride out to Daly City, talk to many people, to tell them the truth about the strike. Now, the matter having thus been invoked by the prosecution, I hardly think that they can now stop the defense from inquiring into what this man meant. This is cross-examination. He also, and the long answer that Your Honor permitted him to give, as for his reasons in joining the Communist Party, told various conditions affecting the strike that interested him, and which he said provided a motive for him to embrace anything that [1584] would help the working man. Now, this not only is a proper inquiry based on the direct examination, but it will go to his frame of mind in other matters which I will come to presently.

The Court: The objection is sustained. Whatever may appear, or may have appeared in the press at that time would not tend to prove or disprove any issue in this case, nor otherwise affect the materiality of any testimony given by this witness.

Mr. MacInnis: Judge, he testified——

The Court: It is a news article. I don't know that it would have any materiality at all. The objection is sustained.

Mr. MacInnis: Well, now, I ask that the——

The Court: It may be marked for identification.

(Thereupon news clipping referred to was marked Defendant's Exhibit H for identification.)

Q. (By Mr. MacInnis): Now, as another example of the conditions to which you referred, both before and during the strike, it is true, isn't it, that on the 17th day of July, 340 strikers were arrested by the police and they were labeled Communists upon the front pages of the San Francisco Call-Bulletin merely because they were strikers?

Mr. Paisley: Objected to as irrelevant and immaterial.

The Court: Sustained.

Mr. MacInnis: Now, if counsel wants to look at this paper——

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: I don't want to look at it. I am not here to [1585] try the issues of that case.

The Court: Counsel, you may have it marked for identification if you want.

Mr. MacInnis: I ask that the Call-Bulletin of Tuesday, July 17, 1934, with the headline I have described, be marked for identification.

The Court: So ordered, counsel.

> (Thereupon front page from Call-Bulletin of Tuesday, July 17, 1934, was marked Defendant's Exhibit I for identification.)

Q. (By Mr. MacInnis): Now, you mentioned that two of the strikers were killed on a particular occasion, is that true?

A. That's correct.

Q. That event was commemorated by a funeral procession, was it? A. That's right.

Mr. Paisley: Oh, your Honor, I think——

The Court: That is true; I think that the record will show that. The matter has been gone into.

Mr. MacInnis: I have only one more question with respect to matters which may have appeared in the press. I will respect your Honor's apparent rulings on future offerings.

Q. I want to ask you this: The persons striking on the waterfront were also called radicals by all of our public citizens, including the President of the Chamber of Commerce at that time, to your knowledge, isn't that right?

Mr. Paisley: I think that will be irrelevant, your Honor. [1586]

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Well, your Honor, he has testified as to the good motives of the strikers, of the strike, and the difficulty that he and others had in disseminating the truth about the motives of the strike. I think we certainly have a right to show the whole picture, to show how all kinds of men who never had anything to do with the Communist Party were called Communists upon the headlines of the papers and arrested under that label because they were in the strike.

The Court: We cannot prove or disprove any issue in the case, counsel, by the headlines in the papers. I sustain the objection.

Mr. MacInnis: Well, I would suggest, respectfully, your Honor, as I remarked before, we cannot prove any issue in this case by telling the Court and jury what conversation this man had in New York with some other person whose conduct he described here, either.

Q. A few moments ago in your testimony you used the word "serfdom." Will you tell us what you meant by that?

A. Yes. Serfs, we don't hear the expression very much these days, but they are, well, they are about the same level as a peon. Some lowly, considered a lowly employed person.

Q. Now, you say that the policies of the strike, and I refer now, of course, to the strike of 1934, were directed by the Communist Party?

A. That's right. [1587]

Q. And you endorsed that statement, of course, wholeheartedly? A. We had no alternative.

Q. Yes. What were the policies of the strike, if you can enumerate them for us?

A. The policies of the strike was not formulated over a lengthy period. As I have already stated in the record, there were meetings practically every day, and I don't refer to the strike committee meetings. That is, meetings with certain fractions or certain party members. These meetings had taken place over a wide—over a wide field or in various parts of the city. And on these occasions that these meetings, the chief spokesman generally was Darcy. He is not what you call a butterinski or a talkative person, but he would listen and then he would always come up with some idea, and that was the accepted strategy for the policy or the operation of that strike for that day.

Q. No. Pardon me. I don't mean who was the person who gave the policy; what were the policies themselves that you followed in order to make the strike a success?

A. Well, number one, I will have to repeat what is in the record many times—it was to first keep up the morale of the men. That was number one, because there could be no strike with the breaking, and that was our toughest job.

Q. And that was good trade unionism, was it not?

A. You mean to keep up the morale of the men? [1588]

Q. Yes.

(Testimony of Henry Joseph Schrimpf.)

A. Well, it was the only weapon-to—in fact, it was an important weapon to win the strike. Without good sound morale you can't win a strike.

Q. No. And you don't consider that merely a Communist doctrine, do you?

A. No, they are the one who always had it foremost in their mind and was concerned about the morale of the men.

Q. Yes. Now, having told us about the morale of the men being the first policy, what would you list as the next policy of the strike?

A. Well, making a second choice, we could not consider going back into the terrible conditions, such as working conditions; wages were not important, would be eliminated.

Q. And that was good trade unionism, too, wasn't it? A. It was very necessary for us.

Q. Yes. And it is not just a Communist doctrine that workers ought to get enough to eat and enough to provide themselves with homes; that is good sound trade unionism, isn't it?

A. I would say it is.

Q. And what was the next policy that you say was a policy of the strike?

A. Well, we had to get some kind of security, which is already in the record, whereby there would be no one discriminated against and we would have to make sure that all who were on [1589] strike would have a job.

Q. And that is good trade unionism, too, isn't it?

(Testimony of Henry Joseph Schrimpf.)

A. Oh, I would say it is.

Q. And that is not merely a Communist theory? Pardon me. A. No.

Q. And what was the next policy?

A. Well, I don't know if I have included the shortening of the hours in there. I don't believe I have. I just said conditions. The shortening of the hours, would have to come down. These long, inhuman hours, we would just not continue.

Q. And that was good trade unionism, too, wasn't it?

A. It was, it was very human thoughts.

Q. Yes. And again, that wasn't just a Communist party theory was it?

A. No, that is a theory of anyone who works for a living. I imagine he has all those theories in his mind.

Q. Of course. Now, tell us the other policies of the strike.

A. Well, there was many other smaller matters, such as not important—there was no limit on loads when we went on strike, and we wanted to make sure that we got up some kind of agreement where we would have load limits. And of course, we were trying to get a little more money, which, as I mentioned, wasn't overly important. We did get a little more money, a nickel an hour at the time; and conditions in general, safety and so forth and so on. Transportation had to be improved. They were all [1590] smaller matters.

Q. And you have now given us the general

(Testimony of Henry Joseph Schrimpf.)

policies of the strike, haven't you, all of the things that you workers wanted to achieve you have narrated as best you can now, haven't you?

A. That's right.

Q. And those were all good ends to be achieved in trade unionism? A. That's right.

Q. They were all good human ends to be achieved, weren't they? Right? A. That's right.

Q. And none of those policies were matters that you could look to and say, "That is just a Communist doctrine," isn't that right?

A. I don't think I referred to anything as "just a Communist doctrine."

Q. No. And having given us these answers about the policy of the strike, do you now affirm or do you deny that the strike was directed entirely by the Communist Party?

A. I would say it was directed practically by the Communist Party.

Q. Isn't this the fact——

A. The top leadership, yes.

Q. Isn't this the fact, Mr. Schrimpf, that workers like yourself, who at that time were interested in the ends that you have outlined for us, other workers from various trades, when the strike became general, all of you got together and you were glad, as you pointed [1591] out before, to use the suggestions of men who were more experienced in the strategy of strikes? A. That is correct.

Q. And it is true that the trade union movement

(Testimony of Henry Joseph Schrimpf.)

used the Communist Party to achieve its ends in a legitimate manner as you have described it?

A. No, that is not quite true. I will answer your question, if I may?

The Court: Yes, sir.

A. The correct answer to that is, the Communist Party was using the trade union movement to try and make advances into the trade union movement. That was the confusing part, and that is why, I might say, while I have no regrets in having accepted their help and their knowledge and their strategy and program—but I didn't foresee just what their move was. So it is not correct when you say that we looked to them. They gave us help, with a mortgage on our union, which was to be paid dearly in later years.

Q. Well, now, let's question for just a moment the distinction that you make, that the top leaders of the strike were communists or Communist-dominated. Now, the president of the Labor Council was Mr. Vandeleur, is that right?

A. That's correct.

Q. Edward Vandeleur; was that his name?

A. That's correct. [1592]

Q. Was he a Communist?

A. No, he was very conservative.

Q. And John O'Connell was secretary of the Council, is that right?

A. He is very conservative.

Q. He was one of the committee of seven named to handle the strike, isn't that true?

(Testimony of Henry Joseph Schrimpf.)

A. What do you have reference to now, the general strike?

Q. Yes.

A. I can't recall how many was on it now. I believe those two were on it.

Q. And Daniel P. Hagerty was on the same committee of seven? A. That's right.

Q. And he was past president of the California State Federation of Labor; was he a Communist?

A. No.

Mr. Paisley: Just a moment. I have been hearing objections that the witness can't say whether an individual was a Communist or not.

Mr. MacInnis: I will let the prosecutor in on a secret: this is cross-examination, the rules are different.

Mr. Paisley: I see. I think the principle is the same, though, your Honor.

Mr. MacInnis: Your Honor, in other words, he is now objecting—— [1593]

The Court: Overruled, counsel.

Q. (By Mr. MacInnis): How about M. S. Maxwell? Do you know him?

A. Just by name.

Q. He was president of the California State Federation of Butchers; he was one of the seven on the committee, wasn't he? A. That's right.

Q. And you don't affirm that he is a Communist, do you? A. No.

Q. And George Kidwell, do you know him or did you know him at that time?

(Testimony of Henry Joseph Schrimpf.)

A. I have met Kidwell.

Q. Do you affirm that he was a Communist?

A. No, he was not.

Q. And Frank Brown, a business representative of the Molders Union?

Mr. Paisley: Just a moment. I take it he is talking about some strike committee that was appointed to try to settle this; is that what he is talking about?

The Court: No, I am not familiar with what particular strike committee, counsel. The witness is here, he is thoroughly versed in the matter. I would ask him what strike committee it was. I do not know.

The Witness: Yes, I couldn't under oath say "Yes" but now he mentions the names—— [1594]

Mr. MacInnis: Top leaders were Communists!

The Witness: ——I think that's right.

Q. (By Mr. MacInnis): And you know Frank Brown, or knew him, didn't you?

A. I just know him, yes.

Q. And you knew he was business representative of the Molders Union, the seventh man on that committee, and he was not a Communist either, was he? A. That's right.

Mr. MacInnis: May we take the recess?

The Court: Well, tell me, before we take the recess: It was not clear in my mind and maybe not in the jury's mind—what was the purpose of the strike committee? What was it, a settling group, an arbitration group, or what was it?

(Testimony of Henry Joseph Schrimpf.)

A. Well, inasmuch, your Honor, that this general strike was no longer going to be confined to just a portion of the workers, and it was going to take on the proportions of a general strike, it would be only fair to allow representation, a broad representation of unions way in outside of the maritime unions.

The Court: And these gentlemen to whom you have referred, now, Mr. Maxwell of the Butchers, and so forth—some of the names are familiar to the Court—they represent a sort of cross section of the community so far as the trades and crafts are concerned? A. That's right. [1595]

The Court: Now we will take a short recess.

Ladies and gentlemen of the jury, the same admonition to you, not to discuss the case under any conditions nor to form nor express an opinion thereon until it is submitted to you.

(Recess.) [1595-A]

Mr. MacInnis: Now, as your Honor suggested by the last questions put to the witness, we had just mentioned in the questions put to Mr. Schrimpf the members of the Joint Strike Committee appointed by President Edward Vandeleur under circumstances which I think you very well described. Now, to come to the other leaders of the strike and to follow the same characterization that you offered us here, there was a joint marine strike committee, was there not? A. That is correct.

Q. And that was composed of men selected from

(Testimony of Henry Joseph Schrimpf.)
seven seafaring unions and three metal trades unions? A. That is right.

Q. The first of the metal trades unions, if we can take them in that order, would be the Boilermakers. There was a man named Ed Rainbow. Was he a member of the committee?

A. That is corerct.

Q. Was he a Communist?

A. He was not.

Q. And in the Machinists Union there were members Harry Hook—was he a Communist?

A. He was not.

Q. Ed Dillon? A. No.

Q. And a Curly Grou—and I am told his name is spelled either G-r-o-u or G-r-o-w. [1596]

A. The name sounds vaguely familiar, but I cannot place him.

Q. The other men you know are not Communists?

A. The other three men I know.

Q. From the Carpenters and Boatbuilders Union do you know a man named Sam Francan?

A. No.

Q. You never heard of him. Did you ever hear of his name on that committee?

A. It may have been on there. I don't recall.

Q. The Masters, Mates and Pilots had a man named E. B. O'Grady.

A. That is right.

Q. Was he a Communist?

A. Well, I wouldn't say he was.

Q. You beat up O'Grady in 1936, didn't you?

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: Objected to, your Honor.

The Court: Sustained.

Mr. MacInnis: It is a matter that will come into the testimony in relation to another incident later.

The Court: Objection sustained.

Q. (By Mr. MacInnis): How about a Captain Lawberg? Did you know him?

A. Yes, he was known as "the Poet."

Q. Was he a Communist?

A. No, he was not a Communist. [1597]

Q. And he was a member of the same committee, was he, the joint marine strike committee?

A. Was he on it, did you say?

Q. Yes. A. Yes, as far as I recall.

Q. How about a man named Eugene Burke? Eugene Burke, I am told, was from the Firemen, Cooks and Sailors, or did I have that incorrect?

A. Cook and Stewards.

Q. Did you know him?

A. I didn't know him very well. I know of him.

Q. Was he a Communist?

A. No, I wouldn't say he was.

Q. How about from the Firemen? There was a man named Denton. Was he a Communist?

A. No, he was not a Communist.

Q. How about Frank Meriwether; he was a part of the same committee, wasn't he?

A. That is right.

Q. And he was not a Communist?

A. That is right.

Q. Now, since we have gone through that list of

(Testimony of Henry Joseph Schrimpf.)

leaders, after the strike persisted for a long period of time——

Mr. Paisley: Wait a minute. I understood he was questioning the witness about the general strike committee. That [1598] strike, I understand, lasted about seventy hours, or something like that. Now he is talking about some long strike. Are we going on to something else?

Mr. MacInnis: You will perceive what I am coming to. I do not know what the objection is, your Honor. The objection may be there is an error in my memory, because I couldn't tell you the number of days the strike persisted, but that is hardly an objection.

Mr. Paisley: Which strike is he talking about? I think he ought to inform the witness of what strike he is speaking of.

The Witness: Your Honor, can I clear that up?

The Court: Yes.

The Witness: I think I can clear it up.

Mr. MacInnis: I haven't asked him any question. I will begin a new question. There is no need to argue what is long and what is not long.

The Court: All right.

Q. (By Mr. MacInnis): At some point, Mr. Schrimpf, President Roosevelt appointed a board to discuss the arbitration of the strike and to make a determination and recommendation as to what should be done; is that true?

Mr. Paisley: Which strike is he talking about, your Honor? I would like to ask him to specify.

(Testimony of Henry Joseph Schrimpf.)

Is he talking about the longshoremen's strike or the general strike? [1599]

Mr. MacInnis: If there are two strikes, if they are not in the same picture, I am misinformed, although I have lived here all my life. Possibly this gentleman, who comes from the East, knows better what has happened here.

The Witness: Shall I answer that question?

The Court: Yes, sir.

A. Yes, it is true the Government—Roosevelt was then President—did appoint a board.

Q. (By Mr. MacInnis): And that board consisted of Edward O'Grady, who was Assistant Secretary of Labor, Archbishop Hanna of San Francisco, and a San Francisco lawyer named Oscar K. Cushing? A. That is correct.

Q. That board found substantially in favor of all the demands of the strikers, isn't that right?

A. Practically everything; that is right.

Q. Those were the demands that were ultimately adopted, is that true? A. That is right.

Q. These demands that you say were the result of Communist direction? A. That is correct.

Q. Isn't that about what happened? Regardless of whether or not there were Communists assisting in matters of strike strategy, at one time or another the decent people of the whole [1600] community got together, when they finally realized the truth about the waterfront situation, and they all worked together to alleviate those wrongs, isn't that right?

Mr. Paisley: I object to that.

(Testimony of Henry Joseph Schrimpf.)

The Court: The objection is sustained. It is incompetent, irrelevant and immaterial.

The Witness: Your Honor, may I put in an answer to these questions? I have been given no opportunity. There was a Yea or Nay, and it is not very informative here for the jury or the Court.

The Court: Would you like to address yourself to any particular subject?

The Witness: On these questions, yes.

Mr. MacInnis: May I say something?

The Court: Yes.

Mr. MacInnis: I do not think we are seriously concerned with this man's idea of the impression he is creating or the interest he has in the case.

The Court: That may well be, but a witness is entitled, as I take it, to give expression to that which he may have in mind if it be competent and relevant.

Mr. MacInnis: Do you mean at any time he likes?

The Court: No, no, counsel.

Mr. Paisley: I think the witness can explain his answer, your Honor. [1601]

The Court: There is no question about that.

Mr. MacInnis: There is no question before the Court.

The Court: You may explain.

Mr. MacInnis: May I ask your Honor a question?

The Court: Yes.

Mr. MacInnis: What question does your Honor

(Testimony of Henry Joseph Schrimpf.)

deem the witness is going to explain? There is no question before him.

The Court: I am not deeming any question. The witness has made a request of me. In deference to the witness I am going to accede to it. If the answer be immaterial I shall strike it.

You may proceed, sir.

The Witness: I will start with the first question. There were several names in here on the general strategy committee for the general strike, and all I was asked was if they were Communists, Yes or No. I said No.

Mr. MacInnis: Judge, pardon me——

Mr. Paisley: Let him answer.

Mr. MacInnis: No, I won't. This is a comment on the cross-examination.

Mr. Paisley: Wait until the witness has completed his answer. Counsel has a habit of breaking in.

The Court: The witness can explain his answer.

Mr. MacInnis: May I suggest something, your Honor? [1602]

The Court: Wait until the witness finishes and then you make your suggestion.

The Witness: When I said, answered Yea or Nay on these, that they were not Communists, that was not the fault of the strategy of the Communist Party, which was laying the strategy for our strike.

Mr. MacInnis: That is no answer to question to this man. I asked him if certain people were on certain committees. He is now attempting to give

(Testimony of Henry Joseph Schrimpf.)

some argument in relation to the strength of those questions. I think your Honor can perceive that.

The Court: Did you complete your answer?

A. No, I didn't complete it.

Q. Complete it.

A. In the first place, all the men you have mentioned, with the exception of Kidwell, who was considered a liberal, they were all considered very conservative. They were all belonging to old-school, conservative unions, that had been operating over a period of years in the city, and so therefore they had the upper hand. And we had many meetings concerning the so-called progressive group or the Communist group within the maritime strike—not the joint strike committee—to try and have some of our men elected on that committee. One of the men we did try to get on was Harry—Harry Bridges—on that committee, but, as I said, we [1603] were weak. You might call us newcomers to the labor world, and so therefore it wasn't a part of the Party's strategy at all.

Mr. MacInnis: Judge, these are matters that might be drawn out on redirect examination if the prosecution chooses, but for this man to say now that he has a right to argue the effect his testimony——

The Court: The motion is denied. It goes to the composition of the committees and the general background of the individuals and the identity thereof.

Mr. MacInnis: Judge, I have a right to ask him a question. That does not allow him to make a speech on every connected matter. I am content with the answers he has given. I do not need his argument. He can give that later if the prosecution is able to elicit it by some other question. Otherwise the cross-examiner could never choose the subject of his questioning.

Mr. Paisley: He can't cut off the witness, your Honor, if the witness wants to explain his answer. That is just as fundamental as anything I know.

Mr. MacInnis: Judge, if I ever heard a bogus objection—The whole line of testimony was finished. The man had finished simply. He never asked a right to explain his answer. I am sure your Honor would have given him that right if he had. We come to the end of this and he says, "I would like to say something." [1604]

The Court: I say, counsel, if it is enlightening to this Court, and I assume it may be enlightening to the jury, as to the composition of those various committees, whether they be conservatives, liberals, middle-of-the-roaders, or whatever they may be, it is interesting.

The Witness: May I continue?

The Court: Yes, sir.

The Witness: On the second point—first of all, it must be clear we had three major strike committees. We had the maritime strike committee——

Mr. MacInnis: Judge, this is an argument. This is not an answer to any question.

The Witness: It is answering the question.

(Testimony of Henry Joseph Schrimpf.)

The Court: Is this an explanation?

A. That is right. All I had an opportunity to say was Yea and Nay.

The Court: Proceed.

The Witness: We had three strike committees. First there was the general strike strategy committee, and then we had the longshore strike committee, and then we had the maritime strike committee. Now, it is on this one that I also want to continue my answer. I said Yes to the men you named. The setup of those committees, each component group—there were three licensed groups, the Masters, Mates and Pilots, the Marine Engineers, and the Radio Operators—— [1605]

Mr. MacInnis: Your Honor, I am in effect by this procedure forced to receive answers to questions I did not ask. I think, your Honor, the cross-examiner has the right to direct the trend of the cross-examination. If there is any subject that is relevant, it can be developed on redirect.

The Court: Counsel, I have not interfered with your examination. This witness has requested of this Court an opportunity to make an explanation. I feel that in the exercise of my discretion I can accord that right to this witness or any witness. Thus far in the explanatory note there has been nothing that you might refer to as prejudicial. It is explanatory, and I look upon it as an explanation or explication of these committees.

Mr. MacInnis: May I ask your Honor a question?

(Testimony of Henry Joseph Schrimpf.)

The Court: Yes.

Mr. MacInnis: As I understand the law, and I can only understand it from reading the books——

The Court: Counsel, may I have this witness continue now? At the conclusion, if you have a motion to strike it all, I will entertain it. Thus far there has been nothing of a prejudicial nature or nothing you could object to. You may continue.

The Witness: This is a direct answer to the question when I said Yea and Nay on the men elected. I say we had three licensed groups, and I won't enumerate them again, and [1606] we had four unlicensed groups. Each of those component parts of the seafaring groups were represented on this committee, and they were also of a pretty conservative school. Incidentally, the operation of the strike was confined mostly through the longshore strike itself, and that is where the strategy was coming from the Communist Party. But in these other groups we couldn't very well say, "Let us take all men out of the longshoremen and put them on," and so we had to allow representation from those component groups, and so we had the men you mentioned, and I will admit at that time they were quite conservative. We had to give them representation on that strike committee. That is how those men got on, exactly the way they got on the central strategy committee for the general strike, and as they were pulling the strikes, they had the power. It was not a matter of Party policy putting all these men on the committee. If it had, the general

(Testimony of Henry Joseph Schrimpf.)

strike wouldn't be over in those three days; I will tell you that.

Mr. MacInnis: I move to strike the volunteer answer.

The Court: The motion is granted—the motion is denied.

Q. (By Mr. MacInnis): You tell us one of the meetings that you attended, that you say you think was a Communist Party meeting, was one in which a woman named Norma Perry was to be disciplined, is that right? [1607]

A. Yes. I do not know if that is the exact words I used, along those lines.

Q. You referred to her as a very busy little woman.

A. That is a very appropriate name for her.

Q. You were very friendly with her, were you not?

A. What do you mean, friendly? I knew the woman.

Q. You were very friendly with her, were you not?

A. No, I wouldn't say I was very friendly.

Q. You were in love with her, were you not?

The Court: The objection is sustained.

Mr. MacInnis: I think, your Honor, we have the right to develop the relations between these people.

Q. Let me ask the question of you this way: In relation to this lady, who you say was called up and disciplined because she had been talking to people who you say were not well regarded, that

(Testimony of Henry Joseph Schrimpf.)

lady, after she left the employ of the longshoremen's union, went to work for Harry Lundeberg, isn't that right?

A. She went to work there sometime after. I don't know just when.

Mr. Paisley: I do not believe it is material, your Honor, just where she went to work.

Mr. MacInnis: I want to show this, your Honor, not only out of the lips of this witness but later on with the person named, Norma Perry had nothing to do with any [1608] Communist Party activities but had to do with the fact that the lady turned out to be a labor spy, and she was dealing with the employers, was dealing with agents of the employers, was ~~dealing with~~ various groups, and was passing out information on union activities that had nothing to do with the Communist Party, and that had to do with the enmity ultimately between Harry Bridges and Harry Lundeberg.

Q. You say that you visited this lady, Miss Perry—is that her name?—out at a restaurant called Pierre's? A. That is in the record.

Q. Did you say that?

A. No, I never used the word "Pierre's." I mentioned a restaurant and I gave a certain location. I didn't just recall at the time. But that is the substance of my statement there.

Q. Did you meet a man named Margolis at that place? A. I did.

Q. Margolis was at one time married to Norma Perry, is that right?

(Testimony of Henry Joseph Schrimpf.)

A. Yes, the man had two or three names. One was Scott, one was Margolis.

Q. He was known as Arthur Margolis, Arthur Kent, Arthur Scott, Arthur Hill, and Arthur Hilliard, is that right?

A. That is too many for me. I knew he had many aliases.

Q. When you came into court yesterday you were asked what union affiliation you had by the prosecutor who put the [1609] questions to you, and your first reply was that you belonged to the MWUI.

A. It definitely was not. I never made such a report.

Mr. MacInnis: How is your Honor's memory on that?

The Court: Well, I think resort may be had to the transcript, although sometimes transcripts are not very reliable, I found out yesterday.

The Witness: Maybe I am getting stupid.

Mr. MacInnis: I distinctly heard it and everybody else did.

The Court: Let us have the transcript.

Mr. MacInnis: Referring to page 1488, the question by Mr. Paisley:

"Do you now belong to a union?"

The answer, under oath: "I now belong to 91 of the MWUI."

A. The ILWU.

Mr. Paisley: I remember, your Honor——

The Witness: I don't know how that typographical error got in there.

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: I asked him later on, I well recall, as to whether he had said that or not, and he cleared it up very promptly.

The Court: Was it cleared up later?

Mr. Paisley: Oh, yes. [1610]

The Court: Will you stipulate to that?

Mr. MacInnis: Pardon me?

The Court: Was it cleared up later?

Mr. MacInnis: I will stipulate as soon as I ask these questions.

The Court: Show the transcript to Mr. MacInnis.

Mr. MacInnis: I have the transcript, your Honor, in my hands.

Mr. Paisley: I have, too, and about two questions later it is cleared up.

Mr. MacInnis: I have a different purpose, if your Honor please, if I may proceed to it.

The Court: I am a little wary of [1611] transcripts.

Mr. MacInnis: Well, what does Your Honor mean by that, that you are wary of transcripts?

The Court: I asked you to proceed.

Mr. Paisley: Oh, Your Honor, he can't catechize the Court.

Mr. MacInnis: I am not attempting to; I am just asking Your Honor the question.

The Court: I suggest that counsel proceed.

Mr. MacInnis: Yes.

Q. Now, in other words, you do now deny that you ever said that at all?

A. Well, I must have been asleep if I did. I definitely don't recall making it, because there

(Testimony of Henry Joseph Schrimpf.)

would be no sense in making it. I never belonged to such an outfit.

Q. And then if this were just an error in the transcript, the transcriber's notes, as is suggested by the prosecutor, he then repeated the question, after you said, "MWIU," "That is Maritime what——?"

The Court: Show him the transcript.

Mr. MacInnis: Of course. Do you doubt that those words are in the transcript as I am reading them?

The Court: I do not. Show him the transcript.

(Handed to the witness by the Clerk.)

The Witness: Well, I don't know, Your Honor, how all this got mixed up, but it just don't make sense. Now, I am not accusing anybody, and I don't say that it is not a typographical [1612] error, but reading it, it don't make sense.

Mr. MacInnis: Will you now look at your own transcript, Judge? It is now inferred I made up the transcript.

The Witness: I am not inferring anything at all.

Mr. MacInnis: He says, "I am not accusing anybody," but he looks down here——

The Court: Nobody is making any accusations. I merely wanted the transcript clarified in the light of a clear inaccuracy.

Mr. MacInnis: Well, Judge, I heard him say it in addition to reading the transcript. I heard the prosecutor, as you will see, repeat it, the same

(Testimony of Henry Joseph Schrimpf.)

language and use the word "maritime" as the first in the name, designating the initials.

The Court: Well, let us take the text here.

Mr. MacInnis: Judge, it is cleared up later, but the point is, I have a right to ask——

The Court: It is cleared at lines 14 and 15.

The Witness: That's correct.

Mr. MacInnis: I do not need any aid in discovering that, Your Honor. I wanted to ask him why it was said.

The Court: Then what is the purpose, counsel? I don't follow you.

Mr. MacInnis: If, Your Honor please, I want to find out why unequivocally, when first asked the question, this man said directly, "MWIU," and why the government prosecutor in his next [1613] question repeated the same thing. Now, I know that that is not his membership. I know that is an error, but I want to know why. That is the only thing.

The Court: Well, you want an explanation from him?

Mr. MacInnis: Well, it would be idle now. Now that the government has pointed out the mistake, now that Your Honor has pointed out that two lines down it is cleared up.

The Court: Well, it is cleared?

Mr. MacInnis: Well, Judge, isn't it the purpose of cross——

The Court: You asked me to address myself to the transcript and to compare this with my own copy. Now, I haven't my own copy, but I say to you, Mr. MacInnis, in fairness to the Court, and I think I am entitled to some degree of fairness——

Mr. MacInnis: Do you suggest that I have been unfair?

The Court: No, I do not, sir. "Do you now belong to the union?" "I now belong to 91 of the MWIU." "That is Local 91?" "That is right." "That is Martime what—MWIU? What does that mean?" Then the witness, "The International Warehousemen's & Longshoremen's Union."

The Witness: That's right.

The Court: So apparently,—I say apparently—there was an error. I don't know. Ask him the question.

Mr. MacInnis: Judge, isn't that what I tried to do before all this colloquy went on? [1614]

The Court: I do not know your purpose, counsel.

Mr. MacInnis: Judge, if you will read the record back, you will see all I asked is what is the reason for that. Now, you are telling me that is the question to ask. That is the question I already put to him.

Q. What was your reason for saying, "MWIU?"

A. I don't recall saying it, and if I did, it certainly was an error. Anybody, anyone is not perfect, but it don't make sense, as it is qualified in the 14th question.

The Court: 14th line.

The Witness: The 14th line or question, whatever it is—the 14th line.

Q. (By Mr. MacInnis): I noticed that by some inadvertence, possibly, the prosecutor didn't ask you your address. Will you tell us what that is?

A. I live at 971 Mission Street.

Q. You have lived there how long?

A. Oh, I have been there just about a year now, a little over a year.

Q. Where did you live before that?

A. I lived at 246 McAllister.

Q. Where did you stay last night, Mr. Schrimpf?

A. Have I got to answer that question, Your Honor?

Mr. MacInnis: It seems to me that there is nothing ambiguous about that question. [1615]

Mr. Paisley: It seems to me——

The Court: I know of no reason why you should not answer the question, unless you have some personal reason that may be of a purely personal concern. And if you have,——

The Witness: It is personal. I don't want to— Where I stay, if you want an answer, I can tell you. I stayed in the Mission. But it's——

Mr. MacInnis: I don't think we are bound by what this man would say would be a personal reason. That would be for Your Honor to decide.

The Court: Well, I know, but it might occur, counsel,—and it has occurred in the trial of cases in the past—that the witness might have some very, very definite personal reason for refraining to answer, and if so, I would take it up with counsel on both sides and have an agreement of some kind. I, of course, do not know what he has in mind.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: I will defer that matter for the present, if he doesn't wish to tell us where he was.

Q. Now, the night before, on November 30th, where were you? That is the night before last?

Mr. Paisley: Your Honor, I object to these questions unless he tells the Court what purpose ~~he~~ has. I have no idea what his purpose is.

The Court: What is the purpose, Mr. MacInnis?

Mr. MacInnis: Well, Judge, if one disclosed the purpose, [1616] there would be no point in asking any questions. Now, it seems to me——

Mr. Paisley: Well, we can excuse the witness, Your Honor, or the jury, too, for that matter.

Mr. MacInnis: Well, I will return to it later.

The Court: All right. It is now 4:00 o'clock and I think we might excuse the jury and go into the purpose,

Mr. MacInnis: I would like to proceed just a little bit, if I may. I will go on into another subject, Your Honor, if there is some objection to answering these things.

The Court: All right.

Q. (By Mr. MacInnis): Now, let's clear up, if we may,—and if I can have about ten minutes for this particular subject?

The Court: All right.

Mr. MacInnis: Maybe it won't take that long.

The Court: Certainly.

Q. (By Mr. MacInnis): You told the Court and jury in effect that you were a member of the ILA at the time of the strike, and I supose you remained a member of that union until it became the ILWU, and that you have been a member of the ILWU ever since? A. That's correct.

Q. Now, Local 91 of the ILWU is an entirely different body than the local to which Mr. Bridges and Mr. Schmidt belong, [1617] isn't that right?

A. Your Honor, in answering A and A, there may be some misinterpretation on this.

Mr. MacInnis: I don't know what this A and A is.

The Court: You may answer and then you may qualify it.

Mr. MacInnis: I think that is a yes or no answer.

The Court: You may answer the question of Mr. MacInnis and then——

Mr. MacInnis: I will reframe the question, Judge.

The Court: All right.

Q. (By Mr. MacInnis): Mr. Schrimpf, you are a walking boss, aren't you?

A. That is what they call them.

Q. Yes. You are hired by the employers, you are not hired by the hiring hall; you are in a different class altogether than the workers, isn't that true? A. No, that is not quite true either.

Q. You receive a different wage scale, do you not? A. I do.

Q. Yes. A walking boss, as I am told, has a guarantee from the employers of $400 a month, and generally makes between $700 and $800 a month with overtime?

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: Now, is that a question?

A. That is absolutely incorrect, Your Honor, and I would like an opportunity to deny some of these statements. [1618]

Q. All right, you will. Tell us what a walking boss does.

A. We have different categories of walking bosses.

Q. Let's speak of you.

A. Well, you said what a walking boss gets. I am on by the hour, and I don't get my job direct from any employer. I get it down there at our office and hall, which is a combination. An operator will phone up and he will ask, "Who is available?", and he will just say, "All right, send So-and-so down." Sometimes we have an occasion where they don't ask for anyone, they just say, "Well, someone—send who is low." Now, as far as my earnings go, this particular year I haven't made, I don't think, over $3000 for the whole year. I am on by the hour. And while it is true that—for the information here—that some of these bosses, one of the categories, are on by the month, but I am not a monthly man, I am on by the hour, and we have many walking bosses down there on by the hour, as well as many on by the month.

Q. Now, to continue, and maybe you can clarify this for us, too, the National Labor Relations Board doesn't recognize the walking bosses, does it?

Mr. Paisley: Well, what has this got to do with this case, Your Honor?

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: I want to show that he is really not a union man, that he is an employers' man, and I want to show that the only reason that the walking bosses are kept affiliated with [1619] the ILWU is so they won't be entirely under the domination of the employers.

The Court: The objection is sustained, counsel.

Q. (By Mr. MacInnis): Up to approximately the outbreak of the war, or thereafter, you worked as a longshoreman, is that true?

A. Yes, I worked up until 1943 as a longshoreman. That is, in the local.

Q. And then you became a walking boss?

A. That's right.

Q. And that was about what year? A. '43.

Q. You became a walking boss the same year that you attained your citizenship?

A. That's correct.

Q. And you attained your citizenship during the war, when citizenship was rather difficult to obtain?

Mr. Paisley: Just a moment, Your Honor; that is not within the scope of the direct examination.

The Court: Sustained.

Mr. MacInnis: Pardon me. Your Honor, he mentioned on direct examination that he was naturalized in the year 1943.

Mr. Paisley: I recall no such testimony as that.

Mr. MacInnis: I will be glad to find it, Your Honor.

Mr. Paisley: I didn't ask him about his naturalization. [1620]

(Testimony of Henry Joseph Schrimpf.)

The Court: The witness will be returned in the morning. I will examine the transcript.

Q. (By Mr. MacInnis): Now, before you were a longshoreman, what occupation did you follow?

A. Well, that is already in the record. I worked out in the Union Iron Works,——

Mr. Paisley: I object to that as simply repetitive of what has been testified, unless he is trying to test his recollection; he can do that.

The Court: The objection is overruled, counsel.

A. (Continuing): Well, I worked at the Union Iron Works, I worked in a foundry out on Treat Avenue, and I sold for Colliers Magazine for a while, and I don't believe it was mentioned yesterday, but I also had some concessions out at the beach for a few months.

Q. You were a barker out at the Midway?

A. I was not a barker at the Midway.

Mr. Paisley: Now, Your Honor, I would like to read to counsel—I object to the question and ask that it be stricken,—the Code of Civil Procedure in the State of California, which he ought to know, and which——

Mr. MacInnis: And does know.

Mr. Paisley: And simply, in the codification of the common law rule, which governs the rules of evidence in this Court.

The Court: Are you addressing yourself to any particular [1621] question?

Mr. Paisley: Yes, sir, I am moving to strike the answer and the question. He asked him if he was a barker.

The Court: He said he was not a barker.

Mr. Paisley: Well, of course, it is immaterial—I agree with Your Honor.

The Court: Well, then what?

Mr. Paisley: A witness has some rights.

Mr. MacInnis: I can't get him to bark.

Mr. Paisley: And the right of a witness to be protected from irrelevant, improper and insulting questions, and from harsh or insulting demeanor, to be detained only so long as the interests of justice require, to be examined only as to matters legal and pertinent to the issue; that is the law in California and I think the witness has some rights and shouldn't be insulted by asking him such questions.

Mr. MacInnis: Your Honor, may I respectfully suggest that the prosecutor might have had that principle in mind when he had this gentleman, by excoriating some people who are foreign to this case, cast some stain on the defendants. Now, I don't think there is anything improper about asking him——

The Court: Proceed, counsel.

Mr. MacInnis: We may take the recess, Judge, since we have passed 4:00.

The Court: Yes. It is now 4:00 o'clock, ladies and [1622] gentlemen of the jury. We will take the afternoon adjournment until Monday morning at 11:00 o'clock. It so happens that we have some

(Testimony of Henry Joseph Schrimpf.)

criminal matters that are scheduled for 10:00 o'clock Monday morning next. So it will be Monday morning next, December 5th at 11:00 o'clock. And in the interim, same admonition; not to discuss the case under any conditions or to converse with any person on the subject of this trial, not to form nor express any opinion until it is finally submitted to you.

You may now retire.

(Whereupon the jury retired from the courtroom.)

(The following occurred outside the presence of the jury.)

The Court: We have a matter to discuss, have we?

Mr. MacInnis: What matter, Your Honor?

The Court: The question of—you asked at 4:00 o'clock that we take up this question addressed to Mr. Schrimpf—is Mr. Schrimpf out of the room?

Mr. Paisley: Yes, sir.

The Court: Is it so stipulated that Mr. Schrimpf is out of the room?

Mr. Donohue: Yes, Your Honor.

Mr. MacInnis: If he choses not to answer the question, I won't pursue the question further. That is good enough for me. If he says he doesn't want to tell us where he was,—because it is undoubtedly within Your Honor's discretion. If you think [1623] a personal reason is enough.

The Court: It may be. I am not inclined to foreclose counsel from any interrogation that you may have that would elicit facts pertinent, relevant, material to this examination. Now, if you have some purpose in mind in seeking to develop through this witness his whereabouts as to last night, the night before, the night before that, you disclose it to me and we will take up this matter with Mr. Schrimpf and find out to the extent it may be personal.

Mr. MacInnis: Well, I am frankly content that the purpose was served by his refusal to answer the question, and I won't pursue the matter further.

The Court: Government counsel?

Mr. Paisely: Well, Your Honor, that is a tacit admission, and certainly an implied admission that he knows the question was an improper one, and of course we are satisfied if he doesn't want to pursue it.

Mr. MacInnis: Not at all. I know where he was one of those nights.

Mr. Paisley: What is that?

Mr. MacInnis: Well, then, I know where he was one of the nights.

Mr. Paisley: What is the purpose in asking the question, then?

The Court: What did you say, a tacit admission as to what? [1624] I missed part of your—May I say again to you, an earlier suggestion I made in the trial of this case, that at times your voices are low and I must ask you to just build up a little volume. I lose a lot of what you say, sir.

Mr. Paisley: An implied admission, Your Honor, that the question was an improper one and that he knows it was improper. And if he withdraws the question, we have——

The Court: Well, the record now rests in that fashion. The question and a refusal to answer.

Mr. Paisley: Well, then, I am content, too, on behalf of the Government, if he doesn't want to pursue the question. We are all content, as he says.

The Court: The witness has said, "In the Mission." I think he did say, "In the Mission." Now, that may have been lost to you, counsel. He says, "In the Mission."

Mr. MacInnis: I heard it. That is true.

The Court: "In the Mission;" now, the Mission is a large territory. You may not be familiar with our districts here.

Mr. Paisley: I am not.

The Court: The Mission occupies a large territory to the south of Market.

Mr. Paisley: Yes, sir.

The Court: Do you see?

Mr. Paisley: Well, would there be something in that answer that tends to degrade the witness? That would be an improper [1625] question.

The Court: That is the very point that I am coming to.

Mr. MacInnis: Judge, the Mission is a very nice district.

The Court: Mr. MacInnis, may I express myself, please, so that I will be understood? The witness may decline to answer a question on the ground that it would tend to embarrass him in some fashion, that it may be extremely personal. Now, I do not know the personal reason.

Mr. MacInnis: Well, Judge, I am not responsible, and neither are you, for the personal whims of the witness.

The Court: No, but I have a duty, a constant duty.

Mr. MacInnis: May I suggest this?

The Court: Yes.

Mr. MacInnis: Being content, as I was, to let the record stand with these refusals, we are now confronted with the observation that there is some tacit admission of an improper purpose.

The Court: That is the point I wanted to come to.

Mr. Paisley: No.

Mr. MacInnis: Well, here is what happened: I said to this man, "Where do you live?", and he stared at me and he waited a minute. Then he said, "971 Mission." And then I said, "Where did you live before that?", and he waited a minute and stared again and he made another reluctant answer. Then I asked him, "Where did you stay last night?" "I refuse to answer," he [1626] says. Well, am I to be criticized because of the demeanor of the witness, followed by his answer?

The Court: Counsel, no one has criticized you at all.

Mr. MacInnis: The eminent prosecutor has.

Mr. Paisley: I haven't criticized Mr. MacInnis. As I understand the law,——

Mr. MacInnis: There is no law before Your

Honor. I have said, I am not pursuing the matter further.

Mr. Paisley: ——as to disclosure of personal turpitude of the witness, and his insensibility to the obligations of his oath to speak the truth; now based on that proposition, ordinarily to discredit a witness, you may only ask him as to prior convictions of crime, for instance. You can not ask him, for instance, if he has committed assault; you can't ask him if he is a drinker and a gambler; you can't ask him if he has committed adultery in the past. Insulting questions are not permissible. Now, if, by his question, "Where were you last night?", he was trying to get the witness to admit that he was in some gambling joint or something like that, that is wholly an improper question, as I understand it.

Mr. MacInnis: Judge, I had no intention of disclosing these attributes which counsel now ascribes to his witness, and I am not interested in where Mr. Paisley slept last night. And other than I have indicated I am willing to rest so far as Mr. Schrimpf's last night's abode may be concerned——

The Court: The matter may then stand in the record as it is.

Mr. Paisley: All right, Your Honor.

The Court: We will adjourn until next Monday, December 5th, at 10:00 o'clock. This court stands in recess. and in adjournment, however, as to this case, until 11:00 o'clock Monday.

(Thereupon an adjournment was taken in the case at bar until Monday, December 5, 1949, at 11:00 o'clock a.m.) [1628]

December 5, 1949, 11:00 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: It is stipulated the jurors are present?

Mr. MacInnis: Yes.

Mr. Donohue: Yes, Your Honor.

The Court: You may proceed.

The Clerk: The witness on the stand is Henry Joseph Schrimpf, heretofore sworn.

HENRY JOSEPH SCHRIMPF

previously called as a witness on behalf of the United States; sworn.

Cross-Examination
(Continued)

By Mr. MacInnis:

Q. Now, Mr. Schrimpf, we were speaking at the end of the last afternoon on Friday about your present job as a walking boss, is that correct?

A. It was. Towards the end we were talking about that, right.

Q. You became a walking boss in what year?

A. The year 1943.

Q. And you worked as a longshoreman for a great number of years continuously up to the year 1943 during the war? A. That is correct.

Q. And at that time you were made a walking boss? [1629] A. That is correct.

(Testimony of Henry Joseph Schrimpf.)

Q. Where was your first employment?

A. As a walking boss?

Q. As a walking boss, yes.

A. My first job as a walking boss was at the army. They had requested the union to supply them any one at all who had experience as longshoreman, and I was among many of the men who went over there.

Q. Your first job as a walking boss, as I am informed, was down at Fort Mason, is that true?

A. I believe it was—no, I will take that back. I believe the first job was at 45, if I am not mistaken.

Q. Pardon me?

A. At Pier 45, if I am not mistaken. I believe that was my first job at the army.

Q. And then you went on to Fort Mason after that?

A. No, I don't think I worked at Fort Mason more than a half dozen times during the war.

Q. What are the duties of a walking boss?

A. The basic duties of a walking boss is to supervise the stevedoring operation of the cargoes on that ship in conjunction and with the man known as the supercargo of the ship. He places the gang. He is responsible to a big degree if any gear or anything else should carry away. He is supposed to see that [1630] the gear has been rigged right. He is also supposed to see that the right cargo goes in the right place and all of the things pertaining to keep

(Testimony of Henry Joseph Schrimpf.)

the cargo in the best condition during its transportation to where it may be delivered.

Q. It is a supervisorial job?

A. That is correct.

Q. Having in mind your present position as a walking boss, as you define it, let me ask you this: In 1935 you were a member of the Labor Relations Council of the union, were you not?

A. 1935 a member of the Labor Relations Council of the union? I never heard of anything by that name.

Q. You never heard of anything having to do with labor relations?

A. Well, there was a labor relations committee. Would that be the same what you have reference to?

Q. It may be. Were you on the labor relations committee, if you wish to make that distinction?

A. No, no.

Q. Didn't you in 1935 walk out of a meeting of the Labor Relations Council or Committee because you said that your hatred was so great that you could not sit at the same table with a Mr. Peterson representing the employers, whom you called "scabby Peterson?"

A. No, I have no recollection to such a meeting.

Q. You have no recollection? [1631]

A. No recollection.

Q. Don't you remember that you had a talk with Bridges about your refusal to sit on that committee?

A. I still have no recollection of such a committee.

(Testimony of Henry Joseph Schrimpf.)

Mr. Hallinan: Did he say 1945?

Mr. MacInnis: 1935, I thought I said, in reference to that committee.

The Witness: That is right. That is what I understood you to say. [1632]

Q. And your leaving that committee was written in the various periodicals of the waterfront, was it not?

A. You mean, the periodicals, or our papers put out by the union?

Q. Yes, the papers put out by the union.

A. As I have already mentioned for the record, I don't recall such a meeting.

Q. And you don't recall whether the minutes of the union itself would show your leaving such a committee in the manner I have described?

A. No, I have no recollection.

Q. Do you recall telling Harry Bridges that your real reason for leaving the committee was that you were drinking too much and hence couldn't control your temper? Do you remember that?

A. No, that I do not.

Q. You don't remember discussing the fact that you drank too much?

Mr. Paisley: Well, now, Your Honor, counsel ought to know better than that.

The Court: Sustained.

Q. (By Mr. MacInnis): Well, now, be that as it may, Mr. Schrimpf; concerning your employment, let me ask you these questions. You were

(Testimony of Henry Joseph Schrimpf.)

not, of course, traduced or subpoenaed by the government in 1939 in a deportation hearing brought by the Government against Harry Bridges, were you? [1633]

A. Will you repeat that question again?

Mr. MacInnis (To the Reporter): Will you read the question to the witness, please?

(Record read.)

A. I never had a subpoena served on me. Although there were attempts made to contact me, and I presume they were by the Government.

Q. You say attempts were made to contact you. You were not difficult to find in 1939, were you?

A. Yes. For the information of this Court, and to your answer, there was one day in one of these hearings, I stayed away for 14 days from my place.

Q. How about 1941? You were not subpoenaed by the Government in that deportation hearing, were you?

A. I received no subpoena.

Q. No. And in fact, in the year 1937 you attended a convention in Portland along with other members of the union, Harry Bridges being present, and there was a meeting had, an open meeting, whose minutes were transcribed, in which there was an incident discussed concerning the planting of a dictaphone in Harry Bridges' hotel room, and you took part in that discussion, didn't you?

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: Object to that, Your Honor: immaterial and irrelevant.

The Court: Sustained. [1634]

Mr. MacInnis: Judge, this will develop among other things something that will lead to a definite inconsistent statement. May I have Your Honor's reasons for sustaining the objection so that I can be guided accordingly?

The Court: Yes; it is immaterial, not proper cross-examination.

Mr. MacInnis: Well, I will put it in this vein.

Q. Now, Mr. Schrimpf, in 1937, at the convention in Portland of the Maritime Federation of the Pacific Coast, you stood up at a meeting, visited by Mr. Bonham of the Immigration Service, and you criticized Mr. Bonham because you had been picked up and questioned, didn't you?

A. That is correct. I was taken by—they called themselves "immigration authorities" at Portland, and I told them I didn't think it was fair or democratic picking me up without allowing me to get some legal advice. That was a long time ago, that's the best I can recall it.

Q. What you said is this:

> "Inasmuch as Mr. Bonham has mentioned an individual here, and inasmuch as it is common knowledge that he refers to me, I believe, having been a permanent resident in this country for the past 18 years, and having entered this country legally, I, at this time, certainly take exception and wish Mr. Bonham to know

> that in my opinion it is far apart from the democratic spirit of this country to [1635] molest any individual in the way of subpoena."

Mr. Paisley: Now just a moment. Your Honor, I don't like to shut him off, but it now appears that he is talking about some alleged mistreatment of this witness and not of Harry Bridges or any other defendant in the case. Therefore it seems to me that it is an improper question.

Mr. MacInnis: Your Honor will see that I have the purpose that I mentioned.

The Court: You are coming to the point?

Mr. MacInnis: I am going to read this and then I am going to ask a question. Your Honor will see the point in a moment. I think I need not telegraph the point in advance.

The Court: All right.

Q. (By Mr. MacInnis, Continuing): And you said you also wished to state:

> "As long as I am a resident of this country and not carrying out a policy which conflicts with the setup of this country, I would at all times like to reserve the right, as a resident of this country, to stand by my democratic rights in doing things voluntarily. And once more I wish to state, in my opinion, it was not acting along the lines of a democratic policy to go to my room and force me to appear before certain government officials. And as Mr. Bonham stated, they did not force me, but

> their intent was to force statements from me, which in my opinion was the [1636] matter for the government officials to find out."

And then you added to that: ——

Mr. Paisley: Now wait a minute. Your Honor, suppose the witness had made such a statement. What possible bearing, what relevancy would it have to this proceeding?

Mr. MacInnis: Your Honor will see that in a moment. This is a perfectly proper inquiry and it will lead in my respectful opinion——

The Court: I will accept your assurance, counsel.

Q. (By Mr. MacInnis): And then you said this further, addressing Mr. Bonham, who was there as the guest of the convention as the representative of the Department of Immigration,——

Mr. Paisley: I object to the form of the question. He is testifying, Your Honor. He may ask him, under Your Honor's ruling, if he did not make such a statement.

The Court: Yes. Proceed.

Q. (By Mr. MacInnis): "As a representative of the Immigration branch of the United States Government, has at any time your department set forth an earnest endeavor in the attempt to deport any individual connected with big business when they knew he was an alien? They are the real ones who are detrimental to the big majority of people in this country and at all times are trying

(Testimony of Henry Joseph Schrimpf.)

and using every effort to exploit the majority of workers."

And didn't Mr. Bonham reply to you: [1637]

> "Your question amuses me. The Immigration Department has attempted to deport any alien, irrespective of who or what he might be."

Do you remember that?

A. It sounds familiar. I could have made that statement.

Q. Now, Mr. Bonham, you know and knew, was the superior of Mr. Boyd, who sits here in court, at that time? Do you know that?

Mr. Paisley: Your Honor, I must object. I can't see where we are getting. I don't feel he is getting to any relevant issue.

Mr. MacInnis: I will come to it in the next question, Your Honor. I think I am not bound to satisfy the prosecution by the trend of these questions.

The Court: Proceed, counsel.

Q. (By Mr. MacInnis): Did you know that?

A. No, I did not know the connections.

Q. You didn't? You have not met Mr. Boyd?

A. Oh, I met Mr. Boyd here, but——

Q. Yes?

A. I do not know the connections—as you referred to him here, about being superior and working for who.

Q. Yes. Here is the point now, Mr. Schrimpf. All the time when you appeared at the convention,

(Testimony of Henry Joseph Schrimpf.)

the Maritime Federation of the Pacific, and made that statement protesting about the intrusion on your private rights, during all of that time [1638] you were already dealing with Mr. Bonham and passing on information to him which you hoped would destroy Harry Bridges, is that not the fact?

A. No, I passed on no information. [1638-A]

Q. At the time that you were picked up, according to your own statement, and brought to the offices of the Immigration Department in Portland in the year 1937, you were required to give a statement under oath, were you not?

A. I definitely was not, and that is strictly a misstatement.

Q. You were not required to give any statement? A. I gave no statement.

Q. You were not asked whether or not you were a Communist, is that right?

A. No, I was not asked that question.

Q. Mr. Bonham, who had you picked up as an alien, never asked you whether or not you were a Communist, is that right?

A. Not to my recollection, no.

Q. You knew a man named James Branch on the waterfront, did you not?

A. The name sounds familiar, yes; Branch, yes.

Q. And you knew that James Branch in the year 1935 was deported from this country back to his native England because he was a Communist?

Mr. Paisley: I object.

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**TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES**

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY
SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume IV
(Pages 1445 to 1934)

**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In .... Volumes

Volume IV

Pages 1445 to 1934)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van-Orden Co., 870 Brannan Street, San Francisco, Calif.

(Testimony of Henry Joseph Schrimpf.)

The Court: That was heretofore gone into. I will sustain the objection.

Mr. MacInnis: May I suggest, your Honor, it goes to the state of mind of this witness in telling us now the things he said were not discussed in this interview with Bonham? [1639]

The Court: The objection is sustained, counsel.

Q. (By Mr. MacInnis): You say you were not dealing with the Immigration Department at that time as an undercover agent pretending to give information about Harry Bridges in 1937?

A. Definitely not.

Q. Had you met Harper Knowles at that time?

A. I don't recall ever meeting Knowles in my life.

Q. Had you met Stanley M. Doyle at that time?

A. I never met Doyle in my life.

Q. You had met Arthur Kent, the husband of Norma Perry, at that time, had you not?

A. Yes, that is in the record already, Kent and many other names he was alias by.

Q. And you knew that on the very day in 1937 when you were pretending to make a protest against Mr. Bonham's intrucion on your rights, that Bonham, Harper Knowles and Stanley Doyle had placed Arthur Kent in a position with NBC in Portland to attempt to dictagraph and to obtain information against Harry Bridges, you knew that, didn't you?

Mr. Paisley: Your Honor,——

(Testimony of Henry Joseph Schrimpf.)

A. I definitely didn't know any such thing.

The Court: Mr. Schrimpf, may I ask you to await the interposition of an objection?

A. Pardon me, your Honor.

Mr. Paisley: Objection, your Honor. [1640]

The Court: The objection is sustained.

Q. (By Mr. MacInnis): By 1937 you were already possessed of a great hatred for Harry Bridges; is that not the fact?

A. That is not correct.

Q. You had never expressed yourself as being willing to do anything to get Harry Bridges?

A. I fought him on many occasions on policy, yes. I have even come to very bitter words.

Q. Why, you once assaulted Henry Schmidt with your fists, did you not?

A. I protected myself from an insult.

Q. And I suppose you bear him no ill will either?

A. No, personally, no. Policy, yes.

Q. Isn't it true that within the past month on at least six occasions you, while drinking at a place called Ed's Bar at No. 58 Embarcadero, have said that you would do anything to get Bridges and Schmidt, in the presence of anybody who happened to be there? A. That is a definite lie.

Q. Now, you say you were not dealing as an undercover agent of the Immigration Department against Bridges in the summer of 1937, is that right?

A. That is definitely correct. I wasn't dealing in any way at all with the Government.

(Testimony of Henry Joseph Schrimpf.)

Q. As a matter of fact, you know, Mr. Schrimpf, that Madame [1641] Perkins, the Secretary of Labor, wrote a letter to Congressman John M. Coffey of the State of Washington——

Mr. Paisley: Just a moment.

Q. (By Mr. MacInnis, continuing): ——in July 1937, saying that the Immigration Department was not going to take any stock in the rediculous charges that you were making at that time, in 1937, against Harry Bridges?

Mr. Paisley: Your Honor, ——

A. I never heard of any such——

Mr. Paisley: Just a moment, Mr. Witness.

The Witness: Pardon me.

Mr. Paisley: Your Honor recalls the form of that question?

The Court: Yes, I do. The objection is sustained.

Mr. Paisley: He says, "You know that Mrs. Perkins did so-and-so."

The Court: It may be regarded as an indirect method. However, the objection is sustained. The witness' answer is stricken from the record.

Q. (By Mr. MacInnis): Now, Mr. Schrimpf, to refresh your memory I am going to show you, and I will show the Government counsel first, a letter on the stationery of the Congress of the United States bearing date of July 30, 1937, in which Congressman John M. Coffey discusses this very matter.

Mr. Paisley: Your Honor, this is so palpably

(Testimony of Henry Joseph Schrimpf.)

incorrect and improper on the part of counsel to wave some letter and [1642] tell the Court and jury what it is before it is in evidence.

Mr. MacInnis: Judge, I propose to prove the fact of this man's acting as an undercover agent was even known to Congress and to the Secretary of Labor in 1937, and it was known to him as well.

The Court: The objection is sustained. The remarks of counsel are stricken from the record and the jury is instructed to disregard the same.

Mr. Paisley: If your Honor would look at it, you could see it has no bearing.

Mr. MacInnis: There is no question before the Court.

Mr. Paisley: It is not an instrument with which he could confront this witness.

The Court: The objection is sustained.

Mr. MacInnis: Judge, I have not passed the instrument yet.

The Court: I assumed you had passed it to him or attempted to pass it to him. You can pass it to him now.

Mr. MacInnis: I do not see how I could, your Honor. I am attempting to obey the rule and pass the documents first to the Clerk. I ask the Clerk to pass this letter, on the letterhead of the Congress of the United States, to this witness.

(Document handed to witness.)

The Witness: Your Honor, —— [1643]

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: Don't comment about the letter unless some question is asked you.

Q. (By Mr. MacInnis): Mr. Schrimpf, it is a fact, is it not, that sometime early in the year 1938, Harry Bridges himself made known to you his receipt of the letter just shown you now on the stationery of the Congress of the United States written by John M. Coffey to Mr. John L. Lewis, the president of the United Mine Workers of America, in which he says that Madame Perkins herself——

Mr. Paisley: One moment.

The Court: One moment, counsel.

Mr. Paisley: Counsel seems very anxious to read this letter to the jury, which is a letter from someone but not to this witness, and it is not a letter written by the witness.

Mr. MacInnis: He certainly could be asked if he had seen it.

Mr. Paisley: I made my objection: He has no basis for reading it to the jury.

Mr. MacInnis: May I suggest this: The prosecutor who now makes the objection has upon innumerable occasions in our last engagement here said that the statements of all transient people whose names we have never heard are somehow binding upon us. We objected in vain. Now he says a letter on the stationery of the Congress of the United States pointing out what this man was doing in 1937 is not admissible. [1644]

The Court: Counsel, there is no purpose in arguing the matter or attempting to argue the matter to the jury in connection with the offer of any evidence or the proffer of any letter. I indicated in the past I would admonish the jury, and I accordingly admonish the jury from time to time. The matter of handing a letter to the witness, showing it to him, is one thing; the matter of addressing the contents in advance is quite another thing. There is a question before the witness. He was asked whether or not he had ever seen this letter on this occasion. Was that the question?

Mr. MacInnis: Substantially. I will reframe the question, your Honor.

The Court: May I ask you again to either refrain from exhibiting the contents of the letter or otherwise referring to it in advance of identification or in advance of the receipt of the document in evidence?

Q. (By Mr. MacInnis): Mr. Schrimpf, the fact of this letter's existence was made known to you sometime in the year 1938, was it not?

A. That is the first time I ever saw such a letter, and this letter does not have reference to what I done. It says, "Statements that Schrimpf may have made."

The Court: One moment.

The Witness: That is trying to confuse the issues here.

Q. (By Mr. MacInnis): You are Harry Schrimpf, aren't you? [1645]

A. That is correct.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: We ask that this letter be marked for identification.

The Witness: I would like it read.

(Letter, John M. Coffey to John L. Lewis, was marked Defendants' Exhibit J for identification.)

Mr. MacInnis: I show Government counsel a carbon copy of a reply letter from Harry Bridges to Mr. John M. Coffey of the House of Representatives at Washington on that same subject, without reading the contents.

Mr. Paisley (After reading letter): Thank you.

Mr. MacInnis: Would you hand this carbon copy of the letter already described to the witness, please.

Mr. Paisley: Your Honor, I would ask the Court to look at that document before it is handed to the witness, because it will be obvious to the Court is in no way connected with it. It is hearsay, self-serving in nature.

Mr. MacInnis: You mean there is something so terrible in this letter that Mr. Schrimpf may not even touch it; is that it?

Mr. Paisley: Address the remarks to the Court, please.

Mr. MacInnis: It seems rather idle to speak to you.

The Court: There is no occasion to submit it to the witness. You are going to address a question

(Testimony of Henry Joseph Schrimpf.)

to the witness concerning that letter? Is that your purpose? [1646]

Mr. MacInnis: May I ask your Honor a question?

The Court: Yes.

Mr. MacInnis: By what mental route would your Honor suggest that this witness would be able to say whether he had seen a document before if it is not shown to him?

The Court; The objection which is quite apparent with every a casual reading of the letter, is one that is elemental in the trial of cases, to wit, that it involves actions between others, res inter alios acta.

Mr. MacInnis: The rule I have urged so many times in these proceedings.

The Court: Counsel, the last remark is uncalled for. Is there an objection?

Mr. Paisley: Yes.

Mr. MacInnis: I am not criticizing you; I am referring to the rule, your Honor.

The Court: The objection is sustained. It may be marked for identification.

(The letter referred to was marked Defendants' Exhibit K for identification.)

Q. (By Mr. MacInnis): Mr. Schrimpf, in the year 1937; you had written some letters to the Immigration Department, had you not?

A. I have never written a letter to the Immigration Department in my life, period. [1647]

Q. And it is not true that you pretended to have

(Testimony of Henry Joseph Schrimpf.)

any inside information about Harry Bridges at that time?

A. I told them I knew nothing of Bridges at that time, whether or not he definitely was a Communist.

Q. In other words, in 1937, in June of that year, you told the Immigration Department, where you had been summoned by subpoena, that you knew nothing about Harry Bridges, as to whether or not he was a Communist? A. Right.

Q. You told them that under oath, didn't you?

A. No, not under oath.

Q. You mean you make some distinction between the things you say when you are under oath and when you are not?

A. That could be possible.

Q. Why, you were brought before the Immigration Department under subpoena at that time, were you not?

A. That is not correct either.

Q. I am only referring to your statement you made in the open convention that you were brought in there by subpoena; is that false?

A. No; the way I was brought to the Government, I was in my room taking a wash, and there was three men appeared. I was sharing a room with Bill Marlow. I didn't know who they were They said, "Get your coat on." I thought I was being taken for a ride. [1648]

(Testimony of Henry Joseph Schrimpf.)

I said, "Why should I get my coat on?"

Q. What do you mean by "taken for a ride"?

A. I didn't know—a bunch of thugs or something of the kind. I didn't know anything about it.

Q. They soon reassured you and it proved they were not really thugs but they were officers of the Immigration Department?

A. They showed their badges. They showed their badges, and I said to Bill, "What shall I do?"

He said, "You had better go down with them, Henry."

Q. Where did they take you?

A. I don't know. They took me up to some office.

Q. What did they do when you got there?

A. When I got there they asked me——

Mr. Paisley: This is immaterial, your Honor, to the issues in this case, unless he can connect it in some way with the defendants.

Mr. MacInnis: Judge, it seems to me there would be a multitude of reasons why this inquiry would be highly proper. This man has sworn that he at one time joined the Communist Party. It also appears that he was an alien. It also appears, either from common knowledge or from things we have seen in this record, that if an alien belonged to the Communist Party, that deporatation proceedings would be taken against him. It also appears that this man was taken before the [1649] Immigration Department. Now, whatever he said at that time would be inconsistent with what has taken place

(Testimony of Henry Joseph Schrimpf.)
here, whether he said Yes or No to the questions.

The Court: Is there an objection, counsel?

Mr. Paisley: Yes, your Honor.

The Court: What is the basis for the objection?

Mr. Paisley: That it is irrelevant to any issue in this case what might have happened to him. Suppose the Immigration authorities had beaten him up, tapped his wires, done all kinds of things that Government officials are usually accused of in cases of this type. What difference would that make in this case? That is obvious.

Mr. MacInnis: Judge, the criticism in this question or implied in it is not directed against the Immigration Department but against the witness who is being cross-examined. We are not interested in whether he was well treated or poorly treated by them, but if he was asked at that time if he was a member of the Communist Party and he said, "No"——

The Court: We are dealing in suppositious statements on your part. The objection is sustained. I can't see at this juncture the materiality of that.

Mr. MacInnis: He has sworn under oath in these proceedings that he was a member of the Communist Party, has he not, your Honor?

The Court: He has sworn that at one time he was a [1650] member of the Communist Party.

Mr. MacInnis: If he testified here he made a statement contrary in 1937 it would be highly pertinent to this inquiry, particularly as this witness, who has purported to give some testimony linking

(Testimony of Henry Joseph Schrimpf.)

the defendants in this case, according to the claims of the prosecution, now says that in 1937, when his memory was certainly fresh, that he told members of the Immigration Department that he had no information one way or the other as to whether Harry Bridges was a member of the Communist Party.

Mr. Paisley: We do not object to that, and we would not object if he asked on other occasions denied that he was a member of the Communist Party, but this other matter he is trying to drag in here is obviously immaterial. [1651]

Mr. MacInnis: May the question be read, Your Honor?

The Court: The objection is sustained at this juncture.

Mr. MacInnis: May the question—I confess that I have lost the trend of what the question was.

The Court: All right, you may have it read.

(Question read.)

The Witness: Now, may I answer that question, Your Honor?

The Court: The objection is sustained to it.

Q. (By Mr. MacInnis): You were asked at that time if you were a member of the Communist Party or had been?

A. I was not, and that is also in the record.

Q. Let me ask you this, Mr. Schrimpf: At the time you were taken up before the Immigration Department in the manner we have just now described, did you then make some deal with the Immigration Department where you would be spared if you would purport to give information against Harry Bridges? Is that what you did?

A. I made no deal whatsoever. When I was called up at this particular meeting in '37, I was called into the room, first of all. They said, "Can we bring a stenographer in?" and "Will you make a statement on it?" I said, "I have nothing to say." And after that they said, "Well, do you know Harry Bridges is a Communist?" I said, "I do not know anything about Harry Bridges." I was not under oath and so then they started to tell me, "Well, you are a good American, you want to help the [1652] country?" I said, "I have nothing to say." There was nothing taken down, there was no reporting made of it, and that is actually and all what happened at that hearing. Now, there was no subpoena, I was taken out of the room and I was kept there, to the best of my recollection, for about a half hour. There was nothing else said and no statements taken period.

Q. Now, no, we haven't come to the period, Mr. Schrimpf. You state to us now that the Immigration Department, knowing that you were an alien, said to you, "Mr. Schrimpf, you are a good American." Is that what you ask us to believe?

A. That is what they said; they said, "You want to be a good American, you want to help the country?" That is what they said to me.

Q. And something about you or the manner in which you spoke was so commanding that they

(Testimony of Henry Joseph Schrimpf.)

didn't even go ahead and ask you the questions, that they just let you go?

A. Their big concern was to bring a girl in, and would I take an oath? And I says, "No." "At least you can show me the courtesy of allowing me to get some legal advice."

Q. And having made that attempt to speak with you, they never thereafter followed the matter through?

A. They did not. I had no more connections with them. I made a report on the convention floor the following morning. And I imagine, or this could have been, where this report comes from. It was along those lines which you have there in the recordings [1653] now.

Q. And you didn't at any time pretend to the Immigration officials in 1937 that you had inside information that would succeed in having Harry Bridges deported?

A. I had no conversation along those lines whatsoever.

Q. On Friday last you told us about a certain meeting which you said in your opinion was a Communist meeting and that the purpose of it was to discipline Norma Perry because she had been having something to do with the wrong kind of people, and the people you mentioned were two men, one named Scotty Frater, and another man named Cox, is that right? A. That is in the record.

Q. Yes. Cox's name was Ivan Cox, wasn't it?

A. That's right.

(Testimony of Henry Joseph Schrimpf.)

Q. Frater's name, as you gave it to us here, and as you recall it, was "Scotty Frater"?

A. That is what I knew him as.

Q. Scotty Frater was secretary-treasurer of the union at one time, true?

A. He was at that time. That is in the record.

Q. Yes. And Ivan Cox later held the same position, that of secretary-treasurer of the same union?

A. Yes. He served as a financial secretary instead of secretary.

Q. Yes. And in reference to the charges against Norma Perry, [1654] both Scotty Frater and Ivan Cox were removed from their office as secretary-treasurer because of embezzlement of union funds—both of those persons—isn't that right?

Mr. Paisley: Well, what if they were? Does that have any bearing on this?

The Court: Sustained.

Mr. MacInnis: May it please the Court, the purpose of this question, among other things, is to show, as we will show, that any criticism which might ever have been directed in an official meeting or otherwise at the woman whose name has been mentioned was criticism having nothing to do with the Communist Party, having to do with her connivance with employer groups, labor spies, people like Harper Knowles, Stanley M. Doyle and the people whose names have been mentioned by this witness. It is a very material matter. This witness purports to tell us that this woman, although an innocent person, was criticized; and he gives us the reasons. Now, we certainly wish to show and ought to be allowed to show that the entire basis was different than the way this witness has described it.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Now, concerning the second of these two men, Ivan Cox, the secretary-treasurer, you say the following year, of your union, Ivan Cox was the man who in 1938 filed a complaint in the Superior Court here in San Francisco naming as Communists Harry Bridges, Frederick March, Paul Schmidt, [1655] Bishop Parsons, Robert Kenny, the Attorney General of the State, and Mr. Whitken, the clerk of the Supreme Court of the State of California. That is true, isn't it?

A. I can't——

Mr. Paisley: Objected to. Just a moment. Objected as immaterial and irrelevant; it is something somebody else may have——

The Court: Would you read that question to me, please, Mr. Reporter?

(Record read.)

The Court: The objection is sustained.

Mr. MacInnis: Your Honor, I think it goes to the verity of whether or not these two men with whom Norma Perry was accused of collaborating were good union people and whether they were in fact collaborating with the forces that were seeking to destroy the union.

(Testimony of Henry Joseph Schrimpf.)

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Well, Mr. Schrimpf, you were present in November of 1938 at a meeting of the union in which the matter of the complaint which Mr. Cox had filed was discussed by you, is that not true?

Mr. Paisley: Object to it as immaterial, irrelevant, to any issues in this case.

The Court: Sustained.

Q. (By Mr. MacInnis): Now you say that you have no hatred for [1656] Harry Bridges?

A. No personal hatred whatsoever.

Q. And you have no personal hatred for Henry Schmidt? A. Right.

Q. And that has always been your state of mind? A. That's right.

Q. Well, now, even after the union, which had been the ILA, became the ILWU, even after it left the American Federation of Labor and joined the CIO, you were the leader of the opposition which sought to keep the union in the A. F. of L., isn't that right?

A. That is not correct. I did object to the limited time given for the men to prepare themselves, and inasmuch as, in this objection, after a resolution which was read at the 1936 convention by Brother Bridges himself condemning anyone who wished to get out of the A. F. of L., I thought it was very peculiar that he should change his mind so quick and on such short notice.

Q. Your feeling was so great that you and two

(Testimony of Henry Joseph Schrimpf.)

of your associates get out a newspaper so that you could publish your opposition to the CIO, isn't that right?

A. That is definitely a lie. The only connection I have with any propaganda, I sent a letter up and down the Coast asking them just what the reaction was on his change of affiliation. That definitely and positively was the only connection with [1657] any paper gotten out.

Q. Anybody else sign that letter with you?

A. Oh, I think there were two or three signed that letter.

Q. Would those be Mr. Kennedy and Mr. Ralph Malin?

A. Yes, they could have been signatories to that letter.

Q. That would be James F. Kennedy and Ralph F. Malin, is that right?

A. Yes, they could have been signatories to that letter.

Q. And you tell us now under oath that you didn't do anything by way of publishing your feelings, but you merely sent a letter up and down the Coast? A. That is definitely correct.

Mr. Paisley: Any particular part of this that you feel is relevant, counsel, or the whole paper?

Mr. MacInnis: A few moments ago the prosecutor told me to address my remarks to the Court. I hardly know what to do in this position.

Mr. Paisley: All right, sir, thank you.

Mr. MacInnis: I will ask the Clerk to hand the document to the witness.

(Document handed to the witness by the Clerk.)

Q. (By Mr. MacInnis): I will ask the witness to look at the first page of the publication which is called "The Longshoreman." I will ask him whether or not there appears on that page an open letter signed by himself. [1658]

A. That is a copy of the letter which I sent up and down the Coast. That is a reproduction of it.

Mr. MacInnis: I think we can wait until His Honor looks at it.

(Document handed to the Court by the witness.)

The Court: This is the letter referred to, signed by Kennedy, Malin and Mr. Schrimpf?

The Witness: That's correct.

The Court: Dated July 29, 1937.

Mr. MacInnis: May the paper be marked Defendant's next, Your Honor?

Mr. Paisley: Your Honor, I might say that for the time being I would like to state my position about this: I realize that certainly to some extent counsel can question government witnesses as to disputes they have had with Bridges and Schmidt and Robertson, if they have had any, as bearing upon their motive in testifying against them. But whether we can go into all the details of their disputes is quite another question; and it looks like, to me, that is where we are headed here. I would just like to make that observation.

The Court: I have not read the full text of the letter, counsel, in the brief period allotted to me. This is the letter the witness heretofore referred to?

Mr. Paisley: Yes.

The Court: He admits its origin; he admitted that he had [1659] occasion to write it.

Mr. Paisley: That is true.

The Court: He admits the two gentlemen referred to acted as co-signatories. Under the circumstances, the letter, or the reprint in the publication may be received. I might say parenthetically that the balance of the publication has no immediate bearing upon the issue, and we will admit it subject to the letter and for that purpose only.

Mr. MacInnis; That is true, unless further questions disclose a relevancy.

The Court: Yes, sir. It may be marked.

(Thereupon open letter dated 7/29/37 reprinted in The Longshoreman, issue of August 11, 1937, referred to above, was received in evidence and marked Defendant's Exhibit L.)

The Court: Limited to the matter in question.

The Clerk: Yes, sir.

The Court: The witness denied heretofore that he had anything to do with the publication of it.

Mr. MacInnis: Yes.

The Court: Is that correct, sir?

(Testimony of Henry Joseph Schrimpf.)

A. That's right, Your Honor. And I still can't recall where, unless this was our official paper, where that letter was allowed to be republished.

The Court: All right.

Q. (By Mr. MacInnis): Mr. Schrimpf, do you deny that you, Mr. [1660] Kennedy and Mr. Malin were publishers of the paper which you have now been shown, called The Longshoreman, and on its issue of Wednesday, August 11, 1937?

A. I definitely deny, yes, that I had anything at all to do with the editorial part of the publishing of that paper, if the letter—and it is in there—by my request; I can't recall that definitely I had—I had nothing to do with the publication of that paper.

Q. Did you ever hear of this paper, The Longshoreman, before?

A. It was out for a short period, I believe, on the waterfront.

Q. It was gotten out by a group in opposition to Harry Bridges, isn't that right?

A. No, it was gotten out by a group in opposition of policy.

Mr. MacInnis: I will read the letter.

Mr. Paisley: I object to that, unless it is in evidence, Your Honor. It certainly has no bearing on the issues in this case. I object to the letter being introduced in evidence.

Mr. MacInnis: Judge, we certainly have the right to inquire into what he said about Mr. Bridges and the others.

The Court: This letter, I understand my ruling, was marked in association with the paper. I did not assume to mark the paper in evidence, only the letter in evidence as it is reflected in the publication. Now, that was the intent and purpose of my rule.

Mr. Paisley: But I didn't understand Your Honor had admitted [1661] it into evidence in this case.

The Court: I admitted it.

Mr. Paisley: The name of Bridges is nowhere in it, appears nowhere in it, or my eyes deceived me.

The Court: Well, I did not, in the brief period allotted to me, assume to read the full text of that letter. I assumed counsel had read it and I was waiting for any material or pertinent objection you might make to the matter. I found none and accordingly we admitted it.

Mr. Paisley: Oh, no, Your Honor. I understood he was just marking it for identification. We move to strike it.

The Court: I will take the time, then, to read the full text of the letter.

Mr. Paisley: It has no relevancy.

The Court: And in the meantime, it may be marked. We will take it at the recess.

Mr. MacInnis: Judge, may I suggest,——

The Court: All right.

Mr. MacInnis: I think it will take Your Honor only about 45 seconds to read it.

The Court: All right.

(Testimony of Henry Joseph Schrimpf.)

(Document handed to the Court by the Clerk.)

The Court: This appears to be an intramural situation with respect to the matters that Mr. Paisley addressed himself to, and I will consider it in evidence subject to a motion, if it be [1662] tied in to Mr. Bridges or not, with respect to any rancor or ill will that may have been engendered——

Mr. MacInnis: That is its purpose.

The Court: If there is no such showing, I will reserve a motion to strike it.

Mr. Paisley: That is quite satisfactory, your Honor. We just don't want to go off trying a lot of issues that have no bearing to this case.

The Court: Counsel, I have that in mind.

Q. (By Mr. MacInnis): Mr. Schrimpf, Mr. Bridges was one of the leaders in bringing the longshore union into the fold of the CIO, was he not?

A. Yes, he was one of the top advocates for such a move.

Q. Yes. And didn't you, now having seen your letter in the publication already described, write as follows:

"San Francisco, July 29, 1937,
"Mr. G. Whitney, Local 3812,
"Seattle, Washington.

"Dear Sir and Brother:

"The intent and purpose in forwarding you this letter is merely in the interest of the rank

(Testimony of Henry Joseph Schrimpf.)

and file of this local. We realize that the vote to go CIO, so far as the ILA is concerned, was carried by a very large majority. But it is quite evident from the comment following this referendum that there was much confusion in the casting of the vote on this proposition by the rank and file. Many rumors [1663] have reached San Francisco to the effect that many of the locals who have voted overwhelmingly for the CIO would now reverse their previous decision if they had the opportunity for another vote on this question. At least that is the sentiment of the men in this local who voted to go CIO. It is very necessary to preserve the unity of this Coast, and we believe that some understanding and a true expression from the various ports should be made public. We should like for you to give us an unbiased opinion on whether or not your local membership have to any extent changed their minds on CIO affiliation. In your opinion, would your membership go along with this program without any danger of a split? What percentage of your membership voted to stay in the ILA? And do you think that the vote would be materially changed if the local had another opportunity to vote on this question? Nearly 800 members of this local voted to remain in the ILA. This number has increased somewhat since the membership learned that the SUP and the MFOW have destroyed their ballots on CIO affiliation. Has your port the pledged cooperation of the other maritime groups after you have received your CIO charter? Many disconcerting rumors have reached us in the past few days in regard to the views of your membership, and we, as rank and file members, would appreciate any information you may give us which would enable us to inform our membership of [1664] the sentiment of the rank and file in your port. Trusting that you will favor us with an immediate reply by airmail, and special delivery, so that this information will be available for our membership meeting Monday night, we are,

"Yours fraternally, James F. Kennedy, Ralph Malin, Henry Schrimpf."

Is that right?

A. That is the letter, as far as I can recollect.

Q. Now, of the three men whose names are subscribed to this letter, Mr. Kennedy is no longer in the labor movement, is that true?

A. That I don't know.

Q. But Ralph Malin and yourself, the other two signers of this letter against the CIO affiliation, are now walking bosses?

A. Malin and myself both belong to the walking bosses' union.

Q. Yes. You are both walking bosses, is that not a fact? A. That's right. [1665]

Q. Now, as to whether or not the paper which I have in my hand, which is called Defendants'

(Testimony of Henry Joseph Schrimpf.)

Exhibit L, was a paper against Harry Bridges, I am going to ask that the document be shown to the witness again. I will ask him if he reads the headline, if he will read the headlines upon the first and last pages. You have read those two headlines?

A. That is right.

Q. Those are both anti-Bridges headlines, aren't they?

A. I would call them factual headlines.

Mr. Paisley: Just a moment.

Q. (By Mr. MacInnis): Exactly, because you hate Bridges.

Mr. Paisley: Just a moment.

The Court: Sustained.

Mr. Paisley: Will the witness refrain from answering when counsel on either side objects? Just remember that, please. Now he comes up apparently, your Honor, with a signed letter——

Mr. MacInnis: I do not think there is anything before the Court.

The Court: There is nothing before the Court. You are correct.

Mr. Paisley: We move to strike this paper that he has got in evidence, your Honor, on the ground he hasn't connected it up with the defendants in any way yet.

The Court: There is nothing before me at this time, Mr. [1666] Paisley.

Mr. Paisley: The motion is addressed to the paper, your Honor. He promised he would in some way, after he read it to the jury, tie it in to Mr.

(Testimony of Henry Joseph Schrimpf.)

Bridges or to some one of the defendants. He has not done it.

Mr. MacInnis: I am about to do it. I can't do it in one question.

Mr. Paisley: He has handed us another paper.

Mr. MacInnis: Surely I am allowed to hand counsel another paper, your Honor. Purely to show the source of this, your Honor, I am going to ask that the second document be shown to the witness. I will ask this question:

Q. That is the original of the same letter that was printed in the paper, is it not?

A. Well, to save a lot of time, I will take it for granted it is. Just viewing it, I believe it is.

The Court: I assume it is the same letter also.

Mr. MacInnis: Now, your Honor, the prosecutor has invited me to show any connection between the letter read out of this newspaper and the defendant Harry Bridges, and I think I can do so very speedily.

Q. Mr. [illegible]hrimpf, the column in which the letter just shown you was printed begins with the statement, "Bridges blasts rank and file for seeking information"; is that right?

A. That is correct. [1667]

Q. And it begins with this heading: "The following letter is being printed for the information of the membership. This letter was written to individuals in several of the Pacific Coast ports requesting information. Bridges attacked the writers for trying to spread false information. Read the letter and judge for yourself whether or not it is misleading or in any way tends toward anything but an effort to bring to this membership some authentic information on what is really happening in other ports."

The Court: One moment, please.

Mr. Paisley: Your Honor, that just illustrates the position we take. He can ask this witness as harshly as he wishes as to disputes he may have had with Bridges or that Bridges may have had with him, but I do not think he can get down into the minute details and offer all these publications that might have been published back there at that time. Otherwise we won't know what we are trying here, but we will be getting a lot of irrelevant, confusing evidence before the jury.

Mr. MacInnis: Judge, I do not know what would be better as a basis, at least for one step, to show the hostility borne by this witness against Bridges, than reading the line, "Bridges attacked the writers."

The Court: There is no showing before the Court that the witness on the stand had any control over the editorial policy [1668] not that he demonstrated, by expression or inference, that he had anything to do with the prefatory notes thereof with respect to the subject matter of the letter. He admits the writing of the letter, and I shall entertain a motion to strike, and accordingly strike the same from the record.

Mr. MacInnis: Judge, we certainly have the

(Testimony of Henry Joseph Schrimpf.)

right to proceed by more than one question to develop the matter.

The Court: There is no logical or legal relationship with respect to the editorial comment that this man had any control of.

Mr. MacInnis: We will prove later by other witnesses that he did.

The Court: It may be marked for identification and you may reserve your offer.

Mr. MacInnis: We are certainly not bound by his present denial.

The Court: There is no question about that. It may be marked for identification. The letter is stricken and may accordingly be marked for identification. I suggest that we have the letter marked for identification so it may be referred to hereafter.

> (The letter referred to was marked Defendants' Exhibit M for identification.)

The Court: Is it a convenient time now, Mr. MacInnis, for a recess? [1669]

Mr. MacInnis: Whatever your Honor says.

The Court: If you have another question along this line——

Mr. MacInnis: I can conveniently stop.

The Court: Ladies and gentlemen of the jury, we will take the noon recess and resume at two o'clock. The same admonition to you not to discuss the case under any conditions, not to confer with any person on any subject connected with the trial,

(Testimony of Henry Joseph Schrimpf.)

and you are not to form or express an opinion until the matter is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.) [1670]

Afternoon Session—2:00 P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Henry Joseph Schrimpf, heretofore sworn.

HENRY JOSEPH SCHRIMPF

resumed.

Cross-Examination
(Continued)

By Mr. MacInnis:

Q. Mr. Schrimpf, did I understand you correctly this morning to tell us that you were never on any labor relations committee of the union?

A. That is right; not to my recollection.

Q. You have no knowledge of any such committee?

A. Yes, there was a committee known as the Labor Relations Committee, but as for me serving officially on it, I have no recollection.

Q. You were never on it and hence you never resigned from it?

A. I have no recollection.

Q. In the fall of 1934 Ivan Cox, whose name you have already mentioned, was the secretary-treasurer of the union, is that right?

(Testimony of Henry Joseph Schrimpf.)

A. That is correct.

Mr. MacInnis: I am sorry. I will ask the Court to bear [1671] with me. I have lost the marker I had in this document.

The Court: That is all right.

Q. (By Mr. MacInnis): I will ask you if this refreshes your memory, that on the 17th of October of 1934 Halling, Schrimpf and Henry Schmidt were appointed to the Labor Relations Committee of the union?

Mr. Paisley: I object to the question as having no relevancy and not within the scope of the direct, and has no tendency to discredit or impeach the witness.

Mr. MacInnis: May it please the Court, the circumstances under which this man resigned from that committee would be pertinent if proved, and he now states he has no memory, and I proposed to show by the minutes of the union itself what we suggest took place.

Mr. Paisley: How could the circumstances under which he might have resigned have any bearing upon the case? That would not be proper impeachment.

The Court: The witness has said he has no independent recollection of the composition of the committee nor that he has any independent recollection of being a member of the committee.

Q. Isn't that correct? A. That is right.

Mr. MacInnis: I will come back to that in a moment rather than delay and look for the marker here. [1672]

Q. Now, Mr. Schmidt——

A. Schrimpf is the name.

Q. Mr. Schrimpf, you said this morning when asked about whether or not you had bias against Henry Schmidt or Harry Bridges that your only bias was on matters of policy, is that correct?

A. Correct.

Q. Now, matters of policy have proved over the years to be the most bitter of conflicts among union men, is that not correct?

A. It has proven so.

Q. Yes. For example, the well known conflict between Harry Bridges and Harry Lundeberg is a bitter conflict, isn't it——

A. That is correct.

Q. ——on matters of policy?

Mr. Paisley: That calls for a conclusion, your Honor.

Q. (By Mr. MacInnis): And men in the unions have been murdered because of differences in policy?

Mr. Paisley: I object to that.

The Court: Sustained.

Mr. MacInnis: May I be heard on that?

The Court: Yes.

Mr. MacInnis: The point is this: This man suggests, your Honor, that he has no personal bias against the defendants Bridges and Henry Schmidt, and he says that all his [1673] differences with

(Testimony of Henry Joseph Schrimpf.)

those men over the years have been matters of policy. It has already been intruded into the record of this case that things have happened over policy conflicts. We had, not the first, but the second witness for the prosecution, Mr. Schomaker, who related about a beating he received on an intramural dispute between unions.

The Court: That was the alleged beating by the goon squad.

Mr. MacInnis: Exactly.

The Court: Adverted to more recently by Mr. Hallinan.

Mr. MacInnis: Yes, correct. [1674]

The Court: Counsel, in a generic sense that may be altogether true. You might take that as an academic situation. But specifically, as I take it, we are dealing with the alleged bias or animus or the like on the part of this witness toward the defendant Mr. Bridges or Mr. Schmidt or Mr. Robertson. Now, I do not see at this moment how you may descend from the generic quantity down to the more specific; but you are entitled to show, if you can show, the matter, and that is again a matter that I shall not preclude myself on. I will give you full scope to show that this man, if he has any animus or bias or prejudice towards any of these defendants.

Mr. MacInnis: Yes.

The Court: Now, I can't anticipate the trend of your examination, and obviously I shall await that moment. But we may take it, I suppose, as some-

(Testimony of Henry Joseph Schrimpf.)

what axiomatic that matters of policy do engender some degree of——

Mr. MacInnis: That is exactly the purport of these question, your Honor, to show that.

The Court: But the quantity we are dealing with now is this man's individual bias or prejudice or grievance or malice, if he bears any, toward the defendant.

Mr. MacInnis: Yes, your Honor. I have now found the matter that I had misplaced. I looked into the wrong transcript, your Honor.

The Court: All right. [1675]

Q. (By Mr. MacInnis): Let me ask you if this refreshes your memory, Mr. Schrimpf, that on the 15th day of October in the year 1934 you were nominated and elected to the labor relations committee of the ILA.

Mr. Paisley: Well, I object to that as immaterial, irrelevant, having no bearing upon the issues in this case.

The Court: It is a preliminary question, I assume, that has to do with the relationship to this committee. Overruled.

A. What sort of relations? You say election?

Q. (By Mr. MacInnis): Reading from the minutes of the meeting of the ILA, Local 3879, of October 15, 1934:

> "Nominations for ILA labor relations committee. Henry Schmidt elected. Henry Schrimpf elected. Charles Connors elected. George Wolfe, elected. Fred Knopf elected."

(Testimony of Henry Joseph Schrimpf.)

Does that refresh your memory?

A. In answer to that question, it refreshes my memory to this extent: We had not established at that time a regular labor relations committee. We did have a committee to take up some kinds of beefs and straightening out of some of the—well, some of the functions, the working functions on the beach at that time, and it wasn't considered the regular labor relations committee, as we know it. We have a regular labor relations committee now, where men are elected by the membership, and it was on such a committee—I thought you had reference to when you questioned me. [1676]

Q. And it is your position that this was not a committee elected by the membership?

A. I don't believe it was a ballot election. I believe it was just a temporary arrangement, as I say, to take up this emergency, right after the strike.

Q. You don't think that there were any votes, actually? A. What's that?

Q. You don't think there were any votes, actually?

A. I can't recall any votes being counted, no.

Q. Well, now let me ask you——

A. That is on a ballot?

Q. Yes.

Let me ask you if this doesn't refresh your memory reading from the minutes of the same organization:

"Motion that the members of the labor rela-

> tions committee be elected by ballot, ballots to be printed by tomorrow noon."

Does that refresh your memory as to whether or not this was an election by ballot and by votes rather than just a temporary measure?

A. I still do not recall having a ballot election on this temporary committee.

Q. And as to the number of votes, Frank Davis, who ran, received only 26 votes and was not elected. Ralph Malin received only 132 and was not elected. George Wolfe received 193 and was elected. You received a unanimous vote. Do you remember [1677] that? A. A unanimous vote?

Q. Yes. A. Of all votes cast?

Q. Yes.

A. I can't conceive of anyone ever receiving a unanimous vote of all votes ever cast by ballot.

Q. It is your suggestion that the minutes of the organization are in error and your memory is correct? A. Oh, no.

Mr. Paisley: Well, that presupposes he is reading from some genuine minutes, your Honor.

Mr. MacInnis: Indeed it does, and I am reading from the genuine minutes.

The Witness: Your Honor, may I answer that question? I haven't answered it yet.

Mr. MacInnis: I beg your pardon. You are skeptical of these minutes?

The Witness: I haven't answered that question yet.

(Testimony of Henry Joseph Schrimpf.)

The Court: You may answer.

A. (Continuing): According to the reading there, it was a ballot vote. When they say, "A unanimous vote," that is from the floor. And that is what I tried to have reference on there. Evidently it was a hands up vote on the floor to elect a temporary committee and that is what I would like to have [1678] straightened out here. I never heard of anyone being elected unanimously in this or any other election on a ballot vote.

Mr. MacInnis: All right. Since you were not elected then, you never did resign from that committee?

A. I never said anything about not being elected, according to the votes there, and it wasn't a regular labor relations committee.

Q. Oh, you do have some memory now of the matter, do you?

A. I have served on committees, yes; many committees.

Q. I see. And let me ask you if this refreshes your memory. Reading from the minutes of the general membership meeting, Tuesday evening, November 13, 1934, held at the Building Trades Temple.

Mr. Paisley: Well, now, your Honor, how could minutes, probably prepared by somebody else refresh the recollection of a witness? We usually think of a witness being confronted with some document he prepared himself when you say to refresh his recollection. The minutes are not in evidence. We object to his reading from them.

Mr. MacInnis: Judge, a man's recollection may be refreshed from any source that can be called to his attention, if it is an official document prepared by persons present.

The Court: The purpose of the attempted refreshing of the witness' recollection is to determine whether or not he was ever a member of a particular committee, and secondly, whether [1679] he ever resigned; is that correct? Is that the question?

Mr. MacInnis: Yes, your Honor.

The Court: All right; you may proceed.

Q. (By Mr. MacInnis): Let me ask you if this, then, refreshes your memory, reading again:

> "The resignation of Brother Henry Schrimpf from the labor relations committee which had been held from last meeting, approved."

A. What date?

The Court: May I ask you to show the context of that particular reference to the witness? That may tend to refresh his recollection. Because if his recollection is refreshed in that form or any other form, it is perfectly all right.

Mr. MacInnis: Yes. I will ask the witness to give his attention to the third paragraph on the page, which will be displayed, and that paragraph consists of two lines only.

(Testimony of Henry Joseph Schrimpf.)

(Document handed to the witness by the Clerk.)

A. Is that the third paragraph?

Q. Yes. Now, having seen the entry in the minutes, does that refresh your memory that you resigned from the labor relations committee?

A. I don't know yet whether there is anything presented where I ever served on the committee. The date on that is under November the 13th. It has been held over one meeting. What date was this so-called election or appointment made of this committee you have reference to? [1680]

Q. I told you that already, October 15.

A. I have forgotten. What time?

Q. October 15.

A. October 15. This is under the heading of "Minutes of November 13," It is held over for one week, and I don't know for sure whether we were holding a meeting every week or not at that time. If we were, it would still leave practically no time to serve on any committee, and the question—the pertinent first question asked, Did I serve on the labor relations committee and if I resigned, I would like to see in answer to this question some definite evidence where I actually served on that committee, which I said I did not.

Q. You mean that election to the committee? I have already read you minutes of the meeting of October 15, showing that you were nominated and elected to that committee. Now is it your position

(Testimony of Henry Joseph Schrimpf.)
that regardless of what was done you never did serve on that committee?

Mr. Paisley: I object to counsel characterizing the testimony, your Honor, testifying as to what the witness said and his conclusion as to what it means.

The Court: Overruled.

A. In answer to that question, the time elapsed is from October 15 to November 13, 28 or 29 days. According to the minutes, it was held over from one meeting, which would mean two weeks. That would cut it down to 14 days. As I said [1681] before, this is not a regular election, and there has no proof been given here yet. It was an election from the floor. I was supposed to be elected unanimously; and I have yet to hear any proof where I functioned on any such committee, and all I have heard, I resigned from the committee. If I was elected just by an Aye and Nay vote on the floor, or a count of hands, the question is, Was I elected and served on the committee? I said I don't recall any such committee, and at that time we never had no regular setup for a labor relations committee. It was a temporary arrangement for a committee to function and try to straighten out things on a back-to-work movement, and I would ask—I should be asked some questions as to when I functioned, if ever, on that committee, and I think that would be a more fairer question.

Q. (By Mr. MacInnis): In other words, having read the report of your election out of the minutes, and having been shown the minutes stating

(Testimony of Henry Joseph Schrimpf.)

that your resignation was accepted, it is your position that you never functioned or did anything on that committee? A. I don't recall.

Q. Let me ask you if this refreshes your memory, reading from the minutes of October 17, 1934: The caption: "A report of Labor Relations Committee. Brother Henry Schmidt supported the report of Brother Knopf. It was stated that the 15-hour [1682] and 48-hour schedule would remain in effect until a definite change had been made, except, however, for the decision that all time in excess of six hours would be paid for at the overtime rate between the hours of 8 a.m. and 5 p.m. Brother Schrimpf verified all previous reports." Does that refresh your memory?

A. Was that a union meeting, of a committee from a union, or was that a regular labor relations committee?

Q. It says here that it is the minutes of all of the meetings of the union from which I am reading.

A. In answer to the question, I would like to have this made clear in answer to the question: A labor relations committee functions with both sides present, and they function with the employer and the union. As yet there has been absolutely no documentary proof or evidence or any account given here of where we sat in at any meeting. I recall this very well.

Q. Now you recall it?

A. It was a committee set up to establish certain relations and conditions on this back-to-work move-

(Testimony of Henry Joseph Schrimpf.)

ment within the union itself, and it was not a regular labor relations committee meeeting with the employers.

Q. In other words, although the committee had been named a labor relations committee, it is your position for the purpose of your testimony that it was not really a labor relations committee [1683] at all? A. No, not the way we know them.

Q. Although it had that name, though you were on it, served on it and resigned, it is now something else because you choose to say so?

Mr. Paisley: That is argumentative, your Honor.

The Court: Pardon me. One thought, if I may intrude myself at this juncture. There may be some distinction between the bargaining committee as such and the committee referred to in the minutes.

Q. Do you make any such distinction between the bargain group where the employers are present and the employer-employee relation exists, and the type of meeting referred to in those minutes?

A. Very definitely. As I tried to point out, a labor relations committee is exactly what the word implies. It is a labor relations committee, and the employers' committee sit down and try to thresh out things. This was strictly a union committee to function or to determine this back-to-work movement under which we were functioning, and the labor relations committee—anyone in the union, anyone sitting here today knows what it stands for.

(Testimony of Henry Joseph Schrimpf.)

It still functions in this organization. They meet, I believe, every week and at any other time in an emergency, on call, and there is a representation of both sides there, and as yet there has been nothing presented here where any such meeting took place, only sitting [1684] down to thresh out certain union conditions and rules we would operate under, such as the 12-hour day with a 3-hour leeway, the 3-hour spread, loads, and so forth and so on. That was strictly inter-union.

Mr. MacInnis: Your Honor, we make exactly the same distinction that you did on this matter; in fact, the other questions that I put to this man this morning at the start of the colloquy concerned this question: Didn't he resign because he refused to sit at the same table with the representative of the employers, Mr. Peterson? We have exactly that concept of the labor relations committee. That was the kind of committee it was.

Q. Now, without going into the matters which provoked some discussion about policy, policy disputes within the union and among union men have been productive of the most bitter of conflicts, isn't that right?

A. They have provoked and created quite a conflict, I would say.

Q. People have been murdered because of those intramural disputes, haven't they?

A. That is a very advanced admission to make. I wouldn't say yes to that.

(Testimony of Henry Joseph Schrimpf.)

Q. Wasn't Philip Carey murdered in New Orleans?

Mr. Paisley: "Murder" has a connotation——

The Court: I will sustain the objection. [1685]

Mr. MacInnis: I have in mind what your Honor pointed out, that these policy disputes may indeed be bitter, and that was only illustrative of that point.

The Court: Counsel, the objection is sustained and the jury is instructed to disregard any reference made to any such situation that may be implicit in the question.

Q. (By Mr. MacInnis): With reference to a certain newspaper which was shown you this morning containing a letter written by yourself when you were asked to comment upon the headline materials which were read to you, and which discussed the name of Harry Bridges, you said that those headline statements were only factual statements, is that right?

A. To my way of thinking they were.

Mr. MacInnis: I think, your Honor, the foundation is thus laid for the connection between the material and the defendant Harry Bridges.

Q. Let me ask you this further question: You stated that the headlines in the paper which you saw were factual statements, perfectly proper statements, regardless of what persons they might hurt?

A. I said to my opinion they were, for this reason, that it was true, there was an attack made on the rank and file members, and I do, and I did at that time, consider myself a good rank and file member. We sent out an open letter up and down this coast. We were called up at the meeting. We were [1686] vilified, attacked, and called every name that you may—well, you may find mentionable, and that has also been the tactics which have been in operation to destroy any opposition, and, as the headlines will tell you, that Bridges attacks rank-and-filers, and, as I said before, it is my opinion it is right.

Q. In other words, that was your belief at the time the publication came out and that is your belief now? A. It is my belief, yes.

Mr. MacInnis: We now renew the offer of the document into evidence, your Honor.

Mr. Paisley: I do not know for what purpose it is offered, your Honor. It certainly has no bearing on the issues of this case. He is not assumed to be the author of the paper or in any way connected with it.

Mr. MacInnis: He embraces the statements now, your Honor.

Mr. Paisley: I just can't see any relevancy to that paper. That is a paper, so far as I know, published by somebody else, not the witness. How can he be responsible for any of the articles in it?

The Court: Counsel claims by his approbation and approval of the headlines, that may give some plausibility to the offer.

Mr. Paisley: I just can't see it. I don't understand how it does.

(Testimony of Henry Joseph Schrimpf.)

The Court: I cannot see, counsel, how your offer might [1687] be fortified to the extent that the witness may give more credence to the factual—as he puts it—factual headline to the extent that the newspaper context be offered in evidence against this individual as to his credibility and the like. I sustain the objection.

Q. (By Mr. MacInnis): Now, to come to another matter that might involve policy within your union, let me ask you this: You have had a bias against Harry Bridges and Henry Schmidt since around October, 1936, although you had other matters with them at other times, but particularly because they took the part of a man named O'Grady, whom you beat up, and upon whose matter a hearing was had before the union?

Mr. Paisley: Your Honor, that is what I would call a loaded question. It contains several implications, half of it at least his testimony rather than a question. It is objectionable from so many standpoints that I think I need not say any more.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): In the month of October, 1936, you committed an assault upon E. B. O'Grady of the Masters, Mates and Pilots of America?

Mr. Paisley: I object to that.

Mr. MacInnis: That is a preliminary question.

Mr. Paisley: He can't ask the witness——

The Court: What was the objection, counsel?

Mr. Paisley: It is improper to try to discredit a witness by asking him if he made assaults on somebody. Now, if it please your Honor, if it were the defendant I would have no objection, but you can't ask a witness if he has not made assaults on some third party in the past.

The Court: Sustained.

Mr. MacInnis: May I be heard?

The Court: Yes.

Mr. MacInnis: The question is not asked to show merely that this man attacked another man, because that would not be binding upon anything in this case. The point is this: The point is to show that Henry Schmidt was at that time president of the Union, that Henry Schmidt at a hearing concerning the charges of assault and battery brought against this man Henry Schrimpf, that the findings were made favorable to Mr. E. B. O'Grady, an elderly man, who was beaten up by this man.

The Court: Now you have the whole matter before the Court and the jury. I will sustain the objection on the ground that it is purely collateral, incompetent, irrelevant and immaterial, and I instruct the jury to disregard the same.

Mr. MacInnis: Turning to another matter which might reflect upon your attitude toward Mr. Bridges and Mr. Schmidt, Katherine Schrimpf was your wife, is that correct? A: That is correct.

Q. In the year 1937 Katherine Schrimpf was expelled from the [1689] ladies' auxiliary of the union because she tried to form a new auxiliary with your aid and assistance against the interests of Harry Bridges?

Mr. Paisley: I object to the question.

The Court: Sustained.

Mr. MacInnis: May I be heard, or may I ask your Honor the definite reason so that I can be guided?

The Court: To what extent would this witness be bound as to his testimony or as to his credibility, or how would the activity of his wife tend to prove or disprove any issue in this case?

Mr. MacInnis: Your Honor, we have correspondence on the matter that this man adopted the quarrel of his wife against Harry Bridges and Henry Schmidt.

The Court: Sustained.

Q. (By Mr. MacInnis): Now, you had other grounds for hatred of these men arising out of elections inside the union itself, did you not?

Mr. Paisley: I object to the question, your Honor.

The Court: The question does contain within its asking assumed evidence, and to that extent it is objectionable. You might rephrase your question, counsel.

Q. (By Mr. MacInnis): In 1935 you ran for the office of vice president of the union, did you not?

A. One yea I did. I can't recall what year.

Q. Mr. Bridges and Mr. Schmidt backed a man named Marlow, who defeated you for the office, is that correct?

A. That is correct. In line with the same question—this is also in answering the question—they not only backed this man, but I was called into the office, Bridges' office, as president, and he said, "Are you going to run as vice president, Henry?"

And I said, "Yes."

And as near as I can remember, there was this answer,

> "Well, after all, we both came from the same country."
>
> I said, "What is the difference?"
>
> He said, "You know darn well you won't take orders," And that is the definite truth.
>
> And I said, "You bet I don't take orders from you or anybody else. I take it from the rank and file."

Q. You have no bias against Mr. Bridges, of course? A. Against policy.

Q. Let me go a little further on these matters of policy and the elections. In 1937 you chose to run for the office of president of the union, and the successful candidate who defeated you that year was Henry Schmidt. Mr. Bridges backed Mr. Schmidt, isn't that true?

A. That is correct.

Q. In 1938 you again ran unsuccessfully for the office of presidency of the union against Mr. Germain Bulcke, who [1691] you, and Mr. Bridges and Mr. Schmidt backed Mr. Bulcke, is that correct?

(Testimony of Henry Joseph Schrimpf.)

A. Yes. I believe it was 1938, the last I ran for office.

Q. That is a true statement, is it not?

A. I believe it was 1938, yes.

Q. And at a time further back, in 1935, in which you ran against a man named Bill Marlow for the vice presidency, Marlow got 1,827 votes and you got 305 votes, Marlow being backed by Mr. Bridges and Mr. Schmidt? A. That is right.

Q. And in 1936 you were nominated for the board of trustees of the union by Mr. Harry Lundeberg; correct?

A. I don't know who did nominate me. I was nominated.

Q. Do you deny that it was Mr. Harry Lundeberg who nominated you?

A. I say I don't know who nominated me.

Q. I will refresh your recollection later by the minutes themselves. Now, Mr. Schrimpf, in relation to some of the statements which you offered the Court and jury on Friday last about the domination by the Communist Party of everything containing the policy and strategy in the strike, I have done a little research and I want to ask you some questions about those things.

Mr. Paisley: Now, your Honor, I think all that may be stricken. Let us get down to the question. He tries to make [1692] a speech every time he asks a question.

The Court: Proceed.

Q. (By Mr. MacInnis): For example, one of

(Testimony of Henry Joseph Schrimpf.)

the incidents that you offered the trial jury in this case as illustrative of a so-called Communist meeting was a meeting in which you said there was an attempt made to discipline a woman named Norma Perry, is that right?

A. That is all in the record.

A. Who was the accuser of Norma Perry at that meeting?

A. As I said before, there was a lot of rumors and accusations made against Norma Perry as to the company she was keeping.

Q. Can you tell us who accused her?

A. Well, it was—I believe I accused her, John Schomaker accused her, and Harry Bridges accused her.

Q. You were the accuser of Norma Perry, weren't you? In fact, during that meeting——

The Court: Counsel, in fairness to the witness, may I suggest that he said he, Mr. Bridges and in association with Mr. Schomaker?

The Witness: That's correct.

The Court: Is that correct, sir?

A. That is correct, as far as my recollection goes.

Mr. MacInnis: I understood him to say that, your Honor.

Q. In the course of that meeting it was you who said to Norma Perry, "Norma, you are a little stool pigeon"; correct?

A. I don't recall making such a remark.

Q. You have no recollection at all?

A. Not of making that remark, no.

(Testimony of Henry Joseph Schrimpf.)

Q. Do you affirm or do you deny that you made that statement?

A. I said I have no recollection of making that statement.

Q. And the reason that you had become the accuser of Norma Perry was that she had rejected you as a suitor, isn't that right?

A. That is absolutely a lie.

Q. Now, when the strike committee was formed, Mr. Schrimpf, the chairman of the publicity committee was Ralph Malin, is that true?

A. He could have been. Ralph Malin and Henry Schmidt served on that committee. That is a matter of record. I can't say for sure who was the chairman.

Q. The members of the committee were Ralph Malin, who, by the [1694] way, is now secretary of your local? A. That's right.

Q. The walking bosses' local, 91, is that true?

A. That's right.

Q. The chairman of the committee was Ralph Malin, and the other members were yourself and Henry Schmidt, is that right?

A. That is absolutely incorrect. I did not serve on the publicity committee.

Q. You didn't serve on that?

A. No, I did not.

Q. So that if some minutes were produced to confront you on that point, again the minutes would be in error and your memory would be correct?

(Testimony of Henry Joseph Schrimpf.)

A. The Committee I served on during the strike was the picketing committee.

Q. Picketing committee only?

A. The picketing committee. I may have been appointed an alternate to many committees; I don't know. But that don't say that I ever served on any of those committees: I served on the picketing committee.

Q. Now, Norma Perry was the stenographer for the publicity committee, was she not?

A. She was a general secretary.

Q. Yes. And during the strike Harry Bridges fired her from her job but Ralph Malin rehired her for the publicity committee, [1695] is that true?

A. Well, that is the first I heard it that way. She was devoted mostly to Henry Schmidt; it was Henry Schmidt with whom she moved away from the union and moved to a room uptown, after getting permission from the strike committee to do the same. So I can not see where the connection comes in with Malin and Norma Perry.

Q. I see. You have some feeling against Henry Schmidt because of that circumstance, do you?

A. No, I am trying to correct a wrong statement.

Q. You told us on Friday that one of the duties of Norma Perry in the Communist Party was to obtain a list of the union members and to pass that list on to the Communist Party, did you not?

A. I never put it that way at all, that one of the duties of Norma Perry was to obtain anything. It is in the record, and I said that after Norma Perry

(Testimony of Henry Joseph Schrimpf.)

had worked her way into the good graces of our union and we built her up before the strike committee, that we were to get her a job in the union with a certain specific reason and that specific reason was, and you can quote me again—I can't give it verbatim, maybe, the way it is in the record—she was to compile a complete record for the Communist Party of all its members, their addresses, their affiliation and their names, and it was to this end that we had in mind when we tried to boost Norma Perry up during the strike, [1696] and it was not at that time an assignment for her to get anything, not until after she had this job as secretary in the union and was a paid employee of the union.

Q. And one of the affiliations and pieces of information that she would have passed on with those names would be the book number of the union member, is that true?

A. I don't know if that was necessary or included. I can't answer that for sure; I don't know.

Q. Yes. As a matter of fact, Mr. Schrimpf, you know that after the month of October of 1934, after the strike was settled, it was required that all longshoremen be registered and that a printed list of every registered longshoreman with his book number was published, printed, hung up on the hiring halls, hung up in the Ferry Building, and available to the employers and to every member of the company. You know that, don't you?

A. Well, no harm in that if it was so—just a

(Testimony of Henry Joseph Schrimpf.)

book number and a name. There was absolutely no addresses, though, or affiliations.

Q. You know that to be true, is that right?

A. No, I don't know it to be true. I said it could have been. I don't know. It is really unimportant.

Q. Do you remember a man named John Schomaker? A. I know a John Schomaker.

Q. When did he come to the waterfront, if you know?

A. I have recollection of first seeing John Schomaker on the [1697] 'front, I believe it was late in '33. But he did not get any work. His presence stands out kind of in a spectacular way with me. He was tall, he was quiet, he never used to say a word. Nobody knew him. But he always made sure he had the big end of a hook sticking out of his pocket. I guess that was to tell them symbolically, "I want to be a longshoreman." And I don't remember him doing any work in '33, because in those days you had to be more or less known on the beach.

Q. It is your recollection, then, that he came late in 1933 to the waterfront?

A. It was sometime in '33, and I believe it was toward the latter end of '33. That is my first recollection of seeing John Schomaker.

Q. Do you remember a paper called The Waterfront Worker?

A. Yes, that was a kind of a paper put out to inform the rank and file of happenings.

(Testimony of Henry Joseph Schrimpf.)

Q. The union took over that paper in the fall of 1933 around September, didn't it?

A. I don't know when they took it over.

Q. Would that be fairly correct, the fall of 1933?

A. Are you asking me a question?

Q. Yes.

A. That is really correct? Why ask me? Why, you have answered the question by asking it.

Q. Yes. Well, then, you adopt that [1698] answer?

A. I am not adopting anything. You are answering the question.

Q. Well, I am trying to find out your answer. Is it correct that the Waterfront Worker became an organ of the longshoremen's union around September of 1933? A. I do not know when.

Q. Well, was it around the summer of 1933 and the early fall of the same year that the union was revitalized?

A. Will you qualify that and elaborate on this——

Q. Yes, I will give you a little time to——

A. No, I say, would you——

Q. I will ask you this question: There was a strike on the Matson docks in the fall of 1933 that played a great part in the struggle that was thereafter to come, is that right?

A. There was some action taken on the Matson dock, and if you want to call it a strike on an individual dock, I recall the instance. To the best of my memory, the men took their company union books, made a big fire and threw them on the fire.

(Testimony of Henry Joseph Schrimpf.)

Q. That was after the strike was over, wasn't it?

A. Why, no, this was before the strike.

Q. Why, the Government appointed George Creel of the NRA, a famous California citizen, as the arbitrator of that strike, didn't it?

A. I believe his name was connected with it.

Q. Yes. What happened was that four men were fired from the [1699] Matson dock, is that correct?

Mr. Paisley: Your Honor, can counsel frame a single question that is not testimony?

The Court: Sustained, yes.

Q. (By Mr. MacInnis): Let me ask you this, Mr. Schrimpf: It is true, isn't it, that four men were fired from the Matson dock because they were active in the union and not following the company union policy?

A. Well, you have the answer; you said it is true.

Q. I am asking you, Mr. Schrimpf.

A. I can't recall the number of men that was fired. To give a brief resume, to the best of my thinking, what actually happened, that all I know about that incident,——

Q. These were periods when you say you were active on the waterfront?

A. I was active. But I can't keep a mental picture over a period of 16 or 17 years, to something which is not that important.

Q. Does it chance these are matters you didn't talk over before coming here?

A. Will you qualify that question?

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Will you repeat the question, please, to the witness?

(Record read.)

A. No, I didn't talk over those questions before coming here. [1700]

Q. Exactly. And that is why you don't know the answers to these particular questions. Let me ask you this:——

The Court: One moment.

Mr. Paisley: I move to strike that, your Honor.

Q. (By Mr. MacInnis): Is this true,——

The Court: Mr. MacInnis, may I suggest to you again not to argue the matter in the form of questions? Counsel has interposed countless objections, I have sustained many. Now, I say this in deference to you, not to repeat it again.

Mr. MacInnis: I am not attempting to argue with the Court.

The Court: No, no, not with the Court; you are arguing the questions to the witness. If you take the last question, I think you understand me and you know what I mean.

Mr. MacInnis: I understand what you mean.

The Court: Well, then, let's understand each other.

Mr. MacInnis: The last remark that I made——

The Court: May we understand each other now so that these questions will not have to be objected to constantly?

Mr. MacInnis: Well, I concede, Your Honor, that the last remark that I made wasn't in order.

The Court: Thank you very much.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: I have no doubt that you were perfectly correct in making that observation.

The Court: And I would rather not interrupt you because it breaks the trend of thought, and I think, the cross-examination. [1701] I should rather not interrupt you, if you will not give me cause in the future.

Mr. MacInnis: I will endeavor not to give you cause to do that.

The Court: Thank you.

Q. (By Mr. MacInnis): Mr. Schrimpf, let me ask you if this is true, that the Matson strike to which we are now referring lasted five or six days and that then George Creel was appointed by the Government to be the arbitrator?

A. I will repeat what I already said: I can't recall the number of men involved or the duration of the strike. I do not know if that is true, that it lasted five days.

Q. And is this true, that when George Creel reviewed the controversies on the Matson dock he made a finding and established for the first time that no one could be fired for joining the ILA? Is that true?

A. I don't recall such a mandate being handed down. It could have been. But I don't recall it.

Q. And it was after that time, wasn't it, that union buttons could be worn by all workers out in the open?

A. Well, it gave them more encouragement, I will agree with you there.

Q. Yes. And it was after that ruling that George

(Testimony of Henry Joseph Schrimpf.)

Creel gave that there was a bonfire had, as you suggest, in front of the Matson docks in which the company union blue books were burned? [1702]

A. There was such a fire on the docks.

Q. Yes. A. During that beef.

Q. Now, to go on to another subject that you discussed with us, you told us that everything done so far as policy, strategy and tactics in connection with the 1934 strike, was under the discipline and the direction of the Communist Party, is that true?

A. I don't know if I used that phraseology, as you outline it. But as I said, it is a matter of record, I did use terms along these lines, that the policy for the 1934 strike was formulated practically all by the Communist Party.

Q. Yes. We understand each other. Now that is the matter upon which I would like to make some inquiries. Is this true that there were three matters which were very important in strike strategy: one was picketing, and you were a member of the picketing committee, is that true?

A. I was on the picketing committee.

Q. The second matter was relief, food and attention for the persons on strike. That was a matter of very important strategy, was it not?

A. That is always important.

Q. Yes. And publicity was the third. That was also an important matter of strategy?

A. That's right. [1703]

Q. Now, all of the decisions in those three matters were worked out, discussed openly and voted

(Testimony of Henry Joseph Schrimpf.)

on by the strike committee, according to the records of the strike committee itself, isn't that true?

A. That's right.

Q. Although it is true that there was some secrecy necessary so that information would not leak back to the employers as to every move that the workers made, is that correct?

A. I don't know if you would call it secrecy about some moves, but on the three issues as we just answered in the affirmative, those issues were just functions to be carried out after a policy had been formulated. They were necessary functionings, just like certain things are necessary to life, certain things were necessary to carrying on the operations of this strike. And it had no bearing whatsoever on the basic policy, as outlined, what was to be done.

Q. Now, is this true, that upon the strike committee and within the strike committee there was a small steering committee which discussed matters privately before presenting them to the membership of the strike committee?

A. Why, yes. This same steering committee naturally had many issues to take up. There was always a number of cars to be allotted the amount of money we could spend for gas, and, why, the system of rationing and, as I said before, the functions, the smaller functions of the strike. But not policy. [1704]

Q. Let me ask you this. On that steering com-

(Testimony of Henry Joseph Schrimpf.)

mittee was a man from your dock, a man named Dietrich, is that correct?

A. I couldn't say for sure. It is quite possible Dutch Dietrich was on that committee.

Q. You remember Mr. Dietrich?

A. I know of a Dutch Dietrich, yes. It is in the record.

Q. You have not accused him of being a Communist Party member, have you?

A. I haven't accused anyone of being a Communist Party member.

Q. Fine. There was a man named Jack MacLalen, spelled M-a-c-L-a-l-e-n, on the same steering committee, is that correct?

A. Yes, there is a Jack MacLalen, still on the beach, I believe.

Q. Yes. And you know that he was not a Communist Party member?

A. I don't know. I never accused him of being a party member.

Q. Yes. And Ralph Malin, the present secretary of your walking bosses' local, was also on the steering committee, was he not?

A. He could have been. I can't recall exactly all who was on the steering committee.

Q. There was Mr. Hiner, spelled H-i-n-e-r?

A. There was a Hiner around during that period. I don't know what capacity he served.

Q. Well, now, did I understand you correctly to have told us on Friday that there was a necessary secrecy involved in the [1705] Communist Party activities behind the scenes of the strike?

A. The question is, to be corrected if I am wrong,——

Q. The Reporter will read the question.

A. If there was necessary secrecy? Is that your question?

Mr. MacInnis: Would you read the question, please?

(Question read.)

A. I never used that phraseology at all.

Q. Did you say that the Communist Party activities were held in secret?

A. I said our meetings with the Communist Party members, the big moguls were held in secrecy; the reasons, they did not want known their connections with the strike. I believe that is more or less in the record.

Q. Yes. We understand each other perfectly. In other words, the high officers of the Communist Party did not want it known that they were connected with the strike, is that true?

A. That is a matter of record, some such language as that in there.

Q. That is what you have said.

The Court: Counsel, I think that the witness stands on the record and that whatever he may have testified to Friday he adopts as his statement.

Q. Is that correct, sir?

A. I am even repeating the form, Your Honor, to make it clearer. [1706]

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Yes, I understand that. Your Honor.

Q. Was the man named Sam Darcy a high officer of the Communist Party at that time?

A. It was the accepted opinion that he was a big mogul in the Communist Party. In fact, the name attached to him, the way I remember it, he was head of the District 13 of the Communist Party.

Q. So that he would be one of those high officials who didn't want it known publicly that he had some connection with the strike?

A. I would say that he would be one.

Q. Yes. Then let me ask you this, Mr. Schrimpf: Isn't it true that in the month of May, 1934, according to the official records, that Mr. Sam Darcy appeared in open meeting before the strike committee and offered to the strike committee the services of the Communist newspaper, the Western Worker?

A. That could have been possible. That wasn't an offering, or offer or operating or controlling the policy. If he came down to make a donation, which would be—well, stand good in the public interest, maybe. Here is a Communist unselfishly wanting to give them money, or a publicity space in the paper. But he did not come down and at any time, to any meeting, and said he would also be willing to sit down and formulate policy for the operation of the strike.

Q. In other words, he would be secret about some things but [1707] not about others?

(Testimony of Henry Joseph Schrimpf.)

A. He was very secret about his connection in the policy and carrying on of the strike.

Q. You do not deny that he appeared openly before the strike committee and made the offer to the strike committee of the usage of the pages of the Western Worker at a time when you yourself expressed that publicity was badly needed?

A. I can't recall. That is possible he may have come down to make a contribution of space in his paper. That is all.

Q. Publicity was a very important part of the policy of the strike, wasn't it?

A. Very important on all issues.

Q. Yes. Well, let me ask you this: Did you ever hear either at the time of the strike or thereafter of an organization called the International Labor Defense?

A. That was one of the branches in operation, to the best of my knowledge, of the Communist Party.

Q. Do you have any familiarity with an address called 121 Haight Street?

A. I knew of it. I visited it on more than one occasion, and it was known as the Communist Party headquarters.

Q. Did you know a woman named Elaine Black?

A. I knew of an Elaine Black. She was in charge of operations of the ILD.

Q. By the ILD, you refer to the same organization which I just [1708] mentioned, the International Labor Defense? A. That's right.

Q. Now, tell me if this is true, that in May of

(Testimony of Henry Joseph Schrimpf.)

1934 Elaine Black, representing the International Labor Defense of the Communist Party, as you have suggested, appeared openly before the strike committee and offered the services of International Labor Defense to the strike? Is that true?

A. That could be very possibly true, because they were certainly out to woo the trade union movement.

Q. Yes. A. Right.

Q. Yes. And that was not done secretly, was it?

A. Why, no, there was nothing to hold secret about it.

Q. And the International Labor Defense had to do with relief for strikers, defense of people who would be arrested, the bringing of food to those who were out on strike and the giving of medical attention to those who were injured, is that correct?

A. I don't know. It could be. I don't—I know I never received any such service from them.

Q. Well, now, I will tell you why you didn't in a moment. Mr. Schrimpf, let me ask you this: When Elaine Black, representing the International Labor Defense, Communist organization, appeared openly, as I have suggested, and offered those services, the strike committee appointed a committee itself to [1709] look into the matter of whether or not that offer should be accepted, is that true?

A. The way I recall it, there was some opposition among the strike committee, the so-called conservatives, that we should be cautious in accepting

(Testimony of Henry Joseph Schrimpf.)

any kind of aid from any group such as the Communist Party.

Q. Yes. In other words, the conservatives in the strike committee recommended caution in looking into that offer of aid? A. That's right.

Q. And do you remember who the members of that committee were, the committee set up by the strike committee to investigate whether or not the offer of aid should be accepted?

A. I have no idea.

Q. Well, let me ask you if this refreshes your memory, that the members of that committee were Dutch Dietrich, Fred Hiner, Mike Michaelson and Harry Bridges. Correct? A. I don't know.

Q. Now, you said that the conservatives upon the strike committee raised some opposition to the acceptance of aid from the International Labor Defense, is that correct?

A. They raised some opposition to the—in other words, they expressed themselves to be cautious before they would accept any aid from anyone who was, we will say, Communistic.

Q. Yes. And the four members of the committee, whose names I have mentioned, Mr. Dietrich, Mr. Hiner, Mr. Michaelson and Mr. [1710] Bridges went openly to No. 121 Haight Street, the headquarters of the Communist Party and of the International Labor Defense, talked over the matter of aid, and they all recommended not to accept that aid, isn't that correct?

(Testimony of Henry Joseph Schrimpf.)

A. No, I don't recall it. It could be. I don't know a thing about that. [1710-A]

Q. You deny that that was the case do you? Did you ever hear anything about that incident? You said you knew about ILD, International Labor Defense?

A. The questions asked are being pretty tricky.

Mr. MacInnis: Pardon me. May I have a ruling from your Honor upon the characterization which the witness applies to the cross-examination? I suggest that the material be stricken and the jury instructed to disregard it.

Mr. Paisley: Now, your Honor, he is testifying, which he has done constantly since court opened this morning, and asks the witness, "Isn't that so? Didn't Mr. Bridges and these others go openly up to the Communist meeting?"

The witness says, "I don't know."

Counsel has got all that before the jury as though he were a sworn witness here and accompanied Mr. Bridges up to the Communist. We move that his question be stricken and the answer if one was given, be stricken.

Mr. MacInnis: Your Honor, he said it might well be so, but he wasn't sure, and he said that he knew such a committee did make an offer. Now, the motion I made to your Honor was in respect to the remark of the witness.

The Court: We will take the afternoon recess. I will leave the record in its present state because it would take the Court at least some few moments to review the record as to the question and [1711] answer.

Mr. MacInnis: May I say something?

The Court: Yes.

Mr. MacInnis: The matter to which the question was addressed does not require the reading of the contents of the record.

The Court: It might in the light of the witness' characterization with respect to the questions theretofore propounded. I do remember that he testified categorically that he had no knowledge of the subject matter, and then there was a series of repetitious questions designed to go over the same ground. Apparently that is what he had in mind by "tricky questions." Of course, I do not know what this witness has in mind. I think we had better let the matter rest. We will take the recess now, ladies and gentlemen of the jury, and the same admonition to you not to discuss the case under any conditions nor to confer with any person on any subject of the trial, not to form or express any opinion thereon until it is finally submitted to you.

(Recess.)

The Court: You may proceed, Mr. MacInnis.

Q. (By Mr. MacInnis): Mr. Schrimpf, when we were speaking earlier this afternoon about the letter that you wrote in opposition to the CIO, I think you told us that you and those who shared your point of view had been vilified; is that [1712] correct? A. That is right.

Q. Who vilified you?

(Testimony of Henry Joseph Schrimpf.)

A. There was a meeting called of our regular membership meeting, and I don't know the words that were used, but we were called everything but union men in trying to bust up the union, along those lines. The chief address was delivered by Bridges.

Q. In other words, Bridges vilified you at the time that you sent your so-called open letter to the various locals up and down the coast, is that correct?

A. He vilified me along with the rest of those involved.

Q. So that after July 29, 1937, which is the date of your letter, and around August 11, which is the date of the paper in which it was printed, sometime around there, Bridges vilified you for the point of view which you had expressed is that right?

Mr. Paisley: That is just repetition your Honor. I presume he has in mind emphasis. We have had enough of it I think.

Mr. MacInnis: Your Honor, he has said he has no personal quarrel. Now he says one of the defendants has vilified him, and I think we have a right to go into the bias that might arise from that.

Mr. Paisley: He just asked him the same question over again. That is all. [1713]

The Court: You may proceed.

(Question read.)

A. That is right. He offered vilification, condemnation for this action.

Q. (By Mr. MacInnis): What did he say?

A. I can't recall what he said.

Q. Can you tell us substantially?

(Testimony of Henry Joseph Schrimpf.)

A. No, not attempt to.

Q. Did he call you any names?

A. I can't recall.

Q. You say that he vilified you, that he said that you and the others who were with you were anything but trade union men. Now, didn't he call you any names at that time?

A. I can't recall.

Q. Did you make any answer?

A. I had the floor in defense of myself.

Q. What did you say?

A. I can't recall what I actually said. I defended my right as a member of the union, and as the letter speaks for itself. There was no attack made on anyone at all. I was merely asking an opinion, and the reaction on this change of policy. The letter speaks for itself. And it was along those lines I supported myself for sending this letter out.

Q. And although you say Bridges vilified you, you had no personal feeling against him after [1714] that?

A. Only on policy. When he vilifies, that is also a part of the policy which is used. That is also policy.

Q. So it did not disturb you very much. Let me ask you this: You told us that you did not authorize the use of your name or the letter that you subscribed in the paper that you have examined; is that correct?

A. I did not make such a statement that I didn't authorize my name for that letter, and I think the record speaks for itself. I admit being a party to

(Testimony of Henry Joseph Schrimpf.)

the letter, but on the editorial policy of this paper I had absolutely nothing whatsoever to do with same.

Q. Didn't you tell us that you did not tell anybody to publish this letter and did not give your permission to anyone to publish the letter?

A. I don't recall that statement.

Q. What is your present memory? Did you know that the letter was being published?

A. Maybe I did and maybe I didn't. I can't recall.

Mr. MacInnis: I suggest, your Honor, that when confronted before, he answered definitely to the contrary when he was shown the same.

Mr. Paisley: Maybe he did. I don't remember. It is for the jury to remember one way or the other.

Q. (By Mr. MacInnis): Mr. Schrimpf, did you make any protest against the use of your name in the letter that you had signed [1715] in this paper called the San Francisco Longshoreman?

A. Did I make any protest to whom?

Q. To anybody.

A. Concerning the letter appearing in the paper?

Q. Yes. A. I can't recall.

Q. Did you hear that it had been published in this paper? A. I read it.

Q. You read it in the paper?

A. That is right.

Q. At the time the paper came out?

(Testimony of Henry Joseph Schrimpf.)

A. I don't know when the writing came out, how long after.

Q. At that time, Mr. Schrimpf, when this paper came out, did you tell anybody that your belief was other than expressed in the headlines of the paper?

A. Are you dealing with the headlines regarding that "Bridges attacks," or whatever the headline—I can't recall now—"the rank and file policy"; is that what you have reference to?

Q. Yes. A. I can't recall saying that.

Q. Did you ever inquire who put the paper out?

A. I don't recall if it was put out locally, here or along the coast.

Q. When you read the paper after it came out, did you tell people that the paper expressed your point of view? [1716]

Mr. Paisley: I do not think that has anything to do with it, your Honor. It does not tend to impeach the witness.

The Court: Sustained.

Q. (By Mr. MacInnis): Did you have any conversation about the fact that a letter signed by you appeared on August 11, 1937, in the paper called the San Francisco Longshoreman?

Mr. Paisley: Same objection, your Honor.

The Court: Sustained.

Q. (By Mr. MacInnis): You tell us that in 1935, when you ran for the vice presidency of the union against a man named Bill Marlow, that you had a conversation with Bridges; is that correct?

A. He called me into his office.

(Testimony of Henry Joseph Schrimpf.)

Q. In 1937, when you ran against Henry Schmidt for the presidency, did you have any conversation with either Mr. Bridges or Mr. Schmidt relative to the fact that you were running?

A. I don't believe I had any particular conversation before the election, but on that election the results were not brought out to this membership. The difference was less than 100 votes between us two, not considering a brief time before that, when the heat was on me plenty by a certain policy on the beach, that I only had a few votes. That point wasn't brought out by the defense either, meaning only one thing, that all these attacks by the party policy, built up, had come back to me without any kind of program at all. The election was so [1717] close that it was only around 90 or 92 votes difference. That point wasn't brought out by the defense either.

Q. The question, Mr. Schrimpf, was: Did you talk this over with Mr. Bridges or Mr. Schmidt?

A. I can't recall.

Q. You had no conversation with them?

A. I can't recall.

Q. How about in 1938 when you ran against Germain Bulcke for the presidency of the union and were defeated by him? Did you have any talk then with Mr. Bridges or with Mr. Schmidt?

A. I don't recall it.

Q. Now, you told us, I think, about your notion of Communist Party policies. What happened in-

(Testimony of Henry Joseph Schrimpf.)

side the Communist Party, as you say you know it, when anyone opposed Communist policy?

A. You mean their deciding any measure?

Q. What happened to a person who opposed Communist policy?

A. You mean the discipline to be taken by the Party?

Q. Just tell us what would happen.

A. Give me a question. You are asking me. I am trying to find out what you want.

Mr. Paisley: The question is unintelligible. What happens if somebody opposes the Communist Party? Does he mean what happens if a member opposes?

The Court: I think the witness has answered the question. You might rephrase it, Mr. MacInnis, please. [1718]

Q. (By Mr. MacInnis): Well, accepting his Honor's suggestion, what would happen inside the Communist Party to any member who opposed the policy of the Communist Party? What action would be taken by the Party?

A. You mean if a member of the Communist Party opposed the Communist Party?

Q. Yes, in policy.

A. That is already a matter of record. There is three basic fundamentals you must adhere to in the Communist Party, and I will repeat for the record once more: There is no minority opinion. There shall be no mass concentration of thought. And there shall be no organized position. I believe the first shall answer the question: There shall be no minority opinion. When it is delivered by the Party, that

(Testimony of Henry Joseph Schrimpf.)

is what it is. If this room is so high today, and tomorrow they say it is eight feet high, I am supposed to come back and say it is only eight feet high. The Party says so. That answers the question.

Q. What would happen—You say there is no minority opinion. What would happen if a person took up a minority point of view against the policy of the Communist Party?

A. You don't take up a minority view, because you are not in the Party if you do.

Q. What would happen if you did?

A. You aren't in the Party. It couldn't happen. You are [1719] out.

Q. Exactly. In other words, if we find an instance where a man takes a position against the Communist Party, he is no longer in the Party?

A. Well, it depends on the importance of the issue.

Q. By the way, how does a person get out of the Communist Party?

A. Well, if he got out the way I got out, I just faded out; just never attended no meetings. That is all. [1719-A]

Q. Did anybody ever send you any notice?

A. No, not that I recall, any documentary or any document; just told by way of mouth, "What's the matter? You are not coming to our meeting?" "What's the matter? What's the matter?" like that.

(Testimony of Henry Joseph Schrimpf.)

Q. Did you send any notice to the Communist Party? A. Not that I recall.

Q. Well, now, on these same matters, let me ask you about some other things happening in the year 1934. Do you remember anything in the month of May, 1934, concerning the seating delegates from the MWIU, which has already been described as the Maritime Workers Industrial Union?

A. Seating them where?

Q. Seating them on the strike committee.

A. Well, that would be a matter for the joint strike committee. I was not a member of the joint strike committee.

Q. Well, don't you remember that the MWIU openly requested the rights to be seated through its delegates on the joint strike committee, that they were admitted at first as fraternal delegates and that they were later put out by motion of the strike committee itself?

A. As I said, I don't recall. I was not a member. And on this, I don't want to be confused. I want to know if my question or if my answer took care of the question. We had two, what we call regular strike committees during the maritime [1720] strike. That don't include the general strike, strategy committee. One was the longshore strike committee, and it is a matter of record how these men were selected. On that committee there was only longshoremen. I was a member of that strike committee. The other committee was the joint maritime strike committee, which was represented by all com-

(Testimony of Henry Joseph Schrimpf.)

ponent organizations. I was not a member of that committee.

Q. I understand that. The MWIU was an organization said to be Communist controlled, is that correct?

A. That was the accepted opinion, inasmuch that two accepted, well known Communists were in control of it; one was Roy Hudson, in charge of the eastern side of it, and he had out here taking care of the Pacific Coast a fellow named Harry Jackson. They both were accepted Communists.

Q. And that was the organization which openly, without any secrecy, asked to have its delegates seated upon the joint strike committee and which was thrown out openly by the joint strike committee, is that correct?

A. I said I wasn't on that committee. I don't know what action was taken.

Mr. Paisley: I can't understand what the materiality of this is.

The Court: The objection is sustained. Do you interpose an objection, counsel?

Mr. Paisley: Yes. I don't like to object if I thought we [1721] were leading up to something, but the questions just go on and on and never get to anything.

The Court: Sustained.

Q. (By Mr. MacInnis): Now, Mr. Schrimpf, the accusation that the strike and its policies were dominated by the Communist Party was an accusation which was made at the time of the strike itself, isn't that true? A. By whom?

Q. By many people; by members of the public, by the Chamber of Commerce, by the ordinary press. That was made openly, wasn't it?

A. We have over a million people in the Bay Area.

Q. Yes.

A. And many thought that way. Many was quite sympathetic and liberal with their minds.

Q. Yes. And isn't this true, Mr. Schrimpf, that in early June of '34 the Labor Council and the ILA, itself, both adopted a resolution protesting against any accusation of Communist domination of the strike?

Mr. Paisley: I can't see the materiality of it, your Honor. Suppose they did?

Mr. MacInnis: Your Honor, we have all of this testimony about secrecy, and I propose to show that no such thing was true, that——

The Court: You may answer. [1722]

The Witness: Will you repeat that question?

Mr. MacInnis: Would you read it, please?

(Record read.)

A. That could have been possible. I don't now recall it. It could have been possible, it could have happened.

Q. (By Mr. MacInnis): Mr. Schrimpf, did you ever hear of an organization called the WIR, called Workers International Relief?

(Testimony of Henry Joseph Schrimpf.)

A. I have heard of such an organization, I believe, or with such initials as that.

Q. That was accused of being a Communist organization, was it not?

A. I don't know. I don't know anything of that organization, other than just hearing of it.

Q. Weren't you active in the strike?

A. I considered I was very active.

Q. And were you a member of the strike committee? A. I was.

Q. Well, now, isn't it true that in May of 1934 the WIR, also called Workers International Relief, sent its representatives openly to the strike committee and made a proposition to offer aid to the strike?

A. That could have been possible. But I may not have been there. While I was a member to that strike committee, which was a very large committee, I was also very busy. There was many meetings, or at least parts of the meetings, where I was not [1723] present.

Q. And concerning most of those meetings, records were kept, were they not?

A. We had a chairman and we had someone to keep the so-called minutes.

Q. The secretaries kept the minutes, did they not? A. That's right.

Q. And wasn't it in 1934 that the man called Ivan Cox was the secretary of the union?

A. Yes, he was secretary.

Q. And with reference to this offer of Workers

(Testimony of Henry Joseph Schrimpf.)

International Relief openly before the strike committee, it is a matter of record that Harry Bridges openly opposed the accepting of any relief from that organization and defeated the offer, isn't that true? A. I don't know.

Q. You never heard one way or the other?

A. No.

Q. Well, now, to proceed to some other matters involving the 1934 strike, you have mentioned already that on one occasion there were two striking longshoremen killed. Was the funeral demonstration following that directed by the Communist Party?

Mr. Paisley: I object to that.

The Court: Sustained.

Mr. MacInnis: May I be heard on that, your Honor? I am not [1724] attempting to parade again before the record the fact that men were killed or that there was a funeral. But there is a direct connection with the matters which we are now discussing.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): ~~Well,~~ I will ask you this question: Isn't it true, Mr. Schrimpf, to your knowledge as a supposed member of the strike committee, that the Communist Party appeared before the strike committee and offered to send an official delegation to march in the funeral parade and that the Communist Party was barred from the parade by the strike committee itself?

Mr. Paisley: Same objection.

The Court: Same ruling.

Q. (By Mr. MacInnis): Mr. Schrimpf, could you tell us anything about the aims and purposes of the MWIU?

Mr. Paisley: Same objection; object to that, your Honor, as immaterial. I see no materiality to that.

The Court: Sustained.

Mr. MacInnis: May I be heard on that, your Honor? The previous witness on the stand, Mr. Schomaker, was asked a multitude of questions on direct examination by the government prosecutors about what he knew concerning the organization called MWIU, who dominated it, what its policies were and what it had to do with the 1934 strike. Now, your Honor has already ruled, I say respectfully, upon the validity of that subject matter in evidence. [1725]

The Court: What bearing, if any, has it on the testimony of this witness, apart from the fact that it may have been dilated on with respect to other witnesses?

Mr. MacInnis: I will be glad to tell your Honor that. This witness states that every matter of policy and strategy was directed and controlled by the Communist Party. I am going to show another matter, another part of the strategy that was not.

The Court: Counsel, again we may say this to one another, that I am not interested in a lengthy argument. I do not believe that the question is

(Testimony of Henry Joseph Schrimpf.)

material or relevant to the testimony of this particular witness. I do not believe it proper cross-examination. And therefore I sustain the objection.

Q. (By Mr. MacInnis): Well, let me ask you this question, Mr. Schrimpf: Isn't it true that in the spring of 1933 Mr. Harry Bridges and a committee working with him refused to allow an organization called MWIU to participate in the aims of the ILA?

Mr. Paisley: I object to that, your Honor. I just——

The Court: Sustained.

Mr. Paisley: Counsel ought not to testify here. Question after question after question he testifies—then the question, "Isn't that true?" I think he should be admonished, your Honor, to refrain from it.

Mr. MacInnis: Your Honor, I heard of no case which reproves a lawyer from adopting that form in the asking of a question.

The Court: We have reached four o'clock now. Is that a convenient hour, or are you about to finish with the examination of this witness?

Mr. MacInnis: Well, I am not about to finish with him. I would be glad to go on if your Honor suggests.

The Court: No, I thought that if you had a matter of fifteen or twenty minutes or so we might continue on and have this man go back to his labors. I suppose you would enjoy that, wouldn't you?

(Testimony of Henry Joseph Schrimpf.)

The Witness: Well, I have got to go to work pretty soon.

The Court: So that is the thought I had in mind. If [1727] you are going to be some time, we had better adjourn over until tomorrow morning.

Mr. MacInnis: I believe I will be some time, your Honor.

The Court: Ladies and gentlemen of the jury, we will take the afternoon adjournment until tomorrow morning at ten o'clock. Ladies and gentlemen, the same admonition to you, not to discuss the case under any conditions, nor to form nor express an opinion thereon. You may retire.

(Thereupon an adjournment was taken until Tuesday, December 6, 1949, at 10:00 a.m.)

Tuesday Morning Session
December 6, 1949, 10 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Proceed, Mr. MacInnis.

The Clerk: The witness on the stand is Henry Joseph Schrimpf, heretofore sworn.

Cross-Examination
(Resumed)

By Mr. MacInnis:

Q. Now, Mr. Schrimpf, you told us that you

(Testimony of Henry Joseph Schrimpf.)

dropped out of the Communist Party some time in 1935, is that right? A. That's right.

Q. It was also in the year 1935 that you ran for the vice presidency of the union against Bill Marlowe, is that correct?

A. I believe that was the year.

Q. Bill Marlowe was the candidate whom Harry Bridges supported; you told us the conversation you had with Bridges at that time, is that correct?

A. That's correct.

Q. Now, Marlowe was an anti-Communist, wasn't he, and he is now head of the Employers Association in Southern California?

A. Marlowe was not very active in politics. As to expressing his views with or against Communists at the time he run for office.

Q. Now, Mr. Schrimpf, you told us early in your testimony that [1729] one of the definite assignments of Norma Perry from the Communist Party was to work in the union so she could obtain a list with the names, addresses, affiliations and so forth of the members of the union, is that correct?

A. That was the intent of her being put in there.

Q. Yes. And when you were questioned by me on that subject yesterday, you said that the registration of the longshoremen at the hiring halls did not contain the addresses of the longshoremen so that the Communist Party would have to look to some other source in order to find those details, is that right? A. That's right.

(Testimony of Henry Joseph Schrimpf.)

Q. In other words, you told us that definitely the addresses were not included, is that right?

A. That's right.

Q. Let me ask you if this refreshes your recollection, reading from the minutes of the labor relations committee, the joint labor relations committee of the employers and the members of the union, the committee set up as a bargaining agent between them——

Mr. Paisley: I don't see how that could refresh this witness' recollection, unless he prepared them or had something to do with them.

Mr. MacInnis: It is preliminary, your Honor.

Mr. Paisley: The minutes are not in evidence, your Honor; he is reading from something admittedly that is not in evidence. [1730]

The Court: The objection is sustained.

Mr. MacInnis: Your Honor, I have an official document showing that the contrary is true to what this witness has stated. May I have your Honor's indulgence to ask some preliminary questions?

The Court: May I say to you at the threshold this morning, Mr. MacInnis, rather than make a disclosure at the outset concerning the context or contents of any document before it is in evidence, may I ask you to refrain from that practice today?

Mr. MacInnis: All right.

The Court: Thank you.

Q. (By Mr. MacInnis): Now, Mr. Schrimpf, all of the registering longshoremen after the strike was settled, after the award was made, were bound to

(Testimony of Henry Joseph Schrimpf:)

state their age, address, the companies for whom they had worked, and their qualifications and classifications, isn't that correct?

A. I can't recall seeing the form. It could be.

Q. You say that that could well be, is that true?

A. That's right. Of course on that form there was nothing on there that you must put your right address or your address. You could put anything. And incidentally, on that form there was a big percentage of all names gave the address of the union.

Q. Now, yesterday you told us under oath that definitely the addresses were not required. Today you tell us under oath [1731] that many people——

Mr. Paisley: Your Honor, I object——

Q. (Continuing) ——gave the wrong address, is that right?

The Court: Objection sustained; argumentative, not proper cross-examination.

Q. (By Mr. MacInnis): Mr. Schrimpf, which is the truth?

Mr. Paisley: Now, your Honor, that is an obvious attempt to circumvent your Honor's ruling.

The Court: Sustained. [1732]

Q. (By Mr. MacInnis): Do I understand you correctly, Mr. Schrimpf, that you tell us today that there was a request that the registering longshoremen provide their addresses, but you tell us now that some of them may not have given the right addresses? Is that what you tell us today?

A. I said yesterday that the policy of the union, then as of today, that it is strictly confidential, the

(Testimony of Henry Joseph Schrimpf.)

name, the address and any information concerning a member of its union. That, then as it is now. It has always been that policy. That is what I said.

Q. I will tell you what you said yesterday, referring to page 1697. Your answer: "Well, there was absolutely no addresses." Is that the answer that you gave yesterday in part?

The Court: What was the question addressed to the witness?

Mr. MacInnis: Your Honor, I suggested reading from the transcript would disclose a different answer. I then read one sentence out of his answer.

The Court: I think the witness is entitled to the context and the sequence of the testimony rather than a segmented excerpt from the transcript. I think he is entitled to the question asked him and his answer given, to the end that any disparity be shown if it does exist.

Mr. MacInnis: I will be very glad to do that, your Honor.

The Court: All right. Thank you. [1733]

Mr. MacInnis: The question beginning with line 9, page 1697:

> "Q. As a matter of fact, Mr. Schrimpf, you know that after the month of October of 1934, after the strike was settled, it was required that all longshoremen be registered and that a printed list of every registering longshoreman with his book number was published, printed, hung up on the hiring halls, hung up in the Ferry Building and available to the employers

(Testimony of Henry Joseph Schrimpf.)

and to every member of the company; you know that, don't you?

A. Well, no harm in that if it was so, just a book number and a name. There was absolutely no addresses, though, or affiliations."

Is that the answer that you gave under oath?

A. I don't recall if that was the language. Very likely it was.

Q. Was that a true answer?

A. To the best of my recollection, yes. I can't recall now of there being any addresses posted on the wall, as you say.

Q. Now, Mr. Schrimpf, when the strike was won, as you have termed it, many important gains went to the benefit of the longshoremen; that is true, isn't it? A. That is absolutely true.

Q. And one of the most important features was the setting up of a joint labor relations committee so that representatives [1734] the employers on one hand would sit at the table with representatives of the employees on the other, isn't that true?

A. We were establishing that time a committee. I don't know if that was the name given to us—some committee to work out working policy to go back to work.

Q. That was the committee of which we spoke yesterday?

A. That is the name you referred to. I don't know if that is what it was called. There was a committee set up.

Q. You remember the testimony of yesterday

(Testimony of Henry Joseph Schrimpf.)
that you gave on that subject. You said that there may have been some temporary committee set up to try to work out that relationship, not a permanent committee, and then his Honor clarified the situation for both of us by suggesting that there was a distinction between a labor relations committee functioning in the union and a real labor relations committee which sat down with the employers as a bargaining unit. Do you remember that?

A. That was in the discussion, I believe.

Q. Do you remember his Honor saying that? Now, was it your distinction that you might have been a member of some temporary committee but you were never a member of the real labor relations committee which sat down with the employers?

A. No, I was never elected by ballot on the labor relations committee to sit down with the employers. That is what we [1735] call a permanent committee.

Q. And you never did attend any meeting and sit down with the employers, naturally?

A. I don't recall attending any meeting, no.

Q. Let me ask you if this is true, reading from the official minutes of the Joint Labor Relations Committee of the employers and the employees——

Mr. Paisley: Just a minute. Let us be polite.

Mr. MacInnis: You are starting rather late.

Mr. Paisley: It seems to me if you cross-examine a witness on an irrelevant point, you are bound by his answer; and you cannot impeach him on an

(Testimony of Henry Joseph Schrimpf.)

irrelevant point—I mean on a collateral point—and that is exactly what he is trying to do here, I take it, reading from some minutes.

Mr. MacInnis: May I say this, your Honor? This is a question preliminary to establishing something very important, the start of a hostility between this man and one of the defendants in this case, and I cannot reveal the purpose in every solitary question, your Honor, and I ask for a little latitude to ask this question.

The Court: What is the document from which you are reading?

Mr. MacInnis: The official minutes of the Joint Labor Relations Committee of the employers and the employees, following your Honor's suggestion of yesterday. [1736]

The Court: In strict accuracy, I made no suggestion yesterday. I merely tried to distinguish between the types of committees.

Mr. MacInnis: Yes; your Honor made a good distinction in that respect.

The Court: I think the witness is mindful of that, and you also. It did not come as news to either of you.

Mr. MacInnis: It did not come as news to me.

The Court: And it did not to the witness, who is not versed in the mechanics of our procedure.

Mr. MacInnis: I am sure, too, because I am mindful of the answers he had given before.

Q. Let me ask you this: If at the first meeting of the joint labor relations committee you attended

(Testimony of Henry Joseph Schrimpf.)

as one of the representatives of the longshore group.

A. I can't recall these meetings. If there is a record there where I attended these meetings, I have no recollection. This word "labor relations," our labor relations committee has always been elected by a referendum ballot, and I never ran for the labor relations, to the best of my knowledge, on a ballot. I was never elected. A temporary committee to take up working out these working rules to go back under and straighten things out—that would have been a temporary committee.

Mr. MacInnis: I will ask that the witness look at the [1737] page I have opened with his own name underlined, and ask him if it refreshes his memory to look at the contents.

Mr. Paisley: Your Honor, this certainly is a collateral matter. Now, if he is seeking to prove that Mr. Bridges or Mr. Schmidt or Mr. Robertson were at this meeting, and that they had some collision or disagreement, that would be one thing. We have no objection to that. If he wants to show specific instances where they had violent disagreements——

Mr. MacInnis: I am coming to that, your Honor.

Mr. Paisley: I am unable to see any relevancy whether or not this witness attended some meeting. Certainly if it is meant for impeachment, it is impeachment on a collateral issue, and we will be here, I take it, to next summer trying collateral issues. I just think there ought to be some limit to this exploratory search into collateral matters.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Your Honor, I am content to accept the prosecutor's suggestion. He says if we are going to bring out by this some collision, that is all right. That is exactly what I have in mind.

Mr. Paisley: I question, as a matter of fact, whether details as to any disagreements that they may have had in their union activities are really relevant in this case.

Mr. MacInnis: A moment ago you said you had no objection, if that was my purpose.

The Court: If it is the avowed purpose of this particular [1738] examination to develop any grievances that this witness may have had with any representative of the employers, bargaining groups, of course, it would be entirely immaterial and irrelevant. I, of course, cannot anticipate at this juncture what the context shows, nor, I assume, can you, counsel.

Mr. Paisley: Well, I have been waiting patiently for two days now for him to get down to some real relevant evidence in these questions. He never gets there.

Mr. MacInnis: I do not think that these characterizations should be offered. We have been rather patient for a long time.

The Court: Yes. The jury is entitled to disregard the statement made by Mr. Paisley.

Q. (By Mr. MacInnis): Have you read the paragraph in which your name is mentioned?

A. Yes, I read the whole page.

The Court: May I see this, please?

(The Court examined the document referred to.) [1739]

Q. (By Mr. MacInnis): Mr. Schrimpf, do you know who F. C. Gregory is?

A. Yes, he was representing the employers' side or he was up until a short time back. I don't know if he is still there now.

Q. Do you know who J. B. Bryan is?

A. Yes, I know Bryan. He was also serving on the committee for their side.

Q. Do you know Captain William J. Peterson?

A. Yes, I know of him. I see his name there.

Q. Who is he?

A. He was serving representing the employers.

Q. Do you know Captain Fred Knopff, spelled K-n-o-p-f-f?

A. Yes, he was a member of our local.

Q. Do you know George Wolfe?

A. That's right. He was a member of our local.

Q. Do you know Charles Connor?

A. He was a member of our local.

Q. So that any meeting in which the men whose names I have mentioned along with yours sat down together would be a meeting between the employers and employees, isn't that right?

A. That's right.

Q. Is your memory now refreshed from looking at these minutes that you were present at such a meeting?

A. No, the question was asked, was concerning

(Testimony of Henry Joseph Schrimpf.)

the labor relations committee yesterday, and at that time I made the statement [1740] I had never run for a labor relations committee. Now, this meeting here, it is in there where it is called a labor relations. But at that time it was a committee set up, a temporary committee, to try and work out working rules to go back to work under. And that is the committee I served on. If it is called a labor relations, and I said yesterday that it wasn't, then I was in error. But that was the intent of the committee, to work out working rules, as that document there.

The Court: Mr. MacInnis, if I may interrupt you, in the light of the man's testimony yesterday on the purposes of this particular document, if you read the last paragraph on the first page, it will explain the intent and purpose of the particular meeting with respect to the 30 hour week.

Mr. MacInnis: Yes, I am perfectly familiar with that.

The Court: That is consistent, I take it, with his testimony yesterday.

Mr. MacInnis: Pardon me, your Honor?

The Court: That may well be consistent with the testimony he gave yesterday with respect to the distinction between these two groups.

Mr. MacInnis: Well, I suggest it may well not be.

The Court: Well, it may not be, but I am merely pointing that out.

Mr. MacInnis: I think it is not the office of either of us to make comment upon the weight of the evidence at this time [1741], your Honor, and I respectfully make that suggestion to you.

The Court: What my province is, Mr. MacInnis, I shall preserve intact throughout the progress of this trial. I stated to you that in the light of his testimony, it may well be consistent. That statement stands in the record. I think the man is entitled to be confronted with that last paragraph.

Mr. MacInnis: He says that he has read it, your Honor.

Q. Now, Mr. Schrimpf, you say that there was just a temporary committee working out arrangements for going back to work, is that it?

A. That's right. In setting up rules and regular routines to get started back to work under.

Q. When did the men go back to work after this strike? A. I don't recall the exact date.

Q. The strike ended the last day of July, didn't it? A. I believe it did.

Q. And the meeting whose minutes you have been shown took place on the 16th day of October, correct? A. That's right.

Q. And how long did this committee function, if it was just a temporary committee, Mr. Schrimpf?

A. This committee had its functionings, only functioned for a short period. ~~Now,~~ I wouldn't—I can't give the time. But the difference between the committee which functioned at that time and the labor relations committee as is in operation [1742] today, they are two entirely and distinct commit-

(Testimony of Henry Joseph Schrimpf.)

tees. The labor relations committee today is not to sit down with the employers to try and formulate working conditions, loads or any such thing; they are to take up grievances and just plain beefs. If you get your shoes damaged and figure you have a claim on them, they go ahead and do it. If you figure that you are working some cargo and it should be worth more money, and there is a doubt in it, you go and get it. There is a distinction between the committees; those minutes, if they are read, would bring out that distinction. As I said before, it was a committee set up to help straighten out the conditions and rules and routine under which we would go back to work and go along until we could get something written up in the way of an agreement.

Q. Mr. Schrimpf, you know that this same committee functioned through the entire year of 1934, following the strike, and has continued to function ever since, under the same title and under the same continuing authority?

Mr. Paisley: Just a moment. Your Honor, I object. It is now apparent that counsel is trying to impeach the witness on an entirely collateral matter, to show some inconsistencies in his testimony about collateral matter.

The Court: The objection is sustained.

Mr. Paisley: Furthermore, the defendant has not denied, your Honor, that he had disputes with the defendants in their union relations. [1743]

Mr. MacInnis: I don't understand what you mean, Mr. Paisley, the defendant has not denied that he had disputes with the defendant.

Mr. Paisley: He has not denied, your Honor, that he has had disputes with the defendants in their labor relations. Now, having denied it, is he to be permitted to come along and show him, confront him with specific instances when he has said, had disputes with them? If he had denied it, then he might come forward with specific instances. But he hasn't denied it.

Q. (By Mr. MacInnis): Mr. Schrimpf, isn't this true, that you attended a meeting of the labor relations committee, whose minutes have been shown you, on October 16th, and again on October 17th, but thereafter for four consecutive meetings you were absent?

Mr. Paisley: Same objection.

The Court: Sustained.

Q. (By Mr. MacInnis): Now, isn't this true, Mr. Schrimpf, that after you were absent for four consecutive occasions you had a conversation with Harry Bridges about the fact of your absence?

A. I can't recall that conversation.

Q. Well, Mr. Schrimpf, this is true, isn't it, that the members who sat on the labor relations committee received compensation for sitting there?

Mr. Paisley: Same objection.

Mr. MacInnis: This is preliminary, Your Honor, to the facts of the conversation.

A. I don't even recall that either, if they did receive compensation serving on this committee. I don't know.

Q. (By Mr. MacInnis): Just as persons would who attend a directors' meeting of a corporation or any other function of the same kind. Well, isn't this what happened, Mr. Schrimpf, and wasn't this the first quarrel that you ever had with Harry Bridges, that in October of 1935, after you had been absent for four consecutive meetings of the labor relations committee, you came to Harry Bridges and you asked for your check for the services that you would have rendered as a member of the committee, and he refused to give you the check. Be asked you where you were, and said that you had been drinking and hadn't been able to attend. You asked for your check; he refused to give you the check. You gave as your reason that you couldn't stand sitting at the same table with Mr. Peterson.

Mr. Paisley: I object on the ground he has got about fifteen questions in one question.

The Court: Sustained.

Q. (By Mr. MacInnis): Was that the conversation you had with Harry Bridges?

Mr. Paisley: He must have understood the Court's ruling.

The Court: Sustained. [1745]

Mr. MacInnis: May I suggest this, Your Honor: I am asking a question now to lay the foundation for impeachment, and there is no other way to lay such a foundation to ask the witness certain questions and answers did not take place.

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: I don't see how he can impeach him, Your Honor; he has admitted he had disputes with Bridges over their union activities.

The Court: Sustained.

Q. (By Mr. MacInnis): Now, to return to the inquiry of yesterday, you told us that the Communist Party and its discipline directed and motivated everything having to do with the waterfront strike. You told us that when the strike committee was first formed, one man was selected from each dock as a representative, is that true?

Mr. Paisley: Your Honor, patience is leaving me. Counsel just doesn't seem to be able to ask a question. He just testifies here, then he characterizes what the witness has said yesterday. Time and time and time again. Just narrates what the witness has testified. He is testifying, the last two questions are testimony instead of questions.

Mr. MacInnis: May the last question be read, Your Honor?

The Court: All right, you may read it, Mr. Reporter.

(Record read.)

The Court: The objection is sustained; an assumption of facts not in evidence, argumentative, improper type of [1746] questioning.

Mr. MacInnis: May I ask Your Honor what facts are not in evidence contained in there?

The Court: Reframe your question, counsel.

Q. (By Mr. MacInnis): Mr. Schrimpf, did you tell us that the Communist Party directed all stages of the strike?

A. Are you asking me to put the same words verbatim what I said before on these questions? Is that the intent of the question?

Mr. MacInnis: I suggest, Your Honor, that that is a nonresponsive answer. (To the Reporter) Will you read the question to the witness, please?

Mr. Paisley: And I suggest that the question has been asked and answered at least a half dozen times.

The Court: You may read it, Mr. Reporter.

(Record read.)

The Court: You might answer that and qualify your answer if you wish.

A. All right. I did make an answer to that effect. I believe that I qualified it by saying that, at some time in the record, where all important issues concerning the strike were definitely passed on from Communist policy.

Q. Was one member selected from each dock as a representative on the strike committee?

A. That's right. [1747]

Q. Now, was that a policy of the Communist Party?

A. I don't recall just how or whose suggestion it was to elect this committee.

Q. Well, each dock elected its own representative, isn't that true?

A. That's right, but as I said, I don't recall whose thought it was that this should be the way the strike committee would be elected.

Q. You were selected as a representative from Dock 39, were you not? A. That's right.

Q. And that was in March of 1934, was it?

A. No, in answer to this question again, I will ask the question, ask to have it qualified.

Q. Pardon me. The question was only—was that in March of 1934.

The Witness: Your Honor, may I answer that and qualify it?

The Court: Certainly.

A. To the best of my belief, I believe I pointed out in the testimony that these spokesmen on the docks were functioning way prior to 1934. We couldn't function in a strike, as there was no strike. Until March or at least May 1934. Now, if the intent of the question is to make me give verbatim answers, then I can't say that I have that kind of a memory. I am not—I have got no crystal ball to look into and tell you exactly [1748] verbatim just what I said. But I think it is in the record, in different places, that these men on the docks were functioning as spokesmen on the docks way before the '34 strike, and when the strike came along, as I said, I don't know whose thought it was, but that was the way that the strike committee was built up from these spokesmen.

Q. And you, like the other men, were on that committee long before the strike?

A. There's another question—what committee?

(Testimony of Henry Joseph Schrimpf.)

Way before the strike? What committee was way before the strike?

Q. May I have an answer to that?

Mr. MacInnis: May I have an answer to the question, Your Honor?

The Court: Well, the witness has asked for a specification on the particular committees.

Mr. MacInnis: All these questions, Your Honor, have been stated as being questions about the strike committee.

A. (Continuing) Are you speaking of the strike committee way before the strike?

Q. (By Mr. MacInnis): Yes.

A. What would you call way before the strike? Will you qualify that?

Q. March of 1934.

A. Well, the amount of time—you say "way before the strike"; is it 20 years, 10 days, 10 hours or what? "Way before the [1749] strike." Will you qualify that?

Mr. MacInnis: May I suggest, Your Honor, that the question contains its own date, March of 1934.

The Court: Well, supplying that date, then, Mr. Schrimpf, accepting that date as the date,——

The Witness: Was I serving on the committee in March? Is that the question?

Q. (By Mr. MacInnis): Yes.

A. I should have been serving on that committee. I can't recall any specific happenings. The strike committee was meeting, I believe, and I assume that I had or was serving on it.

(Testimony of Henry Joseph Schrimpf.)

Q. And you were selected from your dock, Dock 39?

A. Yes, I was spokesman on the dock.

Q. And all of the men on that committee were selected by the men on their own docks, isn't that correct?

Mr. Paisley: That, Your Honor, has been testified to another half a dozen times.

Mr. MacInnis: Your Honor, I find it difficult to get an affirmative answer as to whether anything has been testified to, and I think I shouldn't be hampered by an objection of that kind.

The Court: I could not hear the objection. There was a little flurry of noise at that time. Would you read that last to me, please?

(Record read.)

The Court: Objection overruled. [1750]

A. Yes, that is the best of my knowledge, the best of my recollection. I think it was the choice of the docks.

Q. (By Mr. MacInnis): It was done in an ordinary democratic way, wasn't it?

A. As far as I remember, there was no meeting called or anything of the kind. It was just among the men themselves at the dock. They said, "Well, Joe Blow, you act as spokesman for this dock." And that is what there was to it. If you want to say that was democratic, I will go along with you; I will say that it was.

(Testimony of Henry Joseph Schrimpf.)

Q. And you of course were not a Communist Party member in March of 1934, were you?

A. No.

Q. And you say there was no meeting called, but the men on each dock just selected their members, including you, from Dock 39?

A. Yes, that is the way it was done.

Q. Let me ask you if this does not refresh your memory, that there was a special meeting had upon March 21 of 1934 at the Eagle Hall at 275 Golden Gate Avenue, and that the person who made the motion for each dock to select its own representative was Harry Bridges?

A. That could have been. I said I didn't recall whose idea it was.

Q. That was a meeting in which your name was proposed and [1751] accepted as the representative of Dock 39?

A. That I don't recall either. I don't know where they read the names out.

Q. Was there some other committee during the strike—before the strike, I should say, called the Committee of Five Hundred, sometimes known as the Albion Hall Committee?

A. Well, in answer to your question, I am not going to say there was any committee known as the Five Hundred or the Albion Hall Committee, under that name. Various groups of longshoremen were getting together and trying to prepare themselves for the impending strike.

Q. Do you recall anything about the Albion Hall

(Testimony of Henry Joseph Schrimpf.)

group running a list of candidates for office in the early fall of 1933, and I mean by "office" offices in the ILA?

A. I attended the Albion Hall, and such a procedure or arrangement could have been discussed or talked about at the Albion Hall. I have no clear recollections of the discussion or who was nominated or anything else.

Q. And that being in 1933, of course, was also before you were a member of the Communist Party?

A. Yes, that is right.

Q. Now, as to the strike demands, Mr. Schrimpf, as to whether they were dominated by the Communist Party, let me ask you this——

Mr. Paisley: I do not think, your Honor, that this is [1752] material.

Mr. MacInnis: Why, your Honor, this man has said that everything——

The Court: Overruled. Overruled, counsel.

Q. (By Mr. MacInnis): The strike demands—and tell me whether or not this is so; I am not making the statement; I am just trying to embrace these demands in one question—the strike demands were a dollar an hour, a 30-hour week, a 6-hour day, recognition of the union as a bargaining agent, one coastwise agreement, and the union hiring halls; is that correct?

A. Yes, that could have been the basic demands of the strike.

Q. And a further qualification of those demands was that the longshoremen had agreed that there

(Testimony of Henry Joseph Schrimpf.)
was to be no arbitration of any of those demands?

A. I believe that was the policy at that time.

Q. And after the strike was about six weeks old there was a modification of those demands and the longshoremen then took the position that they would arbitrate all of those demands except the union hiring halls issue, is that correct?

A. I do not recall the exact position which we took at that time, but if that is a matter of record, that could be so. I can't recall the exact position.

Q. Did that strategy come from the Communist Party?

A. No, the demands were things—all in line with things [1753] that the members wanted.

Q. In fact, the change in the form of the demands and the form of the arbitration was proposed by Mr. Ralph Malin, who is now secretary of his local? A. I don't recall that.

Q. You do not recall that?

A. I don't recall if he said it or who said it.

Q. Do you remember in February or March of 1934 that President Roosevelt urged a postponement of the impending strike?

A. It happened sometime in the early part of 1934.

Q. Was the strike at that time scheduled for some day in March? A. I believe it was, yes.

Q. President Roosevelt at that time urged the setting up of a mediation board to see if the strike could be averted, isn't that true?

A. Yes, we had a board up there.

(Testimony of Henry Joseph Schrimpf.)

Q. There was a Dr. Reynolds on the mediation board and one member of the faculty of UCLA; do you remember that?

A. I won't say for sure the name of the men. That could be the men. It is a long time ago.

Q. In that period of time the President of the ILA was Mr. W. J. Lewis, is that correct?

A. I believe—I believe Holman was out at that time.

Q. And Lewis was the coastwise president? Pardon me? [1754]

A. Yes, I believe Holman was out and Lewis was the next president, to the best of my recollection.

Q. Mr. Lewis was a conservative, wasn't he?

A. I don't know if you could call him a conservative. In many ways he was progressive.

Q. He was not a Communist, was he?

A. Not that I know of.

Q. And when the postponement of the strike was urged by President Roosevelt, did you talk against the postponement?

A. I can't recall what stand I had taken at that time.

Q. It is quite possible, though, is it?

A. Are you putting words in my mouth?

Q. Yes. If the record shows that, it would be true, wouldn't it? I can produce the record with a little research.

A. I say I have no recollection. Produce the record.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Your Honor, I will come back to the question.

The Court: He is entitled to the production of the record.

Mr. MacInnis: Yes. He says he does not know one way or the other.

Q. Let me ask you if this is not true, that Harry Bridges and the man you have called Dutch Dietrich went along with the President's suggestion, along with President Lewis of the ILA?

Mr. Paisley: Just a moment. I object to that, your [1755] Honor, on these grounds: The witness having admitted on cross examination that he had frequent disputes with the defendant, I do not think he can question him as to specific disputes.

Mr. MacInnis: This hasn't anything to do with disputes, your Honor. This has to do with his flat assertion that the Communist Party dominated everything having to do with the strike. Had he denied the disputes, I should think he would be able to confront him with specific instances. I would like to get the Court's ruling on it.

The Court: You have my ruling, but I dare say, Mr. Paisley, this particular instance is not an appropriate time for me to make a specific ruling, because this question is not addressed to a dispute.

Mr. Paisley: He was asking if Bridges did not take a contrary position.

The Court: May I have the question read? I think when you get the full import of the question you will see it may be different.

(Testimony of Henry Joseph Schrimpf.)

(Question read.)

The Court: The objection is overruled.

A. I do not recall the stands of these three men which were taken at that time, and I am not to commit myself that I do.

Q. (By Mr. MacInnis): Was there a legal defense committee set up by the strike committee itself? [1756] A. I don't recall.

Q. Does this refresh your memory: that the members of the legal defense committee were Dutch Dietrich, Fred Hiner, and Mike Michelson?

A. Yes, now that you mention the names, I believe they were authorized by the union to go up and determine bail, and so forth, now that you mention the names.

Q. None of those men were known as Communists, were they? A. I don't believe so.

Q. Do you remember an incident in 1934 having to do with the waterfront strike when Harry Bridges proposed the obtaining of an injunction in the State Superior Court against the usage of police power against the strikers upon the ground that the waterfront was State property and that the San Francisco police had no authority on those premises? Do you remember that?

A. There was some action taken. I can't—I can't recall just the legal proceedings which was taken.

Q. Don't you remember that you were one of the ones who opposed that suggestion on Mr. Bridges' part upon the ground that that would be throwing the cause of the strike in the hands of the capitalist courts? A. I don't recall that either.

Mr. Paisley: Just a moment. I renew the objection on the ground that he can't go into specific instances. [1757]

The Court: Sustained, counsel.

Mr. MacInnis: I might suggest, your Honor, not in arguing over your Honor's ruling, but the purport of that question again was not to elicit conversation on a dispute but to show other factors in which there was no such thing as a Communist motivation in the leaders of the strike.

Q. Who was Joseph P. Ryan, do you know?

A. Yes, Ryan was president of the International Longshoremen's Association.

Q. He was president in June of 1934?

A. Yes, he was president.

Q. Do you remember that he came to San Francisco around June 16 of 1934?

A. As to the exact date I won't be sure, but he was out here.

Q. And he had a conference with Angelo Rossi, who was Mayor of San Francisco, along with Thomas G. Plant, representative of the Waterfront Employers, did he not?

A. I do not recall the persons he met with. He was the International president, and no doubt he did make contact with some of the bigwigs here.

Q. And out of that conference there was a proposed agreement to settle the strike offered to the longshoremen, is that true?

(Testimony of Henry Joseph Schrimpf.)

A. He did bring a proposal up there to the meeting one night. [1758]

Q. And the longshoremen ultimately did not accept that proposal, is that true?

A. No, they voted it down.

Q. Do you know a man named George Larson, a member of the ISU, a former union of sailors which is now the SUP?

A. I know of him. I know very little of the man. I know of him, now that you mention his affiliation.

Q. Do you remember that he was a conservative who urged the membership not to accept the proposed settlement of the strike which was on because the sailors got no recognition out of that proposal? Do you remember that?

A. Well, it could have been. I do not recall the actual happenings.

Q. Do you remember the other leaders on the floor against the acceptance of that settlement were the Machinists led by Harry Hook and Ed Dillon?

A. I can't recall.

Q. Well, would it have been the policy of the Communist Party to prolong the strike or to settle it?

A. Would it have been the policy of the Communist Party to prolong the strike?

Q. Yes.

A. The Communist Party was very disappointed when the general strike terminated, after its brief period.

Q. And the persons who urged the refusal of this

(Testimony of Henry Joseph Schrimpf.)

proposal [1759] of June 16 were all non-Communists, weren't they: Harry Hook, Ed Dillon, George Larson, and a delegation from the Masters, Mates and Pilots?

A. Yes. Well, those representatives that you have reference to there, they were looking after the interests of their own rank and file members. Yes, they had, I believe, a good cause to reject it.

Q. And it was after that particular incident, that meeting of around June 16, that the joint strike committee, the joint maritime strike committee was set up?

A. I don't recall what date it was set up. It was set up—I can't say when it was set up.

Q. Does it refresh your memory if I tell you that the joint maritime strike committee was set up on June 17?

A. No. As I said, I don't know the date.

Q. Was that the committee which had representatives from eleven different unions upon it?

A. The joint strike committee had representations from all its component organizations.

Q. Now, at the time that the joint strike committee was created, the joint maritime strike committee, was it the policy of the Communist Party to infiltrate into offices within unions and get on committees of that kind?

A. It was the policy of the Party to try and have representation on committees which were friendly to their policy. [1760]

(Testimony of Henry Joseph Schrimpf.)

Q. And you had become a Communist in June of 1934?

A. I can't recall the exact date, but I believe it is on the record where it was in May, I believe, 1934, the latter end of May, I believe.

Q. I think you said that. Now, Mr. Schrimpf, let me ask you this: Having in mind your answer about the policy of the Communist Party and officers when the joint marine strike committee was set up, your name was proposed and you declined, isn't that correct? A. That I don't recall.

Q. That was on June 17. A. I don't recall.

Q. Do you have any memory one way or the other on that subject? A. I don't recall.

Mr. MacInnis: I will ask your Honor's permission that the witness be shown the minutes of a special meeting called June 17, 1934, for the composing of the United Marine Strike Committee.

Q. Do you now remember that you were nominated and declined?

A. No, I don't remember. If they are the minutes, there is record there. I must have been nominated, but I don't recollect.

Q. In reading the page which you were just shown did you notice the names of two men, Charles Cutright and Jack McClellan? [1761] Did you see those names? A. I did.

Q. They were both elected to the joint marine strike committee on June 17, 1934, correct?

A. Are you asking me that question?

Q. Yes, according to these minutes.

(Testimony of Henry Joseph Schrimpf.)

A. If they are in the minutes, did you ask me?

Q. These men were definitely anti-Communist, were they not?

A. I never heard them expressing themselves in terms of being anti-Communists or anti-anything.

Q. But you, who tell us that you were a Communist at that time, declined the nomination to serve on that committee?

A. According to the minutes, I did, and if I did evidently I had a reason.

Mr. MacInnis: May we take the recess now?

The Court: Yes. We will take the morning recess, ladies and gentlemen. The same admonition not to discuss the case under any conditions nor to form or express any opinion until the matter is submitted to you. You may now retire for a recess.

Mr. Donohue: May I ask, your Honor, in order that we may in some measure be guided with respect to witnesses who are under subpoena, if we might inquire of counsel about how long he expects he may have this witness under cross examination? [1762]

Mr. MacInnis: Does your Honor think that that is a matter which we should discuss in this fashion in the presence of the jury? I would be glad to——

The Court: The jury may retire.

(Thereupon the jury was excused, and the following proceedings were had:)

The Court: Is it stipulated that the jury is absent?

Mr. MacInnis: I will be glad to answer that question, your Honor. I feel fairly sure that I have enough suggested material to go beyond the noon recess, and I would expect to finish with this man this afternoon.

Mr. Donohue: Fine. Thank you, your Honor.

The Court: You had better have a witness available, then, let us say, at three o'clock, I would suggest, just as a matter of precaution.

Mr. MacInnis: I will do my best.

Mr. Donohue: We will have a witness available, your Honor.

(Recess.)

Mr. Paisley: Your Honor, I move that you require Mr. MacInnis to have these documents which he submitted to the witness marked for identification, because now they are back in his briefcase, I take it, and neither the Court nor counsel knows where they are, the Clerk doesn't have them, the Court doesn't have them under its jurisdiction. I have particular reference to the document concerning which there was a colloquy between Court and Mr. MacInnis, because Your Honor can see the importance of that.

Mr. MacInnis: What document is that?

Mr. Paisley: Well, that is just the point, Your Honor, that illustrates my point.

Mr. MacInnis: Here is what I have in mind, Your Honor: We have no objection to introducing these matters into evidence. The only difficulty I would have now is that we are using them to work with.

(Testimony of Henry Joseph Schrimpf.)

The Court: Well, I think that they might—when I say "they" it is somewhat loosely, but the particular documents to which reference was made before the noon period,—they might be marked for identification so that thereafter, in the event of any ruling on the part of this Court, in any review thereon, that specific reference may be had to the document upon which I predicated a rule.

Mr. MacInnis: That is perfectly all right. May I suggest this, Your Honor,—— [1764]

The Court: You may do it at the noon recess.

Mr. MacInnis: Solely for our own convenience, Your Honor, we have the official minutes of various labor organizations. Might we have copies made?

The Court: Certainly.

Mr. MacInnis: Of the documents that we intend to use. Then we can allow a comparison between the original and the copy and introduce the copies.

The Court: I think counsel can work that out between yourselves.

Mr. MacInnis: I would be glad to do that.

Mr. Paisley: We have no objection to that.

Mr. MacInnis: I think he is quite right, that the record ought to show those things.

The Court: Very well.

Q. (By Mr. MacInnis): Mr. Schrimpf, do you remember that on May 29, of 1934, there was a proposal submitted to the longshoremen to settle the strike by a joint hiring hall and that the longshoremen should then go back to work and continue negotiating? Do you remember that?

(Testimony of Henry Joseph Schrimpf.)

A. It might have happened, but I do not recall.

Q. Do you remember that that proposal was voted down by the longshoremen?

A. I can not recall it.

Mr. MacInnis: I have a document, Your Honor, the general [1765] membership minutes of May 29, 1934, and I will adopt Your Honor's suggestion in respect of a copy of the page later. I will ask if the Clerk will please show this to the witness.

Mr. Paisley: I would like to have the Clerk stamp it, marked for identification, defendants' exhibit so and so.

The Court: Counsel, Mr. MacInnis has referred to the fact that these minutes apparently are from the files of his client or clients, or the union itself. I do not know. And under the circumstances, I think it will suffice in this record if a copy is marked after comparison made by prosecution counsel as to the authenticity of the copy by reference to the original.

(Document handed to the witness by the Clerk.)

The Witness: What part do you want me to read, the whole sheet, Mr. MacInnis?

Q. (By Mr. MacInnis): Would you read the first half of the page? I think the first half covers this matter.

(Document examined by the witness.)

The Court: While the witness is reading that text, Mr. Mitchell, you have the next two numbers, have you, for identification?

The Clerk: Yes, I have, Your Honor; it is N and O.

The Court: N and O?

The Clerk: Yes, Your Honor.

Mr. MacInnis: Your Honor, I will undertake to do this. We will go through the transcript and by the references made [1766] to the particular minutes or other documents, we will prepare copies and bring them here.

The Court: And have Mr. Mitchell approve the lettering so we may have a sequence.

Mr. MacInnis: Yes, sir.

(Documents returned to Mr. MacInnis by the Clerk.)

Q. (By Mr. MacInnis): Well, now, is your memory refreshed by a reading of the document that I have shown you?

A. No. If it is the official minutes, though, it must have taken place, must have been such a meeting.

Q. Was the secretary Ivan Cox at that time, according to your memory?

A. Yes, I believe Cox was secretary at that time.

Q. And the district president was William J. Lewis?

A. Yes, Lewis was president, to the best of my recollection.

Q. And the proposal was submitted, the proposal to set up the joint hiring hall, and have the men go back to work while continuing to negotiate; do you now remember that?

(Testimony of Henry Joseph Schrimpf.)

A. No, I can't recall the issue, but it is in the minutes?

Q. Yes.

A. I imagine that was a part of the discussion.

Q. And in the minutes did you read that there were 2500 members present and when it was moved to reject this proposal, not one single sound was heard in favor of the proposal—the entire assemblage unanimously voted it down? [1767]

A. That is in the minutes?

Q. Yes. In other words, that was not an incident in which there was some Communist Party leadership that dominated a vote, was there?

A. No, that was the membership.

Q. Well, on April the 3rd of 1934, do you remember that the Federal Board of Mediation recommended a settlement?

A. It is vaguely in my mind that there was some kind of a recommendation.

Q. Do you remember that a proposal was offered in which the union in San Francisco, in the port of San Francisco, was to be recognized along with the recommendation that the shipowners attempt to apply the same agreement to all West Coast ports? Do you remember that particular proposal?

A. No, I can't recall, but to save time, if it is in the minutes there, anywhere, why, I——.

Q. I don't have that particular minute in my hand. I will have to get that later.

A. Well, if it is in the minutes, I will take it for

(Testimony of Henry Joseph Schrimpf.)

granted it happened. I can't recall if it happened.

Q. Let me ask you if you remember this, Mr. Schrimpf; do you remember that when such a proposal was made, the local union accepted it and then set up a committee of five to negotiate with the shipowners?

A. There was some kind of a functioning committee set up. I [1768] don't know the members or who was on it. I remember such committee was set up.

Q. And of course you have stated that the policy of the Communist Party was to continue the strike so that an acceptance of that kind, an agreement, certainly would not have been Communist-dominated, would it?

A. Well, I believe you asked two or three questions in one there, counsel.

Q. Very well. Do you remember a meeting of May the 9th of 1934 concerning the strike?

A. Well, that was the day we went on strike, I believe, was it not?

Q. May the 9th? It may be. I am not certain of the date so far as the starting of the strike. Do you remember a meeting in which full authority was conferred upon W. J. Lewis, either to call the strike or postpone it?

A. No, I can't recall of a committee—it could have been done. And if it is in the minutes, it is not necessary to——.

Mr. MacInnis: If Your Honor will pardon me a moment?

I will proceed, Your Honor, to another matter,

(Testimony of Henry Joseph Schrimpf.)

rather than delay in the finding of that particular document.

Q. Was the calling of the general strike Communist-inspired?

A. Their policy was definitely in favor of it.

Q. But did they dominate the calling of the general strike and bring it about? [1769]

A. I will repeat: their policy was definitely in favor of a general strike.

Q. Well, now, what union led the movement into the general strike?

A. What—Will you repeat that?

Q. What union? Now, the longshore unions were out on strike for some little while before the general strike took place, isn't that true?

A. Yes, there was a period in between.

Q. And after that the strike became general at some point, didn't it?

A. Do you mean a general strike, or it was a general basis?

Q. A general strike was ultimately called, wasn't it? A. Yes.

Q. And what union, do you remember, was the first union to recommend the general strike?

A. I can't recall what union it was which recommended the general strike.

Q. Would it refresh your memory if I told you that it was the Machinists Union, a conservative union in San Francisco, led by Harry Hook and Ed Dillon?

Mr. Paisley: Well, now, counsel is testifying; object.

(Testimony of Henry Joseph Schrimpf.)

The Court: Yes, sustained.

Q. (By Mr. MacInnis): Do you have any memory on what union led the move into the general strike? [1770]

A. No, I can't recall one or any particular union which, as you say, first gave the call or wanted a general strike.

Q. All through the strike it was the policy of the Communist Party to prolong the strike, wasn't it?

A. I will repeat; it was the policy of the Communist Party to work it up to a general strike.

Q. In July of 1934 Harry Bridges at one time urged the men to return to work, didn't he?

A. He may have; I don't recall.

Q. And isn't this true, that that action on Harry Bridges' part in July of 1934, of urging the men to return to work, has been the ground upon which he has been criticized by Harry Lundeberg ever since?

Mr. Paisley: Your Honor, that calls for a conclusion from this witness.

Mr. MacInnis: If he knows, Your Honor.

The Court: Yes, sustained; and calling for the mental processes of Mr. Lundeberg.

Mr. Paisley: That's right.

Q. (By Mr. MacInnis): Well, now, let me ask you this: Upon your knowledge of the Communist Party from the period of time when you say you were a member, was it the policy of the Communist Party to attempt to elect Communist candidates to offices not only in unions, but to public offices on occasion?

(Testimony of Henry Joseph Schrimpf.)

A. Yes. It depended on their strength within the union or in [1771] the political field.

Q. In other words, officially a man would openly run for public office on the so-called Communist ticket? A. They have.

Q. And he would be an official candidate of the Communist Party, wouldn't he?

A. Yes, he would, in a political election, if he was running on a Communist ticket; he would be naturally a Communist, I would assume.

Q. And would the Communists attempt to see that he was elected or to campaign for him in some way? A. I believe they would, yes.

Q. Yes. In 1934 Sam Darcy ran for governor as the official candidate of the Communist Party, is that not true?

A. He run for governor. I don't recall in what year, if that was the year. It could have been.

Q. The union at that time was in the A. F. of L., wasn't it? A. That's right.

Q. And Harry Bridges and George Kidwell, also of the A.F. of L. recommended and led a movement on behalf of Upton Sinclair and against Sam Darcy, isn't that correct? A. I can't recall it.

Mr. Hallinan: Pardon me, Mr. MacInnis. Could I have a moment? If the Court please, a gentleman connected with the Immigration Department has just taken a seat directly behind [1772] the counsel's seat. Now, I went over and asked him if he would kindly move. It smacks of espionage. It mightn't be, but I asked if he would take another seat and he has refused to do so. I don't think that is proper, to have somebody sitting directly behind us within earshot of any conversation that we might have. Now, it may be perfectly innocent, but it doesn't look right, and it makes one uncomfortable. I think the gentleman——

The Court: Well, Mr. Hallinan, I of course, do not know——

Mr. Hallinan: I say, I asked him before privately, before addressing the Court, and I told him if he would not move his seat, that I would ask the Court to have him move his seat. I think he should take some other seat and not be so within earshot of counsel table. We are entitled to have some privileges. I will ask Your Honor to ask the gentleman to kindly take another seat under the circumstances.

The Court: First, I do not know the gentleman's identity.

Mr. Hallinan: Well, I say, he says he is a member——

The Court: Let me have some information from Mr. Donohue.

Mr. Donohue: I know that the gentleman sitting over there is in the Immigration Service, if Your Honor pleases, but I assume he is simply sitting in court. Mr. Hallinan has had a representative of his office sitting directly behind our table since this trial began.

Mr. Hallinan: We have not. [1773]

Mr. Donohue: The young lady,—I don't seem to see her there at the moment, but she has been sitting since the trial began in the chair now occupied by Mr. Karesh.

Mr. Hallinan: If there had been any objection, the lady would have been removed.

Mr. Donohue: We have no objection, if Your Honor please. But I simply call it to Your Honor's attention since I think Mr. Hallinan is making a silly and stupid point.

Mr. Hallinan: There is no reason why the Judge should refuse to ask the man to move.

Mr. Donohue: The gentleman should not refuse to be moved if he had been asked by an attache of the Court, but I can quite understand why he should not move under the direction of Mr. Hallinan, who is not an attache of the Court.

Mr. Hallinan: I simply requested him. I didn't try to quarrel with the man or anything. I told him I didn't think it was proper and asked him if he would kindly find another seat.

The Court: Well, we start, that this is a public trial; and I again say, I do not know the gentleman's identity. If you have any feeling about the matter, Mr. Hallinan, or if you are at all sensitive about the man sitting there, or if you feel uncomfortable about it, I might, through the baliff, the marshal's office, ask the gentleman to have another seat if a seat be available. That is, now, without any reflection upon the gentleman as to his motive or purpose or alleged design in [1774] sitting there. I accordingly instruct the jury to disregard the state-

(Testimony of Henry Joseph Schrimpf.)

ment made by Mr. Hallinan with respect to espionage or any activities that might be regarded as design to intrude the individual upon the operations of defense counsel. I think I made myself clear. There is no reflection. And I ask the gentleman to leave, and the purpose on my part is merely to have Mr. Hallinan feel perfectly at ease in this courtroom.

Mr. Hallinan: That is all that I ask.

The Court: All right. Thank you.

Mr. Paisley: Your Honor, I would like to have the record show that the man sitting in one of the four chairs which are along the wall, which have been occupied by spectators, members of the bar and others throughout the trial, and that the position is opposite defense counsel table, separated by at least three or four feet.

The Court: That is true. The separation between the counsel table and the wall wherein the chairs are situated is, I would say, roughly ten feet.

Mr. MacInnis: Would you read the last question, please?

(Record read.)

Q. (By Mr. MacInnis): Do you remember that the union officially went on record as opposing Darcy and as proposing Upton Sinclair for governor?

A. I can't recall, but they could have.

Q. Have you been a member of the Maritime Federation of the [1775] Pacific?

(Testimony of Henry Joseph Schrimpf.)

A. All members in all the maritime unions affiliated to the Maritime Federation of the Pacific could be called members of the Maritime Federation of the Pacific.

Q. Was the Maritime Federation of the Pacific set up by the Communist Party?

A. Using the words "set up;" is wasn't set up, it was set up by the maritime unions. But it was also discussed as a part of policy by the Communist Party.

Q. Was there any forerunner to the Maritime Federation of the Pacific?

A. That is a general statement, a forerunner.

Q. Was there any organization that preceded it in existence that you can now remember?

A. There's all kinds of organizations, all down through history. I just don't quite follow.

Q. Well, let me ask you this: During the 1934 strike the maritime unions in the State of Oregon and in the State of Washington set up what they called the Northwest Joint Strike Committee, isn't that true?

A. They did have some kind of district council functioning up there, yes.

Q. And the purpose of that committee was to raise funds so that a federation could be formed and so that there could be [1776] some union and some strength in their activities.

A. It could have been.

Q. And after the strike was won by the longshoremen and the other parties to the San Francisco

(Testimony of Henry Joseph Schrimpf.)

strike, then a movement was had to join forces with the unions of the Northwest in another federation, which became the Maritime Federation of the Pacific; is that true?

A. We had a Maritime Federation of the Pacific.

Q. And that was formed in early 1935, wasn't it?

A. To the best of my recollection, we had what we called an emergency conference to form it, and I believe it was in April, 1935. [1777]

Q. (By Mr. MacInnis): Can you remember who called that emergency conference?

A. No, I can't recall the individual who called the conference.

Q. The Communist Party did not call the conference, did it?

A. No. As I already have it on the record, the organization was made up of members of all the maritime unions, and they were having an emergency convention to draw up rules, constitution, and so forth.

Q. And you would not say that the Maritime Federation of the Pacific was set up under the orders of Sam Darcy, would you?

A. The Communist Party was very much interested in establishing the Maritime Confederation.

Q. But they did not give any orders for this emergency meeting or anything else, did they?

A. Well, "orders" is a big word.

Q. Well, is this true: that before the Northwest joint strike committee was set up there had been

(Testimony of Henry Joseph Schrimpf.)

organized in Seattle, in the year 1933, an organization called the Council of Marine Crafts?

A. There could have been.

Q. Do you remember the name of a man named Clyde Deal? Do you remember the ferryboat man?

A. I know of a Deal who was down here with the ferryboatmen, yes. [1778]

Q. Do you remember a man named Ed Morton, who was president of the ILA local in Seattle?

A. Yes, I have met Ed. I don't know him very well.

Q. They were the ones who set up, at least they were the leaders in setting up the Council of Marine Crafts, isn't that true?

A. I don't know. That is information to me.

Q. You say you remember the name of the Council of Marine Crafts?

A. No, I didn't say I remembered the Council. I said it could have been.

Q. Now, there was a strike in December of 1948 coming up almost to the present year, was there not, about a year ago?

A. There was many strikes.

Q. Was there a strike involving the ILWU in the month of December 1948?

A. Yes, the longshoremen were on strike.

Q. Was there a settlement proposed in the month of December 1948 in that strike?

A. There was a settlement proposed. I do not know the dates or the time it took place. To the best of my recollection, there was some kind of settlement proposed.

(Testimony of Henry Joseph Schrimpf.)

Q. When that settlement was proposed, is this true, that all of the demands of the working longshoremen were satisfactorily met by the settlement, but that you, as the leader of the [1779] walking bosses, opposed the settlement of the strike?

Mr. Paisley: I do not see the materiality of that, your Honor.

The Court: Sustained.

Mr. MacInnis: May I be heard on that, your Honor?

The Court: Yes.

Mr. MacInnis: The point that I wish to make was that there was a further controversy between this witness and the group within the union represented by the defendants in this case, and I wish to propose, if I may state this as the offer and the purpose of mine, that in December——

The Court: You can make your offer out of the presence of the jury, counsel, either in writing or orally, at a convenient hour. The objection is sustained.

Q. (By Mr. MacInnis): Mr. Schrimpf, referring once more to the meeting you attended in the City of Portland in 1937 at the convention of the Maritime Federation of the Pacific, you had some further conversation with Mr. Bonham, the head of the Immigration Department, concerning the bringing of yourself to the Immigration Department offices, did you not?

A. I will answer that question, and for the record: After getting through with the convention——

(Testimony of Henry Joseph Schrimpf.)

Q. I am speaking now of things taking place on the convention floor. We will come to the other conversations later.

A. You asked me a question with reference to a conversation, [1780] and I was going to answer it. Do you wish me to answer that?

Q. No, I wish this answer to be applied to matters taking place on the convention floor.

A. I don't recall what took place of special interest or of a special nature on the convention floor.

Q. Tell me if this took place: "Mr. Bonham"—quoting him——

Mr. Paisley: Just a moment. Your Honor, there is a statute in California which requires counsel to submit to the opposite attorney any writing about which he is going to interrogate a witness. That is certainly the rule in this court, too. I think he ought to submit the documents to us before they are read to a witness or marked for identification.

The Court: Yes.

Mr. MacInnis: I am not submitting a document, your Honor. I am asking him if a certain conversation took place.

Mr. Paisley: He is attempting to read.

The Court: I think Mr. Paisley is correct in his observations. You might submit the record to counsel.

Mr. MacInnis: I will in a moment, your Honor.

Mr. Paisley: Then I object to his asking any question or reading.

The Court: The objection is sustained.

Mr. MacInnis: I am not referring to any document at this time, your Honor.

Q. Let me ask you if you had basically this conversation on [1781] the floor of the convention with Mr. Bonham, that Mr. Bonham said that apparently some erroneous information reached the convention, that Mr. Schrimpf had some information that he was willing to divulge, and that that information turned out to be erroneous, and that you replied, "Mr. Schrimpf is no stool pigeon."

The Court: One moment.

Mr. Paisley: I can't see the harm of the question, but it is immaterial and irrelevant, seeking to circumvent the Court's ruling.

The Court: Sustained.

Mr. MacInnis: To show that the conversation really took place, I will show the record to opposing counsel.

Mr. Paisley: I move that that remark be stricken.

The Court: That remark may be stricken and the jury admonished to disregard it.

(A document was handed to Mr. Paisley.)

Mr. Paisley: I just do not see the materiality of what he has submitted.

The Court: I sustain the objection.

Q. (By Mr. MacInnis): Mr. Schrimpf, at the Maritime Federation of the Pacific convention held

(Testimony of Henry Joseph Schrimpf.)

in Portland in 1937, do you remember an incident involving a man named Evans?

Mr. Paisley: Objected to as irrelevant unless he can show it has something to do with the defendants in this case. [1782]

Mr. MacInnis: That is precisely what I am going to do, your Honor.

The Court: Overruled.

The Witness: The name of Evans? No. I just can't at the present time refresh my memory. Maybe with some more information I can recall something.

Q. (By Mr. MacInnis): Do you remember that Evans was accused of spreading anti-Bridges propaganda and that you and Harry Lundeberg spoke in favor of Evans? A. Spoke in favor of Evans?

Q. Yes. A. No, I don't recall the incident.

Q. And do you remember that Harry Lundeberg later caused Evans to be brought East to a national convention to give the same testimony against Bridges?

Mr. Paisley: I object to counsel testifying.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Do you remember having a conversation on the floor of the convention involving Evans and Lundeberg?

A. I had the floor of the convention on more than one occasion, but I do not recall this particular event of Evans. Even after you refresh my memory I can't recall it.

Q. I will ask you if you will read pages 316 to 319 in the minutes of the convention, which I will hand you.

(Testimony of Henry Joseph Schrimpf.)

Mr. aPisley: Now, the statute which I have had to call [1783] to the attention of counsel, the California statute, specifically provides that before such a document is submitted to the witness it shall be submitted to opposing counsel.

The Court: I thought counsel had handed to you some document.

Mr. Paisley: He submitted one portion of the page.

The Court: Read it, counsel.

Mr. MacInnis: That is perfectly all right.

Mr. Paisley: What page?

The Court: 316 to 319. Read it at the noon recess. We will take the recess now, ladies and gentlemen, since it is the noon hour. May I admonish you not to discuss the case under any circumstances or suffer any person to discuss it with you, nor are you to converse on any subject connected with the trial, and you are not to form or express an opinion until it is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.) [1784]

Afternoon Session

Tuesday, December 6, 1949, 2:00 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Henry Joseph Schrimpf, heretofore sworn.

Cross-Examination (Resumed)

By Mr. MacInnis:

Q. Mr. Schrimpf, on or about the 10th of May of 1934, did the strike committee itself issue a statement to the public declaring it was an anti-Communist group?

A. There may have been; I don't recall.

Q. And to refresh your memory, I have a document which I will show you in a moment (handing document to counsel).

Mr. Paisley: He hands me a newspaper clipping. I am unable to see how the witness could refresh his recollection from something over which he had no control, that he did not write.

Mr. MacInnis: So that we need not argue the point, I will show you the point.

Mr. Paisley: I am not interested in the point.

Mr. MacInnis: All right.

Mr. Paisley: I am just making the point with the Court that he can not refresh his recollection from some newspaper article.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: If it is a public statement, your Honor, emanating from someone else, he can say whether it does or does not refresh his memory. He hasn't prepared these minutes either, [1785] and he is certainly entitled to look at anything that may refresh his memory.

Mr. Paisley: Furthermore, it seems to me it is on an immaterial point, a collateral matter, and the witness has said he doesn't remember. That ought to end the matter.

The Court: Objection sustained.

Mr. MacInnis: We ask that the document in question, which is apparently a clipping from the San Francisco News of May 10, 1934, be marked for identification.

The Clerk: If your Honor please, may the record reflect that I am holding the letter N so that hereafter when counsel submits the minutes, they may be included under that one letter, Defendant's N for identification.

May this be marked Defendant's O for identification?

> (Clipping from San Francisco News of May 10, 1934, was thereupon marked Defendant's Exhibit O for identification.)

Q. (By Mr. MacInnis): Mr. Schrimpf, what was the district executive committee of the ILA—International Longshoremen's Association?

A. Do you have reference to the district executive board?

(Testimony of Henry Joseph Schrimpf.)

Q. Or committee. Could you tell us what that might be.

A. No, not until I really know just what your question is. As to a district committee, I will say no, I do not.

Q. Mr. W. J. Lewis as coast president of the ILA was on the district executive committee, was he not? [1786]

A. That I don't know. I don't know how he was connected with that committee; I don't recall that committee's name.

Q. Well, do you know, Mr. Schrimpf, whether in the end of March of 1934 a resolution was prepared and signed by both Harry Bridges and Henry Schmidt turning over entirely to the District Executive Committee headed by Mr. W. J. Lewis the decision upon whether or not a strike was actually to be called? A. You are asking me——

Q. If you know that. A. If I remember?

Q. Yes.

A. I can't definitely say what action it was, but there was some action taken along those lines.

Q. Do you recall if such a motion was adopted by the strike committee itself after being made and signed by Mr. Bridges and Mr. Schmidt?

A. It could have been.

Mr. MacInnis: To refresh your memory, I will show the prosecutor the document I have in mind (handing document to counsel). I will show them a copy that I have prepared for use in the record, your Honor.

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: I have read it, your Honor, but I am unable to see that counsel can seek to refresh the recollection of the witness by this document which the witness did not prepare and on a collateral issue here. He is bound by the answers of the [1787] witness on collateral issues. Furthermore, I object to it on the ground that it is immaterial and irrelevant to any issue in this case.

Mr. MacInnis: As I understand your Honor, the answer of the witness has been that this may have taken place but he has no perfect memory in the matter, hence we are attempting to refresh his memory.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Now, Mr. Schrimpf, coming back to the matters taking place in July and August of 1937, when you signed your name to a letter opposing the entry of the longshoremen into the CIO after that move had already been voted, let me ask you these questions: Did you testify yesterday that you and those who were of the same persuasion as yourself were vilified by Harry Bridges for having taken that position?

A. I believe it is on the record that we were vilified for taking this action at one of our meetings.

Q. And did you say that Bridges called you every name that he could think of, or words to that effect?

A. I did no such a thing.

Q. I will ask you whether or not the following question and the following answer, to your best

(Testimony of Henry Joseph Schrimpf.)

memory, was submitted to you and answered by you—referring to page 1686, your Honor——

> "Q. (By me): Let me ask you this further question: You stated that the headlines in the paper which you saw were [1788] factual statements, perfectly proper statements, regardless of what persons they might hurt.
>
> "A. I said to my opinion they were, for this reason, that it was true, there was an attack made on the rank and file members, and I do, and I did at that time, consider myself a good rank and file member. We sent out an open letter up and down this Coast. We were called up at the meeting. We were vilified, attacked and called every name that you may—well, you may find mentionable, and that has also been the tactics which have been in operation to destroy any opposition and, as the headlines will tell you, that Bridges attacked rank-and-filers and, as I said before, it is my opinion it is right."

You remember giving that answer, do you not?

Mr. Paisley: Well, that doesn't tend to impeach him, your Honor. He asked him originally if he hadn't testified that Mr. Bridges vilified him and if he hadn't said that Mr. Bridges called him every name he could think of, or words to that effect. Now, in an attempted impeachment by his prior statement, there is nothing in there about Mr. Bridges having—he said, "We were called."

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: I think we can inquire as to whether he referred to Mr. Bridges as the context would have it appear, your Honor.

The Court: Well, I would allow the witness to answer.

A. Yes, yesterday I was asked the question. And I did say we had been vilified by Brother Bridges. In this general statement I did say that we were called names and everything else, and I have been called many names along the waterfront at different times. And in this case I was also attacked and called every name concerning it.

Q. Did you ever say, following the letter that you wrote about which we talked yesterday, that Harry Bridges had attacked the writers of the letter for trying to spread false information?

A. That expression may have been used.

Q. Did you ever say that men who have fought for this union and the labor movement for years have been crucified by this clique who have no scruples, no ethics—they go to the gutter for their scurrilous accusations? Did you say that, in [1790] substance?

A. I don't know if that is the language that was ever used.

The Court: You might refer, Mr. MacInnis, if there be some specification of time and place, parties present and circumstances under which it is asserted to have been made.

Mr. MacInnis: Yes.

Q. After the end of the month of July of 1937,

(Testimony of Henry Joseph Schrimpf.)

in conversations with fellow members of the longshoremen's union which had already voted to go CIO.

A. Was that outside the meeting or at a meeting or where did this take place?

Q. Both in and out of the meetings.

The Court: Will you fix the time and place, specifically, counsel? Otherwise I will sustain an objection.

Q. (By Mr. MacInnis): Well, let me put the question to you this way, Mr. Schrimpf: You say that you have seen and read the paper entitled The Longshoreman, which was shown you yesterday, is that correct?

A. I saw a copy of The Longshoreman. You presented it yesterday.

Q. Were the views stated in this paper the views that you possessed at that time concerning Harry Bridges?

Mr. Paisley: Oh, your Honor, he has got about five or six pages here.

The Court: Objection sustained. [1791]

Q. (By Mr. MacInnis): Did you authorize the printing in that particular paper of a column pointing out that there were more people than the three of you, Mr. Kennedy, Mr. Malin and yourself, interested in the attack upon the entry into the CIO?

A. I have no recollection of such an authorization.

Mr. MacInnis: I would like the exhibit to be shown the witness on this point. I will ask him if

(Testimony of Henry Joseph Schrimpf.)

he will read the column entitled "On the Wrong Track," and ask him if that refreshes his memory.

(Handed to the witness by the Clerk.)

Mr. Paisley: As to whether he authorized it? I take it that is the question now? Your Honor, I don't know what this is, but if it were some letter that this witness has written to the paper which was published, that would be one thing. I should think he should be able to ask him about that. But there is no showing that this witness had any control over the editorial policy of the paper, over the news items, the advertising or whatever else might be in it. So I don't see how he can——

Mr. MacInnis: Your Honor, I think there is a question before the Court.

Mr. Paisley: Furthermore, it is immaterial and irrelevant.

Mr. MacInnis: Now, would you repeat the question to the witness, please?

The Reporter: "Were the views stated in this paper the [1792] views that you possessed at that time concerning Harry Bridges?"

The Witness: Would you read that again, please?

(Question quoted above reread by the Reporter.)

The Court: Are you asking now for the refreshing of his recollection or are you laying a foundation for specific asserted impeachment? If you are

(Testimony of Henry Joseph Schrimpf.)

laying a foundation for impeachment, there must be specific foundational evidence of testimony.

Mr. MacInnis: Your Honor, that is not the last question. That is not the matter.

Mr. Paisley: Suppose, your Honor, that some local paper had written an editorial at this time; an editorial excoriating Harry Bridges or some other defendant in this case. Would it be proper to ask some witness who appears in this trial now whether he subscribed to that doctrine? I think not.

Mr. MacInnis: If there were a letter by this man right next to it, it would be highly important. (To the Reporter) Would you read the last question?

The Reporter: "Did you authorize the printing in that particular paper of a column pointing out that there were more people than the three of you, Mr. Kennedy, Mr. Malin and yourself, interested in the attack upon the entry into the CIO?" The answer was, "I have no recollection of such an authorization."

The Court: The specific question is, "Did you authorize . . ." [1793]

Mr. MacInnis: Yes, that is it.

The Witness: Well, it has been answered there. I have no recollection of authorizing it.

Q. (By Mr. MacInnis): And your memory is not refreshed by reading the particular portion that was addressed to your attention?

A. Well, that is only a small part of the paper there, just one half a column of the sheet there.

(Testimony of Henry Joseph Schrimpf.)

Q. Well, actually, Mr. Schrimpf, after this paper was printed, you discussed the matter of your letter and the accompanying sentiments with Harry Bridges, did you not?

A. I have no recollections.

Q. And you went over with the matters with Harry Bridges that he considered objectionable, things that were mentioned by way of criticism of him in this paper, isn't that true?

A. I do not recall.

Q. In other words, you neither affirm nor deny it, is that correct?

A. I do not recall such a conversation.

Q. Didn't you have a conversation with Harry Bridges upon the assertion in this paper, "Bridges attacked the writers for trying to spread false information"? A. I don't recall.

Q. Didn't Harry Bridges ask you what you meant by that? A. I don't recall it. [1794]

Q. Did you discuss with Harry Bridges the matter as printed in this paper of the accusation that Bridges told the membership that the Seattle local had gone on record last Thursday night condemning the letter and that their secretary had been instructed to notify this local to that effect?

A. I don't recall such a discussion.

Q. Did you discuss with him the matter of "Maybe Bridges can get his Seattle stooges to write him one before the next meeting night"?

Mr. Paisley: Just a moment. Your Honor——

The Court: Objection is sustained.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: May I recall to your Honor that this document was once admitted into evidence and later stricken from evidence upon motion of the prosecution? Your Honor at that time felt that we had not established a connection between this witness and the document. Now, it seems to me that the answers to these questions would certainly link this witness with the publication——

The Court: There are two segments to your thinking, counsel: Number one, the letter disassociated from the text of the paper; secondly, the text of the paper to be considered in disassociation from the letter. There is nothing in the text of the paper that would seem to justify a casual relationship between the subject matter of the paper and the letter itself; therefore the objection was sustained and there is nothing that [1795] has appeared in evidence to change my ruling, sir.

Mr. MacInnis: The questions now are directed, your Honor, not toward trying to circumvent your rule——

The Court: No, I didn't say that.

Mr. MacInnis: ——but to determine whether or not a conversation took place between Harry Bridges and this man.

The Court: Well, that couldn't have been proved by the context of the newspaper, counsel.

Mr. MacInnis: No, but I could not later offer impeaching evidence as to this witness unless the impeaching questions as to the conversations were asked while he is on the witness stand.

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: Your Honor, all the witness says is that he doesn't remember any conversation with Bridges about the contents of the paper. Then counsel seeks to get the paper before the jury by reading it and asking him if "you don't remember this" and if "you don't remember that," which I think is improper.

Q. (By Mr. MacInnis): Did you have any discussion with Harry Bridges in which he asked you what was the meaning of the remark, "That is what we are determined to do, and if Mr. Bridges thinks anything is going to deter us, he is going to be very disagreeably surprised before it is over."?

Mr. Paisley: I object to counsel continually reading from the document not in evidence. [1796]

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Mr. Schrimpf, were you really ever a member of the Communist Party?

A. The answer to that statement is already on the record.

Q. May we have it, yes or no?

Mr. Paisley: Well, your Honor——

A. Yes.

Q. And in December of 1937 when you were picked up by agents and taken to the office of the Immigration Service, did you say this to Mr. Bonham and other agents there, "I am an alien; I have also been a member of the Communist Party. You could deport me if you chose, but I refuse to answer your questions unless I have legal advice." Did you say that to them?

(Testimony of Henry Joseph Schrimpf.)

A. I have no recollection of making a statement along those lines or those exact words.

Q. And did Mr. Bonham or the representatives of the Immigration Service who were present at this conversation then say, "If the man chooses not to talk, we must let him go, we are sorry to have intruded upon your rights, Mr. Schrimpf." Did that take place?

A. I don't know if that was the exact wording. If I may qualify my answer, why, as to what took place at the meeting?

The Court: Yes, sir.

A. (Continuing) Dealing directly with this meeting, and I don't wish to be misquoted on it because I am quoting it for [1797] the record, after coming home from the convention there was three men, as far as I can recall, they were exceptionally large men, walked into the room. I had rooms adjoining a fellow delegate named Bill Marlowe. They say, "Get your coat on." The bathroom door of the connecting rooms was open, and I said, "Who are you?" They said, "Get your coat on." So Bill Marlowe walked into the bathroom, I believe he was shaving. He said "What's the matter, Henry?" I said, "I don't know. Here's someone just going to take me out of the room. What should I do?" And with that they showed their identification. He said, "Well, you had better go along." I don't know the building I went up to. They took me up to a building. The first thing they said, "Will you make a statement?" I said, "A statement? What kind of a

(Testimony of Henry Joseph Schrimpf.)

statement?" They said, "Well, a statement on Harry Bridges. Was he a Communist?" And as far as I recall, I says, "I don't know nothing about Bridges." He said, "Well, will you make a statement?" I said, "No, I am not making no statement." They said, "Well, listen. We will call a girl in and you can make a statement." Now, he said, "Don't you want to be a good American? Don't you want to help us in America?" And I said, "Well, you can at least allow me to get some legal advice." And after keeping me there and questioning me for quite a while, which was, I guess, I just then said, "I have nothing to say," or "I don't know." They turned me loose. Now the language I have used here naturally—that is 13 years [1798] ago, and I can't vouch that it was every word was there or verbatim or near it, but that was around the trend of the conversation and that is what happened. And I would say I was up there approximately, maybe, a half hour and they turned me loose. That is for the record, under oath, what actually happened in Portland. [1799]

Q. Do you now remember any of the questions which you say that they asked you?

A. I have already made that clear. I said what was the trend of the questions. I can't—I can't remember. I refused to give a statement. I gave them that to be understood; I refused to take an oath and told them that I wanted some legal advice.

Q. Let's see if we understand each other on this,

(Testimony of Henry Joseph Schrimpf.)

Mr. Schrimpf. You were an alien at the time of this statement in 1937?

Mr. Paisley: Your Honor, we have gone over this now in great detail. I think he should go on and not go back over it now by asking the witness, "Let us see if I understand you," and then going over the whole field again.

Mr. MacInnis: Your Honor, it is rather important to test this man's memory on a rather vital matter.

The Court: I think the witness has given you on two occasions the upshot or sum and substance of the conversation or the colloquy or discussion that occurred during that period of time. Manifestly he has replied to you. Now do you propose to question him as to the question-and-answer context of that conversation?

Mr. MacInnis: No, your Honor; I will ask him a new question.

The Court: All right. I think maybe you may ask him [1800] another question.

Q. (By Mr. MacInnis): You tell us today that when brought into the office of the Immigration Service, as you now describe, you told the officers of the United States Government in 1937 that you had no knowledge one way or the other as to whether Harry Bridges was a Communist or had been?

Mr. Paisley: I will object to that.

The Court: The objection is sustained.

Mr. Paisley: Repetition.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: On what ground, your Honor?

The Court: He has already answered the question on three or four occasions.

Q. (By Mr. MacInnis): And no one forced you to remain and make any further statement, is that true?

Mr. Paisley: Same objection. We have heard this three or four times now.

The Court: Sustained.

Q. (By Mr. MacInnis): And after that no member of the Immigration Department called upon you or asked you to give any statement in 1939 or in 1941?

A. I believe there is also on the record an answer to these same questions, and to the best of my recollection, I was contacted, I presume by Government men, and I did keep out of their way, and I believe it is on the record, I mentioned fourteen days. I don't know whether it was a day or two more, or a day or two less. I did stay away at one time, I believe [1801] '39, out of the way. I was not co-operative with the Government.

Q. Mr. Schrimpf, in 1937 your memory was probably better as to the events of 1934 and 1935 than it is now, isn't that true?

A. Not necessarily.

Mr. Paisley: That is argumentative, your Honor. Let him argue that to the jury. I don't think that is the proper question.

Q. (By Mr. MacInnis): Mr. Schrimpf, do you wish to tell us now that in 1937 when you were

(Testimony of Henry Joseph Schrimpf.)

brought before the officers of the United States Government that you lied to them?

A. I have already made it clear in the record I was not under oath, and I merely said, "I know nothing of it." That is a matter of record. I refused them. The real thought behind it, the real purpose was to have me take an oath and draw in, and bring in a stenographer ~~and~~ make a statement, and this I did not do.

Q. That was the truth, wasn't it, that you didn't know anything about it either way?

A. Will you qualify that question, "Didn't know anything about it either way."

Q. That is all right. I will proceed to another question. We understand it.

The Court: I think the witness has answered the question [1802] substantially.

Q. (By Mr. MacInnis): Now, Mr. Schrimpf, in 1943, when this country was at war, your activities were transferred from those of an ordinary working longshoreman to those of a so-called walking boss, is that correct?

A. I began walking, I believe, in 1943.

Q. And during part of that year you worked on the Army docks here in San Francisco, did you not?

A. I worked mostly across the Bay. I was here for a short time after I started with the Army, but mostly over in Oakland, I believe.

Q. You were at the Army docks in Oakland as well? A. That is right.

Q. Did you tell your superior on that job that you had been a member of the Communist Party?

A. They didn't ask me if I had been a member of the Communist Party.

Q. No one asked you that question?

A. They asked me if I was a member of the Communist Party.

Q. They didn't ask you if you ever had been?

A. Not that I can recollect about that part.

Q. Now, your superior on that particular job knew that you were an alien, did they not?

A. I was not an alien.

Q. You mean you worked for the Army after you were naturalized [1803] in April 1943, is that true?

A. You are placing a lot of words in there and asking me if this is true. I never said anything about it. You asked me when I became a walking boss, and when I started. I naturally couldn't get that job until I was naturalized.

Q. Did you have any loyalty check-up when you went to work for the Army?

A. We had loyalty check-ups quite often.

Q. Weren't you asked then if you had ever been a member of the Communist Party?

A. We were asked if we were members of the Communist Party, yes.

Q. Were you asked if you ever had been a member of the Communist Party?

Mr. Paisley: I think he has answered it, your Honor, two or three times.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: No, your Honor, he says in response to the question, "We were asked if we were members of the Communist Party," speaking in the present tense as of the time of the asking of the question.

Q. You were asked, were you not, if you had ever at any time been a member of the Communist Party, weren't you? A. I don't recall it.

Q. What answer did you give to that question, Mr. Schrimpf, in your loyalty test? [1804]

Mr. Paisley: Objected to——

The Court: One moment.

Mr. Paisley: He just said he didn't remember.

The Court: One moment, counsel. I think the witness has answered the questions addressed to him.

Q. (By Mr. MacInnis): You became a citizen, Mr. Schrimpf, in what month of 1943?

A. I believe it was May.

Mr. Paisley: I think that is immaterial. That isn't in cross of anything brought out on direct.

Mr. MacInnis: It is preliminary.

Mr. Paisley: I didn't examine him when he became a citizen. It doesn't seem to me that it tends to impeach him or discredit him in any way. It isn't within the scope of the direct examination.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Mr. Schrimpf, in the year of 1943 you made application with the Immigration Service of the United States to be granted citizenship, did you not?

Mr. Paisley: Your Honor, I presume counsel certainly must have heard the Court's rulings on this proposition heretofore.

Mr. MacInnis: This is an entirely different question.

Mr. Paisley: Object to the question.

Mr. MacInnis: It calls for certain questions and answers [1805] that would have taken place.

The Court: What is the basis of your objection, Mr. Paisley? Will you assert the basis of your objections?

Mr. Paisley: Yes, your Honor. It isn't in cross of anything brought out on direct, therefore not within the scope of the direct examination. It has no tendency to impeach him or discredit him.

The Court: This matter was addressed to my attention on page 1620 of the transcript, page 1620, line 13—line 16, rather.

> "Q. And you attained your citizenship during the war, when citizenship was rather difficult to obtain?
>
> "Mr. Paisley: Just a moment, your Honor; that is not within the scope of the direct examination.
>
> "The Court: Sustained.
>
> "Mr. MacInnis: Pardon me. Your Honor, he mentioned on direct examination that he was naturalized in the year 1943.
>
> "Mr. Paisley: I recall no such testimony as that.

(Testimony of Henry Joseph Schrimpf.)

"Mr. MacInnis: I will be glad to find it, your Honor.

"Mr. Paisley: I didn't ask him about his naturalization."

Is that the basis, Mr. Paisley?

Mr. Paisley: Yes, your Honor, Now he is attempting to [1806] do the same thing after the Court ruled.

Mr. MacInnis: Your Honor, it would hardly be the position of the Government that by avoiding a particular question of this witness that they now frustrate the defense from examining him on statements that he must have made under oath at that time, for these reasons: The prosecution brought out from this witness that he was born in Australia; that he came to this country. It follows, of course, that he was an alien. They have also brought out from this witness the claim that he was once a member of the Communist Party. We have very eloquently in the evidence in this case out of Mr. Lloyd H. Garner of the Immigration Service the questions which he says the law requires him to ask, and we have your Honor's observation that Mr. Garner and hearing officers in his position would be derelict in their duty if they failed to ask those questions. This matter goes to the verity of the testimony of this witness. It will lead also to whether or not he has sworn falsely under oath to matters which he offered this jury upon what I think we must assume was just as solemn an oath.

Mr. Paisley: Well, your Honor,——

(Testimony of Henry Joseph Schrimpf.)

The Court: Do you have any transcript, or what are you reading from, counsel?

Mr. MacInnis: I think your Honor understands I wasn't reading any material; I was speaking to your Honor on the [1807] matter of the objection.

The Court: I was confused, perhaps, by your reference to Mr. Garner. You may respond to that, if you wish. I know what you have in mind.

Mr. MacInnis: I can refer to what you said.

Mr. Paisley: It now appears that what counsel is seeking to get at is to ask the witness if he did not say to some Immigration inspector under oath at some time that he had never been a member of the Communist Party. What that boils down to, your Honor, is this: He is contending that he can ask a witness, "Did you not testify falsely in some other proceeding on some other occasion?" I submit he can't do that. If that were so, then the Court would be constantly in every trial trying other collateral issues as to whether or not a witness had not lied on some other occasion.

Mr. MacInnis: Judge, if he lied before on the same question put to him here, it would be highly relevant to the Court and jury to determine whether [illegible] not he did so, if he has under oath stated that he was not a member of the Communist Party ever.

The Court: Of course, if you desire to lay a foundation for impeachment, you may proceed to lay it. Counsel has asserted a definite objection in the record the other day and now reasserts it. He asserts that this line of examination is not proper cross-examination. [1808]

Departing from that rule for the moment and taking up the matter of the attempted impeachment, the witness is entitled to know the time, place and circumstances, and be confronted with that record. And if you have any record, you may confront the witness with the record of such a character and might thereafter ask some questions about it.

Mr. MacInnis: I asked, your Honor, the Immigration Service to produce for us these records. I have tried to obtain them and the material has been barred from my scrutiny.

Mr. Paisley: Your Honor, moreover, it is on a collateral issue, and there is nothing more fundamental than that a cross-examiner is bound by the answer of a witness on a collateral matter.

Mr. MacInnis: Your Honor, there are more cases, I suppose, than on any other subject on cross-examination upon the subject that the credibility of a witness is never a collateral matter; the credibility of a witness is always a direct matter. If he has sworn falsely under oath as to the question, was he ever a member of the Communist Party, in view of what we know from the reference of Mr. Garner to the procedure of the Immigration Service and the questions which the law compels him to ask, why, it would reflect—I can't think of words strong enough to say the importance that would attach to that kind of a finding in this case.

The Court: Do you purport to ask the man questions [1809] which you have prepared in written form, counsel, before you?

Mr. MacInnis: I didn't understand what you mean.

The Court: What type of questions do you propose to address to the witness? Are they taken from a transcript?

Mr. MacInnis: Your Honor, I have not been in the habit of preparing written questions to witnesses.

The Court: No; I wondered whether or not you were trying to impeach him——

Mr. MacInnis: And I haven't now.

The Court: What I had in mind is this: I am trying to determine the basis for your impeachment. Is it upon the basis of a written record heretofore taken with respect to this man's testimony, or what is it? What is the basis for your impeachment or asserted impeachment?

Mr. MacInnis: From what we know of the statute, and the records of the Immigration Service, which we, of course, do not have in our hands.

The Court: That is based purely on a suppositious statement, then, is it?

Mr. MacInnis: It is based upon the supposition that Mr. Garner was telling the truth under oath about the questions that he puts to the people who apply for citizenship. It is based also upon my own knowledge of a petition filed in this court.

(Testimony of Henry Joseph Schrimpf.)

The Court: Of course, counsel, there is no set pattern [1810] in those cases. Immigration matters are sometimes heard by the individual examiner, sometimes reviewed by the courts, and sometimes the Immigration examiners in court. As Mr. Paisley points out with some degree of force, it would require this Court in each instance to retry all of these matters of a collateral character to determine the verity of a particular proceeding. There is not other proceeding before me. Is that your position?

Mr. Paisley: Exactly, your Honor. Yes, sir, exactly. Suppose you were trying a damage suit, some witness had taken the stand, and counsel cross-examined him and he said, "Didn't you testify falsely in the case of John Doe v. Richard Roe"—an entirely different proceeding. Why, your Honor, he would not be permitted to do that. He could ask him, "Haven't you been convicted of perjury?"

Mr. MacInnis: We certainly could your Honor, if it was on the same subject.

Mr. Paisley: You can't try collateral issues of that kind. You can't impeach a witness by asking him if he did not testify falsely in some other collateral proceeding, That is fundamental.

Mr. MacInnis: In effect the prosecutor says this: He says it doesn't matter if this man lied under oath to the officers of the United States Government in obtaining his citizenship upon the precise question, upon the very question [1811] involved in a proceeding directed against a man who obtained his citizenship. That is what he says.

Mr. Paisley: I made no such statement as that, your Honor.

Mr. MacInnis: May I say this in answer to your Honor's comments?

The Court: I do not regard the statement made by Mr. Paisley to approximate that meaning which you placed upon it, Mr. MacInnis.

Mr. MacInnis: A moment ago your Honor made this observation: That naturalization matters take different courses.

The Court: They take varied courses, counsel.

Mr. MacInnis: In this proceeding, however, your Honor stated that Mr. Garner would have been derelict in his duty if he had not asked the questions that he stated he asked.

The Court: Counsel, there is no particular pattern that may be set up in immigration matters, as far as I can observe.

Mr. MacInnis: Your Honor said——

The Court: There is no purpose in saying to the Court that Mr. Garner or any other naturalization examiner has a pattern in these matters of question and answer. These matters sometimes rest largely within the discretion of the particular examiner. I don't know of any particular pattern in the course of my presiding over this court, and to suppose [1812] *or* to adopt the suppositious statement that there was a pattern with respect to a witness over a particular incident is to engage in

(Testimony of Henry Joseph Schrimpf.)

hypothesis having no basis in fact or in law, as I gather it.

Mr. MacInnis: Mr. Garner said Section 705 of the Nationality Act, which is certainly a basis in law, impels him to ask these questions.

Mr. Paisley: He keeps going back to the colloquy between your Honor and counsel about these statements of Garner in this matter. Mr. Garner was testifying to his interrogation of Harry Bridges in 1945, which was two years after this witness was naturalized, and furthermore, as I am informed, Mr. Garner wasn't the man who interrogated this man.

Mr. MacInnis: Mr. Garner said he was a hearing officer since 1941 here in San Francisco.

The Court: There are many deputies, many hearing officers; I don't know the number. Probably the Government will disclose the number, I don't know; but I know Mr. Garner is only one of very many who appears before me on occasions.

Mr. MacInnis: Your Honor, there is really no question before you now.

The Court: All right.

Mr. MacInnis: I will proceed, and I think, whatever your Honor's state of mind may be, it can be exercised by ruling on particular objections as they arise., [1813]

The Court: Very well. I have been trying to determine in the light of your statement the present state of the record and the basis for Mr. Paisley's objection. I think I have it in mind.

(Testimony of Henry Joseph Schrimpf.)

Q. (By Mr. MacInnis): You signed a written application for citizenship, did you not?

Mr. Paisley: Just a moment. Same objection, your Honor.

The Court: State the basis, Mr. Paisley.

Mr. Paisley: It is immaterial, irrelevant, it isn't in cross of anything brought out on direct; it has no tendency, whether he signed an application for citizenship, to impeach or discredit him.

The Court: The objection is sustained. [1814]

Q. Mr. Schrimpf, you signed a document prepared in printed form by the United States Government, in which you were asked the question as to whether or not you had belonged within the past ten years to any subversive organization or to any organization having for its purpose the overthrow of the government, and to that question under oath you answered, "No"; isn't that correct?

Mr. Paisley: Just a moment. Your Honor, I am amazed at the audacity of counsel. I object on the same ground.

The Court: State the basis for the objection, Mr. Paisley, please.

Mr. Paisley: It is irrelevant; it is not within the scope of the direct examination; it has no tendency to impeach or discredit the witness.

Mr. MacInnis: Why, Your Honor, it is exactly the matter to which he has testified under oath.

The Court: The objection is sustained.

Mr. MacInnis: Now, on this matter I do have a document available. I do have a record to present to the Court, and I will ask if an inquiry be made for it that Mr. Mitchell be be asked in the recess to obtain for us record number 72468 from the office of the Clerk of this Court in the Naturalization Division and to bring that, so that the witness may be confronted with it. It is a document on file in the third floor in this building, and it contains questions put to this witness [1815] under oath and answers given by him.

Mr. Paisley: Well, Your Honor, I renew my objection. I just don't see the materiality of it. If there were any such document, it would have no materiality, it would not be in cross of anything brought out on direct. It could not in any sense tend to impeach him or to discredit him.

Mr. MacInnis: Why, it would show merely, as it will show, that he is a liar. Your Honor, he said that this man, Harry Bridges, one of the defendants in this case, is charged with swearing falsely in a naturalization proceeding. He has charged that the particular question that he answered falsely was, "Are you now or have you ever been a member of the Communist Party?" The Government puts a witness on the stand who was an alien, who admits he was a member of the Communist Party, who tells us here under oath that he was a member of the Communist Party, and then they tell Your Honor now, "It is immaterial if he said under oath in 1943 before the officers of the United States Government, 'I am not a member of the Communist Party, I never have been a member of the

(Testimony of Henry Joseph Schrimpf.)

Communist Party'." Why, Your Honor, what could more completely destroy the testimony of a man of this caliber, coming here under those circumstances——

Mr. Paisley: Your Honor, don't you see the fallacy of his argument? In any trial, civil or criminal, if witnesses could be discredited under the rules of evidence by asking them, "Did [1816] you not testify falsely in some other case?", a court could never get through trying cases, because it would be trying collateral issues. There would be half a dozen witnesses one way, a half dozen another, on the collateral issue, as to whether some witness testified falsely in another proceeding. That is why the Courts have wisely laid down the rules that you can impeach a witness ordinarily only by asking him, "Have you been convicted of a crime?" That has a finality about it, a conviction. You may impeach him also by prior inconsistent statements. Now, with those two exceptions, I think the inquiry on collateral matters is foreclosed by the witness' answer.

Mr. MacInnis: The rule changes, however, Your Honor, where the statement made in the prior proceeding under oath is the identical question or substantially the same question as one of the questions and answers given by the witness in the very proceeding in which we now engage. Now, the Government puts this man, Henry Schrimpf, on the stand and vouches for him as a witness. The Government says, "We vouch for him." This is the

Government's case. "He is telling the truth." "We place our credit in this man." And then with the same breath they say, "He may have lied under oath to us, the United States Government, when he was granted his citizenship. He may have lied under oath as to the fact of whether or not he was a Communist. But that is collateral; you may not look into that matter here to determine whether or not he is telling the truth." Now, wouldn't that [1817] that be a fine rule of law if it was the case?

The Court: Mr. Paisley?

Mr. Paisley: Yes, Your Honor.

The Court: In making an argument on the matter of this offer, much of what has been said concerning the witness by Mr. MacInnis is characterization, that he lied, and, of course, it may be ignored by the ladies and gentlemen of the jury. I say no more than that. I admonish the jury to disregard the statements made by both counsel in connection with this particular matter, and I sustain the objection upon the reasons heretofore assigned in sustaining objections heretofore made.

Q. (By Mr. MacInnis): Mr. Schrimpf, how many times have you denied under oath that you had ever been a member of the Communist Party?

Mr. Paisley: Your Honor, the same objection.

The Court: Sutained.

Q. (By Mr. MacInnis): Mr. Schrimpf, can you tell us the name of the hearing officer who conducted any questions which were put to you in your

(Testimony of Henry Joseph Schrimpf.)

preliminary examination before you came into court on your petition for citizenship?

Mr. Paisley: I object, Your Honor, on the same ground.

The Court: Sustained.

Q. (By Mr. MacInnis): During that preliminary examination an oath was administered to you and you were at that time asked whether or not you had ever been a member of the Communist Party, [1818] and you answered, "No"; isn't that correct?

Mr. Paisley: I object, Your Honor, and I say that I do not think counsel can continually ignore the rulings of a court in evidence by asking the same question or questions which amount to the same thing over and over again.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Mr. Schrimpf, passing beyond any preliminary examination which you may have had before the Immigration Service in the petition that you filed, and whose questions you answered under oath, you stated in the file and petition bearing in this court number 72468, you stated under oath the answer, "No," to the question, "Have you within the past ten years been a member of any subversive organization or any organization having for its purpose the overthrow of our government?", and that was upon April 11, 1943, that you made that oath, isn't that true?

Mr. Paisley: I object, Your Honor, on the same ground.

(Testimony of Henry Joseph Schrimpf.)

The Court: The objection is sustained.

Mr. MacInnis: May we take the recess now?

The Court: Yes. Ladies and gentlemen of the jury, we will take the afternoon recess. The same admonition to you, not to discuss the case under any conditions, nor to form nor express an opinion thereon until it is finally submitted to you.

(Recess.) [1819]

Mr. Paisley: Your Honor, with reference to this last question, so many of the questions asked by counsel were in reality two or three or more questions or were part testimony and part questions. I want to make it clear that the Government has no objection to his attempting to lay the foundation for impeachment of the witness by asking him with reference to alleged prior inconsistent statements. So if he wishes to ask a simple question, "Have you at a certain time and place made a statement that you never were a member of the Communist Party?", or words to that effect, we don't object to that because we think that is proper, to lay a foundation for an attempted impeachment of the witness.

Mr. MacInnis: In other words, the Government having now obtained from Your Honor the sustaining of objections, now invites me to disregard Your Honor's ruling because the Government will now offer me the indulgence of not objecting. Well, I don't need that kind of indulgence, Your Honor. I will proceed with the questions.

(Testimony of Henry Joseph Schrimpf.)

Q. Mr. Schrimpf, your citizenship was granted you, was it? A. That's right.

Q. The Government did not object to citizenship being granted to you, did it?

A. I was given citizenship papers.

Q. And no member of the Immigration Service or no lawyer representing the Government appeared to make an objection? [1820]

A. Not that I recall.

Q. There was no protest of any kind?

A. Not that I recall.

Mr. MacInnis: Now, Your Honor, we ask that the record from the file of the Clerk in the Naturalization Department of this Court in the matter of the application and petition for naturalization of Henry Schrimpf be brought here and introduced in evidence. We ask Your Honor's order in that respect.

Mr. Paisley: We have no objection to that, Your Honor, if it is limited to the one purpose of attempting to lay the foundation for impeachment by producing, if he can produce, a statement that is contrary to the statement the witness has made on the stand.

The Court: The record may be produced, with the qualification adverting to your statement, Mr. MacInnis, where you said it may be produced and introduced in evidence—it may be produced. With respect to introduction in evidence, that, of course, remains to be seen.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Well, we might ask for the convenience of the Court——

The Court: The record may be produced as identified by number and in accordance with your request.

Mr. MacInnis: And may I ask that a certified copy be prepared for the use of the Court and the jury if——

The Court: Counsel, I do not have in mind the nature of [1821] the record, the contents or the bulk of it, or what it is about. But I am sure that if you take it up with Mr. Paisley and his associates at the recess period, convenience may be had on it.

Mr. MacInnis: What makes Your Honor feel that they will be so obliging?

The Court: Counsel, I do not desire to be interrogated by you, either at this stage of the proceeding or at any other.

Mr. MacInnis: I appreciate that.

The Court: I think I told you that this morning.

Mr. MacInnis: I heard, Your Honor.

The Court: All right, thank you. Your province is to interrogate these witnesses.

Mr. MacInnis: I am doing my best to interrogate the witnesses, Your Honor, but——

The Court: Counsel, let us proceed.

Mr. MacInnis: Yes. I would like to request formally of the Court that a certified copy of the record just now referred to be made, for this reason, that having attempted to obtain a certified

(Testimony of Henry Joseph Schrimpf.)

copy, the Clerk has informed me that only upon an order of the Court can such a record be prepared.

The Court: The record will be produced in court.

Mr. MacInnis: I would like to ask now for a formal order of Your Honor requiring the Immigration Service to produce here all of the records, documents and transcripts pertaining to preliminary examination of Henry Schrimpf in the matter of his application for citizenship. [1822]

The Court: I assumed I had encompassed that in my original order.

Mr. MacInnis: Well, for the record, may we have a ruling?

The Court: With respect to the file number, you identified the file number; I made an order that the record be produced. That will suffice.

Mr. MacInnis: There is only one document on file in this building, Your Honor; only the petition.

The Court: I have no knowledge of the record, counsel. I made an order that the record be produced in court. Accordingly, it will be produced here.

Mr. MacInnis: The question now is as to documents which are not on file with the Clerk.

The Court: And it will be lodged with the Clerk of this Court. Mr. Mitchell, will you see that the document is produced and is lodged with you?

The Clerk: Yes, Your Honor.

The Court: All right.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: The further request, Your Honor, is for documents which are not in the possession of the Naturalization Clerk in this building, but which are said to repose with the Immigration Service at its office here.

The Court: I do not know the nature of any such document. Are there any such documents, gentlemen?

Mr. Paisley: There are certain forms, Your Honor, that the [1823] applicant is required to file with the Immigration Service before the petition is filed in court. So I am informed.

Mr. Mac Innis: I think we know that from the testimony of Mr. Garner, Your Honor.

Mr. Paisley: We will be glad to produce them. There is no real reason why we shouldn't. And we think, if counsel wants to lay a foundation now for impeachment by showing that statements made by this witness on those forms are contrary to what he has testified here under oath, we have no objection to his laying a foundation. We will produce the documents. If they tend to impeach him, they would be admissible when he comes to put on his case or, in Your Honor's discretion, now.

Mr. MacInnis: Why, I am a little puzzled, Your Honor. A few minutes ago we heard a very emphatic statement that these matters were all collateral. Now we have a surprising offer of cooperation. However,——

Mr. Paisley: It is all collateral, Your Honor,

(Testimony of Henry Joseph Schrimpf.)

except on that one point of prior inconsistent statements.

Mr. MacInnis: What do you think we have been asking about, Mr. Paisley?

Mr. Paisley: I don't know. I have been here about three days listening to you cross-examine, and I don't know now what the purpose of your questions is.

Mr. MacInnis: Then you never will Mr. Paisley.

The Court: Proceed. [1824]

Q. (By Mr. MacInnis): Now, Mr. Schrimpf, did you know that in the year 1938 before a hearing of the Dies Committee, the so-called Un-American Activities Committee of our Congress, that the Government produced as a witness Mr. Harper Knowles, who testified under oath that you were a citizen of the United States?

Mr. Paisley: I object to that, Your Honor.

The Court: Objection sustained.

Q. (By Mr. MacInnis): Upon the floor of the convention of the Maritime Federation of the Pacific Coast, on July 3rd of 1937, did you make this statement:

> "It is my opinion that the chairman and other individuals here are deliberately trying to sabotage the convention by all these phoney motions and everything else."

Did you say that?

Mr. Paisley: I just don't see the materiality of it.

(Testimony of Henry Joseph Schrimpf.)

The Court: What is the basis for this line of examination?

Mr. MacInnis: Well, Your Honor, it is more criticism by this man of matters engaged in by Harry Bridges, and his associates.

Q. (By the Court): Do you recall any such conversation.

A. Well, that is a long time ago. I can't recall the wording of any such statement. There was much controversy on the floor. There was pros and cons for many issues. I can't recall the nature of statements on the floor at the convention. [1825]

Q. (By Mr. MacInnis): Upon July 29th of the same year, 1937, in the same convention, the convention of the Maritime Federation of the Pacific Coast, did you make this statement at a time when Mr. Bridges was absent from the floor:

> "As a delegate to this convention and at all times expecting and showing some consideration for the rank and file whom I represent, I believe it is high time that the delegates of this convention and past Maritime Federation conventions take issue against the lousy, slimy politics that are being exercised at the expense of 4,000 members. Again I will repeat, with all due regard and the greatest respect for the true rank and file, and also at all times regarding the autonomy of all locals, that I believe it is high time that a policy was laid down and definite action taken against the slimy, lousy politicians who fly up and down this Coast,

(Testimony of Henry Joseph Schrimpf.)

> vilifying and crucifying brother members, without allowing them the right to defend themselves, for no other crime than that they refuse to go along with a certain political program, and who in a ruthless, lousy, relentless drive to put over a program which is far apart from the true trade union movement, and is dividing the unity of the maritime workers on this Coast."

Did you make that statement on the floor?

A. That is quite a piece of literature.

Q. Yes. [1826] A. I don't——

Q. Yes, it is.

A. That is a long time ago. I don't know if I wrote that or made that statement on the floor.

Q. Do you remember a man named George Arms?

A. We had a George Arms as a member of our local.

Q. You knew him, did you not? A. Yes.

Q. In fact, he was one of the witnesses at your naturalization, wasn't he? A. That's right.

Q. George Arms was charged with misconduct upon the floor of the union, the ILWU, and you spoke on his behalf in the presence of Mr. Henry Schmidt?

The Court: One moment. Objection sustained.

Mr. Paisley: I can't see any materiality to that.

Q. (By Mr. MacInnis): Mr. Schrimpf, George Arms, the man whose part you took, was charged with dealing with Harper Knowles, Stanley M.

(Testimony of Henry Joseph Schrimpf.)

Doyle, the Associated Farmers, all of the labor spying groups of the Pacific Coast. He was charged with dealing with Ivan Cox, who filed a complaint against Harry Bridges, and other persons in the State of California, and he was charged with dealing with the Stewart Street gang, a group of persons working to spread scandal about Harry Bridges——

Mr. Paisley: Oh, I object, Your Honor; it is obviously not [1827] proper here, even though he hasn't gotten to the end of it.

The Court: Objection sustained.

Mr. MacInnis: Your Honor, I have his statement.

The Court: The objection to the statement is sustained; it is a rhetorical statement, argumentative.

Mr. MacInnis: Your Honor, the purpose of these questions is to show something deeper than ordinary hostility on the part of this man.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): In the statements which were read to you by me a moment ago, concerning matters that you spoke of openly upon the floor of the Maritime Federation of the Pacific, did you mean Harry Bridges and his associates when you said "lousy, slimy politicians"?

A. I never made any comment on that piece of literature, other than it was quite a piece of literature. I said I don't—I don't know if that is the statement I made.

(Testimony of Henry Joseph Schrimpf.)

Q. In that event, I will refresh your memory.

Mr. Paisley: I think the Court has already ruled that he can't refresh his recollection by something he didn't get up himself.

(Document exhibited to Mr. Paisley by Mr. MacInnis.)

Mr. Paisley: Oh, go ahead, ask him anything. I don't want to see it.

Mr. MacInnis: I understood, Your Honor, that the [1828] prosecution objection to these matters going into evidence.

Mr. Paisley: Go ahead. We will get through quicker.

Mr. MacInnis: All right, if you will offer that for the rest of the case, we will get along fine.

For identification, we will offer to the Clerk a copy of the excerpt from the minutes of the convention of which we spoke, and I will ask the Clerk, please, to take the original folder of the minutes and display them to the witness and ask him to read the part marked with a red line about his own statement.

The Clerk: May the exhibit be marked Defendant's P for identification, Your Honor?

The Court: So ordered.

(Typewritten excerpt from convention minutes, referred to above, was then marked Defendant's Exhibit P for identification.)

(Testimony of Henry Joseph Schrimpf.)

(Document handed to the witness by the Clerk, examined by the witness and thereupon returned to Mr. MacInnis by the Clerk.)

Q. (By Mr. MacInnis): Is your memory now refreshed as to whether you made the statement which was read to you?

A. It is possibly I did.

Q. Well, did you say you did or you didn't?

A. Well, if they are official minutes, I would say I did. The only thing I have to go by, you say they are official minutes.

Q. Now, I will ask you the question, when you say "lousy, [1829] slimy politicians," did you mean Harry Bridges? A. Not necessarily.

Q. Whom did you mean?

A. We have many officials.

Q. You have no idea whom you may have meant? A. Oh, yes.

Q. Who? A. Well, some of our officials.

Q. Could you name them?

Mr. Paisley: Well, I don't think he can do that now. He has already said it was not Bridges.

The Court: Overruled.

Mr. MacInnis: He ~~didn't~~ say it was not Bridges.

Mr. Paisley: I thought he did.

A. Well, at the time of this convention in Portland there was many heated discussions on the floor, and on more than one occasion there were attacks against the rank and file, including myself. And I made this statement, if that is the way it was written up, and I presume it was in the minutes, against our officials who were running up and down the Coast and making statements without giving the membership, or at least the rank and file or the individuals involved, the right to defend themselves.

Q. And could you tell whom you may have meant by "the officials"?

A. Well, in many ways, I was attacked by Bridges, and I will [1830] make this for the record, that at one of our regular meetings in San Francisco, he told the membership that I was getting $10,000 a year from the shipowners. [1830-A]

Q. How much were you getting?

A. Me? I wish I was getting that or just a part of it; I would take a half of one per cent of it.

Q. You had resentment against Harry Bridges when he made that charge against you?

A. On policy.

Q. That was on policy only?

A. That is right; strictly policy.

The Court: One moment, Mr. Witness. So that there may be no question of mistake in the record hereafter, either by inference or expression, were you receiving any sum at all of any kind, character or description from the Employers' Association or any group of shipowners?

The Witness: I will be glad to answer that. I am surprised at the intelligence of the attorney to ask that question. I definitely never received a cent in my life from any employing group except what I worked darned hard for with muscle and brawn

(Testimony of Henry Joseph Schrimpf.)

and then when I went walking boss, and that goes for any group, up to this time. I have never received one brown cent.

Q. (By Mr. MacInnis): When Harry Bridges accused you of receiving $10,000 from the shipowners you weren't offended and you told us now that that was just a matter of policy?

A. Well, I certainly was offended to this extent: I am emotional, after all, and I did take the floor in my own defense [1831] when I had the opportunity.

Q. Well, now, may we have your answer to the question: When you used the phrase "lousy, slimy politicians," did you mean Harry Bridges among that group?

A. It applied to the politicians who went up and down the coast or flying over the country, and it could have applied to Harry Bridges. I mean, it could have applied to Harry Bridges on some of those occasions.

Q. You know that you meant to imply Harry Bridges' name in that assertion, do you not?

A. Yes, it could have applied to Harry Bridges.

Q. Now, when was it that Harry Bridges took the floor of the union and accused you of receiving $10,000 from the employers?

A. I believe it was at a meeting following this convention in Portland.

Q. Following the 1937 convention?

A. That is right, and the only recollections that I can—that I have, or to the best of my recollec-

(Testimony of Henry Joseph Schrimpf.)

tions, I was being criticized severely by some of the other delegates for not going along on policy at the convention, not going along with sometimes the majority of delegates at the convention; and someone, I don't know who, on the floor, asked the question, "Well, why are you always jumping on Schrimpf?" or something of that nature, and that is when this——

Q. Someone asked whom that question? [1832]

A. Asked the president—I guess it was the president. It was the chairman of the meeting. And that was when this statement was made that I was not so hot; that I was getting my $10,000 a year from the shipowners.

Q. Was that a meeting whose minutes were recorded in the ordinary way?

A. In our meetings the minutes are not always recorded verbatim. In fact, we have had meetings where we have not taken it down in shorthand. Now, I don't know at this particular meeting if the whole meeting was recorded verbatim. I doubt it.

Q. You made a reply when Bridges accused you of receiving $10,000?

A. Well, I just got up and defended myself and pointed out it was so ridiculous, and it ended up by a regular laugh-fest of the membership because they all knew it was so silly.

Q. Did you apply any names to Bridges when you got up and made the reply?

A. Not that I remember.

(Testimony of Henry Joseph Schrimpf.)

Q. You just got up and said in effect it was a silly, ridiculous charge?

A. I don't know the language I used or how long I spoke, but that was the trend of thought.

Q. And you tell us now that you weren't personally offended, you took it only to be a matter of policy within the union? [1833]

A. That is a very general question, if I was personally offended. It was still policy. And I still say it was a pretty lousy policy to continually be getting up and making accusations or assertions and attacking, and that certainly was an attack.

Q. And you tell us now that Bridges on that occasion engaged in attacking and vilifying the rank and file, including yourself?

A. You asked if he was one of these, or the name—he could be one of the men being referred to in this statement, and I said it could be.

Q. Let me see if I follow your reasoning exactly, Mr. Schrimpf. Now you say that when on July 29 of 1937, you used the phrase "lousy, slimy politicians," you could well have been referring to Harry Bridges because he had risen on the floor and accused you of taking $10,000 from the employers?

Mr. Paisley: That is only repetition, your Honor.

Mr. MacInnis: No, there is a point to be evolved here, your Honor.

The Court: Overruled.

(Testimony of Henry Joseph Schrimpf.)

A. Well, I will say again—it is already in the record—he could have—he could have been one referred to. He could have been one of those referred to in the statement.

Q. (By Mr. MacInnis): But a moment ago, Mr. Schrimpf, you told us that Harry Bridges accused you of taking $10,000 from [1834] the employers at some meeting after the 1937 convention, so what matter did you have in mind on July 29, 1937, when you referred to him as a lousy, slimy politician?

A. Well, there were other happenings——

Q. Such as what?

A. Well, there was many instances which happened on the floor.

Q: Can you tell us one or two?

A. Yes, I can state another instance. At one time, and this was before the convention, it had reference to a man named Deal, whose name was brought in here, the Deal incident.

Q. He was a ferryboatman, was he not?

A. That is right. Deal—incidentally, he carried on strike-breaking after we went back to work, even to the extent of hiring gunmen to break the bargemen's strike in '34. The bargemen still stayed on strike, and he was considered by our union not very popular, and a long ways from being the kind of a man to be taken in or made a vice president. He was made a vice president by our international officers, and I criticized this policy, and the rebuke was, by Bridges, "Well, he isn't as bad as the rats,"

(Testimony of Henry Joseph Schrimpf.)

or "no worse than the rats"—I just don't know the exact language — "that Schrimpf runs around with," and such stuff as that.

Q. I see. In other words, before July 29th of 1937, I suppose on a matter involving only policy as well, Bridges had said that a man named Clyde Deal was not as bad as the rats that [1835] Schrimpf was running around with?

A. No, I did not say that at all. I said it was on a discussion of Deal, and he was being criticized by some members of our local for making him a vice president, and to this criticism Bridges answered, "Well, he is no worse than some of the rats Schrimpf runs around with."

Q. Whom did he mean by the rats that you ran around with?

A. I don't know. I wouldn't know.

Q. Well, let me see if I can refresh your recollection on that. In 1936 you had been nominated to the board of trustees of the Maritime Federation of the Pacific by Harry Lundeberg; that is correct, isn't it?

A. I don't know who nominated me. I was nominated.

Q. I think you told us yesterday that it could well have been Mr. Lundeberg?

A. Well, it may have been.

Q. And you have followed the policies of Harry Lundeberg ever since, have you not?

A. I have not followed the policies of Harry Lundeberg, because I haven't—I haven't been with

(Testimony of Henry Joseph Schrimpf.)

Lundeberg, and I don't know what his policies are today.

Q. In the Maritime Federation of the Pacific in the years 1936, 1937 and 1938 you aligned yourself with Harry Lundeberg, did you not, against Harry Bridges?

A. That is not so, as to aligning myself with anybody against [1836] Harry Bridges.

Q. Did you follow policies advocated by Harry Lundeberg?

A. Lundeberg was not very active in the way of making or advocating policies.

Q. Lundeberg became president of the Maritime Federation of the Pacific as early as 1935, did he not?

A. He was our first president, that is right.

Q. But he wasn't very active in formulating policies? A. No, that is right.

Q. What was he in 1936? Was he an officer then?

A. I believe he was reelected back to his office as secretary of the Sailors' Union after he resigned from the Federation in 1935, and I believe he still held that office in '36.

Q. But you say he was not active?

A. I never said that word; I said he was not good at making policies.

Q. What other persons did Bridges say he meant when he used the phrase "Schrimpf and the rats he runs around with"?

A. I don't know. I am waiting for you to tell me that. I don't know—or maybe Bridges can tell you.

Q. When he said that, did you feel aggrieved, or was that just a matter of policy also?

A. When he had reference to the rats I ran around with?

Q. Yes. A. Did I agree? [1837]

Q. Yes. A. No.

Q. Were you aggrieved? A. Agreed?

Q. Were you hostile toward him then, or was that just a matter of policy?

A. I thought it a pretty lousy policy to be attacking and vilifying character in trying to get over a point.

Q. So as early as 1937, twelve years ago, you had already reached the conclusion that Bridges represented a pretty lousy policy?

A. I didn't say that.

Q. Tell us what you meant, then, Mr. Schrimpf.

A. Concerning what?

Q. You know what we are talking about.

A. So do I, yes.

Q. We are discussing first the remark that you made July 29 on the floor of the convention in which you referred to Bridges as one of the lousy, slimy politicians who was flying up and down the coast vilifying the rank and file, including yourself. You first told us that that remark of yours was actuated by the fact that Bridges had accused you of taking $10,000 from the employers, but when it was pointed out to you that that happened later, you said an instance you could cite was when Bridges had said, "Schrimpf and the rats he runs [1838] around with."

Mr. Paisley: I object to the question on the ground that it is an argument, not a question.

The Court: It is an argument. Sustained.

Q. (By Mr. MacInnis): We spoke yesterday for a while about the strike in the early fall of 1933 upon the Matson docks when four men were put out of their work, when a walkout ensued, and when the President appointed George Creel to act as an arbitrator. Do you remember that?

A. There was some discussion yesterday; it is on the record.

Q. And that small strike resulted in a victory to a certain extent for the men, because the union was then recognized as a bargaining agent for the first time, is that true?

A. Have you—are you referring to the Matson strike?

Q. Yes.

A. The union was not officially recognized as the sole bargaining agent, to the best of my recollections, until after we had the new strike in '34.

Q. That is quite correct. The union was recognized after the Matson strike as not being a cause for expulsion of men from their jobs, that is, membership in the union, isn't that true?

A. Well, you are saying so many questions.

(Testimony of Henry Joseph Schrimpf.)

Why, first, you asked if that was recognizing the union, and I answered that question.

Q. No. Let me ask you this question: After the settlement of [1839] the Matson strike it was established by George Creel, arbitrator appointed by the President, that men could no longer be fired from their jobs because of their membership in the ILA; that is correct, isn't it?

A. That is on the record; I just don't know what the procedure was at that time.

Q. And it was after that time that union buttons began to be worn openly?

A. It could have been.

Q. And that was around September of 1933, wasn't it? A. It could have been.

Q. The persons who were militant and active in that strike, small though it may have have been, and who brought it to a successful conclusion, were the men connected with the so-called Albion Hall group, isn't that true? A. It may have been.

Q. And just at about the time of the settlement of the Matson strike the so-called Albion Hall group had run a slate of officers for election within the ILA, is that not true?

A. It could have been true.

Q. And those officers had been elected and helped to create a united front which resulted in the settlement of that small strike, is that true?

Mr. Paisley: Your Honor, there are three questions in one, it seems to me. [1840]

A. It may have been.

Mr. McInnis: As I understand it now, your Honor, the record already discussed is to be brought here.

The Court: That is the order.

Mr. MacInnis: And pending the production of that record may we take the recess? It is now——

Mr. Paisley: We will give him the petition from the Immigration and Naturalization Service file now.

Mr. MacInnis: You mean you have had the official record right here in your hands all this time?

Mr. Paisley: Why, certainly we have.

Mr. MacInnis: You didn't even have to go to the official repository, but it is in the file of the prosecuting counsel?

Mr. Paisley: Where do you expect them to be?

Mr. MacInnis: I won't be surprised about anything about any record.

Mr. Paisley: Neither will we, counsel, after what has gone on here.

The Court: Ladies and gentlemen of the jury, although late in the day, I feel that I have sufficient energy at this time for one additional admonition, and that admonition I repeat, as I said before, that the statements of counsel will not be regarded by you as evidence; that in the give-and-take of a trial things are said by counsel that sometimes should not be said. We cannot retrace our steps nor erase [1841] the record, as I said at the very threshold of the case when you were empaneled.

(Testimony of Henry Joseph Schrimpf.)

I asked you then if the Court at certain junctures were to admonish you to erase from your minds the statements made by counsel, you would do so, and you said you would. I instruct you to erase from your minds the characterizations made by Mr. MacInnis in advance of the production of these records that the witness has been or was a liar. I ask you to erase that from your minds. I ask you to erase the recent discussion or colloquy by Mr. MacInnis, to wit: that he might expect anything in the trial of the case. I regard the several statements on that subject as misconduct on his part. You are entirely to disregard them in your determination of this matter.

Mr. MacInnis: I request the Court to make some more instructions in respect of the remarks made by the Government prosecutor.

The Court: Do you have in mind any specific remark made by Mr. Paisley in connection with the last colloquy?

Mr. MacInnis: The entire colloquy. If what I said was improper, it would seem to me that what the other gentleman said was just as improper.

The Court: If you can point, Mr. MacInnis, to any statement made by Mr. Paisley that would border upon the characterization of a witness as a liar or the like, I should be glad to admonish the jury. I do not presently recall any statement [1842] of that character or any statement that would border or even approach misconduct at this juncture. If you can point to any such remark——

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: If your Honor's memory is as you have stated, it wouldn't be necessary for me to attempt to point out anything to you, so I will let the record stay as it is.

The Court: All right.

Mr. MacInnis: Now I have been handed one document which apparently is the counterpart of the application. Is this the original?

Mr. Paisley: It is a duplicate original.

Mr. MacInnis: All right. We ask, first, that it be marked for identification.

The Court: It may be marked.

The Clerk: May it be marked Defendants' Q for identification only?

(The application was marked Defendants' Exhibit Q for identification.)

Mr. MacInnis: I would like to ask if the Government prosecutors will furnish us also with a transcript of the oral questions put to this man when he was an applicant for citizenship as well as to the two witnesses whom he brought.

Mr. Paisley: I am advised, your Honor, that these are the only records in existence.

The Court: Do you so certify to this Court? [1843]

Mr. Paisley: Your Honor, I have no knowledge, personal knowledge.

The Court: Do you so certify to the Court, sir?

Mr. MacInnis: He says he has no personal knowledge, your Honor. How can he certify to something that he says he doesn't know anything about?

The Court: May I conduct this, Mr. MacInnis?

Mr. Paisley: I do so certify, your Honor, on information and belief which I have obtained from immigration officials.

The Court: Thank you, sir. [1844]

Q. I will ask you this, Mr. Schrimpf, referring to the document called Defendant's Exhibit No. Q for identification, if under oath in a form application submitted to you by the Immigration Service of the United States as a part of the process of applying for citizenship, you were asked, among other things, this question under oath, to which you replied as I will read:

"I am not and have not been for the period of at least ten years immediately preceding the date of this statement an anarchist, nor a believer in the unlawful damage, injury or destruction of property or sabotage, nor a disbeliever in or opposed to organized government, nor a member of or affiliated with any organization or body of persons teaching disbelief in opposition to organized government." Did you make that statement under oath?

Mr. Paisley: Your Honor, that wasn't the question. The question was whether or not he ever testified under oath that he had never been a member of the Communist Party. Now he has got another question that he is asking.

Mr. MacInnis: We are given one sheet of paper by the prosecutor. In answer to Your Honor's question, he tells you that he doesn't, of course,—which is undoubtedly the fact,—have any personal knowledge of what papers, what proceedings, what memoranda were transcribed. I can only do one thing at a time. I am asking this one question. [1845]

The Court: All right; you may answer.

The Witness: Will you read it out again? What is on there?

Mr. MacInnis: Yes. So that the entire matter will be in your mind, I will ask you if, under oath, on the 8th day of May of 1943,—no, pardon me, the 8th day of April, 1943, under oath, before the Immigration Service of the United States, you made this answer:

"I am not and have not been for the period of at least 10 years immediately preceding the date of this statement an anarchist, nor a believer in the unlawful damage, injury or destruction of property, or sabotage, nor a disbeliever in or opposed to organized government, nor a member of or affiliated with any organization or body of persons teaching disbelief in opposition to organized government."

Did you make that statement under oath?

A. I can't recall the exact language. If it was a part—if it was a part of the requirements to, regarding my naturalization, I presume I made it.

Q. And you understood when you made that statement under oath that a period of ten years back from April the 8th of 1943 would take you back to a period of April 8, 1933, didn't you?

(Testimony of Henry Joseph Schrimpf.)

A. That's right.

Q. Now, I will ask you if, in your petition filed with the Clerk of this Court, petition No. 72468, you made the following statement under oath in the month of April of 1943, upon April [1846] the 8th, again:

"I am not and have not been for the period of at least ten years immediately preceding the date of this petition, an anarchist, nor a believer in the unlawful damage, injury or destruction of property or sabotage, nor a disbeliever in or opposed to organized government, nor a member of or affiliated with any organization or body of persons teaching disbelief in or opposition to organized government." Did you make that statement under oath?

A. I will say for the record, as I said before, if this was one of the requirements in obtaining my naturalization I must have made it.

Q. And when you made that statement under oath, you realized that a period of ten years back would again take you to April 8th of 1933, did you not?

A. Yes, the dates there—that is the dates, the way they jibe.

Mr. MacInnis: May we take the recess at this time?

The Witness: May I qualify that answer?

The Court: Yes, sir.

A. (Continuing): There is one answer that has not been cleared up, at least there is one question that was not asked. I was asked, "To the best of my recollection, do you belong to any Fascist, Nazi, Communist or any group which advocates the overthrow of our democratic government?," or it was in language along that. I said, "I do not." That was "Do I belong to [1847] them?," and I said, "I do not." I believe that question was asked me.

Mr. MacInnis: Yes. We will come to further questions if we may, Your Honor, when we reconvene. I would like to read these documents.

The Court: The indication to the Court was that we would complete this examination, let us say, by today.

Mr. MacInnis: I had thought so, Your Honor.

The Court: Is there any prospect of completing it within the next 15 or 20 minutes?

Mr. MacInnis: Oh, I would think so if I may have a moment to read these papers over—whatever Your Honor thinks best. I can finish with this man either in the morning or tonight, whatever Your Honor prefers.

The Court: I have in mind that he has been here now for some period of time. However,——

Mr. Paisley: It wouldn't take him long to read them, Your Honor. It didn't take me but about two or three minutes.

Mr. MacInnis: I may not be able to digest these things as rapidly as you, Mr. Paisley.

Mr. Paisley: I think you could.

The Court: I might say that I would like to complete with this witness if at all convenient. I am not going to foreclose you, however.

Mr. MacInnis: Well, the only position I have, if it is [1848] important to Your Honor, I will go ahead. If Your Honor is indifferent about it, I would just as soon that we go over until tomorrow morning. There may be some further questions. And in view of certain rulings on certain objections, I might wish to phrase them in a different way to preserve a record. I don't know. That matter I would like to think over a little bit.

The Court: We will adjourn, then, ladies and gentlemen of the jury, until tomorrow morning at 10:00 o'clock. I have in mind that at a later stage of this week, by reason of the Christmas period, that we might recess the Court, let us say, Friday at noon to allow for an interval of time so that you ladies and gentlemen may do your shopping and attend to the details that enter into the Christmastide spirit. I realize that at this particular time, particularly launching into the Christmas season, to the holiday season, that there is an additional burden upon you. I want to make it as light as possible. That is the reason I did not want to run too late today.

Mr. MacInnis: We would be glad to accede to any such suggestion, Your Honor.

The Court: We will resume, then, tomorrow morning at 10:00 o'clock have in mind that at a later date this week, let us say Friday, we might well adjourn at 12:00 o'clock. So you will have that afternoon, Friday afternoon, to do your shopping. As it results now, it is late when you reach the downtown area, [1849] 5:00 o'clock at least, and the day is gone. Again may I admonish you not to discuss the case under any circumstances, nor to form nor express an opinion thereon until it is finally submitted to you.

We will now adjourn until tomorrow morning at 10:00 o'clock.

(Thereupon an adjournment was taken to tomorrow, Wednesday, December 7, 1949, at 10:00 o'clock a.m.) [1849-A]

Wednesday, December 7, 1949—10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Henry Joseph Schrimpf, heretofore sworn.

HENRY JOSEPH SCHRIMPF

resumed.

Cross-Examination

(Continued)

By Mr. MacInnis:

Q. Your Honor, with reference to the documents of which mention was made in attempting to refresh this witness' recollection, I have the copies that you suggested. I think I have most of them here. There are two or three more which are still being prepared. And I will present them to the Government prosecutors, and if those are satisfactory they may be marked for identification on the one exhibit number that has been designated by the Clerk.

The Court: So that we may know and the jurors may know, the documents you handed to Mr. Paisley are copies of official records, are they?

Mr. MacInnis: Yes, your Honor, the same ones——

The Court: Would you state now for the record the copies. They are copies of official records. Will you identify them for the record.

Mr. MacInnis: Yes, your Honor: I have handed the Government [1850] prosecutors the following, which are now identified, respectively:

The full minutes of the International Longshoremen's Association, Local 3897, general membership meeting of November 13, 1934.

The Clerk: May I temporarily mark it as N?

The Court: So ordered.

Mr. MacInnis: I hand them also full minutes of International Longshoremen's Association, Local 3879, regular minutes of October 15, 1934.

The Clerk: May those be marked, your Honor, N-1 for identification?

The Court: So ordered.

Mr. MacInnis: And a copy of the full minutes of the Longshoremen's Labor Relations Committee meeting of October 23, 1934.

The Clerk: May those be marked N-2 for identification, your Honor?

The Court: So ordered.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: A copy of the full minutes of a special meeting of the International Longshoremen's Association of June 17, 1934, all of these being documents whose originals were displayed to the witness.

The Clerk: N-3.

The Court: They may be marked. [1851]

Mr. Paisley: I take it, your Honor, that they have been accurately copied, but I think it would be our duty to check them against the originals.

Mr. MacInnis: That is perfectly satisfactory. Some of the originals we may have here. The others we will bring back, and we will be glad to allow that opportunity.

I might say that the documents I have in my hand now which were handed me by the prosecutor are not documents upon which we have had a chance to check with any originals from the official repository, but we will go ahead.

Mr. Paisley: The original copies, I imagine, would be with the Court, the Clerk of the Court. They are not copies; they are duplicate originals signed by the witness.

> (The documents referred to were marked Defendants' Exhibits N, N-1, -2, and -3 for identification.)

Q. (By Mr. MacInnis): Now, Mr. Schrimpf, it appears that the two men who appeared as witnesses for you when you applied for citizenship were Mr. George Arms and Mr. Jensen, is that correct?

(Testimony of Henry Joseph Schrimpf.)

A. It's Jensen—Mr. Arms and Mr. Jensen.

Q. What was Mr. Jensen's first name? On this paper only his last name is given. A. Les.

Q. Just Les?

A. Les was all I ever knew him by. [1852]

Q. Did those men accompany you to the office of the Immigration Service when you made your original application?

Mr. Paisley: Just a moment, your Honor. I object to any questions about this man's naturalization on the same grounds that we urged yesterday, the only exception being that he may ask him for the purpose of laying a foundation for attempted impeachment, as to whether or not he had ever testified or stated under oath or otherwise that he had never been a member of the Communist Party. Now, we are certainly not concerned with the details about his naturalization.

Mr. MacInnis: May I be heard briefly, your Honor?

The Court: Overruled.

Mr. MacInnis: Your Honor, I am not on the point precisely——

The Court: This may be preliminary, at any rate. Overruled.

Mr. MacInnis: Thank you.

A. You asked me the question if my two witnesses accompanied me to the court?

Q. No, to the office of the Immigration Service before you came to court.

(Testimony of Henry Joseph Schrimpf.)

A. That I do not recall.

Q. You do not recall any occasion in which you and your two witnesses went to the office of the Immigration Service and submitted yourselves for questioning?

A. I can't recall if we three went together to the office. [1853]

Mr. MacInnis: I would like to request of the Government prosecutors that we be given now a copy of the transcript of such preliminary questions as were put to this witness and to the two men who were his witnesses.

Mr. Paisley: There is no such document in existence, according to my information and belief.

The Court: I will make an order that it be produced. If it is in existence, produce it.

Mr. MacInnis: May that order, your Honor, run to the existence of any memorandum of such——

The Court: You specify the documents. I will rule as you specify.

Mr. MacInnis: We ask, then, that the Government prosecutors, if the record cannot be produced or if it now is not in existence, produce the notes or memoranda of the hearing officer who questioned Mr. Schrimpf, Mr. Arms and Mr. Jensen.

Mr. Paisley: I am informed by Mr. Boyd, who certainly ought to know, your Honor, that this is the complete record of the Immigration Service.

Mr. MacInnis: Do you state that the Immigration Service kept no records at all on this matter other than those bare printed forms?

(Testimony of Henry Joseph Schrimpf.)

Mr. Donohue: I think, if your Honor please, that is an unfair question.

The Court; Yes, it is. [1854]

Mr. Donohue: I may say to Your Honor, as long as counsel has raised the point, that the hearing examiner, from our records, who conducted this hearing, is no longer in the Immigration Service, and we have made every possible human effort since this matter came to our attention a day or two ago to locate him, that we may bring him here, and we can't find him.

The Court: Are you prepared to disclose his name?

Mr. Donohue: His name is Hauser.

The Court: Hauser?

Mr. Donohue: Yes, sir.

The Court: How long was he in the government service?

Mr. Donohue: I will have to ask Mr. Boyd if he knows.

Mr. Boyd: I am not prepared to answer, sir.

Mr. Donohue: I can find that information for you.

The Court: All right. At least his name is Hauser.

Mr. Donohue: We understood he was an attorney practicing law in Los Angeles. I called the Los Angeles office of the Immigration Service the day before yesterday and asked them to make every human effort to locate him, that I wanted to talk with him.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: May I ask the government prosecutor another question, advisedly, Your Honor: Would one be able to find the name of Mr. Hauser, the hearing officer, upon either of these documents that you have handed me? (Handing to Mr. Paisley) [1855]

Mr. Paisley: What is this?

Mr. MacInnis: I am merely trying to eliminate going over it line by line.

Mr. Paisley: Well, of course, Your Honor, the document speaks for itself. There is the name, in answer to your question. I don't think I should be questioned this way. There is the name of Bonsall there, designated "Examiner." But I am told by Mr. Boyd that he was just in a preliminary capacity there.

Mr. MacInnis: Your Honor, the reason I asked that question is this: If the name of Mr. Hauser, which is now offered us by one of these government prosecutors as being the hearing officer at the time Mr. Schrimpf was admitted to citizenship, is not on these documents, and if it is within the knowledge of the prosecutor, it must appear on some record. Now, they say that this is the full record. If the name of Mr. Hauser appears on some records, so that it could then be transmitted into the mind of Mr. Donohue, we would like to see that record.

Mr. Paisley: Now, Your Honor, what we are saying is that these are the documents and the only documents signed, executed by the witness; that there is no question and answer transcript available in the file of Schrimpf in the Immigration and Naturalization Service. Certainly counsel knows that he is not——

The Court: Well, Mr. Schrimpf at no time testified before [1856] the Superior Court in and for the City and County of San Francisco, did he?

Mr. Paisley: Oh, no, no.

The Court: As Mr. Bridges did?

Mr. Paisley: That's right.

The Court: Where were the proceedings conducted as to this man?

Mr. Paisley: In this District Court.

The Court: In this court?

Mr. Paisley: Yes.

The Court: Did it ever go on to a court hearing?

Mr. Paisley: I am advised that there were no questions asked in open court. Sometimes that is done; they are subject to cross-examination by a government representative.

The Court: Do you represent to the Court, then, —I asked this question late yesterday—that the document handed to Mr. MacInnis represents the full file on this matter?

Mr. Paisley: They represent anything signed by the witness. They—There is no transcript of questions and answers made by the witness, other than this. Of course, the Immigration has other files, but they are naturally confidential matters. He is not entitled to them. For instance, suppose there was a report of an investigator of their findings on this

(Testimony of Henry Joseph Schrimpf.)

man. They would not be entitled to that. That is confidential government records. We voluntarily have given them anything that this [1857] witness signed or anything that he might have said.

The Court: All right, you may proceed.

Mr. MacInnis: I think, Your Honor, that if there is such a file, it would be within Your Honor's discretion to look at the file and to see what matters we should be allowed to scrutinize. I don't think we should be bound by what the prosecutor says is confidential.

Mr. Paisley: I subscribe to that doctrine. We can stop right there. We are quite willing for the Court to have it, but we don't think that the Court will or should order the Government's confidential files disclosed to the defendant, unless they contain some statement from which, by the witness, from which he might possibly be impeached.

Mr. MacInnis: I think, Your Honor, if I understood your ruling correctly, you have indicated that if there is any memorandum taken as to the preliminary examination of Mr. Schrimpf and his two witnesses, that that should be brought here. Those, of course, would not be documents assigned by Mr. Schrimpf. He wouldn't be signing an oral interrogatory.

The Court: Well, as I understand your immediate purpose, as indicated yesterday as well as this morning, you now seek to contradict by prior testimony or by laying a foundation for the impeachment of the testimony of this witness. Now, that

(Testimony of Henry Joseph Schrimpf.)

may be done if the record so reflects. And you may examine this witness with respect to the subject matter of answers to [1858] questions propounded to him. This matter did not go to court hearing?

Mr. Paisley: That's right, Your Honor.

The Court: All right.

Mr. MacInnis: Your Honor, in reference to these matters and in reference to the contents of the questions and answers which I have already read to this witness out of the two documents which have been given us,——

The Court: I haven't seen the document, counsel, —thus far. I haven't seen them.

Mr. MacInnis: I see. I appreciate they haven't yet been handed to Your Honor.

(Documents handed to the Court by the Clerk.)

The Clerk: One has been marked, one has not.

Mr. Paisley: Now we have the entire file in the building and will be glad to submit it to Your Honor if Your Honor cares to see it. But Your Honor can certainly allow access to anything in there to the defendants. If Your Honor feels that the files should not be turned over to the defendants, it may be sealed for future use in an appellate court if counsel wishes to make any contention that Your Honor is in error in not giving him any part of the file.

The Court: Well, proceed at this juncture with the witness Mr. Schrimpf.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Well, what I was about to propose to Your [1859] Honor is this. This will take about two minutes to read to Your Honor. Section 705 of the Nationality Act, which is part of our United States Code Annotated, passed in October of 1940 and applicable at the time of this man's naturalization, reads as follows:

> "No person shall hereafter be naturalized as a citizen of the United States, A, who advises, advocates or teaches, or who is a member of or affiliated with any organization, association, society or group that advises, advocates or teaches opposition to all organized government, or, B, who believes in, advises, advocates or teaches, or who is a member of or affiliated with any organization, association, society or group that believes in, advises, advocates or teaches, 1, the overthrow by force or violence of the Government of the United States or of all forms of law, or, 2, the duty, necessity or propriety of the unlawful assaulting, killing of any officer or officers of the Government of the United States, et cetera, or, 3, the unlawful damage, injury or destruction of property, or, 4, sabotage."

Section C applies the same principles to anyone who writes or publishes the material dealing with the same matter, and Section D makes the section applicable to any person who is a member of or affiliated with any organization, association, society or group that writes, circulates, distributes, [1860]

(Testimony of Henry Joseph Schrimpf.)

prints, publishes or displays or causes to be written, et cetera, any written or printed matter of the character described above.

Now, the section concludes:

> "The provisions of this Section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the petition for naturalization is or has been found to be within any of the classes enumerated in this Section, notwithstanding that at the time the petition is filed he may not be included in such classes."

Q. (By Mr. MacInnis): Mr. Schrimpf, are you able to furnish us the approximate date on which you became a walking boss?

A. No, not the exact date. It may have been along in June of 1943. I am merely saying it may have been along in there. I don't know the exact date. June or July.

Q. When did you go to court? And by going to court, I mean an appearance in one of the courtrooms of this building, United States District Court, in reference to your naturalization?

A. When?

Q. Did you go the same time that you filed the petition that has already been offered us here in evidence?

A. I can't recollect if it was the same time.

Q. Well, as I read the dates on these documents, you signed your application on April 8, 1943, a

(Testimony of Henry Joseph Schrimpf.)

copy of the petition contains no—yes, it does, it contains also the date of April 8th. [1861] Now, were you naturalized on April 11th, just three days later?

A. I believe that was the date. Now I am not positive.

Q. In other words, there was an intervening period of only three weeks between the time you filed your application, signed your petition and were then taken to court?

The Court: One moment, please. "Taken to court"?

Mr. MacInnis: Well, brought to court, or that you went to court. I mean by "court," this court, the United States District Court, where we are informed he received his citizenship papers.

A. I repeat, I am not sure of the time element, between these actions.

Mr. MacInnis: Well, now, may I ask the government prosecutor if he has the record of the day upon which this man was readmitted to citizenship? Do you want to show me where that is, please?

Mr. Paisley: Your Honor, the court record, I take it, is available to counsel if he wants to get it.

The Court: Well, it may be readily available here. The dates he wants may be readily available.

Mr. Paisley: It shows right on here, Your Honor, "Admitted date May 11, 1943." [1862]

Q. (By Mr. MacInnis): So it was May 11, 1943, that you were admitted?

(Testimony of Henry Joseph Schrimpf.)

A. Well, that is what I said, I believe, I thought it was correct.

Q. Do you remember before what judge you appeared?

A. No; that is also not in my memory right now.

Q. Did you come to court with your two witnesses on that day?

A. The day I was sworn in?

Q. Yes.

A. I don't know if the witnesses were with me or not.

Q. Were there any other people being naturalized on the same day?

A. Yes, to my recollections, there were many.

Mr. MacInnis: I would like to request of the Government prosecutors that we be allowed to see any transcript of the hearing, if one is in the possession of the prosecutor.

Mr. Donohue: If your Honor please, I think that counsel has shown an aptitude in procuring transcripts. He asked yesterday that your Honor ask the Clerk to make him available the file of this Court. If there is any transcript, I assume it is part of that file. We have no such transcript.

Mr. MacInnis: Your Honor, I think all of us know what the contents of it are. The contents of the file is one sheet of paper written on both sides. [1863]

The Court: I might say to you that there perhaps is a little confusion engendered in my mind

(Testimony of Henry Joseph Schrimpf.)

and perhaps in the jurors' minds. I feel that we sit here hearing this evidence for the first time, and the routine in these courts, as far as I can recall, is that on naturalization day many of these persons come before the court; we have as many as 100 or 125 at one time.

Mr. MacInnis: That is perfectly true.

The Court: They have been passed by Immigration, and the matter of routine of admitting them to citizenship, although part of the internal processes, is pro forma to the extent that the Court administers the oath through the Clerk and the matter is a ceremony rather than an investigation. For that reason I say, unless you can advise me otherwise, there would seem to be no immediate reason why this man would have put witnesses on on that day. I am trying to delineate these phases in my mind so there will be no confusion in the record.

Mr. MacInnis: I will be glad to answer your Honor.

The Court: All right.

Mr. MacInnis: Without endeavoring, of course, to argue with the Court.

The Court: No argument. I am merely trying to find my way through.

Mr. MacInnis: I appreciate that. No argument at all, [1864] your Honor, but the reason I asked that question is this: We are presented with a transcript of what happened in court in respect of Harry Bridges, and we see that his two witnesses

(Testimony of Henry Joseph Schrimpf.)

were brought to court with him and that they were questioned, and we have Mr. Garner saying that the law required him to ask these questions.

The Court: Counsel, there is a distinction between admission to citizenship under the State procedure as distinguished from the Federal procedure, and I think that is where the confusion results in my mind.

Mr. MacInnis: I think the law is the same, your Honor, precisely.

The Court: In the case of Harry Bridges he attended a hearing, apparently set before His Honor Judge Foley. That hearing was specially set, no doubt, at the instance of Mr. Bridges; I don't know. There were only a few others there, apparently.

Mr. MacInnis: Your Honor,——

The Court: At that time witnesses were present. Now, ordinarily when a man is admitted here, the Immigration passes him for citizenship, and the matter is an official one wherein the court administers the oath through the clerk.

Mr. Paisley: I am informed that is exactly right, your Honor; that in the Federal Court the Court designates an examiner to do the work, and in the State court it is done in [1865] open court, that is, any questions.

The Court: I am not familiar with the State court procedure, but I know in these instances the power is delegated to a hearing examiner.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Your Honor, to recall——.

The Court: So there might be no confusion in my mind or your mind——

Mr. MacInnis: There isn't a bit of confusion in my mind, your Honor, for this reason: I have in my hand now Government's Exhibit No. 4, which is the granting of the petition, the certificate of citizenship itself.

The Court: For this witness?

Mr. MacInnis: No, of Harry Bridges, and rather than being a State court form, although the procedure was had in the State court, it is on the stationery of the United States Department of Justice.

The Court: It may well be as an eventuating document, as a final document.

Mr. MacInnis: Yes. And rather than having been a hearing specially set merely for Harry Bridges because he was a well known person, or for any other reason, 19 other persons were questioned and admitted to citizenship at the same time; and Mr. Garner told us that he asked all of those substantially the same questions.

Mr. Donohue: Your Honor, I don't know just what counsel [1866] is reaching at, but counsel knows that if there was a transcript of any testimony taken of this witness and/or his attesting witnesses in the naturalization proceeding before this court, it would be available not only to us, it would be available to him. And I think he is confusing

(Testimony of Henry Joseph Schrimpf.)

the issue by reason of the fact that your Honor very carefully instructed the jury with respect to the nature of this indictment and the perjurious statement upon which we are, I hope, proceeding here was a perjurious statement made at a hearing on the naturalization of Harry Bridges before His Honor Judge Foley, at which there was a transcript, and that transcript has been filed here, and that perjurious statement, question and answer, is contained in the indictment. Mr. Bridges and his co-defendants were not indicted for any statement they made on any of these forms which we have here. The indictment is predicated upon the alleged perjurious statement made in that open proceeding before Judge Foley.

Now, if there was a like proceeding before any judge in this court and it was reported, we would have that transcript here, and it would be equally available to Mr. MacInnis; but apparently it was not and there isn't any.

Mr. MacInnis: I am trying to find out, your Honor. I haven't yet been unable to determine before what judge the matter was heard.

Mr. Donohue: As I say, he has been given the benefit [1867] of the file, and he could certainly find out——

The Court: Mr. Donohue, in the official record when this gentleman was admitted to citizenship, the gentleman before whom this gentleman came, along with perhaps others, ordinarily sighs a document wherein the complete roster of names is set forth, and then the judge at the bottom of the page certifies that on a certain day Mr. Schrimpf, Mr. John Doe, Mr. Richard Roe, and so forth, were duly admitted to citizenship. He signs that, and that is the official record. That must be someplace in the court records.

Mr. Donohue: I understood that Mr. MacInnis yesterday asked that the record of this Court be brought here.

The Court: Mr. Mitchell has handed me now the form that we use, at least so far as I know.

The Clerk: Similar to that, your Honor.

Mr. MacInnis: Yes, your Honor. In other words, this Court uses an identical form to the one that was used in the Harry Bridges case.

The Court: That is the final document, and this is filed. I notice this in Mr. Bridges' case was signed by Judge Foley, but the procedure, apparently—I am not passing on the procedure—in the Superior Court is entirely different than the procedure in vogue in the Federal Court, as to the facts of which I am sure that some of these experts of the Immigration Service might be able to edify us. I don't assume to be familiar with all the ramifications. [1868]

Mr. MacInnis: Your Honor, I am not at all confused about these proceedings. We ask that the same document be produced.

The Court: Counsel, I am not charging you with confusion.

Mr. MacInnis: Because I am not, Judge.

The Court: I am not charging you with confusion; I am merely trying to ferret out in my own mind to the end that there may be no confusion in my mind.

Mr. Paisley: Mr. MacInnis, your Honor, knows that he can have the Clerk produce the court order which granted this witness citizenship.

The Court: Let it be produced.

Mr. MacInnis: I thought I heard myself ask that yesterday afternoon.

Mr. Paisley: It will doubtless be an order including this man with a number of other persons, just like this order here.

The Court: Let it be produced. Mr. Mitchell, could you find that for me, please?

The Clerk: I will attempt to. Do you wish it now or at the recess?

The Court: At the recess.

Mr. Paisley: This form, by the way, clearly shows that the petitioner himself designates what court he wishes to [1869] appear before, whether State or Federal.

Q. (By Mr. MacInnis): Mr. Schrimpf, before the year 1943 had you made any other attempt to become a citizen of the United States?

A. I filed papers, I believe it was in the twenties, my first papers, and I let them elapse.

Q. In other words, some time after you came here originally you filed your first citizenship papers, but you never followed them through?

(Testimony of Henry Joseph Schrimpf.)

A. I believe that was the reason, yes.

Q. After you let those first papers lapse, did you file any first papers again before your naturalization in 1943?

Mr. Paisley: I object to that, your Honor. We have gone away back now several years on a purely collateral, immaterial matter.

The Court: Overruled.

A. If my recollections serve me right, it was not necessary to file first papers under certain provisions, if you were married to a citizen over a period of a year, or something to that effect.

Q. (By Mr. MacInnis): So you didn't file any first papers except the ones you have mentioned back in the twenties?

A. That is to the best of my recollections.

Q. And you were enabled to make your application in 1943, as is represented here, without any previous signing of a [1870] questionnaire or any previous examination?

A. I can't answer that question, if that was the only questions that I answered at this one hearing. There may have been other hearings. I can't recall that far back.

Q. You told us yesterday, Mr. Schrimpf, that you had submitted to various loyalty check-ups while working during the war on the Army docks as a walking boss? A. That is right.

Q. And you were asked questions at that time, were you not?

(Testimony of Henry Joseph Schrimpf.)

A. I don't recall the procedure, but to the best of my recollections, I believe they had some kind of forms you filled out similar to the form for naturalization, something patterned after the same form.

Q. And in those forms you were asked if you ever had been a member of the Communist Party, isn't that true?

A. I can't recall such language on the form.

Q. You can't recall one way or the other, is that true?

A. I can't recall such language on the form.

Q. Mr. Schrimpf, do you remember a meeting upon the 6th day of November of 1938 at No. 77 Clay Street at which you were present with Mr. George Arms, who was later your witness in the naturalization proceeding, Mr. Henry Schmidt, Mr. Germain Bulcke, and other members of the longshore union? Do you remember such a meeting?

A. Was that a meeting or could that have been the trial of [1871] George Arms?

Q. You are correct. It was the trial of George Arms. And you were present with George Arms and participated in the discussion, did you not?

A. I defended George Arms at that hearing.

Q. And the person appointed by the union to press the charges of misconduct against George Arms was Mr. Henry Schmidt?

A. Yes, he acted in the same sense as a prosecutor in the case here.

Q. And you appeared to defend George Arms, is that right? A. That is right.

(Testimony of Henry Joseph Schrimpf.)

Q. What was he charged with?

A. I don't recall all the charges; there were various charges; I don't recall them.

Q. He was charged specifically with doing business with Harper Knowles, Larry or Stanley M. Doyle, known as Larry Doyle, A. L. Crawford, the attorney for Larry Doyle, and other persons including Mr. Bonham of the Immigration Department, in an endeavor to destroy Harry Bridges? Weren't those the bulk of the charges?

A. I still say I don't recall what the charges were. There were numerous charges in that document.

Q. Were the charges I have suggested enumerated in among the things which Arms was charged with?

Mr. Paisley: I object to going into the details of that [1872] trial. If he wants to ask him if some enmity arose between him and Mr. Schmidt over the prosecution and to the extent the enmity, if any, might have existed, I have no objection.

The Court: Overruled.

The Witness: Would you repeat that last question?

Mr. MacInnis: Would you read the question, please.

(Question read.)

A. As I said before, I have no recollections. They could have been.

(Testimony of Henry Joseph Schrimpf.)

Q. (By Mr. MacInnis): Let me ask you if this refreshes your recollection, that the charges were as follows:

"First, that he associated and collaborated with known enemies of labor, and especially with known enemies of the CIO and ILWU.

"With Stanley Doyle, labor spy who attempted to bribe persons to give false testimony against Bridges to have Bridges deported, and who attempted to bribe persons to testify falsely and incriminate ILWU official in the Hogan case.

"That he collaborated with A. L. Crawford, the attorney who brought the action of Ivan Cox against Bridges, Schmidt, Schomaker and others; the secretary of the Union of California Citizens, an anti-union, anti-labor organization with definite Fascist connections. [1873]

"That he collaborated with Harper Knowles, secretary of the Associated Farmers; and

"With the Steuart Street gang and specifically with Kuhlberg; and

"With having knowledge of *an* having participated in the bringing of the action of Cox's $5,000,000 suit against the officials of this union and many other persons;

"Acting as agent provocateur for Stanley Doyle and the Associated Farmers;

"Acting as the agent of Doyle and Crawford

> and spreading unfounded and untrue stories directed against union officials, such as the charges that Bridges got away with about $9000."

were those the charges that were brought against George Arms, whom you then defended?

A. As I have already stated in the record, there was numerous charges, and if that is the official record of the charges, well they are.

Mr. MacInnis: I might say, your Honor, that the official record to which the witness refers was prepared by men who were at that time official reporters of this court, Messrs. Gagan & Lehner, 273 Post Office Building, San Francisco.

The Court: The charges were not prepared; they were transcribed by them? [1874]

Mr. MacInnis: Pardon me?

The Court: The transcript was prepared by those men?

Mr. MacInnis: Yes, your Honor. They acted as the shorthand reporters and later made the transcription.

Q. Did you say this, Mr. Schrimpf, in the course of the hearing that ensued, as part of the hearing between yourself, Mr. Arms, Mr. Schmidt, and the other persons present;

> "Mr. Schrimpf"—quoting you: "Before we recess, and while this is fresh in our minds. We have a very willing witness here. It might

> be well to note that throughout this Brother Schmidt dealt on stuff which is absolutely irrelevant to this particular case. He has brought up all of this and he has cluttered up the record to make it more or less difficult and tiresome to read. I think you have to admire any man who tells you what he thinks. That is everybody's privilege. He told you at the meeting that he said he believed in arbitration. That is his business. I don't think he is alone. It is an individual opinion. He has told you he thinks we should be back in the AFL."

That was George Arms, was it not, the person who said that?

> "Many of us believe that. That is his own thought, and Brother Schmidt did not lose the opportunity once more to attempt to place the blame on Brother Arms. It is nice to say something which is popular to the membership."

Mr. Paisley: Just a moment. Is counsel reading something that the witness is alleged to have said?

Mr. MacInnis: Yes, I am, and after I read it, if he says he doesn't remember it, I will be glad to hand it to him to show that what he said is exactly as I have quoted it. [1875-A]

Mr. Paisley: Well, of course, the proper procedure, even under the statutes of the State of California, with which counsel should be familiar, he should submit the document first to the witness before he asks any questions, and to counsel, for that matter. And certainly we have had this out before the Court here yesterday and the day before. But he persists, your Honor.

Mr. MacInnis: Your Honor, he is confusing a different rule. Your Honor, if the witness says that he didn't say it, or that he doesn't remember, then both the Court, the other counsel and the witness have the right——

The Court: I assume, Mr. MacInnis was launching into a question to be advanced to this witness as to when, or whether or not he made a certain statement.

Mr. MacInnis: Yes, that is correct.

The Court: Well, had you finished the statement?

Mr. MacInnis: Your Honor, I was interrupted in the middle of the statement.

The Court: Finish the statement.

Mr. MacInnis: Your Honor, now I will have to be informed where I was at the time the prosecutor stood up to interrupt me. Would you read what I was saying?

Mr. Paisley: He also interpolated a question in the middle of the reading and didn't even wait for an answer. I don't know what he is going to [1876] prove.

Mr. MacInnis: It will be apparent.

(Record read.)

The Court: What is this, an argument, a question or what?

Mr. MacInnis: I am reading what this man says, your Honor, in this transcript.

The Court: All right; continue.

> Mr. MacInnis: "It is nice to say something which is popular to the membership. Brother Schmidt likes to be a big fellow and say he advocated a cut. Did you hear him get on the floor and say, 'Let us take a vote'? All this stuff has practically been admitted by Brother Arms. We have gone over that thoroughly. Your whole report will be cluttered up. He repeats and repeats that he was interested in certain issues on the 'front as a brother,' and he certainly did feel he was talking to somebody who really knew something. He thought so, and thought he was doing right, and there is no use to hash this all over again. They jump all over the place. They try to link him up with the banana issue, the $9,000. There is no proof. He denies that.
>
> "We will get to the last paragraph:——"

quoting, still yourself:

(Testimony of Henry Joseph Schrimpf.)

"'After these charges by Arms had been made, the union appointed an investigating committee to look into the truth of the charges. Arms and I repeatedly asked A. L. Crawford to give us the actual proof of these charges, but Crawford [1877] absolutely failed to do so, and the reason, of course, is that he did not have any such proof, and I consider this conduct of A. L. Crawford and Harper Knowles to be an absolute betrayal of myself and George Arms.'

"After they began to get leery of him, they say, 'What about some of this stuff? On the Hogan case he did not have any proof.' They said, 'To hell with you.' Why not put the emphasis in the other places? I am going to call on the chair for a point of order if this is going on, criticizing one's personal ideas and elaborating on them and making big speeches, and going into things not relevant to this trial."

Did you say that, Mr. Schrimpf?

A. Well, that is quite a statement you have made there. If that is the true report on the record at this trial, I could have said that.

Q. Did Mr. Schrimpf, after another colloquy, make this reply to your lengthy statement——

A. Is that Schrimpf or Schmidt?

Q. I am speaking of Mr. Schrimpf. You are Mr. Schrimpf, are you not? A. That's right.

Q. Yes. A. Well, let's get the record clear.

(Testimony of Henry Joseph Schrimpf.)

Q. Were you spoken of in the record as "Mr. Schrimpf"? Those [1878] are the parts I am reading and attributing to you. Now, Henry Schmidt was the prosecutor, wasn't he?

A. He acted as a prosecutor.

Q. Did he make this reply to you, "Don't you think when a man has an association with a man like Ivan Cox, and we all know by this time he was being used by certain people who were not interested in the welfare of the union or the working class, that when another brother member who claims to be a friend of Cox and Arms, also claims he is interested in the welfare of the union, that he should have reported to the union in detail just what he knew? The evidence shows he was in constant communication with Cox and Crawford and Knowles and the other fellow. Still he was silent all of these months. And I recall shortly after Ivan Cox came along with that $5,000,000 suit, on numerous occasions I asked the fellow officials in the office, including Brother Arms, if they knew anything of the whereabouts of Cox. And invariably the answer was 'No.' Now, we find out Brother Arms knew where Cox was, that he kept silent all of these months, and that he let that $5,000,000 lawsuit come out, and then the refutations and then as a result of all of this, the union has had unfavorable publicity. No less a committee than the Dies Committee, a Congressional committee, has used the

(Testimony of Henry Joseph Schrimpf.)

material that Cox signed in his original complaint. You have all read the headlines where they simply capitalize on the entire situation. All this in spite of the fact that Cox [1879] repudiated it all. Here we have Arms keeping absolutely silent. I ask, in all fairness, is that in the interest of the union? It seems to me he was working much more closely with Crawford, Knowles and Doyle, than Cox. Cox, after all, is not nearly as intelligent as Brother Arms. He swallowed it hook, line and sinker. Arms knew what they were trying to do. His own remarks convict him. Time after time he has made remarks to brothers here and there, simply by stating, 'So-and-So is a Communist.' He and others try to discredit people. The employers have been doing it ever since we started. You old-timers know how, 45 years ago, the organized employers in the entire world, how they attempted to discredit the workers."

The Court: Mr. MacInnis, I have heard the matter to this point for the reason that I, of course, can not anticipate the nature of your questions, but must accept your assurance that there is a question before the Court as well as the witness. Now, I say "apparently thus far." The situation was one wherein I may well entertain a motion at this time. Do you have any motion, Mr. Paisley, with respect to this?

(Testimony of Henry Joseph Schrimpf.)

Mr. Paisley: Your Honor——

Mr. MacInnis: Your Honor, I am almost finished with the reading of what was—This is in the presence of this man, part of a conversation.

Mr. Paisley: I have heretofore objected to going into the details of this trial, and I presume your Honor overruled me on [1880] the theory that there might come out of this future examination some evidence as to enmity between the witness and Schmidt or Bridges. Now, it hasn't come out yet. I think your Honor is quite proper——

The Court: I awaited a fuller hearing of the matter in order that I might not preclude counsel from a proper interrogation. I sustain the objection at this time.

Mr. MacInnis: Your Honor, I respectfully suggest I would come to that point. The colloquy between these men will show the significance of this whole situation. The enmity that grew up at that time will be displayed.

Mr. Paisley: Well, this is cross-examination and is within the discretion of the Court. Now, it is quite obvious, your Honor, that this question is almost silly. Here he is asking a witness if Schmidt didn't make a speech in this trial eleven years ago, and it isn't a sentence he is asking about, but he has read two or three pages. Now, how could any witness answer here, eleven years afterward. "Yes, he said that." That is just how silly the interrogation is.

(Testimony of Henry Joseph Schrimpf.)

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Mr. Schrimpf, in the course of the meeting that has been described now, and I mean the meeting of November 6, 1938, which was the trial of your friend George Arms, whom you testified, Mr. Arms stated in your presence that it was true that Harper Knowles and Stanley M. Doyle had come to his house? [1881]

A. I believe that is correct. And if I may, your Honor, may I qualify that answer?

The Court: Certainly.

A. (Continuing): The reasons is all borne out in the script there; there was a man who had disappeared off the waterfront. His name was Hogan, very popular young man. Incidentally, he was a graduate from Notre Dame. And his disappearance has aroused quite a controversy on the waterfront. Arms was one of many, right to this day, who believed that Hogan met with foul play. And these men visited Arms' house, as the testimony shows in that script. And one of the first things, to the best of my recollection, Arms was approached with, "Did you know a man named Hogan?" and Arms, all ears, which he always was, because he believed —he is an honest man, and he believed that Hogan disappeared. He said, "I certainly do." Of course, I can't give you verbatim wording but it—it was along this trend, it was given in the testimony. "Do

(Testimony of Henry Joseph Schrimpf.)

you know that he met with foul play?" "That was my idea." And one or two other things concerning Hogan, and that was the purpose of this visit to George Arms, and he did let them in, because, as I said today, Arms is a—well, he is a real patriotic American. He is so honest that his best friend, if you were to go down and tell Arms his best friend was going to do him bodily harm, to do him bodily harm—he is so honest that he just would take it for granted it was so. Anything he was told he believed. And he [1882] believed these men when they said they knew what happened to Hogan and they knew he had met with foul play and that is all brought out in the script of the trial.

Mr. MacInnis: Yes. And that was the point to which I was proceeding, your Honor, the matter of Hogan.

Q. When did Mr. Hogan disappear?

A. I don't recall that date either.

Mr. Paisley: I must object, if your Honor please.

The Court: Yes.

Mr. Paisley: I don't see the materiality of the disappearance of Mr. Hogan. How has that got anything to do with the issues in this case? I object on the ground that it is irrelevant.

Mr. MacInnis: It is preliminary, your Honor.

The Court: Counsel says it is preliminary. Let us see.

Mr. Paisley: All right, we can see what it is.

The Witness: I answered it. I didn't know.

Q. (By Mr. MacInnis): Was it in 1937 or 1938?

A. I can't commit myself to the answer to the date. As I said, I am not sure. He disappeared not long after—to the best of my recollection, he was released or he terminated his term in office as an official.

Q. And you say that Harper Knowles and Stanley M. Doyle were making some investigation into the manner of Mr. Hogan's disappearance, is that true? [1883]

A. I quoted, and it is in the record, that in this testimony brought out at Arms' trial, that that was one of the reasons of these men visiting Arms.

Q. And Arms was interested in finding out what had happened to Hogan, as you say?

A. He believed that he had met with foul play and he believes to this day that he did.

Q. And Harper Knowles and Stanley M. Doyle were also interested in raising the thought that Hogan may have met with foul play, weren't they?

A. I don't know what their thoughts were, other than what has been, the testimony given in that script.

Q. Didn't you take some part in asking ques-

(Testimony of Henry Joseph Schrimpf.)

tions and investigating what was supposed to have happened to this man Hogan, who disappeared?

A. You mean at the trial of Arms?

Q. No, before the trial of Arms.

A. With who?

Q. Both by yourself and in conjunction with other people. A. With what other people?

Q. With Mr. Arms, for one person.

A. It could have been a casual discussion. As I said, it was quite an issue on the waterfront as to Hogan's disappearance. He was a very popular man, and it is like any other, why, issue which is creating a great public interest. His name [1884] was brought up several times, and I don't know if I discussed it at length or went into detail about it.

Q. Do you know a woman named Lillian Walker?

A. The name sounds vaguely familiar.

Q. Didn't you visit a woman named Lillian Walker and have a conversation about Hogan's disappearance in the month of March of 1947 and possibly——

Mr. Paisley: I object to the question unless he gets down to something relevant, your Honor. He promised us he would. We have indulged him as to that respect. We haven't reached that point yet.

Mr. MacInnis: It is preliminary, your Honor.

Q. Let me ask you this: Didn't you have a conversation with a woman named Lillian Walker at No. 1600 Eddy Street, a bar called The Dutch Lunch, in the month of March, 1947?

Mr. Hallinan: '37.

Mr. MacInnis: '37.

A. Now that you mention the name, I believe I did make a call at said bar to run down a rumor concerning his departure.

The Court: Hogan's departure?

The Witness: Hogan's departure, that's right, your Honor.

Q. (By Mr. MacInnis): When you talked to Lillian Walker, you mentioned Harry Bridges, did you not?

A. I have no recollection of mentioning Bridges.

Q. And 1937 was the year in which you ran for presidency of the [1885] union against Henry Schmidt, isn't that true?

A. I don't know. If that is the year, it is in the record, whatever year it was.

Q. And when you talked to Lillian Walker you said to her in March of 1937 that the elections in the union were coming up and that if you were elected you would see to it that Bridges was slammed against the wall, did you not?

A. I don't recall any such conversation.

Q. Do you remember a man named Gus, who was standing with you at the bar at that time?

A. I don't recall any such.

Mr. Paisley: Do I understand that we have departed from the subject of the disappearance of Mr. Hogan?

Mr. MacInnis: No, we haven't; we are going to return to that in a minute.

Mr. Paisley: All right.

Q. (By Mr. MacInnis): Do you remember anybody else being present when you were talking to Lillian Walker?

A. Well, it was a public house, and I can't recall who was there, but I am sure there was more present in this place than just we two.

Q. Now, you say that you left the Communist Party in 1935 or thereabouts, is that true?

A. That is a matter of record.

Q. In March of 1937, didn't you tell Lillian Walker that you [1886] were going to start a real Communist school if you got into power that would teach real Communist stuff, not the stuff that was being taught at that time?

A. I have no recollections.

Q. Let me ask you this, Mr. Schrimpf: The purpose of your visit out to Lillian Walker was to discuss the Hogan case, wasn't it?

A. After you refreshed my memory, I think I confirmed that, that I did go out to run down a rumor as to him being there or leaving there or something of the kind. That is in the record.

Q. What was Lillian Walker's job?

(Testimony of Henry Joseph Schrimpf.)

A. I have no idea.

Q. Was she an entertainer at this bar?

A. I don't know.

Q. How had you been directed to seek her out in order to have this conversation on Hogan?

A. By way of rumor around the waterfront. As I said before, I want to make that very clear. He was one of the most popular men ever on the waterfront. And his disappearance did arouse a great sense of concern. And when I heard that he was out at a certain place, last seen at a certain place, I went out there.

Q. And you went out to see Lillian Walker, Mr. Schrimpf, because you were at that time planning to accuse Henry Schmidt of the murder of Hogan, isn't that right?

A. That is a dirty lie. [1887]

Q. That isn't true? Why, isn't it true that you, Harper Knowles, Stanley Doyle and George Arms were all interested in that same accusation at that time? A. That is also a dirty lie.

Q. That is not true, is that right?

A. Accusing Schmidt or ever leaving the inference that he killed Hogan?

Q. That is what you were trying to do at that time, isn't that so?

A. I have already said on the record, it is a dirty lie. It is too bad that you were not put under oath and make such a statement. That is all I would say.

(Testimony of Henry Joseph Schrimpf.)

Q. Why would you want me to be put under oath?

A. Why, you would be behind bars for a while, where you belong.

Q. I think that is where you may belong.

Mr. Paisley: That is argumentative, your Honor.

The Court: Yes, I suppose there is a dispute about that.

Mr. MacInnis: I think, your Honor, that the question is perfectly proper. If he accused Mr. Schmidt of a matter like that, it certainly would have some reflection on what he has done here.

Mr. Donohue: There is no proof he ever made such an accusation.

The Witness: That is what I want to see some proof.

Mr. MacInnis: We will prove it. [1888]

Mr. Donohue: Well, that is also a statement which I think ought to be excluded from this record if Your Honor pleases.

The Court: I have heard counsel speak with some degree of familiarity as to accusations, but be that as it may, the question was propounded to the witness, he has made his response.

Mr. MacInnis: I have no further questions. Pardon me, Your Honor:

May we take the morning recess? We may have one more question. It is five minutes after 11:00.

The Court: I think you had better ask the ques-

(Testimony of Henry Joseph Schrimpf.)

tion now. I have been completely indulgent with you, Mr. MacInnis. Last evening——

Mr. MacInnis: Yes, Your Honor was quite kind.

The Court: Each indulgence leads me into strange fields. Now, I think I have reached the end of my indulgence. Or perhaps it would be well to take a recess and clarify the atmosphere.

Ladies and gentlemen of the jury, we will take the morning recess, and again my admonition to you not to discuss the case under any circumstances, nor to suffer any person to converse with you on any subject of the trial, not to form or express an opinion thereon until it is finally submitted to you. You may now retire. We will take a recess.

(Recess.) [1889]

The Court: Are the jurors all present?

Mr. Paisley: Yes, your Honor.

Mr. MacInnis: Your Honor, our purpose in asking that this witness be held through the recess was this: I think Mr. Mitchell was to obtain, and I see he has obtained, certain records on the naturalization proceeding. May I see them, please?

The Clerk: If your Honor please, I have received from our office, the Clerk's office, the petition for naturalization of one Henry Joseph Schrimpf which is contained in this volume. I have not been able to have it separated. It may be taken out, and if your Honor wishes a certified copy or a photostatic

(Testimony of Henry Joseph Schrimpf.)

copy will be made. And the final hearing for the petitioner Schrimpf together with some sixty others.

The Court: How many others?

The Clerk: Some fifty-nine others. Sixty in all, I think, your Honor, as they appeared before Judge Michael J. Roche of this Court.

The Court: What was the date of the appearance?

The Clerk: The date of the appearance, your Honor, was May 11, 1943.

The Court: Does it reflect that they were admitted in open court?

The Clerk: Admitted in open court, some fifty petitioners on that day. [1890]

The Court: You might show that document to counsel Mr. MacInnis, as well as counsel for the prosecution.

Mr. MacInnis: I think we might adopt Mr. Mitchell's suggestion that a photostatic copy of the petition itself be offered in evidence.

The Court: In the meantime do you have any additional questions in the light of the document?

Mr. MacInnis: I have seen these documents before.

The Clerk: I am slightly in error as to the number, your Honor. It appears that there are three sheets, the first sheet containing 35 names of petitioners, the second sheet containing 45, and the third sheet containing 10, all appearing in open court before Judge Roche.

(Testimony of Henry Joseph Schrimpf.)

The Court: What is the total of the number that you have enumerated, all of the applicants or petitioners before the Court on that day?

The Clerk: Ninety, your Honor.

The Court: How many?

The Clerk: Ninety.

The Court: Including the petitioner?

The Clerk: Yes, your Honor, including the petitioner Schrimpf.

Mr. MacInnis: May the record show, your Honor, such as Mr. Mitchell has pointed out, ninety persons, including the name of Henry Joseph Schrimpf, No. 72468, were admitted to [1891] citizenship in the United States of America in the United States District Court, apparently before His Honor Judge Roche; is that correct?

The Clerk: Yes, that is on the last page, I think.

Mr. MacInnis: And that the document including all of the names bears the following language at the top:

> "To the Honorable the District Court of the United States sitting in San Francisco, California; E. R. Bonsall, W. C. Frame, C. A. Antonioli, duly designated under the Nationality Act of 1940 to conduct preliminary hearings upon petitioners for naturalization to the above-named Court and to make findings and recommendations thereon has personally examined under oath at a preliminary hearing each of the

(Testimony of Henry Joseph Schrimpf.)

> following 90 petitioners for naturalization and their required witnesses, has found each of said petitioners entitled under the law to be naturalized and therefore recommends that each such petition upon the appearance of petitioner in open court be granted, including prayer for change of name where noted below."

Then the names follow.

Q. Now, Mr. Schrimpf, having heard the naturalization order of the Court read in part to you, do you now remember that you were examined under oath at a preliminary hearing, you and your two witnesses? [1892]

A. If the records say that we were examined under oath, I would believe the record.

Q. And do you believe the record where it is set forth that the proceedings were taken under the Nationality Act of 1940?

A. I believe the record.

Q. You heard me read the Nationality Act of 1940 this morning carrying all of these matters back ten years regardless of what the status of an applicant is at the time of his admission. Let me ask you this: Isn't it true that when you were questioned under oath at the preliminary hearing before the Immigration Service you were asked the question as to whether you had ever been a member of the Communist Party?

(Testimony of Henry Joseph Schrimpf.)

A. I do not recall ever being asked that question, if I had ever been a member of the Communist Party.

Mr. MacInnis: That is all.

Mr. Paisley: Your Honor, if these two documents which we voluntarily gave Mr. MacInnis and which were marked as defendants' exhibits may be considered in evidence, I would like to call the attention of the jury to certain dates thereon.

The Court: Do you offer them in evidence, sir?

Mr. Paisley; We will offer them in evidence, yes.

The Court: They may be marked.

Mr. Paisley: In view of the fact that he intimated that this witness had gotten his naturalization within three [1893] days.

Mr. MacInnis: Your Honor, I confess that the three-day approximation was not a correct one. That was pointed to me immediately when I asked for the date upon which this man came to court, which was said to be May 11.

The Court: Mr. Mitchell, will you indicate the markings on these exhibits.

The Clerk: The one on the exhibit that is now marked Defendants' Exhibit Q for identification only, and I suggest, your Honor, that that be marked Government's 6 in evidence, your Honor.

The Court: So ordered.

(Defendants' Exhibit Q for identification was marked Government's Exhibit 6 in evidence.)

(Testimony of Henry Joseph Schrimpf.)

The Court: What is the next exhibit?

The Clerk: The other has not been offered, your Honor, and is without a marking.

Mr. Paisley: We offer it on behalf of the Government.

The Court: It may be marked in evidence.

The Clerk: Marked Government's 7 in evidence.

(The document was marked Government's Exhibit 7 in evidence.)

The Court: Would you identify now, Mr. Paisley, for the record, the captions of the several documents so we may understand them in their natural sequence. [1894]

Mr. Paisley: Yes, your Honor. I am reading from Government's Exhibit 6, if the Court please, and ladies and gentlemen of the jury. It is called "Application for a Certificate of Arrival and Preliminary Form for Petition for Naturalization." I call the Court's and jury's attention to the date of the application, August 12, 1942.

Now reading from Government's Exhibit No. 7, which is denominated "Petition for Naturalization." It purports to be signed by the witness, Henry Joseph Schrimpf, bearing a signature. I call attention to the date: "Sworn and subscribed to before me by the above named petitioner and witnesses in the respective forms of oath shown in said petition and affidavit in the office of the Clerk of the said Court at San Francisco, California, this 8th day of April, 1943."

(Testimony of Henry Joseph Schrimpf.)

Still reading from the same exhibit, I call the Court's and jury's attention to the notation of final hearing and admitted date, May 11, 1943.

There is no redirect examination.

The Court: You are excused, Mr. Schrimpf.

The Witness: I thank you, your Honor.

Mr. MacInnis: May I look at this document a moment, your Honor?

The Court: Yes. Do you wish the witness to remain momentarily?

Mr. MacInnis: Yes. [1895]

The Court: You might remain a moment, Mr. Schrimpf.

Mr. MacInnis: I merely wanted to see what the differentiation in dates was, and I see on the application the date April 8, 1943 does appear, although Mr. Paisley——

The Court: Counsel, you asked me a question. I haven't examined it minutely or with any care at all. I think counsel for the Government might be able to simplify it.

Mr. MacInnis: Where is the place where the application is shown to be made in August of 1942?

Mr. Paisley: The first thing under the title of the paper, August 19, 1942.

Mr. MacInnis: It says here it was apparently filed on that date, but in red pencil under his signature, "4/8/43." The writing may have been put on before, but this does not show the filing date.

Mr. Paisley: I take it the exhibit can go to the jury room if there is any question about it.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: What is that? I couldn't understand you, Mr. Paisley.

Mr. Paisley: I say, I take it the exhibits, if and when the case goes to the jury, can go to the jury room, and they can resolve any conflict between counsel as to what the paper contains.

The Court: Counsel, if it be a date, I don't see any room for any disparity with reference to a date. [1896]

Mr. Paisley: There shouldn't be, your Honor.

The Court: Those are matters of automatic computation, and it would seem to me that the jury might be relieved of that particular burden as well as the Court.

Mr. Paisley: Here it is, your Honor. May I read it to the Court?

The Court: Let us have it.

Mr. Paisley: Here is a form printed down at the bottom: "Do not fill in blanks below. Corrections numbered"—then there is in red pencil, "1"; the word "to" is printed; then in red pencil is the figure "3"—"Corrections numbered 1 to 3 in this preliminary petition for naturalization, N-400, were made by me or at my request." A place for the applicant's signature, with a red "X" there, and it is signed, "Henry Joseph Schrimpf" in ink. "Date April 8."

Mr. MacInnis: '43.

Mr. Paisley: '43. Now he is trying to indicate to the Court and jury that that was the date that this document was filed.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: I don't know, your Honor. I am not trying to indicate anything. I have no knowledge about it.

Mr. Paisley: Let me read this to counsel. You look at it while I read it, please. Stamped on here is the regular office stamp that all offices use.

Mr. MacInnis: A very good demonstration, "Filed under [1897] Sec. 310(a) (b) Nationality Act of 1940." And in there there is a date, August 19, 1942.

Mr. MacInnis: Scratched out, however. What is that? There is a line drawn through it, is there not, a penciled line?

Mr. Paisley: Your Honor, let me read this, and the jury can see this if your Honor wants them to.

Mr. MacInnis: Why don't you let the document speak for itself?

Mr. Paisley: It says, "I declared my intention to become a citizen of the United States on" and it is written in here "August 19, 1942." [1898]

Mr. MacInnis: Then with a pencil scratching right through "August 19, 1942," scratching it out. Correct?

Mr. Paisley: And the "Black Court, at San Francisco, California."

Mr. MacInnis: And "San Francisco, California," is scratched out there, too.

Here is an August 19th that isn't scratched out. I will help you out to that extent, Mr. Paisley.

The Court: The camaraderie between counsel is indeed pleasing in court.

Mr. MacInnis: I think it should be, your Honor. That should always be something we should strive for.

The Court: One helping the other out.

Mr. MacInnis: Yes.

Mr. Paisley: I have already read to the Court the date of this document, which is right up at the top of the first page, August 19, 1942. Following that is, "Henry Joseph Schrimpf, residing at such and such an address, desires to file a petition for naturalization in the U.S. Court at San Francisco," and so on. Now, I wish to point to some dates. You wanted to help me out, let's go ahead and help me out.

Mr. MacInnis: Yes. The only point I made, your Honor, was to request which was the date. It says in one place April 8, 1943, it says in another place August 19, 1942, scratched out, and in another place, apparently in ink, August 19, 1942, and [1899] it is not scratched out. I raised the question; I don't know what importance it may have, as to whether the papers may have been filed, or rather, filled out and not filed, at the date originally put in. I don't know it, and the document doesn't show it. Now, it may be, Mr. Paisley can tell me.

Mr. Paisley: Well, we are not in agreement, your Honor, as to just what the entries on the paper are, or the significance of them. I think that is for the jury.

(Testimony of Henry Joseph Schrimpf.)

Mr. MacInnis: Do you deny that is scratched out?

Mr. Paisley: I see a pencil line drawn.

Mr. MacInnis: Through August 19, 1942.

Mr. Paisley: Apparently through August 19, 1942, apparently through San Francisco, California, under the words "Filed under Section 31AB, Nationality Act of 1940." I think the document and its weight is for the jury, your Honor. We could stand up here and give our interpretations of what a pencil line might mean or other things all day. The jury is to weigh and determine what the document means. I would like to have it passed on to the jury now.

The Court: I can't see at this juncture how it could serve any particular purpose. We have Mr. Schrimpf on the stand. He has been here some few days now. Have we finished with Mr. Schrimpf?

Mr. Paisley: I have no redirect examination of the witness.

The Court: I say to the Government, because it is not my [1900] disposition to read in the record a document that might be clarified by reference to an official document or documents, either minutes or otherwise, of the Immigration Department, and if there be any deletion or omission on the face of the document, it may well be that the minutes of the Immigration Service may satisfy or supplement the document as such. But to leave it to the Court or the jury to interpret the dates by reason of deletions or otherwise, I think, is a burden that should

(Testimony of Henry Joseph Schrimpf.)

not be cast either upon the Court or the jury. I say that quite respectfully to the Government.

Mr. Paisley: Well, we can produce witnesses who can testify as to when it was filed.

The Court: All right, you may produce them.

Mr. Paisley: Would your Honor want to do that now?

The Court: First, our business at the moment is with Mr. Schrimpf.

Mr. Paisley: Yes.

The Court: Are you finished with Mr. Schrimpf?

Mr. Paisley: I will ask Mr. Schrimpf.

The Court: You might do that.

Redirect Examination

By Mr. Paisley:

Q. Mr. Schrimpf, when did you file this petition——

Mr. Paisley: Wait a moment: Let me have it and I will give him the exact words. [1901]

Q. When did you file this——

Mr. MacInnis: Pardon me. He has already answered he doesn't know, on cross-examination; so I don't know how he would now know.

The Court: In the interest of clarification of the record, counsel, the objection is overruled.

Q. (By Mr. Paisley): When did you file this application for certificate of arrival and preliminary form for petition of naturalization?

(Testimony of Henry Joseph Schrimpf.)

A. That particular petition I can't recall.

Q. Well, to refresh your recollection——

Mr. Paisley: May I have it passed to him?

(Document handed to the witness by the Clerk.)

Q. (By Mr. Paisley): Is the writing in ink in the blank spaces your writing, Mr. Schrimpf?

A. Yes, that is mine.

Q. And it is your signature on the document, is it? A. That is my signature.

Q. Now, did you—do you see the date up at the top of the page there? A. I do.

Q. What date is that?

A. This is August 19, 1942.

Q. Now, having seen that, is your recollection refreshed as to the date you made out and filed that paper with the [1902] Naturalization Service?

A. Well, if the date wasn't correct, I can't see why that error would not have been corrected when it was filed

Q. Did you return the paper after you filled it out or did you file it promptly?

A. That I don't recall.

Q. Do you recall where you were when you filled out the form?

A. No, I don't know where I filled this form out.

Mr. Paisley: That is all the questions I have, Your Honor.

The Court: The witness is excused, then, there being no further examination.

Mr. Paisley: Well, Your Honor, we will call witnesses from the Immigration Service on that point so that we will not be left up in the air.

The Court: To the end that the record be clarified as to the sequence of the dates.

Mr. Paisley: That's right, Your Honor.

The Court: I do not believe that the Court, as I may repeat myself, or the jury should be obliged to clarify documents when the clarification can be had from official records.

Mr. Paisley: Well, that undoubtedly can be established. There is no question about it. We would rather not interrupt our plan of presenting the case at this time.

The Court: It is a matter of your own dictates. I have no [1903] suggestion to make on that score.

We have now reached the 12:00 o'clock period. I assume, Mr. Donohue, you have a witness in readiness.

Mr. Donohue: Yes, Your Honor.

The Court: Accordingly, it is an agreeable time, if counsel are agreeable, to take the noon adjournment. And I have one note. Last evening I discussed with the jurors the matter of the holiday season, the forthcoming holidays. And I suggested that Friday afternoon next—Friday is the 9th—that we adjourn at 12:00 o'clock. That is, if agreeable to counsel on both sides. So that the jury might have the afternoon free and to themselves, to take care of such details as they may desire to accomplish concerning the Christmas period. And we will continue on with the trial of the case the following week, up to and including the 21st of December, and then it is the Court's plan, again if agreeable to counsel, that we stand in adjournment until the 3rd of January of the succeeding year. ~~The 3rd~~ of January. Allowing an interval of approximately ten or twelve days in which to enjoy the holiday season.

Apparently this case is going to take a little longer than anticipated. And under the circumstances, the Court feels that the jurors should have the period of time to the end that they have full and complete enjoyment and a respite from these rather arduous duties. [1904]

In addition, I daresay the period of relaxation will be enjoyed by counsel and likewise by the members of the press. I understand that many of the press representatives come from outside the State, and that their return to their home places would be something to be welcomed. Accordingly, unless I hear some opposition, that will be the order.

Mr. Donohue: May I say that the Government concurs in Your Honor's suggestion?

Mr. MacInnis: The defense feels precisely the same, Your Honor.

The Court: All right, sir, that will be the order, and at a later date we may renew these given dates, so you will have them in mind. In any event, you can plan on next Friday afternoon. We will now recess until 2:00 o'clock.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [1905]

Wednesday, December 7, 1949, 2:00 P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: Your Honor, Mr. Mitchell has reminded me that the documents borrowed from the naturalization clerk were not marked in evidence. I thought it was our suggestion that certified copies should be marked and put into evidence in place of the originals so that the clerk's files would not be disturbed. May that be the order?

The Court: So ordered.

Mr. MacInnis: I have two more of the documents to which reference was made yesterday for the Clerk's file.

The Court: Proceed, Mr. Donohue.

The Clerk: May the two exhibits referred to in the document, your Honor, be marked Defendants' R and S?

(Photostatic copies of naturalization records relating to naturalization the witness Schrimpf were marked Defendants' Exhibits R and S in evidence.)

Mr. Gallagher: Call Mrs. Harris, please.

IRENE PATTI HARRIS

called for the Government; sworn.

The Clerk: Will you state your full name to the Court and jury, please. [1906]

The Witness: Irene Patti Harris.

The Clerk: I didn't get the middle name.

(Testimony of Irene Patti Harris.)

The Witness: Patti.

The Clerk: Irene Patti Harris?

The Witness: That is right.

The Clerk: How do you spell the middle name?

The Witness: P-a-t-t-i.

Direct Examination

By Mr. Gallagher:

Q. What is your address, Mrs. Harris?

A. 2241 Cayuga Avenue.

Q. Cayuga? A. That's right.

Q. Where were you born?

A. I was born in—do you mean the State or the county? I was born in California at Ukiah, Mendocino County.

Q. Are you married? A. Yes, I am.

The Court: I am satisfied that the lady cannot be heard.

Mr. Gallagher: Will you move up closer?

The Clerk: Might I suggest, if your Honor please, that perhaps it might be more comfortable if it were——

The Court: I notice the jurors straining to hear the lady. Speak as distinctly as you can.

The Witness: Yes.

The Court: And bear in mind that all the counsel are [1907] entitled to hear you and all the jurors are entitled, as well as the people in the body of the courtroom. May I ask you to raise your voice just a little bit above ordinary speech, and to try to speak into that microphone.

(Testimony of Irene Patti Harris.)

The Witness: Yes.

Q. (By Mr. Gallagher): Did you say you were presently married, Mrs. Harris? A. Yes, sir.

Q. You are a housewife by occupation, are you?

A. Yes, sir.

The Court: Speak slowly so we may get the full import, because the acoustics are very bad.

Q. (By Mr. Gallagher): What is your husband's full name? A. Ernest Albert Harris.

Q. What is his occupation?

A. A longshoreman.

Q. How long has he been a longshoreman?

A. Well, over thirty years, I think, to the best of my recollection.

Q. Is he a union member? A. He is.

Q. Of what union?

Mr. Hallinan: Just a minute. Object to that as calling for an opinion and conclusion of the witness, if the Court please, not the best evidence.

The Court: Overruled.

Q. (By Mr. Gallagher): Of what union?

A. ILWU 110.

Q. About how long has he been a union member?

Mr. Hallinan: Just a minute. Same objection, your Honor, calling for an opinion and conclusion, not the best evidence.

The ~~Court:~~ Overruled.

Mr. Gallagher: Will you read that last question.

(Question read.)

A. Well, I don't know, but over thirty years.

(Testimony of Irene Patti Harris.)

Q. (By Mr. Gallagher): Are you a member of the Communist Party or have you been?

A. No, I am not.

Q. Have you ever been a member?

A. No, I have not.

Q. Is your husband a member of the Communist Party?

Mr. Hallinan: Just a minute now. Object to that as incompetent, irrelevant and immaterial, your Honor, calling for an opinion and conclusion, not the best evidence.

The Court: May I ask the basis, counsel, upon which you predicate this?

Mr. Gallagher: No particular basis; more a background question, I would say, your Honor. I would think, though, that she would be qualified to answer that, inasmuch as she [1909] would be able [illegible] say her husband was or was not a member of the YMCA or some fraternal organization; but we make no great point of it.

The Court: If you establish a foundation I will let the lady testify, but to ask a question blandly without any predicate or basis or foundation, I sustain the objection.

Q. (By Mr. Gallagher): Do you know Harry Renton Bridges? A. I do.

Q. Do you see him in this courtroom?

A. Yes, sir, I do.

Q. Will you point him out, please.

A. Well, he is right by the side of Mr. Schmidt. I don't——

(Testimony of Irene Patti Harris.)

Q. Thank you. Do you know John Shaw?

A. Yes.

Q. Have you ever attended a meeting at the home of John Shaw? A. Yes.

Q. At which—excuse me—at which Harry Renton Bridges made a speech? A. I have, yes.

The Court: Will you fix the time, place and parties present, counsel.

Mr. Gallagher: I was just about to do that.

Q. To the best of your recollection, when was such a meeting had?

A. Well, it was—the best that—my recollection is between, [1910] oh, the last of—sometime between August and the 16th—between sometime in August and the 16th of December.

Q. Of what year? A. 1938.

Q. How do you fix that period?

A. We was down to the convention, the CIO convention in Los Angeles, and that was held in—well, I think in August or September of 1938, and Mr. Harris was injured on 19—I mean, he was injured on the 16th of December, and it was during that time, between those two dates I was up to Mr. Shaw's, and how I remember that was that I was ill down at the convention and I was still not well when we went up to Mr. Shaw's residence for this meeting.

Q. Where, to the best of your recollection, did Mr. Shaw live at that time?

A. Well, it was nighttime and I hadn't been up

(Testimony of Irene Patti Harris.)

there before; it was either on O'Farrell or Pine, and I don't just remember, but I remember we came up around through the Fillmore district and then turned going towards the Ferry, and it was on the left-hand side going down. [1911]

Q. How did you happen to attend this meeting?

A. Mr. Harris was invited by a man by the name of——

Mr. Hallinan: Just a moment. Object to this as hearsay, Your Honor, about any statement like that. Not the best evidence.

The Court: Overruled. You might answer.

A. We were invited by a longshoreman by the name of Peter Brown.

Q. How did you reach Mr. Shaw's house?

A. We drove in our Chevrolet.

Q. You say "we"; who is that?

A. Mr. Harris and I.

Q. About how many people attended this meeting?

A. Oh, I should judge maybe 30 or 35. I didn't count them.

Q. About how many people did you recognize?

A. I think around 10.

Q. Who did you see at this meeting that you recognized?

A. I saw Mr. Johnny Shaw, that was the host, and Mr. Peter Brown, who invited us there. And Mr. and Mrs. Wogemann, and Harry Bridges and I think Mr. and Mrs. Archie Brown, Mr. and Mrs.

(Testimony of Irene Patti Harris.)

Malin, Johnny Shaw—I mean Johnny Schomaker, and I think his wife. And I did say Mr. Bridges? And Mr. Schneidermann.

Q. Did you know Mr. Schneidermann prior to that time? A. No.

Q. How do you recognize, or how did you recognize him as being [1912] there?

A. Introduced himself and said that he was Mr. Schneidermann.

Q. Would you describe the room or rooms in which this meeting took place? A. Well——

Q. Just roughly.

A. As I say, I wasn't very well, but it seemed to me as if it was a double parlor or it was an old home, if I remember correctly, and it had sort of a partition in it, like it might have been an old dining room and parlor, or else a double parlor.

Q. Now, will you please tell us in your own words what took place at this meeting, to the best of your recollection?

A. Well, Mr.—we were there, as I say, we were invited to attend, and Mr. Schneidermann gave an address and then after he finished, why, Mr. Bridges gave a talk.

Q. What did he say, to the best of your recollection? A. Well, he gave a talk on——

The Court: What did "he" say—Mr. Schneiderman nor Mr. Bridges?

Mr. Gallagher: She said Mr. Bridges gave a talk.

A. He made a report upon the waterfront and also spoke about what the Communists had done and how they had helped us out, and about the People's World——

Mr. Hallinan: Pardon me. I didn't get that last sentence. [1913] About what?

The Witness: About the People's World, how it was helping.

Mr. Hallinan: The preceding sentence I missed. The lady doesn't speak loud enough.

The Court: Did you hear, Mr. Hallinan?

Mr. Hallinan: I barely can hear at all.

The Court: Would you wish——

The Witness: I think if it was on this side, probably I could.

The Court: We had better adjust the microphone. If you wish to move your seat up here——

Mr. Hallinan: Or if the Reporter would read it to me.

(Microphone was readjusted, and the previous answer read by the Reporter.)

The Court: You may proceed now. You were discussing what you said Mr. Bridges talked about.

A. (Continuing): He got up and talked about the conditions on the waterfront and how they were progressing and how the Communist people, Communist Party was helping, and that, and also about the editorials and writings in the People's World, and he made a plea for us that were there to become members of the Communist Party, and he also stated that he was a member of the Party, of the Communist Party.

(Testimony of Irene Patti Harris.)

Q. (By Mr. Gallagher): Is that as much as you recall of Mr. Bridges' speech? [1914]

A. Yes. That made a very impression. I was flabbergasted when I heard him say that, because he had been accused, and I had heard it denied. And when he made that statement, why, it made a very much impression on me.

Q. About how long did the complete meeting take?

A. Well, if I remember real right, probably around, we arrived around 8:00 o'clock and I think, oh, we left around before 10:00. I wasn't feeling very well, and Mr. Harris and I was excused and left.

Mr. Gallagher: You may examine.

Cross Examination

By Mr. Hallinan:

Q. Now, Mrs. Harris, according to your statement, there were people present at that party who were not members of the Communist Party?

A. I don't know who they were. I just mentioned all those that I knew.

Q. Well, you were not a member, were you?

A. No, I was not.

Q. And your husband was not a member?

A. That's correct.

Q. He was not a member of the Communist Party?

A. That's right, he was not.

Q. Had he ever been? A. No.

(Testimony of Irene Patti Harris.)

Q. He had never been a member of the Communist Party? [1915]

A. That's right, he never had been a member.

Q. Did he ever state in your presence that he had been? A. No.

Q. Did he ever state to Harry Bridges in your presence that he had been a member of the Communist Party? A. No.

Q. He wasn't a member at all. All right. Now, you know the Schomakers quite well, don't you?

A. Yes, I do.

Q. Roza Schomaker is a very good friend of yours, isn't she? A. Yes, she is.

Q. You visit back and forth with the Schomakers?

A. Yes, but not too often. I think I have only seen them about three times this year.

Q. About three times this year?

A. I think so.

Q. When was the last time?

A. Well, I saw them around Easter, and then I think around, oh, some time in June, maybe before July. We went down to see about them, if they would go up to Yosemite with us.

Q. You went to Yosemite with them, you say?

A. No, we went down to see if they could go up with us.

Q. When was that?

A. That was in June.

Q. Now, who went down? [1916]

A. Mr. Harris and I drove down.

(Testimony of Irene Patti Harris.)

Q. And you invited Mr. and Mrs. Schomaker to go to Yosemite with you?

A. That's right.

Q. But they didn't go? A. That's right.

Q. Was that the last time that you have seen them?

A. That is the last time I saw Mr. Schomaker. I saw Roza one day last week.

Q. One time when?

A. One day last week.

Q. Oh, I see. Where did you see her?

A. At her home.

Q. And who was with you then?

A. Mr. Harris.

Q. Anybody else present?

A. Oh, just her little girl. Oh, yes, and I think the boy was there before we left.

Q. Anybody else at all?

A. No, that was all.

Q. How did you happen to go there, Mrs. Harris?

A. Well, we were out for a drive and we had been up to Yosemite before, and I have got a lot of these red Christmas berries, and I gave them around to my friends, and I thought, well, I would take a ride down. It was a nice afternoon, and I [1917] will give Mrs. Schomaker some.

Q. Now, that was last week?

A. One day last week, yes, sir.

Q. What day of last week?

(Testimony of Irene Patti Harris.)

A. Oh, it might have been Wednesday. I am not certain. I am not sure.

Q. All right. Now, how did you happen to be a witness here, Mrs. Harris? Who spoke to you about being a witness here?

A. I was subpoenaed to be here.

Q. And when were you given a subpoena?

A. Oh, I don't know; the best of my recollection, maybe a couple of weeks ago.

Q. Now, has anybody told you what to say here, Mrs. Harris? A. No, sir.

Q. Neither the Schomakers nor any other person? A. No.

Q. Has anybody asked you what your testimony would be if you were called here?

A. What was that question?

Q. Has anybody asked you what your testimony would be if you were called here or gone over your testimony with you?

A. I came down one evening and went down to, oh, I think Sansome Street. I am not sure of the street. And went down there and gave a—I don't know what you would call it—gave my statement.

Q. When was this?

A. Oh, one day last week, probably.

Q. One day last week probably. Now, can't you tell us more specifically? Was it before or after you visited the Schomakers, visited Roza Schomaker?

A. Well, I just don't remember.

Q. Well, now,——

(Testimony of Irene Patti Harris.)

A. Just about the same time, I guess.

Q. I beg your pardon?

A. It might have been around the same time, a day or two difference. I don't remember.

Q. Well, which way? Did you go to the Immigration Department a day or two after you saw the Schomakers, or a day or two before you saw the Schomakers? A. Well, I wouldn't know.

Q. All right. Now, today is Wednesday of this week. Now, do you tell us what day you went down to see the Schomakers? You say you thought it was Wednesday of last week?

A. No, I think it was two weeks ago.

Q. It was two weeks ago?

A. I think so, yes, sir.

Q. Now, are you sure? Beg your pardon?

A. I am not sure, but to the best of my recollection, it was.

Q. And that is the last time you have seen either of the Schomakers? [1919]

A. Oh, I haven't seen Mr. Schomaker since in June.

Q. And you haven't seen *Mr.* Schomaker since you visited her and at her home?

A. That's right.

Q. And you can't tell us now whether it was one week ago or two weeks ago?

A. I said it was around two weeks ago that I saw Mrs. Schomaker.

Q. About two weeks ago.

(Testimony of Irene Patti Harris.)

A. I think it was two weeks Wednesday.

Q. That would be two weeks ago today?

A. I think so.

Q. All right. Now, when did you go down to the place on Sansome Street?

A. It was since then, I think.

Q. How long?

A. Well, I just don't know what day it was.

Q. Well, was it as much as a week later or a day later or what? A. I just don't know.

Q. Well, can you—Was it as close as, say, yesterday or the day before yesterday?

A. Well, I don't know.

Q. Are you sure it wasn't yesterday that you went down there?

A. No, I know it was some time last week. [1920]

Q. It was some time last week?

A. I think so.

Q. Can you tell us what day of last week?

A. No, I can't remember what day it was.

Q. Can you tell us it was the first of the week or the end of the week?

A. Well, I tell you I am just a little bit nervous, and I just can't remember at that time.

Q. All right. Can you tell us whom you talked to down there?

A. Oh, I talked to Mr. Chandler, I think.

Q. Who? A. Mr. Chandler.

Q. Chandler?

A. I think that was the name.

(Testimony of Irene Patti Harris.)

Q. Do you know how you spell that?

A. No, I do not.

Q. And what was the place on Sansome Street that you went to?

A. It was a large building. It was in the evening, and I don't know what it was.

Q. How did you get down there?

A. I drove down with him in his car.

Q. Drove down with Mr. Chandler in his car, is that right? A. That's correct.

Q. And where did he pick you up at, at your own home? A. At my home. [1921]

Q. About what time?

A. Around 7:00, I think it was.

Q. I see. And did anybody accompany you down to this building besides Mr. Chandler?

A. Yes, some other gentleman.

Q. What was his name?

A. I don't know, I don't remember.

Q. Beg your pardon?

A. I don't remember his name.

Q. Were you introduced to him?

A. I was, yes.

Q. Did any other person go?

A. No, that was all.

Q. Have you seen that other gentleman since?

A. Yes, a couple of times.

Q. Where?

A. He drove me from home down here.

Q. Today? A. No, not today.

Q. When?

(Testimony of Irene Patti Harris.)

A. Oh, I think Thursday or Friday. I am not even sure of that.

Q. All right. Now you tell us that one of the men's name was Chandler. You heard the other man's name, did you, were you introduced to him? [1922] A. I was.

Q. What do you call him? What did you call him when you talked to him? [1922-A]

Mr. Gallagher: Your Honor, I object. She has already said she can't remember. I don't think she should be harassed. She is an elderly lady, obviously.

The Court: Overruled.

Q. (By Mr. Hallinan): How old are you, Mrs. Harris? A. I am sixty-three.

Q. We don't call that elderly yet. Now, Mrs. Harris, you can't remember the other man's name at all, is that right?

A. No, I don't remember his name.

Q. What did you call him when you addressed him? A. I called him "sir" or "mister."

Q. "Sir" or mister"?

A. I didn't talk very much to him.

Q. Now, on Thursday and Friday he drove you down to the Post Office Building here, is that right?

A. Not to the Post Office Building.

Q. Where?

A. Oh, yes, yes, yes, I think it was Thursday and Friday.

Q. Both days or only one of them?

A. Both days.

(Testimony of Irene Patti Harris.)

Q. Take Friday, what time did he get you at your home, if that is where he got you?

A. Oh, I think around ten o'clock.

Q. Around ten o'clock in the morning?

A. Yes. [1923]

Q. Then he drove you down to this building that we are in now, is that right?

A. That's right, yes.

Q. Then where did you go in this building?

A. I went into some rooms; I don't know what rooms they were.

Q. What floor were they on?

A. I think the fourth floor.

Q. And whom did you meet there?

A. Oh, I met a lady in the office. I don't know who she was. I was introduced to her, but I don't remember her name.

Q. Who else did you meet?

A. I think that was all.

Q. Well, how long did you stay in the building on that occasion?

A. Oh, I waited around, I don't know, probably until the noon recess.

Q. And then what did you do?

A. I was driven home again.

Q. By whom?

A. By this gentleman and by Mr. Chandler.

Q. This gentleman and Mr. Chandler?

A. That's right.

Q. And what time did you arrive home?

A. Oh, I think around noon.

(Testimony of Irene Patti Harris.)

Q. Did those gentlemen go in the house with you, or did they [1924] leave immediately?

A. No, they came back downtown, or left me at my door; that's all I know.

Q. While you were down here on the fourth floor did you have any conversation with either Mr. Chandler or the other gentleman? A. No.

Q. Did you have any conversation with anybody besides the lady whom you mentioned?

A. I think that was all.

Q. Well, were you talking with the lady about anything, or was she just a person who——

A. I think she was a stenographer or she was——

Q. A receptionist?

A. At some desk. Probably that was it.

Q. Then you waited. What were you doing during that two hours you were on the fourth floor?

A. Oh, I was looking at a magazine.

Q. You didn't talk to anybody? A. No.

Q. Did you read over any testimony given by Mr. Schomaker on the trial at that time?

A. No, I was looking at, oh, probably a Beautiful Home or *or* Better Homes and Gardens; I don't remember just what it was. [1925]

Q. Now, on Thursday you were down at this building also, is that right? A. That's right.

Q. And who brought you on that occasion?

A. The same two gentlemen.

Q. And what time did they pick you up?

A. Oh, at different times; maybe around ten o'clock; I don't just remember.

(Testimony of Irene Patti Harris.)

Q. Did they bring you in the morning or in the afternoon on Thursday?

A. Well, I think they brought me in the morning.

Q. Are you sure?

A. No. There was one day that I didn't come down; they phoned to me and said that they didn't think they could use me that day.

Q. But they did bring you down on Thursday. Did they bring you down in the morning also?

A. I just don't remember.

Q. They brought you down two days last week, Thursday and Friday?

A. That's right, Thursday and Friday.

Q. On Friday they brought you down in the morning at ten o'clock and you stayed until noontime? A. Yes.

Q. But you don't remember what time they brought you down on [1926] Thursday, is that right?

A. That's right.

Q. It might have been the morning or it might have been the afternoon?

A. It might have been the afternoon.

Q. Did Mr. Chandler and the other gentleman bring you on that occasion also?

A. That's right.

Q. Where did you go that day?

A. I came down to this building.

Q. And did you remain on hand for a couple of hours also that day? A. That's right, yes, sir.

(Testimony of Irene Patti Harris.)

Q. And then were driven home by those gentlemen again? A. That's right.

Q. On that day did either of them talk to you about what testimony you would give or the facts that you have testified to here, or anything of that nature? A. Nothing was said about it.

Q. When prior to that had you last seen anybody connected with the prosecution?

A. What was that question, please?

Q. When prior or before Thursday or Friday of last week—Thursday of last week—did you last see anybody connected with the prosecution? [1927]

A. Oh, it might have been—I couldn't say, but —I am nervous. If I remember correctly, it was when he served me with the subpoena.

Q. That was two weeks before, is that right?

A. I think so; just about that time.

Q. Now, do you remember what day you were served with the subpoena? You say it was a couple of weeks ago. Do you know what day it was?

A. No, I do not.

Q. That was the last time that you saw anybody connected with the Government until you were brought down here on Thursday, is that right?

A. That's right, yes, sir.

Q. And you don't remember——

A. To the best of my recollection, it is.

Q. I beg your pardon?

A. To the best of my memory, it is, yes, sir.

Q. And you don't remember whether you were served with a subpoena before or after you went down to visit Rosa Schomaker, is that correct?

A. That is right, yes. I didn't think the dates were very important, and I just didn't pay any attention to the dates.

Q. And you think that some day last week probably you were taken down to Sansome Street?

A. That's right, yes, sir. [1928]

Q. Are you sure that that was before or after you talked to Mrs. Schomaker?

A. Oh, that was—it was before.

Q. It was before you talked to her. How long before? A. Oh, I wouldn't know.

Q. Well, was it as much as a month before?

A. No; just a few days.

Q. I beg your pardon?

A. Just a few days; maybe three or four, or two or three; I don't know.

Q. So then when you got the subpoena, then you went down to see Mr. Schomaker, is that right?

A. No; let's see. I got the subpoena—no, that was some time—I got the subpoena. No. We just was out for a ride, and I thought, well, I will take down some flowers. When we left home we didn't have any intention of going there.

Q. Here is the thing: What I am trying to get at, you say a few days after you got the subpoena you went down to see Mrs. Schomaker, is that right?

A. That's right, yes, sir.

Q. How many days after you got the subpoena?

(Testimony of Irene Patti Harris.)

A. I don't know.

Q. Now, did anybody—nobody was in the automobile that went down with you to Mrs. Schomaker's, is that right?

A. Just Mr. Harris and I. [1929]

Q. Just Mr. Harris and you. All right. Now, when you were driven down to the Sansome Street place, you say you were driven down by this Mr. Chandler and another man, and you talked to Mr. Chandler in that building, is that right?

A. That's right, yes.

Q. Anybody else there at the time?

A. Yes, this other gentleman, and he took my statements down on the typewriter.

Q. I see. How long were you there all together?

A. Oh, maybe from 7 to 9:30; I am not sure.

Q. How many pages did your statement cover?

A. I don't know. I didn't count them.

Q. I beg your pardon?

A. I didn't count them.

Q. Did you sign the papers?

A. I just—I signed the last one, and the others, I put my initial on them.

Q. How many pages did you put your initial on? A. I don't know.

Q. About how many?

A. Oh, maybe two or three.

Q. Now, prior to the time that you went down to that building whom had you last talked to about anything you have testified to here?

(Testimony of Irene Patti Harris.)

A. Mr. Chandler.

Q. When?

A. When he served the subpoena on me.

Q. And did you talk to him at that time about your testimony?

A. I talked to him before that about it.

Q. Did you talk to him at the time he served you with the subpoena?

A. Not at that time. He just rung the doorbell and he came in and handed me the subpoena.

Q. Have you the subpoena?

A. Yes, sir.

Q. Have you it with you?

A. I think I have.

Q. I would like to see it.

A. Yes, sir, I have it (producing paper).

Q. How long do you say it was prior to the time you came down here to court that you were served with a subpoena? How long before Mr. Chandler and the other man drove you down to this building were you served with the subpoena, approximately?

A. Around a couple of weeks, I think.

Q. A couple of weeks before?

A. I am not certain, but I think a couple of weeks.

Q. Now, you say that Mr. Chandler talked to you at the time he gave you the subpoena?

A. No, he didn't talk to me; he just came in and served me with it. [1931]

(Testimony of Irene Patti Harris.)

Q. Didn't talk to you about any of the facts you have testified to on this hearing?

A. Not at that time, no, sir.

Q. And when did he talk to you prior to that time?

A. Oh, two or three days before then.

Q. When was the first time before he served the subpoena? A. I wouldn't know.

Q. Well, approximately?

A. I wouldn't know. Maybe——

Q. Well—I beg your pardon?

A. I wouldn't know.

Q. Well, can't you tell us within a month or two months?

A. No, I wouldn't know. Maybe within a month; I wouldn't say.

Q. Then how long prior to this conversation had he spoken to you before?

A. I wouldn't know either. I think he was out either two or three times; I just don't recall.

Q. Well, now take the conversation that he had with you at the time he served the subpoena on you. You can't tell us how long prior to that he had last spoken to you; that is right, is it?

A. That's right.

Q. You can't tell us within a month?

A. Well, within the month, I think.

Q. Within a month, you think? [1932]

A. That's right.

Q. Now, how long prior to that had he last spoken to you? A. I just wouldn't know.

(Testimony of Irene Patti Harris.)

Q. Well, could you tell us within six months?

A. Oh, I saw him—I think it was within this last couple of months was all that I ever saw him.

Q. I beg your pardon?

A. I think it was in the last two months; I don't think I have seen him longer than that.

Q. You don't think you saw him before that time? A. I don't think so.

Q. Did he tell you how he happened to come to talk to you? A. No, he didn't.

Q. Didn't give any reason why he had selected you to interview, is that right?

A. I think that is right.

Q. On any occasion? A. No, sir.

Q. Well, did he do? Just come and ask you about this particular party, or did he ask you generally——

Mr. Gallagher: Object, your Honor, "What did he do, just come and ask you?" She didn't know what he was doing before he came and asked her.

Mr. Hallinan: I am asking for the conversation.

The Court: Overruled. [1933]

Q. (By Mr. Hallinan): Did Mr. Chandler when he first spoke to you merely ask you about this party?

A. He came out—no, he was talking about—looking for information, I guess; I don't know.

Q. Did he talk to you first or to your husband?

A. Talking to the both of us.

Q. Was he——

A. He had talked to Mr. Harris first.

(Testimony of Irene Patti Harris.)

Q. Was he alone or accompanied by anybody else at that time when he first came?

A. No, he was with some other gentleman.

Q. Who was the other gentleman?

A. I wouldn't know.

Q. Was he the same one that was with him on these trips that he took to the hall with you, down to this building with you?

A. I think it was, yes, one time, and another time it might have been another gentleman.

Q. Did you get that other gentleman's name?

A. No, sir.

Q. And aside from Mr. Chandler and these two gentlemen whose names you don't know, has anybody talked to you about your testimony here or the facts that you have discussed?

A. While I was down to this—making this statement, some gentleman came in and I was introduced to him, but I don't even know his name. I don't remember his name. [1934]

Q. Have you seen him since? A. Yes, sir.

Q. Where? A. Here in this building.

Q. When?

A. Oh, I saw him a couple of different times when I have been waiting to be called as a witness.

Q. Do you see him in the courtroom now?

A. No, I do not.

Q. Now, when Mr. Chandler first called on you the first time he talked to you, he told you he was looking for information on what? On what subject?

(Testimony of Irene Patti Harris.)

A. Well, he was wanting to know what we knew about the—oh, I don't know what his words were—in regards to—I think he was looking for information in regards—if we knew anything about Mr. Bridges and the Communist Party. I think that was his——

Q. And what did you tell him?

A. Well, Mr. Harris, you mean, or what I told him?

Q. Yes.

A. Well, oh, I told him what I told here, the statement that I had made.

Q. Now, just as soon as he asked it, you told him this story that you have told on the witness stand, is that right?

A. No, I didn't tell him that for some time.

Q. I beg your pardon?

A. I didn't tell him that for some time.

Q. Well, now, did he tell you that that had happened and ask you if it were true, or did you volunteer it to him? Which?

A. I told him, because I had told so many people when I heard this that I was—oh, I was so surprised. I was flabbergasted in '38, and I told many people about it, my friends and around, and I realized that I had talked out of turn and that he had probably heard of it.

Q. Then had you ever discussed that matter with Rosa Schomaker? A. No.

Q. That party at Shaw's? A. No.

(Testimony of Irene Patti Harris.)

Q. Had you ever discussed it with John Schomaker?

A. I think in—around Easter time, I think it was; yes, around Easter time.

Q. That is Easter time of this year?

A. Around Easter time of this year, yes, sir.

Q. What month would that be?

A. Oh, either April or May. I don't recall.

Q. And where did that conversation take place?

A. Mr. Schomaker's dining room.

Q. Who else was present?

A. Oh, Mr. Harris and Mr. and Mrs. Schomaker. [1936]

Q. Anyone else?

A. Yes, if I can just think of the name. Mr. and Mrs.—oh, I can't remember the name.

Q. Were they friends of yours, these other people? A. I had—they were acquaintances.

Q. How long had you known them?

A. Mr. and Mrs. Mallen.

Q. Mallen? A. Yes.

Q. Do you know how to spell it?

A. Hazel Mallen.

Q. I beg your pardon?

A. She was—it was Mr. and Mrs. Mallen. Hazel Mallen was, at one time, was president of our auxiliary.

Q. What is Mr. Mallen's name?

A. I think Lawrence; I am not sure.

Q. How long have you known them?

(Testimony of Irene Patti Harris.)

A. Oh, probably since the '34 strike.

Q. Have you visited their home?

A. No, sir.

Q. Have they ever visited yours?

A. No, I think not.

Q. Have you met them on many occasions?

A. No, we never was very friendly.

Q. Was anybody else present in that conversation? [1937] A. That was all.

Q. At Easter? A. That was all.

Q. The conversation, then, at Easter related to this party at the Shaws, is that right?

A. No, it just came up about—oh, we were just discussing the condition of the waterfront, and Mr. Schomaker had been writing a book or something—writing a story on the waterfront, and we were referring to the different characters.

Q. Mr. Schomaker was writing a book about the waterfront?

A. Writing a story on the characters of the waterfront.

Q. Did you read the book?

A. It wasn't a book; it was a story.

Q. Did he read it to you, or did you read the story? A. He read parts of it.

Q. Did he say what he proposed to do with the story? A. No.

Q. Was it some kind of a reformed Communist confession matter? Is that what it was about?

A. No, it was just a story around about the waterfront.

(Testimony of Irene Patti Harris.)

Q. And was this incident at Shaw's house mentioned in that story?

A. No, not that I know of. I didn't hear the whole story read, just parts of it.

Q. Was this party at Shaw's house mentioned at all on that [1938] occasion?

A. Yes. I asked—we were talking; then from this story we got to talking about the Harry Bridges perjury investigation, and I asked John if he remembered that incident, and he said he did.

Q. I see.

A. I was the one that brought it to his attention.

Q. Just what was said about the Harry Bridges investigation?

A. Well, I just don't remember, only just that I asked John if he remembered that time that we were up there and that Harry made the talk and made the appeal for membership, and he recalled it.

Q. And did he say that he was already being interviewed by people connected with the Immigration Department concerning this Bridges matter?

A. No, he did not.

Q. Did you know an investigation was on at that time relating to Harry Bridges? A. No.

Q. Well, you said——

A. I think that he probably knew there was.

Q. Did he say he knew there was?

A. No, he did not.

Q. Well, did he tell you that he had been speaking with immigration officers at that time? [1939]

(Testimony of Irene Patti Harris.)

A. No, he did not.

Q. It wasn't he that suggested this party; it was you that suggested it, is that right?

A. That's right, yes.

Q. It wasn't Roza Schomaker?

A. No, it was I that told him to remember it.

Q. Now, since that time—oh, then the next thing you knew was Mr. Chandler appeared at your home; is that right?

A. I think that is just about right.

Q. Did you ever talk to the Schomakers after that conversation about the subject of your testimony here?

A. I only saw them—I think I only saw John just the one time in June, and then Roza since then.

Q. Now, during any of your conversations with Mr. Chandler or this other gentleman who drove you down here, were you shown a transcript of what Mr. Schomaker had testified to here?

A. No, sir.

Q. Well, now you name the people who were present at that meeting whom you remember, Mr. John Shaw, Mr. Peter Brown, Mr. and Mrs. Wogemann—— A. Wogemann.

Q. How long is it since you have seen those people?

A. Oh, since probably '38—well, maybe not after '40.

Q. In 1940, you say? [1940]

(Testimony of Irene Patti Harris.)

A. I am not saying for sure, because I just don't remember.

Q. But it is probably nine or ten years ago since you saw either Peter Brown or Mr. and Mrs. Wogemann, is that right?

A. That is right, yes, sir. [1940-A]

The Court: Who is that, Peter Brown or Archie Brown?

The Witness: No, Peter Brown.

Q. (By Mr. Hallinan): Peter Brown. And then how long is it since you have seen Mr. and Mrs. Archer Brown?

A. I don't think after that, much after that, either.

Q. That is the last time you saw them?

A. Well, I don't say it is the last time, but after that my health was very poor and I didn't go out very much, and I didn't come in contact with them at all, with any of them.

Q. All right. Now, nobody told you that Mr. Schomaker had named these people as being present at the Shaw's house, is that right?

A. I didn't know that Mr. Schomaker did name them.

Q. And you didn't compare any notes on that subject with anybody? A. None whatever.

Q. Is that right?

A. None whatsoever, no, sir.

Q. Now, you say that Mr. Bridges reported on the waterfront and said what the Communist Party

(Testimony of Irene Patti Harris.)

had done for "us." Who were the "us" that the Communist Party——

A. Well, I thought that he meant the longshoremen.

Q. That included your husband and himself and the other longshoremen, isn't that right?

A. That is what I thought that he—yes, I imagine he did have [1941] reference to them.

Q. And you said he said how they had helped "us" out?

A. Well, yes, what they had done and how they had helped us out in the strike.

Q. And the editorials in the paper, in the World, in the People's World?

A. Yes, they had given great support. I don't remember just his words, it was such a long time ago.

Q. And you say you arrived at that party about 8:00 o'clock and you left before 10:00?

A. I think so, yes, sir.

Q. And the house you described as having a large room, it was like an old house that part of it had been built over, is that what you said?

A. I didn't say built over, no, sir. It had an old-fashioned double room; it might have been a double parlor or it might have been a parlor and a dining room.

Q. And how many people were present at that meeting?

A. Well, I—maybe from 25 to 30 or 35. I didn't count them.

(Testimony of Irene Patti Harris.)

Q. 25, 30 or 35?

A. Something—yes. One room was entirely filled and some sitting in the other room.

Q. Now, when Mr. Chandler appeared at your house for the first time, he charged your husband with having concealed his membership in the Communist Party at the time he was naturalized, [1942] didn't he? A. No, sir, he did not.

Q. Now, what did he say on that subject, if anything?

A. I don't think it was even discussed. I don't remember if it was.

Q. Well, what discussion have you heard on that subject from anyone within the last year or so?

A. What was that question again, please?

Q. About any charge that—when your husband was naturalized, he had concealed his membership in the Communist Party. A. Mr. Harris?

Q. Yes.

A. Oh, no, he never belonged to the party. He never concealed anything.

Q. When was he naturalized?

A. I think in 1940.

Q. Were you present at the time of his naturalization? A. Yes, sir, I was.

Q. Did you go down as a witness or anything like that? A. Yes, I did.

Q. And was he questioned about membership in the Communist Party?

A. I just don't remember.

(Testimony of Irene Patti Harris.)

Q. Now, Mrs. Harris, try to remember. Was your husband questioned about membership in the Communist Party at the time he was [1943] naturalized?

A. I don't remember, but if he was, he would certainly have said, "No," because he never belonged to the Communist Party. I don't remember what his questions were then.

Q. Was he questioned about any affiliation with the Communist Party? A. I don't remember.

Q. You don't remember that? A. No, sir.

Q. Do you remember where the examination took place?

A. It took place in the Federal Building, here, but just where, I don't know.

Q. Who was the other witness?

A. Mrs. Alda Johnson.

Q. And she and you came down with him, is that right? A. That's right, yes, sir.

Q. Were you questioned about membership in the Communist Party?

A. Oh, I don't know. I had my citizenship restored.

Q. When?

A. In, oh, I think probably six months before Mr. Harris had his citizenship granted to him. I lost mine when I married him.

Q. Yes. And when you had your citizenship restored, you were questioned about membership in the Communist Party, weren't you?

(Testimony of Irene Patti Harris.)

A. I don't remember. I may have and I may not have. I don't remember. [1944]

Q. Now, Mrs. Harris, who were the witnesses that you took down for yourself?

A. I didn't have any witnesses.

Q. You didn't have any witnesses?

A. I don't think so.

Q. Now, please give this your attention. See if you can't tell us from memory. You were questioned at the time your citizenship was restored as to whether or not you had ever been a member of the Communist Party, isn't that right?

A. I do not remember. I may have.

Q. Now, coming forward six months, when your husband was examined in your presence, he was asked if he had ever been a member of the Communist Party, wasn't he? A. I do not know.

Q. You don't remember that? A. No, sir.

Q. Mrs. Johnson, who was a witness also, she was asked if she had ever been a member of the Communist Party, wasn't she?

A. Really, I don't know. I don't remember if she was. She may have, but she is not a member of the party.

Q. And you stated that you were not a member of the party? A. That's right.

Q. And you stated that your husband was not a member of the party?

A. That's right. [1945]

Q. Is that right? A. That's right.

(Testimony of Irene Patti Harris.)

Q. Now, at this meeting at Mr. Shaw's, then of course that was not a Communist Party meeting, was it?

A. Well, I don't know whether it was or not.

Q. Well, you are not a Communist?

A. I was not a Communist, no. I didn't belong to the party.

Q. And your husband wasn't a Communist?

A. No, we were there, though, by invitation.

Q. He was there by invitation?

A. Yes. you had to be invited to attend.

Q. By whom—Now, by whose invitation was he there? A. We were there by Peter Brown's.

Q. All right. Now, at the time that you got your citizenship back, were you questioned by the Immigration officials about that party at the Shaw's?

A. No, sir.

Q. Were you asked any questions about Harry Bridges at the time you got your naturalization?

A. No, sir.

Q. Were you at the time that your husband was naturalized? A. I don't think so.

Q. Was your husband?

A. I don't think so.

Q. Well, what was said about Harry Bridges at all on that [1946] occasion, if anything?

A. If I remember correctly, I don't remember, but I don't think his name was mentioned. I do remember when Mr. Harris, the Judge asked him some questions about the Magna Carta in England, and compared them to our—some of our laws here.

(Testimony of Irene Patti Harris.)

Q. Was he naturalized in the Superior Court or in the Federal Court?

A. I wouldn't know. I don't even remember——

Q. Were you in court with him?

A. That's right, I was.

Q. Do you know what the Judge's name was?

A. I think it was Judge Lauderbach or something to that effect. I am not certain.

Q. Was it out in the City Hall or was it here in this building?

A. This is the Federal—this is the Post Office. It was in the Post Office.

Q. It was in the Post Office? A. Yes, sir.

Mr. Hallinan: Might we have the afternoon recess?

The Court: Yes. We will take the afternoon recess. Ladies and gentlemen of the jury, the same admonition to you, not to discuss the case among yourselves under any conditions, nor to suffer any person to discuss it with you, nor to form or express an opinion until the matter is finally submitted to you for [1947] your decision.

Mr. Hallinan: I want the subpoena marked for identification in the meantime, if we may, Your Honor.

The Court: All right. You may now retire.

(Recess.) [1947-A]

Q. (By Mr. Hallinan): Now, when you spoke to the Schomakers about the meeting in Jack

(Testimony of Irene Patti Harris.)

Shaw's home, did you and the Schomakers agree as to the type of house or type of room that the meeting was held in? A. No, it was——

Q. Was that discussed?

A. It wasn't mentioned, no, sir.

Q. Nothing was said about it being a parlor and another room cut into one room? A. No.

Q. Nothing was said? A. No.

Q. At Easter of this year at the Schomakers' were the names of the people who were present gone over between you and the Schomakers?

A. No.

Q. For instance, Mr. and Mrs. Wagemann were not mentioned in the conversation with the Schomakers on Easter, or were they?

A. We didn't mention any names; we just talked about the meeting that Harry made that statement.

Q. Now, you tell us you didn't mention any names? A. That is right.

Q. And you didn't mention what the room was like? A. No, sir.

Q. And you didn't mention the date that the meeting was held? [1948] A. No, sir.

Q. Nor the year in which it was held?

A. Well, I may have said something about the year; I don't know.

Q. You may have said something about the year. Did you say something about the time?

A. I am not saying that we did; I just don't recall whether we did or not.

(Testimony of Irene Patti Harris.)

Q. Did you say anything about the time of the year in which it was held?

A. No, I don't think so.

Q. Did you say anything about the number of people who were present at this meeting?

A. No.

Q. Have you been at a great many meetings within the last fifteen years—you, personally?

A. Let's see.

Q. I beg your pardon?

A. Well, not since 1940.

Q. But prior to that time did you attend a great many meetings?

A. No, that was the only one that I was ever invited to.

Q. I see. Now, had you known Mr. Bridges prior to this party at the Shaws' house or this meeting? A. Oh, yes, sir.

Q. How long had you known him? [1949]

A. Well, I think since probably 1934.

Q. Were you friendly to him?

A. Very, yes, sir.

Q. Spoke to him?

A. Oh, yes. He has been at our house, and I gave a party for him, and I have called at his home a couple of times, but he wasn't there, but I called on his wife Agnes.

Q. Were you friendly with Agnes?

A. Yes.

Q. Are you friendly with her now?

A. I haven't seen her for several years. I think

(Testimony of Irene Patti Harris.)

the last time I saw her is when she had the accident on Pine Street. We went up to see her at that time.

Q. Did you call him Harry when you spoke to him? A. Always.

Q. At the time this party took place at the Shaws you, under the law as it then stood, were an alien; that is right, isn't it? You had given up your American citizenship?

A. Well, I tell you, I didn't know that I had lost it. I voted and I even did jury duty during that time. I went down to vouch for Mr. Harris, and I thought all the time that I was still an American citizen.

Q. You knew your husband was an alien, though, didn't you? A. Yes, sir, I did.

Q. And you knew that Harry Bridges was an alien, isn't that [1950] right?

A. That's right.

Q. And the reason you were shocked at his making this statement was you knew that an alien who was a member of the Communist Party would be deported, isn't that right?

A. I never gave it a thought.

Q. You didn't give it a thought?

A. No, sir.

Q. So at that time when he made this statement that you have ascribed to him, you didn't give it a thought that he was putting himself in a posiiton where he could be immediately deported for having made that statement?

(Testimony of Irene Patti Harris.)

A. No, sir, I never thought of it that way at all.

Q. Now, you place the time at which this party took place pretty definitely because it followed the CIO convention in Los Angeles in 1938, is that right?

A. Yes, sir, to the best of my recollection.

Q. Did you attend the CIO convention in Los Angeles? A. Yes, sir.

Q. Now, you knew from reading the papers and from discussion which your husband, or however it may be, that in March of 1938 a warrant for Harry Bridges' deportation had been issued by the Department of Labor upon the ground that he should be deported as a member of the Communist Party? You know that, didn't you? [1951]

A. If I did, I didn't recall it.

Q. Well, at this party—withdraw that. Did you take enough notice of the events that involved the union officers to know that in March of 1938 such a warrant had been issued?

A. What was that question again, please?

Q. Withdraw it. Withdraw it. When you went to the CIO convention in 1938 was your husband a delegate? A. That's right.

Q. From what union?

A. From the Longshoremen's Local 110.

Q. From the ILWU?

A. That's right, yes, sir.

Q. At that time Harry Bridges was president of that union, wasn't he?

A. I couldn't say for sure.

(Testimony of Irene Patti Harris.)

Q. Well, he has been president for many years. Don't you remember that he was president?

A. I don't remember, but I imagine he was. I couldn't say for sure.

Q. Don't you know this also: That at the time of the CIO convention Harry Bridges was the Pacific Coast director of the CIO?

A. No, I don't know that.

Q. Did you attend any of the convention sessions of the CIO in Los Angeles? [1952]

A. Oh, I think one of them, but I wasn't very well and went sightseeing, and then a day I think I was ill in the hotel.

Q. Don't you remember that in the CIO convention in Los Angeles in 1938 there was a great deal of discussion in the convention and a great deal of indignation expressed against the action of the Department of Labor in having gotten out a warrant to try to have Harry Bridges deported?

A. No, I don't recall that at all. I probably wasn't there at that time.

Q. Well, didn't you discuss that subject with your husband? A. I think not, no, sir.

Q. Well, do you remember whether in the year 1938 there wasn't any discussion at all in your family, that is, between your husband and yourself, as to the pending deportation proceedings against Harry Bridges?

A. There was, but I don't know whether it was in '38 or not.

(Testimony of Irene Patti Harris.)

Q. What discussion did you have at any time?

A. We were always in sympathy with him.

Q. I beg your pardon?

A. We were always in sympathy with him.

Q. With whom? A. With Harry Bridges.

Q. You were always in sympathy with him?

A. That's right. [1953]

Q. Thought that he shouldn't be deported, is that right?

A. Well, no, I didn't think that. I just was wishing that he wouldn't be.

Q. You say hoping that he wouldn't be?

A. That's right.

Q. And you always believed up until the time that you heard him talk at this Shaw house that he was not a member of the Communist Party; isn't that right? A. I didn't know.

Q. You didn't know one way or the other?

A. One way or the other.

Q. But you knew—withdraw that. When you first heard that a warrant had been issued for Bridges' deportation you had some talk about that with your husband, is that right?

A. Oh, I just don't recall.

Q. Well, you said that you were in sympathy with him; that you expressed some sympathy with him, is that correct? A. Yes, sir.

Q. Then wasn't that subject discussed with other members of the Longshore Workers' Union—you and your husband and other workers in the Longshore Workers' Union?

(Testimony of Irene Patti Harris.)

A. I tell you, I haven't very many friends in the Longshoremen's Union.

Q. Now, didn't your husband inform you and didn't you see in the paper when the first warrant for Harry Bridges' [1954] deportation was issued? Didn't you notice that or remark that at all?

A. No, I did not remember—I don't know when it was.

Q. Well, can you tell us this: What was it that called your attention to the fact that proceedings had been instituted to deport Mr. Bridges?

A. Oh, I just don't recall.

Q. But you knew at the time of the CIO convention in Los Angeles that at that time——

A. No, I didn't know that. No, I am not sure of it. I don't recall it at that time.

Q. You don't recall it at that time?

A. No, sir.

Q. You knew at the time that you attended Mr. Shaw's party that a deportation proceeding was pending against him, didn't you?

A. No, I didn't.

Q. You knew when you were at Mr. Shaw's party, though, that a person, an alien, would be deported if he joined the Communist Party, didn't you?

A. I didn't give it a thought. I never thought about it.

Q. Well, you said you were shocked.

A. I was shocked, because it had been denied

(Testimony of Irene Patti Harris.)

that he was a Party member, and to think that he would get up and make that statement, I was sort of flabbergasted. [1955]

Q. Who had denied he was a Party member?

A. Oh, we in our auxiliary had little discussions, that would come up, Harry was accused of being a member and other people was. I had even myself been accused, but I wasn't, and the other ladies denied it, too. That was all there was.

Q. I didn't get what you said where this discussion took place.

A. Oh, in our auxiliary meetings and different meetings.

Q. What auxiliary? A. In the ILWU.

Q. Were you a member of the ILWU auxiliary?

A. Yes, sir.

Q. How many other ladies were members?

A. Oh, I wouldn't know.

Q. You say there had been discussions in this ILWU auxiliary?

A. Not on the floor, I don't think; not on the floor, but probably at our gatherings—we had little sewing bees that we sewed and different things. We had socials, and of course we more or less gossiped.

Q. And at those meetings there had been discussion of the charges that Mr. Bridges was a member of the Communist Party, is that right?

A. What was that question, please?

Q. At those meetings that you speak about in the auxiliary there had been discussions about the

(Testimony of Irene Patti Harris.)

charges that Mr. Bridges [1956] was a member of the Communist Party, is that right?

A. I think so, yes.

Q. And that had been denied, is that correct?

A. That is right, yes.

Q. And nobody belonging to the auxiliary claimed that he was a member, did she?

A. That's right; they all denied it.

Q. I beg your pardon?

A. The ladies always denied it.

Q. Mr. Bridges always denied it.

A. I said the ladies denied it.

Q. The ladies always denied it? A. Yes.

Q. Were there several hundred members in that ladies' auxiliary?

A. Oh, no; maybe from eight to ten to a hundred; maybe a hundred at the most. I don't even know whether we had that membership or not.

Q. Then you say that other people were also accused of having been members of the Communist Party, and the denial of that was made in such meetings of the auxiliary, is that right?

A. That's right, yes.

Q. And that included yourself, is that right?

A. I may have been, I don't know.

Q. Did it include your husband? [1957]

A. No, I don't think—no.

Q. Now, was this a subject—this was, I take it, a subject of pretty frequent discussion, is that right? A. Not necessarily so.

Q. And then wasn't it also stated among the ladies present that people who afterwards took the witness stand and testified that Mr. Bridges was a Communist were committing perjury?

A. No, no.

Q. Now, this subject being debated and discussed, had you ever asked Harry Bridges himself that question? A. No, sir.

Q. After the Shaw meeting had broken up its formal part, the ladies there served refreshments, isn't that correct? A. Well, I think they did.

Q. And did you——

A. I didn't stay, because I was ill. They went into the kitchen, went into the back, and Mr. Harris and I was excused and I went home. I wasn't very well.

Q. Did you go up to Mr. Bridges and say, "Why, Harry, what is the matter with you? Are you insane, making a statement like that in public?" Did you say that to him?

A. I didn't say anything.

Q. Did you see anybody else go up to him and protest what a foolish and insane thing it was to make such a statement?

A. No, I didn't. [1958]

Q. Did you ask anybody else who was there what had happened to him, whether he was drunk or insane or anything like that? A. No.

Q. At that meeting—now, if you will give a little thought to it, Mrs. Harris—wasn't there some discussion about the pending deportation proceedings against Harry Bridges?

(Testimony of Irene Patti Harris.)

A. I don't recall that at all.

Q. Nobody mentioned those at all?

A. I don't recall it, no, sir; I don't recall it.

Q. Well, wasn't it considered of great importance in the ILWU that proceedings to deport their president were pending?

A. It may have been, but it wasn't discussed there to my recollection at all.

Q. And you don't recollect that at the CIO convention it wasn't a matter of great consternation and great sorrow that the CIO Pacific Coast Director was to be deported?

A. No, sir, I do not remember.

Mr. Gallagher: Objection, your Honor. I think we are retracing. We have been over that maybe twice even before.

The Court: Overruled.

Q. (By Mr. Hallinan): Now, you have cited some of the language that Mr. Bridges you say used in the discussion at that meeting. You said he spoke about what the Communist Party had done for us, is that right? A. Yes. [1959]

Q. In other words, did Mr. Bridges say something like this, "We longshoremen, we members of the ILWU, should be and we are grateful for what the Comumnist Party has done for us"? Did he say that?

A. I don't know his exact words. The only thing that made the impression upon me was when he invited us, urged the members there, those that

(Testimony of Irene Patti Harris.)

were not Party members, to come into the Party—I remember that very clearly—and when he said that he belonged to the Communist Party; but what his other talk was, I just know it was in general about the waterfront and what the Party had done.

Q. Now, after he made that statement that he was a member of the Communist Party and invited other people to go in, did he continue talking for some time thereafter?

A. No, I think that was—he walked back and forth and he put his hands in his pocket, and he walked down the aisle—the seats were on each side—and he came down maybe, oh, five or six feet, and he just—that was the end of it.

Q. Then did anybody else get up and speak after that?

A. Not that I know of. I wasn't well, and Mr. Harris and I left there.

Q. Didn't anybody get up and say, "This gentleman is just joking, because there is a warrant out for his arrest and he is subject to deportation, and he is just kidding you; he isn't actually a member of the Communist Party"? Did any one [1960] say that?

Mr. Gallagher: Your Honor, I think that is a statement rather than a question.

The Court: Overruled.

Q. (By Mr. Hallinan): Did anyone say that?

A. I told you that I left right after he finished

(Testimony of Irene Patti Harris.)

his talk. I don't know what was said or done after that.

Q. Now let me ask you this: You say Mr. and Mrs. Archer Brown were there?

A. I think they were there.

Q. What? A. I think they were there.

Q. Did anybody talk to you at the recess and tell you that Mr. Brown could not have been there?

A. No, sir.

Q. Now, don't you know that at the time of the CIO convention, prior to the time of the CIO convention, before it was held, Archer Brown had gone back to Spain and was fighting in the Loyalist army in Spain?

A. I didn't say that they were there. I said I think they were there. But the other people that I mentioned, I am sure were there.

Mr. Hallinan: I think that is all.

Mr. Gallagher: No redirect, your Honor.

The Court: You may step down, Mrs. Harris. Be very [1961] careful of the steps. The witness is excused.

Mr. Donohue, will you call the next witness, please.

Mr. Donohue: It will take a moment. He will be here in just a minute, your Honor.

Mr. Hallinan: Oh, excuse me. I am sorry. With that last witness——

The Court: Did you have an additional question to ask the witness?

Mr. Hallinan: I don't care. I will introduce the subpoena which shows that it was served upon her two days instead of two weeks before she came down to court.

The Court: Mr. Donohue, would you examine that? It may be the subject of stipulation rather than recalling the witness if you are so disposed. If you wish, Mr. Hallinan, I will send the bailiff to recall her.

Mr. Hallinan: Well, if it is necessary.

Mr. Gallagher: I think that statement is wrong. I think she said about two weeks ago. This is the 29th.

The Court: Do you wish the lady recalled?

Mr. Donohue: Your Honor, I was thinking we can stipulate and save the witness being recalled.

The Court: Let us have the stipulation in the record.

Mr. Hallinan: It shows the subpoena was issued on the 29th day of November calling the witness to court for the first day of December. [1962]

The Court: The lady is here.

Mr. Hallinan: I want to ask her a couple of questions.

(The witness Irene Patti Harris resumed the stand.)

The Court: Mr. Hallinan has another question to address to you.

Q. (By Mr. Hallinan): You were brought down to court for the first time last Thursday, isn't that right? A. I think so.

(Testimony of Irene Patti Harris.)

Q. That is the 1st of December. And you gave us the subpoena that was served upon you?

A. That's right.

Q. The subpoena is dated the 29th day of November, so it was served upon you two days before you came down here, isn't that right?

A. If that is what it says there, it was, yes; I don't know.

Q. Instead of two weeks. Now, as a matter of fact, are you sure that it was you that suggested the Shaw party to John Schomaker, or didn't he suggest it to you? Which?

A. It was I that recalled John's—recalled it to John's memory.

Q. And up to that time he said he hadn't remembered it, is that correct?

A. He didn't say anything. We didn't even discuss it until the time when I asked him if he remembered that incident, and he said, "Oh, yes." [1963]

Q. And what does this Mallen do who was present at the meeting at the Schomaker house?

A. Oh, I don't know. I think he is affiliated with something in the building trades.

Q. Your husband and Mr. Bridges have had some rather bad disagreements on policy matters of the union, haven't they?

Mr. Gallagher: Objection; that has nothing to do with this witness.

The Court: Overruled.

(Testimony of Irene Patti Harris.)

A. Not that I know of. [1964]

Mr. Hallinan: We will offer the subpoena, if the Court please, as Defendant's exhibit.

The Court: It may be received as defendant's exhibit next in order.

Mr. Hallinan: That is all.

(Thereupon subpoena referred to was received in evidence and marked Defendant's Exhibit T.)

The Court: Mrs. Harris, you are now excused.

STANLEY BENJAMIN HANCOCK

called on behalf of the United States; sworn.

The Clerk: Will you state your name to the Court and jury, please?

A. Stanley Benjamin Hancock.

Direct Examination

By Mr. Paisley:

Q. Where do you live, Mr. Hancock?

A. In Erie, Pennsylvania.

Q. What address?

A. 239 East 10th Street.

Q. And what is your occupation there?

A. Newspaper man.

Q. With what newspaper?

A. The Erie Dispatch.

Q. Is that a daily paper?

A. Yes, sir. [1965]

(Testimony of Stanley Benjamin Hancock.)

Q. What is your position with the paper?

A. My position, from which I have just resigned, is that of public relations director.

Q. And when did you resign?

A. Last Friday, December 2nd.

Q. How long had you been with the paper?

A. Some 19 months.

Q. In what capacity?

A. As public relations director.

Q. What is the circulation of the paper?

A. Approximately 40,000.

Q. And how old is it? A. 129 years old.

Q. Where and when were you born, Mr. Hancock?

A. In Eber, California, October 30, 1908.

Q. And did you go to the public schools there?

A. In San Diego, California.

Q. How many grades did you complete?

A. The first half of the tenth grade.

Q. And did you go to work?

A. Yes, sir.

Q. When you left school? A. Yes, sir.

Q. Where did you go to work?

A. San Diego Sun. [1966]

Q. In what capacity?

A. First as an office boy, later as a circulation district manager.

Q. How old were you when you went to work for the paper? A. About 17.

Q. How long did you stay with the San Diego Sun?

(Testimony of Stanley Benjamin Hancock.)

A. It was a broken period of approximately seven years.

Q. And in what capacity were you working when you left?

A. Circulation district manager.

Q. Where did you go after that?

A. Well, I remained in San Diego after that.

Q. What kind of work did you do then?

A. As an organizer for the Communist Party.

Q. Did you ever work for the Pasadena Star-News?

A. Yes, sir, I just referred to a broken period of time. I worked for the Pasadena Star-News in 1929, the beginning of 1930.

Q. And are you now married?

A. Yes, sir.

Q. Do you have any children?

A. One child.

Q. Are you living with your wife and child?

A. Yes, sir.

Q. Now, you say you were organizer for the Communist Party? A. I was. [1967]

Q. And where?

A. In San Diego, California.

Q. Tell us when you joined and where.

A. I joined in San Diego.

Mr. MacInnis: Pardon me. I take it, your Honor, that the same objections are preserved to this line of questioning as we made in the instance of the preceding witness, that the question is calling for the opinion and conclusion of the witness; they

(Testimony of Stanley Benjamin Hancock.)

are not binding on the defendants; that they call further for res inter alia acta.

The Court: When you speak of the preceding witness, I might correct you; I think you mean the witness preceding the last witness?

Mr. MacInnis: Yes, I meant the witness Mr. Schrimpf.

The Court: Is that agreeable, counsel?

Mr. Paisley: Oh, yes, your Honor, that is agreeable.

The Court: So stipulated?

Mr. Paisley: Yes.

The Court: That may be the order.

Q. (By Mr. Paisley): Now, when and where did you join the Communist Party?

A. In 1932, to the best of my recollection, in San Diego. It was San Diego. I believe it was the year 1932.

Q. And how soon after that did you become organizer?

A. Why, in 1933 I became organizer. [1968]

Q. For what territory were you organizer.

A. At that time the County of San Diego.

Q. Did you later become organizer for any larger territory?

A. At a later period, Imperial Valley or Imperial County was included in our territory.

Q. And was that the largest geographical body?

A. Yes, it was.

Q. Where were you working when you became organizer, first in San Diego?

(Testimony of Stanley Benjamin Hancock.)

A. I left the San Diego Sun in January of 1933 and became a full time functionary in the Communist Party.

Q. And have you held any other positions in the Communist Party?

A. Well, I have held various positions, of trade union director in the county, unit organizer, that sort of thing.

The Court: Speak up just a little louder.

The Witness: Yes, sir.

Q. (By Mr. Paisley): What did you mean by "full time functionary" of the Communist Party?

A. I mean that I had no employment for wages, that I received living expenses from the party in return for full time, full application of my time to the party.

Q. And what were your duties, your full time duties? Just what were you doing for the party?

A. Why, at the beginning, at that time, we were mainly concerned with activity among the unemployed. My work was largely in [1969] an organization known as the Unemployed Council, where [redacted] endeavored to represent these people in their efforts to secure more relief.

Q. When you joined the party—you say that was in 1932? A. I joined in 1932.

Q. Now, did you do any outside work during the time you were a member of the Communist Party? In other words, how did you make your living?

A. For a great deal of the time I was on relief,

(Testimony of Stanley Benjamin Hancock.)

and my membership extended over a number of years, and I, for approximately two years, was on the Federal Writers Project. This was a later period of time than the time we were discussing.

Q. How old were you in 1933?

A. About 25.

Q. Now, did there come a time when you worked for the newspaper or periodical known as the People's World?

A. I went to work for the People's World in the first few days of January, 1938.

Q. And how long with the People's World?

A. Until July, 1941.

Q. Where were you living when you worked for the People's World?

A. In Oakland, California.

Q. What was your position?

A. For the first six months I was branch manager of the Oakland [1970] office. For the balance of the period just mentioned I was circulation manager in the San Francisco office.

Q. During that time were you still a member of the Communist Party? A. Yes, I was.

Q. Did you have any function or duties to perform for the party?

A. Nominal duties. I can't recall. All party members have nominal duties.

Q. Were you still receiving any compensation of any nature from the Communist Party during the time you were working for the People's World?

A. Yes, I did.

(Testimony of Stanley Benjamin Hancock.)

Q. What type was this compensation?

A. I was paid $21 a week.

Q. And what were your duties?

A. My duties for the larger part were as circulation manager, generally speaking, to increase the circulation of the People's World.

Q. Was that a Communist organ, this People's World?

A. It did not carry on its masthead the fact that it was a Communist organ, but it was the product of the Communist Party.

Mr. MacInnis: I think, your Honor, that that answer must be stricken as purely the opinion and conclusion of the witness.

The Court: The motion is denied. [1971]

Q. (By Mr. Paisley): Now, after you left the People's World, what work did you take up?

A. Why, after two or three weeks I found employment as circulation manager of the Santa Cruz Sentinel-News, Santa Cruz, California.

Q. And how long were you with that paper?

A. Until October, 1942.

Q. Was that a daily newspaper?

A. Yes, sir.

Q. Was it a Communist paper or otherwise?

A. Republican paper.

Q. After that, what did you do for a living?

A. For a period of about three months I worked in and around San Francisco and the Link Belt Machine Shop, for one place, among shipside repair

(Testimony of Stanley Benjamin Hancock.)

gangs, and in, I believe, the month of January, 1943, I entered the merchant marine.

Q. Where, here in San Francisco?

A. Here in San Francisco.

Q. Did you go to sea? A. Yes, sir.

Q. In what capacity?

A. Began as a wiper in the engine room.

Q. Engine crew? A. Yes.

Q. And how long did you remain a sailor? [1972]

A. Until December 27, 1945.

Q. What type of work were you doing when you left?

A. I was third assistant engineer, acting second assistant.

Q. What did you do after that, Mr. Hancock?

A. Well, came out to visit my family in April. I went to work in Lockport, New York, on a newspaper, the Union Sun & Journal.

Q. How long did you work for that paper?

A. Well, it was in April, 1946, to approximately two years, to 1948, April, 1948.

Q. And then did you go with the Erie Dispatch?

A. Yes.

Q. And been with that paper since?

A. Yes.

Q. Did there come a time when you ceased to become a member of the Communist Party?

A. Yes, there did.

Q. Will you tell the Court and jury, please, sir, when that was? A. In July, 1941.

Q. Did you resign or were you expelled?

(Testimony of Stanley Benjamin Hancock.)

A. In July, 1941, I asked for permission to leave the employment of the People's World for personal reasons, because it was necessary for me to assist my family fianancially. Permission was granted. On leaving San Francisco, I also left the party.

Q. Now, were you ever active in the party here in San Francisco? [1973]

A. There was a short period——

Mr. MacInnis: Pardon me. It seems to me that that question calls for the witness to put a character on his own doings. He can tell us what he did, but he can hardly characterize it, your Honor.

The Court: Overruled.

Q. (By Mr. Paisley): You may answer the question.

A. There was a short period in 1933, the early part of 1933, when I was circulation manager of the Western Worker. I was up here, as I recall, for about three months. I don't remember any other party activities that I was officially in as a party member, involved in in San Frncisco.

Q. Well, I believe you say you were circulation manager at San Francisco of the People's World?

A. Yes.

Q. Did you learn where the Communist Party headquarters were in the City of San Francisco?

A. Yes; I did.

Q. Where were they?

A. At what times, please?

Q. Well, during any time that you know about.

(Testimony of Stanley Benjamin Hancock.)

A. When I first knew, it was at 37 Grove Street; later it became 121 Haight Street.

Q. Have you been in those offices?

A. Yes, I have. [1974]

Q. Frequently or otherwise?

A. Quite frequently.

Q. Do you recall the California State Federation of Labor convention held in San Diego along about 1935? A. Yes, I do.

Q. You were then organizer for the Communist Party at San Diego? A. I was.

Q. Did you have any other position at that time with the Communist Party?

A. Not that I recall. I had many duties. I don't know exactly what you mean by "assignments."

Q. Well, just what your particular job with the Communist Party when that convention was held?

A. I was mainly concerned with work in the trade union fields at that time, in the American Federation of Labor.

Q. Were you ever a member of the District Committee of the Communist Party in the State of California?

A. I don't have any recollection of ever being so.

Q. Were you a trade union man yourself?

A. Well, that is a general question.

Q. Well, were you ever a member of any trade union?

A. Yes, at various times I have been.

Q. What unions of what unions have you been a member?

(Testimony of Stanley Benjamin Hancock.)

A. The first union was the union—it was an agricultural union. [1975] I can't remember the initials. It was in the period of 1933, '34. United Cannery—no, I can't remember the initials. That was a union affiliated to the trade union Unity League, not affiliated with the American Federation of Labor. I later became a member of the Cleaners & Dyers Local of San Diego, American Federation of Labor. On the Writers' Project for a time, we held membership in a unit of the Federal Employees Union. On the People's World I was a member of the American Newspaper Guild.

Q. Did you ever have anything to do with the United Cannery, Agricultural, Packers and Warehouse Union?

A. The union that I belonged to, to the best of my recollection, didn't have the word "warehousemen" in, but it was called the Ucapawa, and it was, these were the initials, U-c-a-p-a-w-a.

Q. Well, were you a member of that?

A. Yes, I was.

Q. Did you belong to any union when you went to sea?

A. Yes, I did. I belonged to the Marine Firemen, Boiler & Watertenders & Wipers.

Q. Now, do you know one of the defendants in this case, Harry Bridges? A. Yes, I do.

Q. How long have you known Harry Bridges?

A. Since 1935.

Q. When and where did you meet him? [1976]

(Testimony of Stanley Benjamin Hancock.)

A. In an apartment in San Diego, just at the beginning of this convention you just mentioned.

Q. Is that the first time you had met him?

A. I am reasonably sure it is.

Q. Have you seen him—How often have you seen him since?

A. I saw him several times in 1938.

Q. Under what circumstances?

A. There was a CIO building or offices in a building on lower Market Street. He was the regional CIO organizer and I was an organizer in the CIO Agricultural Union, offices were next to each other. And I ran into him occasionally there.

Q. Have your seen him on any other occasions or at any other places that you recall?

A. Not that I can recall.

Q. Now, do you know one of the defendants in the case named Henry Schmidt?

A. Yes, sir.

Q. When and where did you first meet him?

A. In an apartment in San Diego, September, 1935.

Q. Same apartment where you met Bridges?

A. Yes.

Q. Have you seen him since?

A. I don't recall that I have.

Q. Would you know if you would see him?

A. Yes, sir. [1977]

Q. Now, do you know the defendant J. [illegible] Robertson? A. No, sir, I do not.

(Testimony of Stanley Benjamin Hancock.)

Q. Do you know a man named John Schomaker?

A. Yes, I do.

Q. When and where did you first meet him?

A. Well, I have known John Schomaker since about 1933; met him in San Francisco, '33 or '34, in there somewhere.

Q. Under what circumstances did you meet him?

A. John Schomaker was a section organizer for the Communist Party.

Q. Of the Communist Party?

Mr. MacInnis: Pardon me, your Honor. I suggest that that answer is not responsive to the question. It involves an opinion and conclusion by this witness, not called for by the question. It also involves matters outside the presence of the defendants, res inter alia acta.

The Court: Overruled.

Q. (By Mr. Paisley): Well, then, you met Schomaker in your Communist activities, I take it?

A. Yes, I did.

Mr. MacInnis: Now, pardon me. That is a leading question.

Mr. Paisley: Oh, of course it is, but you know it is proper.

Mr. MacInnis: I suggest you shouldn't adopt that form, put the label "Communist" on a man in a leading question. That is [1978] even worse than some of the other matters.

The Court: Overruled. Proceed.

Mr. Paisley: He already said he was a section organizer of the party.

(Testimony of Stanley Benjamin Hancock.)

Q. Well, did you see Schomaker often when you and he were Communists?

A. Well, not too often, no, because he was in San Francisco and I was in San Diego. But frequently why, when I came to San Francisco I met him.

Q. When you were active in the party in San Diego, were there times when you would come up here to San Francisco to Communist Party meetings? A. Yes, there were.

Q. Would you see Schomaker on those occasions?

A. On many such occasions I did.

Q. Now, do you know a man named Henry Schrimpf?

A. I met Henry Schrimpf—no, I will correct that; I saw Henry Schrimpf at this State Federation of Labor convention.

Q. Have you seen him since?

A. No, I don't believe I have.

Q. Were you a delegate to this California State Federation of Labor convention in San Diego on—in 1935? A. No, I was not.

Q. Just what, if anything, did you have to do with the convention? [1979]

A. Well, as the organizer for the Communist Party, I was interested in the policies to be adopted at that convention and the people to be elected at that convention.

Q. And to that end, what, if anything, did you do?

A. Well, I could describe that at great length, but generally speaking, we endeavored to have people we considered progressive elected as delegates to the convention out of San Diego, the various San Diego locals. And I attended at least one meeting where we discussed matters that the party was interested in having come before the convention.

Q. And where was that meeting held?

A. At the Sumner Apartments, at 12th and B Streets, in San Diego.

Q. Spell that word, Sumner.

A. S-u-m-n-e-r.

Q. Was that meeting held before the California State Federation of Labor opened or otherwise?

A. As I remember it, the convention opened the first day, the session was only a half a day. And our meeting was in the late part of that day, four or five o'clock.

Q. Now, who attended that meeting?

A. Some eight or ten people at that meeting; possibly a dozen.

Q. Can you remember the names of any persons who were present?

A. Yes, I can remember several of them. In addition to myself, Walter Lambert, trade union director, California District of [1980] the Communist Party; Jack Johnstone, member of the Central Committee of the Communist Party;——

Q. Of California or the United States?

A. Central Committee of the United States.

Q. Yes?

A. Harry Bridges, John Schomaker, a fellow from Los Angeles by the name of Rabin. There were—I have the impression, I believe there were some members of the Sailors Union of the Pacific there. I don't remember their names.

Q. Were they Communists?

A. The meeting was a fraction meeting.

Q. What is a fraction meeting?

A. A fraction meeting is where members of the party get together to plan an activity in a non-Communist meeting to follow.

Q. I see. Do you recall any others present at this time, Mr. Hancock?

A. Yes, Mr. Schmidt.

Q. Who? A. Schmidt.

Q. What is his first name? A. Henry.

Q. Now, how were you notified of the meeting and how did you get there?

A. Walter Lambert notified me of the meeting. I am not sure, [1981] but I have the impression that I went to the meeting with him.

Q. Do you know whether or not any security measures were taken?

A. As I recall, Mr. Lambert was at the door looking over people coming in.

Q. Now, have you exhausted your memory as to persons present?

A. Well, I remember three people from the longshoremen's union, a member of the Central Committee, and a member of the State Committee,

(Testimony of Stanley Benjamin Hancock.)

and myself, and a member of the Cleaners & Dyers Union of Los Angeles. I am sure there were three to four additional people there, but I don't seem to recall their names.

Q. Was a chairman elected, do you remember?

A. I don't remember any in connection with that.

Q. Were there—Tell us what part, if any, did Harry Bridges take in the meeting?

A. It is hard for me to say specifically. This was a meeting of between 8 or 12 people. I remember some of the things we talked about.

Q. Well, what were some of the things you talked about? A. Well, we were interested——

Mr. MacInnis: Pardon me. Your Honor, if he is to narrate a conversation, I think he must narrate a conversation without passing a character upon what he was interested in at that time.

Mr. Paisley: Oh, I think he is answering the question, your Honor. [1982]

The Court: Well, I suppose as to that statement, "I was interested," or "He was interested," that is prefatory to some other part. You may proceed.

Q. (By Mr. Paisley): Proceed, Mr. Hancock.

A. We were interested in preparing a slate of nominees to oppose the vice presidents of the American Federation of Labor, the California Division, and the secretary of the State Federation. We were further interested——

Mr. MacInnis: Pardon me. I want to move, if the Court please, that that answer be stricken and

(Testimony of Stanley Benjamin Hancock.)

that the witness be asked to narrate the conversation which he may remember, either in substance or as closely as he can remember it.

The Court: Yes, you might state the conversation, to the best of your recollection.

A. We discussed the various people up and down the State that we might endorse.

Mr. MacInnis: Pardon me. Again, your Honor, the witness, although your Honor has advised him, does not give us conversation. If he can just say, "Mr. Bridges said this; So-and-so said that," I think the record would be much more clear.

Mr. Paisley: I think he is telling us your Honor, in substance what the discussion was about. I suggest——

The Court: Proceed.

Mr. MacInnis: Pardon me, your Honor. There would be no way to cross-examine a witness as to a conversation if he [1983] doesn't tell us who said certain things.

The Court: I take it that you are coming to the conversations, are you?

A. Your Honor, I haven't anything in my mind about a specific conversation or sentence that any single individual said. I have a remembrance of the topic discussed.

Mr. MacInnis: Then, your Honor, I would move to strike all reference to the conversation; if he can't remember what a single individual said, his recollection of the topic would not be of any probative value in this case.

(Testimony of Stanley Benjamin Hancock.)

Mr. Paisley: Oh, I think it would, your Honor. Nothing is more natural than a person attending a meeting——

The Court: The objection is overruled.

Q. (By Mr. Paisley): Tell us in general what you remember the discussions were about, Mr. Hancock?

Mr. MacInnis: Well, let me make the objection to that question, your Honor, as not calling for a conversation, but as calling purely for an expression of opinion from this man as to what may have been in the minds of other persons.

The Court: Overruled.

A. We had this meeting to discuss, and we did discuss, the individuals up and down the State that we would be willing to support on the floor of the convention for positions of either vice presidency or secretary.

Q. By "we"—— [1984]

Mr. MacInnis: Pardon me. I move to strike that answer, your Honor, as not a narration of the conversation, purely an opinion of this witness as to what was contained in the minds of other persons without identifying them by conversation.

The Court: The motion is denied.

Q. (By Mr. Paisley): By "we" whom do you mean?

A. I mean we Communists.

Q. What was the result of the meeting?

A. The result of the meeting was that we planned

(Testimony of Stanley Benjamin Hancock.)

to hold, and later did hold, a progressive caucus, to which delegates, Communist and non-Communist were invited. That caucus was held at the Labor Temple in San Diego.

Q. And did you agree upon a slate of candidates to be presented to the convention?

A. Not an entire slate, but we discussed some of the people who we were willing to support or wanted to submit the names of.

Q. And who were they and for what positions?

A. For the position of secretary of the State Federation of Labor, A. C. Rogers; for the San Diego District of the State Federation, John Lydick.

Mr. MacInnis: Would you spell that, please?

A. L-y-d-i-c-k. I don't remember them all; I think there was eight or ten districts; I remember a Mahaffey from Stockton; Harry Bridges from San Francisco. [1985]

Q. (By Mr. Paisley): For what position?

A. Vice president of the State Federation of Labor.

Q. Any others that you remember?

A. I did remember the San Jose man, but I have forgotten him right now.

Q. Did you ever see Mr. Bridges or Mr. Schmidt or Mr. Robertson at the Communist Party headquarters here in San Francisco?

Mr. MacInnis: Pardon me, your Honor. The witness has already said that he never saw Henry Schmidt thereafter, and he never saw Mr. Robertson in his life. I think the prosecutor can't——

(Testimony of Stanley Benjamin Hancock.)

Mr. Paisley: I was trying not to lead him. If I suggested Bridges, he would have said I was trying to lead him.

The Court: It is now well after 4:00, 4:15. Is this an appropriate time to adjourn?

Mr. Paisley: Yes, your Honor.

The Court: We will adjourn court until tomorrow morning at 10:00 o'clock. The same admonition, ladies and gentlemen, not to discuss this case in any conversation with any person and not to form or express an opinion hereon until the case is submitted to you. You may now retire.

(Thereupon an adjournment was taken to tomorrow, Thursday, December 8, 1949, at 10:00 o'clock a.m.) [1986]

Thursday, December 8, 1949, 10:00 A.M.

The Clerk: The United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed, counsel.

The Clerk: The witness on the stand is Stanley Benjamin Hancock, heretofore sworn.

STANLEY BENJAMIN HANCOCK

resumed.

Direct Examination
(Continued)

By Mr. Paisley:

Q. Now, I call your attention to your testimony with reference to the fraction meeting in San Diego. Do I understand from your testimony that Henry Schrimpf was in this fraction meeting?

Mr. MacInnis: Pardon me, your Honor. That question has been asked and answered and there has been no such testimony. The question is leading and would be cross-examination of his own witness.

The Court: That is a leading question. I thought the question was addressed to him last evening. May I have that record?

Mr. Paisley: I will tell Court and counsel and the jury the purpose. There was some question as to whether the witness meant he was in the fraction meeting or whether he saw him at the labor convention. I was not clear on that. [1987]

Mr. MacInnis: Your Honor, there is no question at all. These matters are brought into the record by question and answer, and counsel cannot develop something over again by saying there is some question in his mind.

Mr. Paisley: Well, you do not object to making it clear to the Court and jury, do you?

The Court: The question last evening when we adjourned was, "Did you ever see Mr. Bridges or Mr. Schmidt or Mr. Robertson at the Communist headquarters here in San Francisco?" Mr. MacInnis interposed an objection, and the Court then decided it was four o'clock and we should stand over.

Mr. Paisley: I was going on to something else.

(Testimony of Stanley Benjamin Hancock.)

The Court: All right. You may ask the question, then.

Mr. Paisley: Yes.

The Court: The next question directed to the witness is whether or not he saw Mr. Schmidt at the fraction meeting or at any other time in San Diego at or about the time of this convention.

Mr. Paisley: He had testified that he saw him in the fraction meeting or at the labor convention.

Mr. MacInnis: Pardon me, your Honor. The testimony would reflect what he said. He can't ask him what he testified to.

The Court: You may ask the question whether at any time in San Diego at or about the time of this convention he met [1988] or saw Mr. Schmidt.

A. Yes, sir, I did. I saw him at the State labor meeting at the Eagles Hall in San Diego.

Q. (By Mr. Paisley): Now, Mr. Hancock, was there any business——

Mr. MacInnis: Now, pardon me, your Honor. In yesterday's testimony elicited by the same prosecutor the witness said that he once saw Henry Schmidt but that he didn't meet him and that he has never seen him since. I think that certainly precludes any further testimony on that point or any change in the meaning on that point.

The Court: I of course cannot anticipate what the witness is going to say. He may proceed and you may cross-examine him on that.

Q. (By Mr. Paisley): Was there any other business transacted at this fraction meeting, Mr. Hancock, than that you have already related?

A. Yes. In addition to the selection or endorsement of nominees for office in the State Federation of Labor, we discussed a number of resolutions which we were interested in placing before the convention.

Q. And what was the nature of these resolutions?

A. Well, there were several. One dealt with the desire—with our desire of having the Federation endorse a labor party. Another dealt with the convention going on record as [1989] opposing the criminal—California criminal syndicalism law; another had to do with voicing condemnation against vigilante activities in Sonoma County. Another resolution was to condemn the arrest of some men popularly known as—the case was known as the Modesto case. There were many other resolutions. These are the ones I recall.

Q. Were those resolutions that were to be offered on the floor of the labor convention?

A. Yes, and we discussed whether or not some or all of these had already been passed by local unions up and down the coast, and one particular one had not, and we arranged to have it introduced as a result of that meeting.

Mr. MacInnis: May that particular one be given us, your Honor? He speaks now of one of this number of resolutions that had not been discussed. Could we have which one it was?—

The Court: All right.

A. They were all discussed. I say one—it was brought out in our discussion that one had not been prepared, or prepared in a manner in which we desired for presentation at the convention. That was the resolution on the labor party. I might say that actually several resolutions were introduced on the labor party by delegates friendly to us and unfriendly to us, that is, resolutions favoring the labor party, but the precise wording that we desired was not contained in these other resolutions, and so we arranged to have one presented. [1990]

Q. (By Mr. Paisley): Now, I call your attention to your testimony yesterday with reference to your having an office adjoining Harry Bridges' office.

A. Yes.

Q. Will you tell us just when that was?

A. Just preceding 1938, in November and December of 1937. That is a correction of yesterday's testimony in which I inadvertently said it was 1938. It was 1937.

Q. Mr. Hancock, why did you join the Communist Party and why did you leave it?

Mr. MacInnis: Pardon me. I thought the question was not finished. I was waiting.

The Court: May I have the question? I missed it.

(Question read.)

Mr. MacInnis: I think, your Honor, the reasons of this witness would be incompetent, irrelevant and immaterial, would not cast any light upon the charges in this case. That would call only for his

(Testimony of Stanley Benjamin Hancock.)

opinion and conclusion upon matters not binding upon the defendants here.

The Court: I allowed the same question addressed to a witness heretofore produced by the prosecution, and I will allow this question and answer given to it upon the same reasons for the same grounds that I heretofore assigned with respect to the other witness.

Mr. Paisley: Yes, your Honor. [1991]

A. In answer to the question, at the time that I joined the Communist Party in 1932, I personally, and my family and my friends, were greatly concerned——

The Court: The other witness, for the record, was John Schomaker.

A. (Continuing): ——over the widespread poverty——

Mr. MacInnis: Pardon me. Your Honor, now what his family was concerned about and what his friends were concerned about would not be matters which could come into the record, and I move to strike those comments. Even under the limited purpose for which your Honor has allowed the giving of the answer.

The Court: The motion is granted.

A. (Continuing): At this time I was greatly concerned with the widespread poverty existing in our community. A number of cases came to my attention while I worked for the San Diego Sun of people in very destitute circumstances. It seemed to me that at that time no one was doing anything

(Testimony of Stanley Benjamin Hancock.)

about it. About this time my uncle came to me, because I was connected with a newspaper, and he asked me to attend a meeting.

Mr. MacInnis: Pardon me just a minute. Now, what this man's uncle, whom we don't know certainly, said to him is not to be part of this record.

The Court: Yes, sustained.

Q. (By Mr. Paisley): You can't testify, Mr. Hancock, as to what persons told you. Now, briefly, just tell the jury, as [1992] briefly as you can, why you joined this organization.

Mr. MacInnis: I think, your Honor, the question has now been answered. It now calls for a repetitive answer. Cumulative.

Mr. Paisley: All right, we will leave that.

Q. Then tell us why you left the Communist Party.

Mr. MacInnis: The same objection, your Honor; that it would be immaterial.

The Court: The same ruling upon the grounds heretofore assigned in the record by the Court, and for that limited purpose, and solely for that limited purpose.

A. I left the Communist Party because slowly but very surely I learned that the party was not interested in human beings as such, but placed the interest of the Soviet Union above everything else. I had greater and greater reluctance in accepting that theory and it finally took me out of the party.

Q. Mr. Hancock, have you seen the Harry

Bridges concerning whom you testified since you have been in the courtroom? A. Yes, sir.

Q. Will you point him out to the Court and jury if you see him here now?

A. Mr. Bridges is seated at a table at my left, the third one in a row of four men.

Q. Do you see the Henry Schmidt concerning whom you have testified?

A. Mr. Schmidt is at Mr. Bridges' left, seated.

Mr. Paisley: You may cross-examine.

Cross-Examination

By Mr. MacInnis:

Q. Mr. Hancock, you told the Court and jury that you first joined the Communist Party because of your own concern over poverty in your community, is that correct? A. Yes, sir.

Q. To what extent did that poverty impress itself upon you? Will you tell the jury about that?

A. To a very great extent. While I personally was not poverty-stricken, I was tremendously shaken by the acute hunger that actually existed at the time. I felt impelled to do something about it.

Q. You say that you found that no one else was doing anything about it, apparently, is that right?

A. Well, that wouldn't be entirely correct. There were half-hearted—I considered them half-hearted—attempts, but people were still hungry.

Q. What were those attempts?

A. Why, I refer to a very inadequate protest of city and county relief at that time.

(Testimony of Stanley Benjamin Hancock.)

Q. And what did you expect to accomplish at that time when you entered the Communist Party?

A. I expected to be able to assist these people in eating and living. Beyond that, I might say that for many years I don't know whether this is permissible—but my father and mother had [1994] spoken to me about socialism and I accepted or began to accept at that time the idea that socialism was a higher type of society and that it would eradicate this very deplorable condition that existed.

Q. So that your motives in joining the Communist Party, as you tell them to us now, were motives solely directed at helping other people, is that right? A. Yes, sir.

Q. And by other people you meant the ordinary people of your community, is that true?

A. I didn't understand that question.

Q. I say, by "other people" you had in mind the ordinary people of your own community?

A. I am sorry, I am a little confused. Would you repeat that question, "by 'other people' "? I don't seem to place it in context.

Q. In context? I don't know what you mean by that. I don't have any script that dovetails with anything you may have read in preparation for coming here. And by "other people" I mean the ordinary citizens of your community. Those were the people you wanted to help, isn't that right?

A. Yes.

(Testimony of Stanley Benjamin Hancock.)

Q. (By the Court): Explain to counsel what you meant by "context."

A. It is just an expression I sometimes use. When something is [1995] removed from context—I didn't recall exactly how that phrase came into this conversation, and I will say I believe I understand it now, and the answer is "Yes."

Mr. MacInnis: What aims were presented to you as being the good aims of the Communist Party by which you thus help your fellow citizens?

A. Well, it is a large question. Stop me when you wish. The aims of the Communist Party were many-fold. The larger aim was to bring about a state of socialism, the term socialism being interchangeable with Communism. That was to be brought about by educational procedure and at a time some time in the future, when it was possible to be brought about, violently if necessary. Along in this same process of education, we were also interested in, and worked in behalf of people, to improve their immediate circumstances.

Q. Well, will you tell us a little bit more about the aims of the Communist Party so far as it was to aid people in their immediate circumstances, the reasons that motivated you at the time to enter?

A. Well, at that time my principal interest was in the field of unemployed, and we endeavored to represent the unemployed before the county and city relief boards and plead in their behalf for a larger relief allowance. Does that answer the question?

(Testimony of Stanley Benjamin Hancock.)

Q. Well, how widespread was this hunger that was thus called to your attention, that you would have to do something to help [1996] the ordinary person to be fed through the agencies of county and city relief and the like?

A. There were many thousands in San Diego without any means of sustenance.

Q. Did you have the feeling that none of the organized political groups were doing anything of substance to help out hunger and unemployment at that time? A. Yes, I did.

Q. And what groups did you have in mind as comprising those who were doing nothing?

A. Well, I can't say they were doing nothing. They were, in my opinion, and not doing enough. Far from enough. It was true at that time that people drew some measure of relief, but it was entirely inadequate and in many cases, due to the technicalities, families didn't get any relief, and consequently were hungry. I have in mind the Communist Chest, for one group. I don't remember the exact organization, but as I recall in those days, relief, such as it existed, came from the city and county only. There wasn't even a state relief set up, or a national set up. Entirely local. So I would say those two groups.

Q. Well, now, were you persuaded to enter the Communist Party by other people or did you, because of your concern over the other members of the community, volunteer yourself into that organization? A. I was asked to join. [1997]

(Testimony of Stanley Benjamin Hancock.)

Q. And I take it you joined willingly?

A. Yes, sir.

Q. Before you joined you had studied the objects of the Communist Party?

A. Why, I don't know that I can say I studied them; I had read publications, I was aware of the objects of the Communist Party, and being aware of them, I was willing to join.

Q. Now, were there any obstacles placed in the way of Communists like yourself in carrying out the ends of the party, particularly in San Diego, at the time when you joined?

A. Why, no one ever said to me, tried to prevent me from doing it, but it was a direct result of my membership in the Communist Party that caused me to leave employment on the San Diego Sun. It was not possible to do the things that I wanted to do and retain employment on that newspaper.

Q. Well, now, for example, when you tried to do something on behalf of the unemployed before the relief agencies of San Diego, did the police or any governmental agency seek to restrain you or prevent you from doing anything of that kind?

A. I must say that my experience covers a range of years. There has been that occurrence in my experience. But if you are talking about 1932, my activity then had to do with going out and talking to people and then, individually—and then going down individually to see officials on relief to see what might be done for them. [1998]

(Testimony of Stanley Benjamin Hancock.)

Q. Now, when you say that your experience covers a wide range of years, I take it you mean the years following 1932? A. Yes, sir.

Q. Now, if you can carry your memory ahead a little bit, 1933, 1934, 1935 and those years, tell us what you meant when you said you did have the experience of being restrained by police and governmental agencies.

A. Well, in 1933 when, without employment, I was in a position to devote full time to this activity, I frequently appeared at meetings of officials having to do with relief. In my presence were great numbers of unemployed people, and I don't believe I can say that the officials were very cooperative. On occasions the police were—what I say?—obstreperous.

Q. You say the officials were obstreperous?

A. No, I say the police were. My definition is that the officials were not at all cooperative, didn't do the things we wanted done. And in some cases we were pushed around by the police.

Q. What did they do to you, Mr. Hancock?

A. Why, I don't think they did anything to me personally, but they were a little roughshod on us as a group as we stood in the halls.

Q. Did they stop your activities in any way?

A. I don't have any particular occasion in mind when they did.

Q. Did they arrest you?

A. I have been arrested, yes. [1999]

Q. About how many times?

A. Well, let's see. I was arrested in February, 1933, for turning, or—do you want that information?—for turning on the city water after it had been turned off, when people who couldn't afford to pay their bills. I was arrested around July, 1933, for representing a group of agricultural workers then on strike. [2000]

A. I was arrested around July, 1933, for representing a group of agricultural workers on strike.

Mr. MacInnis: May I stop you for a moment?

The Witness: Yes.

Q. (By Mr. MacInnis): Tell us the circumstances of your arrest for turning on water. Was it water in your own house or water in the homes of other people?

A. Well, sir, I was a member of an organization known as the Unemployed Council, and this council was interested in securing relief for its membership, and we had a rather odd situation that in San Diego the water is owned by the municipality, and according to law, if bills are not paid, water is turned off. We felt that that was not quite the right thing to do, and exhausting all other avenues of correction, we turned it back on ourselves.

Q. You mean you took some mechanical instrument and went to these homes and turned on the water power which had been shut off by the authorities?

A. Yes, sir; I must say not surreptitiously, but quite openly, and the mechanical instrument was a pair of pliers.

Q. Yes, that would be about all the tools you would need to do it. You say you were arrested on that charge? A. Yes, I was.

Q. What was the charge brought against you then? A. Violation—— [2001]

Mr. Paisley: I think we have gone into that enough, your Honor. It is really not proper cross-examination, but I haven't objected to it.

The Court: Overruled.

A. It was a violation of a city ordinance which prohibited people from turning on city water without authority.

Q. (By Mr. MacInnis): The second arrest of which you were about to speak took place, you say, when you had something to do with agricultural workers? A. Yes.

Q. Tell us what that circumstance was, please.

A. It was in a little community near Escondido—between Escondido and the coast there—and it was strike workers in the tomato fields. I can't be entirely sure of the dates here; I am speaking from recollection, that it was somewhere around July, 1933. Some deputy sheriffs came to our group, a group of pickets who were attempting to coax the workers out of the fields.

Q. Pardon me. For what end or purpose were you trying to coax the workers out of the fields at that time?

A. For the purpose of bringing about a cessation of work until wages could be increased from about 18 cents an hour to 25 cents an hour.

Q. In other words, you and the persons working with you wanted the workers in the tomato fields to stop their work [2002] entirely?

A. Yes, sir.

Q. And to refuse to go back to work until the particular wage was raised?

A. That is correct.

Q. And what did you do in that endeavor?

A. Why, I had to do with preparing leaflets that had to be translated into the Spanish language, and then I went out with the group to the various fields and these leaflets were distributed; and other people, not myself, actually went into the fields and handed them to the workers. I was arrested for trespassing, as I recall. I think that was the charge.

Q. You were of the opinion at that time that the men in the tomato fields couldn't make living wages, I suppose, on the monies that they were paid?

A. Yes, sir.

Q. And did you succeed in getting these people to stop their work and hold out for the raise?

A. We succeeded in getting a number to stop, but the conclusion was indecisive. We stopped for a while, I was arrested, and, as I recall it, some fields raised wages and some did not, but the men, after being out for a few days, just sort of straggled back.

Q. Anybody arrested with you at that time?

A. I don't recall anyone else being arrested at that time. [2003]

Q. Was a woman named Dorothy Ray arrested with you at that time?

(Testimony of Stanley Benjamin Hancock.)

A. No, sir, that was at a later time.

Q. Let us proceed, then, to some of the later events which involved you in similar experiences.

A. In the fall of 1933 at the time, I believe—the first beginnings of the cotton strike or the agricultural strikes in the San Joaquin Valley——

Q. Would you tell us what the circumstances of those strikes were along with the narrative.

A. Never having participated in them, I can best relate my particular connection with them. I will add anything—if I may pursue this line of thought, then I will add anything you may think of—I received a telegram from Pat Chambers of the C&AWIU—Cannery and Agricultural Workers' Industrial Union—the telegram stating that two workers had been killed in Lindsay, I believe—Lindsay, California—and would we——

Q. How had they been killed?

A. Pardon?

Q. How had they been killed?

A. They were shot by—I don't know whether it was by police or vigilantes. They were shot.

Q. Under what circumstances?

A. I don't have the circumstances in mind.

Q. Now, you used a phrase a moment ago which is probably new to the record in this trial, the word "vigilantes." Would you tell the jury what the vigilantes were.

A. Well, as we used the expression, vigilantes were groups of growers or citizens under their in-

(Testimony of Stanley Benjamin Hancock.)

fluence who banded together to use extra-legal methods to oppose our strikes.

Q. What do you mean by "extra-legal methods," Mr. Hancock?

A. Such methods as en masse breaking up meetings.

Q. You mean these men would break into meetings in which you and persons like yourself were discussing matters with workers and urging them to take certain steps, and that by force they would cause you to disperse? A. Yes, sir.

Q. And would there be violence carried out upon you and your fellow workers at that time?

A. Yes, sir.

Q. And how often did that take place?

A. Well, in my own particular experience, I have in mind one rather flagrant case.

Q. Would you tell us about that?

A. I would just as soon work up to it, if I may. I have a line of thought.

Q. All right; work up to it. Fine!

A. In connection with the death of two striking agricultural workers in the San Joaquin Valley, I received a telegram [2005] asking me in my capacity as organizer of the San Diego section of the Communist Party to organize a mass public meeting in protest, and we were requested to hold the meeting the next day. So, the time being short, we endeavored to work out some means of drawing public attention to it, and I had a sign, which was prepared by folks other than myself, which announced the fact that we were going to hold a meeting in a public park in San Diego. Well, I raised that sign, or attempted to, on a flagpole in San Diego, and was arrested in that process.

Q. Was that in a public square that you raised this sign?

A. Yes, in Balboa Park. There is a flagpole there. I would like to say for the record that I did not raise a flagpole as the newspaper said at that time, but the sign was painted on red cloth. I did not have anything to do with the sign being painted or the material, but it was so referred to in the newspapers. It was a sign advertising a meeting.

Q. Can you remember substantially the language or invocation to the workers that this sign carried?

A. Essentially as follows: "Protest murder of two workers at such-and-such a park tomorrow, 12 noon," or "today 12 noon" perhaps—"today" or "tomorrow."

Q. The language was to indicate that that protest meeting was to be held right there at the park, was it?

A. No, it was to be held at a place about a mile from the [2006] park, a little public square near the post office in San Diego. This park was at a place called Inspiration Point where I raised the sign.

Q. Where you got your inspirations, I suppose, for these things. What happened when you put this sign in the air?

(Testimony of Stanley Benjamin Hancock.)

A. Well, it was at night, and by some strange means a couple of policemen seemed to be aware of what we were about to do and they arrested me then and there.

Q. What do you mean, they seemed to be aware of what you were about to do?

A. Well, they were there, anyway.

Q. You mean they were waiting for you?

A. No; they drove up, much to our surprise.

Q. And what were you doing when they drove up?

A. I think I had the sign in my hand standing there rather foolishly wondering what to do next.

Q. And what happened to you next?

A. I was taken into custody.

Q. What happened to the meeting that you had called?

A. I spoke at it. I was released on bail at ten o'clock in the morning and I spoke at the meeting.

Q. Can you go on, as you say, carrying on this narrative?

A. Well, let's see. That is all I remember about 1933, but I do remember there were quite a few arrests in there, and possibly I have omitted some, not intentionally, however. But [2007] the most significant affair of this nature occurred in January, 1934, in the Imperial Valley where I was an organizer for the Cannery and Agricultural Workers Industrial Union, as was a young lady by the name of Dorothy Ray. We were both arrested for what we were trying to do.

(Testimony of Stanley Benjamin Hancock.)

Q. What was it you were trying to do there, Mr. Hancock?

A. We were trying to raise the wages of many thousands of agricultural workers in the lettuce season.

Q. What were they making, about, at the time you assembled in order to help them?

A. Somewhere around 20 cents an hour.

Q. What was your objective? What did you think that your efforts could accomplish for them by way of wage scale?

A. As a matter of fact, we never got down to that precise point, because we were so severely harassed that we never concluded a meeting with the growers, but we wanted more money, that is what we wanted.

Q. What do you mean when you say "severely harassed" or "harassed," as you put it?

A. Well, somewhere about eight or ten days after I got there—I think the name is Muldonado; I don't know whether that is the building—there was a big hall, actually an old garage, that held somewhere over a thousand people, and it was used by our daily strike committee—not committee, but strike meeting. It was filled with men, women and children, a soup [2008] kitchen in back. We held these meetings for several days for the purpose of organizing automobile caravan picket lines to all the fields to see that work had ceased. It had in fact completely ceased in the Valley. On one day about ten o'clock in the morning I was at a desk, the meeting was going on, there was a lot of sudden confusion, and I looked out to see the building surrounded by a line of men each with a black band on his arm. They possessed pickaxe handles. The next thing I knew some of them were inside the building and fighting with our people. The pickaxe handles were used freely. I along with several hundred others got out. I got out by window. For the next ten days I was in seclusion, and then I was arrested.

Q. You were hiding?

A. Yes, sir, and I was arrested. I recall that there were three charges. I was tried on one or more of them, convicted and sentenced to six months on a misdemeanor in Imperial County.

Q. You mean you were actually put in jail at that time?

A. I was put in jail at that time. I was formally charged with rout, which is a form of inciting to riot, with vagrancy, and some other charge I can't remember. I was released on bail. Some weeks later the trial was held and I was convicted and I served nearly six months, with some time off for good behavior. [2009]

Q. Now, can you think of any other incidents of the same nature that would show the trend of your work as an organizer in the Communist Party?

A. I can't, sir, at this time. It was a tumultuous period, and I seem to have the feeling that I was arrested one other time, maybe more than that.

(Testimony of Stanley Benjamin Hancock.)

I don't—it isn't in my mind at the moment, if I was.

Q. Now, concerning this incident which you say recalls itself more vividly to you than any of the others, the time when you and your fellow workers were attacked with pickaxe handles were you actually struck yourself at that time?

A. No, sir.

Q. You escaped through the window, as you pointed out. How did the less fortunate persons who couldn't get out of the building—what happened to them?

A. I saw a number of them struck down.

Q. You mean struck on the head with the pickaxe handles?

A. I couldn't exactly say where they were struck, but the noise of the percussion or concussion is in my mind today, like the crack of a pistol.

Q. You saw their bodies on the floor, did you?

A. Yes.

Q. After they were thus struck down, as you put it, were they also arrested.

A. I cannot say. Wait a minute. I will say that—I think [2010] that there were about eighty of us that were arrested. I don't know whether they were arrested at that time or a day later or a day before; I don't know.

Q. And at the time of this attack by the men with the black armbands and the pickaxe handles, you were having a peaceful meeting, were you?

A. Yes, we were.

(Testimony of Stanley Benjamin Hancock.)

Q. Were you and the other persons with you urging the workers to commit any violence?

A. No, sir, we never urged them to commit violence.

Q. Were you doing anything but discussing with them the matter of whether or not they should hold out for better wages?

A. There were a lot of strike details on who was to be the picket captains and where they were to go, and who was to apportion out gasoline, who was to pass food, and that sort of thing.

Q. You weren't advocating any attack on the employers, of course?

A. No, our action took the form of patrolling the extended fields, lettuce fields, in Imperial County, covering a great distance, perhaps forty miles from one end to the other.

Q. And at the time that this attack took place which you have already described, all of the persons interested in the strike were assembled inside a building, is that true?

A. I can't say for sure, because the building held somewhere [2011] around a thousand people. There might have been an overflow.

Q. Had you or any of the persons who were addressing the workers exhorted them to commit any violence of any kind on the employers or upon property? A. No, sir.

Q. Now, concerning the crowd which you say consisted of several hundred people, about eighty of whom you recall being struck, were they all men or did they consist of men and women as well?

A. I will have to correct that statement. I do not recall eighty being struck. I recall that in the process of the strike some eighty of us were arrested.

Q. I see.

A. I saw men struck down. [2012]

Q. Were there any women in the crowd?

A. Yes, sir.

Q. Any children? A. Yes, sir.

Q. And they were among the group attacked by these men wearing black armbands and carrying pickaxe handles, is that right?

A. They were among the group that was attacked. The men that I saw actually—the people that I saw actually struck, were men; but they were among the group that was under attack.

Q. Did you ever find out who the people were who had launched that attack?

A. I can't say that I did. There was something in the papers about them being local citizens.

Q. Were they so-called Vigilantes?

A. I believe the expression was in use at that time.

Q. That expression was applied to people of that character a little later?

A. Later, in later years it was, yes.

Q. Now, you spoke a moment ago about a soup kitchen that you were trying to set up. What happened to that?

(Testimony of Stanley Benjamin Hancock.)

A. It was demolished.

Q. You mean by force? A. Yes, sir.

Q. These men who attacked the workers also destroyed the soup kitchen? [2013]

A. I didn't see it, but I was told they did.

Q. How extensive was the soup kitchen which had been set up to aid the workers?

A. Well, actually, my personal duties weren't concerned with the soup kitchen, but we fed several thousand people a day.

Q. You did that in order to sustain the workers so that they could hold out in a physical way until such time as the employers would raise their pay?

A. Yes, sir.

Q. Well, now, when you participated in this engagement involving the attack by the men with the pickaxe handles, you were sincere, were you not, in thinking that you were helping the workers?

A. I have always been sincere in everything I did. I was sincere at that time also.

Q. And would that be true of all of the other events that you have told us about, the time that you were raising the flag with the protest noted upon it? A. Was I sincere about it?

Q. Yes. A. Yes, I was sincere.

Q. In other words, you believed at that time that you were going to do something or try to do something to raise working or living conditions for people, is that right? A. That's right.

Q. And when you were arrested for raising the

(Testimony of Stanley Benjamin Hancock.)

flag or sign in [2014] the square in San Diego, you weren't at that time advocating any violence upon the part of the workers, were you?

A. No, except it must be admitted, I must admit that we were prepared to, and we did at times hold meetings in defiance of instructions from the police.

Q. Yes. You say that the police gave you in the first place no cooperation, and secondly, actually hampered you in all of your activities?

A. Why, certainly not in all of our activities, but there were times when they did.

Q. Would they forbid you to assemble or to have these discussions that you have narrated to us?

A. No, they would ask us to make a proper application for such meetings, and sometimes we felt that that wasn't the right thing for us to do, that our right to exercise freedom of speech should not depend upon permission locally granted.

Q. In other words, the police wanted you to make some formal application asking for permission to hold a meeting in a public square or similar place? A. Yes, sir.

Q. And you felt that that ruling itself was an infringement of your right to free speech?

A. That's correct.

Q. And so you held such meetings on occasion in defiance of those orders of the police? [2015]

A. Yes.

Q. You never attempted any physical retaliation on the police, though, did you?

A. Are you referring to me personally?

(Testimony of Stanley Benjamin Hancock.)

Q. Yes. A. I don't believe so.

Q. And going back to the earlier incident when you tell us that you were interested in seeing that the unemployed had water in their homes, when you took the pliers that you have described on the water, you didn't at that time advocate any violence either, did you?

A. Only the violence of turning on water when we weren't permitted to do that. We did it anyway.

Q. About how many people at that time were without water?

A. I can't answer that, sir. I don't know.

Q. Do you have any estimation?

A. Well, it was enough so that it was an issue. But I don't know whether it was 10 or 110.

Q. Now, how about other people who worked along with you? I mean people like the lady you have mentioned, Dorothy Ray and others who went to these fields or other places and made recommendations to the workers? Were they sincere people?

A. I believe at that time that they were. I believe they were.

Q. And when you entered the Communist Party, would it also be true that you were sincere about believing that the aims of the [2016] Communist Party would help the ordinary person?

A. When I entered the party, I believed that they would, yes.

Q. And whatever study that you have made before going into the party did not reveal to you, at least at that time, the things that you now ascribe to the party and give us as your reasons for getting out?

A. No, the dual party procedure of advocating a long range program on the one hand and a short range program on the other existed at that time, and I was mainly interested in the immediate action. But I subscribed to the long-range action.

Q. And so far as the other people with whom you worked inside the Communist Party at the start, did they sincerely believe that they were helping out in some remedy for a very bad situation, as far as unemployment, poverty and hunger might be concerned?

A. Most of the people I have in my memory, I felt that they were sincere. Some of them I thought were not.

Q. You thought most were sincere although some were not. Now, when you were approached to join the Communist Party, did you have to make some formal application?

A. I signed an application card.

Q. And thereafter you were admitted to membership? A. Yes.

Q. Did you take some other name than your own for your endeavors inside the Communist Party?

A. I do not recall ever using another name but my own. But I might have. Nor do I recall any reason why I should have.

Q. In other words, so far as you remember, you used the name of Stanley Hancock?

(Testimony of Stanley Benjamin Hancock.)

A. Yes, sir.

Q. While you were in the Communist Party?

A. Yes, sir.

Q. And you don't recall any reason that might have existed that would have caused you to do otherwise?

A. Well, it was the general party procedure to have people register under other names. Now, 1932 is a long time ago, and it might be that the first application card had some other name on it. But I am reasonably sure from 1933 on, my name was correctly listed.

Q. In other words, regardless of what may have been the custom in 1932 when you joined the Communist Party, in 1933, '34, '35 and thereafter, you are quite sure that you used your own name?

A. I am reasonably sure. Although there might have been a period in there when for some reason or other, at the time the cards were collected or the renewal card came around, that I would have written another name. But I don't recall it if I did.

Q. Do you have any of the Communist cards in your possession? A. No, sir.

Q. You have destroyed those, I suppose? [2018]

A. Not "those," but "it." Because each year they are taken from you and the last one I had, 1941, I destroyed.

Q. You did away with it in some manner?

A. Yes, sir.

Q. You are quite sure you haven't saved it?

A. No, I am definite; I never saved it.

(Testimony of Stanley Benjamin Hancock.)

Q. And you are fairly sure that the name on that card which you possessed in 1941 was Stanley Hancock, are you not? A. Yes, sir.

Q. Now, let's proceed for just a moment to another subject. The meeting that you say you recall attending in a place called the Sumner Apartments at, I believe you said, 12th and B Streets, in San Diego. A. Yes, sir.

Q. Around 4:00 or 5:00 some afternoon, around the start of the A. F. of L. State convention in 1935, is that right? Now, you named, according to your best memory, the people who were present at that meeting, did you not? A. Yes, sir.

Q. Now, of those, let's go over them one by one for just a moment. Mr. Schmidt was there?

A. Yes.

Q. You had not ever seen him before, had you?

A. Don't recall ever seeing him before.

Q. And you are quite sure you hadn't met him before? [2019]

A. I don't recall having met him before.

Q. And you haven't met him since, have you?

A. It is awfully hard to say things definitely; that is a number of years.

Q. Well, to the best of your memory.

A. To the best of my recollection, I have not.

Q. And you had not met Harry Bridges until that time?

A. I cannot recall at this moment that I had.

Q. Now, you mentioned a man named Radin, I think; did you say it was R-a-d-i-n?

(Testimony of Stanley Benjamin Hancock.)

A. No, Rabin, b as in butter, R-a-b-i-n.

Q. Had you met him before? A. Yes, sir.

Q. And you mentioned that there were some members of the SUP present. By the "SUP," I suppose you meant the Sailors Union of the Pacific?

A. I did.

Q. You didn't recall for us the names of those persons, though, did you? A. No, sir.

Q. Had you met those men before?

A. Not that I recall.

Q. So that to compile or go over that list again, you hadn't met, to your best memory, the members of the SUP, two or three of them who were there before the meeting; and you hadn't met [2020] Harry Bridges and you had not met Mr. Schmidt. Now, when you entered the meeting, you came because you had been notified of the calling of the meeting by Mr. Walter Lambert, is that correct?

A. Yes, sir.

Q. I think you told us that yesterday. Did you come along with Mr. Lambert yourself?

A. My memory isn't clear on how I came. I lived on 13th Street, the meeting was on 12th Street. I was informed at my home, but I can not say definitely I came with Mr. Lambert. I have an impression that I did.

Q. And when the government prosecutor asked you about what security measures were taken at this meeting you replied that Mr. Lambert stood at the door and looked over each person as he came into the room.

A. That was the normal procedure at many meetings, and I have the feeling in my mind, I can almost see him there doing that at that apartment.

Q. And I suppose of that kind of scrutiny would be to see that no person entered who had not been invited to the meeting? A. Yes, it would.

Q. Because you didn't know most of the people, did you? A. No, sir.

Q. You hadn't met them before, although Walter Lambert apparently recognized these people, is that right? [2021] A. That is correct.

Q. And you don't remember any of the actual conversation that was had by the persons present, although you do remember the subjects which were discussed, is that right?

A. I remember a number of things that were said there. I do not remember that a specific person said them.

Q. In other words, you don't remember who said what about any of the subjects you discussed?

A. I will have to repeat my previous statement. I remember a number of things that were said there. All of the people there took part in the conversation. I do not recall which person said what.

Q. You have given us, however, in substance, all that you could remember about the things that were discussed? A. Yes, sir.

Mr. MacInnis: Well, may it please the Court, I now move to strike the answers given by this witness concerning the phrase "We Communists" and containing the further phrase "every person present was a Communist," because it now appears that he didn't meet, before this meeting, Mr. Schmidt, Mr. Bridges or the two or three members of the SUP who attended the meeting. He doesn't ascribe any conversation to them. He says he has given us his whole memory on what took place; nothing apparently was said which would give rise to a foundation for that kind of conclusion. And he says that Mr. Lambert looked these people [2022] over as they came in to see whether or not they were people invited. I think, your Honor, that under your previous rulings, the foundation would not have been established for the giving of that opinion.

The Court: My recollection is, counsel, that the record shows—according to my recollection, that this was a fraction meeting.

Mr. MacInnis: He said that, yes.

The Court: A fraction meeting. And that the fraction meeting was in the nature of an anticipating meeting of the members of the Communist Party looking toward a non-Communist meeting following.

The Witness: Yes, sir.

Mr. MacInnis: He said that, your Honor. I remember that well.

The Court: He said that. And under the circumstances, I believe that the motion should be, and accordingly the same is, denied, in the light of the record.

Mr. MacInnis: May we take the recess at this time?

The Court: Yes. Ladies and gentlement, we will take the recess; the same admonition to you, not to discuss the case under any conditions, nor to form nor express an opinion thereon until it is submitted to you.

(Recess.) [2023]

Q. (By Mr. MacInnis): Mr. Hancock, you told us about being an organizer for the Cannery and Agricultural Workers Industrial Union, is that right? A. Yes, sir.

Q. Could you tell us during what range of years you had that position?

A. As I recall, beginning somewhere around the end of 1933 and the early part of '34, and I might have still had it in the early part of '35, but I don't believe so.

Q. Mr. Hancock, when you went out into the fields in Imperial Valley or any of these agricultural areas to talk to the workers, those workers wouldn't necessarily be Communists, would they?

A. No, they wouldn't.

Q. About what percentage of them would be Communists? Would any be Communists, let's ask?

A. Yes, we carried on recruiting among their ranks. I don't know the percentage. It would be a small percentage.

Q. About how many workers would comprise an area such as the place at Escondido of which you spoke?

(Testimony of Stanley Benjamin Hancock.)

A. How many workers were on strike?

Q. Yes.

A. Several hundred; maybe 300, 400.

Q. And a very small percentage of those persons would be Communists, would they? [2024]

A. Yes, that would be correct, a small percentage.

Q. In that period of time where a group of agricultural workers wanted to meet and discuss forming a union, those workers, whether they were Communists or not, would have to meet in secret, wouldn't they?

A. No, sir, not in secret to form a union.

Q. What would have happened to the 300 persons if they had gotten together to discuss union affairs or better wages or matters of that kind?

A. We had many meetings. At that particular period we had meetings in Carlsbad, which was about 15 miles from the area previously under discussion. We held open meetings; the suppression wasn't a permanent thing. It came at times with regard to meeting certain specific situations.

Q. When those periods of oppression came, would you have to take precautions when you were meeting with a group of workers?

A. I can't honestly say that in that period we took any precautions on meeting.

Q. Did you ever have to take any precautions to keep the workers from being beaten up by vigilantes and yourselves from being arrested?

(Testimony of Stanley Benjamin Hancock.)

A. Well; there is another period involved, jumping up to 1935.

Q. All right.

A. Where such precautions were taken. [2025]

Q. Will you tell us about those?

A. I previously described a meeting in what comes to my mind as Muldonado's Hall in Brawley, California, and at that time the meeting was broken up and I escaped from the building. I went into hiding and remained so for about ten days. The papers said—the papers that were brought to me said that I was wanted on a warrant, and I didn't choose to be taken on a warrant, so I remained in hiding.

Q. Where did you hide?

A. A great many places. I changed several times a day. In the working-class section of Brawley.

Q. Would you stay under a roof or in the fields, or someplace where you couldn't be seen during all of that time? A. Mostly in homes.

Q. Some persons assisted you in hiding out?

A. Yes, sir.

Q. Was there a rumor at that time that the vigilantes were going to lynch you if you could have been found?

A. There were many rumors, but I think you have in mind a little later period.

Q. Tell us about that situation.

(Testimony of Stanley Benjamin Hancock.)

A. At a later time when I was serving my sentence, during a portion of that sentence I was stationed in what was popularly termed a "chain gang" in an area called Superstitious Mountain some 15 miles out of El Centro. We were a rock-crushing gang, [2026] we broke up big rocks into little ones. One evening a cross was burning on a hill. There were about 15 or 20 of us in prison at the time. We could see and hear the men talking, several score of men on the hill. We, of course, remained awake and alert all evening, and the next day—we had considerable freedom at that road gang camp. The next day I went up and inspected the charred members of the cross and found a package addressed to me at the foot of the cross. I don't remember the wording of it, but it was something to the effect that "Solarsano got his; you will get yours"—a Spanish name, S-o-l-a-r-s-a-n-o or -z-a-n-o. In the package was a hangman's noose, a leather metal-studded knot.

Q. Who was Solarsan?

A. Solarsano. He was one of the men serving in that Superstitious Mountain camp who had been released a few days before this incident and had been beaten up at home.

Q. Beaten up at home, you say?

A. Yes, sir.

Q. After his release from the prison camp?

A. Yes.

(Testimony of Stanley Benjamin Hancock.)

Q. For what offense had he been serving in the prison camp?

A. I can't say. He was actually arrested before I was, and he just happened to be in that gang. He was considered to be a part of our striking group, but I don't remember what the charge was.

Q. He was a striking worker?

A. To the best of my recollection, he was.

Q. Now, what about this cross that was burning on the mountainside, Superstitious Mountain, I think you said? A. Yes.

Q. Who were the people, the several score of people whom you could see from the distance and hear talking?

A. I don't know who they were.

Q. Were they the Ku Klux Klan?

A. I don't believe so. I don't think there was a Ku Klux Klan at that time.

Q. You mean in California? A. Yes.

Q. Did you ever find out who the men were who engaged in that activity and addressed that package to you?

A. No, sir. I really wasn't in a position to pursue the matter.

Q. Well, is this true, Mr. Hancock, on the same subject: That your apprehension about what might happen because of that threat was so great that when you were released from your prison term a motor transport was sent in to take you out of Imperial Valley? Is that true?

(Testimony of Stanley Benjamin Hancock.)

A. I have been informed that that happened. It actually didn't escort me out.

Q. What did happen? [2028]

A. I was given my release a day or two before I should have been, and I was brought to San Diego to my home by a couple of deputy sheriffs.

Q. In other words, you were released before the date upon which a public record would have shown that you were to have been out of prison?

A. Yes.

Q. So that if there had been some efforts to lynch you or otherwise abuse you, you would have been safely comported away from the area by that time?

A. That is correct.

Q. When you were hiding out for this period of ten days what did you fear would have been done to you if you had been caught?

A. Why, generally it wasn't what I feared. I knew what would be done; I would be put in jail, and I wouldn't be able to assist in the continuation of our activities, our union activities.

Q. Did you fear any violence?

A. Not particularly. I thought it could happen, but I didn't particularly fear it.

Q. After the soup kitchen was smashed up by the vigilantes, as you have described, where were the women and children fed among the strikers?

A. It may have been reorganized at the same place. It just [2029] happened to have been smashed on that day. It was around the 18th of

(Testimony of Stanley Benjamin Hancock.)

January, 1934. The relief activities did continue. They might have been changed, but if you will bear in mind, please, I had no personal direction from that point on. Everything was conveyed to me, and I just don't know where the soup kitchen was maintained.

Q. It was rather cold in the valley on January 18, wasn't it?

A. It is only cold in the evenings; it is quite mild in the daytime.

Q. Did you ever have anything to do with an organization called the International Labor Defense?

A. Yes, I had a great deal to do with it.

Q. What was the purpose of that organization?

A. The purpose of the International Labor Defense was to represent Communists mainly, people sympathetic to Communists or people that the Communist Party was interested in their affairs with the law.

Q. Were pamphlets and various pieces of literature issued by that group?

A. They were. [2030]

Q. Did you help pass out those leaflets?

A. Why, it is quite possible I did.

Q. Did you help prepare those leaflets in any way?

A. For the International Labor Defense?

Q. Yes.

A. It is entirely possible that I did.

(Testimony of Stanley Benjamin Hancock.)

Q. Do you remember the general contents of those leaflets?

A. Are you speaking of the 1934 Imperial Valley strike?

Q. During all of these periods of time, '33, '34, '35.

A. Why, I can tell you the general tenor of any leaflet that would have been issued by the International Labor Defense.

Q. The leaflets complained about the Immigration Department going into the fields and having deported any worker who joined a union, isn't that true? That is, any worker who was a Mexican or not a citizen of the United States?

A: I don't recall that specifically, but it could have happened.

Q. Was that the practice?

A. Well, that wasn't the main emphasis, no.

Q. Well, regardless of what the main emphasis may have been, was that the practice that Mexican workers who listened to organizers like yourself and joined the strike and took part in the union movement found themselves deported?

A. I don't have any particular case in mind, but I do have the impression that there were some cases in that period.

Q. Well, did the Immigration Department work along with the [2031] vigilantes against the workers?

A. I don't ever recall coming in contact with

(Testimony of Stanley Benjamin Hancock.)

the Immigration Department or representatives of it.

Q. Well, you wouldn't yourself, because you were a citizen, of course; but do you recall that other persons came in contact with that department?

A. No, I really can't.

Q. You don't have any specific instance in mind?

A. No, sir.

Q. Now, in the fields, speaking of these large groups of people whose wages you were trying to raise, many numbers of those people were aliens, were they not?

A. The matter—I don't recall it came up, but they would have been. They would have been Mexican aliens.

Q. Do you remember what happened to any of those people?

A. I don't recall that any of them were deported. I remember one fellow escaped from our camp and went back to Mexico, and as far as I know, never came back.

Q. What happened to Solarzano after his beating? Did you ever hear of him since?

A. I don't recall now that I have.

Q. After you were transported back to San Diego, as you describe, and were taken home in this motor transport a day or two before your period of prison was up, what did you do then?

A. When I got back to San Diego? [2032]

Q. Yes.

A. Well, that was in October, 1934. I resumed my activities as section organizer of the San Diego Communist Party.

Q. Well, now, when you were in the square in San Diego, about to raise that red card or sign with the language on it, how many people were there with you? A. Just one.

Q. One companion? A. Yes, sir.

Q. And how many police came? A. Two.

Q. Did you have any conversation with them?

A. I must have had. I don't remember.

Q. Did you tell them that you were merely exercising freedom of speech?

A. I don't remember what I said to them.

Q. Did you tell them that the card was merely inviting workers to attend a perfectly peaceful meeting to talk about their troubles?

A. Well, they had the sign. The sign spoke for itself.

Q. Yes. Well, did you tell them that you weren't trying to do anything unlawful?

A. I don't believe so. I don't think we debated the issue there.

Q. You didn't say anything to the police at all?

A. Oh, I am sure that I did talk to them, but I don't remember what I said. But I would not have tried to convince them of anything.

Q. Why is that?

A. Well, I realized that they wouldn't have had any authority to do anything other than take me down there.

(Testimony of Stanley Benjamin Hancock.)

Q. Haven't you found our police to be perfectly reasonable people? A. Yes and no.

Q. You realize that whatever you would have said, you would have been arrested anyway, is that right? A. I felt that I would be, yes.

Q. Well, you knew that ordinances under which persons like yourself were arrested for putting up perfectly lawful signs were unlawful and unconstitutional; you knew that, didn't you?

A. Well, the issue in this case was, I was charged with destroying property in connection with that flag. It seems that the rope broke. And they made quite an issue of—I was alleged to have cut the rope. That was the actual case. I didn't, but the rope broke. But I was charged with malicious mischief.

Q. The police charged you with breaking a rope belonging to the county?

A. Yes, that is the way I recall it. The police or the district attorney or somebody did.

Q. Had you actually cut or broken any rope?

A. No, sir, the rope broke; I was obviously interested in getting the sign up, not in breaking any ropes. But the rope broke.

Q. And when you were arrested at that time, you say you were released on bail in time to address the meeting that you had called?

A. Yes, sir.

Q. And did the meeting come off as was scheduled? A. Yes, it did.

(Testimony of Stanley Benjamin Hancock.)

Q. And what was the purpose of that meeting? What did you say to the workers who assembled there?

A. Well, I spoke about the conditions in the San Joaquin Valley, where wages were very low. For the first time in many years, the agricultural workers were attempting to organize, improve their conditions. They were meeting with great resistance on the part of the authorities, local citizens, and two men had just been killed in Lindsay, I believe, Lindsay, California. And we spoke about that, and I think we took, passed a resolution protesting about it. I don't remember who we sent it to.

Q. Do you remember the names of the men who were killed? A. No, sir, I do not.

Q. Well, now, at that meeting were all the people invited workers, or were all members of the public invited? A. Everybody was invited.

Q. In other words, you were trying to enlist the sympathy of [2035] any members of the public who could be brought there to listen to the terrible things that were going on in the San Joaquin Valley? A. That's right.

Q. What were the wages in the San Joaquin Valley about which you made your protest at that time?

A. I am not familiar with them now. Cotton pickers worked a per hundred pound basis, and I just don't recall what it was.

(Testimony of Stanley Benjamin Hancock.)

Q. Were they getting a living wage?

A. I didn't consider that they were.

Q. How about the other agricultural workers?

A. I considered that all agricultural workers were paid inadequately.

Q. What—in about what range of money were they being paid?

A. Well, the people that I was working with around San Diego were paid as low as 15 cents an hour up to 30, 35 cents an hour. There could have been some paid much higher, but these were groups I was interested in.

Q. Yes. And you were interested in seeing them get at least a living wage, were you?

A. Well, I was actually interested in a great number of things. I was interested in seeing them make a living wage, and I was interested in recruiting the largest possible number for the Communist Party.

Q. You invited all of the workers to organize, did you not? [2036]

A. Workers in a particular field?

Q. Yes. A. Yes, yes.

Q. And you invited them all to join a union, did you not? A. Yes.

Q. Independently of whether or not you also wanted them to join the Communist Party, if that could also be possible?

A. Yes. There was no direct connection be-

(Testimony of Stanley Benjamin Hancock.)

tween the two. A number of the people that we selected were invited to join the party also.

Q. And you would have been glad if you could have gotten the majority of the workers to join the union, whether they joined the Communist Party or not? A. Yes.

Q. What was the fate of that union in those years? What happened to all of your efforts to organize the agricultural workers?

A. It is difficult to answer that. We took some credit for improving conditions to some extent, but it wasn't decisive. I am speaking now of my particular field of activity in the San Joaquin Valley. Wages were raised somewhat. The union generally dissipated toward the end.

Q. You mean it died out?

A. Yes, it died out, as I recall it. As I recall.

Q. Did the vigilantes overcome the organization work in the union? [2037]

A. Why, there was vigilante activity tied to specific periods or meetings or strikes. But that wasn't the reason it died out.

Q. Will you tell us what you mean when you say that there was vigilante activity tied up with specific periods of strikes?

A. Well, I can best tell you about Imperial Valley where people close to or under the influence of the growers assembled in mass to attack our union meeting.

(Testimony of Stanley Benjamin Hancock.)

Q. When you say "attack" do you mean that they had weapons of some kind?

A. Pickaxe handles.

Q. Ever any other weapons?

A. Why, I saw lots of deputy sheriffs with weapons, but I don't recall that I ever saw these citizens, these arm-banded citizens with anything other than I have mentioned.

Q. Did the deputy sheriffs go along with the vigilantes?

A. It was a mixed group of both.

Q. And they would attack the workers at these meetings that you have described?

A. The people I saw doing the actual attacking were in civilian clothes, with black arm bands. I didn't see any deputy sheriffs swinging any clubs.

Q. Were their attacks successful?

A. Will you define that, please, successful in what way?

Q. From their point of view. Did they break up the meetings?

A. That particular meeting was broken up. We held meetings or [2038] meetings were held at later times. But I wasn't present in that same hall.

Mr. MacInnis: I think, Your Honor, some of the jurors are having difficulty hearing, is that correct? Would Your Honor ask the juror what he desires by way of sound, whether it is myself or the witness?

The Court: I was not conscious of it, Mr. MacInnis, of any juror being unable to hear.

Alternate Juror Wolfsohn: If Your Honor please, there seems to be a blank spot here and we find it difficult to hear just at this corner.

The Court: All right, sir. Did you miss any particular part?

Alternate Juror Wolfsohn: A little louder, if you please.

The Court: Did you miss any particular part of the testimony?

Alternate Juror Wolfsohn: Oh, I heard this, yes.

The Court: May I ask you to keep your voice up a little bit? Thank you very much.

Mr. MacInnis: May I ask, can the juror hear me all right now?

Alternate Juror Wolfsohn: Fine.

Mr. MacInnis: I will speak a little louder if that will be all right.

Mr. MacInnis: Now, Mr. Hancock, when you say that the [2039] union was dissipated in those years and died out, what actually happened was the leaders of the union were arrested for criminal syndicalism, isn't that right?

A. Yes, they were.

Q. And what was criminal syndicalism?

A. Well, as I recall, it is a California act which declares something to the effect that it is illegal to advocate force and violence, that is, it defines that as criminal syndicalism.

(Testimony of Stanley Benjamin Hancock.)

Q. How many members or leaders of the union were arrested for criminal syndicalism, to your best memory?

A. Oh, I remember Pat Chambers and Carolyn Decker were.

Q. Anyone else?

A. You see, the party membership in that period so overlapped into the union membership, now, I think there were about 10 in that Sacramento trial for criminal syndicalism, and they might have all held cards in the C. & A. W. I. U., but Pat Chambers and Carolyn Decker were the leaders of it.

Q. Was it after that that the union was dissipated?

A. I wouldn't say so. I think that was along in that period. No doubt that had something to do with it.

Q. And after that arrest for criminal syndicalism, what happened to the leaders who were thus arrested?

A. They were sentenced to jail for a number of years. I don't remember how many years.

Q. And thus went the union? [2040]

A. Well, a study of that period will show that the union had—it had its peak in '34 and perhaps the beginning of '35. But while that no doubt has an effect, it wasn't an absolute cause and effect process because the union had begun to break up by then.

Q. Well, now, coming back again to this meeting

(Testimony of Stanley Benjamin Hancock.)

in the apartment around the time of the A. F. of L. state convention in 1935, we had gone over some of the persons assembled in that room at the invitation of Walter Lambert, and you have testified as to which ones you had ever met before. Had you ever met the man named Johnstone before?

A. Yes, sir.

Q. You had. The members of the Sailors Union of the Pacific, whom you say you don't remember, were also men you had never met before?

A. I don't recall having met them before.

Q. Did you ever meet those men since?

A. Not that I recall.

Q. Now, you say that your best memory is that there were eight or ten or twelve persons present?

A. Yes, sir.

Q. And of those eight or ten or twelve there were at least seven whom you had never met before?

A. Oh, I thought perhaps there were three or four—oh, you mean that I had never met before?

Q. That's right.

A. To the best of my recollection, I had met Walter Lambert, I had met Jack Johnstone, I had met John Schomaker, I may have met some of the other ones. But it is not in my memory.

Q. If you had met them, it was not such a meeting that impressed itself on your memory at all?

A. Well, I met a great number of people in those days, in constant meeting, and it is very hard

(Testimony of Stanley Benjamin Hancock.)

to say. It is my impression, and to the best of my recollection, I had not.

Q. Well, now, in speaking of the definition that you applied to a fraction meeting, was this also true, that a fraction meeting was always a meeting of trade unionists?

A. Well, actually the term "fraction" was applied to any organization, any organization. We would have a fraction meeting to go to a Civil Liberties Union meeting.

Q. Now, to your knowledge, was it ever possible that a non-Communist Party member could be invited to a fraction meeting? A. No, sir.

Q. It couldn't, in your knowledge, be possible?

A. You ask if in my knowledge?

Q. Yes.

A. I never recall any such thing happening.

Q. Now, you say that among the matters discussed for presentation at a later meeting, a caucus of Communists and non-Communists were a slate of candidates to run for office in the [2042] A. F. of L. and certain policies which your group wanted followed, is that right? A. Yes.

Q. Now, among the candidates for office in the A. F. of L., whom you say the group wanted to sponsor, were A. C. Rogers, is that correct?

A. Yes, sir.

Q. And John Lydick? A. Yes, sir.

Q. And a man named Mahaffey from Stockton?

A. Yes.

(Testimony of Stanley Benjamin Hancock.)

Q. Had you met Mr. Mahaffey before?

A. No, it is just a name that comes to my mind as having been discussed.

Q. Had you met John Lydick before?

A. Yes, sir.

Q. And had you met A. C. Rogers before?

A. Yes, I had.

Q. So you had met two of those three men before? A. Uh-hm (affirmative).

Q. Now, this morning at the instance of the prosecutor you told us about the various matters upon which it was expected that resolutions would be made on the floor of the convention, is that true?

A Yes. [2043]

Q. And if I am correct, one of those resolutions was the Labor Party itself? A. Yes, it was.

Q. And what would have been the aim of that resolution, can you tell us?

A. The aim of that resolution was to present an argument for the State Federation of Labor sponsoring a Labor Party, a California Labor Party.

Q. And non-Communist as well as Communists would be invited to join that organization, isn't that true? A. The Labor Party?

Q. Yes. A. Yes, indeed.

Q. And the second purpose that you say was to be marked by a resolution to be presented on the floor of the A. F. of L. convention was a protest or a resolution asking for a repeal of the Criminal Syndicalism Act? A. Yes.

(Testimony of Stanley Benjamin Hancock.)

Q. Now, that act, as you have described already, was an instrument which was used to destroy the leaders of the labor union, isn't that right?

A. Well, that, that act was used to arrest and incarcerate members of the Communist Party, to the best of my ability, to the best of my knowledge, rather. [2044]

Q. Well, when members of the Communist Party were arrested under the Criminal Syndicalism Act, it was because of their activities during strikes and in the labor movement itself, isn't that true?

A. I don't believe that I am qualified to say why it was, or because these Communists were engaged in trade union activities, strikes, or in Communist Party activities. They were engaged in a great number of activities, and they were arrested and convicted for criminal syndicalism. I don't really think that the charge was based on labor union meetings, but it might have been.

Q. Well, was the Criminal Syndicalism Act a hindrance to the labor movement at that time?

A. Well, it was a hindrance to our labor movement, and a great number of American Federation of Labor unions were opposed to it for fear that it would be applied against them.

Q. In other words, a great number of union members who were not Communists at all joined in a protest against the Criminal Syndicalism Act?

A. Yes, they did.

(Testimony of Stanley Benjamin Hancock.)

Q. So that that was a purpose that was by no means exclusively communistic in its origin?

A. I would say it was exclusively communistic in its origin, but it drew a great outside support as it went along.

Q. In other words, the conservative labor union members [2045] realized that some day the same Act could be used as an instrument of oppression against themselves?

A. I don't think the conservatives did. The more or less liberals in the trade union movement did, and the conservatives didn't seem to care one way or the other.

Q. By "liberals" you mean progressive persons in the labor movement who were not members of the Communist Party? A. Yes, sir.

Q. Now, the other resolution which was to be offered upon the floor of the convention was one condemning the vigilante movement?

A. Yes, it was condemning a specific vigilante movement in Sonoma or Sonoma County. I don't recall the details, but it was quite an issue at the time.

Q. In Sonoma County, the vigilantes had tarred and feathered a group of workers at that time, had they not?

A. I do have some memory of that, yes.

Q. And when you say that the resolution was to be directed specifically at specific vigilante activities, you mentioned the Santa Rosa incident as being in point, is that it?

(Testimony of Stanley Benjamin Hancock.)

A. Yes. I cannot say at this point that that was the specific activity, but I do have in my memory that some people were tarred and feathered, and it is possible that that is the same situation.

Q. What do you remember about the tar-and-feathering incident [2046] in Santa Rosa?

A. Well, Santa Rosa is a long way from San Diego. The main thing I remember is that we discussed it in this meeting, the desirability of having a resolution protesting about it. Now, I think I remember further that we had arranged to have resolutions protesting against it being endorsed in various trade unions around San Diego. It was a matter that we made into a public issue.

Q. And the activities of vigilantes to follow the same thought were exercised against workers who were not members of the Communist Party, just as well as they were exercised against the Communist Party members, isn't that true?

A. Well, that certainly is true of Imperial Valley, 1934.

Q. It is true of all the vigilante activities that you have heard about, isn't it?

A. I don't believe I can say that it is, no.

Q. Well, it is true of all of those that you discussed with us today, isn't it?

A. My recollection is that the Sonoma people were Communist Party members.

(Testimony of Stanley Benjamin Hancock.)

Q. Who were they?

A. I don't recall their names.

Mr. MacInnis: May we take the recess, your Honor?

The Court: Yes, we will take the recess. Mr. Reporter, I made reference this morning to a ruling in the transcript; [2047] that rule may be found at page 1555, where I referred to the prior testimony in connection with the matter.

Mr. MacInnis: Yes.

The Court: Page 1555, and I think on some other pages. But particularly 1555.

Ladies and gentlemen of the jury, we will take the noon recess. The same admonition to you, not to discuss the case under any conditions, not to converse with any person on any subject of the trial, not to form or express an opinion thereon until the case is finally submitted to you. You may now retire.

(Thereupon a recess was taken until 2:00 p.m. this date.) [2048]

Afternoon Session, 2:00 P.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Witness on the stand is Stanley Benjamin Hancock, heretofore sworn.

STANLEY BENJAMIN HANCOCK

resumed.

Cross-Examination
(Continued)

By Mr. MacInnis:

Q. Now, Mr. Hancock, over the years while you were an organizer, either in San Diego County or elsewhere, for the Communist Party, did you have meetings from time to time with various prominent citizens who were not Communist Party members?

A. You mean did I personally meet with prominent citizens who were not?

Q. Yes.

A. Why, I spoke at meetings to which people from all walks of life came.

Q. Such as what meetings? Could you describe those for us?

A. I have in mind meetings in election campaigns, for one thing.

Q. And would you meet with other people in connection with obtaining the sponsorship of certain prominent persons for ends that you wanted to obtain? [2049]

A. I can't think of any particular instance, but

(Testimony of Stanley Benjamin Hancock.)

that would be a reasonable summary of our actions at that time.

Q. For instance, in 1937 did you make some arrangement for Senator Sheridan Downey to speak at a certain auditorium?

A. No, sir, not that I recall.

Q. You can't remember any activity of your own?

A. I never met the Senator in question.

Q. Did you arrange for a meeting at all in which he participated, regardless of whether or not you met him at the time?

A. I haven't any recollection of arranging any such meeting.

Q. We were speaking at the noon recess about the Criminal Syndicalism Act, whose repeal, or the protest for it, was a subject in which you were interested at the time you say you first met Harry Bridges. A. Yes, sir.

Q. That was one of the matters that your group wanted taken up upon the floor of the American Federation of Labor convention?

A. Yes, we did.

Q. Now, you were telling us about the labor leaders who had been arrested for violation of the Criminal Syndicalism Act. Do you remember that?

A. I talked about members of the Communist Party who had been arrested for violation of that Act.

Q. Do you remember what happened to those people? They went [2050] to prison, didn't they?

A. Yes, they did.

Q. And after they were in prison for three years the convictions were reversed by our Supreme Court; do you remember that?

A. No, sir, I do not.

Q. Were any of the vigilante groups arrested for violation of the Criminal Syndicalism Act?

A. I have no knowledge of it.

Q. You have never heard of any, I suppose, if there were such incidents? A. No.

Q. And yet you tell us that the Criminal Syndicalism Act was directed at the use of violence in labor disputes.

A. I believe it was directed at the advocacy of violence. My recollection is that these people were specifically charged with having said things of an inflammatory nature. I may be wrong on that.

Q. I see. But you can't recall any incidents of any member or group of vigilantes, so-called, being arrested for violation of the Criminal Syndicalism Act? A. No, sir.

Q. In the matters that you have spoken about concerning attacks by vigilantes upon the workers and your own organization work in the Imperial Valley, most of that happened after the [2051] fall of 1933, didn't it?

A. I believe that is right.

Q. And immediately before you came into the Imperial Valley as a representative of the Cannery and Agricultural Workers Industrial Union, I think you called it, there had been some effort by the

Mexican consul to establish a Mexican labor union, is that true? A. Yes, there had.

Q. Because most of the field and agricultural workers were Mexican nationals, weren't they?

A. No, sir, they were close to half, but——

Q. Then you would say, I suppose, that many of them were? A. Many were.

Q. Do you remember the history of the efforts on the part of the Mexican consul to get better wages for the Mexican workers?

A. Pretty well. His name was Joaquin Terrazas.

Q. Yes.

A. He set up—attempted to set up an organization that was limited entirely to Mexican nationals, and it was, we felt, an attempt to persuade these people against joining our organization. Yes, he campaigned quite vigorously in Imperial Valley on that issue.

Q. He was trying to get the workers to ask for 22½ cents an hour in the lettuce fields, wasn't he?

Mr. Paisley: Just a moment. Your Honor, of course the [2052] Court in its discretion can allow this roaming all over the place, but it seems to me it is obvious now we are down to certain details that it has no relevancy.

The Court: I am inclined to agree with counsel. I notice that you have not entered an objection to the end that counsel have complete latitude in his cross-examination, but I do think we are going a little afield, counsel, with respect to the ramifications that this matter of the Mexican consul may take.

Mr. MacInnis: That may well be, your Honor.

The Court: Great latitude ought to be allowed in the examination.

Mr. MacInnis: Yes.

The Court: I am not foreclosing you, but at the same time I suggest that it is quite apparent to the Court that we are going far afield.

Mr. MacInnis: I won't transgress your Honor's ruling. May I ask one further question on the Mexican consul's efforts, then I will go to another subject.

Q. At the time of the Mexican consul's efforts, the workers in the fields were getting 15 cents an hour, is that about correct?

A. There were workers in the fields——

Mr. Paisley: Just a moment. That is just the point I make. I don't think we are concerned with whether they [2053] were——

The Court: Counsel said he had one question, then he would depart from the subject.

A. There were workers in the fields that received that little, but it is not true that they all received that figure. They probably ranged from 15 cents up to 25 or 28 cents, depending upon the needs of the particular growers and the difficulty in obtaining men to work. I had the figure in mind of 17 cents, or 17½, something like that. [2053-A]

Q. So that a worker in the fields, if he had worked ten hours a day, could get between one and

(Testimony of Stanley Benjamin Hancock.)

a half dollars and possibly as high as two and a half a day?

Mr. Paisley: Now, that is just pure mathematics, Your Honor. I think the jury can add and subtract.

Mr. MacInnis: I am glad that Mr. Paisley can. Now, I will proceed, as Your Honor suggested, to another subject.

Q. Concerning the discussion in which you participated, Mr. Hancock, about the need for a resolution on the floor of the American Federation of Labor convention protesting about vigilante movements, did you tell us that after this first meeting, in which maybe eight to twelve people participated, that there were a caucus with a larger group of people present? A. Yes, sir.

Q. And in that caucus I think you said that members of the Communist Party and various progressive leaders of the labor movement, who might or might not be Communist Party members attended?

A. Yes, they did. It was the California State Federation of Labor, not the American Federation of Labor, convention.

Q. Yes. You are quite correct in that. And in that caucus did you discuss, that is, among all the members present, the resolutions which had been urged before at the earlier meeting?

A. I did not attend the caucus.

Q. I see. You attended only the earlier meeting? [2054] A. Yes, sir.

Q. Now, in connection with the resolution to protest vigilante activities, concerning your own experiences in Imperial Valley, some of which you have told us, let me ask you this: Did you know a man named Grover Johnson? A. Yes, sir.

Q. Who was he?

A. He was an attorney for the International Labor Defense out of Los Angeles.

Q. And did anything happen to him in connection with the Imperial Valley matter?

A. Yes, it did. He was attacked on the courthouse steps in El Centro, California.

Q. What was done then?

A. Well, he was beaten, his wife apparently attempted to remove a pistol from her purse to protect him, and she was arrested and sentenced subsequently.

Q. And where was he taken after he was beaten, do you remember?

A. I am sorry, I do not.

Q. Was he taken out into the desert?

A. No, sir. That is someone else.

Q. Who was that? A. Mr. A. L. Wirin.

Mr. Paisley: Well, I think he has explored that enough, Your Honor, to show that it has no materiality to the issues in [2055] this case.

The Court: What is the purpose, counsel?

Mr. MacInnis: Well, the purpose, Your Honor, is this: Apparently under the implied claim that these resolutions were Communist Party matters, which were desirable to this man and his group at the time of the meeting which he has told us,

(Testimony of Stanley Benjamin Hancock.)

we have the names of those resolutions. Now, I think we are entitled to show along the line of the same testimony what this vigilante movement really meant at that time and why it was strongly desirable that the entire convention of all laboring people at that time joined in the resolution of protest; and it is entirely based upon the direct testimony of this witness.

The Court: Perhaps, for purpose of the record, Mr. Paisley may concede that. I do not know. It may be entirely immaterial in the issue, but I will permit you to proceed.

Mr. MacInnis: Thank you.

Q. Do you have in mind the last question?

A. No. Might I have it repeated?

Mr. MacInnis: Would you read the last question, please?

(Record read.)

Q. (By Mr. MacInnis): Was he an attorney also?

A. Attorney for the American Civil Liberties Union.

Q. And was he there to investigate what was going on or was he there to represent people who had been arrested, do you know? [2036]

A. As I recall, he was there to reestablish Civil Liberties in Imperial Valley. He wanted to test the possibility of holding an open meeting without interference.

Q. And what happened to Mr. Wirin?

(Testimony of Stanley Benjamin Hancock.)

A. I wasn't there, I can only testify from hearsay.

Q. What was that?

Mr. Paisley: Well, we don't want hearsay. We have let a lot of it in without objecting.

Mr. MacInnis: I can't think of anybody who has invited more hearsay testimony than our prosecutor in this case.

Mr. Paisley: Well, why didn't you object? I don't recall any hearsay that I asked for.

The Court: He may have invited a great deal, but I think your invitations have been accepted more readily.

Mr. MacInnis: Possibly so, Your Honor, possibly.

The Court: However, I sustain the objection.

Q. (By Mr. MacInnis): Well, Mr. Hancock, did you take any part in the investigation later made before the Congress of the United States, before the Lafollette Committee with reference to the Imperial Valley outbreak of violence?

A. I remember a General Somebody—I don't think I was contacted by that committee. It was the general who was formerly chief of police of Washington, D. C., who was out there making an investigation. Someone from that committee may have contacted me.

Q. And didn't you get some information, to the best of your [2057] memory, on what had taken place in El Centro, Brawley, the Imperial Valley places?

(Testimony of Stanley Benjamin Hancock.)

A. That is quite possible. I would have given the information I have given here.

Q. Well, I wonder this, Mr. Hancock, in fairness to yourself: Would your memory be refreshed if you were shown the report of the Congress of the United States to these matters?

A. That was General Glassford, by the way, Pelham D. Glassford.

Q. Yes. I think that name is contained in the report. That is the man to whom you spoke?

A. No, I don't remember speaking to him. I think there might have been an investigator of his.

Q. I see.

A. But I don't even remember that clearly.

Q. Do you think it would refresh your memory if you saw the report itself?

A. I certainly do.

Mr. MacInnis: Now, I will ask in view of that indication, Your Honor, that the official record of the hearings had before Senator Lafollette of the Congress of the United States, between pages 20140 and 20152, eleven pages in length, be shown this gentleman so that he may read them and thus refresh his memory.

Mr. Paisley: Now, just a moment, Your Honor. May we see it?

Mr. MacInnis: Oh, yes, you may see it if you like. I [2058] assume the Government probably has copies of the official government document, Your Honor.

Mr. Paisley: What is it on this page you want to show the witness? We have got two pages printed here. I would like to know. You want him to read the whole two pages?

Mr. MacInnis: I think, Your Honor, the record shows the numbers of the pages which I suggested he might read.

Mr. Paisley: I don't see, Your Honor, where this witness has been testifying on either one of these pages or that anything of which he might be author appears on these pages. So I am unable to see how he could refresh his recollection.

Mr. MacInnis: I think he is the best judge of that, Your Honor.

Mr. Paisley: And certainly he is not trying to lay the foundation of impeachment for the witness by prior contradictory statements.

Mr. MacInnis: Not at all.

Mr. Paisley: Because his testimony doesn't appear there.

Mr. MacInnis: Your Honor, he says his memory might well be refreshed, and that is the basis of the offer.

The Court: He may have it.

Mr. MacInnis: Thank you.

The Court: Eleven pages?

Mr. MacInnis: Pardon me, Your Honor.

The Court: I think there were eleven pages you refer to? [2059]

Mr. MacInnis: Yes, Your Honor.

(Volume handed to the witness by the Clerk.)

(Testimony of Stanley Benjamin Hancock.)

The Witness (Examining): Your Honor, am I to read these entire eleven pages?

Mr. MacInnis: Whatever you feel may refresh your memory.

Mr. Paisley: About what, Your Honor? About what? Concerning what does he wish to refresh his recollection? They ought to be that fair to the witness and the Court and the jury, too. We don't want to sit here while the witness reads eleven pages unless it is necessary to his cross-examination.

The Court: Could this be done at the recess period?

Mr. MacInnis: It could, Your Honor. Whatever you feel is more convenient.

The Court: If you have eleven pages that you would like to have him read—the print is rather fine, and I assume it would take certainly ten or fifteen minutes for him to digest it or to refresh his recollection.

The Witness: May I ask, sir, are you wishing to find out, did I write this, did I testify on it? I don't know what the question is.

Mr. MacInnis: I think it has already been pointed out that he did not write the reports, since it is a report of the Lafollette Committee of the Congress of the United States. I think we all understand that, including Mr. Hancock. And we understand that he says he didn't testify before the committee, but that he may well have furnished some information which got to the committee.

The Witness: I would be very happy to look it

(Testimony of Stanley Benjamin Hancock.)

over. I would like a little more time than I probably will have here.

Mr. MacInnis: Yes. Well, we will adopt His Honor's suggestion, then.

The Court: You may reserve that until the recess period. You may hand it down.

The Witness: May I make a suggestion? In glancing down here, I see the name of Azteca Hall, the owner is Maldonado.

Q. (By Mr. MacInnis): Yes. Were gas bombs used by the police at that time in breaking up the assemblage of workers in Azteca Hall?

A. Tear gas, yes.

Q. Tear gas bombs were thrown by the police, is that right? A. Yes.

Q. When you and the other men who were the leaders, the organizers at least of the workers, had to hide after that breaking in by the vigilantes, about how many officers were said to be engaged in the hunt for you and the others?

Mr. Paisley: Well, Your Honor, just a moment. That is about fourth class hearsay and I am unable to see its relevancy to the issue.

The Court: Sustained. [2061]

Mr. MacInnis: Do you remember that about 80 state officers were assigned to the pursuit of yourself and the other leaders at that time?

Mr. Paisley: I think the Court ruled upon that, Mr. MacInnis.

The Court: Well, let's assume there were 80 officers.

(Testimony of Stanley Benjamin Hancock.)

Mr. MacInnis: All right, Your Honor.

The Court: Let's assume it. I don't know, maybe there were 90.

Q. How many were there, Mr. Hancock?

A. I would only have to say a considerable number.

Q. It seemed quite a few to you, at least?

A. Yes, sir.

Q. (By Mr. MacInnis): Now, Mr. Hancock, you told us a little earlier this morning about the incident in which you were attempting to attract attention in the public square at San Diego by raising a sign on which you had printed some lettering in red asking people to attend a protest meeting? A. Correction——.

Mr. Paisley: It seems to me we have exhausted that subject. We have been back to it about four times.

The Court: Yes, the rope broke and the flag fell, I recall. It wasn't on red background, it was on some other background.

The Witness: There was no flag. [2062]

The Court: I recall it very vividly; it is clear.

Mr. MacInnis: I am sure Your Honor does.

The Court: It is very clear.

The Witness: There was no flag, there was a rope. The rope broke. I did not make the sign, somebody painted a sign in white letters on red cloth.

The Court: That's right.

Q. (By Mr. MacInnis): Now, you said that the papers, however, printed that you were attempting to raise a red flag, is that right?

A. Yes, I believe they did. They called the "Red Flag case," or something.

The Court: Counsel, this is repetitious.

Mr. MacInnis: Yes, Your Honor. It merely procedes this question:

Q. Did the papers at that time give a true account of your activities in Imperial Valley or in San Diego?

The Court: Are we testing the authenticity now of the reporters on that particular occasion?

Mr. MacInnis: No, Your Honor, merely to bring out some of the obstacles.

The Court: Counsel, I am fearful again, as I said yesterday, that sometimes, occasionally, and I think all too often, I become very indulgent with you, Mr. MacInnis, on your cross-examination. And now we are repeating matters, I know that [2063] you know, which should not be repeated. You have covered this ground before. This is going to be a long trial, I am not going to foreclose you from any matter that may be material, but I say again, let us go on into the narrative testimony of the cross-examination. [2063-A]

Mr. MacInnis: That is fair enough, your Honor. I will try to adopt your suggestion.

Q. In the meeting that you say you attended in the Sumner Apartments when you were discussing the vigilante protest, was the matter of attorney A. L. Wirin and his fate discussed?

(Testimony of Stanley Benjamin Hancock.)

A. Not that I recall. We were discussing the Sonoma affair.

Q. Now, the fourth resolution that you told us this morning in your direct testimony was discussed as a matter that you wanted particularly brought to the floor at the convention was the Modesto case, so called, is that right? A. Yes, sir.

Q. What was that case?

A. There were a group of nine or ten or twelve seamen, either sailors or enginemen, who were arrested in Modesto allegedly in possession of dynamite. That was the case.

Q. What happened to them?

A. I believe there was a tanker strike going on then, some kind of strike activity.

Q. Was that a Standard Oil tanker strike?

A. I know the name Standard Oil is associated with it. There was a lot of talk about Standard Oil.

Q. What was that talk?

A. I mean the Association.

Mr. Paisley: That would be hearsay and immaterial. It doesn't seem to me we are interested in the details. [2064]

The Court: Sustained.

Mr. MacInnis: I think, your Honor, if he had discussion in which he participated, we would be entitled to inquire into the bases of the discussion, the facts of it. That is entirely what I am trying to do now.

Mr. Paisley: Let him ask what was discussed, not about what the facts were, about the details, of

(Testimony of Stanley Benjamin Hancock.)

which the witness obviously doesn't know, because he wasn't there. If he wants to ask what was discussed, I have no objection to it.

Q. (By Mr. MacInnis): Were you generally familiar with the details of the Modesto affair?

A. Generally familiar.

Q. And what discussion was had about the part that the union should take by way of resolution in the Modesto case? A. Where?

Mr. Paisley: The union? This is a fraction meeting of the Communist Party.

Mr. MacInnis: I am talking about the resolution that this man says he and his group wanted to be passed or offered on the floor of the convention.

Q. What discussion did you have?

Mr. Paisley: Where?

The Court: This is the San Diego meeting, fraction meeting.

Mr. MacInnis: The meeting that he has called a fraction [2065] meeting.

The Court: Well, we referred to it as a fraction meeting. It is in the record as a fraction meeting.

Mr. MacInnis: It is in the record he says it is a fraction meeting.

The Court: Mr. MacInnis asked you what, if any, discussion you had concerning this particular resolution at that meeting.

The Witness: I was only trying to determine whether he was speaking of that meeting or some previous or later meeting. At that meeting the only mention made of the Modesto resolution was to check to be sure some union affiliated with the State Federation and represented in the convention would introduce a resolution on the Modesto case. There was no discussion of the case's merits—the merits of the Modesto case.

Q. (By Mr. MacInnis): What was the resolution to contain?

A. A protest against the arrest of these men in the Modesto case.

Q. Was the protest to make the claim that the arrest was unfair or—— A. Yes.

Q. Pardon me?

A. I believe it was called a frame-up.

Q. By the way, what happened to these men?

A. I am sorry, I don't know.

Q. Do you remember that the State Legislature had an investigation——

Mr. Paisley: Well, now, your Honor, what subsequently happened to them, of course, could not have been discussed at the meeting.

The Court: Sustained.

Mr. Paisley: Before it happened.

Mr. MacInnis: I think the prosecutor, by that objection, betrays the fact that he has not looked into the history of this proceeding, because the State Legislature's investigation came before this convention of the California State Federation of Labor. The investigation had already been made, and at the time that you discussed the passing of this resolution, the State Legislature had already made a finding that the arrests were frame-ups; is that not true?

Mr. Paisley: Well, I wouldn't think it would make any difference whether they had or not, if the merits of the controversy, as the witness says, were not discussed at the meeting. That is why I object.

The Court: The witness has no independent knowledge of the investigation. Sustained.

Q. (By Mr. MacInnis): You were a participant, and, from what you tell us, a very active participant, in these discussions, were you not? [2067]

A. Yes, I was.

Q. And when it was proposed that a resolution should be taken to the floor of the convention protesting or condemning the arrest of the defendants in the Modesto case, what did you understand that to mean?

A. In that meeting we were only interested in determining whether or not provisions had already been made to introduce that resolution at the State Federation meeting, or whether it was necessary for us to have such a resolution drawn.

Mr. MacInnis: Would you read that answer back to me?

(Answer read.)

Q. (By Mr. MacInnis): What did you find out at the meeting as to whether provisions had already been made?

A. My recollection is that a resolution had al-

(Testimony of Stanley Benjamin Hancock.)

ready been prepared; that it was reported there that there is one all ready to be introduced.

Q. Do you remember who was to introduce that resolution? A. No, sir.

Q. Do you remember what the provisions were that had been made?

A. The provisions, in the sense that I used the word, simply meant that someone, some union, had already arranged to introduce such a resolution. That might or might not have been inspired by our party, but we just knew that one would be introduced. [2068]

Q. Did you discuss, or was there discussed at that meeting, the general contents of that resolution? A. No.

Q. In other words, you discussed it, but its contents were not disclosed nor were the merits of the matter disclosed?

A. No. We just talked about a resolution on the Modesto case.

Q. Well, did you understand what the discussion was about? A. Yes, I did.

Q. Well, just tell us, if you will in your own words, what you understood the protest to be about in the matter of the Modesto case.

A. A protest against—I don't know whether—they might have been sentenced by then, because I was concerned with the Modesto case and a lot of other cases over the entire period of time; but it was either a protest against arrest or a protest against their conviction, but it was a protest against

(Testimony of Stanley Benjamin Hancock.)

the fact that they had been arrested or convicted in this Modesto case.

Q. Was anything said about the Standard Oil Company at that time?

A. The name is in my mind as being associated with the case. I think there was talk about the Standard Oil Company having to do with the prosecution.

Q. What was that talk? Can you remember that for us? [2069]

A. I am not talking about talk in that meeting. I am talking about the general discussions we had in that period.

Q. Well, on that matter, would it refresh your memory at all if you were shown the official copy of our State Legislature's finding in the matter?

A. I don't think so. I never had anything to do with that; that was a long ways from San Diego.

Q. What was the date of this meeting?

A. Which meeting?

Q. The meeting, the only meeting that you have talked about, Mr. Hancock—the meeting at the Sumner Apartments, the only thing that you have talked about.

A. Well, I think I testified that it was in the latter part of September.

Q. Of 1935?

A. Of 1935. And I know that the California State Federation of Labor convention was from September 16 to 20, and I know the meeting was on the day the convention began, which would have made it on the 16th.

Q. Did you know at the time that this matter of the resolution about the Modesto case was discussed, that back in January of 1935 the Legislature had made its findings?

Mr. Paisley: I object to that, your Honor. It doesn't make any difference what he knew.

The Court: Sustained. [2070]

Mr. Paisley: What was discussed is what the Court has permitted him to ask about.

Mr. MacInnis: May I be heard briefly on that, your Honor? These matters were elicited from the witness under the implication that the Communist Party was interested in certain resolutions. That matter cannot be foreclosed by his saying the title of the resolution and having the witness say that he knows nothing about ~~the~~ contents. If they discussed this resolution and if he understood what they were talking about, we should be entitled to inquire into what he understood was meant.

The Court: I think, as it has been indicated, that the witness might give the full purport of the conversations in which Mr. Bridges and others participated in this fraction meeting, and state the reasons underlying the resolutions all and singular, the motivation behind the meeting, looking toward the aftermath, to wit, the presentation before the non-Communist group. You might go into that narrative, but to take this witness through the Congressional Record and legislative matters concerning

(Testimony of Stanley Benjamin Hancock.)

which he has no independent recollection, for the purpose of indirectly presenting the matter to the Court and jury, is not a proceeding that I think may obtain, and to which I will sustain objections interposed along those general lines. We have gone now on a rather grand circle, and I think we have just about completed the course. [2071]

Q. (By Mr. MacInnis): Mr. Hancock, following his Honor's suggestion, tell us everything that you now recall as being said at the meeting where you were present with Harry Bridges concerning the Modesto offense.

Mr. Paisley: I object to any repetition, your Honor.

The Court: Overruled.

Mr. Paisley: He has told us.

The Court: Overruled.

A. In this meeting I was already familiar with the issues involved in the resolutions I have already mentioned, and I do not recall any discussion at all in that meeting of the merits or demerits of any particular resolution. We talked about two things in that meeting, two things we were interested in having come before the California State Federation of Labor convention. One had to do with the matter of candidates for vice presidency. Some—there were I believe twelve—eight to twelve vice presidents to be elected, and a president and secretary. We were not interested, or felt that we were in no position to oppose the president, but we talked about opposing—putting up an opposition candidate for

(Testimony of Stanley Benjamin Hancock.)

secretary. In this meeting, this meeting particularly was concerned with the matter of opposing the secretary, because up to that time the selection had not been made. As a matter of fact, the selection had already been made in a number of districts for the position of vice presidency, and [2072] this was just a recap to make sure that we had every—a nominee lined up for the posts for which we wished him to run.

Q. (By Mr. MacInnis): Pardon me. You say that most of these choices had already been made and that the meeting was just a recap, as you put it?

A. I say that the major emphasis in this meeting was on the matter of who should run for the position of secretary of the State Federation of Labor, and while we talked about who should run for vice president of the various districts, some of the—some of these had been apparently agreed upon previously, and it was just simply reported. But I do recall our discussing who we wanted to submit from San Diego—I recall that specifically—for the position of vice president.

Q. Mr. Hancock, don't you recall specifically that there were discussed and that you talked about the resolutions which you already gave us at the start of this morning's session, those being a resolution concerning the labor party in California, a resolution concerning the vigilante movement, and a resolution concerning the Modesto case?

A. Yes, sir, I do. You haven't permitted me to finish. You asked me what we talked about there.

Q. Yes.

A. I am endeavoring to explain what we talked about there.

Q. Fine! [2073]

A. Now, in addition to discussions of candidates for vice president and secretary, we discussed the matter of seeing to it that several resolutions were presented before the State Federation meeting. The process of presentation consisted of having an authorized delegate to the State Federation submit a resolution to the Resolutions Committee of the State Federation of Labor. Some of these resolutions had already been submitted, and it was so reported there, but this was sort of a check-up to make sure that the resolutions were submitted.

Now, I can tell you, for example, that several resolutions almost similar in content were submitted on the Labor Party, but we were interested to see that they were worded right, and we arranged at that meeting to have another one submitted by a San Diego delegate. I could tell you the disposition of that on the floor if you would like to know.

Q. Did you follow the disposition of most of these resolutions?

A. I sat through several of the proceedings, if not all of the proceedings.

Q. What particular wording did you want to have inserted in the Labor Party resolution?

A. Well, there was a resolution on the Labor

(Testimony of Stanley Benjamin Hancock.)

Party already turned in by a fellow by the name of Hugo Ernst here in San Francisco. He was not a Communist, but he had turned in [2074] such a resolution.

Q. Is that the head of the Culinary Workers' Union?

A. He had something to do with them at that time. I just recall his name. Because there were, I think, perhaps three to five resolutions on this Labor Party that actually were submitted to the Resolutions Committee including the one that we decided should be drawn in that fraction meeting. I don't remember the wording of this one, but it brought out certain things about—it was felt necessary that it should be properly worded to include "Whereas, there are vigilante attacks and whereas Fascism is incipient," and that sort of thing. And I suppost I felt—I believe the feeling was that perhaps these other resolutions, while they endorsed the Labor Party, may not have had the appropriate wording that we wanted. Is that the answer to your question?

Q. Yes. Now, have you read that resolution yourself? A. Have I read it?

Q. Yes.

A. Yes, I read it in the proceedings of the California State Federation of Labor convention.

Q. You are familiar with its contents?

A. Well, not too familiar, but familiar to the extent that I have just testified.

(Testimony of Stanley Benjamin Hancock.)

Q. Concerning the next resolution, will you tell us more about that? [2075]

A. Which next resolution?

Q. The resolution on the vigilante movement.

A. I must say that I seem to have exhausted my sum of knowledge on that. I will be glad to repeat what I have said if it is of any value.

The Court: No.

Q. (By Mr. MacInnis): Just tell us, without telling us the long narrative which you have given us already, tell us what was said at that meeting concerning the vigilante resolution.

The Court: This is the same meeting in San Diego?

Mr. MacInnis: The only meeting on which testimony has been given.

A. Why, someone asked, "Now, how about a resolution against vigilantism in Sonoma County?" and someone else, I believe, said, "Why, it has already been entered by such-and-such a union." It is even conceivable that that was one of the resolutions that we assigned at that time. But that is my recollection. That is all I can do, that is, give my recollection.

Q. There wasn't any further talk about it?

A. No talk about the merits of the case, just the matter of getting it before the convention.

Q. Now, on the matter of the vigilante resolution, did you follow that through to the floor of the convention?

A. I have just been speaking about the vigilante resolution. [2076]

Q. And you heard that resolution pass, did you?

Mr. Paisley: I don't think it is material whether they passed or not, your Honor. I think we are beyond the meeting now. We are out on the floor of the convention.

Mr. MacInnis: I think it has to do with the implied purpose of the prosecution in bringing in these matters, your Honor; also with the recollection of the witness. He said that he followed the Labor Party resolution through to the floor.

The Witness: I haven't been aware of the fact that I testified to that. I have thought I have been talking about the meeting at the Sumner Apartments.

Q. (By Mr. MacInnis): Did you read the vigilante resolution as you said you read the Labor Party resolution? A. Yes, I have read them.

Q. Did you read the Modesto defense resolution? A. Yes, I have read them.

Q. That resolution was drafted according to the wishes of those present at the meeting?

A. It was the wish of those present that these three resolutions we are talking about would come before the State Federation meeting.

Q. Was there a fourth resolution that you mentioned? A. There may have been.

Q. Do you remember what it was? [2077]

A. I don't seem to now.

(Testimony of Stanley Benjamin Hancock.)

Mr. MacInnis: May I have a moment now, your Honor? [2077-A]

Q. Well, whatever the subject of the fourth resolution may have been, I will probably come back to that in a few moments when it comes to mind. You saw the resolution itself, did you?

A. No, I have never testified that I saw the original resolution. I have read the printed copy of the resolution which appeared in the official proceedings of the California Federation of Labor, 1935, San Diego.

Q. And would that be true of all of these resolutions? A. Have I seen copies?

Q. Yes. A. All the——?

Q. Printed in the report of the official proceedings.

A. Every resolution submitted was printed in the official proceedings.

Q. Now, would your memory be refreshed if you looked at the record of the official proceedings of that proceeding?

Mr. Paisley: About what?

Q. (By Mr. MacInnis, Continuing): As to the content of the resolutions.

A. Well, I thought I had pretty well identified the contents of the resolution..

Q. Do you think your memory would be refreshed at all?

The Court: He answered that by saying he has——

Q. (By the Court): What was the answer?

(Testimony of Stanley Benjamin Hancock.)

A. Identified the contents. I thought that I had testified as to the content of these resolutions. You don't want me to testify word for word, I presume?

Mr. MacInnis: No. I don't expect your memory to be that extensive, Mr. Hancock. But you don't claim that you have told us everything that was in each resolution, do you? A. Oh, no.

Q. Do you know who presented the resolution against the vigilantes?

A. No, I don't believe I do.

Q. Did you know Mr. Vandeleur who was at that time the president of the California Federation of Labor? A. No, sir.

Q. Did you know who he was? A. Yes, sir.

Q. Was he a conservative leader?

A. Yes, he was.

Q. Didn't you know that Harry Bridges made the motion against the vigilante movement and that Mr. Edward Vandeleur, the president, not only endorsed that resolution, but added an amendment to it of his own condemning the vigilante practices and that both were adopted?

A. I don't recall that that happened, no.

Q. To refresh your memory, I would like to pass to you a record of the official proceedings of the 36th annual convention of the [2079] California State Federation of Labor held at San Diego on September 16th to 20th, 1935, on this very point.

Mr. Paisley: Well, what is the question?

Mr. MacInnis: Would you hand this, then,——

(Testimony of Stanley Benjamin Hancock.)

The Court: The witness has said he did not attend that particular meeting.

Q. Is that correct, sir? A. Your Honor,——

Mr. MacInnis: He said he read this, Your Honor.

The Witness: Your Honor, I did not attend the caucus that was arranged for at that fraction, but I attended many of the sessions of the actual convention, and I have read that book.

Mr. MacInnis: Would you pass him the material I have in my hand, which I have identified, and ask him particularly to read Proposition No. 87, beginning on page 78, finishing with the paragraph on the top of the following page; and I will ask him then to turn to page 104 and read the top of that page.

Mr. Paisley: May I inquire what the purpose of this is, Your Honor? We don't know what the question is. He—if he is just going to take up time having the witness read something, it may take five minutes, it may take half an hour.

Mr. MacInnis: No, it won't.

Mr. Paisley: I would like to know what the question is.

The Court: Maybe that should be taken up in recess also?

Mr. MacInnis: I think this, Your Honor: This witness has [2080] testified about four resolutions which he says he and his group were interested in having had passed.

The Court: Correct.

Mr. MacInnis: Now, we certainly ought to know what we are,——

The Court: I have no objection.

(Document handed to the witness by the Clerk.)

Mr. MacInnis: I don't think this will take long, Your Honor, and I haven't another point to which I could conveniently proceed until we pass this.

(Document examined by the witness.)

The Witness: That was what resolution, Your Honor? Was it 87?

Mr. MacInnis: 87, yes.

(Document returned to Mr. MacInnis by the Clerk.)

Q. (By Mr. MacInnis): Has the witness read the top of page 104 also?

A. I might say here that that is not the resolution I am talking about. There were over 100 resolutions introduced at this convention, as I recall, and many of them overlapped. That isn't the Sonoma, the resolution for protesting vigilantism in Sonoma County.

The Court: Would you like to take a recess, Mr. MacInnis?

Mr. MacInnis: If you wish, Your Honor.

The Court: Ladies and gentlemen of the jury, we will take [2081] a recess at this time. In the meantime, the witness may read that record for the purpose of refreshing his recollection—that is, the other matter.

The same admonition to you, ladies and gentlemen; not to discuss the case under any conditions, nor to form nor express an opinion thereon until it is submitted to you.

(Recess.)

Q. (By Mr. MacInnis): Mr. Hancock, the meeting that was held on September 16th in the Sumner Apartments, with the persons present whom you have mentioned, was to come to an agreement that certain resolutions would be presented on the floor of the convention?

Mr. Paisley: Objected to on the ground it has been testified to a half a dozen times, repetitious.

The Court: Sustained.

Q. (By Mr. MacInnis): When the subject matters of the four resolutions which you and your group wanted offered to the floor of the convention were discussed, did the persons present bind themselves to do what they could to get those resolutions passed?

A. No, sir. That was a checkup, to make sure that these resolutions would come before the convention. As a matter of fact, resolutions are in the process of preparation for a convention for weeks ahead of time, before the actual convention. We were checking up to make sure that—actually many other resolutions [2082] were presented. These are the one I recall. I recalled three, that I mentioned before. Maybe I mentioned four before. I don't know.

Q. Yes. The other resolution which I had forgotten at the moment was the resolution asking for the repeal of criminal syndicalism law?

A. That's right.

Q. That was the other resolution that you discussed, wasn't it?

A. Yes. And at this meeting we were checking up to make sure that these resolutions would appear before this State Federation meeting.

Q. Now, at the close of the first hour of this afternoon, you were shown what purported to be a resolution made against the vigilante activities by Harry Bridges and you read that substantially, did you?

A. Yes, sir. [2083]

Q. And you say that isn't the resolution that was agreed upon in this meeting at the Sumner Apartments?

A. That resolution may or may not have been discussed. That isn't the resolution I have been referring to for some past hours.

Q. So that, if your memory is correct in that regard, Harry Bridges then introduced a resolution different from that agreed upon in this meeting at the Sumner Apartments?

Mr. Paisley: I object to anything that went on at the convention hall. I don't see that it is material.

The Court: Sustained.

(Testimony of Stanley Benjamin Hancock.)

Q. (By Mr. MacInnis): Let me ask you if this was substantially the resolution——

Mr. Paisley: I object to his reading the resolution. It is obviously in the proceedings of the convention.

The Court: It may be the resolution you are referring to, I don't know.

Mr. MacInnis: Your Honor, they have talked about these resolutions——

The Court: All right; proceed.

Q. (By Mr. MacInnis): Let me ask you if this was substantially the resolution offered on the matter of the vigilante activities:

> "Whereas, there has been an intensive and mounting tide of vigilante terror and insidious propaganda [2084] against organized workers that tends to intimidate the leadership of labor in their natural functions of bettering the conditions for workers"——

Mr. Paisley: I would like to stop him there and object to his reading something that isn't in evidence.

The Court: Has the witness had an opportunity to investigate that record?

The Witness: Your Honor, I was asked to read that resolution, I believe it was 87, on that, and that isn't the resolution. As a matter of fact, there were about five or six resolutions presented on vigilantism from many organizations and they were complementary to each other; they weren't antagonistic to each other; they said many of the same things. But that just doesn't happen to be the one I am talking about.

The Court: The objection is sustained.

Mr. MacInnis: Your Honor, the position that I offer the Court is this: This man says that there were discussed four resolutions. Now, we certainly ought to be allowed to find out what those resolutions were.

The Court: He said that isn't the one, Mr. MacInnis. I think you are foreclosed by that answer of his.

Mr. MacInnis: You mean that I do not have the right to ask him if this is substantially the resolution?

The Court: He said it wasn't the resolution. Is that your testimony, sir? [2085]

The Witness: Yes, sir.

Q. (By Mr. MacInnis): Did you find in this book the actual resolution to which you referred?

Mr. Paisley: I think that is an unfair question, your Honor. The witness isn't required to thumb through a huge document like that and ask him if he found it. He is under no obligation to find it.

Mr. MacInnis: The "huge" volume is the rather slim volume that I have in my hand.

Mr. Paisley: How many pages?

Mr. MacInnis: It is about a hundred pages.

Mr. Paisley: Printed, too, isn't it?

Mr. MacInnis: It isn't in handwriting.

Mr. Paisley: Small type, too, isn't it?

(Testimony of Stanley Benjamin Hancock.)

Q. (By Mr. MacInnis): Did you encounter the resolution of which you spoke?

A. No, sir. There is a resolution in there that refers specifically to Sonoma County, and I think you will find that it was introduced by a delegate from the County Federated Trades Labor Council of San Diego on the floor of this convention, but I don't know the number. It's in there.

Q. What was this Santa Rosa matter concerning which the other vigilante resolution was to be directed? A. I don't remember.

Mr. Paisley: I object to that, your Honor, unless it [2086] was discussed at the meeting. We can't go into all the proceedings of this labor convention down there.

Q. (By Mr. MacInnis): Mr. Hancock, you have already stated that the matter of Santa Rosa in connection with vigilante activities was discussed.

A. Correction: I said Sonoma County.

Q. Sonoma County, is that correct?

A. Yes, sir.

Q. Was that place where people were tarred and feathered by vigilantes?

Mr. Paisley: I object to that, your Honor. He is asking him about details now, not about what was discussed.

The Court: Sustained.

Mr. Paisley: Obviously the witness wasn't there. It is hearsay.

Q. (By Mr. MacInnis): Tell us what was discussed.

(Testimony of Stanley Benjamin Hancock.)

Mr. Paisley: Where?

A. In reference to what, please?

Q. (By Mr. MacInnis): In reference to Sonoma County and vigilantes.

A. The question was asked, "Are we—do we have, or is there to be a resolution on the Sonoma County vigilante question introduced on the floor of the convention?"

Q. Yes? A. That is what was discussed.

Q. And what was discussed, what was said about the matters taking place in Sonoma County concerning vigilante activities?

A. At this meeting nothing was said about it.

Q. Nothing at all? A. No, sir.

Q. In other words, all of those present, although you had seen and met five or six of the people for the first time, all of those present mentioned the subject matter of these resolutions without ever discussing their content?

Mr. Paisley: That is an argumentative question, your Honor.

The Court: Sustained.

Q. (By Mr. MacInnis): Was there any discussion of the contents of any of these resolutions?

A. No, sir, not of the contents—of the title. We all knew, when we would talk about the Labor Party resolution, we knew exactly what we meant. When we talked about vigilantism in Sonoma County, we knew exactly what we meant. When we talked about the Modesto case, we knew what we meant. When we talked about the Criminal Syndi-

(Testimony of Stanley Benjamin Hancock.)

calism Act, we knew what we meant. It wasn't necessary to agitate ourselves as to what had actually happened.

Q. So that you people, meeting for the first time largely, all knew what each other meant just by the bare title of those proposed resolutions? [2088]

A. I knew. I am not in a position to say what everybody knew.

Q. Now, you said that this meeting was in the nature of a recap, did you not?

A. I think I used that expression.

Q. In other words, at some previous meeting there had been discussions among other persons about the candidates to be endorsed on the floor of the convention and the resolutions which were to be sponsored?

A. It is entirely possible. Not in San Diego, to my knowledge.

Q. When you say it was a recap of things that were already agreed upon in advance, you must refer to some previous meeting, mustn't you?

A. No, sir.

Q. To what do you refer?

A. I refer to the fact that this was a check-up, a last-minute check-up to make certain that things in which we were interested would come before the Federation meeting, convention.

Q. Well, this is true, isn't it, that whatever was the basis of your knowledge concerning what you wanted and concerning what was already on the floor of the Legislature concerning those things you wanted a recap on, you hadn't met, until you walked into the Sumner Apartments that day, Henry Schmidt, Harry Bridges, or—— [2089]

Mr. Paisley: He has already testified to that. We have heard——.

The Court: He has already testified to that.

Mr. MacInnis: Your Honor, he says this meeting was a recap of what had occurred theretofore.

Mr. Paisley: No, he didn't say that. He said this matter about the vice presidential nomination was a recap.

The Court: If there is any doubt about it, I will overrule the objection. He may answer.

A. It is my impression that certain things had been brought to a—had been discussed somewhere before by virtue of the fact that not too much time was dwelt on them in this meeting. I say the dual purpose of the meeting was to make sure that we had all the candidates that we wanted to support for the position of vice presidency; but until that time apparently no decision had been made as to who was to oppose the secretary. I recall distinctly that we talked about that and made a decision in that respect.

Q. (By Mr. MacInnis): When you say it is your impression that some of these matters must have been discussed before, you mean discussions in which you were present, don't you?

A. Well, sir, it is entirely possible that there were other meetings. This is fourteen years ago. I am testifying as to what I remember right now.

There may have been other meetings. I don't recall them at this point. [2090]

Q. And if there were any matters brought up by way of recap, they were matters that came into your mind from other meetings?

A. I can't say that; no, sir.

Q. Now, the ending of vigilante terrorism and the other activities that you have described was an end for the good of labor generally, was it not?

Mr. Paisley: Oh, that calls for the witness' appraisal of the facts. It seems to me it is argumentative, something we can argue to the jury about.

The Court: Sustained.

Mr. Paisley: I don't think it is proper cross-examination.

Q. (By Mr. MacInnis): Do you know who presented the resolution on the Modesto case upon the floor of the convention?

Mr. Paisley: I don't see that that is material, or whether it was ever presented.

The Court: Sustained.

Mr. MacInnis: May I be heard on that, your Honor? He says that those four resolutions were proposed, according to him, as Communist Party measures. I have all the resolutions here, and we certainly have a right to show that no such thing was the fact; that other people proposed them, and there was nothing communistic about any of them. We certainly should be allowed, and the record should disclose, what the resolutions were, since this man says they didn't even discuss them. [2091]

Mr. Paisley: I am unable to see, your Honor, that it makes any difference. It has been testified here by several witnesses that the Communist Party supported certain proposals that labor unions were favoring, too. Now, what difference would it make if on the convention floor some member of the Communist Party moved the adoption of the resolution or some conservative labor leader moved the adoption of the resolution or introduced it? I am unable to see that that is material.

Mr. MacInnis: It would have this difference: If the contents of the resolution itself was entirely conservative, entirely consistent with the known facts of the particular matter——

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Let me ask you, Mr. Hancock, if this was substantially the resolution presented on the floor of the convention on the matter of the Modesto case:

"Whereas, eight members of the"——

Mr. Paisley: I object to his reading from this convention report. It isn't in evidence.

Mr. MacInnis: Your Honor, we have the official document here, and I certainly am perfectly willing that the whole document may be marked at this time, and I would like to offer it into evidence as well.

The Court: I will accept your representation that it is [2092] an official document, Mr. MacInnis, but I cannot see how the reading of this resolution is going to aid and assist in the determination of

(Testimony of Stanley Benjamin Hancock.)

any issue in this case. I have heretofore given sufficient latitude on the matter of this resolution; the witness has been more than specific concerning the general subject matter, the tone of the resolution, the general purport and the avowed purposes thereof. To now take us to the legislative halls to determine the various vicissitudes that ultimately reached out and had some bearing upon the ultimate fate of the resolutions will not aid or assist the Court or the jury in the determination of the issues. Accordingly, the objection is sustained.

Mr. MacInnis: So that I won't err——

The Court: You may mark them for identification, counsel.

Mr. MacInnis: May I have this understanding with your Honor——

The Court: Yes.

Mr. MacInnis:——so that I won't repeat questions of similar ilk, is it understood that if I put the same question to this witness regarding the contents of the resolution for the repeal of the Criminal Syndicalism Act, for the Modesto defense, for the vigilantes, and for the Labor Party, that your Honor would sustain objections upon the same grounds?

The Court: Yes, and for the same reasons.

Mr. MacInnis: With that in mind, we ask that the [2093] document itself as already shown this witness be marked for identification.

The Court: So ordered.

(Testimony of Stanley Benjamin Hancock.)

Mr. MacInnis: And we offer the resolutions themselves into evidence, your Honor.

Mr. Paisley: Of course, we object to them, your Honor.

The Court: The objection is sustained, and the objections are sustained to the several offers and to each of them.

The Clerk: The exhibit is marked Defendants' U for identification.

(Proceedings of California State Federation of Labor convention were marked Defendants' U for identification.)

Mr. MacInnis: Then, your Honor, we offer into evidence, in addition to the particular resolutions, to which reference has been made, the title of each proposed resolution and the name and the union of the person sponsoring that resolution.

The Court: Yes, sir. Same objection, I suppose?

Mr. Paisley: Yes.

The Court: Same ruling.

Mr. MacInnis: In the recess, Mr. Hancock, you were given his Honor's permission to read over the congressional report of Senator Lafollette's committee on the Imperial Valley matter. Have you refreshed your memory to any extent from that reading? [2094]

Mr. Paisley: Concerning what? I presume he is trying to refresh his recollection about some incident. A. My memory is very vivid.

Mr. Paisley: I want the question to relate to some incident so that I can determine whether I want to object to it as immaterial.

Q. (By Mr. MacInnis): Upon all of your testimony concerning vigilante activity and your own activity and the activity of the workers in their attempt to organize in the Imperial Valley.

Mr. Paisley: I don't think we are concerned with the details of those matters. The question is what was discussed in the presence of Bridges and Schmidt at this fraction meeting.

Q. (By the Court): Do you understand that question?

A. I understand the question, yes, sir.

Q. Is there anything in the congressional record which you read during the recess that would tend to refresh your recollection concerning any of the events or happenings concerning or pertaining to or otherwise integrated in that particular meeting?

A. No, sir; there was nothing in that congressional report that had to do with this meeting.

Q. (By Mr. MacInnis): Nothing that had to do with your meeting in the Sumner Apartments. Did you refresh your memory [2095] concerning what you said about the attorney named Grover Johnson?

Mr. Paisley: That is just another incident of where we strayed into a lot of immaterial matters.

Mr. MacInnis: Your Honor, he has given an answer on that subject. I think we have a right to ask him——

The Court: He gave an answer concerning

(Testimony of Stanley Benjamin Hancock.)
Grover Johnson on the steps of the courthouse, as I recall it.

Mr. MacInnis: Yes.

The Court: You may answer it, if your recollection has been refreshed or replenished.

A. I believe that what I testified is just what I read a few moments later in the congressional report. I don't know that anything I said earlier here was different from what I read in that report.

Q. (By Mr. MacInnis): Mr. Hancock, that report itself tells you that Mr. Grover Johnson, the attorney, after getting the men released on a writ of habeas corpus, was beaten, kidnaped, taken out into the desert and his shoes taken away from him and his automobile pushed into the river.

A. Counsel is confused.

Mr. Paisley: Not tarred and feathered there? I object and move that that all be stricken. He is testifying.

The Court: Counsel does have that habit. It is hard to break, I suppose. But you do have that habit. [2096]

Mr. MacInnis: I am glad to accept advice from your Honor.

The Court: I am not intending to give you advice, counsel, after all these years, but I merely say to you that you have that habit. I am not going to ride herd on you; I merely say it is repetitious, it is not proper practice, and I sustain the objection.

Q. (By Mr. MacInnis): Do you know a man named Ernest Bessig?

(Testimony of Stanley Benjamin Hancock.)

A. I am not sure that I ever met him. I know of him.

Q. Did he have anything to do with the matters of the vigilante activities?

Mr. Paisley: Objected to as immaterial.

The Court: Sustained.

Q. (By Mr. MacInnis): Will you tell us who Ernest Bessig is.

A. He is an attorney for the American Civil Liberties Union—was at that time.

Q. Did he go to the town of Brawley to make an investigation of vigilante activities?

Mr. Paisley: Your Honor, I object.

The Court: Sustained.

Q. (By Mr. MacInnis): Mr. Hancock this meeting at the Sumner Apartments, which you very properly say was fourteen years ago, you didn't make any written memorandum of it, did you?

A. No, sir.

Q. During all of the years that you were a member of the [2097] Communist Party, about how many Communist Party meetings did you attend?

A. A very difficult question to answer. It is into the score and scores.

Q. Let us get back momentarily to the first year—I think you said 1932 was the year you joined that group? A. Yes.

Q. How many times weekly did you go to meetings that year?

A. Why, ordinarily you go to a meeting once a week known as a unit meeting. [2098]

Q. Did you go to any other weekly meetings besides unit meetings?

A. Well, it is entirely possible you might go to a trade union fraction meeting, you might go to two or three other fraction meetings. You might go to a county committee meeting, you might go to quite a number of meetings.

Q. Could you give us a number of, a rough or general estimate of about how many Communist Party meetings per week you would have attended in the year 1932?

A. Why, my guess is, in '32, I probably attended an average of one a week.

Q. And in 1933 what would your estimate be?

A. I probably attended, oh, it is only a rough approximation, but I probably attended most of the unit meetings. That would depend on how many units we had set up. And I might have attended three or four per week.

Q. In 1933? A. Um-hm. (Affirmative)

Q. In 1934 approximately how many meetings a week would you have attended?

A. Why, to the limit of my physical endurance, as many as I could crowd into the day.

Q. You mean there would be a daily meeting?

A. Frequently there were daily meetings, sometimes several days would go by without a meeting.

Q. Would it be fair to say that you attended at least three or four a week in 1934?

A Of one character or another.

(Testimony of Stanley Benjamin Hancock.)

Q. In 1935 would you make the same approximation of three or four meetings a week?

A. I have to make a correction on 1934. For half of 1934 I was in Imperial Valley serving time; no meetings.

Q. You didn't organize the prison camp, I suppose? A. No, sir.

Q. Did you try?

A. Why, I don't know that I did. I don't remember.

Q. How about 1935? About how many meetings a week?

A. Why, I suppose that in a given week, three would be a pretty heavy schedule.

Q. About three a week. Would '36 be the same?

A. I can only say approximately; yes.

Q. And would you say the same about the ensuing years, '37, '38, '39 and '40?

A. No, I would not. 1937, my activity dwindled off. By September of that year, somewhere around September of 1937, I left San Diego. From that time on I attended actual party meeting—it was a much lighter schedule.

Q. Now, to go into some of the matters you told us about yesterday, you were working for 19 months, I think you said, for a newspaper in Erie, Pennsylvania? [2100] A. Yes, sir.

Q. Is that a paper that had a circulation of 40,000? Is that correct? A. Yes.

Q. Did you say it was 140 years old?

A. I said 129.

(Testimony of Stanley Benjamin Hancock.)

Q. 129. And what was the name of it? The Erie Dispatch? A. Dispatch.

Q. And you say you resigned on Friday last?

A. Yes, sir.

Q. And what is your activity now, or your employment?

A. I have no employment right now.

Q. You mean you resigned preparatory to coming out to testify at this trial?

A. That's correct.

Q. You have no job at the present?

A. As far as I know, I do not have. I resigned from my last job.

Q. You have no application for any other job or definite prospect?

A. No, sir, I do not have.

Q. You definitely are not returning to the Erie Dispatch?

A. Well, I can't say about that, because I made a hurried trip out here. I resigned. I wrote out, I gave a written resignation and there wasn't any time, really, to argue or discuss the [2101] thing. But to the best of my knowledge, I am not to be further employed on that newspaper.

Q. What do you plan to do?

A. Oh, I hope to continue my profession somewhere.

Q. You don't know where?

A. At this time I do not.

Q. Now, did you come out here by plane or by train? A. By plane.

(Testimony of Stanley Benjamin Hancock.)

Q. And arrived here when?

A. Saturday night, a few minutes after 7:00, at the San Francisco Airport.

Q. Now, when, before last Saturday night, had you last been out to the Pacific Coast?

A. Early part of September of this year.

Q. In other words, while you were actually working for the Erie Dispatch, you did come to California in September of this year, 1949?

A. Yes, sir.

Q. What was the purpose of that trip?

A. I was requested to make a trip by the Immigration Department.

Q. I see.

A. To explore meetings that I may have attended with the defendant Mr. Bridges.

Q. You came out here at the express request of the Immigration Department? Did you? [2102]

A. Yes.

Q. How many days were consumed in that trip?

A. I believe about four. I think it was four days.

Q. Did you come on a weekend or in the middle of a week?

A. Came on a weekend and went back in the middle of a week.

Q. Now, did that trip bring you only to San Francisco? A. No, sir.

Q. It brought you to San Diego? A. Yes.

Q. And whom did you see in San Diego?

A. I saw my brother; I saw my sister; I saw

(Testimony of Stanley Benjamin Hancock.)

the lady who was my ex-wife, who is my ex-wife.

Q. Her name was Winnie Hancock, is that right?

A. It is not now; it was at that time.

Q. Yes. What is here name now?

A. I don't know.

Q. Well, you saw her in September of this year, did you not? A. Yes. It begins with an R.

Q. In whose presence did you see her, Mr. Hancock?

A. In the presence of Mr. William Kaiser of the Immigration Service.

Q. Oh. He went to San Diego with you?

A. I met him in San Diego.

Q. In other words, you flew directly from Erie, Pennsylvania to the city of San Diego? [2103]

A. Direct? That is where I landed eventually.

Q. Yes. And you were met there by Mr. Kaiser?

A. He met me at my mother's home.

Q. And did he talk to your mother with you?

A. No.

Q. To your sister? A. No.

Q. But to your former wife?

A. Yes, he did.

Q. And you accompanied Mr. Kaiser to the home of your former wife, I suppose, to see if she had any information that might be of assistance to the Immigration Department in this case?

A. I did not accompany him to her home.

Q. He went alone?

A. I don't know whether he went. I didn't.

Q. You didn't go to her home? A. No, sir.

Q. Where did you see her?

A. In the Courthouse, the old Courthouse Building in San Diego.

Q. And how was that meeting arranged?

A. I didn't have anything to do with the arrangement.

Q. Well, will you tell us how you happened to assemble there and who was present?

Mr. Paisley: I don't think that he can just go into all these matters, Your Honor. I object to that unless he has some [2104] purpose in it. Nothing more natural than that the Immigration authorities should have a witness come and check up on him, and the testimony.

The Court: May I ask the purpose of this?

Mr. MacInnis: I think, Your Honor, we certainly have a right to inquire into the activities of the Immigration Department or its agents in connection with this man prior to his coming here as a witness.

The Court: Overruled; proceed.

The Witness: May I have the question again, please?

Q. (By Mr. MacInnis): Just tell us how you happened to assemble at the Courthouse in San Diego and who was present at that meeting?

A. I have already testified who was present. There were three of us present. I was at my mother's home in San Diego when Mr. Kaiser came there, and he said, "I would like to have you come

(Testimony of Stanley Benjamin Hancock.)

down with me to meet your former wife."

Q. When had the request been made to you that you fly out to San Diego in September of this year?

A. Some time in August of this year, early August.

Q. Who made that request of you?

A. Mr. William Kaiser.

Q. Where and in what form did he make that request?

A. He came to Erie, Pennsylvania, called me up at the office, and asked me to come and see him.

Q. Where did you go to see him then?

A. Why, he was in a drug store across the street. We went down to a restaurant and had a cup of coffee.

Q. And you had a discussion with Mr. Kaiser in August of this year concerning this case?

A. Yes, sir.

Q. Was that the first meeting or discussion that you had had with any member of the Immigration Department concerning Harry Bridges?

A. To the best of my recollection, it was.

Q. In other words, no one contacted you before you received the telephone call from Mr. William Kaiser in August of this year?

A. Well, as I remember, during the war I was investigated a few times on the general question of Communism, but nothing was ever said about Mr. Bridges. I didn't say anything.

Q. Did you take any loyalty oath or matter of that kind during the war?

(Testimony of Stanley Benjamin Hancock.)

A. I don't recall any.

Q. In connection with your duties in the merchant marine service?

A. I was asked if I was now a Communist or had been.

Q. Were you asked if you had ever been a member of the Communist Party? A. Yes, yes. [2106]

Q. And you naturally answered truly on those questions? A. I did.

Q. And after you had been questioned in respect of your merchant marine service as to whether you had ever been a member of the Communist Party, you heard nothing from any official agency until Mr. Kaiser contacted you in August of this year concerning Harry Bridges, is that right?

A. Yes, sir.

Q. How long did you spend with Mr. Kaiser the day you met him in the drugstore or restaurant in Erie, Pennsylvania? A. About two hours.

Q. Did he take some written statement from you at that time? A. No, sir.

Q. Did you go anywhere else with him other than the restaurant? A. Not on that day.

Q. When did you next see Mr. Kaiser?

A. The next day.

Q. Where did you see him then?

A. In his hotel room.

Q. Do you know the name of that hotel?

A. The Lawrence Hotel.

Q. Who was present at that conversation?

A. Mr. Kaiser and myself and a stenographer.

(Testimony of Stanley Benjamin Hancock.)

Q. Do you remember the stenographer's name?

A. No, I do not. [2107]

Q. Was a statement taken on that occasion?

A. Yes, it was.

Q. Did you dictate the statement?

A. I talked.

Q. Well, was it taken in question and answer form or—— A. Yes, I was sworn in.

Q. Pardon me? A. I was sworn.

Q. Who administered the oath to you?

A. Mr. Kaiser.

Q. He asked you to swear to the truth of what you were going to say? A. Yes, sir.

Q. And how long did the taking of that statement consume? A. I think a couple of hours.

Q. Two or three?

A. About two. It was from 11:00 in the morning, it was over the lunch period, from 11:00 in the morning until 1:00 or a little after.

Q. Now, was that statement transcribed later?

A. Same day.

Q. When did you see Mr. Kaiser or the stenographer on that day after the lunch period had passed?

A. At the end of the workday, about 5:30.

Q. Where did you see him then? [2108]

A. In the Courthouse. I mean, in the Postoffice Building in Erie.

Q. And in what part of that building did you see him that time, late in the day?

A. In the Immigration Office; I think it was the Immigration Office.

(Testimony of Stanley Benjamin Hancock.)

Q. Did he then have a typed transcript?

A. Yes, sir.

Q. How many pages, about?

A. Well, I don't really recollect.

Q. Can you give us an estimate?

A. Maybe eight, nine, ten; somewhere in there.

Q. Did you sign that? A. I did.

Q. Did you sign each page?

A. Initialed the pages that were not signed.

Q. After that transaction took place, did you then talk further with Mr. Kaiser?

A. In reference to what?

Q. To this case.

A. I came out to see Mr. Kaiser in September, the following month.

Q. Now, after you signed the document, did you then part company? A. Yes, we did. [2109]

Q. And what was the next communication or contact which you had with any member of the Immigration Service or any one connected with the prosecution of this case?

Mr. Paisley: Your Honor, does the Court and jury have to sit here and listen to these wholly immaterial questions forever on some promise that he might get to some relevant question eventually? Certainly these questions don't tend to impeach the witness in any way or to discredit him. Nothing more natural than that government investigators would go around locating witnesses, getting statements from them, having a stenographer present, having it typed out, having them come to the scene about which they have testified, and so on. I don't see what the counsel's purpose is.

Mr. MacInnis: I think, Your Honor, we have a right to explore any contact between the prosecution agents and the witness.

The Court: Overruled.

A. May I have the question again?

Q. (By Mr. MacInnis): The question was this: When, after the time you signed this document, at 5:30 in the afternoon in August of this year, in the Postoffice Building in Erie, were you contacted by any member of the prosecuting agency of the department in respect of this case?

A. Well, Mr. Kaiser called me on the telephone about two weeks after that. [2110]

Q. At your office or at your home?

A. Called me at my office.

Q. From what city or telephone station did Mr. Kaiser call you, if you know?

A. I believe he was in Chicago; it was either Chicago or New York.

Mr. Paisley: Now, does he want to know, Your Honor, how much money he dropped in the box?

Mr. MacInnis: I am so grateful for the crumbs that you occasionally drop my way that if you will give me that information, I will be happy to put it in the record. I have no doubt that Mr. Kaiser is amply paid for his expenses. If you want to give me that information, I will accept it.

Q. Did you have a talk with him on the telephone on that occasion about this case?

(Testimony of Stanley Benjamin Hancock.)

A. No, just the matter of when it would be possible for me to come to California.

Q. Did you then make an arrangement to fly out to San Diego?

A. Why, I don't think it was made right then. Possibly it was, but we finally agreed—he wanted me to come out earlier, and I couldn't possibly do it before somewhere around Labor Day. So there might have been two telephone calls in there. It seems to me there were. But all we talked about over the telephone was when I could come out.

Q. How did he suggest that your employment duties be taken [2111] care of in this lapse of time from your work?

A. Why, he didn't suggest, but I will tell you how they were taken care of. I haven't had any vacation this year except this one right here.

Q. Well, you told us you resigned your job?

A. That's right.

Q. You resigned your job preparatory to coming out here and you were willing to let your vacation time be the time that you are devoting to this case, is that what you tell us?

A. It used up the days out of my vacation time, that's right. So that—I might also say that also by coincidence my mother was due in Erie at that time, and I explained that I wished to go around to Niagara Falls and so forth with my mother. That is the explanation I gave the office.

Q. Niagara Falls?

A. Yes, that is a hundred miles from Erie.

(Testimony of Stanley Benjamin Hancock.)

Q. When did you tell your office that you went to Niagara Falls?

A. Why, I don't say that I told them I went to Niagara Falls, but they knew that my mother was coming and we talked about, that when she came, why, we would like to go to Niagara Falls. And so when I took off four days, I think they assumed that I had gone up there with her.

Q. Although actually you saw your mother in San Diego on that trip? [2112]

A. No, sir, I did not.

Q. She was not at home? A. No.

Q. You say you went to her house?

A. I did.

Q. And you let it be known in Erie that you were going up to Niagara Falls with your mother?

Mr. Paisley: Well, now, how many times do you want him to tell you that?

Mr. MacInnis: Oh, I am content with any number of times, Mr. Paisley.

Mr. Paisley: Do you want to ask him again?

A. No, I didn't let it be known, if you mean did I go around telling people, "I have been to Niagara Falls." But it just happens that before this entire matter came up, I had been talking to friends in the office that when my mother comes, why, I intend to take her to Niagara Falls. And so I believe that most of the people thought I had gone to Niagara Falls on those four days.

Q. (By Mr. MacInnis): Well, after the telephone conversation that you had with Mr. Kaiser,

(Testimony of Stanley Benjamin Hancock.)

did you talk to him again or to any other agents of the Government in this case before you flew out to San Diego?

A. I repeat, I think there were two telephone conversations in there, and I believe one of them was to my house. The first one [2113] was to the office. I think, I believe, I am sure that is right. The first one he mentioned a preliminary date, and we couldn't agree on it, and on the second one, why, we agreed on a date.

Q. And while in San Diego in September of this year, did you talk to any other agents of the Government in addition to Mr. Kaiser?

A. There was another fellow in the car when we went to the Sumner Apartments. I don't recall his name.

Q. You went to the Sumner Apartments to see if you could identify the name and the number of the particular building?

A. That isn't the reason. I used to deliver newspapers in that apartment. I know it well.

Q. You don't remember the name of the other man in the car?

A. In the car at that time, no.

Q. But he was the only other agent whom you met? A. Yes, in San Diego at that time.

Q. Yes. Now, after you left San Diego and went back to Erie, Pennsylvania, what contact next did you have with either Mr. Kaiser or other members of the government prosecutors?

A. Well, I didn't leave San Diego and go di-

(Testimony of Stanley Benjamin Hancock.)

rectly back to Erie. But do you want to know, did I leave San Diego and go directly to Erie, or what did I do when I got to Erie?

Q. Well, you say you didn't leave San Diego directly for Erie? A. No, sir. [2114]

Q. Where did you go?

A. Went to Long Beach, then up to San Francisco.

Q. Was Mr. Kaiser with you in Long Beach?

A. Yes, he was.

Q. Whom did you see there?

A. Mr. Taylor, Dan Taylor.

Q. Do you know his address?

A. No, I do not.

Q. Did you see anybody else in Long Beach?

A. I am not even sure it is Long Beach; it is along in there somewhere. I was driven there. It is one of those beach communities in that general area.

Q. And then you came up to San Francisco?

A. Yes.

Q. In whose company?

A. Mr. Kaiser's company.

Q. Did you drive or fly? A. Flew.

Q. The two of you flew together? A. Yes.

Q. And for what period of time were you here in San Francisco? A. Two days.

Q. Where did you stay?

Mr. Paisley: Now, I don't see that that is material, Your Honor. The cases are replete with cases—the books are replete [2115] with cases you

(Testimony of Stanley Benjamin Hancock.)

can't ask a witness, "Where did you stay last night"; such questions as that. I just don't see where we are getting with all this.

Mr. MacInnis: The only purpose is to——

Mr. Paisley: With all this idle cross-examination.

Mr. MacInnis: In connection with government agents. It has no other purpose, as to the inquiry of where he stayed.

The Court: Overruled.

A. I think it was the Cartwright Hotel.

Q. Cartwright Hotel. Did Mr. Kaiser stay there, too? A. Yes, he did.

Q. While at the Cartwright Hotel, did you meet any other members of the prosecution staff in this case?

A. I am not sure it was there. At the time I was in San Francisco, I met other members of the Immigration Service.

Q. Whom did you meet?

A. Oh, a fellow by the name of McGowan.

Q. How many times did you meet him?

A. Why, he was in a car that we drove around San Francisco in. I don't know how many times I met him. I was with him for a few hours.

Q. Well, who else was in the car, if you can recall? A. That is all.

Q. Just you and Mr. McGowan?

A. And Mr. Kaiser. [2116]

Q. Did you meet anyone else besides Mr. McGowan, in addition to Mr. Kaiser? A. Yes.

Q. Who? A. Mr. Bruce Barber.

(Testimony of Stanley Benjamin Hancock.)

Q. Bruce Barber. He is the gentleman sitting at the prosecution table, an official of the Immigration Service, is that right? A. Yes.

~~Q. And how many times did you meet him?~~

A. At that time just once. I was in his office.

Q. And who else did you meet?

A. I don't recall meeting anyone else. I might have been introduced to people in passing, but I don't recall meeting anyone else.

Q. And was another written statement taken from you on that visit?

A. I didn't sign any. They might have been writing down things, but I didn't sign any other statement.

Q. Were you at some interview when a stenographer made written reports of what was said?

A. Not to my knowledge.

Q. Did you meet with these gentlemen, Mr. Kaiser, Mr. Barber and Mr. McGowan, in the offices of the Immigration Service?

A. Yes, I have been in the office of the Immigration Service [2117] with all three of them.

Q. And you talked about this case, did you?

A. Yes, we did; talked about this particular meeting and several more.

Q. Now, when did you go back to Erie, Pennsylvania?

A. Well, let's see. I got there on a Thursday night, so I left here some time on Wednesday, Wednesday evening.

(Testimony of Stanley Benjamin Hancock.)

Q. And then what was the next contact you had with any member of the government service in this case?

A. I received a letter from Mr. Barber some time around the first of October, in which he said that the list of witnesses was in preparation and I would be notified at the earliest opportunity as to when I would be called upon to come out here.

Q. And did you make any reply to that?

A. Yes, I did.

Q. What reply did you make?

A. Why, ——

Mr. Paisley: Are we really concerned about that, Your Honor? Correspondence that might have passed back and forth about the date of a possible trial and so forth?

The Court: I suppose not. I will sustain the objection.

Q. (By Mr. MacInnis): And whom did you see next, or who contacted you next in reference to this case?

A. Mr. William Kaiser called me on the first of December, this year, at my home. [2118]

Q. Did he then make arrangements with you to come out here? A. Yes, he did.

Q. And then you say that following that on December 2, you resigned your job with the Erie Dispatch and came here? A. Yes, I did.

Q. Were you served with any subpoena asking you to come here?

(Testimony of Stanley Benjamin Hancock.)

A. When I arrived here Saturday night I was served with a subpoena.

Q. You mean after you voluntarily undertook the trip from Erie, Pennsylvania to San Francisco you were served here in San Francisco with a subpoena?

Mr. Paisley: Well, that is utterly immaterial. It is done every day, your Honor, and he knows it.

Mr. MacInnis: We would be most delighted if we could get that assistance.

The Court: Overruled. Your comment, of course, is not called for, counsel.

Q. (By Mr. MacInnis): Who served you with the subpoena, Mr. Hancock?

A. Mr. William Kaiser.

Q. Did you talk following your arrival here with any of the men connected with the prosecution?

A. Yes, sir, I have talked to several of them.

Q. What ones are those? [2119]

A. I have talked to Mr. Donohue, Mr. Paisley, Mr. Boyd, Mr. Barber, and probably others, too.

Q. Where are you staying while you are here?

A. At the Marines Club.

Q. Is any member of the Immigration Service staying at the same place?

A. Mr. Kaiser is staying there.

Q. Do you and he share a room?

A. Yes, we do.

Mr. MacInnis: That is all. That sounds like this is where we came in.

(Testimony of Stanley Benjamin Hancock.)

The Court: That completes your cross-examination?

Mr. MacInnis: Yes, your Honor.

The Court: Redirect examination, please.

Mr. Paisley: I have one question, your Honor.

Redirect Examination

By Mr. Paisley:

Q. Counsel, or Mr. MacInnis, asked you how many Communist meetings you had ever attended, and you told him. How many fraction meetings did you ever attend at which Harry Bridges and Henry Schmidt were present?

A. I attended one that I recollect now. Possibly there were others; I don't recall them.

Q. Is that the one you have testified about at San Diego? A. It is.

Mr. Paisley: That is all. [2120]

Mr. MacInnis: That is all, your Honor.

The Court: The witness is excused.

Will you have a witness available in the morning?

Mr. Donohue: Yes, your Honor.

The Court: I remind the jury that we intend to adjourn tomorrow at noontime and we will then resume the following Monday at ten o'clock.

The Clerk: Eleven o'clock.

The Court: Eleven o'clock, rather. We have some matters on for Monday morning.

Now we will adjourn regularly until tomorrow morning at ten o'clock, Friday morning at ten, and the same admonition to you not to discuss under any conditions nor converse with any person on any subject of the trial, nor to form or express an opinion hereon until the case is submitted to you. You may now retire.

(Thereupon an adjournment was taken until Friday, December 9, 1949, at 10:00 a.m.) [2121]

Friday, December 9, 1949, 10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed, Mr. Donohue.

Mr. Donohue: Will you call Mr. Charles Krolek.

The Court: Will you spell his name.

Mr. Donohue: K-r-o-l-e-k, your Honor.

KERMIT CHARLES KROLEK

called for the Government; sworn.

The Clerk: Will you state your full name to the Court and jury.

The Witness: Kermit Charles Krolek—K-r-o-l-e-k.

Direct Examination

By Mr. Donohue:

Q. Mr. Krolek, where do you live?

A. I live in Belmont, California.

Q. And how long have you lived in Belmont, California? A. Approximately eleven years.

Q. Are you married? A. Yes.

Q. And you live there with your wife?

A. Correct.

(Testimony of Kermit Charles Krolek.)

Q. Where were you born, Mr. Krolek?

A. I was born in Athabasca, Alberta, [2122] Canada.

Q. And when? A. 1911, July 28.

Q. When did you come to live in the United States?

A. When I was approximately a year and a half old.

Q. And at the time or shortly after you came to the United States, if you know, was your father naturalized in the United States?

A. That is correct; he was naturalized in Glendive, Montana, in May of 1919.

Q. I didn't get the year. A. May of 1919.

Mr. MacInnis: Pardon me. I move that the answer be stricken out as not being the best evidence. If there is a record of this man's father's naturalization, that record should be produced.

Mr. Donohue: I have always believed, if your Honor please, that matters of family history were an exception to the hearsay rule.

The Court: Overruled.

Q. (By Mr. Donohue): And you claim your citizenship by derivation from the citizenship of your father? A. That is correct.

Mr. MacInnis: Pardon me. What this man claims is a matter of opinion. It would be a matter of law or a question of fact and law for the Court and jury. [2123]

The Court: Overruled.

Q. (By Mr. Donohue): Where did you obtain your schooling, Mr. Krolek?

(Testimony of Kermit Charles Krolek.)

A. My primary schooling was obtained in Montana and in Portland, Oregon; secondary schooling also in Portland, Oregon. I have obtained a number of credits in the University of Oregon extension—summer extension. I am a graduate of a business college, and I have had certain training in electronics sponsored by M.I.T. in Boston, Massachusetts.

Q. What is your present occupation?

A. I am an electronic engineer, regional service manager for the Magnavox Company.

The Court: With respect to M.I.T., the witness might give the full name.

Q. (By Mr. Donohue): You said that you had training in Boston at the Massachusetts Institute of Technology?

A. That is correct; Cambridge, I might say, at a class sponsored by the Massachusetts Institute through the Raytheon Manufacturing Company.

Q. What was your first employment, Mr. Krolek? A. My very first employment?

Q. Yes.

A. I would say in a logging camp in 1929.

Q. And from there you went to what work?

A. I was an amateur in my early youth, and I graduated from [2124] that into commercial radio.

Q. Where were you employed in commercial radio, in what capacity, and when?

A. I was employed in various capacities—as a technician, licensed operator, and subsequently became an engineer for Oregon Radio, Inc., in Oregon.

(Testimony of Kermit Charles Krolek.)

Q. Can you tell us when that was?

A. In 1934, I would say.

Q. And where? A. In Portland.

Q. What was your next occupation?

A. Thereafter I went into the labor movement.

Q. And in what capacity did you join the labor movement?

A. I became secretary or, as you might say, business agent of the American Radio Telegraphists' Association, Local No. 8, in Portland, Oregon.

Q. Can you tell us when you became secretary of that local?

A. Approximately, I would say, November of 1935.

Q. And how long did you remain with the ARTA?

A. I terminated my association with ARTA in approximately the middle part of the year of 1937.

Q. And what was your occupation next?

A. I entered my own business in the manufacture of X-ray tubes in San Francisco.

Q. And how long did you continue to operate your own business? [2125]

A. Approximately a year.

Q. From there you went to what employment?

A. I became confidential secretary for the brother of Culbert L. Olson, who was then the Governor of California.

Q. How long did you remain as secretary for Mr. Olson?

(Testimony of Kermit Charles Krolek.)

A. Two and a half years, I would say.

Q. That brings us to what year?

A. That brings me into 1939.

Q. And you then took what employment?

A. That was sometime prior to the war. I went into the capacity as supervisor of radio, radar and sonar for the Bethlehem Steel Company in San Francisco.

Q. San Francisco? A. That is correct.

Q. And you continued with Bethlehem Steel for how long? A. Until 1943.

Q. And then you took what employment?

A. I went to work for the Raytheon Manufacturing Company in Waltham, Massachusetts.

Q. How long did you remain in Waltham?

A. I was with the Raytheon people until the termination of the war.

Q. And then did you return to California?

A. That's correct.

Q. And to what employment?

A. I was asked by the Navy to take over the consolidation of the electronic engineering staff at San Francisco Naval Shipyards.

Q. And how long did you remain employed by the Navy?

A. Approximately a year, better than that, I would say; maybe a year and a quarter.

Q. And then your next employment?

A. With the Westinghouse Electric Company as an X-ray engineer, field engineer.

(Testimony of Kermit Charles Krolek.)

Q. And how long were you employed by Westinghouse?

A. Better than a year, I would say.

Q And then your next employment?

A. My present.

Q. You have been with Magnavox how [2127] long? A. Since September of last year.

Q. Mr. Krolek, did there come a time when you became a member of the Communist Party?

Mr. MacInnis: Pardon me.

A. That's correct.

Mr MacInnis: The same objection, Your Honor, as heretofore made, and we ask that the answer be stricken pending the Court's ruling upon the objection. Not the best evidence; calling for the opinion and conclusion of the witness; not binding upon the defendants.

The Court: The objection is overruled. I need not state the reasons; I have already ruled on similar objections heretofore with respect to the witnesses.

Mr. MacInnis: In that event, Your Honor, may the record show that the same understanding exists, as you suggested yesterday, that the same objections would be made to the same line of questioning and that the Court would make the same rulings. I have particular reference——

The Court: I would not care at this juncture to have the record so all embracing as to a stipulation or some order, for fear there might be some confusion hereafter in the record. But it will suffice for

(Testimony of Kermit Charles Krolek.)

the moment that the objection is overruled and these matters, if you do intend to intrude the examination on matters of general affairs concerning this witness and the Communist Party, I will instruct the jury accordingly, [2128] as I did with the other witnesses, that the testimony elicited in this particular phase of the matter having to do with the internal operations of the Communist Party, if such testimony be elicited, is not binding upon the defendants nor either nor any of them.

Mr. Donohue: Would you repeat the question for the witness, Mr. Reporter?

(Record read.)

A. (Continuing): I joined the Communist Party, I would say, in the winter of 1935.

Q. (By Mr. Donohue): Will you tell us where, when and the circumstances surrounding your becoming a member of the Communist Party?

Mr. MacInnis: May the record show the same objection, Your Honor, incompetent, irrelevant and immaterial, calling for the opinion and conclusion of the witness.

The Court: Overruled.

Mr. MacInnis: If the Court would make a statement of his ruling, I would be glad to refrain from the individual objections at each question.

The Court: Well, I think Mr. Donohue will stipulate with you, as he has with other witnesses.

Mr. Donohue: I think, Your Honor, that we might enter into the same stipulation as we did with

(Testimony of Kermit Charles Krolek.)

respect to the witness Henry Schrimpf, that such questions as you have already [2129] objected to are also objected to by counsel, and his rights are preserved.

Mr. MacInnis: That will be all right.

The Court: That may be the order, in the light of the stipulation.

A. The question was when I joined the Communist Party, and I believe I answered in the winter, I would recall, December possibly of 1935.

Q. (By Mr. Donohue): Can you tell us, or will you tell us, Mr. Krolek, the circumstances of your joining?

A. I was recruited by A. T. Pringle, who was the secretary of Local No. 6 of the ARTA in Seattle, Washington, and the purpose for it, my joining the party, if that is the intended question, is that——

Mr. MacInnis: Pardon me. The question did not call for such a volunteer answer.

Q. (By Mr. Donohue): I will come to that in just a moment, Mr. Krolek. Will you confine your answer to the circumstances of your joining. Just what you did in order to become a member of the party?

A. I indicated my willingness to accept the program as it was outlined to me by Pringle, in the hope, shall we say, of being able to better conduct my relationship as a business agent or secretary of the union with respect to the other locals.

Mr. MacInnis: It appears to me, Your Honor, it is a non-responsive [2130] answer which has followed, although the prosecutor indicated he would come to this other material later.

Mr. Donohue: I think the answer——

The Court: The objection is overruled; the motion is denied.

Q. (By Mr. Donohue): Will you continue, Mr. Krolek?

A. The circumstances of my joining were, as I recall, Pringle proffered me a membership card and indicated to me that it would be expedient to join the Communist Party for the reason that by not so doing I would be alienated from obtaining information that otherwise would be available to those who were members.

Mr. MacInnis: Pardon me. We are now receiving, Your Honor, hearsay testimony from persons not parties to this action. I suggest that that answer must be stricken.

The Court: Mr. Donohue?

Mr. Donohue: Oh, if Your Honor pleases, the witness is being asked, and is making responses to, a question as to the circumstances surrounding his joining the party. Your Honor has already instructed the jury, and soundly, that these conversations are not binding in evidence as against the defendants, but certainly——

The Court: And you are not offering the conversation against the defendants or either or any of them, are you?

Mr. Donohue: Of course not, if Your Honor please.

(Testimony of Kermit Charles Krolek.)

The Court: Objection overruled. [2131]

A. The overture to my joining the party under the circumstances I stated was made to me, or were made to me by Pringle in Portland, Oregon, and subsequently I attended the meetings with him and with others in Seattle. I was introduced to the party.

Q. May I ask you, Mr. Krolek, you said that at that time Pringle was the secretary to the ARTA local in Portland, correct? A. In Seattle.

Q. Seattle. At that time were you employed by the ARTA?

A. I was secretary, as I stated—business agent for the Portland local, which is No. 8, once Local 8.

Q. Over how long a period did you continue as a member of the Communist Party?

A. Terminated my active relationship in the Communist Party in the spring of 1937.

Q. And you would count your membership as extending over how long a period of time?

A. Well, by a process of arithmetic, I would say approximately a year and a half.

Q. What were the circumstances—Strike that, please.

Did you leave the Communist Party voluntarily or were you expelled?

A. I left it voluntarily.

Q. And will you tell His Honor and the members of the jury the reason for your leaving the Communist Party? [2132]

(Testimony of Kermit Charles Krolek.)

Mr. MacInnis: Pardon me. Your Honor, the same objection, calling for hearsay, calling for the opinion and conclusion of this witness, not binding upon the defendants, not probative of any issue in this case.

Mr. Donohue: I thought this question would be subject to our understanding, that you wouldn't object to it.

Mr. MacInnis: This is a new question, as I understand it.

Mr. Donohue: They are all new.

The Court: The objection is overruled, Mr. MacInnis.

A. I left the party for several reasons; primarily, the first one being I recognized the expediency of various actions of which they were engaged with respect to the labor movement. Secondly, at the moment of my termination, it so happened that the Committee for Industrial Organization under the tutelage of John L. Lewis at the time was pouring some funds, quite a considerable amount of money, into the organization of the unorganized people. And I frankly reached a situation, or rather, a condition, where I was forced to oppose the policies that the Communist Party was inaugurating with respect to taking some of the monies which were being expended through the honest form of union organization, rather than into the channels of the Communist Party organization.

The Court: Mr. Witness, may I address myself

(Testimony of Kermit Charles Krolek.)

to you? Will you speak a little louder? Because there is a little dead zone over in the corner. I notice the juror in the corner is [2133] having a little trouble there. There is a dead zone; speak just a little slower and I think it will be helpful.

The Witness: Thank you.

Q. (By Mr. Donohue): At the time you joined the Communist Party, Mr. Krolek, were you issued a book? A. Yes, sir, I was issued a book.

Q. And will you tell us whether or not that book was issued in the name of Charles Krolek or in some other name?

A. The book was issued me in the name of Conrad.

Q. Can you tell us why the book was issued in some name other than your own?

A. For the reason that——

Mr. MacInnis: Did you say Comrade or Conrad?

The Witness: Conrad.

Q. (By Mr. Donohue): Would you spell it?

A. C-o-n-r-a-d.

Mr. MacInnis: Comrade Conrad.

Mr. Donohue: Comrade Conrad, yes.

A. Can I have the question?

Mr. Donohue: Would you read the question, please?

(Record read.)

A. The reason being——

Mr. MacInnis: Pardon me. That is calling for the opinion and conclusion of the witness upon the

(Testimony of Kermit Charles Krolek.)

motives and activities of persons not before the Court, Your Honor, and we object to [2134] it upon the ground that it is incompetent, irrelevant and immaterial.

Mr. Donohue: It is apparent, if Your Honor please, that such a book, upon the application as testified to by the witness, filed by him, could only have been issued to him in a name under instructions by him to whatever person may have issued that book.

The Court: The objection is overruled.

Q. (By Mr. Donohue): Would you continue with your answer, Mr. Krolek?

A. The reason being that people who are, shall we say, paid functionaries of the Communist Party, that is, officials of the party, do not assume——

Mr. MacInnis: Now pardon me just a moment. Your Honor, counsel advised us of the propriety of this question upon the ground that this witness can tell us some reason of his own. Now he is assuming to tell us the motives of persons whom he calls high functionaries of the Communist Party. Now, that answer must be stricken out on that point, Your Honor.

Mr. Donohue: If counsel wouldn't interrupt the witness, if Your Honor please, I am sure he will answer the question. But he must answer it in his way, not in counsel's way.

Mr. MacInnis: Well, I would much prefer to make the objection at the right time.

(Testimony of Kermit Charles Krolck.)

The Court: I understood that there was a running objection [2135] to this particular phase of the testimony.

Mr. Donohue: I understood so, Your Honor.

Mr. MacInnis: There is a motion to strike a non-responsive answer, Your Honor.

The Court: All right, the motion is denied.

Mr. MacInnis: May I be heard a moment?

The Court: Yes.

Mr. MacInnis: A moment ago I made the objection, a moment ago Mr. Donohue replied to Your Honor, saying that this man would be the only one who could give the reason in his own mind and hence he should be allowed to tell the purpose, so that with that in mind, Your Honor overruled the objection. Then the witness started on an answer and starts telling us the motivations and the thoughts of third persons—not his own at all.

Mr. Donohue: No, that isn't——

Mr. MacInnis: That is why the answer is non-responsive, even if the question could be proper in the first place.

Mr. Donohue: Well, I assume that the question was proper because the Court allowed it.

The Court: Well, let us have the full text of the answer. If it then be objectionable upon any grounds that you assert or affirm for any reasons, I will entertain the motion then.

Mr. Donohue: Thank you, Your Honor.

A. Well, I may rephrase the answer this way.

that people who [2136] are functionaries in the party with respect to being officials, retain their proper names, and those who are recruited from the ranks of labor and elsewhere assume other names, for purposes, shall we say, of—well, non-identity.

Mr. MacInnis: Pardon me. Now, will Your Honor please entertain that motion to strike? He hasn't given us his thoughts at all, but the thoughts he says are the thoughts of third persons not before the Court.

Mr. Donohue: Well, I don't understand Mr. MacInnis' expression, because Mr. Krolek, the witness, is testifying to what the conclusions in his mind were, and the reason why he received his book in the name of Conrad, rather than in the name of Krolek; which, of course, from the circumstances, could only have been done because as a member of the Communist Party he knew something about the reasons that motivated the Communist Party in giving books to applicants for membership in names other than their own. We couldn't testify to that, because we are not familiar with the problems or the principles of the Communist Party—but the witness obviously could.

The Court: The motion is denied. [2137]

Q. (By Mr. Donohue): Mr. Krolek, during the period of time when you were a member of the Communist Party did you attend any Communist Party meetings? A. I attended several meetings.

(Testimony of Kermit Charles Krolek.)

Q. What is your best judgment of the sum total in number of the meetings which you did attend during the period you were a member, no matter where they may be? A. Possibly 30 to 35.

Q. And could you indicate generally where geographically these meetings took place?

A. The meetings took place in Seattle, Portland, San Francisco, San Pedro, Long Beach.

Q. Mr. Krolek, do you know the defendant Harry Bridges? A. Yes, sir.

Q. Do you see him in the courtroom?

A. Yes.

Q. Would you indicate where he may be?

A. I believe he is seated in the chair directly behind you.

Q. Do you know the defendant Henry Schmidt?

A. Correct.

Q. Do you see him in the courtroom?

A. Correct. He is sitting directly behind the light—behind you on your left shoulder.

Q. Do you know the defendant Henry Schmidt?

A. No, sir. [2138]

Q. At any time, Mr. Krolek, during the period when you were a member of the Communist Party did you ever attend a Communist Party meeting at which either the defendant Harry Bridges or the defendant Henry Schmidt were also present?

A. I attended several such meetings.

Mr. MacInnis: May it please the Court, may the answer be stricken pending the objection, your

Honor? We object to that question as being incompetent, irrelevant and immaterial, calling for the opinion and conclusion of this witness, for this reason: that the witness may tell us if he attended a meeting, but to place a character upon that meeting is to intrude upon the function of the Court and jury. He may be asked what meetings he attended with these men, but for him to give us the conclusion would be to invade the province of the jury, your Honor.

The Court: You might——

Mr. Donohue: If your Honor please, may I just briefly say that I think we have been around this problem before, but certainly it would seem to me in all logic and reason that no one is better qualified to testify as to the nature of a meeting that a person who attended that meeting.

The Court: Yes. Well, I ruled on this matter heretofore under the decision in the Eisler case.

Mr. Donohue: The Marzani case.

The Court: As well as in the Marzani case. [2139]

Mr. Donohue: This witness——

The Court: I believe my ruling is correct. It is a matter for cross-examination. You might lay some foundation with respect to the time and place of this meeting.

Mr. Donohue: It is only a preliminary question, if your Honor please.

The Court: All right. The objection is overruled.

(Testimony of Kermit Charles Krolek.)

Mr. Donohue: Would you read the question to the witness, please.

(Question and answer read.)

Q. (By Mr. Donohue): Now, Mr. Krolek, will you tell me where and when the first of such meetings at which either or both of these named defendants were present took place?

A. I might qualify my answer, Mr. Donohue, this way: that I won't state that this was the first of such meetings, but I will recall a meeting which probably may have been one of the first at which both these gentlemen mentioned were present.

Q. And where was that meeting held?

A. It was held in Long Beach, California.

Q. And when?

A. The latter part of May, 1946.

Q. By whom were you notified that there was to be such a meeting?

The Court: Pardon me. What was the date?

Mr. Donohue: In the latter part of May, [2140] 1936.

Mr. MacInnis: He said '46.

The Witness: 1936. Excuse me.

Mr. MacInnis: Did you say 1946?

The Witness: 1936, I meant.

Mr. Donohue: I didn't hear it.

Mr. MacInnis: I heard it, '46.

Mr. Donohue: Is there any doubt as to whether it was 1936?

The Court: That is why I interrupted the witness.

(Testimony of Kermit Charles Krolek.)

The Witness: 1936.

Q. (By Mr. Donohue): And where in Long Beach, California, did this meeting take place?

A. The meeting took place in the Venetian Square Apartments in Long Beach at the end of the Boardwalk at the far end of the Pike in Long Beach.

Q. Can you tell us whether you went to this meeting alone or were you accompanied by someone else? A. I was accompanied by A. T. Pringle.

Q. Is that the same A. T. Pringle about whom you testified shortly ago? A. Correct.

Q. Where within this building was this meeting held, Mr. Krolek?

A. The meeting was held on the—I believe the third floor of this particular building. It was, as I recall, on the left-hand [2141] side of the building. I can identify the location of it. The actual room, or, rather, entrances to the room, consisted of a narrow spiral staircase which was surrounded on one side by a metal railing or wrought-iron railing.

Q. Was it a hall or living quarters, or what was the nature of the room?

A. It was an apartment.

Q. It was an apartment. Can you tell us, about how many people were there?

A. Eight or nine.

Q. And of the eight or nine who were there, will you tell us how many you can recall by name.

A. There was A. T. Pringle, Pyle——

The Court: What was that?

(Testimony of Kermit Charles Krolek.)

A. R. A. Pyle; T. J. Van Ermen——

Q. (By Mr. Donohue): How do you spell that name?

A. V-a-n E-r-m-e-n, I believe. There was Mr. Bridges, Mr. Schmidt, a chap by the name of Harry Jackson from Seattle, I believe. There were—there was a woman present who I understood the apartment to belong to, by the name of Hazel Wood, as I recall the name.

Q. Hazel Wood?

A. That is correct. And there was the waterfront organizer for San Francisco of the Communist Party, Walter Lambert. Those were the ones I recall at the moment. [2142]

Q. Now, on the occasion of this meeting, had you known Harry Bridges prior thereto?

A. I had met Bridges on various occasions. I have seen him in public.

Q. And had you met the defendant Henry Schmidt prior to this meeting? A. I had.

Q. Who was R. A. Pyle, who was also present?

A. He was the secretary of the American Radio Telegraphists' Association, Local 3, from San Francisco, at the moment—at that time.

Q. Had you attended prior to this meeting meetings of the Communist Party at which Mr. R. A. Pyle was also present?

Mr. MacInnis: Pardon me.

A. Various meetings.

Mr. MacInnis: Same objection; calling for the

(Testimony of Kermit Charles Krolek.)

opinion and conclusion of this witness upon meetings between other persons, not binding upon the defendants.

Mr. Donohue: I am trying, if your Honor please, to meet the request of counsel by showing that this witness is able to state to your Honor and the jury that the meeting in question was a meeting of the Community Party, or, perhaps I should say, rather, was a Communist Party meeting by showing his intimate knowledge of the membership in the Communist Party of every person present. [2143]

The Court: The objection is overruled.

Mr. Donohue: Did you move to strike that answer? I think he answered the question.

Mr. MacInnis: If you would like me to move to strike it, I will.

The Court: If there is a motion to strike, the motion is denied.

Mr. Donohue: Would you read the last question and answer.

(Question and answer read.)

Q. (By Mr. Donohue): Did you know Mr. T. J. Van Ermen before the meeting about which we are now inquiring? A. I did.

Q. And who was Mr. Van Ermen?

Mr. MacInnis: Pardon me. That calls for the opinion and conclusion of the witness who a person is.

Mr. Donohue: Of course, I think the witness understands my asking that question is identifying

(Testimony of Kermit Charles Krolek.)

him as being, as he said with respect to Pyle, associated with a local of the ARTA; just as if someone would ask me if I knew Mr. MacInnis, I would say I knew him as a member of the bar of the State of California. I think I am entitled to show that.

Mr. MacInnis: We are engaged in a lawsuit here, your Honor, and this man cannot bind other persons to any character that he wishes to ascribe to [2144] him.

Mr. Donohue: I am not trying to bind anybody. I thought your Honor's ruling on that matter was clear.

The Court: The objection is overruled.

Q. (By Mr. Donohue): Would you answer the question.

A. You asked the question if I knew T. J. Van Ermen. I did. I had met him on several occasions in Seattle. He was the secretary of Local 6 of Seattle.

Q. Local 6 of the ARTA? A. ARTA.

Q. And had you, prior to this meeting about which we are inquiring, attended a Communist Party meeting at which Mr. T. J. Van Ermen was present? A. I did.

Mr. MacInnis: Same objection, your Honor.

The Court: Overruled.

Q. (By Mr. Donohue): Who was Mr. Harry Jackson?

Mr. MacInnis: The same objection, your Honor.

The Court: Overruled.

A. Harry Jackson——

(Testimony of Kermit Charles Krolek.)

The Court: One moment. The objection is overruled.

Mr. Donohue: You may now answer.

A. Harry Jackson was a waterfront section organizer in Seattle for the Communist Party.

Q. Then you knew him to be a member of the Community Party? A. I did. [2145]

Mr. MacInnis: That is rather leading and suggestive.

Mr. Donohue: He said he was a Communist Party organizer on the waterfront in Seattle.

Mr. MacInnis: Then it is cumulative and repetitive of something that has already been answered, if that be the fact.

Q. (By Mr. Donohue): Did you know Walter Lambert prior to the time of this meeting?

A. I did.

Q. Who was Walter Lambert?

A. He was——

Mr. MacInnis: The same objection, your Honor.

The Court: Overruled.

A. He was a waterfront section organizer in San Francisco for the Communist Party.

Q. (By Mr. Donohue): And who was Hazel Wood? Did you know her prior to this meeting?

Mr. MacInnis: The same objection.

The Court: Overruled.

A. I did not know Hazel Wood; I met her for the first time when I attended the meeting in Long Beach.

(Testimony of Kermit Charles Krolek.)

Q. (By Mr. Donohue): And it is your testimony it was her apartment? A. Correct.

Q. At which this meeting was held. Will you tell us, Mr. [2146] Krolek, what was said and by whom in so far as you can recall it. Or may I strike that for a moment, if your Honor please? Mr. Krolek, have you exhausted your recollection as to the persons who were present at that meeting?

A. I believe I neglected to mention the name of Mervyn Rathborne.

Q. Did you know Mervyn Rathborne prior to this meeting? A. I did.

Q. And prior to the meeting about which we are inquiring had you attended meetings of the Communist Party at which Mervyn Rathborne was present?

Mr. MacInnis: The same objection, your Honor.

The Court: Overruled.

A. I attended several such meetings.

Q. (By Mr. Donohue): Now, Mr. Krolek, will you tell us as best you can recall it what was said and by whom at this meeting?

A. The meeting concerned itself with the matter of——

Mr. MacInnis: Pardon me. The witness has been asked to narrate a conversation. I think that he may do that by saying substantially what was said in his recollection by the persons present.

The Court: Counsel, he had only uttered three words.

Mr. MacInnis: Yes. Those words were not the words of any declarant and any conversation. [2147]

Mr. Donohue: I had the definite impression, if your Honor please, that the witness—I may be in error—was about first to state the general tenor or purpose of the meeting; and I hope to go from that point to the point where he may tell us who said what with respect to what.

Mr. MacInnis: I have always understood that the purpose or tenor of a meeting was to be implied by the Court or jury out of the context of the statements attributed to persons, but that a winess could not give his opinion and conclusion and thus bind the Court and jury.

The Court: There may be several answers to that, counsel. One immediate answer would be the nature of the call of the meeting. They may receive a call. There may be many answers to it, I don't know, but I will overrule the objection.

A. You asked the general tenor of the meeting, I believe, Mr. Prosecutor. The meeting itself was concerned with discussion pertaining to the slate of progressive candidates that would be recommended on the floor of the Maritime Federation of the Pacific convention which was being held currently at that time. I believe that was the main purpose—the discussion of the individuals from the standpoint of presidency, vice presidency, secretaryship, and so forth—minor officials—of the Maritime Federation of the Pacific for the forthcoming year, and

(Testimony of Kermit Charles Krolek.)

the program that was to be—was to have been determined upon at this meeting was the proponency or the [2148] sponsorship of certain people who the Communists, shall we say, and the liberal movement combined felt to be to the best interests of the Maritime Federation of the Pacific.

Q. (By Mr. Donohue): Have you any recollection of what conclusion was reached in consequence of that meeting?

A. There were several. The full slate of the officers——

Mr. MacInnis: Pardon me just a moment, your Honor. Your Honor, first this man has been asked for a conversation, then pursuant to your Honor's ruling he was allowed to state first the general purpose of the meeting. Now the prosecutor has abandoned entirely any request for conversation to ask him now for the conclusion.

Mr. Donohue: Oh, no, I haven't.

Mr. MacInnis: We are entitled to know what was said and not be bound by any unnamed persons saying unmentioned things beyond the memory of the witness. No record could be complete and cross-examination would be utterly frustrated if we were to be bound by the opinion of the witness without any attempt to state a fact or a statement that is alleged to have been made by some person present.

Mr. Donohue: I suppose, if your Honor please, if I adopted the unhappy method employed by my

(Testimony of Kermit Charles Krolek.)

distinguished adversary in making long and self-serving statements to the witness, calling for a negative or affirmative answer, I might avoid all these interruptions; but I think, if your Honor please, that one who [2149] has attended a meeting for a stated purpose, which he has stated, is certainly permitted to tell us what conclusion was reached, having in mind that your Honor has carefully instructed the jury that these matters are not binding upon these defendants but are only asked by me and testified to by the witness to show the character of the meeting.

The Court: With respect to the meetings wherein the defendants participated——

Mr. Donohue: Correct, your Honor; and these defendants were present, two of them.

The Court: I haven't undertaken to limit the rule that the testimony is not binding with respect to meetings wherein they participated.

Mr. Donohue: Yes, your Honor.

The Court: Certainly if evidence is elicited material where you contend it is with respect to meetings wherein the defendants participated, I assume that the Government is offering that evidence as against the defendants for all purposes.

Mr. Donohue: Correct, your Honor.

The Court: I would assume that.

Mr. Donohue: Yes. The point that I had in mind was, if your Honor please, the nature of this meeting—and that is the purpose of the question—is to be determined by the jury.

(Testimony of Kermit Charles Krolek.)

The Court: I think this: I feel that the witness should give to the best of his recollection the purport or the [2150] conversations, and attempt, so far as he is able and within the confines of his recollection, to ascribe the several conversations to the defendants, if any emanated from the defendants, and the pro and con of the conversation to the best of his recollection.

Mr. Donohue: I will withdraw the question.

The Court: And to omit a conclusion at this stage.

Q. (By Mr. Donohue): Mr. Krolek, can you tell us any of the conversation by any of the persons present at this meeting?

A. Obviously, after a lapse of so many years it is difficult for me to state it.

Mr. MacInnis: Pardon me. The witness is not allowed to make a comment upon the excellence of his own memory or upon his own credibility. That is purely a gratuitous, self-serving statement.

The Court: The objection is overruled, and the observation is likewise made that apparently this is a prefactory remark dealing with some matter.

The Witness: That is correct.

Mr. MacInnis: Your Honor, isn't it for the jury to determine if his memory is dim or if he should be expected to remember more or less after a period of years? It isn't for the witness to say what he should be expected to remember.

Mr. Donohue: I think the Court ruled.

Mr. MacInnis: I haven't heard his Honor make any ruling. [2151]

Mr. Donohue: He did.

The Court: No, I haven't made any immediate ruling. I was thinking about the subject matter of your observations, counsel.

Mr. MacInnis: Yes.

The Court: And true enough, the credibility of a witness is for the jurors in the final analysis under instructions appropriately given by the Court. At the same time we cannot so circumscribe the language to the end that the witness be obliged to give categorical answers Yes or No. I think that in fairness to you, Mr. MacInnis, that was a prefatory statement. If it be considered otherwise, it may go out of the record so we will have no dispute about it hereafter.

All right, sir. [2152]

Q. (By Mr. Donohue): Would you continue, Mr. Krolek?

A. As I started to say, it is most difficult to specifically state that this——

Mr. MacInnis: Pardon me. Your Honor just allowed the same observation to go out. The man may say, "As best I can remember, this was said." I mean that would be perfectly proper.

The Witness: May I answer the question in this way?

Mr. Donohue: Just a moment.

Mr. MacInnis: Pardon me. There is a matter before the Court.

(Testimony of Kermit Charles Krolek.)

The Court: Yes, you may delete that from your remarks.

Q. (By Mr. Donohue): Now, will you answer the question, Mr. Krolek?

A. Everyone that was present at that meeting partook of the general discussion and the matter, the paramount matter of prime importance was the determination, the selection of the candidates, the slate of officers who would be supported by the progressive element in the currently held Maritime Federation convention.

Mr. MacInnis: We move to strike that answer as repetitive of what has already been said and as not responsive to the Court's suggestion, now, that this man give us as best he can what was said by whom.

The Court: The motion is denied. I indicated in my [2153] observation the purport of the conversations. I assume that would be within the definition of "purport."

Q. (By Mr. Donohue): Do you recall anything, Mr. Krolek, which may have been said or was said by Mr. Bridges?

A. I might state this, that Mr. Bridges was chairman of the meeting.

Q. Do you recall any specific statement that he may have with respect to the purpose of that meeting or any of the incidents which occurred during the course of the meeting?

A. Well, presumably being chairman of the meeting, he must have introduced the subject.

(Testimony of Kermit Charles Krolek.)

The Court: That is subject to Mr. MacInnis' motion.

Mr. Donohue: I have no objection to that going out, if Your Honor please.

Mr. MacInnis: I think that the witness should be instructed——

The Court: Counsel, I have instructed him already.

Mr. MacInnis: I appreciate that, but I would suggest and ask Your Honor to instruct the witness to refrain from similar observations of his own opinion.

Mr. Donohue: Of course, if Your Honor pleases, Mr. MacInnis is within his right to object when he thinks objections are proper and within his duty, but it seems to me that the course of all these objections is futile in the light of the fact that as soon as a witness is subjected to cross-examination [2154] the same Mr. MacInnis asks for all kinds of conclusion on ~~the part~~ of a witness, in the light of which I think he might bear a little bit with us in the course of conducting this examination.

Mr. MacInnis: But what Mr. Donohue means by that is to criticize the law of evidence, which permits an entirely different rule to exist on cross-examination. The analogy——

Mr. Donohue: I will ask Your Honor to strike my own remark from the record. May I proceed to the witness, if Your Honor pleases?

The Court: Yes.

(Testimony of Kermit Charles Krolek.)

Q. (By Mr. Donohue): Mr. Krolek, have you exhausted your recollection with respect to anything that might have been said by any particular person who was present at this meeting?

A. I can't specifically state, Mr. Prosecutor, that anyone individually made any one specific statement.

Q. Now, having stated the purpose of this meeting, can you now tell us what, if any, conclusion was reached as a result of this meeting?

Mr. MacInnis: The same objection, Your Honor; having now stated under oath an inability to remember any specific statement which he can attribute to the lips of any person whom he says was present, I think, Your Honor, the witness is somewhat stultified from now going further and giving us a conclusion on a conversation which in whole he does not remember, and which [2155] in part he does not remember.

The Court: The objection is overruled.

A. The determination of the slate of candidates, as I best recall, for the presidency, the forthcoming presidency of the Maritime Federation was determined as Mr. James Ingstrom. The vice presidency I am not familiar with. I believe the subject of the secretaryship was involved, the question of Mr. Rathborne coming into the Maritime Federation from the position, that is, that he occupied at the time, as secretary of the District Council No. 3, I believe it was—District Council, to excuse me from San Francisco.

(Testimony of Kermit Charles Krolek.)

Q. Did you subsequently attend the convention of the Maritime Federation?

A. I did. I was a delegate to that convention.

Q. And are you able to tell us, therefore, whether or not Mr. James Ingstrom, the candidate which your meeting had selected for nomination, was or was not elected?

Mr. MacInnis: Pardon me. The records of that convention would certainly be the best evidence, Your Honor, unless they are unavailable. And I think we should not receive secondary evidence, and the objection is upon that ground.

Mr. Donohue: This witness was present as a delegate, if Your Honor pleases; certainly he would know.

The Court: The objection is overruled.

Mr. MacInnis: Your Honor, I tried in vain yesterday to [2156] elicit from a man who said he knew something about motions at a convention, and each time the prosecution——

The Court: No, he said the resolution he referred to was not the same resolution he had under discussion.

Mr. MacInnis: Yes, and he said before that that Mr. Harry Bridges had bound himself to make that resolution.

The Court: I hoped and expected that we had completed the events of yesterday. I thought we had launched into a new day.

Mr. MacInnis: I would hope so, Your Honor.

(Testimony of Kermit Charles Krolek.)

The Court: However, we may proceed with the witness.

A. I will answer the question this way, that none of the candidates who were discussed and proposed by the Communist fraction meeting referred to were subsequently elected by the convention as a whole.

Q. Did there come a later time, Mr. Krolek, when you attended Communist Party meetings at which either the defendant Harry Bridges or Henry Schmidt or both were also present?

Mr. MacInnis: Pardon me, Your Honor. The objection to that question is, it is incompetent, irrelevant and immaterial, it is putting a character upon an alleged meeting before the witness himself gives any answer. I think he may be asked if there was any meeting where he met these men and then the Court and the jury can pass upon the type of meeting which it may turn out to be, if it existed.

Mr. Donohue: We have just been through this, if Your [2157] Honor pleases, and of course I shall, as I did before, bring out the detail of the meeting to justify the conclusion of the witness.

The Court: The objection is overruled.

A. There were other such meetings, yes.

Q. (By Mr. Donohue): When was the next such meeting that you now recall?

A. I recall a meeting which was held in Portland, Oregon, at the time that the Maritime Federation Convention of the Pacific, after the one that I have just referred to—in other words, the succeeding year, took place.

(Testimony of Kermit Charles Krolek.)

Q. Where in Portland, Oregon?

A. There were several such meetings. One was held in the New Lennox Hotel. Another was held in, I believe, the second story of the Bus Terminal Building, and another meeting was held in, I believe, a studio building on Park Street.

Q. And all of these places are in Portland, Oregon? A. That is correct.

Q. What is your best recollection as to the time at which these meetings took place?

A. May I clarify that? You mean, with respect to the year or the month?

Q. Yes. Let's begin with the year.

A. Well, the meetings took place in 1937, I would say, the second week of June, to the best of my recollection. [2158]

Q. Going back to the year 1936, the year during which the meeting you have just described took place, did you attend any other meeting at which either the defendant Harry Bridges or the defendant Henry Schmidt was present?

A. I attended, not a meeting, Mr. Prosecutor, but I was present at 121 Haight Street.

Q. When?

A. I would say two weeks after the meeting in Long Beach that I referred to. It was at the time when I subsequently returned on my way back to Portland, Oregon, and passing through San Francisco I had occasion to be present at 121 Haight Street.

The Court: Pardon me, Mr. Witness. The

juror—Can you hear all right? Speak just a little slower.

The Witness: I tried to slow down a bit.

Q. (By Mr. Donohue): What was 121 Haight Street?

Mr. MacInnis: Same objection, Your Honor: calling for the opinion and conclusion of this witness.

The Court: Overruled.

A. 121 Haight Street was the Communist Party headquarters in San Francisco.

Q. And this, you say, was shortly after the conclusion of the convention at Long Beach?

A. I would say about two weeks thereafter.

Q. Did you go to 121 Haight Street alone or were you accompanied by someone else? [2159]

A. No, sir, I was accompanied by Pringle and Pyle.

Q. And that is A. T. Pringle and R. A. Pyle?

A. That's correct.

Q. And those are the same persons concerning whom you have testified just a few minutes ago?

A. That is true.

Q. What occurred when you went to 121 Haight Street with these two men?

Mr. MacInnis: Pardon me. I couldn't hear that question.

The Court: Would you repeat the question?

Q. (By Mr. Donohue): What occurred when you went to 121 Haight Street with these two men?

Mr. MacInnis: Your Honor, we don't have the

(Testimony of Kermit Charles Krolek.)

time or place or persons present. I would like to know if it is in advance of one of these meetings that these defendants are alleged to have been present, or any or either of them.

The Court: He said Mr. Pyle and Mr. Pringle accompanied him to this meeting.

Mr. Donohue: And the time is two weeks after the close of the Maritime Federation convention, and the place was 121 Haight Street, in the Communist Party headquarters.

Mr. MacInnis: Well, if this is not in the presence of the defendants,——

Mr. Donohue: We will get it in their presence.

The Court: This is preliminary, perhaps; if the presence [2160] is not indicated, I will make an appropriate ruling.

Q. (By Mr. Donohue): What occurred when you went to 121 Haight Street?

A. The two individuals with whom I stated I went to this meeting, and myself, were asked to remain in the corridor of the building, and Mr. Schomaker, Mr. Bridges and Mr. Schmidt went inside an office, presumably in consultation with Mr. Schneidermann.

Mr. MacInnis: Now pardon me.

The Court: "Presumably" may go out.

Mr. MacInnis: "Presumably in consultation with Mr. Schneidermann?"

The Court: Yes, that may go out.

Mr. Donohue: Yes, the basis for that statement will be apparent in just a moment.

(Testimony of Kermit Charles Krolek.)

Q. Now, let's get down to the physical facts. You went there with Pringle and Pyle?

A. Right.

Q. Whom did you see and in what part of the building when you first went into the building?

A. We walked in the entrance. I observed Mr. Bridges, Mr. Schmidt and through the opening of a door I was able to observe Mr. Schneidermann sitting in a room.

Q. And whom else did you see other than Mr. Schmidt, Mr. Bridges, and through the open door, Mr. Schneidermann? [2161]

A. Schomaker was present.

Q. And will you tell us what occurred after you saw these three men in the corridor? A. Yes.

Q. What did you see them do?

A. We waited a considerable period of time, after which we became impatient and started to inquire as to when this discussion would be concluded, and the appointment——

Q. Pardon me. You may not testify——

Mr. MacInnis: We don't want to hear what he said to other persons.

Mr. Donohue: I was just about to advise him that we were not permitted to ask you what was said to you by any person unless it may have been either of these defendants.

The Witness: I am sorry.

Q. (By Mr. Donohue): But in consequence of what was said——

The Court: Or in the presence of the defendants.

(Testimony of Kermit Charles Krolek.)

Q. (By Mr. Donohue): Or in the presence of the defendants. In consequence of anything that was said, did you do anything?

A. We waited.

Q. And what happened? How long did you wait, can you tell us?

A. Waited a very extensive length of time. I would say better than an hour.

Q. And during that period of time was there anyone else with you other than Pringle and [2162] Pyle?

A. Those are the only ones I can recall.

Q. And did there come a time when the door opened and if so, tell us what happened.

A. I don't recall the fact that either Mr. Bridges or Mr. Schmidt left, as I did not see them leave. But the word was communicated to all three of us——

Q. You may not testify to what was said to you. Did there come a time when you left the building?

A. We did.

Q. And up to the time when you left the building, did you ever again see Mr. Schmidt or Mr. Bridges? A. I did not.

Q. And as far as you are able to tell us, they were still in that room where you saw them enter?

A. Correct.

Mr. Donohue: I wonder if we might take the recess?

Mr. MacInnis: I would like to move to strike this whole colloquy. The prosecutor promised us that he would lead us to some purpose in a moment.

(Testimony of Kermit Charles Krolek.)

Now it appears that this man looked in a room and saw Harry Bridges, and then didn't see him thereafter. Didn't hear him speak or anything else.

Mr. Donohue: Maybe he didn't hear him. He said he looked in a room in Communist Party headquarters in which Mr. Schneidermann was present and saw Mr. Bridges and Mr. Schmidt and Mr. Schomaker go in. [2163]

Mr. MacInnis: Your Honor, that wouldn't throw any light on this case, any more than it would be a matter of defense to show that on other occasions Mr. Bridges has been sitting with some bank president in San Francisco.

The Court: Well, no doubt counsel hereafter, as well as the defense, will argue circumstances in this case?

Mr. Donohue: Yes, Your Honor.

The Court: The motion is denied, counsel.

Ladies and gentlemen of the jury, I admonish you again not to discuss this case with any person or persons nor to converse with anyone on the subject of the trial, not to form nor express an opinion thereon until it is finally submitted to you.

We will take the morning recess.

(Recess.) [2164]

Mr. Donohue: May I proceed, your Honor?

The Court: Yes, you may.

Q. (By Mr. Donohue): Mr. Krolek, do you know now who Hazel Wood was?

A. Hazel Wood, I understand, is the wife of Walter Lambert.

(Testimony of Kermit Charles Krolek.)

Q. And it was her apartment at which this meeting was held about which you have testified?

A. True.

Q. Mr. Krolek, has any reward or compensation been offered to you by the United States in return for your testifying here?

Mr. MacInnis: Pardon me, your Honor. He is cross-examining his own witness.

Mr. Donohue: I am not cross-examining him.

Mr. MacInnis: That is for the Court and jury to determine, after all his testimony is offered.

Mr. Donohue: I think that is a question I am entitled to ask this witness on direct examination.

Mr. MacInnis: The question can be asked on cross-examination.

Mr. Donohue: Why can't I ask it?

Mr. MacInnis: Because it is a question that goes to the credibility of the witness.

Mr. Donohue: I may even be bound by the question, and I am willing to be bound by it.

Mr. MacInnis: Then it is a self-serving question, your [2165] Honor.

The Court: The objection is overruled.

Mr. Donohue: Will you answer the question.

A. There was no compensation offered me, no, sir.

Q. Have any promises been made to you in return for your coming in to testify today by the United States? A. None whatever.

Q. Or by any of its agents? A. No, sir.

Mr. Donohue: You may have the witness.

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**TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES**

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY
SCHMIDT and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

Volume V
(Pages 1935 to 2408)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY
SCHMIDT and J. R. ROBERTSON,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

In .... Volumes

Volume V
(Pages 1935 to 2408)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

(Testimony of Kermit Charles Krolek.)

Cross-Examination

By Mr. MacInnis:

Q. You say that it was in the winter of 1935 that you became Comrade Conrad, is that right?

A. That is true.

Q. And you were a member, according to your lights, of this Communist Party when you went to Long Beach in 1936? A. Correct.

Q. What was the month of that meeting that you described in the apartment at Long Beach?

A. The meeting, I believe, as I believe I stated in my testimony, was the latter part of May, 1936.

Q. The latter part of May, 1936. And did you say that the name of the apartments was the Venetian Square Apartments?

A. That is correct.

Q. What floor did you say that apartment was on? [2166]

A. I believe I stated on the third floor.

Q. And you described the kind of staircase that you climbed in order to reach it?

A. Quite true.

Q. What kind of a staircase was it?

A. Very narrow stairway, I would say possibly three feet in breadth, which was surrounded by an iron railing—wrought iron railing.

Q. And when you got to the third floor landing, this apartment was on what side, the right or the left? A. As I recall, it was on the left.

(Testimony of Kermit Charles Krolek.)

Q. The left side. Mr. Krolek, have you been down to that apartment since May of 1936?

A. Yes, sir.

Q. When.

A. I would say approximately two and a half weeks ago.

Q. So that is why you can tell us based on your supposed memory of fourteen years ago——

Mr. Donohue: Object to that, your Honor——

Q. (By Mr. MacInnis, Continuing): ——the name and the floor and the left side?

Mr. Donohue: That is argumentative.

Mr. MacInnis: I will withdraw the question.

Mr. Donohue: You shouldn't have asked the question in the first place. [2167]

Mr. MacInnis: I will select such procedure as I will choose myself.

Mr. Donohue: No; I think you should select such procedure as his Honor chooses.

Mr. MacInnis: I will always try to obey the rulings of the Court.

Mr. Donohue: You didn't obey it then.

Mr. MacInnis: But not the ruling suggested by you in advance.

The Witness: May I offer a comment, your Honor?

The Court: Certainly.

The Witness: This visit that I made approximately three weeks ago was as a matter of fact made at no expense to the Government. I happened to be in Los Angeles at the time and I was asked by the Government if I could identify, of my own volition and free will and without any prompting, the apartment in which this meeting was held, and I volunteered to do so, and I did so.

Mr. MacInnis: We appreciate that you are quite willing to give this testimony, Mr. Krolek.

Q. Was anyone from the Immigration Department of the United States with you in Long Beach at the time?

A. Correct. I was accompanied by a gentleman.

Q. Who?

A. One of the officials from the Department in Los Angeles. [2168]

Q. What was his name?

A. I have it here. Shall I answer the question?

The Court: Yes. Counsel asked you——

Q. (By Mr. MacInnis): You mean you are unwilling to answer questions put to you by the defense even when they are asked you, unless the Court orders you?

The Court: Mr. MacInnis——

Mr. MacInnis: That reflects the tendency of the witness, your Honor.

Mr. Donohue: Let the jury decide that. It isn't for you to say.

Mr. MacInnis: Yes, it is.

The Court: Mr. MacInnis, I again state to you that I am reluctant to interfere with the cross-examiner at any stage. I have tried to refrain from any interference during the last several days, but I know that you must know that this practice and procedure is not in keeping with orderly court procedure.

Mr. MacInnis: May I respectfully say this to your Honor?

The Court: Yes.

Mr. MacInnis: We have a man who has been brought here; the Government itself elicited the question, "Have you been offered any reward?" The man has given a story with perfect details about a place he visited fourteen years ago. Then I asked him a question on cross-examination, "Who was with you?" and he turns and he asks the Court's permission before he will [2169] even answer it.

The Court: No, no. He said this—Is the record available? Will you read the question and answer so we will have a clear concept of what occurred in the record.

> (Record read as follows: "What was his name?" "A. I have it here. Shall I answer the question?")

Mr. MacInnis: And may the record show that the witness turned to the Court when he made that statement?

The Court: You haven't the text. There was a colloquy between Mr. Donohue and Mr. MacInnis.

Mr. Donohue: It follows the question, if your Honor please.

The Court: Do you have that colloquy that occurred?

The Reporter: Yes, your Honor.

The Court: May I have it?

(Record read.)

The Court: I think I have sufficient. As I understood it, the witness turned to me to ask whether he could answer the question from a memorandum. Is that you have in your pocket?

The Witness: That is correct.

The Court: I assumed that he had a memorandum because he was reaching into his pocket.

Mr. MacInnis: I am not in doubt about that, your Honor.

The Court: I think it was apparent. [2170]

Mr. MacInnis: Your observation is the same as mine.

The Court: As though he had a memorandum with a name on it.

Mr. MacInnis: Yes. The point is, he turned and asked your Honor before he would answer the question, even though there was no objection by the prosecution.

The Court: All right. I was about to say, maybe we are drawing too fine. I have no reflection on you, but I thought the man was reaching in his pocket.

Mr. MacInnis: Your Honor was quite correct on that.

Q. Having consulted this memorandum, who was the person who met you or accompanied you in Long Beach at that time?

(Testimony of Kermit Charles Krolek.)

A. The gentleman is John R. Heldring.

Q. John Helderle?

A. Heldring—H-e-l-d-r-i-n-g.

Q. Is he in the courtroom now?

A. I don't believe he is.

Q. Was he the only person from the Immigration Service whom you saw in Long Beach on that occasion? A. Correct.

Q. And on that occasion you went to this place which you call the Venetian Square Apartments, you went to the physical apartments, did you?

A. Right.

Q. Did you walk up to the third floor? [2171]

A. I did.

Q. Did you observe this narrow staircase and put your hand upon the wrought iron stairway side wall? A. Precisely.

Q. And you walked up to the third floor landing again two and a half weeks ago and saw that the door to this apartment was on the left?

A. That is correct. I might ask you—answer your question this way: that I believe I stated in the testimony that I was not certain—certainly not certain as to the room number, and I merely described the location of this room geographically.

Q. We understand you, Mr. Krolek. Now, Mr. Krolek, in addition to the precise description which you gave us about the apartment and how it was situated, although disclaiming any good memory on other things of fourteen years ago——

(Testimony of Kermit Charles Krolek.)

Mr. Donohue: That is argumentative, your Honor, and is highly improper.

The Court: It is argumentative, Mr. MacInnis.

Mr. MacInnis: I will rephrase the question.

Q. You did tell us the names of persons whom you say you now recall as being present, is that right? A. Right.

Q. You were able to give us the names of about eight persons, giving us initials of each person, weren't you? [2172] A. True.

Q. And I think you said that one man's name was T. C. Van Ermen, is that right? A. T. J.

Q. T. J. And you said another man's last name was Pyle? A. Right.

Q. What were his initials? A. R. A. Pyle.

Q. Another man named Pringle?

A. Correct.

Q. You gave his initials, too?

A. Right; A. T. Pringle.

Q. You gave the full name of Harry Jackson?

A. That is right.

Q. And the full name of Hazel Wood, is that right? A. That is right.

Q. Before taking the stand this morning as a witness on behalf of the prosecution had you seen any written memorandum at all in which those names were listed? A. Yes, I did.

Q. Where did you see that?

A. On several occasions. I may state at this time in the year 1939 I offered testimony to the

(Testimony of Kermit Charles Krolek.)

Federal Bureau of Investigation consisting of approximately six or seven pages, at which time my memory was considerably more refreshed, shall we [2173] say, than it is at the moment with respect to the activity of certain people in the Communist movement.

Q. You gave testimony in 1939 before the Federal Bureau of Investigation? A. I did.

Q. And were you shown that testimony or a transcript of it? A. I was.

Q. Were you shown any other documents with a list of the names of the eight people you have given us today?

A. The names of those eight people I had recalled in 1939; consequently my memory, of course, was refreshed.

Q. The last question was, Had you seen any other list with those names upon it?

A. I have not.

Q. You have not? A. No, sir.

Q. How lengthy a statement did you give to the Federal Buerau of Investigation in 1939?

A. I believe I said about six or seven pages.

Q. About six or seven pages. Now, with reference to these names and these lists—I see you keep looking down into the courtroom where Mr. Kaiser is sitting.

A. I will confine my direct look to you, if you wish.

Q. You may look where you chose, Mr. Witness,

(Testimony of Kermit Charles Krolek.)

but were you looking at Mr. Kaiser at that [2174] moment? A. Not at all.

Q. I will tell you why I asked that question——

Mr. Donohue: I don't think it is important why counsel asked the question, and I don't think the question was pertinent in the first place.

Mr. MacInnis: Your Honor will perceive——

Mr. Donohue: I don't think he partakes of the Divine. Only the Divine can tell where the man was looking in the courtroom, not Mr. MacInnis.

Mr. MacInnis: You have asked a lot of these people questions that only the Divine could answer.

Mr. Donohue: I think, Mr. MacInnis, that if you read the record you will find that 90 per cent of the record is taken by your verbose questions and about only 10 per cent with what the witness says.

Mr. MacInnis: I will cheerfully accept this criticism if I may be permitted to go on.

Q. When you were asked by the prosecutor, who just now chided me on my manner of conducting the case, about this list of people, you left out the name of Mervyn Rathborne at first, did you not?

A. That is correct, yes.

Q. And you were looking out toward the courtroom at that moment, were you not?

A. I can't particularly recall. I don't [2175] believe so.

Q. Didn't you notice at that time that Mr. Kaiser rose from his seat with a document that he had, walked up to this gentleman, Mr. Boyd, who in turn transmitted a note to Mr. Donohue, and then by some process which I won't call Divine, you were

(Testimony of Kermit Charles Królek.)

then enabled to add the name of Mervyn Rathborne to your list; is that correct?

A. The only action I was observant of was the transmission of a yellow piece of paper to Mr. Donohue, but I am certainly not stating that such action prompted my addition of Mr. Rathborne's name.

Mr. Donohue: I think I should observe at this time, without any comment on my part, that Mr. MacInnis has been carrying messages—I should say Mr. Hallinan has been carrying messages to Mr. MacInnis for three days. I have made no point on that.

Mr. MacInnis: I have been cross-examining the Government's witnesses without memoranda, knowing all the background of their testimony.

Mr. Donohue: You not only had memoranda; you have had records and books. I never saw so many papers.

Mr. MacInnis: We do the best we can, it is true.

Q. Now, with reference to your meeting in Long Beach with the member of the Immigration Service whose name you have offered us, when did you make the arrangement to meet him in that city for the purposes which you have described? [2176]

A. I made the arrangement by telephone. I happened to be staying in Los Angeles at the time, and I called this particular gentleman. I was asked if my cooperation could be elicited by Mr. Donohue in San Francisco and I told him that it would be; that I would call the gentleman upon my arrival in Los Angeles, which I did.

(Testimony of Kermit Charles Krolek.)

Q. In respect to you, let us take one thing at a time. You telephoned the Immigration Service in Los Angeles?

A. I contacted the Immigration Service.

Q. You mean you went to their office?

A. By telephone.

Q. A moment ago I asked you if you telephoned and you said that you "contacted" the Immigration Service.

A. I believe you phrased the question to indicate there was something different in your mind.

Q. You contacted by telephone the Immigration Service in Los Angeles, you being down there on business, is that right? A. Correct.

Q. You weren't contacted first on that occasion by the Immigration Service, but you instigated the contact by placing a phone call to that office?

A. I was asked to contact the Immigration Service in Los Angeles.

Q. Now, who made that request of you?

A. The Immigration Department in San Francisco. [2177]

Q. And when was that request made?

A. Say possibly three or four weeks ago.

Q. What person made that request to you?

A. As a matter of fact, I was visited by Mr. Meyers at my home, and the request was made by him.

Q. Who is Mr. Meyers?

A. A gentleman that I understand is connected with the prosecution of the case.

(Testimony of Kermit Charles Krolek.)

Q. Is he here in court?

A. I see him sitting there in the rear, yes.

Mr. MacInnis: May we ask that Mr. Meyers stand and identify himself.

(A gentleman arose in the body of the courtroom.)

Q. (By Mr. MacInnis): Was he the first man from the Immigration Service to whom you had talked? A. By no means.

Q. Now, before you talked to Mr. Meyer or Meyers, as the case may be, whom had you talked to before?

A. Various individuals, representatives of the Immigration Department. I spoke to Mr. Donohue, as a matter of fact, when he called on me in my home, which happened to be last Memorial Day.

Q. Mr. Donohue called at your home on Memorial Day? A. That is correct.

Q. That is your home at Belmont? [2178]

A. That is correct.

Q. Was he alone, or was any other person with him?

A. Well, he—the remarks to me were made alone by him.

Q. You mean if there was someone with him, that person did not enter the house with him?

A. He did not.

Q. Mr. Donohue, however, paid a call upon you upon Memorial Day? A. That is right.

Q. And was taken inside of the house?

(Testimony of Kermit Charles Krolek.)

A. Right.

Q. Did you discuss this case then?

A. We did.

Q. How long a time was consumed by that interview or conversation?

A. I would imagine possibly three-quarters of an hour to one hour.

Q. Mr. Donohue was entirely alone?

A. He was alone in my home, yes.

Q. Had you met him before?

A. I had not.

Q. In your home was your wife present during the conversation? A. She was.

Q. And you hadn't met him before?

A. I hadn't. [2179]

Q. He introduced himself to you on that holiday and stayed an hour or so talking about this case?

A. Correct.

Q. Before Mr. Donohue thus visited you on Memorial Day, had you seen any other person connected with this prosecution? A. Several.

Q. Would you name them, please.

A. I would say possibly the one most important in the order of—that is, from the standpoint of the trial would be Bruce Barber.

Q. Yes, I guess he is rather important. He is chief of the Immigration Service, is he?

A. So I am told. [2180]

Q. Where had you seen him?

A. Called at my home several times. As a matter of fact, I remember, possibly as far back as a year ago.

Q. Was he alone at that time?

A. The occasions were various; sometimes he contacted me when he was alone and sometimes there were others with him.

Q. About how many times did he contact you?

A. Possibly three or four.

Q. And was he the first person from the Immigration Service or from this prosecution to contact you? A. Correct.

Q. On the visit that you have now described?

A. That's correct.

Q. And that was about a year ago?

A. Right.

Q. From that point onward in time, how many contacts or visitations did you have with persons connected with the prosecution of this case?

A. Numerous.

Q. Pardon? A. Very many, I would say.

Q. Would you make——

A. On the order of, oh, possibly a dozen—maybe more.

Q. How many times were these men to your house?

A. It would be very hard to name. They were there quite a [2181] number of times, yes.

Q. Have you met Mr. Kaiser? A. Oh, yes.

Q. Has he had some interview with you?

A. He has.

Q. How many times?

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(Testimony of Kermit Charles Krolek.)

A. Possibly three times.

Q. Did you give him any written statement on this case?

A. I gave no written statement to Mr. Kaiser, no.

Q. Did you go over any portion of your testimony with Mr. Kaiser?

A. I went over portions of my previous testimony which I gave to the FBI with other individuals.

Q. I am speaking of the testimony that you have offered us here in court.

A. The matter of testimony, I believe that I am citing here, I did offer in written form, yes, to the Immigration Department.

Q. When did you make a written statement in connection with this case, first?

A. Possibly a month ago.

Q. Where was that?

A. Made here in San Francisco.

Q. Who was present and where?

A. Mr. Meyers was present and took my deposition.

Q. Anyone else? [2182]

A. That is all; the stenographer.

Q. Just you, Mr. Meyers and his stenographer?

A. Right.

Q. Have you met Mr. Boyd?

A. I met him this morning.

Q. You had not met him before?

A. No, sir.

(Testimony of Kermit Charles Krolek.)

Q. And how many times in all had you seen or been interviewed by Mr. Meyers?

A. I would say probably half a dozen.

Q. You are living at home, of course, now, in Belmont?

A. Well, whenever I am home, yes.

Q. What do you mean by that?

A. I travel extensively.

Q. Well, isn't that your fixed place of residence?

A. Belmont is my legal residence, yes.

Q. Now, when I asked you a few moments ago about the name of the person who accompanied you in Long Beach to the Venetian Square Apartments you indicated at least that you would have to refresh your memory on that person's name from a memorandum, is that right?

A. That's correct, because his name is rather unusual, and I wanted to get the correct pronunciation.

Q. May I see that memorandum?

Mr. Donohue: I object, if Your Honor [2183] pleases.

Mr. MacInnis: Well, Your Honor, a memorandum——

The Court: Did the witness resort to the memorandum?

Mr. MacInnis: Yes, he did.

Mr. Donohue: I don't know.

The Witness: I did not resort to the memorandum. If it pleases the Court, I can submit the contents of my bilifold and you will not find the name of John Heldering in it.

(Testimony of Kermit Charles Krolek.)

Mr. MacInnis: Well, Your Honor, he told us he had to look at his memorandum because it was such an unusual name.

The Court: If the witness resorted to the memorandum, you may have it on cross-examination. Apparently he did not. Is that correct?

The Witness: I did not. I started to look in my notebook, and the thought came back to me that I did not have the name, and I recalled it.

Q. (By Mr. MacInnis): Did you have some other memoranda on this case?

A. I have no memorandums whatever.

Q. How many times did you see Mr. Barber in all?

A. I believe I answered the question previously; three times or so.

Q. Did you stay last night in San Francisco?

A. No, I stayed in Los Angeles.

Q. You just arrived from some business trip?

A. Correct. [2184]

Q. And how many times in all did you tell us that you had seen Mr. Kaiser?

Mr. Donohue; Oh, I object, if Your Honor please; I don't know what the purpose of this perpetual and continuous questioning of the witness is. Mr. MacInnis knows, as every lawyer knows, that no one puts a witness on the stand unless he has talked to the witness to find out what the witness will say. If Mr. MacInnis will state to Your Honor that his purpose in this line of questioning is to show that we have influenced or persuaded or intimidated

(Testimony of Kermit Charles Krolek.)

or promised reward to any witness for his testimony, I will have no objection to any number of questions. But it seems to me it is repetitious, it serves no purpose except the purpose of delay.

Mr. MacInnis: Your Honor, it serves this purpose: This witness in the first instance gave us a very vivid account of a meeting and described a place perfectly. Then it comes out that two and a half weeks ago he was taken there by a member of the Immigration Service and walked over the same ground. Now, obviously,—

The Court: I think, if I may interrupt you, there is a slight correction. As I understand his testimony, to the best of my recollection, he stated under oath that he was not taken there, that he went there of his own volition.

Mr. MacInnis: Oh, yes, he did say that.

The Court: That it was at the behest of the Department of [2185] Immigration, to determine whether he, the witness, might, independently of any outside influences or persuasion or the like, identify the place. Is that correct, sir?

The Witness: That is correct, Your Honor.

The Court: All right.

Q. (By Mr. MacInnis): Now, when you say that you have made no memorandum, that statement applies to the meeting that you say you attended in May of 1936, at Long Beach?

A. That is true. I made no memorandum on any subject in connection with this case.

Q. You mentioned a union in which I think you said you held membership, the ARTA, is that correct? A. Correct.

Q. What is the full name of those initials?

A. American Radio Telegraphists Association.

Q. And when did you leave that union, if you ever did?

A. I left the union, Local No. 8, which I testified I was secretary of in Portland, at the conclusion of the 1935-1936 strike—or the '36-'37 strike, I beg your pardon. And I came to San Francisco and assumed the duties of acting secretary of Local 3 of that same union.

Q. You were still a member of the union, then, when you came to San Francisco?

A. Correct.

Q. Could you tell us when you left that [2186] union?

A. Well, the question is difficult to answer, in this respect, that I had no occasion to pursue the activity of the type for which the union had control; that is, namely, the placement of radio operators aboard vessels. And I gravitated into other fields. I might give you this instance, that when I did leave the union, that the, shall we say, the people that were in control of certain activities in the union regarded me, as, in the vernacular, a Trotskyite and I was thereupon blacklisted by the union, and of course the interpretation by the employer class naturally being that I was also a Communist, I was naturally blacklisted by the employers, so for that reason I went into my own business.

Q. Now, in what month of what year did you deem that you left the union?

(Testimony of Kermit Charles Krolek.)

A. I would say in July of 1937.

Q. Now, were you an officer of the Maritime Federation of the Pacific?

A. I was secretary-treasurer of District Council No. 3.

Q. And for what period of time did you hold that office?

A. Not quite concurrently with that of my duties as secretary of Local No. 8 in Portland.

Q. What do you mean by "not quite concurrently"?

A. I believe I indicated that my tenure of office in Local No. 8 was approximately a year and a half, and my tenure in the Maritime Federation was about one year. [2187]

Q. Did you resign from that office in the Maritime—— A. I did.

Q. What was the reason for that?

A. I had pneumonia and I had to come to San Francisco with it.

Q. And do you remember what time that resignation took effect?

A. The resignation took effect right after the conclusion of the 1936-'37 maritime strike.

Q. Which was about in what month of 1937?

A. February, I believe, of 1937.

Q. And then you came to San Francisco, is that right? A. Correct.

Q. Now, you tell us that you joined the Communist Party in the winter of 1935 and remained in as a member until the spring of 1937?

(Testimony of Kermit Charles Krolek.)

A. That is correct.

Q. Is that correct? A. Correct.

Q. You told us about some of your employment. Now, you worked in Waltham, Massachusetts during some part of the war, did you not?

A. I did not work in Waltham, Massachusetts. I worked in various localities; my work principally in the Bay Area. I went out on several task force units in connection with the war effort. I was a radar engineer. [2188]

Q. For what companies were you working?

A. For the Raytheon Manufacturing Company in Waltham, Massachusetts.

Q. Yes. And later you worked at the Naval Shipyards as a, did you say, electronics engineer?

A. I was supervising electronics engineer.

Q. That was here in San Francisco?

A. That's right.

Q. And what period did that cover?

A. It covered slightly better than one year.

Q. And what was that year?

A. Well, the year was 1946, as a matter of fact, until September of 1946 to be exact.

Q. Have you told us about all of your employment, to the best of your memory?

A. I believe so.

Q. Did you have any other government job that you haven't told us about?

A. I had a job with the National Youth Administration for a while, yes—just prior to the war.

Q. Called the NYA? A. Right.

(Testimony of Kermit Charles Krolek.)

Q. And in what period of time did you work with that organization?

A. Upon the termination of my employment with Mr. W. F. Olson, [2189] until shortly before the advent of Pearl Harbor.

Q. In any of these government employments or employments connected with the war effort, were you given any loyalty questionnaire or check?

A. I was given many.

Q. And in those many loyalty questionnaires, were you asked if you had ever been a member of the Communist Party? A. I was.

Q. When was the first of such loyalty tests that you took?

A. I would say the most extensive would be, to answer your question directly, it was the one that was given to me prior to entering employment with the Raytheon Manufacturing Company.

Q. Did you have a similar or further checkup or test when you came to the Naval Shipyards in San Francisco? A. I did.

Q. Back in 1941 did you have such a test?

A. I did.

Q. And similar questions had been asked you at that time? A. Correct.

Q. You said that you were born in Canada, is that right? A. Correct.

Q. Brought here when you were an infant?

A. Right.

Q. And that your father was naturalized?

A. That is true. [2190]

Q. Is he living? A. No, sir.

Q. Where was he naturalized?

A. Naturalized in Glendive, Montana, in the year 1919.

Q. Now, as to the Communist Party, during the periods of time that you say you held membership, you say that you attended at least 30 to 35 meetings, is that true? A. That's correct.

Q. Were those meetings meetings which bore various titles? That is, was one or were all meetings the same, or did they have different names?

A. They were unit meetings, section meetings and fraction meetings.

Q. Those were the three general types of meeting, is that true? A. Correct.

Q. Did you ever attend meetings in which members of the Communist Party gathered to discuss some subject with persons who were not members of the party? A. I did.

Q. What were those meetings called?

A. They had no specific name; they were termed generally "open meetings."

Q. Opening meetings.

A. Any one of a liberal, progressive nature that cared to [2191] attend, I believe, was welcome to do so.

Q. Well, would there have been meetings during this period of time between members of the Communist Party and persons in the labor movement who might be sympathetic but who were not actually members of the Communist Party?

A. Those meetings were quite frequent, and they were generally called for the indirect purpose of organization.

Q. In other words, on those occasions the persons who were asked to attend along with the members of the Communist Party were being urged to support some move which would be to the good of the labor movement generally?

A. That is right.

Q. And maybe particularly to the good of the Communist Party? A. Quite true.

Q. So that the non-Communists and the Communists, to that extent, could work together on those occasions? A. Exactly.

Q. Could a non-Communist attend, on any kind of occasion, a Communist meeting by invitation?

A. No, sir.

Q. There would never be such a purpose?

A. True Communist meeting was called only for Communists, and of course was called by the extension of an invitation to people who were known Communists.

Q. About how many meetings do you recall having attended in [2192] which members of the Communist Party, that is, persons who were in your opinion members of the Communist Party, met along with trade unionists who may not have been members of the Communist Party?

A. That is a difficult thing to state. There were many of them. I don't recall the exact number.

Q. You couldn't recall that very well?

(Testimony of Kermit Charles Krolek.)

A. Very difficult.

Q. And actually, of course, your acquaintanceship with the Communist Party, I suppose, had begun to dwindle before you actually dropped out?

A. That's correct. I think I began the explanation of that in my testimony, that I discovered in 1937 that the—shall we say, the emasculation of the Communist Party of the true liberal movement was such that I could no longer tolerate it, and consequently I dropped out. I might say in connection with that, further, that considerable amounts of money were being poured in before the Committee of Industrial Organization, that was then headed by Lewis for the CIO, and before it was officially set up, and that a portion of those monies were diverted into Communist channels for the organization of Communists, rather than those of trade unionists.

Q. Was John L. Lewis a Communist, in your opinion?

A. I have no knowledge; I understand not.

Q. Now, you said a few moments ago that when you began to [2193] leave the union, I think the ARTA, that you were called a Trotskyite?

A. That's correct.

Q. What is a Trotskyite?

A. Well, the liberal interpretation of a Trotskyite is a man who at one time has been a member of the Communist Party and then deviates for some reason of an independent nature away from its policies—that is, away from its policies in the line of blind obedience. Let's put it this way.

(Testimony of Kermit Charles Krolek.)

Q. Now, this disillusionment that you had with the Communist Party came into your mind probably not suddenly or immediately but over a period of months, at least? A. It did.

Q. When would you say that you began to be disillusioned with the Communist Party?

A. I would say the early part of the spring of 1937.

Q. And that was when you left the party?

A. Well, I would consider officially, possibly leaving the party at a time when one of the gentlemen that I mentioned as being in the ARTA was brought up for charges by a Communist section for non-obedience.

Q. About what month of 1937 was that?

A. That was, I would say, June of 1937.

Q. About what time, the early part of that month or the late part? [2194]

A. It is difficult for me to say.

Q. You haven't any real memory on that part of it?

A. No, I recall it was in the spring of 1937.

Q. And thereafter you had nothing to do with the Communist Party?

A. Obviously, by the nature of the fact that I resigned and the fact that I took an oath of opposition to the program of blind obedience to the party, expressed in that meeting, I had, of course, only one alternative left for me.

Q. In the spring of 1937, when you began to feel that the Communist Party was not the great organization that you had previously thought, did you convey your sentiments to other people?

A. I believe I was rather expressive about it in some meetings.

Q. I mean before you actually resigned; was there a gradual period in which you began to criticize different matters and then finally got out yourself? A. That is exactly right.

Q. And that began, that critical attitude on your part, in the early spring of '37, and continued until the incident when the man whom you knew was disciplined? A. That is true.

Q. Did you speak openly about your feelings to other people?

A. On that particular occasion I spoke openly about my feelings in this meeting and I did criticize the policies of [2195] the party on the floor of trade union meetings.

Q. So that by the late spring of 1937, it would have been fairly well known that you were, to say the least, not a good party member and that you were probably about to get out?

A. I would say definitely.

Q. And yet you tell us this morning that in the second week of June of 1937, that you attended a Communist meeting in the Lennox Hotel, the New Lennox Hotel in Portland, Oregon?

A. That's correct.

Mr. MacInnis: Whatever Your Honor's pleasure is. I know that for the convenience of the jury and for ourselves, we have all agreed that this is going to be a Christmas shopping afternoon, and I think that probably it would be better to adjourn than to ~~go on.~~

The Court: I assume you have considerable additional material?

Mr. MacInnis: I have, Your Honor.

The Court: All right. Ladies and gentlemen of the jury,——

The witness is instructed to return Monday next, the 12th of December, at 11:00 o'clock.

The Witness: Right.

The Court: Without further order.

Ladies and gentlemen of the jury, we will regularly adjourn this case until next Monday, the 12th of December, at 11:00 o'clock in the morning. Not 10:00 o'clock but 11:00 [2196] o'clock, by reason of the fact that I have other little matters. And in the interim may I again admonish you not to discuss the case under any circumstances, nor to converse with any person on any subject of the trial, nor to form nor express an opinion hereon or thereon until the matter is finally submitted to you.

We will stand regularly adjourned, then, until next Monday, the 12th of December, at 11:00 o'clock. This court otherwise stands adjourned until 10:00 o'clock next Monday.

(Thereupon the case at bar was adjourned until Monday, December 12, 1949, at 11:00 o'clock a.m.) [2197]

Monday, December 12, 1949—10:00 A.M.

The Clerk: United States v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed, Mr. MacInnis, with further cross-examination.

The Clerk: The witness on the stand is Kermit Charles Krolek, heretofore sworn.

KERMIT CHARLES KROLEK

resumed.

Cross-Examination
(Continued)

By Mr. MacInnis:

Q. Mr. Krolek, you were telling us on Friday last about many meetings which you attended in which there were Communist Party members and also people who were not members of the Communist Party; is that correct? A. That is correct.

Q. And those meetings, I think you said in substance, would be meetings where the Communist Party members and various progressive persons or members of the so-called liberal groups would have the same end in view, is that correct?

Mr. Donohue: Just a minute, Mr. Witness, please. If your Honor please, the question has already been answered.

The Court: Overruled.

A. That is correct.

Q. (By Mr. MacInnis): And I think you said that a meeting [2198] where members of the Com-

(Testimony of Kermit Charles Krolek.)

munist Party met with trade union leaders or other people who were not members would be called an open meeting? A. That is true.

Q. Did you have any categories into which you would divide the phrase "open meetings"?

A. Not specifically.

Q. Well, now, for example, if a group of Communist Party members, let us say 10 or 12 of them, were assembled, and there were three trade union leaders who were not Communist Party members invited to join, would that be an open meeting?

A. That would be.

Q. Suppose you had the same group and there were only two trade union leaders who were not Communist Party members invited, would that be an open meeting? A. Correct.

Q. Suppose you had the same meeting of Communist Party members and only one trade union leader who was not a member, would that still be an open meeting?

A. That would be an open meeting. May I qualify that statement by this fact: that to people who were in the Communist Party as well as union leaders themselves, there were occasions at which, for practical purposes, a meeting could be considered a Communist Party meeting and yet have an outsider who may not have been a Communist Party member present at that [2199] meeting.

Q. That is exactly what I was probing to discover. In other words, there would be a real Communist Party meeting and yet there could be a

(Testimony of Kermit Charles Krolek.)

person present, trade union leader or otherwise, who might not himself be a member of the Communist Party? A. That is correct.

Q. Now, Mr. Krolek, going back as best you can, over the period of time in which you were actually a Communist Party member, can you recall for us the names of any trade union leaders who were not Communist Party members but who attended meetings of the Communist Party or meetings with Communist Party members?

A. It is difficult to recall offhand. I believe one such individual might have been the leader of the Alaska Fishermen's Union in Portland; I believe his name was Martin Olson, who I do recall on several occasions was present at meetings.

Q. That would be Communist Party meetings?

A. That is correct.

Q. Yet he was not a member of the Communist Party?

A. He was not a member of the Communist Party in name, but in fact, for practical purposes, he might be so considered.

Q. In other words, he may have been a sympathizer, and even a deep sympathizer, but he wasn't actually a member of the Communist Party? [2200]

A. That is correct.

Q. Can you think of any other labor leader who fell into that category?

Mr. Donohue: I think I will have to object, if your Honor please. I don't think that this is a matter which was asked of the witness on direct examination, and I am sure it is not for the purpose of impeaching the witness. I think we are going far afield, talking about other labor leaders. There are only three on trial.

Mr. MacInnis: Your Honor, ——

The Court: Overruled.

A. There may have been others; possibly John Brost in Portland. I recall the name of one man who I believe was present at meetings that were strictly sponsored by the Communists, and yet I don't believe he was a Communist.

The Court: What was his last name?

A. Brost, B-r-o-s-t.

Q. John Brost? A. Brost.

Q. (By Mr. MacInnis): What was his labor affiliation?

A. I believe he was connected with the ILWU.

Q. And he was not a member of the Communist Party? A. Not to my knowledge.

Q. But I suppose he was deemed to sympathize with the general objectives of the Communist Party? [2201] A. That is correct.

Q. About how many meetings can you recall that this man Brost attended with Communist Party members.

A. It is very difficult to say. I recall him associated with one meeting; that is, I recall his presence there.

Q. You can recall at least one meeting specifically? A. That is correct.

(Testimony of Kermit Charles Krolek.)

Q. Concerning the man named Olson, who was a director of the Alaska Canneries' Union, did you say? A. Alaska Fishermen's Union.

Q. Can you recall more than one such meeting which he attended?

A. I could not specifically state, no.

Q. I don't mean specifically, because I don't expect any exact dates, but is it your general recollection that Olson attended more than one meeting with members of the Communist Party?

A. I would say several; possibly two or three.

Q. And again those would be meetings which you called Communist Party meetings?

A. That is correct.

Q. Although Olson was actually not a member of the Communist Party?

A. That is correct. May I make this differentiation, however, qualify your question, that such meetings that were [2202] sponsored by the Communist Party, that is, held for a general trade union purpose, made no reference in those meetings of any sort pertaining to strictly Communist matters. In other words, the question of recruitment or organization as proposed by the Communist Party was not a point of discussion. The meeting was one of a strictly trade union nature.

Q. Now, you said, when you were asked about the reasons that motivated you to drop out of the Communist Party, that you discovered in early 1937 that the Communist Party had been emasculated of the true liberal spirit; is that about correct?

(Testimony of Kermit Charles Krolek.)

A. Well, the phrasing isn't exactly that. I believe I stated that the Communist Party had emasculated the liberal spirit, or, rather, liberal movement, the trade union organizational movement that was more or less spontaneous at that time, that was growing throughout the country. [2203]

Q. Yes. Now, was that a statement that you made fairly openly at the time?

A. I put it this way: I took issue with the policies of the Communist Party on the floor of meetings, yes.

Q. And by the phrase "emasculated" I suppose you meant that the Communists had robbed the liberal movement of its vigor or vitality or virility? A. That's correct.

Q. Now, the word "emasculated" as applied to the Communist Party in that sense was the criticism that the so-called "Trotskyites" were always applying to the Communist Party, isn't that true?

A. That might be.

Q. In other words, a man who was labeled a Trotskyite would be a person who said that the Communist Party had emasculated the true liberal trend out of the movement?

A. Well, that may or may not be the case. That is, the symptoms of, shall we say, proselyting with the trade union movement on behalf of the Communist organizational effort were so obvious that the people who were not actually Communist Party members were able to observe that.

(Testimony of Kermit Charles Krolek.)

Q. Yes. And you said that the members of the Communist Party considered you a Trotskyite?

A. Subsequently, yes.

Q. Now, the Trotskyites, as I am told, are people who consider [2204] the Communists reactionary, is that right?

A. Well, that is, shall we say, a very technical interpretation; but a general interpretation would be any person who had at one time been a member of the Communist Party and subsequently repudiated it—was labeled a Trotskyite. That is the interpretation I place on it.

Q. Well, the Trotskyites originally were people who left the Communist Party because they wanted to stage a world revolution at once?

Mr. Donohue: I object, if Your Honor please. The witness has already stated the interpretation which he places on the term "Trotskyite," and I think this question is argumentative.

The Court: Overruled.

The Witness: May I have the question again? Are you referring——

Mr. MacInnis: Would you read the question, please?

(Record read.)

A. Well, maybe you might place the interpretation of a Trotskyite on the type of government which we have in Jugoslavia under Tito at the moment. But my interpretation was that—as I stated before, a Trotskyite was a dissenter, no mat-

(Testimony of Kermit Charles Krolek.)

ter what the type of differentiation might be from the program of the Communist Party as set forth strictly and rigidly by its people who represented it.

Q. Well, speaking now of the time when you say you left the [2205] Communist Party, what would be the feeling between the Communist Party members and a person who was labeled a Trotskyite?

Mr. Donohue: I object, if Your Honor pleases; it makes no difference what—That has nothing to do with this witness, nothing to do with these defendants, what the attitude of a person who belonged to the Communist Party may have been to one who may have been called a "Trotskyite."

Mr. MacInnis: Your Honor, it will have some materiality on some questions I am about to come to.

Mr. Donohue: We have been told that, if Your Honor pleases, for three weeks.

Mr. MacInnis: And each time I have come to the point and demonstrated, possibly not to your satisfaction, Mr. Prosecutor, but we have come to exactly the points that we have suggested.

Mr. Donohue: In no instance—on one occasion after four days of cross-examination—did he ever reach the point he said he would. Object to the question, if Your Honor please.

The Court: Well, of course I can not be prophetic in my rulings as to what may eventuate on the part of Mr. MacInnis. I will abide by his assurances that he is coming to a point that may be material; accordingly, the objection is overruled.

(Testimony of Kermit Charles Krolek.)

The Witness: You were asking the attitude of members of the Communist Party toward Trotskyites, I believe?

Q. (By Mr. MacInnis): Or one who was labeled or suspected of being a Trotskyite. [2206]

A. Well, the feeling is definitely antagonistic.

Q. And you say that that was the label applied to you when you left the Communist Party?

A. Evenutally, yes.

Q. And would members of the Communist Party be suspicious of the person who was ever labeled a Trotskyite?

A. I think I know what is in your mind, Mr. MacInnis. The feeling, in so far as the Communist Party is concerned, toward me was, shall we say, one of coolness and aloofness. I was excluded from many meetings which I knew were taking place. Toward approximately the middle of 1937, as I stated, I left. I can't specifically give the time of a definite break between myself and the Communist Party, but I would say that it occurred in the late spring or the summer of 1937.

Q. In other words, in the late spring of 1937, your views were pretty generally known, at least among Communist Party groups?

A. That's correct.

Q. Now, after you left the Communist Party, you took up an employment different from that which you had enjoyed in Portland, is that true?

A. That is true.

(Testimony of Kermit Charles Krolek.)

Q. What was your employment in the year 1938?

Mr. Donohue: I object, if Your Honor pleases. He has already answered the question.

The Court: It was answered. [2207]

Mr. MacInnis: That is quite true.

The Court: You might have the answer again.

A. I entered a partnership with another individual in what was termed the Belmont X-ray Company in San Francisco.

The Court: What was that again?

The Witness: Belmont.

The Court: Belmont X-ray. All right.

Q. (By Mr. MacInnis): Well, had you broken all of your connections with the members of the Communist Party by that time?

A. I would definitely say yes.

Q. Now, you told us, I believe, that you entered the Communist Party because you found it necessary to join that group in order to succeed in the union called ARTA? A. That is true.

Q. And did you break all of your connections with the union at the time you left the Communist Party?

A. By no means. I still have a number of friends who are members of the subsequent union.

Q. Did you break with the segment of the ARTA which had invited you to join the Communist Party?

A. Not particularly. I will put it this way: I lost track of the particular individual that recruited me. Particular individual that recruited me.

(Testimony of Kermit Charles Krolek.)

Q. Well, was your resignation, if we can put it that way, or your leaving the Communist Party, generally known within the [2208] Maritime Federation of the Pacific?

A. I don't believe that it was generally known that I was a member of the Communist Party to members of the Maritime Federation of the Pacific.

Q. Was it known to the members of the ARTA?

A. To some; not many.

Q. Did you have any break with trade unionism itself? A. No, not that I recall.

Q. Well, now, having reached these conclusions in the spring of 1937, over a gradual period, would it be fair to say that you had your suspicion of the true ends of the Communist Party as early as the fall of 1936?

A. That I wouldn't particularly state. I believe that the inception of my attitude toward the Communist Party and the reasons for my leaving it were particularly brought out to the front in 1937, the spring of 1937.

Q. But not before that to any extent?

A. Not before '37, no.

Q. In the fall of 1936 did you take any part in the making of protests against the so-called "Modesto frameup," a case taking place in the City of Modesto, California?

Mr. Donohue: I object, if Your Honor pleases; not proper cross-examination.

(Testimony of Kermit Charles Krolek.)

The Court: Sustained.

Q. (By Mr. MacInnis): In the fall of 1936 did you take any [2209] part in the uttering of protests to "frame-ups" against organized labor generally, based upon the use of labor spies, stool pigeons and the like?

Mr. Donohue: I object, if Your Honor pleases.

The Court: Sustained.

(Document handed to Mr. Donohue by Mr. MacInnis.)

Mr. MacInnis: Would you display that document to the witness, please?

(Document handed to the witness by the Clerk.)

Mr. Donohue: If Your Honor pleases, without awaiting the formality of a question, I object to any question being asked the witness of this paper, because in substance and in subject matter it is embraced by the ruling which Your Honor has just made; that the subject matter of this letter is not a proper matter for cross-examination. I ask Your Honor, when the witness has read the letter, if Your Honor will read it in the light of that objection.

Mr. MacInnis: Well, after I identify it, I will certainly be glad to have Your Honor look at it. Now, I wanted to ask this question.

Q. Is that a letter written by you?

A. That is true.

Q. It bears your mimeographed signature?

(Testimony of Kermit Charles Krolek.)

A. Correct.

Q. And it is on the stationery in the Maritime Federation of [2210] the Pacific?

A. That's correct.

Q. Written to all Portland locals?

A. Quite right.

Q. Bearing date of October 21, 1936?

A. Right.

Mr. MacInnis: I will defer questions as to the contents until Your Honor reads the letter.

(Examined by the Court.)

Mr. MacInnis: May I suggest, Your Honor, without again discussing the contents aloud, that the general trend of the letter is something that should be before the Court and jury in this case as bearing upon the testimony and its credibility?

Mr. Donohue: No, if Your Honor pleases, in the light of that statement, which isn't a proper statement, that letter in no way and in no wise could affect the credibility of this witness.

Mr. MacInnis: His Honor has the letter before him. Let's let His Honor decide that.

Mr. Donohue: Just a moment, please.

Mr. MacInnis: I think he should do that.

Mr. Donohue: Your Honor sustained an objection to a question asked of this witness on a certain subject matter. How, possibly, could that letter, on the same subject matter impeach the witness when he was not permitted by Your Honor's ruling to [2211] even answer the question, and I think that the inference which Mr. MacInnis seeks to get before the jury, that the Government is trying to keep out of evidence a document which tends to impeach him, is an erroneous and improper inference.

Mr. McInnis: Well, you are objecting rather strenuously.

Mr. Donohue: I object to it only because we can't stay here for the balance of the year trying irrelevant and immaterial issues.

Mr. MacInnis: I think we can perceive that counsel is not objecting out of an abstract love for the laws of evidence, Your Honor.

Mr. Donohue: You do violence to our perception.

Mr. MacInnis: I suggest, Your Honor, the context ~~of~~ that letter definitely bears upon the testimony of the witness in this cause, looked at as a whole.

The Court: I will sustain the objection, Mr. MacInnis.

Mr. MacInnis: May I ask that the letter be——

The Court: It is not proper cross-examination, the subject matter being incompetent, irrelevant and immaterial to any consideration of any examination of this witness, not tending to prove or disprove any issue in the case.

Mr. MacInnis: I ask, Your Honor, that the letter be marked for identification.

The Court: It may be marked appropriately for identification. [2212]

(Whereupon letter dated October 21, 1936, from the witness Krolek to union locals was marked Defendant's Exhibit V for identification only.)

Q. (By Mr. MacInnis): Now, Mr. Krolek, to return for a moment to a matter that you discussed a moment ago, you were speaking of meetings of the Communist Party attended in instances by two men, Mr. Olson of the Alaska Fishermen's Union, and a Mr. John Brost, neither of whom were members of the Communist Party. Can you tell us the subjects, as best you now recall them, which were generally discussed at those meetings, where those men were present?

A. It is very difficult to answer, because Mr. Olson happened to be the president of the District Council No. 3 of the Maritime Federation, of which I was secretary, and there were occasions, several of them, at which both he and I were present at meetings which in effect were sponsored by the Communist Party. And by virtue of his, shall we say, sympathy and very closeness to all the programs and sponsorships, shall we say, of the party, the man was permitted to attend these meetings. There was no objection raised.

Q. Now, those, you say, would be meetings at which trade unionism and its ends would be discussed? A. That's correct.

(Testimony of Kermit Charles Krolek.)

Q. And it would happen on those occasions that the ends which were suited to the trade union movement were also the ends of [2213] the Communist Party in that instance?

A. That is true. However, meetings which pertained strictly to the interests of the Communist Party, from a standpoint of organization and so forth, were not attended by outsiders.

Q. I appreciate that you said that, but with reference to these meetings where Mr. Olson, a non-Communist but a labor leader, was allowed to attend, and where Mr. Brost, also a non-Communist, was allowed to attend, matters of interest to the trade union movement and to the Communist Party alike would be discussed freely?

A. That is true.

Q. Would those be matters of policy in relation to labor party conventions or labor union conventions?

A. Generally speaking, I would say they pertained to problems that pertained to the welfare of the trade union movement, within a specific locality.

Q. Well, would you have been able to discuss with those men, Mr. Olson and Mr. Brost, matters involving the election of officers within a particular union? A. That is true.

Q. That would be a matter that you could safely, under those circumstances, discuss with non-Communists? A. That's correct.

Q. Now, you have told us about the circumstances of your resignation, or the leaving of the

Communist Party; now, previous [2214] to that time, you had resigned your position as—was it the secretary of District Council No. 3 or District Committee No. 3?

A. I resigned both positions. One was the secretary-treasurership of District Council 3 of the Maritime Federation, and the other was the secretaryship of Local No. 8 of the American Radio and Telegraphists Association.

Q. And one of the reasons that you have said impelled you into a disillusionment with the Communist Party was something you mentioned concerning diversion of funds from the CIO into the Communist Party? A. That is correct?

Q. Now, when you resigned your post as the secretary-treasurer, you were in charge of the funds, were you not?

A. As a matter of fact, the disillusionment of which you speak took place in San Francisco subsequent to the time that I resigned as secretary of District Council 3 in Portland.

Q. No, I am speaking now about your post as secretary-treasurer. You were in charge of the funds of that particular committee or council, were you not? A. Correct.

Q. And after you left, was there some difficulty over the books that you had kept?

A. As a matter of fact, upon my leaving I was tendered a gift of $50 from the District Council

No. 3 as a token of appreciation [2215] for my work.

Q. Would you answer the question, please?

A. Not to my knowledge. There were questions raised regarding disposition of vouchers and possibly allocation of funds for certain purposes, but there was certainly no question at any time ever raised regarding any discrepancy in the funds.

Q. Did you ever claim that the trustees were unfair in criticizing your——

Mr. Donohue: Object, if Your Honor please; this is not proper cross-examination.

The Court: Sustained.

Q. (By Mr. MacInnis): Now, with respect of this $50 donation of which you speak, that was voted in your favor, do you know who the person was who proposed that to the members of the union?

Mr. Donohue: I object, if Your Honor pleases. He has already stated he got it.

The Court: Sustained.

Q. (By Mr. MacInnis): Did you know a man, during his lifetime, named Maurice J. Cannalonga?

A. Yes, I am familiar with him.

The Court: How do you spell that?

Mr. MacInnis: C-a-n-n-a-l-o-n-g-a.

The Court: Did you know him?

A. I did, sir. [2216]

Q. (By Mr. MacInnis): Was he the man who arranged for the $50 donation to you?

(Testimony of Kermit Charles Krolek.)

Mr. Donohue: I object, if Your Honor pleases. Counsel knows that Your Honor already sustained an objection, that he couldn't answer the question. Now he tries to get the witness to answer the question another way.

Mr. MacInnis: If Your Honor will bear with me one more question, I think you can see the relevancy.

The Court: Proceed.

Q. (By Mr. MacInnis): You know, do you not, Mr. Krolek, that Mr. Cannalonga was one of the witnesses produced by the Government against Harry Bridges in his 1939 deportation trial?

Mr. Donohue: I object, if Your Honor pleases. What difference does it make whether he was or was not?

The Court: Sustained.

Q. (By Mr. MacInnis): Now, you said a moment ago, Mr. Krolek, that your disillusionment with the Communist Party in respect of diversion of funds did not take place in your mind until you had left Portland and come down to San Francisco.

A. That is true.

Q. I think you said that in February you resigned your position with the union, your office?

A. That's correct.

Q. And then you took employment in San Francisco? A. Correct. [2217]

Q. And did you say that funds were being diverted from the CIO into purely Communist objectives?

A. Subsequently thereafter, after I arrived in San Francisco. As you may know by reference to labor history, Mr. Lewis at that time formed the Committee for Industrial Organization and was interested in organizing the unorganized crafts. Toward that end I believe there was a matter of in excess of a million dollars set aside and portions of that money were diverted to various crafts which needed organization, and in our specific instance it pertained to the organization of Western Union, Postal Telegraph employees and so forth, the unorganized crafts in the communications industry. Part of that money, as I say, was appropriated to San Francisco and once again, to reiterate my testimony, a portion of that money then, instead of being diverted purely into organizational purposes, was also diverted into strictly Communist Party organization work.

Q. Now, in what month of 1937 do you say that you made that discovery about the diversion of funds?

A. Well, the discovery, I would say, roughly, would be May, possibly, 1937.

Q. Well, actually, Mr. Krolek, don't you know from your own activity in connection with the history of the union movement, that the CIO had no funds at all on the West Coast in May of 1937?

A. Well, that's correct, as far as the official CIO movement [2218] is concerned; but nevertheless, the fact is that Mr. Lewis put forth certain

(Testimony of Kermit Charles Krolek.)

amounts of money for the organization of the unorganized crafts, and that money was made available.

Q. And isn't it true that it was not until July of 1937 that the longshoremen's union of San Francisco had voted to join the CIO?

A. I don't believe that that is pertinent to the discussion. I believe your question to me is whether I had knowledge of the diversion of funds which Mr. Lewis had made available to the crafts throughout the country, and that money was made available, I would say, prior to July of 1937.

Q. Your memory is that there was such money on hand prior to July of 1937?

A. That's correct.

Q. You said in your testimony of Friday that you knew a man named Mervyn Rathborne?

A. That's right.

Q. Actually he is your brother-in-law?

A. That's correct.

Q. Is it the fact that your wife and Mr. Rathborne's wife are sisters? A. Right.

Q. And you have known Mr. Rathborne over a considerable period of time?

A. That's correct. [2219]

Q. The same Mr. Rathborne whom you recalled at the end of your testimony as being present at the meeting in San Diego, of which you spoke?

A. The meeting in Long Beach.

Q. Long Beach. Is that correct?

A. Right.

(Testimony of Kermit Charles Krolek.)

Q. Do you see Mr. Rathborne with any regularity?

Mr. Donohue: I object, if Your Honor pleases —I withdraw the objection.

The Court: Do you see him—What was that last question?

Mr. MacInnis: I said: "Do you see Mr. Rathborne with any regularity?

The Court: Objection is overruled.

A. I haven't seen Mr. Rathborne for two years.

Q. (By Mr. MacInnis): Does he live down the Peninsula?

A. I believe so. I believe he lives in Half Moon Bay.

Q. You don't visit with him or with your wife's sister? A No, sir.

Mr. Donohue: I object, if Your Honor pleases. He has said he hasn't seen Mr. Rathborne for two years.

The Court: Overruled.

Q. (By Mr. MacInnis): Do you know Mr. John Schomaker? A. I do.

Q. Have you seen him at all of late?

A. I haven't seen Mr. Schomaker since the time of the discovery of the microphone in Mr. Bridges' room in Portland. [2220]

Q. Now, you said the other day, in reference to another part of your testimony, that you remembered the names or were able to give us the names and the initials of all of the persons who you said

(Testimony of Kermit Charles Krolek.)

were present in a room because you looked over a statement you had given to the FBI; is that correct?

A. I believe I stated that my memory in certain particulars was refreshed by a statement which I gave the FBI, but the names of the people who were present at that meeting are and have been very clearly fixed in my mind.

Q. And you said that in 1939 your memory was much better concerning events taking place in 1936 than your memory would be right now?

A. Obviously so.

Q. Having refreshed your memory out of this statement that you made to the FBI in 1939, can you now tell us what the conversation was at this meeting of which you spoke.

A. I believe I offered that in the previous testimony.

Q. You told us that you couldn't remember who said what; you said you could only remember the substance of the conversation and the general direction.

A. Well, is it your desire for me to interpret what the statements were that I made to the FBI in 1939?

Q. No, I don't wish you to interpret anything; I will come to that in just a moment. To what member of the FBI in 1939 [2221] did you make your statement?

Mr. Donohue: Objected to, if your Honor please. Obviously the person or persons associated with the Federal Bureau of Investigation to whom this witness made what he has characterized as a voluntary statement are not proper on cross-examination.

Mr. MacInnis: I think, your Honor, I am certainly entitled to probe into all of the sources concerning meetings between this man and part of the prosecuting arm of the Federal Government.

The Court: The objection is overruled.

A. I will answer the question this way: That the FBI—that is, the agents of the FBI generally do not make themselves known.

Q. (By Mr. MacInnis): Pardon me?

A. The agents of the FBI do not make their identities specifically known by name.

Mr. MacInnis: Pardon me. I think your Honor can take judicial notice——

Mr. Donohue: I don't think the Court can take judicial notice.

Mr. MacInnis: ——that members of the FBI show their identification to every person they interview.

The Witness: I mean specific people, that they happened to say such-and-such and that they offered a statement to [2222] that effect; that is, in the presentation of the testimony to the FBI I am not particularly interested, or certainly I wasn't interested in identifying the names of the people who took that testimony.

(Testimony of Kermit Charles Krolek.)

Q. (By Mr. MacInnis): You don't know who they were? A. Not their names, no.

Q. Tell us the circumstances under which that statement was taken from you.

A. The statement was made voluntarily. And I might for the record state that it was due to the result of infiltration of the Communist Party that I observed was taking place at that time in the State political picture. I believe I stated I was secretary to the brother of Culbert L. Olson, and I therefore had an opportunity of analyzing, again to wear the phrase thin, of noting the emasculation of the progressive political movement as well as the progressive labor movement in several years back from that.

Q. Did you approach the FBI and offer this statement or did they come and ask you to give a statement?

A. I approached the FBI through an intermediary.

Q. Who was that?

Mr. Donohue: I object, if your Honor please. I see no basis upon which counsel can cross-examine a witness who has stated in substance that in 1939 he made a voluntary disclosure of certain facts to the Federal Bureau of [2223] Investigation; that he has since read again the statement which he made at that time to refresh his recollection for the purpose of this trial. Obviously, the report that he made to the FBI could not be introduced in evidence, and therefore I say, if your Honor please, that an examination of its substance is neither admissible in evidence, and I object to it.

The Court: Overruled.

A. The name of the individual to whom the—that is, who acted as intermediary was Edward B. O'Grady, who has since died.

Q. (By Mr. MacInnis): What was the circumstance under which you made that contact with Mr. O'Grady?

A. A matter of mutual discussion and analysis of the activities of the Communist Party with respect to the political picture and a determination on my part that something should be done to correct it.

Q. Where did you make your statement?

A. In San Francisco.

Q. At the offices of the FBI?

A. 111 Sutter Street.

Q. Did you make it in the presence of one agent or more than one?

A. I made it in the presence of several agents.

Q. Do you remember the names of any of them?

A. Not at this moment, no. [2224]

Q. Do you remember the month in 1939 in which this giving of the statement took place?

A. It was possibly in October, 1939.

Q. Did a stenographer transcribe that statement?

A. Correct.

Q. Was it later shown you for your signature?

(Testimony of Kermit Charles Krolek.)

A. Correct.

Q. And did you sign it?

A. Initialed it.

Q. You were not called as a witness by the Government in the 1939 deportation trial against Harry Bridges, were you? A. I was not.

Q. Do you know the months in which that trial was held in the year 1939 in relation to the time in which you gave your statement to the FBI?

A. I am not familiar with it.

Q. And you have no idea one way or the other?

A. No, sir.

Q. But regardless of the element of time, you weren't called or used as a witness on behalf of the Government in that deportation hearing?

A. That is true.

Q. Although the FBI had a statement of yours at that time? A. That is correct.

Q. How about the 1941 hearing, in the deportation charges [2225] against Harry Bridges upon the ground that he was a member of the Communist Party, were you called as a witness in that trial?

A. I was not.

Q. Were you subpoenaed?

A. I was subpoenaed, yes.

Q. And where were you brought when you were subpoenaed?

A. I was brought to the—well, specifically, the office was located in 111 Sutter Street, and it was

(Testimony of Kermit Charles Krolek.)

the headquarters of—I believe the man's name was Delgurcio—Mr. Delgurcio.

Q. Were you brought to this building actually when the hearing was in progress?

A. No, sir.

Q. Were you brought under subpoena to the office of Mr. Delgurcio? A. Correct.

Q. He was the prosecutor, was he not, in the Government's last case against Harry Bridges on the charge that he was a member of the Communist Party? A. I believe so.

Q. In what fashion were you brought to the office of Mr. Delgurcio?

A. I believe I was escorted by two individuals.

Q. Did you then have conversation with Mr. Delgurcio? A. I did. [2226]

Q. And were there various agents present at that time? A. Correct.

Q. And after that conversation you were not used as a witness in the case? A. Correct.

Q. Tell us what the conversation was that you had at that time.

A. Well, the gist of the conversation was a reiteration of the information which I presented to the FBI. I would say that would be it.

Q. You reiterated to Mr. Delgurcio in 1941 the same information that you had given to the FBI?

A. Correct.

Q. You gave that statement again at a time when you had been brought by subpoena to the office of the FBI here in San Francisco?

(Testimony of Kermit Charles Krolek.)

A. That is correct.

Q. And after you gave that information the gentleman let you go your way and did not use you as a witness? A. That is correct.

Q. Did you protest at being brought to the office of Mr. Delgurcio?

A. I prefaced the remark that I made to Mr. Delgurcio to the effect that I did not care to be produced as a witness for personal reasons. [2227]

Q. And what did Mr. Delgurcio say then?

A. There was some discussion on the subject.

Q. Can you tell us what that discussion was?

A. Well, the very obvious discussion on his part was to utilize me as a witness, and I did not care to appear as a witness.

Q. And you were able to offer such arguments and persuasions to the end that they saw the thing your way and did not use you?

A. Presumably so.

Q. Well, what was your job in 1941 at the time you were brought before Mr. Delgurcio?

A. I believe I stated for the record that I was employed by the then Governor Culbert L. Olson's brother, W. F. Olson.

Q. Pardon me. You told us that was your job in 1939? A. Correct.

Q. Was that also your job in 1941?

A. In 1941 I was at the time a supervisor for the radio training program for the National Youth Administration.

(Testimony of Kermit Charles Krolek.)

Q. You were working for the Government at that time, weren't you? A. Correct.

Q. For the NYA? A. Yes.

Q. And you tell us today that you were brought in by subpoena [2228] to the office of the chief prosecutor of our Government in the Harry Bridges trial in 1941 when he was faced with the charge that he was a member of the Communist Party, and after you discussed your information with Mr. Delgurcio, the prosecutor, he permitted you to go and did not use you as a witness?

A. I believe I stated that the testimony that I previously offered was based on my desire not to testify for certain personal reasons, and my wish in the matter was respected, apparently.

Q. Was that in the month of April of 1941?

A. That is correct.

Q. Now, before you were brought to the office of Mr. Delgurcio in April of 1941 did any agents call upon you at your home?

A. Several agents, yes.

Q. They called upon you, and I suppose your wife as well? A. Correct.

Q. How many times did they come to see you?

A. It would be hard to state. A number of times.

Q. Did they come to see you at your work as well?

Mr. Donohue: Objected to, if your Honor please. Haven't we gone far enough into the question? Is he about to show that this man did not make a statement to the FBI?

(Testimony of Kermit Charles Krolck.)

Mr. MacInnis: I am about to come to the facts of this situation, your Honor. [2229]

The Court: Overruled.

Mr. MacInnis: However obliquely.

A. I don't recall that any representative of the Government contacted me on my employment, no.

Q. Isn't it true that on April 13 of 1941 two members of the FBI came to see you at your work, your work with the Government, the NYA?

A. I certainly don't recall any discussion on the job, shall we say, with any representative of the Federal Government.

Q. When did you take your job with the NYA?

A. Well, that is difficult to outline. I was with the NYA a matter of a comparatively short time.

Q. You took that job in November, 1940, is that correct?

A. You seem to have a very comprehensive record of it.

Q. I do. Is that about correct?

A. If that is the statement, I will accept it, yes.

Q. When you took your job with the NYA in November of 1940 or thereabouts, you of course were given a loyalty test?

A. Loyalty tests in those days, I might say, were somewhat different than they are today.

Q. Were you asked at that time whether you had any information concerning Harry Bridges?

A. I was not.

Mr. Donohue: I object, if your Honor please.

(Testimony of Kermit Charles Krolek.)

I didn't know that that was a qualification for employment by the NYA. [2230]

Mr. MacInnis: It seemingly has become a matter of qualification for United States Government employment, I am told.

Mr. Donohue: It may become more so.

The Court: Ladies and gentlemen of the jury, I again admonish you not to heed the remarks of counsel as evidence in the case, nor the retaliation made by one to the other is not evidence. The evidnce is unfolded from the witnesses.

The last question was, were you asked whether you knew Bridges?

Mr. MacInnis: I think I asked that question.

The Court: I will overrule the objection.

A. I was not asked that question as a condition of employment, no. As a matter of fact, Mr. Bridges' name was never once mentioned to me.

Q. (By Mr. MacInnis): Were you examined by any members of the FBI when you took your employment with the NYA? A. I was not.

Q. Between the time you entered your employment with the NYA and the month of April of 1941 did you have any discussion with any members of the FBI who came to inerview you at work?

A. I believe you asked that before, and I think the answer was yes.

Q. Those gentlemen informed you at that time that they knew of your connection with the Communist Party from the years 1935 to 1937, did they not? [2231]

(Testimony of Kermit Charles Krolek.)

A. That is correct, yes.

Q. And they also informed you that they knew that you were the person who had discovered the dictaphone in Harry Bridges' hotel room in Portland in 1937, did they not?

A. I believe the statement may have been made incidental.

Q. So that the name of Harry Bridges was mentioned at that time, wasn't it?

A. It was mentioned by the FBI.

Q. Yes.

A. But I believe your question that you tried to bring out was that the name of Harry Bridges may have been mentioned by my employer as a condition of employmtnt.

Q. Your employer was the United States Government, was it not? We are speaking about the FBI.

A. Broadly speaking, yes, but my direct superior was not.

Q. Now, on April 23 were you taken to the FBI offices in San Francisco by agents along with your wife? A. That is correct.

Q. And were you kept there for about four hours? A. Correct.

Q. Your wife was made ill by that meeting, was she not?

Mr. Donohue: I object, if your Honor please. I can't see any basis for this examination when the witness has testified on cross-examination, "I went

(Testimony of Kermit Charles Krolek.)

to the FBI and I made a statement." Is he trying to impeach the witness now? [2232]

Mr. MacInnis: Your Honor, we are not bound by the character he ascribes to the statement.

The Court: Overruled.

Mr. Donohue: If he had said he had not been there, if your Honor please, I could well understand this line of examination, but he said he was there.

The Court: The objection is overruled.

A. I will answer the question by stating that my wife was made a bit upset, yes, as naturally any woman would be.

Q. (By Mr. MacInnis): Would you say that you were grilled during the four hours that you were there?

A. I was cross-examined rather thoroughly.

Q. For the four hours by the FBI agents, is that corerct? A. That is correct.

Q. How many agents were with you at that time?

A. I recall possibly three.

Q. Never anymore than that at one time?

A. Well, there may have been more in the room, but my conversation pertained to about three.

Q. Were there ever twelve FBI agents present in the room?

Mr. Donohue: Objected to, if your Honor please, whether there were one or a hundred; the man said he was there and he made a statement.

The Court: Overruled.

A. I don't recall the number of twelve personally. [2233]

(Testimony of Kermit Charles Krolek.)

Q. By Mr. MacInnis): On this occasion, the one of which we now spoke around April 23 of 1941, were you sworn to tell the truth when you were questioned in the offices of the FBI?

A. I was.

Q. Did you tell the members of the FBI at that time that you knew nothing about whether or not Harry Bridges was a member of the Communist Party? A. I did not.

Q. Did you discuss the matter of your job with Mr. Delgurcio on the occasion when he was present?

A. I stated this, and the reason for my apparent exemption from being called as a witness publicly, was the fact that at that time I was in neither a financial nor a sufficiently secure economic position to make an open presentation on the matter.

Q. In other words, you argued that the only reason impelling you to argue against appearing as a witness was the fact that you were not financially secure?

A. Plus the fact that I was associated with Governor Olson's brother in a position of some public importance, shall we say, and the testimony that I might have given at the time may have proven embarrassing to the administration.

Q. Shall we say this: that you told Mr. Delgurcio that you would appeal to the trial examiner in the Harry Bridges case, the Hon. Judge Sears of New York, against intimidations [2234] which were being exercised against you at that time?

(Testimony of Kermit Charles Krolek.)

A. That is definitely not correct.

Mr. Donohue: Objected to, if your Honor please.

A. Definitely not correct.

Q. (By Mr. MacInnis): Did you——

Mr. Donohue: I object to the question and move that the answer be stricken.

The Court: The objection is overruled.

A. I made no reference to any appeal to Mr. Sears.

Q. (By Mr. MacInnis): Did Mr. Delgurcio tell you that he would request the NYA to have you fired from your job?

A. No such statement was made.

Q. Did he tell you he would have the Department of Justice request the NYA to fire you?

A. Not to my recollection.

Q. What do you remember about that? Was there any talk about your keeping your job with the Government?

A. The basis of my offering to give testimony at that particular time was made to me by Mr. Delgurcio strictly in the spirit of, shall we say, patriotism and cooperation with the Government. It was offered to me on a voluntary basis.

Q. He merely asked you to volunteer your services as a witness and you declined?

A. That is correct; with a degree of pressure, of course.

Q. What do you mean by "a degree of pressure"? [2235]

A. Well, I think you have covered that. You asked me whether I and my wife had been subject to, as you put it, grilling, and I believe I have answered that. That is what I would term possibly pressure.

Mr. MacInnis: May we take the recess at this time, your Honor?

The Court: Yes, we have reached the noon hour, ladies and gentlemen of the jury. We will resume the case at two o'clock this afternoon.

May I again admonish you not to discuss the case under any conditions, nor to converse with any person on any subject of the trial, or to form or express an opinion until the matter is finally submitted to you. You may now retire.

(Thereupon a recess was taken until 2:00 p.m. this date.) [2236]

Afternoon Session, 2:00 P.M.

The Clerk: United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed, counsel.

The Clerk: The witness on the stand is Kermit Charles Krolek, heretofore sworn.

KERMIT CHARLES KROLEK

resumed.

Cross-Examination

(Continued)

By Mr. MacInnis:

Q. Your Honor, I think I neglected to make an

(Testimony of Kermit Charles Krolek.)

offer on the last exhibit which was marked. For the record, we offer that exhibit into evidence proper.

Mr. Donohue: Object to it, if your Honor please.

The Court: The objection heretofore interposed is sustained.

Q. (By Mr. MacInnis): Now, Mr. Krolek, for our better understanding of some of the backgrounds of these matters, I would like to go back for just a moment to one of the matters that you discussed already. You said that money in the hands of the Committee for Industrial Organization being set up by John L. Lewis was sent out for the purpose of organizing certain non-organized trade groups, is that true? A. That is true.

Mr. Donohue: Objected to, if your Honor please; the [2237] question has already been answered.

The Court: It has been.

Mr. MacInnis: It is preliminary to something else.

The Court: He may answer it.

A. That is correct.

Q. (By Mr. MacInnis): And you said that part of your disillusionment with the Communist Party arose out of your discovery that some of that money was being misdirected into direct Communist Party sources? A. That is true.

Q. And that was a discovery that you made here in San Francisco after you resigned your job in Portland? A. That is correct.

(Testimony of Kermit Charles Krolek.)

Q. And when you say that those funds were misdirected, you mean by that that some person having control of them would use them for improper purposes, that is, purposes not directed by Mr. John L. Lewis or by the Committee for Industrial Organization itself?

A. I mean substantially that there was an amount of $10 per diem was paid to an organizer to be appointed by various unions, in our case the ARTA, and of that amount the legitimate trade union organizer actually received $5, and $5 went into the organization of the Communist Party.

Q. And you said, I think, that that was particularly true of the Postal Telegraph and Western Union employees' groups? [2238]

A. That is correct.

Q. Now, if there was such a misuse of funds from that particular group, the misuse of funds would have been handled by Mr. Mervyn Rathborne, your brother-in-law, isn't that true?

Mr. Donohue: I object, if your Honor please. Just a moment, Mr. Krolek. I object, if your Honor please. I see no pertinency in the examination of this witness as to who it may have been that may have been responsible for any misuse of funds.

The Court: Overruled.

Mr. Donohue: Unless he alleges it was the witness.

The Court: Overruled.

A. The determination as to how much money each union would receive from the funds set up by

(Testimony of Kermit Charles Krolek.)

John L. Lewis was determined by the president, I would say, of our union, who happened to be Mr. Rathborne.

Q. (By Mr. MacInnis): Mr. Rathborne was president of the local of the ARTA and then he became national president, did he not?

A. At that time he was national president.

Q. And he was national president from February, 1937, continuously through that year?

A. Correct.

Q. And that was the year in which you say this misappropriation of funds to the Communist Party took place? [2239]

A. I am not stating that it was a misappropriation of funds. I am stating that it was a diversion of funds, which apparently was made at the discretion of the local organizer.

Q. Now, you said that your second reason for becoming disillusioned with the Communist Party was you say the great infiltration of Communists into other official walks of life, did you?

A. I so stated at the time I was associated with the Governor's brother, yes.

Q. Now, who were the Communists who you say infiltrated into the State administration? Do you know the names of any of those persons?

Mr. Donohue: I object, if your Honor please. I don't think you can offer testimony of the infiltration of Communists into political or labor organizations. This certainly is not asked for the purpose of

(Testimony of Kermit Charles Krolek.)

impeaching the witness. He has stated that he left the Communist Party, among other reasons, because of the fact that certain Communists had infiltrated into the political organizations, and I think counsel is bound by that answer.

Mr. MacInnis: I think, your Honor, the prosecutor has misunderstood the proof of this man. This gentleman stated this morning that the reason he put himself in contact with the FBI in 1939 was because he became appalled, working as he was for the State government under Mr. W. F. Olson, with the [2240] infiltration of Communists into the State government. That is the point at which this question is directed. He made that flat statement. I now want to ask him to identify those Communists who were infiltrating into the government. [2240-A]

Mr. Donohue: But there can't be any doubt, if your Honor please, that he did make a statement to the FBI. Therefore this question couldn't be purposed to show that he didn't, or to impeach him. His motives are unimportant.

Mr. MacInnis: Your Honor, a statement is never any stronger than the reasons ascribed to it, and we now inquire into the reasons which this man ascribes to his own activity at that moment.

Mr. Donohue: And I say his motives or reasons for giving a statement to the FBI are unimportant. The fact is that he did. He says that he did.

The Court: Well, I believe that counsel's question is directed to another phase, not with respect to the underlying reasons, motivating his giving a statement, but rather as to his underlying reasons in becoming fearful or apprehensive as he stated: and to that extent, I believe the question is pertinent.

A. I observed the infiltration of Communists specifically in state depeartments, such as the State Relief Administration.

Q. Any other department?

A. There were a number of others, yes.

Q. What were those?

A. The Board of Prison Terms happened to be one. That is the board under which the various probationary officers and so forth were connected. And the Department of Public Works. And there were numerous ones at the time. [2241]

Q. Now, in these departments which you give us, I suppose from your best memory at this time, who are the people you remember that you complained about is being Communists?

Mr. Donohue: I object, if Your Honor pleases.

The Court: I will sustain the objection to that question.

Mr. MacInnis: May I say this, Your Honor: It isn't with any desire to bring out the name of any public official or to bring shame upon anyone in public office, but the question is directed to the legitimacy of the motives of this witness, you see.

The Court: I understand, counsel, and I understand the reason for your asking. But I say to you that eliciting the answer to that question—and I assume the basis for the objection would be, although the reason for the objection was not stated, that the

(Testimony of Kermit Charles Krolek.)

answers would require the trial of many collateral phases, and in addition, the scrutiny of many collateral phases that would not altogether be immediately material. And for that reason I sustain the objection.

Mr. MacInnis: I think your objective in doing that is the right one, because we certainly should keep other names—a lot of people should not be vainly accused of Communism.

The Court: Well, "vainly" or otherwise, counsel.

Mr. MacInnis: I certainly agree with you on that.

The Court: And with respect to your ascribing to my reasons underlying the sustaining of the objection any "vain" [2242] observation made by the witness, of course it may be stricken from the record, so far as I am concerned. You understand my reasons and I understand yours.

Mr. MacInnis: Yes, and you will understand I didn't use the word "vain" in the improper sense.

The Court: I understand. I merely want to keep the record clear.

Q. (By Mr. MacInnis): Well, now, in deference to His Honor's ruling, of course I don't want to ask you the names of any of these people who you complained were Communists, infilterating into the Government. I suppose the basis for any information which you then brought it upon yourself to pass to the FBI was information which you gained in the course of your job as the secretary of Governor Olson's brother?

A. That isn't quite correct, because the information I gave to the FBI was given prior to the time I asosciated with the Governor's brother.

(Testimony of Kermit Charles Krolek.)

Q. Well, now, could you give us the date of your association with the Governor's brother?

A. Well, the association took place in the early part—let's see—of—excuse me; the latter part of 1938 and continued through until the latter part of 1940, I believe.

Q. From the latter part of 1938 until the latter part of 1940? A. That's correct.

Q. You were associated with Governor Olson's brother, Mr. W. F. [2243] Olson?

A. As nearly as I recall.

Q. Was that in the course of your job as his secretary? A. Correct.

Q. But you told us this morning, didn't you, that the date of the statement that you gave to the FBI was 1939? A. Right.

Q. So that it was during the course of the time that you were in association with the brother of Governor Olson?

A. I believe you will find that the record which I gave to the FBI makes no inclusion of any Communists within the political field. The reference made in that statement pertained to the people who were working on the waterfront and the associates which I had at that time in connection with union activities.

Q. Well, was some person or group of persons at that time approaching you in some endeavor to tie up Harry Bridges and members of the ILWU with Governor Olson?

(Testimony of Kermit Charles Krolek.)

A. None whatever.

Q. But you knew that Harry Bridges and the ILWU had supported Governor Olson and were working along with him in many phases of his administration?

A. Let's put it this way, that although that may be the case, the Communist Party also supported the candidacy of Governor Olson, and after the man was selected, shall we say, then damned him with faint praise. [2244]

Q. We may say that, if you like. Now at the time that you were giving this information to the FBI, you were at the same time appearing before the ILWU, which was then, as now, headed by Mr. Bridges, and asking for the ILWU's support so that you would get your state job, weren't you?

A. You seem to know a lot about my activity.

Q. I do; indeed I do. Is that right?

A. I can qualify that.

Q. In other words, you say "yes" with a qualification; is that it? A. Substantially so.

Q. If you wish to qualify it, you may.

A. I made the appeal to the various unions in behalf of that particualr position you state, not on the basis of any Communist affiliation, but on the basis of support from the trade union standpoint. And I thought that I should receive that support, and I expected to receive it.

Q. And you did receive it?

A. Let us say in token.

Q. Pardon me? A. In token.

(Testimony of Kermit Charles Krolek.)

Q. Let us say in what?

A. In token, t-o-k-e-n.

Q. In token of what?

A. I mean token support. I mean, the sort of support that you [2245] might say, "A man is a good man, but——," with a qualification that there is just a little bit wrong with him.

Q. You mean they said the "but" as regards you?

A. In other words, my ability and so forth, my background, and circumscribed with a qualification that I might have been at one time a very good man, but——.

Q. In other words, whatever support they gave you had that qualification?

A. As far as the rank and file was concerned, people who knew me or thought possibly that I might be an individual just from the ranks, that support naturally came without qualification and it was wholehearted. But as far as the leadership was concerned, and certain people, I would say that that support was definitely with qualification.

Q. Well, now, adopting the dates that you have given us concerning your association with the brother of Governor Olson, let me ask you this: In December of 1938 you appeared before the Maritime Federation of the Pacific and asked that group to support you in your quest for a state job, did you not?

A. That's correct.

Q. And that group gave you an endorsement, didn't it? A. Correct.

(Testimony of Kermit Charles Krolek.)

Q. Was that a qualified endorsement?

A. I would say not. I would say that the endorsement was probably very straightforward; but nevertheless, the type of [2243] support which was actually received at the time that my name came up for appointment was somewhat different. In other words, the people who were in charge of making the appointment were apparently persuaded through certain pressures brought to bear that I was not exactly the right person to receive the appointment. Where these pressures came from is your guess as well as mine.

Q. I won't do any guessing, Mr. Krolek; I will bring you the records.

Now, it was on December the 6th of 1938 that you appeared and asked for an endorsement for the state job before the Maritime Federation of the Pacific, was it not?

Mr. Donohue: I object, if Your Honor pleases. I can see no bearing upon an application that this man may have made for any position, or what endorsement he may have had, which could affect his credibility as a witness or which tends to show bias or prejudice against these defendants. On no other basis could it be admissible. I object to it.

Mr. MacInnis: May I be heard, Your Honor?

The Court: Yes.

Mr. MacInnis: It would appear to me, Your Honor, from my own perspective, which may be biased, of course, that if this man on the one hand was going before Harry Bridges, the ILWU, and the

(Testimony of Kermit Charles Krolek.)

Maritime Federation of the Pacific and asking for its support, their support, ~~for him~~ to be given a state job, asking [2247] for that recommendation because he knew that Harry Bridges was close to the administration, and at the same time was going to the FBI with a story about them—that would seem to me to bear a little bit on his credibility, Your Honor.

The Court: Counsel, you may reserve your argument until a later date.

Mr. MacInnis: Yes.

The Court: The objection is overruled. The witness may answer.

Mr. MacInnis: Would you read the last question, please?

(Record read.)

A. I asked the endorsement on the basis of the vote by the rank and file. I am not particularly concerned, and I wasn't concerned at that time, by the endorsement of the officials of the ILWU or any other organization, for that matter.

Q. Who drew the resolution having to do with the job that you wanted? Have you any idea?

A. I recall one resolution being drawn up by—I believe the name was Hansen.

Q. Hansen was a member of the ARTA, wasn't he? A. That's correct.

Q. And he was the one who proposed this resolution on your behalf? A. That's correct.

Q. And such a resolution was drawn up? [2248]

A. That's right.

Q. And that was an unqualified resolution, wasn't

(Testimony of Kermit Charles Krolek.)

it? A. To my knowledge, yes.

Q. Have you ever seen the resolution?

A. I believe I have a copy of it still.

Q. In fact, the resolution was the matter that you went before the meeting to obtain, wasn't it?

A. That is correct.

Q. So that you would have the support of these groups before Governor Olson.

A. May I state that the meeting that I presented the resolution to was not a meeting of at least what I knew to be all Communists or partially of a Communist nature; it was a rank and file meeting.

Q. Of course not. Exactly. We are talking about precisely the same thing.

(Document shown to Mr. Donohue and Mr. Paisley by Mr. MacInnis.) [2249]

Mr. MacInnis: I don't think it is rubbing it in, Mr. Paisley.

Would you show this to the witness, please.

The Court: What was your last remark?

Mr. MacInnis: Mr. Paisley said I was rubbing it in. I said I didn't think it was rubbing it in.

The Court: May I ask counsel on both sides to address their remarks to the Court. I am offended that you leave me out. As a matter of fact, I would like to hear the thing.

Mr. MacInnis: I am sorry, your Honor. I should have repeated it after Mr. Paisley. It was a volunteer remark and it was a volunteer response. I am sorry I made it.

(Testimony of Kermit Charles Krolek.)

The Court: I thought it was someting I might rule on.

Mr. Donohue: If your Honor please, I would like, as I did with respect to a prior document, to at this time object to what seems to be a mimeographed copy of an unsigned and undated resolution.

Mr. MacInnis: I think it isn't before his Honor yet.

Mr. Donohue: You won't mind my addressing myself to the Court without interruption?

Mr. MacInnis: I think that the rule is that until the document is scrutinized by the witness and the Court, it isn't in the record.

Mr. Donohue: I will take my rules from the Court.

The Witness: Do you wish to see it? [2250]

The Court: No.

Mr. Donohue: If your Honor please, what has been shown the witness is apparently a mimeographed copy of an unsigned, undated resolution, which may or may not be the resolution concerning which the witness testified a moment ago. Whether it is or not, in my judgment, is unimportant, but certainly this document or this piece of paper is not admissible for any purpose.

Mr. MacInnis: I haven't offered it yet, your Honor.

The Court: The document was presented to the witness for identification. The witness has read it. Now you may proceed.

(Testimony of Kermit Charles Krolek.)

Q. (By Mr. MacInnis): Mr. Krolek, did you read the document which was just now shown you by the clerk?

Mr. Donohue: I object to the question. I object to any question on this document, your Honor.

The Court: Overruled.

A. I have read the document, yes.

Q. (By Mr. MacInnis): Does that appear to be a copy of the resolution which was rendered at that time in your behalf?

Mr. Donohue: I object, if the Court please. The best evidence, as my friend has so frequently stated, is the written document.

Mr. MacInnis: Don't make us friends.

Mr. Donohue: I am sorry I said it. I didn't mean it. [2251]

Mr. MacInnis: You shouldn't confess insincerity like that.

Mr. Paisley: Isn't it about time the Court admonished counsel on both sides, if necessary, that their remarks should be addressed to the Court? This wise-cracking and repartee have no place in court, in my judgment.

The Court: Well, counsel, I felt some degree of pardonable pride in the alacrity with which this evidence was unfolding in the last few days, and I haven't regarded any personal differences between counsel as impeding that rather happy progress of this trial. I see no reason for admonitions at this juncture.

Now, what is the question?

(Testimony of Kermit Charles Krolek.)

Mr. MacInnis: Would you read the last question, please.

(Question read.)

A. It is.

Q. (By Mr. MacInnis): Did you find any qualification in that particular resolution?

A. I found none.

Q. Is this the resolution as I will now read it to you:

> "Resolution regarding endorsement of Brother Charles Krolek"——

Mr. Donohue: Just a minute. I object to the reading of this resolution, if your Honor please. It has been marked for identification. It is not in evidence. [2252]

The Clerk: It has not been marked.

Mr. MacInnis: It has not been marked either.

Mr. Donohue: I assume it should be; it was identified by the witness.

Mr. MacInnis: I would be glad to have it marked, and if necessary we might have the same arrangement, to substitute a copy for the original document.

The Court: What is the basis of the objection, Mr. Donohue?

Mr. Donohue: If the Court please, I can see no basis upon which a resolution adopted by a union endorsing this witness for appointment to a position with the State of Cailfornia has to do either with the credibility of this witness or the truth or falsity of the charges against these defendants.

(Testimony of Kermit Charles Krolek.)

The Court: Mr. MacInnis discussed with Court and counsel the basis for his offer with respect to asserted inconsistent positions that he sees may have been taken.

Mr. Donohue: The witness says that this is not the resolution, if your Honor please.

Mr. MacInnis: Yes, he has said it. Your Honor, the point, if I may be heard, is this: The witness has said that he was endorsed but that there was a big qualification added to it, a "but"—that he had once been a good man, "but." I propose to show——

The Court: The objection is overruled. [2253]

Mr. MacInnis: So I will ask that Mr. Mitchell mark the page for identification first.

The Court: I haven't read it, counsel, but I assume it is the resolution the witness has identified.

Mr. MacInnis: Yes.

The Court: You say you haven't any question about it?

The Witness: That is correct.

The Court: That appears to be the correct version?

The Witness: Yes.

Mr. MacInnis: Would your Honor like to see it before it is marked?

The Court: I will take the witness' version and your version.

(The copy of resolution referred to was marked Defendants' Exhibit W for identification.)

(Testimony of Kermit Charles Krolek.)

Mr. MacInnis (reading):

"Whereas: It is highly important that various administrative offices in the government of the State of Cailfornia be filled by individuals particularly qualified in their respective fields of endeavor; this being particularly true in the case of the several state departments administering labor's problems in order that its efficient government may be protected from maladministration at the hands of incompetent and inexperienced individuals; and [2254]

"Whereas: There will be available by appointment of Governor-Elect Culbert L. Olson in the Department of Industrial Realtions of this State several positions of trust and high responsibility; one namely being that of Chief of the Bureau of Hearings and Compensation, and

"Whereas: This position should be filled from the ranks of labor by an individual who, as undisputably shown by his past labor record, has worked at all times for progressive thought and forward action in his own group as well as toward a progressive state administration, and

"Whereas: Brother Charles Krolek, formerly Acting Secretary of Local #3, American Radio Telegraphists Association, as well as holding other official positions in this organization, has proven himself patricularly fitted for positions of trust and responsibility, as demonstrated by him during his official connection with

(Testimony of Kermit Charles Krolek.)

> this Association, now therefore be it
>
> "Resolved: That San Francisco Bay Area District Council #2, Maritime Federation of the Pacific, do hereby at this December 6th meeting, go on record as requesting Governor-Elect Culbert L. Olson to respectfully give his consideration to the appointment of Brother Chas. Krolek to the post of Chief of Bureau of Hearings and Compensations, Department of Industrial Relations, [2255] and be it further
>
> "Resolved: That San Francisco Bay Area District Council #2, Maritime Federation of the Pacific, refer this resolution to its component organizations and to the CIO Industrial Union Council, with a recommendation for concurrence." [2255-a]

Is that the resolution?

A. That seems to be it, yes.

Q. Do you find in the text which I have read to you any qualification?

A. I don't believe you are getting the point, Mr. MacInnis. The qualification that exists does not exist in writing.

Q. Oh, this qualification was somewhere else, then, not in the resolution; somewhere else in the minds of some men?

A. It is a characteristic about the manner in which the Communist Party operates by attaching themselves to any progressive cause, and then by a process of, to repeat the term, damning with faint praise, proceeds to destroy the integrity and the

(Testimony of Kermit Charles Krolek.)

character of the cause and the individual to whom it may be attached. I certainly cannot state here on this stand that the resolution as you have read it was not concurred in by the union. I will say that the rank and file presumably were honest in their support of this and any other resolutions that were presented before the District Council and other councils; but the fact of the impediment of that particular resolution or whatever was placed on the table was accomplished by certain actions of individuals which can be identified as Communists, actually took upon itself, presumably under orders of the Party to carry out, and therefore to nullify any effect which the written word as put forth in that resolution might stand for. [2256]

Q. These other things of which you speak were not written things?

A. They are not written. They obviously would not be written. A situation—a condition of action of, shall we say, stultification and verbal sabotage cannot be expressed in writing.

Q. What do you mean by "verbal sabotage"? Is that another of these so-called Trotskyite phrases or what?

A. It is very easy to destroy a man's reputation by dropping a hint every now and then that there is just a little bit less of his ability and credibility and so forth, and it seems to be the manner in which the Communist Party operates.

Q. You have some feeling that your reputation

(Testimony of Kermit Charles Krolek.)

was destroyed by certain people?

A. I won't say it is destroyed. My ability, shall we say, in that particular line as set forth in that resolution was definitely destroyed, yes, but by inference made by members of the Communist Party to certain people.

Q. And the resolution which you were given to present to the State administration notwithstanding? A. Presumably so.

Q. You made a speech also, did you not, when that resolution was passed?

A. I made a speech where?

Q. Before the Maritime Federation of the Pacific. [2257]

A. I suppose you would call it a speech. I introduced myself so that people could see who I was.

Q. And pledged yourself to act, to quote you, "a hundred per cent on behalf of organized labor"?

A. Presumably. I was sincere in the matter.

Q. Now, you joined the Communist Party, according to what you told us the other day, because you found it expedient to do so?

A. That is correct.

Q. It helped you with your job?

A. That is true.

Q. You didn't join it as a dreamer or a visionary to help out? A. I would say so.

Q. You had a very practical reason?

A. I analyzed the step before I took it very carefully.

(Testimony of Kermit Charles Krolek.)

Q. And you also found it expedient to make this statement to the FBI in 1939?

A. Exactly. I might qualify that by saying that the expediency was based strictly on the inroad which I had observed, as I have stated, of the Communist movement both in labor and political ranks, and my action in so doing was chiefly motivated by the infiltration into the political ranks.

Q. Let me ask you this: Did this thought enter your mind: You say that after this resolution was passed extolling you [2258] in rather good language, to say the least, by the Maritime Federation of the Pacific, that some other persons engaged in verbal sabotage of you?

A. I don't quite follow your point there.

Q. I will repeat that. You say that in spite of this resolution, some other people, by word of mouth, spoke against you?

A. Well, that is very definitely so, yes.

Q. You did not in fact get the job that was mentioned in that resolution?

A. Well, I didn't get the job. There were apparently others that were more qualified, but the fact did reach my ears through good sources at the time that the reason for not obtaining the same was probably due to efforts of certain people who were Communists.

Q. When you say that you were prompted by expedience to make this statement to the FBI, is this what took place——

(Testimony of Kermit Charles Krolek.)

A. I believe I qualified that statement of expedience, did I not?

Q. Yes. Is this what took place: that you were aggrieved because you heard that some people were speaking against you, and you decided that then you would go to a public agency and speak against that group of people?

A. Not particularly. The reason that the testimony was given was very simple. As you know, in all major political parties we have supporters, we have people that go out and [2259] ring doorbells, that distribute literature, that do all the countless one and other things which is necessary to elect a candidate. And we had such people at the time of the Olson candidacy, I being one of them, and at the conclusion of his successful election to the office, it was unfortunate to observe that certain people who paid a lot of lip service to him seemed to be the people that were worming into various State political offices, and I frankly took exception, to that.

Q. That is probably true of every administration, isn't it? A. That may be.

Q. Go on. A. That's it, period.

Q. Now, you say that in 1941 in the month of April when the FBI had you escorted by agents to its office and asked you to testify against Harry Bridges in the 1941 trial, you convinced Mr. Delgurcio and the other agents that your lack of financial security was a good enough reason to impel them to let you go?

(Testimony of Kermit Charles Krolek.)

A. Well that was one reason, yes.

Q. Now, did you talk over the summoning of yourself and your wife by the FBI with other persons at that time?

A. I did not. I might make this statement, however: that fact that I had contacted the FBI on a previous occasion was made known to me by a known member of the Communist Party, and that particular gentleman, shall we say, voiced a veiled threat against my offering such testimony at that time.

Q. Was that your brother-in-law?

A. That is correct.

Q. And your brother-in-law, as you know, was a witness for the Government before the Grand Jury in this present case against Harry Bridges?

A. So I understand.

Q. Now, isn't this true: that on the night of the 13th of April, 1941, you asked your brother-in-law, Mervyn Rathborne, to come to your house?

A. That may be.

Q. And you and your wife then had a conversation with him, is that correct?

A. I believe that is correct, yes.

Q. Did you and your wife in each other's presence tell Mr. Rathborne at your home that you had been taken to the offices of the FBI that day?

A. We did.

Q. And when Mr. Rathborne rang the doorbell of your home, your wife answered the door alone, is that correct, to your memory?

A. It is possible.

Q. Did you tell Mr. Rathborne that you had been hiding in the back of the house because you were sure the FBI agents would make a return call?

A. That isn't my recollection, no.

Q. Do you deny that you said that or do you know one way or the other? A. I don't know.

Q. You may have said that?

A. I frankly don't remember.

Q. Did you tell Mr. Rathborne on that evening that agents of the FBI had visited you at work?

A. I don't know whether I specifically stated at work; I told him that I had been visited by agents of the FBI, yes.

Q. And did you tell Mr. Rathborne that you told the agents of the FBI that you had no evidence one way or the other to offer against Harry Bridges?

A. Could you amplify on that statement? I don't quite follow that.

Mr. MacInnis: Would you read my question, please?

(Question read.)

Mr. Donohue: Just a minute, Mr. Witness. If your Honor please, I am impelled to make an objection this minute. May I ask your Honor what possible connection there may be between this witness' testimony and this proceeding with something that he may or may not have said to his brother-in-law back in 1941? I object to it, if your Honor please; it is incompetent, immaterial, and not rele-

(Testimony of Kermit Charles Krolek.)

vant to the issues and certainly not for the purpose of impeaching the credibility of this [2262] witness.

Mr. MacInnis: Your Honor, the point I would suggest is this: that if this witness told Mr. Rathborne that he told the FBI agents that he had no knowledge one way or the other about Harry Bridges, it would certainly be material to our present inquiry.

The Court: The objection is overruled.

A. I don't recall what my conversation was with Mr. Rathborne at the time.

Q. (By Mr. MacInnis): Pardon me?

A. I don't recall what the conversation was with Mr. Rathborne at the time.

Q. You mean you have no definite memory one way or the other? A. That is correct.

Q. You don't deny that you may have said that?

A. Possibly; I don't know.

Q. You may possibly have said to Mr. Rathborne on the night of April 13, 1941, that the FBI had visited you at your office that day and that you had told them that you had no information one way or the other about Harry Bridges as to whether or not he was a Communist?

A. That statement may have been made for a simple reason: that Mr. Rathborne at that time was still a member of the Communist Party. There was the implication made, as I think I stated, on his part that my appearance and testimony [2263] before the Grand Jury in that second case would be, shall we say, somewhat undesirable as far as the Communist Party was concerned.

Q. You haven't seen Mr. Rathborne of late, you say?

A. I believe I stated I haven't seen him for the past two years.

Q. So of course you have no personal knowledge of his association with the prosecution on this particular case? A. None whatever.

Q. Did you tell Mr. Rathborne on the night of April 13 that the FBI agents had tried to intimidate you?

A. I told Mr. Rathborne that I was under a considerable amount of pressure, and obviously my wife was also under pressure.

Q. What pressure did you tell Mr. Rathborne that your wife was under?

A. Well, I think I can answer a question like that by you putting yourself in the position of a woman that is absolutely innocent of any connection with an activity of this sort and suddenly being called into the picture as, shall we say, a corroborating witness.

Q. You were indignant, I suppose, at the treatment that was accorded your wife?

Mr. Donohue: I object, your Honor.

The Court: The objection is sustained to that.

Q. (By Mr. MacInnis): Did you tell Mr. Rathborne on the [2264] night of April 13 of 1941, that the FBI agents told you that they knew all about your Communist connections in 1935 to 1937?

(Testimony of Kermit Charles Krolek.)

A. I believe I did, yes.

Q. Did you have another meeting at your house with Mr. Mervyn Rathborne on the evening of April 20, 1941?

A. Since you have the records so clear, I possibly may have. I don't recall.

Q. You asked him to come to your house on that evening yourself, did you not? A. It may be.

Q. Did you tell him on that occasion, again in the presence of your wife, that the FBI had visited you within the last two or three days on two occasions? A. It is possible.

Q. Did you tell him that they had twice, the FBI, brought you and Mrs. Krolek from your home in Belmont up to the FBI offices in San Francisco?

A. It is quite possible. [2265]

Q. Did you tell Mr. Rathborne on that evening that you and your wife were both subjected to extreme pressure by the FBI?

Mr. Donohue: I object, if Your Honor pleases. This man had testified that he made a statement to the FBI. He has stated when, he has stated his recollection of what he said and his reasons. Now, certainly he can't be impeached by a conversation he had with his brother-in-law after the statement was made, two years after the statement was made. I object to it.

Mr. MacInnis: Your Honor, if these statements are inconsistent with the present testimony that he gives here, I think that the Court and the jury should receive them.

(Testimony of Kermit Charles Krolek.)

Mr. Donohue: Well, he hasn't introduced——

The Court: I have given you considerable latitude, Mr. MacInnis:

Mr. MacInnis: Yes, you have.

The Court: In connection with the surrounding circumstances of the taking of the statement. I think the objection might be sustained at this juncture.

Mr. MacInnis: Well, I will try not to parade the point too long, Your Honor.

The Court: All right.

Mr. MacInnis: I appreciate, there is much discretion in Your Honor's rulings at this juncture.

Q. Did you and your wife tell Mr. Mervyn Rathborne on the night of April 20th of 1941, that you had been given the third [2266] degree by Mr. Del Gurcio in the presence of twelve FBI agents?

Mr. Donohue: I object to the question, if Your Honor pleases.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Did you tell Mr. Rathborne on the night I have just mentioned that Mr. Del Gurcio told you that unless you testified for the Government you would be discharged from your job with the National Youth Adiminstration?

Mr. Donohue: We object to the question.

A. That is not correct—excuse me.

Mr. MacInnis: I think, Your Honor, that this goes directly to the matters he has testified to. I will reframe the question, Your Honor.

(Testimony of Kermit Charles Krolek.)

The Court: I would suggest you do. I was interrupted, the witness had answered partially.

Q. (By Mr. MacInnis): Did you tell Mr. Rathborne on the night of April 20, 1941, that you had told Mr. Del Gurcio and the FBI agents that you did not want to be a witness in the Bridges case for two reasons; first, that you had no information that would be of any interest, either to the prosecution or the defense; and secondly, that you were a member of organized labor and that you would not go on the witness stand and give false testimony?

A. That may be so, Mr. MacInnis. The chief objection, I have told you in the past, to my appearing on the stand at this [2267] other Bridges hearing was for personal reasons, the fact that I was in no position to sustain myself economically. And the fact also that I was associated with the state administration in a minor capacity, which might serve to embarrass them.

Q. Well, did you tell Mr. Mervyn Rathborne on the same night that I have mentioned that your reason for arguing against appearing in the Bridges case was not because of any friendship or loyalty for Harry Bridges, whom you didn't like personally, but because you had an aversion in principle toward giving false testimony?

Mr. Donohue: I object. If Your Honor please, if this were directed to a reason for his appearing here, I would make no such objection.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): On the night of April

(Testimony of Kermit Charles Krolek.)

23rd, a further occasion, 1941, did Mr. Mervyn Rathborne come to your house at your request——

Mr. Donohue: I object, if Your Honor please. It doesn't make any difference whether he did or didn't.

Mr. MacInnis: Well, Your Honor, there are further conversations which took place on this occasion, as well. I think it would be for Your Honor to judge whether the particular question would be competent in view of the testimony here.

Mr. Donohue: It is obvious, if Your Honor pleases,——

The Court: Well, there might be a question of direct [2268] impeachment or collateral impeachment.

Mr. Donohue: But it could only be, if I may respectfully say to Your Honor, with respect to the reasons or motives for this witness in making a statement to the FBI. Now, if the same question were addressed to his motives or reasons for testifying here, I would make no such objection.

Mr. MacInnis: Your Honor,—(To Mr. Donohue) Are you finished?

Mr. Donohue: Yes.

Mr. MacInnis: Your Honor, if it appeared from the conversation or colloquy had in April, 1941, the three different conversations with his brother-in-law, that this gentleman made statements to his brother-in-law totally inconsistent with the position that he takes here, that would be a matter for the Court and jury to look upon, certainly.

(Testimony of Kermit Charles Krolek.)

The Court: Counsel,——

Mr. Donohue: Again I say, if Your Honor please, if it had to do with the motives of this witness testifying here, I would make no such objection. This witness has been asked and he has said on a dozen occasions, "I went to the FBI in 1939, here are my reasons, and I gave a statement." Now I don't see how we can attempt to impeach him by something he may have said to his brother-in-law two years later as to his motives for giving that statement. Again I say, his motives are unimportant.

Mr. MacInnis: Well, Your Honor,—— [2269]

Mr. Donohue: With respect to his statement to the FBI.

Mr. MacInnis: Your Honor, when a man offers us his motives, we certainly are not bound by them, but the right of cross-examination is to inquire into those motives by questions as to what was done at the time and what may have been said at the time or at related times. Now, here we have a man who says the Government served him with a subpoena to appear in 1941 in the case against Harry Bridges. And he tells us that he was able to argue to them that because he wasn't financially secure, they let him go. Then he tells you that he may well have told Mr. Mervyn Rathborne things to the contrary, that he told the agents of the FBI that he had no information one way or the other about

(Testimony of Kermit Charles Krolek.)

Harry Bridges. That one thing or another was said to him, that pressure was put upon him. Now, all of those things would be material, certainly, to the testimony that he offers us today.

The Court: You might ask him the question. The witness may offer any explanation he may have in association with the motivation he gives, why he makes such statements to Mr. Rathborne, if he did many any statements and the reason why; whether he tried to propitiate himself or not I don't know; I think he can give a full response.

Mr. MacInnis: I think he could.

The Court: All right, you may answer the question.

Q. (By Mr. MacInnis): On the night of April 23rd of 1941, [2270] did you and your wife, in each other's presence, have a conversation with your brother-in-law, Mr. Mervyn Rathborne, in which you said that on Monday morning, April 21, 1941, you had been served with a subpoena and brought down to the United States Postoffice, this building, to the Bridges hearing?

A. I don't recall the conversation, but for your information, Mr. MacInnis, we have had, at that particular time, there were several discussions that I had with Mr. Rathborne. Mr. Rathborne, as you know, at that time was——

Q. Pardon me. Do not tell me what I know, because I have never met Mr. Rathborne in my life.

(Testimony of Kermit Charles Krolek.)

The Court: Pardon me. The witness may complete his answer.

Mr. MacInnis: I think, your Honor, he shouldn't state what a person knows. I know many names of these people through documents that I have stayed up late hours reading in the last few nights, and I have never met Mr. Rathborne in my life.

The Court: Well, the witness has mentioned now that this is a prefatory statement, is it?

The Witness: That is correct, your Honor.

The Court: You may complete it.

A. (Continuing): The discussions that I had with Mr. Rathborne, I don't know whether they particularly occurred in my home or whether they occurred in his home. The occasion of [2271] discussion, of course, concerned my appearance before the grand jury, before the trial; and as you know, or rather, as must be very evident in your mind, Mr. Rathborne then was an active member of the Communist Party.

Q. I have heard he was.

A. The fact that you are so very clear on the information that you possess is, of course, ascribable to one reason, but Mr. Rathborne did obtain the information which I had given the FBI in 1939 and which was subsequently transmitted to him and which he——

Mr. Donohue: Just a moment.

Mr. MacInnis: You may go to the head of the class on that.

(Testimony of Kermit Charles Krolek.)

Mr. Donohue: If your Honor pleases, there is a matter which I think counsel should discuss at this point with the Court, in the absence of the jury.

The Court: It is agreeable with the Court, counsel; it is now five minutes to three. If you have matters to discuss in the absence of the jury, we will accommodate counsel.

Ladies and gentlemen of the jury, we will take the afternoon recess. It is now five minutes to three. The same admonition to you, not to discuss the case under any conditions nor to form nor express an opinion until it is finally submitted to you. The jury may retire.

(The jury retired from the courtroom and the following [2272] occurred without the presence of the jury:)

Mr. Donohue: If your Honor pleases, the matter is one which I respectfully suggest to your Honor——

The Court: Stipulated the jurors are absent?

Mr. MacInnis: Yes, your Honor.

Mr. Donohue: Yes, your Honor.

And the matter is one, if your Honor pleases, which I respectfully say to your Honor we should be permitted to discuss with your Honor in chambers and not in public hearing.

The Court: Yes, sir. If you so desire, the Court will accommodate you in chambers.

Mr. Donohue: Thank you, sir.

The Court: We will recess to chambers. This is a regular recess to chambers, and the Reporter is to be present.

(Whereupon the following occurred in chambers;)

The Court: May the record show that the counsel for defense and counsel for the Government are present; the Reporter is here and the court is in regular session. Mr. Mitchell, the Clerk of the Court, is present. Mr. Donohue?

Mr. Donohue: If your Honor pleases, the witness was about to volunteer a statement which, perhaps I may be in error, but I think is a subject matter which I should——

The Court: Keep the door closed.

I was interrupted; I am sorry. What was that last, Mr. Reporter? [2273]

(Record read.)

Mr. Donohue: ——discuss with the Court in order that it may not, as a result of a question from Mr. MacInnis, a question which he may or may not ask him. We are discussing a meeting of the witness at the home of Mr. and Mrs. Rathborne or at the witness' home. I am afraid that the witness, in response to a question of what happened, may make reference to a certain letter which was written to Mrs. Mathborne with relation to the testimony of Mr. Krolek before the Federal Bureau of Investigation. I have reason to believe counsel for the defendant Bridges may have that letter or a copy of that letter, and in the light of the fact that I

(Testimony of Kermit Charles Krolek.)

happen to know who the author of that letter was, I think it would be highly improper for that letter or the substance of it to be testified to by this witness. It certainly could have no bearing on——

Mr. Hallinan: I don't think this is a matter for chambers; if there is any objection——

Mr. MacInnis: I don't think it is a matter for your Honor.

Mr. Donohue: I think it is a matter for chambers.

Mr. Hallinan: Calling us in to explore as to what we have or haven't got.

Mr. Donohue: If the witness is permitted or led into testifying about this letter, I think it would be—I would have been remiss in my duty if I didn't call the Court's attention to the fact that I know that—at least I know because the witness [2274] has told me—such a letter was written to Mrs. Rathborne and that Mrs. Rathborne on several instances waved that letter in front of her and made some comment about it.

The Court: In front of "her"?

Mr. Donohue: In front of her, Mrs. Krolek, and in front of her husband, when the two couples were together.

The Court: Well, I can't follow you through. Of course, I again look through the bowl. I am not a clairvoyant.

Mr. Donohue: Correct, your Honor.

The Court: But are the relations between Mr. and Mrs. Krolek secure?

Mr. Donohue: Oh, yes.

(Testimony of Kermit Charles Krolek.)

The Court: Well, is there anything in the letter that would bring any disgrace or opprobrium on any innocent person or anything of that nature involved? I can't follow you through, frankly.

Mr. Donohue: I think I will have to say about that, for the record, that the letter was written by Mrs. Eleanor Roosevelt and certainly no statement that Mrs. Roosevelt may have made with respect to the fact Mr. Krolek gave a statement to the FBI would have any pertinent——

Mr. Hallinan: Why not?

Mr. Donohue: ——bearing on the issue before this jury.

Mr. Hallinan: We are entitled to bring that out, and we certainly intend to bring it out. [2275]

Mr. Donohue: Just what I suspected, Your Honor.

Mr. Hallinan: His reply to it.

Mr. Donohue: I will call it to the Court's attention.

Mr. Hallinan: And condemnation of his action in that respect. Certainly we do intend to bring it out.

Mr. Donohue: I don't think that the letter should be admitted to evidence. I don't think it is material testimony or proper evidence.

Mr. Hallinan: Mrs. Roosevelt's name isn't sacrosanct, and I doubt very much if she would object to us using it.

Mr. Donohue: The same would be true if it was Mrs. Somebody Else, but certainly no letter——

(Testimony of Kermit Charles Krolek.)

Mr. Hallinan: But his retort to it——

Mr. Donohue: ——written to Mrs. Rathborne characterizing unfavorably the action of Mr. Krolek in testifying before the Federal Bureau of Investigation isn't admissible in this proceeding.

The Court: Well, I may agree with you on legalistics with respect to its admissibility.

Mr. MacInnis: I don't think, Your Honor, that there is any—Pardon me. Did I interrupt you?

The Court: There is nothing before me at the present time.

Mr. MacInnis: That is what I think, that we can't——

The Court: There is nothing before me. We are venturing into a field of unknown. I don't know what counsel has in mind. [2276] I could only guess —I can not be prophetic.

Mr. Donohue: Counsel has stated now——

Mr. Hallinan: We have his reply as a pertinent piece of evidence.

The Court: Yes. I will meet the matter on a ruling when an appropriate offer is made.

Mr. Donohue: Yes. I may say, if Your Honor pleases, that when the offer is made, of a letter or an answer to a letter of Mrs. Roosevelt, we will have to object to it——

Mr. Hallinan: Go ahead.

Mr. Donohue: ——and I think it is unfair to us to require us to object in front of the jury.

Mr. MacInnis: I don't think, Your Honor,——

(Testimony of Kermit Charles Krelek.)

The Court: Well, counsel,—

Mr. Donohue: And the letter has no probative value in the trial.

Mr. Hallinan: We have others from people just as high and higher.

Mr. MacInnis: I would think, Your Honor, that there are many questions which we ask and which, when asked, are objected to. Then Your Honor determines whether they are proper or not.

Mr. Donohue: To let such a letter in would be to say that Mrs. Roosevelt's or Mrs. Jones' opinion of what the witnesses may have done is important in the issue of this trial; and it isn't.

The Court: Well, of course, the Court may well sustain an [2277] objection. I can't determine at this juncture, however. There is nothing before the Court.

Mr. Donohue: Well, I thought Your Honor might perhaps——

Mr. Hallinan: We are not going to offer the letter itself for its contents; we are going to offer it for his answer, his comment on the letter— nich is very pointed and very much to the point; and in which he denied specifically having made any of the statements criticized in the letter.

Mr. Donohue: You can't get the answer in unless you put the letter in.

Mr. Hallinan: All right, then, that doesn't rule it in or out.

The Court: We will rule on it when we come to it.

(Testimony of Kermit Charles Krolek.)

Mr. MacInnis: That is the only matter?

Mr. Donohue: That is the only matter.

The Court: I appreciate your bringing the matter to my attention in advance, but there is nothing before me now. We will be in recess.

(Recess.) [2278]

(The following proceedings were had in the courtroom within the presence of the jury:)

Q. (By Mr. MacInnis): Mr. Rathborne, to continue our discussion of the meeting you had on the 23rd day of April, 1941——

The Court: One slight correction.

Mr. MacInnis: Mr. Krolek—I am sorry, Your Honor; it occurred to me in the middle of the question.

Q. To continue that discussion, did you tell in the presence of your wife, your brother-in-law, Mr. Rathborne, that your wife was also served with a subpoena to appear in the Bridges case but that she became nervous and in fact was confined to her bed because of the circumstance?

Mr. Donohue: Object, if Your Honor please; it obviously makes no difference whether his wife was served with a subpoena or not.

The Court: Sustained.

Mr. MacInnis: On the same night, Mr. Krolek, did you in the presence of your wife tell Mr. Mervyn Rathborne that you had told Mr. Albert Delgurcio, the Bridges case prosecutor, that if you were placed upon the stand you would make a direct appeal to the trial examiner who sat in the position of judge in that case and that you would tell him about the persecutions, intimidations and third degree methods that had been used against you and your wife?

Mr. Donohue: Object, if Your Honor please. Again, I say, [2279] if Your Honor please, if these so-called methods of pressure or intimidation were being used——

The Court: I think thus far, as I said to Mr. MacInnis earlier in his cross-examination, I have given considerable latitude to the circumstances surrounding this man being subpoenaed, the statements emanating from him, and the like, and under the circumstances I sustain the objection.

Q. (By Mr. MacInnis): Mr. Krolek, can you remember what you told Mr. Rathborne as being the circumstance under which the Government acceded to your request and failed to put you on the stand as a witness in 1941 in the case against Harry Bridges?

A. I don't particularly remember whether I did or not.

Q. You don't remember that. Well, I won't repeat the question in deference to Your Honor's ruling.

Now, Mr. Krolek, taking your memory back to this voluntary statement that you said you gave to the FBI in 1941 when you became alarmed at what you thought was the Communist infiltration into our state governmental administration, did you

(Testimony of Kermit Charles Krolek.)

ever tell Mr. and Mrs. Rathborne about the making of that statement?

Mr. Donohue: I object, if Your Honor please; it doesn't make any difference whether he did or not.

Mr. MacInnis: It is preliminary, Your Honor.

The Court: Sustained.

Q. (By Mr. MacInnis): Let me ask you this, Mr. Krolek: After you made the statement in 1939 to the FBI, weren't you [2280] present at the home of Mr. and Mrs. Rathborne on an occasion when Mrs. Rathborne, your wife's sister, displayed to you the letter which she received from Mrs. Eleanor Roosevelt condemning you because of your treachery in making false statements against Harry Bridges and members of the ILWU?

Mr. Donohue: I not only object to the question, if Your Honor please, but I invite Your Honor's attention to the characterization of a letter which is not in evidence, which is not before the Court, which was advisedly made by Mr. MacInnis for the sole purpose of prejudicing the United States in this prosecution.

Mr. Hallinan: May I be heard on the legal end of that, Your Honor? You have ruled heretofore on matters somewhat of this kind.

The Court: Pardon me, Mr. Hallinan. One moment before I pass to that phase. I have an objection now interposed to Mr. MacInnis' question. I sustain the objection.

Mr. Hallinan: Your Honor, I wanted to be heard on the matter before you ruled.

The Court: Then I will reserve my ruling.

Mr. Hallinan: If you will, because the propriety of the preliminary approach to questions of this kind before the display of the document involved has heretofore involved some discussion with the Court, and you have ruled correctly—in other words, I mean you have ruled upon how we contended the [2281] law stood on it; but in order to get that matter perfectly straight, Your Honor, I have a short statement here that I would like to read about a Supreme Court decision of the State of California; People v. Hart, 153 Cal. 263, which exactly approaches this matter. Now, there was a conviction that was reversed for one error. The Supreme Court said:

> "We have stated all the material evidence in the case so that the main point upon which the claim for a reversal is based may be better understood. This is that the Court erred in sustaining the objections of the prosecution to questions asked by the defense of Barkeeper Hall as to whether he had at the preliminary examination as he then did on the trial, made the statement concerning what took place in the saloon after the robbery while Dowane Davis and Hart were there."

Now here is the precise point:

> "It is insisted by the People that the rulings were proper because it did not appear, 1, That the witness had testified upon any preliminary

(Testimony of Kermit Charles Krolek.)

examination; 2, That the attorney for defendant had not offered to exhibit to the witness any transcript of his testimony taken at the preliminary examination; and thirdly, that in any event the ruling was not prejudicial to the defendant."

Now, here is how the Court disposed of that:

"As to the further argument of the prosecution that [2282] the questions were impeaching questions and therefore that a transcript of the witness' testimony should have first been shown him, it is sufficient to say that these questions were not by way of direct impeachment. In the first place, they were but preliminary in their nature, and had answers been allowed, the explanations of the witness might have been full, complete and satisfactory. He might, for example, have said that he did so testify on preliminary examination, or he might have answered that he was not interrogated upon the subject at all. Only as he answered, and depending upon the character of his answers, would questions by way of direct impeachment have followed. As it was, in sustaining the objections to these questions, the Court cut off the right of defendants' counsel to proceed along a legitimate line of cross-examination, while, in addition to this, the questions in and of themselves were pertinent, proper and valuable cross-examination as testing the credibili-

> ity, memory and fairness of the witness."
> Citing People v. Manasse, 94 Pac. 92.

Now, I say that is in line with the ruling that the Court made. [2283]

The Court: There is no parity, Mr. Hallinan, between the circumstances presented in the Hart case and that presented immediately confronting me with respect to this witness.

Mr. Hallinan: Of course, the question in this case is this: The contents of the letter itself is not evidence, but the reply that the witness made; the reply, let us say, for instance, without committing that this is it, that the witness said that Eleanor Roosevelt was a liar for saying that he had made the statements; that that, by contradicting the allegations in the letter, was a statement contrary to his present testimony here, and that is the purpose for which it is sought to be introduced.

The Court: Without committing myself to any immediate ruling on that matter, Mr. Hallinan, I may say to you somewhat preliminarily that these matters are wholly collateral. To try these collateral matters would end in lawsuit upon lawsuit and integrated lawsuit upon integrated lawsuit.

Mr. Hallinan: But, your Honor——

The Court: It is purely collateral, as I look on it, but I will reserve my ruling in the matter until Mr. Donohue has stated his objection.

Mr. Donohue: I have an objection to a question as to whether or not he has seen a letter which was written by someone else.

(Testimony of Kermit Charles Krolek.)

Mr. MacInnis: That wasn't the question. [2284]

Mr. Donohue: Let's let the reporter read the question.

Mr. MacInnis: You will perceive that the question asked for conversation concerning the letter.

(Question read.)

Mr. Donohue: In addition, and before I offer my objection to the question, if your Honor please, I ask your Honor at this time to say to the jury that they are not to accept Mr. MacInnis' characterization of this letter which is not before the Court or jury.

Mr. MacInnis: I would like to rephrase the question, your Honor.

The Court: The objection is sustained. And to the end that the record may be clear, I say to you that the contents of any asserted letter or alleged letter as referred to by Mr. MacInnis is not to be regarded by you as evidence in this case. I think we understand that. The jurors have been so admonished time and time again.

Mr. MacInnis: Your Honor, to complete the record on that objection, and in answer to it, will the Government stipulate that such a letter is in existence?

Mr. Donohue: I can't stipulate to something I don't know. If there is such a letter I have never seen it.

Mr. MacInnis: It was the prosecutor who brought the letter to your Honor's attention, so it would appear to me that he would know it to be

(Testimony of Kermit Charles Krolek.)

in existence. It was he who [2285] brought it before your Honor, not I.

Mr. Donohue: It was you who characterized the letter in spite of the fact that I had told you about it.

Mr. MacInnis: Yes, the prosecutor brought up that letter to your Honor in chambers, the existence of the letter of Eleanor Roosevelt.

Mr. Donohue: Isn't it apparent——

Mr. MacInnis: I think I am in a position to ask for a stipulation.

Mr. Donohue: Isn't it apparent, if your Honor please, from Mr. MacInnis' characterization of this letter, either he has the letter, has seen the letter, or he has in front of this jury characterized a letter that he has never seen?

The Court: The objection is sustained. The letter, if it be in existence, has no more binding effect than any gratuitous statement made by any other person or any other citizen.

Q. (By Mr. MacInnis): Mr. Krolek, after the time you made your first statement to the FBI in 1939, did you have a conversation concerning that meeting at the home of Mr. and Mrs. Rathborne in which you discussed also a letter written by Mrs. Eleanor Roosevelt concerning you and the making of that statement?

Mr. Donohue: I object to the question, if your Honor please, as its only purpose is to evade the ruling which [2286] your Honor made a moment ago.

(Testimony of Kermit Charles Krolek.)

The Court: The objection is sustained.

Mr. MacInnis: Pardon me. That question calls for the direct conversation that they had; if he had no such conversation, he can say No. It seems to me that we can always ask for conversations inconsistent with testimony already given.

Mr. Donohue: I don't know where he——

The Court: I am content with my ruling, Mr. MacInnis.

Mr. MacInnis: Very well, your Honor. [2287]

Q. Did you make any reply to a letter written by Mrs. Eleanor Roosevelt concerning the fact that you had made a statement to the FBI?

Mr. Donohue: Object to the question, if Your Honor please; it presupposes a letter which is not before us.

The Court: The objection is sustained, purely collateral, not tending to prove or disprove any issue in this case, and not tending to impeach or otherwise discredit the witness.

Q. (By Mr. MacInnis): Well, Mr. Krolek, let me ask you if this conversation took place in the home of Mr. and Mrs. Mervyn Rathborne in the presence of yourself, your wife and the two Rathbornes——

Mr. Donohue: I object, if Your Honor please, that counsel is stating that conversation which Your Honor has already said may not be testified to by the witness.

The Court: He has not completed the question.

(Testimony of Kermit Charles Krolek.)

Mr. Donohue: I know counsel; he is just about to narrate the supposed conversation.

Mr. MacInnis: He knows me. I guess in a measure that is true. I have listened also to Mr. Donohue for some time. But, Your Honor, the only way an impeaching question can be asked regarding a conversation is to ask the witness if a certain conversation took place, then he can either affirm or deny it.

Mr. Donohue: May I respectfully say to Your Honor, Your Honor has just ruled that this witness may not be asked whether [2288] or not a conversation took place at the home of Mr. and Mrs. Rathborne during which conversation there was some reference made to a certain letter. Now counsel proposes to narrate what he says was the conversation.

The Court: My sustaining the objection heretofore would seem to answer the objection to this particular question.

Mr. MacInnis: No, Your Honor; this question is to a direct conversation, not as to the contents of the letter as such.

The Court: Would you read it?

Mr. MacInnis: I hadn't completed the question.

The Court: Rephrase it.

Mr. MacInnis: All right, Your Honor.

Q. Mr. Krolek, tell us this: Whether or not after the time you say you made a statement to the FBI in 1939 you did not engage in a conversation at the home of Mr. and Mrs. Rathborne, your wife's sister and your brother-in-law, in the presence also of your wife, in which the following in substance was said——

Mr. Donohue: Now——

Q. (By Mr. MacInnis) (Continuing): Now let me ask you if in that conversation Mrs. Rathborne did not ask you if it was true that you had made such statements about Harry Bridges as were contained in a letter which she had before her, and if you did not reply, that that letter was false; that you had never made such statements; that you would take steps to answer the letter [2289] and to assure the writer of the letter, Mrs. Eleanor Roosevelt, that such was not the fact?

Mr. Donohue: In objecting again, I call Your Honor's attention to the fact that just a moment ago I said that counsel was going to ask the witness a question by stating to him a supposed conversation on a subject matter which Your Honor had already barred. He has done it, and I object to it.

Mr. MacInnis: I think Your Honor would not have indicated the subject matter was barred, merely that a certain question in Your Honor's discretion was improper.

Mr. Donohue: I might say that counsel then stated a specific conversation in which there was no reference to the contents of the letter as such.

The Court: The objection is sustained.

Mr. MacInnis: I have no further questions.

(Testimony of Kermit Charles Krolek.)

Redirect Examination

By Mr. Donohue:

Q. Mr. Krolek, may I ask you, in the light of your answer to Mr. MacInnis this morning in which you described three types of Communist Party meetings, to tell us what kind of a Communist Party meeting was it presided over, as you stated, by the defendant Harry Bridges concerning which you testified took place in the year 1936 at Long Beach, California?

Mr. MacInnis: Pardon me. The objection first of all is this question is improper redirect examination; it has been [2290] asked and answered; the second objection is that it is incompetent, irrelevant and immaterial, calling for the opinion and conclusion of this witness.

The Court: Overruled.

A. The type of meeting that was presided over in the meeting that you refer to was known as a top fraction meeting.

Q. (By Mr. Donohue): And a top fraction meeting is what kind of a meeting?

A. It is a meeting in which only members of the Communist Party are permitted to be present.

Q. Mr. Krolek, when you first made your statement which you have described in some detail, to the Federal Bureau of Investigation in 1939, did you have any understanding or promise made by the Federal Bureau of Investigation with reference to your appearing publicly as a witness?

Mr. MacInnis: Your Honor, it would seem to me that the fundamental basis advanced by this prosecutor would bar him now from inquiring into the same subject.

The Court: There was reference made to some understanding, either express or implied, that this witness had with the Federal Bureau of Investigation. Whether or not it was completely answered I can't recall. At least I will overrule the objection.

A. The understanding that I had with the Federal Bureau of Investigation was that the testimony which I offered was offered with the understanding that I would not be called for public [2291] testimony.

Q. (By Mr. Donohue): Mr. Krolek, do you in any way know what, if any, testimony has been offered to the United States by the person referred to as Mervyn Rathborne?

A. I have no knowledge of the information.

Q. At any time prior to your appearing here on Friday did you discuss your testimony here with Mr. Rathborne?

Mr. MacInnis: Pardon me, your Honor. It would apear to me this has been asked and answered. He says he hasn't seen him for two years.

The Court: He hasn't seen the gentleman for two years.

Mr. MacInnis: I think Mr. Donohue heard him say that.

Mr. Donohue: Do you accept his answer as being correct?

Mr. MacInnis: I do not have to accept his answer, but I think you are bound by your own witness.

Mr. Donohue: May I ask the question?

The Court: You may ask the question.

Mr. Donohue: Will you read the question?

Mr. MaInnis: I accept the fact that that answer is in the record from this witness as a Government witness.

(Question read.)

A. I have not.

Mr. Donohue: I have no further questions, your Honor.

Recross-Examination

By Mr. MacInnis:

Q. Mr. Krolek, you tell us now that when you made your statement to the FBI in 1939 you had some [2292] kind of an understanding with those public officers that you would not be called as a witness? A. That is correct.

Q. In other words, you were what would be called a secret informer at that time, a person who would give information who would not be called as a witness?

Mr. Donohue: I object, if your Honor please, to the characterization of a person who gives testimony to the Bureau as an informer, secret or otherwise. That is a conclusion drawn by the examiner which may or may not be correct.

The Court: Well, he might answer.

A. I will answer it in this way: I do not certainly consider it to be a secretive situation where if I am able to present any testimony that may be detrimental or dangerous to the welfare of the country or to any group of majority people specifically, if I present that testimony, why, I should not ask that it be—that my testimony be not withheld from the standpoint of publicity.

Q. (By Mr. MacInnis): In other words, you asked the FBI, you tell us now, not to call you as a witness as to the facts which you disclosed in information? A. Precisely.

Q. With respect to the other matter asked you just now by the prosecutor, Mr. Donohue, about the meeting you say you attended with Harry Bridges, did you have any discussion of [2293] that matter during any recesses with the prosecutors?

A. I might have commented or touched upon certain phases of that meeting, yes.

Q. You had a discussion with them in which they told you that they were going to ask you that question; isn't that right?

A. Not that question specifically, but other questions.

Q. The general subject?

A. The general review of such information as I had volunteered to them, yes.

Mr. MacInnis: That is all.

Mr. Donohue: We have no further questions.

The Court: The witness is excused.

The Witness: Thank you, your Honor.

Mr. Donohue: If your Honor please, due to the uncertainty of knowing exactly when we might proceed and the fact that a witness whom we expected to call is not available, we have a witness here, but I would like an opportunity to talk with him before I call him as a witness, and I would like, your Honor, if you would at this time, to adjourn until tomorrow morning.

The Court: I have no objection. Is that agreeable to defense counsel?

Mr. MacInnis: Your Honor, we are quite willing to go ahead, because I think, as your Honor has pointed out, more [2294] time has been consumed than any of us anticipated; but we will certainly defer to your discretion. If you want to go ahead, we are glad to go ahead. If you want to adjourn, we will accept that, too.

The Court: I suppose the jurors have no objection.

Mr. MacInnis: I think, your Honor, we should probably accommodate the prosecutor. We wouldn't want to take an unfair advantage of him, of course.

The Bailiff: Order in the courtroom. This is no laughing matter.

The Court: I will reserve my comment, Mr. MacInnis.

Ladies and gentlemen of the jury, we will take the afternoon adjournment until ten o'clock tomorrow morning. Again may I admonish you not to discuss the case under any circumstances or conditions or to converse with any person on any subject of the trial, nor to form or express an opinion until the matter is finally submitted to you. You may now retire.

(Thereupon an adjournment was taken until Tuesday, December 13, 1949, at 10:00 a.m.)

December 13, 1949, 10:00 o'Clock

(Conference in chambers out of the presence of the jury:)

The Court: Mr. Mitchell has advised me that Mr. Donohue desired to see me in connection with matters that occurred yesterday; is that correct?

Mr. Donohue: Yes, Your Honor.

The Court: May the record show that counsel representing both sides, the Government as well as the defendant or defendants, are in chambers.

Mr. Donohue: If Your Honor will indulge me for just a moment.

If Your Honor pleases, I direct Your Honor's attention first to a question which appears on page 2280 of the record.

> "Mr. MacInnis: Q. ——" ——

The Court: Pardon me. 2280?

Mr. Donohue: 2280, yes, sir.

The Court: Do you have your transcript?

Mr. MacInnis: I do not, Your Honor. I can listen to it as it is read.

Mr. Donohue: Beginning on line 15.

> "Now, Mr. Krolek, taking your memory back—" —oh, I am sorry. On line 24 on the same page, 2280:
>
> "Q. (By Mr. MacInnis): Let me ask you this, Mr. Krolek: After you made the statement in 1939 to the FBI, weren't [2296] you present at the home of Mr. and Mrs. Rathborne on an occasion when Mrs. Rathborne, your

> wife's sister, displayed to you the letter which she received from Mrs. Eleanor Roosevelt condemning you because of your treachery in making false statements against Harry Bridges and members of the ILWU?"

I direct Your Honor's attention to page 2288 of the record at line 1:

> "Q. (By Mr. MacInnis): Did you make any reply to a letter written by Mrs. Eleanor Roosevelt concerning the fact that you had made a statement to the FBI?"

To which question objection was made.

Now referring back, if Your Honor pleases, to page 2275, to get the continuity, page 2275 at line 24, this colloquy having occurred here in chambers:

> "Mr. Hallinan: We are entitled to bring that out,"——

The Court: Pardon me. So the record may be clear, Mr. Reporter, this colloquy that you are referring to now and the colloquy that you referred to——

Mr. Donohue: I am referring to page 2275.

The Court: This is another colloquy?

Mr. Donohue: Yes, sir, the prior questions referred to were questions asked in open court.

> "Mr. Hallinan: We are entitled to bring that out, and we certainly intend to bring it [2297] out."

Page 2276, line 1:

"Mr. Donohue: Just what I suspected, Your Honor.

"Mr. Hallinan: His reply to it."

Line 13:

"Mr. Hallinan: But his retort to it——"

Page 2277, line 3:

"Mr. Hallinan: We have his reply as a pertinent piece of evidence."

Page 2278, line 5:

"Mr. Hallinan: We are not going to offer the letter itself for its contents; we are going to offer it for his answer, his comment on the letter—which is very pointed and very much to the point; and in which he denied specifically having made any of the statements criticized in the letter."

Now, I may say to Your Honor that at the time of the conference here in chambers I did not know whether the witness Krolek, concerning which these remarks were made, had or had not made a reply to any letter written by Mrs. Roosevelt to which reference has been made. However, as soon as the conference in chambers ended, I asked the witness Krolek if he had ever made any reply to Mrs. Roosevelt concerning this letter, and his answer was that he had never written a letter to Mrs. Roosevelt at any time in his life on any subject.

Now, with respect to the question to which I first made [2298] reference to Your Honor, which I think was page 22[illegible].

The Court: 2280, line 24.

Mr. Donohue: That question asked of the witness in the presence of the jury characterizes the letter written by Mrs. Roosevelt in person by stating: "A letter which he received from Mrs. Eleanor Roosevelt condemning you because of your treachery in making false statements against Harry Bridges and members of the ILWU."

I read in the press this morning that Mr. MacInnis has stated that he has a copy of the letter in reference; that he is not going to make use of the letter until the witness Rathborne is offered to him for cross-examination.

At this time, if Your Honor pleases, I am offering to the Court, and to the Court only, for the Court's determination as to whether or not the question which was characterized by Mr. MacInnis or the question of Mr. MacInnis which characterized the letter of Mrs. Roosevelt is a proper characterization of that letter. I offer you a letter on the White House stationery.

The Court: For that purpose and that limited purpose?

Mr. Donohue: For that purpose and that purpose only, signed by Mrs. Eleanor Roosevelt. (Handing document to the Court.)

Mr. MacInnis: Has you Honor read the letter?

The Court: I am reading it slowly. Yes, Mr. MacInnis. [2299]

Mr. MacInnis: Your Honor, it appears to me, not having seen the piece of paper, of course, that has been displayed to you, that the time in which the prosecutor could have brought that matter out if the thoughts implied in the question are incorrect, would have been yesterday when the jury was here. If it is true, as he tells us now, that Mr. Krolek never made any reply to Eleanor Roosevelt, assuming of course that Mr. Donohue is faithfully repeating what this man said to him outside of court,—if that were the case, Mr. Donohue, by a very simple question, could have asked the question, "Did you ever in your life make any reply to any letter by Mrs. Eleanor Roosevelt?" and the negative answer would have ended the whole situation.

Similarly, he tells your Honor that when he left the conference in chambers yesterday that he asked the witness this question about whether or not any answer was ever written. Having the information that he says he received from the witness Krolek, when the question was put to Krolek, "Didn't you make an answer," Mr. Donohue, thus advised, could have withheld his objection and permitted a negative answer to come into the case. I don't know what we are talking about.

The Court: I think the position of Mr. Donohue probably is pointed to the characterization which you ascribe at page 2280, line 24, over to and including page 2281, line 5, and particularly with reference to this part of your question,—— [2300]

Mr. MacInnis: I understand his point.

Mr. Hallinan: May we see the letter? What are we doing here? Is this a secret between Court and counsel?

The Court: Pardon me; I am just trying to get my thoughts together.

> "The letter which you received from Eleanor Roosevelt condemning you because of your treachery in making false statements against Harry Bridges and members of ILWU."

I might say to you, Mr. MacInnis, that there is nothing in the letter that would justify that characterization or that would justify the inclusion of any condemnation on the part of Eleanor Roosevelt by ascribing to her any such conduct.

What is your precise point?

Mr. Donohue: I just wanted to bring it before your Honor, if your Honor please.

Mr. MacInnis: We have not been shown the letter, if the Court please. In other words, your Honor is not receiving evidence, of course, because you can't receive evidence not on the witness stand.

The Court: I am not receiving evidence now. May the record show that I am not assuming to take evidence.

Mr. MacInnis: I am trying to figure what is before the Court.

The Court: I want to know precisely, Mr. Donohue, what [2301] have you in mind?

Mr. Donohue: I simply thought, if your Honor please, that it was my duty to lay before the Court the facts which are in my possession; that in so far as I have been able to determine, the only letter to which reference could have been made yesterday—if there be another, then that is something which should be presented to your Honor, but the only letter dated May 13, 1941, addressed to the Rathbornes from Mrs. Roosevelt is the letter which I have exhibited to your Honor. And I objected yesterday to the characterization of the letter of Mrs. Roosevelt by Mr. MacInnis when the letter obviously was not admissible in evidence, and I thought it my duty to exhibit to your Honor the only letter of which I have any knowledge, which certainly wouldn't bear the characterization which was given to it by Mr. MacInnis yesterday.

Mr. Hallinan: I don't think he has any right to smoke out our testimony by having a conference in chambers to see if we have another letter. Let us see this letter.

Mr. Donohue: And in the light of the fact that Mr. Hallinan had three times stated yesterday that while the letter from Mrs. Roosevelt might not be admissible, questions concerning it would have to be asked in order that he might introduce Mr. Krolek's reply to it, I thought I should say to your Honor that Mr. Krolek says that he never answered any letter to Mrs. Roosevelt. [2302]

The Court: In order to clarify my own thinking as to what if any action you may seek from the Court——

Mr. Donohue: I do not seek any action; I just thought it was my duty to lay the facts before the Court.

Mr. MacInnis: I frankly am completely in the dark as to the purpose of the discussion.

The Court: Mr. MacInnis, may I ask you, without asking you to violate any confidence that may be reposed in you as a trial attorney, if you have any copy of such a letter on which you based the question addressed to the witness which question started out on page 2280.

Mr. Hallinan: That is not fair to counsel.

The Court: If you regard it as not fair, then the answer, Mr. Hallinan,——

Mr. Hallinan: To divulge our information.

The Court: You may not disclose it. I am not asking you to disclose it.

Is it your point, Mr. Donohue, that injury has been sustained, in your opinion, to the prosecution's case by reason of the mention of this letter in the form which it took? I of course appreciate your visitation here and presentation of the matter, but what if any bearing has it on the trial?

Mr. Donohue: Well, I do think, if the Court please——

The Court: I want your frank comment.

Mr. Donohue: I do think it hurt us to have the impression [2303] put in the minds of the jury that Mrs. Roosevelt had written a letter in which she characterized the conduct of Mr. Krolek in giving testimony to the Federal Bureau of Investigation as treachery.

The Court: Well, I regarded the matter yesterday as collateral. I sustained objections to it.

Mr. MacInnis: You also instructed the jury that my remarks were not evidence.

The Court: What effect it may have had on the jury, I do not know. I sought to admonish them. Whether or not I admonished them with sufficient care, I do not know. These matters rest to some degree in an uncertain field. In the trial of the cause the letter was not relevant. I sustained objections to the characterization of Mr. MacInnis.

Mr. Donohue: I may say further, if your Honor please, that I thought it was my duty to the Court if it appears from what evidence may be before us that Mr. MacInnis has characterized a letter which was not and could not have been introduced in evidence in a manner which the letter itself would not justify, and if Mr. Hallinan has stated, as he did here three times yesterday, that he had a reply to a letter, which he does not exhibit, that those are facts which I should place before your Honor, and I have done so.

Mr. MacInnis: Again, your Honor, I can only accept without dispute with Mr. Donohue what he says with his [2304] conversation with Mr. Krolek. We of course assume that he had that conversation, of course, but that wasn't the position he took in court yesterday. He objected to the question about any reply, and it would appear to me to be rather simple to end the whole controversy, the witness could have said, "I have never made any reply."

Mr. MacInnis, I say to you if that is the only letter written by Mrs. Eleanor Roosevelt bearing upon this particular subject, then there is no basis in fact for the questions which you asked.

Mr. MacInnis: Your Honor, we don't know what is before us.

The Court: I don't know whether the Government intends to open up the subject in the course of the hearing; I don't know whether the Government intends to reserve the matter or you intend to reserve the matter until when Mr.——

Mr. Donohue: Rathborne.

The Court: (Continuing): ——Rathborne takes the stand. There has been some intimation on the part of the defense that you might be reserving this matter until Mr. Rathborne takes the stand. The matter has some delicacy.

Mr. Donohue: I understand, your Honor.

The Court: It is an intensely delicate situation. Of my own volition I don't know that I need take any other [2305] action than I have taken thus far, in fairness to both side.

Mr. MacInnis: I think, your Honor, you have given the appropriate instruction which you would always give on any matter on which you considered admonishing the jury.

The Court: I have given an admonition. The matter approaches great delicacy. Of course, I appreciate Mr. Donohue's visit here, but I don't think, in the absence of a move or some motion on the part of the prosecution made in open court, that it behooves the Court to take any action.

Mr. Donohue: I have made no motion. I came here simply to lay before your Honor the facts.

The Court: The matter will then, so far as formalities, rest as it is. It may hereafter be that the

Court during the course of my final instructions to the jury may advert to matters of this character so that there may be no confusion in the minds of the jury. That is a matter of my own individual province at a later stage.

Mr. MacInnis: May I say this, your Honor, in response to the last discussion from yourself, I would like to say the only knowledge we have as to witnesses who will be produced in this trial comes from the statements that are attributed to Mr. Donohue in the newspapers. He made reference to a statement he says I made in the press. We have been informed out of the newspapers only that he intends to produce Mr. Rathborne. Of course, we have a lot of material that [2306] we would like to use with Mr. Rathborne. We obviously should not be required upon any kind of a request from Mr. Donohue at this time to reveal what we have or do not have on Mr. Rathborne, so that Mr. Donohue may be guided in his course.

Mr. Donohue: I have no such purpose in view. We do not want the material that the defense may have.

The Court: Adverting again to the questions addressed to the witness by Mr. MacInnis, in the light of the state of the record, there may well be some confusion in the minds of the jury as to the state of the record. However, I will meet that when I come to it. [2307]

(The following proceedings were had in open court and in the presence of the jury:)

The Clerk: The case of United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Mr. Donohue: Will you call the witness Mr. Manning Johnson?

MANNING JOHNSON

called on behalf of the United States; sworn.

The Clerk: Will you state your full name to the Court and jury?

A. Manning Rudolph Johnson.

The Clerk: Will you attempt to talk so your voice is about fourteen inches from this microphone?

The Witness: O.K.

Direct Examination

By Mr. Donohue:

Q. Where do you live, Mr. Johnson?

A. In New York City.

Q. What address?

A. 62 West 125th Street.

Q. What is your business or occupation?

A. At the present time I am international president for the Retail Clerks International Association, affiliated with the [2308] American Federation of Labor.

Q. How long have you been so employed?

A. I have been with the Retail Clerks International Association since last March.

(Testimony of Manning Johnson.)

Q. Where were you born, Mr. Johnson?

A. I was born in Washington, D. C.

Q. When? A. December 18, 1907.

Q. Did you receive your schooling in Washington? A. Yes, sir, I did.

Q. What was the extent of your schooling?

A. I attended the Elijah P. Lovejoy elementary school, the Robert Gould Shaw junior high school, and the Armstrong Technical high school.

Q. When did you finish your schooling in Washington?

A. I was graduated from the Armstrong Technical High School in 1925.

Q. Where did you obtain your first employment? Was it in Washington or elsewhere?

A. No, my first job was for the Pennsylvania Railroad in New York City.

Q. What kind of work did you do for the railroad?

A. I was a janitor on the Pennsylvania Railroad.

Q. How long did you remain employed by the Pennsylvania Railroad?

A. I don't recall. A little over a year and a half, I think. [2309]

Q. What was your next work?

A. I went west to Casper, Wyoming. I went to work for the Chicago, Burlington & Quincy Railroad, first as a sandblaster and later as a truck and tender repairman.

(Testimony of Manning Johnson.)

Q. Did you continue to work for the Burlington over a long period or a short period of time?

A. No, I worked for the Burlington for a short while, and I was offered a proposition in Alliance, Nebraska, to take over a restaurant and pool hall.

Q. Can you tell us about what year that was?

A. That was in 1928.

Q. How long did you operate the restaurant in Alliance?

A. Up until nearly the last part of 1929.

Q. What employment did you take next?

A. I left Alliance, Nebraska, and went to Buffalo, New York. There I went to work as a longshoreman on the Erie docks.

Q. How long did you work as a longshoreman?

A. During 1930 and 1931.

Q. What was your next occupation?

A. I became an organizer for the Communist Party.

Q. Where and when did you become an organizer for the Communist Party?

Mr. Hallinan: Just a minute. I object to this, Your Honor, on the ground it is incompetent, irrelevant and immaterial; res inter alios acta; and furthermore, this is not the [2310] best evidence. The records of that party and the official documents of it would be the best evidence. We object to secondary evidence.

The Court: The objection is overruled.

Q. (By Mr. Donohue): You may answer the question on His Honor's ruling.

(Testimony of Manning Johnson.)

A. Do you mind repeating that question?

(Question read.)

A. I became an organizer for the Communist Party in Buffalo, New York, in 1931.

Q. (By Mr. Donohue): Can you tell us by whom you were enrolled as a member of the Communist Party?

Mr. Hallinan: Just a minute. The same objection, if the Court please, calling for hearsay, matters done among other persons; not binding on the defendant; too remote.

The Court: Overruled. I may say to the jury now, as I have in the past, that in connection with these matters elicited from witnesses, as from Mr. Johnson, concerning internal affairs of the Communist Party or asserted internal affairs of the Communist Party, that the same may not be regarded at this juncture at least as being binding upon the defendants at the bar. You may proceed.

Q. (By Mr. Donohue): Do you recall the question, Mr. Johnson?

A. Do you mind reading it back?

(Question read.) [2311]

A. I was recruited into the party by Otto Hall.

Q. (By Mr. Donohue): Were you issued a membership book or card?

Mr. Hallinan: Same objection, if it please the Court. If we might have a stipulation at this time, it would save annoyance.

(Testimony of Manning Johnson.)

The Court: Yes, the same stipulation we have had in the past.

Mr. Hallinan: That all objections to matters done outside of the presence of the defendants and relating to the alleged induction of this gentleman into the Communist Party and his activities within it, will be objected to as incompetent, irrelevant and immaterial, res inter alios actae, hearsay, and not binding upon the defendants, no proper foundation has been laid.

The Court: The objection is overruled for the reasons I have heretofore assigned and the same admonition to the jury.

Mr. Hallinan: We have the stipulation of the prosecution that the same objection is deemed to run to all these questions.

Mr. Donohue: Would you mind reading the question to the witness?

(Question read.)

A. Yes, I was issued a card, which I filled out, and later I was issued a membership book. [2312]

Q. (By Mr. Donohue): Over how long a period did you continue as a member of the Communist Party?

A. I continued until a few months after the Nazi-Soviet attack.

Q. Can you recall in what year that occurred?

A. The Nazi-Soviet attack was the latter part of 1939. After that I attended a number of meetings up until the early part of the 1940's.

(Testimony of Manning Johnson.)

Mr. Hallinan: The early part of what?

Mr. Donohue: 1940's.

The Witness: Or '40.

Q. (By Mr. Donohue): Mr. Johnson, did you voluntarily leave the Communist Party or were you expelled by that party?

A. I voluntarily left the Communist Party.

Q. Would you tell the Court and the members of the jury what your reasons were for joining the Communist Party?

Mr. Hallinan: If the Court please, we object to this as incompetent, irrelevant and immaterial, and calling for the opinion and conclusion of the witness. I know Your Honor has heretofore ruled adversely to us on this matter, but I saw just yesterday a case in California, Supreme Court case, People v. Ware, holding that matters of this kind are absolutely inadmissible and the use of them is reversible error. The witness can testify as to things that happened within an organization of which he was a member and he can explain terms that were used that are not ordinarily employed outside. But he can not give [2313] conclusions or opinions or even inferences that he derived from such matters. Now, to ask a witness why he came into a party and why he left it is certainly permitting him to give conclusions and opinions which are not binding on the defendants, absolute hearsay, and violating the hearsay rule in every respect. We object to this man being allowed to state why he entered it or why he left.

Mr. Donohue: I think, if Your Honor please, the reasons which obviously moved Your Honor on prior instances to admit the answer to such a question as was just asked this witness, are equally compelling today. Not only does it not call for an opinion on the part of the witness, but rather, the witness is called upon to state to Your Honor and to the members of the jury his own personal reasons for an act which he himself performed.

Mr. Hallinan: That is of no consequence to the defendants. They are not concerned with what motives the man may have for doing something ten or twelve years ago, and certainly in any case the witness can not be asked now, "Why are you a witness here?" or "Why did you do a certain thing?" They can be asked that on cross-examination, but the prosecution under no circumstances can adduce such evidence. In People v. Ware questions much less vicious than that were held to be reversible error. I did not bring the citation with me, but I can get it at noon time. I will show Your Honor the citation. You will see [2314] such questions are improper.

Mr. Donohue: If I may be permitted to continue, if Your Honor please, I think that which makes this question particularly pertinent lies in the fact that in his opening statement Mr. Hallinan told the Court and jury that he would show that every witness who was called by the United States was of a certain type or character, and I think, if Your Honor pleases, in order that the jury may evaluate

(Testimony of Manning Johnson.)

the testimony of this and any other witness, the reasons which motivated this witness to join the Communist Party and the reasons which motivated him to terminate his membership in that party are pertinent, not only on the question of the man's own character as a witness, but they are peculiarly pertinent in the light of the suggestion that has been made by counsel in his opening statement, that each of these witnesses is a part of a conspiracy to do injury to these defendants, and that each of the witnesses who testifies is a witness who is testifying either because of some prejudice or because of some fear or pressure. In the light of those facts, I think that Your Honor has correctly ruled before that the answer to such a question is proper, and for that reason I think that the objection should be overruled.

The Court: I have heretofore overruled the objections. I am content with my ruling. I am content with the reason underlying the rule, and I therefore abide by it.

Q. (By Mr. Donohue): Do you recall the question, Mr. Johnson? [2315]

A. Do you mind reading it back to me?

(Question read.)

A. I joined the Communist Party on the basis of idealism. At the time I felt that the Communist Party was a medium through which I could combat segregation, discrimination, lynching and many other injustices that prevailed in our system. The

(Testimony of Manning Johnson.)

Communist Party was giving considerable effort from a propagandistic point of view along these particular lines, and I joined hoping that through that medium I could combat these evils.

Q. (By Mr. Donohue): Prior to your joining the Communist Party, had you been a member of any other organization?

A. I was a member of the American Negro Labor Congress prior to joining the Communist Party. It was through the medium of the Negro Labor Congress that I was recruited into the party. The Negro Labor Congress was a Communist Front organization.

Q. Mr. Johnson, would you now, covering the period of your membership in the Communist Party, as you say, from 1931 to some time in 1940, tell us what, if any, positions you occupied with the Communist Party?

A. I was district agitation and propaganda director, district organizer, member of the National Trade Union Commission of the National Committee of the Communist Party, a member of the Negro Commission of the National Committee of the Communist Party, a member of the National Committee of the Communist Party, a member of the New York State Committee of the Communist Party, [2316] a member of the Trade Union Commission of the Communist Party at New York State. In addition to these positions, I was also a national negro organizer for the Trade Union Unity League.

(Testimony of Manning Johnson.)

Q. Was your activity in the Communist Party wholly centered in New York State?

A. My activities in the Communist Party were centered entirely in New York State.

Q. You told us that you joined the Communist Party in Buffalo. How long did you remain in Buffalo?

A. I remained in Buffalo from 1930 until 1934.

Q. Where did you go from Buffalo?

A. I went from Buffalo to New York City.

Q. Did you continue your party activities in the City of New York? A. I did.

Q. Have you lived continuously in the City of New York since 1934?

A. I did, until I went into the navy in 1944.

Q. Will you state the circumstances under which you joined the navy?

Mr. Hallinan: I object to that is incompetent, irrelevant and immaterial. That calls for the opinion and conclusion of the witness, and is of no validity in this case.

Mr. Donohue: I can't quite follow the suggestion that it calls for the opinion and conclusion of the witness as to when [2317] he joined the party.

The Court: Overruled.

Mr. Hallinan: He was not asked when he joined; he was asked the circumstances under which he joined.

The Court: I suppose where, when and the circumstances.

Mr. Hallinan: Correct, Your Honor.

The Court: Overruled.

The Witness: Do you mind reading the question back, please?

(Question read.)

A. The usual circumstances that I could have gotten a deferment, and I would not accept the deferment, and I just went in because I wanted to do something for my government.

Mr. Hallinan: Just a minute. I ask that statement, that "I could have gotten a deferment," be stricken out, if the Court please.

Mr. Donohue: I have no objection to that.

The Court: That may go out.

Mr. Hallinan: I did not think that Communist Party organizers were deferred by the Government for enlistment.

The Witness: I was not a member of the Communist Party at that time.

Mr. Hallinan: I am not addressing you, sir.

Mr. Donohue: May I now proceed, if Your Honor please?

The Court: Yes. [2318]

Q. (By Mr. Donohue): Would you briefly tell us what your navy service constituted?

Mr. Hallinan: The same objection, if the Court please.

The Court: Overruled.

A. After my induction I was sent to Great Lakes, Illinois to boot training. From there I was sent to the Naval Air Technical Training School, to a class in aviation ordnance. After the completion of my course in aviation ordnance, I received the rating of Aviation Ordnance Man third class, petty officer third class. I was transferred to the Naval Air Station at Alameda. There I received two advancements in rating from a third class to a second, and finally to a first class petty officer, Aviation Ordnance Man first class. My job was to supervise the handling of high explosives that went aboard all the aircraft carriers that were operating in the Pacific.

Q. Did you have any further schooling in the navy?

A. I also attended the Aerial Gunnery School at Lake Chabot, California.

Q. Did you graduate from that school?

A. I did.

Q. When did you leave the navy?

A. I left the navy in May, 1946.

Q. Where were you discharged from the navy?

A. Shoemaker, California.

Q. Where did you go or what did you do by way of employment [2319] after you left the navy?

A. I went to work for the navy in a civilian capacity at Naval Air Station, Alameda. My occupation there was electric crane man.

Q. How long did you continue as an aviation employee of the navy? A. Until 1947.

Q. And you did what thereafter?

A. I went to New York City. I went to work for the Bloomingdale department store.

(Testimony of Manning Johnson.)

Q. And you worked for Bloomingdale how long? A. I worked for Bloomingdale's, oh, nearly a year.

Q. And from that employment did you go to your present employment? A. That is correct.

Q. Mr. Johnson, you stated a minute ago that you were a member of the National Committee of the Communist Party. Would you describe for His Honor and the members of the jury the composition and function of the National Committee of the Communist Party?

Mr. Hallinan: Object to that, Your Honor, as calling for an opinion and conclusion, and invading the province of the jury; furthermore, that it is not the best evidence. In the case that I cited to the Court it was held that the records, constitution and by-laws of an organization are the best evidence [2320] as to what its purpose is, and a witness is not allowed to give characterizations or define matters of that kind. If it is pretended that this is a matter for expert testimony, then I point out to Your Honor that the Communist Party constitutes neither an art, trade, science or profession, to which matters the Code limits expert testimony. This is an invasion of the province of the jury. The only way such matters can be proved is by producing such constitution, records, by-laws and so forth to show the purpose of the party.

I do not suppose, Your Honor, that it would be contended that, say, some person had been an officer of the Republican Party, the Democratic Party, or

(Testimony of Manning Johnson.)

even some private organization, that a witness could be allowed to take the stand and testify as to what the different elements of that party were, what their duties and faculties were, at least in the absence of showing that the constitution, bylaws and other such records were not available. Then it would be secondary proof at best. But I submit, Your Honor, that this is not the proper method for showing any such thing. If there is such an organization or such a body, then the way to prove this matter is to produce the constitution or the rules and regulations of the organization of which it is a part and let the jury draw its own inferences and deductions as to what it is and how it is constituted.

Mr. Donohue: If the Court please, I am not asking a [2321] question which requires a reply as to anything relating to the purpose, the organization or function of the Communist Party. I am simply asking a witness who has testified that he was a member of the National Committee of the Communist Party to tell us what that organization or what that committee to which he was elected was and what its function was. If he was a member of that committee, obviously he can testify as to how he became a member and as to what the function of that committee was. I am not asking him anything about the policies of the Communist Party.

Mr. Hallinan: We understand the question, Your Honor, but that is not the way to prove that piece of evidence he is trying to introduce.

The Court: The objection is overruled.

(Testimony of Manning Johnson.)

Mr. Donohue: Will you read the question?

(Question read.)

A. Yes. I was a member of the National Committee of the Communist Party. I was elected to the National Committee at a convention of the National Committee in 1936. The National Committee is composed of the outstanding leaders in the Communist movement throughout the country. They are selected on the basis of the particular district or type of industry from which they come. In most instances they lay emphasis on persons——.

Mr. Hallinan: Pardon me. This is not responsive to the [2322] question. He was asked what the composition is. By that I suppose it is understood the persons, the number of persons and matters of that kind. He is adducing now just what he said he did not intend to adduce. Furthermore, by asking the functions, Your Honor, he is invading also the province of the jury and the statement that he made as to the purpose of these questions. He said he was not going to ask anything as to the purposes or the method of its operation.

Mr. Donohue: I said I was going to ask him—the question connotes no understanding of the policies or the purposes of the Communist Party. I have asked a witness who stated he was a member of the National Committee of the Communist Party, who has stated he was elected to that committee in 1936, only to tell us how it was constituted, this

(Testimony of Manning Johnson.)

committee, and what are the functions of that committee.

The Court: The objection is overruled.

A. The major emphasis was laid upon persons from the basic or strategic or mass production industries, such as steel, mining, marine, packing, railroad, and so forth. In 1936, if I recall correctly, there was 50-some-odd members on the National Committee.

Q. (By Mr. Donohue): Would you tell us, Mr. Johnson, having stated that you were elected in that year, the process whereby you were elected or persons are elected to that committee?

A. Well, delegates came in from all of the districts throughout [2323] the country. The Communist Party at that time was organized along district lines, and each district was entitled to so many delegates based upon its membership. These delegates assembled, and at that convention, why, we listened to speeches and reports by the national leaders, and then we were given a list of the various persons to be elected to the National Committee. Each delegation submitted a list. You read over the list, and then after that they have a voting for acceptance of the list.

Q. Can you tell us from whom the delegates received that list of candidates?

Mr. Hallinan: I object to that as calling for the opinion and conclusion of the witness, if the Court please.

Mr. Donohue: I will withdraw the question, if the Court please.

Q. May I ask you, Mr. Johnson, from whom did you, as a delegate, receive a list of the candidates in the convention of the Communist Party in 1936?

A. At the 1936 convention the list of the persons to be on the National Committee were distributed by Jay Peters and Abe Benson. I received my list, for the election that I was a part of, from Jay Peters.

Q. Who is Jay Peters, do you know?

A. Jay Peters was in charge of certain technical phases of the Communist Party work, such as the handling of the special codes, secret codes, espionage and illegal forms of party [2324] organization.

Q. Where and when did the 1936 convention of the Communist Party take place?

A. The 1936 convention of the Communist Party was held in Manhattan Center, 34th Street and Eighth Avenue.

Q. Do you recall about what time of the year?

A. That was during the warm months.

Mr. Hallinan: Can we have that more exactly?

Q. Don't you have that exactly?

A. I can't recall the exact date of the convention, but it was during the warm months. It may have been in June or it may have been in July, but I know it was during the warm months.

Q. (By Mr. Donohue): How long did you continue after your election to the National Committee of the Communist Party in 1936 as a member of the National Committee?

A. I remained a member of the National Committee for the balance of 1936, 1937 and 1938, until the 1938 convention.

Q. Were you reelected in the 1938 convention?

A. No, I was not reelected to the National Committee at the 1938 convention.

Q. How many conventions, national conventions of the Communist Party, have you in fact attended?

A. I attended the 1934 convention in Cleveland and the 1936 and 1938 conventions in New York City. [2325]

Q. During the period of your service as a member of the National Committee of the Communist Party, did you learn the method whereby candidates were selected for membership upon the National Committee?

Mr. Hallinan: Same objection, if the Court please: calling for hearsay and the opinion and conclusion of the witness.

The Court: Overruled.

A. The candidates for membership on the National Committee—the candidates for membership on the National Committee were selected by the political bureau of the Communist Party.

Q. (By Mr. Donohue): Would you describe the function only of the Political Bureau of the Communist Party?

Mr. Hallinan: The same thing, Your Honor,

(Testimony of Manning Johnson.)

calling for an expert opinion and secondary evidence.

The Court: Overruled.

A. The political party is the all-powerful leading body of the Communist Party.

Q. How is the Political Bureau selected?

A. The Political Bureau is selected from the National Committee of the Communist Party.

Q. Will you tell us the process whereby the Political Bureau or the National Committee selects the candidates for election to the National Committee?

Mr. Hallinan: Might it be understood now, in order to save the recurrence of these objections, that the same objections [2326] I made to the prior questions run to all this line of questioning, Your Honor?

The Court: So ordered.

The Witness: Do you mind reading that question back to me?

(Question read.)

A. I don't quite understand that.

Q. (By Mr. Donohue): I think you told us shortly ago that when you were elected in 1936 to the National Committee you received a list of the candidates from Jay Peters.

A. That is correct.

Q. Now, having served on the National Committee, did you determine or learn during the period of your service how that list was prepared, such as the list that you received from Jay Peters?

(Testimony of Manning Johnson.)

A. Yes, the Political Bureau submits a list of names to the National Committee with regard to who shall and who shall not be recommended to the convention for membership on the National Committee.

Q. And it is that list which subsequently goes to the delegates?

A. That list goes to the delegates.

Q. Can you tell us whether or not from your experience as a member of the National Committee of the Communist Party the delegates are listed on such a list in their own or in his own individual name? [2327]

A. Well, here is the way that works——

Mr. Hallinan: Just a minute. That, Your Honor, is certainly calling for an opinion and conclusion of the witness. Here is a list of candidates from whom 50 people are to be selected. There is no foundation laid to show that this man knows any of them, and so how can he tell whether they are listed in their own names or somebody else's name? That is calling for an opinion and conclusion, hearsay, guessing and surmise.

The Court: He can testify as to a course of conduct and practice that appears to be uniform.

Mr. Donohue: Correct, sir, and I may say this is merely a preliminary question.

The Court: Overruled.

Mr. Donohue: Will you read the question?

(Question read.)

(Testimony of Manning Johnson.)

A. I might say——

Mr. Hallinan: If the Court please, that calls for a direct answer. This gentleman wants to make a speech in every answer. He can state whether it is a delegate's name or another name.

The Court: I might say in deference to the witness he has not sought to make a little speech. You might answer it now.

A. As far as the names on the list are concerned, some of them [2328] are in their own names and some are in an alias.

Q. (By Mr. Donohue): Are you able to tell us from your experience as a member of the National Committee of the Communist Party why the distinction?

Mr. Hallinan: Just a minute. That is calling for the opinion and conclusion of the witness, if the Court please.

The Court: Overruled.

A. It is the customary practice of the Communist Party to use aliases. I was asked to use one, but I refused to use it. I continued to use my own name. The reason behind that is that in order to safeguard and protect the hierarchy of the party, they would give them an alias, and often that alias was used. For example, Jay Peters went under the name of Alexander Stevens.

Mr. Hallinan: Just a minute, if the Court please. We object to this. It is just enlarging his answer, giving illustrations not called for by the question.

(Testimony of Manning Johnson.)

The Court: Jay Peters was already referred to in the evidence.

Mr. Donohue: Correct, You Honor.

The Court: Overruled.

Mr. Hallinan: And, Mr. Reporter, may I have the page on which this occurs?

The Reporter: 310.

Q. (By Mr. Donohue): Mr. Johnson, after the convention of [2329] 1936, at which you testified you were elected a member of the National Committee, did you meet subsequently with the National Committee as a member thereof?

A. Yes, I did.

Q. Where and when, to the best of your recollection?

A. To the best of my recollection, it was either at the Center or in a hotel in New York, because we had a number of meetings in different places during that particular time, which is always customary.

Q. And when?

A. That was right after the election of the National Committee.

Q. When you say "after" you mean how long after? A. Shortly after.

Q. Will you tell us now, Mr. Johnson, the name or names of such persons as you can recall who were present in attendance at that meeting of the National Committee of the Communist Party?

A. Well, I can. There was Earl Browder, Jack

Stachel, Jay Peters, William Weinstone, William Steiner alias Blake, Sam Don, James W. Ford, Maude White——

Q. How do you spell that last name?

A. W-h-i-t-e; Alex Biddleman, A. Brown alias Alpi.

Q. (By the Court): How do you spell the last name?

A. A-l-p-i; Harry Hayward, Alexander Durba, Tritonberg, Morris Childs, Clarence Hathaway, Anna Damon, myself, Manning [2330] Johnson, Schneidermann——

Q. (By Mr. Donohue): Do you know his first name?

A. No. He was a district organizer from California, that district, at that time. I don't remember his first name. Paul Crouch, Harry Bridges—he was going under the name of Rossi at that time, alias Rossi, Puro—I forget his first name. George Hewitt alias Tim Holmes.

Q. How do you spell his name?

A. Hewitt?

Q. No, the alias.

A. Tim H-o-l-m-e-s. There were a number of others I can't recall. I might recall them later.

Mr. Donohue: May we take a recess at this time?

The Court: Yes, we will take the morning recess, ladies and gentlemen of the jury. The same admonition to you not to discuss the case under

(Testimony of Manning Johnson.)

any conditions nor to form or express an opinion until the matter is finally submitted to you.

(Recess.) [2331]

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Johnson, what if anything did Harry Bridges have to say, if you can recall it, at this meeting you have just described?

A. At the closed session of the—at the ~~closed~~ meeting of the National Committee he was introduced to the Committee, and he stated his—stated that he enjoyed the proceedings and the way the Party operated. That was all.

Q. Did you attend the 1938 national convention of the Communist Party? A. I did.

Q. Were you a delegate to that convention?

A. Yes, I was.

Q. At that time were you still a member of the National Committee of the Communist Party?

A. I was.

Q. Where and when was the 1938 national convention of the Communist Party held?

A. The national convention of the Communist Party in 1938 was held at the Hotel Center on 43rd Street, New York, of course, we had a number of sessions at different other halls, but the main business was conducted at the Hotel Center.

Q. At the 1938 convention of the Communist Party, national convention, did you at that conven-

(Testimony of Manning Johnson.)

tion vote to re-elect Harry [2332] Bridges to membership in the National Committee of the Communist Party?

Mr. Hallinan: Object to that as leading and suggestive, if the Court please.

Mr. Donohue: He was a delegate with power to vote.

The Court: Overruled.

The Witness: Will you read that question back to me?

(Question read:)

Mr. Hallinan: Might we have, before that, when this was, if the Court please?

Mr. Donohue: He stated it was—oh, I am sorry.

Q. When in 1938 was this convention?

A. That was in the summer of 1938.

Q. Can you tell us the month?

A. I don't recall the exact month. It was around in the warm months of the summer, about June or July, somewhere along there.

Q. When you cast your vote at the 1938 convention for the election of Harry Bridges to membership on the National Committee of the Communist Party, did you cast your vote for Harry Bridges under the name of Harry Bridges?

A. I don't recall exactly what alias he was using at the '38 convention.

Q. Mr. Johnson, do you see the Harry Bridges who you have stated was in attendance at this

(Testimony of Manning Johnson.)

meeting of the National [2333] Committee of the Communist Party in 1936 in the courtroom?

A. Yes, I do.

Q. Will you indicate where he is in the courtroom.

A. There he sits there, one, two—the third person from my left.

Q. Mr. Johnson, you left the Communist Party, you stated, in 1940?

A. Yes. It was a few months after the Nazi-Soviet pact. I imagine it was around the first part of '40.

Q. Will you tell us your reasons for leaving the Communist Party.

Mr. Hallinan: Just a minute. Same objection, if the Court please, calling for an opinion and conclusion and incompetent, irrelevant and immaterial.

The Court: Overruled.

A. I felt the Communist Party because I had come to the conclusion that the Communist Party was an organized conspiracy against our Government; that the whole policy, on the basis of my experience through the years, was——

Mr. Hallinan: Now, just a minute, sir. If the Court please, now he is stating this opinion and conclusion, this expert opinion on the non-expert matter. It is not the best evidence.

The Court: Yes. Mr. Johnson, state the reasons in brief why you left the Communist Party. [2334]

A. I left because of my experience in relation to the leadership and the policy of the Party. The steel core of the leadership of the Communist Party were mostly aliens who worked with might and main for only one thing, and that is support of the policy of the Soviet government as against the government of the United States. I realized that on the basis of this, that I couldn't serve Uncle Sam and at the same time serve Joe Stalin any more than——

Mr. Hallinan: Now, just a minute.

A. (continuing)——he can serve God——

Mr. Hallinan: Just a minute, if you will, sir. This witness has testified in about a hundred of these cases, and he doesn't stop when an interruption takes place. Your Honor, here is a speech. This is just a speech from the dock.

The Court: What was that last?

Mr. Hallinan: I say this witness has testified in numerous of these cases, and he doesn't stop when I try to make an objection. I want to object to a continuation of this. This is a just speech, if the Court please. This isn't any kind of a reason. In the first place, if he left the Communist Party for some reason, if he was discontented with it or didn't like their policy, that is all right. What do we care? Here he is being permitted to make an argument.

The Court: The witness is stating the reason why he left. [2335]

Mr. Hallinan: If it is proper for him to state it at all, he has already stated it. He stated because he was discontented with its leadership or didn't like their policy. Here he is making a speech. These people are Communists, not us. Mr. Donohue

(Testimony of Manning Johnson.)

produced these Communists. My clients are not Communists. We are not interested in what they wanted or did not want, or whether they upheld the United States or the Soviet Union. To permit a witness on the stand to make a speech lauding themselves—that is all it amounts to. They produce a witness to testify to a situation, first because he was a member of the Party and because he is now turning against the Communist Party, and, second, they want to protect their witnesses in advance from impeachment by showing that they are just ordinary Communists; that they are some kind of Communists who saw the light. As far as we are concerned, they are all in the same boat, and I don't think they ought to be permitted to make these speeches justifying themselves in advance of cross-examination.

The Court: Mr. Hallinan, what you have just said seems to supply the underlying reason why counsel for the Government has sought to elicit, (1) why Mr. Johnson joined the Communist Party, and later why he terminated his relationship. I think your very assertion here justifies the query. Now, it may be that the last part of the answer may be a degree argumentative, but I am not going to foreclose the [2336] witness from making a full, fair and complete statement. You may cross-examine him at length on that statement.

You may answer.

Mr. Hallinan: Of course, your Honor, I am

(Testimony of Manning Johnson.)

obliged under the rules of evidence to make these objections.

The Court: Yes.

Mr. Hallinan: I am not going to waive them.

The Court: There is no question about that, Mr. Hallinan, but I merely say to you the very statement that you make is eloquent for allowing the Government to elicit the very answer that you seek to attack.

Mr. Hallinan: I don't know whether they are trying to prove that they are better than the ordinary Communist or worse, but if they will state which they want to show, we will stipulate to it.

The Court: Well, Mr. Hallinan, hereafter we shall have an opportunity to hear argument on both sides. The Government will present argument and you will present argument, and I assume your associate will. I look forward to those arguments with a good deal of expectation. I should rather not have them now.

You may answer.

A. My association with such persons as Durba. Alexander Biddleman, Max Bidot, Moreau, Puro, Abe Benson, Jack Stachel, and Gerhart Eisler and others who constitute the steel core [2337] of the Communist Party convinced me definitely that there is no possibility of serving two masters. I had to serve constantly Joe Stalin as against Uncle Sam. One cannot serve two masters any more than a man can serve God and Beezlebub.

Mr. Hallinan: Your Honor,——

A. Then I decided that I would leave.

(Testimony of Manning Johnson.)

Mr. Hallinan: Just a minute, sir. Just a minute. First, we have this portion of it in which we have a conflict between two persons to whom he apparently claims some allegiance, and then this "Beezlebub," who suddenly came in here. He has not been identified yet as a member of the national convention of which this gentleman was a member or associated with any of them. I think we ought to first identify who "Beezlebub" is before we go any farther.

The Court: I don't know, Mr. Hallinan——

Mr. Hallinan: Here is a brand new name. Is he a prospective Government witness, or is he one of this gentleman's associates in the so-called organization of fifty members of the National Committee? I think before we step any farther that Beezlebub ought to be so identified that we can know who we are talking about.

The Court: Maybe he is an uninvited guest.

Mr. Hallinan: We had two or three mysterious guests who accompanied Mr. Schomaker.

The Court: Maybe Mr. Donohue can identify him. [2338]

Mr. Donohue: I am happy to say that I am sufficiently familiar with the Bible to identity Beelzebub as the Devil.

Mr. Hallinan: Beelzebub. This was "Beezlebub," a different man. Maybe he and Mr. Donohue have different devils.

The Court: Maybe that was the name ~~he~~ used.

Mr. Hallinan: He was elected to the National

Committee under the name of "Beezlebub," I understand.

Q. (By Mr. Donohue): Will you continue, Mr. Johnson.

Mr. Hallinan: Let us use the same devils that Mr. Donohue uses from here on.

The Witness: Would you read my last statement to me, please.

(Record read.)

A. I decided that the Communist Party was no place for me and that I wanted no part of that alien conspiracy, because there was no more ruthless, cold-blooded group of enemy alien conspirators in our day or any other time in recorded history.

Mr. Hallinan: Just a minute. Now, I move that that statement be stricken. Here we have a volunteer statement by the witness, a speech, a declaration that has nothing to do with the case. If these people constitute the conspiracy that he says they do, that seems to me sufficient reason why he got out. That should be good reason why he shouldn't have gotten in, but for him to start off now on a dissertation on these various persons whose names he mentioned, I think [2339] it is highly improper.

The Court: Apparently that is one of the bases upon which he terminated his relationship.

Mr. Donohue: Correct, your Honor.

The Court: The motion is denied.

A. At the time of the Nazi-Soviet pact, no one knew what to do, because it caught us unaware; we were all amazed and stunned when we picked up the papers, and we read of the Nazi-Soviet pact. No one in the National Committee at that time knew just what particular position to take on the matter.

Mr. Hallinan: Now, your Honor, we are having a dissertation of what other people knew or did not know.

The Court: The objection is sustained. The motion to strike is granted.

Q. (By Mr. Donohue): Was your decision to leave the Party in any measure influenced by the Nazi-Soviet pact to which you have made reference?

Mr. Hallinan: Just a minute. Object to that as incompetent, irrelevant and immaterial and as having been asked and answered already. He said it was, that that was one reason.

The Court: He said it was, Mr. Donohue. Mr. Johnson said that was one of his reasons, according to his testimony.

Q. (By Mr. Donohue): Have you completely stated the reasons which motivated you in leaving the Communist Party, Mr. [2340] Johnson?

A. I think I have.

Mr. Donohue: You may have the witness.

Cross-Examination

By Mr. MacInnis:

Q. Mr. Johnson, let me ask you this at the outset: Did you memorize that little statement that you gave us a moment ago about not being able to serve two masters at once, including carefully Uncle Sam and Joe Stalin, God and, as you put it, "Beezlebub"? Did you memorize that?

(Testimony of Manning Johnson.)

A. No, I did not. I don't think I have to.

Q. I call this to your attention, then, Mr. Johnson: that you started to give the same answer in the identical words, were interrupted by an objection, by a discussion between the Court and the lawyers, and when the question was put to you again you repeated it in the identical words.

Mr. Donohue: I object to this speech, if your Honor please. It is certainly not a question. If it is a question, it is argumentative.

The Court: Overruled.

A. I did not memorize it. I don't have to memorize it. Those words that I put together express or almost—express all or almost all that I have to say with regard to my reasons for leaving the Communist Party.

Q. (By Mr. MacInnis): You have probably said the same words a great many times in these various hearings in which you [2341] have been produced as a witness by the Government?

A. I have at no other time in any other case used the expressions that I have used at this particular time.

Q. Let me ask you this, Mr. Johnson: You came out here from New York to testify in this case?

A. I was subpoenaed to come out here by the Government.

Q. When and where were you given the subpoena?

A. I was subpoenaed at the union office in New York City, 1440 Broadway.

Q. May I see the subpoena?

(Testimony of Manning Johnson.)

A. If I have it with me. (Producing paper)

Mr. MacInnis: We ask that this subpoena be marked for identification, your Honor.

The Court: So ordered.

The Clerk: Marked Defendants' X for identification.

(Subpoena of Manning Johnson was marked Defendants' Exhibit X for identification.)

Q. (By Mr. MacInnis): You were given this subpoena in New York? A. Yes.

Mr. MacInnis: It is about the first time that we have heard the process of subpoena under your Honor's seal would extend to the City of New York.

Mr. Donohue: Is this evidence, if your Honor please, or is it a question? [2342]

Q. (By Mr. MacInnis): Your expenses, I suppose, were paid?

Mr. Donohue: Just a minute, please. I move the remark of counsel be stricken from the record.

The Court: I will strike it from the record. [2342-A]

Mr. MacInnis: Doesn't Your Honor take judicial notice that this Court does not have the power by subpoena to bring a witness from New York to San Francisco?

The Court: There is nothing before the Court at this juncture.

Mr. MacInnis: The point is obvious that the subpoena had no validity.

(Testimony of Manning Johnson.)

Mr. Donohue: The subpoena is not in evidence, if Your Honor please.

The Court: The remarks are stricken from the record.

Mr. McMillan: I want to make a correction because counsel says it is obvious. Subpoenas in criminal cases run throughout the United States under the statute.

Mr. Paisley: Can he be that ignorant of the practice in these courts?

The Court: I can't hear you, Mr. Paisley.

Mr. Paisley: Or is he just trying to put on a show?

Mr. MacInnis: Your Honor, I have never been able to bring a witness from New York to San Francisco by subpoena. Let me continue with Mr. Johnson now.

Q. Your expenses were paid to San Francisco by the Government?

A. Yes, they paid my transportation here.

Q. Are you being paid for your services as a witness as well?

A. I am getting the usual witness fees of about $6.00 or $7.00 a day. [2343]

Q. You mean you do not know what the exact sum is?

A. I do not know what it is. I never asked.

Q. You get paid in all cases in which you testify, do you not?

A. I get the usual witness fees in each and every case I testify in.

(Testimony of Manning Johnson.)

Q. When did you arrive in San Francisco for your testimony in this case?

A. I arrived here, I think, a couple of days before. May I see that subpoena a moment, please?

(Subpoena handed to witness.)

I came here the Sunday before the date of this subpoena. Do you have a calendar there? (A calendar was handed to the witness.) Sunday, November 20th. That was the day before I was slated to appear.

Q. You have been here in San Francisco since Sunday, November 20th? A. That is correct.

Q. And the sole purpose of your coming here has been to testify in this case?

A. That is correct.

Q. Where have you been staying, Mr. Johnson?

A. In San Francisco.

Q. Yes, but where? Where in San Francisco?

Mr. Donohue: I object, if Your Honor pleases. I know of no reason why the witness should be required to answer a [2344] question as where he is staying, unless Mr. MacInnis would suggest that there is some purpose behind the question.

Mr. MacInnis: We have a right to make that inquiry, Your Honor. The witness hesitates and looks down at the prosecution table waiting for an objection; then, of course, alert counsel rises and says the matter is immaterial. I have never heard that a witness could be protected in telling us where he is staying, a witness brought from a foreign city to testify here, held here since November

(Testimony of Manning Johnson.)

20th, and we are now, I think, upon the 13th of December.

Mr. Donohue: Of course, his being held here is due to the MacInnis-Hallinan filibuster.

Mr. MacInnis: Your Honor will appreciate that we did not ask that this case be brought and any delay in this case is no doing of ours.

Mr. Donohue: What?

The Court: You may answer, please.

A. I am staying at the Hotel Sutter.

Q. (By Mr. MacInnis): You have been there continuously since you came here?

A. That is correct.

Q. Have you been regularly in attendance in this building? A. No, I have not.

Q. Were you here yesterday?

A. Yes. [2345]

Q. Were you here the preceding Friday?

A. Yes.

Q. In other words, you were stationed in some witness room adjacent to this court both upon Friday last continuously and all day yesterday?

A. That is correct.

Q. At the close of yesterday afternoon, at 3:30, Mr. Donohue told the Court that he had a witness here whom he had not talked to. Did he ever talk with you yesterday afternoon at 3:30?

Mr. Donohue: I object to this question, if Your Honor please, in the form in which it appears. I stated to Your Honor yesterday afternoon that I asked Your Honor to adjourn this trial until this morning because the witness I had hoped to call at

(Testimony of Manning Johnson.)

this time was not here. At that time I said to Your Honor, "I have a witness in the building, but I have not had an opportunity to talk with him. I would appreciate that opportunity before I call him." This witness was not present in the room and obviously could not know what happened between Your Honor and myself.

Q. (By Mr. MacInnis): Mr. Johnson, did you meet Mr. Donohue for the first time yesterday?

A. I talked with Mr. Donohue yesterday.

Q. Did you meet him for the first time yesterday? A. No, I have met him before. [2346]

Q. When had you met him before?

A. Oh, one day he was coming from the court—I think it was Friday—and he greeted me and that is about all.

Q. He had met you before that, since he was thus enabled to greet you, I suppose?

A. Yes, I met him when I appeared before the grand jury.

Q. So that yesterday was not the first occasion that Mr. Donohue had to talk with you, was it?

A. No. It depends upon what you mean when you say talk.

Q. Let me ask you this, Mr. Johnson: Were you told by anyone not to be specific about the date or even the month in which these supposed National Committee conventions were held because Harry Bridges might be able to prove that he was not in New York in those months if you gave a specific month? Were you told that?

(Testimony of Manning Johnson.)

A. No, I was not told that. I gave my answers to the best of my recollection.

Q. You can't tell us the month?

A. I can't tell you the exact month. I can only approximate because you are carrying me back over a span of years.

Q. You say that one of the reasons that impelled you to leave the Communist Party was that you were amazed at the Nazi-Soviet attack in 1939, is that correct?

A. That was one of the reasons.

Q. Were you also amazed at the later pact between the Soviet [2347] government and the United States during the war?

A. No, I was not amazed at that.

Q. You were not amazed at that but you were amazed at the other? A. That is correct.

Q. Concerning your occupation, have you told us generally everything you have done over the past years? A. Practically all.

Q. You were an organizer for the Communist Party between the years 1930 and I suppose continuously up to 1940 when you say you left the Communist Party?

A. I was not continuously an organizer for the Communist Party. I was continuously a member of the Communist Party.

Q. You say that you left the Communist Party voluntarily? A. That is correct.

Q. You were not expelled?

A. Not that I know of. If I was expelled, I know nothing of it. I was never given a trial. I

(Testimony of **Manning Johnson.**)

was never given a hearing of any kind by the party.

Q. Haven't you testified previously that the Communist Party announced that you were expelled?

A. No, I said in my previous testimony that I was told by someone that the party expelled me, and if my memory serves me correct, you will find that so stated in the record.

Q. What record is that, Mr. Johnson? [2348]

A. In any record of any case where that question was asked and I testified.

Q. What particular case do you recall giving that testimony in?

A. I don't recall which. I testified in a number of them.

Q. What was the reason given you for your expulsion from the Communist Party by this person who informed you?

A. That was only hearsay. I couldn't put any credence in that.

Q. You were not told you were expelled for being a spy, were you?

A. No, I do not recall being told that.

Q. You have no recollection of being told that?

A. No.

Q. Did you have any other occupations between 1930 and 1940, when you left the Communist Party?

A. I was an organiz*ation* for the labor organization after I left the party. In fact, I was still an official of the labor organization when I left the party. I was business agent of Local 302, Cafeteria Employees Union, A. F. of L.

(Testimony of Manning Johnson.)

Q. Had you been a cafeteria employee yourself?

A. No, I had not been one, but the Communist Party, through the party fraction, put me in as an organizer. That is how I became an official of that union.

Q. Were you with any union?

A. In the Bartenders Union.

Q. When were you in the bartenders [2349] Union.

A. In 1941, 1942 and 1943.

Q. Did the Communist Party get you that job?

A. No, the Communists tried to get met out of it.

Q. They got you in one job and tried to get you out of another? A. Yes.

Q. And then you tell us in 1944, for reasons which you have ascribed to yourself, you entered the United States Navy? A. That is right.

Q. I see that in this year, 1949, you still wear your discharge button.

A. Yes, I always wear it. I am proud of it.

Q. You always wear it when you testify in these cases?

A. I wear it whether I testify or not because I am proud of what we used to call the ruptured duck.

Q. You entered the Navy in 1944, you say, although you could have obtained a deferment, is that right? A. That is right.

Q. Since you speak of your patriotism, I suppose that would have been true of 1943, 1942 and 1941, the years in which you did not enter the Navy?

A. That is true.

Q. So you entered in 1944 and you served with

(Testimony of Manning Johnson.)

the Navy in the manner that you have described until finally at Alameda, California you were made a chief petty officer, it that right? [2350]

A. No, I didn't say I was made a chief petty officer. I said I was made an Aviation Ordnance Man first class or petty officer first class.

Q. Yes, petty officer first class.

A. That is correct.

Q. And that is the rating you enjoyed when you left the Navy? A. That is correct.

Q. You were with the Navy, did you say, until the month of May, 1946? A. That is correct.

Q. What had been your occupation between May, 1946 and the present time?

A. I worked for the United States Navy in a civilian capacity.

Q. For what period of time?

A. From the middle of 1946 until 1947.

Q. And after 1947 what was your occupation?

A. I went to work for the Bloomingdale department store in New York City.

Q. What was your general work at that place?

A. I was a merchandise distributor and handler.

Q. Pardon me?

A. A merchandise distributor and handler.

Q. In what department was that?

A. That was in the receiving——

Q. That is the largest store at Lexington ——[2351]

A. And 59th Street, that is correct.

Q. You were what?

(Testimony of Manning Johnson.)

A. I was a merchandise handler and distributor.

Q. You kept that job how long?

A. Until February of 1949.

Q. You worked continuously from some date in 1947 until February of 1949 at Bloomingdale's department store?

A. No, I said—I didn't say that. I said I worked in Bloomingdale's department store up until February of 1949.

Q. When did you start at Bloomingdale's?

A. Let's see. I think it was in the spring—I think it was either in the spring of—I think it was in the spring of 1948, if I am not mistaken, somewhere in the beginning of 1948.

Q. So that you left that store after being there approximately ten or eleven months?

A. Yes, I might say it was about ten or eleven months.

Q. Under what circumstances did you leave that employ?

A. Because of my opposition to the Communists, who were in control of the union, and they insisted that management fire me because I was anti-Communist.

Q. The Communists got you fired from Bloomingdale's——

A. That is correct, and the employment record at Bloomingdale's will confirm exactly what I have stated.

Q. Bloomingdale's is one of the largest department stores in the world, isn't it? [2352]

(Testimony of Manning Johnson.)

A. It is one of the largest, yes.

Q. And the Communists got you fired from the store?

A. Yes, the Communists have a union contract in that store. The Communists control the union there.

Q. What was your occupation, Mr. Johnson——

The Court: Pardon me. What is the union in that store?

A. It is Local 3, Independent. They seceded from the Retail, Wholesale and Department Store Employees of the CIO because they refused to sign a non-Communist affidavit.

The Court: Is this an appropriate time to take the recess?

Mr. MacInnis: Whatever Your Honor suggests.

The Court: We will take the noon adjournment and will resume at 2:00 o'clock, ladies and gentlemen of the jury. The same admonition to you not to discuss the case under any conditions nor to converse with any person on any subject of the trial. You are not to form or express an opinion until the matter is finally submitted to you. You may retire.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.)

Afternoon Session—2:00 p.m.

The Clerk: United States v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

(Testimony of Manning Johnson.)

The witness on the stand is Manning Rudolph Johnson, heretofore sworn.

MANNING RUDOLPH JOHNSON

resumed.

Cross-Examination
(continued)

Mr. MacInnis: May we have the last question and answer, please.

The Reporter: I am sorry, but the other reporter was in here at that time, Mr. MacInnis.

Q. (By Mr. MacInnis): Mr. Johnson, you told us, I think, before the noontime adjournment that in the spring of 1948 you went to work for Bloomingdale's department store, is that correct?

A. Yes, I think that is correct.

Q. And you remained there until about January of this year, 1949?

A. No. I worked there until February of 1949.

Q. And now, what had been your occupation after you left the civilian employ of the United States Navy up to the spring of 1948 when you went with Bloomingdale's?

A. Well, I was unemployed for a period of time. I was [2354] unemployed for a period of time between the time I left the employ of the United States Navy and the time I went to work for the Bloomingdale department store.

Q. So you didn't have any occupation during that period? A. No, I did not.

Q. Well, now, Mr. Johnson, in the month of

(Testimony of Manning Johnson.)

February of 1948 didn't you testify under oath on behalf of the Government in an immigration proceeding entitled In the Matter of Nat Yanish here in San Francisco?

A. I testified in the Nat Yanish hearing held by the Immigration and Naturalization Service.

Q. Was that approximately the time in which that hearing or trial took place, February of 1948?

A. I don't recall exactly when that hearing was.

Q. In that hearing, more of which we will speak later, you testified, did you not, that your occupation was that of a writer of articles?

A. I testified at the Nat Yanish hearing, when asked where I was employed, I stated that I was not employed but that I was writing on a series of articles that I hoped to have published. I think the record will show exactly that.

Q. And you told the trial examiner and the attorneys in that case that the matter that you were writing, as well as your employer in the matter of the writing, was strictly confidential, did you not? [2355]

A. I stated at that time that the people who were negotiating with me for those articles was a matter of confidence and I didn't want to divulge the names of the persons that I had talked with.

Q. Have you published those articles?

A. No, I have not.

Q. In February of 1948 you told the trial examiner in the Yanish hearing under oath that you were supporting yourself because you had received an

(Testimony of Manning Johnson.)

advance from those who expected to publish the articles that you were writing, did you not?

A. Yes, I think I did. I am not sure.

Q. Who was it who was paying you to write the articles which have not yet been published?

Mr. Donohue: I object, if your Honor please.

Mr. MacInnis: May it please the Court, it is a matter of his occupation. We have a right to know what it was if there was such an occupation at that time. The matter, as I understand it, took place when he was placed on the witness stand under oath and asked his occupation, and he said, "My occupation is a writer of articles; I have received an advance, but I am not going to tell you who paid me the money because I consider that confidential."

Mr. Donohue: I don't know that that is what he said. That is what Mr. MacInnis says that he said. But in any event, if your Honor please, if this man had a confidential [2356] arrangement with some person by the terms of which he was to write an article or series of articles, certainly the identity of that person would have no bearing in this particular case, obviously not for the purpose of impeachment.

Mr. MacInnis: We have a right to know what he was doing in that particular period of time. We have a right to know if his answer about that occupation was real or spurious.

Mr. Donohue: We might then try the contract, whether it was a valid agreement or whether the consideration——

The Court: Objection sustained.

Mr. MacInnis: May I be heard to this extent, your Honor: Is this any different than saying to this man, "Weren't you employed at Bloomingdale's in a particular month?" and if he said, "I refuse to tell; it is confidential," then your Honor would betray some astonishment. The matter is no different where he refuses to disclose a person who pays him his sustenance, I think.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Did you say that you had appeared as a witness at the instance of the United States Government in a number of cases?

A. Yes.

Q. Will you tell us generally what those cases were by name. A. I——

Mr. Donohue: I think I shall object, if your Honor, please. [2357] This witness has testified that he has appeared in a number of cases. To identify all those cases, I think, has no bearing here. If he wants to know the substance or nature of his testimony there, I have no objection.

Mr. MacInnis: I think, your Honor, we have a right to know the relationship between this witness and the agency which now produces him as a witness against these defendants.

Mr. Donohue: I don't know what he means by "relationship." He is a witness here under subpoena, and he testified that he has appeared as a witness for the Government in a number of proceedings. If he asks the nature of his testimony, I have no objection.

Mr. MacInnis: We have a right to know those proceedings.

Mr. Donohue: To ask him to state the name of the proceeding or case in which he appeared, I think is not proper, if your Honor please.

Mr. MacInnis: Your Honor, one of the fundamental rules of cross-examination, aside from inconsistent facts or matters of straight impeachment, would be the relationship between the witness and the side producing him in a particular case, the interest of the witness.

The Court: The objection is overruled. I assume that this is preliminary.

Mr. MacInnis: Yes, your Honor.

(Question read.) [2358]

A. Well, I testified in the Gerhart Eisler case.

Q. (By Mr. MacInnis): Pardon me. Gerhart Eisler? A. Yes.

Q. That was what approximate date?

A. I don't recall the exact date.

Q. Do you recall the year?

A. It was in the——

Q. 1947, wasn't it?

A. I think so. I think it was in the summer.

Q. What city? A. Washington, D. C.

Q. And after you completed your duties as a witness in that case did you receive a check for your expenses and fees?

(Testimony of Manning Johnson.)

Mr. Donohue: I object, if your Honor please. Of course he did. The Government of the United States doesn't ask witnesses to testify for nothing.

Mr. MacInnis: That is exactly what we want to bring out.

Mr. Donohue: You don't have to bring it out. The statute provides what a witness shall be paid.

Mr. MacInnis: We don't care to accept the stipulation from Mr. Donohue.

Mr. Donohue: It is not a stipulation; I know you don't care to accept the stipulation, but I am referring to the statute which determines what shall be paid to any witness testifying for the United States. [2359]

Mr. MacInnis: Well, the statute isn't of record here. I think we have a right, if this man can tell us, to know what compensation he received. Whether it was done in propriety is a matter to be argued later.

Mr. Donohue: Are we going to try the propriety of his testifying in every case in which he appeared, if your Honor please? That is what it will amount to. I don't know how many cases this witness may have testified in, if any, excepting from what he says.

Mr.. MacInnis: We certainly have a right to probe, since he has testified in so many cases, into the relationship between this man's occupation as a witness and his livelihood, and I think it is highly proper to ask him that question with respect to

(Testimony of Manning Johnson.)

the Eisler case in which he testified as a Government witness.

Mr. Donohue: I object to the question, if your Honor please.

The Court: What logical or legal relevancy would the compensation he may have received in the Eisler case have in the actual case at bar?

Mr. MacInnis: Your Honor, certainly if he received large compensation continuously over a mature period of time as a Government witness of a professional nature, why, that certainly would highlight the testimony that he has given here.

Mr. Paisley suggests into the ear of Mr. Donohue that a witness could be impeached by showing that he—I have sharp [2360] ears; I heard what Mr. Paisley said—by showing that he got the statutory compensation, then no witness would be immune. That may well be. I would like to hear what they have paid this gentleman. It is certainly material to know what fees he got.

Mr. Donohue: I assume that this gentleman doesn't know what he received in the Eisler case. I am familiar with the statute, and I will be glad to show it to him.

Mr. MacInnis: I am familiar with the statute, Mr. Donohue.

Mr. Donohue: You know what he gets.

Mr. MacInnis: I think it is a perfectly proper mode of inquiry, your Honor.

Mr. Donohue: If you asked——

The Court: Were you correctly quoted by Mr.

MacInnis, Mr. Paisley? I want you to be perfectly comfortable on the trial.

Mr. Paisley: Not quite correctly.

Mr. MacInnis: Your Honor, I can hear him from there as well.

Mr. Paisley: He misquoted me slightly.

The Court: All right.

Mr. MacInnis: Both my eyes and ears are sharp.

The Court: I would like the record to be correct.

Mr. Paisley: I said no party could safely call any witness [2361] if you could impeach the witness by showing he got the statutory fees for testifying.

The Court: I will overrule the objection.

The Witness: Will you read the question to me, please.

(Question read.)

A. Yes, I did.

Q. (By Mr. MacInnis): The total check?

A. I don't recall the total check. [2361-A]

Q. Do you recall how many days you were in attendance on that trial?

A. No, I do not recall the exact number of days I was there.

Q. In other words, you have in mind that you have been in attendance at this trial theoretically since November 20th, I think you said?

A. Yes.

(Testimony of Manning Johnson.)

Q. Now, in the Eisler trial, was the situation the same, that you were on the scene in advance?

A. It is customary to come to a trial the day before. I have at all times come in before the beginning of the trial.

Q. Whatever the period of time was, you received a fee for your services? A. Yes, I did.

Q. What was the second case in which you testified at the instance of the United States Government?

A. The Santos case in New York City.

Q. Santos, and what case was that?

A. Immigration and Naturalization Service.

Q. By the way, each of these cases, if I am informed correctly, were matters in which the Government had sought to prove that the particular man was a member of the Communist Party, is that right?

A. I would say that it was a case—in the Gerhardt Eisler case it was a question of the use of aliases and false passports. In [2362] the Santos case it was a question of deportation of an enemy alien.

Q. You did not testify as to the use of false passports, did you?

A. I testified with regard to the aliases used by Gerhardt Eisler.

Q. The aliases? A. That is right.

Q. Was he charged also with being a member of the Communist Party?

Mr. Donohue: I object, Your Honor. Are we going to retry the Eisler case?

(Testimony of Manning Johnson.)

The Court: I hope not, counsel. I am perfectly content now in trying this case. I hope we will not try the Eisler case.

Mr. MacInnis: I heard Mr. Donohue a moment ago say that if I sought to inquire into the nature of the testimony this man gave in the other cases he would have no objection. I see now he is objecting.

Mr. Donohue: You are asking about the charge. He was neither the prosecutor nor does he represent the United States.

Mr. MacInnis: That is a matter the Court and jury can understand, whether this man is in form a prosecutor. I think that is a matter that may become an issue in the case before too long a time transpires. [2363]

Mr. Donohue: I object to the question, if the Court please.

Q. (By Mr. MacInnis): The Santos case took place in what year?

A. I don't recall. There were so many cases before the Immigration and Naturalization Service I do not recall exactly when the Santos case was held, because there were several other cases that came up during that particular period of time, both on the East Coast and the West Coast.

Q. May I ask you this, then: In how many cases in all have you been called as a witness on behalf of the United States Government?

A. In the Immigration and Naturalization Service, the Santos case, the Doyle case, the Ferdinand

Smith case, the Nat Yanish case, and about ten or twelve more here in California, both in San Francisco and in Los Angeles.

Q. It would be fair to say that you have testified on behalf of the Immigration and Naturalization Service as a witness in about 18 cases?

A. Approximately.

Q. As you said a moment ago, in addition to the Yanish case, which was held in San Francisco, you testified in about 10 or 12 more simliar cases here in California? A. That is correct.

Q. So that although you live in New York you have been brought [2364] out to California on 13 occasions, or at least for 13 different trials since 1947? A. That is not correct.

Q. You mean some of the trials were held continuously?

A. They were held continuously. When I came out on the Nat Yanish case, I was used to testify in the other cases here in California.

Q. Could you tell us what the average number of days might be in which you participated in each of these cases?

A. I don't recall. I never kept track of those things.

Q. Would you be, for example, on an average of ten days to a particular case?

A. No. For example, the ten or twelve enemy aliens that were up for deportation in Los Angeles required only a day, because the attorney, Gallagher, agreed to stipulate to testimony from the Yanish

(Testimony of Manning Johnson.)

case in the cases involving the twelve, ten or twelve, I am not sure of the exact number.

Q. What I am trying to arrive at, Mr. Johnson, is this: During about how many days over the past two years has your time been taken up with your duties as a witness for the United States Government, particularly on behalf of the Immigration Service?

A. I really couldn't tell you. I know that they have called me in a number of times on cases and I couldn't say offhand. I never kept any record of it. [2365]

Q. Would it be fair to say out of the past two years you have been engaged in about 200 days of work, either as a witness or in preparation for taking the stand as a witness?

A. Heaven knows!

Q. Heaven knows?

A. No, sir, that is not so. Heaven knows that that is not so.

Q. Heaven knows that that is not so?

A. That is correct.

Q. About how many days?

A. I told you before I couldn't say. I kept no record of them.

Q. In addition to cases in which you appeared as a witness for the Immigration and Naturalization Service which you have now mentioned—I think those run to approximately 18—have you been called as a witness for the federal government or by various agencies of the state government in other matters?

A. Will you read that question?

(Question read.)

A. I was called by the federal government in the cases which I have mentioned. In addition to that, I was subpoenaed to appear before the House Un-American Activities Committee.

Q. Pardon me——

A. If that is what you mean. Of course, that is not a state. That was the District of Columbia, but that was a committee I was subpoenaed to appear before, and I would assume that that is what you are seeking after. [2366]

Q. Was that the committee headed by Representative Thomas who commenced his term in the penitentiary last week?

Mr. Donohue: Your Honor, that is improper and Mr. MacInnis knows it. That committee was also headed by Mr. Dies at one time and now by a gentleman from the State of Florida—I should say from the State of Georgia. It is a wholly improper question. I move that the last question be stricken, if Your Honor please.

The Court: One moment. Will you read that question, Mr. Reporter? There was so much noise in the courtroom I could not hear it all.

(Question read.)

The Court: Mr. MacInnis, that it wholly improper.

(Testimony of Manning Johnson.)

Mr. MacInnis: I think it identifies the particular committee, Your Honor.

The Court: It is wholly improper. I am satisfied you know it is improper, and I say to you now it is somewhat characteristic of the mode of examination you have employed in the past. I have been extremely patient with you and extremely indulgent. I say to you now, and this will be the last time, to refrain and desist from that type of question.

Ladies and gentlemen of the jury, I admonish you to disregard the question presented by Mr. MacInnis and to ignore any and all implications contained in that question. It is wholly improper. [2367]

Mr. MacInnis: I want to say this, Your Honor: I do not ask for any special indulgence.

The Court: No, I say to you in fairness for the record here that particularly yesterday, in connection with questions asked containing the subject matter of asserted foundational matter, that you have a habit—I am not chiding you for it—I am not trying to break you of it, but I say it is improper—of containing in your questions long dissertations of factual matter that would appear in the record. I think we have come to a point where I must, in fairness to this Court and in fairness to the record, ask you to refrain from indulging in that practice in the future.

Mr. MacInnis: Your Honor, I have heard of no decision in which the offering of conclusions in a question has been said to be disrespectful of the Court. I think nothing in that question was disrespectful of either you or any ruling that you have made.

The Court: Mr. MacInnis, I say again, so we understand each other, I ruled on these matters in the past and notwithstanding my ruling, you have assumed to engage in the same type of questioning. To that extent it is an affront to my ruling, and that ruling is made. I abide by it. I am satisfied it is the proper rule, and I ask you respectfully to abide by it.

Mr. MacInnis: Your Honor, I certainly have no intention of violating any ruling that you have made. It has not been brought [2368] to my attention that the matter just now mentioned was contained in any ruling that you have made in this case.

The Court: No, this last matter is certainly one that has no place in this record and I am satisfied you know it is.

Mr. MacInnis: If Your Honor feels I have merely departed from our field of inquiry, I will abandon that.

The Court: All right.

Q. (By Mr. MacInnis): You say that you were called to testify before the Un-American Activities Committee of the Congress of the United States? Is that right?

A. I say I was subpoenaed to appear.

Q. But you were not questioned, is that it?

(Testimony of Manning Johnson.)

A. Yes, I was questioned.

Q. You were questioned? A. That is right.

Q. And you did give testimony before that committee?

A. I did give testimony before that committee.

Q. What was the date of that testimony?

A. That was last July, I think.

Q. July of 1949?

A. That is correct, last July.

Q. Were you subpoenaed to appear before a similar committee in any state of our United States?

A. Well, I was subpoenaed to appear before the Un-American Activities Committee of the State of Washington. [2369]

Q. That is familiarly known as the Canwell Committee? A. Canwell is correct.

Q. When did you give your testimony before that group?

A. I think that was some time sandwiched between the other times that I was testifying for the Immigration Service.

Q. Did you ever appear before a committee called the Rapp-Coudert Committee?

A. That was a committee investigating Communist infiltration in the school system of New York?

Mr. MacInnis: Pardon me, Your Honor, I can scarcely hear the witness from the talking of Mr. Paisley. I get so curious when I hear him talking, my ears pickup on one side to hear what he says, and with the other ear I am trying to listen to the witness.

(Testimony of Manning Johnson.)

The Court: You have an amazing auditory sense.

Mr. MacInnis: It is not bad, Judge.

Mr. Paisley: I think he is allergic to me or I am allergic to him.

Mr. MacInnis: No, I am wholly indifferent to the man.

Mr. Donohue: I wish we could hear counsel on the other side of this room as well as you can hear counsel on this side of the room.

The Court: Let us proceed.

The Witness: There was a committee set up by the Legislature of the State of New York that was investigating Communist [2370] infiltration into the school system of the City of New York. If I recall correctly, they did subpoena me to appear at their office, but I do not recall the name of that committee, but I think it was the Coudert committee.

Q. Did you ever give a statement to the Immigration Service?

A. A statement to the——

Mr. Donohue: I object, if Your Honor please. That is a pretty broad subject. On what subject? When?

Mr. MacInnis: The subject of Communism.

Mr. Donohue: I withdraw the objection.

The Witness: I do not know exactly what you mean about giving a statement to the Immigration and Naturalization Service on the subject of Communism. If you mean in the sense have they ever asked me information on any specific case, and if I gave them that information, I would say yes.

Q. (By Mr. MacInnis): In all of these matters, Mr. Johnson, in which you appeared as a witness, whether on behalf of the Immigration and Naturalization Service or before the Congressional Committee or the committee in the State of Washington or the other matters you appeared as a confessed ex-Communist, did you not?

A. I appeared as an ex-Communist and as a witness for the Government.

Q. As a confessed ex-Communist, did you not?

A. What do you mean by confessed? [2371]

Q. In each of those matters, you confessed that you were an ex-Communist?

A. I only associate the word confession with the church. I stated my reasons for leaving the Communist Party. I stated also my experiences and my association and membership in the Communist Party.

Q. By the way, Mr. Johnson, these repeated allusions that you make to the subject of religion is a matter upon which one might ask you some questions.

Mr. Donohue: I object, if Your Honor please. That is another improper statement by Mr. MacInnis.

Mr. MacInnis: It is only prefatory to a question I am about to ask.

Mr. Donohue: All wholly improper statements you say are prefatory.

(Testimony of Manning Johnson.)

The Court: You speak relative to some question?

Mr. MacInnis: Yes, Your Honor.

Q. Mr. Johnson, let me ask you this: I suppose from 1930 to 1940 while you were a member of the Communist Party you did not belong to any religion?

Mr. Donohue: I object, if Your Honor please. That is argumentative.

Mr. MacInnis: I will reframe the question if there is any doubt about it.

Q. Were you a member of any religion while you were a member [2372] of the Communist Party from 1930 to 1940?

Mr. Donohue: I object, if Your Honor please. We all know that membership in the Communist Party negatives the possibility of a man having any religion.

Mr. MacInnis: If that is true, the witness certainly should tell us.

Mr. McMillan: If Your Honor please, it is Hornbook law that to test the validity of a witness, his bias or interest, you can not question him with reference to race, creed or religion.

Mr. MacInnis: I do not know what Hornbook law is, Your Honor, but this man has three or four times invoked the deity in the course of his testimony, and I propose to show that if he now embraces any religion, it is very recent because he has testified under oath in certain years he did not belong to any religion.

(Testimony of Manning Johnson.)

Mr. Donohue: Perhaps Mr. MacInnis does not remember the parable in the Bible of the man who worked for the last hour and got the same wage as he who had been working all day.

Mr. MacInnis: He is a confessed sinner and he is now forgiven. I suppose that is the answer to it.

Mr. Donohue: No. The answer to it is I object to the question, if Your Honor please, on the grounds stated by myself and on the further grounds stated by Mr. McMillan.

The Court: The objection is sustained. [2373]

Q. (By Mr. MacInnis): Mr. Johnson, in these matters in which you gave testimony as an ex-Communist—I suppose there are more than 20 in number, adding the other hearings to the Immigration trials—you mentioned your assertion that you had been a member of the National Committee of the Communist Party, did you not?

A. I did not make an assertion. I made a statement of fact.

Q. That you were? A. That is correct.

Q. Have you ever before this day or before your appearance in this case made the assertion in any testimony that Harry Bridges was elected to the National Committee of the Communist Party?

Mr. Donohue: I object, if Your Honor please, unless he can show that the question was asked of the witness.

The Court: The question is broad in its implication. If you are attempting to lay a foundation, state the time, place and persons present and show

(Testimony of Manning Johnson.)

him the transcript when he made such a statement.

Mr. MacInnis: I will be glad to do that, Your Honor.

Q. Did you in the Gerhardt Eisler case make a statement that you had been a member of the National Committee of the Communist Party? [2374]

Mr. Hallinan: Could I interrupt, your Honor? On that very point we raised yesterday it possibly was not so pertinent. You remember the case I cited in which the questions were whether or not the witness had at the preliminary examination testified——

The Court: That was the Hart case.

Mr. Hallinan: Yes.

The Court: I said yesterday there was no parity of reasoning; I could see no parity of reasoning.

Mr. Hallinan: But now on this point, Judge——

The Court: That was People v. Hart.

Mr. Hallinan: Yes.

The Court: I recall the case.

Mr. Hallinan: Yesterday it was not so apropos.

The Court: Mr. Hallinan, do you not agree with me that in the light of the testimony heretofore given by this witness in the Eisler matter, let us say, and other matters to which he has alluded, that the man be confronted by the transcript of his testimony and that the proper foundation be laid?

Mr. Hallinan: I think it is entirely improper to require us to do that on cross-examination, and under the holding of the Supreme Court of the State of California in this Hart case it said this:

> "As to the further argument of the prosecution that the questions were impeaching questions, and that [2375] therefore a transcript of the witness' testimony should first have been shown him"——

The Court: That was a case, Mr. Hallinan, under the State practice when the preliminary hearing was had. There was a holding.

Mr. Hallinan: The practice is identical in the Federal Court.

The Court: I can't agree with you.

Mr. Hallinan: And this is a general rule of law. This is not a question of the Supreme Court——

The Court: The practice in the Federal Court I have already alluded to in several cases, more recently referred to in the transcript——

Mr. Hallinan: For impeachment, there is no question about it. In other words, if it is intended to confront the witness with a transcript. But the witness can be queried as to whether he said such matters to show his willingness to evade, his veracity, or even his memory, or even to get from the witness information as to other places and circumstances under which he has testified so that the examiner can consult them and see what he may have said.

Mr. Paisley: What he is trying to say, your Honor, I think, if I may interpose——

Mr. Hallinan: I wish counsel would not say what I try to say. I have a great deal of difficulty

(Testimony of Manning Johnson.)

understanding [2376] counsel's neologisms. I can't make out a word he says, or only half of them, at any rate, and I would rather not have him translate what I intend to say. He speaks a different idiom from what we do here in California. I think I can make myself sufficiently understood without any translation of what I am intending to say. I think your Honor understands what I have intended to say.

The Court: Thus far I have had no difficulty.

Mr. Hallinan: That is what I hoped.

The Court: I think you have understood me fairly well up to this point.

Mr. Hallinan: Correct.

The Court: I have ruled on this matter, Mr. Hallinan. I thought I did. Mr. McMillan, do you have any thought?

Mr. McMillan: Just this, if it please your Honor: I was very much interested in hearing Mr. Hallinan say that the Federal rule was the same as the California rule. The old cases to which he refers, People v. Jones and People v. Hart—I am quite familiar with those cases—that is not the Federal rule. I have read the rule in the Federal Courts here a few days ago, and when we do not have a Federal decision on it or a Federal statute, we hearken back to the rule under the common law. The common law rule is basically like our State statute, that whenever a question is asked of a witness with reference to a statement or writing, he must first be shown that writing [2377] or state-

(Testimony of Manning Johnson.)

ment, and counsel must see it before a question is put to the witness. Otherwise, they have said in those cases that asking questions of that kind to find out from a witness whether he made a statement at this time or that time are aimless, random shots in the dark. Counsel will ask those questions and then perhaps proceed to impeach his credibility without laying a proper foundation.

Mr. Hallinan: It is only when the document is then sought to be introduced in evidence that that foundation need be laid. Questions can be addressed to whether he said different things at different times without any proposal to introduce the document. It is simply a question of searching to find out. That is what the trial of a case is. It is not merely a matter that we have certain things that we want to put in and the other side has certain things they want to put in. We are entitled to find out from the witness things that neither of us may know until that time. The common law is followed in California and the California Supreme Court rule is the same as the common law rule, which is that unless it is then intended to introduce the document in evidence, there is no necessity of submitting it to the witness.

Mr. McMillan: That is not the common law rule.

Mr. Hallinan: Mr. McMillan just gets up and says, without citing cases, "That is not the common law rule."

The Court: I have cited two cases in my remarks some few [2378] days ago, the case of the late Judge Garrecht wherein he refers to another decision, United States v.—I can't recall the name —it is in the record—and the authorities hold with uniformity in this district that the witness is entitled to be confronted with the record.

Mr. MacInnis: Do you have the name of the Judge Garrachet decision?

The Court: It is in the record. I cited it before. And I am content to rest on that rule. It is the rule of our Circuit and I am bound by it. I shall rest upon it.

Mr. MacInnis: May I point this out, Your Honor?

The Court: Yes.

Mr. MacInnis: The question now before Your Honor is not quite the question which both sides have been discussing with the Court, because this calls for a negative answer, for this reason: I have asked this gentleman if at a certain trial he made a particular assertion. Now, the mandate that the prosecution would lay down that he be confronted with a transcript is a rather ridiculous one for this reason: It means he must be given that old transcript, no matter how many hundreds of pages it contains, and he should be asked to read it all through and then asked a question. This is a negative question. He can tell us certainly whether he recalls giving any such testimony in cases. It is negative rather than positive. It is not saying, "You said this, didn't you?" [2379]

The Court: The question itself, Mr. MacInnis, is one that may or may not be relevant. The occasion for addressing myself to that subject matter may or may not be present. I do not know what was present in the Eisler trial. [2379-A]

Mr. MacInnis: It may not have been.

The Court: I do not know what was present in the Eisler case, nor do I know what was present in the Yanish case. If you intend to impeach the man, lay the foundation for impeachment, confront him with the record and ask the proper question, I will allow the question.

Mr. MacInnis: I intend to show, your Honor, that in no case before, so far as my inquiries have permitted, has he ever said Harry Bridges was a member of the Communist Party.

The Court: That is the very matter that I only recently urged in my position to you. There may or may not have been an occasion to address himself to that subject matter. And I do not intend to retry either the Eisler case, the Yanish case, or any other case. We will try this case to the best of our ability. Now, proceed.

Q. (By Mr. MacInnis): Mr. Johnson, apropos of his Honor's remarks just now, let me ask you this: In any of these other matters in which you have testified have you given a list of those persons who you say were on the National Committee of the Communist Party along with yourself?

Mr. Donohue: If your Honor please, there is nothing before this Court to show that that was an

(Testimony of Manning Johnson.)

answer made by him or that he was ever asked the question.

The Court: Sustained.

Q. (By Mr. MacInnis): Mr. Johnson, did you tell us this [2380] morning that you joined the Communist Party through motives of idealism? Was that the word you used?

A. That is correct. That is correct.

Q. By "idealism" at that time you said you had in your mind thoughts about segragation, lynching, and matters of that kind?

A. Yes, I had the thought of doing something about those conditions.

Q. Tell us what you meant by that.

A. I meant precisely this: that I had during the—during my years in Washington, D. C., experienced Jim Crow and segregation and that sort of thing.

Q. Pardon me. What do you mean by "Jim Crow," Mr. Johnson?

A. By "Jim Crow" I mean the separation of the Negroes from white people.

Q. You had experienced that in an extreme degree? A. Yes.

Q. To the end that members of your race were discriminated against?

A. That is correct.

Q. Tell us how and in what fashion that took place.

Mr. Donohue: If your Honor please, we have tried a lot of union matters. Now I suppose we are going to try a lot of racial matters.

Mr. MacInnis: Your Honor, this gentleman used the [2381] language.

Mr. Donohue: No, that is your language. Why don't you let him state in answer to the question that you asked him as to what he meant, instead of your trying to supply answer in the form of the question? I object to the question, if your Honor please.

Mr. MacInnis: To say the least, without being disrespectful, this gentleman is experienced enough so that he does not need the admonishment or assistance of the prosecutor in answering the question.

The Court: All right; proceed.

Mr. MacInnis: Would you read the last question.

(Question read.)

Mr. McMillan: May it please your Honor, that is far afield and it is a time-consuming inquiry. Everybody knows about Jim Crow and everybody knows with reference to the discrimination of races. Now, we are not trying issues of that kind here.

Mr. MacInnis: Your Honor, the record in this case cannot be bound by what one of the prosecutors says everybody knows, so, your Honor, some descriptive words are necessary. This witness was allowed over objection to tell us his reasons for joining the Communist Party.

The Court: The objection is overruled.

(Testimony of Manning Johnson.)

The Witness: Do you mind reading that question for me, [2382] please?

(Question read.)

A. Well, we had separate schools, and many of the restaurants we couldn't go in to get anything to eat. We had to go to the colored community to get something to eat if we wanted to get something to eat at all, except go in the back way and get a sandwich and take it out. In addition to that, there were many reports of lynchings, et cetera, in the South. All of these things combined led me to the conclusion that something ought to be done about it.

Q. (By Mr. MacInnis): Well, were the reports—— A. May I finish?

Q. Yes.

A. When I went to—when I went to Buffalo, New York, I heard Otto Hall speaking on the street corner about lynching and discrimination, and I became interested, and after the meeting was over I walked up to him and I spoke to him and congratulated him on what he was trying to do, and said to him that I had much in common with him insofar as his program and his policy as set forth was concerned, and that I would like to join up. So I joined the organization which he was head of at that time, the American Negro Labor Congress.

Q. Mr. Johnson, did any of the reports that you say you received about segregation and lynching link those activities with any particular group in the United States? [2383]

A. I would say—I would say this: that that condition of things is more or less a hangover from slavery and that, in time, these conditions will be eliminated within the framework of our existing laws.

Q. I dare say that the reasons that you ascribed for joining the Communist Party might well be the reasons advanced by other members of your race in the Communist Party.

Mr. Donohue: Object, if your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): The reports of lynching that you received, I suppose, were reports emanating from the South?

Mr. Donohue: Object, if your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): Let me ask you this, Mr. Johnson, in respect to these evils,—the segregation of the colored people, lynching and the like, —have you ever been asked by the Government to testify in any case against the Ku Klux Klan?

Mr. Donohue: Object, if your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): Now, in reference to the matters that you offered us this morning as to your reasons for leaving the Communist Party, it is fair to say that you became disillusioned with the hidden or inner purposes of the Communist Party, is that right? [2384]

(Testimony of Manning Johnson.)

A. I became aware of things in the latter years in the Party as a result of being in the hierarchy of the Party that I was not aware of when I first joined the Party. I became aware of the fact that the whole policy of the Communist Party was tied to the policy of the Soviet government and that every action, everything we did, was directed toward the end not only of support of the policy of the Soviet government but also for the overthrow of the Government of the United States.

Q. You say that you learned these things when you became a member of the hierarchy of the Party? A. That is correct.

Q. Those were things that you did not know when you were an ordinary member of the Party?

A. That is not—Yes, we knew that, but not to the extent that—not to the extent that you acquire a knowledge of it after you get into the hierarchy.

Q. Well,——

A. To make that more specific, I mean precisely this: that we knew that the objective of the Communist Party was to overthrow the Government of the United States, but the methods and the techniques, the concentration, the marshaling of the social forces that were necessary for the destruction of the Government and the utilization of the grievances of the people toward that end, one who is new in the Party is not familiar [2385] with; but as you grow and develop and rise in rank in the Party, then you become aware of the fact

(Testimony of Manning Johnson.)

that it is a gigantic conspiracy that you are engaged into.

Q. Yes. You found that out as you rose in the ranks or hierarchy of the Communist Party, is that correct? A. That is correct.

Q. Well, let me put the matter to you this way, Mr. Johnson: Suppose a person like yourself in 1929 was receptive to some of the notions of the Communist Party, an idealist as you say you were, would that person at the outset while he was entertaining the thought of joining the Communist Party learn about the more sinister things that you now ascribe to it?

Mr. Donohue: Object, if your Honor please. It sounds like a hypothetical question which obviously this witness couldn't answer.

The Court: Overruled.

The Witness: What was the ruling on that?

The Court: Overruled.

The Witness: Will you read that question to me, please.

(Question read.)

Mr. Donohue: I object on the further ground, if your Honor please, that the statement made to the witness pre-supposes a knowledge of facts which one acquired in membership in the Party. This question presupposes one who was flirting or skirting around the edges, who might be not a [2386] member and therefore could not be aware of the facts he has testified to.

The Court: Maybe Mr. MacInnis has someone specifically in mind; I don't know.

Mr. MacInnis: That is possible, if your Honor please.

The Court: I will overrule the objection.

A. It is possible for a person to come into the Communist Party on the basis of idealism. After coming into the Party on that basis, he eventually becomes rudely awakened by the fact that—by the fact that the movement is not what he thought it was at the beginning; that the people who lead and direct and head this movement are not honest, sincere persons seeking to wipe out the ills that exist in our system of society, but that they are unscrupulous, unprincipled politicians, persons who would make Machiavelli and Florentine look like an amateur.

Q. (By Mr. MacInnis): Yes. Well, you make precisely the distinction that we want to make, too, Mr. Johnson.

Mr. Donohue: Is that a question, if your Honor please?

Mr. MacInnis: Yes, I think I am trying to ask a question, your Honor.

Mr. Donohue: You are engaging in colloquy.

Mr. MacInnis: If I may say so, counsel has the right to object to every question, but not until it is asked.

The Court: All right; proceed. [2387]

Q. (By Mr. MacInnis): Mr. Johnson, when did you find out that the Communist Party advocated the overthrow of our Government by force?

(Testimony of Manning Johnson.)

A. In the '30's.

Q. Did you find out before you became a member?

A. No, I did not know until after I had become a member it was advocating the overthrow of the Government.

Q. So that a person who is a so-called Communist fellow-traveler or sympathizer with the Communist Party would not ordinarily know of such things until after he became a member actually?

Mr. Donohue: Object, if your Honor please, on the ground he is arguing with the witness.

Mr. MacInnis: Oh, I think not, your Honor.

The Court: Overruled.

A. I would say this: that I cannot speak for a fellow-traveler. I am not responsible for the mental processes of a fellow-traveler, but I can speak authoritatively with regard to the mind of a Communist.

Q. (By Mr. MacInnis): Now, concerning yourself you tell us that you did not know until after you were in the Communist Party that it advocated the overthrow of our Government by force?

A. That is correct.

Q. During the period in which you were an idealist, as you [2388] put it, in which you sympathized with what seemed to be the apparent ends of the Communist Party, you didn't know that there was a hidden end of the advocacy of the overthrow of our Government by force?

Mr. Donohue: I object, if your Honor please, on the ground there was a statement by the witness that at no time was he a fellow-traveler or at no time was he an idealist sympathizing with the aims of the Communist Party prior to the time he entered the Communist Party.

Mr. MacInnis: Your Honor, I think he said that was what he was: an idealist.

The Court: I said?

Mr. MacInnis: No, the witness.

The Court: Well, the objection is sustained.

Q. (By Mr. MacInnis): Mr. Johnson, over what period of time did you contemplate joining the Communist Party when you first became interested in it before you actually became enrolled as a Party member?

A. Not very long; maybe a few months at the most.

Q. During that period of time your notions about the Communist Party were idealistic?

A. During that time I was given considerable literature to read by Hall and other members of the Party, and finally they said that "In order to be a good fighter against these conditions you should be a member of the Communist Party," and on [2389] the basis of that I joined.

Q. And at that time, as you said, you did not know that the Communist Party had the hidden end of overthrowing our Government by force?

A. At that time there was only one thing that I knew about the Communist Party, and that was that the Communist Party supported equal rights

(Testimony of Manning Johnson.)

for Negroes, one, and the right of self-determination for the Negroes in the Black Belt; that was the right for the Negroes in the Black Belt to secede from the United States and establish an independent republic in that particular area, free, separate and apart from the rest of the United States. I did know that much.

Q. Before you joined the Communist Party?

A. That is right. That was a part of the program of the American Negro Labor Congress.

Q. Now, you learned that that was one of the ends of the Communist Party in what year?

A. In 1930.

Q. And at that time you knew that one of the ends of the Communist Party was the establishment of the right of self-determination by the Negroes in the so-called Black Belt of the South?

A. That is right.

Q. Didn't you testify under oath, Mr. Johnson, in the matter of the inquiry into the immigration of Nat Yanish that the [2390] discovery of the ends of the Communist Party concerning the establishment of the Negroes' right of self-determination and the Negro republic in the South was one of the matters that led you to get out of the Communist Party?

Mr. Donohue: I object, if your Honor please. I think this is the matter that we just discussed a few minutes ago.

Mr. MacInnis: I am going to——

(Testimony of Manning Johnson.)

The Court: Confront him with the record, counsel.

Mr. MacInnis: Certain I will.

A. I don't recall what I testified to with regard to the Nat Yanish case, but I know this: that the program of the American Negro Labor Congress was identical to that of the Communist Party program on that question.

The Court: Would you like to take a recess?

Mr. MacInnis: No, I have the place, your Honor. I can proceed to it now.

Q. Just as a matter of foundation, you told us a moment ago that there were made known to you these aims of the Communist Party for the establishment of the Negro republic in the South in 1930 before you joined the Party?

A. The program of the American Negro Labor Congress, I said, had that in its program and its policy. The American Negro Labor Congress was in existence in 1930. That was always a policy and program of the Communist Party, but prior to that time I was not familiar with the Communist Party program on [2391] that subject or any other subject.

Mr. MacInnis: Now I will ask the witness to take in his hand a transcript from the Nat Yanish deportation case, a hearing held here in San Francisco in February, 1948, and I will ask him, beginning with page 147, if you will make a mental note of that, at line 10, read all the way to page

149 at line 8. Then after you read that I will ask you some further questions.

Mr. Donohue: May I ask that it be marked and that I be permitted to see it?

Mr. MacInnis: The other counsel may see it, of course.

Mr. Donohue: Would you have it marked?

The Court: Shall we take the recess now?

Mr. MacInnis: I don't think, your Honor, I am required to abandon this transcript at this point to the hands of the prosecutor. Matters presented to a witness in this form do not become a part of the record in the case except in the reporter's transcript.

The Court: Have you any objection to counsel looking at what he is to read?

Mr. MacInnis: I have offered that, but he has asked to have it marked and to read it.

Mr. Donohue: I think it ought to be identified so we will know what it is he is talking to the witness about.

The Court: Mr. MacInnis referred to the Nat Yanish [2392] record in February, 1948, wherein, as I assume, deportation proceedings were taken against Nat Yanish and five or six others, as I recall.

Mr. MacInnis: I think your Honor's memory is excellent.

Mr. Donohue: Will your Honor take the recess so that we can look at it?

Mr. MacInnis: You will have to take many recesses if you are going to have that suggestion followed, because I have several matters in this transcript that I would like to refer to.

Mr. Donohue: Will your Honor indulge us that way?

The Court: The jurors have something to say about it.

Mr. MacInnis: Yes. I didn't mean to intrude on the ordinary adjournment of the Court.

The Court: They have a very vital interest in the recess at three o'clock.

Ladies and gentlemen, we will take a recess. Again I admonish you not to discuss the case under any conditions nor form or express an opinion until the matter is submitted to you.

(Recess.) [2393]

Mr. Donohue: If your Honor pleases, I have read the papers to which counsel said he would invite the attention of the witness, and I would like to state to Your Honor that there was nothing that I could determine from a reading of those three pages which would indicate that this was a certified or a true copy of the official transcript of the case to which ~~it refers~~. I am further advised by the Immigration Service that in these immigration matters the only true copy of the record which is made available is made available by the Immigration Service to counsel for the respondent, with the express understanding that it be returned at the completion of the case. For that reason, that we may have an opportunity to compare these pages with the official

(Testimony of Manning Johnson.)

transcript, I again renew my request that these be taken out of this volume, or whatever it may be and marked for identification.

Mr. MacInnis: I am rather amazed by that statement, Your Honor. I have never heard such a suggestion made in the course of a trial. If there is any doubt as to the authenticity of these matters—I plan to read the identical language into the record after I show the matter to the witness, and if there is any doubt, this gentleman will very quickly point it out to Your Honor. If they can obtain whatever they say is the official transcript—I am informed that this is an official copy of the proceedings had. It is a copy made by the official reporters in this Court. [2394]

Mr. Donohue: I did not see any such certification, if Your Honor please.

Mr. MacInnis: I did not show him that. I showed him the three pages I asked this witness to look at.

The Court: Let us proceed on this basis, then, if agreeable, so that we may have no delay: That Mr. MacInnis proceed in his query to this witness, question him along the lines of whatever relevant testimony he may perceive, and that over the recess, tonight until tomorrow morning, that counsel may have an opportunity to compare the subject matter with the official transcript.

Mr. Donohue: We could only compare it if he has it marked for identification.

Mr. MacInnis: It will be read into the record. He can compare it from that. I do not think I should be compelled to give up this material, tear out this transcript, and ask this gentleman to make the comparison. I never heard of such a thing.

Mr. Donohue: That does not look like an official transcript.

Mr. MacInnis: What do you think an official transcript should look like?

Mr. Donohue: It should look like an official transcript of a hearing.

Mr. MacInnis: Will you describe how it should look?

Mr. Donohue: I have made my objection. [2395]

Mr. MacInnis: I have the official title inside: "Reported by C. W. Johnson, the official reporter for the United States Department of Justice, Immigration and Naturalization Service, taken at Room 1018, Appraisers Building, 630 Sansome Street, San Francisco." It is obviously a copy of the official record of the proceeding.

Q. Now, Mr. Johnson, I had asked you before the prosecutor asked to look at the same material to read for yourself what appears on page 147 of the transcript, and I have marked the place with a red line where you can begin reading up to page 149, and I have marked the end with a red line (handing document to the witness).

(The witness appeared to read what was handed to him.)

Mr. MacInnis: He is now reading on page 149, is that true?

(Testimony of Manning Johnson.)

The Witness: I am through.

Q. (By Mr. MacInnis): Now, Mr. Johnson, I will ask you if in the proceedings had in the matter of Nat Yanish before the Department of Justice, Immigration Service here in San Francisco in February of 1948, the following questions were put to you and the following answers given by you under oath:

> "Did this decision to leave the Communist Party come on you suddenly or did it take time to develop?"
>
> Your answer: "It took quite a bit of time. It was an accumulation of incidents over the period of years that led [2396] me to the conclusion that the Communist Party was an unfit organization for me to be in.
>
> "Question: When did you begin entertaining that idea?"
>
> Your answer: "It began when they advocated the establishment of a negro republic in the black belt of the South."

Did you give those answers to those questions under oath? I think your Honor may advise the witness that he can answer yes or no and then explain if he wishes.

A. Yes.

Q. (By Mr. MacInnis): You say you gave such an answer, is that correct? Do you recall that?

A. Yes, I did so testify in the Yanish case.

Q. And to read further as to the time to which these questions refer, the question was put to you,

> "Date that."

(Testimony of Manning Johnson.)

Your answer: "It started when the Communists began advocating the formation of a negro government in the black belt of the South."

Question: "I said date that."

Your answer: "Date it?"

"Question: Yes. I didn't ask you to repeat yourself. I said date it. Give me the date approximately when that occurred."

The Court: Who conducted that examination?

Mr. MacInnis: This is cross-examination by the attorney for [2397] the alien, Mr. Gladstein.

The Court: Mr. Gladstein.

Mr. MacInnis (reading): "Give me the date approximately when that occurred."

Your answer: "They were very vociferous in advocating that."

"Mr. Gladstein: I move that that be stricken. I have asked him for a date."

"The Presiding Inspector: Give counsel approximately a date on that."

And your answer: "I am trying to recall when they really started to advocate it. It was back in 1933, if I am not mistaken, that they started. It was a little after Harry Hayward, Betty Amos and James W. Ford had completed a series of documents on the negro question in America."

And then the question:

"In 1933, is that correct?"

(Testimony of Manning Johnson.)

Your answer: "I think it was in 1933. It might have been sooner. That is as near as I can recall.

"Q. Do I understand that you disagreed with the position of the Communist Party about the establishment of the black belt in 1933?"

Your answer: "Yes. There were a number of negroes in the party who had disagreements on it, but we were given more literature to read and there was considerable discussion. [2398]

"Question: Did you express your disagreement?

"Answer: We did.

"Question: I am talking about you.

"Answer: Yes, I expressed my disagreement.

"Question: Did you vigorously oppose it?

"Answer: I stated it at a meeting of the National Committee and I was severely criticized by James W. Ford and some of the other leading persons.".

Was that the testimony that you gave under oath?

A. Yes, that was the testimony which I gave under oath, but there is no contradiction. I have stated here under oath that the old program, the program of the American Negro Labor Congress was for the establishment of a negro republic in the black belt. The American Negro Labor Congress was a front organization of the Communist Party. It was not the Communist Party. It was not until after much discussion in the party that the real

(Testimony of Manning Johnson.)

nature and the facts about this republic were brought out. And that time I was new in the movement. I did not understand like many other negro Communists the implication involved in this slogan of the right to self-determination. When we discovered later on, when the Communist Party was vociferously advocating it, that the right of self-determination meant, in our opinion, the establishment of a Jim Crow government in the South, I like many of the others, along about 1933 raised a rumpus about it in the party, and there is no contradiction there. [2399]

Q. (By Mr. MacInnis): Mr. Johnson, I hate to suggest that you misunderstood me. Did I hear you say in the last session before three o'clock that one of the reasons that impelled you to join the Communist Party was the advocacy by this Communist front group of the right of self-determination for the Negroes in the South and the setting up of a Negro republic in the South?

A. That was the policy of the American Negro Labor Congress. I think the record will show that I stated that that was the policy of the American Negro Labor Congress, along with the question of equal rights for Negroes.

Q. You stated that that was the case in 1929 and 1930?

A. No, I said 1930, if you please.

Q. Before you joined the Party?

A. That is correct.

Q. Today you tell us that under oath you gave

(Testimony of Manning Johnson.)

the following answers to the following questions in February of 1948:

> "Q. Did this decision to leave the Communist Party come on you suddenly, or did it take time to develop?
>
> "A. It took quite a bit of time."

Mr. Donohue: Just a second. Are you reading from another section, or are you reading what the witness has just read?

Mr. MacInnis: I think, your Honor, I might proceed without the necessity of explaining every move to the prosecutor. [2400] If your Honor thinks I was doing something improper——

The Court: I assume this is the same text?

Mr. MacInnis: Yes. I am pointing out something to this man.

Mr. Donohue: If that is understood, he has already read this question, and the witness has said he made those answers.

The Court: He may have some other purpose, counsel.

Q. (By Mr. MacInnis): You said in answer to when the decision to leave the Communist Party came:

> "A. It took quite a bit of time. It was an accumulation of incidents over the period of years that led me to the conclusion that the Communist Party was an unfit organization for me to be in.

(Testimony of Manning Johnson.)

"Q. When did you start entertaining that idea?

"A. It began when they advocated the establishment of a Negro republic in the Black Belt of the South."

You still affirm that you gave those answers?

A. I state that as far as that particular testimony is concerned, in relation to what was asked me as to the reason why—one of the reasons why I left the Communist Party, and I pointed out in that testimony that back in 1933 I began to have differences with the Communist Party on the question of the right of self-determination in the Black Belt. I still say again under oath that in 1933 we had heated battles in the Communist Party around that issue where there was revolt among the Negro Communists around that question. It had been before [2401] discussed, but it hadn't reached that point until after some of the persons came back from the Lenin school, the school of the Communist Party, training school in Moscow, that there were a number of discussions revolving around this issue, and we began to seek clarification and further understanding on it. To me all of that talk about self-determination is strange; it is new. I had no such experience before that time with regard to that sort of movement. It is strictly a foreign movement. This question of self-determination, it may not have been new to those who have lived through it in the European countries. I had not lived through it. It

(Testimony of Manning Johnson.)

was new to me. I had discussed generally what that slogan meant, but when the truth and meaning and the implications of that slogan became known to me, then I took a position on it. In 1933 I took a position on it and I stated my position to the National Committee at that time.

Q. Did you leave the Communist Party because you wanted to be the president of this Negro republic?

A. Oh, don't be ridiculous! I had no such dreams or no such ambitions.

Q. You did not. Let me ask you this now: When you were in training for this organization whose hidden purposes you discovered after you ascended to the hierarchy, as you put it, in the Party, did you receive any training in the use of weapons? [2402]

A. No.

Q. You never did?

A. Only the weapons of propaganda and agitation.

Q. You weren't taught to use small arms, dynamite, or anything like that, were you?

A. No, but there were others who were taught to use small arms when they were sending persons over to Spain to participate in the Spanish civil war; they were trained up in the Bronx there.

Q. Was anybody taught to use arms in the United States against the established order?

A. Were they—You mean with actual firearms?

Q. Yes. A. Not that I know of.

Q. No. Now, to return to this discussion of what a person in your situation would have known about the Communist Party before ascending into its ranks, what could one determine by reading, as you did, certain pieces of literature before joining the Communist Party?

A. I don't understand that. Will you——

Q. Now, for example, suppose one read the Communist Manifesto by Karl Marx, would he find in that document any invitation to violence against the existing government?

Mr. Donohue: I object, if your Honor please.

The Court: Do you object, Mr. Donohue? [2403]

Mr. Donohue: Yes, if your Honor please. I didn't know we were going to try the principles of the Communist Party.

Mr. MacInnis: May I state the purpose, your Honor?

The Court: Yes.

Mr. MacInnis: This witness has testified, at the instance of the prosecutor, as to the reasons which impelled him to leave the Communist Party. Among those reasons he cites the fact that he found out latterly that the Communist Party was controlled by the Soviet government. He cites that he found out latterly again that the Communist Party advocated the use of force and violence against our Government. Now he also says that he was given certain pieces of literature to read before he entered the Party. Now, I would like to find out where the ordinary person, a sympathizer or an idealist, as this man says he was, could find out these hidden or

(Testimony of Manning Johnson.)

sinister purposes that he now ascribes to the Communist Party by general reference.

The Court: The objection is overruled upon that basis, for that limited purpose.

Mr. MacInnis: Yes.

The Witness: Do you mind reading that question to me again, please?

(Question read.)

A. In the Communist Manifesto is a declaration of policy as far as the world Communist movement is concerned. That [2404] document itself actually calls for the destruction of capitalism.

Q. (By Mr. MacInnis): By force and violence?

A. It fairly reeks with the use of expressions that are in toto revolutionary.

Q. Now, what is meant by the term "revolution"?

Mr. Donohue: I object, if your Honor please——

Mr. MacInnis: The same purpose, your Honor.

The Court: Well, for the same purpose.

Mr. Donohue: He might ask the witness what he means by the term "revolution," but his definition might differ from yours or mine.

The Court: The witness said he had certain reasons which motivated him in departing from the Communist Party.

Mr. Donohue: Correct, your Honor.

The Court: I think counsel is entitled to interrogate him.

A. We were taught and made to understand that the word "revolution" in the Communist sense

(Testimony of Manning Johnson.)

means the overthrow of the Government of the United States through force and violence and the establishment of a dictatorship of the proletariat, a similar type of government to the one that exists in Russia at the present time.

Q. (By Mr. MacInnis): Didn't you tell us before that you didn't know those things until after you joined the Communist [2405] Party? You told us before the three o'clock adjournment——

A. I thought you asked my definition of the word "revolution." That is what I understood you to say.

Q. Yes. We are speaking——

A. I answered that question. I gave you a definition as I understood it during the time I was referring to. Now you are asking me another question.

Q. No. As I told his Honor, the purpose of these questions is to probe into what you say your motives were in joining the Communist Party as well as later in departing from it. Referring to joining the Communist Party, you say you didn't know until after you were a member of the Party what you now say, that is, that the Party advocated the overthrow of the Government by force and violence.

A. I stated before in my testimony that I learned about that phase of the Communist Party after I joined.

Q. Yes.

A. I couldn't know before I joined because I had no such experiences and I had no such literature to read or to study. Therefore I couldn't know.

(Testimony of Manning Johnson.)

Q. Let me ask you this: If one again in your situation, being sympathetic to the apparent aims of the Communist Party, were to read a publication such as the Daily Worker, which we are told is the official publication of the Communist Party, would he find in those pages an invitation to use [2406] force and violence?

Mr. Donohue: Oh, I object, if your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): In the Communist Manifesto to which you have made reference, did Marx advocate that the social revolution in the United States and in England would be accomplished by peaceful steps?

A. I haven't read the Communist Manifesto in years, and I can't say without seeing it what it really does contain. I would have to see a copy of it.

Q. Wasn't it stated that the social evolution as opposed to revolution would be accomplished peacefully both in America and in England?

A. I don't recall what the Communist Manifesto said on that subject.

Q. Well, now, in any of the things that you have studied in reference to this word "revolution," was any day set for the revolution?

A. There was no specific date set for the revolution. Lenin repudiated that. He stated that the determination of the time of the revolutionary situation in any country depends upon the relationship of forces, the strength of the Communist Party with the general staff of the working class and its ability to marshal the workers and the peasants and large sections of the middle class into a struggle against the [2407] bourgeoisie or the capitalist class in a life-and-death struggle to destroy them and to liquidate the remnants of them to establish the dictatorship of the proletariat.

Q. By that last statement, Mr. Johnson, do you mean that it was the theory of the Communist Party that the majority of the people would have to be in favor of the so-called revolution before it would take place?

A. It doesn't necessarily say that a majority of the people have to be in favor of it. It speaks specifically of a powerful, well organized Communist Party. You must not forget that in the Russian revolution the Bolshevik Party was an infinitesimal minority of the population of Russia, yet they were able to engineer the successful revolution there; and you take in your Balkan countries today where a successful revolution has been carried through, it was done through a minority.

Q. You spoke a moment ago of the dictatorship of the proletariat. Let me ask you this: What did the Communist Party promise would take place along with the so-called dictatorship of the proletariat?

Mr. Donohue: May I object, if your Honor please? I don't know that this is testing his reasons for joining or leaving the Communist Party or for what purpose it is proper cross-examination.

(Testimony of Manning Johnson.)

Mr. MacInnis: I have very little more on this subject, [2408] your Honor.

Mr. Donohue: I will withdraw the objection, if your Honor please.

The Witness: Do you mind reading that question to me?

(Question read.)

A. The Communist Party policy is the complete destruction of the Government from top to bottom, the abolition of the—the destruction of the armed forces of the United States as they presently are constituted, and the reorganization of them; confiscation of the banks; the confiscation of the basic and mass production industries; the confiscation of industry generally; the liquidation of the owners of the big farms and ranches and plantations of the country, and the collectivization of the farms; the placing of the—the liquidation of all capitalists, that is, the complete destruction of them. Those in the intellectuals and middle class elements who do not conform with the new order are to be placed in concentration camps until they are indoctrinated and are ready to take their place under the Communist Party. This in essence is the rule of the Communist Party through the dictatorship of the majority of the people, a rule that is based upon force, a rule that is based upon violence, a rule that will continue to exist until all of the remnants of the old order are completely liquidated and the peo-

(Testimony of Manning Johnson.)

ple hew to the line as laid down by the Communist Party. [2409]

Mr. MacInnis: In reference to that last answer to the last question, I am going to ask you to look at your testimony under oath in the matter of Nat Yanish in February of 1948, beginning with line 9, page 171, where I have marked with red pencil again, up to line 4 of page 172; just about one page in all.

Mr. Donohue: I have no objection to that question, your Honor.

Mr. MacInnis: Would you show this matter to the witness, please.

Q. I will ask that you read that to yourself as you did the previous portion.

Mr. Johnson, in reference to the questions and answers put to you to read, I will ask you if at the hearing involving the matter of Nat Yanish in February of 1948 here in San Francisco, the following questions were put to you and the following answers given by you under oath:

> "Q. What did the Communist Party sincerely think, if you know, what did it sincerely think would be the condition of the American worker if the American form of government was supplanted by another form which you called the dictatorship of the proletariat?"

Your answer:

> "They taught us this way: that the overthrow of the Government of the United States,

(Testimony of Manning Johnson.)

> and the establishment [2410] of the dictatorship of the proletariat would result in immeasurably lifting the living standards and improving the conditions of the American workers and farmers. They considered the industrial potential of America, through the nationalization of industry and the seizure of the land from the rich farmers, and dividing it up among the poor farmers and agricultural workers, and the control of all the agencies for disseminating information, such as the newspapers, radio, et cetera, et cetera, that there would set in an era of unprecedented happiness and prosperity for the American workers."

Did you give that answer under oath?

A. Yes. May I explain that?

Q. Yes.

A. There is no contradiction between what you asked me before and what is stated there in the record.

Mr. MacInnis: Pardon me just a moment. I think, your Honor, that the matter of whether or not there is a contradiction is for the Court and jury to determine, and just as it would be improper for me to pass a comment on that at this time, so the witness may not make such a volunteer remark. I move that it be stricken.

The Court: I assume that was a preface to what you might say.

The Witness: That is correct. What I am trying to say is [2411] precisely this: that there is a vast difference between what they promise the people that would result as a result of the dictatorship of the proletariat and the methods and the forms and the techniques that were to be used to establish the dictatorship of the proletariat.

Mr. MacInnis: I don't doubt that at all, your Honor. We are asking, your Honor, only what a person would encounter who was sympathetic toward the ideals of what the Communist Party apparently represented, not what this man says he found out later. I am not quarreling with him on that at all, because I don't know what they held or what they should be criticized for. The point that we are making is that a person who is an idealist, as this man says he was, would see only the benign ends of the Communist Party before he joined, and that in his period of sympathy before joining he would not encounter any of the sinister things that this man says he found out latterly.

Mr. Donohue: I think the witness ought to be permitted to explain his answer without interruption, your Honor.

Mr. MacInnis: Your Honor, the question went only to the motives of the man before he joined the Communist Party. Now he is giving his reasons for leaving, that we do not quarrel with at all, that those things that they promised may have been the hidden ends or may have had anything to do with the strategy that he found out about later; but we are asking him [2412] what would be the situation of a person who sympathized with what are the apparent ends of this Communist Party, who does not join, a person who is on the threshold, who attends a Communist meeting, who may have sympathy with things there said but who is not taken to the inner scenes. That is the purport of the question. Now, he answers it by telling us what he found out later. That is no part of the particular question or answer. [2413]

The Court: I think he answered the specific question some time ago.

Mr. MacInnis: Yes.

Mr. Donohue: There is no controversy about the rule, if Your Honor please, that when a witness has been asked a question for the purpose of impeachment, that he may answer yes or no, and then he is entitled, even under the statutes of this state, to make a complete explanation of his answer. I think he should be permitted to make it.

Mr. MacInnis: Of course, Your Honor, but not an explanation on some other subject. We do not dispute with this man at all what he may say were his reasons for leaving the Communist Party. We do not make any claim to know whether he is right or wrong on that.

The Court: Do you understand Mr. MacInnis on this subject?

The Witness: I do, if he will put the question to me specifically. It is so long and so involved that before you get to the point it becomes a compound and complex question.

(Testimony of Manning Johnson.)

The Court: Would you mind rephrasing the question?

Mr. MacInnis: I see that the witness has gained from his experience in these matters by picking up the argot of us lawyers, Your Honor.

Mr. Donohue: I might add, if Your Honor please, it is only noting what is perfectly apparent in that type of question.

Mr. MacInnis: Compound and complex fits the last question. [2414]

The Court: If he did not gain it heretofore, he may well gain it in this proceeding.

Mr. MacInnis: Yes, this should be a varied experience for him. It is for me.

The Court: All right; you might reframe the question.

Q. (By Mr. MacInnis): Let me ask if at the same time under oath there ensued the following questions and answers, continuing:

> "Question: Do you think the Communist Party was sincere in that belief?"
>
> Your answer: "Were they sincere in it?"
>
> "Question: Yes.
>
> "Answer: The Communist is sincere in his revolutionary objectives."

That was the answer you gave under oath, is that correct?

A. It is true that a Communist is sincere in his objectives.

Q. Now, to proceed to the matter that you

(Testimony of Manning Johnson.)

talked about a moment ago, the things that you found out latterly after you had ascended into the inner circles of this conspiratorial party, you yourself began to believe personally in the destruction of our government and its overthrow by force and violence, isn't that right?

A. Yes, every Communist believes that.

Q. I am speaking of you personally.

A. Yes, we were taught to believe that in school and in all of [2415] the documents of the party.

Q. And you believed it?

A. Yes, sir. Every Communist believes it.

Q. And as a matter of fact, you personally went around to various cities and made speeches calling upon the workers to arise and use force and violence against our government, did you not?

A. Call of the Communists, were sowing the seeds of revolt throughout the nation.

Q. Pardon me. Will you answer the question?

A. I was one of them; I taught the same.

Q. You have made speeches?

A. That is right.

Q. You made such speeches in the City of Washington, did you not, your birthplace?

A. I don't recall.

Q. You made a similar speech in the City of Cleveland? A. Yes.

Q. And in New York? A. Yes.

Q. And in Chicago? A. Yes.

Q. And in Philadelphia? A. Yes.

Q. Those were speeches in which you personally,

(Testimony of Manning Johnson.)

forgetting [2416] about what you say all Communists believed in, but in which you personally called upon the workers to use force and violence?

A. No, I did not call—I did not do anything personally. In the Communist Party you do not do anything personally. You only do what the Communist Party tells you. You have to hew to the line in policy of the Communist Party. When you cease to hew to that line, when you refuse to carry it out, and if in your speeches and in your talks with people you do not advocate the line of the party, brother, you are called up before the party and reprimanded, you are warned, and then if you do not adhere to the line, then you are expelled from the party.

Q. Well, who made these speeches that came out of your lips if you did not make them personally?

A. Made what speeches?

Q. The speeches that you say you made in Washington, New York, Baltimore, Cleveland, Chicago and Philadelphia.

A. Specifically, what speeches did I make in those cities?

Q. In that respect I will again refer to your testimony under oath. I will ask you if you will, for the record, to consult page 115.

The Court: Is this the Yanish transcript?

Mr. MacInnis: Yes, Your Honor, of the same transcript, the Yanish transcript.

I may correct myself, Your Honor. The page is 161.

(Testimony of Manning Johnson.)

Q. I will ask you, beginning at the top of page 161, where I [2417] will draw a line in ink, to read from the top of the page to line 18. (Handing transcript to witness.)

Mr. MacInnis: It would appear to me, Your Honor, that the counsel who a moment ago asked that my copy of the transcript be left here for his comparison with another, seems to have that other copy before him.

Mr. Donohue: Yes, I just got it, Mr. MacInnis. I am making the comparison right now.

Mr. MacInnis: Do you find everything in good order, Mr. Donohue?

Mr. Donohue: This time I do.

Mr. MacInnis: How about before?

Mr. Donohue: No.

Mr. MacInnis: What was the error?

Mr. Donohue: I am not talking about today.

Mr. MacInnis: Well, let me ask you this now: Do you find any error in this transcript as shown you on the three occasions today?

Mr. Donohue: I have found no error, if Your Honor please, today in the transcript. [2418]

The Court: You are very circumspect in that statement, aren't you?

Mr. Donohue: Yes, Your Honor.

Mr. MacInnis: Does Your Honor state, or does counsel state that the Yanish transcript has been produced on any other day?

The Court: Apparently he finds the Yanish transcript in order.

(Testimony of Manning Johnson.)

Mr. Donohue: As to the portions I have compared, if Your Honor please.

Mr. MacInnis: This unreserved praise almost baffles me, Your Honor.

Will you hand that to him, please?

No, it isn't a filibuster, Mr. Paisley. I can hear you.

The Court: Mr. Paisley, are you whispering again so that Mr. MacInnis can hear you?

Mr. Donohue: He is talking to me again.

Mr. Paisley: On Tweedledum he can hear me very well, but Tweedledee he can't hear.

Mr. Hallinan: A filibuster is a Dixiecrat maneuver, anyhow, Your Honor.

Mr. MacInnis: I think, Your Honor, this way: If he is trying to have me hear him, he should speak louder; if he is merely making a comment to Mr. Donohue, he should speak lower.

The Court: That is right. [2419]

Mr. MacInnis: That is better.

Q. Now, so that your memory may be refreshed upon the last matter, I will ask you if what I now read does not represent your answers under oath in the Nat Yanish hearing in February, 1948, here in San Francisco to questions put to you in that hearing:

> "Answer: I said that the Communist Party advocated the overthrow of the government by force and violence and I subscribed to it. I also, in speeches, have called upon the workers to overthrow the government.

(Testimony of Manning Johnson.)

"Question: Well, where have you made a speech in which you called on the workers to overthrow the government?

"Answer: I made numerous such speeches.

"Question: Tell us where and when.

"Answer: I made speeches in New York, Chicago, Cleveland, Ohio, Washington, D. C., Philadelphia.

"Question: You say that in those speeches you, as a member of the Communist Party, called on workers——"

And your answer interrupting:

"Not only myself, but others.

"Question: Just a minute, please. We are not talking about others. You say you made speeches calling upon people who were listening to you to overthrow the government.

"Answer: I had to because I was told to do so by the [2420] Communist Party and I did it."

A. That is correct. I do not deny that, and I might say further that that is a correct statement.

The Court: Mr. MacInnis, may I suggest it is now 4:15?

Mr. MacInnis: Whatever Your Honor wishes.

The Court: Unless you have another question that might be immediate——

Mr. MacInnis: I can just as easily do it in the morning.

The Court: All right, ladies and gentlemen of the jury, we will now adjourn court until tomorrow morning at 10:00 o'clock. The same admonition to you, not to discuss the case under any conditions, nor to converse with any person on any subject of the trial, and not to form or express an opinion upon the matter until it is finally submitted to you.

You may now retire.

(Thereupon an adjournment was taken to tomorrow, Wednesday, December 14, 1941, at 10:00 o'clock a.m.) [2421]

Wednesday, December 14, 1949—10:00 A. M.

The Clerk: The case of the United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Manning Rudolph Johnson, heretofore sworn.

MANNING RUDOLPH JOHNSON resumed.

Cross-Examination
(Continued)

Mr. MacInnis: I had in mind a suggestion that might meet with your favor. The suggestion of adjourning last Friday at 12 was a very popular one with everyone. I was going to suggest that on this Friday, so that we could have that benefit and also progress in the case, we might work from ten in the morning until one and then adjourn; and if that would meet with your Honor's favor we might do the same the day on which your Honor has said we

(Testimony of Manning Johnson.)

will adjourn for the Christmas holiday, which I think is next Wednesday.

The Court: I have no objection to that plan if agreeable to the counsel for the Government.

Mr. Donohue: We concur wholly, if your Honor please.

The Court: I think it is a very good suggestion.

Mr. MacInnis: You might ask the members of the jury if the one o'clock adjournment is agreeable.

The Court: I am quite satisfied it will be agreeable to [2422] the jurors. I hear no dissent.

Q. (By Mr. MacInnis): Now, Mr. Johnson, over night have you checked with the representatives of the Immigration Department on the matter of the sums of money that you received for those twenty-odd cases in which you testified?

A. I haven't talked with the immigration officials concerning anything in relation to this case over the night.

Q. You haven't ascertained those amounts?

A. I said I haven't discussed anything pertaining to this case with the immigration officials over the night.

Q. There was one other matter that may have slipped my mind yesterday. You testified that you came here for your participation in this trial on November 30 of this year. Do you remember that? November 20, rather.

A. The record will speak for itself.

Q. Pardon me. That was your testimony, wasn't it, that you came here on November 20?

A. Why don't we quote from the testimony in

(Testimony of Manning Johnson.)

the record? You have the subpoena.

Q. Let me ask you now, what day did you come here?

A. The day before I was scheduled to appear here under subpoena. I think you have the date in the record.

Q. You gave a date yesterday, Mr. Johnson.

A. I didn't give you anything. I checked according to the subpoena and which you had placed in the record. [2423]

Q. Didn't you testify under oath that you came here on November 20?

A. That is the day before the time I was scheduled to appear according to the subpoena.

Q. Then we are not in any difficulty over that matter. You did come here on November 20?

A. That is the day before I was slated to be here according to the order of the Court.

Q. Yes. And do you remember that Mr. Donohue then rose to his feet and said that the delay over that period of time had been due to Messrs. Hallinan and MacInnis? Do you remember he said that?

Mr. Donohue: I object, if your Honor please. I did make that statement, but that isn't a proper question to ask this witness.

Mr. MacInnis: I want to point this out—

Mr. Donohue: I didn't say "delay"; I said "filibuster."

Mr. MacInnis: I want to point this out, your Honor; that the first witness called by the Government in this case was still on the stand under direct examination by Mr. Donohue, not cross-examination at all by the defense, on November 30, so that Mr. Donohue is a little bit in error in attributing that passage of time to the defense.

Mr. Donohue: On what theory, if your Honor please, can this witness be questioned about the derelictions of counsel? [2424]

Mr. MacInnis: Well, I have made the inquiry. You will agree that your first witness was still on the stand being examined by you on November 30, will you not?

Mr. Donohue: I think that is the same witness you cross-examined after for four days.

Mr. MacInnis: After November 30.

Q. Now, Mr. Johnson, you had told us at the close of yesterday's session that you did personally make speeches in the Eastern cities which I enumerated to you; is that right?

A. No. I stated that I concur wholeheartedly with the testimony that I gave in the Yanish case. I say it is a true copy of exactly what I stated at that particular time under cross-examination.

Q. And you did state——

A. And I do not now here at this time change that testimony.

Q. In other words, you did make those speeches?

A. I said that whatever is contained in the record I stand upon.

Q. So that there will be no doubt as to what was in that record, since you now will not repeat the answer, I will ask you if this was your testimony

(Testimony of Manning Johnson.)

about which you now make reply this morning that you say you stick to.

Mr. Donohue: I object, if the Court please. Counsel yesterday by question and answer asked this witness if he was asked these questions to which he made these replies. He [2425] said yesterday that he did so testify. He says this morning he did so testify.

Mr. MacInnis: This is prefatory to another question, your Honor.

The Court: Overruled.

Q. (By Mr. MacInnis): So that we will understand you, Mr. Johnson, this is what you said under oath in the Yanish case:

> "I said that the Communist Party advocated the overthrow of the Government by force and violence and I subscribed to it. I also, in speeches, have called upon the workers to overthrow the Government.
>
> "Q. Well, where have you made a speech in which you called on the workers to overthrow the Government?
>
> "A. I made numerous such speeches.
>
> "Q. Tell us where and when.
>
> "A. I made speeches in New York, Chicago, Cleveland, Ohio, Washington, D. C., Philadelphia.
>
> "Q. You say that in those speeches you as a member of the Communist Party called on workers"——

(Testimony of Manning Johnson.)

Your answer, interrupting:

> "Not only myself, but others.
>
> "Q. Just a minute, please. We are not talking about others. You say you made speeches calling upon people who were listening to you to overthrow the Government?
>
> "A. I had to because I was told to do so by the Communist [2426] Party, and I did it."

Were those statements that you made true?

A. I reaffirm the testimony which I gave yesterday in connection with what you read from the record. I cannot add to it and I will not take from it. [2426-A]

Q. When you made those speeches calling on the workers to overthrow the Government, did you feel that you were advocating something against the law or something that was a crime?

A. I felt that I was doing what I was told as a good Communist. The question of law or moral or political right was not involved. It was just a good Communist, and I was following the orders as were given to me by the party that I was a part of. I was a good Communist in those days, and naturally as a good Communist I obediently, dutifully and faithfully executed the decisions of the leading committees based upon the principle of democratic centralization; in other words, you did not give any attention to the matter of right or wrong at that time. The Communists themselves had no scruples with regard to right or wrong.

(Testimony of Manning Johnson.)

Q. I am speaking of you, Mr. Johnson.

A. How can you live, sleep and eat in a cesspool without getting some of the filth on you?

Q. Have you gotten it all off yet?

A. I hope to God I do soon.

Q. You do not know yet whether you have it off?

A. I hope——

Mr. Donohue: I submit he is arguing with the witness.

Q. (By Mr. MacInnis): In respect to your last answer, Mr. Johnson, I will ask you to look at the questions and answers given by you under oath in the Yanish case here in San Francisco [2427] in February of 1948 in this respect: I will ask you to look at 115, beginning at the top of the page, where I draw a line, and go down to line 18, where I have also marked with a line. I will ask you whether or not at the hearing I have already mentioned you made under oath the answers which I will now read in response to the questions that I read:

> "A. Your mean by advocating the overthrow of the government of the United States, did I know——
>
> "Q. By force and violence,——
>
> "A. (Interrupting) Did I know at that time?
>
> "Q. (Interrupting)—Did you think you were advocating the commission of a crime?"

And your answer:

> "I didn't think so.

(Testimony of Manning Johnson.)

"Q. Why?

"A. Because I had been so thoroughly indoctrinated in the Communist philosophy that I thought it was correct.

"Q. You mean you thought it was correct to believe in that? Is that what you mean?

"A. I thought it was correct to believe in it.

"Q. Didn't you also think, while you were so advocating, that you were advocating the commission of an act that was criminal under the laws of the United States?

"A. I didn't know it at the time.

"Q. You didn't what? [2428]

"A. I didn't know it at that time."

Are those the answers that you give under oath here in San Francisco in February of 1948?

A. I did, and may I add that I am fully in accord with what I have stated at that time, and anything I have stated here may be further enlargement upon or an extension of the basic thing which I expressed in that particular testimony. I have at no time advocated of myself and on my own anything contrary to that which was laid down in party policy. As I said before, and I say again, that I carried out strictly what the party set forth in their foreign policy, in their program in connection with labor, the farmers, the negroes, women—wherever their activities centered, I was faithful, I was loyal. I gave the best years, ten years of the formative years of my life in that movement faithfully, devotedly,

(Testimony of Manning Johnson.)

and that is the way that many other Communists have done in so far as that movement is concerned. And we thought not of the question of whether it was a violaton of the laws of our Government or not.

Q. Tell us what you thought, not what you say other people thought.

A. I will say this, that as far as I thought, and when I say, "I," I speak for those that are in the party that I am associated with.

Q. You can't speak for anybody else but yourself, Mr. Johnson?

A. I express more or less what is the party policy. [2429]

Mr. MacInnis: I ask that that be stricken, Your Honor. He is asked what he thought. He is asked what his motives were. He is not asked to tell now what he ascribes to a large party of people.

Mr. Donohue: I would object to striking it, if Your Honor please. No person forms an individual opinion without some persuasion in the opinion by the thoughts of others, particularly if he is a member of an organization where thought control is an important factor.

Mr. MacInnis: I will rephrase the question.

The Court: The motion is denied.

Q. (By Mr. MacInnis): Mr. Johnson, is this your situation, that you can say when on the witness under oath in these twenty-odd cases, "Yes, I did these terrible things; I did them, but somebody else told me to do it"? That is your position, isn't it?

(Testimony of Manning Johnson.)

Mr. Donohue: I object, if Your Honor please. I do not think Mr. MacInnis ought by a question to tell the witness what his situtaion is. Let the witness tell it.

Mr. MacInnis: I withdraw the question, Your Honor.

Q. Mr. Johnson, in these days when you were going to various cities which you have mentioned, calling on the workers to overthrow the Government, you were an organizer or business agent for the Cafeteria Workers Union, weren't you?

A. Not so. [2430]

Q. Not at all?

A. That is not so. That is not a correct statement. That is not a correct statement that you are making?

Q. Weren't you in that period of years a business agent for the Cafeteria Workers Union and later the Bartenders Union of some local?

A. Yes, I was, but you can't associate my affiliation with those unions with the testimony in its entirety or toto given in the Washer case.

Q. What do you mean by "toto"?

A. You are speaking of in a number of cities. The testimony in the Yanish case——

Q. Is "toto" some other person in this case? You mentioned Tito yesterday.

Mr. Donohue: We played that record yesterday, if Your Honor please. I think everybody knows what toto means.

The Court: Proceed.

The Witness: Will you read back that to me?

(Testimony of Manning Johnson.)

The Court: You were speaking of the Yanish case. Mr. Sweeney, would you read the last answer?

(Record read.)

A. The testimony of the Yanish case does not give any specific reference to time, year, or anything of the kind. It was a general statement made, and when there is a general statement made, why, if you ask a question pertaining to it, unless [2431] you are specific, I have to give you a general answer.

Q. Yes, but what I was going to ask you is this: When you made these speeches, Mr. Johnson, in which you personally called upon the workers to overthrow the Government, did you have some kitchen utensils from the Cafeteria Workers Union or some weapons of that kind that you were going to offer the workers to use?

Mr. Donohue: I object, if Your Honor please.

Q. (By Mr. MacInnis) What weapons did you offer them?

Mr. Donohue: I object to the question, if Your Honor please.

The Court: Overruled.

A. No, I didn't have any pots and pans, knives, forks and spoons.

Q. What did you have?

A. And neither did I have any potatoes, beefsteak, chop suey or anything else to offer them. But incidentally, may I say this, that Local 3 was split. They had a Communist and a right wing leadership. Half of the leaders were members of the Communist

(Testimony of Manning Johnson.)

Party and the other half by agreement were non-Communist people. We had the majority control, but we used the non-Communist people for front people, to front for us.

Q. Let me ask you this——

A. Permit me to finish answering that.

Q. I do not think he should answer some other question. [2432]

A. You asked about the Cafeteria Union. You brought it up. I think as long as you brought it up, you ought to explain it.

Q. I asked you about the pots and pans. You said you did not offer them those weapons. Tell us what weapons you did offer them.

The Court: I think Mr. MacInnis is entitled to an answer to the question. The purport or upshot of the question was certainly not to ask for the physical presence of pots and pans.

Mr. MacInnis: That was the question I asked, Your Honor.

The Court: He might well interpret that in the light in which you submitted the question to him. I will permit the witness to answer and make any explantion he wishes.

A. The Cafeteria Employees Union, in that union, we had a Communist and we had a right wing leadership based upon the principles of the Communist policy of the United Front. The president of the union was non-Communist, a Catholic. The secretary of the union was a member of the Communist Party. A member of the State Com-

(Testimony of Manning Johnson.)

mittee, a member of the Communist Party. Well, half of the business agents in the most strategic districts were members of the Communist Party. The others were members of the right wing. The Communists controlled the majority on the Executive Council and the Executive Board of the union and consequently whatever we wanted to put over in that union, we put over, and we used our position in the union and our control of the Executive Council of the union to syphon off the [2433] funds of the union to send delegates to different conferences of front organizations of the Communist Party in different parts of the country, and to send substantial contributions of union funds to these conferences sponsored by the Communist Front organizations. It was in connection with my position as a member of the National Committee and a business agent of that union and the control that we had over the Executive Council of the union which decided on the sending of the delegates and the appropriation of monies that we were able to raid the union treasury and syphon off substantial sums of the union monies in order to support the Communist Front organizations and to support these different conferences. I was sent on a number of occasions as a delegate, and as a delegate I would speak for 3,000 members or whatever our membership was at that time, Cafeteria Workers. I did not speak for them. I only spoke for the Communist minority, but I used their name. That is the deception, the trickery, the Machiavellian tactics that the Communists use.

(Testimony of Manning Johnson.)

Q. Pardon me. What name was that you used?

A. Machiavellian.

Q. You used that name yesterday. I thought it was some Scotchman. Machiavelli? Is he a member of the Communist Party?

Mr. Donohue: If Your Honor please, may we at this time suggest that Mr. MacInnis is presumably an educated man. I do not think all of these colloquies on the use of terms which [2434] should be known to educated men have any part in this trial.

The Court: Proceed.

Q. (By Mr. MacInnis): Will you tell us, having offered us that lengthy statement, what weapons did you ask workers to use? You said it was not pots and pans. What weapons did you tell them to use in overthrowing the Government?

A. We called upon them to unite, to organize under the banner of the Communist Party as the only political party that is capable of successfully leading them into the struggle for the changing of the existing social order. [2435]

Q. In those years how many members did the Communist Party have in the entire United States?

A. I don't recall the exact figures of the membership of the Communist Party. It was 80,000, 90,000; later it was a hundred and some thousand. I don't recall the exact number. There were—there are so many persons that are hidden members. There are hidden members and there are open members. The Communist Party engages in so

(Testimony of Manning Johnson.)

much duplicity and deceit it is hard to say just exactly how many members they have.

Q. In any event, taking the testimony that you have given us, the Communist Party would comprise at best between 1/40 of 1 per cent and 1/50 of 1 per cent of the total population in America?

A. It is not a question of the numerical strength of the Communist Party. We were taught that in school and it was hammered into us in high committee meetings, it is not the numerical strength of the Communist Party; it is the composition of the Communist Party. The composition means those who faithfully, loyally devoted, steeled and tried, schooled in the art, the science of revolution, who can compose the generals who constitute the general staff of the workers. And the general staff is not a big, bulky, cumbersome body of people. It is a well-knit group, and they spoke of Bolshevizing this group, making it a steel and iron party, a party that could go through the throes and the fires [2436] of civil war and remain intact, a party capable of leading and inspiring the masses of the people to follow it to overthrow this Government.

Q. Have you come to the end of that invocation?

A. You asked me a question and I answered it.

Q. Now, you used the word "revolution" a moment ago. Does that word have an ordinary meaning?

Mr. Donohue: He asked him this yesterday and he answered.

Mr. MacInnis: This is another question entirely.

(Testimony of Manning Johnson.)

Mr. Donohue: I guess "revolution" means the same today as it did yesterday, if your Honor please.

The Court: Overruled.

Mr. Donohue: I objected to the question yesterday. Your Honor overruled the objection and permitted the answer. I see no reason for going over it again today.

The Court: Counsel has a different purpose today.

The Witness: Do you mind reading that question to me again, please?

(Question read.)

A. Well, I suggest that counsel should consult Webster's or Funk & Wagnall's dictionary for any meaning he can find there; that is——

Q. (By Mr. MacInnis): Well, that is good enough. Let me ask you this question: You are a voter in the State of New York, are you? [2437]

A. Yes, I am.

Q. Now, about seven weeks ago in the State of New York did you hear the speech by Senator John Foster Dulles in which he said to the people of New York that if the movement toward statism persisted, that he would call upon the people in the words of Thomas Jefferson to revolt?

Mr. Donohue: I object, if your Honor please, to testimony coming from the podium. I think if Mr. MacInnis wants to testify he should change places with the witness. I object to the question.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): By the way, is the

(Testimony of Manning Johnson.)

notion of the class struggle one peculiarly attached to the Communist Party?

A. The question of the class struggle of which you speak is a theory developed by Karl Marx in relation to the different classes in the—different classes in capitalistic society, and of course further developed by Lenin and by Stalin.

Q. Pardon me. The question is, Is that a peculiarly Communist theory?

A. I don't—I haven't studied too much the philosophies of other great philosophers, but I know that that is the philosophy of Karl Marx. Of course, Karl Marx branded the other philosophers as idealists or inverted philosophers.

Q. You called yourself an idealist yesterday.

A. He—I resent your constant needling me, counsel, before [2438] I——

Q. Really?

A. ——before I complete a thought.

Q. I am not that interested in your comfort, Mr. Witness. I will make such remarks as I choose.

Mr. Donohue: I am, if your Honor please. So is the law. The witness is entitled to be protected from this constant baiting on the part of Mr. MacInnis.

Mr. MacInnis: Your Honor, a witness who has testified for the Government in upwards of twenty cases is hardly in the position of an inexperienced person that is so interrupted by the remarks of counsel.

Mr. Donohue: The statement made just now——

(Testimony of Manning Johnson.)

The Court: Mr. MacInnis and counsel, it makes very little difference if the man has testified once, twice or three times; the bars are not to be removed concerning the elementals of courtesy and ordinary deportment in the trial of a case.

Mr. MacInnis: Does your Honor feel I have been discourteous?

The Court: I am giving this as a generality now, Mr. MacInnis, and not pointing a remark precisely to your immediate conduct. But a witness is entitled to make his answer. You asked him general questions and he has given you general answers. Now, only recently you interrupted him. I assume that is what he meant by "needling." The colloquialism "needling" has very many connotations. Whether he regards that as needling or not, I do not know. My immediate purpose is not to determine what needling" means, but I think he [2439] should be permitted to continue. You may proceed.

The Witness: Will you kindly read the last sentence that I uttered?

(Record read.)

A. He has attempted to prove that his philosophical theories are the only correct philosophical theories. Of course, his theories are based upon the whole principle—upon the principle of materialism, the question of the relationship of forces, the relationship of man to another, et cetera, et cetera. Well, anyhow, I don't—I think that the

(Testimony of Manning Johnson.)

Marxian philosophy is the only one that really emphasizes and raises to a high degree the relationship between labor and capital and between the peasantry or the farmers and capital, and so forth and so on. In fact, the whole philosophy of Marx is built around that.

Q. (By Mr. MacInnis): You say that is the only philosophy that emphasizes——

A. I did not say that it is the only one. That is the only one I am familiar with to any degree.

Q. And you tell us you are a representative of the Retail Clerks Union, is that correct?

A. Yes.

Q. Is that an AFL union?

A. That is correct.

Q. Is the AFL, the American Federation of Labor—— [2440] A. That is right.

Q. ——a Communist organization?

A. That is right. What? What did you say?

Mr. MacInnis: Read him the question.

(Question read.)

A. You know it is not.

Q. If I know it is not, then, Mr. Witness, do you know the constitution of the American Federation of Labor——

Mr. Donohue: I object, if your Honor please. Are we going to then try the Constitution of the United States or Great Britain?

Mr. MacInnis: I am only asking one question.

Mr. Donohue: It is always a prefatory question.

Mr. MacInnis: So it is.

Q. Now, Mr. Johnson, don't you know that the preamble to the constitution of the American Federation of Labor sets forth the existence of the class struggle between capital and labor and discusses no other subject but the existence of a class struggle which can end only in the recognition of the worker?

Mr. Donohue: I object to the question, if your Honor please, for two reasons: One, because of its form. Mr. MacInnis has repeatedly stood before this Court and asked a witness a question, the nature of the question being a statement by Mr. MacInnis as to what something is or is not, typically illustrated by his recitation of what is the preamble of the constitution of the American Federation of Labor. I object, therefore, to the form of the question. [2441]

I object also to the substance of the question, because what the preamble to the constitution of the American Federation of Labor contains is certainly no evidence as to whether or not these defendants conspired to defraud the United States by violating the immigration laws.

Mr. MacInnis: Neither are the remarks of this man upon what he says he found out about the Communist Party, your Honor. I have always understood——

Mr. Donohue: The trouble is you ask the witness a question, and then you don't like the answer.

(Testimony of Manning Johnson.)

Mr. MacInnis: ——leading questions are the soul of cross-examination. All questions on cross-examination with exceptions are leading questions. Counsel now objects to the leading questions. This man tells us in one breath that the source of the idea of the class struggle is Communistic; that Karl Marx emphasizes——

Mr. Donohue: He made no such statement, if your Honor please.

Mr. MacInnis: I now point out to him that the great organization to which he belongs, which he says I know is not Communistic, has in the preamble of its constitution the flat statement of the class struggle between capital and labor and discusses nothing else but the class struggle.

Mr. Donohue: If your Honor please, the absurdity——

The Court: The objection is sustained. [2442]

Q. (By Mr. MacInnis): Mr. Johnson, have you ever read the papers called the Federalist Papers, papers prepared by great patriots of the United States at the time when our Constitution was being ratified?

Mr. Donohue: Object, if your Honor please. Now we are going back to before 1781, a long way back. This indictment alleges incidents that occurred on or about the 17th of September, 1945.

Mr. MacInnis: This gentleman told us about Karl Marx and Hegel.

Mr. Donohue: Hegel I haven't heard about yet.

Mr. MacInnis: People who go back into the 1860's and 1870's, at least.

The Court: The objection is overruled.

The Witness: Do you mind reading that question to me, please?

(Question read.)

A. No; I have been so busy studying Communist philosophy that I have neglected American history. I will have to start now to study American history again.

Mr. MacInnis: I think that is an admonition that you could very well follow, Mr. Johnson. Let me ask you——

Mr. Donohue: Now, now, once again may I say that it is not for counsel to advise the witness as to what his future course of conduct should be. [2443]

The Court: Counsel and I have had our little discussions from time to time about this matter.

Mr. MacInnis: Pardon me. Is your Honor offended with me?

The Court: No, I am not offended, Mr. MacInnis, at anything you do, precisely offended as an individual, but I have a duty as a judge which transcends my individual provinces. I have made myself pretty clear in the past. I respectfully ask you again not to engage in these arguments constantly with the witness. You ask him the question, he will give you the answer. That is all I have to say, counsel.

Q. (By Mr. MacInnis): Well, now, Mr. Johnson, do you know that in the year 1789 James Madison, who later became President of the United States, wrote as one of the Federalist Papers an essay on the class struggle?

Mr. Donohue: I object, if your Honor please. I say to your Honor that the absurdity of this line of questioning is perhaps best evidenced by the fact that every great religious movement in the history of the world centered around the class struggle, and I see no purpose in examining this witness about the theories of class struggle on the part of any individual, great or small. I object to it.

Mr. MacInnis: I will accept the statement of the prosecutor, your Honor. That is exactly what I wanted to show, that the idea of class struggle, the idea of revolution— [2444] all of those things are found from Plato through Francis Bacon, down through Marx and Hegel and later philosophers, even American John Dewey and the like; that there is nothing peculiar about the notions of idealists concerning what should happen to our society. So I will withdraw the question.

Q. Now, Mr. Johnson, you say that you practiced deceit while you were a member of the Communist Party?

A. I say the Communists practiced deceit.

Q. I am speaking of you.

A. I say Communists practice deceit; they teach deceit.

Q. I say, did you practice it, Mr. Johnson?

A. Every Communist practices deceit.

(Testimony of Manning Johnson.)

Q. I asked if you practiced deceit.

A. If I say now I practiced it, I could shorten it. I said every Communist. That includes myself.

Q. That includes you? A. Yes.

Q. Would you tell lies, Mr. Johnson?

A. Every Communist is a liar.

Q. Did you tell lies? Did you tell lies, Mr. Johnson?

A. Every Communist tells a lie.

Q. Did you? A. Everyone.

Q. Did you? A. Everyone. [2445]

Q. Did you?

Mr. Donohue: Oh, I object, if your Honor please.

Mr. MacInnis: Oh, I have the right to an answer, your Honor.

Mr. Donohue: You want the answer that you want from him and you don't get it.

Mr. MacInnis: The hapless cross-examiner has a few rights, your Honor. I asked him this question if he was a liar. He can tell us. He can say "I was" or "I was not."

The Court: The last statement about the hapless cross-examiner may go out of the record, because you have been anything but a hapless cross-examiner.

Mr. MacInnis: Thank you.

The Court: You have made your speeches before the jury and I have not intruded. When you say you are a hapless cross-examiner, that isn't an apt designation.

Mr. MacInnis: I am glad your Honor doesn't feel that way.

(Testimony of Manning Johnson.)

The Court: You are certainly not a hapless cross-examiner. You may have the answer if you specify in your question the time, place or circumstances under which he may have perjured himself. Otherwise I will sustain the objection.

Q. (By Mr. MacInnis): Now, is this true: that you practiced duplicity and deceit from 1930 continuously until 1939?

Mr. Donohue: I object, if your Honor please. If that [2446] is for the purpose——

The Court: The objection is sustained.

Mr. MacInnis: Pardon me, your Honor. This man has said in one of his answers given first on direct examination and later on cross-examination that he practiced duplicity and deceit as a member of the Communist Party.

Q. Now, in reference to one of the questions put to you before the objection was sustained, I am going to ask that you consult your previous testimony given under oath. I will ask you to look at page 145 of the testimony that you gave in the matter of Nat Yanish. I ask you to read from line 2 of that page down to line 18.

(The transcript was handed to the witness.)

Mr. MacInnis: Have you read it?

Mr. Donohue: If your Honor please, I object at this time to any question asked with respect to the record just exhibited to the witness for the reason that, while I have not done so heretofore, once again I say to your Honor that there is nothing

(Testimony of Manning Johnson.)

in the record which has been shown to the witness which is one small measure different——

Mr. MacInnis: That would be——

Mr. Donohue (Continuing): ——from the testimony which he has given here this morning. Therefore, if it is offered for the purpose of impeachment it fails to serve that purpose, because I say to your Honor that if your Honor cares to [2447] read it your reading will confirm my statement.

The Court: While that may be true from your viewpoint, in the final analysis it is a matter for the Court and jury.

Mr. Donohue: May I ask counsel, through your Honor, if it is offered for the purpose of impeaching this witness.

Mr. MacInnis: Yes, it is.

The Court: I assume it is.

Mr. MacInnis: On a remark he made not two minutes ago.

The Court: All right; proceed.

Q. (By Mr. MacInnis): I will ask you whether or not in the proceedings involving the Immigration Service trial of Nat Yanish, when you were brought out to San Francisco as a witness for the United States Government against Nat Yanish, if you did not give these answers under oath in response to questions put to you:

> "Q. When did you learn about this deceit and duplicity of the Communist Party?
>
> "A. When did I learn of it?
>
> "Q. Yes.

"A. You mean the exact time?

"Q. Approximately.

"A. I learned of it early in the Party.

"Q. Did you practice it yourself?

"A. To be a good Communist you have to practice duplicity and deceit. [2448]

"Q. I take it you did practice it?

"A. Yes, sure. Every Communist practices that; it is basic.

"Q. You did it?

"A. Sure. All Communists do that.

"Q. For how many years would you say you practiced deceit and duplicity?

"A. Up until the time I left the Communist Party."

Were those the answers that you gave under oath?

A. Yes, those were the answers I gave under oath, and I do not retract from anything that I have said. And I will further state that you cannot divorce me from the Communist Party, nor can you separate me from the policy that the Party advocates, because during those years I advocated what was the Party policy, and you cannot separate me from the organization. And I resent the attempt on your part, counsel, to say that it was something on my part as an individual. I was a part of an organization like I was a part of a military organization, and I carried out orders like everybody else and I did them faithfully.

Q. Pardon me. You did them voluntarily, did you not?

(Testimony of Manning Johnson.)

A. Voluntarily and under pressure.

Q. You did them, didn't you?

A. Yes, as a good organization man.

Q. When did you find out that the Communist Party actually [2449] practiced deceit and duplicity?

Mr. Donohue: Object, if your Honor please. He just said in the record that he found out early in his experience in the Party.

The Court: He may answer.

A. I think the record speaks for itself, counsel.

Q. (By Mr. MacInnis): Just tell us, please, when did you find out?

A. Early in my—during the early years of my Party, through studying Karl Marx, through studying Lenin, where Lenin I think in one of his writings speaks of duplicity, about their duplicity, strategy and deceit and everything else; that all of these things justify the ends. [2450]

Q. Did you find those things out in 1930 or 1931?

A. I don't know exactly the year, counsel. I have read so much on that subject over the years, I can't recall when I first read it, but it is there for the record if you want to drag in books.

Q. Did you find out by 1932 that the Communist Party advocated deceit?

A. I don't recall, counsel, when the exact year, day or month was.

Q. During the years after you entered the Communist Party you were active not only as a worker, but as an organizer, isn't that true? A. Yes.

Q. But you can't tell us now whether you made the discovery about the deceit and duplicity in the Communist Party in 1930, 1931 or 1932, is that correct?

A. I can't exactly state when, counsel.

Q. Well, by 1933, when you were in the party for four years, did you know that it practiced deceit and duplicity?

A. I still say, counsel, I don't recall the exact time.

Q. 1934, when you were in the party for five years, did you know that?

Mr. Donohue: I object, if Your Honor please. The witness has stated several times he can not recall exactly what time during his membership in the Communist Party he learned that [2451] the policy was to practice deceit and deception. We gain nothing by asking him successively one year after the other. I object to the question.

Mr. MacInnis: I will ask in this respect that the witness look at his previous testimony under oath in the same proceeding I have already mentioned, page 146 between lines 2 and 17. I have marked the place.

Q. I will ask you if the following answers were given by you under oath in response to the questions put to you:

> "A. In 1935.
>
> "Q. When in 1935?
>
> "A. About the first part of 1935 I began to

(Testimony of Manning Johnson.)

get wise to their tactics. In order to be a good Communist I had to be a good patent-medicine salesman.

"Q. I take it that you wanted to do that and that is why you stayed, is that right?

"A. I wouldn't say that that was the main reason why I stayed. I wouldn't say that.

"Q. When you got wise in 1935 that the Communist Party was an organization that practices lying and fraud, deceit and duplicity, you stayed because that is what you wanted to do, is that right?

"A. I stayed because I still had a lingering faith in the correctness of their program.

"Q. You did not practice deceit yourself?

"A. Yes, sure. Why not? To be a good Communist you have to practice it. I was a good Communist."

Are those the answers that you gave under oath?

A. Yes, I gave those answers under oath and I reaffirm those statements. I will not at this time under any circumstances take anything from them.

Q. And in ~~February of~~ 1948 in this city you stated under oath that you did not find out until 1935 that the Communist Party practiced fraud, deceipt and duplicity, correct?

A. That is not a correct statement. I think if you read the testimony you will find that it includes a number of things, not merely deceit. It includes a number of things—when you get wise to a number of things in the party. I think the record will show that. The question was not put to me just merely deceit.

Q. Let me put it very generally, then. When did you get wise to the methods of the Communist Party?

A. I don't know—early in my experience I began to develop certain doubts. Back in the early '30's I began to develop certain doubts which, of course, were strengthened and enlarged upon through the years, which culminated in my eventual break with the party. It was not a thing that happened like this (snapping fingers). It was a whole series of incidents and experiences culminating into just one thing that was sufficient to break the camel's back, in other words. [2453]

Q. When did you say you got wise to the methods of the Communist Party?

A. According to the testimony in the Yanish case, when asked me by the counsel representing the defendant at that time, I stated that which is recorded in the record that you asked me to read.

Q. Tell us when you got wise to the methods of the Communist Party.

A. Let my record speak for itself.

Mr. MacInnis: Pardon me, Your Honor. This record is not before the jury. Will Your Honor instruct the witness to answer?

The Court: Yes, you might give an answer in the light of the testimony.

A. According to the record he asked me to read, Your Honor, it states that when I got wise to a number of things which counsel asked, it says "1935" and it doesn't separate the question of deceit from the other questions, other things involved.

Q. Forgetting about the matter of deceit alone and looking just at the general things that you ultimately learned about the Communist Party, when did you get wise to the methods of the Communist Party?

A. I think I have stated before that the record speaks for itself. What methods do you mean specifically? Let us get the [2454] record clear.

Mr. MacInnis: Will you read the question?

(Question read.)

A. What methods do you mean?

Q. (By Mr. MacInnis): A moment ago you stated that he had questioned you about fraud, deceit and duplicity alone, and that you had committed yourself to 1935 as the time when you got wise to those things. You stated, however, there were general things additional to and independent of the fraud and duplicity that I had not questioned you about. Now, I ask you the general question, when did you get wise to the methods of the Communist Party?

Mr. Donohue: I think, if Your Honor please, he has answered this at least once.

Mr. MacInnis: No, he has not, Your Honor. He refused to.

Mr. Donohue: Just a minute, please. He said a minute ago that he would stand on the record of what he said in the Yanish case, when that question was asked him, and he said a second later it was in 1935, and the record will sustain him.

Mr. MacInnis: This is another question, Your Honor. He said he found out about the duplicity and deceit in 1935.

The Court: The witness is now asking the examiner to define his terms.

Mr. MacInnis: I have done so.

The Court: He stands on the record. Therefore I assume [2455] 1935 is the given date. What is the present question? You asked the examiner to define terms, correct?

The Witness: Yes, sir; since he said the record is not involved, I want him to define what he means.

Mr. MacInnis: The record previously shown you is not involved.

The Witness: I don't understand.

Mr. MacInnis: Will you read my definition of methods?

(The Reporter read as follows:

("Q. 'A moment ago you stated that he had questioned you about fraud, deceit and duplicity alone, and that you had committed yourself to 1935 as the time when you got wise to those things. You stated, however, there were

(Testimony of Manning Johnson.)

> general things additional to and independent of the fraud and duplicity that I had not questioned you about. Now, I ask you the general question, when did you get wise to the methods of the Communist Party?")

Mr. Donohue: Of course, I have objected to that question, if Your Honor please.

Mr. MacInnis: Your Honor, this lapse of time between the hestitation of the witness and then the rising of counsel is somewhat significant. I think the question is one that has not been answered.

The Court: The objection is overruled.

Mr. Donohue: May I humbly ask Your Honor is this witness [2456] not entitled to be told what method of the Communist Party——

Mr. MacInnis: How would I know the methods of the Communist Party?

Mr. Donohue: How would he know? Method of doing what?

Mr. MacInnis: He is an expert on Communism.

A. I resent that. I have at no time said I was an expert. I have at no time said I was an expert. All through this hearing you have been trying to state I am an expert on this and I am an expert on that. I am just an ex-Communist who had my differences with the party, my differences basic and fundamental and I left them for that purpose when I was called upon by my Government to come out and expose these arch-conspirators. I cooperated with my Government.

(Testimony of Manning Johnson.)

And let me say this also, since you raised it: I didn't testify personally in all of these cases that you are trying to create the impression that I testified in. I stated yesterday under oath that the majority of these cases in which I testified, my testimony was placed in the record by stipulation. The bulk of the cases were in Los Angeles, and the bulk of those cases were agreed by stipulation. I was in Los Angeles only one day. So you are trying to create the impression I am a professional, paid witness going about the country talking about Communists. I say that this is cowardly, dastardly, contemptuous and contemptible and flagitious insinuation. I was doing my job as a good American.

Q. Could you speak a little louder? I couldn't hear you very well.

The Court: We might take the recess.

Mr. MacInnis: I have one or two more matters.

The Court: Now, go ahead. If you have a break in your examination, it is all right; otherwise we will take the recess.

Mr. MacInnis: I will ask him just one question. I would like to ask the witness, in view of this last colloquy and the distinction he makes of the word "methods," to look at page 145 of the transcript already referred to, lines 19 and 20, which I have marked in red.

Pardon me. I asked you to look at one part of the transcript, sir.

Q. Mr. Johnson, I will ask you if under oath in the Anderson case, when asked about the methods of the Communist Party, having in mind that you joined that party in 1930, this question was put to you and this answer given you under oath——

Mr. Donohue: I object to the reading of the question, if Your Honor please, because it is not a fair examination of the witness. If he wants to go back——

The Court: It does not appear to be the examination of the witness?

Mr. Donohue: Oh, no, but I say it is not a fair examination of this witness by taking one question and answer out of [2458] content, which he has done before. I suggest, if Your Honor please, that in fairness to the witness that he agreed from the beginning of the pertinent colloquy on this subject matter so that this question and answer appear in context and not out of it.

Mr. MacInnis: The other colloquy is something that has already been read, the whole page up to this point.

The Court: You make take it up on redirect examination.

Mr. Donohue: I waive any objection, if Your Honor please.

Q. (By Mr. MacInnis): "For how many years before that?" And your answer: "I didn't get wise to their methods until about 1935."

Is that the answer that you gave under oath?

A. It is in the record I gave it.

Mr. MacInnis: We will take the recess now, Your Honor, shall we?

The Court: Yes. We will take the recess now. Ladies and gentlemen of the jury, the same admonition not to discuss this case under any conditions nor to form or express any opinion until the matter is submitted to you.

(Recess.) [2459]

Mr. MacInnis: Shall I proceed, your Honor?

The Court: Yes.

Q. (By Mr. MacInnis): Mr. Johnson, did the deceit that you practiced while a member of the Communist Party include deceit under oath?

Mr. Donohue: Object, if your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): Mr. Johnson, can you tell us when you stopped practicing deceit?

A. I ceased to practice deceit when I left the Communist Party.

Q. Are you sure? A. Absolutely certain.

Q. In that respect I am going to ask you to look again at some testimony given by you in the matter of Yanish to which I referred to before, I think it would be page 146; I will mark the lines, 18 to 21, with a red line, and ask if you will please read them to yourself (handing transcript to witness). I will ask you if at the hearing already mentioned you made the following answer under oath to a question put to you:

(Testimony of Manning Johnson.)

"Q. You are sure you stopped practicing deceit in 1939?

"A. Well, I don't know. I am not trying to deceive anybody now and I haven't. Everything I have tried to do is open and aboveboard." [2460]

Was that the answer that you then gave under oath?

A. I did.

Q. Well, now, actually had you stopped practicing deceit by the time of February, 1948, when you appeared in this city as a witness in the Yanish case?

A. Practicing deceit in what respect?

Q. In all respects.

A. I don't understand exactly what you mean. Do you mean deceit as practiced by the Communist Party, or what other form of deceit do you mean?

Q. Possibly your own brand of deceit.

A. How do you know I have a brand?

Mr. Donohue: Object to that characterization by counsel.

Mr. MacInnis: He asked me for an explanation, your Honor.

Q. Had you stopped practicing deceit in all forms by February of 1948?

Mr. Donohue: If your Honor please, isn't that like the old question, "When did you stop beating your wife?" Doesn't it presuppose that he did practice deceit after the time that he said he stopped, when he said he left the Communist Party? I object to it.

(Testimony of Manning Johnson.)

The Court: I think the witness understands the examiner. Do you, Mr. Witness?

The Witness: Yes, I do. When that question was asked me, it was asked in relation to the deceit practiced by the Communist [2461] Party, and my answer at that particular time was in relation to the time that I was in the Party. There was no question asked me with regard to what I did after I left the Communist Party.

Q. (By Mr. MacInnis): I now ask you that question, Mr. Johnson: Had you stopped practicing deceit by 1948?

A. I had—I was not practicing deceit in any form in 1948.

Q. Very well. Now, in relation to that statement, let me come to another phase of the matter. You have been convicted of a felony, have you not, Mr. Johnson?

A. I have at no time in my life been convicted of any crime.

Mr. Donohue: If your Honor please, I assume that counsel will present a certified copy of a record which purports to show a conviction of felony on the part of this witness for the purposes of impeachment, because I am sure he wouldn't ask that question unless he had such positive proof.

Mr. MacInnis: You may well be sure of that.

Q. Mr. Johnson, you told the jury yesterday, along the line of your various occupations——

Mr. Donohue: I object, if your Honor please. I think we ought to settle this matter.

(Testimony of Manning Johnson.)

Mr. MacInnis: I am coming to this matter.

Mr. Donohue: He has asked the witness a question, which he has denied.

The Court: Yes, I think we have reached the point where—— [2462]

Mr. MacInnis: I am on that very matter, your Honor.

The Court: All right.

Q. (By Mr. MacInnis): You told the jury yesterday that you operated a restaurant and pool hall in Alliance, Nebraska, is that correct?

A. That is right.

Q. Now, actually your occupation at that time was that of a bootlegger in connection with the pool hall, is that not true?

Mr. Donohue: Object, if your Honor please. That is highly improper. The California Code, the common law and the Federal Rules are replete with instances, which my adversary must know, that no question may be asked of a witness the answer to which may tend to degrade him. He is entitled only to ask this witness, "Have you ever on such-and-such a date been convicted of a felony?" He asked that question. The witness has denied it. I now call upon Mr. MacInnis to offer the proof of that conviction.

Mr. MacInnis: I am about to come to that.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Now, Mr. Johnson——

The Court: Mr. MacInnis, adverting to the record, one moment, when you asked the question concerning the witness' having been heretofore been convicted of a felony, Mr. Donohue immediately asked you whether you had a record of such conviction. You said you were coming to that point immediately. [2463]

Mr. MacInnis: Yes.

The Court: I assumed you would.

Mr. MacInnis: Yes.

The Court: Now are you coming to that point?

Mr. MacInnis: I am.

The Court: All right. The objection is sustained to the other question, and the jury is admonished to disregard the implications contained in the statement or any assertion embodied therein.

Q. (By Mr. MacInnis): Mr. Johnson, on the 1st day of December of 1926 in Alliance, Nebraska, were you found guilty of the possession of intoxicating liquor?

Mr. Donohue: Object, if your Honor please. That isn't the question he asked a minute ago. He asked him a minute ago if he had been convicted of a felony.

The Court: That is right.

Mr. MacInnis: That is a felony, your Honor.

Mr. Donohue: I hope he is prepared to prove that possession of intoxicating liquor is a felony.

Mr. MacInnis: Yes, I have the certified copy on its way from Alliance, Nebraska. I have a wire from the Chief of Police of that city in my hand. I will show to the Court.

The Court: Show it to counsel.

(Testimony of Manning Johnson.)

Mr. McMillan: May it please your Honor, as the Court knows, where the possession of liquor was not a felony it [2464] was a misdemeanor.

Mr. Donohue: That is exactly the point.

Mr. MacInnis: Your Honor, under the Federal Rules, as I have learned in the trial of cases, whereas in the State courts the differentiation between a misdemeanor and a felony rests upon the punishment meted out, in the Federal Courts the distinction rests upon the punishment susceptible of being meted out under the statute. I have many times had the office of the United States Attorney advert to that rule. Now, under the State court practice this crime would be a misdemeanor. Under the Federal Court practice it is admissible as a felony.

Mr. Donohue: We will come to that, if your Honor please, when we have such a conviction—proof of such a conviction.

Mr. MacInnis: May I pass it to your Honor, so that you will see that it is not an idle statement.

Mr. Donohue: That is the telegram which your Honor directed Mr. MacInnis to permit me to see.

Mr. MacInnis: I would like to show it to your Honor.

The Court: Counsel is entitled to see it.

Mr. MacInnis: I can't introduce a hearsay document. Your Honor does not want to see it?

The Court: I will look at it. As a courtesy to counsel we ordinarily show counsel these documents before they are presented. [2465]

(Testimony of Manning Johnson.)

Mr. MacInnis: Counsel presented to you a document that you did not require him to show defense counsel. He specifically asked you not to. We made no protest. I think that that remark of your Honor's commenting upon my attitude is not called for.

Mr. Donohue: I am sorry. Have you finished? Now I ask your Honor to look at that document.

The Court: I may have a great deal more to say about the subject matter of our conference yesterday, counsel, at a later stage.

Mr. MacInnis: Very well.

Mr. McMillan: Your Honor, may I make this statement: I think your Honor will recall that under the National Prohibition Act possession of intoxicating liquors provided for a fine and imprisonment of not to exceed six months. Now, under the felony practice, under the Federal practice, it is true that if the punishment exceeds one year it is a felony, although——

The Court: Counsel stated to this Court upon questioning this witness that he was in possession of a certified copy of a judgment of conviction for a felony. Now, that is what the record shows.

Mr. MacInnis: Where does the record show I said it? I have it on the way. I will have it by tomorrow morning.

The Court: Mr. Reporter, I ask you to read the statement [2466] of Mr. MacInnis to this Court as a basis for the question.

(Record read.) [2466-A]

Mr. MacInnis: Where does the record show I said it?

Mr. Donohue: May I point to where the record does show he said it, if Your Honor please.

The Court: Yes.

Mr. Donohue: When the original question was asked of the witness, the record as just read indicates I objected to the question, and at the time I stated, as the record indicates, that I was sure that Mr. MacInnis must have had in his possession a certified copy of the judgment of conviction, else he would not have asked the question, to which Mr. MacInnis replied, and the record so states, "Well, you may be sure of that," and I felt that he had it, or I relied on what he said. I didn't expect he would try to produce a telegram which in no way identifies this person as the subject named in the telegram, and which in no wise indicates that he was convicted of a felony.

Mr. MacInnis: Your Honor, may I be heard on that? The first time anyone connected with the defense in this case ever heard that Manning Johnson ever lived in Alliance, Nebraska, was yesterday when he gave that testimony on the witness stand. Acting upon suspicion, we put a telephone call through at the close of yesterday to the chief of police of that city. We received the information. We received the wire that has already been shown to Your Honor. We sent a wire in return asking that a certified copy be forwarded at once, and received word that such a copy was being prepared and was being sent on its way. [2467] Now, with the witness coming here and giving that testimony, we would be put in this position: We would either have to defer asking the question until long after he had departed, or acting upon what we certainly believe to be authentic, the telegram from the chief of police and the promise that the certified copy is on its way, and we will produce the certified copy and offer it in evidence in this case as soon as it arrives, which I expect will be tomorrow morning. I made no such assurance. The only statement I made, when Your Honor asked me the question, I said, "I have a certified copy on its way from Alliance, Nebraska," and I certainly did not pretend to make any other statement, and I would not have been able to make any other statement in view of the passage of time between yesterday and today, and if anybody wants to check the time of the telephone call, I assume the Government may do that any they will see when the first contact was made. So we could not have any information of any superior character than a telegram at this time.

Mr. Donohue: It is the first time, if your Honor please, on a plea of confession and avoidance I have ever heard a lawyer justify, on the ground of expediency and necessity, the violation of a rule which a lawyer learns the first week he is in law school.

Mr. MacInnis: Your Honor, I have had the exact point in these courts no further back in time than August of this year, [2468] when I was defending a criminal case in the department immediately upstairs from this courtroom, and at that time the attorney for the United States asked the defendant if the defendant had ever been convicted of a felony, naming the felony, the time and the place. The witness denied the situation. Two days later a certified copy was produced. No one protested. Everyone understood that the matter came to the attention of the Court in the same fashion as it came to the mind of counsel. I do not suggest I have done anything improper and I do not concede that I have, either.

The Court: Mr. MacInnis, from the telegram presented to the Court, there is nothing to indicate therein that this witness on the stand, Manning Johnson, was ever convicted at any time or at all of any felonious conduct in any court, state or federal. Accordingly, until the record is produced and a determination made with respect to his alleged felonious conduct, the conviction thereon, the objections will be sustained and the jurors are entitled at this juncture to disregard the statements heretofore made in connection with any such assertions.

Mr. MacInnis: I want to assign the statements of the prosecutor as misconduct, Your Honor, as an unjustifiable interference with cross-examination in this case. I think I have done nothing that a lawyer would not be compelled to do, faced with a new witness whom I have never seen before. [2469]

The Court: Mr. MacInnis, I can say to you in fairness that I believed you had a certified copy of the judgment and conviction in your possession.

Mr. MacInnis: I did not tell Your Honor that.

The Court: No.

Mr. MacInnis: The record shows Your Honor had that impression, but when the record was read back you saw that I did not say that.

The Court: The only inference I could draw from your manner of querying this witness and your representations to the Court was that you had such a certified copy. I am not going to presently reflect beyond the inference I drew.

Mr. MacInnis: I do not think you should.

The Court: Counsel, I drew that fair inference. I am not going to instruct the jury to disregard the remarks of the prosecution in connection with your representations. I think it is a matter that they can determine upon in the light of the colloquy. We will await, then, the receipt of this certified copy. The determination will then be made whether or not this witness, Manning Johnson, was involved as the defendant therein, and if so, whether the conduct resulted in a misdemeanor or conviction of a felony, because there is a wide difference, as counsel knows.

That is all on that point. The jury is admonished to disregard the statement of counsel with respect to the asserted [2470] conviction of this witness of felonious conduct at the time and place referred to in the telegram or any conduct bordering upon a crime.

The Witness: May I say one word?

The Court: You reserve your comments at this time, Mr. Witness, unless a question is presented to you.

Mr. MacInnis: On the matter of time, I will abide by Your Honor's suggestion.

The Court: This witness will be available, and I instruct the witness to remain available to the process of this court.

Mr. MacInnis: I will proceed or defer, as Your Honor suggests.

The Court: We will defer until 2:00 o'clock?

Mr. MacInnis: Yes.

The Court: The record now shows, Mr. MacInnis, this witness is available hereafter for such purposes in connection with the presentation of any certified copy of any asserted judgment of conviction of a felony.

Mr. MacInnis: That is fair enough.

The Court: Ladies and gentlemen of the jury, we will take the recess until 2:00 o'clock. The same admonition to you not to discuss the case under any conditions or to converse with any person on any subject of the trial and not to form or express an opinion until the matter is submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [2471]

(Testimony of Manning Johnson.)

December 14, 1949, 2:00 P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Manning Rudolph Johnson, heretofore sworn.

The Court: Proceed, counsel.

Cross-Examination (Continued)

By Mr. MacInnis:

Q. Mr. Johnson, will you tell us now what was the first time and when was the first time that you ever told any official of the United States Government that you saw Harry Bridges at a meeting of the National Committee of the Communist Party?

A. I do not recall having—I do not recall when I was asked. I was asked a number of times by persons connected with the Department of Justice prior to this trial and once before—once or twice before, several years ago.

Q. About when was the first time?

A. I don't recall. Around some time in the '40's. I don't recall. The early '40's back there.

Q. In the early 1940's? A. I think so.

Q. Do you think you might have been asked that question as early as the first year in which you had left the Communist Party? [2472]

A. I don't recall exactly when. I was asked a number of questions over a span of years and I couldn't tell you exactly when it was.

(Testimony of Manning Johnson.)

Q. You were asked the question, you say, a number of times by the Department of Justice over the years, is that true?

A. In the last several months I have been asked that question a number of times, and I think it was in the early '40's back there, I think, I was asked a few times.

Q. Do you remember what agency of the Government asked you that question first?

A. I know it was the Justice Department. I don't recall what agency under the Justice Department, but I know the Justice Department did ask me such questions then.

Q. Do you remember whether it was the Immigration Service or the FBI?

A. I said I don't recall.

Q. You really have no memory either way on that?

A. I don't recall which one it was. I know it was a Department of Justice agent.

Q. Could that have been as early as the first year in which you left the Communist Party?

A. I don't recall what year it was.

Q. Is it possible it could have been as early as 1940?

A. I would not say definitely what year it was at this particular time. [2473]

Q. Mr. Johnson, when you left the Communist Party for the reasons that you have already given us, did you make any public announcement so that all persons would know that you had left?

A. Well, in the inter-union fights that developed after I left the party I came out openly denouncing the Communists, if you mean in that sense.

Q. In other words, you were still active in the labor movement when you left the Communist Party? A. Of course I was.

Q. Were you an organizer of some kind in some labor union? A. That is right.

Q. So that you were making announcements almost immediately to all persons who would have anything to do with you on union matters?

A. No, I began to oppose the Communists at meetings of the union publicly.

Q. Would that be as early as the year 1940?

A. I don't recall my first public announcement at this particular time, but I say it was in the early '40's, the beginning of the '40's, when I began to publicly denounce the Communists.

Q. And you were out of the Communist Party by the year 1940?

A. For all intents and purposes, I was through with the party at the Nazi-Soviet pact in 1939. I attended a number of meetings for a few months after that, but I wasn't active any more, [2474] and I gradually ceased to attend any more meetings after that.

Q. And by 1940 you possessed a state of mind which was in opposition to everything that you felt the Communist Party represented?

A. I was opposed to them. [2474-A]

Q. By 1940 you felt not only opposed to the

(Testimony of Manning Johnson.)

Communist Party but disposed to reveal all of these matters that you say were the more sinister aspects of the Party, isn't that true?

A. I wouldn't put it just that way. I would say that when I was approached by a representative of the Government on any matter in relation to enemy aliens or anything of that kind, or Gerhardt Eisler, I was willing to give to the Government my services, because I felt it was my patriotic duty to do so.

Q. Let me ask you this: You remember, I suppose, from ordinary publicity that Harry Bridges was tried by the Department of Immigration or the Immigration Service, rather, in the year 1941 on the charge that he was a member of the Communist Party? Do you remember that?

A. Yes, I do recall the fact that he was tried in '41.

Q. Were you subpoenaed at that time as a witness on behalf of the Government? A. Yes.

Q. You were?

A. Yes, I think I was. I am not sure.

Q. Did you appear as a witness in that case?

A. No, I did not appear as a witness in that case.

Q. In other words, if you were subpoenaed in that case the Government decided not to call you as a witness actually?

A. I don't know what the Government decided, but I was never called as a witness in the case. [2475]

Q. Well, if you were subpoenaed in that case, it is fair for us to conclude that by that time you had made a statement saying that you had seen Harry Bridges at a National Committee meeting of the Communist Party?

Mr. Donohue: I object, if your Honor please. There is no basis for any such conclusion as is stated in the question asked by Mr. MacInnis.

The Court: Well, the examiner is entitled to ask the question. He might rephrase it in another form.

Mr. MacInnis: I will, your Honor.

The Court: But he is entitled to ask the question.

Q. (By Mr. MacInnis): Having in mind your answer, Mr. Johnson, that you may have been subpoenaed in 1941 as a witness for the Government, although you were not actually called as a witness and you did not actually give testimony, I want to now ask you this question: Had you prior to that deportation case brought against Harry Bridges in 1941 on the ground that he was a member of the Communist Party, had you before that time made any statement to officers of the Government in which you used the name Harry Bridges in connection with the National Committee of the Communist Party?

A. Naturally, before they served me, I think, with a subpoena, I was interviewed by a representative of the Department of Justice. I don't recall who it was at the present time, and I can't tell you exactly when it was. They had had considerable [2476] difficulty locating me, and I do recall it was a few days before the close of the '41 trial. It wasn't very long before the close of the '41 trial of Harry Bridges that

(Testimony of Manning Johnson.)

they finally contacted me and served me with a subpoena, but I never was called to testify in the case.

Q. Did you give those men a written statement at the time they called on you?

A. No, I didn't give them a written statement. I was asked a number of questions, I answered them, but there was no written statement given at that time.

Q. Do you remember about how soon in matter of days before the end of the 1941 Bridges trial that contact took place?

A. I cannot remember. That is, I cannot remember the number of days. I had no occasion to put it in a diary or to memorize it.

Q. But you are quite certain that the Government having spoken with you at that time did not choose to call you as a witness in the '41 case?

A. I can't say what the Government chose to do. I only can say that they didn't do it.

Q. Now, Mr. Johnson, selecting one case out of a number of cases in which you say you have testified at the instance of the Government, taking for example the Nat Yanish case, whose testimony has been shown you on several occasions this morning, before you came to court as a witness for the Government in [2477] that case had you ever met Nat Yanish?

A. As far as having met Nat Yanish is concerned, I was not asked——

Mr. MacInnis: Pardon me.

A. I was not asked——

Q. You can tell us whether or not you had met him and then give your explanation.

(Testimony of Manning Johnson.)

A. I was not asked at that time whether I had met him.

Mr. MacInnis: Will your Honor instruct him to answer the question.

The Court: Yes. Will you answer the question of Mr. MacInnis. Did you ever, prior to testifying in the Yanish proceeding, meet Mr. Yanish?

The Witness: No.

Q. (By Mr MacInnis): And with respect to the Southern California cases, I think there were ten or twelve in number, in which you were called to give testimony by the Immigration Service, had you ever met any of the ten or twelve respondents in those cases before you went to give testimony in the matters?

A. I stated before, I did not give testimony——

Mr. MacInnis: Pardon me. Will your Honor again instruct the witness that the question is whether he met those people, not as what the contests of his testimony was.

The Court: May I ask the purpose of [2478] this?

Mr. MacInnis: Your Honor, the purpose will develop.

The Court: I will allow the question to be asked. The purpose may be——

Mr. MacInnis: It is preliminary to a line of questions, your Honor.

The Court: All right; you may answer.

A. Did I meet——

(Testimony of Manning Johnson.)

Q. (By Mr. MacInnis): Yes; had you met those ten or twelve persons? A. No.

Q. Did you ever meet Harry Bridges

A. Yes.

Q. When?

A. I met him in New York City.

Q. When?

A. Right at the first meeting of the National Committee after the convention.

Q. Who introduced Harry Bridges to you?

A. Jack Stachel introduced him to the Committee—to the National Committee.

Q. Did you meet him personally?

A. No. He was sitting in the meeting with the rest of the members of the National Committee.

Q. Were you ever close enough to exchange any personal remarks or shake hands together, or anything like that? [2479]

A. Well, we were all in the same room together.

Q. The question is this: Did you personally meet Harry Bridges?

A. Did I personally meet him?

Q. Yes.

A. I was introduced to Harry Bridges.

Q. You say he was introduced to a group. Were you at any time brought next to this man who you say was Harry Bridges to a point where you shook his hand and exchanged the ordinary courteous remarks of introduction that people say to each other?

A. I did not shake hands with him.

(Testimony of Manning Johnson.)

Q. It wasn't that kind of an introduction?

A. They don't shake hands and that sort of thing in the Communist meetings.

Q. Well, did you ever meet him after that?

A. No.

Q. Was that the first time you had ever seen him?

A. That was the first time that I had seen him.

Q. And you never met him thereafter?

A. No.

Q. Did you make any written memorandum back in 1936, which is of course thirteen years ago, as to the people you met at this meeting of what you call the National Committee of the Communist Party?

The Witness: Do you mind reading that question?

(Question read.)

A. No, I didn't make any written memorandum of the persons present at that meeting. [2480-A]

Q. So that at the best the statements that you make here in court rest entirely upon what you tell us in your memory? A. Yes, on what I recall.

Q. The man that you now say was Harry Bridges was a man you had never met before? A. No.

Q. By any——

A. By saying that, I had not met him before 1936.

Q. And you never saw him since?

A. No, I haven't seen him until I saw him in the courtroom.

(Testimony of Manning Johnson.)

Q. In that meeting of which you have told us you were never personally, man to man, introduced to him? A. No.

Q. And yet it is upon the basis of what you have told us that you purport to identify Harry Bridges?

Mr. Donohue: I object to the question, if your Honor please.

Mr. MacInnis: I will withdraw the question.

Q. Mr. Johnson, how many persons in all, according to your best memory, do you now say were present at this meeting of the National Committee of the Communist Party in 1936?

A. I said better than 50.

Q. In other words, no person was in the room except persons to whom you ascribe membership of this National Committee?

A. I stated some of the names of the persons who were present, [2481] and I said that there were others. I recall, to the best of my recollection, at that time the persons who were present at that particular meeting of the National Committee.

Q. Were there any persons present in the room at that time other than those whom you designate in your memory as members of the National Committee? A. Yes, there were others.

Q. About how many other people?

A. I imagine there were about 25 or 30 more of them.

Q. In other words, there were 25——

A. 25, I said, or 30.

(Testimony of Manning Johnson.)

Q. People additional to those who were members of the National Committee?

A. No, no, they were all members of the National Committee.

Q. So that there were only these 50-odd people in the room? A. That is right.

Q. Where did you say that room was?

A. I didn't state. I said that the meeting was held either in a hall or in a hotel at that time.

Q. Can you tell us where it took place?

A. I don't recall because we had a number of meetings in different halls and hotels. We used to hold meetings in the Hotel Center, we held some in the Finnish Hall on 126th Street, we held some in the hall—the two halls on the lower East Side, and sometimes we held them in the Odd Fellows Hall and at other [2482] times at St. Nicholas Palace, and at other times at the Hotel and Restaurant Club on Eighth Avenue, the Greek Communist Club on 22nd or 23rd Street at Eighth Avenue there. There were a number of places where we held meetings during those years, and it is very difficult to say specifically which one of those halls we used at that particular time.

Q. So that your encounter with this man, whom you call in this trial Harry Bridges, whom you had never seen before, and you have never met since, took place in some hall or hotel room that you can not now designate either?

A. I hadn't met him before, and I said before

(Testimony of Manning Johnson.)

that as far as recalling which one of the halls or the hotel, I can not state at this time.

Q. It was a room large enough, I suppose, for 50-odd people to meet in comfortably?

A. Oh, yes, of course it was.

Q. What is your best memory? Do you recall it as a hotel or do you recall it as a hall of some kind?

A. I can not say because—I can not say because we had, as I said before, there were so many meetings during that year. There were meetings of the National Committee, meetings of the State Committee, meetings of the various trade unions commissions in different halls. It is very difficult to say with absolute certainty what particular hotel or what particular hall was used at that time, because there were so many and I didn't [2483] make a notation of it because I never thought I would be called upon to remember that.

Q. But you say now that this National Committee had other meetings?

A. Oh, yes, they had five or six meetings of the National Committee a year.

Q. But you never saw Harry Bridges thereafter?

A. No, I did not, and the reason why I didn't see him was because——

Mr. MacInnis: Pardon me, your Honor. The man can not give a reason as to why he didn't see somebody. That answer is self-evident. It requires no explanation, and I suggest that volunteer statements are not called for by any question.

(Testimony of Manning Johnson.)

Mr. Donohue: I think the witness is entitled to explain his answer.

Mr. MacInnis: Not every answer; only when an answer calls for an explanation.

The Court: I think he might explain if he did not see the defendant.

The Witness: At the National Committee meeting, at which Harry Bridges was introduced to the membership, we gave him a big ovation. He was introduced by Jack Stachel, who made brief remarks. After his remarks, Jack Stachel said to the members of the National Committee that in the future—in the future that Harry Bridges would not be brought to members of the National [2484] Committee as a security reason, that because of his strategic position in the labor movement out here on the Pacific Coast, that if it became known that he was a member of the Communist Party, he would not be able to move and work in the party interests, in high labor circles on this Coast. Furthermore, because of the fact that the Communists on the West Coast were constantly under police surveillance, and that they could not make a move without being constantly checked, that in order to safeguard the key people that the party had in the labor movement on the Pacific Coast that Bridges would not be asked to come into any more of these meetings.

Furthermore, they said that they would maintain the past contacts which they had with Bridges, that he would be kept fully informed and aware of every decision made by the National Committee of the party.

Q. In other words, Mr. Bridges occupied some super-secret position beyond that of Browder, Eisler, Stachel, Peters—any of the persons whom you have named—so that he was able to be introduced once, never seen again, but present in spirit thereafter, is that it?

A. There were a number of Communists who move and operate in circles of that kind, where they are not permitted to attend certain meetings, where their identity and membership on leading committees of the party are held absolutely secret. Not only are they kept secret, but they use different aliases in order [2485] to cover their movements and confuse the authorities, governmental authorities. That is a common and customary practice in the party.

Q. Regarding the 50-odd people who were present at this meeting in 1936, how many of those persons approximately, had you met before and how many did you see for the first time at this meeting?

A. I had met a number of them many times before at meetings of the National Committee and in connection with my work in the center.

Q. How many had you not met before?

A. Well, there were a few who came from the mine fields of Pennsylvania and some who came from the Deep South—from Alabama, Tennessee—and there were a few from the automobile industry in Detroit that I had never met before.

Q. About how many? A. I don't recall.

(Testimony of Manning Johnson.)

Q. As many as ten?

A. I don't recall how many, but there were some that I did not know before.

Q. Did you actually meet all the people who constituted the National Committee, as you term it, in 1936?

A. Well, all who were present at that meeting constituted the membership of the National Committee. They might have had some more there that were not present. [2486]

Q. Didn't you state under oath in the Yanish case that you did not meet all the persons who were members of the committee in 1936?

A. I don't recall making such a statement.

Mr. MacInnis: Your Honor, rather than disturb the trend of this, I will find that statement of the transcript at the recess.

Q. Mr. Johnson, you said a moment ago that it was explained by this man named Stachel that Harry Bridges would not be able to attend openly these meetings of the National Committee. Didn't I understand you to tell the Court and jury yesterday that Harry Bridges was introduced to the National Committee under the name of Rossi?

A. That is correct.

Q. And you had never seen the man before, correct? A. No.

Q. How was it explained that this man Rossi was in such a strategic position that he could not return thereafter?

A. The name Rossi, the alias Rossi, that was

(Testimony of Manning Johnson.)

given to Bridges, grew out of the 1934 general strike in San Francisco. It was on the basis of the report given to the National Committee by the district organizer at that time.

Mr. MacInnis: Your Honor, this is an answer involving hearsay, which is, of course, contradictory to what the other prosecution witnesses have said about 1934, but it also is not [2487] responsive to this question.

Mr. Donohue: I think it is responsive, if your Honor please. The witness is attempting to say he knew Rossi was Bridges.

The Court: The objection is overruled.

Mr. MacInnis: Your Honor, we have the testimony of the witness Schomaker on the 1934 strike to the effect that he had never heard of this name Rossi.

Mr. Donohue: Schomaker was not a member of the National Committee, if your Honor please.

The Court: The objection is overruled.

The Witness: After an enthusiastic report of Sam Darcy—Sam Darcy——

Mr. MacInnis: The question did not call for any hearsay testimony from persons not before the Court. May we have the question read?

(Question read.)

Mr. Donohue: Now he is attempting to explain his answer.

The Court: It calls for an answer, how was it explained. I do not know, but I take it the witness now is going to answer the question as to how it was explained to him.

Mr. MacInnis: At that time, your Honor.

The Court: Yes. I suppose if he leaves out the word "enthusiastic," he might preface his remarks by stating that Mr. Darcy said something. Is that right? [2488]

The Witness: That is right. I was coming to that.

The Court: Leave out the enthusiasm.

Mr. MacInnis: Pardon me, your Honor; he has not named Mr. Darcy as one of those present, unless I am in error.

The Court: I am just trying to rule on the objection. I do not know what his answer is. The objection is overruled.

The Witness: I stated that Sam Darey, the district organizer of the Communist Party here in California, at the time of the San Francisco general strike, reported——.

Mr. MacInnis: Pardon me. Your Honor, you see this does not go to the same time at all. We are not interested in hearsay testimony about what the man called Darcy may have said to some other person.

The Court: Mr. MacInnis, I think a re-reading of that question will convince you, as it convinced me in ruling on the objection, that the question itself will permit this witness to give sources, either in writing or oral, as to the reasons underlying the designation of the so-called or alleged alias of Rossi.

(Testimony of Manning Johnson.)

Now, he may answer. The question is broad, it is all-inclusive, it is sweeping. Will you read the question, Mr. Reporter?

Mr. MacInnis: The question goes to that time in 1936, how was it explained.

The Court: Let us have the question. We will see how sweeping it is. [2489]

(Question read.)

The Court: You may answer.

Mr. MacInnis: May I say this, your Honor? The question calls for any explanation given at that time, 1936, not for some hearsay testimony that we can't possibly probe into.

The Court: I did not ask the question, counsel. You asked it. I can only rule on the text of the question in its ordinary grammatical sense.

Mr. MacInnis: The question goes to that time in 1936. I am not asking for what unknown persons said in 1934, Your Honor

The Court: You may answer the question.

The Witness: How far had I gotten?

(Last answer of the witness read.)

The Witness: He reported to a meeting of the National Committee, which is the customary procedure of leading Communists to report on the activities in their respective districts, gave a detailed analysis of the general strike in San Francisco, and he mentioned that Comrade Bridges had wielded more power than Mayor Rossi in San Francisco and Jay Peters—Jay Peters, as a result of that, snapped

(Testimony of Manning Johnson:)

his fingers like that, and he said, "That's it! Comrade Rossi. Comrade Rossi." And from that report by Sam Darcy the name Rossi was attached to Bridges, and thereafter whenever reports were given on activities in California by the leading organizers over there, he was [2490] constantly referred to frome time to time by the name of Rossi. And under the name of Rossi his name was put on the list at the 1936 convention.

Q. Was Harry Bridges present at this time when Jay Peters snapped his fingers and said, "That is it!"?

A. No, that was—I think it was not long after the close of the San Francisco general strike.

Q. Mr. Johnson, did you know that in the summer of 1936, Harry Bridges was already under surveillance by the Immigration Service for deportation?

A. I don't know that to be a fact, but I do know that the party—the reason he was given the alias in reference to him at meetings of the National Committee was in order to protect him. It was a question of security, to protect a leading force that they had. They never had a Communist in the position Bridges held out on this Coast. [2491]

Q. Harry Bridges—at least this man whom you saw for the first time and now call Harry Bridges —appeared between fifty-odd people, some of whom he had never seen before and some of whom he had never even met, according to you, and allowed himself thus to be revealed, is that right?

(Testimony of Manning Johnson.)

A. That was a Party decision. He was called, and he sat in on the meeting, he listened to the reports, he listened to the discussions, and he was introduced, and the decision as to maintaining secrecy with regard to his identification with the Party was made, and it was agreed upon that the past relations which they had where Jack Stachel, Gerhardt Eisler and Earl Browder used to meet him in secret out here during the San Francisco general strike as they had that personal relation in meeting with him at that time—that that was the relationship that should be continued.

Q. How many meetings of the National Committee of the Communist Party do you say you attended in the year 1936?

A. I attended all or almost all of them in 1936.

Q. And they were how many in number?

A. Oh, I imagine about five or six.

Q. And held where? A. New York City.

Q. All held in New York?

A. That is right.

Q. And held where in New York? [2492]

A. As I said before, there were a number of halls, some of which I have mentioned, where National Committee meetings were held.

Q. And how many people approximately attended each of those five or six meetings?

A. Well, there was over fifty members of the—over fifty members of the National Committee, and of course there were district organizers and certain

(Testimony of Manning Johnson.)

other leading persons who were active in trade unions and mass organizations.

Q. Pardon me. You mean by your last answer that out of the five or six meetings that you attended in the year 1936, that additional to the fifty-odd members of the National Committee there were various organizers and trade union leaders?

A. There were Communist trade union leaders and Communist organizers.

Q. They were parties not members of the National Committee who were invited to the meetings?

A. May I explain to you the procedure of the meetings—the procedure and the policy pursued at the National Committee meetings.

Q. We will come to that.

A. I would like to explain that to you.

Mr. MacInnis: I am interested, your Honor, in an answer to my question, not to a discourse at the whim of the witness.

Would you read the question to the witness, please. [2493]

(Question read.)

Mr. MacInnis: Is that correct?

The Witness: Would you mind reading that last again? I didn't get it.

(Question re-read.)

A. There were district organizers of the Communist Party and Communists who were active leaders in trade unions and Communist Front or-

(Testimony of Manning Johnson.)

ganizations who were also invited and participated in the discussion.

Q. (By Mr. MacInnis): About how many of such persons would be present at any of these five or six meetings of the National Committee of which you spoke?

A. I don't recall the exact number of them.

Q. Approximately?

A. Oh, at some—you might have an enlarged—you, see you might have a regular meeting of the National Committee; then you had an enlarged meeting of the National Committee. Now, an enlarged meeting of the National Committee is different from just a strict meeting of the National Committee. Now, specifically, which one do you mean?

Q. I don't know the difference between those terms. You are the one who said that those trade union leaders were also present. Now, what I would like to ask you is this: Were there five or six of them, were there ten of them, twenty of them, or what, in addition to the fifty-odd members of the National [2494] Committee?

A. I stated before that there were two types of meeting of the National Committee. There was the strictly closed session of the National Committee and there were National Committee meetings that were enlarged meetings at which other persons, Communists who were actively involved in mass work, were invited and participated in discussions. So at an enlarged National Committee meeting you would have the members of the National Committee, along with leading Communists in the trade unions, in mass organizations like the International Workers' Order, the peace organizations, the International Labor Defense, the Friends of the Soviet Union, or some of those organizations; you would have some union leaders who would come from the AFL unions who were invited to participate in the discussion. There were none present but active leaders in the Communist movement.

Q. Well, would there be any trade union leaders invited to any of those enlarged National Committee meetings who might not be technically members of the Communist Party?

A. No, no, you had to be a member of the Communist Party, an outstanding leader in the Communist movement, to be admitted to these meetings.

Q. How many of such enlarged meetings of the National Committee did you attend in the year 1936?

A. I don't recall how many enlarged meetings they had during [2495] 1936. They may have had two or three.

Q. And at those meetings would there be approximately fifty members of the National Committee plus the trade union leaders?

A. There would be fifty some-odd members of the National Committee plus these other individuals, individual Communists coming from important sections of Communist activity.

(Testimony of Manning Johnson.)

Q. And at most there would be how many people at such an enlarged meeting?

A. Oh, at an enlarged meeting you might have sometimes 75 or 80 people; maybe more.

Q. Now, in 1936, how closely did this meeting for the election of the National Committee follow the convention of the Communist Party?

A. The election of the—the election of the National Committee took place at the convention.

Q. At the convention? A. That's right.

Q. In other words, it was a part of the official proceedings of the convention itself?

A. That is right.

Q. In 1936, the convention of the Communist Party was openly held, was it not?

A. The convention of the Communist Party was not open—was not an open convention in the sense that everybody was invited. [2496] It was a closed convention, only to delegates of the Communist Party.

Q. Well, tell me this: Wasn't it announced in the general press the actual functions of the convention of the Communist Party in 1936?

A. There may have been a report in the press that there was a convention of the Communist Party being held.

Q. And didn't those reports that were made public state the place where the convention was held?

A. I don't recall what those reports stated. I presume they did if such reports were made.

(Testimony of Manning Johnson.)

Q. They would be made in all of the newspapers of general circulation?

A. I don't know whether all of the newspapers would publish notices of Communist rallies.

Q. I am not speaking of Communist rallies; I am speaking now of the national convention of the Communist Party in 1936.

A. Well, I wouldn't be able to recall whether the newspapers reported about the convention or not.

Q. Well, tell me this: Would there be any place where there would be a written record of the members elected to the National Committee in that year?

A. Well, there possibly is, and I will tell you why I say that: Because at a meeting at the convention they would have [2497] 28 or 30 women stenographers. They took down a stenographic record of every single remark made by every speaker at the convention. They would type up in copies of five on onion-skin paper. After they are typed they are given—they are given to each speaker to correct or make any changes or modifications. After that they are turned in and they are re-typed and they are—some copies are sent to—were sent to the Communist International, and others to various Party commissions in Moscow. This—so—those are the sources that I can say that you can find the actual speeches or you could possibly find the actual speeches that were made. As far as the general resolutions and parts of the summary that is finally edited, they may be published in some of the—in copies of The Communist, or some of the copies of the Daily Worker.

(Testimony of Manning Johnson.)

Q. By The Communist, you mean some official magazine of the Party?

A. That was for years the theoretical organ of the Communist Party.

Q. That is a published magazine called The Communist? A. The Communist.

Q. Was that published monthly?

A. That was published monthly; sometimes every two months.

Q. That was during 1936?

A. I don't know whether it was published monthly or every [2498] two months. It was supposed to come out monthly, but sometimes they would miss a month and they would combine two issues in one, if I recall correctly.

Q. Would that magazine have a list of members of the National Committee of the Communist Party?

A. No, it would not. They never published—they would never publish lists of the members of the National Committee.

Q. And the Daily Worker wouldn't publish that?

A. The Daily Worker would only mention here and there the name of an individual who was engaged in mass work as being a member of the National Committee speaking at such-and-such a meeting, but insofar as giving to the public a list of the persons members of the National Committee is concerned, that is definitely out. That is one of the most closely and guarded secrets of the Communist Party; they wouldn't dare give it to the public.

(Testimony of Manning Johnson.)

Q. Coming back to that closely guarded secret again, you say that stenographers were present during that convention?

A. Yes, they always had them. They had them at National Committee meetings, too.

Q. There were stenographers present at this National Committee meeting, is that true?

A. That is correct.

Q. About how many?

A. Well, at the National Committee meeting they would have [2499] possibly a half-dozen stenographers, and they would have the typewriters in an anteroom, and they would take down the speeches stenographically.

Q. Now, in addition to the fifty-odd people who you say were then and there elected to the National Committee, plus the six stenographers, would there be any other persons in the room?

A. No, I didn't say six stenographers at the election of the National Committee. I stated before that they had far more than six stenographers at the convention, because at the convention you possibly have five or six hundred delegates and it is a tremendous amount of work for the stenographers. So they pulled the Communist Party members' stenographers in all the different Party offices and front organizations and bring them over to the convention, and they would do all the stenographic work there, and they would rent typewriters, or whereever they get them from, I don't know, but they

(Testimony of Manning Johnson.)

bring in a whole flock of typewriters and they worked for hours throughout that entire convention getting that stuff whipped into shape.

Q. So that there would also, in addition to these fifty-odd people, be a group of stenographers in whose hands Harry Bridges may well have placed his fate?

A. No, they wouldn't know him as Harry Bridges, because in the first place, the stenographers did not get—the [2500] stenographers did not get a list of names on which the National Committee members was. In fact, Jay Peters—Jay Peters and Abe Benson very closely guarded every single copy of the list of members of the National Committee. Each copy, if I recall correctly, was numbered numerically. Jay Peters or Abe Benson would walk over to the head of each delegation and present the head of the delegation with a typewritten copy, maybe No. 1 or No. 2, depends on what the number of that delegation was, and he would look—the head of the delegation would look over this list of names; then they would pass it around to the other delegates in that delegation, they would scrutinize it. After they had finished, then Jay Peters would come over and pick up that list. He would follow that procedure in going from one delegation to the other. Abe Benson would do the same thing. After they had collected all of those lists, then the question of voting would come up. A motion would be made that the entire slate be accepted, and everybody

(Testimony of Manning Johnson.)

would vote. There was never any dissension. That is the principle—that is how it was handled.

Q. These were typewritten lists?

A. Yes, on onion-skin paper.

Q. And what would be done with the notes of the stenographer who prepared those typewritten lists?

A. I don't know what stenographer typed up copies of the lists of candidates for the National Committee. I wasn't there when [2501] it was made up, and I couldn't tell you that.

Q. I don't suppose the stenographers were liquidated after they finished that task?

A. I don't know. They may have been; I couldn't tell you.

Q. But so far as you know——

A. It isn't—forget it.

Q. No. I would like to hear what you were going to say. I don't think we want to forget anything that you are telling us.

Now, Mr. Witness, let me ask you this, and tell me if this refreshes your memory: If I told you that out of the New York Times index one can gain the information that the 1936 convention of the Communist Party was held between June 24 to June 28, would you dispute that?

Mr. Donohue: I object, if your Honor please.

Mr. MacInnis: I can ask him if that refreshes his memory, your Honor.

Mr. Donohue: I haven't seen the New York Times, and even though it were here, this witness has not said that the convention did not take place——

The Court: He said it was in the warm months.

Mr. Donohue: It was in the warm months of 1936. He certainly couldn't impeach the witness.

Mr. MacInnis: We certainly have a right to bring out when this convention took place.

The Court: You might attempt to refresh his recollection [2502] thereon.

A. Well, I don't recall, as I stated before, the actual dates. I couldn't say that date as a certainty, but I still say it was during the warm months. It was my testimony.; that is all I can remember. That is the best I can recall.

Mr. MacInnis: Not having that record before me, probably I could obtain it if necessary—if you were shown that record—I don't ask you to take my word of the actual date. If you were shown such record in the New York Times Index, would you say that that was probably the date on which the convention was held?

A. That is a supposition that I don't think I am duty-bond to answer.

Mr. MacInnis: But I think, your Honor, he can answer that question without telling us——

Mr. Donohue: It is a supposition. There are several "ifs" in that question, if your Honor please. I don't know whether if, in fact, the New York Times Index were shown to the witness and the New York Times Index has said that convention of the

Communist Party was held between certain dates, that would refresh the witness' recollection any more than he can say now that he knows it was in 1936, in the warm months.

Q. (By Mr. MacInnis): Let me put it to you this way, Mr. Johnson: Do you recall whether or not the Daily Worker, the official Communist newspaper, published the dates of the [2503] convention of 1936?

Mr. Donohue: I object, if your Honor please, on the same ground. If we couldn't rely on the New York Times, I certainly couldn't rely on the Daily Worker. [2503-A]

Mr. MacInnis: I guess you can't rely on anything, Mr. Donohue. Your Honor, it certainly appears to me that if a man is charged with a matter so gross as this upon the testimony of the witness who never saw him before and never saw him since, we certainly have a right to probe into the date.

The Court: He has given an answer. However, I think you might ask him the approximate dates.

Mr. Donohue: If he hands him the New York Times, if your Honor please, in which this appears and asks him, "Does this refresh your recollection as to whether or not these were the dates," I would have no objection, but he is saying, "If I were to show you a copy of the New York Times, and if the New York Times did state this, would that refresh your recollection?"

Mr. MacInnis: Of course, I would have to get

(Testimony of Manning Johnson.)

those volumes out of the public library, Your Honor, I will get them if necessary.

Q. Similarly, in 1938, if I told you that the official date ascribed to the Communist Party convention was May 28 to 31, would that refresh your memory at all?

Mr. Donohue: I object again, if Your Honor please, on the same ground. Mr. MacInnis telling him so is not any more authoritative than the Daily Worker and certainly not as authoritative as the New York Times.

Mr. MacInnis: You mean I am similar, in between?

Mr. Donohue: Somewhere, yes. [2504]

The Court: Let us assume, for this immediate purpose, Mr. MacInnis' dates are accurate. Let us assume for this particular purpose—and I hope I am not startling you, Mr. Donohue, by any statement of that sort——

Mr. Donohue: Startled, but not shocked. I think it is a fair assumption.

The Court: Let us assume that those dates are accurate.

Mr. MacInnis: Your Honor, may I say this? Haven't we a right to assume in a case of this proportion——

The Court: Go ahead, counsel. Let us assume these dates to be accurate. I assume you have these dates somewhere.

Mr MacInnis: Yes, but I haven't the great big volume in my hand.

(Testimony of Manning Johnson.)

The Court: Let us assume that.

Q. (By Mr MacInnis): Do those dates refresh your memory in any way?

A. I have stated before, counsel, that I approximated the time. I can not say those dates are the actual dates on which the convention or conventions was held.

Q. Pending verification of the exact convention dates, you are certain that this meeting of the National Committee of the Communist Party took place during the convention?

A. What convention are you speaking of? The 1938 convention?

Q. 1936.

A. The 1936 convention? Do they always hold them? Will you [2505] read that back to me?

Mr. MacInnis: He has already answered that, Your Honor, in the affirmative, that that is when it took place. I do not see how he can now shift his position.

The Court: No, I will allow it—

Mr. MacInnis: I will guarantee that that is in the record, Judge.

The Court: So the record may not be misunderstood, the purpose of the question as to the date, whatever the date may have been, was to attempt to refresh his recollection as to a specific date.

Mr. MacInnis: Yes.

The Court: Certainly it was not the intention of the Court to commit the witness as to any given date.

(Testimony of Manning Johnson.)

Mr. MacInnis: Nor mine.

The Court: Nor could we commit him. I could not commit him, nor could you. Now, Mr. Donohue has entered an objection. He states in the absence of the record itself the question is improper. I assume you some place have such a record. I do not know.

Mr. MacInnis: Yes.

The Court: We can not assume to indicate to this witness a given date and commit him to a given date by and as a result of that particular process. I am sure Mr. Paisley has some comment on that, haven't you, Mr. Paisley? [2506]

Mr. Paisley: I do not know whether I was following you, Your Honor. I think the date is very important, and I think we have a right to delve into it very deeply, but he says the question has already been answered, and so it seems to me it is repetitive.

Mr. MacInnis: That is fair enough. I will proceed.

Mr. Donohue: Your Honor——

Mr. MacInnis: Don't you gentlemen get in a quarrel among yourselves.

Mr. Donohue: We are not quarreling among ourselves and we are not going to quarrel with you, either. That is not the question before Your Honor. He asked this witness, and I know he would like to forget it——

Mr. MacInnis: No——

Mr. Donohue: We asked this witness another question: Did the meeting of the National Committee which you have been discussing take place during the convention? Then the witness asked him, "Do you mean 1936 or 1938?" My friend then said, "I don't want to hear any more about that. He has already answered the question."

He has not answered the question. I submit we are entitled to have the question answered. Did the meeting take place during the 1936 convention?

Mr. MacInnis: I am going to ask that the Reporter read back the record. It goes back about ten questions and you will [2507] find this witness has already stated the election of the National Committee took place within the scope of the convention days in 1936.

Mr. McMillan: Then why do you go over it again?

Mr. Donohue: He has already answered that. He asked the question. The question remains unanswered on the record, because Mr. MacInnis interrupted the answer.

Q. (By Mr. MacInnis): ~~Let~~ me ask you this: Do you know where the 1938 convention of the Communist Party was held?

A. It was held in the Hotel Center and various sessions in other places.

Q. Do you know where the election of the National Committee in 1938 was held?

A. If I recall correctly, the election of the National Committee was held in the Hotel Center.

Q. Was it held during the convention?

(Testimony of Manning Johnson.)

A. The election of the National Committee is always held during the convention.

Q. Always during the convention days?

A. That is right.

Q. And that was true both of 1936 and 1938?

A. That is correct.

Q. Did you see Harry Bridges during the 1938 convention?

A. No, I did not. There were so many delegates there I couldn't say whether I saw him or not. I don't recall seeing [2508] him. There were about 700 to 800 delegates there.

Q. As to these numbers of delegates, how many people approximately attended the 1936 convention?

A. Oh, there were maybe—I imagine better than 400, I presume.

Q. Would that have been held in some hall where those people could assemble comfortably?

A. Oh, yes.

Q. Where, if you know?

A. I beg your pardon?

Q. Do you know what hall?

A. Yes. The 1936 convention?

Q. Yes.

A. That was held in Manhattan Center, 34th Street and Eighth Avenue.

Q. That is a public hall, isn't it?

A. That is a big public hall. Anybody can rent it.

Q. It is in a very centrally located district, isn't it? A. Yes.

(Testimony of Manning Johnson.)

Q. Right near the Pennsylvania Station?

A. Yes.

Q. There is nothing secretive about that hall?

A. No.

Q. Were there any visitors allowed to that 1936 convention, speaking of ordinary proceedings of the convention held on the floor? [2509]

A. No, there were no visitors allowed at the 1936 convention during the closed sessions. We, of course, had one open session to which the public was invited. That was a huge mass meeting we had in 1936.

Q. Where was that held?

A. I think it was held at Madison Square Garden: if I am not mistaken.

Q. And that holds about how many people?

A. Oh, about 18 or 20 thousand.

Q. Was that hall fairly well filled at the time of the mass meeting of the 1936 convention?

A. I think it was packed, I think, if I recall correctly.

Q. So far as meetings held in Manhattan Center may be concerned, did the ordinary press have any coverage at all of the convention?

A. They don't allow the so-called capitalist press in at the sessions—at conventions of the Communist Party.

Q. So it would be your recollection that there were no articles about the existence of the convention in any of the papers of the capitalist press, as you call it?

(Testimony of Manning Johnson.)

A. They usually give out press releases to the press, and they are usually prepared by their own Daily Worker correspondents.

Q. So that the general public, at least by reason of these press releases, would have been conscious that a national convention of the Communist Party was in progress? [2510]

A. If they were published, they would be conscious of it.

Q. And by the same token, any investigators of the United States Government would have the same information and the same opportunity to make surveillance of persons who came and went to the convention floor?

The Court: Was that question answered?

Mr. MacInnis: I was straining my ears, but I didn't quite catch it.

The Court: I hope you will not strain your ears. That is one thing I couldn't tolerate.

Mr. MacInnis: Sometimes the sound comes out here and jumps back. Sometimes I have to lean over.

The Court: Ladies and gentlemen of the jury, we will take the recess, and may I again admonish you not to discuss the case under any circumstances nor to converse with any person on any subject conneted with the trial and not to form or express an opinion thereon until it is finally submitted to you.

(Recess.) [2511]

(Testimony of Manning Johnson.)

Q. (By Mr. MacInnis): Mr. Johnson, concerning the occasion when you say Harry Bridges was presented to a group of fifty-odd people in 1936, did that occasion take place during the 1936 convention of the Communist Party?

A. That meeting—that closed session of the National Committee took place right after—shortly after the election of the National Committee. It was either before the convention adjourned or a day or so following.

Q. It would be within a matter of a day or two at most? A. Correct.

Mr. MacInnis: Now, your Honor, subject to any correction, I would like to advance those dates as being the accurate dates of the convention, and if there is any disposition on the part of the Government to check those dates through what sources they may have available, I would be very happy to stand corrected if any information is in error.

Mr. Donohue: I don't think we can concede. We don't know. I don't know, if your Honor please, and I think we ought to have some record before us to show when those dates were.

Mr. MacInnis: I think, your Honor, that we must assume that the prosecution, which is at least diligent in this case, must have those records and must have those dates in mind in preparing this case. And all I am trying to do is to save bringing those heavy documents here, because if I am wrong they [2512] can very quickly show it, your Honor.

(Testimony of Manning Johnson.)

What I wanted to do, your Honor, was to offer as the dates of the 1936 convention, subject to any correction; June 24 to June 28 of 1936; and similarly as regards 1938, to offer the dates May 28 to May 31 of 1938.

Mr. Donohue: I object to the offer, your Honor. It may possibly be—I am not being specious about this matter; I do not have the information. It may subsequently be that we can both collaborate and determine when those dates were and enter into a stipulation.

The Court: That is a matter that might be authenticated over the recess period between now and tomorrow morning.

Mr. Donohue: That is possible, if your Honor please.

Mr. MacInnis: I don't see why not, your Honor.

The Court: You say they appear in periodicals?

Mr. MacInnis: In the New York Times Index, which is my source.

The Court: Is that the source where you got it?

Mr. MaacInnis: Yes. It may well be that the local press in their files would have the same information.

The Court: I think between now and tomorrow morning the matter can be solved.

Mr. MacInnis: Yes, I think so.

The Court: This witness will be here tomorrow. He will be on call. [2513]

Mr. MacInnis: Yes.

(Testimony of Manning Johnson.)

Q. Now, Mr. Johnson, in mentioning the people whom you say you now recall as those present at the meeting of the National Committee of the Communist Party, you mentioned a man named Hewitt. Is that correct? A. George Hewitt.

Q. George Hewitt? A. Yes.

Q. Was that the man you had in mind?

A. Yes, I think I did mention his name.

Q. Was George Hewitt a member of the National Negro Congress, to your knowledge?

A. George Hewitt was active in the National Negro Congress; I don't know whether he held any official position or not.

Q. Now, George Hewitt is a confessed ex-Communist at this time also, is he not?

A. He is an ex-Communist.

Q. And in the hearings before the Canwell Committee in the State of Washington, in which you appeared as a witness, George Hewitt appeared also, is that correct, along with you?

A. No, he did not appear along with me. He may have been before the committee. He did not appear when I was there.

Q. Do you say that you do not know one way or the other as to whether he was there or not?

A. Well, I understand he was there. You said along with me. [2514] George Hewitt, if I understand, testified either before I appeared or after I appeared, to make the record straight, but he was not in Seattle at the time I was there.

Q. And one of the ends of that particular hear-

(Testimony of Manning Johnson.)

ing was an attempt on the part of the State of Washington to take away the job of a professor at the University of Washington upon the ground that he was a Communist; isn't that right?

Mr. Donohue: Object to the question, if your Honor please.

The Court: Sustained.

Mr. MacInnis: Your Honor, this is preliminary to a very important matter.

Mr. Donohue: How would he know what the ends of that committee were?

Mr. MacInnis: Your Honor, he testified himself, as he has already told us under oath yesterday, before the same committee at the same time in the same hearing, and I am about to come to something very relevant to his credibility.

The Court: You have a transcript of the hearing of the committee?

Mr. MacInnis: Of the Canwell Committee? Oh, yes.

The Court: You have that transcript?

Mr. MacInnis: Yes, I have that.

The Court: Confront the witness with the transcript.

Mr. MacInnis: You mean to prove that he was there?

The Court: Are you about to lay a foundation for [2515] impeachment?

Mr. MacInnis: I am about to proceed to another matter, your Honor. If there is any doubt that he was there——

The Court: There is no doubt——

Mr. MacInnis: If there is any doubt, I have the volume; it is right here, and I will pass it to your Honor and you will see that this man——

Mr. Donohue: He said he was there, if your Honor please. He hasn't denied he was there. He is asking this witness if he knows what the ends of the Congressional committee were or the State committee.

The Court: I sustain the objection.

Mr. MacInnis: In other words, this volume is the un-American Activities report of Washington State, 1948. I have the testimony of this man as well as the other man.

Well, perhaps I did word the previous question improperly, your Honor.

Q. Do you remember this, Mr. Johnson: That the subject of the inquiry at that time was the job of a professor at the University of Washington?

Mr. Donohue: I object to the question, if your Honor please. If he asks him what the subject of the inquiry as to this witness was, we may not object on the same ground.

Mr. MacInnis: Your Honor, this is preliminary.

Mr. Donohue: So what? It should be proper even if it is [2516] preliminary.

The Court: Objection sustained.

Q. (By Mr. MacInnis): Now, Mr. Johnson, after that hearing at which both you and Mr. Hewitt testified, the particular professor lost his job, did he not?

(Testimony of Manning Johnson.)

Mr. Donohue: I object, if your Honor please. I think this is an improper subject——

Mr. MacInnis: This is still preliminary.

Mr. Donohue: That does not justify you making the statement that he may or may not have lost his job.

Mr. MacInnis: I will ask him that first.

Q. Did the hearing have to do with a professor of the University of the State of Washington?

The Court: The objection is sustained.

Mr. MacInnis: Your Honor will perceive the point. Your Honor, I have to approach it by steps. The question would be meaningless if I came to it directly.

Q. I will ask you this, Mr. Johnson: Subsequently the State of Washington reinstated that professor upon the ground that George Hewitt had committed perjury before the committee; is that not correct?

Mr. Donohue: I object, if your Honor please.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): And, Mr. Johnson, do you know as a matter of fact that a warrant for perjury was issued against [2517] George Hewitt and that extradition papers were sent to the State of New York in an attempt to bring him back for trial upon the crime of perjury in Seattle, Washington?

Mr. Donohue: I object to the question, if your Honor please, and I again say to your Honor that

(Testimony of Manning Johnson.)

counsel should be cautioned that if he wants to make testimony or give testimony he ought to take the witness stand. I don't know anything about these matters he is testifying about, or whether they are true or false.

Mr. MacInnis: I dislike surprising you this way.

Mr. Donohue: You are not surprising me. Nothing you do will surprise me.

Q. (By Mr. MacInnis): Now Mr. Johnson——

The Court: Just a moment, Mr. MacInnis. The objection is sustained.

Again it appears to be a mode or manner of examination which I think——

Mr. MacInnis: Not on this occasion, your Honor. If you will bear with me for one question, I will demonstrate the connection with this witness——

The Court: By which, as a result of indirection, matters are elicited before the jury which otherwise could not be presented in any form or at all, representing incompetent, irrelevant and immaterial matters. I admonish the jury to disregard the statement of counsel in the form of a question. [2518]

Mr. MacInnis: Your Honor, here is the question that I was approaching by this previous question.

The Court: Are these steps that you would like me to take along this blissful path?

Mr. MacInnis: Pardon me?

The Court: You asked me to take these various steps along this path up to this juncture. What is the next question?

(Testimony of Manning Johnson.)

Mr. MacInnis: The next question is this:

Q. Mr. Johnson, you testified as a witness for George Hewitt in the extradition proceedings held against him in New York, and you testified that the matter for which Hewitt had been indicted upon in perjury was as a matter of fact a true statement, didn't you?

Mr. Donohue: I object, if your Honor pleases. I don't know that that is a question. I didn't get the interrogation point at the end.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Mr. Johnson, did you testify——

The Court: The same admonition to the jury.

Mr. MacInnis: Pardon me. Does your Honor mean to the last question or to the one I am about to ask?

The Court: To the last question.

Q. (By Mr. MacInnis): Mr. Johnson, did you testify in the State of New York in the extradition proceeding involving [2519] George Hewitt?

Mr. Donohue: Objected to, if your Honor please. Are we going to try that extradition case?

Mr. MacInnis: No, this goes to testimony of this man given under oath.

Mr. Donohue: Do you want to impeach him?

Mr. MacInnis: Will you read as far as I had gotten, please.

(Question read.)

Mr. Donohue: Object to the question.

Q. (By Mr. MacInnis) Continuing): ——that

(Testimony of Manning Johnson.)

the particular professor of the University of Washington was in New York and identified him yourself as being in New York when it had already been proved in the State of Washington that he was at that time in Seattle?

Mr. Donohue: I have never seen a more objectionable question. I can only object, if your Honor please.

The Court: Objection sustained. The same admonition to the jury.

Q. (By Mr. MacInnis): Now, Mr. Johnson, did you testify in the Gerhardt Eisler case? I think you already told us you did.

Mr. Donohue: I object, if your Honor please. Now we are going to try Gerhardt Eisler. I thought we safely put him back behind the Iron Curtain someplace. [2520]

Mr. MacInnis: Your Honor——.

Mr. Donohue: Or he put himself there by absconding.

Mr. MacInnis: Your Honor, these matters concerning previous testimony of this witness certainly would be admissible to show a common plan or scheme on behalf of the production of testimony. Now, I certainly have the right——

The Court: What was that last statement? I was distracted.

Mr. MacInnis: To show a common plan or scheme in the production of testimony. We have a matter involving another man who this gentleman says is a confessed ex-Communist. We have questions put to the witnses which show that the two of them appeared before the Un-American Activities Committee in the State of Washington; that after the hearing one of them was indicted for perjury in Washington.

Mr. Donohue: Where is that testimony, if your Honor please? Are we trying Gerhardt Eisler or trying Harry Bridges?

The Court: The objection is sustained. [2521]

Q. (By Mr. MacInnis): Let me ask you this: Did you give any false testimony in the Gerhardt Eisler case?

Mr. Donohue: I object, if Your Honor please.

The Court: Sustained.

Mr. MacInnis: Your Honor, will you bear with me a moment on this? This witness comes here and purports to identify one of the defendants in this case, a man whom he says he saw for the first time, never met personally, but saw him introduced before 50 people on one occasion, and whom he never saw since. Now, surely I have a right to ask him about identifications that he has made in other cases when he has been called by the Government.

The Court: As I recall the testimony with respect to and pertaining to the Gerhardt Eisler case, he testified in this matter that his testimony in that matter bore upon the several and numerous aliases on the part of or used by Gerhardt Eisler. To that

(Testimony of Manning Johnson.)

extent, if you desire, if you have their records, you may lay the foundation for any possible impeachment with respect to his testimony in the Gerhardt Eisler case.

Mr. MacInnis: I have, Your Honor, I might say—so Your Honor won't think I am misrepresenting the matter here—I have the Yanish transcript, to which I have already referred several times, and in the Yanish case this man was questioned about testimony he gave in the Eisler case. So it appears from his testimony given under oath in the Nat Yanish proceeding here in [2522] San Francisco in February of 1948.

The Court: If you have any question in the Yanish transcript bearing upon his asserted credibility, that might have a bearing, you might ask the question.

Mr. MacInnis: To refresh the memory of the witness, I would like to ask him to read page 470 of the Yanish transcript, beginning with line 20, up to line 5 of page 471.

Mr. Donohue: Since I do not have that record, may I have a look at it?

(The document was first handed to Mr. Donohue and then to the witness.)

Mr. Donohue: Before the witness is questioned, if Your Honor please, only because counsel has just said this is from page 470 and we have only gone over about twenty of them, may I say to Your

Honor, examination on this portion of the transcript which has been added to the witness in no possible way could serve the purpose of impeaching this witness for any purpose he has offered before this Court and for that reason I object to any question being asked him about it. I suggest if Your Honor has any doubt about it as a matter of law or fact that Your Honor read the record.

Mr. MacInnis: Your Honor, I did not suggest that this was an impeaching question.

Mr. Donohue: Then if it is not impeachment, it is not pertinent or material and I object [2523] to it.

Mr. MacInnis: I suggested, Your Honor, that this was to refresh his memory as to what he said. I may then impeach him if his memory is to the contrary. I showed him this particular portion to refresh his memory.

Mr. Donohue: About what he said where or when?

Mr. MacInnis: I will come to that, if I may.

Mr. Donohue: I think we ought to begin with what is first and then we won't get off on a tangent.

The Court: What is your immediate purpose?

Mr. MacInnis: I think there is no question before you now.

The Court: I can't follow you now. What is your immediate purpose.

Mr. MacInnis: My immediate purpose, Your Honor, is to question him about an identification that he purported to make in the Eisler case. I

(Testimony of Manning Johnson.)

showed him the portion of the testimony in this transcript to refresh his memory on that particular subject, because I want to point out to the witness that in the Eisler case he purported to identify——

Mr. Donohue: Wait just a minute. Let us play the game according to some standard of fair play. Are you going to testify now as to what this man testified to in the Eisler case when there is an objection before the Court?

Mr. MacInnis: This is under oath in the Yanish case.

Mr. Donohue: You are not under oath but you are testifying. [2524]

Mr. MacInnis: This transcript you have stated is correct, it seems to me.

Mr. Donohue: I have stated only to His Honor that I object to your asking any questions about the transcript until the Court decides whether it is offered for the purpose of impeachment or some other purpose, wheupon counsel tells Your Honor what it says.

The Court: Specify the line.

Mr. MacInnis: It begins with a red line marking and goes on to the next page to another red line. I might say, Your Honor, the portion before you is a fragment of the subject matter, and if Your Honor wants to orient himself on the complete subject matter I would refer him to other pages of the transcript, pages 459, 464 and 466.

Mr. Donohue: That is the same fragment

(Testimony of Manning Johnson.)

handed to the witness, if Your Honor please, that forms the basis of this question.

Mr. MacInnis: There is no question before the Court at this time.

The Court: The objection is sustained.

Mr. MacInnis: What objection, Your Honor? There is no question before you.

Mr. Donohue: I objected to the witness being asked any question concerning the subject matter.

The Court: There is no basis in the markings that you [2525] have given to me that might be the possible foundation for any asserted impeachment or contradictions with respect to the case at bar.

Mr. MacInnis: May I be heard on that?

The Court: You may be heard at 4:00 o'clock, if you wish.

Mr. MacInnis: You mean not now?

The Court: Yes, because you may have other matters that you may wish to draw to my attention in that transcript to clarify the matter. If that fragment in association with another fragment in association with possibly another fragment, if out of all these fragments I may get the general mosaic of your thinking, it may take longer than one moment of my time here. I think at 4:00 o'clock we will go into it. The witness is to be returned tomorrow morning and I should ilke to have a full and complete analysis of what you have in mind. As it appears to me now, Mr. MacInnis, from the fragmentary excerpt of the transcript I have seen, it appears to me matter which is not altogether clear in the text. Whether it bore on the Yanish case, I do not know.

Mr. MacInnis: I will be glad to explain it now or later.

The Court: At 4:00 o'clock.

Mr. MacInnis: Your Honor, in view of the fact that we have asked this witness to return because we have other documents en route, I have no other subject matters that I wish to take up now. [2526]

The Court: We will take that up, Mr. MacInnis.

Mr. MacInnis: All right.

The Court: We will excuse the jury then. Ladies and gentlemen of the jury, the jury will be excused in this matter regularly until tomorrow morning until 10:00 o'clock, in this court. Again I admonish you not to discuss the case under any conditions or circumstances nor to converse on any subject of the trial, and not to form or express an opinion until the matter is finally submitted to you. You may now retire.

(The jury retired from the courtroom and in their absence the following took place:)

The Court: There were several other pages to which you addressed my attention.

Mr. MacInnis: I can tell Your Honor about it. Now, the general purport of the question is this: It certainly ought to be made a matter of inquiry in this matter as to the extent of the powers of observation of this witness. He comes here pretending to loom out of the past, telling us that thirteen years ago——

(Testimony of Manning Johnson.)

The Court: Counsel, may I interrupt you momentarily? Would you address your attention to the particular subject matter at hand of excerpts concerning the two men referred to in that particular excerpt? May I have the record here and I will read it.

Mr. MacInnis: You mean the record in the Yanish case? [2527]

The Court: Yes. You said you might orient me to the problem. May I have the text here? What is the page?

Mr. MacInnis: Four hundred and sixty-four.

The Court: The last page I had.

Mr. MacInnis: I think that was 470 and 471. But I understood Your Honor was now going to allow me to tell you the purpose of the examination.

The Court: It is difficult for me to have the purpose of the examination, counsel, until I find precisely the subject matter that you intended to discuss with me. At 470 at line 20:

> "Mr. Gladstein (addressing himself to the witness): Now, Mr. Johnson, when you appeared on the witness stand in the Eisler case a second time, isn't it a fact that you then testified that Tim Buck and Carr were not at the meeting at your house in Buffalo in 1933?
>
> "A: I testified——"

and then there was a break——

> "Q. (This is Mr. Gladstein.) Yes, or no, please.

"A. I can not answer that question yes or no. I can only state that the persons who were present at the meeting were introduced to me as Tim Buck and Carr, and I stated in my rebuttal in the same respect that Gerhardt Eisler was introduced to me as Brown and later as Edward."

Then continuing on after line 5—you mark a red mark through here, the witness continued: [2528]

"It is customary in the party for people to change their names. Some of them have six, seven, eight, nine or ten different names, and someone might go by the name of John Jones in New York and Peter Paul in San Francisco.

"Mr. Gladstein: I move that all that be stricken."

Now, you are laying or attempting to lay the foundation for the possible impeachment of the man. Mr. Gladstein moves that it be stricken. What is before the Court?

Mr. MacInnis: I clearly think Your Honor has not looked very closely at the context. May I tell you what my purpose was?

The Court: I believe I know your purpose.

Mr. MacInnis: Not when you make that remark. I say that in all due respect.

The Court: I have read it, counsel, to you.

Mr. MacInnis: May I tell you what my purpose was?

(Testimony of Manning Johnson.)

The Court: I have read the context to you. You see, I have not looked at it closely.

Mr. MacInnis: Not if you think that motion to strike destroys the validity of the offer I was making. May I tell you what the purpose was, Your Honor?

The Court: Yes.

Mr. MacInnis: The purpose is this: This witness is brought here supposedly to make an identification. I want to show that in the Gerhardt Eisler case he was put on the stand under oath, [2529] that he was asked to identify from two photographs two persons whom he said he had met once in his life, and it turned out he was in error, and that he later was brought back to the stand to say that his reason for making the erroneous declaration was that Eisler, Browder or some other person had told him that these people were members of the Communist Party, and that the United States Attorney, as appears from this transcript, entered into a stipulation that the identification by the witness Manning Johnson was in error in the Gerhardt Eisler case. Here he comes and makes that identification on an isolated occasion. I certainly think we are allowed to probe into his powers of observation, and if under oath in other cases he has been in error in identifying people whom he says he met only once as a Communist, and it turns out that those were not the people at all, that is a matter that ought to be received by the Court and jury.

(Testimony of Manning Johnson.)

Here is my point, however inartfully I try to express it, about the man called George Hewitt. George Hewitt, as this witness tells us——

The Court: Let us take up this matter before we go into Hewitt. Mr. Donohue, may I hear from you on this last matter?

Mr. Donohue: If Your Honor pleases, in the first place, this witness was not brought here supposedly to make an identification. The witness was brought here to make an identification which he made and still states he made after two days of cross-examination. [2530] I do not know, if Your Honor please, anything about the matter which is in this record except what Your Honor has called to my attention by reading it. Obviously, if it was stricken from the record, it is not in the record. But beyond that, let us assume for the purpose of this discussion that he did make a wrongful identification on some other occasion. Does that mean he is not permitted to make an identification here? Has the fact that a person may have been convicted of an offense ever been admitted for the purpose of proving that he committed another offense, even of the same character? I say to Your Honor, No. 1, if the matter was stricken from the record, it can not be referred to, nor can questions be asked of the witness, because it is as though it was never in the record; No. 2, I say it doesn't make any difference whether on any occasion this witness has made a mistake in identification, but I do not concede that he did, because it is not pertinent in this issue. I most respectfully object to it, as I did before.

Mr. MacInnis: Your Honor, I cheerfully concede that part of what the prosecutor says is true, and this is the part: He says that the fact that a man has made a wrong identification under oath in the past does not stop him from making an identification in this case. That is quite true. But the jury should be allowed to see the weight of his identification, and if he has made a false identification in the past, the jury [2531] should be allowed to see how he erred at that particular time. That is the whole point. If I had no transcript at all, I would think I would be entitled to ask him if he made a false identification under oath in a criminal case in the past or in a deportation case, as the matter might be.

Mr. Donohue: I understand, if Your Honor please, the fact of the matter is a misidentification was made by this witness identifying by photograph that when a personal identification was asked of him, he made the personal identification without any error or mistake.

The Court: You see the difficulty that is immediately perceived in the analysis of a problem like this to a court: One, that we have in the Yanish case a reference by Mr. Gladstein to fragments of the case reported in the Gerhardt Eisler matter, and then this court in turn takes a fragment from the Yanish case, and in the light of that fragment assumes to lay the foundation for the possible impeachment of this man or an attack upon his credibility with respect to a transcript that is not before the Court. I think the logic of the situation is immediately apparent, that we could not under any degree of logic or reason or orderly procedure adopt a policy wherein fragmentary parts of a transcript may be taken which in truth were stricken or attempted to be stricken by Mr. Gladstein and assume to lay that as a foundation for an attempt upon the man's credibility with respect to the identification of a [2532] matter wherein he testified in New York City. I respectfully say to you, Mr. MacInnis, to produce the transcript of the Gerhardt Eisler case in New York City so the full text may be obtained. It may well be that he did make a mistake. I do not know. And that he thereafter rectified it. I do not know. You are asking me to guess.

Mr. MacInnis: From Your Honor's comments, it would appear that you think the point is rather attenuated because you have said I am asking you to piece a fragment with another fragment and then figure out what you very complimentarily said was the mosaic of my thinking. Actually, suppose I had no transcript at all. Wouldn't I be allowed to ask this witness if he did not testify in the Gerhardt Eisler case under oath and if he did not under oath make an erroneous identification of another man?

(Testimony of Manning Johnson.)

The Court: He would be entitled to the transcript in aid of the clarification, if any there be, with respect to his statements then and there made. I can't see how you could attempt to impeach him with respect to his credibility or as to identification in the Gerhardt Eisler case by and as a result of his testimony given in the Yanish case, which is fragmentary, tenuous and quite insecure, at least from the standpoint of Mr. Gladstein. Mr. Gladstein asked that it be stricken from the record.

Mr. MacInnis: Your Honor, everyone seems to be proceeding [2533] now upon the theory that I handed the witness that document as grounds for impeachment. I very carefully said to the Court that I was showing him those remarks, those fragments of the transcript to refresh his memory, because I was then going to ask him if he remembered the subject matter. I was then going to ask him if under oath he identified these two men, and then I was going to ask him if under oath he was not brought back to the stand and he did not make any correction.

The Court: Is it now possible to obtain the Eisler transcript? That is a matter of preparation, it would seem to me, that either side might have that transcript. Eisler was tried.

Mr. MacInnis: I am sure the Government has it.

The Court: I am not sure of anything. I do not know.

Mr. Donohue: I suppose it is in Washington.

(Testimony of Manning Johnson.)

Your Honor, or in New York. We did not expect to try Eisler again so we did not bring it here.

The Court: Maybe Mr. Eisler will return for another trial.

Mr. Donohue: I wish he would. I am afraid he won't. He knows better. But Mr. MacInnis certainly knew about this Yanish and Eisler matter because he has had that transcript in here for several days. If he wanted to obtain the Eisler transcript, he could have gotten it.

The Court: I am obliged to sustain the objection, Mr. MacInnis. [2534]

Mr. MacInnis: Your Honor, I am a little impressed by the last remark on what we should have anticipated. I think, Your Honor, that the secrecy attributed by the witness Manning Johnson to the Communist Party is exceeded only by the secrecy that Mr. Donohue attaches to his list of witnesses.

Mr. Donohue: That is a high compliment.

Mr. MacInnis: Your Honor, we do not learn until the witness takes the stand, apparently, as to what his identity may be, or where he comes from. We read in the papers about the great surprise we are going to get from the next witness, and those are the utterances of Mr. Donohue. So I do not know how we could be expected to have that transcript here in advance.

Mr. Donohue: I will tell you how, if Your Honor please.

The Court: Counsel, I will do this. If you ask me, I will detain this witness here under order of the Court for you to produce the Eisler transcript, if you feel you have the basis for a possible impeachment.

Mr. MacInnis: Thank you. May I reserve that request until the morning?

The Court: Yes.

Mr. MacInnis: If it is decided that it would be of value, I will make such request. I will not do so unless I think it is of value to the Court and jury.

The Court: The witness will be retained for that purpose.

Mr. MacInnis: We certainly think that is [2535] fair.

The Court: When you have the transcript, I will rule upon it.

Mr. Donohue: May I make one observation?

The Court: Yes.

Mr. Donohue: Mr. Hallinan told the jury in his opening statement that we were going to call a man by the name of Manning Johnson. He knew then. That was a month ago.

Mr. MacInnis: I did not think he was going to introduce a man after 13 years.

Mr. Donohue: Mr. Hallinan said we were going to call him.

Mr. Hallinan: I didn't think you would have the gall to do so.

The Court: Gentlemen, I have stated what I think is the answer.

Mr. MacInnis: That is fair enough, Your Honor. I have no criticism of that at all. That is fine

(Testimony of Manning Johnson.)

May I address Your Honor then on the same or a similar matter. Your Honor suggested that I wait with the explanation of the questions about that man Hewitt until we terminated our discussion of the other matter, this other identification. Here was the point. Here is what I wanted to prove by that line of examination. Hewitt and Manning Johnson were both offered as witnesses before the——

The Court: Who is Hewitt?

Mr. MacInnis: Hewitt is this man called George Hewitt, whom Manning Johnson has identified as a member of the National Committee of the Communist Party with himself, whom he has also identified as a member of the American Negro Congress with himself, and who he says is also now a confessed ex-Communist. From his lips we learn that two of them testified before the Un-American Activities Committee in the State of Washington called the Canwell Committee.

Now, I propose to show the following facts by the questions to which objections were sustained. And I confess I may not have made my purpose clear to your Honor.

One of the points of injuiry in that hearing was the charge that a professor at the University of the State of Washington ought to be relieved of his duties because he was a member of the Communist Party. Manning Johnson testified. George Hewitt testified. George Hewitt testified that he saw this professor at a certain Communist meeting in New

York at a time which I did not have in mind at the moment. After the hearing the man was discharged from his job as a Communist. In a short time, however, an investigation developed that the testimony had been false, and he was reinstated to his job, a public apology was given him, and George Hewitt was indicted for perjury in the State of Washington. A warrant was then issued for his arrest. And, of course, he had by then departed, [2537] gone back to the State of New York. The ordinary processes of extradition were invoked, and the State of New York had a hearing as to whether or not the witness Hewitt should be sent back for trial on perjury in the State of Washington. So at the hearing Mr. Hewitt appeared, made a special appearance, and said that he had not committed any perjury. He was then abetted by Mr. Manning Johnson, who took the witness stand and testified under oath that he also had seen this Washington professor in the Ctiy of New York at the time in question. It had already been determined in the State of Washington that Hewitt had committed perjury, a public apology had already been made, and a finding had that the professor was at all times in Seattle.

Now, certainly that testimony would show a tendency for complicity and false identifications. It would go to the motives of such a witness who has appeared in so many cases. It would go to his powers of observation. It would go to his tendency to make false identifications. That was the purport of that testimony, your Honor.

Mr. Donohue: How do we know anything this man has stated is true; except, if your Honor please, his——

The Court: You mean Mr. MacInnis?

Mr. Donohue: Yes. He has told us, if your Honor please, about a finding of fact in the State of Washington by this committee and a finding of fact in the State of New York on a [2538] removal order. The only way your Honor and this jury can ever know whether the conclusions which Mr. MacInnis draws are true or not is to adjourn this court and let us go up to Washington, call these people and try the case up there, and go on to New York and try the same issue. Obviously we can't try these issues. And what difference does it make, if your Honor please, whether the witness Hewitt committed perjury or not? The question is whether Manning Johnson committed perjury. He is the witness on trial here, or in this trial, not Mr. George Hewitt.

Mr. MacInnis: I can suggest a quicker way, your Honor.

Mr. Donohue: Let's have it.

Mr. MacInnis: I would suggest your Honor ask these gentlemen at the prosecution table if they do not have memoranda showing substantially that those facts are true as I have alleged.

Mr. Donohue: I have no memoranda here at this

(Testimony of Manning Johnson.)

table, if your Honor please, or any other place, none whatsoever, because I didn't expect to try Gerhardt Eisler or to try George Hewitt or some professor up in the State of Washington. We expected to try the three defendants before this bar.

The Court: You have a situation, Mr. MacInnis, twice removed.

Mr. MacInnis: Yes.

The Court: There might be some plausibility to the [2539] presentation had Mr. Hewitt advanced to the stand or subjected himself to cross-examination under conditions similar to or in some wise in keeping with the matter before the Court; but the witness' relationship to Mr. Hewitt in connection with the matters you point out to the Court certainly would not be the proper subject of cross-examination nor a test as to his creditability. They are remote. They are indefinite, speculative and uncertain. Accordingly, I sustain the objection.

Mr. MacInnis: I am fairly sure that the Government will not bring Mr. Hewitt this far West.

The Court: Well, you don't know.

Mr. Donohue: He may get a great surprise one of these days, if your Honor please.

The Court: I don't know what the Government has in mind any more than you do.

We will adjourn until tomorrow morning at ten o'clock.

(Thereupon, an adjournment was taken until Thursday, December 15, 1949, at 10:00 a.m.)

December 15, 1949, 10:00 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: Your Honor, in the interest of the record in this case, I want to make several motions now directed at testimony which was given here yesterday over the protest of myself as a cross-examiner, and I want to call Your Honor's attention first to page 2484 of the transcript. All of these motions will be made upon what I think to be the familiar rule that the cross-examiner may choose the subject of the examination and the witness may not enlarge upon that subject by volunteer remarks or by explanations when questions do not call for any explanation. On page 2484 I want to call the attention of the Court to the question on line 7 put by me to the witness. The question is this:

> "But you never saw Harry Bridges thereafter?"
>
> "The Witness: No, I did not."

And then he continues:

> "And the reason I didn't see him was because——"

and then I interrupted and said:

> "Pardon me, Your Honor. This man can not give a reason as to why he didn't see somebody."

And I continued, and Your Honor finally said:

> "I think he might explain if he didn't see the witness." [2541]

So then the witness made a long, volunteer statement not called for by that very simple question, which was:

> "But you never saw Harry Bridges thereafter?"

It did not call upon him to explain why he did not see him. And so he answered from line 20 on page 2484 down to line 11 on page 2485 giving his hearsay statements about other persons outside the scrutiny of this record, to say the least.

I move the first instance that that entire answer be stricken except that portion of the answer, "No, I did not," which was the answer to the question, and the only answer called for.

The Court: From the text of the question and the answer, I would say in response to your motion, Mr. MacInnis, that implicit in the question, "But you never saw Harry Bridges thereafter," is the right on the part of the witness to explain the reason after giving a categorical answer, and that is the reason that I permitted the answer. It may be observed I said yesterday, 2484, line 18:

> "The Court: I think he might explain if he did not see the defendant."

And then your following question addressed to the witness, after he made this answer:

> "In other words, Mr. Bridges occupied some super-secret position beyond that of Browder, Eisler, Stachel, Peters—any of the persons whom you have named—so that he was able to [2542] be introduced once, never seen again, but present in spirit thereafter, is that it?"

And then he, the witness, Mr. Johnson, made another answer.

Mr. MacInnis: I have not come to that yet. I am referring to the portion which follows the question, which seems to my mind one that calls only for a yes or no answer:

> "But you never saw Harry Bridges thereafter?"

If Your Honor's reasoning upon that could be correct, any answer could call for a speech by any witness on any subject, because I can not think of anything more simple than "But you never saw Harry Bridges thereafter?" It is another way of saying, "Did you ever see Harry Bridges again?" The witness then tells us, giving us a hearsay statement about the activities of other persons, why it was that he did not see Bridges again.

The Court: You speak of hearsay. I am not inclined to agree with that statement for the reason that the witness stated on page 2484, line 20,

> "The Witness (That was Mr. Johnson.): At the National Committee meeting, at which Harry Bridges was introduced to the membership, we gave him a big ovation. He was in-

troduced by Jack Stachel, who made brief remarks. After his remarks Jack Stachel said to the members of the National Committee that in the future—in that future that Harry Bridges would not be brought to members of the [2543] National Committee as a security reason."

And so forth, and assigned the reasons, all part and parcel of that asserted ovation, and the consequent tribute paid to Mr. Bridges and the reason of the security, all part and parcel of the same event.

Mr. MacInnis: If Your Honor will begin with line 5 on page 2485, you will see what I mean by the hearsay statement and matters that were not possibly part of the same transaction beginning with the word "Furthermore," down to line 15. That is merely a commentary by the witness and his opinion.

The Court: For all that appears commencing with line 5 on page 2485, it may well be a part and parcel of the same conversation on the part of Mr. Stachel, because of the fact that the Communists on the West Coast were constantly under police surveillance and they would not make a move without being constantly checked, that in order to safeguard the key people that the party had in the labor movement on the Pacific Coast that Bridges would not be asked to come into any part of these meetings."

Mr. MacInnis: I just want to make the record in connection with Your Honor's ruling. [2544]

The Court: I am content with the ruling I made yesterday.

Mr. MacInnis: There wasn't any ruling yesterday, because I didn't make a motion to strike at the time. I think the rules require me to make the motion to strike after the testimony is in the record. That is what I am doing now.

The Court: All right, sir. The motion is denied.

Mr. MacInnis: Calling your attention now to page 2487, I asked a question which your Honor later characterized as "all-embracing," on line 17:

> "Q. How was it explained that this man Rossi was in such a strategic position that he could not return thereafter?"

We had some colloquy as to whether a volunteer answer could then be given going into matters allegedly taking place in 1934, all of them outside the presence of the defendant. Your Honor said that the question was all-embracing, and I added to the question on two occasions, on pages 2488 and 2489, that the question goes to that time in 1936. Your Honor, nevertheless, permitted the witness to make a detailed answer. He begins with line 7, page 2489, to line 9, and he continues again on line 15 of 2490, and he continues there to line 3 of page 2491. Now, we move to strike that answer as constituting hearsay, certainly unfair under any rule of discretion that ought to protect the defendants at bar, who are presumed to be innocent. And we move that that answer be stricken in its entirety. In other words, your Honor, conceding that [2545] your criticism of my question might be a correct one, considering and conceding that the cross-examiner may have asked too sweeping a question, if an unfair answer based upon hearsay, naming people not before the Court, discussing events into which the cross-examination can't possibly probe, comes into the record, certainly the matter ought to be stricken and these defendants not held accountable for pure hearsay.

The Court: Mr. MacInnis, one correction for the record. I did not assume to criticize your question then, nor am I criticizing it now. I was asked by you to make a ruling on your question.

Mr. MacInnis: I appreciate that.

The Court: I certainly did not assume to criticize it.

Mr. MacInnis: I am not putting it that way, your Honor.

The Court: The question was at page 2487, line 17:

> "How was it explained that this man Rossi was in such a strategic position that he could not return thereafter?"

The witness then spoke of Rossi and continued over. Then you again, Mr. MacInnis, at line 10, page 2489, interrupted, and you said: "We are not interested in hearsay testimony about what the man called Darcy may have said to some other person."

Now, addressing ourselves to the question again: "How was it explained that this man Rossi was in such a strategic position that he could not return therafter?"

Mr. MacInnis: That question, if I may interrupt your Honor, had to do with the matter on which the witness was [2546] being questioned, and that was this isolated occasion in which he says he saw Harry Bridges for the first time and that was in a group of fifty people, that Bridges was introduced under the name of Rossi. It went to that transaction alone. It did not go to 1934. It did not go to what anybody else said any other time. The question was amplified at the top of page 2490. I said, "May I say this, your Honor? The question calls for any explanation given at that time, 1936, not for some hearsay testimony that we can't possibly probe into."

The Court: I said at line 14, page 2489:

> "The Court: Mr. MacInnis, I think a re-reading of that question will convince you, as it convinced me in ruling on the objection, that the question itself will permit this witness to give sources, either in writing or oral, as to the reasons underlying the designation of the so-called or alleged alias of Rossi. Now, he may answer."

I think, Mr. MacInnis, that the motion should be denied in the exercise of sound discretion. Accordingly, it is denied.

Mr. MacInnis: The final motion in this request, your Honor. We call your Honor's attention to page 2492 of the transcript in which the question appears at the top of the page:

> "Q. Harry Bridges —at least this man whom you saw for [2547] the first time and now call Harry Bridges, appeared between fifty-odd people, some of whom he had never seen before and some of whom he had never even met, according to you, and allowed himself thus to be revealed, is that right?"

Now, the answer is pure hearsay. The answer goes from line 6 down to line 15. And we move that that answer be stricken as well.

The Court: The answer was: "That was a Party decision. He was called and he sat in on the meeting, he listened to the reports, he listened to the discussions, and he was introduced, and the decision as to maintaining secrecy with regard to his identification with the Party was made,"—integrated as a part of that general meeting—"and it was agreed,"—again as part of that meeting—"upon that the past relations which they had where Jack Stachel, Gerhardt Eisler and Earl Browder used to meet him in secret out here during the San Francisco general strike, as they had that personal relation in meeting with him at that time—that that was the relationship that should be continued."

The motion is denied.

You may call the jury.

(The jury was brought into the courtroom.)

The Clerk: The witness on the stand is Manning Rudolph Johnson, heretofore sworn. [2548]

MANNING RUDOLPH JOHNSON resumed.

Cross-Examination
(Continued)

By Mr. MacInnis:

Q. Now, may it please the Court, I had a stenographer make copies from the New York Times in the San Francisco Library as to the dates and reports of the 1936 convention of the Communist Party. I would like to show this memorandum to the prosecutor and see if some agreement can be reached as to the facts of these dates.

Mr. Donohue: I don't know what the purpose of asking me to read the memorandum on that paper was, if your Honor please, so——

The Court: I stated last evening that I hoped that counsel on both sides might agree upon a date or dates.

Mr. Donohue: In the first place, if your Honor please, the Government is perfectly willing to stipulate as to what, from a comparison of our records, would indicate was the date or were the dates upon which this 1936 convention was held. However, the memorandum which counsel handed me does not agree with the dates as I have them from our own records, and it seems to be more than a memorandum of dates. It seems to be excerpts from some newspaper publication. Obviously I couldn't concede either that these are excerpts from a newspaper——

Mr. MacInnis: What was the disparity between your date and ours?

Mr. Donohue: Because, your Honor,——[2549]

Mr. MacInnis: What do you say are the dates the 1936 Communist Party convention was held upon?

Mr. Donohue: I can't say, except that our records indicate, if your Honor please, that the 1936 national convention of the Communist Party opened in the Manhattan Opera House at 311 West 34th Street, New York City, on the 24th day of June.

Mr. MacInnis: We agree to that.

Mr. Donohue: The first figure here on your list was the 25th of June.

Mr. MacInnis: Yes. Any newspaper item of the 25th of June would, of course, show something that happened the day before.

Mr. Donohue: I assumed that was so.

The Court: We have the date of commencement.

Mr. Donohue: If your Honor please, our records show the final session was held at Madison Square Garden on Saturday, the 26th day of June, 1936.

Mr. MacInnis: In the first place, that was not a Sunday. Sunday was the 28th, your Honor.

Mr. Donohue: I think I had better put on my glasses, if your Honor please.

Mr. MacInnis: Yes.

Mr. Donohue: Maybe that is the 28th. The 28th day of June, if your Honor please.

(Testimony of Manning Johnson.)

The Court: The 28th? [2550]

Mr. MacInnis: Then we are in perfect accord, your Honor. There is no disparity at all.

Mr. Donohue: There is a disparity because——

Mr. MacInnis: Where? Show me the disparity.

Mr. Donohue: Because the first date you have on your sheet shows the 25th and the last date you have shows the 29th.

Mr. MacInnis: Of course, the 29th——

Mr. Donohue: The fact is it was the 24th and 28th.

Mr. MacInnis: The date on this page is the 29th. The article talks about that meeting of the 28th of June on the last day of the session.

The Court: Are we settled on this matter? The proceedings commenced on the 24th of June?

Mr. Donohue: So I am informed, your Honor.

The Court: And they terminated on the 28th of June?

Mr. Donohue: So I am informed, your Honor.

Q. (By Mr. MacInnis): Now, Mr. Johnson, are you familiar with a publication which was called the Western Worker?

Mr. Donohue: I object, if your Honor please.

Mr. MacInnis: It is preliminary to establishing something, your Honor.

The Court: Objection overruled.

A. I recall a publication called the Western Worker that was published by the Communist Party on the West Coast during the early '30's. [2551]

(Testimony of Manning Johnson.)

Q. (By Mr. MacInnis): It was a Communist Party publication, is that correct?

A. Yes, if I understand correctly, it was a Communist Party publication.

Mr. MacInnis: Your Honor, we have obtained last night from the defunct offices of that publication the issues of those dates, and I want to show them to the witness for another purpose. I am going to call his attention to two things (exhibiting documents to counsel).

The Court: Is there a particular article you had in mind? I notice counsel going over the whole page. Is there any particular article?

Mr. MacInnis: They are reading the whole paper. Oh, that is all right. People are naturally curious about these things.

Mr. Donohue: If your Honor please, we are not reading the whole paper. We are reading the article to which our attention was directed. And I might say to Mr. MacInnis that we have a complete file of the Western Worker, so I do not see the publication for the first time.

Mr. MacInnis: So I was wondering after thirteen years of preparation why they would be reading each column at a time, your Honor.

Mr. Donohue: You will find lots of reasons why before [2552] we finish, Mr. MacInnis.

Mr. MacInnis: Your Honor, in view of the last statement of Mr. Donohue, which I suppose we can take as a stipulation, I would imagine that the Government also has a complete file of the Daily Worker, the official Communist paper, which would also enlighten us as to any matters of date which might come up in this controversy.

The Court: You might ask counsel.

Mr. MacInnis: Pardon me?

Mr. Paisley: You didn't hear me that time.

Mr. MacInnis: No; you started in the middle of a sentence that time.

Mr. Paisley: I am one up on you this time.

Mr. MacInnis: I wanted you to finish. Every time he starts calling me a name he drops his voice, I look over, and I do not hear the rest. [2553]

Mr. MacInnis: I will ask, please, that the Clerk could display to the witness what appears here as a copy of the newspaper entitled "Western Worker," entitled "Western Organ of the Communist Party, Inc.," dated San Francisco, California, Monday, June 29, 1936. I would like to ask him to look at the date, the masthead and the headline of this first page, and then turn, if you will, to page 2 of the same paper and look at a paragraph which is in bold face, which I will mark with two red dots. I will ask you if you will look at this and I will see if these matters refresh his memory, Your Honor.

I might say, Your Honor, I have no objection to the witness reading the text, but the only matters I was going to call his attention to were two, and they were rather small.

The Court: On the succeeding page.

Mr. MacInnis: There is one paragraph, the headline and the date. Those were the only two things I called his attention to.

The Court (To the Witness): Did you follow counsel?

The Witness: No, I thought he meant for me to read——

Mr. MacInnis: He may if he wants. He may read the whole page if he wishes.

The Witness: I am only reading that which pertains to the convention. I thought that is what you called my attention to.

Mr. MacInnis: I was going to suggest that you read the masthead, the date, the headline of the paper, [2555] and then the paragraph on page 2 that I marked in red.

Q. Mr. Johnson, having established by agreement between the prosecution and the defense that the 1936 convention of the Communist Party took place in New York between the dates of June 24th and June 28th, I want to ask you now these questions: Do you recognize the paper just now shown you?

A. That is the first time I have ever seen a copy of the Western Worker. It was published in California.

Q. Was it known to you to be at least a semiofficial Communist paper?

A. I recall it as being one of the papers published by the Communist Party on the West Coast.

Q. By the Communist Party itself?

A. I understand that.

Q. Did you read the headline on the date of Monday, June 29, 1936?

Mr. Donohue: I object, if Your Honor please. Of

(Testimony of Manning Johnson.)

what probative value has the headline of a newspaper?

The Court: I think Mr. MacInnis said he desired to refresh the witness' recollection.

Mr. Donohue: On what, if Your Honor please?

Mr. MacInnis: May we proceed to that without your assistance?

Mr. Donohue: I think we ought to know so you will proceed in the right direction. [2555]

The Court: Has the witness' recollection been refreshed?

The Witness: I accept the date as that the Government accepted or agreed upon.

Q. (By Mr. MacInnis): Were there in fact 750 delegates at the Communist convention?

Mr. Donohue: I object, if Your Honor please. The witness has testified, as I recall—I could be in error—there were 300, 400, 500—I don't know what. Is he seeking to impeach him by a headline?

Mr. MacInnis: Merely to refresh his recollection as to whether there were 750.

Mr. Donohue: Present——

The Court: In Madison Square Garden.

Mr. Donohue: There were 25,000 at that hearing. He said the Madison Square Garden was filled at the final day. But you can't impeach a witness by the headline of a newspaper.

Mr. MacInnis: Your Honor, the memory of the witness can be refreshed by any memorandum.

The Court: We agree on that principle.

Mr. Donohue: If I had asked him, if Your Honor

(Testimony of Manning Johnson.)

please, if reading the headline refreshed his recollection of the number of delegates present, I would not object, but he says to the witness in front of the jury, reading the headline, "The headline says 750 delegates. Does that refresh your recollection that there were that many there?" [2556]

Mr. MacInnis: It sounds as if he wants me to put the verb in a different place in the sentence.

Mr. Donohue: No, I think he ought to ask the question in the right form.

Mr. MacInnis: I will try to do that.

Q. Having read this headline in the paper, is your memory refreshed as to the number of delegates present at the Communist Party convention in 1936?

A. As far as I am concerned, I stand on by previous testimony, not on the statement of the headline in the Western Worker, because it has always been customary for the Communist Party to exaggerate the figures of persons present. They never put the facts about things straight in any publications. I have done it and every Communist has done it.

Q. Mr. Johnson, did I understand you to say that Madison Square Garden was filled at the final meeting of this convention?

A. I said the Madison Square Garden was packed.

Q. When that fact is repeated in this paper, does it become a lie?

A. I don't believe anything that is published in the Western Worker or the Daily Worker, either one.

(Testimony of Manning Johnson.)

Q. You say Madison Square Garden was filled. You say also these papers always exaggerate. If both the paper and you say that Madison Square Garden was filled at that meeting, are you both [2557] telling the truth or are you both now exaggerating?

Mr. Donohue: He is arguing with the witness, Your Honor.

The Court: It is argumentative. Sustained.

Q. (By Mr. MacInnis): Mr. Johnson, was the final session of this convention held on Sunday at Madison Square Garden as a mass meeting?

A. There was a mass meeting held at Madison Square Garden, a public mass meeting at that particular time, and I think I so stated in my testimony.

Q. Is it the truth, Mr. Johnson, to the best of your memory now, that the election of the National Committee of the Communist Party in 1936 was held upon Sunday, the 28th day of June of that year?

A. I do not recall whether the committee was elected on Saturday, Sunday or Monday. All I know, it was elected some time during the course of the convention.

Q. Is your memory refreshed by reading the paragraph that I have marked in red on that subject?

A. I would not trust my memory as far as the Western Worker is concerned.

Q. Is it true that the National Committee of the Communist Party was elected in the open session in Madison Square Garden?

Mr. Donohue: I object, if Your Honor please, to

(Testimony of Manning Johnson.)

counsel reading from a newspaper and asking questions.

Mr. MacInnis: I was not reading from a [2558] newspaper then.

Q. Is it true, Mr. Johnson,——

A. The National Committee of the Communist Party was not elected at the general mass meeting called in Madison Square Garden. The general mass meeting called in Madison Square Garden was really a mass meeting called of Communists, Communist sympathizers and fellow travelers. It had nothing to do with the business procedures of the national convention.

Q. How many persons in all did you say were present in Madison Square Garden?

A. As far as I am concerned, Madison Square Garden holds between 18 and 20 thousand people—not more than 20,000, according to my understanding of its capacity. You can check that very easily in the World Almanac with regard to capacities of halls. Whether there were more than that there, I doubt it, because there are certain fire regulations which cover that. They only allow a certain number of people in a building. So I can't say whether the figures of the Western Worker are correct or my estimate—I can only estimate on the basis of my own ability of estimating a crowd or group.

Mr. MacInnis: Your Honor, as to the balance of the matter that we discussed, I am expecting some deliveries by mail.

The Court: Yes.

(Testimony of Manning Johnson.)

Mr. MacInnis: I haven't anything in my hand.

The Court: All right, Mr. MacInnis. This witness will [2559] stand in readiness at the call or notice of the Clerk of the Court or the marshal.

Mr. Donohue: Will you remain just a moment?

The Court: You may cross-examine, Mr. Hallinan.

Mr. Hallinan: No, I do not want to cross-examine. I have a motion to make with respect to his testimony.

The Court: Are you finished with the witness on the stand?

Mr. Donohue: I have one question I want to ask, if I may, if Your Honor please.

Redirect Examination

By Mr. Donohue:

Q. Mr. Johnson, you were asked by Mr. MacInnis whether or not you had ever met Nat Yanish, about whom we have heard so much and your answer was no. A. That is right.

Q. And you were also asked whether or not you had met several of the other persons in whose deportation hearings in Los Angeles you had also testified for the United States, and in each of those instances you said again you had never met those persons.

A. That is correct.

Q. While you were testifying in the Nat Yanish case or in any one of the other cases, were you ever asked the question as to whether or not you can identify the respondent? A. No, I was not. [2560]

(Testimony of Manning Johnson.)

Mr. MacInnis: Pardon me. I think we should have the same ruling. It seems to me this colloquy has been arranged.

The Court: The answer may go out.

Mr. Donohue: What do you mean, "this colloquy has been arranged."?

Mr. MacInnis: You have gone over this matter with the witness.

Mr. Donohue: Don't you judge all persons by your own conduct.

Mr. MacInnis: I will tell you why I make that judgment. From time to time I asked a question about a transcript and this gentleman arose and said the rule was the witness had to be confronted with the transcript, but there is apparently some other rule when he wants to ask the witness about whether he was asked a question. From time to time I have made reference to another hearing and Your Honor has agreed with counsel that the mode of procedure was to present him with a transcript, and I have been barred from asking any further questions. The same man who so zealously tried to have that rule enforced now is trying to ask a blanket question without such rule. I suggest that is entirely improper in accordance with the rule he enunciates himself.

Mr. Donohue: I do not make the rules, as Your Honor well knows, but what Mr. MacInnis is trying to show to Your Honor is that where a witness is sought to be impeached by prior testimony in [2561] another proceeding, the witness is entitled to be presented with the transcript of that proceeding.

The Court: May I have the Zamora case, Mr. Mitchell?

Mr. Donohue: I am not seeking to impeach this witness, if Your Honor please. He was asked by Mr. MacInnis whether or not in these proceedings he had ever identified any one of the respondents and I think I have a right to ask the witness whether he was ever called upon to identify those respondents.

The Court: Mr. MacInnis, you asked me the other day for the decision in which Judge Garrecht participated and spoke for the Circuit Court, the Circuit Court of our Circuit. That was the case of Zamora v. The United States, 122 Fed. 2d. 631, with particular reference to 634, which had to do with a comparable situation as in the art case, referred to by Mr. Hallinan, the preliminary hearing and the like, and the Court was very explicit to set forth the rule which I adopted. Now, apart from the Zamora case, you have an objection.

Mr. MacInnis: Yes.

The Court: I have lost sight of the question.

Mr. Donohue: The question was, if Your Honor please, whether or not in his testimony in the Yanish case or any of the other like cases in the City of Los Angeles he was ever asked to identify the respondent Nat Yanish or any one of the other respondents. And that again results from a question asked on cross examination yesterday by Mr. MacInnis of this [2562] witness, "Did you ever identify or had you ever seen Nat Yanish or any one of these other respondents before you testified in the proceeding?"

The Court: I think the record is clear without

(Testimony of Manning Johnson.)

any further query about it—at least my recollection of the record is that the witness testified that he had appeared by stipulation.

Mr. Donohue: Not in the Yanish case. In that case he personally testified. I asked him only whether in so testifying he was ever called upon to identify Nat Yanish.

The Court: The objection is sustained.

Mr. Donohue: Now, since the question was raised by Mr. MacInnis, if Your Honor please, I ask Your Honor's permission to ask the witness this question:

Q. Mr. Johnson, from the moment that you left that witness stand yesterday afternoon until you took the stand this morning, tell His Honor and the members of this jury whether you have ever spoken a single word to me or I to you.

A. I have not spoken a single word to you. In fact, I didn't say good morning when you were standing in the hallway.

Mr. Donohue: You may have the witness.

Recross Examination

By Mr. MacInnis:

Q. Mr. Johnson, have you seen anybody connected with the prosecution in this case?

A. I have not. [2563]

Q. No one walked with you from the room yesterday?

A. One of the agents of the Immigration, who has been going with me constantly since I have been here, is the only one I have been associated with.

Q. What is his name, Mr. Johnson?

A. I really don't know his name. I think he is here.

Q. You say he has been going with you ever since you have been here, is that right?

A. Well, he has been with me most of the time. There have been two or three of them with me.

Q. Will you point out whether those men are in the room at this time?

A. I don't know. There are so many people in the room, I can't see all of them back there.

Q. Can you point out any of these two or three men who have been with you constantly, as you put it?

A. I can't see them all from here, unless Your Honor permits me to get off the stand to do so.

Q. Can you give us the names of any of these people?

A. Well, I was with Mr. Meyers. He is an immigration inspector.

Mr. MacInnis (Turning to the audience): Is Mr. Meyers in the room?

The Court: If Mr. Meyers is in the room, he might arise.

Mr. MacInnis: Mr. Meyers identified himself in one of the previous interviews. [2564]

The Court: There is Mr. Meyers. Is he the gentleman? The Witness: Yes.

(Testimony of Manning Johnson.)

The Court: The witness has identified Mr. Meyers.

Q. Mr. MacInnis: Is he the man who has been with you constantly?

A. Yes, he has been with me constantly.

Q. Who are the other two men?

A. There was one other. I don't recall his name. He was introduced to me.

Q. Do you see him now?

A. I don't know. I can't see him.

Q. He was with you but he was not introduced to you?

A. He was, but I don't recall—he possibly was introduced to me.

Q. Was he introduced to you within the past few weeks while you have been here?

A. I have met him since I have been here.

Q. But you do not now remember his name?

A. No, I don't recall his name. I met so many people since I have been here. Unless I constantly associate with people for a length of time or they do something outstanding that warrants me remembering their names, there is no occasion to—you might introduce me to any person in the courtroom today, and if there is no reason for me to remember the name, I wouldn't.

Q. I understand. Do you remember the name of the [2565] third man? A. No, I do not.

Mr. MacInnis: That is all.

Mr. Donohue: I have no further questions, your Honor.

The Court: The witness may step down.

Mr. Hallinan: Particularly with regard to the testimony of this witness and other witnesses on the matter of cross examination, Your Honor, we have a motion to make. The witnesses by the rulings of the Court have been so protected, shielded from examination as to deprive the defendants of that necessary weapon, so that it has been in effect a matter that the defendants have been prevented from properly cross examining the witnesses, and particularly this last witness, were allowed to make speeches and arguments, bringing in hearsay and inadmissible matters that could not have been introduced on direct examination. The defense attorneys have been constantly assailed, quarreled with, argued with by the witnesses, assailed by the prosecution, and when we turn for relief from the bench, far from procuring it, we are assailed by the bench. We have been constantly on the defensive defending ourselves. We have had to apologize to make explanations on perfectly proper lines of cross examination we have endeavored to open. Under the criticism of the Court, we have been required to abandon whole lines of inquiry, to permit witnesses to leave the stand without being discredited by things that ordinarily tend to discredit them.

Now, we know that the jury is fair and impartial, that it wants to give a fair and impartial hearing, but the jury is influenced and always is influenced in such matters by the attitude and demeanor of the Court. They look to the Court for fairness [2566] and impartiality, and they base their own judgment to a large extent upon what the Court says and does.

Now, throughout the progress of the case, and especially the testimony of this witness, the situation has so deteriorated that it is obvious that it is no longer possible to obtain a fair and impartial decision of the case. The statements made by the Court to counsel on cross examination, the protection that has been afforded the witnesses, the permission given the witnesses to make speeches, the witness seizing upon a pretext of explaining an answer that did not call for any answer, are such as necessarily prejudice the jury against the case of the defendants.

Now, we have spent five weeks in trying the case and I dislike exceedingly to be driven into the situation that I am now required to adopt, that is, that we now move, if the Court please, that a mistrial be declared in this case, and that the case be remanded for retrial before another Court and another jury.

The Court: Mr. Donohue, may I have any response that you may offer?

Mr. Donohue: Well, it would seem to me, if Your Honor pleases, that the very words which counsel has spoken indicates the necessary answer which this Court must make. I am not at all surprised by this motion on the part of counsel. If there be any element of surprise at all, it is only because he [2567] makes it somewhat earlier than I had anticipated. His plan or his scheme is apparent. The United States has produced at least seven major witnesses in this prosecution. The testimony of these witnesses was not known and could not have been known by the defendants. They now have the advantage of knowing a major portion of the United States Government's case. They are unhappy about it, and of course, it is their hope that Your Honor would be misled by the unfair and untrue characterization of the conduct of the trial by Your Honor, as stated by Mr. MacInnis. No skilled lawyer has ever in his experience, I am certain, seen witnesses called by the United States subjected to more severe, punishing, cruel, continuous and relentless cross examination, in which we have sought, except in instances where we thought it was our duty, not to interfere and in which Your Honor in the sound exercise of his official and judicial discretion has allowed the widest possible latitude. Wouldn't the prosecution of all cases end if counsel for the defendants charged with crime can exercise their pique because evidence is produced which tends to prove the charges contained in an indictment and remove themselves and their clients from the necessary consequences of that proof by saying, "We have been criticized by the prosecution. We have been criticized by the witnesses. We have been criticized by the Court." Of course, if Your Honor pleases, in the exercise of your sound judicial discretion you will forthwith and without [2568] hesitation overrule the motion of Mr. Hallinan.

Mr. Hallinan: If the Court please, if I may be heard further: While Mr. Donohue, who is a specially appointed prosecutor in this case, is not an officer of the United States Government, he is still held to the same rules of conduct that would apply to the United States Attorney and the regularly constituted officers charged with presenting cases before jurors and any statement made by him, such as he just made, constitutes further grounds to support the motion that I made on the basis of the unfair and untrue characterizations, the plan, scheme and so forth. Now, we have been anxious to finish this case in as calm and judicial a manner as possible.

Mr. MacInnis—I will not speak for myself, although I must say that I have never come in for such criticism as I have heard in this matter—Mr. MacInnis has a high reputation for integrity, for ability, conducting his cases in a calm and dispassionate way. I think he showed it under great stress and difficulty throughout this trial, and yet there has been that same overlying menace by the Court. Questions which he asked, which if objectionable, would ordinarily be disposed of by a mere suggestion of the Court that the question was not proper or sustaining an objection, or even going to the extreme of directing the jury to disregard it, have been characterized by the Court in the presence of the jury in terms that, to say the least, were not deserved. Mr. MacInnis has not [2569] made any strong effort to defend himself from the statements. The Court has constantly, even in passing by my situation, made statements that contained very thinly veiled threats, so that the net effect, if the Court please, is that the independent presentation of the case by officers of the Court, which we are, is so hampered and has been so hampered that it is my opinion at this time that it is no longer possible to obtain a fair and impartial decision in this case. We haven't any regard for these witnesses that counsel suggests. Under ordinary circumstances we would be inclined to treat the entire case that they have presented with the greatest contempt. But under the circumstances their statements, their actions, supported and bolstered by the attitude that the Court has adopted toward us, is such as to compel us, in the interests of our clients, to make a motion that I have addressed and to move for a mistrial.

Mr. Donohue: If Your Honor please, in the light of the fact that Mr. Hallinan is not making in support of a legal motion a legal argument, that the jury be excused, if there be any more continuance of the trend of the discussion that has thus far taken place and that this matter be discussed in the absence of the jury.

The Court: Mr. Hallinan did not ask for the excusal of the jury in the first instance, and of course, I did not anticipate nor could I anticipate the nature of his motion. [2570]

Mr. Donohue: Nor could I, Your Honor.

The Court: The remarks of counsel now have been concluded. I might say that I shall not come to my own defense certainly in the trial of this case, for I feel that I need no defense nor excusal of my conduct, either in the pretrial stages of this case or in the actual trial thereof. From the impanelment of this jury to and including this very moment, now 11:08 a.m., I have attempted to conduct this trial in an orderly, dispassionate, judicial manner. I believe I have succeeded. However that may be, it is only proper for this Court to deny the motion for mistrial and at this juncture take our morning recess.

Ladies and gentlemen of the jury, we will take the morning recess. I admonish you not to discuss this case with any person nor suffer any person to converse with you on any subject of the trial and not to form or express an opinion thereon until the matter is submitted to you.

(Recess.) [2571]

The Court: You may proceed, Mr. Donohue. Call your next witness, please.

Mr. Donohue: We have sent for him. He will be here in half a moment, if your Honor please.

PAUL CROUCH

called for the Government; sworn.

The Clerk: Will you state your name for the Court and jury.

The Witness: Paul Crouch—C-r-o-u-c-h.

Direct Examination

By Mr. Donohue:

Q. And where do you live, Mr. Crouch?

A. I live at 10421 Northwest 33rd Avenue, Miami, Florida.

Q. Are you married? A. I am.

Q. Are you living there with your wife?

A. I am.

Q. Do you have any children? A. I have.

Q. How many? A. Two.

Q. Are they living with you and your wife?

A. They are.

(Testimony of Paul Crouch.)

Q. By whom are you now employed?

A. By the Miami Daily News. [2572]

Q. And in what capacity?

A. I am employed in a supervisory capacity, now on leave of absence.

Q. When did you begin your employment with the Miami Daily News? A. In January, 1949.

Q. And when did you begin the leave of absence under which you are now operating?

A. In September, or about the first of October.

Q. Of what year? A. Of this year.

Q. Where were you born?

A. I was born in the village of Moravian Falls—M-o-r-a-v-i-a-n Falls, Wilcox County, North Carolina.

Q. And when, sir? A. June 24, 1903.

Q. Will you tell us what constituted your early schooling.

A. Grammar school and high school, later supplemented by university studies.

Q. Will you describe the nature and character of the later university studies.

A. They have been by correspondence, part-time, night courses; for example, correspondence from the University of California in 1925 and '6, and later at the University of Texas and Brownsville College at Brownsville, night studies. [2573]

Q. What were the subjects of your university correspondence or extension courses?

A. Languages, journalism and law, various other subjects.

(Testimony of Paul Crouch.)

Q. How long did you continue after your birth in North Carolina to live there with your parents?

A. I lived in North Carolina until I was about fourteen years of age, to the best of my recollection, when my parents together with me moved to the State of Delaware, Wyoming, Delaware, about ten miles from Dover.

Q. By the way, what was the occupation of your father?

A. My father was a Baptist minister, rural school teacher and a farmer.

Q. How long did you continue to live in Delaware? A. A little over three years.

Q. During the period of time you were living in Delaware had you finished your formal schooling?

A. No, I was going to high school.

Q. Where did you move after you left Delaware?

A. To Florida for a brief period and then returned to North Carolina.

Q. And how long did you remain in North Carolina on your return?

A. I remained in North Carolina until the spring of 1924, when I entered the United States Army.

Q. Now, prior to entering the United States Army in 1924 [2574] what had been, if any, your work or occupation?

A. I had first gone to work when I was about seventeen, or between seventeen and eighteen years of age, in a textile mill at Winston-Salem, the Arista Mills. After a few months there I worked as secretary to the shipping manager of the Brown & Williamson Tobacco Company for a little less than a

(Testimony of Paul Crouch.)

year. After that I went to newspaper work and was associate editor of a small monthly humorous magazine called Pearson's Paper, formerly called The Fool Killer. Then in 1923 I went to work on a daily paper, the Statesville Sentinel.

Q. Where was that paper published?

A. Statesville, North Carolina, and I became managing editor of that paper in the late—in the latter part of 1923. I remained with that paper until February, 1924.

Q. How old were you then, Mr. Crouch?

A. Twenty-one.

Q. Now, prior to the time in 1924 when you joined the United States Army had you become a member of or interested in any organization?

A. Yes, I had.

Q. Will you tell us when and what organization.

A. About the age of fourteen I became a member at large and active in the Young People's Socialistic League.

Q. And where?

A. While living in North Carolina I became a member at large, [2575] the national headquarters being located in Chicago. Later I dropped out of that organization and joined another organization of which I became a member of the national committee known as the Young Democracy. I had contact in around 1920 with members of the Communist Party and the Communist Labor Party, but did not become a member.

Q. That is, up until the time you had joined the

Army in 1924 you had not become a member of the Communist Party? A. That is correct.

Q. Where did you join the United States Army?

A. I joined the United States Army at Fort Bragg, North Carolina.

Q. And after your enlistment where did you go?

A. To Hawaii, to Scofield Barracks.

Q. Can you tell us approximately when it was that you reached Hawaii?

A. I reached Hawaii about the 1st day of August or the last day of July of 1924.

Q. And how long did you remain in Hawaii?

A. I remained in Hawaii approximately one year, leaving in August of 1925.

Q. And when you left Hawaii in August of 1925, where did you go?

A. To the United States Army disciplinary barracks in San Francisco Bay.

Q. Was that on Alcatraz Island?

A. Yes. [2576]

Q. During the period of a year when you were in Hawaii as a member of the Army, were you a member of any organization other than that of the United States Army? A. I was.

Q. Will you tell us of what organization you were a member and in what activities you engaged.

Mr. Hallinan: Just a minute. We object to that, if the Court please, as not the best evidence and calling for the opinion and conclusion of the witness.

The Court: Overruled.

A. I was a member of the Hawaiian Communist

League and was a member of the executive committee of that organization.

Q. (By Mr. Donohue): In what activity?

Mr. Hallinan: Pardon me. When was this, in what year?

The Witness: This was in the year of 1925 I joined, in February of 1925.

Q. (By Mr. Donohue): In what activity did you engage while a member in this organization and while in Hawaii?

Mr. Hallinan: We object to that, if the Court please, as being acts done between third persons, no foundation laid, and it has not been shown to have any connection with the defendants or that they were present or knew anything about them.

The Court: The objection is overruled for the reasons heretofore indicated in the record. Will you stipulate with counsel as you have in the past?

Mr. Donohue: I shall be happy to, if your Honor please.

The Court: Mr. Hallinan, will you so stipulate?

Mr. Hallinan: Then we will have the same stipulation that has applied to these other witnesses as to the res inter alios acta, and that the objection need not be repeated to each question.

Mr. Donohue: So stipulated, if your Honor please.

The Court: The jury is accordingly instructed that the matters testified by this witness with respect to his individual activities in the Hawaiian Communist League in or about 1925 and thereafter, and the internal operations of the League, if he so testifies, are not binding on the defendants or either or any of them at this juncture.

(Question read.)

A. In an effort to recruit soldiers serving in Hawaii as members of the Hawaiian Communist League, of propagating—of carrying on propaganda among them in behalf of Communism, of writing a letter to the Executive Committee of the Communist International asking for affiliations, and also writing signed letters which were published in the Honolulu Star Bulletin and the Honolulu Advertiser.

Q. (By Mr. Donohue): In consequence of those activities were you tried and convicted in Hawaii by a general court-martial of the United States Army?

Mr. Hallinan: Just a minute. I object to that as [2578] calling for the opinion and conclusion of the witness and not the best evidence.

Mr. Donohue: I think he had the best evidence.

Mr. Hallinan: The reasons for the trial and conviction.

The Court: For what purpose is that shown?

Mr. Donohue: I think, if your Honor please, since the purpose or since the activities in which he was engaged in soliciting among the armed forces members of the Communist Party were the basis of the charge upon which he was tried by the general court. I think that is pertinent in order

(Testimony of Paul Crouch.)

that the jury may understand, in evaluating the testimony of this witness, first, as to whether or not he is in a position to give the evidence I shall subsequently develop by him, and secondly, as to what his motives may be in this prosecution for the purpose of evaluating his testimony.

The Court: The objection is sustained.

Q. (By Mr. Donohue): How long did you remain in the United States disciplinary barracks in San Francisco Harbor after your first arrival there?

A. Until the 1st day of June 1927.

Q. And upon leaving that institution where did you go?

A. I went on a speaking tour of the United States, which ended in New York City.

Q. Without going into detail, generally what area of the United States did you cover on this speaking tour? [2579]

A. Beginning with California, the Northwest through Montana, Minnesota, Chicago, Ohio, North Carolina, Washington, Philadelphia and New York.

Q. Again without going into the detail, what was the general subject of your speeches and by whom were you paid, if you were paid?

A. I was paid by Communist front organizations, the Anti-Imperialist League, and in a few cases the International Labor Defense, and the subject matter of my speeches, for the most part, was charges against the American Government of imperialism, presenting the Communist point of view on the international situation, and also discussing

(Testimony of Paul Crouch.)

the conditions in the Army as seen by the Communists from the Communist point of view.

Q. Up until this time which you have just narrated what schooling or literature concerning the Communist Party had you studied or read?

Mr. Hallinan: I object to that, your Honor, as incompetent, irrelevant and immaterial.

Mr. Donohue: I offer it on the same basis, if your Honor please.

The Court: Overruled.

A. I had read the underground literature of the Communist Labor and United Communist Parties, and from the day of its first publication I had read the Daily Worker, the official organ of the Communist Party, and also various pamphlets issued by [2580] the Communist Party, most of these pamphlets being read during the—the current pamphlets being read during the first two months, June and July, after my release from the disciplinary barracks.

Q. About when was it when, at the conclusion of your tour, you reached New York City?

A. Sometime in September, to the best of my recollection.

Q. What year? A. 1927.

Q. At that time, Mr. Crouch, had you become a member of the Communist Party?

A. I had, a week or two prior to my arrival in New York City.

Q. Where and under what circumstances did you become a member of the Communist Party?

(Testimony of Paul Crouch.)

A. On my arrival in Chicago the secretariat, the National Secretariat of the Communist Party, formally approved an application for membership I had made in 1925 two years earlier, and in accepting my membership made that membership retroactive to 1925.

Q. Where were you in 1925 when you made your application for membership in the Communist Party?

A. In the Army disciplinary barracks at Alcatraz, California.

Q. After having become a member of the Communist Party under the circumstances you have stated, how long a time did you continue as a member of the Communist Party? [2581]

A. From a date—approximately seventeen years from the date of my application until the spring of 1942.

Q. During the period of your membership in the Communist Party was a membership book ever issued to you?

A. Yes, many books were issued to me, membership books.

Q. During the period of your membership in the Communist Party did you pay dues as a member of that organization? A. I did.

Q. At any time during the period of your membership in the Communist Party, Mr. Crouch, were you known by any name or names other than the name of Paul Crouch? A. I was.

(Testimony of Paul Crouch.)

Q. Will you state the name or names under which you were so known.

A. Fred Allen and Carl Wilson are the two names under which I can recall being personally known. I have written articles under various other names, both inside and outside of the Communist Party.

Q. When you reached New York at the end of your speaking tour, were you assigned to any unit of the Communist Party? If so, when, where, and what unit was it?

A. I was assigned to a unit and section, the numbers I cannot now recall, in the upper Harlem or lower Bronx, meeting in the neighborhood of 125th Street in New York City, near where I was living at that time. I do not recall the number of [2582] the branch or unit or section.

Q. How long at this period of time did you remain in New York City?

A. New York City remained my address and my home, my basic home, until 1930. However, I was absent from New York in the Soviet Union and other countries in Europe for six months.

Q. Will you tell us when and under what circumstances you went to the Soviet Union?

A. I went to the Soviet Union in December 1927 as a representative of the Anti-Militarists Department of the Party, which I headed, and as a representative of the Young Communists League, of which I was a member, its national bureau, for the purpose of attending meetings in Moscow of the Executive

(Testimony of Paul Crouch.)

Committee of the Communist International, the Executive Committee of the Young Communists International, the World Congress of Trade Unions in March of 1928, and for the purpose of meeting with general staff officers of the Red Army and other military and political leaders of the Soviet Union.

Q. How long were you in Europe during this trip, Mr. Crouch?

A. I left the United States in December 1927. I returned to New York, to the best of my recollection, aboard the Ile de France somewhere around the 1st of June 1928.

Q. In that period of time how long or how much thereof did you spend in Moscow?

A. I spent in Moscow and other parts of the Soviet Union from [2583] just before Christmas 1927 until the end of April of 1928, approximately four months. Not all this time was spent in Moscow. Some of it was spent in other cities, such as Nishni-Novgorod, and also spent some time with the Red Army as a representative of the Young Communists International at the Budenny Division, stationed at Tambov, where I was made an honorary regimental commander of the Red Army with a rank equal to that of colonel.

Q. Upon your return to the United States after this trip to Europe in what activity did you then engage, Mr. Crouch? [2584]

A. I engaged in full-time Communist Party and Young Communist League activities, first, as head of the anti-militarist department, as it was called,

(Testimony of Paul Crouch.)

the department in charge of infiltrating the armed forces, the Army, Navy and National Guard; as a member of the editorial staff of the Daily Worker; as a National Bureau member of the Young Communist League, and later a member of its secretariat, national educational director and editor of its official publication, the Young Worker; and in late 1928 and early 1929 I was national secretary of one of the Communist front organizations, the Anti-Imperialist League.

Mr. Donohue: I think, with your Honor's permission, this might be an appropriate time to recess.

The Court: All right. Ladies and gentlemen of the jury, we will take the noon recess and resume at two o'clock. The same admonition not to discuss the case under any conditions nor to form or express an opinion until it is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.) [2585]

Afternoon Session—2:00 P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

The Clerk: The witness on the stand is Paul Crouch, heretofore sworn.

PAUL CROUCH

resumed.

Direct Examination
(Continued)

By Mr. Donohue:

Q. You were discussing, Mr. Crouch, at the recess your activities between 1928 and 1930 while in New York City. Have you told us generally of the extent of your activities in New York at that time?

A. For the most part I have. I was also a delegate to a national convention of the Communist Party between, I believe, about March 1 and March 11 of 1929, and I was also sent——

Q. Excuse me, sir. May I ask you, where was that national convention of the Communist Party held?

A. It was held in New York City, and the meeting place was changed from one hall to another. It was held at perhaps four or five different halls. I don't recall the names of the specific halls at this time.

Q. Was that in 1929 or 1930? [2586]

A. In 1929.

Q. Would you continue.

A. I also was sent to Gastonia in the spring of 1929 as the special representative of the Young Communists League. I took part in the national convention of the Young Communists League about the middle of May of 1929, at which I was elected editor of the Young Worker and national director with Gilbert Green as my assistant. In the summer,

(Testimony of Paul Crouch.)

in July, I was sent to Waukegan, Illinois, to conduct a national Communist youth training school for six weeks, and after my return to New York throughout the remainder of the year I continued activities as editor of the Young Worker and as head of the Communist Party's department for work in the armed forces directing the activities of the Communists who had joined the Army, the Navy and the National Guard, ROTC, et cetera, for Communist—for the purpose of carrying on Communist activities there. That in general is the outline of the work I did until 1930.

Q. Did you leave New York in 1930, Mr. Crouch?

A. I did.

Q. Will you tell us where you went and when?

A. I went to the South in the winter of 1930. I had been assigned to go to Moscow for work in the Commintern, that is, the Communist International, in Moscow, and together with my wife I obtained an American passport. I had received a few months' leave of absence, but my health became worse and it [2587] was impossible for me to go. So I remained on my father's farm in Hays, Wilkes County, North Carolina, through 1931 and until January 1932, when my health had improved sufficiently to return to full-time work in the Communist Party.

Q. And where did you go, if you went anyplace, in early 1932?

A. In early 1932 I went to Norfolk, Virginia, as regional organizer of the Communist Party, remaining at Norfolk until the spring of 1933.

(Testimony of Paul Crouch.)

Q. And what was, in brief and in general, the nature of your activities during that period of time that you were in Norfolk?

A. In Norfolk, Virginia, where there had previously been no Communist Party, I set up functioning apparatus, recruited about 100 members into the Communist Party, organized an international seamen's club and the marine workers in Norfolk, and organized the Unemployed Council, another Communist Party front organization there.

Q. Did there come a time subsequently when you left Norfolk? A. Yes.

Q. When, and to what place did you go?

A. In the spring of 1933 the Central Committee of the Communist Party assigned and directed me to go to Salt Lake City as State organizer of the Communist Party for Utah.

Q. Did you go there? A. I did.

Q. And how long did you remain there? [2588]

A. I remained in Utah from the spring of 1933, April, I believe, until June 1934.

Q. Would you briefly tell us the nature of your activities while in Salt Lake City.

A. In general, supervising the work of the Party in the State, and with special emphasis on the organizational work for the Communist Party and the National Miners Union in the mine fields. During the late summer and early fall of 1933 I was the leader of a strike of miners in Carbon County, led by the National Miners Union, which in turn was controlled by the Communist Party. At this time I

(Testimony of Paul Crouch.)

served in two capacities, as State organizer of the Communist Party and as State organizer for the National Miners Union. I also directed the work of the Communists in the Ex-Servicemen's League, the Unemployed Council, and various other Communist front organizations in the State. [2589]

Q. During this time, Mr. Crouch, were you yourself a member of any union?

A. I was a member of the National Miners Union from May 1933 until the National Miners Union was dissolved, about the end of 1933 or early 1934.

Q. During the time that you were a member of that union, is it a fact that you were a paid functionary of the Communist Party? A. It is.

Q. During the period that you were a member of the designated union, did you do any mining? Were you actually a working miner?

A. No, I never worked in a mine in my life.

Q. Did there come a time when you left Salt Lake City? A. Yes.

Q. When and where did you go?

A. In June 1934 I left Salt Lake City and went to Charlotte, North Carolina as a district organizer of the Communist Party for the states of North and South Carolina.

Q. Did you attend any convention of the Comnist Party in 1934? A. I did.

Q. Where and when and what was the convention?

A. I attended the national convention of the

(Testimony of Paul Crouch.)

Communist Party in April 1934. This convention was held in Cleveland, Ohio.

Q. How long did you remain in Charlotte? [2590]

A. I remained in East Charlotte or Greensboro, North Carolina, from June 1934 until December 1937.

Q. What, in general, was the nature of your activity while in either of these two cities?

A. First of all, the general routine work expected of any district organizer, such as supervising all the party activities, attending meetings and conventions of the Central Committee and of the party, of making reports on the meetings of the Central Committee and on a national convention of the Communist Party to the District Committee, of carrying on Communist activities in the trade unions, subject to the instructions I received from the Communist Party, of work among unemployed organizations—first the Unemployed League and later the Workers Alliance, of which I myself was an officer, of work among the various trade unions, that is, directing the activities of the Communist Party members who were members of the United Textile Workers and who were members of the International Longshoremen's Unions at Charleston, South Carolina, of working in cooperation with the Young Communist League in student activities, and working among professors at the University of North Carolina, and many other activities which would take great time to describe.

(Testimony of Paul Crouch.)

Q. Did you do any teaching during this period when you were at Charlotte or Greensboro?

A. I was a teacher of a six weeks' Communist Party training [2591] school in the winter of 1936 at New Orleans, Louisiana. I also taught very short term schools and classes in the districts organized by the party on a local scale.

Q. When you speak of schools, do you refer to Communist Party schools?

A. Yes, exclusively.

Q. When did you leave Charlotte or Greensboro?

A. We left Charlotte, to which we had returned from Greensboro, in December 1937.

During the time that you were active in the neighborhood of Charlotte, did you attend any convention of the Communist Party?

A. I attended a convention of the Communist Party in June—I would say about the 24th, 23rd—the 24th until about the 28th or 29th of June of 1936, held in New York City.

Q. Was that a national convention of the Communist Party? A. It was.

Q. When you left Charlotte as you have testified, in 1937, where did you go?

A. I was given a leave of absence by the Central Committee of about three months for my health, which I spent on an island off the South Carolina Coast owned by a member of the Communist Party.

Then in the spring—I believe it was in April of 1938—I went to Birmingham, Alabama, to resume my duties assigned me there as editor of The New

(Testimony of Paul Crouch.)

South, the Communist publication for [2592] southern districts, as a member of the Alabama, Georgia and Mississippi District Bureau, and as chairman of the Communist Party's Control Commission for that district.

Q. How long did you remain in Birmingham, Alabama?

A. I remained in Birmingham, Alabama until September, 1939.

Q. During the period of your residence in Birmingham did you attend any convention of the Communist Party? A. I did.

Q. Will you state what convention, where and when it was held?

A. I attended a national convention of the Communist Party held in New York City about the end of May of 1938.

Q. When did you leave Birmingham, Alabama?

A. I left Birmingham, Alabama in September of 1939.

Q. Where did you go from Birmingham?

A. I went from Birmingham, Alabama to Knoxville, Tennessee to assume my duties there as district organizer of the Communist Party for the State of Tennessee.

Q. How long did you remain in Knoxville?

A. I remained in Knoxville from September, 1939, until the spring—April, I believe to the best of my recollection, 1941.

Q. What, in brief and in general, was the nature of your activity while you were in Knoxville?

(Testimony of Paul Crouch.)

A. While I was in Knoxville, Tennessee my duties were general supervision of Communist Party activities throughout the state, attending meetings of the Central Committee in New York, reporting back on these meetings to the district committee, seeing that the correct line was carried out by the party in its work, supervising the work of the Communist Party members who belonged to trade unions, and in general, any other activities which might be assigned me by the Central Committee of the party.

Q. Mr. Crouch, during the period that you were active in Tennessee, did you attend any convention of the Communist Party? If so, where and when?

A. I attended a convention of the Communist Party held in the summer of 1940—I don't recall the exact date—in New York City and I attended a special convention of the Communist Party held late in 1940. I do not recall the exact date, but my impression and belief is it was about November of 1940, in New York City.

Q. When did you leave Knoxville?

A. I left Knoxville, Tennessee in the spring of 1941, to the best of my recollection and belief, in late March or in the month of April.

Q. Where did you go from Knoxville, Tennessee?

A. From Knoxville, Tennessee I went to Oakland, California.

Q. And when did you arrive in Oakland?

A. About the last day or two of April of 1941,

(Testimony of Paul Crouch.)

to the best of my recollection, assuming my new duties about the first of May, 1941. [2594]

Q. How long did you remain, by the way, in Alameda County in Oakland?

A. I remained in Alameda County—not all this time in the Communist Party—until January, 1945, to the best of my recollection.

Q. When you went to Alameda County, what was your function at that time with the Communist Party there?

A. My function was organizer of the Communist Party for Alameda County and also a member of the District Bureau of the California-Nevada-Hawaii District, also known as District 13 of the Communist Party.

Q. Will you briefly tell us the general nature of your activities while you were in Oakland as a member of the Communist Party?

A. My activities were general supervision of the work of the Communist Party with special emphasis on trade union work, since there was a division of work in the secretariat in the County. My chief specialty, in addition to general work, as county organizer, was the direction of the Communist Party's trade union apparatus, supervising the work of the Communists and the trade unions of which they were members, directing those fractions, also giving general supervision to the work in various national groups, working at various organizations controlled and directed by the Communist Party in the county, and also attended District Bureau meetings which

(Testimony of Paul Crouch.)

were held [2595] usually once a week on Wednesdays in San Francisco.

Q. Where in San Francisco did you attend the District Bureau meetings?

A. The District Bureau meetings in San Francisco from May 1st until after June 22nd, the attack on the Soviet Union, were held in private homes, usually in one private home, on the second floor. I do not remember the name of the owner of the apartment. It was a large room in an apartment located not far from the Twin Peaks area. I usually went with Schneidermann or another member and was not given the address to memorize, meeting Schneidermann or another member in the district office.

After the 22nd of June, during the remainder of the time I served on the District Bureau until the night of December, 1941, the meetings usually were held in Schneidermann's office at the Communist Party district headquarters on Haight Street.

Q. When you say Haight Street, you mean here in the City of San Francisco?

A. In San Francisco.

Q. Mr. Crouch, have you told us essentially the nature of your activities while you remained a member of the Communist Party in the City of Oakland?

A. Well, I might add, for example, that one important part of my duties during the latter part of May and early June was to act as an instructor for a very special week-end school held on a farm

(Testimony of Paul Crouch.)

just across the line in Contra Costa County, a school for members, leading members, of the Communist Party in the county, and later I lectured at another Party training school, and in various other such capacities as are usually part of the work of a Communist Party organizer.

Q. How long did you continue as Communist Party organizer for Alameda County?

A. I was released from this sometime in late December, my release officially taking effect on or about the 7th of January, 1942, this date being my best recollection, not necessarily exact.

Q. And will you tell the circumstances under which you ended your responsibilities as Alameda County organizer.

A. The circumstances were all associated—

Mr. Hallinan: Just a minute. Object to this, if the Court please, as incompetent, irrelevant and immaterial, the [2597] circumstances under which he left, calling for self-serving declarations, opinions and conclusions.

The Court: Overruled.

A. The circumstances date back to my first disagreements on some issues with the Communist Party in 1934, increasing differences which I felt throughout the years, becoming greater and greater until in November of 1934, I asked the District Bureau for permission to quit as a full-time organizer and go to work in private industry. My differences with the Party were such that I couldn't with a clear conscience continue the responsibilities of ar

(Testimony of Paul Crouch.)

organizer, and yet I hadn't quite reached the point where I felt that my differences were great enough to cease membership entirely. I did not state this in full, of course, because that would have meant expulsion, which I did not then desire, merely asking for release, which was denied. In December I was—a meeting was called of the District Bureau to which I was not invited, a special meeting. After this I was notified that the District Bureau had decided that I should take my—that I was to be replaced as county organizer by Steve Nelson, and that I was to take my family and move to Los Angeles, and after moving to Los Angeles would be given assignments by the Communist Party there. My wife refused and declared that she wouldn't quit her wartime job in which she was employed—this was after Pearl Harbor—at the Western Die Casting Company in Oakland, [2598] or Emeryville, a suburb. And Schneidermann then sent for her. I was advised by my wife of the conversations and of her defiance of Schneidermann's order that we must take our family and move, and then I was called to a District Bureau meeting and sharply censured.

Mr. Hallinan: Just a minute, your Honor. This is hearsay, none of the defendants present.

Mr. Donohue: The witness is merely indicating, if your Honor please, the reasons which caused him to separate from the Communist Party, which question has been asked——

The Court: There is no contention on your part that any of this testimony relates to any particular defendant at the bar?

Mr. Donohue: Of course not.

The Court: And the purposes are such as you have had in the past, to indicate the reasons underlying his termination?

Mr. Donohue: Correct, your Honor.

The Court: The objection is overruled.

A. I was called before a meeting of the District Bureau, and at great length bitterly denounced by Schneidermann and the other members of the Bureau for failure to make my wife obey the Party decision.

Q. (By Mr. Donohue): May I interrupt at this time to ask you, Mr. Crouch, if at that time, at the time you are now discussing, your wife was also a member of the Communist Party? [2599]

A. She was and had been for thirteen years.

Q. Would you continue, please.

A. The District Bureau in my presence seriously debated whether I should be expelled from the Communist Party, but Schneidermann said I should not as a matter of expediency and in the interests of the Party. The outcome was that my wife was released from all Party responsibilities, not expelled; I was severely censured for failure to make my wife obey the Party decisions, and a decision made that I was to be barred from holding any position in the Communist Party above that of a section functionary, a member of a section committee; and then the order was rescinded that my

(Testimony of Paul Crouch.)

family and I were to move to Los Angeles and a decision made that I should be permitted to obtain employment in private industry, which I did.

Q. Mr. Crouch, you said, I think, that these incidents took place in December?

A. December.

Q. Of what year, sir? A. 1941.

Q. May I ask you at this time who other than Mr. Schneidermann and yourself constituted the membership of District 13, the District Bureau of the Communist Party, in December of 1941?

Mr. Hallinan: We object to that as not the best evidence, if the Court please. The records of the Party itself or some document that would give that would be the best evidence. [2600] This is calling for secondary evidence in the absence of any proof that primary evidence is not available.

Mr. Donohue: If your Honor please,——

The Court: Overruled.

A. The District Bureau was composed of William Schneidermann, Louise Todd, organization secretary; Steve Nelson, myself, Oleta O'Connor Yates, Walter Lambert, and Rudy Lambert.

Q. (By Mr. Donohue): Now, following the incident you have just described, did you continue thereafter as a member of the Communist Party?

A. For a brief period, until early in the spring of 1942, I continued to attend a few branch meetings and to pay dues. Early in the spring of 1942 I ceased attending meetings, ceased paying dues,

(Testimony of Paul Crouch.)

and in spite of repeated visits by Steve Nelson, the county organizer, I refused to do so. I should state, to keep the record clear, that a membership book was made out for me for the year 1943 and sent to my home. This book, without any dues stamp in it, showing no dues payments, is now in possession of the House Committee on un-American Activities.

Mr. Hallinan: I didn't get that last.

Mr. Donohue: Would you read it.

(Record read.)

Q. (By Mr. Donohue): Did you make any application for that book, which you say was delivered to your house? A. I did not. [2601]

Q. Was the book delivered personally to you at your house, Mr. Crouch, if you can recall?

A. I do not recall whether I was at home when the book was delivered or not.

Q. Then you are not able to tell us who delivered the book? A. No.

Q. At that time, that is, at the time you indicated you failed to attend further meetings and failed to pay your dues, did you by any official act or by any written instrument notify the Communist Party that you no longer considered yourself a member thereof? A. I did not.

Q. And to your knowledge have you ever been officially expelled from the Communist Party?

A. I have never been, to my knowledge.

Q. Now, following your withdrawal from the

(Testimony of Paul Crouch.)

Communist Party, what then became your business or occupation, and where?

A. I obtained employment in the winter or early spring of 1942 with the United States Steel Corporation at their Boyle plant, Oak and Clement Streets in Alameda, the town of Alameda, where I continued to work until about December of 1942, when I left Alameda County and moved to Brownsville, Texas.

Q. And how long did you continue to live in Brownsville, Texas?

A. I lived in Brownsville, Texas from January, 1945, until [2602] January of 1947.

Q. What was your business or occupation in Brownsville?

A. I was an employee of the Pan-American World Airways.

Q. Doing what kind of work, sir?

A. Principally art work, that is, layout of insignia, painting of numbers on the planes and some decorative painting work, and also some general mechanical work. I had the status as a mechanic.

Q. Was your wife also employed at that time?

A. My wife was employed in Alameda County until the time I left here, first with the Western Die Casting Company, until about one year before we left, and the last year we lived here she was employed by the General Electric, also in a war industry. At Brownsville, Texas she worked only briefly as a cashier.

Q. While you were employed as you so stated

(Testimony of Paul Crouch.)

at Brownsville, Texas did you become a member of a union? A. I did.

Q. Will you tell us of what union you became a member.

A. I became a member of the Transport Workers Union of the CIO.

Q. Did there come a time when you became or held any office in that union?

A. There did. I became the secretary of my local, as a delegate from my local to a national convention, as a delegate from my local to a State convention of the CIO, where I was elected [2603] vice president of the Texas CIO.

Q. Of what national convention or to what national convention were you a delegate at this time?

A. I was a delegate to a national convention of the Transport Workers, CIO, in New York City in September, 1946.

Q. When you left your employment at Brownsville, Texas, where then did you go to live?

A. I moved to Miami, Florida in January, 1947.

Q. And what was your first occupation in Miami?

A. As editor of the Union Record, official newspaper of the CIO for the State of Florida, and also at the same time as State public relations and publicity director of the CIO for Florida of the State CIO Council.

Q. You have continued to live in Florida since 1947? A. I have.

Q. And what other occupation or occupations have you followed since your arrival in Florida in 1947 up to the present time?

A. I continued this work I mentioned during the first year, 1947. Then I worked briefly as editor on a weekly newspaper, the Dade County News. I worked for a few months as sales representative for Funk and Wagnall books, and then I was employed in the summer of 1948 by the Miami Herald, a morning daily, working there until January of this year, at which time I was employed in a supervisory capacity by the Miami Daily [2604] News.

Q. The Miami Daily News is your present employer? A. Yes.

Q. When was it, Mr. Crouch, that you first publicly declared yourself as a former member of the Communist Party?

A. The first public declaration to this effect was in an article in Plain Talk magazine of March, 1949, which article was subsequently reprinted in the Congressional Record.

Q. And you were the author of that article?

A. I was.

Q. And may I ask you to tell his Honor and the members of the jury, why did you write that article?

Mr. Hallinan: Object to that as incompetent, irrelevant and immaterial, if the Court please, calling for the opinion and conclusion, not binding on the defendants, why he wrote the article.

(Testimony of Paul Crouch.)

The Court: It is not binding on the defendants and there is no purport or purpose of showing in that respect.

Mr. Donohue: No, your Honor, it is merely to show, in conjunction with his already stated testimony as to why he left the Communist Party and when he declared that he had left the Communist Party.

Mr. Hallinan: I think the fact that he gave the reason for leaving the Communist Party is bad enough; then to give why he wrote some article, then why he did this or why he did that—we will be tracing the gentleman's mental processes [2605] down to everything he has done, why is he out here, why did he take forty jobs, why did he go to Brownsville, Texas.

Mr. Donohue: In the light of the fact, if your Honor please, that I am quite sure that Mr. MacInnis, or Mr. Hallinan will ask the same question, I withdraw the question.

Q. Mr. Crouch, do you know the defendant J. R. Robertson in this proceeding? A. I do not.

Q. Mr. Crouch, do you know the defendant Henry Schmidt? A. I do.

Q. Will you indicate where he is, if he is in the courtroom.

A. He is seated next to Mr. Bridges at the far end of that table.

Q. Then I take it that you also know Mr. Bridges?

Mr. Hallinan: Just a minute. Object to that as leading and suggestive.

Mr. Donohue: I think not. He has already stated about Mr. Bridges being seated at the table.

Mr. Hallinan: I don't care about that. I don't want counsel to get back in the bad habit he had at the commencement of the trial, which your Honor sort of broke him of.

Mr. Donohue: Perhaps you have given me a lesson Hallinan on Procedure.

Mr. Hallinan: I wouldn't waste my time.

The Court: You might identify him if you can. Do you [2606] see Mr. Bridges?

The Witness: Mr. Bridges is seated next to Mr. Schmidt and is the third man at this table, seated at the corner of the table.

Q. (By Mr. Donohue): Mr. Crouch, how long have you known the defendant Harry Bridges?

A. Is the meaning of the question when I first saw and heard Mr. Bridges speak, or is it when I first met him personally and talked to him?

The Court: No, the question is clear, Mr. Witness. Will you read the question, Mr. Reporter.

Mr. Donohue: May I withdraw the question and make it more specific, if your Honor please.

Q. May I ask you, where did you first see Mr. Bridges?

A. To the best of my recollection, I first saw Mr. Bridges sometime around '34, late '34 or 1935, but I am not certain of the date I first saw him or the place I first saw him. [2607]

Q. Mr. Crouch, when do you recollect definitely

(Testimony of Paul Crouch.)

a time and a place where you first saw or did see Mr. Bridges?

A. I remember having seen Mr. Bridges at a number of places, but the exact date and the exact place I cannot name without any possible doubt until about May and June of 1941.

Q. Where and when, with as much preciseness as you can testify, did you see Mr. Harry Bridges, that you can so testify without any doubt?

A. One place I saw him was in the State CIO office at some meeting about early June. That was in 1941. I also saw him at some meeting connected with the USO during the latter part of June, at which time Mr. Bridges was present when some inquiry was being made regarding the functions and objectives of the USO. That occasion was impressed on my memory at the time by some publicity connected with it of an unusual nature.

Q. On how many occasions would you say you saw, that you can recall, Mr. Bridges?

A. I saw Mr. Bridges, to the best of my recollection, probably a half dozen times during 1941 and at various conferences, public meetings and the most outstanding occasion which I can recall most specifically was his speech at a CIO convention in the Hotel Oakland.

Q. At what convention?

A. The State CIO convention in the Hotel Oakland, between the 2nd and the 5th of October of 1941, when Mr. Bridges—when I [2608] heard part of his speech, not all,—but part of the speech made by Mr. Bridges and heard the reading of resolution

(Testimony of Paul Crouch.)

which Mr. Bridges presented in the course of that speech.

Q. Is that your last recollection of having seen Mr. Bridges before you saw him today?

A. No, I recall having seen him at perhaps two or three meetings, trade union meetings and public meetings in San Francisco during, after and subsequent to this, during the latter part of 1941, but I can only recall that I saw him two or three times at least at such public meetings, but I can not recall the time or the place of these meetings since the one in October, 1941. Since 1941 I have heard Mr. Bridges speak on the radio, but I have not seen him face to face from the end of 1941 until today.

Q. Mr. Crouch, you have stated that you were a delegate at the 1936 convention of the national convention of the Communist Party.

A. I have.

Q. What position did you occupy in the Communist Party at the time you were in attendance at the national convention of that party in 1936?

A. I was district organizer of the Communist Party of the states of North and South Carolina, and at the convention itself I was head of that delegation and a member of the Presidium or Presidium Committee of the convention. [2609]

Q. Will you tell us the nature and purpose of the Presidium or Presidium Committee of the convention?

A. This committee was to exercise general supervision over the mechanism of the convention as a whole, supervising the work of the various commissions and seeing that the reports were properly organized and presented to the convention, and it also was in charge of making nominations for chairmen of various sessions, and in general, seeing that the convention ran smoothly.

Q. At any time prior, during or subsequent to the 1936 national convention of the Communist Party, did you ever attend a meeting of the Central Committee of that party?

A. I attended—I had attended perhaps 20 meetings, just at a rough estimate, of the Central Committee of the Communist Party prior to the 1936 convention.

Q. Mr. Crouch, were you a member at that time of the Central Committee of the Communist Party?

A. Not as such. As a district organizer I was more or less in the status of an ex officio member and was always called in to Central Committee meetings.

Q. On any such occasion when you were in attendance at a meeting of the Central Committee of the Communist Party prior or during the 1936 national convention, did you participate in any way in this nomination of candidates for election to the Central Committee at that convention? [2610]

A. I did.

Mr. Donohue: Might this be an opportune time for a recess?

The Court: All right. We might take the recess.

—It is a little early, however. It is getting rather close.

Mr. Donohue: Yes, it is, your Honor.

The Court: Ladies and gentlemen, we will take the mid-afternoon recess. The same admonition to you not to discuss the case under any conditions or to form or express an opinion thereon until the matter is submitted to you.

(Recess.) [2611]

Mr. Donohue: May I proceed, if your Honor please?

The Court: Yes.

Mr. Donohue: Mr. Reporter, did you record the last question?

The Reporter: No, I wasn't here.

Q. (By Mr. Donohue): I believe I asked you as we terminated whether you had attended a meeting of the Presidium Committee at which something was done with respect to the selection of candidates for election at the 1936 national convention of the Communist Party to the Central Committee of the party. You said that you were in attendance at such a meeting, am I correct?

A. That is correct.

Q. Will you tell us, to the best of your recollection, whether that meeting was held prior, during or subsequent to the 1936 national convention?

A. The committee or presidium had several meetings during the course of the convention, at one of which the nominating committee presented

(Testimony of Paul Crouch.)

us with a list of the nominees to the Central Committee it was recommending for the new Central Committee.

Q. In what form was that list of candidates presented?

A. In the form of a written memoranda. The names were written and read.

Q. Were the persons whose names appeared on that list designated by state or in any other method? [2612]

A. Not by states. To make the answer clear, I should explain that prior to this time the various state delegations had held caucuses where the—for example, our southern delegation of the Carolinas had met—since we were a small district, had met together with the other southern districts, at a meeting presided over, I recall, by Nat Ross, the Alabama organizer. We discussed in this meeting whom we thought should from the South go on the Central Committee. I recall a couple of names. There was the name of Al Murphy, a Negro from the sharecropping area we thought should go on; there was W. G. Binkley, who was then in Louisiana, that we thought should go on the Central Committee. We also as a matter of a gesture nominated a few national figures like Foster, Browder, Stachel, Krumbein, and then we submitted people from the district or the territory that we thought should go on, and these names were turned over to the chairman or some other of the nominations commission, where, presumably, they were examined, but where

(Testimony of Paul Crouch.)

I knew as a result of years of practice the final decision was made by the Politburo of the party as to who went on. Then in the presidium before the election session of the convention these names were read to us in the presiding committee, together with the reports of other commissions of which we formally approved. Later the same list of names which had been submitted to us and briefly discussed went before the convention as a whole and the regular election took place. [2613]

Q. Then did you vote for this slate of names on two occasions on two occasions during the convention?

A. I did on two occasions, in the presiding committee and in the final election.

Q. Were some of the persons who were elected in the 1936 convention persons who were already members of the Central Committee and had been for perhaps some time before then?

A. Yes, a number such as Foster, Ford, Browder, Krumbein, Jack Stachel and various others.

Q. And were there some persons nominated and elected to membership at this convention who had not theretofore been so nominated and so elected?

[illegible] Yes, there were a number. For example, from our southern delegation there was one name only added. That was the name of W. G. Binkley of New Orleans. And there were new names from various other districts added to the list, that is, to

(Testimony of Paul Crouch.)

go on the new Central Committee, who had not been on previous Central Committees.

Q. And were these names discussed at the meeting of the presidium or presidium committee?

A. Yes, at not too great length, but they were discussed.

Q. Can you tell us any other persons whose names were discussed and who were subsequently balloted upon at the presidium committee meeting?

A. There was the—there was the name, for example, of Harry [2614] Bridges, or, as he went on the records, Rossi, was one of those names that was discussed from California.

Q. Was that name on the list of candidates which was approved by the presidium committee?

A. Under the name of Rossi, yes.

Q. Did you subsequently attend a session of the convention of the 1936 convention at which delegates were called upon to vote for the slate of candidates which had been predetermined?

A. I was.

Q. Did you at that time on the floor of the convention vote for a candidate under the name of Harry Rossi whom you know to be Harry Bridges?

Mr. Hallinan: Just a minute. Object to that, if the Court please; leading and suggestive; calling for the opinion and conclusion of the witness.

Mr. Donohue: He already said he did.

Mr. Hallinan: He can testify as to whom he voted for.

(Testimony of Paul Crouch.)

Mr. Donohue: I will withdraw the question, if Your Honor please.

Q. Let me ask you this question: Did any incident occur during the voting on the floor of the convention which you can now recall having to do with the naming of any one of the candidates for election at that convention?

A. Yes. Following each name as it was read there was applause throughout the convention hall. When the name Rossi was read, [2615] the California delegation rose to its feet applauding more enthusiastically than ever. And at this time I recall turning to my wife and making this statement, "I'll bet the mayor of San Francisco will sure be furious if he knew Harry Bridges was using his name in this convention."

Mr. Hallinan: I ask that that be stricken out as being hearsay.

Mr. Donohue: I have no objection to it.

The Court: The latter part of the answer may be stricken out, commencing with the assertion that the witness turned to his wife and thereafter to and including the last word in that sentence. All of that is stricken from the record and the jury instructed to disregard it.

Q. (By Mr. Donohue): Did you attend the 1938 national convention of the Communist Party?

A. I did.

Q. In what capacity?

A. As the editor of The New South, the Communist Party organ for the southern districts, and as

(Testimony of Paul Crouch.)

the delegates from the Alabama-Mississippi-Georgia district of the Communist Party.

Q. Were you a member of the Presidium Committee at this convention?

A. The procedure was quite different at this convention from the '36. There was a meeting called by the Central Committee of district organizers, the editors and a few top leaders of the [2616] Communist Party to discuss procedure and administration at the convention and to discuss the nominations, which were made in a procedure quite different from '36. [2616-A]

Q. Did you attend the meeting which you have just described? A. I did.

Q. Can you tell us when that meeting was held with relation to the time of the convention itself?

A. It was held during an evening, to the best of my recollection, during the course of the convention and prior to the final election session.

Q. Was a slate of candidates determined at that meeting? A. It was.

Q. Can you tell us whether or not the defendant Harry Bridges was nominated at that meeting?

Mr. Hallinan: Just a minute, if the Court please. I object to that as calling for hearsay and not binding on the defendants.

Mr. Donohue: He was there, if your Honor please.

Mr. Hallinan: There is no such testimony.

Mr. Donohue: He said he was present at the meeting, not Mr. Bridges.

Mr. Hallinan: That is what I mean.

The Court: The witness testified he was present at that meeting.

Mr. Donohue: Yes, sir.

The Court: The objection is overruled.

The Witness: What is the question? [2617]

(Question read.)

A. He was.

Q. (By Mr. Donohue): Will you state your recollection of the circumstances.

Mr. Hallinan: The same objection, if the Court please: not binding on the defendant. He was not present. It is calling for hearsay.

The Court: Will you fix the time on this? This was the same meeting?

Mr. Donohue: This is the 1938 convention, if your Honor please, and I understood the witness to say that this meeting took place on some evening during the course of the convention.

Q. Am I correct? A. Correct.

Mr. Donohue: A meeting at which he was present.

Q. (By the Court): Who were the others present?

A. The others present were District Organizers Browder, Stachel, Peters and several of the top leaders of the Communist Party.

Q. Were the results of that meeting recorded?

A. I don't know. They were recorded at the time by Earl Browder, who was taking the minutes of that meeting, and the results of it were subsequently read to the convention.

The Court: The objection is overruled. You may answer.

The Witness: What is the question? [2618]

(Question read.)

A. When it came the turn of the California delegation to suggest names of people who should be on the Central Committee, the name of Anita Whitney was first proposed by William Schneidermann, District Organizer, and then he stated he believed that Harry Bridges should be on. He stated that there was criticism of his work, he was temperamental, and so on, but that he had made an important contribution and he thought he would contribute more on than off the Central Committee. Both Foster and Jack Stachel—excuse me—both Earl Browder and Jack Stachel took part in the discussion and both expressed sentiments agreeing with those expressed by Schneidermann, and at the end Foster—I beg your pardon—Earl Browder stated that, "We will put Comrade"—and used the name of Derkin or Dargan or a name like that, which I hadn't heard previously, on the Central Committee. This was while we were discussing the matter in reference to Harry Bridges.

Q. (By Mr. Donohue): Subsequent to this meeting were you in attendance upon the floor of the convention when the names which had been approved by the committee were offered for approval on the floor of the convention?

(Testimony of Paul Crouch.)

A. I was.

Q. At that time did you vote for the defendant Harry Bridges, and, if so, under what name?

A. I was present and voted for the defendant Harry Bridges. [2619] To the best of my recollection, in reading down the list of names, the speaker paused and then made a remark, "The next person to go on the Central Committee is a well known West Coast labor leader," but without stating his name, and at that moment the entire convention burst into stormy applause.

Q. Are you able to tell us, Mr. Crouch, whether at any time during the 1936 or 1938 national conventions of the Communist Party you saw the defendant Harry Bridges?

A. To the best of my recollection, I did not see him in '38, but to the best of my recollection I saw him very briefly in 1936 during the course of the convention and at a meeting of the new Central Committee which followed for the purpose of electing the Politbüro of the Party.

Q. Mr. Crouch, shortly ago you testified that you heard Mr. Bridges read a resolution at a CIO convention. Am I correct? A. That is correct.

Q. Would you tell us where and when this resolution was read by Mr. Bridges.

A. This resolution was read by Mr. Bridges during the course of his address before the California State CIO convention between the 3rd and 5th of October, 1941, in the main room, in the main

(Testimony of Paul Crouch.)

meeting room on the first floor of the Hotel Oakland, in Oakland, California.

Q. Did you have any particular assignment with respect to the State CIO convention being held at the time and place you have [2620] just indicated?

A. Yes, I did.

Q. What was your assignment?

A. My assignment by the California District Bureau was to supervise the work of the Communist fraction at that convention and to see that all the decisions of the California District Bureau were carried through at that convention, and also to see that Harry Bridges carried out certain specific decisions made in the District Bureau.

Q. Had you ever seen the resolution which you subsequently heard Mr. Bridges read on the floor of the convention? A. I had.

Q. Will you tell his Honor and the jury where, when and under what circumstances you saw that resolution.

Mr. Hallinan: I object to this as calling for hearsay, if the Court please, unless the defendant Harry Bridges was present at the time he saw the resolution.

Mr. Donohue: He certainly was present at the time he read the resolution, if the Court please, and I think we have a right to show if this witness can tell us how the resolution got in the hands of Mr. Bridges.

Mr. Hallinan: That is different, if your Honor please, from the question he asked.

(Testimony of Paul Crouch.)

The Court: Will you reframe the question so there is no objection? [2621]

Mr. Donohue: Yes.

Q. Mr. Crouch, with reference to the resolution which you heard Harry Bridges read, did you personally have anything to do with the preparation of that resolution?

A. I had considerable to do with having it printed in final form as it was delivered by Harry Bridges.

Q. Under whose instructions did you put this resolution in final form?

Mr. Hallinan: Same objection: calling for hearsay.

The Court: Sustained.

Q. (By Mr. Donohue): Will you tell us, Mr. Crouch, as you best recollect it, the substance of that resolution.

A. The substance of the resolution——

Mr. Hallinan: Pardon me. Have you the resolution itself? I submit this may not be the best evidence. If the resolution is available, we should have it.

Mr. Donohue: Mr. Bridges read it. Maybe he will produce it.

Mr. Hallinan: It should be explained if it is available or not.

Q. (By the Court): Mr. Witness, do you have any independent recollection of the text of that resolution?

A. I do, of its substance, yes.

(Testimony of Paul Crouch.)

Q. Do you have the resolution?

A. I don't have the resolution. I have read it since I have [2622] been in San Francisco.

Q. Where is the resolution?

A. I don't know. I read it in the immigration office.

The Court: (To Mr. Donohue) Do you have it?

Mr. Donohue: No, your Honor, I do not have it.

Mr. Hallinan: I think they should produce it.

Mr. Donohue: I may be able to produce it.

The Court: I suggest that you produce it.

Mr. Donohue: I do not have the resolution.

Mr. Hallinan: I think he may call on one of his colleagues now, your Honor.

The Court: If the resolution is available there is no purpose in having this man resort to his independent recollection after these events transpired. Let us have the resolution.

Mr. Donohue: What I mean to say is I obviously do not have the resolution. I undoubtedly can procure a copy of the minutes of the convention at which that resolution was read.

Mr. Hallinan: May we inquire whether the resolution is present in the courtroom right now?

Mr. Donohue: I would like to find out myself.

The Court: Yes. Is it here now? We could save time if it is.

Mr. Hallinan: One of the boys in the front row is getting it out of his briefcase. [2623]

The Court: What is this? The text of the convention?

(Testimony of Paul Crouch.)

Mr. Donohue: This seems to be, if your Honor please, the Fourth Annual Convention, California State Industrial Union Council, Oakland, October 3, 4 and 5, 1941.

The Court: Will you show it to Mr. Hallinan, please?

(The document referred to was shown to Mr. Hallinan.)

Mr. Donohue: If your Honor please, may I have this marked for identification?

The Court: So ordered.

Mr. Donohue: And since it does not appear to be the property of the United States, may I later substitute either a certified copy of it or a photostat of it?

The Court: So ordered.

Mr. Hallinan: Whose property is it, may I ask?

Mr. Donohue: As I read the stamp, it is the property of the Library of Economic Research of the University of California.

The Court: A photostatic copy may be received in lieu of that document and the document returned to the archives where it belongs.

Mr. Donohue: May the document be marked Government's 8 for identification?

The Court: So ordered.

(The document was marked U. S. Exhibit 8 for identification.)

Mr. Donohue: Would you be good enough to hand it to the [2624] witness?

(Testimony of Paul Crouch.)

Q. Would you look at the page and see if that is the resolution.

A. This is the resolution.

Mr. Donohue: I offer it in evidence, if your Honor please.

The Court: What is the purport or purposes of this document, counsel?

Mr. Hallinan: We have no objection, your Honor.

The Court: May I have some descriptive context so we will know what it is?

Mr. Donohue: I have never seen it, if your Honor please.

The Court: You might look at it.

Mr. Donohue: Would you procure it for me, Mr. Mitchell.

The Court: What is the nature of the resolution?

Mr. Donohue: I do not know, sir. I have never seen it. Would your Honor care to read the resolution?

Mr. Hallinan: No, we stipulate it may be read. You have offered it in evidence. We will stipulate to it.

Mr. Donohue: I introduce it in evidence, if your Honor please.

The Court: It may be received. I am still in a quandary. What is the nature of the resolution?

Mr. Hallinan: He will read it in a moment, Judge, and we will all get it. It is a very villainous thing. Mr. [2625] Bridges might well be ashamed of it, but we will let it be read.

(Testimony of Paul Crouch.)

The Court: I am rather inquisitive. It is late in the day for me to be inquisitive. After the events of the day I haven't so much energy.

Mr. Donohue: If counsel would like to read it, I will be happy to read it.

The Court: You are in good voice today.

Mr. Donohue (reading):

> "Whereas, Fascism has enslaved most of Continental Europe and will engulf the entire world unless destroyed, and
>
> "Whereas, democracies can only succeed in defeating Fascism by throwing their entire resources into the bitter struggle, which step must be taken at once because further delay can serve but to strengthen our common foes, and
>
> "Whereas, this supreme effort can only be achieved by unity of action and purpose by all freedom-loving peoples,
>
> "Therefore Be It Resolved, that we pledge allegiance to our country, our President, and wholehearted support to his program, and that we take this step with full knowledge of the sacrifices we must make before victory is ours.
>
> "And Be It Further Resolved, that in making this [2626] pledge we (1) endorse the Murray Plan of industry councils because we know that adoption of the plan will result in greater unity of government, labor and capital and will sharply increase production, in our national defense industries and industries related to them; (2) oppose the anti-labor activities of the

Federal Bureau of Investigation, a continuation of which is detrimental to the welfare of our nation, its full productivity and effort; (3) request the removal from positions of authority of individuals of Fascist leaning, whose retention in important governmental posts raises questions of doubt in the minds of the worker and undermines the army of industrial workers and morale of the people; (4) pledge our loyalty and support to the vigorous leadership of President Philip Murray and urge him to retain leadership of the Congress of Industrial Organizations and lead that great organization along the lines laid down in this resolution; (5) and last, request President Murray to make our position on these vital questions known to our President, Franklin D. Roosevelt."

(The resolution was marked U. S. Exhibit 8 in evidence.)

Q. (By Mr. Donohue): Now I ask the witness if that is the resolution which he prepared.

A. It is. [2627]

Q. Can you recall or tell us the date upon which this resolution was prepared by you?

A. This resolution was prepared during the two weeks preceding the convention and the final work of it was done after the actual formal opening of the convention in the Hotel Oakland in my hotel room at the Hotel Harrison.

Q. Having prepared this resolution, Mr. Crouch,

(Testimony of Paul Crouch.)

can you tell us whether it was prepared before or after the attack on Russia by Germany?

A. After the attack by Germany on Russia.

Q. At the time you prepared this resolution, by whom were you employed?

A. By the Communist Party.

Q. And what did you do with the resolution after you prepared it?

A. I gave it to my wife who was the courier between my room in the Hotel Harrison and the secretary and assistant secretary of the party fraction on the floor. I gave her this resolution and told her to give it——

Mr. Hallinan: Just a minute. Just a minute, sir. Object to this, if the Court please, again as hearsay.

The Court: Sustained.

Q. (By Mr. Donohue): With what instructions?

Mr. Hallinan: Did Your Honor overrule it?

The Court: I sustained it. [2628]

Mr. Donohue: I am not asking for the conversation; I am asking what instructions he gave.

Mr. Hallinan: That the the same thing, Your Honor. That is calling for hearsay, what instructions he gave. It is the same thing.

The Court: I will sustain the objection.

Mr. Donohue: I will withdraw the question.

Q. Is that the resolution which you subsequently heard read by Mr. Bridges on the floor of the convention? A. It is.

Q. I ask you now under whose instructions you prepared that resolution?

(Testimony of Paul Crouch.)

Mr. Hallinan: Just a minute. The same objection. It is calling for hearsay, if the Court please.

Mr. Donohue: I think, if Your Honor pleases, it is pertinent.

Mr. Hallinan: Mr. Bridges was not present, I take it; no foundation laid.

Mr. Donohue: It is competent in the light of the picture——

The Court: Overruled. It goes to the causative relationship between the original source and the person who ultimately received it. Allegedly, according to this witness, Mr. Bridges received it and sponsored it on the floor.

Mr. Donohue: Yes, Your Honor.

The Court: You are now seeking the causative relationship? [2629]

Mr. Donohue: Yes, Your Honor.

The Court: Overruled.

The Witness: What is the question?

(Last question read.)

A. The instructions of the District Bureau of the California-Nevada-Hawaii District.

The Court: What was that last answer?

(Last answer read.)

The Court: District what?

A. Of the Communist Party, also known as District 13 of the Communist Party.

Q. (By Mr. Donohue): Can you tell us at this time who were the members of the District Bureau of District 13 of the Communist Party at the time you received these instructions?

Mr. Hallinan: That has been asked and answered already.

Mr. Donohue: No; I am not certain it was at the same time, if Your Honor please.

The Court: Overruled.

A. William Schneidermann, Steve Nelson, Louise Todd, myself, Paul Crouch, Oleta O'Connor Yates, Walter Lambert and Rudy Lambert.

Q. (By Mr. Donohue): And when, can you tell us, with relation to the time when you prepared this resolution was it that you received instructions concerning its preparation?

Mr. Hallinan: Just a minute. The same objection, Your [2630] Honor, again calling for hearsay.

Mr. Donohue: I am simply trying to fix the time.

Mr. Hallinan: Having gone far afield in tracing its genesis, he is now expanding and enlarging upon that. I submit that is improper.

The Court: Would you read the question, please?

(Question read.)

The Court: You are asking for the time?

Mr. Donohue: Yes, Your Honor.

The Court: Solely the time?

Mr. Donohue: Solely the time.

The Court: He may answer.

A. In the period—I don't remember the exact date—but it was not more than two weeks before the second of October when the convention began.

Q. (By Mr. Donohue): Mr. Crouch, was there a change in the policy of the Communist Party which took place after the invasion of Russia by the German army?

Mr. Hallinan: Just a minute now. Your Honor, this is incompetent, irrelevant and immaterial. Under a number of cases involving the criminal syndicalism act in California, it has been held reversible error to permit questions of this kind. The policies of an organization can be proved by its books and its records and not by statements of a member as to what he conceived it to be, or statements as to whether their officers in [2631] it told him they were.

The Court: If the witness alleged or asserted herein that books and records are not maintained, I suppose it would rest in the matter of the testimony.

Mr. Hallinan: I know of no evidence that books and records are not maintained.

Mr. Donohue: We have in proof already, if Your Honor please, that they haven't any record of their membership.

Mr. Hallinan: Not that such records are not maintained; only that they do not still have the books of membership.

Mr. Donohue: They said that not only they did not have them, but it was the policy of the Communist Party not to maintain such books.

(Testimony of Paul Crouch.)

Mr. Hallinan: Well, however difficult it may be, it still is the law that the policy of a party or organization can not be proved by putting members on the stand and asking them what the policy was. It is calling for their opinions and conclusions. Object to that.

Mr. Donohue: I think, if Your Honor please, the record is replete with instances wherein it is the apparent practice in the Communist Party when the line or policy of the party has been determined at the top, as was testified to in particularity by the witness Schomaker, it is then passed down from the Politburo to the Central Committee to the district organizer to the section organizer and the unit organizer, and the cell and the individual Communist member. [2632]

Mr. Hallinan: We haven't heard of the cells before, but they should come sooner or later. However, if Mr. Schomaker was permitted erroneously to testify to that, which he was not—I remember no such testimony—that doesn't render this testimony competent. Now, I make that objection, Your Honor, and, as I say, there are a number of cases of the California Supreme Court that hold directly that in a Criminal Syndicalism case testimony of this kind is not permissible.

Mr. Donohue: I think, perhaps, if Your Honor please, that I should make, as a premise to this question and others, an offer of proof to the Court in the absence of the jury, and for that reason may this matter stand over until tomorrow morning and may I do so at the beginning of the period?

The Court: Yes, we have reached the 4:00 o'clock recess period, and we might take the recess or adjournment until tomorrow morning. I might say that I have given some thought to——

Mr. Hallinan: Pardon me. There is one thing that I failed to mention. The document will be retained by the Clerk, of course—that is, the entire document.

The Court: I have given some thought to our proposed adjournment tomorrow and I think under the circumstances, we have had a long week, a trying week, and under the conditions that we will regularly adjourn at 12:00 o'clock, thus to allow the jurors an additional interval to attend to their Christmastide [2633] duties and obligations and enjoyments. And then we may resume again Monday at 10:00 or 11:00 o'clock.

The Clerk: 10:00, Your Honor.

The Court: 10:00 o'clock Monday and run over until Wednesday, the 21st, at noon, rather than 1:00 o'clock, so that we might take advantage of that interval.

We will adjourn until tomorrow morning at 10:00 o'clock. The same admonition to you not to converse on any subject of this trial, not to suffer any person to converse with you on any matter affecting or pertaining to it, and not to form or express an opinion until the matter is finally submitted to you. You may now retire.

(Thereupon, an adjournment was taken to tomorrow, Friday, December 16, 1949, at 10:00 o'clock a.m.) [2634]

Friday, December 16, 1949—10:00 A.M.

(Proceedings out of the presence of the jury:)

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: I wonder if counsel has received as yet the copy of the conviction. I ask the question, if your Honor please, because I am informed that the witness Manning Johnson's wife is ill—not seriously ill, but ill in New York, and we would like not to hold him longer than is necessary. I wonder if counsel have yet received from Nebraska——

Mr. MacInnis: We have not. Your Honor, I have sent another wire for that document. Also at your Honor's suggestion we sent a wire to New York for the testimony which you suggested might be proper if we had the supporting transcript.

Mr. Donohue: I think that disposes of that matter, if your Honor please.

The Court: All right.

Mr. Donohue: If your Honor please, perhaps it might be well in the light of the offer of proof I expect to make, having excluded the jury, that we also exclude the witness, so that perhaps he might not be influenced by what we may say.

Mr. Hallinan: You don't have to bother. He probably knows what it is. Let him stay here; we don't care.

(The witness Paul Crouch was excused from the courtroom.) [2635]

Mr. Donohue: If I may disregard that remark, if your Honor please, and invite your Honor's attention to the fact that a reading of the record of yesterday will indicate that the last question asked of the witness, with respect to which an objection was made, appears on page 2631 of the record at line 16:

> "Q. Mr. Crouch, was there a change in the policy of the Communist Party which took place after the invasion of Russia by the German army?"

Having in mind, if your Honor pleases, that heretofore in the record of yesterday it would appear that the witness had testified that during the October '41 CIO convention at Oakland he, as a member of the District Bureau of the Communist Party, had been instructed by the Bureau to make certain that the Communist fraction at that convention carry out the policy set forth by the District Bureau, and that pursuant thereto he had prepared a certain resolution, and that subsequent thereto he appeared in the hall at which the convention was being held and heard that resolution offered and read by the defendant Harry Bridges, the purpose of the question asked of the witness to which objection was made, as to whether or not there was a change in the Communist Party line which followed the attack on Russia by Germany—the purpose of that question and the offer of proof which I now make to your Honor is to show that the defendant Harry Bridges was a member of the [2636] Communist Party, over and above for the reasons already testified to in this proceeding, for the additional reason that he was subjected to and did in fact follow the direction of the Communist Party.

We therefore offer to prove by this witness that at a meeting of the District Bureau the defection of the defendant Harry Bridges from the Communist line which changed after the invasion of Russia by the German army was discussed, in consequence of which——

The Court: Discussed where and when?

Mr. Donohue: Within the District Bureau, if your Honor pleases.

The Court: Yes.

Mr. Donohue: And that a determination was made either that the defendant Bridges would accept the new Communist Party line or that he would be expelled from the Party, and that the evidence——

The Court: Was Mr. Bridges in attendance at any of these meetings?

Mr. Donohue: No, your Honor.

The Court: Was he invited to attend?

Mr. Donohue: No, your Honor, he was not at the meeting of the District Bureau in question.

The Court: All right.

Mr. Donohue: We offer to show, however, that the [2637] intermediaries between the District Bureau and Mr. Bridges——

The Court: So-called couriers.

Mr. Donohue: Yes, sir—were Mr. Walter Lambert and Mr. William Schneidermann, and that reports were brought back to the District Bureau from Mr. Bridges by these two men and that the directions of the Bureau were carried to Mr. Bridges by these two men.

We therefore offer to show that the resolution which was prepared by Paul Crouch, the witness, and was read by the defendant Harry Bridges was the evidence that the District Bureau insisted upon and received that Mr. Bridges had agreed, after the invasion of Russia by the German army, that he would abandon the old Communist Party line that the Yanks were not coming, and that he would advocate, and that by this resolution he did advocate, an all-out effort in production in this country in aid of the then existing war. [2638]

Mr. Donohue: May I at this time in conformity with your Honor's statement yesterday——

Mr. Hallinan: We will save you that trouble. We have a copy of the document. You may have your other document back.

Mr. Donohue: I would rather not, if your Honor please.

The Court: You have a copy of the resolution?

Mr. Donohue: We have a copy of the resolution.

The Court: We will have both documents received as one and marked appropriately as one, so that if Mr. Hallinan desires to refer to any part of the document, he may.

Mr. Donohue, in the light of this offer there are one or two questions I would like to ask before Mr. Hallinan makes comment or Mr. MacInnis:

One, do you represent to this Court that you through witnesses will bring home or allegedly or assertedly bring home to the defendant Bridges or any of the co-defendants knowledge and notice of the alleged intended change of party line?

Mr. Donohue: I can only do it by the testimony of this witness in the preparation of this resolution, which he said he prepared, and the fact that he was present at the meeting during the period of the convention at which Mr. Bridges read and presented the resolution which he prepared.

The Court: Mr. Hallinan, do you have any comments?

Mr. Hallinan: I do not know anything that permits hearsay testimony in, or any change in the rule. There was a meeting [2639] that Mr. Bridges was not present at. If they want to introduce that in evidence, I can only make the objection that it is hearsay.

The Court: Mr. Donohue, I think at this stage of the trial I shall sustain the objection.

Mr. Donohue: I shall not urge it.

The Court: I sustain the objection.

Mr. Hallinan: And I also assign as misconduct the statement of the special prosecutor made obviously for the purpose of having this transmitted to the general public through the newspapers, with the probability it will reach the jury. He must know a statement of that kind is inadmissible, that such evidence is not proper, and it seems to me to be a mere device to unjustly injure the defendants, and I assign it as misconduct, if the Court please: I renew my motion for a new trial upon this offer.

The Court: The motion is denied for very obvious reasons, Mr. Hallinan. You might call the jury.

Mr. Hallinan: I would like to know now the status of the document counsel introduced yesterday. He wants his copy back. You are giving him his copy back, is that correct? Is there any question that the copy I substituted is an authentic copy? You might look at it, if so.

Mr. Donohue: There is only this question: The document was not even marked for identification or offered in evidence, [2640] only that portion of it which contained the resolutions which were submitted for identification.

The Court: Do you want any other part of it?

Mr. Hallinan: I want the whole thing.

Mr. Donohue: I have to object to it.

Mr. Hallinan: It is in now.

Mr. Donohue: You may think it is.

Mr. Hallinan: Move your head and it will fall off.

Mr. Donohue: You move yours. If Your Honor pleases, the document in question was handed to the witness for the purpose of identifying on page 31 that portion thereof which contained the resolution in question.

The Court: Yes.

Mr. Donohue: We asked Your Honor to permit it to be identified, and we asked Your Honor then to submit it in evidence. At that time we were given by Your Honor permission to substitute a photostatic copy of that portion of the document.

The Court: That is true. I am not foreclosing Mr. Hallinan from referring to any other part of the document in the examination of the witness and he may offer all or any other part of the document which appears to be material.

Mr. Donohue: I have no objection to that, but I do not want Mr. Hallinan to state, as he stated a minute ago, that the document is in evidence.

The Court: The document is in evidence in so far as a [2641] resolution embodied therein is concerned. I am not foreclosing counsel for the defendants referring to any other part of the document if it be material in the examination of this witness or any other witness.

Bring in the jury.

(Thereupon the jury were brought into the courtroom, and after they had assembled in the jury box, the following occurred:)

PAUL CROUCH

resumed the stand on behalf of the United States; previously sworn.

The Clerk: The witness on the stand is Paul Crouch, heretofore sworn.

Mr. Donohue: I have no further questions of this witness, Your Honor.

The Court: Cross-examine.

Cross-Examination

By Mr. Hallinan:

Q. Mr. Crouch, you say that Mr. Schneidermann on some occasion complained or quarreled with you because you could not get your wife to do something she did not want to do, is that right?

A. In his capacity——

Q. Can't you answer that yes or no?

A. The question is misleading.

Q. I just wanted to confirm the supposition I made from your testimony that Mr. Sceneidermann was not a married man, is that [2642] right?

A: What?

Q. I said obviously Mr. Schneidermann was not a married man?

A. Mr. Schneidermann is a married man, or was.

Q. You still thought you could persuade your wife to do something she didn't want to do, is that right? Your experience with wives has been different from the experience I have had with mine, I will assure you. Without committing you unalterably to dates, but in order to try to fix one or two of these matters as well as it may be, Mr. Crouch, I would like to see if we can get with a little more particularity the dates of these conventions that were testified to. I have here a newspaper called The Western Worker, which a previous witness has said was edited by the Communist Party on the West Coast, and questions were addressed to him touching the dates of the meeting in New York, and he was unable to refresh his recollection from them. I want to show you the same paper and ask you if you can help us determine exactly what the dates of that convention were.

Is it all right if I point out the part without transgressing the Court's order?

The Court: Certainly.

Mr. Hallinan (Indicating to the witness): This is the portion that I want to get now. Does that relate to that convention? That is it, that line. Let me see. We will turn a [2643] page back and see if that describes the convention. Here, I think this is it. Maybe I can find the exact language here:

> "The nomination of the candidates will take place at a monster mass meeting in Madison Square Garden in New York."

This is the paper of Thursday, June 25th, see?

Mr. Donohue: May I ask Your Honor whether the question is asked of the witness, as I was told at first, by Mr. Hallinan to refresh his recollection as to the time.

The Court: I assume it is.

(Testimony of Paul Crouch.)

Mr. Donohue: Or is it as to the substance and truth of the statement?

The Court: I assume it is as to time.

Mr. Hallinan: It is not for the purpose of impeachment. It is just to fix these dates a little more specific.

Mr. Donohue: I thought we agreed yesterday on the dates of the convention——

The Court: It will do no harm.

Q. (By Mr. Hallinan): Will you read that language, "The nomination of the candidates will take place at a monster mass meeting in Madison Square Garden in New York City," and then it states something about broadcasts and now if we skip over to the next page, we have here, "Historic Convention." And then what I want to get here is the agenda of the party. The main points of the agenda of the convention it gives as follows. [2644] I notice in here the name of one or two people who were friends of yours: "Gil Green"?

A. Correct.

Mr. Donohue: If Your Honor please, is this newspaper in evidence?

Mr. Hallinan: No.

Mr. Donohue: Why read from it?

Q. (By Mr. Hallinan): Can you tell us by refreshing your recollection from that paper, what the agenda of the convention was, Mr. Crouch? Is the light too dim for you?

A. The paper shown me reads, "Main points on

(Testimony of Paul Crouch.)

agenda of the convention are as follows: one, to fight against reaction, Fascism, war, United Fronts, the presidential elections—"——

The Court: Pardon me. Could you speak a little louder and slower, please?

The Witness: "The presidential elections, and the farmer-labor party."

Q. (By Mr. Hallinan): Are you reading this off in separate lots?

A. Yes. This is under "1." To resume, "one, the fight against reaction, Fascism, war, United Fronts, the presidential elections and the farmer-labor party." Reporter, Earl Browder, general secretary.

"Two: Party organization, Reporter, F. Brown. Problems of forces. Reporter, Charles Krumbein." [2645]

"Three: Organizing the toiling youth. Reporter, Gil Green."

"Four: The circle for peace and the peace policy of the Soviet Union. Reporter, Robert Miner."

"Five: Election of Central Committee."

"Six: Nominations of presidential ticket."

Turn it over a page or two to see if the agenda was carried out——

Mr. Donohue: If Your Honor please, obviously this paper is not a special report of the incidents or happenings of this convention.

Mr. Hallinan: That is correct.

Mr. Donohue: And for that reason could not be introduced in evidence. It could only be used

(Testimony of Paul Crouch.)

by the witness, as Mr. Hallinan said it was going to be used, to refresh his recollection about the date.

Mr. Hallinan: That is all.

Mr. Donohue: He certainly can not use this paper as a standard to determine——

The Court: That is apparently the purpose.

Mr. Hallinan: That is all I want to do, because these things should not be so much in doubt. There must be some record to confirm these.

Now, if you will look at this part, which says "Open by Foster," and then coming down to here, can you tell us the order [2646] in which this agenda was carried out and the dates or the days on which these separate matters on the agenda were in fact discussed or performed.

Mr. Donohue: May I suggest, if your Honor please, that the witness be instructed to read from the newspaper himself?

The Court: That is what he is doing.

Mr. Donohue: Not to the jury.

Mr. Hallinan: He can do whichever he wishes.

Mr. Donohue: The paper is not in evidence, if your Honor please.

Mr. Hallinan: He can use the same language if he wishes. I do not think there is any doubt about that. It is just to fix the dates. What is the question about it?

Mr. Donohue: No, it is not to fix the dates.

Mr. Halilnan: What is it for?

Mr. Donohue: You just said it a moment ago. Counsel said there must be some record to show what occurred, what the agenda was, and when it was carried out. He purports that this is such a record. It is not.

Mr. Hallinan: No, I do not. All I want to do is see if we can get the dates on which the separate things were done, when the convention opened. That is all I want.

The Court: I so understand.

Mr. Hallinan: And I will say this, your Honor: It is subject to any modification. If they want to bring in any kind [2647] of document or other witness, we have stated we won't hold the witness bound by it. I would like to see if we can fix the time with some degree of definiteness. That is our only purpose.

Mr. Donohue: I merely ask the witness that he read from this newspaper to himself.

Mr. Hallinan: I might say to the jury there is nothing in any statement that is in there different from what he just read. There is nothing inflammatory, no conclusions. They are merely news items that give the name of the person and the subject of the discussion. [2648]

The Court: As far as the record is concerned, he may read it either aloud or to himself. I think I understand the purpose at this time. If there be any other purpose, it will be disclosed hereafter.

Mr. Hallinan: Yes.

The Court: Have you read it, Mr. Witness?

The Witness: I have.

Q. (By Mr. Hallinan): Well, now, could you tell us, then, what was the—the dates, as I understand it, were the 24th to the 28th inclusive, isn't that correct?

A. The newspaper indicates it ended on Sunday, and to the best of my recollection the convention ended with a meeting at Madison Square Garden where nominations were made for president and vice president on Sunday, June 28. The convention was of five days' duration, opening on the previous Wednesday, and without a calendar I couldn't say offhand what day of the month it would be.

Q. Well, that would be the 24th. So those are the dates that we have had already, but as I say, we wanted to get now the first day, that would be Monday the 24th, what do you find was the matter disposed of on the agenda?

Mr. Donohue: Object, if your Honor please. He can't prove what hapepned on the 24th by what the Western Worker——

Mr. Hallinan: No, he has stated it himself.

The Court: It may be in the nature of refreshment of his [2649] recollection.

Mr. Donohue: To that we have no objection.

The Court: He may state independently if he recalls.

Mr. Donohue: If he cannot, if his recollection can be refreshed by this Communist paper, I have no objection.

Mr. Hallinan: Do you know of any reason they should misrepresent the dates of their convention?

(Testimony of Paul Crouch.)

Mr. Donohue: We agreed by stipulation yesterday to the dates of the convention.

Mr. Hallinan: Yes, we have agreed that they were the 24th to the 28th inclusive. That was agreed upon. There is no dispute about that, but what I want to get is, What were the items of the agenda disposed of on each separate day?

Q. If you can remember without refreshing your recollection, Mr. Crouch, tell us; if you can't, refresh your recollection.

A. My recollection is that on the opening day of the convention there was a report by Earl Browder, the General Secretary of the Party; and without refreshing my memory from this, because I do not know whether this order is accurate or not, my recollection is there was a report, either immediately or shortly thereafter, by Gilbert Green on the organization of the working class youth and the Young Communists League. There was——

Q. Wait a moment now. Are you trying now to confine yourself to Wednesday, June 24? [2650]

A. I am unable to distinguish as to what happened any specific day.

Q. Can't you refresh your recollection as to that?

A. I can't tell whether this is an accurate account or not.

Q. Do you know of any reason—and what days do you find there that these matters occurred on? What days?

A. This reports that the Wednesday afternoon

(Testimony of Paul Crouch.)

session heard the report of the Central Committee delivered by Earl Browder; that Gil Green, secretary of the Young Communists League, reported Wednesday on the plight of the youth, and then a report followed, also on Wednesday apparently, from this, by Charles Krumbein on the—which dealt with the—not quoting from this, but as I recall Krumbein's report, he reported on the cadres or organization of the forces in the Party, how to use personnel. Thursday, this states, was devoted to discussion and to reports—incidentally, in connection with this, I was a speaker in that discussion, I might add—of Negro sharecroppers from the South, farmers from the Middle West, the farmer-labor party questions; and Friday also was devoted to discussion, and Saturday to a report——

Q. What about Friday? Was that the same subjects that were discussed on Thursday?

A. Yes, general discussion of the delegates.

Q. Then Friday what?

A. Then Friday was also devoted to fullest discussion. As [2651] stated in this paper, the highlight of Saturday's session was to be a report by Robert Miner on the fight for peace. There is no mention in this article of the date, of the point on the agenda dealing with the election of the Central Committee.

Q. Let me show you something that is there on that subject, Mr. Crouch.

Mr. Donohue: Are we subsequently going to introduce this volume in evidence, if your Honor please, from which testimony is being so freely given?

Mr. Hallinan: Take a look at this part in red. We will supply a copy if there is any question.

Q. What is your recollection now as to the date, or the day, rather, upon which the election of the Central Committee was held?

A. Saturday, to the best of my recollection. I am not positive; I am speaking to the best of my recollection.

Q. The Central Committee was elected then on Saturday where? A. What do you mean?

Q. Where was the convention held at which the Central Committee was elected?

A. It was held in a private hall rented by the Party. I do not recall the name or the address.

Q. By that you mean the selection of the committee in the manner that you indicated but not their election by the entire [2652] convention, is that right?

A. It was elected by the entire convention of accredited delegates so far as the formal vote was taken, but not at the public meetings which are referred to and spoken of in this newspaper.

Q. That is what I want to find out. When was that public meeting held?

A. The public meeting took place on Sunday, June 28, in Madison Square Garden for the purpose of nominating Earl Browder for president and James W. Ford for vice president of the United States, and was a public meeting not limited to dele-

(Testimony of Paul Crouch.)

gates and not limited to members of the Communist Party and not strictly a Party meeting but a public meeting.

Q. We are not concerned with that so much. It is asked as far as the time. A. Yes, sir.

Q. So that the nomination of these gentlemen as candidates for presidential election was at the Madison Square Garden on Sunday?

A. The nomination of Browder and Ford was at the Madison Square Garden on Sunday, June 28.

Q. And then was the election by the convention of the Central Committee held at the same time?

A. No.

Q. When was that held? [2653]

A. At a prior date, and to the best of my recollection was on the previous day, Saturday, June 27, to the best of my recollection.

Q. So that the names of the nominees on this Central Committee were never presented to the general convention, is that correct?

A. Only—the actual people that were on this slate, the actual members of the Central Committee, was never presented at any public meeting.

Q. So that the convention as a whole never voted upon the Central Committee, is that correct?

A. Oh, you are misquoting what I said.

Q. No, I don't intend to. I thought you said that they weren't——

A. Elected at a public meeting. I did not say they were not elected by the convention.

Q. And were the names ever submitted on the

(Testimony of Paul Crouch.)

floor of the convention to the—I don't know what the number is—that paper says 750?

A. Correct.

Q. But one of the other witnesses said he thought there were three or four hundred. What is your estimate?

A. There were about 300 to 350 regular delegates and an equal number of alternate delegates who would have had the right of vote if the regular delegate was absent, making a total of approximately 700 regular and alternate delegates.

Q. What I mean now is, Was this list of candidates for the [2654] Central Committee ever elected by that 700 or 750 people? A. Yes, they were.

Q. And when?

A. I have stated that to the best of my recollection they were elected on Saturday, the 27th.

Q. I see.

A. I cannot be positive on the date, but my best recollection is they were elected on Saturday.

Q. Was that list ever submitted to the people in the Madison Square Garden meeting?

A. No, not the names that were voted on on the actual Central Committee weren't submitted at Madison Square Garden.

Q. So then we may take it as a reasonable resume of the proposition that an election of delegates to the Central Committee was held Saturday, June 27?

A. To the best of my recollection.

Q. And can you tell us where that was held?

(Testimony of Paul Crouch.)

A. In a private hall with the address given only to the delegates. The address of that hall, I do not now recall, since so many years have elapsed and since I have attended so many Party conventions.

Q. Was it a different place from where the meetings were being held, the Manhattan Opera House?

A. To the best of my recollection, it was. I cannot be positive on that, but to the best of my recollection there were [2655] various meetings, some of which were held in the Manhattan Opera House, some were held at other places, commission meetings, meetings of the presidium, commissions——

Q. I mean the convention itself, Mr. Crouch. Did the members of the convention themselves meet at any place other than in the Manhattan Opera House?

A. To the best of my recollection, we went to another hall for the purpose of electing the Central Committee.

Q. That is, the whole 750 people went there?

A. Yes. Yes.

Q. And they received some sort of a notation or some sort of an address that caused them to go there, is that it?

A. Through the heads of their delegations, yes.

Q. In other words, at some place during the session in the Manhattan Opera House the heads of the delegations were notified that a special meeting would be held in another and different place

(Testimony of Paul Crouch.)

for the occasion of electing this Central Committee, is that correct?

A. That was the procedure in practically all Party conventions, and to the best of my recollection, it was used in this particular case.

Q. Because we don't want to get it confused now with the ordinary procedure. If you don't remember, it is all right; you are not supposed to remember everything; but some place, then, as far as this convention itself is concerned, the convention [2656] adjourned from the place where it had been meeting and went to a different hall where the nominations for the members of the Central Committee were presented to them, is that correct?

A. To the best of my recollection, it is.

Q. You don't remember now where that hall was? A. No, I don't.

Q. Well, how did you get there?

A. We traveled to these halls by subways.

Q. And was the hall where this special meeting took place very far distant from the Manhattan Opera House?

A. I do not now recall these things since I went to all the meetings from downtown where I was staying.

Q. The Manhattan Opera House was the place, I take it, where all these addresses were given by Mr. Browder, Mr. Brown, Mr. Green, Mr. Miner, yourself and the others, and all those things that you have identified from the agenda, except as to the election of the Central Committee, occurred in the Manhattan Opera House?

A. To the best of my recollection.

Q. Where is the Manhattan Opera House located?

A. I do not recall the street address in New York City now. It has been many years since I left there.

Q. I wouldn't expect you to, but can you tell us where it is, do you know around what street or in what neighborhood?

A. No, I am sorry, I can't. [2657]

Q. You said that you were staying downtown?

A. Yes.

Q. Were you living in New York at that time?

A. To the best of my recollection I was—I stayed at the St. George Hotel during this convention. That is my belief.

Q. Where is that?

A. That is down around 12th Street. It isn't—near, only within a block from the national office of the Communist Party.

Q. Then can you give us any approximation as to the location of that Manhattan Opera House?

A. I cannot now recall, because so many years have gone by and since the Manhattan Opera House was only one of dozens of halls to which I have gone during Party conventions.

Q. I am not criticizing; I have a purpose in wanting to find out, because I do not know myself, and I do not know where the St. George Hotel is, or where Madison Square Garden is. I must confess, when I go to New York we generally run out to the Bronx

(Testimony of Paul Crouch.)

Zoo and spend the whole time there looking at the animals and then we go home.

The streets in New York, as I remember, start in way down at the bottom of the grade, 1, 2, 3, then they run up to 150, 160, 180, up to the 200's. Do you know where with regard to those streets roughly the St. George Hotel is?

A. The St. George Hotel is roughly around 12th.

Q. Now, can you tell us then roughly where the Manhattan Opera House is? [2658]

A. I do not recall.

Q. Well, I mean, could you tell us within, oh, forty or fifty blocks?

A. I am afraid I can't even do that.

Q. What is that section called that is out where the Bronx Zoo is? Is that called the Bronx?

A. That is called the Bronx.

Q. What streets does that involve?

A. The section as you approach the zoo runs somewhere, to the best of my recollection, from around 170 to 200, somewhere around there; I don't know exactly now.

Q. What I want to get, Is the Manhattan Opera House in that neighborhood?

A. Oh, no, not that far up; somewhere in Manhattan is all I can definitely recall.

Q. And then the streets that cut across these numbered streets on the Island are not very numerous, the avenues that run at right angles to the streets. Do you know what avenue it is on?

A. I do not recall.

(Testimony of Paul Crouch.)

Q. Do you know which side of Broadway it is on? A. No, I do not.

Q. Have you ever attended any other convention there?

A. I have attended several meetings at the Manhattan Opera House, but I cannot recall the address of the Manhattan Opera House. [2659]

Q. Was it used pretty much by the Communist Party for conventions?

A. Not too frequently; only on rare occasions.

Q. Where is Madison Square Garden?

A. Madison Square Garden, again very—this is only to the best of my recollection—is somewhere between 50th and 60th, a little to the west of Broadway, but this is only my recollection.

Q. Now, can you tell us, having gone to the Manhattan Opera House, how did you get to the other place to which the convention adjourned on Saturday?

A. To the best of my recollection, we didn't go directly to the meeting from there. Some of us went to dinners at various places. My impression—my best recollection is that there was a noon or an adjournment sometime in the course of the afternoon; Robert Miner's address report was completed; that there was an adjournment, and we had dinner, and then we went from wherever we were to the address which were handed out by the heads of the district delegations, for the purpose of electing the Central Committee.

(Testimony of Paul Crouch.)

Q. Were you the head of your district delegation? A. I was.

Q. And was the communication given to you in writing or orally?

A. I was handed slips of paper at all of these conventions [2660] when changes of addresses were made.

Q. Let's see if we can get away from the general custom. If you don't remember, as I say, it is all right; but do you remember whether you were given a written document or only told orally?

A. No, we were never told orally. To the best of my recollection—I am speaking for the best of my recollection in this case because there are no specific incidents to make this precise—that I was given, in the usual way, slips which I passed out to the members of my delegation giving the address, nothing but the address.

Q. How many people in your delegation?

A. About six.

Q. So then you would be given six slips of paper giving the address to which they were to resort, is that correct?

A. That is correct. That is the procedure.

Q. Then you handed them to the people in your delegation? A. That is the procedure.

Q. The meeting at which this Central Committee was elected, do you remember, was it held in the daytime or in the evening?

A. I cannot specifically recall the hour. My impression—this is only an impression—is that it was

(Testimony of Paul Crouch.)

held in the late afternoon, but I cannot be precise and absolutely state that it was not held before dark, but my belief is it was held in the late afternoon. [2661]

Q. And how long did that meeting last?

A. There are no notes or anything to refresh my recollection. I would estimate from my best recollection that the meeting perhaps lasted an hour and a half, but there is absolutely nothing to refresh my memory and no specific incidents to enable me to say how long any of the convention election sessions lasted in terms of exact hours or exact minutes.

Q. Well, it would be difficult. Now, the building—did you have anything to do with renting any of the premises or obtaining the facilities of either the opera house or Madison Square Garden or the other building?

A. I had nothing whatever to do with that.

Q. This building in which the meeting was held on Saturday afternoon or evening for the election of the Central Committee, could you describe generally what type of building it was? [2662]

A. The only thing impressing itself on my mind that I could describe is that the approximate length, as compared to the width, was about the same as this courtroom, or perhaps a little longer in proportion, and with a platform perhaps three feet high, to my best recollection, a rather long platform, because I recall quite a number of party leaders who were seated across the platform, some of whom I

(Testimony of Paul Crouch.)

could name if you wish, who were present at the reading of the list of nominees.

Q. I do not care about this now because I want to see about locating that place a little more accurately. You say a platform. Was it a stage or was it a specially constructed platform or what?

A. A regular stage or platform, extending practically, if not entirely, the full width across. It might not have been the full width, but it was quite wide, at least as wide, I would say, as 30 feet or more.

Q. Did it have a curtain in front of the platform, a stage curtain?

A. If there was a stage curtain, it was not raised or lowered. There might have been. I do not recall.

Q. Were you seated on a platform or in the audience?

A. I was seated in the audience, very near the front, only perhaps three or four rows removed from the front.

Q. And then about how many people did you say were seated on the platform? [2663]

A. I can recall about 15, and there were others, I believe. I can recall roughly, to the best of my recollection, about 25.

Q. With relation to the size of the room in which the meeting was held, how would it compare with this courtroom? Bigger, smaller or what?

A. Considerably larger, twice the size of this courtroom.

Q. I would imagine that would be true, because

(Testimony of Paul Crouch.)

750 people were seated in there in addition to the people seated on the platform, 700 or 750 people. What was the nature of the type of chairs, do you remember that?

A. I don't recall specifically the type of chairs.

Q. Do you know whether they were the type of chairs that could be moved away or were they fastened to the floor or what?

A. That I cannot recall.

Q. Here is what I am trying to get at: Were the seats permanently affixed? Was there, for instance, a sloped floor as there would be in a theater, or was it a flat floor?

A. It was a flat floor, but whether the seats were fixed or not I cannot recall.

Q. You can't tell us, you stated already, what time this was, so it is futile to ask what time you got there or anything of that kind or what time you left. But do you remember after that meeting adjourned, where did it reconvene again? Did the members return to the Manhattan Opera House or did they disperse to their respective homes or what took place? [2664]

A. To the best of my recollection, this was the last meeting of the convention as such. It was the last meeting at which the 700 delegates met as delegates before the formal session in Madison Square Garden. In other words, the election of the new Central Committee was the last official act of the delegates as delegates, and the following day they took part in the formal public nomination, which

(Testimony of Paul Crouch.)

had already been previously decided, of Foster and Ford.

Q. And that took place at Madison Square Garden? A. That is correct.

Q. Now, the convention sessions had been held prior to that at the Manhattan Opera House, did they start in the morning or in the afternoon or in the evening, that is, the prior meetings, starting on Wednesday, June 24th?

A. They started in the mornings.

Q. About what time?

A. To the best of my recollection, about 9:30.

Q. And I am not trying to pin you down in hours. I just want to get the general picture. Around 9:30, and then would there be another meeting in the afternoon, another session in the afternoon? A. Yes.

Q. What time would that customarily start?

A. I do not recall that each day followed the same pattern. It was a question of how long a time was required to complete [2665] reports and complete certain points in the agenda before lunch adjournments were made and, as I can recall, the length of the adjournments was not always the same, because sometimes there would be meetings of commissions and meetings of the presidium between. As I remember, the schedule about hours varied very much from day to day.

Q. But there would be a session every afternoon at any rate, I suppose?

A. Yes. There were sessions to the best of my

(Testimony of Paul Crouch.)

recollection, every morning and every afternoon of varying length.

Q. Then were there sessions in the evening?

A. To the best of my recollection, there were sessions one or two evenings, but not all evenings. There were commission meetings, delegation meetings and presiding committee meetings and things of this kind going on sometimes when the convention was in session, and at other times during the adjournment, and most of the time I was tied up on various commissions on the presiding committee of which I was a member, and sometimes my work on the presiding committee or on those commissions carried me away from the floor of the convention when it was actually in session.

Q. Where would those committee meetings be held? In the Presidium—is that what you call it?

A. Presiding Committee, Presidium.

Q. Where would that be held? [2666]

A. Some of those meetings, most of those meetings, to the best of my recollection, were held in surrounding or adjoining halls to the main meeting hall, or sometimes the corners of the meeting hall during recesses. Sometimes we had meetings in hotel rooms or meeting places nearby, or elsewhere in the city.

Q. I suppose that where there was a considerable number of people, then they would hold a meeting in one of the adjoining halls, and where there were only a few people, they might hold them in a hotel

(Testimony of Paul Crouch.)

room, but I do not suppose a great many people assembled in hotel rooms in those matters?

A. I mean the hotels which had regular meeting rooms.

Q. How many people were on your Presidium?

A. Oh, perhaps 25 to 30. I don't recall the exact number.

Q. Is it the fact, do you state that there were in addition to the main hall in the Manhattan Opera House some smaller or subsidiary adjoining halls that were also available to the convention?

A. There were places around—I do not recall halls as such, but there were places where they could meet in waiting rooms or in the lobby, like, and so on, and other meetings, as I said, took place elsewhere.

Q. From the name I gather that this building was a theater building. Was it, the Manhattan Opera House?

A. A large public hall, and I am not sure, after so many years, about its exact geographical details as I would on a meeting [2667] hall I visited yesterday. But I think it had supplementary meeting rooms, too.

Q. Did that have fixed chairs like a theater or were they movable chairs in that building?

A. That I cannot recall.

Q. What about the stage there? Was there a stage or a platform?

A. A platform—it could be called a stage or a platform, which differed only slightly, to the best

(Testimony of Paul Crouch.)

of my recollection, from the platform of the hall where the election took place. As I can recall now, after all these years, there was no great or material difference. But my impression is that the hall in which these reports were made was wide in proportion to its length than was the hall where the nominations took place.

Q. In this Manhattan Opera House, did that have a floor sloping down to the stage or was it a flat floor?

A. To the best of my recollection, flat.

Q. And the chairs, were they affixed to the floor?

A. I stated in answer to a previous question that I didn't recall.

Q. Were the chairs simply wooden chairs or were they the plush covered theater chairs? Do you remember that?

A. Those physical details I cannot recall after the lapse of these number of years.

Q. You attended every session of the convention, I take it, at [2668] some time or other, is that right?

A. That is correct.

Q. Although sometimes you had to depart for the Presidium or committee meetings that you discussed and went to another part of the building or to an adjoining hotel room or something, is that right? A. That is correct.

Q. Did the Manhattan Opera House have a gallery, boxes?

A. I cannot specifically recall.

(Testimony of Paul Crouch.)

Q. Were the public admitted to the convention meetings in the Manhattan Opera House?

A. Emphatically no, they were not.

Q. None of the public were admitted at all?

A. No, non-party persons were not admitted at all, or anyone except accredited delegates.

Q. Then when you came to the door, I suppose you had to present such credentials as you possessed in order to gain admission?

A. That is correct. We had ribbons which we wore, one color for regular, one color for alternate, to the best of my recollection, and we had printed admission tickets.

Q. And then I suppose a space was assigned to each delegation where they sat and they had banners, and so forth, like ordinary legitimate political parties, is that right?

A. Only at Madison Square Garden were there any conspicuous [2669] banners that I can recall, where there were specific sections assigned to our delegation. We were seated together as groups. The Carolina delegation was seated in one place, the California delegation was seated in another place, and to the rear of where I was seated.

Q. Then did they have some standard or banner that indicated the state name where the delegation was supposed to sit?

A. I don't recall any banners. There might have been, but I don't recall.

Q. How did you know where to locate your section where you would go?

(Testimony of Paul Crouch.)

A. As—to the best of my recollection—I cannot be specific on this since there is nothing specific to call this to my attention—we were seated more or less by assignment from the men who were—from Benson and Peters, who handled all the mechanical details of the convention.

Q. Then what was your convention called? The South Carolina convention or was it called the convention of which you were head?

A. You mean delegation of which I was the head?

Q. I mean the delegation.

A. The delegation was called the Carolina delegation or District 16 delegation.

Q. So far as you know, did the Communist Party have any meeting hall of its own in New York of any size that would accommodate [2670] any reasonably large number of people?

A. The Communist Party had a large number of meeting halls in its national office, which would have accommodated anything short of the full convention. I do not think there were meeting halls sufficient to accommodate the 700 delegates in full, but it would have accommodated any of the smaller commissions. But the Communist Party never used its own halls for any meetings in connection with secretly held conventions.

The Court: Have we reached a point when we can recess?

Mr. Hallinan: Yes.

The Court: We might take the morning recess,

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**TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES**

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume VI
(Pages 2409 to 2896)

**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

In .... Volumes

Volume VI

(Pages 2409 to 2896)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

(Testimony of Paul Crouch.)

ladies and gentlemen. The same admonition not to discuss the case under any conditions nor to form or express an opinion until the matter is submitted to you.

(Recess.) [2671]

Q. (By Mr. Hallinan): Mr. Crouch, there were a couple of terms that you used that I am somewhat confused on. Is there any distinction between the National Committee, the Central Committee and the Politburo?

A. The term "Central Committee" was the term officially used by the Communist Party to describe its leading committee during the '30's, and today, and since around 1940, somewhere around that period, it has been known as the National Committee, with the same meaning. Back in the '20's the term generally used was "Central Executive Committee" or "CEC"; then about 1930 the Central Committee—for instance, Browder's reports always used the term "Central Committee."

Q. The reason is unimportant. I just want to know. Then the Central Executive Committee, the Central Committee and the National Committee would mean the same body? A. Yes.

Q. What about the Politburo, was that the same body, too?

A. No, the Central Committee, or later the National Committee, or earlier CEC, elected a small committee which ranged, to my recollection, anywhere from a minimum of five members to a maximum of about eleven members at various periods.

(Testimony of Paul Crouch.)

which was known as the Political Bureau. It was referred to in short in the '20's as the Polcom—P-o-l-c-o-m.

Q. At any rate, it is not the Central Committee or the National Committee? [2672]

A. It is a small committee of the Central Committee.

Q. What I mean, the terms are not synonymous?

A. No.

Q. But Central Committee and National Committee are?

A. That is correct.

Q. You say you have attended a great many of those meetings. In the ordinary course of business of a convention is the election of committees the last order of business? A. Yes, it is.

Q. Now, I want to show you in this same paper that we used, as I said before, only to refresh your memory again, Mr. Crouch——

Mr. Donohue: Again may I ask your Honor to instruct the witness to read the article to himself for the purpose of refreshing his recollection.

The Court: All right.

Mr. Hallinan: Just this last paragraph, that particular last sentence.

Q. Now, does that have any effect upon your recollection of the day upon which the Central Committee was elected?

A. None whatsoever.

Q. Now, you testified to certain matters refreshing your recollection from this article.

(Testimony of Paul Crouch.)

A. Correct.

Q. And the article states this——

Mr. Donohue: I object, if your Honor please, to counsel [2673] reading the article. It isn't in evidence.

Mr. Hallinan: No, but he has refreshed his recollection from it.

Mr. Donohue: He said having read the article, it in no way refreshes his recollection.

Mr. Hallinan: It is still only to refresh his recollection.

The Court: For the limited purpose of refreshing his recollection, I can see no harm.

Mr. Hallinan: That is all it is.

Mr. Donohue: Except, practically, the witness has read the article to himself, and he said having read the article, it in no way refreshes his recollection. Obviously he cannot impeach him by reading this article to him. Obviously an article in the Western Worker is not admissible in evidence. It has no probative value. And I object, if your Honor please.

The Court: That may be.

Mr. Hallinan: I just want to see what distinction there may be between the refreshing of his recollection on other dates and this one small item which, as I say, isn't a very important matter anyhow.

The Court: All right.

Mr. Hallinan: The article, or, rather, the paragraph that I had in mind, read:

"The final session of the 9th Convention Sun-

(Testimony of Paul Crouch.)

> day was [2674] to be held at Madison Square Garden as a great mass meeting."

We agreed that that was the fact. That refreshed your recollection, that was so.

> "At this session the Party's election platform is to be adopted and the candidates for president and vice president nominated."

And you agreed that that refreshed your recollection; that that was so, is that correct?

A. That is not correct, because I already recollected the full facts before I read that. It added nothing to my recollection.

Q. Well, at least it doesn't break your recollection or contradict your recollection?

A. No, it corresponds to the facts in so far as you have read.

Q. Then this last sentence, "A new National Committee of the Party was to be democratically elected." That is contained in the same paragraph describing what took place at the ninth convention on Sunday at the Madison Square Garden. Doesn't that change your recollection or refresh it to the extent of now recalling that this new National Committee of the Party was to be democratically elected on Sunday at the Madison Square Garden?

A. In no way, because that is exceptionally cleverly and trickily written, intended to deceive the public. If you will note, while it is in the same paragraph, it does not say there [2675] "to be democratically elected on Sunday"; he merely places the

(Testimony of Paul Crouch)

sentence in the same paragraph to give the reader that impression without saying so. And in the second place, he intends to give the public the impression that Communist Central Committees are democratically elected, which is far from the facts.

Q. I see. In other words, it is for popular consumption and worded in such a way as to make it look as though the Central Committee was to be elected in Madison Square Garden, whereas in fact it was not? A. That is correct.

Q. So that your recollection then of the election of that committee on the day before the Madison Square Garden meeting is not affected by reading this article?

A. No. I would like to add there were some officials elected as an election committee or something in that connection, but it was not the National Committee, it had nothing to do with the National Committee, but was a kind of popular committee for the purpose of carrying on the election campaign. It was not the Central Committee, had nothing to do with making Party policies, and was in no way associated with the Committee which had been elected before the Madison Square Garden meeting.

Q. Now, I notice in skipping over some of your testimony of yesterday that you spoke of a meeting, you said, "during the [2676] course of the convention and at a meeting of the new Central Committee which followed for the purpose of electing the Politburo of the Party." Now, was this Politburo then elected by the Central Committee?

(Testimony of Paul Crouch.)

A. By the new Central Committee.

Q. I see. The new Central Committee elected the Politburo? A. Correct.

Q. And how did they do that? What was the procedure for electing that Politburo?

A. The procedure in general—and as I recall, it applied in this case—was that at the Central Committee meeting Browder announced that "The election of a Politburo is in order," and someone, usually Stachel—I think Stachel on this occasion—got up and read a proposed slate, and a motion was made, and another seconded it, that this be the Politburo of the Party. There were no further nominations, no one declined, and this went through like a perfect steamroller.

Q. So, Mr. Crouch, while it is perfectly all right, when we know what you are doing, to use the general practice, I would like to confine ourselves to what you remember of these particular instances. So if you don't remember them, you can tell us that, then we can go into the general practice; but for the present moment if you will stay with your recollection of this matter. Now, the convention that you spoke about which [2677] elected the Central Committee, then, I suppose, having done that as its last order of business, the next procedure was the mass meeting at Madison Square Garden at which the presidential and vice presidential candidates were nominated. Is that approximately correct, or did the convention, having completed its work of nomi-

(Testimony of Paul Crouch.)

nating the Central Committee, have any, further business?

A. The convention, after its election of the new Central Committee, had no further business except to also act as delegates at the public meeting at Madison Square Garden.

Q. And do you know what time of day that public meeting was held? Was it in the afternoon or in the morning? A. It wasn't in the morning.

Q. Was it in the evening?

A. It was afternoon or evening, to the best of my recollection, but I cannot recall the hour.

Q. Well, I have a reason that I would like to get the time of the day a little closer if I could. You can't remember whether it was the afternoon or evening. Now, remembering that it was a Sunday, would that help you to arrive at any conclusion? Do you remember what you did—let us say the meeting was in the evening, how did you consume the morning and the afternoon?

A. I don't recall the details of what I did during the day on the twenty—I do not recall the details or I do not [2678] recall what I ate, what shows I might have gone to, or any other of my mechanical routine details on the 28th, except that I recall attending and participating in the nomination of Earl Browder for president and James W. Ford for vice president and of hearing their nomination speeches, their acceptance speeches, which, incidentally, I recall were broadcasted by radio, and I recall Weinstone standing on the platform and waving his hands.

(Testimony of Paul Crouch.)

to the audience to stop their applause because of the timing of the radio broadcast, but——

Q. Well, you can't tell us, though, whether it was morning, afternoon or evening?

A. I am quite certain it was not in the morning, but whether it was afternoon or evening I cannot recall.

Q. Then of course you don't remember what time it commenced or what time it ended?

A. I don't remember the number of hours.

Q. Now, was the Central Committee, its personnel, the fact of its election, discussed at all at the Madison Square Garden meeting?

A. The composition was not discussed, and I do not recall any reference to the Central Committee.

Q. You are sure, however, that the names of the persons were not given?

A. Definitely sure.

Q. Now, when did the Central Committee meet to elect the [2679] Politburo?

A. I cannot specifically recall whether the meeting was held the night—Saturday night or Sunday morning, but my best belief and my best recollection is that it was held Saturday night.

Q. Are you sure that it was held before the final ending of the convention itself? A. No.

Q. I suppose that it wouldn't be reasonable that the committee members would stay in New York for any very long period of time after the convention ended, is that right?

(Testimony of Paul Crouch.)

A. To the best of my recollection, it was held prior to the Madison Square Garden meeting, to the best of my belief and recollection.

Q. So then it would have to be either Saturday night or Sunday morning?

A. To the best of my recollection, although I stayed in New York, the best I can recall, for a couple of days after the 28th for the purpose of a series of conferences on various fields of Party work, and I cannot be too specific, but my best recollection is it was held prior to it. I might—it is humanly possible that I might be mistaken, because I remained in New York for at least two days after June 28.

Q. When you say "at least two days," now, could it have been eight or ten days?

A. No, it couldn't have been over two or three days. [2680]

Q. Do you know whether or not you had meetings with the Central Committee within that two or three days? A. Oh, yes.

Q. How many?

A. One, only one of the full Central Committee.

Q. And that was after the convention had been closed?

A. That was after the final nominating session; that is after all the closed meetings of the convention had closed. I do not mean necessarily—not necessarily after the Madison Square Garden meeting.

Q. I am talking about the Madison Square

(Testimony of Paul Crouch.)

Garden meeting as the ending of the convention. Let us say that Madison Square Garden ended the convention.

A. The meeting of the Central Committee would then have been prior to the ending of the convention, from that technical application, from that technical point of view.

Q. Are you sure whether it was prior to the ending of the convention?

A. I am not positive. I have already answered that question.

Q. You stayed in New York a couple of days, and during that couple of days you had at least one meeting with the Central Committee?

A. I said during those two days I had a series of conferences, various party meetings, trade union work in various other fields, and I stated while I was in New York, not necessarily [2681] the two days after—in fact, to my best belief and recollection, it was prior to the Madison Square Garden that we elected the new Politburo. I am almost—I am nearly certain. There is a human element. It could have been later, but my best belief and best recollection is that it was after the—of course, it was after the election started, which I believe we elected the new Central Committee, and prior to the Madison Square meeting.

Q. Then it would have to be on Sunday morning? A. Saturday night or——

Q. Saturday night or Sunday morning?

(Testimony of Paul Crouch.)

A. To my best belief and recollection.

Q. After the Madison Square Garden, did you have any meeting with the Central Committee, after the Madison Square meeting?

A. Not unless there is the element of possibility that I could—that I might have been mistaken. I might have been mistaken—I don't think I was—on the date when we elected the Politburo, but aside from the date on which we elected the Politburo, I didn't have any meeting with the full Central Committee while I was in New York. I had one meeting—I attended one meeting of the full Central Committee after the convention was called to order, before I returned to North Carolina.

Q. You say that you saw Mr. Bridges during the course of the convention as well as at this meeting that you testified to?

A. I said my best recollection was that I saw him briefly. [2682]

Q. When?

A. My best recollection is that I saw him during the rather early stages of the convention in the anteroom or at the back of the hall, and my best recollection is of hearing Stachel, or one of the other top leaders of the party in making a remark that he had to go away for some kind of trade union work in which he was engaged and would miss most of the convention.

Q. And that was in the early part of the convention? A. To the best of my recollection.

(Testimony of Paul Crouch.)

Q. Could you remember how soon after the convention started? A. No.

Q. It started on Wednesday. Was it on Wednesday?

A. It could have been. I don't recall specifically, and I stated that my impression, my best recollection on this question, I remember remarks about his being called away by members, leading members of the party, and at no time did he speak on the floor of the convention, but my best recollection is I saw him very briefly either in the anteroom or at the very back of the hall briefly.

Q. Did you know Mr. Stachel and these other people whose names you mentioned?

A. Very well indeed.

Q. Was their conversation addressed to you about Mr. Bridges being called away? [2683]

A. Partly to me and partly to other party leaders with whom I was in company.

Q. I mean you were close enough and it was addressed sufficiently to you that you would not be mistaken on the context of the thing?

A. I don't think so.

Q. The statement was made that he would be called away to do certain trade union matters and would hence miss a large part of the convention; is that correct?

A. That is as I can recall it, to the best of my recollection.

Q. Where were the trade union matters to be

(Testimony of Paul Crouch.)

handled, do you know? Where would he be called to?

A. He could have been called to Washington or he could have been called to California. I don't recall. There is nothing now that I can recall to indicate where it would have been.

Q. Was anything said about the length of time that he would be away?

A. I don't recall that it was.

Q. Or how soon he would have to leave?

A. I got the impression, as I can recall now, I got the impression that he was leaving immediately.

Q. And you think to either Washington or California?

A. There was nothing said that I remember about it, and my knowledge—it is only from my knowledge of Mr. Bridges' work that I would draw that inference. [2684]

Q. We agreed you would not do that, Mr. Crouch, that you would try to tell us first what your recollection was, and then if necessary we would fill it in with what the customary matters were, but your recollection——

A. I don't recall any mention of where he was going.

Q. Just that Mr. Bridges was mentioned, that he was there, but that he was going to be called away on some trade union work and would miss the greater part of the convention?

A. As I recall.

Q. And then you saw him again on Saturday afternoon or evening?

A. If my memory serves me correct—if my memory is correct on the date on which we elected the new Politburo, it would have been Saturday evening or Sunday morning. I stated there is a human element. I kept no notes. I made no memorandum. And that was about thirteen years ago.

Q. Yes, I understand. I am not criticizing. Your memory is very good. You said that some place during this convention attention was called to the fact that Communists on the West Coast were under surveillance. Surveillance by whom?

A. I didn't say anything of the kind in my examination, as I can recall.

Q. I thought you said that the reason that Mr. Bridges was designated under the name of Rossi was that Communists on the West Coast were under surveillance or under espionage or some such word, under observation. [2685]

A. If you will reread the transcript of my testimony; I do not think you will find I said anything of the kind.

Q. Have you read the transcript yourself?

A. I have not. I have not seen it. But I don't recall using those words, that terminology. I don't recall being asked such questions. I would probably have added something along those lines if I had been asked or had an opportunity, but I don't recall having been asked.

Q. Go ahead. What was it?

A. What is the question?

(Testimony of Paul Crouch.)

Q. I wanted to ask you what was said about West Coast Communists being under surveillance.

A. I said where and when?

Q. Tell us. You said something was said about Mr. Bridges being called Mr. Rossi and the reason was—and now you were going to tell us what was said about him or other West Coast Communists or other West Coast Communists being under surveillance. What was said?

A. I don't recall having testified that any specific reason was given why the name of Rossi was used.

Q. No, but just this morning, just a moment ago, you said that if you had been asked you could have told us something about that. What could you have told us?

A. I could only tell you the facts known by Communist leaders at that time, but I never told you anything that was said at [2686] that convention, but I don't recall a thing.

Q. What was known by Communist leaders about that subject of surveillance of West Coast people?

A. I think that the surveillance is perhaps not an exact term——

Q. Don't adopt my phraseology. Use your own.

A. All right. In connection with the West Coast, the outstanding party's leader was Harry Bridges at that time, and it happened that Harry Bridges was known by the national officers of the Communist Party not to be a citizen of the United States, and

(Testimony of Paul Crouch.)

therefore liable to deportation if his party membership was discovered, for this reason: ~~The~~ name of Rossi had been used for some time prior to this convention in references to him and to his work. For example, when Jack Stachel would be reporting to the Central Committee on the work——

Q. Wait a minute, if you will. I want to get now such parts of these statements as relate to those people being under surveillance. You told us this one part that Harry Bridges, being an alien, was subject to deportation. Those facts were known to the officers of the Communist Party. When did you first hear that subject discussed?

A. The first time I can recall hearing that subject discussed was in April, 1934, in a car between Denver, Colorado, and Cleveland, Ohio, at the time I first learned that Harry Bridges was a member of the Communist Party. [2687]

Q. By a car do you mean a railroad car?

A. An automobile driven by John Harvey, a seaman and member, a former member of the Politburo, a member of the Central Committee, a leader in the maritime work, who was driving the car with me as a passenger, en route to the national convention of the Communist Party in April, 1934, in Cleveland, Ohio.

Q. That is the first time you heard the discussion about Harry Bridges being subject to deportation as an alien if he were a member of the Communist Party, or if his membership in the Communist Party were discovered? A. Yes.

(Testimony of Paul Crouch.)

Q. And at that time was your information that he already was a member of the Communist Party?

A. Yes.

Q. And then Mr. Hardy who was driving the car——

A. Harvey, John Harvey.

Q. John Hardy then told you about the peril that Mr. Bridges was under?

A. He stated that due—after discussing the value of Mr. Bridges as an asset, as a leader in the waterfront out here in California, that the party would not be able to bring him forward as a member of the party, because he was not native-born, that—and his party membership would have to be kept in the background and not known, but with this limitation, that he was a very promising source, and that George Mink in particular [2688] regarded him as a potential future leader for the party.

Q. Did Mr. Hardy know Mr. Bridges, did you say?

A. He presumably did. He spoke to me as though he did, and discussed this work.

Q. Was he from the West Coast?

A. He was a seaman, and I think seamen are from about all coasts.

Q. They sail around the Seven Seas. Then when did you next hear any discussion by any party leader on the subject of the deportation of Mr. Bridges, if it were discovered he were a Communist?

A. The next discussions mentioned were in connection with general reports on his work and the

(Testimony of Paul Crouch.)

necessity of exercising great precautions, and at first—for example, I think that Jack Stachel——

Q. Wait. We are getting a little ahead. I will come into that discussion presently. I said when.

A. To the best of my recollection, during the latter part of 1934.

Q. What part of 1934?

A. During the fall.

Q. The fall of 1934, and I am going into the conversations presently, but now I want to find out who were the persons with whom you had the discussion in the fall of 1934 relating to the necessity of Mr. Bridges concealing his Communist [2689] Party membership so that he would not be deported as an alien. Who was present?

A. Jack Stachel.

Q. Where did that conversation take place?

A. In a meeting of the Central Committee in New York and in subsequent meetings of the trade union commissions connected with the Central Committee.

Q. When did you next hear that same subject discussed? Now, I mean the probability or possibility of deportation if his membership in the Communist Party should be discovered.

A. After this I heard it mentioned so frequently that I cannot recall the persons or the places where it was talked about.

Q. Or the sequence in time, I suppose?

A. Pardon me?

(Testimony of Paul Crouch.)

Q. Or the sequence in time.

A. Increasing discussion in 1935 and 1936 and to a greater degree after 1936.

Q. Increasing discussions in 1935 and 1936 and to a greater degree after 1936?

A. Yes.

Q. Into 1937, for instance?

A. Continuous from that time on, as long as I was in the party.

Q. By increasing discussions in 1935 and 1936, do you mean that the danger to Mr. Bridges seemed to be increasing? Was that the general context of the conversations, or is it that you heard [2690] it mentioned by more people and more frequently? Which?

A. I heard it mentioned by more people and more frequently, due to the increasing prominence of Bridges as a trade union leader and as a Communist Party trade unionist.

Q. Give us during 1934 and 1935 and 1936 as accurately as you can, the names of persons with whom you had a discussion on that subject or any persons who discussed that subject in your presence. Who were some of them?

A. Jack Johnstone.

Q. Jack Johnstone, yes.

A. Earl Browder on one or two occasions, Jack Stachel very frequently.

Q. Jack Stachel, all right.

A. Rob Hall on a number of occasions, Rob F. Hall.

(Testimony of Paul Crouch.)

Q. Yes? A. And others——

Q. Who? Give us names, if you will, please.

A. Aside from these——

Q. Can't you dig around in your memory a bit now and tell us a few more names, Mr. Crouch? I do not want to press you on it, but see if you can remember a few more names, now, of those who discussed it. You mentioned Jack Johnstone, Earl Browder, Jack Stachel, Rob Hall, John Hardy——

A. Harvey.

Q. Harvey? [2691]

A. Harvey—H-a-r-v-e-y.

Q. That is the name under which Mr. Bridges was first supposed to be a Communist himself. Did you know that? A. I didn't know that.

Q. Are you sure it was not he you were riding in that automobile with?

A. I am quite sure.

Q. Take a good look. Are you certain? Was the man's name Jack Harvey or Harold Harvey?

A. His name was John Harvey, J-o-h-n.

Q. Did he look like the gentleman that you see here?

A. He was heavier built, and I believe he lives in San Francisco at the present time.

Q. When you have been chased by the Federal Government for 15 years, brother, you lose weight. Are you sure this is not the man himself? Take a good look. Do you mind standing up, Mr. Bridges? Take a good look, Mr. Crouch, will you please?

(Testimony of Paul Crouch.)

A. Aside from all the pleasantries and wisecracks that seem out of place, I am positively certain that this was not the John Harvey who traveled with me in a car.

Q. Where had you known this John Harvey from? Had you known him prior to the trip?

A. Yes.

Q. Have you known him since?

A. Yes. [2692]

Q. When did you last see him?

A. I last saw him here in San Francisco in the late fall of 1941, just before I left the Communist Party.

Q. That disposes of any possibility that this gentleman might be the same one, I would say, wouldn't you think so?

A. There is no possibility that John Harvey, a former member of the Politburo, a former student of the Lenin School in Moscow in 1941, Communist Party leader in charge of trade union work in Alameda County, representing the district, could be Harry Bridges.

Q. I am glad to hear you say that because, to tell you the truth, Mr. Crouch, yesterday we were sure you were going to put him in the Red Army. Can you give us the names of a few more people in addition to these five that you mentioned that discussed this subject in 1934, 1935 and 1936 that Harry Bridges must conceal, and that the Communist Party, must conceal his membership in the Communist Party because if it is discovered, he is going

(Testimony of Paul Crouch.)
to be extradited from the United States, and that he would be banished from the United States as an alien? Can you dig down in your memory——

A. Yes, one additional name, at a much later date, with whom I discussed this in 1941 was Paul Schlipf.

Q. We are five years too far in advance of our time. We have 1934, 1935 and 1936. Could you confine your recollections to that time? [2693]

A. I do not recall specifically with certainty. I recall that a number of party members discussed this, but which party members said so, at which time, I cannot after these years specifically recall, because there was nothing—the remarks were general, not specific enough, and tied up with enough other events for me to specifically recall.

Q. I did not ask you to narrate them in sequence, just the names of the people. I do not care whether this one was in 1934 and that one was in 1936. You can transpose them around like shuffling cards, so long as we get them in those three years. Can you give us the names of these party members who discussed that subject with you in those three years? I do not want to tie you down. If you think a man discussed it in December, 1936, whereas in truth he discussed it in the spring of 1934, we will overlook that. We won't hold you to it. Can you give us names again?

A. I do not recall with sufficient accuracy and remembering approximately what was said to add any additional names to those cited.

(Testimony of Paul Crouch.)

Q. All right. Then can you tell me this: Within those three years, how many different persons in the Communist Party did you discuss that subject with? Now, that is a fair question.

A. To the best of my recollection and belief, I have heard perhaps a dozen top leaders of the Communist Party during those years discuss it. [2694]

Q. About twelve persons during that three years?

A. This is an approximation, from the best of my recollection, after the lapse of time.

Q. And those twelve persons, approximately—we are not being specific on it—those twelve persons during those three years discussed that subject with you?

A. Some with me and some in my presence and some at meetings of the Central Committee.

Q. That is just what I was getting at. About how many times during that three years did you hear that subject discussed among groups of persons?

A. During that time I heard the work of Harry Bridges as a Communist Party member——

Q. No, please. We are coming to that afterwards. All we are talking about now, I want to know how many times in that three years by any of these twelve persons more or less you heard discuss in front of groups, large or small, the subject that this Harry Bridges, who was a member of the Communist Party, was an alien, and that if the United States Government found that out, they

(Testimony of Paul Crouch.)

would deport him? How many times did you hear that in groups, meetings?

A. Let me make it clear that the discussion along this line was by no means always in the words in which you have spoken now.

Q. I do not assume that, and I will not say even—I do not mean [2695] even where the conversation was confined to that, but I mean where that subject was involved or discussed. Now you have told us in this time, in addition to the people you have named, there were about twelve—or did the twelve include the people you named?

A. About a dozen additional.

Q. All right, that about twelve additional people discussed the subject that Harry Bridges was a Communist, he was also an alien, and if the United States Government found out he was a Communist, they would deport him? You say that in the three years you have heard twelve different people, in addition to the ones you named, discuss that and many times in front of groups or committees. How many times did you hear it discussed in front of groups or committees? [2696]

A. To the best of my recollection and belief, I heard it discussed four or five times at meetings of the Central Committee or smaller meetings connected with trade union policy work in the national office of the Communist Party. To the best of my recollection and belief, I have heard it discussed on four or five separate occasions, not always in the entirety, as you have placed it, but some

(Testimony of Paul Crouch.)

aspect of the question relating to his possible deportation and the necessity of protecting him.

Mr. Hallinan: Shall we take the recess at this time?

The Court: Yes, if agreeable, we will take an adjournment until next Monday, the 19th of December, at 10:00 o'clock. Next Monday at 10:00 o'clock.

Ladies and gentlemen, the same admonition to you not to discuss the case under any circumstances and not to permit any person to converse with you on any subject of the trial, and not to form or express an opinion thereon until the matter is finally submitted to you. I need not repeat to you the admonition given to you earlier in the case, that particularly over week-end periods, when you are relaxed, not to engage in any conversation at all concerning this matter at your home or elsewhere, socially or otherwise. May I again admonish you not to discuss the case and not to read any newspapers bearing upon this trial or any periodicals. We will now adjourn until next Monday at ten o'clock.

(Thereupon an adjournment was taken until Monday, December 19, 1949, at 10:00 [2697] a.m.)

Monday, December 19, 1949, 10:00 A.M.

(The following proceedings were had out of the presence of the jury:)

The Clerk: The case of the United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: If your Honor pleases, I don't know whether counsel has as yet received the certified copy of conviction from Alliance, Nebraska, but in the event he hasn't, I have.

Mr. MacInnis: I received mine at 9:30 this morning.

Mr. Donohue: And I think we ought to dispose of the matter at this time, if your Honor please.

The Court: Mr. MacInnis has advanced this matter to the Court, and I take it he is the proper one to present it.

Mr. MacInnis: I received my copy, I don't know whether at the same time, but I received mine at 9:30 this morning. The certified copy does not identify the statute, and I am having the statutes of Nebraska checked so that I can produce it before the Court so that we may compare it with the Federal statute on whether the matter is a misdemeanor or a felony.

Mr. Donohue: It might help, if your Honor pleases. I have a telegram in response to an inquiry made with respect to the statute——

The Court: Pardon me; you will have to speak a little [2698] louder.

Mr. Donohue: Yes, your Honor. I have a telegram in response to an inquiry which we made, from James H. Anderson, Attorney General of the State of Nebraska, on the question as to what in 1926 when this offense was committeed the nature of the offense was.

Mr. MacInnis: Your Honor, I will have the volumes, possibly supplemented by this information, but I think the volumes of the Nebraska statutes might be of assistance to the Court.

Now, we have also made a request, pursuant to one of the discussions had with your Honor, for the Eisler transcript to be forwarded here. That I had expected this morning, but it didn't arrive.

Mr. Donohue: I was not concerned with that at the minute, if your Honor please.

The Court: We might take this matter up during the day when Mr. MacInnis is prepared to proceed.

Mr. MacInnis: Oh, yes, I will be prepared to do that, your Honor.

The Court: Unless you have some further ideas in the matter.

Mr. Donohue: No, I am perfectly willing; we have waited this long; I have no desire not to afford Mr. MacInnis an opportunity to read the record.

Mr. MacInnis: I have read the record. The record is two [2699] pages, and that isn't difficult to read. It is only the correlation of the statute involved.

The Court: It is a matter requiring interpretation of the statute?

Mr. MacInnis: I believe it does, your Honor, I don't think the Court would be inconvenienced too much waiting until late today.

The Court: All right; late today or tomorrow morning. Let us put it down for tomorrow morning.

Mr. MacInnis: We will definitely be prepared completely by tomorrow morning, your Honor.

The Court: All right.

(Thereupon the jury was brought into the courtroom.)

The Clerk: The witness on the stand is Paul Crouch, heretofore sworn.

PAUL CROUCH

resumed.

Cross-Examination (Continued)

By Mr. Hallinan:

Q. Now, Mr. Crouch, at the time we adjourned on the last occasion we had been talking about the persons who discussed with you in the years '34, '35 and '36 the facts of Mr. Bridges' peril, if it were discovered that he was a member of the Communist Party, and we had gotten to the place where this had been discussed in certain committees, I think, and did you answer about how many people were in each [2700] of these committees before whom the discussions took place?

A. No, I wasn't asked.

Q. About how many? What would be the smallest extent and the largest extent?

A. The smallest extent, to the best of my recol-

(Testimony of Paul Crouch.)

lection, were five or six. The largest meetings to which reference was made to his Party membership, and so on, was in—before meetings of the Central Committee; about thirty-five or so I believe was the maximum I remember.

Q. Now, the committees, I suppose, would be different sets of people; in other words, this was not repeated to the same committee fifteen or twenty times? The committees, I suppose, kept changing in personnel, is that correct?

A. Very slight change in personnel.

Q. I see.

A. For example, Stachel was present, I think, at all the meetings to which I have reference; J. Peters was present at all the meetings to which I refer, and there was a very small turnover in personnel.

Q. Now, for instance, in '34 there was a different Central Committee from what there was in '36, isn't that right?

A. Slightly. Just a few members were dropped and just a few members were added.

Q. Now, coming up to '37, you heard it, I suppose, discussed then, the same subject, that Harry Bridges, being an alien, was [2701] subject to deportation if it were discovered that he was a member of the Communist Party? You heard that subject again discussed, of course, during the year 1937, is that right?

A. Yes, I heard Jack Stachel say that the name Rossi was becoming too well known and that greater

(Testimony of Paul Crouch.)

care should be used in reference to Comrade Rossi.

Q. He said that the name Rossi was becoming too well known? A. Yes.

Q. And did he indicate that the name Rossi was being used for Mr. Bridges?

A. He indicated the name Rossi was being used to identify Mr. Bridges.

Q. And that more care would have to be taken now; that this practice be discontinued, I take it?

A. That is correct.

Q. And when did he say that, now? You say in the year 1937, is that right?

A. To the best of my recollection.

Q. In what part of the year?

A. To the best of my recollection, during the winter or very early spring of 1937.

Q. You mean during the winter of 1936 or early spring of 1937? Is that what you mean?

A. It was after the first of the year.

Q. That would be the early part of 1937. Now, to whom did he [2702] say it, to some committee or gathering or convention?

A. At a trade union conference of Communist trade union leaders.

Q. How many people were there?

A. To the best of my recollection, about twenty, most of them members of the Central Committee.

Q. About how many were members of the Central Committee? A. About fifteen.

Q. And the other five, who were they?

A. Myself and another district organizer or two.

(Testimony of Paul Crouch.)

Q. And then Stachel said that the name Rossi was becoming, I take it, too closely identified and too widely known as identifying Harry Bridges and that because of the danger of his being detected and deported as an alien, this would have to stop, is that right, something to that effect?

A. Essentially.

Q. And then was any conclusion arrived at as to what safeguard would now be thrown around Mr. Bridges to protect him from the knowledge that Rossi was the name being applied to him? What determination was arrived at?

A. There was no official determination. We all accepted Stachel's word and ceased talking about Comrade Rossi.

Q. Didn't mention him at all any more?

A. We had far less reference after that to Bridges in connection with the Party in general.

Q. Well, in other words, the committee, this fifteen or twenty [2703] people, stopped right away then speaking about Comrade Rossi, and then I suppose, having gone forth from the hall, they, each individual, also ceased talking about Comrade Rossi at all? Would that be about substantially a resume of the situation?

A. I cannot speak for the others. I know I personally was more careful in reference to Bridges in relation to the Party than I had been.

Q. So then nobody, so far as you knew, was going around any more saying, "Oh, look, we have got a very important labor leader named Rossi in the Party," or "We have got a very important labor leader" with no mention of the name Rossi, "in the Party," or anything like that? They stopped saying things like that?

A. They didn't stop saying things like that, because none of the Communist leaders were naive and foolish enough to use the words as you phrase them.

Q. You say they were?

A. They were not foolish enough to use the exact kind of language that you just employed.

Q. Well, the leaders were really sort of naive people, weren't they?

A. I don't think that is quite the proper adjective to describe most of the Communist Party leaders. They were blinded by fanaticism and so on, but I don't think they could be called naive. [2704]

Q. Well, I understand from what you have been telling us that you were all terrible rascals, I mean led lives of perjury and treason and violence, and so forth; but I mean as between yourselves you seem to have had a kind of innocent relationship.

Mr. Donohue: Object to the question, if the Court please.

Q. (By Mr. Hallinan): Would you say that about describes the situation?

Mr. Donohue: I object to the question, if the Court please.

The Court: Overruled.

The Witness: Please restate the question.

(Question read.) [2705]

(Testimony of Paul Crouch.)

Mr. McMillan: May it please Your Honor, is that a question or an assertion?

The Court: It is hardly a question. The first part is to some extent argumentative. I overruled the objection in the interest——

Mr. Hallinan: I asked the question, Would that about describe the relationship?

The Witness: That is both a very compound and a complex question.

Mr. Hallinan: If you can't answer it, we will change it. Now, please. I have had about all the criticism I can stand in this court without getting a nervous breakdown myself, so if you will be kind enough not to characterize my questions——

Mr. McMillan: Is that a question, if it please Your Honor, or an assertion or declaration of counsel?

Mr. Hallinan: That is an impasse. Don't take it too gravely, Mr. McMillan. Here is what I am trying to get at:

Q. You were friendly, I suppose, with a great number of people who were high up in the Communist Party, is that right?

A. That is correct.

Q. Good friends? A. Yes.

Q. Close friends? A. Some.

Q. Intimate friends? [2706]

A. With a few.

Q. Trusting friends? A. With a few.

Q. How many?

(Testimony of Paul Crouch.)

A. The average Communist leader has relatively few who can be classed as intimate friends. I think a definition of the term would require a great length of time to answer that question satisfactorily.

Q. We will just take it in its ordinary acceptation. We won't hold out to precise definitions. Then among these people who would assemble, say the Central Committee, were there 54 people on the Central Committee? Was that my understanding?

A. I didn't say anything about 54 people.

Q. Someone said it. You said it now here: A meeting of the Central Committee had about 35 people, that Jack Stachel made a statement, but there is some testimony that the Central Committee had 50 or 54 people. How many did it have?

A. I don't remember the exact number. The number has changed in various conventions. I would estimate, to the best of my recollection, the Central Committee elected in 1934 at Cleveland had about 27 members.

Q. Let us take, say, 35. How many of those 35 people would you say were intimate friends of yours?

A. There are varying degrees of being intimate friends. Perhaps half a dozen might be described as being not far in error. [2707]

Q. Then that half dozen, there was a mutual trust that existed between them, I take it, is that correct? A. Not necessarily.

(Testimony of Paul Crouch.)

Q. Didn't you and this half dozen trust each other, rely on each other, pretty friendly?

A. Because I had been intimate friends with two different individuals does not necessarily imply that those two individuals were intimate friends of each other.

Q. I know, I know. And then of the remaining 30, let us say, there being, oh, shall we say, 10 more that you had a kind of strong friendship for but not as intimate as those five or six, but you knew them well enough to call them by their first names, knew what they did and had a friendly feeling toward them, is that about right?

A. That would call for generalization and an indefinite answer.

Q. Would we say that maybe half of this committee, your relations with them were not very close at all? Let us put it this way: Some of them I suppose you never met before they got on the Central Committee, is that right?

A. That is correct.

Q. A great many, I take it, a large percentage you never met?

A. No, only a very few. I was quite well acquainted with the overwhelming majority of the Central Committee members, knew their personal lives, knew the history of the great majority of the members. [2708]

Q. Would that be true of the other members of the Committee, that they seemed to know each other pretty closely?

(Testimony of Paul Crouch.)

A. Yes, most members knew the background of the others.

Q. Then we take the 700 or 750 people who were delegates to the convention; I take it you would only know a small percentage of them, would that be right?

A. Of the 700 delegates at the 1936 convention, I probably knew about 200 personally.

Q. And then outside of the delegates there was a substantial number of persons who were members of the Communist Party whom you never met at all, of course, is that right?

A. Throughout the United States?

Q. Yes. A. Yes.

Q. This was a document that was shown to all of the other witnesses as containing excerpts from the New York Times of that convention of 1936, and I want to show it to you and see if it refreshes your recollection only as to some of the statements made, and I notice that it confirms your statement that you were one of the speakers in one of the discussions, if you will just look at the first one or two, Mr. Crouch. There was some discussion at that 1936 convention in the speech that you identified as having been made by Mr. Browder as to the number of persons in the United States then members of the Communist Party. Now, do you think the figure given by him was a little [2709] braggy, or in your opinion, were there that many people in the party?

A. The figure I see that is quoted appears to

(Testimony of Paul Crouch.)

me to be the approximate membership of the Communist Party to my knowledge at that time.

Q. That would be around how many people?

A. Roughly around 50,000.

Q. Do you think there were that many in the Communist Party then?

A. I personally did not check the figures. It might have been as low as 40,000. I couldn't say positively. The only figure that I can recall definitely of membership was in 1938. I definitely recall announcing then that the Communist Party's membership was 75,000. I can not specifically recall the figure I gave in 1936.

Q. I noticed here some short time ago—maybe you saw it in the paper—a statement by the then Attorney General Tom Clark that there were 70,000 Communists in the United States. That would be a couple of years ago. Do you think it ever ran up to that figure or did it exceed that?

A. To the best of my personal knowledge, the highest dues paying membership reached by the Communist Party in the United States was about 92,000 in 1936.

Q. You had charge of organizing the Communist Party in Alameda County or recruiting people for it some time around 1941, [2710] is that correct?

A. That is correct.

Q. And I have some figures here that are taken from the records of the Registrar of Voters of the counties of Alameda and San Francisco for the period from 1936 up to 1942 or 1943, and I want to

(Testimony of Paul Crouch.)

see if you can tell us whether these are approximately correct. Now, in 1940 the registration in Alameda County showed the following: Republicans, 136,624; Democrats, 179,066; Socialists, 350; Communists, 60. Would that be approximately correct?

A. I presume those figures are correct, so far as the voting registration, but that is no index to membership.

Q. The same year in San Francisco County: Republicans, 128,858; Democrats, 249,036; Socialists, 331; Communists, 141. Would that be about correct?

A. I don't know whether it is correct or not regarding voting registration. It is not correct or not even approximately correct so far as the party's dues-paying membership is concerned.

Q. Here is what I am getting at, about the attitude of the members: According to—and I assure you that I know nothing about it except what I have heard in this court from you and another gentleman named Johnson—do you know a man named Manning Johnson?

A. I knew Mr. Manning Johnson very well in the Communist Party [2711] from about 1933 until about 1939. I met him in the witness room the other day while I was waiting to come on the stand myself.

Q. Was he an intimate friend of yours?

A. We were fairly good friends.

Q. Trusted each other pretty closely?

(Testimony of Paul Crouch.)

A. Yes, I believe so.

Q. Mr. Crouch, Mr. Johnson said that these Communists, the members of the Communist Party, the members of the Central Committee, officers, and so forth, led lives of fraud and deception and were terrible people. You sort of agree with that, don't you? A. Please restate the question.

Q. I say that he said the Communist Party leaders led lives of fraud and deception and were really terrible people, wanting to overthrow the United States Government by force and things like that.

Mr. Donohue: I object to the question, if the Court please. If he wants to quote Mr. Johnson accurately, I have no objection.

Mr. Hallinan: It was approximately that. Do you say that he said they were better than that or worse?

Mr. Donohue: I would not attempt to quote him. I would read the record, if Your Honor please.

Mr. Hallinan: Approximately that. [2712]

Q. Is that your own statement as to what sort of people they were?

Mr. McMillan: I object to the question, if Your Honor please. He is not bound by somebody else's conclusion.

The Court: The witness may understand the question in the light of the fact that purports to be on Mr. Hallinan's part a summation of certain testimony of Mr. Johnson. Having that in mind generally, you might answer.

(Testimony of Paul Crouch.)

A. I have no knowledge whatsoever, Mr. Hallinan, of what Mr. Johnson testified to in this court. Therefore, without seeing the transcript, I can hardly comment on it.

Q. (By Mr. Hallinan): Of your own knowledge, would you say that is a fair description of what sort of people were leading the Communist Party?

A. It is a rather complex question, which, if you like, I would be glad to answer, but it may require a little length.

Q. Go ahead.

A. The great majority of the leaders of the Communist Party, and especially those who made the policies, such as men like Peters, Stachel, and so on, continually resorted to perjury and deceit and to intimidation and to all kinds of revolting and shocking practices in connection with the Communist Party actively. On the other hand, there were individuals in the Communist Party—somewhat prominent, if not in making policies, at least were prominent as faces of the party before [2713] the public, who still retained feelings of ordinary human decency, and they refused on many occasions to go along with such things. I was one, for example.

Q. Wait a minute. One of the good ones or one of the bad ones?

A. Under Communist Party direction I did many things of which I have no reason to feel proud of to talk about without being ashamed of. On the other hand, I never resorted to perjury while a member of the Communist Party, although I was

(Testimony of Paul Crouch.)

repeatedly requested and advised to do so, and once defied an order by Peters to swear I was the father of a girl for whom they wished to obtain a passport fraudulently.

Q. You claimed you were the father of a girl?

A. I was instructed by Peters and Brown, F. Brown, alias Alpi, to go down to the passport office and swear I was the father of a young girl for whom they wished to obtain a passport.

Q. Mr. Crouch, I have no intention, if you anticipate that I did, to inquire into any little personal scandals of your life, so you need not anticipate things of that kind. I have no intention of bringing that matter up at all.

Mr. McMillan: If it please the Court, he is not testifying to any scandal.

Mr. Hallinan: I say we do not want any of that sort of thing. [2714]

Mr. McMillan: He has testified they wanted him to do something; it is not a scandal.

Mr. Hallinan: He is anticipating, but he doesn't have to.

Q. Let me ask you this, Mr. Crouch: All those people in that Communist Party, those leaders and so forth, being subject to arrest, imprisonment, if they actually practiced the things that you are saying, that is, supporting perjury, treason, sedition and everything——

Mr. McMillan: He has not testified, if it please the Court, to any sedition or treason.

Mr. Hallinan: He said overthrowing the government by force and violence, treason, sedition and everything——

Mr. McMillan: He has not testified, if it please the Court, to any sedition or treason.

Mr. Hallinan: He said overthrowing the government by force and violence.

Mr. McMillan: He has not used that expression at all.

Mr. Hallinan: Well, whatever they were, all these deviltries, as those people trusted each other with their safety, their freedom.

Q. Don't you think that was very naive? For instance, here is what I am getting at. I want to ask you this: This Mr. Johnson, by his own description, was a terrible man. Nobody would trust him with a nickel. But did you trust him? Did you trust this Johnson with your safety and your liberty so that he could [2715] come in and testify against you in a court that you wanted to overthrow the government by force and you were practicing fraud and perjury? Did you put that man in that position that he could do that?

Mr. McMillan: That is objected to, if it please the Court. This witness is not familiar with the testimony of Johnson. Counsel is characterizing that testimony, drawing his own conclusions, and this witness, so far as the matter of trust is concerned, he can not look into the minds of other persons and reveal these matters. He can testify as to what is in his mind, but can not certainly reveal the mind of others to trust.

(Testimony of Paul Crouch.)

The Court: Mr. Hallinan apparently is trying to paraphrase the question, and although the question is argumentative, I think the witness understands the general text of the question. Do you?

The Witness: I do.

The Court: Of course, the question is argumentative. I assume that the witness under the circumstances may explain his answer in the form in which the question is put.

Mr. McMillan: It goes beyond the question. It declares and asserts.

A. In answer to this question, I would like to make it clear that the Communist Party in 1936 would trust a meeting of 700 people more than they would trust a meeting of five or six leaders today, because they had not yet had any number of [2716] members repudiate the party and cooperate with the government agencies in exposing it. When people have left the party, the Trotskyites, the supporters of Lovestone and so on, they still maintained loyalty to the ideals of Communism and refused to cooperate with the government, and in the course of those years in which there have been very few, exceptionally few members who left the party and who ever cooperated with a government agency, the party felt quite secure. To the point, for example, in 1929 of having representatives of the Communist International in this country illegally with forged passports to appear and speak before a full convention. The members felt they could trust each other to that extent.

(Testimony of Paul Crouch.)

Today, of course, with so many former Communist leaders cooperating with the government agencies, they would never dare do that now in 1949, I am sure.

Q. That is another question: In an estimate of that, would you say about 50 per cent of the Communists now are trying to put the other 50 per cent in jail? Is that about the percentage?

Mr. McMillan: I object to that, if it please the Court. That is argumentative.

Q. (By Mr. Hallinan): What is the percentage of people who are testifying for the government, leaders, and so forth? A. Please state——

Q. Withdraw it. Let us get this. You said at this meeting at [2717] which Mr. Bridges was nominated to the Central Committee that you, as a district organizer, was an ex officio member and was called into the Central Committee meetings and participated in the nominations, is that correct?

A. That is correct.

Q. Then about how many other persons beside yourself who were not members of the Central Committee had that same privilege?

A. About a dozen.

Q. So that in addition to the committee itself, there would be about a dozen district organizers, and so forth, who were members, who were participating in this? A. Correct.

Q. You also said that the committee or the presidium was presented with a list of the nominees by the nominating committee, that is, the names

(Testimony of Paul Crouch.)

for the new Central Committee. Now, this nominating committee got out, as I understand it, written lists of the new candidates they were proposing, is that correct?

A. They prepared it in writing on a sheet of paper.

Q. Was it only one list or several lists?

A. To avoid confusion, let me explain that, first of all, there were meetings of delegations——

Q. Pardon me. Let us get this straight. This is the testimony as I remember it:

> "The committee or presidium had several meetings during the [2718] course of the convention, at one of which the nominating committee presented us with a list of the nominees to the Central Committee, that it was recommending for the new Central Committee."

Then you were asked, "In what form was the list of candidates presented?"

You said, "In the form of a written memorandum." The names were written and read. Now, is that correct? A. That is correct.

Q. Then you said, "Then we submitted people from the district or the territory that we thought should go on, and these names were turned over to the chairman or some other nominations committee where presumably they were examined, but where I knew as a result of years of practice, the final decision was made by the Politburo of the party as to who went on. Then in the Presidium before the election session of the convention, these names were read to us in the Presiding Committee, together with the reports of other commissions, of which we formally approved. Later the same list of names which had been submitted to us and briefly discussed went before the convention as a whole and the regular election took place."

Is that correct?

A. That is correct, although you are reading a little out of context, which gives a different impression of the order in which things were done. [2719]

Q. No, I suggested now, Mr. Crouch, the criticism is invalid. I just read this portion as you testified to it. First you said the committee of the Presidium had a list of candidates presented to it, and then after some questions as to whether it was by states and so forth, you said you people submitted for the district or the territory certain names which were turned over to the nominations committee, where they were examined. I suppose such names were included or not included in the list, and then the list was brought back and read off to the Presidium and briefly discussed.

> "Later the same list of names which had been submitted to us and briefly discussed went before the convention as a whole."

That is correct, isn't it?

A. The way in which the comments are inserted, and so on, tends to give a mistaken picture of the whole procedure, which I will be very glad to summarize if you like.

(Testimony of Paul Crouch.)

Q. No, I do not want to go into it again. You have gone into it before completely. All I want to know now is this: Apparently you people submitted lists of names of candidates to the Central Committee, is that right?

A. No, the delegations first met by districts, discussed who should go on from their district, and submitted those to the chairman or the secretary of the nominations committee, which in turn considered those and prepared a slate, to which in turn [2720] I submitted to the Presidium. Of course, knowing the party background, I actually knew, although I was not told, that this was really done by the Politburo.

Q. We do not care about that. What I want to get is this, that that list of names, having been canvassed by the nominations committee or selected by the Politburo, whatever it was, was that read off to this Presidium? A. That is correct.

Q. And the Presidium was not the Central Committee itself. It consisted of the organizers and persons like yourself who were not members of the Central Committee, is that right?

A. Correct. [2721]

Q. And then having been read off and discussed by the Presidium and voted on—was it voted on by the Presidium?

A. I do not recall whether there is an Aye-No vote, or what the procedure was, but at any rate, we accepted it. In effect, yes.

Q. Did they vote on it?

(Testimony of Paul Crouch.)

A. I don't recall whether they said, "Is there anyone opposed?" or anything like that; but in effect we did, yes.

Q. Again you state here, just to refresh your recollection, "Didn't you vote for this slate of names on two occasions before the convention?" Answer: "I did on two occasions, in the presiding committee and in the final election." You remember that that was what took place? A. Yes.

Q. So then that Presidium voted on this list of names? A. Yes.

Q. And then this list of names, which included Mr. Rossi, must have been explained to the Presidium as meaning Harry Bridges?

A. There was discussion in connection with it in which the names both Rossi and Bridges were used in the Presidium.

Q. You were told that Rossi was Bridges, isn't that right?

A. There was reference to it which made it clear. I already knew, so it wasn't necessary to explain to me.

Q. But the other people had to know it [2722] too? A. It was made clear to everyone.

Q. Then you went in before the convention and you voted on it again in the convention, didn't you?

A. That is correct.

Q. Again it was disclosed to the convention that this Rossi was actually Harry Bridges?

A. I do not recall that it was disclosed to the

(Testimony of Paul Crouch.)

convention as a whole. As I pointed out, the California delegation rose to its feet and began applauding. I think most of the delegates knew what it was all about, but I don't—I know that the explanation was not given from the platform in the words that Rossi was Harry Bridges.

Q. You were asked this:

"Were these names discussed at the meeting of the Presidium or presiding committee?

"A. Yes, at not too great length, but they were discussed.

"Q. Can you tell us any other persons whose names were discussed and who were subsequently balloted upon at the Presidium Committee meeting?

"A. There was the—there was the name, for example, of Harry Bridges, or, as he went on the records, Rossi, was one of those names that was discussed from California."

That is true, isn't it?

A. In the Presidium meeting, yes.

"Q. Let me ask you this question: Did any incident occur [2723] during the voting on the floor of the convention which you can now recall having to do with the naming of any one of the candidates for election at that convention?

"A. Yes. Following each name as it was read there was applause throughout the convention hall. When the name Rossi was read,

(Testimony of Paul Crouch.)

> the California delegation rose to its feet applauding more enthusiastically than ever."

Do you remember that? A. Yes.

Q. Now to skip up a page. You were then asked about the 1938 convention. You testified there was a meeting at which somebody came in and made suggestions—oh, Browder came in with Stachel and Peters, and there was a meeting of this Presidium.

> "Q. Were the results of that meeting recorded?
>
> "A. I don't know. They were recorded at the time by Earl Browder, who was taking minutes of that meeting, and the results of it were subsequently read to the convention."

You remember that, don't you? A. Yes.

Q. All right. So Earl Browder now took minutes of the meeting in which the list of candidates for 1938 was discussed and those minutes were read to the convention, is that right?

A. The names were read.

Q. Now, the name, apparently, of Rossi was dropped around this [2724] time, because you said: "'We will put Comrade'—and used the name of Derkin or Dargan or a name like that, which I hadn't heard previously, on the Central Committee. This was while we were discussing the matter in reference to Harry Bridges." You remember that, don't you? A. I do.

Q. Then Mr. Donohue asked:

> "Subsequent to this meeting were you in at-

> tendance upon the floor of the convention when the names which had been approved by the committee were offered for approval on the floor of the convention?"

And you answered, "I was." So the names of the people that were approved by the committee were offered for approval on the floor of the convention, isn't that so?

A. The persons nominated were also nominated on the floor of the convention.

Q. Yes.

A. I am not positive whether that name Derkin or Dargan—whether they read that name or whether they just paused. I remember him saying that, "This next number"——

Q. We are coming to that in a few minutes. I just asked you this: You have testified, just to refresh your recollection, that the names which had been approved by the committee were offered for approval on the floor of the convention. That was true, wasn't it? [2725] A. Yes.

Q. Now, then, you say:

> "To the best of my recollection, in reading down the list of names, the speaker paused and then made a remark, 'The next person to go on the Central Committee is a well known West Coast labor leader,' but without stating his name, and at that moment the entire convention burst into stormy applause."

Do you remember that? A. I do.

(Testimony of Paul Crouch.)

Q. So now the entire convention consisting of this 700 or 750 persons, when the man reading down the list said, "The next person is a well known labor leader," the whole convention burst into stormy applause, is that right?

A. In fact, it was far more than 750; it was over a thousand.

Q. So then obviously stormy applause would indicate that the entire convention knew who was being referred to, isn't that right?

A. Unquestionably.

Q. So that this whole thousand people there knew at the time that the entire convention burst into stormy applause that the person who was named as a nominee on the Central Committee was Harry Bridges, is that right?

A. I don't think there was a half of one per cent of the delegates who didn't know that that was Harry Bridges. Practically [2726] all knew.

Q. You all knew that. That was in May of 1938? A. Correct.

Q. Now, the tumultuous applause, the stormy applause, was it in any way increased or augmented by the declaration of the chairman that, "This man whose name is now being put up for admission to this Central Committee before you thousand people is now under detention or has been arrested on a warrant issued by the Department of Immigration two months ago to deport him out of the country?"

Mr. Donohue: I object to the question, if your

(Testimony of Paul Crouch.)

Honor please. Mr. Hallinan suggests that that was the declaration of the chairman.

Mr. Hallinan: No. I asked him: He did say that, didn't he? A. He did not.

Q. Oh, Mr. Crouch, now think. Didn't anybody say that? A. Say what?

Q. Didn't anybody say to that convention, "Now the remarkable thing about this West Coast labor leader, whom you all know to be Harry Bridges, is this: that two months ago, in March, a warrant for his deportation as an alien because he is a member of the Communist Party has been issued by the Department of Immigration and a trial set for next January on that question." Didn't he say [2727] that?

Mr. Donohue: Object, if your Honor please. I think that the time for argument will probably be next spring or summer. It certainly isn't this morning.

Mr. Hallinan: I am asking him if he said that.

Mr. McMillan: He has already answered the question.

Mr. Hallinan: As part of the cross-examination I am entitled to ask leading questions.

The Court: Overruled.

A. He didn't say it or anything even remotely resembling the quotes.

Q. (By Mr. Hallinan): Nobody said it?

A. Not anything ~~like~~ you said, no.

Q. But you knew that, didn't you?

A. I don't know what I knew regarding any deportation proceedings at that time so far as dates or anything like that is concerned.

Q. Oh, Mr. Crouch, away back in April, 1934, leaders of the Communist Party had had discussion with you, had they not, in which they discussed the danger that Harry Bridges would be under of being deported as an alien if it were discovered that he was a member of the Communist Party? Don't you remember those conversations?

Mr. McMillan: That has been asked the witness already. Now, the next question is going to be purely argumentative if it is answered. [2728]

The Court: Overruled.

A. I stated previously in answer to a question that this was discussed from the spring of 1934 on.

Q. (By Mr. Hallinan): Yes, right along, 1934, '35, '36, '37, and right up into '38. It was discussed, wasn't it, in '39?

A. The question of the necessity of preventing legal proof of Bridges' membership from falling into the hands of the Department of Justice was discussed.

Q. Oh, now, did you ever know a man named Joe Yuba? A. I don't recall the name.

Q. Do you remember a man named Joe Yuba?

The Court: How do you spell tha last name?

Mr. Hallinan: Y-u-b-a, an FBI agent who testified that he was an undercover agent planted in the Communist Party, who testified before the Un-American Activities Committee some time ago. Do you know that man?

(Testimony of Paul Crouch.)

Mr. Donohue: I object to that question, if your Honor please. That is putting into the record a statement by Mr. Hallinan.

Mr. Hallinan: Oh, sorry, no; it is H-u-b-e-r, Huber; do you know that man?

Mr. Donohue: I still object to the question, if your Honor please.

The Court: The fact of his acquaintanceship and knowledge may be answered Yes or No. [2729]

A. No.

Q. (By Mr. Hallinan): Was it discussed in any of these conventions or committees during that period from 1934 to 1938 that the Federal Bureau of Investigation had agents planted in the Communist Party? A. The Communist Party——

Q. No. Can you answer that Yes or No, whether that was discussed?

A. I cannot give a correct Yes or No answer to that question.

Q. Can't you give us a Yes or No answer and then explain it?

A. My answer is No, with this explanation: that the leaders of the Communist Party considered it possible that the Department of Justice would attempt to get its representatives into the Communist Party, but in those days they felt very confident of their ability to recognize them and prevent them from joining the Party.

Q. Now, was it rather that they thought they had nothing to conceal, Mr. Crouch, between us?

(Testimony of Paul Crouch.)

A. No, it emphatically was not, because they thought they had nothing to conceal.

Q. Now, when these committees, central committees, were made up, were lists of them prepared of members who were on the committees?

A. At least one list was prepared for the purpose of reading off at the convention, and I presume the secretary, general [2730] secretary, or some responsible official kept this list in a safe place thereafter.

Q. And kept it indefinitely, I take it, is that right? A. Not unless it was in code.

Q. Whether in code or out of code, the names of the persons who comprised the Central Committee, the officers of the Communist Party, weren't they kept year after year?

A. Not having worked in Earl Browder's private office, I cannot answer that question.

Q. Well, for instance, let us say that you were a close and intimate member of the criminal corps—we will put you in the criminal corps of the Communist Party—and you wanted to find out who were the members of the convention delegation five or six years before, or the Central Committee, couldn't you find out?

Mr. McMillan: That assumes a fact not in evidence, assuming that he was a member of the criminal corps.

Mr. Hallinan: Well, I assume that that is what he was describing or what has been described here as being this corps. If you object to it, I don't want to improperly characterize your witnesses, if you say they are not. I gather they said they were. It is all right with me. They may be very different from the members of the criminal corps. Let us knock out "criminal" and let us say Johnson and these people were not criminal at all, but you were in this secret corps of the [2731] Communist Party, a little group of forty or fifty, or whatever they were, couldn't you go and find out who had been members of the Central Committee six or eight years prior to that time?

A. I guess if I had asked any questions of that kind I would have got my head chopped off, politically speaking.

Q. Who would do the chopping?

A. I would be asked what my motives were in asking such a question.

Q. Let's say that you had a proper motive; let's say that you were one of the people in the "know" of the matter; you wanted to find out for a perfectly legitimate reason the name of some member of the convention or the committee eight or ten years before, surely you could go somewhere and find out, couldn't you?

A. I think I could find out if it were important by asking the Control Commission to get this record from the Soviet secret police.

Q. Do you think that the lists were taken and turned over to the Soviet secret police?

A. Definitely.

(Testimony of Paul Crouch.)

Q. In other words, now, for instance, members of the convention who were elected in the year 1934, that list would be taken and transported to the Soviet secret police, is that right?

A. I have no doubt that that full list reached Moscow in less [2732] than thirty days after the convention and is today on file in the archives of the MVD in Moscow.

The Court: Spell that.

The Witness: MVD. That is Russian for Russian secret police.

The Court: What is the Russian for MVD?

The Witness: They are initials of Russian words which stand for—which mean Russian secret police. I can't recall the Russian words.

Q. (By Mr. Hallinan): Then there would be no list left in the United States, is that right?

A. I don't believe so. I don't believe there is a list in existence today of all the members of the Central Committee that were elected at that time.

Q. Let us take it at that time. Now, at that time in 1936 were any lists of these people preserved in the United States at all?

A. I have no knowledge of the preservation of any list after the day of election.

Q. You have no actual knowledge; you just have the belief that they were transmitted to the Russian secret police, is that right?

A. Based on my seventeen years' membership in the Communist Party, yes.

(Testimony of Paul Crouch.)

Q. Were the lists prepared by secretaries or stenographers? [2733]

A. The lists were prepared with pen and ink or pencil by a top leader of the Party, and in case of '38, by Earl Browder.

Q. In disappearing ink?

A. Not to my knowledge.

The Court: Would you like to take the morning recess now, Mr. Hallinan?

Mr. Hallinan: Yes.

The Court: Ladies and gentlemen of the jury, we will take the morning recess. The same admonition to you not to discuss the case under any conditions and not to form or express an opinion until it is submitted to you.

(Recess.) [2734]

Q. (By Mr. Hallinan): Mr. Crouch, if it became expedient to communicate with members of the Central Committee, there would be no list of names, addresses or telephone numbers that could be employed without going to the Russian secret police, is that correct?

A. The district organizers of the Communist Party were responsible for passing on to Central Committee members in their district the minutes of the Politburo meetings or the edited minutes, and such other communications as necessary, and important communications to the district organizers were sent in code.

Q. What I am getting at now—I think you

(Testimony of Paul Crouch.)

misunderstood the question—suppose the president or the head man of the Central Committee wanted to communicate to his fellow members. He couldn't do it, is that right?

A. He would reach him through the district organizer of the district in which he lived.

Q. But the district organizer would not know who the Central Committee man was, would he?

A. All district organizers knew who were the members of the Central Committee living in their districts.

Q. I understand that; the district organizers were changing, being replaced, moving to other districts and going all over the country quite a bit, isn't that right?

A. Not very often. I think California has had only two district organizers since about 1930. [2735]

Q. Take yourself: How many different places were you a different organizer? A. In——

Q. Run them off. What was the first place in which you were district organizer?

A. State organizer in Utah, the Carolinas and Tennessee.

Q. Utah? A. The State of Utah.

Q. Were you first in Utah? Utah, the Carolinas and Tennessee were not one district?

A. No, these were separate districts.

Q. So you were a district organizer in Utah, is that right? A. State organizer for Utah.

Q. The whole state? A. Yes.

(Testimony of Paul Crouch.)

Q. And then you were state organizer for Tennessee? A. Next the Carolinas.

Q. Both Carolinas? A. Yes, both.

Q. Then you were district organizer for the State of Tennessee? A. Correct.

Q. And before you they had organizers in that state?

A. They had had one organizer before me in Tennessee.

Q. And after you they had organizers, is that right?

A. They had one organizer, but it was discontinued as a [2736] district, and I understand, I have heard, made part of the Alabama district.

Q. Then in addition to the state districts, you were organizer for smaller portions of the states, were you?

A. I was regional organizer for Norfolk, Virginia, which incidentally was the only place where the party organizer in the state in effect was state organizer. And I was Alameda County organizer —I mean Alameda, California.

Q. Any place else?

A. Not that I recall, as a local organizer, no.

Q. You being organizer in this district, who would provide you with the names of Central Committeemen in your district?

A. In Utah, there was no member of the Central Committee from the State. There was no member of the Central Committee from the Carolinas, only one from the entire South.

(Testimony of Paul Crouch.)

Q. Let us forget about you on it personally then. Here is what I am trying to get: Suppose, we say, the chairman or the president of the Central Committee wanted to communicate with the members of his committee. Then you say the way he would do it was the district organizer knew who the Central Committee member was. So then he would get in touch with the district organizer and he would be notified who the Central Committee organizer was, is that correct? A. Correct.

Q. How would he know who the district organizer was? Wouldn't [2737] it be easier for him to have the list of the Central Committee than the list of the district organizers? What was the purpose of that?

A. When Central Committee members were in the district, unless they were people who were going into the district as a very special representative, who would be provided with special means of communication, the Central Committee transacted all of its business through the district organizer of that district, and that was the easiest.

Q. But you told us originally the Central Committee had three or four meetings each year?

A. That is correct.

Q. How did they know where to go and when the meetings were to be held?

A. The notices of the time and the place of the meetings were sent to the district organizer in code, and he was responsible for notifying all members of the Central Committee from his district. For example, Schneidermann would be responsible for notifying such Central Committee members as Anita Whitney and Harry Bridges from California.

Q. Let us say you or Schneidermann were a district committeeman for a certain number of years, a year or two; then you had some kind of a code, did you?

A. We had two types of codes, and the code words or the code books were changed at frequent intervals. [2738]

Q. Then the chairman of the Central Committee would notify you in code and notify the Central Committeeman of the time and place of the meeting, is that right?

A. That is not correct. I received all my notices of the Central Committee meetings from J. Peters, the head of the underground apparatus of the party.

Q. In code? A. In code, yes.

Q. Is that oral code or written code?

A. Written code.

Q. It is not what they call pig Latin, double Dutch or any of those things we used to use in school?

A. The Communist Party didn't usually engage in the wisecracks and frivolity in its work.

Q. You will foregive me if I have a little lighter spirit than the Communists have in this case. Now, the members of the Central Committee, you say, were selected by their state delegation to the national convention, is that right?

(Testimony of Paul Crouch.)

A. I didn't——

Q. Tell us.

A. No. In effect, they were nominated by the delegations—that was in 1936; it was a different procedure in 1938—the actual selection, I know, was done by the Politburo. The form of it was nominations from delegations, cleared through formally for the record, through a nominations committee and then [2739] formally voted upon, very much like an election in Bulgaria or the Soviet Union today.

Q. I do not know a great deal about those, so let us take the elections in the Communist Party in the United States as of that period. Now, for instance, a delegation would be sent from the Carolinas, let us say. It would take its place in the convention, is that right? Let us say 1936 now.

A. Correct.

Q. How many people would be in that delegation?

A. I testified to the best of my recollection about six from the Carolinas in the 1936 convention.

Q. And you also testified, I think, that the delegation from the Carolinas nominated a colored man named Murphy, of all names, as its delegate, is that correct? A. Not quite.

Q. Let us drop that. Then the delegation from Carolina, if it wanted to put a man on the Central Committee, it would select some name and offer it to the nominating committee, is that right?

A. Correct.

Q. How would the delegation from Carolina ar-

(Testimony of Paul Crouch.)

rive at the name that they wanted to transmit to the nominating committee?

A. Caucuses were held of the delegations, except the caucuses of the larger delegations like California, and in the case of the South, the Carolina delegation met jointly with the delegations [2740] from Alabama, Florida, Louisiana and other southern states; in 1936 with Nat Ross as chairman of our conference, and in this conference the members or delegates got up and proposed names that they thought should be on the new Central Committee.

Q. Then would they discuss who the person was and why he should be on it? A. Yes.

Q. Would the person always be one of the delegates or would they also include persons who were not delegates?

A. Very frequently people who were not delegates were considered.

Q. Then would they select this person who was to go to the nominating committee by vote?

A. Majority vote of the delegation as to whether he went on their recommended slate for submission to the nominations committee.

Q. When you got there—let's say your delegation arrived at the place of convention: Had they already been instructed by anybody, by their constituents or whatever you might call them, as to who the person was they should nominate for the committee?

A. I have never heard of such a practice anywhere in the Communist Party. It never occurred to my knowledge or in my experience that names of

(Testimony of Paul Crouch.)

the Central Committee were ever discussed by what you term the constituents, the state committees which elected delegates to the national convention.

Q. So that when you got to the convention, then; at that time, when you arrived there, you had no person to whom you were committed to try to get on the Central Committee, is that right?

A. Correct.

Q. And then your delegation in this caucus would either by itself, if it were a large enough delegation, as I understand it, or in combination with others, if it were a smaller delegation, decide between themselves who they would nominate for the Central Committee, and they would vote upon that name, is that right? A. Essentially.

Q. What kind of vote was necessary? A majority vote merely or a larger percentage? What was it?

A. The majority of members of the delegation voted that that name should be submitted.

Q. Then the majority of this delegation, having voted upon a name that should be submitted, that name, as I understand it, was then transmitted to the nominating committee with the statement that this name was being selected and had been voted upon by the delegation for nomination of the Central Committee, is that right?

A. That is true of the 1936 convention. It was not true of many other conventions. [2742]

Q. After the nominating committee had received

(Testimony of Paul Crouch.)

these names, it canvassed them and then it came back with a list of names that it said it was recommending for the committee, is that approximately correct?

A. Formally, as a matter of formality, yes.

Q. But in reality the list of the names did not reflect the wishes of these various delegations that had been selected by some interior group which I think you called the Politburo? A. Correct.

Q. In other words, the Politburo apparently had made up its mind in advance whom it wanted on the Central Committee, is that irght?

A. Only partially. The Politburo, of course, reviewed all the names submitted to it from the delegations, and I doubt if the Politburo had decided before the convention was called on every name to go on the new committee.

Q. I understand what you mean. In other words, while the Politburo finally made that selection, it might have made it out of names nominated by the various delegations, is that correct?

A. That is correct.

Q. Now, you say that in 1938 the proceeding was different. In what respect was it different from what we have detailed for 1936?

A. In that there was not the balloting of individual delegations, to my knowledge. There might have been in some cases, but I [2743] have no knowledge of it. I know our delegation had no balloting about who should go on. And the leaders, the district organizers, a few top leaders were picked

(Testimony of Paul Crouch.)

out and called to a secret meeting not announced on the convention floor where a number of political problems were discussed by Browder, very confidential reports made by Browder to us, and where we discussed the question of the composition of the new Central Committee.

Q. If I remember correctly, you were sent to the disciplinary barracks at Alcatraz before you ever became a member of the Communist Party, is that right? A. That is correct.

Q. And as I remember, you were sentenced first to a 40 year term at hard labor, is that right?

A. I do not think it is in the record, but it is correct.

Q. And then that was afterward commuted to three years, is that so?

A. That is correct.

Q. And at the time you were sentenced you were a soldier in the United States Army, is that correct?

A. That is correct.

Q. And as I say, you were not and had never been up to that time a member of the Communist Party? A. Correct.

Q. After your release from Alcatraz Island, you said that you [2744] made certain speeches throughout the Middle West or the northern part of the Middle West, is that correct?

A. Yes, along with many other parts of the country I named.

Q. At that time you were not a member of the Communist Party?

(Testimony of Paul Crouch.)

A. Not until I reached Chicago.

Q. Then when you did join the Communist Party, as I understand it, your application was dated back a couple of years and your membership predated to 1925, is that right?

A. That is correct.

Q. Although you did not actually join until 1927?

A. Technically correct.

Q. When were you sentenced to imprisonment?

A. April, 1925. [2745]

Q. Well, then, you didn't serve three years, did you?

A. Less good time; ten months' good time reduction.

Q. When did you first start testifying for the Government in anti-Communists or alleged anti-Communist cases, cases in which people were claimed to be Communists?

A. My first testimony regarding the Communist Party and its program was before the House Committee on Un-American Activities on May 6, 1949. in executive session, part of the proceedings subsequently being published.

Q. May 6, 1949? A. That is correct.

Q. This present year? A. That is correct.

Q. And that was your first appearance in a matter of this kind, you say?

A. That is correct.

Q. At that time were you working for the newspaper you testified concerning? A. I was.

(Testimony of Paul Crouch.)

Q. And did you get a leave of absence or anything at that time? A. I did.

Q. And did you then return to the newspaper?

A. I did.

Q. Who owns that newspaper?

A. I understand that former Governor James M. Cox of Ohio is [2746] the principal stockholder in the paper.

Q. It isn't a Hearst publication?

A. It is not.

Q. Now, then, when did you next testify in any proceeding?

A. I next testified, to the best of my recollection, before the Senate Sub-Committee on Immigration and Naturalization somewhere around the—perhaps the 18th of May; I don't recall the exact date.

Q. And then where next?

A. Before the House Committee on Un-American Activities again.

Q. And then where next?

A. I testified on a number of occasions, I don't recall how many, before the House Committee on Un-American Activities.

Q. Let us take the first time that you testified where some person was going to be deported or sent to prison. When was the first time you testified in that?

A. The first time I testified in any deportation case was in the case of Betty Gannett.

Q. What was the name?

A. Betty Gannett.

(Testimony of Paul Crouch.)

Q. Betty Gannett. Was she a lady who used to be a reporter on one of the San Francisco newspapers?

A. I didn't—she may have been on the People's World; I don't know.

Q. No. There was a Betty Gannett, if I remember, years ago, [2747] a rather pretty blonde, a little girl, who was a reporter on the Daily News. Is that the girl?

A. Not unless the Betty Gannett I know had her hair bleached at the time.

Q. Was this a deportation proceeding against Betty Gannett? A. Yes.

Q. What was the next? Where did that take place? A. New York City.

Q. Then who was the next victim—pardon me—next person that you testified against?

A. My next testimony was in the case of an individual whose name escapes me, whom I do not know personally, with a stipulation that it be applied in other cases in Portland, Oregon.

Q. An individual in Portland, Oregon. When was that, sir?

A. This was about around the 15th of October, to the best of my recollection.

Q. Around the 15th of October, 1949?

A. Yes. I do not recall the exact date.

Q. And I take it that was not his name, "individual"; you mean that it was a person whose name you do not recall, is that correct?

A. Correct.

(Testimony of Paul Crouch.)

Q. Can you tell us what his name was?

A. I do not remember.

Q. Did you hear it? [2748]

A. I heard it and I do not remember it.

Q. Did you see him in the courtroom?

A. I did.

Q. How long did the hearing last?

A. Oh, a couple of days.

Q. Were you on the witness stand for most of that time? A. I was.

Q. And there were recesses in which you went back and forth as you have been going back and forth here, is that right? A. Yes.

Q. But you can't tell us his name?

A. I do not remember his name.

Q. Were you served with a subpoena to appear in that proceeding?

A. No, I was requested by the Immigration Department to appear.

Q. In writing or orally? A. Orally.

Q. Was the name of the individual given to you then? A. No.

Q. You did hear it, I take it, during the proceeding? A. During the proceeding.

Q. Heard it several times? A. A few.

Q. I beg your pardon?

A. A few times, not often; once or twice. [2749]

Q. And then it was stipulated that your testimony taken on the individual might be read upon proceedings against other individuals, is that right?

(Testimony of Paul Crouch.)

A. I wasn't testifying regarding the individual; I was testifying regarding the Communist Party and its program.

Q. Now, who were the other individuals concerning whom it was stipulated your testimony might be employed? A. I do not know.

Q. How many of them were there?

A. I believe there were three cases, if I remember the stipulation correctly.

Q. Three cases including the individual?

A. Yes. Incidentally, I might add to the record that my testimony in that case is not completed and I am to return for cross-examination in this case.

Q. When do you expect to return, Mr. Crouch?

A. As soon as notified by the Department of Justice to do so.

Q. Now, who else—whom else, rather, have you testified against?

A. A case of a Mr. Blakefield.

Q. How do you spell that?

A. I don't know.

Q. A Mr. Blakefield?

A. Mr. Blakefield or Blakefeld.

Q. B-l-a-k-e-f-i-e-l-d or B-l-i-c-k-f-e-l-t? [2750]

A. Perhaps. It is a Scandinavian name; I don't know the spelling.

Q. And where did Mr. Blakefield have the fortune to encounter you?

A. Will you please restate the question.

(Testimony of Paul Crouch.)

Q. Do you remember Mr. Blakefield's first name? A. I do not.

Q. Did you hear it? A. I did.

Q. Was it a man or a woman?

A. A man.

Q. How old a man? A. Middle aged.

Q. What do you call "middle aged"?

A. Perhaps fifty.

Q. I beg your pardon?

A. Perhaps fifty. I didn't know his age. I am a very poor judge of ages.

Q. And the individual, what age did he appear to be? A. Pardon me?

Q. The individual, what age did he appear to be?

A. The individual in whose case I was testifying?

Q. No, in the case in Portland, Oregon.

A. Perhaps fifty-five. Again, I am a very poor judge of ages. [2751]

Q. And Betty Gannett, about how old did she appear to be?

A. About my age, perhaps one year younger.

Q. What is your age?

A. My age is forty-six.

Q. Where was the hearing on Mr. Blakefield?

A. In Seattle, Washington.

Q. When?

A. Near the end of October.

Q. And then who was the next?

(Testimony of Paul Crouch.)

A. The next case in which I testified was the secretary of attorney Coughlan in Seattle, Washington.

Q. The secretary of attorney Coughlan. How do you spell that?

A. C-o-u-g-h-l-a-n, I believe.

Q. And when was that?

A. Late in October.

Q. Last October, 1949? A. Correct.

Q. And what sort of proceeding?

A. Deportation proceedings.

Q. And did the person involved have no more definite designation than the secretary to attorney Coughlan?

A. I do not remember her name.

Q. Was it a woman? A. It was.

Q. What was her age, approximately, as you make it out? [2752]

A. Perhaps forty; I do not know.

Q. Did you hear her name? A. I did.

Q. Did you hear both her first name and her last name? A. I did.

Q. Can you tell us either of them?

A. Not at this moment. I can't tell you right now.

Q. Who was the next person against whom you offered your services?

A. I didn't offer my services. My services were requested.

Q. Yes. And against whom was the next person?

(Testimony of Paul Crouch.)

A. I testified in the—in a case, in a suit brought by a Mr. Chandra to compel the United States Government to grant him citizenship, at Sacramento, California.

Q. And in this case you testified for Mr. Chandra, is that right?

A. I testified for the United States Government in this case.

Q. Oh, is that true as to all the cases in which you testified? A. That is correct.

Q. Now, Mr. Chandra—when was that hearing?

A. The 1st of November, I believe.

Q. And where was that? You say in Sacramento? A. In Sacramento.

Q. That was in what, the Superior Court or the Federal Court [2753] or what?

A. It was in the Federal Court. At this moment I would like to correct my testimony regarding the secretary of attorney Coughlan. My testimony in her case instead of the last of October was around the 5th of November, 1949.

Q. November 5?

A. Approximately. It was after my testimony in the Chandra case.

Q. I see. And then how long were you testifying in the Chandra case?

A. Only long enough to complete my direct examination. There was no cross-examination. The suit was immediately withdrawn following my testimony.

(Testimony of Paul Crouch.)

Q. Then who else have you testified concerning?

A. No other cases.

Q. No others. Now, do you know the name of the man or the men involved in this case?

A. I do.

Q. How much do you receive as compensation for your services in testifying in these cases?

A. The compensation I received while testifying for the Government has ranged from zero minimum to a maximum of $25 fee per day. My per diem in various testimonies before Government agencies has ranged from a minimum of $3 to a maximum of $9 per day, and I would say that I have lost from work in salary [2754] three or four hundred dollars more than the total I have received from the Government during the year 1949.

Q. It has turned out to be a bad investment, has it?

Mr. McMillan: I object to that, may it please your Honor.

Q. (By Mr. Hallinan): You say it ranged from zero to $25 a day. Is the $25 over and above the per diem? A. In addition, yes.

Q. So on a good day you get $34, is that right?

Mr. Donohue: I think, if your Honor pleases, counsel ought to be told at this time that this is not the place for a performance. This is a criminal matter.

Mr. Hallinan: If your Honor pleases, I ask that the jury be instructed to ignore that remark; that is misconduct.

(Testimony of Paul Crouch.)

The Court: I did not hear the remark.

Mr. Hallinan: He said that I should be told that this is not the place for a performance. I am cross-examining this witness in a proper fashion. I am entitled to learn these matters, and counsel has no right to characterize it as a performance. As I said before, the mere fact that a person is not an official of the Government does not give him the right when he is a specially appointed prosecuter to ignore the rights of defendants by making remarks like that.

The Court: I see no occasion to instruct the jury at this juncture, Mr. Hallinan.

Mr. Hallinan: I will have to enter an exception to your Honor's ruling on that. I regret to do so.

The Court: You may have it, sir.

Q. (By Mr. Hallinan): Now, in your testimony before the Un-American Activities Committee you named some 76 persons as members of the Communist Party; do you remember that?

A. I never counted the list of names.

Q. Do you carry a copy of your testimony before the Un-American Activities Committee when you go on your various pilgrimages to Seattle, San Francisco and so forth?

A. Sometimes I do and sometimes I don't.

Q. You brought one along, though, when you came to San Francisco, did you not?

A. I think I had a copy.

Q. You have it with you, don't you?

A. I do not have it with me.

(Testimony of Paul Crouch.)

Q. Counsel here has it, hasn't he? Did you turn it over to Mr. Boyd?

A. It is possible that some member of the counsel has it.

Q. Now, in these matters that you have testified to in Seattle, Sacramento, and so forth, who was the person who directly employed you to do the work? Was it Mr. Boyd or Mr. Barber?

A. Pardon me?

Q. Was it Mr. Boyd or Mr. Barber?

Mr. McMillan: I don't believe, may it please your Honor, that there is any testimony here by this man that he was employed. He appeared as a witness. [2756]

Mr. Hallinan: For this $35 a day or $34 a day.

Mr. McMillan: May it please the Court, it isn't employment.

Mr. Hallinan: Huh! Counsel can argue the point. We are entitled to argue the consideration which the witness receives.

Mr. McMillan: That is just exactly what I am objecting to.

Mr. Hallinan: Yes.

Mr. McMillan: He is arguing now. He has characterized it as employment.

Mr. Hallinan: Yes, and then we intend to argue that they are just hired professional witnesses. That is the position we have taken all along and the position we take now.

Mr. McMillan: That is argumentative.

(Testimony of Paul Crouch.)

The Court: I think you are entitled to go into the nature of any compensation the witness receives without any particular characterization. You may argue it hereafter, as to any inferences that may be drawn. What was the last question?

Mr. Hallinan: As a matter of fact, I didn't intend to use the word in that sense. I asked him who directly employed him to testify in this case.

The Court: I understand.

Mr. Hallinan: I will knock out the word "employed" if you want. [2757]

The Court: I understand.

Q. (By Mr. Hallinan): Who directly requested you to testify here in this case? Was it Mr. Boyd or Mr. Barber? A. No.

Q. Who?

A. The Immigration office representative in Miami, Florida.

Q. What was his name?

A. Mr. McCluskey.

Q. What is his first name?

A. I don't know.

Q. How do you spell his name?

A. M-c-C-l-u-s-k-e-y, I believe.

Q. When you came to Seattle—let's take Portland first—did you talk to either Mr. Boyd or Mr. Barber?

A. I had never met Mr. Barber in my life. I talked with Mr. Boyd for possibly thirty minutes in Seattle after I arrived there. [2758]

(Testimony of Paul Crouch.)

Q. And then who was the person with whom you talked in New York City when you testified against Betty Gannett?

A. With the examining inspector, whose name I can not at the moment recall, and very briefly with several other investigators of the department.

Q. How long did you talk with the examining director or whatever you call him?

A. In New York?

Q. Yes.

A. I discussed the—I was questioned about my knowledge of Betty Gannett personally and also——

Q. No. I asked you how long you talked with that man.

A. Altogether about two hours, I would estimate.

Q. With the man whose name you can't remember? A. Yes.

Q. And then with relation to the Blakefield case, whom did you talk to in that connection?

A. I talked with the examining inspector in the case.

Q. What is his name?

A. His first name is John and his last name is something like Zumler; it starts with Z; I don't remember the spelling.

Q. All right. Then in the case of the secretary of Attorney Coughlin, whom did you talk to?

A. The same.

Q. That same man? [2759] A. Yes.

Q. Did you have any connection with Mr. Boyd in either of those two cases?

(Testimony of Paul Crouch.)

A. I did not discuss either of those two cases with Mr. Boyd.

Q. Was he present at any discussions?

A. He was not present at the discussions I had on those matters.

Q. What about the Chandra matter?

A. I discussed the Chandra matter, answering questions regarding my knowledge of the IWO at considerable length, being questioned by Mr. Mario Noto of the Immigration Office, Department of Justice of Washington, D. C.

Q. Whom did you talk to in Sacramento?

A. This was while I was in Sacramento.

Q. Did Mr. Noto come to Sacramento?

A. Mr. Noto came to Sacramento and personally conducted the examination in the case.

Q. Whom did you talk to in connection with the present case?

A. In connection with the present case, I first talked with—I was first asked a very few routine questions by an inspector Myers in Miami, Florida, late in May very briefly and over perhaps twenty minutes. I did not discuss——

Q. Let me ask you—that was after your testimony before the House Un-American Activities Committee? A. That is correct. [2760]

Q. What is the inspector's first name?

A. Myers, M-y-e-r-s.

Q. Myers? A. Inspector Myers.

Q. Do you know his first name?

A. I do not.

(Testimony of Paul Crouch.)

Q. You say you spoke to him briefly about this case in late May. A. In late May.

Q. You didn't testify before the grand jury in this case? A. I did not.

Q. And how long did your conversation with Inspector Myers take place?

A. I just stated it lasted 20 minutes, to the best of my recollection.

Q. Did you give him a written statement?

A. He had a stenographer take it down and I signed the notes.

Q. And how many pages of notes?

A. One page, to the best of my recollection.

Q. Well, by one page, you mean one page of stenographer's notebook?

A. No; I was later shown a copy of it transcribed which occupied a page.

Q. How big a page?

A. 8½ by 11 inch ordinary typewriting size paper. [2761]

Q. How many lines?

A. Oh, about 50 perhaps, I would say, to the best of my recollection.

Mr. Hallinan: Could we see that document?

Mr. Donohue: We do not have the document. He knows he wouldn't be entitled to see it even if we had it.

Mr. Hallinan. I don't know why.

Mr. Donohue: Show us some authority for it and we will discuss it.

Mr. Hallinan: All right.

Shall we take the recess?

The Court: We will take a recess, ladies and gentlemen of the jury. The same admonition, not to discuss the case under any conditions, and not to form or express an opinion until the matter is submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [2762]

Monday, December 19, 1949, 2:00 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Paul Crouch, heretofore sworn.

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. Did you ever meet Harry Bridges personally? A. Yes, I have.

Q. When?

A. One occasion I recall was, to the best of my recollection, the 24th day of June, 1941.

Q. Any other time?

A. To the best of my recollection, I just exchanged a remark or two in passing, was all.

Q. When?

A. I believe one occasion, to the best of my recollection, was at some kind of a union meeting in the Seattle office where I was visiting together with

(Testimony of Paul Crouch.)

a delegation from Alameda County around June, just a little before the 24th, early in the month.

Q. And the next?

A. I can not recall. It is my impression I have exchanged remarks with him on a number of occasions, but it has been so many years back there is an element of human doubt that I can not be precise on time or place. [2763]

Q. You remember once on June 24th, 1941, at the CIO convention—I take it that is the one in Oakland that you already spoke about?

A. No, no. At the time I saw him on the platform delivering the address, reading the resolution I had written, I did not personally speak to him on that occasion. That was between the 2nd—between the 3rd and the 5th of October of 1941, but the occasion I am referring to was the occasion when my recollection was impressed by two factors: one, the publicity connected with his being kissed by Gypsy Rose Lee, a prominent burlesque, had been, and the fact that it was my birthday.

Q. She should have kissed you. Did she kiss you?

A. She seemed to have her eyes on Mr. Bridges on that occasion.

Q. That was in public, I take it?

A. It was.

Q. And I take it Gypsy Rose Lee was not in costume, or without costume, whichever you want to call it, of her professional art?

(Testimony of Paul Crouch.)

A. She was in street costume at that time.

Q. That was June 24th, 1941, and what was your conversation with him then?

A. To the best of my recollection, it was something like this: One of the delegates present, a CIO official who was present with me from Alameda County, made a statement something like, "Mr. Crouch, have you met Mr. Bridges?" or something like this. [2764] My impression is I said something to the effect, "Yes, I have," and merely shook hands —"How do you do?"—that is all I recall.

Q. And then you say you think you also exchanged greetings with him at a union meeting of the CIO a few days before that?

A. Some time in June.

Q. What was that on that occasion?

A. I don't recall. Just casual remarks, nothing important enough to impress itself on my memory.

Q. You just said hello.

A. Something like that.

Q. And then you did not talk to him at all during the convention in October?

A. In October, 1941, I did not speak to him at that convention.

Q. So then would June 24th, 1941, be the last time that you spoke to him?

A. I can not specifically recall whether I have or not.

Q. Prior to June, 1941, had you ever spoken to him?

(Testimony of Paul Crouch.)

A. To the best of my recollection, I had.

Q. When?

A. My impression—and there is an element of —there is an element of possible doubt of time and place—my impression is that I had spoken to him two or three times at top union Communist meetings in New York.

Q. Where were those? When? [2765]

A. Some of those meetings were in the national office of the Communist Party, but most of them were held in privately rented small halls or hotels outside.

Q. Give us the dates.

A. I have stated already I could not.

Q. Give us the year.

A. I could only place my impression of this since I met so many trade union people and so on — I can only place my impression, since you are asking for impressions, or my best recollection is it was between 1934 and 1936. [2766]

Q. Between 1934 and 1936. And all these meetings were in New York City, is that right?

A. Yes, they were all in New York City.

Q. And you say were top trade union meetings of the Communist Party.

A. Of the Communist Party.

Q. Nobody there but Communists, I take it?

A. Nobody but Communists.

Q. And you were there, is that right?

A. Correct.

Q. You saw Harry Bridges there?

(Testimony of Paul Crouch.)

A. I stated that to the best of my recollection—you are asking for recollections——

Q. In other words, you have the impression that you saw him at such meetings, is that right?

A. I am quite certain that I have.

Q. You are quite certain that you saw him at such affairs? A. Yes.

Q. You can't tell us where the places were nor what was said or done, is that right?

A. No, other than that the work of the Communist Party and trade unions was discussed at all of these meetings.

Q. When you appeared before the Un-American Activities Committee on May 6, 1949, you identified certain persons as Communists. You mentioned the following people: Earl Browder, J. Louis [2767] Engdahl, William Z. Foster, Sam Darcy, J. Peters. Do you remember that?

A. Not in sequence. At various points of my testimony.

Q. I am not calling for in sequence; just that you do remember having so testified; do you remember?

A. I can not recall whether I testified regarding each one of those or not. The record speaks for itself.

Q. We want to try out your memory on some of these matters because you pointed out certain fallibilities of memory such as to cast some doubt upon matters. This is in May, 1942. Did you mention William J. Heywood?

(Testimony of Paul Crouch.)

A. I don't recall whether I mentioned Heywood or not.

Q. Did you mention George Mink?

A. Yes, I did.

Q. Did you mention a man named Nassonov?

A. The name, the correct pronunciation is Nassonov.

Q. Did you mention a man named Taylor?

A. In connection with the Communist infiltration into the army, yes.

Q. Walter Trumbull? A. I believe so.

Q. Emanuel Levine? A. I believe so.

Q. George Pershing?

A. I may have been asked about him. [2768]

Q. A Howard Lee?

A. Howard Lee, I remember testifying; I don't remember whether my testimony on him has been published or not.

Q. I notice in reading over your testimony that there are two places where it says "Name deleted." Did you notice that in going through your testimony? A. I did.

Q. What were those, names of people you mentioned and for some reason this Un-American Activities Committee did not put them in their record?

A. They were deleted for national security reasons.

Q. Then there are two other names, Mr. Crouch,

(Testimony of Paul Crouch.)

mentioned there, then Mrs. Wilson. Did you mention her?

A. Yes, I did, of Camden, South Carolina.

Q. Rob Hall?

A. To the best of my recollection.

Q. Donald Burke, Emmett Gowen, Jack Strong, Jack Sapphire, Ben Davis, Jr., R. F. Hall, Ted Wellman, James Ford, Bart Logan, Henry Winston—do you remember those?

A. I remember most of them.

Q. Joseph S. Gelders? A. Yes, sir.

Q. Mr. Nixon, Judge Louise Charlton, James A. Dombrowski, Clark Howell Foreman—do you remember them? A. Most of them. [2769]

Q. Virginia Durr? A. Yes.

Q. John P. Davis? A. Yes.

Q. Don West? A. Yes.

Q. Therese Cantor? A. Yes.

Q. Leo Sheiner? A. Yes.

Q. Alton Lawrence? A. Yes.

Q. Then there is another name deleted. Paul Crobie? A. Yes.

Q. Francis Martin? A. Yes.

Q. Laurent Brown Franx, James Speed, Andy Brown—do you remember them? A. Yes.

Q. Edwin McCrea? A. Yes.

Q. Esther Cooper?

A. I do not recall whether it is in the published version or not. I mentioned her.

Q. David Sherman? [2770]

(Testimony of Paul Crouch.)

A. Yes, I was asked about him. I don't remember my reply.

Q. Clarence Francis Hiskey? A. Yes.

Q. Kenneth May? A. Yes, definitely.

Q. Rudy Lambert?

A. I remember him very well.

Q. Lena Davis? A. Yes.

The Court: One moment, Mr. Hallinan. You say you remember him very well. Now, so there will be no question hereafter in the record, when you say you remember him very well, do you remember testifying about him? A. Yes.

Q. (By Mr. Hallinan): Wilhelmina Lowrey?

A. I think so.

Q. Don't you remember?

A. I mentioned her in testimony of the hearings; I am not sure whether I mentioned her in the hearing you refer to, but I did mention her then.

Q. Paul Schliff? A. Yes.

Q. George Gray? A. Yes.

Q. Mauris Travis? [2771] A. Yes.

Q. Rudolph Sohn?

A. S-h-o-h-a-n, it should be.

Q. Max Bedacht?

A. I don't recall whether I was asked about him or not.

Q. Grace Maul?

A. I testified regarding her.

Q. Betty Gannett? A. Yes.

Q. John Steiben? A. John who?

(Testimony of Paul Crouch.)

Q. Maybe you pronounce it Steuben.

A. Steuben?

Q. Do you remember him?

A. I gave some testimony regarding him.

Q. Rudy Baker? A. Yes.

Q. Rudolph Sohn? A. We mentioned him.

Q. Alexander Trachtenberg, did you mention him?

A. I mentioned him in some of my testimony.

Q. George Kaufman? A. Yes.

Q. Pettis Perry? A. Yes.

Q. Paul Cline? [2772] A. I think so.

Q. Paul Green? A. Yes.

Q. Fred Beahl? A. Yes, I believe so.

Q. Helen Kay? A. Yes.

Q. Florence Plotnick, Mary K. Bell?

A. I testified regarding her. I don't know whether it is in the published proceedings.

Q. M. L. Edwards? A. Yes.

Q. Phil Scheffsky? A. Yes.

Q. Edward Waller? A. Yes.

Q. M. L. Edwards?

A. I think you just mentioned his name. Yes.

Q. Now, with regard to these people, many of whom are only mentioned as being members of the Communist Party, but then with regard to certain persons, do you remember giving this testimony:

"On the same ship with me goin——"

Mr. McMillan: May it please Your Honor, may we have, if he is going to read——

(Testimony of Paul Crouch.)

Mr. Hallinan: Page 183. Have you got the document there? [2773]

Mr. McMillan: I think the witness should be shown the document.

Mr. Hallinan: Let the witness have an extra copy if you want. This is partly to test his recollection.

Mr. McMillan: I think, Your Honor, it isn't necessary to read it; he can show it to him first.

Mr. Hallinan: That is not necessary.

The Court: Let's hear what the question is first.

Q. (By Mr. Hallinan): Do you remember on May 9, 1949, testifying regarding George Mink:

> "On the same ship with me going to Moscow was George Mink who became and was well known later as international agent of the OGPU,"

and then down at the bottom of the page:

> "Mink told me he had been a taxi driver on the waterfront in Philadelphia and that he had been spending his time on the waterfront, in which he was chiefly interested; his main interest was among seamen, and in his conversations with me he expressed very ambitious aims of having Communist organizations among seamen which would control the industry throughout the world.
>
> "In his personal habits, Mink was anything

(Testimony of Paul Crouch.)

> but an attractive person. He was a very heavy drinker, very promiscuous in his relations with girls, and it was quite a shock to me, with my idealistic conceptions of the [2774] movement, to find one of gangster characteristics like Mink rising to such top leadership."

Do you remember so testifying?

A. Yes, and the George Mink to whom I referred is the same George Mink to whom I referred in my direct testimony as recommending the promotion of Harry Bridges.

Q. Yes. When you stayed with Gilbert Parks on Cat Island, that was a nudist colony, was it not?

A. It was not.

Q. He is the man you stayed with, wasn't he, on the vacation you testified to here on the island in the harbor?

A. Gilbert Parks owned the island on which I stayed, but there wasn't a camp of any kind where I stayed.

Q. It was on Cat Island, wasn't it?

A. It was.

Q. It is run as a nudist colony, isn't it?

A. Not to my knowledge. He had leased the island in previous years for the operation of a nudist colony. It had been discontinued and was just a farm when we lived on the island.

Q. All right. Now, you speak—this is on page 186, of Nassonov:

> "Mr. Crouch: He was a representative of

(Testimony of Paul Crouch.)

> the Young Communist International to the Young Communist League of the United States at that time. He was armed with full powers from Moscow to decide problems of the Communist Youth [2775] movement in America."

Do you remember so testifying?

A. I do.

Q. Then speaking of Taylor:

> "I do not remember his first name. He was from the mining fields of Pennsylvania, from Wilkes-Barre, if I remember correctly. He enlisted in 1929 for service in Panama and established civilian contacts in Panama, maintained correspondence through the underground channels which we established, served his enlistment without detection, and returned to the United States."

Do you remember giving that thumbnail sketch of Taylor?

A. I do, very distinctly. [2776]

> "Mr. Crouch: Yes. He is also on this card (Exhibit 3). He succeeded me in January, 1930, as the head of this department for the armed forces, and along with him at that time Max Bedacht of the Central Committee of the Party was assigned to work with Trumbull and to give general directions to his work.
>
> "Another Party leader who worked with Bedacht and with Trumbull was Emmanuel Le-

(Testimony of Paul Crouch.)

> vine. Trumbull told me on my visits to Washington that a large number of additional soldiers had been sent to Panama, and at the time of the Osman affair I recall conversations with the Party leaders in New York, and with Trumbull, and Osman was mentioned as one of those who had been sent to Panama."

Do you remember that?

Mr. McMillan: If it please the Court, we object to this. It is not proper cross-examination.

Mr. Hallinan: This is leading up to another matter. It is preliminary.

Mr. McMillan: It is collateral and a time-consuming inquiry.

Mr. Hallinan: I object to the designation of counsel and I assign it as misconduct and ask that the jury be instructed to disregard it. He has no right to make remarks of that kind to the jury, that it is a time-consuming inquiry. I do not propose to waste my time, the Court's time or the jury's time. This is all pertinent and I have a reason for inquiring [2777] into it. You will see it will take some time to run off these thumbnail sketches, but then you will see the purpose of it.

Mr. McMillan: Your Honor, it would be different if he were proceeding to lay the foundation for impeachment, but if it is not time-consuming to read and continue to read everything that was testified to in that hearing back there, we will never get through.

(Testimony of Paul Crouch.)

Mr. Hallinan: We are not in a hurry. If Mr. McMillan wants to be excused, we will consent. I think the Court might stagger along without him. We can't for the sake of saving time, your Honor, pass up evidence which is material to this inquiry.

Mr. McMillan: That is just my objection. It has no relevancy. It is immaterial, collateral, and, I repeat, time-consuming. Some limitation must be placed on cross-examination, which is in the sound discretion of the Court.

Mr. Hallinan: Objections of this kind, of course, are always made for the purpose of smoking out what the cross-examination has in mind and thereby apprising the witness, and I do not intend to do that unless I am compelled to.

The Court: Ladies and gentlemen of the jury, I have been asked to admonish you concerning the statement made by Mr. McMillan. Likewise I assume Mr. McMillan might ask me to admonish you concerning the statements made by Mr. Hallinan. I think I have already given to you the Court's notion and legal position on the matters with respect to the admissibility of [2778] testimony. Very often counsel, or counsel on either side make a statement. That statement is not to be regarded by you as evidence in the matter nor is it to sway you in your consideration of the evidence. I think we all understand that. Do we? I will rule on this matter, Mr. McMillan. I will reserve any objection you may have, but I think Mr. Hallinan is

(Testimony of Paul Crouch.)

allowed more latitude in this particular inquiry than he has already had. He assures me he will connect it up.

Mr. Hallinan: I think you will see the force of it when I make it.

> "Among Negro representatives at the first conference was John P. Davis, whom I had known in the Communist Party since 1934."

And then with regard to Don West:

> "I knew him very well, for many years, as Don West and as Jim Weaver. He was District director of the Communist Party of North Carolina while I was District Organizer in the fall of 1934 or early 1935. He then left the Carolinas and went to Kentucky as District Organizer of the Communist Party through most of 1935, and then was released from that post and returned to the South, where he has spent most of his time as a writer. The latest news I have was that he was a professor at Oglethorpe University in Georgia and recently published a book of poems." [2779]

Do you remember that testimony?

A. I do.

Q. Then on page 193:

> "And I personally know that the leading officers of the Southern Conference, Theresa Kantor——
>
> "Mr. Mandel: Of what city?

(Testimony of Paul Crouch.)

> "Mr. Crouch: Miami Beach; and Leo Sheiner, chairman of the Southern Conference in the Miami area, are active members of the Communist Party. I would like to add more about Mr. Sheiner and Mrs. Kantor under other headings."

But that not being requested, and the question skipping on, you said:

> "I would like to introduce this photograph of Mrs. Kantor in the Miami Daily News of February 18, 1948, calling attention that pictures of Smolikoff appear on the same page."

Do you remember that testimony?

A. I remember most of it.

Q. So you had brought to this conference, in addition to other material which you had provided, a copy of the Miami Daily News of February 18, 1948, in which this Mrs. Kantor's picture appeared, is that right?

A. That is possible. I remember considerable material. I do not recall the particular picture which you cite. I brought quite a lot of material with me. I do not recall this particular point, but I am not disputing that at all. I remember most of the testimony regarding Theresa Kantor. [2780]

Mr. Hallinan: What I am getting at, this material which you brought was not material which you were subpoenaed to bring, but material which you voluntarily and of your own accord brought and tendered to the committee, is that correct?

(Testimony of Paul Crouch.)

A. That is correct, for the purpose of exposing Soviet agents in America, voluntarily.

Q. Mr. Crouch, the benignity of your motives is no longer in doubt!

Mr. McMillan: May it please your Honor, may I have that question read? I didn't hear the last question.

The Court: It was an observation, not a question.

Mr. McMillan: That is what I want.

Mr. Hallinan: I said the benignity of his motives is no longer in doubt.

Mr. McMillan: Is that a question, Mr. Hallinan?

Mr. Hallinan: I wanted to give him some consolation or assurance that he was a benign man.

Mr. McMillan: He is usurping the province of the jury, may it please your Honor.

Mr. Hallinan: Well, he is their witness. If they want me to call him—what do you want me to say? He is a rascal? I tried to be nice to him.

Mr. McMillan: I do not want you to make any statement of that type.

Mr. Hallinan: The observation is withdrawn.

Q. Now, on page 198, speaking of another named, name deleted, "Mr. Crouch: He was a member of the District Bureau of the Communist Party when I was district organizer of the Carolinas. He was in Chattanooga, Tennessee, where preliminary arrangements were made for the southern conference with Earl Browder. He was not registered as a Communist but was one of the Communists

(Testimony of Paul Crouch.)

most active in the southern conference. I remember an article by Harvard Law School in which they spoke of five or six Communist delegates as being a very small percentage of the total. However, only the district organizers functionaries registered as delegates."

Do you remember that testimony?

A. I do.

Q. That was some man whose name was deleted for some purpose, is that right?

A. For security reasons.

Q. Then Paul Crosby:

> "He is a member of the Communist Party of New York, a businessman who contributes financially to work in the South. I have personally known Mr. Crosby for many years."

And further:

> "Francis Martin was section organizer of Knoxville throughout the time I was in Tennessee. His brother, an artist, David Martin, remained a Party member for about six months after my arrival, and he was very critical of the international situation and it was very difficult to get dues from him or to get his attendance at meetings because of his political disagreements over the international lines of the Party."

Do you remember that?

A. I do.

Q. Then speaking of Lawrence Brown France:

(Testimony of Paul Crouch.)

"I knew him at Birmingham, Alabama, throughout 1938, 1939, and also saw him at various times throughout 1940. He was an active member of the Communist Party of Alabama and frequently attended the District Bureau meetings, although he was not officially a member of the Bureau. He was even called in for consultation on various subjects."

Do you remember that?

A. I do.

Q. Page 200:

"I met Edwin McCrae in September, 1939, when I arrived in Tennessee as district organizer. At that time and throughout the time I was in Tennessee he was section or actual organizer of the Communist Party in Nashville and a member of the Tennessee District Bureau of the Communist Party. When I left Tennessee in March of 1941 Edwin McCrae succeeded me as district organizer of the Communist Party. Later I heard that he had gone to North Carolina as an organizer of the Food and Tobacco Workers Union of the CIO."

Do you remember that?

A. I do.

Q. At 202:

"Kenneth May was a member of the Communist Party and a member of the County Committee and County Secretariat."

Do you remember that testimony?

(Testimony of Paul Crouch.)

A. Yes.

Q. On the same page, speaking of Lena Davies:

> "She is former District Organizer in New Jersey of the Communist Party, and at one time a member of the Politburo."

Do you remember that?

A. Yes.

Q. And on the next page:

> "Do you know Paul Schlitz?
>
> "A. (Mr. Crouch): I knew Paul Schlitz very well. He was head of the Alameda County CIO Council and chairman of the Communist Party branch of the CIO leaders."

Do you remember that?

A. I do, very distinctly.

Q. Then on the next page, 204:

> "Maurice Travis was National Secretary-Treasurer of the Mine, Mill & Smelter Workers Union. He was an active member of the Young Communists League in Oakland when I [2784] was organizer and became full-time organizer in the Mine, Mill & Smelter Workers Union and later became International President."

Do you remember that?

A. Yes.

Q. Those answers that you gave, Mr. Crouch, were volunteered by you, were they not? In other words, you were asked if you knew such a person

(Testimony of Paul Crouch.)

and you gave a thumbnail sketch of his activities with the Communist Party, and sometimes without, is that correct?

Mr. Donohue: I object to the question, if your Honor please. The record does not sustain it. On the top of page 204, to which he just made reference, he was asked by the Committee, "I will show you a photograph and ask you if you can identify the individual shown in the photograph."

Mr. Hallinan: That is right, and then he volunteers this information to him. All right. We will let that go.

Now, the question I have in mind, and that this is leading up to—will you listen to this question: "Did you know Harry Bridges, directly or indirectly?"

Answer: "I know Harry Bridges, having met him at public meetings."

Did you say that?

A. I did.

Q. "I knew him through constant reports given by Bill [2785] Schneidermann, District Organizer.

> "Mr. Mandell: What was the nature of the report?
>
> "Mr. Crouch: Schneidermann's reports were on the conference with Bridges regarding policies, tactics, and organization steps to be carried through. Schneidermann conveyed to Bridges the decisions of the District Bureau and reported to us Bridges' reactions to them.

In some cases Bridges did not always agree, and if it was a minor matter the Bureau usually gave in."

That was your testimony, wasn't it?

A. It was.

Q. And it was all your testimony about Harry Bridges at that hearing, wasn't it?

A. I was asked no further questions.

Q. You knew or you claimed to know at that time that he had been twice elected a member of the Central Committee of the Communist Party, is that right? A. That is correct.

Q. Just answer yes or no, whether you knew it at that time. A. Yes.

Q. Had you forgotten it? A. No.

Q. And you never mentioned, you did not mention to the Committee at that time this statement of yours that he had been elected in 1936 as a member of the National Committee, did you? [2786]

A. I told the investigators privately that he had been, and they didn't ask me for the record.

Mr. Hallinan: I ask that it be stricken out, your Honor. I asked him his testimony before the Un-American Activities Committee.

Mr. Donohue: I think it is responsive to the question.

The Court: Read the question and answer.

(Record read.)

A. They didn't ask me for the record.

Mr. Hallinan: I move that the answer be stricken out. I am asking him concerning his testimony before the Committee. We will go into the investigators later.

The Court: One moment. Was that reference made to the investigator part of this Committee hearing, or was it apart from the Committee hearing?

A. Preliminary to it and in connection with it. I was interviewed privately by the investigators in laying a basis for these proceedings for the record.

Q. One further question, Mr. Hallinan, before I rule on your motion: In the course of your examination by Mr. Hallinan you referred to a public version and another version. Did you have another version? Was it a public version?

A. To make this clear, your Honor——

Q. Did you testify you had a public version or there was a public version? [2787]

A. This is the public version that is being read now.

Q. Was there another version?

A. There were considerable additional versions which were taken in executive session, some under oath and some not, in consultation with the investigators and based on the information obtained through these conferences they decided what questions they wanted to ask me for the benefit of the record, which I was content to make public.

Mr. Hallinan: Those are things, your Honor, that we have no way of impeaching.

(Testimony of Paul Crouch.)

The Court: I was attempting to rule on your motion, Mr. Hallinan.

Mr. Hallinan: I know. I want to question him on his statement under oath that we have in print. We can't go behind that to discuss whether he had these secret conferences with other people. I wanted to show that when a name was mentioned he gave a complete a thumbnail sketch as he could of the activities, his relationship with the person, what the person's activities were in the Communist Party. When he was asked about Harry Bridges he said, "I knew Harry Bridges slightly, having met him at public meetings." That is his testimony under oath, and your Honor will later see in a further inquiry I am going to present to you the force and importance of this answer.

The Court: I think, Mr. Hallinan, under the circumstances [2788] of the so-called public version from which you are reading and the non-public version, to which he testified himself in response to my questions, the witness may make some explanatory note with respect to the specific answer he gave you in connection with your specific question. I will strike out the latter part of the answer.

Mr. Hallinan: Very well. That is what I want.

Q. When you were brought before the Un-American Activities Committee you were placed under oath, weren't you?

A. Part of the time. When I was formerly before——

Q. No, when you were in before the United States House of Representatives Subcommittee of the Committee on Un-American Activities, on Friday, May 6, 1949, you were sworn to tell the truth, the whole truth and nothing but the truth, weren't you? A. I was.

Q. And when you were asked the question, "Did you know Harry Bridges directly or indirectly?" you answered, "I knew Harry Bridges slightly, having met him at public meetings." Wasn't that your answer? A. That was part of it.

Q. Here is the rest of it: "I knew him through constant reports given by Bill Schneidermann, District Organizer." Was that your answer?

A. That was part of it. [2789]

Q. That is the entire answer to that question. Do you want to see the record, or do you remember it very well?

A. I remember the general essence of the testimony.

Q. Let me ask you this: You have gone over this answer with these gentlemen representing the prosecution, haven't you?

A. I haven't gone over that answer with any of the gentlemen representing the prosecution here today.

Q. You went over it with Mr. Boyd, didn't you?

A. I did not.

Q. Who was the gentleman who was not here today that you went over it with?

(Testimony of Paul Crouch.)

A. No one of the attorneys connected with this case.

Q. What investigator? What agent?

A. I mentioned the fact that I had testified previously regarding Harry Bridge to a George Zamlich.

Q. How do you spell that?

A. Z-a-m-l-i-c-h, I believe.

Q. Who is he? Where is he?

A. I believe he is here in the courtroom.

Mr. Hallinan: Might we see Mr. Zamlich? Could we ask the gentleman to stand up?

The Court: Certainly.

(A gentleman arose in the courtroom.)

Q. (By Mr. Hallinan): Is that the man you mentioned it to? A. It is. [2790]

Q. When did you mention it to Mr. Zamlich?

A. When he was questioning me about my—asking me about my knowledge of Bridges and asking me about where I had testified, on what subject I had testified, where I had been employed, what positions I had held in the Communist Party, and similar related questions.

Q. When? A. A few weeks ago.

Q. How many weeks ago?

A. Oh, two weeks ago, I believe.

Q. Where?

A. In the offices of the Immigration office.

Q. Where is that?

A. On Sansome Street, I believe, in San Francisco.

(Testimony of Paul Crouch.)

Q. At that time you told Mr. Zamlich, you say, that you had testified before the House Un-American Activities Committee, is that right?

A. To the best of my recollection. I don't remember the exact words, but to the best of my recollection I mentioned that I had testified regarding Bridges before the House Committee.

Q. And then did you produce your copy of the testimony?

A. Not to the best of my recollection.

Q. Well, you had it?

A. I don't remember, but to the best of my recollection I did not. I don't recall. [2791]

Q. You carried that along with you when you came out here, didn't you?

A. I might have had a copy in my brief case.

Q. You told us already this morning that you brought a copy out with you. Don't you remember that?

A. I said, as near as I can recall, I said I usually have a copy when I am traveling.

Q. When you gave the answer there a few minutes ago that you did not say this to any of the gentlemen trying this case here, what you wanted to do was to deceive the Court and jury that you had not discussed the subject at all with anyone connected with the prosecution, is that right?

A. Not at all. I want to make it clear I had not discussed my testimony before the House Committee or in connection with any attorneys who

(Testimony of Paul Crouch.)

were participating in the case. I discussed other aspects with one of the attorneys participating in the case, Mr. Boyd.

Q. Let us get this a little bit better. About two weeks ago—and by "two weeks ago," can you pin it down a littl more closely, just what day it was that you had the conversation with Mr. Zamlich?

A. I don't recall the exact day, no.

Q. Today being Monday, was it two weeks ago today or what?

A. Approximately. There were no particular circumstances to cause me to remember the particular day. [2792]

Q. When did you come to San Francisco in this case?

A. I came to San Francisco on the 11th of November.

Q. The 11th of November?

A. That is correct, to be ready for testimony when this case opened on the 14th of November.

Q. And you have been here ever since?

A. Unfortunately, yes.

Q. Continuously? A. Correct.

Q. Where have you been living?

A. I have been living at the Sutter Hotel, San Francisco.

Q. What is the name of it?

A. Sutter, S-u-t-t-e-r, Hotel on Sutter and *Keeny,* I believe was the street, in San Francisco.

Q. What room have you, Mr. Crouch?

A. I have Room 727 at the Hotel Sutter.

(Testimony of Paul Crouch.)

Q. Have you been paying your own way at the Hotel Sutter, or has the Government been paying it?

A. I have been paying my way at the hotel, partly from my own funds, which I had brought with me, and partly from per diem advances from the Government.

Q. How much are you paying at the Hotel Sutter? A. I am paying $30 a week.

Q. Is that just for a room?

A. Yes. [2793]

Q. And then your meals—is the Government paying for your meals over and above the per diem?

A. No.

Q. You are paying that out of the per diem you received?

A. Out of my own pocket. I have spent over a couple of hundred dollars of my own money since I have been here.

Q. You mean that you have not gotten back yet? A. Actual loss.

Q. Now, you know Mr. Manning Johnson, don't you?

A. I have testified previously I was quite well acquainted with Mr. Manning Johnson from 1932 or 1933, somewhere in that period, up to about 1939, and that—— [2794]

Q. Referring to the present time.

A. At the present time I met him for the first time since he left the party, the other day just before I came on the witness stand. I met him in the witness room and shook hands.

Q. He is staying at the Hotel Sutter, isn't he?

A. I have no personal knowledge. I saw him walk through the hotel lobby one day, and my impression was it was Manning Johnson. He walked through rapidly. I didn't ask him any questions. I have no personal knowledge, and I haven't seen him in the Hotel Sutter except seeing him walk through the lobby one day. If he is in the Hotel Sutter, I have no knowledge what his room number is, and I don't know whether he is there or not.

Q. Did you go to the Hotel Sutter on November 11th as soon as you came to San Francisco? Is that the first place you lived?

A. I think so, to the best of my—yes, it is.

Q. And by arrangement, with whom did you go to that hotel?

A. I had requested, before I arrived in San Francisco, I had had a wire sent from Seattle by the Immigration officers asking the immigration office here to arrange reservations for me at a hotel in San Francisco and they arranged, in response to this request from me, reservations in the Hotel Sutter.

Q. Now, when you came to San Francisco on November 11th, who is the first person that you talked to, or whom is the first person you talked to relating to your appearance in this case? [2795]

A. Mr. Zamlich.

(Testimony of Paul Crouch.)

Q. How long after arriving in San Francisco, did you first see him?

A. He met me at the airport and drove me to the hotel.

Q. Was he alone?

A. My best recollection is he was alone.

Q. And when you went to the hotel, did Mr. Zamlich go in with you?

A. I believe he stayed with me as I registered, and I believe he walked up with me to the room and asked me how I liked it and then left.

Q. And then when did you next see him?

A. The next morning, I believe.

Q. Where?

A. He called for me. I came down and met him in the lobby and drove down to the immigration office.

Q. When you got down there, whom did you talk to? A. Mr. Zamlich.

Q. Nobody else?

A. I think I said hello to a stenographer.

Q. At that time did you talk to Mr. Zamlich about your testimony? A. I did.

Q. And was it then that you told him about your testimony before the Un-American Activities Committee? [2796]

A. No.

Q. Now, how long were you with Mr. Zamlich at the immigration office on that occasion?

A. I do not recall the exact time, perhaps an hour.

Q. Had you ever met him before?

(Testimony of Paul Crouch.)

A. I had.

Q. When?

A. About the first of November.

Q. Where?

A. In the immigration office in San Francisco.

Q. You had been here on November 1st and then returned up to Portland or Seattle or wherever you had come from, is that right?

A. That is correct.

Q. And when you came to San Francisco on November 1st, under what circumstances did you come or what arrangement?

A. I came to testify for the government in a civil suit, or in a suit brought in the federal court in Sacramento by Mr. Chandra to compel the United States Government to grant him citizenship.

Q. That is the case you mentioned this morning. Have you forgotten that you mentioned it this morning?

A. No, you asked me the case; you asked me about it a second time, and I told you about it a second time.

Q. All right. Then when you came here on November 1st you met [2797] Mr. Zamlich. How did you happen to meet Mr. Zamlich? Did you have an arrangement to meet him or what was your——

A. No, I did not. As I recall, Mr. Noto who was conducting—who was questioning me regarding the Chandra case and who was conducting the government's case in Sacramento at that time—we was here in San Francisco before we went to Sacramento—told me that Mr. Zamlich wished to see me

(Testimony of Paul Crouch.)

on the third floor, and I went down and had talked to him and I was—and he had asked me questions on another case which does not pertain to this in any way, and I gave him answers to my best knowledge of the matter on that case on that occasion.

Q. And then did he ask you to testify in the Bridges case?

A. I do not recall whether the Bridges case was mentioned on that occasion or not. I do not remember.

Q. Did you discuss with him at that time any testimony relating to Harry Bridges?

A. I do not now recall any discussion; I might have, but I can not recall it.

Q. What was the nature of the case that he spoke to you about? Who was the person there involved?

A. It was the case of a Mr. Al Richmond, circulation manager of the People's World, I believe.

Q. Al Richmond. When did you next see Mr. Zamlich then?

A. When he came out to the airport.

Q. You only saw him for a short time on November 1st; then [2798] you saw him next when he met you at the airport? A. Yes.

Q. When you went down to the immigration office and talked to him for about an hour, was there a statement taken from you then?

A. Yes, on the Al Richmond case.

Q. Oh, no, about the Bridges case.

(Testimony of Paul Crouch.)

A. Not to the best of my recollection.

Q. That is November 11th and 12th?

A. November 1st; somewhere around November 1st; I don't recall the exact date.

Q. We have passed by that and come to the occasion on which you returned to San Francisco on November 11th and Mr. Zamlich picked you up on the following morning and took you down to the immigration office. A. Yes.

Q. Did he take a written statement at that time?

A. He began taking written notes with a stenographer taking down my answers.

Q. Then was that reduced to writing?

A. I believe so.

Q. Was it signed by you?

A. Some of it was.

Q. How many pages were there in the transcript you saw?

A. This transcription was supplemented by additional ones, and [2799] I would estimate roughly that the total amounted to about a hundred pages.

Q. On the first day, this is the 12th, how long were you in the immigration office then? You told us about an hour, didn't you?

A. To the best of my recollection.

Q. And how many pages were taken then?

A. Perhaps 10 pages.

Q. Perhaps 10 pages?

A. Perhaps. I do not recall exactly.

Q. And then when did you return to the immigration office?

(Testimony of Paul Crouch.)

A. About two or three days later.

Q. And under what circumstances did you go then?

A. The same. He phoned at the hotel and then came by and picked me up at the lobby and drove me down to the immigration office and again questioned me at great length as to whether I had ever been arrested and all the circumstances in connection with my Communist Party activities.

Q. Did he ask you——

A. About where I had worked.

Q. Did he ask you about your testimony before the Un-American Activities Committee on that occasion? A. I think so.

Q. What is that? A. I believe he did.

Q. Did you volunteer it or did he tell you that he had the information?

A. To the best of my recollection, he asked me.

Q. In other words——

A. He asked me if—he asked me to name the places where I had testified, and I named those, other places I had testified.

Q. Did he have at that time a copy of your testimony before the Un-American Activities Committee?

A. To the best of my recollection, no. I am not positive, but I don't think so.

Q. Did you have one with you?

A. I don't think so.

Q. Was anybody else present at that time besides the stenographer?

A. Yes, there was one or—I think there was one or two other agents or employees of the Immigration Department whose names I do not remember, and who took no part in the conversation.

Q. Were you introduced to them?

A. I was introduced to, I think, one of them; I believe another came in without even an introduction taking place.

Q. Have you met that other man since, the one to whom you were introduced?

A. I have passed him in the lobby around there, but I don't know his name or his position.

Q. In the lobby of the Immigration Department? [2801] A. That is correct.

Q. When did you next see anybody connected with the Immigration Department? And here we have got it now that you saw a man on the 1st, then the 11th, then three or four days afterward, which would bring it to the 14th or 15th. When did you next see anybody?

A. I think the next time I saw him was the following day.

Q. Where?

A. He picked me up at the hotel and drove me over to Oakland, California, for the purpose of identifying the room in which I had stayed from the 2nd to the 5th of October, '41, under the name of Carl Wilson, and he had previously asked me to describe the interior of the—of the hotel, the position where Harry Bridges had stood, and so on, and where I had stood. And then he took me—and then

(Testimony of Paul Crouch.)

after asking these questions in advance, he took me inside and asked me to point out these places to him and he also asked me to identify the room in which I had registered with my wife as Mr. and Mrs. Carl Wilson at the Hotel Harrison.

Q. Your wife?

A. The room where my wife and I in October, 1941, had registered as Mr. and Mrs. Carl Wilson in the Hotel Harrison during the course of this convention so I would be able to see that the party bureau decisions were carried through by the convention.

Q. And you registered there under the name of Carl Wilson, is [2802] that right?

A. On October 2nd, 1941, I registered at the hotel, Mr. and Mrs. Carl Wilson, and was assigned Room 708 in the Harrison Hotel.

Q. It was your wife who was with you, is that right? A. She was with me.

Q. When did you next see Mr. Zamlich?

A. I believe the following week.

Q. And where?

A. I was picked up and brought down again to the—to the immigration office, and questioned further about the case in Hawaii, and about my Communist activities.

Q. What case in Hawaii?

A. The case to which you have already referred.

Q. The one on which you were sent to the penitentiary?

(Testimony of Paul Crouch.)

A. The case that you objected to under direct examination.

Q. No, I did not object to it; I objected to the characterization of it. You were sentenced to 40 years at hard labor for a felony, isn't that right?

A. It isn't a felony, that is not correct.

Q. This would bring it up to around November 20th or 21st; you were taken by Mr. Zamlich down to the immigration office, is that right?

A. For further details along the lines I have indicated.

Q. Was anybody else there at that time besides a stenographer?

A. I think Mr. Kaiser came in for a few minutes, possibly [2803] three or four minutes.

Q. Anyone else?

A. They changed stenographers, I believe. I think there were two stenographers and there were two or three people coming and going, staying in the room for a few minutes and then leaving.

Q. Nobody whom you met subsequently connected with the case? A. No.

Q. Then when did you next see Mr. Zamlich?

A. I believe, as near as I can recall, the next time I saw Mr. Zamlich was when he picked me up to bring me down to the witness room.

Q. And when was that?

A. The day I went on the stand.

Q. Just here a couple of days ago?

A. Yes.

Q. In other words, from about the 20th or 21st of November until you appeared on the witness stand, you had not seen Mr. Zamlich again, is that right?

A. I do not recall specifically whether I saw him during that time or not.

Q. Did you see any other agents in the interim?

A. Yes.

Q. Who?

A. Agents who had been assigned to have rooms next to me for my physical protection. [2804]

Q. Who were they?

A. I don't remember their names. There was one was given a room on one side, another on the other side, another across the hall.

Q. What were their names?

A. I do not remember their names.

Q. How long have they lived there in the hotel with you?

A. They lived there almost continuously since I have been there.

Q. From November 11th? A. Yes.

Q. And have you gone out to lunch with them or anything like that?

A. I have never gone out to lunch with any of them.

Q. Have you spoken to them in the room or in the lobby?

A. I would say how do you do when I met them.

Q. Were you introduced to them?

A. I was introduced to one. I would know the

(Testimony of Paul Crouch.)

name if you would mention it, since he is from Seattle. He had the room adjoining; I can't recall his name; I would know his name is I heard it.

Q. How many times had you met him?

A. I have met him half a dozen times when I was in Seattle. Here I only meet passing in the lobby.

Q. Then the other men in the room adjoining you, do you know [2805] their names?

A. No.

Q. Have they come down with you in the hall, too?

A. They are not with me. I have met them in the elevator; I met them in the lobby, but I just merely said, "How do you do?" and walked on.

Q. When you come out from the Hotel Sutter to this court and back again, how do you get there?

A. Pardon me?

Q. When you come out here to court from the Hotel Sutter on the occasions that you have been testifying and when you leave the court to go back to the Hotel Sutter, by what means have you been transported there? A. By car.

Q. A car driven by one of these agents?

A. By Mr. Zamlich.

Q. And when you go to lunch or when you go to dinner, do one of those people accompany you also?

A. Mr. Zamlich on two occasions, yes.

Q. Has he had dinner with you at night?

A. No.

Q. Who does? A. My wife.

Q. Anybody else? A. No. [2806]

Q. None of these agents? A. None.

Q. Where have you been eating?

A. I have been eating most of the time at the—I believe it is called the Powell Cafe at Powell and Sutter Streets. I usually have breakfast in a small coffee shop up Sutter one block, about a block from the hotel. I sometimes eat at a place on Market Street in the same block as the Paramount Theater, I don't remember the name of that; and I eat sometimes at a grill about half a block from the Palace Hotel; and I believe it is called Hoffman's Grill. Those places are my favorite eating places since I have been here.

Q. Have one of these men eaten with you on each occasion?

A. No one has ever eaten with me on any occasion except during recess since this—since I began my testimony when Mr. Zamlich had lunch with me.

Q. How many times? A. Once.

Q. Now, have any of them accompanied you to shows or moving pictures or anything of that kind?

A. No one, never.

Q. Have you gone to any? A. I have.

Q. How many times?

A. About three times since I have been here in San Francisco. [2807]

Q. Accompanied by your wife? A. Yes.

Q. Have you gone out to Golden Gate Park or anything of that sort?

(Testimony of Paul Crouch.)

Mr. McMillan: May it please your Honor, isn't this getting too far afield?

The Court: Overruled.

A. I went to the——

Mr. Hallinan: Do you want to take the recess?

The Court: You may answer this last question.

A. I went to the Golden Gate Park. I went one day to Golden Gate Park and walked through the museum, through the Chinese Tea Garden, the African Hall, the Aquarium, the Museum of Natural Science, and on another occasion I visited the San Francisco Zoo.

Q. (By Mr. Hallinan): Any of those agents with you on that occasion? A. None.

The Court: Ladies and gentlemen of the jury, the afternoon recess, with the same admonition not to discuss the case nor form or express an opinion until it is submitted to you.

(Recess.) [2808]

Q. (By Mr. Hallinan): Now, having had the discussion with Mr. Zamlich relating to your testimony before the un-American Activities Committee, no other person connected with the prosecution spoke to you on that subject at all, is that right?

A. Not to my recollection.

Q. Have you ever talked to Mr. Donohue?

A. Pardon me?

Q. Have you ever talked to Mr. Donohue?

A. I met Mr. Donohue in the corridors of the Immigration office and he said, "How do you do; Mr. Crouch, I presume?"

I said, "Yes."

He replied, "I am very glad to meet you. I will be seeing you later."

I next met him in the corridor just before I went on the stand and he said, "How do you do, Mr. Crouch."

That is the total amount of the conversation I have had in my life with Mr. Donohue.

Q. Have you had any conversation about your testimony with Mr. Paisley?

A. I think Mr. Paisley was with Mr. Donohue in the corridor and he said, "My name is Paisley. Glad to meet you." And that is the total sum of the conversation I have had with Mr. Paisley on any and all subjects.

Q. Well, if you will confine yourself now to discussions about [2809] your testimony. Have you had any conversation with Mr. McMillan on that subject? A. None whatsoever.

Q. Mr. Gallagher? A. Mr. Who?

Q. Any of the other agents connected with the case?

A. With Mr. Boyd in Seattle, before he came down here.

Q. Did you have any conversation with Mr. Boyd in Seattle about your testimony before the Un-American Activities Committee in which Harry Bridges was mentioned? A. No.

Q. So the only person, then, that you have discussed that phase of your testimony with before the

(Testimony of Paul Crouch.)

Un-American Activities Committee is Mr. Zamlich, is that right? A. That is correct.

Mr. Hallinan: If the Court please, I have here an affidavit and an order for a praecipe for the issuance of a subpoena duces tecum. It may not be necessary that we go to the extent of having it issued. I want to ask the witness concerning another item in the New York Times at about the time that this matter occurred, and it may be if counsel are willing to allow me to have it called to the witness' recollection—it only relates to one of the incidents in the Communist Party convention of June, 1936—we may not have to do that. Any objection to [2810] that?

Mr. Donohue: I do not know what you are trying to produce.

Mr. Hallinan: On page 11, column 1, of the New York Times for the 25th of June, 1936, is this statement——

Mr. Donohue: I object to reading the statement.

The Court: You might glance at it. It may be the subject of some discussion.

Mr. Hallinan: It is not a matter of great moment.

Mr. Donohue: If your Honor please, by what rule could any statement in the newspaper be admitted in this trial?

Mr. Hallinan: I didn't want it admitted in evidence. I want to ask the witness if it refreshes his recollection that such is the fact. If he says No, that finishes it.

(Testimony of Paul Crouch.)

Mr. Donohue: If you hand him such a statement and ask him to look at it and ask him if it refreshes his recollection ~~about any~~ fact, I have no objection.

Mr. Hallinan: He would probably say he doesn't know whether it was in the paper or not, so I am going to ask the clerk, if he will, please, to take my affidavit on that and ask the Court for the issuance of of subpoena on the Librarian, the Public Library of the City and County of San Francisco, where these documents are, to bring in that one issue of the Times.

Q. I notice also, Mr. Witness, that this testimony concerning Harry Bridges is on page 205 of testimony that commenced on [2811] page 181, and you say now that you have not spoken to anybody but Mr. Zamlich in relation to the question and answer conveyed in that testimony: "Mr. Mandel: Did you know Harry Bridges directly or indirectly?

> "Mr. Crouch: I knew Harry Bridges slightly, having met him in public meetings. I knew him through constant reports given by Bill Schneidermann, District Organizer."

That is a fact——

A. Is that all—pardon me.

Q. That is the only person you discussed that matter with in the prosecution of this case, is that right?

A. I have no recollection of any discussion with anyone but Mr. Zamlich. I may have mentioned it irrelevantly to a stenographer or something like

(Testimony of Paul Crouch.)

that, but I have no recollection of it. I don't recall having mentioned it to anyone except Mr. Zamlich, ~~to the best of my recollection.~~

Q. You testified on November 9, 1949, in a deportation proceeding relating to Elizabeth E. Holm—no, this is relating to Hazel Anna Wolf, is that right?

A. That is right. That is the secretary to Attorney General Coughlan, whose name I couldn't think of.

Q. Where did that testimony take place?

A. In the Immigration offices in Seattle.

Q. And it took place in November, 1949, isn't that right?

A. Correct, to the best of my recollection. [2812]

Q. It started on November 9, and I notice you were testifying here on November 10. Do you remember that?

A. I don't remember the exact days of the month.

Q. At that time you were under oath, weren't you? A. I was.

Q. Sworn to tell the truth, the whole truth and nothing but the truth? A. Correct.

Q. I want to ask you whether on that occasion, in response to the following questions, you gave the following answers (this is on page 69):

> "Q. Do you recall testifying before the election board in the city of Nashville, Tennessee?
>
> "A. I do.

(Testimony of Paul Crouch.)

"Q. And approximately when was that?

"A. Approximately in the early fall of 1940.

"Q. And at that time and place you testified as follows, did you not, that the program of the Communist Party with respect to the use of force and violence is that we of the Communist Party never did and never will hold to a program of forcible establishment of socialism against the will of the people; you did testify to that, did you not?

"A. I testified essentially as follows——

"Q. Will you answer my question as to whether you [2813] testified in the manner in which I have just read?

"A. (By you) Not in the number which you have just read.

"Q. Did you testify that the position and program of the Communist Party was that the Communist Party never did and never will hold to a program of forcible establishment of socialism against the will of the people?

"A. I introduced that into the record, but I don't recall testifying to that in my own words.

"Q. Well, now, did you under oath introduce what I have just read into the record stating that it did constitute the program of the Communist Party on the subject of force and violence?

"A. Not in the words which you have stated.

(Testimony of Paul Crouch.)

"Q. What were the words that you used in introducing that into the record?

"A. Essentially the following: 'In answer to the argument that the Communist Party advocates the overthrow of the Government by force and violence I wish to state the following: "From" '—and then to the best of my recollection I have read the quotation you have just cited.

"Q. Now, at that time and place I have just mentioned you also, while under oath, read the following, did you not, quoting from the constitution of the Communist Party, on page 4 of the constitution, unanimously adopted at the 10th National Convention, May 27, 1938: 'The Communist [2814] Party upholds the achievements of democracy, the right of life, liberty and the pursuing of happiness, to defend the United States Constitution against its reactionary enemies, who would destroy democracy and all popular liberties'?

"A. (By you) I read that into the record, to the best of my recollection.

"Q. And you also read the following into the record, did you not, further quoting from Article X, Section 5, of the same constitution and by-laws, appearing on page 20, also marked Government's Exhibit 15 in this case: 'Party members found to be advocates of terrorism and violence as a method of Party procedure shall be summarily dismissed from position of re-

(Testimony of Paul Crouch.)

sponsibility, expelled from the Party and exposed before the general public'?

"A. (By you) I believe I read that.

"Q. Now, at the time of your testifying there under oath it was your intent and purpose, was it not, that your testimony and the statements which you made to the election board should be and were intended by you to be taken as meaning that the Communist Party did not advocate the overthrow of the Government of the United States by force and violence; can you answer that question Yes or No?

"A. I cannot truthfully directly answer it with a Yes or No answer. [2815]

"Q. Why are your unable to answer Yes or No?

"A. Because it was my hope by presenting the documents to halt further study which would show the fact that the Party really did advocate overthrow of the Government by force and violence.

"Q. Is this a question, the one I have just asked you, is this one which required at this time an evasive answer on your part?

"A. It is not an evasive answer.

"Q. Was it your intention that the election board should understand your testimony in such a way as, in order that the election board would believe the Communist Party at that time did not advocate the overthrow of the Government by force and violence?

(Testimony of Paul Crouch.)

"A. (By you) I hoped they would get that inference from the documents I submitted.

"Q. My question is, Was it your intention in appearing there to so lead the election board to believe? A. (By you) Yes.

"Q. And the purpose and intent of your testimony was to lead the election board to believe that the Communist Party did not advocate the overthrow of the Government by force and violence? A. (By you) Yes."

Was that your testimony? [2816]

A. That is my testimony——

Q. Will you please answer it Yes or No first?

A. Yes.

Q. And you gave that testimony under oath, didn't you?

A. I gave my answers to all questions under oath.

Q. I notice in there that you refer to the convention of the Communist Party that was held in 1938 as the tenth convention of the Communist Party. Do you remember if that is what it was?

A. To the best of my recollection, it was, 1938, the tenth convention.

Q. Does the Communist Party have letterheads?

A. Letterheads? Yes.

Q. Printed letterheads? A. Yes.

Q. With the name of the Party and the address upon it? A. Yes.

Q. Did they print lists of the Central Committee? A. Not in 1938.

(Testimony of Paul Crouch.)

Q. When did they start printing them?

A. Not while I was a member.

Q. Have you seen them since you left the membership of the Communist Party?

A. I have not.

Q. Isn't it a fact that the first convention of the Communist [2817] Party to which the public and press were admitted was the convention that was held in New York in June, 1936?

A. The press was admitted to a few restricted sessions, to the best of my recollection, but they were not present at the entire convention by any means.

Q. Was the public also admitted to some of the meetings?

A. At the Madison Square Garden meeting, where Browder and Foster were nominated for president and vice president, the public was admitted, provided they paid the admission fees.

Q. No, I mean prior to that. I mean at the convention in the Manhattan Opera House.

A. No.

Q. You say the public was not admitted?

A. Not to my recollection.

Q. Since I showed you the document giving citations of news reports from the New York Times have you consulted the files of the New York Times to verify those statements? A. I have not.

Q. Have you seen any statement in any paper or was any paper shown to you in which the state-

(Testimony of Paul Crouch.)

ment was contained that the convention, which opened the day before, was the first one of the Communist Party to which the press and public were admitted? Have you seen that any place?

A. No.

Q. That was not shown to you by any of these gentlemen connected [2818] with the prosecution?

A. It was not.

Q. Nor read by you in any newspaper?

A. No.

Q. If you saw that statement in a copy of the New York Times would it refresh your recollection if the public were admitted?

Mr. Donohue: I object to the question, if the Court please.

The Court: Overruled.

A. I don't think so, because I was there. I am not sure about other alleged reporters.

Q. (By Mr. Hallinan): I want to show you an exhibit here which was gotten from the United States Printing Office (handing document to counsel for the Government). [2819]

Mr. Hallinan: I might, in identifying that document for you gentlemen, tell you that it was an exhibit in one of the hearings of the House Un-American Activities Committee.

Mr. Donohue: That is very interesting. I just don't see any indication on here what it is. If your Honor please, this document has not been identified.

Mr. Hallinan: I am trying to identify it.

(Testimony of Paul Crouch.)

Mr. Donohue: It has been described by Mr. Hallinan. I don't know what it is. I have no proof of what he stated.

Mr. Hallinan: Counsel can check it up without the slightest difficulty. It is a series of documents that were presented to the Committee on Un-American Activities on November 27, 1939, by Earl Browder, general secretary of the Communist Party of the United States of America, in response to a subpoena requiring him to present the list of the National Committee of the Communist Party elected at the Tenth Convention, and it contains a list, and it also contains a list of the districts of the Communist Party of the United States of America and their addresses and a copy of the front of the printed folder of proceedings of the Twelfth Convention of the Communist Political Association held in New York May 20th, 1924, and a printed list of the National Committee of the Communist Political Association which was selected at that convention as late as 1944. Now, it appears as Exhibits 15 and 16 with relation to a man named Nelson in a report of the Un-American Activities [2820] Committee.

Mr. Donohue: I don't know whether that is true or not.

Mr. Hallinan: If you will check that, you will see that that is.

Mr. Donohue: I think that the first rule before a document is asked to be admitted in a court is to authenticate it.

(Testimony of Paul Crouch.)

Mr. Hallinan: I do not offer it now. That isn't my purpose.

Mr. Donohue: I just don't know what the purpose it, if your Honor please. I must say to your Honor I have read this document, and except for what Mr. Hallinan says as to where it came from, I have no information.

Mr. Hallinan: Let me ask you this, Mr. Donohue: Was Reed Whitely, counsel for the Committee on Un-American Activities, was he counsel on November 27, 1939?

Mr. Donohue: I wouldn't know.

Mr. Hallinan: Well, I think that the easiest way to solve the matter is, as these gentlemen undoubtedly have all the reports of this committee, that you simply check and see whether this isn't contained as an exhibit.

Q. (By Mr. Hallinan): Well, I will ask the witness to refresh his recollection from the document; and I will give him first the——

The Court: Was he confronted with this document at that hearing? [2821]

Mr. Hallinan: No.

Mr. Donohue: This was a hearing that happened ten years ago, in 1939, if what Mr. Hallinan says is true.

Mr. Hallinan: I don't know about that, but I imagine that is probably true.

(Document was handed to the witness.)

Mr. Hallinan: While the witness is looking it over, I think, if there is any question on the matter of whence this document is derived, an order to save the necessity of subpoenaing the secretary of that Un-American Activities Committee, that counsel for the Government be requested by the Court to check and see if they will not agree that this document is contained as an exhibit in the minutes of the Congressional inquiry.

Mr. McMillan: Mr. Hallinan, you do not contend that this contains any authentication or certification, do you?

Your Honor, may I inquire through the Court whether that document——

The Court: The letter is dated November 27, 1939. It bears the letterhead of the Communist Party of the United States of America, U.S.A. Now what is your point, counsel?

Mr. McMillan: I am asking through the Court whether that document is in any way authenticated or certified.

The Court: No, there is no certification on it.

Mr. Hallinan: I will just ask him—I won't offer the document—I will ask him this, now: [2822]

Q. Having read this document, sir,—withdraw that. The National Committee of the Communist Party, which was elected in 1938, was elected for a period of two years, is that correct?

A. Correct.

Q. Just as the one that was elected for 1936 was elected for two years, so that in November, 1939,

(Testimony of Paul Crouch.)

the same National Committee that was elected in 1938 at the convention would be the committee operating, isn't that correct? A. Correct.

Q. Now, I ask you this: If you can remember that these were the names of the members of the National Committee of the Communist Party of the United States of America elected at the Tenth Convention.

Mr. Donohue: Object, if your Honor please, to reading a list of names on a document allegedly signed by Earl Browder which is in no way authenticated, certified or identified. To permit counsel to read from such a document is in fact to admit that document in evidence, and I most respectfully say, if your Honor please, it is improper.

Mr. Hallinan: Of course, I could ask this from my own memory if I prepared the list myself. I am simply asking about these persons to see whether or not these people that he said were elected were in fact elected as shown upon the list.

The Court: The objection is well taken with respect to the authenticity of the document. [2823]

Mr. Hallinan: That is, if I offered it in evidence, that is true. There couldn't be as far as asking from the list of whether or not the list refreshes his recollection of the people who were elected.

The Court: By the asking you impart integrity.

Mr. Donohue: Why, of course, if your Honor please.

(Testimony of Paul Crouch.)

The Court: I think counsel for the Government should have an opportunity to determine whether or not the list is authentic.

Mr. Hallinan: I have no objection to that.

Mr. Donohue: May I state it this way, if your Honor please——

The Court: Yes.

Mr. Donohue: I think there is a duty on counsel on both sides, who seek to offer a document before this Court to follow the rule and have that document documented, certified and authenticated.

Mr. Hallinan: You can't authenticate a document like this.

Mr. Donohue: Of course you can.

Mr. Hallinan: Where could it be done?

Mr. Donohue: I don't know where, Mr. Hallinan.

Mr. Hallinan: I told you it reached me yesterday.

Mr. Donohue: If as he states, it is part of the file of the House Un-American Activities Committee, he could have had that document so authenticated and certified. If it were our [2824] purpose to offer it, we would do the same. That is in Washington, D. C., and a document ten years ago, of course we do not have it here. I can't authenticate it because I never saw it before. This document purports to be from Earl Browder, with his name signed to it, and I doubt it.

Mr. Hallinan: You are producing the Communists. Why don't you check up on your information? We don't know them.

Your Honor, the Un-American Activities Committee put out printed documents such as the one from which we examined the witness; as they examine certain persons, they affix certain exhibits. Now this is an exhibit that was affixed to an inquiry relating to one Nelson. I can probably get the exact date on which it was affixed, but all I have is this letter and this list. Now, he says,——

The Court: May I ask you your source of that, sir?

Mr. Hallinan: It is taken from the—we have frantically dug up Un-American Activities proceedings where this witness would take the stand. And may I point out to Your Honor that counsel has several times suggested—I don't know what he thinks the morality of it is, but that we were going to be surprised and caught by surprise, but that we were going to be surprised on a motion for mistrial, we weren't going to get the chance to now be able to check up on their witnesses and find out if they were telling the truth. So when a witness like Crouch takes the stand, we have to as quickly as we can then [2825] make an effort, so we consulted the Un-American Activities Committee to find if he has testified there. We produce a document from that committee. We have no time to hire people to go and get authenticated copies. I don't know what an authenticated copy would be. I suppose that the

(Testimony of Paul Crouch.)

secretary of the Un-American Activities Committee could certify that the documents which you inclosed here were as a matter of fact introduced or affixed as exhibits before a hearing of this committee. What would that add to it?

The Court: Mr. Hallinan, without any reflection on you, mind you, that the document is anything except what you represent it to be, if we did not have documents authenticated, spurious documents, all sorts of documents might be presented to a court.

Mr. Hallinan: I grant that.

The Court: I think with the processes of the court, you could see that this document is transmitted for proper certification. If it be such a document as you say which was admitted and received in evidence, it may be authenticated and received as such. [2826]

Mr. Hallinan: Well, we will do that if we have to, but I suggest——

The Court: Can't you check with Mr. Donohue on it?

Mr. Donohue: I would have to do the same thing he would do.

Mr. Hallinan: No, you don't. Just get the record of the Un-American Activities Committee and find out if it is in there. Then if it is in there——

Mr. Donohue: You said you got it.

Mr. Hallinan: They have put out thousands of copies. We have a copy of it. He has a copy.

Mr. Donohue: I have no copy of this letter. I

(Testimony of Paul Crouch.)

never say it in my life. The only thing I could do would be to send this or a copy of it to the Committee and ask them to authenticate it. He can do that.

Mr. Hallinan: Has the prosecution all the reports of the Un-American Activities Committee?

The Court: Do you have such report?

Mr. Donohue: I don't know, if your Honor please. I will be glad to see.

Mr. Hallinan: Maybe Mr. McMillan can tell us. Have you?

Mr. McMillan: I have no knowledge of it. We all know the House Un-American Activities Committee has been holding hearings for more than ten years and they ran into thousands of pages. [2827]

Mr. Hallinan: If we are able to find them, they should be able to find them.

Mr. McMillan: We found those that we think are pertinent.

The Court: I will not foreclose Mr. Hallinan from the inquiry upon that. If at a later stage it be authenticated in some proper form, if necessary this witness will return for any purpose you may have.

Mr. Hallinan: Suppose I do this: Would it be violating the spirit of the rule to simply ask if certain persons whose names I read off were on the committee—were on the National Committee?

The Court: You relate to a period of time in 1939?

Mr. Hallinan: 1939, yes. That is just what he testified. He testified to the Committee in 1939; that Harry Bridges under the name of Derkin or Dargan was elected a member of that National Committee. I want to first verify from him whether or not certain names were members of the National Committee and then to proceed to prove that it contained no such name as Bridges, Rossi, Derkin, Dorgan, Harvey or Canfield.

The Court: Of course, the Government may we argue in opposition that the Government is not bound by any representation made by Mr. Browder.

Mr. Hallinan: That is correct, and that is why I want to ask this witness.

Mr. Donohue: And that is why I asked the question as to [2828] the purpose of this unauthenticated document as proof to the contrary, and it is not admissible.

Mr. Hallinan: Of course, what we are trying to do is to disprove the testimony he put in.

Mr. Donohue: I will pass that remark, if your Honor please, and rely on the rule of law.

Q. (By Mr. Hallinan): Let me ask you this, Mr. Witness: In the proceeding in which you appeared against Betty Gannett in New York on September 30, 1949, and reading from page 18, in answer to the following questions, did you give the following answers: Question, by Mr. Darfman, who represented the Government:

> "Mr. Crouch, have you ever used or been known by any other name?

(Testimony of Paul Crouch.)

"A. (By you): Once, by the name of Fred Allen."

Did you so testify?

A. I did.

Q. Now you tell us that when you registered, as you say, with your wife, at the hotel in Oakland in the 1941 convention of the CIO, you registered there under the name of Carl Wilson, is that right?

A. That is correct.

Mr. Hallinan: Might I have the resolution that was introduced at the CIO convention?

The Clerk: Defendants' Exhibit W for identification, that [2829] exhibit (handing document to counsel).

Q. (By Mr. Hallinan): Now, you went to the hotel in Oakland and you stayed there, and you tell us on some sort of obligation or task of seeing that certain things were done at the CIO convention being held in Oakland around that time, is that so?

A. That is correct.

Q. And as I understand it, one of your chief duties was to see that Harry Bridges introduced a certain resolution, is that right?

A. That is correct.

Q. Oh, parenthetically, in your testimony given in this case yesterday or today—yesterday—will you state whether you were asked the following questions and gave the following answers: This is at page 2582.

"During the period of your membership in

(Testimony of Paul Crouch.)

the Communist Party did you pay your dues as a member of that organization?

"A. I did."

These were the questions by whoever examined you for the prosecution.

"Q. At any time during the period of your membership in the Communist Party, Mr. Crouch, were you known by any name or names other than the name of Paul Crouch?

"A. I was.

"Q. Will you state the name or names under which you were so [2830) known?

"A. Fred Allen and Carl Wilson are the two names under which I can recall being personally known. I have written articles under various names, both inside and outside of the Communist Party."

Did you so testify? A. I did.

Q. With relation to the writing of articles, are you engaged now in writing certain articles for newspapers or periodicals concerning Communist activities or Communist Party activities?

A. I do some writing on the subject, yes.

Q. And have you now any undertaking to write some of those for certain newspapers?

A. I have not. I would like—to avoid any possible misinterpretation, I would like to say that last July I sold a series of articles to the Honolulu Star Bulletin, which have not—which were accepted but

(Testimony of Paul Crouch.)

have not yet appeared; but I have no obligations to write any series of articles at the present time.

Q. That was at a time that the Longshore and Warehousemen's Union were fighting a strike in Honolulu, isn't that correct?

A. There was a strike in Honolulu, yes.

Q. And you were employed by the employers of Honolulu to smear that strike with the Red banner, weren't you?

Mr. Donohue: I object, if your Honor please, for obvious [2831] reasons.

Mr. Hallinan: I don't know what the obvious reasons are. If that was his purpose and if he makes a profit from those articles, we are entitled to it.

Mr. Donohue: He stated a moment ago that he had made an agreement with a newspaper to write a series of articles, which were not published. The characterization of this newspaper—and I never heard of it before—as an employers' organ, and the characterization of his purpose in writing those articles is so patently unfair and not supported by any facts——

The Court: Mr. Donohue, if the witness understands the question and the colloquialism and the terminology employed, he can answer that. Do you understand that?

The Witness: I do. May I answer it fully?

The Court: Yes, sir.

A. I wrote the articles not for the employers

(Testimony of Paul Crouch.)

of Hawaii, not to serve their interests in any way or to help them in any way. I wrote the articles expecting them to be published after the conclusion of the strike then in progress, which was expected to end at any time then. My purpose was to present facts about the Communist movement, why, that I as a first Communist in Hawaii had broken with the movement, so that the laboring classes in Hawaii shall be able to free themselves from Communist control and would be able to recognize a Communist when they see him. My sympathies were entirely with the [2832] workers in Hawaii, whose condtions I know only too well from personal experience over there, and I have not at any time, in any way cooperated with any employers' organization against the interests of the workers and the union.

Q. (By Mr. Hallinan): Do you know who owned the newspaper for whom you wrote those articles?

A. Representative Farrington, Congressman from Hawaii, who in his editorial policy has leaned over backward to give the unions at least an even break, and who, incidentally, according to my best information, was endorsed for election by the ILWU, and I know he was endorsed for election by the Political Action Committee of the CIO in the last election in Hawaii.

Q. And while the strike was in progress you wrote a series of articles for this newspaper on

Communist infiltration of labor unions in the Islands, didn't you?

A. Not primarily, no. I explained that the Communists were trying to capture control of the trade unions in the Islands and why they were trying to capture control of the democratic party politically in Hawaii.

Q. And the gentleman who is leaning over backwards to be fair to the unions wanted these articles from you so as to smear the striker and the longshore workers and the Warehousemen's Union by claiming that they were Communist-dominated, isn't that right? [2833]

A. If he had wanted them for that purpose, he would obviously have published them during the strike, but he has not yet published the articles.

Q. And the reason he didn't publish the articles, sir, was that before the occasion for publishing them arose, the strike was settled and there was no longer any profit in smearing the longshore workers' leaders, isn't that right?

A. The editor of the Honolulu Star-Bulletin, Mr. Riley Allen, had those articles in his drawer for many weeks before the end of the strike and he could have published them at any time.

Q. But he was afraid to do so because he dared not risk a libel suit by the International Longshoremen's & Warehousemen's leaders, isn't that right?

A. That is contrary to the fact. He told me so, and there is nothing of the kind libelous of the ILWU in them.

Mr. Hallinan: I think that we might take the recess, if the Court please.

The Court: We will take the afternoon recess, ladies and gentlemen of the jury. The same admonition about not discussing the case under any conditions, nor suffering any person to converse with you on any subject of the trial, and not to form or express an opinion until the matter is submitted to you. You may retire. 10:00 o'clock tomorrow morning.

(Thereupon an adjournment was taken to tomorrow, Tuesday, December 20, 1949, at 10:00 o'clock a.m.) [2834]

Tuesday, December 20, 1949—10:00 A.M.

(The following proceedings were had out of the presence of the jury:)

The Clerk: The case of the United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed.

Mr. Donohue: Shall we dispose of the matter of that conviction, if your Honor please, which your Honor set for this morning?

Mr. Hallinan: Your Honor, we would prefer to let that matter go. We have some other matters concerning that witness, your Honor. We can take them all up at the same time, probably at the noon recess. There is no insistence——

Mr. MacInnis: We would just as soon. We have our material, but we would just as soon defer it, merely because we have a witness on the stand. We are prepared, though.

Mr. Donohue: We may still have a witness on the stand at noon, if your Honor please.

The Court: We will proceed at the noon recess. I have no objection if that is agreeable to you.

Mr. Donohue: Very well, your Honor.

The Clerk: The witness on the stand is Paul Crouch, heretofore sworn. [2835]

(Thereupon the jury was brought into the courtroom.)

PAUL CROUCH

resumed.

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. Mr. Crouch, you spoke of having a supervisory job on a newspaper. What is the nature of the job you have?

A. In connection with—in connection with copy production, seeing that certain copy makes certain deadlines, and so on.

Q. Supervisory job, you call it? A. Yes.

Q. Now, with relation to the presence of your wife at the Hotel Sutter, is your wife receiving witness fees also in this case?

A. I think that question——

Q. Well, Yes or No? A. I presume she is.

Q. $34 a day? A. No, indeed.

Q. How much?

A. So far as—to the best of my knowledge her expense—her allowance, she is receiving expenses the same as mine, I believe. I do not know the amount exactly. I believe it is $9 a day.

Q. How much over and above $25 a day—what are you receiving [2836] now on this case over and above the $9 a day?

A. Nothing that I know of now.

Q. You haven't got the $25 a day since you have been here? A. I have not.

Q. Have you any arrangement or understanding with the Government or with these attorneys or agents how much you are being paid for your testi-

(Testimony of Paul Crouch.)

mony here? A. I have no arrangement.

Q. What is that?

A. I have no arrangement whatever.

Q. When you testify in these cases are you paid at the same rate on Saturdays and Sundays when there is no court in session?

A. This is a different case; this is a criminal case.

Q. I say, on these cases that you have testified in, have you been paid on Saturdays and Sundays while you are standing by?

A. Which case do you refer to?

Q. Any case.

A. Usually the procedure—there are varying contracts. Usually I receive $10 a day when I am not in attendance at trial status.

Q. In other words, from the time you leave your home until you appear on the witness stand you get $10 a day?

A. Except for the days that are connected with the case, during which I receive 25; that is, providing the contract in that specific case calls for 25. It should be clear that much [2837] of my appearance before Government agencies has involved no fees whatever. For example, when I was testifying before the Senate Committee the total per diem, the total I received while I was away from home on that case was, to the best of my recollection, $10 a day. When I was testifying before the House Committee my total allowance for everything inclusive all expenses was $6 a day.

(Testimony of Paul Crouch.)

Q. You have now an indefinite number of Government cases that you are contracted for to appear in, is that right?

A. The only contracts or anything of the kind is that in two cases, the Betty Gannett case and a case in Portland, at the request of the defendants my cross-examination was postponed until later and therefore it will be necessary to send me back on these cases.

Q. In the testimony that I cited to you yesterday you said that you had an indefinite number of cases that you were engaged to appear for the Government in. Do you remember that? Do you remember so testifying without finding it directly? You were asked about taking a leave of absence. You said you took a leave of absence for six months because you have an indefinite number of cases that you are to testify for the Government in. Do you remember that?

A. I have an indefinite leave, not to exceed six months, to complete the testimony, and I presume I would have completed all of this testimony before this time if I had not been [2838] called here. I was scheduled to appear in a number of cases in New York City following the Betty Gannett case, but those cases were postponed, and so far as—other expert witnesses may have been called; I have no knowledge on that.

Q. On page 64 you were asked this:

"Q. How long is your present employment schedule to continue?

(Testimony of Paul Crouch.)

> "A. Until I complete the testimony in an indefinite number of cases, I don't know how many. I have a leave of absence from the Miami Daily News not to exceed six months. That was over a month ago."

This testimony was given on November 10, 1949. Do you remember that testimony? A. I do.

Q. Now, did your wife arrive in San Francisco at the same time you did, November 11?

A. She arrived here some hours later, also November 11.

Q. November 11. Have you any agreement now as to the amount of money you are to receive for your services in this case?

A. None whatsoever.

Q. How much money have you already received?

A. To the best of my recollection, a little over $200.

Q. When did you get that?

A. I got the first—I got some about the first day of the month, and I got some about a week [2839] later.

Q. Some on December 1 and some on December 8, about? A. Yes, about.

Q. How much did you get December 8?

A. I don't remember the number of dollars; the total amounts to a little over $200.

Q. How much has your wife received?

A. The same, so far as I know.

Q. $200 also at the same time, is that right?

A. Correct.

(Testimony of Paul Crouch.)

Q. Now, as I understand it, you say that your wife delivered a message from you while you were living under the name of George Wilson in the Harrison Hotel to Mr. Bridges at the CIO convention?

A. What I said is that I gave my wife a resolution which I had drafted with instructions to take it over to the secretary or assistant secretary of the Communist Party fraction in the convention with instructions that it be delivered to Harry [2840] Bridges.

Q. Is that the only testimony she has for this case so far as you know?

Mr. Donohue: I object, if Your Honor please, what he may think his wife knows and what we think she knows are two different conclusions.

Mr. Hallinan: This is in relation to the compensation.

The Court: The objection is overruled. The witness may testify as to his particular knowledge. As to any knowledge he may have, he may testify.

Q. (By Mr. Hallinan): So far as you know, is that all your wife is to testify in this case?

A. When I came here, I had no direct knowledge—I was not told what questions I would be asked, and if my wife has been told what questions she is going to be asked, she has not informed me of that, about what she may or may not know. I doubt it. I certainly have no idea what questions the Government intends to ask her or any other witness in this case.

(Testimony of Paul Crouch.)

Q. You have had no discussion about what her testimony will be?

A. No, indeed, because she does not know, to the best of my knowledge, and I certainly do not know. So how could I discuss what she is going to testify to?

Mr. Hallinan: Is the gentleman here with the New York cards?

(A gentleman stepped forward with a large volume of newspapers.) [2841]

Mr. Hallinan: Have you got marked off the 25th of June, 1936?

(The gentleman referred to indicated a page.)

(The volume referred to was thereupon handed to the witness.)

Mr. Hallinan: That paragraph (indicating).

Mr. Donohue: May I ask for what purpose——.

Mr. Hallinan: To refresh the witness' recollection on the question I asked him yesterday. He was not sure.

The Court: This question was asked at the close of the testimony yesterday?

Mr. Hallinan: That is right.

The Court: He said in response to your question it would not refresh his recollection.

Mr. Hallinan: He said he was not sure but he thought it would not.

Q. Looking at that, Mr. Crouch, does that refresh your recollection?

(Testimony of Paul Crouch.)

A. In no way whatsoever.

Q. It does not refresh your recollection that that was the first convention of the Communist Party to which the public and press were admitted?

A. It does not refresh my recollection on any point.

Mr. Hallianan: Now, with regard, Your Honor, to the document that I showed the witness yesterday, I have with me [2842] today an issue of the United States Government Printing Office, the hearings before the Committee on Un-American Activities, House of Representatives, 81st Congress, First Session, June 8, 1949, printed for the use of the Committee on Un-American Activities, and giving the names of the officers, the table of contents, and so forth. This is a government publication and the Court can take judicial notice of it. With regard to the document that I propose here, the volume which I have has several other exhibits all relating to a passport of the man named Steve Nelson, and testimony in the hearing has nothing to do with any matter that is concerned here. Bridges or no one else is mentioned. But with regard to these letters, the first which I will call Your Honor's attention to is marked at the bottom, "Exhibit Nelson 15, page 1." It is on the heading of the Communist Party of the U.S.A. and is a letter dated November 27, 1939, to Rhea Whitley, counsel of the Committee on Un-American Activities, Washington, D. C., and signed by Earl Browder.

(Testimony of Paul Crouch.)

Now, as authenticating that matter, here is the putting of it in evidence:

> "Mr. Tavenner: I hand you now a photostatic copy of a letter over the signature of Earl Browder, general secretary of the Communist Party, U.S.A., bearing date November 27, 1939, directed to Rhea Whitley, counsel, Committee on Un-American Activities, Washington, D. C., [2843] furnishing a list of the names of the National Committee of the Communist Party of the United States and a list of the National Committee of the Communist Party elected at the Tenth Convention, from which there appears on page 3 William Z. Foster, Chairman, Earl Browder, Secretary, and under the heading of members, among others, appears the name Steve Nelson. Is that statement by Mr. Browder correct or is it false in so far as it refers to you as a member of the National Committee?"

Nelson refused to answer.

> "Mr. Tavenner: I offer the letter in evidence and ask that it be marked Nelson Exhibit 15."

And then it says, "See Appendix, page 154, Nelson Exhibit 15," and in that exhibit it states it is a photostat of a letter dated November 27th, 1939, from Earl Browder to Rhea Whitley, counsel, Committee on Un-American Activities.

The second exhibit, No. 16, the exhibit we have

(Testimony of Paul Crouch.)

here, is entitled "Proceedings of the Constitutional Convention of the Communist Political Association, New York, May 20th-22nd, 1944," and a printed list of the National Committee of the Communist Political Association.

Now, here is a statement:

> "Mr. Tavenner: I hand you a photostatic copy of proceedings of the constitutional convention of the Communist Political Association, May 20th to 22nd, 1944, giving a list of [2844] the National Committee of the Communist Political Association."

The Court: What is that date? May 20th——

Mr. Hallinan: May 20th-22nd.

The Court: 1944?

Mr. Hallinan: 1944, "giving a list of the National Committee of the Communist Political Association, and under the title 'members of the National Committee,' among other names appears the name of Steve Nelson. Will you examine that document and state whether or not it states the same with reference to you?

> "Mr. Nelson: Same answer, same grounds.
>
> "Mr. Tavenner: I desire to offer this document in evidence and have it marked Nelson Exhibit 16.
>
> "Mr. Wood: It will be so admitted."

And in the appendix, "Exhibits taken in connection with the testimony of Steve Nelson and filed with the committee are as follows:

> "Nelson, Exhibit 16, photostat of proceedings

(Testimony of Paul Crouch.)

> of the constitutional convention of the Communist Political Association, May 20-22, 1944."

Now, these are the identical documents, Your Honor, and were affixed as exhibits to this matter, and as I say, the Court should take judicial notice of this publication, and I think that is all the authentication that is required to use. [2845]

The Court: Mr. Donohue?

Mr. Donohue: I make no question at this time to the authentication of these documents, which is not to say they are admissible in evidence. They are obviously self-serving declarations over the signature of the secretary general of the Communist Party.

Mr. Hallinan: I do not care about that. I want to ask the witness about them and ask if his recollection is refreshed that these were the people.

Mr. Donohue: For the purpose of refreshing his recollection, I have no objection to the witness reading these documents, not aloud, and unless and until they are offered in evidence, my objection is not timely.

Q. (By Mr. Hallinan): You were shown yesterday that letter dated November 27, 1939, signed by Earl Browder. Are you familiar with Earl Browder's signature? A. Fairly well.

Q. Would you say that this is the signature of the Earl Browder whom you testified concerning?

A. Without being able to positively identify it, I would say it appears to be.

Q. Would you state whether or not the National

Committee of the Communist Party of the United States of America elected at the Tenth Convention, that is, the convention that was held in June—this committee was elected in June of 1938—if these were [2846] the persons who composed it: ——

Mr. Donohue: I object to the question, if the Court please.

The Court: The basis of the objection?

Mr. Donohue: Mr. Hallinan would, by reading these names, put these names in evidence, give some imaginary value to the fact that the names appear on this letter signed by Earl Browder. Having exhibited the letter to the witness, and having asked him if it refreshed his recollection, I think he might well ask the witness if these are the persons who were nominated and elected at that convention, but obviously he has no right to read from the document which was not in evidence.

Mr. Hallinan: You read from all sorts of documents that are not in evidence. We have dozens of documents that are not in evidence. It is just a matter of reading off the names.

Mr Donohue: I know that is counsel's practice, if Your Honor please, but that is not the law.

Mr. Hallinan: If the Court pleases, I assign that statement as misconduct. Counsel has no right to make that statement in the presence of the jury, that I am doing something that is my practice but is not the law. I have tried very closely to adhere to the legitimate practices of introducing evidence and asking questions. I have heard no criticism

(Testimony of Paul Crouch.)

from the Court of anything I have done in that respect, at least in the cross-examination of witnesses although the Court took [2847] some exception to statements I made in an opening statement and questions to the first witness. But counsel has no right to make criticism of that kind. I do not know whether he does it from malice or from ignorance, but on either ground it is unjustified, and I ask Your Honor to instruct the jury to ignore that statement, that that is my practice but is not the law.

Mr. Donohue: I direct Your Honor's attention to the fact that just a minute ago on a question which was asked of this witness by Mr. Hallinan, he asked the witness whether or not in reading a copy of the New York Times he did not refresh his recollection, and then he quoted from the article of the New York Times to the effect that the convention was the first convention of the Communist Party open to the public, and that document was not in evidence, and neither is this one.

Mr. Hallinan: And still is not in evidence.

The Court: Mr. Donohue, on the document in question before the Court you raise no particular point as to its authentication?

Mr. Donohue: No, sir.

The Court: And without waiving the point at the present time, you raise no point?

Mr. Donohue: I submit, if Your Honor please, this document is not in evidence. If these documents were in evidence, it would be proper for Mr. Hallinan to read all of it to the [2848] jury.

(Testimony of Paul Crouch.)

Mr. Hallinan. Do you want me to put it in evidence? I will put it in if you wish.

Mr. Donohue: It is not admissible in evidence, if Your Honor please. It is a self-serving declaration over the signature of the secretary general of the Communist Party.

The Court: I think the witness may be asked concerning, and for the purpose of, refreshing his recollection, the name or identity of any asserted members reflected by any particular document that may serve to refresh his recollection. It is true, Mr. Donohue, that the Government certainly may not be bound by any such assertion on the part of Mr. Hallinan that John Doe, William Roe, or Mary Roe comprised members of the particular organization at the time and place in question, but I think that the witness' recollection may be refreshed, if it needs refreshing, on that particular point.

Mr. Donohue: Then I would ask Your Honor to instruct the jury that the mere reading of these names by Mr. Hallinan from a document signed by Earl Browder is no evidence of the fact that those names are in fact the true names of those who were members of the Communist Party.

The Court: At an appropriate time I may undertake to do so, but I think he is entitled to proceed at this time.

Mr. Hallinan: I have another thought on it, Your Honor. These documents are procured in effect from the files of the [2849] United States Government, which is a party to this proceeding. Now, the

United States Government puts out as a public declaration a statement including these documents, and I am not a bit certain that from that alone, from the possession of it by the Government, these may not be admissible in evidence in and of itself. I have not urged that point yet, though I may later.

Mr. Donohue: I may say to characterize this document——

The Court: I may state at this juncture in connection with the Steve Nelson hearing, it appears to the Court in that instance positive proof was being asserted as against Steve Nelson.

Mr. Donohue: Correct.

The Court: With respect to the inclusion of his name.

Mr. Donohue: Correct, yes.

The Court: In the case at bar, you proceed in the negative form to prove a negative.

Mr. Donohue: Yes, Your Honor.

The Court: I am extremely doubtful as to the admissibility of the document in evidence. Be that as it may, you may proceed for the instant purpose and the avowed purpose of refreshing this man's recollection to query him about the names. I will instruct the jury at the proper time.

Mr. Donohue: The mere fact that Mr. Hallinan just a minute ago, if Your Honor pleases, said to Your Honor in front of this jury that this is a document which came from the [2850] official files of the United States Government is again for the purpose of giving sanctity——

(Testimony of Paul Crouch.)

The Court: Ladies and gentlemen of the jury, so that there may be no misunderstanding in your minds, the letter from which Mr. Hallinan assumes to read purports to be signed by Mr. Browder. The authenticity of the document is not immediately before either the Court or the jury. The fact that it may have been included in a hearing or offered or proffered in the Steve Nelson hearing is not to be regarded by you as having any particular sanctity in the document with respect to its original truth or integrity inherent in the document itself. Does that satisfy you, Mr. Donohue?

Mr. Donohue: Yes, Your Honor.

The Court: Proceed.

Q. (By Mr. Hallinan): Will you tell me this, sir? Will you tell me whether or not the following persons were members of the National Committee of the Communist Party of the United States of America elected at the Tenth Convention, that is to say, the convention in May, 1938:——

A. I am afraid I said June, 1936, but as I remember now,——

Q. This is the 1938 convention, the tenth convention, is that right? A. That is right.

Q. Tell me if these were the names of the Central Committee elected at that time: [2851]

Israel Amter. Do you remember him?

A. He was elected on the Central Committee.

Q. Max Bedacht. A. He was.

Q. Alex Bittelman. A. Yes.

Q. A. W. Berry. A. I don't believe so.

(Testimony of Paul Crouch.)

The Court: A. W. Berry?

The Witness: I know A. W. Berry very well, but I am not able to say positively, but my best recollection is he was not elected.

Q. (By Mr. Hallinan): Ella R. Bloor.

A. Reeves Bloor was elected.

Q. Ella R., it says here. Louis Budenz.

A. I don't recall his election at that convention.

Q. Peter V. Cacchione. A. Yes, he was.

Q. Morris Childs? A. He was. [2852]

Q. Gene Dennis? A. He was elected.

Q. Sam Don? A. I don't think so.

Q. Elizabeth G. Flynn? A. She was.

Q. James W. Ford? A. He was elected.

Q. Harrison George? A. I don't think so.

Q. Ben Gold? A. I believe so.

Q. Gil Green? A. He was elected.

Q. Fay or Ray Hansboro—Ray Hansboro, do you know him?

A. In my opinion, that name is a purely fictitious one, a pure fraud intended to defraud the Government, and the character is non-existent, not elected, does not exist.

Q. In other words, it is a fictitious name of some person; there is no such person in existence?

A. There may be a person by that name, but not a member of the Communist Party or elected.

The Court: Pardon me. How do you spell that name?

Mr. Hallinan: H-a-n-s-b-o-r-o, Hansboro.

A. I know no such person, and I don't think such a person was [2853] elected to the Central Committee.

Q. Clarence Hathway? A. Yes, he was.

Q. Jasper Haaland?

A. I think that is another phony name.

Q. Angelo Herndon?

A. I do not specifically recall whether he was elected or not; he might have been.

Q. Ray Hudson? A. He was elected.

Q. Jack Johnstone? A. He was elected.

Q. Charles Krumbein? A. He was elected.

Q. Robert Minor? A. He was elected.

Q. Steve Nelson? A. Yes.

Q. William Schneidermann?

A. I am not certain that Schneidermann himself was elected on that Central Committee.

Q. Jack Stachel? A. He was elected.

Q. Pat Toohey? A. I believe so [2854]

Q. Alex Trachtenberg? A. Probably.

Q. William Wiener?

A. Weiner alias Blake.

Q. Wiener.

A. William Weiner, alias Blake.

Q. No, it says "William Wiener."

A. W-e-i——

Q. W-i-e-n-e-r, William Wiener.

A. I don't think his name was on the list of those elected.

Q. Anita Whitney? A. Yes.

Q. John Williamson? A. Yes.

Q. Henry Winston? A. I believe so.

Q. Rose Wortis? A. Yes.

Q. Now, of that list of 33 people you say you do not know if five of them were elected, that is, A. W. Berry, Louis Budenz——

A. You didn't ask me about Louis Budenz.

Q. Well, it was just a slip of mine.

A. He was elected.

Q. He was what?

A. Louis Budenz was elected at that convention, although you [2855] didn't ask me in reading that list.

Q. Well, that was an oversight of mine.

A. I might remark, if the Court will permit, that I saw a number of names on that list yesterday which have not been read to me today.

The Court: What was that again?

The Witness: I might remark, your Honor, that I saw a number of names on that list yesterday which have not been read to me today.

The Court: What are they? What are the names on the list which have not been read?

Mr. Hallinan: I will show them in a minute.

The Court: Will you read them into the record.

Mr. Hallinan: Yes. The list is headed "National Committee of the Communist Party, U.S.A., elected at the 10th Convention. William Z. Foster, Chairman; Earl Browder, General Secretary." Then under the heading, "Members," I read off all the names that are under the heading of "Members." There are other names that I am coming to presently that are not members.

(Testimony of Paul Crouch.)

The Court: Show it to the witness.

Q. (By Mr. Hallinan): See if you can find in these names on the list the name of any member that I omitted to ask you about except Louis Budenz, whom you will have to forgive me, because it was an oversight on my part.

Mr. MacInnis is concerned that I did ask about Mr. Budenz. [2856] I know that as well as Mr. MacInnis does.

A. The names which you have not yet read were the list of candidates, who incidentally include some who were elected on that Central Committee.

Q. Have I read you off the names of all under the head of "Members"?

A. As published on that list.

Q. I wasn't there. You are the man that was there. I read that off. Now, opposite that is a further list of names with the heading "Candidates." What was the difference between members and candidates?

A. "Candidates" is a term applied to alternates, that is, an alternate member.

Q. Do they elect then a slate of regular members and a slate of alternates?

A. Yes, elected together.

Q. So that if the regular member did not officiate then the alternate member took his place, is that it? A. That is correct.

Q. Now, under the heading of "Candidates" I will ask you if these people were elected candidates: John Ballam?

(Testimony of Paul Crouch.)

A. I don't think so. I know John Ballam very well, but I don't believe at that convention he was elected a candidate.

Q. Herbert Benjamin?

A. I believe so. [2857]

Q. W. G. Binkley?

A. W. G. Binkley was elected a member of the regular Central Committee, to the best of my recollection.

Q. Don Burke?

A. I do not—I know Don Burke, but I don't recall him being elected.

Q. Rose Biltmore?

A. That is a name with which I am not at all familiar; never heard of her.

Q. You say she was or was not elected?

A. I believe that is another phony name. That is my belief.

Q. Isidor Begun? A. Yes, I think so.

Q. Ann Burlak? A. Yes.

Q. Margaret Cowl? A. Yes.

Q. Sam Darcy?

A. Sam Darcy, to the best of my recollection, was elected a member of the Central Committee. That is my belief and recollection.

Q. Phil Frankfeld? A. Yes.

Q. Harry Gwynn?

A. Unless Harry Gwynn there refers—is a substitution for [2858] Rossi, I think it is another fictitious name.

Q. You think Harry Gwynn might be a substitution for Rossi?

(Testimony of Paul Crouch.)

A. It is conveivable, or it is quite likely. There are so many fictitious names, utterly fictitious names.

Q. I don't question that it is quite likely. At this stage anything is quite likely.

Mr. McMillan: Well, now, that isn't a proper observation.

Mr. Hallinan: All right, withdraw the observation.

Q. This Harry Gwynn was a name that you think was used instead of Rossi?

A. It might or it might not have been. If it wasn't, it was wholly fictitious. If it was a substitution it was half—only half fictitious, half of the name being fictitious and half genuine.

Q. In other words, the "Harry" part of it suggests that it might have been Mr. Bridges?

A. Yes, the first name suggests that possibility. I have no evidence beyond that possibility.

Q. And do you think that that is what actually happened?

A. I do not know. I don't know what motives Earl Browder had in drawing up that list to fool Congress.

Q. Robert Hall?

A. I don't recall his being a candidate. I know him very well.

Q. Robert Lamon?

A. How do you spell his name? [2859]

Q. L-a-m-o-n.

A. Another fictitious name, I believe.

Q. All right. Andrew Onda?

(Testimony of Paul Crouch.)

A. I don't recall whether Onda was elected as a candidate or not.

Q. William Patterson? A. I think so.

Q. Pettis Perry? A. Possibly.

Q. Morris Raport?

A. Morris Rappaport.

Q. No. A. How do you spell that?

Q. R-a-p-o-r-t.

A. The name under which he was known in the Communist Party was Morris Rappaport. I don't know that that is his true name, but this evidently refers to him.

Q. Earl Reno? A. How do you spell it?

Q. R-e-n-o.

A. I think there was a minor Communist functionary who used that name, but I don't think he was elected as an alternate to the Central Committee.

Q. Carl Rose?

A. Another assumed or fictitious name. [2860]

Q. No, it is Carl Ross.

A. Carl Ross, yes; he was elected as an alternate.

Q. What is that?

A. Yes, Carl Ross was elected as an alternate.

Q. Then Matt Ross or Nat Ross.

A. Nat Ross?

Q. Yes. A. Possibly.

Q. Otto Wangerin?

A. Possibly; I don't recall.

Q. Maude White? A. I believe so.

Q. William Weinstone?

A. To my best recollection and belief, William

(Testimony of Paul Crouch.)

Weinstone was elected as a regular member of the Central Committee.

Q. Robert Woods?

A. To the best of my recollection, he was elected a regular member of the Central Committee.

Q. Then it gives the members of the Secretariat, Executive Committee of the Communist International, elected at the Seventh World Congress, 1935, George Dimitroff, General Secretary?

A. I wasn't at the Fifth World Congress. I know from published reports that Dimitroff was elected.

Q. M. Ercoli?

A. He is known to me as a prominent—that was an assumed [2861] name. I think that refers to——

Q. Harry Bridges?

A. Another—a prominent Italian leader under another name, but he was under that name prominent in the Communist International.

Q. D. Z. Manuilsky?

A. D. Z. Manuilsky, present USSR representative——

Q. Just tell us Yes or No, do you remember if they were on that list.

A. I wasn't at the Fifth Congress. I had nothing to do with preparing the list. I know nothing about it.

Q. Wilhelm Pieck? A. I wasn't——

Q. You don't know anything about this?

A. I know about Wilhelm Pieck, the president

(Testimony of Paul Crouch.)

of East Germany, but I wasn't present at his election by the Comintern.

Q. Let's go up to this list of members of the National Committee of the Communist Party. We read off all these names here, and the name Derkin or Dorgan does not appear in it?

A. I didn't see it on this list submitted by Earl Browder.

Q. And the name Rossi doesn't appear on it?

A. I wouldn't have expected to find it there.

Q. And isn't it a fact that the name that you say Harry Bridges masqueraded under was Angelo Rossi. Didn't you say that?

A. I didn't say that. I said Rossi; I didn't attach any [2862] handles to it.

Q. Was there any first name at all, so far as you remember, attached to it?

A. Yes. Comrade—Comrade Rossi.

Q. Comrade Rossi, but no first name at all?

A. No, I never heard any. I don't recall hearing any. I wouldn't say there wasn't, but I don't recall hearing any.

Q. I notice here Harry Gwynn. That is the only Harry on the list, so you suggest that that was probably Mr. Bridges?

A. Knowing Mr. Browder and his dry sense of humor, I think it is quite likely that that is what he had in mind.

Q. In other words, he put somebody on under the name of Harry Gwynn; we have him as Harry

Derkin or Harry Dorgan, Angelo Rossi, and now we are putting him on as Harry Gwynn?

Mr. McMillan: We haven't got any Angelo Rossi.

Mr. Hallinan: There was somebody who said "Angelo," that his name was Angelo Rossi. There is no doubt that somebody said it.

The Witness: It wasn't me who said it.

Q. (By Mr. Hallinan): Was it your predecessor?

A. I don't know what my predecessor or someone said.

Q. I want to show you the next exhibit; it is 16, and it is a printed program of the National Committee of the Communist Political Association, and I think you looked at it already.

(Document handed to witness.)

Now, I will ask you if you know these people, refreshing [2863] your recollection from this. These are persons on the National Committee elected in 1944, and it is a printed list.

Mr. Donohue: I object to this, if your Honor please. There is no testimony here by this or any other witness with respect to the components of the National Committee of the Communist Party in 1944.

Mr. Hallinan: No, I am just going to ask him if he knows these people. I am not going to ask him if these were on the National Committee. I want to know if he knows them.

Mr. Donohue: I have no objection.

(Testimony of Paul Crouch.)

Q. (By Mr. Hallinan): Israel Amter?

A. I know him.

Q. He was on the 1938 committee, do you remember that?

A. Yes. One of the genuine names.

Q. Ella Reeve Bloor?

A. I have known her since 1927.

Q. No, I asked, do you know her name? Do you know that woman?

A. Yes, I know her. I have known her for many years.

Q. She was on the 1938 committee, is that right?

A. She was. She has been on all of the central committees of the Communist Party, to my knowledge.

Q. Earl Browder?

A. I met Earl Browder in Moscow in 1928. I have—I knew him as long as I was a member of the Communist Party.

Q. Pardon me. I just asked you this—you can explain it [2864] afterwards if the necessity arises, but we will take your word for whether you knew these people. I asked you if you knew these people under these names. If you will say Yes or No, and tell us those names you do not recognize or who you say are fictitious, if you will indicate that to us, we will save a great deal of time. Alice Burke?

A. I know her.

Q. Ann Burlak? A. I know her.

Q. Peter Cacchione?

A. I knew him. He is dead.

(Testimony of Paul Crouch.)

Q. Morris Childs? A. I knew him.

Q. Benjamin Davis? A. I knew him.

Q. David Davis? A. I didn't know him.

Q. Eugene Dennis? A. I knew him.

Q. Bella Dodd? A. I knew of her.

Q. Samuel Donchin?

A. I knew of Donchin.

Q. Elizabeth Gurley Flynn? [2865]

A. I knew of her.

Q. James Ford? A. I knew him.

Q. William Z. Foster? A. I knew him.

Q. Nat Ganley? A. I did not.

Q. John Gates? A. I knew him.

Q. Ben Gold? A. I knew him.

Q. Gilbert Green? A. I knew him.

Q. Rob Hall? A. I knew him very well.

Q. Ray Hansbrough? A. I did not.

Q. That is the same name that was mentioned in the other list, you remember, that you said you didn't remember? A. Yes.

Q. And you thought it was a fictitious name, is that right? A. That is correct.

Q. Roy Hudson? A. I knew him.

Q. Henry Huff? [2866] A. I knew of him.

Q. Arnold Johnson?

A. Very well indeed. I helped recruit him for the Party.

Q. Charles Krumbein? A. Very well.

Q. Robert Minor? A. Very well.

Q. Steve Nelson? A. Very well.

Q. Pettis Perry? A. Yes.

(Testimony of Paul Crouch.)

Q. William Schneidermann? A. Yes.

Q. Robert Thompson?

A. I knew of him; I didn't know him personally.

Q. Louise Todd? A. I knew her.

Q. Pat Toohey? A. Very well.

Q. Louis Weinstock? A. Very well.

Q. Max Weiss? A. Very well.

Q. Anita Whitney? A. Very well. [2867]

Q. Doxey Wilkerson?

A. I knew of that name; I didn't know that party personally.

Q. John Williamson? A. Very well.

Q. Henry Winston? A. Very well.

Q. Carl Winter? A. Very well.

Q. Rose Wortis? A. Very well.

Q. So of those people the only two you do not know or you do not remember—or three, rather, are David Davis, Samuel Donchin and Ray Hansbrough, is that right?

A. Yes, and I had not personally met but I knew of a couple of others.

Q. And did you know if there was a man named Ray Hansbrough? A. No.

Q. You didn't know him? A. No, sir.

Q. How about David Davis?

A. I had no knowledge of the existence of David Davis.

Q. Sam Donchin?

A. I had no knowledge of his existence, but I was not a member of that Political Association and

(Testimony of Paul Crouch.)

would have had no reason to know anything about them. [2868]

Q. Tell me if you recognize any of the following names. These are put down sl aaternate members of the National Committee: Phil Bart?

A. Yes.

Q. Louis Budenz? A. Yes.

Q. Frank Cestare?

A. How do you spell that?

Q. C-e-s-t-a-r-e. A. Never heard of him.

Q. Rose Gaulden?

A. I never heard of her.

Q. Gus Hall?

A. I have heard of that name; I don't know him.

Q. Otis Hood? A. I have heard that name.

Q. Al Lannon? A. I have heard of him.

Q. William Lawrence?

A. I knew him very well.

Q. Meridel Lesuer?

A. Never heard that name.

Q. Martin Mackie?

A. Never heard the name.

Q. Audley Moore? [2869]

A. Pardon me?

Q. Audley Moore?

A. I never heard that name.

Q. William Norman?

A. I have heard of that name, but I don't know him.

Q. Joe North? A. I knew him slightly.

Q. Paul Novik?

(Testimony of Paul Crouch.)

A. I have heard of that name.

Q. Andy Onda? A. Yes.

Q. William Patterson?

A. I knew him very well.

Q. Carl Ross? A. Yes.

Q. Net Sparks? A. Yes.

Q. Alexander Trachtenberg? A. Yes.

Q. And Oleta O'Connor Yates?

A. I knew her very well. [2870]

Q. All of those people whose names you know appear on this list under their own proper names, don't they?

A. Those had no reason to conceal their proper names any more than I had to conceal my proper name or Earl Browder had.

Q. That is right, but you concealed your proper name, according to your own testimony, didn't you?

A. When it was in the interests of the Communist Party I did so. Most of those have concealed their proper names, practically all of them, at various occasions.

Q. But they appear on this list under their own proper names, don't they?

A. Yes. My name even appeared under its proper name, so did Earl Browder, but I used fictitious names if it suited the Party's interests, so did Earl Browder, so did most of the Party leaders.

Q. When the Communist Party put out lists of their National Committee, almost all of them appeared under their own names, didn't they?

A. Those people would obviously—those people

(Testimony of Paul Crouch.)
would obviously have appeared because the Party had something to gain.

Q. You can give the explanation later. The answer is Yes: When the Communist Party put out this list of members of the National Committee most of them were listed under their own proper names?

A. I have no knowledge of the Communist Party ever putting out [2871] a bona fide list of its Central Committee, not to my knowledge.

Q. Here is a list of the National Committee or Central Committee turned over to Congress.

A. I don't believe that is a list of the National Committee or Central Committee. I believe it is a rank forgery intended to defraud the Committee and fool the public.

Q. Of this list of 40 or more people, you picked out three names that you say were fictitious, and then there were five more people that you did not know or you had not heard of and didn't know if they were on the Committee or not, isn't that right?

A. That is correct. It also leaves off quite a number of people who were on the Central Committee, unless—which is quite likely—those fraudulent names are substitutions for genuine names of people that the Communist Party wanted to conceal their identity.

Q. So instead of just leaving the name off altogether they just put in a fictitious name?

A. It is quite likely, although I wasn't in the office when Earl Browder decided on that strategy.

Mr. Hallinan: I am going to offer this document

(Testimony of Paul Crouch.)

in evidence, if the Court please, the letter and the papers, as the defendants' exhibit next in order.

Mr. Donohue: I have to object, if your Honor please. It obviously has no probative value in this case, a self-serving [2872] letter over the signature of the Secretary General of the Communist Party, introduced in a proceeding before a committee of Congress for the purpose of establishing the identity of a name which appears on that list. Obviously it has no probative value here to prove a fact by the non-existence or non-appearance of a name on that list. I object to it.

The Court: Your objection is sustained. It may be marked, and the several documents therein contained may be marked appropriately as defendants' exhibit next in order for identification only.

The Clerk: Defendants' Y for identification.

> (Letter of Earl Browder and attached documents was marked Defendants' Exhibit Y for identification.)

Q. (By Mr. Hallinan): Now, you say that in the matter of your attendance or your activity in connection with the California State Industrial Union Council fourth annual convention in Oakland in 1941, that your assignment was to see that Harry Bridges carried out certain resolutions of the District Bureau, is that right?

A. That was just a part of my assignment. My assignment was much broader, much more inclusive than that one assignment.

(Testimony of Paul Crouch.)

Q. So far as Harry Bridges was concerned, was that the limit of your assignment?

A. No, it was not.

Q. Now, you say that you prepared a resolution and drew that [2873] up yourself, the resolution that was introduced here which you read, is that right?

A. With the general outline decided first in the District Bureau and in consultation with Walter Lambert on some points, but the finished product was my own work.

Q. Your own work; you drew that. And then I suppose the activity of your wife was that you gave it to her and she took it over and gave it to Mr. Bridges, is that right?

A. She reported back to me that she had given it to either the secretary or the assistant secretary of the Party fraction on the convention floor.

Q. Who was that?

A. Paul Schliff was the secretary of the Communist Party fraction in that convention, and John L. Child, better known as Jack Childs, was assistant secretary of the Communist Party fraction in that convention.

Q. So then this document, this resolution, was first gone over and prepared by the Central Committee or District Committee, or whatever it was, then transmitted to you, and you transmitted it to your wife, and she transmitted it to Mr. Schliff or to Mr. Childs, and they transmitted it, so far as you know, to Mr. Bridges, is that right?

A. I merely made notes during the District Bureau meeting of the political points to be included in the document. I did some of the work at my home, but I did most of the work on that [2874] document on the 2nd of October in my—in the evening, in my room in that hotel, in Room 708 of the Harrison Hotel.

Q. Now, all of that that you testified to was for the purpose of drawing up and submitting this resolution:

> "Whereas, Fascism has enslaved most of Continental Europe and will engulf the entire world unless destroyed, and
>
> "Whereas, democracies can only succeed in defeating Fascism by throwing their entire resources into the bitter struggle, which step must be taken at once because further delay can serve but to strengthen our common foes, and
>
> "Whereas, this supreme effort can only be achieved by unity of action and purpose by all freedom-loving peoples,
>
> "Therefore Be It Resolved, that we pledge allegiance to our country, our President, and wholehearted support to his program, and that we take this step with full knowledge of the sacrifices we must make before victory is ours.
>
> "And Be It Further Resolved, that in making this pledge we (1) endorse the Murray plan of industry councils because we know that adoption of the plan will result in greater unity of government, labor and capital and will sharply

(Testimony of Paul Crouch.)

increase production in our national defense industries and industries related to them; (2) oppose the anti-labor activities of the Federal Bureau of Investigation, a continuation of which is detrimental to the [2875] welfare of our nation, its full productivity and effort; (3) request the removal from positions of authority of individuals of Fascist leanings, whose retention in important governmental posts raises questions of doubt in the minds of the worker and undermines the army of industrial workers and morale of the people; (4) pledge our loyalty and support to the vigorous leadership of President Philip Murray and urge him to retain leadership of the Congress of Industrial Organizations and lead that great organization along the lines laid down in this resolution; (5) and last, request President Murray to make our position on these vital questions known to our President, Franklin D. Roosevelt."

Did you take any further steps yourself to see that he was carrying out the mandate? [2876]

A. I did. I talked with—a few days before the convention I talked with Paul Schliff, secretary of the fraction. I told him—I pointed out to Schliff that we had already, on the 9th of July, discussed in the district bureau the expulsion of Harry Bridges from the Communist Party if he failed to carry the party line and continued to find it as we

(Testimony of Paul Crouch.)

were informed he was doing or that he was very unwilling to comply with the party line. I told Schliff that this was a definite decision, that either Bridges was going to carry out party discipline, as a disciplined member or we were going to take sharp action in the district committee. We wasn't going to fool around any longer. We had already built up through resolutions, one resolution which I had written and which was passed by the Alameda County CIO Council, going along the same lines as this resolution. The party through other resolutions passed in Los Angeles Council and in the San Francisco Council. We had organized a net, a round net——

Q. Just a minute. You are going away from this. You had a talk with Paul Schliff?

A. I pointed these things out.

Q. I get you. You had this talk with Paul Schliff. What did you do with regard to seeing Mr. Bridges yourself? Anything?

A. It was not necessary.

Q. You did not see him. You did not talk to him about it?

A. We operate through the secretaries of fractions in the [2877] Communist Party—we did.

Q. You never went to Mr. Bridges and said any of these things to him, did you?

A. Schneidermann was given that assignment.

Q. Did you?

A. I did not. I did not have that assignment.

Q. Did you go to the meeting to see if this great

(Testimony of Paul Crouch.)

resolution was in fact read? A. I did.

Q. Did you hear it read out? A. I did.

Q. How did you happen to get there at the opportune time? Did you have some arrangement to get there or what? Or were you attending the CIO convention as a spectator?

A. No, my wife was moving constantly from my room to the convention floor and was bringing reports to me from the secretary or the assistant secretary of the fraction. So I was informed at all times as to what was going on on that convention floor, and I knew in advance of the moment that Bridges was taking the floor.

Q. And then did you arrange to get there?

A. I walked over.

Q. And you heard him make a speech?

A. Part of the speech, and I heard that resolution read.

Q. How much of the speech did you [2878] hear?

A. I would assume I heard perhaps ten minutes of it before he got to that resolution.

Q. Did you wait then until he finished his speech?

A. No, I did not. I wanted to see if he complied with the party decision, and then I returned to my hotel room.

Q. Did you know before Mr. Bridges mentioned these subjects at all practically that same resolution had been urged or the same statement had been made by President Connelly, the president of the CIO Council?

(Testimony of Paul Crouch.)

A. Yes, on orders from the Communist Party Connelly did so.

Q. He did it also under orders of the Communist Party? A. He did.

Q. Was he a member of the Communist Party? Was he?

A. You are referring to the president of the CIO Council here?

Q. That is right. You just said under the orders of the Communist Party he introduced this himself. What was his first name?

A. Philip Connelly.

Q. Philip Connelly. Do you know him?

A. I know him by sight.

Q. Was he a member of the Communist Party?

A. I was never in a Communist Party meeting with him, but I participated in making decisions for him to carry out.

Q. Did he carry them out?

A. He did. [2879]

Q. Did he have the reputation among your gang of being a member of the Communist Party?

A. Yes.

Q. Philip Connelly, the president of the CIO Council then, was a member of the Communist Party?

A. I do not personally know, but I know the decisions that were made were carried out by him. I didn't ask any unnecessary questions.

Q. Did you ever see him at any Communist Party meeting? A. I did not.

Mr. Donohue: He just said he had not. I object to the question.

Q. (By Mr. Hallinan): Did you discuss his membership with Mr. Schneidermann or any of these other people? A. I did not.

Q. Where did you get the belief that Mr. Connelly was a member of the Communist Party?

A. From the fact that he introduced many resolutions and carried through many policies which were first initiated in our district bureau.

Q. In other words, if a person introduced a resolution or supported some program that the Communist Party was interested in, you figured that person was necessarily a Communist, is that right?

A. Not necessarily; he might be surrounded in some cases. In [2880] the case of Connelly, I am not saying he was a member of the Communist Party; I am merely expressing my belief on the basis of the fact that he carried through resolutions drafted by the Communist Party. He might have been surrounded by Communists and carried these out without being a technical member. I don't know.

Q. Philip Connelly, you know, had already introduced a resolution practically in the language that this resolution bears; you knew that, didn't you? A. I did.

Q. Who told you so?

A. We were advised—we were given detailed reports on all of these resolutions by Walter Lambert, the district trade union director.

(Testimony of Paul Crouch.)

Q. Do you remember any substantial difference between the resolution that Mr. Connelly proposed and the resolution that you say you drew and sent over to Harry Bridges?

A. There were a number of resolutions——

Q. No, this one I want to know about.

A. I do not recall the details of the Connelly resolution at this time. I have occasion to recall the Bridges resolution but I have not occasion to recall the details of the Connelly resolution.

Q. As a matter of fact, the Connelly resolution was in almost the exact language that the Bridges resolution was in, wasn't [2881] it?

A. It could very well have been because——

Q. Never mind the because. Did you draw the Connelly resolution?

A. The Connelly resolution was based upon resolutions that had been drafted by the Communist Party and first passed under the initiative of the Communist Party in the Los Angeles CIO County Council, the San Francisco Council and the Alameda County Council. The wording of all these resolutions, if you were to check them closely and compare them closely, was very much identical and very closely resembled this resolution which I wrote, all because they came from the same source, the District Bureau of the Communist Party.

Q. Mr. Paul Heide also spoke on the Connelly resolution and used almost the same language that is used in your resolution, didn't he?

(Testimony of Paul Crouch.)

A. Certainly, because Paul Heide is a member of the Communist Party.

Q. All right. Governor Olson also spoke on it, didn't he? A. Who?

Q. Governor Culbert Olson of the State of California spoke on it?

A. His phraseology was quite different.

Q. His phraseology was quite different, was it? Did you hear his statement? [2882]

A. I did not. I read a speech or a part of it in the press. I didn't hear it.

Q. When did you read the speech?

A. I read it in the press in 1941. I haven't read it since.

Q. Let us see about it. I will ask you if this refreshes your recollection that this was Governor Culbert C. Olson's statement on this subject at this CIO convention.

Mr. Donohue: I think he ought to be allowed to see it, if Your Honor please.

Mr. Hallinan: If he remembers it——

The Court: Have we reached a point at which we might take our recess?

Mr. Hallinan: Yes.

The Court: If agreeable. Otherwise we will pursue this matter of Governor Olson.

Ladies and gentlemen of the jury, we will take the morning recess. The same admonition that you are not to discuss the case under any conditions with any person or to form or express an opinion until the matter is submitted to you.

(Recess.) [2883]

(Testimony of Paul Crouch.)

Mr. Hallinan: Now, you read them this statement, Mr. Witness, of Governor Culbert L. Olson, who spoke at this convention:

> "In the international emergency which faces us, the rights of labor have been crushed under the heel of military dictatorship. We are faced with that situation not only elsewhere in the world, but we are faced with the possible danger to our own national security and our own cherished rights in our own American democracy, to the rights of labor, to the rights of workers to a position of control and direction and voice and leadership in our American democracy. I take the position of supporting preparedness to defend the Western Hemisphere against the invasion of the totalitarian dictators, against the possibility of their being able to put us in a position to keep fighting the war forever or to destroy all that has been accomplished in the name of freedom and civil liberties. I am a supporter of the international policies of President Roosevelt all the way through.
>
> "I mean the steps that have been taken by him and by the Congress in so far as it has yet supported him,—preparedness for our own protection and in aiding those fighting against the Hitler Axis powers. It is a proper stand for this, the greatest nation on the face of the earth, to take in the name of humanity, human liberties [2884] and human rights. We are a part of

(Testimony of Paul Crouch.)

> this world and we are a part of the humanity of this world. We cannot isolate ourselves from the developments in the world. It is for labor to take this cause; more than for their own protection it is for the protection of the ideals of American labor. We should protect America's rights and give aid to those who are fighting similar battles elesewhere in the world, to Russia, England and China."

Q. Now, you knew that Governor Olson had given that statement on the opening day of the convetion? A. Correct.

Q. Now, Governor Olson was not a Communist, was he?

A. No, and he had been saying the same things before June 22 that he said after June 22; he didn't make any flipflop on that day.

Q. As a matter of fact, he was anti-Communist, wasn't he?

A. I don't recall. I don't think he was favorable to the Communists. I know that the Communist District Bureau did not like some of the things he did, and brought pressure through high channels to try to change them.

Q. And he there continued right on with this talk that he gave; you remember that he said, or you were informed he said this:

> "I believe all workers were glad when the Revolution took place in Russia. At that time, in another [2885] legislature, I introduced a

(Testimony of Paul Crouch.)

resolution to recognize the revolutionary government of Russia. We know that the Revolution brought a better life and more equitable distribution of goods. But we cannot have their ways in America. We do things in a different way. One thing done by Russia which was a great shock was the alliance that was made with Hitler. We know we have the right under our Constitution to have any kind of government or order of economy that a majority of the people want for the good of the whole, and if there are constitutional provisions that stand in the way of changing the entire order, there is a way democratically to remedy this.

"It is inconsistent with the welfare of progress to have any alien power or government or agency attempting to undermine, to subvert the American labor movement. I believe that units of organized labor are suffering more setbacks and suffering more interference with successful progress through the following of some of a party dictatorial line, dictated by an alien country, centered on the idea that we should have dictatorship of the proletariat, in the United States as well as in Russia. That has done more than any one thing to injure the labor movement in the United States. The Gestapo of Hitler is working in the midst of America. We are ready to say it is an alien activity which must be stopped. There has been a line of [2886] action dictated by the Commun-

(Testimony of Paul Crouch.)

> ist Party which would dominate every labor union if it could and dominate every American life. Now, is there and difference? We cannot have in American life a line of action, underground for the most part, which is inconsistent with American civil liberties and has behind it the policy of waiting for chaotic conditions to develop in the United States in order to seize control.
>
> "California outlawed the Communist Party. I signed that bill. I would not sign any bill outlawing any American party which had as its aim to abolish capitalism and set up socialism through democratic processes."

You knew that Culbert Olson had made that statement, didn't you?

A. I presume I did at the time. I don't recall all those words, since I only read it once in 1941.

Q. And yet just a few moments before that he had made the statement that all protection and all help should be given to those who are fighting the battles against Hitler throughout the world, to Russia, England and China, hadn't he?

A. Yes, he did.

Q. So that the determination to fight Fascism and the determination to resist Hitlerism and support the countries that were fighting him were by no means restricted to the Communists, were [2887] they?

A. Will you please restate the question?

Mr. Hallinan: No, I will withdraw it. Let me

(Testimony of Paul Crouch.)

ask you this—well, we will leave that out too. I was going to say, this little group of Communists of which you say you were a member seemed to pretend that they are the only ones that put in any efforts that were of any value in fighting pellagra, fighting oppression of the lettuce strikers, fighting Fascism. Is it your concept that your little gang originated all these things?

A. That is a very complex question. I will be glad to answer that. [2888]

Q. To go on here, as you were watching these matters, you know that a man named Ciccone, delegate Ciccone of the United Auto Workers, asked if the resolution—this resolution implied that labor is in favor of sending its members to war. He said he believed labor is opposed to Fascism because Fascism is out to destroy labor. At the same time he believes labor should not go to war in a foreign country and leave Fascism free at home to destroy us. That is what happened in 1917.

> "We are opposed to Hitler but we should also oppose the American Fascists. We must fight Fascism in this country before we attempt to fight Fascism in other countries."

Did you instruct Mr. Ciccone to say that?

A. I did not.

Q. Did you know who he was?

A. No, I don't know Mr. Ciccone.

Q. "Brother Stern, warehouseman, said he had seen Fascism and how it works and had

(Testimony of Paul Crouch.)

> seen its manifestations in the 1934 waterfront strike. He said all Fascists are scabs and all scabs, Fascists and must be fought to protect trade unionism."

Did you tell Mr. Stern that?

A. I personally did not.

Q. Did you send him a message by your wife?

A. I don't recall any messages to Mr. Stern.

Q. Now, "Brother Jack Child said his local had gone on record [2889] for unstinted aid for nations fighting Hitler. The delegate pointed out that we were already losing men, ships are being sunk and seamen killed. We are already involved. We should prepare our men with adequate arms."

Did you instruct Brother Child to say that?

A. I gave him instructions to take that position in the convention personally in my room in the Harrison Hotel during the course of that convention, having had several conversations with him in Room 708 personally, and I had also instructed him to fight aid to Great Britain and told him how to fight it in his local, and his local did so until the 22nd of June, 1941.

Q. Now, "Delegate Ciccone said he wanted to qualify his vote that he was willing to fight Fascism but felt that fighting it abroad would bring Fascism at home."

Did you tell Delegate Ciccone to say that?

A. No.

(Testimony of Paul Crouch.)

Q. He made a pretty good guess, didn't he?

A. I don't know what contacts he may have had with Child and with Schliff, who read the party communication on the floor and who gave the instructions to the individual Communist delegates there.

Q. You know that those resolutions that were presented to the convention had to be first presented to a resolutions committee, isn't that right?

A. That is correct. [2890]

Q. In other words, before any resolution could be offered on the floor of the convention, it had to be first passed upon by the resolutions commitee, isn't that true? A. Correct.

> Q. "Resolution No. 39, which was adopted with an amendment, that lease-lend aid include China and other countries fighting Fascism."

Did you have anything to do with putting in that resolution then? A. May I see the resolution?

Q. All right. Now, there was a statement by Mr. Thomas of the Auto Workers, R. J. Thomas, international president of the United Automobile Workers and vice president of the CIO, who said:

> "The main thing to do is see that the Murray plan is instituted. The daily newspapers say that there is a shortage of steel and of aluminum. Steel and aluminum workers have announced plans for obtaining additional supplies but received no recognition. That is a case for the Murray Plan. Yesterday you made a fine

(Testimony of Paul Crouch.)

> demonstration of what you were willing to do to beat Hitlerism. Today we must support everyone and every country willing to fight Hitler. There is no labor movement in the country under the control of Hitler. While we are fighting Hitler, we must not forget democracy at home, as there are serious [2891] infringements on our rights. Through decisions entirely contrary to the spirit of the Wagner Act, the NLRB has been nullifying that Act. Recognition has been given to deals with the A. F. of L. and hearings refused. Col. Lindbergh definitely lined himself up with the Fascist forces in his attacks on a minority group. These are dangerous trends, and we can not stand idly by and see our rights taken away."

Now, do you know R. J. Thomas, president of the United Automobile Workers of America?

A. I have seen him and heard him speak on a number of occasions.

Q. Was he a member of the Communist Party?

A. I don't know. I have no knowledge whatsoever of his membership or non-membership in the Communist Party.

Q. Did you send him any resolution for him to support or any instructions by your wife as to what he was to do?

A. I sent no instructions to Mr. Thomas.

Q. With regard to the statements that you say Mr. Bridges made, the only part of the speech

(Testimony of Paul Crouch.)

that you prepared was this resolution; that is correct, isn't it? A. That is correct.

Q. I want you to listen and see whether there is anything different in the other things he said from what is summed up in this resolution. I want you to point out for me what else in here, if anything, he said under directions from you or your [2892] district committee:

> "Mr. Chairman and Brother Delegates: Once again I feel honored to address the officers and delegates assembled at this Fourth Annual Convention of the California State Industrial Union Council. The report of the officers of the State Council presents in detail the tremendous advances made during the past year. It is unnecessary for me to review again that progress. It is sufficient to say that since the third annual convention and the national convention of the CIO organization has been pushed on every front. Many millions of dollars in wage increases have been won by the unions affiliated with the Council. The outstanding victories in basic industries, such as steel, auto, aircraft, rubber, packing house, oil and others, furnish proof of the ability of the California CIO to do things, and should instill in every member of the CIO in this state the determination to make even greater gains in the coming year.
>
> "I can say without hesitation that the State Council's program for the past year, coupled with the initiative and energy of officers and

(Testimony of Paul Crouch.)

> members, has resulted in a record of achievement that can not be surpassed by any State Council in the entire CIO. The Council officers deserve highest praise for their activities and accomplishments, and the affiliates of the Council that have [2893] contributed to the Council's success in the past years, with their cooperation and support, may well be proud of the record of the California CIO for getting things done.

"Much more remains for us to do in the organizational field. We have the instrumentalities to work with: the State CIO Council, the National Regional officers and organizers, and the determination to improve the living standards of the American working people have an added incentive now. One that is paramount to all others, the organization of workers into the very backbone of the anti-Fascist front, our free and democratic trade unions, in order that every ounce of energy and effort can properly be put forward in the fight to destroy Fascism. To win this fight is the main issue today. We must realize now that our unions, our economic and political security, our freedom and democracy are periled by the Fascist arms of Hitler. I read they have enslaved most of continental Europe and will spread and control the entire world unless stopped. Nation after nation has been overpowered, millions of lives sacrificed. Free-thinking and free organizations have been destroyed in the march of the New Order. It is not my intention to review the changing situations of policies in the

(Testimony of Paul Crouch.)

past year with regard to international affairs. I have read the report of the president and the secretary and your Council dealing with [2894] this question, and that subject matter is covered concretely in their report. I subscribe to and support their analysis and conclusions wholeheartedly, and I deem it entirely sufficient concerning our past policies.

"The question before us now is what to do and what is the best way to do it and how quickly and effectively we can move into high gear against Hitler and his allies. If one reads President Roosevelt's papers that he has published reviewing his actions and the policies of his administration during the term of his office as president of the United States, we note that he deals specifically in one part with his position on matters of neutrality, his attitude at the time concerning the invasion of Ethiopia by Mussolini, the embargo against arms for the Spanish Loyalists. The President points out that although he acted at that time for what he believed to be was the well being of the nation, and in an effort to avoid war, he believes now that the net result of the neutrality policy followed at that time hastened war, and as he expresses it himself, "I now regret my actions.' That is good enough for me and it should be good enough for anyone who wants to enlist in this fight against Hitler from now until victory. If the President of the United States is big enough and man enough to say that somewhere along the line results might have been better if the job had been done [2895] differently, all of us, including the most severe critics of the President's past actions, can not fail to try to be equally as big and say, 'Well, that's past and done with. We always agreed that Hitler's Fascism should be destroyed. We just couldn't get together on the best way to do it. But let's go from here and do the job right.'

"If anybody wants to sit around and pat themselves on the back and say, 'I told you so,' let them. They will be doing the very same thing in a slave labor battalion if Hitler ever marches to victory in his present attack.

"Right here, as far as I am concerned, I am dismissing and forgetting what has happened and is past in this connection. I know enough to tell me where I stand and what I must do as a member and officer of the CIO and as one who always has been and is now more than ever opposed to Fascism and everything inherent in it.

"The President, the Armies of Soviet Russia, Great Britain and China are wasting no time these days looking at what is past, nor should we waste any time. We know what our record in the anti-Fascist side is. In many respects we were the pioneers—pioneers not only with words, but with deeds—and now we not only need more words, but they must be backed up with every sort and form of action that we can think of.

"As one opposed to Fascism, I pledge myself to do [2896] anything and everything within my power

(Testimony of Paul Crouch.)

and ability to support the President in delivering all aid to Great Britain, Russia and China in the fight to defeat Fascism, and I urge upon the delegates here and the membership they represent to do likewise without any equivocation.

"It is not a question any more of when Hitler will be stopped, but how soon and at how great a sacrifice. Every day that the war goes on, every statement from the German high command claiming further gains, strengthens Hitler's hand by strengthening his fifth column of appeasers here and elsewhere. They are able to elaborate and enlarge on their arguments that this is not our fight.

"They are able to sponsor and press for Fascist legislation and to spur to greater effort their various elements operating in the departments of government and industry.

"It is only by uniting all people that want to fight Fascism, regardless of race, creed, color, religion or political philosophy, into one anti-Fascist productive and fighting machine, that we will do the job quickly, effectively and once and for all.

"We of the CIO must demonstrate by positive action that we are willing to do our part, and, yes, sacrifice, but let us make it perfectly clear that any sacrifices we are required to make as workers shall be met by equal [2897] sacrifices by corporate interests.

"I mean this: We will follow and support the President in the all-out program of aid to defeat Fascism. We pledge ourselves to work toward the

(Testimony of Paul Crouch.)

attainment of the highest productivity of labor in producing machines and the materials to wage the fight against Hitler. We pledge our determination to do all to see that production continues in order that the effort may not be marred or blocked by strikes or stoppages of work, and we pledge our determination to oppose those who would appease Hitler and Fascism. [2898]

"There are no strings attached to such declarations. They mean anything and everything that might be necessary to fight and win. There are no qualifications such as 'making America an arsenal of democracy,' or 'All aid short of war,' nor should we bother with trying to ferret the good or bad things in the nations or the governments who are at present being attacked by Hitler. They are fighting Hitler and they are fighting Fascism, and in the case of the Soviet Union and its army, navy and air force, they are doing an excellent, all-out job.

"Great Britain has geared her entire Empire to the fight, and if any criticism may be attached to her efforts so far, the way to intensify those efforts and to broaden Britain's contribution is to declare ourselves in and demonstrate that we are ready to go just as far as she is.

"These countries are fighting Fascism with everything they've got. That's good enough for us, or should be. They deserve our support, and we should state here and now, without any equivocation, that they are going to get it in every way we can give

(Testimony of Paul Crouch.)

it to them. They are going to get our loyalty behind our national leaders in government and the CIO who expressed their determination to destroy Hitler and his new order.

"What do we ask in return? Of course, we ask and insist first that there be no let-up and that Hitler be [2899] defeated and Fascism erased for all time. We next ask and insist that our contribution to the fight be recognized and given due respect. We insist that those officials in high places in Government and industry, more concerned with their desire for profit and individual benefits, be exposed so that they may take their place where they really belong, in the ranks of Hitler's fifth column and appeasers.

"While we pledge ourselves to do all possible to insure smooth production of the materials needed, we insist at the same time that the right to strike remain inviolate and that an end be put to the attempts of selfish employers and business corporations who would seize this opportunity to destroy this fundamental right of labor, not because of their sincere desire to defeat Hitler, but because of their determination to weaken labor organization and to rob the workers of the organized power and right to protect their security.

"On this matter of strikes and stoppages, especially in defense industries, I urge you to reaffirm the position taken at the enlarged Executive Board meeting of this State Council in June of this year: That we will utilize the various governmental agen-

(Testimony of Paul Crouch.)

cies established to handle labor disputes, specifically in defense industries, while work continues, and to work with the national officers and [2900] councils of the CIO to settle our labor disputes with full and just recognition of our demands in order to avoid strikes wherever possible.

"In no sense does this mean relinquishing the right to strike, but it does mean that we can recognize the seriousness of strikes in defense industries now more than ever, and we recognize that such stoppages indirectly aid Hitler and retard our efforts to defeat his aims.

"I might mention here that this is not a new position for us by any means. My own International Union as far back as a year ago signed a two-year, no strike contract, recognizing that national defense called for the necessity of greater use of governmental agencies in handling labor disputes, especially when a union had been long established and had secured the fundamentals necessary for its continued well-being.

"We again recognized this situation in a more intense period during the North American strike. No question in that strike that the demands of the workers were reasonable in every respect. No question as to the fact that the employers in that particular instance so maneuvered the situation as to force the strike, not because they were concerned with the fight against Hitler but to preserve their already swollen profits. No question that it was absolutely improper for the Government to [2901]

(Testimony of Paul Crouch.)

lend the armed forces to the North American employers to break the strike. But at the same time, there is no question either at that time or now that all concerned did not have the proper perspective and realization of the necessity of utilizing to the utmost the machinery of the established Government agencies and the influence of CIO leaders to secure the full demands of the workers.

"It is not my intention to try to lay the blame in any one particular place, if any blame is to attach. Certainly the major reason that the strike took place was because of the pressure the North American Corporation in this instance was able to exercise against the workers and to stall the Mediation Board. What does stand out, however, is that victory was won. The workers' demands were granted, and it was essentially because of their organized strength that this was accomplished, together with the aid of the national leaders of the CIO working through the established governmental machinery. The use of troops contributed nothing except the breaking of the strike, and the action delighted the anti-labor interests of the nation.

"It is my judgment that no more situations of a similar type will develop within the CIO, or that the President and his administration will seize it to repeat the use of troops in a like manner again. This, however, [2902] is predicated on the fact and the necessitry that we do our part, and in the case of a recalcitrant employer who is stubborn and determined to put profits before the main question of fighting Fascism, it shall be our purpose to use our organized strength and power, backed by our pledges of loyalty, to insist that the national Government deal firmly and vigorously with such employers, even to the extent of taking over and opearting their plant or factory."

Shall we adjourn now?

The Court: Ladies and gentlemen of the jury, we will take the recess and resume at two o'clock this afternoon. The same admonition not to discuss the case under any conditions, and not to form or express an opinion on the matter until it is submitted to you. You may go now.

(Thereupon the jury was excused until 2:00 p.m.) [2903]

(The following proceedings were had out of the presence of the jury:)

Mr. Hallinan: Your Honor, in the matter of Manning Johnson, if we can again impose upon your patience, we have some other matter that is presenting iteslf, and we expect to have it during the day. I would like to have the matter deferred. Your Honor will see the purpose as soon as we produce the material we have.

Mr. Donohue: May I say to your Honor, as I read the record of the matter at issue, Mr. MacInnis said yesterday that he asked for an extension of time for the purpose of establishing by the statutes of the State of Nebraska that the offense——

(Testimony of Paul Crouch.)

Mr. Hallinan: Pardon me. If it is going to be argued, then I won't participate. What I want to do, I have some other material relating to Mr. Johnson that I want to present to the Court. I expect to get it in this afternoon. That is the only purpose. We can take up the whole thing after the conclusion of that.

Mr. Donohue: I am interested, if your Honor please, in the matter of Manning Johnson with respect to the alleged conviction, and I am interested, if your Honor please, for the reason that on page 2469 of the record Mr. MacInnis stated:

> "I want to assign the statements of the prosecutor as misconduct, your Honor, as an unjustifiable interference with cross-examination in this case." [2904]

For that reason, if your Honor please, this matter, which was initiated on the 14th of December is still pending, and I was about to say to your Honor, only yesterday Mr. MacInnis asked for more time in order to procure the statutes of the State of Nebraska for the purpose of proving, if possible, that under the Nebraska statute, the offense alleged was a felony.

Referring to page 2465 of the record, Mr. MacInnis said on the 14th day of December:

> "Now, under the State court practice this crime would be a misdemeanor. Under the Federal Court practice it is admissible as a felony."

I am prepared at this time, if your Honor please,

(Testimony of Paul Crouch.)

to cite from the United States Code to prove beyond doubt that the offense of possession of intoxicating liquor in 1926 was a misdemeanor under the Federal Code.

I call your Honor's attention to a telegram from the Attorney General of the State of Nebraska, James H. Anderson, addressed to Bruce G. Barber.

Mr. MacInnis: Pardon me just a moment. I think, your Honor, that there was some objection the other day to my offering the Court a telegram as proof of anything. I don't see how this counsel, whether it be by support of some legal argument or some factual argument, can now read your Honor a telegram, on which he bases the law.

Mr. Donohue: I am only controverting Mr. MacInnis' [2905] opinion and conclusion when he stated on the 14th day of this month in court——

Mr. MacInnis: I have brought the law books. I don't read any telegram from the Attorney General of Nebraska, and I don't think he can any more than I can.

Mr. Donohue: I think he should have had the law books on the 14th of December, because on the 14th of December he said, "Now, under the State court practice this crime would be a misdemeanor." I think Mr. MacInnis, in the light of the fact that it was a misdemeanor, knew that it was highly improper for him to ask the question. So I say to your Honor that I have a telegram from the Attorney General of the State of Nebraska addressed to Bruce G. Barber, District Director,

(Testimony of Paul Crouch.)

Immigration and Naturalization Service, reading as follows:

> "In 1926 Conviction for First or Second Offenses Possession of Intoxicating Liquor Was Punishable as a Misdemeanor. For Third and Subsequent Offenses Punishable as a Felony."

Now, if your Honor pleases, I think if there is any reluctance on the part of counsel to introduce the so-called record of conviction, that I should be permitted to state to your Honor and to introduce to your Honor, for the purpose of determining to strike the question and answer is good and my motion that the jury be instructed that the question ought not to have been asked, I think I should be permited to say to your Honor [2906] that historically, it would appear that on the 13th of December, 1949, first of all, a phone call was made to the Chief of Police of the Police Department of Alliance, Nebraska, by Mr. Norman Leonard of this city and by——

The Court: By whom?

Mr. Donohue: By Mr. Norman Leonard, if your Honor please, who identified himself, according to a letter from the Chief of Police, as an attorney in San Francisco. Pursuant thereto and on the same day a telegram was sent to Chief Thomas of Alliance, Nebraska, in this language:

> "Please Send One Wire Confirming Information Given Me by Phone. Re Johnson Arrest

(Testimony of Paul Crouch.)

> November 29, 1926. Send 2 Airmail Certified Copies of Police and Court Records. Send Bill for Charges. Norman Leonard, 150 Golden Gate Avenue, San Francisco, California."

And the Chief of Police on the following day, December 14, send this telegram addressed to Norman Leonard, 150 Golden Gate Avenue, San Francisco, California:

> "Mann Johnson, Negro, Arrested November 29, 1926, Charged With Possession Intoxicating Liquor. Arraigned December 1, 1926, Pleaded Not Guilty, Found Guilty, Fined $100 and $8.95 Costs. Signed, D. A. Thomas, Chief of Police, Alliance, Nebraska."

I have, if your Honor pleases, under the certification of a name which I cannot make out—I notice it in print; it [2907] appears to be Harold E. Wingstad, Police Magistrate of the City of Alliance, Box Butte County, Nebraska, who certifies that the "foregoing is a true and correct transcript of the case wherein the State of Nebraska was plaintiff and Mann Johnson defendant, as recorded on pages 195 and 196, Docket #180 of the Police Court docket of the City of Alliance, Box Butte County, Nebraska," in witness whereof he sets his hand and seal.

This purports to be an amended complaint.

> "Before T. D. Roberts, Police Magistrate of the City of Alliance, Box Butte, Nebraska. For unlawful possession of intoxicating liquor.

(Testimony of Paul Crouch.)

"The complaint and information of L. M. Horton of Box Butte County aforesaid made in the name of the State of Nebraska before T. D. Roberts, Police Magistrate in and for the City of Allance, Box Butte County, Nebraska, this 1st day of December, 1926, who, being first duly sworn on his oath says that Mann Johnson on the 29th day of November, 1926, in the City of Alliance, Box Butte County, then and there being did then and there have in his possession in a place other than his private dwelling house intoxicating liquor consisting of one pint bottle of raw whisky commonly called moonshine for the purpose of unlawful use or disposition in violation of law contrary to the form of statutes in such cases made and provided and against the peace and dignity of the People of [2908] the State of Nebraska.

"Signed, M. L. Horton, Police.

"Subscribed in my presence and sworn to before me this 1st day of December. T. D. Roberts, Police Magistrate.

"Warrant issued for the arrest of said Mann Johnson and the same was delivered to Chief of Police L. M. Horton, who made return as follows: Received this writ December 1st, 1926, and I have arrested the within-named defendant and have his body now before the court. L. M. Horton, Chief of Police.

"The complaint was then read to defendant and he plead not guilty as charged in the com-

> plaint. The following proceedings were then had, to-wit: Attorney R. O. Reddish appeared for the State and Attorney E. H. Boyd for the defense. Harold Jeffryes was sworn and testified for the State, cross-examined by Boyd. L. M. Horton was sworn and testified for the State cross-examined by Boyd."

There there appears a list of costs, which total $8.95.

> "Defendant sworn and testified in his own behalf, cross-examined by Reddish. Mrs. Johnson sworn and testified for the defense. Case submitted to the court for consideration of the evidence. Submitted. I find defendant guilty as charged in complaint. It is therefore considered and adjudged by me that defendant pay a fine of $100 and costs taxed at $8.95, in default of payment of [2909] fine and costs defendant is committed to jail to work for the city until such fine and costs are paid or to be otherwise lawfull discharged."

A notation then shows that the fine was paid, $106 on December 11—apparently it was paid in installments—with $2.95 balance paid on January 7, 1927.

I offer that, if your Honor pleases, for the purpose of establishing that the offense alleged was a misdemeanor.

Now, with your Honor's permission, I would like to offer proof of the fact that the Mann Johnson

(Testimony of Paul Crouch.)

who was convicted of that misdemeanor, of the possession of liquor, was the same Mann Johnson who subsequently, on the 2nd of April, 1934, was shot and killed in the City of Alliance, Nebraska, by a woman who was exonerated by a coroner's jury on the ground that the killing was justifiable in self-defense.

I would like to prove, if your Honor pleases, also by the records of the State of Nebraska, Box Butte County, that Manning R. Johnson, the witness on this stand, was arrested in the City of Alliance, Nebraska, on the 23rd day of December, 1929; that he was then and there charged with the offense of fighting, which charge was dismissed on the same day by the court on the ground that he was acting in his own self-defense. I offer it for the purpose of showing, if your Honor please, by this record that on the 23rd day of December, 1929, when Manning R. Johnson, the witness here, was so arrested and released [2910] his age was 22, which is supported by his own sworn statement that he was born in the year 1907, which would make him 22 in the year 1929. [2910-A]

I offer the record of the State of Nebraska, Box Butte County, over the certificate of its chief of police, on the record of arrests of James Johnson in Alliance, Nebraska, this arrest having taken place on the 21st day of June, 1933, showing that James Johnson was aged 40, indicating, if Your Honor please, that if Manning R. Johnson, the witness, was 22 in 1929, he was obviously 26 in 1933,

(Testimony of Paul Crouch.)

and that the James Johnson, whose arrest record I have in front of me was at the time when the witness Manning Johnson was 26, was 40 years old, so that there is a difference of 14 years in the two persons.

I have also, if Your Honor please, two affidavits over the seal of the Clerk of the County Court of Box Butte County, Nebraska, briefly stated as follows:

> "Daniel O. Hoppes, being first duly sworn, upon his oath states that he is of lawful age and that he is now and has been for approximately ten years last past sheriff of Box Butte County, Nebraska; that he knows of his own personal knowledge that Man Johnson was arrested in November of 1926 in the City of Allaince, Box Butte County, Nebraska, upon the charge of possession of intoxicating liquor, and that on April 2nd, 1934, James Man Johnson was shot and killed at 101 Sweetwater Avenue in Alliance, Nebraska, and that said Man Johnson and said James Man Johnson were one and the same person, notwithstanding the discrepancy of name. Affiant further sayeth not." [2911]

That is signed and sworn to.

The second affidavit is that of F .M. Shelmadine:

> "F. M. Shelmadine, being first duly sworn, upon his oath states that he is of lawful age and that he is now and has been for approxi-

(Testimony of Paul Crouch.)

> mately 16 years last past, deputy sheriff of Box Butte County, Nebraska; that he has read the foregoing affidavit of Daniel O. Hoppes, and that he knows of his own personal knowledge all of the facts set forth in said affidavit and that all of said facts are true and correct, and he makes oath to them as fully and completely as though they were again set out in full over his signature. Affiant further sayeth not."

Signed and sworn to.

I have what I shall not trouble Your Honor by reading in addition, a certified copy of a report of the coroner's inquest in the State of Nebraska, Box Butte County, held over the body of James Johnson, found dead over a gunshot wound at 101 Sweetwater Avenue, Alliance, Nebraska, at 8:00 o'clock p.m., April 2nd, 1934.

I have also, if Your Honor please, two statements which were certified to by the editor of the Alliance Times & Herald swearing that the above articles were taken from the newspapers current at the time in Alliance, Nebraska, in support of the matters I have heretofore called to Your Honor's attention. I therefore respectfully say to Your Honor that the [2912] question No. 1 asked of the witness Manning R. Johnson:

"Isn't it a fact that you were convincted of a felony at such and such a time," and more particularly with reference to a later question asking if it were not a fact that Mr. Manning R. Johnson,

(Testimony of Paul Crouch.)

the witness, had in fact been operating as a bootlegger in his place of business, should not have been asked of the witness because, as a matter of fact and as a matter of law, the defendant Manning R. Johnson has never been convicted of any offense, felony or misdemeanor. As a matter of fact and law, the person whose identity appeared in the telegram which was the basis for Mr. MacInnis asking the questions in the first place is a person now deceased, and obviously therefore could not be the witness Manning R. Johnson, and therefore I renew my motion and ask Your Honor to instruct the jury that the question with respect to the conviction of Manning R. Johnson, and any answer that may have been made to at least one of those questions be stricken from the record, and that Your Honor instruct the jury that the counsel for the defendant has failed to produce any evidence establishing the fact that he had heretofore in his possession evidence tending to show that the witness had been heretofore convicted of a felony.

The Court: Do you have the page of the transcript where those matters appear, counsel?

Mr. Donohue: I think I have them marked, yes, Your Honor.

The Court: Page 2462. I have one reference wherein you [2913] said:

> "I assume counsel will present a certfiied copy of the record which purports to show a conviction of a felony on the part of this witness for the purpose of impeachment, because

(Testimony of Paul Crouch.)

> I am sure he would not ask that question unless he had such positive proof."

Mr. MacInnis said:

> "You may well be sure of that."

That appears at 2462, lines 12 to 17.

But I do not have the precise page where the question appears, the matter to which you objected.

Mr. Donohue: Page 2462, line 8.

The Court: Yes, I have it.

> "I now ask you this question, Mr. Johnson: Have you stopped practicing deceit?"

The question starts: "Very well. Now, in relation to that statement——"

Mr. Donohue: On page 2463 this question was asked of the witness:

> "Now, actually your occupation at that time was that of a bootlegger in connection with a pool hall, is that not true?"

and again on page 2464:——

The Court: I sustained the objection.

Mr. Donohue: Yes, Your Honor. [2914]

The Court: Mr. MacInnis said, "I am about to come to that."

Mr. Donohue: Then on page 2464, if your Honor please, line 10, question by Mr. MacInnis:

> "Mr. Johnson, on the first day of December, 1926, in Alliance, Nebraska, were you found guilty of possession of intoxicating liquor?"

To which objection was made and subsequent Mr.

(Testimony of Paul Crouch.)

MacInnis said—I objected, if your Honor please. "That is not the question he asked a minute ago. He asked him a minute ago if he had been convicted of a felony.

"The Court: That is right.

"Mr. MacInnis: That is a felony, your Honor.

"Mr. Donohue: I hope he is prepared to prove that possession of intoxicating liquor is a felony.

"Mr. MacInnis: Yes. I have the certified copy on its way from Alliance, Nebraska. I have a wire from the chief of police of that city in my hands. I will show it to the Court."

The Court: The several documents from which you have read and to which you have referred may be received in support of your motion, all and singular.

Mr. MacInnis: Pardon me just a moment before your Honor makes that ruling.

The Court: I say that they may be received in support of [2915] his motion

Mr. MacInnis: I think, your Honor, you can not receive hearsay evidence in support of any motion. The rule is different, of course, with regards to certified copies.

Mr. Donohue: I was only carrying the burden for him. This was his responsibility.

Mr. MacInnis: I appreciate you have been very helpful. You have delved into the stormy history

(Testimony of Paul Crouch.)

of this Johnson family in Alliance and found that this Manning Johnson was arrested for fighting and not bootlegging. But that does not settle the matter. Have you finished?

Mr. Donohue: Yes.

Mr. MacInnis: May it please the Court, in the first place, I think that your Honor can not be persuaded into making a ruling in this matter by documents which are still hearsay documents, however validly or however diligently they may have been procured.

The Court: Mr. MacInnis, one interruption. Do you dispute any or all of the documents proffered to the Court by Mr. Donohue?

Mr. MacInnis: I haven't any knowledge one way or the other.

The Court: Do you have in your possession any document in a comparable sense verifying anything you have said?

Mr. MacInnis: Verifying anything he said? I have the same [2916] certified copy of the record that Mr. Donohue read to the Court. That is the same certified copy of the record of the people of the State of Nebraska v. Man Johnson, which he has read to you. I do not have the affidavits. I have never heard of the persons who executed them, and of course, I have never heard of this other Johnson, whom we are now told was killed in some dispute, taking him out of the purview of this case. I have not heard of those things. But the question, it ap-

(Testimony of Paul Crouch.)

pears to me, your Honor, is much more one of law than of fact.

The Court: First, counsel, if I may interrupt you momentarily, departing from any proposed question of law, if in fact Man Johnson was convicted of a misdemeanor, about which you sought to impeach the witness Manning Johnson—

Mr. MacInnis: Pardon me. That is assuming it is a misdemeanor.

The Court: Let us assume that—

Mr. MacInnis: I do not assume that.

The Court: Let us assume for the purpose of this record if in fact Man Johnson is dead, there is no matter of law before the Court.

Mr. MacInnis: You can not proceed by that rule, your Honor. Under the doctrine of Idem Sonans in the Law of Evidence, the similarity of names presumes the identity of persons. The witness thereupon may be confronted with a certified copy and the witness may then have the opportunity of saying. [2917] "No, that is not I. I was not the person involved." That is a matter of fact. And that is what the law is. In other words, if that were the law in any matter of cross-examination involving a contradiction of any kind, there would be a hearing in the absence of the jury, in which the prosecution would present proof in advance so that questions it would seek to elicit in contrariety of the evidence would never be uttered in the presence of the jury. It seems to me, if it please your Honor, there is a deeper problem before you concerning the propriety of these questions on cross-examination. I have no dispute at all with what has been offered you as the historical enumeration of these affairs. When the witness took the stand, we thought it was to inquire in the city of Alliance, Nebraska, to see if he had ever been convicted of crime. A telephone call was placed to the chief of police of that city. The telephone call led to the information and the wire which has been read. I see that the chief of police of Alliance, Nebraska, has furnished the prosecutor with copies of those communications. He, however, has not furnished us with copies of the other documents which apparently have been transmitted to the prosecutor.

Now, at the outset of his statement before, your Honor, Mr. Donohue had stated that I had transgressed the law in some way by telling your Honor that under the state law this crime was a misdemeanor, but that under the federal law it [2918] would be a felony, and he then said he proposed to show you the federal code, to show that that crime was not a felony under the federal law. That statement, if the Court please—and I do not mean to be insulting our adversary, the prosecutor in this case—demonstrates that he does not appreciate at all the distinction between a misdemeanor and a felony in the federal practice, because what I mean is this: This is a very common example: Let us suppose that in our state courts here in San Francisco a man is prosecuted for the charge of, let us say, possession of a narcotic, which is a felony under

(Testimony of Paul Crouch.)

the law. Let us suppose that he is found guilty, but it being his first offense, he is then given six months in the county jail. Under the state practice he has been convicted of a misdemeanor, and if he is ever involved in litigation in the state courts thereafter, that matter can not be intruded against him as a matter of impeachment. On the other hand, if that same man who served the six months in jail comes into federal court in any matter, he can then be impeached by saying that he was in fact convicted of a felony, and that is the distinction I mean—not the federal code on the possession of alcoholic liquors, but the federal code in respect to what is a felony and what is not a felony.

Now, here is the federal code. Title 18, United States Code, Section 541, provides:

> "All offenses which may be punished by death or imprisonment [2919] for a term exceeding one year, shall be deemed felonies. All other offenses shall be deemed misdemeanors."

In other words, under the Federal Code and under the cases supporting it, if an offense itself in the language of the statute, is one which may be punished by more than one year, then the offense is a felony in federal court contemplation even if the man pays a fine, is given probation or serves a short term in jail. The matter still remains a felony. Now, how do we determine whether or not the offense of possession of alcoholic liquors in the State of Nebraska on December 1st, 1926, is a misdemeanor or a felony? Well, we find that out by going

(Testimony of Paul Crouch.)

to the Nebraska law. Yesterday when the matter came up, counsel indicated that he, like myself, had received this certified copy of the record, and I then said to your Honor I wanted some time to look into the Nebraska law, because this certified copy of the conviction is silent on the name or designation of the statute involved. It does not say, "Violation of Statute No. such-and-such" or anything of the sort. Because the statute involved is not known, we are thrown back upon a search of what the Nebraska law was at that time. Now, we find from the Nebraska statutes as follows: Statutes of Nebraska, November 1st, 1926. We are referred to the laws of Nebraska, Volume 1919 to 1921, page 638 to 648. We find that chapter 156 of that law was approved by the Nebraska legislature April 18th, 1921. We are then referred to section [2920] 56 of that law at page 647, and then we come to the offense, "Possession of alcoholic liquors." Possession of alcoholic liquors is under three prohibitive sections in very similar language. Two of the sections are said to be misdemeanors by the punishment which follows the description words, and the third is said to be a felony. Now, the law and its violation, apparently in the discretion in the trier of the facts, can be a misdemeanor or a felony.

We are offered this morning a further suggestion by Mr. Donohue, who has wired the Attorney General of Nebraska apparently. He says from the Attorney General he has the information that the first or second offenses under the Nebraska law at that time would be considered misdemeanors and, however, a third or fourth offense would be a felony. Would we be precluded, your Honor, from asking this witness whether or not this was the first, the second or the third offense? How could the rights of cross-examination thus be restricted? So, as I say, I do not know about this——

The Court: Do you propose to exhume the body of Man Johnson?

Mr. MacInnis: I have heard, your Honor, that Mr. Donohue has such information.

The Court: How do you propose to place this superstructure of misdemeanors over a dead man?

Mr. MacInnis: You are accepting the fact that there is a [2921] dead man.

The Court: I would say to you, Mr. MacInnis, in the kindliest way, that the evidence elicited from the affidavit presents a rather complete and clear chain of events, pointing to the death of the unfortunate Man Johnson. Otherwise we would be dealing in abstract sophistry.

Mr. MacInnis: May I say something in the kindliest sort of way? If I may say this to your Honor by way of analogy to a problem which I think will intrude itself before you in much the same light, the converse of the same problem. We have a man on the witness stand now named Crouch. Mr. Crouch was courtmartialed and sentenced to 40 years of hard labor He was asked the question himself yesterday,

"You were convicted of a felony,"

(Testimony of Paul Crouch.)

and as loudly as he could he cried out, "No, I wasn't convicted of a felony," or words to that effect. Now, I didn't see Mr. Donohue rise to correct the witness at that time, although I know that was a felony, and I know under the Federal Rules that was a felony. I know it from no better authority than the United States Attorney in this district who presented the problem to me in a very recent case, which I tried in the court upstairs before his Honor Judge George Sweeney of Boston, who sat here in the early fall of this year. In that case there was involved a defendant, who, while serving as a major in the army, had been courtmartialed. The penalty on him was no fine, [2922] no imprisonment, no anything else, merely his commission was taken away from him. The United States Attorney in this District asked the man, "Have you been convicted of a felony?" He said, "Why, no, I never have. I have never been arrested before."

The cross-examiner, who was the very able Mr. Joseph Karesh of this office, said to him, "Why, Mr. So-and-so you were courtmartialed in the army, weren't you?" He said, "Why, yes, that is true. My commission was taken away from me."

The following day Mr. Karesh brought into court a certified copy of the court martial and he brought along with that the citation of the Federal Code, which I have already read to your Honor. Title 18, U. S. Code, Section 541, does provide:

"All offenses which may be punished by death

(Testimony of Paul Crouch.)

> or imprisonment for a term exceeding one year shall be deemed felonies."

He then turned to the section of our Federal Code discussing court martials, in which penalties may be from the lightest reprimand up to the heaviest, life imprisonment, and pointed out both under the code and under the law applicable that a court martial sentence amounted to a conviction of a felony under the federal law, and there was no answer to it, no answer at all. So I say this, your Honor, regardless of the question as to whether or not this man Johnson is dead or alive, in the first place, I had a perfect right to ask the question. I do not apologize for it. I would do it again. [2923] I would do it again in the same way. If I had a witness on the stand as we had on this occasion, I would endeavor, as we are doing as diligently as we can, to find out all the information that may exist about those persons, and if we find by telegram, as we did here, under virtually identical names, identical race, as these certified copies show, that that conviction existed, why, as I say, we would do the same thing. If your Honor comes to the conclusion that the evidence shows that these were different men, I suppose your Honor would have to instruct the jury to disregard the asking of the question, but in the same breath I think your Honor must instruct the jury that the witness Paul Crouch has been convicted of a felony and must be subject to the same limitations in the reception of his testimony which are applied to any person who has been convicted of a felony.

(Testimony of Paul Crouch.)

The Court: We are dealing now with Manning Johnson.

Mr. Donohue: May I be heard briefly on this question of Manning Johnson?

The Court: Mr. MacInnis, one other interruption. As I understand the basis or bases of your remarks, do you depart or assume to depart from the first premise that must be established in the impeachment of a witness for possible conviction of a felony? The first premise we must meet is the identity of the individual. Now, you depart from that entirely in your argument. [2924]

Mr. MacInnis: May we stop there for a moment?

The Court: Yes. Where is the identity of Man Johnson and Manning Johnson? It appears from the evidence also that the two parties are diverse and are not one and the same. Have you any evidence to offer to this Court that Manning Johnson, the person on the stand, is or was the man Man Johnson referred to in the report?

Mr. MacInnis: I have not, but under the law the burden is upon the person who claims the false identity to show that.

Mr. Donohue: That is double talk, if your Honor please.

Mr. MacInnis: Just a moment, if your Honor please.

Mr. Donohue: You have been talking quite some time.

Mr. MacInnis: If you will. Let us assume the witness is on the stand, your Honor, and let us

(Testimony of Paul Crouch.)

assume I had more than one day's intervening time to get this record. Suppose I had more than a telegram.

The Court: There has been more than one day. It has been quite a few days.

Mr. MacInnis: I mean the day I asked him the question, Judge. I think we understand that. The witness is on the stand, and I take out of my pocket this certified copy, which seems to be the source of so much difficulty in the matter, and I say to him, "Now, Mr. Johnson, you have been convicted of a felony," and he says, "I have not." I say, "All right," and I hand a certified copy to the Clerk and I say, "There. Weren't [2925] you convicted of this felony on the first day of September, 1926?"

Then the man says, "That is not myself." Then a colloquy follows, probably an argument, but the right to ask the question is not destroyed. There is no intervening procedure in which I must find out if some other person bearing a similar name is one or if someone is dead.

Mr. Donohue: The burden then becomes his in that very instance, if the witness denies that conviction; it is then the duty of the person who asked the question to prove that he is or was the person so convicted, and that is the duty which Mr. MacInnis undertook when he asked that question. Now, it is all right for him to say he would ask the same question again. I suppose he means to include the question, "'Were you not acting as a bootlegger?" It was improper on several bases.

Mr. MacInnis: I will come to that.

Mr. Donohue: Pardon me, just a minute. First is the question of identity of names, and there is not any such identity. The second is identity of persons. The burden is on him to prove it. I have sought to prove that they were not, but we can not depart from the fundamental question: Was the conviction for the possession of alcoholic beverages in the State of Nebraska on the date in question a felony or a misdemeanor? I have listened to tortured legal arguments all my life, but I [2926] have never heard one more tortured than by a lawyer who will not distinguish between a first conviction for possession of intoxicating liquor, a second offense, a third or subsequent offenses, because every lawyer knows that there is as much difference between a first offense of possession of intoxicating liquor and a second offense as there is between robbery and arson. They are two totally distinct offenses, requiring two totally distinct methods of proof, and they are subject to two entirely different penalties. There can be no question, legally, morally or factually, that the offense in question was a misdemeanor, and Mr. MacInnis should have found that out before he asked the question.

Mr. MacInnis: May I say this, your Honor: Aside from the fact that the prohibition practice was a little before my time, I can only look at the statutes. Let us go along with Mr. Donohue on what he says with respect to the contents of a telegram from the Attorney General of Nebraska, pointing

(Testimony of Paul Crouch.)

out this distinction of first offense, second offense and third offense. Would I be precluded as a cross-examiner from asking the witness on the stand if it was his first offense, second offense or third offense?

Mr. Donohue: The record proves it, Mr. MacInnis. You have the certified record. He was convicted of possession. Does it say first possession?

Mr. MacInnis: The record is negative on that point. I am [2927] not bound by that.

Mr. Donohue: The record is not negative.

The Court: What does the record show on that?

Mr. MacInnis: May I hand this to your Honor through Mr. Mitchell?

The Court: You may state it.

Mr. MacInnis: The record shows nothing as to whether it is a first offense, second offense or third offense. I just do not see what the difficulty is. If we are wrong as a matter of fact, the witness can tell us that. The witness may say, "This is not myself." He may say that. But we are not required before we may ask the question to eliminate everybody with a similar name in the State of Nebraska or everyone in the town of Alliance. That would make an impossible burden.

Mr. Hallinan: May I say this: Regardless of what your ruling may be on this particular matter, regardless of whether your Honor is ready to rule on the matter of Manning Johnson, we have some further matters with respect to that witness and we would like to have an opportunity to further examine him.

(Testimony of Paul Crouch.)

The Court: When you speak of matters, is it on this point?

Mr. Hallinan: No, not on this point.

The Court: The matter may be submitted?

Mr. MacInnis: Yes.

The Court: Submitted, Mr. Donohue?

Mr. Donohue: Yes, your Honor. [2928]

The Court: On the particular motion presented by Mr. Donohue, the Court is now advised, through the medium of affidavits and evidence presented by the prosecution, no evidence having been presented by defense counsel, that is, in a documentary sense, that, first, the offense referred to in connection with the conviction of a Man Johnson was a misdemeanor; secondly, the Court infers from the chronology and chain of events set forth and depicted in the communications as well as the affidavits presented to the Court, no opposition having been presented thereto by defense counsel, that the Man Johnson referred to in the telegram received by Mr. MacInnis, upon which he predicated his questions seeking to impeach the witness Manning Johnson, that the said Man Johnson appears to have been shot under circumstances related in the affidavit. He is now deceased, and that the Man Johnson referred to is not Manning Johnson, the witness in this case. It becomes unnecessary, however, to make a formal finding as to the death of Man Johnson because I believe assuming we were not confronted with that particular factor of death, nevertheless the record discloses fully, fairly and convincingly that the crime was at all times mentioned a misdemeanor. Accordingly, the Court will appropriately instruct the jury concerning the questions asked and given an appropriate admonition.

We will not resume at 2:00 o'clock, unless there be something further. [2929]

You asked for the return of Manning Johnson.

Mr. MacInnis: Yes, your Honor.

Mr. Hallinan: That is, we will need him for some further questions after this witness is closed.

The Court: I indicated to you that you might send for the transcript in the Eisler case.

Mr. Hallinan: That is one thing. There is another matter.

Mr. Donohue: Now, if your Honor please, as I stated before, he has a wife in New York who is ill.

Mr. Hallinan: We will be through anyhow by tomorrow; it wouldn't be more than one extra day at the most.

Mr. Donohue: We will have him here.

The Court: 2:00 o'clock.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [2930]

December 20, 1949, 2 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Paul Crouch, heretofore sworn.

Mr. Hallinan: If the Court please, at this time

(Testimony of Paul Crouch.)

I am required by a rule that you will be familiar with to make a momentary interruption in this cross-examination. We have conclusive proof in the court here, documentary and oral, that this witness and the preceding witness, Manning Johnson, have committed deliberate perjury. On June 27, 1936, the Saturday at which they testified Mr. Bridges was elected to and appeared before the National Committee in New York, Mr. Bridges made a speech in Stockton, California, which was widely advertised, both in the local papers of Stockton and in the trade reports.

Now, I have here, if the Court please, certain documents and certain oral information which I wish to convey to the Court, to the effect that these gentlemen be ordered by the Court held for the grand jury for perjury and placed in the custody of the United States marshal and that they be not permitted to escape the jurisdiction of the Court.

On Saturday, June 27, 1936, the Stockton Record——.

Mr. Hallinan: Saturday, June 27, 1936. [2931]

Mr. Donohue: If it please your Honor, I think in all propriety that if Mr. Hallinan has a motion of this kind, it should be called to the attention of your Honor not in the presence of the jury.

Mr. Hallinan: Well, we want to do this, your Honor. We are willing, the order of proof is within the discretion of the Court, and we are willing that a brief recess in the prosecution, and we can put Mr. Bridges on the stand, and the witnesses who

(Testimony of Paul Crouch.)

were present at the meeting with them. We have six of them. It will be substantiated by documentary proof, and we are willing to put them on in the presence of the jury and have that also introduced as part of the case. Now, I know that it is customary, the custom seems to have grown up, to occasionally exclude jurors when legal matters are being discussed. But it is a new practice, it isn't a necessary one; while we make no objection to it, we think the jury should hear the matter. We would prefer to have the jury hear it.

Mr. McMillan: That is an independent matter.

Mr. Donohue: Of course, your Honor——

Mr. Hallinan: Of course, the main, the principal purpose, as I say, your Honor, is this: My understanding of the law is that as soon as counsel, as an officer of the court, becomes aware of a situation such as exists here, it is his obligation to forthwith call it to the attention of the Court, and he is remiss in his duty if he waits or if he continues on with some [2932] examination without allowing the Court to know that. Now, we can show the Court, as I say, conclusively, that these two men have testified falsely in this matter. We have this concern: the testimony or the cross-examination of this witness is almost concluded. The United States Attorney, being in charge of this prosecution, will, we esteem, neglect or refuse to present this matter to the grand jury. We have the case in which Johnson's intimate, George Hewitt, in Washington, testified falsely

(Testimony of Paul Crouch.)

against a professor up there. The grand jury indicted him——

Mr. Donohue: That is not true, if your Honor pleases, and Mr. Hallinan ought to know it.

Mr. Hallinan: The man is now a fugitive from justice in the State of Washington, with a warrant for his arrest. And I think he has been protected in New York.

Mr. Donohue: I challenge that statement, if your Honor pleases.

The Court: Mr. Donohue, and Mr. Hallinan, may I interrupt both of you momentarily?

Mr. Hallinan: Surely, your Honor.

The Court: I, of course, Mr. Hallinan, can not predict what may eventuate in the light of your disclosure to the Court. As you say, you make it promptly as, according to your view of the matter, it behooves you to make it. Now, that being so, traditionally in these courts, as well as in state [2933] courts, where matters of this character have been suggested to the court by counsel on either side, particularly as drastic a matter as this, until a solution has been reached, to the end that no possible prejudice results to either party, I think that in the exercise of discretion, the jury should be excused. Accordingly, I shall excuse the jury until I hear this matter out to its fullest extent.

Mr. Hallinan: Might I ask this, your Honor, that this witness and the witness Johnson——

The Court: This, of course, is not on the part of the Court, ladies and gentlemen of the jury, to

(Testimony of Paul Crouch.)

exclude you from any matters that ordinarily would obtain in your final determinations. Rather, there may well be legal matters to thresh out, there may be a myriad of things to encounter, and I trust that you will bear with the Court, as well as counsel, in a consideration of this rather startling disclosure. Accordingly, ladies and gentlemen, I ask you to retire until the matter is heard out by the Court, with the same admonition to you, not to discuss the case or any phase of it.

> (Whereupon the jury retired from the courtroom, and the following was heard outside the presence of the jury:)

The Court: You might step down. Take a seat in the body of the courtroom.

> (Witness on the stand left the witness stand and assumed a chair in the body of the courtroom.) [2934]

Mr. Hallinan: And might it be understood, your Honor, that the witness and the witness Johnson will be in such position that they will not leave the control of the Court?

The Court: That is the order.

Mr. Hallinan: Now, Mr. Bridges, will you take the stand?

Mr. Donohue: No, no; I must interrupt at this time, if your Honor pleases.

The Court: Now, Mr. Hallinan, may I ask you to delineate for the Court a little more particularly?

Mr. Hallinan: Very well. Take a seat, if you will.

Now here is what we have, Judge. On the airplane schedules to New York as of that time, they consumed at the fastest 17 hours from San Francisco to Newark, and then let us say an hour or so to get into New York. Now, this witness has testified unequivocally and Johnson has testified without fixing the exact date, but fixing the circumstances which involved the——

The Court: Now let us take this witness.

Mr. Hallinan: Yes.

The Court: You say he has testified unequivocally?

Mr. Hallinan: Yes, he said this:——.

The Court: Will you point to the page and the line, please, wherein he so testified?

Mr. Hallinan: Well, I haven't it right here. Here is what he said. I think you will bear me out. He said that the last business of the convention of 1936, as in all conventions, [2935] is the election of committees and the election of committees and the election of the National Committee was the last act of the 1936 convention, preceding the mass meeting in Madison Square Garden. Then he attended the convention, and that Harry Bridges was elected under the name of Rossi. That Mr. Bridges appeared and was introduced by Mr. Stachel, who said that "Now you have seen Comrade Rossi, we will not bring him back here again." All right, as fixing the date, he——

The Court: Well, just a moment, Mr. Hallinan. I can't recall that particular testimony.

Mr. Hallinan: Well, I didn't bring the testimony down with me.

The Court: In such an important matter, when charges of this nature are made, it would seem to me that you would have the page reference and the line reference.

Mr. Hallinan: Well, I should.

Mr. MacInnis: We will have that in a matter of minutes, your Honor.

The Court: Well, I should like to have, rather than these generalities, the page and the reference, the time and the place and the record of where these statements are made. These are very drastic, startling charges, and I think you should fortify them page for page and line for line.

Mr. Hallinan: Very well, your Honor.

Mr. MacInnis: We haven't the volume, but we will have it [2936] here within five minutes, your Honor.

The Court: Within five minutes? We will pass the matter for five minutes until we have this transcript before me. I certainly would not assume to now recall in its minutest detail every phase of the testimony of this man or any other witness.

Mr. Hallinan: Might I suggest this, your Honor, that he said that that convention, that election, might have taken place on either of these three times.

The Court: He challenged the newspapers, he said that the newspaper had set the matter back. He challenged the newspaper on that.

Mr. Hallinan: No. But as far as the time of the convention is concerned, he said that the election of this National Committee and the introduction of Mr. Bridges took place on either Friday afternoon, Friday evening or Saturday morning. That would be on the afternoon or evening of Friday, June 26, or on the morning of Saturday, June—I am sorry; he said it took place on either the afternoon or evening of Saturday, June 27th, or on the morning of Sunday, June 28; that that was the necessary time, that it was one of these three times, the afternoon or evening of Saturday, June 27th, or the morning of Sunday, June 28th. Now he said that there might be some bare possibility, based upon human error, that it might have been one or two days after that. And I will cover that presently. [2937]

But so far as it was possible to state at all, he said it was Saturday afternoon or the evening, or Sunday morning. Now, aside from the inherent probability of it, and aside from his statement before the Un-American Activities Committee that he had never seen Bridges except in some public meetings, we have the physical impossibility that Harry Bridges could have been in New York on either Saturday, June 27th, or Sunday, June 28th. Now, we can show beyond any question of a doubt, if the Court please, that on Saturday, June the ~~28th, at about~~ the hour of 8:00 o'clock p.m., he made a speech before a union in Stockton, June 27th. That was advertised in the paper, that the statement of it having been made appears afterward, that in one of the papers even part of the context of his speech appears. Now, he went to Sacramento—and this is borne out by the newspaper item—with two men, one of whom was Henry Schmidt. Now, it will not be pretended that this was looking forward, in advance.

In the issue of Saturday, June 27, 1936, of the Stockton Record, there is a heading, "Harry Bridges will address Stockton ILA meeting. Harry Bridges, militant maritime labor leader and president of the San Francisco local of the International Longshoremen's Association, will address Stockton members of the association tonight at a meeting in Teamsters Hall, 421 East Minor Avenue, at 7:30 o'clock. Bridges is waging a campaign for the Pacific Coast presidency of the ILA. [2938] Other ILA officers and candidates for district offices to be heard will include Henry Schmidt, member of the executive board of the San Francisco local; Eugene Dietrich and Henry Schrimpf, members of the executive board of the Maritime Federation of the Pacific, leftwing organization of waterfront workers. Walter Mahaffey, business agent for the Stockton ILA, this afternoon urged all members possible to attend the meeting."

Now, in the Pacific Coast Longshoreman of Monday, July 6th, the following news item appears:

> "Bridges and Schmidt at Stockton."

Now, this is after the meeting, Judge.

> "The ILA locals of longshoremen, bargemen, warehousemen and clerks of Stockton have made arrangements for a mass meeting of their membership, and invited Bridges and Schmidt

to make a report on the convention of the Maritime Federation held at San Pedro, at which both were delegates. The Stockton locals having no delegates at the convention except the first two days, transferred their representative voting strength to Bridges and Schmidt, to be used in the best interests of the Stockton locals.

"Their advice to the men to vote 'yes' on all questions on the federation ballot was accepted and their report on the convention was unanimously endorsed.

"Especially the remarks of Bridges were received with [2939] enthusiasm by the men. He spoke for nearly one and a half hours, going into the history of the movement that was just started by the ILA in June, 1935, spoke on the different phases and angles of the great 1934 strike. He made it plain that the maritime workers must be constantly on the alert and ready to combat the organized forces of the employers. There is no doubt, said Bridges, that the organized employers of the United States are always watching and plotting to destroy the organizations of the maritime workers on the Pacific Coast. We are one of the leading bodies of workers' organizations in the United States of America; have gained much in the way of improvement of our economic conditions, and although we can not solve the unemployment problems of the people by getting them work on the waterfront, we can not afford to isolate ourselves from workers in other industries. Their problems are our problems. The workers must use their political power as well as their economic power in the struggle of solving the unemployment problem. It behooves the maritime workers to interest themselves in the welfare of less fortunate members of the working class. By using our political power, organizing a worker-political party, we can elect honest workers' representatives to the state legislature, municipality and Congress, et cetera, representatives who will fight to pass legislation beneficial [2940] to the workers. The employers are organized on the political field and make the most of it to get legislation beneficial to themselves passed. For example, the recent passage of the Copeland Bill (Fink Book). The workers must follow their example, was Bridges' advice.

"Just before adjournment the mass meeting secretary, Walter Mahaffey of Stockton longshoremen invited Bridges to be the chief guest speaker at the Stockton Labor Day celebration. He was unable to definitely accept this invitation, inasmuch as the San Francisco local may demand his presence on Labor Day."

We have a statement from five members of the Stockton local in connection with the meeting. And the importance of Bridges having attended there and spoken at that meeting impressed itself on their minds, so that refreshing their minds by newspaper items, the records of the organization, they were able to give this statement:

"We, the undersigned, members formerly of Stockton longshore local 38-93, recall the following incidents as occurring in May and June, 1936.

"During May, 1936, the delegates to the ILA convention in San Pedro from our local were Mike Silk and Walter Mahaffey. On May 21, 1936, a special meeting was held to decide whether Mahaffey should stay in San Pedro as the local's delegate to the Maritime Federation of the Pacific [2941] convention. After considerable discussion and a report by Silk on the ILA convention, a motion was made by Silk, seconded by A. Pope, and carried by voice vote, that we send a night letter to Mahaffey instructing him to give his proxy to the San Francisco Local 38-79 and return to Stockton immediately. Mahaffey complied with our instructions.

"After the M.F.P. convention was over, Mike Silk invited Harry Bridges to address and report to the Stockton local on the convention.

"This meeting was arranged for June 27, 1936, at 7:30 p.m. at the Teamsters Hall, 421 East Minor Street, in Stockton. Bridges arrived shortly after 7:30 p.m. that night, accompanied by Henry Schmidt and William Christensen, and all three men spoke, with Bridges making the major report of about two hours long. Several hundred men belonging to the longshores, warehouse and bargemen's union, also clerks, were present.'

"After the meeting, which ended at about

10:30 p.m., several of us went with Bridges and Schmidt to Matteoni's Night Club, California and Minor Streets, for drinks. We talked and drank until about midnight, and then we went home and we think Bridges and his friends went back to San Francisco.

"The above statement has been read by us and it is [2942] the truth to the best of our recollection."

"James Shuffler, Louis N. Devonshire, Barth Woods, Gerald C. McDonnell, F. Jaworski."

The man who drove up with Mr. Bridges, and who is mentioned in one of these news items, is available and we have sent to produce him in court. Now, at that time the Federation put out a paper called The Voice of the Federation. In the issue of Thursday, July 2nd, the meeting that I have just described is discussed:

"Bridges and Schmidt at Stockton. The ILA locals of Longshoremen, Bargemen, Warehousemen and Clerks of Stockton, made arrangements for a mass meeting of their membership and invited Bridges and Schmidt to make a report on the convention of the Maritime Federation held at San Pedro, at which both were delegates. The Stockton locals having no delegates at the convention, except the first two days, transferred their representatives' voting strength to Bridges and Schmidt, to be used in the best interests of the Stockton locals."

Well, then follows practically what was contained in the other article, including the statements by Mr. Bridges. There are excerpts from him, and including the statement that he was invited by Mr. Mahaffey to address the forthcoming Labor Day celebration.

The man who drove off with him and who drove the automobile, [2943] William Christensen, gives this statement. He is available.

> "My name is William Henrik Christensen.
>
> "In June of 1936 I was a member of ILA Local 38-79, and a member of the Board of Trustees of that local; also a delegate to the San Francisco Labor Council from that local.
>
> "Some time one or two days before June 27, 1936, Henry Schmidt arranged for me to drive him and Harry Bridges from San Francisco to Stockton for a meeting which Bridges was to address on June 27, 1936.
>
> "I was at the union hall during the morning of Saturday, June 27, 1936, where I saw Bridges and Schmidt, and we all left for Stockton in my car about 2:00 or 2:30 p.m."
>
> "Then the three of us went to the offices of the Stockton Longshore Local and met Walter Mahaffey, the business agent of the Stockton Longshoremen. We went to dinner with Mahaffey and then in Mahaffey's company we went to the union meeting at about 7:30 p.m. The members were already gathered, and a little while after we arrived the meeting began. Both Schmidt and I were introduced and said a few words to the membership. Bridges was intro-

duced and made the main talk of the evening, which dealt, among other things, with a report by him on the recently concluded maritime federation convention. He made a long report which took about one and a half to two [2944] hours to deliver.

"After the meeting was over, several of the Stockton men took Bridges, Schmidt and myself to a night club in Stockton where we had a few drinks and talked for probably a couple of hours.

"Bridges, Schmidt and I left Stockton some time after midnight and commenced to drive back to the Bay Area. On the way back we had with us a man called 'Sailor Jack Reilly.' I can't remember whether we picked him up in Stockton or whether he drove up to Stockton with us, but I do remember he was with me on the trip back.

"We got into Oakland some time after 3:00 o'clock in the morning and Bridges and Schmidt and Reilly wanted to go directly to San Francisco, but since I lived in Albany, Alameda County, on the east side of the Bay, I insisted that the men come to my house and have some breakfast before we crossed the Bay. They came to my house and I remember they all sprawled out on the living room furniture and slept for a couple of hours. At about 6:00 o'clock Sunday morning, June 28th, 1936, we had breakfast. My wife Edna and my daughter Dorothy had breakfast with us.

"This was the first and only time that Bridges was ever in my house in the East Bay.

"After breakfast I drove Bridges, Schmidt and Reilly [2945] back to San Francisco. I think I dropped Reilly somewhere along the waterfront. I remember taking Bridges out to his house on Pine Street and leaving him off there. This was between 8:00 and 8:30 o'clock Sunday morning, June 28. I don't remember whether I took Schmidt on to his house or whether he got off somewhere and got a street car.

"This was the only meeting that I ever attended in Stockton with Harry Bridges."

Now, we have the day book of the Stockton Longshore Workers and Warehousemen's Union, and there is a payment here on May 29, "Cash, Hall, chairs and entertainment for Bridges meeting, $19.80." That is on June 29th of 1936.

I have a letter, a copy of a letter which Mr. Walter Mahaffey, who was then secretary of Local 3839 of the International Longshore Association at Stockton, California, sent under date of June 29th, the day after the meeting, to Mr. B. Mays, editor of The Voice of the Federation, 120 Golden Gate Avenue, San Francisco, California.

"At a special meeting Saturday night, June 27th, held in Teamsters Hall, the longshoremen, bargemen, warehousemen and ship's clerks were addressed by Brothers Harry Bridges, Henry Schmidt and William Christensen of

Local 3879. The speakers were very well received and the membership expressed themselves as desirous of having them back again as soon as possible. Brother Bridges was given an invitation to speak in Stockton on Labor Day, which we sincerely hope he accepts as this is to be the biggest celebration of Labor Day ever had in this city.

"Fraternally yours,

"WALTER MAHAFFEY,
"Secretary Local 3839,
"ILA, Stockton, Calif."

Now, we have here, your Honor, the minutes of a reconvened session of Local 3879, held in Scottish Rite Auditorium Monday, [2947] June 29, 1936, a continuance of the session held Monday, June 22, 1936.

"Meeting called to order by President Bridges at 8:15 p.m."

And the statements made, the discussion that took place, Mr. Bridges' leaving the chair and talking from the floor, are discussed in the minutes there, signed by Harry Bridges, president and chairman, and Ivan Cox as recording secretary.

On the following day, June 30, 1936, we have the minutes of a regular meeting of the San Francisco Bay Area District Council No. 2, held in Room F Ferry Building, San Francisco, California, on June 30, 1936, Chairman Harry Bridges, and Secretary Mervyn Rathborne, the brother-in-law of Krolek, who is one of the Government witnesses, signed by

Mervyn Rathborne, which discusses the holding of this meeting, Bridges' participation, Bridges again discussing matters from the floor and making the report, one that is not subject to any question or equivocation.

On the very next day, July 1, we have minutes of the Executive Committee of District Council No. 2 held in Room 729, 268 Market Street, on July 1, 1936, Chairman Harry Bridges, Secretary Mervyn Rathborne again.

We have minutes of the ILA Local 3879 Executive Board meeting Wednesday, July 1, 1936. Meeting called at 8:30 p.m. President Bridges read the minutes of the District Council [2948] setting forth the action to be done on July 5. They were going to hold a parade on July 5 of that year, and in these minutes are discussed preparations for that parade.

I have a news press release signed by Harry Bridges, which doesn't bear any date, but the internal evidence of which indicates it was issued on July 2, 1936. It refers to action taken by the Council on June 30 and speaks of the July 5 parade. It is headed, "For Friday's paper." Friday was July 3, so that the press release would have to be issued on July 2 or even July 1.

It is on the San Francisco Bay Area District Council No. 2 stationery. Heading, "Official Release by District Council No. 2 for Friday's papers."

> "On maritime memorial day, July 5, 17,000 members of San Francisco maritime unions

will pay tribute to the seven union men who were killed on the Pacific Coast during the maritime strike of 1934.

"The San Francisco Bay Area District Council of the Maritime Federation of the Pacific, at a regular meeting held on June 30, requested its 27 affiliated unions to take part in the observance of July 5. This day will be commemorated by a parade of several thousand seamen and longshoremen; a memorial meeting at Civic Center, and services at the graves of Nicholas Bordoise and Howard Sperry, two union members who were killed by police on a [2949] picket line at Mission and Steuart Streets on July 5, 1934.

"The line of March of the parade, which will begin at noon, will be on Market Street from the Ferry Building to the Civic Center. The memorial meeting will be held at 2:00 p.m. The spot where Sperry and Bordoise fell will be decorated and a guard of honor will be posted during the day.

"The San Francisco Bay Area District Council has invited trade unions and friends to organized labor to participate in the observance of July 5. Similar services will be held in Seattle, Portland and San Pedro.

"San Francisco Bay Area District Council No. 2."

Signed, "Harry Bridges, President," in his own handwriting, and the seal of the organization on it.

We have the minutes of the Labor Relations

Committee, an employer-employee body, for July 3 from 10 a.m. to 12:15 p.m., which show that Harry Bridges was present and participated in the discussion.

We have the minutes of the Executive Committee of District Council No. 2, which shows that Bridges was present in San Francisco on July 3, 1936, from 3:20 p.m. to 4:25 p.m., answering the roll call and taking part in the discussions, and this is again signed by Mervyn Rathborne.

We took the matter, so there can be no question, up to July 6, 1936, the last of these minutes that we have bothered [2950] to take in. The minutes of a regular meeting of Local 3879 held Monday, July 6, 1936, at Scottish Rite Auditorium, "Meeting called to order by President Bridges at 8:10 p.m.," and this is signed "Harry Bridges, President and Chairman," and signed by Ivan F. Cox, Recording Secretary.

Now, going back to the 22nd of July, which was the preceding Monday. You remember, your Honor, that the convention in New York——

The Court: The 22nd of July?

Mr. Hallinan: I beg your pardon.

The Court: You said the 22nd of July.

Mr. Hallinan: The 22nd of June. The convention in New York ended on the 28th—was held on the 25th, 26th, 27th and 28th.

The Court: June 24th to 28th.

Mr. Hallinan: 24th, 25th, 26th, 27th and 28th. Now, that meeting on the following Monday,—that would be on July 1 that I refer to here—I am not going to get that date wrong—yes, July 1st—stated that it was a meeting adjourned from the 22nd. Pardon me; June 29. It was a meeting held at the Scottish Rite Auditorium——

The Court: That was the following Monday?

Mr. Hallinan: Yes, on Monday, June 29, 1936, stated it was a continuance of the session held Monday, June 22, 1936.

Now, I have the minutes of Local 3879 for Monday, June 22, [2951] 1936. "Meeting called to order by President Bridges at 8:20 p.m.," and at the end, "The Chairman ordered that this meeting would be reconvened next Monday night to take up unfinished business. Meeting declared adjourned at 11:20 p.m."

I have the minutes of the San Francisco Bay Area District Council No. 2 of the Maritime Federation of the Pacific, which shows that Harry Bridges was in San Francisco on June 23, 1936, from 8:22 p.m. to 11:50 p.m., at which time a meeting was held, minutes of a regular meeting, Chairman Harry Bridges, Secretary Mervyn Rathborne, and showing the roll call of the persons present, the calling of the meeting to order, and signed by Mervyn Rathborne as secretary.

I have the minutes of a regular meeting of the Executive Board held Wednesday, June 24, 1936, at 9 p.m. "Meeting called to order by President Harry Bridges at 9:00 p.m.," and signed by Ivan F. Cox.

Now, the situation is this, your Honor: That the reason we are constrained, in addition to the ordinary matters, is that perjury is always held to be the severest affront to the dignity of the court that can be brought up.

The witnesses in this case are produced here by the United States Attorney's representatives and officers. It is not conceivable that they will themselves carry this matter before the Grand Jury or detain these witnesses for action by the Grand Jury.

I want to call your Honor's attention to a matter that has been adverted to in this case. A man named George Hewitt, a colored friend of Manning Johnson, appeared in the State of Washington before the Canwell Committee and testified that a certain professor in the University of Washington had attended a school in New York, during some short period. The professor dug up dental records, matters that he had attended, and so forth, not one-half as conclusive as this. The Grand Jury of Washington indicted Hewitt. He was placed on an airplane and escaped from the jurisdiction of the court and into the State of New York. Extradition papers were issued by the State of Washington, and the officials of the United States Government protected him.

They then brought in Johnson to testify for the first time now as a witness in New York on the extradition of Hewitt that he also had seen this professor at this school in New York during that period, and a nisi prius court in New York, a judge of an inferior court, refused to extradite Hewitt to the State of Washington, so that the efforts of that

State to extradite Hewitt have come to nothing.

Your Honor, we see here what I consider to be as remarkable a phenomenon in American jurisprudence as in the famous State trials of England when Pitt and the Whigs were trying to repress universal manhood suffrage in the prosecution and persecution of the Irish Rebels in the Rebellion of 1798, the [2953] English government maintaining a stable of professional witnesses, ten or twelve men, practiced, coached, erudite, well able to take care of themselves in any sort of discussion, and they were sent all over the country, through Ireland, through England, through Scotland, to send honest, decent people to the gallows or into exile or to prison. We have never seen that in the United States until the present time. But now, Judge, they have men like these fellows, Crouch, Johnson, Hewitt, and a half dozen other men, trained pet cobras who are maintained back in the Eastern part of the United States and sent into Washington, San Francisco, New Orleans and Hawaii, wherever it is desired to ruin some labor leader or to destroy some person. If the persons they were attacking were only these poor little Communists and ex-Communists that they have been going after, it wouldn't be so bad; but now they are union-smashing in San Francisco.

Your Honor, they are not going to do anything to put the brand upon their own tools and their own bloodhounds. If anything is going to be done to now arrest this, to now assert the dignity of the Court, it is up to you to do it.

We appeal to you now not to take any step against these men, but here is a matter that should be referred to the Grand Jury for immediate action. We ask that these men be committed to the custody of the Marshal. They can be released on bail, we don't care what the procedure may be, but we insist that [2954] for the proper dignity of this Court that action should be taken.

Now, your Honor, let me say this, and I say it in kindness to you and not by way of criticism: For what I think your Honor would admit was overzealousness on my part in representing my client, I am to be both imprisoned and disbarred. Here these men come in here and commit abject, flagrant, arrant perjury, bold-faced smiling, a grin on his face as he narrates the thing; the other man a black, foul hyena of Hell comes in here.

Your Honor, I met some years ago a fine little man named Marzani, an honest, decent little man employed by the United States Government who took a loyalty oath and then he was indicted by the Grand Jury for having committed perjury. It seemed to me a sad thing, and I thought, well, why didn't he tell the truth, and I so said to him. He said it was the truth, he was never a member of the Communist Party. Well, I just found out recently it was Manning Johnson that sent him up to the penitentiary where he is now.

How long are they going to get away with it? Is your Honor going to allow them to come in here and let them testify, and then just smirk and walk out and go on with the next victim, or is your

Honor going to rule for the dignity of the court of the United States and not only be a sword of justice but a shield of protection for innocent men that are going to be [2955] subjected to these things in the future?

We ask you, we beseech you to now take some action that will assure that this sort of procedure is arrested and that they cannot come in here and be caught in perjury, saying, "That is one of the men," and walk out and go on to the next victim.

As I said, your Honor, earlier, the schedule of the airlines, and the only airline that was running through at that time——

The Court: You said 17 hours.

Mr. Hallinan: Yes, 17 hours from San Francisco to Newark, but it would be impossible to come down from Stockton to San Francisco and then make it over any such period.

The Court: In 1936 they were flying Boeing planes then. I flew them.

Mr. Hallinan: That is right.

I offer all these documents to the Court. Well, of course, what I can say is only advisory. I am not in a position to make a motion. It is only a matter addressed to the Court's honor and to the Court's dignity, that the proper procedure be taken at this time to see that this matter is referred to the Grand Jury and that these men are now placed in custody and held for action by that body.

The Court: Mr. Hallinan, Mr. MacInnis has the transcript now. We may take a three- or four- or five-minute recess [2956] while you consult the pages for appropriate references.

Mr. Hallinan: Very well.

Mr. MacInnis: We have them.

The Court: We will take a five-minute recess.

(Recess.) [2956-A]

Mr. Hallinan: If the Court please, with regard to the testimony of Manning Johnson, we find Johnson's testimony on this point, while it is not unequivocal as to time, as Crouch's we find this on page 2512, line 1:

> "Q. (By Mr. MacInnis): Mr. Johnson, concerning the occasion when you say Harry Bridges was presented to a group of fifty-odd people in 1936, did that occasion take place during the 1936 convention of the Communist Party?
>
> "A. That meeting—that closed session of the National Committee took place right after—shortly after the election of the National Committee. It was either before the convention adjourned or a day or so following.
>
> "Q. It would be within a matter of a day or two at most? A. Correct."

And on page 2551, after discussion of the matter:

> "The Court: Are we settled on this matter? The proceedings commenced on the 24th of June?
>
> "Mr. Donohue: So I am informed, Your Honor.
>
> "The Court: And they terminated on the 28th of June?

"Mr. Donohue: So I am informed, Your Honor.

"Q. (By Mr. MacInnis): Now, Mr. Johnson,——"

and then questions were addressed to Mr. Johnson on that subject. Then:

"The Court: Has the witness' recollection been refreshed?

"The Witness: I accept the date as that the Government [2957] accepted or agreed upon."

Now, with relation to Crouch, he testified this, on page 2620, line 6:

"Q. Are you able to tell us, Mr. Crouch, whether at any time during the 1936 or 1938 National conventions of the Communist Party you saw the defendant Harry Bridges?

"A. To the best of my recollection, I did not see him in '38, but to the best of my recollection, I saw him very briefly in 1936 during the course of the convention and at a meeting of the new Central Committee which followed for the purpose of electing the Politburo of the party."

Then moving to page 2676, when he was under cross-examination on that subject, line 25:

"Q. Now, I notice in skipping over some of your testimony of yesterday that you spoke of a meeting, you said, 'During the course of the convention and at a meeting of the new Central Committee which followed for the purpose of electing the Politburo of the party.' Now, was this Politburo then elected by the Central Committee?

"A. By the new Central Committee.

"Q. I see. The new Central Committee elected the Politburo? A. Correct.

"Q. And how did they do that? What was the procedure for electing that Politburo?

"A. The procedure in general—and as I recall, it applied in this case—was that at the Central Committee meeting Browder announced that 'the election of a Politburo is in order,' and someone, usually Stachel—I think Stachel on this occasion—got up and read a proposed slate, and the motion was made, and another seconded it, that this be the Politburo of the party. There were no further nominations, no one declined, and this went through like a perfect steamroller.

"Q. So, Mr. Crouch, while it is perfectly all right, when we know what you are doing, to use the general practice, I would like to confine ourselves to what you remember of these particular instances. So if you don't remember them, you can tell us that, then we can go into the general practice, but for the present moment, if you will stay with your recollection of this matter. Now, the convention that you spoke about which elected the Central Committee, then, I suppose, having done that as its last order of business, the next procedure was the mass meeting at Madison Square Garden at which the presidential and vice presidential candidates were nominated. Is that approximately correct, or did the convention, having completed its work of nominating the Central Committee, have any further business?

"A. The convention, after its election of the new Central [2959] Committee, had no further business except to also act as delegates at the public meeting at Madison Square Garden.

"Q. And do you know what time of day that public meeting was held? Was it in the afternoon or in the morning?

"A. It wasn't in the morning.

"Q. Was it in the evening?

"A. It was afternoon or evening, to the best of my recollection, but I can not recall the hour."

Page 2679, bottom of the page:

"Q. Now, when did the Central Committee meet to elect the Politburo?

"A. I can not specifically recall whether the meeting was held the night—Saturday night or Sunday morning, but my best belief and my best recollection is that it was held Saturday night.

"Q. Are you sure that it was held before the final ending of the convention itself?

"A. No.

"Q. I suppose that it wouldn't be reasonable that the committee members would stay in New York for any very long period of time after the convention ended, is that right?

"A. To the best of my recollection, it was held prior to the Madison Square Garden meeting, to the best of my belief and recollection. [2960]

"Q. So then it would have to be either Saturday night or Sunday morning?

"A. To the best of my recollection, although I stayed in New York, the best I can recall, for a couple of days after the 28th for the purpose of a series of conferences on various fields of party work, and I can not be too specific, but my best recollection is it was held prior to it. I might—it is humanly possible that I might be mistaken, because I remained in New York for at least two days after June 28.

"Q. When you say 'at least two days' now, could it have been eight or ten days?

"A. No, it couldn't have been over two or three days.

"Q. Do you know whether or not you had meetings with the Central Committee within that two or three days?

"A. Oh, yes.

"Q. How many?

"A. One, only one of the full Central Committee.

"Q. And that was after the convention had been closed?

"A: That was after the final nominating session; that is after all the closed meetings of the convention had closed. I do not mean necessarily—not necessarily after the Madison Square Garden meeting.

"Q. I am talking about the Madison Square Garden meeting as the ending of the convention.

Let us say that Madison [2961] Square Garden ended the convention.

"A. The meeting of the Central Committee would then have been prior to the ending of the convention, from that technical application, from that technical point of view.

"Q. Are you sure whether it was prior to the ending of the convention?

"A. I am not positive. I have already answered that question.

"Q. You stayed in New York a couple of days, and during that couple of days you had at least one meeting with the Central Committee?

"A. I said during those two days I had a series of conferences, various party meetings, trade union work in various other fields, and I stated while I was in New York, not necessarily the two days after—in fact, to my best belief and recollection, it was prior to the Madison Square Garden that we elected the new Politburo. I am almost—I am nearly certain. There is a human element. It could have been later, but my best belief and best recollection is that it was after the—of course, it was after the election started, which I believe we elected the new Central Committee, and prior to the Madison Square meeting.

"Q. That it would have to be on Sunday morning?

"A. Saturday night or—— [2962]

"Q. Saturday night or Sunday morning?

"A. To my best belief and recollection.

"Q. After the Madison Square Garden, did you have any meeting with the Central Committee, after the Madison Square meeting?

"A. Not unless there is the element of possibility that I could—that I might have been mistaken—I don't think I was—on the date when we elected the Politburo, but aside from the date on which we elected the Politburo, I didn't have any meeting with the full Central Committee while I was in New York. I had one meeting—I attended one meeting of the full Central Committee after the convention was called to order, before I returned to North Carolina."

And then going to page 2685, finally, talking about the statement that Mr. Bridges was there on Wednesday. He was asked if he recalled where he said he was going:

> "A. I don't recall any mention of where he was going.
>
> "Q. Just that Mr. Bridges was mentioned, that he was there, but that he was going to be called away on some trade union work and would miss the greater part of the convention?
>
> "A. As I recall.
>
> "Q. And then you saw him again on Saturday afternoon or evening? [2963]
>
> "A. If my memory serves me correct,—if my memory is correct on the date on which we elected the new Politburo, it would have been Saturday evening or Sunday morning. I stated there is a human element. I kept no notes. I made no memorandum. And that was about 13 years ago."

Now, Your Honor,——

The Court: One interruption, Mr. Hallinan. I suggest that Mr. Mitchell call the jury. They have now been waiting some time. By stipulation we might excuse them until tomorrow morning.

Mr. Hallinan: Very well, Your Honor.

Mr. Donohue: Yes, Your Honor.

The Court: It is now twenty minutes to four, and I see no additional reason to keep them waiting. You might wait until the jury arrives.

(Whereupon the jurors assumed their position in the jurybox, and the following occurred in the presence of the jury:)

The Court: Ladies and gentlemen, by stipulation of counsel, it is agreeable that we recess the jury at this time while additional matters are under discussion between the Court and counsel, until tomorrow morning at 10:00 o'clock. That is, tomorrow morning, the 21st, at 10:00 o'clock. Our plans have not changed with respect to adjourning tomorrow at noontime, so you may make your plans accordingly. I know that many of you ladies and gentlemen have looked forward to that respite of [2964] the intervening holiday. We may plan accordingly, then, that tomorrow at noon we will stand adjourned until the following year, 1950. It seems a long way off, but it is very proximate now. January 3rd, 1950. So you may have these matters in mind.

May I again admonish you not to discuss this case among yourselves, nor suffer any person to converse with you on any subject of the trial; not to form or express an opinion until the matter is submitted to you. I admonish you to disregard any statement made by counsel prior to my recessing the jury this afternoon. You are to erase the same from your minds. You may now retire. Tomorrow morning at 10:00 o'clock.

(Whereupon the jury retired, and the following occurred outside the presence of the jury:)

Mr. Hallinan: Now, might I suggest, Your Honor, that it is a common device of practiced perjurers to take refuge in such statements as "to the best of my recollection," or "as far as my memory serves me," or some such thing as that; and they think that by that device they can evade responsibility. But the law is, in criminal cases, that if the impression which the witness obviously intended to convey to the jury was as to the existence of a certain fact, he can not avoid criminal liability by having cloaked it in such evasive terminology as that.

Now, aside from the gross improbability of the narrative [2965] by these two men, that Harry Bridges, under surveillance and under suspicion of being a Communist and subject to deportation as an alien, in the 1938 convention, having twice testified under oath that he was not a Communist, and therefore subject also to criminal prosecution, that he nevertheless permitted himself to be presented and his name to be presented before 750 to a thousand people for nomination to a central bureau of the party. Aside from that, and aside from Crouch's statement to the Un-American Activities Committee in answer to a question if he knew anything about Bridges, directly or indirectly, that he knew very little, that he had seen him a few times at public meetings, and had heard reports of him from Schneidermann. We have here conclusive proof that this man has committed perjury. We have conclusive proof, by putting his statement and Manning Johnson's together, that there was a conspiracy to commit perjury. And we have conclusive proof that Manning Johnson committed perjury.

Now, I conclude—I am certain—that there is no necessity for an outsider and a third person to appeal to the conscience of this Court, and I will say nothing more about it. I submit the matter to Your Honor now, having done what I can.

Mr. Donohue: May I be heard, if Your Honor please?

Mr. Hallinan: There is one thing I would like to say further. I would like to substitute photostatic copies of all the documents that I have produced here, because some of them [2966] are taken from files of the unions and they asked to have them returned. And I want also to offer one other document, Your Honor—a copy of the Western Worker for July the 6th which recites that "ten thousand marched on July 5th," and that Harry Bridges made a talk at the Civic Center on the subject. So I will withdraw the documents that I have here except the copy of the Stockton Record and the Voice of the Federation, which are the only ones I have. I will leave those with the Court and I will take the other documents.

Mr. McMillan: I don't understand he is seeking to offer them in evidence in any manner?

Mr. Hallinan: I offer them to the Court for his perusal.

Mr. McMillan: For his advisory capacity?

Mr. Hallinan: Exactly.

Mr. Donohue: May I be heard, if Your Honor please?

The Court: Yes.

Mr. Donohue: I shall not, of course, if Your Honor pleases, seek to match either the hysteria of my adversary, nor shall I attempt to engage with him in a game of name-calling, because I am sure, at least with respect to that phase of this matter, I could never equal him.

I have learned not to be concerned by whatever Mr. Hallinan may do. I am sometimes puzzled by why he does it. But his conduct this afternoon leads to but one rational conclusion. Despite certain observations that I have made personally [2967] concerning Mr. Hallinan's trial technique, I am nonetheless certain that he knows as a lawyer that for him to have made the accusations which he did make today in the fact and presence of the jury, was a serious breach of his obligation to the Court and to the jury in the trial of this case.

But passing beyond that, and looking for the true motive as to why he did so, and why he made the rabble-rousing speech which followed, I can only conclude that he is seeking to cover his ineptitude as a cross-examiner and to substitute therefor a speech to the public. Mr. Hallinan must know that in the ordinary process of the trial of a criminal case with the possession of the largely hearsay documents which he apparently has handed copies of to Your Honor, that it was his responsibility as counsel for these defendants, in the light of the information in his possession, to exercise the skill he is supposed to have in the cross-examination of a witness, particularly with reference to the witness Crouch, who is still on the stand, to so break down and destroy the testimony of that witness that the credibility of that witness before this jury would vanish; and that it was then his duty as a lawyer in the ordinary process of a criminal trial to have introduced such of this evidence as might be admissible at the time when the defendant put on his defense; and then to argue to the jury from the effects of his cross-examination on the credibility of the witness. And from the weight to which he would be [2968] entitled, the jury could give to the evidence which he might properly introduce, to come to the conclusion that the witnesses were in error in testifying that they saw Harry Bridges at the time and place stated; provided, number one, that the jury discredited the testimony of the witness Crouch and Johnson on that point, and provided, two, they believed the testimony which he might offer by way of defense. [2968-A]

But, of course, with his usual flair for the dramatic and apparently concerned about his inability to shake the testimony of the eight witnesses who have already testified, Mr. Hallinan takes his own method to raise this issue.

I say to your Honor that there is only one group of defendants on trial. I needn't ask your Honor, as a trial lawyer and judge, what would happen in any trial, civil or criminal, if at every moment there was a disagreement between plaintiff and defendant, the United States or a defendant at the bar on a criminal case, as to the truth of a statement made by a witness, if we were to suspend the normal operation of that trial and try a case of perjury. The answer, of course, is apparent.

If Mr. Hallinan believes that Mr. Bridges was not present at the time when these witnesses stated he was, then he still has the opportunity to cross-examine the witnesses with respect to the documents in his possession, and at the time he puts his defense in issue, to introduce or offer to introduce in evidence such documents as are competent.

Certainly I believe that if Mr. Hallinan or any other trial lawyer were defending a case of perjury sought to be established by newspapers, press releases, letters, minutes of meetings, some affidavits and airport schedules, he would be loud in his criticism of the prosecution who would seek to introduce that in evidence. [2969]

I must respectfully say to your Honor at this time that when the jury convenes and this Court convenes again, that Mr. Hallinan should be at that time required to follow the orderly procedure for a criminal trial:

Mr. Hallinan: I can state one word: I am glad that counsel's reply took the form of a criticism of me rather than a defense of the conduct of the witnesses, lest by making himself an accessory after the fact he opened himself to the suspicion that he may have been an accessory before the fact.

We are not just representing witnesses in these cases. I have had twenty-five years' practice before the bar that has given me wealth and given me position, given me all sorts of gratuities of life, and I owe an obligation to the bar and I owe an obligation to the bench. The obligation is not one that I have assumed myself in this matter, because it has been often pointed out that it is the duty of a lawyer to the court when he detects a matter of this kind to point it out to the court and waive the consideration of how it may affect the case in point.

And I say this further, your Honor, I say this, and I know that it is with the consent of these three gentlemen: that their attitude and my attitude is such that we turn from our own defense and that it forces us to protect possible victims of such a conspiracy. We are not interested now only in clearing these men from the intendments that [2970] this fraudulent and perjurious testimony might involve. We want to see that something is done that this stable is curtailed, that it is locked in, that it is not used any more, and that poor, helpless people all over the country are not subjected to the same ruining murder of fellows like Crouch and Manning Johnson, who are produced here to identify anybody any place. Why, your Honor, here is what it amounts to: A person is called in before a congressional board of inquiry or before a court:

"Did you ever use the name John Blake"—the man's name being Pete Smith.

The man says, "No, I did not."

"Have you ever been a member of the Communist Party?"

"No, I have not."

"Did you ever, as a member of the Communist Party, use the name James Blake and attend a convention of the Communist Party in a certain year?"

"No, no such thing. I have never used the name John Blake. I have never been a member of the Communist Party."

He is indicted by a grand jury, and upon the witness stand confronting him are men such as Johnson and Paul Crouch to say, "Yes, I knew him in New York in 1936 under the name of John Burke or John Blake," and the man is hung, is destroyed before his case can be presented.

I want to see if we can stop them now. I want to see if [2971] the United States District Court for the Northern District of California can do something about putting a terminus to it. And your Honor has to do nothing. All we ask is this: that these two be remanded to the Marshal to be turned over to the Grand Jury, and then we will come in, present our witnesses and our testimony before them, and let them stand their trial. Let us see then if they are proper and just men. Let us ask Mr. Donohue, "What is your notion about perjury that we uncover in a court? Is it your wish to dismiss the matter, as you pointed out before, by getting up and criticizing counsel who brings it to the attention of the Court? Is that the concept of the duty that you owe to the profession that you are engaged in and to the court that you are practicing before?"

Mr. McMillan: Are you representing us in an advisory capacity?

Mr. Donohue: I can only say in brief answer to that interrogation by Mr. Hallinan that I wouldn't hang a sick dog on the kind of evidence he has recited to your Honor upon which he has predicated his motion. In the conduct of this trial I must deal with legal proof, and I find Mr. Hallinan's arguments far from being legal proof.

The Court: The matter is submitted.

I might say that the interruption of the trial procedure by counsel for the defendants proved to this Court somewhat unusual; but apart from that, I see no reason why, upon the assertion of counsel at this stage of the proceeding, that we [2972] should interrupt the orderly procedure looking toward the eventualities and the final conclusion of these proceedings.

If, as Mr. Hallinan points out, Mr. Bridges was, as he contends, elsewhere than in New York City at the time in question, that appeals to me as a matter of defense. It seems to me that under the circumstances Mr. Bridges would offer himself on the stand and subject himself to cross-examination.

Mr. Hallinan: We offered to do that, your Honor.

The Court: Just a moment.

It seems to me, in addition, that all of the persons referred to in the letters, correspondence, minutes, and so forth, might well be offered as part of the defense. For this Court at this stage of the proceedings to intervene or interrupt the proceedings and remand people to custody, under the showing I think is unwarranted. We have had in the past in these courts charges made of the character made by Mr. Hallinan, perhaps not under the same conditions. The courts have awaited the eventuality of the trial, the final conclusion. The matters were then referred to the Grand Jury and appropriate action taken by the proper investigative bodies as well as by the Grand Jury.

I think it would be precipitous conduct on my part, non-judicial, and without any predicate so far as I know in these courts or in any other court, to now try, in effect, an internalism within the case itself. For all it appears, the Court, [2973] the Grand Jury and the investigative bodies would have to divorce themselves from the immediate purposes of this trial and engage in an internal trial looking toward the claimed or charged perjury of two witneses who have offered themselves for the Government. If we adopted that technique and procedure it might be that through an improvident use of that technique we would never reach the conclusion of any trial.

I therefore respectfully suggest to you, Mr. Hallinan, to proceed with the cross-examination of Mr. Crouch, to exhaust any cross-examination you may have of him. And if you may recall, I did not restrict you one iota in any cross-examination of that witness, nor in fact any other witnesses except in the early stages of the trial when, as I believe, your conduct was as I characterized it.

With respect to these two witnesses, Mr. Crouch and Mr. Johnson, I order them to hold themselves in readiness to the process of the Court, to be called either by the defense or by the prosecution as witnesses, and to hold themselves until the conclusion of this trial for any and all purposes. I shall not order them into custody and I need not make any other order.

With respect to having these witnesses in readiness, I instruct the United States Attorney, Mr. Donohue——

Mr. Donohue: Yes, your Honor.

The Court: ——acting as special United States Attorney, [2974] to carry out that order.

Mr. Donohue: I shall do so, your Honor.

The Court: That is all I have to say at this juncture.

We will resume tomorrow morning at ten o'clock. Have Mr. Johnson available. In view of my assurance to the jury, we will have to recess at twelve o'clock.

Mr. Donohue: Yes, your Honor. I may say these witnesses are under subpoena by this Court. They have not been discharged and they shall not be.

The Court: In the case of Mr. Johnson, Mr. MacInnis has indicated that he wishes to conduct additional examination under the Eisler transcript. I realize Mr. Johnson has stated through you to the Court that he has a sick wife, or his wife is ill. He may of course respond to emergencies, but I instruct you to have him present at all times for the purpose of examination.

Mr. Donohue: I will do so, your Honor.

The Court: We will adjourn until tomorrow morning at ten o'clock.

(Thereupon an adjournment was taken until Wednesday, December 21, 1949, at 10:00 a.m.)

Wednesday, December 21, 1949—10:00 a.m.

The Clerk: The case of the United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Paul Crouch, heretofore sworn.

PAUL CROUCH

resumed.

Cross-Examination
(continued)

By Mr. Hallinan:

Q. Over the recess have you endeavored to refresh your recollection on any of the names of the persons who were read off that list that was furnished the Un-American Activities Committee?

A. No, I have not.

Q. Are you familiar with the reports of the hearing of the Committee on Un-American Activities of the House of Representatives of this country?

A. Only the—only a few of the reports, including those containing my testimony.

Q. Now, you were a member of the Communist Party in the year 1939, weren't you.

A. I was.

Q. Well, did you know that in the year 1939 on September 5 Earl Browder, secretary of the Communist Party of the United States, testified before the Un-American Activities Committee? [2976] Did you know that?

A. I probably knew it at the time. I don't recall the date or the circumstances.

Mr. Hallinan: Might I have that list, that document, the photostatic paper that has a Communist Party heading on it?

(Document handed to counsel.)

Q. (By Mr. Hallinan): Now, I want to show you at this time on the bottom of page 4281 a list of people comprising the National Committee of the Communist Party read out by Earl Browder under oath before the Un-American Activities Committee in September, 1939. Do you see that list?

A. I do.

Q. Do you detect any difference between it and the list which I furnished you and asked you to refresh your recollection by, which was furnished to the same organization, the same committee, on November 27, 1939?

(Testimony of Paul Crouch.)

A. May I see the list and compare them?

(Document handed to witness.)

The two lists are identical, except that in reading this typewritten copy the name of—one name was read Albert Lamon, which it would appear to be by a glance at the photostatic copy, but it is printed as Albert Lannon in the printed copy of the book.

Q. In other words, the "m" looks like "n"? [2977] A. Yes.

Q. A mere typographical error.

A. Aside from that the names are the same names.

Q. So that the list that Mr. Browder furnished under oath to the Un-American Activties Committee in 1939 is identical with the list that you were questioned concerning yesterday, isn't that right, and which is marked now Defendants' Y for identification; is that right?

A. I only know this was the list shown me. I have no knowledge as to whether it is the list sent to the Un-American Activities. That is for the Court. I don't know.

Q. Did you ever hear of Browder being prosecuted for perjury after giving this testimony?

A. I have heard of Mr. Browder being prosecuted for perjury and convicted of perjury, but I don't think it was on this charge. I think it was on other charges he was convicted of perjury.

Q. Have you been indicted for perjury yet?

A. I have never been indicted for perjury.

Mr. Donohue: If your Honor please, I move that

that question and answer be stricken. It is a highly improper question, and of course Mr. Hallinan knows it.

The Court: The motion is granted and the jury instructed to disregard that statement.

Q. (By Mr. Hallinan): Now, yesterday you testified concerning [2978] one of the men whose names appear in this paper, Ray Hansboro, on page 2853, reading down the list, Ben Gold, Gil Green—

"Ray Hansboro, do you know him?"

A. I don't know——

"In my opinion, that name is a purely fictitious one, a pure fraud, intended to defraud the Government, and the character is nonexistent, not elected, does not exist.

Q. In other words, it is a fictitious name of some person; there is no such person in existence?

A. There may be a person by that name, but not a member of the Communist Party or elected."

You gave that testimony, didn't you?

A. I think so.

Q. Then on page 2866, you were asked, going down the list again, John Gates, Ben Gold, Gilbert Green, Rob Hall, Ray Hansbrough—did you know him?

"I did not.

Q. That is the same name that was men-

(Testimony of Paul Crouch.)

tioned in the other list, you remember, that you said you didn't remember? A. Yes.

Q. And you thought it was a fictitious name, is that right? A. That is correct."

Now, would it change your opinion that that is a non-existent and a fictitious person if I called to your attention [2979] that in a hearing before the Un-American Activities Committee on July 21, 1947, Ray Hanbrough was identified by a witness named Steel as a chairman of the National Review Board of the Communist Party, and that in further testimony of the same witness he was identified as a member of the George Washington Carver school at 57—125th Street, New York?

Mr. Donohue: May the witness be shown the statement or document, if your Honor please?

Mr. Hallinan: Yes; this is the place here.

The Witness: May I see the list submitted previously?

Mr. Hallinan: What did you say?

The Witness: I said, may I see for comparison that typewritten list I was shown?

Q. (By Mr. Hallinan): Just answer the question whether that does change your testimony in that respect.

A. No, although the name appears to have a different spelling from any of the names on that list, still I have known no one even by—even by this spelling that I can recall.

Q. Well, now, might I see that again, please?

(Testimony of Paul Crouch.)

There is another place where it is mentioned. Now, at the top of page 50 is the name and on the bottom of page 49 is the statement that he is a member of the faculty of that school.

A. I do not know him—not under that name. I may be well acquainted with him under another name, as a common practice, for example, Frank Waldron became Eugene Dennis, and the [2980] names are changed. Under that name I do not know him.

Q. I think you have talked about enough of your own volition.

Mr. McMillan: Well, that is a very——

Q. (By Mr. Hallinan): Would it change your statement if I told you that in 1938, August 1938, a hearing of the Committee on Un-American Activities identified Ray Hansborough as a former Chicago Negro preacher and that in the same session he was identified under oath as a member of the Central Committee of the Communist Party in this country?

Mr. Donohue: May I again ask, if your Honor please, that the witness be shown the material.

Mr. Hallinan: Yes. One of them is on page 148 and the other on page 312.

A. The description would indicate that this might be another name for a Party leader I knew—another name of a Negro Party leader in Chicago I knew under the name of Newton—N-e-w-t-o-n. The name of Hansberry or Hansbrough means nothing to me.

(Testimony of Paul Crouch.)

Q. Have you refreshed your recollection on the testimony of the other witness identifying him as a member of the Central Committee in 1938?

A. To the best of my recollection, there was a Negro named Newton from Chicago on the Central Committee in 1938, but I have no recollection of any Hanbrought or Hansberry or similar name. [2981]

Q. Well, that isn't what you said. Here is what you said:

> "Ray Hansboro, do you know him?
>
> A. In my opinion, that name is a purely fictitious one, a pure fraud intended to defraud the Government, and the character is non-existent, not elected, does not exist."

That was your testimony, wasn't it?

A. It was.

Q. Now, you were asked about another man:

> "How about David Davis?
>
> A. I have no knowledge of the existence of David Davis."

Now, would it change your opinion of that if I told you that in 1929 David Davis was Organizational Secretary in New York for the Young Communist League; and he was District Organizer for that association in California in 1931; that he was District Organizer in Philadelphia for that organziation in 1932, and became ultimately Business Agent of the United Electrical Workers, and in 1948 was on the National Committee of the Communist Party?

(Testimony of Paul Crouch.)

Mr. Donohue: I object to the question, if your Honor please. Mr. Hallinan is not under oath. He is not a witness. He hasn't a right to tell this jury anything.

Mr. Hallinan: I am asking if it would change his opinion if I told him. That is not stating as a fact; the jury will understand that.

The Court: They may be confused. Are you reading from a [2982] particular document?

Mr. Hallinan: I have a note from which I am reading but the witness need not be confronted with a document to establish it.

The Court: It is a purely supposititious statement on your part?

Mr. Hallinan: At this time.

The Court. Overruled. [2982-A]

A. Detailed information, I recall there was a man who used another name, not—what was the name there, Dave, wasn't it?

Q. If you are going to say he used a different name, then you must know the name we say he used; is that right?

A. I do not know that name; that is a name I have never heard before.

Q. What name have you never heard?

A. I have never heard of—David Davis? I have heard of two or three Davises in the party. I have heard of Benjamin Davis and I have heard of a Herbert Davis.

Q. Now, let's go on to this one. You were asked, "Sam Donchin"? "I had no knowledge of his existence . . ." Did you so testify?

A. I did.

Q. But a few pages before, on page 2865, and down the line—Benjamin Davis, "I knew him." "David Davis?" "I didn't know him." Eugene Dennis?" "I knew him." "Bella Dodd?" "I knew of her." "Samuel Donchin?" "I knew of Donchin."

Now, which was true?

A. If there is a statement I knew of Donchin, the statement was in error. I thought I was answering another name. I did not know of Donchin.

Q. Now, you were also asked if you knew of a man named Frank Cestare, who also appears in this list. You asked how it was spelled, the name was spelled out, you said you never heard of [2983] him. Now, would it refresh your recollection to know that before the same Un-American Activities Committee under the date of—well, some time in nineteen—no, October 15, nineteen-forty—it was near October 1943—that his name was furnished, Frank Cestare; he was a founder of the American Youth for Democracy at a convention on October 15, 1943, and was national administrative secretary of the Young Communist League and of the Young Communist Weekly Review?

Mr. Hallinan: It is marked with the paper also.

(Document handed to the witness by the Clerk.)

A. I have never heard of Frank Cestare, although this—both this date and quotations were published after I had left the Communist Party. But I never heard of him.

Q. Now, there were a certain number of other people whose names were mentioned on the document that you were shown; that is, Defendant's exhibit for identification Y. And you testified that you knew of them. There was George Dimitroff, M. Ercoli, D. Z. Mamilky.

A. Manuilsky, pardon me.

Q. Beg your pardon? A. Manuilsky.

Q. Manuilsky, all right. Now, they were members of the secretariat furnished by, and the executive committee of the Communist International elected at the Seventh World Congress of 1935, according to the information furnished the Congressional [2984] Committee by Mr. Browder. That is your understanding of that?

A. Mr. Browder was present at that Congress of the International in Moscow. I was not there, and I am not in a position to dispute his testimony or confirm it.

Q. Well, in your connection with the Communist Party and the high offices you occupied, were you acquainted with the names of persons in Russia whom you testify exerted some force over the Communist Party here? A. Very well.

Q. Did you ever in that connection hear the name of I. S. Turgeneff?

A. Ivan Turgeneff was a very well known novelist, author of Fathers and Sons, and other works; has been dead for many, many years, long before the Russian Revolution.

Q. You never heard of similar names or a similar name in connection with this organization, is that right?

A. I have not heard of any modern Russian Communist leader using the nom de plume of Ivan Turgeneff or anyone having actually that name, arising to prominence in the Soviet Union. It is possible; I have no knowledge of it.

Q. Have you been in any institution for nervous or mental disorders?

Mr. Donohue: Oh, I object, if your Honor pleases. That is a wholly improper question. [2985]

Mr. Hallinan: It is entirely proper to find out this witness' mental background.

Mr. Donohue: There is a rule of law, if Your Honor pleases, that no witness may be asked any question the answer to which may tend to degrade him. That is the only purpose for which this shot in the dark could be asked of this witness by Mr. Hallinan. After all, a witness is entitled to some consideration.

The Court: The objection is sustained.

Mr. Hallinan: Very well.

Q. Now, going back to the matter of the section of the CIO Council for the Annual Convention in 1941, we were finishing the statement by Mr. Bridges, and I want to continue where we left off.

"When we expressed our determination to see that the energy of labor is properly geared to provide the maximum output of materials and equipment to supply those nations now fighting Hitler, and to efficiently build our own national defenses, we do not speak of great production as the dollar-a-year corporation men in Washington speak of it.

"We want no longer work weeks, which Mr. Knudsen believes is necessary. We want none of the anti-labor and, in many cases, Fascist legislation aimed at establishing compulsory arbitration and concentration camps, discriminating [2986] against foreign born people or minority political groups. Both of the latter happen to be doing a good job of making Hitler squirm at the moment. We want the dollar-a-year big business hirelings that have sabotaged national defense and greater industrial productivity replaced by conscientious Americans and sent back to their corporation offices. Let them get their profits by legally competing with other firms instead of illegally highjacking them from the Government through behind-the-door political deals, while at the same time pretending they are serving their country for a dollar a year.

"We insist that the NLRB, the National Mediation Board, and such governmental agencies function in the way they were intended to function—not as instruments of the corporations, but to give labor a fair deal and to protect its right to organize and bargain collectively.

"The juggling of priorities and the resulting unemployment, because of the attempts of some sections of big business to grab off the juiciest portions of defense contracts, must be exposed and stopped.

"The national president of the CIO, Philip Murray, has proposed a plan to correct many of these evils. The workers who have pledged themselves to put forward their best efforts in the fight against Fascism are entitled to know that their interests and security will be protected [2987] by their own representatives assuming their proper place in the government, not only as a part of the actual production end, but as part of the planning and administrative structure. Certainly, labor representatives can not help but do better than some of the so-called experts that have brought about chaos and confusion and created a situation that is a national scandal.

"We need assurance that there will be a cessation of the activities of the FBI as an anti-labor spy agency, their framing of evidence and collecting of stool pigeons in order to bring about a Fascist decision such as that just rendered by Judge Charles Sears.

"Our interest is not what we will get for our-

(Testimony of Paul Crouch.)

selves in this fight. There are no enormous profits for the workers in defeating Hitler. The big majority of the common people not only make the weapons, but they will have to fly, drive or shoulder them, and in many cases give their lives; but they want to be sure that we know where the enemy is and to keep him in front instead of having him use a knife at our back.

"We insist that any individual, any group or any agency that interferes with or retards in any way our determination to give our best efforts, loyalty and support behind the all-out aid program of the President of the United States and the greater part of the CIO, [2988] is aiding Hitler and supporting the appeasers.

"There is no middle ground in this fight—you either are or you are not—and labor can not be called upon and expected to apply itself to the task of continuous maximum production while it is harried by anti-labor and Fascist minded agencies or individuals or selfish corporation representatives.

"I have attempted to put the essence of my last few remarks in the form of a resolution, which I have asked the ILWU delegation to this convention to present for the consideration of the assembled delegates. I will read the resolution, and I urge that you give it your unanimous and wholehearted support, both in the convention and later in their various unions

(Testimony of Paul Crouch.)

> and councils and that you work in every way to put into action the policy outlined in the resolution."

Then there followed——

Mr. Donohue: Excuse me a moment, Mr. Hallinan. If Your Honor pleases, for nearly an hour now we have listened to the reading of this speech by Mr. Bridges. I had hoped at the outset that it would be of normal content and length. I see no reason why this speech should be read before the Court and jury. If there are some questions Mr. Hallinan wishes to ask of the witness with respect to this letter or its contents, I think the speech should be exhibited to the witness and he [2989] should be permitted to read it to himself, and then answer any question about it. Of course, the usual method of asking a question about a written document is to submit it to the other side for consideration before any question is asked at all.

Mr. Hallinan: It is in there, in the document they furnished.

Mr. Donohue: Perhaps before Mr. Hallinan finishes, he may exhibit it to us. I certainly see no reason why it should be read to the jury.

Mr. Hallinan: It is right in the document, and if counsel wants, I am prepared to go right into that rule.

Mr. Donohue: It is not our document; we introduced a resolution, if Your Honor pleases, and the document is not in evidence.

(Testimony of Paul Crouch.)

Mr. Hallinan: Well, you can follow this along as I am reading, and we will even furnish the witness with an extra copy. But if they question what I think Your Honor has already in mind, that where a part of a conversation, proceeding or document is introduced, the remainder of the conversation, document or proceeding may be introduced; now I have here the latest edition of Wigmore on Evidence, very complete, and authentic. This is Volume 7 of the Third Edition. In discussing this matter of the introduction of part of a statement, conversation or discussion, the author, citing numerous authorities, states the law to be that where part of a document is introduced, [2990] the rule of entirety of parts requires that the balance be put in, if the other side desires.

Now, citing from Section 2094:

> "Entirety of parts is equally essential to the correct understanding of an utterance. A word is interpretable in the light of the use of the same word in another part. A clause is modified by a prior or subsequent clause. One sentence qualifies another, and one paragraph may form only a part of a whole exposition. We must compare the whole, not because we desire the remainder for its own sake, but because without it we can not be sure that we have the true sense and effect of the first part. Entirety of parts is thus as essential as verbal precision, for the greatest possibilities of error lie in

(Testimony of Paul Crouch.)

> trusting to a fragment of an utterance without knowing what the remainder was.
>
> "But what is the whole of an utterance? No doubt this principle of entirety is flexible in its application. A simple thought requires but a simple utterance. A complex thought, a complicated utterance. When, therefore, we obey the canon that the whole of the utterance must be considered, the scope of our survey may be very variable, so far as concerns the mere number of words, sentences or paragraphs. The whole that is to be considered is obviously not the whole of a phrase or [2991] paragraph, any more than it is the whole of the printer's line or page; but the whole of the thought.

That is, such a quantity of utterance as the utterer has indicated to be distinct and entire in itself, for the purpose of representing a distinct thought. If this dividing line can be ascertained, there is no need for looking beyond it. A cry for help is entire in a single exclamation. A whole railroad passage contract is entire upon a small piece of pasteboard. But a treatise in defense of usury will require a perusal of several chapters to discover the entire thesis. Thus the possibilities are infinite and the boundaries indefinite in this search for entirety of utterance. It will be difficult for the law in applying of principle to employ any fixed test. Yet the law can not be expected to be satisfied practically with the indefiniteness which is in theory the conception of entirety involves; and therefore the application of it is full of difficulties.

"The general principle, then, which may be termed the principle of completeness, that the whole of a verbal utterance must be taken together, is accepted in the law of evidence. For the law in this respect does no more than recognize the dictates of good sense and common experience, therefore in the application of the important qualifications and exceptions. But the recognition of the [2992] principle and the reason for it is unquestionable. It appears clearly conceded and consciously applied as early as the 1600's, and no doubt was implicitly understood long before that."

Then a great number of cases, some of them very old, illustrating some by reference to Thomas Erskine, and other famous lawyers. The employment or the use of an entire thesis, statement, conversation, speech where part, even a small part, was introduced. Now, the two branches of the rule:

> "Compulsory and optional completeness, precision and entirety. The application of the general principle takes first of all two distinct aspects."

The Court: I think, Mr. Hallinan, without interrupting you, I am mindful of the rule that you advance. We started on the basis of a premise that the witness on the stand prepared or caused to be prepared certain parts or portions of the resolution. That was the original basis.

(Testimony of Paul Crouch.)

Mr. Hallinan: Yes, but that is not all.

The Court: That is true. And thereafter it appeared that Mr. Bridges made a speech at the convention or at the meeting in Oakland, wherein the resolution was read; and in addition, he made additional comment. Now, I assume that at some stage of your examination you are going to present the witness on the stand with the question as to whether there is any part of the resolution which he prepared or caused to be [2993] prepared, and what he did, in the underlying motivation of the cause.

Mr. Hallinan: And parts of the speech.

The Court: And comparative analysis between the document and the resolution.

Mr. Hallinan: Exactly.

The Court: You may proceed.

Mr. Donohue: If Your Honor pleases, may I interrupt for just a moment?

The Court: I assume you have about reached the end of this speech?

Mr. Hallinan: Yes, Your Honor.

Mr. Donohue: No, he hasn't come anywhere near it, if Your Honor pleases.

Mr. Hallinan: Well, I have, because I have—one, two, three and a half pages left.

Mr. Donohue: The purpose of Mr. Hallinan, if Your Honor pleases, in reading before this jury a self-serving declaration in the form of a speech made by Mr. Bridges is not for the purpose of attempting to examine or contradict this witness with

(Testimony of Paul Crouch.)

respect to any statement he has made concerning the resolutions which were a part of that speech. If so, I would not object. But his purpose, as will develop, if he is permitted to read this entire self-serving declaration by the defendant Bridges, is to introduce before this jury in still [2994] another way matters which have already been ruled by Your Honor are not pertinent to the issue.

Mr. Hallinan: Your Honor, this Wigmore holds also that where——

The Court: Mr. Donohue, in part I can not agree with you. This witness has testified under cross-examination, brought out by Mr. Hallinan, that the defendant Bridges changed his complete mode of thinking in line with the asserted dictates——

Mr. Donohue: Correct, Your Honor.

The Court: ——of party leaders.

Mr. Donohue: Correct, Your Honor. And that he prepared these resolutions. He did not prepare the speech.

The Court: All right. Now, in view of that statement made by the witness, that Mr. Bridges changed his whole line of policy upon the asserted dictates of the leaders in Moscow, I think that the full import of that particular conference should be before the Court. With respect to the speech itself, I may instruct the jury as to the proper observation to be made of the speech.

Mr. Donohue: Is this a question, if Your Honor pleases, this speech?

The Court: I assume he is coming to a question.

Mr. Hallinan: Certainly. And furthermore,

(Testimony of Paul Crouch.)

Your Honor, even if I weren't, Wigmore holds:

> "They were entitled on demand to a reading of the [2995] remaining portions thereof, immediately, and before the intervention of other evidence."

The Court: Just a moment. I enjoy those general statements at times, but I think we had better get along with it.

Mr. Hallinan: Well, as I suggested at the start, I felt sure that Your Honor had the same idea, that you knew what we had in mind.

> "I have mentioned the recent decision of Judge Charles Sears. I would like to add this much: A different decision from such an individual was not to be expected. He was selected to do a job. He carried out his orders faithfully. His superiors had committed themselves. Their honor was at stake and they saw to it that they were upheld. The decision is outrageous, and the conclusions on which it is based are the conclusions of a person many years removed and unacquainted with the everyday struggles of the people to meet such problems as how to pay the rent, how to buy food, or how to provide for a family."

Mr. McMillan: May it please Your Honor, is this in any way relevant to that resolution or any question that can be directed to this witness on cross-examination that has any relevancy to this resolution?

Mr. Hallinan: It is entirely on the portions of

(Testimony of Paul Crouch.)

the resolution, Your Honor, anti-Labor activities of the Federal [2996] Bureau of Investigation, the removal of people from office who were concerned with trying to frame workers, and things of that kind, that were set out in it.

Mr. McMillan: I submit our objection to that, may it please your Honor.

Mr. Hallinan: In other words, they want to get in the parts that they think will help them and omit the parts that will explain or interpret the meaning or the significance of this, how much was this man's statement and how much was Mr. Bridges'.

The Court: As I said, Mr. McMillan, in view of the answer brought out by Mr. Hallinan on cross-examination that this witness testified that Mr. Bridges had changed his thinking on the dictates of the leaders of the Communist Party, and particularly Moscow, that I believe the full import might be given. You may argue——

Mr. McMillan: May it please your Honor, it doesn't change, obviously, from what he has already stated, Mr. Bridges that years before that time with reference to Judge Sears' decisions in other matters, it has nothing to do with his change of thinking at all. This is involving past acts and past conduct of others.

Mr. Hallinan: It is an old device to try to defraud a person by putting in a portion of what he has said and then trying to prevent him from showing the rest.

Mr. McMillan: We didn't put in any portion——

(Testimony of Paul Crouch.)

The Court: Mr. McMillan, I of course cannot anticipate the text of the balance of Mr. Bridges' remarks at the convention.

Mr. McMillan: Isn't it apparent now what is coming? [2997]

Mr. Hallinan: No, because it goes in to President Murray and the Murray plan of the CIO. It relates to only this:

> "If one were to apply the reasoning that formed the basis of Judge Sears' decision to our trade unions, every union would become divided and weakened because of internal factional struggles. Can anyone think of anything more remarkable or more anti-labor than the insistence of the judge that if a union official does not want to be found guilty of Communist Party affiliation,"——

Mr. McMillan: Might I interrupt and respectfully request your Honor, before any more of this is read, that your Honor yourself read this.

The Court: No one has suggested I read it. I am like the jury here; I am listening. If someone would suggest that I read it, I might read it.

Mr. McMillan: I would very respectfully suggest that your Honor read this.

The Court: I should be glad to read it.

Mr. McMillan: Before any more is read.

The Court: I might take it up at the recess. If you have any other matters to pursue.

Mr. Hallinan: I want to pursue this matter along.

The Court: What is this? Some attack made upon a judge, or what is it?

Mr. Hallinan: No, it only goes, your Honor, to a [2998] discussion of a portion of that resolution which discusses the anti-labor activities of the Federal Bureau of Investigation and the removal from positions of authority of individuals with Fascist leanings which they have in important posts of government, and Mr. Bridges enlarges upon those two matters. Here they put in, and of course they will have the same kind of argument then that here Mr. Bridges, without any reason or without any background for it, or without any facts upon which to support it, but to discredit his testimony, has attacked the FBI and the officers of the Federal Government, particularly of course Judge Sears being referred to, and they will try to prevent us from showing what he said at that convention in enlargement and explanation of those two paragraphs. Now, that is the purpose.

It must be remembered, your Honor, that they have put it in. They had the whole document here and they read it, and they had no right—if they wanted to run the risk of this being all read to the jury, then they can put it in. They were under no obligation to do so. The fact that they have made a bad deal upon this does not save them from having the rest of it now read in. They thought that they could put in this resolution and have this man say that he prepared it and submitted it to Mr. Bridges at the dictates of the Communist Party, and then they could avoid Mr. Bridges' explanation as part

(Testimony of Paul Crouch.)

of the identical speech in which he [2999] introduced that resolution as to what he meant and what was understood by paragraphs 2 and 3 in it. That cannot be done. It cannot be done in law and it should not be attempted to be done in law or in morality.

The Court: What particular objection do you have, Mr. McMillan, to the following features of that?

Mr. McMillan: I object for this reason: that it is in no wise relevant to any question that could be put to this witness with reference to the resolution. It goes back and considers a time long before these matters under consideration. We have heard here now that he inveighing against the past conduct of the FBI and others and is inveighing against a decision and stating the nature of the decision. And if you can go ahead and put this in, there is no reason on earth, on the same theory, that you cannot take all the past speeches that Mr. Bridges has made everywhere in order to show what his state of mind was and when he changed, if he did change. Now, by doing that you will be rehearsing the entire Bridges proceedings.

Mr. Hallinan: Just to show how little counsel is prepared in this matter and how little he knows about it, the decision of Judge Sears was still pending at the time that this speech was delivered. Judge Sears had made a decision that was still pending, which resulted finally in the Supreme

(Testimony of Paul Crouch.)

Court decision of 1945. He says things that were past. The matter [3000] was still pending.

Mr. McMillan: It is obvious now, may it please your Honor, that if he is relating——

Mr. Hallinan: Further, I dare say a great many speeches made by Mr. Bridges are going to get in the record. If they are going to put in portions of them, we will certainly put in the rest of them. We are not going to let them mislead the jury as to what Mr. Bridges meant here in regard to some question, by a statement which is supposed to be something directed by the Communist Party. We say that that resolution was concerning and involving Mr. Bridges' own personal aims, his existence, his right to remain in the country, all the things involving him.

To subtract it from the context is like the statement of Erskine that you can get anything out of the Bible, even the statement that there is no God, by omitting the first part of the sentence, "Only a fool saith in his heart there is no God."

We are entitled to show what was said by Mr. Bridges.

Under Wigmore, your Honor, the statement may have no relevancy, the statement may not convey anything, still the person against whom the document is offered has the right to put it all in, because it may make it plain, or a jury may conceive that it explains it or amplifies or enlarges the statement that was put in. [3001]

(Testimony of Paul Crouch.)

Mr. McMillan: May it please your Honor, over and above Mr. Wigmore in his comment in his book on evidence, there is a fundamental matter with reference to the production of evidence. It is always in the sound discretion of the Court to curtail cross-examination when it takes too far a range. Now, I think counsel has finally signaled to your Honor just what he intends to do, and it is absolutely in support of the objection that I have made. Are we to have by this method a complete recitation in speeches and otherwise of the very thing that your Honor has already ruled is not material to this cause of action and by this dexterous method bring it to the attention of the jury and the Court in the face of the ruling which your Honor has made?

I respectfully suggest again, in order that your Honor may see the force of my objection, that your Honor read this before any more of it is read to the jury.

The Court: May I see it, Mr. Hallinan?

Mr. Hallinan: I beg your pardon. Do you want to see the document?

The Court: The part——

Mr. Hallinan: It starts where I have the pencil mark on page 42 and the entire speech ends in the middle of page 45.

The Court: We will take the recess, ladies and gentlemen of the jury. The same admonition to you not to discuss the case under any conditions or form or express an opinion until it is submitted to you. You may retire.

(Recess.) [3002]

Mr. Hallinan: Your Honor, with regard to one question you asked about the man designated as Judge Sears, he was not a judge. I understand he had been a judge of an inferior court at one time. But he was a presiding inspector——

The Court: Well, I am prepared to rule, Mr. Hallinan. I have read the subject matter.

Mr. Hallinan: All right.

The Court: And I feel, Mr. McMillan and Mr. Donohue, that although the subject matter of the succeeding paragraphs may be self-serving and to that extent not altogether immediately relevant to the inquiry to which this witness is to be subjected, nevertheless I feel it is part and parcel of a general context and should be presented. You may proceed.

Mr. McMillan: Well, Your Honor, I had another ground beside irrelevancy.

The Court: What was the other ground?

Mr. McMillan: I had this ground, as sent down by the Supreme Court in one of the leading decisions on cross-examination. I will read from it:

> "The extent of the cross-examination with respect to an appropriate subject of inquiry is within the sound discretion of the trial court. It may exercise a reasonable judgment of determining *with* the subject is exhausted."

My point is this, Your Honor, that if you now permit counsel to have the widest extent on cross-examination, that is permissible, [3003] but I don't take it that that means unlimited extent.

The Court: I certainly did not intend to convey the impression to counsel on either side, that the scope would be an unbridled scope; nor that the exercise of discretion would be anything but that as I meet the impact of the evidence as it unfolds. But as I said before, Mr. McMillan, this witness has made, on cross-examination, that specific charge, that he introduced the resolution apparently for that specific purpose, showing an alleged domination of the defendant Bridges. And under the circumstances I feel that the full text of the remarks, conversation or speech might be set forth. I may hereafter instruct the jury with respect to that portion thereof, that it is self-serving. Certainly with matters of evidence, we can't piecemeal the situation, to the extent of segmenting the same. I think the full text may be disclosed. I may hereafter discuss it with the jury.

Mr. McMillan: Well, my point was this, that this is just relatively a small portion which counsel may seek later on, as he signaled to the Court, to introduce. In short, supposing Mr. Bridges had written a book, we will say, in three volumes reviewing his entire career and his experiences and all cases in which he was concerned; would it not, on principle, in keeping with what counsel said, be admissible?

The Court: I might say in response to you, Mr.

McMillan, that if this witness claimed that he wrote two chapters, it [3004] might be the subject matter of a very pertinent investigation. You may proceed.

Mr. Hallinan: Yes. And often a whole book is gotten in on one paragraph being introduced.

The Court: All right.

Mr. Hallinan: In fact, we trembled on the verge of that abyss, Your Honor, ourselves on one thing. I want to say that I don't know if the jury understood that the Judge Sears whose name is introduced here was presiding inspector, appointed by the Attorney General, and was not a judge of any court at the time this discussion took place.

Mr. McMillan: Well, now, that is additional comment, Your Honor.

Mr. Hallinan: Well, is there any question about it?

The Court: Mr. McMillan, there could be no possible harm in that comment, as I see it.

Mr. McMillan: No, I think not, may it please your Honor.

Mr. Hallinan (Continuing):

> "If one were to apply the reasoning that formed the basis of Judge Sears' decision to our trade unions, every union would become divided and weakened because of internal factional struggles. Can anyone think of anything more remarkable or more anti-labor than the insistance of the judge that if a union official does not want to be found guilty of Communist

(Testimony of Paul Crouch.)

> Party affiliation, [3005] he must take it upon himself, our union constitutions and national policies and even the Bill of Rights of the United States to the contrary, to weed out and discriminate against those members of our unions who choose to be Communists?
>
> "What could be more vicious than Judge Sears' ruling that because the longshoremen in 1934 accepted the proffered aid of a bona fide union that was at that time recognized by the United States Government, dealt with by the United States Government, that participated as a second party in an election conducted by the United States Government and a special arbitration board appointed by the President, and that because I as an officer of my union followed the instructions of the membership in accepting this aid in order to win the strike, that such is proof of Communist Party affiliation and membership?

I would like to point out to the delegates that they might consider the many crimes that they would be accused and found guilty of by such a judge, who could see no reason why the testimony of an A. F. of L. official against the CIO should be biased or in any way untrue. I shudder to think how many of you would find your way into jails or be deported or even executed if one fraction of what the A. F. of L. officials have testified to about you was ever believed by a person having [3006] authority to decide such punishment.

"The judge saw nothing wrong in labor spying. He saw nothing wrong in the fact that one of the witnesses was advocating membership in the Nazi Bund, inasmuch as he ruled such was immaterial.

"The judge could not bring himself to believe that the FBI could do anything wrong or would attempt to frame evidence. In this connection he said, 'If their testimony is not true, there has been a dastardly attempt to deceive me as the presiding inspector by false testimony for there is no chance of a mistake, and if I were to believe O'Neil was framed or his declarations falsified, I would look with suspicion on the entire case presented by the Government. No such idea finds warrant in the testimony as I have heard it and as I have reviewed it.'

"Again, in reference to the FBI agent's testimony on the witness stand, he said, 'They denied explicitly the alleged intimidation,' 'They were in my opinion thoroughly credible witnesses. I believe them implicitly.'

"Ask the many union men that have been arrested and intimidated and jailed by FBI agents for union and strike activities. Ask any union man who has had any dealings with the FBI as to whether they are the angels and souls of honesty that the judge pictures them to be!

"I know, and the judge admits in his decision, that [3007] they violated the law by wiretapping.

(Testimony of Paul Crouch.)

I also heard them discussing using the equipment at a union meeting to be held in another part of the hotel when they recently tapped my hotel room in a New York City hotel. I made tests to prove that the information that they got on union matters through tapping my telephone was communicated to employers for strikebreaking purposes. It is noticeable that our request to prove this was denied by the judge, and the FBI has always denied that they engaged in illegal wiretapping or labor espionage.

"At prior conventions I have warned of the activities of the FBI in acting as an anti-labor agency in many respects. I wish to call your attention to it again with this addition this time—that now we can prove it.

"President Murray, speaking for the National CIO, has made his position clear as to how he regards the Sears' decision and his promise that the fight goes on. I wish to point out to everyone that this decision, in its scope and intent, is a dangerous threat to our right to organize, to formulate our own policies, to choose our own members and our own officers. I urge you all to see that this fight does go on, to recognize this decision for what it is—a weapon that is of untold value to all who seek to undermine our organizations.

"We approach the National CIO convention. In the [3008] past year, our national organization, its officers and executive council have been ever vigilant in guarding the interests of the millions of members of the CIO.

(Testimony of Paul Crouch.)

"On the many occasions when I have had to call on the president of the CIO, Philip Murray, and other of its national officers on behalf of California unions, they have been ever ready with their aid and advice. In many cases when I sought the help of John L. Lewis, he likewise responded.

"Important decisions and policies will be formulated at the National CIO convention. There has never been an opportunity or a time like the present for labor to unite on a common platform against a common foe.

"I sincerely hope that this convention will aim at and adopt a program to which each and every delegate can wholeheartedly support.

"Let that part of the CIO that represents the great and progressive State of California make known to the national convention that we have united as a single unit to expand and build the CIO in every way, and are determined to contribute every bit of energy and effort possible for national defense and full support behind the program of all-out aid for the armies of Great Britain, Russia and China and every nation who is fighting the fight for freedom and democracy against Hitler and his Fascist allies." [3009]

Q. (By Mr. Hallinan): Now, as I understand it, the only part of that speech that your genius contrived and dictated was the resolution that was read here, is that correct?

A. Your Honor,——

(Testimony of Paul Crouch.)

Q. Will you kindly answer the question Yes or No.

Mr. Donohue: It is pretty hard when you put in there the word "genius."

Mr. Hallinan: All right; we will leave "genius" out. Withdraw the question.

The Witness: Your Honor,——

Q. (By Mr. Hallinan): The only part of the speech which you contributed was the resolution, is that right?

A. This cannot be answered Yes or No, your Honor. The question——

Mr. Hallinan: I withdraw the question again.

Q. Now, you tell us that you conveyed to Harry Bridges some order that he should deliver or he should propose this resolution on the floor of that convention, don't you?

A. You mean I had conveyed to him?

Q. Yes, by your wife as the courier. Was she being paid by the Communist Party, too, then?

A. No. I was on the payroll of the Communist Party, but my wife was not on. She was an unpaid county official of the Communist Party, head of the National Minorities Commission of the Party of Alameda County at that time. [3010]

Q. Have you found out how much they are paying you for your services in this case?

A. I have been paid $9 per day.

Q. You have been paid?

A. Partly; not up to date.

Q. And how much are you promised?

A. I am promised nothing. I have answered that question before, if I am not mistaken.

Mr. Hallinan: We are going to put Mr. Boyd and Mr. Barber on the stand to find out about the matter, so we won't concern ourselves with that.

Mr. McMillan: Now, that is an observation, a gratuitous one, if your Honor please. It is not a question.

Mr. Hallinan: Well, it saves the witness worrying his mind about trying to figure it out——

Mr. McMillan: You are assuming the witness is worrying about something. He hasn't indicated it.

Q. (By Mr. Hallinan): Your wife, acting as courier, having conveyed this message to Mr. Bridges, you state that that was in response to some determination that Mr. Bridges must present this resolution on the floor of the convention or be removed from the Communist Party, is that right? You can answer that Yes or No.

A. That is correct.

Q. What? [3011]

A. That is essentially correct, although there is a shading and complex meaning in the language. I would like to answer it, but it is essentially correct aside from the complex innuendoes and inflections there. The general meaning is essentially correct.

Q. And at that time, you want this jury to believe that so trifling a matter as putting that resolution out was insisted upon by the Communist Party against Mr. Bridges when Judge Sears had already made a ruling that he should be deported from the United States for Communist affiliations? You tell us that, do you?

Mr. McMillan: We object to that question because he is invading once again the province of the Court and jury, "such a trifling matter as this."

The Court: Overruled. You understand the question?

A. I understand the question. If I may be permitted to answer it fully, I will be glad to.

Mr. Hallinan: Go ahead.

A. This resolution was of definite major historic importance, considered with the greatest seriousness by the District Bureau of the Communist Party. Its results were far-reaching from the viewpoint of the Party, because they no longer had to worry about the need of weaving a web around Mr. Bridges to prevent him—they, the Communist Party, had done considerable work, considerable organization, not only to expel Mr. Bridges [3012] from the Communist Party, but they had taken organizational steps, had carried out working out the details for furthermore removing Mr. Bridges from the positions he held in the CIO. The Communist Party at that time dominated the CIO through control of its higher officials and through control of every major CIO council in the State of California, and they had the force to do it with and they would have done it, although they would have considered it, and they discussed it from this point, if it were necessary to expel Bridges, a major report. They also had considered it from the view-

(Testimony of Paul Crouch.)

point that a public expulsion would hardly be wise. I made the motion myself on the 9th of July that if it became necessary to expel Harry Bridges from the Communist Party that this motion should not appear in public, because the workers would say the Communist Party is cooperating with the Government and has put Bridges on the spot. And all the other members immediately agreed with me that if it became necessary to expel Bridges from the Party, that this would be done through a statement denouncing him, condemning him as an enemy of labor, but not mentioning the fact that he had been a member of the Communist Party. This was agreed to. In fact, as soon as I made my motion Schneidermann said, "We are not fools; we are certainly not"——.

Q. He said "We are not", what?

A. Schneidermann said, "We are not fools."

Q. Did anybody agree with him? [3013]

A. I did.

Q. Were you ever confined in an insane asylum?

Mr. Donohue: If your Honor please, must this witness be treated——

The Witness: May I say no, before I protest against the insulting questions to which I am being subjected.

Mr. Donohue: Is there any action which your Honor can take which will keep him within the bounds of decency in the trial of this case?

Mr. Hallinan: I object to that statement by

(Testimony of Paul Crouch.)

counsel, and I assign it as misconduct and move for a mistrial.

In the recess I took occasion to inquire into the law on this thing, and the question that I addressed to the witness as to whether he had been treated for any mental or nervous affliction and the question as to whether he had ever been confined in an insane asylum are proper questions as bearing upon the credibility of the witness.

The Court: The witness has answered the question.

Mr. Hallinan: I have made a very large study of insanity and psychiatry, to the extent that I have testified as an expert in the Superior Court in San Francisco on that subject. I claim to be able to recognize an insane person when I see him. Now, the questions that I ask are proper ones, and I have the right to pursue that to whatever degree I may choose.

The Court: The witness has answered the question. [3014]

Mr. Hallinan: What I am objecting to and what I am protesting against is this use of the word "decency." I don't know precisely what it means. Counsel who bring in witnesses like Crouch and Manning Johnson, put them on the stand, and continue them on under examination after the disclosures of yesterday probably have a different designation of that term from what the rest of us would have. But I protest against the special prosecutor getting up here, and in lieu of legal objections mak-

(Testimony of Paul Crouch.)

ing statements of that kind, as a constant and insistent practice. He has done it, and Mr. McMillan has been doing it here. He stands up and uses some word that has no place in a legal objection.

Mr. Donohue: I arise to make a legal objection, if your Honor please, to this Mr. Hallinan qualifying himself gratuitously as an expert in the field of psychiatry. I haven't seen any evidence that he is an expert in any field.

Mr. McMillan: I think it is very improper, may it please your Honor, for counsel to stand up in court and undertake to qualify himself as an expert along those lines, and then state to your Honor and this jury, as a foundation for asking a question of that kind or giving a reason for having asked it that he possesses those qualifications. That is very improper, and I call your Honor's attention to this very case that I referred to, Alberts v. United States.

The Court: I am familiar with it. [3015]

Mr. McMillan: In which the court has held it is always the duty of the Court to protect the witness against any humiliating, degrading conduct. And obviously that question and the statement which he made about being an expert along those lines was intended insolently to degrade and humiliate this witness.

Mr. Hallinan: I don't think that is possible.

The Court: The motion for a mistrial is denied. The jury is admonished and instructed to disregard

(Testimony of Paul Crouch.)

the comments of all counsel at this stage of the proceeding. All right, proceed.

Q. (By Mr. Hallinan): Well, now, you knew, did you, at the time that you were having this discussion that a trial had been held in which Harry Bridges had been charged with being a member of or affiliated with the Communist Party?

Mr. Donohue: I object to the question, if your Honor please.

Mr. Hallinan: It goes to the probability that any such order was given to him. In other words, here is a man under——

The Court: Overruled.

Q. (By Mr. Hallinan): You did know that, did you? A. Rephrase the question, please.

Mr. Hallinan: Would you please read it.

(Question read.)

A. I did not know that Mr. Harry Bridges had ever been tried [3016] in his life.

Q. You didn't know that a deportation proceeding had been just concluded within that year, within the year 1941, before presiding inspector Sears upon a warrant issued for the deportation of Harry Bridges upon the ground that he was a member of or affiliated with the Communist Party? A. I did not know there was any connection between an administrative procedure of government and a trial.

Q. And had this subject of these pending proceedings against Mr. Bridges been discussed at that

(Testimony of Paul Crouch.)

conference in which Mr. Schneidermann for one asserted that he was not a fool?

A. Yes. The District Bureau had received frequent reports on that proceedings and had given advice as to the policies that Mr. Bridges and his attorneys should follow in that proceedings.

Q. And this council decided then that even if Mr. Bridges——Withdraw that.

You knew, too, that in the proceedings of 1941, tried before the CIO convention, Mr. Bridges had stated unequivocally under oath that he was not and never had been a member of the Communist Party? You knew that, didn't you?

A. I knew many members had stated under oath things that weren't true.

Mr. Hallinan: I ask that be stricken.

The Court: Motion granted. [3017]

Mr. Hallinan: Answer Yes or No.

The Witness: Please restate the question. Please read the question.

(Question read.)

A. I do not recall now whether I had any knowledge as to whether Mr. Bridges had testified under oath or not.

Q. (By Mr. Hallinan): And that subject was not discussed at the meeting at which Mr. Schneiderman asserted that he for one was not a fool?

A. Not at that meeting.

Q. So when you were registering under a fictitious name in Alameda County and having your wife scoot over with messages to the fraction or

(Testimony of Paul Crouch.)

denominator or quotient or whatever mathematical terms you employed, you didn't know then that that very year a trial had been held looking toward Mr. Bridges' deportation, is that right?

A. I did not know that there was a trial; I knew there was some administrative proceedings. I did not know Mr. Bridges had ever been indicted.

Q. You did not know at that time that in this administrative proceeding Mr. Bridges had testified under oath that he was not and never had been a member of the Communist Party, is that right?

A. I do not recall the full details at this time years later. I probably knew the details—I certainly knew the [3018] details at that time, but—but now years later I cannot recall, because they were changing from day to day, and I cannot remember distinctly all of those administrative details of many years ago.

Q. Now, do you remember, or did you know at that time, rather, that Mr. Bridges had presented evidence before presiding inspector Sears that the FBI had been tapping his telephone wires for a long period of time preceding that?

Mr. Donohue: I object to the question, if your Honor please. It certainly is not relevant to the cross-examination of this witness.

Mr. Hallinan: Let's find out if he knows.

Mr. Donohue: Suppose he did know?

Mr. Hallinan: This is of great importance,—this figure that they are protecting and moving under cover, and so forth. Let us find out now whether

(Testimony of Paul Crouch.)

they knew of the surveillance he was under and whether or not secrets were being kept, and whether they wanted Bridges to be protected or whether they were pushing him out into a position where he would expose himself as one of them.

The Court: Overruled.

The Witness: What is the question?

(Question read.)

A. I did not know then and I do not know today that the FBI has tapped Mr. Bridges' wires, and I did not know that he had [3019] any evidence or pretended evidence to that effect.

Q. (By Mr. Hallinan): Now, you stayed at the meeting at which Mr. Bridges read off this resolution for a part of the time after he finished it, isn't that right?

A. Not more than a very few minutes, at the most, after he finished. He had hardly finished before I turned around and walked out. I was only interested in the reading of the resolution itself.

Q. You weren't a bit interested in the disclosure by Mr. Bridges of the tapping of his wires by the FBI, is that right?

A. As a Communist I knew that Mr. Bridges was engaged in a lot of propaganda, which I didn't need to bother about the details of it.

Q. You say you had no evidence or no belief that there actually had been wire-tapping by the FBI in Mr. Bridges' case, is that right?

A. The only time, as I can now recall, was

(Testimony of Paul Crouch.)

reading an allegation in the Communist Party press about the—around the 1st of September, in which Mr. Bridges had alleged that his telephone wire had been tapped, but——

Q. That is all you heard?

A. That is all I heard.

Q. But you don't believe it had been tapped, do you?

Mr. Donohue: I object, if your Honor please. His belief or disbelief on that subject is certainly not relevant here. [3020]

The Court: Overruled.

A. I am not qualified—I have no opinion. I am not qualified to express an opinion, and I have no opinion whatever on that subject.

Q. (By Mr. Hallinan): Let me ask you this: Had you found out that Judge Sears, after the original hearing and after evidence of the wire-tapping in New York, had made a finding of fact that the FBI had been illegally tapping Mr. Bridges' telephone wires?

Mr. Donohue: I once more object, your Honor.

The Court: The objection is sustained.

Q. (By Mr. Hallinan): Did you hear, in the midst of these discussions of people, at least one of whom was not a fool—I forget his name—any discussion that Judge Sears had made a positive finding of fact that the FBI had been illegally tapping Harry Bridges' telephone wires?

Mr. Donohue: I object, if your Honor please.

The Court: Sustained.

(Testimony of Paul Crouch.)

Mr. Hallinan: Did your Honor sustain that objection?

The Court: Yes.

Q. (By Mr. Hallinan): Now it is your story here——

Mr. McMillan: No, it is his testimony, may it please your Honor, not his story. [3021]

Q. It is your story here, is it, then, that despite these efforts to have Mr. Bridges deported the Communist Party was trying to push him out into a position where he would have to make a public assertion and show of compliance with their orders? Is that right?

Mr. Donohue: I object to the question, if Your Honor pleases. I object to it on the basis of Mr. Hallinan's characterization of the witness' testimony as his "story."

The Court: Sustained.

Mr. Hallinan: Your Honor, might we—We have some other material relating to this witness that we haven't yet completely compiled and as it is ten minutes to 12:00 now, might we have the adjournment before pursuing the matter further?

The Court: I have no objection.

In accordance with the assurance given to the jurors yesterday, and earlier in the case, we have reached the point in the trial wherein we will take the adjournment, the holiday adjournment, until January 3, 1950, 10:00 o'clock, Tuesday. This will represent, ladies and gentlemen, a departure to some extent from the ordinary procedures of the trial of

(Testimony of Paul Crouch.)

a case. As a rule, a trial proceeds with a continuity of time; and this circumstance that we do part—that is, the Court and jury and counsel—does not relieve you from your obligation not to suffer any person or persons to converse with you on any subject of the trial. The Court realizes that during the holiday season, [3022] is a natural relaxation and enjoyment. Naturally it is the wish of this Court, as well as my colleagues on the federal bench, that you have the full and complete enjoyment of the holiday season, and the resultant rest to which I know you are entitled. I ask you not to discuss any phase or any part of this case with any person, including the members of your family; because in the very nature of things, you cannot have much rest if you discuss this case with anyone. So a great deal rests in your own conscience. I asked you at the outset whether you would serve this case conscientiously. You said you would; you have served it conscientiously. I have noted your observance, your attentiveness, and I have presided over many trials in these courts, as well as elsewhere, and I daresay you represent one of the finest juries I have seen in standpoint of strict attention to the evidence. There have been many features about the case thus far that have been the subject matter of discussion in your absence. I, of course, do not know whether any of those matters have been brought to your attention, directly or indirectly. If they have been, I ask you and admonish you to disregard them. I told you at the threshold of this case that I would assume to arbitrate the legal matters. Thus far I have done that, I think, to the best of my ability. Perhaps not to the liking either of the defense or prosecution at all times. But we assume to stand here as an individual to administer justice and in turn we—[3023] for you act as a team with me.

I again admonish you and instruct you that if any person or persons assume or assumes to intrude upon your privacy to the extent of conveying information to you concerning this case, or any efforts made or to be made concerning the matter, seeking to influence you or persuade you in any form or any manner, you shall immediately conclude such interference promptly, be it by telephone, by letter or by person—you are to conclude the same and to convey such information to Mr. Mitchell, the Clerk of this Court; who in turn will transmit it to such person or persons as may be proper.

I do not know of any other phase of the matter that needs particular attention at this juncture. Mr. Crouch, you will be available on January 3rd, 1950, for further cross-examination, sir.

The Witness: Yes, sir.

The Court: Unless I am advised by counsel upon either side as to any other matters they would like conveyed to this jury, we will stand adjourned until January 3; 1950. You may now retire.

(Whereupon the Court recessed in the trial of the above entitled cause until 10:00 o'clock a.m., Tuesday, January 3, 1950.) [3024]

Tuesday Morning Session, January 3, 1950,
10:00 o'Clock

The Clerk: United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Let the record show that the jurors are present, the twelve jurors, including the four alternate jurors.

Mr. Hallinan: Yes.

The Court: You may proceed.

PAUL CROUCH

resumed the stand on behalf of the United States; previously sworn.

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. Mr. Crouch, at the recess we were discussing that 1941 CIO convention in which you claim to have participated, doing some work for the Communist Party. Now, you lived at some hotel under a fictitious name at that time in Oakland, is that right?

A. That is correct. Under the fictitious name of Carl Wilson, being registered with my wife as Mr. and Mrs. Carl Wilson at the Harrison Hotel.

Q. You were taking, were you, a considerable amount of interest in that convention?

A. Yes, a considerable amount.

(Testimony of Paul Crouch.)

Q. Or were you just staying in the hotel and doing little more? [3025]

A. The question, Mr. Hallinan, is very vaguely worded.

Q. All right, then, don't answer it. Did you keep track of what was going on at that convention?

A. I received constant reports from my wife, who was courier between me and Walter Lambert, who was with me part of the time, and the convention floor. Through the secretary and assistant secretary she was kept informed and reported constantly to me on the progress of the convention.

Q. You testified at your last appearance that the web was drawn about Harry Bridges by getting him to make that anti-Fascist resolution at the CIO convention in 1941. Will you explain what you meant by that?

A. Certainly, Mr. Hallinan. Ever since the Soviet attack—since the German attack on the Soviet Union on the 22nd of June of 1941, the Communist Party was anxious to place the trade unions definitely on record for all-out support for the countries fighting on the same side as the Soviet Union.

Q. Just a moment. We are talking about a web drawn about Harry Bridges. That is what I want to get. How was this web now drawn about Harry Bridges? Wait a minute. We will start a little earlier on it. You say that for a while there was some discussion about expelling Harry Bridges from the Communist Party. A. Correct.

Q. Now, when did that discussion start? [3026]

(Testimony of Paul Crouch.)

A. The discussion started at a district bureau meeting at Schneidermann's office, to the best of my recollection and knowledge, on the 9th of July, on a Wednesday, I believe, and immediately upon the return——

Q. What year?

A. 1941—on the return of Schneidermann, Steve Nelson and Anita Whitney, from a meeting of the Central Committee in New York, at which meeting Schneidermann reported that Bridges was very reluctant to go along with the change of party policy, that he was opposed to all-out production, no strike policies, and other basic issues connected with the full support for the countries fighting on the side of the Soviet Union, and we had probably reached a break, and it would be necessary to expel Bridges from the Communist Party and remove him from the positions that he held in the CIO.

Q. Tell us the things now that Bridges was doing that was opposed to Communist policy. What was the first?

A. The first was the information—I do not know upon what it was based—all I know is that William Schneidermann reported that Bridges was in conference, had been in touch in the East with the trade union leader of national prominence, and he was opposed to the party line on this question at the time.

Q. Who was that? A. John L. Lewis.

Q. Fine. First he had been in conference with John L. Lewis? [3027]

A. In contact with John L. Lewis.

(Testimony of Paul Crouch.)

Q. In contact with John L. Lewis. All right, now, what was the second thing?

A. The second was just the information in which he did not give the details, but stated that he was informed that Bridges was fundamentally opposed to the change, the abrupt, aboutface change in line on the question of no strike, on the question of all-out production, on the question of aid to Great Britain and so on. This was the basis—— [3028]

Q. Well, now, wait a minute, wait a minute. Now, what else? Give us the third thing.

A. This was all we had. And when we had the discussion in the District Bureau meeting on the 9th of July, I presumed that Schneidermann's information was accurate.

Q. No, just a moment, just a moment, Mr. Crouch. Now, we want to get these things now specifically, then we will go into the discussion. Now, the first thing that objection was made to was that he had a conference with John L. Lewis, or in touch with John L. Lewis. The second was that he was fundamentally opposed to the change in no strike and all-out production. Now, was there any third thing?

A. And in this connection the whole matter of aid to Great Britain and the Allies, and no change —which his union, and the whole CIO, which he headed in California, was following up to June 22.

Q. All right. Now, you say that you proposed in some measure, in some manner, by getting Bridges to give this resolution that you discussed, to draw

(Testimony of Paul Crouch.)

a "web" about him. Now, by drawing a "web," you mean you wanted to entangle him in some sort of declaration that could afterwards be used against him; is that what is meant?

A. To place him on record so clearly, so unequivocally and so positively that he would not be able to make another about-face. [3029]

Q. So that now he couldn't change and start back again advocating strikes, is that right?

A. Pardon me?

Q. For instance, you wanted to put him in such a web by having made this public declaration that he couldn't change around, for instance, and start advocating strikes again, is that right?

A. That is the question of advocating strikes—that is only one step in the matter of a whole, general, basic policy.

Q. Yes. But now here you were going to put a web about him so that he couldn't change his position from that which he had shifted over to. Now, for instance, had he dropped his friendship for John L. Lewis?

A. He had ceased reflecting, or expressing the same general ideas. While John L. Lewis, as I recall, was becoming very quiet around this period, but I don't recall any statement of John L. Lewis calling for all-out aid to Great Britain, the Soviet Union, and so on, before Pearl Harbor. He might have, but I don't recall it.

Q. All right, now——

A. While Mr. Bridges did.

(Testimony of Paul Crouch.)

Q. Well, let's forget Lewis. You don't know enough about him, about that. Now, on the second thing. You wanted to draw this web about him so that he couldn't change his position of no strikes and all-out production; by giving this little— [3030] what do you call it?—resolution or whatever it was, he had put himself on record so that he couldn't change back again now and change his policy of no strikes and all-out production; that's right, is it?

A. Those are reflections of a whole basic line on the international situation.

Q. All right. But we have gotten him down now to things that you wanted to tie him up with in a web so he would have to stay there. We have gotten him down already, so let's stay down with him; let's not run all over the prairies here. Now, this web was going to keep him now from, among other things, shifting his position on no strikes and all-out production. That's right, is it?

A. Those were reflections of the general policy.

Q. Yes.

A. And we wanted to be sure he couldn't change on the basic policy of full, complete aid to the Soviet Union and its allies, involving everything that aid might imply.

Q. Yes. And then by him coming out and making a public declaration, then that, according to your notion, wrapped some kind of a web around him so he couldn't change it any more?

A. It placed him on record, placed him in the web, yes.

(Testimony of Paul Crouch.)

Q. Now, prior to that time he had had a different policy, had he?

A. He had had, he and the union he headed in California, had [3031] been operating on a policy, under the Communist Party policy, had had until the 22nd of June a very different policy——

Q. Can't you answer them more simply? Now, did he have a different policy? Say Yes or No..

A. Your question is complex.

Q. No, I say, did he have a different policy prior to this time? Yes or No.

A. The question cannot correctly and accurately be answered with Yes or No, Mr. Hallinan.

Q. If he did have a different policy, was there some kind of a web that tied him to that policy?

A. There was a tightening, increasing web, and Bridges had started with a speech——

Q. Who put the web on him in the first place? Now, here—— A. Communist Party.

Q. Now, let's get it this way: He had a policy that you wanted him to change. You and these bigwig Communists that you are talking about—all these delusions-of-grandeur gentlemen, like yourselves. You had some kind of policy and you wanted him to change——

Mr. Donohue: Just a moment.

Mr. Hallinan: All right. Withdraw the statement, withdraw the question.

Mr. Donohue: I don't want it withdrawn; I want your Honor to ask the jury to disregard it. [3032]

(Testimony of Paul Crouch.)

The Court: The jury may disregard the statement.

Q. (By Mr. Hallinan): Now, here, this gang of yours—whatever you describe them as—you say that they had some policy that they wanted Bridges to come out and publicly announce. Now, let's not mind what it was, but they wanted him to publicly announce it; that's right, isn't it?

A. It is correct.

Q. Yes. But by doing that, that tied him up in some kind of a web that he couldn't change again, is that right? Isn't it?

A. Without losing face and making himself ridiculous.

Q. That's right. Now, before he tied himself up in this web, he had had a different policy, didn't he?

A. He had been the leader under Party direction.

Q. Can't you answer Yes or No? Did he have a different policy from the one that you webbed him around with?

A. The previous policy had also been part of a web of the Communist Party, up to June 22; but a new policy was established as of that date, and on that date—and at first he did not go along with this policy. He did so increasingly. His speech at Cleveland, Ohio, before a trade union convention was a partial compliance with Party orders; it was by no means wholehearted, and the Party regarded his speech at Cleveland a few days after we discussed his expulsion on the 9th, I think, previous to the

(Testimony of Paul Crouch.)

Cleveland speech, on the 13th of July—we regarded that speech as very unsatisfactory. [3033]

Q. Just a moment. All right, let's don't wander around like that, if you will. Here he had a certain policy that he had publicly announced, regardless of what it was, regardless of whether—he had some policy he had publicly announced. Now, was he tied up in a web on that announcement so he couldn't get out of it without losing face, and so forth? Well, was he or wasn't he? Yes or No.

A. The question is——

Q. Oh, never mind.

A. You can't answer it with an affirmation or a negation; it is very complex.

Q. All right. Let's get to this, if you will. Now, we read some of Mr. Bridges' statements at that convention that you talk about, in which he gave this very important resolution that tied him up in a web. That consisted of five parts: (1) He endorsed the Murray plan of advisory councils; (2) he opposed the anti-labor activities of the Federal Bureau of Investigation; (3) he requested the removal from position of authority of all individuals of Fascist leanings; (4) he pledged loyalty and support to the leadership of Philip Murray; and (5) he requested that Philip Murray make our position in these vital questions known to Franklin Roosevelt.

Now, that last one, of course, is of no consequence —a mere letter to Mr. Roosevelt would have done that.

(Testimony of Paul Crouch.)

A. I think you left one out there, too. [3034]

Q. All right. Now, the big things were this: endorsing the Murray plan and advisory plans; that's right, isn't it? That is one of the things you wanted him to do, is that right? A. One of the things.

Q. That is one of the things. In other words, you Communists wanted the Murray plan of advisory councils supported by Mr. Bridges, is that right?

A. As an implement to an earlier part in that resolution.

Q. I don't care what it was for, but that was one of the things that you wanted Mr. Bridges to do, to support the Murray council, the Murray plan of advisory councils; is that right?

A. Yes, because that would help prevent strikes.

Q. Yes. And Mr. Murray was not a Communist, was he?

A. Mr. Murray was not a Communist, and is consistently opposed to Communism throughout, to the best of my knowledge.

Q. All right. And Mr. Murray had drawn up a plan of advisory councils, hadn't he?

A. He had.

Q. Yes. And that plan of advisory councils was then, at that time, the policy of the CIO, wasn't it?

A. It was the policy of the CIO and was supported by Communists after the 22nd of—this whole policy of the CIO was supported after the 22nd of June. Previously——

(Testimony of Paul Crouch.)

Q. So then what Mr. Bridges was doing, the first important thing he was doing, was supporting the Murray plan of advisory [3035] councils, which had been drawn up by Philip Murray, who was not a Communist, and which was then the policy, the general policy, of the national CIO; that's right, isn't it?

A. Yes. And contrary to the policy of the Communist-controlled unions and the CIO, which they had followed prior to June 22. [3035-A]

Q. (By Mr. Hallinan): Now, the second one, he was to oppose the anti-labor activities of the Federal Bureau of Investigation. Was that one of the things that the Communists wanted him to go out for, to oppose the anti-labor activities of the Federal Bureau of Investigation?

A. The——

Q. Yes or no.

A. To clearly answer this question, I would like to point out——

Q. No, I will point out some things in a moment. Was that one of the things that you wanted him to get into the resolution?

A. If you will permit me to give an answer——

Q. Can you give a yes or no answer?

A. It does not call for a yes or no answer.

Q. It does call for a yes or no answer.

A. It is misleading to the Court and the jury to give a yes or no answer.

Q. That is none of your business what the Court and jury do, Mr. Crouch. If you will just answer

(Testimony of Paul Crouch.)

the question: The second part of this resolution was to oppose the anti-labor activities of the Federal Bureau of Investigation. Was that one of the things that you say the Communists wanted Mr. Bridges to include in the resolution?

A. That was one of the things the Communist Party included in the resolution.

Q. In the meantime, Mr. Bridges himself had been the victim of [3036] the anti-labor activities of the Federal Bureau of Investigation, had he not?

Mr. Donohue: I object to the question, if your Honor please. It calls for a conclusion on the part of the witness.

Mr. Hallinan: Withdraw it.

Q. You had been informed prior to that time that Mr. Bridges had been a victim of anti-labor activities of the Federal Bureau of Investigation, is that right?

Mr. Donohue: I object to the question, if your Honor please. It could not make any difference if he had or had not been informed that Mr. Bridges had or had not been a victim of the Federal Bureau of Investigation. It is argumentative.

The Court: Overruled.

The Witness: What was the question?

(Question read.)

Mr. Hallinan: Yes or no.

The Witness: The question is vague. If I were to answer yes or no, I would deliberately by helping to mislead the jury and the Court.

(Testimony of Paul Crouch.)

Mr. Hallinan: You do not mind that, do you?

A. I object to that kind of insult, Mr. Hallinan.

Q. Yes or no; Had you heard that Mr. Bridges himself had been the victim or the object of anti-labor activities by the Federal Bureau of Investigation?

Mr. Donohue: I object to the question as it is now framed, [3037] if the Court please, because there is no evidence here to sustain the fact that Mr. Bridges had ever been the object or subject of any illegal activity.

Mr. Hallinan: We will come to that.

The Court: The question is, had he ever been informed on the subject in any particular.

Q. (By Mr. Hallinan): Had you been?

A. Repeat the question, please.

(Question read.)

A. I had no knowledge of any anti-labor activities of the Federal Bureau of Investigation.

Q. (By Mr. Hallinan): So then that was not included in the Communist orders to Mr. Bridges?

A. Pardon me?

Q. So, of course, then that was not included in the Communist orders to Mr. Bridges? That was not included in the resolution that you wanted to make?

A. I just stated that paragraph on the FBI was included by the Communist Party in the resolution.

Q. You said you had no knowledge that they had

(Testimony of Paul Crouch.)

indulged in an anti-labor activities, didn't you?

A. I didn't say the Communist Party didn't try to make the people think that it did.

Q. Then the third part was to request the removal from positions of authority of all individuals of Fascist leaning whose [3038] retention in important governmental posts raises questions of doubts in the minds of the workers, undermines the morale of the army of industrial workers and the morale of the people; was that included?

A. It was.

Q. The third one was to pledge loyalty and support to the leadership of Philip Murray and urge him to retain leadership of the Congress of Industrial Organizations: was that included in the report?

A. It was.

Q. And the fourth one was, "As we say, we request Philip Murray to make our positions known on these questions to Franklin Roosevelt."

You heard read out here a few days ago part of Mr. Bridges' speech, which included this:

> "We need assurance that there will be a cessation of the activities of the FBI as an anti-labor and labor spy agency, their framing of evidence and collecting of stool pigeons in order to bring about a Fascist decision such as that just rendered by Judge Charles Sears."

How many people were at the convention at which Mr. Bridges made this speech?

A. I was only on the floor for a few minutes.

(Testimony of Paul Crouch.)

Q. How many people did you observe?

A. I would say there were several [3039] hundred.

Q. Several hundred people, and those were laboring people themselves, isn't that right?

A. That is correct; most of them.

Q. And they would know, would they not, whether Mr. Bridges was telling the truth about these matters? A. No, not all of them.

Q. Now, listen to this: This is said to these several hundred people:

> "I would like to point out to the delegates that they might consider the many crimes that they would be accused and found guilty of by such a judge, who could see no reason why the testimony of an A. F. of L. official against the CIO should be biased or in any way untrue. I shudder to think how many of you would find your way into jails or be deported or even executed if one fraction of what A. F. of L. officials have testified to about you was ever believed by a person having authority to decide such punishment."

What is the meaning of the A. F. of L. in that sentence, do you know?

A. The A. F. of L. are the initials for an employee of the American Federation of Labor.

Q. Do you know whether or not A. F. of L. officials were testifying falsely against CIO officials?

A. I had no personal knowledge of it, I [3040] said.

(Testimony of Paul Crouch.)

Q. You have no knowledge?

A. No personal knowledge.

Q. Did you have any opinion on the subject?

Mr. Donohue: I object, if your Honor please. His opinion would have no probative value before this jury.

Mr. Hallinan: It goes to the probability of the formation of this resolution by this gentleman.

Mr. Donohue: You might ask Mr. Bridges about that.

Mr. Hallinan: He will tell you all about it.

Mr. Donohue: Then ask him about it.

The Court: The objection is overruled, if he has an independent opinion.

The Witness: I had no reason to have an opinion as to whether any A. F. of L. leaders had ever testified falsely under oath against CIO officials or not. On that subject I had no opinion whatever.

Q. (By Mr. Hallinan): Now, listen to this, if you will, and see if this emanated from your mind or whether it reflects Mr. Bridges' own experience:

> "But the judge saw nothing wrong in labor spies. He saw nothing wrong in the fact that one of the witnesses was advocating membership in the Nazi Bund, inasmuch as he ruled such was immaterial. Judge Sears could not bring himself to believe that the FBI could do anything wrong or would attempt to frame evidence. In this connection, [3041] he said if their testimony is not true, there has been a dastardly attempt to deceive me as the presid-

(Testimony of Paul Crouch.)

> ing inspector by false testimony, for there is no chance of mistake, and if I were to believe that O'Neill was framed or his declarations falsified, I would look with suspicion on the entire case presented by the Government."

Did you know anything about that subject?

A. I did not.

Q. Do you mean to say that you made no inquiry as to whether or not the charges of Harry Bridges on wire-tapping and illegal spying were untrue or not?

A. I read the newspapers, but my assigments by the Communist Party did not include investigations in those fields.

Q. When you included or when the Communist Party included, as you say, this portion of the resolution against the anti-labor activities of the Federal Bureau of Investigation, didn't you receive any information on the subject from the other members of the party?

A. No; to the best of my recollection, Walter Lambert introduced that particular point in the resolution in our political discussion in the District Bureau, but it was not amplified, a job which, of course, was left for Mr. Bridges to do.

Q. Listen to this:

> "Again in reference to the FBI agents' testimony on the witness he said, 'They denied explicitly the alleged [3042] intimidation. They were in my opinion thoroughly credible witnesses. I believed them implicitly.' "

Now, listen to this:

> "Ask any union men who have been arrested and intimated and jailed by FBI agents for union and strike activities. Ask any union man who has had any dealings with the FBI as to whether they are the angels and souls of honesty that the judge pictures them to be. I know, and the judge admits in his decision, that they violated the law by wire-tapping."

Did you check to find out whether or not the judge had admitted in his opinion that there had been illegal wire-tapping of Harry Bridges by the FBI?

A. I did not check.

Q. "I also heard them discussing using the equipment at a union meeting to be held in another part of the hotel, where they recently tapped my hotel room in a New York City hotel. I made tests to prove that the information that they got on union matters through tapping my telephone was communicated to employers for strike-breaking purposes. It is noticeable that our request to prove this was denied by the judge, and the FBI has always denied that they engaged in illegal wire-tapping or labor espionage."

Did you check on that at all? [3043]

A. I was not assigned by the Communist Party to check on that. I did not.

Q. At the same convention the report of the president and secretary read in part,

(Testimony of Paul Crouch.)

> "Our report of the Bridges case must take into consideration——"

Mr. Donohue: May I ask, if your Honor please, if this is a report by Mr. Bridges?

Mr. Hallinan: No, this is a report by the president of the union. He identified him as Mr. Connelly.

Mr. Donohue: It not having been suggested that the witness had anything to do with the preparation of this report, I object to any questions being asked of this witness concerning it.

Mr. Hallinan: My purpose is to show that other, and a great many persons in the convention, without any dictation from the Communist Party, Mr. Crouch or anyone else, had proposed resolutions similar or even identical with the one that Mr. Bridges proposed, and that this was just simply the order or the plan of the CIO national committee and had nothing to do with Communists' orders or anything of that kind. There were 25 or 30 resolutions of a similar nature that this man said he was familiar with the other day. He said he kept track of the resolutions. He identified some of them. One was the Connelly report. [3044]

The Court: He did refer to Connelly.

Mr. Donohue: May I respectfully say, if your Honor please, there were hundreds of resolutions introduced at the convention. This witness has only identified one resolution as having been prepared by him under the circumstances he narrated. If Mr.

Hallinan believes that the jury should be informed as to the nature of these other resolutions, the time for Mr. Hallinan to call that to the attention of the jury is when Mr. Hallinan is on his proof, not on the cross-examination of a witness who has nothing to do with their preparation.

Mr. Hallinan: That does not make any difference. He says he is familiar with it and it goes to the weight of his evidence as to whether this resolution Mr. Bridges gave was in fact under the dictation of this man or simply in line with the policy of the CIO as exemplified in the resolution he has identified.

The Court: In this particular instance, I will allow the question.

Q. (By Mr. Hallinan): The one of Mr. Connelly that you spoke of already, that you said that you had read, I want to read this part of the language:

> "Our report on the Bridges case must take into consideration the illegal activities of the FBI in tapping Harry Bridges' telephone in New York in August. Brother Bridges has long recognized the FBI as a tool of the vested interests. [3045] He was not surprised to discover three G-men occupying the room adjoining his, that they had secreted a listening device in his room. Wire-tapping is a federal felony, whether perpetrated by the FBI or an ordinary individual. The failure of responsible governmental authorities to prosecute the FBI, cou-

(Testimony of Paul Crouch.)

> pled with their gross disregard of civil rights and their seemingly apparent determination to discriminate against one of labor's outstanding champions, does perhaps as much as any single thing to shake our confidence in our Government and its democratic processes. The issues are crystal clear. Our faith can only be restored by our Government properly evaluating the Americanism of Harry Bridges and by punishing those agents of the employers who resort to illegal methods in their desperate attempts to embarrass him and weaken him."

Now, that statement is even stronger than the part of the resolution that you say you prepared, isn't that right?

A. If the number of words is an indication of strength, it is. It has more words in it.

Q. And this was part of the resolution proposed by Mr. Philip Connelly, the president of the CIO convention, isn't that right?

A. I don't recall whether it was part of the resolution or part of a speech by Mr. Connelly.

Q. With regard to the statement in the resolution that you [3046] read about persons in high position of Fascist leanings, I ask you to listen to this portion also of Mr. Connelly's resolution:——

Mr. Donohue: Is that a resolution or a speech, if your Honor please? It is not in the form of a resolution.

The Court: It appears to be in the form of a speech.

Mr. Hallinan: It is a report, report of president and secretary to the fourth annual convention of the State Industrial Council.

Mr. Donohue: I object, if your Honor please. I was told and I assumed your Honor's ruling was predicated on the assumption that Mr. Hallinan was going to read to the witness a resolution which Mr. Hallinan contends the witness had said was almost akin to the resolution——

Mr. Hallinan: I do not care what you call it. It is the same thing. What difference does it make whether it is in the form of a resolution or a statement?

The Court: No, I had in mind as the basis for my ruling that you had a resolution or a formal document, Mr. Hallinan.

Mr. Hallinan: Then we will ask this. Here is a resolution.

Q. Did you ever hear of a lady named Norton, a Congresswoman, Mary T. Norton, chairman of the Committee on Labor in the House of Representatives?

A. I think I have heard of a Congressman named Norton.

Q. Do you remember a resolution at this convention in which a [3047] statement made by her in the House of Representatives was offered as a resolution to be adopted by the convention?

(Testimony of Paul Crouch.)

Mr. Donohue: I object, if your Honor please. He has not identified that, never said he saw it.

Mr. Hallinan: Let us see if he can identify it.

The Witness: I can't recall it.

Q. (By Mr. Hallinan): Here. I will show it to you. You told us you kept abreast of the resolutions that were read, didn't you?

A. From the time in 1941 it is difficult to remember the wording of every one of the resolutions, although I do remember the majority of them.

Q. Refresh your recollection by taking a glance at it and seeing.

Mr. Donohue: May I suggest, your Honor, before any question is asked of the witness that I be permitted the courtesy of looking at it?

Mr. Hallinan: I imagine you have a copy of this resolution. [3048]

Mr. Donohue: I don't happen to have it.

Mr. Hallinan: Well, you said that about other documents that afterwards turned up in your possession. You made inquiry of some of your——

Mr. Donohue: I challenge that statement.

Mr. Hallinan: You might inquire of some of your associates.

Mr. Donohue: That doesn't come very seemingly from you, Mr. Hallinan.

Mr. Hallinan: This original resolution that you said you couldn't find, and behold, Mr. Kaiser was pulling it out of the briefcase, with regard to this very witness. You said, "No, we haven't it." And

I pointed out to you that your associate was getting it out of his briefcase; then you found it.

Mr. Donohue: I appreciated the courtesy of your telling me so. I said I didn't have it, and I don't have it.

Mr. Hallinan: Well, I'll tell you—ask them now about these resolutions.

Mr. Donohue: I say for the record that it comes unseemingly for you to criticize anybody saying that they have or haven't the papers.

Mr. Hallinan: Well, wait until you hear some of the criticism I have to make of you. I will do it in due time—not now.

Mr. Donohue: It will be answered in due course.

The Witness: This, Mr. Hallinan, this resolution, one of [3049] of 130——

Q. (By Mr. Hallinan): Well, just do you recognize it? A. No, I don't recognize it.

Q. Does it refresh your recollection that it was offered?

A. Not this particular resolution, I am sorry, no, sir.

Q. Yes. Well, now, let's find a few more. That is an anti-fascist resolution.

I will ask that this be marked for identification at this time, so that we may identify the various resolutions as we go along, if the Court please. That is a set of resolutions proposed at the convention of the CIO in October, 1941.

The Court: It may be marked for identification as next in order.

(Testimony of Paul Crouch.)

The Clerk: Marked——

Mr. Hallinan: And the one that we are now questioning this witness about is proposed resolution No. 7.

The Court: The so-called "anti-Fascist resolution"?

Mr. Hallinan: That's right, your Honor.

The Clerk: The exhibit is marked Defendants' Exhibit Z for identification.

(Proposed resolution No. 7 was marked Defendants' Exhibit Z for identification.)

Q. (By Mr. Hallinan): In looking that over, you saw it was a very strongly worded anti-Fascist resolution, didn't you?

Mr. Donohue: I object, if your Honor please, to the [3050] question.

The Court: Sustained.

Q. (By Mr. Hallinan): I mean, identifying it now at this time?

Mr. Donohue: I object to the question, if your Honor please.

The Court: Sustained.

Q. (By Mr. Hallinan): Well, you didn't pay any attention to that resolution; you didn't know whether it had been offered or not, is that right?

A. I looked the resolution over to see if I recognized it. I did not.

Q. All right. Well, now, we will show you a couple more. These are two more anti-Fascist resolutions——

Mr. Donohue: I object, if your Honor please, to Mr. Hallinan's characterizing the document, which has not been presented to the witness for the purpose of refreshing his recollection.

Mr. Hallinan: I note that counsel inadvertently looks down at the papers when he comes up to make an objection. I wish you wouldn't do it. If you would step over to the side, so I don't have to turn these papers over? It looks bad.

The Witness: What are the numbers on this?

Mr. Hallinan: 35 and 37.

A. While I do not recognize the particular resolutions, I do [3051] recognize many of the phrases —expressions of both resolutions being practically identical with the general—with the copies that were first drafted by the Communist Party's District Committee as a blueprint for CIO unions throughout the State. They were written along that line.

Q. So that, then, resolutions Nos. 35 and 37 are practically identical with the ones that you furnished Mr. Bridges to deliver, is that right?

A. No, they are not identical, although they contain many of the basic expressions and are very —and they have many points of similarity. For example, with the resolution I personally wrote, and which was passed by the Alameda CIO Council prior to that date——

Q. Yes?

A. They are modeled very much on the resolution which I wrote, by instruction of the Communist Party, and which was adopted by the Alameda County CIO Council.

Q. Yes. Now, for instance, the Marine Cooks and Stewards Association proposed resolution No. 35,——

Mr. Donohue: I object to his reading the resolution, if your Honor please. It isn't in evidence and isn't admissible in evidence.

Mr. Hallinan: Well, he identifies it as being almost identical in form with the one that he had talked about.

Mr. Donohue: So what, if your Honor please? He didn't [3052] prepare it; he can't be responsible for it. Is it to impeach the testimony he has given about other resolutions?

Mr. Hallinan: Counsel seems to think that the only purpose that a person can have is a matter of impeachment. What we would like to do is to enlighten the jury and the Court, the Court and the jury. We would like to show the Court and the jury that a great number of similar resolutions, consistent with the policy of the national CIO, were offered at that convention. A great number of resolutions, by other persons. And that it is extremely unlikely——

The Court: Well, Mr. Hallinan, would it be in order, in keeping with your thought on examination, to ask him the specific question whether or not there were any other, additional resolutions of like character?

Mr. Hallinan: Well, I don't like to accept this

(Testimony of Paul Crouch.)

gentleman's word just on a thing of that kind. I want to ask it question by question. I don't want to depend upon the statement of a man whose previous testimony has resulted in a situation that we have been now trying to press before Donohue's Grand Jury. So I don't want to ask him, "Was there such a thing?" He will say, "I don't know," or, "No," or something of that kind. I want to prove it in my own way.

Mr. Donohue: If your Honor pleases, the statement——

The Court: One moment. It is incumbent upon the Court to admonish the jury to disregard the statement made by Mr. [3053] Hallinan with respect to, quote, "Donohue's Grand Jury," close quote, as improper and as misconduct on his part. Now, with respect to such characterizations and statements, I again admonish the jury and each of the jurors individually, and collectively, to ignore the statements, disregard the same.

Now, Mr. Hallinan, going back to the resolutions. How many in all were there? Let us see if we can analyze this matter.

Mr. Hallinan: There were nine anti-Fascist resolutions, nine on that one subject. Then there were eleven on civil rights, including wire-tapping by the FBI. There were two more on the right to strike, which is one of the things that he has had here. And there were two resolutions criticizing the American Federation of Labor officials for their

(Testimony of Paul Crouch.)

false testimony and illegal activities against the CIO officers.

Mr. Donohue: If your Honor pleases,——

The Court: Do you propose to go into all those resolutions? It will take some time.

Mr. Hallinan: I don't want to. I want to read one or two and then show that the rest are similar to them.

The Court: You would like to establish a pattern?

Mr. Hallinan: Yes, that is all.

Mr. Donohue: May I say, before your Honor rules, this:——

Mr. Hallinan: And I might say this, too, your Honor: Of these anti-Fascist resolutions, five were adopted and the [3054] other four were filed in favor of these five that were adopted. In other words, the language being so similar, they were withdrawn in favor of the ones that were adopted. Now, there is one, No. 37, that about does the whole thing, and I would like to read that one to show that these resolutions were the same kind. And I would also like to read out the names of the unions that proposed the various resolutions, without, however, reading the resolutions.

Mr. Donohue: If your Honor pleases, Mr. Hallinan has stated to your Honor that his purpose in reading these resolutions is to call to the attention of the jury the substance of the resolution. That on its very face is certainly in this case not proper cross-examination. If Mr. Hallinan wants to introduce these resolutions, let it be done in the proper manner and at the proper time, when he attempts to put on his own defense, or the defense of his client. It isn't proper cross-examination of this witness.

Mr. Hallinan: He has testified on the subject.

The Court: The witness stated, Mr. Donohue, that he was familiar with these resolutions and the general subject matter.

Mr. Donohue: So what, if your Honor pleases? Any one of the 300 or 400 people present at that convention was familiar with the resolution.

The Court: I do not propose that the context or contents of the resolution be read. [3055]

Mr. Donohue: That is what he wants to do.

The Court: At any great length. You might establish——

Mr. Hallinan: One resolution will give the context and it is only a short resolution. They are not long; they are not any longer than the resolutions that were——

The Court: All right. Proceed.

Mr. Hallinan: All right. Now, this is No. 37 from the San Francisco Industrial Union Council:

> "Whereas, countries representing a majority of the peoples of the world are now directly involved in the war now raging in Europe and Asia; and
>
> "Whereas, since this war started in September, 1939, the forces of Nazi aggression have succeeded in conquering a large number of

(Testimony of Paul Crouch.)

countries in Europe, with the result that the people of these countries have lost all the democratic rights and privileges they previously enjoyed; and

"Whereas, Hitler as publicly declared his eventual goal is to conquer and place under Nazi rule all the countries of the world; and

"Whereas, the delegates of this Fourth Annual Convention of the California State Industrial Union Council, CIO, are convinced that a victory for Hitlerism in the present war will lead to the destruction of democracy and the abolition of free trade unions in this and [3056] every other country;

"Therefore be it Resolved, we believe the most important issue facing the people of the United States today is that of establishing unity with and giving support to all freedom-loving people in the fight to defeat the menace of Nazi aggression. Organized labor, because of its strength and strategic position, has the responsibility not only to lead but to carry a major part of the burden in this fight.

"Be it Resolved, that this fight can best be waged at this time if all the people of this . . . subscribe to a program which includes (a) closest possible collaboration by the United States with all the countries, including Great Britain, China and the Soviet Union, who are actually engaged in armed conflict to protect their people against Nazi aggression; (b) the energetic carrying out by the Government of the United States of a policy of all-out aid for these countries; (c) full support of the eight-point program enunciated by President Roosevelt and Prime Minister Churchill on August 18, 1941; (d) assumption by labor of the leadership in an active fight to defeat all appeaser and pro-Fascist forces in the United States and to remove those fifth columnists from the high councils of the Administration who attempt to obstruct the program of giving greatest possible aid to the [3057] countries and peoples who are actively fighting Nazi aggression; (e) conducting an aggressive fight for the preservation and extension of the established rights of labor and the civil rights of the American people.

"And Be It Finally Resolved, that copies of this resolution be forwarded to the national office of the CIO, all CIO national and international unions, and organizing committees, to all CIO bodies in California, and to the press.

"San Francisco Industrial Union Council."

Q. Now, you heard that read and you stated already that No. 35 was quite similar to it, is that right? Just Yes or No.

A. I don't remember the numbers.

Q. But the other one that you read was quite similar to it, wasn't it?

A. Many of the phrases and the same line emanating from the Communist Party was identical in both, and this resolution, I might say, is almost an exact copy, to the best of my recollection, of a resolution passed in July of 1941 by the San Francisco County CIO Industrial Union Council, drafted by the Communist Party and specifically by Steve Nelson.

Q. All right. Now, drafted by Steve Nelson?

A. Yes.

Q. Well, then, why did you have to redraft the one that you gave to Harry Bridges? [3058]

A. I drafted—Steve Nelson drafted a resolution passed by the San Francisco Council, I drafted the resolution passed in July by the Alameda CIO Council. But the resolution that was passed was simplified, and, in our opinion, somewhat sharpened and made more unequivocal, the resolution which we drafted and which I edited and polished and which was read by Harry Bridges.

Q. Now, without—unless he wants to see them or unless counsel wants to look them over, I would like to state the names, or the numbers of the resolutions on that subject and the persons proposing them.

Mr. Donohue: I object to it, if your Honor pleases.

Mr. Hallinan: Take a look at them.

Mr. Donohue: I don't care to see them.

Mr. Hallinan: No. 38, proposed by the Industrial Union Council, is in somewhat the same language, except that it includes China.

Mr. Donohue: If your Honor pleases, this witness has been on the stand for about five and a half days, and at least half, perhaps, two-thirds, of the record is replete with statements by Mr. Hallinan which are not in the form of questions. This is supposed to be a cross-examination of Mr. Crouch. I don't know that Mr. Hallinan has been sworn to testify.

Mr. Hallinan: I thought we were trying to save time by [3059] just announcing it this way. If the Court wants, I will show him the resolutions and let him identify them.

The Court: Let us take it up at the recess. Probably we can agree on some formula.

We will take the morning recess, ladies and gentlemen. The same admonition to you, not to discuss the case or to form or express an opinion thereon until the matter is submitted to you.

(Recess.) [3059-A]

Mr. Hallinan: I will ask that the witness take a look at Resolutions 38, 39 and 41. Resolution 38 was also an anti-Fascist resolution in substantially the same language as 35 and 37, wasn't it?

Mr. Donohue: I object to the question, if Your Honor please, as a characterization by Mr. Hallinan of the substance of a resolution which has not been identified and is not in evidence.

Mr. Hallinan: It is a leading question which is proper on cross-examination.

The Court: If it is merely for the purpose of

(Testimony of Paul Crouch.)

describing the resolution, without any evidentiary value, it may be allowed.

The Witness: What was the question?

(Question read.)

The Witness: The word "substantially" is subject to wide variations of meaning and I would not like to split hairs on such a matter.

Q. (By Mr. Hallinan): Leave out the word "substantially." It was a similar resolution, wasn't it?

A. They all conformed to the party line of 1941 and in sharp conflict with the party line of 1940 and early 1941.

Q. Except 38 also included a resolution in support of China against Japan, isn't that right?

A. Yes, but even on that—— [3060]

Q. I didn't ask you about even on that. I said that is what 38 did. 38 was proposed by the San Francisco Industrial Union Council, is that right?

A. Correct. I believe it says so there. I have no specific recollection of all the 130 resolutions of that convention. I read them all at the time. They were all cleared through my office and all received the O.K. of the party before they went—were sent from the resolutions committee to the floor for a vote. I can't remember the details of 130 resolutions after these years.

Q. You do remember that you went over all the 130 resolutions, is that right? A. Yes.

Q. You made yourself familiar with all the proposed resolutions?

(Testimony of Paul Crouch.)

A. Just merely glanced to see that they were in conformity with the party line, that is all.

Q. The ones that did conform to the party line you O.K.'d, is that right?

A. That is correct.

Q. This 38 conformed to the party line, did it?

A. Every resolution passed by that convention conformed to the party line. Every resolution opposed to the party line was thrown out.

Q. 38 conformed to the party line but also included a resolution that China should be supported against Japan, isn't that [3061] right?

A. Correct.

Q. Then No. 39, which also conformed to the party line, went on record supporting China, Great Britain and Russia against the Hitler Fascists; that is right, isn't it?

A. That is right, conformed to the party line after June 22nd. They were fundamentally opposed to the party line and would have been defeated by any CIO convention in California before June 22, 1941.

Q. Take it easy, Mr. Crouch. We are coming to those things in a minute. Just contain yourself because you may have to take some of those things back. I have a few things to propose to you at an earlier date, so just follow the thought. This 39 was submitted by the United Auto Workers No. 60, the Contra Costa Industrial Congress and the Oil Workers Union No. 5?

A. I believe that is what it says on there. I

(Testimony of Paul Crouch.)

don't remember from my own personal knowledge.

Q. No. 41, which you just looked at here, is a resolution supporting England, China and the U.S.S.R., and is proposed by Local No. 76, International Union, United Automobile, Aircraft and Agricultural Equipment Workers of America, isn't that right? A. I don't know.

Q. I just showed it to you there. Will you please look at that and see if you can refresh your recollections? I want you to look at No. 45, Nos. 104 and 108 and see if you can keep in [3062] your mind for a few minutes the persons endorsing those.

A. What are the numbers?

Q. 45, 104 and 108. Now, No. 45 is also an anti-Fascist resolution, wasn't it, asking that the United States foreign policy give aid to Russia, England and China?

A. Resolution No. 45 was a resolution I have never seen before in my life or, as I can recall now, heard of. This is alleged to be the resolutions adopted by that convention, that resolution obviously slipped through, but I am certainly not convinced that it was passed. If it was passed, it was an accident.

Q. We will come to whether it was passed or not. I said it was one of those that you looked over? [3063] A. No, it was not.

Q. You didn't see this one there?

A. I did not see—I have never, to the best of my recollection, seen the resolution No. 45 before.

Q. This says it is proposed by the SWOC, Local No. 1891. Do you know who that is?

(Testimony of Paul Crouch.)

A. Yes, that is one of the few anti-Communist locals of the Steel Workers.

Q. Yes?

A. That was an anti-Communist local, as I recall.

Q. Well, now, this anti-Communist local that was a Steel Workers organization, proposed a resolution that aid should be given to Russia, England and China, didn't it?

Mr. Donohue: If Your Honor please——

A. Tagged onto an anti-Communist——

Mr. Donohue: Just a moment, Mr. Witness. This resolution has not been identified by this witness, and——

The Court: Sustained.

Mr. Hallinan: Let's see if we can get it identified; that's what I wanted to do.

Q. You say tagged on with an anti-Communist what?

Mr. Donohue: Just a moment, Mr. Witness. I object, if your Honor pleases, because the answer he is now seeking to elicit is a question the objection to which Your Honor sustained.

The Court: Well, have the witness identify the resolution. [3064]

Mr. Donohue: He said he never saw it before.

The Witness: I never saw it before, Your Honor, to the best of my recollection.

The Court: Have you examined the text of the matter?

(Testimony of Paul Crouch.)

The Witness: I have, and to the best of my knowledge, I have never seen it before.

Q. (By Mr. Hallinan): Well, you say that the Steel Workers Organization was an anti-Communist organization?

A. I said certain Steel locals. Now, I may have been confused. As I recall, I believe this number is the local of the East Bay machinists, but I am not sure of that. I know that some of the locals were Communist-controlled, some were anti-Communist. If I am not confused in the numbers, this was one of the anti-Communist locals.

Q. Yes. Well, do you know if the anti-Communist Steel Workers did not propose an anti-Fascist resolution?

A. They had been consistently anti-Fascist before and after July 22nd.

Q. They what?

A. They had been consistently anti-Fascist before as well as after.

Q. Yes. In other words, that organization had been anti-Fascist before this, before July of 1941, and continued anti-Fascist afterwards, isn't that right? A. That's correct. [3065]

Q. All right. Now, the other two that we asked you about, 104 and 108, the one, No. 104, that was submitted by the Ship Scalers and Painters, is that right? A. Of the ILWU, I believe.

Q. Yes, that's correct.

A. That was what it said on there. I did not remember the resolution.

(Testimony of Paul Crouch.)

Q. Well, it was an anti-Fascist resolution, was it?

A. I don't—are you asking me as to whether it was from reading it from this, or what I remember of it at the convention?

Q. Well, remembering it as your recollection is refreshed by this.

A. I have no recollection of that particular resolution at all.

Q. Well, now, when you read it here, did you see that it asked for closest possible collaboration by the United States with all countries, including Great Britain, China and the Soviet Union, who are engaged in armed conflict against the Nazi aggression?

A. Of course, that was typical of the line that was being followed under Communist direction, by the ILWU leadership, as well as the state leadership at that time. But still, I do not recall this specific resolution.

Q. Say, was your gang writing out any of Roosevelt's speeches around that time? [3066]

Mr. McMillan: Your Honor, may we have that question read?

Mr. Hallinan: I asked if his gang were writing out Roosevelt's speeches at that time.

Mr. Donohue: There are some questions, if Your Honor please, which perhaps don't even justify an objection.

Mr. Hallinan: Well, then, don't make it.

Q. Were they?

(Testimony of Paul Crouch.)

Mr. Donohue: I object, if your Honor pleases.

Mr. Hallinan: Well, then, this apparently justifies the objection.

Mr. Donohue: Yes, this one justifies it.

Mr. Hallinan: That is preliminary, as showing that Roosevelt's speeches at this time were identical with these resolutions. Now, this——

Mr. Donohue: Now, if your Honor please,——

Mr. Hallinan: Now; this supposition that 1/50th of one per cent of the country was running the policy of the country on this anti-Fascist thing should be played up, if this witness wants to take that position, why, let him go ahead. We want to see how far he contends his gang went in formulating the policy of the American government. We have got the CIO already, and now let's go right on up into the United States Government.

Mr. Donohue: If Your Honor pleases, I can't tell counsel that he can't use the word "gang" in referring to the associates [3067] in the Communist Party of this witness, but I think Your Honor may tell him properly.

Mr. Hallinan: What would we call them?

Mr. Donohue: He has no right to use that word.

Mr. Hallinan: "Mob?" What would we call it?

Mr. Donohue: You would, because that is the——

Mr. Hallinan: According to counsel, there are a lot of criminals, according to the witnesses here, they are perjurers, frauds, liars, the worst kind of people. I don't see why he should be sensitive about the designation being given to this witness. They apparently aren't—they call themselves worse things than anything we can call them. Now, counsel is up here defending them from characterizations that they give themselves.

Mr. Donohue: If Your Honor pleases,——

Mr. Hallinan: What does he want me to call them? I will call them whatever he wants. What do you want me to call them, this bunch that hung out at 142 Haight Street or something and dictated the policy not only of all the unions but of the United States Government? What do you want to call them?

Mr. Donohue: It is only natural, of course, if your Honor pleases, for Mr. Hallinan to use the words which come easiest, naturally, to him.

Mr. Hallinan: Yes, that's right; when I see a gangster, I call him a gangster. If I hear of a gang, I call it a gang. [3068] I am fraid that is true. I don't think I should have to look around and hunt for words; but if counsel wants me to call them by some other appellation, why, to that extent I think I will be willing to oblige him.

Mr. Donohue: I object first, if your Honor pleases, to the appellation used by Mr. Hallinan, contained in the question. I object, too, to the question further on the ground that whether or not this witness is of the opinion that his associates wrote the speeches for Mr. Roosevelt, which is an improper question, whether they did or not isn't pertinent to this issue. I had thought we were trying Mr. Bridges, not Mr. Roosevelt, who is now deceased.

Mr. Hallinan: Well, we are trying the CIO now; we have got the whole convention in here on the matter.

Mr. Donohue: I object to the question.

Mr. Hallinan: He not only says now that he told Mr. Bridges what resolutions he should propose, but that every resolution that was passed at that CIO convention first received his approval. Now, I have another purpose in it. I made a statement the other day as to my opinion of this gentleman's mentality, and I want to inquire, I want to find out just how far these things are true, just how far he can satisfy the truth and how far they may be illusionary. Now, here he has come to the position where every resolution, he said, that was passed at the CIO convention in California in 1941 was first passed and [3069] approved by him and then put through. Now, we are entitled to find what his mental background is, what his notion on it is. I want to see if he would go further. Of course, counsel jumps up and warns him, but what about it? On that question there is an objection, too. What is Your Honor's ruling on it, as to whether he——

The Court: Would you read the question, please?

Mr. Hallinan: I will repeat it, if you would prefer.

Q. That gang, or whatever you want to call them, that officiated on Haight Street, of which you were a member,—did you, any of you, write

(Testimony of Paul Crouch.)

so far as you know, the speeches of President Roosevelt at that time?

Mr. Donohue: I object to the question, if Your Honor pleases. There is no evidence Mr. Roosevelt made any speech at this convention.

Mr. Hallinan: Oh, not at the convention.

Q. Did you write any speeches at that time that were delivered by President Roosevelt?

Mr. Donohue: I object to the question, if Your Honor pleases.

The Court: I will overrule the objection.

A. I have no knowledge of who wrote Mr. Roosevelt's speeches, but I do know that they did not make any flop on June 22nd, and that President Roosevelt had been as militantly opposed to Hitler and Fascism before June 22nd as he was the day after, and [3070] he didn't have to make any about-faces, like certain Communist officials did in California and elsewhere.

Q. Yes. We'll come to that, too, as I suggested to you, later. Now, there is also a resolution, No. 108, that you just read, is that right? And that was an anti-Fascist resolution, is that correct?

A. Under the general heading.

Q. Yes. Now, will you take a look at Resolution No. 37, (Document handed to witness); which is a different subject. Now, that was a resolution that was adopted, wasn't it? A. I don't know.

Q. Well, now, didn't it have your recommendation? Didn't you go over that resolution and decide whether you wanted it given by this union? And wasn't it passed after you recommended it be so?

A. I have already stated that after some eight years I can not remember specifically the details of 130, I believe, separate resolutions.

Q. Yes, but if I tell you that that resolution was adopted, why, then, would you bring it within your general statement that all the resolutions that were adopted were done with your consent and at the instance of these persons whom you have designated as dictating the policy of that union?

A. I certainly—I have no reason to doubt it, because I certainly would have O.K.'d that resolution, since it was in line [3071] with the—consistent Communist party line, which has not changed at any period, of always attacking and trying to discredit the FBI. That has always, at all periods, been the Communist Party line, and this particular resolution is in line with that.

Q. Yes. Well, now, take a look. Do you see where it says there, on 87, "adopted as read"?

A. Yes.

Q. All right. Now, here is a resolution (reading):

> "Whereas, the Federal Bureau of Investigation has again violated the laws of the United States Government in spying on Harry Bridges, California CIO director, and president of the International Longshoremen's & Warehousemen's Union; and, whereas, this most recent illegal activity against Bridges occurred in New York between August 4th and August 22nd.

(Testimony of Paul Crouch.)

1941, when FBI agents secreted a dictograph in Bridges' hotel bedroom, thereby tapping Bridges' telephone; and, whereas, spying by the FBI has persisted after Bridges has twice been the subject of deportation proceedings, and during the interim in which the trial examiner, Charles B. Sears, was preparing his recommendations on the second hearing; and, whereas, the FBI is continuing its anti-labor activities, as exemplified in this most recent invasion of the privacy of Harry Bridges, based on the second hearing; and, whereas, wire-tapping is [3072] a felony, punishable by $10,000 fine, and two years imprisonment, or both; and, whereas, Bridges has requested the United States District Attorney in New York to prosecute the FBI agents guilty of violating the federal laws prohibiting wire-tapping and has stated that he, Bridges, will testify against them if the FBI agents are brought to trial; therefore, be it resolved, that this organization join in urgently requesting the United States District Attorney Mathias F. Correa, of New York City, to prosecute the guilty FBI agents; and be it further resolved, that we, the International Fishermen & Allied Workers of America, Local 33, join the Harry Bridges Defense Committee and other groups interested in preserving constitutional and civil liberties in urgent requesting our United States representatives and United States Senators to begin

(Testimony of Paul Crouch.)

> a Congressional investigation of this latest anti-labor activity on the part of the FBI; and be it finally resolved, that we send copies of this resolution to all affiliates, CIO. Industrial Union Council, and to the State CIO convention, to be held October 3, '45, and ask them to take some action immediately."

Did you draw that resolution? Did you draw that resolution?

A. I did not personally draw that resolution.

Q. Now, at the same convention, there were proposed a great number of resolutions insisting upon the preservation of civil [3073] rights to Americans, isn't that right? A. I think so.

Q. Will you take a look at Resolution No.—I will tell them when you are up there, when the document is up there. (Document handed to witness.)

Nos. 67, 68, 70 and 91.

A. What was the first one?

Q. 67, 68, 70 and 91.

A. What was the second one, No. 70?

Q. 67, 68, 70 and 91.

(Documents examined by witness.)

Mr. Hallinan: Should we take the noon recess, Judge?

The Court: Do you have more questions to ask him?

Mr. Hallinan: Well, it would take some time.

The Court: Well, we will take the noon recess, ladies and gentlemen, with the same admonition to you, not to discuss the case under any conditions, nor to form nor to express an opinion until it is submitted to you. We will resume at 2:00 o'clock this afternoon.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [3074]

Afternoon Session, 2 P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Paul Crouch, heretofore sworn.

PAUL CROUCH

resumed.

Cross-Examination (Continued)

By Mr. Hallinan:

Q. Now, you identified resolutions Nos. 67, 68, 70 and 91. Without reading them off, the No. 68 was a motion against the poll tax, is that right? Do you remember that?

A. I should remember that. I am familiar with that particular bill and all the circumstances connected with it.

Q. Then No. 69 of the National Maritime Union was a protest against the segregation in the armed forces of whites and colored people, is that right?

A. I don't remember the particular resolution.

Q. You saw it there just a few minutes ago. Does that refresh your recollection as to what it was about? A. It doesn't refresh my recollection.

Q. All right. Now, No. 70, the National Maritime Union, was against a bill relating to radio telegraph operators, wherein Bill H.R. 5074 gave the right to suspend the license of a radio operator if there were a reasonable probability [3075] that he was taught, advocated or believed in any subversive activity at present or in the past. Do you remember that resolution? A. No.

Mr. McMillan: Your Honor, may I interrupt that? I would like to make an inquiry of the Court, and I make this very respectfully: Hasn't the time about arrived, after long last, that your Honor should exercise your judgment in laying some limitation upon the extent of the cross-examination on this particular subject of inquiry? We have finally reached the point in this case where we have spent all morning talking about a web and we spent all morning going into resolutions. Now, your Honor, this witness has been examined for many days. I grant counsel has a right to test his testimonial qualifications. He has a right to go into his observations, his recollection and his narration, his interest, his bias, and all these matters, matters affecting his credibility, contradictory statements, and thus and so. But even a limitation may be laid upon those matters by your Honor. Just a few days ago Mr. Hallinan read from Mr. Wigmore at great length. May I just read a few sentences:

(Testimony of Paul Crouch.)

> "Whenever the admission of a particular class of relevant evidential facts would, by reason either of the amount of evidential data or the complication of subordinate issues or the length of time spent on relatively minor [3076] details, tend to obstruct the tribunal's ascertainment of the truth, either by unduly distracting attention from the substantial issue or by unnecessarily confusing or obscuring them, the evidence may in a general class of cases or in a particular case be admitted with limitations or conditions or excluded.
>
> Further, whenever the admission of a particular class of relevant evidential facts would be likely to thus tend to dominate the mind of the tribunal and prevent a rational ascertainment or determination of the truth, and where the evidence, having this tendency, is not necessary to the ascertainment of the truth, the evidence may be in a general class of cases or in a particular case admitted with limitations, conditions or excluded."

Now, your Honor, the indictment in this case charges what? It charges in a naturalization proceeding that the defendant Harry Bridges was asked certain questions and that he gave false answers to those questions: "Do you now or have you ever belonged to the Communist Party in the United States?" Answer: "I have not. I do not."

Now, those are the substantial issues, the dominant question to be determined here.

(Testimony of Paul Crouch.)

In short, aren't we going wide afield when we go into these webs, and when we go into these resolutions? With reference to these resolutions, this witness has been shown [3077] several resolutions and he answered, and his answer has been typical of the 130 which have gone through his hands. We know now what the answers would be. This matter here has reached the point where it has become exhaustless, if your Honor please. It is becoming interminable. I respectfully submit some limitation should be laid not only on the cross-examination as a whole but upon this particular subject. Otherwise it is simply going to become interminable, and if I may say it with the becoming diffidence of my own judgment, we are reaching the point here where it has become a lingering agony, long drawn out, your Honor, and I respectfully request that some limitation, which is within the power of your Honor to exercise in your sound discretion, be laid upon this cross-examination. We are getting far afield. [3078]

Now, here we had for cross-examination this morning, I remember this, we had reached a point where this witness is asked a question, "Did your gang write President Roosevelt's speeches?", and counsel makes a statement, "Why, I have got a right to go into these matters. I have a right to test this witness' mental condition, see whether or not he was laboring under some hallucinations when he gave these answers with reference to these resolutions." There is a limitation. And when you spend two or three days in the cross-examination of a witness, I respectfully submit that his testimonial qualifications have reached a point even beyond the breaking point. He stretched them way beyond the breaking point. He has reached a point where it is far beyond endurance, and I respectfully submit my inquiry to your Honor.

Mr. Hallinan: Might I suggest this, your Honor? Their whole plan is to introduce one small part, one small thing which they claim to be an important thing, as constituting some element in their case. And then they limit the defense from showing that no such intendment occurs. Now, it is very easy to say, "Be very happy if you would dispose of those matters in a sentence or two." But here, this man has said now, and they are trying to raise the inference, that the CIO, at least in California, was dominated by the Communist Party. And that is his statement. And as proof that it was dominated by the Communist Party, they show that a resolution condemning Fascism [3079] and condemning wiretapping by the FBI were offered by Harry Bridges.

Now, we have the right to show, first, that that was the general position of the entire American CIO, not only the California Council, but the whole country; that Harry Bridges was carrying out not any statements of this man or his gang—or whatever they want to call them—but that it was carrying out the policy of the CIO; and we also have the right to show that these things which he ascribes to himself were the general sentiment of the country at the time. And we can show your Honor that

(Testimony of Paul Crouch.)

these resolutions are almost repetitious of statements that were made on the radio by Franklin Delano Roosevelt. They are practically the exact same thing.

Now, we have no desire to string it out or to try issues that aren't of any importance. We would like to finish the thing. But we don't want to be reproached for having in the record something that could have been offered to the jury. We don't want to have somebody come in afterwards and say, "We had this," and "We had that"; and then have it said, "Why wasn't it presented at the opportune time?"

The Court: How much additional do you have?

Mr. Hallinan: There isn't very much, your Honor, and I have showed an inclination to cut it down. I haven't read these resolutions, I have read one, and then went on to the rest, just referring to the moment—— [3080]

The Court: With the assurance given to the Court that you will curtail the matter, I will permit you to proceed.

Mr. Hallinan: This will take only a very few minutes more, I would say.

Now, will you show this witness No. 50 (document handed to witness by the Clerk).

Q. As that resolution was passed, I take it that was one of those you looked through and passed upon, is that right?

A. I have no recollection about this particular resolution. As I stated, out of 130 and so on, many of them technical, I was looking for political import. There was no political import whatever in this resolution, and there is nothing whatever about it to attract, to have caused me to have remembered it one way or the other.

Q. Do you know what U.C.W.O.C. means, what union that was? A. No.

Q. "Los Angeles District Council"? And this, without reading the entire resolution, says that the CIO in Southern California is being constantly confronted in their drive by A. F. of L. goons and pickets and Teamsters are constantly going through CIO picket lines with trucks and scabs, and et cetera. Now, did you propose that to Mr. Bridges?

A. This is a technical, and what I would have termed a non-political resolution, with which I was not particularly concerned. [3081]

Q. Well, now, to go back to the three that we just talked about, and without reading them off again—that is, Nos. 67, 68, 70 and 91—the No. 68 you identified that, it referred to the poll tax. The other to the taking away of radio operators' licenses if there were reasonable probability to believe that he had ever belonged to what they termed a subversive organization. And No. 91 related to a certain discrimination by whites against negroes in the military camps and a riot that had occurred in one of the camps in which a number of negro soldiers were injured. Do you remember that?

A. Not now.

Q. Well, would you look at No. 102, 106 and 122

(Testimony of Paul Crouch.)

(documents handed to witness by the Clerk).

Now, No. 102, United Electrical, Radio & Machine Workers of America, proposed an anti-discriminatory resolution. You remember that one?

A. No.

Q. That is a resolution condemning discrimination in defense industries. Then No. 106 insisted that while all aid be given to the countries fighting Hitler, that it not be at the expense of such gains as labor had already made. Do you remember that one?

A. There is nothing about that one to impress itself on my memory one way or the other.

Q. And then No. 122 recommended the National Federation of [3082] Constitutional Liberties for its stand against anti-labor legislation, wire-tapping, anti-alien legislation, violation of free press, free speech, free assembly, free worship and restrictions on the free ballot. Do you remember that one?

A. No, there is nothing to attract my attention in that one.

Q. Now, do you know, without telling us what it was, do you know what the Murray Plan was about? A. Essentially?

Q. Yes. I mean, were you familiar with the Murray Plan?

A. I was quite familiar with it at the time, yes. I spent a lot of time studying and working on it and working on resolutions connected with it.

Q. Yes. Now, the Murray Plan was a matter involving the national defense program, wasn't it?

(Testimony of Paul Crouch.)

A. Correct.

Q. All right. And it involved specifically the—the principal point about it was the creation of industry councils in defense plants, is that right?

A. That is correct, and I served on one of those later.

Q. And one of the points of the industry council was that it should consist of an equal number of persons working in the plant, together with representatives of the management, is that correct?

A. I believe so.

Q. And it was also part of the plan that the President of the [3083] United States should establish an industry council for each basic industry, and that there should be an allocation of all available raw materials between the basic industries. That was one of the points of the plan, was it not?

A. I don't recall. It could have been.

Q. All right. And then it was also part of the plan that all firms within the industry having available plant facilities should not only be entitled to, but required to, participate in the program for production of defense materials. Do you remember that? A. Yes, I am quite sure I do.

Q. All right. Then it was also part of the plan that the executive and administrative authority should be vested in those industry councils to carry out the program, is that right?

A. I don't remember those wordings. I see no reason to the contrary.

Q. And then it provided that the President should establish a National Defense Board, consist-

(Testimony of Paul Crouch.)

ing also of equal representatives of labor and industry, and that they should have the right to plan and to handle appeals and to regulate matters arising in these industry councils. Do you remember that?

A. If my recollection is correct, that is essentially right.

Q. Yes, all right. And then the industry councils were for the purpose of promoting industrial peace through the sound collective bargaining relationships and to call upon the [3084] government boards, involving social security laws, wages and hour act, National Labor Relations Act, et cetera, is that right?

A. Some of those details I don't remember after these years, but I have no reason to think it [3084-A] isn't.

Q. And that act was proposed to the President of the United States by Philip Murray in December, 1940, wasn't it?

A. I don't recall the date of it.

Q. Will you show him the date at the top there? It is just at the top. There is one line that should refresh your recollection on it.

A. I don't recall, because the Communist Party was not particularly interested in this until after June 22.

Q. The Communist Party, you say, took no interest until after June 22, but in December, 1940, the President of the National CIO submitted to the President of the United States this Industrial Council program called the Murray Plan, is that right?

(Testimony of Paul Crouch.)

A. It is true that Philip Murray before, as well as after, June 22 was working for peace in industry and supporting the forces fighting Fascism, that is correct.

Q. That plan, did you know whether or not that had been passed and proposed by the CIO Executive Board which met at Atlantic City in November, 1940? Did you know that?

A. I don't recall it. I have no reason to doubt it.

Q. At that time do you know who was president of the CIO? A. Nationally, Philip Murray.

Q. No, John L. Lewis, wasn't he?

A. What date?

Q. November, 1940.

A. I don't recall. [3085]

Q. Don't you remember that following that meeting John L. Lewis resigned as president of the CIO and then Philip Murray took his place?

A. I don't remember the date of Mr. Lewis' resignation.

Q. See if it will refresh your recollection if I tell you this, that John L. Lewis being president of the national CIO, that the Executive Board of that organization met at Atlantic City in November, 1940, and passed or indorsed this Murray Plan unanimously; did you know that? A. Quite likely.

Q. Did you know at that time Harry Bridges was one of the members of the Executive Board of the CIO? A. I did.

Q. And did you know that in November, 1940, he was one of those who voted unanimously for the Murray Plan?

(Testimony of Paul Crouch.)

A. I presume he as well as the other Communists on the board voted for it.

Q. Did you know that at that convention of the CIO the president, John L. Lewis, made the following report. Now, listen to this and see if you recognize it: "One of the most serious threats"—pardon me. This is back in November, 1940, in Atlantic City. "One of the most serious threats"——

Mr. McMillan: May it please the Court, we object to the reading of these reports. I cannot understand why he can't show it to the witness and ask him whether or not he saw it. [3086]

Mr. Hallinan: Show it to him.

Mr. McMillan: Another thing: It is collateral and has no relevancy. It falls within the observation I have heretofore made.

Mr. Hallinan: I think your Honor will see in a moment that it disposes of the other points in this program he is supposed to have put over in the CIO convention in Oakland.

(The document was handed to the witness and returned to Mr. Hallinan.)

Mr. Hallinan: "One of the most serious threats"——

Mr. McMillan: If your Honor please, we object to his reading it. I submit that the proper question, after submitting it to the witness, is whether or not after reading that he has any recollection of it. If he hasn't any recollection of it, that ends the matter.

Mr. Hallinan: That is telling the witness.

(Testimony of Paul Crouch.)

Mr. McMillan: It is not for Mr. Hallinan to read that. The difficulty about Mr. Hallinan making these statements and reading these things, he is not under oath.

Mr. Hallinan: You can read it. It is right in the document.

Mr. McMillan: We are deprived of the opportunity, he not being under oath, of cross-examining him.

Q. (By Mr. Hallinan): Do you remember that this was part of the CIO?

A. I know from looking at this that is part of a report by [3087] Lee Pressman to the convention, Mr. Pressman being known to me by reputation as a member of the Communist Party.

Q. All right. This is Mr. Lee Pressman's recommendation to the CIO but adopted by the CIO, regardless of who put it in: "One of the most serious threats"——

Mr. McMillan: That is objected to. The witness has not testified he has any recollection.

Mr. Hallinan: He says he recognizes it as being of Mr. Pressman's composition and submitted to the CIO.

Mr. McMillan: He said Mr. Pressman made a report.

The Witness: I said I note in this book—I have no recollection whatsoever. I note in this book that this appears as a part of the report by Lee Pressman, whom I have known by reputation to be a member of the Communist Party.

(Testimony of Paul Crouch.)

Mr. McMillan: But he has not testified that he has any recollection.

Mr. Hallinan: He says he recognizes it is Lee Pressman. There is nothing in this book to indicate that Lee Pressman has anything to do with it, not a word.

The Witness: Your Honor, may I show the Court to what I refer?

The Court: Show Mr. Hallinan what you have in mind.

The Witness: I am citing from page 68, at the bottom paragraph. This all comes under the head of "Report of the Legal Department," and states in the first line of the paragraph [3088] that this legal department is headed by Mr. Pressman.

Q. (By Mr. Hallinan): Where did you find that out? You did not look at this when it was shown to you on the stand?

A. I saw this book for the first time in my life when you handed it to me on the stand. I automatically looked back to see the source of that department report, to see who was reporting. I never saw it before in my life until just now.

Q. Of course, the way you dispose of everything, Mr. Crouch, which is clever—I do not deny it—you say the man is a Communist——

Mr. McMillan: Just one moment, your Honor. A while ago he said the witness was laboring under hallucinations. Now he is saying that he is clever.

Mr. Hallinan: Those are not mutually destructive. I have seen many clever madmen, Mr. McMillan.

Q. But you do use the device, don't you, Mr. Crouch, whether you be mad or clever? Let us pass by the——

Mr. McMillan: I ask that that be stricken out and the jury instructed to disregard it.

The Court: Yes, the jury is instructed to disregard the statement of Mr. Hallinan.

Q. (By Mr. Hallinan): Mr. Crouch, did you ever hear of the Reuther plan?

Mr. Donohue: I object, if your Honor please. We will soon have the Marshall plan. I think we have had enough plans [3089] for today. I think we ought to come to some conclusion as to where all this is going to lead us. I have not heard that plan mentioned by the witness either on direct or cross-examination.

The Court: It may be relevant. I never heard of it here before.

Mr. Donohue: I object to it.

The Court: Overruled.

Q. (By Mr. Hallinan): Did you ever hear of that plan?

A. I don't recall now. I have heard of many, many, innumerable plans.

Q. Would it refresh your recollection if I said that it was a plan for the production of 500 planes a day proposed by the United Automobile Workers? Do you remember that?

A. No, I don't recall it now. I do not deny it. I

(Testimony of Paul Crouch.)

have no reason to deny it or doubt it. I have no recollection now.

Q. Do you know that Mr. Bridges and the Executive Board of the CIO in November, 1940, also voted for adoption of the Reuther plan?

A. I was not in California in 1940. I do not know what they did.

Q. That would not change your mind one way or the other anyhow, would it?

A. It would depend upon an examination of all factors concerned. [3090]

Q. Having this, you say that you as a courier or transcriber or whatever it was for the Communist Party composed a document which you delivered to Mr. Bridges or had delivered to him in October, 1941, to be recited by him at the CIO convention. Does it change your mind on that at all to know that Bridges voted for the principal part of that resolution, that is, the Murray plan, in November, 1940?

A. If the statement were correctly—if your question was accurately worded, I could answer it, but it is not correctly worded, because the Murray plan is only a minor incident and to supplement the convention, to supplement the resolution, the main parts of the resolution you have not even touched on or read. That is not the major part.

Q. Would it change your opinion any to know that in 1940 the resolution presented, as you say, by Mr. Pressman touching criminal activities of the Federal Bureau of Investigation had also been

(Testimony of Paul Crouch.)

voted upon by Mr. Bridges in Atlantic City in November, 1940?

Mr. Donohue: I object, if your Honor please, because the mere asking of the question is an attempt by Mr. Hallinan to state as a fact that these incidents or these matters took place and there is no evidence of that other than Mr. Hallinan's statement. I object to it, if your Honor please.

The Court: Overruled.

The Witness: Will you read the question. [3091]

(Question read.)

A. No, because the Communist Party's position against the FBI remained as violent after June 22 as it was before.

Q. (By Mr. Hallinan): But at any rate, as regards those matters, Mr. Bridges' position, that is, conceding that he voted for them in 1940, was identically the same in October, 1941, wasn't it?

A. No reason for him to change because the Communist Party line didn't change.

Q. Didn't you tell us that Mr. Bridges had been holding against the Communist Party line and that you were going to expel him?

A. Yes, but not over the question of his telling the FBI, we certainly were not.

Q. Let us get this: Do you know how Mr. Bridges was appointed the head of the California CIO or director of the California CIO? Do you know the procedure by which he was placed in that position?

(Testimony of Paul Crouch.)

A. And later removed? I suppose through the national office of the CIO, on the basis of recommendations from the Communist-controlled State organization.

Q. He was first appointed by John L. Lewis. Did you know that? A. I presume so.

Q. And then when John L. Lewis resigned as national president [2092] he was reappointed by Philip Murray. Did you know that?

A. Yes, on the basis of local autonomy.

Q. And he was appointed to that office by those two men, isn't that right? A. Correct.

Q. And you said in your previous testimony that the Communist Party was going to get him removed from that office in the CIO, is that right?

A. That is correct.

Q. Do they control both of those men, John L. Lewis and Philip Murray, or only one of them?

A. The statement is intended—The question is of a nature intended to confuse the witness and everyone else concerned. If you will state it correctly I will answer it.

Q. All right. Did you know that in April, 1941, the ILWU, that is, the longshore workers' union here in California, had already endorsed the Murray plan?

A. I don't recall. It is quite likely. I have no reason to doubt it.

Q. Did you know that in September, 1941, that is, the month before this meeting of the CIO convention, Harry Bridges had already submitted the

(Testimony of Paul Crouch.)

plan together with a working diagram of it to Admiral Landis for use on the Pacific Coast?

A. I have no reason to doubt it.

Q. Did the Communist Party run anyone for President in the year [3093] 1940?

A. 1940? No, I don't believe so.

Q. Wasn't Earl Browder a candidate for President on the Communist ticket?

A. Yes, that is correct.

Q. And Harry Bridges supported Willkie, didn't he?

A. Many Communists supported Democratic and Republican candidates in that election.

Q. Now, you were unable to recognize certain names on this 1938 list of the Central Committee of the Communist Party, but you stated that all of the people whose names appear on it were members of it, save and excepting that you could not recognize four of them. Do you remember that?

A. I cannot now recall the number of names. If you read them off again, I would be able to tell you the names I recognize and the names I never heard before.

Q. Do you know anybody whose name does not appear on this list that was given to you, that is, Defendants' Y for identification, do you know any person who was a member of the Committee for the year 1938 whose name does not appear on this?

A. Yes, at least three.

Q. Who are they?

A. Tony—at least three names anyway I can think of—Tony Minerich, James Matles, and Harry Bridges.

Q. Just a moment. Spell them. [3094]

A. Tony Minerich, M-i-n-e-r-i-c-h; James Matles, M-a-t-l-e-s, and Harry B-r-i-d-g-e-s.

Q. But I thought that was D-o-r-g-a-n or D-a-r-g-a-n last time you mentioned it. What about that?

A. With the various aliases common to most Party leaders.

Q. Those were the only three people you don't remember whose names should be on the list, is that right?

A. At this moment possibly. You are asking me out of a clear sky.

Q. Let us get this: For what length of time did a person elected to the national convention of the Central Committee serve?

A. Until the next convention. You mean elected to the Central Committee?

Q. Yes.

A. He served as a member of the Central Committee until the next election or until he was removed from the Central Committee.

Q. So if he were elected in 1936 he would serve what years?

A. Until a convention was held, which in this particular case happened to be in 1938.

Q. In May, 1938, was it?

A. To the best of my recollection.

Q. So if he were elected in June, 1936, he would serve until May, 1938?

(Testimony of Paul Crouch.)

A. Unless, as often happened, he was removed, he was expelled [3095] from the Party, or removed from the Central Committee, or dropped from the Central Committee.

Q. Or died or something. Now, suppose he were elected in 1938; how long would he serve?

A. Until the next convention.

Q. And when was that?

A. As I recall, in 1940.

Q. So if a person served for the years 1936, 1937, 1938 and 1939, how many times would he have to be elected?

A. Twice. Will you recite the years again?

Q. 1936, 1937, 1938 and 1939.

A. Twice. [3096]

Q. And what time, what years would he be elected? A. '36 and '38.

Q. So he would be elected, then, in New York in June, 1936, and he would be elected at New York again in May, 1938, is that right? A. Correct.

Q. Now, aside from the three people whose names you gave us here, Tony Minerich, James Matles and Harry Bridges, or Harry Dorgan or Henry Harvey —whatever the name is—you know of nobody else on the 1938 election, elected to the Central Committee and above the names that appeared on the list you were shown, is that right?

A. If you were to give me that list to study, carefully, I might be able to recall additional names (document handed to witness). Oh, I don't see the name of the head of the secret underground apparatus, J. Peters, on this list. He was in the Central Committee.

Q. He was on the Central Committee. Now, you don't see Manning Johnson's name on there, do you?

A. I do not specifically recall Manning Johnson being reelected on the 1938 convention. He might have been. He was elected in 1936, to the best of my recollection, but I am not positive about his being elected in 1938. You would have to ask Mr. Johnson. I am not sure.

Q. Now, in discussing your leaving the Communist Party, you [3097] testified in part, referring to page 2598, that the circumstances under which you left "date back to my first disagreement on some issues with the Communist Party, in 1934, increasing differences which I felt throughout the years, becoming greater and greater, until November of 1934 I asked the District Bureau for permission to quit as a full-time organizer and go to work in private industry. My differences with the party were such that I couldn't, with a clear conscience, continue the responsibilities ~~of an organizer~~. And yet I hadn't quite reached the point where I felt that my differences were great enough to cease membership entirely.

Now, when was it that you arrived at the position where your dealings with the Communist Party had come to the breaking point?

A. It was over a period from the fall of—from about November, starting at about November of

(Testimony of Paul Crouch.)

1941, until the early spring of 1942, that I was becoming more and more convinced that I was doing harm to the working class and to my country by staying in the Communist Party. And I also felt that I should face the grave physical risks to myself and my family by leaving its ranks.

Q. And when did you first have any open discussion with them about leaving the organization?

A. I wasn't quite crazy enough to invite my death and my family's death by discussing that language. If I had, I would [3098] not be sitting here today testifying in this court. You can be sure of that.

Q. Oh, by the way, have you learned yet the names of the three men who sleep surrounding your bedroom? What are their names? Have you found them out yet?

A. I am not sleeping in the same bedroom I was before. I do not know.

Q. Well, have you still got the three guards sleeping one on each side and one across the hall?

A. I do not know, Mr. Hallinan.

Q. I beg your pardon?

A. I do not know, Mr. Hallinan.

Q. You don't know me?

A. I do not know the answer to your question, Mr. Hallinan.

Q. Well, I say, are the three men still located in those positions that you testified to before?

A. I just stated, I do not know if they are or are not.

Q. When did you last see them in that place, in

(Testimony of Paul Crouch.)

those places? A. Before I returned to Miami.

Q. When did you return to Miami?

A. The day after I got off the witness stand for the Christmas adjournment.

Q. You left the State of California?

A. I did.

Q. Did you have the consent of the Court to do so? [3099]

Mr. Donohue: I object, if Your Honor pleases; there is no showing that the witness needed the consent of the Court to go any place.

Mr. Hallinan: They were told to remain within the jurisdiction of this district, Your Honor, at the time that court adjourned.

Mr. Donohue: They were told, as far as I understand it, if Your Honor pleases, to hold themselves in readiness to be here today, and he and Mr. Johnson are here.

The Court: Yes, he is here today.

Q. (By Mr. Hallinan): Now, where are you staying now?

A. I am staying at the Hotel Sutter.

Q. In a different room from the one you had before? A. I am.

Q. What room are you in now?

A. I am in Room five two seven, 527.

Q. Five two seven, 527. Now, is your wife with you?

A. Unfortunately, she is not. She is ill with flu, and also our son, who had three transfusions last week, requires her constant care.

(Testimony of Paul Crouch.)

Q. At any rate, she isn't with you?

A. She isn't.

Q. Now, is any agent sleeping in the room that you are in?

A. Not unless he is sleeping under the bed. I didn't look under the bed. [3100]

Q. Look, will you? A. Thanks.

Q. Now, Mr. Crouch, if there is any agent——

Mr. MacMillan: Do you want to report hereafter?

Q. (By Mr. Hallinan): Is any agent sleeping in the room next to you?

A. I have no knowledge. You should ask the hotel management.

Q. Well, at the time you left to return to Miami, or at the time you were testifying here before, there was an agent sleeping in the bedroom adjoining you on each side, isn't that right? A. Correct.

Q. Now, there was one also sleeping across the hall, is that right? A. Correct.

Q. Do you still go out to dinner alone or to movies?

A. I have not been out to any movies alone, or I have not been to dinner alone.

Q. You have not been to dinner alone. Whom do you go to dinner with since you have been back here?

A. Mr. Zamlich.

Q. How many times have you gone to dinner with Mr. Zamlich? A. Once.

Q. That was last night? A. Today. [3101]

Q. When did you return to San Francisco?

A. At 2:30 this morning my plane being about

(Testimony of Paul Crouch.)

two and a half hours late because of bad weather.

Q. And you landed down at San Francisco Airport, I take it, is that right.

A. It appeared to me, looking around, to be the San Francisco Airport.

Q. Did Mr. Zamlich meet you there?

A. Mr. Zamlich met me there, yes, sir.

Q. Met you there yesterday?

A. This morning.

Q. All right.

A. To be technically correct. It was scheduled to have been yesterday, the plane was due at 10:45. As I stated, it was two and a half hours late.

Q. And Mr. Zamlich was there when you arrived, is that right? A. That's correct.

Q. And then he drove you to San Francisco?

A. Yes.

Q. Was he alone in the car?

A. He was, I believe. I didn't look under the seat to find out if there was someone else, or in the trunk or anything like that. He is the only one I saw in the car.

Q. And then he took you directly to the Sutter Hotel, I take it, is that right? [3102]

A. I suppose he took me by the most direct route; I didn't check the street map.

Q. And then has he a room adjoining you?

A. I don't know. You will have to ask Mr. Zamlich. I have no knowledge where his room is.

Q. No agent that you know of has any room adjoining you?

(Testimony of Paul Crouch.)

A. I have no knowledge on the subject.

Q. Did you ask to have agents assigned to those rooms? A. I did not.

Q. Did you ask for any kind of guards?

A. I asked that my—that adequate—I made the statement, it was necessary to have adequate protection, particularly I urged adequate physical protection for my home and my family at all times, and which is being done.

Q. There are guards now in your home?

A. That's right; my home is under constant guard by the Government.

Q. How many guards?

A. I do not know how many guards. I know that I have the assurance that my home would be under constant guard of the Federal Government during my absence from Miami.

Q. And you are not under guard, though?

A. Pardon me?

Q. You are not under guard here, no guard is taking care of you?

A. I don't know what the meaning of your question is. [3103]

Q. All right. You say—now, did you go to breakfast this morning with Mr. Zamlich?

A. I stepped across the street, in the next block, for breakfast.

Q. With Mr. Zamlich? A. No.

Q. Alone? A. Presumably.

Q. And then at lunchtime today, did anybody accompany you?

(Testimony of Paul Crouch.)

A. It was lunch I was referring to as "dinner"; Mr. Zamlich.

Q. I see. Now, since you were on the witness stand before, have you received any money from the Government?

A. Yes, I received, I believe, about $90 before I left for Miami.

Q. And anything since?

A. Nothing whatever.

Q. So then you received altogether, personally, only $290, is that right, since you have been in San Francisco?

A. To the best of my recollection, somewhere in that figure, yes.

Q. All right. And did your wife receive any more money since you were on the stand before?

A. Before she left the plane, she received the same amount I did.

Q. $90? [3104]

A. Somewhere in there. That figure may be a little high. Possibly not over $70. I don't recall the exact amount of the check.

Q. Now, have you checked with any of the gentlemen connected with the defense or any of these agents to learn how much you are to receive for your services in this case?

A. I have checked with no one on any——

Q. You didn't ask them?

A. On any financial subject.

Mr. MacMillan: You don't mean the attorney for the defense, Mr. Hallinan?

(Testimony of Paul Crouch.)

Mr. Hallinan: At this time, if the Court please, we want to offer in evidence the list of the members of the 1938 committee which have been identified by this witness. It is part of the document offered as Defendant's Exhibit Y for identification. But all of the persons who are on the list have now been identified by this witness as actually being members of the Central Committee except that he says there were three persons whose names he gave and who do not appear.

Mr. Donohue: I object to it, if Your Honor pleases. The witness on cross-examination has identified certain persons on a certain list as having been, from his best recollection, members of the Central or National Communist Committee. He has said that there were certain officials, that some names he didn't recognize [3105]

Mr. Hallinan: Well, subject to those limitations. But at any rate, he has said there are four people on the list whose names he does not recognize, and there are three people who should appear on there who do not appear.

Mr. Donohue: The purpose, obviously, if Your Honor pleases, of introducing this piece of paper in evidence, is to establish by the fact of this piece of paper that tnese persons, are, as the paper would indicate, members of the Central Committee of the Communist Party. We have no——

Mr. Hallinan: So he has testified.

Mr. Donohue: We have no information as to where that paper came from, it is not authenticated or certified in any way, it certainly isn't admissible in evidence, and we object to it.

Mr. Hallinan: We showed, if the Court please, that that was the document that was sent to the Un-American Activities Committee by Browder, secretary of the Communist Party.

Mr. Donohue: Let Mr. Browder come in here and say that.

Mr. Hallinan: Well, bring him in; you seem to have control over all these Communists.

Mr. Donohue: You have his letter, bring him in here and we will ask him some questions.

Mr. Hallinan: Issue your ukase, or whatever you do, and bring him in. You know how to get him. We don't.

The Court: We have had the matter under discussion, when [3106] the paper or document was identified and marked for identification. And at that time I noted for the record that I doubted very seriously the admissibility, and there has been nothing to change the Court's mind in the interim.

Mr. Hallinan: But since that time, if the Court please, he has identified the people on it. He has said that that is the party, except for these omissions and the additions that he makes to it. That is all we want.

The Court: Objection sustained.

Q. (By Mr. Hallinan): Now, you stated that if Mr. Bridges didn't deliver this little resolution that you prepared, that the Communist Party was

(Testimony of Paul Crouch.)

going to make a statement denouncing and condemning him as an enemy of labor, is that right?

A. I made that statement in connection with events of July, not in reference to this convention. And if you will check my testimony, you will find this to be true, if you look back in the transcript.

Q. All right, I don't care what the reason might be. But at any rate, you stated that was what was contemplated by the—shall we call it the "gang"?—or what would you call that outfit of yours that included these people that you have been talking about?

A. I would call it the Communist Party

Q. Well, just this little group that you were a member of. What would you call that? [3107]

A. The Communist leadership.

Q. All right, but here in San Francisco, in this district. Is that right? I mean, the ones that met out here on Haight Street that formulated these—this momentous resolution?

A. The District Bureau of the California-Nevada-Hawaii District of the Communist Party.

Q. All right. And you stated that the Communist Party, that that District Council, agreed with you what would be done was a statement would be issued denouncing and condemning Harry Bridges as an enemy of labor, but not mentioning the fact that he had been a member of the Communist Party, is that so?

A. That is in reference to events under discussion in early July, and this has no reference to the

(Testimony of Paul Crouch.)

Q. Well, let's take early July. That was the thing that was going to be done, is that right?

A. If the information proved correct, that Bridges had refused to go along with the matter of support for Great Britain and France and the other allies and the others who were now allies of the Soviet Union, for all-out production, for the no-strike policy and all the other implications of the new line; and if he refused to go along with this and persisted or maintained the old line, then this was what was going to be done.

Q. What was going to be done was, you say, that you were going to issue a statement denouncing and condemning him as an enemy of labor, is that [3108] right?

A. That's correct.

Q. But not mentioning the fact that he had been a member of the Communist Party, is that right?

A. That's correct.

Q. All right. Now, you stated that when you met Mr. Bridges over at the CIO convention, somebody introduced you to him, is that right?

A. I think someone went through the formalities of an introduction, yes.

Q. Yes. And Mr. Bridges said, when he was introduced to you, "I am pleased to meet you," or something of that kind, isn't that right?

A. I think I said, I think I would have said, "How do you do, Mr. Bridges?" or something of this kind. Just a mere formality. I don't recall the words.

(Testimony of Paul Crouch.)

Q. And you had never met him except on that occasion, isn't that right?

A. I stated I didn't recall the first time or the first place I met Mr. Bridges.

Q. Yes. You have no recollection of ever having met him before?

A. I didn't say anything of the kind.

Q. Beg your pardon?

A. I didn't say anything of the kind.

Q. I say, you have no recollection of ever having met him [3109] before?

A. I have. But the exact date, the exact time and place and the circumstances and so on, is not linked with specific circumstances that would enable me to distinguish that particular occasion and point it out, naming people who were there, the matter which was under discussion, and the circumstances and so on, surrounding it.

Q. Well, do you know who was the person that introduced you to Mr. Bridges at the CIO convention in Alameda?

A. I don't specifically recall. I think a trade union leader who was along with me went through the formalities of an introduction. That is my impression.

Q. I see. And you acknowledged the introduction to Mr. Bridges, didn't you?

A. Yes, essentially.

Q. And you never saw Mr. Bridges out at any of these meetings of that District Council, did you?

A. Pardon me?

(Testimony of Paul Crouch.)

Q. You never met him before, Mr. Bridges, at any meeting of this so-called District Council, did you?

A. You mean the District Bureau of the Communist Party?

Q. Yes.

A. No, Mr. Bridges was never present at any meeting of the District Bureau of the Communist Party at which I was present.

Mr. Hallinan: That is all. [3110]

Mr. Donohue: Shall we take our recess at this time, if Your Honor please?

The Court: Yes.

Mr. Hallinan: Now, Your Honor, we have some more cross-examination of the witness Manning, so if he is available, we would like to have him for the next.

The Court: He is available.

We will take the afternoon recess, ladies and gentlemen. In the interim, bear in mind the same admonition to you, not to discuss the case under any conditions, nor to form nor express an opinion thereon until the matter is finally submitted to you.

(Recess.) [3111]

Mr. Donodue: If your Honor please, we have no further questions of this witness.

The Court: Call the witness Manning Johnson for further cross-examination by Mr. Hallinan.

MANNING JOHNSON

recalled; previously sworn.

Mr. Donohue: May I ask, if your Honor please, if two counsel are going to cross-examine Mr. Johnson?

Mr. Hallinan: Yes.

Mr. Donohue: I understood Mr. MacInnis examined him before.

Mr. Hallinan: We have the privilege of examining him.

Cross-Examination

By Mr. Hallinan:

Q. Mr. Johnson, were you familiar with the persons who were members of the Central Committee of the Communist Party for the year 1938?

A. Some of them.

Q. You attended a convention in 1938, did you not? A. Yes, I did.

Q. And voted for the members?

A. That is right.

Q. Did you ever know a man who was a colored preacher, had been a colored preacher from Chicago named Ray Hansboro?

A. The name is familiar. I don't recall at present. The name [3112] is familiar.

Q. If my recollection serves me correctly, he had been a minister in Chicago and then was a member of the National Committee even after the year 1944. Here is a printed list for the year 1944, and down about in the middle of the second row you will find the name. Will you take a look at it? A. Yes.

(Testimony of Manning Johnson.)

Q. On the 1938 list also his name appears. Let me see if I can find it for you. Yes; they follow in alphabetical order: Gold, Green, and then his name, Ray Hansboro. Do you remember anything about that?

A. No, I don't recall anything about him.

Q. Do you remember that he had been a minister in Chicago? A. That I don't know.

Q. Do you recall if he was a colored man?

A. I don't recall.

Q. Do you recall that there was such a man at all?

A. I recall the name. I have heard of it in Party circles at one time or another.

Q. You remember he was at times a member of the National Committee of the Party?

A. That I am not sure of.

Q. There is another name that I notice here, Haaland, Jasper Haaland. Do you remember that name at all? And that occurs right under the Hansboro name or above it. [3113]

A. No, I never heard that name before.

Q. Did you hear of a woman by the name of Rose Biltmore? A. Rose Biltmore?

Q. Yes. Her name appears under a list called "Candidates."

A. I don't know a Rose Biltmore.

Q. Did you ever hear of a man named Harry Gwinn? A. No.

Q. His name also appears among the candidates for the 1938 convention. The only name you remem-

(Testimony of Manning Johnson.)

ber of those mentioned is Ray Hansboro, is that correct? A. I heard the name before.

Q. You say that you met Harry Bridges in New York for the first time at a meeting of the National Committee in June of 1936, is that correct?

A. That is at the 1936 convention.

Q. That is correct? A. That is correct.

Q. That is the first time you ever met him?

A. That is correct.

Q. At that time you did not speak to him personally? A. No.

Q. And you never met him again? A. No.

Q. With relation to the persons who were members of the National Committee at times when you were a member, had you known all the [3114] people on the National Committee before you were elected to it?

A. I wouldn't say that I knew them all. Some of them I met for the first time.

Q. How many of them did you meet for the first time? What percentage would you say?

A. I don't recall now. That is going back quite a number of years.

Q. Then I suppose of them in addition to Mr. Bridges you never met again, is that right?

A. Oh, some of the others I saw after at meetings of the National Committee.

Q. How many members were there of the National Committee in 1936? I think you already told us.

A. I think there was fifty some.

(Testimony of Manning Johnson.)

Q. Fifty-four, I think you said. A. Yes.

Q. How many of those people were friends of yours? A. Friends of mine?

Q. Yes.

A. I wouldn't say we were friends. We were fellow Communists together.

Q. Were any of them personal friends of yours?

A. Personal friends?

Q. Yes.

A. I wouldn't say I had any personal friends in the Party. [3115]

Q. When a person was elected in 1936 what years did his tenure cover?

A. Well, his tenure—he finished out the year of 1938—I mean 1936, 1937 and 1938, up until the newly elected National Committee met after the convention in 1938.

Q. And then how long did the persons who were elected in 1938 continue to serve?

A. Well, they continued to serve until the next convention.

Q. You were asked this question by Mr. MacInnis:

> "Well, tell me this: Would there be any place where there would be a written record of the members elected to the National Committee in that year?
>
> "A. Well, there possibly is, and I will tell you why I say that: because at a meeting, at the convention they would have 28 or 30 women stenographers. They took down a stenographic

(Testimony of Manning Johnson.)

record of every single remark made by every speaker at the convention. They would type up in copies of five on onion-skin paper. After they are typed they are given—they are given to each speaker to correct or make any changes or modifications. After that they are turned in and they are retyped and they are—some copies are sent to—were sent to the Communist International, and other to various Party commissions in Moscow. This—so—those are the sources that I can say that you can find the actual speeches or you could possibly [3116] find the actual speeches that were made. As far as the general resolutions and parts of the summary that is finally edited, they may be published in some of the—in copies of the Communist, or some of the copies of the Daily Worker."

Do you remember so testifying?

A. Yes, I do.

Q. That was with regard to the convention. Now, with regard to the national convention did you say this:

"Q. . . . you say that stenographers were present during that convention?

"A. Yes, they always had them. They had them at National Committee meetings, too.

"Q. There were stenographers present at this National Committee meeting, is that true?

"A. That is correct.

"Q. About how many?

(Testimony of Manning Johnson.)

"A. Well, at the National Committee meeting they would have possibly a half dozen stenographers, and they would have the typewriters in an anteroom, and they would take down the speeches stenographically."

Do you remember so testifying? A. Yes.

Q. Then with relation to the candidates for the National Committee you testified as follows: [3117]

"J. Peters and Abe Benson very closely guarded every single copy of the list of members of the National Committee. Each copy, if I recall correctly, was numbered numerically. J. Peters or Abe Benson would walk over to the head of each delegation and present the head of the delegation with a typewritten copy, maybe No. 1 or No. 2, depending on what the number of that delegation was, and he would look, the head of the delegation would look over this list of names. Then they would pass it around to the other delegates in that delegation and they would scrutinize it. After they had finished, then J. Peters would come over and pick up that list. He would follow that procedure, going from one delegation to the other. Abe Benson would do the same thing. After they had collected all of those lists, then the question of voting would come up. A motion would be made that the entire slate be accepted and everybody would vote. There was never any dissension. That is the principle. That is how it was handled.

(Testimony of Manning Johnson.)

"Q. These were typewritten lists?

"A. Yes, on onion-skin paper."

Do you remember that? A. Yes, I do.

Q. Is that the procedure that was followed?

A. That was the procedure when I was with the Party. [3118]

Q. In other words, they would have lists of the proposed candidates for the National Committee on onion-skin paper typed out, and each list would be numbered separately so they would follow in rotation, and Mr. Peters and Mr. Benson would distribute a list to each head of each delegation, is that correct?

A. That was the procedure followed.

Q. And the head of that delegation would then take it up with the separate members of his delegation, and I suppose they would have a discussion of some kind upon the members, and then these two men would collect all of these lists once more, is that right?

A. I would say that the lists would be turned back to the head of the delegation, and then the person who gave us the list would collect.

Q. So that how many lists would be made all together, would you say, at each convention?

A. I don't know. I never counted them. It depended upon the number of delegations they had.

Q. The first time that you were ever questioned by any person concerning the Communist Party—I mean by any of the Government agents—was in relation to Harry Bridges, isn't that right?

(Testimony of Manning Johnson.)

A. I don't understand you.

Q. The first conversation that you had with any Government [3119] agent regarding testimony against Communists or concerning the Communist Party related to Harry Bridges, isn't that correct?

A. When are you speaking of specifically?

Q. Well, you remember testifying in the Eisler case, don't you? A. Yes.

Q. The Gerhard Eisler case? That was held in Washington in July, 1947, and in answer to these questions you gave these answers, did you not? See if you can recognize them:

> "Q. Now, isn't it true that long before the visit of that particular FBI agent, referring to the one that came to see you first, isn't it true that before that time you had given information to some representative of the police or Government with respect to your activities in the Communist Party?
>
> "A. (By You): Let's see if I can recall. Just a minute. Yes. At the time of the Bridges trial I was questioned with regard to my knowledge of Bridges' activities. Apart from that there were no others."

Do you remember that? And then you were asked:

> "In what place was the examination conducted?"

The Court: What is your answer? One moment.

The Witness: I was thinking then.

The Court: Do you wish to see the transcript?

The Witness: I would like to see the transcript of [3120] testimony.

Mr. Hallinan: I will mark it up so he can't mistake that. If you will look at pages 921, 922 and 923, the parts marked off in pencil; that will help you out. A. Yes.

Q. Do you remember that testimony?

A. Yes, I do recall that.

Q. Is it a fact that the first time that any inquiry was made of you concerning Communists or the Communist Party related to Harry Bridges?

A. Yes, that was the first one I recall.

Q. In other words, you had never been asked nor given any information to any officer or official of the Government prior to being questioned about the Bridges case?

A. I had not been questioned prior to that by any other official of the Government.

Q. And that took place in New York City?

A. Yes, that took place in New York City.

Q. As I remember your testimony, you were questioned by a certain police inspector. Do you remember his name?

A. No. I think his name was Mulholland.

Q. In the 23rd Precinct of New York City, you say you ~~were called~~ in by Detective Inspector Mulholland and interviewed about 45 minutes.

A. I don't recall exactly how long I was in there.

Q. And then you came out to the West Coast and prepared to testify in the Bridges case, but did not testify, is that correct?

(Testimony of Manning Johnson.)

A. I came out prepared to testify, but I was not called.

Q. Do you remember testifying before the Canwell Committee in the State of Washington in the year 1948? A. Yes.

Q. You have already testified that you did so testify. A. Yes.

Q. Do you remember being shown a picture of Mr. Bridges on that occasion?

A. I think I was shown a picture of Harry Bridges shaking hands with Molotov or something.

Q. It was some sort of banquet; it was a picture of a banquet that took place at the Russian consulate in San Francisco following the Russian victory at Stalingrad. Do you remember that?

A. I don't remember what it was in connection with. I was just shown the picture.

Q. Do you remember that Mr. Brady, the president of the American President Lines, was on one side, and on the other side of Mr. Molotov, Mr. Bridges?

A. I don't recall. I recall Mr. Bridges shaking hands with Molotov, if I recall correctly.

Q. On that occasion when you were shown that picture you were asked this: "Mr. Johnson, here is Exhibit 9 which was introduced here yesterday. I will ask you to observe this [3122] exhibit and see if you recognize any of the people there." To which you replied, "Oh, yes, yes, yes. That is my old friend and comrade Harry Bridges."

Did you so testify?

(Testimony of Manning Johnson.)

A. Yes, that is right. If it is in the record I so testified.

Q. But Mr. Bridges was not a friend of yours, was he?

A. Well, it depends on how you express it.

Q. What you were trying to do was give this Canwell Committee the impression that Mr. Bridges was an old friend of yours, weren't you?

A. Well, I said it more in a sarcastic way than any other way.

Q. Let's see now another matter here. You were asked this question: "Did you ever attend any meetings of the National Convention of the Communist Party?

> "A. Yes, I attended the convention in Cleveland and also the convention in New York City in 1938."

Did you so answer?

A. May I see the testimony, please?

Q. Yes, the top of the page where it is marked. (Handing transcript to witness.) [3123]

The Clerk: The witness asks if you are sure it is his testimony.

Mr. Hallinan: Certainly that is your testimony.

The Witness: I see, yes.

Mr. Hallinan: Well, I submit, Your Honor, he is only entitled to look at the particular matter.

The Witness: I was merely looking to see if this was my testimony. You showed me a page here; I don't know what precedes it.

(Testimony of Manning Johnson.)

Q. (By Mr. Hallinan): Well, I would show you the rest of it if I may have it back, so there is no question about it being your testimony.

A. I will read this in the meantime. (Examining.)

Q. Was that your testimony? A. Yes.

Q. Were you under oath?

A. Was I under oath?

Q. Yes. A. Yes.

Q. You had been sworn to tell the truth, the whole truth, and nothing but the truth, hadn't you?

A. That's correct.

Q. And in answer to the question, "Now did you ever attend any meetings of the national convention of the Communist Party?", you answerd, "Yes, I attended the convention in Cleveland [3124] and also the convention in New York City in 1938." That was your answer, wasn't it?

A. From what you say—what is written in that book may be one thing and what I answered another. I said, if I recall correctly, from 1934 until 1938 I attended three conventions, '34, '36 and '38. If I recall correctly, every convention from 1934 to '38.

Q. Just a moment, Mr. Johnson.

A. If I recall correctly.

Q. I want an answer to this one question. Now, if you say "No," well, then, we will have another method of handling it. A. Well, let's have it.

Q. Did you give the answer to the question, "Now, did you ever attend any meeting of the

(Testimony of Manning Johnson.)

national convention of the Communist Party?", did you answer, "Yes, I attended the convention in Cleveland and also the convention in New York City in 1938." Did you give that testimony?

Mr. Donohue: May I arise, if Your Honor pleases, to ask whether we are, or the witness is, being interrogated and shown an official report of the transaction which occurred at that meeting?

Mr. Hallinan: This is an official record of the Un-American Activities of the State of Washington; 1948, report of the Joint Legislative Fact-Finding Committee on Un-American Activities. It is put out by the State of Washington, established [3125] by the thirtieth legislature and by House Concurrent Resolution No. 10. It is the official document from the State of Washington.

Mr. Donohue: That isn't what I asked, Your Honor. If Your Honor please, an official report of the committee may include some, perhaps not all, or perhaps not any, of the official transcript of the questions and answers placed before this witness.

Mr. Hallinan: He can have no consolation in that, Your Honor, because not only is this a verbatim statement of all the matters, but they weren't even taken down by a stenographer, they were taken down by electronic transmission. That appears in the document.

Mr. Donohue: I know nothing about it, if Your Honor please. I simply rise to ask the question. Is the witness being shown an official transcript of the question and answers which were proposed to him?

Mr. Hallinan: Certainly he is.

Q. What is your answer to it?

A. I have stated my answer.

Q. Did you give the answer that I just read to you?

A. I won't say I did, and I won't say I didn't; for the simple reason that I, in the reading of the copy of the testimony that was given me, there were a number of mistakes that were made in the transcription or translation, stenographically or otherwise, of the testimony given. [3126]

Q. Now let me ask you this: Were you ever a member of the Central Committee of the Communist Party? A. That's correct, I was.

Q. You were? A. That's right.

Q. When?

A. That's right. From 1936 through until 1938.

Q. What month in 1936 did you commence being a member of that committee?

A. I was elected at the convention in 1936.

Q. What month?

A. That was in the summer months.

Q. You were elected at the convention in the summer months of 1936; what month?

A. At the convention that took place in New York City.

Q. What day of the convention?

A. I don't recall—that is thirteen years ago—what exact date I was elected.

(Testimony of Manning Johnson.)

Q. Which day of the convention were you elected? A. I don't recall which day.

Q. When did your term of office end?

A. My term of office ended at the time of the election of the new National Committee, at the 1938 convention.

Q. What part of the year 1938 was that in?

A. That was in the—during the warm months of 1938. [3127]

Q. The warm months? A. That's right.

Q. Well, now, tell me if, in answer to the following question before the Canwell Committee, you gave the following answer:

> "Q. Now, did you receive at any time any other position?
>
> "A. Yes. I became later a member of the National Committee of the Communist Party.
>
> "Q. What year was that?
>
> "A. From 1936 up until 1939."

Did you answer that?

A. Yes, I was a member of the National Committee up until the convention, and after that was on the Negro commission of the National Committee,——

Q. No, we are not asking that.

A. (Continuing): ——and the Trade Union commission of the National Committee.

Q. Now just stay with the one question, Mr. Johnson.

A. Yes. Well, I am answering your question.

(Testimony of Manning Johnson.)

Q. Now, when you were giving this testimony, what you wanted to do was deceive this Canwell Committee into believing that Harry Bridges had been a friend of yours, isn't that correct?

Mr. Donodue: I object to the question, if Your Honor pleases.

Mr. Hallinan: Well, we are entitled to inquire into the state of mind—— [3128]

The Court: Overruled.

A. No, I wasn't trying to deceive the committee. I just merely said it sarcastically.

Q. Sarcastically? A. Yes.

Q. Did you tell the committee you were saying it sarcastically?

A. Well, they could tell by the manner in which I said it that it was sarcastic.

Q. Well, the first time that any inquiry was made by you concerning any proceedings against Communists was in the State of New York around the year 1940 or 1941. That's right, isn't it?

A. I think it was about that time.

Q. And at that time, over in the 23rd Precinct of the State of New York, Inspector Mulholland asked you if you knew anything about Harry Bridges, isn't that right?

A. Yes, he called me in to ask me a few questions.

Q. Yes. And you didn't tell Inspector Mulholland that Harry Bridges had been a member of the National Committee of the Communist Party, did you, Mr. Johnson?

A. I don't recall what Mulholland asked me and I don't recall what I told him.

Q. Did you tell him that Mr. Bridges had ever been a member of the National Committee of the Communist Party?

A. I don't recall what Mulholland asked. It was just a few cursory, a few questions that he asked, and I answered them. [3129]

Q. How long did the examination take?

A. Oh, I don't know how long it took. Just a few minutes. He asked me a few questions.

Q. Didn't you testify in the Eisler case that it took 45 minutes? You just refreshed your recollection by looking at this document. Do you remember that now, Mr. Johnson? You have been testifying about matters that happened some thirteen years ago, and not ten minutes ago you read this document in which you were asked, "How long did this interview take?" That is, the interview with detective-inspector Mulholland in the 23rd Precinct in New York?, and you answered, "About 45 minutes," didn't you?

A. Are you reading from the testimony there? May I see it?

Q. You have read it already. Don't you recall?

A. I don't recall reading that section of it.

(Document handed to witness by the Clerk.)

Q. Now, do you remember it took 45 minutes?

A. I so testified at that particular time.

Q. Well, do you remember now that it took 45 minutes?

(Testimony of Manning Johnson.)

A. It sort of refreshes my memory.

Q. And you didn't tell them that Harry Bridges had ever been a member of the National Committee, did you?

A. I don't recall what I told Inspector Mulholland, because there was no stenographic record kept of what was said. I was merely asked a few questions with regard to if I knew Harry [3130] Bridges was a member of the Communist Party, and that sort of thing. And I explained to them that I did.

Q. And then some seven years afterwards, way out on the opposite coast from New York, one of the questions that was put to you was, "Do you know anything about Harry Bridges?", isn't that right?

A. Beg pardon? Will you repeat that again?

Q. I say, then some seven or eight years later; that is to say, in 1948, and before the Canwell Committee away out on the opposite part of the United States in the State of Washington when you appeared there, the same question was put to you, "Do you know anything about Harry Bridges?", isn't that right?

A. Yes, they asked me the question. The Canwell Committee did ask me that question.

Q. Are you a married man? A. Yes, I am.

Q. Living with your wife? A. Yes, I am.

Q. Where?

A. I wouldn't tell you, because since I was away quite a few persons have come over and threatened

(Testimony of Manning Johnson.)

and intimidated the people, and I have reported it to the FBI.

Q. You mean by that——

A. And I wouldn't tell you where because I do not wish to have my family intimidated as they have been since I have been out [3131] here.

Q. Your family? A. Yes.

Q. Now, is Mrs. Bond your wife?

A. No, Mrs. Bond is not my wife.

Q. That is the lady with whom you are living, are you? A. That is my landlady.

Q. And where does Mrs. Bond live?

A. She lives at 62 West 125th Street. That is where the people visited and threatened her and intimidated her.

Q. Yes? A. Yes.

Q. And she is living at 62 West 125th Street. That is in Harlem? A. That's right.

Q. All right. And how many rooms has she there?

A. She has—one, two, three, four, five.

Q. How long have you been living there?

A. I have been living there since, oh, about, oh, several months.

Q. Several months. Have you been living there more than a year?

A. I imagine about that. I wouldn't say a year. I wouldn't say positively on that.

Q. Does your wife reside in New York?

A. No, my wife does not live in New York.

(Testimony of Manning Johnson.)

Q. How long is it since you have seen your wife?

A. I saw her Christmas.

Q. When did you see her before that time?

A. Just before——

Mr. Donohue: Just a moment, Mr. Johnson. Unless there is some stated purpose, if Your Honor pleases,——

Mr. Hallinan: Well, we don't have to state the purpose. We have a purpose and I think we could show it to you presently, but a stated purpose is not necessary in the cross-examination.

Mr. Donohue: May I suggest to Your Honor that a rule of law which is recognized by most lawyers has been called to the attention of Mr. Hallinan on a number of occasions. I think again I should say to Your Honor that if the purpose of this examination is to inquire into matters the sole purpose of which is to attempt to degrade this witness, that the question ought not to be asked and Mr. Hallinan should be so instructed.

Mr. Hallinan: We haven't any intention of degrading him. I don't think I could degrade this witness.

Mr. Donohue: I am sure you couldn't. But, I think, if Your Honor pleases, that counsel should be told that that is the rule of law, and if that is the purpose of this question, my objection should be sustained.

Mr. Hallinan: That isn't the purpose, Your Honor. I have another purpose. I don't care whether he is married or not married, except for one particular reason. [3133]

The Court: All right, proceed.

Q. (By Mr. Hallinan): When did you see your wife prior to going back to New York?

A. Just before I came out here.

Q. Had you heard from her in the meantime, during the time you were out here until you went back to New York?

A. Yes, she wrote to me. I received a few letters.

Q. All right. Now, talking about this degrading Mr. Donohue just mentioned about, you testified in here that for some number of years you lived in a cesspool. Remember that testimony? What address was that?

A. When I used that particular term, I was speaking in connection with the Communist Party. I say it is a political cesspool, that is what I said.

Q. You said you lived——

A. In the Communist Party.

A. And slept in a cesspool.

A. In the Communist Party, which is a political cesspool. The Communist Party is a political cesspool.

Q. Well, that is something that I think that will not take much conviction to assure me, Mr. Johnson; so you don't have to press the matter too hard.

A. Well, that was——

Q. Now, in other words, when you said you were living in a cesspool, living, eating and sleeping in

(Testimony of Manning Johnson.)

a cesspool, you weren't [3134] actually doing so, is that right?

A. I was when I was in the Communist Party. I said in the Communist Party.

Q. Well, where was the cesspool located?

A. The Communist Party is a political cesspool, slimy and filthy.

Q. You didn't say a political cesspool; you said a cesspool.

A. Cesspool—that is what it is, stinking, rank.

Q. Now, then, you weren't actually living in a literal cesspool?

A. Yes; when you live in the Communist Party you are living in a filthy, slimy political cesspool.

Q. And you lived in that cesspool?

A. Yes, and every Communist lives in it.

Q. And when you were testifying before the Canwell Committee you also testified that every Communist is a traitor, isn't that right?

A. I say, yes, that a Communist is a traitor.

Q. Well, you testified, every Communist is a traitor. That's right, isn't it?

A. That's right.

Q. All right. You were a Communist, is that right? A. Yes, I was a Communist.

Q. All right. Now, you also testified this way: You referred to Communists as bloody, slimy, stinking, scummy Communists, [3135] isn't that right?

A. I presume I did; I would have to see the testimony. But if I did, I wouldn't take back one iota of that.

(Document handed to the witness by the Clerk.)

The Clerk: Will you indicate where that was again?

Mr. Hallinan: Pardon me. It is right here, Ed. on page 171, where it is marked with pencil (indicating).

(Document examined by witness.)

Q. (By Mr. Hallinan): Did you so testify?

A. Yes, it is in the record.

Q. So that you also testified in this trial that every Communist is a liar, isn't that right?

A. I say that again, that they are.

Q. All right. And you said every Communist practices duplicity and deceit, is that correct?

A. That's correct.

Q. So then at some part of your career, Mr. Johnson, if not at all parts of it, of your career, you can describe yourself as a traitor, liar, bloody, slimy, stinking and scummy, isn't that right?

A. I can describe——

Q. Well, answer that yes or no.

A. I can describe every Communist—I think that fits every Communist, including the defendant Bridges.

Q. Yes? [3136] A. Yes.

Q. But if Mr. Bridges isn't a Communist, why, then, of course he wouldn't fit in with you?

A. Oh, he is.

Q. All right. But let's take this. We will get

(Testimony of Manning Johnson.)

away from Mr. Bridges a minute. We will get a little vignette of yourself a little description of yourself. At least, up until the recent time, by your own description now, you are a liar, a traitor, bloody, slimy, stinking, scummy and fit only to live in a cesspool, isn't that right?

Mr. Donohue: It is a typical Hallinanism, if Your Honor please. I object to the question; it is argumentative. The witness has already conceded.

The Court: Objection sustained.

Mr. Hallinan: Well, I think with that concession, we can dispense with any further discussion, Your Honor. That is all.

The Court: That is all.

Mr. Donohue: Just a moment, Mr. Johnson. May I ask Your Honor before this——

Mr. Hallinan: Oh, yes, there is one other matter. I forgot about this.

Mr. Donohue: There is one I shan't forget about, Mr. Johnson.

Q. (By Mr. Hallinan): Now, you remember in this Eisler case that you testified that you had met Earl Browder who was national [3137] secretary of the Communist Party, and two leaders of the Canadian Communist Party named Tim Buck and Carr; do you remember that?

A. I remember testifying in the Gerhard Eisler case that with regard to a meeting, a secret party meeting that was held——

Mr. Hallinan (to the Clerk): Will you show this to him?

(Testimony of Manning Johnson.)

A. (Continuing): ——that was held in Buffalo back in 1933, if I recall correctly.

(Document handed to the witness.)

Q. Do you remember so testifying?

A. Yes, I do.

Q. You testified that you met Earl Browder, who was national secretary of the Communist Party, and two leaders of the Canadian Communist Party, named Tim Buck and Carr, isn't that right? [3138]

A. That is correct.

Q. All right. Now, without going through all these documents here picking out your testimony, it did develop afterwards that at the time of that meeting, Messrs. Tim Buck and Carr were in jail in Canada, is that right? A. Yes.

Q. All right. And the Government came in and conceded that at least as to that, you were still a liar, didn't they?

A. They did no such thing. In fact, I was not called upon to identify Tim Buck and Carr. I only reported on a meeting that was arranged secretly in Buffalo, and I, and the persons who were present were representatives of the Canadian Party. They were introduced to me by those names and that name was the only name that I knew them by. I had never seen them before and I have never seen them since. The only two persons in that group that I ever saw after that meeting was Earl Browder and Gerhard Eisler. Gerhard Eisler's name at that time——

(Testimony of Manning Johnson.)

Q. We don't care about Gerhard Eisler's name. We are concerned with your identifying people who just by good luck happened to be either in jail, in Canada, or making a speech at Stockton. That is what we are concerned with.

A. It is not uncommon that people use the names of other persons as an alibi; it is not uncommon.

Q. Let me ask you this:——

A. That they used that to cover up further movements and, [3139] activities of leading Communists. That is not new.

Q. All right, all right.

A. That is a part and parcel of the Party policy and tactics.

Q. Now, let me ask you this question, if you will: This George Hewitt, who is an intimate of yours, where is he now?

A. I don't know where he is.

Q. He is in Bellevue insane asylum, isn't he?

A. No, he isn't, to my knowledge.

Q. When was he let out?

A. By my best knowledge, he is at home with his family.

Q. When did he get out of Bellevue?

A. I don't know, but I know he is at home with his family.

Q. Now, let me ask you if this isn't a fact, that at the time you were testifying before the Canwell Committee, your friend George Hewitt said that a professor in the University of Washington named Melvin Rader had attended a Communist school in

New York, that thereafter Mr. Rader was able to prove by documentary proof that he was in Washington at the time, and a warrant was issued for your friend Hewitt's arrest on the ground of perjury, and that then for the first time you came in and in the extradition proceedings in New York testified that you had seen Rader in New York at the same time. Isn't that right?

Mr. Donohue: Is that a question, if your Honor pleases, or is it an unlimited series of questions? Object to it. [3140]

The Court: The objection is sustained.

Mr. Hallinan: Beg your pardon?

The Court: Sustained. It is argumentative, Mr. Hallinan, and you might rephrase it in some form. This matter has been gone into before, and you might rephrase that if you wish in some other form.

Q. (By Mr. Hallinan): Did you testify in the extradition proceedings of George Hewitt in New York?

A. I testified in the extradition, proceedings.

Q. Did you testify that you had seen Professor Rader in New York during the time that you—that Hewitt said that he was there?

A. I did see Professor Rader in New York at a secret school in upstate New York during that year.

Q. Yes?

A. Because I taught a class up there during that year.

Q. Yes. The extradition proceeding in New York

(Testimony of Manning Johnson.)

was in response to an indictment for perjury issued against Hewitt from the State of Washington, isn't that right?

A. I don't recall what it was, but I knew it involved the question of extradition, and I know the judge refused to extradite him.

Q. Yes. The Government protected him, didn't they?

A. I don't say the Government protected him at all. I think you would have to read from the record the statement of the [3141] judge in that matter. I couldn't supply the answer.

Mr. Hallinan: Nothing further.

Mr. Donohue: Now, if your Honor pleases, before Mr. Johnson leaves the stand, in the light of the information which was brought to your Honor's attention in the absence of the jury on Tuesday morning of last week, I now ask your Honor to instruct this jury with respect to the question asked by Mr. MacInnis of this witness, whether it was not a fact that he had been convicted of a felony, which Mr. MacInnis said he would prove.

The Court: Yes. Heretofore, ladies and gentlemen of the jury, the witness on the stand, Manning Johnson, was asked by Mr. James Martin MacInnis, counsel for the defendants, whether he had been convicted of a felony. And thereafter it was determined that the witness Manning Johnson had not been convicted of a felony or any crime. In addition, the witness Manning Johnson was asked whether he operated a bootlegging establishment,

(Testimony of Manning Johnson.)

and in that connection, as far as the record shows, the circumstances surrounding the question, there was no evidence to fortify that question, and accordingly the Court instructs you to disregard the several questions and each of them, and to ignore the same.

Does that satisfy your request?

Mr. Donohue: Yes, your Honor.

The Court: That is all. [3142]

Ladies and gentlemen of the jury, we have now reached the period of recess and adjournment, and we will take our adjournment until tomorrow morning at ten o'clock unless we have some other matters?

The Clerk: No, your Honor.

The Court: Ten o'clock in the morning. I again admonish you not to discuss the case under any conditions, nor to suffer any person to converse with you on any subject of the trial, nor to form or express an opinion thereon until the case is finally submitted to you.

(Thereupon an adjournment was taken until Wednesday, January 4, 1950, at 10:00 a.m.)

Wednesday, January 4, 1950—10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Call the next witness.

Mr. Donohue: The witness is here, if your Honor pleases, ready to be sworn. Mr. Lawrence Ross.

LAWRENCE S. ROSS

called for the Government; sworn.

The Clerk: Will you state your full name to the Court and jury.

The Witness: Lawrence Seton Ross.

Direct Examination

By Mr. Donohue:

Q. Where do you live, Mr. Ross?

A. Memphis, Tennessee.

Q. And how long have you lived in Memphis?

A. Slightly over three years.

Q. What is your present occupation?

A. Newspaperman.

Q. And in what capacity?

A. I beg your pardon.

Q. In what capacity?

A. Managing editor of a trade paper.

Q. I beg your pardon? [3144]

A. Managing editor of a trade paper.

Q. And that occupation you follow in Memphis?

A. That's right.

Q. Where were you born, Mr. Ross?

A. Bell County, Kentucky.

Q. And when? A. June 24, 1903.

Q. What was your preliminary education and where?

A. Grade school and high school in Kentucky, and almost two years University of Kentucky.

Q. Can you tell us when it was you finished your schooling at the University of Kentucky?

(Testimony of Lawrence S. Ross.)

A. I believe it was 1923.

Q. And did you remain in Kentucky when you finished your schooling, or where did you go?

A. No, sir, I went up north and east; northeast.

Q. And where did you go?

A. I went up to New York.

Q. And were you employed in New York?

A. I was employed in New York and other towns nearby on newspapers.

Q. Can you recall now the newspaper or newspapers by which you were then employed?

A. The New York Graphic, the Newark Ledger—Newark, New Jersey Ledger; the Newark Bulletin, I believe was the name of [3145] the paper; the Newark Free Press; then on the Bridgeport Post—Bridgeport, Connecticut Post.

Q. How long did you remain in that part of the country? A. Until late in 1931.

Q. What kind of writing were you doing, Mr. Ross, at that time? A. Editorial.

Q. Where did you go when you left that part of the country? A. I went to Los Angeles.

Q. And when did you reach Los Angeles?

A. Late in 1931, I should say; in the closing month or months of 1931.

Q. And how long did you remain in Los Angeles? A. Until near the end of 1934.

Q. Some three years?

A. Approximately. Approximately three years.

Q. What was your business or occupation while you were in Los Angeles?

(Testimony of Lawrence S. Ross.)

A. I was a paid functionary in the Communist Party.

Q. When did you join the Communist Party and where?

A. In Los Angeles in probably January, 1932, or February, 1932.

Q. And when you say you were a paid functionary of the Communist Party in Los Angeles, what was your function or duty?

A. I held several, Mr. Donohue. At first I was made director of agitation and propaganda—educational director of the [3146] Communist Party section—Los Angeles section. Following that I was made Los Angeles section secretary—secretary of the Communist Party in the Los Angeles section, which was part of District 13.

Q. You remained in Los Angeles until when?

A. Until near the end of 1934; I would say November.

Q. And during all of the period of time in Los Angeles were you operating as a paid functionary of the Communist Party? A. Yes, sir, I was.

Q. While you were in Los Angeles acting as a paid functionary of the Communist Party, were you ever a candidate for public office? A. Yes, sir.

Q. For what office and when?

A. I was a candidate for the county board of supervisors; I was a candidate for mayor of Los Angeles, and for Congress.

Q. And on what ticket or on what party platform were you a candidate for those offices?

(Testimony of Lawrence S. Ross.)

A. The Communist Party platform.

Q. When you left Los Angeles in 1934 as you have just stated, where did you go?

A. I went to San Francisco.

Q. And can you tell us about when it was that you arrived in San Francisco?

A. My best recollection, sir, is that it was early in November, [3147] 1934, the first or second week.

Q. How long thereafter did you remain in San Francisco? A. Until the summer of 1937.

Q. When you left San Francisco in '37 where did you go? A. I went to New York.

Q. And what was your business or occupation in New York?

A. I was an organizer for a CIO union.

Q. Did you continue your membership in the Communist Party when you went to New York?

A. For a period of several months.

Q. And how long did you remain in New York?

A. Approximately eight months.

Q. And then where did you go?

A. Then I went to North Carolina.

Q. And by the time you reached North Carolina had you severed your connections with the Communist Party? A. Yes, I had.

Q. What was your business or occupation in North Carolina?

A. Southern representative of the union I was working in.

Q. What union was that?

A. United Furniture Workers of America.

(Testimony of Lawrence S. Ross.)

Q. And how long did you remain in North Carolina in that position?

A. Until the summer of 1940. May I make one thing clear, sir?

Q. Surely. [3148]

A. I had my headquarters in North Carolina, but traveled throughout North Carolina, South Carolina and Virginia.

Q. And when you left your headquarters in North Carolina in 1940, where did you then go?

A. I went to Fort Smith, Arkansas.

Q. What was your business or occupation at Fort Smith? A. The same.

Q. Were you still representing the same union?

A. Yes, I was.

Q. And you remained there how long?

A. Approximately a year.

Q. And where did you go then, if you went any place?

A. I went briefly to New Orleans in the same capacity.

Q. And you remained there how long?

A. A month or six weeks.

Q. And you went from there to where?

A. Then I went from there back to North Carolina, still on the same business.

Q. How long did you remain on your return to North Carolina?

A. Approximately two months, I would say.

Q. And then where did you go?

(Testimony of Lawrence S. Ross.)

A. Then I went back to Forth Smith, Arkansas.

Q. Still in the same position, the same union?

A. Still in the same position.

Q. How long did you remain on your return to Fort Smith? [3149]

A. Several weeks. Then I went back to North Carolina.

Q. How long did you remain in North Carolina on your third visit?

A. Approximately a month and a half or two months.

Q. Did you then return back to Fort Smith?

A. That is right. Then I made Fort Smith my home for approximately six months.

Q. Were you still employed by the same union?

A. Not on my return to Fort Smith.

Q. What was your occupation then?

A. I was unemployed for about six months.

Q. When you finally obtained employment, what was the employment?

A. Managing editor of a newspaper in Capitol Hill, Oklahoma City.

Q. And how long did you remain in Oklahoma City?

A. From January of 1941 until the end of September, I believe, 1941.

Q. And then where did you go?

A. I went to Russellville, Arkansas. [3150]

Q. In a newspaper capacity?

A. Yes, city editor for a Russellville newspaper, Courier-Democrat.

(Testimony of Lawrence S. Ross.)

Q. And how long did you remain there?

A. Until December, 1946.

Q. And when you left that newspaper, where did you then go? A. I went to Memphis.

Q. And you have been in Memphis until this time? A. Yes, sir.

Q. You are a married man, Mr. Ross?

A. Yes, sir.

Q. And you live in Memphis with your wife and family? A. Yes, sir.

Q. Where and when was it, Mr. Ross, and under what circumstances that you joined the Communist Party?

Mr. MacInnis: Pardon me. We object to that, if the Court please, as calling for an opinion and conclusion of the witness; not the best evidence; not binding upon the defendants in this case, and calling for facts done outside the presence of the defendant, res inter alia actae.

Mr. Donohue: May we, if your Honor please, with respect to a ruling on this question, as with respect to the same objection to a like question addressed to a number of other witnesses, ask counsel to again stipulate that his objection will be considered as having been made to each of a succeeding number of [3151] questions along the same line as were asked before?

Mr. MacInnis: On that point we will enter into the stipulation, your Honor.

The Court: The objection is overruled, the stipulation becomes a part of the record.

Mr. MacInnis: Pardon me. May we again ask that your Honor instruct the jury as to the purport of that?

The Court: Yes, I was about to do that, Mr. MacInnis.

The jury is now instructed that this evidence with respect to the entry of the witness or the proposed entry of the witness into the Communist Party and into the intramural and internal affairs of the party, in so far as this testimony is presently concerned, is not binding upon any of the defendants. I have heretofore instructed you with respect to this phase of the matter.

Mr. Donohue: Mr. Reporter, could you now refer back to the question to which objection was made and read it to the witness?

(Record read.)

A. It was in Los Angeles at the beginning of 1932. At that time I had made contact with an organization known as The International Labor Defense, which was headed in Los Angeles by a woman whose name is Lillian Goodman. Knowing of my newspaper activity, she asked me to help them write out some leaflets.

Mr. MacInnis: Just a moment. Now, your Honor, the answer [3152] transgresses the limits obviously allowed by your Honor's ruling. We cannot have the record filled with hearsay statements. We ask that the answer be stricken.

The Court: The answer may go out, the fact that

(Testimony of Lawrence S. Ross.)

the witness was approached by Lillian Goodman and the contact may remain of record; but the conversation may be deleted from the record.

Q. (By Mr. Donohue): Subsequent to the conversation, without relating the conversation you had with this named woman, did you then file a formal application for membership in the Communist Party?

Mr. MacInnis: Pardon me. That question is now leading and suggestive, informing the witness what the answer is which the examiner desires he shall hear.

The Court: Overruled. A. I did.

Q. (By Mr. Donohue): Can you recall to whom or at what place you filed this application or what you did with it?

A. I gave the application card to Miss Goodman at the headquarters of the International Labor Defense.

Q. In Los Angeles? A. Yes, sir.

Q. And did you ultimately receive a membership card or book? A. I did.

Q. May I ask you whether or not, when you applied for membership [3153] in the Communist Party, you did so in your own name or did you use some other name?

A. Yes, my own name.

Q. At all times during the period of your membership in the Communist Party, were you enrolled under your own name, Mr. Ross? A. Yes, sir.

Q. Now, directing your attention to the time as

(Testimony of Lawrence S. Ross.)

stated by you, when you came to San Francisco, did you occupy any position with the Communist Party during the period of time that you lived in San Francisco? A Yes, sir.

Q. Will you tell us what position or positions you occupied here?

A. At first, co-editor of the Western Worker.

Q. And will you tell us what the Western Worker was?

A. The Western Worker was then the official organ of the Communist Party in the West.

Q. When did you become the co-editor of the Western Worker, Mr. Ross?

A. Upon my arrival in San Francisco.

Q. And how long did you continue as its co-editor? A. Approximately six months.

Q. And then what next was your position with the party?

A. Editor of the Western Worker. [3164]

Q. And over how long a peroid did you continue as editor?

A. Until my leaving San Francisco.

Q. Did you occupy any other position in the Communist Party during the period of your residence in San Francisco?

A. Yes, I was the county organizer, San Francisco County organizer.

Q. Did you occupy any other position?

A. No, sir, not that I can recall.

Q. When you came to San Francisco, did you transfer your membership in the Communist Party, or was it necessary, from Los Angeles to San Francisco?

A. I, of my own action, did nothing about it. It was done for me, I assume, by the organizational department of the party.

Q. Who was the district organizer for the Communist Party?

Mr. MacInnis: Pardon me. The same objection to that, your Honor, calling for hearsay, calling for the opinion and conclusion of this witness upon a matter not probative of any issue in this case.

Mr. Donohue: A member of an organization, your Honor, certainly ought to know who the highest executive officer of that organization is.

Mr. MacInnis: Not the best evidence, and we repeat the same objection, that no showing has been made that the records and books of this organization could not have been brought to court to supply those details, if they were relevant. [3155]

The Court: Overruled.

Mr. MacInnis: Pardon me. May we have the understanding with your Honor upon the objection just now interposed, that the same objection will be made to all questions of a similar line?

The Court: Yes.

Mr. MacInnis: And that your Honor's ruling, I take it, would be the same, so that the record will be preserved?

The Court: It will be the same, as in this phase of the matter.

(Record read.)

(Testimony of Lawrence S. Ross.)

A. Mr. Donohue, at what time do you have reference?

Q. (By Mr. Donohue): At the time when you first came to San Francisco.

A. Sam Darcy.

Q. And how long did he continue as district organizer while you were here?

A. To the best of my recollection, it was the spring of 1935 or perhaps early summer of 1935.

Q. Can you tell us who it was who succeeded Mr. Darcy during the time while you were still a member of the party here in San Francisco?

A. You mean succeeded him as district organizer?

Q. Yes. A. Bill Schneidermann. [3156]

Q. And can you tell me when Mr. Schneidermann became district organizer, how long after Mr. Darcy left? A. It was in the fall of 1935.

Q. And during the interim between the departure of Mr. Darcy in the spring and Mr. Schneidermann's coming here in the fall of 1935, under whose direction were the affairs of the Communist Party in this district? Under whose direction were they during that interim of time?

A. Under the direction of three members of the Communist Party, supervised by a member of the Central Committee of the party, sent here for that purpose.

Q. Now, who were the three members under whose supervision or whose direction the party

(Testimony of Lawrence S. Ross.)

affairs were handled during that interim period of time?

A. Arthur Scott or Kent, he was known by both names; Oleta O'Connor and myself.

Q. And who was the member of the Central Committee under whose supervision those three persons functioned? A. Jeck Johnstone.

Q. Mr. Ross, during the period of time that you were in San Francisco and as a member of the Communist Party, did you attend few or many Communist Party meetings? A. Very many.

Q. And by the way, when you were in San Francisco, were you ever a candidate for public office? [3157] A. Yes, sir.

Q. When and for what office?

A. I believe the year was 1936, but I can't be certain of it, and the office was United States Congress.

Q. And upon what ticket or what party platform did you stand for that office?

A. The ticket was ostensibly a United Labor ticket, but I ran for office as a known Communist and on the Communist Party platform.

Q. At any time, Mr. Ross, during the period when you were a member of the Communist Party, did you ever conceal the fact of your membership in the party? A. No, sir.

Q. And is it a fact from your testimony that at all times during your membership in the Communist Party, you were employed as a functionary of that party? A. Yes, sir.

(Testimony of Lawrence S. Ross.)

Q. Mr. Ross, do you know——

A. Mr. Donohue, I might make one amendment to that answer, please.

Q. Surely.

A. Until I went to New York and became an organizer for the United Furniture Workers Union.

Q. And at that time, while still a member of the party, you were not a paid functionary thereof?

A. That's correct.

Q. Mr. Ross, do you know Harry Bridges?

A. I do.

Q. Do you see him in the courtroom?

A. I do.

Q. Will you indicate where he may be?

A. If you will step out of the way. The third man from my left at the table on my left (indicating).

Q. Mr. Ross, do you know a man by the name of Henry Schmidt? A. I do.

Q. Do you see him in the courtroom?

A. I do.

Q. Would you indicate where he may be?

A. At Mr. Bridges' left.

Q. And do you know a man by the name of J. R. Robertson? A. No, sir.

Q. Mr. Ross, can you tell us where and when and under what circumstance it was that you first saw the defendant Harry Bridges.

A. I first saw Mr. Bridges at the conclusion of a Communist meeting in Fresno, late in 1934.

Mr. MacInnis: Pardon me just a moment. If

(Testimony of Lawrence S. Ross.)

the Court please, the details and the facts are the elements upon which the Court and the jury must pass judgment, and I think he can say he saw Bridges at a meeting and describe the meeting, but [3159] he may not put a characterization upon the meeting because that may be one of the ultimate facts in the case. I suggest that that answer be stricken and the witness advised to tell us the facts and not his opinion.

Mr. Donohue: I will withdraw the question, if your Honor pleases, and ask it another way.

The Court: The answer is stricken.

Mr. MacInnis: Thank you.

Q. (By Mr. Donohue): Where was it, Mr. Ross, that you first saw the defendant Harry Bridges?

A. In Fresno.

Q. And by "Fresno" you mean Fresno, California? A. Yes, sir.

Q. And when was it?

A. Toward the close of 1934.

Q. Can you describe the place where it was that you first saw Mr. Bridges?

A. It was a meeting hall on one of the main streets of Fresno and it was one flight of stairs up from the street.

Q. At the time when you saw Mr. Bridges in that meeting hall, were there many or a few persons present?

A. There was quite a large number present.

Q. And when was it before the time——

Mr. MacInnis: Pardon me just a minute. I

(Testimony of Lawrence S. Ross.)

think, your Honor, in the interest of the record that a witness may not state [3160] that there was quite a few present, because individuals will vary in what to them may be quite a number. I think the witness must estimate the number of persons present.

Mr. Donohue: Well, I thought he might develop that on cross-examination, but I will be only too happy to ask him.

Q. What is your best judgment or what do you mean by "quite a number of persons," Mr. Ross?

A. Between 60 and 75.

Q. When was it prior to the time that you saw Mr. Bridges at this hall in Fresno that you went to Fresno?

A. It was the morning of that day.

Q. And how did you go to Fresno?

A. This is an assumption, Mr. Donohue: I must have gone by automobile; I cannot remember the details of the trip over.

Mr. MacInnis: We ask that the assumption be stricken.

Mr. Donohue: I have no objection, if your Honor pleases.

The Court: All right.

Q. (By Mr. Donohue): You have no distinct recollection as to how you may have gone there?

A. No, I don't.

Q. Have you any certainty as to when it was that you went with relation to the time when it was that you saw Mr. Bridges there? A. Yes.

(Testimony of Lawrence S. Ross.)

Q. And when was it? [3161]

A. It was toward the close of 1934.

Q. I mean, with respect to the immediate time prior to your having seen Mr. Bridges, that you left San Francisco to go to Fresno?

A. Left San Francisco in the morning and saw Mr. Bridges late that afternoon.

Q. What was the occasion for your going to the hall in Fresno on that particular day?

A. To attend a meeting.

Q. Had you called the meeting, Mr. Ross?

A. No, sir.

Q. By whom were you notified that there was such a meeting to be held?

A. By Elmer Hanoff. [3162]

Q. And who was Elmer Hanoff?

A. He was the organizational secretary of the Communist Party district.

Q. At this meeting in Fresno did you perform any particular function personally?

A. I can't recall any.

Q. Where in this hall was it that you saw Mr. Bridges?

A. Near the entrance door; inside the entrance door.

Q. Can you at this time recall any other person or persons whom you saw present at the time you saw Mr. Bridges?

A. Yes, I saw Sam Darcy and Sam Diner.

Q. Can you recall any other person or persons

(Testimony of Lawrence S. Ross.)

whom you may have seen or whom you did in fact see at that meeting?

A. Elmer Hanoff was there and Walter Lambert.

Q. Did you have any conversation personally with Mr. Bridges? A. No, sir.

Q. And I believe you testified that was the first time you had seen him?

A. That's right.

Q. Subsequent to the day and date you have been discussing and up until the present time have you seen the defendant Harry Bridges on many or few occasions, or have you seen him at all?

A. Yes, I have seen him on approximately twenty occasions, I would say.

Q. And with respect to the defendant Henry Schmidt, how often [3163] or on how many occasions would you say since the first time you saw him until today have you seen him?

A. I can't recall quite as many occasions; perhaps a dozen.

Q. And I believe you have testified you do not know Mr. Robertson? A. That's right.

Q. Mr. Ross, did you ever hear Mr. Bridges Speak? A. Yes, sir.

Q. Can you recall the first time you ever heard Mr. Bridges say anything?

A. You are not referring now to a formal speech, are you, Mr. Donohue—just talk?

Q. No, I mean engage in any conversation at all.

A. I first heard Mr. Bridges talk at a small

(Testimony of Lawrence S. Ross.)

meeting held early in 1935 at an apartment house—in an apartment, rather, in San Francisco.

Q. And your best recollection is that this was early in 1935? A. Yes, sir.

Q. What is the best of your recollection as to where the apartment house was located?

A. I have none as to its physical location.

Q. How did you go to that meeting?

A. I went by automobile accompanied by Mr. Hanoff.

Q. And is he the same Mr. Hanoff you rescribed just a moment ago? [3164] A. Yes, sir.

Q How were you notified that there was to be such a meeting?

A. I was notified by Mr. Hanoff.

Q. And when you got to this apartment house, can you recall where in that apartment house the apartment to which you went was located?

A. No, sir, I cannot.

Q. When you got to the apartment was Mr. Hanoff still with you?

A. He was still with me.

Q. And who was there when you arrived?

A. I recall that we were greeted at the door by a person who I was told was the occupant of the apartment.

Q. Did you learn the identity of that person?

A. Yes, sir.

Q. As being who? A. Norma Perry.

Q. And did Norma Perry continue to remain during the course of the meeting which was held

(Testimony of Lawrence S. Ross.)

there or the conversations which were had in that apartment?

A. To the best of my recollection, no.

Q. Who else was there when you arrived, after having been admitted by Norma Perry?

A. I can't say who was there when I arrived; I don't recall.

Q. What is your best recollection of the persons who either [3165] were there upon your arrival or who came subsequent to your arrival?

A. Sam Darcy; Hanoff, of course, who came with me; Walter Lambert; Mr. Bridges, John Schomaker.

Q. Now, who was Mr. Darcy?

A. He was then the district organizer of the Communist Party.

Q. And Mr. Hanoff you have already identified as being who?

A. Organizational secretary of the district.

Q. And who was Mr. Schomaker?

A. He was a member of the Communist Party on the waterfront.

Q. Do you know whether or not at that time he occupied any position with the Communist Party?

A. To the best of my recollection he was waterfront section organizer.

Q. And who else did you say was there?

A. Walter Lambert.

Q. Who was Walter Lambert?

A. He was the trade union functionary in the Party, in charge of trade union work.

(Testimony of Lawrence S. Ross.)

Q. And who else was there?

A. Darcy, I have already identified him—Lambert, Hanoff, Bridges, Schomaker. Those are all I can place there.

Q. Now, is it your testimony, Mr. Ross, that those persons whom you have named were all the persons who were present? A. No, sir. [3166]

Q. Or were there others whose names you cannot recall?

A. There were several whose names I cannot recall.

Q. Now, at this gathering you indicated that you heard Mr. Bridges for the first time say something?

A. Yes, sir.

Q. Can you tell us what it was that Mr. Bridges said? A. No, sir.

Q. You only recall that he did say something?

A. That is right. I recall that, because it was the first time that I was ever present with him at an intimate meeting, and I was rather impressed.

Q. Mr. Ross, what was the purpose of this meeting?

Mr. MacInnis: Pardon me, your Honor. I think the witness can best give us the purpose by telling us what conversations were had, but I think he may not place a character on the meeting or upon the conversation. We therefore object upon the ground that this question calls exclusively for an opinion and conclusion of the witness.

Mr. Donohue: I will withdraw the question.

(Testimony of Lawrence S. Ross.)

The Court: You might state what occurred.

Q. (By Mr. Donohue): Can you tell us now, Mr. Ross, what was said by anyone at that meeting?

A. Specifically, no.

Q. Can you tell us what the general nature of the conversation was? [3167]

A. Discussion of the waterfront situation.

Mr. MacInnis: Pardon me, your Honor. May the answer be stricken pending the objection, your Honor?

The Court: Yes.

Mr. MacInnis: Counsel has now asked the witness, who says he can't remember what the specific conversation was, to tell the general nature of it; in other words, to place a character upon it. I think that your Honor must instruct the witness that he can give us his best memory but not his best opinion.

Mr. Donohue: I think, if your Honor please, having exhausted his recollection as to what was said by anyone, he has a right, having been present, to testify as to what the general substance of the conversation was, though he may not recall the words or by whom they were said.

Mr. MacInnis: Your Honor, not with no recollection. It is true a recollection which is general may be given, but where the witness states he has no recollection, he can hardly be allowed then to offer us conjecture upon what the purpose of the conversation may have been.

The Court: The objection is overruled.

(Testimony of Lawrence S. Ross.)

Mr. Donohue: Would you read the question back, then, Mr. Reporter.

(Question read.)

A. The general nature was a discussion of the situation on the [3168] waterfront as it affects the Communist Party.

Q. (By Mr. Donohue): At that time, Mr. Ross—that is, the time of this meeting—what was your then occupation or position with the Communist Party?

A. Co-editor of the Western Worker.

Q. Can you tell us now whether or not at the time of this meeting you knew all persons who were present at that meeting? A. I did.

Q. And can you tell us now whether you knew at that time that all persons who were present were members of the Communist Party? A. I did.

Mr. MacInnis: Pardon me. May I ask that that answer be stricken and that your Honor admonish the witness not to answer when counsel is obviously arising to make an objection.

Mr. Donohue: He can't always anticipate that.

Mr. MacInnis: The witness was looking straight at me and hurried his answer so that it would be given before the objection.

Mr. Donohue: That is an unfair conclusion. I thought he was looking at me.

Mr. MacInnis: You flatter yourself.

Mr. Donohue: Possibly.

Mr. MacInnis: Your Honor, the difficulty with that question is this: Counsel elicits from this witness the statement that he doesn't remember the names of the persons present, and [3169] then he is allowed to say that he knows the persons whom he has not named. Now, may it please your Honor, if this witness were to tell us the persons whose names are not before the Court, names which apparently will never be brought before the Court, were names of persons who are members of the Communist Party, now, obviously inquiry is frustrated by that kind of an answer. The man says, "Several persons were there; I don't remember their names, but I assure you that they were members of the Communist Party." In other words, they may now put a character on this meeting, if it took place at all, without giving the defense an opportunity to probe the nature of the persons who were present. I think that this man may not be allowed to put a blanket character upon the names or positions of persons at least whom he cannot give us by name.

Mr. Donohue: If your Honor please, the witness has named all of the persons who were present at what I think he described as a small, intimate gathering, identified each of the persons whom he knew by their function in the Communist Party. He stated that while there were some others present, he is unable at this time to recall their identities specifically, but he also states that as a then functionary of the Communist Party in the City of San Francisco he knew then and testifies now that all of the persons present, including those whom he is not

(Testimony of Lawrence S. Ross.)

able to identify personally, were members of the Communist Party, and I think that is perfectly proper testimony. [3170]

Mr. MacInnis: Your Honor, the difficulty with that kind——

The Court: I will limit the testimony at this juncture with respect to those persons whose identity has been disclosed by this witness.

Q. (By Mr. Donohue): Is it your testimony, Mr. Ross, that all of the persons whose names you have stated as having been present at that meeting were the names of persons who were, to your own knowledge, members of the Communist Party?

A. Yes, sir.

Mr. MacInnis: Pardon me. Was that question only as to the persons he has already given us the names of?

Mr. Donohue: Yes, sir.

The Court: I understood it that way.

Mr. MacInnis: I'm sorry.

Q. (By Mr. Donohue): Now, so that there may be no misunderstanding about it, would you again repeat the names of the persons whom you now identify as having been present at that meeting?

A. Sam Darcy, Elmer Hanoff——

Mr. MacInnis: Your Honor, this has been asked and answered.

Mr. Donohue: Just to clear the record so that there won't be any doubt about it.

A. Walter Lambert, Harry Bridges, John Schomaker and myself.

(Testimony of Lawrence S. Ross.)

Q. When, Mr. Ross, was it that you next recall having [3171] been at a gathering of any kind, at which either or both the defendants Bridges and Schmidt were present?

A. In the fall of 1935 was the next time I recall seeing them.

Q. Where, Mr. Ross, did this meeting take place?

A. At a Sokol hall in San Francisco.

Q. Can you recall now where——

Mr. MacInnis: May the name of that hall be revealed? A. Sokol—S-o-k-o-l.

Q. (By Mr. Donohue): Can you recall now, Mr. Ross, where Sokol Hall was then located?

A. I recall it was several blocks up on Haight Street, and it was somewhere off Haight Street to the right, I believe, as you walk up from Market.

Q. May I ask you if you have lived in San Francisco since you left here in 1937?

A. No, sir.

Q. What is your best recollection as to the time when this meeting which you are about to describe took place? A. In the fall of 1935.

Q. Can you recall at this time by whom you were notified of this meeting?

A. Yes, I was notified of it by Elmer Hanoff.

Q. And can you tell us now whether you went to Sokol Hall alone or whether you were accompanied by someone when you went there? [3172]

A. I can't recall.

Q. Can you now tell us how many persons were present at this meeting?

A. I would say between 40 and 45.

(Testimony of Lawrence S. Ross.)

Q. And whom do you recall now as being among those who were then present?

A. Bill Schneidermann, Elmer Hanoff, Oleta O'Connor, Elaine Black, Harry Bridges, John Schomaker, and—I believe but I am not positive—I have the impression that Walter Lambert was there, and Henry Schmidt.

Q. Do you recall at this time, Mr. Ross, whether anything was said at that meeting by Mr. Bridges?

A. No, sir.

Q. Do you recall anything that was said at that meeting by anyone?

A. The general nature of the discussion, yes.

Mr. MacInnis: Pardon me. I think that the question demands at least a direct answer as to whether he has any such recollection or not.

Mr. Donohue: May I withdraw the question and ask another question, if your Honor please.

Q. Mr. Ross, do you recall at this time whether any of the persons whom you have named as having been present at that meeting made any statement on any subject? A. Yes, sir. [3173]

Q. Will you tell us who that person was and your best recollection of what that person said?

A. That person was Bill Schneidermann.

Q. And may I ask you again what at that time function did Mr. Schneidermann perform, if you know?

Mr. MacInnis: That has bee nasked and answered twice, your Honor.

Mr. Donohue: I think it is the first time, if your

Honor please, because this is the first reference we have made to this particular meeting.

Mr. MacInnis: Your Honor, he told us that Schneidermann succeeded a man named Sam Darcy just about five minutes ago.

Mr. Donohue: That is correct, if your Honor please, but there is no indication thus far from this witness as to whether at the time of this meeting Mr. Darcy had left.

The Court: Objection overruled.

A. Mr. Schneidermann spoke at length on a congress, the Seventh World Congress Communist International to which he had been a delegate, and in turn he was given a picture of the situation in San Francisco.

Mr. MacInnis: Pardon me. We ask that that last sentence be stricken as obviously entailing heresay and nothing else.

Mr. Donohue: I have no objection, if your Honor please.

The Court: So ordered.

Q. (By Mr. Donohue:) Mr. Schneidermann reported on the congress? [3174]

A. On the Seventh World Congress.

Q. May I ask you, Mr. Ross, whether that was your first meeting or conversation with Mr. Schneidermann, or had you met him prior thereto?

A. I may have met him prior at a private meeting at Party headquarters, but I do not have any recollection of it.

Q. At the time of this meeting at Sokol Hall

(Testimony of Lawrence S. Ross.)

how long had Mr. Schneidermann been here in San Francisco? A. Perhaps a week or two.

Q. And to your knowledge——

Mr. MacInnis: Pardon me. I think, your Honor, that unless the witness shows a foundation or background for knowledge, that he may not testify how long this man, this man, myself, or anybody else has been in San Francisco unless he knows, because the basis appears to me to be entirely hearsay. I ask that that answer be stricken pending your Honor's ruling.

Mr. Donohue: May I say this to that, if your Honor please: There are some matters which I think we all understand persons are capable of testifying concerning as a matter of fact, not as a matter of opinion.

The Court: What materiality is there with respect to whether Mr. Schneidermann was here a week or ten days or two weeks before the meeting?

Mr. Donohue: Perhaps there isn't any, if your Honor please. I will withdraw the question. [3175]

The Court: Why argue about it?

Mr. Donohue: I wasn't arguing. I will withdraw the question, if I may.

The Court: It may go out.

Q. (By Mr. Donohue): Do you recall, Mr. Ross, whether or not Mr. Bridges had anything to say at this particular meeting?

Mr. MacInnis: Pardon me. That has already been asked and answered. He said that he didn't recall whether Harry Bridges spoke or not.

(Testimony of Lawrence S. Ross.)

The Court: I will overrule the objection.

A. I do not recall.

Q. (By Mr. Donohue): May I ask you, Mr. Ross, whether or not, to your own personal knowledge, every person whom you have named as having been present at this meeting was a member of the Communist Party? [3176]

Mr. MacInnis: Pardon me, Your Honor. The objection, of course, is upon the ground that this question calls for a matter beyond the knowledge of a witness, calls for his opinion and conclusion upon a matter not relevant to the scope of our inquiry. It calls for hearsay. We have a meeting with 40 to 45 persons present, according to the testimony of this witness. He has named seven or eight people. And he has now asked to put a character upon those people. Now, I think that particularly since a co-defendant, Mr. Schmidt, is now named in the testimony, one of the only instances in which two defendants have been named, that he should not be compelled to defend himself against pure hearsay testimony. I think that this man may offer facts, but not opinions. We object to that question.

Mr. Donohue: If Your Honor pleases, just a few minutes ago Your Honor sustained an objection made by counsel with respect to unnamed persons who were stated to be present, but not identified by the witness. Therefore I carefully restricted the particular question to the persons whom he named as having been present.

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: Your Honor, this question touches the very soul of the inquiries which we read about so much in contemporary periodicals, guilt by association—the allowance of one man to take the stand and to give his naked opinion that several other persons belong to some subversive organization, thereby damning them immediately in the ears of those who are present and leaving [3177] little room, if any, to probe the matter.

The Court: Mr. Donohue, in instances before where the Court permitted answers of like character upon questions of like character, some foundation was afforded the question.

Mr. Donohue: Well, I thought here if, Your Honor pleases, in light of the fact that this witness has testified that from the time he came to the City of San Francisco until the time he left here, he was continuously a paid functionary of the Communist Party; he testified further that during the interim period, from the spring of 1935 until the fall of 1935, during which there was no district organizer for the Communist Party here, that he served as one of the three Communists in San Francisco who were acting as interim, as an interim board of directors for the Communist Party under the supervision of Jack Johnstone, a member of the Central Committee of the Communist Party. Now, certainly a witness who has so qualified himself is able to state not as a matter of opinion——

The Court: Well, Mr. Donohue, if I may interrupt you momentarily?

(Testimony of Lawrence S. Ross.)

Mr. Donohue: Surely.

The Court: He has already testified as to Mr. Schneidermann, Mr. Hanoff, Oleta O'Connor, Elaine Black—no, he didn't designate Elaine Black in any particular descriptive content; he referred to John Schomaker as waterfront organizer and Walter Lambert. Now, what, if any, basis is there for the characterization [3178] as to Mr. Bridges and Henry Schmidt? You lay the foundation, and I will permit the question.

Mr. MacInnis: I might say this, Your Honor——

The Court: I think I have ruled on it, unless you have some other matters?

Mr. MacInnis: Well, probably nothing that would enlighten Your Honor.

Mr. Donohue: May we take the recess at this time, if Your Honor pleases?

The Court: All right. We will take the morning recess, ladies and gentlemen of the jury; the same admonition to you, not to discuss the case under any conditions, not to form nor express an opinion thereon.

(Recess.)

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes, sir.

Q. (By Mr. Donohue): Referring, still, Mr. Ross, to the meeting you have described at Sokol Hall, were any security measures taken with respect to that meeting of which you know of your own personal knowledge?

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: Pardon me. That is calling for an opinion and conclusion of the witness, and we object to it upon that ground.

The Court: Overruled.

A. Yes, sir. [3179]

Q. (By Mr. Donohue): Will you state what those security measures were?

A. Everyone who was to attend was instructed to go to the hall,——

Mr. MacInnis: Pardon me just a moment. That calls for hearsay. In fact, the witness is giving it as hearsay. He says everyone who was to attend was instructed to a certain effect.

The Court: He can state his instructions, if any were given to him.

Q. (By Mr. Donohue): Yes. What instructions were given to you?

Mr. MacInnis: Now, Your Honor, I would object to that, Your Honor, as being of no probative value, because whatever some persons not before the Court may have told this man would not be relevant either to the character of the meeting or to any alleged security involved.

Mr. Donohue: I will withdraw the question, if Your Honor pleases.

Q. What occurred when you got to the hall, Mr. Ross?

A. I was allowed to enter after being recognized and passed in.

Mr. MacInnis: Now pardon me. That answer,

(Testimony of Lawrence S. Ross.)

I think, must be stricken, and, Your Honor, we make the motion that it be stricken—"after being recognized." That certainly calls for conduct amounting to declarations outside the presence of these [3180] defendants; it calls for conduct amounting to hearsay statements.

Mr. Donohue: Well, these defendants, two of them were there, if Your Honor please.

The Court: The motion is denied.

Q. (By Mr. Donohue): Do you recall by whom you were recognized at the door, Mr. Ross?

Mr. MacInnis: Now, we object to that, if Your Honor please; that is calling for an opinion and conclusion of the witness.

Mr. Donohue: He certainly ought to know who was at the door, Your Honor.

The Court: Overruled.

Mr. MacInnis: May I be heard on that?

The Court: You are asking for the identity of an individual?

Mr. Donohue: Yes, Your Honor.

The Court: Overruled.

Mr. MacInnis: Pardon me, Your Honor,——

The Court: By name?

Mr. MacInnis: If he were asked who met him at the door; but who was the man who recognized him—in other words, he couldn't be allowed to name a man and then give a conversation, because that would be hearsay. But this recognition is just another way of intruding hearsay into the [3181] record.

(Testimony of Lawrence S. Ross.)

The Court: Overruled.

Q. (By Mr. Donohue): You may answer, Mr. Ross.

A. I don't recall who was at the door.

Mr. MacInnis: Now we move to strike the statement about recognition, Your Honor, because he doesn't recall who the declarant was.

Mr. Donohue: I think that the fact that he was recognized, if Your Honor please, by someone he says was there for that purpose is an element of proof which should be allowed to stand in the record.

Mr. MacInnis: It is proof, Your Honor, which cannot be inquired into, since we are not allowed the name of other persons.

Mr. Donohue: He says he doesn't recall it.

Mr. MacInnis: That is the purpose of the rules of evidence, is to allow for that——

The Court: Mr. Witness, what, if any, identification was asked for of you by this person whom you can not now identify?

The Witness: I was recognized by face.

Mr. MacInnis: We move that answer be stricken as not responsive to the question.

The Court: One moment.

Q. What, if anything, was said to you by this man, if you now recall?

A. The word of greeting. [3182]

Q. What?

A. A word of greeting—"Hello."

Mr. MacInnis: May we have an objection to that?

(Testimony of Lawrence S. Ross.)

The Court: You have an objection to that.

Q. What was the word of greeting?

A. "Hello," and "Go right upstairs."

Q. Did you show any credentials?

A. No, sir.

Q. Had you ever seen the person before?

A. Oh, yes, he was familiar to me at the time.

Q. But now presently?

A. Presently I can't recall who it was.

Mr. MacInnis: You Honor, in view of his——

Q. (By the Court): Where did the person stand in the door? A. Just outside the entrance.

Q. Were there others with you at the time?

A. I think I went in alone.

Q. Where was this gentleman whom you refer to, the person who informed you as to the meeting?

A. Mr. Hanoff?

Q. Yes.

A. He went in alone or with someone else.

Q. Wasn't he with you?

A. Not at the time I went into that hall.

Q. What is the condition—— [3183]

The Court: So I will understand and the jury can understand; thus far it isn't clear in my mind, and the purpose of asking these questions is for clarification, the sole and only purpose.

Q. What is the nature of the door? Do you have a closed door, open door, what is it? A peephole door?

A. No, there was a door, a closed door downstairs.

Q. Yes?

A. And the man standing outside of it who recognized people who were supposed to go to that meeting and passed them.

Q. After this so-called recognition on your part, or what you ascribe to be recognition, did he then open the door? A. I opened the door.

Q. You opened the door? A. Yes.

Q. (By Mr. Donohue): Was the meeting held upstairs or downstairs?

Mr. MacInnis: Pardon me just a moment. Has Your Honor finished the questions?

The Court: Yes, I have finished.

Mr. MacInnis: Well, now, we move to strike the answers concerning the recognition.

The Court: Motion granted.

Q. (By Mr. Donohue): Mr. Ross, in between the time when you testified that you first saw Harry Bridges or first heard him [3184] speak at Norma Perry's apartment and the time of the meeting in Sokol Hall, had you in that interim ever seen the defendant Harry Bridges function as a member of the Communist Party? A. Yes,——

Mr. MacInnis: Pardon me. Now, may the answer be stricken pending the objection?

The Court: Well, there was no answer given. You did not answer?

The Witness: I answered.

The Court: The answer may go out. And in the future, so that counsel for the defense may interpose an objection in aid of the record,—which he is entitled to; it is his privilege and duty—I ask that you refrain from answering in such event and the answer here may be stricken. Now, Mr. MacInnis?

Mr. MacInnis: In the first place, might the question be read so that Your Honor will——?

The Court: I would sustain an objection to the question if you would propose it?

Mr. MacInnis: I do.

The Court: All right.

Q. (By Mr. Donohue): Mr. Ross, in between the time when you heard Harry Bridges speak at a meeting at Norma Perry's apartment and the time when you attended this meeting, you have described at Sokol Hall, did you, during that interim, ever attend a Communist Party meeting at which the defendant Harry [3185] Bridges was present?

Mr. MacInnis: Pardon me. The objection to that question is that it is leading and suggestive; that it is calling for the opinion and conclusion of the witness; that it invades the province of the Court and jury by allowing this witness to put a character upon a meeting which character must be placed by the triers of the fact, the jurors in this case. I think the question is also without foundation. He stated that he saw this man up to now twice in his life; we are now asked interim questions. And neither of those occasions can he recall what the man designated as Harry Bridges said, if he said anything. Now, there is no foundation, and I think that——

The Court: Well, Mr. Donohue, without indicating at this time any of the related testimony, there were matters of such character gone into in this trial and there was a foundation, as I recall it, in instances when these questions were asked or at least an assumed foundation.

Mr. Donohue: If Your Honor pleases, this witness has already testified not as Mr. MacInnis has stated, that he saw Mr. Bridges on two occasions—he said that he had seen Mr. Bridges on 20 or 25 occasions.

The Court: That is correct.

Mr. MacInnis: That is, in all, Your Honor.

The Court: Yes.

Mr. Donohue: That he distinctly recalls the first occasion [3186] that he saw him, because it was the first time that he had ever seen him, was at Fresno, California. He said the first time that he ever heard Mr. Bridges say anything was at the meeting at Norma Perry's house. Now, certainly, if Your Honor pleases, every statement of fact made by a witness is not as Mr. MacInnis would have your Honor believe, a statement of an opinion, because I suppose any person might testify that it is cold outside or it is raining or the sun is shining.

Mr. MacInnis: Or that Harry Bridges is a Communist.

Mr. Donohue: I would say that Mr. Ross, a prominent functionary in the Communist Party in the State of California, who said that he attended many Communits Party meetings, is certainly qualified——

The Court: Mr. Donohue, if I may interrupt you?

Mr. Donohue: Yes, sir.

The Court: There are and were, according to the testimony, various types of meetings held and conducted.

Mr. Donohue: That is my next question, if Your Honor pleases, because I can't ask him that question unless I can ask him first——

The Court: The questions asked call for an opinion.

Mr. Donohue: I will withdraw the question, if Your Honor pleases.

The Court: All right.

Q. (By Mr. Donohue): Mr. Ross, will you describe for His Honor [3187] and the ladies and gentlemen of the jury the various kinds of meetings which are held by the Communist Party?

Mr. MacInnis: Pardon me, Your Honor. This man has not been qualified as an expert, if indeed this could be the subject of expert testimony, which we gravely doubt.

The Court: Objection overruled.

A. The Communist Party meetings are restricted to Communist Party members. Of course, the Communist Party also holds or controls mass meetings at which non-Communists are admitted. These are for propaganda purposes. The meetings to which I have reference and which I am testifying about are closed Communist Party meetings.

Mr. MacInnis: Pardon me. Now, we move to strike the last sentence.

The Court: The last sentence may go out.

Mr. Donohue: May I say, if Your Honor pleases, that certainly a witness who is a member of an

(Testimony of Lawrence S. Ross.)

organization can testify that he attended a meeting of that organization, the attendance at which was restricted to persons who were members of the organization. Now, this witness has testified that——

The Court: If he knows of his own particular knowledge that a meeting was restricted and so restricted, he may testify. But thus far there has been no question presented to this witness save and except a general conclusion.

Mr. Donohue: Correct, Your Honor. They are only preliminary [3188] questions, for the purpose of qualifying this witness as competent to testify as to the character of a particular meeting.

The Court: All right.

Mr. MacInnis: May I suggest, Your Honor, in this discussion that the prosecutor is bound by his previous witnesses one of whom, Mr. Krolek, has stated that there can be Communist Party meetings at which non-Communists are in attendance.

Mr. Donohue: He just said so.

The Court: Well, Mr. Krolek testified to various forms, other witnesses testified to various forms. I haven't assumed to discuss those in the presence of this witness, for very obvious reasons. But I think, Mr. Donohue, that there should be some definition of the nature and type of the meetings, delineations as to what they were, and so forth.

Mr. Donohue: Yes, if Your Honor pleases. This witness has just testified that the Communist Party holds two kinds of meetings, one of which is a meeting the attendance at which is restricted to members of the Communist Party; that the Communist Party sometimes has meetings to which non-Communists are invited, and he said that the purpose of the latter kind of meeting was for propaganda purposes.

Q. May I now ask you, Mr. Ross, with respect to the meeting you have just described as having taken place at the apartment of Norma Perry, what was the nature of that meeting?

Mr. MacInnis: Pardon me. May it please the Court, we [3189] object to that question, as what appears to be a deliberate evasion of the Court's previous ruling. In previous questions put to this witness, he declared himself as unable to tell us who were the persons present at this meeting outside of seven or eight people whom he named. Your Honor then sustained objection as to the character of the meeting or as to the character of who was present.

The Court: Well, the witness could state in response to a question presented to him as to the nature of the call with respect to that meeting.

Mr. Donohue: Correct. That is what I——

The Court: Or the nature of the communication made to him as to the meeting and the like.

Mr. Donohue: That is exactly what I asked him, if Your Honor please, what was the nature of the meeting which he had attended in Norma Perry's apartment, at which Mr. Bridges was present.

Mr. MacInnis: I might state, Your Honor, if it is now the purpose which the prosecutor declares, the question would have been asked and answered, because he has already elicited from this witness a

(Testimony of Lawrence S. Ross.)

statement as to the purpose of that particular meeting.

The Court: He said the purpose, as I recall,—well, objection is overruled. Let us see what the answer is. Objection overruled. [3190]

A. It was a closed meeting for Communist Party members only.

Mr. MacInnis: Pardon me. We ask that answer be stricken, Your Honor, as an evasion of your previous ruling, and not called for by the question and obviously not called for by the stated purpose of the prosecutor.

Mr. Donohue: It is not, if Your Honor please.

The Court: The motion is denied. You did not complete your answer?

The Witness: No, sir.

The Court: All right, you may proceed.

A. (Continuing) It was a meeting of top members of the Bureau of the Communist Party with——

Mr. MacInnis: Pardon me. We move that part be stricken. This man has already said that he can not identify the names of persons present. It is a deliberate invasion of Your Honor's previous ruling.

The Court: Well, I assume when he refers—Strike my assumption. You may proceed.

A. (Continuing) It was a meeting of the top members of the Communist Party Bureau with the leading Communist Party members of its waterfront section.

Mr. MacInnis: The same motion, Your Honor.

The Court: Motion denied.

(Testimony of Lawrence S. Ross.)

Q. (By Mr. Donohue): And with respect to the meeting at Sokol Hall,—— [3191]

Mr. MacInnis: Pardon me a moment. Did I understand correctly that Your Honor's first ruling upon this motion was based partly upon the fact that the witness had not yet concluded his answer and Your Honor wished to see what the entire context might be?

The Court: Yes.

Mr. MacInnis: Well, he has now stated his opinion, which the prosecutor had been forbidden to ask him about by reason of the previous rulings. He stated that these people are not now known to him by name and how he can put a character on those unknown people, which would have probative value in this case, I am wondering.

Mr. Donohue: If Your Honor please,——

The Court: Well, your observation would seem to answer itself, Mr. MacInnis, because the unnamed persons or the persons not identified would not serve to characterize a meeting. They might be component elements of a meeting, but they would not serve to give character to the particular meeting.

Mr. Donohue: Isn't it apparent, if Your Honor please, that any person who belongs to any kind of a fraternity may look back ten years and know that he attended a meeting of the fraternity at which a particular subject was discussed, recall personally the identity of some persons who were there and yet know that all of the persons who were there were members of that fraternity? Mr. MacInnis

(Testimony of Lawrence S. Ross.)

would give the impression that [3192] we are violating all human experience, and I think we have asked questions which have been permitted heretofore to be answered; and certainly it is not our purpose to deliberately or unintentionally evade or avoid the Court's ruling.

The Court: The motion to strike is denied. [3192-A]

Mr. MacInnis: May I suggest in response to that observation, it would be like saying that man who was an officer of the Democratic Party is because of holding that office empowered to tell us that all persons in any gathering are members of the Democratic Party. It obviously is beyond human experience that a person could do it.

The Court: If a member of any given group or organization or body attends a caucus, I assume that the identity of the caucus would be disclosed in general terms as a caucus or as a fraction or the like. I will deny the motion to strike.

Mr. Donohue: Would you read the question, Mr. Reporter.

(Question read as far as framed.)

Mr. Donohue: (continuing) ——what was its character? A. It was——

Mr. MacInnis: Pardon me. Same objection to that question without repeating it in its entirety. This man has named eight or ten people out of a group which he says numbered 40 to 45 people, and he was allowed, under your Honor's ruling, to testify only to his own interest. Your Honor then struck his

(Testimony of Lawrence S. Ross:)

observations concerning the methods by which other persons either entered or were recognized. Now, I think that, with that foundation having been stricken from the case, the prosecutor can hardly now go back to the same subject and have his witness give the desired opinion in the face of the previous rulings. [3193]

The Court: You may answer.

A. It was a closed meeting of the Communist Party.

Q. (By Mr. Donohue): Mr. Ross, do you recall having attended a meeting at which Mr. Bridges was present at Communist Party headquarters?

A. Yes, sir.

Q. Will you tell us where and when?

A. It was at Communist Party headquarters at 121 Haight Street.

Q. Here in San Francisco?

A. San Francisco.

Q. What is your best recollection as to the time?

A. My best recollection is the early fall of 1936.

Q. Can you recall any specific incident that causes you to specifically recall this meeting?

A. Yes, sir, it was a feeling of almost amounting to shock, certainly surprise, that Mr. Bridges was present.

Mr. MacInnis: Pardon me, your Honor. I ask that that observation be stricken as not responsive to the question, purely a conclusion.

Mr. Donohue: I believe it is entirely responsive.

Mr. MacInnis: Whether this man was surprised or not has no probative value.

(Testimony of Lawrence S. Ross.)

Mr. Donohue: He says he was surprised at the fact that Mr. Bridges was present. I think we have a right now to ask him what caused the surprise.

The Court: The objection is overruled.

Q. (By Mr. Donohue): What caused the surprise on your part at Mr. Bridges being present?

A. There had been so many careful precautions to conceal his identity as a Communist previously that I was surprised to find him at Communist Headquarters.

Q. Can you tell us now, Mr. Ross, who else may have been or was present at Communist Party headquarters when you saw Mr. Bridges there?

A. Bill Schneidermann, Elmer Hanoff, Walter Lambert, Mr. Bridges, Mr. Schmidt, Mr. Schomaker, Betty Gannett, Frank Carlson.

Mr. MacInnis: Pardon me. What was that name?

The Witness: Frank Carlson, C-a-r-l-s-o-n. I believe Oleta O'Connor was there; I am not very positive as to that.

Q. (By Mr. Donohue): Do you believe there were other persons there whose names you do not now recall, or have you recited the names of all persons who were there present?

A. Elmer Hanoff was there. There were others present whose names I can't recall.

Q. Can you tell us, Mr. Ross, whether or not on this occasion Mr. Bridges said anything?

A. Yes, sir.

Q. Will you tell us what he said, or the best you can recall the substance of what he said.

(Testimony of Lawrence S. Ross.)

A. He made a report of approximately an hour, perhaps longer, [3195] on the situation along the waterfront and the advisability of preparing for a strike.

Q. Do you recall that other persons present said anything and can you recall what was said by any other person or persons present?

A. I recall Bill Schneidermann presided. I can't recall either the content or the substance of his conversation.

Q. Do you recall whether the defendant Schmidt said anything?

A. No, sir; that would be an assumption; I can't recall it.

Q. And how would you characterize this meeting at Communist Party Headquarters?

A. As a closed Communist Party meeting.

Mr. MacInnis: Pardon me. May the answer go out pending the same objection?

The Court: Yes.

Mr. MacInnis: We urge the same objection.

The Court: The objection is overruled.

Q. (By Mr. Donohue): You may now answer, Mr. Ross.

A. As a closed meeting of the Communist Party.

Q. Mr. Ross, during the period of your membership in the Communist Party while you were here in the city of San Francisco, did you ever attend a national convention of the Communist Party?

A. Yes, sir.

Q. Can you tell us when and where that convention was held?

(Testimony of Lawrence S. Ross.)

A. That convention was held in New York City on June 24, 1936, at [3196] a hall called the Manhattan Opera House.

Q. (By the Court): What was the name of the Opera House? A. Manhattan Opera House.

Q. (By Mr. Donohue): And in what capacity did you attend that convention?

A. As a delegate from California.

Q. Can you tell us now how many persons were delegates from California to the Communist Party convention in 1936?

A. No, sir, I am afraid I can't.

Q. What is your best recollection of the number of delegates from California?

A. Perhaps, a dozen, perhaps ten.

Q. Did you go to this convention alone, or were you accompanied by someone else?

A. I was accompanied by another delegate.

Q. And who was that delegate?

A. Dave Saunders.

Q. Can you recall at this time, Mr. Ross, the name or names of any other person or persons who were also delegates from California to that convention other than the man you have just mentioned?

A. Bill Schneidermann, John Leech; I believe Anita Whitney was a delegate. Those are all I can recall.

Q. And there were others whose names you can't recall?

A. There were perhaps six or seven [3197] others.

(Testimony of Lawrence S. Ross.)

Q. Do you recall how long you remained in New York for the purpose of the convention?

A. The better part of a week, I would say.

Q. Did you then return to California?

A. Yes, sir.

Q. And with the same person with whom you had gone to the convention?

A. No, I can't recall with whom I returned from the convention. I can recall the trip there, but not the trip back.

Q. At that convention did the California delegation present any name or names to the delegates in convention for nomination and election to the Central Committee of the Communist Party?

A. Yes, sir, all delegations did.

Q. And will you tell us—first, may that be stricken, if your Honor please?

The Court: Yes.

Q. (By Mr. Donohue): Were you on the floor of the convention when the name or names of the California choice for the Central Committee was made? A. Yes, sir.

Q. And were you on the floor when the delegates who were elected were in fact elected?

A. Yes, sir.

Q. Who was nominated by the California delegation from California to serve on the Central Committee of the Communist Party? [3198]

A. I recall there were several nominated, Mr. Donohue.

Q. Who?

(Testimony of Lawrence S. Ross.)

A. I can't recall all of their names. I do know that among them was Bill Schneidermann; Comrade Rossi, who was Harry Bridges; possibly Walter Lambert and possibly Anita Whitney.

Q. Now, at the time when the delegates voted on the candidates who had been nominated, were any of the delegates or were any of the candidates who had been nominated by the California delegation in fact elected? A. Yes, sir.

Q. Who or which?

A. I remember Bill Schneidermann was elected, and I remember Rossi was elected. I believe Anita Whitney was elected, but I can't be positive of that.

Q. You returned then to California about how much later than the convention ended?

A. Oh, probably a week.

Q. And that was in what year?

A. In 1936.

Mr. Donohue: I have a break at this point, if your Honor please. I wonder if we might take a recess at this time?

The Court: No objection. We will take the noon recess, ladies and gentlemen, and resume at two o'clock this afternoon. The same admonition not to discuss the case under any conditions, [3199] nor to form or express an opinion thereon until the matter is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.)

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IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume VII
(Pages 2897 to 3348)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States Court of Appeals

For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In .... Volumes

Volume VII

(Pages 2897 to 3348)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

[illegible]

United States
Court of Appeals
For the Ninth Circuit

[illegible]

Appellee,

vs.

[illegible]

Appellant.

Transcript of Record

In [illegible] Volumes

Volume [illegible]

(Pages [illegible] to [illegible])

Appeals from the United States District Court, [illegible]
[illegible]

Afternoon Session—2:00 P. M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: May I proceed, your Honor?

The Court: Yes, sir.

The Clerk: The witness on the stand is Lawrence Ross, heretofore sworn.

LAWRENCE S. ROSS

resumed.

Direct Examination
(continued)

By Mr. Donohue:

Q. Mr. Ross, why did you join the Communist Party?

Mr. MacInnis: Pardon me. We object to that question upon the ground that it is incompetent, irrelevant and immaterial, not binding upon the defendants, and not probative of any issue in this case.

Mr. Donohue: This question has been asked and answered by six preceding witnesses, if your Honor please, and is asked for the same reason.

The Court: The objection is overruled.

A. I joined the Communist Party during the depression years. At that time I believed that the Communist Party program was one that was designed to help the American people to achieve a more satisfactory status and greater liberty. I suppose I [3200] joined because I was partly humanitarian and had an inadequate knowledge of economics.

(Testimony of Lawrence S. Ross.)

Q. (By Mr. Donohue): And why did you leave the Communist Party?

Mr. MacInnis: The same objection, your Honor.

The Court: Overruled.

A. My leaving the Communist Party was not occasioned by any particular act or revelation. It was a process of being weaned away and having my eyes opened to the truth. I finally recognized that the members of the Communist Party leadership were not overly anxious about the welfare of the people but were anxious about their own advancement in the Party and had been more or less ruthless for power for themselves. I also became convinced that for some reason or other their theory of economics was thoroughly unsound. I was thoroughly disillusioned with both the Party's aim and with its policy. Also, I became convinced that the Communist Party of this country did not have fraternal relations with the Communist Party of the Soviet Union but occupied the position of a satellite political organization, subservient to the Russian Communist Party.

Q. (By Mr. Donohue): Mr. Ross, during the period of your membership in the Communist Party did you ever teach in any of the Communist Party schools? A. Yes, sir.

Mr. MacInnis: Pardon me. May the answer be stricken?

The Court: Yes. [3201]

Mr. MacInnis: Whether he did or not would scarcely be binding upon the defendants or probative of any issue in this case, and we object to it upon the ground that the question is incompetent, irrelevant and immaterial.

Mr. Donohue: I will withdraw the question, if your Honor please.

You have the witness.

Cross-Examination

By Mr. MacInnis:

Q. Mr. Ross, you say that you found out after a series of years in the Communist Party that its leaders were not humanitarian but that they were interested in advancing themselves within the ranks of the leadership. That was one of the reasons that you gave for your enlightenment which ultimately led you to leave the Communist Party, is that true?

A. That is correct, in essence.

Q. In other words, you found that the men in the Communist Party, I suppose, had the same ambitions, the same selfishness, the same private ends that you find in any other group of men?

A. That isn't the way I would state that, sir.

Q. You would say it somewhat differently?

A. Yes, sir.

Q. Let me ask you this, Mr. Ross: You gave us a summary of the various careers that you have followed over the past many years, and you said that you are at present occupied as the managing editor of some trade paper; is that correct? [3202]

A. That is correct.

Q. What is the name of that paper?

A. Cotton Trade Journal.

(Testimony of Lawrence S. Ross.)

Q. The Cotton Trade Journal. And who are the owners of that paper?

A. The publisher and owner is Francis G. Hickman.

Q. And the interests of that trade journal are directed to what particular end?

A. Toward reporting news of happenings in the cotton industry.

Q. And it is an industrial trade paper?

A. Well, it treats of cotton from the farm to the mill. It is more than a trade paper; it is an industrial paper, that is correct.

Q. One that is circulated among the various businesses which have to do with the buying and selling of cotton?

A. Buying, selling and growing cotton and manufacturing of cotton.

Q. Largely an employer's paper, I will say, I suppose? A. Yes.

Q. At least it is definitely not a trade union publication? A. Oh, no, definitely not.

Q. So that although you followed trade union activities for that part of your life which did not find you a paid functionary within the Communist Party, your present job is with a trade journal which has to do with the employer groups [3203] within the cotton industry?

A. I followed trade union activities for the smaller part of the period since I have left the Communist Party. My present job and the one before this and the one prior to that were newspaper jobs.

(Testimony of Lawrence S. Ross.)

Q. You mean by that ordinary daily circulation newspapers? A. That is correct.

Q. So that at some point you ceased to follow the union activities as a means of earning a living and went into ordinary employment?

A. That is correct.

Q. What was the date of your last service as a union official? I believe that you told us that you worked as an organizer for the United Furniture Workers of America; is that the name of the organization? A. That is correct.

Q. When was the last date that you were employed in that capacity?

A. I can give you the pproximate—I can give you the year and the approximate month.

Q. Yes..

A. I can't give you the day. The summer of 1941. [3204]

Q. What was the circumstances impelling you to leave the employ of the union?

A. I was dismissed from the union as an organizer.

Q. Who was that that dismissed you? Do you remember the name of the person or the group?

A. The information of the notice of dismissal came from the president of the union.

Q. Let's see. What was his name?

A. Maurice Muster, M-u-s-t-e-r.

Q. Maurice Muster, M-u-s-t-e-r?

A. Correct.

Q. And what had been the circumstance that impelled Mr. Muster thus to dismiss you from your job as an union organizer?

A. A story released in Washington to the effect that I was a known Communist and an organizer of the CIO, and the CIO, I think at that time, was taking some steps to rid itself of Communists.

Q. And was there some occasion in which you were transferred because of some government investigation from the State of North Carolina down to the State of Arkansas? A. Oh, no.

Q. When you were transferred to the State of Arkansas, as you have related this morning, was that pursuant to an order from this Mr. Maurice Muster whom you have mentioned?

A. That's correct. [3205]

Q. And what was that date?

A. It was in June or July of 1940, I believe.

Q. Now, what was the approximate month that you offered us as being the date of your discharge or dismissal as an organizer for the union?

A. Approximately a year later.

Q. About what month of 1941?

A. The summer. I can't say whether it was July or August; it was the summer.

Q. What was the first time, the first occasion, Mr. Ross, upon which you were questioned by any agents or representatives of our Government in respect to the matter of Harry Bridges?

A. It was either in March or in April of this year.

Q. March or April of this year?

A. That's right.

(Testimony of Lawrence S. Ross.)

Q. And is it fair to say that during all of the intervening years, from 1941 when you left your last job with any trade union, up to the spring of the calendar year 1949, no person had asked you any questions about the matter of Harry Bridges?

A. That's correct.

Q. So that any testimony that you have offered the Court and jury here is based upon at least your attempts to recall matters taking place those many years ago? A. That's correct, sir.

Q. Did you keep any memoranda or means of refreshing your own [3206] recollection upon those years? A. No, sir.

Q. Did you preserve any record books of the service that you say you put in as a functionary of the Communist Party? A. No, sir.

Q. You had none of those papers or reports in your possession at the time you were first interviewed by any government agent in connection with this case, is that right? A. That's correct.

Q. Well, now, during those years, from 1941 up to the spring of 1949, had you been questioned by any government agency or by any person concerning your own past activities within the Communist Party? A. No, sir.

Q. In other words, you had never had an inquiry of any nature put to you concerning alleged Communistic activities within unions or concerning your own past life as a known Communist organizer?

A. That's correct.

Q. And that would be true during all of the occasions in which you departed from jobs with the union whose name you have given us, and entered into the ordinary newspaper world?

A. That is true of the entire period since I have been in the Communist Party, since 1937.

Q. Would that be true so far as any prospective employers were [3207] concerned, also?

A. Yes.

Q. And have you ever taken any so-called loyalty test in any employment? A. No, sir.

Q. In other words, you have never been asked to give a thumbnail sketch of your own activities in respect of these so-called subversive organizations?

A. No, sir.

Q. And during those years, 1941 up to the spring of 1949, you had never in any written application or in any oral interview with any employer or any government agent, said anything about your past life?

A. I have told to my present employer that I had been a member of the Communist Party.

Q. And he is the only one? A. Pardon?

Q. And he is the only one?

A. That's right.

Q. Well, now, when you assumed the duties of your first job outside the trade union in 1941, did you give a true account of the activities of your own life during the years 1935, '36 and '37?

A. There was no need to.

Q. You mean no one asked you that question? [3208]

A. That's right.

(Testimony of Lawrence S. Ross.)

Q. In other words, you were not asked to fill in that particular gap of years in your life?

A. No, sir.

Q. And how many employments did you say in all? That is, how many different employments have you undertaken since your leaving the trade union in 1941? A. Three.

Q. Three different jobs? A. Yes, sir.

Q. And not one of those employers asked you any question dealing with the years 1935, '36 and '37? A. That is correct.

Q. Now, you told us, I believe, this morning that in Los Angeles you had run as a candidate of the Communist Party for public office?

A. That's correct.

Q. Was that in the year 1935?

A. No, sir, in Los Angeles it was in the year, either—I think once in '32 and once in '34. I am not positive as to the exact date. It was before 1935, however.

Q. When did you say you joined the Communist Party? A. In 1932, early in 1932.

Q. I see. Now, the offices for which you ran on the regular ballot you told us were for County Supervisor [3209] in Los Angeles County, for Mayor of Los Angeles and also for the United States Congress? A. That is correct.

Q. I daresay you were not elected?

A. No, sir.

Q. And those were open elections, of course?

A. Yes, sir.

(Testimony of Lawrence S. Ross.)

Q. In which your name as a known Communist appeared on the public ballots?

A. That's correct.

Q. And again in the year 1936 here in San Francisco you ran for the Congress of the United States?

A. That's correct.

Q. Did you tell us this morning that your sponsorship in that particular election was under the banner of the United Labor Party, although you were really a Communist Party candidate?

A. I said I ran on the ticket of the United Labor Party, but ran as an open and known Communist Party member.

Q. I see. I guess you would have run against the late Richard Welch, is that correct?

A. I may have; I don't recall my opponents.

Q. Well, do you remember in what Congressional District you ran? A. No, sir.

Q. Have no idea? A. I am afraid not.

Q. Well, did [3210] you seriously attempt to do what you could to foster your own election?

A. I had no hopes of being elected, Mr. MacInnis; it was merely a propaganda stunt from beginning to end.

Q. In other words, you filed for public office but you can't tell us now in what Congressional District you made such filing? A. That's correct.

Q. And how about in Los Angeles? Do you remember in what Congressional District you ran?

A. No, sir, I don't.

Q. Do you remember who your successful opponent was there? A. No, sir.

(Testimony of Lawrence S. Ross.)

Q. So that your political endeavors were pretty superficial, then?

A. I wouldn't put it that way because—I would say my attempts to gain public office were superficial, but my political endeavors were not.

Q. Well, would you remember the successful candidate the year that you ran for mayor of the City of Los Angeles?

A. I believe I can, but I don't want to be held to it. I think the name was Shaw.

Q. You are really not sure of that either?

A. I am not sure of it, no.

Q. And, of course, if I asked you what persons were elected to the Board of Supervisors the year that you filed for that candidacy [3211] in Los Angeles, you naturally wouldn't be able to tell us all of the supervisors that were elected?

A. No, sir.

Q. Would you be able to tell us any of them?

A. No, sir.

Q. Now, that political campaigning of which you now tell us took place in Los Angeles, you say, between 1932 and 1934? A. That's right.

Q. And your San Francisco candidacy was more recent, in 1936? A. That's correct.

Q. Although you can not tell us the Congressional District in which you ran, nor the name of the incumbent in office who was your opponent?

A. No, sir.

Q. And I suppose one of the reasons for that is the great passage of years between the present day and the period of 1930's of which we speak?

(Testimony of Lawrence S. Ross.)

A. That is one of the reasons.

Q. So that you feel, I suppose, that you wouldn't be expected to remember too vividly matters that happened in that period?

A. No, because the main intention of my running for public office, Mr. MacInnis, was not to gain office from any specific Congressional District, but the main intention was to forward the aims and policies of the Communist Party from election [3212] platforms.

Q. Now, you say that in March or April of the last calendar year, 1949, you were first approached in reference to the case in which you now sit as a witness? A. That's right.

Q. Could you tell us where and under what circumstances that contact with you was made?

A. Yes, sir. It was made at the office of the Cotton Trade Journal in Memphis, Tennessee.

Q. The office of the Cotton Trade Journal in Memphis? A. Correct.

Q. And what person or persons called upon you there? A. Mr. Bruce Barber.

Q. Mr. Bruce Barber? A. B-a-r-b-e-r.

Q. All right. Is he present in the courtroom?

A. I don't see him.

Q. Is he a red-haired man who was here in court this morning?

A. That's right; he was here this morning.

Q. You saw him here this morning, did you?

A. Pardon?

Q. You saw him this morning?

A. Yes, I did.

(Testimony of Lawrence S. Ross.)

Q. Now, Mr. Bruce Barber came to the office of the Cotton Trade Journal in Memphis and made a contact with you? A. That's right. [3213]

Q. Was he alone or was he accompanied by any person? A. He was alone.

Q. Entirely alone? A. Right.

Q. Before he saw you, had he, to your knowledge, spoken with your employers?

A. Not to my knowledge.

Q. I see. The Cotton Trade Journal, to say the least, is an anti-labor publication, isn't it?

A. No, sir.

Mr. Donohue: ~~I~~ object, if Your Honor pleases. There is no such evidence.

The Court: Overruled.

Q. (By Mr. MacInnis): Now, where did you have the conversation with Mr. Barber in the office of the Cotton Trade Journal in Memphis?

The Court: Did the witness answer that question?

Mr. MacInnis: He answered it in the negative.

The Witness: I said the contact was made in the office of the Cotton Trade Journal.

The Court: No, with respect to the paper being an anti-labor newspaper; I overruled the objection. Did you answer?

Mr. MacInnis: He answered it already.

The Witness: I did.

The Court: What was the answer? [3214]

The Witness: I said, "No, sir."

The Court: "No, sir"; all right.

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: I am sorry, I have now missed the last question.

The Court: Would you read it, please, Mr. Reporter?

Mr. MacInnis: Would you read the last question, please?

(Record read.)

A. The contact was made in the Cotton Trade Journal. Mr. Barber told me he wanted to speak to me about something confidential.

Q. Now, did he approach you through some other person first or was some message sent to you or how was he introduced to you?

A. He introduced himself.

Q. You were at a desk?

A. I was—I had arrived at the office and he was seated in the anteroom waiting for me.

Q. And you and he then had a conversation?

A. I went into my office and I was told he wanted to see me and I asked him to come *him* and he told me who he was, identified himself. There was someone else present in my office at the time and he asked me to speak to me confidentially somewhere, so I suggested I buy him a cup of coffee, which I did.

Q. Just the two of you were present at that meeting? A. Yes.

Q. When you had your cup of coffee? [3215]

A. That's right. That is, we were alone. There were others in the restaurant, but we were alone.

Q. Did he ask you questions then about whether or not you knew Harry Bridges?

(Testimony of Lawrence S. Ross.)

A. Let me refresh my memory a minute, please. He told me what the purpose of the visit was.

Q. Pardon me. What did he say that that purpose was, do you remember?

A. I don't exactly recall the exact words, but the essence of what he said was that there will be another hearing in the Harry Bridges.

Q. Another hearing? Had there been some previous hearing?

A. Yes, I had heard the previous case against Harry Bridges.

Q. What was that case based upon?

A. I couldn't say; I didn't follow it.

Q. You had just heard of that as a matter of——

A. Matter of being a newspaper reader.

Q. ——of common gossip, I suppose. But Mr. Barber said to you that there was to be another hearing in the Harry Bridges case?

A. I am not quoting the word "another" and holding him to it; that is the impression I have.

Q. Well, we won't do that.

A. Thank you.

Q. But did he say it was a second hearing or a third hearing?

A. That it would be a case brought against Harry [3216] Bridges and he asked me whether I would volunteer to come forward and testify as to what I know about him and his connections with the Communist Party.

Q. Did he tell you that the same matter in the other hearings, the charge of Harry Bridges having been a Communist, had been disposed of favorably to Mr. Bridges on the two other occasions? [3216-A]

Mr. Donohue: I object, if your Honor please; that is putting words in the mouth of Mr. Barber which ought not to be testified even on cross examination.

Mr. MacInnis: I think I may ask him anything that may have taken place in this conversation.

Mr. Donohue: It doesn't take place just because you put it in your question. That is the vice of it.

The Court: The objection is overruled.

The Witness: Will you repeat the question, sir?

Mr. MacInnis: Would you read it, please.

(Question read.)

A. He made no such statement.

Q. (By Mr. MacInnis): Did he say anything about the reason for the bringing of another case against Harry Bridges?

A. Yes, he said the Government is certain that Mr. Bridges perjured himself when he applied for citizenship and that they feel they can prove it.

Q. Did he tell you how long he had been working on the case? A. No, sir.

Q. Did you ask him? A. No, sir.

Q. Did you ask him in what fashion he obtained your name in that faraway city of Memphis?

A. No, sir.

Q. I suppose you were naturally [3217] curious about it?

A. May I add something here that I just recalled? About a week or maybe—no, about three or

(Testimony of Lawrence S. Ross.)

four weeks before Mr. Barber came to see me at Memphis, I had a call from someone else who asked me whether—asked me my name.

Q. Pardon me.

A. He identified himself as a Government agent and asked my name and asked me whether I was the same person who was in San Francisco and Los Angeles for a while and active in the Communist Party.

Q. Who was that person?

A. I can't remember.

Q. Was that a telephone conversation?

A. No, sir, that was a personal contact.

Q. The agent came to your office?

A. That is correct.

Q. And showed you some credential, I suppose?

A. He identified himself by credential.

Q. Was that any man whom you have since seen? A. No, I have never seen him since.

Q. You haven't seen him since?

A. No, I haven't.

Q. That would be possibly in March 1949?

A. I believe it was the first part of March; I think that is correct.

Q. That man was alone? [3218]

A. I beg your pardon?

Q. That man was alone? A. He was alone.

Q. And he asked you if you were the same Lawrence Ross who had been known as a Communist Party member in the 1930s in Los Angeles and San Francisco?

(Testimony of Lawrence S. Ross.)

A. That was the essence of the question; also identified or sought to identify me by mentioning names of relatives, and I said, "Yes, I am he," and he said—I said, "What is it all about?" He said, "I wish I could tell you, Mr. Ross. I just can't tell you. Thank you for your courtesy." And he left.

Q. That is the only question he asked you?

A. That is right.

Q. He didn't ask you whether you knew Harry Bridges? A. No, sir, not a thing.

Q. Were you puzzled or surprised?

A. Yes.

Q. He just asked you one question?

A. Just that.

Q. Did you ask him the purpose?

A. He said, "I am sorry. I wish I could tell you, but I can't." He thanked me for my courtesy and left. That is the last I saw him.

Q. By the way, not being able to recall the name of this man, do you recall generally with what branch of the Government [3219] service he was connected?

A. No, sir. I remember his showing me a credential.

Q. Was it the Immigration Service?

A. I really couldn't say. I didn't pay too much attention to the credential. I had nothing to hide and I was willing to answer questions.

Q. You don't remember whether it was the Immigration Service or the Federal Bureau of Investigation? A. I don't know.

(Testimony of Lawrence S. Ross.)

Q. Would it have been either one of those?

A. I am not qualified to say that. It could have been either one, of course.

Q. You saw the credential, of course?

A. I saw the credential; it was a Government credential.

Q. Did you then expect out of that conversation that there would be some further contact made of you?

A. I did for a period of maybe a week or ten days and nothing happened, and I shrugged my shoulders and dismissed the affair.

Q. So that then you had the meeting with Mr. Barber which you have described and you found yourself in a coffee shop for purposes of privacy talking to that man? A. Correct.

Q. You had never seen him before in your life?

A. No, sir.

Q. And he identified himself, I suppose, as an official of the [3220] Immigration Service?

A. Yes, sir.

Q. Did he at that time ask you questions about Harry Bridges? A. Not at that first meeting.

Q. Well, did he tell you from what city he had come or for what distance he had traveled in order to reach you?

A. Yes, he told me—I think he said he was on his way back to the West Coast from the East, although I can't be positive about that.

Q. He told you that he had come down to Memphis to see you?

(Testimony of Lawrence S. Ross.)

A. He had stopped over in Memphis to see me.

Q. And in that first interview he asked you no question at all as to whether you knew Harry Bridges?

A. Yes, he did ask me whether I knew him, but no detailed questions as to where I had met him or how often I had seen him or anything of that kind.

Q. How long did you talk to Mr. Barber at that first occasion?

A. Oh, possibly five or ten minutes; no longer.

Q. Did he make some arrangement to return to see you after that?

A. I made arrangements to return to see him at his hotel room that same day.

Q. And where did you meet him?

A. At his hotel room in Memphis.

Q. Do you remember the hotel? [3221]

A. The Gayoso.

Q. What? A. Gayoso—G-a-y-o-s-o.

Q. You went to see this man at the hotel room that night, did you? A. That afternoon.

Q. Was he alone then? A. Yes, sir.

Q. Did you have a further talk?

A. Yes, sir.

Q. Did he then ask you questions about Harry Bridges?

A. He asked me a number of questions concerning what I had done, when I had been in the Communist Party, meetings at which I had seen Harry Bridges—went over generally the same ground we went over this morning except in a much shorter time—a general statement.

Q. In order to leave your employment to go over to the hotel did you have to reveal to your employer the nature of your departure?

A. No, sir. I am at liberty to go and come as I please from the office as long as my paper gets out.

Q. How long did you spend with Mr. Barber on that occasion?

A. Perhaps an hour and a half.

Q. And at the end of that conversation was any arrangement made between you for any further talk? [3222]

A. No, that was the last time I saw him in Memphis.

Q. What did Mr. Barber tell you on that occasion about the plans of the Government to instigate and effect a case against Harry Bridges?

A. Nothing about the plans of the Government. He merely took my statement as to my knowledge of Harry Bridges and his activities and membership in the Party and where I had worked since then.

Q. You say he took your statement?

A. That's right.

Q. You mean you wrote out a statement?

A. He wrote it out as I talked.

Q. You mean Mr. Barber, without aid of any stenographer, wrote out your statement?

A. That's right, in longhand.

Q. In longhand. And then did you sign that statement? A. I did.

(Testimony of Lawrence S. Ross.)

Q. How long was that statement, if you can recall?

A. I think perhaps a little over two closely written pages.

Q. Have you ever seen that statement since?

A. No, sir.

Q. You have never seen it again?

A. No, sir.

Q. And it has not been used in any conference with you nor its contents disclosed to you for any other purpose? [3223]

A. If it was used, I didn't know it. I was never shown that paper.

Q. At the end of that interview what arrangement, if any, was made between you and Mr. Barber for any further talk?

A. He told me that I would be asked to come to San Francisco at some future date, he didn't know when, to testify before a grand jury, and asked me would I volunteer to come. I told him I would.

Q. And he then left?

A. And he then left and I didn't see him again in Memphis.

Q. What was the next contact that you had with any agent of the Government?

A. In San Francisco.

Q. Well, I assume that you were informed by some route or by some means——

A. Oh, I see.

Q. ——of the requirement of your presence here?

(Testimony of Lawrence S. Ross.)

A. By telephone call from Mr. Barber.

Q. And from what other city or station was that call placed?

A. It was made from San Francisco.

Q. He then asked you to come here?

A. That is correct.

Q. And did he tell you the time that he wanted you to come? A. Yes, sir.

Q. That was when? [3224]

A. About the middle of May, I believe.

Q. Did you then make arrangements to come?

A. Yes.

Q. How soon after the receipt of that telephone call did you leave for San Francisco?

A. Within the same week, I believe. I believe the call came early in the week, either Monday or Tuesday, and I left on a Friday. That is correct; I left on a Friday.

Q. Did you make any arrangement with your employers at that time?

A. I told them where I was going and for what reason.

Q. And did you receive some leave of absence?

A. Yes, he said, "More power to you." He said, "I hate to see you leave, but it is an important job."

Q: What was his name?

A. Hickman, Francis G. Hickman.

Q. So then you arrived in San Francisco and stayed where?

A. Cartwright Hotel, I believe.

Q. For how many days? A. Four.

Q. And did you meet any persons connected with

(Testimony of Lawrence S. Ross.)

the Government whom you had not before encountered? A. Yes, sir.

Q. While you stayed at the Cartwright Hotel?

A. Yes. [3225]

Q. What persons were those?

A. Mr. William Kaiser.

Q. Pardon me. Kaiser?

A. Kaiser—K-a-i-s-e-r.

Q. Do you see him here in the courtroom?

A. Yes, I do. I met Mr. Donohue.

Q. At the Cartwright Hotel?

A. Yes, I believe I did. That is right. I met —I believe his name is Gallagher.

Q. Do you recognize that man?

A. I think it is the man sitting at the counsel table—I may not have the right name, but I met him anyway—to the right-hand side just behind the man sitting right in front of me.

Q. Did you meet this man sitting in front (indicating Mr. Boyd)? A. Yes, I did.

Q. What is his name?

A. I can't recall. I met him briefly for about two or three minutes, said hello to him.

Q. When was that? A. Pardon?

Q. When did you meet him?

A. During that visit in May at the Cartwright Hotel.

Q. And whom else did you meet?

A. Mr. Jack McGowan. [3226]

Q. Jack McGowan. Do you see him here in the courtroom? A. No, sir, I don't.

Q. Anyone else?

(Testimony of Lawrence S. Ross.)

A. May I ask you one question, sir, please? Are you referring to the entire length of my stay here, four days, in San Francisco? Is that correct?

Q. Yes.

A. I met the handsome, white-haired gentleman at counsel table; I can't think of his name this minute. I know it. I know he is an assistant United States Attorney, and I can't think of his name this minute.

Q. You met him when?

A. During the time I testified before the grand jury.

Q. Was he at the Cartwright Hotel, too?

A. No, I met him at the—in the grand jury room and outside the grand jury room.

Q. Anyone else whose name now recalls itself to you? A. No, sir, not that I remember.

Q. Well, at the Cartwright Hotel did you make any further written statement? A. No, sir.

Q. Have you at any time made a further written statement beyond the handwritten statement by Mr. Bruce Barber of which you spoke?

A. No, sir. [3227]

Q. That is the only written statement you have made? A. That is correct.

Q. And did you testify before the grand jury?

A. I did.

Q. And after that testimony did you return to Memphis? A. Yes, sir.

Q. And after that what contact, if any, did you have with any Government agent?

A. I came out here again about the middle of

(Testimony of Lawrence S. Ross.)

November. That was when I expected that I would be put on the stand perhaps a day or two after the trial opened.

Q. Pardon me. Has someone given you that information, that you would be put on the stand a day or two after the trial opened?

A. I was told there would be a possibility, it wasn't a certainty.

Q. Who told you that?

A. I believe Mr. Kaiser did.

Q. Had you seen or talked to any agent in Memphis before you undertook the trip back to San Francisco?

A. You mean between—after the time Mr. Barber contacted me?

Q. Yes. A. No, sir.

Q. How were you informed as to the time in which you were to return in November of last year? [3228]

A. I received a letter from Mr. Barber perhaps three weeks before that day, saying that the case was due to open at a certain date, sometime in the middle of November, and they would like to have me in San Francisco about two days before then —two or three days before then. Then I heard nothing further until I received a phone call several days before I left.

Q. From whom?

A. Mr. Kaiser, I believe it was.

Q. And what instruction or direction did you receive from Mr. Kaiser in that phone call?

A. He told me—asked me to leave on a Friday,

(Testimony of Lawrence S. Ross.)

it was again, and I would be back as soon as they could let me go back.

Q. And up to that point had you been served with any subpoena requiring your presence here?

A. No, sir.

Q. So that this trip was a voluntary one?

A. Yes, sir.

Q. And as you say, it wasn't only voluntary but you had the blessing of your employer?

A. I had the approval of the employer.

Q. As you stated. And you arrived in San Francisco when? I will state to you that this trial commenced on the 14th day of November, if I am correct?

A. That was on a Monday, was it? The previous Friday.

Q. You came here approximately the 11th of November? [3229] A. That is correct.

Q. And how long did you remain in San Francisco after that arrival? A. I left on Sunday.

Q. That would be the 13th of November?

A. That is correct.

Q. In other words, you had come out here, stayed two days, and then went back to Memphis?

A. That is correct.

Q. By what means of transportation had you come? A. Plane.

Q. And you took the same means of getting back to Memphis, did you? A. That is correct.

Q. And whom did you see in the two days you remained in San Francisco at that time?

(Testimony of Lawrence S. Ross.)

A. The same people I mentioned as having seen before.

Q. Where did you stay on that occasion?

A. I am sorry, sir, I can't recall that. I was in the hotel so rarely; I just slept there for two nights. I can't recall the name. It wasn't the Cartwright, I know that.

Q. You can't remember the name of the hotel?

A. No, sir, I can't.

Q. You lived here before, didn't you?

A. I lived here about fourteen years ago. [3230]

Q. And you were here for two nights?

A. That's right.

Q. In the month of November, 1949; which would be at most about six weeks ago, maybe seven; is that right? A. That's right.

Q. And you stayed at some hotel but you can't say where? A. That's correct.

Q. Well, did you stay alone in the hotel?

A. Oh, yes.

Q. Were there any agents of the Immigration Service in adjoining rooms to yours?

A. No, sir, not that I know of.

Q. Do you know where this hotel was located?

A. No, I don't.

Q. Well, was it downtown or was it out in one of the residence districts?

A. Oh, I see. It was in the downtown section. I can't give you the street number or the name of the street.

Q. Was it a large hotel?

(Testimony of Lawrence S. Ross.)

A. About the size of the Cartwright, I would say.

Q. You don't remember the street?

A. No, sir.

Q. Well, on those two days or two and a half days, as the case may be, in which you stayed here, you ate your meals in San Francisco, didn't you?

A. I did.

Q. Did you take your meals alone or in company with any member of the Federal service?

A. In company with one or more members of the service.

Q. And who were they?

A. Bill Kaiser. I believe I ate with Mr. Gallagher and Mr. Kaiser once.

Q. Pardon me. This gentleman whom you have identified before as Mr. Kaiser is the person whom you call Bill Kaiser?

A. Yes, I am sorry; Mr. Kaiser.

Q. Oh, don't apologize.

A. I don't want to be too informal.

Q. I am sure it is perfectly all right. And who else?

A. Mr. Gallagher. I believe I ate once with Mr. Jack McGowan.

Q. Jack McGowan, Bill Kaiser, and who else?

A. Mr. Gallagher. That is all I can recall.

Q. And pursuant to what instructions did you leave to go back to Memphis?

A. They weren't quite sure when I would go on the stand. I was told that perhaps the selection of the jury might take quite a long time, and I couldn't spare the time to wait; I had to get back

(Testimony of Lawrence S. Ross.)

on the job as quickly as I could. So I was told to go back and wait for another call.

Q. Did you follow the progress of the case in the newspapers since then? [3232]

A. Very unsatisfactory.

Q. Well, what was the next communication that you had from these men?

A. During the first part of December, perhaps December 13 or 12, along about there.

Q. And how was that communication brought to you? A. By telephone.

Q. Who called you? A. Mr. Kaiser.

Q. And what did he say?

A. He told me that I would be required or asked to go on the stand either Thursday and Friday before Christmas or after the holiday recess. I told Mr. Kaiser that I could drive out if it weren't the Thursday or Friday before Christmas; I would like to drive out.

Q. Why did you want to drive out?

A. Oh, sort of a holiday trip.

Q. Yes, it is a nice holiday, isn't it? And did he tell you to drive or take a plane?

A. He said I could drive if I wanted to, it didn't make any difference to him as long as I was here on time.

Q. What date did he ask you to be here?

A. I was told to be here on the 1st of January.

Q. And you didn't return then to San Francisco in that interim until January 1? [3233]

A. That is correct.

(Testimony of Lawrence S. Ross.)

Q. When did you arrive here actually?

A. On New Year's Day. No, excuse me; the 31st, Saturday.

Q. And by what route?

A. I came up the inland route from Los Angeles.

Q. You mean you drove?

A. I drove, yes.

Q. And brought your family along?

A. Yes, sir.

Q. You came, I suppose, by easy stages, it being kind of a holiday?

A. Well, I had to stop over in Manteca; I was fogbound. You mean from Los Angeles to here? I had to make a stop at Manteca.

Q. You drove from Memphis to Los Angeles?

A. Yes, I came by easy stages.

Q. And arriving here on the day that you have mentioned, you have been staying where?

A. At a local hotel.

Q. You would furnish us with the name, wouldn't you?

A. Mr. MacInnis, I will if the Court directs me to, but I am not quite willing to do it, because I have my wife and family here. I would rather not subject them to any possible unpleasantries.

Mr. MacInnis: I would suggest that you instruct the jury to disregard any comments of the witness.

The Court: What is your purpose in obtaining the information?

Mr. MacInnis: We have a right to know where this man is staying. I have certainly no wish to

(Testimony of Lawrence S. Ross.)

inquire into his wife or family or anything else, but we have the right to know where he is in reference to these men who are connected with the Government. And I suggest, your Honor, that there is no basis at all, except a preconceived and an inflammatory one, for this man to make the statement in court that he chooses not to give the name of the hotel where he is staying for fear of subjecting members of his family to unpleasantness. It certainly is highly prejudicial, and I ask your Honor to instruct the jury to disregard that statement.

The Court: Before doing so, I think, Mr. MacInnis, we might determine whether or not there is a basis in fact with respect to this assertion, or his declination to disclose to you the name of the hotel—if there is a basis, of course, on his part, I think that it would be an intrusion on my part to insist. Unless, of course, it involves some material aspect of your cross examination. If you desire to determine whether or not Mr. Kaiser or any of the other agents of the Government are in the hotel with him or beside him, you may inquire. But the name of the hotel wouldn't interest us or be material in the light of that disclosure. If there be some material reason, and you insist, I of course will require the disclosure.

Mr. MacInnis: Well, I will abide by any rule that you make on that point, of course.

The Court: The name of the hotel, whether it be the Cartwright or any other hotel, may or may not assist you. You certainly are free to ask and

(Testimony of Lawrence S. Ross.)

privileged, and no doubt required by your examination, if you are so advised, to ask him.

Mr. MacInnis: It would be of interest, if for no other reason than that this man stayed here seven weeks ago, but can't remember where he stayed. Now, it may be that lack of memory is the basis for his refusal to answer. I don't know. But I am——

The Court: Well, you might ask him the basis for his assertion.

Mr. MacInnis: If you feel that this man's residence should [3236] be protected, I won't ask the question.

The Court: Mr. MacInnis, I will not indicate for the record that I have a feeling one way or the other.

Mr. MacInnis: Well, then, I repeat the request that I made of your Honor to instruct the jury.

The Court: I am not advised as to the reasons underlying his reluctance to make such a disclosure.

Q. (By the Court): Have you any reason, or is it based upon some whom, or what is it?

A. It is based upon what I consider very sound reasons, sir.

Mr. MacInnis: Pardon me. I repeat the request I made to your Honor, to instruct the jury to disregard the statement made by this witness.

The Court: I see no reason, Mr. MacInnis, in the light of the disclosure, to instruct the jury to disregard any statement made by the witness, if, in fact, the disclosure has any basis in fact, so far as he is concerned. Because such an admonition on my part would tend to reflect upon the witness, as to his credibility and the like, and thus far there is no occasion for me to reflect upon his credibility.

Mr. MacInnis: Yes, and such an observation on his part reflects upon the defendant and upon the defense counsel.

The Court: Well, of course, if we bring it up to the point where it rests in the limbo of uncertainty, it might or might not. If you follow the question by asking whether or not [3237] he has any basis in fact, it may or may not reflect upon the defense or upon the prosecution. I do not know. But if we leave it in an uncertain field, it certainly may. I don't know.

Mr. MacInnis: I am sure he will offer some conjecture of the same inflammatory nature if I asked him the question.

Q. Let me ask you this, Mr. Ross: Wherever you are staying now, are there agents of the Government in any adjacent rooms? A. No, sir.

Q. Are you taking your meals in company with any agents of the Government? A. No, sir.

Q. And you have been here in San Francisco since approximately January the 1st, is that right?

A. December 31st.

Q. December 31st? A. Yes, sir.

Q. And the place where you are living, by the way, is not the same hotel in which you stayed in November? A. No, sir; no, sir.

Q. It is a different place? A. Yes, sir.

Q. And you are taking your meals without the intrusion of Mr. Bill Kaiser or Mr. Jack McGowan or any of the other men?

A. I have taken two meals in the company of Mr. Bill Kaiser, but others have not been in his company or any other government [3238] agent's company.

Q. And so far as the place where you are staying is concerned, you know of your own knowledge that there are no government agents at that particular hotel?

A. To the best of my knowledge, there are none.

Q. So that whatever reasons you might have as a basis for refusing to disclose the name of the hotel have not impelled you to ask for any government agents to be placed in the hotel with you?

A. No, sir.

Q. You have not made that request, have you?

A. No, sir.

Mr. MacInnis: May we take the afternoon recess?

The Court: We may take the afternoon recess, ladies and gentlemen. The same admonition to you, not to discuss the case under any conditions, nor to form nor express an opinion thereon until it is finally submitted to you.

(Recess.)

Q. (By Mr. MacInnis): Now, Mr. Ross, where did you say you were born? A. Bell County.

Q. Bell County? A. Bell, B-e-l-l.

Q. Bell County, Kentucky. And what date?

(Testimony of Lawrence S. Ross.)

A. June 24, 1903. [3239]

Q. And your name has always been Lawrence Ross? A. Yes.

Q. And you left the Communist Party, according to your best memory, on about what date?

A. Either the end of 1937 or the beginning of 1938.

Q. Did you drop out of the party, just drift away as you suggested this morning?

A. That's right.

Q. Or did you give some formal resignation to the authorities in the Communist Party?

A. No, one doesn't resign from the Communist Party.

Q. I am asking you what you did, Mr. Ross.

A. I didn't.

Q. You didn't give any notice to anybody?

A. That's right.

Q. And you merely ceased performing the functions of a member of the Communist Party?

A. That's right.

Q. You stopped going to meetings and cut off those associations? A. That's right.

Q. And could you fix any better for us in point of time the date that you left the Communist Party?

A. No, sir, since leaving wasn't an abrupt act, or there was no notice given to anyone, I just drifted out of it.

Q. You say that while you were on the West Coast, you were [3240] openly a member of the Communist Party, but when you went back to New York

(Testimony of Lawrence S. Ross.)

and had a job as an organizer for a CIO union, you then concealed your Communist Party membership?

A. There was no reason to conceal it or disclose it.

Q. You did not disclose it, is that the fact?

A. There was no reason to disclose it or to conceal it.

Q. Pardon me. The question was, did you disclose it?

A. The people with whom I worked in the union knew I was a member of the Communist Party.

Q. Would you answer the question? Did you disclose it? A. Yes.

Q. Well, didn't you tell us under oath earlier today that the only time in your life that you concealed your Communist Party membership was when you left the West Coast and went back to New York?

A. Well, that is the period I am talking about, Mr. MacInnis.

Q. Well, you did conceal it at that time?

A. No, sir.

Q. Well, when did you conceal it?

A. It wasn't ever an act of concealment. The facts are that when I went back to New York I wasn't openly active as a Communist.

Q. And you never thereafter attempted to rejoin the Communist Party? A. No, sir. [3241]

Q. And that would include all of its activities?

(Testimony of Lawrence S. Ross.)

You had no further contact as a supposed member of the Communist Party after that time?

A. That's correct.

Q. Either late '37 or early '38?

A. That is the best of my recollection, yes, sir.

Q. And as you say, it was not a sudden thing, you merely drifted away for the reasons that you have offered us already. A. Yes, sir.

Q. Now, in San Francisco you were the co-editor of the Western Worker for about six months, is that correct?

A. That is approximately correct.

Q. That was in what period of time?

A. That was from November 1934 until May or June of 1935.

Q. And you were editor of the same publication, the Western Worker, from May or June of 1935 until what date?

A. Until I left San Francisco, in the summer of 1937.

Q. Did you resign from that job?

A. There was no formal resignation, no, sir.

Q. Well, you were employed as the editor, were you not? A. Yes, sir.

Q. And I suppose you received a salary?

A. That's right.

Q. That was the way you made your living at that time? A. That's right. [3242]

Q. And you mean you just walked away from the job?

(Testimony of Lawrence S. Ross.)

A. No, sir; I mean the Communist Party transferred me.

Q. In other words, you didn't resign your job, you were merely assigned to some other post, is that it?

A. I was assigned to go to New York, my membership was transferred from San Francisco to New York.

Q. Now, did you tell us that in the spring of 1935 that the district organizer for the Communist Party in San Francisco was a man named Sam Darcy?

A. That's right, until the spring or early summer. I can't recall the exact time of year.

Q. Was he the district organizer for the Communist Party when you came here?

A. Yes, sir.

Q. And you say that some time after that he was replaced by another man?

A. That's correct, sir.

Q. And who was that man?

A. Bill Schneidermann.

Q. And there was some interim of time between the coming of Schneidermann to that job and the vacation of the job by Sam Darcy, is that what you told us? A. That's right.

Q. And that interim period of time comprised how many weeks or months? [3243]

A. Possibly three or four months. It was several months.

Q. Did you tell us that in that interim of months the duties of a district organizer were placed in the hands of three functionaries in this region?

A. Yes, sir.

Q. And those three, you said, were yourself, a woman named Oleta O'Connor and a man named Arthur Kent? A. Yes, sir.

Q. And did you say that this Arthur Kent had some other name?

A. I knew him under two names—Kent and Scott.

Q. Was he also known as Arthur Margolis?

A. I don't recall that name.

Q. And you mentioned a little later in your testimony the name of Norma Perry. Were Norma Perry and this man, Arthur Kent or Scott or Margolis, married to each other at any time?

A: Not that I know of.

Q. You never heard that, if they were?

A. If I did, I don't recollect it.

Q. How many times did you see this Arthur Kent while you were here in San Francisco or in Los Angeles?

A. Any number of times. I can't place a number upon it; I would say at least 50.

Q. Did you know him well? A. Quite well.

Q. Was he a friend of yours? [3244]

A. Not personally. He was in the same organization I was, on a fraternal relation, I would say.

Q. Were you familiar with the background of his life? A. No, sir.

Q. Did you become familiar with it later?

A. No, sir.

Q. You haven't heard from him since leaving the West Coast? A. No, sir.

Q. And while you three, this man named Arthur Kent or Scott or Margolis, yourself and Oleta O'Connor, were elevated to jointly carrying out the post of district organizer, some man, you say, from the Central Committee of the Communist Party, supervised your activities?

A. In fact, the appointment of the three was made by this man from the Central Committee, Jack Johnstone. The three of us were named and I was named as acting district organizer.

Q. And Jack Johnstone was a man whom you had seen on about how many occasions?

A. Previously to that, I don't recall having seen him at all, previously to his coming down here.

Q. In other words, you saw him for the first time after he appointed you to the job you have mentioned? A. That's right.

Q. And did you see him often during the stewardship? A. Yes. [3245]

Q. How often? A. Probably every day.

Q. And I suppose you saw other people, Arthur Scott or Kent and Oleta O'Connor?

A. Quite often. I wouldn't say that I saw them every day or not.

Q. Now, then, in some further date or at some date following that period of time, the man whom you call Bill Schneidermann came to San Francisco, did he? A. Yes, sir.

Q. You had never known him before, had you?

A. No, sir.

Q. Never saw him before he came here?

A. No, sir.

Q. And after he come here, did you see him frequently? A. Yes, sir.

Q. Now, coming into this matter of your recollections of things that happened in the 1930's, 1934, '5 and '6—the events that you told us about this morning—did you tell us the first time that you saw Harry Bridges was at Fresno?

A. Yes, sir.

Q. And you had never seen him before in your life, is that right? A. That's correct.

Q. At the time you went to Fresno upon that occasion, how long had you been living at San Francisco? [3246]

A. Oh, possibly a month and a half, not very long.

Q. You had been but recently transferred to San Francisco? A. That is correct.

Q. And when you came up here, you took over your duties with the Communist Party?

A. As co-editor of the Western Worker, yes, sir.

Q. And in Fresno, in about December, was it, of 1934—you saw Harry Bridges for the first time?

A. I believe it was about December.

(Testimony of Lawrence S. Ross.)

Q. Did you have any personal conversation with him at that time? A. No, sir.

Q. You just saw the man?

A. He was pointed out to me as Harry Bridges.

Q. I see. Some other person pointed him out and said, "That is Harry Bridges," or words to that effect?

A. Yes. It was not during the meeting, it was after the meeting was over.

Q. And you didn't at any time shake hands with the man or have any personal conversation with him? A. No, sir.

Q. Pardon me?

A. No, sir, I saw him inside the hall, inside the place, and he reported to Sam Darcy that his overcoat had been stolen.

Q. This was in your presence? [3247]

A. That was in my presence and it had been pointed out to me who he was, and at that time I expected a series of dramatic incidents to follow. I thought perhaps that was the beginning of a deep dark plot of some kind.

Q. The stolen overcoat?

A. Yes, the stolen overcoat. And——

Q. You haven't got the overcoat, have you, Mr. Ross? A. Pardon?

Q. You haven't got the overcoat, have you?

A. No, no, sir.

Q. That wasn't the deep dark plot that you were thinking about? A. No.

Q. Well, let me see if we are straight on this.

(Testimony of Lawrence S. Ross.)

You had never seen Harry Bridges in your life?

A. Correct.

Q. You had followed, since about 1932, the occupation of being a paid functionary of the Communist Party? A. In Los Angeles.

Q. Yes. You had come to San Francisco in the fall of 1934 to the post of co-editor of the Western Worker, correct? A. Correct.

Q. Are you able to fix in any way the date in December of 1934 at which you attended this meeting? A. No, sir, I am afraid not.

Q. Did you make any report of that meeting which might have [3248] found its way into the pages of the Western Worker?

A. I may have; I don't recall whether I did or what it was.

Q. If you did make such a notation, would that notation correctly represent the date, if we found it in the Western Worker?

A. Yes, I would assume so.

Q. I don't know that there is such a notation; I am just asking you if you ever did. Would it have been consistent with your policies as a newspaper man to report that you attended a meeting in Fresno?

A. I would have reported it if there had been good reason for reporting it; or, rather, no good reason for not reporting it.

Q. Now, at this meeting in Fresno there were 60 to 70 persons present? A. Approximately.

Q. And I suppose that Harry Bridges, when you

(Testimony of Lawrence S. Ross.)

saw him in the hall, was either sitting or standing in an ordinary fashion?

A. He was standing and talking to Sam Darcy.

Q. And any one of these 60 or 70 people present in that hall would have had the same opportunity as yourself for observing the presence of this man?

A. That I don't know. There were not very many people left at that time; the meeting had broken up, had concluded. There were several standing around.

Q. How big was the hall, Mr. Ross?

A. Not as large as this courtroom. Perhaps two-thirds as large, [3249] I would say.

Q. About two-thirds as large as this room?

A. Approximately.

Q. At any rate, the man whom you say was Harry Bridges was not attempting to conceal himself at the time you saw him? A. No, sir.

Q. Do you remember by what route you went down to Fresno for that meeting? A. No, sir.

Q. Do you remember if you went by train?

A. I don't remember that I went by train. I certainly assume I went by automobile, since I do remember going back *to* automobile.

Q. Do you remember who drove the automobile?

A. I drove it back.

Q. Whose car was it? A. I don't know.

Q. Was it your car?

A. I don't think so; I don't recall that.

Q. Did you have a car at that time?

(Testimony of Lawrence S. Ross.)

A. I had the use of a car, in San Francisco, at that time.

Q. Now, do you remember driving a car back from Fresno, but you don't remember who drove the car in which you probably went down?

A. That's correct.

Q. Do you remember who your companion or companions may be? [3250]

A. No, sir. I remember driving back, because I drove back over the Pacheco Pass in a very, very heavy fog.

Q. Pardon me. Do you remember whether or not you had any companions going down?

A. No, sir.

Q. Have no memory one way or the other?

A. Just a complete blank. That trip down is just a complete blank.

Q. Did you stay at any hotel in Fresno?

A. No, sir.

Q. Did you drive down in the course of one day from San Francisco?

A. Drove down, I believe, if I did—and I am sure I either drove or was driven—very early that morning. It was a Sunday, I think, and drove back the same evening after the conclusion of the meeting.

Q. And at this meeting, you say you don't recall Harry Bridges making any speech?

A. No, sir.

Q. Now, the second time that you saw Harry Bridges and the first time that you heard him speak,

(Testimony of Lawrence S. Ross.)

that is, you heard his voice in your presence, was in a San Francisco apartment, is that correct?

A. That's correct. [3251]

Q. By the way, going back to the other subject for just a moment, have you been in the city of Fresno of recent date at all? A. Yes, sir.

Q. When was that?

A. I passed through Fresno driving up here last Friday.

Q. Did you stop and attempt to find out where this hall was located at which 60 to 70 people gathered? A. No; sir, I drove right through.

Q. You didn't make any inquiry about that when you were in Fresno? A. No, sir.

Q. In the written statement that you made to Mr. Barber of the Immigration Service did you make any mention of the Fresno engagement?

A. I don't recall.

Q. Well, in the discussions that you have had with these various men of the Government, has the matter of the Fresno meeting been discussed between you? A. Yes, sir. Yes, sir.

Q. Were you asked by any of those persons to see if you could remember the name of the hall or its location in the city of Fresno?

A. Yes; I could remember neither the name of the hall nor the location. [3252]

Q. And when you passed through Fresno you made no effort to see if you could refresh your own memory?

(Testimony of Lawrence S. Ross.)

A. No, sir, when I passed through Friday I didn't stop.

Q. This meeting the first time you heard Harry Bridges say anything took place when in point of time?

A. I would say it was early in 1935; I can't place the month.

Q. Was it in the late winter or the early spring? Can you help us in that respect?

A. I would say it was late winter according to the calendar, because I believe spring starts March 21. I believe it was before then.

Q. Could it have been as late as March?

A. I don't think so. That isn't my impression. It might have been.

Q. And you went to this apartment along with some other man? A. That is correct.

Q. Named Hanoff, did you say?

A. Hanoff—H-a-n-o-f-f.

Q. You don't know where the apartment was?

A. No, sir.

Q. In the early spring or late winter of 1935 you had lived in San Francisco four or five months, hadn't you? A. Yes, sir.

Q. Now, have you no idea at all as to where this apartment was located? [3253]

A. I am sorry, I don't, Mr. MacInnis. May I make a statement?

Q. I don't think so.

A. Very well; I won't, then.

Q. Since you have been here in San Francisco

(Testimony of Lawrence S. Ross.)

have you made any attempt to see if you could refresh your memory as to where this apartment was? A. Yes, sir.

Q. Have you failed? A. Quite dismally.

Q. None of these gentlemen associated with the Government were able to tell you where the apartment was? A. No, sir.

Q. Either based upon inquiries of their own or such investigations as they had made out of the lips of other people?

A. No, sir. When I was here for the first time Mr. Kaiser drove me around San Francisco to see whether I could spot the place, whether I could locate it, and I just couldn't.

Q. In what districts did you drive with him?

A. I am afraid I can't tell you that. I don't know what the districts are any more.

Q. Did you consume a great deal of time looking through the districts for this apartment?

A. Oh, perhaps twenty minutes to half an hour.

Q. Mr. Kaiser wasn't able to offer you [3254] any hints or suggestions? A. No, sir.

Q. In other words, Mr. Kaiser didn't consult any San Francisco directory of that year and find out the address of the person who you say was the occupant of the apartment?

A. I couldn't say what Mr. Kaiser did or did not do.

Q. He at least didn't point that out to you?

A. No, but he drove around and asked me

(Testimony of Lawrence S. Ross.)

whether any of these places looked familiar, and they didn't.

Q. In any event, he didn't reveal to you that he had made the ordinary search of looking into the directory of that year concerning the name of the woman you say occupied the apartment?

A. I don't think so, no, sir.

Q. About how much time did you spend in driving around and looking at the outside of buildings?

A. Perhaps twenty to thirty minutes.

Q. Did you stop in front of one or more buildings and look at them?

A. Yes, we stopped in front of one, two or three of them.

Q. Did you go inside the buildings?

A. We went into the lobby of one of them.

Q. You looked around to see if you could remember it and that was blank, was it?

A. Absolutely blank.

Q. In any event, you heard the voice of Harry Bridges in this [3255] apartment?

A. Yes, sir.

Q. And it was the first time that you had heard that voice? A. Yes, sir.

Q. What part or role did you tell us that you played in that meeting as a functionary of the Communist Party?

A. I was very silent; I didn't know very much of the subject being discussed.

Q. Pardon me. I think that we are not asking you to say what you did not do; in other words, say-

(Testimony of Lawrence S. Ross.)

ing that you were silent doesn't help. What did you do? What role did you play?

A. I sat there more or less awestruck, impressed by the presence of the great Harry in the same room. If I opened my mouth, I don't recall it.

Q. How do you feel now about that?

A. I have nothing against Harry Bridges.

Q. Being in the same room with him do you feel the same impression? A. No, sir.

Q. Do you remember anything affirmative you did? A. I beg pardon?

Q. Do you remember anything affirmative you did in the course of that meeting?

A. No, sir.

Q. You can't remember anything that you said, any move that you [3256] initiated, or anything at all the Communist Party? A. No, sir.

Q. Did you make any notes?

A. Oh, no, sir; that is never done.

Q. Pardon me. You were the co-editor of the Western Worker at that time, were you not?

A. I certainly was.

Q. Did you know San Francisco any better in the early spring of 1935 than you had on your previous months of residence here? A. Oh, yes.

Q. Can you remember anything specific that Harry Bridges said at that gathering?

A. Nothing specific. I couldn't quote him.

Q. But you were very impressed.

A. Oh, yes.

(Testimony of Lawrence S. Ross.)

Q. At meeting him, but you can't remember anything he said? A. That is correct.

Q. Do you remember anything specific that any other person said?

A. No, sir. All that I can recall is the general subject matter.

Q. And the general subject matter, as you told us, was the waterfront situation in San Francisco?

A. And the relation of the Communist Party to the situation. [3257]

Q. Did you tell us before how many people attended this gathering at the apartment?

A. I don't recall whether I told you or not, whether I testified to it or not.

Q. Would you tell us now?

A. Oh, perhaps a dozen.

Q. Would that be fairly accurate?

A. Perhaps fifteen or——

Q. Would there be as many as fifteen?

A. There might have been.

Q. Can you tell us again the persons whom you think you remember as being there?

A. The persons whom I place there are Sam Darcy, Elmer Hanoff, Walter Lambert, Harry Bridges, John Schomaker.

Q. That is five men? A. That is correct.

Q. And you say there may have been as many as fifteen people at that meeting?

A. There may have been as many as that.

Q. You can't help us any further, though, as to their identity?

(Testimony of Lawrence S. Ross.)

A. No, sir. I wish I could.

Q. Had you known the woman named Norma Perry before this time? A. No, sir.

Q. You had never seen her before?

A. No, sir. [3258]

Q. But you recall her name as being Norma Perry? A. That's right.

Q. Did you see her thereafter?

A. Oh, perhaps once or twice.

Q. Only once or twice. And this lady didn't stay for the meeting?

A. Not that I can recall, no, sir; I don't believe she did.

Q. But you remember her name?

A. Yes, she was pointed out to me and introduced to me by Mr. Hanoff.

Q. Were you impressed by her, too, so that you now remember her name although she didn't stay?

A. Not particularly, Mr. MacInnis.

Q. And you are fairly sure that there were approximately fifteen people at this gathering?

A. I say there may have been as many as fifteen, probably less.

Q. What would be the minimum? As few as twelve? A. Ten to twelve, I would say.

Q. And you don't remember what any person there said or what Harry Bridges said, although you did hear his voice?

A. I do recollect it is the first time I heard Harry Bridges talk in an intimate meeting.

Q. By the way, how big was this apartment?

(Testimony of Lawrence S. Ross.)

A. Of course, we were all gathered in one large room, which I think was the living room. I didn't explore it. [3259] I judge it is about a five- or six-room apartment.

Q. From your ordinary knowledge of dwelling houses, about how big was this room?

A. I would say it was the ordinary sized living room.

Q. Would it be as much as 25 feet in length?

A. I don't think so.

Q. About 20?

A. Perhaps 16 might be closer to it.

Q. Was it as wide as that or narrower?

A. I believe it was a little narrower.

Q. Did the people present stand up or did they sit down?

A. I think some stood up and some sat down.

Q. Pardon me?

A. Some were standing; some of them were sitting.

Q. Were any refreshments served?

A. I can't remember any, no, sir.

Q. About how long did the gathering remain?

A. I would say approximately two hours.

Q. About two hours, approximately fifteen people remained in this room, which was about 20 or 16 by what other distance in feet, did you say?

A. I didn't say. I said I thought it was a little bit narrower than it was long.

Q. Those fifteen approximately people remained there for about two hours. You have told us every-

(Testimony of Lawrence S. Ross.)

thing you remember, I suppose, about that? [3260]

A. Yes.

Q. Let us come to the third meeting, that is, the third transaction or matter concerning which you gave testimony this morning. Did you say that you went to some gathering of some people in Sokol Hall? A. Yes, sir.

Q. And I think at my request you spelled out that name, didn't you? A. Yes, sir.

Q. You said it was S-o-k-o-l?

A. That is correct.

Q. Had you remembered the spelling of that name over the years, or had you refreshed your memory from some source?

A. I refreshed my memory.

Q. From what source?

A. Merely recollecting that meeting, that meeting at which I remembered Harry Bridges there, that came back to my memory.

Q. Let me see if I could assist you in this fashion: Did you go out on the street and pass by this hall? A. Yes, we did.

Q. Who is "we"?

A. Mr. Kaiser and I.

Q. When did you do that?

A. The last time I was out here. [3261]

Q. The two-day period in which you stayed at the hotel whose name you have forgotten?

A. That is correct.

Q. And does the hall still bear the same name?

A. I don't know. I don't even remember that.

(Testimony of Lawrence S. Ross.)

Q. Did you stop and look to see if it was the same building?

A. We stopped and looked, but I had merely a hazy recollection of it. I couldn't identify it, but I do recall the same Sokol.

Q. In other words, when you and Mr. Kaiser stopped out on that street in front of a building you couldn't definitely identify that as being the same building? A. Not definitely, no, sir.

Q. But the word "Sokol" came back to your mind, did it?

A. That strikes a very definite chord of memory.

Q. Did that name appear on the front of the building?

A. I don't remember seeing it there. It appeared at the front of the building at the time I was here as a functionary of the Communist Party.

Q. I mean the time you went there between November 11 and November 13 of 1949?

A. No, sir, I don't recall seeing that, no.

Q. Who told you that name?

A. I recalled the name myself.

Q. In other words, Mr. Kaiser didn't tell you the name "Sokol Hall" nor anyone else? [3262]

A. That's right; I recalled that name because there were many Communist meetings held there.

Q. Did you find out whether this was actually the place called Sokol Hall?

A. No, sir. I didn't. I knew it was here, and we passed it, and I was asked whether I recognized

(Testimony of Lawrence S. Ross.)

it, and I said it strikes a vague chord of memory, but I couldn't positively identify it.

Q. Did you go into the hall on this occasion?

A. No, sir, we couldn't get in.

Q. Why was that?

A. It was on a Sunday, I believe.

Q. You never did return? A. No, sir.

Q. In other words, I assume that it would not have been impossible to arrange to go in and take a look at the interior of this hall?

A. Well, I don't know whether it would have been impossible or not, sir. We didn't do it.

Q. In any event, having looked at the outside of this hall on Sunday, which would have been November 13, you have never made any further attempt, either at the request of Mr. Kaiser or anyone else, to go back there and take a look at the interior?

A. No, sir.

Q. And the only thing that you say strikes a chord in your memory is the word "Sokol."? [3263]

A. That is correct. We had many Communist meetings there.

Q. Did you make any inquiry about the location of any hall by that name? A. No, sir.

Q. Where was the hall to which you and Mr. Kaiser went on the 13th of November, the Sunday afternoon?

A. It is off Haight Street. I can't tell you the name of the street.

Q. Off or on? A. Off.

Q. Off Haight Street? A. Off, I believe.

(Testimony of Lawrence S. Ross.)

Q. In other words, not on Haight Street?

A. That is correct?

Q. But on some cross street intersecting Haight Street? A. That is correct.

Q. Do you know what that cross street was?

A. No, sir.

Q. This drive that you undertook with Mr. Kaiser on Sunday afternoon the 13th of November—— A. That is right.

Q. ——was to try to refresh your memory as to where this hall was located?

A. No, sir, the drive was to see whether I could identify the hall as being the Sokol Hall I had in mind. Its [3264] location wasn't very important to me.

Q. And you couldn't do that? A. No, sir.

Q. And you do not remember the cross street where this building was in front of which you stopped? A. No, sir, I don't.

Q. How far out Haight Street were you required to drive before you turned off in front of this particular building with Mr. Kaiser?

A. Perhaps ten blocks; I am not sure of that. It was quite a distance off Market Street up Haight.

Q. You entered Haight Street from Market and went out ten blocks?

A. I believe so; approximately ten. It may have been eight, it may have been twelve. I didn't count the blocks.

Q. You have told us all you remember about the hall? A. Yes.

(Testimony of Lawrence S. Ross.)

Q. *Doing* back to your memory in the year 1935, —is that when you said you went to this meeting at the Sokol Hall?

A. That was in 1935, that's right.

Q. About what part of the year?

A. In the fall of the year.

Q. By that time you had lived in San Francisco almost one year? A. That is correct. [3265]

Q. And I suppose your activities hadn't kept you indoors at all times? A. Not at all times.

Q. You went from place to place?

A. That is correct.

Q. You did various things pursuant to your job as editor of the Western Worker?

A. That is correct.

Q. And a functionary of the Communist Party?

A. That's right.

Q. But you still can't remember any more about this hall?

A. No, sir, I have a very poor memory that way, I'm afraid.

Q. I'm afraid so, too. Now, you say that 40 to 45 people were there? A. Approximately.

Q. And did you tell us the names of any of the people whom you remember as being there?

A. Bill Schneidermann, Elmer Hanoff, Harry Bridges, John Schomaker, Oleta O'Connor and Elaine Black. I believe Mr. Schmidt and Mr. Lambert were there, but I wouldn't be very positive about them.

(Testimony of Lawrence S. Ross.)

Q. You just have some kind of belief that Mr. Schmidt might have been there?

A. Yes, I have the impression that he and Lambert were there.

Q. But you have no real memory of it? [3266]

A. No, sir.

Q. Now, you have given us one, two, three, four, five, six, seven, eight people—six definite people and two further possibilities. There were 40 to 45 people in the hall, is that true?

A. That is my memory.

Q. Did you know all of the 40 to 45 people who were there? A. I believe I did.

Q. You had met all of them at one time or another? A. Yes.

Q. Now, did you say whether or not Harry Bridges spoke at that meeting?

A. I have no recollection of his speaking there.

Q. Do you mean by that that your memory is completely blank, or that you don't think he did?

A. Or that I don't what?

Q. Do you mean by that answer that your memory is completely blank on the subject of whether he spoke or you have some memory that he didn't speak? Which is it?

A. No, my memory is blank on the subject. I don't [3267] know.

Q. In other words, whether you were impressed with seeing him at that meeting or not, again, you are not able to remember whether he said anything or not?

(Testimony of Lawrence S. Ross.)

A. Yes, I remember the meeting and I remember his being at the meeting.

Q. But not whether he said anything?

A. No, sir, because I was rather surprised to see him there.

Q. You say you don't remember whether he said anything because you were surprised to see him there?

A. No, sir, I didn't say that. I said I remember his being at the meeting because I was rather surprised to see him there. You see, at previous meetings, Mr. MacInnis, there had been small intimate meetings in private homes of perhaps 15 people present.

Q. Might be one at Norma Perry's apartment?

A. That's right. There had been a series of such meetings. They failed to impress me after the first one.

Q. And at those meetings you didn't remember what Mr. Bridges may have said either, did you?

A. No, sir.

Q. Well, now, let's go to the fourth meeting. Now, you told us about an incident taking place at—did you say the Communist Party headquarters?

A. Yes, sir.

Q. Which were located where? [3268]

A. 121 Haight Street.

Q. That is an address that you do remember?

A. Oh, yes, sir.

Q. And that gathering took place when?

(Testimony of Lawrence S. Ross.)

A. The best I can place it is the early fall of 1936.

Q. Can you give us any more definite statement as to the date?

A. I am afraid not. I would love to be able to, I just can't do it.

Q. Where was your office as editor of the Western Worker at that time?

A. The Western Worker office was one flight up.

Q. The same building? A. Yes, sir.

Q. So that was a building that you customarily inhabited as part of your own work?

A. Yes, that was the place where I worked.

Q. Now, how many people did you say were present at this gathering in the early fall of 1936?

A. Perhaps 20 or 25.

Q. Of whose number you were able to give us the names of how many?

A. Let me think. Bill Schneidermann who presided; Elmer Hanoff; Walter Lambert; Frank Carlson; Betty Gannett; Harry Bridges; John Schomaker; and Henry Schmidt.

Q. One, two, three, four, five, six, seven— [3269] eight persons, I think you named?

A. Yes, sir.

Q. Now, how many persons in all were at that meeting?

A. My guess would be between 20 and 25. That is my best recollection.

Q. And at that meeting you say that Harry

(Testimony of Lawrence S. Ross.)

Bridges spoke about the waterfront situation and the advisability of calling a strike?

A. Yes, sir.

Q. Well, does the element of the thought about calling a strike aid you in any way as to fixing the date of that conversation?

A. Not any more specifically than the early fall of 1936.

Q. Was there any strike called at that time?

A. There was later, not at that time.

Q. About how much later?

A. Several months, I would say; perhaps a month, perhaps two. I don't recall.

Q. Well, if there was any strike called in the fall of 1936 on the waterfront, would that be the strike to which reference was made at this meeting?

A. Yes, it would. [redacted]

Q. And your best memory is that the strike called after that meeting on the waterfront was actually called about how much time thereafter?

A. It would have to be a rough guess, Mr. [3270] MacInnis. I am afraid I can't place the date with relation to the meeting. It was subsequent to the meeting, some time subsequent to it.

Q. Well, what would you say would be the range in time? Would it have been as long after as six months?

A. Oh, no, I would say within two months.

Q. And what would be the smallest possible time, within two weeks?

A. Possibly. I think not, though. I think per-

(Testimony of Lawrence S. Ross.)

haps a little longer than that. But I just don't know. I don't have any recollection of the time element.

Q. Do you have any recollection as to the strike itself?

A. I remember there was a strike called.

Q. About how long did it last?

A. Several months, I think, to the best of my recollection.

Q. And what was the subject matter of that strike? That is, what were the issues involved? What was the controversy between the employers and the workers at that time?

A. I don't recall the exact issue. I know there was a struggle for power at that time between Mr. Bridges and Mr. Lundeberg of the Sailors Union of the Pacific.

Q. Mr. Lundeberg? A. Yes.

Q. Did you know him?

A. I saw him once. I never have spoken to him, never met him.

Q. Well, you say he had some struggle [3271] with Mr. Bridges?

A. I think there was a difference of tactics or political opinion between Bridges and Mr. Lundeberg.

Q. And that was the issue in that strike, was it?

A. No, sir; I didn't say that. That is what I recall about that situation.

Q. Well, do you remember how long the strike lasted?

(Testimony of Lawrence S. Ross.)

A. I would say several months. I don't have any recollection of its duration.

Q. If there was a strike around that time, you would have reported it as editor of the Western Worker, would you not? A. I no doubt did.

Q. And you would have been following its progress from day to day, wouldn't you?

A. No, sir.

Q. Wouldn't you have been writing about it every day?

A. I would have been writing, but I would have been writing propaganda stories rather than factual, reportorial news.

Q. In other words, if one were to find some article in the paper you edited at that time, the paper probably would not contain the truth, is that it?

A. I would say it would contain an element of truth, distorted to suit the party line at the moment.

Q. It was always your policy while you were editor of the paper?

A. That was the policy of the Communist Party.

Q. Pardon me. Was that your policy? [3272]

A. I followed that policy.

Q. It was your policy, then?

A. It was my policy in so far as I followed the line of the Communist Party.

Q. Well, did you actually do that with news stories—slant them a certain way, distort them?

A. Yes, sir.

Q. So that the news stories actually did not represent the truth, then?

(Testimony of Lawrence S. Ross.)

A. Represented the line of the Communist Party.

Q. Did you do that all the time, Mr. Ross, while you were connected with the Western Worker?

A. I would say part of the time, a good deal of the time; whenever the facts didn't suit the Communist Party, the facts were distorted.

Q. By you?

A. By the instructions of the Communist Party, which I carried out.

Q. I am speaking only about you, Mr. Ross.

A. Yes, I carried those instructions out, implicitly.

Q. You distorted the facts any time the leaders of the Communist Party gave you that direction?

A. Yes, sir.

Q. And did you ever distort them on your own, without any specific direction from above? [3273]

A. I followed the line of the Communist Party, meaning that I took the initiative in distorting the facts, yes, sir, in that paper.

Q. In other words, you entered into this distortion of the truth on your own, following merely what you assumed to be a general policy of the Communist Party?

A. What I knew to be the policy of the Communist Party, what I knew to be that policy, sir.

Q. And I suppose on many occasions you followed that policy without anyone giving you an affirmative direction to that end?

A. I needed none.

Q. You knew what to do?

(Testimony of Lawrence S. Ross.)

A. I was a good Communist at that time.

Q. And you knew how to distort the truth?

A. I knew how to slant the truth, how to take facts and slant them.

Q. Did it take you a considerable period of time to gain that facility?

A. I believe it took a period of breaking, yes.

Q. And once one gains that kind of facility, I suppose it remains with him as a kind of weapon for the rest of his life?

A. You suppose wrong, sir. Once one leaves the Communist Party and dissociates himself from it, repudiates it, the entire method of living changes.

Q. You mean, all you have to do is to make that confession that [3274] you are an ex-Communist and the sun comes out and you are forgiven all your sins?

A. No, sir, I wish it were as easy as that.

Mr. MacInnis: I think we will take a recess and maybe we will go into the ease of that matter in the morning, if Your Honor please.

The Court: What?

Mr. MacInnis: I say, maybe we will go into the ease of that particular matter in the morning that the witness mentioned.

The Court: Well, that is purely your concern, Mr. MacInnis.

Mr. MacInnis: Yes it is.

The Court: What the morning brings is, of course, another matter.

We will take the afternoon recess and adjournment, ladies and gentlemen of the jury. May I again admonish you not to discuss the case under any circumstances nor to suffer any person to converse with you on any subject of the trial; not to form nor express an opinion thereon until the case is finally submitted to you.

(Thereupon an adjournment was taken to tomorrow, Thursday, January 5, 1950, at 10:00 o'clock a.m.) [3275]

Thursday, January 5, 1950—10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Lawrence Ross, heretofore sworn.

LAWRENCE S. ROSS

resumed.

Cross-Examination
(Continued)

By Mr. MacInnis:

Q. Now, Mr. Ross, you told us, I think, at one point yesterday that your original reason for entering the Communist Party was a humanitarian reason; is that correct?

A. A combination of humanitarianism and ignorance.

Q. And on this matter of deceit, the second matter that we were discussing at the end of the day yesterday, I would like to ask you a few more questions. What was the date upon which you first came up to San Francisco to live and work?

A. I believe it was early in November, 1934.

Q. Early in November, 1934?

A. Yes, sir.

Q. And where did you live in San Francisco when you came here?

A. I am sorry, I can't recall.

Q. Do you remember the street?

A. No, sir, I don't. I lived at several places

(Testimony of Lawrence S. Ross.)

while I was [3276] here, and I don't recall the location or address.

Q. Do you remember any address at which you lived while you were here in San Francisco?

A. No, sir, I don't.

Q. And yet you were here in San Francisco until sometime in 1937, weren't you?

A. That's right.

Q. Can you give us any address at which you lived?

A. No, sir. After I left the Communist Party, Mr. MacInnis, I drew a blind on that part of my life. I wanted to forget the whole life as a nightmarish experience, and I succeeded almost completely; not quite.

Q. You mean you succeeded to all intents except for the details that you have brought here?

A. I succeeded for all experiences I had here with the exception of several instances which remained in my memory because of certain things.

Q. Can you remember any street on which you lived in San Francisco?

A. Vallejo Street sounds familiar. I might have lived there, although I can't be sure.

Q. What part of Vallejo Street?

A. I don't know.

Q. And yet you lived here from the end of 1934 up to sometime in 1937? [3277]

A. That is correct.

Q. You can't tell us any single address at which you lived, and the only street that you say is

(Testimony of Lawrence S. Ross.)

vaguely familiar to your mind is Vallejo Street?

A. At this moment.

Q. Do you know that there is such a street as Vallejo Street?

A. Yes, I have passed it in driving around town this week.

Q. Didn't you drive past any former abode of yours?

A. If I did, I didn't recognize it as such.

Q. Do you remember that you lived on a hill?

A. What street, sir?

Q. Do you remember that you lived on a hill or on the level? A. I don't remember.

Q. Well, do you remember, Mr. Ross, whether or not you were married when you came to San Francisco?

A. I wasn't living with my wife at the time.

Q. You were married?

A. Technically; we were separated.

Q. You had children? A. Yes.

Q. And how old were your children?

A. About three and two, or three and one. They were small, very small.

Q. Had the younger yet been born when you came to San Francisco? [3278]

A. Perhaps not. I can't recall.

Q. In any event, you say you were separated from your wife? A. Yes, that's right.

Q. So that whatever quarters you took here in San Francisco were not quarters which you shared with your wife and children? A. No, sir.

(Testimony of Lawrence S. Ross.)

Q. Were they large quarters?

A. I couldn't say.

Q. How many rooms did you have?

A. I assume one; I don't know.

Q. Pardon me. You say you assume you had one room?

A. I believe so. I just assume it; I don't know; I don't remember.

Q. Did you live alone, or did you live with any other person, Mr. Ross? A. I lived alone.

Q. Always? A. As far as I can recall.

Mr. McMillan: What difference does that make?

Mr. MacInnis: Pardon me?

Mr. MacMillan: What difference would that make?

Mr. MacInnis: Are you addressing me or addressing the Court?

Mr. McMillan: I am addressing Mr. Donohue.

Mr. MacInnis: I wish you would do it so I can't hear it, [3279] please.

Mr. McMillan: If I want to address you, I will do so.

Mr. MacInnis: Will you read the last question and answer, please.

(Question and answer read.)

Q. (By Mr. MacInnis): Well, now, forgetting the absence of memory of your own upon these details, you were able to give us the names of certain people whom you met in San Francisco yesterday, weren't you. A. Yes, sir.

Q. You gave us the names of persons who worked

(Testimony of Lawrence S. Ross.)

with you in carrying out the Communist Party policies, didn't you? A. Yes, sir.

Q. Who did you say were the other two persons who, along with you, had carried out the—was it the post of district organizer after Sam Darcy had left and before Schneidermann came?

A. Arthur Kent or Scott——

Q. Yes? A. And Oleta O'Connor.

Q. Who was Oleta O'Connor?

A. A member of the Communist Party.

Q. Was she your wife?

A. Oh, no, sir.

Q. Did you ever pass her off as your wife while you were here? A. No. [3280]

Mr. Donohue: I object, if your Honor pleases. Mr. MacInnis knows that that is not a proper question.

Mr. MacInnis: He doesn't seem to remember anything, your Honor.

Mr. Donohue: That is a wild statement.

Mr. MacInnis: He isn't even sure of the number of children he had. He can't remember where he lived. He has a vague recollection of one street. Now, we certainly have a right to know if he knows who his wife was at that time, because we have some matters that I think we might develop, your Honor.

Mr. Donohue: Object to the question.

The Court: Overrule the objection at this time.

The Witness: Will you repeat the question.

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: Will you read the question.

(Question read.)

Q. (By Mr. MacInnis): Did you ever live with her as your wife? [3281]

Mr. Donohue: Oh, I object, if Your Honor pleases. That certainly is misconduct on Mr. MacInnis' part to ask questions which he knows are improper.

The Court: Yes. The objection is sustained; the jury is admonished to disregard the matter.

Q. (By Mr. MacInnis): Mr. Ross, you say your memory is definite upon the fact that you were separated from your wife, is that true?

A. Yes, sir.

Q. Did you separate from her at the time you came to San Francisco? A. Just before.

Mr. Donohue: I object, if Your Honor please. Are we going to try a domestic relations matter here?

The Court: I have no idea as to the trend of the cross-examination or the reasons presently underlying the question.

Mr. Donohue: Well, of course, from past experience, if Your Honor pleases, I can only say that Mr. MacInnis will say, as he just did, "I have a purpose." But that doesn't justify asking an improper question.

The Court: What was the last question?

(Record read.)

(Testimony of Lawrence S. Ross.)

Mr. Donohue: Now, what possible bearing can the question of whether this man was living with his wife or separated from her have, or whether it occurred before he came here? [3282]

Mr. MacInnis: Your Honor, may I proceed? I have a purpose in mind.

The Court: All right. I will overrule the objection at this time.

The Witness: The answer was "Before I came here."

Q. (By Mr. MacInnis): And how long did you remain separated from her?

A. Never went back to her.

Q. You never went back to your wife and the two small children, is that right?

A. We were divorced.

Q. When?

A. I believe the final decree was in nineteen hundred—either 39 or 40.

Q. Yes. That was long after you left San Francisco, wasn't it?

A. Approximately two and a half, possibly three years.

Q. While you were in San Francisco, as co-editor and later as editor of the Western Worker, were you supporting your wife and children?

Mr. Donohue: Oh, I object, if Your Honor pleases.

The Court: Objection sustained.

Q. (By Mr. MacInnis): What was the circumstance of your transfer by the Communist Party in

1937 out of San Francisco to New York? [3283]

A. I think the underlying reason, Mr. MacInnis, was an inability on my part to get along with Mr. Schneidermann. There was constant friction between us.

Q. Your wife and your two children were then living in New York, weren't they?

A. I believe they were.

Q. Weren't you transferred to New York, Mr. Ross, not for the reason that you have given us here, but because your wife had applied for county aid for herself and the children in New York and you were charged with deserting them?

Mr. Donohue: I object, if Your Honor please, and I think it is about time, if Your Honor please, that Mr. MacInnis be asked by Your Honor to confine his questions to questions which are proper.

Mr. MacInnis: Your Honor, he has given us a reason for his transfer to New York. I think we certainly can inquire into the underlying reasons, if we have other facts; and I certainly believe that we have such facts.

Mr. Donohue: That is just the danger of this type of questioning, if Your Honor pleases, that Mr. MacInnis has indulged in since ~~this trial~~ began. When we have facts upon which he asks questions, he is not under oath, I haven't the opportunity to cross-examine him, and he never produces the facts. I object to the question, if Your Honor pleases.

Mr. MacInnis: Well, I will go on to another subject, Your [3284] Honor.

(Testimony of Lawrence S. Ross.)

Q. Now, you were telling us, Mr. Ross, characterizing your own work here in San Francisco, that you both wrote articles and edited the Western Worker, is that true? A. I did.

Q. Were you paid a salary for that?

A. Yes, sir.

Q. A living wage?

A. I wouldn't call it that.

Q. Pardon me? A. I wouldn't call it that.

Q. I see. And you say that you affirmatively, both on your own and instructed by members of the Communist Party, developed a technique in distorting news?

A. In slanting news to the party line.

Q. Well, who were the ordinary readers of the Western Worker?

A. Members of the Communist Party and a great many people who were in what was known as mass organizations, which were controlled by the Communist Party.

Q. About what was the circulation of the paper?

A. I don't recall.

Q. And what was the purpose of slanting the news items that you wrote, so far as those readers were concerned?

A. The purpose was to win people who were not yet members of the Communist Party into the Communist Party. [3285]

Q. How about the ordinary so-called rank and file of the Communist Party? Were they to be in-

(Testimony of Lawrence S. Ross.)

fluenced by these slanted articles that you wrote?

A. They were to be kept in line, if there was any danger of straying out of line.

Q. In other words, your purpose was to deceive not only those people on the outer rim of organized labor who might see the paper, but also the rank and file members of the Communist Party?

A. No, sir, "deceive" is not the proper word. At that time I believed that what I was doing was telling the truth and writing articles that were to the best interest of the people who would read them.

Q. In other words, you never intended to deceive anybody? A. No, sir.

Q. And you never wrote anything that was not the truth?

A. "Truth" is an odd word, Mr. MacInnis; what is true for one man is not true for another, sometimes. So what was truth for the Communist was not truth for a lot of other people.

Q. Well, did you ever go so far as to tell any out-and-out lies in the articles that you wrote?

A. I wouldn't put it past the Lawrence Ross of that time. I might have done it.

Q. That man has the same flesh that the Lawrence Seton Ross of today possesses? [3286]

A. The same what?

Q. The same flesh. It is the same person, isn't it?

A. No, sir, not the same person. The same body, not the same spirit.

Q. What was the circulation of the Western

(Testimony of Lawrence S. Ross.)

Worker, approximately, during the periods of time when you were in charge?

A. I was in charge of the editorial department and not the circulation department. I never gave it much attention.

Q. Well, the people upon whom you wanted to exert some influence were not only members of the Communist Party whom you say you wanted to keep in line, but also persons who might be sympathizers to the Communist Party and thus drawn into the party by any literature that they might read?

A. That's right; as was other people who would not be a member of any organization possibly, but might chance upon a copy of the paper.

Q. Well, now, I suppose, Mr. Ross, that you subscribed as most of the so-called ex-Communists who have appeared here do, to the notion that the Communist Party actually wants to overthrow our government by force and violence?

A. The Communist Party seeks to overthrow this government by any possible means.

Q. Including force and violence?

A. If necessary.

Q. In other words, it would be an untruth if I said that the [3287] Communist Party did not seek to overthrow the government by force and violence?

A. Yes, sir.

Q. Did you ever write any articles upon that subject in the Western Worker?

A. Probably.

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: If Your Honor will bear with me a moment? Well, while I am looking for that, Your Honor, I thought I had written down the dates for my own information, but apparently I didn't.

Q. Will you let me ask you this, Mr. Ross: While you were editor of the Western Worker, was the Communist Party engaged in any effort to form a united labor party in San Francisco?

A. Yes, sir, I believe it was.

Q. Was the purpose of that movement an attempt by the Communist Party to control the labor movement itself?

A. It was part of such an aim.

Q. Did you write any articles upon that subject?

A. I should think I would have, yes.

Q. And what would have been the approach, according to your best memory, of that particular article?

A. I have no particular article in mind, Mr. MacInnis, but I perhaps had summarized the stand of the Communist Party at that time. If you will give a moment to recollect?

Q. Well, I can probably refresh your memory from your articles. [3288]

A. That would be helpful.

Mr. MacInnis: I found the original article, Your Honor, to which I made reference.

Q. Now, I will ask you, please, if you will, to look at the Western Worker of Thursday, August

6th of 1936, and I will ask you to read an article entitled "Who Is For Force and Violence?", with a question mark by a man named Lawrence Ross. And I will ask you to read that and see if the article refreshes your memory.

Mr. MacInnis: I would rather carry it myself; Mr. Mitchell has been ill, if Your Honor pleases.

The Court: All right.

(Document handed to witness.)

Mr. Donohue: If Your Honor pleases, in the interest of one day bringing this trial to an ultimate end, I object to this witness being asked to refresh his recollection by reading anything, for two reasons: No. 1, the question that was asked by Mr. MacInnis was not in cross examination of any matter which was asked on direct examination. Mr. MacInnis' question having to do with the policy of the Communist Party, about which the witness was asked nothing on direct examination. I object on the further ground that the question asked by Mr. MacInnis, "Did you write certain articles," was answered—he said, "I probably did." Certainly, whether this witness did or did not write an article in the Western Worker is not a direct, [3289] pertinent issue in this case. It is a matter which is purely collateral and under all the rules of law as I ever learned them, if on cross examination a witness is asked a question on a purely collateral matter and he answers that question, the examiner is bound by the answer. I did not object to the question originally. I now object, however, to any attempt to examine the witness further with respect to a matter wholly collateral, when he has conceded that he probably wrote such articles. Otherwise we might go through every article this man has written for three articles, and we will be here on the Fourth of July.

The Court: Objection overruled.

Q. (By Mr. MacInnis): Would you read that, sir?

The Witness: The entire article?

Q. (By Mr. MacInnis): Well,——

A. I will just skim through it. (Examining document)

Q. At least enough to recognize whether or not it is an article that you wrote.

Pardon me; have you looked at that sufficiently to identify it as an article you wrote?

A. I have looked at it sufficiently to identify it as typical of articles I wrote at that time.

Q. It was an article you wrote?

A. It is typical of such articles.

Q. It is an article you wrote, is that not?

A. I don't know for a fact. I say, it is typical of articles [3290] such as I wrote at that time.

Q. Well, it bears your name?

A. That is correct.

Q. And you were the editor of the paper at that time? A. Yes, sir.

Mr. MacInnis: Well, I think that is sufficient, Your Honor, from the fact of his editorship of the

(Testimony of Lawrence S. Ross.)

paper and his name and an inference arises, of course.

The Court: He does not dispute that.

Mr. MacInnis: Thank you.

The Court: Apparently?

The Witness: No, I don't dispute it. [3291]

Mr. MacInnis (reading): "Who is for Force, Violence? by Lawrence Ross."

Mr. Donohue: Is Mr. MacInnis going to be permitted to read something which is not in evidence?

Mr. MacInnis: Your Honor, it will be perceived that this is not a collateral matter as has been suggested by the prosecutor.

Mr. Donohue: This book isn't in evidence, if your Honor please.

Mr. MacInnis: Your Honor, the things that a man utters and the things that he writes in former years are always relevant to show his real state of mind on a fact in doubt. And here we have something that this man said in print in 1936.

Mr. Donohue: Your Honor, if there is anything in this book that this man has ever written or has ever said in which he said Harry Bridges was not a member of the Communist Party or that he never attended the Communist Party meeting at which Harry Bridges and Henry Schmidt were present, or which says that Lawrence Ross was never a member of the Communist Party, or which says that Lawrence Ross didn't vote for Harry Bridges under the name of Rossi for the Central Committee of the Communist Party in June of 1936, I have no objection. But if we are going into every editorial that this man wrote as the editor of the Communist paper on a matter which may have something to do with the purposes of the Communist Party, I say we will [3292] never come to any end. The burden is upon him to prove to your Honor that it is not. He is bound by a collateral matter by the answer of the witness that he wrote it, and I most seriously object to Mr. MacInnis reading from a paper which is not in evidence. He hasn't offered it in evidence.

Mr. MacInnis: I can assure your Honor I don't propose to read every editorial that this man wrote. I have two or three that I would like to call to the attention of the Court and jury.

The Court: What is your purpose?

Mr. MacInnis: My purpose, your Honor—well, of course, I would have to state exactly the purport of these questions and answers.

Mr. Donohue: I ask him to do as I did in one case when I had even slight doubts that a matter was irrelevant: I asked your Honor to excuse the jury and made my offer of proof to your Honor in the absence of the jury. I think it is about time Mr. MacInnis followed the same rule.

Mr. MacInnis: Your Honor, the witness said a moment ago that it would be an untruth if anyone said that the Communist Party did not stand for violence. He said that he slanted news for the Western Worker. He testified to his activities as editor and writer for the Western Worker on direct examination, not solely on cross examination. Now, I

(Testimony of Lawrence S. Ross.)
want to find out whether this was an absolute lie that he wrote in the paper. [3293] He says he never wrote any absolute lies; that all he did was to slant news. We have a right to see what this man's notion of truth may be. He said a moment ago, very tellingly, I thought, what may be the truth to one man is not the truth to another man. So that might be symbolic of his appearance here. But rather than take and argue that, we have the man's own writing.

Mr. McMillan: We ask that that statement be stricken out and the jury instructed to disregard it.

Mr. MacInnis: If the prosecution produced——

Mr. Donohue: He won't pay any attention——

Mr. McMillan: Just a moment. He will pay attention if your Honor asks him to pay attention.

The Court: I can't hear you.

Mr. McMillan: I ask that that statement be stricken.

Mr. MacInnis: He says that I wouldn't stop if your Honor asked me to.

The Court: I haven't had an opportunity to speak.

Mr. MacMillan: He said that his appearance on the stand is symbolical of this matter. I ask that that be stricken out.

Mr. MacInnis: I didn't say quite that. I said it in another way. Counsel apparently did not hear me. I said that in a different sense.

The Court: I can't see, Mr. MacInnis, from your brief statement of your proposed use of the article how it would tend [3294] to prove or dis-

(Testimony of Lawrence S. Ross.)

prove any issue in this case; it is purely collateral cross examination. I sustain the objection, and I instruct the jury to disregard the remark made by Mr. MacInnis with respect to any symbolical witness or the presence of this man on the stand with respect to any symbolism. That is all.

Mr. MacInnis: I don't think that that was quite what I said.

The Court: I will get the text from the reporter with respect to the exact language if you desire it.

Q. (By Mr. MacInnis): Well, let me ask you this. Mr. Ross: Forgetting this particular article to which reference has now been made, I will ask you this: Did you from time to time write, either under your name or upon the editorial masthead of the Western Worker, statements to be circulated among the rank and file of the Communist Party and its sympathizers to the effect that the charge that the Communist Party stood for force and violence was an invention of the industrialists; that it wasn't true; that it was a smoke screen to keep the honest labor party from taking its place upon the ballot? Did you make that statement from time to time?

A. That sounds quite likely, Mr. MacInnis.

Q. Was that a true statement or a false statement?

A. It was true for the time at which it was written. The Communist Party line, Mr. MacInnis, is very flexible, flexible to the point of fluidity. It changed with changing events. [3295]

(Testimony of Lawrence S. Ross.)

Q. When virtuous people like yourself were members of the Communist Party, it didn't stand for force and violence, but now that you can fix your eye on it from the outside, it stands for everything that is evil?

A. No, that is not so.

Q. Let me ask you this: Did you from time to time, while editor of the Western Worker in San Francisco, write articles urging and encouraging the cooperation of all working people in the forming, along with the Communist Party, of a united labor front? A. Quite likely.

Q. And that was not a secret, was it?

A. No, sir.

Q. In other words, you not only wrote articles to that effect, but you probably appeared or arranged for other persons to speak upon the subject of a united labor party?

A. That is quite likely.

Q. And the things that you wrote on those subjects were similarly intended by you to influence the rank and file of the Communist Party, to keep them in line, as you say, and to influence and encourage those persons who were sympathizers of the Communist Party? A. Yes, sir.

Q. And did you write from time to time upon that subject that all working people ought to unite with the Communist Party in [3296] an attempt to establish a united labor front?

A. That sounds very probable.

Q. And did you assure the readers of your

(Testimony of Lawrence S. Ross.)

paper that the Communist Party had no intention of trying to dominate the labor movement or trying to capture it for its own purposes, but that the Communist Party merely wished to lend the services of its organization to labor?

A. That has a very familiar ring.

Q. You said all those things, did you?

A. Very probably.

Q. And when you said those things, Mr. Ross, were you telling an untruth?

A. I was concealing all the facts—at least, concealing part of the facts.

Q. Well, was that a practice that you followed during all of the time that you were editor of the Western Worker, that policy of concealing certain facts? A. When called for, yes.

Q. You were willing to do that?

A. Oh, yes.

Q. And you weren't merely following the orders; you did many of these things upon your own initiative, did you not?

A. After having been thoroughly indoctrinated, I acted like a Communist automaton.

Q. In other words, having been trained to deceive and to [3297] practice duplicity, you often needed no specific instruction to tell you how to do it?

A. At certain times, no; at certain times, yes.

Q. In other words, there were some matters in which you required instruction; in ordinary matters you knew how to deceive the liberals of the Party without any special directions?

(Testimony of Lawrence S. Ross.)

A. I knew how to slant articles so that the prestige of the Communist Party was always held high.

Q. Now, so that there will be no doubt about the matter of which we now speak as to my representation that you did write such an article——.

Mr. Donohue: He said he did, if your Honor please. It is a collateral matter as to whether he wrote such an article on the question of a united labor front. It has nothing to do with the alleged perjurious statement made by Mr. Bridges. Since it is a collateral matter and since the witness has said that he did write such an article, Mr. MacInnis is bound by his answer.

Mr. MacInnis: Yes, that is perfectly true. Your Honor, it seems to me that it comes with ill effect from the prosecutor, who vouches for the credibility of every witness——

Mr. Donohue: And still do.

Mr. MacInnis: ——that he produces here, to object to us bringing before your Honor and the jury articles signed by this person who comes here and is sworn to tell the truth. I think [3298] that, your Honor, but of course I will be bound by any ruling you make.

Mr. Donohue: Just be bound by the legal proposition. I just objected to any article you may bring here written by this witness. I have objected and do object to your bringing articles which this gentleman said he wrote which can serve no purpose in this trial. If, as was suggested a minute ago, this man was editor of this paper for three years and if every article he wrote during those three years, which is wholly collateral in the matter before the jury, was read, then we will be here for three years reading them.

Mr. MacInnis: In some of these articles, your Honor—and whether they be collateral or not, of course, that is for your Honor's discretion in these matters—the truth may shine forth, because certainly we are willing to introduce here articles signed by a man who is now a prosecution witness. What more could we do? Certainly if there were anything in them that would be detrimental to the case we represent, we wouldn't dare to make such an offer.

It has been held, and I know your Honor would recognize it in a thousand cases, that the credibility of a witness is never a collateral matter. Now, in this case, I think unique in the history of any case that I ever heard of, possibly in any case which your Honor has tried either as a trial lawyer or as a jurist, all of the witnesses appearing on behalf of [3299] one side, the prosecution, seem to be willing to admit that for a certain period of time in their lives that they told lies; that they were guilty of deceit, and duplicity, and that they practiced studied conduct calculated to deceive members of the public. Now, if those are the witnesses upon whom the prosecution places reliance, their credibility is seriously in doubt at every stage of the case, and I would propose, your Honor, that you exercise, and we ask you to with every bit of sin-

(Testimony of Lawrence S. Ross.)

cerity that we can muster,—we ask you to exercise your discretion in these matters liberally so that the matter of the credibility of people who admit that they are liars—

The Court: Mr. MacInnis, without interrupting your observation, I have exercised, I think, extreme liberality.

Mr. MacInnis: I am making no complaint, your Honor.

The Court: In connection with the examination of witnesses in the past I exercised what I regarded as extreme liberality.

In your reading to the jury the speech of Mr. Bridges at the conference in Oakland, as part of my reasoning on the subject, I took the position, which I then thought was sound, that the whole of the article or speech became part and parcel of the offer upon the theory that the resolutions sponsored by Mr. Crouch became integrated therein. I think that was the logic of my thinking. [3300]

Mr. MacInnis: Yes.

The Court: That was the logic of Mr. Hallinan in presenting the matter.

Now we have an entirely different situation here, Mr. MacInnis, wherein it appears that this man may have written thousands and thousands of articles. He admits on the stand that he did slant the tone of the articles. He admits some degree of, let us say, duplicity; he admits that he was under the tutelage and domination of the Communist Party, and that as such protege, if you please, he took orders. And I can't see that any of the articles which you seek to sponsor and read to the jury or the Court would aid or assist this Court in determination of the issue which is involved, or how it would affect the credibility of this witness. He has admitted distortion during these periods of time.

Mr. MacInnis: May I say just one more thing, your Honor?

The Court: Yes.

Mr. MacInnis: The witness says, apparently in an effort to mitigate the effect of his admissions about duplicity in the past, that he never really told absolute lies in these articles; that he merely slanted the truth and sometimes concealed facts. Now, your Honor, it would appear to me that if the writings of this man showed facts entirely beyond that point, if they show absolute lies, that certainly would reflect upon his present credibility. On the other hand, if the utterances [3301] to which I have now made reference, and one or two more which I have in mind, are the truth, then the truth would reflect badly upon the testimony of other witnesses who have heretofore spoken for the prosecution.

The Court: Counsel, without reading or attempting to read that article, may I ask you to address yourself specifically to the particular portion you have in mind and address the question to the witness, if you have such question, stating anything that may be what you regard as an outright lie.

Mr. Donohue: Then, may I ask your Honor—the witness has now said he wrote certain articles; the witness has said the writing of the article as the editor of the Communist Party was slanted and distorted. Mr. MacInnis says he wants to read the article because—and I have never seen it—it is a deliberate lie. How is the jury going to decide whether the subject matter of that article is, as Mr. Ross says, a slanted, distorted, Communist-written article, or, as Mr. MacInnis would have the jury believe, a deliberate lie, unless we recess this trial and try the subject matter of that article?

The Court: I don't know precisely what he has in mind.

Mr. Donohue: I don't either.

The Court: Let me hear the question.

Mr. MacInnis: Your Honor, I can answer this question put to you now by the prosecutor now I think readily, for these reasons: He says—— [3302]

The Court: Without arguing the matter now, let us have the precise question. Let me hear it and I will rule on it, when we hear the question. I can only anticipate what you have in mind——

Mr. MacInnis: Then with your Honor's permission I will refresh my memory from these articles.

The Court: Let us take it up at the recess period if you would rather, after you have had an opportunity to go over your notes.

Q. (By Mr. MacInnis): Well, Mr. Ross, let me ask you this: In 1936, around the month of August, was there any attempt to your knowledge in California to bar the Communist Party from the ballot?

A. I believe so, Mr. MacInnis. I mean, I am rather vague about it.

Q. And did you, as part of your duties as editor of the Western Worker, write articles in an attempt to forestall that movement?

A. If the movement took place, I undoubtedly wrote articles against it.

Q. Well, is it true that the advocates of the move to take the Communist Party off the ballot in California were picturing the Communist Party, in your language, as an illegal band of terrorists bent upon stirring open, violent strife with no regard for the principles of Americanism and therefore not entitled to a place on the ballot, in apparently your language? Is that [3303] true?

Mr. Donohue: Now, I object. Now, the pattern is apparent. What possible theory on the issues before this Court and jury can the views of this witness in 1934, '5, '6 and '7 on the question of whether the Communist Party should or should not be on the ballot have? That is the question.

Mr. MacInnis: Now, I will be glad to point out the purpose, your Honor. If——

The Court: I will overrule the objection at this time.

The Witness: I believe I lost the trend of the question.

Mr. MacInnis: Would you please read the question.

(Question read.)

(Testimony of Lawrence S. Ross.)

A. That is quite possible.

Q. (By Mr. MacInnis): Is it true that the persons interested in removing the Communist Party from the ballot were employers and reactionary groups, in your language?

A. Are you asking me for my opinion of then, or my present opinion?

Q. Well, what you said then. What did you say then?

A. Yes, I believe I would have labeled them as reactionary groups at that time.

Q. And did those groups interested in removing the Communist Party from the ballot in California claim that one of the bases for that removal was that the Communist Party advocated the overthrow of our Government by force and violence? [3304]

Mr. Donohue: Object, if your Honor please. What difference does it make whether they did or did not? What possible effect on this trial could the views of the employer groups with respect to the purposes of the Communist Party have either on the credibility of this witness or the truth of the facts we allege in the indictment?

The Court: Overruled. [3304-A]

The Court: Overruled.

A. I would like to have the question read, please, sir.

Mr. MacInnis: Would you please read the question?

(Record read.)

(Testimony of Lawrence S. Ross.)

A. I don't at this time recall the basis upon which they made the objection to the Communist Party being on the ballot, but that sounds reasonable.

Q. It sounds reasonable that that was the reason offered by those groups?

A. That probably was one of the reasons, I expect.

Q. And did you then from time to time reply in writing that that was a lie, that that was pure fakery, that the Communist Party did not stand for force and violence in any way?

A. At the time that the Communist Party advocated any United Front movement, politically or in the labor movement, it did not stand for force and violence openly.

Q. Did you tell the people that the Communist Party did not stand for force and violence in any way?

A. I believe the statement I would have made at that time was to deny the fact that the Communist Party advocated force and violence.

Q. You would have denied that and your purpose in printing that kind of denial was to influence the rank and file members of the Communist Party and the persons who might be Communist sympathizers, who would read your paper? [3305]

Mr. Donohue: I object to the question because it is not a question; he is telling the witness what his purpose was, when he only has a right to ask.

The Court: Overruled.

(Testimony of Lawrence S. Ross.)

A. The purpose, specifically, was to influence those persons who were in or might be drawn into the United Front movement, who were not Communists or even sympathetic to the Communist Party at that time.

Q. (By Mr. MacInnis): Now, Mr. Ross, if a so-called rank and file member of the Communist Party were in some doubt as to what the principles of the Communist Party were or what the party stood for, one of the sources that he would look to at that time would have been the Western Worker, is that true? A. I expect that is so.

Q. So that the ordinary rank and file member would look to the Western Worker, read the articles, and be influenced to the end that he would then believe that that was what the Communist Party stood for?

Mr. Donohue: I object to this question on the same basis, if Your Honor please; it is not a question, it is a statement of fact by Mr. MacInnis of what the purpose of the writer was.

The Court: Sustained.

Q. (By Mr. MacInnis): Well, Mr. Ross, when you wrote these things in the Western Worker, did you know any of the readers? Did you ever meet them personally? [3306] A. Oh, yes.

Q. You knew those people who were to read your material? A. That's correct.

Q. And yet you were willing, of course, to slant such information and to conceal such facts so that they would be led into beliefs of your choosing?

(Testimony of Lawrence S. Ross.)

Mr. Donohue: I object to the question as argumentative. He has already testified on a dozen occasions that he did so slant articles.

The Court: It is argumentative, yes; I will sustain the objection.

Q. (By Mr. MacInnis): Well, now, was it true or false, Mr. Ross, referring to the fall of 1936 that the Communist Party did not stand for or represent force or violence in any way whatsoever?

A. The platform of the Communist Party with respect to the United Labor movement did not mention the question of force or violence, it stood for what it called "unity of the working class."

Q. Pardon me. Would you answer the question asked you, please?

A. I thought I did, sir.

Q. I asked you the question not in particular respect of the United Labor movement, but the Communist Party generally its aims, and that is the purpose of the article and the purport of the matters we are discussing. [3307]

Mr. MacInnis: Would you read him the question, please?

Mr. McMillan: It is not necessarily the purport of the articles, because the article he referred to mentioned the united workers and that is what the witness answered, in his response.

The Court: Well, he made answer——

Mr. MacInnis: Come over here, Mr. McMillan, and see if you can find that.

Mr. McMillan: No, I never like to look over your shoulder, Mr. MacInnis.

Mr. MacInnis: Well, in that event, I suggest that the prosecutor has at least unwittingly deceived the Court.

The Court: I was interrupted. I did not hear Mr. McMillan. I addressed myself to the witness and asked him if he understood the question.

Mr. MacInnis: Your Honor, he told you, speaking to the Court, that there was something that wasn't even in here, and I asked him to come over here and look, and he said, "No, I won't."

Mr. Donohue: Of course, if Mr. MacInnis would follow the usual rules of courtesy in the trial of a case and had exhibited these articles to us to see, there wouldn't be any confusion about it.

The Court: Let us take the morning recess and he may exhibit it to you. [3308]

Mr. MacInnis: I am afraid we can pass that, Your Honor.

The Court: I will admonish you not to discuss the case nor to converse with any person on any subject of the trial and not to form or express an opinion thereon until it is finally submitted to you.

(Recess.)

Q. (By Mr. MacInnis): Mr. Ross, are you the man who was known as Seaton Ross in Memphis?

A. Lawrence Seaton Ross, that's correct.

Q. How does your name appear on the masthead of the Cotton Trade Journal?

A. Seaton Ross.

(Testimony of Lawrence S. Ross.)

Q. And you are known as Seaton Ross in Memphis, aren't you?

A. Known as Lawrence Seaton, but my middle name is used by my wife, and she just likes it better.

Q. And on the masthead of the Cotton Trade Journal your name appears as Seaton Ross?

A. That is correct.

Q. Doesn't say Lawrence Seaton Ross?

A. No, sir.

Q. Or anything like that?

A. No, sir. But my name is known as Lawrence Seaton Ross.

Mr. MacInnis: Would you now please read the last question and answer that preceded the recess?

The Reporter: I don't have that, counsel. [3309]

Mr. MacInnis: Oh, you don't have that, I see.

Q. Well, now, Mr. Ross, referring to the things you say you wrote and uttered concerning the Communist Party in August of 1936, the purpose of writing the matters that you have described generally was so that they would have their editorial influence upon the people who read the paper?

Mr. Donohue: I object to the question if Your Honor pleases. He is telling the witness what his purpose was, and not asking.

The Court: Overruled.

A. That statement is correct, sir.

Q. (By Mr. MacInnis): So that an ordinary rank and file member of the Communist Party who might be having a conversation with some Communist sympathizer about the joining of the Communist

(Testimony of Lawrence S. Ross.)

Party would be able to point out with perfect sincerity to that other person that the Communist Party didn't stand for force and violence in any way? A. Yes, sir.

Q. And a member, an ordinary member, of the Communist Party who was looking to your paper for guidance in any discussion he might have with others would find in your paper nothing but discussions of the Communist Party standing for the Constitution of the United States and the ordinary democratic process?

A. At that time, yes, sir.

Q. Now, in your paper, the Western Worker, while [3310] you were editor, did you have a policy either instigated by yourself or directed to you by others, to extol various labor leaders?

A. Yes, sir.

Q. Would you extol particularly the labor leaders who followed or had gone along with Communist policy? A. Yes, sir.

Q. Or would you extol all labor leaders?

A. No, sir.

Q. You would extol only the labor leaders who went along with Communist policy?

A. Yes, sir.

Q. I will ask you if you will please look at your paper, the Western Worker, for August 31st of 1936, merely for the purpose of refreshing your memory.

(Document exhibited to the witness.)

Q. (Continuing) I will call attention to an

(Testimony of Lawrence S. Ross.)

article upon the left side of the open page before the witness, which I have outlined in red.

Mr. MacInnis: Would you read, please, the last question and answer that preceded the showing of the book to the witness?

(Record read.)

Q. (By Mr. MacInnis): Well, now, is your memory refreshed by seeing an article in the Western Worker carrying the byline of no less a person than John L. Lewis?

A. No, sir; it isn't. As to that particular [3311] article.

Q. Did you carry an article by John L. Lewis on that date?

A. I certainly can't remember that.

Q. You can't remember that?

A. Not my own memory that I see the article in the paper.

Q. Oh. John L. Lewis was not a Communist sympathizer, was he? A. No, sir.

Q. Well, did you carry any articles at any time either written by you or carried under the banner of your editorship, extolling John Shelley of San Francisco?

A. That name sounds vaguely familiar, but I couldn't recall who he is or was or what connection he had with the labor movement.

Q. How about a man named George Kidwell?

A. Kidwell sounds familiar.

(Testimony of Lawrence S. Ross.)

Q. Did you write any articles extolling his work in the labor movement?

A. I don't recall any, no, sir.

Q. Did you write any articles or carry any articles under your editorship speaking well of Michael Casey?

A. As to Casey and Kidwell and the other man you mentioned, if they had made a statement with which the Communist Party agreed, that statement would have been praised in the Western Worker without praising anything else they did, particularly. In the article you showed me, by John L. Lewis, carrying that byline, he called for organizing the unorganized, and that call was one with which the Communist Party was fully in sympathy [3312] because that would give the party a more fertile ground in which to sow its seeds.

Q. Well, now, did you follow the same policy of slanting the news and concealing facts when you wrote articles about ship owners?

A. In that situation, Mr. MacInnis, I didn't have the facts firsthand. I got them elsewhere and wrote articles according to the alleged facts that I had obtained elsewhere, not of my own reporting of any situation on the spot.

Q. In other words, in any article that you wrote about ship owners you had gotten the facts that you purported to narrate from other persons?

A. That is correct. If any facts were involved.

Q. I see. But they were never facts that you would have known of your own personal knowledge?

(Testimony of Lawrence S. Ross.)

A. No, sir. I didn't cover the waterfront.

Q. And you wouldn't have pretended, of course, to narrate them from your own personal knowledge in the articles?

A. I didn't quite get that last one.

Q. And I say, you wouldn't have pretended in the article to narrate them from your personal knowledge? A. No, sir.

Q. Now, however, when you did write about the ship-owning interests in San Francisco, did you follow the same policy of concealing facts? [3313]

A. I took the facts or alleged facts as they were given me. In other words, I took the information given me and treated them as facts.

Q. And it was always information given you by others?

A. Yes, I didn't cover the waterfront at all.

Q. Well, when you wrote matters concerning the ship owners were those particular writings intended to have any influence upon the rank and file?

A. They were intended to reach the non-Communist members of waterfront unions particularly.

Q. I am going to show you another page of your paper, the first page, bearing the date of Thursday, September 3, 1936; and I have an article that I have outlined in red, and I will ask you if this refreshes your memory (Exhibiting to witness).

Were you given some information by other persons in the month of September of 1936 to the end that the ship owners were trying to do something to discredit you?

(Testimony of Lawrence S. Ross.)

A. To discredit the Communist Party.

Q. How about you?

A. Mr. MacInnis, I was the face of the Communist Party in San Francisco, I was an open and avowed Communist; discrediting me was unimportant—but through me the Communist Party.

Q. Now, let me ask you this: A moment ago you told the jury under oath that the only things you ever wrote about the ship owners were matters given you as information, things that you [3314] didn't investigate yourself?

A. That, I said, only applies to any facts I may have stated in those articles or alleged facts.

Q. Now, is your memory now refreshed about an article that you wrote yourself, speaking of personal knowledge?

A. Not as to the facts. As to the opinions, yes.

Q. Why, didn't you write on September 3rd of 1936 that the ship owners had you arrested——

Mr. Donohue: I object, Your Honor,——

Q. (By Mr. MacInnis): (Continuing) — for having a part in the King, Ramsey and Conner murder——

A. No, sir.

Mr. Donohue: As is always to be expected, Mr. MacInnis will make his statement and then permit counsel to make an objection. If Your Honor please, we are going to be in a peculiar situation, if and when this case ever reaches an appellate court because Mr. MacInnis is repeatedly permitted to read from papers and publications which are neither marked for identification nor are they in evidence; and no appellate court will ever know to what we are making reference. Now, Mr. MacInnis ought to know——

The Court: Now, then, to that extent, I have been remiss, have I?

Mr. Donohue: No, I don't say so, if Your Honor pleases; that isn't the purpose of my objection. Mr. MacInnis, if Your Honor pleases, should know that if he is going to try to impeach a witness, he should lay the foundation for that impeachment, and Mr. MacInnis ought to know that in order to lay the foundation for that impeachment, the document which is sought for the purpose of impeachment must be identified so that it may be subsequently offered in evidence. And Mr. MacInnis also ought to know that you can not impeach a witness on a matter which is purely collateral.

Mr. MacInnis: In the first place, Your Honor, we object to the use of the words "if and when this case reaches an appellate court." We have no intention, Your Honor, of permitting this case to reach any appellate court, because we have every intention and every hope that the case will be won here. And I cite the prosecutor for misconduct and I ask that Your Honor cite him for misconduct for making that statement.

The Court: Counsel, there is no misconduct in that statement. Accordingly I will not admonish the jury in that respect.

Mr. MacInnis: On the matter of this statement, if I may be heard, Your Honor, this gentleman tells us under oath for some reason, when asked questions about the ship owners very carefully that he didn't write anything of his own knowledge.

The Court: What was the question, counsel? I did not hear it. (To the Reporter) Would you read the last question, please, Mr. Reporter? Then we can take it up.

Mr. MacInnis: Yes. [3316]

(Record read.)

Q. (By Mr. MacInnis): Now, Mr. Ross, you were shown by me within the last few moments the front page of the Western Worker of Thursday, September 3rd, 1936, is that correct?

A. I assume it is correct. I didn't look at the date of the paper. I took it on your word.

Q. Do you want to look at it again to see if that is correct?

A. No, Mr. MacInnis, I trust you. I will assume it is correct.

Q. Well, I won't return the compliment, Mr. Ross. A. I am not surprised, sir.

Q. You shouldn't be. The material that you were shown consisted of a statement made by yourself and quoted as emanating from you?

A. So it appears.

Q. Did you make that statement?

A. It would appear I did from that front page. I don't dispute it, Mr. MacInnis.

Q. A few moments ago you told the jury under oath that any statement that you made while you were editor of the Western Worker concerning the shipowners was a statement that you took on information from other persons?

A. I said any statement I made relating to facts or events concerning the ship owners. I did make statements on my own concerning opinion or propaganda material.

Q. Didn't you say, didn't you utter on one occasion, and wasn't [3317] it your belief and your statement, that the ship owners of San Francisco——

Mr. Donohue: I object to him reading from this paper, if Your Honor pleases, until he introduces it in evidence.

Mr. MacInnis: I might say, Your Honor, in view of that comment, we will have photostatic copies made, as we did before.

The Court: All right. Proceed with the question.

Mr. Donohue: But, if Your Honor pleases, the question is based on words which he is reading from a document which are not submitted to this Court in evidence.

Mr. MacInnis: I will be glad to supply a photostat——

Mr. Donohue: It won't make a bit of difference whether he supplies a photostat of the original document, if Your Honor pleases.

The Court: I do not know the question. How can I rule on it?

Mr. Donohue: Well, if Your Honor pleases, if

(Testimony of Lawrence S. Ross.)

we must stand by and permit Mr. MacInnis to ask questions which are phrased upon a substance in a newspaper which is not in evidence, then there is no effect to our opposing the question. If he wants to introduce this article in evidence for the purpose of impeaching this witness, let him seek to introduce it and let us be heard on our objection. He doesn't have to introduce it if he is going to be permitted to ask a question which incorporates [3318] the substance of what is in that newspaper.

Mr. MacInnis: Your Honor, we would be, of course, more than glad to, at the conclusion of this line of questioning, offer for evidence any article which we use; and if it would be convenient to the Court, I will do what we did before in some of these documents. We will have copies made; in the instance of this newspaper, we will have a photostat made.

The Court: I am not particularly interested in this matter at this time, Mr. MacInnis.

Mr. MacInnis: But I think the question has nothing to do with this objection, Your Honor.

The Court: Let me hear the question, please.

Mr. MacInnis: I was in the middle of a question.

The Court: All right.

Q. (By Mr. MacInnis): Mr. Ross, I think we have established, at least without dispute from you, that you have been shown the page of the Western Worker of September 3rd, 1936, in which there appears in quotes a statement made by you, Lawrence Ross?

(Testimony of Lawrence S. Ross.)

A. What is the question? I don't get any question there.

Q. Now, has that been established?

A. I don't dispute that.

Q. You don't dispute that. Now, isn't that a fact, Mr. Ross, that you made statements both written in your paper and orally at that time, in the month of September 1936, to the effect that the ship owners of San Francisco were so desperate in their [3319] attempts to ruin the Communist Party that they had you arrested on a criminal complaint in connection with the King, Ramsey and Connor murder?

A. No, sir, I was never arrested on any criminal complaint in that connection or in any other connection. [3319-A]

Q. Did you state that there was a clumsy attempt of the Alameda County District Attorney to involve you in the Point Lobos death?

Mr. Donohue: There again, if your Honor please, shows the absurdity of this situation. He first asks the witness, "Didn't you say the shipowners caused you to be punished?"——

The Court: Counsel,——

Mr. Donohue: If your Honor please, I think I should be heard. Then he reads again from the newspaper about a clumsy attempt to take him before the District Attorney. Let us not murder the facts even if we do read from papers which are not in evidence.

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: That isn't the kind of murder that is mentioned in this article.

Mr. Donohue: No; I know the kind of murder that is being menioned in the article. So do you.

The Court: The objection is sustained.

Mr. MacInnis: I think, if I may, so that your Honor won't be in any doubt, I would like to pass this document to you, if I may, so that you may see the subject matter of it.

The Court: I will read it at the noon hour.

Mr. Donohue: We ask you to remember the subject matter of the question Mr. MacInnis asked of the witness.

The Court: I heard the question. I will read it at noon. [3320]

Q. (By Mr. MacInnis): Mr. Ross, were you held by the District Attorney in Alameda County?

A. No, sir.

Mr. Donohue: Just a minute. May I move that that be stricken? I arise only for the purpose of saying this to your Honor: We have been around this robin before. I believe that Mr. MacInnis ought to have learned by now if he ever will learn that you may impeach the credibility of a witness only upon proof of a conviction of a felony. Now, he tried once before unsuccessfully, and I say, if your Honor please, intentionally, to attempt to impeach a witness by a telegram which tended to show a conviction of a misdemeanor, and it wasn't even the witness. So that Mr. MacInnis must know that the question that he just asked of this witness is a question he may not ask, and I say to your Honor it is improper conduct.

Mr. MacInnis: Your Honor, if this gentleman is to be——

The Court: The objection is sustained, Mr. MacInnis.

Mr. MacInnis: Your Honor, if I may be heard just briefly upon this point. We are now told as a positive statement of fact that the only method of impeaching a witness is by showing a conviction of a felony. Now, I have always heard, and I would think that your Honor would be of the same mind——

The Court: Counsel, counsel——

Mr. MacInnis: ——that contradictory statements——

The Court: Counsel, I am not familiar with the nature of [3321] the article. Apparently Mr. Donohue is.

Mr. MacInnis: A moment ago he said he hadn't seen it.

The Court: Out of regard for the Court, I would like to have the matter taken up at an appropriate time during the noon recess. I will hear the matter at that time and see where we might be heading.

Mr. MacInnis: I will be glad to do that, your Honor.

The Court: All right; we will take it up at quarter to two.

Mr. MacInnis: I would be glad to display the

(Testimony of Lawrence S. Ross.)

article to your Honor so you will see just what the material is.

The Court: I sustained the objection to the last question.

Mr. MacInnis: Yes.

Q. Now, Mr. Ross, in the year 1936 here in San Francisco did you ever know a man named Raoul Cherbourg?

A. No, sir. Raoul who, did you say?

Q. Cherbourg, C-h-e-r-b-o-u-r-g.

A. No, sir.

Q. You never heard of that man?

A. I have heard of the port of Cherbourg in France; that is the closest——

Q. You never heard of the man Cherbourg?

A. No, sir.

Q. Mr. Cherbourg was a man that——

Mr. Donohue: I object, if your Honor please. I don't [3322] care who he was. The witness said he didn't know him.

Mr. MacInnis: Your Honor, in response to this prompted objection at the mention of that name, I want to make this statement to this Court as seriously as counsel can: Within the past few days I placed a telephone call to a reputable attorney in the city of Oakland who knows nothing about this case and has nothing to do with it. A day later a man from the Immigration Department called on this attorney. It is absolute proof to my mind that my telephone wires have been tapped.

(Testimony of Lawrence S. Ross.)

Mr. Donohue: I resent that statement.

Mr. MacInnis: There is no possible way that they could have known of it, no other way.

Mr. Donohue: I resent that statement.

Mr. MacInnis: I will tell you the man's name.

Mr. Donohue: It is not a fact. Mr. MacInnis ought not to make such a statement. He knows he is not telling the truth.

Mr. MacInnis: The name of the man——

Counsel started with the concept of Mr. Cherbourg, Raoul Cherbourg.

Mr. Donohue: He mentioned the name Cherbourg. I never heard the name in my life before or since, if the Court please He asks this witness if he knows him, and he says he does not. He has no right to attempt to identify him.

The Court: Counsel was not on his feet, Mr. MacInnis, [3323] until after the question was answered in the negative by the witness, and then you apparently started in a reminiscent mood to tell him about Mr. Cherbourg. Now, the inference cannot be drawn, as I take it, by counsel's immediately arising to interpose an objection, that there has been any tampering with your telephone or any other telephone. Accordingly, I instruct the jury to disregard the remarks of Mr. MacInnis at this stage with respect to any alleged tampering with his telephone.

Mr. MacInnis: I ask your Honor, in your discretion, to permit me to make a statement either in the presence or absence of the jury, concerning the facts of which I now speak. I will give your Honor the name of the immigration agent and the attorney in Oakland.

Mr. Donohue: I invite him to do it, if your Honor please, and to do it properly, in the absence of the jury, at any time you may wish to do so. Now is as good a time as any.

Mr. MacInnis: I will do it right now, if your Honor please.

The Court: We will take the matter up also at quarter to two after I have some luncheon.

Mr. MacInnis: If we can fit these matters in, I should be glad to.

The Court: I always feel more comfortable after luncheon.

I see no reason for these charges and countercharges made in this fashion. We will take it up in the absence of the jury.

We might recess now until 2:00 o'clock, ladies and [3324] gentlemen of the jury. And accordingly, I admonish you not to discuss the case under any conditions, nor to form or express an opinion until it is submitted to you.

(Thereupon a recess was taken until 1:45 p.m. this date, the jury being excused until 2:00 p.m.) [3324-A]

(Testimony of Lawrence S. Ross.)

Thursday, January 5, 1950, 1:45 P.M.

(Proceedings out of the presence of the jury:)

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: Shall we proceed, your Honor?

The Court: Yes. May the record show the jury is absent from the courtroom.

Mr. MacInnis: Yes, your Honor.

Your Honor, by way of an offer of proof and by way of explaining to your Honor the purport of the questions I put to the witness, including the statements I made to the Court, and as a basis for further questions which will probably follow along the same lines, I want to make a statement concerning the whole matter.

Mr. Donohue, in his role as prosecutor, arose shortly before we recessed and said to your Honor that I was telling an untruth concerning the matter of possible wire-tapping of myself; that he knew that to be so.

Now, Mr. Donohue, much like the witness on the stand, who says he was the face of the Communist Party at that time,—Mr. Donohue is the face of the prosecution. I don't think for a moment that Mr. Donohue has any personal knowledge of this matter. It is like one of those documents which Mr. Donohue, quite honestly I assume, denied that he possessed, but which [3325] upon a little inquiry

(Testimony of Lawrence S. Ross.)

turned up in the briefcase of one of the agents sitting in the front row.

Now, I certainly have not charged that the prosecutor had any complicity, or possibly any knowledge, of the events. However, so far as the propriety of the subject matter of these statements and questions may be concerned, I want to say this: And your Honor will perceive, I think, that these matters would come into the mind of the inquiring cross-examiner not only along the line of preparing this case generally, but in view of the objections which have transpired.

In relation to the man who gives his name as Lawrence Ross, I find upon ordinary research that upon the 12th day—pardon me, the 22nd day of December in the year 1937 there appeared in the police department of the city of Beverly Hills a man named Arthur Kent. That name has come into this trial on several occasions under the name Arthur Kent, Arthur Scott, and Arthur Margolis. He was a man who was at one time married to the woman who has been called Norma Perry in this testimony. He was also named in some questions. Now, whether the answers were given or whether objections were sustained, he was also named as a person who was placed in the city of Portland in the year 1937 in connection with a radio station by men who have been identified as Stanley M. Doyle, Harper Knowles and other men whom I suppose from common knowledge of events of past knowledge the Court will remember as persons who have given testimony and have been prominent in the so-called subversive activities inquiries of the American Legion and of other agencies. [3326]

In any event, this man, Arthur Kent, Arthur Scott or Arthur Margolis, was a man who had been three times convicted in the State of California of the crime of burglary and according to the statement made by him to the Beverly Hills police, he was placed in the Communist Party as a sort of employers' agent working along with Harper Knowles, Stanley M. Doyle and others, so that he would make reports to them. And he made a rather complete statement of his activities at that time. I believe that statement to be a semi-public statement; I think it has been reported in newspapers. It appears in various Dies Committee reports and it appears in full in various of the reports of our local, that is, our state Un-American Activities Commission, composed of various assemblymen of this State. In that statement I came across this line, this statement that the man called Arthur Kent made to the Beverly Hills police, that "when Cherbough's body was found in San Francisco Bay, there was general panic out at 121 Haight Street, the Communist Party offices, and that Arthur Kent went at once to arrange an alibi for Lawrence Ross."

Arthur Kent, Your Honor will recall, in addition to the characters which I have placed upon him, was the man whom the witness Ross says was one of the triumvirate who rules the Communist Party in the interim between the departure of the man called Sam Darcy and the advent of the man called William Schneidermann. The witness Ross testified that Arthur Kent, or [3327] Scott, himself, and the lady named Oleta O'Connor took over the duties of district organizer of the Communist Party.

Now, with that paragraph as a lead, from the statement on record, with the Beverly Hills police, the inquiring mind, of course, would be brought to the question, "Who is Cherbourgh?" "Who is that man?" "What has he to do with this case?" So we consulted the public records of this community, the files of the San Francisco Chronicle and the San Francisco Examiner. We find that the murder of a man named Raoul Louis Cherbourgh, R-a-o-u-l L-o-u-i-s C-h-e-r-b-o-u-r-g-h, is apparently one of the unsolved crimes of the past twenty years in the State of California. The papers state that upon the 12th day of August of 1936, the nude body of a middle aged man, looped in heavy anchor chains, with his veins drained of blood, was found in the Bay. The first report said that there was no identification of this man, and both of the newspapers reported that investigators were looking into the possibility that the victim had some connection with the waterfront disputes.

So we go on into the following day, into the investigation of this tragedy, and we find, by a coincidence that this man was a man with whom Your Honor had some slight contact during his career as a lawyer because the San Francisco Examiner

(Testimony of Lawrence S. Ross.)

of the 13th day of August of 1936 made mention of a certain lawsuit in which Your Honor appeared as counsel for one of the parties, and apparently Your Honor at one time obtained an affidavit [3328] from this person, the man Cherbourgh, as part of the lawsuit; because the article goes as follows:

> "The body was identified as that of Raoul Louis Cherbourgh, San Francisco seaman, active in the rank and file activity of the SUP,——"

which I assume to be the Sailors Union of the Pacific. It says that:

> "He has a police record, and in recent times he signed an affiadvit in favor of Eugene Aureguy in a suit against the latter by Attorney George K. Ford for fees in the Gavin Flood case."

So I assume that, since Your Honor represented that defendant in that case, you may have had some slight recollection of the name, whether your memory was refreshed; when you read of his death, I wouldn't know.

The Court: No, it has not been.

Mr. MacInnis: It says that his last place of residence was the Bay Hotel, at No. 24 Sacramento. That, I take it, is a hotel off the Embarcadero, the first block on Sacramento Street. It says:

> "The police are seeking William P. Shea and Thomas Sullivan, maritime workers, who left the hotel about the same time. Attempts are

(Testimony of Lawrence S. Ross.)

> being made to trace repeated phone calls made by a woman at a union office. A doctor has expressed the belief that Cherbourgh died of slow [3329] strangulation following a beating."

Then in the same issue, or the same date, rather—I can't tell whether this is the Examiner or the Chronicle from the report—a man named Ole Olson, a dispatcher, said that he saw Cherbourgh on the morning of August 4th. He had spoken at a meeting of the SUP, the previous night. Raoul Cherbourgh was first arrested in 1932 in Los Angeles under the Criminal Syndicalism Law, documents found on him indicated his affiliation with the Communist Party. Olson said he was afraid somebody would get him. James Creeks says that Raoul Louis Cherbourgh was recently beaten in a fight at Aberdeen, Washington. The police of that town have no record of a fight or complaint. Among the effects of Cherbourgh was a "rank and file" letter with his signature, dealing with Ivan Hunter.

Then on 8/14/36:

> "William P. Shea surrenders voluntarily and was taken into custody. The testimony of a shipmate of Raoul L. Cherbourgh on his last trip says that he was afraid of a 'gang.' Peter Andersen, a friend of the dead man and a shipworker, says that Raoul Cherbourgh's name is Langley, that he received a good education and that he came from a well-to-do family in Kentucky."

Now, it will be noted that the witness Ross testified

(Testimony of Lawrence S. Ross.)

that he was born in the year 1903 in the State of Kentucky, and we have some superficial inquiries about the background of Mr. Ross, [3330] in Kentucky, that might become relevant.

8/16/31. Apparently the mystery remained an unsolved mystery, because the paper said that there were no further clues, but that there was an attempt to link the death of Raoul Cherbourgh with the murder of C. W. Alberts on Point Lobos, and that those attempts were being discounted by the police.

Now, Your Honor will remember, proceeding from that point, I think that there was a man named Alberts who was killed in a murder case which became rather notorious as the so-called "King, Ramsey, Conner" case. That was reported widely over a period of years in our press. And that case was somewhat historic not only in Alameda County, but possibly all over the State of California.

Now, following the last statement out of the press, the attempt to link these two killings, the killing of the man named C. W. Alberts and the entirely unexplained killing of the man named Cherbourgh, we turn to the Western Worker of September 3rd, of 1936, and we come to one of the matters touched upon this morning; although from a different perspective. Your Honor will recall that the witness Ross testified, I thought rather cautiously, but possibly that is an overzealous remark on my part; but in any event, he testified definitely that anything that was printed under his direct order, or under his editorship in this paper, about the ship owners, would be matters in which he was not expressing personal knowledge but which was merely a [3331] narrative of information given him by others. So I showed the witness, as part of a stream of materials to which objections were made this morning, an article in this paper, the Western Worker, on the date I have mentioned, as follows:

The headline, or rather, the sub-headline:

"Ross Exposes Clumsy Plot as Frameup."

And then "Lawrence Ross, editor of the Western Worker and Communist Congressional candidate in the 5th San Francisco district, issued the following statement regarding the attempts to involve him in the Point Lobos death."

Then a little subhead, "A flimsy frameup attempt."

Continuing, in quotes from Lawrence Ross,

> "The clumsy attempt of the Alameda County District Attorney's office to involve me, and through me the Communist Party, in the Point Lobos death, is a pure and unadulterated frame-up. This was done for two reasons: an attempt to discredit the Communist Party; Secondly, the desperate wish to weaken the struggle of the waterfront unions at a time they were negotiating for new agreements, by seeking to give the impression to the public that Communists inspired terror on the waterfront."

Then a little sub-headline, "Communist Party Does Not Believe in Terror."

Continuing the quotes from Lawrence Ross:

> "The Communist Party certainly does not believe in terror [3332] and violence. This is a weapon used by ship owners and other large-scale employers of labor, to smash trade union organizations and break the resistance of workers to attacks on their standard of living. The Communist Party believes in the right of organized labor, a right recognized by law, to fight for improved conditions. All people who have worked with Communists (with the exception of provocateurs and agents of the employers, such as Matthew Guidera, of the Marine Cooks & Stewards Union) are well aware of this. The frameup attempt is a stupid and obvious one, but the ship owners are so desperate in their attempt to discredit the maritime unions and the Communist Party, they will stop at nothing. If a criminal complaint is issued against me, the trial will reveal and expose to what unscrupulous measures the ship owners and the industrial association are prepared to resort to weaken the fight of the waterfront unions for better conditions."

Now, that is the quoted statement emanating from himself, his own declaration of the man who, this morning, swore to the jury that the only things he ever wrote about the ship owners of San Francisco were matters passed to him by other persons by way of information.

Now, the record apparently shows, from other

(Testimony of Lawrence S. Ross.)

articles in the same paper and from other information which is apparently [3333] semi-public, that Lawrence Ross was taken over to the office of the District Attorney in Alameda County either held for investigation or questioned, and then released. And he was never thereafter questioned, either in connection with the so-called Point Lobos death, the case which became the King, Ramsey, Conner case or ay other—although Lawrence Ross apparently was the person sought by the police long before any of the defendants in that case, the Messrs. King, Ramsey or Connor, became involved. Now, that is a secondary point in the route which we must traverse.

The Court: If I may interrupt you momentarily, counsel, King and Ramsey were latterly convicted of the crime and incarcerated.

Mr. MacInnis: Yes, I understand that, I guess, from the same source as Your Honor. I recall that those men were convicted.

The Court: And then there was a long period of application for clemency to the Governor and so forth.

Mr. MacInnis: Yes. I don't remember now whether they were released or not. That is only one point. [3334]

The Court: The statement of the conviction of King and Ramsey would seem to satisfy the alleged implication of Ross in any complicity in the murder of this unfortunate man in the hold of the vessel in the Port of Oakland.

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: That is the Alberts case.

The Court: So by reason——

Mr. MacInnis: I have no information on that. That is only, as I say, a point in the narrative which I now offer the Court.

Now, prescinding for a moment from matters affecting Lawrence Ross and going for just a moment to the statement which I made to the Court this morning, advisedly and sincerely, I think, about certain methods amounting to wire-tapping, a matter which I think follows as night the day from cause to effect, I will say this:——

The Court: You made the statement in the presence of the jury expressly that you believed that your wires had been tapped.

Mr. MacInnis: Yes, your Honor.

The Court: In your office?

Mr. MacInnis: No. I have not been in my office for more than 15 minutes at a time in the last three weeks, and in the last month I say——

Mr. Donohue: You said in the record, may it please the Court, that the tapping was on "my telephone."

Mr. MacInnis: You said in "my phone." [3335]

Mr. MacInnis: I do have a home, unlike Mr. Ross who can't remember where he lives.

So I will begin first with a recital of matters which I think to a reasonable mind, something that might recall itself to your Honor's mind as a practicing lawyer, and yet which would probably cause a lawyer to be cautious in his telephone conversation. About, I would say, three weeks before this trial started and about a week after Mr. Hallinan and myself had been engaged as counsel for the defense, there occurred an incident which was rather strange.

I was going down to my office one evening at about 10:30 to pick up some papers, and as I arrived at the office I saw lights lit upon the second floor of the building which we occupy near by in the Civic Center, and knowing that there would be no occasion for such a number of lights, I started to see what the matter was. And as I came around to enter the building, being maybe 20 or 30 yards away, two men rushed out of the building, around the corner, and up a little alley called Ivy Street. And in my zeal to look into this matter, I had obtained a gun, which I had in my hand, and I ran after these men, around the corner into Ivy Street. That matter is also of some public record as I will reveal in a moment, because when the men disappeared into the darkness into Ivy Street, I decided it was rather foolish to go into the darkness in that fashion. [3336]

I went back into the building, and then I went through the office room by room, still with this gun in my hand, to see what it was. So I found that apparently nothing had been taken but that there had been some hasty attempt to go through the files. And I then walked out of the front of the building, intending to go around to the back, still with the gun in my hand, and if the Court please, coincident

(Testimony of Lawrence S. Ross.)

a squad car of the local police was cruising by, and these gentlemen stopped me and questioned me as to why I had a gun in my hand, with the result that we went together to the police station. There was some account of that in the local newspapers. In any event, the police were very nice about it, and the charges which the officers had filed as a matter of course were dismissed the following day or so.

In any event, that incident—and of course I don't pretend now, although I have my own ideas—I don't pretend to say who the men were or what they were looking for. In any event——

The Court: What was the date of that incident, counsel?

Mr. MacInnis: I could determine that. It was in October, your Honor, but I do not have it in my mind. I don't think I would have any record of it except the newspaper accounts. I could easily determine that.

In any event, because of that and because of our growing realization that the case which we had accepted was one which [3337] would give rise to a great deal of surveillance, a great deal of matters which one might look upon as conspiratorial, from the outset we therefore became very cautious in telephone conversations.

In any event, I received a telephone call, and I can't give your Honor the precise date, but I would say that it was about two weeks ago. I think that it was in the recess period of this trial. I received

(Testimony of Lawrence S. Ross.)

that telephone call at my own home, and that call came from a very reputable attorney in the city of Oakland, a man whom I am sure that your Honor knows. His name is Leo Sullivan. This gentleman, so far as I know, is a lawyer of great ability, of some renown, and his reputation as a trial lawyer probably exceeds that of most of his contemporaries in the East Bay. So far as I know, he is not a lawyer who has any active representation of any labor union causes, but one sees his name in connection with a variety of trial court matters. I take it your Honor has probably some knowledge of Mr. Sullivan's career. I have had an acquaintanceship and friendly feeling toward this gentleman for some years, although we have not been associated together in any matter.

And he called me, and with great caution told me that he had a matter of information that he wanted to disclose to me as a favor and as a courtesy, and that it had something to do with my present lawsuit, meaning the prosecution in which we find ourselves engaged; and he asked if I would come over and [3338] visit him at his home. He explained a fact that I also knew from some reading of the papers, that he had suffered a heart attack within a few days before that time. And I found him indeed in bed at his home with an oxygen tank next to his bed. Mr. Sullivan, as the Court may know, has been subject to heart attacks over a considerable period of years.

In any event, Mr. Sullivan gave me some information, surprisingly enough about the man who is now known as Lawrence Ross; and he told me that a client of his had come to him with information gotten from another person, asking Mr. Sullivan if the information would be of any benefit to him or if he would choose to pass it on to any interested people. The information, which I do not have in full detail, but which I will have within a day, I am informed involved possible complicity of Mr. Lawrence Ross with the death of Raoul Cherbourg. So I had a brief converation with Mr. Sullivan at that time, and thanked him for his courtesy, and received his assurance that he would look into the matter and obtain some more specific information for me. He had asked if the matter would be of any service to us in the case as involving a possible witness for the prosecution.

So, after that time, within a period of about two days, I had occasion to telephone Mr. Sullivan. I believe that I made that call from my own home. I received another call from Mr. Sullivan at my home on another occasion. Within either a [3339] day or two days after the last telephone call that I had from Mr. Sullivan, an agent of the Department of Immigration called upon Mr. Sullivan and asked him if it was not true that he had been contacted by the defense in this case, and if so, what the contact had been and what it was about.

The name of the agent as he gave it to Mr. Sullivan with his card was E. D. McAlexander; I believe it to be M-c-A-l-e-x-a-n-d-e r; phone Yukon 6-3111, extension 624; nights, Yukon 6-3195. Superficial inquiry, I think, reveals that those are in

(Testimony of Lawrence S. Ross.)

fact the numbers of the Immigration Service here in San Francsico.

Now, as I say, Leo Sullivan had no possible connection with this case; he had no possible connection with my law firm; we had no exchange of cases; we had not appeared against each other or as co-counsel in any case. So if there were any surveillance by the Federal Government, that surveillance would of course attach only to myself, because I am an attorney of record in this case, and there would be no other means on the face of the earth in which an agent of the Immigration Service could thus make a call upon this Oakland attorney, Mr. Leo Sullivan, other than that information had been obtained in the manner that I have suggested.

Now, here are the bases, not only for the interposition of this matter into the case—and I may say that as soon as I am in possession of the information, I am going to turn it over to [3340] the authorities, probably to our local District Attorney's office here in San Francisco; I believe it probably not to be a matter within the Federal jurisdiction. That I will do regardless of what the information may be, and the authorities can determine whether it is a matter of conjecture only, whether it is nothing at all, or whether it is a matter possibly inculpating——

The Court: Counsel, if I may interrupt you momentarily, do you make this charge and assertion based upon the coincidence of an agent calling upon Mr. Sullivan coincident with Mr. Sullivan

(Testimony of Lawrence S. Ross.)

calling you? Is that your basis?

Mr. MacInnis: Yes, your Honor. What further basis could there be?

Mr. Donohue: I would like a full opportunity to explain, if your Honor please.

Mr. MacInnis: I would say this, your Honor. It may be that your Honor's question—I don't know—is based upon this fact. Your Honor may have in his mind this: Did this man who now speaks examine his telephone wires to see if there was any physical evidence of tampering? If your Honor had that thought in mind, I would make this answer:

The agencies—I say this with some sadness, I hope—the agencies who do engage in wire-tapping in these days no longer find it necessary to make any actual physical contact with the telephone wires in an individual home, because this [3341] is how the operation is carried out, as I am informed by reliable persons within the telephone company.

Every exchange has a certain master conduit. Will you permit me to finish this, counsel? If you have some mirth at it, you can do it silently. I can't control your emotions, but I don't think you should disturb me while I am speaking.

Mr. Donohue: I think he ought to stop eavesdropping, if your Honor please.

Mr. MacInnis: I think, your Honor, counsel is entitled to make a statement to the Court without constant audible murmuring from the table in back of him. I think that is kind of an ordinary right.

In any event, your Honor, I am informed that

(Testimony of Lawrence S. Ross.)

wire-tapping, so called, in this era is accomplished by a connection with the master circuit of a particular exchange. For instance, my office has a Hemlock number. All of the Hemlock numbers, including unfortunately the offices of our city government in the City Hall, pass in a master conduit underneath the opera house in San Francisco, and any person either having the power, coupled with the desire to listen in on any line need go no further than the location of the master conduit. This phone involves my office telephone. And very likely my home telephone—my home telephone is on the Fillmore exchange. I do not know where that master conduit may pass. It is accidental that I know the location of the other one. [3342]

But in any event, the tapping of telephone wires by listening in upon telephone conversations doesn't require either the physical presence of any person in the building of the person under surveillance or any immediate contact with the telephone wire itself.

Now, here are the points, though, that bring these matters within the purview of the case: Not only the matter of the wire-tapping, which is a side issue from the questions put to the witness Ross, but first of all, this: Ross was picked up in 1936. He was the first person suspected of the Point Lobos murder before anybody else was named. Ross was a notorious Communist. He was out in the open; he was an agitator; he had been arrested ten or twelve or fourteen occasions for activities of that kind. He was well known to the authorities. He was disliked by the authorities, and his banishment from our community would have been welcomed by persons in those spheres. Ross, however, talked once to the authorities and was released. Many persons completely innocent of a charge of murder have been forced either to stand by in custody for some period of time or even to stand trial before they would be cleared. So the question arises, Was Ross in 1936 making some deal to be a secret agent either against persons in the labor union movement or against persons in the Communist Party?

Now, as regards myself and the assertion that I made, I think it perfectly proper that I be permitted to ask the witness [3343] Ross, is he a party, is he a conspirator in any attempt to gain information by the tapping of wires or by tapping any other sources of information in connection with lawyers who represent the defense of this case?

Graver still from a public point of view, of course, did Ross have anything to do with the murder of Raoul Cherbourg? Why would that be important? It may be said that that is an internalism, another case, a case within a case. That would be very properly said.

However, this question would arise: Is that the hold that the Government has over a man like Ross? Is that the hold by which they can bring a man here who can't remember where he lived, who can't remember even on what street he dwelt, who can't remember what anybody said at any of the meetings he attended, who says he was a paid functionary of the Communist Party but can't remember the people in the same room with himself, who says he ran for public office but can't remember the persons he opposed or who was elected? Is that the hold, the possibility of this unnamed, this foreboding prosecution, this Damoclean sword that may be held over his head? Is that the reason for the testimony of a man named Ross?

Now, in response to one suggestion of your Honor's, of course the conviction of Messrs. King, Ramsey and Connor would not of itself exculpate Mr. Ross. I don't know anything about the case or what his connection with it may have been. That [3344] would be a circumstance, of course. It would not bar any prosecution in this case; it would be a matter, although it would be a circumstance which might assist in clearing up the matter.

Those are the statements that I would make, and I certainly feel that anything I have said has not only been said with perfect propriety, but that I have a right, because of these situations, to ask the witness the indicated questions.

I thank your Honor for his patience in hearing me out.

Mr. Donohue: If your Honor pleases, I don't know whether Mr. MacInnis is plainly stupid or cunningly culpable.

The Court: Cunningly what?

Mr. Donohue: Culpable, because Mr. MacInnis, we presume, starts with the fundamental proposition that a witness who appears to testify before any court may be impeached upon proof of conviction of a felony.

(Testimony of Lawrence S. Ross.)

By an article in the Western Worker, by some telephone call he had with Mr. Sullivan concerning something that a former client of Mr. Sullivan may have said which he has not yet received the reply to, he feels justified in assassinating the character of this witness by first attempting to show that he was connected with a murder that has been solved and the defendants convicted for fifteen [3345] years.

He feels justified in assassinating the character of this witness by first attempting to show he was conencted with a murder that has been solved and the defendant convicted for 15 years. And secondly, to associate him with a murder which was never solved. And Mr. MacInnis, with his typical ability to misstate the facts, even the facts concerning his own personal arrest, says to Your Honor, "Ross was the first one picked up for the murder."

The truth of the matter, Your Honor, and Mr. MacInnis should know it because his associates should tell him, is that when the murder was committed and the allegation was made that it was a Communist Party murder, that there was an attempt made to procure alibis for certain well known Communists, whereupon Mr. Ross was not picked up for the murder, but Mr. Ross asked George Andersen to take him voluntarily to the District Attorney in Alameda County so that he could forever lay at rest any allegation that he had anything to do, not with the murder, but with the preparation of an alibi.

The Court: George Andersen?

(Testimony of Lawrence S. Ross.)

Mr. Donohue: George Andersen of the firm of Galdstein, Resner, Andersen & Sawyer, associated at night with these—with the attorneys for these defendants, took Mr. Ross there, and when Mr. Ross tried to tell the District Attorney what the facts were, as he knew them, Mr. Andersen advised him not to testify on the ground of self-incrimination. And he foolishly [3346] followed his advice.

The Court: Is it the same Mr. Andersen who called on Mr. Schomaker?

Mr. Donohue: He is the same Mr. Andersen who called on Mr. Schomaker, and I can well understand the skill with which Mr. MacInnis describes the method of wire-tapping, because the same Mr. Lipsit who was engaged by Mr. MacInnis and Mr. Hallinan as an investigator in this case and who called on Mr. Schomaker and, as Mr. Schomaker waved his tie, indicating that he knew that there was a concealed microphone—Mr. Lipsit is the wire expert who could very well brief Mr. MacInnis.

Now, I said to Your Honor on the day when we considered certain motions before this Court, and on one day when the question arose during this trial, that I pledged Your Honor on my personal integrity and on the responsibility I owed to the dignity of the United States, that not one scintilla of evidence would be introduced in this court which was obtained by wire-tapping; because I have made every possible and careful inquiry to make certain that no wire-tapping has been done in this case.

Now, let me come to the incident upon the basis

(Testimony of Lawrence S. Ross.)

of which Mr. MacInnis, who can't even tell us the complete facts about his own arrest, upon the basis of which he said—and any lawyer who would make that statement in the face of a jury and in the midst of a trial, is guilty of misconduct—"It is absolute [3347] proof to my mind that my telephone wires have been tapped." Here are the facts, if Your Honor pleases. Some time during the Christmas recess there was called to my personal attention by a confidential informant of the Immigration Service the fact that Mr. Leo Sullivan had obtained certain information the possession of which caused Mr. Hallinan to be highly elated. I say to Your Honor that I know the source of that information, that that information came out of the Immigration Service, that it came from a person who did and could not have obtained it by wire-tapping.

Pursuant thereto, on Monday of this week, Mr. Mack Alexander, whose name has been identified and who identified himself by name and by card, went personally and called on Mr. Sullivan and said, "Mr. Sullivan, I am Mr. Mack Alexander, here is may card. I am from the Bureau of Immigration and Naturalization. We have information from a confidential source that you have some information about Mr. Bridges being a member of the Communist Party," or "You have information in addition which would be of assistance to the United States in the prosecution of Mr. Bridges." Whereupon Mr. Sullivan replied that he had no information at the moment, but that if he obtained any

(Testimony of Lawrence S. Ross.)

information, he would be glad to make it available. Monday at one o'clock, that was. On Wednesday morning at 10:00 o'clock, Mr. Mack Alexander called again on the phone, this time, Mr. Sullivan—because in the interim we had more certain information from a [3348] confidential informant, and as to the nature of the information which Mr. Sullivan had. Mr. Sullivan was not in. And at 1:00 p.m. on Wednesday, yesterday, Mr. Sullivan called Mr. Mack Alexander and said, "I have some information I think you ought to have." Whereupon Mr. Mack Alexander called him back at 5:00 o'clock and asked him a specific question about a name which we got from a confidential informant, and Mr. Sullivan brushed him off, calling him back later to say there were persons in the office at the time, and "I couldn't answer your question." And then he made arrangements to talk to Mr. Mack Alexander later, today. That is the source of the information, if Your Honor pleases. That is the truth of the matter. And if there is any doubt about it, Mr. Mack Alexander will be glad to go under oath and testify before Your Honor.

Now, I renew the statement I made to Your Honor, on two occasions. There has not been, nor will there be in this case, one scintilla of evidence that was obtained directly or indirectly by the use of any wire-tapping device—at least as far as the government of the United States is concerned; I can't speak for the defense.

Now, having in mind—and even under the laws of the State of California, which Mr. MacInnis must

(Testimony of Lawrence S. Ross.)

know, though it is apparent he knows little or nothing about the procedure in a federal court, he must know something about the procedure in his own state courts. And even under the rules of procedure in his [3349] own state courts, and certainly as Your Honor and I know, under the rules of procedure in a federal court, a witness is entitled not to be destroyed by innuendo and by suggestion. And the fantastic tale that this man tells about some possible information he may get through any one that would seek to connect this man, this witness, with an unsolved murder fifteen years ago, would make you seriously ask the question of him that his associate asked of Mr. Crouch, "Are you crazy to make a statement of that kind?" I most respectfully say to Your Honor, and it was just as apparent to me, because I can read his actions like a book—he has gone through them so often. When he started to cross-examine Mr. Ross about certain immaterial matters in the Western Worker, it was apparent to me exactly what he was coming to. He knows that the conviction of King and Ramsey solved forever the Alberts murder. He has no information about the second murder, the Cherbourgh murder that he is talking about; but he feels since he can't impeach the credibility of this witness on that ground, Your Honor will permit him, under the guise of showing that Mr. Ross wrote things then that he wouldn't admit today that he wrote, trying by that method to read into the record a statement which would persuade the jury, perhaps, to believe this man had something to do with the murder.

I say that is dastardly conduct on the part of a lawyer, and I most respectfully submit to Your Honor——

The Court: Well, Mr. Donohue, what were the facts concerning [3350] the incident of Mr. MacInnis alluding to the intruders in his office?

Mr. Donohue: I only know what I read in the newspapers, if Your Honor please.

Mr. MacInnis: That is what I thought you probably had some personal knowledge of.

Mr. Donohue: And I am only happy to say, if Your Honor pleases, that I didn't get in to San Francisco until the 3rd day of November. I am awfully glad it happened in October. And I began to wonder, when he suggested that Your Honor prepared an affidavit for someone, whether he was going to charge Your Honor with the murder.

Mr. MacInnis: Well, may I say something, Your Honor?

The Court: Mr. MacInnis, in connection with the office matter, your office matter: in point of time, in relationship to this case, is it not a fact that that incident occurred long prior to the events, and your employment in this litigation?

Mr. MacInnis: It occurred either about the same date or within one or two days of it.

The Court: Because I recall the incident. I may be incorrect on the date, but I recall Mr. Hallinan's first appearance in this case, formally, was in relation to a motion for a continuance. I recall the press account of your incident as long antedating the formal or informal appearance of either you or

Mr. Hallinan in the case. I recall from the newspapers that, [3351] according to the press reports, you drove to your office, that you saw the lights on, and that you then undertook to determine whether anyone was in your office and drew a revolver. Shortly thereafter the police called, took you into custody, and you were brought to the Hall of Justice. Also, that there was no mention by you in connection with a police report or in connection with news accounts of any intruders or robbers or assailants.

Mr. MacInnis: Well, Your Honor——

The Court: Am I correct ~~in~~ that, sir?

Mr. MacInnis: No, if Your Honor pleases; if Your Honor would seek out the account, you would find such a mention. May I refresh Your Honor's memory? I now recall distinctly, to the end that I would stake my word upon it, that at least one of the papers (and at least so far as Your Honor's memory on the point of time may be concerned) referred to the incident naming me as one of the counsel for Harry Bridges.

The Court: I am merely trying to coordinate——

Mr. MacInnis: That is the fact. It didn't antedate it.

The Court: ——the fact, because it seems to me, Mr. MacInnis, that you are attempting to pyramid inference upon inference, and inference upon inference, without any particular, immediate evidentiary basis.

Mr. MacInnis: May I say something more?

The Court: Yes. [3352]

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: I now recall vividly that at least one or more of the newspapers, so far as their records are concerned, mentioned in connection with the affair that I was an attorney for Harry Bridges, and hence I know that this took place after Mr. Hallinan and I had been engaged in the Bridges case. And it is not so that it antedated the event, and I will be glad to supplement that statement.

The Court: I will accept your statement.

Mr. MacInnis: I am positive that is true.

Now, I listened, Your Honor, with some interest to the reply made now by a prosecutor, a man who was charged with the duty to be fair to the defense as well as to the interests of the Government. Now, I will not reply to the charge that I am crazy, because of course if I am, I can not help it. I wouldn't reply to that. And I think I wouldn't make any countercharge as to the mentality of the man who made the remark. If I am stupid, the other inference that he offers Your Honor, I will have to struggle along with my own stupidity. If I am of so shallow a character that he can readily read my every movement, as he suggests to Your Honor, that again is some inherent defect which I can not control.

But the prosecutor, who, I suppose, should be charged with some knowledge of the law, stood before Your Honor seriously and said that he knew and that I should know that the only method of impeaching a witness is by a shorting of conviction of [3353] a felony. Well, why, the veriest tyro at

(Testimony of Lawrence S. Ross.)

the bar, the beginning law student, knows that contradictory statements by a witness are the most ordinary means which can be used to impeach that witness. If your Honor has any different notion, or if your Honor thinks the prosecutor is right on the point, I will be very interested to hear any statement on a similar position. I am sure there can be no such statement.

Now, the prosecutor now betrays certainly a corroborating knowledge of the events which give me the moral support and certainty to make the statement which I did. He tells you, again telling you what he has been informed by people who work either with him or under him in this case, that a certain agent of the Immigration Department from a confidential source which he doesn't choose to reveal to your Honor, learned that Leo Sullivan of Oakland had knowledge, or had a communication or had information, which he had imparted to Hallinan, which had caused Hallinan to be very much elated. Well, now, I know it to be true—I am pretty sure I do—that Mr. Hallinan has never spoken to Leo Sullivan in this case. He has had no contact with him. I am the only person Mr. Sullivan has called; I am the only person who has called him. Whether some agent said that to the prosecutor I can not dispute it. I assume he is telling your Honor what he heard. In other words, he justs says, "We have got some knowledge from a confidential source which we don't choose to tell you, and our man went over as a routine matter." [3354]

Now, here is another interesting thing, your

Honor. He says in effect that I have brought these charges out of the clear sky, that there is no basis for them, that they are fantastic, that they are fabulous. Well, now, listen to this. Who knew, who betrayed his knowledge, your Honor, within the past five minutes of the relationship of Ross to the murder of Cherbourgh? Why, the worthy prosecutor stood before you and said he knew that after the killing of Cherbourgh, that top members of the Communist Party arranged alibis. Well, why would he have looked into that matter if that were not something that at least crossed his mind in connection with this case? What would be the source of his inquiry if he didn't in the background of this case know something about it? He says that I am associated at night with Messrs. Gladstein, Andersen, et cetera. There is not a single night in which I have been associated in this case that I have met any of those gentlemen, and if the Government wishes to put on the stand agents who may have followed me, I would be very interested to hear of their accounts of those times in which I am supposed to have met with these men, because I haven't done so. I haven't met with them at night and I haven't met with them by day. I have met,—I met Mr. Andersen on the street, I believe, once since this case began.

Now, that is the charge that this prosecutor again, sworn under our laws to be fair to both sides in the case, makes [3355] against a lawyer for the other side. Now, I think that without my dwelling upon it, one may easily speculate upon the motives which harbor thoughts of that kind, or the motions which foster them.

Now, he speaks of an investigator named Lipsit, an investigator who was mentioned by the witness Schomaker as shaking his necktie. Mr. Donohue didn't tell your Honor that in the past month he approached Mr. Lipsit and asked him to give a job to a friend of his in the investigating business whom he recommended to Mr. Lipsit. Now, I will ask Mr. Donohue if wants to deny that statement.

Mr. Donohue: I do deny it.

Mr. MacInnis: In this very building you met Mr. Lipsit with a friend of yours from the East who wished to start in the investigating business in San Francisco.

Mr. Donohue: I think I should be permitted to answer that, if your Honor pleases. During the course of this trial some several weeks ago I went upstairs and met a man whom I have known for many, many years, a retired detective sergeant from the Washington, D. C., police department, who had been employed as an investigator by the United States Attorney's office in Washington under three succeeding United States Attorneys; a man of great skill and a man of the highest integrity. He introduced me—or he didn't at the moment introduce me, he had some man standing with him, some person whom I doubt if I would know [3356] again if I saw him. And he said, "Well, I came up here, Mr. Donohue, because I am thinking of temporarily working for this man who is here with me, and wanted you to tell him what you knew about me."

(Testimony of Lawrence S. Ross.)

And I told him exactly as I have told your Honor, that my friend enjoyed the highest kind of reputation. The following—the same afternoon, or perhaps the following afternoon, the same person came back to me again and said, "Did you know who that person was whom I was with yesterday?" I said, "No." He said, "He is Lipsit." "Well," I said, "What are you doing bringing Lipsit up here in the United States Attorney's office? Don't you know who he is?" He said, "Well, I didn't know his connection with this case until I saw something in the paper either today or yesterday, and I wanted you to know that I wouldn't work for him for any amount of money he would pay."

That is my connection with Mr. Lipsit.

Mr. MacInnis: Your Honor, after those encomiums, I think we ought to give him a job, at least.

The Court: Well, I think I have heard enough. The incidents as narrated might very well be dealt with in a pulp magazine, but hardly in a court of law. Accordingly, I will sustain the objection interposed and I will admonish the jury that thus far there has been no evidence presented to this court that would justify the assertion that anybody's wire has been tapped including counsel for the defense. [[3357]

Mr. MacInnis: May I make an inquiry of your Honor?

The Court: Yes.

Mr. MacInnis: Now, is it the intendment of your Honor's ruling that all questions along the same line would, if met by objection,——

(Testimony of Lawrence S. Ross.)

The Court: No, I am ruling on that particular matter.

Mr. MacInnis: Oh, I see. May we have about a five minute recess?

The Court: Yes. We will take a five minute recess.

(Recess.) [3358]

The Clerk: The witness on the stand is Lawrence Ross.

The Court: Ladies and gentlemen of the jury, before we take up the additional examination or cross-examination of this witness, I desire to instruct you and admonish you to disregard any reference made to alleged wire-tapping or any interference with the telephonic communication of Mr. MacInnis. The assertion was made by Mr. MacInnis that his wires were tapped, and under the circumstances, in the light of matters disclosed in your absence, I admonish you to ignore the same to the end that no prejudice attach by reason of the assertion thereof. Thank you.

Mr. MacInnis: I would like, respectfully, to ask your Honor to add to that instruction the statement, if you think it proper, that I am not to be criticized for making that statement.

The Court: No. I might add, ladies and gentlemen, that I am not criticizing Mr. MacInnis at this juncture, nor do I consider that he has done anything that I would consider a judicial reprimand, if you please, called for. He has made the assertion, and after a full disclosure to the Court, I believe that the assertion was not merited and that there was no

(Testimony of Lawrence S. Ross.)

foundation in fact for it, and I accordingly instruct you to disregard the same.

Mr. MacInnis: Thank you.

Q. Now, Mr. Ross, when was it that you say that you heard the [3359] man named Schneidermann give a report upon his visit to the—was it the Seventh International Congress of the Communist Party? A. In the fall of 1935.

Q. In the fall of 1935. Could you fix the month with any particularity?

A. I could only hazard a guess, Mr. MacInnis.

Q. Well, tell me if I am incorrect in this summary of your testimony: that when you came to San Francisco the district organizer for the Communist Party was a man named Sam Darcy?

A. That is correct.

Q. And that he thereafter he left?

A. Yes, sir.

Q. And that there was some interim of several months in which there was no man appointed to that job here? A. That is correct.

Q. And that was the interim in which you, Oleta O'Connor and Arthur Kent or Scott had the post jointly?

A. Yes, sir, with myself as district organizer.

Q. And then it was after that that the man called Schneidermann came here? A. That is right.

Q. Can you tell us when, according to your best memory, Sam Darcy left San Francisco or when he was last engaged as district organizer here? [3360]

A. I am afraid I can't give you the month. I would say it was late spring or early summer, possibly.

Q. Of what year? A. Of 1935.

Q. Late spring or early summer?

A. That is my best recollection.

Q. Now, would there have been some account of his departure in the Western Worker or not?

A. I assume there would have been. I recall none.

Q. And I suppose that if the Western Worker stated in a story on a particular date something about the presence of Darcy as the district organizer there, that ultimate fact would have been a true one?

A. I don't know until I see the nature of the story.

Q. Then I will ask you if you will refresh your memory by looking at a particular article. Your best memory was that it was late spring or early summer of '35? A. That is my guess, yes, sir.

Q. I will ask you to look at the Western Worker bearing date August 8 of 1935. I will ask you to look at an article which I have marked in red and see if it refreshes your memory. In the meantime, were you the editor of the Wetsern Worker on that date?

A. Either editor or co-editor; I can't recall—as of August, I think so, yes. [3361]

(A newspaper file was handed to the witness.)

Q. Is your memory now refreshed as to whether Sam Darcy was the district organizer of the Communist Party in the month of August of 1935?

(Testimony of Lawrence S. Ross.)

A. No, sir, it is not. That article you had reference to does not say whether or not Mr. Darcy was in San Francisco at the time.

Q. Doesn't the article refer to him as district organizer?

A. Yes, but whether he was in San Francisco at the time, I don't know.

Q. In other words, he still had the title of district organizer?

A. Yes, he had the title, as far as I know.

Q. By the way, around August 8 of 1935 was Sam Darcy in some difficulty?

Mr. Donohue: I object, if your Honor please. Are we going to try another case against Sam Darcy?

Mr. MacInnis: It is preliminary to something else, your Honor.

Mr. Donohue: Unless this man had something to do with his difficulty.

The Court: I will allow it. Go ahead.

A. According to that article you showed me, sir, he seemed to have been.

Q. (By Mr. MacInnis): What was that difficulty? [3362]

A. I don't know unless I refer to the Western Worker again.

The Court: What is the date again?

Mr. MacInnis: August 8, 1935.

(A newspaper file was handed to the witness.)

A. According to that article he seems to have been under danger of an indictment.

(Testimony of Lawrence S. Ross.)

Q. (By Mr. MacInnis): You were the editor of the Western Worker at that time?

A. Yes, I believe I was in August.

Q. And did you accuse the shipowners of San Francisco of having Sam Darcy indicted?

A. I don't acknowledge authorship of that particular article.

Q. You don't recall it at all?

A. No, sir, I don't.

Q. It did take place when you were the editor of the paper, did it not?

A. Yes, but very often the editor was handed a statement, typewritten statement, by the district organizer or bureau to put into the paper as a statement of policy.

Q. Did you know Sam Darcy well?

A. Yes, I knew him well until he left San Francisco.

Q. Were you friendly with him?

A. Was I? Yes, I was on friendly terms with him.

Q. Were you friendly to the extent that you knew the general events of his life and he [3363] yours?

A. No, sir, not to that extent; it was an official relationship rather than an intimately friendly one.

Q. It was following the month of August, 1935, that Sam Darcy was indicted and convicted of perjury in San Francisco, wasn't it?

Mr. Donohue: I object, if your Honor please.

(Testimony of Lawrence S. Ross.)

On what basis can we be responsible for Sam Darcy?

The Court: Objection sustained.

Mr. MacInnis: May it please the Court, I am not attempting to try any matter involving a man called Darcy, because I know nothing about him; I am trying to find out the date of this meeting that the witness testified to as involving Schneidermann making a speech when Harry Bridges was said to be present, and I am trying to trace the approximate date.

The Court: That was the meeting at the Sokol Hall?

Mr. MacInnis: That is what this man says, your Honor.

The Court: You want to trace the date in relation to an indictment, is that correct?

Mr. MacInnis: Yes. Pardon me; not in relation to the indictment; I am merely using that as a possible means of refreshing the recollection of this witness, who says he was on friendly terms with Darcy.

The Court: Well, does that refresh your recollection, Mr. Witness?

The Witness: I have already placed the meeting as sometime [3364] in the fall of 1935, which obviously was later than that August date.

Q. (By Mr. MacInnis): You say the meeting with Schneidermann was sometime in the fall of 1935? A. That is my best recollection.

Q. By the way, does the article which I showed you a moment ago refresh your memory at all as to whether Darcy left his job in San Francisco in the

(Testimony of Lawrence S. Ross.)

early spring of '35 or summer, as you just stated?

A. It doesn't refresh my memory, no, sir.

Q. And you can't tell us in more particulars the months in which you and the two other persons were the guiding persons in the Communist Party?

A. It would have to be a guess, Mr. MacInnis. I would say perhaps three months, perhaps two months. I really don't recollect. It was a period of months.

Q. Well, tell me this: Do you remember if after a man named Schneidermann came to San Francisco there were various banquets or honorary meetings had so that the members of the Communist Party and other people could meet him and know the man?

A. I don't recall such an occasion, but it would be in keeping with usual Party custom.

Q. Did you ever attend any such banquet or meeting that might have been given for Schneidermann?

A. If one had been given for him, I would have been there. [3365]

Q. Well, would you have been there in a minor capacity or would you have been one of the principal persons welcoming the new person?

A. I would say one of the principal persons in attendance.

Q. Would you have been there in a situation in which you might have made a speech of welcome or something of that sort?

A. That is quite possible, I may have done it.

Q. On the matter of date, I am going to show you page 3 of the same paper, the Western Worker,

(Testimony of Lawrence S. Ross.)

of Monday, October 21, 1935, and ask you if this refreshes your memory as to the date upon which Schneidermann came to San Francisco (handing newspaper file to witness). Is your memory refreshed by that item?

A. Not specifically. I would say from that item he came here sometime prior to the 27th of October, which is the date of the banquet, according to that account.

Q. And the banquet was said to be held at Communist Party headquarters at 121 Haight Street?

A. That is what it says, yes, sir.

Q. In other words, that wasn't a secret banquet but one that was openly advertised?

A. Yes, sir.

Q. Did you attend that banquet?

A. I must have been there. I don't recall attending it.

Q. You have no memory at all that you can give us now about the meeting of yourself, a paid Communist Party functionary, [3366] with the man who was to be the district organizer for this whole district?

A. Mr. MacInnis, I attended probably a hundred or two hundred banquets, made probably several hundred propaganda speeches, went to hundreds and hundreds of meetings, and they all merge into one vast nightmare.

Q. So that you have no memory at all of these events?

Q. Then if I showed you another article re-

A. Not of that specific banquet, no, sir.

ferring to the same banquet, again within a day or so of its actual occurrence, that wouldn't refresh your memory further? A. I'm afraid not.

Q. You wouldn't dispute that date, would you?

A. I will take that date as being a date after Mr. Schneidermann arrived; sometime after.

Q. Tell me this: You say that you have no real recollection that the hall in which Schneidermann gave this speech was on Haight, but that you do have some vague memory concerning the word "Sokol Hall"?

A. Yes, I remember the meeting at Sokol Hall.

Q. Do you remember that name?

A. I remember the name Sokol Hall. I remember it was the place at which Mr. Bridges was present, because it rather surprised me to see him at an open hall of that type.

Q. You are positive that that was the [3367] place?

A. Yes, I am quite positive of that.

Q. Although you don't know where it was?

A. No, I'm afraid not; I can't locate it for you physically.

Q. Tell me this: Wasn't the meeting at which Schneidermann made his open speech at that time a public meeting held at the Scottish Rite Auditorium and advertised to members of the public?

A. Do you mind repeating that question? I didn't get the first part of it.

Mr. MacInnis: Would you read the question, please?

(Testimony of Lawrence S. Ross.)

(Question read.)

A. There may have been such a meeting held at which he made an open speech. I don't recall it.

Q. Well, the fact that he may have gone to this Seventh International Congress would not have been a secret thing, would it?

A. No, I don't think it was.

Q. Would any matter affecting the relationship, if any, between the Communist Party and the Soviet Government have been a secret thing at that time?

A. Yes, I should think so.

Q. Well, let me show you another issue of the same paper and see if this refreshes your memory as to whether those things were secret. I will ask you to look at the issue of October 31, 1935, the front page, and ask, if you will, look at the item I have marked in red (handing newspaper file to witness). [3368] Now, there was a banquet—not a banquet, but a meeting, at the Scottish Rite Auditorium held on the 7th day of November of 1935, was there not?

A. According to that article, yes, sir.

Q. Was that a meeting at which Bill Schneidermann, district organizer of District 13, was the main speaker?

A. According to that article, yes, sir, was to have been the main speaker.

Q. Was that date, November 7, the anniversary of the Russian Revolution?

A. I assume so from that article.

(Testimony of Lawrence S. Ross.)

Q. I thought you were a paid functionary of the Communist Party and that all Communists were tied up with the Russian Revolution. You mean that date doesn't ring any bells?

A. Ringing bells is not the phrase. Let me explain something. Every year on or about November 7 the Communist Party held celebration meetings or propaganda meetings to observe the anniversary of the Russian Revolution. Those were held annually. Each one made no distinct impression upon me.

Q. Those were open meetings, weren't they?

A. They were open propaganda meetings to which the public was invited.

Q. And the meeting of November 7 at which Schneidermann was to speak was openly to celebrate the 18th anniversary of the Socialist construction in the Soviet Union? [3369]

A. Such is the phrase, but that wasn't the meeting at which he made a report on the Seventh World Congress.

Q. You don't remember whether or not you attended a banquet for Schneidermann?

A. No, I don't recall the occasion.

Q. If there was such a banquet when he came to San Francisco, about how many people would have been in attendance, according to your knowledge of the general trend of those events?

A. My best guess would be several hundred.

Q. Would there have been about 400 present at the banquet?

(Testimony of Lawrence S. Ross.)

A. Possibly. That sounds a little large, but that is possible.

Q. I will ask you to look at the paper of which you were editor, under date of October 31, 1935, page 2, and look at the article I have marked (handing newspaper file to witness).

A. I read enough to see what the purpose of the question is.

Q. Well, tell me, is it consistent with your memory that 400 persons would have been present for the banquet for Schneidermann?

A. I would say, Mr. MacInnis, that any number of people reported to be present at a Communist meeting in a Communist newspaper would be at least slightly exaggerated.

Q. Oh, that was one of the matters of distortion of fact in which you engaged as the editor of this paper?

A. That is one of the usual traits of newspapermen in reporting any campaign in which the newspaper is interested. I think [3370] most newspapermen slant the news in a campaign in which the newspaper is vitally interested.

Q. You do? A. Oh, yes.

Q. This was your newspaper?

A. No, sir, the Communist Party newspaper.

Q. You were the editor of this paper, weren't you? A. I was.

Q. And if there was any distortion, it was a distortion had either under your instructions or with your consent?

(Testimony of Lawrence S. Ross.)

A. I would say there was an exaggeration of numbers.

Q. Well, was it a distortion to say that you were among the two principal speakers at the banquet?

A. If that is what that report says, I do not dispute the fact.

Q. That isn't a distortion?

A. No, sir, I don't think so. The distortion merely lies in the number reported present in order to gain more prestige.

Q. Why do you draw the line, if you have absolutely no memory at all as to these events, you are nevertheless able to state that one part of the story in your paper is a distortion and the other part is not?

A. That is always so. You will find that in most every story.

Q. Every story that you write?

A. I wouldn't say that, no, sir.

Q. Almost every? [3371]

A. I don't know. I am not prepared to weigh the mathematical precision of distortion against fact.

Q. What would it be? Say 99 stories out of 100 would have some distorted facts in them, or would it be a larger percentage?

A. I think my answer would have to be what it was this morning: that every story was slanted to raise the prestige of the Communist Party wherever possible.

Q. Well, did you say that the attendance of Schneidermann at the Seventh World Congress was a secret or confidential matter among the members of the Communist Party?

A. No, sir, not after he returned.

Q. Was that a matter freely disclosed to the public in San Francisco?

A. The public could have had access to it by reading the Western Worker, I think.

Q. In other words, you wouldn't dispute the fact that Schneidermann himself wrote an article about his attendance at the Seventh World Congress?

A. He may have.

Q. Well, is there any doubt in your mind that he did?

A. I am not particularly interested.

Q. Well, Mr. Ross, I think you are to answer questions; it is not an issue of whether you are interested or not.

Mr. Donohue: I think it is, if your Honor please. He states he has no interest whether he did or did not. And I [3372] frankly say to your Honor I don't know what bearing upon the issue here there is as to whether Mr. Schneidermann made a public report or not as to the conference in Moscow.

The Court: Overruled.

Q. (By Mr. MacInnis): If I showed you the paper with the article by Schneidermann with that title, would that refresh your memory as to the fact that he did write such an article?

(Testimony of Lawrence S. Ross.)

A. I am not disputing that he did. He may very well have, probably did.

Q. You were the editor of the paper?

A. Yes.

Q. Tell me this: Do you remember anything that the paper contained?

A. Not specifically. Very vaguely. As I said before, I made a decided attempt to blot all that period out of my memory after leaving the Party.

Q. And you can't remember, as you say, anything that your paper, the Western Worker, specifically contained?

A. The Western Worker was an organ of the Communist Party, Mr. MacInnis. When I blotted out the Communist Party and its activities from my memory, or tried to, I blotted out the Western Worker.

Q. By the way, do you write editorials for the cotton trade journal?

A. I write one out of three. [3373]

Q. And do you review with other editorial writers on the Cotton Trade Journal the editorial material?

A. No, sir. The other editorial material is more or less technical, relating to processing and growing of cotton, about which I am not yet an expert. I read them and see that they are well written, and let them go through.

Q. Did you write the editorial bearing date about two weeks ago in the Cotton Trade Journal recalling the days when farm workers would work for $1 a day? A. No, sir.

Q. You didn't write that? Did you say that the Cotton Trade Journal was not an anti-labor paper? A. Yes, sir.

Q. By the way, the cotton industry is not highly organized so far as labor unions are concerned, is it?

Mr. Donohue: I object, if your Honor please. That is another field we do not have time to pass on.

Mr. MacInnis: I will confess that that is a collateral matter, your Honor, but this man stated under oath that the Cotton Trade Journal was not an anti-labor paper. It would be harder to find a journal in the whole United States which represented an industry in a region where workers are not even allowed to organize.

Mr. Donohue: Well, is that a statement of evidence by Mr. MacInnis? [3374]

Mr. MacInnis: I will bring copies of the paper here.

The Court: Objection sustained.

Mr. McMillan: May that statement be stricken out, may it please your Honor? Mr. MacInnis is doing the testifying.

Mr. MacInnis: I will offer to bring the paper if there is any doubt as to the existence of the editorial I mentioned.

The Court: That editorial would have no material bearing upon this controversy and would not aid or assist the Court or jury in determining any fact material to this issue. Accordingly, the jury is instructed to disregard the statement of Mr. MacInnis. [3375]

Q. (By Mr. MacInnis): Mr. Ross, you were asked by the prosecutor for the Government if there were any security measures at this place you say was called Sokol Hall when you went into the meeting, and among other things you said that you went alone to the meeting, is that true?

A. Yes, sir.

Q. And that there was a man standing outside the door? A. At the entrance, yes, sir.

Q. And you paused in front of that man, did you? A. I nodded to him in recognition.

Q. And you then entered?

A. I beg pardon?

Q. You then entered? A. Yes, sir.

Q. There were no bars or locks upon the door to the building? A. No, sir, none that I recall.

Q. Was it a single door or a double door?

A. I am afraid I can't tell you.

Q. Oh, Mr. Ross! Didn't you tell us that you and Mr. Kaiser were out there the other day and that you put your nose against the pane and looked in but found the doors were locked and then went away?

A. Mr. MacInnis, if it had been my purpose to record facts which I didn't myself remember, I would have had a paper and a notebook and taken notes about the size of the door, the appearance, [3376] its structure. That wasn't my purpose.

(Testimony of Lawrence S. Ross.)

Q. Without such notes you wouldn't be able to tell us whether the door in front of which you stood the other day was a double door or a single door?

A. I am afraid not. I didn't take very much notice of it.

Q. Was it a solid door or was it a door made of glass? A. I couldn't tell you that.

Q. By the way, Mr. Ross, has anybody instructed you not to be specific upon any place or dates, for the reason that if a person in your position was to become specific, the defense would readily prove otherwise?

Mr. McMillan: That is purely argumentative, may it please Your Honor.

The Witness: I don't mind answering.

The Court: It is argumentative, but I will allow it.

A. No, sir, my regret since coming here has been that I could not be more specific. I wish I could be.

Q. Well, now, going back for just a moment on another facet of the matters which you say did remain in your memory in spite of this iron curtain that you have pulled down over the past, let me ask you this—

Mr. McMillan: May that be stricken out?

Mr. MacInnis: The witness said he pulled a curtain over the past.

The Court: He did not say "iron" curtain. You added the [3377] "iron" curtain.

Mr. MacInnis: I guess that is a colloquialism of mine; I get it from the newspaper.

The Court: Let it be a curtain.

The Witness: "Blind" is the word I used.

Q. (By Mr. MacInnis): Did you draw a blind?

A. Drew a blind.

Q. All right. This blind, whether it was of metal or otherwise, let me ask you this: At this meeting at the room that you say was 16 feet in length, about, and I don't know how wide, on a street that you don't remember in an apartment that you couldn't identify when you went around with Mr. Kaiser, you say that a man named John Schomaker was present? A. Yes, sir.

Q. And in the matter of this Sokol Hall incident, you say John Schomaker was present, don't you? A. Yes, sir.

Q. And the meeting taking place later, I think the last incident that you purported to narrate, at 121 Haight Street, you said that John Schomaker was there, too? A. Yes, sir.

Q. Now, John Schomaker wasn't a delegate to the national convention of the Communist Party in 1936, was he?

A. Not that I can remember. He may have been. I don't recall that he was one. [3378]

Q. You don't remember one way or the other?

A. No, sir, I don't.

Q. You say he may well have been?

A. He may have been.

Q. Have you read over the testimony of John Schomaker in this case? A. No, sir.

Q. Well, you have been told, haven't you, that

(Testimony of Lawrence S. Ross.)

John Schomaker testified he never heard of Harry Bridges under this name of Rossi?

A. No, I haven't been told.

Q. You haven't been told that? A. No, sir.

Q. Well, have you any memory one way or the other as to whether or not John Schomaker was a delegate to that convention in 1936?

A. I don't recall his having been one.

Q. Does that mean that you have no memory or that you have a definite recollection that he was not there?

A. It means I have no memory of his being there or not being there.

Q. You have no memory one way or the other?

A. That's correct.

Q. Well, John Schomaker, you say, was at the meeting in 121 Haight Street in the later fall of 1936? [3379]

A. I believe it was in the early fall of 1936.

Q. Well, in the fall?

A. In the fall some time, yes, sir.

Q. You couldn't put the date in months, though, could you? A. No, I am afraid not.

Q. Could you tell us whether it was August, September or what?

A. It would be purely a guess. I would say it was after August, certainly.

Q. And the Communist Party convention in New York that year took place from June 24th to June 28th, didn't it?

A. I don't recall when it ended. I recall the date it started.

(Testimony of Lawrence S. Ross.)

Q. As being June 24th?

A. June 24th, yes, sir.

Q. So that, at any event, the meeting of which you told us that No. 121 Haight Street—when John Schomaker was present, took place a little while after that Communist convention in June?

A. Yes, sir.

Q. And you say that Schomaker was there and Bridges was there at this meeting?

A. Yes, sir.

Q. Well, now, didn't Bridges say in the presence of John Schomaker at that meeting, "Why, back in New York under the name of Rossi I was elected to the Central Committee of the Communist Party"? [3380]

A. I don't recall such a statement by him, no, sir.

Q. You don't think he said that in Schomaker's presence?

A. I don't know whether he did. I certainly don't recall it.

Q. Is the Central Committee a rather important phase of the Communist Party?

A. Top brass.

Q. Top brass. And a man who would be on that Central Committee would be a man in an important position, wouldn't he?

A. Yes, within the party, yes, sir.

Q. How long did you say that you were in New York for that convention?

A. Several days. I think it was possibly the better part of a week, I am not quite sure of that.

Q. And by what means did you return from New York to San Francisco?

A. I assumed I returned by bus, because I went out by bus. But I don't recall the return trip.

Q. Do you remember who was with you?

A. Not on the return trip, no, sir.

Q. You don't remember anything at all?

A. It is just completely blank.

Q. That is something that you, as you say, have pulled down the blind on?

A. That was included, I think.

Mr. MacInnis: Pardon me a moment, Your Honor. [3381]

Q. Now, how many delegates from California went to the national convention of the Communist Party?

Mr. McMillan: That has already been asked and answered.

A. I don't know the exact number.

Mr. MacInnis: Did you have something you wanted to say, Mr. McMillan?

Mr. McMillan: Yes, I have. I wanted to say to Your Honor, but I did think it might be too time-consuming, that that question has already been asked and answered.

Mr. MacInnis: I will be glad if that is pointed out to me, Your Honor. I haven't even come to that.

The Court: I think he said "ten."

Mr. MacInnis: On direct examination.

(Testimony of Lawrence S. Ross.)

The Court: It may be. Proceed.

Q. Would you answer that question?

A. I don't know the exact number. I would say perhaps ten or so. That would be hard to say, would be hazarding a guess.

Q. Did you say that Anita Whitney of California was a delegate? A. I believe so.

Q. Did you say that Schneidermann was a delegate? A. Yes, sir.

Q. Did you say a man named Leach was a delegate? A. Named what, sir?

Q. Leach. A. Yes, sir, John Leach. [3382]

Q. And you said you were a delegate, did you?

A. Yes, sir.

Q. And were there about six others, six or seven?

A. Six or seven or eight. I can't give you the precise number.

Q. And you say that John Schomaker might or might not have been among those?

A. That is correct.

Q. But you don't know one way or the other?

A. I don't.

Q. You do remember that the convention was held at the Manhattan Opera House in New York?

A. Yes, sir.

Q. Now, when the voting was had for the Central or National Committee of the Communist Party, were the names of the candidates written down on any paper and handed to the delegates who were present?

A. I have a memory, although not a very defi-

(Testimony of Lawrence S. Ross.)

nite one, of a paper being handed around to the various delegations with names of candidates on it. I believe that each delegation proposed its own list of candidates for the National Committee.

Q. Now, would those lists have been hand written or typewritten?

A. I couldn't say, sir.

Q. You couldn't say one way or the other?

A. No, sir.

Q. Would it be both? [3383]

A. I wouldn't see the need for a typing and handwriting. I don't know.

Q. Well, were you instructed as a delegate in advance as to whom you had to vote for, or did you have a free choice?

A. There was no free choice.

Q. You had to vote for the persons whose names were on some list that was given you?

A. Every one voted by acclamation for a list of candidates whose names were read out from the platform.

Q. Did you have any list of those names at all?

A. I think a list was handed out to each delegation, containing the candidates that each delegation submitted for election.

Q. Well, then, when the members of the Central Committee were actually elected, was there any list made of their membership? A. No, sir.

Q. No list of any kind was made?

A. Not that I can recall, no, sir.

Q. Well, you were at that time, of course, an official and a paid functionary of the Communist Party and you had been for four or five years?

A. Yes, sir.

Q. And don't you know what the custom was?

A. I would say the custom is that no list is made of an elected group such as the Central Committee.

Q. Well, wasn't there a list made and transmitted immediately [3384] to the Russian secret police, the NKVD?

A. Are you serious in that question?

Q. Well, I want a serious answer.

A. I wouldn't be surprised.

Q. Well, then, you thought I was serious?

A. Not at first, but you may have been.

Q. Did you get the nod that Mr. Crouch testified to that effect?

A. I don't know. I haven't read Mr. Crouch's testimony.

Q. You haven't?

A. Mr. Crouch probably knew things I wasn't aware of.

Q. Yes. When you were in New York, did you attend all or most of the sessions of this national convention of the Communist Party?

A. Yes, sir, I assume I did.

Q. And did you make reports to the paper of which you were the editor?

A. I don't recall having made any, no, sir. I may have.

Q. Well, was anyone from the Western Worker in New York covering the convention other than yourself? A. No, sir.

(Testimony of Lawrence S. Ross.)

Q. And did you write about the convention when you returned?

A. I don't recall that I did. I may have. I wasn't there, as a reporter, but as a delegate.

Q. Now, let me see if I can refresh your memory as to those [3385] matters, if you will bear with me a moment. Well, let me ask you this before I find the place I am looking for. Was the 1936 convention of the Communist Party the first of such conventions to which the public was invited?

A. I don't recall the public having been invited to the convention. It was a delegated affair.

Q. Was any part of the convention broadcast over the radio?

A. Possibly. If any propaganda speech was made for public consumption, it may have been.

Q. Do you have any such recollection?

A. I believe the concluding session was a public session at the Madison Square Garden. It was a political rally, rather than a convention business session.

Q. I will ask you to look at the Western Worker for Thursday, June 25th, and ask you whether or not its contents on the column I have marked in any way refreshes your memory (exhibiting to witness).

Now, does the material just now shown you refresh your memory in any way?

A. Yes, that was an open political meeting held at Madison Square Garden, not a business session of the convention.

(Testimony of Lawrence S. Ross.)

Q. And was there a radio broadcast?

A. I believe so, yes.

Q. And that broadcast was carried to the Pacific Coast?

A. According to that, yes, sir, a broadcast of Mr. Browder's [3386] speech as presidential candidate.

Q. Of the Communist Party? A. Yes, sir.

Q. Do you have any memory as to how many delegates in all were present at that convention?

A. It would have to be a rough estimate. I would say several hundred.

Q. Would 750 be a fair answer?

A. There might have been that many. If I were to guess now, I would say closer to 500, possibly. I don't know.

Q. Well, were you at the time of that convention engaged in any political campaign yourself?

A. I may have been; I don't recall.

Q. Do you have any memory on that subject?

A. At the exact time of the convention? No, I am afraid I don't.

Q. Do you want to look at your paper? I assume you were still editor in June, June 29, 1936.

A. Yes, sir.

Q. And going behind this blind, why, I will ask you to read the column I have marked and see if it refreshes your memory. (Exhibiting to witness) Is your memory now refreshed as to the material in question, asked of you?

A. I accept that statement as being the fact, that

(Testimony of Lawrence S. Ross.)
I was then a [3387] candidate for Congress, but my personal memory is not refreshed.

Q. You have no memory yourself?

A. No, sir. I know I ran for Congress during that year. It must have been at that period.

Q. Now, I see that the Western Worker, in the issue I just showed you, carries the dateline "New York." Would that indicate that the article was written by you?

A. Not necessarily, no, sir.

Q. There was no other writer, you say, for the Western Worker in New York except yourself?

A. No, sir, but it might have been written here with a New York dateline.

Q. You mean that would be another distortion or deceit?

A. No, that isn't uncommon practice, Mr. MacInnis.

Q. Pardon me?

A. That is not an uncommon practice in rewrites or any other form of story, to give it another dateline.

Q. You mean that ordinary newspapers do that?

A. Oh, yes.

Q. Write local stories and put a dateline from some other city?

A. Not if they are local stories, no, sir.

Q. But they engage in the practice that you ascribe?

A. Sometimes, to conceal the source of origin of a story, in order to protect an informant, it has

(Testimony of Lawrence S. Ross.)

been known practice to give it another dateline.

Q. Well, now, would that have been the reason here?

A. Not necessarily, no, sir; I should think not.

Q. Well, was this convention reported in the ordinary press?

A. I don't know. It may have been. Probably was.

Q. Actually, it was covered, and all the press was invited, isn't that true?

A. I don't believe I quite understand your question.

Q. Members of the press were present at the Communist convention in 1936?

A. I don't recall they were. They may have been at one session, possibly. There was a propaganda speech made.

Q. Well, if I told you that there had been produced here in court with a previous witness an issue of the New York Times, stating that this was the first convention of the Communist Party to which the public and members of the press had been invited, would that refresh your memory?

A. For all sessions, Mr. MacInnis?

Q. So the paper said. A. All sessions?

Q. I can't say if the phrase "all sessions" was there.

A. They may have been invited for one session, if any propaganda speech was made.

Q. But not otherwise? A. Pardon?

Q. Not otherwise? [3389]

(Testimony of Lawrence S. Ross.)

A. I wouldn't think so.

Q. Well, now, do you accept the statement that the convention of 1936 began upon the 24th of June and ended upon the 28th of June?

A. I am sure it began on the 24th of June. I can't be certain of the ending date. It was several days later. The 28th sounds reasonable.

Q. If that date appeared in your paper, the Western Worker, would you accept that as being a fact? A. I wouldn't dispute it.

Q. Pardon me? A. I wouldn't dispute it.

Q. Suppose, to refresh your memory, if possible, I show you the issue of Monday, June 29th, on page 2. I think I showed you the first page before. And I will ask if you will look in the region that I have marked in red (exhibiting to witness).

Now, is it true that the final session of this ninth convention of the Communist Party was to be held on the 28th of June, a Sunday?

A. I believe so, yes, sir.

Q. Is it true that on that day a new National Committee of the Communist Party was to be democratically elected, as suggested in this paper?

A. The Central Committee of the party was elected at a closed session of the convention at another hall. [3390]

Q. Pardon me?

A. The Central Committee of the party was elected at a closed session of the convention, not at Madison Square Garden.

(Testimony of Lawrence S. Ross.)

Q. No, but was it elected upon Sunday, the last day of the convention?

A. I don't think so, no, sir.

Q. Do you think it was the day before?

A. All I can be certain of is, it was not the first day of the convention. It may have been at any business session after that first day.

Q. Well, now, on that point, would your memory be refreshed by any article upon the order of business in that convention?

A. I would read what you showed me, Mr. MacInnis, and——

Q. Well, would there have been any reason in the Western Worker, upon the issue I have just now shown you, to place a false date upon that part of the convention?

A. I wouldn't think so, no, sir.

Q. So that if the Western Worker reported that on Sunday, the 28th, a new National Committee was to be elected, that was probably the date, wasn't it?

A. Of course the story was written, the story you showed me was written before the actual election, evidently, because the phrase "was to be" was used.

Q. Yes. Well, would your memory be refreshed if we came to an article taking place after the convention? [3391]

A. I don't know. I would be glad to look at it.

Q. All right. While I am looking for that particular date, I will come to another subject for just a moment. Can you tell us generally, or do you

(Testimony of Lawrence S. Ross.)

have any memory, as to what the program of the Communist Party was in that convention? What was the agenda?

A. You mean the order of business.

Q. Well, no. Suppose I put it this way: Most political parties at a convention make a statement of aims, which become the platform of the particular convention? A. Yes, sir.

Q. Do you have any specific memory as to what the platform of this convention was, and by "this" of course, I mean the convention of 1936 of the Communist Party?

A. Not specifically; only very generally. I believe the essence of it was building the United Front.

Q. Pardon me? Building a united front?

A. Yes, sir.

Q. What does that mean?

A. That is a phrase which was used by the Communist Party in an effort to get other organizations of workers, especially unions, to work along with it on specific campaigns. It was called the United Front on a specific issue.

Q. Well, now, was that a stated platform of the Communist Party at that convention, or is that just something that you [3392] believe to have been always the end of the Communist Party?

A. I think, if my memory serves me correctly, that that was a specific point, and perhaps the basic content of the platform, the building of the United Front.

(Testimony of Lawrence S. Ross.)

Q. Well, now, if there appeared in the paper of which you were editor a statement of the platform of the Communist Party of that year, 1936, would that statement of the platform be accepted by you as correct?

A. As the platform of the party for that year, yes, sir.

Q. Well, weren't these the aims as stated of the Communist Party of the year 1936?

Mr. Donohue: If Your Honor pleases, except to waste time, I can see no purpose of inquiring into the Communist Party platform in 1936. It is not in issue.

Mr. MacInnis: I think—it is not a long matter, Your Honor.

The Court: All right, go ahead.

Q. (By Mr. MacInnis): Now, weren't these the stated platforms of the Communist Party? First—this is 1936, recall—first, "Put America back to work, provide jobs and living wages;" second, "Provide unemployment insurance, old age pension and social security."

Do you remember that last phrase?

A. That strikes a familiar note, yes, sir.

Q. 1936, of course, was a year which preceded any of the legislation of President Roosevelt for unemployment insurance, old [3393] age pensions and social security?

Mr. Donohue: I object to the question. I don't think we can take judicial notice of that fact, if Your Honor pleases. [3393-A]

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: I think that that certainly is a matter of which the Court can take judicial notice. I can't think of anything more historic, your Honor, in the history of our country except some of the more historic pronouncements of Mr. Roosevelt.

Q. Was the third platform of the Communist Party to save the young generation? Does that cross your memory?

A. That is sort of a general propaganda trait of the Party.

Q. To provide jobs for young people through the National Youth Administration?

A. Very possibly.

Q. Was the fourth to free the farmers from debts and tax burdens and foreclosures of mortgages? A. That sounds quite likely, sir.

Q. It was advocated that the Government of the United States pass a law granting a moratorium upon mortgage debts of this character?

Mr. Donohue: Object to that testimony of Mr. MacInnis.

The Court: Objection sustained.

Q. (By Mr. MacInnis): Was a further program to request that the income taxes be imposed according to the wealth or income of people in our country? A. Quite possibly.

Q. And a sixth one to request to defend and extend democratice and civil liberties? **[3394]**

A. That is quite possible.

(Testimony of Lawrence S. Ross.)

Q. And a seventh one, full rights for the Negro people? A. That also is possible.

Q. And an eight, a request to keep America out of war? A. I do not dispute it.

Q. Do you remember any other phases of the platform of the Communist Party?

A. No, sir; but you can see why so many people are taken in by the Communist propaganda.

Q. This was your paper, and anything that you labeled propaganda appeared under the masthead of yourself as editor, isn't that right?

A. That has the official stamp of approval of the Communist Party; it was a national platfrom, not written by me, Mr. MacInnis.

Q. I am not inquiring as to who asked you to commit these sins of deception; I am asking you merely if you were the one who committed them. Isn't that right?

A. I published or had published the platform of the Communist Party political organization.

Mr. MacInnis: May we have about a five minutes' recess, your Honor? I am looking for one article. I will go to some other subject.

The Court: It is about five minutes to four. I think we have had a long day. If you desire, we can take an [3395] adjournment until tomorrow morning.

Mr. MacInnis: Thank you.

The Court: Ladies and gentlemen of the jury, we will adjourn court until tomorrow morning at ten o'clock. And in the interim, may I again admonish you not to discuss the case under any conditions, nor suffer any person to converse with you on any subject of the trial, nor to form or express an opinion hereon until the case is submitted to you.

(Thereupon an adjournment was taken until Friday, January 6, 1950, at 10:00 a.m.) [3396]

Friday, January 6, 1950—10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Lawrence Ross, heretofore sworn.

LAWRENCE S. ROSS

resumed.

Cross-Examination
(Continued)

Q. (By Mr. MacInnis): Mr. Ross, one of the things you told us about coming out of your memory of the past that I thought might be of interest was this: The moment you joined the Communist Party you became a paid functionary in 1932. Is that correct?

A. Possibly not the moment; in fact, the moment would be inaccurate, but very soon after.

Q. In other words, you were recruited like any other person in the Communist Party, but at least almost immediately that Party put you on salary as a paid worker?

(Testimony of Lawrence S. Ross.)

A. Not very long after I was recruited.

Q. Did you have some special experience that enabled you to be fitted for that kind of job?

A. As I recall it, the first thing I was asked to do was to help write propaganda leaflets because of my newspaper experience for the Communist Party, for the International Labor Defense. [3397]

Q. Well, as I understand it, from the testimony you gave here under oath, the experience of your life in business or in work had been a newspaper experience? A. Yes, sir.

Q. Now, you told the Court and jury on the first session of your testimony under oath that after you finished school you went to New York; is that true?

A. Yes, sir.

Q. And then you were asked by the prosecutor, "And were you employed in New York?" and your answer under oath was, "I was employed in New York and other towns near by on newspapers," and then you proceeded to name some of the newspapers—— A. Yes, sir.

Q. ——on which you had worked, carrying yourself up to late 1931; is that true?

A. That is correct, sir.

Q. Well, now, was your experience as a working man from 1923 up to 1931 exclusively that of a newspaper worker or reporter?

A. No, sir; mainly.

Q. Did you tell the gentlemen who represent the Government in this case all of your employment?

(Testimony of Lawrence S. Ross.)

A. All of the main employment that I had, yes, sir. I can't recall every specific job.

Q. So that before you had been sworn and answered questions under oath, you had already divulged to the men representing [3398] the Government what your various employments had been?

A. Yes, the general nature of my employment; not every specific job, I don't believe.

Q. You had told them what you were going to say under oath on the stand, had you?

A. I had told them the facts.

Q. In 1924, let us say, which would have been the year when you were 21 years of age—is that correct? A. That is correct.

Q. You worked as a seaman, did you not?

A. Yes, sir.

Q. On the Luckenbach Lines?

A. Correct, sir.

Q. You didn't inform the jury of that when asked under oath by the prosecutor to tell about your employments, did you?

A. No, sir, that was a very brief period.

Q. Had you pulled down the blind on that period of your life? It wasn't a very important period.

Q. You worked on the Andrew F. Luckenbach, did you not?

A. One of the Luckenbach ships, yes, sir.

Q. Did you work for Spencer Kellogg & Sons, an oil refinery?

(Testimony of Lawrence S. Ross.)

A. Yes, I believe I did for a short while.

Q. Did you tell the jury that when you were questioned? A. I hadn't recalled it.

Q. What were the circumstances of your leaving that employment? [3399]

A. I'm afraid I can't recall. I just left it; I left the job.

Q. In 1926, when you left that job, Mr. Ross, were you involved in the Sacco-Vanzetti defense in the East?

A. I don't think so. At that time I wrote certain publicity releases for the International Labor Defense, for the Pennsylvania-Ohio miners' relief, I think it was.

Q. You went to Wilkes-Barre, Pennsylvania, didn't you? A. Yes, sir.

Q. In what capacity?

A. As a correspondent.

Q. Didn't you go there as an organizer among the anthracite coal workers? A. No, sir.

Q. Weren't you sent there by William Z. Foster? A. No, sir.

Q. You weren't? A. No, sir.

Q. Did you ever tell anybody that you did?

A. No, sir.

Q. Now, you say that the period of time in which you worked as a seaman was unimportant and hence you didn't mention it?

A. That's right.

Q. But it is correct——

(Testimony of Lawrence S. Ross.)

A. I didn't think about it. [3400]

Q. Pardon me? A. I didn't think about it.

Q. Did it just slip your memory? A. Yes.

Q. That was your employment not only during 1924 but during 1925 as well, isn't that true?

A. No, sir, I don't think so; just a short period of time.

Q. Well, you were on a coastwise ship, were you not? A. Yes, sir.

Q. In 1924 didn't you belong to the IWW in San Francisco?

A. If that was the year. I first heard about the IWW on that ship from a fellow seaman and——

Q. I am not interested as to who told you about the IWW. Did you join the IWW here in San Francisco?

A. I went off the ship and took out a card, never did anything about it, never attended a meeting; I just destroyed the card later on.

Q. What was the IWW?

Mr. Donohue: I object, if your Honor please.

The Court: Overruled.

A. It was an organization of union men. I believe it stood for Industrial Workers of the World.

Q. (By Mr. MacInnis): And you were here in San Francisco in that year 1924?

A. If that was the year, I should say I was here about three days. [3401]

Q. Now, did your ship stop in Philadelphia, Boston, Portland and Seattle?

(Testimony of Lawrence S. Ross.)

A. That sounds right.

Q. Now, what was your employment during 1926 and 1927?

A. During either one or both of those years I believe I was in Newark, on the Newark Ledger, on the copy desk?

Q. Wasn't that in 1929?

A. I can't place it that accurately. I don't know. Somewhere around that period?

Q. What did you do in 1928, do you remember?

A. That may have been the year in which I wrote propaganda stories for the election campaign of the Communist Party in the Daily Worker. It may have been. I am not sure. Somewhere around that period.

Q. 1928? A. It may have been, yes, sir.

Q. Now, you didn't tell the Court and jury about that two days ago when the prosecutor asked you to tell what your prior employment was.

Mr. Donohue: I object. He wasn't asked that question.

Mr. MacInnis: Yes, Your Honor, he was asked the employment question. I will read it, so that the prosecutor may understand what he has done.

Mr. Donohue: Yes, read the question.

Mr. MacInnis: He begins with asking the man about his [3402] schooling, and he says, "And did you remain in Kentucky when you finished your schooling, or where did you go?" And the answer, "no, I went up north and east, northeast."

"Q. Where did you go?

(Testimony of Lawrence S. Ross.)

"A. I went to New York."

We have him out here in San Francisco in 1924. And "Were you employed in New York?" "A. I was employed in New York and other towns nearby on newspapers." And then he goes on for two pages to tell us about the newspapers and then he goes into the Communist Party in Los Angeles, a complete blind, shall we say, drawn upon the matters that come forth this morning.

Q. Now, you say that in 1928 you were engaged by the Communist Party in New York on the Daily Worker to do publicity or propaganda in connection with the election?

A. I think that was the year, yes, sir.

Q. What kind of an election was that, either local or national? A. I can't recall.

Q. You have no recollection? A. No, sir.

Q. But you were employed by the Communist Party?

A. I was employed by the Daily Worker.

Q. Daily Worker is the official organ of the Communist Party, isn't it? A. Yes, sir.

Q. And is owned by the Communist Party? [3403]

A. I think so.

Q. Yes. Well, now, a little earlier this morning I asked you if you had some special experience that fitted you for being hired as a paid functionary by the Communist Party the moment you joined in Los Angeles. You didn't give us that explanation, did you?

(Testimony of Lawrence S. Ross.)

A. The explanation really was my newspaper experience, my writing experience.

Q. I see.

A. Rather than anything particular I had——

Q. I see. But you didn't, until these matters were brought to your attention, choose to tell the Court and jury that in 1928 you had been employed by the Communist Party in New York?

Mr. McMillan: That is a very unfair question, that he refused to tell the Court and jury, may it please your Honor.

Mr. MacInnis: Would you read the question, please? I don't think I used that word.

(Record read.)

Mr. MacInnis: You see, the word is "choose," Mr. McMillan.

Mr. McMillan: Well, that is just as bad.

The Court: You might answer that, Mr. Ross, and make any explanation, in the light of that question, you desire.

A. Yes, sir, I have no objection to it. I answered the question as directly and as honestly as I knew how.

Q. Yes? [3404]

A. I am convinced that the reason for my having been put on as a paid functionary, Mr. MacInnis, was due mainly to the fact that I could write and had newspaper experience and in publicity work.

Q. Are you answering all these questions as directly and as honestly as you know how?

A. To the best of my ability, yes, sir.

(Testimony of Lawrence S. Ross.)

Q. In 1928 in the City of New York, did you have anything to do with the National Biscuit Company? A. No, sir.

Q. Does that phrase reopen anything in your memory?

A. No, sir, I can think of crackers and that is about all.

Q. Why, you were an agitation and propaganda director of the Communist Party in the National Biscuit Company in 1928, were you not?

A. I certainly don't recall that, sir.

Q. You don't recall it? A. No, sir.

Q. Did you do any organizational work for the Communist Party in 1928?

A. Not that I can recall, no, sir.

Q. What did you do for the Communist Party in 1928?

A. I wrote articles for the Western Worker—excuse me, Daily Worker on an election campaign that was then in progress. I was asked to go down and cover a situation in Wilkes-Barre, [3405] Pennsylvania, and that is about all.

Q. By the way, before you took the stand in this case as a witness for the Government, had you told those facts to the men representing the Government?

A. I may have. I don't recall. I don't recall all the statements I made to them. I may have.

Q. Well, you told them in the same direct and honest way that you are giving us your testimony today, everything you remembered, didn't you?

A. I gave them all the facts, to the best of my ability, in answer to their questions.

(Testimony of Lawrence S. Ross.)

Q. And did you tell them about this work for the Communist Party in 1928?

A. I really don't recall, but I certainly would like to know whether I did. I probably did, if I thought about it, yes, sir.

Q. So that if you did tell them, it was the choice of the government counsel not to bring out these facts as well as yourself?

A. I am not qualified to answer that question.

Q. Didn't you join the Communist Party in New York in August of 1927?

A. I think I did make out an application card and then dropped my membership.

Q. Did you tell that to the Court and jury two days ago?

Mr. Donohue: Oh, I object, if your Honor pleases. When we [3406] examined this man, we didn't attempt to get every detail of his life 24 hours a day. And I think that the impression or the inference that Mr. MacInnis is attempting to draw by this line of questioning is unfair. I object to the question.

The Court: Objection is overruled.

A. What is the question?

Mr. MacInnis: Will you read him the question?

(Record read.)

Mr. Donohue: I object, if your Honor please, on the ground he hasn't been asked the question. The record will so show.

Mr. MacInnis: I would like to bring out whether it is entirely the fault of the witness or the fault of the witness plus yours.

Mr. Donohue: Well, I will take the responsibility for not asking him the question, Mr. MacInnis.

Mr. MacInnis: Can you answer the question now?

The Witness: What is the question, sir?

Mr. MacInnis: Will you read it for the third time, please?

(Record read.)

A. I wasn't asked it.

Mr. MacInnis: Before you answer the preceding question, about whether or not you joined the Communist Party in August of 1927, you paused for several seconds before saying that you think that you made out an application. Is that something that you don't remember? [3407]

Mr. McMillan: Now, I don't know that he did pause, may it please your Honor.

Mr. MacInnis: Judge, how many of these gentlemen are to be permitted to make the objections at the same tim ? I am in the middle of a question, and I think I should be allowed to complete the question, however odious the answer may be to the government representatives.

A. Mr. MacInnis, I may have paused. I don't know. But the pause wasn't significant, except for this, that my work for the Communist Party at that time was largely a composition of perhaps adventure and idealism, and I dropped out of the party very

(Testimony of Lawrence S. Ross.)

shortly thereafter and the thing was very unimportant to me.

Q. In other words, as you sit there as a witness, you pick and choose and offer us the details that you think are important, but discard those which you think may not be?

Mr. Donohue: That is argumentative and I object to it.

The Court: It is argumentative, but I will allow it.

A. No, sir, that isn't so.

Q. Will you say that the reason you didn't offer us those details, if I understand you correctly, was that you joined the Communist Party in 1927 in New York as an adventure or as a form of idealism, and that it wasn't important?

A. The reason is that it was very unimportant in my life.

Q. Well, didn't you tell us that in January of 1932 when you [3408] joined the Communist Party in Los Angeles, according to the text offered on your direct testimony, that you did it for humanitarian or idealistic reasons?

A. Right, sir. I made out an application card at that time.

Q. Well, actually, didn't you stay in the Communist Party in New York until the year 1929?

A. Were you asking me a question? I am sorry.

Q. Yes.

Mr. MacInnis: Do you mind rereading it to the witness, please?

(Testimony of Lawrence S. Ross.)

(Record read.)

A. Possibly for a year. I am not sure. 1928, part of 1929. I don't recall. It was a short period.

Q. Now, two minutes ago, Mr. Ross, you told the Court and jury under oath that you made out an application blank, but did nothing about it. Now, you say you remained in for a year or more?

A. That was a technical statement, Mr. MacInnis. I was in the party technically. It meant nothing much to me, I didn't take the active part I took when I joined here, after having dropped out for several years, in 1932.

Q. You say that your membership in the Communist Party between 1927 and 1929 was only technical?

A. It made no impression on me, it was a lar[illegible] more or less.

Q. Something you didn't think about? [3409]

A. That's right.

Q. Something that had nothing to do with your ordinary life?

A. Well, now, evidently it did have something to do with my life because I was in it and I wrote stories for the Daily Worker.

Q. Why, you were paid by the Communist Party, weren't you?

A. Paid by the Daily Worker, which in essence was by the Communist Party.

Q. What else did you do for the Communist Party in that period of time?

A. I don't recall anything else.

Q. What was the circumstance under which, in

(Testimony of Lawrence S. Ross.)

January of 1929, you left the Communist Party?

A. I just sort of oozed out. I sort of oozed out. I lost interest in it and oozed out.

Q. Is that what you did, then, in 1937, ooze out also?

A. Well, that was a little slower process, sort of an eye opening process.

Q. Your eyes weren't opened when you oozed out in 1929? A. I am afraid not.

Q. Well, two days ago when you were on the witness stand under direct examination, didn't you remember that you oozed out of the Communist Party in 1929?

A. That had made no impression on me. I was in it for more or less of an adventure, and I went back to newspapering and it [3408] made no distinct impression upon me.

Q. When the prosecutor, who represents the Government of the United States in this case, asked you under oath to tell about your newspaper work in New York, why didn't you tell about your work on the Daily Worker in New York?

A. Well, for one thing the Daily Worker is not a legitimate newspaper job, as I saw it.

Q. It is a daily paper, isn't it?

A. It is a daily paper, but——

Q. And you made the distinction in your own mind when you were asked that question, that you would decide at that time that the Daily Worker was no a legitimate paper, and hence you would omit that and draw down that same blind that covers other things? A. No, sir, I wouldn't say that.

Q. In any event, you didn't offer the information to the Court and jury, did you?

A. No, I don't believe I gave them information of other newspapers on which I worked at that time.

Q. Pardon me?

A. I don't believe I gave Mr. Donohue the names of all the newspapers on which I worked at that time.

Q. Had you told Mr. Donohue or the men representing the Government that you had been employed by the Communist Party on the Daily Worker in 1928?

Mr. McMillan: That has already been asked and answered, may it please your Honor.

The Court: You might answer it again.

A. If I had recalled it at that time that I conferred with Mr. Donohue, I certainly would have told him, I don't now recall whether I did or did not.

Q. (By Mr. MacInnis): You say that the principal reason to explain your answers would be that you didn't give the names of any newspapers that you worked on at that time?

A. I say all of the newspapers. I gave those that I recalled.

Q. Now, Mr. Donohue asked you this question under oath, after talking to you, I suppose, about the experiences——

Mr. Donohue: I am not interested in his supposition, if your Honor please, and he ought not to make those statements.

Mr. MacInnis: I know you are not. [3412]

Mr. Donohue: I am personally not, no.

Q. (By Mr. MacInnis): Mr. Ross, had you talked to this prosecutor before you took the stand?

A. Yes, sir.

Q. And had you talked generally about the testimony which you were to give?

Mr. McMillan: That has already been asked and answered, may it please your Honor.

Mr. MacInnis: If the answer is a benign one, it will not hurt you gentlemen, I think.

Mr. Donohue: Oh, no.

Mr. Paisley: We have other things to do, Mr. MacInnis; so has the jury. Don't take up too much time.

Mr. MacInnis: Oh, don't be hurt.

Mr. Paisley: We want to get rid of this case sometime.

Mr. MacInnis: Would you read the question, please.

The Court: You have it in mind, Mr. Ross.

A. I think the question was did I talk to the prosecutor about the generally—was the question if I talked to the prosecutor about the testimony I was to give?. Is that the question? The answer is yes.

Q. (By Mr. MacInnis): So then you were asked the question by the chief prosecutor, "Can you recall now the newspaper or newspapers by which you were employed?" You understood that question, didn't you? [3413] A. Yes, sir.

(Testimony of Lawrence S. Ross.)

Q. And you understood you were under oath here? A. Oh, yes.

Q. And you understood that that phase of your life in which you engaged in deceit was a thing of the past, didn't you? A. Yes, sir.

Q. You understood, as you told the jury under oath, that you were the same Lawrence Ross in flesh as you were in the 1930s, but that you had a different spirit? A. Yes, sir.

Q. You understood that you were no longer deceiving anybody? A. No longer what?

Q. Deceiving anybody. A. Yes, sir.

Q. So then you answered under oath, "The New York Graphic; the Newark Ledger—the Newark, New Jersey Ledger; the Newark Bulletin, I believe was the name of the paper; the Newark Free Press; then on the Bridgeport Post—Bridgeport, Connecticut Post." That was the answer you gave under oath? A. I think so, yes, sir.

Q. You didn't offer the information that in that period of time in your life before you went to California you had been employed on the Daily Worker, a newspaper in New York, by the Communist Party?

Mr. McMillan: He already answered that question, your [3414] Honor.

The Court: Overruled. He may answer.

A. No, that paper slipped my mind. I think I can think of another one I worked on that I hadn't thought of at the time the question was asked.

Q. (By The Court): Another newspaper?

A. Yes.

(Testimony of Lawrence S. Ross.)

Q. What was the newspaper?

A. The Bulletin over in Newark.

Q. (Mr. MacInnis): I know about the Bulletin. You didn't think that those experiences formed the background for your employment immediately as a paid functionary for the Communist Party when you say you rejoined in Los Angeles?

A. No, sir, because my first work was writing propaganda leaflets; and it was my newspaper experience that was the deciding factor.

Q. And you had had the experience of being sent down to Wilkes-Barre, Pennsylvania, as a newspaper reporter? A. Yes, sir.

Q. For what paper?

A. The Daily Worker.

Q. Didn't you tell us about three minutes ago that you didn't consider the Daily Worker a legitimate paper? A. I still don't.

Q. But what was your intention, what did you want the Court and [3415] jury to believe a moment ago when you said you were sent down to Wilkes-Barre as a newspaper reporter?

Mr. Donohue: I object to the question as argumentative, if your Honor pleases.

The Court: Overruled.

A. I wanted the Court and jury, Mr. MacInnis, to believe the fa[illegible]

Q. (By Mr. MacInnis): Which facts?

A. The truth, Mr. MacInnis.

Q. The facts behind the blind?

(Testimony of Lawrence S. Ross.)

A. All facts.

Q. Didn't you think that that formed part of the background for your employment as a paid functionary for the Communist Party?

A. I think not. I think my newspaper experience primarily, and secondarily the fact that the personnel of the Communist Party at that time in Los Angeles was largely foreign-born, they wanted someone who could front for the Party openly.

Q. Now, in these discussions that you say you had either with Mr. Donohue or the other men representing the Government, did you tell them that you had joined the Communist Party in New York in August of 1927?

A. You asked me that before, Mr. MacInnis. If I thought about it at the time, I could have told them; if not, I am sure I didn't. There was no desire on my part to conceal it from the [3416] Government or conceal it from you.

Q. Well, when Mr. Barber came to see you in Memphis, Tennessee in March or April of 1949 and wrote out in his handwriting a statement which you later signed, did you tell him that you had joined the Communist Party in August 1927?

A. I would have to look at the statement, Mr. MacInnis.

Q. Did he tell you that he knew you had?

A. I don't recall that, sir. I don't recall that he did.

Q. Do you recall one way or the other?

A. No, sir.

(Testimony of Lawrence S. Ross.)

Q. Well, in any event, to come to another question, you understood when the prosecutor asked you, "When did you join the Communist Party and where?"—you understood exactly what he meant, didn't you?

A. Yes, I was sure he had reference to my membership in California.

Q. Why? Had he told you that?

A. No, sir; because the issues in this case are all in California as far as my connection with them are concerned.

Q. And you were assured by that question of the prosecutor that he intended that you should not tell of the New York membership but that you should restrict your answer to California?

A. No, sir. I didn't read the prosecutor's mind; I have no intention of doing so or of even attempting to do it.

Q. When you were asked that question you had reached again a [3417] point in your life where you were no longer trying to deceive anybody, is that true?

A. Yes, sir. My period of membership in the Party in California was a period that really meant something to me. I thought at that time—I was convinced, in fact, that I was doing the right thing; that I was engaged in a noble cause. The period back in New York was more of a lark, irresponsible for the most part.

Q. Well, Mr. Ross, do you mean by that that the period of your membership in the Communist Party

(Testimony of Lawrence S. Ross.)

in California was the period that really meant something in your life?

A. Yes, at that time it did.

Q. And that is why you remember it so well?

A. That is why I remember having been a member of the Communist Party here.

Q. That is the period of your life concerning which you told the jury yesterday you pulled down the blind? A. I tried very hard to.

Q. What did you pull down over the period of your life in 1926, '27, '28 and '29 in New York?

A. No attempt to pull anything down. That was twenty years ago, and facts and events faded from memory.

Q. So that when you were asked the question very directly, "When did you join the Communist Party and where?" by Mr. Donohue, who had talked to you, you answered, "In Los Angeles, in probably January, 1932, or February, 1932." That was your answer, wasn't it?

A. I expect that is so.

Q. And yet at that time you had been for more than a year a member of the Communist Party in the city of New York and you had been employed by the Communist Party on the Daily Worker?

Mr. Donohue: I object, if your Honor pleases. That is obviously argumentative. He has already so stated.

The Court: Overruled.

A. I had been for some years past, yes, sir.

(Testimony of Lawrence S. Ross.)

Q. (By Mr. MacInnis): What was your father's name? A. My what?

Q. Your father's name.

A. Sedon—S-e-d-o-n.

Q. Sedon what? A. Ross.

Q. Where did he live?

A. He isn't living now, sir.

Q. Where did he live? A. In Bell County.

Q. What was his occupation?

Mr. McMillan: Oh, may it please your Honor——

Mr. MacInnis: I have a purpose in this.

Mr. McMillan: Haven't we gone far enough in cross-examination? [3419]

Mr. MacInnis: I am not sure who this man is.

The Court: I think, not only with respect to this witness, but many of the witnesses who have been produced in this case, have been subjected to probably the most searching cross-examination of any case in which I have ever participated.

Mr. McMillan: Yes.

The Court: And I think that having gone this far, we might just as well go to the extent of finding out who his father was and his occupation. I will overrule the objection.

Mr. McMillan: May it please your Honor, the other day, very respectfully I asked your Honor to lay some limitation upon the extent of this cross-examination, and really, as I said then, with becoming diffidence on my own judgment and out of all respect, it has really begun to get interminable, and I really don't want to personally sit here until the

(Testimony of Lawrence S. Ross.)
frost is on the pumpkin and the fodder is in the shock.

Mr. MacInnis: Nor I.

The Court: I am content to remain, Mr. McMillan, and I am satisfied the jury is. There is no reflection on you at all. It is my duty to try this case as I see it and in accordance with my dictates. I have allowed the latitude of cross-examination for the purpose that I do not want any complaint registered hereafter or at any time that there was any curtailment of any examination of any witness either by the prosecution or by the defense. I will say for the record to counsel and to the jury that I have [3420] permitted cross-examination in this case to an extent far beyond any I have ever indulged so far as a trial court is concerned, but I am doing it avowedly, purposely, and I think judicially. I thank you for your observation. Proceed.

Mr. MacInnis: Would you read the question, please, to the witness.

(Question read.)

A. He was a small planter, farmer, for a while,—most of the time.

Q. (By Mr. MacInnis): When you joined the Communist Party in 1927 in New York, didn't you state that your father worked in a clothing factory?

A. I don't recall that, no, sir.

Q. Do you recall whether you did or did not?

A. He didn't.

Q. Was your father a member of the ILGWU—the International Ladies' Garment Workers Union?

A. No, sir.

Q. You are positive of that? A. Oh, yes.

Q. What was the date of your first marriage, Mr. Ross?

Mr. Donohue: I think, if your Honor please, that there are some personal privacies in a man's life to which he is entitled to guard even as a witness. [3421]

Mr. MacInnis: This is coming to a point upon which he gave testimony at the instance of the prosecutor.

Mr. Donohue: Every objectionable question Mr. MacInnis covers by telling your Honor he has a point. I haven't seen the point of any of them yet. Object to the question, if your Honor please. It obviously has no bearing on any issue before this Court.

The Court: It is true that there are matters intensely private to an individual, be he a witness or otherwise, and one of the most private, sacred, guarded matters are those involving family life or married life. Unless there be some definite purpose, Mr. MacInnis, unless you can disclose to me a very definite reason, I will sustain the objection. This man is not on trial for anything in his domestic life, nor should his domestic matters be dragged through the court or before the public.

Mr. MacInnis: I might say that your observation is very well taken about the sacredness of a man's private life. I have not endeavored to ask any questions of this man about his present marriage; that has nothing to do with this case. He has told us that he is separated from this other lady, he is divorced. It is no longer a sacred, family matter. It is no longer a matter protected by your Honor's observation. It has to do with another statement he made here under oath. I won't make any—— [3422]

The Court: Counsel, there are matters wherein I must rest some confidence in a lawyer. A lawyer is an officer of this court. We have discussed these matters before. And if you can state to me that you have some definite, objective purpose and will not transcend my observation, I will permit you to go ahead; but I don't want to run into blind alleys as has sometimes happened in the past.

Mr. MacInnis: I don't either. I don't want to be in the position of making some assurance and having you think later I took advantage of you.

The Court: Unfortunately. I have had to conclude in several instances that that situation prevailed, but I am still content to go along with sort of an abiding faith, and if you assure me, I will go along with you, that there is a definite, fixed purpose. If you haven't any——

Mr. MacInnis: I have.

The Court: If you haven't any, then I warn you, suggest to you not to launch into this field.

Mr. MacInnis: I have a very fixed purpose, your Honor.

Mr. Donohue: May I say, your Honor, that this witness testified on direct examination with respect to many matters directly concerning these defendants. He has been under cross-examination now for a day, and the cross-examination consists of repeated efforts to pry into this man's personal life. Now, whether this man was married before and divorced, and the [3423] circumstances of that marriage and divorce, can only be a purely collateral matter, and any answer which this witness has made to any question asked by Mr. MacInnis on that collateral matter, he is bound by it, he may not seek to impeach him on that question. And therefore I most respectfully say to your Honor that there can be no legitimate purpose in attempting to break down the testimony of this witness against these defendants by attempting to pry into his personal and private life.

The Court: We are approaching the recess period and you might disclose to me during the recess your purpose.

Mr. MacInnis: I would be glad to.

The Court: Then there will be no question——

Mr. MacInnis: However, I would rather disclose it to you. Possibly if I make this statement, I will be accused of something prejudicial to the prosecution.

The Court: Let us do it in private.

Mr. MacInnis: I would rather not allow opportunity for communication with the witness.

The Court: The inference, I think, is hardly well taken with respect to any observation of that kind. I will instruct the jury to disregard that remark.

However, my chambers are open and I shall indulge myself in conference with you.

Mr. MacInnis: I will visit you.

I am sorry; I thought your Honor was suggesting a recess. [3424]

The Court: All right; we will take the recess. It is a little early.

Ladies and gentlemen of the jury, we will take the morning recess, and again I admonish you not to discuss this case with any person nor form or express an opinion until the matter is submitted to you.

(Recess.) [3424A]

(The following occurred in chamber, outside the presence of the jury:)

The Court: Let the record show that counsel representing the prosecution, as well as the defendant or defendants, are before the Court in chambers, as a result of the colloquy between Mr. James MacInnis and the Court with respect to the purpose or purposes of the questions concerning the first marriage of the witness, Mr. Ross.

Mr. MacInnis: Well, now, purely——

The Clerk: Just a moment. May I add, if Your Honor please, that I have asked Mr. Hallinan to come in, and he said that Mr. MacInnis could fully represent him.

The Court: All right.

Mr. MacInnis: Purely to enlighten the Court

(Testimony of Lawrence S. Ross.)

upon the underlying bases of the question to which an objection was made, so that the Court may perceive that there is a legitimate purpose to the question, and that the question does not entail merely a desire to explore the past personal life of the witness, I want to make this statement. The witness now on the stand was produced by the Government and gave testimony under oath. Of course, upon that testimony an inquiry is allowed on cross-examination. The Court has indicated on this occasion, as he has on several other occasions, that he will allow complete latitude in cross-examination. The witness was allowed over objection from the defense to answer a question similar to [3425] questions posed to the previous government witnesses. That question was, in effect, "What was your reason for leaving the Communist Party?" or "What were the circumstances under which you left?" The witness answered, under oath, that the reasons were either his eyes were opened or that he gradually dropped out, that he saw that the Communist Party was led by selfish men who had their own ends at stake, and so forth.

Now, the purpose of the line of questioning into which I now embark is to show that that wasn't the man's reason at all, that that wasn't his reason for leaving the Communist Party. The matter of his leaving the Communist Party is inextricably tied up with the matter of his first wife and that is the purport of the questioning. If the questions make the witness look bad, I can't help it, and I can't apologize for it; but I wanted to tell His Honor in advance that the reason is completely tied up with the leaving of the Communist Party by this man. The circumstances of it——

The Court: Pardon me, Mr. MacInnis. The leaving in 1937 or 1936?

Mr. MacInnis: Yes, Your Honor. The time that he said that he was transferred from San Francisco to New York.

The Court: Yes, to New York.

Mr. MacInnis: And that he then just dropped out of the Communist Party.

The Court: And you say that part in San Francisco is [3426] inextricably woven in with his domestic life? Is that right?

Mr. MacInnis: I do.

Mr. Donohue: I think, if Your Honor pleases, Mr. MacInnis should make an offer of proof. What does he expect to prove by questioning this witness with respect to the circumstances? I assume that is in his mind.

The Court: There was some reference made the other day to matters of relief in New York City, and that the witness—and this appeared by inference, I think, from a question rather than by direct answer—that the witness caused himself to be transferred there by reason of someone being on relief and the importunities present were such that he decided to go back there. Is that about your position?

Mr. MacInnis: Well, that is not the direct purpose of this question. I take it that is ~~true.~~

Mr. Donohue: I think he should make an offer of proof.

Mr. MacInnis: I don't see why I should tell these gentlemen.

Mr. Donohue: Well, if Your Honor please, I want to say for the record that I am an officer of this court and I am sure that Your Honor has, with respect to every lawyer who is an officer of the court, a confidence in his integrity.

The Court: I have to have.

Mr. MacInnis: I am not trying to criticize them for that, Judge. [3427]

Mr. Donohue: It is not my purpose to brief or advise anyone of the substance of this conference.

Mr. Paisley: I have never had another lawyer on the other side of the case state directly—not insinuate—that I would run and prime a witness.

Mr. Donohue: And state it in front of the jury.

Mr. Paisley: I am not used to that kind of practice, Mr. MacInnis.

Mr. MacInnis: I have not had experience with lawyers like you who come out here from Washington and start insulting local attorneys, accusing them of misconduct. Mr. Donohue the other day complained to the Court that he wasn't receiving the ordinary courtesy from counsel. I can remember the start of this case, when we were exchanging the ordinary amenities and all of a sudden to my dismay I saw Donohue on his feet yelling that Mr. Hallinan had been ranting like a mad dog. And I can't forget those things.

Mr. Donohue: I don't want you to.

The Court: Well, gentlemen, I think probably we have gone a little bit afield.

Mr. McMillan: May I make this observation, may it please Your Honor?

The Court: Yes.

Mr. McMillan: Counsel has just stated he sees no reason for making an offer of proof and advising counsel for the [3428] Government of the nature of this proposed proof. Yet Your Honor will recall that he started to put the question in the presence of the jury, and the next step that was taken, he stated, was such a matter that he wanted to take it up with Your Honor. Now to me it is a most extraordinary situation, one of the most I ever saw, that counsel in a courtroom starts to ask a question before a jury, and upon objection being made, states to the Court that it is such a matter that he first wants to take it up with you, and you as a Court, and then steps in here and says he doesn't care to reveal the matter to counsel for the Government; when he was ready to put the question to the witness on the stand in the presence of the jury.

Mr. MacInnis: Right. That is not the point at all. I am asked a question and Your Honor indicated that he would overrule the objection. Your Honor then turned to me and said that in cases of this sort as well as in all cases the Court would have to repose some faith in the assurances made by counsel. I made the suggestion that I make a disclosure to Your Honor, having nothing to do with the propriety of the question as a matter of evidence because I know the question is proper, but only to assure Your Honor that my purpose was a direct one in connection with cross-examination—and not merely a purpose to intrude into the private life of the witness.

Now, there is the extraordinary thing. I could have gone right on, but I was willing to tell Your Honor exactly what I [3429] was going to ask. Now, these gentlemen come in here and they say, "How extraordinary!" They say, "Why doesn't he make an offer of proof?"

Mr. McMillan: May I interrupt to say: Is there anything extraordinary in making an offer of proof in writing or outside the presence of the jury? That is all counsel is asking here. You are asking to make an offer of proof.

Mr. MacInnis: That is what you do when an objection is sustained.

Mr. McMillan: Outside the presence of the jury.

Mr. MacInnis: Well,——

Mr. McMillan: Put it down in writing.

Mr. Paisley: What do you want to ask, Mr. MacInnis? Do you want——

Mr. MacInnis: May I attempt to proceed? Now, I asked for this meeting only to assure His Honor, not for any other purpose.

Mr. Paisley: You interrupted me before I could ask you the question.

Mr. MacInnis: Well, I am not interested in what you were going to say.

Mr. Paisley: I might not as well be here.

Mr. MacInnis: That's right.

Mr. Paisley: You not only interrupt the lawyers, but you interrupt the Court and the witnesses as well. You run roughshod [3430] over anybody.

Mr. MacInnis: Mr. Paisley, I will be here many years after you depart, and I get along very well in this community and I hope to get along with everybody. I don't intend to insult His Honor, Judge Harris, for whom I have had a great regard for years. I don't intend to do that. But I don't intend to have you telling the Judge that I am insulting him or interrupting him. I don't intend to do that.

Mr. Paisley: Well, do you admit that you have constantly interrupted the Court when the Court was talking?

The Court: Well, I think, gentlemen,——

Mr. MacInnis: I am not here to be interrogated by you.

Mr. Paisley: The record will show.

The Court: I don't think there is any need for any interrogation at this time. I say that very respectfully to you, as well as to counsel. The purpose of this meeting is to determine a single, solitary point at issue; and I have already indicated to the jury that any reflection by inference made through the statement of Mr. MacInnis that he would not make any disclosure that would provide an opportunity for government counsel to then bolster up their witness, of course, was not well taken, and I so instructed the jury.

Now, the Court has been placed in a position on several occasions, by reason of representations made by Mr. Hallinan as well as by Mr. MacInnis, wherein the Court found after being [3431] assured that certain matters would eventuate, that it appeared to the contrary, that the position taken by counsel was not sound, to the extent that is illustrated by—well, we will not illustrate it, the record will show the several instances.

Now, I feel that in a matter so delicate as the interrogation of a man's private life and the intrusion of ourselves into this man's private life, that we should have a showing, Mr. MacInnis, as to what eventually you intend to prove. I shall not foreclose you, if I believe it to be material. Admittedly, this man has placed himself on the stand to expose himself to a sweeping cross-examination. I am going to allow it. But I shall not intrude this case into the man's private life to his detriment or to his sorrow, unless it be a very material matter. Now, if you care to disclose it, I will rule.

Mr. MacInnis: I had intended fully to disclose the matter to Your Honor. I had intended actually to do that.

The Court: Well, have you any objection in the presence of counsel?

Mr. MacInnis: Well, I have. Of course, I will do it if Your Honor insists upon it, but I certainly would object.

The Court: What would be your reason, that you feel they would convey the information to Mr. Ross? Is that the feeling you have?

Mr. MacInnis: Well, Judge, I don't want to be accused of saying that. [3432]

The Court: Well, then, I will withdraw the question.

Mr. Donohue: Perhaps I may relieve the situation.

The Court: I am not intending to interrogate you or embarrass you, Mr. MacInnis.

Mr. MacInnis: I am not embarrassed by your Honor's question. I am perfectly willing——

Mr. Donohue: If your Honor please, speaking for the Government, I shall be perfectly willing to ask the Government counsel to withdraw and ask your Honor personally to determine, in your own good judgment, as to whether the offer of proof which Mr. MacInnis makes to your Honor is such as would permit him to ask the question and the answer to be allowed.

The Court: You are willing to withdraw, without prejudice? And you waive any error or claimed error?

Mr. Donohue: I waive any claimed error.

The Court: In connection with my interrogating Mr. MacInnis?

Mr. Donohue: Yes, your Honor.

Mr. McMillan: I wish to leave the thought, when I retire, may it please your Honor: As the Supreme Court has said, a witness upon the stand is unable to protect himself and it is necessary that the witness on the stand be protected, as the Supreme Court said, from any humiliation, from any harassment, and, as it is provided in the laws of the State of California, that he can not be asked degrading questions or questions that [3433] tend to degrade him. I wish to leave that thought.

Mr. Paisley: May I say this, your Honor: Mr.

MacInnis probably doesn't believe it, but I was somewhat impressed with his argument to you that since the witness gave him reasons for leaving the Communist Party, I think he should have the right to say, "Now," in effect, "that was not your reason; your real reason was because your wife wanted you to leave; for instance?" I think that would be a proper question.

Mr. MacInnis: I think he sees the point.

Mr. Paisley: I leave that thought with your Honor. I know your Honor knows the law.

(Whereupon counsel for the Government retired from the chambers.)

The Court: The Clerk of the Court may remain. Otherwise——

Mr. MacInnis: Of course,——

The Court: Mr. Goldsmith, you can excuse yourself, too.

(Whereupon law clerk Goldsmith retired from chambers.)

Mr. MacInnis: Is this for the record, your Honor?

The Court: There will have to be a record. Otherwise—May the record show that Government counsel has now been excused, Mr. Mitchell is here as Clerk of the Court.

Mr. MacInnis: Well, your Honor, I will be very glad to tell you exactly what I had in mind. Your Honor may have followed, and I am sure you did, with attention, the questions [3434] put to the witness during the last session. The disclosures that certain matters in his life had not been developed by him when he was questioned by the government counsel, that is. The source of that information is not a devious one; at the time of the divorce of Mr. Ross from his first wife, I am informed the wife went to the Hearst papers in New York, and I have been given what purports to be a summary of the contents of those papers. It may even have been in the American Weekly. And I am informed, and I intend to ask the witness, if this was not the situation—which apparently upon information was the situation—that Ross was living here in San Francisco, as he said, separated from his wife, as the editor of the Western Worker, a paid job; that he at that time abandoned his wife and children, by inference, and that his wife had gone to the Communist Party in New York and made the complaint; and that upon her complaint, Ross was called to New York and his job taken away from him in the Communist Party because he had wilfully deserted and refused to support his children; that the Communist Party members apparently told Ross——

The Court: Now the dates? Pardon me, Mr. MacInnis. The date or dates? Is that '36?

Mr. MacInnis: '37, your Honor.

The Court: '37.

Mr. MacInnis: Directly he left San Francisco for New York, directly when he left the Communist Party. And that the [3435] Communist Party people apparently told Ross that unless he would support his wife and children, he could no longer work for the Communist Party; and that at that time his job was taken away from him by the Communist Party and that he then drifted out; that his leaving the Communist Party was not due to any weakening, but due to his job being taken away upon the wife's complaint.

The Court: Pardon me. What is the source of your information?

Mr. MacInnis: Supposedly,—I am trying to get the clippings airmailed out here—articles I suppose based upon interviews. His wife went to the Hearst papers at the time of their divorce. This man was apparently well known in some circles at the time, and there was some big expose in the Hearst papers at the time of his divorce, and the wife apparently said these things.

Now, I certainly would have a right to ask him if those are not true.

The Court: Now, this is to demonstrate that these declared purposes in leaving the Party were not enlightenment, nor that the dawn came, but rather that through these internal affairs and discord and lack of harmony in his marital life with his wife that——

Mr. MacInnis: No, merely being ordered to support his children. [3436]

The Court: Ordered to support the children.

Mr. MacInnis: And that the reason he gave here under oath, like some of the other things he has said, are not the fact.

The Court: All right, I think I will allow it. I think I will allow that.

Mr. MacInnis: Thank you for your time, Your Honor. I appreciate that.

The Court: That is all right.

(Whereupon the hearing in chambers was concluded, a brief recess was taken.) [3437]

Q. (By Mr. MacInnis): Mr. Ross, concerning the matters I asked you about in the last session, the things that you didn't tell the jury on direct examination, don't you know that at the time of your divorce from your first wife all of these matters were published in the New York Hearst papers?

A. No, sir.

Q. Don't you know that your wife went to the Hearst papers in New York and that her story and the story of your past life was published?

Mr. Donohue: I object, if your Honor pleases. I don't see how this witness could possibly be bound by an allegation made by Mr. MacInnis that someone other than himself made a statement which was reported in the Hearst papers. It is hearsay three times removed.

The Court: Mr. MacInnis is asking for the fact of publication, not as to what the facts may have been. Do you recall the fact of such publication?

The Witness: No, sir, I never saw it.

Q. (By Mr. MacInnis): Didn't you make an answer? A. No, sir.

Q. Weren't you quoted in the papers yourself?

A. No, sir.

Q. Where were you living at the time of that divorce, Mr. Ross?

A. In North Carolina. [3438]

(Testimony of Lawrence S. Ross.)

(Testimony of Lawrence S. Ross.)

Q. And the divorce was obtained where?

A. North Carolina.

Q. What city? A. High Point.

Q. High Point. A. Yes, sir.

Q. Was there any publication of the facts of your life in High Point, North Carolina, at that time?

Mr. Donohue: Object, if your Honor please.

A. No, sir. I'm sorry.

The Court: The witness has answered.

The Witness: I'm sorry.

The Court: That is all right.

Q. (By Mr. MacInnis): Now, Mr. Ross, when asked by the prosecutor as to the date of your leaving San Francisco and the giving up of your post as editor of the Western Worker, what was your answer?

A. About the middle of 1937, to the best of my recollection.

Q. Could you recall for us the approximate date on which you ceased to be the editor of the Western Worker?

A. I'm afraid I can't place it any more exactly than the summer of 1937.

Q. Did you tell the Court and jury that you left because you were transferred by the Communist Party? A. Yes, sir. [3439]

Q. And you were transferred to what other city?

A. New York City.

Q. Transferred to what post?

A. No post within the Party.

(Testimony of Lawrence S. Ross.)

Q. Your post was taken away from you then, wasn't it? A. Yes, sir, I suppose so.

Q. In other words, up to the time that you had left San Francsico as editor of the Western Worker, you were a paid functionary of the Communist Party? A. Yes, sir.

Q. On salary from the Communist Party?

A. A pittance, yes, sir.

Q. And when you got to New York that salary ceased, did it? A. Yes, sir.

Q. And you were no longer a paid functionary of the Communist Party? A. No, sir.

Q. Did you have any discussion in New York about the reason for your being removed as editor of the Western Worker?

Mr. Donohue: I object, if your Honor please. Discussion with whom?

The Court: You might establish a foundation as to the person with whom he might have had a conference or conversation.

Q. (By Mr. MacInnis): Let me ask you this, in deference to his Honor's suggestion: Who were your superiors in the [3440] Communist Party at that time? Who called you back to New York?

A. The superiors in the Communist Party were always the Central Committee—members of the Central Committee.

Q. Who called you back to New York and took you away from your post as editor of the Western Worker?

(Testimony of Lawrence S. Ross.)

A. I couldn't say that, sir. I was informed of the transfer through Mr. Schneidermann.

Q. Were you informed that you should go to New York? A. Yes, sir.

Q. Were you given passage to New York?

A. I can't recall that.

Q. Did you go promptly to New York from San Francisco? A. You say "promptly"?

Q. Yes. A. I assume so.

Q. Pardon me? A. I assume I did.

Q. When you got to New York did you have a meeting with your superiors as to the cause of your transfer?

A. No, sir, I don't recall any such meeting.

Q. Pardon me?

A. I don't recall any such meeting.

Q. What were you transferred to? What did the transfer mean? You were taken out of the job as editor of the Western Worker [3441] and placed in what position?

A. A transfer is not from a certain job to another within the Communist Party; it is a transfer from one unit to another.

Q. Could you tell us what job you took when you reached New York?

A. Shortly after I left New York, as I recall, I became an organizer for the United Furniture Workers Union, and that post was obtained for me through the Communist Party.

Q. You no longer received any salary or pittance, as you call it, from the Communist Party?

(Testimony of Lawrence S. Ross.)

A. I don't believe I did, no, sir.

Q. And after you were taken away from your post as editor of the Western Worker, you never thereafter were a paid functionary of the Communist Party?

A. I don't believe I was, no, sir.

(Mr. MacInnis exhibited a newspaper to the witness.)

Mr. Donohue: I object. This is the first time in my life I have ever seen a case tried by newspapers. Certainly a newspaper account is not admissible in evidence, and it should not be permitted to Mr. MacInnis as a subject matter of cross-examination.

The Court: He asked a question as to the fact of publication. He is entitled to ask that.

The Witness: Was your question did I see any such publication? The answer is no.

Q. (By Mr. MacInnis): After your post as editor of the Western [3442] Worker was taken away from you, did you thereafter make an application to the Communist Party to be restored to a post of responsibility? A. No, sir.

Q. Never did? A. No, sir.

Q. You never asked that you be used again in a post of responsibility? A. No, sir.

Q. And if such information was promulgated, that would be false information? A. Yes, sir.

Mr. MacInnis: Now, to continue, if the Court please, on the matter that engaged us as we recessed last night, I am going to find another page of this newspaper.

(Testimony of Lawrence S. Ross.)

Q. Let me ask you this: When you went back to New York from San Francisco after having the job as editor of the Western Worker taken away from you, did you have any discussion with the Communist Party leaders about the non-support of your children?

A. I don't recall any, no, sir.

Q. You have no recollection one way or the other?

A. No, sir. I do recall that I did send money to my family.

Q. When?

A. Well, I don't know the specific occasions; every time I was able to. [3443]

Q. Didn't your wife demonstrate to you in New York that she had been on county relief with the children because you failed to support her?

Mr. Donohue: I object to the question as highly improper.

The Court: Overruled.

Mr. MacInnis: Called for only by the witness' last volunteer statement, your Honor.

The Witness: Will you repeat the question, please?

(Question read.)

A. I don't recall that, no, sir.

Q. (By Mr. MacInnis): You have no recollection? A. None.

Q. I will ask, please, if you will look, on the matter of the agenda on the 1936 National Convention of the Communist Party, at the issue of the Western Worker, of which you were then editor, for Thursday, June 25, 1936, page 2, in the column that I have marked in red. Do you want to read that carefully?

A. Yes, sir, I will. This is the continued part of the story you are referring to?

Q. Yes. You had looked at the first part yesterday.

A. No objection to my referring back to the first part?

Q. None.

Mr. McMillan: May it please your Honor, is there any objection to counsel for the Government reading that article [3444] before a question is put to the witness?

Mr. MacInnis: No.

Mr. McMillan: I think it will expedite the matter.

Mr. MacInnis: If that request is made I can't see any ground to oppose it.

The Court: Would you like to look at it?

Mr. Donohue: May I see it, if your Honor pleases?

The Court: Yes.

Q. (By Mr MacInnis): Now, isn't this true, Mr. Ross, that in order—I mean by that, in numerical order—the main points on the agenda of the convention of 1936 were as follows:

> "First, the fight against reaction, Fascism, war; the united front; the presidential elec-

> tions and the Farmer-Labor Party—reported by Earl Browder as General Secretary of the Communist Party"

and that the second matter on the agenda was: "Party organization, reported by F. Brown; the Problem of Forces, reported by Charles Krumbein"; that the next matter on the agenda was "Organizing the Toiling Youth," the reporter Gil Green; that the fourth item was "The Struggle for Peace and the Peace Policy of the Soviet Union"; that the reporter was a man named Robert Minor; and that the fifth and second to the last item was the election of the Central Committee, and the last item, nominations of presidential ticket?

A. I followed your reading on these, Mr. MacInnis. You list [3445] them correctly as they are listed here in numerical order, but not necessarily chronological order as to the proceedings of the convention.

Q. There wouldn't have been any reason to report that numerical order falsely in the Western Worker, would there?

A. Is this report the post-convention report?

Q. That appears not to be. It is prospective.

A. This list of items on the order of business which you read is preceded by a paragraph which says, "Main points on the agenda for the convention are as follows."

Q. Yes.

A. I assume, then, that that is the list of the

(Testimony of Lawrence S. Ross.)

agenda in order of importance of events, possibly, not in chronological order of their occurrence.

Q. Yes, you are perfectly right that it is prospective. Now, with that as a foundation, I want you to turn to the reports of the events that did take place. I would like you to look at the issue of that paper of June 29, which is marked, and turn, if you will, to page 2.

A. These are clipped off. Do you mind helping me? I don't want to pry into anything I shouldn't look at. This is the 25th here.

Q. Yes. Do you want to read carefully—Pardon me; the 29th.

A. Would you turn to it yourself? You have these pages clipped together. [3446]

Q. I thought you wanted me to remove the clip.

A. If you will. I would rather not do it myself.

Q. Would you read the material that is marked in red on page 2 of the issue of June 29?

A. You mean from the subhead "Opened by Foster" on down through, is that correct?

Q. Yes.

A. May I refer back to the first? [3446-A]

A. Yes, sir.

Q. Now, as you observed, the first item to which your attention was directed in the issue of June 25th was prospective; that is, it spoke of things which had not yet taken place, and it listed them in a certain order.

Mr. Donohue: May I ask, if your Honor please, is the witness allowed to read this for the purpose of refreshing his recollection or for some other purpose?

The Court: That is what I assumed; that has been the basis of the examination thus far.

Did you examine it?

Mr. Donohue: No, your Honor.

The Court: You may do so.

(Document examined by Mr. Donohue.)

Mr. MacInnis: Would you read the last question and answer, please?

(Record read.)

A. That seems apparent, yes, sir.

5 Q. Now, you have been referred to the issue of June 29th which you say you have read. Let me ask you if this is not what happened, day by day——

Mr. Donohue: No, that is not a proper question, if your Honor pleases. As your Honor suggested a minute ago, the witness was permitted to read this article for the purpose, and the only purpose for which it could be permitted, to refresh [3447] his recollection as to the incidents which are noted therein. For Mr. MacInnis to attempt to state what is in the article is to put in evidence something that hasn't even been identified or offered in evidence.

The Court: Are you coming to the chronology now? Is that what you have in mind?

Mr. MacInnis: I am asking if certain things happened, your Honor. I don't think that the objection has anything to do with that request.

The Court: All right, proceed.

(Testimony of Lawrence S. Ross.)

Mr. McMillan: Well, may it please your Honor, wouldn't an appropriate question be whether or not if, after reading that, it refreshes his recollection?

The Court: That may be true, Mr. McMillan, but I feel we are going all right now at the moment. Let us proceed.

Q. (By Mr. MacInnis): Now, Mr. Ross, isn't this what happened, that on Wednesday morning the convention was opened by William Z. Foster, chairman of the Communist Party and that on Wednesday afternoon there was the report of the outgoing Central Committee of the party which was delivered by Earl Browder, the general secretary of the Communist Party; and that Browder laid down the five fundamental aims of the masses in his speech and spoke about the United Labor Front? Isn't that true, that that happened on Wednesday, the opening day of the convention, the 24th of June? [3448]

A. I can't say that of my own recollection, Mr. MacInnis.

Q. And that on the same day, Wednesday, Gil Green—and you recall him mentioned in the prospective article that you have looked at before in the same order that the prospectus shows—that Gil Green made a report upon the fight of youth under the American Youth Congress; and that a man named Charles Krumbein made his report upon the American working class. That is true, isn't it?

A. According to this account, yes, sir; it is not my own recollection.

(Testimony of Lawrence S. Ross.)

Q. And isn't it true that on Thursday there was a discussion of the reports of all the various committees, the discussion taken part in by miners, steel workers, Negro sharecroppers from the South and farmers from the Middle West?

A. I don't know, sir.

Q. That was the engagement of Thursday. And was Friday a day also devoted to full discussion?

A. I don't know that of my own recollection.

Q. It appears that way in your paper, doesn't it?

A. It said—I think I recall it saying that Friday was devoted to full discussion. That is the phrase. I don't recall the Thursday being mentioned here.

Q. Pardon me?

A. I don't recall Thursday being mentioned here.

Q. Yes, if you look about an inch [3449] above——

A. Pardon?

Q. If you look about an inch above the word "Friday," you will find a discussion of Thursday in the sentence beginning, "A report of Charles Krumbein . . ." the second sentence in that paragraph. You will find the engagement of Thursday.

A. Yes, I see the reference.

Q. Yes. You can see that it is there, as I suggest? A. It is there, yes.

Q. Yes. Now, all of those events, Wednesday, June the 24th, Thursday, June the 25th, and Friday, June the 26th, are reported as events which already took place? A. They are.

Q. Yes. Then having only two days left, Saturday left, Saturday, June the 27th, and Sunday, the

(Testimony of Lawrence S. Ross.)

28th, why, then, the article turns to the prospective or future tense, doesn't it?

A. Yes, it talks about the highlights of the——

Q. Yes. And it says that then all events up to Friday having been concluded, it says the highlight of the Saturday session was to be the report by Robert Miner on the fight for peace, and that the final session of the Ninth Convention on Sunday was to be held at Madison Square Garden and that on that day a new National Committee of the party was to be democratically elected?

A. That is what this says. [3450]

Q. Yes. And as you say, there would have been no reason to distort the chronology of events in the paper, would there?

A. I don't believe I sent that account in. I don't—in other words, I don't assume responsibility for the writing of that story.

Q. You were the editor of that paper at that time?

A. Yes, but not functioning in that capacity at that time.

Q. And you were present at the convention?

A. As a delegate, not as an editor of the paper.

Mr. MacInnis: On that basis, if the Court please, we ask leave to introduce both of the articles to which reference has just now been made to the witness, and I mean by that, the article of June 25th in reference to the national convention of the Communist Party in the paper of which this man was the editor, the Western Worker, and the article of

June 29th, 1936, which has just now been referred to. And with your Honor's permission, we would like to bring in a photostatic copy of those two articles and allow those to remain in evidence.

Mr. Donohue: I object, of course, if your Honor pleases, upon the same well recognized theory, that you might just as well try to prove that A murdered B because the C newspaper published the statement that he did. In my experience I have only known of one instance in which a newspaper was admitted by a court in evidence, and the limited purpose for which the newspaper was admitted in evidence was to prove that a certain fact was [3451] publicly known. Now, for the purpose of attempting to prove the agenda of the Communist Party convention in 1936, obviously a newspaper account, one in prospect and one in retrospect, carried by the Western Worker here in California is not evidence. And I think I should invite your Honor's attention to the fact, the basis of the original objection of the first question asked by Mr. MacInnis of the witness, Mr. Ross, with respect to this paper; because, while the usual rules of procedure are to first ask a witness whether or not he has an independent recollection as to a series of events, and then should he say he has not, to hand him just such a paper and ask him, "Having read it and having refreshed your recollection, are you now able to state, with a refreshed recollection, as to the series of events?" On that purpose, or for that purpose, I assume these questions were being asked. But as I stated to your Honor at the outset, the purpose of Mr. MacInnis, as is now demonstrated, was an attempt to get into evidence by asking questions which he has apparently copied from this newspaper of the witness, a document which is neither identified nor at that time offered in evidence. If he had made his offer in evidence before he asked the series of questions, we would simply object to it, but now I think we should not only object, but ask your Honor to strike from the record every question and every response thereto with respect to the subject matter of these two newspaper accounts, on the ground that they were not offered to the [3452] witness for the purpose of refreshing the witness' recollection, but were offered for the obvious and patent purpose of introducing in evidence before this Court and jury document neither identified nor properly introduced in evidence, in addition to which I now object to their introduction in evidence.

Mr. MacInnis: I confess, your Honor, that I cannot follow the reasoning of the prosecutor in this objection. The questions were put to the witness in the first instance to see if his memory would be refreshed. But that being done, those questions having been asked, there is now an additional purpose. This is not merely a newspaper: according to this witness, he says it is the official organ of the Communist Party as of that time on the West Coast. It appears without any contradiction of the witness on the stand, although this was not mentioned by the prosecutor in the argument upon the legal point to your Honor, was the editor of the paper. His name was on the masthead of the paper as the editor of the paper. The editor of the paper himself is on the stand. He is being cross-examined. And he is being shown editorial material appearing in a paper under his direction and control. Now, I can't think of anything more direct to support the admission into evidence of those particular articles.

Mr. Donohue: If your Honor pleases, the witness has said that he went to the convention in New York as a delegate, not as a newspaper man. He has said that he has not, or was not, [3453] the author of either one of those two articles. Had he been the author, or had these articles contained statements which tended to contradict any statement he may have made on the witness stand, I would now offer objection to their admission. On that theory, and on the other theory which I suggested to your Honor alone, would they be admissible. And again, I resume my objection to their admission in evidence.

The Court: You may produce photostatic copies and have them marked for identification at this stage of the proceedings only for identification.

Mr. MacInnis: Thank you. Shall we take the recess, your Honor?

The Court: Yes.

The Clerk: Those exhibits your Honor, may they be marked Defendant's A——

The Court: Photostatic copies to be offered in lieu of the newspaper accounts and to be marked for identification only next in order.

The Clerk: Yes, your Honor. May they be marked Defendant's A-1 for identification?

(Whereupon newspaper accounts, photostats of which are to be substituted, were marked Defendant's Exhibit A-1 for identification.)

Mr. Donohue: Would your Honor remain for just half a moment after the jury is excused, so I may ask your Honor a [3454] question?

The Court: Yes, sir.

Mr. McMillan: Your Honor is about to adjourn?

The Court: Yes.

Mr. McMillan: I wanted to be excused, if I may, this afternoon.

The Court: Yes, certainly.

Ladies and gentlemen of the jury, we will take the noon recess and resume at 2:00 o'clock. And may I again admonish you, as I have in the past, not to discuss the case under any conditions, nor to form nor express an opinion thereon until the matter is finally submitted to you. I again admonish you not to consult the newspaper articles bearing upon this trial; I mean, newspaper articles current and published in connection with the trial of this case, and to refrain from listening to radio accounts. I have given you that admonition from time to time, without recurrent notice to you, but I want you to realize that the emphasis that I place upon that instruction is not greater nor less than the instruction I give you from day to day, the routine instruction. I know that you will abide by my wishes. You may retire.

(Whereupon the jury retired from the courtroom.)

(The following occurred outside the presence of the jury:)

The Court: There is a matter you have, Mr. MacInnis?

Mr. MacInnis: I haven't. [3455]

Mr. Donohue: If your Honor pleases, in order that we may——

The Court: Pardon me. Would you close the door, please?

(Door to the courtroom closed.)

Mr. Donohue: In order that we may not be put in a position where we may have to ask for delay, and that we may be ready with another witness when the cross-examination of this witness is concluded, I wonder if your Honor might inquire of counsel about how much longer they expect to have this witness on cross-examination.

Mr. MacInnis: Your Honor, I am in this position: I have some further questions of this witness. I am expecting some material from the East Coast, and if that has not arrived, I might be in the position of having to ask your Honor to have the witness return Monday for the conclusion of his cross-examination. Now, if the material is in my hands by 2:00 o'clock, I would be some considerable time with the witness. If not, I might be only half an hour with the witness, at this time.

Now, I would like, your Honor, to ask a reciprocal question of the prosecution in this case, solely on the matters of time, so that we may be able to prepare ourselves for the presentation of evidence in the case We would like to inquire how many more government witnesses we may expect upon the stand.

Mr. Donohue: I am afraid I am not able to answer that question at the moment, if your Honor pleases. It is a little different question than the question I just asked. I have a [3456] number of witnesses who are available. I have not yet determined how many of that number I shall actually call. When I am in that position to make that statement, I shall make it to your Honor, and your Honor may then determine, in his own judgment, whether that information should be imparted to the counsel.

The Court: All right; we will resume at 2:00 o'clock.

(Whereupon a recess was taken to 2:00 o'clock p.m.) [3457]

Afternoon Session, 2:00 P.M.

The Clerk: United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Lawrence Ross, heretofore sworn.

LAWRENCE S. ROSS

resumed.

Cross-Examination
(Continued)

By Mr. MacInnis:

Q. Mr. Ross, while you were a member of the Communist Party and a paid functionary here in San Francisco, did you know a member of the Communist Party named Henry Schrimpf?

A. Slightly.

Q. In what periods of time did you know him?

A. Approximately the same period of time in which I knew Harry Bridges and Henry Schmidt.

Q. In other words, you knew Henry Schrimpf when you came here in 1935?

A. I had seen him in 1934 and made his acquaintance early in 1935, yes.

Q. And you knew him to be a member of the Communist Party? A. Yes, sir.

Q. You knew him through '35, did you?

A. Yes, sir.

Q. And through '36? [3458] A. Yes, sir.

Q. And through '37, that is, until you left San Francisco?

A. Until I left San Francisco, yes.

(Testimony of Lawrence S. Ross.)

Q. And he was a member along with other people known to you of the Communist Party during this time? A. Yes, sir.

Q. Now, Mr. Ross, you told the Court and jury under oath on your direct examination that you were born in Bell County, Kentucky, did you?

A. Yes, sir.

Q. In what town in that county were you born?

A. Not far from Middlesboro.

Q. Not far from Middlesboro?

A. Yes.

Q. And you say that you went to the University of Kentucky? A. Two years.

Q. And those years were what?

A. '22 and '23, I believe.

Q. Where is the University of Kentucky?

A. Lexington.

Q. And under what name did you go to that school? A. The same name, sir.

Q. Lawrence Sedon Ross. And you are quite sure you went to that school?

A. Yes, sir. [3459]

Q. Can you remember anybody in your class at that school? A. I'm afraid not.

Q. Can you remember one person who was a college classmate of yours at that school?

A. No, sir; I took special courses and——

Q. Yes. You didn't go there at all, did you?

A. Yes, sir.

Q. Did you? Where did you go to high school, Mr. Ross? A. Middlesboro.

(Testimony of Lawrence S. Ross.)

Q. You didn't go to Morris High School in New York? A. No, sir.

Q. Never? A. No, sir.

Q. Did you ever use the name Robbins?

A. No, sir.

Q. Or Robinson? A. No, sir.

Q. Or Ballard? A. No, sir.

Q. Pardon me. You hestitated a little bit before answering the question about the name Ballard. Was there some name similar to that that you used?

A. No, sir.

Q. You are positive and you affirm now that you went to the University of Kentucky in the years that you have mentioned [3460] under the name of Lawrence Sedon Ross? A. Yes, sir.

Q. Well, now, coming back to the matter that we were discussing this morning when we had the noon recess, we were talking about this national convention of the Communist Party. A. Yes, sir.

Q. Held in New York City in 1936. You told us, I think, that you had a very vivid memory to the effect that when the election of the Central or National Committee of the Communist Party was had, those participating left the general hall of the Manhattan Opera House and went somewhere else?

A. No, sir.

Q. What did you say?

A. The last session of the convention was held at the Madison Square Garden, I believe.

Q. I am speaking now of the election of the

(Testimony of Lawrence S. Ross:)

Central or National Committee of the Communist Party.

A. No, sir, I believe the election of the Central or National Committee was held in the convention hall.

Q. At the Manhattan Opera House?

A. That is the best of my recollection, yes.

Q. Your best memory, which I suppose is fairly clear, is that that particular session took place at the Manhattan Opera House itself?

A. Yes, sir. [3461]

Q. Did you sit at the convention with the so-called members of the California delegation?

A. Yes, sir, to the best of my recollection I did.

Q. Did you sit in somewhat of a group?

A. We sat grouped around a round table, I think, and there was more than one table for the delegation, as I recall it.

Q. There were about 15 people, you say?

A. Possibly 12, 10; possibly a little more; I don't recall the exact number.

Q. Representing the California delegation?

A. Yes, sir.

Q. You were a member of that delegation?

A. Yes, sir.

Q. And you say that Anita Whitney was a member? A. I believe so.

Q. Schneidermann was a member?

A. Yes, sir.

Q. Who else?

A. I recollect Dave Saunders, John Leech—

Q. And you say John Schomaker may or may not have been a member of that delegation?

A. I don't know; I just don't know. He may have been; he may not have been.

Q. All of the delegates appearing from California were known to you at that time? [3462]

A. Yes, sir.

Q. And naturally you saw Harry Bridges during the course of that convention? A. No, sir.

Q. You didn't see him? A. No, sir.

Q. Not at any time?

A. Not during that convention, I don't believe I did. I think if I had I would have recalled it.

Q. You were present at the election of the National or Central Committee, were you not?

A. Yes, sir.

Q. You didn't see Harry Bridges then?

A. No, sir.

Q. Mr. Ross, have you been advised that two witnesses who appeared here before at the instance of the Government, a Mr. Manning Johnson and a Mr. Paul Crouch, placed Harry Bridges there at a date when public records showed that Bridges was in Stockton, California?

Mr. Donohue: I object, if your Honor please, to the question. It calls for a conclusion of fact which is not before this jury.

The Court: Sustained.

Q. (By Mr. MacInnis): Have you been asked to change your testimony? [3463]

A. Do you mind starting again?

(Testimony of Lawrence S. Ross.)

Q. In order to benefit Manning Johnson and Paul Crouch?

A. I will have to ask you to repeat that. Someone coughed and I didn't get the first part of your question.

Q. Have you been asked to change your testimony because of the testimony of Johnson and Crouch? A. Oh, no, sir.

Q. Didn't you testify before the Grand Jury in this case that you saw Harry Bridges at the 1936 convention? A. I did not.

Mr. Donohue: I object, if your Honor please, because that is a statement which is, in the first place, untrue; in the second place, that is a statement which Mr. MacInnis would like the jury to believe is true, and it is an improper question.

The Court: Sustained. [3464]

Q. (By Mr. MacInnis): How about your written statement that you made to Mr. Barber of the Immigration Service? Didn't you tell him that you saw Harry Bridges at the 1936 convention?

A. I don't see how I could have, Mr. MacInnis. I don't recall having seen Mr. Bridges at that convention at all.

Mr. MacInnis: Well, now, may it please the Court, in view of the whole of this man's testimony, I want to make a formal request at this time that the minutes or transcript of the grand jury testimony of this witness be made available to the defense for his further cross-examination; and I want to add to that request a further request, that your Honor instruct the prosecution forces to provide us with a written statement that this man made to the Government. I think that there could be no situation more classical in support of the exercise of the Court's discretion upon those two features of the case.

Mr. Donohue: If it pleases your Honor, of course there is no basis for this question. It is another one of Mr. MacInnis' blind fishing expeditions. But in the light of the fact that he has made this statement, I now say to your Honor that I ask your Honor personally to permit me to give to your Honor personally the transcript of the testimony of this witness before the grand jury, for the purpose of showing your Honor that he made no such statement before the grand jury and for the further purpose of convincing your Honor that this is an improper [3465] question. And I shall send for that transcript forthwith.

Mr. MacInnis: Your Honor, I think it could be provided probably in a matter of seconds.

Mr. Donohue: I hope it can.

Mr. MacInnis: Your Honor, it would appear to me that of the instances in our federal procedure wherein the secrecy of the grand jury in a matter of this kind is involved, and that of the transcript may be set aside, this is peculiarly set forth in this testimony.

The Court: I cannot agree with you, Mr. MacInnis. The motions, and each of them, are denied;

(Testimony of Lawrence S. Ross.)

first, with respect to the production of the transcript of the grand jury proceedings affecting the testimony of this witness, and secondly, the production of the statement or statements he may have given to the prosecution staff in advance of trial. There is no basis for the request or either of the requests made. Accordingly, they are and each of them is denied.

Mr. MacInnis: I wonder if we may reserve the right to renew that motion with citation of authority?

The Court: You may, yes.

Mr. MacInnis: Because we would like to do that.

The Court: That is without prejudice to a renewal thereof.

Mr. MacInnis: Yes, if the orders of your Honor may be without prejudice so we can take those steps.

The Court: Very well. You may renew the motions. [3466]

Mr. MacInnis: Thank you.

Now, in respect of the further cross-examination of this witness, I have, as I indicated to your Honor this morning, some anticipated material. I cannot say what its length will be. I am sure I will have it by Monday morning. If Your Honor would order this witness held over, we would appreciate it.

Mr. Donohue: On that question, if your Honor pleases, this witness has stated that he came here by automobile with his wife and family. He has stated that he is the editor of a trade journal. He has been here available to the defense now for three days. The per diem which our government allows witnesses will not maintain himself and his family. His children have to return to school. He has to go back to his work. And I most respectfully say to your Honor that on other occasions counsel for the defense have asked that witnesses be held over until they get from some far distant place some possible information which is pertinent, and it never seems to be. Now, I thoroughly agree with your Honor that witnesses should be subjected to a full and complete cross-examination, and as your Honor indicated this morning, that is a privilege which you have allowed to the defense and one which your Honor stated would be permitted to us at the proper time. In the light of that fact, and not attempting to be obstinate or stubborn about it, but in appreciation of the fact that even under the California code, a [3467] witness is entitled to his discharge when reasonable opportunity has been afforded to examine him, and yet at the same time not to preclude any right which the defense may have to examine this witness further on some particular subject, I ask your Honor in the absence of the jury to ask Mr. MacInnis to state to your Honor exactly what he expects to prove on the material which he hopes he may get: And if your Honor in his sound judgment then feels that it is pertinent, proper cross-examination, at whatever sacrifice—and it will be great—I am sure the witness will remain. But otherwise, I don't think that a witness under the circumstances he is here should be asked to remain

(Testimony of Lawrence S. Ross.)

here from now until Monday morning on a statement of Mr. MacInnis that he hopes to get some material from some far distant place without your Honor knowing or without counsel for the Government knowing what he expects to prove, if anything, by that material.

The Court: We might take that up at the recess and find out.

Mr. MacInnis: I would like to say this:——

The Court: I might surmise or conjecture as to one phase which you possibly have in mind, which I will not mention now; but we will take it up at the recess.

Mr. MacInnis: I think, your Honor, however, the remarks about expense to the Government and inconvenience to the witness have come in a particularly bad light from Mr. Donohue. Let's——

The Court: Well, we may pass it at the moment.

Mr. MacInnis: That man was brought out by plane in November and returned by plane.

The Court: He is driving, as I understand.

Mr. MacInnis: He was out by plane before.

The Court: You have your family with you?

The Witness: Yes, sir.

The Court: Your children?

The Witness: Yes, sir.

The Court: When do they return to school?

The Witness: Supposed to be back Monday.

The Court: This next Monday?

The Witness: No, they were supposed to have been back by the day after New Year's, but we left and gave notice to the school authorities that they would be back on Monday morning.

The Court: And they are in the grammar grades now?

The Witness: One in junior high and the other grammar.

Mr. MacInnis: Your Honor, it would appear to me in reference to the school engagements of the children of this witness, that the witness came here deliberately upon the 31st of December, and he could scarcely have expected to have his children back in school two days later, since we didn't convene until the 3rd.

The Witness: No, sir, they were expected back in school next Monday. I got that extension from the school authorities. [3469]

The Court: Next Monday?

The Witness: Yes, I expected to be out of here by Wednesday Then there is the pressure of my job, a special edition coming up. It is an annual forecast edition, which we are way behind on. It would be terribly inconvenient to stay over until Monday, almost would demand a suspension of the publication. But it would amount to a monetary loss for the paper if that edition didn't come out on time.

The Court: And this matter of a special edition goes under your control?

The Witness: Yes, sir, under my direction.

The Court: Have you written editorial comment and so forth?

(Testimony of Lawrence S. Ross.)

The Witness: I have written some, but a lot of it is gathered by contributions from other people, and it is my job to compile it, edit it, place it in the proper place in the paper. And the paper, incidentally, has already committed itself to a publication date—and advertising material, and has solicited advertising matter on the strength of that publication date.

Mr. MacInnis: Why, Judge, I know that your Honor has to exercise discretion in this matter.

The Court: Well, it is a question of balancing all of the conveniences pro and con. It is a matter that involves perhaps a little more information than I have at hand. I will take it up at the recess time, however, with counsel on both sides. Are there any other matters that you would like to point [3470] out to the Court concerning your particular situation? How long does it take to drive?

The Witness: I can't drive day and night, because of the family, couldn't do it anyway. I expect it would take me five driving days on the basis of driving, oh, about between four and five hundred miles a day. I think the driving distance is approximately 2200 miles.

The Court: Does your wife drive a car?

The Witness: Not on the road very well, sir. She does some city driving.

The Court: I thought you might as a matter of expediency have her drive back and you stay here.

The Witness: No, sir, I couldn't ask her to do that. I might never see her again.

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: Judge, he testified, of course, that he brought his family here on kind of a holiday and I just cannot see that the exigencies of which he now speaks should override the interests of developing all of the facts of the case. Now, I don't know what I could say because——

The Court: Perhaps you have some information here that may be—Pardon me just a moment.

(Telegram handed to Mr. MacInnis by Mr. Hallinan.)

Mr. MacInnis: Yes, your Honor. I would be glad to show your Honor what I have.

(Telegram handed to Court through [3471] Clerk.)

Mr. MacInnis: I might say this, your Honor.

The Court: Well, are there any other matters?

Mr. MacInnis: Additional from this?

The Court: Independent from that.

Mr. MacInnis: Yes. I might say to your Honor without mentioning, of course, the contents of this telegram, that just as the passage of the night developed some matters that were brought out this morning, I anticipate that the passage of another day will bring out further things of relevancy to the case. And I say that without commenting upon what was brought out this morning.

The Court: Well, let me take it up at recess, counsel, with counsel on both sides, in the light of these matters, and I will attempt to exercise a sound discretion in the matter.

The Witness: May I say one more thing?

(Testimony of Lawrence S. Ross.)

The Court: Yes, sir.

The Witness: I spoke to my employer in Memphis on the telephone Wednesday night. I told him then I had been on the stand for that day and probably would be off the next day. That was yesterday. He said, "Take care of yourself. We need you here very badly. I am having to send out wires in order to get some material in that only you can get. I doubt if I can get it. And please start back as soon as you can, we need you here very badly."

The Court: Yes. Could you do this? Could you, as a [3472] matter of a request coming from the Court, return to your place of business with your family and then return here again for further cross-examination at a later date?

The Witness: Well, that would be very difficult, for this reason, that beginning with this month, January, we have a series of special convention numbers. This month we have an annual forecast edition which is a rather bulky edition, which we get out every January. That is the edition I am referring to now. Then early in February we start a series of special convention numbers dealing with various segments of the trade, the cotton trade and industry. And from now until, I should say, June or May 30th, I think is the last one, these are published periodically. They require my presence there.

Mr. MacInnis: Judge, you will recall with me that when this witness testified upon the subject of this coming year to appear as a witness, he said affirmatively that he had the blessing of his employer, and I am just as dubious of the statements which he now makes to your Honor as I am of some of the other matters that have already passed in the record.

The Witness: A telephone call to my employer will settle your doubt, Mr. MacInnis.

The Court: Mr. Donohue, may I ask you, have you another witness available?

Mr. Donohue: Yes, your Honor.

The Court: Within five or ten minutes? [3473]

Mr. Donohue: Yes, your Honor.

The Court: Well, I suggest we take a short recess in the light of this situation. The jurors may be excused. We may have our next witness in readiness?

Mr. Donohue: Yes, sir.

The Court: And if you will proceed to chambers, I will discuss this matter in the light of the question.

Ladies and gentlemen of the jury, we will take a short recess, awaiting the next witness, and may I again admonish you not to discuss the case under any conditions, nor to form nor express an opinion thereon until it is submitted to you.

(Whereupon the jurors retired from the courtroom in recess, and the following occurred in chambers, outside the presence of the [3474] jury:)

(The following proceedings were had in chambers out of the presence of the jury:)

The Court: We have here a situation—I am only thinking out loud on the thing; I haven't committed myself to any policy—here is a case wherein the witnesses have not been disclosed to the prosecution in advance, and they have had to meet the conditions confronting them in the emergencies of the examination in the light of necessities——

Mr. MacInnis: Pardon me. Your Honor means "defense."

The Court: Defense, rather. I have had a cold in my head and I am pretty well stopped up.

Mr. MacInnis: Me, too.

The Court: Maybe I am not articulating as well as I should. I do not know when the identity of these witnesses was disclosed to the defense; it may have been a week; it may have been two weeks in advance of trial, it may have been a day in advance. At least it wasn't an extended period of time. Now, placing myself in the same position as defense counsel for the moment, translating my own personality off the bench into their position, I am familiar with the burdens that are cast upon men engaged in defending a cause when it covers the sweep of the years as this case has. At the same time there has to be some limitation on cross-examination. There has to be some limitation in balancing conveniences. Manning Johnson I kept here a period of time that might be regarded as inordinate, but [3475] the circumstances here, I believe, full well justified my detention of him. Similarly with Crouch.

The telegram shown to me by Mr. MacInnis, without disclosing the contents, would seem to justify this Court in granting the request. True enough, we have had telegrams in the past that sort of bounced back on the Court, at least to the extent that I placed credence in the telegram. There is a telegram wherein representation was made to the lawyer, and apparently based upon a communication theretofore sent by the lawyer to a destination undisclosed by the Court, I think that would justify—the contents of the telegram would justify a reasonable continuance for the examination of this witness. My thought was to have the jurors return tomorrow, if possible, and get this man under way. Have you any thought, Mr. Donohue?

Mr. Donohue: That is a problem only your Honor can wrestle with. I said I don't want to preclude counsel from every opportunity of cross-examination, and if, as I said to your Honor, the purpose which they have in mind in holding the witness is to establish something which is important, which tends to impeach or contradict the testimony of this witness, then I am in no position, of course, to urge your Honor——

The Court: I can only say that prima facie, from the context of the telegram, that there may well be—I don't know what may eventuate, nor am I predicting, nor can counsel predict, but I would say from its contents that there may be [3476] matter affecting this man's credibility.

Mr. Donohue: We had a long time before to get the record in the Eisler case, which so far as I can——

The Court: What have you to say, Mr. MacInnis?

Mr. MacInnis: I have this to say. The information which was displayed to your Honor in the telegram was information which I received over the telephone this morning, so that the telegram was sent out here, I suppose, as promptly as possible. Now we are making——

Mr. Donohue: This witness has been here since Wednesday.

Mr. MacInnis: Pardon me.

Mr. Donohue: This witness has been on the stand three days.

Mr. MacInnis: We are making the most prompt arrangement possible to follow through on the information. That isn't the only item of information.

Mr. Donohue: You just said a few minutes ago that every day brings some new matter. Maybe tomorrow may bring some new matter.

Mr. MacInnis: Who knows?

Mr. Donohue: Obviously we can't ask a witness to stay here in the hope that tomorrow may bring some opportunity to cross-examine which isn't in existence today.

Mr. MacInnis: I would like to say this, your Honor——

Mr. Donohue: Maybe we can stipulate to what they are talking about; I don't know. [3477]

The Court: This is true—I am not going to discuss the matter, because it was submitted to me in confidence.

Mr. Donohue: I understand. But I must say this is the first time in my experience I ever saw counsel unwilling even to make an offer of proof, which is generally made outside the presence of the jury, frequently in writing, but always in the presence of counsel on both sides.

The Court: I am not going to try to solve or reconcile the differences existing between you.

Mr. Donohue: I know you aren't.

The Court: It is something that transcends my obligation as a judge. I have enough difficulty trying to try this case.

Mr. MacInnis: May I say this, your Honor: Your Honor, as you pointed out, has exercised latitude in the use of discretion in granting our request that certain witnesses stay over, and of course we concur with your Honor that those were proper instances.

Now, the Government rather zealously, and certainly stubbornly, is urging that the witness now on the stand at 2:30 p.m. on a Friday afternoon should not be forced to remain here until Monday.

Mr. Donohue: You have another hour and a half to cross-examine him.

Mr. MacInnis: Would you please——

Mr. Donohue: I am sorry. [3478]

Mr. MacInnis: Now, when we look upon the past history of the witnesses in this case—and I say this not with any intent to use inflammatory words—Manning Johnson was brought here, I think, if my memory upon the evidence is correct, on Sunday the 13th day of November of this year, and he was held here for several weeks before the trial. Other witnesses have been held here for varied periods of time.

I am informed from matters of semi-public record that your Honor's holding Manning Johnson in this jurisdiction did not operate either to his detriment or to the detriment of the Government, because I am informed that as of yesterday he was testifying on behalf of the Government in an immigration case in Los Angeles. So I assume that no prejudice could result there.

Now, here we have a man on the stand who is in a little different position than Manning Johnson, but probably has uncovered graver defects to my mind in the facade of the prosecution's case for this reason: He has testified under oath to certain affirmative facts, and the immediate cross-examination upon those facts brings out that other and further matters were, to say the least, concealed and not told to the Court and jury.

I don't know who Lawrence Ross may be, and I say that advisedly, because from the information in my possession——

The Court: Pardon me, Mr. MacInnis, I want to interrupt [3479] you. Are you willing to concede Mr. Donohue's request to the extent of making a cursory or general offer of the subject matter of that which you intend to prove?

Mr. Donohue: We may be willing to stipulate it, if your Honor please.

The Court: I of course cannot guide defense counsel in the present view of the case or in the long view of the trial procedure, technical as this case is.

Mr. MacInnis: If your Honor wants me to, I would.

The Court: I think this: I told you I am willing to grant a reasonable time allotted to you. I am trying to translate myself into a position where I am situated in your role here to the extent that I want to be fair. Now, if Mr. Ross has placed himself in a position of being impeached or discredited upon material or immaterial matters, that is Mr. Ross' problem. He has presented himself as a witness, and I shall grant every reasonable oportunity to the defense to provide themselves the ammunition of war. Having that in mind, that I will grant it, I think you might well point out to counsel generally what you have in mind. That may be the subject matter of a stipulation, I don't know.

Mr. MacInnis: Additional to the matter I showed your Honor, there are other matters I think which may bear even upon the identity of the man who is on the stand, matters of which I am not yet in full possession. [3480]

Secondly, I have information, informal information, that I haven't had time to confer upon entirely, which I received only this morning, that this man has testified upon either one or two occasions before one of the traveling Congressional committees on Un-American Activities.

Mr. Donohue: You could have found that out Wednesday.

Mr. MacInnis: I would like to examine, if I can, any transcript of his testimony. Matters like that would seem to be very important.

I also have a series of materials which were mailed to me, airmailed last night, I believe, from New York City upon the background of this man, containing newspaper accounts of his past, among other things. I don't mean by that I am going to try to put newspaper accounts into evidence nakedly, but the information I obtain out of reading those semi-public disclosures will abet the matter which I showed your Honor.

The Court: When you speak of his identity, do you mean to say—I will withdraw that. Strike it.

Mr. MacInnis: I know what you were going to say. I do mean that.

Mr. Donohue: Everything he has said so far in this matter, except the documents, the contents of which we don't know, indicate that he simply wants time to go fishing, if he said——

Mr. MacInnis: If I do, your Honor, that isn't bad.

Mr. Donohue: He isn't entitled to it, and ought not to [3481] interrupt the normal, ordinary processes of a trial for that purpose. If he has some definite objective, some valid reason for believing that if he were allowed time, he would impeach this witness, and would designate the point and tell us whether the point was, we wouldn't be in a position to say to your Honor not to keep him here.

The Court: I am disposed, Mr. Donohue—tomorrow is Saturday. I can't ask this jury to come in Saturday morning——

Mr. Donohue: Probably not, your Honor.

The Court: I have a slight cold that isn't bothering me too much. Counsel, I think, probably have colds also at this time of the year.

Mr. Donohue: I doubt very much if your Honor ought to permit the case to go ahead with the next witness, interrupting the regular course of the trial. I think we ought to finish with one witness before we start another. Mr. MacInnis cannot complain that he does not know who the next witness is, because the witness' name has appeared in the newspapers for the last two or three days. We just don't think we ought to stop with Ross and start with someone else and come back to Ross again.

The Court: All right; I will have the witness Ross then stand over until Monday morning at 10:00 o'clock for further cross-examination on condition that you dispose of and dispense with him on Monday.

Mr. MacInnis: I will do my best, your [3482] Honor.

The Court: All right; that will be the order. That will give you the entire time over the weekend to clarify whatever matters need clarification.

Will you advise Mr. Ross accordingly, Mr. Donohue?

Mr. Donohue: Yes, your Honor.

The Court: That he can definitely, under my order, expect to leave here Monday evening.

(Recess.) [3482-A]

The Court: Ladies and gentlemen of the jury, during the brief recess period I have had the benefit of a conference with counsel on both sides, that is, counsel representing the Government and counsel representing the defendants. And in the light of the conference and statements made, the Court, in the exercise of a discretion which I hope is sound, has concluded that the witness on the stand, Mr. Ross, remain in attendance until Monday next. I have ordered counsel to complete his examination both as to the Government and as to the defendants and each of them not later than Monday at four o'clock, thus to permit the witness to return to his home and to his duties on the newspaper.

The problem presented is one of balancing conveniences, and I trust in balancing the same I have not prejudiced Mr. Ross in his business.

Mr. Donohue has indicated that they have an additional witness in attendance. The hour is late, at least it is close to three o'clock. Rather than start a new witness at this hour and then on Monday to allow Mr. Ross to resume the stand, I have decided to recess and adjourn until Monday at ten o'clock. The week has been a long one, and I think that a rest period may afford a revival of our energies.

Accordingly, I again instruct you not to discuss the case with any person and not to converse with any person or persons on any subject of the trial, and not to form or express an [3483] opinion until this matter is finally submitted to you. You may now retire. Monday morning at ten o'clock.

(Whereupon an adjournment was taken until Monday, January 9, 1950, at 10:00 [3483-A] a.m.)

Monday, January 9, 1950—10 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: Pardon me, Mr. MacInnis, just a moment. If Your Honor pleases, on Friday at noon Mr. McMillan asked Your Honor to be excused. I ask Your Honor again this morning to excuse him further. Unfortunately, he is quite ill and we are uncertain at the moment as to when he may return. So for that reason, if Your Honor pleases, may I ask Your Honor to excuse him until such time as he may be able to again attend the session?

The Court: I regret that announcement very much. I was concerned with his condition Friday.

Mr. Donohue: He is quite ill, if Your Honor pleases.

And now, if Your Honor pleases, since the adjournment of court on Friday, I have conferred with the witness Lawrence Ross,——

Mr. MacInnis: Now pardon me, Your Honor. This witness is under cross-examination, and I don't propose that the matters which I have in mind be brought out in advance because we have a perfect right to show the untruths that this witness is telling by cross-examination and not to be forestalled by the prosecutor, who now perceives the direction of the questions.

The Court: Mr. MacInnis, may I first hear from Mr. Donohue? [3484] I do not know what he has in mind.

Mr. MacInnis: I do, Your Honor.

(Testimony of Lawrence S. Ross.)

The Court: With respect to your contention that you are prepared to show untruths, the jury is admonished to disregard that statement. Let us proceed now, and may I hear from Mr. Donohue?

Mr. Donohue: Yes, Your Honor. As I was saying to Your Honor, since the adjournment of court on Friday last, I have conferred with the witness Lawrence Ross, quite contrary to my usual practice, with respect to a witness who is still under examination. My reason for so doing is to be found in the series of questions asked of the witness by cross-examining counsel, questions obviously purposed to show either that the witness Lawrence Ross is not the same Lawrence Ross who for some period of time was the editor of the Western Worker and a prominent active member of the Communist Party in San Francisco, or that be he the same Lawrence Ross, he was at some time during his lifetime known by some name other than that of Lawrence Ross. I feel it is my duty to call to the attention of this Court and jury the information which I have received since we last adjourned. However, rather than making the information available to the Court and jury by a statement of my own, I ask Your Honor at this time to permit the witness to make a statement now by way of correction and in explanation of certain testimony heretofore given by him—not with respect to any statement he [3485] has made in support of the allegations contained in the indictment, but only testimony he has given with respect to his name, his origin and his education. I

(Testimony of Lawrence S. Ross.)

think by every rule of law, if Your Honor pleases, a witness still on the stand is entitled to the right to make any explanation or change in his testimony which he feels proper, and on that basis I ask Your Honor that he be awarded, or afforded, that opportunity at this time. [3486]

Mr. MacInnis: May it please your Honor, the situation as I perceive it now, from the statement just made to you, is this: The witness now being exposed, the prosecutor has arranged that the witness will take the blame himself and not link the prosecution with the fabrication of his story.

The Court: One moment, Mr. MacInnis. We are dealing with extremely delicate situations here with respect to ascribing——

Mr. MacInnis: I am fully prepared with the information I have this morning.

The Court: Would you permit me, Mr. MacInnis, to make a statement?

Mr. MacInnis: Yes. I am sorry.

The Court: I might say to you in examining the transcript of the other day I noticed in several particulars wherein I attempted to make a statement and I was interrupted either by you or by opposing counsel. I am not charging you about it, but I do, particularly in this instance, desire to be accorded the courtesy that is accorded any court of permitting me to make a statement.

Mr. MacInnis: I am sorry.

The Court: That is all right. There is no reflection on you.

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: I was over-anxious.

The Court: These are very delicate matters apparently that we are approaching. I can only conjecture on that, by [3487] and as a result of Mr. Donohue's statement. By reason of the delicacy and by reason of a rule that is time-worn and traditional in these courts, and I think there is abundant authority on the proposition, a witness may at any stage of the proceeding, in the light of the testimony given theretofore, amend, clarify or change the same. Now, whether or not it comes at this stage or upon your cross-examination I do not know. I am not passing upon the credibility of this witness, ladies and gentlemen of the jury, nor am I assuming in the light of this statement to declare with respect to his credibility. That in the final analysis is yours. My purpose now is to determine in point of procedure when he should be permitted to make that statement or statements. Mr. Donohue, there is authority in this jurisdiction, in my recollection, because I have had these matters arise on a number of occasions (the decision has escaped my recollection) on this very proposition.

Mr. MacInnis: I would confess, your Honor, that you would have discretion to adopt any procedure. Your Honor would have discretion to permit the witness to make a statement, or your Honor would have the discretion to permit the cross-examination to continue. But what I was trying to point out to your Honor, and I do appreciate I did interrupt the Court——

The Court: That is all right. [3488]

Mr. MacInnis: I did not mean to do it in the fashion I adopted.

The Court: There is no reflection on you.

Mr. MacInnis: What I endeavored to point out to the Court was this: I was going to ask your Honor to compare in his mind the demeanor of the prosecutor in the statement he made today and the efforts made on Friday last to prevent the retention of this witness for further examination, and I was about to say that I have information showing that the prosecutor—and I mean specifically Mr. Barber and Mr. Donohue—knew or had full reason to know of the majority of these revelations on Friday last. I have such information, your Honor, and if this is an effort to abstract the position of the witness from the position of those who vouched for him, those who produced him in this court and said, "We are the United States Government, this is our witness, we depend upon his veracity in this case"—if that is their position I say, your Honor, it is a spurious position, not because I argue that that is so, but because of their own conduct as demonstrated in your presence on Friday last. Now, I will concede that whatever your Honor believes to be the proper procedure in this revelation that we are now to expect would be correct. Your Honor would have the discretion either to tell this witness to make a statement or to permit the cross-examination to continue.

Mr. Donohue: If your Honor please, may I just briefly say [3489] that any inference that may be

(Testimony of Lawrence S. Ross.)

drawn from the statement made by Mr. MacInnis to the effect that the prosecution, and particularly myself, had any information on Friday concerning the subject which I have asked your Honor to permit the witness, Mr. Ross, to testify about this morning is a false statement. I give your Honor my assurance, and I am perfectly willing that I be sworn, when I say to your Honor that until I talked with Mr. Ross on Saturday morning I had not the slightest intimation of the substance of what Mr. Ross wants to say to your Honor this morning, and I pledge that to your Honor on my honor as a lawyer.

Mr. MacInnis: Your Honor, we decline to accept this pledge. The trend that this case has taken makes it rather obvious that we would not wish to put ourselves in the position of accepting that statement, and we think that the counsel cannot make that representation to the Court at this time as to what he knew. I will be glad to demonstrate to your Honor the nature of the information I have had.

The Court: Without foreclosing the defense from cross-examining this witness upon the particulars that may be disclosed by Mr. Ross at the present time, I shall allow Mr. Ross to make a statement in the light of the former testimony given in this court. You may then cross-examine on any phase of the matter at hand. You may make the statement, Mr. Ross.

The Witness: Thank you. [3490]

The Court: As prefatory to the statement I should like you to state to this Court and to this jury whether or not the representation made by Mr. Donohue as to his meeting ~~with~~ you Saturday is correct or is not correct.

The Witness: That is correct, sir.

Q. (By the Court): Is it a fact that on Saturday these disclosures were first made to Mr. Donohue? A. Yes, sir.

The Court: Thank you. Now you may proceed.

The Witness: Your Honor, this is not a rehearsed statement. I may have to pause to collect my thoughts a moment or two.

Mr. MacInnis: Will your Honor instruct the jury to disregard the ingenuous preamble that is now offered?

The Court: Well,——

The Witness: Both on direct and cross-examination I made several misstatements. Those misstatements refer to my origin, my education, my name, my father's occupation and name. First of all, I was not born in Kentucky. I was born in western Poland and came to this country I believe it was 1910, at the age of seven, in company with my mother, her sister, my brother. My father already was here at that time. I am a citizen. I think the technical term for it is a derivative citizen, based upon my father's naturalization papers, which I have asked Mr. Barber to check. I did not recall on Saturday, and do not of my own memory recall now, the date of that [3491] naturalization. I am informed, however, that it was sometime in 1915

(Testimony of Lawrence S. Ross.)

and that both my father and I then became derivative citizens. I have never had any certificate of derivative citizenship, although I understand my brother has had for some years.

My education next. I never attended school in Kentucky. I attended grammar school in New York, high school in the Bronx, New York.

Q. (By Mr. MacInnis): Pardon me. The name of the high school?

A. Morris High School in the Bronx, New York. I took a number of courses at Columbia University. The year of those courses, to the best of my recollection, is '23 or '24. I have only a hazy memory of the work I did there, but do recall one teacher I had in creative writing, a Miss Helen Hull, who was then a rather well known novelist. So much for the education part of it. [3492]

Now, as to the name. I am 46 years old. For approximately 30 years of those 46 I have used no name other than Lawrence Ross. I did not change my name, if it please Your Honor, because of a wish to hide any particular incident in my career——

Mr. MacInnis: I think, Your Honor,——

The Witness (Continuing): ——but I changed it——

Mr. MacInnis: Pardon me, Your Honor. I think that self-serving and gratuitous statements as to reasons can not form any part of this confession of the previous false testimony.

The Court: That objection is overruled.

(Testimony of Lawrence S. Ross.)

The Witness (Continuing): As a matter of fact, I didn't change my name at all. I Americanized it. The name originally was Rosenstein. I Americanized it to Ross at the time I was approximately 16, possibly 17 years old, and since that time have not been known under any other name. So that for 30 years of my 46 years of life—perhaps 29—I was known to everyone as Lawrence Ross. The reason for the change, of course, was an attempt at Americanization. That also was the reason for my adoption of Kentucky as my native state.

Now, as to my father. His name was, and still is, Rosenstein. He was perhaps—maybe still, although I don't know—he is probably up in years—a member of the International Ladies' Garment Workers Union.

Mr. MacInnis: Pardon me. When you were asked that question the other day, you [3493] laughed.

The Witness: I beg your pardon, sir?

Mr. MacInnis: When I asked that question——

The Court: May I ask you to permit the witness to make his full statement? You are permitted to cross-examine on any phase of the case or any other matters.

Mr. MacInnis: All right, Your Honor.

The Witness (Continuing): To my knowledge, he has never been in Kentucky. He was a clothing worker, I know.

I also state that these facts which I am now telling the Court have not ever been told to anyone else, either the prosecution in this case, government

(Testimony of Lawrence S. Ross.)

counsel, or any other person of my acquaintance, probably for the past 29 or 30 years that I can recall. The only persons who are in full knowledge of all the facts were the members of my immediate family and my first wife. I built a complete, new identity for myself, and that identity became me, and it is I. My reasons for not telling the government counsel or the Court and the misstatements made to government counsel were made to Mr. Barber when he saw me first in Memphis, the misstatements were made to the other government agents with whom I have since conferred, and were not cleared up until Saturday. The reason I did not state the entire truth to them, and the reason I withheld the entire truth from this Court, both upon direct and cross-examination, was twofold. Keeping in mind the fact that I had established an entirely new identity for myself, my first wish was to protect my present [3494] marriage. My wife does not know the facts and won't know the facts until they are published. Secondly, I wished to protect my standing in the community, the southern community. Those, I think, are the two reasons.

Now, when I went to bed Friday night, I had a problem before me. I knew I had lied to the Court, I had lied to the Government. I knew, and still know, of course, that every statement I have made upon this——

Mr. MacInnis: Pardon me, pardon me. May it please the Court, this is hardly an answer——

(Testimony of Lawrence S. Ross.)

The Court: He is entitled to make a full and complete disclosure.

Mr. MacInnis: All right.

The Witness (Continuing): I knew, of course, and still assert that every statement I have made here with respect to my activities in the Communist Party here, with respect to my knowledge of Harry Bridges and Henry Schmidt as members of the Communist Party, with respect to my activities as editor of the Western Worker, with respect to my activities at the 1936 convention of the Communist Party, with respect to those four specific meetings at which I recall seeing Mr. Bridges were true. Those I don't at all modify, and stand upon. The problem I was faced with, Your Honor and the Court, was a very serious one in my life, perhaps the most serious I have ever faced. I had two alternatives, as I say it, as I wrestled with myself in the [3495] wee small hours of the morning: Shall I still keep these facts from the Government and from the Court, brazen it out, stick to my lies in an effort to save my marriage and my standing in the community, or shall I purge myself once and for all, altogether, and place a clean breast of it? And this I have elected to do. It was to me a great decision, a very difficult decision. I believe, I am sure, I have made the correct decision. I asked for help in this decision, help of a higher judge than sits in this court, and I was struck by one proberb I read: "Commit thy works unto the Lord and he shall es-

(Testimony of Lawrence S. Ross.)

tablish thy thoughts." I have done my best to do that. That is the statement.

Mr. MacInnis: Shall I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. MacInnis): And you say, Mr. Ross, that when you went to bed on Friday night you were alone with your conscience?

The Court: Pardon me one moment, Mr. MacInnis. I notice that some members of the press are desirous of relieving themselves and preparing copy.

Mr. MacInnis: I appreciate that.

The Court: Accordingly they may be recessed now, certain members of the press.

Mr. MacInnis: Shall we wait, Your Honor?

The Court: Well, no; but I can't hear. You see, it is rather difficult for me.

Mr. MacInnis: I appreciate that, Your [3496] Honor.

The Court: It is difficult to hear you and to acquaint myself with all of the noises. Now again, I balance conveniences, Mr. MacInnis.

Mr. MacInnis: Judge, I am not criticizing you a bit. I was perfectly willing to wait a few minutes, if Your Honor suggested that.

The Court: It is quite all right. Now you go ahead.

Mr. MacInnis: All right, Judge.

Q. Now, Mr. Ross, did you mean to imply to the Court and the jury that when you went to bed on Friday night you were alone with your conscience

(Testimony of Lawrence S. Ross:)

and you decided that you would expose yourself in this deception?

A. That was a statement, not an implication.

Q. And you came to that decision voluntarily?

A. Yes, sir.

Q. Without anyone speaking to you about the contents of your previous testimony?

A. Correct.

Q. Mr. Ross, did you think that I did not know that you were the son of Bernard Rosenstein, who came from Poland in 1903?

A. You see, the reason for the wrestling with my conscience, Mr. MacInnis, is because I suspected you did know. In other words, when I came here to testify,——

Q. You answer the question.

A. May I please expand upon the answer, sir? When I came here [3497] to testify, I came here to testify upon certain events which occurred long, long, long after I adopted the name of Ross, changing it from Rosenstein. I was fully sure, I was certain in my own mind, that the questions to be asked would not go back to 1918 or '17 or '19. I was prepared to testify to the truth and the whole truth and nothing but the truth, so far as I could recall it, with respect to Harry Bridges. Now, when you asked those questions on Friday afternoon, that posed a problem to me. Here it was: What am I going to do with it, brazen it out or tell the truth? That is your answer, sir.

Q. Well, let me ask you this, then, Mr. Ross:

(Testimony of Lawrence S. Ross.)

When you importuned His Honor on last Friday afternoon to permit you to go home because the two children of your present marriage had to be back in school, and when you heard the government counsel insist that His Honor ought to allow you to go home, you knew then that these questions were being posed to you, didn't you?

A. I certainly strongly suspected it.

Q. And you were quite ready to go back to Memphis, Tennessee, leaving this jury deceived, weren't you?

A. No, sir; I was uncertain as to what I should do. I wrestled with the problem, and I found my answer.

Q. Well, now, let's go into your finding of the answer over the weekend. From the time we adjourned at about 35 minutes past 2:00 o'clock, maybe a few minutes after that, on last Friday, you have talked to more than one of these men who represent our [3498] Government in this case?

A. Yes, sir.

Q. Talked to Mr. Barber?

A. Between then and now? Yes, sir.

Q. When did you first talk to him?

A, I will put it at Saturday morning, possibly 10:00 o'clock, around 10:00. I didn't make my disclosure to Mr. Barber first, Mr. MacInnis.

Q. And when you left this courtroom, the room in which we now find ourselves, on Friday afternoon, were you then taken to some other room in this building, or did you go your way?

(Testimony of Lawrence S. Ross.)

A. The usual procedure was followed; I went to another room in this building and waited until the convenience of a government agent. We left together.

Q. How long did you wait here in this building?

A. I don't recall. Possibly 30 minutes 45, I am sure I don't know.

Q. Did you have any talk about the contents of the testimony that you had given?

A. No, sir, not a word.

Q. Well, with respect to your motives on this so called volunteer statement or disclosure, Mr. Ross, Mr. Barber told you, didn't he, that he had information, gotten around noon on Friday, that you had never attended any school in Middlesboro?

A. No, sir. [3499]

Q. Isn't that right?

A. That is not correct.

Q. Didn't Mr. Barber tell you that he had received a telegram from Mr. Lasseter, the principal of Middlesboro's high school, to the effect that the records in Middlesboro showed you hadn't attended any school, either high school or grammar school, in that area?

A. That was told me this morning at approximately—9:20 or 9:30.

Q. No one told you that until this morning?

A. Yes. And we made light of it because the name of the principal coincides with a name in the family.

Q. You made light of it?

(Testimony of Lawrence S. Ross.)

A. Yes, because he already had known it from my disclosure to him on Saturday. It was no surprise to him.

Q. You mean that when you talked to Mr. Barber on Saturday that he hadn't known of the fact that you were not registered in any Middlesboro school? A. No, sir.

Q. You mean you don't mean that? Tell us, please, what you mean.

A. I mean that as far as I know, he did not know, because I certainly had not told him at that time.

Q. Now, what was the first conversation that you had with any agent of the federal government after you left here Friday afternoon? [3500]

A. Do I understand you to mean the first conversation relating to my testimony here or conversation about the weather or any other conversation? You mean relating to my testimony here? Is that what you mean?

Q. Yes.

A. Possibly 9:15, certainly between 9:00 and 9:30 on Saturday morning.

Q. No one spoke to you on Friday night?

A. No, sir.

Q. And so on Saturday morning, who were the participants in this conversation?

A. There were two of us; besides myself there was Mr. William Kaiser. He is the first one to whom I revealed the facts.

Q. And where did that revelation take place?

(Testimony of Lawrence S. Ross.)

A. In his room, as I recall it, of the hotel at which he is staying.

Q. What hotel is that?

A. The Marines Memorial Club.

Q. And you met him there, did you, by prearrangement? A. Yes.

Q. Or had you been there?

A. I had been there before. I had met them there by prearrangement there every day during my testimony here.

Q. Now, you told him these facts early Saturday morning?

A. That's correct, between 9:00 and 9:30. [3501]

Q. And then what did you and he do so far as interviewing any other persons might be concerned?

A. He made several telephone calls.

Q. To whom?

A. Mr. Barber, Mr. Donohue, I know; I don't recall whether he called Mr. Boyd. It was either the two of these or the three of these gentlemen he called. I took no particular notice of the conversation. I was very much immersed in my own thoughts at the time. But he said something to the effect that he had some very important news and would they get together right away.

Q. And did you get together with them?

A. I did.

Q. Where did that get-together take place?

A. When?

Q. Where did that get-together——

A. The same hotel, probably a half hour later. I

(Testimony of Lawrence S. Ross.)

should say around 10:00, possibly a little after 10:00.

Q. And the participants in that conversation were whom?

A. Mr. Barber, Mr. Kaiser, Mr. Donohue, Mr. Boyd. I'm trying to recall whether Mr. Paisley was there, and I can't do it. You see, I have talked to Mr. Paisley, either on that occasion or since then. But whether he was in the room at that moment I can't recall.

Q. You talked to him on Saturday also?

A. I think so. I rather think he was there. [3502]

Q. And how long did that conversation persist?

A. My estimation would be about 45 minutes, probably an hour.

Q. And you discussed, then, the fact that you had lied under oath about your origin?

A. I discussed all the mistatements, disclosed all the misstatements I had made and rectified them.

Q. Well, now, you gave some thought, I suppose, to the preparation of this statement that you made to His Honor and to the jury this morning?

A. Not as to the wording of it, only as to those points. I wanted to fix in my mind those points about which I had made misstatements in previous testimony.

Q. When you were thinking about making this statement, did you recall that you had told this jury under oath that you had stopped deceiving people years ago?

A. Yes, politically; that statement was made with reference to political deception.

(Testimony of Lawrence S. Ross.)

Q. In other words, you had ceased political deception years ago, but you hadn't stopped general deception?

A. No, I have led that new identity for a long, long time, much greater than half my life. It became my real identity, Mr. MacInnis. I don't feel that I have practiced deception.

Q. You don't feel that that was a deception at all?

A. I feel like a misstatement here, or the misstatements here, based upon the reasons I gave, were not a wise course of action, [3503] but self-justification is so easy.

Q. And you knew, Mr. Ross, when you were asking to be excused from further attendance here on last Friday—you knew that your testimony was directed at the liberty of three men who were charged with crime in this court? A. Yes, sir.

Q. And if His Honor allowed you to go, you would have gone your way, wouldn't you?

A. I am afraid so, but my testimony with reference to two of those three men was accurate in all respects. [3504]

Q. We will come to that, too. You say your father, Mr. Bernard Rosenstein, is a man probably advanced in years.

A. I should say he is possibly seventy, possibly in his early seventies.

Q. You have not seen him for some time, have you? A. No, sir.

Q. You abandoned your parents just as you

(Testimony of Lawrence S. Ross.)

abandoned the two children of your first marriage, didn't you? A. No, sir.

Mr. Donohue: I do not want to interfere with this cross-examination, your Honor——

Mr. MacInnis: Don't.

Mr. Donohue: I have not, if your Honor please, but I think the suggestion in the question that this gentleman has abandoned his children or abandoned his father is a presumption of fact on the part of Mr. MacInnis which is improper.

The Court: Sustained.

Q. (By Mr. MacInnis): Mr. Witness—for I do not know what other names you may have adopted in the course of your life—let me ask you if this is true: When your children, the two children of your first marriage, left California they were taken in and aided and cared for for a time by the parents whom you have renounced?

Mr. Donohue: I object, if your Honor please. Isn't it about time Mr. MacInnis cross-examined this witness about his [3505] testimony against these defendants and left his personal life alone?

The Court: The objection is sustained.

Q. (By Mr. MacInnis): And the courses that you took after the two years which you spent at Morris High School were night courses in journalism at Columbia?

A. I believe they were night courses. I do not know whether they were called journalism. I recall the one course I took in creative writing. There were others, but I can't recall what they were.

(Testimony of Lawrence S. Ross.)

Q. Mr. Witness, when you were asked the question by me on Friday last as to whether you attended Morris High School in New York you replied "No," didn't you? A. I did.

Q. And when I asked you if your father was a needle worker or a man in that particular trade with the International Ladies' Garment Workers Union, you laughed and said, "No," didn't you?

A. I don't recall the laugh, Mr. MacInnis. The answer was in the negative. If it was a laugh, it certainly was a sickly one.

Q. Yes, it was. A. I don't doubt it.

Q. Mr. Witness, when you were questioned about whether or not you ever attended the University of Kentucky and were forced to reply that you could not remember a single classmate at that [3506] school, you knew then that the investigation into your past would, if continued for a day, reveal the truth, didn't you?

A. I certainly strongly suspected it.

Q. That was your notivation when you told his Honor that you had to get back to your job in Memphis, Tennessee?

Q. That was your motivation when you told his others were the facts I stated to the Court.

Q. And that was the occasion when you asked his Honor to be released back to your job, and when the prosecutor strongly urged his Honor to comply with your request?

A. That should be a matter of record.

(Testimony of Lawrence S. Ross.)

Q. You recall it, don't you?

A. It makes sense. It sounds logical.

Q. After, Mr. Witness, having made this confession, which you say you had not composed before coming here, including the scriptural quotation at its end, you say that in all other particulars you have spoken the truth? A. Yes, sir.

Q. When you were placed first upon the witness stand by the man who was appointed to prosecute this case by our Government, you were asked by him the question, "When and where did you join the Communist Party?" and your reply was, "In Los Angeles in January of 1932 or February of 1932."

A. That is correct, Mr. MacInnis.

Q. Was that the truth or was that false? [3507]

A. That was the truth, because before the joining in January, 1932, I had not been even a card-carrying member of the Communist Party for quite some time.

Q. So that was the truth. Then when cross-examination of you was undertaken by myself you were asked this question by me, "You joined the Communist Party in August of 1927 in New York, didn't you?" and your reply, after some hestitation, was, "I think I may have applied or signed an application card at that time, yes." Is that your testimony?

A. I think the record will show. I do not recall the words I used, Mr. Counsel.

Q. Was that true?

(Testimony of Lawrence S. Ross.)

A. Is what true? Whether I made that statement?

Q. Yes.

A. I will have to refer to the testimony.

Q. Was that a true statement?

A. That I did make an application?

Q. That all you did was sign an application card in August of 1927.

A. Yes. You see, as I explained before, I didn't consider myself a Communist. I was not a card-carrying member of the Party. I wrote publicity for the Party in the election campaign. I covered a situation in Wilkes-Barre for the Daily Worker as a newspaperman. The thing had no grip on me; it had no hold on me. I did not believe its ideology. I didn't [3508] understand it. It was a lark. In 1932 when I joined the Communist Party I became a Communist.

Q. That previous occasion was the time when you had, to paraphrase your words, oozed out of the Communist Party? A. That sounds familiar.

Q. And then after being probed a little bit as to whether your activities in the Communist Party in 1927 and 1928 around New York and on the East Coast were Communist activities, you then said, "Yes, I was in the Communist Party for a year or more." Was that the truth? A. Yes.

Q. And was it the truth when you were asked to delineate for the jury the employment phases of your life by this prosecutor, your reply being, "Select newspaper endeavors after the year 1929." Was that the truth?

(Testimony of Lawrence S. Ross.)

A. No, I think it was before 1929. I am not certain of the dates. It was around that period, 1927, '28 or '29, or '26.

Q. What deception did you have in mind when you failed to inform the Court and jury as to your work in the employment of the Communist Party itself—not merely membership but employment in the years 1927 and 1928?

A. There was no attempt to deceive. That period is very unimportant. It was a job. It was an adventure. I am quite sure, although I can't say without looking at the statement—I am quite sure I did not inform Mr. Barber of that when he [3509] asked me questions in Memphis early last year.

Q. Mr. Witness, has it always been your point of view with reference to your Communist Party activities that you never really joined the Communist Party until 1932 in Los Angeles?

A. It has always been my point of view that I never became a convinced Communist, that is, a member of the Party who thought he knew what it was all about and agreed with its principles and policies, until after I joined the Party in 1932 in Los Angeles.

Q. And you never considered that you were a Communist continuously from 1927 right through the 30's until you removed yourself from the Communist Party?

A. I believe that when I rejoined the Communist Party in January, 1932, I may have tried to claim such continuous membership because of a reason of

(Testimony of Lawrence S. Ross.)

possibly pride in having been in it so much longer than I actually was continuously.

Q. You did not tell that to the Court and jury last week, did you?

A. No, sir, I wasn't asked. There was no occasion upon which to tell it.

Q. You told the Court and jury that almost immediately after you joined the Communist Party in January, 1932, you were employed by that organization and given a responsible job, didn't you?

A. My first employment, I thought, was for the International [3510] Labor Defense in writing propaganda leaflets, and then sometime thereafter—I do not know how soon, whether it was two months, three months or four months—I became a paid functionary in the Communist Party, director of agitation and propaganda—educational work—that is correct.

Q. Are you the same Lawrence Ross that testified in the month of December, 1934, before a branch of our national House of Representatives, one of the Un-American Activities committees?

A. Yes, sir, I testified—I do not know the year, but it was before I came to San Francisco, before the Kramer Sub-Committee of the House Committee on Un-American Activities that was in Los Angeles.

Q. That was called the McCormick-Dickstein Committee, wasn't it? A. I don't know.

Q. Were you administered an oath to give testimony in that proceeding?

A. I must have been.

(Testimony of Lawrence S. Ross.)

Q. And you understood that an oath was being administered to you at that time, didn't you?

A. Oh, yes, yes.

Q. And you gave testimony under oath before that sub-committee that you were a Communist, didn't you?

A. Yes, if the oath was administered I certainly did. [3511]

Q. Now, you were asked questions by the member of Congress who conducted that hearing, weren't you? A. I believe so.

Q. Or by the counsel of the congressional committee, whichever it was? A. I suppose so.

Q. And the questions began, as is often the case, with a question as to your origin? A. Right.

Q. You were asked, "Are you a native-born citizen, Mr. Ross?" and your answer, "Yes."

"Where were you born?"

"A. Kentucky."

Is that what you said?

A. If that is a true record, I do not dispute that I said it.

Q. Had you forgotten that you were born in Poland?

A. It meant nothing to me. I had established this new identity for so long, it meant nothing to me.

Q. Had you drawn a blind over that part of your life?

A. What part of my life, Mr. MacInnis?

Q. Your early days.

(Testimony of Lawrence S. Ross.)

A. I suppose so. I think it was an automatic blind. There was no effort to draw it. It drew itself down.

Q. In other words, concerning that part of your life in which you were brought over from the country of Poland to the [3512] United States, an automatic blind within your memory had been drawn?

A. Let me tell you this: When I did come here, I believe I was six or seven years old. All the formative years of my life, all the years in which decided impressions were made, were made here, so that that origin never stayed with me very long.

Q. Do you remember whether you were asked these questions and gave these answers before the Congressional committee in 1934 under oath:

> "Q. In what capacity did you say that you acted for the Communist Party?
>
> "A. Secretary of the Communist Party in Los Angeles.
>
> "Q. How long have you been so acting?
>
> "A. As secretary for about six months.
>
> "Q. Were you a member of the Communist Party prior to that time?
>
> "A. Yes.
>
> "Q. For how long?
>
> "A. I have been a member of the Party since 1927."

A. As I said before, I tried to claim continuous membership because at that time I was convinced that to be a Communist was to be something upright,

(Testimony of Lawrence S. Ross.)

honorable and decent, and I tried to claim that continuous membership for that reason.

Q. You lied under oath then? [3513]

A. I was a Communist at that time.

Q. And you did lie under oath?

A. Yes, sir.

Q. The other day, Friday, which would have been, I guess, the 6th of January of this year, you told this jury that your reason for switching dates upon your membership in the Communist Party was that when you went in first it was just an adventure, and that is why you neglected to mention those early years, just an adventure that did not impress itself upon your mind. Isn't that what you told us Friday?

A. That is correct, and it still stands good.

Q. But in 1934, so many years nearer in point of time to these events, you answered without hesitation, "I have been a member of the Party since 1927."

A. That speaks for itself, for the reason explained by me before.

Q. That was the truth, wasn't it, that you had been a member of the Communist Party since 1927?

A. No, sir.

Q. In other words, the lie in that instance was a lie told not here in court but before the sub-committee of our Congress?

A. That is right. Mr. MacInnis, you no doubt have some form of information. You probably have reference to the Communist Party records. I am

(Testimony of Lawrence S. Ross.)

sure they will show I was not a continuous member since 1927. That can be checked most easily. [3514]

Q. We would be most delighted to find such records in this case. If we could get records of that kind, we would not have had to ask for a recess from Friday to Monday. Let me ask you this: You gave some testimony, Mr. Witness, about the purposes of the Communist Party and about a statement you had made in that paper called the Western Worker, didn't you? A. Yes, sir.

Q. You gave some statements here as to whether or not you had been deceiving the readers of that paper; do your remember that?

A. I remember testimony with reference to my work on the Western Worker generally.

Q. Let me ask you if before the committee of Congress in 1934 you were asked these questions and gave these answers:

> "Q. Well, then, as an officer of the Communist Party may I ask you the purposes and objects of the Communist Party?"

And your answer:

> "Yes, the object of the Communist Party is to organize the working classes for a struggle to better living conditions, and also when the Communist Party has succeeded in winning the majority among the population in America, to establish the right of that majority to rule itself with a working class government.

(Testimony of Lawrence S. Ross.)

"Q. Do you advocate a change in the United States? [3515]

"A. I do.

"Q. And what changes do you advocate?

"A. I advocate that the government be a working class government, that the parties of the government be run by agents of the working class for the good of the working class.

"Q. Do you advocate bringing about these changes by the use of force, if necessary?

"A. Only if the organized minority opposes the will of the majority.

"Q. And do you feel that that condition exists at the present time?

"A. No, sir, it does not.

"Q. You do not then advocate at the present time the use of force or violence?

"A. No.

"Q. What steps does your organization advocate to accomplish its purpose then if you do not advocate the use of force?

"A. Dissension among the working classes. That is one thing. Another thing is organization of the working classes to struggle for better conditions. In the course of that struggle the facts are revealed that the forces of the present government apparatus are used in the interests of a minority of the population against the interests [3516] of the working classes. In other words, when the anti-working-class of the present government apparatus is revealed to a

(Testimony of Lawrence S. Ross.)

> majority of the population, they will either join the Communist Party or support it without joining it."

Was that your statement?

A. I think so; something along these lines.

Q. Were you telling the truth then or were you telling the truth here in this court?

A. I was not telling the truth then. I did not reveal the entire program, purpose, belief and philosophy of the Communist Party.

Q. You were lying under oath?

A. May I finish my answer, please? I regarded that committee as a hostile committee, hostile to the Communist Party.

Q. The committee members treated you as such?

A. They treated me with the utmost courtesy, and I think I was also courteous to them.

Q. They did not treat you like a hostile witness, did they?

A. No, sir, it was a matter of political opinion.

Q. They showed you every courtesy, didn't they?

A. Of course.

Q. They were not accusing you of any violation of the law, were they?

A. They couldn't have, so far as any crime is concerned. [3517]

Q. Pardon me?

A. I say, so far as any violation of law as to crime is concerned.

Q. You were not violating any law then?

A. I didn't think I was. I was certainly violating decencies.

(Testimony of Lawrence S. Ross.)

The Court: We might take the morning recess, Mr. MacInnis.

Mr. MacInnis: Very well, your Honor.

The Court: Ladies and gentlemen of the jury, we will take the morning recess. The same admonition to you not to discuss the case under any conditions nor to form or express an opinion until the matter is submitted to you.

(Recess.) [3518]

Q. (By Mr. MacInnis): Now, Mr. Witness, you knew that while excerpts from your testimony before a Congressional committee were being read to you in the last hour, that the chief prosecutor, Mr. Donohue, was reading along with me out of the same volume, did you not?

A. I saw him reach across the table for a volume. I drew the conclusion it was the same material; I didn't know for a fact.

Q. Well, now, did you ever discuss with Mr. Donohue the matter of your testimony in that particular hearing?

A. At the Kramer Subcommittee hearing?

Q. Yes.

A. No, I didn't discuss it with him.

Q. Did you discuss with him the reason for the failure to include those statements in the direct testimony that you and he offered the jury?

A. No, sir. The only reason I ever gave him for that was one made in the open courtroom here.

Q. Did you discuss with him the difference in

(Testimony of Lawrence S. Ross.)

your statements about the time you had been in the Communist Party? A. No, sir.

Q. I mean by that the statements he elicited from you under oath before this jury, and the statement that you had made before, under oath, in 1934?

A. No, I did not.

Q. You never discussed that with him? [3519]

A. No, I did not.

Q. Never at any time? A. No.

Q. Now, at the outset of questions put to you by me the other day, Thursday of last week, you were asked where you were living here in San Francisco, and you begged to be excused from answering that question. A. That's correct.

Q. You took the same position in 1934 when you were a Communist leader, and the McCormick-Dickstein Committee asked you questions about where you lived?

A. I probably did, for the reason that at that time the police of Los Angeles were engaged in a campaign of breaking up Communist meetings. I was afraid at that time of police action.

Q. Did you give these answers to these questions?

> By the Chairman: "Do I understand you to say you live in Pasadena?"
>
> Answer: "No, I referred to the case of a Communist sympathizer living there."
>
> Question: "What is your address?"
>
> Answer: "I would rather not give that, because of experience."

(Testimony of Lawrence S. Ross.)

Question: "It is a matter of public record, if I understand; you are running for office."

Answer: "It is a matter of public record, the place where [3520] I sleep two or three times a week, but not always."

Question: "Where are you registered from?"

Answer: "4371 West 10th Street. I do not sleep there every night."

Is that the answer you gave?

A. I assume so; I am not questioning it.

Q. What was that address on 10th Street in Los Angeles? Was that your home?

A. I am afraid I can't remember.

Q. Pardon me?

A. I can't recall that.

Q. Well, don't you remember if you had a home there or the address or not?

A. Well, I assume I did, but the address itself means nothing to me now—it is merely a collection of figures.

Q. Don't you remember the street in Los Angeles on which you lived? A. No, I don't.

Q. Where was the other place that you stayed on other nights in the week?

A. I don't know that, either.

Q. You don't know what street that was on either? A. No, sir.

Q. Did you discuss that with Mr. Donohue?

A. Certainly not. [3521]

Q. How about Mr. Kaiser? A. No, sir.

(Testimony of Lawrence S. Ross.)

Q. Did you discuss that with him?

A. No, sir.

Q. Is Mr. Kaiser the man who calls for you in the mornings before coming to court?

A. I would say I call for him.

Q. You call for him. And do you come here to court together? A. Yes, sir.

Q. And Mr. Kaiser has revealed to you that he has a copy of the transcript in this case, given him daily, has he not?

A. Yes, sir, I asked him to see it.

Q. Now, coming back to this Saturday morning meeting that you say you had with the prosecutor, Mr. Donohue, Mr. Boyd, Mr. Barber and Mr. Kaiser, just tell us what the discussion was at that time.

A. I told them in effect the same things I revealed this morning in my statement to the Court.

Q. Didn't Mr. Barber tell you at that time that he had in his possession a telegram from the Registrar of the University of Kentucky showing that you had never attended that school?

A. No, sir.

Q. Didn't Mr. Barber tell you in the presence of Mr. Donohue and the others that at noon on Friday he had talked by telephone to the University of Kentucky and had found out that you had [3522] never gone to that school?

A. No, sir, he withheld that from me.

Q. How many conversations after that conver-

(Testimony of Lawrence S. Ross.)

sation on Saturday morning did you have with any of those men?

A. Did you mean conversations relating to this matter, to the matter of my testimony? Do you? There was another meeting at which Mr. Donohue, Mr. Kaiser and Mr. Paisley were present.

Q. Where was that?

A. That was at the Marines Memorial Club on Sunday, yesterday, approximately 5:00 o'clock.

Q. 5:00 o'clock yesterday afternoon?

A. That's correct.

Q. How long did that meeting persist?

A. 30 to 45 minutes, I would judge.

Q. And you didn't see them thereafter?

A. Yes, I saw——

Q. Before this morning?

A. No. I saw Mr. Kaiser this morning.

Q. How about last night? A. Pardon?

Q. Did you see any of those men last night?

A. I saw Mr. Kaiser last night, yes.

Q. Where was that?

A. That was at the office of the United States Appraisers Building downtown. [3523]

Q. You were there last night?

A. Pardon?

Q. You were down there last night?

A. I was down there last night.

Q. And whom did you see there, besides Mr. Kaiser? A. Just Mr. Kaiser.

Q. Just the two of you?

A. Just the two of us. He was in one room and I was in another.

(Testimony of Lawrence S. Ross.)

Q. What were you doing down there?

A. I had asked Mr. Kaiser to let me see a copy of the transcript on all points affecting my testimony given here previously as to my origin, my education, my name.

Q. And he kept that transcript down at the Appraisers Building rather than in his hotel?

A. I saw it at the Appraisers Building, yes, sir.

Q. And no one was with you in that room, is that true?

A. Just myself. Mr. Kaiser was in another room.

Q. How about Saturday morning when this meeting terminated between you, Donohue, Boyd, Barber and Kaiser? Where did you go then?

A. I went to the room in the hotel and waited around. Mr. Kaiser was busy and had something to do.

Q. With whom did you have lunch?

A. That would require an effort of [3524] recollection.

Q. Yes, I know—two days have passed.

A. That's right, but lunches aren't important to me, Mr. MacInnis.

Q. You pull down a blind on your lunches, do you?

A. I don't think that calls for an answer. Let me think, though. I will give you the answer, to the best of my recollection. Saturday—Mr. Kaiser was there, I know.

Q. You had lunch with Mr. Kaiser?

A. Yes. I am trying to recall whether anyone else was with us at the time. I can't recall it. I

(Testimony of Lawrence S. Ross.)

believe it was with Mr. Kaiser alone, to the best of my recollection.

Q. Then you say you went to your room and waited for Mr. Kaiser in the afternoon?

A. Yes, that's right. That is Saturday, right, you are talking about?

Q. Yes. A. Yes. [3525]

Q. And you waited how long?

A. Between—I was a great deal alone with my thoughts and felt a lot better than I had. I know I enjoyed my lunch for the first time—several hours.

Q. You waited alone for several hours?

A. That is correct.

Q. Where did you see Mr. Kaiser after that?

A. I had supper with him and with one other person—I believe the name is Kidder, although I have never heard it pronounced to my satisfaction. It is either Kidder, Kinner, or something with a K.

Q. Where did you eat dinner with those men?

A. Bay City Grill.

Q. And then what did you do afterwards? Did you see those men?

A. I went back to the hotel and stayed there.

Q. Alone?

A. No, I was in the company of Mr. Kaiser, possibly Mr. Kidder, too. Mr. Kidder, yes.

Q. They went back to the hotel room with you, did they? A. That is correct.

Q. What discussion did you then have?

A. Nothing that I can recall of any pertinence.

Q. Did these conversations concern themselves

(Testimony of Lawrence S. Ross.)

with the lies that you had told on the witness [3526] stand?

A. With the misstatements that I had made. I called them white lies.

Q. You call them white lies?

A. Yes. I think a lie is a statement made with the intent both of deception and winning something for yourself to advance your own position. I had nothing to advance in concealing those facts.

Q. What do you call the lies that you told in 1934 when you misstated the date that you had entered the Communist Party, or when you lied about the use of force and violence, according to your present mood on that score?

A. I should call those typical exemplary Communist lies.

Q. What do you call the lie that you told this jury last week when you said that you used to deceive when you were a member of the Communist Party, but that you had turned off that part of your life and you were no longer deciving anybody?

A. Political deception. I was no longer deceiving anybody. The new identity I had made for myself was intrinsically a correct and true one.

Q. How about Sunday morning? What men did you see that morning?

A. Mr. Kidder and Mr. Kaiser.

Q. Is Mr. Kidder in the courtroom now?

A. I don't see him. He isn't at the counsel table and I don't [3527] see him in the audience.

Q. You see Mr. Kaiser, of course, in his usual seat? A. Yes.

(Testimony of Lawrence S. Ross.)

Q. What about Sunday morning in your interviews with these men?

A. We had no formal interviews.

Q. Where did you meet?

A. I believe I either called for Mr. Kaiser or he called for me. I can't recall. And we went out and had a late breakfast, possibly 9, 9:30, 10—it was rather late—9:30, I would say.

Q. Then where did you go?

A. I don't know what we discussed.

Q. Where did you go?

A. Went back to the hotel.

Q. With them? A. Yes.

Q. Stayed there together?

A. This is Sunday? I am sorry. May I make a correction? Mr. Kidder was not with us at breakfast on Sunday. It was Mr. Kaiser and myself only. He left and went on his own business.

Q. Who left?

A. Mr. Kidder did. Mr. Kaiser and I had breakfast together.

Q. When did Mr. Kidder leave?

A. Earlier that morning. I don't know the exact time. [3528]

Q. You had an interview before you went to breakfast?

A. No interview, no, sir. We probably talked about the San Francisco rain and the Chamber of Commerce statements.

Q. What was the interest of these men in talking to you? It was not to get your notions about the San Francisco rain, was it?

A. I had already before Sunday morning told them all the facts. There was nothing further to reveal.

Q. They both came to you on Sunday morning?

A. I saw Mr. Kaiser Sunday morning; Mr. Kidder possibly 15 minutes or so, I recall.

Q. After breakfast what did you and Mr. Kaiser do?

A. I reckon we went back to our hotel. I don't recall going anywhere right away.

Q. Was he with you?

A. Mr. Kaiser was, yes.

Q. Can't you tell us where you went?

A. Back to the hotel.

Q. And stayed there together?

A. Stayed there together, yes.

Q. Until what time?

A. I would say 1:15 or 1:30.

Q. And then you went where?

A. Then we had lunch.

Q. You and Mr. Kaiser? [3529]

A. Another gentleman with us had lunch. We ate at Foster's place on Market Street, somewhere downtown Market Street.

Q. Who was the other man? This is yesterday now, Mr. Witness.

A. Yes, yesterday. If I knew his name, and I suppose I did—I know I was introduced to him—

(Testimony of Lawrence S. Ross.)

I don't recall it. I can describe him to you if you would like.

Q. Do you see him here? A. No, I do not.

Q. You had lunch with this man, but you cannot recall his name, is that right?

A. That is correct. I would know him if I would see him again.

Q. After you left Foster's at some place on Market Street, where did you then go?

A. We got into an automobile and drove across the Oakland Bay Bridge.

Q. And you went where?

A. We went to Berkeley.

Q. You and what others?

A. Mr. Kaiser.

Q. Anybody else? A. That is all.

Q. Where did you go in Berkeley?

A. We went to an address that I can't recall. I would say it was about a 15-minute drive from the other end of the bridge, [3530] the Oakland end of the bridge.

Q. In what city was this? A. Berkeley.

Q. What street?

A. It started with an F, I know, because we tried to find it on the street posts, signposts.

Q. You tried to find it?

A. I mean as we drove past I looked at the signposts and tried to see if this was the street we were looking for. It started with an F.

Q. Was the rest of it obscured so all you could see was the F?

(Testimony of Lawrence S. Ross.)

A. It is obscured in my mind. If you give me thirty seconds I will try to think of it.

Q. Whose house was it?

A. Fulton Street was the name of the street.

Q. Pardon me? A. Fulton Street.

Q. Fulton Street? A. That is correct.

Q. Whose house was it?

A. The house of a former member of the Communist Party here.

Q. Named what?

A. Miles G. Umphrey.

Q. Umphrey? A. Yes, sir. [3531]

Q. How long did you stay at that house?

A. I think 45 minutes is a fair estimate of it.

Q. You, Mr. Kaiser and this man Miles G. Umphrey?

A. Yes, sir. I went in alone and asked Mr. Umphrey if it would be all right to have Mr. Kaiser come in, and he said certainly, and so we both met with him.

Q. When you left that house where did you go?

A. We came back to San Francisco, to the Marines Memorial.

Q. Kaiser still with you? A. Yes, sir.

Q. And went where in that building?

A. May I amend a statement I made just five minutes ago about Sunday morning, please?

Q. You have amended a great many. I suppose you can do that, too.

A. Thank you for your courtesy. On Sunday morning I went to church. I had forgotten that

(Testimony of Lawrence S. Ross.)

when you asked me. I was trying to place my activities with reference to this case. Sunday morning I went to church.

Q. Who told you to say that?

A. No one. It can be checked, I believe. I was seen there; I was recognized there.

Q. You mean you went so you could be seen, is that it?

A. No, sir, I went for a far more serious reason; I hope for the same reason you go, Mr. [3532] MacInnis.

Q. What did you do Sunday afternoon?

A. The events of Sunday afternoon are correctly described.

Q. When you got back to this Marines Memorial what did you do?

A. After a short while we had supper. I think you call it dinner here.

Q. With whom? A. With Mr. Kaiser.

Q. About what time?

A. Possibly 7:30 or 8.

Q. And you did not see anybody else from the time you got back from Berkeley until the time that you went to dinner?

A. No, at 5 o'clock on Sunday before supper I had this meeting with Mr. Donohue, Mr. Kaiser, Mr. Paisley—I do not think Mr. Boyd was there. In fact, I know he wasn't there.

Q. After you left that meeting you went to supper with Kaiser?

A. Possibly a half hour later or an hour later.

Q. Where did you have supper?

(Testimony of Lawrence S. Ross.)

A. The dining room of the Marines Memorial Club.

Q. Then you went where after?

A. I went down to the Appraisers Building, where I asked to be shown a copy of the transcript for the purpose of seeing upon what points I had made misstatements to this Court.

Q. Then what did you do?

A. Well, we went back to the Marines Memorial Club and I went [3533] to bed.

Q. You say "we went to bed"?

A. I went to bed, I said.

Q. Has any agent of the Immigration Service been sharing a room with you at that place?

A. At the Marines Memorial Club Saturday night and Sunday night.

Q. Who?

A. I don't know that he is an agent of the Immigration Service. I know he is connected with it, possibly in a legal capacity—Mr. Kidder.

Q. You say this Mr. Kidder whom you mentioned before stayed with you on Saturday night and Sunday night in the same room?

A. Slept in the same room, yes, sir.

Q. There was some change made in whatever custody has been exerted over you, is that right?

A. There hasn't been any custody, Mr. MacInnis.

Q. Were you taken from the place where you had been staying and given quarters at the Marines Memorial Saturday night?

(Testimony of Lawrence S. Ross.)

A. Saturday—Friday night when I came to the conclusion that I had to face the facts and get it all out of my system, when I decided that it might be the wisest thing for me to tell the Government counsel all the facts about my long-ago past, we will say, up to the time I was 15 years old or 16, I didn't want to do so with my wife and family present. I wanted to save them that embarrassment for the time being, so [3534] I asked her to start driving slowly south. I asked her to call me tonight, five o'clock, and I would try to get a plane to meet her. The reason I gave her was a sound one. It was not the entire reason, "It is going to be late getting back to Memphis. I want you to drive slowly. I don't care how much time you make, but just so you can get started, and then I will try to get a plane and meet you and we will carry on from wherever we meet on Monday night."

Of course, besides this I wanted her out of town when I made these disclosures. I didn't want to be distracted by her presence. So I no longer stayed at the Hotel Harcourt after Friday night with my wife and family. Then from that time on, Saturday night and last night, I stayed at the Marines Memorial Club in Mr. Kidder's room as his guest.

Q. You told us this morning there was some discussion between you and the others, including Mr. Barber, about a telegram from the principal of the Middlesboro High School in Kentucky.

A. Mr. Kaiser told me that Mr. Barber had received a telegram from the principal of the Middles-

(Testimony of Lawrence S. Ross.)

boro High School saying there is no record of anyone by the name of Lawrence Ross, or something to that effect, ever having attended that school.

Q. When did he tell you that?

A. Let me think. We had breakfast about eight—8:30, possibly, or 8:20—I would say 9:30 or 9:15 this morning.

Q. This morning? [3535]

A. This morning.

Q. You were not told that yesterday?

A. No, sir.

Q. None of the men connected with the Government told you that Mr. Barber, at Friday noon, had telephoned the registrar of the University of Kentucky? A. No, sir.

Q. Or that he had telephoned the principal of the Middlesboro High School, Mr. Laster?

A. No, sir.

Q. And you saw these men at five o'clock yesterday at Marines Memorial, right?

A. The men I mentioned having met there, yes.

Q. Did they tell you that when an investigator for the defense yesterday afternoon in New York went to the home of your father, there was an immigration agent already there?

A. No, sir, they said nothing about an investigator for the defense.

Q. They did not tell you that? A. No, sir.

Q. You heard the prepared statement that the prosecutor, Mr. Donohue, made at the start of this morning, didn't you? A. Yes, sir, I heard it.

(Testimony of Lawrence S. Ross.)

Q. Did you help him compose that?

A. No, sir. [3536]

Q. Was it made in your presence?

A. No, sir, I do not think Mr. Donohue needs any help in composing statements.

Q. How about the statement that you made?

A. What about it?

Q. Did you write that out? A. No, sir.

Q. Do you have a copy of that?

A. I haven't written it out.

Q. Did you give any further written statement to these men for the Government?

A. No, sir. The last written statement that I remember making was made to Mr. Barber in I think early March of 1949.

Q. They didn't ask you to make any further statement when these revelations of this last week-end came to their attention?

A. No, sir. I made my statement to them orally.

Q. When was it determined that you were going to make a statement yourself?

A. That happened in a rather peculiar way, Mr. MacInnis.

Q. Just tell us when that was determined.

A. I shall have to ask your leave to word it in my own way, please. You will get the facts.

Q. Just tell us the time. That is all I want to know. A. I can't fix the time.

Q. What day was it? [3537]

A. Because the conviction that I should make a statement of that kind came upon me sometime Saturday afternoon. I hadn't discussed it at that time with any of the Government counsel.

Q. Let me ask you this: Did it come upon you at a time when Mr. Donohue said to you, "It is impossible to continue with this examination; you may as well admit the facts"?

A. He made no such statement, Mr. MacInnis.

Mr. MacInnis: May we take the recess?

The Court: We will take the noon adjournment and recess, ladies and gentlemen, and resume at two o'clock this afternon. The same admonition to you, particularly at this time and stage of the proceeding, not to discuss the case under any conditions, with any person, and not to form or express an opinion until it is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.) [3538]

Monday, January 9, 1949, 2:00 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Lawrence Ross, heretofore sworn.

Cross-Examination
(Continued)

By Mr. MacInnis:

Q. When was it that you first saw a copy of your testimony before the Congressional Committee

(Testimony of Lawrence S. Ross.)

in the hands of one of the government prosecutors?

A. To the best of my recollection, it was Saturday morning.

Q. Saturday morning before the matter had ever been mentioned in this court? A. Yes, sir.

Q. And which one of these men had the copy of your testimony in his hand? A. Mr. Kaiser.

Q. Before you appeared here as a witness, had you had any discussion with any of those men about the contents of this previous testimony?

A. I believe there was some reference made to my having testified before the Kramer Subcommittee in Los Angeles, but I don't recall any extended discussion of it.

Q. Whom do you remember as having referred to that matter?

A. I believe it was Mr. Kaiser.

Q. And about when, in reference to your appearing here as a [3539] witness?

A. I don't recall whether it was in November when I was here or last May.

Q. It was either one? A. I think so.

Q. So that at least you were conscious from that one conversation that the government prosecutors knew that you had given this previous testimony about your work in the Communist Party and the period of time that work covered?

A. I know Mr. Kaiser knew it, and that is the extent to which I could testify from my own knowledge.

Q. Had you made some agreement with any of these men that you were to say January, 1932, in Los Angeles? A. Certainly not.

Q. Pardon me?

A. I said, "Certainly not."

Q. You recall the questions and the answers that were put to you the day you first took this stand as a witness, do you not?

A. In a general way; I don't recall them specifically.

Q. And when you were asked, "When and where did you join the Communist Party,?" and replied, "January, 1932." A. I believe so.

Q. In Los Angeles. Had there been some arrangement that the prosecutor was not then to inform you that you were mistaken?

A. No, sir. [3540]

Q. There was no such information given you at that time, though, was there?

A. Do you mind repeating that question? I want to understand you properly.

Q. Let me put it this way. If the matter of your previous testimony had not been brought to your attention, the record in this case would still show your original answer? A. Oh, yes.

Q. Without change? A. That's correct.

Q. So that it was your intention, and the intention of the persons preparing the questions which were put to you, that this record should show January, 1932?

The Court: One moment.

(Testimony of Lawrence S. Ross.)

Mr. Donohue: I object to the question, if your Honor pleases.

The Court: One moment. I am reluctant to permit that question to be answered by the witness, for it embraces in it asking a reflection upon the proposer or propounder of the question. To that extent it is subject to an objection. Accordingly the objection will be sustained on the Court's own motion.

Mr. MacInnis: I will ask this question, then.

Do you remember the recess had at the conclusion of your direct testimony?

A. There is one word you said I didn't quite get. [3541]

Q. Recess. A. Recess?

Q. Yes, that the Court recess. A. Oh, yes.

Q. Did any one of the government prosecutors during that recess, before questions were asked of you by me, say to you, "Weren't you mistaken on the dates and places that you gave about your work in the Communist Party?"

A. As I recall that testimony, Mr. MacInnis, I think that after the recess I was still under direct examination for probably five or ten minutes. During that recess I held no conversation with Mr. Donohue or any other government attorney.

Q. And did any one of the government prosecutors in that recess say to you, "You have left out some of the periods of your employment. You haven't told the jury that you were working for the Communist Party in the Pennsylvania coal mines, and you haven't told the jury that you were employed on the Daily Worker, the official paper of the Communist Party." Anybody say that to you?

A. I had no discussion with any of the government attorneys during that recess period.

Q. To go a little further into the same testimony that you gave in 1934 before the Congressional committee, let me ask you this, if this question was put to you and this answer given:

> The question: "Have you received any instructions from the [3542] national headquarters any time advocating the use of force in the overthrow of the government?"

and your answer:

> "No, I am quite familiar with the program of the Communist Party—not from direct instructions, but from my general thoughts, or from the general reading and study of the party program and the party literature."

Was that your answer?

A. That very well may have been.

Q. Was that the truth?

A. It was an evasion of the truth.

Q. Was it perjury? A. No, sir.

Mr. Donohue: I object, if your Honor pleases; perjury is a question of law, not a question of fact.

The Court: Objection sustained. [3543]

Q. (By Mr. MacInnis): Let me ask you if you gave these answers in response to questions at that time:

(Testimony of Lawrence S. Ross.)

“Q. Have you ever seen any placards displayed in your meetings carrying the exact words ‘To Hell With America’?

“A. No, of course not.

“Q. Would you state you have never seen any placards similar to that?

“A. Of course.

“Q. In other words, you enjoy living in America, do you not, Mr. Ross?

“A. Certainly.

“Q. If you had any such statement to make, you would mean ~~to~~ hell with present policies rather than to hell with the whole country itself?

“A. I would mean I advocate a change in governmental policies. The country is all right.

“Q. Naturally, you do not want the whole country to go to hell?

“A. We want to build it up.

“Q. Did you ever see any such placard as that——”

and I am referring to Exhibit No. 1, which was the placard I have described—and your answer:

“No, it is absolutely un-Communistic.”

Did you give those answers?

A. I will take your word for it that I did. I don’t see the [3544] record, but they sound like the answers I would have given at that time.

Q. Were those answers the truth?

A. In fact, yes.

Q. And did you give these answers:

"Q. Do you advocate the arming of any of your men? A. No.

"Q. Are any of your men armed?

"A. Oh, no.

"Q. Officially, I mean. You have no organization in the Communist Party of armed men?

"A. Not at all. As a matter of fact, we can't use our own judgment and exercise our right as citizens, which allows a citizen to have a gun in his house for protection and I wouldn't do it because if found there it would be construed to be for revolutionary purposes, and so none of us arm ourselves."

Did you give that testimony?

A. Quite probably.

Q. Was that the truth? A. Yes.

Q. And did you give these answers in response to questions put at the same time:

"Q. There is no secret about that?

"A. No, it is published, published in our documents. [3545]

"Q. I can say for the purpose of the records, too, Mr. Ross, the Communist Party has at all times followed that procedure as far as this committee is concerned, in that all the information you have has been a matter of public knowledge. I would like to state that for your information. The reason for asking the question is throughout the country there seems to be an inference this information is

(Testimony of Lawrence S. Ross.)

most difficult to obtain, and we were just wondering about it.

"A. Well, as a matter of fact, the party leadership, whether national or district, uses ~~the ut~~most frankness about its own organization.

"Q. And that has been the policy of Mr. Foster and has been the policy of Mr. Browder and has been the policy of Mr. Hathaway?

"A. That is correct."

Did you give that testimony?

A. I did, I believe.

Q. Was that testimony true?

A. To the best of my knowledge at that time, I was. I was a dupe at that time, Mr. MacInnis. I believe those to be the true answers.

Q. You were a dupe. You had drawn a blind over your early years in the Communist Party because then you were a lark, as you say, and then in 1934 you were a dupe when you gave this [3546] testimony because you really didn't know the true facts.

Mr. Donohue: Is that a true question, if Your Honor please? If so, I object to it.

The Court: Sustained. It is argumentative.

Q. (By Mr. MacInnis): Well, now, in respect of that question, let me ask you if you gave this testimony:

"Q. (By Mr. Mooney—who is named here): Has any other organization other than the ones

(Testimony of Lawrence S. Ross.)

just mentioned made any effort or overtures to your organization to get the facts regarding your organization?

"A. I don't think I understand you.

"Q. What I mean is, has any agency in this locality come to your officers in an open attempt to solicit the facts as we are trying to bring them out today?

"A. No, they usually work through what is known as stool pigeons.

"Q. You have such a thing in your organization? A. Inevitably."

Did you give that testimony?

A. I am not disputing it. I don't recall the exact testimony, but if you are reading from the record, I do not dispute it.

Q. What is a stool pigeon, Mr. Ross?

Mr. Donohue: I object, if Your Honor please. Mr. MacInnis certainly should know by now the meaning of that term. He has used it for eight weeks and he should have looked it up by [3547] this time.

Mr. MacInnis: I believe, Your Honor, we have the right to know what the witness meant by this phrase when he used it.

Mr. Donohue: It was not his phrase. He was asked the question as he is now. He was not asked then to define the term and I do not believe he should be asked now to define it.

Mr. MacInnis: It was his phrase. He is the one invoking the phrase in this questioning:

> "Q. What I mean is, has any agency in this locality come to your officers in an open attempt to solicit the facts as we are trying to bring them out today?"
>
> His answer: "No, they usually work through what is known as stool pigeons."

The Court: All right; you may answer.

The Witness: Will you please repeat the question?

Q. (By Mr. MacInnis): What is a stool pigeon?

A. A stool pigeon is a term as then used within the Communist Party to designate a person sent into the ranks of the Communist Party by a hostile organization for the purpose of ferreting out information and reporting it to his employer or his source.

Q. In other words, a stool pigeon was the name applied to a person who joined such a group in order to gain information and then pass that information on to others?

A. That is correct.

Q. What would be the name of a person who not only passed on [3548] the information to the authorities, but passed on information that was invented and untrue? Would he be a stool pigeon or would he be something else?

Mr. Donohue: I object, if Your Honor please.

(Testimony of Lawrence S. Ross.)

I do not know to what end this inquiry is directed. Certainly this question and this line of questioning is not for the purpose of contradicting any statement this witness has made on the stand. I object to the question.

The Court: Sustained.

Q. (By Mr. MacInnis): Did you give these answers to the questions which I will now read you:

"Q. Do these stool pigeons, as you call them, get any other information than you have given the committee this morning?

"A. They couldn't except information on details such as perhaps the place a meeting was going to be held.

"Q. If we asked you that, would you tell us where the meeting was going to be held or would you know?

"A. No, I certainly would not because we have had experience that would make the meeting suicide, if we have meetings at public gathering places voted.

"Q. Aside from that, if the people here in attendance on this committee merely wanted to attend without any purpose of breaking up the meeting or arresting you, would you tell them so that they could come and [3549] hear it?

"A. Open meetings are openly advertised, excepting the meetings of the party members of a community or the state organization of a party.

(Testimony of Lawrence S. Ross.)

> "The Chairman: Do you mean your executive meetings?
>
> "A. Not necessarily executive."

Mr. Donohue: I object to these questions, if Your Honor please. As I understand the law, if one has testified at some other proceeding contrary to the testimony he is offering in the instant proceeding, that fact may be established by asking him if he did not make the responses to the questions suggested. Patently none of these questions can be offered for the purpose of indicating that the witness has testified here contrary to his testimony before the House Un-American Activities Committee. On no other basis could this line of questioning be admissible, and since it does not conform to that standard I object to it, if Your Honor please.

Mr. MacInnis: Your Honor, here is a witness who has told the Court and jury that he used to practice deceit, that he used to fool the rank and file of the Communist Party as to its true ends, but he has changed his life, overcome all of that, and he is not deceiving this Court and jury. Today he makes the disclosures which I suppose are still ringing in Your Honor's ears, and we certainly have a right to show, in view of his statement that that was the only deceit that he practiced, a number of other deceits, too. I have just a few more [3550] quotations from this.

The Court: Proceed.

(Testimony of Lawrence S. Ross.)

Q. (By Mr. MacInnis): Did you make these answers to these questions:

"Q. Would you care to estimate, if you know, how many of these are loyal and faithful to your ideas and ideals?

"A. In other words, how many stool pigeons we have in the party?

"Q. That is right.

"A. No, of course not. If I knew how many there were or who they were, they wouldn't be there at all."

Did you give that testimony?

A. I assume I did.

Q. Did you give these answers—this is the question:

"Q. Do you think any of your members or subordinates or you—do you approve of them making any attack or commit any violence upon any individual or any officer or any law-abiding member? A. No, not at all."

Q. Did you give that testimony?

A. I assume I did, yes, sir.

Q. Was that the truth? A. Yes, sir.

Q. Were you asked this question and did you give this answer:

"Q. Did your organization advocate the destruction of [3551] food?

"A. No, no, we don't advocate the destruction of anything because we hope to use those things for the good of the working class."

Did you give that answer?

A. That sounds about right, yes.

Q. Is that true?

A. To the best of my knowledge at the time.

Q. Did you engage in this colloquy:

"The Witness: May I make a statement?

"Mr. Mooney: Certainly.

"The Witness; Yes, sir, a very short one. I understand this is a committee to investigate un-American activities. My definite opinion from my connection with the activities of the Community Party it is thoroughly American."

Did you give that testimony?

A. I probably did, yes, sir.

Q. Was that true?

A. I thought it was at the time. That was why I was in the Party.

Q. You were an official of the Communist Party at that time?

A. An official of a section of the Party.

Q. And you believed that answer to be a true one at that time?

A. I did at that time, yes.

"Q. The Chairman: You say [3552] American?

(Testimony of Lawrence S. Ross.)

"The Witness: Yes. In so far as our activities and principles are concerned, they are to better the condition of the vast majority of the workers of this country.

"Mr. Mooney: May I say we have investigated organizations in this hearing that have convinced us of the fact that they are not un-American. We do not impute that by calling you anything.

"The Witness: Yes.

"Mr. Mooney: We are just investigating anything turned in to us, and it is not up to me to determine what is or what is not American. It is up to the Committee.

"The Chairman: May I say also this idea that there may be in your mind or in the organization or some other organization that there is a great deal of money being spent by the Government on these investigations is all erroneous. The amount of money being spent on this is very small. The work is all being done as a patriotic duty, and we feel obligated to do so.

"The Witness: Likewise we Communists feel we are doing a patriotic duty."

Is that what you said? A. That is correct.

Q. Were the statements there attributed to you true statements?

A. They were true statements to the best of my knowledge and understanding of the Party at that time. [3553]

(Testimony of Lawrence S. Ross.)

Q. So that at this time in December of 1934, you had already been employed several years by the Communist Party itself?

A. About two and a half years, I should think.

Q. In the Los Angeles part of your life, and you had been employed in New York on the earlier occasion?

A. As a correspondent for the Western Worker, and a newspaper publicity writer for the election campaign.

Q. And you were not speaking when you gave this testimony as one of the rank and file of the Communist Party who might read the official papers, but you were speaking as a leader and officer of the Party, weren't you?

A. I was speaking as an officer of a lesser unit of the Party.

Q. You were asked to appear before this congressional committee in your capacity as an officer of the Communist Party?

A. As an officer of a small section of the Communist Party, yes, sir.

Q. And it was the following year, 1935, in which you began to engage in your duties as editor and co-editor of the Western Worker?

A. Yes, sir. [3554]

Q. During which time it was you who committed the deceptions upon the rank and file of the Communist Party?

A. I wouldn't call it a deception. It was not revealing the entire truth.

(Testimony of Lawrence S. Ross.)

Q. Well, were you still a dupe when you came to San Francisco and became co-editor of that paper? A. I am afraid so, yes.

Q. In other words, you were a dupe, but you were passing out information to lead astray members of the rank and file?

A. That isn't the way I would put it, Mr. MacInnis.

Q. All right. Now, to go back to some of these matters that you told us about this morning, did you tell us that was when you were age 15 that you wanted to start a new life?

A. I think I said that around the age of 16 or 17, I Americanized my name. That's right, sir. That is the best of my recollection.

Q. When did you first choose the State of Kentucky as being the supposed place of your birth?

A. That is hard for me to say. I would say it was a relatively short period of time after that. How short I don't know.

Q. You made some investigation, I suppose?

A. No, sir.

Q. And found out that the State of Kentucky had no birth records prior to 1911, didn't you?

A. No, sir, I didn't. [3555]

Q. You just chose the state at random without protecting yourself from inquiry by any interested person?

A. No, sir, I had no reason to seek protection.

Q. Did you ever find that out, that the State of Kentucky had no birth records?

(Testimony of Lawrence S. Ross.)

A. Yes, sir, from you this very minute.

Q. Didn't you know that Mr. Donohue made a public statement to that effect on Friday which was printed in some of the newspapers?

A. No, sir, I didn't read it.

Q. And that we wouldn't be able to prove that you were not born in Kentucky?

A. I didn't read any such thing.

Q. Because Kentucky had no birth records?

A. No, sir.

Q. You didn't know that?

A. I learned it from you the first time this minute, Mr. MacInnis.

Q. He didn't tell you that he had made such a statement? A. No, sir.

Q. When you decided, as you put it today, to begin a new life, where did your parents live?

A. In The Bronx, New York City.

Q. And their names were Mr. and Mrs. Bernard Rosenstein? A. Yes, sir.

Q. Were you living with them at the [3556] time?

A. For a short period, I think so; I think I left home when I was about, possibly, 20, possibly 21. I can't be sure.

Q. You told your parents about your decision?

A. I told them I was changing my name, Americanizing my name, yes, sir.

Q. And how many times had you seen your parents since you left home?

(Testimony of Lawrence S. Ross.)

Mr. Donohue: May I object, if Your Honor pleases? I don't know, unless Mr. MacInnis will again say to Your Honor that he is about to get to an important point which this is a part——

Mr. MacInnis: I will.

Mr. Donohue: Certainly on its face the question is objectionable.

The Court: I can not presently see the materiality, counsel.

Mr. MacInnis: Your Honor, without repeating the same reasons I offered Your Honor a few moments ago concerning the declarations of this man, it would be apparent immediately that we are not bound by this disclosure; we are not bound to accept the fact that these are all the instances in which he has told lies under oath. We certainly are bound and entitled to look further. Now, I am leading up to a point in some of the events of this man's life.

The Court: Well, it may well be that disclosures concerning his family background and marital status, the number of [3557] children and the like, may be regarded as collateral matters. To that extent you may well be bound by the witness' answer given thereto.

Mr. MacInnis: These are matters contained in his statement to the Court and the jury this morning, and I would assume that that kind of a statement would be in the same position as direct testimony; it would not be matters given on cross-examination. The testimony, or the statement that he made, was solicited by the prosecutor.

The Court: For the moment I will allow it, then; but——

Mr. MacInnis: Would you read him the question, please?

(Record read.)

A. I would visit them quite regularly, possibly once a week, for a number of years.

Q. When did you see your father last?

A. My best recollection is about 11 or 12 years ago. I should say 1938, possibly 1939. I am not sure.

Q. Although you lived in the East after that time, didn't you? A. I beg your pardon?

Q. You lived in the East after that period of years 1938 and 1939?

A. I lived in North Carolina, Virginia for a while, Arkansas——

Q. That is a relatively short time out of New York, isn't it? A. Pardon?

Q. That is a short distance out of New [3558] York?

A. Well, it is a pretty good drive; I would say it is about 600 miles south.

Q. When did you last see your mother?

A. Same time.

Q. Now, did you tell us this morning under oath that after you made this change of your whole life, you never thereafter admitted your origin,

(Testimony of Lawrence S. Ross.)

that you always thereafter—— A. Yes.

Q. Pardon me?

A. To the best of my recollection, that is so.

Q. So that after that time you adopted the story that you had been born in the State of Kentucky? A. That's correct.

Q. And when I use the words after that time I mean after the time you decided to change your identity.

A. I did not change my identity, Mr. MacInnis; I Americanized my name. My identity has always been the same.

Q. Why, this morning you told the jury under oath that you truly had changed your identity, that you had become in fact a different person.

A. A new identity, to that extent.

Q. Yes?

A. To the extent of Americanizing myself and adopting Kentucky as my birthplace.

Q. And as you say, after the time you came to that decision, [3559] you continuously referred to Kentucky as the state of your birth?

A. Yes, to the best of my recollection. With one exception, Mr. MacInnis. My first wife knew the truth; I told her about it.

Q. And— You mean you told her?

A. Pardon?

Q. You told her about where you were born?

A. I am not sure whether I did. I may have. I know this, that I told her the name I was born

(Testimony of Lawrence S. Ross.)

under because she met my parents. But whether or not I spoke to her about the place of birth I can't say.

Q. Would she be the only person?

A. Yes.

Q. To whom you thereafter admitted that you were not born in Kentucky?

A. I believe so, yes, sir.

Q. On the 18th day of December of 1926, didn't you take an oath in the office of the City Clerk of New York City that you were born in New York City? A. I don't recall.

Q. Wasn't that the date that you applied for a marriage license?

A. Somewhere around that time, yes, sir.

Q. And that application was made under oath, wasn't it? [3560]

A. I believe so; if applications are made under oath, that one must have been.

Q. And you swore to tell the truth about all of the questions put to you in that application, didn't you?

A. I filled out a blank. There were no oral questions put.

Q. Didn't you——

A. No oath administered.

Q. Pardon me?

A. No oath administered, I don't believe, and no oral questions asked. I believe I filled out a blank.

Q. If it were shown you that the public records showed an acknowledgement under oath by you in the presence of the Deputy City Clerk, would you dispute that statement?

Mr. Donohue: Why doesn't he show it to him, if your Honor pleases? Instead of just talking about it. I have never seen it, maybe the witness hasn't seen it since 1926.

Mr. MacInnis: Your Honor, I think I am entitled to pursue this matter without the assistance of this man, who says he now knows nothing about the background of this man——

Mr. Donohue: I am not offering any assistance.

Mr. MacInnis: ——which he vouched for the other day.

Mr. Donohue: I am asking the Court to instruct you to conform to the principles of trial technique.

The Court: Objection sustained.

Mr. MacInnis: I will ask, then, that the Clerk, Mr. [3561] Mitchell, hand to the witness this piece of paper.

Mr. Donohue: I would like to take a look at it some time, if your Honor pleases.

(Paper handed to the witness by the Clerk.)

Q. (By Mr. MacInnis): Did you state——

Mr. Donohue: Just a moment. I insist on my right to see the document, if your Honor pleases, and I insist——.

The Court: I thought you had looked at that.

Mr. Donohue: No, your Honor, and I insist it be marked for identification before any questions be asked the witness concerning it.

(Testimony of Lawrence S. Ross.)

The Court: It may be marked.

Mr. Donohue: If your Honor please, this seems to be an office memorandum of a phone conversation from a man named Glazier. Would you mark it for identification? I object to any question being asked of the witness concerning a memorandum of a phone conversation by Mr. MacInnis or his office with respect to some other person or persons.

Mr. MacInnis: The copy will be on its way, your Honor. We can hardly be put on the horns of this dilemma where the prosecutor will not allow us to ask the witness questions which we based upon information received over the phone, and at the same time refuse to allow the witness to wait here until the official document is produced.

The Court: The document may be used to refresh his [3562] recollection; if he has any independent recollection in the light of a document, he may testify.

(To the witness): Do you have any independent recollection?

The Witness: I don't have, no, sir.

The Court: All right.

The Clerk: The paper is marked, if Your Honor pleases, Defendant's B-1 for identification.

(Whereupon memorandum of telephonic conversation referred to above was marked Defendant's Exhibit B-1 for identification.)

Mr. MacInnis: Now I will offer to be marked for identification a letter received by me from the Bell

County Department of Health in Kentucky, showing that there were no birth records filed in Kentucky prior to 1911.

The Court: It may be marked for identification.

(Whereupon letter from Department of Health, Bell County, Kentucky, referred to, was marked Defendant's Exhibit C-1 for identification.)

Q. (By Mr. MacInnis): When you applied for a license to marry your first wife, were you living at No. 40 Perry Street?

Mr. Donohue: I object, if your Honor pleases. What possible bearing can that have with the witness' testimony that he knew Harry Bridges to be a member of the Communist Party and attended Communist meetings with him?

Mr. MacInnis: Your Honor, this objection is the same objection that was made when this counsel was zealously importuning [3563] your Honor to permit this witness to go home on Friday last, leaving the impression that his original testimony was true. He told Your Honor then, "What possible bearing can this have upon the case? This is a time consuming device." And one of the other gentlemen said, "We will be here until the frost is on the pumpkin," or words to that effect. Can he in good faith, Your Honor, in the light of the disclosures of this morning say now that this is an examination that may not reveal a further deception? A deception practiced, if not in this court, upon a public agency in another agency under oath?

Mr. Donohue: If Your Honor pleases, I make the same suggestion I made the other day. If we are going to examine every witness as counsel have examined other witnesses, we will be here until the frost is on the pumpkin.

Now, this witness came here and gave testimony on the subject matter of this indictment, and as yet no one has asked him on cross-examination a single question about his testimony in support of the allegations in the indictment.

Mr. MacInnis: Well, that isn't true at all; I cross-examined him for about an hour on that.

Mr. Donohue: Mr. MacInnis insists on trying to find out, "When did you see your father last?", and it is typical, if Your Honor pleases, what has happened here time and time again. Mr. MacInnis said, "I have an object in asking this man how many times did he see his father and when did he see him last," [3564] when it is apparent that he didn't have any objective and that his only objective is the one purpose for which the question may not be asked. Mr. MacInnis asked that question for the sole purpose of degrading this witness before this jury. The law says such a question may not be asked. Mr. MacInnis is presumed to know the law. And I again say, if Your Honor pleases, that if we are going to try now his marriage application, we will be here until next fall. Object to it.

Mr. MacInnis: Your Honor, I would like to say this. A deception or a lie or a piece of perjury is just as much a deception, just as much a lie and just as much perjury whether it is disclosed or not. So that when this witness lied last week and was willing to go away and found that willingness sponsored by the prosecution lawyers, the deception was complete at that time. And the awful thing is if we hadn't asked for him to be kept here, you would have had no disclosure such as we had this morning.

Mr. Donohue: Twice——

Mr. MacInnis: The deception was complete. Now, this counsel wants to keep us from developing other lies which I promise to show that he told.

Mr. Donohue: Twice, if Your Honor pleases, counsel has said that he would show that we were a party to a deception upon this Court and jury. He said this morning that he would show Your Honor and this jury that at 12:00 o'clock noon on Friday [3565] last, we knew that Mr. Lawrence Ross had not told the truth on the stand about his identity. I challenge him now to offer that proof.

Mr. MacInnis: It will come.

Mr. Donohue: Let it come now. You have always said it would come; it never does.

The Court: Mr. MacInnis, I think we have reached a point wherein, notwithstanding the statement made by Mr. Ross on the stand, where he has recanted with respect to certain of his prior testimony, that it behooves the Court in the exercise of a discretion to sustain objections with respect

(Testimony of Lawrence S. Ross.)

to a family relationship. That is, thus far. Let us assume, only for the purpose of our discussion now,. and without reflecting on the witness,—because what I say is not evidence any more than what you say may not be evidence—that he failed or neglected to support his father; or let us assume that he failed or neglected to support any member of his family. To what extent would that be material, one? Secondly, to what extent would that afford the basis of a perjury indictment or any other action to be taken with respect to the witness Ross? It would be considered as immaterial matter, not having a bearing upon the cause and having no evidentiary or persuasive effect in the final determination. Now, that is the bent of your questioning, and I therefore sustain the objection.

Mr. MacInnis: Pardon me. Neither of those matters has [1566] anything to do with the question. I have no further purpose of speaking about this man's relationship in the support of his children or in the support of his father.

The Court: All right, then, if your purpose be otherwise, I will allow the question.

Mr. MacInnis: It is not that purpose at all. The credibility of a witness is never a collateral matter, it is always a direct matter. I want to show he lies under oath.

The Court: That is a matter we may have a lot to say about at some future stage of the case.

Mr. MacInnis: Yes.

Q. Now, did you state in the office of the City

(Testimony of Lawrence S. Ross.)

Clerk of New York that you had been born in New York City itself?

A. I have no recollection of statements made there, Mr. MacInnis.

Q. Will you make any statement one way or the other?

A. I just have no recollection; I can't.

Q. Did you make a statement at that time that your father's birthplace was Germany?

A. I can't recall any such statement, no, sir.

Q. Did you make a statement that your father's first name was Barney?

A. Probably, yes; he was known as Barney.

Q. In other words, you didn't offer the clerk in New York a story about your father being a small planter in Kentucky known [3567] as Sedon Ross, did you call him? Or Lawrence Sedon Ross?

A. I don't recall what statements I made there. I must have said his name was Barney, because that is what he was known as. But even that is not a matter of my own recollection.

Q. Well, where were you born?

A. Somewhere in western Poland, I believe.

Q. And you were born in 1903?

A. That's right.

Q. Well, Poland at that time was a part of the Russian empire; you were born in Russia?

A. I don't recall that.

Q. You don't know that to be a fact?

A. No, my history is not as good as it should be, I suppose.

(Testimony of Lawrence S. Ross.)

Q. It is like your recollection?

A. It was known as Poland to me.

Q. Your father was not born in Germany, was he?

A. I don't know whether he was born in the eastern part of Germany or the western part of Poland. I can't say. I have a distinct recollection of hearing that my origin was somewhere near the German-Polish frontier.

Q. Well, whatever it was, you decided to conceal it? A. That's correct.

Q. And when you told the Court and jury a few moments ago that the only change in your identity was the Americanization of your name, that was not a true statement, was it? [3568]

A. Americanization, and following that, Americanization of place of origin. When you adopt one lie, inevitably you have got to adopt others to justify and support that lie. That is a lesson I have learned.

Q. So we find. And so that you didn't merely Americanize your name, you changed your whole identity and wiped out the fact that you had been born in a country other than the United States?

A. That's correct.

Q. And you stuck to that over the years?

A. That's correct.

Q. What statement did you make as to your name and your origin in Memphis, Tennessee?

A. Same statement.

(Testimony of Lawrence S. Ross.)

Q. You swore in your voting records in Memphis, Tennessee that you were born in Kentucky, did you? A. There was no oath taken.

Q. Did you make such a statement taken for the public records of Memphis?

A. For the registrar's record, I believe so, when I voted, yes.

Q. Didn't Mr. Kaiser tell you in one of these conversations that you had over the weekend that your friend, Mr. Sam Darcy, was indicted for and convicted of perjury here in San Francisco because he had falsely stated to the registrar of voters here that he was born in New York and not in some foreign country? [3569]

A. No, sir, we didn't discuss Mr. Darcy.

Q. He didn't tell you about it. How about in your draft registration throughout the war? Where did you swear you were born at that time?

A. I don't recall taking any oath at that time, Mr. MacInnis, but I believe I filled out a form.

Q. You don't recall that every paper in the draft carried a statement that all of its contents were within the purview of perjury?

A. I don't recall anything like that. I don't believe I read all the statement. I saw the blanks and filled them in.

Q. Didn't Mr. Kaiser tell you in your discussions over this weekend that there was no statute of limitations for a perjury prosecution on a draft board lie?

(Testimony of Lawrence S. Ross.)

A. We didn't discuss perjury at all, Mr. MacInnis.

Q. What statement did you make in your draft board information concerning your origin?

A. Probably the same—probably Kentucky, I think. [3570]

Q. And that your name was Lawrence Sedon Ross? A. That is right.

Q. And what name did you say your father had? A. Pardon?

Q. What name did you say your father had?

A. I can't recall. I can tell you where I registered, however, and it can be seen very easily.

Q. Where?

A. Oklahoma City, Oklahoma.

Q. You do not have your draft card in your pocket?

A. I probably have. I usually carry it and it may be there.

Q. May we see it?

A. I have no objection (handing document to Mr. MacInnis). You will return it to me, I hope?

Mr. MacInnis: Let the record show that a draft card——

Mr. Donohue: Is this in evidence, if your Honor please?

Mr. MacInnis: If I am to return it to this man I want to keep a record of the contents of this document.

Mr. Donohue: I am just asking him if this is in evidence, and if so, for what purpose?

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: Your Honor, he stated in all probability he told the same lie to the Government authorities at the time of his registration for the draft.

Mr. Donohue: He is bound by his answer, your Honor, on a collateral matter. He said he registered under the name of [3571] Lawrence Ross. He is bound by the answer. He does not have to put the draft card in evidence to prove it.

Mr. MacInnis: I am content to do that, but I want to preserve this record.

Mr. Donohue: I object to the record showing anything unless your Honor says this may be properly read into the record.

The Court: The photostat may be marked for identification for whatever record it may serve.

Mr. MacInnis: Very well.

The Court: The original to be returned to Mr. Ross.

(The draft card referred to was marked Defendants' Exhibit D-1 for identification.)

Q. (By Mr. MacInnis): Did you tell the Court and jury this morning that nobody except your first wife know your identity?

A. That is the best of my recollection, yes, sir.

Q. That you had not told anybody?

A. Not that I can recall, no, sir.

Q. Do you know a man named V. J. Jerome?

A. V. J. Jerome—yes, I think he was a member of the Communist Party.

Q. Where did you know him?

A. In New York, I believe, perhaps '28, '29, '27—I can't fix the date.

Q. Did you tell him about your identity?

A. No, sir, not that I can recall. [3572]

Q. Did you know a man named A. B. Magil?

A. Yes.

Q. When did you know him?

A. Over a period of years.

Q. Beginning about when?

A. Perhaps '24.

Q. '24? A. Possibly.

Q. Did you tell him about your identity?

A. I don't believe so. I can't recall that, no sir.

Q. Did you know a man, a schoolmate of yours in Morris High School, by the name of Sol Berlud?

A. That name does not sound familiar, no, sir.

Q. Anyone who went to Morris High School in New York with you would have known you under a different name than Lawrence Ross?

A. That is right, up to the age of 15, I believe, or 16.

Q. What name would that have been?

A. Rosenstein.

Q. Lawrence Rosenstein?

A. That is correct.

Q. Did you tell us whether or not you had any brothers? A. One brother.

Q. Where does he live?

A. The last I heard of him he lived in [3573] Connecticut.

(Testimony of Lawrence S. Ross.)

Q. In the city of Moosup?

A. I don't know that for a fact. He lived in Connecticut the last time I heard of him. It is only a small town.

Q. When did you last hear from him?

A. I believe I received a letter from him in either 1940 or 1941. That is the last I heard from him.

Q. You haven't had any contact with this brother of yours since 1940 or '41?

A. No personal contact, I would say, since 1938; no contact by mail since 1940 or 1941.

Q. Did you ever disclose to your brother that you had changed your identity to the extent that you were claiming your birthplace to be the State of Kentucky?

A. I don't recall doing that. I don't believe I discussed it with him. Incidentally, he too adopted the name of Ross at the time of the naturalization.

Q. Did you tell him the identity change would be complete if he accepted Kentucky as his birthplace?

A. I don't believe I ever discussed it with him.

Q. By the way, you told us this morning under oath that Mr. Bruce Barber of the Immigration Service was in the act of checking the immigration records on your father?

A. I don't believe I made that statement, Mr. MacInnis.

Q. Did you tell us somebody was checking those records?

(Testimony of Lawrence S. Ross.)

A. I referred to no one checking them this morning that I [3574] recall.

Mr. MacInnis: I will find that place in the testimony, your Honor.

Q. Your testimony now is you made no such reference?

A. My testimony now is to the best of my recollection I made no statement that Mr. Barber or anyone else connected with the Government was checking the naturalization records.

Q. Have you been given any information this morning about the status of your father's immigration record? A. Yes, sir.

Q. Who gave you that information?

A. Mr. Barber. There was no reference to a check having been made. I assume he found out through the usual channels.

Q. When did he give you that information?

A. This morning.

Q. About what time? A. Possibly 9:30.

Q. What did he tell you?

A. He told me that—the facts of the birth in Poland, the arrival in this country, the fact that I was known as derivative citizen based on my father's naturalization papers. He told me my brother out here has a deriviative citizenship certificate and advised me to get the same sometime soon.

Mr. MacInnis: May we take the recess, your Honor.

The Court: We will take the afternoon recess, ladies and [3575] gentlemen. The same admonition to you not to discuss the case under any conditions or to form or express an opinion until the matter is finally submitted to you.

(Recess.) [3575-A]

Q. (By Mr. MacInnis): Do you know, Mr. Witness, what the date was of your father's arrival here in the United States?

A. I would say 1906 or 1907 or 1908.

Q. Do you know into what port he came?

A. Not of my own knowledge, no, sir; I wasn't here at the time.

Q. Were you told? A. No, sir.

Q. Did he come into New York?

A. That sounds logical, but I don't know of my own knowledge.

Q. And you don't know the name of the ship either? A. That he arrived on? No, sir.

Q. How about yourself? Have you been told the name of the ship that you came over on?

A. Yes, sir.

Q. What ship.

A. Kroonland, K-r-o-o-n-l-a-n-d.

Q. And you came into what port?

A. New York, I believe, yes, sir.

Q. And can you give us the approximate date?

(Testimony of Lawrence S. Ross.)

A. I believe I can give you the year, but not the date.

Q. What is the year? A. 1910.

Q. And what was your first name at that time?

A. I don't know. It has been Lawrence certainly ever since I arrived here, I know. Arrived in this country, and that was at [3576] the age of 7. Now I assume that Lawrence is an Americanization of another name, but I don't know what that was.

Q. You don't remember what name you were given in those years of your life?

A. I know when I went to public school, first started public school, it was under the name of Lawrence. I am sure of that.

Q. Well, you were seven when you left Poland and came to the United States?

A. I would think so, if 1910 is correct, and I believe it is.

Q. And were you able to talk at that time?

A. I suppose so.

Q. Well, what was the name given you in Poland? It wasn't Lawrence, was it?

A. I wouldn't think so. It was Lawrence soon after my arrival here, I am positive.

Q. Well, what was it up to the time you were seven years of age and came across the ocean?

A. I believe I have it. It started with an L. I believe it was L-i-p-m-a-n, possibly L-i-p-m-a-n-n, I think. The name of Lawrence was given to me upon my arrival. Under that name I attended public school and have used it ever since.

(Testimony of Lawrence S. Ross.)

Q. Well, in respect of the disclosures that you made to the Court and jury this morning about the false answers that you had given both on direct examination and on cross-examination in this case, did you give the same false answers when you appeared before [3577] the grand jury?

A. If those questions were asked, I am sure the same answers were given. I don't recall.

Q. Well, don't you remember whether or not you were asked as to your name and your origin?

A. I am sure I was. My name I gave as Lawrence Ross, as I always have for the past 30 years. I believe I gave my origin as the state of Kentucky.

Q. So that you lied when you were brought before the grand jury last May?

A. I carried forward that same deception, yes.

Q. About how many questions in all were asked of you when you were taken before the grand jury?

A. I am afraid I can't answer that, Mr. MacInnis. I don't know.

Q. Could you tell us how many false answers you made under oath at that time?

A. I would say as to my origin, education.

Q. You wouldn't be able to give us the number of false answers, though, would you?

A. I would say two.

Q. Just two? You weren't asked more than two questions on that?

A. If I was asked two questions, one with reference to my origin and place of birth, another with

(Testimony of Lawrence S. Ross.)

reference to my education, those were the two false answers.

Mr. MacInnis: Your Honor, upon that basis we renew our request [3578] that we be furnished with a copy of the testimony given by this man before the grand jury. Now, certainly if his testimony there was consistent with what he has told us here, there can be no possible prejudice result. On the other hand, in view of the disclosures today, there is a strong likelihood that there will be some difference. Now, we ask that Your Honor in his discretion now allow us the inspection of the transcript of the testimony given by this man before the grand jury.

Mr. Donohue: I wish, if Your Honor pleases, I had the power and the law permitted me to carry out the request of counsel. But as I stated to Your Honor on the same occasion the other day, and as I again state to Your Honor now, that as to the matter of minutes, I will be happy to produce them to Your Honor for Your Honor's inspection the minutes of the testimony of this witness before the grand jury, for the purpose of assuring Your Honor that the answers he has just made to the questions asked of him by Mr. MacInnis are the truth. I renew that offer to Your Honor.

Mr. MacInnis: Well, now, Your Honor, counsel now says he wishes the law would permit him to do that. Now, it is my understanding that a request of this kind falls within the discretion of the Court and that if the Court feels that there is a conflict in the testimony, that the request should be granted. Now here we have the bald admission of a double identity on the part of this witness. We have the bald admission of innumerable [3579] lies. I won't say "innumerable" because they could be counted and they will be counted. But with that background, I think, Your Honor, that by your exercise of discretion you can solve whatever difficulty there may be on the law.

Mr. Donohue: If Your Honor pleases, in 1939 the very eminent jurist named Learned Hand, in the case of Gottfried v. United States, said:

> "I said in 1906 and I say again in 1939 that no judge of this district has ever made available the minutes of a grand jury on request of counsel for a defendant, and I hope none ever will."

I think that is a pretty good statement——

The Court: With only one correction, counsel; it was not the Gottfried case: it was the Garson case. With that exception I will take your statement.

Mr. MacInnis: That is undoubtedly a statement of what that jurist said. But the grand jury transcript has been allowed in many of our recent federal cases.

The Court: The request is denied, counsel.

Q. (By Mr. MacInnis): Did you make the same false statements in the written statement that you made to Mr. Bruce Barber in Memphis, Tennessee?

(Testimony of Lawrence S. Ross.)

A. Yes, sir, the same false statement as to birth, education.

Q. How many?

A. I assume there were two, since there were two questions [3580] asked.

Mr. MacInnis: On that basis, we renew our request that we be furnished with a copy of the written statement which the witness says he gave to Bruce Barber.

Mr. Donohue: May I make the same offer to Your Honor: I will be only too happy to provide it for Your Honor's perusal, to determine that the answer made by the witness to the question just asked by Mr. MacInnis is the truth.

The Court: The request is denied.

Mr. MacInnis: I might say, Your Honor, that it would be obvious that the defense, of course, would not be bound by the degree of falsity that this witness ascribes to himself. In other words, he can't take the stand and by this disclosure say, "I was only false in half of the things I said, but as to the others, I was telling the truth." We have the right to doubt that he has told the truth as to anything, and that is one of the bases upon which we make this request of the Court.

Well, I take it, then, that Your Honor's ruling is still without prejudice on that subject and that if authority is produced to Your Honor's satisfaction, the ruling may undergo an amendment?

The Court: Certainly.

Q. (By Mr. MacInnis): Now, on Friday after-

(Testimony of Lawrence S. Ross.)

noon, which would have been the sixth day of January between the hours of 2:00 and 2:30, do you recall the conversations had between the lawyers, [3581] yourself and the Court about whether or not you should be compelled to stay here over the weekend?

A. Yes, sir.

Q. Before you took the witness stand Friday afternoon, had you had any discussion with the prosecutor as to your reasons for wishing to return promptly to Memphis, Tennessee?

A. Yes, sir.

Q. When had you had that conversation with him?

A. I suppose on Thursday. It was some time prior to that day.

Q. You told him that you were in great haste to go back to Tennessee?

A. I told him that I had talked with my employer on Wednesday night, the night previous, that I had told him, told my employer I would probably be off the stand on Thursday; and as soon as I was off the stand, I would make haste to get back. He asked me to hurry, as soon as I can, because my presence was badly needed there. And that is what I discussed with Mr. Donohue.

Q. Now, do you remember that in his efforts to decide the matter of whether you should be made to stay here or not, His Honor asked you some questions? A. Yes, sir.

Q. Did you deceive the Court in any answer that you gave? A. No, sir.

(Testimony of Lawrence S. Ross.)

Q. You understand that you were under oath when you answered the questions put to you by the Judge, don't you? [3582] A. That's correct.

Q. You told His Honor under oath on last Friday afternoon when he suggested that your wife go on ahead with the children that your wife couldn't drive the car on the road?

A. Not very well. I said I wouldn't trust her to.

Q. You said, "I wouldn't ask her to do that. I might never see her again."

A. That is probably so.

Q. You said she didn't drive on the road at all, didn't you?

A. No, I said I wouldn't trust her to drive that length of time and that amount of miles, between here and Memphis, on the road herself; and I will tell you why.

Q. Well, pardon me. I am talking about what you said to the Court.

A. Yes, and there is a reason for what I said.

Q. I don't care what your reasons are now, as you can see them. Didn't you tell His Honor that your wife did some city driving but that she did not drive on the road?

A. That's right; not much, except when I am with her. [3583]

Q. Well, let's see what you said. The Court said this to you:

"Does your wife drive a car?"

And your answer was:

(Testimony of Lawrence S. Ross.)

"Not on the road very well, sir. She does some city driving.

"The Court: I thought you might as a matter of expediency have her drive back and you stay here.

"The Witness: No, sir. I couldn't ask her to do that. I might never see her again."

The Witness: That is correct.

Q. (By Mr. MacInnis): But you nevertheless told us today that you decided, despite those apprehensions, to send her on?

A. Yes, but she is not driving, Mr. MacInnis.

Q. Oh, you told us this morning that your wife was driving.

A. She is being driven. Let us put it that way.

Q. Who is driving her?

A. Perhaps the word should have been "being driven" instead of "driving."

Q. What is the name of the immigration agent who is driving her?

A. There is no immigration agent driving her, Mr. MacInnis.

Q. Who is driving her?

A. There is a young woman driving her.

Q. Who is that?

A. I believe her name is Drum or Drumm, D-r-u-m-m.

Q. You say you believe her name is [3584] Drum? A. I think so.

Q. Have you met her? A. Pardon?

(Testimony of Lawrence S. Ross.)

Q. Have you met this person? A. Oh, yes.

Q. Where? A. In San Francisco.

Q. Who is she?

A. She works in either a stenographic or clerical capacity at the office of the Immigration Service, I believe, or some Government service.

Q. When did you make that arrangement, Mr. Ross, for surveillance over your wife?

A. On Friday when I was wrestling with this problem, when I thought I would like to have her out of town before this disclosure. So as not to embarrass her I asked Mr. Kaiser whether some arrangement could be made, because I didn't trust her to drive that car alone for any considerable distance. You see, once she blanked out driving a car on the road.

Q. Like your memory here?

A. Blanked out and lost control of the car and ran into a ditch and narrowly escaped hitting a bus. Since that time I have not allowed her to do any driving on the road for any period except when I was with her.

Q. So this was an arrangement with respect to this lady, Mrs. [3585] Drum, made by you on your wife's behalf.

A. That is right. My wife knew about it.

Q. It was not an arrangement suggested by Mr. Kaiser? A. No, sir.

Q. Had you met this Mrs. Drum before?

A. I had met her, yes.

Q. Where?

(Testimony of Lawrence S. Ross.)

A. In the offices of the Immigration Service, at the U. S. Appraisers Building here in San Francisco.

Q. Under what circumstances?

A. An introduction, a hello, exchange of petty gossip, chatting. Never discussed the case.

Q. Was she a person who took down statements the witnesses made?

A. I wouldn't know. She never took down any statement that I made.

Q. She never took down any conversation that you had with these other men? A. No, sir.

Q. But Mr. Kaiser recommended her to you—put it that way? A. As a good driver.

Q. So that the Immigration Service has this lady driving the car with your wife?

A. I think the answer is evident.

Q. You did not offer us that information this morning, did you? [3586]

A. I wasn't asked. I have attempted to offer information and I have been stopped, Mr. MacInnis.

Q. You offered the information only that you told her to drive on ahead, didn't you?

A. That I arranged for my wife to drive on ahead, that is right.

Q. You said that as part of this voluntary disclosure? A. That is correct.

Q. That you wanted to make to the Court. So it was not a matter of your not being asked the question; it was a matter that you wished the Court and jury to believe that your wife had merely driven on ahead?

Mr. Donohue: That is argumentative, if your Honor please. If Mr. MacInnis by his question leads himself into a trap, I do not think he should be permitted subsequently to argue with the witness about it.

Mr. MacInnis: I do not conceive I am in the same trap as the prosecutor. I have not put any witnesses on the stand with whom I am now stuck and for whom I must vouch. I am not in a trap, Your Honor. I asked this man if he said a certain thing, and he said No, he wasn't asked. It now develops it was part of his voluntary statement.

Q. In any event, Mr. Witness, you decided not to include that information in this volunteer disclosure that you made about your double life. [3587]

A. I deny the implication of a double life, Mr. MacInnis. I was never at one time Lawrence Ross and at another time somebody else, at one and the same time. There was no double life. May I finish my answer? I didn't include many details I might have thought of in connection with the statement I made. I made the statement as to pertinent facts relating to evidence I have given. There was no evidence heretofore given as to whether or not my wife is going to do any of the driving, part of the driving, or none of the driving. As a matter of fact, I assume she did some, but under the supervision of a good safe driver.

Q. From the Immigration Service?

(Testimony of Lawrence S. Ross.)

A. When I say she drove down to the south, I don't think it was a misstatement. I don't know how much of the driving she did. I merely didn't wish to trust her on the road alone since that unhappy incident when she blacked out at one time.

Q. How old are the children who accompany your wife?

A. Fourteen—just past fourteen, and just past twelve. Neither of them drives.

Q. And you tell us that since Saturday you have been staying in a room at the Marines Memorial Hotel or Club with an agent of the Immigration Service, a Mr. Kidder; correct?

A. I don't know whether I designated him an agent of the Immigration Service. He is connected with the Government case in some capacity, I think in a legal capacity. [3588]

Q. You have not asked him? A. Pardon?

Q. You have not asked him?

A. No, I have not.

Q. You say in legal capacity. You mean he is one of the lawyers prosecuting this case?

A. He may be on the legal staff. I don't know of my own knowledge. That is just a general impression.

Q. His activities, so far as you are concerned, legal though they may be, have to do with sleeping in the same room with you so that you are under surveillance?

A. I don't consider myself as having been under surveillance at any time since I was here. I came here voluntarily and I am here to give testimony voluntarily as to Mr. Bridges.

Q. You told his Honor that before you drove out here with your family, for what you termed a holiday, that you got an extension from the school authorities so far as the children were concerned?

A. That is correct.

Q. Could you tell us from whom you got that extension?

A. A Mr. Orr, who is principal of Belleview Junior High School in Memphis. I talked with him on the telephone, and the principal of Idlewild Grammar School, whose name I cannot recall. It is Stanwyck or Standard—Stan-something, I believe—Stanton—excuse me—Stanton. [3589]

Q. Let me ask you this: Where are the children of your first marriage, Mr. Ross?

Mr. Donohue: I object, if your Honor please. Isn't there some limitation?

The Court: The objection is sustained.

Mr. MacInnis: Your Honor, in view of these disclosures it seems to me that we have a right to probe into the memory of this witness on any matter. As I told your Honor, I do not intend to raise again the inference about support or nonsupport. That has no point in the questions which I now put to the witness.

Mr. Donohue: It had no point at the time he asked those questions, if your Honor please, though he said he was going to connect it with something important, which he has as yet failed to do.

(Testimony of Lawrence S. Ross.)

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Did you appear in court in High Point, North Carolina, on April 23, 1941, in the Superior Court?

A. That is where my divorce was.

Mr. Donohue: I object, if your Honor please, unless he appeared there to testify against the defendant Harry Bridges. What possible pertinence could his appearance in court——

The Court: The objection is sustained.

Mr. MacInnis: May it please the Court, if this man gave other false statements in that proceeding they would throw some light upon his credibility here. [3590]

Mr. Donohue: Even if he did it would not be admissible here, if your Honor please. As I understand the law, a prior false statement is only admissible if it is pertinent to the subject matter under question here.

The Court: Sustained:

Mr. MacInnis: It would also go to his memory, your Honor.

The Court: Sustained.

Mr. MacInnis: I will ask only this one question on a related matter:

Q. Didn't you testify under oath in the divorce proceeding between you and your first wife on April 23, 1941, in High Point, Carolina, that there were no children the issue of the first marriage?

Mr. Donohue: I object to the question, if your Honor please, and again the danger of a persistent line of inquiry by Mr. MacInnis. If he had a certified copy of the transcript of the testimony of this witness before that body and followed the rule and let him see it first, that would be one thing; but he reads from some note which he obtained from some unknown source only for the purpose of prejudicing this witness and not for the purpose of eliciting the truth. I object to it.

Mr. MacInnis: I have the transcript on the way, your Honor.

Mr. Donohue: Everything is on the way with you. It will never get here. [3591]

Mr. MacInnis: Counsel objected to this witness being held here the other day——

The Court: I will sustain the objection, Mr. MacInnis.

Q. (By Mr. MacInnis): Now, you told his Honor and the jury this morning that you had directed your wife to go ahead by very slow stages, didn't you? A. That is correct.

Q. When you said that you had told her to drive very slowly, you intended to convey the information that your wife was driving the car, and that hence the driving would have to be slow?

Mr. Donohue: I object to the question as argumentative to what he intended, if your Honor please.

Mr. MacInnis: I think not, your Honor.

The Court: Overruled. You may answer.

A. I talked to my wife before she left and I said, "If you do any driving, please drive slowly. We aren't in any great rush. I want you to be very

(Testimony of Lawrence S. Ross.)

careful and let Mrs. Drum do all the driving possible, and as I say, there is no rush, no hurry. Just take it easy and I will be happier about the whole thing." a

Q. (By Mr. MacInnis): And you did not include that statement about Mrs. Drum in the voluntary disclosure that you made this morning to the Court and jury, but you repeated only what you say you told your wife? [3592]

Mr. Donohue: I object, if your Honor please. That is equally argumentative.

Q. (By Mr. MacInnis): Where was it that you last telephoned or contacted your wife? That is, at what point was she?

A. I haven't seen her or heard from her since she left here on Saturday morning approximately nine o'clock.

Q. She left at nine o'clock Saturday morning?

A. That is correct.

Q. When was it that you made the arrangement with Mr. Kaiser to engage the services of this Miss Drum to drive with her?

A. You see, I didn't make the arrangement with Mr. Kaiser to have the services of Miss Drum. I did ask Mr. Kaiser whether he could get someone to accompany her because of her driving. I didn't want her to take the road alone.

Q. But you told the Court and jury this morning that you did not have any discussion about this disclosure, and the true facts that you would now have to divulge until Saturday morning?

A. That is correct, Mr. MacInnis. I didn't tell Mr. Kaiser why I made the request except for this reason, that I told him that if they drive ahead and I could join them somewhere Monday evening, we could be that much ahead on our schedule and save time. I didn't give him any other reason until Saturday morning.

Q. And he didn't require any other reason?

A. He certainly didn't ask.

Q. In other words, some time before Saturday morning you asked [3593] Mr. Kaiser to obtain the services of this lady or some other person from the Immigration Service to drive with your wife, but you did not tell him why you wanted her out of town?

A. I told him I wanted her to leave because of the time-saving element. I did not care whether it was an agent of the Immigration Service or perhaps a member of the family or who, as long as it was a person who was qualified to drive a car.

Q. When did you tell him that?

A. Friday.

Q. What time?

A. Oh, possibly five or six. I don't remember.

Q. You did not tell him that until five or six Friday afternoon? A. That is correct.

Q. After you had been asked to remain here for further questioning? A. That is correct.

Q. Between five and six on the afternoon of Friday and the next morning he was able to arrange for this lady to leave promptly with your wife?

(Testimony of Lawrence S. Ross.)

A. Apparently.

Q. You told us, didn't you, that you did not see Mr. Kaiser on Friday?

A. No, I believe I told you that I went to an upstairs room on Friday and certainly saw Mr. Kaiser there.

Q. When were you informed that he had succeeded in making the [3594] arrangement with this lady, Miss Drum?

A. Possibly 8:30 or 9 o'clock—9:30. I don't recall. It was sometime that evening.

Q. On Friday night? A. That is correct.

Q. Then you told your wife to go on ahead?

A. I asked her to go on ahead, yes.

Q. At what point on the road are you to communicate with her this afternoon?

A. I don't know where she is or how far along she is. I hope to have her call me sometime between four and five.

Q. Where is she to call you?

A. Well, I assume she will call me upstairs here after four o'clock, or else possibly at the U. S. Appraisers Building office at five o'clock. I am not sure.

Q. You have given her those two addresses?

A. That is right.

Q. The United States Attorney's office or the Appraisers Building?

A. That is the only addresses I could give. I know I would be there on hand; there would be a telephone handy..

(Testimony of Lawrence S. Ross.)

Q. And you of course will be with those gentlemen after court at that time?

A. I of course will what?

Q. You will be with those gentlemen either in the United States [3595] Attorney's office or down in the Appraiser's office? A. I expect to.

Q. You made a little after-statement this morning about this disclosure and about some of your own activities. You say, "I forgot to mention I went to chuch this Sunday." A. That is correct.

Q. To what church did you go?

Mr. Donohue: I object, if your Honor please.

The Court: The objection is sustained, Mr. MacInnis. I see no reason——

Mr. MacInnis: For this reason, your Honor: This gentleman, if one may use that word——

The Witness: Thank you.

Mr. MacInnis: ——has said that he went to church and that he could prove he went to church. Now, I strongly suspect that if he went to church that he was taken to a place where some person would see him, and I want to know just what that may be. I want to know who took him there and I want to know who saw him.

Mr. Donohue: If Mr. MacInnis will state to your Honor he will show he did not attend church, I will withdraw my objection.

Mr. MacInnis: I have no such knowledge, your Honor. I assume if he went to church to be seen by some person, that that was some prearranged plan, and that is what I want to find out [3596]. If you think it is not proper, I will go on to something else. I will return to that, your Honor.

The Court: I will allow it.

Q. Where did you go?

A. I went to Mr. Kaiser's church. I asked him Saturday to arrange for me to attend church service with him.

Q. (By Mr. MacInnis): You made a request of Mr. Kaiser to arrange to take you to church with him? A. That is right, his church.

Q. What was that church?

A. The Ninth Church of Christ, Scientist.

Q. Is that the faith to which you belong?

A. I am not a member of the church, no, sir. I asked to attend some service with him.

Q. In other words, what you mean to imply is as part of this disclosure that you were going to make, you asked Mr. Kaiser to take you with him to a church of which you were not a member?

A. No, sir, it was not part of the disclosure. I felt the need for church services.

Q. And who was the person who saw you in church?

A. I asked to attend a church service with him.

Q. Did you see anybody else in that church service?

A. Oh, there were several hundred there.

Q. Anybody else connected with this case?

A. No, sir. [3597]

Q. No person whatsoever? A. No, sir.

(Testimony of Lawrence S. Ross.)

Q. You said as part of your further activities on that day you were driven over to the city of Berkeley, that you drove along a street whose name began with F, and which you finally said was Fulton Street? A. That is correct.

Q. And that you went to the home of a man named—you called him Humphrey, didn't you?

A. Humphrey, yes.

Q. By the way, what was that hotel that you said you were staying with your family?

A. Give me a minute. Harcourt.

Q. The Harcourt Hotel. And you went over to Berkeley to see a Mr. Humphrey?

A. Correct.

Q. How do you spell that?

A. H-u-m-p-h-r-e-y.

Q. While you have been here in San Francisco have you made any other visits with Mr. Kaiser or any other agent to these so-called ex-Communists?

A. No, sir. He is the only ex-Communist I have seen.

Q. And you told us that you went into the house first, is that right? A. That is correct. [3598]

Q. And you asked the occupant if it would be all right if you and your companion came in?

A. I was in, and because of the fact that he had contacted me and asked that I come to see him, because he said he wanted to help me in the case, because of that fact I went in just not knowing whether he would make whatever disclosure or speeches he was going to make in the presence of the Government witness. Therefore I went in first and asked him whether it would be all right if Mr. Kaiser, whom I introduced as an immigration official, came in also, and he said he had no objection.

Q. Had Mr. Kaiser ever met the man before?

A. I don't believe so, no, because he introduced himself and they shook hands. I am sure if they had met before there would have been some admission of that fact or some recognition of each other.

Q. When you drove over from San Francisco to Berkeley, Mr. Kaiser told you, didn't he, that this man named Miles G. Humphrey had been one of the witnesses for the Immigration Department against Harry Bridges in the first case against him here in 1939?

A. He told me he had been a prior witness against Harry Bridges. I don't know whether it was the first case or not.

Q. And he told you, didn't he, that Judge Landis presiding in that case——

Mr. Donohue: Haven't we been through Judge Landis enough [3599] times for all of us to know who he was, if your Honor please?

Mr. MacInnis: I think, your Honor, I should be permitted to finish the question.

Q. My question was this: Mr. Kaiser told you, didn't he, on the way over to Berkeley that Judge Landis had made a specific finding that Humphrey was a perjurer and a psychopathic liar; did he tell you that? A. No, sir.

Mr. Donohue: It is inconceivable that Mr.

(Testimony of Lawrence S. Ross.)
Kaiser made the statement in the first place. Obviously Mr. MacInnis knows that he did not make the statement. He asks the question only for the purpose of getting Judge Landis to testify before this jury, and I suggest to him to invite Mr. Landis to come out here under subpoena so we can examine him about what he said.

The Court: The objection is sustained.

Mr. MacInnis: I might say we have the record, which I will show to your Honor, to bear out exactly what I said, in case there is an inference that the record does not show that.

The Court: The objection is sustained, counsel.

Mr. MacInnis: When did you say was the first time after we recessed here Friday that you saw the prosecutor, Mr. Donohue?

Mr. Donohue: I object, if your Honor please. He has asked this question so many times we will be here ad infinitum, if we do not get down to some cross-examination about the evidence in this [3600] matter.

Mr. MacInnis: I can see the zeal of counsel in this case.

Mr. Donohue: I will withdraw the objection, as long as he is asking about me.

The Witness: When you say "saw him" do you mean speak to him?

Q. (By Mr. MacInnis): Either one—speak with him?

A. I saw him in the corridors here after the trial,

(Testimony of Lawrence S. Ross.)

after the court recessed that day, and I spoke with him for the first time on Saturday morning?

Q. On Saturday morning?

A. Possibly 9:30, 10 o'clock.

Q. Did Mr. Donohue tell you on Friday afternoon after we left this court that he had issued a public statement defying me to show that you had not gone to the University of Kentucky, that the record of special students would not show, and that too many years had passed to allow for any human proof?

Mr. Donohue: May I arise to thank Mr. MacInnis for proving positively that I did not know he was not such a student until Saturday?

Mr. MacInnis: We will see about that in just a moment.

A. He made no such statement.

Q. He made no such statement?

A. He made no such statement, that is, he made no statement to me that he had made such an assertion. This is the first I [3601] have heard of it.

Mr. MacInnis: If the prosecutor's sole interest is in protecting himself and not the witness for whom he vouches, I have a few other questions on that score.

Q. Let me ask you this: In the early conversations that you had either with Mr. Donohue, before you appeared before the Grand Jury in this case, or with Barber down in Memphis, Tennessee, or with any of his other agents, did they discuss with you

(Testimony of Lawrence S. Ross.)

the source from which they had obtained your name as a possible witness? A. No, sir.

Q. Didn't they tell you that the records of the Dies Committee, the Un-American Activities Committee of Congress for the month of July, 1941, had mentioned your name?

A. I told them that. I told them there, at the time of my dismissal as an organizer for the United Furniture Workers, at about that time, the reason given was the Dies Committee had disclosed I was a CIO organizer and also a Communist.

Q. The Dies Committee in its printed report and in the findings it made concerning you upon July 31, 1941, carried a statement that you did not come from Kentucky at all but from the Bronx?

A. I don't know that. I have never seen such a statement by the Dies Committee or anyone else.

Q. You have never discussed such a statement?

A. I have never seen it or discussed it. [3602]

Q. Did you ever write an open and public letter to a man named Steelman with reference to the language concerning you before the Dies Committee?

A. I certainly don't think so. I don't recall it.

Mr. MacInnis: I will ask that the witness look at this piece of paper that I will now show him, and see if it refreshes his memory. It contains his letter in full.

The Witness: You mean this story which says, "Ross Denies Being Member of Communist Party. Severed Party Relations in 1937"?

Mr. MacInnis: Read it all.

The Witness: No, I don't care to.

Q. (By the Court): Do you recall that, Mr. Witness?

A. I read enough of the first two paragraphs to recall the incidents but not the letter.

Q. (By Mr. MacInnis): I will ask you whether or not in July of 1941 you wrote a letter, not to a man named Steelman—I was in error as to that name—a man named Stripling, R. E. Stripling, secretary of the special Dies Committee on Un-American Activities, reading as follows:

"Dear Sir:

"I have read a dispatch dated Washington, July 28, and published broadcast throughout the country to the effect that I am a Communist and a radical of long standing. In fairness to myself, and incidentally as an aid to the [3603] Committee's reputation for accuracy, I ask that you give equal publicity to this communication. The report of Investigator Steelman"—that is where that name comes from—"is a compound of truth and fiction. It is true I was a member of the Communist Party on the West Coast from 1933 to 1937, but it is emphatically untrue that I am now or have been since 1937 a member of that Party. It is true that I ran on the Communist ticket for public office and that I was editor of a newspaper, the Western Worker, but the statement that I was ever involved with the Communist Party or any other organization or individual over shortage of funds is scurrilous and

(Testimony of Lawrence S. Ross.)
without foundation. The story itself implies that since the report of Mr. Steelman declared I was involved with the Party over a shortage of funds and then promoted—promoted, mind you, to the editorship of the newspaper—rather funny treatment for anyone involved over a shortage of funds, don't you think? This is just one of those fanciful touches that have made the Dies Committee, the name of the Dies Committee detestable to many non-Communist labor people. Another such fanciful and fantastic touch put in to make the report more disagreeable, I assume, is that my real name is Rosenfeld and that I was born in the Bronx. How much more savory would the reputation of the Dies Committee *be mind* of the labor union official if it [3604] restrained itself to reporting ascertainable and investigated fact, rather than trimming that precious commodity with fanciful and lurid trimmings. However, I am not much perturbed at this barter since I recall reading some anti-Roosevelt campaign publicity in the 1936 election, in which the accusation was made that Roosevelt's real name was Rosenfeld. That at least is putting me in distinguished company. It is also fanciful that I ever acted as an organizer for the CIO or any other organization in New Jersey, another fanciful touch. This should be easily ascertained from the CIO files. As a matter of fact, my final and absolute break with the Communist Party came long before I was ever put on the CIO payroll. My present political belief is that whatever modifications may be needed in the economic struc-

ture of this country to allow the working man and his family a fuller life can be accomplished through the channels of regular action within the structure of the Constitution of the United States. Further amplification of my views for some time past may be found by your Committee in a book called 'Two Frontiers of Freedom,'' written by John Corbin. I have indeed corresponded with Mr. Corbin on this matter last year, and incidentally wrote him that I had been a member of the Communist Party years ago. I do not know what redress I have for the misstatements made in the published report, [3605] probably none. At least in the interest of being fair-minded I expect this communication shall be given to the press through the same channels which carried Mr. Steelman's report throughout the country.

"Very truly yours;

"LAWRENCE SEDON ROSS."

Do you remember writing that letter?

A. Vaguely, yes, I do. Rather a good letter, isn't it?

Q. I beg your pardon?

A. I said, rather a good letter?

Q. If you are giving yourself some further plaudits for being deceitful, it was a good letter. It was reprinted in the High Point, the paper of High Point, North Carolina, "Enterprise," July 31, 1941?

A. Yes, I reckon so.

Q. The Dies Committee, whose investigators had

(Testimony of Lawrence S. Ross.)

made the report that you criticized, had made a finding that you were a Communist in 1941?

A. Correct.

Q. And you were attacking that finding as well as other contents of the Dies Committee report?

A. Correct, as well as some other contents.

Q. In writing the part of the letter that I suppose you called "rather a good letter," you took great pains to point out that the Dies Committee was in error in saying that you [3606] were a man named Rosenfeld from the Bronx, that that was fantastic? A. That is in error.

Q. You did not think it would be the proper thing to point out that the error was only in the last phrase of that last name, and that it was not the Bronx but Poland?

A. No, sir. I was then living under the name of Lawrence Ross and under the new identity. [3607]

Mr. MacInnis: We ask that this paper be received into evidence and marked.

Mr. Donohue: I have no objection, if your Honor pleases.

The Court: It may be marked as Defendant's exhibit next in order.

(Whereupon document referred to was marked Defendant's Exhibit E-1 in evidence.)

Q. (By Mr. MacInnis): But to come back now to the matter of the knowledge of the prosecutors in this case, did you tell the jury a few moments ago that you pointed out to them that the Dies Com-

(Testimony of Lawrence S. Ross.)

mittee had much such a finding concerning you?

A. I pointed out to them the Dies Committee—that I had been dismissed from my position as organizer of the CIO at that time because of the finding that I was then a Communist, but I was not at that time a Communist.

Q. Now, the reports of the Dies Committee were available to the Government, according to what Mr. Kaiser told you, isn't that a fact?

A. I assume the reports of any government committee are always available to the Government. I was never told that in a direct statement, but it sounds logical to assume.

Q. So that you knew that the Government prosecutors had the information that there was some controversy as to your real name?

A. I assume he could have. He could have had it if he wanted [3608] it, I am sure.

Q. The report of the Dies Committee existed in printed form in the archives of our Government since July 31st, 1941, carrying the accusations again you that I have read? A. I assume so.

Q. Did you have any conversation with any of these men about your identity, based upon the Dies Committee findings? A. No, sir.

Mr. MacInnis: May we take the recess, your Honor?

The Court: Yes, it is a quarter past.

Mr. Donohue: If your Honor please, is this examination still going to be examination unlimited?

(Testimony of Lawrence S. Ross.)

Mr. MacInnis: Your Honor, times have changed since Friday last.

Mr. Donohue: If so, in this way they have changed, if your Honor pleases: Instead of requiring an extended cross-examination by the defense to develop certain matters, we made the disclosure forthwith this morning. Now, certainly in the light of that fact and in the light of the type of questions that have been asked here all day long, I again ask your Honor to impose a limitation on this cross-examination.

Mr. MacInnis: Your Honor, counsel, without passing any opinion now about whether or not he had knowledge—we will come to that later—counsel at least——

The Court: Well, let us at this juncture release the jury, [3609] in any event. It is now 4:20. And may I address myself to the material that you may have at hand in the absence of the jury, to determine further with respect to this witness?

Ladies and gentlemen of the jury, it is now 4:20, and we have had a rather lengthy day. Accordingly we will take our recess and adjournment until tomorrow morning at 10:00 o'clock and may I again admonish you not to discuss the case under any conditions, nor suffer any person to converse with you on any subject of the trial; you are not to form or express an opinion hereon until the matter is submitted to you.

You may now retire, as I have some matters to take up with counsel.

(Whereupon the jury retired from the courtroom, and the following occurred outside the presence of the jury:)

The Court: May I ask you, Mr. MacInnis,—(To the Witness) You might step down, please.

(The witness left the witness stand.)

The Court: ——the extent of the additional examination you have at hand, without binding yourself to ultimate details, but just generally the extent?

Mr. MacInnis: You mean in point of time?

The Court: Yes.

Mr. MacInnis: I would think less than an hour, but possibly, if further information is in my hand tonight, it might be more extensive. I have a legal matter in connection with [3610] this witness that may develop out of some of the questioning.

Now, the objection has been made repeatedly today that I should not be permitted to examine this witness upon information received by wire or telephone. Now, in each instance in which I have had that kind of material today, I have made a request for a certified transcript to be sent. Now, I have every reason to expect that there will be further showings of falsehoods told in the past by this witness. Because of the very nature of his disclosures here, we doubt everything merely because of the fact that he says it, and we certainly are not bound, as I said before, by the degree of falsehood that he credits himself with. We have the right to show that he is lying a hundred per cent and not merely fifty per cent.

Mr. Donohue: If your Honor pleases, on last Friday Mr. MacInnis told your Honor that he would require until today to get certain material upon which to cross-examine this witness. At that time, departing from the usual courtesies, he exhibited to your Honor a telegram, apparently, upon the basis of which your Honor concluded and, with that conclusion I find no fault, that the witness should be required to remain here until today. When your Honor returned to court you said to counsel, "I have ordered counsel to complete his examination,——" —you were talking to both of us— "——both as to the Government and as to the defendants, and each of them, not later than Monday at 4:00 o'clock and thus permit the witness to return to his home and to [3611] his duties on his newspaper."

Now, a minute ago Mr. MacInnis said his cross-examination would take, normally, less than an hour. He has been at it for four hours and twenty minutes today. There is nothing upon the basis of information now in his possession which he might not have asked the witness during the examination of today. But instead, he persisted in asking questions about when the man was married and how many children he had, and when he last saw his father. If he can't allocate his time, it is neither my responsibility nor the responsibility of the Court to show him how to do it. But the true reason for his not confining himself in his cross-examination today to the order of your Honor on Friday is apparent from the last statement which he made, that "If we can get further information here by tomorrow, then we may have still further questions." And at the end of tomorrow, it will be the same—"If we can only have one more day, we may find out something else." Now, I respectfully say to your Honor that this witness came here on Tuesday of last week, and he has been here now eight days, and certainly if we are ever going to get to an issue of fact in this case, we must circumscribe the cross-examination of these witnesses within some definite limitation. I think your Honor on Friday when he said to counsel, "We will give you——" —and it was in the middle of the afternoon on Friday— "——until 4:00 o'clock on Monday for counsel on both sides to conclude the examination of this witness," that both [3612] of us ought to be bound by your Honor's determination. Because after all, if your Honor pleases, this witness does have some rights. This witness does have some responsibility. And I think he ought to be permitted to take care of those responsibilities and not to be kept here while Mr. MacInnis sends his agents all over the United States on fishing expeditions. I most respectfully say, if your Honor pleases, he should be required to conform to the order of your Honor on Friday.

Mr. MacInnis: May it please the Court, I think I won't answer the pompous observations of the prosecutor as to whether or not he is going to teach me something about procedure, because I think he is in a rather poor light to make these observations. He is the prosecutor who rose before you this morning and said, "I have a statement to make," and who read off a carefully prepared statement exculpating himself in advance from any complicity, and then announced that he had interviewed his witness over the weekend and that his witness was going to divulge some misstatement that he had made upon the stand. True enough, when we were in chambers at your Honor's behest on last Friday, I had in mind the information which the witness disclosed himself on the stand today; and I said that it would take until today to gain it. I had it in my possession when we came here today; knowing that I had it in my possession, the other side made the disclosure that followed. Now, from what has been said now, I have no way of saying whether or not there will be some [3613] other disclosure tomorrow when these people learn as to what efforts I may have engaged in between noon today and the beginning of court tomorrow, because there are other things about this witness, and I certainly think that if your Honor were to put himself in the place of either counsel, your Honor would say first to himself that never in his experience in any court of law, outside of the moving pictures, has there been a disclosure such as we listened to today, where a witness produced by the Government of the United States, a witness concerning whom this prosecutor had said, "I will vouch personally for this witness," concerning whom the same man had said in a public statement, "If the defense knew who our next witness would be, they would go crazy,"—those are the, that is the situation today. The man who came here and confessed that he was a liar. Now, the prosecutor gets up again, unabashed by what has taken place here, and says, "Your Honor, I suggest that this witness has some rights to get back to his job." In this carefully prepared statement things were left out which have now been brought to the attention of the Court. I suppose he has in mind the family of this witness and the other incidents that were mentioned to your Honor. Well, let me say this, in all friendliness to the Court. If we are to concern ourselves with the families of persons who come here, let's remember the families of the three men who are on trial here, who didn't ask to be brought here at all—the family of Bridges, Schmidt and Robertson. The prosecutor [3614] doesn't have any concern like that for their families in this case. He is not even embarrassed that he has brought here a man who told deliberate and wilful lies not only to the jury but to you, when you asked him as to his reasons for his haste in going home.

All I can say is that everything that this man has testified to, as revealed by his cross-examination on the matters concerning Bridges, to which he made reference, reveals but that there is nothing but a fabric of lies, an opening here and there in his web by which he pretends to remember something out of an incursion into the past, a hole which he quickly closes on cross-examination by saying, "I don't remember," "I have no recollection," "I don't know where I lived at that time," "No, I am sorry I can not help you; I do not know who was there." Well, now, your Honor knows the import of this statement, and I know that your Honor can put a limit upon cross-examination. I suggest respectfully that your Honor does not think that I have intruded upon the good nature of the Court by the examinations here. I will finish the examination of this witness as promptly as I can in the morning.

The Court: What are the legal matters that you have in mind, counsel? You said you have some legal matters in mind.

Mr. MacInnis: I have. Well, your Honor, it certainly would be parading the obvious for me to tell your Honor now that it is our intention to ask the Court in his discretion to hold this [3615] witness for wilful perjury committed in the presence of the Court, admitted here. I have here this morning prepared to do this at the conclusion of his testimony, to argue to the Court, to represent, that I had in my possession definite information which would be based upon sworn testimony in the future concerning the absolute lies told under oath; and I find that my labors have been shortened. A witness does not purge himself of a charge of wilful perjury by a confession, particularly when that confession is only made upon the threshold of his exposure.

As I said a little while before, your Honor, a deception is complete—

The Court: On that score both sides should examine Norris v. The United States. You have that in mind?

Mr. MacInnis: I don't by name, your Honor.

The Court: Examine that case.

Mr. MacInnis: Does your Honor have the citation?

Mr. Donohue: 300 U. S. Reports.

The Court: Supreme Court decision, Justice

Roberts. I had it in connection with other matters —U. S. v. Norris, on that phase of it.

Mr. MacInnis: Thank you.

Mr. Donohue: And may I also suggest, if your Honor pleases, on this question of law: Since this is now the second time that counsel has asked the Court to hold a witness for [3616] perjury——

The Court: One moment, please, Mr. Donohue. May I hear Mr. MacInnis out? I interrupted him there.

Mr. Donohue: Simply was going to cite an authority, that is all, if your Honor please.

The Court: I would like to hear him out.

Mr. MacInnis: I was going to add only this, if your Honor pleases, that I think this observation is one not made out of partisan spirit, with which we represent one side of the case, but it is an observation that would apply to any case. A lie is just as much a lie when it is uttered; and when that lie is exposed, that is merely something that is added to the whole picture. If we hadn't been able to expose this man, his lie would have been just as complete, his falsehood under oath would have been in this record in the same way, it would have been a lie, an absolute lie, about who he is,—this person who steps forward as one of the accusers of three men who sit here as defendants in this trial. By a fortunate circumstance, by diligence, by looking into the background of the witness, the lie is now exposed. But, your Honor, what would have been the circumstance here if your Honor, as you might have done without any error, without any bad faith,—

what if your Honor on last Friday had said, "Well this man has been here long enough, I am going to decide that his family and his job must be given some consideration. No, these people have had sufficient time to [3617] examine him, and without any malice toward anyone I am going to say that the man should be allowed to go home"? What if your Honor had done that and the Court and jury would then be deprived of the exposure that came into the record today? But the exposure is here, and he is a liar, a liar under oath and by his own confession. Now, I just don't know what more I could say than to recall to your Honor the almost fevered efforts which were made on behalf of the witness by those who produced him, the prosecutors in this case, to exhort you to let him go home, to go his way last Friday, so that this total exposure would not come upon our ears. Now, that is all I can say at the moment. I might say this, too, if you will forgive me for keeping you a moment longer,—on whether or not this is an instance in which the Court should act.

A few weeks ago, as the prosecutor blandly reminds you now, a similar accusation was based upon irrefutable evidence against two other witnesses for the prosecution, the two professional witnesses, Manning Johnson and Paul Crouch. The matter was referred, at least by letter, to the foreman of the grand jury. As yet nothing has been done. In the same period of time, if you please, two young women went down to some place down the Peninsula and contacted the sacred personage of Mr. Mervyn Rathborne, supposedly a prospective witness for the Government, and asked him what he was going to say. Why, in a moment Mr. Donohue was upon them. He was before the grand jury with Mervyn Rathborne [3618] and on the unsupported testimony of Mervyn Rathborne, a convicted felon—for he was convicted of burglary in 1924 in the city of Los Angeles—two young women have been bound over for trial before this court, indicted because they dared to speak to this man. Now, here we have a situation that doesn't admit of argument. It doesn't admit of discussion, it doesn't admit of the changings of human memory. It doesn't admit of motive, it doesn't admit of intention, it doesn't admit of argument in any way. This man tells us that with the intention of deceiving he has lived a lie for many years of his life, and that he brought that lie into the courtroom and jeopardized the liberty of three men who are the defendants in this case. What more can I say?

Mr. Donohue: I think, if your Honor pleases, it is undoubtedly, as a matter of law, a question for the jury to decide, whether Lawrence Ross correctly identified Harry Bridges as a member of the Communist Party in San Francisco, California, when he so stated, and whether they are to believe the testimony of Lawrence Ross,—though at one time his name may have been Lipman Rosenstein. Mr. MacInnis, who now for the second time,—if we add the accusation by his associate on the first occasion—has made a statement that a witness has committed perjury,—I don't know the purpose of his making the statement at this time before your Honor. It was apparent why Mr. Hallinan made it on the first instance, because he had the advantage of a jury being in the box. But Mr. MacInnis should read the case of [3619] United States v. Brokaw, B-r-o-k-a-w, which is cited at 60 Fed. Sup. at page 100. It is a case from the Southern District of Illinois, in which the Court said this:

"That the United States District——"

The Court: 60 Fed. Sup.?

Mr. Donohue: 60 Fed. Sup. at page 100, and I am reading from page 101, if your Honor pleases:

> "That the United States District Attorney in his capacity as the public prosecutor in his district is clothed with the power and charged with the duties of the Attorney General in England under the common law is generally recognized and supported by the Federal Courts."

Citing United States v. Thompson, 251 U. S. Supreme Court Reports, page 407:

> "In this connection, the federal prosecutor acts in an administrative capacity. He is the representative of the public, in whom is lodged a discretion to be exercised for the general public welfare, a discretion which is not to be controlled by the courts or by any interested individual or by a group of interested individuals who seek redress for alleged wrongs committed against them by use of the criminal process. In United States v. Thompson the Supreme Court held that the federal courts have no power to control the initiation of criminal proceedings, that being the prerogative and duty of the United States District Attorney."

And concluding, the Court says:

> "If he, from a corrupt motive, prosecutes or refuses to prosecute, he is subject to removal from office and criminal prosecution, and that is the only remedy given to this Court."

And so I most respectfully say, if Your Honor pleases, that there seems to be no point in counsel for the defendant raising before Your Honor a suggestion of perjury on the part of any witness. He is in the wrong forum. The forum is the office of the United States Attorney Mr. Frank Hennessy. Of course I won't even dignify the accusation of perjury on the part of this witness with a legal reply, because I think Mr. Hallinan and Mr. MacInnis know that the statute under which a perjury indictment must be drawn uses the word "material," and that word they have carefully avoided discussing.

Mr. MacInnis: Now, Your Honor, what he means, I suppose, by that last statement is that in him reposes the power to pick and choose, and in him reposes the power to decide whether one person will be accused of perjury and another not. I would like to add one thought, Your Honor. If anyone were looking for a pattern in this case in the production of witnesses for the prosecution, he would be impelled to say this to the Court. Manning Johnson and Paul Crouch came here and gave testimony which we know to be false on a material matter in the case. They placed the chief defendant in this case at a meeting place on [3621] virtually a specific date, when we know that it can be established without question that he was elsewhere. Now, during all of the Christmas recess the prosecutors, who were appointed by our Government to present evidence in this case knew of that situation and knew of the evidence surrounding it. And in the face of that, they thereupon brought here another man, this bogus character, Lawrence Ross, the man of straw, the person who created a new identity for himself. And how did they aid the Court and the jury in its journey for the ascertainment of the truth? Ask yourself that for one moment. We had two witnesses who said they attended the Communist Party convention in New York in 1936; they saw Harry Bridges there. Their word was in jeopardy by the accusation previously made. So they brought this so-called Lawrence Ross to the stand, asked him about the convention, and what did they ask him about whether or not Harry Bridges was there? The record eloquently shows that they asked him nothing. They left it blank. They didn't even take the jury and the Court in on the secret of what they thought to be the changing intendments of his memory.

The Court: Did he not testify that Mr. Bridges was elected to the Central Committee?

Mr. MacInnis: Exactly. He testified that he was at a meeting, and concerning which same meeting the other witnesses testified they saw Bridges—Manning Johnson testified so. The witness Ross says he was there and he did not see Bridges. But [3622] the point is——

Mr. Donohue: Not so.

Mr. MacInnis: But the point is, Your Honor, this: that they failed to ask him the question at all. They left it for the defense—possibly in the hope that the defense wouldn't even explore that and would leave the matter blank. So the defense has to ask the witness whether or not he saw Harry Bridges at that convention.

Now, if there could be conduct on the part of persons charged under our law with a literally sacred duty of protecting the rights of defendants, if you could ever put your finger on conduct amounting to concealment, this would be the classic instance.

The Court: Of course, I am reminded, Mr. MacInnis, of your reference to the Darcy case. People vs. Darcy.

Mr. MacInnis: Yes.

The Court: And my recollection of the Darcy case was and is that Darcy, under the indictment, was charged with swearing falsely with respect to his place of birth. He was in truth and in fact born in Russia. And also with respect to his name and identity.

Mr. MacInnis: Exactly.

The Court: Now, in the Darcy case which was tried in the Hall of Justice by Judge Schoenfeld, it appeared in the indictment that Darcy was charged with false swearing or perjury before [3623] a registrar of voters. He was convicted, Darcy was. The judge suspended sentence and granted unto Darcy probation. I remember, there was considerable comment at the time.

Mr. MacInnis: Yes.

The Court: And thereafter Mr. Darcy prosecuted an appeal. He was then represented by Andersen, Resner, Gladstein and others. And the District Court of Appeals, speaking through Justice Nourse, as I recall, affirmed the conviction. There was a very strong dissenting opinion by Mr. Justice Peters. Thereafter the matter went to the Supreme Court and there was a split on the hearing, whether or not there should be a hearing by the Supreme Court of the State of California. Justice Peters raised serious doubt with respect to whether or not such false swearing was of sufficient materiality to justify a prosecution, even before a registrar of voters.

I have not examined the law in this Circuit, nor have I had an opportunity to examine it. I assume at some stage of the proceeding, probably, defense or prosecution will. But there is a question that ultimately will be reached with respect to the testimony of Mr. Ross on any intended prosecution for perjury or alleged perjury, and that is the materiality of the question. You are thoroughly mindful of that, naturally. And under the Norris case, which you will examine, no doubt, over the nightfall, you will observe that the mere recanting on the stand would not serve to absolve or exculpate a witness from alleged perjurious [3624] statements; that the point of penitence, so to speak, is one that can't be observed if it is given and then capitalized upon by recanting. But those are matters not immediately before the Court. I wanted to determine the extent of your legal position.

Mr. MacInnis: I might say, Your Honor, that there is another——

The Court: The question involved here is, here is a man, Mr. Ross, who testifies that his early years he clothes in another identity. He states that his education was in New York, now, rather than in Kentucky. He states that he studied in Columbia for several years on special courses. The quantum of his education is not at stake, certainly. The matter of his identity changes it. He reaffirms in toto all of the evidence given, other than and independent of his statement or statements in connection with his recanting. He reaffirms that Mr. Bridges was elected to the all-important Central Committee. He reaffirms that Mr. Bridges was at these various places. Now, of course, you will answer me by saying a witness false in one part of his testimony is to be distrusted in others. I am not debating the point with you, Mr. MacInnis. But at some stage of the proceeding, if it is your intention to seek out a prosecution for the alleged perjurious statement, there will have to be demonstrated to the Court and the jury that the statements were material. What have you to say about the materiality? [3625]

Mr. MacInnis: Well, I believe with Your Honor, of course, that some study might well be given to that point. But I would suggest that without any study, there is another crime that is revealed by the testimony of the witness. He gave false statements to his draft board. Now it is fundamental law that all of the statements made upon draft registration are under oath and that they all carry the penalties similar to penalties to perjury and that there is no statute of limitations upon them. They take place in wartime.

The Court: That may well be. But to what extent would that be considered as material in the controversy presently before this Court between the United States of America and Messrs. Bridges, Robertson and Schmidt with respect to his alleged perjurious statements before a draft board?

Mr. MacInnis: Well, of course, the fact that in this prepared statement of this morning he carefully says that he doesn't take back his testimony about the defendants, I would have this comment. If we didn't have any of this material about the identity of Ross, if we had no occasion to suspect he was somebody else and that he lived a lie in some phases of his life, changed his identity, refused to admit that he came here as an alien and so forth, we would have, I think, serious doubts as to his credibility upon the case in chief, because he was examined and showed nothing but vagueness of memory about any of the matters to which he gave lip service on the stand. Now, on the [3626] matter of materiality, I would be glad to accept Your Honor's suggestion and do some research upon it.

Mr. Hallinan: Could I make a suggestion on that, if Your Honor please?

The Court: Yes, Mr. Hallinan.

Mr. Hallinan: Here is a thing that is extremely material. This man is an alien, and he would be subject to deportation by the Government and all sorts of things. In addition to that, he is liable for prosecution under the Draft Act and half a dozen other things. They have a handle on him. They have a whip over him. And we feel convinced that that whip has been exercised purposely, vigorously, by this gentleman here who isn't a United States official at all, but who has just come into the case purposely in order to get a conviction in this one case and that this is the means they use to hammer this wretch into getting up here and testifying falsely on the other things. Now, whether or not they have a handle upon him, whether or not they are able to exercise that, is emphatically material.

Mr. Donohue: Of course, if Your Honor pleases, with his usual capabilities for misstatement, Mr. Hallinah has referred to the witness as an alien. He is not an alien; he is a citizen of the United States.

The Court: He is a citizen by derivative citizenship?

Mr. Donohue: Yes, sir.

Mr. Hallinan: What evidence have we on that? The evidence [3627] of a man who admits he is a liar?

The Court: Pardon me. That is a contention, derivative citizenship.

Mr. Donohue: It is evidence which satisfies the United States that he is a citizen of the United States.

Mr. Hallinan: It will satisfy Mr. Donohue.

Mr. Donohue: May I say to Your Honor that we are a little bit off the real purpose, I thought, of this discussion because I think without question the only person who can determine whether or not a prosecution for perjury should be initiated is Mr. Frank Hennessy, the United States Attorney for this District.

The Court: Well, to some extent, Mr. Donohue, one discussion begets the other. You observe that?

Mr. Donohue: Yes, I quite agree, Your Honor. And I am not going to comment about the misstatement of Mr. MacInnis at any great length, that the witness Ross attended the same meeting at which the witnesses Crouch and Johnson said Harry Bridges was present, because the witness Ross said he did not attend the meeting of the Central Committee of the Communist Party in 1936, because he was not a member. I thought we began this discussion for the purpose of determining whether counsel was to be bound by Your Honor's order on Friday with respect to the duration of the cross examination of that witness, or if we were to go over to tomorrow with the statement made by Mr. MacInnis, that "We will do the best we can to get through some time tomorrow." [3628] I think there should be a fixed time within which this cross examination should end, and I respectfully say it should end at the time Your Honor ordered last Friday.

The Court: Well, the matter will go over until tomorrow morning at 10:00 o'clock. The witness Ross to be in attendance at that time.

We will stand adjourned until tomorrow morning at 10:00 o'clock.

Mr. MacInnis: May I hold Your Honor for one moment? We would like to request, if the Court please, that Mr. Barber be asked to be in attendance tomorrow.

The Court: Mr. Barber—is he in court?

Mr. Donohue: No, he is not. ~~I shall have him here.~~

Mr. MacInnis: He has been strangely absent here today.

Mr. Donohue: I shall have him here tomorrow.

The Court: We will adjourn until tomorrow morning at 10:00 o'clock.

(Thereupon an adjournment was taken to tomorrow, January 10, 1950, at 10:00 o'clock a.m.) [3629]

January 10, 1950, 10:30 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Lawrence Ross, heretofore sworn.

Cross-Examination
(Resumed)

By Mr. MacInnis:

Q. Mr. Witness, when you testified before the Congressional Committee in December 1934, in Los Angeles, you testified that stool pigeons were put into your organization by hostile organizations, is that right?

A. Yes, sir, I believe so.

Q. What were those hostile organizations?

Mr. Donohue: I object, if Your Honor pleases;

has no bearing on the issue here what they may have done.

Mr. MacInnis: Goes to credibility, Your Honor, and memory.

The Court: Sustained.

Q. (By Mr. MacInnis): You told this Court and jury under oath in your early testimony that you were chosen to an office in the Communist Party because you were an American and so many of the members in Southern California were aliens, didn't you? A. That's correct.

Q. Who were you trying to deceive at that time?

A. No one.

Q. That wasn't the fact, though, was it?

A. It certainly was. [3630]

Q. You were just as much foreign-born as any of the members of the Communist Party in Los Angeles, weren't you?

A. But yet an American, Mr. MacInnis.

Q. Pardon me? A. But yet an American.

Q. By your change an identity, you mean?

A. No, sir.

Q. Coming back to this meeting that you said you attended, where you saw Harry Bridges at a place called Sokol Hall, is that the place where you say the man named Schneidermann made a speech?

A. Yes, sir.

Q. He made a speech and told about his trip to Russia?

A. He made a speech in which he told not about his trip to Russia, but about the proceedings of the

(Testimony of Lawrence S. Ross.)

Seventh World Congress of the Communist International.

Q. And who was the chairman of that meeting?

A. Of my own recollection, I don't know.

Q. Of your own recollection you don't know?

A. No.

Q. Did Mr. Kaiser tell you that the witness John Schomaker had testified that you, under the name of Lawrence Ross, were the chairman of that particular meeting?

A. I believe Mr. Kaiser told me that someone had said, whether in court or not I don't know, that I was the chairman of that [3631] meeting; but I had to tell Mr. Kaiser that I had no recollection of being the chairman. I wish I could have. I didn't and don't now.

Q. Now, you told us yesterday that Mr. Barber gave you information about your father's immigration record. A. That's correct.

Q. And that he told you the facts of your birth in Poland, your arrival in this country, the fact that you were a derivative citizen and that that was based on your father's naturalization papers.

A. Correct.

Q. Now, what did he tell you about your father's naturalization? When did he tell you it took place and where?

A. I don't recall that he told me where. I think he said the year 1915 or possibly 1914—somewhere around there.

(Testimony of Lawrence S. Ross.)

Q. When was it that he conveyed this information to you?

A. Yesterday morning before I came to court.

Q. Where did you see Mr. Barber yesterday?

A. Yesterday morning? At his office I assume, at the United States Appraisers Building.

Q. What time were you down there yesterday morning?

A. Possibly 9:15, 9:20 or 9:30; I would say between 9:15 and 9:30.

Q. And although he gave you that information yesterday morning, you can't tell us now the date or the place of your father's [3632] naturalization?

A. I don't recall that he gave me the place. I believe the date he mentioned was 1914 or 1915.

Q. Did you tell the jury under oath yesterday that your brother changed his name at the time of the naturalization? A. No, sir.

Q. You didn't?

A. I told the jury I believed that shortly after I changed my name,—how soon after I don't know—my brother adopted the Americanization as to his name. But that statement was not made in connection with any naturalization proceedings.

Mr. MacInnis: I believe I can find that, Your Honor, if Your Honor will bear with me a [3633] minute.

Q. (By Mr. MacInnis): Referring to page 3574 of the transcript your Honor—referring to your testimony under oath yesterday,

"Q. Did you ever disclose to your brother

(Testimony of Lawrence S. Ross.)

that you had changed your identity to the extent that you were claiming your birthplace to be the State of Kentucky? A. I don't recall doing that. I don't believe I discussed it with him. Incidentally, he too adopted the name of Ross at the time of the naturalization."

A. No, sir, I do not recall making that statement. I really don't. He couldn't have adopted the name at the time of the naturalization because I had not yet adopted that name.

Q. You suggest the official court reporter was in error?

A. I am afraid so. I adopted the name or Americanized the name from Rosenstein to Ross when I was approximately 16 or 17 years old. That would put it in 1919 or 1920. The naturalization was either in 1914 or 1915. So there was an error there obviously.

Q. We are to assume, where your testimony is concerned, that a reading of the record itself may not even reveal what you really said?

A. I think there was an error as to that, Mr. MacInnis. The time element, I think, shows that it obviously must have been an error.

Q. Now, as to whether or not the Government made any investigation into your past, you say that at one time, either last [3634] November or in May of 1949 when you appeared before the grand jury in this district, you had some discussion with some of the prosecutors in this case about the Dies Committee report concerning you?

(Testimony of Lawrence S. Ross.)

A. At one time—not the Dies Committee report. Let me refresh my memory if I can. We discussed my testimony before the Kramer Sub-committee, I think it was referred to, and attention was called to the fact, I believe, from some report that was in their possession that a Dies Committee or someone connected with the Dies Committee had said that at one time my name was Rosenfeld and I was born in the Bronx. That is the best of my recollection.

Q. They told you that, however?

A. Pardon?

Q. The prosecutors told you that they had such a report?

A. It was not the prosecutor. It was possibly Mr. Kaiser, possibly Mr. Barber. I can't recall which one.

Q. One of those men told you about the existence of their knowledge of it——

A. It was referred to.

Q. It was not you who told them about it?

A. That is correct. I had no recollection of it at that time.

Q. Yesterday didn't you say this under oath: Question by me to you:

> "Q. Didn't they tell you that the records of the Dies [3635] Committee, the Un-American Activities Committee of Congress for the month of July 1941 had mentioned your name?
>
> "A. I told them that."

A. That is correct; I told them, Mr. MacInnis, that I knew—May I please finish my question?

(Testimony of Lawrence S. Ross.)

Dramatics mean nothing at this point. I told them I knew after 1941——

Q. You are correct. After what you said, nothing means anything.

The Court: Counsel, let us give him an opportunity to answer the question.

The Witness: I told either Mr. Kaiser or Mr. Barber—I rather believe it was Mr. Kaiser—that in the summer of 1941 the reason for my dismissal as an organizer of the CIO, as stated in the press, was that a Dies Committee investigator had made the statement that I was a member of the Communist Party, that at that time the CIO was attempting to purge itself of known Communists; that thinking I was then a Communist I was then dismissed from my position.

Q. (By Mr. MacInnis): So both of those answers are true, that they told you about it and you were the one that called it to their attention?

A. Yes, they occurred at different times.

Q. Going a little further into the same realm of research, didn't Mr. Kaiser tell you that your fingerprints were on file [3636] with the FBI?

A. No, sir.

Q. You had been fingerprinted, hadn't you?

A. Oh, yes, in connection with my Communist activities, yes, sir.

Q. And from your knowledge of matters of that kind you know and you have been told that the national headquarters of the FBI keeps a vast fingerprint collection, probably the largest in the world?

(Testimony of Lawrence S. Ross.)

Mr. Donohue: May I object, if your Honor please? What has that possibly to do with the subject at issue?

The Court: I assume counsel will come to it. I will allow it.

A. That was not referred to in any conversation I had with any Government agency.

Q. (By Mr. MacInnis): You have been fingerprinted, have you not?

A. In connection with my activities as a Communist.

Q. You were fingerprinted in September of 1936 when you and a man named Dave Sorensen were arrested in Los Angeles?

Mr. Donohue: Just a moment. The man says he has been fingerprinted.

The Court: Objection sustained.

Mr. MacInnis: I won't violate your Honor's ruling apparently on these specific questions, but I will ask you this: [3637]

Q. How many times have you been fingerprinted?

Mr. Donohue: I object, if your Honor please.

Mr. MacInnis: Your Honor, this goes to show the obvious knowledge of the Government prosecutors in this case. We have to assume that the ordinary things are done. One organization which has never been accused of lack of diligence is the FBI. Every fingerprint in America is on file.

The Court: Counsel, I would not require an argument at this time on that. The witness has testified he has been fingerprinted on several occasions. I

(Testimony of Lawrence S. Ross.)

assume. How many occasions do you contend, counsel?

Mr. MacInnis: I would think six or seven, ten, twelve.

Q. (By the Court): Is that approximately correct?

A. I would say five possibly. That is my best recollection; possibly four.

Q. (By Mr. MacInnis): And when you say "fingerprinting," you mean by that the process by which the prints of your fingers were given to a police agency? A. Yes.

Mr. Paisley: Your Honor, that is so incompetent that I can't keep my seat. Counsel ought to know better than that. Even Mr. MacInnis ought to know better.

Q. (By Mr. MacInnis): So that to your knowledge, Mr. Witness, for the past fifteen years or more your fingerprints have been in the possession of police agencies? [3638]

A. I know they were taken four or five times when I was an active Communist, yes.

Q. Now, in these conversations that you had this last week-end with Mr. Barber, Mr. Boyd, Mr. Donohue, Mr. Kaiser, Mr. Kidder and Miss Drum, if she was there, and these other people from the Immigration Department, did Mr. Kaiser tell you that a little after noon on last Friday Mr. Barber had telephoned to the registrar of the University of Kentucky and found out by telephone that you had never attended that school? A. No, sir.

(Testimony of Lawrence S. Ross.)

Mr. Donohue: If your Honor please, I not only object to the question because there is no basis in fact for it, but I would like to state to your Honor that the records of the Immigration Service show that at 4:35 p.m. on Friday afternoon a telegram was sent in the form of a night letter to the registrar of the University of Kentucky over the signature of Bruce G. Barber in this language:

> "Please advise collect Western Union date and name of classes attended during approximate period 1918 to 1924 by Lawrence Seton Ross, born Middlesboro, Kentucky June 24, 1903."

I would like also to call your Honor's attention to the fact that a reply to that telegram was received——

Mr. MacInnis: I think, your Honor——

Mr. Donohue: ——addressed—Will you permit me to [3639] continue?

Mr. MacInnis: I think the time for recitation of evidence is out of the lips of the witness on the stand.

Mr. Donohue: Not when you put statements in a question to the witness which are false.

Mr. MacInnis: We are certainly not going to be bound by any statements from this prosecutor in the light of what has occurred.

The Court: The question itself assumes a state of facts which apparently has not been justified in the light of the offense. I think Mr. Donohue is competent to tell the Court at this time the nature of the telegrams, the time and place.

Mr. Donohue: This telegram, if your Honor please, was delivered to the Western Union office here in the city of San Francisco——,

Mr. Hallinan: Pardon me, your Honor. Are we to be bound by what this man says here now? Why should he be allowed to make a statement of that kind? Let him take the stand so we can cross-examine him to show their real interest in this case. We have accused him of being part of this conspiracy, accused him of it in open court, and he gets up here and vouches for another fellow who is just his tool, gets up here and reads a telegram and wants us to take his word for it. [3640]

The Court: Mr. Donohue, reserve your showing, then,——

Mr. Donohue: This, if Your Honor pleases, is with respect to an objection to a question asked of this witness by Mr. MacInnis, in which he states that Mr. Barber made a phone call about noon on Friday to the University of Kentucky registrar.

Mr. Hallinan: We know he did, Your Honor, and let Mr. Barber take the stand and testify he didn't. We will show them whether he did or not. Having this man get up and then testify, talk for one of his co-conspirators; that is a fine state of affairs! He knows what we are accusing him of. We promised that we would show a conspiracy and the roots of it here. They are Barber, Boyd, Donohue, Kaiser, all in it just as deep as this man on the

(Testimony of Lawrence S. Ross.)

stand. And he is to get up here and make a statement of what is in a telegram, what he says is in a telegram, and clear everybody's skirts. Let him take the stand and testify.

The Court: Ladies and gentlemen of the jury, there is no justification at this stage of the proceeding for the remarks of Mr. Hallinan with respect to a conspiracy between this witness and the government agents. There is no evidence before the Court to sustain or justify that assertion. The assertion is unwarranted by the facts and represents misconduct on Mr. Hallinan's part at this time. I instruct you to disregard the statement.

Mr. Hallinan: Now, Your Honor, I want to enter a very [3641] strong exception to the Court's statement. The jury is entitled——

The Court: You have the exception, Mr. Hallinan.

Mr. Hallinan: The jury is entitled to determine whether there is a conspiracy and whether these people are in it, and we assert and will continue to prove it, and I ask Your Honor to withdraw that statement from the jury. I think it was ill advised and I think it wasn't made with sufficient reflection. Here we have shown their efforts to get this man out of the court just as they tried to get Manning Johnson out of the court. We will show Your Honor presently that Mr. Donohue has openly lied to you when he was trying to do this.

The Court: I said, Mr. Hallinan, at this stage of the proceedings there is no evidence before this

(Testimony of Lawrence S. Ross.)

Court or jury of any asserted action that would justify the charge of conspiracy between the agents of the Government and this witness. I stand on my assertion to the jury, I stand on my conduct.

Mr. Hallinan: Well, we ask an exception be entered.

The Court: You have an exception. Now, you may proceed with the witness. And, Mr. Donohue, I suggest that whatever material you have as to the communications you had with the university, that you take that up at the proper time.

Mr. Donohue: I object to the question, if Your Honor pleases, on the ground that it states as a conclusion of fact a fact which is not established before this jury. [3642]

The Court: Will you reframe the question, Mr. MacInnis? There is an assumption of fact in the question as you phrased it. I will sustain the objection.

Mr. MacInnis: I see.

Q. Were you told on Saturday when you talked to Kaiser and to these other men of the government prosecution and made your so-called disclosure that they had already made inquiries about whether or not you went to school in Kentucky?

A. No, sir.

Q. They didn't reveal that to you?

A. They made no reference to it at all.

Q. In fact, as you said yesterday, they withheld that information from you?

(Testimony of Lawrence S. Ross.)

A. I said if it was done, it was withheld. I don't know that it was done.

Q. Were you told that Mr. Barber either on Friday night or early Saturday morning had sent a wire to Mr. Clyde Lasseter of the Middleboro school?

A. No, sir; my first knowledge of any such action was yesterday morning when I was shown a copy of a telegram signed by Lasseter.

Q. That is Monday morning?

A. That's correct.

Q. So that when you talked to these men on Saturday, taking your own story at its face value, you made a disclosure to them, but they said nothing to you about any knowledge that they either [3643] did or didn't possess? A. That's correct.

Q. You say that that was a revelation that you made voluntarily? A. That's correct.

Q. After you left court here in the middle of Friday afternoon, between that time and the first conference you had with these prosecutors on Saturday morning, Mr. Kaiser, for example, had not said anything to you about the discrepancies in your testimony? A. No, sir.

Q. No government agent discussed with you the questions which you say were going on in your mind? A. No, sir.

Q. No government agent spoke to you, "What is the situation here, Mr. Witness?"

A. No, sir.

Q. No government agent said, "The defense has asked for another day to get information about the witness. What is that information that they are seeking?" A. No, sir.

Q. Nobody asked you that question?

The Court: You had something to say?

The Witness: I was about to add——

The Court: All right, go ahead.

The Witness: I was about to add that on Saturday morning [3644] when I told Mr. Kaiser I wanted to talk to him, that I had a statement to make, he said, "I am not surprised. I knew there was something worrying you, something on your mind." But before that, Saturday morning, there was no discussion between myself or any other government agent, as to the nature of the statement that I did make Saturday morning.

Q. (By Mr. MacInnis): In other words, nobody said to you on Friday night, "What is this about your attending Morris High School?"

A. No, sir.

Q. Nobody said, "Is that just a smoke screen or is it the truth?" A. No, sir.

Q. And nobody said to you, "What is this about your father not being a Kentucky planter, but being a needle worker in the Bronx?" A. No, sir.

Q. Nobody even raised the suggestion in spite of your testimony here?

A. No, sir, no one connected with the Government discussed it with me at all, or I with them, or any one of them, before Saturday morning.

Q. And then on Saturday when you made what you call this volunteer disclosure to the government

(Testimony of Lawrence S. Ross.)

men, no one of those men who was present told you that they already knew those facts? [3645]

A. No, sir.

Q. You made the statement and they did not supplement it by any further facts?

A. No, sir.

Q. And you talked to them during the afternoon of Saturday, didn't you?

A. No, sir, not to any group of them. I was with Mr. Kaiser.

Q. How about Sunday? You talked on Sunday after the other events of your day to the prosecutors—Mr. Donohue, Mr. Kaiser, Mr. Barber and Mr. Boyd at 5:00 o'clock in the afternoon, didn't you?

A. That's correct. No, I don't think Mr. Boyd was there. I think Mr. Paisley was there.

Q. And when you made your disclosure in that conversation, did those men tell you that they already knew that the facts were not as you had testified?

A. There was no disclosure made at that meeting, Mr. MacInnis.

Q. They didn't say a word to you about what they knew or didn't know?

A. No, sir, I told them all. In the statement the previous day, Saturday morning, I had told them.

Q. They didn't tell you that they had checked themselves and found that you had testified falsely?

A. No, they did not.

Q. So, as far as you know, Mr. Witness, if you

(Testimony of Lawrence S. Ross.)

hadn't made what [3646] you call this volunteer disclosure, these men were prepared to let you go ahead and stick to your *stock?* A. Yes, sir.

Mr. MacInnis: That is all.

Mr. Donohue: Would Your Honor indulge us just a moment, please?

We have no further questions of the witness, if Your Honor pleases. May I suggest a recess now? At the end of the recess we will be prepared with our next witness, if Your Honor pleases.

Mr. MacInnis: Your Honor, may I——

The Court: We will take the morning recess. I will hear your statement out. I think I have in mind what you probably are going to discuss with the Court.

The Witness: Am I excused, Your Honor?

The Court: Remain in Court until I discuss this matter.

Ladies and gentlemen of the jury, we will take the morning recess at this time. May I again admonish you not to discuss this case under any conditions, nor to form or express an opinion until the matter is submitted to you. You may now retire. The Court will take a five minute recess.

(Whereupon the jury left the jurybox and retired from the courtroom.)

The Court: We will take a short recess, gentlemen, and then I will resume. Mr. Mitchell will call you. We will resume in about five or ten minutes.

(Recess.) [3647]

The Court: You may proceed, counsel.

Mr. MacInnis: May it please the Court, there is little that I could add to those things which were said last night at the conclusion of our afternoon session, except that it appears to me that those accusations which we made based upon the testimony of the man who now calls himself Lawrence Ross are now highlighted with a macabre touch, and I mean this: I call your Honor's attention to the last question and answer put to this man:

> "Mr. Witness, so far as you know, if you had not made this so-called voluntary disclosure, these men were prepared to let you go ahead and stick to your story?"

And he answered, "Yes."

Now, the prosecutor, of course, denies any knowledge of the false statements given by the witness. We have the witness' more recent statement about these conferences had over the week-end, when he says he made voluntary disclosures. They asked him no questions; they told him of no suspicions they had, and not until Monday morning did anyone say to him, after it was agreed he was to make this disclosure and Mr. Donohue was to make his preamble or speech, at last they told him after it was all over that they had some information.

Today in defense of himself and the propriety of his conduct in this case the chief prosecutor rose before you and started to tell you the dates and times of certain telegrams which [3648] he says were received by Mr. Barber. He did not tell you about any telephone calls which might have been placed before the confirming wires were received. Now, I have a wire here dated July 7—this is not the wire I showed you on Friday last—that was the wire from the registrar of the University of Kentucky showing that the man never attended the University of Kentucky. We had telephoned that institution around noon or a little after, our time, and the wire came here in time to be produced in court about twenty minutes after two. On Saturday this wire was received:

> "There is no record showing Lawrence Seton Ross ever attended any schools in Middlesboro, Kentucky. Same information given to Bruce Barber by wire today."

We could go on into our search into the past. We have not been able to find any record of the naturalization of this man's father, but the lies he has told, of course, are ingrained just as clearly in your Honor's mind as they are in ours, and we suggest that the entreaty we made to your Honor yesterday be adopted and that your Honor take appropriate action.

Mr. Donohue: If your Honor please, of course your Honor knows as well as I do that in all these cases where the allegation in an indictment has something to do with Communism or the Communist Party, that the methods of defense are always the same: "Don't try the defendants, try the witnesses," and these men—and I feel I can state this freely now in the absence [3649] of the jury—these men have sunk so low that they have called me this morning a liar. I did not reply at the time, if your Honor pleases, because my reply might not have been with the same measure of dignity with which I now address myself to your Honor. It is a very difficult position in which I find myself, not as Mr. Donohue, a member of the bar, but as a special representative of the Attorney General of the United States, in which capacity it would not be seemly to engage in a brawl with brawlers.

Mr. MacInnis has just stated to your Honor that he made a telephone call to the registrar of the University of Kentucky about noon on Friday, and that he received a telegram and a confirming telegram on Saturday morning which referred to the fact that an inquiry by telegram had been made by Mr. Barber, of that same registrar of that same university. Mr. MacInnis has told this jury, and Mr. Hallinan has told this jury, that he would show that Mr. Barber called the University of Kentucky by telephone on noon of Friday for the purpose of attempting to establish what he has failed and must forever fail to establish, that we of the prosecution knew of the misidentification of himself by the witness, Lawrence Ross, until the witness Lawrence Ross disclosed that fact on Saturday morning. Mr. MacInnis and Mr. Hallinan have said that they would show that Mr. Barber made a telephone call to the registrar of the University of Kentucky on Friday, which they have failed to do, and they must [3650] fail to do so, your Honor, because no such phone call was made.

I attempted this morning to call your Honor's attention to the fact that at 4:35 p.m. on Friday afternoon two telegrams were handed by the Immigration Service to the Western Union office in the Immigration building. The records of the Western Union will show that the telegram which was sent to the registrar of the University of Kentucky, which was delivered to the Western Union by the Immigration Service at 4:35 p.m. on Friday was actually transmitted by the Western Union Telegraph Company from here to Kentucky at 7:33 p.m. Friday night by night letter, and that the reply which was received by the Immigration Service addressed to Mr. Barber as its director bears the date of Saturday morning, 11:25, and the stamp on the back shows that it was received by the Immigration Service on Monday morning at 8:44. The same with respect to a telegram sent at the same time and the answer received at the same time which was sent by Mr. Barber to the principal of the Middlesboro High School at Middlesboro, Kentucky.

Of course, if your Honor pleases, we are not fools, and it was apparent to me when Lawrence Ross on the stand on Friday afternoon was unable to identify a single student in the University of Kentucky, that perhaps he might never have gone there, and for that reason at my direction on Friday afternoon [3651] the telegrams heretofore identified were sent.

The first information, if your Honor pleases, which I had that Mr. Ross was ever known by any other name, was the information which he gave me on Saturday morning. Of course, I knew that the

Dies Committee or an investigator of the Dies Committee had sent a telegram and put it in evidence that Lawrence Ross was known by another name. Of course, I saw the letter which he wrote, and which I didn't object to being offered in evidence yesterday, immediately denying the allegation contained in that telegram because Lawrence Ross had consistently and repeatedly denied, until yesterday on the stand, that he ever was known by any other name than Lawrence Ross. Yet, if your Honor pleases, counsel for these defendants, who began by using the word with respect to the first witness—and you can run through the gamut—"hobo, bum, walking boss, Are you crazy?, perjurer, black hyena from hell"—I have always been taught, if your Honor pleases, that the credibility of a witness is to be determined by the jury and is not to be influenced or affected by insinuations and castigations coming from counsel. When the time comes and the issues in this trial are placed in the hands of this jury, Mr. Hallinan will have his opportunity then, and he should reserve his remarks until that time, and he may be sure that he will be well and completely answered.

Now, just a few minutes before this witness completed his [3652] testimony, and after your Honor, after great patience over a long period of time, so properly held that Mr. Hallinan's inflammatory remarks were misconduct, he then, in objecting to your Honor's so holding, referred to me as a liar. I most respectfully say to your Honor that when this jury returns the jury should be explicitly and expressly told that they should disregard, as though not said, that accusation in that language by Mr. Hallinan, who has promised to prove a fact to this jury which he has not established and which he can never establish.

The Court: Pardon my interruption. I thought my admonition covered that phase.

Mr. Donohue: I thought your admonition covered only the matter which was the subject matter of your Honor's holding Mr. Hallinan's conduct as misconduct.

The Court: When did he characterize you as——

Mr. Donohue: He said I had lied to this Court, if your Honor pleases, in his objection to your Honor's holding him or his conduct as misconduct. I assume in the normal processes of this trial that if Mr. Hallinan were able to establish the fact that the prosecution concealed from this Court and jury information concerning the identity of Mr. Ross, that they would in due course produce it. Twice yesterday, and in his usual evasive way, when I asked Mr. MacInnis to let us come to the point, let us prove this conspiracy about which you are [3653] talking, he said, as he has always said, as he said with respect to our attempt to pin him down on a telegram of a conviction against Manning Johnson, and as we tried to pin him down on the alleged question and answer in the so-called record of a proceeding at which the witness Schomaker testified—"We will come to that later." They never want to come to that point, if your Honor pleases, because they know there is no such point. And I most respectfully say to your Honor, though it may be beyond the purview of this trial, it is not beyond the purview of the authority of your Honor. If these men have such evidence, let them produce it now and stop making nasty, vile accusations which are not supported by fact or are not true.

Then in his usual way Mr. MacInnis concludes by saying,

> "I said all that I could say last night about the question of perjury on the part of Lawrence Ross."

I do not establish the law, if your Honor please, but the law is clear. The law is clear when it says that a determination as to the initiation of a criminal prosecution is in the hands of the United States Attorney, to whom these people can make their complaint if they think they have a complaint to make. Of course, they would be delighted if we could abate this trial and try now three perjury indictments. That would serve their immediate and their ultimate purposes. But as I understand the law, we are here for the purpose of trying the issues framed between the United States and Harry Bridges, and yet I read [3654] last night with some measure of shame 154 pages of testimony yesterday and not a single question asked of the witness with respect to his testimony against Harry Bridges, but merely an attempt to find out when he abandoned his daughter, if he did, abandoned his children—no evidence of it except in the insinuation in the question of Mr. MacInnis.

"Did you, when you were in New York, make a false statement when you applied for a marriage license?"

Where is the marriage license? Are we going to believe that what Mr. MacInnis states in a question is a fact? I most respectfully say, if your Honor pleases, that short and quick answer to the suggestion made by Mr. MacInnis with respect to alleged perjurious statements made by the witness Lawrence Ross. It is not your Honor's responsibility nor mine to determine that fact. And with respect to the statement made by Mr. Hallinan that I deliberately lied to this Court, I say, if your Honor pleases, that now is the time if ever for him to establish that by proof. [3655]

Mr. Hallinan: Might I speak briefly on that, Your Honor? Now, we have the remarkable situation of this counsel, this special prosecutor, getting up here and admitting that he knew while the witness was on the stand and the questions were being addressed to him that he had committed some deception concerning his name and his identity; and that after the adjournment of court, he suggested to Mr. Barber that he wire these people. What did he do when he suspected that the witness was deceiving the Court and jury? He fought as vigorously as he could to get him out of that witness chair, out of the court and out of the state. He made a determined and vigorous effort, bolstered by the witness himself, to prevent the Court, the jury and counsel from determining whether or not there was any falsehood or any deception in the witness' testimony. And this man vigorously, actively, almost fiercely, importuned the Court as to the injustice and the wrong that was being done the fellow because he couldn't get out his special edition of the paper, and his children couldn't get back to school, when he stupidly—because I don't think he does it honestly—admits that he knew from the witness' demeanor and answers that he was telling lies on the witness stand. And if that were the first time, Your Honor, then it might be credited to some deficiencies of intellect, but it is the second time, because he worked with more fervor than that to extricate his tool, Mr. Crouch, from a similar position. The argument and the entreaties placed before the [3656] Court not only in the courtroom but in chambers by this man, who tells us how he is a special representative of the United States Government, to get his perjurers out of this court so they couldn't be questioned further, to speed them off to a distant part of the United States, is in itself a condemnation and is one of the reasons why I asked Your Honor not to suggest to the jury that there wasn't evidence of conspiracy here, because there is evidence.

Now, he gets up and makes—he doesn't seem to realize the position he is in. He doesn't seem to realize the implication that everybody who sits in this courtroom entertains as regards him. He thinks that he still has prestige. He gets up here and he vouches for these witnesses, as though it were a sort of moral Morris Plan that he is co-signing; but he is more bankrupt than the witnesses are. He has less credit than they have. He tells how he has been sent here as a special attorney for the United States Government and I submit, Your Honor, that I have not seen inferior merits or inferior qualities better rewarded since Caligula made a consul of his horse and Charles II knighted a beefsteak. I haven't seen the gentleman's equal in legal perspicacity since poor Jimmy Carroll died down in the San Francisco police court.

Now, in all this proof of perjury—complete, unassailable, what is his answer? A criticism of the men who uncover it, an explanation and a justification of the witnesses. Does he get [3657] up and say as an officer of this Government, "I concede and I see that we have been deceived by these people and that they have committed perjury and proper steps should be taken on it"? No, he tries to excuse them, he lies about them; he tries to hide and conceal everything he has.

Your Honor, I said at the origin of this case that we would, that the jury and the Court would, see bloom in this courtroom a rotten, stinking fungus. It is now here. The light has shown upon it a little earlier than I expected, and it is beginning already to wither and fade away. But in that light one can discern the roots and filaments of it. Mr. Boyd, Mr. Barber, collectors, trainers and educators of perjurers and perjury—Mr. Kaiser, herdsman and sleeping companion, and Mr. Donohue, front and hatchet man of a mob. The conspiracy is worse and dirtier than I even suspected it was. This man points up the exact reason why special prosecutors are ordinarily not favored in courts.

We have in this District as fine, as able and as honorable a man as any practicing lawyer in the State of California—in the United States of America, and that is Mr. Frank Hennessy. He has young men in his office that wouldn't give this man a job as office boy as far as ability is concerned. But, no, they are not permitted in the case. We have to have some sort of a special fellow to come in. And the reason, Your Honor, is there isn't anybody in the United States Attorney's office dirty [3658] enough to persist in this case and to defend these witnesses and their conduct.

The Court: Mr. Hallinan,——

Mr. Hallinan: Very well, Your Honor.

The Court: I say to you that there is nothing you have said in your last ten or fifteen minutes that would aid or assist me in making a determination in this matter at hand.

Mr. Hallinan: Well, then, let me close with one sentence.

The Court: Your personal reflections, of course, I ignore, because I consider that that is part and parcel of the pattern that has grown up in this case—unfortunately. I say unfortunately, now.

Mr. Hallinan: And I might say this, Your Honor, as far as the misfortune of that is concerned.

The Court: Yes.

Mr. Hallinan: And as far as personal recriminations are concerned. Can you cast your mind back to about the first week in this trial when for, as I suggested before, what at worst could be considered an overzealousness in attempting to protect the rights of my clients—it may be a mistake in matters of procedure—Your Honor found fit to find me guilty of contempt of court. And this fine gentleman stood up and berated and insulted and said every vile and mean thing he could, while a couple of bailiffs held me here and I was in terror of answering him for fear you would put me out of the case and my poor [3659] client would be improperly represented. And instead of finding fault, Your Honor, you then invited the other carpetbagger to get up and add his quota. And after he had exhausted his meanness, then the old banshee that sits in the back and croaks out an objection occasionally got up and added something to it. And I think that might have been a proper time, if the Court please, to be concerned with the niceties and the sensibilities of lawyers practicing in the court. But that has not been done, and as it has not been, I assume that we are all entitled and all requested or authorized by the Court to say what we choose and what we believe. And I say now in closing that anything I have said about Mr. Donohue, any implications or any inferences that I have made as to his dishonesty and his corruption, I double and redouble.

The Court: I have already stated to the jury, and I now repeat for the record, that the evidence thus far does not disclose any conspiracy on the part of either Mr. Donohue or any of the government attorneys or the government agents in and with respect to the conduct of Lawrence Ross. I admonish the jury. If I neglected to admonish the jury to disregard the statement made by Mr. Hallinan that Mr. Donohue is or was a liar, I shall do that promptly upon their return here.

I stated to you, Mr. Hallinan, that your remarks have not convinced me with respect to any immediate order that I may make. I do not believe that the remarks were well taken or in [3660] judicial good taste at this time, or at any other time. However, we have the matter of Lawrence Seton Ross at hand. We discussed rather briefly last evening the matter of the legalistics and materiality and so forth. I do not believe it is the function of this Court to pass upon the matter of materiality at this juncture. That is, with respect to the subject matter of the testimony which Mr. Ross falsified. However, I do believe that the matter of Lawrence Seton Ross should be referred to Mr. Frank Hennessy, the United States Attorney in this district, and to the grand jury for such action as may be taken in the premises. That is my order.

Now, you might call the jury.

Mr. Hallinan: Your Honor, might I make one other suggestion in regard to that? Now, the evidence against Ross consists to a large part in his own admissions. The evidence against Crouch and Johnson is just as conclusive, more conclusive, and the testimony that they gave was more vital. However, Ross loses nerve and recanted. Johnson and Crouch stuck with their story. By his recantation Ross obviously and openly injures the prosecution, and in fact, reflects upon their credit. Crouch and Ross, by staying with their story, preserve some shreds of covering for these gentlemen. I am afraid that if the Court's action only extends to Ross, an inference might be entertained by those who would be willing to entertain it, that Ross is being specially distinguished only because he has [3661] recanted and made an open statement.

The Court: Mr. Hallinan, I made my statement with respect to Mr. Crouch and the witness Manning Johnson heretofore. I made a full and complete statement for the record; I have nothing to add to it or subtract from it. What I have to say with respect to Mr. Ross carries with it, of course, no recommendation to Mr. Hennessy. I have full faith and confidence that Mr. Hennessy will make a careful study of this record, in the light of five or six days' testimony, and take such action as he may be advised. I do not control Mr. Hennessy's conduct, nor can I assume to control it.

Mr. Hallinan: I only suggested Your Honor include the other two witnesses in the recommendation.

The Court: No, that is my order.

Mr. Hallinan: Very well.

Mr. MacInnis: May I say something? Now, is it part of Your Honor's order that this witness remains under the process of the Court similar to the order that you made in the case of the other two men?

The Court: Not necessarily. I don't see any immediate reason. Whatever action the grand jury may take with Mr. Hennessy in the premises is a matter of their concern.

Mr. MacInnis: Well, I would like to say one more thing, if I may. Now, I appreciate Your Honor's comments upon the remarks of Mr. Hallinan. Your Honor is apparently of the [3662] present mind that the characterizations which he made are not presently based on——

The Court: I said——

Mr. MacInnis: Now I have some facts,——

The Court: I said he did not assist me in any wise in making an order or coming to any conclusion in matters of vituperation and that sort of thing—they never assist me.

Mr. MacInnis: I would like to add these facts, Your Honor, to those characterizations—advisedly, because I think it is my duty to do so.

The Court: All right.

Mr. MacInnis: Now, is there evidence that would support the reflections which have been made about the character and the motives of the men who conduct this prosecution? Now I say there is. Yesterday at the close of our judicial day the chief prosecutor, this specially appointed man, Mr. Donohue, made a public statement that the reason he and his cohorts didn't know anything about the background of Ross was that they depended upon an ordinary FBI check on the background of the witnesses. This morning a man of real integrity, Mr. Harry Kimball, the head of the FBI in San Francisco, made a public statement that the FBI hasn't been brought into this case at all, and that all of the checkups have been made by Barber, Kaiser and the Immigration Department.

The Court: Mr. MacInnis, that is a matter of unofficial [3663] concern. I have not been advised as to Mr. Kimball's statement, I haven't read it. I, of course, will accept your statement on the subject. But it doesn't aid or assist me. It is merely—well, you might call the jury.

Mr. MacInnis: I might say this, Your Honor. I made the last suggestion not to attempt to influence Your Honor on his order in respect of Lawrence Ross, but in respect of the request made to you that the jury be asked to disregard certain insinuations made about the prosecution. I think certainly——

The Court: Mr. MacInnis, I certainly will instruct this jury to disregard the statement made by Mr. Hallinan that Mr. Donohue is or was a liar, and I shall do it with whatever vigor I presently have. That is all.

(Whereupon the jury returned to the courtroom and resumed their respective seats in the jurybox.)

The Court: Ladies and gentlemen of the jury, we have now reached the noon period and we will take the adjournment. I understand from Mr. Donohue that you have a witness at 2:00 o'clock?

Mr. Donohue: Yes, Your Honor.

The Court: We will proceed with a new witness at 2:00 o'clock. What is his name, please?

Mr. Donohue: Lewis Michener.

Mr. MacInnis: Pardon me. May I make a request?

The Court: Yes, sir. [3664]

Mr. MacInnis: Now, Your Honor, we have had a little procedural difficulty on time with these various witnesses for the prosecution. We have asked for time, and Your Honor has been very generous in the allocation of time. The prosecution has opposed our requests at all times. Now, so that we won't fall into the same difficulty and thus be forced always to importune Your Honor to extend leniency and time to us in looking up these witnesses, I think we should request now that for the balance of this case the names of the future witnesses be furnished to the defense so that there will be no saying on our part that we have only a few hours to look up these men, and so that there won't be any matter of bringing people here and taking them away before adequate preparation can be made. I can see no reason. It is the only prosecution that I have ever heard of in which the names of the witnesses have been kept secret.

The Court: Counsel, counsel! I dislike interrupting you, on any occasion. But I had in mind you were launching into a field that I thought might carry with it some implications. Now, you might take this matter of witnesses up with Mr. Donohue and the prosecution staff during the noon hour. I know from general information, unofficially set forth, that there are several witnesses already named who may or may not appear. They have been referred to during the course of the testimony. And as to that matter or those matters, there is no particular concern. I do not know what Mr. Donohue's attitude is. I can [3665] not direct him, nor control him in the matter of prosecuting the case. I think you should take it up with him at noontime.

Mr. Paisley: Your Honor, would you instruct the jury that there is no truth in the statement of Mr. MacInnis?

The Court: What?

Mr. Paisley: No truth——

The Court: In what?

Mr. Paisley: In the statement of Mr. MacInnis that it is customary to furnish counsel for the defendants with a list of the witnesses.

The Court: I interrupted Mr. MacInnis. I was about to state there was no custom in that respect.

Mr. MacInnis: Pardon me, Your Honor. The man who just spoke, coming as he does from another jurisdiction, may have adopted different habits. But, Your Honor, I can always say that the representatives of the United States Attorney in this court have always been more than courteous in the supplying of names and in the conveniencing of other counsel, and that is true of all of the very able men who represent that office, Mr. Joseph Karesh, Mr. Colvin, all of the men who serve under Frank Hennessy. And that has been the custom in this court, to cooperate; but apparently it is not the custom in this particular prosecution. And I suggest that the remark of the last prosecutor who rose to his feet has no bearing upon the subject at all. [3666]

Mr. Paisley: I don't know of any jurisdiction in the Federal Courts that actually has a statute—Mr. MacInnis ought to be familiar with it—that requires a list of the witnesses be furnished, except in capital cases. But in no other cases. And I have been in lots of jurisdictions and there is no such custom as that. Give them a list of witnesses! They have a right to come in, of course, and ask for a bill of particulars; frequently the court grants it. But the court doesn't give them a list of the witnesses. The jury knows that—I don't imagine Your Honor should even want to tell them that.

The Court: Ladies and gentlemen of the jury, we will take the noon recess and I desire to admonish you particularly with respect to an assertion or statement made by Mr. Hallinan that in reference to Mr. Donohue, the government prosecutor, that he, Mr. Donohue, was or is a liar; such statement coming from Mr. Hallinan. I ask you and admonish you to disregard the statement, ignore the same and erase the same from your minds.

Now, with respect to the resumption of the trial, we will take the next witness at 2:00 o'clock. I ask Mr. Donohue to confer with counsel for the defense as to future witnesses to be called. I can not indicate—— Pardon me, Mr. Paisley. I can not indicate to him as to his procedure, nor make any direction in that respect.

I will say to you, ladies and gentlemen of the jury, that so far as I know, there is no rule that requires the Government [3667] to make disclosure of their witnesses in a criminal case in advance of the witness taking the stand, other than in capital cases—and the statute so provides.

We will take additional testimony, then, at 2:00 o'clock. I again admonish you not to discuss the case with any person or persons and not to form or express an opinion thereon until the matter is finally submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [3667-A]

Tuesday Afternoon Session
January 10, 1950, 2:05 o'Clock

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Paisley: Call Mr. Michener.

LEWIS HERBERT MICHENER, JR.
called on behalf of the United States; sworn.

Q. (By the Clerk): Will you state your full name to the Court and jury, please?

A. Lewis Herbert Michener.

Direct Examination

By Mr. Paisley:

Q. How do you spell that, Mr. Michener?

A. L-e-w-i-s H-e-r-b-e-r-t M-i-c-h-e-n-e-r, Jr.

Q. Where do you live, Mr. Michener?

A. Los Angeles, California.

Q. What address?

A. 4654 West 63rd Street.

(Testimony of Lewis Herbert Michener.)

Q. And what is your present occupation?

A. I am an auto worker at the Ford Long Beach plant.

Q. What type of work do you do?

A. Stock coordinator.

Q. And what is the nature of that work?

A. Well, at the present time I am in the process of coordinating defective stock from one particular location and plant to [3668] another, and mainly that occupies my full time.

Q. Do you belong to a union? A. I do.

Q. Are you active in the union now?

A. I am.

Q. And do you hold any official position in the union? A. I do.

Q. What is the position?

A. At the present time I am the acting secretary of my local union. I am also a delegate to the Los Angeles Industrial Union Council, CIO; also a delegate to the District Auto and Aircraft Council, CIO.

Q. Is that the United Automobile Workers Union? A. That's correct.

Q. Is that the name of it? A. Yes.

Q. How much education were you able to have, Mr. Michener?

A. You mean in the labor movement, or——

Q. No, in your schooling, formal education.

A. I went through the eighth grade and approximately two months to high school.

Q. And have you had any postgraduate work?

(Testimony of Lewis Herbert Michener.)

A. No, sir.

Q. Now, what type of work generally did you do before you went into the automobile work? [3669]

A. Well, it was a rather a variety of occupations I followed. For a time I worked in the Butte mines, I worked in the packing house industry, worked on farms, I worked in logging camps and numerous occupations.

Q. Are you a family man, sir?

A. No, sir, not at the present time.

Q. When did you start to work in the automobile industry? A. In 1933.

Q. And where was that?

A. It was in Richmond, California.

Q. And what company did you go to work for?

A. For the Ford Motor Company.

Q. How long have you been with the Ford Company?

A. Well, off and on ever since late in 1933, up until the present date, with a few years, of course, in between there that I spent my entire time as an official of the labor movement.

Q. How soon after you went to work for the automobile industry did you join the union?

A. Well, at 1933, of course, there was no opportunity or no union available for the auto workers to join, and it wasn't until in 1937, until the CIO started formulating its program for the West Coast that we auto workers were able to join a union, and I was one of the first to join up. [3670]

(Testimony of Lewis Herbert Michener.)

Q. How soon after that did you become an officer of the union?

A. It was only a matter of a very short time until I became an officer of my particular local union.

Q. Did you become a paid employee of the union?

A. Some time later, but not at the very outset I didn't.

Q. Did there come a time when you were wholly employed by the union rather than working for the Ford Motor Company? A. Yes, sir.

Q. What position did you finally obtain?

A. I have held several positions for the labor movement. My first one was chairman of the District Auto and Aircraft Council, and then later on I became secretary of the same council, and at the same time I was secretary of the CIO Unemployment and Relief Committee, and approximately the same time I was president or chairman of the Los Angeles Industrial Union Council.

Q. What time were you paid by the union rather than by the auomobile company?

A. Approximately from about the middle of 1938 up until December of 1944.

Q. Did there come a time, sir, when you joined the Communist Party? A. Yes, sir.

Mr. MacInnis: Pardon me. May the answer be stricken [3671] pending the objection, if your Honor please? We make the same objection as heretofore made with the other witnesses, that the question is incompetent, irrelevant and immaterial, that it calls for secondary evidence, when there is no proof that the best evidence is not available and that it calls for the opinion and conclusion of the witness, and further that it calls for acts done or statements done outside the presence of the defendants and hence not binding upon them.

The Court: The objection is overruled.

Mr. MacInnis: May we have the same understanding with the Court that the same objection would be made to all questions of this ilk?

The Court: That will be the order.

Mr. Paisley: Of this what? This ilk?

Mr. MacInnis: Possibly you do not understand the word. Of the same kind, your Honor.

The Court: Counsel, there have been extremely difficult situations that have arisen during the course of this trial that have increased the burdens upon this court to a manifold extent. I ask you to refrain in the future conduct of this trial from any such characterization, reflections upon counsel. I participated in quite a few trials in my career, both on the bench and off the bench. I see no occasion for constant indulgence in personalities. When I say this to you, Mr. MacInnis, I do so not individually nor as a personal reflection upon you, but as a desire on my part to conduct this trial so far as I am [3672] able in a judicial manner. That I intend to do. What I have to say refers to both counsel on both sides. Let us conduct this trial in an orderly way if we can.

(Testimony of Lewis Herbert Michener.)

Mr. MacInnis: Let me respectfully say this: In view of your remarks I should like that the record be read to you of what was said. If there was any personal reflection in my remarks, it followed a reflection made by counsel for the other side.

The Court: Counsel, I said at the outset that this was no reflection on you. You, counsel addressing the witness, I ask you to refrain from indulging in these constant matters of personality between counsel. What I have to say does not reflect on Mr. MacInnis any more than it does on you. I am going to try this case to the best of my ability. I ask the cooperation of counsel. All right, sir.

Mr. MacInnis: We certainly can do no more than to give you the cooperation that you ask.

The Court: I will appreciate it.

Mr. Paisley: Will you read the last question.

(Question and answer read.)

Q. (By Mr. Paisley): When and where was that?

A. That was in Los Angeles, California, late in 1938.

Q. Did you become an active member of the Party? A. I did.

Q. Did you become an officer, hold any office in this [3673] organization? A. I never did.

Mr. MacInnis: Pardon me, your Honor. Does the the record now show, in addition to your order as to the continued objection to these questions, the stipulation by the Government?

The Court: Yes, I take it that it does, Mr. MacInnis.

Mr. MacInnis: I hadn't heard. There was no audible stipulation.

The Court: I will embody in the order the stipulation of counsel.

Mr. MacInnis: Thank you.

Q. (By Mr. Paisley): After you became a member of the Communist Party did you continue your activity as a union man? A. I did.

Q. Did you attain to any positions in the union organization after you became a member of the Communist Party?

Mr. MacInnis: Pardon me, your Honor. These questions are asked and answered. He has already stated the time, period within which he became an official and a paid employee of the union.

The Court: The repetition cannot do any harm, as I see it.

Mr. Paisley: Go ahead.

A. Yes, I did gain further or win further elective offices after I joined the Communist Party in the labor movement.

Q. What offices were they? [3674]

A. First the executive secretary of the Los Angeles Industrial Union Council, and then later on the West Coast Representative for the United Auto Workers. That was a full-time paid job by the union, which covered the seven Western States and the Hawaiian Islands.

Q. How long did you hold that position?

A. I was elected to that position first in April of 1939, and I held that position up until 1944, with the exceptions of one year that I did not hold a job due to certain union propositions within our international union.

Q. When if ever did you leave the Communist Party?

A. I left the Communist Party in 1944.

Q. Were you then holding any position with the union? A. I was not at that time.

Q. What was this Los Angeles Industrial Union Council. What was the function of that organization?

A. The Los Angeles Industrial Union Council was a coordinating central body with representatives from all the locals and international unions to coördinate our work and our activities in that particular locality.

Q. In the course of your employment as a labor leader, organizer or worker, and during the time that you were a member of the Communist Party, did you ever meet Harry Bridges? A. I did.

Q. Do you recall when you first met him? [3675]

A. It was early in 1938, just shortly after a Ford strike was called in the Long Beach plant.

Q. Where was it?

A. It was in the office of the secretary of the Los Angeles Industrial Union Council.

Q. Did you thereafter have occasion to come in contact with Mr. Harry Bridges?

A. Oh, yes, quite often thereafter.

(Testimony of Lewis Herbert Michener.)

Q. Did you attend Communist Party meetings?

Mr. MacInnis: Pardon me. If the Court please, as your Honor has heretofore ruled upon this very matter, the question now——

The Court: I will sustain the objection.

Mr. Paisley: He can't testify, your Honor, he attended Communist Party meetings? Is that what you ruled?

The Court: Counsel, you have been present in court during the matters that have arisen in connection with other witnesses, and I say to you that there is no foundation laid for the question. It calls for the opinion and conclusion of the witness. You must have some foundation. The bland question cannot be presented to the witness asking for the bland answer. The objection is well taken.

Q. (By Mr. Paisley): After you became a member of the Communist Party what did you do?

Mr. MacInnis: Pardon me, your Honor. That question seems [3676] to be vague, indefinite and not connected with the present prosecution at all. It calls for a recounting of all kinds of events having no probative effect.

Mr. Paisley: Oh, well, I will reframe the question.

Q. Did you attend any meetings at which Harry Bridges was present?

Mr. MacInnis: Pardon me. The objection to that question is that again it is a question without any foundation, calling for the opinion and conclusion of the witness.

(Testimony of Lewis Herbert Michener.)

The Court: I think the question was, Did you attend any meetings which Harry Bridges attended or at which he was present?

Q. Did you attend any such meetings?

A. Yes, your Honor.

Q. (By Mr. Paisley): Would you enumerate them.

A. It would be rather difficult to enumerate them all, because I attended several of them. The first important meeting that I recall attending where Mr. Bridges was present was our first State CIO convention held in Los Angeles late in 1938.

Q. And his union, I take it, at that time was affiliated with the CIO? A. Definitely.

Q. Did you ever attend a meeting at which Harry Bridges was present here in San Francisco? [3677]

A. I have.

Q. When was that?

A. I have attended several meetings here in San Francisco wherein Mr. Bridges was present. I attended one meeting here in San Francisco in '40 that was attended just by a few members at that time, and later on I was present at the State CIO convention that was held here, where Mr. Bridges was present, and I attended several meetings in his office during the course of my career in the labor movement here in San Francisco with Mr. Bridges.

Q. Mr. Michener, do you know William Schneidermann? A. I do.

Q. Have you been thrown in contact with William Schneidermann when you were a member of the Communist Party? A. I was.

Q. How many times have you been thrown in contact with William Schneidermann while you were a member of the Party?

Mr. MacInnis: I do not know that there is anyone named Schneidermann on trial in this case, your Honor. I cannot see how this question would invite an answer having any probative value. I object upon the ground it is incompetent, irrelevant and immaterial.

The Court: Overruled. You mean William C. Schneidermann?

Mr. Paisley: William Schneidermann, your Honor. I am trying to lay this foundation. [3678]

The Court: You would not lay it by reference to Schneidermann. It might be William Schneidermann, but not Schneidermann.

Mr. Paisley: I said William Schneidermann.

The Court: Did you? I didn't hear you. [3678-A]

Q. How many times while you were a member of the Communist Party were you associated with one William Schneidermann?

Mr. MacInnis: Pardon me. The word "associated"——

Mr. Paisley: Well, attend meetings, then, with William Schneidermann.

A. It would be hard for me to remember the exact number, but I would say I had the occasion to attend several meetings wherein William Schneidermann was present.

(Testimony of Lewis Herbert Michener.)

Q. Do you know of your own knowledge what position he held with the Communist Party, if any?

Mr. MacInnis: Pardon me. Now, the same objection as heretofore made—acts done or statements made outside the presence of the defendants and incompetent, irrelevant and immaterial.

Mr. Paisley: I thought we had a stipulation on that, your Honor, that the objections would all run.

Mr. MacInnis: We will accept that stipulation as to this line of questions as well.

Mr. Paisley: All right.

The Court: The objection is overruled, based upon the stipulation. The jury is admonished to disregard the statements made by this witness in so far as the several defendants are concerned, as matters occurring out of the presence of the defendants. I take it the purpose of this examination is to show the familiarity of the witness with the affairs of the Communist Party? [3679]

Mr. Paisley: Oh, yes.

The Court: Intramural activities.

Mr. Paisley: That's right, your Honor.

The Court: All right. And it is admitted for that limited purpose.

Mr. Paisley: Yes, sir. Now, what was the question?

(Record read.)

A. At the time I first became acquainted with him, and to my knowledge at the present time, he was the executive state secretary for the Communist Party.

(Testimony of Lewis Herbert Michener.)

Q. Was any secret made of that, any effort to conceal it from the public, or was he openly and avowedly in that position?

A. To my knowledge, there was no attempt to hide his identity or his connection with the Communist Party.

Q. How about your own membership in the Communist Party while you were holding these positions down there in the Ford plant with the union? Did you make any effort to conceal your membership in the party? A. Yes, sir.

Q. What effort did you make?

A. Well, it was never indicated outwardly that I was a member. In fact, this is practically the first time I have announced to the public that I have been a member of the Communist Party.

Q. Do you know one Paul Kline?

Mr. MacInnis: Pardon me. Could that name be repeated? [3680]

Mr. Paisley: Paul Kline, K-l-i-n-e.

Mr. MacInnis: K-l-i-n-e?

Mr. Paisley: Yes. That is the way it is spelled here. I don't know whether it is spelled Klein or not.

Mr. MacInnis: May I look at your script?

Mr. Paisley: No, you know that you have no right to look at a lawyer's notes.

Q. Do you know one Paul Kline? A. I do.

Q. Was he connected with the Communist Party in any way? A. He was.

Q. What position did he hold?

(Testimony of Lewis Herbert Michener.)

A. He was the secretary of the Communist Party for Los Angeles County at the time that I first met him and knew him.

Q. Now, do you recall coming up there to San Francisco with him to attend a meeting?

A. I do.

Q. And when was that, Mr. Michener?

A. That would be late in 1940.

Q. And when you got here, where did you go?

A. Well, I registered at that particular time, I registered, I believe, at the Shaw Hotel on Market Street in San Francisco.

Q. Was there a meeting held there?

A. No, there was no meeting held at the Shaw Hotel.

Q. Well, was there one held at or about [3681] that time?

A. There was one held the same day I arrived here, as I recall.

Q. Did you attend it? A. I did.

Q. And where was it, Mr. Michener?

A. It was out past Golden Gate Park, some place out here in the Sunset Strip. I couldn't give you the address of it. A private residence out there.

Q. Private residence. What was the purpose of having the meeting in a private residence?

A. Well, at that particular time it was the general idea, this being the Communist Party theory, that we——

Mr. MacInnis: Now pardon me just a moment. I perceive, your Honor, that the witness is offering

(Testimony of Lewis Herbert Michener.)

not a factual answer, but an opinion. I think he may tell who was present, and if that be relevant, he may relate his conversation.

The Court: That's right.

The Witness: Your Honor, may I have some advice from the Court on that?

The Court: Yes.

The Witness: I mean, it was the general policy of the Communist Party to meet in residences at that time, and I don't know how, really, to answer the question without——

The Court: I will allow the answer to stand as to the general policy.

Q. (By Mr. Paisley): The question is, why were you holding the [3682] meeting in a private residence?

Mr. MacInnis: I didn't hear that question asked, your Honor.

The Court: I understood there was a meeting held in the so-called Sunset Strip—that is, in the Sunset District?

The Witness: Yes, your Honor.

The Court: You have heard of the Strip?

The Witness: Yes, your Honor.

The Court: That is more particularly applicable to Hollywood, I think, but we have the Sunset District here, and this meeting was held in the Sunset area, was it?

The Witness: Yes.

The Court: Private home?

The Witness: That's right.

(Testimony of Lewis Herbert Michener.)

Q. (By Mr. Paisley): Well, I would still like to have the question answered. What was the purpose of holding the meeting in this private residence?

A. Well, the general purpose we had, as I was informed by Paul Kline before I came here, that you refer to, that we were going to discuss a problem pertaining to Labor's Non-Partisan League.

Q. What is Labor's Non-Partisan League?

Mr. MacInnis: Now, just a moment. We ask your Honor that the hearsay be stricken and the jury asked to disregard it.

The Court: Yes, the statement with respect to the purposes or purpose as indicated by Mr. Paul Kline are stricken from the [3683] record and the jury admonished to disregard the same. Bringing yourself on up to the meeting, you attended the meeting?

The Witness: I did, your Honor.

The Court: And what was the discussion, as to the Labor's Non-Partisan League?

The Witness: As—that was part of the discussion.

The Court: State the persons present.

The Witness: I will. To the best of my recollections, there was a man by the name of Walter Lambert, there was William Schneidermann, Lou Goldblatt, Harry Bridges, Philip "Slim" Connolly and myself.

The Court: Do you recall the discussion, if any?

(Testimony of Lewis Herbert Michener.)

The Witness: I do.

The Court: State it.

The Witness: The problem regarding Labor's Non-Partisan League at that time was the allocation of funds between the northern part of the state and the southern part of the state. In view of the fact that I also was an officer of the Labor's Non-Partisan League in the South, Paul Kline—and also a member of the Communist Party at that time—Paul Kline thought it advisable that I attend this meeting to see what arrangements could be worked out regarding the allocating of funds between Northern California and Southern California of the Labor's Non-Partisan League funds.

Mr. MacInnis: Pardon me. Your Honor, may we ask that the [3684] hearsay statement be stricken, of what Paul Kline thought and conveyed to this man outside the presence of those at the meeting?

Mr. Paisley: Your Honor, may I be heard? Counsel can't sit by and listen to a witness testify at length and then ask that something be stricken he doesn't like. That is my understanding of the law and of procedure.

The Court: Will you attempt to confine your statements to what you know, stating what, if anything, Mr. Bridges said or anyone said? By the way, what is the Non-Partisan League?

The Witness: The Labor's Non-Partisan League, your Honor, was the political arm for the CIO during that period of time.

The Court: All right. Now, do you recall anything that Mr. Bridges may have said at that time?

The Witness: Not regarding the Labor's Non-Partisan League. I can't recall anything that he said particularly.

The Court: Well, without interruption on the part of counsel or the Court, could you state in your own words what took place at that meeting?

The Witness: Yes, yes, your Honor, I could. As a result of our, all of us, collectively discussing the problem, including Mr. Bridges, it was finally decided that——

Mr. MacInnis: Now, pardon me. Now, your Honor, you have just now instructed the witness to tell us what took place. By that I would understand that your Honor was meaning to tell [3685] him to state generally what the various people said.

The Court: Well, this is preliminary, I suppose.

Mr. MacInnis: Now, I think, your Honor, that he may not give a naked conclusion about what was decided without telling us what he said, what Bridges said.

The Court: He is coming to that, to the best of his recollection.

The Witness: If your Honor pleases, it would be very difficult for me to remember word by word, verbatim, as to what actually transpired, but the net result of the discussion on Labor's Non-Partisan League, wherein I testified to your Honor that it was conducted by all members present, that I referred to, was that the funds should be equally distributed between the northern and southern division of California, the Labor's Non-Partisan League. And so also, if your Honor pleases, there was another point discussed at this hearing, wherein there seemed to have arisen a little difficulty between Mr. Bridges and Mr. Goldblatt regarding their positions in their particular local union. I wasn't familiar with it, but Mr. Lambert was present and apparently he was familiar with it and——.

Mr. MacInnis: Pardon me. Now, your Honor, this witness is giving us pure opinion and conclusion without making any attempt to tell us what the persons present said. Now, of course, he is not expected to give us word for word what anybody said after the passage of so much time, but he can say [3686] Mr. Bridges said substantially this, Mr. So-and-So said substantially that. That is the ordinary way of receiving a conversation, not by this naked conclusion. I think that the witness should be instructed to that end, or else the entire matter be stricken.

The Court: Well, you are mindful of that suggestion, are you, Mr. Witness?

The Witness: Not entirely, your Honor, but I will try to conform with it. Mr. Lambert said, to the best of my recollection, that he thought that Mr. Goldblatt ought to cooperate a little better with Harry Bridges in their particular dispute that they had at that time, and fundamentally that was agreeable, apparently, to all parties concerned. Your Honor, outside of that, that is the only two points that was discussed at this particular meeting.

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IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume VIII
(Pages 3349 to 3838)

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 12597

United States Court of Appeals

For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

In .... Volumes

Volume VIII

(Pages 3349 to 3838)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

(Testimony of Lewis Herbert Michener.)

Mr. Paisley: Does your Honor have any more questions or may I proceed with the witness?

The Court: No; go ahead.

Q. (By Mr. Paisley): Now, what did Lambert have to do with this dispute between Bridges and Goldblatt about union activities?

Mr. MacInnis: Now, I think, your Honor, that the witness has now stated everything that he recalls the man Lambert as having said. Now, to ask him to say what he had to do with it would be to invite him to give another opinion and conclusion.

The Court: He may answer. [3687]

A. Mr. Walter Lambert more or less chaired the meeting that I referred to, and Mr. Lambert's position at that time was more or less the industrial section organizer for the Communist Party for the State of California, and it was very apparent to me, being present, that——

Mr. MacInnis: Pardon me just a moment.

Mr. Paisley: Now, if your Honor please, the witness was there.

Mr. MacInnis: He can't say it was apparent to him.

Mr. Paisley: The defendant Harry Bridges was there. Now, why he can't tell us what went on between Bridges and Goldblatt and this man Lambert I don't know.

The Court: All right, proceed.

Mr. Paisley: I can understand why he didn't want it. Pardon me, I didn't mean to touch you. I can understand why he wouldn't want to hear it. That is always competent testimony.

Mr. MacInnis: Now, your Honor, the witness is now beginning to say, "And it was apparent to me." Now, I can't think of any situation in our law of evidence that permits a witness to offer that kind of opinion, as to what was going on at a meeting. He can say what they said, but he can't say what was apparent to him or what he thought or what he assumed or what he imagined.

The Court: You may proceed. Go ahead.

A. (Continuing): Well, your Honor, in reply to the question, to [3688] complete the question, the net result of the meeting, then, was that Lou Goldblatt was told to work along more harmoniously with Mr. Bridges, and Mr. Lambert was chairing the meeting, and in the capacity he held in the Communist Party, was very familiar with all the inner beefs, so to speak, that went on within the labor movement,——

Mr. MacInnis: Pardon me. Now, I move to strike the phrase, "Mr. Lambert was familiar with all the inner beefs." Now, without going into what this phrase "beef" may mean between the prosecutor and the witness, I think that he can not state what some person now absent from this trial and not a party to it was familiar with. I ask that that be stricken.

The Court: That may be stricken.

Mr. MacInnis: And the jury admonished to disregard that statement.

(Testimony of Lewis Herbert Michener.)

The Court: They are admonished.

Mr. MacInnis: Pardon me, your Honor. I am sorry, I didn't hear you.

The Court: Yes, the jury is admonished.

Mr. MacInnis: Thank you.

Q. (By Mr. Paisley): Did I understand you to say, Mr. Michener, that Lambert was chairman of the meeting?

Mr. MacInnis: Pardon me. That has been asked and answered three times.

Mr. Paisley: I think he used the word "chaired," your [3689] Honor, and I just wanted to ask him if that is what he meant.

Mr. MacInnis: Pardon me, your Honor. Now, the witness first said that Lambert was a kind of chairman, later, emboldened by that line, he said that he was the chairman. And now the question is put to him a third time.

The Court: Well, what is the fact?

The Witness: He was chairman.

The Court: All right.

Q. (By Mr. Paisley): Now, do I understand, Mr. Michener, that Goldblatt and Bridges entered into some discussion about the affairs of the ILWU there in the presence of Lambert and yourself?

Mr. MacInnis: Pardon me. Now, your Honor, that question——

The Court: Yes, I will sustain the objection. Permit the witness to testify, ask him the questions. He will testify, I assume.

(Testimony of Lewis Herbert Michener.)

Q. (By Mr. Paisley): Well, tell us in more detail just exactly what the disagreement was between Bridges and Goldblatt.

Mr. MacInnis: Now, pardon me, your Honor, the witness can give the conversation had between them, but not some understanding that he has now from some other source about any alleged misunderstanding between Bridges and some other man.

Mr. Paisley: On the contrary, your Honor, a person attending a meeting some years ago might well remember generally what the subject of discussion was, what side each two individuals [3690] took, and that argument, but he couldn't possibly remember particular words that individual used in their argument or their discussion. So I think his objection is not well taken at all.

The Court: Do you understand the question?

The Witness: Yes, your Honor. I indicated earlier in my testimony here, I believe, that I was not too familiar with this controversy between Harry Bridges and Goldblatt, my main purpose of being at the meeting was to participate in the discussion regarding Labor's Non-Partisan League. But this proposition about Mr. Bridges and Mr. Goldblatt came up after the discussion was held, relative to Labor's Non-Partisan League, and not being too familiar with it, I am very sorry, I couldn't give you too much of the details about it or any of the details. I know it seems, apparently——

Mr MacInnis: Pardon me. Now, I think, your Honor, that he is now embarking upon another pure

(Testimony of Lewis Herbert Michener.)

opinion. We ask that that latter fragment be stricken.

The Court: The latter part may go out. [3691]

The Witness: In conclusion, on answering that question, then, I would take it that there was a dispute between Mr. Bridges and Mr. Goldblatt, which was resolved at the meeting by Mr. Lambert.

Q. (By Mr. Paisley): Did he give any instructions to Goldblatt in the presence of Bridges?

A. He did.

Q. What were the instructions?

A. As I recall it, he told Mr. Goldblatt to work in a little closer harmony with Mr. Bridges.

Q. Did you know what position Walter Lambert held in the Communist Party?

Mr. MacInnis: Pardon me. That has been asked and answered twice, your Honor.

Mr. Paisley: I will leave it right there.

A. He was the industrial sectional organizer for the State of California for the Communist Party, as I understood his title at that time.

Q. Did you attend the national convention of the CIO held in Philadelphia, Pennsylvania, in November, 1943? A. Yes, sir.

Q. Were you a delegate? A. I was.

Q. Where was the convention held?

A. The convention that year was held in the Bellview-Stratford [3692] Hotel.

Q. I will ask you this: Did you see Harry Bridges there at the convention? A. I did.

Q. Was he a delegate, too?

(Testimony of Lewis Herbert Michener.)

A. I am positive he was a delegate there. I saw him on the convention floor.

Q. Did you attend a meeting at which Mr. Bridges was present? A. I did.

Q. Where was that meeting held?

A. That meeting was also held in the Bellview-Stratford Hotel.

Q. What part of the hotel?

A. I don't recall the room number, but it was held in a room in the same hotel where the convention was being held.

Q. Who else was present besides yourself and Bridges?

A. Mr. Bridges was present, Mr. Roy Hudson was present, Ruby Heide was present. As I recall it, Charles Pfeiffer was present, a fellow by the name of Jim Dougherty was present, and there were others present that I don't recall right at the present time.

Q. Were you then a member of the Communist Party? A. I was.

Q. Who was Roy Hudson?

A. Roy Hudson was the national director for the industrial section of the Communist Party. [3693]

Q. Who was Charlie Pfeiffer?

A. Charlie Pfeiffer at that time was secretary for a warehouse local union of the CIO in Southern California, Los Angeles.

Q. Do you know whether or not he was a member of the Communist Party?

(Testimony of Lewis Herbert Michener.)

A. To my knowledge he was a member of the Communist Party.

Q. Who was Ruby Heide?

A. She at that time was secretary—I believe secretary of the Alameda Industrial Union Council.

Q. Do you know whether or not she was a member of the Communist Party?

A. To my knowledge she was.

Q. And who was Slim Connolly?

A. Slim Connolly was the executive secretary of the Los Angeles Industrial Union Council at that time.

Q. Do you know whether or not he was a member of the Communist Party?

A. To my knowledge he was.

Mr. MacInnis: We will ask that those answers be stricken, your Honor, as given without any foundation. Your Honor has heretofore sustained objections as to whether or not persons were members of the Communist Party where no foundation was shown. Now we have a list of five new people and we have no previous testimony about them, and this witness now answers [3694] without any foundation.

Q. (By the Court): Mr. Witness, what is the basis for that statement that you made with respect to the affiliation or membership of these persons in the Communist Party?

A. Because, your Honor, I have at various times attended Party meetings with the individuals mentioned.

Q. What kind of Party meetings?

(Testimony of Lewis Herbert Michener.)

A. Communist Party meetings.

Mr. MacInnis: Pardon me, your Honor. That is the giving of one conclusion to support a prior conclusion. We ask that that answer be stricken.

Mr. Paisley: Your Honor, doesn't a man know when he attends his lodge meeting, fraternity meeting or any other kind of organization? Who would be in a better position to say whether a man is your fraternity brother? He has been in meetings with you, a member of your lodge, church, or what not.

Q. (By the Court): Were these general meetings, closed meetings, or what?

A. Closed meetings, your Honor.

Q. What is a closed meeting?

A. A closed meeting, the way I understood it, was where a member or members strictly of the Communist Party were present. In other words, people who did not belong to the Communist Party were not invited, and therefore——

Q. Tell the Court and jury the nature of the invitation that [3695] may have been extended in connection with your attendance at any or all of these meetings. How did that follow? Tell me about it.

A. One in Philadelphia——

Mr. MacInnis: I am sorry, I couldn't hear your Honor.

The Court: I said, Tell the Court and jury the nature of the invitation that was extended to these men to attend any or all of these meetings, the nature of the invitation.

(Testimony of Lewis Herbert Michener.)

A. The first Communist Party meetings that I attended were faction meetings.

Q. Define a fraction meeting.

A. I will, your Honor. A fraction meeting at that time was set up to people who were working in the auto and aircraft industry, for example, belonging to the auto and aircraft faction of the Communist Party. Those people, for example, working in the rubber industry in Southern California belonged to the rubber faction of the Communist Party. Those people working in the steel industry belonged to the steel workers' faction of the Communist Party.

Mr. MacInnis: Your Honor, I am a little puzzled now.

Mr. Paisley: May I object to counsel interrupting the witness' answer to the question the Court himself has propounded? It was a perfectly proper question and answer.

Mr. MacInnis: We have been told by other witnesses about fraction meetings. We have a new term now, "faction meetings." [3696]

The Court: Yes.

Mr. MacInnis: I am wondering if that is one that is peculiar to the witness——

The Court: You reserve that for your cross-examination and ask him the distinction between "fraction" and "faction."

The Witness: Those meetings, which were usually held on a weekly basis, were usually announced by the secretary of the *the* particular fraction or

(Testimony of Lewis Herbert Michener.)
faction of that particular group that were holding the meeting. The meetings in those days were held in private homes to more or less hide the identity of those members that did attend these meetings. They were closed meetings because they were completely composed of members of the Communist Party and no one else was present, and that was why they were termed "closed." Now, then, with reference to the meeting that was held in the—during the convention that has been referred to in Philadelphia, that I was invited to attend that meeting by Philip "Slim" Connolly, he said there would be a meeting right after the adjournment of the convention for the day, and it would be held in a room within the Bellview-Stratford Hotel. It seems to me, if my memory serves me correctly, it was on the seventh floor. He indicated to me that there would be some important problems discussed there pertaining to the CIO in California, and being a leader of the California labor movement, they wanted me to participate in the meeting. I attended the meeting that evening. I have [3697] indicated to the Court and jury those people to the best of my recollection that were present at the meeting.

Q. (By Mr. Paisley): What position, if any, did Slim Connolly hold in the Communist Party, if you know?

Mr. MacInnis: The same objection, your Honor, no foundation with respect to this man Slim Connolly.

The Court: Overruled.

(Testimony of Lewis Herbert Michener.)

Mr. MacInnis: I might add this, your Honor, that we have this witness stating that on the seventh floor of the Bellview-Stratford Hotel in Philadelphia he attended a meeting, and he has named about five people, and he says that there were others present, "but I do not recall now who they were." With that gap in the situation I do not see how any correct question can possibly be put on this meeting or how any foundation can possibly be met to permit this witness to give his opinion and conclusion upon it.

The Court: You may proceed.

Q. (By Mr. Paisley): Now, with reference to this faction or fraction meeting, whatever term may apply to them, what type of meeting was that that was held in San Francisco at which Goldblatt and Bridges were present, and Lambert?

A. That was a closed Communist Party meeting.

Q. What kind of a meeting was it that was held in this Bellview-Stratford Hotel when these persons, including yourself and Bridges, were [3698] present?

Mr. MacInnis: Pardon me. The same objection, your Honor. All of the persons present at that meeting have not been disclosed, and we are back to the same question of throwing guilt by association.

The Court: Overruled.

Mr. Paisley: You will have a chance to cross-examine the witness if you will contain yourself.

The Court: Overruled. Go ahead.

The Witness: That was also a closed Communist Party meeting.

(Testimony of Lewis Herbert Michener.)

Q. (By Mr. Paisley): What position did you say Hudson held?

Mr. MacInnis: That has been asked and answered, your Honor.

The Court: It has been answered.

Q. (By Mr. Paisley): Can you tell us what was discussed at the meeting? A. I can.

Q. Will you tell us in your own way what was discussed. Was Mr. Bridges present?

A. He was.

Q. Tell us what was discussed.

A. The discussion was opened by Mr. Hudson, who was chairman of the meeting. He raised the point relative to the State CIO in California. It so happened that the State CIO in California had just recently concluded an election of officers [3699] prior to the national CIO convention. At the State CIO convention Mr. Philip "Slim" Connolly defeated a man by the name of Timmus for the presidency of the State CIO. It was therefore the opinion of Mr. Hudson at this meeting that I referred to in Philadelphia——

Mr. MacInnis: Pardon me. He is giving us an opinion.

Q. (By Mr. Paisley): Did he express it as his opinion?

A. He expressed it as his opinion, as an opinion and also a decision.

Q. Go ahead.

Mr. MacInnis: Your Honor, I think counsel cannot by leading and suggestive questions, amounting in this instance to hints, bolster up the testimony of a witness who is giving merely conclusions and not factual statements. We ask that that portion of his answer be stricken.

Mr. Paisley: Your Honor, I was trying to expedite the proceedings, if it is possible to expedite them. I was not trying to suggest any answers to the witness, your Honor.

Q. (By the Court): What he stated was an opinion, was it? A. No.

Q. Or a decision?

A. It was a decision——

Q. State it.

A. The decision was that Mr. Slim Connolly should step aside [3700] as State president of the CIO and that Mr. Thomas should take his place.

Q. (By Mr. Paisley): Who made the decision?

A. He indicated there again that the decision was made in his presence in New York and was brought to Philadelphia——

Mr. MacInnis: Pardon me. Just a moment, if the Court please. It is obvious now that not only is the witness offering us hearsay statements but the counsel who asks the questions knows that the answers are hearsay statements, not even pretended to be made at these gatherings at which the witness says he was present.

Q. (By The Court): Was this statement made at the gathering of the meeting that you spoke of?

A. It was, your Honor.

Mr. Paisley: Your Honor, will you instruct the

(Testimony of Lewis Herbert Michener.)

jury to disregard the statement of Mr. MacInnis that I knew or I was about to have some hearsay testimony brought out here? I have talked to the witness. I know what he can testify to. I know it is competent testimony and I am trying to bring it out. Anything that was said in the presence of Mr. Bridges, it is elemental, counsel, can be testified to by the witness, but you do not know that.

The Court: I can't ~~see~~ that an admonition is necessary at this time. Proceed.

Q. (By Mr. Paisley): Tell us what Mr. Hudson said in the presence [3701] about this matter of Slim Connolly and the other men.

Mr. MacInnis: Now, of course, the question is definitely leading, telling the witness the subject of the conversation to be elicited by an answer.

The Court: Overruled.

A. Mr. Hudson said that it would be advisable for the CIO in the State of California to propose to Philip Murray, who was then president of the national CIO, that this change I refer to take place. There was a lot of discussion on the matter but mainly, to bring it down concretely, Mr. Bridges and myself opposed the proposition made by Mr. Hudson that we should propose to Philip Murray that we should change the presidents of the California State CIO council. After further discussing the matter pro and con, and Mr. Hudson pointed out very clearly that this was a decision from the top of the Party in New York, we agreed—finally agreed with the decision, and it is a matter of record that later

(Testimony of Lewis Herbert Michener.)

on this procedure did take place within the State of California. However, before the meeting adjourned there was a sub-committee set up that was to contact Philip Murray and propose this proposition to Mr. Murray. I served on that committee together with Mr. Bridges. And so on the following day we did contact Mr. Murray and indicated to him the decision of the meeting the night before, and told him—with the theory in mind of working a little bit closer to the national CIO this proposal was advanced for his [3702] consideration. Later on, as I indicated to you, it was accepted by Mr. Murray, and it was finally accepted by the CIO in the State of California and finally became a reality.

Q. (By Mr. Paisley): Did Hudson indicate at that meeting in the presence of Bridges the name of this top of the Communist Party in New York who had made the decision?

A. No, he did not, sir.

Q. Just what was said in that regard?

A. As I indicated to you, he said that this was discussed with the top people in New York and arrived at that decision.

Q. Were the words "top people in New York" used, or just what was it? A. That is——

Mr. MacInnis: Your Honor, if the attempt now is to draw from one sentence a multitude of details which apparently did not exist in the witness' mind, these questions are leading and suggestive. The witness gives us one sentence, counsel then repeats the question and gets the same answer, and now he asks

(Testimony of Lewis Herbert Michener.)

it a third time in another leading way. We ask that the question and the answer be stricken.

Mr. Paisley: I just want to make the facts clear to the jury, your Honor. That is all my purpose is.

The Court: The objection is sustained.

Q. (By Mr. Paisley): Do you recall just exactly what was said as to the source of this order? [3703]

Mr. MacInnis: Your Honor, that is the fourth time this same question is put in different words to the witness, who apparently has not yet given the desired answer. We suggest that the question has been asked and answered.

Q. (By The Court): Have you given the full purport of the conversation?

A. I believe I have your Honor, to the best of my ability.

Mr. MacInnis: I take it, then, the objection is sustained, your Honor?

The Court: Yes, it is sustained.

Q. (By Mr. Paisley): Mr. Michener, was the reason for this decision discussed in the presence of Harry Bridges? A. It was.

Q. And what reason was given by Mr. Hudson as to why that decision had been made?

A. The outstanding reason for it was that in view of the fact that the Communist Party were pretty well in control of the Los Angeles Industrial Union Council, and as such had two or three full-time paid functionaries representing the council that were on the national CIO payroll, indicated

(Testimony of Lewis Herbert Michener.)

that if we made this proposition to Philip Murray there would be a better opportunity of holding onto these people on the national CIO payroll and also at the same time develop a little better working relationship with Philip Murray. That was the general purpose indicated at that meeting to us, and our objections to it, if [3704] you would like to know, I can remember them, too, particularly. Mr. Bridges' objection and my objection was, in view of the fact that the people, delegates, at a convention in the State of California, duly elected Philip "Slim" Connolly as the State president, we felt that the decision of the rank and file should be final and binding in this matter, and that was the objections that we particularly raised, and I recall that point very clearly by Mr. Bridges and myself.

Q. Connolly had just been elected, as I understand it, at that time?

A. Yes, shortly before that time.

Q. Did you and Bridges accede to the decision?

A. We did.

Mr. Paisley: May we have the recess at this time?

The Court: Yes, we will take the afternoon recess. Ladies and gentlemen, the same admonition not to discuss the case under any conditions nor to express an opinion until the matter is submitted to you. You may retire.

(Recess.) [3705]

Q. (By Mr. Paisley): Mr. Michener, did you

(Testimony of Lewis Herbert Michener.)

pay dues to the Communist Party while you were a member? A. I did.

Q. Did you have a Communist Party card?

A. I never carried a card, or a card was never issued to me.

Q. Did you join in your own name?

A. No, sir.

Q. What name did you use?

A. I was advised to use the name of Lewis Herbert.

Q. Now, with respect to this meeting in the Bellevue-Stratford Hotel at which you say Bridges attended, I understood you to say that a subcommittee was appointed to carry the decision to Philip Murray, head of the CIO.

Mr. MacInnis: Pardon me. That has been asked and answered, and a repetition of it is leading and suggestive.

The Court: He may answer.

Mr. Paisley: I can only say that we have sat here with great patience——

The Court: Counsel, I overruled the objection; there is no occasion for any argument or discussion. The objection is overruled.

Q. (By Mr. Paisley): All right, answer the question.

A. Yes, I indicated that there was a subcommittee established at that meeting to contact Mr. Murray.

Q. And who was on the subcommittee appointed to contact Mr. [3706] Murray?

(Testimony of Lewis Herbert Michener.)

Mr. MacInnis: Asked and answered, Your Honor.

Mr. Paisley: I don't think so.

The Court: Overruled.

A. On that committee, as I recollect it, was myself, Mr. Slim Connolly, Harry Bridges, and I believe Jim Doherty went with us on that committee.

Q. Did you gentlemen actually go and talk to Philip Murray about it? A. We did.

Q. Who was the spokesman?

A. More or less Harry Bridges was the spokesman of our committee.

Q. What is that?

A. Harry Bridges was the spokesman for our committee when we appeared before Mr. Philip Murray.

Q. Did he tell Philip Murray that that was the Communist Party decision? A. No, sir.

Q. Now, was Mr. "Times"—is that the way you pronounce it? A. Mr. Tim-es.

Q. Tim-es—how do you spell that?

A. T-h-i-m-m-e-n-s, I believe.

Q. How, had he been an opponent of Connolly in the election out here? [3707]

Mr. MacInnis: Now, Your Honor, I would suggest this is leading and suggestive, telling the witness what the answer is to be. May the question be read to Your Honor?

The Court: Yes, the objection is sustained.

Q. (By Mr. Paisley): Do you know who the candidates had been when Mr. Connolly was elected?

(Testimony of Lewis Herbert Michener.)

A. I do.

Q. Who were they?

A. Mr. Thimmens and Mr. Connolly were candidates for the state presidency of the California State CIO.

Q. And for what period of time had Mr. Connolly been elected?

A. Prior to the meeting in Philadelphia?

Q. Yes, sir.

A. Oh, approximately two months or thereabouts; somewheres in that neighborhood.

Q. Well, how much time did he have to serve in that particular election?

A. Well, that particular election, there had been a short time, two months or perhaps less.

Q. Yes. But how much more time did his term of office have to run?

A. For approximately a year or eight or nine months from the time of the national-state CIO convention.

Q. Now, do you know whether or not Mr. Thimmens was a member of the Communist Party? [5.08]

A. To my knowledge, he was not a member of the Communist Party.

Q. I understood you to testify that Mr. Connolly was? A. That's correct, sir.

Mr. MacInnis: Now, Your Honor, again we ask that the question and the answer be stricken. It is repetitive, leading and suggestive, repeating something whose answer is already in the record.

(Testimony of Lewis Herbert Michener.)

The Court: Overruled.

Q. (By Mr. Paisley): Now, did Mr. Hudson, at the meeting before the Subcommittee was appointed to wait on Philip Murray and give him the decision, say why it was that the Communist Party headquarters in New York wanted to supplant a Communist by a non Communist? A. Yes.

Mr. MacInnis: Pardon me, Your Honor. At approximately two minutes of three, the same question was put to the witness and it was answered quite fully. The witness said what the reason was and what the disclosure was at the meeting. I don't see why now there should be some amplification by another question.

Q. (By Mr. Paisley): Go ahead; answer it.

A. The answer was yes.

Q. Well, what reasons did he give as to why the Communist Party headquarters wanted to supplant a Communist who was in a [3709] responsible position out here in the CIO, by a non-Communist?

Mr. MacInnis: Pardon me, Your Honor. That same question, again, has been fully answered before the recess.

The Court: Overruled.

A. In order that the California State CIO would have better relationships with Philip Murray and the National CIO, this proposition was proposed.

Q. Well, what do you mean by that, what would that—— A. Well——

(Testimony of Lewis Herbert Michener.)

Mr. MacInnis: Pardon me. Having now elicited——

The Court: Sustained, sustained.

Q. (By Mr. Paisley): Well, was anything said at that meeting about the expediency of the matter or why it was being done?

The Court: Sustained.

Q. (By Mr. Paisley): Who would have the power to remove Connolly from the office to which he had just been elected?

Mr. MacInnis: Oh, I think, Your Honor, that would be incompetent, irrelevant and immaterial.

The Court: May I have it read, please? Who was the——?

(Record read.)

The Court: I assume that is from the party itself?

Mr. MacInnis: Pardon me. This office, Your Honor, is supposedly the State CIO office.

Mr. Paisley: No, Your Honor. Here is a man who has just been elected to a position in the CIO,—— [3710]

The Court: I understand.

Mr. Paisley: Now, at a meeting in the Bellevue-Stratford, this man Hudson, according to the testimony, stated that it was the decision of the Communist Party officials in New York that he should be supplanted. Now, that is an unusual situation.

The Court: All right, you may answer it then.

A. Yes, the one who would have the authority

(Testimony of Lewis Herbert Michener.)

to remove Mr. Connolly at that particular state would be Slim Connolly himself by virtue of resigning his position there and leaving it open to be filled.

Q. Did he resign? A. He did.

Q. Now, had he been elected by the Council or the CIO Council out here or by the rank and file membership?

Mr. MacInnis: Pardon me. Now, that has been asked and answered twice.

Mr. Paisley: Oh, I don't think so, and what if it has?

Mr. MacInnis: Well, I can repeat exactly what the witness said on that score before. Now, if it is to get some different answer, it is improper; if it is to get the same answer, it is merely repetitive.

The Court: The objection is overruled.

Mr. Paisley: Read the question.

(Record read.)

A. Indirectly he had been elected by the rank and file membership. [3711] The process that was followed in that connection, and still is and always has been in the CIO, is that the rank and file elect delegates to attend the conventions, and at the convention the delegates elect their officers.

Q. Well, was anything said at this meeting at which Mr. Bridges was present, at the Bellevue-Stratford Hotel, as to why the party desired Connolly removed and Thimmens put in in his place?

Mr. MacInnis: Fourth time, your Honor.

Mr. Paisley: Well, your Honor, this is a rather unusual situation here. Here is the head of the Com-

(Testimony of Lewis Herbert Michener.)

munist Party in New York wanting to remove a Communist who had just been elected to an important office in the CIO on the West Coast, and replacing him by a non Communist. Now, that would seem strange to me, when I heard it, your Honor, and it would seem, and I think the jury is entitled to know what the reasons were, what reasons were advanced.

Mr. MacInnis: The fact that it may seem strange, your Honor——

Mr. Paisley: There is an answer to it, and I think the witness ought to be able to tell.

Mr. MacInnis: Or even important to this counsel, your Honor. That would hardly be a reason for allowing the question to be repeated four times, and with the right answer not given, to strive on a fifth occasion. Now, your Honor has permitted him to give these reasons. [3712]

The Court: One moment. Mr. Witness, do you understand the import of the question? Have you given thus far fully and completely answers to the questions propounded to you?

The Witness: I believe I have, your Honor.

The Court: Do you feel that you have covered the subject adequately and fully so far as your knowledge is concerned?

The Witness: That's right.

The Court: Have you omitted anything in connection with it?

The Witness: No I don't believe I have.

The Court: The objection is sustained.

Q. (By Mr. Paisley): Now, what did Connolly say at this meeting about his being supplanted, do you remember?

A. Mr. Connolly had very little to say, in view of the fact that he was the party that was mostly under discussion at that meeting. He had very little to say on the subject. However, I can indicate to you that he did not raise any serious objections to the proposal.

Q. Now, do you see Harry Bridges in the courtroom? A. I do.

Q. Would you point him out to the Court and jury?

A. Sitting over at that table over there (indicating).

Q. At what place?

A. Third from the right, the third person from the right.

Mr. Paisley: You may examine the [3713] witness.

Cross-Examination

By Mr. MacInnis:

Q. Let me ask you this. Your name is Michener, you say? A. That's right, sir.

Q. Before the recess, which we had a few moments ago, you were asked by the prosecutor who examined you to tell the membership of a subcommittee which was sent to see Philip Murray in relation to one of the matters you told us about, is that correct? A. That's correct.

Q. And your answer at that time, given under

(Testimony of Lewis Herbert Michener.)

oath, was that you remembered that you and Harry Bridges were members of that committee, wasn't it?

A. That's correct.

Q. Then we had a little recess, requested by the prosecutor, and you came back, and within about two minutes the same question was put to you and you were then enabled to give us the names of several persons——

Mr. Paisley: Now, if the Court please, I didn't ask him before the recess what the membership of the subcommittee was at all, and counsel, as is his custom, starts out by telling the witness what he has testified.

The Court: Counsel, let us refrain from argument. The objection is overruled.

Q. (By Mr. MacInnis): Would you answer that question?

A. Your Honor, I am not quite clear on something. [3714] The Court: Mr. MacInnis will rephrase it, I assume.

Mr. MacInnis: Yes, your Honor.

Q. Before the recess, a little before 3:00 o'clock, you were asked whether or not a subcommittee was formed to visit Philip Murray, the head of the CIO, to carry out some wish, to replace a man named Connolly with a man named Thimmens in the State CIO of California, correct? A. Correct.

Q. And concerning the membership of that committee you replied that you and Harry Bridges were its members?

A. Not exactly; I don't believe I said that.

(Testimony of Lewis Herbert Michener.)

Q. You said that under oath, didn't you?

A. No. Your Honor, I wonder if it would be too much trouble to consult the record of just what happened prior to 3:00 o'clock because I don't believe that I indicated the names of the members that served on that committee, and if I did say under oath here that it was just Bridges and I that served on that committee, I was mistaken, because there were others on that.

The Court: All right. If that be the fact, then, you desire to correct your statement?

The Witness: But I do believe I said in the first instance, your Honor——

Mr. Paisley: Well, now——

Mr. Donohue: If your Honor pleases, may we be fair? [3715]

Mr. MacInnis: Yes, one at a time.

The Court: It may be difficult to go back in the record of this instance.

Mr. Donohue: I understand that.

The Court: Mr. Reporter, were you here prior to the recess?

The Reporter: No, your Honor, the other reporter was here.

The Court: Very well.

Mr. Donohue: I understand that, but if I am not mistaken, I am reasonably certain, if your Honor pleases, that this witness was not asked before the recess by Mr. Paisley who served on that committee; in narrating what happened, he said that he and Bridges served on the committee to wait on Mr.

Murray. That is a fact. He was not asked until after the recess who served on the committee, other than those two. I think the witness——

Mr. Paisley: That is why I objected to the question, which apparently your Honor wasn't listening to—you were talking to somebody else. I didn't ask any such question as that. Mr. MacInnis says I did. I didn't ask as to the membership of the subcommittee before the recess.

Mr. MacInnis: I think his Honor remembers the question.

Mr. Paisley: I didn't ask the question at all, yet he gets up here and testifies and says I did ask it. That is why I objected. [3716]

The Court: All right; proceed.

Mr. MacInnis: Do the prosecutors have any further statements?

Q. Now, you heard Mr. Paisley ask for the recess, did you not? A. I did.

Q. During the recess, to what person or persons did you speak?

A. During the recess I spoke to one person by the name of Larry Kessler, and I spoke to a newspaper reporter by the name of Mr. Keyes, who I used to know years ago in Los Angeles, and I was asked another question by a reporter by the name of Mr. Pierce, regarding how old I was.

Q. Who is Larry Kessler?

A. Larry Kessler is a representative of the Immigration Service.

Q. Is he here in the courtroom?

(Testimony of Lewis Herbert Michener.)

A. I wouldn't know at the present time, sir.

Q. Would you look down and see?

A. I—(scanning audience)——

Mr. MacInnis: Well, may we ask that Mr. Kessler stand up if he is in the courtroom?

A. I cannot see him here.

Q. Where did you talk to him?.

A. Right in the hallway about ten feet from this entrance here.

Q. Had you seen him before? A. I have.

Q. When? [3717]

A. On several occasions since I have been in San Francisco.

Q. How long have you been in San Francisco?

A. I arrived here Thursday morning of last week.

Q. And you met this Mr. Kessler after you arrived in San Francisco?

A. No, I met Mr. Kessler prior to that time, when I arrived in San Francisco before the holidays.

Q. Well, you were here in San Francisco before Christmas, were you? A. That's right, sir.

Q. When did you come here then?

A. Thursday of last week, sir.

Q. What do you mean by "last week"?

A. Well, today is Tuesday, is it not? Then I said last week, would have been Thursday of last week, the Thursday of last week.

Q. No, I am speaking—you said you were here before Christmas, didn't you?

(Testimony of Lewis Herbert Michener.)

A. I did, before the holiday. [3718]

Q. When did you come here, then?

A. I believe it was on a Tuesday. I am not certain of that. I think it was Tuesday. I was here for one day, expected to be called as a witness, the Court adjourned for the holiday, and it was the last day before court adjourned for the holidays.

Q. That would have been about the 20th day of December of this year?

A. I would have to consult a calendar.

Q. Did you meet this Mr. Keller on this occasion?

A. I did, sir.

Q. You had not met him before?

A. Not to my recollection I hadn't.

Q. He is with the Immigration Service?

A. That is correct.

Q. Where was it that you talked to that man during the last recess?

A. Right in this hallway, about 10 feet from the entrance to this courtroom.

Q. Was he in the courtroom during the last hour?

A. I don't believe he was. He may have been. However, I wouldn't be in a position to tell you.

Q. Had you met a Mr. Kaiser? A. I have.

Q. When did you meet him first?

A. I first met Mr. Kaiser in the latter part of 1948. [3719]

Q. The latter part of 1948? That would be in November or December, would it?

(Testimony of Lewis Herbert Michener.)

A. Yes. It could have been earlier than November.

Q. Maybe October?

A. Maybe it could have been.

Q. Where did you meet Mr. Kaiser?

A. Mr. Kaiser came——

Mr. Paisley: What has that got to do with it, your Honor, where he met Mr. Kaiser?

The Court: Overruled.

The Witness: Answer?

The Court: Yes.

A. I met Mr. Kaiser at the Ford plant where I worked, in Long Beach or Wilmington, California.

Q. (By Mr. MacInnis): Was he the first person who spoke to you with reference to your coming here as a witness? A. He was.

Q. When he saw you at the Ford plant was he alone or did he have any other person with him?

A. He was alone.

Q. How did he identify himself?

A. With a badge and a card with his picture on it, in a packet that he carried in his pocket, as I recall.

Q. And he revealed to you in about October, 1948, that he was an Immigration Service [3720] agent?

A. That is correct.

Q. And did you then have a conversation with him? A. I did.

Q. Where?

A. In the lobby of the Ford plant in Long Beach, Wilmington.

(Testimony of Lewis Herbert Michener.)

Q. Did he ask you at that time if you would be a witness in the case to be brought against Harry Bridges? A. He did.

Q. What did he say in that connection?

A. He just asked me if I would be willing to testify in the Bridges case on a voluntary basis.

Q. What did he say the Bridges was at that time? A. He didn't say at that time.

Q. But he asked you if you would be willing to testify against Harry Bridges?

A. That is correct.

Q. That was at the meeting you had with him in the lobby of the Ford plant in Southern California in about the month of October, 1948?

A. That is approximately right, sir.

Q. Did he tell you at that time that it was to be a trial involving Harry Bridges?

A. Yes, he did tell me at that time that there was going to be a hearing before a grand jury regarding Bridges. He did not indicate to me about there being a trial being held. [3721]

Q. This again was in October, 1948, that he told you that? A. That is right.

Q. How long had you been discussing this matter with Mr. Kaiser in the lobby that day before he revealed to you that there was going to be a grand jury hearing involving Harry Bridges?

A. It wasn't a very long conversation. I would say perhaps maybe a half hour over the entire meeting.

Q. When he asked you this question, if you were

(Testimony of Lewis Herbert Michener.)

willing to be a witness against Harry Bridges, you said that you were? A. I did not.

Q. What did you say?

A. I said that I would like to think it over.

Q. This man had introduced himself to you showing you his credentials as an officer of the Immigration Department, and when he asked you if you would testify against Harry Bridges, your answer was that you would like to think it over?

A. That is correct.

Q. Did you tell him how long a time you would require?

A. No, sir; I just said I would like to give it some thought.

Q. In other words, you wanted to weigh the thing, one factor against another, to see whether you should testify against Harry Bridges?

A. That is right.

Q. Did you then make some arrangement with this Mr. Kaiser [3722] to have another talk?

A. I have had several conversations with Mr. Kaiser since the original one, yes, sir.

Q. He left you then with the understanding that you were going to think the matter over?

A. That is right.

Q. You told him that expressly?

A. Words to that effect, yes, sir.

Q. Did he tell you when he would return to see you?

A. No, he did not at that time. He said he would call me later on.

(Testimony of Lewis Herbert Michener.)

Q. That was the only arrangement that you had as he departed? A. That is correct.

Q. Did he ask you any other questions?

A. Not that I can recall at the present time. I can't recall him asking me any other questions than that one I related to you.

Q. In other words, the thing that is most vivid in your memory about the first contact with Mr. Kaiser in October, 1948, in the lobby of the Ford plant is that he asked you if you would be willing to be a witness against Harry Bridges, and you told him you would like some time to think it over?

A. That is in essence the general over-all picture of the first conversation, yes, sir.

Q. And he did tell you in that conversation that there was to [3723] be a hearing involving Harry Bridges before a grand jury? A. That is correct.

Q. And he then went away?

A. That is correct.

Q. When did you next see this Mr. Kaiser?

A. I believe it was sometime about two weeks later Mr. Kaiser called and made an appointment. He came down to the plant again.

Q. Pardon me. When you say he called——?

A. By telephone.

Q. He asked for you? A. That is right.

Q. And made an appointment by telephone to talk to you further? A. That is correct, sir.

Q. That would still be in 1948, wouldn't it?

A. That would be.

(Testimony of Lewis Herbert Michener.)

Q. Still in October, or would it be in November?

A. I wouldn't say—so far as pinning it down strictly to October, I said approximately October.

Q. But at least it was still the calendar year 1948? A. That would be correct, sir.

Q. What was the conversation you had with him by telephone?

A. Well, whether I would be available, what time would be convenient. He would like to drop down and talk further about the matter we had recently discussed. [3724]

Q. Did he ask you if you had given it any thought? A. Not over the phone, no, sir.

Q. He did not mention the subject matter over the telephone?

A. No, sir, he would just like to have another meeting with me to discuss the matter we discussed prior in our first meeting.

Q. So then he came to see you again?

A. That is correct.

Q. The same place? A. The same place.

Q. Was he alone on that occasion?

A. He was.

Q. Did he ask you then if you had thought the matter over? A. He did.

Q. Had you? A. I had.

Q. What did you tell him?

A. I hadn't made up my mind yet.

Q. You had not made up your mind?

A. That is right.

Q. Did he then go away?

(Testimony of Lewis Herbert Michener.)

A. He did.

Q. Did you have any arrangement with him then as to any further conference?

A. Approximately the same arrangements as was arrived at the [3725] first meeting. He would call me up later on and we could discuss the matter further.

Q. He said that you could let the thing simmer in your mind and think it over some more?

A. I don't recall exactly if he used the word "simmer" or not, but that is generally the idea.

Q. Your state of mind then was that you were going to think it over further?

A. That is correct.

Q. When did you next see Mr. Kaiser and under what circumstances? By the way, before you give your attention to that question, let me withdraw it and ask you another one. On this second meeting was the discussion you had with him confined to whether or not you had made up your mind?

A. Well, generally, yes. I mean that particular point was raised, and as I have indicated to you in the court, I had not arrived at a decision yet on the matter and was still in the process of thinking the situation over.

Q. Did he ask you any other questions on that occasion? A. No, sir, not that I recall.

Q. He came back on the second occasion and asked you if you had made up your mind yet, and you told him that you had not?

A. That is right.

(Testimony of Lewis Herbert Michener.)

Q. That you wanted more time to think it over, and then he went away; he said he would contact you later? [3726]

A. That is generally what happened.

Q. When did he return again?

A. I believe the next time I saw Mr. Kaiser was in January, 1949.

Q. How do you place that time as being January?

A. I say it was early because it was just prior to our local union elections and we were in the process of campaigning in the plant. The next time I saw Mr. Kaiser I know I was very busy and didn't have much time to spend with him.

Q. Where did he see you then?

A. At the Long Beach Ford plant.

Q. In the same place?

A. In fact, not in the same place. I walked out to the car with him. He had his car parked close to the main entrance to the plant and I walked out to the car with him.

Q. How long did that conversation last?

A. Not very long, because I had some committee work that was pressing inside and I didn't spend very much time with him.

Q. Had you made up your mind on that occasion?

A. No, sir.

Q. You told him that? A. Yes.

Q. You said, "I need more time to think it over"? A. That is correct.

Q. "Hadn't yet made up my mind." [3727]

(Testimony of Lewis Herbert Michener.)

A. Words to that effect.

Q. And he said, "Let me know when you do"?

A. Yes, or he would get in touch with me later on when I wasn't quite so busy.

Q. He said he would get in touch with you?

A. That is right.

Q. He understood you were still going through a mental process of making up your mind?

A. I assume that he did.

Q. On this third conversation that you had with Mr. Kaiser at the door of his automobile down in the Long Beach plant of the Ford Company did he ask you any other questions basically except the question, "Have you yet made up your mind?"

A. No, he asked me no other questions than basically the one had I made up my mind.

Q. So in all three of those conversations the matter was pretty much the same?

A. That is right.

Q. He said, "Have you made up your mind? Are you willing to testify against Harry Bridges?" and you said, "No, I haven't yet made up my mind"? A. That is correct.

Q. You said, "I need a little more time to make up my mind"?

A. I may have said, or I may have said, "I would like to have some more time to think it over." I don't recall just exactly [3728] word by word what was said, but that was in essence the idea.

Q. You said you wanted more time to think it over? A. That is right.

(Testimony of Lewis Herbert Michener.)

Q. When you told Mr. Kaiser on that third conversation that you wanted some time to think it over, was he alone or was he accompanied by some other person? A. He was alone.

Q. On all three of these occasions?

A. That is right.

Q. Was he alone?

A. I know he was alone every time I discussed the problem with him the first three times. The first two times he may have come down to the plant with someone else. If he did, he left them outside. I didn't see anyone only Mr. Kaiser.

Q. On the second occasion in November, 1948, when he came to see you——

A. I wouldn't say exactly it was November; approximately.

Q. Around that time? A. O.K.

Q. Did he tell you something further then about having a proceeding against Harry Bridges?

A. Only what was more or less indicated in the first meeting, securing that evidence that they wanted to present to the grand jury. That is what he had told me in the first meeting, and [3729] more or less that was implied in the second and third meetings, that they were in the process of securing witnesses for the grand jury hearing.

Q. Did he tell you that he was staying in Southern California and that he would be available for any call from you?

A. No, sir, no, he didn't tell me he was staying in Southern California?

(Testimony of Lewis Herbert Michener.)

Q. Did he give you any address where you could reach him? A. Not at that time, no, sir.

Q. When he left you on this third occasion at the door of his car, you said that you had not yet made up your mind, that you wanted more time to think it over, he said then that he would contact you again?

A. That is correct.

Q. Did he? A. Yes.

Q. When did he contact you next?

A. The next time I recall Mr. Kaiser calling me, I was confined to the hospital for a while, the Seaside Hospital in Long Beach, the latter part of February and March, 1949, and I had received two phone calls from Mr. Kaiser during the period of my stay at the hospital.

Q. He telephoned you twice?

A. That is right.

Q. Did he tell you how he had obtained the information that [3730] you were in the hospital?

A. That was pretty generally known throughout California, Southern California, and pretty well known in Los Angeles and locality.

Q. You are pretty well known down there?

A. Yes, sir.

Q. He found out you were in Seaside Hospital?

A. Yes, sir.

Q. Did he send you flowers? A. No, sir.

Q. But he telephoned you twice?

A. Yes, sir.

Q. Did he ask you on the telephone if you had made up your mind yet? A. No, sir.

(Testimony of Lewis Herbert Michener.)

Q. What did he say?

A. He just asked me how I was getting along, how long I was going to be there, sorry to hear I was in the hospital.

Q. Pardon me. This was the first time he telephoned there?

A. The conversation was about the same on both occasions.

Q. He said, "How are you getting along?"

A. Words to that effect—sorry——

Q. What did you say?

A. "Getting along fine, pulled out of it, believe it or not."

Q. The second time he telephoned you was [3731] when?

A. The second time in the hospital would be right around, close to St. Patrick's Day, the 17th of March.

Q. And he said then, "How are you"?

A. How am I getting along, words to that effect. Maybe not exactly "How are you?" but "How is everything coming along with you," and so on.

Q. And then you said, "Fine"?

A. I did.

Q. Did he ask you then, "Have you made up your mind yet"? A. No.

Q. Did he ever come to see you at the hospital?

A. No.

Q. Did he make some arrangement to see you?

A. I told him I would call him when I got out of the hospital. He gave me a number to call. I wrote it down at that time.

(Testimony of Lewis Herbert Michener.)

Q. He gave you a number?

A. That is right.

Q. A Southern California number, I suppose?

A. You supposed correctly, sir.

Q. You told him then that you would telephone him? A. I did.

Q. Had you made up your mind by that time?

A. No, sir.

Q. Did you tell him that? A. Sir? [3732]

Q. Did you tell him that?

A. No, I didn't tell him over the phone because I wasn't asked that question. I told him, as I have told you, that when I got out of the hospital I would give him a call and he gave me a phone number and I wrote it down.

Q. On each of those occasions wherein Mr. Kaiser telephoned you at the hospital neither of you mentioned the subject matter of your discussions?

A. No. No, sir.

Q. He said, "How are you? How are you getting along"? and you said "Fine," and then he called you again on St. Patrick's Day?

A. Not on St. Patrick's Day, but approximately St. Patrick's Day, sir.

Q. He said, "How are you? How are you getting along?" and you said, "Fine; I will call you when I get out of the hospital"? A. That is correct.

Q. And then he volunteered a telephone number, which he gave you? A. That is correct.

Q. When did you get out of the hospital?

The Court: It is four o'clock, Mr. MacInnis. We have had a long day. I think we will take an adjournment. Ladies and gentlemen of the jury, we have reached the recess hour [3733] and adjournment period. We will resume tomorrow morning at ten o'clock. The same admonition to you not to discuss the case under any conditions nor to form or express an opinion until the matter is submitted to you. You may retire.

(Thereupon an adjournment was taken until Wednesday, January 11, 1950, at 10:00 a.m.)

Wednesday, January 11, 1950, 10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Lewis Herbert Michener, Jr., heretofore sworn.

Cross-Examination
(Resumed)

By Mr. MacInnis:

Q. Mr. Michener, can you tell us what members of the prosecution staff in this case you have spoken to since we adjourned at 4:00 last evening?

A. Your question isn't quite clear. Do you mean just to say hello to or carry on a conversation with, or anyone that I came in contact with, or——

Q. Yes. Tell us first of all of the persons connected with the prosecution with whom you came in contact since 4:00 last evening.

(Testimony of Lewis Herbert Michener.)

Mr. Paisley: Oh, Your Honor, I think that is frivolous. I don't think that is really material to the issues. I don't see how that can discredit a witness.

The Court: Overruled.

The Witness: Answer the question, Your Honor?

The Court: Yes.

A. I said hello to Mr. Donohue right after the —Mr. Boyd, Mr. Paisley——

Q. Pardon me. You said hello to him [3734] when?

A. The question was after the adjournment of the trial.

Q. You said hello to him at the end of the day?

A. At the end of the day, as I was going up the hall.

Q. When you came——

A. Pardon me. May I explain, sir? After I was going up to get—I left my overcoat on the fourth floor. They have their offices up there. I dropped up to get my overcoat and they were there and exchanged greetings, and that was all.

Q. And where did you stay last night?

A. Stayed——

Mr. Paisley: I object to that, Your Honor. Immaterial where the witness stayed last night. We are not trying the witnesses, we are trying the defendants.

The Court: Overruled.

A. Stayed at the Marines Memorial Hotel, sir.

(Testimony of Lewis Herbert Michener.)

Q. And did you see any agents of the Immigration Service at that place? A. I did, sir.

Q. Who? A. Seen Mr. Kaiser.

Q. Anybody else? A. I saw Mr. Kessler.

Q. Anybody else? A. Mr. Kedder.

Q. Mr. Kaiser, Mr. Kessler and Mr. Kedder, you say? [3735] Not Kidder?

A. Kedder—I am not too well familiar with him. Perhaps you are right.

Q. Are they here in court now?

A. I wouldn't know whether they were or not, without I had an opportunity to examine the audience.

Q. I see.

Mr. MacInnis: Would Mr. Kidder stand up?

Mr. Paisley: I just object to that. What difference does it make if the agents are in the courtroom?

The Court: Overruled.

Mr. MacInnis: Is Mr. Kidder in the room, or Mr. Kessler?

(Whereupon a man arose who was seated in the body of the courtroom.)

Q. (By Mr. MacInnis): Is that the man to whom you have referred as Kessler?

A. That's right, sir.

Q. Now, you saw last night at the Marines Memorial Club Mr. Kaiser, Mr. Kessler and Mr. Kidder?

(Testimony of Lewis Herbert Michener.)

Mr. Paisley: Repetitious, if the Court please. The witness said that, counsel repeated it. This is the second time now.

The Court: All right; the witness did answer.

Q. (By Mr. MacInnis): Yes. Now, did you share a room with any of those men? [3736]

A. I did, sir.

Q. With which one? A. With Mr. Kaiser.

Q. You shared a room with Mr. Kaiser, the man who sits on the end of the aisle?

A. I wouldn't say he is sitting on the end of the aisle. I haven't had the occasion to identify whether he is present or not, sir.

Q. Well, didn't you see Mr. Kaiser stand up?

A. I did, sir.

Q. Who is the man next to him?

A. That is Mr. Kaiser.

Q. Well, you saw him when Mr. Kaiser stood up, didn't you?

A. No, I didn't, in particular.

Q. You saw him before the jury came in this morning? A. That's right, sir.

Q. And you knew he was sitting there yesterday in the same place?

A. I am sorry, I will have to deny that. I didn't. I am under oath up here and I am going to tell the truth, sir.

Q. Now, did these other agents stay in adjoining rooms to you?

Mr. Paisley: Now, Your Honor, is that material?

(Testimony of Lewis Herbert Michener.)

The Court: Well, it might be material with respect to two aspects of this case: Defendants contend on the one hand asserted dominance by government agents. I think that is your [3737] position?

Mr. MacInnis: Yes, Your Honor.

The Court: The prosecution, on the other side, I suppose, will contend or argue hereafter from the evidence or from inferences to be drawn therefrom that there was a necessity for having agents surround these men for security reasons. I assume that is the position taken thus far, and that is the position that may be taken hereafter. And in the light of the defense contention, I believe that all the surrounding facts and circumstances should be gone into with respect to the security taken to protect witnesses from any untoward circumstances, and from the defense viewpoint I shall allow the examination upon the theory that the defense contends that there is domination.

Q. (By Mr. MacInnis): Would you answer that question, please?

A. May I have the question again?

Q. I will repeat it. Did any of these other men stay in adjoining rooms to yours?

A. I couldn't testify to that, sir. I wouldn't know.

Q. You don't know where they stayed?

A. That's right.

Q. Did they stay at the Marines Memorial Club?

(Testimony of Lewis Herbert Michener.)

A. Well, I am not in a position to testify to that.

Q. Well, with whom did you eat your dinner last night?

A. I ate dinner with Mr. Kaiser last [3738] night.

Q. And where did that dinner take place?

A. In the Marines Memorial Hotel.

Q. And after dinner did you stay in that building?

A. Oh, no, no, I stayed there later that evening, but I didn't—wasn't confined to the building all evening, sir.

Q. Where did you go in the evening?

A. Oh, I went out to the San Francisco Airport.

Q. Did you go there to meet somebody?

A. No, sir.

Q. About what time in the evening did you go out to the airport?

A. Oh, it was around about 7:00 o'clock or a little bit after.

Q. And who accompanied you there?

A. Mr. Kaiser.

Q. Whom did you see out there?

A. Well, I saw quite a few people, sir. I mean, any one particular individual you had in mind, I will be glad to testify as to that. I mean, who did I see out there—there was quite a few people, sir.

Q. We are to understand that after dinner you

(Testimony of Lewis Herbert Michener.)

and Mr. Kaiser went out to the airport, is that right? A. That's right.

Q. About 7:00 o'clock? A. That's right.

Q. To what particular part of the airport did you go?

A. To the main lobby or station there at the airport. [3739]

Q. You mean the place where passengers congregate or wait for planes?

A. That's correct, sir.

Q. And what did you do there?

A. Well, I didn't say that Mr. Kaiser and I went out there alone, sir. We took a passenger out to the airport.

Q. Who was that?

A. A man that testified here previous to myself testifying, a Mr. Laurence Ross, Larry Ross.

Q. Oh, you and Mr. Kaiser and Mr. Ross drove out to the airport? A. Oh, not alone, sir.

Q. Oh, someone else, was there?

A. That's right.

Q. Who?

A. I can't identify the other man that was with me, but he was also a representative of the Immigration Service.

Q. He was some person other than those men whose names you have given us?

A. That's right, sir.

Q. You were not introduced to him?

A. I was, but the name slips me right now, sir. He drove the automobile.

(Testimony of Lewis Herbert Michener.)

Q. Did you meet him once or more than once?

A. Oh, I met him more than once, sir. [3740]

Q. And so you drove out, this man who is now called Lawrence Ross; you talked to him on the way out? A. Oh, yes.

Q. You rode together in the car?

A. That's right.

Q. And then you bade him a bon voyage at the plane? A. No, I didn't do that, sir.

Q. You went out to the plane and said goodbye to him?

A. In the American language, yes, sir.

Q. I see; I see. And then his plane went off?

A. That's right, sir.

Q. And then you came back to town, sir?

A. That's right, sir?

Q. And did you come back then directly to the Marines Memorial Club? A. I did, sir.

Q. With Mr. Kaiser? A. That's right, sir.

Q. And the other unnamed agent?

A. That's right, sir.

Q. And what did you do then?

A. Went to bed, sir.

Q. You didn't have any discussion or conference, but you immediately retired for the night?

A. That is practically correct. Immediately retired for bed. I done a little reading last night; the fact of the matter is I did. [3741]

Q. This other unidentified man, did he enter the Marines Memorial Club with you?

A. No, sir.

(Testimony of Lewis Herbert Michener.)

Q. Was he the driver of the car?

A. He was.

Q. And I suppose he dropped you and Mr. Kaiser at the Marines Club and then drove away?

A. That is correct.

Q. Now, to come back to the matters that you were telling us about last night, about these visits of Mr. Kaiser to you at the Ford plant in Southern California, you told us that he came to you and asked you if you would be a witness against Harry Bridges, and you said you wanted time to think it over, and that was repeated on two occasions; correct?

A. I believe the record is pretty clear on that.

Q. On the first occasion he told you, in addition to asking you that one question, that there was to be another hearing involving Harry Bridges before the grand jury?

A. In substance that was correct. There was a lot of other things, of course, discussed. I believe, if my memory serves me correctly, sir, he asked about the main question. Of course, we didn't sit and talk about Mr. Bridges for a solid half hour in our discussions. Of course, there was a proposition of discussion of the Communist Party involved, too. But I meant as far as the general testimony yesterday [3742] was concerned, that stands as recorded yesterday.

Q. Did someone call your attention to the fact that yesterday you told this jury that the only question asked of you was would you testify against

Bridges, and that you ought to amplify that by adding that the subject matter was discussed?

A. I am under oath, sir. No, sir, no one told me to change my testimony, if that is what you are attempting to imply.

Q. You did not talk to Mr. Kaiser about your testimony at all? A. That is right, sir.

Q. In other words, during all the hours that you may have been with him since court adjourned yesterday, he said nothing to you about the testimony that you may have given or the testimony that you were going to give?

A. I will admit frankly there was a discussion naturally upon the Bridges case, but as far as I was involved, about being coached, schooled, or told what to say, sir, no, sir.

Q. You say that you just discussed the Bridges case, sir? A. In generalities, that is right.

Q. And did you come to court here with Mr. Kaiser this morning? A. I did, sir.

Q. Did you read the transcript of the testimony that you gave yesterday? A. No, sir.

Q. You have not been shown that?

A. No, sir. I read the account of it, however, in the [3743] newspapers. I must admit that.

Q. That was the reading that you did last night?

A. No, not altogether, sir. I read the account of it, if you would like to know, the account of it in the People's World, which is the Communist paper. I requested that I be able to get a copy of that last night, which I did.

(Testimony of Lewis Herbert Michener.)

Q. You made a special request for that?

A. On our way back from the airport I stopped and I secured a copy of the People's World?

Q. Tell me, after this third visit of Mr. Kaiser, which you say took place at the door of his automobile, you then received two telephone calls from him while you were in the hospital?

A. That is right.

Q. And after you came out of the hospital you telephoned him? A. That is correct, sir.

Q. So that telephone call took place about when?

A. Oh, it would be approximately a week or maybe ten days after—well, it would be around the 24th or 27th of March of 1949, somewheres around that particular time. I place that date in reference, as I have indicated to the Court yesterday, in reference to St. Patrick's Day, on the 17th of March.

Q. You called Mr. Kaiser around March 27?

A. Approximately around that time. It may have been the 24th, [3744] the 23rd—in that particular neighborhood, sir.

Q. Did you make some ~~arrangement then~~ to have a further contact with him?

A. I did, sir.

Q. Had you by that time made up your mind?

A. No, sir.

Q. But you nevertheless called him and made a date to have a talk? A. That is right.

Q. When did that talk take place?

A. It took place—that talk took place down at

(Testimony of Lewis Herbert Michener.)

the Immigration office; made an appointment to meet Mr. Kaiser down there at the Immigration office in Los Angeles on Spring Street, I believe 4th and Spring.

Q. That was how many days after March 27?

A. Oh, not to exceed a week, I don't believe.

Q. So when you telephoned Mr. Kaiser you had not yet made up your mind; you said that you would be willing to talk to him at the Immigration Service office?

A. I didn't exactly say that, I would be willing to talk with him at the Immigration office. That was where we made the appointment as a result of the conversation. I volunteered to go down there and I did, sir.

Q. Whom did you meet on that occasion besides Mr. Kaiser?

A. Just Mr. Kaiser on that occasion. [3745]

Q. Nobody else? A. That is right.

Q. Did you have a talk with him then?

A. I did.

Q. Had you made up your mind at that time?

A. No, sir, not particularly. As a matter of fact, at that particular meeting, sir, we more or less discussed other personalities within the Communist Party, and very little of the discussion was —as far as Mr. Bridges was concerned, was very small as compared to the other discussions we had, but relative to the Communist Party in general.

Q. Were you asked to testify against other people?

(Testimony of Lewis Herbert Michener.)

A. No, sir, just asked to identify them, whether I knew them or not.

Q. How long did that conversation take?

A. I would estimate approximately an hour, approximately an hour.

Q. Was there any record made of that conversation? A. No, sir, not to my knowledge.

Q. No stenographer was there?

A. No, not to my knowledge, sir.

Q. Is it fair to conclude that at the end of that meeting you told Mr. Kaiser you still had not made up your mind whether you would testify against Harry Bridges or not?

A. Well, it is perhaps fair to conclude that. However, it [3746] was not indicated at that particular meeting.

Q. Had you made up your mind?

A. No, sir, I had not.

Q. On the fourth meeting that you had with Mr. Kaiser, which would be in early April, I guess, of 1949, since you telephoned him around March 27, you still had not made up your mind; true?

A. That is correct.

Q. And when you left Mr. Kaiser at the immigration office on that occasion, did you make any further date to meet with him?

A. Not at that particular time, but as a result of my phone conversation later on another appointment was made.

Q. Pardon me. Who called whom?

(Testimony of Lewis Herbert Michener.)

A. At that particular time, when I left, I told Mr. Kaiser that I would call him later on, and I did, sir.

Q. You were coming then a little closer to making up your mind because you telephoned him before this fourth meeting and again before your fifth meeting, did you?

A. If your Honor please, and the Court, I would not like to indicate here under oath I was a little bit closer to making up my mind at that particular time, sir.

Q. You still had not made up your mind?

A. That is right.

Q. You were still weighing various factors one against the other? [3747]

The Court: Do you wish to make any explanation?

The Witness: I would like to make an explanation, if your Honor please, why I took this time.

The Court: Make your explanation.

The Witness: The explanation why I took the time to make up my mind regarding whether I would be a witness in this particular case of Harry Bridges was the fact that I fully realized the character assassinations that flow——

Mr. MacInnis: Your Honor, this is a prepared statement. Your Honor did not invite him to make a gratuitous statement like that. I think we are entitled to bring out these reasons by cross-examination, but not to——

The Court: I thought Mr. MacInnis, that the

(Testimony of Lewis Herbert Michener.)

witness might be afforded an opportunity to make an explanation in the light of your question addressed to him; in substance, as you stated, "Was it at that time that you were closer to making up your mind," and I thought at that juncture he might make an explanation if one happened to be in order.

Mr. MacInnis: But now he wants, your Honor —and I say respectfully to you—to make a gratuitous statement about character assassinations. I am going to proceed to his reasons and ask him those questions.

The Court (To the Witness): Mr. Witness, I might state to you now that in the light of the cross-examination you are entitled to answer the questions addressed to you, and in [3748] addition to that you are entitled, in deference to a witness, to make an explanation of any answer that you may give in keeping with the terms of the question. Do you understand that?

The Witness: Yes, sir.

Mr. Paisley: He was trying to make an explanation.

The Court: Counsel, I think the witness understands what I have in mind.

Mr. Paisley: My point was, your Honor, that he was trying to make an explanation and was interrupted by counsel. I make that point.

The Court: Where were we in the record?

Mr. MacInnis: I will repeat the question, your Honor, if that be all right.

Q. Now, Mr. Witness, you say that after this meeting in early April, 1949, in the office of the Immigration Service in Los Angeles with Mr. Kaiser you telephoned him? A. Yes, sir.

Q. About when did that call take place?

The Court: I thought we were going back to the record to determine what the witness had said at the time he was interrupted by you. He was in the process of making an answer and had used the term "character assassination." That term may go out. You may explain in the absence of such a term what you had in mind in your asserted reluctance to testify. You [3749] may state it.

The Witness: If your Honor please, it is my humble opinion here that counsel is attempting——

Mr. MacInnis: Your Honor did not invite him to state his opinion, humble or otherwise.

The Court: I invited you to state for the record why, over this period of three or four calls made by Mr. Kaiser or other agents, you finally made up your mind or were diffident to make up your mind.

The Witness: Yes, your Honor. If the Court please, the reason I was indifferent to make up my mind, I had the opportunity of reviewing the previous Bridges cases, and I understand that by serving as a witness for the Government of the United States that you were apt to be branded as a stool pigeon and other names of that particular ilk, and that is the reason why I delayed in making up my

(Testimony of Lewis Herbert Michener.)

mind, your Honor, in the preliminary discussions I had with Mr. Kaiser.

Q. (By Mr. MacInnis): Now, you say in response to your request to make an explanation that you reviewed in your own mind the previous Bridges cases? A. That is right, sir.

Q. And by those you had in mind the cases brought against Harry Bridges by the Immigration Service, first in 1939 and later in 1941; is that true? A. That is true. [3750]

Q. And you say you had in mind the characterizations placed upon the people who testified against Harry Bridges?

A. I believe, sir, I attempted to use the phraseology "character assassination."

Q. And you had in mind that the judge who tried the first case, Dean Landis, was the one who called the witnesses perjurers, psychopathic liars, and stool pigeons, didn't you?

Mr. Paisley: I object to counsel testifying.

The Court: You may answer the question. Did you answer it?

The Witness: No, your Honor. I don't believe for the record I did. I had in mind that I am not familiar with his Honor Landis referring to all the witnesses as such, but I am certainly aware of the fact that the Communist Party referred to them as such.

Q. (By Mr. MacInnis): Did you ever refer to them as such?

(Testimony of Lewis Herbert Michener.)

A. I did at one particular stage of the game, your Honor, because——

Q. I am not "your Honor."

A. Pardon me. I withdraw that for the record, sir.

Q. In other words, when you were reviewing in your own mind the characterizations placed upon these people who testified against Harry Bridges, what you were thinking about was the things that you yourself had said about them?

A. Not exactly, sir, because my contribution to the Bridges [3751] trials heretofore have been financially.

Q. You did not do anything else?

A. That is right, sir.

Q. You never referred to the people who testified that Harry Bridges was a Communist before as perjurers and stool pigeons?

A. That was the general policy of the Communist Party, sir. I must plead guilty to that.

Q. You did? A. I did.

Q. You say that? A. That is right.

Q. And that was one of the things that you had in mind? A. That is right, sir.

Q. Did you read the decision of Dean Landis?

A. Not—I didn't.

Q. So far as the 1941 case against Harry Bridges was concerned, you found that on this reflection there was the Supreme Court of the United States, which held that the people were stool pigeons and liars——

Mr. Paisley: Your Honor, we are not going into these other proceedings. He is testifying now or attempting to testify what the Supreme Court said.

The Court: Sustained.

Mr. MacInnis: I may say, your Honor, not attempting to circumvent your ruling, this witness has intruded matter with [3752] respect to the previous Bridges cases into his reflections, and I submit that if the witness has the right to state his reflections and his reasons therefor, we have a right to explore those reflections and the basis for them.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): In any event, you went through these reflections, including reflections on what you had said about other witnesses who had appeared against Harry Bridges, and for that reason you had not yet made up your mind?

A. That is right, sir. In 1941 I was carrying out the Communist Party line.

Q. And you telephoned Mr. Kaiser sometime in April, 1949? A. That is correct, sir.

Q. Did you make an appointment with him then? A. That is correct.

Q. To meet him where?

A. Down again at the Immigration Service.

Q. Where did that meeting, which would have been your fifth meeting with him, take place?

A. That was at the immigration headquarters in Los Angeles, California.

(Testimony of Lewis Herbert Michener.)

Q. About what date?

A. The date—oh, that would be again about another week later than the previous one you have recorded there.

Q. Would you say about the middle of April?

A. Approximately the middle of April, [3753] sir.

Q. 1949? A. Correct.

Q. Your first contact with Mr. Kaiser, as you say, had been back in about October of 1948?

A. Approximately October, yes.

Q. So that you on your fifth meeting with Mr. Kaiser, in about the middle of April, 1949, you again went down to the Immigration Service office?

A. That's correct, sir.

Q. And met him there? A. That's right.

Q. Anybody else? A. No, sir.

Q. On this occasion you met Mr. Kaiser and whom else? A. Mr. Barber.

Q. Mr. Barber? A. Right, sir.

Q. Had you met him before? A. No, sir.

Q. Do you see him here in court?

A. Yes, sir.

Q. And was anybody else present besides Mr. Kaiser, Barber and yourself? A. No, sir.

Q. Did you have a discussion with those men on that occasion? [3754] A. I did, sir.

Q. Had you by this juncture made up your mind? A. No, sir.

Q. Did you tell them that?

A. Not exactly. I wasn't asked that pointed

(Testimony of Lewis Herbert Michener.)

question, but exactly that way, sir, whether I made up my mind or not because against that particular meeting we discussed several individuals. Did I know this man, that man, so on and so forth, and the bulk of the meeting, sir, was taken up by a discussion of various individuals in the Communist Party and some people that I didn't know at all, sir.

Q. In other words, the bulk of the conversation did not concern Harry Bridges?

A. That's correct, sir.

Q. Would you say that nine-tenths of the conversation concerned other people?

A. Yes, I would say easily nine-tenths of it.

Q. Maybe even more than that?

A. Possibly. It could have been possibly, sir, because Bridges wasn't discussed at any great length at any time.

Q. So that on this fifth occasion of interviews between yourself and Kaiser, Barber now being present, you had a talk in which other people than Bridges consumed the bulk of the time?

A. That's right.

Q. And the talk continued about how [3755] long?

A. Well, I imagine about an hour, again, an hour or perhaps an hour and fifteen minutes, sir.

Q. Well, would it be fair to say that on your estimation you talked maybe only five minutes about Bridges and the rest of the approximate hour about the other people?

A. I wouldn't—to be honest—draw the line that

(Testimony of Lewis Herbert Michener.)

fine as to whether it was five minutes or three minutes, but it was only a very short reference made to Bridges during that discussion.

Q. On that discussion did you tell them that you would testify against Harry Bridges?

A. I didn't tell them I would or I wouldn't.

Q. And is it true that on that occasion you still hadn't made up your mind?

A. It is possibly correct.

Q. Now, did you make any arrangement as you left on that occasion for a further meeting?

A. Said I would call later on.

Q. Pardon me. You said you would call?

A. That's right, sir.

Q. So that on the fourth occasion and the fifth occasion you were the one who telephoned and made the date for the call? A. That's correct, sir.

Q. Although you still had not made up your mind? A. That's correct.

Q. Now when did you telephone either of those Immigration men? [3756]

A. A few days later and approximately another meeting, for the record, was held approximately another week or ten days after the one you have just questioned me about, sir.

Q. That wouldn't be the end of April, then, or would it? A. Just about.

Q. You telephoned them first?

A. That's right, sir.

Q. And made a date? A. That's right.

(Testimony of Lewis Herbert Michener.)

Q. And went down again to the Immigration office? A. That's right.

Q. And whom did you meet on that occasion?

A. Again Mr. Kaiser and Mr. Barber.

Q. Anybody else?

A. Later on a stenographer.

Q. You talked to those two men first for a while? A. Correct.

Q. About how long?

A. Oh, just a few minutes, 15, 20 minutes.

Q. And then you made up your mind?

A. No, I didn't make up my mind.

Q. You hadn't made up your mind, then?

A. No.

Q. Have you made up your mind yet?

A. No, sir. [3757]

Q. Well, you talked to Mr. Kaiser and Mr. Barber for a few minutes and then they brought a stenographer into the room? A. That's right.

Q. And the things that you said from then on were transcribed by the stenographer, were they?

A. Under oath, sir.

Q. Under oath? A. That's right, sir.

Q. Who administered the oath to you?

A. Mr. Barber.

Q. Mr. Barber? A. I said Mr. Barber, sir.

Q. He administered an oath to you?

A. That's right, sir.

Q. And then you made a statement that was transcribed by the stenographer?

A. That's correct, sir.

(Testimony of Lewis Herbert Michener.)

Q. How long did the taking of that statement consume in time?

A. Maybe 40 minutes. I wouldn't know exactly. I would say maybe 40 minutes, the best of my recollection.

Q. How many pages was it?

A. I couldn't tell you.

Q. Did you see it later?

A. No, sir, only part of it, and I never read the whole transcript of the statement I made. [3758]

Q. You never saw it fully thereafter?

A. That's correct.

Q. Did you sign it?

A. It seems to me, if my memory serves me correct, I did sign the statment.

Q. You signed it although you never read it?

A. Not all of it, sir.

Q. Well, could you tell me approximately how long the statement was that you didn't read?

A. Oh, maybe it was—it was put in a transcript form; it may have been one or two pages in there, something like that. It wasn't too lengthy a document. I don't want to give the impression with the Court that I have signed something I didn't know what I was signing.

Q. You signed it, however?

A. Yes, I signed it,—full knowledge of the content of it.

Q. You say you didn't read it all?

A. I understood what was all there. Made the statement under oath.

(Testimony of Lewis Herbert Michener.)

Q. And have you been shown that statement since?

A. After, shortly after the meeting that I referred to now, yes, sir.

Q. About how long after that meeting?

A. Perhaps two or three days, maybe four days afterwards.

Q. Was that the day you signed it? [3759]

A. That's right, sir.

Q. In other words, you didn't sign the day you made it? A. That's right.

Q. Is that right? A. That's correct.

Q. You came back two or three days later?

A. No, sir.

Q. Where did you see this statement?

A. Brought to me out at the Ford plant.

Q. By whom? A. Oh, Mr. Kaiser.

Q. Alone? A. Yes, sir.

Q. And that was the occasion when you signed it? A. That is the occasion I signed it.

Q. And that would have been your seventh meeting, would it?

A. I guess you are keeping count there. I will use your judgment on that, sir. I believe that would be the seventh meeting.

Q. Did you have any conversation with Mr. Kaiser at that time?

A. I looked the statement over hurriedly. That is why I made reference to the fact I didn't read it slowly. I looked the entire statement over in a hurry and signed it.

(Testimony of Lewis Herbert Michener.)

Q. Did you make any date to see him further on that occasion?

A. I don't believe I did, sir. I don't believe I made any [3760] appointment to see him for a further date, with Mr. Kaiser, at that particular instance.

Q. And up to that point you have given us the names and the occasions upon which you saw any person connected with the Immigration Service?

A. That's correct, sir.

Q. And when did you see any of those men thereafter?

A. Trying to recollect when the next time—As I have indicated to the Court here, I have had several meetings with Mr. Kaiser. I am trying to place them down, the best of my memory——

Q. What was the next communication you had from anybody connected with the Immigration Service?

A. Never received any communication, sir.

Q. Never thereafter?

A. Letters or—if that is what you are referring to?

Q. Or telephone calls.

A. Oh, yes, certainly I have received several telephone calls. I called the Immigration Service several times after this particular episode. I am trying to recollect the next exact time for the record.

Q. Well, were you brought here to San Francisco? A. And I can't place it. Sir?

(Testimony of Lewis Herbert Michener.)

Q. Were you brought here to San Francisco to testify before the grand jury?

A. I was, sir. [3761]

Q. About when?

A. Let' see. The grand jury—that was nineteen—that was some, about two months later, I would say, or more than that perhaps. It was in—may have been more than two months. Let me see. We have it up to May, don't we, sir, the last meeting there, I believe, approximately in May?

Q. The end of April or the start of May.

A. The start of May. Approximately, then, about three months later.

Q. How many months?

A. Approximately, oh, no—it must have been approximately two months after that, I would say.

Q. So it would be some time in July?

A. Yes, sir, I believe the record will be clear, from the record, to establish exactly when the grand jury met. I would be willing to testify that I appeared before the grand jury.

Q. But your best memory is that it would be about two months after this interview and hence about in July?

A. Approximately that, yes, sir. I may not be quite exact on that, but for the record we will indicate that; for the record, further, I would like to indicate that I did appear before the grand jury when they held their session here in San Francisco.

Q. And how long did you stay in San Francisco on that visit? A. Two days, sir.

(Testimony of Lewis Herbert Michener.)

Q. And that was in last year, 1949? [3762]

A. That's correct.

Q. And it was about two months after this last visit that you had with Mr. Kaiser?

A. Approximately.

Q. About July. Now, between the time that you came up to testify before the grand jury and the last meeting with Kaiser, were there any further contacts between you?

A. There possibly could have been, yes, sir.

Q. Would those have been——

A. I remember one meeting. Whether it was after the grand jury testimony or whether it was before, where I met Mr. Kaiser, but as I have indicated to you, sir, there has been several meetings, and it is rather difficult for me to place them all right down the line. I am doing the best I can from my memory.

Q. Pardon me. Were you going to say something else? A. I just said from memory.

Q. Was the written statement that you gave on the occasion you have described the only written statement that you ever made to the Immigration Service or to the prosecutors in this case?

A. That's correct, sir.

Q. After the day you signed it, have you seen that statement? A. No, sir.

Q. You have not been shown that statement since? A. The statement that——

Q. The statement that you signed hurriedly without fully [3763] reading it? A. That's correct.

Q. And you did testify before the grand jury?

(Testimony of Lewis Herbert Michener.)

A. I did.

Mr. Paisley: He has said that already two or three times.

Q. (By Mr. MacInnis): Now, when you testified before the grand jury, did you state substantially the same things that you told the Court and jury yesterday, or did you state added or further details?

A. I stated substantially what I have told the Court here, sir.

Q. Nothing further? A. Oh, yes.

Q. Further events and details?

A. That's right.

Q. And of course you weren't subjected to any cross-examination when you appeared before the grand jury? A. That's correct.

Q. And the contents of your testimony before the grand jury would contain other matters that you weren't asked about in your direct examination here? A. That's right.

Mr. MacInnis: Now, may it please the Court, based upon the last series of questions and answers, we request that we be furnished with the transcript of the testimony given by this witness before the grand jury. He himself has indicated a [3764] wide discrepancy in the subject matter covered by him in the narrative of these incidents.

Mr. Paisley: I object to that statement, if the Court please.

The Court: Yes.

Mr. Paisley: I move that his statement be stricken.

(Testimony of Lewis Herbert Michener.)

The Court: The statement with respect to a wide discrepancy in connection with this witness' testimony is stricken from the record and the jury admonished to disregard the same. The request for the grand jury transcript is denied.

Mr. MacInnis: Well, now, your Honor, I say this respectfully and advisedly: My remark about the wide discrepancy is based only what the witness said himself, because I of course haven't seen the grand jury minutes. He says that he was asked about other events and other details, that he was not asked——

The Court: That might be embellishment rather than discrepancy. There is a distinction.

Mr. MacInnis: That is why we asked as to it.

The Court: That is a distinction, a considerable distinction between embellishment and wide discrepancy.

Mr. MacInnis: That is why we appeal to your discretion and ask——

The Court: The request is denied.

Mr. MacInnis: All right.

Mr. Paisley: We again offer, Your Honor, to show the [3765] transcript to the Court, if the Court wants to look at it, to see if there is any discrepancy.

Mr. MacInnis: If there is nothing to conceal, there is no reason why he shouldn't make the same offer as regards the defense, your Honor.

Mr. Paisley: Well, your Honor, if counsel would study the law on the subject, he wouldn't make a statement like that.

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(Testimony of Lewis Herbert Michener.)

Q. (By Mr. MacInnis): Now, after you testified before the grand jury, you had other contacts with Mr. Kaiser, say, between that time and the start of this trial?

A. I may have had the occasion to meet Mr. Kaiser once thereafter. The fact of the matter is, I would testify here that I did, the best of my recollection, meet Mr. Kaiser once thereafter.

Q. How about telephone calls?

A. No, sir, I don't recall any telephone calls to Mr. Kaiser.

Q. During the fall of 1949 preceding the start of this trial, did you have any telephone communications with any agents of the Immigration Service?

A. Yes, sir.

Q. About how frequently?

A. There were matters pertaining to my appearing at the hearings and the matter of, I would say, maybe two or three times thereafter, dealing with my securing a leave of absence from my employment and being available to be a witness here. [3766]

Q. Those would be the only occasions?

A. That's right.

Q. Was there ever an occasion in which you had nightly contact by telephone with some agent of the Immigration Service?

A. By nightly, do you mean 4:00 o'clock in the evening?

Q. Yes, continuously.

A. Well, that 4:00 o'clock in the evening is when I carried on most of my conversations because that is when I was off my regular job at the plant, and

(Testimony of Lewis Herbert Michener.)

if you call that evening, then, yes, sir, I have had two or three conversations relative to transportation in the evening with the Immigration Service officials.

Q. And you would call them on those occasions, would you?

A. No, they would call me on it, saying that after all probably I would be needed for a witness at such and such a time and could I be available and so on and so forth—transportation, et cetera.

Q. And was there ever a period of time in which every night you contacted the Immigration Service by telephone at the close of your working day?

A. No, sir.

Q. There was never such a period?

A. Never such a period, sir.

Q. Now, going back for just one moment to the period of time between October, 1948, when you first saw Kaiser, and the day in [3767] April when you finally made your statement, the end of April of 1949, had you discussed your problem of making up your mind with any other persons?

A. No, I more or less took this outlook upon it, that I had to live with myself and thought that I ought to be in the best position to know what was the right thing to do, and I made up my own mind in that particular instance, sir, without any——

Q. You didn't talk to any——

Mr. Paisley: Now, don't interrupt him. I object to his interrupting the witness.

The Court: Yes, you may continue your statement.

A. (Continuing): Without any pressure from

(Testimony of Lewis Herbert Michener.)

any individual whatsoever. I acted upon my own in this matter. I am under oath here, I want the Court to know that.

Q. You didn't talk to anybody then?

A. No, sir.

Q. You didn't solicit advice from anybody?

A. No, not as far as being a witness here, sir. But my record down there in fighting the Communist Party since 1945 pretty well speaks for itself, as far as I——

Q. Well, I don't know anthing about your record; I am asking you did you talk to anybody.

A. No, sir.

Q. Didn't talk to a single person, or you didn't tell anybody that you were considering whether or not you should testify? [3768]

Mr. Paisley: Well, now, your Honor, beyond this basis upon which your Honor is permitting this now, and we get out of the Immigration Service. He has been contacted by persons or has contacted persons outside the Immigration Service. I thought your Honor was permitting it on the ground it might have some relevancy to possible domination of the witness by the Immigration agents. Now he is asking him about third persons, persons who are not connected with the matter.

The Court: Yes. Have you ever had any conversation, conference or contact with any third person or persons? Do you remember any such person or persons?

The Witness: It might be considered this, a discussion—I would be willing to reveal it here to the Court for what value it has, your Honor, that I have told two or three individuals that I was going to appear here as a witness—while I didn't seek their counsel or advice as to whether I should or should not.

The Court: Those persons were other than government agents or persons affiliated with the United States Government?

The Witness: Yes, your Honor.

Q. (By Mr. MacInnis): What were the names of those persons?

Mr. Paisley: Well, now, I object to that, your Honor. I think that is beyond the basis——

Mr. MacInnis: No, I have a purpose on that, your Honor.

The Court: Overruled. [3769]

A. The names of the individuals that I have indicated to that I was going to be a witness in this particular case? It would be the building chairman of my plant, James Cattom.

Q. Would you say that a little more slowly?

A. Building chairman.

Q. Building chairman? A. That's right.

Q. And his name is James——

A. Cattom—C-a-t-t-o-m. Another man who is familiar with the fact that I would be here is Pat Patterson.

Q. Who is he?

A. President of the Local 406, U.A.W., C.I.O. Another man that is familiar with the fact that I

(Testimony of Lewis Herbert Michener.)

will appear here is S. D. Killough, K-i-l-l-o-u-g-h.

Q. Is it S. T., are his initials?

A S. D. Killough, K-i-l-l-o-u-g-h.

Q. Who is he?

A. He is a plant committeeman, my plant. And another person that knew I was going to be a witness here was Tiny Roebuck.

Q. How do you spell Roebuck?

A. R-o-e-b-u-c-k.

Q. An——?

A. He is a plant committeeman at the same plant.

Q. Yes?

A. Another person that knew I was going to be present, because [3770] it was necessary to secure a leave of absence was the plant personnel—namely, in that connection, Mr. H. D. Anderson, Mr. Ralph Haines and Mr Cotham, C-o-t-h-a-m, I believe is the correct spelling of the name

Q. Cotham?

A. Cotham. They are all of those last three names, are in the personnel and labor relations department of the Ford Motor Company. It is necessary to acquaint them why it is necessary for you to have a leave of absence. And there is others. Would you like other names on there, too, sir?

Q. Yes, tell us.

A. One other name that is familiar with the fact that I was going to testify is Roy Reuther, who is the brother of Walter Reuther, and is employed by the International Union of——

Q. That is the name I was waiting for you to say.

(Testimony of Lewis Herbert Michener.)

A. That was the main one. If you had asked me first, I would have saved you all the trouble.

Q. Oh, no, I have plenty of time. Now, all of the men whose names you have given, except the three men from the personnel division of the Ford Motor Company, are members of the United Auto Workers, aren't they? A. Yes, sir.

Q. And the man named Roy Reuther, whose name you gave us last, is indeed the brother of Walter Reuther, who is, I suppose, the national head of your union? [3771]

A. That's correct, sir.

Q. And back in 1939 the United Auto Workers, of course, endorsed the position of Harry Bridges entirely, didn't it?

Mr. Paisley: Well, now, Your Honor, are we going to go back to 1939 and go into union matters?

Mr. MacInnis: This is material, Your Honor.

Mr. Paisley: I think it is——

Mr. MacInnis: It will be tied in, Your Honor.

Mr. Paisley: Are we concerned with the union squabbles? If that is what he is asking about.

Mr. MacInnis: We will be.

Mr. Paisley: He is asked whether they endorsed Harry Bridges back in that time. Are we concerned with that? I don't think so. 1939.

Mr. MacInnis: I will state the purpose if I may, Your Honor. The purpose is obviously this.

The Court: Pardon me just a moment. The witness testified on direct examination—this may not be verbatim in the record, but it is my recollec-

(Testimony of Lewis Herbert Michener.)

tion that there was a change of policy with respect to Mr. Bridges, the defendant, in the Communist Party itself, and that there was a shift in positions. Now, were there any events in 1939 in connection with the United Auto Workers that may have had some bearing on that matter? That is the only point that I have in mind.

Mr. MacInnis: I think that is a good suggestion, Your Honor. [3772]

The Court: That is the only point I have in mind, as to any possible relevancy. I will hear you out at the recess.

Mr. MacInnis: All right.

The Court: Ladies and gentlemen of the jury, we will take the 11:00 o'clock recess, and may I again admonish you not to discuss the case under any conditions, nor to form nor express an opinion until the matter is submitted to you.

(Whereupon the jury withdrew from the courtroom and the following occurred outside the presence of the jury:)

The Court: Mr. Reporter, would you read back the last question for me?

(Record read.)

The Court: Yes?

Mr. MacInnis: Well, Your Honor, of course in our effort to explore the motivations for producing this man as a witness, we won't be confined to the visits paid him by Kaiser or the other emissaries

(Testimony of Lewis Herbert Michener.)

of the Immigration Department. If any other person had an interest in procuring this testimony, we have the right to raise that inference, too. Now, it is a matter of public knowledge that almost concurrent with the present prosecution there is a struggle in the national ranks of the CIO, a struggle which places on the one side Philip Murray, the national president of the CIO, formerly the compatriot of Mr. Bridges in most of his endeavors, formerly his sponsor; and by his side, Walter Reuther, the most bitter enemy of Harry [3773] Bridges in the labor movement, whose union, which on two previous occasions, unanimously endorsed the position of Bridges, unanimously denounced the position of the Government in the attempts to claim that Harry Bridges was a Communist. We certainly have the right to show motivation in this case flows from the fact that Philip Murray is engaged in this struggle to oust Harry Bridges and his union from the general CIO, a matter which is of public record in the events of last fall, immediately preceding the start of this trial. But that Walter Reuther is the head of a union which has openly gone on record against the Harry Bridges. Now, we certainly have a right to show that, Your Honor, in reference to this witness, who places himself in the position of having revealed his prospective nature as a witness in this case to the brother of Reuther himself. Now, it is our position, if the Court please,——

The Court: Well, it is a far cry from a revelation to the brother of Mr. Reuther to an assertion that any exertion was made upon the witness to testify.

Mr. MacInnis: It is preliminary, Your Honor.

The Court: It is a far cry. Now, if we are to try the internal affairs and the warfare that have existed, at least from the press accounts, with respect to Mr. Reuther, the physical violence that has been prepetrated upon the Reuthers and all those matters, this case may take some very, very unusual turns. [3774]

Mr. MacInnis: It won't, Your Honor. And——

The Court: There has been mention made in the press of dynamiting and mention made of beatings and the loss of an eye, and so forth, and I think that we might well pass some of those matters concerning the Reuthers because I am reminded of what Mr. Donohue has said often, that this case may never be concluded.

Now, I am not concerned with the period of 1939 and the internal difficulties of this particular union, nor am I concerned with, as I indicated earlier in the trial, the difficulties attendant upon the waterfront, in connection with their several [3775] strikes.

The Court: I have allowed considerable latitude in the past. My present disposition is to sustain the objection. May I hear from the Government, please, on this matter?

Mr. Paisley: Your Honor, the question to which I objected was, as I remember it; Isn't it a

(Testimony of Lewis Herbert Michener.)

fact that the United Automobile Workers supported Harry Bridges in 1939. I thought, and still think, that that calls for immaterial testimony. All that the witness said, as your Honor indicated, was that he notified these people he was coming.

The Court: He knows Roy Reuther. He said he knows Roy Reuther. If you are going to draw the inference that this background is dependent upon such a disclosure to Roy Reuther——.

Mr. MacInnis: We are not, Judge.

The Court: I sustain the objection. We will take the recess.

Mr. MacInnis: Your Honor, of course we are not bound by a statement. Suppose this man were asked——

The Court: You might ask him what his conversation was with Roy Reuther, what if anything was said.

Mr. MacInnis: I might, but I think, your Honor, the question itself was preliminary to showing something far deeper, and we are not bound, and we will not be bound, by what he said the conversation would be, because we have other evidence in this matter, evidence to show complicity among these people, and we can't bring it out by one question, nor [3776] can we, your Honor, in arguing the propriety of that——

The Court: Mr. MacInnis, I sustained the objection interposed by the Government to the question with respect to the approbation accorded

Harry Bridges in 1939 by the Auto Workers Union. We will take the recess.

Mr. MacInnis: That is the only question.

The Court: The immediate question.

(Recess.)

Q. (By Mr. MacInnis): You say among the people whom you told about your plans to come here and testify against **Harry Bridges was Roy** Reuther, the brother of Walter Reuther, is that correct? A. That is correct, sir.

Q. Walter Reuther is the national president of the United Auto Workers, is he?

A. That is correct, sir.

Q. Weren't you informed that if you did not testify against Harry Bridges that you would be kicked out of the union by Reuther?

A. I was not informed—no such statement was ever made to me, sir, under any circumstances.

Q. The statement was not made to you?

A. That is correct, sir. We don't do things like that in the UAW.

Mr. Paisley: Your Honor, it has been denied, but he [3777] should have given the witness the time, place and persons present.

Q. (By Mr. MacInnis): You told the Court and jury yesterday when you were questioned by the prosecutor that you went to work for the Ford Company in the city of Richmond in 1933, is that correct? A. That is correct.

Q. What had been your general employment before that?

(Testimony of Lewis Herbert Michener.)

A. Been at varied occupations.

Mr. Paisley: Just a moment. Your Honor, shall we go back that far now? The witness' private life? That does not tend to discredit him, impeach him in any way, as to what he was doing back in 1933. How can that be relevant?

Mr. MacInnis: Your Honor, counsel asked him what his general employment was and his answer was to begin with the year 1933. I think we might like to know what he did before those years.

The Court: You may answer.

A. I believe I did answer yesterday that I had worked in the Butte mines and I had worked for the Hanson Packing Company in Butte, Montana, that I had worked on numerous ranches and farms in Montana, I had worked in the logging camps in Montana and Idaho, and before that I sold newspapers, as a kid, going to school, and numerous jobs. Also a job for a while of selling merchandise from house to house. I have had numerous [3778] jobs, sir, prior to 1933.

Q. Any other job? A. No, sir.

Q. Absolutely none? A. That is correct.

Q. Did you ever work in Missoula, Montana?

A. Not in Missoula proper, sir. I worked out of Missoula, Montana, at the Bitterroot Valley for a logging camp there for a while, and also worked on numerous ranches up at the Bitterroot Valley, which is a short distance from Missoula, Montana.

Q. Who is Thomas Michener?

A. Thomas Michener is a brother of mine.

Thomas E. Michener, are you referring to? Thomas E. Michener? There was a Thomas Michener, an uncle of mine, also.

Q. Did you ever go under the name of Lewis Kelly? A. No, sir.

Q. You were never called that?

A. No, sir.

Q. That was never an alias of yours?

A. Never an alias of mine.

Q. Let me ask you this, Mr. Michener: A little while ago in answer to a question put to you I think by his Honor, who asked you for the reason, the background that you had in mind in not making up your mind to testify for the Government, your reply was that you reflected about the two previous Bridges cases and that you remembered the things that were brought out [3779] about the character of the witnesses who testified against Bridges in those cases, and you said you remembered the things you yourself had said about those witnesses, didn't you?

A. I think the record is very clear on that, sir.

Q. What reflection did you have about your own character? What did you think might be brought out against you if you testified here?

A. What I thought would be brought out is what has already been brought out in the paper that I read last night, wherein it terms me as continuing the parade of stool pigeons that are appearing up here against Mr. Bridges.

Q. Nothing else? A. That is what——

(Testimony of Lewis Herbert Michener.)

The Court: That was in the People's World?

A. Yes, sir.

Q. (By Mr. MacInnis): Nothing else?

A. Nothing else, sir.

Q. You didn't think anything else concerning the background of your life might be brought out here to your discredit?

A. I didn't think so; I really didn't, sir.

Q. And you were never known as Lewis Kelly, Jr.?

A. I am under oath, sir. I say I never was at any time.

Q. Were you named in the District Court of the United States in and for the District of Montana in case No. 6096 as Lewis H. Michener, Jr., also known as Lewis Kelly, Jr.—— [3780]

Mr. Paisley: Your Honor, he can ask him if he has even been convicted of a felony, and I think that is as far as he can go. I do not think you can discredit a witness by proving he used another name. The witness said he did not, but even if he had, that does not discredit a witness.

Mr. MacInnis: Well, your Honor, I have some information about this man; not all of it is complete.

The Court: Let us be careful and let us be specific.

Mr. MacInnis: I am going to stick to that one question at the present time as to whether he was named as Lewis Kelly, Jr.

Mr. Paisley: Well, now, your Honor——

(Testimony of Lewis Herbert Michener.)

The Court: The witness has said that he was never known as William Kelly, Jr.

Mr. MacInnis: Lewis Kelly, Jr.

The Witness: Your Honor, Lewis Kelly, Jr. is what he asked.

The Court: At any time in your career?

A. That is right.

Mr. MacInnis: I will return to that, your Honor, when my information is supplemented.

The Court: You say you have information about this man?

Mr. MacInnis: Yes. Merely to show your Honor I did not ask the question idly, and reserving the right to return at a later stage to these questions, I will pass to your Honor the information that I just received. [3781]

Mr. Paisley: Your Honor, if he wants to prove that the witness was convicted back in Prohibition days, back in 1932, almost twenty years ago, in a couple of liquor cases, we will stipulate to that. There are a lot of cases holding, your Honor, that type of testimony is not even admissible to discredit a witness.

Mr. MacInnis: These boys get more gracious every day, Judge. Maybe there will be some other things you can stipulate to in a few minutes.

Mr. Paisley: Well, now, I move that that cute remark be stricken.

The Clerk: Counsel, wait until the Court has read the paper.

(Testimony of Lewis Herbert Michener.)

The Court: What is the extent of this stipulation?

Mr. Paisley: We will stipulate that he was convicted back in Prohibition days, 1932——

Mr. MacInnis: How many times?

Mr. Paisley: ——about twenty years ago, when he was a very young boy, I presume, twice. We have that same record. We will be glad to stipulate what the facts are.

Mr. MacInnis: And went twice to Federal jails. Will you stipulate to that, too?

Mr. Paisley: That is not even proper. He can't even ask him that.

Mr. MacInnis: I am asking you if you will stipulate to [3782] it.

Mr. Paisley: He served about sixty days, I think——

Mr. MacInnis: On the first, and then 45 days the second time, and you will stipulate that on the second occasion he was tried before the Federal Court as Lewis H. Michener, Jr., also known as Lewis Kelly, Jr., won't you?

Mr. Paisley: He plead guilty.

Mr. MacInnis: Will you stipulate——

Mr. Paisley: No, I won't stipulate to some alias that the prosecutor might have thrown into the indictment. I do not remember that. When we get the transcript we will stipulate.

Mr. MacInnis: You mean prosecutors throw things in an indictment?

(Testimony of Lewis Herbert Michener.)

Mr. Paisley: Yes, they put aliases in there every time a man is named——

Mr. MacInnis: My labors are being expedited greatly, your Honor. I will probably have to jump to other subject matters for the moment.

Q. Mr. Michener, you never were Lewis H. Kelly, were you?

A. No, sir. My name was Lewis H. Michener, as I testified at the opening of this court, born at Bozeman, Montana, in the year 1908. I regret I did not bring my birth certificate along so counsel may have had the opportunity to examine [3783] that.

Q. Now, Mr. Michener, coming back again to these reflections that you made in your own mind, about what might be brought out against you if you testified here, did you reflect about the matters that you represented under oath to your draft board in Southern California at the time of the first registration for the draft?

Mr. Paisley: I object to the question, if your Honor please, a prior statement that a witness might have made. I do not know what he is talking about. Certainly that is immaterial testimony. It is not proper cross-examination.

The Court: Addressing yourself to specific occurrences or instances, I will allow the question, if you will address yourself to a specific occasion.

Mr. MacInnis: Your Honor, the question ordinarily would probably be beyond the scope of the examination, but this witness went out of his way to make the statement about his reflections.

The Court: ~~You may~~ answer.

A. If your Honor please, I am not clear on the question before me at the present time. I am not clear on the last question.

Mr. MacInnis: That is all right. I will return to that in another guise, then.

Q. You say that you were, however, at some time a member of the Communist Party?

A. That is correct, sir. [3784]

Q. Of that you are sure?

A. Of that I am sure.

Q. I wondered a little bit from one of the answers that you made yesterday whether it was just an engagement in speech between you and the prosecutor, Mr. Paisley, I didn't know, but is it a faction meeting or a fraction meeting that these Communists have?

A. Well, to my knowledge, we called them down south faction meetings.

Q. Down south they are faction meetings?

A. That is as I understood them, sir. I believe I testified to that yesterday and was corrected by you that the proper name was "fraction."

Q. No, I was recalling what the other witnesses for the prosecution said here.

A. I misunderstood you, sir.

Q. What is a fraction meeting?

A. A fraction meeting or a faction meeting?

Q. Is there a difference between the two?

(Testimony of Lewis Herbert Michener.)

A. To my knowledge there is not, sir.

Q. In other words, "faction" and "fraction" mean the same? A. In my opinion, yes, sir.

Q. Is that one of the deceptions that the Communist Party carries out?

A. Oh, I couldn't say that that is one of them. There are [3785] deceptions, however, sir, but I wouldn't say that that would be one of them.

Q. Let me ask you, Were you also deceitful while you were a member of the Communist Party?

A. I am not quite clear on that question, sir.

Q. Did you tell lies to people while you were a Communist? Lies, of course, that you were ordered to tell by some top leaders?

A. Well, the only outstanding lie that I could think of that I told the people, I denied my membership in the Communist Party——

Q. When did you do that?

A. On several occasions. Various trade unionists accused me of being a member of the Party and I denied it. [3786]

Q. You lied to those people, did you?

A. Yes, sir, under that, but never under oath, sir.

Q. Were those trade union officials who would ask you those questions? A. That's right.

Q. And I suppose they asked you those questions sometimes on the floor of conventions, did they?

A. No, sir.

Q. Did they ask you those questions in the presence of other trade union leaders?

(Testimony of Lewis Herbert Michener.)

A. Oh, yes, yes, sir.

Q. And you lied on those occasions?

A. I did, sir.

Q. And the purpose of your lie would have been to deceive the persons who were your listeners?

A. To conceal my membership in the Communist Party, sir, not to deceive; it was merely to conceal my membership in the Communist Party, sir.

Q. Well, I am a little puzzled about another matter concerning what you call faction or fraction meetings in the Communist Party. Suppose, now, when you were a Communist, as you say, you were to meet with another man in the labor movement who was also a Communist, and the two of you, let us say, just met on the street and, walking down the street together, discussed some matter in the labor union, whether it was a raise in [3786] wages or whether it was some national matter of policy within the union. When you would be having that meeting, would that be a faction meeting, or would that be just a conversation?

A. To clear my matter up again, the other man that I would be with would be a member of the Communist Party: Mr. X would be a member of the Communist Party?

Q. Yes.

A. And I was a member of the Communist Party?

Q. Yes.

A. And we walked down the street together discussing problems; would that be a faction meeting?

Q. Yes. A. No, sir.

Q. Would it be a fraction meeting?

A. No, sir.

Q. Suppose there were three of you, suppose three of you were in the same situation.

A. Under the same circumstances you described?

Q. Yes. A. No, sir, it would not be.

Q. Well, suppose instead of walking down a street you went into a restaurant and you all had a cup of coffee in a booth, where you were by yourselves, and then you discussed some matter affecting your union. Suppose you were all United Automobile [3787] Workers. Would you then be having a faction meeting?

A. Just so I follow your line of thinking, sir, the other two members that would be with me would be members of the Communist Party?

Q. Yes.

A. And also members of the union?

Q. Yes.

A. You indicated perhaps the United Auto Workers or any other union?

Q. Yes.

A. Would I consider that a faction meeting?

Q. Yes. A. No, sir.

Q. Well, let's go a step further. Suppose you were with another member of your union who you thought was a member of the Communist Party, you being a member also, and as you walked down the street you met a third man who was a member

(Testimony of Lewis Herbert Michener.)

of the union and whom you thought to be a member of the Communist Party; and suppose he said to you, "Now, Mr. Michener," or "Mr. Kelly," or whatever name you would be using, "I am interested in what your policy may be on the salary increase that we are asking for. Let's sit down and talk it over." And suppose you then went into a restaurant and had a cup of coffee and the three of you talked about it. Would that be a faction meeting? [3788]

Mr. Paisley: Now, your Honor, we have walked around enough and had enough cups of coffee. He has told us what a fraction meeting, or what he calls a faction meeting, is fully yesterday. It seems like counsel might expedite the trial if he wants to go over that again by just asking him to tell us what a faction meeting or fraction meeting is.

Mr. MacInnis: I am trying to find where the dividing line may be, your Honor.

The Court: You understand the question?

The Witness: Not entirely, your Honor. I would like to have that one repeated.

The Court: Would you repeat it?

Q. (By Mr. MacInnis): You say you didn't understand the question?

A. Not the last one.

Q. All right. Now, Mr. Witness, let me ask you this: During your career in the Communist Party did you ever sit down in meeting with one or more trade union leaders who might not be members of the Communist Party? A. Yes, sir.

(Testimony of Lewis Herbert Michener.)

Q. Did you ever sit down and discuss some labor problem or policy, whether on a national or local scale, with three or four members of the Communist Party and one labor union official concerning whose possible membership in the Communist Party you were in doubt? [3789]

A. Well, your Honor, again, I am in doubt now. That question is confusing. If he would explain just what he wants to know, I would be very happy to inform him.

Q. All right, I will rephrase the question. Well, have you ever had the experience of being in doubt as to whether some person in the labor movement was a member of the Communist Party?

Mr. Paisley: Your Honor, I don't think that is a proper cross-examination. Let him ask about the defendants in this case.

The Court: Sustained.

Q. (By Mr. MacInnis): But you have sat down in meetings in which three or four or five participants were Communist Party members to your knowledge, and one other person present has been a trade union leader, not a Communist?

A. That is practically, your Honor, the same question he asked before, and I am confused as to what he really means by that question.

Mr. Paisley: And I think your Honor sustained an objection to that, on the ground that if he sat in such meetings with other persons, that it has

(Testimony of Lewis Herbert Michener.)

nothing to do with this case. We are trying Bridges, Schmidt and Robertson.

The Court: You might rephrase it. The witness doesn't understand it.

Mr. MacInnis: All right. [3790]

Q. Well, let me ask you this: Before you joined the Communist Party, you were already a labor union official, were you?

A. That is correct, sir.

Q. Well, before you joined the Communist Party, had you ever sat down and had discussions about labor matters with people who you knew were Communists?

A. I believe I did. In fact, I know I did.

Q. Well, were there any occasions in which you were the only non-Communist present?

A. Yes, yes.

Q. And in those discussions, would you be talking over matters of policy affecting your own union and the men who worked with you?

A. Yes, sir, that would be the general discussion would follow in that particular connection.

Q. And on those occasions you would be the only non-Communist present in the group?

A. To my knowledge. I wouldn't know at that time whether others were non-Communists or not. I knew at the time I was discussing the matter with the individuals you refer to that some of those people were Communists; that I knew. But I couldn't say, as to several meetings, as to whether they were all Communists or whether they weren't.

(Testimony of Lewis Herbert Michener.)

I wouldn't have any way of knowing at that particular stage of the game, sir.

Q. Now, as to your joining the Communist Party, did you make [3791] out some application?

A. I did. I made—filled out a card, sir, signed my name there, using a different name than Lewis Herbert Michener, Jr., but using the name of Lewis Herbert, as I testified to here yesterday under oath, sir.

Q. Did the name Michener appear at all, identifying you, in this application card?

A. No, sir.

Q. That didn't appear anywhere?

A. No, sir.

Q. So that any person within the Communist Party who hadn't met you before would not be able to trace your identity even by means of the application card?

A. Well, I couldn't answer that. That would be more or less a conclusion on my part, and I couldn't answer that. Maybe you have got better information on that, sir, than I have.

Q. Who knows? Now, to whom did you give this application card? A. To Mr. Lyons.

Q. Mr. Lyons? A. Lyons, L-y-o-n-s.

Q. And what is his first name?

A. William, I suppose; I know him as Bill Lyons.

Q. Where was that?

A. In Los Angeles, California, in his [3792] home.

(Testimony of Lewis Herbert Michener.)

Q. And were you issued a membership card in the Communist Party? A. No, sir.

Q. Were you ever given a membership card?

A. I was not personally given a membership card. My wife took care of my card for me and my stamps.

Q. Your wife took care of it?

A. That's right, sir.

Q. Now, did you have a conversation last night with Mr. Kaiser or one of these other men whose names begin with K, Mr. Kidder, Mr. Kessler, Mr. Kaiser, one of those persons in which you were informed that you said something, made some slip yesterday, when you said that you never had a card and that no card was ever issued you?

A. Sir, I am under oath here. I never had any discussion last night whatsoever in that connection. If you have information on that matter, I think you ought to give it to his Honor here. [3793]

Q. Yesterday you told the jury under oath that you never had a Communist card?

A. That's right, sir.

Q. Today you tell the jury that there was a Communist card but that your wife kept it for you?

A. I told you, sir, just in your questioning me here, that I did sign my name Lewis Herbert to a card, that Mr. Lyons had. Later on that matter was—the card, my stamps, was turned over to my wife, who took care of them. I wouldn't know my card number or I wouldn't even be able to identify it, sir, if you presented it to me here right now.

Q. Who gave the card to your wife?

(Testimony of Lewis Herbert Michener.)

A. Probably Lyons, probably did, or maybe Dorothy Ray or Dorothy Healy or Dorothy Connolly—the same person.

Q. That is all the same person?

A. All the same person.

Q. That person with the three names was the wife of a man named Stanley Hancock?

A. I wouldn't be able to know that. I know she was the wife of several other people that I knew, but I didn't know it was Mr. Hancock was involved.

Q. She was the wife of others of your friends?

A. By stretching the point——

Mr. Paisley: Well, Your Honor, are we going to let Mr. MacInnis go into the matter of some woman this far removed? [3794]

The Court: Sustained.

Mr. MacInnis: Shall we take the recess, Your Honor?

The Court: While I have the subject in mind and while we have this matter of a card before the Court, what is on the card, to the best of your recollection, this so-called application card? Is that what you have in mind?

The Witness: Yes, sir, it is a card——

The Court: This is not the membership card; this is an application card you are speaking of?

The Witness: It is.

The Court: What is on the card, to the best of your recollection?

The Witness: The best of my recollections, I could identify approximately the size of it; it is approximately the size of a regular union card which I would hand to Your Honor (displaying small card), approximately this size here, sir.

The Court: Yes.

The Witness: And on this, on the bottom, was a place for my signature, and "This is to certify that the undersigned"—something to this effect; it may not be the exact wording—"makes application as a member of the Communist Party." Then there is a place also on the card for, like, for example, the man that signed me up, Mr. Lyons, to put his signature on there as more or less a supporting or supporting individual for my membership. [3795]

Mr. MacInnis: May I ask a question on that?

The Court: And to that card you signed the name Lewis Herbert?

The Witness: Yes, Your Honor.

The Court: And that was, I assume, your name and your identity in the Communist Party?

The Witness: Yes, Your Honor.

The Court: Lewis Herbert?

The Witness: Yes, Your Honor.

Q. (By Mr. MacInnis): And wasn't there a place on that card for your real name so that the Communist Party officials would have some correlation between the Lewis Herbert whose name appeared on the card——.

A. Well, sir, if there was, I don't recall it, because—I would like to explain to the Court—of my reluctance in joining the party in the first place.

(Testimony of Lewis Herbert Michener.)

And after joining, how they promised to keep my identity pretty well hidden. And it was agreed that this name, Lewis Herbert, would be used, and I certainly know definitely and positively, I am sure, that the name Lewis Herbert Michener or Lew Michener or L. H. Michener was never put upon the card that I signed, sir.

Q. And how about this card that your wife kept?

A. As far as I know, sir, my name in the Communist Party is Lewis Herbert, and no doubt it would have been the same one that she kept, because—— [3796]

Q. You never saw it?

A. Because I paid her the dues; sometimes I gave her the contributions; sometimes I gave them to the section organizer. But I never received any stamps at any time to carry on my person or anything at all that in any way would connect me with the Communist Party because, as I have indicated to you before, sir, my identity was to be pretty well concealed in the party.

Q. And you never saw this membership card of your own?

A. I just saw it—after all, I knew that she had it. I never took it from her hands and read the contents of it or so on. I knew that she did keep the card for me and perhaps she told me—in fact, she told me on several occasions that she was taking care of my card and my stamps and that part of it.

Q. She informed you on several occasions that she had your card? A. That's right, sir.

(Testimony of Lewis Herbert Michener.)

Q. And she informed you on several occasions that she was taking care of your Communist membership for you?

A. Not my—she wasn't taking care of my Communist membership for me, but she was taking care of my card, sir, and stamps.

Q. But she did inform you on several occasions that she possessed your card?

A. That's right, sir.

Q. Was that to reassure you? [3797]

A. Well, was it——

Q. Had you asked her where it was?

A. It wasn't necessary to reassure me. I was continually putting my dough into the party and I suppose she might have become curious, wondering whether I knew she was taking care of it or not and what her reasons were for that I couldn't honestly testify to.

Q. So she told you that not once, but on several occasions, that she was holding your card for you?

A. Yes, sir.

The Court: We will take the recess, ladies and gentlemen. The same admonition, not to discuss the case under any conditions, nor to converse with any person on any subject of this trial. You are not to form or express an opinion until it is submitted to you.

(Thereupon an adjuornment was taken to 2:00 o'clock p.m.) [2798]

Wednesday, January 11, 1949, 2:00 P.M.

The Clerk: United States of America v. Harry

Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Lewis Herbert Michener, Jr., heretofore sworn.

Mr. MacInnis: Now, as I promised, Your Honor we have some authority in support of the request to inspect the grand jury transcript, and I would like to cite those cases to Your Honor, if I may.

Mr. Donohue: May I first say to Your Honor that it seems to me that last October, before Your Honor in a motion for discovery, which was filed by the then counsel for these defendants, the matter of the right of the defendant to the inspection of the grand jury minutes as well as to a list of the witness, was argued at length, and at that time Your Honor denied the motion filed on behalf of the defendants. I see no reason for the same question being raised again.

Mr. MacInnis: Well, of course, Your Honor scarcely could resolve a previous question of law and then have that ruling made binding on us now.

The Court: May I have the authorities? If you will leave them with Mr. Mitchell, I will examine them at the recess period.

Mr. MacInnis: Be glad to, Your Honor. [3799]

The Court: Thank you.

Mr. MacInnis: If you would rather have the memorandum, or I can read them to you into the record at the recess, whichever you choose.

The Court: All right.

Mr. MacInnis: I would probably prefer the latter because I have only the one copy. I can make more copies if they are to be left.

Cross-Examination
(Resumed)

By Mr. MacInnis:

Q. Now, Mr. Witness, you told the Court and the jury under oath yesterday when you were examined by the prosecutor that a Communist Party card was never issued to you, didn't you?

A. I believe that's correct, sir.

Q. Did you say that under oath?

A. I was on this witness stand and everything I say up here I assume is under oath. I take it that way, sir.

Q. And had you discussed that matter with any of the prosecutors or their agents before you gave that answer? A. No, sir.

Q. To be specific, the prosecutor asked you this question:

"Did you have a Communist Pary card?" and——

Mr. Paisley: What page, Mr. MacInnis, are you reading from?

Mr. MacInnis: I scarcely would have thought you would [3800] remember your own examination. Page 3706.

Mr. Paisley: I just asked him a polite question, Your Honor; I would like a civil answer. What page?

Mr. MacInnis: I told you, 3706.

(Testimony of Lewis Herbert Michener.)

Q. "Did you have a Communist Party card?" and your answer:

"I never carried a card or a card was never issued to me."

That was the answer you gave under oath?

A. That would be the same answer I would give under oath today, sir.

Q. With whom did you make the arrangement, then, that this Communist Party card that you told us about this morning be given to your wife?

A. That was made after I married my wife, and we attended these various faction meetings, as I call them, or fraction meetings, as you call them.

Q. You joined the Communist Party, you say, in 1938? A. That's right, sir.

Q. That was the time that you turned in the application card that you described?

A. That is correct, sir.

Q. And some time after that there came into the possession of your wife a Communist Party membership card? A. That's correct.

Q. Did it never pass through your hands?

A. No, sir. [3801]

Q. Did you make the arrangement for the card to be given directly to her? No, sir.

Q. Was this card reissued annually or was it a permanent card?

A. No. As I understand it, it was issued on an annual basis. Now I may be wrong there, but that is my understanding of the proposition.

(Testimony of Lewis Herbert Michener.)

Q. Now, the card was issued annually and always given to your wife?

A. That is, after I was married to her.

Q. Was that true right through until the time you left the Communist Party, from 1938 right through until 1944?

A. I couldn't vouch for the last month or two months of '44 because—but up until the last two months of 1944 until the time I married my second wife, that arrangement was in effect, sir.

Q. Now, in 1938 to whom was your card given?

A. I couldn't answer that.

Q. Well, who was your wife then?

A. My wife then was Helen Michener.

Q. Pardon me? A. Helen Michener.

Q. Helen Michener. And how soon after you signed this application card, did you discover that in the possession of your wife was your membership card? [3802]

A. Oh, that was a matter of years.

Q. You didn't discover it for years?

A. That's right.

Q. So during all 1938 you never made the discovery that your wife was holding your Communist Party Card?

A. Of course, we draw the conclusion there,—all through 1938, sir—that was a long length of time. I think the record will indicate to you that I joined the party late in 1938. So for the balance of 1938 my card, my membership card in the Communist Party, was in the possesesion of the Communist Party.

(Testimony of Lewis Herbert Michener.)

Q. How about 1939?

A. I would say the same thing held true through the entire period of 1939. [3803]

Q. Now, your wife did not get the card in 1939?

A. No, sir.

Q. This morning, it seems to me, you told us under oath that a membership card was issued and that your wife had it, and that several times she told you she was holding it for you?

A. If my memory serves me correctly, sir, I believe almost those are my exact words.

Q. And you told us this morning that you paid your dues to the Communist Party through your wife?

A. In some instances. In some I paid them direct.

Q. How about the year 1939? Did you pay them through your wife? A. No, sir.

Q. How did you pay them then?

A. I paid them direct.

Q. You did not tell us that this morning; you said you paid them through your wife.

A. I did, sir, but I would like, your Honor, to explain this matter. I think there is an element of confusion here.

The Court: All right.

The Witness: I might indicate to you, sir, I have been married twice. I was living with my first wife through the early stages of my joining the Communist Party. To my knowledge she had no knowledge of my being a member of the Communist

Party. My second wife, I had knowledge when I married her that my second wife was a member of the Communist Party. [3804] She took care of my Communist Party book, and that is the second wife that I had reference to this morning.

Q. (By Mr. MacInnis): When did you marry her? A. That was early in 1941, sir.

Q. So that during the latter part of 1938, during all of 1939, during all of 1940 and during 1941 up to this latter part, the answer that you gave the jury today, this morning, would have no application, the blank statement that your wife kept your Communist card for you?

A. Well, your Honor, I am rather again confused at that answer. I can't answer that yes or no. I told the truth and tried to explain to counsel exactly the circumstances.

Q. With whom did you make the arrangement during 1939, 1940 and most of 1941 that the Communist Party itself would hold your Communist card?

A. Not most of 1941, sir, all through 1938, that particular month or two in 1938, through the entire year of 1939 and through 1940, that was an arrangement worked out and understood by the officials of the Communist Party and various people involved in that.

Q. I am speaking of you.

A. I am speaking of me, too, sir. I was involved in it because they said, "This is one of the ways you will conceal your membership in the Communist

(Testimony of Lewis Herbert Michener.)

Party. You pay your dues and we will keep your card." I can mention here for the record [3805] some names of individuals in the Communist Party that were responsible for that transaction, if you would like to have it for the record.

Q. Let me ask you this: When did you change the arrangement and have the card placed in the possession of your second wife?

A. After a short time, after we were married, my wife and I attended several of the faction meetings, as I knew them, or fraction meetings, as you know them.

Q. And who proposed that she should hold the card for you?

A. I belie.e the secretary—the fact of the matter is I don't believe—I am positive it was the secretary of the unit that we both jointly attended for a while, a unit of the faction meeting.

Q. Was there something that was unsatisfactory to the Communist Party itself holding your card?

A. No, not that I know of. If there was, they never revealed it to me.

Q. But somebody suggested that your wife hold the card for you?

A. An official of the Communist Party.

Q. Suggested that to you?

A. Suggested that as a convenience to both my wife and I.

Q. Suggested that to the two of you together while you were together?

(Testimony of Lewis Herbert Michener.)

A. That is right [3806]

Q. Was it then that this card was given to your wife to hold?

A. Not at that particular instant, but it was later on worked out that she secured my card.

Q. When was it given to her?

A. I couldn't tell you exactly, sir.

Q. You were living with your wife, weren't you?

A. I certainly was, sir.

Q. Wasn't there some occasion then when she came home and said, "Now I have your Communist card"?

A. No, sir; I am sorry; there was never such an occasion.

Q. How did you pay your dues, Mr. Witness, before the occasion when your wife held your card?

A. That was a very simple process: attending a faction meeting and would hand them over to the secretary.

Q. During those years you were, of course, conscious that the membership card issued to you was held in the possession of the Communist Party?

A. I was led to believe that. I was told that by the Communist Party. If someone else held it, sir, I have no knowledge of it.

Q. What did you have in mind when you told the Court and jury yesterday under oath that a Communist Party card was never issued to you?

A. I had in mind perhaps the same thing we have in mind now if the same question was asked me, sir. [3807]

(Testimony of Lewis Herbert Michener.)

Q. Were you told that you would have to change that story because some other witnesses had testified that a card had to be issued to a Communist Party member?

A. Your Honor, I am not quite clear on that question.

Mr. MacInnis: All right. I will pass on to another one.

Q. (By the Court): You mean the question is not clear to you? A. Not quite clear to me.

The Court: You might rephrase it.

Mr. MacInnis: I can't think of any other way to rephrase it.

The Court: Read the question.

(Question read.)

Mr. Paisley: Your Honor, I do not remember that there was any such testimony that the card had to be issued. Again he is testifying and putting his own characterization upon the testimony.

Mr. MacInnis: I withdraw the question, then, your Honor.

The Court: The question is withdrawn.

Q. (By Mr. MacInnis): Mr. Michener, you said that the lady named Helen Michener, who was your first wife, never had possession of your Communist Party card? A. That is correct.

Q. By the year 1941, and its beginning, you were no longer living with that lady, were you?

A. Earlier than that. [3808]

Q. When did you separate from her?

A. In the early part of 1940.

(Testimony of Lewis Herbert Michener.)

Q. In 1941 with whom were you living?

A. With my second wife.

Q. During all of that year?

A. The year 1941? No, not quite all of 1941, but the majority, the biggest part of that year.

Q. During what part of the year?

A. At least ten months, sir.

Q. When were you married to her?

A. In the early part of 1941.

Q. About what date?

A. I couldn't tell you exactly. Married in Las Vegas, Nevada, for the record. I suppose you could secure it there. My memory fails me as to the exact date on that.

Q. But that would be about the date that the Communist Party card came into the possession of your wife after that?

A. It would be sometime after that, yes, sir.

Q. That was the period of time that you had reference to this morning when you told the jury that your wife held your Communist Party card for you? A. Yes, sir.

Q. You did not make the distinction to the jury this morning that the person who held your Communist Party card as your wife did not engage in that activity until the year 1941, [3809] did you?

A. I didn't have occasion to, sir.

Q. You mean the question did not permit you to give that answer?

A. That is my interpretation of the proposition.

(Testimony of Lewis Herbert Michener.)

Q. Did you discuss the matter of who held your Communist Party card with any of these men throughout the noon recess? A. No, sir.

Q. With whom did you have lunch?

A. I had lunch today with a Mr. Larry Kessler.

Q. The same immigration agent?

A. What same immigration agent?

Q. Whom you mentioned before.

A. Yes, sir.

Q. Your second wife's name is what?

A. Mary Michener.

Q. She kept your Communist Party card during all of the times that you were married to her?

A. Not all of the time, but shortly after our marriage. I wouldn't know exactly how long it was.

Q. That is about a month after the date you married her at Las Vegas?

A. Say approximately a month, and I think we will be pretty correct on that.

Q. She kept that card, I suppose, until you separated? [3810] A. I imagine she did.

Q. What was done with the card then?

A. I am sorry, I couldn't answer that question for you. I don't know.

Q. I suppose you divided it up as part of the community property?

A. No, you will have to ask counsel, my counsel about that, that handled the divorce case.

Q. He would probably have it?

A. He probably would. I am sure he would be interested in it.

(Testimony of Lewis Herbert Michener.)

Q. He would probably have your card?

A. He probably would. I could furnish you his name if you like.

Q. I can find his name without your assistance. At these two meetings where you say you met Harry Bridges, the two you talked about, one here in San Francisco and one back in Philadelphia in the course of the national convention, under what name did you know Harry Bridges?

A. By exactly the name of Harry Bridges. That is the only name I have ever known Harry Bridges by.

Q. You did not know him by the name of Rossi?

A. No, I didn't know him by the name of Rossi.

Q. Didn't you know him by the name of Dorgan?

A. I never knew him by the name of Dorgan.

Q. What is your mother's maiden name? [3811]

Mr. Paisley: Your Honor, I do not think that is competent cross-examination.

The Court: Objection sustained.

Q. (By Mr. MacInnis): During those years, Mr. Michener, that you say you had these contacts with Harry Bridges, you knew that he was under fire, under accusation by the immigration authorities, didn't you?

A. I am not quite clear on that question as to what counsel means by "under fire." [3811-A]

Q. I will rephrase that. In 1940, when you said you attended a meeting with Harry Bridges at some residence here in San Francisco when you knew him only under the name of Harry Bridges, you

(Testimony of Lewis Herbert Michener.)

knew that the man had been the target in a deportation proceeding the year before, 1939, didn't you?

A. We didn't discuss that at the meeting, sir.

Q. You knew it, though, didn't you?

A. I did.

Q. And in 1943 when you were with this man at the national convention in Philadelphia, the national CIO convention, is that what it was?

A. That's correct.

Q. Again knowing him only under the name of Harry Bridges, you knew that in 1941 his deportation had again been sought?

A. That was the matter of public record, sir.

Q. You knew both of those things, didn't you?

A. That's correct.

Q. Now, to proceed into some of the other matters that you told the jury yesterday,— Pardon me. Do you want to take off your coat?

A. No, thank you. If I did, I would indicate it to His Honor. Thank you.

Q. You told the Court and jury yesterday under the questions put to you by the prosecutor that you were a paid official in the your union, the United Auto Workers, over a considerable period [3812] of time, didn't you? A. Yes, sir.

Q. From 1938 to 1944?

A. 1938 to 1944, with the exact statement being made yesterday under oath in this courtroom, that with the exception of one year.

Q. Yes. And again, to refer to your exact statement under oath, you said that there was one year in which you did not hold office, due to some internal affairs in the union. A. That's correct, sir.

Q. Will you tell the Court and jury what that circumstance was?

Mr. Paisley: Well, I object to it, Your Honor. I can't see any materiality to that.

Mr. MacInnis: Brought out on direct, Your Honor.

The Court: What was that, Mr. MacInnis?

Mr. MacInnis: I say, it was brought out on direct examination. He said yesterday under oath, in effect, "I held office in the union from 1938 to 1944, with the exception of one year, in which I did not hold office due to some internal affairs within the union."

The Witness: Your Honor, may I correct counsel's statement? I think the record will indicate 1939, in the Auto Workers.

The Court: All right. You might answer the question. There is a correction there, the witness makes the correction in [3813] the record. He says from 1939, is that right?

The Witness: That's right, with the Auto Workers. I believe that was the direction question placed to me, and I think I was a paid functionary in the United Auto Workers from 1939, April of 1939 up until December, 1944, with the exception of one year, that being the year 1941, counsel.

Q. (By Mr. MacInnis): Well, what was that circumstance?

(Testimony of Lewis Herbert Michener.)

A. Was that the question you wanted me to explain to the Court, counsel?

Mr. Paisley: That is the one I objected to, Your Honor. I don't see that that has anything to do with the real issue in this case.

The Court: I will overrule the objection.

The Witness: May I answer the question?

The Court: Yes.

A. That particular time we held a convention of the United Auto Workers in Buffalo. That convention fell some time after the North America strike in Inglewood, California. That has been indicated in the papers, and I would like to make this statement here now, that I was involved in the North America Aviation strike. I wasn't the leader of the strike, but I assumed responsibility for the strike after it was called. This created a controversy within the International Union of which I was a member then and am a member now. And we ironed out our differences at the convention. It was decided in Buffalo at the [3814] convention in 1941 that I should not be eligible to hold an office as regional director or be eligible to run for regional director of the West Coast in the seven western states for a period of one year, and so I was replaced by another man whom the delegates from the West Coast elected. However, during that period of 1941 up until the next convention, I was immediately placed upon the national CIO payroll and continued to conduct my organization activities from the West Coast in practically the same capacity I had while I was regional director.

Q. (By Mr. MacInnis): Mr. Witness, the so-called North American strike of which you speak was one that was called in the middle of the defense effort and toward which President Roosevelt was forced to call out the troops, isn't that correct?

Mr. Paisley: Now, Your Honor, just a minute. The witness has fully answered the question to which objection was made, and we find, as I thought we would find, that it is immaterial to the issues in this case. Now, he wants to go further and go into all the details of the strike.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Well, now, have you given to His Honor and the jury a correct narrative of what happened with respect to you and your right to hold office in the union at the Buffalo convention?

A. Well, Mr. Counsel, I can probably elaborate that somewhat and give the true facts surrounding the North American strike. [3815] It will take me perhaps an hour if I am at liberty to do so. I would gladly relate a blow-by-blow description of that situation. But I think I summarized it as briefly and as quickly as I could, for a matter of cooperation with the Court here.

Q. Well, now, you were present at the convention in Buffalo, New York, beginning August 4th, 1941, were you not?

A. I wouldn't say as to exactly August 4th, but

(Testimony of Lewis Herbert Michener.)

I would say it was early in August, and I was present.

Q. And you were present on the convention floor when the proceedings were had concerning you?

A. I was, sir.

Q. And you took part in those proceedings and in the discussion which evolved?

A. That's correct.

Q. And it was Mr. Walter Reuther himself who accused you of being solely responsible for the unauthorized North American strike; isn't that correct?

Mr. Paisley: Just a moment. I object to that, Your Honor—wholly and utterly immaterial to the issues in this case.

Mr. MacInnis: Your Honor, we are not bound by the witness' answer to this question, which came upon direct examination.

Mr. Paisley: I am not saying anything about his being bound. Certainly he is; it is a collateral issue. That is fundamental, Your Honor. But the point I make is that it is immaterial and [3816] irrelevant.

The Court: Objection sustained.

Q. (By Mr. MacInnis): Well, in your presence, Mr. Michener, a discussion was had about the North American strike, in which Walter Reuther said that you got on a soapbox and urged the workers to have an unauthorized strike.

Mr. Paisley: Pardon me. Mr. Counsel, it seems to me the Court has just ruled on this question and he is asking the same question in other language, Your Honor.

Mr. MacInnis: May I respectfully be heard, Your Honor? Now here is the situation. The counsel who yesterday told Your Honor that he was familiar with the subject matter, that he had gone over it with the witness, asked the witness questions about his holding office in the union, and he said, "Now, over what period of years were you a paid functionary or office holder in the union?"; the witness replied, advisedly, "I held office from 1939 to 1944, with the exception of the year 1941 in which I did not hold office because of some internal affairs of the union." Direct examination. So I then asked him what that circumstance was and over objection Your Honor permitted him to answer. But he gives a false answer, Your Honor. I have the record of what was said; I have the record of what this man said. Now, counsel says now that I may not inquire into it. This man gives a report to the Court that there was some little discussion and it was agreed by everyone that he shouldn't hold office as regional director for the year. Why, one of the focal [3817] points of the convention was this notorious North America strike, which was called by this man alone, in defiance of the United States Government, in defiance of Philip Murray, in defiance of Reuther himself.

The Court: The objection is sustained, counsel.

Q. (By Mr. MacInnis): Now, to come to this meeting, the first one of the two in which you described Harry Bridges as being present, you say that you came up from Southern California with a man named Kline, is that true?

A. That's correct. Paul Kline.

Q. Paul Kline. And how did you get up here? Did you drive or take the plane or what?

A. I drove my automobile.

Q. And then you and Mr. Kline, I suppose, stayed together while you were here in San Francisco?

A. Didn't stay together here, but we did stay together on the way up, as a result of some motor trouble I had. We stayed together at a motel down the line.

Q. And you went to the Shaw Hotel?

A. That's correct, sir.

Q. Did you stay there alone or with any other person? A. Stayed there alone.

Q. You were entirely alone. And you say that this meeting was in 1940 and that you later attended the convention here?

A. I don't recall whether I just exactly said that, but to make [3818] the record clear, why, certainly I have a—it would be convenient for counsel to read exactly what I said?

Q. It will. A. I would appreciate it.

Q. Yes. You said, on page 3678, "I attended one meeting here in San Francisco in '40 that was attended just by a few members at that time, and later on I was present at the State CIO convention that was held here, where Mr. Bridges was present . . ." A. That's correct.

(Testimony of Lewis Herbert Michener.)

Q. And that is the answer you gave under oath in part?

A. Well, if there is more to it, I would like to hear it, sir.

Q. Well, the other, the rest of it doesn't have relation to this fact. It says, ". . . and I attended several meetings in his office during the course of my career in the labor movement here in San Francisco with Mr. Bridges." A. Yes.

Q. But you did say the things that I just read?

A. Well, if that is an exact transcript of yesterday that I would testify to that again, it is the truth. I don't know whether I said in that exact language or not, but if that is what is true; why, that is what I said.

Q. Is that substantially the truth?

A. Substantially; let's put it that way.

Q. It is substantially the truth that you attended one meeting here in San Francisco in '40 that was attended by just a few [3819] members and that later on you were present at the State CIO convention that was held here? A. That's correct.

Q. When was the State CIO convention held here?

A. I believe—I would like to enumerate the State CIO conventions for the record to the best of my memory, if that could be or would be agreeable with you, counsel, first.

Q. Well, let me ask you this question first: Do you know where the State CIO convention of 1940 was held? A. Yes, sir.

(Testimony of Lewis Herbert Michener.)

Q. Where? A. Of nineteen what?

Q. Forty.

A. Not exactly without I could enumerate the conventions in sequence.

Q. Well, I will tell you. It was held in San Diego, Mr. Witness.

A. I was going to indicate to you I thought the one in 1939 was held in San Francisco. If I could have cooperated with you a little bit longer, I think I could have established that fact.

Q. Well, let me ask you this. In 1940 the CIO convention, the State CIO convention, was held not here but in San Diego, wasn't it?

A. I am taking your word for that.

Q. Well, if I showed you the documents, would you have any [3820] doubt?

A. No, sir, if you would show me the documents, I wouldn't have any doubt.

Q. Where was the CIO convention for the state held in 1941?

A. I believe in Hollywood, California, at the Roosevelt Hotel.

Q. No, that was held in Oakland.

A. It was held in Oakland.

Q. Now, where was the State CIO convention held in 1942?

A. Your Honor, may I have a moment here to put these conventions in order in my own mind?

The Court: Yes.

The Witness: I think I can give an intelligent answer.

(Testimony of Lewis Herbert Michener.)

A. (Continuing): I would say that the '42 convention was held in Hollywood.

Q. Yes. And the '43 convention was held where? Fresno? A. No.

Q. Not Fresno? Pardon me. Are you positive of that?

A. No, I am not, sir. I might indicate to you right here and now that it is rather difficult for me to place the exact meetings in a catalogue fashion year in and year out, as to where the State CIO conventions were held. I am not trying to hold back anything from counsel on it, but I really am not in a position to give you an accurate answer on it. I am sorry I can't cooperate more fully.

Q. Haven't you been a labor leader all these years, sir? [3821] A. I have, sir.

Q. And you have been a delegate at every one of those conventions?

A. I have, sir. I can prove that, sir.

Q. And in 1944 where was the State CIO convention held?

Mr. Paisley: I don't see that this is material, Your Honor. The witness said, page 3678, "I attended one meeting . . ."

Mr. MacInnis: I don't think we need any rescuing, Your Honor.

Mr. Paisley: Oh, I am not trying to rescue him, Your Honor, I am trying to save this trial from interminability.

Mr. MacInnis: I see.

Mr. Paisley: He stated he attended one meeting

(Testimony of Lewis Herbert Michener.)

here in San Francisco in '40 that was attended just by a few members at that time, and later on, "I was present at the State CIO convention that was held here, where Mr. Bridges was present . . ."; he didn't say it was in 1940. I assume he is trying to cross-examine him to prove that he didn't attend a meeting in San Francisco—that is, a convention in 1940 [3822]

Q. I suppose by reading that with a comma or semicolon we can get an entirely different meaning. What did you mean, Mr. Michener, when you said to the jury under oath yesterday, when you were about to embark upon this narrative of a meeting that you say you attended with Harry Bridges, "I attended a meeting late in '40 with just a few members present and later on I attended the CIO convention here"?

Mr. Paisley: No, he did not say that, your Honor. On page 3678 the question was, "When was that?"

He said, "I have attended several meetings here in San Francisco wherein Mr. Bridges was present. I attended one meeting here in San Francisco in '40 that was attended just by a few members at that time, and later on I was present at the State CIO convention held here where Mr. Bridges was present, and I attended several meetings in his office during the course of my career in the labor movement here in San Francisco with Mr. Bridges."

I submit that the witness did not say that the CIO convention here in San Francisco was held in

(Testimony of Lewis Herbert Michener.)

1940. Even if he did, it would be an inconsequential matter.

Mr. MacInnis: I guess all these things are inconsequential, Mr. Prosecutor.

Q. Weren't you told, Mr. Witness, that the only time following 1940 that the State CIO convention was held in San Francisco was five years later in 1945? [3823]

A. Will you just repeat that question, please, or have it read back to me?

Mr. MacInnis: Would you read that question back to him.

(Question read.)

A. I most positively and definitely was not told.

Q. (By Mr. MacInnis): When you said that you attended a meeting here in 1940 here in San Francisco with just a few members present, and that later on you attended the CIO convention here at which Bridges was present, you meant by that, of course, a date following the first meeting, didn't you?

A. I meant, sir, that at every State CIO convention Bridges has been present and I have been present with the exception of one or two.

Q. You meant that when you mentioned 1940, in your mind's eye you were jumping up to 1945 as to the time of the CIO convention in San Francisco?

A. Thanks a lot for the help, counsel, but that was not in my mind's eye.

(Testimony of Lewis Herbert Michener.)

Q. What did you mean when you said later on?

A. It could have been meant that I have attended meetings here with Harry Bridges other than that Communist Party meeting I referred to in the latter part of 1940. Trade union meetings—I have had several meetings with Mr. Harry Bridges in the labor movement.

Q. Now, look, Mr. Witness, you said a State CIO convention [3824] later on. What did you mean by that?

A. Later on. I guess I meant exactly what I said.

Q. When?

A. I am trying to cooperate here with the Court and tell the truth, and later on, if that is what I said, that is what I said.

Q. Did you mean by that a State CIO convention held in some other city?

A. Could have. I have attended State CIO conventions in other cities where Mr. Bridges was present.

Q. You could have meant that?

A. I could have, but I didn't.

Q. But you said that was held here, referring to San Francisco, didn't you?

A. I might possibly have, if that is what the record indicates.

Q. What did you mean, Mr. Witness, when you said that under oath?

A. I meant that I attended the labor union convention.

(Testimony of Lewis Herbert Michener.)

Q. "And I attended one meeting here in San Francisco in '40 that was attended just by a few members at that time, and later on I was present at the State CIO convention that was held here where Mr. Bridges was present." Now, by "here" you meant San Francisco, didn't you?

A. You might draw that conclusion.

Q. Before you took the stand as a witness, and confining [3825] ourselves now to the only point that we have reached in this interrogation of you, you made some effort to recall accurately the events about which you were going to give testimony, didn't you?

A. No, Mr. Counsel, if you are referring that I have attempted to school myself for this—my appearance here as a witness, certainly I could have done a better job of it if I had refreshed and memorized the dates of all meetings, and so on. I didn't attempt to do that at all.

Q. You did not make any attempt to make an honest attempt to refresh your memory as to the dates when these events presumably took place?

A. There is a few outstanding dates that are very important in my mind that I would be willing to indicate to you. Outside of that, the others I would have to say approximately.

Q. You wanted the Court and jury to believe yesterday when you gave your testimony under oath that you had in fact attended a meeting in 1940 in San Francisco when there were just a few members present, to use your words, and that later on you attended the CIO convention here with Harry Bridges?

A. I wanted to, at the questioning yesterday, Mr. Counsel, leave the impression, a true impression, that I did attend a closed Communist Party meeting in San Francisco in the latter part of 1940 wherein Mr. Harry Bridges was present. I said that yesterday. That was the truth yesterday. It is the [3826] truth today, and it will be the truth tomorrow, and from then on out, because I am telling the truth to you, sir.

Q. It will also be the truth that you attended a CIO State convention here with Harry Bridges later on? A. That could be correct, sir.

Q. But you say you were out of the Communist Party in 1945, didn't you? A. I said in 1944.

Q. Yes. 1945 is the date of the only CIO convention held in San Francisco after 1939?

A. If my memory serves me correctly, I thought it was held down at Santa Cruz in 1945, just reminiscing a little bit, Mr. Counsel, but it may have been in San Francisco.

Q. You are in error again. The Santa Cruz convention was in 1946.

Mr. Paisley: Your Honor, I object to counsel testifying. Again I say I can't see any inconsistency. The witness said later on he attended a CIO convention in San Francisco at which Bridges was present. Well, if there was one in San Francisco in 1945, it certainly was later on. He was just talking about meetings that he was at in San Fran-

(Testimony of Lewis Herbert Michener.)

cisco at which Bridges was present. He said that he conferred with him frequently in his office about union matters and so on. It seems to me we are wasting time on trivial, unimportant matters that Mr. MacInnis thinks are inconsistent. As a matter of fact, it [3827] is not at all.

Q. (By Mr. MacInnis): Mr. Witness, did you often stay at the Hotel Shaw?

A. No, not often, sir.

Q. How about in the year 1940? Would that have been about the only time you came here?

A. No, sir.

Q. You would have stayed more times at the Hotel Shaw?

A. No. As far as my staying in San Francisco is concerned, I would have stayed more times at the Hotel Whitcomb than I would at the Hotel Shaw, counsel. I believe that is correct.

Q. Can you remember any other occasion on which you stayed at the Hotel Shaw?

A. Oh, yes.

Q. When?

A. I can recall I stayed at the Shaw Hotel one time with a man by the name of Noah Tauscher, who was working for me as an international representative of the UAW, CIO.

Q. What year was that?

A. That was approximately—let's see——

Mr. Paisley: I do not see its importance, your Honor. What does that have to do with it? Some other time when he was at a hotel on a wholly different matter, I presume. He testified he attended a closed Communist meeting with Bridges here in San Francisco in 1940—— [3828]

Mr. MacInnis: I do not think we need these speeches.

Mr. Paisley: ——the next material testimony he gave was about a meeting in Philadelphia. Now he is asking about when he registered at the Shaw Hotel on some entirely different occasion. I think it is immaterial and irrelevant.

The Court: Overruled.

The Witness: I couldn't tell you offhand at the present time.

Q. (By Mr. MacInnis): Could you tell us the year?

A. I imagine it could have been within the same year of 1940. Being under oath, here I wouldn't want to say for sure, because I did stay on several occasions at the Shaw Hotel, on several occasions at the Whitcomb Hotel, but mostly when I came to the Bay area here for my work I stayed at the St. Mark's Hotel in Oakland, California. Those three hotels—and I am not trying to conceal anything—it may be possible for us to get the record of that hotel.

Q. It might be? A. Yes.

Q. Mr. Witness, when you came up with Paul Kline in 1940, before you had this meeting with Harry Bridges, under what name did you register at the Shaw Hotel?

A. Under the name of Lew Michener, or L. H.

(Testimony of Lewis Herbert Michener.)

Michener, or possibly L. H. Michener or Lewis H. Michener, or Lew H. Michener.

Q. Mr. Michener, I am going to show you an original registration [3829] card of the Hotel Shaw bearing date of February 9, 1940——

A. What was the date again, sir?

Q. February 9, 1940, showing that you and a man named Noah Tauscher registered at the Shaw Hotel, and I am going to ask you if that is not the only time in that entire calendar year that you registered at the Shaw Hotel. I am going to represent to you further that the hotel keeps numbered records and that is the only occasion when any name——

Mr. Paisley: I object to counsel testifying. He is not under oath and subject to cross-examination. He is talking about documents that are not in evidence.

The Court: Show him the document.

Mr. Paisley: Is that a photostat, counsel, of the same document?

Mr. MacInnis: Yes.

Mr. Paisley: May I look at it? It will save a little time.

Q. (By Mr. MacInnis): Does that registration appear to be yours?

A. On the surface, yes, sir.

Q. On the surface?

A. By "on the surface," that looks like my handwriting and has all the appearance of being a regular registration card. I don't know about the figures on the back, but I am sure that that handwriting, "L. H. Michener, 212 West 3rd Street" on the [3830] front certainly resembles my handwriting.

Mr. MacInnis: We will ask that in lieu of the original, which I promised to return to the hotel, the photostatic copies of the front and back of the card be received in evidence, your Honor.

Mr. Paisley: I certainly object to them, your Honor, on the ground that they are utterly incompetent, immaterial and irrelevant. It shows a registration at the Shaw Hotel February 9, 1940. I do not see any purpose that that could serve. He might have stopped there a half dozen times in 1940.

Mr. MacInnis: We will show that is the only registration of L. H. Michener or Lewis Michener in 1940 at the Shaw Hotel.

Mr. Paisley: That is not the way to prove that, your Honor. He should bring somebody from the hotel, put him on the witness stand, have him take an oath, and have him produce the records showing that is the only record that the hotel has.

The Court: The objection is sustained. Mark it for identification.

(The registration card was marked Defendants' Exhibit F-1 for identification.)

Mr. MacInnis: Have you finished conferring?

Mr. Paisley: Did we disturb you?

Q. (By Mr. MacInnis): Mr. Michener, do you still affirm under [3831] oath that you stopped at the Shaw Hotel here in San Francisco on some other date than that shown by the card?

(Testimony of Lewis Herbert Michener.)

A. I do, sir.

Q. You still claim you stayed there on another date? A. That is right.

Q. 812 West 3rd Street, I suppose, was the CIO office? A. It was my office, sir.

Q. In Los Angeles?

A. In Los Angeles at that time.

Q. What was your residence address at that time?

A. I believe my residence address at that time was 13—do you want to write it down?—1330 West 11th Street, the Marshall Apartments. I forget the number of the apartment. It has been several years. 1330 West 11th Street.

Q. It was in 1940, you say, that you went to this meeting at a residence on what you would call the Sunset Strip?

A. On which I was corrected by reference to the Sunset District. That was the district in which I attended the meeting. I did in my original statement make the reference to the Sunset Strip but was later on corrected and agreed with the correction that it should indicate Sunset District.

Q. What you mean by that is merely when you said "Sunset Strip" yesterday, his Honor, naturally being surprised at the use of such a phrase, suggested the Sunset Strip was a Los Angeles district. [3832]

A. I couldn't vouch for the fact that he was surprised, sir.

The Court: Nor I.

Mr. MacInnis: All right.

(Testimony of Lewis Herbert Michener.)

Q. So that you used the phrase "Sunset Strip" the first time you made a statement to Kaiser and Barber, this statement that you signed hurriedly in the latter part of April, 1949, at the Ford plant?

A. No, I didn't go over that script fast enough to indicate I had signed it "Strip." I said Sunset District, and the two gentlemen are present in the courtroom, and I am sure you can ask them the question as to whether—what really is contained in there. But certainly I had no intent to confuse any issue on it. It was certainly a slip of the tongue yesterday, and I take this opportunity to apologize to the Court for making the statement "Sunset Strip" when I should have said "Sunset District."

Q. Let me ask you this: Was it a residence district or a district that was partially stores, or what kind of district?

A. I would say 99.9 residential district.

Q. 99.9 residential? A. Yes.

Q. Who was the owner or occupant of the house?

A. I really couldn't tell you honestly.

Q. I thought not. You can't tell us the owner or occupant?

Mr. Paisley: I move that Mr. MacInnis' remark, "I [3833] thought not," be stricken from the record.

Mr. MacInnis: That is what I thought, Judge. I can't help it.

Mr. Paisley: You do not need to make remarks like that.

(Testimony of Lewis Herbert Michener.)

The Court: It may be stricken from the record.

Q. (By Mr. MacInnis): This house in the Sunset district or Strip was one in which you have no memory concerning the owner or the occupant?

A. That is correct, sir.

Q. Was the house occupied by a man, by a woman, or by a family?

A. I would say it was at least occupied by a lady, because I saw her leave just as we came in. As I said to you earlier, honestly I cannot tell you who owned the home or who occupied the home, whether there was a family there or not. I can't help you out on that much, counsel, because I don't really honestly know.

Q. This lady left the house as you entered?

A. That is right, sir.

Q. And of course didn't show her face.

Mr. Paisley: What does he mean by that?

Q. (By Mr. MacInnis): Were you introduced to the lady?

A. No, sir. I am in the dark about what you mean by showing her face. She didn't wear a veil or anything that would hide her face. Certainly I saw her face. Maybe someone else [3834] didn't.

Q. You didn't inquire of anybody present at this little gathering as to whose house it was?

A. I would have no occasion under those set of circumstances to inquire as to who owns this place. I mean, after all, I was invited out to that meeting. That was somebody else's headache who owned it, not mine.

(Testimony of Lewis Herbert Michener.)

Q. It was a headache?

A. I will say that if you are going to make an issue out of it, somebody else can answer that, not me.

Q. You made no inquiry as to whose house it was and nobody told you? A. Sir?

Q. Nobody told you whose house it was?

A. That is correct.

Q. As you told us yesterday, the subject of the discussion that you had out in this mysterious house was the disposition of funds from Labor's Non-Partisan League?

A. That was the major issue that I was invited to attend the meeting on. There was another problem discussed, but I was invited to discuss the issue of the Labor's Non-Partisan League.

Q. Who was the head of the Labor's Non-Partisan League?

A. At that time it was John L. Lewis.

Q. John L. Lewis? [3855]

A. That is correct, sir.

Q. Was he a member of the Communist Party at that time?

A. No, not to my knowledge, he never was.

Q. What were the funds for Labor's Non-Partisan League? A. Sir?

Q. What were these funds?

A. Oh, these were funds accumulated from donations made by local unions, made by local unions and sent to the head office of Labor's Non-Partisan League.

(Testimony of Lewis Herbert Michener.)

Q. Have you finished?

A. You have the floor, sir. [3836]

Q. And what was to be the disposition of these funds? Where were they to go?

A. The funds—the problem was of getting the funds back so that there was a lot of work to be done in the, so to speak, as we termed it in those days, grassroots. But I had better explain that to you so we won't have some hidden identity back of that phraseology. It was for doing a district assembly work within the various districts, assembly districts. The people there felt as though they needed money to get out leaflets and, on particular issues, leaflets supporting various particular candidates and that sort of thing. And that was why we felt at that time that there ought to be a little more equal distribution of these funds between the north and the south, so that this particular program could be carried on.

Q. And your best memory is that the funds of Labor's Non-Partisan League came into existence in the year 1940 and were hence the subject of this discussion that you had?

A. No, I wouldn't exactly say that. I don't believe I testified to that, sir.

Q. Well, were there funds of Labor's Non-Partisan League in existence in 1940?

A. That is my understanding of it, as I testified here.

Q. That is when you say this meeting took place?

A. That's right.

(Testimony of Lewis Herbert Michener.)

Q. Didn't Mr. Kaiser tell you that the funds of Labor's [3837] Non-Partisan League were funds allocated in the year 1938 and used up in that year and the year following, and that they were never thereafter revived. Didn't he tell you that?

A. I never remember seeing Mr. Kaiser at Labor's Non-Partisan League meetings. I didn't know he was a member. That is something new to me.

Q. You say John L. Lewis was the head of the Labor's Non-Partisan League?

A. That's correct, that's correct, on a national basis.

Q. Was there a man named George Creel who headed Labor's Non-Partisan League in California?

A. George Creel?

Q. C-r-e-e-l. A. No, not to my knowledge.

Q. You never heard of him?

A. I have heard of him, but I didn't know of him heading up Labor's Non-Partisan League.

Q. Where did you hear of George Creel?

A. Vaguely, in my mind, apparently, seems to me that he was one of our local politicians, I believe. Just offhand, that strikes me. I may be wrong, but that is the first impression I get to answer your question.

Q. You say he was a local politician?

A. I would say that is what—where I first heard of him, I believe. At one time, perhaps, he may have run for governor, or [3838] was thinking of running for governor of the state, or maybe it is a different

(Testimony of Lewis Herbert Michener.)

man. I don't know. The name "Creel" kind of sounds familiar, sir. I am trying to help you.

Q. Was he a politician in Northern California or Southern California?

Mr. Paisley: Well, now, wait a minute. Pardon me, counsel. If Mr. Creel wasn't at the meeting, Your Honor, are we really concerned about when he heard about Mr. Creel? I object on the ground it is immaterial and irrelevant when he heard about Mr. Creel.

The Court: We will take the recess, ladies and gentlemen of the jury. We will take the afternoon recess, and the same admonition to you now, not to discuss the case under any conditions, nor to form an opinion until the matter is submitted to you.

(Recess.)

Q. (By Mr. MacInnis): When we convened this afternoon at 2:00 o'clock you told the Court and jury that your Communist Party card, during the first two years or so of your membership or so was held by the Communist Party itself, is that correct?

A. Yes, that's correct. I hesitated to answer that for a minute, Mr. Counsel, but I do believe it was this afternoon's session that that was raised.

Q. And you didn't ever tell your first wife about your membership in the Communist Party? [3839]

A. No, I didn't.

Q. And you married her when you were already a member of the Communist Party?

(Testimony of Lewis Herbert Michener.)

A. Let's get this straight now. Which wife are you referring to, the first or second wife?

Q. Oh, I think I said that.

Mr. MacInnis: Would you read the question to him?

(Record read.)

Q. (By Mr. MacInnis): Referring to your first wife. A. No, sir.

Q. You joined while you were married to her?

A. That's correct, sir.

Q. And you were still a member of the Communist Party when you separated from her?

A. That's correct, sir.

Q. And during all of the time you remained married to that lady you never told her of your membership in the Communist Party?

A. That's correct.

Q. You never indulged that confidence with her?

A. That is correct.

Mr. Paisley: He said so, Your Honor, two or three times.

Q. (By Mr. MacInnis): Now, with reference again to these funds of Labor's Non-Partisan League about which you said you had that talk out in the residence in the Sunset District, you didn't have the funds out there with you, did you? [3840]

A. No, sir.

Q. You weren't dividing the funds in the house at that particular time?

A. Oh, definitely not.

Q. Pardon me?

(Testimony of Lewis Herbert Michener.)

A. Definitely not; no, sir. We didn't have no funds out there.

Q. Well, have you learned since the last recess that the funds for Northern California, as sent here to the state by John L. Lewis, were handled by George Creel? Do you remember that?

Mr. Paisley: I object to the question, if the Court please, on the ground it is not a question: it is testimony by counsel, and he is not on the stand, not under oath.

The Court: Sustained.

Q. (By Mr. MacInnis): Well, were you told in the recess by any of the prosecutors that the funds for Southern California of Labor's Non-Partisan League were handled by Phil Gibson, who is now a Justice of the Supreme Court of the State of California?

Mr. Paisley: Pardon me, Your Honor. That is just an inartful attempt to get around the Court's ruling by saying, "Were you told that by some government investigator?" That is all it is. We object to it on the same ground, Your Honor.

Mr. MacInnis: We certainly have a right to ask that.

The Court: Sustained.

Q. (By Mr. MacInnis): You say you went to work for the Ford [3841] plant in 1933?

A. Yes, sir.

Q. What month?

A. That would have been in November, I believe. It would be late in 1933, sir. I wouldn't say

(Testimony of Lewis Herbert Michener.)

offhand, I believe November of 1933. I am not positive on that, but I would say approximately November.

Q. Now, coming to this convention, the National CIO convention of 1943 that you attended, did you say that that took place at the Bellevue-Stratford Hotel in Philadelphia? A. Yes, sir.

Q. And the meeting that you had in which you identified Harry Bridges as being among those present, took place in a room at that hotel?

A. That's correct, sir.

Q. And the preliminary matter that you offered the Court as part of the recital of what took place was the election in the State CIO convention here in California. You said that Slim Connolly or Philip Connolly, whichever name you used, had defeated this man named James Thimmens for the presidency of the union. A. That's correct.

Q. Now you are sure of that, are you?

A. Sure of what, sir?

Q. Of that statement.

A. That Slim Connolly defeated Mr. Thimmens for the election [3842] for president of the State CIO for California. The record, I think, will speak for itself in that connection, yes, sir.

Q. Isn't it true that Mr. Thimmens didn't even run against Mr. Connolly that year?

A. I wasn't present at that convention. I understand, however, that he did, and withdrew, because it was certainly pretty well understood by all the right wing forces in the state that he was a candidate. I was held up in the East at that time on other work of the union.

Q. Well, now, yesterday under oath, when the prosecutor was examining you, you said this:——

Mr. Paisley: Just a moment, Your Honor. I would like to have this word, or these words "under oath" eliminated from these questions if we can. Of course the witness was under oath all the time that he was on the stand. Each time he asks, "Yesterday you testified under oath, didn't you, . . ." so and so. I think that is improper.

I thing that is improper.

The Court: Well, it may be regarded, counsel, as a habit of an examiner; various habits crip into our mode of examination. I see no harm in it. It is two or three extra words and it certainly does no harm. We understand the witnesses are under oath. The jury understands that, of course.

Q. (By Mr. MacInnis): This question was put to you:

"Do you know who the candidates had been when Mr. Connolly was elected?" [3843]

"A. I do.

"Q. Who were they?

"Answer: Mr. Thimmens and Mr. Connolly were candidates for the state presidency of the California State CIO."

A. Yes, sir; and I still repeat that, that is my—would be my answer if you asked me the question again today. To the best of my knowledge, that was the exact set of circumstances.

Q. Well, actually, wasn't the opponent who op-

(Testimony of Lewis Herbert Michener.)

posed Mr. Connolly at that election in 1943 a man named Walter S. Pollard?

A. If Walter S. Pollard opposed Slim Connolly at the convention you refer to, it was certainly with the approval, then, of Mr. Thimmens.

Q. Now, you told the Court and jury yesterday that Mr. Connolly and Mr. Thimmens ran against each other and that Connolly was elected?

A. That's right.

Q. Now, let me ask you this: Isn't it true that the election that year for the presidency was between Mr. Connolly and Walter S. Pollard of the Shipyard Workers and that Connolly got 571 votes and Pollard got 199, Pollard being defeated, Thimmens not being a candiate at all. Isn't that true?

A. I couldn't vouch for whether it is true or not, sir.

Q. Well, I will show you a copy of the news story in the San Francisco Chronicle concerning that election, Tuesday, October 26, 1943, and I will ask you to read it over, please. [3844]

(Paper handed to the witness by the Clerk.)

Q. (Continuing): And you told the Court and jury yesterday that one of the arguments or discussions about what the prosecutor called this "strange and unusual procedure" was that it was argued that the rank and file had elected Connolly over Thimmens and that the will of the rank and file was being thwarted by replacing Connolly with Thimmens. You told them that, didn't you?

A. I believe I did, sir, words to that effect.

(Testimony of Lewis Herbert Michener.)

Q. Well, now, you accept the fact, don't you, that the persons running for the presidency of the State CIO that year were Philip M. Connolly defeating Walter S. Pollard? Do you have any doubt of that?

A. That is what it said on that slip of paper you handed me, sir, purportedly a news story, and the figures as you quote them are the same as on that paper. I will vouch for that. I will indicate to you again, the record speaks for itself, that Thimmens later on did become the state president by virtue of the fact of the meeting that I explained here in detail to you, that was held in the Bellevue-Stratford Hotel during the National CIO convention. The record is clear on that, on this particular instance here that you refer to. I don't affirm or deny it. But I do know that Thimmens has been an outstanding leader of—and Slim Connolly—of the State and did run against Slim Connolly, if not at this convention, at—has run against [3845] Slim Connolly. I make that statement to you and also the Court.

Q. You mean if that wasn't in this year, it was some other year?

A. Well, let's consult the record on that. I am sure we will find that I am attempting here in the best way I can to tell you the truth, sir.

Mr. MacInnis: Now I will ask that this copy of the news item of the San Francisco Chronicle be received and marked as Defendant's next.

The Court: For identification. So ordered.

(Testimony of Lewis Herbert Michener.)

(Thereupon purported news clipping from the San Francisco Chronicle, referred to above, was marked Defendant's Exhibit G-1 for identification.)

Q. (By Mr. MacInnis): Well, now, forgetting for a moment this story about the defeated candidate Thimmens being asked to replace the victorious one Connolly, let's go into this meeting that you say you had in the room at the Bellevue-Stratford at Philadelphia. You named several of the persons who were in the room, didn't you? A. Yes, sir.

Q. And you said there were others whose names you could not recall? A. Yes, sir.

Q. About how many people were there in all?

A. Oh, approximately 15, I would say, sir. [3846]

Q. And you named seven or eight of these people? A. That's right.

Q. And have you any idea who the other seven or eight were?

A. I have a slight idea who they were, yes, sir, but I couldn't name them for you, because I do not know their names.

Q. Well, actually, if you were at the convention and if there was any discussion in any kind of meeting, there was a member of the Communist Party named Rathborne present, wasn't there?

A. Where at, sir?

Q. At Philadelphia. A. No, sir.

Q. There was no man by that name present?

A. Not to my knowledge, sir.

(Testimony of Lewis Herbert Michener.)

Q. Now, you say that nevertheless there were about 15 people in this meeting?

A. I would say approximately 15, to the best of my recollection.

Q. And you can not give us the names of the other seven or eight, as the case may be, whom you haven't named yet?

A. That is true, I can not.

Q. But you are quite definite as to the presence there of the persons whose names you did give us?

A. I knew those people, sir. That is the difference between that and those that I did not know.

Q. The other people were people you didn't know at all? A. That's correct. [3847]

Q. Had never seen before?

A. I wouldn't say—I have saw them before that meeting, saw them at the convention. They were convention delegates. I saw two or three of those people that were there with, they were close friends, apparently, of Slim Connolly. I saw them there in his presence. But as to who they were, I couldn't tell you their names.

Q. Everyone present in that room was a delegate to the convention? A. Not everyone, no.

Q. Well, now, you named a man, let us say, the name of Jim Doherty. Who was he?

A. He was a delegate.

Q. From what union? A. Utility Workers.

Q. And from what city?

A. Los Angeles, California.

(Testimony of Lewis Herbert Michener.)

Q. And he was present at the convention as a delegate?

A. Best of my recollections, yes, sir.

Q. And he was representing the Utility Workers of Los Angeles?

A. The best of my recollections, I believe that is the organization he represented. I know he headed that organization for quite a considerable length of time.

Q. Now, the CIO National Convention kept printed records, did it not? [3848]

A. I imagine they did.

Q. Of all convention proceedings?

A. It was general practice, sir.

Q. You were a delegate, weren't you?

A. I was.

Q. And the name of all delegates are printed in the CIO convention book for that particular year, isn't that a custom?

A. It is a custom. I don't recall having a copy or receiving a copy of it, that you refer to or make reference to there.

Q. Well, now, I have marked with a piece of paper the list of delegates at the CIO convention, 1943, the national convention. I am going to ask you to look at it and see if you can find the name of Jim Doherty listed as a delegate.

Mr. Paisley: Well, unless he testified, Your Honor, that Doherty was a delegate, I don't see that we are embarking upon proper cross examination.

(Testimony of Lewis Herbert Michener.)

Mr. MacInnis: I heard him testify a moment ago that that is what Doherty was.

(Document handed to the witness by the Clerk.)

Q. Jim Dougherty was not a delegate at all at the convention of 1940, was he?

A. I was unable to discover his name in there.

Q. And this is the official convention proceedings, is it not?

A. I assume it is. It looks official to me. I would say that it was, although I never received a copy of that proceedings, but I assume it is official, sir.

Q. He is not listed as a delegate at all?

A. I couldn't locate his name in there. I hastily glanced through it. It may be there. I may have taken a little time and gone slower through there, but I didn't discover it there.

Q. You still say he was a delegate, though?

A. I said to the best of my recollection, sir, he was a delegate.

Q. In saying that you saw him there, you are mindful, of course, that you know Jim Dougherty well?

A. I know Jim Dougherty. I don't know about the "well."

Q. He was not a stranger to you?

A. Not a stranger. Just what you mean by "well"—if you mean a bosom pal, not to that extent.

Q. Had you known him over a period of years?

A. Yes, two or three years, I imagine. Let's see.

(Testimony of Lewis Herbert Michener.)

I have known him for about—I first met him around about 1940, I [3850] guess.

Q. These official convention proceeding books list all delegates, don't they?

A. That apparently does there. I checked to find if I was listed as a delegate. I find my name there.

Q. Yes, you are there. A. Yes, sir.

Q. But Dougherty isn't?

A. That is correct.

Q. And you knew Dougherty better than you ever knew Harry Bridges, didn't you?

A. No, I wouldn't say that.

Q. You wouldn't say that?

A. No, I would not.

Q. But you were willing to come here and put the man named Dougherty, who is not on trial at all in this case, in part of your testimony without even checking up to see if he was present in Philadelphia, weren't you?

Mr. Paisley: Your Honor, he could have been there at the convention without being a delegate.

Mr. MacInnis: We know.

Mr. Paisley: What this witness said is Dougherty was in the Communist Party meeting there in the hotel. He said that. He could have been there and that could have been true, and yet he might not have been a delegate. [3851]

Mr. MacInnis: Judge, he said he was a delegate there. We would not be so concerned if the witness had not said a moment ago Yes, he was a delegate. That is what he says.

(Testimony of Lewis Herbert Michener.)

Mr. Paisley: May I see your book there, Mr. Counsel?

Q. (By Mr. MacInnis): You say that at this secret meeting that you participated in in the hotel room some man named Hudson told those present, including Bridges, that there were orders from the top party leaders about a certain maneuver that was to take place, is that right?

A. That is right.

Q. Before you went into that meeting did you know what this top Party policy was to be?

A. I did not.

Q. Like yourself, according to you, Harry Bridges sat there and also listened to this man named Hudson say what the top leaders had said?

A. That is a matter of testimony. I said that, yes, sir.

Q. And who were these top leaders who had made the decision?

A. It wasn't indicated to us by the top Party of the Communist Party as far as mentioning names is concerned. I do not recall that this man, Roy Hudson, mentioned any particular name or names, as far as the top Party was concerned, but definitely left the inference that they had this meeting, as I related to you in court, sir, and that this was a decision that had been arrived at. [3852]

Q. Did this man Hudson say that it was some great party like Lawrence Ross?

A. I told you, sir, to the best of my recollection no names were mentioned, and if the name Lawrence

(Testimony of Lewis Herbert Michener.)

Ross was used, it was not used in my presence. I don't recall any top Party official's name being used in the meeting, only to indicate the top officers had discussed the problem, period.

Q. Didn't Hudson tell Harry Bridges that the great Communist leader whose decision you must follow blindly was Manning Johnson? Did he tell you that?

A. I told you, sir, honestly and truthfully, no personal names were mentioned, that if they had been, I certainly would have recorded them for the reference here of the Court.

Q. From your general understanding of the Communist Party, a top leader, I suppose, would be a man on some committee which would rule the Party? Would that be true? A. No, sir.

Q. Is there some committee which is the executive committee or the highest ruling body within the Communist Party?

A. They have their duly elected officers.

Q. What are the names of those committees?

A. The officers—I don't know the names of the committees, but it is the top committee of the Communist Party, which has its present, its executive secretary. I think the record will indicate and show at that time, to the best of my [3853] recollection, the president was William Z. Foster and the executive secretary was William Browder.

Q. William Browder? Tell me this: Did this man Hudson say the orders had come from William Z. Foster?

(Testimony of Lewis Herbert Michener.)

A. I told you, sir, no names were mentioned. I am telling you the truth on that, so if you stay there all day you won't get a different answer on that.

Q. I am willing to stay here all day.

A. So am I, sir.

Q. Is there some committee in the Communist Party that has ruling powers or executive powers?

A. Well, executive ruling powers and executive powers, certainly. They are commissioned with that responsibility. I never attended a Communist Party Convention. I have had reports back from Communist Party conventions, and certainly they are delegated with the authority of making decisions and running the organization to the best of their ability.

Q. What is the name of the chief ruling body in the Communist Party? Is there some name that the ruling body has?

A. They have a name for it. It just slips my mind right now, sir.

Q. You were in the Communist Party from 1938—— A. Yes, sir.

Q. ——to 1944? A. Yes, sir. [3854]

Q. But you can't tell us the name of this ruling body?

A. I have it on the tip of my tongue, but I am not going to make a mistake and tell you the wrong name. I can't call it to you right at the present time. I probably can before the session is over, if I

(Testimony of Lewis Herbert Michener.)
have a little time to ponder on it. I will do the best I can to accommodate you.

Q. When Hudson said he had top Party orders, didn't Harry Bridges say, "From whom did those orders come?"

A. No, I don't recall Harry Bridges saying that.

Q. He was not curious about that. Didn't Harry Bridges say, "Why, I am one of the top Party men. I am one of the ruling bodies of the Communist Party myself. I am the top Party man around here"? Didn't he say that?

A. If you have testimony to that, you use it. I won't say that.

Q. That didn't take place? A. No, sir.

Q. You were present during all the proceedings had at this convention of the CIO in 1943?

A. I won't say I was present at all of them, because I did have other work to do. We had an Executive Board session of my organization, the United Auto Workers. You will notice a list of officers are listed there as delegates, I believe, and I won't say I was present at every session of the convention—almost all. [3855]

Q. You voted at that convention?

A. I did.

Q. Upon the resolution concerning Harry Bridges, didn't you?

A. I believe—also it is customary at the conventions to poll—have a roll call on those. I think that would be a matter of record also, by voting record there. I am sure at that time if there was an

(Testimony of Lewis Herbert Michener.)

issue concerning Harry Bridges, I certainly voted in support of him.

Q. You did?

A. I say if there was an issue.

Q. You heard the Harry Bridges resolution and you voted in favor of it, didn't you?

A. I didn't hear the resolution made, sir, and to refresh my memory, if you would let me see the resolution, maybe I could help you out a little bit on my testimony here.

(A document was shown to the witness.)

A. Yes, sir, I would have voted in favor of that resolution. I am sure I would. I have certainly voted in favor of similar resolutions in the Council, local unions, and influenced others to support such resolutions.

Q. And you were present at that time?

A. I don't recall offhand whether I was or not, but we voted in a bloc as far as most of the issues are concerned in the UAW. I even believe in that particular instance that Walter Reuther had no other recourse than vote along on that [3856] resolution there.

Q. And the resolution was this, "That whereas the order of Attorney General Biddle to deport Harry Bridges, and the deportation proceedings"—

Mr. Paisley: I do not know what he has got there, your Honor, but I object to his reading from something that is not in evidence.

Mr. MacInnis: Something this man voted on, your Hon

The Court: The objection is sustained.

Mr. MacInnis: May I be heard on that, your Honor? Here is a resolution that this man voted for on the convention floor, heard discussed, and participated in, involving the very issues that are present in this case.

The Court: Objection sustained.

Q. (By Mr. MacInnis): Were you present on the convention floor when Harry Bridges spoke to the convention?

A. I believe I was. If my memory serves me, I was present when Harry spoke. Made it a point to be there.

Q. Do you remember what he said?

A. No, sir, I can't recall verbatim what he said. I have heard several speeches by Mr. Bridges and I couldn't commence here to put them in order and tell you everything Harry said since I have known him.

Q. He spoke in favor of the war effort, didn't he?

A. I imagine he would at that time, yes, sir.

Q. And he spoke about the interest of the labor movement to prosecute the war to a victorious end?

Mr. Paisley: Pardon me——

The Court: The objection is sustained, Mr. MacInnis.

Q. (By Mr. MacInnis): Now, Mr. Michener, at some point within the war years you became a member of the War Labor Board, didn't you?

A. Yes, sir.

(Testimony of Lewis Herbert Michener.)

Q. You were one of the labor union members of that board? A. That is correct.

Q. And in order to qualify for your position on the War Labor Board, you had to fill out a document of application, didn't you?

A. Yes. Yes, there was a document that had to be filled out, as I recall it. I served on several bodies, and I believe—I am sure that there was some statement connected with that, that responsibility. However, I am not sure. I would have to see the document to identify my memory with that, too. I served also on the California Apprenticeship Council and various propositions, and I wouldn't know offhand as to what the document was that would have to be filled out for the War Labor Board, whether there was one at all. It seems to me there was though. [3858]

Q. What was the year in which you were a member of the War Labor Board?

A. That followed '40—let's see. That was in '43 also, I believe.

Q. '43?

A. I would have to check that to refresh my memory, but I believe it was during that period that I served on the War Labor Board. The best of my recollections.

Q. And in the questionnaire that you had to fill in and answer, you were asked the question, "Are you now or have you ever been a member of the Communist Party, U.S.A., or any Communist organization?", weren't you?

(Testimony of Lewis Herbert Michener.)

A. I can't agree with you, Mr. Counsel, that I asked that question or had to fill out that application.

The Court: Would you show the witness any application you have?

Mr. MacInnis: I have a form.

Mr. Paisley: Oh, well, that wouldn't do, Your Honor. He would have to show him something that the witness allegedly had signed. We can get forms, I suppose we can get a truckload of them here in this building—the tax place over here.

The Witness: Your Honor, perhaps I recall,—the executive secretary of the War Labor Board was Thomas Fair Niblett, and I don't know if he is still located in San Francisco or not, but certainly if there was any such files filed, he would [3859] perhaps know about it and suggest we utilize his source to get that, because I couldn't be in the position here, honestly, to swear under oath here as to whether that is the regular form or whether I ever filled out such a form as that. But if I see one with my signature on it, certainly then I wouldn't hesitate a moment to indicate to you that. But as far as concealing my party membership, I made the statement here earlier that I had told various officials in the union that I never was a member of the Communist Party, and I also made the statement, sir, that under oath and I consider that this is under oath, that I never indicated or lied about my affiliation with my Communist Party. Now, under those circumstances I doubt very much, I do doubt, and the fact of the matter is, Mr. Counsel,

(Testimony of Lewis Herbert Michener.)

that I will buy you a new hat if you will, or can, bring me up some statement of where I put my signature on these circumstances.

Q. When did you last see the application that you made for the War Labor Board?

A. I will tell you. I have no recollection of making an application for the War Labor Board.

Q. When did you last discuss it?

A. Oh, I couldn't give you an intelligent answer. When I last discussed what, sir?

Mr. MacInnis: Well, now, Your Honor, I am going to ask that the Government counsel produce the original of whatever application this man signed, because it is under oath. [3860]

The Court: There is no indication that any such application has ever been signed.

Mr. MacInnis: Well, Judge, we know that to be true, that he couldn't be on that board without signing it. I think Your Honor can take judicial notice of that fact. Would Your Honor request the Government to produce such a document if it exists, for I am sure it exists?

Mr. Paisley: Your Honor, all he has there is a civil service application blank. That is what he is parading to the witness.

Mr. MacInnis: I am informed that this is the questionnaire that was submitted to persons wishing to qualify for that post, Your Honor.

The Court: Qualify for a particular post on the War Labor Board?

Mr. MacInnis: Yes.

(Testimony of Lewis Herbert Michener.)

The Court: This is a civil service form?

Mr. Paisley: Yes, sir, regular old form—what is it? Ought to know the number of it. Form 57. Everybody in the federal service has heard of it.

Mr. MacInnis: Well, I think, Your Honor, that it is entirely in order to request that you order the prosecution to bring in the original form signed by this man, if there is any form.

Mr. Paisley: Let me see this. [3861]

The Court: Did you sign any application when you were made or caused to be appointed by this board?

The Witness: No, Your Honor; to the best of my knowledge, I really didn't.

The Court: Do you recall the circumstances under which you entered the service on the War Labor Board?

The Witness: Yes, I do. My name, Your Honor, was placed as a recommendation by the president of my international union, R. J. Thomas, and also was place there by Philip Murray. Of course, R. J. Thomas recommended to Philip Murray, and jointly they proposed my name to serve on the tenth, I believe it was, the Tenth Regional Board, which comprised——

The Court: What was the date, approximately, of that?

The Witness: To the best of my recollection, Your Honor, it would be in 1943.

The Court: Where?

The Witness: Their head offices were here in

(Testimony of Lewis Herbert Michener.)

San Francisco on Market Street, in the old Furniture Exchange Building.

The Court: Were you a member of the Tenth Regional Board?

The Witness: Yes, sir. And Thomas——

The Court: How many other members served with you?

The Witness: There were—was one other member serving with me, representing the CIO. His name was Wilson. He was the representative from the Rubber Workers of the CIO. He was an alternate that took my place quite frequently. And then there [3862] was another man, representing the Steel Workers. His name slips me right now. Then representing the A.F. of L. for the time I was on the board was one man that I remember very distinctly, was Jack Shelley, representing the A.F. of L. He was from San Francisco here. And I don't remember too many of the industry members. I do remember that Paul Shoup of the Merchants and Manufacturers who has since passed away. But he was a member of the board.

The Court: After your name was submitted or your nomination suggested, what procedure was adopted toward your serving and receiving the credentials?

The Witness: I was notified by the president of my organization, R. J. Thomas, that I had been appointed and accepted to serve on the board. Now there were forms that I filled out.

The Court: Did you take an oath of any kind looking toward your service upon that board?

The Witness: It seems to me that there was a regular, an oath that I would serve to the best of my ability and not—and so forth and so on, and not——

The Court: Was it on a comparable form to that submitted, as referred to by Mr. Paisley as Form 57?

The Witness: I really—my honest opinion of it, Your Honor, I don't believe it was.

Mr. Paisley: Your Honor, this form which counsel has was approved by the Civil Service Commission in November 1947. I [3863] happen to know that these questions with reference to loyalty of employees and applicants have been changed, changed several times, as a matter of fact; and the present form, I understand, is as is on this form. But in 1943 I know that the questions were totally different than those on this form.

Mr. MacInnis: That is why we woudd like the original, Your Honor, so there would be no leaving it to the memory of the witness.

The Court: Well, of course, counsel, you base your request upon the supposition that there is an original.

Mr. MacInnis: Oh, I know that to be true.

The Court: You know that to be true?

Mr. Paisley: How does he know it, sir?

The Court: Any document that may be in existence or have a reality, under these circumstances, I

(Testimony of Lewis Herbert Michener.)

will order produced. But I would not make an order with respect to a non-existent document.

Mr. MacInnis: Of course not.

The Court: And then let it be said that the Government has failed to respond to an order of the Court. Usually an order is made predicated upon the basis of a document in fact in existence. Now Mr. Paisley suggests to me that the questions are different now. He apparently has knowledge on this particular subject; I have not. As to this Form 57, that apparently is one that is used in the ordinary Civil Service routine. The [3864] gentleman on the stand states that he took an oath; no doubt he did. The form may well have been the usual short form of oath, and there may well not have been any reference to Communist affiliation or the like. Now I can not make an order that we require government counsel to go on a quest for a non-existent document, and then let it be said hereafter that they failed to produce a document.

Now you say you have knowledge that such a document is in existence. Without adopting Mr. Paisley's suggestion, may I ask you what the basis of that knowledge is?

Mr. MacInnis: Well, one of the first bases that I would point out to Your Honor is that I have evidence that this man on the witness stand talked over the answers that he should give to certain questions with another person, and that those questions were contained in the document to which I have reference. Aside from any ordinary knowledge that he would have about the necessity for an application, we would of course know that the Government wouldn't lightly appoint a person to the War Labor Board without making at least a cursory examination into the background.

The Court: Mr. Donohue or Mr. Paisley, do you have knowledge whether these documents are now in existence here?

Mr. Donohue: I never heard of it, if Your Honor pleases. In fact, I am wholly unfamiliar with what the War Labor Board is or was. [3865]

Mr. MacInnis: I guess there wasn't any, Judge.

Mr. Donohue: I said I wasn't familiar with it, if Your Honor pleases.

The Court: Well, I will ask the Government——

Mr. Donohue: If there be such a document——

The Court: I will ask the Government, without making an order presently, to make a survey to determine whether or not there are any records in existence, looking toward this witness taking an oath, and if the oath appear in and under some written form that that oath be produced.

Mr. Donohue: You may be assured, Your Honor, that if there is any such document obtainable and we may obtain it, we shall get it. I had hoped that Mr. MacInnis, when he said he knew there was such a document, might help us locate it.

The Court: Mr. MacInnis said that with an assurance that he had knowledge. Now I am willing to make any order or directive or suggestion that may be in keeping with the fact. But I am not going to send government counsel on the question of a non-existent document:

Mr. Donohue: Well, we will do our best to——

The Court: I will ask you, Mr. Donohue, to make a survey under my suggestion to determine whether there are any documents in existence of the type, character or description generally alluded to by Mr. MacInnis.

Mr. Donohue: That shall be done at once, Your Honor. [3866]

The Court: And that such a document be produced.

Mr. Donohue: I shall, Your Honor.

Mr. MacInnis: May I state that my information generally would be that there would be two documents, one an application form, the other would be a matter that you referred to, a short form oath, when he would be admitted to the post.

The Court: Let us see what there is in existence.

Mr. MacInnis: Yes. Shall we take the recess, Your Honor?

The Court: Yes. We have this matter of the request for the grand jury. I will take that up immediately after the jury retires.

Ladies and gentlemen of the jury, we will take the afternoon recess and adjourn until tomorrow morning at 10:00 o'clock. May I make the same admonition to you not to discuss the case under any conditions nor converse with any person or on any subject of the trial. You are not to form or express an opinion hereon until the case is submitted to you. You may now retire.

> (Whereupon the jury left the courtroom and the following occurred outside the presence of the jury:)

Mr. Donohue: If Your Honor pleases, I would like to ask Your Honor to order the record of yesterday changed on page 3660, line 4, in order to conform with what I think all of us understood was the true nature of the remarks made by Mr. Hallinan concerning, apparently, Mr. McMillan. Line 4 reads, [3867] after the comma, "then the old man that sits in the back and croaks out an objection occasionally got up and added something to it." I think we all recall that the word "man" was not used, but the word "banshee" was used; and I therefore ask Your Honor to order the record corrected to read "then the old banshee that sits in the back and croaks out an objection occasionally got up and added something to it."

Mr. Hallinan: We will stipulate to that.

The Court: Stipulate to the correction?

Mr. Hallinan: Yes.

The Court: That was the reference made to Mr. McMillan?

Mr. Hallinan: Yes, Your Honor.

The Court: The record may be corrected at page 3660, line 4, accordingly.

Now, on the matter of the grand jury, or at least the request for the minutes or transcript of the grand jury, Mr. MacInnis, I have examined the authorities submitted at the brief period allotted to me during the recess, and I see no reason at all to change or otherwise alter my ruling heretofore made, that there is no basis or predicate for such a request. And accordingly the same is denied.

Mr. MacInnis: Well, so that I would be guided, Your Honor, in future instances where this question or request may well come up, having examined the authorities, would Your Honor tell me what distinction is made between a proper case in [3868] which this request may be honored?

The Court: I have no occasion to discuss any distinction, because the authorities as I examined them in the brief period of time allotted me do not support the general statements given. This statement appears to have been—did you examine these authorities?

Mr. MacInnis: Only perfunctorily, Your Honor.

The Court: I noticed that the memorandum comes from N.L. I assume that is Norman Leonard?

Mr. MacInnis: Yes.

The Court: And he is a gentleman who has been associated with the law firm of Gladstein and others. He has appeared in this matter heretofore. Now, if you will examine the authorities over night you will determine that there is no basis or authority justifying this Court to require the Government to produce the minutes or transcript of the grand jury in the light of the record before the Court.

(Testimony of Lewis Herbert Michener.)

The Court may request government counsel to produce the grand jury minutes or transcript for examination by the Court, but to permit defense counsel in the light of the statement made by this witness to pore over the grand jury records would not aid and assist any issue for determination in this case.

Now, I ask you to go over the authorities tonight, and I think you will determine, as I have indicated to you.

Mr. MacInnis: Well, I will do that, Your [3869] Honor.

The Court: Yes.

Mr. MacInnis: I have always believed from such general knowledge as I may possess of the law that the matter is discretionary with the court, and that wherever it appears that may be a variance between what a witness has told the grand jury and what a witness says in court, that then the court is empowered to lift that veil of secrecy from the grand jury and allow an inspection of the transcript. Now, that is my knowledge, I think, of the general law. Now what is Your Honor's notion of the law upon that subject?

The Court: Mr. MacInnis, sometimes——

Mr. MacInnis: All right, I won't pass the ball back, then.

The Court: Sometimes your assumed naivete is rather refreshing. Be that as it may, I am rather of the inclination now to adjourn until tomorrow morning at 10:00 o'clock.

(Testimony of Lewis Herbert Michener.)

(Thereupon an adjournment was taken to tomorrow, Thursday, January 12, 1950, at 10:00 o'clock a.m.) [3870]

Thursday, January 12, 1950, 10:00 A.M.

The Clerk: United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Lewis Herbert Michener, Jr., heretofore sworn.

The Court: Proceed.

Cross-Examination
(Resumed)

By Mr. MacInnis:

Q. Did you know a man named Sidney Hillman?

A. Yes, sir.

Q. Who was he?

A. Sidney Hillman was the president of the Amalgamated Clothing Workers.

Q. Was he a member of the Communist Party?

A. Not to my knowledge, sir. I would say he wasn't a member.

Q. Well, has he been active in the CIO?

A. He has passed away, now.

Q. Yes. Was he active during his lifetime?

A. He was, very much so.

Q. Was he the founder of the Political Action Committee of the CIO?

A. He was very instrumental in helping formu-

(Testimony of Lewis Herbert Michener.)
late the Labor's Non-Partisan League in its early stages, sir.

Q. Now, you told the Court and jury, I think the day before yesterday, that during the 1943 convention of the CIO at [3871] Philadelphia some committee went to Philip Murray and ultimately arranged that a man named Thimmens become the state president of the California CIO, is that correct? A. That's correct, sir.

Q. Now, the person who engineered that entire move was Sidney Hillman, isn't that true?

A. No, sir, that is not true.

Q. Did you ever consult with Sidney Hillman upon that particular change of officers?

A. I never had the occasion to. He may have been consulted on it, however, but I wasn't party to it, sir.

Q. Do you know whether or not it was Sidney Hillman who first proposed that Mr. Thimmens be made president of the California CIO at that time?

A. If he had, he never proposed it to me, sir. Possibly he may have proposed it to others, but not to me.

Q. So you don't know one way or the other what his part in that particular move may have been?

A. Only with relation to the transaction. I never come in contact with him regarding the matter.

Q. What did you say your present office is within the union?

(Testimony of Lewis Herbert Michener.)

A. My present office in the local union, you mean?

Q. Yes.

A. I told the Court that I was a delegate to the Greater Los Angeles Industrial Union Council, CIO, and also a delegate to [3872] the District Auto Council No. 5 of the UAW-CIO.

Q. Are you a regular delegate or an alternate delegate? A. I am a regular delegate, sir.

Q. Do you hold any other office at this time, sir? A. I do not.

Q. Tell me this. Yesterday you told the Court and jury that the only part that you ever played in the previous cases against Harry Bridges was to contribute occasionally, is that right?

A. That's correct.

Q. You did nothing further at any time?

A. I am just not quite clear on that, counsel. What did you have in mind? I will try to cooperate with you and help you out on it.

Q. Well, now, as early as 1940, did you discuss the matter of Harry Bridges' citizenship with various people?

A. I don't know whether I discussed the matter of his citizenship with various people, but I do know this: that I spoke at various locals in Mr. Bridges' behalf, and regarding his citizenship, I naturally would be—that naturally would be a topic. But I can't recall just making that solely a discussion with individuals, no, sir.

(Testimony of Lewis Herbert Michener.)

Q. When you spoke at these various local unions on his behalf, what did you say?

A. Matter of, I was at that time, 1940, you have reference to, [3873] sir? I was regional director at that time for the United Auto Workers, and as such, had several local unions in the State of California which were under my jurisdiction. And naturally the proposition of Bridges was very popular within the CIO. He was pretty well known. And I spoke, as I have indicated to you, in his behalf. Just what I have said I would not be in a position to repeat it to you.

Q. But generally, what would you have said?

A. As a matter of making contributions to the Bridges' Defense Fund, I would speak in favor of it. Generally that is what I would have said.

Q. What would you say about the status of Harry Bridges or his character as a labor leader or the charges that had been brought against him?

A. Well, I would say then, as I would now, if you would like to have a statement on that? —

Q. What would you say?

A. I would say to you that in my opinion Mr. Harry Bridges is one of the most able and capable labor leaders in the country, and if it wasn't for the fact that he was connected with the Communist Party, I am sure today he would be filling the boots of Philip Murray as head of the National CIO. That is my feeling toward Mr. Bridges.

(Testimony of Lewis Herbert Michener.)

Q. Is that what you said when you made these speeches?

A. I didn't say that exactly, but words to that effect probably. [3874]

Q. You didn't tell these locals that you thought he was connected with the Communist Party, did you? A. I did not.

Q. You told them that you merely thought he was a great labor leader, didn't you?

A. That's right.

Q. And that you thought the charges against him were lies?

A. I don't—as I have indicated to you earlier, sir, I can't recall exactly what I said. But in general, I have given you the idea. [3875]

Q. About how many of such speeches did you make?

Mr. Paisley: Just a moment. Your Honor, it seems to me that is improper cross-examination. If he has a transcript here of a statement or testimony by the witness giving the interrogation contrary to what he has testified in this case, I think that would be a proper question. But just to explore around about his past speeches, what he might have said about Bridges before he met with him in Communist Party meetings, I do not think that is proper cross-examination.

The Court: Overruled.

The Witness: I would not be in a position to tell you how many such speeches I made. I would indicate to you, however, that there would be sev-

(Testimony of Lewis Herbert Michener.)

eral, and several would be more than three.

Q. (By Mr. MacInnis): Would it have been as many as ten?

A. Possibly. I tell you honestly I can't give you the exact number.

Q. In addition to making those speeches would you have passed out literature involving Harry Bridges?

A. Not personally, I would not have passed out literature in behalf of Harry Bridges, because that would not come within my line of work.

Q. Would this be the case, that literature would be sent to you in your position as an officer, and then you would give that literature to subordinates to pass out while you yourself [3876] would make a speech?

A. Not necessarily, if the reference is being made that we went out strictly on a campaign for Harry Bridges, I spoke to people and passed out literature at the same time. That would be incorrect.

Q. That would not be true?

A. That would not be true.

Q. Are those the things that you had in mind when you said to the jury yesterday, "Not exactly, sir, because my contribution to the Harry Bridges trials heretofore had been financially."

"Q. You did not do anything else?

"A. That is right, sir."

Q. You did not tell the jury yesterday that you had made several speeches on behalf of Harry Bridges, did you?

Mr. Paisley: Your Honor, I do not think that is fair cross-examination.

Mr. MacInnis: It is unfair to expose the truth.

Mr. Paisley: He is asking him if he was a stool pigeon and had testified against Bridges. He said what he did was contribute money. He did not testify.

Mr. MacInnis: I do not think I have asked him yet if he was a stool pigeon, your Honor. Maybe this is a suggestion from the prosecutor. I asked him if he had called other people stool pigeons and he said he had. He said he had called [3877] the other people who had testified before against Harry Bridges stool pigeons. Now, the question I put to him is this, that yesterday he was asked these questions. He said all he did was contribute financially and that is all he had done. That is the question. Now, the preceding question would show what it was. I see the other man is whispering a suggestion to Mr. Paisley.

Will you read the question, Mr. Reporter.

(Question read.)

The Court: Answer that and make an explanation if you wish.

The Witness: Yes, your Honor. No, I did not tell the Jury or the Court yesterday that I had made several speeches in behalf of Harry Bridges, and I really do not want to leave that impression here this morning that I went out campaigning for Harry Bridges. I pointed out to you, sir, I

(Testimony of Lewis Herbert Michener.)
had several local unions under my jurisdiction as regional director for the Auto Workers. The Bridges problem was important, a problem for the CIO, a well known problem to the CIO, and in the course of attending a meeting of a local union and discussing perhaps a problem of a contract or something ilke that, the Bridges proposition would be raised by a member of the local union or maybe an officer of the local union and they would ask my opinion on it, and at that time I would indicate to them that the position of the national CIO was at [3878] that time to support Harry Bridges. I acquainted them with those facts, and I certainly did not attempt to conceal or hide anything from the Court here when I made that statement yesterday, sir. I did contribute financially to the Bridges' campaign. At that time, as I recall it, there were stamps available. I haven't one in my possession now. I didn't rehearse this case or come up prepared to bring proof that I am telling you the truth, but I still believe I have in my possession a stamp that I had purchased in the Bridges' defense fund. I believe I could locate that for you.

Q. Did your wife keep those stamps for you?

A. No, she did not.

Q. You say that independently of these talks that you made under the circumstances just now described, you had no interest or made no inquiries concerning the citizenship of Harry Bridges?

A. I had no occasion to conduct such an investigation, sir.

(Testimony of Lewis Herbert Michener.)

Q. Hence you did nothing about that?

A. No, sir.

Q. Did you ever make any inquiry directly of Harry Bridges about his citizenship?

A. I have heard an explanation once about it from Mr. Bridges. I am rather vague on it, but I could probably put a few pieces of the discussion together.

Q. Was this an oral explanation or one in writing? [3879]

A. This one was oral that I refer to, sir.

Q. Did you ever request him in writing to make a summary of his citizenship status?

A. I can't recall that I ever did. I may have, but I just don't recall it at the present time. If you have a document there with my signature on it, I would be glad to identify it for you.

Q. Actually on July 26, 1940, you sent him a wire from St. Louis, a wire to Bridges here in San Francisco, asking him to send you a letter immediately to George F. Addis at the Jefferson Hotel, St. Louis, Missouri, regarding his citizenship, didn't you?

Mr. Paisley: Your Honor, would that be material to this inquiry? I do not think it would. I object to it.

The Court: You might identify the wire.

Mr. MacInnis: The answer to it will be, your Honor.

Mr. Paisley: The answer would be hearsay and a self-serving declaration certainly.

(Testimony of Lewis Herbert Michener.)

Mr. MacInnis: The witness just denied he made any such requests a moment ago.

The Court: I can't recall any denial, Mr. MacInnis. He said there was an oral matter of conversation, as I recall the record. He hadn't any independent recollection of any writing.

The Witness: That is what I testified, your Honor. [3880]

Q. (By Mr. MacInnis): Is that a wire that you sent?

A. Before I could answer that, counsel, I would like to inquire as to whether there was a reply made to this wire by Mr. Bridges, and where he sent the reply, and to what name it was sent, whether it was sent to myself or whether it was sent to George F. Addis.

Q. I am going to come to that in just a moment. I am asking you first, Did you send that wire?

A. I don't recall sending it, sir, to the best of my knowledge.

Q. It bears your name, does it?

A. It does bear my name, yes, sir.

Q. After July 26, 1940, you received a copy of the letter suggested by this wire directed to George F. Addis, didn't you?

A. As I say again, sir, I don't recall. If you have the document there that I may read, it may refresh my memory and I will be able to explain the proposition to you, but I just can't recall that wire at the present time.

Q. I will ask you if you did not get a reply by

(Testimony of Lewis Herbert Michener.)

wire on July 27 before you received the copy of the letter and reply stating——

Mr. Paisley: Wait a minute, your Honor. The document is not in evidence Mr. MacInnis knows he has no business reading a document that is not in evidence. [3881]

Mr. MacInnis: This is cross-examination, your Honor.

The Court: All right.

Mr. Paisley: What if it is cross-examination, your Honor? He can't stand up here and read documents, some telegram that he says Mr. Bridges sent. The matter is wholly immaterial.

The Court: Mr. Paisley, I cannot anticipate the nature of the telegram. The line of inquiry appeals to me thus far as immaterial. I do not know the extent to which it will go, but presently it appears to me to be immaterial cross-examination on an immaterial issue. However, I am not going to rule until the matter is sufficiently fixed that I can direct my attention to it.

Q. (By Mr. MacInnis): I will ask you if you did not receive a reply to the wire of July 26 on the following day, July 27, saying Bridges is in Los Angeles, a letter to Addis being sent airmail special delivery on Monday from Los Angeles, signed Lou Goldblatt?

A. Where was that wire sent to? Is that indicated on the wire there?

Q. It is sent to you at the Jefferson Hotel, St.

Louis, Missouri, the same place from which your first wire was sent.

Mr. Paisley: Your Honor, I pose a question. Is this cross-examination of the material testimony given by this witness against Mr. Bridges concerning those two meetings? [3882] of the material testimony given by this witness against Mr. Bridges concerning those two meetings?

Mr. MacInnis: I am not confined to that.

Mr. Paisley: Or is it an attempt to impeach or discredit the witness? It does not. It is a side issue.

Mr. MacInnis: If it is immaterial you may have no fear as to what may be brought out.

Mr. Paisley: We shall be here until the frost is on the pumpkin and the corn is in the shock.

Mr. MacInnis: I thought that was the line of some other prosecutor. Have you adopted it?

Mr. Donohue: The banshee.

The Court: What was that last?

Mr. MacInnis: I thought that was the line of some other prosecutor.

Mr. Paisley: That is right. That is plagiarism. I am accused of plagiarism.

The Court: Do you interpose an objection at this time?

Mr. Paisley: I certainly do, your Honor, to the best of my ability, as forceful as I know how.

The Court: The objection is sustained.

Mr. MacInnis: Pardon me, your Honor, I have not come to the letter yet, that is the subject of these wires. It is wholly preliminary to show what the subject was.

The Court: May I have the letter? [3883]

Mr. MacInnis: Of course (handing document to Court). A copy of which was sent to this man.

The Court: I merely asked for the letter so we may facilitate this earlier inquiry. We might facilitate it by my looking at the letter. [3883-A]

(Letter handed to Court through Clerk.)

Mr. MacInnis: I might suggest that we show the Judge the wires, too, so that he can correlate the meaning of it.

(Telegrams handed to Court through Clerk.)

The Court: The letter is some five pages of full text. I can not read it in its full content. It appears to be directed to Mr. George Addes, secretary-treasurer.

Mr. MacInnis: A letter requested by this man, who is the witness.

The Court: I can not see presently that it would be material to any examination conducted on direct or any material matter that may be approached on cross-examination. You may mark it for identification, if you wish.

Mr. MacInnis: Well, first, I want to ask the witness if he recognizes this copy of the letter as called for by his wire.

The Court: The letter is directed to Mr. George Addes.

Mr. MacInnis: Yes.

The Court: Yes, you might examine it.

(Letter handed to the witness by the Clerk.)

Mr. Paisley: Now, Your Honor, are we going to sit here while this witness reads five pages of what Your Honor has already ruled is immaterial?

The Court: Well, I think the witness——

Mr. Paisley: He is reading it, he is sitting there [3884] reading it.

The Court: The witness might glance at it and determine whether or not he can identify the letter.

The Witness: Just glancing at it, Your Honor, I would have to indicate to you that I can not identify the letter.

Q. (By Mr. MacInnis): Well, now, having seen these two wires, do you now recall that you sent the first of these wires to Harry Bridges?

A. I am sorry, sir, but I do not recall sending those wires. I may tell you, it may throw a little light on the subject,——

Q. No, I am not interested in anything else.

A. O. K.

Q. I want to know if you can recall whether you sent this wire or not.

A. I believe I answered no to that, sir.

Q. Can you recall whether you received a reply to the wire? A. I can't recall that, sir.

Q. And don't you recall that you received a copy of the letter from Harry Bridges to Mr. George Addes?

A. That possibly could be, but I don't recall it.

Q. Now, you have no recollection on that?

(Testimony of Lewis Herbert Michener.)

A. No, sir. There would be no need of my attempting to evade the issue. If I remembered it, I would be honest and tell you about it.

Mr. MacInnis: Well, we will ask these documents be received [3885] and marked for identification.

The Court: So ordered, as one exhibit for identification.

(Whereupon two wires and the letter referred to were marked Defendant's Exhibit H-1 for identification.)

Q. (By Mr. MacInnis): Now, did you attend the State CIO convention in 1941?

A. Yes, sir.

Q. Where was that held?

A. I believe, if my memory serves me correctly, that convention was held in Oakland, I believe.

Q. Were you there through all the proceedings?

A. Most all of the proceedings.

Q. That convention covered about three days, did it?

A. Yes, sir. I remember a situation developed there that refreshes my mind on that particular convention.

Q. Now, you remember the opening of the convention, I suppose?

A. The opening remarks, I don't recall offhand, no, sir.

Q. Do you remember that a man named Ray Heide of the Alameda County Industrial Union Council called the convention to order?

(Testimony of Lewis Herbert Michener.)

Mr. Paisley: Just a moment. I object to that question, Your Honor, on the ground that Mr. MacInnis is testifying. He says, "Do you remember that a certain set of facts existed?" I object to it on that ground. I object to it on the further ground that it is not proper cross-examination, not in cross of anything brought out on direct. I didn't ask him anything [3886] about the CIO convention in 1941. He testified about meeting with Mr. Bridges here in 1940 in a house out here on the Sunset Strip or section or whatever it is. For that reason, for those reasons I object.

The Court: Overruled.

A. That would be proper procedure for opening the State CIO conventions. If they were held in Oakland or San Francisco, the local officials of the CIO Councils usually open them and I assume that that would be correct under the circumstances there in Oakland.

Q. Well, you remember that the first speech was made by Father Phillips of St. Marys Parish of Oakland, don't you?

A. I wouldn't be able to identify the name, but again, I would indicate to you that that is the procedure of opening our state conventions, to have representatives of the clergy present to give the ovations.

Q. And then Mayor Slavich of Oakland spoke and then Rabbi Saul White spoke. Do you remember that?

(Testimony of Lewis Herbert Michener.)

A. No, I wouldn't be able to remember just exactly who spoke. I attended so many conventions it would be hard for me to keep track of them all, sir.

Q. That was the first day, October 3rd. Now, do you remember that the second day, Saturday morning, Saturday afternoon, the 4th day of October of 1941, you were present at a convention and you had a discussion with several of the other delegates [3887] concerning Harry Bridges? Do you remember that?

A. That could be likely, very likely, but I don't recall as to whether it was exactly on Saturday or it was exactly that date.

Q. Well, do you remember a man named John Mitchell, a member of the ILWU?

A. I remember the ILWU.

Q. And do you remember a man named Brown from the United Rubber Workers?

A. No, I am sorry, I can't identify Mitchell or Brown from United Rubber Workers.

Q. Did you know a man named Oliver from the Los Angeles Newspaper Guild?

A. That name is familiar, and I don't recall having any discussion with a Mr. Oliver at Oakland, though. I will be honest with you about that.

Q. Did you know a man named Jim Smith from the S.W.O.C.?

A. Yes, I believe I did know a Mr. Smith representing that organization. I believe he was from Alameda or Oakland, if I recall correctly.

(Testimony of Lewis Herbert Michener.)

Q. What is the S.W.O.C.?

A. Steel Workers Organization Committee.

Q Well, don't you remember that on that Saturday, you, Jim Smith, John Mitchell, Delegate Brown of the United Rubber Workers and Oliver from the Los Angeles Newspaper Guild had a [3888] conversation about Harry Bridges?

A I don't remember, sir. I said it could be possible.

Q. Now, Delegate Brown of the United Rubber Workers—and maybe this will refresh your memory; he was a Negro. Do you remember that?

A. No, that doesn't help refresh my memory any, sir.

Q. Well, does this refresh your memory, that the conversation began something like this, that Delegate Brown said that Negro labor had received the decision of Judge Sears against Harry Bridges in 1941 with great concern, because prior to Bridges' leadership the Negro labor was allowed to work on the docks only as stool pigeons and scabs and that they looked upon Harry Bridges as one of the greatest benefactors of the Negro race since John Brown; do you remember that?

Mr. Paisley: Just a moment. I object, if Your Honor pleases.

The Court: Objection sustained.

Mr. MacInnis: Your Honor, this is a conversation in which this man participated. Now, therefore we have had the prosecutor telling Your Honor in the face of an objection from the defense that it

(Testimony of Lewis Herbert Michener.)

was fundamental that this man could testify as to any conversation had in the presence of Harry Bridges. Now, he told Your Honor that flatly. Now we have a conversation of this man on the floor of the convention concerning Harry Bridges with a group of other delegates. [3889]

Mr. Paisley: Your Honor, I didn't object to these preliminary questions, thinking that he might possibly be leading up to asking the witness, "Didn't your make a statement at this meeting in 1941 contrary to what you testified under oath here in some material respect?" But it is obvious that what he is trying to do is read some declarations by persons who were in sympathy with Bridges at this particular meeting and to get it before the jury,—these other deportation proceedings. That is obviously what he is trying to do.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Well, now, Mr. Michener, on that day, Saturday, the 4th day of October of 1941, you said this: "I don't believe that the convention should be completely adjourned until it has heard the voice of the Auto Workers on the matter before it. We have here today the largest delegation ever assembled to a state convention, and we did not do this by ourselves, but by cooperative action on the part of the state CIO and Director Bridges. Whenever we got into difficulties, we always got help and consultation from Bridges. The record speaks for itself, and that record is conclusive. The fundamental principle, an injury to one is an injury to all, particularly applies to the case of Harry Bridges. If we want to keep democracy in America, let us keep Harry Bridges with us."

Did you say that?

Mr. Paisley: Just a moment. I object to that, if Your [3890] Honor please. It is a statement——

The Court: Objection sustained.

Mr. MacInnis: Would you show the witness this page, please?

(Handed to the witness by the Clerk.)

Q. (By Mr. MacInnis): Would you look at part of it marked in red, bearing your name, as a quotation from yourself? Those are the minutes from the convention itself.

(Examined by the witness.)

Mr. Paisley: May I see it, Mr. MacInnis?

Mr. MacInnis: Yes, you can look at the same portion there.

(Examined by Mr. Paisley.)

Mr. Paisley: Well, that is just what you read, isn't it? That is exactly what you read here?

Mr. MacInnis: Of course. You don't think I read it falsely, do you?

Mr. Paisley: No, I just asked you, sir, if that is what you read. Now, he has shown the witness, Your Honor, what he read here in the presence of the jury.

Mr. MacInnis: Well, of course.

Mr. Paisley: And Your Honor sustained an objection to it. I wanted to keep the record straight.

Q. (By Mr. MacInnis): Now, were you shown correctly a summary of what you said on that occasion?

Mr. Paisley: Your Honor has ruled on this.

The Court: The objection is sustained, Mr. MacInnis. [3891]

Q. (By Mr. MacInnis): Now, Mr. Witness, in 1942 were you appointed to do work for the Bridges Defense Committee in Southern California?

A. That could have been possible that I loaned my name to that committee. I have done that quite often in my career as a labor leader, attached my name to a Bridges' Defense Committee. Most of the popular CIO people at that time served on a committee in some capacity or other.

Q. Well, I don't mean merely served upon a committee. Did you promise to handle the Bridges case in the Auto and Aircraft locals in August of 1942?

A. I don't know whether I promised to or not. Again I will repeat to you exactly what I have told you earlier today, however, that on several occasions I spoke about the Bridges case in front of my local union; and I repeat that again that that might have been possible and was possible in '42, sir.

Q. Well, wasn't that pursuant to an appointment of you by the Bridges' Defense Committee to take over that kind of work?

(Testimony of Lewis Herbert Michener.)

A. No. I wouldn't say that I was appointed to take over that type of work. If I served on a Bridges' Defense Committee, I served mainly for loaning my name to the committee, sir. Used—as a representative on the committee.

Q. Now, were you given certain literature in bulk which you handed to subordinates to distribute among the members of your locals, pertaining to Harry Bridges? [3892]

A. Yes, at various times in our office of the United Auto Workers there we had available several leaflets regarding the Bridges case and which was made available to local unions if they desired information on the Bridges case. We had the pamphlets and leaflets there available for them.

Q. And you cooperated in the passing out of these pamphlets whenever they were desired?

Mr. Paisley: I object, if Your Honor please, on the ground it is immaterial and irrelevant, not proper cross-examination; there is nothing inconsistent with his doing that and his testimony, Your Honor.

The Court: The witness has already testified to that subject.

Mr. Paisley: Yes.

Q. (By Mr. MacInnis): Now, among those pamphlets, I suppose, was a reprint of an article in Liberty magazine by John B. Hughes entitled "Can We Afford to Deport Harry Bridges?" and the article pointing out that he was a fine man and a

(Testimony of **Lewis Herbert Michener.**)

tribute to the labor movement in America? Remember that?

Mr. Paisley: Your Honor; are we going to let him read from magazines?

Mr. MacInnis: Well, the question is whether he passed out such pamphlets, Your Honor.

Mr. Paisley: Well, what if he did?

The Court: Objection sustained. [3893]

Mr. MacInnis: Well, I am going to ask if Mr. Mitchell will display this pamphlet to the witness.

Mr. Paisley: Well, I object to taking up the time, Your Honor. It is perfectly obvious that it is incompetent testimony.

Mr. MacInnis: Your Honor, if this witness by adoption, by passing out to other people, the members of the rank and file of his union, a document containing statements of others——

The Court: Mr. MacInnis, the witness has testified two or three times that he cooperated with Mr. Bridges, that he undertook to carry on a program looking toward some benefactions to Mr. Bridges.

Mr. MacInnis: Yes.

The Court: Now, that suffices.

Mr. MacInnis: Well, I think this, Your Honor. The man's credibility is at stake here, and if he was deceiving members of his own union when he did that, why, we have a right to present that for the record, so that his credibility may be properly weighed in this case.

The Court: The objection is sustained.

Mr. MacInnis: Now we ask that the pamphlet entitled "Can We Afford to Deport Harry Bridges?" a reprint from Liberty magazine of September 19, 1942, be marked.

The Court: I would suggest holding it a little higher so all the jurors can see it, Mr. MacInnis. [394]

Mr. MacInnis: I would be glad to do that.

The Court: All right. It may be marked for identification.

(Thereupon magazine article, "Can We Afford to Deport Harry Bridges?" was marked Defendant's Exhibit I-1 for identification.)

Q. (By Mr. MacInnis): Now, Mr. Witness, did you sign a wire to the President of the United States asking him to set aside the deportation proceeding against Harry Bridges?

Mr. Paisley: Objected to Your Honor, on the ground that it is not inconsistent with his testimony on direct examination. He said he was a member of the Communist Party, that he concealed his own membership, that he sat in this Communist Party meeting with Bridges, and that he was following the party line of concealing membership of other Communists and all such matter as that. Now, this isn't inconsistent with that testimony at all. It is right in line with it, Your Honor. Naturally he would have joined in these petitions to the Great Father in Washington. They come in in wagonloads, trainloads. [3895]

(Testimony of Lewis Herbert Michener.)

Mr. MacInnis: I do not think we should speak disrespectfully of the late President, your Honor, even in objection by the prosecutor. A man cannot take the stand and say, "Oh, previously in my life I was a terrible liar. I tried to deceive the people I did business with," and then by that balk any attempts to show how deceitful he was. He can't possibly do that. Now, if this man signed a wire, we have a right to know what it was, and if it concerned the deportation of Harry Bridges, and if it said things directly contrary to his present assertions here, we have the right to bring those out.

The Court: The objection is sustained.

Mr. MacInnis: Your Honor is sustaining that objection without even seeing the wire, whose contents are directly opposite to what this witness has said concerning Harry Bridges.

Mr. Paisley: Are you representing to his Honor that there is something in that paper there which this witness sent to the President contrary to what he has testified about Harry Bridges being a member of the Communist Party?

Mr. MacInnis: I certainly do. He speaks of the previous prosecution as being outrageous, for one thing. He says that Attorney General Biddle's decision to deport Harry Bridges is outrageous. He says that Harry Bridges was innocent of the charge. Do you mean to say that if this man signed a wire saying Bridges was innocent, that that cannot be brought into evidence? [2896]

The Court: Mr. MacInnis, it appears to me to be purposeless on my part to sustain an objection or interpose an objection because no matter what ruling I make you attempt to read to the Court and to the witness the subject matter of documents that have not been admitted in evidence. Now, we realize that the rule is elementary that until the document is in evidence you cannot read it to the jury. I am obliged to exercise some supervision over this trial.

Mr. MacInnis: I would like to be heard on this matter.

The Court: The jury understands it is my duty and province exclusively to rule on these matters with respect to the relevancy or lack of relevancy, and until and unless a matter is introduced in evidence, the subject of the letter or document may not be offered to the jury. I have stated to you, Mr. MacInnis, in the past, and I restate now, that reference to the contents of documents, before the same are admitted in evidence, is not proper. Again I say the same to you.

Mr. Hallinan: Your Honor, I wish you would reserve judgment on the propriety of these until after the noon recess.

The Court: I will. I will reserve the ruling.

Mr. Hallinan: I have Wigmore on Evidence squarely on it, in which he says that the question is, Does the document or the previous document contain some thought or some idea inconsistent with the general tenor of the witness' testimony? Now, not exactly and squarely contradicting it, but even where [3897] that matter is only a matter of an expression of opinion. If the jury or the Court can reasonably construe that as being contrary to his general expression, it is admissible as impeachment.

The Court: We will take it up at the recess.

Mr. MacInnis: May we have the recess now? I would like to take this matter up because it is of great importance, because I think we can show your Honor he says things exactly opposite to the general tenor of his testimony here.

The Court: All right. We will take the morning recess. Ladies and gentlemen, the same admonition to you not to discuss the case under any conditions nor to form an opinion until it is submitted to you.

(Thereupon the jury was excused.)

Mr. Hallinan: Judge, here is the citation or part of the citation, though I have the book at the ILWU. This is a short compendium taken directly out of 3 Wigmore on Evidence, Third Edition, Section 1041, and it is an answer to legal inquiry as to whether expressions of opinion, such as that a person is innocent or he was not to blame or something of that kind, can be introduced or must be admissible in evidence as contradictory of direct statements of fact which could be reasonably construed as contrary to that. In other words, a situation such as this: A man testifies that another man apparently deliberately shot. But he has said to somebody else, [3898] "The defendant was justified," or "I don't believe he can be reasonably found guilty," or something of that kind. Now, should that be admissible? Here is the answer that is given in the compendium.

The Court: Those are spontaneous statements made at or about the time.

Mr. Hallinan: No, I mean at any time, at any time, not about the time. But let's say years apart from the inquiry. Here is the solution.

Mr. Paisley: There is no question about that.

Mr. Hallinan: Let me read this off. It won't take a minute.

Mr. Paisley: All right.

Mr. Hallinan (reading):

> "There is only one proper inquiry, 'Is there within the broad statement of anyone on the general question some implied assertion of fact inconsistent with the assertion made on the stand'?"

Wigmore said that is the inquiry: "Is there within the broad statement of opinion on the general question some implied assertion of fact inconsistent with the assertion made on the stand?"

> "If there is, it ought to be received whether or not it is clothed in or associated with an expression of opinion." [3899]

Where a person says, as in one of these telegrams, where Mr. Bridges is accused in the first deportation hearing of one thing and only one thing, and that is membership in or affiliation with the Communist Party, and a man says that he is innocent of that charge, then that opinion contains within it an implied assertion that he is not a Communist or is not affiliated with the Communist Party. Now, this man gets on the witness stand and claims that he is both of those things, or at least one of them. He at least claims that he was affiliated with the Communist Party. And that statement, and the nature of the inquiry, that he was innocent of that charge, is a matter that the jury should be allowed to consider as bearing upon the credibility of this man and whether he has contradicted himself by past statements, and I think, your Honor, that such statements as Mr. MacInnis tendered certainly come within this inquiry: "Is there within the particular statement of opinion on the general question some implied assertion of fact inconsistent with the assertion made on the stand?"

Now, we have a great many matters of that kind, and this is of great importance to the defense, your Honor. Here we have witnesses who take the stand and testify Mr. Bridges was a Communist. We have written statements, documents distributed by them and signed by them, in which they say that the previous prosecutions of Mr. Bridges were unwarranted persecutions, that he was innocent of the them were framing him—matters of that kind—and charge as made, that [3900] the officers who brought can it possibly be held that those are not inconsistent

(Testimony of Lewis Herbert Michener.)

with the present statements of those same witnesses? I submit, your Honor, they are admissible in evidence. And I submit this also, if the Court please, that where there is any doubt or where it is open to a reasonable doubt, that that doubt should be resolved in favor of the defendant and the jury should be entitled to pass upon it, that the Court should not reserve to itself the sole judgment upon whether or not it constitutes contradictory statements.

Mr. Paisley: This statement, if your Honor please—Is this it, Mr. MacInnis? I note the date of the first is 1943.

The Court: I should like to ask Mr. MacInnis for the documents.

Mr. Paisley: I recognized it, your Honor. He has shown it to me.

Mr. MacInnis: I thought you wanted to see it, Judge.

The Court: No.

Mr. Paisley: The date of it is 1943. When I arose to object, your Honor, it was on the ground that ~~to be~~ admissible there would have to be some statement made by the witness contrary to what he testified under oath here. For instance, if he had said that Mr. Bridges is not a Communist and has never been a Communist, I think that would be admissible. Then in [3901] the arguments the Government would take the position, certainly he made the statement. That was in line with the Communist Party line at that time. He would not have been a good Communist if he had not tried to conceal Mr. Bridges' membership in the Communist Party as well as his own membership, and so on. If such statements as that are in the paper, I have no objection to them.

The Court: Why not examine the paper?

Mr. Paisley: He does not tender things to us.

Mr. Hallinan: Your Honor, we are not to be placed in the position of letting the prosecution pass upon our evidence before we offer it.

The Court: The difficulty at times has been that documents have been handed to the Court containing five, six or seven pages, wherein there may be couched one pertinent sentence or the like and the balance of the matter immaterial.

Mr. MacInnis: That is true, and if a part of the matter is admissible, of course the whole thing goes in. Here is a sentence out of this wire——

The Court: May I see this?

Mr. MacInnis: Yes, I will mark in red the paragraph which obviously contradicts in essence the story which this witness has given here.

The Court: The paragraph that you point out to the Court has to do with prior proceedings. [3902]

Mr. MacInnis: Yes.

The Court: It has to do with a document wherein many associates of Mr. Bridges, union associates, I assume, cosigned the letter directed to the President, wherein they urged the President to cancel the warrant of arrest. It appears that Mr. Michener's name is embraced in and with many others. The

(Testimony of Lewis Herbert Michener.)

subject matter of the paragraph that you point out to me, paragraphs 1, 2, 3, 4 and 5, has to do with prior proceedings, comment upon witnesses in prior proceedings, joint comment at least by all of these persons, and I cannot see the materiality in the present proceeding nor can I see any matter of internal inconsistencies and thought process between what the witness may now testify to and what he may have engaged in at that time. This witness admits on the stand that, 1, he was a good Communist, that he did everything to propitiate his colleagues, that he delivered literature, that he made speeches, that he contributed funds. That stands as admitted. We might assume as the night follows the day that a person situated as Michener then was would become vocal with respect to asserted, attempted deportation proceedings against Mr. Bridges. I cannot see, Mr. MacInnis, how this Court would be justified in undertaking to assimilate an avalanche of testimony that might be at hand. You gentlemen may have letter upon letter, pamphlet upon pamphlet, wherein this witness stated, either individually or collectively, that [3903] these prior proceedings were, as they say here, outrageous, or characterize it in another fashion. But I cannot see how that would aid or assist this jury in determining the matter of credibility in and with regard to his present testimony. This jury knows now apparently, as I know from the admission made by the witness, that he did sustain the objectives of Mr. Bridges, whatever they may have been, concerning the deportation matters; that he did everything that a union official might then have done, and there is apparently nothing inconsistent with any statement he made on the stand, either expressly or by necessary implication, to admit in evidence and to deluge this Court and jury with pamphlet upon pamphlet, wire upon wire, Liberty Magazine articles upon magazine articles, I say would be to permit this tribunal to become a sounding board for all and singular of the prior proceedings.

I indicated at the outset, Mr. Hallinan, I would not permit it. I thought it was irregular. I now reaffirm my ruling.

Mr. Hallinan: Might I say this, your Honor?

The Court: Yes.

Mr. Hallinan: It is our position that this man has distributed these pamphlets and made these criticisms of the prior proceedings; that the statements made in the pamphlets are true, and that the criticisms made of the prior proceedings are justified, and that this man did not distribute them because [3904] he was not a good Communist, as you put it, but because it was the truth.

The Court: That is what he said.

Mr. Hallinan: Yes, but we do not have to accept his statement.

The Court: I say to you, Mr. Hallinan, the underlying fallacy is your initial premise in your offer. Your initial premise presumes to undertake his passing upon the prior proceedings. We are not undertaking to pass upon the prior proceedings. None of the witnesses thus far——

Mr. Hallinan: But the question is precisely the same on each proceeding, Judge. If the questions in the prior proceedings were not the identical question of fact that he is testifying about here, that would be a perfectly valid criticism of it. But here these people get up having—your Honor suggests avalanches—they have literally indulged in avalanches of statements that Harry Bridges was innocent of the charge as brought against him by the Government, to wit, the precise and exact thing that they are testifying here.

The Court: Mr. Hallinan, I want to correct the record. At times the record becomes lengthy and it is difficult to correct it later. I do not undertake now to say the defense has an avalanche of testimony in that respect. I say it may be presumed.

Mr. Hallinan: We have. [3905]

The Court: It may be presumed.

Mr. Hallinan: We have an avalanche of it.

The Court: We recognize in these matters, presently at least, the town is being deluged with all sorts of literature, all sorts of comment.

Mr. Hallinan: That is true.

The Court: Pamphlets from your viewpoint. But I cannot conceive of how a court of law would undertake to admit all of that material in a proceeding of this character, for the very obvious reason that we would be trying this case by circulars and pamphlets and undisclosed statements and dis-

(Testimony of Lewis Herbert Michener:)

closed statements, wherein the authors might not be subjected to cross-examination.

Mr. Hallinan: Might I suggest this, your Honor: If the prosecution had bales of pamphlets in which Mr. Bridges was praising the Communist Party or asserting the propriety of it, or following what they call the Communit Party line, they would be admitted quickly enough. They would have them in by the truckload, and there wouldn't be any criticism about it, that they were too numerous to deluge the court with them. That has happened in cases where the prosecution brings in bales and bales of literature and reads them for weeks, months and years, if necessary, to a jury. The mere fact that we have a great number of them, and that propriety might dictate that they be presented to the witness whom they contradict, is no reason for rejecting them. The fact that the [3906] proof may be enormous——

The Court: Mr. Hallinan, I am ruling on this precise matter. I sustain the objection.

Mr. MacInnis: Judge, may I say this to you?

The Court: Yes.

Mr. MacInnis: You remarked a moment ago that the fallacy in the reasoning that we proffered is in the original premise, that the criticism in that telegram signed by the witness Michener criticizes a prior proceeding, and your Honor went on to say that no witness had testified here concerning that prior proceeding. Well, now, here is where the fallacy may be, I respectfully say: The first witness produced by the prosecution in this case was a man

(Testimony of Lewis Herbert Michener.)

named Lloyd Garner, and on cross-examination he told the Court and jury that the issue in the prior proceedings was the identical issue that now confronts this Court. He told the Court and jury that he had knowledge as an immigration officer that in 1939 as well as in 1941, the issue was, Was Harry Bridges a member of the Communist Party?

The Court: Mr. MacInnis, this paragraph, in part at least, requests the President to exercise his prerogatives: "You have the power to overrule the Attorney General," and so forth. Now, I cannot see how that would affect the credibility of this witness in this proceeding with respect to his testimony and his categorical testimony that he joined Mr. [3907] Bridges on these occasions. I read the record last evening. I covered four or five transcripts. I retraced my steps a little bit. Sometimes we have to do that. And I reviewed the testimony of several witnesses, and I am satisfied my ruling in this instance is correct. I am satisfied that no prejudice will result to the defendant Mr. Bridges in connection with it. I am satisfied that the ruling is fair to the defense and to Mr. Bridges and to all the co-defendants, and I am further satisfied that I am not foreclosing from this jury any credible evidence that might affect the credibility of this man. I have allowed latitude to a point of perhaps exhaustion in connection with other witnesses. [3908]

Mr. MacInnis: What do you mean by exhaustion, Judge?

The Court: Well, now, Mr. MacInnis, late yesterday afternoon we had our little colloquy. I do not intend to be cross-examined by you.

Mr. MacInnis: I am not attempting to cross-examine you.

The Court: And I shall make my statements freely, as I intend to make them, without any aid or assistance on your part.

Mr. MacInnis: Well, now, for the record, if the Court please, in respect of the ruling that you have just now made, we offer to prove that by the question put to the witness and by the presentation of the document which was a telegram signed by him and addressed to President Franklin D. Roosevelt at Washington, that the witness made a comment concerning deportation proceedings of 1941, then being brought against Harry Bridges. We offer to show and we offer to prove that there is already in this record evidence that the issue in that proceeding was almost precisely the issue in this case, namely, that Harry Bridges was accused in that proceeding of having been a member of the Communist Party and that that was the issue of fact upon which Judge Sears had made a finding adversely to Harry Bridges; that his membership in the Communist Party was precisely the issue upon which this witness purported to give testimony concerning two meetings which he says he attended with Harry Bridges, and that in 1943, following the events to which he gave testimony here, the witness Michener said, among [3909] other things, in a telegram to the President, as follows:

> "Attorney General Biddle, who made the outrageous decision to deport Harry Bridges after his own Board of Immigration Appeals reached a conclusion unanimously that he was innocent of the flimsy charges against him, exercises his power only by your suffrance. That you have the power to overrule the Attorney General or any other administrative officer appointed by you is well established by precedent, as well as by numerous decisions of the Supreme Court of the United States."

And the telegram consists of approximately ten paragraphs asking the President of the United States upon reasons stated in it to set aside the warrant of arrest and deportation against Harry Bridges.

The Court: You may mark them for identification, Mr. Mitchell.

Mr. MacInnis: We ask that the——

The Court: Do you have any other documents that you desire to submit for identification in aid of the offer or in support of the offer? If you have, you may submit them to Mr. Mitchell and they will be marked for identification.

Mr. MacInnis: Well, we would prefer to do those things as they come up, Your Honor.

The Court: All right. We will take the recess.

(Testimony of Lewis Herbert Michener.)

The Clerk: The matter is marked Defendant's J-1 for [3910] identification.

(Thereupon communication referred to, telegram addressed to President Roosevelt, was marked Defendant's Exhibit J-1 for identification.)

(Recess.)

Q. (By Mr. MacInnis): Now, in explanation of some of the speeches that you made defending Harry Bridges in 1940, '41, '42, as the case may have been, you state today that it was national CIO policy then to defend Harry Bridges, is that correct?

A. That was correct. That was national CIO policy and also the policy of the party.

Q. By the party, you mean the Communist Party? A. Yes, sir.

Q. In other words, the National CIO itself was defending Harry Bridges in each of the two previous cases brought against him?

A. I don't recall that they had their attorneys representing Mr. Bridges, but as far as giving him support, they were. I don't believe the CIO furnished him legal counsel in his previous cases.

Q. So that when you called the witnesses in the previous Bridges cases liars and stool pigeons, you were following national CIO policy, were you?

A. No, I was following the Communist Party line, sir.

Q. I thought you said those two policies were

(Testimony of Lewis Herbert Michener.)

the same during the previous Bridges cases. [3911]

A. I don't recall of ever hearing of any officials of the CIO that were not members of the Communist Party refer to the witnesses as stool pigeons, et cetera.

Q. Why, you heard people such as Philip Murray accuse the government officials of fomenting a frameup against Harry Bridges, didn't you?

A. Words to that effect. I didn't hear the phraseology "stool pigeon" used.

Q. Yes. And Philip Murray who then called the Government's case against Bridges a frameup was never a member of the Communist Party, was he?

Mr. Paisley: Your Honor, that would be hearsay, anything that Mr. Murray might have said, and it is certainly not proper cross-examination of this witness. I object to it.

Mr. MacInnis: It goes to his explanation, Your Honor.

The Court: Sustained.

Q. (By Mr. MacInnis): Well, actually, now, many persons in the labor movement who were not members of the Communist Party signed letters denouncing the Bridges prosecution, didn't they?

Mr. Paisley: Same objection, if Your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): In fact, as you mentioned yesterday, Reuther himself, Walter Reuther.

the president of the Auto Union, defended Harry Bridges before?

Mr. Paisley: Now, I must go a little further than object, [3912] Your Honor, and suggest that counsel is obviously trying to circuit Your Honor's ruling. In fact, he is ignoring it.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): But now you have been informed that since that time and in the years 1949 and the present year 1950, the Reuther brothers want Bridges out of the CIO?

Mr. Paisley: Well, Your Honor, I object to that. Counsel must have heard Your Honor's rule.

The Court: The objection is sustained.

Q. (By Mr. MacInnis): Well, let me ask you this, Mr. Michener. You say you were following the Communist Party line, or the CIO line, as the case may be, when you defended Harry Bridges before. You now affirm that the witnesses who call Harry Bridges a Communist are not liars and stool pigeons, is that the case?

A. Counsel, I am not quite clear on your question. Would you repeat that again, please?

Q. Well, I will rephrase it this way. What line are you following now, that Kaiser, Kidder and Kessler are lying?

Mr. Paisley: Oh, Your Honor, I object to that as frivolous and argumentative.

The Court: Sustained.

Q. (By Mr. MacInnis): Do you know a man named Dr. Ernest Cohen?

(Testimony of Lewis Herbert Michener.)

A. I believe I do, sir. I do know a doctor by that name. [3913]

Q. He is a psychiatrist in Beverly Hills, isn't he? A. That's correct, sir.

Q. And he has treated you for mental illness in 1944, hasn't he?

Mr. Paisley: Oh, Your Honor,——

The Court: The objection is sustained.

Mr. MacInnis: Your Honor, it is well founded that that type of question can be asked of a witness, particularly when he admits it.

Q. Well, now, coming back to the matter which engaged us last evening at the close of the Court's day, when you made application to be a member of the War Labor Board, you discussed with your second wife the answers that you should give to some questions appearing on the form that was submitted to you, didn't you?

A. I didn't indicate that to you yesterday, sir, in the testimony. You indicated to me that you had talked to someone that had talked to me and I didn't know who you had the opportunity of discussing the problem with, sir.

Q. Did you discuss the matter with your second wife?

A. I don't recall discussing the particular matter you refer to with my second wife.

Q. Would you say that you didn't?

A. I wouldn't say that I did, or I wouldn't say that I hadn't or had. [3914]

(Testimony of Lewis Herbert Michener.)

Q. Well, now, another question. Now, let me see if this refreshes your memory. Another question that you were compelled to answer under oath was this: "Have you ever been convicted of any crime——"

Mr. Paisley: Now, wait a minute. Your Honor, he is testifying; he is telling the Court and the jury and the witness that he signed some application under oath. The witness has said he did not. Now he says, "Another one that you signed——."

Mr. MacInnis: No, the witness says he thinks he did sign some statement under oath.

Mr. Paisley: I didn't hear him so testify. I object.

The Court: Reframe the question.

Q. (By Mr. MacInnis): Well, let me ask you this now. Does this refresh your memory, that one of the questions you were compelled to answer under oath in the application to be made a member of the Regional War Labor Board was this, "Have you ever been convicted of any crime involving a fine of more than $25?"

Mr. Paisley: Your Honor, he is testifying as to what was in a blank. Doesn't even have the blank now. He says it, he is asserting it, he is not asking the question. He is asserting a fact.

The Court: The form is not before the Court. Request was made for it. I sustain the objection.

Mr. MacInnis: Well, now, Your Honor, that is a question [3915] that has been repeated over the years, all of the forms——

(Testimony of Lewis Herbert Michener.)

The Court: I am not familiar with the form that this man signed. It isn't before the Court, and I sustain the objection.

Q. (By Mr. MacInnis): Well, let me ask you this then: In applying for a post with the War Labor Board you lied under oath about your previous convictions of crime, didn't you?

A. I did not, sir.

Q. You didn't reply in the negative?

A. I told you yesterday, I will repeat again, sir, that I have no recollection of signing such a document as you refer to.

Mr. MacInnis: Well, do I understand that the document is not now produced in court by the Government?

Mr. Donohue: Oh, if Your Honor pleases, may I be heard on that subject?

The Court: Yes, you may.

Mr. MacInnis: I don't see how he can, Your Honor. He said last night he didn't know what a War Labor Board was.

The Court: Mr. MacInnis.

Mr. Donohue: And I didn't know last night what it was because I wasn't in a position at the time of the war to know what the War Labor Board was. I say this to Your Honor, from what I have been able to learn. We have wired Washington, the Bureau of Immigration, asking them to consult with the national archives, my information on that point being that upon the dissolution of the War Labor Board such parts of the records as they deemed fit [3916] would be deposited in the national archives building in Washington. Now, obviously, between then and now, if there ever was such a form filled out by this witness, we couldn't have it here this morning. As soon as I get a reply from Washington as to what the result of the inquiry is, I shall call it to Your Honor's attention.

The Court: Thank you.

Mr. MacInnis: Well, then, I take it, Your Honor, that when that search is complete, we may recall this witness for further question?

Mr. Paisley: If that be necessary.

The Court: If the occasion arise and the necessity exists.

Mr. MacInnis: We have no further questions at this time.

The Court: Any further questions of this witness?

Mr. Paisley: I think I have one or two here, or two or three here, Your Honor. I made some notes as we went along.

Redirect Examination

By Mr. Paisley:

Q. Mr. Michener, in your cross-examination you gave the names of a number of persons in your labor union down in Los Angeles, and officials of the Ford plant whom you told that you were coming up here to testify. Is it a fact that you have been fighting Communism in your local union down there since 1945?

(Testimony of Lewis Herbert Michener.)

Mr. MacInnis: Pardon me, Judge. That is absolutely [3917] suggestive. That question is leading, suggestive, gives the answer.

The Court: Sustained.

Q. (By Mr. Paisley): Well, have you taken any part in your labor organization on the question of Communism since 1945?

Mr. MacInnis: Well, now, Your Honor, whether he did or did not take such a part, or whether there is such a program, would have nothing to with the issues in this case or with the verity of the testimony that he has given here. It is incompetent, irrelevant and immaterial.

The Court: Overruled.

A. Yes, I have taken a very active part in fighting the Communist Party since September of 1945.

Q. You were asked about your second wife, Mr. Michener, and I believe you testified that she also was a member of the Communist Party.

A. I did, sir.

Q. And you were divorced from her?

A. I was, sir.

Q. Did the question of Communism have anything to do with the divorce?

A. Indirectly, sir, it did.

Q. In what respect?

A. Well,——

Mr. MacInnis: Your Honor, I hardly think that a gratuitous [3918] remark at this time from this man as to the cause of breakup of his second marriage would throw any light on the issues in this case. it could only serve, I suppose, to reflect upon some person who is not before the Court. It would have nothing to do with his present testimony, it wouldn't throw any light one way or the other. I suppose his willingness to give such a remark would pass some reflection upon his credibility alone, but the question is incompetent, irrelevant and immaterial.

The Court: With respect to your observation that his willingness to testify on that subject might affect his credibility, of course I instruct the jury to disregard the remark. I can not see, however, Mr. Paisley, that that would be proper redirect examination on any subject. The only possible subject upon which it might bear is the alleged conversation suggested by Mr. MacInnis as to the form or content of a presumed document which is not before the Court.

Q. (By Mr. Paisley): Your second wife was the one who kept these Communist Party cards, as I understand it?

Mr. MacInnis: Well, now Your Honor, he has already given three different pieces of testimony on that subject, and I don't think that he can be led or given suggested answers.

The Court: I will allow him to answer.

A. Yes, she did keep the card. [3919]

Q. Did she oppose your withdrawal from the

A. No, I didn't discuss that matter with her, sir.

(Testimony of Lewis Herbert Michener.)

Q. Do you know whether or not she is still a member of the Party?

A. To the best of my knowledge she is.

Q. (By the Court): What is your wife's name?

A. My wife's name is Mary Michener.

Q. Your second wife? A. Mary Michener.

Q. Is she known as Mary Michener at the present time?

A. She perhaps would be known as Mary Hoff or Mary Benley.

Q. H-o-f-f? A. Yes, H-o-f-f.

Q. And Benley? A. B-e-n-l-e-y.

Q. Mary Benley?

A. That was her maiden name.

Q. What is the name Mary Hoff?

A. She was married before, and the first time she was married to a man by the name of Hoff, H-o-f-f. I don't recall his first name.

Q. (By Mr. Paisley): Where was the CIO convention in 1941, State convention, held?

Mr. MacInnis: That was asked and answered this morning.

The Court: That was the Oakland [3920] convention.

Mr. MacInnis: Yes.

The Court: There is no question about that.

Mr. Paisley: No question about it, your Honor, but from time to time we wish to reemphasize something. The objection is made that it is repetitious. It is repetition, but I am just leading to another question.

The Court: All right. Will you go into the subject matter?

Mr. Paisley: How is that?

The Court: Will you go into the subject matter that you want to go into?

Q. (By Mr. Paisley): The meeting out here in the Sunset section was in 1940, is that right?

A. That is correct, sir.

Mr. MacInnis: Now, your Honor, he wants to go over the same testimony again with some attempt to add new facts or embellish them.

The Court: I assume that is preliminary to some other matter.

Mr. Paisley: That is what it is.

Q. (By the Court): It was in 1940, was it?

A. Yes, sir.

The Court: Come to the next question.

Q. (By Mr. Paisley): About what time of the year?

A. As I say, it was in late '40. I couldn't exactly tell you [3921] the exact time.

Mr. Paisley: Mark that as an exhibit first.

Mr. MacInnis: I am sorry, I didn't hear what you said.

Mr. Paisley: I asked the clerk to mark this card as an exhibit.

The Court: What is the nature of the card?

Mr. Paisley: This is a hotel registration card at the Shaw Hotel in August of 1940, if your Honor please.

The Court: Mark it for identification.

(The registration card was marked U. S. Exhibit 9 for identification.)

Mr. Paisley: Will you show it to the witness.

Q. I show you Government Exhibit No. 9 for identification, Mr. Michener. Do you recognize it? Can you identify it? A. Yes, sir.

Q. What is it?

A. That is a card similar to the one handed to me yesterday here, a registration at the Shaw Hotel with my signature on it, L. H. Michener, and my address, 212 West 3rd Street, Los Angeles, California.

Q. Did you sign it?

The Court: What is the source of that card? Where was it obtained?

Mr. Paisley: Your Honor, the immigration officers investigating at the Shaw Hotel located that card. Realizing [3922] the importance of it, they asked the hotel to keep it in a safe place, and the hotel accordingly placed it in their safe. Now, I take it probably Mr. MacInnis, when they were investigating to find out whether there were registration cards there, found the one which they found and did not know that this one was in their possession. That is quite probable. I imagine that is what happened. But we have it here. We got it back from the hotel since yesterday.

The Court: This is a record kept in the regular course of business of the hotel?

Mr. Paisley: Yes, sir. We have an employee of the hotel here, if there is any technical objection made to his disability to identify it.

The Court: There is an employee in court?

Mr. Paisley: Oh, yes. I do not know whether she is in the courtroom. She is available.

Q. That is your signature, is it?

A. That is correct.

Q. Did you register at that hotel on that date?

A. I believe I must have. That is my signature on there.

Q. Do you recall that you stayed at the Shaw Hotel on that occasion?

A. I do. I stayed there approximately on that occasion, I am sure.

Mr. Paisley: I would like to offer the card in evidence. [3923]

The Court: Do you have an objection, Mr. MacInnis?

Mr. MacInnis: With the ingenuous explanation that has been offered to the concealing of this card in the hotel safe, I certainly do not question its validity. It has the Hotel Shaw upon it. I may have some questions upon it.

The Court: I would rather not have any misunderstanding about it hereafter. If you desire I will call in the clerk or the person who has charge of that document.

Mr. MacInnis: I make no objection to the validity of the card.

The Court: Do you have any objection to the statement made by Mr. Paisley concerning the fact

(Testimony of Lewis Herbert Michener.)

that the document or card was in the safe or safe deposit box of the hotel?

Mr. Paisley: I am told by the hotel people,——

The Court: Bring the man in rather than have any statement made by the Court——

Mr. MacInnis: I assume that is what he did.

Mr. Paisley: Your Honor, do you question my veracity?

The Court: Do I?

Mr. MacInnis: Judge, I will defend him on that. We will accept his word.

Mr. Paisley: Mr. MacInnis gets up here in front of the jury and suggests that I made some ingenuous statement about the concealment of the card.

The Court: No, Mr. Paisley, this case—— [3924]

Mr. MacInnis: "Ingenuous" is complimentary; it should have been "ingenious."

The Court: Mr. Paisley, I have not reflected on your integrity at any stage of the proceeding, and what I had to say was in the interest of what I regard as an orderly procedure. Now the witness is available. Mr. MacInnis——

Mr. MacInnis: We are making no point of it, Judge.

The Court: Mr. Paisley made a statement concerning the fact that it was in the safe, Is that statement to be regarded as evidence in this case? I do not want a loose record in this case at any time. In the past I have prided myself on my trial records, and I intend to do it in this case.

Mr. Paisley: Your Honor, we do not offer this document as a document kept in the regular course of business. We do not depend upon that rule. Here is a witness who has said, "This is my signature. I signed this card."

The Court: Mr. Paisley, perhaps I am obtuse, or perhaps I can't make myself understood. It is unusual that a document be maintained in a safe which ordinarily is kept in the regular course of business. That unusual aspect of the situation might create some question hereafter concerning the statement which you make to the Court not under oath. Mr. MacInnis says he has no objection. Is it stipulated? Have you gentlemen stipulated? Because hereafter you may attempt to argue the matter to the jury and I will have nothing in [3925] the record. I certainly have not reflected upon your integrity. I will call the witness of my own motion. Call the witness. Call the witness.

Mr. Paisley: Now, your Honor?

The Court: Any time.

Mr. Donohue: I have just sent for the witness.

Mr. Paisley: I had just one other question of this witness and we might be able to get him off the stand.

The Court: All right.

Q. (By Mr. Paisley): Mr. Michener, was there any time to your knowledge that Mr. Thimmes was a candidate against Mr. Connolly for the office of president of the CIO out here in California?

Mr. MacInnis: Your Honor, the objection to that question is——

(Testimony of Lewis Herbert Michener.)

The Court: This was gone into yesterday on cross-examination. There is some confusion in the record. I will allow it. It may be confusing to the record.

Mr. MacInnis: This would be an attempt to impeach his own witness, because this man testified that in 1943 Connolly defeated Thimmes for the office of State president.

The Court: I will allow the question and any explanation that you have to make, sir.

The Witness: That was correct, that I did make that statement that Connolly defeated Thimmes in '43, and I was [3926] shown here documents that I was in error in that. There was a time—I wouldn't say whether it was '42 or '41—there was a time, and I am sure the records will show that Mr. Thimmes did run against Mr. Connolly for president of the CIO in the State of California.

Mr. Paisley: Those are all the questions I have.

Recross-Examination

By Mr. MacInnis:

Q. And the time that you say Connolly defeated Thimmes for the presidency of the State CIO was the same time in which Harry Bridges was present at a meeting in which it was discussed that the other man should replace Connolly?

A. Well, no, sir. The elections that took place, if I follow you correctly, the elections for the State president of the State CIO was conducted in Cali-

(Testimony of Lewis Herbert Michener.)

fornia, and the meeting I referred to regarding Bridges being present when this matter was discussed; changing the officers, was held in Philadelphia in 1943.

Q. Whatever time the meeting was held, it was within the year in which Connolly had defeated Thimmes, is that correct?

A. It was incorrect because your questions yesterday—I was in error at the '43 State convention here. I believe Mr. Pollard, who I indicated to you was at that time, I believe, a member of Brother Thimmes' organization, that is, Thimmes supported him and had more or elss the right wing [3927] group of the CIO in the State.

Q. Yes, but you told the jury yesterday that Thimmes had been defeated by Connolly in the State, and that then you had this discussion back in Philadelphia of going to the heads of the CIO with a suggestion that Thimmes replace Connolly, and that Bridges had objected because the rank and file had voted against Thimmes, and that it would be a bad thing for that reason. That is what you told the jury, isn't that right?

A. That is right.

Q. But then you find that Connolly and Thimmes did not run against each other that year at all, that Thimmes was not the defeated candidate whom you say was discussed?

A. I found that in court yesterday. That was developed here.

Q. Yes. So all the reasons that you gave for

(Testimony of Lewis Herbert Michener.)

that conversation were false reasons based upon the same error that you made in saying that it was Connolly versus Thimmes in 1943?

A. I wouldn't say that is correct, sir. I think that is your personal opinion.

Q. You said certain things about your second wife here today. When did you see her last?

A. The last time I recall seeing my ex-wife was in '45, sometime about March or April, I would say, to the best of my recollection. I was returning from Los Angeles on a train, back up here to get out on my ship, and she happened to be on [3928] same train. That is the last time I recall seeing her.

Q. A casual meeting?

A. A casual meeting, yes.

Q. Before that time when had you seen her since the separation?

A. It would be sometime in January of 1945.

Q. So far as you know, that lady is earning her living respectably as a school teacher in the public school system in Southern California, isn't that correct? A. Will you repeat that question?

Q. I say, so far as you know, that lady is earning her living as a school teacher in the public school system in Southern California, isn't she?

A. That is news to me. That is the first I heard of it.

Mr. MacInnis: That is all.

Mr. Paisley: That is all.

The Court: The witness is excused.

Mr. Donohue: I am told that there is a lady from the hotel here, your Honor.

The Court: Produce the lady.

MRS. ISABEL ELLIOTT

called for the Government; sworn.

The Clerk: Will you state your full name to the Court and jury. [3929]

The Witness: Mrs. Isabel Elliott.

The Clerk: Mrs. Isabel Elliott?

The Witness: Right.

Direct Examination

By Mr. Donohue:

Q. Where do you live, Mrs. Elliott?

A. 51 Chattanooga Street.

Q. What is your business or occupation?

A. I am assistant manager of the Shaw Hotel.

Q. How long have you been at the Shaw Hotel?

A. Well, I am there—let's see—seven years.

Q. I hand you what has heretofore been marked United States Exhibit for identification No. 9 and ask you to take a look at it, and then tell us whether you can tell us what it is.

A. Well, this is the registration card of the hotel. of course, I wasn't working there at the time that this has been registered.

Q. When did you last see that document which is now in your hands?

A. I gave that to Mr. Kesler on October 6.

Q. On October 6? A. Right.

Q. Have you seen it since October 6?

A. Well, then he returned it several days after

(Testimony of Isabel Elliott.)

and I put in away, and I gave it to him yesterday, I think, or today—I think it was yesterday I gave it to him. [3930]

Q. Do you recall at what time you gave it to him?

A. Well, in the morning.

Q. Are you sure it was yesterday morning?

A. Sometime before noon.

Q. Are you sure it was yesterday morning?

Mr. MacInnis: I do not think, your Honor, this prosecutor may cross-examine his own witness.

Mr. Donohue: I never saw the lady in my life, if your Honor please. She said it may have been yesterday. I am only trying to find the truth.

The Court: The objection is overruled. To the best of your recollection.

A. Well, it was a couple of days ago, very shortly.

Q. A couple of days ago?

A. Uh-huh (affirmative).

The Court: I didn't hear you, Mr. MacInnis.

Mr. MacInnis: Not a word did I utter.

Mr. Donohue: Just one of his typical sarcastic laughs, your Honor.

Mr. MacInnis: Do you think I have a typical sarcastic laugh?

Mr. Donohue: Yes, I do.

Mr. MacInnis: All right.

Mr. Donohue: If your Honor please, I would prefer in the light of this demonstration that your Honor question this [3931] witness. I never saw this witness before in my life.

(Testimony of Isabel Elliott.)

Mr. MacInnis: Neither did I, your Honor, and I was told by one of the immigration officers this morning when I saw the card that they had gotten it and that they had taken it back to the hotel and asked them to keep it in a safe place, and I have no reason to doubt it. I have no reason to doubt it now. I understood it was shortly after they got it, and it has been in the hotel safe for some time. I could be wrong about it. That is what I was told.

Q. (By the Court): Was this card kept in the regular course of business in which that type of card is kept?

A. Yes, we keep them. We got it out of the file for Mr. Kesler. He returned it to me and I put it in the safe.

Q. You lodged it in the safe?

A. I put it in the hotel safe, and then when he came after it, I gave it to him.

The Court: That is all.

Mr. MacInnis: May I ask one or two questions?

The Witness: Surely.

Cross-Examination

By Mr. MacInnis:

Q. You put this card in the safe at the request of this Mr. Kesler, did you?

A. Well, I did, so in case I needed it again I would know just where to get it.

Q. And then you say yesterday morning or a couple of days ago [3932] you returned it back to Mr. Kesler? A. I did.

(Testimony of Isabel Elliott.)

Q. Did he come over to the hotel to get it?

A. Yes, sir.

Q. He came over and asked you for it?

A. He did.

Q. It has been in his possession, so far as you know, since the time you gave it to him?

A. Yes, sir.

The Court: Other than in the clerk's possession.

Mr. MacInnis: Pardon me?

The Court: The clerk has had it here in temporary custody. It has been marked in evidence.

Mr. MacInnis: Yes.

Q. On what would be about a day and a half ago did an investigator come to the hotel connected with the defense in this case and ask to look at your records? A. No, I don't believe so.

Q. Didn't some person ask to go through the records of the hotel so far as the registration of this man named Michener was concerned?

A. Not regarding this card.

Q. Well, regarding any card theretofore?

A. We had someone yesterday going through for a card, but it wasn't this. [3933]

Q. Did you see that person?

A. The man that came in?

Q. Yes. A. Yes, sir.

Q. You didn't tell him, though, about the other card, did you? A. No, I didn't.

Mr. MacInnis: That is all.

Mr. Donohue: Thank you, madam.

(Testimony of Isabel Elliott.)

The Court: The card may be marked in evidence.

(U. S. Exhibit 9 for identification was received in evidence.)

Mr. Donohue: May I for one question call Mr. Kesler, if your Honor please?

The Court: Yes.

Mr. Donohue: Mr. Kesler, will you come forward, please.

The Court: The witness is excused.

LAWRENCE R. KESLER

called for the Government; sworn.

The Clerk: Will you state your full name to the Court and jury.

The Witness: My name is Lawrence R. Kesler.

Direct Examination

By Mr. Donohue:

Q. Where do you live, Mr. Kesler? [3934]

A. My residence is in Tucson, Arizona.

Q. What is your business or occupation?

A. I am employed by the Immigration Service.

Q. How long have you been in San Francisco with the Immigration Service?

A. I have been in San Francisco since May 27, 1949.

Q. I ask the clerk to hand you what is marked Government's for identification No. 9 and ask you to look at it and tell his Honor and the ladies and gentlemen of the jury if you can identify it.

Mr. MacInnis: Pardon me. If the Court please,

(Testimony of Lawrence R. Kesler.)

counsel is now asking this witness to give testimony with the hope of impeaching another witness whom he has just called to the stand.

Mr. Donohue: Your Honor, I am trying——

The Court: Overruled, and the jury will disregard the remark.

Mr. Donohue: With great difficulty from Mr. MacInnis I am trying to establish a fact, if your Honor please.

The Witness: This is a registration card from the Shaw Hotel.

Q. (By Mr. Donohue): When did you first see that card?

A. I first obtained the card on October 5 of last year.

Q. And where did you obtain the card?

A. I obtained the card from the file rooms or the record [3935] of the Shaw Hotel.

Q. What did you then do or thereafter do with respect to that card?

A. After I secured it I asked permission to remove it from the Shaw Hotel, and Mrs. Elliott, who was on duty at the time, dated and signed the card so that it could be identified, and I later returned the card to her.

Q. When? A. In about two or three days.

Q. And that was about when?

A. That was approximately on the 7th or 8th of October, 1949.

Q. When did you next see the card?

A. I next saw the card this morning. I went over to the hotel this morning about 8:30. I saw Mrs. Elliott and she gave me the card this morning.

Q. Did you ask anyone at the hotel when you were there at any time with respect to that card not to discuss the fact that there was such a card with any person or persons?

A. I did not. When I returned the card to Mrs. Elliott I told her that we may want it for further identification at a later date.

Mr. Donohue: You may have the witness.

Mr. Hallinan: The cross-examination of this witness will consume a very long time, your Honor, and we will ask that it be deferred until two [3936] o'clock.

Mr. Paisley: Your Honor, the only legitimate cross-examination would be with reference to this card.

Mr. Hallinan: Oh, no; the interest of the witness is always of importance. His activities in the case will form a large part of his interest, and we have a great many questions to put to the witness.

The Court: Counsel, I shall limit the cross-examination of this witness at this stage of the proceedings to matters concerning this card and no other matter.

Mr. Hallinan: Your Honor, we will propose questions to establish the interest of the witness, his interest in this case, and, of course, whatever your Honor may do with respect to those questions will be within your Honor's own judgment, but we cer-

(Testimony of Lawrence R. Kesler.)

tainly cannot be remiss in ~~our~~ obligation to make the proper inquiry. So I think if we could resume at two o'clock, because the inquiry will be quite extensive——

Mr. Paisley: On that point, your Honor, there is one case in the Ninth Circuit Court of Appeals decided by the Ninth Circuit that I happen to have read since I have been here that I would like to cite to your Honor. Your Honor just made a ruling, and I would like to cite that case.

Mr. Hallinan: Let us have the case, because it will be a novelty. I should like to look it up at noontime. The interest of a witness, your Honor, and his activities in the case, the witnesses he has interviewed, the persons he has consulted, [3937] the efforts he has made to procure a conviction of the defendants are all absolutely material upon the credibility of the witness. We are not accepting a word that the witness has said. We intend to attack his credibility. We intend to inquire into all of his activities in connection with this case.

The Court: Counsel, notwithstanding your intention, Mr. Hallinan, I tell you now my rule is I shall limit the cross-examination to facts and matters surrounding this particular exhibit. The witness has not been offered on any other subject. It is improper cross-examination, and assuming all the questions you have in mind, assuming the length of the cross-examination that you may well intend, I tell you now the objections will be sustained, and that it will unduly take the time of the Court and jury. I

(Testimony of Lawrence R. Kesler.)

ask you, therefore, quite respectfully, you and Mr. MacInnis, to undertake whatever cross-examination you may have at this stage concerning the card in question and release this witness.

Mr. Hallinan: Of course, I can't do that consistent with the obligation we owe to our clients, your Honor, to elicit all pertinent evidence and, of course, the questions will have to be asked. I know what my duty and my obligation is. Your Honor knows your duty and obligation. I cannot control yours, but I know you will not attempt to prevent me——

The Court: The matter will stand over until two [3938] o'clock. It is now 12:10. I have told you what my rule shall be.

Mr. Hallinan: Yes. Now, might we ask counsel for that authority which he says so interrupts the ordinary rule of law as to prevent an attorney from inquiring into the motives, the activities of a witness? What is that authority from the Ninth Circuit you told us about, Mr. Paisley?

Mr. Paisley: Mr. Hallinan, I do not recall the number of the book and the page number, but I can get it at the recess; if you will give me a telephone number at which I can get you or at which I can receive the station, I will be glad to call you just as soon as possible, within the next 15 or 20 minutes, and I would like the privilege of submitting it to you.

The Court: We will take the noon recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions or to form an opinion thereon until the matter is submitted to you.

Mr. Hallinan: The number is Prospect 5-0533. If Mr. Paisley will give me the decision there, I will be grateful.

(Thereupon a recess was taken until 2:00 p.m. this date.) [3939]

Thursday, January 12, 1950, 2:00 P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Lawrence R. Kesler, heretofore sworn.

Mr. Hallinan: Your Honor, might the witness Michener be returned to the stand immediately at the conclusion of this witness' testimony? Might we inquire if he is available?

The Court: I excused the witness. Is the witness available?

Mr. Paisley: He is available, I am sure, your Honor; I saw him upstairs a moment ago.

Don't let him go, Mr. Kaiser.

The Court: Will you put in a call for the witness, to make him available immediately after this witness?

Mr. Paisley: Yes, your Honor.

Mr. Hallinan: Thank you.

(Testimony of Lawrence R. Kesler.)

Cross-Examination
(Resumed)

By Mr. Hallinan:

Q. Now, Mr. Kesler, you say that you procured this card originally from the Hotel Shaw when?

A. On October 5, 1949.

Q. And who directed you to go to the Hotel Shaw to procure the card? How did you happen to go there?

A. Nobody directed me to. It was just a routine check.

Q. Well, I don't want to use the word "directed" as though you [3940] were in some sort of inferior position, but I mean, who suggested the Hotel Shaw, or who put you on the track of going to the Hotel Shaw to seek out this card?

A. Well, Mr. Michener indicated that he had stayed at the Hotel Shaw in the latter part of 1940 and it was just a routine check to verify his stay in San Francisco.

Q. In anything that I ask you, Mr. Kesler, will you please understand I am not criticizing you. I just want to find out. You don't have to make any explanations or apologies for your conduct, if that is what you think it is, because no one is questioning that.

A. I understand that, Mr. Hallinan. I am making no apologies.

Q. All right. Now, did you get the information from Mr. Michener personally or did someone else give you the information?

(Testimony of Lawrence R. Kesler.)

A. The information wasn't secured by myself, no.

Q. From whom did you get the information?

A. From a report.

Q. Who signed the report or who gave the report?

A. Frankly, I don't know for sure. I believe it was Mr. Ward. I believe it was a report signed by Mr. Ward.

Q. And who is Mr. Ward?

A. He works for the Immigration Service.

Q. Now, was there more contained in the report than the notation about Mr. Michener having stayed at the Hotel Shaw?

A. There undoubtedly was. Yes, I know that there were other [3941] things besides the fact that he stayed at the Hotel Shaw.

Q. Now, did the report state the occasion on which Mr. Shaw—or Mr. Michener, rather—stayed at the Shaw Hotel? A. That's right.

Q. What occasion was that?

A. At the time that he attended a Communist Party meeting in San Francisco.

Q. Now, have you made enough inquiry into it to determine that that is the Communist Party meeting that Mr. Michener said he attended in the Sunset District sometime in the fall of 1940?

Mr. Donohue: I object to that question, if your Honor pleases. I don't think that is pertinent.

Mr. Hallinan: Your Honor will see the pertinency of it immediately.

Mr. Donohue: The witness has testified, if your

Honor pleases, that in consequence of a report signed by another agent, referring to an occasion when Mr. Michener stayed at the Shaw Hotel, he went to the hotel and obtained this document.

Mr. Hallinan: Well, now I just want to have him relate that exact time. It will only take two questions.

The Witness: Will you repeat the question, please?

Mr. Hallinan: May we have the question read, your Honor?

The Court: Yes. Would you read it, please?

(Record read.) [3942]

A. I believe that it was included in the report.

Q. In the report he had spoken of two meetings that he had with Mr. Bridges which he said were Communist Party meetings, is that right?

A. No, I didn't say that. I say that the time he stayed at the Hotel Shaw referred to the same time that he had attended a Communist Party meeting in the Sunset District in San Francisco.

Q. All right. Now, where did Mr. Ward purport to have gotten that information?

Mr. Donohue: I object to the question, if your Honor pleases.

The Court: Sustained.

Q. (By Mr. Hallinan): Did Mr. Ward tell you where he had gotten that information, or was it contained in the report?

Mr. Donohue: Same objection, if your Honor please.

(Testimony of Lawrence R. Kesler.)

The Court: Overruled.

A. He did not tell me personally, no.

Q. So, having learned that—When did you read that report, or when did you get that information, with relation to the time you went to this hotel and made this checkup?

A. Well, it was just previous to that time, I would say possibly a week.

Q. Now, did you, of your own accord or under instructions of somebody else, go to the hotel and make a checkup? [3943]

A. No, it was just a routine check on my part.

Q. It is something you would do under ordinary circumstances ~~on~~ reading that report?

A. That's right.

Q. All right. And you went to the Hotel Shaw and did you personally make a check of the records of the Hotel Shaw, or did you have somebody do it for you?

A. I was with somebody from the hotel.

Q. Who was that person?

A. I believe his name was Jack Oliver.

Q. Jack Oliver?

A. He was employed by the hotel.

Q. I see. And will you tell us now what was done toward the discovery of this card? What were the steps that were taken by Mr. Oliver in your presence or by you which led to the discovery of this card?

A. We searched through the old records, the registration records of the hotel, which were kept

(Testimony of Lawrence R. Kesler.)

in their basement, until such time that we found Mr. Michener's registration card.

Q. What periods did you search?

A. We started from the end of the year.

Q. The end of the year 1939? A. 1949.

Q. 1949?

A. I mean 1940. I beg your pardon. [3944]

Q. And worked back, is that right?

A. That's right.

Q. And how far back did you work?

A. We worked back until I found this card.

Q. Until you found this card. Then you quit?

A. That's right.

Q. You didn't discover the card that was signed in February? A. No.

Q. Now, when you discovered this card, what did you do in the hotel with Mr. Oliver toward taking the card out?

A. Well, Mr. Oliver was not in a position to do anything about releasing the card himself. I don't know exactly what his capacity is. But I did ask the clerk at the desk if it would be possible to remove the card, which I would return in a few days. She granted that permission, dated the card as of October 5, 1949, and signed her name to the card.

Q. All right. Now, was there any other card from the end of the year up to this August the 26th card? A. I found none.

Q. And made, I take it, a thorough check of what records they had, did you? A. That's right.

Q. Now, when the lady or the clerk gave you

(Testimony of Lawrence R. Kesler.)

consent ot take the card, what did you do with the card?

A. I took the card back to the [3945] Immigration Office.

Q. And what did you do with it there?

A. We had a photostat made of it, or I believe it was a photograph; I know that it was.

Q. How many copies of the photograph?

A. I think there were four made.

Q. And what was done with those four photographs?

A. They were included in the files of the Immigration Service.

Q. Were they all put in the one file or were any of them distributed to any other person?

A. There was one in Mr. Michener's file; there was one in the photograph file that we maintain; the other two I don't know where they were or where they were placed.

Q. When you say in Mr. Michener's file, you mean you have a separate file in the Immigration Service relating to Mr. Michener?

A. Certainly.

Q. Only as a witness in this case or generally?

A. As a witness in this case.

Q. Only?

A. Well, as far as I know. I don't know any different.

Q. You have a separate file concerning that man, the photostat of the card was put in there?

A. That's right.

(Testimony of Lawrence R. Kesler.)

Q. All right. Now, then, what did you do with the original?

A. After two or three days I returned the original to Mrs. [3946] Elliott at the Shaw Hotel.

Q. With what instructions?

A. With no instructions, except that I asked her if she would keep it available if we wanted it in the future.

Q. Did you ask her to put it in the safe?

A. I did not.

Q. All right. Now, when did you next see any of the photostats?

A. Oh, I have seen those many times. [3946-A]

Q. Now, let me ask you this, Mr. Witness: With what persons other than yourself connected with the prosecution in this case have you discussed this card or that photostat?

A. Other than the prosecution?

Q. No, no, the persons connected with the prosecution.

A. Well, we have talked about it generally.

Q. Who are "we"? I want to know the persons connected with the prosecution with whom you have talked about this card. Name them one by one; attorneys preferably if you will start with them. What attorneys have you talked it over with or discussed it with? A. Before obtaining the card?

Q. No, afterwards. Let us say between the obtaining of the card and the present moment.

A. Oh, I have talked to Mr. Donohue.

(Testimony of Lawrence R. Kesler.)

Q. When did you first talk to Mr. Donohue about this card?

A. I believe it was this morning. I know that it was.

Q. Is that the first time that you spoke to him about it? A. That is right.

Q. Where was that?

A. Upstairs in this building on the fourth floor.

Q. Did you or he have the photostat of the card with you? A. I had the original card.

Q. Did he have the photostat?

A. I didn't see it. [3947]

Q. What time was that?

A. Just before court this morning. It was about 9:30.

Q. You had a talk with Mr. Donohue—by Mr. Donohue you mean the special prosecutor in this action? A. That is right.

Q. Did the talk you had with him then relate solely to the card or were other matters also discussed?

A. It related solely to the card. I indicated that I had secured the card this morning.

Q. Did you give him the card then?

A. I showed it to him and he returned it to me.

Q. You retained it in your possession, is that right? A. That is right, that is right.

Q. Did you talk to any other attorney about the card between the time you got it and the present moment?

(Testimony of Lawrence R. Kesler.)

A. I talked to Mr. Paisley and pretty much the same thing would apply.

Q. When did you first talk to Mr. Paisley about it?

A. I believe—it was approximately the same time that I talked to Mr. Donohue.

Q. Was he with Mr. Donohue this morning at the time you showed Mr. Donohue the card?

A. No, I don't think so. I think Mr. Paisley saw it just previous to that or just after.

Q. Where? [3948]

A. In the same room upstairs.

Q. Mr. Donohue had left that time, or hadn't come yet, or what?

A. No, he was there at the time, I believe.

Q. I just asked you if Mr. Paisley was present when you showed it to Mr. Donohue and you said no.

A. I believe he came in at the same time.

Q. Prior to that time had you ever talked to Mr. Donohue about either the card or the photostat of it?

A. I don't recall talking to him about it, no.

Q. Have you talked to Mr. Donohue about facts connected with this case prior to your talking to him this morning? A. Yes.

Q. Many times?

A. I would say a few times, not many, no.

Q. Have you talked to him since Michener was subpoenaed or since he appeared here?

A. I have talked to him, yes.

Q. Did you talk to him on any of those occasions about this card or about the photostat?

(Testimony of Lawrence R. Kesler.)

A. No, I did not.

Q. Did you tell him that you had checked the Hotel Shaw and verified this date of Michener's appearance here?

A. I personally don't recall telling him that, no.

Q. Did you tell it to Mr. Paisley?

A. No. [3949]

Q. Have you talked to Mr. Paisley any time before this morning about this subject?

A. No, I did not.

Q. How about Mr. Bruce Barber?

A. Yes, I have.

Q. When did you talk to Mr. Barber about this card?

A. Shortly after I secured the copy in October.

Q. Did you show him the card?

A. No, I don't think he actually saw the card itself.

Q. Did you tell him what the contents of the card disclosed? A. That is right, I did.

Q. You told him the date, the time and everything about the appearance of Michener at that time, is that right? A. That is correct.

Q. Told him about your search through the records, and that this was the only card that you found from that time until the end of the year?

A. I don't know that I went in detail about it. I told him I had secured the card.

Q. Did you tell him what date was on the card?

A. Yes, I believe I did.

Q. Did you have any conversation with Mr. Bar-

(Testimony of Lawrence R. Kesler.)

ber which included any discussion of that card or its discovery after that time?

A. No, not after I had told him that I found the card, I didn't discuss it with him any more. [3950]

Q. Did you have any discussion with him at all about that card or the discovery of it in the hotel or the photostatic copy of it from the time that you just narrated up until the present?

A. No, sir.

Q. Did you talk to Mr. Boyd about the card?

A. I showed the card to Mr. Boyd this morning previous to showing it to Mr. Donohue and Mr. Paisley.

Q. What time did you show it to Mr. Boyd?

A. I would say it was around 9:15.

Q. Where? A. Upstairs in this building.

Q. Did you have any discussion with Mr. Boyd at 9:15 this morning on any subject other than that which related to this card? A. No.

Q. So you talked to Mr. Boyd about it, and how long did you talk to him about the card?

A. Five minutes or less.

Q. Then afterwards you talked to Mr. Donohue about it? A. That is right.

Q. And how long did you talk to him about it?

A. About the same length of time.

Q. And then you talked to Mr. Paisley about it, is that right? A. That is correct.

Q. How long did you talk to him? [3951]

A. Just a few minutes.

(Testimony of Lawrence R. Kesler.)

Q. During any of those conversations with those three gentlemen, was any other person present?

A. I believe the stenographer was in the room.

Q. How about Mr. Michener?

A. No, Mr. Michener was not in the room.

Q. Are you sure he wasn't in the room at that time? A. Yes, I am sure he was not.

Q. When did you last talk to Mr. Michener about this card?

A. I believe it was after the trial recessed at noon today.

Q. After the trial recessed at noon today?

A. That is right.

Q. At that time you had been excused as a witness? A. That is right.

Q. And you talked to him then, is that right?

A. That is correct.

Q. Where? A. We had lunch together.

Q. Where?

A. On Market Street. Do you want the name of it?

Q. Yes.

A. I think it was Nick's on Market, is the name of the restaurant,

Q. Anybody else there?

A. Mr. Wooley was there. [3952]

Q. Who is Mr. Wooley?

A. He is employed by the Immigration Service.

Q. In what capacity?

A. I believe his title is Patrol Inspector.

Q. Is what? A. Patrol Inspector.

(Testimony of Lawrence R. Kesler.)

Q. Patrol Inspector? A. Yes.

Q. So you, Mr. Michener and Mr. Wooley had lunch today and then for the first time you talked to them about this card, is that right?

A. I believe you asked me if the last time——

Q. Oh, excuse me, that is right. That is the last time you talked to him about the card?

A. That is correct.

Q. When prior to that had you talked to Mr. Michener about the card, the last time prior to that?

A. I mentioned the fact to him yesterday afternoon.

Q. Where? A. It was in this building.

Q. Where? What room?

A. I believe it was during a recess.

Q. Did you have the card with you then?

A. No.

Q. Did you have a photostat of it? [3953]

A. No, I did not. I got the card this morning.

Q. Did you have any notations as to the contents of the card when you were talking to Michener yesterday? A. No.

Q. You talked to him in what part of the building yesterday? . In the hall.

Q. Who else was present? A. Nobody.

Q. Just you and he? A. That is right.

Q. What part of the hall, Mr. Kesler?

A. Outside of the courtroom.

Q. How long did you talk to him at that time?

A. Five minutes, more or less.

(Testimony of Lawrence R. Kesler.)

Q. When prior to that time had you talked to Michener about the card?

A. I don't believe that I did.

Q. You don't believe you talked to him about it?

A. No.

Q. Do you remember saying anything to him at any time about the card prior to the time you talked to him in the corridor yesterday?

A. No, I do not.

Q. Did anybody else in your presence or within your hearing at any time prior to that say anything to Michener about that card? [3954]

A. Not to my knowledge.

Q. Had you interviewed Michener before that time?

A. I wouldn't say it was an interview. We were merely talking.

Q. And you talked about the circumstances and facts of this case, isn't that right?

A. That is correct.

Q. Did you verify from Michener the truth of the circumstances narrated in this card, namely, the time he occupied the room at the Hotel Shaw?

A. No.

Q. Didn't you ask him at all if the card did not refresh his recollection that that was the time he stayed there and the length of time he did stay?

A. No, I did not.

Q. This card shows a William Clark registered there with Michener. Did you ask him who William Clark was? A. I did.

(Testimony of Lawrence R. Kesler.)

Q. Who was William Clark?

A. I don't know who William Clark is.

Q. Who did he tell you he was?

A. I don't know whether Mr. Michener was sure who William Clark was or not.

Q. Did he tell you who he thought he was?

A. Yes, I believe—he said he believed it was Paul Kline.

Q. He believed that the William Clark was Paul Kline? [3955] A. That is correct.

Q. The card shows, does it not, that Mr. Michener arrived on 8/26/40—that is the 26th day of August, 1940—and departed on the 27th of August, 1940, doesn't it? A. Yes, that is what it shows.

Q. Mr. Kesler, have you the desire unjustly and contrary to the facts, to procure a conviction of the defendants in this case?

Mr. Donohue: I object to the question, if your Honor please.

Mr. Hallinan: That is a proper question, your Honor. It is a preliminary question to the next question I am going to ask him. I want to find out whether that is this man's motive and interest right now.

Mr. Donohue: If your Honor please, only this morning when this witness was called to testify merely to the fact that he procured this card and brought it to court this morning, your Honor, I take it, in evaluing the importance or non-importance of

(Testimony of Lawrence R. Kesler.)

the purpose for which the witness was called, ruled that the question of the bias, prejudice or interest of this witness in this prosecution obviously could not be in issue with respect or arising out of the fact that he testified only as to this minute fact and told Mr. Hallinan that his cross-examination of this witness would be restricted to the matter which was developed on direct examination, that is, the facts with respect to this card, and I therefore most respectfully say to your Honor that a question [3956] as to the attitude of this witness toward this prosecution is not only an improper question, but it is in violation of the ruling which your Honor made this morning. If there is any question in Mr. Hallinan's mind about the ability of your Honor or the power of your Honor to make such a ruling, I have authorities here which I will be only too glad to call to your Honor's attention.

Mr. Hallinan: Might I say this, your Honor: What he says is very true, and when they called the witness to the stand, while the witness' presence on the stand seemed to us of great importance as opening a doorway that we most desired to open, a little further reflection illustrated the fact that when fraud and corruption are involved in a case, the slightest incident may open a door that you never suspected, and this little card that was put in so inadvertently now, if your Honor please, convicts the officers of the prosecution of fraud, corruption, deceit and concealment, and I will show you how in a moment.

(Testimony of Lawrence R. Kesler.)

Now, let me ask you this. I will withdraw the last question.

The Court: Ladies and gentlemen of the jury, I have admonished you in the past, and it becomes my duty increasingly, as it must be apparent to you, and with continuity of regularity, to admonish you to disregard the statements made by Mr. Hallinan. This statement made by Mr. Hallinan may not be regarded by you as evidence in this case. The evidence is unfolded from the [3957] lips of the witness or witnesses, as it may appear. I admonish you to disregard this statement and I assign the remarks as misconduct at this stage of the case.

Mr. Hallinan: Your Honor, I must enter an exception to that. Counsel was permitted to get up here and make an argument as to the impropriety of the evidence, and I am certainly entitled to reply to it.

The Court: Mr. Hallinan, it must be apparent to you at this stage that to make that charge based upon that card, in the light of the narrative which has been elicited from this witness is wholly improper.

Mr. Hallinan: Let's see. One question, and I think your Honor will hold differently.

The Court: The last question you addressed to the witness was—what was the question?

Mr. Hallinan: Whatever it was, I will withdraw it and I will ask him this question.

The Court: All right.

(Testimony of Lawrence R. Kesler.)

Q. (By Mr. Hallinan): Now, you and these other gentlemen knew when Michener was on the stand that the date of the alleged meeting out in the Sunset District had to be August 26, 1940, didn't you?

Mr. Donohue: I object to the question, if your Honor pleases.

Mr. Hallinan: You see what they have done, Judge. This [3958] is the same sort—I will ask that this gentleman not be permitted to interrupt the cross-examination. He has on several occasions when witnesses were in a similar position jumped up and by arguing and trying to instruct the witness and get them out of court, prevented the discovery of facts that are pertinent.

The Court: Mr. Hallinan, I will say to you I am not going to foreclose you from an examination in and with respect to this card and the surrounding circumstances. I thus far have allowed you, without interruption on the part of anyone, complete latitude. I have also checked authorities during the noon hour and am prepared to discuss them in the presence of the jury or out of the presence of the presence of the jury, and I am willing of course to exercise the discretion in connection with your cross-examination that I regard as sound, and thus far there has been no interruption. But your characterizations, Mr. Hallinan, must be apparent to you.

Mr. Hallinan: I will withdraw that question.

The Court: Then it is nothing but misconduct.

(Testimony of Lawrence R. Kesler.)

Q. (By Mr. Hallinan): Let me ask you this, sir: When Michener was on the stand, you were sitting out here in the courtroom, weren't you?

A. Part of the time, yes.

Q. And you heard Michener testify that the meeting out in the Sunset Strip or the Sunset District was some time in the late [3959] fall of 1940, didn't you?

A. No, I wasn't here during the direct examination.

Q. Have you since heard that that was the time that he identified it?

A. I knew that prior to coming here.

Q. Yes. And you knew all the time that the meeting, if it took place at all, had to take place on the 26th of August, 1940, didn't you?

A. That isn't necessarily true.

Q. Now, you didn't see any of these prosecutors when Michener was first on the stand as a means of identifying the time when that meeting was held, present this card to him, did you?

A. No, I did not.

Q. But when the defendants brought in a card dated February, 1940, then of course you gentlemen balanced advantages and decided that it would be necessary to show this card to him to establish that he had been there at another time, isn't that right?

Mr. Donohue: I object, if your Honor pleases, to the question. Mr. Kesler is an agent of the Bureau of Immigration. He did not have anything to do with the decision which was made by the prosecution

(Testimony of Lawrence R. Kesler.)

with respect to the examination or production of this card.

Mr. Hallinan: Who made the decision?

The Court: The objection is sustained.

Mr. Hallinan: All right.

The Court: To that question.

Q. (By Mr. Hallinan): Did anybody tell you that it would be desirable to conceal the card for the reason that in the examinations of Mr. Johnson and Crouch it developed that there was great danger in establishing dates on these things because union records frequently came up to prove that Mr. Bridges was elsewhere? Did any of these prosecution gentlemen tell you that?

Mr. Donohue: I object to the question, if Your Honor pleases.

The Court: Sustained.

Mr. Hallinan: I think, Your Honor, it is a perfectly proper question. The reason why this card was not introduced is of the highest significance, and we should be enabled to inquire into it. And, Your Honor, might I say this, that the jury is entitled to hear these things and to reach its own conclusions upon it. Now, Your Honor sustained the objection as to questions of fact.

The Court: I am willing to have the jury hear, as well as the Court, any matters that may be relevant, material, to the card in question, to its production and the original investigation. I am not inclined that the jury hear, nor this Court, an argument in advance made, or characterizations

(Testimony of Lawrence R. Kesler.)

made in advance, or the indictment of witnesses made in advance. I am [3961] willing to permit any pertinent question made, and put to these witnesses bearing upon this particular investigation.

Mr. Paisley: Well, Your Honor,——

Q. (By Mr. Hallinan): Will you tell me that it was not discussed with Mr. Paisley, Mr. Boyd and Mr. Donohue this morning in the United States District Attorney's office, that the card should not be displayed to Mr. Michener or that the card should now be produced, so as to counterbalance the effect of the production of the card by the defense from February, 1940? Was that discussed?

A. They didn't discuss it in my presence, if it was. I didn't follow——

Q. Was it discussed by any of them in your presence prior to this time, prior to the time—to this morning, that it would be wise not to mention this card nor show it to Michener on the stand, so that Mr. Bridges—or so that a definite date would not be established for that alleged meeting in the Sunset, so that the defense might be precluded from proving that Mr. Bridges was elsewhere. Did any of them say that to you?

Mr. Donohue: I object to that question, if Your Honor pleases, because it presupposes a fact which is not a fact; it presupposes the fact that this card was not produced. We produced this card.

The Court: Objection sustained.

Mr. Hallinan: They produced it this morning, Your Honor, [3963] after letting Michener on the

(Testimony of Lawrence R. Kesler.)

stand for a day and a half, and didn't produce it. And they only produced it after we attempted to show that there was no such card. Then it came out of hiding.

The Court: The objection is sustained.

Q. (By Mr. Hallinan): You say you come from Tucson, Arizona? A. That is correct.

Q. And you have been in San Francisco since May, 1949?

A. I may have said that. I wish to correct it, however, if I did. I arrived here in February—February 27, 1949.

Q. Have you been here continuously since? I mean, except on expeditions connected with this case?

A. I have been in this district ever since, yes.

Q. And have you been working on any matter except the Bridges case?

Mr. Donohue: I object to the question, if Your Honor pleases.

The Court: Overruled.

A. Yes.

Q. Now, let me ask you whether in May, 1949, accompanied by an agent Meyers—or whether you accompanied that agent named Meyers, and went to visit a man named Herman Mann,——

Mr. Donohue: Object to the question.

Mr. Hallinan: Wait a moment, if you will. I haven't finished the question. [3963]

Q. (Continuing): —and then and there offered to Mr. Mann that you would procure the services

(Testimony of Lawrence R. Kesler.)

of the United States Cancer Research to cure his dying wife if he would come in and testify against Bridges. Did you, Mr. Kesler?

Mr. Donohue: I object to the question, if your Honor pleases.

Mr. Hallinan: It goes to the witness' activities in this case, your Honor. It goes to his credibility and his interest. Now, Your Honor indicated this morning that his credibility and interest, as of your opinion at that time, might not be material. I hope in view of the inferences raised by the suppression of this date that that opinion will now be set aside and that we may be permitted to inquire into all the activities of this gentleman in connection with attempting to procure a conviction of the defendants in this case. Now, I will say this, Your Honor: I have——

The Court: You have now assumed to advance into matters independent of the card?

Mr. Hallinan: I have at least a thousand questions on this subject, on the subject of his interest and activities in the case, and I don't—I am willing to accept, although I certainly argue and protest, a ruling, Your Honor, that would prevent us from doing it. I want to show all the activities of this man and the associates with whom he was connected and whom he acted in cooperation with, to procure evidence, false evidence [3964] and fraudulent, Your Honor, in this case. I want the right to do that, to make a showing attacking his credibility and as showing his interest in the case. Now, as

(Testimony of Lawrence R. Kesler.)
I say, I don't want—I will not persist in making it if the Court rules advisedly and with some thought that it is improper; but I certainly want the record protected, because I think it would be reversible error that we be barred from inquiring into the activities and interests of an agent who has been instrumental in getting this case together, and who has done an enormous amount of work and engaged in an enormous amount of activity to procure a result that he is not entitled to procure.

The Court: Mr. Donohue, may I hear from you?

Mr. Donohue: I have already objected to the question, if Your Honor pleases. Number one: as being an improper question on cross examination, because not a matter which was referred to on direct examination of this witness; and as being in direct violation of Your Honor's ruling this morning, to the effect that the cross examination would be limited to the subject matter of the card, which alone was developed on direct examination.

The Court: My examination of authorities, of the authorities during the noon hour, Mr. Hallinan, would justify me in the reassertion of the rule which I think is sound, (1), that the cross examination in the main is limited to that which is elicited and brought out in chief, on direct; secondly, that [3965] the discretion vests in the trial court with respect to the limitations upon that cross examination. The matter elicited on direct examination had to do with a card. I have allowed you full and complete scope in and with respect to the card, all the surrounding circumstances, the conversation

(Testimony of Lawrence R. Kesler.)

had with the agents and the attorneys. You have been permitted to state to the jury, before my admonition, in connection with the characterization about this card. I have admonished the jury to disregard your statement.

For your information, I reviewed the following authorities and you might note them in your book——

Mr. Hallinan: Pardon me, if I may.

The Court: ——so you may have them hereafter.

United States v. Toner, 173 Fed. 2d. 140 at 144. The language of Justice Stone in the Supreme Court decision of Alford v. United States, 682, 687, wherein Justice Stone said, in part:

> "There is a duty to protect him (that is the witness) from questions which go beyond the bounds of proper cross examination merely to harass, annoy and humiliate him."

The case of United States v. Easterday, 57 Fed. 2d. 165 at 166. This is United States v. Easterday, E-a-s-t-e-r-d-a-y, at 57 Fed. 2d. 165, at 166. And this is Justice Learned Hand, speaking for the Circuit Court:

> "Cross examination does not extend to aimless shots at [3966] random; a trial presupposes rational process applied to the testimony uttered. The judge was not bound to allow what otherwise had no bearing on the witness' credibility."

(Testimony of Lawrence R. Kesler.)

Then in Morton v. U. S., at 60 Fed. 2d. 696, at 699. And the language used in this Morton case is somewhat reminiscent of your expectation or hope that some error might be created in the record. The Court said——

Mr. Hallinan: It is no hope, Your Honor; I hope no error will be created. I tried to argue Your Honor into permitting the evidence in.

The Court: I am trying my level best to keep error out of the record.

The Court then said:

> "The battle continued, not to ascertain the truth, but in the evident hope that error might be injected into the record and ultimate conviction thereby avoided. But avoidance of a conviction, upon uncontradicted evidence, establishing to a certainty the guilt of the accused,——"

and so forth. Then the Court concluded:

> "Nevertheless, the ascertainment of the truth by means of a fair trial, rather than the slavish devotion to the rules of the game, is the determinative factor in ascertaining the existence of prejudicial error."

I also referred to the Gerson case, Gerson v. U. S., 88 Fed. 2d. 358, at 361: [3967]

> "The extent of cross examination with respect to an appropriate subject of inquiry is within the sound discretion of the trial court.

(Testimony of Lawrence R. Kesler.)

It may exercise a reasonable judgment in determining when the subject is exhausted."

Mr. Hallinan: Your Honor, at this time, because of the citation of certain language in one of these cases, which might—I hope not—be a reflection upon me——

The Court: That language may be stricken from the record and I advise the jury to disregard it. It unfortunately crept into the note.

Mr. Hallinan: I move for a mistrial, Your Honor, on the ground that the statement of the Court is manifestly prejudicial. Now, I mean, the mere fact that Your Honor read it and has stricken it out——

The Court: The motion for a mistrial is denied.

Mr. Hallinan: Now, Your Honor, the only——

The Court: Also there is one other case that I referred to, Twachtman, T-w-a-c-h-t-m-a-n, v. Connelly, C-o-n-n-e-l-l-y, in 106 Fed. 2d. 501, at 507, with respect to the latitude. And also Wigmore, 3 Wigmore, Section 983, Third Edition.

Mr. Hallinan: In matters that you have been discussing, Your Honor, those are not, I think, involved in the thing that we have here. These are——

The Court: Do you desire, Mr. Hallinan, in aid of the record, so that there may be no mistake about it, to make an [3968] offer of proof in the absence of the jury? If you do, I will accept your offer of proof.

Mr. Hallinan: These are general statements,

(Testimony of Lawrence R. Kesler.)

and the statements you read are general statements, and we are all familiar with them. The limitations that the Court can impose. But they have nothing to do with the right to impeach a witness by showing his interest and activities. I think that they are somewhat in the nature of the information conveyed by Mr. Paisley to me at noon. He said he would ring up and give me a citation squarely on the matter, and he did ring up and spent a few minutes insulting me and attacking me, then hung up suddenly before I got a reasonable chance to reply.

Mr. Paisley: I want to reply to this.

Mr. Hallinan: And that is all that happened there.

Mr. Paisley: I would like to reply to that statement. I did call Mr. Hallinan, as I promised in the presence of Your Honor and the jury, to give him the citation. He then launched into a most insulting stream of words.

Mr. Hallinan: The citation that he gave me was a statement that I would have to obey the order of the Court. He said he would give me a citation before noon on the subject of the right to cross-examine on interest and activity of the witness. He rang up, I suppose that Mr. Donohue and some of his pals were there, and adopted a very sarcastic and truculent air, and told me, first, recited off a thing, and then says, "Of course, that [3969] does not involve the point we are talking about: it involves your obligation to comply with the Court's orders," and so forth. Now, a certain exchange of recriminations took place, but the most that I called Mr. Paisley was the name by which we commonly designate him as the counsel table, and I will tell it to you in secret, if——

The Court: I am not interested in what you may call Mr. Paisley, Mr. Hallinan.

Mr. Hallinan: Very well. Now, I would like to do this, if the Court please. I have an affidavit here of Herman Mann concerning which I just questioned this gentleman, and I want to offer——

The Court: May I see it?

Mr. Hallinan: Yes. And I want to offer the affidavit of Herman Mann as an offer of proof. I want it marked for identification, and an offer of proof may be oral or in writing. There is no use having sessions outside the jury's presence. I am against that procedure anyhow.

The Court: It is not what you are against, Mr. Hallinan; it is what the rule is traditionally in these courts.

Mr. Hallinan: Well, Your Honor, tradition is a difficult thing to follow. I don't know of any written rule——

The Court: Well, you seem not to be interested in tradition.

Mr. Hallinan: Well, anyway, we offer this affidavit of [3970] Herman Mann, and I offer it to show that this man is one of the persons described in the third paragraph, or in the last paragraph of the matter. Now, if it may be marked for identification, that is the facts that we wish to prove at this time.

The Court: You might show the document to Mr. Donohue. Mr. Donohue?

Mr. Hallinan: Well it is for your perusal, I take it.

Mr. Donohue: This isn't the first offer of proof we haven't been permitted to see, but I do think we should be permitted to see it, if Your Honor please.

(Document examined by Mr. Donohue.)

Mr. Hallinan: Now, with regard to other questions of a similar nature, that is, I want to question this witness with regard to his interviews with other witnesses who have appeared here, with persons who have not appeared here,——

The Court: In connection with the card in question?

Mr. Hallinan: No, in connection with his general activities in this case, interviews with witnesses, his promises, threats, inducements and so forth. I want to question him about all of them.

The Court: May I see it?

(Document examined by the Court.)

The Court: The objection is sustained.

Mr. Hallinan: I am not—could we retain this or withdraw it from the Clerk afterward and substitute a copy of it instead? [3971]

The Court: I have no objection, Mr. Hallinan. And you may make a photostat copy, Mr. Mitchell.

(Testimony of Lawrence R. Kesler.)

The Clerk: May it be marked for identification?

The Court: Yes, for identification.

(Thereupon, document referred to was marked Defendant's Exhibit K-1 for identification.)

Q. (By Mr. Hallinan): What is your salary with the United States Government, Mr. Kesler?

Mr. Donohue: I object, if Your Honor please.

The Court: Overruled.

A. My salary?

Mr. Paisley: May I suggest that both pages of that exhibit be marked, given the same number?

The Court: You may answer.

A. $4800 a year.

Q. In addition to yourself, how many agents of the Immigration Department within the period of February 27, 1949, within your knowledge have been working on the present case?

Mr. Donohue: I object to the question, if Your Honor please.

The Court: Sustained.

Mr. Donohue: That is all. You may step down. You are excused.

The Court: We will take the afternoon recess. Do you desire, Mr. Donohue, to call another witness now? [3972]

Mr. Donohue: I have a short witness, if Your Honor pleases, to go back to the identification of a record from the Immigration Service that was under discussion at the time Mr. Schrimpf testified. It will take only a short time. I suggest after the recess, if I might call that one witness——

Mr. Paisley: Well, didn't Mr. Hallinan say he wanted to question Mr. Michener?

The Court: That is correct, yes. Call Mr. Michener. We will take the afternoon recess in the interim, ladies and gentlemen. May I again admonish you not to discuss the case under any conditions, nor to form or express an opinion upon the matter until it is finally submitted to you.

(Recess.) [3973]

The Clerk: The witness on the stand is Lewis Herbert Michener, Jr., heretofore sworn.

Cross-Examination

LEWIS HERBERT MICHENER, JR.
recalled; previously sworn.

By Mr. Hallinan:

Q. You told us already, Mr. Michener, that you had had certain dealings and conversations with an agent named Kesler; that is right, isn't it?

A. That is right, sir.

Q. During the recess which persons connected with the Immigration Department or the prosecution have talked to you?

A. That is, you mean, sir, since I have been off the stand here or before, during the noon hour——

Q. Yes.

A. Let me see. I talked to a Mr. Woolley.

Q. Who? A. Woolley.

Q. How do you spell that?

A. I couldn't tell you, sir.

(Testimony of Lewis Herbert Michener, Jr.)

Q. What is that? A. I couldn't tell you.

Q. Woolley? A. Yes, sir.

Q. W-u-e-l-l-i-e? Who else? [3974]

A. Mr. Kaiser.

Q. Who else? A. Mr. Kesler.

Q. Anyone else? A. Mr. Barber.

Q. Anyone else?

A. That is about all I can think of, sir.

Q. That is at noontime? A. At noontime.

Q. You say that is about all you can think of?

A. That is, I believe, the answer I gave you, sir.

Q. You are not sure whether you spoke to more persons than that?

A. No, I believe that would be about the size of it.

Q. Where did the conversation take place with Mr. Woolley, Kaiser, Kesler and Barber?

A. It wasn't really a conversation. I had lunch with Mr. Woolley and Mr. Kesler.

Q. Where?

A. Over here on Market Street. We walked over there and had lunch, and we returned together to this building.

Q. Since that time have you been still in this building? A. I have, sir.

Q. At whose order or suggestion or request have you stayed in this building since that time? [3975]

A. I wasn't here under any order, request or suggestion. I was here working out arrangements for my plane reservation to return home.

Q. When is your plane reservation to return home as scheduled?

(Testimony of Lewis Herbert Michener, Jr.)

A. It hasn't been completed. That is why I am still remaining here.

Q. Were you doing the telephoning yourself or were some agents of the department doing the work for you?

A. Some agents of the department were doing the work for me.

Q. Who?

A. All I know about it was Mr. Kaiser called someone in another office. They were working on it. That is all I know about it.

Q. You had lunch, then, you say, with Mr. Woolley and Mr. Kesler. When did you talk to Mr. Kaiser and Mr. Barber?

A. I talked to Mr. Barber on the way down here to this meeting, this court session now, sir, out in the hallway here.

Q. How long did you talk to him?

A. Just said hello to him.

Q. No conversation at all about your testimony?

A. None whatever, sir.

Q. Did you have any conversation with any of those four people today concerning a card that you signed at the Hotel Shaw, the last one that was shown to you, the one that was [3976] marked for identification?

A. Do you mean by that during the noon hour?

Q. Yes. A. No, sir.

Q. Did you have a talk with anyone after the noon hour about this card? A. No, sir.

(Testimony of Lewis Herbert Michener, Jr.)

Q. No discussion on the subject of this card at all, is that right? A. No, sir, it is not right.

Q. Did you have a conversation with somebody about it? A. Not during the noon hour.

Q. I said after the noon hour.

A. No, sir, not after the noon hour.

Q. When did you have a conversation with them? A. This morning.

Q. What time?

A. Oh, I would say roughly between 9:30 and quarter to 10 or somewhere.

Q. With whom did you have the talk then?

A. Mr. Kesler.

Q. Where? A. In this building.

Q. Between 9:30 and a quarter to 10?

A. Approximately that time, I would judge.

Q. Did Mr. Kesler then have the card with him?

A. He did.

Q. Where did that conversation take place?

A. That took place in this building on the fourth floor.

Q. Who else was present?

A. It wasn't really a conversation over it. He showed me the card.

Q. Who was present?

A. Mr. Kaiser, Mr. Woolley and Mr. Paisley.

Q. How about Mr. Donohue? A. No, sir.

Q. Where did that conversation take place?

A. In this building on the fourth floor.

Q. What was said about the card at that time?

A. At that time all that was said about it was

(Testimony of Lewis Herbert Michener, Jr.)

Mr. Kesler showed me the card and said, "Does that look like your signature?"

I looked at it and I thought for the time being it was the same card I had seen here in court, and I said, "Yes, that is my signature," and that is all that was said about it.

Q. Had you ever seen that card before from the time you signed it? A. No, sir.

Q. So from the time you signed the card back in 1940 up until this morning you had never seen that card; is that right? [3978]

A. That is right, sir.

Q. Did you see a photostat of it?

A. No, sir.

Q. The card had never been shown to you by any person? A. That is what I said.

Q. You had not seen it from the time you signed it until you saw it this morning?

A. That is right.

Q. You are sure of that?

A. I am sure of that.

Q. He asked you this morning if this was your signature and that is all that was said, is that right?

A. That is right.

Q. Were these other gentlemen present when he showed you that card?

A. They were present, yes, sir.

Q. Tell us exactly what he said. Where did he produce the card from, first?

A. I got here a little bit before he did this morning, apparently, because he came in with the

(Testimony of Lewis Herbert Michener, Jr.)

card, showed it to me as I was standing in the room upstairs.

Q. Tell us, then, the full conversation with you at that time.

A. I will repeat again that he asked me, "Does that look like your signature? I looked at it, and as I have indicated to you, it looked to me like the card that was handed to me by your [3979] partner yesterday.

Q. Just a minute, if you will. Will you show this witness that card again, please.

That is admitted in evidence, is it not, Mr. Mitchell?

The Clerk: Yes, it is, Mr. Hallinan, Government's No. 9 in evidence.

Q. (By Mr. Hallinan): You saw that card, Government's Exhibit No. 9. Now, when Mr. Kesler spoke to you about the card, when he first came in, did he have the card in his hand? Did he produce it from a pocket, an envelope, a file, or what?

A. I assumed he produced it from an inside coat pocket apparently.

Q. Don't assume; what you saw.

A. That is what I seen. He produced it from an inside coat pocket.

Q. Tell us exactly what he did with the card and what he said to you when he so produced it.

A. When he produced it he pulled the card out something similar to this (indicating), and said, "Say, Lew, I have a registration card here from

(Testimony of Lewis Herbert Michener, Jr.)

the Shaw Hotel. Does that look like your signature?"

I looked at it as I am looking at it now. I said, "Yes, that looks like my signature."

Q. What else did he say?

A. He wanted to know who this man was, this other signature [3980] on there, and I told him at the time I couldn't recall. It could possibly have been Paul Kline, because he stayed with me.

Q. What else was said?

A. That is all in reference to this card.

Q. You say that he asked you who was the other person whose name was on there and what is the name that is on that card?

A. Well, it looks to me like it would be either William Clerk or William Clark. The "William," "Wm.," is very easy to distinguish. The other is C-l-e-r-k or C-l-a-r-k, I believe, as nearly as I can distinguish it.

Q. Is that all that was then said about that card or the contents of the card?

A. That was all, sir.

Q. Was anything said about the use of the card? What use would be made of the card in the court inquiry today?

A. There may have been, but not in my presence.

Q. No, I say to you within your hearing.

A. No, sir.

Q. Nothing was said at all? A. No, sir.

(Testimony of Lewis Herbert Michener, Jr.)

Q. Nothing was asked you about the date?

A. No, sir. I told you to the best of my recollection of the discussion that was held this morning with reference to this card, sir. [3981]

Q. Except for that discussion now, have you had any conversation about that card with any of these people from the time you signed the card up until this morning? A. No, sir.

Q. Has any person connected with the Government, that is, the Immigration Department or the attorneys or anyone else, ever mentioned that card to you from the time you signed it back in 1940 up until Kesler produced it this morning?

A. No, sir, I didn't know anything about this card. The first I saw it was this morning.

Q. Do you mean to tell me that Kaiser never mentioned it to you?

A. I mean to tell you exactly that, sir.

Q. Nor Donohue?

A. I mean to tell you exactly that.

Q. Paisley? A. That is correct.

Q. Kidder? A. That is right.

Q. No questions have been addressed to you about that card?

A. Sir, I am under oath up here and I honestly tell you no, sir.

Q. Did you indicate to anybody at any time whether or not that card confirmed your remembrance as to the time that you had the meeting that you say was a Communist meeting out [3982] in the Sunset district?

(Testimony of Lewis Herbert Michener, Jr.)

A. I had no occasion to make any such reference as that, sir.

Q. You are sure you did not, is that right?

A. I am positively sure I did not.

Q. Do you know a man named William Clark?

A. I don't know a man by the name of William Clark.

Q. Or William Clerk? A. No, sir.

Q. Do you know a man named William Clark who is a member of the Iron Workers Union in this neighborhood? A. No, I——

Mr. Hallinan: Might I have the card again?

Q. I notice on this card that it says, "Michener, L. H. Michener and 1." That means some other person occupied the room with you; that is right, isn't it? A. That is right.

Q. Who was the person?

A. To my recollection, as I have indicated to you, it was Paul Kline. We stayed together the night before we came up here——

Q. No. Just a minute, if you will. I know what you stated before. I asked you who was the person who occupied this room with you at the Shaw Hotel on August 21, 1940?

A. To the best of my recollection, I would have to say to you [3983] it was Paul Kline.

Q. I don't want you to have to say anything. Tell me who was the person so far as you remember.

Mr. Paisley: That is argumentative.

(Testimony of Lewis Herbert Michener, Jr.)

A. So far as I remember, it was Paul Kline.

Q. (By Mr. Hallinan): Now, yesterday in answer to the following questions in this court do you remember giving the following answers:

> "Q. (By Mr. MacInnis): Now, to come to this meeting, the first one of the two which you described Harry Bridges as being present, you say that you came up from Southern California with a man named Kline, is that true?
>
> "A. That is correct; Paul Kline.
>
> "Q. Paul Kline. And how did you get up here? Did you drive or take the plane or what?
>
> "A. I drove my automobile.
>
> "Q. And then you and Mr. Kline, I suppose, stayed together while you were here in San Francisco?
>
> "A. Didn't stay together here, but we did stay together on the way up as a result of some motor trouble I had. We stayed together at a motel down the line.
>
> "Q. And you went to the Shaw Hotel?
>
> "A. That is correct, sir.
>
> "Q. Did you stay there alone or with any other person?
>
> "A. Stayed there alone." [3984]

Did you give that testimony?

A. If you are reading exact from the transcript, I would say that I gave that testimony.

Q. On several occasions on which Mr. MacInnis has questioned you on the transcript or on letters, you have given us somewhat similar answers. "If you are reading from the transcript I said that," and so forth. Is the veracity of whatever statement you make dependent upon what written commitment the attorney examining you is able to make of you?

A. I am not quite clear on what you are trying to drive at.

Q. I mean this: Is it your position that you will say anything that suits your convenience or that suits the purposes of the gentlemen who brought you here, unless you know that you can be contradicted by some document that you have signed or some testimony that you have given before? Is that your attitude?

A. I don't think that is my attitude.

Q. What do you mean by saying that if that is what you said here, then that is your statement?

A. You were reading quite a long, lengthy sentence. I didn't know but what you might omit a word and then have me indicate that is exactly what I said, and then I would be in the same position I am right now with your cross-examination.

Q. You are of such a nature, sir, that knowing that no one can trust you, you will trust nobody, is that correct? [3985]

Mr. Donohue: I object to that question, if your Honor please, and ask that the jury be charged that there is no implication of truth in what Mr. Hallinan has said.

(Testimony of Lewis Herbert Michener, Jr.)

The Court: Sustained. The jury is admonished to disregard it.

(A transcript was handed to the witness.)

Q. (By Mr. Hallinan): Is that your testimony?

A. That is my testimony.

Q. Do you want to change it now?

A. No, sir.

Q. You noticed from the wires that were displayed to you this morning and were offered here as a defendants' exhibit for identification, the Court declining to permit their introduction in evidence, that you sent a wire to Harry Bridges from St. Louis on July 26, 1940. Do you remember that?

A. I told you, your partner, that I didn't remember that.

Q. What was happening in St. Louis in July, 1940, do you remember? A. I do.

Q. What was it?

A. We had an Auto Workers convention in progress then.

Q. Were you a delegate?

A. I was not only a delegate but an officer of the organization at the time.

Q. Were you reelected at that convention?

A. I was.

Q. Were the facts of that convention pretty clear in your mind when you were talking with Kaiser, Kesler and so forth? [3986-A]

Mr. Paisley: I thought — wait a minute. I thought the further examination by another counsel of the witness, Your Honor, was to be confined to the card and that the fact that William Clark's name appears on it. Now, we are going back over other territory.

The Court: Well, this was a matter that was up this morning. I will overrule the objection.

A. I don't recall ever discussing that St. Louis convention with—who all did you ask me if I discussed it with again, please?

Q. In fixing the time that you attended the meeting in San Francisco, concerning which you have testified here, in the Sunset District, had you employed the fact that you were at the convention in St. Louis as a means of establishing the time at which this meeting was held in the Sunset District?

A. No, sir.

Q. That did not help keep it within your mind or bring it to your recollection, is that true?

A. That is true.

Q. When you testified before the grand jury in this proceeding, did you testify that the meeting in the Sunset District was approximately August 28, 1940? A. I did not.

Q. You are sure of that?

A. To the best of my recollection, I am sure of it. I don't [3987] recall using any particular date. I think I have indicated there, as I have indicated to you here in this court, that it was late in 1940.

Mr. Hallinan: Pardon me just one moment.

Q. How long have you known Paul Kline?

A. I have known Paul Kline since about the first part of 1938.

Q. What was the name of the motel that you stayed at with Paul Kline on the way up here?

A. I am sorry, I couldn't tell you that. It was one of these little motels.

Q. What town was it in?

A. About 200 miles down the line. I had motor car trouble and we pulled off the road at one of these little places along the road and stayed.

Q. You can't tell us what town it was in?

A. It wasn't in a town, it was a little motel alongside the road, down the line. I would estimate around 200 miles. I left Los Angeles on Sunday and started up here on Sunday, and then we had this car trouble, so I didn't get in here until the following day.

Q. And you say that Paul Kline was a member of the Communist Party? A. I did.

Q. What position, if any, did he hold?

A. He was secretary of the Los Angeles County.

Q. At that time? A. At that time.

Q. And what was your position?

A. At that time I was the Coast Coast Director for the United Auto Workers.

Q. No. I say in the Communist Party.

A. Well, my position has always been, in the Communist Party, just as a member of the Communist Party. I never had any official position in the party.

Q. Now, you say that you are not sure who the

(Testimony of Lewis Herbert Michener, Jr.)

William Clark or Clerk, who signed his name on that document, is?

A. I honestly say that to you.

Q. And you—have you some notion about using the word "honestly" or "I am trying to tell the truth," or something that adds something to the dignity of your testimony, sir?

A. I can't help it; if the Court will instruct me to give my testimony differently, I will. I am giving it to you to the best way I can. I did not rehearse my testimony when I came here.

Q. No. I am talking about the use of the word "honestly."

A. If it will suit your convenience, I will try to omit it in my future answers to you, sir.

Q. Did you ever hear the phrase, "Methinks the lady doth protest too much"?

A. Don't know whether I ever did. I don't see what——[3989]

Q. Well, you have heard it now. Let me ask you this, Mr. Michener. In the room in the Clark Hotel, were they twin beds or single beds on the 29th of August, 1940, or the 26th of August?

A. I wouldn't recall whether they were single beds or——

Q. Or double beds?

A. Or double beds. But I thought you had someone here from the hotel. Probably they could have given you——

Q. No one asked you f[illegible] the suggestion. If you will just confine yourself to the answers, you will have difficulty enough. Now, you don't remember, then, whether the person who slept in that room under the name of William Clark slept in the same bed with you, do you?

A. No, I don't know of a William Clark or Clerk. I told you honestly that I know no such man.

Q. Well, there was some person slept in the same room with you, at any rate, wasn't there?

A. I faintly recollect there was.

Q. Well, let's just call him a mysterious gink, or something like that.

Mr. Paisley: Hold on now. He has asked him a question. He ought to be civil enough——

Mr. Hallinan: He answered that question. Didn't you answer that question?

Mr. Paisley: I don't——[3990]

Mr. Hallinan: May I have the Reporter read the answer?

The Court: Read the answer, please, Mr. Reporter.

(Record read.)

Mr. Hallinan: Do you want to add something to his answer?

Mr. Paisley: No. I just wanted you to be civil and polite and let the witness answer the question, and don't break in on him. [3990-A]

Mr. Hallinan: Well, if you will teach me to be polite more by example than precept,——

The Court: I hope we will not have to go through this again. Strike the last question, that reference to "gink." And would you rephrase that, Mr. Hallinan?

Mr. Hallinan: You don't want me to use that phrase to describe the person?

The Court: I am sure the jurors are not familiar with it. I am not familiar with the connotation of "gink," very frankly.

Mr. Hallinan: Well, years ago they used to have an expression, in my lost youth, that anyone whose identity was not established, they called them "the mysterious gink." It is a great phrase in the Police Department. Anyone who is not known, or who is described as having a round neck and his arms bending in the middle, is put down as a mysterious gink. However, I only say that in illustration of the phrase. If your Honor would prefer some other designation, I will make it.

Q. This man you don't remember, you don't remember whether he slept in the same bed with you? You don't remember who he was, but there was somebody there, is that right?

A. Apparently there was, because the card indicates that. I have told you about all I can recall about the situation. Mr. Paul Kline and I were together, and if anyone stayed [3991] there with me, why, it would have been Paul Kline. There was no one else, apparently, that was here with me on that particular occasion.

Q. Now, when you were testifying this morning in answer to questions being put to you by Mr. MacInnis, you refused to give any date upon which

(Testimony of Lewis Herbert Michener, Jr.)

you stopped at the hotel Shaw in the year 1940, didn't you?

A. I don't think I refused. I didn't know.

Q. Yes, you said you didn't know. But the very morning of this day that he was examining you, you had seen this card that showed you had stayed there on the 26th of August, 1940, and on the 27th of August, 1940, is that right?

A. No, sir, not entirely. I saw that card with my name on it, and to be honest with you, I never scrutinized it for a date. Pardon me, I never scrutinized it for a date.

Q. Yes. And nobody called the date to your attention? A. No, sir.

Q. You didn't know what year this card represented or anything else, did you?

A. I never looked at that. I looked mainly at my signature, which was scrawled out there rather largely, boldly, on the front of the card, and——

Mr. MacInnis: I am going to ask that the jurors be handed the card now, if the Court please, so as to show that the date is typed or stamped in blue ink very plainly on the front of [3992] the card. If the jurors will pass the card around?

(Card handed to jury by Clerk.)

Q. (By Mr. Hallinan): Now, sir, yesterday Mr. MacInnis showed you a card dated similarly to this, but February 9, 1940, and having the name "Tauschley" or some such name, written over yours. Do you remember that? A. I do.

Q. All right. And you noticed on that card that

(Testimony of Lewis Herbert Michener, Jr.)

the date was stamped on the front in blue ink, February 9, 1940; correct?

A. I noticed it here on the stamp.

Q. That was called to your attention yesterday, wasn't it? A. That is correct.

Q. This morning when this gentleman showed you the card that is now in evidence as Prosecution's Exhibit 9, your attention was called to the fact that the name "Clerk" or "Clark" was also written above your name, isn't that right?

A. I don't think the record will show that. I don't recall it being called to my attention here in the court this morning, that that was brought out.

Q. No, this morning, when you were up in the office with Messrs. Paisley, Kaiser and so forth, and Mr. Kesler showed you this card, he called your attention to the fact that the name Clerk or Clark was written above yours, isn't that right?

A. That's right. [3993]

Q. And he asked you who that person was, isn't that right? A. That's right.

Q. And you answered that it was probably Paul Kline, is that correct? A. That is correct.

Q. And you knew that the document he was showing you had something to do with the inquiry that had been made and was being made as to when the so-called Communist meeting took place out in the Sunset district, isn't that right?

A. No, I can't go that far with you.

Q. And you never—you didn't bother to look and see what date was on it?

(Testimony of Lewis Herbert Michener, Jr.)

A. No. I really should have, I guess.

Q. Oh, yes. And nobody bothered to point it out to you? A. I didn't quite catch you.

Q. Nobody bothered to point it out to you?

A. Nobody bothered to point it out to me.

Q. Liar, perjurer and stool pigeon are the names that you have often applied to people who have testified precisely as you have testified, isn't that right?

Mr. Donohue: I object to the question, if your Honor pleases, and ask your Honor to instruct the jury to disregard it.

The Court: The objection is sustained, the jury is admonished to disregard the statement. [3994]

Mr. Hallinan: That is all.

Mr. Donohue: We have no further questions of the witness, if your Honor pleases. And due to the lateness of the hour, if your Honor pleases, may we adjourn until tomorrow, and may this witness be finally excused?

The Court: The witness is excused. You are excused.

(Witness excused.)

The Court: Ladies and gentlemen of the jury, we will take the adjournment until tomorrow morning at ten o'clock. And may I again admonish you not to discuss the case under any conditions, nor to form or express an opinion until the matter is finally submitted to you.

(Thereupon, an adjournment was taken until Friday, January 13, 1950, at 10:00 a.m.) [3995]

Friday Morning Session

January 13, 1950, 10:00 o'Clock

The Clerk: United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

The Clerk: The witness' name?

Mr. Donohue: George H. Wilson.

The Clerk: Call George H. Wilson.

GEORGE EDWARD HAULFISH WILSON

called on behalf of the United States; sworn.

The Clerk: Will you state your full name to the Court and jury, please?

A. George Edward Haulfish Wilson.

Direct Examination

By Mr. Donohue:

Q. Where do you live, Mr. Wilson?

A. In Los Angeles.

Q. And what is your business or occupation?

A. I am a newspaper man.

Q. By what newspaper are you now employed?

A. Los Angeles Daily News.

Q. How long have you lived in Los Angeles, Mr. Wilson?

A. Since January 1, 1948—or June 1, 1948.

Q. And where were you born? [3996]

A. Charlotteville, Virginia.

(Testimony of George Wilson.)

Q. And did there come a time when your family left Virginia?

A. Yes, I was about two years old.

Q. And to what state did you go, Mr. Wilson?

A. Montana.

Q. And how long did you live in the State of Montana? A. Until 1934.

Q. Can you briefly trace your educational or formal educational background in the State of Montana?

A. I was educated in the public schools, went to the Kentucky Military Institute for one year, went to the University of Montana for approximately two years.

Q. What was your major study?

A. Journalism.

Q. Upon leaving the University of Montana, what, generally, was your employment in the State of Montana? A. Newspaper work, entirely.

Q. And when you came to San Francisco in 1934, would you state generally what your occupation was here until you went to Los Angeles?

A. Newspaper work.

Q. Did there come a time, Mr. Wilson, during your residence in San Francisco when you became active in the labor movement? A. There did.

Q. And will you generally indicate the nature of your activity [3997] in the labor movement in San Francisco?

A. Oh, it started with soon after I came to town, with the American Newspaper Guild, which I

(Testimony of George Wilson.)

joined before I went to work. And after I had gone to work, in the Guild, and the Guild became affiliated with the A. F. of L., sir, I was a delegate to the A. F. of L. Labor Council here. When we were eventually thrown out of the Council, the CIO Council was organized and I became its president.

Q. Am I correct in stating that you were the first president of the San Francisco CIO Council?

Mr. Hallinan: I object to that as leading and suggestive, if the Court please.

Q. (By Mr. Donohue): May I ask you, were you the first president of the San Francisco CIO Council?

Mr. Hallinan: Same objection, if it please Your Honor, just repeating it.

The Court: Overruled.

A. I was.

Q. (By Mr. Donohue): How long did you remain president of the San Francisco CIO Council?

A. Until the winter of 1941, I believe.

Q. Did there come a time, Mr. Wilson, and if so, where and when, that you became a member of the Communist Party? A. Yes.

Q. Would you state your best recollection as to when it was? [3998]

A. It was either in 1940 or 1941, I am not sure.

Q. And where did you join?

A. Well, I have talked with a man by the name of Walter Lambert——

Mr. Hallinan: Just a moment. I object to this.

if the Court please, as hearsay, not binding upon the defendants, not in their presence.

Mr. Donohue: May I withdraw that question, if Your Honor pleases?

The Court: All right.

Mr. Donohue: And ask the question:——

Q. What were the circumstances under which you joined the Communist Party?

Mr. Hallinan: If the Court please, object to it—res inter alia actae, matters done outside the presence of the defendants, hearsay, not binding upon them.

Mr. Donohue: May I say, if Your Honor pleases, with respect to this question as with respect to a like objection made to similar questions heretofore that I believe this testimony is admissible not as binding upon the defendants, but as proof of the circumstances under which this witness did in fact became a member of the Communist Party.

Mr. Hallinan: Well, where his membership in the Communist Party might also be a matter at issue, if the Court please, it could not be proved in that fashion; that is not the best evidence.

The Court: The objection is overruled for the reason [3999] heretofore disclosed in the record by the Court, and the jury is again admonished, as I have admonished you in the past, that testimony with respect to the entrance of this witness into the Communist Party, and the surrounding circumstances and the incidents related thereto are not binding upon the defendants or either or any of them. [3999-A]

A. Well, the circumstances, if I understand the question, were that I was asked to join and I joined.

Q. Did you fill out an application for membership? A. No, I did not.

Q. Did you receive a membership card?

A. I later received a membership card.

Q. Can you tell us from whom you received a card? A. No, I don't remember.

Q. Did you pay dues as a member of the Communist Party? A. Occasionally, yes.

Q. And over how long a period did you continue your membership in the Communist Party?

A. Until the—I would say until the spring of 1945.

Q. Was your membership in the Communist Party during that period wholly within the area of the City of San Francisco?

A. I belonged to the Party at no other place, if that is what you mean.

Q. During the period of your membership in the Communist Party did you attend any meetings of the Communist Party?

Mr. Hallinan: I object to this as calling for an opinion and conclusion and no proper foundation laid. The circumstances of the meetings might be detailed so the Court and jury could determine the nature of them.

Mr. Donohue: I think, if your Honor please, a

(Testimony of George Wilson.)

person who has joined an organization is certainly qualified to [4000] testify as to whether he ever attended a meeting of that organization.

Mr. Hallinan: We have heard that statement numerous times. I contend the foundation should be laid and the circumstances shown so the jury can determine that ultimate fact.

Mr. Donohue: As Mr. Hallinan and Mr. MacInnis frequently say, if your Honor please, this question is obviously purely preliminary to what will follow.

The Court: Overruled.

Mr. Donohue: Will you read the question?

(Question read.)

A. I did.

Q. About how often, Mr. Wilson, would you say you attended meetings of the Communist Party?

A. Oh, the group that I belonged to meet, I think it was, once a week, supposedly once a week. We did not meet that often.

Q. May I ask you, sir, upon the receipt of your membership card to which group were you assigned?

A. It is my recollection that I was assigned to a special group known as a special committee.

Q. Can you tell us where generally meetings of that group known as a special committee were held?

A. At that time they were being held on Pierce Street. [4001]

(Testimony of George Wilson.)

Q. By whom were you notified, if you can now recall, of the time and place of the meetings?

A. We usually had—I will withdraw that. I was notified by numerous people. Nobody, I believe, had the job of telling us. The word was passed around.

Q. The notification was not in writing?

A. Oh, no.

Q. And at these meetings which you attended, Mr. Wilson, did you know all of the persons who attended those meetings?

A. Yes, I knew them all.

Q. And did you know each of the persons who attended the meetings that you have described to be also members of the same committee or group of the Communist Party as yourself?

Mr. Hallinan: Just a minute. I object to that, if your Honor please, as calling for an opinion and conclusion, and furthermore we have here a different situation. Now it is disclosed that this gentleman never filed any application. We should know what were the circumstances under which these other persons who are charged now or alleged to be members of it became members. In other words, we have had described heretofore a certain procedure for becoming a member of the Communist Party, and I submit it is obvious now the mere opinion of the witness that he is or is not a member of the Communist Party cannot be binding upon this jury. There was a procedure necessary for becoming such a member. Now there are [4002]

(Testimony of George Wilson.)

certain people proposed to be identified as members, and how can the witness' impression or his opinion convey any authenticity?

Mr. Donohue: While Mr. Hallinan's observation may be well taken as to the degree to which the statement of the witness may be accepted, it certainly cannot go as to its admissibility.

The Court: This matter has been passed on by the Court in other instances, and perhaps under slightly different circumstances. I will overrule the objection. You may cross-examine on that subject.

The Witness: Repeat the question.

Mr. Donohue: Will you read the question, Mr. Reporter?

(Question read.)

A. No, I couldn't answer that question in the affirmative. Some of the meetings were attended by—only by people who were assigned to that committee. There were other meetings that other people came to who were not members of the committee.

Q. During the time, Mr. Wilson, that you were a member of the Communist Party you were also active in the labor movement in the city of San Francisco? A. I was.

Q. And during that period of time did you faithfully or otherwise attend meetings, the nature of which was purely a matter concerned with your duties in the labor movement and the persons who were present were persons who may or may not

(Testimony of George Wilson.)

have been [4003] members of the Communist Party?

Mr. Hallinan: I object to that, if the Court please, as complex, unintelligible, and not a proper question. He can ask what meetings were attended and what was the subject under discussion, but we should have each separate meeting so we can follow it.

The Court: Can you understand the question, Mr. Wilson?

The Witness: It is a little complex for me.

Q. (By Mr. Donohue): Have you ever attended labor union meetings, the members present being known to you only as members of the labor group who were conducting that meeting?

Mr. Hallinan: If the Court please, that sounds as unintelligible as the other. The proper method, if I may be permitted to interpose an objection—when we are cross-examining people numerous continued objections are interposed and we permit them to be finished. If the Court please, it seems to me the only proper method of doing this now is questions can be asked as to meetings and the persons who attended and the subjects under discussion. But to ask the witness a general wide question of that kind calls for an opinion and conclusion outside the scope of what the witness is permitted to testify to. There is no reason why there should be these short-cuts so as to make a group of all meetings and commit the witness to some such statement.

(Testimony of George Wilson.)

Mr. Donohue: I appreciate the suggestion, if the Court [4004] please, from counsel.

Mr. Hallinan: I am not making a suggestion, your Honor, at all. I am making an objection to the Court.

Mr. Donohue: I think, however, I should be permitted to ask the question.

Mr. Hallinan: I certainly do not pretend to presume I can instruct counsel in anything, and I do not intend to do it.

Mr. Donohue: I think I should be permitted to ask the question in my own way, and if the witness does not understand the question I think he can so state, and I will then reframe it.

The Court: The witness may answer the question.

Mr. Donohue: Will you read the question, Mr. Reporter?

(Question read.)

A. If I understand the question, it is if I attended labor meetings at which labor members attended. The answer is Yes, if that is the question.

Q. Mr. Wilson, did you ever attend meetings of the Communist Party at which no person other than persons known to you to be members of the Communist Party were present?

Mr. Hallinan: Just a minute. The same objection, if the Court please, no proper foundation as to who the persons were, what meetings were held, or the knowledge of the witness of those persons. I submit that is calling for an opinion and [4005]

(Testimony of George Wilson.)

conclusion and containing too many subjects in one general question.

Mr. Donohue: It is again only a preliminary question, if your Honor please.

The Court: It is overruled, and as you proceed with the witness, may I suggest, Mr. Donohue, in connection with any given person identified, lay the foundation and elaborate thereon.

Mr. Donohue: Yes, your Honor. I must ask the preliminary question first.

Will you read the question, Mr. Reporter?

(Question read.)

A. I did.

Q. (By Mr. Donohue): Mr. Wilson, do you know the defendant Harry Bridges?

A. I do.

Q. Do you know the defendant Henry Schmidt?

A. Yes.

Q. Do you know the defendant J. R. Robertson?

A. Yes.

Q. Do you see them in the courtroom?

A. Yes, I see them.

Q. Will you indicate where they are?

A. Well, Harry is sitting there leaning back. Henry is next to him, and Bob is over at the other end of the table. [4006]

Q. I assume by "Harry" you refer to Harry Bridges? A. I do.

Q. By "Henry" you refer to Henry Schmidt?

A. Yes.

(Testimony of George Wilson.)

Q. And by "Bob" you refer to J. R. Robertson?

A. That is right.

Q. Did you ever attend a Communist Party meeting at which the defendant J. R. Robertson was also present?

Mr. Hallinan: Just a minute. Same objection, if the Court please, no proper foundation laid.

Mr. Donohue: Again it is a preliminary question.

Mr. Hallinan: Pardon me. If I may be permitted to finish the objection. We make the objection, if the Court please, no proper foundation has been laid as to who were the persons present, and that meeting should be identified and the persons present first before any general characterization is placed upon it. It is calling for an opinion and conclusion on a non-expert matter.

The Court: Overruled.

(Question read.)

A. Yes.

Q. (By Mr. Donohue): And did you ever attend a Communist Party meeting at which Henry Schmidt was also present? A. Yes. [4007]

Q. Can you tell us where and when it was that you attended a Communist Party meeting at which J. R. Robertson was also present?

A. I attended several meetings with Robertson up at—in an apartment in North Beach, and my memory is that it was around in 1944, 1945.

Q. Do you know, Mr. Wilson, to what unit of

(Testimony of George Wilson.)

the Communist Party Mr. J. R. Robertson was assigned?

Mr. Hallinan: Just a moment. Object to that, if the Court please. No foundation laid, calling for an opinion and conclusion of the witness.

Mr. Donohue: If the objector will permit the question to be answered, I think the answer will answer the objection itself, if Your Honor pleases. If he doesn't know, obviously he can state so, that he doesn't know. If he does know——

Mr. Hallinan: That isn't what he asked him.

Mr. Donohue: I asked him if he knew.

Mr. Hallinan: And it is assuming something not in evidence, that Mr. Robertson was ever in the Communist Party or ever assigned to any portion of it. A violent assumption on counsel's part—in fact, a trick question.

Mr. Donohue: If Your Honor pleases, I ask that the—well, I will pass it. May I say, if Your Honor pleases, that the witness has already testified that he is a member or was a member of the Communist Party, assigned to a unit, that he attended weekly [4008] meetings of that unit. He has stated that he has attended a Communist Party meeting at which the defendant J. R. Robertson was present, has indicated his best recollection of the time and place. I think he is certainly qualified to answer the question, "Do you know to what unit of the Communist Party Mr. J. R. Robertson belonged?"

Mr. Hallinan: If the Court please, a great deal of foundation would have to be laid for that, as to what he knew about Mr. Robertson, whether Mr. Robertson was a member of the party, how he would know that, what application were made and so forth. That is assuming something not in evidence. The witness has not said that Mr. Robertson was a member of the Communist Party nor assigned to any part of it. Only that he attended a meeting.

The Court: Much of that subject matter is cross-examination. The witness has testified that he knew the defendant Robertson, that he attended meetings in a North Beach apartment with the defendant Robertson. Now he is asked as to a particular unit. I think the question is proper.

Mr. Donohue: Would you read the question to the witness?

The Court: You might answer that, Mr. Wilson, as to a particular unit, if any, to which Mr. Robertson was attached, if he was attached to a particular unit.

A. Well, it was my understanding he was attached to the same unit I was. [4009]

Mr. Hallinan: Ask that be stricken out, if the Court please,—"my understanding"—as stating an opinion and conclusion.

Mr. Donohue: I think, if your Honor pleases, again that it is a matter he may be cross examined about.

The Court: The motion is denied.

Q. (By Mr. Donohue): Would you say, Mr.

Wilson, that you attended one or more than one meeting of the Communist Party at which the defendant J. R. Robertson was present?

A. More than one.

Q. And with respect to the defendant Henry Schmidt, did you ever attend a meeting of the Communist Party at which Mr. Schmidt was present?

A. I did.

Q. And would you say that you attended one or more than one? A. More than one.

Q. Do you know a man by the name of Mervyn Rathborne? A. I do.

Q. Do you know a man by the name of William C. Schneidermann? A. I do.

Q. Do you know a man who is referred to as "Slim" Connolly? A. Yes.

Q. Do you know a man by the name of Lou Goldblatt? A. Yes.

Q. And you do know Harry Bridges? [4010]

A. I do.

Q. Did you ever attend a meeting with the persons named? A. I did.

Q. If so, will you state the time and place?

A. The place was in the Governor Hotel. The time I don't know.

Q. What is your best recollection of the time, Mr. Wilson?

A. Somewhere between 1942 and 1944.

Q. Are you able to tell us in whose room at the Governor Hotel the meeting took place?

A. I think Rathborne made the reservation.

(Testimony of George Wilson.)

Q. And can you tell us first what was the subject matter under discussion at that meeting?

A. Some difference of opinion between Rathborne and Goldblatt, as I recall.

Q. Do you recall over what the difference of opinion was?

Mr. Hallinan: I object to that, your Honor. What should be done is to ask him to state what the conversation was, as nearly as the witness can remember.

Mr. Donohue: If we can once find the subject matter, if your Honor pleases then I will ask him if he can recall what was said.

Mr. Hallinan: If he can recall that subject matter, he might——

The Court: Overruled. He may state the difference of opinion that existed as to the overall [4011] policies.

Mr. Donohue: That is all I wanted to know, your Honor.

The Court: And then the detail, if he recalls the detail.

A. The meeting,—and I don't have a very good recollection of it, I mean, of what was discussed—was, as I recall, called by Rathborne to make a complaint against Goldblatt's interference in the State Council work.

Q. Can you recall what was said by any one of the persons who were present, Mr. Wilson?

A. I can not.

(Testimony of George Wilson.)

Q. Would you enumerate for me the persons who were present?

A. Bridges was there, Schneidermann, Rathborne, Goldblatt, Connolly and myself, sir, as I remember.

Q. Can you tell us whether those were all of the persons who were present?

A. I don't recall any more.

Q. And who was Mr. Schneidermann, if you know?

Mr. Hallinan: Object to that, if the Court please, as calling for an opinion and conclusion; no proper foundation laid.

The Court: Overruled.

A. He was the state secretary, I believe, of the Communist Party.

Q. And who was the man referred to as "Slim" Connolly?

A. He was the president at that time, I think, of the State CIO Council.

Q. And who was the man described as Lou Goldblatt? [4012]

A. He was secretary of the International Longshoremen & Warehousemen's Union.

Q. And who was the man designated as Mervyn Rathborne?

A. He was the secretary of the California CIO Council.

Q. I ask you, Mr. Wilson, was this meeting a labor meeting or a meeting of a group of the Communist Party to discuss a labor problem.

(Testimony of George Wilson.)

Mr. Hallinan: Just a moment, if the Court please. Now that is calling for an opinion and conclusion. The gentleman has already stated the persons present, the nature of the discussion, and there is no reason or no logic and no sanction for him now putting a designation upon it, no reason why the witness should be either required or permitted to put any designation on it at all. He has described the meeting, he has stated what the subject was, the persons was and where it took place. The jury and the Court can draw their own conclusions on it.

Mr. Donohue: Once again I say to your Honor here is a witness who was prominent in the——

Mr. Hallinan: Now, I object to arguing that.

The Court: Yes, I will overrule the objection. Objection overruled. [4013]

Mr. Donohue: Would you read the question to the witness, please?

(Question read.)

A. It was a group of Communists discussing the labor problem.

Mr. Donohue: I have no further questions of the witness.

Cross-Examination

Q. (By Mr. Hallinan): Now, Mr. Wilson, before you joined the Communist Party you had attended numerous meetings at which Communists were present, had you? A. I had.

Q. And,——

(Testimony of George Wilson.)

A. I had attended several, yes.

Q. I beg your pardon?

A. I had attended——.

I guess what I should do, your Honor, would be to say that I don't understand the question in its form. I could answer it many ways; it is obvious I could answer it many ways.

The Court: Well, Mr. Hallinan, will you reframe it?

Mr. Hallinan: Yes, surely.

Q. I say, before you joined the Communist Party at all, and while you were in the labor movement in San Francisco from 1934 to 1940 or 1941, I take it you attended meetings at which Communists were present, it that right? A. Oh, yes. [4014]

Q. And did you attend meetings at which Communists were present at which you were the only non-Communist? A. I don't know.

Q. In other words, there wouldn't be—there might be people there who would or would not be Communists, so far as you know, is that correct?

A. That is correct.

Q. And you say that you never filed or signed or filled out any application?

A. That is the best of my recollection.

Q. But sometime a membership card was delivered to you? A. Yes.

Q. Do you know how long after you—well, withdraw that.

And you say that you occasionally paid dues to the Party? A. That's right.

(Testimony of George Wilson.)

Q. Now, with relation to meetings that were attended by you, that is, meetings of Communists, before you became a member of the Party, with relation to what subjects were those meetings being held?

A. Well, I attended one out at Civic Auditorium where Browder made a speech one time, I think. That was a meeting, a public meeting.

Q. Did you attend private meetings also where they were present?

A. There were meetings of—many labor meetings at which [4015] Communists were in attendance, purely labor meetings. I have attended social affairs at which Communists have been present.

Q. Now, you say that you met Mr. Robertson at the meeting—at several meetings that were held at North Beach, is that right?

A. That was my——

Q. You never saw any Communist Party book that was ever issued to Mr. Robertson?

A. No, I have never seen one.

Q. You never saw any application ever signed by him? A. No, I did not.

Q. Never saw him pay any dues?

A. I don't think I ever saw him pay dues.

Q. And the same answers as to Mr. Schmidt, is that correct? A. That is correct.

Q. And the same answers as to Mr. Bridges, is that true? A. Right.

Q. The meeting that you say was called at the Governor Hotel related to matters, you said, of the

(Testimony of George Wilson.)

State Council work—that is, the CIO; is that right?

A. Yes; Rathborne asked me to go to it. I went with him.

Q. Where is the Governor Hotel?

A. Oh, it is down—it is right around the corner from where the ILWU building is now. The little red streetcar comes down the street there, just a block back of Golden Gate [4016] Avenue. The street—I don't know what it is.

Mr. Hallinan: I beg your pardon. I missed the last——

The Court: Read the answer.

The Witness: I don't recall the name of the street, your Honor, it is on.

The Court: Mr. Hallinan, would you like to take a short recess?

Mr. Hallinan: Yes.

The Court: We will take a short recess, ladies and gentlemen of the jury, the morning recess. May I again admonish you not to discuss the case under any conditions, nor to form nor express an opinion on this matter until it is submitted to you. You may retire for the recess.

(Recess.) [4017]

Q. (By Mr. Hallinan): Mr. Wilson, after you—at any time in your career did you work for the United States Government? I mean, within recent years? A. I did.

Q. When?

A. From December 1945 until the summer of 1947.

(Testimony of George Wilson.)

Q. Was that a civil service job?

A. It was.

Mr. Hallinan: That is all. No further questions.

Mr. Donohue: We have no further questions of the witness. May the witness be excused?

The Court: The witness is excused.

Mr. Donohue: If your Honor pleases, this has been for me, at least, a rather exhausting week. I have been ill with a cold. Would your Honor consider the possibility of an adjournment until Monday morning?

Mr. Hallinan: We would just as soon proceed, your Honor. Now, one of the reasons would be this, to be quite frank: if they have a wtiness they can produce here, at least we will have Saturday and Sunday to find out what we can find out about him. And we shouldn't be constantly attempted to be taken by surprise. Now, the only purpose of adjourning this until Monday is so that we can't have time to inquire into these witnesses.

Now, your Honor, you see how closehaul—we sailed with Mr. Ross. It was just the last minute, after motions had been [4018] made by the witness himself and counsel, to have the witness excused—why, then, we discovered the thing. Now, if they have an important witness, or if they have any witness, why not let them put him on and give us a couple of days. This isn't a game; we shouldn't be caught in some kind of a net, that we are excluded and precluded from finding out things about these people. Let's look them over and then we will have Saturday and Sunday, and perhaps we will have some information, if there be any information. There may not be. But if there is, why can't we have a couple of days? Now, I don't think it has been a week any more exhausting than any other weeks, and everybody seems to be in fine fettle, sound of wind and limb, and I think we should proceed. It seems to me, your Honor, that the sole purpose is, and I think the sole purpose is, to preclude us from ample opportunity to discover what we can about witnesses who testify.

Here is what happens: A man comes from New York, from Los Angeles, from Tennessee or whereever the witness comes from, and then we have to scramble and rush and work night and day. Why, if anyone is exhausted, we should be. But we are not. We are perfectly willing to go ahead, and we would like that time to investigate these people.

Now we also asked some days ago if we could have some indication as to who the witnesses were That was declined and refused. Your Honor suggested that we confer with counsel. [4019] The conference resulted in Mr. MacInnis going over and asking, "Well, can we confer about this thing?", and Mr. Donohue saying, "We have conferred; the answer is no." Now, of what aid is that to anybody? As I say, your Honor, this isn't a game, this isn't some kind of a trap that we move around in. The Court is interested in seeing that the defendants are protected, if there is any evidence that will aid them in breaking down statements that may be made by witnesses who possibly may not testify truthfully—Your Honor wants to afford us that opportunity, I know, and counsel seems to take some queer notion that any trickery or any guile that results in convicting the defendants is legitimate, and he has come out in the papers and said, "We intend to surprise the defendants. They are going to be greatly surprised." By "surprised" substitute "ambushed." That isn't right. Let us find out now, while they put out their witness and question him. Give us a couple of days to find out who he is, what he has had to say, what contrary statements he might have made. We have to run around to Un-American Activities files, union documents, chase people up to Stockton, run people back to Rosenfelt, Massachusetts and New York, in the University of Kentucky; and it is an incredible amount of work, and the fact that we have been enabled in the time that we have to discover as much as we have been able to discover is purely fortuitous and luck, or the dispensation of a Divine Providence. But that is the situation we are in. [4020]

Now, I think, your Honor, that you should make them proceed with their case.

Mr. Donohue: May I say, number one, if your Honor pleases, that when we are in the same position as Mr. Hallinan, when he puts on his defense, we shall not complain if we have not been informed as to the witnesses' identity whom he expects to call. Number two, I had no reason to believe that a witness whom I offered on the stand this morning would be released as shortly as he was, and for that reason I am unprepared to proceed.

Mr. Hallinan: Well, might we have a little compromise, then? Tell us who the next witness is and we will see if we can find out something about him over the weekend.

Mr. Donohue: The next witness will be Miss Georgiana Vermilion, of the Immigration Service.

Mr. Hallinan: Well, all right, that is probably only some little formal thing. But who is the next witness of any consequence who will take some time or who will say anything that we would probably have to controvert? Who is that?

Mr. Donohue: I am unable to say at this moment, if your Honor, pleases.

Mr. Hallinan: He can't mean he is unable to say; he means he won't say. That is what I say, your Honor: this is blackjacking, this is ambushing, this is unfair, and I think the Court should direct Mr. Donohue to tell us now who is this [4021] witness that they are trying to hold over the weekend, so we won't have time to find out anything about him or her.

The Court: Mr. Hallinan, this Court can not assume, under the circumstances as outlined by Mr. Donohue, to direct a disclosure of the next witness' name or the following witness. I do not know from day to day, any more than anyone else, I suppose, until the witness' name is disclosed. Now, much has been said by you, Mr. Hallinan, concerning the preparation of the case. I told you and your associate, Mr. MacInnis, that during the course of the trial, if occasion arose, that the Court in the exercise of a sound discretion would grant you reasonable continuance, in the afternoon or over the nightfall or the following morning, to work out your cross examination. I think the record will indicate that this Court has in the past given you latitude.

Mr. Hallinan: We concede that without question, Judge. You have.

The Court: And time. Now, the Ross incident which you referred to——

Mr. Hallinan: If it weren't for your ruling on that, if you hadn't given the latitude that you have just expressed, Ross would have gone out of here without us ever discovering that.

The Court: That may or may not be true. Mr. Ross is always subject to recall; anybody within the United States is [4022] subject to recall under the process of this Court. No one can remove himself from the process of the Court. And upon the request made by you or Mr. MacInnis, he would have been brought back here, or any other witness may be brought back here at any time, that you gentlemen request. At any time you wish I will have a witness returned. [4023]

Mr. MacInnis: May I say this, your Honor: The prosecutor has not asked your Honor to grant a continuance for internal reasons in the preparation of the case. He has not said that he needs time to confer with witnesses or look up information. He says, if you please, that he is exhausted. Your Honor, the defense counsel are not exhausted and the defendants are not exhausted. We are perfectly fresh and ready to go ahead. And I say this to you: Where is the outcry of yesterday, made seven times by Mr. Donohue and Mr. Paisley, that the prosecution was trying to expedite the trial, that we were trying to drag it out, and where is the frost in the pumpkin that Mr. Paisley was talking about? These gentlemen, who are now exhausted and want a recess until Monday, but who yesterday complained that the trial was being stalled because questions were put to witnesses on cross examination? I say if he has a reason, your Honor would be able to act upon it.

The Court: Mr. MacInnis, I am always willing in any case, be it the Bridges case or any case, to accede to a reasonable request upon the part of counsel for a continuance. The jurors have been subjected to a long strain as well as the Court. We in turn feel the same strain that you gentlemen do, the jurors and the Court—reflectively, perhaps—and the case is wearing on from week to week. It is a long case. Everyone appears to be in very good health, however, in the jury. But this witness whom you spoke of, this [4024] Georgiana——

Mr. Donohue: Vermillion.

The Court: Is she available?

Mr. Donohue: I could get her here, your Honor. I could get her here within a half hour.

Mr. Hallinan: Of course, if she is only going to take a few minutes, we would not suggest going ahead only for that witness.

Mr. Donohue: Of course, my examination of her would be very short, but I am not certain how long thereafter the witness may remain on the stand. But I think I should say to your Honor, for the many weeks of this trial, with the definite problem of never knowing when the next witness can be called, this is the first time we *have your* Honor for a postponement, and we had no expectation that the witness we called this morning would be released as early as he was, else I would have asked your Honor under any circumstances for this time.

The Court: I think, Mr. Hallinan, that is a fair observation made by Mr. Donohue with respect to the witness George Wilson.

Mr. Hallinan: They must have known he wasn't going to say anything of consequence, your Honor, and there would not be any occasion for cross-examining him.

The Court: I will not make any comment on that. Could [4025] we dispose of this one witness, Georgiana Vermillion, and then have the matter stand over until Monday and start with another witness?

Mr. Donohue: Yes, your Honor. It will take a half hour to get her here and get some records I want to ask her to identify.

Mr. Hallinan: There is no use coming back at two o'clock for that, your Honor. So if that is all they are going to produce, I would then say we would not continue to protest.

The Court: In fairness now to Mr. Donohue, I can anticipate or at least understand how he wouldn't have a so-called major witness in readiness in attendance in view of the rather short disposal of the last witness. That is perfectly apparent. Accordingly, if that is the desire of counsel, we will regularly adjourn this court until Monday at ten o'clock, with the same admonition to you, ladies and gentlemen of the jury, not to discuss the case under any conditions nor to suffer any person to converse with you on any subject of the trial, nor to form or express an opinion until the matter is submitted to you.

Mr. Donohue: Thank you, your Honor.

(Thereupon an adjournment was taken until Monday, January 16, 1950, at 10:00 a.m.) [4026]

Monday, January 16, 1950, 10:00 A. M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson.

The Court: Stipulated that the jurors are present?

Mr. Donohue: Yes, your Honor.

The Court: So stipulated, Mr. Hallinan?

Mr. Hallinan: Yes.

The Court: You may proceed.

Mr. Donohue: Would you call the witness, Mrs. Georgiana Vermillion.

The Clerk: Call Mrs. Vermillion.

Mr. Hallinan: I think in the interim, your Honor, that there are one or two matters that we would like to have provided, and we will request them now without interfering with the course of the matter.

The prosecution agreed to bring in here the affidavit of the witness Michener on his application for civil service. We want that.

We also asked the Court to require the prosecution to bring in the affidavit on application for civil service employment signed by the witness Wilson.

And we also asked the Court to request the prosecution to bring into court and turn over to the Clerk a certain record from the Hotel Governor where Mr. Wilson said a meeting took [4027] place, which has now been abstracted from the records of the Hotel Governor and is now retained by the Immigration Department.

We would like to see those three records, your Honor. I think they should be produced.

Mr Donohue: If your Honor please, with respect to the witness Michener, as I told your Honor the other day, we called Washington and asked them to try to locate any such affidavit if there be one.

With respect to the witness Wilson, we shall make like effort. This is the first time that affidavit has been requested, and we shall make every effort to procure it.

With respect to the record of the Governor Hotel, after telephone inquiry on Saturday morning, I advised an agent of the Immigration Service to make the information available by that record to man named Lipsitt, who said he had called as an investigator for the defense. However, I shall be glad to produce the card in court.

And I may say at this time, too, if your Honor pleases, that during the examination of the witness Henry Schrimpf a request was made by the defense counsel for the address of the then hearing examiner, a man by the name of Houser.

We are advised by the California State Bar Association that J. (for John) Everett Houser, who was then a hearing examiner at the Immigration Service, is now engaged in the private practice of the law at the address 814 Security [4028] Building, Long Beach, California.

Mr. Hallinan: Your Honor, I am glad to see that we have such a measure of cooperation now between counsel for the adverse parties.

When Mr. Houser was inquired for in this case, if the Court please, Mr. Donohue said to the Court:

> "I may say to your Honor, as long as counsel has raised the point, that the examiner, from our records, who conducted this hearing, is no longer in the Immigration Service. We have made every possible effort since this matter came to our attention a day or two ago to locate him that we may bring him here, and we can't find him.
>
> The Court: Are you prepared to disclose his name?
>
> Mr. Donohue: His name is Houser.
>
> The Court: How long was he in the Government service?
>
> Mr. Donohue: I will have to ask Mr. Boyd if he knows.
>
> Mr. Boyd: I am not prepared to answer, sir.

Mr. Donohue: I can find the information for you.

The Court: At least his name is Houser.

Mr. Donohue: We understood he was an attorney practicing law in Los Angeles. I called the Los Angeles office of the Immigration Service the day before yesterday and asked them to make every human effort to locate him, that I wanted to talk with him." [4029]

Now, your Honor, not as boasting of the superior diligence or activity of the defense, I want to say this: that we surpassed human effort in the matter. The afternoon after this statement was made we called the State Bar of California, and it took the girl fully five minutes before she was able to convey to us the information that Mr. Everett Houser was practicing law in the Security, S-e-c-u-r-i-t-y, Building in Long Beach, and that same evening a gentleman representing us called upon Mr. Houser to verify the fact that he was the officer.

Now, during the Christmas vacation, having occasion to be in Los Angeles, I went down to the Security Building and went in to see Mr. Houser. If further contact becomes necessary for Mr. Donohue or any of his aides, then the building is the largest in Long Beach. Mr. Houser's office is not on the first floor, but you have to take an instrument called an elevator, e-l-e-v-a-t-o-r, and Mr. Everett Houser's name appears, not under "Harvy," "Canfield," "Rossi," or "Dorgan," but Everett Howser, "H-o-w-s-e-r, two t's in the "Everett."

When I met Mr. Howser, I expected of course he would be very diminutive about his person as to easily evade inspection, but strangely enough, he was a man of ordinary size and appearance. He affirmed that he was the same man, and he said that he had been called on the telephone by lawyers for the prosecution a Monday before I called upon him, and that an [4030] agent of the Immigration Authority in Los Angeles had called upon him. Now, I did not find out exactly who that man was, but I suggest to Mr. Donohue that he might consult an agent named Kaiser—K-z-z-y-z-c-r, the "h" being silent as in "Humphrey," and in that fashion, if he has any difficulty in locating Mr. Howser, he might find him.

Your Honor, a few days ago the Court instructed the jury that they should ignore a statement I had made that Mr. Donohue personally had deceived the Court, and this was one of the matters I had in mind at that time, because there was no qualification in this case. He said that he had made every human effort, when anybody would know that a five-minute telephone call would locate any lawyer in the State.

Furthermore, I might say this, your Honor: Mr. Howser and his brother, he informs me, were practicing in that location for over twenty years except for a brief period during the war, about three years, when he was in the Immigration Service in San Francisco.

Mr. Donohue: May I now proceed, if your Honor please?

The Court: Yes.

Mr. Donohue: Would you call the witness Mrs. Vermillion. [4031]

GEORGINA VERMILLION

called as a witness on behalf of the United States; sworn.

Q. (By the Clerk): Will you state your full name to the Court and jury, please?

A. Georgina Vermillion.

Direct Examination

By Mr. Donohue:

Q. Mrs. Vermillion, where do you live?

A. San Francisco.

Q. How long have you lived here?

A. Practically all of my life.

Q. Where are you now employed?

A. In the Immigration and Naturalization Service, San Francisco.

Q. How long have you been employed in the Immigration and Naturalization Service?

A. Since December 6, 1923, continuously.

Q. I hand you what has been heretofore marked as United States in evidence No. 6, and which has been heretofore identified as an application for a certificate of arrival, a preliminary form for petition for naturalization of one Henry Joseph Schrimpf, and ask you to examine it. (Handing document to witness.) From an examination of that exhibit, Mrs. Vermillion, can you tell the Court and jury when that paper first came into the possession of the Naturalization Service?

Mr. Hallinan: I object to it as not the best evidence, if the Court please, calling for the opinion and conclusion of [4032] the witness. If the paper discloses it, then the lady's opinion is unnecessary.

Mr. Donohue: There was a question raised that your Honor may recall at the time——

The Court: Pardon me?

Mr. Donohue: There was a question raised at the time this document was introduced as to the date upon which this document arrived at the Immigration Service, and I called the witness for the purpose of answering the question that was raised at that time.

Mr. Hallinan: We further object, your Honor; it is not the best evidence. According to the information that has been furnished the Court already, and further information that we have, the officer who conducted the hearing was Mr. Houser. I think Mr. Houser should be produced for the reason that we believe that there are further notes and records other than those disclosed by counsel and the preceding witness to the Court, and we do not want to have counsel evade producing that by the device of calling some other witness.

Mr. Donohue: If Mr. Hallinan wants to call Mr. Houser, the process of this court, as he knows, is available to him and he may do so.

The Court: You may answer the question.

The Witness: The question was whether this application had been submitted, I believe, and this shows, stamped on the [4033] reverse of the form, "September 11, 1942," which was the date stamped by the person accepting the application as the date of receipt.

Mr. Donohue: I ask the Clerk to hand you what I shall ask him to mark as Government's next for identification, and will then ask permission from your Honor to substitute therefor a photostatic copy and ask you to examine it.

Q. Would you examine the middle of the three documents which are contained on that page and having done so, will you tell us what it is?

A. It is a receipt for *See* of $250 for the certificate of arrival issued in the name of Henry Joseph Schrimpf.

Q. Can you tell us on what date that receipt was issued?

A. That was issued on September 28—I can't read it very well—September 28, 1942. It looks like a "3."

Mr. Donohue: Would you mark this, please, in substitution for the document?

The Clerk: With your Honor's permission, may it be marked Government's 10 for identification?

The Court: So ordered.

(The receipt for certificate of arrival was thereupon marked United States Exhibit No. 10 for identification.)

Mr. Donohue: We have no further questions of this witness, if your Honor please.

Mr. Hallinan: No questions. [4034]

The Court: You are excused.

Mr. Donohue: May the last exhibit for identification No. 10, United States, be received in evidence, if your Honor please?

The Court: So ordered.

Mr. Donohue: The Government rests, if your Honor please.

United States Rests

Mr. MacInnis: Your Honor,——

Mr. Hallinan: Pardon me. He said the Government rests. You mean they are producing no more evidence? Rathborne? Nobody?

Mr. Donohue: The Government rests, if your Honor please.

Mr. Hallinan: Well, I won't make any comment, your Honor, in view of the question we asked yesterday, to be informed as to how many other witnesses, what other witnesses and so forth, and the attitude that counsel took then. What was the purpose of it? To pitch us all suddenly into gathering our witnesses together hastily and trying to proceed without any notice? Is that a fair way to be treated by people who are supposed to be representing the United States Government? They said after Miss Vermillion was through, they had another witness whose name they declined to state. There is another thing Mr. Donohue stated to the Court, and then suddenly they came in here and say, "The

Government rests," leaving up us in the air now prepared for cross examination of witnesses that they have been [4035] yelling around in the newspapers were witnesses who deliver Sunday punches, and they dazzle us and scare us to death. We knew who they were. And then they come here and say, "The Government rests." I think that is treating the Court and the jury, not to mention the defendants—of course, we are not entitled to any consideration—but treating them with considerable discourtesy and considerable unfairness. They could have told us on Saturday that that is all they had. Friday after noon your Honor suggested that they call a witness. Oh, no, they had another witness who was to follow the witness who took the stand this morning, who would take a considerable length of time, and so we adjourned until today.

Mr. Donohue: I may say on Friday we said to your Honor we had several witnesses under subpoena. We had four. The decision announced to your Honor this morning was made by the United States this morning.

Mr. Hallinan: By the United States? Now, who is the United States that made the decision? The attorney for Mr. Frankie Costello, the New York gangster, is the United States now, is that right?

Mr. Donohue: I represent the United States.

Mr. Hallinan: Yes, yo represent Frankie Costello, the New York gangster.

Mr. Donohue: I never saw Mr. Costello in my life.

Mr. Hallinan: Drew Pearson came out yesterday with an [4036] article on it disclosing your whole connection with Maragon, the man who comes here and represents the United States Government, who covers every trick and every device by saying, "I represent the United States Government."

Your Honor, I think we have been treated unfairly. I think everybody has been treated unfairly here.

Mr. Donohue: Your Honor, I do not believe I ought personally to defend myself against this personal abuse when your Honor has been a victim as well as myself.

Mr. Hallinan: I object to that and I assign that as misconduct and ask that the jury be instructed to ignore it. I have not said one word to your Honor that could be construed as criticism. I have made objections to rulings, your Honor made, which I would be derelict in my duty if I did not make. I have made no personal criticism of you at all, either in court or out of court.

Mr. Donohue: I most earnestly say to your Honor, and I shall say it now in the presence of the jury, that the suggestion or allegation made by Mr. Hallinan with respect to any connection I may have had with a man named Frank Costello is as untrue as the fact that I am standing talking to your Honor. I never saw Frank Costello in my life. I never talked with Mr. Costello in my life. I never had a written communication with Mr. Costello in my life. I never represented Mr. Costello in my life. I would not know the man if he walked in the courtroom. [4037]

The Court: As well as myself.

Mr. Hallinan: On Saturday, January 14, 1950, in Drew Pearson's column he gives the fact that Frank Costello——

Mr. Paisley: Your Honor, are we to have the same difficulty your Honor has——

Mr. Hallinan: Counsel want to contradict the statement and say it is untrue.

Mr. Paisley: Are you going to read Drew Pearson's article before the jury? I think your Honor should protect counsel from that.

Mr. Hallinan: Here is the trick now. Mr. Donohue gets up and says the statement is untrue. When I try to show that it is true, not he but Mr. Paisley gets up to interrupt me. I have the right, in view of counsel's statement here, to show that in the issue of the 14th it says, "At this very moment another immigrant, Harry Bridges, is on trial in San Francisco in exactly the same charge that is against Frank Costello, perjury, in connection with citizenship papers. This column holds no brief for Bridges, but everybody should be treated equally, and it is an ironic fact that Jiggs Donohue, a private attorney, who has contacts with the Maragon-Costello crowd is now retained by the Justice Department to prosecute Bridges."

Now, if he wants to tell the jury the position that he actually occupies, that is all right with me. We will take [4038] anybody on. We don't care. We don't care whether Mr. Donohue is responsible or not responsible about getting up here with this unctuous statement about the United States Government, covering up his own devices to obtain the conviction of Harry Bridges at any cost is something that should not be permitted. When he gets up and makes a defense of the thing, we are entitled to show the basis of our statement.

The Court: Have you completed, Mr. Hallinan?

Mr. Hallinan: Yes.

Mr. MacInnis: Your Honor, we have only one further matter. At your Honor's request the prosecution promised to bring the witness Garner back for further cross examination. When he is done, we will be ready to proceed with the defense.

Mr. Donohue: I imagine he can be brought here within a couple of hours. We shall have him flown today from Los Angeles, if your Honor please.

The Court: Ladies and gentlemen of the jury, I believe the Court should say a word or two about the events that have just transpired. This case has been an extremely difficult one for this Court or perhaps any court to preside over, and by reason of the rather unorthodox manner of presentation in many instances. I have sought to manage this trial as best I could in the light of the circumstances that appeared at times and now appear to be disconcerting, to say the least. I suppose there comes a period in the career of a person where [4039] there is a great deal that might be said that should be left unsaid, and that is the situation confronting me momentarily. First, with respect to the question of the Government resting, the United States Government acting through and by its attorneys, Mr. Donohue, who is the spokesman for the Government in the role of special attorney, has the right to manage its case as it and they see fit. They have the duty of presenting the evidence to you. It is our duty to sit and receive it, your duty to pass upon the facts, my duty to pass upon the law. It is not the province of this Court or any other court to tell the Government or the defense how they should manage their case or the witnesses they should present or how they should catechize the witnesses or how they should cross-examine the witnesses. All those matters are things of internal affair and operation over which they have complete control and exclusive domination.

Mr. Paisley at one juncture indicated for the record rather briefly that I should come to the defense of Mr. Donohue. I think that was his remark, at least I gathered it, because the remarks were coming rather rapidly for the moment. I do not believe that this Court has been required to come to Mr. Donohue's defense or Mr. Hallinan's defense or the defense of any lawyer in this case. I might say, however, parenthetically, that with respect to closing his case this morning there is nothing in Mr. Donohue's conduct that would reflect upon him [4040] as an officer of this Court. He has the perfect right, if he please, to close his case down at this time or any other time as befits his knowledge of the case. I, of course, have no knowledge of the internal operations of the case. I, of course, have no more knowledge than you have here today concerning the future of any witnesses that they might have had nor the identity of any witnesses. Each morning as this case came forward and was presented to you, I knew no more nor less than you about the nature or identity of the several witnesses to be called. I cannot now presently recall all of the things said by counsel in this colloquy, unfortunate as it has been, and I regard it as a most unfortunate colloquy.

With respect to Mr. Donohue's identification of a gentleman or a man known as Costello, I know no more about Costello than you do perhaps, and that is through the medium of the press. Mr. Donohue has categorically denied any relationship with Mr. Costello. Mr. Hallinan has seen fit to read from a newspaper article. There is no issue before this Court or before the jury with respect to Mr. Donohue's relationship to that man, if he had any relationship, and he denies it.

I say to you ladies and gentlemen that of all the events and all the incidents that have transpired thus far in this case, the last has been perhaps more far-reaching in its possible significance upon you and with respect to such possible [4041] prejudice as might be entertained by you from the remarks made and entered here, I say to you now in deference to your oaths as jurors to ignore, erase from your memories and from your recollection, and disregard all of the statements made by counsel in this last discussion as if the same had never occurred.

The case will advance into the defense stages rapidly. I assume that there will be some legal arguments to take up. I assume that. I do not know. And the case will be completed. I hope, and I say this again to counsel with all the zeal, earnestness and vigor at my command, that these outbursts have not helped the Court and, I dare say, the jury in the final determination of this case. I shall not go further on at this time concerning them, but I hope and pray that they not result in the future. My trust and prayer is that this case continue on in as orderly a fashion as may be obtainable under all the circumstances present. . .

Mr. MacInnis: I would like to enter an exception, your Honor, to the remarks just now made with reference to the criticism of the Government prosecutor for ending his case this morning. Your Honor remarked categorically to the jury that this prosecutor has a perfect right to close his case whenever he chooses, that he has a perfect right to do anything he sees fit with the conduct——

The Court: Within the confines of his own knowledge [4042] and within the confines of the case, Mr. MacInnis, that is true.

Mr. MacInnis: We take exception to your Honor's remarks.

The Court: You may have your exception.

Mr. MacInnis: Because they contain obviously a criticism of the complaint made by the defense. Your Honor was led to believe on Friday, just as we were, that Mr. Donohue had a lady who would give short testimony, to be followed by other witnesses. He said that to the Court, and when we asked him to disclose the name of the witness your Honor said you could not compel him to do so.

And he said, "I am not going to do so." With that in mind we adjourned until today, fully prepared to go ahead, and then this gentleman comes in here, exercising that perfect right which you ascribe to him and says, "The Government rests." It is true that the prosecutor may control the course of his case, but I respectfully suggest that your Honor temper the remarks made to the jury as reflecting no criticism of defense counsel for complaining.

The Court: Mr. MacInnis, my remarks were as temperate and as well controlled as any I have tried to make in this case. You have your exception.

Mr. Hallinan: Will there be an adjournment until tomorrow to produce Mr. Garner?

The Court: Mr. Donohue, what is the future of this witness, [4043] Mr. Garner?

Mr. Donohue: We shall phone Los Angeles now and ask that he be put on the first plane for San Francisco, if your Honor please.

The Court: Will he be here by the afternoon session?

Mr. Donohue: He might possibly be. I shall be glad to find out how quickly we can get him here.

The Court: Are there any matters of a legal nature to take up?

Mr. Hallinan: It would seem to me to be difficult to have him here for the afternoon session. It is now eleven. It takes at least two hours, and there are rainy and storm conditions. [4043-A]

The Court: Mr. Hallinan, if agreeable, of course, to counsel, you can take up any legal matters that you may have. I assume you may have some.

Mr. Hallinan: We have the matters of the three documents we spoke to your Honor about. I wouldn't ask to have them brought in this morning. There is the Civil Service records, the affidavits of the two witnesses, and the document from the Governor Hotel. But we do not want to make any motions.

The Court: Is it agreeable, gentlemen, that the jury be excused until tomorrow morning?

Mr. Hallinan: I think that will be the best way.

The Court: In the meantime, you can focus your attention on the defense matters and organize whatever matter you have at hand.

Mr. Hallinan: I think that would be a fair solution.

The Court: If you wish, I will say this to you, Mr. Hallinan, as I said before, if you want to take up tomorrow noon at 2:00 o'clock rather than tomorrow morning, giving you a chance to marshal your evidence, that will be perfectly agreeable to the Court.

Mr. Hallinan: I won't suggest that because it may be afterwards the jury will have to be excused again for a day or two.

The Court: Ladies and gentlemen of the jury, we will recess and adjourn until tomorrow morning at 10:00 o'clock, and again may I admonish you not to discuss the case under any [4044] conditions or suffer any person to converse with you on any subject of the trial, and not to form or express an opinion thereon until it is submitted to you. You may retire.

We will stand adjourned until tomorrow morning at 10:00 o'clock.

(Thereupon an adjournment was taken to tomorrow, Tuesday, January 17, 1950, at 10:00 o'clock a.m.) [4044-A]

Tuesday, January 17, 1950, 10:00 A.M.

(The following proceedings were had out of the presence of the jury:)

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson.

Mr. Hallinan: Your Honor, on behalf of the defendants we have a request to make of the Court, and I hope it doesn't seem unreasonable. At the time the Government rested we said we had a great number of witnesses, many of them residing out of San Francisco, not at great distances—Stockton, Alameda, Los Angeles, and so forth. We desired to arrange the presentation of the defense case so as to make it most expeditious. We find it impossible to get our witnesses together in that way within the time that we would have by continuing directly with the case. If we could have the case deferred until Monday morning after Mr. Garner finished his testimony, then we would be able to go ahead and have our witnesses here and we would not be putting them on piecemeal, so we are asking that we be given a continuance after Mr. Garner's testimony is finished until Monday morning to give us that opportunity. What is your thought on that?

The Court: In addition to Mr. Garner's testimony I understood that you probably would have some legal motions.

Mr. Hallinan: If there were, we can make those today [4045] following his testimony. I don't know what the legal motions may be. There may be one or two short ones, but not any extensive motions.

The Court: What is the attitude of the prosecution, Mr. Donohue?

Mr. Donohue: We have no objection, if the Court please.

The Court: All right; granted.

Mr. Donohue: Just a moment, please. May I say to your Honor that, as I read the record, it appeared to me from reading pages 755, 756 and 757 of the record that what Mr. Hallinan has stated substantially to the Court with respect to the witness Garner was that he wanted to make an offer of proof in the absence of the jury by asking a series of questions of the witness Garner.

Mr. Hallinan: We don't want that now.

Mr. Donohue: I assumed that that is the only purpose for which he is recalled.

Mr. MacInnis: No, we have some other matters, your Honor, in lieu of the questions which were to be asked in the absence of the jury.

The Court: All right.

Mr. MacInnis: These would be a continuation of the ordinary questions in the presence of the jury.

(At this time the jury was brought into the courtroom.)

The Clerk: The witness on the stand is Lloyd H. Garner, [4046] heretofore sworn.

LLOYD H. GARNER

recalled for the Government; previously sworn.

Cross-Examination

By Mr. MacInnis:

Q. Mr. Garner, you have probably been asked this question before by me, but I haven't gone over the record to see in just what place it finds itself. Could you tell us when you were first informed that you were to be called as a witness in this case, either before the Grand Jury or before this Court and jury?

A. I don't know that I have been asked the question before, but, as I recall it, it was in the spring of this last year, of 1949.

Q. Sometime in the spring of 1949?

A. I think so.

Q. And at the time that this request was made of you, you were working with the Immigration Department? A. Yes, sir.

Q. In Los Angeles? A. Yes, sir.

Q. And could you recall for us how and in what manner the request was made?

A. Well, it would have been orally by word of mouth from my superior.

Q. Do you remember what person spoke [4047] to you?

A. I think so. I think the first time that I was advised that my presence would be needed while

(Testimony of Lloyd H. Garner.)

I was in Los Angeles, as I recall, it was my district director, Mr. Barber, who mentioned it to me. He was not district director at that time; he was in the Los Angeles office.

Q. Mr. Barber himself had a conversation with you and told you that your services as a witness would be required?

A. He told me that I probably would be required at the time—the first time he talked to me about it.

Q. Can you tell us the conversation that you then had with Mr. Barber?

A. Well, it was very extensive; I can't tell you definitely, no. We——

Q. Well, did he tell you that there was a new action contemplated against Harry Bridges?

A. Yes, I think so.

Q. What did he say?

A. Are you asking me for a direct quotation of his words?

Q. As best you can remember, in substance.

A. Well, the best I can remember on that was merely that an action was contemplated and that my assistance would be needed.

Q. Now the Mr. Barber who then spoke to you is the same Mr. Barber who sits at the end of the prosecution table, is that true?

A. Yes, that is true. [4048]

Q. And all he said was that a new action was contemplated against Harry Bridges?

A. I don't know that——

Q. And that your services were needed?

(Testimony of Lloyd H. Garner.)

A. I don't know that he said a new action.

Q. Did he say the same action would be continued?

A. An action. I would have understood, of course, that there would be a new action, because there was none pending so far as I knew at that time.

Q. Did he say anything else to you at the time?

A. Yes, we had some considerable conversation, I presume, at that time.

Q. Well, did he tell you what the subject matter of your proposed testimony would be?

A. No, he did not. He did not.

Q. He did not reveal to you what it was that he wanted you to testify to?

A. He told me that he wanted me to testify concerning the naturalization, the court hearing of Harry Bridges.

Q. In other words, he did tell you that the role he wanted you to play was to tell what you had done in connection with the naturalization of Harry Bridges?

A. He gave me—I presume so. He gave me to understand that is the part I would have, of course.

Q. Well, did he tell you that, Mr. Garner? [4049]

A. I think I may say that he told me that. He told me that that would be what my part would be, of course.

Q. Did he ask you at that time to tell him what this oral conversation was that you told the Court and jury two months ago took place between you and Mr. Schmidt and Mr. Robertson respectively?

A. Yes, I think we discussed that.

Q. He asked you at that time to tell him what the oral conversation had been?

A. He asked me if I recalled it, if I could tell him.

Q. Did he know before he interrogated you that there had been some oral conversation with those men?

A. You mean between myself and Mr. Bridges and the other defendants here?

Q. Yes.

A. You are asking me if he knew it?

Q. Well, did he tell you that he knew it?

A. No, I don't think that he told me that he knew it. I don't think that was necessary.

Q. Why wasn't it necessary?

A. He was cognizant of the fact there had been a court hearing, that I conducted the court hearing.

Q. In other words, Mr. Garner, the very fact that you conducted this hearing and participated as an officer of the Immigration Service indicated to him that in the ordinary course [4050] of events you would have had such an interview?

A. I presume that is a fair observation.

Q. Well, is that true from your point of view also? A. Would you repeat the question?

Q. Is it true from your point of view that your very participation in a citizenship hearing would indicate that you had also had oral interviews not only with the applicant but with his two corroborating witnesses? A. Yes, that would follow.

(Testimony of Lloyd H. Garner.)

Q. And from that fact alone it would have indicated to his mind that you would have asked them the necessary questions called for by the law?

A. Yes, I would have asked them the questions.

Q. When you talked to Mr. Barber about substantially the oral conversations that you had with these men, independently of the transcript of the court hearing did you have any memorandum at that time?

A. I think only the triplicate petition that was in the office file—Service file.

Q. You mean the same documents that are in evidence, the application, being Government's Exhibit No. 1 in this case, and the petition, being No. 2? A. Yes, I think that would be it.

Mr. MacInnis: May I have those, please, Mr. Mitchell?

(Documents handed to counsel.) [4051]

Q. (By Mr. MacInnis): There was no other memorandum in existence, was there, as to any record of your conversation with the men?

A. I don't believe there was at that time as to the preliminary examination.

Q. Well, was there any memorandum in existence at any time? A. As to the court hearing?

Q. I am not speaking of that, Mr. Garner.

A. No.

Q. Just the oral conversations that you say you had with Mr. Robertson and Mr. Schmidt back in the fall of 1945?

(Testimony of Lloyd H. Garner.)

A. I don't believe there was any memorandum. I don't recall offhand.

Q. So that when you spoke to Mr. Barber in the spring of this year about your participation in the case, you told him, based on your memory alone, what the conversations were? A. That is true.

Q. Did you make any memorandum for Mr. Barber at that time? A. I may have done so.

Q. Well, did you?

A. I don't know that I did at that time, but I made a memorandum, I think, subsequent to that.

Q. When did you make that memorandum?

A. As to the exact date now, I can't testify; it was subsequent to my first conversation with [4052] him.

Q. Well, you spoke to Mr. Barber first in the spring of 1949 prior to the month of May, I suppose, is that true?

A. Yes. I don't know whether it was prior; I don't recall offhand. It was prior to the grand jury hearing, if that is what you mean.

Q. Yes. And did you make some written memorandum for Mr. Barber before you appeared before the grand jury? A. I think perhaps I did.

Q. About how long before you appeared before the grand jury?

A. That is difficult to say, sir. It might have been a month; it might have been more than a month.

~~Q. Was that a written statement that you gave~~ to some co-agents of the Immigration Service?

(Testimony of Lloyd H. Garner.)

A. It would have been a memorandum, I presume, from myself to Mr. Barber.

Q. Did you indicate it, or did you write it in your own hand? A. I would write it myself.

Q. Well, did you?

A. I probably typed it out myself.

Q. Mr. Garner, do you have any independent memory of what you did? In other words, I am asking you not what you may have done or what you probably did, but what you did do. This is only last year, Mr. Garner, 1949.

A. It wasn't a particularly material matter so far as I was concerned. I would say that I typed it myself, I prepared the [4053] memorandum myself.

Q. Did you sign it? A. Oh, yes, surely.

Q. And did you give it personally to Mr. Barber?

A. No, I don't know what I did. I probably left it on his desk. I don't know; I don't recall that I handed it to him personally.

Q. Did you ever discuss it with him?

A. I think so.

Q. What was that discussion?

A. Well, it would have been a review of the memorandum and a discussion that would naturally follow from it.

Q. So that you had a discussion with Mr. Barber in the spring of 1949 in which he told you that he would want you to participate in the case to be brought against Harry Bridges, and after that time you typed out yourself a memorandum which you

(Testimony of Lloyd H. Garner.)

signed and placed on his desk, then after that Mr. Barber had a discussion with you about the contents of your memorandum, is that correct?

A. Chronologically, I think that is correct, but as to the time sequence, I am not so sure just how long elapsed in between.

Q. Was there anything different in the memorandum from the contents of your oral conversation with Mr. Barber that you had first?

A. That is a little difficult to answer, counsel. I don't think [4054] there would be anything substantially different, no.

Q. Well, after leaving this memorandum with Mr. Barber, did you ever see it again?

A. I don't recall that I did.

Q. Did you ever see a copy of it?

A. I don't recall that I saw a copy of it. I will take that back. I have seen a copy of it, but I thought you were referring to at the time, the particular time.

Q. When did you see the copy of the memorandum?

A. I think I saw the copy of the memorandum about the time of the grand jury hearing.

Q. Who showed it to you then, Mr. Garner?

A. One of the officers of the Service.

Q. Do you remember who?

A. No, I don't remember whether it was Mr. Barber or Mr. Kidder or Mr. Kaiser, but it was one of the officers.

Q. One of those men? A. Sir?

(Testimony of Lloyd H. Garner.)

Q. One of those men? A. I think so.

Q. When they showed you your memorandum before the grand jury hearing, did you read it over?

A. I presume I did.

Q. Well, did you, Mr. Garner?

A. I don't know that I read it over. I would have scanned [4055] through it.

Q. Did you scan through it and more or less correlate your memory, refresh your memory, before you gave the testimony?

A. I don't know as to the purpose of it, whether that was why I did it or not.

Q. *Well, was* your purpose, then, in reading over the memorandum, Mr. Garner?

A. Well, it was handed to me to review it; I suppose it was to see whether my memory was refreshed on it.

Q. And you did use it for that purpose, did you?

A. Well, I suppose you might say so, I don't think that it was necessary.

Q. Now, then, you testified before the grand jury, did you? A. Yes, sir.

Q. And between that time, which I am told was sometime in May of 1949, and last November when you first appeared here as a witness before the Court and jury, did you see that memorandum again? A. I don't recall that I did.

Q. Are you positive of that?

A. No, sir, I am not.

Q. Now, do you have any memory one way or the other as to whether or not any of those men—

Mr. Barber, Mr. Kaiser or Mr. Kidder—handed you the memorandum before you testified here for the same purpose, so that you could review it? [4056]

A. I don't think so. The best of my recollection, I don't think that memorandum was shown me again.

Q. When you made up the memorandum at first, did you keep a copy of it?

A. I think I don't have a copy. I don't believe I have one.

Q. Did you make one at the time?

A. No, I think I only made it in duplicate and gave both copies to my official—my superior.

Q. You think you made it in duplicate, typed it yourself, and that you gave both documents to your superior, is that true?

A. I think that is true.

Q. Well, now, Mr. Garner, you recall your previous testimony here, don't you, in general?

A. In this proceeding?

Q. Yes. A. Yes.

Q. And you told the Court and jury that you never at any time made any memorandum about the oral conversation that you had, or that you say you had, with Mr. Robertson, Mr. Schmidt and Mr. Bridges?

The Court: May we have the page on that, Mr. MacInnis?

Mr. MacInnis: I will get it in a moment.

The Court: I can't personally recall that testimony.

(Testimony of Lloyd H. Garner.)

Mr. MacInnis: I will recall it to you. [4057]

Mr. MacInnis: There are two places in the transcript, at pages 612 and 629.

Referring to page 629, line 18:

> "Q. And the notes, referring to the notes that you made on the triplicate copy of the the Government—and the notes are the only memorial so far as your mind is concerned as to what was said at that time?
>
> "A. I have no other source of notations, that is right."

That is true: There was no other notation made at the time of the conversations.

Q. Well, to say the least, Mr. Garner, you did not offer us the information in your previous testimony that you had later made a memorandum for Mr. Barber, did you? A. You didn't ask.

Mr. Donohue: That is a different question.

The Court: You adverted to page 612. Is there anything on page 612?

Mr. MacInnis: Yes. The question on page 612 refers to notes made at that time. The question on page 629 refers to any memorial or notes.

Q. In any event, Mr. Garner, you have not offered us that information before, have you?

A. I didn't know it was called for.

Q. When Mr. Barber came to see you, or when you went to his office, on the occasion of your first discussion, he told you [4058] that there was to be a case brought against Harry Bridges, did he?

A. He told me it was contemplated.

(Testimony of Lloyd H. Garner.)

Q. Can you recall as nearly as possible the substance of what he said?

A. He said very little about it. In fact, I think that is all that he did say, that if it became necessary they would use my testimony.

Q. Did he tell you it was a criminal case or civil case?

A. He did not. He didn't tell me what type of case it would be.

Q. Did he ever, at any time, tell you it was a criminal case?

A. Not prior to the grand jury hearing.

Q. Did he tell you prior to the grand jury hearing that it was to be a criminal case? A. No.

Q. Not at all?

A. I don't recall that he did.

Q. Didn't Mr. Barber or Mr. Kaiser tell you that not only was a criminal case to be brought against Harry Bridges, but that the Government had also filed a civil case against him to cancel his citizenship? That was told you, wasn't it?

A. I have no recollection of any such information as that at that time.

Q. You never heard of the other lawsuit? [4059]

A. Which other do you mean?

Q. The civil lawsuit.

A. No, at that time I had no knowledge of it.

Q. I mean at this time, Mr. Garner.

A. At this time I do not have any recollection of a civil case.

Q. Don't you know, Mr. Garner, as an officer of the Immigration Service that the Government has on file a civil case against Harry Bridges asking for the cancelation of his citizenship, a case which will be tried after the present case is finished? You know that, don't you?

A. I have no knowledge on it.

Q. You never heard of it?

A. I have heard rumors of it. I have heard nothing officially.

Q. Oh, if we send for the record from the Clerk of this Court, would that be official notice for you or would it refresh your memory?

A. That would give me notice of it, yes.

Mr. MacInnis: In lieu of sending for the record here, will the Government stipulate that there is such a case on file?

Mr. Donohue: Of course, if Your Honor please, but may I rise to inquire what the purpose of the inquiry of this witness is?

Mr. MacInnis: I will accept the stipulation, if the Government says there is such a case on file.

The Court: There is such a case on file. Is it so [4060] stipulated?

Mr. Donohue: Yes, of course, Your Honor.

Mr. MacInnis: I have no further inquiry.

The Court: What was the question?

(Record read.)

Q. (By Mr. MacInnis): Now, Mr. Garner, when you spoke before about administering your duties in this case as well as in other cases, you

(Testimony of Lloyd H. Garner.)

said that you were following the statute which governs your duties, is that true?

A. I think I made that comment.

Q. You had in mind, I think you said, Section 705 of the Nationality Act, is that true?

A. I think I adverted to that section.

Q. You are familiar with the contents of that section, aren't you? A. Fairly so, yes.

Mr. MacInnis: That section has been read into evidence before, Your Honor, so I won't read it in its entirety.

Mr. Donohue: Can we have the reference in the record where it was read before, Mr. MacInnis?

Mr. MacInnis: During the testimony of Henry Schrimpf.

Q. That section, Mr. Garner,—and if it will refresh your memory, I will hand you the volume—governs your duties as an officer of the Immigration Service, doesn't it?

A. Yes, that is one of the sections that affect my duties. [4061]

Q. With the volume before you, can you tell us generally what the prohibitions are against granting citizenship to aliens of a certain class?

Mr. Donohue: I object, if Your Honor please. I do not think that is a proper matter for cross-examination.

Mr. MacInnis: It is preliminary, Your Honor, to questions asked at a particular time.

Mr. Donohue: He has the right to ask him anything he may have done, but he has no right to ask

(Testimony of Lloyd H. Garner.)

the witness as to whether the witness properly performed the functions of his office.

The Court: Sustained.

Mr. MacInnis: I may say this: I am not criticizing this witness in the conduct of his office. I assume he does properly perform his duties. But these questions are to elucidate the things he will ordinarily do pursuant to his office. He tells us in many instances, Your Honor, "I would have done that. I presume I did that." And our assumption would be he said those things because those are the things he would normally do.

The Court: That would be purely hypothetical. What he did in the case at bar is the all-important matter, as I gather it. The objection is sustained.

Q. (By Mr. MacInnis): Mr. Garner, following His Honor's suggestion, and calling your attention only to the case at bar, [4062] you told the Court and jury before that you asked Mr. Robertson and Mr. Schmidt certain questions about whether they knew Harry Bridges had ever been a member of the Communist Party, they replying in the negative, and whether they themselves had ever been a member of the Communist Party, and they replied in the negative, didn't they?

A. That is right.

Q. And those questions were called for by your interpretation of Section 705 of the Nationality Act, were they not?

Mr. Donohue: I object, if Your Honor please. Whether they were called for by the interpretation

(Testimony of Lloyd H. Garner.)

of any section of the Act is not important. The point at issue is whether they were asked.

The Court: Sustained.

Mr. MacInnis: Pardon me, Your Honor. The Witness asked these questions pursuant to the Act, and I have a purpose which Your Honor will perceive in a moment in pursuing this matter further.

The Court: Objection sustained.

Q. (By Mr. MacInnis): In reference to the question which you asked Mr. Robertson, Mr. Schmidt and Mr. Bridges, the law governing your duties calls for an inquiry back over a period of ten years, doesn't it?

Mr. Donohue: I object to the question, if Your Honor please, as to what the law provides. The question before this [4063] Court and jury is what question was asked by this witness and what answer was made.

The Court: Sustained.

Q. (By Mr. MacInnis): You were a hearing officer with the Immigration Service here from 1941 until what other year?

A. You mean in the San Francisco office?

Q. Yes. A. Until 1948.

Q. And your duties were the same during all that period of time? A. Generally, yes.

Q. And you would have exercised your duties to all applicants for citizenship in the same manner during that period of time?

A. Generally, I think so.

Q. Would your duties have been any different.

(Testimony of Lloyd H. Garner.)

let us say, in the year 1943 than in the year 1945?

A. My duties, sir, are several. They are not confined only to these examinations. I suppose you refer to the examination in naturalization cases.

Q. Yes.

A. The duties would not be substantially any different.

Q. You would ask people the same questions in 1943 as in 1945?

A. The same general line of questions, yes, I would.

Q. So that if any person came before you in 1943 and indicated that he had been a member of the Communist Party during a period [4064] of ten years past, he would not be eligible for citizenship, would he?

A. I wouldn't go that far. I wouldn't say he would not be eligible.

Q. Doesn't the statute before you say that any person who, within that period of ten years, has been a member of any organization advocating the overthrow of the Government by force and violence may not obtain citizenship?

Mr. Donohue: I object to the question, if Your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): And during the period of time in which you were the hearing officer in San Francisco, particularly in the year 1943, the Immigration Service and yourself considered the Communist Party to be such a party as defined in that law, is that not true?

Mr. Donohue: I object to the question, if Your Honor please.

The Court: Sustained.

Mr. MacInnis: Your Honor, if I may be heard respectfully on this point: This witness told us very lucidly before that he had to ask these questions because the law, Section 705 of the Nationality Act, required him to do so. We wish to prove at this time out of his lips——

The Court: You can make the offer of proof in the absence [4065] of the jury.

Mr. MacInnis: I am not making any offer of proof, Your Honor. I am merely making a suggestion on the objection. We wish to show that obviously the witness, Henry Schrimpf, either lied to the Immigration Service when he was naturalized, or else had some special bounty conferred upon him. The inference is irresistible in either direction, and that is the purpose of these questions. I ask Your Honor to consider his ruling again and permit me to ask the witness the questions.

The Court: My ruling was correct when made. It still stands correct.

Mr. MacInnis: We take exception.

The Court: You may have an exception. With respect to your observation concerning Mr. Schrimpf, the jury is instructed to disregard the same.

Q. (By Mr. MacInnis): Mr. Garner, what did

(Testimony of Lloyd H. Garner.)

you do before you came with the Immigration Service in 1941 at San Francisco?

Mr. Donohue: I object to the question, if Your Honor please.

Mr. MacInnis: Your Honor, with all of these witnesses the prosecutor has entered into a biographical discussion. Concerning this man, the only thing in the record is he was a hearing officer in 1941. I would like to know what he did before that.

Mr. Donohue: If the purpose is an attempt to impeach the [4066] witness by some prior occupation, I will withdraw it. If it has no other purpose, I repeat my objection to Your Honor.

The Court: The witness at one stage said he was a lawyer. I will overrule the objection.

The Witness: May I have the question?

Q. (By Mr. MacInnis): What did you do before 1941?

A. I was engaged in the practice of law.

Q. Where, Mr. Garner? A. Los Angeles.

Q. That was a continuous occupation?

A. That is right.

Q. And you had not been with the government service until 1941?

A. I had not except for army service in 1918.

Q. Mr. Garner, let me ask you this: Would an alien who was suspected of having Communist affiliations or being a Communist be permitted to refuse to answer questions to the Immigration Service at any time during your tenure of office?

(Testimony of Lloyd H. Garner.)

Mr. Donohue: I object to the question, if Your Honor please.

The Court: Sustained.

Mr. MacInnis: I have no further questions.

Mr. Donohue: If Your Honor please, may this witness, who drove all night in the rain last night to get here from Los Angeles, be now finally excused?

The Court: The witness is excused. [4067]

Mr. Hallinan: Apparently they treat their employees different from their other witnesses. The witnesses are flown around in luxurious planes, but the employees are not.

The Court: That remark is uncalled for.

Mr. Hallinan: Your Honor, what about counsel's remark?

The Court: Mr. Hallinan, I asked you if we could not avoid these constant bickerings between counsel. I am trying to manage this case in continuity.

Mr. Hallinan: Your Honor, nothing was said about Mr. Donohue's comment on the exploit of the man driving through the rain last night. What has that got to do with his testimony?

Mr. Donohue: I have in mind only the fact that the man needs rest, and I asked Your Honor to excuse him so he could get some rest.

The Court: The witness is excused. Is there any further testimony?

Mr. Donohue: No, Your Honor. We have rested.

The Court: The Government rests.

Ladies and gentlemen of the jury, the Government has rested its case in chief, that is, with respect to the witnesses that it intends to call at this stage. The defense will go forward. In contemplation of going forward with this case, Mr. Hallinan, speaking for the defense, in your absence this morning, requested a continuance of this cause until Monday next, January 23rd, at 10:00 o'clock a.m. The Government, speaking through Mr. [4068] Joseph Donohue, offered no objection and consented to that continuance. Consistent with the policy of this Court to afford the defense every opportunity to present witnesses and to marshal the facts, I have accordingly granted the same. Under the circumstances, therefore, this cause will stand over regularly for further trial until next Monday at 10:00 o'clock.

In the interim I assume there will be several legal motions in the absence of the jury, Mr. Hallinan?

Mr. Hallinan: I do not know of any, unless the prosecution has some to make.

The Court: All right. We therefore separate, Court and jury, for the interval for several days. In the course of that separation, again may I admonish you to carefully refrain from any conversations with any persons about this case, to refrain from conversations with the members of your family. I should again admonish you not to read the current articles in the newspapers and to refrain from listening to radio comments thereon.

I have no estimate at the present time as to the length or proposed length of the defense in the presentation of its witnesses, nor do I have any indication at this time with respect to the rebuttal, if any, that the Government may have. After the defense presents its cause, the Government may then present witnesses in rebuttal, if the same be properly in rebuttal of the defense. So we can only conjecture as to the future number of days that may be in contemplation. Any number [4069] of days that I might estimate would be a mere guess and speculation.

Accordingly, this Court, unless otherwise indicated by counsel at this time, will stand adjourned until Monday next, January 23rd, at 10:00 o'clock. You may now retire.

(Thereupon, an adjournment was taken to Monday, January 23, 1950, at 10:00 o'clock a.m.) [4069-A]

Monday, January 23, 1950, 10:00 A.M.

The Court: Stipulate that the jurors are present?

Mr. Donohue: Yes, Your Honor.

The Clerk: The United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson.

The Court: Proceed.

OPENING STATEMENT ON BEHALF OF DEFENDANTS SCHMIDT AND ROBERTSON

Mr. MacInnis: Members of the jury: I am very sorry that we had to intrude on your good nature last week and ask that the case be postponed for a few days; but when the prosecution declared that it had presented all of its evidence, we realized over night that there were two months of testimony to consider, and we wanted to come before you, as we will now, with an offer of proof that would take into consideration not just the generalities of the case made against these three men, but every item in that case. We wanted to leave not a solitary answer of any witness left untouched. So, as I say, at the risk of offending you and at the risk of interrupting the ordinary procedure from cause to effect in the trial, we asked for the recess.

Now, as we said once before, we want to lay all of the cards in this case on the table. We not only want to lay the cards on the table, but we want to show you exactly how the cards are going to be played, and that is what we propose to do. [4070]

I think that we have traversed a great deal of detail together. At the outset of the case, on behalf of the ~~defendant~~ Harry Bridges, an opening statement was made, and there was much criticism because Mr. Hallinan told the jury in advance that witnesses would commit perjury upon the stand. I think that now nobody will gasp when I say that we will show you that perjury has been committed here by witnesses called by these men who at the moment represent the United States Government.

In making an opening statement to you, I have only one request to make, and it goes to the whole case, and it is this: Hear me out. Hear out, if you will, the three men who have sat here throughout the two months of accusations. Hear out the defense, and then decide for yourselves, not upon any words of ours or upon characterizations that we might apply to people who have come here, but decide for yourselves out of the record in this case what may be the merit of this prosecution and what may be the motivations for the production of witnesses here.

You have listened with us to the presentation of a case by the side upon whom the overwhelming burden of proof must depend under our law. I want to approach you now on behalf of two defendants, the defendants Henry Schmidt and Bob Robertson, two defendants who are presumed to be innocent. And we will undertake to show you that these men are innocent in fact as well as under the presumption of our law. We will invite you to listen to the testimony. We will invite you to follow the [4071] progress of our case, and we are confident that you will reach the same conclusion that we have espoused from the start of this case: That there is no real evidence against these men; that they are not guilty, and that they ought to be found not guilty.

We will show you that Mr. Schmidt and Mr. Robertson even to a moral certainty, which is not a burden cast upon us since the defense need only raise a reasonable doubt in order to be entitled to an acquittal, but we will show you by the weight of the evidence and by moral certainty, that Mr. Schmidt and Mr. Robertson are not guilty of conspiring with themselves or with any other person to evade the laws of the United States. We will show you by necessary implication that the third defendant, the chief defendant in this case, Mr. Harry Renton Bridges, is also innocent because, in the presentation of evidence, we will not be able to abstract the case of Bridges from the case of Robertson and Schmidt. These three men are charged in the lofty language of the indictment with having conspired at times and places to the grand jurors unknown, to aid Harry Bridges in some spurious attainment of citizenship. Because of that charge, the knowledge that these men possessed concerning Harry Bridges will become a facet of evidence for your consideration. Their activities in connection with Harry Bridges will become proper evidence for you to consider; the basis of information which they possessed and upon which they had a right to rely when [4072] they were called as witnesses in our Superior Court to vouch for Harry Bridges when he applied for citizenship—all of these matters will come before you, and you will be the sole judges of the facts of the case.

We have no fear at all that you will consider lightly the assertions of the defendants, because we will offer you not only the naked word of a man who stands accused, in many instances we will offer you records—business records, sometimes public records—to show you that what they say will be the truth, and that the assertions brought against them are fabricated, invented, born out of thoughts that are beyond our ken at this time.

Now, each defendant, I will tell you in advance, will take the witness stand. Each defendant in this case will be a witness not only for himself but on behalf of each other defendant. And it will be your duty to evaluate the testimony of the defendants. They have a right to choose not to testify. They are waiving that right. They are going to appear before you and answer any question that may properly be put to them. And it will be your duty, and we invite you, to listen to them, to compare the testimony that they will give, the reasonableness of their statements, the directness of their position, with the evidence that has already been offered here on the part of the Government of the United States.

That is the position basically which we are going to follow, [4073] but in placing the defendants on the stand I want to commend to you these thoughts as well as to the prosecutors, because when these men take the stand, the prosecution will have a full right to cross-examine each of them.

We will show you that Harry Bridges has given testimony many times before, volumes of testimony, all of it available to the prosecution. Harry Bridges testified in 1937 before Immigration Inspector Gerard Riley upon the same subject matters that engage us here. Harry Bridges testified in 1939 before Dean Landis of Harvard, who was the Immigration Examiner in San Francisco. Harry Bridges testified in 1941 before Judge Sears of New York, who was appointed to be the Examiner in that prosecution against Harry Bridges. We have no fear, members of the jury, that any arrant statement of his will rise out of the past to damn him in your eyes. We have no fear at all. We expect these gentlemen to use such sources as are available to them to cross-examine the witnesses.

We will show you that Henry Schmidt has given testimony before on the same subject matters. Henry Schmidt was called as a witness on behalf of Harry Bridges in the 1941 hearing before Judge Sears, and as he sits upon the witness stand we will ask you to contrast the statements that he makes here with any possible differences that he has made in the past. We will make that offer to you in respect of the defendant Henry Schmidt.

And I want to make this offer by way of particular suggestion [4074] if it be of any aid at all in respect of these three men: This is a serious case. The three men are going to take the stand and testify. We will endeavor to cover every item of the prosecution evidence. Now, if we are remiss, if any question remains unsettled in the minds of any of you, if there is any gap, any hiatus in the plan of evidence, if there is any matter of puzzlement, anything that remains undenied, we respectfully ask you, any of you, to put such questions to us as may come into your mind. You can do that by asking the permission of the Judge. You can do it by raising your hand and putting the question directly in the record. It would be no more than your right to exercise that function. It would be no more than our duty to answer it as best we can. That is the position that we take in this case.

We will show you on the whole that the three men who sit here charged with conspiracy to commit perjury have themselves been assaulted by professional perjurers. If we were to characterize the case of the prosecution,—and we will by the evidence which we will properly bring here,—we would seek to show you this: Mistakes from the most benign perspective; lies from the cold appraisals of the truth; imagery, fabrications, insanity—not out of our lips and not because we say these things. We will ask you out of the total of the evidence in this case to reach that kind of a conclusion.

I will speak with you first, if I may, concerning the [4075] general matters which we will prove in response to these charges, and we will proceed then, I think item by item, to disprove the assertions of the various witnesses who have appeared here. And I think it wise for the interest of all, particularly the interests of the defendants whom I represent, that we do this, because if we spend a little time now—it may be tedious—we will expedite things later.

Many witnesses have testified here. The human memory has certain limitations, and we want to refresh the minds of everyone in advance as to exactly what the accusations are and as to exactly the answers we will make shall be.

I think that when the defense has finished, subject to your criticisms, there will not be a solitary item in the case of the prosecution unanswered; there will not be a single shred of evidence which will not have faded into destruction before the warm light of evidence which will now be produced. I say that generally about the prosecution case. Now I will tell you point by point just what we are going to do.

First of all, the overall accusations about the Communist Party, the allegations tied in with the emotional thoughts in these defendants and economic procedure throughout the world. The Communist Party, I repeat, whether the Communist Party be good or whether it be bad, is of course not one of the matters upon which we are sitting in [4076] judgment.

The Communist Party has come into this record in various manners and aspects. It was humanitarian, out of the lips of Schomaker and Stanley Hancock. It was a vile conspiratorial group, out of the tainted words of Manning Johnson. We will show by evidence that whatever the Communist Party may be, whatever it may have been, these men were none of it, these men were never members of the Communist Party, and anyone who comes before you, anyone who has come before you with that kind of assertion lies, and in practically every instance we will be able to show you the reason and the motivation for that kind of lie.

Harry Bridges, to begin with him, the person in this conspiracy charged against Schmidt, Robertson and Bridges, Harry Bridges never joined the Communist Party. We will show you that by evidence. He never applied for membership. He never received or possessed any Communist book under the name of Bridges, under the name of Dorgan, Rossi, Harvey, Canfield, even under the name of Harry Guinn, a last minute starter intruded into the case by the witness Paul Crouch who testified for the Government. We will show you that this assertion about Bridges that I make now, that he was never a member of the Communist Party, was true in 1933, it was true and has been proved true in 1939, in 1941, it has been true throughout the years, and is true today.

Henry Schmidt, we will show you by the evidence, never joined the Communist Party, never has been a member of the Communist Party, although he too over the years has had the same accusations [4077] flung at him ever since the days when he joined the waterfront workers in the early struggles for a living wage.

Bob Robertson has never been a member of the Communist Party. Some of you may wonder at the reason for his inclusion in this case. We will show you that Bob Robertson has this difficulty. One day in the autumn of 1945 he walked over to the City Hall with a leader whom he revered, because that man was at last going to receive his citizenship in the United States, and at the last minute Robertson was asked to appear as a corroborating witness for Bridges, and he now finds himself indicted for conspiracy by this Federal Court. That is the story of Robertson. He has never been a member of the Communist Party; no credible evidence at all concerning that man. What there may be now in the record concerning him I can not say. My memory discloses none to myself. Robertson is charged here upon the fickle oath of one person, George Wilson, who says that he saw Robertson at a Communist meeting, we are not told with whom, we are not told when, we are not told where. That is the testimony against Robertson, and it fits somewhat into the pattern read out by the prosecutor at the start of this case, originally out of the lips of the indictment, when he said, "We will show you that Mr. Robertson and Mr. Schmidt conspired at times and places and with persons to the grand jurors unknown." Henry Schmidt is touched here with the same broad accusation. That conspiracy at times, at places and with persons unknown. When the charge was [4078] made at the start of this case, we wondered as to what kind of terrible evidence might be brought here to substantiate that charge, now that the case for the Government has been closed, we will offer you this conclusion out of the evidence. The accusation was that they did something at times and places unknown. The evidence shows that anything they might have done is unknown at least so far as this record is concerned.

Concerning the defense that we must offer you on behalf of Mr. Robertson and Mr. Schmidt, I think that one can best proceed by endeavoring to show you every facet of the knowledge which either of those men might have possessed concerning Harry Bridges, because you will recall they are charged with going to court with Harry Bridges and with telling the Court that they believed him to be a proper person to receive citizenship in the United States. We will show you that was their honest belief in 1945. It is their honest belief today. They double and redouble anything they said concerning the fitness of Harry Bridges to receive citizenship in the United States. What will be the evidence concerning the alleged relationship between Harry Bridges and the Communist Party as it was known to Mr. Robertson and Mr. Schmidt? Well, we will reveal everything we know concerning that.

To us native San Franciscans who may have watched as observers of the passing scene the stormy years of this Australian, whose love for our shores and this city at least eclipsed the [4079] ties that bound him to his native land so that he has fought with his life and his health to remain one of us against the unremitting efforts of a million foes; to us, as I say, who have seen Harry Bridges in San Francisco and watched the shifting economic scenes of this century, his position is clear. But we have evidence we must meet in this case, and we will show you at the outset that when Harry Bridges emerged before the great San Francisco strike of 1934 as the articulate champion of human beings in distress, he had to accept aid from any person who might offer it. He was the leader of a few unorganized men. It is not our thought here to speak about the economic discord of those years. It is not our thought to go over past wrongs and open old sores and criticize employers or anybody else. The evidence shows there was a strike. The evidence shows what happened in that strike. But we will show you that Harry Bridges was in no position to refuse aid from anybody in the 1934 strike, and indeed we will show you from whom could he expect aid. The average man, insecure in 1934 in his own job, owing a natural allegiance to his employer, could scarcely help the efforts of a few other men who wanted to make a living wage. A few wealthy citizens, a very, very few. gave some circuitous help to Harry Bridges, and we will show he has never been labeled a capitalist because of that circumstance. The church did what it could to teach people to appreciate the rights of the working people, but by and large, there was no recognized group [4080] of persons who could come to the aid of the longshoremen. The Democratic Party and the Republican Party sat upon the threshold of the affair as spectators, but there was one group living always in the darkness of the economic corridors, living in the shadows of society's disdain, half secret, half organized, half feudal perhaps, but probably more than half brave. The Communist Party came to Harry Bridges in the course of the 1934 strike and offered him every small service that it could possess. And I say this to you. I think you will see it out of the evidence, too. Harry Bridges could not renounce the aid of the Communist Party in 1934 and he need not denounce the Communist Party today. What was the aid and assistance that this now conspirational group brought to Harry Bridges in 1934? Surely not the unlawful aims which we are now told are the secret and deeper ends of the Communist Party. If that be so, those aims were not disclosed to Harry Bridges or to Henry Schmidt and to any of the other people who fought the strike in 1934. The Communist Party brought to Harry Bridges in 1934 the columns of a small newspaper, a little first aid for strikers who refused to retreat before the onslaughts of the police and the vigilantes. They offered a little organization in the ranks of unorganized labor so that men and more men might stand together in that subversive of all subversive ends, the quest for a living wage.

We will show you that things were as they were, and they were not more, and that was the contribution of the Communist [4081] Party to the strike and the association of the Communist Party with Harry Bridges. We do not mean either to belittle or to extol the position of the Communist Party. The Communist Party made some contributions to the strike. It is up to you to evaluate what those contributions were. There was never revealed to Harry Bridges, we will show you, or to Henry Schmidt, who was by his side in 1934, the tentacles of any international spy system. No. Nor did the NKVD, the terrible Soviet secret police described here, you will recall, as a sort of dragon who biennially devoured the lists of the Central Committee of the Communist Party, according to the language of the witness Paul Crouch, that dark group, the NKVD, did not help the strikers or reveal itself to Harry Bridges or Henry Schmidt.

As I say, what the Communist Party was, what it did, in the strike is a matter of history, and the

Communist Party did not direct the strike, it did not direct Harry Bridges, and if John Schomaker was a courier for the Communist Party, any message which he might have carried from the unseen man called Sam Darcy could never have been a message of an imperative tone to Harry Bridges, because Harry Bridges accepted the aid of the Communists when it went along with the aims of the union, and he turned it down when there was any contrariety between the two ends.

You have heard the claim advanced by witnesses appearing for the Government that the Communists won the 1934 strike, but [4082] you have also heard persons out of the same coterie of witnesses say that the Communist Party engineered the great war against Hitler and Fascism. I think we can show you by the evidence that there are some human advancements for which the Communist Party was not responsible, and we will ask you to evaluate all those positions in the light of fact and not in the light of either hysteria or fancy.

Be that as it may, Harry Bridges, after the industrial strikes of 1934 and afterwards, followed such policies as would best suit the men in his own union, and in many instances, we will show you, the policy of the Communist Party happened to be the same policy as the policy of the ILWU. When that took place, he embraced the policy; when that did not take place, and we will show you that that was the situation on many, many occasions, Harry Bridges and the ILWU went off independently and even in conflict with the mandates of the Communist Party, and we will show you that by the evidence, not merely by utterances out of the lips of ourselves, who are, of course, interested in the case. That has been the story of Harry Bridges and of his two adherents who sit here as defendants, Henry Schmidt and Bob Robertson.

There has been evidence here about the Communist Party line. It is a phrase that you hear on the streets. It is a phrase that has been echoed in the courtroom here, the Communist Party line. You are told in a most dramatic instance of that [4083] kind that the Communist Party line made some abrupt change in June of 1941, at the time that Hitler attacked Soviet Russia, and you are told that Harry Bridges made that same abrupt change of policy, and hence Harry Bridges is a Communist. Well, the whole premise is false. The whole declaration is a myth. The whole thing has no bearing on Harry Bridges whatever the Communist Party line may have been, because we will show you by evidence, we will show you from Harry Bridges and from his records out of the glass house in which he has necessarily lived over the years, we will show you by printed documents that prior to June, 1941, and after June of 1941, Harry Bridges followed the identical policy, particularly prior to June of 1941 when there was no sign upon the international scene of any break between Soviet Russia and Germany, Harry Bridges endorsed the national defense program of our President and urged all the members of his union to follow that policy. After June of

1941, he repeated the identical words and continued, and that has been the position of Harry Bridges over all the years of the war.

So we will show you, in short, that there has been no Communist Party line for any of these three defendants. We do not propose, when we speak of cooperation on occasion between the aims of the ILWU and the aims of the Communist Party, to suggest that these men cooperated in all respects with the Communist Party short of actual membership. We do not infer that at all. The cooperation, when it did exist, was the same kind of [4084] cooperation that one political party might have with another during one phase of a campaign.

We will show you that these three men, whom you have been told by witnesses followed the Communist Party line, are the three men who ignored the Communist Party in their famous no-strike pledge. We will show you that by evidence which can not be refuted. We will show you within the last calendar year, 1949, these three men, Harry Bridges, Henry Schmidt and Bob Robertson, flaunted whatever strength the Communist Party might have brought them, by entering into an agreement which has been popularly called the new look on the waterfront. And what is that? The new look on the waterfront is the arrangement between Harry Bridges, the ILWU, and the Employers, by which all controversies are settled first by sitting down at the council table with persons who I suppose to the Communist Party constitute the hated capitalist class, and we will show you that by entering into that arrangement Harry Bridges and the ILWU drew forth bitter criticism from the Communist Party as having effectuated a surrender of their economic rights. So there is no picture of these men following hand in hand in the laying of the years with the Communist Party. There will be no such thing out of the evidence in this case.

Now, as to secret meetings. There has been much talk from the witnesses who have appeared here of so-called secret meetings. And there were secret meetings, members of the jury. [4085] In the incipient days of the union every meeting had to be held in secret lest the participants be subjected to assault and arrest as radicals. That situation, of course, has changed. It changed after the conclusion of the 1934 strikes. But over the years there have been many so-called secret meetings, the same kind of secret meetings that any business man might have within the spheres of endeavor of his own work. We will show you that Bridges has had secret meetings with employers, although he has not thereby been accused of becoming one of them. We will show that he has had secret meetings with bankers. He has secret meetings with city judges who wanted his support for reelection, but who feared such patronage should see the light of day. There have been many secret meetings conducted by Harry Bridges, but none of them linking him with the Communist Party.

Bridges, it is true, has attended meetings where Communists were present and where he, known to himself, was probably the only non-Communist present. We will show you that the witness who gave his name as Kermit Charles Kroiek told the truth, a prosecution witness, when he told you as jurors that it was quite a usual thing for a Communist Party meeting to have invited as a participant some trade union leader who did not happen to be a member of the Communist Party, so that problems of the union which might also be issues pleasing to the Communist Party could be discussed. We will show you that that was the situation of Bridges in more instances than he could possibly narrate, more [4086] instances than his memory might contain. We will show you, however, that Mr. Robertson and Mr. Schmidt never attended meetings of that kind, because the peculiar stature of Harry Bridges in the trade union movement was the reason for his inclusion in various small Communist Party meetings on occasion. They were not Communist Party meetings so far as Bridges was concerned. What they may have been considered by the other persons are matters outside of his knowledge or opinion.

Henry Schmidt and Bob Robertson, in the course of their life as trade unionists, have sat down at meetings in which a great number of persons whom they thought to belong to the Communist Party were present, but neither respectively has been the only non-Communist present, and we will show you that by evidence in this case.

If I can speak a little further upon this evidence about attending meetings with members of the Communist Party on the part of Harry Bridges, that situation, I think, is easily illustrated, and I will do that by recounting an incident which has been duplicated over the years on at least several occasions during his lifetime. Harry Bridges is acquainted with the man identified here as William Schneidermann, said to be a Communist leader or a district organizer or some title of that kind, locally here in San Francisco. Let us suppose that Harry Bridges is sitting in his office, and as I say, this is an incident that has been duplicated on many occasions, and he has [4087] before him the discussion of some matter that is coming up on the union floor, a proposed piece of legislation either in Sacramento or in Washington, upon which the union has asked to take a position. That is something that happens every month in the lives of these men. The telephone rings. It is Schneidermann. He says, "Mr. Bridges, can I come over and see you?" Bridges says, "Yes, come over."

You may say why does he consult with William Schneidermann? And here is why: Bridges knows that when he takes a position on a piece of proposed law to the floor of the union, there may be three or four other people who will rise to the floor and speak on the same proposition, people whose affiliations may or may not be known to Harry Bridges, people who may be influenced by William Schneidermann. So it is highly to the interests of Harry Bridges to sit down and unfold his point of view, and he does so. Suppose Schneidermann comes up to Bridges' office and he has three of his associates with him. Has Mr. Bridges thereby attended a fraction meeting or a faction meeting, whatever these witnesses called these segments of the Communist Party? And to illustrate the problem further: Suppose Schneidermann says to Bridges, "Can you meet me? I want to discuss something with you." And Bridges meets Schneidermann somewhere else, in a restaurant booth, and Schneidermann has two or three companions. Is Bridges then attending a unit meeting of the Communist Party? We will show you members of [4088] the jury that upon every instance in which Harry Bridges has attended groups, happening to be composed of the members of the Communist Party, that his participation has been entirely directed to the interests of his union and to the interests of the men who have elected him, and we will show you that clearly and unequivocally by the evidence in this case.

We will show you by evidence, in short, that any association or corporation or joining together in any movement or any activity between ILWU headed by Harry Bridges and the Communist Party might be likened to the alliance which existed for a few years between Soviet Russia and the United States. The two nations cooperated for their immediate ends, but by that association we did not become Communists, nor did the Soviet people become capitalists. We will show you that that analogy can particularly be applied to any cooperation between those men and any endeavor linking the name of the Communist Party with their work. [4089]

And we will show you this: In any matter in which there was any discussion or association between Harry Bridges or Henry Schmidt—because Henry Schmidt has been associated in the trade union movement with Harry Bridges now over a great number of years—we will show you that any such momentary cooperation had to do with perfectly legitimate and ordinary aims of the working people. When they discussed prospective legislation with members of the Communist Party, in most every instance those same subjects of discussion became enacted as part of the laws of our land, because they were concerned with very fundamental things. Their business is concerned with very fundamental things,—wages, hours, working conditions, —things that go to the essence of the lives of human beings. And we will show you that when these fundamental issues,—wages, hours, working conditions of human beings—became broadened into political issues, again they became matters entirely of legitimate inquiry. For example, Social Security, old age pension, the graduated income tax according to the wealth of the particular taxpayer—the Communist Party was interested in all of these measures, and when the measures were proposed, the opponents attacked the measures, they were called radicals. And yet the Congressmen who voted for those laws did not become Communists, any more than Harry Bridges, Henry Schmidt or Bob Robertson have become Communists by the economic life which they led in the interests of men who were working with their hands. [4090]

We will show you that the union to which these men belong, the ILWU, is a militant, progressive, even a left-wing union. By "left-wing" I mean a union that fights for the rights of the working class which it represents. We will show that has always been their position; that they have never equivocated; they may be on the opposite end of the economic poles to the men who consider themselves conservatives or reactionaries, but they are not members of the Communist Party, and they never have been.

In their movement toward effectuating their own aims, the ILWU and the men who appear here as defendants, have taken positions which on occasion have been deemed visionary. They have gone further than the advocacy of the laws which we have just now mentioned. They have asked that other laws be passed. And what are they? Civil rights for all of the people of the South; no discrimination because of race, color or creed in any employment. It happens that those are the ends of the Communist Party at this time, and they are also in this calendar year of 1950 the ends of the Administration of President Truman. It happens that in these instances the aims and the ideals of the three groups, the ILWU, the Communist Party and the Democratic administration, seem to coincide. No one of the three thereby becomes tainted with the political color of the other.

And we will show you that by evidence upon a broader scale, [4091] upon a purely international scale. We will offer you all of the activities of Harry Bridges. We will show you that the actions of the three men, of Harry Bridges, Bob Robertson and Henry Schmidt, have not been at the inspiration of the Communist Party in any particular, but they are truly—and perhaps this may sound like an overstatement—inspired by a love of humanity and love of America. I say that without blushing, and I will expect you to reach that conclusion when you hear the evidence in this case.

For example, long ago in the late 1930's long before we were awakened to the rude and grim news of Pearl Harbor, Harry Bridges informed the United States Government that Japanese spies in fishing boats were cruising along the coast from British Columbia down to the Gulf. And we will show you that when he communicated this evidence to the Department of Justice he was primly thanked for it, and the evidence was filed away.

Earlier still, in 1935, Harry Bridges and the ILWU refused to load scrap iron which was then being sent to Mussolini for the prosecution of the campaign in Abyssinia. And Bridges was denounced as a troublemaker for taking that position and the Italian consulate and the local authorities combined to condemn Bridges and to threaten police interference if the cargo was not moved.

Those are the activities of these men long before the great war which came upon all of us. [4092]

Long before the great war Harry Bridges had boycotted any shipment of munitions or scrap iron to Japan because, as early as 1931, Japan had become an aggressor nation.

If those aims are Communistic, I suppose these men may well be labeled Communists. If these aims are American aims, we will expect you to find them not guilty in this case, because they never were members of the Communist Party, they never joined, they never participated, except as I have outlined here.

The inference appears out of the lips of some of the prosecution witnesses that Harry Bridges in his policies and his activities prior to the great war followed the interests not of the United States but the interests of an inimical foreign power. We will show you by evidence that any activity, any conduct, any stated policy on behalf of Harry Bridges in the international situation prior to the war was born not out of any participation with Communist Party members, not out of any economic discussions which he ever had with members of that group, but by cooperation with General Breckenridge of the United States Marine Corps. We will show you that as early as 1936 the international policy of Harry Bridges began to be formulated and tempered by meetings between those two men which took place monthly over a period of many years. And before the war, and around 1939 or 1940, while the Immigration Service was assaulting Bridges with its arm of the Government, the War Department requested Harry Bridges to cooperate with the [4093] Office of Strategic Services, the famous OSS which became so well known in the war. That is the international background that we will show you concerning Harry Bridges and concerning these men who went along the road with him over the entire stream of years. And in none of those activities—we will show you out of the evidence in not one international activity of Harry Bridges did the Communist Party, a small segment of 70,000 members of our population, one-fiftieth of one per cent, direct him, advise him, order him or influence him.

We will show you that, and we are sure that you will come to that conclusion after you listen to the evidence.

Now, as has been mentioned before, an opening statement such as the statement I make to you now, is not evidence. You can receive evidence only out of the lips of witnesses. An opening statement, however, is a prelude to the evidence. We make this detailed statement now, you may be assured, not because of any adulation which I may possess in the sound of my own voice, but because we want to point out to you in advance exactly what our position may be on every facet of this case. And we want to show you and alert you in advance to the inferences which we expect to arise from all parts of the testimony.

An opening statement is more than a mere offer of proof, it is a promise, it is a pact, it is an agreement between myself and yourselves that the defense binds itself to produce the evidence of which we now speak. We will undertake [4094] to prove to you everything which I now mention.

I told you that I would proceed first to tell you about the general matters which we will prove in opposition to the case stated here by the Government. I will now go, if I may, into the specific evidence, the accusations which are made here, the incidents which have been related; sometimes by people who never saw Bridges in their entire lives. We want to go over point by point every one of those persons and demonstrate to you the utter falsity of everything that they have said.

The first witness called by the prosecution was the man named John Schomaker. I will speak with you first concerning his testimony. We will go along the various facets of the declarations he made here. And I will say this to you: Just as surely as the witnesses Johnson, Crouch and Ross have been caught in open perjury, the witness Schomaker will be caught in the same toils as the evidence progresses.

The Court: We will take the morning recess. Ladies and gentlemen of the jury, we will take the morning recess, and the same admonition is given to you as I gave during the introduction of the evidence, not to discuss the case under any conditions, nor to form or express an opinion until it is submitted to you.

(Recess.)

Mr. MacInnis: As I suggested, I *would less* than frank with the jury if after having tried your patience with a rather long [4095] introductory statement, I failed to show you the specific items of evidence upon which we will rely in this case. I am going to proceed now to tell you exactly what we are going to show upon exactly every accusation made by the prosecution witnesses, and at the conclusion we will invite you to share the opinion that we have had all along: that it is a house of cards; that it is a fabrication; that it is a form without substance.

I will ask you to journey with me first through the testimony of the witness John Schomaker, the fiction writer and hod carrier, the man who laughed as he purported to point the accusatory finger at three men whom he said were still his friends. I will hint and suggest the items of testimony that he gave, and then I will tell you exactly what we are going to do to counterbalance and rebut utterly that testimony. And so that we can follow the trend of this discussion, I am going to intrude a little further upon your good nature and upon the discretion of his Honor, if I may, and use the blackboard, because there are dates, details and incidents. And I will proceed as swiftly as I can.

Now, concerning the witness John Schomaker I will put a few words concerning each incident upon the blackboard so that we can identify them in our minds as we discuss them. You will have to forgive my poor writing, but I will indicate it from here.

A Juror: We can't see the lower part. [4096]

Mr. MacInnis: I think maybe this wasn't such a good idea; but I will read this aloud, and if you have any difficulty, I will dispense with the blackboard. It occurred to me as a good idea, but if we have any trouble, I think I will probably abandon it.

The first item of testimony that comes to my mind as given by John Schomaker concerning Harry Bridges is his assertion that in October of 1933, he went to the home of Harry Bridges with a man named Herman Mann. He told the jury that he, John Schomaker, was at that time a member of the ILA, the old longshoremen's union. He told the jury he didn't know whether Harry Bridges was at that time, and that they had some discussions. Here is what we will show you, not by the lips of one of the defendants but by documentary evidence: From January of 1929 up to the end of the month of October, 1933, John Schomaker worked as an orderly in the Veterans Hospital at Palo Alto; he wasn't on the waterfront at all. We have under subpoena the records of the Veterans Hospital at Palo Alto, and I anticipate that the first testimony which we will intrude upon your ears will be the testimony that until October 30, 1933, John Schomaker worked as an orderly at the Palo Alto hospital. The significance of that date transcends merely the failings of human memory; it isn't a matter of saying, "Well, maybe it was the next month, maybe he was mistaken," for these reasons John Schomaker testified that his purpose of going out to see Harry Bridges—and you [4097] will recall his early words—was to get Bridges to write articles for the Waterfront Worker, a mimeographed sheet which was published in the interests of the militant waterfront workers before the strike. Here is how we will show you that did not take place in September of 1933: The Waterfront Worker was taken over from another union group by no other person than Harry Bridges,—a matter established in previous trials involving the same subject matter—and in September of 1933, the paper was controlled, owned apparently, by Bridges as one of the members of the strike committee at that time and a member of the executive board of the Longshoremen's Union, and John Schomaker, who later on did become the editor of that little paper, would have had nothing to do in October of 1933, or even in November of 1933, with going to Harry Bridges, who had instigated the paper, and asking him to write articles. We will show you that by additional evidence to the word of Harry Bridges, but the more cogent fact is the third. I will read that aloud because it is difficult for the jurors in the rear to see. Schomaker said that when he first came to waterfront in October of 1933, he had instruction from Sam Darcy, the local leader of the Communist Party, to do two things: (1) To set up the Albion Hall group; that was a group of men, longshoremen, who wanted to struggle for their rights to better wages; and to reactivate the waterfront. We will show you that that testimony is as clearly a lie as any other piece of testimony in the [4098] prosecution case, because the Albion Hall group was set up by Harry Bridges and by other people in the union months before Schomaker ever saw the San

Francisco waterfront. The Albion Hall group was composed of some of the men who were later very active in the 1934 strike.

You will recall during the progress of some of the testimony references to a little strike in 1933 in the early fall upon the Matson docks. That took place in August or September of 1933. That strike, its successful conclusion, and the events that followed constituted the reactivating of the waterfront, because fully two months before Schomaker saw service as a longshoreman on the waterfront, the union had come to life, the ILA became recognized in a limited way by the employers, the men were openly allowed to wear their buttons, the exectuive board headed by Bridges had been set up, and when Schomaker came to the waterfront all of those things had been done.

We have some other proof about the emergence of Schomaker out of the corridors of the Veterans Hospital at Palo Alto where he worked so long as an orderly, in this: We will show you by records which are under subpoena—Mr. Bertani, secretary of Local 10 of the ILWU will probably be our second witness, Mr. Louis Bertani, and he will bring to you the original records showing that John Schomaker was initiated into the ILA, the Longshoremen's Union, on November 20, 1933, weeks after the events of which he spoke took place. [4099]

Mr. MacInnis: I will proceed now to the matter which may be most dramatic, at least it was from my point of view, in the testimony of John Schomaker, the story about the application to the Communist Party supposedly signed by Harry Bridges. I have some thoughts on that, but first, another odd thought comes to my mind. We will show you that while Schomaker worked until October 30th of 1933, in Palo Alto Hospital, at the end of the strike when the longshoremen had to register, he took to himself a spurious registration and represented to the employers that he had been working on and off through 1932 and 1933 on the waterfront. Here, he swore, he came in October, 1933, to the waterfront. We will offer you that as a sign of the same deceptions which will characterize all of this man's testimony.

The next testimony of Schomaker is that one day in November, 1933, he went into a restaurant at Stewart and Market Streets, on the corner, he says, with Harry Bridges and a man named B. B. Jones, that while they sat there a very dramatic incident took place. First of all, there was probably no restaurant on the corner of Stewart and Market Streets in 1933. That is not a matter of great moment, however, because there was a restaurant a little less than a block away called Boyd's which has always been in existence, a place where Bridges often did go for coffee during those years of his life. The date, you will recall, was fixed by Schomaker by his allusion to another incident, if you recall his words on the stand, when he said, "I remember the [4100] time because one of the things we were talking about was the death of a waterfront worker over at Encinal Terminals." We have gone through the records of the State Compensation Board and similar public agencies and we find that there was a death of a waterfront worker in that period of time, but occurring, I believe, either on the last day of the calendar year 1933, the end of December or early January. At least, it could not have been a topic of discussion during the calendar year 1933.

The third incident, the most dramatic incident, that a man called B. B. Jones, whom Schomaker says was an organizer, I suppose for the Communist Party, asked Bridges if he would join the Communist Party, and that there was some discussion. Schomaker said, for some strange reason, he then left the restaurant and stood outside talking to some man while the terrible deal took place. We will show you by B. B. Jones himself that no such thing took place, because B. B. Jones does exist. B. B. Jones is a man working upon the waterfront. His name is Bruce B. Jones. And he is not unknown to these gentlemen who form the backbone of the prosecution. We will show you that the agents of these men interviewed Mr. B. B. Jones in the spring of 1949. We will show you that they served upon him a subpoena to appear before the grand jury in this matter, and that B. B. Jones came, but that they did not call him as a witness. We will show you that by the testimony of B. B. Jones the third person present in this clandestine meeting between Schomaker, Bridges and Jones. We [4101] will show you that the signing up, the supposed signing up of Bridges by B. B. Jones in the Communist Party is an invention, a rank fabrication, the purest lie of any lie that has yet intruded itself into this case. We will show you that it is a seat of fiction comparable to the story of the witnesses who told you of seeing Bridges receiving honors from the Communist Party in New York at a time when we know him to have been right here in California. We will show you that by other evidence in addition to the testimony of Mr. B. B. Jones.

We will show you that B. B. Jones is a longshoreman at the present time. We will show you that he was so enraged when he read in the newspapers of the story in which he was supposed to be a participant that he got out a mimeographed sheet himself denouncing and denying the story, and hung it up in every open place along the waterfront so that the members of the waterfront crowds could see the attitude that he felt.

We will show you that Jones knows Schomaker and Schomaker knows Jones and that Schomaker, as recently as last week, in the interests of these men for the Government, made a subtle although definite attempt to contact Mr. Jones to see if Mr. Jones was going to come here to contradict him in this case. We will show you that by evidence. You will say to yourselves, "If this charge now being made is true, why would these supposedly learned men take a chance on using a person who really exists as the third person in this kind of transaction"? [4102]

We will show you by the evidence what the reasons are. First, we will show you that John Schomaker thought that B. B. Jones was still a member of the Communist Party, and he thought that B. B. Jones would not dare to come to court and expose himself to cross-examination as a witness because he might thus be called upon to reveal the names of compatriots of his. [4103]

But we will show you that, alas, B. B. Jones was a person who was in the Communist Party and drifted out of it eight years ago, in 1942, after he was torpedoed on a merchant ship during the last war.

The second reason that they used the name B. B. Jones was this: Mr. Jones—I say in all respect to him because he will be here as probably our third witness—is an eccentric kind of fellow. He is a rough kind of fellow. He does not possess, we will show you, the Southern education of a man like Lawrence Ross, let us say, produced here by the Government. He is a fellow who is prone to lose his temper. He is excitable. He was torpedoed in the war and they thought we would not dare to produce Mr. Jones because of the eccentricities of his nature, but we do not care, and we do not suppose that you do either, what the propensities of Mr. Jones may be to lose his temper or to display any other histrionic abilities. We will bring him here to show you that this thing did not happen, that it could not have happened. And after you have listened to Mr. B. B. Jones we will offer you another conclusion: If the Communist Party had been trying to solicit the membership of Harry

Bridges, they never would have called on Mr. B. B. Jones to carry out that task. You will see by his appearance, you will see by his demeanor, that he is not a person to whom that task would have been entrusted, and the naming of Jones in this case is some [4104] kind of macabre joke dreamed up by Schomaker and the agents of the Immigration Service—dreamed up, of course, to deceive you and to attempt to gain an unjust conviction of Mr. Bridges. We will show you that by the evidence in this case.

As I say, we will show you that B. B. Jones, Bruce B. Jones, knew Schomaker. More than that, we will show you that B. B. Jones, when he himself was being questioned by members of the Immigration Service, read that John Schomaker was also being questioned, and that Schomaker was a prospective witness for the Government. So Mr. Jones drove down to Menlo Park and he had a conversation with John Schomaker, and he will narrate it here. And I might say that after he had that conversation he made a written statement so that he would not be forced to rely on his own memory as to everything contained in that conversation; and when he takes the stand we will offer the statement in evidence. We will let the Government representatives see the statement if they choose, because Mr. B. B. Jones made a faithful report of exactly what John Schomaker said, and here is the conversation that they had as he will narrate it: Mr. Jones, after discovering the fact that he was being followed by agents of the Immigration Service, drew from Schomaker the admission that he was to be a Government witness. Jones asked him why, and Schomaker said—Schomaker, you will recall, had just bought a boarding house in Menlo Park, close to the environs of Stanford University, and is dependent for [4105] part of his existence upon the existence of students who take board and room at his house. Schomaker said, "What can I do?" He said, "I don't know any more than you do whether Bridges is a Communist or whether he is not, but," he said, "I have this house. I can't lose this house. If the Stanford students boycott me, I won't have this house any more." He said, "I have a family. I have to think of a lot of things. I am not in the ILWU any more."

And he said this: "My life isn't mine any more. Immigration agents come into my house without even ringing the doorbell."

Mr. Schomaker told the truth when he told you exactly that upon the witness stand here. That is the testimony that we will show you in respect of this supposed application in the Communist Party in the presence of B. B. Jones.

We will show you that the testimony about Communist Party books in the name of Harry Bridges or in the name of Dorgan or any other name is just as false as the spurious books which used to be bandied around San Francisco in the name of Dorgan at $500 apiece. That already appears in the testimony introduced by the Government as to the contents of Harry Bridges testimony before Judge Foley when he applied for citizenship. [4106]

We will show you that Harry Bridges never paid any dues to the Communist Party. He did not pay them to Schomaker, he did not pay them to B. B. Jones, he did not pay them to any other person and I regret to say that the other person mentioned in that incident named Norma Perry is not a person upon whom we could rely to bring here as a witness. We will show you Norma Perry is a person expelled from her job as secretary of the ILWU by Bridges because of information brought to him by the employers themselves that she was active as a labor spy, and that is the substance of that testimony and what it will be.

The next incident is this: Some time in 1938 at the house of a man named Jack Shaw Schomaker went out to a gathering attended by many people, and at that gathering Harry Bridges appeared and stood before the people and said that he joined the Communist Party, that he was a member of the Communist Party.

We will show you that in the calendar year of 1938 Harry Bridges, who was thus accused of placing his liberty in the hands of fifty or sixty people, many of whom were strangers, had already been called in, in November 1937 I think, before an Immigration Board to give testimony upon this very subject matter. In 1938 a warrant of arrest for his deportation had been issued, and we will show you that that never took place, and that Henry Schmidt, who is named by Schomaker as having been present at that meeting, was never at the home of Jack Shaw except to attend a large cocktail party some time years ago, a [4107] gathering at which no person made any speech to anybody else. We will show you that that event never took place, that in the first place Harry Bridges possesses sufficient intelligence not to have done a thing like that, and secondly, he would have no reason to do it. We will show you that by the evidence in this case.

The next matters to which I will respectfully call your attention involve the story about Sam Darcy and the 1934 strike. We will show you that if Darcy ever gave orders or instructions to John Schomaker as a courier, those instructions were never delivered to Harry Bridges. We will show you that Darcy exercised no right to order Harry Bridges to do anything. We will show you that he never did. We will show you unofficially that Sam Darcy has been under subpoena by these gentlemen of the prosecution throughout all of this trial, but they have chosen not to produce him as a witness upon this very important point. We will show you that the Communist Party, whatever role it may have played in aiding the strikers, whatever sympathy it may have possessed, did not call the strike. We will show you that the strike, particularly the general strike, was called by the most conservative leaders of the labor movement in San Francisco, Mr. Ed Vandeleur and Mr. John Shelley, who is now a member of Congress, and the Communist Party did not call either the longshore strike or the general strike of 1934. The aims of the strikers, as we learned already from the witnesses in this [4108] case, particularly the hostile witness, Henry Schrimpf, the aims of the strikers were not Communist Party aims. They were strictly trade union aims, living wages.

better working conditions, a chance for every man to have a fair job and a fair opportunity to earn a living. And the Communist Party, if you please, we will show you, did not settle the strike. We will show you that the strike was settled by a board appointed by the President of the United States and headed by the late and great Archbishop Hanna of San Francisco. We think that those facts will establish the Communist Party did not settle the strike.

Whatever your Honor's pleasure is, I can either proceed——

The Court: If it is not convenient——

Mr. MacInnis: It is convenient, your Honor.

The Court: Ladies and gentlemen, we will resume at 2:00 o'clock. The same admonition to you not to discuss the case under any conditions nor to form nor express an opinion thereon.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [4109]

Afternoon Session—Monday, January 23, 1950
2:00 P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

OPENING STATEMENT ON BEHALF OF DEFENDANTS SCHMIDT AND ROBERTSON

(Continued)

Mr. MacInnis: To return, if I may, to a showing of the evidence which we will bring here in respect of the assertions of John Schomaker, the laughing hod carrier of Menlo Park, who was the first major witness of the prosecution, I will continue with the next incident to which he testified.

I have moved the blackboard a little bit closer; I think it may be of assistance here.

Harry Bridges came in by plane at 9:30 this morning from Honolulu. He complained that when the board was back further that my writing looked like the waves of the ocean, it made him a little dizzy. So I moved it up where Harry Bridges can't see it. So I will continue.

The ninth episode was a little story about Grants Pass, Oregon. John Schomaker said that on a day in the summer of 1936—and you will remember that is the same summer that Bridges was also supposed to have taken a mysterious trip to New York—but anyway, in the summer of 1936 Harry Bridges and John Schomaker drove up to Grants Pass and they met some [4110] mysterious people in the courthouse square, and as you remember, Bridges got out of the left side of the automobile because of his liberal leanings, and Schomaker got out on the right.

We will show you, members of the jury, and seriously, that the meeting at Grants Pass never took place, and there was no conceivable reason as to why such a meeting should have taken place. We will show you that one of the persons mentioned as a participant in this meeting at Grants Pass was a man called Bert Nelson. I think you will remember that his name was given as one of the persons who had this conference in Grants Pass, at which Harry

Bridges, according to John Schomaker, was present.

We will show you not out of the lips of Harry Bridges, but out of the records taken many years ago, in 1936, records which could not have been fabricated, records for which there would be no reason to fabricate—we will show you that on July 20 of 1936, Harry Bridges returned to San Francisco from a trip to Seattle, and that on this trip in Seattle he had been installed upon the executive board of a coastwise union, and that he had met in Seattle with a man named Bert Nelson, who was placed as the most important person in this conversation by John Schomaker. We will show you that that meeting never took place.

The tenth meeting or incident, if you can bear with my imperfect writing, was a meeting said to be with Earl Browder [4111] in some prune orchard during the prosecution of the 1934 strike. Now, whether Browder came to San Francisco in the course of the 1934 strike I can't say. We don't know. Harry Bridges attended no meeting in any prune orchard with Earl Browder. Harry Bridges we will show you, met Earl Browder two years later for the first time in his life, and he met him openly in a legitimate manner that might befall any citizen of some standing or some renown in San Francisco. Browder was speaking along with a group of other persons upon the stage of Dreamland Auditorium in San Francisco in 1936, and Mr. Bridges was introduced to him and shook hands with him then for the first time here in San Francisco.

Henry Schmidt is said to have been another member of this meeting in the prune orchard with Earl

Browder, whatever its significance may be. Henry Schmidt had never met Browder in his life, has never met him yet. I believe Henry Schmidt, as a member of an audience, heard Browder and various other persons speak, possibly at the same meeting at Dreamland Auditorium, but he has never met the man in his life.

Henry Schmidt, when this incident was disclosed upon the witness stand, attempted to recall all of the times in his life in which he had passed through that particular segment of our country. By our country, I mean the valley around San Jose and the points to the west over to the ocean.

Now, the incident concerning Browder and the prune [4112] orchard is not a novel one to the Bridges case, because the same matter was invoked in previous cases brought against Harry Bridges, and Henry Schmidt read that material in an attempt to find out a possible reference to that incident or anything taking place in real life, and he found in the other case there was a reference to the town of Cupertino and a reference to a prune orchard. Henry Schmidt in the recent years of his life has traveled in the summertime to Santa Cruz, Ben Lomond and Felton, and has gone by Cupertino possibly a couple of hundred times, and not the faintest flicker of recognition comes into his mind concerning anything having to do with a prune orchard in that part of the country, much less the meeting with the man called Earl Browder. [4113]

The next incident of which Schomaker spoke was a meeting taking place in San Diego in 1935. I think prior to a State American Federation of Labor convention, and into that meeting comes another member of the cast of characters, Stanley Hancock, who later testified and said that such a meeting took place. Now, we will show you that Harry Bridges and Henry Schmidt never saw that man Stanley Hancock in their lives. When he came into the room, they looked at each other and at me in wonderment and amazement and we asked, as we did from time to time, "Who is this person? Do you know him?" And not a glimmer of recognition.

The meeting supposedly taking place in San Diego before the A. F. of L. convention of 1935 is another meeting in which the names of persons, have been pieced together for designs that we can't fathom at this time, but Bridges did not attend such a meeting, Schmidt did not attend such a meeting, and we have no idea as to whether or not the other persons present actually gathered there. There would have been no reason for Bridges to have met with that particular assemblage, and we will show you by evidence that he did not do so. We will show you that he was present at the convention of 1935, that he participated in various activities on the floor of the convention; we will show you that this meeting which was supposedly to discuss the slate of progressive candidates to be run for office in the A. F. of L. never took place, at least in that form. [4114]

We will show you that Bridges and Henry Schmidt attended a large caucus of progressive persons, a great number of people, who were discussing the candidates they were backing for office, but that group had nothing to do with the man now known as Stanley Hancock, that probably the man named John Schomaker was not there, and it had nothing at all to do with the Communist Party.

We can perceive, I think, the pattern upon which many segments of this case are built by following the testimony of Schomaker, who is a kind of anchor man for the supporting testimony of other persons; and because the twelfth incident, to which we call your attention, and upon which we will present evidence, is the naming by Schomaker of a meeting at the Sokol Hall, at which a man named Schneidermann spoke, and into that meeting we find in the testimony of Schomaker, that there is brought to our attention the name of Lawrence Ross. Lawrence Ross is named by Schomaker. The man called Lawrence Ross was later produced as a witness here. Now, if there was such a gathering at Sokol Hall to hear William Schneidermann speak about his attendance at some Communist international convention, we do not know. We have looked through the public writings of those times, the Chronicle, the Examiner, the Call and the News, and we have found some reference to public meetings. We have found, although we have asked the witness those questions, we found Schneidermann made a public speech at the Scottish Rite [4115] Auditorium at about that period of time, and the subject of his talk was a visit to the Communist International. Bridges was not there, Henry Schmidt was not there. Whether the man named Lawrence Ross attended such a meeting we have no way of saying. That would be our proof on that subject.

The thirteenth episode, and I think the last in the series of incidents narrated by John Schomaker, was a meeting which he said he attended, which he labeled with the Communist adjective and which he said was devoted to accusations brought against a woman called Norma Perry, who has been mentioned many times throughout this trial. We will show you that there was a woman named Norma Perry. We will show you that some time during the 1934 strike a woman by that name, who was apparently married to a known Communist, who had been several times married to persons of that affiliation, came to the waterfront and offered her services as secretary to the strike committee. We will show you that she was engaged, and that she performed ordinary functions for a considerable period of time. There did come a day when Henry Schrimpf, the second witness of whom we will presently speak, and John Schomaker came to Harry Bridges and told him that he ought to fire Norma Perry, that she was a labor spy, that she was carrying on information to the employers, and there was a discussion, because Harry Bridges declined to accept their word for that assertion. Norma Perry was brought into the room and there was a discussion. Bridges declined to take the [4116] woman's job away from her at that time and she continued in that post.

A little while later Bridges had a conversation with Mr. Mitchell of the Pacific Lighterage Company in San Francisco, one of the employers, and Mitchell himself told Harry Bridges that information was coming to the employers out of the lips of Norma Perry, and Bridges then fired the woman. The history of this lady is she then took up employment with a mortal enemy of Mr. Bridges, Mr. Harry Lundeberg, whose name has been mentioned before. That is the story of Norma Perry. That is the story of the supposed meeting together to fire her from her job. The story is that when the accusations were first made, Harry Bridges listened to them, took the lady's word against the word of Schomaker and Schrimpf. Later on when the proof seemed irresistible, coming as it did from the other side of the economic fence, he fired her. That is a summary of the evidence which we will produce as opposed to every assertion made upon the witness stand by John Schomaker. If he testified generally as to meetings which he called Communist meetings, we reaffirm our denial that those meetings never happened either, and we are assured that the evidence will support exactly what we say at this time by way of offer of proof. So I will invite you, if I may, into a summary of the evidence which we will produce upon the stand, of the second of the stable of confessed ex-Communists, a man called Henry Schrimpf. [4117]

Henry Schrimpf was first brought to the witness stand late one afternoon and he gave brief testimony upon that first day about one incident. He said that some time in the spring or summer of 1934, at a place I think on Stewart Street, although he was not sure of that, that Henry Schmidt was walking by and said to him, "Why don't you get wise to yourself and join the Communist Party?", and that he handed him an application. He said he didn't know what he did with the application. He thinks he filled it out. What he did with it thereafter he didn't say. Well, upon such details we would naturally not be enabled to produce many persons to prove that the incident never happened, because no other persons are named as being among those present, but we will show you that Schmidt did no such thing. We will show you that Henry Schmidt never asked Schrimpf nor any other person to join the Communist Party. We will show you that Henry Schmidt was not an organizer for the Communist Party nor for any other group or political association. We will show you that that incident never took place.

One of the chief gains established by the Waterfront workers as a result of the 1934 strike was the creation of a joint labor relations committee by which representatives of the union and representatives of the employers sat together on one committee and arbitrated matters of general interest both to the employers and to the union. Additional to all the working conditions and wage scale and to the ordinary things that would [4118] affect the economic situation of the workers, the most important feature of the 1934 strike and its successful end was the creation and the recognition that followed it of the Labor Relations Committee. I offer you this introduction because it forms the basis for a hatred of fifteen years' standing emanating from the witness Henry Schrimpf and directed toward Harry Bridges and toward Henry Schmidt. The Labor Relations Committee, you will recall, was a matter upon which Mr. Schrimpf was interrogated by myself when he took the witness stand. Henry Schrimpf said first he never heard of it. He said secondly maybe he was on some temporary committee, but that he was not on the committee established at the end of the strike. We will produce records, not necessarily union records, because we can bring the duplicate records possessed by the employers themselves; we will probably subpoena those records here, to show you that at the conclusion of the 1934 strike Henry Schrimpf was one of the three or four people selected to represent the union in the most important committee then in existence.

Now, what is the significance of what may appear to be a minor discrepancy in his testimony? It is this: Henry Schrimpf has an unfortunate affliction, for which I do not criticize him. He is a man who drinks. There were two, three, four meetings of the Labor Relations Committee shortly after that committee was brought into existence, and the records will show, as we pointed out to Henry Schrimpf before, that he was absent, that [4119] he failed to attend. After the third or fourth absence, Harry Bridges went to Henry Schrimpf and told him he was going to withhold payment of the allotment or wages. There was some daily stipend paid to both employer members and union members of the Labor Relations Committee, and he told Henry Schrimpf that he was not going to have him put off the Board and thus exposed, but he would permit him to resign. So we will show you that Henry Schrimpf then tendered a formal resignation to the Labor Relations Committee of the Joint Employer and Union Activities, and thereafter he told people the reason he had resigned was he could not appear and sit across the table from a man named Peterson who was then a representative of the employers. We will show you that by competent evidence from one or two different sources. We will show you that from that time onward, late in 1934 or early 1935, there ensued on the part of Schrimpf an almost maniacal hatred for Harry Bridges. We will show you, in fact, that hatred led up to activity on the part of Schrimpf in connection with the Immigration Department as far back as 1937, and with that thought we will travel to the next incident involving Henry Schrimpf. [4120]

Henry Schrimpf, you will recall, told you under oath that he was a member of the Communist Party but that he drifted away sometime in 1935; that he had only remained a member for a year to a year and a half. The witness Lawrence Ross—I certainly don't ask that you accept his word—said that Schrimpf was a member of the Communist Party during 1935 and 1936 and 1937, during all of his tenure of office as editor of the Western Worker. Whichever of those statements you choose to accept, we will show you this—part of it has already been shown by evidence; part of it remains to be established by evidence which we will produce. We will show you that in the summer of 1937 there was an incident in the city of Portland, Oregon, where a union convention was being held; that there was word sent around that Henry Schrimpf had been seized and interrogated by agents of the Immigration Department. Henry Schrimpf was of course at that time an alien, not a citizen of the United States. That after the incident, which also disclosed other activities of the Immigration Department which have been mentioned in the evidence, a Mr. Bonham, who was then a representative or head of the Immigration Service—he may well have held the post which Mr. Barber now occupies—was asked to come and make a statement on the floor of the convention, and you will recall that Henry Schrimpf said that it was true that he had gotten up and he had vigorously defended his own rights and said that he [4121] had refused to make any statement to Mr. Bonham and to the members of the Immigration Service. Now, while we doubted at the outset the credibility of that statement, that an alien might take that position with the Immigration Service, we have discovered—and indeed Harry Bridges has known it for many years—and we will show you that at that very time in the year 1937 Henry Schrimpf, the confessed member of the Communist Party, was writing letters to the Immigration Service denouncing Harry Bridges and suggesting that he should be deported because he was a member of the Communist Party.

You may recall during the examination of Henry Schrimpf that there were produced and shown to him certain letters. It was ruled, upon objection from the prosecution, that those letters were hearsay. Very likely they were, at the particular time. We will show you that in the year 1938, in the month of March, here in San Francisco, after a warrant for his arrest upon deportation charges was issued against Harry Bridges, that he sent for Henry Schrimpf, and he produced and showed to him the letters which have previously been referred to—correspondence between Congressman John Coffey of the State of Washington; Madam Perkins, who was then Secretary of Labor, and Mr. John L. Lewis, out of which it developed that Madam Perkins had herself written to Congressman Coffey discussing the charges brought by Henry Schrimpf against Harry Bridges back in 1937. And we will show you that Bridges [4122] confronted Schrimpf with these facts, and that Schrimpf again denied his connection with the affair; that since that time, with the passage of years, Henry Schrimpf made no effort to achieve further prominence in the ILWU except on isolated occasions. We will show you that by the testimony of more than one person who will take the stand in this case.

The witness Henry Schrimpf of course repeated the testimony concerning the prune orchard meeting with Earl Browder. Our testimony upon that point has already been disclosed.

He discussed and testified concerning the firing of Norma Perry from the Union. That testimony of course has already been discussed between us.

The final matter to which I will advert in discussing Henry Schrimpf would be his malice toward Henry Schmidt. Henry Schmidt found himself lifted by the testimony of Henry Schrimpf into the position of a Communist Party organizer in 1934. We will show you that, in addition to the hatred between Schrimpf and Harry Bridges, the hatred that Schrimpf bore for Bridges, that in the passage of the same years following the 1934 strike that in virtually every annual election of the ILWU Henry Schrimpf took a position opposite to that of Henry Schmidt and was on each and every occasion defeated in bitter political contests for an office within the union.

We will show you that the bitterness and the resentment of Henry Schrimpf toward Mr. Schmidt grew to such proportions [4123] that on one occasion he physically assaulted and attacked Mr. Schmidt following a meeting of the union. We will show you and we will offer you the conclusion that those feelings had something to do with the procurement here of Henry Schrimpf.

I said erroneously that the incident concerning the malice of Schrimpf for the defendant Henry Schmidt was the last incident. There is one more matter that I would very gravely call to your attention: the naturalization of Henry Schrimpf. Henry Schrimpf told you under oath that he was a member of the Communist Party. The evidence by which the prosecution is bound establishes, according to his word, that he was in the Communist Party through 1935; by the word of the unfortunate Ross that he was in the Communist Party continuously through 1937. Now, whichever you accept, there has been read into the record the Naturalization Act or law governing those matters, and that law makes inquiry into the status of any applicant for citizenship a matter of inquiry going back ten years. The papers are now received in evidence, that is, such papers as we have been permitted to admit concerning the witness Henry Schrimpf, that he was asked the question under oath in his application: "Have you ever been a member of any organization advocating the overthrow of our Government by force and violence," and he answered in the negative. And he was granted his citizenship papers in 1943—I might say, a privilege for which he had theretofore never made any application.

We will show you that throughout the past many years that in the eyes of the Immigration Service the Communist Party has always been considered a party falling within that prohibition of that law; that is, an organization teaching the overthrow of the Government by force and violence. We will show you that in preparing those forms and in abstracting the signature under oath of Henry Schrimpf that the Immigration Service, and Henry Schrimpf must have known, that reference was being made to his Communist Party affiliation.

We will offer you in the instance of the witness Henry Schrimpf the irresistible conclusion either that some special bounty was granted the man by the Immigration Service for reasons not disclosed, or that Henry Schrimpf committed ordinary perjury for which he might have been prosecuted.

One matter that I won't trouble to write upon the blackboard. We will show you that the immigration officer in charge of the matter concerning Henry Schrimpf was, as recently disclosed by the special prosecutor from Washington, a man named Howser, and we will show you that when the name of the man Howser was first intruded into the record in this case, that the special prosecutor rose to his feet and said he was making every human effort to discover the whereabouts and the existence of Mr. Howser, but that he couldn't be found because he was no longer in the Immigration Service. We have caused a subpoena to be served upon Mr. Howser in his law [4125] offices in Long Beach. And his name is indeed Everett Howser, spelled with two t's, as the prosecutor pointed out; he does have offices in the Security Building at Long Beach. And long before the disclosure was made to us by the prosecutor, Mr. Howser had been interviewed by members of the Immigration Service in respect to this case. We will offer you that fact and ask you to draw whatever conclusion you feel that the situation merits in the light of fairness and good faith.

A lady by the name of Irene Harris, we will show, was next produced by the Government, and she gave testimony concerning one incident in corroboration, apparently, of the previous words of the witness John Schomaker. Now, not having any evidence in our possession as to the direct motivations of Mrs. Harris, except for the fact that her husband, a Mr. Ernest Harris, has been for many years a foe and opponent of Harry Bridges within the structure of the ILWU, and crediting the lady with the ordinary intendments that one credits human beings, realizing the possibility of mistake, we will show you this: In the first place, Harry Bridges in the year 1938 did not go to the home of Jack Shaw and announce after his wararnt for arrest had been issued to a group of strangers that he was indeed a member of the Communist Party; he did not on that occasion or any other ask the persons present to join the Communist Party. We have questioned Bridges very thoroughly as to what he might have said on a variety of occasions [4126] that might have been misconstrued, and we will show you this: that on more than one occasion, on maybe two occasions, three occasions, five occasions in his life, that Harry Bridges, who has been constantly accused of membership of the Communist Party going back to the year 1934—a man who, as I said, has necessarily dwelt in a house of glass over the years—we will show you that in response to that accusation, on a number of occasions in union meetings, semi-social meetings and the like, he said, "We are accused of being Communists. If what we are doing is Communism, then Communism must be pretty good; and if what we are doing is Communism, I guess I am a Communist." We will show you that Bridges, in defense of himself, has said the remark that I have just now cited in substance upon a dozen occasions, and if there was any honest incident to which the lady Mrs. Harris was a witness, a matter that startled her, as she said here, it would have been the kind of conversation that I have just now mentioned; but it could not be and it was not a conversation foolishly and falsely admitting membership in a political group to which he never had belonged.

The next witness produced by the Government was Stanley Hancock. Mr. Hancock identified himself, you will recall, as a real revolutionary as well as being a member of the Communist Party. He told you that he defied law and order in Southern California because he was devoted to the ideals of [4127] the working class. But he came here, we will show you, to tell you—for what reasons, we can't say—but he journeyed out here from Erie, Pennsylvania, to tell you of an incident that never took place. And I will show you how and I will show you why. To show the devotion to the same pattern of testimony, again we advert to the thought that John Schomaker testified first to a meeting in 1935 at the—he didn't name the apartments, I believe—at a place in San Diego, and placed as one of those present a man named Stanley Hancock. And then Mr. Hancock was brought across the continent to identify the place. And when he testified and told the jury rather accurately that the name of the apartment was the Sumner Apartments in San Diego: that the Sumner Apartments were located at 12th and B Streets, we were impressed and worried. But in a few moments it developed that he had been taken down there two weeks before by one of the immigration agents, as you will recall, and that he visited the scene of this alleged occurrence in order to prepare himself for testimony.

Now, we will show you—and I think this testimony will cover the whole incident—we will show you that Harry Bridges and Henry Schmidt, who are named as persons attending that particular meeting, never saw Stanley Hancock in their lives, they never met him, they never exchanged words with him. Whether Hancock may have seen Bridges or Schmidt at some part of his life, who can say? but we know and we will [4128] show you that neither Bridges nor Schmidt ever saw Stanley Hancock in either of their lives.

The next witness who came here was Mr. Kermit Charles Krolek, and he blurted out something that we accept as true. Mr. Krolek told the Court and jury that it wasn't at all unusual for a Communist Party meeting to be held and for some trade union leader who was not a member of the Communist Party to be invited there to participate in some discussion involving union affairs. And we will show that the conversation, or the purport of the conversation, or the situation that developed upon some of the matters to which he testified, was that kind of a conversation.

However, there are other matters to which we will call your attention to which Mr. Krolek gave false testimony and testimony we can prove to have been absolutely false. [4129]

Mr. Krolek told you with great particularity that he attended a meeting at the Venetian Square Apartments—I think he gave you the location—Long Beach, that he went up a spiral staircase to the second floor and that he took the first door to the right or maybe it was the left when he reached the top of the landing and again we wondered at the particularity of his testimony until it developed that he, too, was taken down to the particular city and walked up the particular stairway by one of the Immigration agents immediately prior to coming to court. We will show you that the persons mentioned by the witness Krolek as being present in the Venetian Square Apartments in Long Beach were members of a radio operators' union, that is, all except Mr. Bridges and Mr. Schmidt. We will show you that Harry Bridges, and Henry Schmidt had no interest, no reason and no business to be attending that particular meeting with radio operators, whether they were Communist Party members or not. We will show you that if the meeting of radio operators did take place that it was a meeting held without the presence of Mr. Bridges and Mr. Schmidt. We will show you that at the most their names have been added to some meeting which might have taken place in the dim past. We will show you, in short, that that meeting never took place, either.

The next incident involving the testimony of the witness Krolek involves the magic doors of 121

Haight Street, so many times testified to here as the repository or as the office [4130] doors of the Communist Party in San Francisco. Mr. Krolek told you that on one occasion while he was a Communist he went into those premises and waited in the hallway and saw through an open door Harry Bridges and Henry Schmidt sitting in some kind of a top grade secret conference with a man called Schneidermann.

We will show you this, that Harry Bridges—and this is something that has been established in 1939, something that was established in 1941, something that is still true today. Harry Bridges has been to No. 121 Haight Street twice in his entire life. Each of those visits took place in the year 1934. The first of those visits took place, you may remember from some reference to the earlier testimony, when the Communist Party wanted to make an offer to the strikers of the use of their organization called International Labor Defense. That was an organization, as I understand it from the testimony, that offered legal service, the protection of lawyers and the like, to strikers who were arrested and charged with minor crimes during the course of the strike. Harry Bridges went up to 121 Haight Street in the summer of 1934 and had a discussion upon that subject. Harry Bridges again during the period of the strike went up to Communist Party headquarters when the Communist Party offered to give open aid and assistance to strikers in some phases of their work. He went up on that occasion. I believe, and delivered to the Communist Party the recommendation of the strikers that the Communist Party's assistance in that particular [4131] would not be accepted. Other than that Harry Bridges has never been at 121 Haight Street. He was not there on the day testified to by the witness Krolek, and Henry Schmidt, if I may speak of him, because he was mentioned as being in that room, we will prove to you that he, on two other occasions in his life, visited No. 121 Haight Street, neither of them being remotely connected with the incident testified to by the witness Krolek. Henry Schmidt went to 121 Haight Street I think in around 1936 when a well known Communist orator, a lady called Anita Whitney, was speaking. He went up there when there were about 400 people sitting there listening to what she had to say in a public meeting. Henry Schmidt was invited in another year to a cocktail party at 121 Haight Street, on a New Year's Eve, and spent five or ten minutes in the premises. That is the extent of his acquaintanceship with that address, which has caused so much attention during the course of the trial.

Would it be convenient to take the recess?

The Court: Yes, we will take the afternoon recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions.

(Recess.) [4132]

Mr. MacInnis: I am taking the risk of being tedious and, of course, by such means affronting you in some small degree, as against the greater risk of leaving something out which might be of assistance. So I hope you will bear with me upon the remainder of the journey throughout the details of the prosecution's case and the manner in which that case will be refuted. And besides, I want these prosecutors, of course, to have a full opportunity to prepare their cross-examination and I want to inform them of these matters in advance for that purpose.

The most dramatic, the most climactic, the most telling incidents in the stream of witnesses who were brought here by the prosecution was the fable read out to you at the start of this case that Harry Bridges who had before that time been labeled as a Communist, was a great big Communist, that he had been elected in 1936 and 1938 to the Central or National Committee of the Communist Party, and two men were brought here at the outset to give lip service to that idea. One of them I can remember so well, Manning Johnson, peripatetic maniac, harboring evil toward everything he touches, brought here, if you please, as a traveler by the Immigration Service, serving before, we will show you, in fourteen cases for the Immigration Service, leaving here with our imprecations upon his head but with the blessings of the Immigration Service to testify in two further cases in Los Angeles.

The second witness, Paul Crouch, released from the white [4133] halls of Alcatraz after serving there for sedition, a confessed Communist, was the second person who corroborated Mr. Johnson. Now, here are the things that they told the jury. It is established by public records, by the stipulation of the Government, that in 1936 the Communist Party had a national convention, that that took place in the City of New York between June 24th and June 28th. That we know. That we know from the records. We know it from the testimony of Crouch, who was specific. We know it from the testimony of Johnson, who said he adopted the dates as stipulated to by the Government. Johnson told you under oath that Harry Bridges was introduced to him upon either the last day or the day following at that convention, and that he was introduced as an annually elected member of the Central Committee. The witness Crouch said that he saw Bridges at the convention, possibly early, possibly upon Wednesday, June 24th, and that the next time that he saw him was on the date of the election, the election of that Central or National Committee. We will show you by evidence, public reports, reports available to all persons, largely out of the New York Times, which covered the Communist Party convention, that the election of the Central or National Committee of the Communist Party took place on the last day of that convention. The reason I say that this episode is the most climatic, the most dramatic and the most telling in the case is because it illustrates more than anything else, the utter falsity, the real, the final, the complete falsity of [4134] a whole fragment of a case brought before you by men who represent the Government of the United States. We will show you that in that interim of time, in that island of dates which we were so grateful to receive from the record here, that Harry Bridges, by records, by the statements of witnesses, by the showing of physical impossibility, could not have been and was not in the City of New York. We will show that to you by people who saw him, people who heard him, by records made at the time which could not possibly be fabricated. We will show you by newspaper accounts, records of the City of San Francisco and the City of Stockton, California, that Harry Bridges, upon Saturday, the 27th of June, 1936, when the witness Manning Johnson told you seriously as ever a man can speak, that he saw Harry Bridges inducted into office as a member of the Communist Party Central Committee—we will show you that on that very day Harry Bridges was making a speech in the City of Stockton. I would say we could prove that by a hundred people. We will show you that by the newspaper accounts before and after in the Stockton Record, showing that Bridges was scheduled to speak on that day, the article the day after showing indeed he had in fact spoken.

We will show you this: that all the information in our possession concerning what we now know to be wilful, positive and murderous perjury was turned over by us on the day this Court adjourned for the Christmas vacation to the Government. We have kept no secrets as to the manner of the production of [4135] this testimony. We have kept no secrets as to the names of persons who will testify. We challenge those witnesses for the commission of wilful perjury, whose implications must have been known to the agents who produced those men in this cause, and we will offer you the evidence that these men have had a chance to investigate, and which they in fact investigated immediately by the dispatching of agents to the City of Stockton. We will show you that by a stream of testimony which I will now discuss.

On the night of Monday, the 22nd of June, two days before the Communist Party convention in New York began, Harry Bridges called to order as chairman a meeting at the Scottish Rite Auditorium. We have served copies of the records. We have persons in existence who saw him. Well, you may state, it is easy to get to New York in this day of fast travel. We will show you that in the year 1936, according to the schedules of airlines, the average time of travel between San Francisco and New York was in all 22½ hours. That takes into consideration the time of leaving for the airport and the comportment in from the airport in New York to some point of central location in New York City. We will show you, and I am about to discuss what Bridges did on the other days and nights. We will show you that it was utterly physically impossible for Bridges to have been in New York on any of those days. In fact, we will show you that he could not have been there within a period of more than two weeks, give or take many days in either direction, [4136] both before and after the time now established as the time of this Communist Party convention. That testimony was absolute. It was unequivocal testimony. It was not testimony about some meeting that happened some time that year. It was testimony about something said to happen during that actual convention of the Communist Party. We will show you that upon Tuesday night, June 23rd, one night before the beginning of the Communist Party convention, Harry Bridges answered Present at a roll call of the regular meeting of the San Francisco Bay Area District Council No. 2 held in Room F at the Ferry Building in San Francisco. So Harry Bridges was in San Francisco on the night of the 23rd day of June. [4137]

On Wednesday, the 24th day of June, 1936, the day the witness Paul Crouch says he possibly saw Mr. Bridges at the start of the convention—he says he saw him twice, once at the start and again at the election of the Central Committee—we will show you that at nine o'clock in the evening at a regular meeting of the Executive Board called to order by Harry Bridges on Wednesday, June 24, he was present here in San Francisco—an utter physical impossibility that Harry Bridges could have gone to New York.

We will show you that Bridges was not at any public meeting upon the two following days, Thursday and Friday, although we will of course call to your attention the air schedules and utter impossibility of his going to New York and returning. But we will show you that on Friday, which would be the 26th day of June of 1936, Harry Bridges and Henry Schmidt together made an arrangement to drive up to the city of Stockton the following day, Saturday, June 27. The invitation for Bridges to speak at that place was of long standing, it was of semi-public repute at the time; it was published in the labor papers and some of the ordinary press accounts. We will show you that they made an arrangement on Friday to be driven to Stockton by a member of the union, a man named William Christensen. And we will produce Mr. William Christensen as a witness in this case. We will show you that Mr. Christensen drove Mr. Bridges and Mr. Schmidt from San Francisco to [4138] Stockton, not in the early part of Saturday did he speak, but I believe early in the evening, and during the evening, bearing in mind that there were still a few hours left in that calendar day, we will produce Mr. Christensen, Henry Schmidt and four or five other persons, members of the Stockton local, who went to a night club in Stockton and they sat at a table and they had a couple of drinks and they discussed matters for a couple of hours until the night club closed, and then Mr. Christensen drove Harry Bridges and Henry Schmidt down from Stockton to the town of Albany, where he lives, and the men slept there for two or three hours, Mr. Christensen and his wife prepared breakfast early in the morning, Mr. Bridges and Mr. Schmidt on Sunday morning, June 28, had breakfast in the home of Mr. Christensen and they were then driven back to San Francisco on the same day, Sunday, June 28—the last day of the convention depended upon by the United States Government in this case.

Now, without commenting further, I will say this: After the testimony of Mr. Crouch and Mr. Johnson to which you listened along with us, we had prepared photostatic copies of the names and the statements of witnesses, and we caused those to be publicly distributed so that any person interested might investigate whether or not the Government had produced perjured testimony in this case. We gave the names of these witnesses along with others. We will produce as many witnesses on this point as may be convenient, having in mind the passage of [4139] time and the necessities for proving the point,—a Mr. Scheaffer, a Mr. Barth Woods, Mr. George McDonald, another man by the name of Walter Tesch, confirms the name of the bar in Stockton where Bridges and Schmidt were upon Saturday night, June 27, 1936. We will produce that evidence and we will vouch for it, and we will ask you to draw such conclusions as would naturally follow its admission here.

It is said that there is a day's leeway after June 28, Sunday. We can show you where Harry Bridges was in public meetings beginning with Tuesday, the 1st day of July, with one day's hiatus between the last public meeting here in San Francisco after coming from breakfast in Albany on June 28—a complete physical impossibility that he made this flight to New York—we will produce the airline schedules, because at 11 in the morning on Tuesday, July 1, Harry Bridges is in his office and he goes down to the Ferry Building—pardon me; I shouldn't say July 1; Tuesday is June 30. Yes, Monday would be June 29, Tuesday, June 30. On Tuesday, June 30, at 11 o'clock Harry Bridges goes and presides as chairman at a meeting of the Bay Area District Council.

I am sorry; there was a meeting Monday night, the 29th of June, which I will find in a moment. In fact, the schedule of days is complete. Will you find that for me?

We will show you that on the night of July 1 he answered the roll call at an Executive Committee meeting, and that from [4140] other records he was in San Francisco right through July 3, 4 and 5. We will show you evidence that will utterly destroy any credit, any possible credit, any imaginary credit, that might be attached to witnesses of the ilk of Johnson and Crouch.

We will show you that the statements of Johnson and Crouch made as you heard them made were not born out of mistake or out of the failings of human memory. We will show you that by irresistible inferences growing out of the evidence which we will produce. We will show you that Mr. Johnson and Mr. Crouch told deliberate lies and that they were procured here to tell deliberate lies to deceive you and to cause an unjust conviction of the defendants in this case. We will show that by evidence.

We will show you this: We will show you that the witness Manning Johnson, if anyone fails to remember all of the particulars of his testimony, followed in this case a pattern that he has revealed before to the Immigration Service. We will show you that in another case in which he was called as a witness by the Immigration Service, he falsely identified as present at an alleged Communist meeting two men named Tim Buck and Carr, and that it was proved in the same case that Messrs. Buck and Carr at the time designated were reposing in a penitentiary in Canada. We will show you that the Government had knowledge of that fact when it produced Mr. Manning Johnson as a [4141] witness here.

Harry Bridges was never elected, we will show you, to the Central or the National Committee of the Communist Party under his name, under the name of Dorgan, under the name of Rossi, Harvey, Canfield, Gwinn, or any other name in the series of noms de plume that have been offered to you by the prosecution in this case.

We will show you that Paul Crouch, if there is in fact such a person as Paul Crouch, never prepared any resolution for Harry Bridges for his use in the State convention of the CIO in 1941. We will show you that this person Crouch, as I say, if he does exist and if he does have a wife, did not send his wife as a courier to Harry Bridges with an imperative message from Crouch, from the Communist Party or from any other group. And we will show you that Bridges and Schmidt never saw

Crouch or Johnson in their entire lives. Whether anyone else did, I cannot say. The traveling troupe of Crouch and Johnson has now passed on to another city, and I will pass to another witness.

We proceed now into events upon which I need not speak in so great detail because they took place scarcely more than two weeks ago; but upon the heels of the exposure of Johnson and Crouch, there was produced here by the Government a man who at first called himself Lawrence Ross. I won't delineate upon the details of his testimony or upon its ending, but in [4142] Lawrence Ross you saw a man whose double identify was starkly exposed before your own eyes.

We will show you that there are other implications in the testimony of Lawrence Ross deeper than his confessions of false statements made upon the witness stand here.

We will show you that Lawrence Ross first testified falsely that he saw Harry Bridges at some meeting in Fresno; that he secondly testified falsely when he corroborated John Schomaker and told you he saw Harry Bridges at some meeting in Sokol Hall here in San Francisco. Indeed, it was rather difficult to cross-examine Mr. Ross because he remembered no persons who were with him at these meetings, didn't remember with whom he had gone to them, remembered nothing except the bare allegation that such an incident took place.

The third incident emanating from the lips of Lawrence Ross is another meeting of dubious quality in some unknown apartment in an unknown street in San Francisco. Bridges was there, and several other unknown persons further in attendance.

And Mr. Ross, after the testimony of Johnson and Crouch, told you that he was present at the Communist Party convention of 1936 and that he knew that Harry Bridges was elected to its Central Committee, but he doesn't remember in whose company he came or went.

Now, we will show you this: The supposed election of Harry Bridges to this Central or National Committee of the [4143] Communist Party is not a new development in the history of the tribulations of Harry Bridges. It has been brought up before and disproved. It now raises its head through the lips of a new character.

We will show you that after the exposure of Lawrence Ross, during that week-end when he told you that he was examining his soul and talking it over with the agent Kaiser, Mr. Ross and Mr. Kaiser drove over to Fulton Street in Berkeley and they had a conference with a man named Miles G. Humphreys—"Umphreys" was the name Ross gave him in some devotion to that Southern accent that he acquired. Mr. Miles G. Humphreys was known to the agent Kaiser as one of the witnesses in the previous trial of Harry Bridges who testified falsely upon the same incident and who was specifically found to be a liar.

So, as I say, the same train continues despite the exposures upon the witness stand.

The last or second to the last witness of whom, I will now speak as speedily as our convenience will permit, was a man named Lew Michener—Lew Michener, the compatriot of the brother Reuther in the CIO. We will show you this: In the first instance, the first incident which we will discuss, Lew Michener said that he came to San Francisco and went to some meeting at a place he called the Sunset Strip with Harry Bridges in what he said was late 1940. We will show you that when Michener specified the date of that meeting as late 1940 [4144] that he was deliberately concealing what was to him a known fact; that is, that he had registered at the Shaw Hotel upon a date in August of that year, I believe it was the 28th or 27th of August of 1940. And we will show you that he committed wilful perjury when he told you, first, that he came here with a man named Kline who did not stop with him at the hotel, and that later, when confronted by the Government prosecutors with his own registration, he said that fictitious name imposed upon the card was the name of Mr. Paul Kline, his companion.

We will show that the date of that alleged meeting was deliberately concealed because of the sad experience which these gentlemen have had furnishing specific dates in this case.

We will show you that Michener lied when he told the jury, first, when questioned by the prosecutors, that he never possessed a Communist Party card. We will show you that he lied when he later changed that testimony and said that his wife kept the card for him, and that he lied when he changed that testimony and said that for the first three years the Communist Party itself kept the card for him, because all or some of those statements must be false.

We will show you this: Michener told the Court and jury that this meeting in supposed late 1940 had to do with a discussion among those present of the distribution of the funds of a group called Labor's Non-Partisan League. Now, we will [4145] show you this: that Labor's Non-Partisan League was an organization headed by Mr. John L. Lewis, who is apparently not accused of being a member of the Communist Party, and that the only time that any vast funds were possessed by that group was about a year prior to late 1940, and that there were funds at that time sent out to California by Mr. John L. Lewis and that they were received not by a group of men who met fictitiously and in secret out on the Sunset Strip, which does not exist either, but that the funds were sent to the late George Creel for Northern California and to the Hon. Phil Gibson for Southern California. The Hon. Phil Gibson is now Chief Justice of the State Supreme Court. And that is the story about the funds for Labor's Non-Partisan League.

The meeting that Michener told you about never took place. It happened by accident that the Government was able to place Michener in San Francisco on a date in that year. The meeting, whether it was the Sunset Strip or it was some other place, at whose house we are not told, so far as Mr. Bridges and Mr. Schmidt are concerned, that meeting never took place. I shouldn't have said Mr. Schmidt, because Mr. Schmidt was not accused of being at that particular meeting.

The last—not the last, but the next is the incident of the 1943 convention at Philadelphia. That scene took place very recently, and the words of it are probably still ringing in our ears. I remember the prosecutor telling his Honor and [4146] the jury that he had an unusual circumstance: that the Communist Party headed by Bridges and others went to John L. Lewis and caused one man who had defeated another for office in the CIO to allow his defeated opponent to replace him. We will show you that that incident is half fictitious. And I will tell you why I say "half," because part of the incident took place, but it had nothing at all to do with the Communist Party. [4146-A]

You were told by Michener under oath that at the California State Convention a man named Connelly defeated a man named James Thimmes, spelled T-h-i-m-m-e-s, for the presidency of the State CIO, and you are told at this convention in Philadelphia there was a meeting had by which the Communist Party wanted to replace the victorious president. Mr. Connelly. with the defeated candidate. Mr. Thimmes. We will show you that that did not take place because Mr. Connelly ran for office in that year against a man named Pollard, whom he defeated. The Thimmes incident had nothing to do, and when he was confronted with the record on the race between Pollard and Connelly, Mr. Michener said, "Well, I didn't attend that convention in Philadelphia that year," and we will show you that he lied under oath when he said that because he was present on the floor, voted and spoke as a delegate in the 1943 state convention when Mr. Connelly defeated Mr. Pollard, as I suggest.

We will show you that he placed in this alleged Communist meeting in Philadelphia a friend of his, a man named Jim Doherty, who was not even there, a man who was not a delegate and who was not present in Philadelphia at that time. He identified him as a delegate. We will show you by the records that Mr. Doherty was no such thing, and he hence did not attend any such meeting. We will show you that the half, the portion of that incident which is true is this: that Connelly was president of the CIO in California, and Harry Bridges was working in close conjunction with a man, now deceased, whose name was Sidney Hillman. [4147] Sidney Hillman was said by the witnesses not to have been a member of the Communist Party. We will show you that Mr. Hillman and Mr. Bridges, for political reasons connected entirely with the inner workings of the CIO, wanted to replace Mr. Connelly, whom Michener says was a Communist, with Mr. Thimmes, that they made plans to do so, that they went to Mr. John L. Lewis, and that they put the project across, that there was no relationship at all to any faction meeting, any unit meeting or anything else taking place within the dark confines of the supposed Communist Party.

Mr. Michener, you will remember, served as a labor member of the War Labor Board during the war years. There was some colloquy which we had about whether or not that man filled out an application in which he had to make statements under oath concerning previous membership in the Communist Party or any similar organization or concerning previous convictions of crime, and you will recall that these gentlemen who represent the Government in this case, said again that they would make every human effort to find those records. Well, again, we have investigated and we are prepared to prove—I see by his alert picking up of paper that the prosecutor is in possession of the same information—that there is in existence, published by the Federal Government, and certainly at all times available to these men, a document called "Manual of Operations of National War Labor Relations Board," and that according to that manual [4148] of operations a sheet of paper or a series of sheets called "Form 57" had to be filled out. Form 57, you will remember, is the form at which the prosecutor scoffed when we suggested to the witness that that was the possible form. I told the Court and the jury that that was just the ordinary Civil Service employment application. Well, that is the form that they had to sign. We will show you—we do not yet have the original document of Mr. Michener, but we hope to have it brought here——

Mr. Donohue: Excuse me. May I interrupt to hand counsel a photostat, unsigned and certified by the Labor Department.

Mr. MacInnis: Photostat and unsigned?

Mr. Donohue: Unsigned.

Mr. MacInnis: We will show you that the questions appear concerning arrests, summoning into court, and there is no answer given concerning the bootlegging convictions that were so graciously offered us by the prosecutor in respect to Mr. Michener, and we will show you in answer to the question, "Do you advocate or have you ever advocated or are you now or have you ever been a member of any organization that advocates the overthrow of the United States by force or violence?" that no answer seems to appear. I do not know what this document is, but I assume we will examine it later.

Mr. Donohue: I will be glad to offer it in evidence, if Your Honor please. It is certified to by the Chief of the Appointment and Records Section of the United States Department [4149] of Labor.

Mr. MacInnis: We will look at that later. Your Honor.

The Court: Do you desire to reopen your case for that purpose?

Mr. Donohue: Yes, Your Honor, for that purpose.

The Court: It may be reopened for that purpose, offered and received in evidence.

Mr. MacInnis: We only have a statement by this gentleman as to where he received it. I think we should be allowed to look at it.

The Court: You might have it marked for identification.

Mr. MacInnis: That is perfectly all right. It may be the only record on the subject.

The Court: Mark it for identification.

> (The Form 57 referred to was thereupon marked United States Exhibit No. 11 for identification.)

Mr. Donohue: And may I say to Your Honor I received it this morning.

Mr. MacInnis: That is a familiar experience. Both sides seem to come into possession of these bits of evidence about the same time.

The last witness who was brought here, a man named George Wilson, said to you that he had seen Henry Schmidt at a Communist Party meeting, and that he had seen Bob Robertson at a Communist Party meeting. When it was or where it was we are not [4150] told, and we are thus placed in some difficulty as to any rebuttal of that statement, except we will show that they never attended any such meeting either with Wilson or anyone else during the course of their lives.

We will show you this, the one other matter to which Mr. Wilson testified. He told you that he went to a meeting at the Governor Hotel here in San Francisco. He said that that hotel was on the street that had a little red car running along, although he didn't recall its name. I understand Mr. Wilson ate at that hotel every day for about ten years. That is possibly why he does not remember the name of the street. He told you under oath that the room in the hotel was engaged by a man named Mervyn Rathborne who is a brother-in-law of the witness Kermit Charles Krolek and that the discussion at the meeting involved a controversy between Mr. Rathborne and a man named Lou Goldblatt, and he said that in his opinion this meeting was a group of Communists discussing trade union matters. Now, we did what we could to investigate that incident and we find that indeed Mr. Rathborne did engage a room at the time in question at the Governor Hotel. We will show you that Mr. Rathborne lived down the Peninsula, and that during meetings and conventions it was often his practice to rent rooms at the Governor or other hotels, and we will show you this: the meeting, if there was any meeting, or the engagement of the Governor Hotel room was so far removed from the Communist Party that Mr. [4151] Rathborne made out a voucher for his expenses in engaging this Governor Hotel room and turned it in to the CIO as part of his expenditures of some meeting or discussion that was had that week. And far from being any secret or conspiratorial discussion, the controversy between Mr. Rathborne and Mr. Goldblatt on the date in question in May of 1940 is an open matter discussed upon the floor of the CIO. It was not a Communist Party dispute or a controversy at all, and documents, as part of the regular records of the CIO upon that controversy, are available and we will introduce them here into evidence.

We will show you this in respect of the case brought here by the Government: Harry Bridges, Henry Schmidt and Rob Robertson are charged here with conspiracy to commit perjury because Mr. Bridges answered in the negative, they being present, to the question, "Are you now or have you ever been a member of the Communist Party?" We will show you that when Harry Bridges made that negative answer, he was conscious and the Government was conscious in putting the question to him that he had previously upon a host of occasions answered similarly under oath. He had answered "No," in 1937. He had answered "No" in 1939 at that meeting. He had answered "No" in 1941, and we will show you that if Harry Bridges had answered "Yes" he would immediately have been indicted for the same crime—perjury—because of the previous statements that he had given that were known both to himself and to the Government. We will show you that he knew he [4152] was not a member of the Communist Party, that he was thoroughly conscious of the nature of the proceedings, that he had reviewed his own life and that he knew he was not a member of the Communist Party and that he never had been. We will show you that Henry Schmidt and Bob Robertson, when they answered the questions put to them, whether they believed Harry Bridges to be devoted to the doctrines of our Constitution and answered "Yes," well and fully believed that that was the case, and had every basis to rely upon the truth of their assertion. We will show you that they conspired with no one. We will show you that they agreed with no one to evade the truth. We will show you that none of the three men had any agreement or understanding with each other or with anyone else to deceive the Government of the United States or any other purpose. And that statement, if you bear with me a little bit more before we adjourn, leads us to the testimony of another witness, a man named Lloyd Garner, a lawyer in the Immigration Service, the man who taught us the lesson of the value of identification testimony when he first came here by identifying Mr. Hallinan as Bob Robertson at the start of the prosecution's case.

We will show you that this is about what happened in matters surrounding the naturalization hearing of Harry Bridges. We will show you that it was purely accidental that Bob Robertson happened to be asked or happened to hear as a corroborative witness to any matter in the case. We will show you that Henry [4153] Schmidt, who has been a close friend and associate of Harry Bridges over the years, was asked to be a witness for Harry Bridges soon after the decision to make his reapplication for citizenship was made. We will show you that another friend, a man named Park

Schnurr, had been asked to be the second witness, and that those questions were included upon the original application. It is now here in evidence with Mr. Schnurr's name scratched out and Mr. Robertson's name inserted in its place. We will show you that Bob Robertson happened to be in Harry Bridges' office on the date Bridges was coming to City Hall and that he walked along with the other people and was standing with them while Mr. Schmidt and Mr. Schnurr went to the interior office of Mr. Garner. There was some flaw in the citizenship papers of Mr. Schnurr, some imperfection in the proof. Mr. Garner and Mr. Schnurr came to the door and Mr. Garner said that Mr. Schnurr could not qualify at that time, and the question was put to Mr. Bridges as to whether or not he wanted to come back some later date, whereupon Mr. Robertson, now indicted for conspiracy, said, "I will be a witness," and went into the room with Mr. Garner.

That is the story of the inclusion of Mr. Robertson in the matter involving the naturalization of Harry Bridges. [4154]

So far as the testimony of Mr. Garner is concerned, there are some things which occur to us as unnatural, and which we will offer you by way of proof. Mr. Bridges has a definite recollection of a very brief conversation with Mr. Garner in his office. He recalls that Mr. Garner had something before him, some Immigration Service record concerning the Bridges case; that Mr. Garner, coming to the end of the document, smiled genially at Mr. Bridges and said, "Well, you will certainly have no trouble on this occasion," because he had before him a decision of the Supreme Court of the United States. And we will show you that, so far as Mr. Harry Bridges remembers, there were no pointed questions put to him in that private interview, and that so far as Henry Schmidt and Bob Robertson may be concerned, they were not asked by Mr. Garner the telling question retold supposedly here in evidence, "Are you now or have you been a member of the Communist Party?" They were not, as it happened, but they were not asked that question.

We will show you that Mr. Garner erred, to say the least, when he says that he asked Mr. Schmidt in that private interview if he was arrested and received a negative answer, because Mr. Schmidt was arrested in a labor controversy when the AFL was split apart by the CIO, and as a matter of fact Mr. Schmidt has always mentioned that one arrest in his career. He was with a group of people and stopped a fight between two other men and was arrested, and he always admits that arrest and would [4155] have admitted it to Mr. Garner if he had been asked that question.

In the case of Mr. Robertson, Garner tells you under oath that he asked the question, "Have you ever been outside the continent of the United States?" and that Robertson answered, "Only on a few short trips." So far as Mr. Robertson can remember, he was never at that time outside the continental limits of the United States.. And that is the situation that we will present to you by evidence concerning Mr. Garner, who says he made no memorandum, although he was a hearing officer of the Immigration Service; who says he kept no notes except one or two penciled words on the back of the application, and who says that the first time he correlated these fast memories was in the spring of 1949 when he was called into the office of his superior, Mr. Barber, and that he then, four years later, made a written memorandum of this supposed conversation.

Now, I have one more thought before we ask for the adjuornment of the night, and it is this: It involved the position of the three defendants in this case and it may throw some light upon some of the things which have been discussed.

Forgetting for a moment the sheer accident which brought Bob Robertson as a corroborating witness in the citizenship hearing of Harry Bridges, the ILWU, so often mentioned in this case, is of course a union which came into existence with the welding together of the longshoremen on the one hand and the [4156] warehousemen on the other. We have been told, and we will show by other evidence, that of course Harry Bridges is the president of the ILWU. He is the negotiator. He is the leading figure, the man who negotiates with the employers. The longshoremen have had as their president during most of the years of their existence Henry Schmidt. The warehousemen have had as their national leader and as their international representative, Bob Robertson. The echelons of the ILWU, the longshoremen and the warehousemen, are literally symbolized by the three men who are the defendants in this case. As I say, I know it was an accident that Robertson happened to go along, but the existence of these men, the jobs they hold, lead me to say that we will show you that the defendants are being prosecuted not for what they are but for what they represent.

May we take a recess?

The Court: Yes. Ladies and gentlemen of the jury, we will take the afternoon adjournment until tomorrow morning at ten o'clock. The same admonition to you not to discuss the case under any conditions nor to form or express an opinion until it is submitted to you.

(Thereupon an adjournment was taken until Tuesday, January 24, 1950, at 10:00 [4157] a.m.)

Tuesday, January 24, 1950—10:00 A. M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

OPENING STATEMENT ON BEHALF OF DEFENDANTS SCHMIDT AND ROBERTSON

(Continued)

Mr. MacInnis: In addition to the matters which I tried to cover with you yesterday as thoroughly as time, and I hope your patience, would allow, the diligence of some of our associates has uncovered some further evidence regarding one episode, and if I may, I will revert briefly to that particular incident.

I told you yesterday that we would show that the charge that Bridges met with a man called Earl Browder in some prune orchard in the 1934 strike was false and that we would prove it to be false. I am now in possession of some records supplementing the naked word of any witness who may take the stand, and I will tell you just what that evidence may be.

The witness Schomaker testified that the meeting in this prune orchard with Browder took place in the month of June during the strike. That same testimony was augmented by the words of the witness following Schomaker, Mr. Henry Schrimpf, who told you that the Browder meeting in the prune orchard took place upon a Sunday and that it was before the general strike and at least within a month preceding the general strike. Now, [4158] as it happens, we have records showing the movements of the strike committee upon each and every Sunday preceding the general strike.

The general strike which followed the waterfront or longshore strike was called in San Francisco on July 16 of 1934. Now, here are the movements of Harry Bridges based upon public records.

On Sunday, June 17, going a month back, there was a meeting of the strike committee because Henry Schmidt had returned that morning from a trip to the Northwest, and the strike committee met from 10:30 in the morning until 12:30, a little after noon, and they returned again at 2 p.m. for a further meeting, and that meeting must have been rather lengthy, because the minutes indicate that it adjourned at 11 p.m. that night. Harry Bridges presided at the meeting.

You were told by the witnesses that this meeting in the prune orchard was probably in the early afternoon, that there was a picnic lunch laid out on tables and that the sun was shining, so that would be the approximate time, if there ever was such a meeting.

We come to the next Sunday, June 24, 1934. Upon that day Mr. Edward McGrady, representative of the President who came out as an intermediator between the employers and the strikers, arrived in San Francisco and Harry Bridges met him at 3 p.m. at the airport, came back up to San Francisco and stayed with him [4159] at a meeting at the Hotel Whitcomb, and that meeting and the presence of Harry Bridges are reported in the San Francisco Chronicle of the following day.

And the next Sunday, July 1, there was a morning meeting of the strike committee presided over by Bridges, and the records will show that to be the case; and in the afternoon and early evening there was another meeting with the board set up by the President to negotiate with the employers, and it is also reported in the Chronicle on the following day, July 2 of 1934.

On the next Sunday, July 8, the bodies of the two men, Sperry and Berdois, the two longshoremen killed in the day that has been referred to as Bloody Thursday, were lying in state upon that particular day. The teamsters met at Dreamland Auditorium to take a vote upon whether they should join the strike. Henry Schmidt was with the strike committee at that meeting. Harry Bridges was here, as shown by the minutes, and the minutes show that there was a motion made requiring him to stay on duty in San Francisco and to desist from going over to Oakland at another meeting where his presence was requested.

So we will show you every Sunday in that period of time so far as the activities of Bridges may be concerned to bolster the memories of these men and their flat statements that this event never did take place. [4160]

Now, I will conclude this prelude to our recitation of evidence in this case as quickly as possible by a few words of what we will show you about the personal background of these three men.

I will not say much concerning the defendant Bridges, because most of the details of his life have become matters of public interest. He was educated at Melbourne at the secondary schools of the Christian Brothers in that city, and he has been in and around San Francisco for about thirty years.

Mr. Robertson, the person concerning whom very little has been said in this case, will of course take the stand and will tell you about the ordinary events of his life. His life and his activities in the labor movement, we will show you, are symbols of the same strength that we expect to find in every utterance that he will make upon the witness stand.

Mr. Robertson is forty-four years of age. He lives in Mill Valley with his wife and his two children. I think he has a daughter three and a half, and I think he has a son about three months old. He was born in the State of Texas, and he migrated with his family to Missouri a few years later. His father was a miner in the States of Missouri and Arkansas. And around 1929 Robertson came to San Francisco. So, for almost twenty years, we will show you that he has lived around this region. I should have said in 1929 he came to California; I think he first came to around the city of Los Angeles, and later moved up to the environs of San Francisco.

We will show you that it was not until the year 1934 that Bob Robertson entered the labor movement. He was impelled into it by the turbulence of the 1934 strike concerning which so many things have been said here in evidence.

At the time of the 1934 strike Bob Robertson was working in the Public Foods warehouse here in San Francisco. He had been working there as an ordinary warehouseman since about 1933, and when the waterfront strike was called and the warehouse workers in the Public Foods warehouse were propelled into the same struggle for a living wage, Bob Robertson was then brought to the foreground and he became a moving figure in the formation of the Warehousemen's Union which is now an integral part of the ILWU.

We will show you that after the strike Robertson returned to his ordinary job for a while at the

Public Foods warehouse, but after the conclusion of about a year he was discharged, unfortunately, because of his union activities. After that he worked sporadically, as a longshoreman and sometimes as a warehouseman, alternating in whatever jobs were available out in the hiring halls; but in the fall of 1936 Mr. Robertson was appointed a business representative for the old union, not the present ILWU, and in 1937 he went upon a tour of organizing in the great Northwest. In other words, [4162] he took on the very unpopular job of going into communities where labor has never been organized, coming in as a hostile stranger to the managerial side of industry, to do what he could to organize the unorganized workers in those areas. He was in Southern California in 1937 for a while in the same work. In 1939 he was transferred to New Orleans, and after that he became an international representative, and he is now the first vice president of the ILWU. Now, that is the background of Mr. Robertson.

Henry Schmidt, we will show you, is fifty years of age. He was born in Germany, and he came to this continent with his family in the year 1911, when I believe he was twelve years of age. The family came first to Canada and then later came into the United States. On Christmas Eve of the year 1917 Henry Schmidt arrived in San Francisco and he has been here ever since. He has been living here thirty-three years.

The family of Henry Schmidt, we will show you, consists now of himself and his daughter. His daughter will probably appear as a witness in this case.

Now, in 1927 after the restrictions on naturalization were removed after the first great war, Henry Schmidt completed his naturalization process and was admitted to citizenship in the United States. He was on the waterfront from about the year 1928. He has dim recollections of seeing Harry Bridges in the early days before the formation of the union, but by 1933 [4163] the men knew each other fairly well.

In 1933 in the late summer or early fall of that year, long before any person named John Schomaker came to the San Francisco waterfront, Henry Schmidt and Harry Bridges were the moving figures in forming a group called the Albion Hall group, which set up the strengthening of the union, elected officers, prosecuted a small but successful strike against the Matson Line, and brought the situation to a point where the men could openly wear their union buttons on the waterfront without the immediate fear of losing their jobs. The waterfront workers and the old union, the ILA, was reactivated. It was militant. It was preparing for the moves of the future, months before John Schomaker left the seclusion of his job as an orderly at the Palo Alto Veterans' Hospital and came up to San Francisco to join the longshore movement. We will show you that by the evidence in this case, by the records of the union, by the testimony of Henry Schmidt and by the testimony of others.

In 1936 after the rigors of the 1934 strike, Henry Schmidt was elected to the office of the presidency of the union, and he was reelected to the same post in the following year, 1937. In 1938 we probably all recall there ensued the historic schism between the AFL and the emergent group, the CIO; and after the formation of the CIO in what was for a time a lengthy controversy, Henry Schmidt was again elected to the presidency of the new union. I think he has been president of the union [4164] on approximately five occasions.

In the fall of the year 1941, just a few months before the outbreak of the war, Admiral Emory S. Land, who was then head of the War Shipping Administration, appointed Henry Schmidt to the Pacific Coast Maritime Board, and throughout the years of the war Henry Schmidt served in that capacity, expediting the loading and unloading of ships upon our docks, and at the war's end he returned to his functions as an officer in the ILWU.

In the year 1946 Henry Schmidt became president of the ILWU, of the CIO Council, and the same year he was appointed international representative for the ILWU. Last year, in the last calendar year, 1949, Henry Schmidt was appointed to a post with the United Nations in the Displaced Persons group, and he was about to embark for Europe upon that activity when his friend Harry Bridges talked him out of taking that trip and convinced him that he could do more good for people generally by staying here. And in about a month he was indicted. So, anyway, that is the general story of the background of Henry Schmidt.

There is one final phase of the evidence that we will expect to produce here, and I think it will be possibly the most important type of evidence to which you will listen, because when you are weighing the testimony of the Manning Johnsons, of the Paul Crouches, and the Lawrence Rosses and the others, [4165] we will ask you to look at the testimony of persons who have come here to give testimony about the character of Mr. Bridges, Mr. Robertson and Mr. Schmidt.

We will produce as thorough a cross-section of our citizenry as we can, in order to let you see what the reputation of these men charged here with conspiracy to commit perjury may be.

We will show you that their reputation for truth, honesty and integrity, the very things involved and embraced in this charge, is good; that it has always been good, and that that is the esteem in which they are held by people who know them.

Character evidence, of course, in our law comes to the aid of the presumption of innocence. We will bring here not only people from the labor movement, because, surely, if we brought only people of that character, one might be suspect, because many of those people have been voting Mr. Bridges and Mr. Schmidt into office for many years. So we will bring here professional people, public officeholders, businessmen, members of employer groups of the waterfront, men whose economic interests are directly in conflict with Mr. Bridges, Mr. Schmidt and Mr. Robertson. [4166]

We will bring here men of clergy and allow them to state their opinion to you about the truth, honesty and integrity of these defendants. Now, I anticipate that before this day is over some of the character witnesses will have taken the stand and made declarations before you. The first character witness whom we expect to call is one of the most renowned men of medicine in the State of California, Dr. Leo Eloesser, a man who has been practicing medicine in San Francisco for about half a century, I believe, lacking only a few years, a man who now has the post of the head of the United Nations Relief for Children throughout the world. He is back from one of his sojourns to other continents for a few days and he will be here to speak for the character of Harry Bridges. It may well be that the second character witness whom we will produce will be out of the ranks of our local city government. We will bring before you a man who for many years has been a leader in our local legislative and governmental fields, supervisor Dewey Mead, and we will ask him to testify before you concerning the character and the reputation of Harry Bridges.

Another character witness whom we will not anticipate today but he will be here as soon as his own convenience will permit, will be the former attorney general of the State of California, the Hon. Robert Kenny. We will ask him to take the stand and make such statements as he may deem proper concerning the character and the integrity of Harry Bridges. [4167]

Another witness and office holder upon a national scale whom we will produce, if he can return to the Coast from Washington in time, is United States Senator Wayne Morris of the State of Oregon. We hope to produce him as a character witness in this case.

So far as the employers' groups may be concerned, we anticipate that several people, a real cross section, not an isolated number out of the employers, the people who sit down across the council table from Mr. Bridges, Mr. Schmidt and Mr. Robertson in the negotiation of wages and other affairs concerning the privileges of working men—as I say, we will bring a considerable group of these people here, I anticipate. I sat down yesterday at lunch with a faction or fraction, as the Government might say, meeting of the employers, and several of them will come here. The foremost of those men, possibly the best known, the man whom we think will be here today, is a man named Walter Buck. Mr. Buck is a director of the Matson Steamship Company. He is a director of the American Trust Company. He is a director of the San Francisco Bank. Mr. Buck may be remembered by you out of your reading of the accounts of our times as the man who sat down with Harry Bridges and settled the great strike of Hawaii last fall.

There will be other witnesses. There will be the Rev. Edward Peet of Mill Valley, the clergyman in the district of Mr. Robertson. There will be other witnesses to augment the [4168] number of these witnesses, all from varied classes.

From the early days of the labor movement in San Francisco—and San Francisco has been said traditionally to be the cradle of the labor movement—we will bring to you a man named Eugene Burke, an elderly man, who has seen the history of the waterfront for approximately fifty years. He was there before Harry Bridges came here. He saw the conditions as they passed in the traversing of the years, and he saw Harry Bridges in his early days on the waterfront, and he knows him now, and he will appear here and give testimony as a character witness.

Well, that is the case, members of the jury. You have the gist of the case. It is not going to be a case of hedging. It is not going to be a case of equivocating. We are going to put things right on the line for you. We think this: It is going to be a case leaving you, to say the least, with monstrous doubts concerning this prosecution which we have claimed and which we say again is rank and open frameup. We are confident that you will see that at the end of the case. It is going to be a case of an acquittal for all three defendants in your minds as well as ours, an acquittal and nothing else. I do not claim by these perorations or by the length of this address that the three men whom we represent are saints in the lofty and stilted usage of that word. Leftwing saints, perhaps, and when I say "leftwing" I accord to that phrase all of the dignity that it used to possess when Franklin Delano Roosevelt remarked, "You can [4169] count me a little to the left of center."

Thanks very much for your patience.

The Court: You may call the first witness.

Mr. MacInnis: Call, please, Mr. Ryan of the Veterans Hospital in Palo Alto.

JAMES J. RYAN

called on behalf of the defendants; sworn.

The Clerk: Will you state your name to the Court and jury?

A. James J. Ryan.

Direct Examination

By Mr. MacInnis:

Q. What is your occupation, Mr. Ryan?

A. I am the personnel officer at the Veterans Administration Hospital in Palo Alto.

Q. Have you come here pursuant to some subpoena served upon your office?

A. There is a subpoena served upon the assistant manager.

Q. What is his name? A. Mr. Hevern.

Q. Pardon me? A. Mr. Hevern.

Q. Mr. Hevern? A. That is right.

Q. You have been delegated to perform the task assigned by that [4170] subpoena, is that correct?

A. That is correct, sir.

Q. Pursuant to this subpoena, have you brought here some documents?

A. I have brought with me some card records of our office.

Q. What person do those card records concern?

A. They concern a Mr. John H. Schomaker.

(Testimony of James J. Ryan.)

Q. Do the records which you have in your hand disclose that the man called John H. Schomaker was an employee of the Veterans Hospital at Palo Alto?

A. They disclose that he was employed there on three different occasions.

Q. Have you the full employment record of that man in your hand?

A. I have only the card records. The full employment record is in Washington.

Q. Do you have employment records as far as the dates may be concerned? A. Yes, sir.

Q. May I see that, please?

(Documents handed by the witness to Mr. MacInnis.)

Q. Now, when you tell us that the man called John H. Schomaker was employed upon three different occasions at the Veterans Hospital, can you tell us by looking at these cards what the beginning date of the employment was on each of those occasions? [4171]

A. Yes, sir, I can.

Q. Will you tell us?

A. He began work the first time on April 9, 1927.

Q. April 9th, 1927?

A. He resigned on June 24th, 1927.

Q. So he first worked in 1927 and the second employment was what?

A. Was from July 5th, 1927, until September 3rd, 1928.

(Testimony of James J. Ryan.)

Q. And he apparently left on September 3rd, 1928? A. That is correct.

Q. When did the third employment commence? A. The third employment commenced on January 18th, 1929.

Q. January 18th, 1929, is that correct?

A. That is right.

Q. Do your records show when he resigned?

A. He resigned on October 30th, 1933.

Q. October 30th, 1933, is that correct?

A. That is right.

Q. Are the records which you have in your hand the official records, that is, the business records of the hospital? A. They are, sir.

Q. Are they kept in the ordinary course of business? A. Yes, sir.

Q. Did you bring them here from the ordinary repository in the office? [4172]

A. Yes, sir.

Q. May I see them again, please? I am going to ask that the third employment record beginning January 18th, 1929, showing the resignation as of October 30th, 1933, be marked for identification.

The Court: So ordered.

(The employment record referred to was thereupon marked Defendant's Exhibit K-2 for identification.)

Mr. MacInnis: We offer into evidence the exhibit now called K-2.

Mr. Donohue: No objection, your Honor.

The Court: It may be marked.

(Defendant's Exhibit K-2, heretofore marked for identification, was thereupon received in evidence.)

Mr. MacInnis: Unless there is any desire otherwise, we will return the earlier employment cards to this gentleman.

The Court: Mr. Mitchell, will you have a photostat made of that exhibit and return the original?

The Clerk: Yes, your Honor.

Mr. MacInnis: For the information of the witness, the Judge will send the original card back to the hospital and a photostat will be kept here, so your records will be complete in a day or so.

The Witness: Yes, sir.

Mr. MacInnis: No further questions. [4173]

Mr. Donohue: May I have the exhibit, please?

Cross-Examination

By Mr. Donohue:

Q. Mr. Ryan, how long have you been employed by the Veterans Administration?

A. Since February, 1946, sir.

Q. This card which you have identified as a service card (would you hand it to him again, please?), that card does not indicate any accumulated leave which the employee may have earned during the period of his employment?

A. No, sir, it does not.

Q. Do you know from your experience in the Veterans Administration during the period from January 18, 1929, to October 30, 1933, how much

(Testimony of James J. Ryan.)
accumulated leave Mr. Schomaker would have earned?

A. I do not recall the law exactly that was in effect at that time, but as I recall it, the employee was allowed to carry over from one year to the next year sixty days' annual leave.

Q. Then from your records it is perfectly possible that Mr. Schomaker, having accumulated leave, may have left the service of the Veterans Administration prior to the date of October 30, 1933, which appears on that record?

Mr. MacInnis: Pardon me, your Honor. That assumes the man allowed his entire accumulated leave to wait until the end of his employment.

Mr. Donohue: I did not ask him about the entire leave.

The Court: The objection is overruled. You may answer. [4174]

The Witness: It is possible that he could have left 60 days plus whatever leave he might have accumulated during the time prior to his going on leave. At that time federal employees were allowed what were called terminal leaves. You aren't dropped off the payroll until the leave you had accumulated had expired.

Q. (By Mr. Donohue): And there is nothing on that record which you have brought here, Mr. Ryan, which would show that John Schomaker actually worked at the Veterans Hospital at Palo Alto on the 30th day of October, 1933?

A. No, sir, there is nothing.

Mr. Donohue: I have no further questions.

(Testimony of James J. Ryan.)

Redirect Examination

By Mr. MacInnis:

Q. Mr. Ryan, before coming here, have you talked to any person connected with the Government in this case? A. No, sir, I have not.

Q. You have not had any memoradum or interview with any person?

A. No, sir, I have not.

Mr. Donohue: If your Honor please, may I ask if counsel can impeach his own witness?

Mr. MacInnis: I am trying to find the facts of this matter.

Q. To your knowledge, Mr. Ryan, did any representative of the [4175] Government see the card which you have in your hand before you brought it here today?

A. They could not have, sir, because we didn't know we had these records until yesterday morning when we got the subpoena. One of the employees recalled all the old records were in storage. We went over and dug them out. So no one has seen them since I came to the Veterans Administration in 1946.

Q. Someone from my office must have seen them, Mr. Ryan.

A. They saw a physician's record card.

Q. Pardon me?

A. They saw a physician's record card.

Q. And that card would have the same dates as the card that you brought here?

A. Yes, sir, it does.

Q. And that card would show, just as the official record does here, that John Schomaker went to work on January 18, 1929, and that he resigned on October 30th of 1933?

A. Yes, sir. I have that card with me, too, sir.

Q. And the other card, I take it, would not show any of these possible leaves either, would it?

A. There is no record at the office which would show that leave. It might be in his official personnel file, which is back in Washington.

Q. So when you say that the man may have taken leave at a certain leave, you are speculating, not having any real knowledge [4176] of what the man did?

A. All I meant to say was it is possible, sir.

Mr. MacInnis: That is all.

The Court: Mr. Ryan is excused.

Mr. MacInnis: Your Honor, we have two witnesses scheduled to appear at 11:00, so might we have the recess early?

The Court: We will take the morning recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions nor to form or express an opinion until the matter is submitted to you.

(Recess.) [4177]

ALBERT BERTANI

called for the defendants; sworn.

The Clerk: Will you state your name to the Court.

(Testimony of Albert Bertani.)

The Witness: Albert Bertani.

The Clerk: Will you spell your last name.

The Witness: B-e-r-t-a-n-i.

Direct Examination

By Mr. Hallinan:

Q. What is your business, Mr. Bertani?

A. Recording secretary of Local 10.

Q. That is of the ILWU?

A. That's right, sir.

Q. And how long have you been such?

A. Just a few weeks.

Q. Have you charge, however, of the records of the various members of that union?

A. I have.

Q. Have you brought along the record of John H. Schomaker? A. I have.

Q. Would you produce it, please.

A. The local isn't rich enough to buy me new briefcase (producing document).

Mr. Hallinan: I am just interested in the date of initiation (handing document to counsel).

Q. Are these records that are kept in the regular course of business of the ILWU? [4178]

A. Yes, sir.

Q. And produced by you from their files, is that right? A. That's right.

Mr. Hallinan: We offer them in evidence, if the Court please. This is the record of John D. Schomaker. The principal thing I wish to call attention is the initiation date, 11/20/33.

The Court: They may be marked in evidence.

Mr. Hallinan: And then there is an application for registration as a longshoreman that is also produced from the file, and I want to offer that in evidence.

The Clerk: The first, if your Honor please, is marked Defendants' L-1.

(The last document referred to was handed to counsel.)

Mr. Donohue: I have no objection to this, if the Court please. I notice the name John D. Schomaker. I don't know whether that is his signature or not. I can't concede that.

Mr. Hallinan: Might we have the same device that was employed before: that a photostat be substituted and the documents returned to the witness?

The Court: So ordered.

Mr. Hallinan: No further questions.

The Clerk: The last exhibit, if your Honor please, is marked M-1 in evidence.

(Membership record marked Defendants' Exhibit L-1 in [4179] evidence; application for registration marked Defendants' Exhibit M-1 in evidence.)

Cross-Examination

By Mr. Donohue:

Q. That record, Mr. Bertani, shows that Mr. Schomaker was initiated in the ILA November 20, 1933? A. That's right.

Q. Did Mr. Hallinan tell you that on the 21st

(Testimony of Albert Bertani.)

day of November, 1949, and in this court the witness John Schomaker was asked these questions and made these replies:

> "Q. And what kind of work did you engage in on the waterfront?
>
> "A. (By John Schomaker): Well, regular longshore work when I could get a job.
>
> "Q. Did there come a time when you became a member of the union?
>
> "A. There was.
>
> "Q. And about when was it?
>
> "A. Well, I joined the ILA in, I think, November, 1933."

Did Mr. Hallinan tell you that Mr. Schomaker made those answers to those questions?

A. No, sir.

Mr. Donohue: I have no further questions. Just a minute, please.

May I have that last exhibit, please? Would you ask the witness to take a look at it. [4180]

The Clerk: This is Exhibit M-1 (handing document to witness).

Q. (By Mr. Donohue): Do you know, sir, of your own knowledge whether or not that was the signature of John D. Schomaker? A. No, sir.

Mr. Donohue: No further questions.

Mr. Hallinan: That is all.

The Court: The witness is excused.

Mr. Hallinan: Call Mr. Jones, please.

BRUCE B. JONES

called for the defendants; sworn.

The Clerk: Will you state your full name to the Court and jury.

The Witness: Bruce Barrow Jones.

Direct Examination

By Mr. Hallinan:

Q. What is your occupation, Mr. Jones?

A. I am a longshoreman, Mr. Hallinan.

Q. How long have you been such?

A. I worked off and on, made very little work, from 1932, but I have been consistently occupied as a longshoreman since 1934 with the exception of the time that I was a representative of the ILWU in the East Coast and the Gulf and during the recent war.

Q. And prior to the time that you became a stevedore what was [4181] your occupation?

A. I was unemployed, trying to get a job on a ship, hanging around the fink hall—any kind of work I could get on the waterfront. I even worked a little bit as a warehouseman and as a lumper around the Walk up, made a few days there, and off and on for the railroad in various jobs that they had.

Q. Have you been a sailor?

A. I have, yes.

Q. Were you a sailor around the strike of 1934?

A. Yes. Yes.

Q. And were you ever a member of the Communist Party, Mr. Jones?

(Testimony of Bruce B. Jones.)

A. I was a member of the Communist Party.

Q. And for how long?

A. To the best of my recollection, Mr. Hallinan, I joined the Communist Party in the middle of 1932 and I was active in the Communist Party up till about the year of 1939, when I had a lot of trouble. I had—I hurt my back on the waterfront, and I had a lot of stomach trouble that came along at the same time, and that is the time that I started out, so to speak, to withdraw from it, because I was unable to go along with it.

Q. Let me ask you this: Do you know John Schomaker?

A. Yes, I know John Schomaker, Mr. Hallinan.

Q. How long have you known him?

A. I met John Schomaker in the latter part of 1933. The [4182] place I met him at, if I remember correctly, was in the Marine Workers Industrial Union hall, which was located on the second floor of a building I think at 432 Market Street.

Q. That was known as the MWIU, was it?

A. Marine Workers Industrial Union.

Q. Were you a member of that?

A. I was.

Q. Was Schomaker? Well, withdraw that. Now I want to ask you this: Do you know Harry Bridges?

A. Yes, sure.

Q. When did you first meet Harry Bridges?

A. The first time, Mr. Hallinan, I met Harry Bridges to talk to was when I was on a steamship called the Texan, which was in the third or fourth month of the year 1934. I was a member of the crew of that ship and Bridges was a longshoreman that had been loading the ships. There is a lapse of time or a brief lull between the longshoremen when they get their work done and between them getting off the ship and the seamen who are standing by, before the seamen take over battening down the hatches and like that. That is the first time that I had ever met Harry Bridges to have anything to say to him.

Q. You say that was sometime in 1934?

A. I have a discharge, Mr. Hallinan, from the Government, it was the Coast Guard or the Steamboat Inspectors at that time, which says on it, if I remember correctly, it has the [4183] first letter is 4, and there is a line and 34; I think the middle is 3. I think it was the fourth month, they calculate it that way, or the day. It was in March or April, 1934.

Q. Does that card show the name of the ship you sailed on?

A. It shows my name, the name of the ship, and it shows my rating on the ship, and it shows that I deserted the ship in New York in 1934.

Q. Is it by means of that card that you are able to place the first time you talked to Harry Bridges?

A. Yes, that is correct. [4184]

Q. In other words, you had seen him and spoken to him but had not had a conversation with him prior to that day?

A. That is correct, Mr. Hallinan.

(Testimony of Bruce B. Jones.)

Q. That would be about April, 1934, so far as your memory is refreshed by the document that you had? A. That is correct, yes.

Q. Will you tell us what the nature of your conversation with him was at that time?

A. I don't know. Harry was standing over there and smoking a pipe. They had just swung in the gear or something, and if I remember correct, he had a piece of rope in his hand and he said something about having a good voyage and do a good job.

Q. At that time had you been designated by the Marine Workers or some organization to try to do something about the impending strike on the Pacific Coast?

A. Well, Mr. Hallinan, it was two ways: I was involved in a transaction trying to get something to eat. I always had my book down there in the fink hall on top to try to get a ship. It was a question of trying to get something to eat and also to help out my brother seamen and longshoremen, and under that category, that is when I shipped on that ship.

Q. Let me ask you this: Did you in the month of December, 1933, or at any other time or at all, in company with John Schomaker or alone or under any circumstances or in the presence of anybody ever ask Harry Bridges or suggest to Harry Bridges or [4185] recommend to Harry Bridges that he join the Communist Party?

A. I did not, Mr. Hallinan; at no time did I

(Testimony of Bruce B. Jones.)

ever sign Harry Bridges up in the Communist Party, and at no time did I ever ask him to join the Communist Party.

Q. Did you ever in the company of Schomaker or by yourself or in the company of any other person in a restaurant at Stewart and Market Street or at any place on the wide globe ever receive from Harry Bridges an application signed by him applying for membership in the Communist Party?

A. I did not, Mr. Hallinan, and Schomaker is a goddam liar when he said that I did.

Q. Mr. Jones, have you and Schomaker been friendly for a long time?

A. Mr. Hallinan, do you want me to say when I met this guy and like that?

Q. Yes, if you will.

A. And some of the later years?

Q. Yes.

A. Mr. Hallinan, in the fall of 1933 I was in the Marine Workers Industrial Union doing a lot of Jimmy Higgins' work, being in the breadline in the morning and in the afternoon looking for work. We used to go around there at the shapeup on the waterfront at different places, and then we would go around by warehouse, and I remember the Gibraltar Warehouse. We went around the North Beach, and whenever we seen a boxcar sitting in front [4186] of a door, we would go in and ask the guy if he wanted help in discharging it. I was involved in a transaction like that. This guy Schomaker came in. I think I met him in the Marine

(Testimony of Bruce B. Jones.)

Workers Hall for the first time. He said he had been working in the Veterans Hospital and like that, but his wife was an employee of the Japanese Steamship Agency, and I think she said an employee of the Japanese Steamship Agency, and my understanding was, through some connection of her being in there, he had a chance to get on the docks that way. That is when I first met him.

Q. In addition to this story that Schomaker tells about you presenting and having signed by Harry Bridges an application card, he says that he and you walked up Market Street to deliver it to the Communist headquarters on Grove Street, for the reason that neither he nor you had the carfare. Do you know if Schomaker was impecunious at that time?

The Court: One moment, Mr. Hallinan, before the witness answers. May I address to you, Mr. Jones?

The Witness: Yes, your Honor.

The Court: This does not reflect upon the defense at all. It is not necessary for you to use any swear words or the like. This is a court of law, and if occasion arises to answer a question, I request you to answer it without any——

The Witness: Judge Harris, I apologize. I am a longshoreman and seaman and I feel very strongly when a man has put my [4187] name in the newspapers.

The Court: That is all you have to say. We have many people in this courtroom. I say to the jury not to reflect upon the witness in connection with his last statement or any swear words he used.

Mr. Hallinan: It is a privilege that a great many of us would like to enjoy, but we can't do it.

The Court: You can enjoy it elsewhere, Mr. Hallinan.

Mr. Hallinan: That is what I say. We can't do it.

The Court: You and Mr. Jones might enjoy it some place else.

Mr. Hallinan: And a great many others, Judge.

Mr. MacInnis: I am going to ask your Honor to instruct the jury to disregard the last remark that you made. I think you made it intemperately. I do not think you really meant to say that, Judge. You said that Mr. Hallinan and Mr. Jones might enjoying swearing elsewhere. I do not think you should have said that, and I think you should tell the jury to disregard your remarks.

The Court: Mr. Hallinan had already announced he would enjoy swearing.

Mr. Hallinan: I would like, your Honor, to save the witness embarrassment, that is all. When the witness says something like that, I like to say something that will save him embarrassment. That is the reason. I think my language can be [4188] as elegant as that of anyone in the courtroom when I choose to make it so.

The Court: That is all right. Thanks.

Q. Mr. Jones, you remember when the grand jury had a meeting that resulted in the indictments against Harry Bridges, Bob Robertson and Henry Schmidt, do you? A. I do.

Q. Were you subpoenaed as a witness before that same grand jury? A. I was.

Q. Did you appear at the grand jury headquarters? A. I appeared up there, yes.

Q. Were you called as a witness?

A. No, I hung around the witness room.

Q. I beg your pardon?

A. I hung around what I think is called the witness room.

Q. Then you were never produced before the grand jury?

A. No, I was never produced before the grand jury.

Q. At any time around that time did you have any conversation with Schomaker touching the question of Harry Bridges being or not being a member of the Communist Party? A. I did.

Q. Where was that?

A. At Schomaker's home.

Q. Under what circumstances did you go there?

A. When I first got the subpoena, Mr. Hallinan, and due to some of the remarks that the agent of the Immigration Department made to me regarding the subpoena, and also because some of the remarks that over the past three or four years Schomaker has made to me, I thought I had better go down and see him, because I was certain this was another frameup against Bridges, and frankly speaking, Mr. Hallinan, I wanted to go down and see Schomaker and try and see that he didn't get involved in it because of the fact I noticed he was very vindictive against Bridges. He had mentioned to me on a number of times in the past year the Federal Bureau of Investigation hounded him, and I knew that he was in a tight financial place, because he tried to borrow money from me on a number of occasions, which I haven't got to loan him, and which I wouldn't have loaned him because he has carried on some of the screwiest transactions that I think he could have gotten into. I went down to see him and I took a longshoreman with me, a rank and file longshoreman.

So when we got down there, he seemed reluctant to greet me, but then he and his wife—his wife came running out and he greeted me. He said, "Come on upstairs."

They have a kind of large house down there, a very large house, and over the garage in back there is a place which they have fixed up and which he rents to Stanford students. He says, "Come up here and we will talk about it."

I told him I received a subpoena from the grand jury. We [4190] goes up in this room and sits down. His wife, Rose, she showed me how some of the knotty pine—it was evidently put in there when it was green—how some of this had shrunk. In other words, he pointed out to me the greenness of the wood when it should have been seasoned wood. We sat down and I told him—we started to talk about it. I said, John, I got a subpoena to appear up there." He said, "Well, I have already been up there."

I said, "John," I says, "you know this is a frame-up and you know the position of a union man in this thing in the past is to go—is to contact your lawyers and here you are getting mixed up in this damn thing, and you haven't even seen any of the lawyers of the Defense Committee, and like that." He says, "Yes," he says, "but what am I going to do?" He says, "They have been coming down here every week for months." He says, "They even came down here last Saturday. I was sitting in the living room reading a book. They came in my house without ringing the doorbell, and when I called them on it, they say, 'Well, the doorbell don't work,' I told them, I said, 'You should at least knock on the door.'"

And his wife butted in and said, "Yes, you are damned if you do and damned if you don't."

Pardon me, Mr. Harris. I am quoting him. He said, "You are damned if you do, you are damned if you don't."

And John says, "So what are you going to do? If I don't go along with them, I will be blackballed here. I'll get no [4191] students to occupy the rooms here, and what am I going to do?" And he flung his hands out like that (indicating).

I thought all the more this guy was getting in a terrific jam. So he talked along. I began to ask him, "How do you handle yourself in a situation

(Testimony of Bruce B. Jones.)

once you get up there?" He said, "Well, you go in a room," and he went on to describe to me this, that and the other.

I said, "What did you say there?" And he told me—he switched back, something about meeting Rathborne, and he recalled Rathborne's article in the newspaper at that time. He said that was screwy, but he had a discussion in the room next to the grand jury with Rathborne, like that. He said, "He told me about it." He was asked certain questions.

I said, "What were they, John?" He said he was asked whether Bridges was a member of the Communist Party or not, and he told me there in the presence of another witness and his wife that he had told the grand jury that he had never seen Harry Bridges' party book nor his application card. That is what he told me there. And he says although he had assumed—when he attended certain meetings with Bridges and like that and other people—I think he mentioned Schneidermann's name—that he had assumed that Bridges was a Communist, but he told me there in the presence of the witness, he said he told them—he told me he had never seen his party book or his application card or had seen him pay his dues but that he had told the [4192] grand jury, when they asked him about attending meetings with people, that he had assumed that Bridges was a Communist. That was it. He told an assuming business to the grand jury and he told me there he had never seen Bridges' party

(Testimony of Bruce B. Jones.)

book, his application card or seen him pay dues.

Q. Then did you have any further conversation with him? A. Yes, I did.

Q. Under what circumstances?

A. Well, that ended all of that conversation.

Q. Tell us what else.

A. We talked along there, and one of the things that has made me kind of shy off Mr. Schomaker in the past three or four years wasn't only the fact that during the war I was away—he was down there at the 'front together like that. There has been a couple of us. We talk on the waterfront, Mr. Hallinan, and the term that we use is called the rank and file. That means a lot to the rank and file seamen. I don't know just how to put it. It is a kind of a democratic expression. It is like in the days when the seamen were in unions that were governed by dictators. They didn't have nothing to say in the union, and things like that. The rank and file, the guy that does the work. And in later years Schomaker has been using a term called the rank and the filth, and I resented it, and that is one of the reasons, as later years went on, John Schomaker and I had nothing in common. [4193] Another thing was he is so vindictive against Harry Bridges for different things that happened down there that he would sink the whole union.

Q. What happened? Did he ever express to you the reasons why he was vindictive against Bridges?

A. Well, there have been quite a few little arguments down there, Mr. Hallinan. It is all involved

(Testimony of Bruce B. Jones.)

around one thing, and that one thing, Mr. Hallinan, is that the longshoremen and seamen will never get anywhere unless we have unity and joint action. I think the history of the labor union, as far as the maritime industry, will prove that out. Now, in the course of getting that unity and maintaining that unity different other things come up. Some of those things, Mr. Hallinan, come up. I tell you the truth, when it is all over, I was in it, but I don't know what it was all about. But one of the things that you could point out was a question of the War Labor Board. Another thing was John Schomaker's position on the East Coast in the Gulf drive back there. He said that attempt on the part of the ILWU to organize the longshoremen of the Gulf and the North Atlantic ports into the ILWU and into the CIO was an expression whereby Bridges was satisfying his fat head. That was his reaction to the part of Bridges and the West Coast longshoremen to bring a decent working condition and a hiring hall to the longshoremen on the East Coast and the Gulf, and I told him, I said, "John, that isn't so." I said, [4194] "Bridges was sincere in that." I said, "I was sincere in that." I said, "I spent about a year and a half around there. I never made any money out of that. In fact, when I came back here I was in debt."

That was his reaction to that.

Q. I asked you a little while before, and then some discussion interrupted it, in addition to saying

(Testimony of Bruce B. Jones.)

that you had signed or you had received a signed application card from Harry Bridges, Schomaker testified that in December, 1933, you and he had to walk up Market Street to 37 Grove Street, which he said took about 45 minutes because neither you nor he had the carfare. Do you know whether he was impoverished at that time?

A. Well, there is one point—let's see. We were supposed to walk up there from a restaurant, Mr. Hallinan?

Q. Yes.

A. I will tell you a little story about that restaurant, Mr. Hallinan. That restaurant—I would never have went in that restaurant with Bridges or Schomaker because at different times I would go in that restaurant and work for a meal. That's right. I have been down on my hands and knees and scrubbed the border around the floors of that restaurant for something to eat, but I have a little pride, and I would never have went in that restaurant in the first place to talk over anything with Schomaker or Harry Bridges. And as far as walking up Market Street with John Schomaker and he said he was short of money, that is [4195] a lot of baloney because he was living with his family, Mr. Hallinan. I never saw him short of money or anything like that. I didn't see him flush, but he was eating three square meals a day and living with his family.

Q. His wife was working for the Japanese Steamship Company, you say, at that time?

(Testimony of Bruce B. Jones.)

A. That is what she told me, yes.

Q. Then did you go back and talk to Schomaker again after this first occasion?

A. After the first trip down there, I came back and I saw the lawyers of the Defense Committee.

Q. Who was that?

A. That was George Andersen.

Q. What happened then?

A. We went down there the next day—I think it was the next day or the day after that.

Q. Let me ask you this, Mr. Jones: After you went down there with George Andersen and saw Schomaker, did you sign any memorandum of what had occurred there? A. I did.

Q. And have you since read that memorandum to refresh your recollection as to what was said?

A. I did, yes.

Q. How long after you went down there did you make the statement that we are referring to? [4196]

A. What statement?

Q. The one that you say you made after——

A. I would say within a week, Mr. Hallinan.

Q. And you have read that one since, have you, for the purpose of refreshing your recollection?

A. That is right.

Mr. Hallinan: Will you show this to the witness and ask him if that is the statement. (Handing document to the witness.)

A. This seems to be it, Mr. Hallinan. I didn't take the time to read it word for word.

Q. Can you state the contents of this statement or the conversation that you and Mr. Andersen had with Schomaker on that second occasion, without reading from this document? A. No:

Q. Oh, no, pardon me. This is Carlson Melin and B. B. Jones and Rosie Schomaker. That is the statement you told about already.

A. That is the statement that I signed there about what went on in John Schomaker's house.

Q. Yes, but that was the first occasion. Was Carlson Malin the man you went down with when you first had a conversation?

A. That is correct, yes.

Q. Let me ask you this: On the second occasion when you went down with George Andersen who else went down?

A. George Andersen, Carlson Malin, and Schomaker's brother-in-law, Charles Lambert. [4197]

Q. And you had another conversation with Schomaker then? A. That's right.

Q. Where? A. In his patio.

Q. And about how long after the first?

A. About how long after the first one?

Q. Yes.

A. I think it was the next day or the next day after that day.

Q. And will you tell us what the general nature of the conversation was then?

A. Well, to the best of my recollection then, Mr. Hallinan, the general nature of the conversation was that George asked Schomaker if he cared to tell him what went on at the Grand Jury. That is the

(Testimony of Bruce B. Jones.)

best of my recollection of it, Schomaker appeared very nervous and hedged and this, that and the other. About the only thing that I can remember, Mr. Hallinan, definitely out of that—out of that conversation that day was that Schomaker told George Andersen that he had told the Grand Jury that he didn't know whether Bridges was a Communist or not.

Q. Now, we talked about the first meeting and the statement that I had here that was shown to you.

A. Yes.

Q. And as to the conversation that occurred in the first meeting. [4198] A. Yes.

Q. You have read this recently for the purpose of refreshing your recollection, is that correct?

A. Yes, one day last week.

Mr. Hallinan: We will offer it in evidence. It is just the same thing. If you want to object, we don't care.

Mr. Donohue: We object, if your Honor please.

Mr. Hallinan: All right.

Mr. Donohue: It is only self-serving.

Mr. Hallinan: No, it isn't self-serving. It is just a statement.

Q. Did Schomaker ever tell you that he was going to use your name in testimony as having been involved in obtaining a membership application signed by Harry Bridges in the Communist Party?

A. No, he did not.

Mr. Hallinan: That is all.

Cross-Examination

By Mr. Donohue:

Q. Mr. Jones, am I to believe that you said shortly ago that you left the Communist Party because your back hurt and you had stomach trouble?

A. And the other transaction involved there, Mr. Donohue, was along in 1941 I was trying to get in the Navy, and when I couldn't make that I shipped out. That is correct, yes.

Q. Then you didn't leave the Communist Party because you had [4199] any disagreement with the principles of the Communist Party, did you?

A. I didn't leave the Communist Party because I had a difference of opinion with the Communist Party.

Q. And you haven't any different opinion of the Communist Party today, have you?

A. You are getting into another subject now, Mr. Donohue. I don't know whether my opinions of the Communist Party today or not concern this case, whether it has got anything to do with it, but I know my political opinions as a free-born American citizen is my own damn business, and I am not sure you have got any business to ask me what my political opinions are today.

The Court: Mr. Witness, will you answer the question, please.

The Witness: What kind of a question did he ask me, Judge? I am sorry.

(Testimony of Bruce B. Jones.)

Q. (By Mr. Donohue): Mr. Jones, do you believe what Mr. MacInnis stated yesterday, that you are an eccentric?

A. I don't know whether Mr. MacInnis said that. I am an individualist. If he said that, I agree with that.

Q. I said if he said you were an eccentric would you agree with him?

A. I don't know whether he said it or not. That is a hypothetical question. I want to know what the record is. Read [4200] the record of yesterday.

Mr. Donohue: Will your Honor pardon me a moment, please.

Mr. Hallinan: I think that is an improper question. I think the witness isn't——

The Court: It might be, Mr. Hallinan.

Mr. Hallinan: I beg your pardon?

The Court: It might be argumentative.

Mr. Donohue: I will withdraw it.

The Court: What have you in mind? Part of the opening statement?

Mr. Donohue: Yes. I will withdraw the question, if the Court please.

Q. Mr. Jones, when did you first talk with either Mr. Hallinan or Mr. MacInnis with respect to the testimony you have given us here today?

A. On the day the newspapers came out with the story of John Schomaker naming me as being the one who is supposed to sign Harry Bridges up into the Communist Party, I received a telephone call from the defense committee to come over.

(Testimony of Bruce B. Jones.)

Q. Who made the phone call?

A. That I don't know, but everything was in order; I crossed on the way over, the time that I came over, brother, because I wanted to go into that myself.

Q. In response to that phone call what did you do?

A. I won't say in response to that phone call, Mr. Donohue. [4201] I will say in the course of the phone call coming over and my being anxious to get over there myself, I came over to see Mr. Hallinan—the defense committee; correct that; it was the defense committee.

Q. I ask you now, after you received the phone call where did you go and to whom did you talk?

A. After receiving the phone call, Mr. Donohue, which happened to be a request to do something which I was fully intending to do whether I got the phone call or not, I proceeded to 150 Golden Gate. And I went in there and a clerk or stenographer showed me a copy of the transcript, I guess you call it, of Schomaker's statements up there, and I was involved in the transaction of reading that over when I think Mr. Hallinan and the attorneys and Bridges came into the room, and I think as they came into the room I was reading this over and explaining to the girl there that it was a lie. That is when I first met him.

Q. When was that?

A. That was on the day that Schomaker testified I did that.

(Testimony of Bruce B. Jones.)

Q. How long did you stay there?

A. I would say 30 minutes; approximately half an hour or something like that.

Q. Did you talk with anyone other than Mr. Hallinan or Mr. MacInnis?

A. On that particular time? [4202]

Q. Yes. A. Not that I can remember, no.

Q. When did you next talk to anyone about your testimony now?

A. Well, let me see. When was that testimony given, Mr. Donohue?

Q. Are you referring to the testimony of John Schomaker?

A. You asked me—repeat your question again, please.

Q. When did you next talk to anyone concerning your testimony here after the incident you have just discussed in which you said you talked to Mr. Hallinan and Mr. MacInnis at 150 Golden Gate Avenue?

A. Well, I will answer—I will say that when that came out in the newspaper it created quite an uproar and there was all kinds of people asking me about it, rank and file longshoremen and all kinds of people, and anybody that asked me about it I told them; and I told anybody who would listen that what Schomaker said up here about me signing up Harry Bridges was a lie. I can't enumerate all the people. It would be half the waterfront, I guess.

Q. When did you talk to anyone associated with the defense committee after you talked to Mr. MacInnis and Mr. Hallinan?

(Testimony of Bruce B. Jones.)

A. The only time that I can remember, then the next time I talked to Mr. Hallinan and members of the defense committee was last week.

Q. Well, tell us when and where last week. [4203]

A. I talked to Mr. Hallinan and Mr. MacInnis of the Bridges defense committee, and I think it was last Tuesday or Wednesday.

Q. What time of day or night?

A. I think it was ten o'clock in the morning.

Q. And where? A. 150 Golden Gate.

Q. Who was present?

A. Mr. Hallinan then.

Q. Anybody else?

A. Well, there was other people in the office around there.

Q. Who?

A. Clerks. I don't recall; I don't know their names.

Q. Is it your testimony now that there was no one else in the room whom you knew except Mr. Hallinan?

A. That is all I can recall, yes.

Q. Was Mr. Norman Leonard in the room?

A. Well, there was a—he is a member of the defense committee.

Q. I asked you a question: Was he there or was he not there?

A. He was there when I went in, reported to the desk, and then Mr. Hallinan and I went out into another room and talked.

(Testimony of Bruce B. Jones.)

Q. What *did you* tell us Mr. Norman Leonard was there?

A. Because when you asked me—that building up there has three rooms up there, that defense committee has three rooms [4204] that I know of. I go in the door and I see the clerks and the stenographers there, that's right. Then I went—when they told me that Mr. Hallinan was in there and Mr. Leonard was in there, I go into there, yes.

Q. Then you did see Mr. Leonard?

A. Yes, he was in. I don't know whether he is on the defense; I don't know his role up there.

Q. Don't you know that Norman Leonard is connected with the law firm of Gladstein, Resner, Andersen and Sawyer? A. That's right.

Q. You knew Mr. Leonard when you saw him on this occasion?

A. Yes, surely. He and Mr. Hallinan was right there. You asked me when was the next time I talked to Mr. Hallinan. I am telling you.

Q. I asked you when you last talked with anyone connected with the Bridges defense. Was that the last conversation you had with anyone about your testimony here, or did you talk with someone since?

A. Yes, I talked with someone since.

Q. Will you tell us when and where.

A. Well, a number of people again, Mr. Donohue.

(Testimony of Bruce B. Jones.)

Q. I am talking about people who were associated with the Bridges-Schmidt-Robertson defense.

A. After that last Tuesday, I think it was, or Wednesday, I saw Mr. Hallinan and Mr. MacInnis, and possibly Mr. Leonard, [4205] in there, and the various clerical help in the office, at approximately 2 p.m. last Friday.

Q. Now, you are certain that Mr. Hallinan and Mr. MacInnis were there?

A. Yes, I talked to them, yes.

Q. But you are not sure Mr. Norman Leonard was there?

A. He wasn't there, I don't think, when I talked to Mr. MacInnis and Mr. Hallinan.

Q. When did he come into the room?

A. I think he was there when I went in.

Q. And he left before you began to talk to Mr. Hallinan and Mr. MacInnis?

A. I am not sure. He is a very busy man; I am not watching like that.

Q. You mean you are, or Mr. Leonard is a very busy man?

A. I am busy too, my own personal business to go about.

Q. Since last Friday at two o'clock have you discussed your testimony here with anyone?

A. Yes.

Q. Tell us where and with whom.

A. Oh, various people on the waterfront.

Q. I am talking now and I restrict the question

(Testimony of Bruce B. Jones.)

to persons associated with the Bridges-Schmidt-Robertson defense.

A. I haven't talked to anybody.

Q. You haven't talked to anybody? [4206]

A. Of the Bridges-Schmidt-Robertson defense.

Q. You talked to no one last night about your testimony this morning? A. No.

Q. Where do you live, Mr. Jones?

A. Mr. Donohue, I don't know, Judge, I am hesitant about giving my address.

Mr. Donohue: I will withdraw the question.

A. Because I don't like the vigilantes and their set-up of throwing rocks at people, coming around the house and throwing rocks through the windows and painting signs on the gate. I think the paper says other witnesses up here didn't give their address.

Q. Did you stay at your home last night?

A. I did, that is correct, and the night before, and the night before that, and right down from there.

Q. You didn't talk to anyone last night about your testimony?

A. Yes, sure, I taked to someone last night.

Q. Anyone associated with the Bridges defense?

A. No, just the rank and file longshoremen. I guess he—in fact, in an overall picture he is.

Q. Mr. Jones, do you know William Schneidermann? A. Yes, I know him. [4207]

Q. When did you talk with him last?

(Testimony of Bruce B. Jones.)

A. The last time I saw Bill Schneidermann, Mr. Donohue, was on New Year's Eve at approximately ten minutes of twelve at a party held at the Labor School on Golden Gate Avenue. He was coming in the door and I was going out. I said, "Hello," and he said, "Hello."

Q. Did you get Schneidermann's permission to testify in this proceeding, Mr. Jones?

A. I don't get anybody's permission to do anything, Mr. Donohue. I have been involved in transactions here since this thing started and getting some place to tell somebody else that Schomaker was a liar. I don't get Schneidermann's permission or anybody else's permission to do anything.

Q. Mr. Schneidermann didn't send you to see Mr. Norman Leonard?

A. Absolutely not. Mr. Norman Leonard was the attorney of the Bridges Defense Committee that went with me up to the grand jury when this thing first came up.

Q. Was it Mr. Norman Leonard or Mr. Herbert Resner who went to the grand jury with you?

A. There was four or five of them around there, and Mr. Norman Leonard was one of them.

Q. When did you get a subpoena to appear before the grand jury?

A. It was about 5:00 o'clock in the afternoon on my way home.

Q. Do you recall when? A. No. [4208]

Q. What did you do with respect to that subpoena after you got it?

(Testimony of Bruce B. Jones)

A. The first thing I did was get this guy from the rank and file longshoremen and went down and seen Schomaker.

Q. And it is a fact that you didn't go down and see Mr. Schomaker until after you had received your subpoena to appear before the grand jury?

A. That is right. That is what I told the Court. I had nothing in common with him to go down and see him. He is a degenerated moron.

Q. You didn't tell him that when you went down there? A. What?

Q. You didn't tell him that?

A. I didn't say the words degenerated moron, no, but I argued out every point he brought up about the East Coast and the Gulf and that area back there. He said that day that Harry Bridges was a fathead.

Q. You didn't tell him that during this visit before or after you had coffee and cake with his wife in the kitchen?

A. No; since he started involving me here, I have formulated, made up my mind that he is a degenerated moron. I was in the process of coming to that conclusion when he named me here. That guy even tried to write books and I have given him experiences of mine at sea during the war to help him try to write a book. [4209]

Q. Mr. Jones, you didn't tell John Schomaker in the kitchen of his home when you ate his wife's cake and drank her coffee that he was a degenerated moron, did you?

(Testimony of Bruce B. Jones.)

A. No, I didn't, but I blasted him on every point that he raised. I told him, I says, "What are you sticking your snout in the waterfront for? You are not on the waterfront; you are down here carrying hod. If you have got something against Bridges or Schmidt, don't take it out on the rank and file." That is what I told him. "I am down there trying to make a living," I says, "and indirectly you are hitting me."

Q. Who is the man that went down with you to see John Schomaker at his home in Menlo Park?

A. Carlton Melin.

Q. You know him to be a member of the Communist Party, do you?

A. I don't know him to be a member of the Communist Party. He is an old-timer; he has been on the waterfront for years.

Q. Wasn't he a member of the Communist Party at the time you were a member of the Communist Party?

A. Not to my knowledge, Mr. Donohue. And I want to get at what is this thing of being a member of the Communist Party. The longshoremen have been called Communists. Franklin Roosevelt and everybody else who were trying to do some social welfare in this country has been called a Communist, and not so long ago Mr. Havenner was running for election for the House of Representatives or something. I happened to be driving up [4210] Broderick Street or one of those streets in a car with another individual, and this guy had a sign on his bumper, "Havenner for Congress," and some boy about twelve years of age said, "Havenner is a Communist." What the hell do you mean by being a Communist?

Mr. Donohue: Might we take a recess at this time?

The Court: We will take the recess until 2:00 o'clock. The same admonition to you, ladies and gentlemen, not to discuss the case under any circumstances nor to form or express an opinion until the matter is submitted to you.

We will take the recess.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [4211]

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TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

Volume IX
(Pages 3839 to 4306)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In .... Volumes

Volume IX
(Pages 3839 to 4306)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

Afternoon Session, Tuesday, January 24, 1950

Mr. MacInnis: Your Honor, we have in court a witness who is obliged to leave the jurisdiction rather shortly, and I wonder if we could put him on the stand?

The Court: Certainly.

Mr. MacInnis: Thank you. Will Dr. Leo Eloesser step up, please.

DR. LEO ELOESSER

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury.

The Witness: Leo Eloesser.

The Clerk: Dr. Leo Eloesser. Will you spell your last name, Doctor?

The Witness: E-l-o-e-s-s-e-r.

Direct Examination

By Mr. MacInnis:

Q. Your name is Leo Eloesser, is that correct?

A. That is correct.

Q. And you were born, as I am informed from the volume entitled "Who's Who in America," here in San Francisco in the year 1881, is that correct?

A. That is correct. [4212]

Q. Are you a member of some profession?

A. Yes, sir.

Q. What profession is that, Doctor?

A. Medical profession.

Q. And you received your early education before entering into the medical profession at what school?

(Testimony of Dr. Leo Eloesser.)

A. University of California.

Q. And in what year did you receive your bachelor's degree at the University of California?

A. December, 1900.

Q. In December of 1900. Now, after your graduation from the University of California in 1900 did you pursue any further studies of a graduate nature?

A. I studied medicine at the University of Heidelberg.

Q. The University of Heidelberg in Germany?

A. Yes, sir.

Q. And did you receive the degree of Doctor of Medicine? A. Yes, sir.

Q. At the University of Heidelberg?

A. In 1907.

Q. In 1907. After your graduation from the University of Heidelberg did you undertake any medical work of a specialized nature in Europe?

A. Yes, sir; I served in various surgical clinics for about three years. [4213]

Q. Were you a member of the Royal Clinic at Kiel? A. Yes, sir.

Q. For how many years were you with that clinic?

A. I was one year in Kiel, about a year in Heidelberg, and about one year in various other universities.

Q. Did you undertake any work in the city of Berlin?

A. I was at the so-called Augusta Hospital in Berlin.

(Testimony of Dr. Leo Eloesser.)

Q. And before returning to the United States to resume your work in this community did you become a member of the Cancer Institute in any school in Europe?

A. Yes, sir, at Heidelberg.

Q. At Heidelberg? A. Yes, sir.

Q. Would that have been following the year 1907?

A. Yes, that was 1908, as I remember.

Q. In what year did you return to San Francisco to take up your medical practice here?

A. 1909.

Q. And have you been in the City of San Francisco as a practicing physician continuously since 1909 with the exception of the visits that you have made on tour of duty to foreign countries?

A. Yes, sir.

Q. What has been the general nature of your medical practice here in San Francisco? [4214]

A. Surgical practice.

Q. Have you been since you returned to San Francisco in 1909 a member of the faculty of any medical university?

A. Yes, sir. I was instructor at the—I think assistant at the University of California for a short time, and then I changed to Stanford.

Q. What post did you hold with Stanford University Medical School?

A. I held various posts, but I entered as clinical professor of surgery.

Q. Am I correctly informed that you are now Professer Emeritus? A. Yes, sir.

(Testimony of Dr. Leo Eloesser.)

Q. Of surgery at Stanford University?

A. Yes, sir.

Q. Have you been over the years a member of the staffs of any hospitals in San Francisco?

A. Yes, sir.

Q. What hospitals are those, Doctor?

A. I was chief of the Surgical Service of the Stanford Division at the San Francisco Hospital.

Q. You were chief of the Surgical Division of the Stanford side at the San Francisco Hospital, is that correct?

A. Correct, yes, sir.

Q. And for what period of time approximately did you hold that [4215] post?

A. As chief I think I held the post from about—I can't quite remember; from sometime in the 1930's until my retirement in 1945.

Q. During the first World War did you hold any rank in the Medical Corps of the United States Army?

A. Yes, sir, I was a major.

Q. You were a major in the Medical Corps of the United States Army, and that service comprised how many years?

A. One year.

Q. After the conclusion of the war did you undertake any work of a specialized nature either here or elsewhere?

A. Yes, I worked as a surgeon here in San Francisco, and I was a member of a number of scientific societies.

(Testimony of Dr. Leo Eloesser.)

Q. Could you list for us generally the scientific societies of which you have been a member?

A. It is quite a long list of special societies; surgical societies mainly.

Q. Have you been president of the American Thoracic Institute?

A. Yes, sir; American Association for Thoracic Surgery is the correct title.

Q. You are, I suppose, a member of the American Medical Association? A. Yes, sir.

Q. Have you been a member of any scientific associations of [4216] a specialized field in the realm of surgery?

A. Yes, quite a few of them, both here and in Latin America.

Q. In Latin America? A. Yes, sir.

Q. In what particular countries, Doctor?

A. The Argentine, Bolivia, Cuba, Chile, Brazil, Peru, Mexico, and maybe a few others.

Q. And have you spent considerable periods of time in the Latin and South American countries?

A. Yes, sir.

Q. Which you have mentioned?

A. Yes, sir.

Q. What has been the nature of your sojourns in those countries, Doctor?

A. Well, at times I went to attend various meetings and congresses, and there was about three months in Buenos Aires as exchange professor of surgery.

(Testimony of Dr. Leo Eloesser.)

Q. You were in the Argentine as an exchange professor of surgery, is that correct?

A. Yes, sir.

Q. That was in about what year?

A. I think that was '43, if I remember correctly.

Q. Have you from time to time during your last twenty years, let us say, undertaken medical work in various foreign countries? [4217]

A. Yes, sir.

Q. And could you list for us generally the type of work and the countries which you would have in mind?

A. Yes, sir, I was with UNRAA in China two years and from UNRAA I transferred to the World Health Organization, of which I am still a member.

Q. When you say that you were with UNRAA in China for two years, is it true that you were the chief of the Welfare Division for China?

A. No, sir, I was chief of the division for medical education.

Q. And you spent two years in China?

A. Yes, sir.

Q. And what two calendar years were those?

A. For UNRAA I was there in the last half of '45 until the beginning of '47. Since my work with World Health Organization I have been there from the middle of 1947 until October 1, [4218] 1949.

Q. During your work with World Health Or-

(Testimony of Dr. Leo Eloesser.)

ganization, what countries have you visited and worked in? A. China.

Q. Am I correct in supposing that you have returned here but recently from Brazil?

A. That is correct.

Q. Am I correct in suggesting that you are about to leave this jurisdiction for another destination?

A. Yes, I am going to Cuba for a short visit and then I am going to New York.

Q. Is your work in Cuba connected with World Health Organizations?

A. No, I am going to visit the Cuban Surgical Conference that invited me to attend.

Q. Doctor, having generally in mind now your medical background, let me ask you just one or two further questions. Have you been a contributor over the years to various medical periodicals?

A. Yes, sir.

Q. You have written articles upon your own special subjects? A. Yes, sir.

Q. And I suppose you have been a member of various social organizations in San Francisco?

A. Yes, sir, a few.

Q. I have in mind the St. Francis Yacht Club and the San Francisco Yacht Club. [4219]

A. That is correct.

Q. Are those the organizations to which you belong? A. Yes, sir.

Q. Have you met, during the course of your life here in San Francisco, a man named Harry Bridges? A. Yes, sir.

(Testimony of Dr. Leo Eloesser.)

Q. When do you recall first meeting Harry Bridges?

A. I first met him in the St. Francis Hospital in 1933, when I attended him medically.

Q. He was a patient of yours in 1933, is that right?

A. Yes, sir, he had been operated upon and I was called in to attend him.

Q. After the first meeting did you see him from time to time over the years?

A. Yes, sir, I had him again in St. Luke's Hospital as a patient, and I have seen him at intervals since.

Q. Doctor, from your contacts with Harry Bridges over the years have you become familiar with his reputation in this community for truth, honesty and integrity?

Mr. Donohue: I must object to the question, if Your Honor please, on the ground that the proper foundation has not been laid for asking the question. He asked the doctor if he had treated the defendant Bridges medically. He said he had over the years. He now asks him for his general reputation, without showing that the doctor is qualified to express an opinion as to [4220] his general reputation.

The Court: In addition to the professional contacts that he may have had, has he had any social relationship or otherwise?

Mr. MacInnis: I think I asked him if he had seen him from time to time.

(Testimony of Dr. Leo Eloesser.)

Q. Have you seen Harry Bridges from time to time over the intervening years since 1933?

Mr. Donohue: I again object, if Your Honor please. As I understand it, the law allows an established reputation for good character to be placed in evidence, and one's reputation for good character is his reputation in the community, which one can only gain by discussing it or by a knowledge of other perons who also know the defendant Harry Bridges. One can not learn the reputation of another personally. It must come from contact with others and a discussion of that matter with others. I again suggest, if Your Honor please, there has not been a proper foundation laid.

Mr. MacInnis: Judge, it has been held on many occasions that matters now suggested by way of criticism are matters for cross-examination. The early case of People v. Adams, a 1902 decision of the Supreme Court of California, I think, covers this point. We surely would not bring a man here not prepared to give character testimony unless he knew something of which he was about to speak.

Q. You might do this, Doctor: Could you tell us approximately [4221] how many times you have seen or talked to Harry Bridges in the years since 1933?

A. Well, it is a little hard for me to remember. I had him several weeks in the St. Francis Hospital and I had him, I think, several weeks—I am not quite sure—in St. Luke's Hospital and I visited him daily during those times.

(Testimony of Dr. Leo Eloesser.)

Q. In addition to such contacts that you may have had with him either while attending him at the hospital or on other occasions, have you ever heard the name of Harry Bridges mentioned or discussed by others? A. Yes, sir.

Q. Have you heard other people discuss Harry Bridges? A. Yes, sir.

Q. And from your own knowledge of the man and from your own participation or hearing of discussions concerning Harry Bridges, do you know what his reputation in this community for truth, honesty and integrity may be?

A. Yes, sir, I think that he has a good reputation for truth, honesty and integrity.

Q. Would you accept his word under oath?

Mr. Donohue: I object, Your Honor. That is not a test under the law.

The Court: Sustained.

Mr. MacInnis: I believe it is.

The Court: He answered in the affirmative with respect to [4222] the general question addressed to him, and I think that suffices.

Mr. MacInnis: I believe the cases permit the additional question as to whether or not the witness would accept the word of the defendant under oath.

The Court: My recollection is that you have asked the general question and he has given a general answer.

Mr. MacInnis: Very well. No further questions.

(Testimony of Dr. Leo Eloesser.)

Cross-Examination

By Mr. Donohue:

Q. Doctor, you served in Spain with the Loyalist Brigade, did you not?

A. No, sir, I did not serve with the Loyalist Brigade. I served in Spain but not with the Brigade.

Q. When were you in Spain, Doctor?

A. I was in Spain over the winter of 1937-38.

Q. What was your service in Spain? What were you doing in Spain?

A. I was attached to a mobile unit of the Spanish Loyalist Army.

Q. Doctor, have you been a member of the American Committee for Protection of the Foreign-Born? A. Yes, sir, I think so.

Q. And do you know that that organization, the American Committee for the Protection of the Foreign-Born, is on the Attorney General's subversive list as of May 1st, 1949?

Mr. MacInnis: Your Honor, in the first place, I do not know [4223] that such a thing is so, and if it were so, we are engaged in a trial here in which the doctrine of guilt by association does not apply, and if this gentleman is on a committee for the protection of the foreign-born, I think that has no bearing upon the credit which may be attached to his testimony.

Mr. Donohue: I think it has as much bearing

(Testimony of Dr. Leo Eloesser.)

as the fact that he belonged to the St. Francis Yacht Club.

Mr. MacInnis: I think, Your Honor, if the Attorney General is to be brought here as a witness, I for one would be very glad to cross-examine him on what organizations he says should be taboo. But for this special prosecutor from Washington to tell us in a hearsay form what he says the Attorney General holds is hardly a basis for any cross-examination.

Mr. Donohue: I would be glad to submit you the list.

The Court: The objection is overruled.

Q. (By Mr. Donohue): Did you know that fact, Doctor?

A. No, sir; I am sorry I didn't know it.

Q. Have you been a member of the American Committee for Jugo-slav Relief?

A. I am sorry; I don't know. I belong to so many of these things, it is very hard for me to keep them straight, but if you say so, I would be glad to accept your word for it. I don't know.

Q. Do you know that that organization is on the Attorney General's list of subversive organizations as of May 1st, 1949? [4224]

A. No, sir; I am sorry, I do not know it.

Q. Have you been a member of the National Federation for Constitutional Liberties?

A. I am sorry, I do not know that either.

Q. And you would not know whether or not that

(Testimony of Dr. Leo Eloesser.)

organization is on the Attorney General's list of subversive organizations?

A. No, sir, I have been in China until October of this year, so I am not very well up.

Mr. Donohue: I have no further questions.

Redirect Examination

By Mr. MacInnis:

Q. I take it, Doctor, if any question is put to you about almost any conceivable charitable organization, that it might well contain the label of subversive in the eyes of prosecutors, in view of the statements made about the Attorney General; so we have no further questions.

The Court: Is that a question, Mr. MacInnis?

Mr. MacInnis: Pardon me?

The Court: Was that a question you addressed?

Mr. MacInnis: I think not, Your Honor.

The Court: I just wondered.

Mr. MacInnis: It was an observation.

The Court: An observation. Thank you.

Mr. MacInnis: Thank you.

The Court: You are excused. [4225]

BRUCE B. JONES

resumed the stand on behalf of the defendants; previously sworn.

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

The Clerk: The witness on the stand is Bruce Barrow Jones, heretofore sworn.

(Testimony of Bruce B. Jones.)

~~Cross~~-Examination

(Continued)

By Mr. Donohue:

Q. Mr. Jones, have you sometimes been known as Ben Jones? A. That is right.

Q. Did you ever tell Harry Bridges that you were a member of the Communist Party?

A. I don't believe I ever did, but I got up in a meeting one time when an individual who had pilfered some money was accussing Harry Bridges and the Communist Party of stealing the funds and I told them I was a member of the Communist Party, and such a statement on his part was a lie, and afterwards he was expelled and exposed as the guy who stole the dough. His name was Finson F. Cox. Bridges probably heard that then.

Q. Then your answer is you never told Mr. Bridges that you were a member of the Communist Party?

A. Not to my recollection. If it was, it was in the course, as a free-born American to another human being, a longshoreman, stating my political opinion. That is my business to do that.

Q. Would you say if Mr. Bridges had testified heretofore that [4226] you had told him that you were a member of the Communist Party that Mr. Bridges was mistaken?

A. I would say that possibly he was correct. I make no bones of my political affiliation at any time.

(Testimony of Bruce B. Jones.)

Mr. Donohue, and I have had discussions with half—ten, fifteen, twenty thousand maritime workers and I can't remember everything. If Bridges said that, he was correct.

Q. Thank you, Mr. Jones. A. Yes, sir.

Q. Did I understand you correctly to say this morning that you first met John Schomaker late in 1933? A. That is absolutely correct.

Q. And at that time you knew that his wife Rosa was working for a steamship company?

A. No. At that time I met Schomaker he came down to the waterfront and said he had been employed in a veterans' hospital. I think he was a janitor or an orderly—orderly was the term that he used—and in the course of time, a very short time, a discussion—to be frank with you, the discussion was the tough time these girls have in offices. His wife told me that she was working or had worked in the Japanese Steamship office and told me some of the problems there that she had as an office worker in there.

Q. What is your best recollection of when this conversation took place? [4227]

A. I can't say the time, but it was not so long afterwards.

Q. Not so long after what?

A. After I first met John Schomaker.

Q. And when would you say you first met John Schomaker?

A. In the late fall of 1933.

Q. And shortly thereafter his wife told you she

(Testimony of Bruce B. Jones.)

was or had been working for the steamship company?

A. That is right, and that through her contact with this guy she worked for, the word was passed along on the dock, the employing boss there, and that is how he got in, and the proof of it is he went to work down there, not steady, but on spec, and he got in there.

Q. You can't tell us now whether Mrs. Schomaker told you she was at that time working for the steamship company, can you?

A. Well, Mr. Donohue, the whole discussion was not around—the point was, she was explaining to me about office girls working in offices, and how sometimes they had difficulty with the bosses, the bosses wanting to take them out and like that.

Q. You can't tell now whether hers was a current difficulty or a past difficulty, can you?

A. Yes, sure.

Q. What was it? A. It had happened.

Q. It had happened?

A. Yes, she had had that trouble. At the present time she [4228] wasn't having it. At the time she told me she wasn't having it.

Q. Your best recollection is when you first met Mrs. Schomaker she was not then empolyed by anybody?

A. I couldn't say. They kept that very quiet. I couldn't say. It was kind of bad coming down on the waterfront, Mr. Donohue, and have persons working up in a steamship office get you a job, when

(Testimony of Bruce B. Jones.)

there was 5,000 other longshoremen earning their livelihood down there, down there sweating them docks out for years, and you come down with a contact in the office and go in ahead of these other guys with families. You can't keep that quiet. They didn't tell me that because they were telling me the mechanics of it. It all came out of this other discussion about these girls working in offices and having difficulties with their employers maintaining, shall we say, their ethics.

Q. But you could be mistaken with respect to the fact that you first met Schomaker in the late fall of 1933?

A. That is absolutely correct, Mr. Donohue. He testified here that he met me in 1931 and, Mr. Donohue, that is not in accordance with the facts.

Q. Let met ask you this: Where were you working in 1931?

A. In 1931, Mr. Donohue, I was working, in the possibility of working in several places. One of them, I might have been on a job—I was a locomotive fireman there at one time, and when locomotive firemen were laid off, we were given other jobs. I think I worked in a bridge gang there, even flagged a crossing [4229] for a short time, this, that and the other.

Q. Let me ask you, Mr. Jones——

A. And at one time I remember I went down here on a farm and helped thresh wheat, down

(Testimony of Bruce B. Jones.)

around Half Moon Bay. I can't say definitely where I was then—around looking for work.

Q. Let me ask you, Mr. Jones, if in 1931 or 1932 you did not work for the Millbrae Dairies.

A. Yes, that is correct; for a short time, yes.

Q. And isn't it a fact that you lived at a ranch house on the Mills Estate? A. That is correct.

Q. And isn't it a fact that that ranch house is some two miles from the highway?

A. That is correct.

Q. And isn't it a fact that John Schomaker called on you at your home at that ranch house?

A. That is not correct. What happened, Mr. Donohue——

Q. Yes.

A. I was working down there for a short period of time. I got the job out of an organization called the "Rough and Ready." That is what the guys call it. The legal name was Murray and Ready. I went down there and worked on Gordon's this, that and the other. I was fed my board there, and in the course of working down there, I got a number of subscriptions for the Western Worker, Mr. Donohue. And John Schomaker came up [4230] there one time—I invited him to come up there—not invited him, but I sent word up to the publication of Western Worker, to get a guy up there to talk further about the Western Worker, and John came up there, and the night he came up I wasn't there. I never met him. I was in town, and when I came

(Testimony of Bruce B. Jones.)

back they said the representative of the Western Worker was up there.

I said, "What did he look like?" They said, "Oh, he's a big tall guy."

And that is the nearest I ever came to meeting him.

Furthermore, in 1932, Mr. Donohue, I was in the hunger march to Sacramento. I left the San Francisco delegation. The delegation from Los Angeles—we had a delegation from Los Angeles—the Red Squad of the police tried to keep them from leaving Los Angeles, but this delegation from Frisco went down by the way of Redwood City, and I think we stopped there, and I never met him then. But later on he told me he had been the section organizer of that territory down there, and I said, "I don't know how in the hell I come to miss you all these times. I missed you the night you came to the Millbrae Estate. I was in that business and you were supposed to be down there at Redwood City when the hunger march came through and I never seen you. I don't know how I missed you."

Q. Isn't it a fact that you knew John Schomaker when you worked for the Southern Pacific Railroad?

A. I absolutely did not. The first time I met Schomaker was in the MWIU at 432 Market [4231] Street.

Q. You said this morning, Mr. Jones, that at one time you hired out from the fink hall. What is a fink hall?

A. Well, that is an expression, Mr. Donohue.

(Testimony of Bruce B. Jones.)

that comes from 'way down; you go back. It comes from the people called the common people, Mr. Donohue. I think a man by the name of Abraham Lincoln had something to say about the—he used the term "common people," and some guy says, "What do you mean, common people? You mean the people whose flesh and blood are common?" Lincoln said, "No, I mean that part of America that is the common people. I call them common because there is so goddam many of them." The common people in the maritime industry, Mr. Donohue, have been persecuted for years because of what is known as clip joints and places like that, out of which they hire these seamen and keep them under their thumbs, more or less, and he won't squawk against evil conditions of the shipping industry. They were mainly built up because of the lack of joint action between the seamen and the longshoremen. I wasn't in industry at the time, but I did ship out on a U. S. Shipping Board ship. After the last war the Shipping Board—the United States Government set up what has been called the United States Shipping Board, and they had these offices called the Shipping Board offices, and gradually they got around, and that is when the name fink hall developed, because you could only go out as a strikebreaker when they first started, Mr. Donohue, or you couldn't [4232] go through and go to work. That is the historic record of "fink hall."

(Testimony of Bruce B. Jones.)

Q. When did you ship on the Texan?

A. I shipped in San Francisco—I haven't got the discharge with me, but I think it was the fourth month of the year of 1934.

Q. We agree, I think, that the fourth month is April?

A. Yes, I will agree that the fourth month is April, but on this discharge it doesn't say April. It says "4," it has got a dash, then I think "1" or "2," and another dash, and then it has got "34." Some people call the first part the month and some call it the day. I think maybe it is the day or the month, I don't know.

Q. You are sure of one thing, and that is that you shipped out of San Francisco on the Texan in 1934?

A. Yes, sir, I shipped out on the Texan, out of the fink hall. I could have shipped out and made other trips a lot of times, because you know they told me what to do.

Q. I haven't any idea.

A. Mr. Donohue, I will tell you: When you go to register at the fink hall and you hand in your book, put a five- or ten-dollar bill in it and ask the shipping master or clerk who handles the book to hold that for you. That was the old trick; that was the old payoff. He never gave that back to you, and you went to work. And I tell you, Mr. Donohue, I [4235] am pretty sure that Scabby Bettencourt made a hell of a mistake when he let me get that job on the Texan. I saw him after '34 in

(Testimony of Bruce B. Jones.)

the Market Street branch of the American Trust Company, he was flitting around there from one office to the other, he recognized me; he made a mistake, because that ship, we tied her up in the Port of New York, and one of our demands was for a flat, unconditional settlement of the Pacific Coast strike.

Q. When was it you got to New York, Mr. Jones, on the Texan? A. That is correct.

Q. When?

A. When? Well, we—after we sailed from here, we went around through the Panama Canal, up the south Atlantic coast of the United States, stopped at a little place called Norfolk. We were there about in—one afternoon, I think, Mr. Donohue. I went ashore there and referred to a newspaper. We hadn't even got anything about the '34 strike. I picked up a newspaper. I saw in the paper where the West Coast longshoremen had gone on strike.

Q. Does that refresh your recollection as to when your ship reached Norfolk?

A. I can't tell the date. Then we sailed from there up to Philadelphia, and when we got into Philadelphia there was a funny thing happened. As we were tying up the ship, a bunch of guys were on the docks, and all of a sudden they started [4234] to run, and a bunch of cops chasing them. And at that time—by that time I was the delegate, ship's delegate, and I thought that the strike was on in Philadelphia and that the guys were picketing out

(Testimony of Bruce B. Jones.)

there. So, boy, as soon as we had that ship tied up, I barged down the gangway and asked, "Did the cops chase them pickets away or not?" And they said, "No, the guys was on the dock conducting a crap game, and the police came down and busted it up." And from Philadelphia we went to New York.

Q. The first intimation you had of the West Coast maritime strike was something you saw in the paper when your ship, the Texan, reached Norfolk? A. That is correct.

Q. You know when the '34 strike began, do you not?

A. I only know, not through personal recollection, because I was there on the ship.

Q. What is your best recollection from what you have read?

A. My recollection is from what I read in the paper, May 8 or 9.

Q. Then you would say that you got to Norfolk sometime in May? A. No.

Q. When did you get to Norfolk?

A. I won't say that at all. I will say that we was on this ship. She is one of the largest ships of the American-Hawaiian line. We proceeded down the west coast, Mr. Donohue, through [4235] the Panama Canal, and entered the port of Norfolk. We arrived there approximately two o'clock in the afternoon and left that night. We were sore because after that long voyage we never had a chance to go ashore.

(Testimony of Bruce B. Jones.)

Q. But you had a chance to read the newspaper? A. Yes, surely.

Q. You saw that there was——

A. I saw another worker reading a newspaper as I walked up through the Negro section of Norfolk.

Q. After you arrived on that ship in Norfolk you saw that there was a maritime strike in San Francisco? A. I won't say yes or no.

Q. You did read it in the paper?

A. I read it in the paper, yes.

Q. From your experience at sea and from your description of the ship that you went from the west coast of San Francisco to Norfolk on, how long did it take you to get from San Francisco to Norfolk?

A. Well, let me see. A railroad in those days, I think, used to guarantee a boxcar shipment across the country in over—I don't know; the ships beat them, anyhow. We used to make the run—of course, the Texan, I think, was a twin screw ship; I think it used to normally make the run from Pedro to Balboa, the western entrance of the Panama Canal, in about—I don't know—about twelve days, up and down, and it was [4236] one day going through the Canal, and then from the Canal up to New York it is a shorter run; about eight days, I think. That is the best of my recollection.

Q. Then would you say that you left San Francisco on the Texan not more than thirty days before some date after the West Coast 1934 strike began?

A. I will say this, Mr. Donohue: I signed on that ship, as I said, and the record is on file. We left Frisco, and we didn't go to Norfolk; we made what they call the loop. I think we did. I think we went up to the northwest, picked up lumber like that. That was the loop.

Q. How many days were you——

A. I am pretty sure of that, because I know we worked on the deck, and the longshoremen had a big pile of dunnage on the deck, and then we went out on the deck after supper and throwed the dunnage overboard, and spent two or three hours at that. And while we were throwing the dunnage overboard somebody said not to go overboard with it. We got done throwing the dunnage overboard and it was then time to stand watch. When you got through work in those days you met yourself coming back.

Q. Can you tell us how long it took you from San Francisco to the time you reached Norfolk when you read in the paper about the West Coast strike?

A. I would say according to the other ships making the run, [4237] it would have been about —I think the steamship companies, Mr. Donohue, guaranteed a shipment from one coast to the other in 18 or 20 days. I am not sure of that. I have been more or less trying to make a living in the other work I have been doing.

(Testimony of Bruce B. Jones.)

Q. Let's say it was 30 days.

A. I beg your pardon?

Q. Let's say it was as long as 30 days. Can you not now tell us when it was you left San Francisco on the Texan?

A. No, I can't. You would have to go down to the custom house and get the record.

Q. It wasn't more than 30 days prior to the time you reached Norfolk?

A. I will say, Mr. Donohue, get the record, go down to the custom house and get it; I don't know.

Q. Let me ask you this, Mr. Jones: Before you sailed on the Texan out of San Francisco, what did you do?

A. I was around looking for work.

Q. How long were you around looking for work?

A. Ever since I have been here, but I wasn't having too much luck after a certain thing happened. You know what happened, Mr. Donohue? I went to work and I worked and I made a day at the Matson, I think I worked on the Harvard or the Yale. A guy, I think his name was Haskell, they called him Old Camera Eye; he used to stand up there and point, "You," "You," [4238] "You," I went to work for a day. The next time the ship came in a policeman stood up there, and I saw him. He said, "Don't hire that guy." That's right; I was blackballed all over.

Q. When had you last left San Francisco prior to the time you sailed on the Texan?

(Testimony of Bruce B. Jones.)

A. What do you mean, up to the—"left"? What do you mean, "left San Francisco"?

Q. When had you last been away from San Francisco prior to the time you left San Francisco to sail on the Texan?

A. Well, I was up—I couldn't answer that definitely, Mr. Donohue. I was looking for work. Another longshoreman and I by the name of Hans, we went up on a farm up near San Rafael and stowed bales of hay in a loft up there. We was up there about a week, I couldn't say distinctly.

Q. You can't tell us, then, on what ship you had sailed prior to the time you had sailed on the Texan, if you did sail? A. Oh, yes.

Q. When? A. That was the Kansan.

Q. When did you sail on the Kansan?

A. I was a fireman on the Kansan, but I don't know—along in the late—late 20's.

Q. And then after the late 20's when you had sailed on the Kansan until the time you left San Francisco on the Texan—— A. Yes. [4239]

Q. ——did you continuously reside in the San Francisco Bay area?

A. After I left on the Kansan?

Q. Yes.

A. No, I lived home for a while, I think. I think; I am not sure.

Q. Where do you call home?

A. Baltimore, Maryland.

Q. When did you come back from Baltimore?

(Testimony of Bruce B. Jones.)

A. I came back from Baltimore when I was called back to work on the Southern Pacific Railroad.

Q. That was when?

A. I think that was in '29.

Q. Then from '29 until you sailed in '34 on the Texan you lived in the Bay area?

A. That is right, yes, in or around here.

Q. Now, do you recall when it was you were served with a subpoena to appear before the Grand Jury?

A. Yes, it was about—after work, yes, about five o'clock.

Q. Do you recall in what month?

A. I think it was in May.

Q. And I think you testified this morning that after you received the Grand Jury subpoena, you and Slim Melin——

A. Carlton Melin, yes.

Q. Carlton Melin, sometimes called "Slim"?

A. Yes.

Q. ——went down to Menlo Park and talked to John and Mrs. Schomaker? A. Yes.

Q. I think you testified this morning that at some time after you received the subpoena you consulted with members of the Bridges Defense Committee?

A. Yes, yes, that's right. I was in contact with local representatives of the Defense Committee, Mr. Donohue, because of—that was the dope; that was my position.

(Testimony of Bruce B. Jones.)

Q. What do you mean, "that was the dope," Mr. Jones?

A. Was that I wasn't going to have your Gestapo hounding me on this, that and the other, and they said—I asked the lawyers about it; I knew that this was a frame-up. So I asked them what to say. They said, "Whenever they stop you, you tell them that if they want to discuss anything about the Bridges case or like that, to do it in the presence of a lawyer, and tell them that I am your lawyer." That's right.

Q. Did you get the dope before or after you consulted with the Bridges Defense Committee?

A. Well, I tell you, Mr. Donohue, that has been the dope for a long number of years in the trade union movement. There has been all kinds of frame-ups around here—Tom Mooney, Modesto, King, Ramsey and Connor,—those are some of the most prominent. There has been all kinds of other frame-ups, attempted [4241] frame-ups and like that, and it has been time and time again published in the trade union press, Mr. Donohue—the AFL and the CIO press—that in any kind of game like this, every trade union man, his duty is to go to the union attorneys. That's right. That is what I mean by getting the dope, is an impression on my mind for years.

Q. Now, may I ask you again, Mr. Jones, had you consulted with the defense counsel for Mr.

(Testimony of Bruce B. Jones.)

Bridges before or after you went to see Mr. Schomaker for the first time?

A. I didn't get the drift of your point there.

Q. Let me ask you this: You remember getting the Grand Jury subpoena? A. That's right.

Q. You remember that you went down to Menlo Park with Mr. Melin? A. Yes.

Q. And talked to John and Roza Schomaker?

A. Yes.

Q. Which came first, the subpoena or the visit to Menlo Park?

A. Well, the thing that came first was my visit to the Defense Committee. A representative, one of the agents of yours, McGowan, first contacted me. He contacted me before I got the——

Q. Subpoena? A. Yes, that's right.

Q. When did he contact you? [4242]

A. I guess it was about a month before that.

Q. You then went to the Bridges Defense Committee?

A. I went to the local union legal representatives, that's right.

Q. Whom did you consult with?

A. George Andersen.

Q. Now, again, after you received your Grand Jury subpoena did you go and see George Andersen before or after you went down to Menlo Park and talked to John Schomaker?

A. I am pretty sure that I saw John Schomaker first. I am positively sure I did.

Q. And isn't it also a fact that after you and

(Testimony of Bruce B. Jones.)

Mr. Melin went down and talked to John and Mrs. Schomaker, that you then went back to Mr. Andersen and made a report?

A. No, that isn't so.

Q. Then how do you account for the fact that the following day, or the second day, as you testified this morning, you went back again with George Andersen to see Mr. and Mrs. Schomaker?

A. Well, I tell you——

Q. I wish you would.

A. I will tell you, Cappy, how it come about. I went down to see John Schomaker with Carlton Melin, and on the way back I stopped off at the Bjorne Halling's house, and he arranged a meeting, and at that meeting George Andersen was there, and the meeting was held at 150 Golden Gate Avenue at approximately [4243] a little bit after noon, I think it was.

Q. Tell me, who was at that meeting?

A. Oh, I can remember some of the guys.

Q. Tell me.

A. George Andersen, Melin, myself and Bridges, and I don't know whether Robertson and Schmidt was there or not.

Q. Was it at that meeting at 150 Golden Gate Avenue that you arranged then to go down this day to see Mr. Schomaker?

A. Yes, that's right, yes. Yes, George says to me, "I was down to see him yesterday, but he wasn't there." I says, "After he left me he said he was going over to see his father-in-law. I don't

(Testimony of Bruce B. Jones.)

think he went there. I think he went to see Mervyn Rathborne."

Q. After you had gone down to see Mr. Schomaker with Slim Melin and you reported that fact to George—and by "George" I assume you mean George Andersen? A. Yes.

Q. George Andersen told you that he had already been down to see John Schomaker and he wasn't home? A. That is correct, yes.

Q. Was it at that meeting that you then decided to pay the second visit to John Schomaker's home?

A. Yes, that's right. George says he had missed him the other day, and I says, "Well, we will go down and try it now if you want." He says, "Yes."

Q. Did you go on the day of the meeting?

A. Yes, that's right; we left right there.

Q. By what means of transportation?

A. Automobile.

Q. Whose automobile?

A. Carlton Melin's.

Q. And who went?

A. Oh, George Andersen, oh, myself, Melin, and Charles Lambert.

Q. Now, at any time up to this moment that you are now discussing had George Andersen told you that he and Mr. Herbert Resner of the firm of Gladstein, Resner, Andersen & Sawyer, and Mr. Morris Watson, the ILWU dispatcher, had gone down to Half Moon Bay and talked to Mr. Rathborne? A. Did he tell me that?

Q. Yes.

(Testimony of Bruce B. Jones.)

A. I think it was in the newspapers at that time, I think it was, that George had been down to see Rathborne, but I don't remember him saying anything like that to me.

Q. You don't remember him telling you that fact? A. No.

Q. But you do know as a matter of fact that before you left San Francisco to go down to Menlo Park to talk to John Schomaker, that George Andersen, Herbert Resner and Morris Watson had gone down to Half Moon Bay and talked to Mervyn [4245] Rathborne?

A. I don't know that. The only thing I know, George Andersen said that he had been down to see Schomaker and he probably got there an hour after I left.

Q. Didn't you just tell me you read it in the paper?

A. I said probably I had seen in the newspaper that George had been down to see Rathborne.

Q. Then you knew it when you left here with Andersen?

A. I don't know nothing of what I read in the papers. They had some stuff in about me that wasn't true.

Q. You mean you read in the papers that—

A. Just a minute. I read in the papers that George Andersen had been down. It didn't say a damn thing about Resner or Watson or anybody else; it said George Andersen. They were trying to whip up a campaign for intimidation against George.

Q. You don't know as a matter of fact that Resner and Watson did go down there?

A. I don't know it, no.

Q. You don't? A. I don't know it, no.

Mr. Donohue: May we take a recess at this time?

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition not to discuss the case or form or express an opinion.

(Recess.) [4246]

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Jones, when did you go down to the Gulf?

A. I left here, Mr. Donohue, I think it was along in June, July or August for New York.

Q. Of what year? A. '37.

Q. Who went with you?

A. I went by myself.

Q. Did you meet Mervyn Rathborne down there?

A. No, not in the Gulf, no. I may have met him in New York. I don't know. I don't remember whether he was there or not.

Q. Did you meet Bjorne Halling down there?

A. No.

Q. Did you meet the defendant J. R. Robertson down there? A. No.

Q. Didn't you go down to the Gulf with the men

(Testimony of Bruce B. Jones.)

I have just mentioned to raid the A. F. of L. union down there? A. To do what?

Q. To raid it. A. Raid it?

Q. Yes.

A. I was the first guy to go back there, Mr. Donohue, and after I got back there I seen such an underground revolt was going [4247] on that I called for help. And then I think Bob Robertson and Paul Heide and I think Burton Nelson, they went into the Gulf, and I think Bjorne Halling came in to New York, and the question was not to raid the Gulf, Mr. Donohue. The question was, as I said before—that is a long story, you bringing that question of raiding the Gulf, raiding the A. F. of L.

Q. Didn't you testify this morning that there was a dispute between Mr. Bridges and Mr. Schomaker on the question of organizing the waterfronts on the East and the Gulf Coasts?

A. No, no, there was no dispute. Our union voted for it, this, that and the other. Schomaker never said a damn word against it and after it was all over, that was one of the points I brought out here, where he was degenerate morally. Instead of looking on that as a drive to better the conditions and bring unionization and a democratic union to the negroes and the white workers of the South—and I want to tell you, Mr. Donohue, and this Court, up until this Labor Board election, that was the first secret ballot the negroes and whites ever had as citizens of the United States. His reaction to

(Testimony of Bruce B. Jones.)
that was, instead of trying to uplift the human beings and to build a mighty labor union, his reaction was that that was a demonstration of Bridges' fatheadedness. That is what I said.

Q. Were there no unions on the East Coast or the Gulf Coast for the——

A. That is correct, there were. [4248]

Q. Isn't it a fact that you went there to raid those unions and not to organize the workers?

A. That is not correct. That is not correct. The kind of union they had there in New York and like that, it is a gangster's union.

Q. Mr. Ryan was the head of the union, was he?

A. He is the head of the union, had himself elected for life. He was also a member of the State Board of Pardons, so I am told, of the State of New York. He had gangsters paroled out of Sing Sing prison and put on the docks to spy and beat up the rank and file. In fact, there were men murdered back there in the ranks of the longshoremen. Pete Panto was murdered. What about you investigating some of that, Mr. Donohue? Dewey started it. That is how Dewey got his publicity. But when he got elected into office, he dropped it. He used that as a publicity point to get the people behind him because he started to buck it up. That is it.

Q. Mr. Jones, then there was a union on the East Coast and the Gulf Coast, wasn't there?

A. There was an organization dominated by racketeers that no rank and filer ever admitted was

(Testimony of Bruce B. Jones.)

a union. The majority of the locals in the Gulf were locals where the rank and file went out on strike and Joseph B. Ryan turned around and chartered scab locals. That is right. What we was doing was helping the rank and file in those locals to get control of those locals and fight [4249] for the six hour day, the union hiring hall, decent working conditions, a uniform sling load and democracy in the union. That was it. And Joseph B. Ryan was busy—you want to talk about raiding—he was busy out here. The Teamsters wanted this, the Jitney Drivers wanted the other, and I guess Brother Bridges will tell you something about the raiding here.

Q. Then you deny you went there to raid those unions?

A. That is correct, in the sense of the word as you use it.

Q. Now, Mr. Jones, what did you do with the subpoenas served upon you to appear before the grand jury?

A. I went up and saw Carlton Melin.

Q. And then what did you do?

A. Went down and saw John Schomaker.

Q. There came a time when you took that subpoena to a lawyer? A. Yes.

Q. To whom did you take it?

A. I think I showed it to George Andersen at that meeting I previously mentioned to you at 150 Golden Gate.

(Testimony of Bruce B. Jones.)

Q. Did you ever come here to the courthouse in response to that subpoena? A. I sure did.

Q. Isn't it a fact that the law firm of Gladstein, Resner, Andersen & Sawyer filed a motion in this court to quash the service of that subpoena upon you?

A. I don't know. I don't remember the details. I am not a [4250] lawyer, Mr. Donohue. All I know is I was up here. Nobody asked me any questions. They had us in that room there. Nobody asked us any questions at all. I was up here.

Q. You were told Frank Slaby was under subpoena, weren't you? A. He was there, yes.

Q. And you were told that when Frank Slaby went before the grand jury he refused to answer questions even as to what his name was, weren't you? A. I don't think that.

Q. You were not told that?

A. No, I don't remember being told that. I think I was told he did answer his name or something like that. I don't know.

Q. Were you told that Mr. Schneidermann would not answer any questions before the grand jury? A. No.

Mr. Hallinan: Your Honor, we were prevented from inquiring even as to the names of some of the people that Mr. Donohue's witnesses encountered in the grand jury room, so I think as this witness has already testified what anybody did in the grand jury room, this inquiry is beyond the realms of proper cross-examination.

(Testimony of Bruce B. Jones.)

Mr. Donohue: I shall not pursue it further, if Your Honor please.

Q. Referring now to the second visit you made to John Schomaker's home with Mr. George Andersen, Mr. Melin and the name [4251] of the third person who accompanied you was what?

A. Charles Lampert.

Q. Charles Lampert? A. That is right.

Q. What time did you get to Schomaker's home?

A. I would say it was in the mid-afternoon, Mr. Donohue.

Q. Did you go inside the house?

A. Not at first, no.

Q. Later? A. Yes.

Q. Was this the occasion on which Mr. Schomaker served you with pie and coffee?

A. Yes, that is true. It is customary to do that. If anybody comes to my house, I feel insulted—I tell you that—and I just had another invitation, Mr. Donohue, to come down and see her a couple of days ago.

Q. Did you accept it?

A. No, I didn't, because at that time her husband hadn't said a damn lie here in court about it.

Q. You went the other two times without invitation, didn't you?

A. Yes, without invitation the other two times, yes. It was a common understanding when I was in that area, I would go see them, and when they

(Testimony of Bruce B. Jones.)

were down there, they would come and see me—when they were up in my area.

Q. You knew when you went there Mr. Schomaker had already [4252] testified before the grand jury?

A. When I went there the second time?

Q. Yes. A. That is correct.

Q. Didn't you go there for the purpose of trying to find out what he had said? A. No, no.

Q. Let me ask you this: At this meeting at Mr. Schomaker's home, did you not hear George Andersen say to Mr. Schomaker, "The reason we are here is to ask you to tell us what transpired before the grand jury."?

A. I can't recall whether I did that or not, Mr. Donohue.

Q. And didn't you hear John Schomaker reply, "Well, I can't divulge what happened there"? Did that happen?

A. I may have heard him and I may not have. He would have been hypocritical if he did; either that or he would have been lying the previous time because he sat down and told me what happened or what was supposed to have happened. He never said that to me the first time.

Q. I will ask you if it is not a fact that George Andersen said, "That is true, but will you answer one question: Did you say to the grand jury whether or not Harry Bridges was a Communist"? Did you hear George Andersen ask you that question? A. I think I did, yes.

(Testimony of Bruce B. Jones.)

Q. And did you hear John Schomaker make this reply: [4253]

> "Well, I told them the truth. I said you can ask Melin or Ben the same question and they will answer the same way I answer it."

Did you hear him make that reply?

A. If I remember correctly on that, Schomaker told George Andersen that he had not told the grand jury whether Bridges was a Communist or not, or he told him he was not. I think that is it. I am not sure.

Q. Then you deny that John Schomaker just made the statement I just read to you?

A. I didn't deny it, no.

Q. Did he make that statement?

A. I don't say he did, I don't say he didn't.

Q. Let me ask you this, if it is not a fact——

A. I am not sure the other one is a fact, Mr. Donohue.

Q. Didn't John Schomaker then turn to each of the three of you, Melin, the man we have called Lampert——

A. I don't call him that. That is what he calls himself.

Q. ——and yourself—— A. Yes.

Q. ——and ask each one of you in turn did you know the answer to that one, and didn't each one of you say, "Yes," including you?

A. No, that wasn't said, no, no.

Q. And isn't it a fact that John Schomaker then turned to you and said, "You signed him up"?

A. You are a liar for saying Schomaker said that.

Q. I didn't ask you that.

A. It isn't a fact.

Q. I asked you if he made that statement.

A. It isn't a fact. At no time at these previous meetings I went down with Schomaker did Schomaker tell me in the presence of these other people anything about signing Bridges up, and it struck me very sharply when it came out in the newspapers that he said that.

Q. And isn't it a further fact that you said, "The s.o.b. was hard to get dues out of"?

A. You are a liar for saying that here, and I never said that. You are a liar, Donohue, and Schomaker is, too.

Mr. Donohue: That is all. No further questions.

The Witness: You got that, Donohue? You are a liar and Schomaker is, too, and anybody is that ever said I signed Bridges up.

Redirect Examination

By Mr. Hallinan:

Q. Mr. Jones, after you read Schomaker's statement in the paper of what he was supposed to have said, that you had made these statements, did you publish some sort of handbill to distribute to your friends on the waterfront denying these things, denying you had anything to do with signing Bridges up as a Communist?

(Testimony of Bruce B. Jones.)

A. The chairman of the Defense Committee of Local 10 asked me [4255] if I wanted to make a statement and I says, "Yes." So after the union meeting that night, on a Wednesday night, we went and explained the thing. He put it on the waterfront. There was either a typographical error in it or else he misconstrued some of the things I said. I wanted to make that statement. I am familiar with it. I couldn't crash the court and get in here. I wanted to deny it before all the maritime workers and everybody else in the State of California, that Schomaker is a liar. That kind of put the finger on me for being a stool pigeon when he brought that out, and that was the whole conspiracy and the plot of the Department of Immigration when they think that. They were going to dynamite—have Schomaker come out with that idea, and they were going to dynamite, intimidate and scare Jones, scare him with the Gestapo or try to buy him off, like your agent Max Alexander asked me. He said, "We'll take care of you." That is your conspiracy and plot, to come out in the newspaper with that stuff and try to get me boxed in with your Gestapo and go along with what Schomaker said.

Mr. Hallinan: Would you show him that document?

(Document handed to witness.)

Q. (By Mr. Hallinan): Do you recognize that document, Mr. Jones?

A. This is the letter I received from Mr. Schomaker, and that was last Friday night.

(Testimony of Bruce B. Jones.)

Q. Was it enclosed in the envelope you are shown here? [4256] A. That is correct.

Q. Is that Schomaker's address on the back of the envelope?

A. Yes, 698—yes, I think that is it—I think it is 698 or 697.

Mr. Hallinan: We offer it in evidence, if the Court please, as Defendant's exhibit next in order.

Mr. Donohue: No objection.

Mr. Hallinan: I have a photostat copy I would like to substitute for it, if the Court please.

The Court: The objection is overruled. It may be received.

Mr. Hallinan: There is no objection.

The Court: I thought I heard an objection.

Mr. Donohue: I offered no objection.

(Letter and envelope referred to were thereupon received in evidence and marked Defendant's Exhibit 1-N-1.)

Mr. Hallinan: This is a letter addressed to Mr. Bruce B. Jones, Box 365, Sausalito, California, with the postmark "Menlo Park, California, January 17, 9 a.m., 1950." On the back "698 Menlo Oaks Drive, Menlo Park, California."

The letter reads:

> "Menlo Park. Hello, Ben. How have you been? Since you have lots of time on your hands, how about dropping down? There is plenty we can talk about. As ever, Roza."

(Testimony of Bruce B. Jones.)

Q. Now, you said in answer to a question of Mr. Donohue, you are a free-born American citizen Were you born in this [4257] country, Mr. Jones?

A. That is right, in Maryland.

Q. How many generations?

A. My mother and my father were born here. My grandfather fought in the Grand Army of the Potomac. I have all his records written on the battlefield around Richmond. And his people were here—in fact, he emigrated into Maryland from the State of Pennsylvania at the time of the Civil War. He first joined the Pennsylvania Volunteers, and as far back as I know, in the records of the family, they have been in the United States for many years.

Q. He fought in the Union Army of the Civil War?

A. The Grand Army of the Potomac, that is right. Members of my family have been in the American army in every war this country had.

Q. You tried to enlist in the last war, did you?

A. I did. When the war started, I went down to the United States Navy and I signed an application, took a physical examination, and they told me they would let me know if I was accepted or not. I waited quite a bit of time, and finally I received a document signed by an officer in the Navy that said my application was denied. And I took that application and I put it in the safe deposit box, and my understanding of the rules of the United States Navy is that any time you apply for service in the

(Testimony of Bruce B. Jones.)

armed forces during the war that they can [4258] turn you down without stating a reason, but after the war is over, I understand that they have to give you the reason, and I've got that in a box in a bank, and I am keeping it. And when the United States is officially declared at peace, or when this last war is finally declared over, I think I am going to try to find out who it was that denied me my constitutional rights to defend this country against aggression.

Q. Mr. Donohue asked you if you are sometimes known as Ben Jones, and you said yes.

A. That is correct.

Q. Why do you use the name Ben?

A. Well, it is a kind of an easy name.

Q. You think Bruce is a little fancy?

A. It is a little bit around some of these gang bosses that haven't had a hell of a lot of education to write, this, that and the other. We got guys that are prizefighters. We have strong arm Louie, Pour-it-on Such-and-such, we have all kinds of funny names down there. I like the name of Ben. It is an easy name.

Q. You said something to Mr. Donohue in answer to some questions of this about murderers and gangsters in the unions on the East Coast.

A. That is right.

Q. Will you tell us a little more what you mean by that? A. Well, that's a long story. [4259]

Q. We will listen.

(Testimony of Bruce B. Jones.)

A. You see, the way it works in New York is—and even some of the big shipping companies are trying to stop it and they couldn't get anywheres with it—there is a tax called a loading tax put on all the cargo coming off a truck going onto a dock or from the dock onto a truck. There is an extra charge that the shipper has to pay, and the official name of this—well, the unofficial name of this is called a loading racket. The guys that do this work belong to Ryan's union, the ILA. Here the Teamsters do it. But these guys in New York belong to Ryan's union definitely, a local of the ILA. It is all on paper. And these are the guys that are paroled out of Sing Sing, hoodlums, this, that and the other—strong arm boys. Lots of times they don't even touch it. They get somebody else to do it and they pay him a little bit for it. But they stand around at all times on the dock in case somebody squawks about too many things on a load or some guy comes out on the dock known as a militant trade unionist, they beat him up, this, that and the other.

Q. Who is Pete Pantos?

A. Pete Pantos is a guy that lived in Brooklyn, a longshoreman there. He was the leader of the rank and file movement in Brooklyn. He was murdered by this outfit called Murder, Inc. And Dewey, when he got started, he was just a small time guy. He got started. He was district attorney there or something [4260] like that. And he built up a big name for himself by exposing these rackets around there. There was some rackets among the poultry producers. When the trucks came in with the chickens from upstate New York, they had to pay a fee to get over the bridge. He exposed a lot of them. And all the rank and filers, the guys that worked for a living around there, was hoping to get Dewey to expose this loading racket.

And there is another guy down in New [4261] Orleans.

I hear a lot about aliens, but the guy that broke Halling's jaw down there with a club, he was an alien, Mr. Barber and Mr. Donohue. He was in a gang that ran over there from Mexico, ran around with clubs and beat up people. I don't know whether he was the guy that attacked Bob Robertson and crippled his back or not, but I was told that. Why don't you investigate some people like that?

Q. Mr. Jones, let me ask you this: You said that the unions on the East Coast and the Gulf were undemocratic unions; they are controlled by bosses and gangsters. By that do you mean that the rank and file did not get an opportunity to vote for the reelection of officers, and so forth?

A. That is right, and the first thing is anybody can join Ryan's local when you go around there. They don't care whether you work or not. Give them the dough and he gives you a book. Most of the officers are in an office I would say about 25 per cent as big as this courtroom, but they have thousands of men there that pay dues in there. They never have meetings.

A democratic local is a local like ours, where we have microphones all over the floor and we have a chairman up there, and a man is entitled to speak on the subject that is on the floor, and to express any opinion he wants. That is what I mean by a democratic local. They haven't got that in New York. [4262]

Another thing he uses in the Gulf is two separate locals, one for the Negroes and one for the whites. They have that in Baltimore, too. [4262-A]

Q. What is the rule out here?

A. Every man who works in the industry belongs to one local.

Q. What about the——

A. There is no Jim Crow. In the Gulf there is Jim Crow locals like that. He forced them into Jim Crow locals. When the whites get ready to strike the Ryans just go over and say this, that and the other, they use one against each other, it makes it difficult for everybody in two different locals to go together in unison. The shipowners benefit from it.

Q. In San Francisco and on the West Coast in the organizations of which Harry Bridges is president, are those democratic unions?

A. They are.

Q. How do you mean? Tell us what you mean by that.

A. Well, we have all kinds of committees—grievance committee, all kinds of committees in the union. The rank and file is participating in the functioning of the organization, deck and gang stewards, welfare, safety committees and executive boards and all various kinds of committees.

Then we have this local meeting once a week, and every man has a full right before any of these committees. For instance, if he has violated a rule or something, he goes before the grievance committee and gets a hearing. If he is found guilty by the grievance committee, then he may appeal such ruling to the executive board. In the meantime, whatever [4263] the reprimand was is held in abeyance. Then if it happens that the executive committee, they still hold against him, then it is still held in abeyance until it goes to the general membership. There it is read before the membership, and at the general membership the final action is taken, and at which time he has a full right to get up and explain in detail his rights. Then we have elections. All of the officers are elected by secret ballot. Every major issue that we have before us is generally put to a secret ballot. If it wasn't put to a secret ballot, it is only because the rank and file didn't want the secret ballot. That is the trouble around here. Everybody gives Bridges credit for doing a lot of things, when the truth of the matter is, any major thing that is ever done that I have knowed about, it was brought before the local and they told him to do it. That's right. There is other people

(Testimony of Bruce B. Jones.)

down on the waterfront. Bridges is a great guy and I am for him. There is other people down on the goddam waterfront there, a lot of Jim Higginses and honest men of the rank and file. That's right. That is what I mean by a democratic organization.

Q. How long are the officers elected for?

A. The officers in the local are elected for one year. They can run to succeed themselves, but after two years they have to return to the industry and work a year.

Q. In other words, an officer cannot remain in office after [4264] he has served two years?

A. Without going back to industry and working one year.

Another point is this democratic action. As I see it, the whole crux of the situation is the joint action of the seamen and longshoremen together, all the maritime workers. That is industry unionism. That is what Bridges stands for, and that is the reason why they are out to get him, because he stands for unity, and they are against that unity, and they raise all kinds of hollers and everything to try to get Bridges.

Q. Do you think they are trying to get Bridges or to get the union?

A. They are trying to get Bridges and the union both together at the same time. They are trying to get the union. They are raising this smoke screen against Harry Bridges, that's it. They are not concerned with Bridges as an individual any more than Donohue is concerned with me or Barber

(Testimony of Bruce B. Jones.)

when his agent asked me—told me that they would take care of me. You are out to smash the union, and the proof of it is, Barber and Donohue, is the lies Schomaker told up here about me signing Harry Bridges up into the Party.

Q. If there are enough like you in the union, Mr. B. B. Jones, I think anybody will have a hard time smashing the union.

A. Well, I got a point on that, Mr. Hallinan. I expect [4265] after this thing is over I will have to go around with a tin hat, because last night I was coming out Market Street and a cop stopped me and started to argue. He says, "You are B. B. Jones; don't you know me?" And then I says, "Who are you? I don't know you." "I used to be in the Red squad," he says, "don't you remember me?" He said, "I was on the Red squad on the strike in '37."

I said, "What strike are you breaking now?" That is the point we are up against.

Mr. Hallinan: I think that is all.

Mr. Donohue: I have no further questions, your Honor.

Mr. Hallinan: We have no further witnesses until tomorrow.

The Court: We will take the afternoon adjournment, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions and not to converse with any person on any subject of the trial, nor to form or express an opinion thereon until the matter is finally submitted to you.

(Thereupon an adjournment was taken until Wednesday, January 23, 1950, at 10:00 [4266] a.m.)

Wednesday, January 25, 1950—10:00 A. M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Hallinan: We had a subpoena served on a Mr. J-for-John Everett Houser. Might he be called? Is he available?

J. EVERETT HOUSER

called for the defendants; sworn.

The Clerk: Will you state your full name to the Court and jury, please.

The Witness: J. Everett Houser, H-o-u-s-e-r.

The Clerk: J. Everett Houser?

The Witness: Right.

Direct Examination

By Mr. Hallinan:

Q. Mr. Houser, where do you reside?

A. 814 Security Building, Long Beach, California.

Q. And then do you live in that vicinity also?

A. Yes, sir, at 3945 Myrtle Avenue, also in Long Beach.

Q. How long have you lived in Long Beach?

A. Since 1922.

(Testimony of J. Everett Houser.)

Q. Continuously?

A. No, sir, for three years during the last war I lived in San Francisco.

Q. And at what address? [4267]

A. 637-37th Avenue, I believe it was.

Q. Now, you are an attorney at law, are you not, Mr. Houser? A. That is correct.

Q. You have been practicing continuously except for that period for some considerable time, is that correct? A. Since 1929.

Q. Where were you born, Mr. Houser?

A. In Iowa.

Q. And came to California when?

A. 1920.

Q. And you were admitted to practice in California in 1929? A. That is correct.

Q. And then you practiced continuously until what year when you came up to San Francisco?

A. 1942.

Q. 1942. Were you a member of a firm, or did you practice individually by yourself?

A. I have always been in partnership.

Q. With whom?

A. My partners have varied, but I have always had my father with me. At one time I also had my brother associated. At present I have a third party.

Q. The name of the firm has been Houser & Houser for a long time, is that right?

A. No, sir. It was in that form for a period of about five [4268] years.

Q. I see. Well, now, when you started practicing law in 1929 where was your office then?

A. In the Security Building.

Q. Had your father been a lawyer before that?

A. Yes, sir.

Q. And had he an office in that building prior to that time? A. Yes, sir.

Q. And for how long, do you know, prior to that? A. Since it was built in 1925.

Q. And then in 1929 you opened offices with your father or you joined your father's firm and remained there until 1942 when you came to San Francisco? A. That is correct.

Q. Are you a married man, Mr. Houser?

A. Yes, sir.

Q. Have children? A. Yes, sir.

Q. Is your name in the telephone book? It sounds rather silly to ask this, but it is a necessary thing. Has your name been in the telephone book continuously during that time in Long Beach?

A. Yes, sir. It may have been omitted during those war years I spoke of.

Q. You have been, of course, continuously registered with the [4269] State Bar of California as a practicing attorney?

A. Yes, active status during the entire time.

Q. Paid dues each year and had the certificate of permission to practice issued to you?

A. Yes, sir.

Q. When you came to San Francisco in 1942

(Testimony of J. Everett Houser.)

you were employed then as an attorney, I take it, by the Immigration Department, is that right?

A. No, sir, that isn't classed as an attorney; that is classed as a naturalization examiner.

Q. And then you held that position for three years, leaving, I take it, in 1945, is that correct?

A. Yes, July 1.

Q. And then you returned to Long Beach and resumed your practice there? A. Right.

Q. And have been there continuously ever since?

A. Yes, sir.

Q. From the time that you left the Immigration Department in 1945 up to the present time have you been in touch with any members or officers of the Immigration Service? A. Yes, sir.

Q. And when? How many times since then?

A. I presume you mean in relation to this case?

Q. No, prior to this case. [4270]

A. Well, yes, I conducted a naturalization for one of my children.

Q. When was that? A. In 1947 or '8.

Q. And in that connection did you meet some of the officials of the Immigration Department?

A. Some that I hadn't known before, yes, sir.

Q. And any that you had known before?

A. Yes, sir.

Q. Had you been acquainted with some of the staff in the Los Angeles area, or in the San Francisco area—which?

A. I foun in dealing with the Los Angeles

(Testimony of J. Everett Houser.)

office that one of the San Francisco men had been transferred there.

Q. Who was that?

A. Mr. Lloyd Garner. I renewed acquaintances with him.

Q. That was in 1947?

A. I believe so, '47 or '48. I have also had other contacts. You speak of other contacts. Two of the men in San Francisco have seen me from time to time just as a friendly visit.

Q. Who are they?

A. Mr. Antonelli and Mr. Bonsall. Mr. Stiller, too, I met last fall at a football game.

Q. Do you know Mr. William Kaiser?

A. No, sir.

Q. Or Mr. Kesler? [4271] A. No, sir.

Q. Do you know Mr. Kidder?

A. No, sir, I don't recognize those names.

Q. Do you know Mr. John Boyd?

A. No, sir.

Q. You never met him?

A. I don't believe so. I don't remember the name.

Q. Do you know Mr. Bruce Barber?

A. No, sir.

Q. Do you recognize his name either?

A. No, I don't.

Q. Now, since the inception of this case have you talked to any of the officers or employees of the Immigration Department, agents?

A. I will have to ask when the inception was.

(Testimony of J. Everett Houser.)

Q. The trial started on the 14th of November 1949; that is last November.

A. Yes, sir, I think it was after that date that I was visited by a member of the Immigration Service from the Los Angeles office.

Q. What was his name?

A. I don't remember. He showed me his identification, but I didn't make any note of it.

Q. Had you met him before? A. No.

Q. In relation to what particular matter did he interview you?

A. He wanted to know what I could recall about a civil action which our firm had filed against Harry Bridges in 1937 for the collection of damages on account of the death of a boy who had been killed by a car driven by Mr. Bridges.

Q. He wanted to know what you knew about the matter? A. Yes, sir.

Q. Did he discuss with you then the pendency of this present case?

A. Only to mention that it was pending.

Q. Had you seen the papers and known from your own information obtained aside from anything he said that such a case was on file?

A. Yes, sir.

Q. Do you know whether or not the case had yet proceeded to trial at the time this man called on you? A. I don't think so.

Q. About how long prior to the time it proceeded to trial did he call on you?

A. May I ask when it did proceed to trial?

(Testimony of J. Everett Houser.)

Q. The 14th of November, 1949.

A. Well, that must have been just about the time he called on me.

Q. Did anyone from the Immigration Service call on you after that? [4273]

A. No, sir, the next call I had was from you.

Q. And then when I called upon you, that was in the Christmas vacation, the last Christmas vacation? A. It was a telephone call.

Q. Oh, there was a telephone call first?

A. Yes, from a person who gave your name.

Q. Yes. What was the inquiry on that matter, do you know?

A. Yes, the substance of the conversation was did I know that my name had been mentioned as the preliminary examiner for a man by the name of Schrimpf, and could I recall the man. And I told him I certainly could not. And then the question was asked as to what inquiry was made at that time as to Communistic tendencies of an applicant for naturalization. And I told you at that time on the phone. I am speaking now of the telephone conversation.

Q. Then after the telephone conversation did somebody representing me call upon you?

A. No, you called yourself.

Q. Didn't some attorney from Long Beach call upon you the day after you had the phone conversation? A. No, sir.

Q. It was not I who phoned you but someone phoning at my direction. A. I am sorry.

(Testimony of J. Everett Houser.)

Q. How long was that prior to my visit to you, do you remember? [4274]

A. Yes, that was about a month.

Q. About a month before. And then I called on you during the Christmas vacation at your office in the Security Building? A. Yes.

Q. And asked you pretty much the same matter, is that correct?

A. There were some additional things discussed.

Q. They related to the examination of Schrimpf, is that right?

A. And the practice of the Naturalization Department.

Q. And whether or not you had been consulted by the immigration authorities prior to that time?

A. Yes, sir.

Q. And you told me that a man had been over to see you from the Los Angeles office on this matter about a month before? A. That is correct.

Q. Since that time, since my visit to you, have you had any contact with the Immigration Service?

A. No, sir.

Q. And nobody called upon you?

A. No, sir.

Q. Or talked to you? A. No, sir.

Q. Since your arrival in San Francisco in response to this subpoena, have you talked to any of the officers or attorneys for the Immigration Department? A. No, sir. [4275]

Q. Did you notify them that you had been subpoenaed? A. No, sir.

(Testimony of J. Everett Houser.)

Q. You were the examining officer for a man named Henry Schrimpf, according to such records as we have here. Do you remember Schrimpf personally at all?

A. No, I do not. That has been eight years ago.

Q. I want to show you these documents, those that have been introduced in evidence under the numbers Government's 6 and 7; you are familiar, I take it, generally, with that type of document, are you? A. I was at the time.

Q. Let me ask you this, Mr. Houser: In addition to those documents that you see there, in the ordinary course of your duties as an immigration inspection officer, would there be other documents relating to questions put to Schrimpf or matters adduced from him?

A. I was not in immigration work at that time. I was in naturalization. Could I hear the question again?

(Question read.)

A. Yes, there would.

Q. What would it be?

A. These papers do not include the photograph, which are always discussed, signed by the applicant. There is nothing here in regard to military service, which was a very vital subject at that time, and a form was taken from the applicant in regard [4276] to that showing what his military service was or military status, whether he is registered or not

(Testimony of J. Everett Houser.)

under the Selective Service Act. There is also a statement taken in regard to arrests, the criminal record, if any, of the applicant or his freedom from any criminal record.

These papers also indicate that this application was filed as the spouse of a citizen, which means that we would have to have documents establishing a valid marriage and a termination of any prior marriage by divorce, death or otherwise; and also documents to establish the citizenship of the citizen spouse, either a birth certificate or some other record. There is nothing here to indicate whether the applicant had anything in regard to his preparation for citizenship by training in a school. Very often a teacher's certificate is presented.

There would be other questions put to the witness, but eliminating that from the picture, I think that is all I can recall at this time as to other documents or questions.

Q. Were questions at that time ordinarily addressed showing membership in or affiliation with the Communist Party? A. Yes, sir.

Q. And would that be reduced to writing and as answers in response to that?

A. No, no, not ordinarily.

Q. Would you have made a memoradum as to his replies?

A. Only in case it was adverse, that is, something that required [4277] further investigation.

Q. In other words, if a person stated he had been

(Testimony of J. Everett Houser.)

a member of the Communist Party but had left it, you would have made a notation of that, is that correct?

A. Yes, that is correct. I think that question is also covered in the printed application form here as to a believer in anarchy or unlawful damage, injury or destruction of property. I am reading from question No. 28 in the application form.

Q. Yes, but over and in addition to that printed form, as I take it, you would also question him directly and specifically upon his connections and affiliations with the Communist Party?

A. No, that would depend upon the examiner as to how the questions were put.

Q. What was your own practice?

A. My own practice is in the same way that you would question a witness, I think, to find some supporting evidence before the direct question is put as to membership. For example, whether he owns property, real estate or personal property, such as a car or jewelry; whether he thinks the Government should interfere with the ownership of real estate or personal property of that kind or some other kind; and what military service he had actually contributed to the welfare of the United States, whether he had made some other contribution such as by the investment of his money in war bonds or to the Red Cross or by the giving of blood. And other questions—I could go on at [4278] length if you want me to—which would indicate some leaning or affiliation with things for which Communism

(Testimony of J. Everett Houser.)
stands, instead of asking him directly, "Are you a Communist?" If he showed some inclination, yes, it would certainly be proper to follow it up then with the $64.00 question, "Are you a Communist?"

Mr. Hallinan: Your Honor, I am going to ask that the Government now produce the memoranda described by the witness that are not included in this document. Might we have such an order?

Mr. Donohue: I think, if your Honor pleases, when this matter first was called to the Court's attention, that we introduced the documents which were pertinent to the inquiry here and told your Honor that we would be glad to produce for your Honor's inspection any other document or documents which are in the files of the Immigration Service. They are privileged under the law, and as I understand the law, it is your Honor's right and our duty, at your Honor's request or direction, to give such documents as we consider privileged to your Honor and if your Honor feels that any part or all are pertinent to the inquiry, then your Honor may direct such part or parts or all may then be offered in evidence, and we shall be glad to do that.

Mr. Hallinan: I do not know of anything that makes them privileged, your Honor, and the jury is entitled to see them. This is a question very directly bearing upon Schrimpf's motives [4279] and credibility. There should not be any of these artificial guards thrown around disclosing what he did say or didn't say. We ask that the documents be presented.

(Testimony of J. Everett Houser.)

Mr. Donohue: We shall be glad to comply with any direction of your Honor, but I have simply stated to your Honor what is well recognized as the rule of all the departments, that the files of any department of the United States are privileged, and we offer those to your Honor.

Mr. Hallinan: The documents were brought out with relation to Harry Bridges, Robertson and Schmidt. I do not see why a different rule prevails with regard to Schrimpf. If they are privileged as to him, they are privileged as to them. I submit that they should be produced so the jury may know and find out what Schrimpf said, what his motives were, what disclosures he made.

Mr. Donohue: Again I say it is for your Honor to determine whether there was any pertinent material in those files or in the files which should be presented to the jury, and on that point, of course, we will follow your Honor's direction.

The Witness: Your Honor, in view of this motion I would like to clarify one part of my testimony, and that is the original documents produced by an applicant are returned to him; for instance, the Selective Service card or his documents to establish marriage or previous termination of marriage—those are returned to the applicant the same day he is examined. [4280]

Mr. Hallinan: Yes, but I am not talking about those. I am talking about the notes that you took.

Mr. Donohue: He has not said he took any notes yet, if your Honor please.

Mr. Hallinan: He admits he has some documents. Now let him produce them, show them. He certainly should show them to the Court, let the Court look at them. They said in answer to some questions of Mr. MacInnis:

> "I would like to request of the Government prosecutors that we be given now the copy of the transcript of such preliminary questions as were put to this witness and the two men who were his witnesses.
>
> "Mr. Paisley: There is no such document in existence, according to my information and belief.
>
> "The Court: I will make an order that it be produced. If it is in existence, produce it.
>
> "Mr. MacInnis: We ask that the Government prosecutor, if the record cannot be produced, or if it is not now in existence, produce the notes or memoranda of the hearing officer who questioned Mr. Schrimpf, Mr. Arms and Mr. Jensen.
>
> "Mr. Paisley: I am informed by Mr. Boyd, who certainly ought to know, your Honor, that this is the complete record of the Immigration Service."

And then Mr. Donohue: [4281]

> "I must say to your Honor, as long as counsel has raised the point, that the hearing examiner, from our records, who conducted this hearing, is no longer in the Immigration Serv-

> ice, and we have made every possible human effort, since this matter came to our attention a day or two ago, to locate him, that we may bring him here, and we can't find him.
>
> "The Court: Are you prepared to disclose his name?
>
> "Mr. Donohue: His name is Houser. We understood he was an attorney practicing law in Los Angeles. [4282]
>
> "Mr. Donohue: His name is Houser. We understood he was an attorney practicing law in Los Angeles. I called the Los Angeles office of the Immigration Service the day before yesterday and asked them to make every human effort to locate him, that I wanted to talk to him."

And then Mr. MacInnis made the point that Mr. Houser's name did not appear on any of the documents here, that Mr. Houser's name was designated as examiner; that there must be some record in their possession that ought to have Mr. Houser's name on it. He said, "Now they say that this is the full record. If the name of Mr. Houser appears on some records, so that it could then be transmitted into the mind of Mr. Donohue, we would like to see that record."

> "Mr. Paisley: We have voluntarily given them everything that this witness signed in any capacity."

The Witness: Your Honor——

Mr. Hallinan: We asked, if the Court please, that they be required to produce the documents here and, at the very least, if the jury and the defense are going to be barred from looking at them, that your Honor first pass upon and determine whether that is a fair treatment.

The Witness: Your Honor, I believe that Mr. Hallinan has misinterpreted another part of my testimony. I didn't say that these documents were made in this Schrimpf case, [4283] because I can't recall the Schrimpf case.

Mr. Hallinan: I know. I grant that.

The Witness: I was just testifying to the general practice.

Mr. Hallinan: They just said now they have some more memorandum, Mr. Houser, but they say that they will not produce it and show it to the Court. I am not talking about your testimony.

Mr. Donohue: We made no such statement, if your Honor please, because there is no memorandum made by Mr. Houser or anyone else, and I say that Mr. Hallinan is in error when he said that we learned the name of Mr. Houser from some other document, because if Mr. Hallinan will look at the documents in Mr. Houser's hands which have been in evidence since last November, you will find Mr. Houser's name on this document.

The Witness: That is correct.

Mr. Donohue: That is how we learned the name

(Testimony of J. Everett Houser.)

of Mr. Houser. There is no memorandum, there is no transcript, there is no record of any question or answer this witness made of Mr. Schrimpf on file in the immigration office or in the naturalization section of the immigration office. There is further information about Mr. Schrimpf, but it has nothing to do with his application for naturalization.

Mr. Hallinan: Have you anything about Schrimpf being or not being a Communist?

Mr. Donohue: That is the complete file of the naturalization [4284] proceedings of the witness Henry Schrimpf.

Mr. Hallinan:, If the Court please, under ordinary circumstances, one accepts these matters without further question; but our experience in this case has been a rather distrustful one about getting such things. I have, your Honor, a teletype from Washington that I want to call your attention to.

> "To Leonard from Glazier"
>
> Mr. Norman Leonard is assisting us in the matter.
>
> "Re Michener"
>
> Archives of War Labor Board state that all employees had to file personal history date under Form 57.
>
> Mrs. Patterson told me that she had orders not to discuss his file or the affidavit she had signed. I asked her point blank whether his complete file had been submitted and she refused to answer. She told me she had been

> ordered to send me to Harris Shane Director of Personnel for the Department of Labor.
>
> Shane confirmed that Patterson had been ordered not to talk to me. He said that the Department was the repository of the personnel files of the WLB but refused to discuss the contents of Michener's file. He would not tell me whether the documents and affidavit covered the entire contents of Michener's files and would not even state that he or others with a similar position had had [4285] to fill out a Form 57. The attitude of both of them convinced me that someone is pulling a fast job."

In this statement Mr. Glazier says that both Mrs. Patterson and Shane told him that she had been ordered not to talk to him.

We put through a telephone message to Mr. Glazier on this particular matter and had him go to the department to find out these things. And how they knew that Mr. Glazier was interested, I don't know.

Might I see that Michener document that has been marked for identification? It is a photostat that we brought in, returned to you yesterday.

Mr. Donohue: May I ask, if your Honor please, if this is a pertinent matter with respect to the inquiry of Mr. Houser?

Mr. Hallinan: It is, I think, with regard to the disclosure of the documents and our right to insist upon them.

(Testimony of J. Everett Houser.)

Mr. Donohue: We offered them last week and you didn't want to accept them.

Mr. Hallinan: In this Michener document, your Honor, there is an affidavit by this Louise C. Patterson in which she says:

> "I hereby certify that the folder containing personnel documents relating to the employment of Lew Michener, appointed February 11, 1943, with the National War Labor Board, Executive Office of the President, Office [4286] for Emergency Management, which was transferred from the National Wage Stabilization Board (the successor agency to the National War Labor Board) to the Department of Labor by executive order 9809, effective February 24, 1947, does not contain an oath of office, standard Form 61."

This is sworn to before a notary.

Then there is affixed another document.

> "To Whom It May Concern:
>
> I hereby certify that the attached photostatic copies are true copies of the records contained in the personnel folder of Lew Michener, appointed February 11, 1943 with the National Labor Relations Board,"

and then the rest of the matter about it being transferred to that department.

Then we have an unsigned statement on this form 57 by Michener. The name is typed in at the end, Lewis Herbert. The questions with relation to his previous arrests, to his membership in subversive organizations, contain no answers. There is, as I say, no signature, but in the front of one of the documents it says this, a document signed by Ernest Pinnelley, Personnel Officer:

> "Original oath taken December 29, 1942. Since there has been no break in service, no new oath has been taken." [4287]

So the document bears upon its face internal evidence that the personnel file contains more than has been produced before the Court.

Now, if this were the first instance of the kind, your Honor, it might seem to be unjust or undue criticism to suggest that some definite effort is being made by some of the officials of the Immigration Department to prevent the truth and the real documents being presented in court. I can't see any reason why these people should receive instructions that they were not to discuss this matter. Ordinarily, these are considered public records. They are not even allowed to discuss them. They can't say to the man that there are or are not other documents. This is brought in here simply on the ex parte statement of counsel. He presents it, hands it in with a certificate on it that does not disclose whether there are other documents. And I submit, your Honor, that not only with the Michener matter but with this Schrimpf thing, that the effort has

(Testimony of J. Everett Houser.)

been deliberately made to suppress such documents, to conceal them, to prevent the defense from getting them; and certainly and emphatically for the prosecution not to produce them themselves. Now, I think that what the Court should do is this: that you should order, not Mr. Donohue, because he hasn't charge of them; I suppose he just relays what he is told by people in the Immigration Department, but order Mr. Bruce Barber to forthwith deliver to you [4288] all papers of every kind relating to Henry Schrimpf and that you examine them. We would like to get a chance to look at them. We are not concerned with Mr. Schrimpf, who he may be or anything about him, except as it bears on this case. We would like to present those matters to the jury and let them see them. Will your Honor do that?

I also ask that your Honor now order these people to produce the entire file relating to Lew Michener's employment in the matters discussed in the document that has been marked here for identification.

Mr. Donohue: If your Honor please, I see no reason why we should have to do the work for the defense, but we have sought to facilitate their effort as best we can. There was no duty on the part of the United States to produce any record concerning the witness Lew Michener. The duty was on Mr. Hallinan, as chief of defense counsel, to issue a subpoena out of this court directed to the Department of Labor in Washington, requiring the delivery to this Court for his inspection of the records

(Testimony of J. Everett Houser.)

of the Department of Labor. When that was not done, and when Mr. Hallinan raised the question about the answer which either he or Mr. MacInnis said he knew that Mr. Michener had made to a question as to whether or not he had been a member of the Communist Party, we then sought to do their work for them and procured from Washington a certified photostatic copy of the Form 57 filled out in part in [4289] typing, but never bearing the signature of Mr. Michener. And your Honor will recall he said on the stand he never signed any such document. It is the responsibility of the defendants. Now, I don't know who Mr. Glazier is in Washington. I do know who Mr. Norman Leonard is in the City of San Francisco, and it is perfectly apparent to your Honor, as it must be to everyone in this courtroom, that no person—Mr. Glazier or Mr. Leonard—can go into any office of the United States Government and say, "I want to look at the personnel file of John Smith." Every Government employee has a right to believe that his personal files are kept secret and that they are not open to the inspection of Mr. Glazier, Mr. Leonard or anybody else. The proper way to get those records, if there are any more—and if there are any more, I know nothing about them—the proper way to get those records here is for Mr. Hallinan to do his duty by his clients and ask your Honor to issue a subpoena directed to the Department of Labor and bring them here.

Mr. Hallinan: Might I suggest this, your Honor: that the gentleman who just spoke, although only a special prosecutor appointed briefly to do a particular job, is nevertheless a part of the United States Government while he is doing that job. And these other gentlemen sitting at the table are part of the United States Government. So is the Department of Labor. So is the Immigration Department. All these files [4290] and records are available to them. They have them in their possession. The Court is part of the United States Government. The Court is interested in seeing that these things are brought here in the quickest and most expeditious way. And when the officers of the Government are directed or requested or ordered by a court to produce certain documents, they should do it without quibbling as to whether Hallinan or anyone else is doing his duty by his clients or whether he should get a subpoena issued. It is to the Court's interest to see that the documents are produced as rapidly as possible.

Your Honor directed these gentlemen to produce these documents. At that time they did not refuse. Mr. Donohue did not get up and say, "I am not going to do Mr. Hallinan's job"—if it be my job. And in these Federal Courts it has always been the rule and always been the custom, where documents were in the possession of the United States Government, or any branch of it, for the prosecution to produce the documents, and this quib-

~~bling~~ about whether or not we ignore our duty, or how it should be done, comes in extremely bad form and bad grace. I suggest, your Honor, that these gentlemen be directed to produce their files, because all the files of the United States Government are open and available to them. When they can even direct persons connected with the archives not to discuss the matter with us, how can we find out who is the person in charge or how can we get them [4291] to produce the documents when we do not know where they are? Another thing: For us to bring people out here means that we have to spend several hundred dollars that these working men can ill afford to dig up out of their hard-earned wages to pay to bring people out from Washington to produce their records. We have to pay airplane fares, per diems, and services of marshals. To bring Mr. Houser here has cost $110. We can't afford to do that. Your Honor has told these people to produce them. It isn't a question that you asked Mr. Donohue for him to quibble about; they were told to bring them here. They are not bringing them as your Honor suggested; by bringing a portion of them they are practicing a larger deceit than if they didn't bring in anything at all.

Here is a misleading thing, in this statement of Michener's. Anyone that has had experience with these Government agencies knows that you cannot leave parts of a statement on an application blank, not fill them in at all, not state whether you have been arrested and not state whether you have been a member of a subversive organization, and still get the job. Whoever accepted the document would be subject to severe censure if he did so: We now ask that the documents stated by Mr. Donohue to be in their possession which are so secret that they dare not let me see them, that they be produced, and we be given a chance to look at them.

The Court: One or two questions of this witness. [4292]

Q. Do I recall your testimony correctly, that you did not have any additional memorandum of your own in connection with the application of Mr. Schrimpf?

A. As to the application of Mr. Schrimpf, I am unable to state because I don't remember that particular case. I have testified, at Mr. Hallinan's request, regarding the general practice at that time as I recall it after eight years, and in that I have stated that, as I recall it, there was a printed form in relation to the Selective Service card and military service record of the applicant, a mimeographed form which was filled out, and I don't recall whether the applicant signed it or not. [4293]

And I notice from this paper that he evidently had no Selective Service card, so it is just possible that that form was not filled out; it was deferred until the card was produced or some evidence of his registration.

(Testimony of J. Everett Houser.)

I also stated it was customary at that time, whether it was done in the Schrimpf case or not, to have the applicant sign a written statement regarding his criminal record, if any, or his freedom from arrests, and that would be signed by the applicant and not by the examiner.

Q. As part of your duties, did you pass upon this application, sir?

A. I made a preliminary examination and a recommendation to the designated examiner.

Q. Where does the recommendation appear?

Q. On the front page of United States Exhibit No. 7 at the line in the bottom half of the exhibit which says, "Recommendation of Preliminary Examiner."

Q. It states "SS Paid; otherwise passed."

The Witness: May I look at it again?

Q. "Paid, p-a-i-d."

The Witness: The word is "card," your Honor, and the "SS" stands for Selective Service card, which was the abbreviation in use at that time, and "otherwise passed" is correct.

Mr. MacInnis: Pardon me. In aid of the questions which your Honor was just now putting to this witness, I would [4294] like to make this observation, which I am sure will be within the realm of your memory. In 1940 there was passed the Smith Act.

The Court: Mr. MacInnis, I sometimes welcome your observations, and sometimes they are uninvited.

Now I am addressing questions to this witness, and I hope that we can proceed, to the end that I may answer the question presented by Mr. Hallinan. Mr. Hallinan posed a question to this Court. I am trying to answer it.

Mr. MacInnis: Your Honor, I am not trying to interfere. I think this will be of assistance in clearing up this subject.

The Court: May I ask you to defer it, Mr. MacInnis, please.

Mr. MacInnis: If you so rule, I will.

The Court: Let me solve this immediate problem. I think I may be able to solve it. There are two problems before me. Mr. Paisley, do you have some communication to make to Mr. Hallinan?

Mr. Paisley: No, we have none.

The Court: Any matter of legal concern that you think bears upon the matter before the Court? I think Mr. Hallinan has quite adequately presented his views. If there is some other matter of law that you wish to present to the Court, I will welcome it. My thought is that this problem can become increasingly acute if we permit—— [4295]

Mr. Hallinan: It skipped my mind about the Smith Act requiring this question.

The Court: What is it?

Mr. MacInnis: Your Honor, it was a matter of law that I wanted to call to your Honor's attention.

The Court: All right.

Mr. MacInnis: The Smith Act of 1940 empow-

(Testimony of J. Everett Houser.)

ered the Immigration Department to deport from the country any alien who at any time since his entry into the country had been affiliated with the Communist Party or with any organization described as subversive in the Form 61 which is now before Mr. Houser. And that was the act under which Harry Bridges was prosecuted in 1941. The Act was in existence in 1943, and it was within the scrutiny of the officials of the Immigration Department at that time to determine not only if any alien applying for citizenship had ever been a member of the Communist Party, but if he had ever been affiliated with that party. And that is the matter of law that I wanted to call to your attention. That is the statute under which Harry Bridges was prosecuted in 1941 on the charge that if he were not a member of the Communist Party he was at least affiliated with that party and of course it was found that he was neither.

The Court: Now, Mr. MacInnis, you finally consummated your original objective.

Mr. MacInnis: I think not. [4296]

The Court: And it is perfectly apparent to me the reason why you indicated it to me. I am familiar with the Smith Act. At the very outset of your remarks I was quite content in my own mind that you would complete your remarks in that fashion, an indirect method again of producing matters before the jury in the nature of argument. I have reached the determination in the past. We have had this discussion. Mr. Hallinan has very adequately, I think, and very properly, posed two questions to the Court, and I shall now attempt to answer them. [4297]

No. 1, with respect to this immigration matter, and without the benefit of the transcript before me, my recollection of the colloquy was that when this matter first arose, Mr. Paisley or one of the counsel was to present to the Court a file or files having some particular bearing upon this matter. Someone referred to it as a secret file at that time, as I recall. If that file be in existence, if it has any bearing upon this man's testimony, it should be produced for the Court's surveillance and perusal. Such file may well be within the realms of privilege as announced by Mr. Donohue, but I shall accede to Mr. Hallinan's request, and accordingly again welcome the receipt of such file or files.

Mr. Donohue: Within a very few minutes it will be within Your Honor's hands.

The Court: Is my recollection of the transcript correct, Mr. Donohue?

Mr. Donohue: Yes, your Honor.

The Court: In substance, without particularity. Now, with respect to the Michener matter, that comes in as a collateral argument submitted by Mr. Hallinan and purely by parity of reasoning. There is nothing in the Michener matter thus far referred to that would justify this Court or any person to level criticism upon Mr. Donohue or any of the

(Testimony of J. Everett Houser.)

other agents for, as it appears, Mr. Donohue produced, as I recall, during the argument of Mr. MacInnis the certified copy which Mr. Hallinan more [4298] recently alluded to. That certified copy is in substance and effect as Mr. Hallinan refers to it—apparently. I have not read it. If there be other and additional documents in that file bearing upon that application, if they are material they should be produced. They should be produced. The burden upon Mr. Donohue was not to produce the file. He did produce the Form 57, and any criticism directed at him or toward him is not justified. But I suggest, Mr. Donohue, rather than burden the record by the subpoena process of the Court that this particular board be requested through you as a directive from this Court to produce any and all such documents bearing upon Mr. Michener.

Mr. Donohue: If there be any further documents, we shall produce them.

Mr. Hallinan: Your Honor, another direction that was made at the same time by the Court, and it can be done at this time, is that all documents relating to the witness George Wilson be also produced. The Court made the same suggestion.

The Court: George Wilson we approach from a different level. On George Wilson—the record is not before me——

Mr. Hallinan: The documents are in the same category.

Mr. Donohue: I will produce it after the 11:00 o'clock recess for George Wilson.

(Testimony of J. Everett Houser.)

Mr. Hallinan: All right. That is the whole file.

Mr. Donohue: Yes, sir, we will offer it in evidence, if your Honor will permit me to reopen our case for that purpose. [4299]

Mr. Hallinan: Let me ask you this—no, we had better see it. Is the Schrimpf file available? Will your Honor look at it during the recess?

The Court: I will when it is available.

Mr. Hallinan: I say when it is, will you look at it first, then decide what should or should not be put in.

The Court: I will.

Mr. Hallinan: May I ask this also, your Honor: We have brought here, to be here at 11:00 o'clock, a character witness who will only take a few minutes, and if we might interrupt Mr. Houser's testimony——

The Court: That is agreeable. We will take the morning recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions nor to form or express an opinion until it is submitted to you.

(Recess.)

WALTER E. BUCK

called on behalf of the defendants; sworn.

Q. (By the Clerk): Will you state your name to the Court and jury?

A. Walter E. Buck.

(Testimony of Walter E. Buck.)

Direct Examination

By Mr. Hallinan:

Q. And where do you live, Mr. Buck?

A. 3785 Jackson Street, San Francisco.

Q. How long have you lived in [4300] California?

A. I was born in California, in San Francisco.

Q. What is your occupation?

A. I am a merchant.

Q. Will you tell us, Mr. Buck, what organizations you have ownerships in or of which you are an officer or director?

A. Yes. I am a director of the North American Oil Company, director of the El Dorado Oil Company, director of and executive vice president of the American Distilling Company, president of the Moxey Company of Boston, director of the Matson Navigation Company, director of the San Francisco Bank, director of the California Union Insurance Company, and I am a partner in N. Olhandt & Company.

Q. Mr. Olhandt is also connected with the San Francisco Bank?

A. He is a director of the San Francisco Bank.

Q. You say that you hold an office with the Matson Navigation Company?

A. I am a director in the Matson Navigation Company.

(Testimony of Walter E. Buck.)

Q. Do you also own a considerable amount of stock in that organization?

A. Yes, I am a sizable stockholders in the company.

Q. Do you have any connection with the California-Hawaiian Sugar Company?

A. No connections, except I was instrumental in bringing about settlement of the strike with the longshoremen's union.

Q. A strike or a series of strikes, one or two strikes, have [4301] recently been settled that involved the Hawaiian sugar growers, the San Francisco warehousemen, and some other collateral organizations, is that true? A. Yes.

Q. Were you one of the employers' group that was endeavoring to settle the strike?

A. Well, I was the go-between between the employers' group in the Hawaiian Islands in the stevedore strike with the union.

Q. Who were some of the employers on the Islands whom you named?

A. Well, Castle & Cook, C. Brewer & Company, Alexander & Baldwin, Theodore H. Davies. I think that covers it.

Q. Those are four of the so-called Big Five of the Hawaiian Islands?

A. Yes, and the American Factors.

Q. They control a great deal of the economy of the Hawaiian Islands, is that correct?

A. They are very largely interested down there.

(Testimony of Walter E. Buck.)

Q. Has the San Francisco Bank got certain commitments and certain interests also in those companies or in their operations?

A. No, they have not, not the San Francisco Bank.

Q. Then the Matson Navigation Company operates ships where?

A. To the Hawaiian Islands, between the Pacific Coast and the Hawaiian Islands.

Q. About how many ships have they? [4302]

A. About 15, I think.

Q. Including the Lurline, Matsonia and some of those well known names? A. Yes.

Q. In endeavoring to settle the strike, whom did you deal with on the workers' side, Mr. Buck?

A. Mr. Bridges.

Q. Was he the chief person that you had contact with? A. Yes.

Q. And those discussions and deliberations ran over how long a period of time?

A. Over two months.

Q. And then in the course of these matters did you communicate with agents of the employers' group and then with Mr. Bridges and back and forth like that?

A. Yes, that was the procedure.

Q. Did you have occasion in the course of that to discuss with various persons connected with that employers' group or with other persons in this vicinity Mr. Bridges' character and reputation?

(Testimony of Walter E. Buck.)

A. Yes.

Q. Could you tell us, Mr. Buck, what Mr. Bridges' general reputation for truth, honesty and integrity is in the City and County of San Francisco?

A. Well, when it first became known to some extent that I was [4303] entering into these strike features, some of my friends and acquaintances told me about Mr. Bridges, and they told me that if he passed his word that he would carry it through and I could rely on his integrity.

Q. His general reputation for truth, honesty and integrity you would say is good, is that right?

A. I would say so.

Mr. Hallinan: I think that is all.

Cross Examination

By Mr. Donohue:

Q. Mr. Buck, by whom were you first asked to give testimony this morning?

A. I don't recollect just who first asked me. I talked with Mr. Bridges, Mr. Goldblatt.

Q. Mr. Bridges, Mr. Goldblatt. Can you recall about when that was?

A. Oh, a week or so ago. Probably a little bit longer. I just got back from New York last Saturday.

Q. It was prior to your going to New York?

A. Yes.

Q. Was that the only discussion you had with

(Testimony of Walter E. Buck.)

anyone as to the testimony you would give here this morning?

A. I talked in a casual way with Mr. Hallinan.

Q. Do you recall when, sir?

A. Yes, it was last Monday.

Q. Mr. Buck, do you consider yourself an operator of ships or [4304] an investor in shipping?

A. Well, I am probably both. I operated ships myself for many, many years, and at one time I was superintendent of the Matson Navigation Company.

Q. How long have you been with the Matson Navigation Company?

A. Well, I left them many years ago. I started in 1903.

Q. And left when?

A. I think somewhere around 1910, and then I was with the marine end of the Associated Oil for many years, and during the first World War I was in the shipbuilding business, and in the second World War.

Q. And when did you last return to a directorship on the Matson Line?

A. Well, I was not a director until last year.

Q. Then you have been a director of the Matson Line for about a year?

A. Yes, about April of last year.

Q. Did you ever discuss the reputation of Harry Bridges with the board of directors of the Matson Line?

A. No, I have not discussed it with them.

Q. Did you ever discuss the reputation of Harry

Bridges with the board of directors of the Bank of San Francisco? A. No.

Q. Do you limit your testimony as to the reputation of Mr. Bridges for truth, honesty and integrity to comments that [4305] were made by the employers' group in the recent negotiations in which you participated in Hawaii?

A. No. As I said before, that some people on the outside have spoken to me who were not connected with the employers' group then in Hawaii.

Q. Can you tell us who some of those people are, Mr. Buck?

A. No, it was some time ago and I just don't recollect their name.

Q. Mr. Buck, you do know many persons who know Harry Bridges?

A. No, I don't know many people.

Q. How many people would you say you know who know Mr. Bridges?

A. Well, probably 20 or 30.

Q. And it was among those 20 or 30 persons you heard discuss the reputation of Harry Bridges for truth, honesty and integrity?

A. Well, just as I testified here a few minutes ago in reference to Harry Bridges carrying through his bargain if he made one.

Q. Did you ever hear anybody characterize Harry Bridges as a Communist?

A. I have read the papers.

Q. Other than reading the papers?

A. What?

(Testimony of Walter E. Buck.)

Q. Other than reading the papers.

A. Well, I never heard anyone say that they knew he was a [4306] Communist.

Q. Did you ever hear anyone say he was a Communist, whether they knew it or not?

A. No, I don't think I ever heard anyone say he was actually a Communist except what I read in the papers on the testimony of these witnesses.

Q. Mr. Buck, you haven't been in this courtroom since the beginning of this trial continuously?

A. No, sir.

Q. If evidence beyond a reasonable doubt were presented to you that Mr. Bridges was a member of the Communist Party, would you still say his reputation for truth, honesty and integrity was good?

A. Well, if a man was proved guilty, I naturally would think he was guilty.

Q. Mr. Buck, do you consider it a matter of sound business policy to offer testimony here as to the good reputation of the defendant Harry Bridges for truth, honesty and integrity?

A. Will you repeat that question, please?

(Question read.)

A. As I find him, yes.

Mr. Donohue: I have no further questions.

Redirect Examination

By Mr. Hallinan:

Q. Let me ask you this, Mr. Buck: In your

(Testimony of Walter E. Buck.)

dealings with Harry Bridges, did you ever hear him say or do [4307] anything that would indicate to you that he was a Communist or a member of the Communist Party?

A. I don't know as I exactly know what a Communist is.

Q. I am not sure myself.

A. I never heard him say he was a member of the Communist Party.

Q. Did he always seem to carry along in the accepted manner of trade union negotiations with your people in settling these strikes, for instance?

A. Yes, and I think he used very good judgment in the handling of the affair, too.

Q. Did he ever show any inclination to be arbitrary or unreasonable or maintain a strike just for the purpose of creating trouble or dissension, so far as you could discern?

A. No, I gained the impression that he was doing his best to get as much for the members of his union as he possibly could.

Mr. Hallinan: I think that is all.

Mr. Donohue: We have no further questions, your Honor.

The Court: You are excused.

Mr. Hallinan: I suppose, your Honor, that it might be well that we have Mr. Houser stand by until this afternoon's session and I will produce another witness now.

The Court: Very well.

WALTER W. MAHAFFEY

called on behalf of the defendants; sworn. [4308]

Q. (By the Clerk): Will you state your name to the Court and jury?

A. Walter W. Mahaffey.

Direct Examination

By Mr. Hallinan:

Q. Mr. Mahaffey, what is your occupation?

A. I am a stationary engineer.

Q. Located where? Where are you working?

A. In Long Beach, California.

Q. Is that where you live?

A. I live in Seal Beach.

Q. Are you a married man? A. Yes, sir.

Q. Any children? A. Two, two girls.

Q. How long have you been a stationary engineer?

A. Well, do you mean working at the job?

Q. Yes. Or working in general in that occupation.

A. Well, I belonged to the Engineer's Union, the Operating Engineers, since 1939.

Q. Did you tell us what firm you work for now?

A. The A. K. Wilson Company.

Q. That is in Long Beach?

A. Well, it is out of Long Beach, between Long Beach and Compton.

Q. Were you ever a member of the [4309] ILWU? A. Yes.

Q. And where? A. Stockton, California.

Q. Are you a Stockton man by birth?

(Testimony of Walter W. Mahaffey.)

A. I was born there.

Q. What years, if you remember, roughly, were you a member of the ILWU in Stockton?

A. Since 1933.

Q. Until what time? A. 1939.

Q. While you were a member of that organization in Stockton were you ever an officer of the organization?

A. I was the first president of the organization and then its secretary until 1939.

Coming up to the year 1936, and starting in in May, 1936, I have some records here that I will show you that you have seen already. (I had better show them to counsel first.) For the purpose of refreshing your recollection on some matter.

Mr. Paisley: What part of this do you refer to?

Mr. Hallinan: That one page, just to give the date, and the last part of it. This is preliminary to show Mr. Bridges' trip to Stockton on June 27th. That helps to establish the reason for it. Here I have a photostat if you want to look at it, and then I will show this to the witness in the meantime and we might save time. [4310]

Q. Can you tell us, Mr. Mahaffey, what that book is that you have there?

A. This is a record of the minutes of the organization during that period of time.

Q. That is of the ILWU?

A. Well, at this particular time I believe it was the ILA.

(Testimony of Walter W. Mahaffey.)

Q. I am sorry; that is right. By the minutes you mean the minutes that were kept of the meetings of that organization?

A. Of all the regular meetings and special meetings of the organization, yes.

Q. Looking at that page of May 21st, using that to refresh your recollection if need be, or if you can remember the details without it, will you tell us what was the situation with regard to a convention in San Pedro to which your union had sent delegates?

A. I was a delegate to our own convention in San Pedro.

Q. What was that a convention of?

A. A convention of the International Longshoremen's Association.

Q. How long did that last, Mr. Mahaffey?

A. Well, I think it was—it was a long one. Around 17 or 18 days, if I remember correctly.

Q. Do you remember when it started and when it finished?

A. Well, it started, I believe, in April and from there 17 days—I think it went into May.

Q. Do you remember who else was a delegate with you? [4311] A. From my local?

Q. Yes. A. Mike Silk.

Q. You and Silk went to San Pedro, did you?

A. We went to San Pedro.

Q. Before the convention adjourned there, did you and Silk return to Stockton?

A. Well, no. We finished the convention. At the same time there was a convention of the Mari-

(Testimony of Walter W. Mahaffey.)

time Federation held immediately after ours. We left and returned shortly after that convention convened.

Q. First there was a convention of the ILWU in San Pedro? A. That is right.

Q. And after that finished there immediately started a convention of the Maritime Federation of the Pacific? A. Yes.

Q. Were you and Mr. Silk also delegates to that?

A. Yes.

Q. Did you remain through the convention of the Maritime Federation? A. No, I did not.

Q. Refreshing your recollection from that book, if need be, can you tell us just what was done about you and Mr. Silk separating yourself from that convention?

A. Well, at that time we were from a small local up here, and [4312] the convention had taken so long, Brother Silk left and returned, although we went together to the convention. He returned with another delegate from another local, and I remained over until the start of the Maritime Federation convention, and after several days I received a wire and was called back to my local, and I left at that time, and I recall very clearly that I was instructed to give our proxy votes to Local 3879 at that time.

Q. Who was the delegate for Local 3879, do you know?

A. Well, Mr. Bridges, Mr. Schmidt—two that I recall.

(Testimony of Walter W. Mahaffey.)

Q. Did you meet Mr. Bridges down at the convention? A. Oh, yes.

Q. Will you state whether or not your delegation was supporting Harry Bridges in that convention?

A. Definitely.

Q. And the document you have been looking at are the minutes of a special meeting held on May 21st, 1936, in Stockton, is that right?

A. That is right.

Mr. Hallinan: We offer that one page in evidence, if the Court please, and we have a photostat of it that I will ask be used instead of the book itself.

Mr. Donohue: No objection, your Honor.

The Court: That may be the order. The photostat may be received in lieu of the page designated as page 78 of this book.

(Page 78 of minutes was thereupon received in evidence and marked Defendants' Exhibit O-1.) [4313]

Mr. Hallinan (reading):

"Special Meeting May 21, 1936, 7:30 P. M.

"Meeting was called to decide whether or not Mahaffey should stay for the M. F. convention.

"Mike Silk reported that at the I. L. convention there was two different factions fighting against each other, stated that there was very little use of having delegates there as all that was done the first nine days was a lot of mud thrown between the delegates and a lot of arguing between Lewis Peterson, Morris, and

Bridges. Explained the situation which happened here some time ago on the Kate Luck, and about Ryan taking charters away from the union longshoremen in the Gulf ports and giving it to the scabs. Described how the nomination of officers was carried on and told about the three assessments that were coming up for us to vote on.

"A motion by M, Silk, seconded by A. Pope that we send W. Mahaffey a night letter instructing him to return to Stockton at once and that he give his proxy to 38-79. Motion carried.

"President L. N. Devonshire adjourned the meeting. Meeting adjourned at 8:45."

Q. Pursuant to that, then, Mr. Mahaffey, you state you did give the proxy to Local 38-79 and you returned to Stockton? A. Yes. [4314]

Q. Now, thereafter, do you remember Harry Bridges speaking at a meeting in Stockton and reporting upon the subsequent matters of that convention? A. Yes, I do.

Q. Where was that meeting held, Mr. Mahaffey?

A. The meeting was held in the Teamsters Union hall, which was also an office of the Central Labor Council at that time, in Stockton.

Mr. Hallinan: Now, counsel have already seen this photostatic copy of the Stockton Record, I believe. Do you want to look at it again?

Mr. Donohue: I object, if your Honor please, to the use of a photostatic copy of a newspaper for

(Testimony of Walter W. Mahaffey.)

any purpose unless there is something in there the witness may have written concerning which he wants to refresh his recollection.

The Court: This is for the purpose of refreshment of recollection. I assume that is what it is for.

Mr. Hallinan: Might we take the table up here, because I have several.

Q. You have seen that paper before, have you, Mr. Mahaffey? A. Yes, I have.

Q. And that is a photostat of the Stockton Record of what date?

A. June 27, 1936, Saturday.

Q. You notice down at the bottom of the sheet an article [4315] about that meeting that we have just been talking about? A. Yes.

Q. And then attached to the sheet is an enlarged reproduction of the document.

A. I have it here.

Q. I want to show you another book—this you have seen a photostat of before. You have seen that book before, too, have you, Mr. Mahaffey? It is the next page, the page on your right hand side, the second from the end. A. Yes.

Q. What is that book?

A. It is the day book of receipts and expenditures of the local in Stockton.

Q. And the second line from the end reads what?

A. "June 29, Cash, Hall, chairs and entertainment for Bridges meeting. $4.80. Total of $19.80."

Q. I want to show you now a copy of a letter. What is that document, Mr. Mahaffey?

(Testimony of Walter W. Mahaffey.)

A. It is a letter that I dictated to the editor of the Voice of the Federation newspaper.

Q. What is the date of the letter?

A. June 29, 1936.

Q. And what is the subject?

A. The subject is regarding Bridges' invitation to speak in Stockton on Labor Day, and also states that he attended a [4316] meeting of the Teamsters—longshoremen, bargemen and warehousemen at the Teamsters' hall on June 27, Saturday night.

Q. Anything else?

A. Well, we requested that he attend our Labor Day celebration because it was going to be the biggest celebration of Labor Day we had at that time in Stockton.

Q. This is the part that is important; the other just identifies it (exhibiting document to counsel).

Now, that subsequent book that is just shown to you, what is that?

A. This is the Voice of the Federation.

Mr. Donohue: If your Honor please, we make the same objection with respect to this newspaper as we did heretofore. You can't establish a fact by an account in a newspaper. On that basis we object to it.

Mr. Hallinan: We are going to try to do it.

Q. What was the Voice of the Federation—Maritime Federation?

A. It was the Maritime Federation—the official organ of the Maritime Federation.

(Testimony of Walter W. Mahaffey.)

Q. Is that the same paper that you wrote the letter to that you just identified? A. Yes.

Q. And what date is the newspaper article that you have there?

A. This is July 2, 1936. [4317]

Q. Will you turn to the third page, the last one that is turned down, Mr. Mahaffey. Do you see an account there that is marked off with pencil?

A. Yes.

Q. And what does that purport to state?

A. Well, it begins with Bridges and Schmidt at Stockton.

Q. And then does it tell some of the substance of Mr. Bridges' speech?

Mr. Donohue: To that I object, if your Honor please, again on the ground—— A. Yes.

The Court: Sustained.

Mr. Hallinan: This is all going to refreshing recollection.

Q. If I may turn this page. Now, that last paper that you were shown there, the last sheet, that is the same paper?

A. The Voice of the Federation.

Q. And what date? It is July 9?

A. July 9.

Q. Then do you see an article in there on that page you are looking at down at the bottom?

A. Yes.

Q. What is the substance of that?

Mr. Donohue: I object, if your Honor please——

A. Reports——

(Testimony of Walter W. Mahaffey.)

Mr. Donohue: Just a minute, Mr. Mahaffey. I object [4318] to reading any article from any newspaper.

Mr. Hallinan: I don't want him to read it; just the substance.

The Court: The objection is sustained. Newspaper articles are permitted before the witness for the purpose of refreshing his recollection.

Q. Do they refresh your recollection?

A. Yes.

Q. Have you, in the light of that refreshment, any independent recollection of the events?

A. Yes.

The Court: All right; you may testify.

Mr. Hallinan: Mr. Mahaffey, the article, without reading it, does it give a date upon which Bridges, Schmidt and Christensen spoke at Stockton?

A. Yes.

Q. What date does it give?

A. June 27.

Q. Now, using all of the documents that have been shown to you to refresh your recollection, can you now state to the Court and jury on what day Harry Bridges spoke at Stockton?

A. Saturday, June 27, 1936.

Q. Mr. Mahaffey, were you personally present at that meeting? A. Yes.

Q. And did you have anything to do with arranging the meeting? [4319]

(Testimony of Walter W. Mahaffey.)

A. I arranged it.

Q. And will you tell us now the circumstances under which it was arranged. First, can you tell the person with whom you got in touch, if there were such person, who communicated with Mr. Bridges?

A. Well, just prior to the arrangement—and it wasn't I got in touch with him; I believe it was just the reverse; he had gotten in touch with me.

Q. Who is that person? A. Mike Silk.

Q. Without stating the language, what was the nature of the communication that Mr. Silk gave you on that occasion?

A. Mr. Silk called me by telephone. After we had discussed—well, it went back further than that. When I left San Pedro and we turned our proxies over to 38-79, we discussed them coming to our local after the meeting to make a report of what transpired at the Maritime Federation convention, and at this particular meeting it was arranged through Mr. Silk, who was in San Francisco, in contacting me to make arrangements for the hall, that Mr. Bridges and several of the other delegates would be there in attendance.

Q. Can you tell us approximately how long prior to Saturday, June 27, 1936, Mr. Silk notified you that Mr. Bridges could appear and would appear?

A. He notified me, I believe, about two or three days prior [4320] to the meeting. There was a little difficulty whether or not the meeting was going to be held.

(Testimony of Walter W. Mahaffey.)

Q. Why?

A. Well, I presume it was because of the time element, meaning by that whether Mr. Bridges was too pressed with business in San Francisco, or whether he was going to take time out and come and talk to us.

Q. And then when, how long before the meeting were you finally notified by Mr. Silk that they would and could be there?

A. About two days.

Q. Now, I notice in this Stockton Record of Saturday, June 27, the statement of Walter Mahaffey, Business Agent——

Mr. Donohue: I object, if your Honor please, to reading anything from the newspaper which is not in evidence, for the purpose of proving what happened.

Mr. Hallinan: I will offer it in evidence.

Mr. Donohue: I will object to it.

Mr. Hallinan: I would like to show the witness the document again and the last paragraph of the statement about the meeting.

Q. Do you see that? A. Yes.

Q. Can you tell us from that when it was that you first announced the holding of the Bridges meeting?

A. As far as my recollection is, I think it was on a Friday. [4321]

Q. And did you announce it immediately as soon as you received the communication from Mr. Silk?

A. I announced it, yes—well, I announced it

(Testimony of Walter W. Mahaffey.)

prior to that time, but, however, in this particular instance, I announced it to the press.

Q. In other words, as I understand it, Mr. Mahaffey, first there was a discussion in which Mr. Silk said he could get Mr. Bridges, and then later he phoned to you and said if you could get a hall, and so forth, they could produce Bridges on this coming Saturday. Was there some question of difficulty between you that he wasn't giving you enough time to notify the members?

A. Yes, I was perturbed about it because it wasn't too definite, and I insisted that we know so that I could make this arrangement for the hall and notify the various other locals that wanted to attend.

Q. When did he call you back and tell you All right, it was definite?

A. I think it was on a Thursday or Friday.

Q. So you only had from the time that the meeting was held a space of one or two days at the most to get the people to the hall for that meeting? A. That is correct.

Q. Now, do you remember Mr. Bridges coming to Stockton? A. Yes. [4322]

Q. And do you remember the meeting itself?

A. I do.

Q. And do you remember anything that occurred after the meeting? A. Yes.

Q. What was that?

A. Well, we had arranged a little entertainment after the meeting at a restaurant and night club up

(Testimony of Walter W. Mahaffey.)

there. They had a floor show, and there was eight or nine of us went over to watch the floor show and have some refreshments.

Q. Was Harry Bridges included in that group?

A. He was.

Q. How about Schmidt?

A. Henry Schmidt was.

Q. And William Christensen?

A. William Christensen.

Q. Can you give us your recollection as to how long you people stayed there? I want to get, particularly, as closely as you can, when those three men returned to San Francisco.

A. Well, as I recall it, we were there after the place closed.

Q. And what time would that be?

A. Oh, two o'clock; 2:30 in the morning.

Mr. Hallinan: Might we have the recess now, your Honor?

The Court: Yes. We will take the noon recess period, ladies and gentlemen of the jury, and resume at two o'clock [4323] this afternoon. The same admonition to you not to discuss the case under any conditions.

(Thereupon a recess was taken until 2:00 p.m. this date.) [4323-A]

Wednesday, January 25, 1950, 2:00 P. M.

The Court: Mr. Mitchell has handed to me a file folder of the Immigration and Naturalization

Service, subject, Henry Joseph Schrimpf, and I have considered the same, and hand the file or file folder to counsel, Mr. Hallinan.

Mr. Hallinan: Mr. MacInnis has a short witness, a character witness. He can put him on and I will glance through the file in the meantime.

The Court: Mr. Donohue, have you glanced through that file?

Mr. Donohue: No, I have not.

The Court: You have not?

Mr. Donohue: No.

The Court: You might examine it in conjunction with counsel then.

Mr. MacInnis: May we, your Honor, during this interim place a short witness upon the stand?

The Court: Yes, sir.

Mr. MacInnis: I will call, please, the Rev. Edward Peet.

EDWARD L. PEET

called on behalf of the defendant Robertson; sworn.

The Clerk: Will you state your full name to the Court and jury, please? [4324]

A. Edward L. Peet.

Q. Will you spell the last name?

A. P-e-e-t.

Direct Examination

By Mr. MacInnis:

Q. Rev. Peet, would you state your profession to the Court and jury?

A. I am a minister of the Methodist Church.

(Testimony of Edward L. Peet.)

Q. Of what particular Methodist Church is that?

A. The Methodist Church in Mill Valley.

Q. Does that church have a particular name in Mill Valley? A. That is the name.

Q. The Methodist Church of Mill Valley?

A. Yes.

Q. Are you the pastor of that church?

A. I am the pastor, yes.

Q. Is that a congregation which has been in existence some time in Mill Valley?

A. About 42 years.

Q. You yourself live in Mill Valley, do you?

A. Yes, I do.

Q. At what address?

A. 89 Valley Circle.

Q. Do you live there with your family?

A. I do.

Q. And your family consists of what other [4325] persons? A. My wife and two children.

Q. Are those children of school age or younger?

A. The older girl is in Tamalpais High School, sophomore in Tamalpais High School, 15 years of age.

Q. And your younger child?

A. The younger child is 9 years of age, a student in Park Grammar School.

Q. You have been at the Methodist Church of Mill Valley for about what period of time?

A. Since August 1st, 1948.

Q. Prior to that time what was your station or parish?

(Testimony of Edward L. Peet.)

A. North Methodist Church in Hartford, Connecticut.

Q. You came from that church to Mill Valley?

A. Yes.

Q. Is that correct? A. That is correct.

Q. Do you know a man named J. R. Robertson?

A. Yes, I do.

Q. For what period of time have you known him?

A. About a year.

Q. Under what circumstances did you meet him and about how many occasions have you seen or talked with him?

A. His mother is a member of my church, and visiting the home when she was visiting with him or living there, I believe, about a year ago, I met Mr. Robertson and have visited there probably a half [4326] dozen times since then.

Q. You visited Mr. Robertson's house about a half dozen times? A. Yes.

Q. Has he attended your church as well?

A. Yes, he has, yes.

Q. Have you since the bringing of an indictment against Mr. Robertson had occasion to discuss the reputation of Mr. Robertson in your community, Mill Valley? A. Yes, I have.

Q. With about how many persons have you discussed the character or reputation of Mr. Robertson? A. At least a dozen.

Q. At least a dozen people?

A. At least a dozen, yes.

(Testimony of Edward L. Peet.)

Q. Those discussions have taken place at least within the last calendar year, is that true?

A. Yes.

Q. From your knowledge of Mr. Robertson, your visits at his home, and such other acquaintanceship that you may have with other members of his family, and your conversations with members of your own community, are you familiar now with the reputation of Mr. Robertson for truth, honesty and integrity? A. Yes, I am.

Q. And what is that reputation, Dr. Peet?

A. I would say that it is—in Mill Valley he has an excellent [4327] reputation.

Mr. MacInnis: Thank you very much.

Cross-Examination

By Mr. Donohue:

Q. Reverend, are you the same Rev. Edward L. Peet who is listed in Appendix 9 of the House Un-American Activities Committee as endorsing the Committee for Citizenship Rights Organization to Defend the American Citizenship of William Schneidermann?

A. I am not familiar with the document.

Q. Did you endorse the citizenship of William Schneidermann?

A. I have no clear recollection of it. I may have.

Mr. Donohue: I have no further questions.

Mr. MacInnis: We have no further questions.

The Court: You are excused.

The witness may resume the stand, Mr. Hallinan.

Mr. Hallinan: Yes. Dr. Peet would like to sit in the courtroom, if he may.

The Court: Very well.

The witness on the stand might have that file folder for the purpose of refreshing his recollection now if you desire. [4328]

J. EVERETT HOUSER

resumed;

Direct Examination
(Continued)

By Mr. Hallinan:

Q. I might say the only thing we are interested in in that file is the letter, not the file as a whole. We don't care to inquire into the personal matters of Mr. Schrimpf.

Q. You notice there, sir, a letter from the Federal Bureau of Investigation? A. I do.

Q. Would you please read the contents of that aloud.

Mr. Donohue: May it please the Court, I object to it unless it is material.

The Court: One moment. Have you examined the file?

Mr. Donohue: No, your Honor, I have not.

The Court: Better examine it.

Mr. Hallinan: The letter is the only thing I intend to inquire about, so you can confine your examination to that, unless you wish to go further into it.

The Court: Mr. Donohue, I am not foreclosing

(Testimony of J. Everett Houser.)

you from an examination of the entire file if you are so advised.

Mr. Donohue: Thank you, your Honor.

Mr. Hallinan: I mean, at this moment I am only interested in the one matter.

Mr. Donohue: I object to the question, if your Honor please, as obviously that letter has no bearing on this issue [4329] whatsoever.

Mr. Hallinan: Let me see that.

Mr. Donohue: It is immaterial.

Mr. Hallinan: Let me see the letter, if you will.

Q. You testified heretofore, sir, that where a question related to a man's—withdraw that—where there was information or some suggestion that related to possible affiliation with the Communist Party, then you pursued that further, is that correct?

A. Yes, sir, or other disloyal activities.

Q. Now, on June 4, 1943, you did receive information that Henry Schrimpf's name appeared in the Federal Bureau of Investigation records in connection with the Harry Bridges case, didn't you?

A. I don't think so; I don't recall it.

(The document was handed to the witness.)

The Witness: I don't believe I have seen this letter before, Mr. Hallinan.

Q. (By Mr. Hallinan): Well, who is Mr. Irving F. Wixon?

A. That was the District Director at that time.

Q. Of the Immigration and Naturalization Service. He was at 801 Silver Avenue. Where was your office?

A. There for a time, until it was moved.

Q. Was it there on June 4, 1943?

A. No. [4330]

Q. Well, now, was it customary to inquire concerning affiliations of the kind I have indicated with the Federal Bureau of Investigation when persons suspected of Communist leanings appeared for naturalization? A. Yes, sir.

Q. And would it be ordinarily true that a communication would be addressed to the Federal Bureau of Investigation on such matters?

A. Quite likely.

Q. Do you know who Mr. N. J. L. Piepper was?

A. I believe there is a Mr. Piepper that has some connection with the FBI, or did have at that time.

Q. Well, I call your attention to the contents of this letter.

Mr. Donohue: Object, if your Honor please. He said he never saw it.

Mr. Hallinan: I asked him about the subject matter of it, your Honor. I don't care whether he saw it before.

Q. Have you any information that a file concerning Henry Joseph Schrimpf's activities in the Harry Bridges case was in the possession of Mr. Irving F. Wixon, District Director of the Immigration and Naturalization Service?

(Testimony of J. Everett Houser.)

A. No personal knowledge; just what I see in that letter now.

Q. Did you make any inquiry as to whether Mr. Wixon had in his possession a file about Henry Schrimpf in connection with [4331] the Harry Bridges case?

A. No, sir. As far as I can recall, that Schrimpf case was only in my hands for preliminary examination, which would only take an hour or so.

Mr. Hallinan: Well, now, could we ask the gentleman to produce from Irving F. Wixon the file of information pertaining to Henry Joseph Schrimpf which was in the possession of Mr. Wixon on June 4, 1943, in connection with the Harry Bridges case.

The Court: Mr. Hallinan, I produced, or caused it to be produced, in connection with the testimony of this witness and pertaining to any testimony that he might give.

Mr. Hallinan: Is this all the information that was given to you?

The Court: That is all, sir. That was handed to me; I received it from Mr. Mitchell at I would say 11:35 or 11:40.

The Clerk: 11:35.

The Court: I considered it at the noon recess in my chambers in the presence of Mr. Mitchell and Mr. Goldsmith, and after consideration I returned it to Mr. Mitchell.

Mr. Hallinan: Of course, your Honor understands that there was no question that any more was given to you.

The Court: That is all I have.

Mr. Hallinan: I wanted to show that in the record, and I offer this document; I want the document, the whole file, [4332] marked for identification.

The Court: The file may be marked for identification, or it may be photostated and the original returned to the Service.

Mr. Hallinan: If they wish.

(The file was marked Defendants' Exhibit P-1 for identification.)

Mr. Hallinan: I want to introduce a letter in evidence from Mr. Piepper to the Naturalization Service stating that a file of information concerning Henry Schrimpf in connection with the Harry Bridges case is in Mr. Wixon's possession and no reply or contradiction of the contents of that file.

Mr. Donohue: Just a moment, if your Honor please.

Q. (By Mr. Hallinan): So you personally, then, have no knowledge of any file in the possession of the Naturalization Department as to Henry Schrimpf's connection with the Harry Bridges case?

A. No.

Q. Did you get any direction now, Mr. Houser, from Mr. Wixon or from any agency of the United States Government that, because of Schrimpf's activities against Harry Bridges, that he should be granted citizenship?

A. No, sir. No, sir. My only connection with that case, as far as I know or can recall, was the preliminary examination which is reflected in one

(Testimony of J. Everett Houser.)

of the exhibits that you showed to [4333] me this morning, which shows the preliminary examination was conducted by myself and a recommendation made to the designated examiner for further examination.

Q. Let me ask you this, Mr. Houser—and this is also only for the record, because I have no doubt about the answer: You never made any attempt to conceal yourself or to avoid being communicated with either by any person representing the prosecution or the defense in this case, have you?

A. No, sir. I maintained an office at all times; I can be reached any day.

Mr. Hallinan: Thank you. That is all.

Mr. Donohue: I have no questions.

The Court: One moment. Merely for the purpose of the record, Mr. Donohue, there is an offer made by Mr. Hallinan of a letter.

Mr. Donohue: I object to it, if your Honor please, on the ground that it is immaterial and not pertinent to this issue.

The Court: The objection is sustained. It may be marked for identification.

Mr. Hallinan: Might I suggest this, your Honor—the ruling being made, I know you won't think I am imposing in suggesting it—that here is a document in the nature of an admission on the part of the Government that such information exists. Now, at least an information of ~~an~~ admission is contained in the letter, and no reply to it contradicting the statement made to the Federal Bureau of Investigation. [4334]

The Court: Mr. Hallinan, I am not inclined to agree with your construction of that letter. I am willing to discuss it in the absence of the jury, perhaps, for fear that some prejudice might attach either to your side of the controversy or in some way. I am not inclined to agree with your construction.

Mr. Hallinan: As far as our side is concerned, I am willing to have it discussed right here before the jury.

The Court: That letter appears to have emanated from Mr. Piepper.

Mr. Hallinan: Yes. Here it is included in the file of the Naturalization Department without comment, without contradiction, without inquiry, so that this letter being in the file certainly raises the inference that a file with such information does exist. Furthermore, it shows that such a file exists in the files of the Federal Bureau of Investigation.

The Court: I can not agree with your construction of that letter, Mr. Hallinan.

Mr. Hallinan: As far as prejudicing our case is concerned, we are willing to have that and everything else put in before the jury without——

The Court: It may be marked for identification next in order.

(Letter from Mr. Piepper was thereupon included in Defendants' Exhibit P-1.)

The Court: Is this witness excused? [4335]

Mr. Hallinan: Yes.

(Testimony of J. Everett Houser.)

The Witness: I am unwilling to leave the stand until we clear up this matter of fees which was mentioned this morning by Mr. Hallinan as some $110 and was inferred that I had received it.

Mr. Hallinan: No, we didn't say that. That is what we had to give the marshal. What fees did he give you? Maybe we have a rebate coming.

A. The marshal handed me a check from some Defense Committee for $100, and as I have told you before, I didn't care to have any fees in the case and I would like to return it at this time.

The Court: You may return it.

Mr. Hallinan: That is very generous. Thank you for it.

The Court: The witness is entitled under the law to his travel expenses. You are entitled to travel as well as per diem.

Mr. Hallinan: We are glad to give you that, sir. If you will tell us what your actual expenses were, we will be glad to give it to you. These fees are called for by the Code. It says you must give so much per day, so much per mile and so much for service. We asked the marshal what it was. He set that amount so we gave it to him.

A. The check is considerably in excess of my expenses, and I consider this as part of my war effort and I am glad to contribute [4336] it.

Mr. Hallinan: We are grateful to you.

The Clerk: May the record show that I have given the check to Mr. Hallinan.

The Court: You are excused.

(Testimony of Walter Mahaffey.)

Mr. Hallinan: Mr. Mahaffey, will you take the stand?

WALTER MAHAFFEY

resumed the stand on behalf of the defendants; previously sworn.

The Clerk: The witness on the stand is Walter Mahaffey, heretofore sworn.

Direct Examination
(Continued)

By Mr. Hallinan:

Q. I think, Mr. Mahaffey, that we inquired about you, Mr. Bridges and some of the other gentlemen going to a nightclub after this performance, and then they went home, is that right? They left? A. Yes.

Q. Let me ask you this, Mr. Mahaffey—well, withdraw the question.

Mr. Hallinan: That is all.

Q. (By Mr. Donohue): Mr. Mahaffey, I think you testified this morning that there was some question before this meeting as to whether or not you would hold a meeting.

A. Some question of whether or not we would what?

Q. As to whether or not you would hold this meeting on Saturday [4337] night.

A. No, I think it was a question what time it would be.

Q. Pardon?

A. What time the meeting would be.

(Testimony of Walter Mahaffey.)

Q. There was no question as to the fact that there would be a meeting? A. No.

Q. And the only question was as to the time?

A. Correct.

Q. Didn't you tell us this morning, sir, that it was only a day or two at best prior to this meeting that you were informed that Mr. Bridges would be able to be there? A. Yes.

Q. Isn't it a fact, sir, that you weren't notified by telephone by Mr. Silk until at or about noon Saturday that Mr. Bridges would be there?

A. No.

Q. Do you not know, sir, as a matter of fact, that Mr. Bridges was in New York and you were uncertain as to whether he could return in time for this meeting on Saturday?

A. Say that again.

Q. Do you not know as a matter of fact that Mr. Bridges was in New York City at the time you were making arrangements for this meeting and you were uncertain as to whether he would return in time for the meeting? A. I do not, no.

Q. You don't recall that? A. No. [4338]

Q. Independent of the records which then existed made heretofore by Mr. Hallinan or others, do you have or did you have an independent recollection of the date and place of this meeting?

A. I did.

Q. You did not need these records to refresh your recollections? A. No, I did not.

Q. Mr. Mahaffey, in May of 1945 were you a

(Testimony of Walter Mahaffey.)

member of the Long Beach Club of the Communist Political Association? A. I was not.

Q. Mr. Mahaffey, did your name appear on a brochure announcing the first California convention of the American Youth for Democracy on May 6 and 7, 1944, at the North Star Auditorium, 1631 West Adams Street, Los Angeles, California?

A. Not that I recall.

Q. Will you say that it did not?

A. It did not.

Q. Are you familiar with the organization American Youth for Democracy? A. No.

Mr. Donohue: I have no further questions of the witness, if Your Honor please.

Mr. Hallinan: That is all. Will you call Mr. Silk, please? I want to ask Mr. Mahaffey one or two other questions. Do you mind stepping back up again, Mr. Mahaffey? [4339]

Q. Mr. Mahaffey, within the last month or so, has any agent of the Immigration Department called upon you and interviewed you about the exact information you have testified here today?

A. Yes, they were to my house.

Q. Who?

A. A Mr. Kaiser and a Mr. Ward.

Q. Did they bring along any photostatic copy of any paper?

A. I didn't see them. In fact, the meeting was very short.

Q. They questioned you about that subject, though, did they?

(Testimony of Walter Mahaffey.)

A. Yes, they questioned me a bit and then threatened me with jail.

Mr. Hallinan: I think that is all.

Cross-Examination

By Mr. Donohue:

Q. When was this, Mr. Mahaffey?

A. It was right during the holiday recess of this trial.

Q. What is your best recollection of the date?

A. It was around—just before—around Christmas.

Q. Is that your best recollection of the time?

A. Yes.

Q. Where did it happen? A. At my home.

Q. And who was present?

A. Mr. Ward and Mr. Kaiser, I believe his name is. At that time I didn't know Mr. Ward.

Q. And anyone else present other than yourself? [4340] A. Yes.

Q. Will you tell us who else was present?

A. My attorney.

Q. And who was your attorney?

A. Mr. George Shibley.

Q. Where does he live or where does he have his office? A. In Long Beach.

Q. What is his address, if you know?

A. It is the Hartwell Building.

Q. What building?

A. The Hartwell Building.

Q. And he was present at all times during the conversation you had with Mr. Ward?

(Testimony of Walter Mahaffey.)

A. What conversation there was, yes.

Q. Now, tell us the threat that was made and by whom, and in the language of the street?

A. It was made by Mr. Kaiser as he was leaving in his automobile. He said, "I will see you in jail."

Q. By Mr. Kaiser? A. That is correct.

Q. And where were you at the time?

A. I was standing on the opposite side of the car on the sidewalk.

Q. And where was your counsel at that time?

A. He was right alongside of me. [4341]

Q. Is this the occasion on which you told Mr. Kaiser that Mr. Henry Schmidt had on an instance at a convention in Portland, Oregon—did you ever go up north to a convention with Henry Schmidt?

A. No.

Mr. Donohue: Will Your Honor indulge me for just a minute, please?

Q. By the way, can you tell us what it was your counsel had said to Mr. Kaiser and Mr. Ward prior to the threat you have just testified about?

A. He asked Mr. Ward who he was.

Q. Did he tell Mr. Ward who he was?

A. Mr. Ward didn't ask him.

Q. Isn't it a fact that he told him he was your counsel and that he would not give his name?

A. He did not.

Q. And isn't it a fact that your counsel told Mr. Kaiser and Mr. Ward that he was familiar with the fact that the Immigration Service had been

(Testimony of Walter Mahaffey.)

bribing people, and he had been told that they would be down there to meet you?

A. I don't believe he did.

Q. Didn't you tell Mr. Kaiser that Mr. Hallinan had called you and told you to expect a call from someone from the Immigration Service?

A. I told him that I had talked with Mr. Hallinan. I knew [4342] they were coming.

Q. What did you tell him about your call from Mr. Hallinan? A. That is all I told him.

Q. Isn't it a fact that at that time you told Mr. Kaiser that Mr. Hallinan told you not to tell him anything? A. That is not correct.

Q. And isn't it a further fact that thereupon your counsel then said, "Well, you know that Mr. Hallinan told you to tell the truth."

A. In fact, Mr. Hallinan told me to tell him anything.

Q. Mr. Hallinan said what?

A. He told me to tell him exactly what transpired when I met Mr. Hallinan.

Q. Mr. Mahaffey, did you attend a convention in Seattle in the late 1930's with Henry Schmidt?

A. Late '30's?

Q. Yes.

A. What do you mean by late '30's?

Q. Did you ever attend a convention in the late '30's with Henry Schmidt at a time when you and Henry Schmidt shared the same room in a hotel?

A. I shared the same room with him. I don't think it was in the late '30's.

(Testimony of Walter Mahaffey.)

Q. When was it? A. It was in the [4343] '30's.

Q. Do you recall an incident wherein you had some trouble keeping the room? A. I do.

Q. Do you recall telling Mr. Kaiser that on that occasion Mr. Schmidt, Mr. Henry Schmidt, the defendant here, got mad and said to you, "When are you going to get wise and join the party?"

A. No, no, no. I recall the incident, but it wasn't that at all.

Q. And you did not make that statement?

A. No.

Q. In the presence of Mr. Kaiser and Mr. Ward?

A. No. Mr. Kaiser and I discussed that particular thing, and he was very well convinced, and when I told him that, he said, "You would be a very reluctant witness, wouldn't you?"

Q. What did you say to him when you discussed this matter?

A. I explained, as you say, we shared the same room. It wasn't a convention. It was an executive board meeting of the longshoremen, and at that time I was the one who was angry because we rented the room and then they told us we couldn't have the room because it had previously been rented to someone else. Mr. Schmidt didn't get angry. I was the one and he took me on for getting angry about it. He was very docile.

Q. What was the occasion for bringing up this suggestion with respect to Henry Schmidt saying

(Testimony of Walter Mahaffey.)

to you, "When are you going to [4344] get wise to yourself?"

A. I was blowing my top.

Q. Then it didn't happen?

A. No, not as you said it.

Q. Tell us just what was said about joining the party. A. What party? That is what I said.

Q. I am asking you. You were there. I wasn't there. A. What party are you talking about?

Q. What was said about joining any party between you and Mr. Schmidt on the occasion you are testifying about?

A. It wasn't anything like you made it out here.

Q. Tell us how it was.

A. I was blowing my top about us losing the room.

Q. Yes.

A. Because they said it had previously been rented to some convention.

Q. Yes.

A. And they hadn't told us—or we hadn't told them how long we would be there. When we rented the room, we didn't know how long we were going to be there, and I resented the fact that we had to give up our room. They were hard to get. And later on when they wanted to put us to bed in the lobby of the hotel, I wouldn't stand for it. And then we finally made an agreement that if they got us another room, we would move. And they got me another room in another hotel, and I believe they got Mr. [4345] Schmidt another room in some other hotel, and it was settled that way.

(Testimony of Walter Mahaffey.)

Q. And nothing was said by anyone about joining any party? A. No.

Q. You are sure of that? A. That is right.

Q. Mr. Mahaffey, has any reward been offered to you in consideration for your testimony here today? A. No, sir.

Mr. Donohue: No further questions, Your Honor.

MIKE SILK

called on behalf of the defendants; sworn.

Q. (By the Clerk): Will you state your full name to the Court and jury?

A. My name is Mike Silk.

Q. Will you spell your last name?

A. S-i-l-k.

Direct Examination

By Mr. Hallinan:

Q. Where do you live, Mr. Silk?

A. I live in Wilmington, California.

Q. And what is your occupation?

A. Longshoreman.

Q. How long have you been a longshoreman, Mr. Silk?

A. Well, steady, ever since 1933, a little [4346] before.

Q. What is your age, if I may ask?

A. What did you say?

Q. Do you mind telling us what your age is?

A. Age I think is 59 going on—I think next March will be 60.

(Testimony of Mike Silk.)

Q. Have you a family, Mr. Silk?

A. I got wife.

Q. Did you ever live in Stockton? A. Yes.

Q. How long did you live in Stockton?

A. Well, since '33 to '41, but I didn't always live there. My residence was there, but I used to go working in the Port of San Francisco, because they was slack there. And then I go from San Francisco on a visiting permit in San Francisco. And I used to work visiting from my own port to Los Angeles.

Q. In other words, while you lived in Stockton, when work was slack up there, you would get a visitor's permit so that you could work in San Francisco or even in Los Angeles, is that correct?

A. We come down here in San Francisco, reported to the president of the local or vice president of the local. We ask the question, we get a permit. He says yes. So we went to the Labor Relations Board. We registered. He give us a permit, and then we have the same privilege as the local in San Francisco.

Q. Were you ever an officer of the ILA? [4347]

A. I was a member of my local, executive board member, and I got elected at a convention in '36 in Pedro, ILA convention. We elected the delegates by secret ballot, and the one that gets the most votes goes to the convention.

Q. Did you go to the convention in San Pedro?

A. Yes.

Q. That was a convention of the ILA?

(Testimony of Mike Silk.)

A. Yes, but another fellow—you fellows heard of him—Joseph C. Ryan was our chief commander they had.

Q. Do you know who was another delegate from your local?

A. Our finance secretary, Walter Mahaffey.

Q. Then was there a Maritime Federation convention that followed the ILA convention?

A. The ILA convention started first. That was 17 days, I think, something like that. The record is there. I don't know exactly how many days. 17 I think he was in the LA convention. The Maritime convention started a little bit afterwards, next day. I never served in the Martime convention, and I went back after our convention was finished. I went back again to Stockton.

Q. Did you leave anybody in San Pedro?

A. Mahaffey—he stayed there for days. Because I am a member and delegate, I got up a special meeting through the president and I made that report from the best of my knowledge of that convention. Therefore I made a motion to make my report. We [4348] send a night letter or telegram to bring Mahaffey back, because that was a small local, and we can't do much—we can't do much for workers there. It was mostly their mudslinging and you know, all them bigshot officers, they was fighting between themselves.

Q. Then what did you do? Did you give your proxy or did the local union give its proxy to someone else?

(Testimony of Mike Silk.)

A. After this meeting was called—I think Walter got the records—it must be in the records, in the books—I made a motion to send a night letter for Mahaffey come back and give a proxy to Mr. Harry Bridges and Henry Schmidt. If any vote is taken, he can use our votes any way he sees fit to better our union.

Q. After you came back, after that convention was over, were you working in San Francisco part of the time?

A. After I came back from convention, there was no work in Stockton, and I come down here and I got visiting permit from the local in San Francisco. I was working down here.

Q. Do you remember any occasion when Harry Bridges went to Stockton to report on the maritime convention?

A. I was working in San Francisco. Quite a few members from Stockton was working down there, and they insisted on me contacting Mr. Bridges and have him go to Stockton, and so—I think it was a Thursday——

Mr. Hallinan: Wait. We are getting a little ahead of [4349] ourselves. I want to use the documents again, Ed. I will put this up. Just put this up so we can put the books on it.

Q. (By the Court): Can you see that all right?

A. Yes, I remember this.

Mr. Hallinan: Wait. I am going to give Mr. Mitchell the other documents.

Q. Now, you see that photostat of the Stockton

Record that you have been shown, that black document? A. Yes.

Q. Do you see the date on it?

A. That was on June 27th.

Q. Do you see the article that is blown up there, that is made large? A. Uh-huh.

Mr. Donohue: If Your Honor please, we have heretofore objected to the use of these two newspapers as establishing a fact, and I think Your Honor had ruled only that they may be used for the purpose of refreshing the recollection of the witness.

Mr. Hallinan: That is all I want them for.

Q. Do you see the piece down at the bottom of the Stockton Record on the previous meeting?

A. Yes.

Q. Then you see the enlargement I just pointed to at the top of the paper? [4350] A. Yes.

Q. I want to show you the day book of the union. I just put a pencil mark opposite the date.

A. You mean the 29th?

Q. Yes. A. I was back in Frisco.

Q. Yes, but that just shows the payment of the hall. But now taking the two newspapers, Mr. Silk —never mind that document for a minute—taking those two newspapers, do they refresh your recollection as to the date on which Harry Bridges spoke at the Stockton union?

A. I remember that pretty well because I forgot all about it and——

Q. Answer the question. By looking at these

(Testimony of Mike Silk.)

papers, can you refresh your recollection as to what date that meeting was held?

A. Oh, I remember well.

Q. What date was it?

A. It was held Saturday night.

Q. Saturday night. A. Saturday night.

Q. What date? A. On June 27th.

Q. 1936?

A. That was on a Saturday. [4351]

Q. Mr. Silk, did you go to that meeting?

A. Yes.

Q. How did you get there?

A. I went from San Francisco with Bridges and Henry Schmidt and Billy Christensen and a fellow named Jack Crowley.

Q. Did you go in an automobile or what?

A. We went in Mr. Christensen's automobile.

Q. Do you know who arranged to have Harry Bridges go to Stockton? A. I did.

Q. When did you make that arrangement with him?

A. I was—talked with Mr. Bridges on a Thursday or Friday. I wouldn't swear, but I think it was—Friday or Thursday—and he told me, asked him, "Harry, will you go to Stockton and give a little pep talk to our membership there?" He said, "If you make arrangement with Mahaffey," he says, "I'll go."

Q. I will take these so we can use the microphone again.

Now, Mr. Silk, I have shown you all these papers before you came to court, is that right?

(Testimony of Mike Silk.)

A. What?

Q. You have seen all these papers before you came to court? You do not have to look at them in court, is that right? A. Yes, I saw them.

Q. You say that Harry Bridges went up with you and the other men you named to Stockton on Saturday, June 27th, 1936? [4352]

A. Yes, sir..

Q. And you say you made the arrangements for him to go up there on either Thursday or Friday?

A. Yes. I won't swear—I know it was Thursday or Friday. I don't recollect which one of them days that it was.

Q. Was it Thursday or Friday of that same week that he went up there or some other week?

A. That was on a Thursday or Friday. We left on Saturday for Stockton.

Q. So you made the arrangements, then, for him to go to Stockton one or two days before the meeting was held, is that right? A. Yes.

Q. When you made the arrangements for Harry Bridges, did you telephone to Stockton or do anything to acquaint them with the fact that you had Harry Bridges?

A. I talked to Mahaffey on the telephone, and Mahaffey kind of give me a bawling out. He said, "Why didn't you call before?" At that time I was working. I ain't had much money. What little change I have, when I struck the job, I was working. I have no time to call him up, only them days, on Thursday or Friday I called him up, and finally he said, "Call me up later. I will let you know."

(Testimony of Mike Silk.)

So on Saturday afternoon I called him up and he says, "Yes, I will make arrangements, and we have a meeting in Teamsters Hall." [4353]

Q. Was there any complaint by Mahaffey that there would not be enough time to get a hall and get a crowd there between the time you talked to Bridges and the meeting on Saturday night?

A. That is what he told me. I said, "I can't help it. I used to tell you. You tell me. If you make arrangements for the meeting," I tell him, "I can't bring Bridges." He said, "He will go if you arrange the meeting."

That was a question between me and Mahaffey.

Q. Then, do you remember the meeting being held and Bridges speaking?

A. Yes, I was right there in the meeting—go ahead.

Q. Do you remember who else spoke?

A. Schmidt, who was talking a few minutes, Billy Christensen—Mahaffey gave him an introduction and he talked—and I made a few remarks meself, and Bridges was the main speaker.

Q. Do you remember about what time the meeting finished?

A. Well, according to the old fellows there, have no watch on me—they claimed Bridges talked for nearly two hours.

Q. After the meeting did you go any place with any of those men?

A. Yes, our officers, Bridges and all that bunch was with us, our executive board members, we went to Marioni's nightclub—floor show there. We was there, had a few drinks, lots of fun, watched the full floor show, and one thing and another.

Q. Then did you go back to San Francisco with Christensen? A. Yes, sir. [4354]

Q. Then what did you do? Come right through or what happened?

A. No, we stopped in Oakland. We went to Billy Christensen's. His wife was still in bed. He rang the bell, I suppose. She got up, opened the door, made the coffee, and were there approximately, I should say, maybe an hour. Then Christensen said, "Well, fellows," he said, "I got to have a little sleep and take you fellows to Frisco." He took us to Frisco, in front of the dispatch hall, the local in San Francisco, Bridges went his way and I went mine to a hotel, and that is all.

Q. On Thursday or Friday, that is, one day or two days before the meeting in Stockton, were you talking to Harry Bridges in San Francisco?

A. Certainly I was talking to him, asking him if he would make a trip——

Q. Are you certain of that? A. What?

Q. Are you certain of that?

A. Why, certainly I am certain.

Mr. Hallinan: That is all. I would say this, Your Honor, I would like again to offer these documents in evidence. I suggest this, that it might be a question of the date in the minds of the jurors whether the documents the witnesses say refresh their recollection or not logically or reasonably do

(Testimony of Mike Silk.)

so, and I offer them for the purpose of allowing the jury to pass [4355] upon the reasonableness of the recollection from an inspection of the documents. I think that under those circumstances the documents should be admitted. If there is any question in the mind of the prosecution, if they raise any point that the meeting was not held at that particular date, I think the jury should be entitled to inspect the documents from which the witnesses refresh their recollection. They are all things that occurred years ago, records that were made, neutral papers, no possible chance that it could be foreseen that 13 or 14 years afterwards one would have to create something like this, and I think the jury should look at them.

Mr. Donohue: If Your Honor please, with respect, of course, to the union records, the letter which was identified as a copy of a letter written by Mr. Mahaffey, we offer no objection, but I can not create by an agreement with Mr. Hallinan a principle which the law does not recognize, and the law does not recognize a newspaper account of a fact as proof of that fact.

Mr. Hallinan: If Mr. Donohue makes no objection, I am sure nobody else will, Your Honor, the law or nobody else. If he has no objection to it, there is no reason why the jury should not look at them. As I say, it is not for the purpose of establishing a fact by the newspapers, but for the purpose of determining if the matters which the witnesses say refresh their recollection as to the date should not inevitably do so.

(Testimony of Mike Silk.)

The Court: They may be marked for identification. [4356]

Mr. Hallinan: We will offer at this time, at any rate, the copy of the letter that Mr. Mahaffey wrote to the Voice of the Federation, and I will ask to substitute a photostat of it for the original letter.

The Court: That may be marked in evidence.

> (Copy of letter, Mahaffey to Voice of the Federation, was thereupon received in evidence and marked Defendants' Exhibit Q-1.)

Mr. Hallinan: One other question I had forgotten: Mr. Silk, do you know Henry Schrimpf?

A. Sure I know him.

Q. Have you known him for a long time?

A. I know him ever since 1934.

Q. Were you and he quite friendly?

A. We was pretty good friends.

Q. Did you ever hear him talk about Harry Bridges and Henry Schmidt?

A. Well, exactly I won't commit myself because, you know, had an affection between themselves and I don't want to go on them damn records at all, because you and I talking together, maybe you don't like the man and maybe I do. You know what I mean? I know he wasn't very good friends. I know that. That is as far as I may go.

Q. You know he and Henry Schmidt and Harry Bridges were not very good friends? [4357]

A. Sure.

Q. Did you ever hear him say that about them?

(Testimony of Mike Silk.)

A. We were talking about it on the job. I heard it discussed. You know, when in Rome do like the Romans do. Working in San Francisco, I have to be a right fellow. I have to get a few dollars in my pocket. If I was siding with Schrimpf or say something against him, the officers in the organization, the first thing they would chase me back to Stockton. So I was a good guy and mind my own business and do the work what I was supposed to do.

Q. Tell me this: What is the worst thing you ever heard Schrimpf say about Henry Schmidt?

A. What did you say? [4358]

Q. What is the worst thing you ever heard Schrimpf say about Henry Schmidt?

A. Well, he didn't like Schmidt because he was running for Executive Board of ILA. Finally votes was taken on Pedro; Schmidt beat him. So it was in his craw, he thought he would be better man on Executive Board than Schmidt. Delegates from California elected Schmidt. Then after that I don't think he had any love for each other, and this Schmidt here used to tell me about it. I never go butting in that.

Q. Did he blame Bridges for Schmidt being elected over him?

A. Well, I think in a way he did, yes.

Q. Did he hate Bridges, too?

A. I don't think he ever had no use for Schmidt—Bridges or Schmidt, because I don't know—all together I want to keep my nose out of that.

Mr. Hallinan: I see. All right. That is all.

The Court: We will take the recess. We will take the afternoon recess, ladies and gentlemen. The same admonition to you not to discuss the case or form or express an opinion.

(Recess.)

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Cross-Examination

By Mr. Donohue:

Q. Mr. Silk, do you remember where it was you saw Harry Bridges and asked him about going to Stockton to [4359] make the speech?

A. That was right there in the dispatching hall on Clay Street. He had an office behind the dispatching office.

Q. It was in his office that you talked with him?

A. Yes, I saw him in the dispatching hall that day, too, right in front of it.

Q. About what time was it, do you recall Mr. Silk, that you talked to him about the speech in Stockton?

A. I think around—around forenoon.

Q. In the forenoon?

A. Yes, around in the neighborhood—I ain't had no watch exactly. I know it must be around forenoon, the best I remember.

Q. Do you remember what time it was when you left by automobile to go to Stockton?

A. Approximately around one o'clock. I know

(Testimony of Mike Silk.)

I had lunch, then I went down there, and he was there around the hall, and Jack Crowley asked me, "Where you going?" and I said, "I am going to Stockton with Harry Bridges. He is going to make a speech in Stockton."

He says, "Can I go with you guys?"

I says, "Ask Mr. Christensen. He owns the car."

Q. It was after lunch?

A. After lunch, yes.

Q. Do you recall what time it was when you got to Stockton? [4360]

A. Approximately around five o'clock. It was close to sundown. You know what I mean; the sun was pretty well down.

Q. Do you recall now that it was on the same day on which you talked to Mr. Bridges about making the speech that you took an automobile and went to Stockton? A. What do you mean?

Q. Do you remember now that it was on the same day as the day on which you asked Mr. Bridges to make the speech that you took the automobile and went to Stockton?

A. I talked to Mr. Bridges about going to the meeting a couple of days before. I don't know; I think it was on a Thursday or Friday I was talking to Bridges. Bridges told me, he says, "If you want me up there, make arrangements for me. I am ready to go with you any time for meeting arranged for me."

Q. Can you tell us where that conversation took place between you and Bridges?

A. Right down there in his office, in the dispatching hall, longshoremen, on Clay Street.

Q. And you don't know now whether it was Thursday or Friday?

A. Exactly I don't know, help me God, I don't. I know it was Thursday or Friday because Mahaffey told me, "I ain't going to have enough publicized meeting."

I says, "My God, you got the whole bunch, warehousemen, longshoremen, bargemen was all together." That was the ones he is going to talk to; maybe other members of other unions [4361] was there, because we was belong to AFL down there.

Q. Do you recall the time of day it was that you asked Mr. Bridges to make the speech in Stockton?

A. I told you I was talking to him Thursday or Friday.

Q. Do you recall what time of day on Thursday or Friday?

A. It was around, I think forenoon, if I remember right.

Q. Do you recall that you were working either or both of those days, Thursday and Friday?

A. Eh?

Q. Do you recall whether or not you were working on either Thursday or Friday at the time you talked to Mr. Bridges?

A. Well, I was working around there. Best look on the record from the shipowners. I can't remember all those. I know I was working.

(Testimony of Mike Silk.)

Q. You don't remember either where you were working on either of those two days?

A. The only way for you people to find out, shipowners got record every day I ever worked down there or any other place, because he has got the records: I don't remember.

Q. Have you ever said before, Mr. Silk, that in fact you asked Harry Bridges on Saturday whether he would make the speech that night in Stockton?

A. We was—Government agent was in my apartment in Wilmington. This meeting was out of my mind, I never even think about. Two Government agents was there. [4362]

Q. When, Mr. Silk?

A. About—I think about three weeks ago, maybe a little longer.

Q. Between Christmas and New Year's?

A. Eh?

Q. Was it between Christmas and New Year's?

A. No, it was after that.

Q. After that? A. After that, yes.

Q. Will you tell us what happened?

A. Then he asked me questions and I was absolutely forgot it. I ain't a little boy, remember everything; I ain't got no records with me. The only reason, I see the Los Angeles News about this speech Bridges was making at meeting, and I told my wife, I says, "My God, I remember that," I says. "I was with him from San Francisco to Stockton. I was on a visit from San Francisco." So I told her about it. After I see the Stockton Record memorize better, and I told Mr. Kaiser that I was talking to him on a Saturday, I talked to Mr. Bridges. Lots of things I don't remember. And I says, "Exactly what is going, if it was a couple of months or so, I remember it. This must be twelve or thirteen years ago."

Q. Do you remember now that several weeks ago when you talked to Mr. Kaiser and Mr. Ward—do you know that the other gentleman was Mr. Ward from the Immigration Service? [4363]

A. Know was two of them, name of Mr. Kaiser; and I think is another guy, what do you call it—is here; that is his name.

Q. Was it Mr. Ward?

A. Yes (handing card to the Court).

The Court: Leslie Ward.

Mr. Donohue: I think that is it, if your Honor please.

A. Because that day he was over there meeting arrangement with Bridges is meeting to talk in Los Angeles CIO Building, and I was already dressed up to go, and I going and my wife going to listen to him make a talk. And after all this conversation with Kaiser was asking me lots of things, I told him I don't remember exactly. I don't. Only thing what I remember right is certain things; certain things I don't remember.

He asked me where I going that night. I told him I go to Los Angeles. And he did ask me, too, if Bridges' attorney or others come up talk about anything. I said, "No, he never did." So he asked me, he says, "If you want to go Los Angeles," he says, "I take you."

(Testimony of Mike Silk.)

I says, "No, I am not going with you, because I made arrangements with one guy Walter, he is going to take me over there."

And finally he told me he might come back, and he going to ask me my opinion what kind of a speech Bridges has made. [4364]

I made the statement to Mr. Kaiser, I says, "The way I hear it, being open meeting, if you want to go you welcome to that meeting."

Mr. Kaiser says, "I don't think I will go. Them fellows knows me."

So this gentleman, a few days afterwards he come back, and him and his wife and a little bit of a boy about that high, he asked me about the meeting. I told him Bridges made a speech ever since our union born, and he was giving everybody details, one thing and another. I says, "Why you don't go up there, because it was open meeting to everybody?"

And this gentleman says, he says, "Mike, we had people up there. That was correspondence between me and this gentleman here."

Q. The day that Mr. Kaiser and Mr. Ward came down to see you—up until that time you hadn't talked with Mr. Bridges or anyone associated with the Bridges Defense Committee; correct?

A. I ain't got it.

Q. Do you recall the day that Mr. Kaiser and Mr. Ward came to your house? A. Yes.

Q. Prior to that time had anyone from the Bridges Defense Committee or Mr. Bridges contacted or talked to you? A. No.

(Testimony of Mike Silk.)

Q. The day that Mr. Ward and Mr. Kaiser came to your house [4365] is the day of the night on which you went to hear Mr. Bridges make a speech in Los Angeles; correct?

A. Mr. Kaiser, according to my wife's statement, he was there after noon, I don't know what time, and he asked what am I working, and my wife told him I was working. Mr. Kaiser asked her, according to my wife's statement, he says, "What time will Mike be home?"

My wife says, "I can't exactly tell you. If he work nine hours he be back around 6:15. If the job finish early, he might come any time—any time."

So Mr. Kaiser asked, "Do you think be sure he worked nine hours, I be there 6:15."

She says, "Most of the time he always come around after 15 minutes or 20 minutes after 6."

So naturally I was all ready—I never expected to see anybody from Government officials, and quick as I come home my wife says, "Government men was looking for you, Mike."

So I says, "My God, what he got to do with me?"

She says, "He was asking you about the time you be home. I told him you be home around 6:15."

About that time these two gentlemen came.

Q. Was that the night on which you went to hear Mr. Bridges speak?

A. Yes, that was 6:15 or 6:20; maybe Mr. Kaiser or this gentleman knows what time. I never looked at the watch. [4366] It was after six, because I was

(Testimony of Mike Silk.)

eating my supper, them fellows waiting until I have a bite to eat.

Q. What time was it Mr. Bridges spoke that night? A. Around 8 o'clock or 8:30.

Q. While Mr. Kaiser and Mr. Ward were at your house on this night did you tell them that at approximately one or 1:30 p.m. on Saturday, June 27, 1936, you went to the ILA hiring hall on Clay Street, saw Harry Bridges, and asked if he would speak at Stockton that night?

A. I was talking to him, made the arrangement for the meeting. I told Mr. Kaiser lots of things I don't remember, but this memorize me after I saw that article. Mr. Kaiser even had the article, showed it to me, give me no chance to read it, because I was anxious to go with the wife—that is the meeting in the Stockton Record. So after this Bridges' attorney show me that Stockton paper memorize my mind better than it did before.

Q. Do you recall now, Mr. Silk, whether you did make that statement to Mr. Kaiser and Mr. Ward?

A. Eh?

Q. Do you recall now whether or not you did make a statement to Mr. Ward and Mr. Kaiser that you had asked Mr. Bridges to speak at the Stockton meeting about 1 or 1:30 on Saturday, the day of the night on which the speech was made?

A. I was talking to him. He asked me so many questions, lots [4367] of things I don't remember. He never marked anything there. We was just talking like you and I, going in the other room talking,

(Testimony of Mike Silk.)

He was change different subjects; he ask me that day if when we went to Stockton Mr. Bridges was tired. He says, "Did he make any remarks," he says, "about he was making a trip?"

I says, "He never did." We was only talking union activity, where you are working under slave conditions, have organized, then we was talking how we would enjoy ourselves when we got—shipowners recognized our unions. That is what the conversation was. Lots of things was talking zigzag. I did told him, I says, "I better leave"——

The Court: Mr. Silk, may I interrupt you? Can you understand the question that Mr. Donohue asked you originally? Let's get that original question.

Mr. Donohue: I will be glad to repeat it.

The Court: If you don't understand the question, say you can't understand. If you understand the question, would you answer it Yes or No.

Q. (By Mr. Donohue): Do you remember now, Mr. Silk, whether or not you told Mr. Ward and Mr. Kaiser at your home that you asked Harry Bridges between 1 and 1:30 p.m. on Saturday to make a speech on that same Saturday night at Stockton?

A. I talked to Mr. Bridges. I talked to Mr. Bridges and I told him that Mahaffey arranged the meeting that night at [4368] Stockton. I talked to Mr. Bridges a day or two before that.

Q. I understand that is what you say, Mr. Silk.

A. That is what coming in my mind after I see the whole picture of the doggone meeting we went to.

(Testimony of Mike Silk.)

Q. I ask you now, Do you recall at this moment whether or not you did tell Mr. Kaiser and Mr. Ward at your home that you invited Mr. Bridges to speak at the Stockton meeting between 1 and 1:30 p.m. on Saturday, the day of the night on which he did in fact make the speech?

A. My God, how could I say this? How could I make a meeting on five minutes in time?

Q. Let me ask you another question, Mr. Silk;

A. Go ahead.

Q. Do you remember that you told Mr. Ward and Mr. Kaiser that you telephoned Walter Mahaffey and told him that Bridges would appear and that while you held the phone Mahaffey called the union hall, Teamsters Hall, to see if it was available for the meeting that night? A. No, sir.

Q. You didn't say that?

A. No. If he did, somebody put in a story.

Q. Do you remember that subsequently Mr. Ward and his wife and little boy came back to your house? A. Yes. [4369]

Q. Do you recall that they showed you a piece of paper and read it to you?

A. He didn't read it to me. He asked me to read it. I says, "What is that?"

He says, "You know what we was talking about with Mr. Kaiser and," he says, "read it." He says, "Will you sign it?"

I says, "I don't sign anything on that case, because I don't remember everything what you guys

(Testimony of Mike Silk.)

asked me." That is what I told him. I never signed nothing.

Q. Did you read the paper?

A. I looked at it, and then I passed it—he says, "Let the wife read it." So she looked at it. And she says, "There is nothing wrong there."

I says, "Myself, I don't sign anything, because I know lots of things I don't remember. I don't want to sign nothing."

And he made a step, and he says, "Well," he said, "that is all right. I will send the statement up there." He says, "If you won't sign the statement, no matter; if you sign or not, I am going to send the statement."

The reason I won't read the statement, because he never write anything before me that night he was talking to me the first time, never used any writing, any correspondence, so I don't know what them people put in that paper.

Q. Mr. Silk, isn't it a fact that you and your wife both [4370] read the paper?

A. I never did read it. I looked at it and I put it to him. He says, "Mr. Silk, will you read it?"

He handed it to my wife, she looked at it, and then she handed it to me, and he asked me to sign it. I won't sign it, because lots of things may be in that paper, and I don't remember. I want to be honest to God, tell the truth what I know. If I don't know, I keep my mouth shut.

Q. Mr. Silk, isn't it a fact after you read the paper you then said to Mr. Ward, "The statements

(Testimony of Mike Silk.)

I made in there are true, but I won't sign that affidavit because I don't want to get mixed up in this matter"? A. No, I never say that.

Q. You didn't say that? A. No, sir.

Mr. Donohue: I have no further questions, your Honor.

Mr. Hallinan: Call Mr. McDonald, please.

The Court: You are excused.

GERALD C. McDONALD

called for the defendants; sworn.

The Clerk: Will you state your full name to the Court and jury, please.

The Witness: Gerald C. McDonald. [4371]

Direct Examination

By Mr. Hallinan:

Q. Mr. McDonald, what is your occupation, please? A. Longshoreman.

Q. And have been for how long?

A. Since 1933.

Q. Where do you work?

A. Stockton, California.

Q. Do you live there also? A. I do, sir.

Q. Have you a family, Mr. McDonald?

A. Yes, sir.

Q. What does it consist of?

A. Four children—my wife and four children.

Q. And do you belong to the ILWU?

A. I do.

(Testimony of Gerald C. McDonald.)

Q. Prior to the ILWU did you also belong to the ILA? A. I did.

Q. And did you occupy any position as an officer in it? A. I was recording secretary.

Q. Now, you kept the minutes of the meetings, and so forth? A. I did.

Q. We have here the minutes including a special meeting of May 21, 1936, and I will ask you whose handwriting that document is in. [4372]

A. That is my handwriting.

Mr. Hallinan: And might I say that the document is the original of Defendants' Exhibit O-1, that photostat.

Q. Now, refreshing your recollection from that document, and especially from the end of it—there is no necessity; I am sorry; I hadn't remembered I introduced that. That is in evidence.

At the end of it it tells of the transfer of the proxies at the Maritime Federation convention to the San Francisco local. Do you notice that, Mr. McDonald? A. Yes.

Q. Now, do you remember a time after that when Harry Bridges made a talk in Stockton?

A. I do.

Q. Now, I have given you there a photostatic copy of the Stockton Record, and I pointed to an item in it. You have seen that document before, have you, Mr. McDonald? A. I have, yes.

Q. I showed it to you on a previous occasion?

A. Yes.

(Testimony of Gerald C. McDonald.)

Q. Then I also presented to you a copy of the Voice of the Federation and indicated a particular article in it in the issue of July 2, 1936; is that right? A. Right.

Q. I also have here a book of the expenditures of the union. [4373] I will ask you in whose handwriting that book is. A. That is my writing.

Q. Now, refreshing your recollection from those three documents, Mr. McDonald, can you tell us on what day it was that Harry Bridges made the speech in Stockton? A. June 27, 1936.

Q. And what was the first intimation that you had that Mr. Bridges was going to give the speech at Stockton?

A. Do you mean when I first heard that he was going to give it?

Q. Yes.

A. On Thursday or Friday before the Saturday that this meeting was held.

Q. Then what was the information you received?

A. Mike Silk had called from San Francisco to Mahaffey and told him that Bridges would be up there Saturday night.

Mr. Donohue: We object to the conversation, if your Honor please.

The Court: Just a minute.

Mr. Hallinan: I think he is entitled to tell that.

Mr. Donohue: He isn't entitled, if your Honor please, to describe a conversation had between other persons.

The Court: The fact that he had the conversation is admissible; the contents may be excluded.

(Testimony of Gerald C. McDonald.)

Q. (By Mr. Hallinan): What was the conversation that you [4374] had, not what Silk and Mahaffey may have had?

A. Mahaffey told me that Bridges would be in Stockton Saturday night for a meeting.

Q. Was there any difficulty regarding the shortness of time between the notice that he would come to the meeting? A. Yes, there was.

Q. What was the difficulty?

A. Well, the first thing we started discussing was such short notice to get all of our members and members of the other ILA unions around town at a meeting, especially on a Saturday night.

Mr. Hallinan: I think I have a copy of that account. If not, I will bring it out in the morning, your Honor. I ask that it be substituted for the book itself. I didn't introduce a copy of the page of the account book?

The Court: No.

Q. (By Mr. Hallinan): Will you take a look at that account book, that page, and read off to us the second from the last item.

A. On June 29, "Cash for hall, chairs and entertainment for Bridges meeting, $19.80."

Q. Whose handwriting is that in?

A. My handwriting.

Mr. Hallinan: We will offer in evidence, if the Court please, that page of the document, and as I say, if I may, I [4375] will substitute a photostatic reproduction of it.

(Testimony of Gerald C. McDonald.)

Mr. Donohue: We have no objection, if your Honor please.

The Court: So ordered.

The Clerk: May that be marked Defendants' R-1, your Honor.

> (Copy of page of account book was marked Defendants' Exhibit R-1.) [4376]

Q. You have read the articles in this paper on the matter of the meeting? A. I have.

Q. A copy of the issue of July 9th of the Voice of the Federation (I just pointed to an article in it)—you have seen that article before?

A. I have.

Q. Can you refresh your recollection from that again as to whether or not the persons named in it appeared at the times indicated there and Mr. Bridges made a talk?

A. Yes, on that I know they were there.

Q. Who else spoke there, do you know?

A. Schmidt spoke and Christensen.

Q. After the meeting adjourned, did you go any place with those gentlemen? A. No, I did not.

Q. You did not go to the night club with them?

A. No.

Q. On the subsequent Monday, the ensuing Monday, then, I take it, you made the notation in the cash book for the expenditure of the money for the hall, chairs and entertainment, is that right?

A. I did.

Mr. Hallinan: I think that is all. [4377]

(Testimony of Gerald C. McDonald.)

Cross-Examination

By Mr. Donohue:

Q. Mr. *May,* when did you first have occasion to recall this meeting?

A. I don't know just what you mean.

Q. When was the question as to whether or not there was such a meeting first posed to you since the day of the meeting itself?

A. Oh, about a month or five weeks ago.

Q. Under what circumstances was it called to your attention?

A. Jewarski, the president of our organization, asked me if I remembered about the Bridges meeting.

Q. What was your then recollection?

A. I told him—he asked me if I knew the date when it was. I said no, but I knew it was on Saturday night.

Q. Then by referring to your union records you came to the conclusion as to what Saturday night it was held, correct? A. That is right.

Q. When or with whom did you next discuss it?

A. Mr. Leonard.

Q. When and where did you see Mr. Leonard?

A. Oh, about three weeks ago in Stockton.

Q. Do you know Mr. Leonard's first name?

A. No, I didn't.

Q. And he came to Stockton to discuss it with you? A. He and some other gentleman.

(Testimony of Gerald C. McDonald.)

Q. Do you know who the other gentlemen [4378] were? A. Lipstick or——

Q. Was it Mr. Lipsit?

A. That sounds like it.

Q. Was there anyone else with him?

A. That is all, two men.

Q. When did you first have occasion to recall when it was that Mr. Mahaffey told you he knew that Mr. Bridges was coming to make the speech?

A. I don't get—will you state——

Q. Do you recall testifying a moment ago that Mr. Mahaffey told you on either the Thursday or Friday prior to the Saturday upon which you say the speech was made, that Mr. Mahaffey told you that Mr. Bridges was in fact going to make the speech? Do you recall that? A. Yes.

Q. When did you first have occasion to recall that fact?

A. Oh, I told that to Jewarski when this was first mentioned. I told him the whole story.

Q. What did you tell him then?

A. I told him about Mahaffey receiving calls from Mike Silk, stating that Bridges was going to be in Stockton Saturday night and we were all hollering because it was going to be on Saturday night, such short notice.

Q. Do you recall then that it was on Thursday or Friday that Mr. Mahaffey gave you that information? [4379] A. Yes.

Q. Now, can you tell us more precisely whether it was Thursday or Friday?

(Testimony of Gerald C. McDonald.)

A. Well, that far back I couldn't tell you whether it was Thursday or Friday.

Q. Could it have been Wednesday?

A. I doubt if it could have been Wednesday.

Q. Could it have been Saturday?

A. It could not have been that soon, no.

Q. It could have been Friday? A. Yes.

Q. But it could not have been on Saturday?

A. I don't think it could have been, no.

Q. What is your best recollection of the time of day on which you got that information?

A. I think it was around the morning, but I wouldn't say for sure about that.

Q. It was on the morning of either——

A. Thursday or Friday.

Q. Thursday or Friday, and do you recall where you may have been or in fact were at the time Mr. Mahaffey gave you this information?

A. I was in the office of the union.

Q. And that is where you are regularly employed in the office of the union? [4380]

A. I was at that time.

Q. How long have you been a member of the ILWU? A. Since 1933.

Mr. Donohue: I have no further questions.

Redirect Examination

By Mr. Hallinan:

Q. One thing I forgot. There is a letter I want to show you here. I am showing you a letter there,

(Testimony of Gerald C. McDonald.)

a copy of a letter, purporting to be from Walter Mahaffey to Mr. B. Mayes, Editor, Voice of the Federation. It has been received in evidence as Defendants' Exhibit Q-1. Have you seen that document before? A. Yes, sir.

Q. When did you last see it?

A. You mean the original document?

Q. That document.

A. When I took it out of the files when Leonard and Lip——

Q. Lipsit.

A. Lipstick was up at Stockton.

Q. What did you do with it?

A. I gave it to them.

Q. Gave it ot Mr. Leonard or Mr. Lipsit?

A. Yes.

Q. You found that in the regular files of the union that you had charge of, is that right?

A. Yes. [4381]

Q. Was there anybody there when you removed that? Did you have any difficulty locating it or anything of the kind?

A. We had a little trouble finding it. Mr. Devonshire didn't think we could find it. We were both looking through the files and I pulled it out.

Q. You were making a search, then, to determine the exact date which that meeting took place?

A. Yes.

Q. That document was drawn by you from the files and turned over to Mr. Leonard?

A. Right.

(Testimony of Gerald C. McDonald.)

Q. The document reads on the headline of the International Longshoremen's Association, Local 38-93, ILA, 28 West Main Street, Telephone 7201, "Affiliated with American Federation of Labor, International Transport Workers' Federation and Trades and Labor Congress of Canada."

"Stockton, Calif., June 29, 1936.

"Mr. B. Mayes, Editor
"Voice of the Federation
"120 Golden Gate Ave.
"San Francisco, Calif.

"At a special meeting Saturday night, June 27th, held in Teamsters Hall, the Longshoremen, Bargemen, Warehousemen and Ship Clerks were addressed by brothers Harry Bridges, Henry Schmidt and William Christensen, of Local 38-79. [4382]

"The speakers were very well received and the membership expressed themselves as desirous of having them back again as soon as possible.

"Brother Bridges was given an invitation to speak in Stockton, on Labor Day. We sincerely hope he accepts as this is to be the biggest celebration Labor has ever had in this city.

"Fraternally yours, Walter Mahaffey, Sect. Local 38-93, I.L.A., Stockton, Calif."

Q. Let me ask you this, Mr. *Mayes*: Do you recall that in the issue of July 9th of the Voice of the Federation it does appear in that article that

Mr. Bridges was invited to speak on Labor Day also? A. It does say that, yes.

Q. Let me ask you this now: Do you have around your place now any of the letterhead of the ILA upon which this is written?

A. You mean blank ones?

Q. Yes.

A. Might have. I don't know for sure.

Q. The telephone number would be different, would it?

A. It is different now, yes. You mean on our new stationery?

Q. Yes.

A. It would be different, yes.

Q. I wonder how long ago it was that the telephone was 7201, do you know? [4383]

A. Well, when they put in the dial system they put in another number.

Q. What about the address, 28 West Main Street? Is that where you are still located?

A. No.

Q. How long ago did you move from 28 West Main Street?

A. We moved from 28 West Main in 1937.

Q. So that you wouldn't have letterheads printed with an address 28 West Main Street for at least 13 years, is that right? A. No.

Mr. Hallinan: That is all.

Mr. Donohue: No further questions.

The Court: The witness is excused.

Mr. Hallinan: Now, I have several witnesses, your Honor, that are in attendance, most of them along this same line, but I do not see how we could get one of them through by 4:00.

The Court: It is approximately 4:00 o'clock now. We will take the adjournment, then, ladies and gentlemen of the jury, until tomorrow morning at 10:00 o'clock, and may I again admonish you not to discuss the case under any conditions nor suffer or permit any person to converse with you on any subject of the trial. You are not to form or express an opinion on the matter until it is submitted to you.

(Thereupon an adjournment was taken to tomorrow, Thursday, January 26, 1950, at 10:00 o'clock a.m.) [4384]

Thursday, January 26, 1950, 10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: Call Dewey Mead.

DEWEY MEAD

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury.

The Witness: Dewey Mead.

Direct Examination

By Mr. MacInnis:

Q. Mr. Mead, were you born in the State of California? A. I was, sir.

(Testimony of Dewey Mead.)

Q. And am I correctly informed that you were born around Sacramento?

A. I was born in Sacramento.

Q. And you spent the early years of your life in the City of Oakland, is that correct? A. I did.

Q. And have been a resident of the City of San Francisco for about how many years?

A. Since 1919.

Q. About 31 years? [4385]

A. Yes, sir, just about.

Q. What has been your business or profession over the years, Mr. Mead?

A. Well, for many, many years I worked as a journeyman painter and decorator. For 15 years I represented the Painters and Decorators affiliated with the American Federation of Labor.

Q. Pardon me. Was that an elective office which you held with the American Federation of Labor?

A. Yes, elected every year.

Q. What was the title which you then held?

A. Business Representative.

Q. And after that time did you retire from the labor movement and go into private business?

A. Well, during that time I was also president of the San Francisco Building and Construction Trades Council for many years.

Q. For about how many years were you president of that council?

A. Seven or eight; I am not quite sure.

Q. And will you tell the Court and jury what

(Testimony of Dewey Mead.)

the San Francisco Building and Trades Council may be.

A. It is the parent body for all the building trades craftsmen.

Q. And you were president of that body for about seven or [4386] eight years here in San Francisco? A. Yes.

Q. Now, when did you go into private business, Mr. Mead?

A. I retired from the San Francisco Building and Construction Trades Council in 1937, February 1, to be exact.

Q. And at the present time what is your business or profession?

A. I am in the painting and decorating business, contracting business.

Q. What is the name of that business?

A. Dewey Mead & Company.

Q. You operate that business here within the City of San Francisco?

A. Yes. It is not confined—my efforts are not confined to the City and County of San Francisco, however.

Q. Have you held any elective office in the City and County of San Francisco for some years?

A. Yes, I have been a member of the San Francisco City and County Board of Supervisors for fifteen years.

Q. And you are at present a member of the Board of Supervisors? A. I am.

(Testimony of Dewey Mead.)

Q. Now, do you know a man named Harry Bridges? A. Yes, I do.

Q. And do you know a man named Henry Schmidt? A. Yes, I do.

Q. For about how many years have you known those two men? [4387]

A. I met them both—I am sure that I met Mr. Bridges in 1934; I believe both of them since 1934.

Q. Did you meet him in the course of the 1934 strike or in some matters pertaining to the strike?

A. Yes, I did.

Q. And following that time have you had occasion to meet those two men over the years?

A. Occasionally, yes.

Q. And have you met them at social gatherings as well as political gatherings?

A. Yes; I have.

Q. Have you appeared with Mr. Bridges on various panels or forums conducted within this City and County?

A. Yes, I have. I appeared on one panel sponsored by the San Francisco Chronicle.

Q. And what was that, Mr. Mead?

A. It was a panel representative of labor and employers.

Q. Was that the panel on which the participants were yourself, Mr. Bridges and Mr. J. D. Zellerbach? A. Yes, it was.

Q. In addition to your acquaintanceship with Mr. Bridges and Mr. Schmidt over the period of the past sixteen years, have you heard those two

(Testimony of Dewey Mead.)

men discussed in this community by other persons?

A. Oh, yes; yes, I have. [4388]

Q. You have heard their reputation discussed?

A. I have.

Q. Now, from all of those bases,—your own knowledge of the men and such conversation as you have had or overheard by other persons regarding Mr. Bridges and Mr. Schmidt,—are you familiar with the reputation of each of those men in this community for truth, honesty and integrity?

A. Yes, I am.

Q. What is the reputation of Mr. Bridges in this community for truth, honesty and integrity?

A. As far as I personally know, very good.

Q. What is the reputation of Mr. Schmidt in this community for truth, honesty and integrity?

A. Very good, to the best of my knowledge.

Mr. MacInnis: Thank you.

Cross-Examination

By Mr. Donohue:

Q. Are you here in response to a subpoena, Mr. Mead? A. I am, sir.

Q. And when was the subpoena served on you?

A. Yesterday.

Q. Prior to the service of that subpoena had you discussed your testimony with any person or persons?

A. I didn't discuss my testimony with them, no.

Q. Did you discuss the question as to whether or not you would [4389] appear? A. Yes, sir.

Q. And with whom did you discuss that question?

A. Well, now, unfortunately, I can't think of the man's name. I know him very well. The gentleman I discussed the question with whether I should appear or would appear left for Seattle, I believe, this morning. I am just trying to think of his name. It won't come to my mind at the moment.

Q. Was he a member of the Bridges-Schmidt-Robertson Defense Committee, to your knowledge?

A. I believe so.

Q. Was he a member of the bar?

A. Not to my knowledge.

Q. And when did you have that discussion with him?

A. That was sometime last week. I might add, however, that I had lunch with this gentleman and Mr. MacInnis yesterday noon. At the outset, however, I advised the gentlemen that I spoke to that I would appear if and when I were subpoenaed.

Q. Can you tell us, Mr. Mead, with whom you have discussed the question of the good reputation of Mr. Bridges and/or Mr. Schmidt?

A. No, I couldn't name names. Over the period of many, many years since 1934 Mr. Bridges' name has been brought up in various discussions from time to time. It would involve hundreds of people; I couldn't begin to give you the names of [4390] them.

Q. Can you give us the name of any person with whom you have discussed the good reputation of Mr. Bridges and/or Mr. Schmidt?

(Testimony of Dewey Mead.)

A. No, I am afraid not; not at the moment.

Q. Among the hundreds of persons with whom you have discussed Mr. Bridges, did you ever hear any person state that, in his opinion, Mr. Bridges was a member of the Communist Party?

A. Yes, I have.

Q. On how many occasions would you say you have heard that said?

A. Well, I wouldn't know, because the people that I discussed that matter with, who made that statement, in my opinion, weren't in a position to know exactly what they were talking about. I take their statements with a grain of salt. I don't know that the man is a Communist, and I don't believe that they do either.

Q. Can you tell us who it might have been who said that Mr. Bridges was a member of the Communist Party?

A. No, I am afraid I couldn't name names.

Q. At any time, Mr. Mead, do you recall offering your support to the People's World?

A. No, I don't recall.

Q. Do you recall whether or not on the 31st of December of 1938 you wrote a letter to the People's World offering your [4391] services to the People's World sustaining fund drive?

A. No, I don't recall that.

Q. You don't recall it?

A. What was the date again, please?

Q. December 31, 1938.

A. I don't recall it.

(Testimony of Dewey Mead.)

Q. At any itme, Mr. Mead, during the years you have held public office, have you solicited political assistance from Harry Bridges or the organization which he represents?

A. I have not. I have been requested to appear before their organization for the purpose of interrogation.

Q. And have you so appeared?

A. I believe I appeared at one election.

Q. Do you recall when that was?

A. Or prior to one election.

Q. Do you recall when that was?

A. Well, it must have been the election prior to the last election that I was returned to office, because during the last election I was in the hospital and made no campaign whatsoever. So it must have been the time before. [4392]

Q. Is your testimony here this morning, Mr. Mead, in any way influenced or affected by the fact that you may have some political aspirations in the future? A. Absolutely none whatsoever, sir.

Mr. Donohue: I have no further questions of the witness.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Mead, I suppose that in your activities as a member of the Board of Supervisors, you are called upon to speak to many blocs of our citizenry regardless of their political creed, whether they be

(Testimony of Dewey Mead.)

Republicans, Democrats or members of the smaller political groups?

A. Yes, of course that is correct.

Q. And I take it that you don't endorse any one of those particular groups by appearing before them? A. Not necessarily, no.

Q. Now, might I refresh your memory by suggesting that the man who contacted you was Mr. Germaine Bulcke?

A. Bulcke, that's right.

Mr. MacInnis: Thank you.

Mr. Donohue: One further question, if your Honor pleases.

Recross-Examination

By Mr. Donohue:

Q. Mr. Mead, on the 5th of August, 1945, did you insert an ad in the People's World which stated, "The Daily Worker is the outstanding pro-Labor daily paper in the Bay Area; for that reason alone it deserves the support of every member of [4393] a labor organization"?

A. Not to my knowledge.

Mr. Donohue: No further questions, your Honor.

Further Redirect Examination

By Mr. MacInnis:

Q. Well, Mr. Mead, do you have any connection whatsoever with any Communist organization?

A. I certainly do not. I think I made that very clear at the Board of Supervisors meeting last Monday, when I suggested in no uncertain terms that any Communists, in my opinion, if they weren't satisfied with the conditions in this marvelous country of ours, if you will pardon the expression, "get the hell out."

Q. If you thought that Harry Bridges was a member of the Communist Party, would you have come here to give testimony?

A. I certainly would not, unless I was brought down here by force.

Mr. MacInnis: Thank you.

Further Recross-Examination

By Mr. Donohue:

Q. Mr. Mead, if evidence were presented to you establishing beyond a reasonable doubt that Harry Bridges was a member of the Communist Party, would you say, to, that he, too, should get the hell out? A. I certainly would.

Mr. Donohue: Thank you, sir.

Mr. MacInnis: Thank you very much, Mr. Mead.

Mr. Hallinan: It struck me, your Honor, that certain [4394] documents that have been referred to by witnesses here and introduced in evidence should be shown to the jury. There might be some question made, there might be some question in the jurors' minds as to whether the documents display on their faces the originality ascribed to them by the witnesses who identify them as being what they purport to be, so I am going to ask that they be presented to the jurors now. They are the minute book of the

Stockton union, especially its records of May 21, 1936, and its day book, which was identified as the payment on the 29th of June for the hall rented for the Bridges meeting, and then the copy of the letter dated June 29, 1936, to the Voice of the Federation. I have marked the two books with a lead pencil marking, the day book with a circle and a cross in it, and the book of the minutes by putting a bracket around the part that discusses having the meeting. I think if they see the original books, it would be fairer to the jurors' perception than a copy. Photostatic copies have been substituted, but I think the originals are more desirable at this time.

(Whereupon Exhibits O-1, Q-1 and R-1 for identification were handed to a juror by the Clerk.)

Mr. Donohue: At this time might I ask your Honor if it is your Honor's practice to permit exhibits to go into the jury room with the jury?

The Court: Yes, it is. [4395]

Mr. Donohue: Then we shall not ask the jury to look at our exhibits at this time, if your Honor pleases.

The Court: Very well. Any documents duly admitted in evidence by the Court, either by the prosecution or by the defense, may be taken into the jury room by the jurors during their deliberations and examined. The original, of course, may be supplanted by photostats hereafter. The jurors understand that practice, I assume.

Mr. Donohue: Thank you, your Honor.

(Documents referred to above were examined by the jury.)

Mr. Hallinan: I think, your Honor, in view of the fact that some question might possibly be raised, although it certainly has not been raised by the attorneys for the prosecution, as to whether or not these documents were compiled or written at the time that they are indicated, I will offer in evidence the original documents themselves. Now we have photostat there, and at the conclusion of the case, we should like to withdraw these. But I think it might be better if we have the original documents in evidence.

The Court: So ordered.

The Clerk: May they be marked as originally, your Honor?

The Court: They may be withdrawn hereafter.

(Whereupon Defendants' Exhibits O-1, Q-1 and R-1 previously marked for identification were received in evidence.) [4396]

Mr. Hallinan: Now if we might have Louis Devonshire.

LOUIS DEVONSHIRE

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury? A. Louis M. Devonshire.

The Clerk: How do you spell the first name?

A. L-o-u-i-s.

The Clerk: Louis N.? A. M., yes.

The Clerk: Devonshire?. A. That's right.

Direct Examination

By Mr. Hallinan:

Q. Mr. Devonshire, what is your occupation?

A. I am ship's clerk.

Q. And where do you live?

A. I live in the vicinity of Stockton.

Q. Have you a family? A. Yes.

Q. What does it consist of?

A. I have my wife and I have my daughter there and three grandchildren.

Q. And where do you come from originally? Are you a California man?

A. No, I come from Washington, a little town by the name of [4397] Montesano.

Q. How long have you lived in or around Stockton? A. About 25 years.

Q. So you were living there in 1936?

A. That's right.

Q. And did you have the same occupation, ship's clerk?

A. No, I was a longshoreman at that time.

Q. And you were a member of the ILA local of the longshore union at that time?

(Testimony of Louis Devonshire.)

A. That's right, yes.

Q. In the year 1936, and in the month of June, did you have any office in that union?

A. Yes, sir, I was president.

Q. You were president of the local of the ILA?

A. That's right.

Q. That has since become the ILWU?

A. Yes, sir.

Q. Now, do you remember an occasion in or about the month of June of 1936, when Harry Bridges, Henry Schmidt and William Christensen spoke before a meeting of the local in Stockton?

A. I remember that Mr. Bridges and Mr. Schmidt spoke, but I can't place Mr. Christensen, no.

Q. Now, I just displayed to you two papers there and I indicated to you with a pencil the items that I wished to call to your attention. One is the Stockton Record, a photostat of the [4398] Stockton Record for June 27, 1936, and the other is the original of the Voice of the Federation, edition of July 9, 1936. You have seen those documents before, have you not? A. Yes, I have.

Q. And you have seen the account book of the union that was introduced here in evidence?

A. Yes, I have seen that.

Q. Now, using those documents to refresh your recollection, can you tell us, Mr. Devonshire, what day Mr. Bridges and Mr. Schmidt spoke before the Stockton local? A. It was on June 27, 1936.

Q. And what day of the week was that?

A. That was on a Saturday evening.

(Testimony of Louis Devonshire.)

Q. And did you attend the meeting?

A. Yes, sir.

Q. And after the meeting were you one of the party that attended to some place of entertainment?

A. Yes, sir.

Q. Will you just tell us what took place there?

A. Well, we left the meeting and went over to a night club by the name of Mattioni's and had a drink and watched the entertainment there. I don't know just how long we were there, but after we left, then I went on home.

Q. Had Mr. Bridges ever been in Stockton, so far as you know, at one of your meetings? [4399]

A. No, I don't believe Mr. Bridges had. He might have.

Q. There at the nightclub was any particular attention called to your group by the master of ceremonies or anything like that?

A. I believe there was, yes, a spotlight, I believe, was turned on Mr. Bridges.

Q. And then after that occurred you left the nightclub and you simply went home?

A. That's right.

Q. When was this matter first called to your attention again, the date, and so forth?

A. Well, I think some time Saturday.

Q. Oh, I see. In other words, going back to 1936 you think that the first time that you knew that Mr. Bridges was going to be there was some time on Saturday?

A. Yes, that's right.

(Testimony of Louis Devonshire.)

Q. When was this testimony that you are giving, however, called to your attention? When were you first asked about these dates and so forth?

A. Well, Mr. Javorski, the president of the local up there, called me where I was working one time and asked me if I remembered a meeting. I told him yes, but I didn't remember the exact date at that time, but that was the first——

Q. About how long ago was that?

A. That was about, I believe about three—about four weeks ago. [4400]

Q. Then did you participate in making a search for the records to establish the date?

A. Yes, sir.

Q. You saw the letter that was introduced here? (Exhibiting paper to witness). That is the letter from Mr. Mahaffey to the Voice of the Federation.

A. Yes.

Q. You knew Mr. Mahaffey at that time, did you? A. Oh, yes.

Q. What was his position?

A. He was business agent and financial secretary at that time.

Q. Can you tell me now when after that meeting you first saw the letter that has been shown to you?

A. Well, when we—there was a couple of men came down—you mean the first time——

Q. No, no; you are narrating the event I wanted.

A. When a couple of gentlemen came up from San Francisco in search of evidence and we went—

(Testimony of Louis Devonshire.)

Mr. McDonald and I went through those records and picked up various stuff pertaining to this meeting.

Q. Was that document, the letter to the Voice of the Federation, or a copy of the letter one of the documents you found?

A. No, no, Mr. McDonald must have found this letter. There was another letter that we had pertaining to it, I believe. [4401]

Q. Have you seen the book of accounts?

A. Yes, we found that that day.

Q. And have you produced the minute book?

A. Yes.

Q. Showing when Mr. Bridges was coming there? A. Yes.

Q. Reporting on the Maritime Federation convention in San Pedro? A. That's right.

Q. Since that time have you talked about this matter with any official or investigator for the Immigration Department?

A. Yes, there was one man up to my house.

Q. Did he have with him any documents?

A. He had a copy of a statement I had signed, and he had a photostatic copy of the Stockton Record—page of the Stockton Record.

Q. Of what date? A. June 27.

Q. 1936? A. That's right, yes.

Q. And questioned you at that time?

A. He asked me if—he let me read the statement and asked me if I had signed it, and I told him Yes.

Q. And how long ago was that?

(Testimony of Louis Devonshire.)

A. Let's see; that was only about a week or so ago; just a [4402] short while back.

Mr. Hallinan: I see. I think that is all.

Cross-Examination

By Mr. Donohue:

Q. What was the other letter you found, do you recall, Mr. Devonshire?

A. Well, it was a letter pertaining—pertaining to something. I don't remember the exact wording of it, no, sir.

Q. Mr. Devonshire, were it not for the documents which were exhibited to you, would you have had any independent recollection of the date in question?

A. Well, I might have. I knew approximately.

Q. When you say "approximately" within how wide a range of time?

A. I knew it within a month, but this has refreshed my memory as to the date, yes.

Q. And you could only fix the precise date by reference to the documents which were shown to you? A. That's right.

Q. When were these documents first shown you, can you recall, Mr. Devonshire?

A. Well, you mean the Record and that?

Q. The Photostats.

A. Oh, that was on, I believe about the first Saturday of this month.

Q. By whom were they shown to you? [4403]

A. There was a couple of gentlemen came up from San Francisco.

(Testimony of Louis Devonshire.)

Q. Do you know who those gentlemen were?

A. A Mr. Leonard and Mr. Leipsic, I think his name is.

Q. Did they exhibit them to you at that time, Mr. Devonshire?

A. Well, they just asked us if we had any records. No, they didn't have the photostats at that time. No, no, I am wrong there. They asked us if we had anything that would show that Mr. Bridges had been there at that time.

Q. And then you made the search?

A. We searched for the documents.

Q. When did you first see the photostat of the Stockton paper? A. The Federal men had it.

Q. Pardon?

A. The Federal men had it—the men from the Department of—from the Immigration Department.

Q. That is the first time you saw that paper?

A. That's right, the photostat, yes.

Q. What documents did you use for the purpose of refreshing your recollection as to the date on which this meeting occurred?

A. Well, we used this—the account books, and that one there, and then a friend of mine was married on the same day. That brought it back to me.

Q. And at the time we are talking about, in June of 1936, you were the president?

A. That's right, yes, sir. [4404]

Q. And I think you stated that you first knew Mr. Bridges was going to make the speech on Saturday? A. Yes, that's right.

Mr. Donohue: I have no further questions.

Redirect Examination

By Mr. Hallinan:

Q. One other matter, Mr. Devonshire. Have you also prior to this time seen a copy of the excerpt from the Voice of the Federation of the issue of July 2, 1936, reciting portions of the speech that Mr. Bridges gave in Stockton that night?

A. Yes.

Q. Refreshing your recollection from that, can you tell us what was the nature of the discussion he gave?

A. He reported on his meeting with the Maritime Federation of the Pacific. He had our proxy to handle our business with that organization.

Q. Do you remember also—and I suppose it will be necessary to refresh your recollection from that same item—whether or not he was invited at that time to return as the principal speaker at the Labor Day celebration which was going to be held?

A. I believe he was, yes.

Q. You have seen that in the documents that were shown you? A. Yes.

Mr. Hallinan: I think that is all.

Could we have Mr. Shuffler—Mr. James Shuffler? [4405]

JAMES SHUFFLER

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury.

The Witness: My name is James Shuffler.

The Clerk: Will you spell the last name.

The Witness: S-h-u-f-f-l-e-r.

Direct Examination

By Mr. Hallinan:

I think, your Honor, that the record should disclose this: that at the time that certain motions were made to the Court concerning the witnesses Manning Johnson and Paul Crouch, photostatic reproductions of all these newspaper items, the letter, the statement that Mr. Devonshire said was shown to him, and other documents were presented to the Court and left here with the clerk and permitted to be inspected by the officers of the Immigration Service and the attorneys. That is so that there may be no question that they had ample opportunity to inspect them, to look into them and to question the witnesses concerning them.

The Court: Mr. Donohue, is that a correct statement?

Mr. Donohue: My recollection, if your Honor please, is that on the day Mr. Hallinan suggests that certain originals were offered to the Court; some time subsequently on the same day they were substituted for by photostats; and some time later that day photostats were taken. I may say, in fairness to your Honor, that some time subsequently, a matter of days, [4406] I did obtain a copy of these from the United States Commissioner, to whom the

(Testimony of James Shuffler.)

set had been sent, and that we have inspected them from that source.

Q. (By Mr. Hallinan): Now, Mr. Shuffler, what is your occupation, please?

A. I am a longshoreman.

Q. Where do you live? A. In Stockton.

Q. Are you a man of family?

A. I am. I live at 1428 Carlton Avenue.

Q. What does your family consist of?

A. My wife.

Q. How long have you been a longshoreman, Mr. Shuffler? A. Since 1933, sir.

Q. Are you a member of the ILWU in Stockton?

A. I am.

Q. Hold any office there?

A. I am vice-president of Local 54.

Q. And were you also a member of the ILA which preceded the ILWU in Stockton?

A. I was, sir.

Q. And were you such in the month of June, 1936? A. I was.

Q. It seems sort of tedious going through this same routine, but that is the only way we can produce these records. You [4407] have before you, Mr. Shuffler, a photostatic copy of the front page of the Stockton Record for June 27, 1936. You have seen that document before, have you?

A. Yes, sir, I have.

Q. And then you also have before you the original of the Voice of the Federation for July 9, 1936? A. Yes.

(Testimony of James Shuffler.)

Q. You have seen that document before?

A. Yes, sir.

Q. Now, do you remember a meeting at which Harry Bridges, Henry Schmidt and William Christensen addressed a meeting of the ILA local in Stockton in the year 1936? A. I do.

Q. And using the documents that I have just shown to you and whatever documents you have looked at between the date and the present time, can you tell us on what day those three gentlemen addressed the Stockton local?

A. It was on a Saturday night, June 27, 1936.

Q. Did you attend the meeting? A. I did.

Q. And did you afterwards accompany these men to the place of entertainment that has been identified here?

A. Yes, sir; we went to Mattioni's, and I think I had one highball at that place, and it was pretty hot in there, and I went home. [4408]

Q. And left the other men staying there?

A. That's right.

Q. Have you been questioned by any of the immigration inspectors on this matter?

A. No, sir, I haven't.

Mr. Hallinan: I think that is all.

Cross-Examination

By Mr. Donohue:

Q. When, Mr. Shuffler, was it that the question of this meeting was first brought to your attention?

(Testimony of James Shuffler.)

A. It was first brought to my attention that Saturday morning that Mr. Bridges spoke in Stockton. I walked into the longshore hall for dispatch orders and I seen the sign on the board.

Q. When, after the meeting and more recently, has the question of this meeting been brought to your attention?

A. Well, I don't remember the date, but there was some gentlemen from Frisco came down to look up those records.

Q. Can you tell us about how long ago it was?

A. Well, I would say offhand maybe five weeks ago.

Q. Before Christmas, was it?

A. No, after Christmas.

Q. After Christmas? A. Yes.

Q. Do you recall who the gentlemen were that came to talk to you? [4409]

A. I wouldn't know their names, but I would know them if I seen them. I think——

Q. When they first asked you about that meeting were you then able to tell them the date on which this meeting was held? A. Oh, no.

Q. And you fix the date now how?

A. After I seen the records, the papers, the photostatic copies.

Mr. Donohue: I have no further questions.

Mr. Hallinan: That is all, Mr. Shuffler.

Mr. Frank Jaworski.

The Court: We might take the recess.

Mr. Hallinan: All right.

The Court: We will take morning recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions and not to form or express an opinion until it is submitted to you.

(Recess.) [4410]

FRANK JAMES JAWORSKI

called on behalf of the defendants; sworn.

Q. (By the Clerk): Will you state your full name to the Court and jury?

A. Frank James Jaworski.

Q. Will you spell your last name?

A. J-a-w-o-r-s-k-i.

Direct Examination

By Mr. Hallinan:

Q. Where do you live, Mr. Jaworski?

A. 332 West Jefferson, Stockton, California.

Q. Are you a man of family? A. Pardon?

Q. Have you a family? A. Yes, I have.

Q. Consisting of what?

A. Wife and three—four children.

Q. Is the fourth one pretty young?

A. Not too young.

Q. What is your occupation, Mr. Jaworski?

A. Longshoreman.

Q. And how long have you been such?

A. '42—Since '42.

(Testimony of Frank James Jaworski.)

Q. Since 1942. Prior to that time what was your occupation? A. I was a bargeman.

Q. Were you, as a bargeman, a member of the ILA local of [4411] Stockton? A. I was.

Q. And were you such in the year 1936?

A. I was.

Q. Do you now belong to the ILWU?

A. I do.

Q. And have you any office in the Stockton local?

A. I am the president and business agent of Local 54.

Q. And have been for how long?

A. Since '47.

Q. Do you remember an occasion in the year 1936 when Harry Bridges, Henry Schmidt and William Christensen spoke in Stockton?

A. I do.

Q. Now, you have, prior to this time, been shown the documents that are lying on the table in front of you? A. I have.

Q. And you have there the photostatic reproduction of the front page of the Stockton Record for June 27, 1936, announcing the meeting; and then you have the original of the Voice of the Federation, the issue of July 9, 1936, stating the meeting would be held and giving the date upon which it was held, is that right? A. That's correct.

Q. Now, you have seen those documents before; have you also seen the expenditure book of your local union? [4412] A. I have.

Q. Establishing the date upon which the hall

(Testimony of Frank James Jaworski.)

rent was paid and the expenses of entertaining visitors? A. I have.

Q. And then have you seen also the letter that Mr. Mahaffey sent out, which is reproduced in that article in the Voice of the Federation?

A. I glanced at it, yes.

Q. Now, using all those devices to refresh your recollection, can you tell us, Mr. Jaworski, on what date Harry Bridges spoke in Stockton?

A. With these articles refreshing my memory, I would say June 27, 1936, between 7:00 and 8:00 p.m.

Q. I see. And did you attend the meeting?

A. I did.

Q. Do you remember it very distinctly? I mean, do you remember that he was there and spoke?

A. Well, I remember distinctly a couple of statements made by him. One was that if you get 95 cents an hour do 45 cents worth of work. The other was, there was no middle ground between the employer and employee, and that stuck in my mind.

Q. Now let me ask you this: Did you go on the party with Mr. Bridges that went to Mattioni's?

A. I did not.

Q. I see. So after the meeting—Have you any notion of what [4413] time the meeting adjourned?

A. I would say it lasted approximately two hours.

Q. Now, showing you also a document that I think you have seen before, an issue of the Voice of the Federation for July the 2nd, or a copy of it, at least, you have seen; can you state, refreshing your recollection from that, about how long Harry Bridges spoke on that occasion?

A. I would say a good hour.

Mr. Hallinan: All right. That is all.

Mr. Donohue: Would Your Honor indulge me a moment?

Mr Hallinan: One other little matter.

Q. Have you been consulted by any of the officers or agents of the Department of immigration touching your testimony on this matter?

A. I have not.

Mr. Hallinan: I see.

Mr. Donohue: We have no questions of the witness, Your Honor.

The Court: The witness is excused.

Mr. Hallinan: Call Mr. Barth Woods.

BARTH WOODS

called on behalf of the defendants; sworn.

Q. (By the Clerk): Will you state your full name to the Court and jury? [4414]

A. Barth Woods.

Q. And will you spell the first name?

A. B-a-r-t-h.

Direct Examination

By Mr. Hallinan:

Q. Where do you live, Mr. Woods?

A. I live in Stockton.

(Testimony of Barth Woods.)

Q. And have you a family? A. Yes, sir.

Q. What does it consist of?

A. Well, it consists of my wife and I and two daughters.

Q. I see. And how long have you lived in Stockton?

A. I have lived in Stockton for, oh, I should say 35 years.

Q. What is your occupation?

A. Longshoreman.

Q. Are you a member of the ILWU, of the Stockton local? A. I am.

Q. And were you a member of the ILA, which preceded it? A. I was.

Q. Now, you have also been shown within the last few weeks certain documents relating to a meeting which Harry Bridges addressed in Stockton?

A. I have.

Q. Now, Mr. Woods, you have before you a photostatic reproduction of the first page of the Stockton Record or the issue of June 27, 1936. You have seen that document before, have you? [4415] A. Yes.

Q. And then the other documents is a copy of the Voice of the Federation, the issue of July 9, 1936. You have seen that item before, have you?

A. Yes.

Q. The Stockton Record reproduction contains the announcement of the meeting to be addressed by Harry Bridges for that evening, is that true?

A. Yes, sir.

(Testimony of Barth Woods.)

Q. And then the Voice of the Federation article states that on June 27, 1936, Harry Bridges, William Christensen and Henry Schmidt did address the Stockton local, isn't that correct?

A. Yes, sir.

Q. Have you also been shown the expenditure book of your union, showing the payment for the hall, chairs and entertainment? A. Yes, sir.

Q. And the letter that was found in the files of the local which is reproduced in the Voice of the Federation item, signed by Walter Mahaffey, announcing that that meeting had taken place at that time; you have seen those documents before?

A. Yes.

Q. Now, did you attend that meeting, Mr. Woods? A. Yes, sir.

Q. And using all those documents to refresh your recollection, can you tell the Court and jury what date the meeting was held [4416] that was so addressed by Harry Bridges?

A. Well, I couldn't tell you the date.

Q. No, but I say, using the papers to refresh your recollection? A. Yes, yes.

Q. Then tell us what it was.

A. I didn't just quite understand.

Q. I say, by looking at the dates on those newspapers, does that refresh your recollection as to what date it was? A. Yes.

Q. All right. And what date was it?

A. It was June 27.

(Testimony of Barth Woods.)

Q. 1936? A. That's right.

Q. Of course, without those documents you would not have remembered what date it was, isn't that correct? A. That's correct.

Q. Now, you say you did attend the meeting and heard him speak? A. I did.

Q. Have you any recollection as to how long the meeting lasted? A. No, I haven't.

Q. Or approximately how long Harry Bridges spoke?

A. Well, I think Bridges spoke longer than any one of the other speakers. I think he was the main speaker.

Q. Did you go with Harry Bridges any place after the meeting adjourned? [4417]

A. Yes, sir.

Q. Where?

A. I went to Mattioni's nightclub.

Q. And can you tell us what happened at Mattioni's, some things that refresh your recollection on that or that you remember?

A. Well, there wasn't much. We went in and had a few drinks, I think it was, and I couldn't remember just too much about it.

Q. I see. Did you stay until they left, until Bridges and Schmidt and Christensen went home?

A. Yes, I did.

Mr. Hallinan: I think that's all.

Cross-Examination

By Mr. Donohue:

Q. Mr. Woods, when was your attention first called to this document which you now have in front of you?

A. Well, I went to the hall. It was that morning. And there was, I think—I am positive that there was a notice on the blackboard that there was to be a meeting that night.

Q. Oh, you mean the first indication you had that there was to be a meeting, you saw that on the hall on the morning of the night on which the speech was made? A. That's correct.

Q. I am referring now to the documents in front of you, Mr. Woods. A. Yes, sir.

Q. When were those first exhibited to you?

A. They were [4418] exhibited to me, I think it was a week ago last Wednesday, the first I have seen them.

Q. And where, Mr. Woods?

A. That was at our hall.

Q. And by whom?

A. That was by Mr.—(indicating)—Mr. Hallinan.

Q. By Mr. Hallinan? A. Yes.

Mr. Donohue: I have no further questions, if Your Honor please.

Mr. Hallinan: That is all, Mr. Woods.

Now, if the Court please, we are compelled to ask a favor that will probably discommode everybody considerably, but Mr. William Christensen, the man who owned and drove the automobile on the occasion that we have narrated here, and who will be the last of the witnesses that we intended to use on this particular subject, is now confined to bed in the Permanente Hospital in Oakland. He has a displaced intervertebral disc and he is in traction, with weights holding his feet down. He will probably be in there for a month or so. Now his evidence is important, not only to the fact of the meeting, but as to his prior contacts with Harry Bridges in San Francisco. I am going to ask, if the Court please, that the Court will have the Court and jury assembled in the Permanente Hospital to take his testimony there. I know that a deposition would serve part of the purpose, [4419] but then I suppose we all realize the difference between just a read-off statement and seeing the witness and having the jury get an impression of what sort of man he is and how truthful he may be. If it wouldn't be too great an inconvenience, we would esteem it a favor to have the jury meet in the hospital and have Mr. Christensen questioned in the presence of the Court and jury.

The Court: A deposition would not suffice, Mr. Hallinan?

Mr. Hallinan: Well, as I say, it is never as satisfactory. We could do it, but—I would, of course, want to balance conveniences. I don't want to impose upon the Court and the jury. I suppose we could take a deposition instead.

The Court: I am willing to accede to any reasonable request. I feel that transportation of the jurors to the hospital, the surrounding conditions, and all, may not be at all in accord with the situation prevailing in the court. We might not be able to find accommodations there in the hospital wherein the hearing could be conducted in the presence of the jury. We also have the possibility of having the jurors separating on such an occasion. Many matters incident to such a journey might result in problems that would not be encountered if we had the deposition. Now, we all appreciate the fact that a deposition is a cold record. There is no question about that, when it is read into the transcript. But it might be the only available process we have. [4420]

Mr. Hallinan: Well, the request borders on being a little unreasonable. If he weren't a man of a very peculiarly vigorous type, I wouldn't care to do so. But I thought it might make a better impression by seeing him. Suppose we do this: If counsel will go along with us, we might take Mr. Christensen's deposition on Saturday morning and then present it on Monday to the jury. Is that agreeable to you, counsel?

Mr. Donohue: I have no objection whatever, if Your Honor please.

Mr. Hallinan: Well, then, suppose that without the necessity of formal notice and so forth, we take a deposition of Mr. William Christensen in the Permanente Hospital in Oakland on Saturday at 11:00 o'clock and I will produce a notary and reporter over there to take the deposition.

The Court: Who is the attending physician?

Mr. Hallinan: I don't know, Judge; he is in the ward over there.

The Court: Is there a possibility he might be brought into the trial here, into this actual courtroom, at a later stage, holding him even out of order?

Mr. Hallinan: Well, Your Honor——

The Court: I would be willing, Mr. Hallinan, in deference to your request that you have the man in the flesh.

Mr. Hallinan: I will say this, Judge. The case is progressing very rapidly, and it will not consume, I think, the length [4421] of time that we thought before. I would not be surprised but what our evidence will be through in a few days. We haven't a great many more witnesses and we may be through within a week and a half or two weeks.

Now, Mr. Christensen will not be out in that time. He may possibly have to have an operation. But I am willing to take the deposition and bring that in. It will help establish some matters. So then, if counsel will have some representative there in the Permanente Hospital on Saturday at 11:00 a.m., I don't think the deposition will take very long. [4422]

The Court: Mr. Donohue, is that stipulated to on the part of the Government or the prosecutors?

Mr. Donohue: Yes, your Honor.

The Court: Mr. Mitchell, will you make a minute entry that an order was made for the taking of the deposition at the time and place indicated by Mr. Hallinan, and that formal notice has been given to all parties of the time and place of the taking of the deposition.

Mr. Hallinan: Thank you, your Honor.

The Clerk: Yes, your Honor.

Mr. Hallinan: Now, with regard to one other small matter. We had, when Mr. Wilson was on the stand, some discussion about a record of the Hotel Governor that had been removed from the files of the Hotel Governor and was then in the possession of the Immigration Department. We would like to have that document produced.

Mr. Donohue: May I say, if your Honor pleases, that I think the same day that Mr. Wilson took the stand, Mr. Norman Leonard called the Immigration Service and was given a detailed description of the information on the card. I have the card; I am sure it is upstairs. After we adjourn at noon I can——

Mr. Hallinan: We would like to have the card itself.

The Court: You can produce the card?

Mr. Donohue: Yes, your Honor.

Mr. Hallinan: Just produce it at 2 p.m. [4423] Now, we have a witness subpoenaed for 2 p.m.

The Court: We will adjourn, then, until 2 p.m., if agreeable.

Mr. Hallinan: Thank you.

The Court: Ladies and gentlemen of the jury, we will take our noon recess until two o'clock this afternoon. The same admonition to you, not to discuss the case under any conditions, nor to form or express an opinion until it is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.) [4424]

Thursday, January 26, 1950—2:00 P.M.

The Court: Counsel, if I may have your attention briefly, and ladies and gentlemen of the jury: During the noon period I had an opportunity to reconsider the request made by Mr. Hallinan. I, in addition, have conferred with Mr. Mitchell as to the means that might be employed to transport the jurors to the hospital in question, relative to the jurors and the courtroom attaches. Mr. Mitchell advises that appropriate accommodations may be made, and accordingly, in the light of our discussion concerning Mr. Hallinan's request, I think the ends of justice would be served by having the jurors attend for the purpose of the taking of the testimony of this gentleman who appears to be ill. As Mr. Hallinan indicated, he suffers from a back injury, an intervertebral disc injury, and he is in traction.

There is one request I might make preliminarily. Will this examination meet with his doctor's approval?

Mr. Hallinan: Oh, yes.

The Court: Accordingly, then——

Mr. Hallinan: I'm sorry. As I say, balancing convenience, it might not be worth it, but I feel remiss not to ask to go over. We are grateful for the consideration you have given.

The Court: We will accede to your request, Mr. Hallinan. Accordingly, then, at two o'clock, Mr. Mitchell will make [4425] arrangements for transportation to be here for the jurors and court attaches. I assume we will arrive there at 2:30. The session will then continue as a regular court session in that hospital at some convenient place to be provided there and will be completed by direct and cross-examination of counsel. Thereafter court will recess from that point, return here to the courtroom proper, and then I think we will adjourn for the day. Let us, then, in terms of our procedure, allocate tomorrow afternoon, Friday, for that purpose.

Mr. Hallinan: We will be willing to stipulate that the jury may be excused at the hospital so they need not return to court, if that is your wish.

The Court: All right, those persons resident in Oakland or Berkeley will be excused at the hospital tomorrow afternoon.

Of course, it is a public hearing and the jurors are admonished now. I will admonish you not to separate under any conditions for fear that some prejudice might result or a mistrial result. The jurors are, to remain together intact at all times from the time they leave the building. Of course, they are not to discuss the matter with any person or persons. And I assume that the hospital attaches or secretary there will be able to accommodate us, Mr. Mitchell. Will you communicate with them to work that out?

The Clerk: Yes, your Honor.

The Court: All right. [4426]

Mr. MacInnis: I think, your Honor, that we might well invite a stipulation from Government counsel as to the plan you have outlined so that both sides will be in the position of agreeing.

Mr. Donohue: We concur, your Honor.

Mr. MacInnis: We will call Mr. Pearson, please.

The Court: Of course, it is a public hearing tomorrow afternoon, and if members of the press have any quandary, they likewise are privileged to be present. Any member of the press is privileged to be present, and any person or persons are privileged within the ken of the accommodations they have provided. We can't foreclose the public from any part of this trial. It is a public trial within the constitutional provision.

OSCAR W. PEARSON

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury, please?

The Witness: Oscar W. Pearson.

Direct Examination

By Mr. MacInnis:

Q. Mr. Pearson, will you state your address, if you please?

A. My address—my home address?

Q. Yes. [4427]

A. Is 150 Sutro Heights Avenue, San Francisco.

Q. And what is your business address, Mr. Pearson?

A. 16 California Street, Pacific Maritime Association.

(Testimony of Oscar W. Pearson.)

Q. What is the Pacific Maritime Association, Mr. Pearson?

A. It is an association that administers—negotiates and administers labor contracts with the various unions involved in the maritime industry.

Q. Is it the successor organization to the Waterfront Employers Association?

A. That is correct.

Q. Now, Mr. Pearson, did you come here today pursuant to a subpoena which also directed the attendance of Mr. Burke and Mr. Finnesey of the same Pacific Maritime Association?

A. Yes, directed—I came here being subpoenaed, and also Mr. Finnesey and Mr. Brown.

Q. Mr. Brown; I am sorry.

A. That's right.

Q. That is Mr. Hubert Brown?

A. Hubert Brown, yes.

Q. Now, Mr. Pearson, in addition to your membership in the Pacific Maritime Association, are you employed by any organization or firm?

A. I am also executive vice president of the Marine Terminals Corporation of Los Angeles.

Q. The Marine Terminals Corporation of Los Angeles? [4428] A. Of Los Angeles.

Q. Do you hold any particular post with the Pacific Maritime Association?

A. I am president of that association.

Q. As president of the Pacific Maritime Association do you conduct negotiations with Harry Bridges? A. I do.

(Testimony of Oscar W. Pearson.)

Q. And Mr. Bridges, of course, acting in the capacity of a representative of his union, is that correct? A. Yes.

Q. Do you know Mr. Bridges? A. I do.

Q. Have you talked with him on many occasions? A. I have.

Q. And have you heard his name mentioned or discussed by other members of this community?

A. I have.

Q. And from your own meetings and acquaintanceship with Mr. Bridges and from such conversations with other members of this community in which you have participated or overheard statements, can you tell us what is the reputation at this time in this community of Mr. Harry Bridges for truth, honesty and integrity?

A. I would say that Mr. Bridges' reputation in that respect is very good, and my own association with him will reflect that. [4429] I have heard others say differently, however, and it depends entirely on who you are talking to.

Q. Your own opinion and your own impression is that Mr. Bridges' reputation is good?

A. Yes.

Mr. MacInnis: Thank you. [4429-A]

Cross-Examination

By Mr. Donohue:

Q. When were you served with a subpoena to appear, Mr. Pearson?

(Testimony of Oscar W. Pearson.)

A. I was served this forenoon about, I would say, 11:00 o'clock, approximately.

Q. And prior to having them served with a subpoena, had you discussed your coming here with any person or persons? A. I had, yes.

Q. With whom, please?

A. I had discussed it with Mr. Goldblatt.

Q. And who is Mr. Goldblatt?

A. He is also a representative of the ILWU.

Q. Yes. And with whom else?

A. I have discussed it with our own group, including the witnesses which were called and subpoenaed today.

Q. Who, within your own group, sir, have you discussed your testimony of today with?

A. I have discussed it with the board of directors of the same association.

Q. And who are the members of that board, with whom you discussed your coming here?

A. They are representatives of the various steamer lines and heads of the industry, generally, who have been appointed as board of directors of the association.

Q. Well, will you name for us those gentlemen with whom you [4430] actually discussed the fact that you were coming here to testify today?

A. Mr. Finnesey.

Q. How do you spell that name, please?

A. F-i-n-n-e-s-e-y.

Q. Yes, sir?

A. Mr. Gilbert Brown, Mr. Sevier, S-e-v-i-e-r,

(Testimony of Oscar W. Pearson.)

Mr. Pennington. Specifically those gentlemen and also the members of the board. And these gentlemen, also members of the board.

Q. Now, these gentlemen are members of the board of which you are president, the Pacific Maritime Association? A. That's right.

Q. Does that represent all the ship lines?

A. Yes, it does.

Q. And when did you discuss your coming here with these gentlemen?

A. It was discussed in the board of directors' meeting two days ago—Tuesday, the 24th.

Q. Did the board of directors take any official action with respect to your coming here?

A. No, they did not.

Q. Was there any division of opinion among the members of the board who were present as to your coming here?

A. No, there wasn't. There was no opinion as such.

Q. I beg your pardon? [4431]

A. There was no opinion as such expressed by any of the members. I did want them to be advised of the fact that my discussion with Mr. Goldblatt had been on the basis of a subpoena to come here, and that I wanted them to know what was comtemplated.

Q. Then I take it you simply advised the board that you had discussed with Mr. Goldblatt coming here under subpoena, and that no comment was made by them with respect to your coming?

(Testimony of Oscar W. Pearson.)

A. That's right.

Q. How long have you been president of the Pacific Maritime Association?

A. Since April 1st, 1949.

Q. And how long have you been in San Francisco?

A. I came here at that time, in April, to take over the duties as president. I have been here before, however, on several occasions.

Q. Permanently? Or I should say for a long period of time? A. Yes.

Q. When, sir?

A. During the war I came here shortly after Pearl Harbor and accepted a task of assisting the army in loading their ships.

Q. And you remained how long, sir?

A. Until V-E Day.

Q. And did you then return to Los Angeles?

A. That's correct.

Q. Where was it that you discussed your coming here with Mr. [4432] Goldblatt?

A. It was raised on two or three occasions.

Q. When was the first time that you can recall, sir?

A. Approximately, I would say, two or three weeks ago.

Q. Can you tell us what Mr. Goldblatt said on that occasion?

A. On that occasion he advanced the thought, and wanted to know how I would feel about that, and I told him, well, it would be essential to me

(Testimony of Oscar W. Pearson.)

that under no circumstances would I come here unless I were subpoenaed—in view of the fact that I was a representative of an association such as the Pacific Maritime Association.

Q. Now, when you say that Mr. Goldblatt advanced the thought, can you tell us precisely what he said, or the substance of what he may have told you? A. Not precisely.

Q. What did he tell you he wanted you to do?

A. He said, "It might be, in the course of our defense for Harry Bridges, necessary to subpoena yourself and some of the members of the Coast Labor Relations Committee who have had close contact wtih Mr. Bridges and who would be able to testify as to the results of their negotiations and his character."

Q. And he told you that he was interested in having you discuss, over and above his character, the results of negotiations that you may have had with Mr. Bridges?

A. Yes, he specifically had in mind the fact that we had had [4433] very close relations in recent months, and by virtue of those relations, he felt that it would be appropriate for him to discuss whether we would testify as witnesses.

Q. In other words, Mr. Goldblatt told you that because of the recent friendly relationship between the Pacific Maritime Association and the ILWU, that he thought you might be inclined to come here and testify as to Mr. Bridges' good character; is that substantially correct?

(Testimony of Oscar W. Pearson.)

A. Well, you have injected the word "friendly" there.

Q. Well, what word would you use, sir?

A. We have had negotiations which have been on a basis of understanding, and at many times on a basis of where we have had our own ideas, which conflicted but eventually were resolved,—if you wish, on a friendly basis, yes.

Q. Now, did you report to your board of directors after this first conference with Mr. Goldblatt or did you discuss the matter further with Mr. Goldblatt before you took it up with your board?

A. That's right, on a succeeding occasion Mr. Goldblatt mentioned that it would be apparent that what he had talked about before would eventually come to pass, and on that basis I felt it best that the board of directors be fully advised.

Q. And after you advised your board of directors, did you then contact Mr. Goldblatt and tell him that you would accept a subpoena and you would come and testify? [4434]

A. No, he contacted me, called me this morning and told me that I would have a subpoena.

Q. Now, did you discuss with anyone of the gentlemen whose names you have called as having been present at this meeting of the board of directors the reputation of Mr. Bridges?

A. Well, there has been some discussion from time to time regarding the possible need that these gentlemen also become witnesses, on the basis of being character witnesses, yes.

(Testimony of Oscar W. Pearson.)

Q. Then do I understand that you advised these gentlemen that they too, as well as you, might be subpoenaed to come here and testify as witnesses to the good character of the defendant Bridges?.

A. Well, one of those gentlemen was present at the time Mr. Goldblatt contacted me.

Q. The first or second time?

A. Both times.

Q.. And who was that gentleman?

A. Mr. Finnesey.

Q. Mr. Pearson, do you consider it a sound business policy for you to come here and testify in this proceeding as to the reputation of the defendant Harry Bridges as to truth, honesty and integrity?

A. My consideration in that respect is strictly on a basis, as I understand it, that when you are subpoenaed you are required to appear, in accordance with the law. [4435]

Q. Correct. But do you now believe that it is a matter of sound business policy for you, as president of the Pacific Maritime Association, to testify in this proceeding as to the reputation of the defendant Harry Bridges for truth, honesty and integrity?

A. Why, I have not thought of it from the standpoint of a business policy or advisability from a standpoint of business policy. For that reason I did mention to Mr. Goldblatt that unless I was subpoenaed I would prefer not to appear.

Q. Now, I understand you to say that Mr.

(Testimony of Oscar W. Pearson.)

Bridges has a reputation for truth, honesty and integrity which is good, correct?

A. I did so state. Specifically, from my own observation. In so far as the reputation in the community, it all depends on who you are talking to.

Q. That is the point I wanted to ask you about, sir. When you made that statement were you expressing your personal opinion of the defendant Harry Bridges or were you expressing the reputation of Harry Bridges as you have heard it discussed among others whom you know, who also know Harry Bridges?

A. Well, I expressed my opinion.

Q. Yes. Now, have you, as a matter of fact, discussed with any person the question of the honesty, truth or integrity of Harry Bridges; and if so, will you tell us with whom?

A. Well, we have had occasion, as members of the Coast Labor Relations Committee, to depend on those very characteristics, [4436] and for that reason it was discussed on several occasions.

Q. Well, can you tell us the name of any person or persons who has said to you that Harry Bridges is a truthful, veracious man of integrity?

A. Well, perhaps not in just that sequence of words, but under circumstances which would leave the same intent, yes.

Q. Can you tell us with whom?

A. The very gentlemen I have mentioned before:

Q. All members of the board of directors of the Pacific Maritime Association?

(Testimony of Oscar W. Pearson.)

A. No, members of the Coast Labor Relations Committee.

Q. Will you tell us who they are?

A. I have given you them. I will supplement that with one more name—Jones, Gordon Jones.

Q. And all of these men, with perhaps the exception of Gordon Jones, are also members of the board of directors of the Pacific Maritime Association? A. That's correct.

Q. You are the man who is responsible for the negotiations with Mr. Bridges and his union?

A. I am.

Q. For the shipowners?

A. That's correct.

Q. And if you considered that your coming here was only as a duty you owed to the Court to respond to a subpoena, would you [4437] tell us what the necessity was for the conferences with Mr. Goldblatt and the reports to your board of directors:

A. I felt that insofar as the board of directors was concerned, I owed it to them to advise them of the circumstances.

Q. And as far as Mr. Goldblatt was concerned?

A. As far as my coming here to testify in this case.

Q. Have you ever heard any person state, or has any person discussed with you, the suggestion that Mr. Bridges was a member of the Communist Party? A. Yes, on many occasions.

Q. Would you believe that a labor leader who

(Testimony of Oscar W. Pearson.)

stated at a union meeting that when you get 95 cents an hour you should give 45 cents of work, is an honest labor leader?

A. He could be an honest labor leader and say that perhaps—in the light of the fact that he would have the interests other than that of the employer at heart. Naturally, we as employers do not condone that line of thinking.

Q. And would you say that a labor leader who, addressing a meeting of his union, stated that there is no middle ground between the employer and the employee is a labor leader of integrity?

A. I would be entirely—that would be entirely dependent on the circumstances involved at the time. I can only specify those circumstances which I have had through my own observation of the man in our dealings and our negotiations. [4438]

Mr. Donohue: I have no further questions, Your Honor.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Pearson, to clarify, if I may, some of the inferences that attach to some questions put to you by the prosecutor, let me ask you this. Did you come here by virtue of any bargain reached between you and the ILWU by which you were to give testimony in exchange for some benefit?

A. None whatsoever.

Q. And in your dealings with Harry Bridges, have you found him to be a man of integrity, yourself? A. I certainly have.

Mr. MacInnis: That is all.

Recross-Examination

By Mr. Donohue:

Q. Isn't it a matter of fact, sir, that you are here to testify because you were afraid not to come? A. Definitely not.

Further Redirect Examination

By Mr. MacInnis:

Q. Well, Mr. Pearson, are you afraid of Mr. Goldblatt? A. Of course not. [4439]

Q. Are you afraid of Mr. Bridges?
A. Certainly not.

Q. Are you afraid of the union? A. No.

Q. And as I understand it, you are trying to do justice to the post which you occupy yourself and to render faithful service to the organization which employs you? A. That's right.

Mr. MacInnis: That is all.

Mr. Donohue: We have no further questions, your Honor.

The Court: Witness excused.

Mr. MacInnis: May Mr. Hubert Brown be called.

HUBERT BROWN

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury, please?

The Witness: My name is Hubert Brown.

Direct Examination

By Mr. MacInnis:

Q. What is your residence address, Mr. Brown?

A. Redwood City, 6 Hillview Avenue.

Q. What is your business address?

A. 141 Battery Street.

Q. What organization occupies that address?

A. Pacific Far East Lines, Inc.

Q. Are you connected with the Pacific Far East Lines, Inc.? A. Yes, I am.

Q. What post or office do you hold?

A. I am assistant to the president.

Q. Assistant to the president. Are you also a member of the Pacific Maritime Association?

A. Our company is.

Q. And do you represent your company in that association? A. I do.

Q. And for how long have you had that representation?

A. Well, our company has been a member of the association since its formation late in 1946.

Q. And since late 1946 have you represented your company upon the Pacific Maritime Association?

A. Yes, to a degree, not—not—in other words,

(Testimony of Hubert Brown.)

I am an alternate for the president of the company.

Q. In other words, sometimes you attend the meetings and negotiations and sometimes your alternate attends; is that correct?

A. That is right.

Q. Have you come to know Mr. Harry Bridges through your work with the Pacific Maritime Association? A. Yes.

Q. Have you seen him on many occasions?

A. Yes. [4441]

Q. Now, what is the scope of the work or the endeavors of the Pacific Maritime Association so far as Mr. Bridges and his union may be concerned?

A. Well, the Pacific Maritime Association is an organization of steamship operators banded together for the purposes of collective bargaining negotiations and labor relations and the administration of the contracts that arise therefrom.

Q. Do you know Mr. Pearson, who testified before you? A. Yes.

Q. And do you know Mr. Kenneth Finnesey?

A. Yes, they both serve with me, or I serve with them on the Coast Labor Relations Committee.

Q. Over the past periods of time have you discussed with those gentlemen or with other men connected with you in business the reputation of Harry Bridges in this community?

A. Well, I would say yes.

Q. And from your own meetings and acquaintanceship with Harry Bridges and from such comment from other persons as may have reached your ears, do you know so that you can tell us here in court what is at the present time in this community the reputation of Harry Bridges for truth, honesty and integrity?

A. Are you asking me my—from my own personal contact with him and experience?

Q. Yes.

Mr. Donohue: Object to that, if your Honor please; that [4442] isn't admissible. The personal contact of the witness with the defendant Bridges or the witness' personal opinion is not admissible.

The Court: Sustained.

Mr. MacInnis: To clarify the question, we ask for the personal opinion of the witness, your Honor, based upon his own acquaintanceship plus such conversations as he may have had with other persons, which I understand is the basis of the law.

The Court: The witness' reputation in the community for the traits involved?

Mr. MacInnis: Yes, that is correct.

The Court: Overruled.

Q. (By Mr. MacInnis): Do you know the reputation of Mr. Bridges at this time for truth, honesty and integrity?

A. Well, yes, I would say it is good.

Mr. MacInnis: Thank you very much.

Cross-Examination

By Mr. Donohue:

Q. Now, you understand, Mr. Brown, that when

(Testimony of Hubert Brown.)

you state that the reputation of Harry Bridges for truth, honesty and integrity is good that you are testifying to his general reputation among the persons whom you know who know Mr. Bridges, and not voicing your own personal opinion?

A. I understand that. I understand that the question as it was put to me pertains to knowledge or what I have heard in this period that I have been engaged in labor relations. [4443]

Q. And you answered on that basis?

A. I answered on that basis.

Q. What is the period during which you have been engaged in labor relations?

A. Well, starting in rather a small way, and then with increasing frequency since our company was formed in 1946.

Q. Since 1946 and in this community with whom have you discussed the reputation of Harry Bridges for truth, honesty and integrity?

A. Well, with the executives of our own company; with——

Q. Will you give me the names of the persons, please? A. In our company?

Q. Anyone with whom you have discussed the reputation of Mr. Bridges.

A. Well, Mr. Cuffe, president of our company; Colonel Lowry, the operating vice president; other members of the Coast Labor Relations Committee; Mr. Finnesey, Mr. Pearson; Mr. Henry Clark of the Association; Mr. Schneider, other members of the industry who are on the Coast Labor Relations

Committee and with whom we had joint meetings.

Q. When were you advised that you would be called here to testify?

A. Specifically advised?

Q. Well, advised specifically or not specifically.

A. Well, I—I began to believe that I would be called, I [4444] should say, as long as about three weeks ago.

Q. What gave you that premonition?

A. Well, one of the other members of the Coast Committee indicated that he thought the Coast Committee might be called upon.

Q. Who was that member?

A. Mr. Finnesey.

Q. Did he state any reason why he thought the Coast Committee might be called upon?

A. I don't recall that he did give any particular reason.

Q. And what is the next indication you had more certain that you were going to be called?

A. Well, I heard that there was some discussion of the matter—I am trying to place the day—I think Monday of this week.

Q. What did you hear, and from whom, on Monday?

A. Well, again I heard from an attorney that the matter had been discussed and that subpoenas would probably be issued.

Q. Who was the attorney you heard that from?

A. James Adams.

Q. And what next did you hear?

(Testimony of Hubert Brown.)

A. I got a subpoena this morning.

Q. Have you discussed with anyone at all the nature of the testimony you would give this morning or this afternoon?

A. Well, discussed—no; I, of course, informed my superiors, and told them that I felt that I would be called upon to answer [4445] all the questions that were put to me.

Q. You didn't discuss it with Mr. Lou Goldblatt? A. Yes.

Q. When did you discuss it with him?

A. Over the telephone.

Q. When? A. Monday.

Q. What was the discussion?

A. Mr. Goldblatt called, and that was the first knowledge that I had had from the union—first indication I had had from the union that they contemplated putting me under subpoena. As I said before, I had some inkling of it from discussions with Mr. Finnesey and, I am not certain, I think with one of the other members of the Coast Labor Relations Committee.

Q. What—excuse me.

A. And Mr. Goldblatt told me that they had discussed this with some of our people and indicated pretty definitely that I would be subpoenaed. I won't say that he made the flat statement, but he indicated that I would be subpoenaed.

Q. Did he tell you what he would expect you to testify to if you were called as a witness?

(Testimony of Hubert Brown.)

A. To the truth, yes.

Q. The truth of what?

A. Anything that was asked me.

Q. Did you have any idea before you came here what might be [4446] asked you?

A. No. Well, I think I said to Mr. Goldblatt that if I were on the witness stand I would answer all questions that were put to me truthfully, and I think Mr. Goldblatt said that that is all that they would expect. And if my memory serves me correctly, he said that they were interested in asking me some questions about the relations with Mr. Bridges in the period that I have mentioned and that we have been talking about since I have served on the Coast Labor Relations Committee.

Q. In your experience in the Bay Area have you ever heard anyone say that Harry Bridges was a member of the Communist Party?

A. I think I may have heard that said, yes.

Q. Would you say that a person who was reputed to be a member of the Communist Party was a person of honesty, integrity and veracity?

A. I don't know whether another's allegations as to a person's membership in the Party would affect my own beliefs as to his integrity. If I had reached those beliefs from my own experience, I don't think they would.

Q. You would accept from others the reputation and the opinion of others that Mr. Bridges was a man of truth, honesty and integrity, would you not?

(Testimony of Hubert Brown.)

A. I think it would depend upon the source or what I believed to [4447] be the basis of their knowledge.

Q. And did you question the experience of the person who may have said that, in his opinion, Mr. Bridges was a member of the Communist Party?

A. No, I think not.

Q. May I ask you, sir, if you knew that one of the witnesses called by Mr. Bridges, and a member of his union, had testified that at a union meeting Mr. Bridges said, "Whenever you get 95 cents an hour, give 45 cents worth of work," that that would be the statement of an honest labor leader?

A. I am not quite certain I understood.

Mr. Donohue: Would you repeat the question, Mr. Reporter?

(Question read.)

A. Well, if true, I hardly think that it was an honest statement, no.

Q. Mr. Brown, do you consider it in the interests of the shipping company by which you are employed to appear here and testify as to the good character of Harry Bridges?

A. The interest or lack of interest had little to do with it after I received a subpoena this morning.

Q. Then you are not under any compulsion or in no way motivated by any possible fear of reprisal in the event you did not testify here as to the good character of the defendant Harry Bridges?

A. No, I am not. I have nothing to fear.

Mr. Donohue: I have no further questions.

(Testimony of Hubert Brown.)

Redirect Examination

By Mr. MacInnis:

Q. Mr. Brown, you haven't received any orders from Moscow to come here, have you?

A. No, Mr. MacInnis.

Q. Well, now, Mr. Brown, in reference to a statement couched to you in a question by the special prosecutor, before you would pass any mature judgment on the value of any statement alleged to have been made by Harry Bridges or any other person, you would want to have before you the circumstances of the statement and the whole contents of it, would you not?

A. In general, yes. I have found many times that it is not safe to lift things from context and rely completely upon snap judgment and interpretation.

Q. Mr. Goldblatt didn't tell you that anything untoward would happen if you wouldn't come here, did he?

A. Mr. Goldblatt didn't tell me anything, except that it had been decided that the Coast Committee was wanted by the defense.

Mr. MacInnis: Thank you very much.

Mr. Donohue: I have no further questions, if your Honor please.

The Court: We will take the afternoon recess. In the meantime you can get the additional witnesses. You are excused.

We will take the afternoon recess, ladies and gentlemen [4449] of the jury. The same admonition not to discuss the case under any conditions or form or express an opinion until it is submitted to you.

(Recess.) [4449-A]

Mr. MacInnis: May we call Mr. Finnesey, please?

Th eClerk: Call Mr. Finnesey.

KENNETH H. FINNESEY

called on behalf of the defendants; sworn.

The Clerk: Will you state your full name to the Court and jury?

A. My name is Finnesey, Kenneth H.

Q. How do you spell the last name?

A. F-i-n-n-e-s-e-y.

Direct Examination

By Mr. MacInnis:

Q. Mr. Finnesey, will you state your residence address to the Court and jury?

A. It is 515 Madera Drive, San Mateo.

Q. And what is your business address, Mr. Finnesey?

A. 214 Front Street, corner of California.

Q. What organization occupies that address, Mr. Finnesey? A. State Steamship Company.

Q. And do you occupy some post or office with the State Steamship Company?

A. I am a vice president.

Q. And are you a member of the Pacific Maritime Association? A. I am a director.

Q. And did you, as a director of the Pacific Maritime Association, receive a subpoena directing you to attend court here? [4450] A. I did.

Q. Now, what is the scope of your duties with the Pacific Maritime Association?

A. I represent my company in that association, and as a director and part of the Coast Labor Relations Committee, I meet with the ILWU.

Q. In other words, you conduct negotiations as to matters affecting employment and working conditions, along with the representatives of the union?

A. That's correct.

Q. And for what period of time have you been in that post, Mr. Finnesey?

A. Would you restate that last remark?

Q. I say, for what period of time have you held your post with the Pacific Maritime Association?

A. Since it has been organized. I think you are familiar with the fact that it has been recently organized to take over the activities of the WEA, Waterfront Employers Association.

Q. In other words, it is the successor to the old Waterfront Employers Association?

A. Successor. However, I was also a director of the predecessor organization.

Q. I see. Now, do you know a man named Harry Bridges? A. I do.

Q. And have you known him as a representative of the ILWU in [4451] negotiations which have been conducted? A. I have.

(Testimony of Kenneth H. Finnesey.)

Q. You have sat across the council table from him, I suppose, upon numerous occasions?

A. Many times.

Q. Now, have you heard the reputation of Harry Bridges discussed by other persons?

A. Very often.

Q. And from your own acquaintanceship with Mr. Bridges and from such remarks of other persons in this community as may have reached your ears, are you familiar with his reputation at this time in this community for truth, honesty and integrity? A. I believe I am.

Q. What is that reputation, Mr. Finnesey?

A. Are you now asking me his reputation in the community or with me?

Q. Well, your knowledge of his reputation, based upon your own knowledge of the man, plus such conversations as you have had with others.

Mr. Donohue: If Your Honor pleases, I think I must insist that the only reputation which is admissible is his reputation in the community.

Mr. MacInnis: Yes, but we may explain, I think, properly to the witness, that the basis for the giving of that answer may be, first, his own knowledge of the person plus conversations [4452] that he has had with other persons in the community whereby he is now possessed of knowledge as to the general reputation of Mr. Bridges.

Mr. Donohue: If Your Honor pleases, the man's personal knowledge has nothing to do with it. As

I understand the law, only an established reputation for good character is admissible.

The Court: Let's see. He may have had other conversations with others.

Mr. MacInnis: I think he said he has, Your Honor.

Mr. Donohue: I think, if Your Honor pleases, that the testimony of a character witness must be restricted to his reputation. That is what has come to the witness' attention from others; not his own personal dealings.

Mr. MacInnis: I might say, Your Honor, that the 1902 decision of People vs. Adams holds that even if a man has never heard the particular defendant's reputation discussed, he may nevertheless give his opinion upon the theory that if there have been no discussions, that is negative proof that there has been no bad statement concerning the man.

Q. Now, Mr. Finnesey, do you know the reputation of Mr. Bridges for truth, honesty and integrity? A. I do.

Q. What is that reputation?

A. It is good.

Mr. MacInnnis: Thank you. [4453]

Cross-Examination

By Mr. Donohue:

Q. With whom did you discuss your testimony, Mr. Finnesey, before you came here?

(Testimony of Kenneth H. Finnesey.)

A. Discussed it with Louis Goldblatt.

Q. When, please?

A. I discussed it with him several times. The latest time was last Monday.

Q. And you also discussed it with your board of directors?

A. That's correct, on Tuesday afternoon.

Q. In the simple duty of a citizen to respond to a subpoena and answer truthfully questions which are put to him, was there any necessity for these discussions with Mr. Goldblatt and your board of directors as a premise to your coming here to testify?

A. Only insofar as we always acquaint our board of directors with any discussions that we have with members of the ILWU.

Q. And why the several meetings with Mr. Goldblatt?

A. We meet with him for several reasons, which include continuing, not necessarily negotiations, but discussions of problems that confront the union vs. the employers.

Q. And did you consider the question of your personal testimony and the testimony of your associates in the Pacific Maritime Association as a problem connected or associated with Management and labor?

A. I expected that it would be natural for the defendant to [4454] call upon those people with whom he has had business dealings, and I happen to be one of those.

(Testimony of Kenneth H. Finnesey.)

Q. Well did you come to the conclusion first that Mr. Bridges had an established reputation in this community for truth, honesty and integrity?

A. In November of 1948.

Q. Did you know Mr. Bridges prior to November of 1948?

A. Not personally. I knew who he was. I had seen him and perhaps met him.

Q. Had you at that time, or let me ask you—strike that, please. Prior to November of 1948, did you know the reputation of Mr. Bridges for truth, honesty and integrity? A. Based on hearsay.

Q. Well, I think you understood from the question Mr. MacInnis put to you that the statement you make today as to his reputation is based on what other people have told you or said about Mr. Bridges?

A. Partly so, and partly my own opinion.

Q. And what was your concept of the reputation of Mr. Bridges prior to 1948?

A. Not good.

Q. Mr. Finnesey, if you had been told by the president of the Stockton local of the ILWU that at a union meeting in Stockton the defendant Harry Bridges had said, "Whenever you get 95 cents an hour, do 45 cents an hour's work," would that change your [4455] opinion as to the reputation of Mr. Bridges?

A. I would have to know more of the circumstances surrounding that discussion.

(Testimony of Kenneth H. Finnesey.)

Q. You couldn't form an opinion on that statement alone? A. I could not.

Q. Have you ever in the discussions which you have had with other persons concerning Mr. Bridges heard it said that Mr. Bridges was a member of the Communist Party? A. I have.

Q. If you were persuaded by evidence beyond a reasonable doubt that Mr. Bridges was a member of the Communist Party, would you still say that he had a reputation for truth, honesty and integrity? A. I would.

Q. You would.

Mr. Donohue: No further questions.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Finnesey, do you tell us that prior to November of 1948 you had heard hearsay reports about Harry Bridges which were not good?

A. That's correct.

Q. And following November of 1948, when you began to have personal contact with him, I suppose matters arose which made you depend from time to time upon the good faith of the dealings between you, is that correct? [4456]

A. That is exactly correct, to the point that we feel that the contract that the employers now have with the ILWU, the success of it, is based a great deal on the good faith between the parties.

Q. And is that the opinion that you have of Harry Bridges at this time? A. It is.

Mr. MacInnis: Thank you.

Recross-Examination

By Mr. Donohue:

Q. Mr. Finnesey, is the fact that you and your associates have come here to testify as to the good character of Harry Bridges in any way predicated upon any fear that something might happen to that contract which now exists between your organizations?

A. No, sir; the answer to that is what I have in my pocket here—a subpoena.

Q. I beg your pardon?

A. The answer as to the reason I came is because I was subpoenaed.

Q. And you are in no way influenced with respect to the continuation of that agreement in your testimony? A. I am not.

Mr. Donohue: No further questions.

Mr. MacInnis: No further questions.

Mr. Hallinan: May we have Miss Rand called?

The Clerk: Call Miss Rand. [4457]

ANNE RAND

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury please.

The Witness: My name is Anne Rand.

(Testimony of Anne Rand.)

Direct Examination

By Mr. Hallinan:

Q. You live in San Francisco, do you, Miss Rand? A. Yes, I do.

Q. What is your occupation?

A. Librarian.

Q. You are a librarian? A. Yes.

Q. Have you had special courses in becoming a librarian?

A. I have a master's degree from the University of California in my field.

Q. Specializing in that branch or field?

A. Yes, in librarianship.

Q. You graduated with a master's degree from the University of California?

A. My undergraduate degree is from Columbia University in New York.

Q. You went to the University of California also, did you?

A. Yes, I earned my master's degree there.

Q. Have you been practicing that business or profession since [4458] your graduation?

A. Yes, for many years.

Q. By whom are you now employed?

A. As librarian at the International Longshoremen's and Warehousemen's Union.

Q. That is the ILWU? A. ILWU.

Q. You are librarian there? A. Yes.

Q. How long have you had that position?

A. Since June of 1946.

Q. Now, as such librarian what are your duties?

(Testimony of Anne Rand.)

A. They are two mainly: to keep abreast of the current business of the union, and to maintain all records and archives of the union.

Q. And who is the person then who has charge of the records and archives of the ILWU?

A. The Librarian of the union.

Q. That is yourself? A. Yes.

Q. I asked you to bring certain documents of which I gave you a list. Have you procured those documents from the files of the ILWU?

A. Yes, I got them from the files and they are here now.

Q. And will you state whether or not the list of documents [4459] that I gave to you is taken from the regular files of the union?

A. They are taken from the regular files of the library of the ILWU.

Q. And are those files and the contents maintained as part of the regular business of the ILWU?

A. They are.

Q. Now, will you open the briefcase which you have, Miss Rand. Now, I asked you first if you would bring the minutes of a regular membership meeting of the San Francisco ILA which preceded the ILWU held on June 22, 1936. Have you that document? A. I have that document here.

Q. Might I have it, please?

(The witness handed a document to Mr. Hallinan.)

Q. Now, as I understand it, Miss Rand, you have just handed us the original minutes of the reg-

(Testimony of Anne Rand.)

ular meeting of Local 38-79, ILWU, held in Scottish Rite Auditorium on Monday, June 22, 1936, is that correct? A. That is correct.

Q. And this document has been taken by you from the files of the ILWU maintained as part of their regular business records, is that correct?

A. That is quite correct.

Mr. Hallinan: We offer it in evidence, if the Court please. I will show it to Mr. Donohue (handing document to Mr. [4460] Donohue). We offer it in evidence, if the Court please, under the Uniform Business Records law as the defendants' exhibit next in order.

Mr. Donohue: No objection, your Honor.

The Clerk: Marked Defendants' S-1 in evidence.

(Minutes of ILWU, June 22, 1936, were marked Defendants' Exhibit S-1 in evidence.)

Q. (By Mr. Hallinan): The next document I asked you to bring was the minutes of the meeting of the San Francisco Maritime Federation of the Pacific District Council No. 2 held on Tuesday, the 23rd day of June, 1936. Have you that document, Miss Rand? A. I have that here.

Q. And the same description applies to that as we just did to the other: It is procured from the same source? A. That is true.

Mr. Donohue: If the Court please, that doesn't seem to conform to the rule that it is a document kept in the regular order of business, as it appears to be a mimeographed or photostatic copy.

Mr. Hallinan: Still kept that way.

(Testimony of Anne Rand.)

Q. Some of them you have originals and some you have mimeographed copies, but you have offiered the documents that constitute part of your file, is that correct? A. Exactly. [4461]

Q. In other words, as I understand it, some of these minutes——

Mr. Paisley: Your Honor, just a moment. Can't counsel cease from leading the witness? He is telling the witness how to anwer. He has been doing that all day.

Q. (By Mr. Hallinan): As I understand it—well, let me ask you this: Some of these documents are mimeographed and some are typewritten, is that correct? A. That is quite right.

Q. Is there any distinction made between them in the files of the union?

A. None whatsoever.

Mr. Hallinan: Or are they all filed indiscriminately? I think it is admissible.

The Court: May I see it?

(The document was handed to the Court.)

The Court: This appears to be mimeographed.

The Witness: That's right. They are in various forms.

Mr. Hallinan: As I understand it, the only original in matters of that kind is the stencil, your Honor, and all miemographed documents would be copies like that.

The Court: Very well. This mimeographed copy appears to bear the signature of Mervyn Rathborne as secretary. Where would the original be lodged?

The Witness: That I am afraid I can't say. All the records coming to us in the library I have kept. [4462]

Q. (By the Court): May I ask you the source of this mimeographed copy?

A. These were part of the library archives as I inherited them when I took over the job.

Q. On the date mentioned, in June of 1946?

A. That is right.

Q. And who preceded you?

A. To my knowledge, I am the first trained librarian.

Q. The first librarian? A. They have had.

Q. Do you now know where the original might be lodged? A. I'm afraid not, sir.

Q. Well, wouldn't it, in the terms of your training, and in the light of your experience, be the usual routine to lodge the original in a bound volume or some such volume?

A. That may be. I have no knowledge of it.

Q. Do you presently know where the bound volume may be, if such exists?

A. No, I'm afraid I don't.

Mr. Hallinan: We have none.

The Court: Mr. Hallinan, this appears to be a mimeographed copy.

Mr. Hallinan: As I understand, in mimeographing the only original is the stencil.

The Court: That is true. [4463]

(Testimony of Anne Rand.)

Mr. Hallinan: And then all the copies are run off and the stencil is not retained.

The Court: This appears to be a copy or mimeographed copy of the minutes of the regular meeting of the San Francisco Bay Area District Council No. 2 held in Room F, Ferry Building, San Francisco, California; it appears that the chairman was Harry Bridges, secretary Mervyn Rathborne, meeting called to order at 8:22, and so forth, credentials, roll call, and the like. Are we to conclude, Mr. Hallinan, that the original of this document is not in existence?

Mr. Hallinan: Not in existence. In other words, there never was an original except the stencil from which those things are run off.

The Court: What, if any, document did Mr. Mervyn Rathborne sign?

Mr. Hallinan: The stencil, and then the stencil is not retained, being unintelligible, not a readable document, because in numerous of these matters what we have are these mimeographed documents. I suppose some of them are sent out to the various other departments of the union and that is the——

The Court: I understand that, but it seems to me, in the bowing acquaintance that I have with routine business matters——

Mr. Hallinan: We make no point of the signature or anything of that kind.

The Court: No, but regular minutes are kept in a minute [4464] book.

Q. (By Mr. Hallinan): These are not kept in that fashion, is that correct?

A. That is right. They are kept chronologically in our files reserved for that purpose.

The Court: In order?

The Witness: That is quite right.

Q. (By the Court): Did you inherit a minute book of any kind, character or description?

A. I did not.

Mr. Donohue: It would seem incredible——

The Court: May I ask one further question:

Q. Is there any continuity with respect to the minutes as you withdraw them from the files of the union, or are they kept in an indiscriminate manner?

A. They are, as far as I could get them, in chronological order according to the date of the meeting.

Mr. Hallinan: We can always get each succeeding one from the files because they are kept in regular order.

The Court: Mr. Hallinan: I am fearful that this document does not meet the requirements of the particular rule you seek to apply.

Mr. Hallinan: It doesn't say in the Uniform Business Records law that only originals are admissible. I suppose a carbon copy is the copy which is ordinarily offered. Suppose a [4465] letter is written by a person and he retains a carbon copy. The carbon copy is admissible. And that is all that that is: That is a carbon copy or mimeographed copy of a document that is send around.

The Court: There is no authentication of the minute or minutes. I will mark it for identification.

Mr. Hallinan: Judge, that won't help us very much, because the contents of that are very important as establishing Mr. Bridges' whereabouts.

The Court: I haven't looked at the contents at all.

Mr. Hallinan: I might say the purpose of all of these, we have one purpose: to establish Mr. Bridges' whereabouts on the dates set out in the minutes. In other words, these minutes speak for themselves. They contain recitals; they are documents made in the regular course of business retained by the union as part of their official records, and they are admissible under the law.

Now, no special distinction should be made, and there is no reason why we should have to conform to a stricter rule than the uniform law provides, your Honor, and the record that you have is the one that is admissible. If it happens to be an original, all right; if it doesn't, then you produce what you have.

The section, your Honor, is 1953-J of the Code of Civil Procedure. We have that. That is the section under which we [4466] are offering them, and of course they are subject to argument and dispute——

The Court: Mr. Hallinan, there is a Federal statute that bears directly upon this matter.

Mr. Hallinan: The Uniform Business Records law is the same all over. In other words, the purpose is to try to get a uniform law as to what shall be admissible, and the Federal law is the same as the State.

The Court: The leading case is Palmer v. Hoff-mann, a decision by Justice Douglas. I am not familiar with the background, but I think for the present I will mark it for identification. I want authorities from the Government as well as from you on that particular point.

Mr. Donohue: Yes, your Honor.

Mr. Hallinan: That is, as to whether a mimeographed copy is in a different position from another?

The Court: And the mode and manner of maintaining the document as elicited from this witness, and in general the situation as presented by this document which you handed the Court.

Q. (By Mr. Hallinan): Miss Rand, may I ask you this: When did you say you became librarian of the ILWU? A. In June of 1946.

Q. In June, 1946? A. Yes.

Q. And were these documents in the files at that time? [4467] A. That's right.

Mr. Hallinan: Well, we can do that, mark them for identification, I suppose, then.

The Court: I am not indicating my ultimate ruling.

Mr. Hallinan: Yes, I understand.

The Clerk: May it be marked Defendants' T-1 for identification.

(The document referred to was marked Defendants' Exhibit T-1 for identification.)

Q. (By Mr. Hallinan): The next one I asked you to bring were the minutes of the San Francisco

ILA Executive Board for Sunday, the 24th day of June, 1936. Have you that, Miss Rand?

A. I have that right here. [4408]

(The document handed to Government counsel.)

Mr. Hallinan: Well, this one does not come within that criticism, for it is a typewritten original, with the secretary's name on it. We will offer that evidence as Defendants' next in order.

Mr. Donohue: And on that basis we make no objection to it, if your Honor please.

The Court: May I see that one, please?

(Document examined by the Court.)

The Court: Now, again, Mr. Hallinan——

Mr. Hallinan: Your Honor, there is no objection by the prosecution.

The Court: No, but I am trying to clarify the matter in my own mind with respect to the prior offer you made, with respect to the looseleaf manner of keeping documents, so I may make a ruling on that other matter. I observe on the margin that these minutes were extracted from a ledger or book, looseleaf book, were they?

The Witness: These were brought to me in the form in which they presently are.

The Court: By whom were they brought?

The Witness: They were in the files in the form in which I brought them. These are the original copies in the library, of the minutes as I found them. The librarian was very competent, the library was

(Testimony of Anne Rand.)

very competently kept by the research [4469] staff, which I understand, prior to my time there, kept all the records.

The Court: Well, in your search, as requested no doubt by Mr. Hallinan or someone on his behalf or Mr. Bridges, where did you find this document?

The Witness: In the folder in the chronological order in which the rest of these minutes are kept.

The Court: Originally they were maintained in a ledger, were they not?

The Witness: That is something I have no way of telling. They were in this form as I took them from the folder.

The Court: Well, from your professional experience, would it not seem to indicate that by reason of the perforations, that at one time they were lodged in a permanent bound form?

The Witness: That may be. I have no way of telling.

Mr. Hallinan: And you will notice, Judge, that that and the first document are of the ILA; the second one, the mimeographed one, is the Maritime Federation of the Pacific.

The Court: Yes, I see.

Mr. Hallinan: So there is a difference in the two. I think all of the Maritime Federation ones are mimeographed ones, and then you notice there is a different secretary, too. In this one it is Ivan Cox.

The Court: Ivan A. Cox appears to be the secretary.

The Clerk: That is admitted, Your [4470] Honor?

(Testimony of Anne Rand.)

The Court: It may be marked.

The Clerk: Marked Defendants' U-1 in evidence.

(The minutes referred to were thereupon received in evidence and marked Defendants' Exhibit U-1.)

Q. (By Mr. Hallinan): Now, the next one I asked you to bring or the next in sequence is the San Francisco ILA regular membership meeting of Monday, the 29th of June, 1936. Have you that?

A. Yes, I have.

Q. May I have it, please?

A. (Document produced.)

(Document examined by Government counsel.)

Mr. Hallinan: I am pretty sure, your Honor, that photostatic copies of these documents were included in the matters I submitted to the Court in the matter of the accusations against Crouch and Johnson.

Mr. Donohue: I didn't hear that.

Mr. Hallinan: I say, that photostatic copies of these were included in the documents that I gave the Court in the accusations against Crouch and Johnson, and which we sent to the grand jury.

Mr. Donohue: Don't you remember that you withdrew them from the Court, Mr. Hallinan?

Mr. Hallinan: Yes, but then we sent them to the United States District Attorney and to the grand jury, didn't we? [4471]

Mr. Donohue: You didn't send any to me.

(Testimony of Anne Rand.)

Mr. Hallinan: Well, you are only here especially for this case. You weren't interested in prosecuting Crouch and Johnson.

Mr. Donohue: That is a special reason why you should have sent them to me.

Mr. Hallinan: That is another original, your Honor, from the ILA, and we offer it as Defendant's next in order.

Mr. Donohue: I may say, as long as Mr. Hallinan wants to become technical, if your Honor pleases, unless he can establish by this witness that this document was kept in the regular course of business in 1936 as it is now kept by her, it would not be admissible.

Mr. Hallinan: No, you don't have to do any such thing. In fact, the purpose of the uniform business records law is just to obviate the necessity of going back over a long period of years and making proof of the execution of the document or how it was kept. If it is included, if it is removed from the ordinary business records, then it is admissible. Now, it is a disputable presumption that the facts contained in it are correctly stated, but so far as a prima facie showing is concerned, it need only be shown that it is taken from the regular uniform business records.

Mr. Donohue: May I ask your Honor to mark all of these exhibits for identification until we can produce authorities [4472] before your Honor on the question as to whether or not the evidence produced by the witness establishes a foundation upon which

(Testimony of Anne Rand.)

these documents may be admitted under the federal statute?

The Court: It may be marked presently for identification. I will hear counsel out on this subject tomorrow.

Mr. Hallinan: All right.

Q. Now, the next document you have is for the San Francisco District Council minutes that I asked for, the Maritime Federation of the Pacific, for Tuesday, the 30th of June, 1936. Have you that, Miss Rand? A. I have it here, sir.

The Clerk: May the record show that the last exhibit is marked Defendants' V-1 for identification?

> (Whereupon document concerning meeting of Monday, June 29, 1936, referred to above, was marked Defendants' Exhibit V-1 for identification.)

> (Document produced by the witness, examined by counsel for the Government.)

Mr. Donohue: This, I take it, your Honor, being also mimeographed would be subject to the same rule.

Mr. Hallinan: Well, we offer it in evidence, then, and we have agreed, I take it, that it isn't necessary to ask the witness as to each particular document, that they were all taken from the same place a[illegible] that they are all subject to the first [4473] question that was asked.

The Court: Was that a correct statement?

The Witness: Yes, your Honor.

(Testimony of Anne Rand.)

The Clerk: May this be marked Defendants' W-1 for identification.

(Whereupon document dated 6/30/36 referred to above was marked Defendants' Exhibit W-1 for identification.)

Q. (By Mr. Hallinan): So now we have received from you minutes of meetings for Monday, the 22nd of June, Tuesday, the 23rd of June, Wednesday, the 24th of June, Monday, the 29th of June, and Tuesday, the 30th of June?

A. That is correct.

Q. Now have you the minutes of the San Francisco District Council No. 2, executive committee, for Wednesday, the 1st of July?

A. I have those here (producing).

(Documents examined by counsel for the Government.)

Mr. Donohue: We object on the same basis, your Honor.

Mr. Hallinan: We offer it in evidence as Defendants' Exhibit next in order.

The Court: It may be presently marked for identification, pending counsel's investigation into the matter he indicated.

(Document dated 7/1/36 referred to above was marked Defendants' Exhibit X-1 for identification.)

Q. (Mr. Hallinan): Now I asked you to bring an undated [4474] press release relating to the

(Testimony of Anne Rand.)

~~parade to~~ be held on the 5th of July—no, on the 4th of July it is—no, the 5th of July; a parade to be held on the 5th of July signed by Harry Bridges. Have you that document?

A. That document is here (producing).

(Document examined by counsel for the Government.)

Mr. Donohue: If your Honor pleases, I think there are several bases for objection. There is no evidence that this is a document kept in the regular course of business. No. 2, I don't find any date on the document.

The Court: Who was the author of the letter?

Mr. Hallinan: Mr. Bridges.

The Court: Well, mark it now and it may be——

Mr. Hallinan: Now I thought we agreed that we wouldn't have to repeat each question, but this document that was just handed me, the undated letter, is on the San Francisco Bay Area District Council No. 2 letterhead.

Q. Was that also procured by you from the files regularly kept by you in the ordinary course of business of the ILWU?

A. They were gotten from the files.

Mr. Hallinan: We offer it as Defendants' exhibit next in order. And I might state to your Honor that while it does not contain a date we can show that by its internal contents the date is necessarily to be derived from it, to be deduced from it. It is our contention that this letter was written and signed by [4475] Mr. Bridges on the 2nd of July, 1936, because he speaks of "For Release on Friday,"

(Testimony of Anne Rand.)

and it speaks about the parade to be held on the 5th; so the last day it could have been written was Thursday, which was July 2nd.

The Court: It may be marked for identification at the present time.

(Whereupon undated press release was marked Defendants' Exhibit Y-1 for identification.)

Q. (By Mr. Hallinan): Now, you have also, or I asked you to bring also the minutes of the executive committee of the San Francisco Council No. 2 for Friday, the 3rd of July. Have you that?

A. Yes. (Producing.)

(Documents examined by counsel for the Government.)

Mr. Donohue: We ask your Honor to accept this subject to the same stipulation.

Mr. Hallinan: Then this document we offer in evidence as Defendants' next in order.

The Court: It may be marked in the same way.

(Whereupon document dated 7/3/36 was marked Defendant's Exhibit Z-1 for identification.)

Q. (By Mr. Hallinan): Is that the last document you have?

A. We have one more that should have been with it,

Q. What is that?

A. The one for July 1st and one also for July 6th. [4476]

(Testimony of Anne Rand.)

Q. I beg your pardon?

A. One for July 6th and another section of the July 1st.

Q. I see. May I have those two, then, both of them? A. Yes (producing).

(Documents examined by counsel for the Government.)

Mr. Donohue: We ask your Honor to accept these subject to the same understanding.

The Court: So ordered.

Mr. Hallinan: Well, now, so that we have them in the proper rotation only, one of them I have procured from you out of order, because it is minutes of the regular meeting of the executive board held Wednesday, July 1st, 1936. That is the ILA. And this one is signed by Henry Schmidt, I note. We offer that, then, as Defendants' exhibit next in order.

The Court: It may be marked for identification.

(Whereupon portion of minutes of meeting of 7/1/36 was marked Defendants' Exhibit A-2 for identification.)

Mr. Hallinan: And then the last one is the minutes of the regular meeting of the Local 38-79, held Monday, July 6, 1936, at the Scottish Rite Auditorium. That is signed by Ivan F. Cox. We offer that as defendants' next exhibit in order.

(Whereupon minutes of meeting of 7/6/36 was marked Defendants' Exhibit B-2 for identification.)

Q. (By Mr. Hallinan): Now, might I ask this, Miss Rand: Are there other minutes going back of the first one that you produced [4477] here on the 22nd of June, 1936?

A. Yes, they go back.

Q. In other words, it extends in a reverse series backwards, is that right? A. Correct.

Q. And how about from the 6th of July, 1936, up to the present date? Are they also in regular rotation? A. They are intact.

Q. But I asked you only to pick out the ones that ran for the week which included the 27th day of June, 1936, and for the ensuing week?

A. That is correct.

Q. But you have available and can produce the records that precede that and the records that succeed it? A. That is quite right.

Mr. Hallinan: That is all.

Cross-Examination

By Mr. Donohue:

Q. Miss Rand, you were employed only or have been employed only since 1946 as the librarian?

A. That is quite right.

Q. You are not able to testify what the practice was prior to your coming to work there, with respect to keeping these records?

A. Only in that I found them in excellent order, maintained in the research department, which practice I have maintained and [4478] continued.

Q. But, for example, these exhibits which appear to have perforated holes, as though they might once

(Testimony of Anne Rand.)

have been in a permanent folder, you didn't find them in a folder? A. I did not, no.

Q. And you do not know at what time they may have been removed from the folder?

A. That I can't say. I have no way of telling.

Q. And with respect to these documents which appear to have been mimeographed, you are not familiar with the practice with respect to keeping any original of those documents?

A. That I do not know.

Mr. Donohue: If your Honor pleases, subject perhaps to the necessity of recalling the witness after we have made an examination of the statute, we have no further questions at this time. But we would like to reserve that right, in case there be a point which may become important.

The Court: You have that right.

Mr. Hallinan: And might I suggest, your Honor, that the ruling on that and the presentation of points and authorities be deferred until Monday because we have other matters that will crowd in and we don't want to take the time off to search on that?

Mr. Donohue: No objection.

The Court: Mr. Hallinan, any convenience of yours will be [4479] met by the Court, be it proper.

Mr. Hallinan: And we have some further records that Miss Rand will introduce later, so then she can be cross-examined on this further if they desire.

Thank yo[illegible], Miss Rand. That is all.

Your Honor, we have one witness left, a character witness. It will only take a few minutes. If we can put her on now, we would be glad to.

The Court: Certainly.

Mr. MacInnis: We call Miss Louise Schmidt.

The Clerk: Call Miss Louise Schmidt.

LOUISE SCHMIDT

called on behalf of the defendants; sworn.

The Clerk: Will you state your name to the Court and jury?

A. Louise Harriet Schmidt.

Direct Examination

By Mr. MacInnis:

Q. You are the daughter of Mr. Henry Schmidt?

A. Yes.

Q. And you were born here in the City and County of San Francisco, is that correct?

A. Yes, I was.

Q. And have lived here all of your life? [4480]

A. Yes.

Q. You were educated in the public schools here in San Francisco? A. I was.

Q. And graduated from what high school?

A. Mission High School.

Q. That was in what year, Miss Schmidt?

A. June of 1946.

Q. Now, since June of 1946 have you been employed? A. I have.

Q. What is your present employment?

A. I am working with Crocker First National Bank.

(Testimony of Louise Schmidt.)

Q. And you have been working with that bank for about what period of time?

A. About eight months.

Q. And previous to that employment, did you work with some other bank ~~in~~ the City and County?

A. Yes, the Bank of America.

Q. I see. Then you transferred from the Bank of America to the Crocker First National Bank, is that so? A. Yes.

Q. Now, you have seen your father, I suppose, almost every day for all of your life, is that correct?

A. Yes.

Q. And you have not only seen your father, but I suppose particularly [4481] since this case was brought, you have heard other people mention and discuss your father? A. Yes, I have.

Q. Now, from your own knowledge and from such conversations as you may have heard others engage in, do you know what the reputation of your father, Henry Schmidt, is in this community for truth, honesty and integrity? A. I do.

Q. What is that reputation?

A. It is excellent.

Mr. MacInnis: Thank you.

Mr. Donohue: Of the young lady we have no questions, your Honor.

The Court: All right; you may be excused.

Ladies and gentlemen of the jury, we will take the adjournment, then, until tomorrow morning at 10:00 o'clock. The same admonition to you, not to discuss the case under any conditions nor to form an opinion until the matter is submitted to you.

(Testimony of Louise Schmidt.)

We have in mind the plans for tomorrow afternoon. Have you completed those plans?

The Clerk: Yes, your Honor.

The Court: So that we leave here at 2:00 o'clock?

The Clerk: We may assemble here in the usual fashion, at 2:00, and leave from here.

The Court: All right. You may retire.

Mr. Donohue: Will your Honor remain just a moment?

The Court: Very well. [4482]

(Whereupon the jury retired from the courtroom, and the following occurred outside of the presence of the jury:)

The Court: Mr. Donohue asked the Court to remain here.

Mr. Donohue: Yes, your Honor. I have, pursuant to your Honor's direction, brought the original and a photostat of the guest registration of the Governor Hotel, which Mr. Hallinan requested. I shall be glad to give him either the original or a photostat, whichever he may prefer.

Mr. Hallinan: Well, if we may have the photostat, and let the clerk have the original, that will be satisfactory.

The Court: The original may be lodged with the clerk.

Mr. Donohue: Thank you, sir.

The Court: And it may be merely marked for identification.

(Discussion between Court and clerk outside hearing of the reporter.)

The Court: It may be marked as Government's Exhibit next in order for identification only.

Mr. Hallinan: We will stipulate it may be admitted in evidence, your Honor.

The Court: Well, all right. I think that should be done tomorrow morning, in the presence of the jury. Otherwise we will stand adjourned.

(Thereupon an adjournment was taken until Friday, January 27, 1950, at 10:00 a.m.) [4483]

Friday, January 27, 1950, 10:00 A.M.

The Clerk: The United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Hallinan: We have now, if the Court please, produced by the Government attorney the guest registration card which we called for at the appearance on the witness stand of the witness George Wilson, and there was some discussion in evidence at that time, I believe, that a certain guest registation card at the Governor Hotel in the name of Mervyn Rathborne had been removed from the files of the Governor Hotel and was then in the possession of the Government. This document has been delivered to the clerk yesterday by the special prosecutor. We now offer it in evidence, if the Court please, as the defendants' exhibit next in oder.

The Court: It may be received and marked in evidence.

The Clerk: Defendants' C-2 in evidence.

(Registration card marked Defendants' Exhibit C-2 in evidence.)

Mr. Hallinan: Now, Mr. Robertson, will you please take the stand.

JAMES A. ROBERTSON

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury.

The Witness: James A. Robertson.

Direct Examination

By Mr. Hallinan:

Q. And where do you live, Mr. Robertson?

A. At 721 19th Avenue, San Francisco.

Q. And what is your business or occupation?

A. I am secretary to the Pacific Maritime Association.

Q. The Pacific Maritime Association—just what is that?

A. That is a labor relations organization dealing with both onshore and offshore labor.

Q. Then the matter which you refer to, is that a group of employers? A. It is, sir.

Q. That is the employers' group that is formed to deal with labor organizations in their mutual difficulties or agreements, is that correct?

A. That is correct.

Q. And you are secretary of that organization?

A. That is correct.

Q. Now, as such do you have charge of the records of the organization? A. I have.

Q. Are the records of the organization maintained under your control in the ordinary course of

(Testimony of James A. Robertson.)

business of this organization you have just testified to? A. They are. [4485]

Q. Now, you were asked to produce from the files of that organization certain minutes of meetings of the Longshore Labor Relations Committee of San Francisco. Did you bring them with you?

A. I did, sir.

Q. And prior to this time has that document or these minutes been delivered to the defense so that photostats could be made of portions of them? Do you know if that has been done?

A. I delivered them. I have the dates here, if you wish.

On December 23, 1949, Mr. Modine, I believe, through our Mr. Clark, vice president, requested that we send the originals of the Labor Relations Committee minutes, October 16, 1934, through December 31, 1937.

On December 30, 1949, we sent the minutes for 1938 through 1941, inclusive.

On January 25 we again sent the minutes covering the period October 16, 1934, to March 28, 1935.

Q. The original minutes have since been returned to you? A. I have them, yes.

Q. Have you brought those minutes with you?

A. I have them here, sir.

Q. Will you state whether or not—might I see the minutes first?

A. (Handing documents to Mr. Hallinan.)

Mr. Hallinan: I might at this time, in view of some little [4486] comment that was made on the matter, your Honor, ask if it would be all right to at least let the jurors know that some of my activity in taking away the table from Mr. Mitchell and taking it before the witness and bringing that large book up there is in deference to the fact that Mr. Mitchell had a very serious operation during the Christmas vacation, and my interest was not to interfere with his function, but only to save him that exertion.

The Court: I must say, Mr. Hallinan, no reflection has been made on you, and I am sure Mr. Mitchell appreciates it.

Mr. Hallinan: I heard it from somebody in the courtroom. I thought some of the jurors might have had that impression.

The Court: That was absolutely unwarranted. I instruct the jury accordingly. That was a very gracious act on your part.

Q. (By Mr. Hallinan): The document that you presented here contains the minutes of the Longshore Labor Relations Committee of San Francisco from October 16, 1934, to March 28, 1935, inclusive. Is that taken by you from the regular files of your organization? A. It was.

Q. And is it maintained in those files in the regular course of business of your organization, at least as of the present time?

A. That is correct.

Mr. Hallinan: I might state to counsel that the purpose [4487] of this matter and the parts that I wish to call attention to are those minutes commencing October 16, 1934, and running along until the end of October. All relate to the membership on the committee on the union side of it of Henry Schrimpf and his absences from the various meetings. That is the purpose of it.

We offer at this time, if the Court please, the minute book, then, in evidence. I will substitute for them the photostats of the meetings we desire.

The Court: There is no objection, I assume, Mr. Donohue?

Mr. Donohue: I think probably not, if your Honor please. We would like an opportunity to examine it. It is rather voluminous.

The Court: Subject to your examination, it may be received and appropriately marked.

Mr. Hallinan: Then I will substitute the photostats for the original.

The Clerk: May it be marked Defendants' D-2.

> (The minutes were marked Defendants' Exhibit D-2 in evidence.)

Mr. Hallinan: Then we will return it to Mr. Robertson.

The Witness: Thank you.

Q. (By Mr. Hallinan): Did you bring with you in response to a subpoena another document relating to certain minutes maintained by your organization?

A. I did. [4488]

Q. Will you tell us what that document is, Mr. Robertson.

A. The minutes of the meeting of the Longshore Labor Relations Committee of San Francisco of July 3, 1936.

(Testimony of James A. Robertson.)

Q. And would you state from whence you received or took that document.

A. These were taken from the files of our manager in San Francisco.

Q. Are they maintained in those files in the regular course of business of the organization?

A. That is correct.

Q. And under your control also?

A. Not under my direct control.

Q. But you have charge of the whole thing; there are certain subordinate persons who have the direct control? A. That is correct.

Mr. Hallinan: We offer it in evidence, if the Court please, as the defendants' exhibit next in order.

Q. And, as you said before, Mr. Robertson, all of these matters now are from the files of the employer; that is correct, isn't it?

A. That is correct.

Mr. Hallinan: And I have a photostatic reproduction of that document, which I will ask to be substituted for it.

Mr. Donohue: There is no objection, if your Honor please.

The Court: Let it be marked. [4489]

The Clerk: May it be marked Defendants' E-2 in evidence.

(The minutes were marked Defendants' Exhibit E-2 in evidence.)

Mr. Hallinan: That is all.

The Court: Mr. Donohue, that original minute book is available to you to the end that you may make such comparison as is necessary, then it is to be returned to this witness.

Mr. Donohue: Thank you, your Honor.

Mr. Hallinan: The photostats offered in lieu were turned over to the Government. The duty is upon them to return the minute book.

The Court: Yes. Mr. Mitchell will undertake to return it to this witness.

Mr. Donohue: We have no questions of this witness.

Mr. Hallinan: That is all.

Mr. MacInnis: We will call Henry Schmidt, your Honor.

HENRY SCHMIDT

one of the defendants, called in his own behalf; sworn.

The Clerk: Will you state your name to the Court and jury.

The Witness: My name is Henry Schmidt—S-c-h-m-i-d-t.

Direct Examination

By Mr. MacInnis:

Q. What is your address, Mr. Schmidt?

A. 559 11th Avenue.

Q. And what is your occupation at this time? [4490]

A. I am an officer of the International Longshoremen's and Warehousemen's Union.

Q. What office do you hold?

A. The title is International Representative.

Q. Where were you born, Mr. Schmidt?

A. I was born in Germany on the 9th of February, 1899.

Q. And you are at present 50 or 51 years of age, is that correct? A. I will be 51 next month.

Q. When did you come to this continent, Mr. Schmidt?

A. My father and I came to the American continent in 1911.

Q. To what city or place did you first come?

A. We landed in Canada, and we journeyed to Winnipeg in the Province of Manitoba.

Q. And from that place where next did you travel and take up residence?

A. Well, I traveled alone to a farm in the Province of Manitoba shortly after our arrival in Winnipeg, and I stayed there for about 14 or 15 months, I recall.

Q. And when first did you come to the United States? A. In the winter of 1915.

Q. And that residence was in what city or State?

A. In Minneapolis, Minnesota.

Q. And after living in Minneapolis where did you go next?

A. I came to San Francisco. [4491]

Q. What was the date upon which you came to San Francisco?

A. The day before Christmas 1917, December 24.

Q. And have you lived here in San Francisco for the past 33 years?

A. With the exception of one year in Marin County, and I have spent a stretch of 18 months in

(Testimony of Henry Schmidt.)

Hawaii, which was part of 1946 and part of 1947, and again for a six months' period in Hawaii in 1949.

Q. I take it your permanent residence has been since 1917 in and around San Francisco?

A. That is correct. [4492]

Q. What occupation have you followed since you have been here in San Francisco?

A. I worked in several mills here in San Francisco, flour mills.

Q. During what approximate period of years?

A. That would be in 1917 and 1918, through the years until about 1926 or 1927, thereabouts; I drifted down to the waterfront and began to work as a longshoreman.

Q. When did you obtain your citizenship in the United States?

A. It was either in 1926 or 1927 in this building.

Q. Was it in this room?

A. I think it was in this room.

Q. And it was either in 1926 or 1927, is that correct? A. One of those two years.

Q. What was the first years upon which you began to work on the waterfront?

A. About that time, '26 or '27.

Q. Was there in those years any union in existence?

A. Yes, there was a union and its name was—the official name was the San Francisco Longshoremen's Association.

Q. Was that a so-called company union?

A. It was generally recognized by the men as a

(Testimony of Henry Schmidt.)

company-controlled union and it was called the Blue Book Union.

Q. What was the significance of that phrase, the Blue Book Union? [4493]

A. Well, merely because the membership books that it issued to its members were blue in color.

Q. Did you work fairly steadily on the waterfront for the approximate years of 1927 up to, let us say, 1933? A. No, sir.

Q. What was the situation so far as the activities on the waterfront were concerned?

A. Well, when I first came there I don't think I managed to get any employment for the first four or five weeks. I just stationed myself at Pier gates and then eventually I managed to get employment in a car gang at the Dollar Line docks, Pier 44 and Pier 46.

Q. What was the nature of the work that you undertook at that time?

A. Well, other men and I would unload or load cargo, freight, that is, from railroad boxcars or into railroad boxcars.

Q. Did you continue with that kind of work for a considerable number of years?

A. Yes, I think so. I can't recall whether it was a year and a half or two years.

Q. What change, if any, took place in your mode of employment on the waterfront?

A. Well, as I tried to explain, the work at Pier 14 was rather unsteady, and I managed to get a little bit of work as a longshoreman at the Matson dock and I worked a few jobs there. [4494] And

7.

some time thereafter—I don't recall how long—I managed to get into a steady gang of longshoremen at the Admiral Line docks. That would be Pier 16 and Pier 18.

Q. For what period of time did that steady work continue?

A. Well, that continued until about 1933.

Q. Can you tell us what your best memory is concerning the first time you met Harry Bridges?

A. I recall he talked to me one time on the waterfront in 1933, and it was on an occasion when I was no longer employed at the Admiral Line. We had had a little strike there and I was dismissed, and he came to me one morning at the shapeup at the Ferry Building and we had a brief conversation, and I think he helped me getting a job for that day with another gang boss.

Q. Is that the first time that you are conscious of having talked with Harry Bridges?

A. Yes, that is so.

Q. Did you know him to see him before that time?

A. Well, he was pointed out to me and, well, from then on, I knew him.

Q. What was the shapeup which you have just mentioned?

A. It was the custom on the San Francisco waterfront for many longshoremen to report at the Ferry Building, that is, on the Embarcadero directly across the street from the Ferry Building, and the men would report there as early as 6:00 in the

(Testimony of Henry Schmidt.)

morning for the purpose of finding employment and also for the purpose [4495] of securing their orders from their gang bosses in order to find out where they might go to work and if they were going to go to work. Hundreds of men would assemble there each morning.

Q. Would that be true whether the men belonged to a particular steady working gang or not?

A. Yes, both types of men would assemble there, those who were members of the gangs and others who were just free lance.

Q. And the opportunities then for employment were created at the last minute in the so-called shapeup line?

A. That would be a correct statement, yes.

Q. About what percentage of the men who would come to the shapeup at 6:00 in the morning would find employment on a particular day?

A. I couldn't answer that question.

Q. Would that vary?

A. That would vary with the work opportunities, Mr. MacInnis. If there were but few ships in the harbor, there would not be much opportunity, and by the same reason, if there were many ships in the harbor there would be more work opportunity.

Q. Was there any arrangement in effect at that time for a distribution of the work over all the men who were there? A. None whatsoever.

Q. What was done in that respect?

A. Well, nothing was done. It was a hit-and-miss proposition.

Q. In the year 1933, Mr. Schmidt, of which you now speak, was [4496] there an organization called the Albion Hall group which then came into existence?

A. That came into existence, to the best of my knowledge, in that year, either about the time that the ILA began to reorganize—and the ILA began to reorganize about the middle of that year, 1933 that is——

Q. By the middle of the year do you have in mind any particular month?

A. Well, mid-year is June, and that is the best that I can fix it.

Q. What do you mean when you say that the ILA began to reorganize? What was the ILA in 1933, and was it in active existence during all of that year?

A. The ILA is or was the International Longshoremen's & Warehousemen's Association. It is an affiliate of the American Federation of Labor. It had functioned on the San Francisco waterfront prior to the establishment of the Blue Book Union. It went out of existence about 1919, and in 1933, as I have already stated, the international officers in New York apparently learned that there was an opportunity to reorganize the ILA in San Francisco. They sent an organizer here and he began to operate, and he had but little difficulty in getting the San Francisco longshoremen to join that union.

Q. What was the connection between the so-called Albion Hall group and the reorganizing or the activating of the ILA? [4497]

A. Well, the men who composed that group were members of the ILA, the ILA which had just been reorganized.

Q. Were you a member of the Albion Hall group?

A. Yes, shortly thereafter I found myself a member of that group.

Q. Was Harry Bridges, to your knowledge, a member of the Albion Hall group?

A. Yes, he was there.

Q. Now, how did the Albion Hall group gets its name?

A. Well, apaprently because the building in which the group met is situated on Albion Street in San Francisco. The name of the hall is not Albion Hall. The name of the hall is the Equality Hall.

Q. What did the men, the members of the ILA who were given the name of the Albion Hall group, do to reorganize the ILA in the middle of 1933?

A. Well, let me put it this way: The ILA was already well on its way to being established. The group in Equality Hall met for the purpose of attempting to formulate some program which would be beneficial to the men who had just joined this new union.

Q. Do you have any approximate memory concerning the time you went into the Albion Hall group?

A. No, it seems to me it was in the middle of 1933. It may have been July. I recall I paid an initiation fee to the ILA [4498] organizer, and this was a number of weeks before I was initiated into the union, and my membership book indicates that I was initiated into the union in July of 1933, and I guess I became a member of the Equality Hall about that time; maybe shortly thereafter.

Q. At or about the time that you were initiated into the ILA, the Equality Hall group or Albion Hall group, as it has been called, was already organized? A. That seems to be correct.

Q. At that time, Mr. Schmidt, was there a man named John Schomaker on the waterfront who was also a member of the ILA?

A. I don't think so. I think that he appeared on the waterfront some months later.

Q. Do you have any recollection of seeing John Schomaker at the time that the ILA was being reorganized?

A. Well, those were the days when I was shaping up on the Embarcadero across the street from the Ferry, and I have no recollection of seeing him around there then.

Q. When you first began to see John Schomaker, I suppose you took particular notice of him because of his size and appearance, is that correct?

A. Well, he was noticed by everybody.

Q. Did you have any recollection of seeing John Schomaker at the time the Albion Hall group was taking an interest in the ILA? [4499]

A. Not at the beginning.

Q. Did the ILA elect a slate of candidates or a slate of officials in the summer of 1933?

A. Some time during 1933 there was an election which resulted in the election of permanent officers, an executive board, and so on and so forth.

Q. Was there any event in the early fall of 1933 at which time——

A. Mr. MacInnis, excuse me. I did not get the beginning of that statement.

Q. I am sorry. Was there any event in the early fall of 1933 at which time the men renounced their membership in the Blue Book Union?

A. There was a strike at the Matson docks. It was pretty well along in the year, a strike that was of short duration. I think it had to do with the dismissal of four or five men, and I do not recall whether they were dismissed because they had joined the new union or not. In any case, I recall they were reinstated and after that it gave considerable more impetus to the organization of the new union.

Q. I am going to show you a photostatic reproduction of the San Francisco News of October 10, 1933, and of the San Francisco Chronicle of the following day, October 11, and ask you if a reading of these documents can refresh your memory as to the date of the Matson strike of which you [4500] speak.

A. What are the dates of these papers?

Q. The dates are shown on them.

A. Mr. MacInnis, I do not see anything in the News relating to this Matson incident. Maybe it is in the Chronicle.

(Testimony of Henry Schmidt.)

Mr. Donohue: If Your Honor please, I do not like to intrude in the examination, but I think I might object again to the use of either an original or photostatic copy of a newspaper introduced for the purpose of establishing either the truth of the statement contained in that document or a date upon which an incident occurred because obviously if one has no independent recollection of a date on which an incident occurred, the mere reading of a newspaper account of the date on which that account appears is thereby a substitution for the recollection of the witness.

The Court: The avowed purpose is to refresh his recollection, and perhaps by a relation of events as described therein he may or may not have his recollection refreshed.

Mr. Donohue: I assume that that strike is a matter of record, and I will be glad to stipulate when it was if Mr. MacInnis will tell us when the strike was.

The Court: Does that refresh your recollection?

A. Yes, it does. The date was fairly late in the year of 1933. It would be October 10th or 11th or thereabouts. I recall that I was working on the Admiral Line docks, and before going to work at 8:00 o'clock in the morning I would go up [4501] to the Matson Line which is but a short distance, because everybody knew there was going to be some kind of difficulty there.

Q. What was the nature of the difficulty at the

(Testimony of Henry Schmidt.)

Matson docks? What was its duration and what was the total effect of it?

A. Well, it is my recollection that four or five men had been dismissed for carrying on union activity, I presume, and the other men, who were fellow workers, decided to either not go to work or leave the job after they had gone to work, and I think their demand was that these men be reinstated. I can't recall what the officials of the union did about it, but eventaually a committee wound up in the office of Mr. George Creel, who was then an official of the NRA, and he had something to do with the settlement of this dispute.

Q. Pardon me. By the NRA, do you mean the National Recovery Act? A. That's right.

Q. That was set up in the early days of President Roosevelt, is that correct?

A. Which, incidentally, had a great deal to do with the reorganization of the union.

Q. What happened as a result of the setting up of this mediation board under George Creel?

A. Well, eventually that dispute was settled. I believe the men were reinstated, and that is the best I can do.

Q. After that time did you become active in the affairs of the [4502] ILA? A. Oh, yes.

Q. After that time did you see Harry Bridges more and more frequently?

A. Yes. As I stated a while ago, there was a mass initiation at the Labor Temple. Then there

(Testimony of Henry Schmidt.)

was an election, and I was a candidate for the executive board. I think Bridges was a candidate for the executive board. We were both elected and from then on we saw each other quite frequently.

Q. When in relation to the time of your initiation into the ILA, which you say was July of 1933, did you become a candidate for the executive board along with Harry Bridges?

A. Well, inasmuch as I was initiated in July, I think it was shortly thereafter, but I couldn't mention the date.

Q. In any event, shortly after July of 1933 you and Harry Bridges were both members of the executive board of the ILA, is that correct?

A. Local 38-79, yes.

Q. Carrying your memory into the following year, 1934, was there a strike committee set up by the ILA?

A. Yes, in February of that year, 1934, an emergency convention was held in San Francisco. All of the ILA locals on the Pacific Coast sent delegates to that convention, and as a result of the action that was taken at that convention, which among other things demanded that the employers recognize the newly [4503] formed union and other demands, it was also decided to enforce those demands by going on strike, if necessary, and shortly after the convention, our union established a strike committee.

Q. What, generally, were the activites of the strike committee between the time of its formation and the time at which a strike was ultimately called?

A. I recall that we were scheduled to go on strike on the 22nd or 23rd of March, I believe, and I recall the strike committee was meeting quite often to discuss what should be done in case we should go out on strike. The strike did not take place on that March 22nd date because there was a request from President Roosevelt to postpone it. Thereafter there were more meetings, and we made all sorts of preparations to take care of the strike if one should take place.

The strike committee was divided into subcommittees, and those men who had had previous strike experience would tell about their experiences and they would make proposals as to what ought to be done. Bridges made quite a few explanatory remarks. There was a defense committee set up, a publicity committee—these are subcommittees—a picket committee, and so forth.

Q. In addition to being a member of the strike committee itself, were you a member of any subcommittee of the strike committee?

A. Yes, two other members and I we were elected to the [4504] publicity committee.

Q. What was your function or duty as a member of the publicity committee?

A. We were instructed by the strike committee to prepare, publish and distribute a daily strike bulletin.

(Testimony of Henry Schmidt.)

Q. And how often did you publish that?

A. Well, after May 9th when the strike was in effect, we tried to live up to our instructions to get it out daily. We did not succeed during the first eight or nine days because of our inexperience, I suppose. [4505]

Q. During the entire duration of the strike how often did the strike committee itself meet?

A. The strike committee met every day during that strike, and on a number of occasions it met more than once; twice, and it may have met three times in one day on certain days.

Q. Did the strike committee meet on Sundays as well as on week days throughout the duration of the strike?

A. It met very often on Sundays, yes.

Q. When did the strike end?

A. On the last day of July.

Q. Of 1934? A. 1934.

Q. After the strike was a labor relations committee set up whose membership was composed of employers and union men alike?

A. Not immediately after the strike. That didn't come until after October 12.

Q. But after October such a body was set up, is that correct?

A. On October 12 the National Longshoremen's Board handed down an award which established a number of things, including the establishment of a joint longshore dispatching hall; and there were

(Testimony of Henry Schmidt.)

certain paragraphs in this award which made it obligatory on the part of the employers and the union to set up a joint labor relations committee, and that was done.

Q. What was the purpose or function of this Labor Relations Committee? [4506]

A. The Joint Labor Relations Committee was instructed by the terms of the award to establish a hiring hall, to register all the longshoremen in the port, to revise the old blue book working rules, and such things as that, and attempt to adjust grievances that might arise on the job.

Q. Mr. Schmidt, at the time of the strike did you become a member of the Communist Party?

A. I did not.

Q. Prior to the strike had you been a member of the Communist Party? A. I was not.

Q. Did you ever at any time join the Communist Party? A. I did not.

Q. Were you ever at any time a member of the Communist Party? A. I was not.

Q. Did you ever at any time sign an application asking for membership in the Communist Party? A. I certainly did not.

Q. Did you ever at any time possess a membership card in the Communist Party? A. No.

Q. Did you ever at any time pay dues to the Communist Party? A. No.

Q. Well, did you ever attend Communist Party meetings? A. No. [4507]

(Testimony of Henry Schmidt.)

Q. Did you ever attend meetings in which all the other persons present were known by you to be members of the Communist Party?

A. I wouldn't know.

Q. Have you ever been in that position where you had the knowledge that you were the only non-Communist present? A. No.

Q. And have you ever been possessed of the opinion that Harry Bridges was a member of the Communist Party? A. No.

Q. Did you ever go to a Communist Party meeting with Harry Bridges? A. No.

Q. Now, proceeding, if we may, to some of the testimony that has been offered against you and the other defendants by the Government, I will begin with the testimony of John Schomaker and go over some of the incidents which he has purported to narrate to the jury.

In the year 1938, Mr. Schmidt, did you go to a party or gathering at the home of a man named Jack Shaw at a time when Harry Bridges made a speech to some 50 or 60 people announcing that he was a member of the Communist Party?

A. I have been at the home of Jack Shaw and it was a social gathering. I don't recall what year it was. And there were no speeches made. I have a clear recollection that most of those present were walking around with a drink in their hand, [4508] and everybody was talking at the same time.

Q. Do you remember whether or not Harry

Bridges was present at any such gathering?

A. I don't recollect seeing him there. I doubt it very much.

Q. Did you ever hear Harry Bridges, either at the home of Jack Shaw or at any other home or at any other gathering place, announce that he was a member of the Communist Party and invite, urge or request other persons present to do the same thing, to join the Communist Party?

A. Never heard any such thing.

Q. And you never heard him say any remark comparable to that in substance or otherwise, did you? A. That is correct.

Q. Do you remember a woman named Norma Perry? A. I do.

Q. Who was she, and under what circumstances did you first see her?

A. Well, when I first saw her I didn't know who she was.

Q. Just tell us the circumstances of when you first saw her and what may have developed.

A. Well, it must have been in the month of May, 1934. The longshore strike was already in progress, and that strike started on May 9, and as I said a while ago, I was a member of the publicity committee, and suddenly one morning, or it may have been afternoon, this woman came to our committee and she [4509] brought with her a portable typewriter and stated that she was a typist or stenographer and wanted to know if we couldn't use her services.

(Testimony of Henry Schmidt.)

And I suppose I discussed this with Ralph Malin, the other member of the publicity committee. I don't too clearly recollect what words were spoken. I think we may have taken her proposal to the strike committee. Anyhow, to make a long story short, her offer was accepted, and she began to work and do typing work and cutting stencils and assisted us in getting out the mimeographed strike bulletin which I mentioned a while ag .

Q. Now, did you ever attend any meeting held for the purpose of bringing charges against Norma Perry? A. No,, sir.

Q. Did you ever associate yourself with Henry Schrimpf and John Schomaker in bringing charges against her that she was a labor spy?

A. I had nothing to do with that.

Q. Was there a time when this lady named Norma Perry was discharged from her job with the union?

A. Well, that eventually happened, but I don't recall the surrounding circumstances. She later became office secretary after the strike when Bridges was president of the union, and I don't recall if she was still there later on when I became president of that union.

Q. Let me ask you this, to meet specifically the charge that [4510] has been made: In early 1935 did you go to a meeting called by John Schomaker at which there were present a man named Darcy, the woman named Perry, John Schomaker, Harry Bridges, Henry Schrimpf and Herman Mann?

A. No, I wasn't there.

Q. Do you know whether or not such a meeting ever took place? A. I couldn't know.

Q. Were you ever at any meeting with a man named Sam Darcy? A. No, sir.

Q. Did you ever meet Sam Darcy?

A. Not to meet him. I have heard him make a couple of talks.

Q. You mean you have been present in an audience?

A. Yes. And again I can't recall the year; it was at Dreamland Auditorium out on Steiner Street here in San Francisco, and he spoke from the platform. I was a member of the audience.

Q. Did you ever sit down in a small gathering—by "a small gathering" I mean ten or twelve people or less—in anybody's home in which you discussed matters with Sam Darcy and others?

A. I did not.

Q. Did you ever have any personal conversation with Sam Darcy in your life?

A. I couldn't have had.

Q. Did you ever shake hands with the man or exchange a word with him in your life?

A. No handshaking. [4511]

Q. Well, was there any exchanging of words between you and Sam Darcy? A. No, sir.

Q. In the same year, 1935, in the month of September, did you go down to San Diego to any convention of the State Federation of Labor?

A. What year was that, please?

(Testimony of Henry Schmidt.)

Q. 1935.

A. Yes, that was the State convention of the American Federation of Labor, and, as I recall it, that was my first experience at such a convention. That was in San Diego?

Q. Yes. A. Yes, I did go there.

Q. In the course of that convention did you go to a small gathering or meeting with Harry Bridges and others, including a man called Stanley Hancock and at a place called the Sumner Apartments?

A. No, sir, I definitely did not. I never saw Hancock until he sat down in this chair here several weeks ago.

Q. And do you have any conscious recollection of ever seeing the man who calls himself Stanley Hancock before?

A. I have no recollection. I am positive that I have never seen him before.

Q. And apart from whether or not you may have passed that man in a crowd or seen him from that perspective, did you ever speak [4512] with him or sit with him in any small gathering or room full of people?

A. No words ever passed between us.

Q. Are you positive of that?

A. Absolutely.

Q. Now, the witness Schomaker says that other persons were present at this alleged meeting besides you, Stanley Hancock and himself. He says a man named Jack Johnstone was there. Do you know that man?

A. I don't know him at all.

Q. Ever hear of him?

A. I am sure I haven't.

Q. Ever meet him? A. Jack Johnstone?

Q. Yes. A. I don't know him at all.

Q. Are you positive you have never met such a man as Jack Johnstone in your life?

A. That is right.

Q. There is a man named Schneidermann said to have been present at the same meeting in 1935 in the Sumner Apartments at San Diego. Did you sit down with that man at that time in the company that I have mentioned?

A. Of course not.

Q. Did you ever thereafter meet the man named Schneidermann? [4513] A. Yes.

Q. Did you know him in 1935? A. No.

Q. Describe, if you will, the occasion, if any, when you did meet Mr. Schneidermann, and tell us when it was.

A. I met him on two occasions, and I don't recall which is the first. He spoke to a membership meeting of the San Francisco Longshoremen some years ago; I think it was long after we left the AFL and had already affiliated with the CIO. I forget what subject he spoke on. I was the chairman of the meeting and Schneidermann came there and he stood alongside of me and spoke to the assembled longshoremen.

(Testimony of Henry Schmidt.)

Q. Was that the first time that you ever met the man, to your knowledge?

A. Unless the other incident took place first, and I don't know.

Q. Do you know in what approximate years these two incidents took place?

A. The one I just described, I couldn't recall the year.

Q. What is the other incident that you mention in which you say you met William Schneidermann?

A. It was right after a funeral, and it was the funeral of one of the Macnamara brothers. I don't recall whether he died in San Quentin or outside, but he was buried from the funeral parlors of—of Duggan on 16th and Albion Street, and [4514] there were many people at that funeral, and I was there.

Q. And did you meet Mr. Schneidermann at that funeral?

A. Not in the building. After—the man was to be buried in Marin County in a cemetery near San Rafael, and it seemed that dozens of people wanted to go there. I wanted to go there myself. People were looking for transportation, and in the building itself I had had a conversation with Mrs. Rena Mooney, and she rode with me, and as we were turning the corner from Albion Street into 17th Street, Schneidermann was standing on the curbstone with a lady. And I don't recollect whether I spoke first or Rena Mooney spoke first and pointed him out, but I pulled up to the curbstone and said, "Are you people looking for a ride?"

They said, "Yes."

I said, "Jump in." And they rode with us to San Rafael, and Schneidermann introduced us to his wife.

Q. Now, aside from the two incidents which you have described, one upon the stage of a meeting hall and the other at this funeral, have you ever seen or spoken with William Schneidermann in your life? A. None that I can recall.

Q. Those were the only two incidents which put you into contact with that man, is that correct?

A. Yes, that is right.

Q. Now, the next incident which was described—— [4515]

The Court: We might take the morning recess, if agreeable.

Mr. MacInnis: Very well.

The Court: We will take the morning recess; the same admonition not to discuss the case under any conditions or form or express an opinion until it is submitted to you.

(Recess.) [4515-A]

Q. (By Mr. MacInnis): Now, Mr. Schmidt, to go on to the next charge in which you are named by the witness Schomaker, did you attend any conference in the year 1935 at 121 Haight Street at which you sat in a discussion with Sam Darcy, John Schomaker, Ed Harris, Walter Lambert, Harry Bridges and a man named Hanoff?

(Testimony of Henry Schmidt.)

A. That never happened.

Q. Are you positive that never happened?

A. I am absolutely certain.

Q. What is your reason for being so certain? Can you tell us if you have ever been to that address?

A. First, I do not know some of the names that you mentioned there.

Q. What are the names that you do not know at all?

A. There was the name of Hanoff, I think you said.

Q. Yes.

A. I don't know any such person.

Q. Have you ever known anybody named Hanoff? A. No, sir.

Q. Did you know the other people?

A. Well, will you give them to me again, please?

Q. Sam Darcy, a man named Hanoff, a man named Schrimpf——

A. Well, of course I know Schrimpf.

Q. Norma Perry?

A. What was that? [4516]

A. Norma Perry. A. Yes.

Q. A man named Lambert?

A. Yes, I have met him somewhere.

Q. And Harry Bridges?

A. I know him very well.

Q. How many times in your life, if at all, have you ever been to that address 121 Haight Street?

A. Twice.

(Testimony of Henry Schmidt.)

Q. What are those occasions?

A. On one occasion I went there to a mass meeting—I recall it was in the basement of the place—to hear somebody speak, and the speaker was a woman.

Q. Do you remember who that woman was?

A. I am not sure but I am willing to state it was Anita Whitney, but I am not quite sure whether it was she or another woman.

Q. In describing that activity, do you mean you were present as a member of the audience?

A. Yes, I was there and there were several hundred other people there.

Q. Several hundred other people. Were you to 121 Haight Street on any other occasion?

A. Yes, I was.

Q. When was that? [4517]

A. It was on a New Year's Eve. There was a celebration there.

Q. What were you doing there then?

A. Raising Cain, just as the other people were.

Q. You mean you were invited to some party?

A. I guess so. I don't recollect how I got there. It was New Year's Eve.

Q. You didn't have any secret conference with Sam Darcy or William Schneidermann or Hanoff or any of those people at that time, did you?

A. On New Year's Eve, do you mean?

Q. Yes.

A. Not at that time or any other time.

Q. The next incident of 1935, which is called to our attention by Schomaker, is a meeting in which he says you were present with Schneidermann, Hanoff, Gannett, Ross and Harry Bridges at Sokol Hall. Did you ever attend such a meeting in the early fall of 1935?

A. That couldn't have happened because again you have mentioned the names of two or three people there that I do not know.

Q. Well, in the beginning now, have you ever been to Sokol Hall?

A. Yes, I have been at Sokol Hall.

Q. When?

A. Years ago. I couldn't recollect which year.

Q. What was the nature of the event? [4518]

A. It was a social affair a Slavonian society, either Czechoslovak society or Jugoslav society, many of our longshore members belonged to that group and they invited me there, so I came.

Q. You mean that was a purely social function such as a dance and activities of that kind?

A. That is what took place.

Q. It was not a meeting in which the guests gathered to hear a speaker?

A. There was no speech making.

Q. You have said before in reference to the people in whose company you were placed that you never knew anybody named Hanoff, so I suppose you were not in his company. Did you ever know anybody by the name of Betty Gannett?

A. No, sir.

(Testimony of Henry Schmidt.)

Q. Did you ever know anybody by the name of Lawrence Seton Ross? A. Oh, yes.

Q. When did you know him?

A. Well, I can't be quite sure but I think he was a man who came to the strike committee or the publicity of the strike committee in 1934 and made us a proposition to give us a hand with the issuance of the daily bulletin, and his explanation was he was working on the Western Worker and, well, I don't know just exactly what he said, but eventually his proposition was accepted, and I think that Ross came there with that proposition.

Q. You believe him to be the same man who came here to testify [4519] as a witness?

A. Yes, Mr. Lipman Rosenstein, the same man.

Q. Did you ever see Mr. Ross thereafter, that is, after the 1934 strike?

A. Well, during the strike, after his proposition was accepted, he would drop in once in a while to gather up the copy, which he then took to his printing establishment, I suppose, and some hours later the finished product would be brought back for distribution, and I can't recall how often he came. Sometimes somebody else came to pick up the copy.

Q. After that period of time, did you ever see him?

A. No, he disappeared and I didn't see him again until he sat down here one morning.

Q. You had no contact with the man called Ross other than that you have already described?

A. That is right.

(Testimony of Henry Schmidt.)

Q. And you did not attend any Sokol Hall meeting with him on an occasion where William Schneidermann was a speaker? A. That is right.

Q. Did you ever go to any public hall in which Schneidermann was the speaker?

A. Well, there was the occasion when he spoke to our longshore union.

Q. The one you have mentioned already?

A. I don't know whether you refer to that as a public meeting [4520] or not.

Q. Any other? A. No, sir.

Q. The last incident, I believe, in which your name is mentioned by the man called John Schomaker, refers to some meeting at a shack in a prune orchard in Santa Clara County prior to the general strike on a Sunday. Did you ever meet a man named Earl Browder? A. No, sir.

Q. And, of course, since you never met him, I suppose your answer would be the same as to whether you met him in any prune orchard in Santa Clara Valley? A. That is right.

Q. Did you drive down in an automobile to this prune orchard, in an automobile with Lambert, Schrimpf, Harry Bridges and Elmer Wheeler?

A. I did not.

Q. You are positive you never met Browder in your life?

A. I have never met him. I recall that I heard him speak at a very large public gathering in the City of Seattle. It was during the recent war.

Q. What was the nature of that gathering?

(Testimony of Henry Schmidt.)

A. I can't recall. I was there on business, and we were scheduled to leave Seattle the next day. I heard that there was this gathering in the Civic Auditorium, I believe, of the City [4521] of Seattle, and I went there to hear this man speak.

Q. You mean Mr. Browder was the only speaker or one of a number of speakers?

A. I think he was the only one and his remarks had to do with the war.

Q. With reference to whether or not you ever went down to any prune orchard in Santa Clara County in the course of the 1934 strike, have you tried to refresh your memory from various sources upon that?

A. Yes, I have looked at some of the records that we have saved through the years.

Q. Have you yourself any personal association of the roads that go through Santa Clara Valley so that you would be able to remember if you made any special trip in that region?

A. Oh, yes. During the 1934 strike and during the general strike I have no recollection of leaving the city of San Francisco except on one occasion when the strike committee elected me and instructed me to go to Portland and Seattle. Other than that, I was in San Francisco every day, including Sundays.

Q. Do you have any memory as to when this trip to the Northwest, to Portland and Seattle, took place?

(Testimony of Henry Schmidt.)

A. I can not recall on which day the journey started, but I came back to San Francisco on the 16th of that month because everybody was talking about an agreement or a contract that had been formulated or negotiated by International President Ryan. [4522] I recall walking out of the Ferry Building. I ran into a policeman who recognized me and he said, "Well, you are back again." And I don't know what my response was. I then went to 113 Stewart Street, the union headquarters. There was a meeting that afternoon or that evening in Eagles Hall on Golden Gate Avenue where this 16th of the month agreement was discussed.

Q. With reference to your participation in any matters in San Francisco in the month of June on Sundays, in order to follow the testimony about this alleged prune orchard trip, I am going to show you some documents and I will ask you if they refresh your recollection as to what days. I will show you what has been handed to me as minutes of a special meeting of the strike committee held on Sunday, June 17, 1934. I will ask you if a reading of that document refreshes your memory as to where you were on that day, what you did and whether or not any meeting was held which you attended.

A. Well, it certainly does. I would like to point out there is some error here on the part of the then secretary.

Q. What is that?

(Testimony of Henry Schmidt.)

A. He states here a meeting called to order at 10:30 p.m. and of course that is a mistake.

Q. That is obviously.

A. It should be 10:30 a.m. And then it is pointed out here that I made a report—no, it says here that I made a report with regard to the situation in the Northwest after my return from [4523] that trip.

Q. Refreshing your memory from that document, can you tell us whether or not you were actually in attendance at any meeting beginning at or around 10:00 o'clock or 10:30 in the morning of Sunday, June 17th, 1934?

A. Yes, that meeting took place, I am very sure, right after my return from the Northwest.

Mr. MacInnis: We will ask that that document be marked for identification, Your Honor. While Your Honor is looking at it, I will hand Mr. Mitchell the photostat which we will ask to be substituted for the original.

The Court: It may be marked for identification.

(Minutes of 6/17/34 were thereupon marked Defendant's Exhibit F-2 for identification.)

Q. (By Mr. MacInnis): With respect to what was done the balance of that day, Sunday, June 17, 1934, and also in respect to the error that you point out as to the time, I am going to show you another document which has been handed to me as the minutes of another committee called on June 17, 1934, and held at the International Longshoremen's Association. I will ask you to look at this document and ask if it refreshes your memory.

The Court: Mr. MacInnis, will you show the document to counsel, please, so he may crutinize the same?

Mr. MacInnis: Yes. [4524]

Mr. MacInnis: I will let him see the other one, too.

A. Yes, I remember that meeting very clearly.

Q. I will ask you first if that document of the later meeting refreshes your memory as to the time on which the earlier meeting which you have already described was held.

A. Yes, it is my recollection that this meeting took place in the evening at Eagles Hall on Golden Gate Avenue here in San Francisco.

Q. Is there any reference in those minutes to the time of the earlier meeting?

A. I haven't discovered it yet.

Q. I call your attention——

A. Yes, there is; the very first item reads—it is a motion: "Regularly moved and seconded that the chairman of the Strike Committee read the minutes of the Strike Committee meeting held at 10 o'clock this morning."

Q. Were you in attendance at the later meeting, according to your present recollection as refreshed by those minutes?

A. I recall it very clearly. It is the type of meeting one would never forget.

Q. What was done at that meeting that you now recall?

(Testimony of Henry Schmidt.)

A. Well, the thing that stands out is the fact that the International President, Joseph P. Ryan, came there to speak, and he had with him what has since become known as the June 16 agreement, and the men apparently were already acquainted [4525] with the contents of that agreement and they were very much dissatisfied with it. I think it provided that the longshoremen accept the terms of that agreement, and one of the chief reasons that we didn't want to accept it was because if we had accepted it and returned to work, the seafaring men, who were also on strike, would have been left out in the cold. Everybody understood that aspect of the situation, and Mr. Ryan, although he tried very hard to sell this proposition to the membership, was hardly heard because nobody cared to listen to him, and there was constant booing and hissing going on.

Q. Are you able to tell us from that document the time that that meeting terminated?

A. Well, it is my recollection that it was quite late at night. Maybe it is on there; I don't know.

Q. Was that a meeting that ran most of the afternoon and through the night?

A. Yes, there is a sentence here in connection with the meeting, "Adjourned at 11 o'clock."

Mr. MacInnis: We ask, if the Court please, that the photostat of that document be received and marked for identification.

Mr. Donohue: I assume it is only for identification. I notice these documents are unsigned, and

I would like an opportunity to consider them in the eventuality that they should be offered in evidence.

Mr. MacInnis: The original document may remain with the [4526] clerk, then, until such time as he has had an opportunity to consider it.

(Photostatic copy of minutes marked Defendants' Exhibit G-2 for identification.)

Q. (By Mr. MacInnis): With reference to the following Sunday, Mr. Schmidt, which was June 24 of 1934, I will hand you a photostat of the San Francisco Chronicle of the following day which has the text of the article typewritten, and I will ask you if this article refreshes your memory as to what happened upon the waterfront upon that Sunday.

I don't have another copy of it, your Honor.

The Witness: Mr. MacInnis, are those typed sheets a copy of the article in the newspaper, the photostats?

Mr. MacInnis: Yes.

A. Yes, sir.

Q. Well, now, using the documents I have shown you as a means of refreshing your memory, tell us what happened upon Sunday, June 24, 1934, upon the waterfront.

A. Well, I am pretty sure that there was a strike committee meeting in the morning, as was the custom, that committee met every day, and in the afternoon, or sometime during the morning possibly, the then assistant Secretary of the Department of Labor came to San Francisco, Edward F. O'Grady.

Q. And who met him?

A. A group went out to meet him, of maritime trade union [4527] officials, but I wasn't one of them.

Q. Do you know whether Harry Bridges was in that group?

A. I am pretty sure he went there, yes.

Q. You weren't along, however?

A. That's right.

Q. What did you do that Sunday?

A. I undoubtedly was present at the strike committee meeting in the morning, and if there was any meeting in the afternoon having to do with the strike, I would naturally be there.

Q. Did you go down to any prune orchard that day in Santa Clara Valley?

A. Absolutely not.

Mr. MacInnis: I would like to ask that the document just now shown the witness be marked for identification.

The Court: So ordered.

The Clerk: Marked Defendants' H-2 for identification.

(Photostatic copy of article in San Francisco Chronicle marked Defendants' Exhibit H-2 for identification.)

Q. (By Mr. MacInnis): On the following Sunday, leading up to the series of Sundays which were

(Testimony of Henry Schmidt.)

covered by the testimony of Mr. Schrimpf and Mr. Schomaker, July 1 of 1934, were you in attendance at any meeting of the strike committee?

A. July 1? I am pretty sure I was, because things were getting pretty warm. Things were getting pretty warm. The Industrial Association was making public announcements that they [4528] were going to open the port, and the police were all over the place, and I undoubtedly was pretty busy on that day in San Francisco. [4528-A]

Q. Now, using the document that I had handed you by Mr. Mitchell, tell me whether or not you have any recollection of making a report yourself of that strike committee meeting of Sunday, July 1st, 1934.

A. Yes; there apparently was a special meeting and it is here stated that the meeting was called at the request of the chairman, namely, Bridges; and I made a report at this special meeting of the strike committee relative to a situation in Milwaukee. I can't recall what that was. It had to do with a strike that was going on there. I rather think that that was the strike in Minneapolis because the Teamsters were on strike there, too, at that same time, it is my recollection.

Q. Have you any recollection as to the time of that meeting?

A. That meeting would have been held on Sunday morning, possibly a little later than usual for the reason that it was Sunday.

Mr. MacInnis: I will ask that the photostatic

(Testimony of Henry Schmidt.)

copy of that document be marked for identification, Your Honor.

Mr. Donohue: May the original be retained that we may examine it, if Your Honor please?

The Court: So ordered. It may be marked appropriately.

(The photostatic copy of minutes of 7/1/34 was thereupon marked Defendants' Exhibit I-2 for identification.)

Q. (By Mr. MacInnis): With reference to whether or not you attended any second meeting in connection with the strike on that same day, July 1, 1934, I am going to hand you a photostatic [4529] reproduction of the San Francisco Chronicle of that day with a typed text of the article, and ask you if it refreshes your memory.

A. This still concerns July 1st?

Q. Yes. A. Yes, sir.

Q. Tell us what, if anything, you did during the balance of that day, Sunday, July the 1st?

A. Well, it seems that there was a meeting with employer representatives and representatives of the Government—that is, the Department of Labor—and I am sure with the National Longshoremen's Board, which had already been established by that day, and we may have had some conferences with the three gentlemen on that board.

Q. When did that meeting end, if you can tell us?

A. Oh, some time in the evening. That is the best I can do.

Q. And can you tell us now whether or not you went down to any prune orchard in Santa Clara Valley on that Sunday?

A. No, sir, I have never been in any prune orchard in Santa Clara Valley. I have driven through them lots of times.

Q. After that Sunday, July 1st, did the Thursday of the ensuing week come to be given any particular name?

A. The Thursday following the first of July?

Q. Yes.

A. Yes, sir; that is the July 5th which has become known as [4530] Bloody Thursday on the waterfront, when two men were shot and killed by the police and hundreds of them were shot in the back by the police.

Q. And the following Sunday, which would have been July 8th, were you in San Francisco?

A. I certainly was.

Mr. MacInnis: We will ask, Your Honor, that the last document shown Mr. Schmidt likewise be marked for identification.

The Court: So ordered.

(Reproduction of Chronicle article of 7/1/34 was thereupon marked Defendants' Exhibit J-2 for identification.)

Q. (By Mr. MacInnis): Do you have any memory as to whether or not the strike committe had any activities in connection with the death of the two men?

(Testimony of Henry Schmidt.)

Mr. Donohue: I object, if Your Honor please, unless it has some reference to a particular date which may be in controversy.

Mr. MacInnis: That is what I am thinking about, Your Honor.

The Court: All right. Overruled.

Mr. MacInnis: I am speaking of Sunday, the 8th of July.

A. Well, that would have been the day on which the bodies of the two men were lying in state in the union headquarters. There were hundreds of people trying to get into the place to have a look at these two men, and they had to enter the place [4531] single file, walk up a long narrow stairs, and it is my recollection that this took all day, and I was around there constantly. I am pretty sure that I made arrangements for a friend of mine to speak a few words at the side of the coffins, and the same man later on also went with us to the cemetery and made a few remarks there.

Q. What was the name of that man?

A. The man's name is Alex Walther, W-a-l-t-h-e-r.

Q. I will hand you a document bearing date July 7, 1934, and I will ask you what it is, and I will ask you if it refreshes your memory in any respect.

A. Yes, I recognize the language of this press release. It points out that these two men were killed

(Testimony of Henry Schmidt.)

on Bloody Thursday; that their bodies will lie in state in the union headquarters on Sunday and on Monday; that one of them was a veteran of World War I, and that the other one was a member of the Cooks' Union and not a member of the Longshoremen's Union; and then it points to the—to the funeral parlors on 17th Street where the procession eventually took them.

Q. When was that funeral held? On Sunday or Monday?

A. That would have been held on Monday.

Q. Did you have anything to do with the preparation of the press release which is in your hand?

A. Undoubtedly. I probably wrote it.

Mr. MacInnis: We will ask that the document be received [4532] in evidence proper, Your Honor.

Mr. Donohue: Object to it, if Your Honor pleases. It could be used only for the purpose of refreshing the recollection of the witness; it couldn't be employed for the purpose of establishing the fact which is recited or the facts which are recited in the so-called press release.

The Court: It may be marked for identification.

Mr. MacInnis: I take it a photostat may be substituted?

The Court: Yes.

(Photostatic copy of press release 7/7/34 was thereupon marked Defendants' Exhibit L-2 for identification.)

Q. (By Mr. MacInnis): Now, in addition to the

(Testimony of Henry Schmidt.)

matters that you have described as taking place on that day, did you attend a regular strike committee meeting on July 8, 1934?

A. I am sure I did.

Q. I will hand you a document which purports to be the minutes of that meeting and ask if it refreshes your memory. A. Yes, I recall this.

Q. Did you take part in that meeting yourself?

A. I certainly did.

Q. What part did you take?

Mr. Donohue: I object, if Your Honor please. The facts of what happened at this meeting I take it are not in controversy here, but the use of this document is restricted to a reading of it by the witness for the purpose of refreshing his [4533] recollection in order to determine whether he can say where he was at a particular time. Obviously what he did at this meeting is not important.

Mr. MacInnis: We understand that.

Mr. Donohue: And is sought to be introduced for another purpose.

Q. (By Mr. MacInnis): Tell us, Mr. Schmidt, if you now have any memory as to what you did that day in reference to attendance at any meeting?

A. This meeting took place a couple or three days after the Bloody Thursday incidents, and I recall that I presented a motion to the strike committee.

Mr. Donohue: I object, if Your Honor please, to any motion he may have presented. The document is presented to him for the purpose of refresh-

(Testimony of Henry Schmidt.)

ing his recollection to determine whether or not he was at the meeting.

The Court: Well, he does recall.

Mr. Donohue: I take it, if Your Honor please, he may not now state what resolutions were introduced at the meeting.

The Court: According to his present recollection as refreshed, he now claims that he did present a resolution.

Mr. Donohue: Period. I think the nature of the resolution or the text of the resolution are certainly not in controversy here.

The Court: That is true. That is true. [4534]

Q. (By Mr. MacInnis): Just tell us what your present memory is, at the suggestion of His Honor, as refreshed by that document.

A. Well, I remember very clearly that I made a motion that to honor the memory of the men that were killed on July 5th, from then on we never work on July 5th any more, and that motion was unanimously adopted at that meeting and subsequently by the membership. [4534-A]

Q. Has that been followed ever since?

A. Except for the war years the longshoremen on the Pacific Coast do not work on July 5.

Mr. MacInnis: We ask your Honor that the photostat of that document be received and marked for identification.

The Court: The same order.

The Clerk: May it be marked, then, M-2 for identification.

(Testimony of Henry Schmidt.)

(Photostat marked Defendants' Exhibit M-2 for identification.)

Q. (By Mr. MacInnis): Referring to the last of the series of Sundays covered by this period of time, Sunday, July 15, which was the day before the calling of the general strike, I am going to hand you a document and I am going to ask you if it refreshes your memory as to what was done upon the waterfront in connection with the strike upon that day, Sunday, July 15, 1934.

A. Well, among other things, this communication was sent to the National Longshoremen's Board which had been set up by President Roosevelt.

Q. Do you have any independent memory concerning the events of July 15, 1934?

A. Yes, sir, I certainly have.

Q. And what is that?

A. The general strike took place the following day, and it just [4535] so happened that for some reason that I have forgotten, the streetcar system of San Francisco ceased to function a little bit too early, ahead of schedule, and the streetcars were all tied up on this particular Sunday. I recall that sometime in the middle of the day I think I crossed lower Market Street about one block from the Ferry Building, and I was walking with Ivan F. Cox, who was then secretary of our union, and we both looked up Market Street and noticed that the street was completely deserted in so far as streetcars were concerned, and I said to Ivan, or maybe Ivan said to me, "Look, four cars and no tracks." Maybe it was, "Four tracks and no cars."

Q. You had it backwards, yes. Do you remember whether or not you went down to any meeting in a prune orchard that Sunday?

A. Again, I didn't go to any prune orchard at any time.

Q. Going backwards again to the period in which you were up north, you said you came back upon Saturday, June 16, 1934. About how many days of your time were consumed in this Northwest trip?

A. I can't remember. It seems to me I was gone eight or nine days.

Q. So that in those eight or nine days you were outside of San Francisco but not down in Santa Clara County?

A. Absolutely. I traveled by train, and it seems to me it takes 24 hours to reach Portland, and I spent some time there, and I went to Seattle and I spent a day or two there; then I [4536] traveled back to Portland, and from Portland I took the train to San Francisco.

Q. And is it true that for the balance of the time in the months of June and July, 1934, you weren't outside the City of San Francisco?

A. That is correct, except that I may have gone to Oakland, because we had a joint strike committee there.

Q. Other than the time that may have been used in going to Oakland, you weren't away from this city? A. I was here every day.

Mr. MacInnis: That covers that subject, your Honor.

The Court: We will take the noon recess. This may be marked for identification.

Mr. MacInnis: Thank you.

The Clerk: May it be marked, if your Honor please, Defendants' O-2 for identification.

(The document was marked Defendants' Exhibit O-2 for identification.)

The Court: The originals are to remain for comparison purposes, Mr. MacInnis, the same order as made with respect to the minute book.

Mr. MacInnis: Very well.

The Court: You have additional matters with the witness?

Mr. MacInnis: Oh, yes.

The Court: We will take up, then, with this witness Monday, [4537] because this afternoon, as indicated to the jury, we intend to take the Court, jury and attaches of the court, as well as the press representatives, as I understand it, to the Permanente Hospital for the purpose of taking the testimony of the witness Mr. Christensen as indicated by Mr. Hallinan.

We will take the noon adjournment and resume here at two o'clock. At that time Mr. Mitchell, clerk of the court, will give you more specific instructions with reference to the transportation facilities.

We will take the noon adjournment. The same admonition to you not to discuss the case under any conditions nor to form or express an opinion until it is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.) [4538]

Friday, January 27, 1950, 2:00 P.M.

The Court: Ladies and gentlemen of the jury: In accordance with the plans outlined to you earlier in the day as well as yesterday afternoon, you will be conducted in a body under the direction of Mr. Ed Mitchell, the Clerk of this Court, as well as representatives from the marshal's office to the Permanente Hospital in Oakland wherein in a suitable place we will undertake to take the testimony of Mr. Christensen, a witness then and there called on behalf of the defendants through Mr. Hallinan, attorney for Bridges, and Mr. MacInnis, attorney for the other co-defendants.

May I outline to you very briefly certain specific admonitions that I desire to give. You are not to separate under any conditions save and except through a suggestion made to Mr. Mitchell. You are not to converse with any member of the public under any conditions. You are not to read newspapers.

I suggest to you again the general admonition not to converse among yourselves on any subject of the trial or suffer any person to converse with you on any subject of the trial, not to form an opinion until the matter is finally submitted to you.

By reason of the fact that we must leave the Court and have transportation provided by buses, members of the public may unwittingly perhaps mingle with ~~you~~ and if such occasions I ask you not to discuss with any member of the public any matter concerning [4539] this trial and to avoid any discussion at all, the theory being to conserve the jurors and alternates in every way possible to the end that no intrusion be made or entertained by them through any outside or external influences.

Now, I think it is quite clear to you in the light of my instructions. Have counsel any suggestions at all?

Mr. MacInnis: No.

The Court: Mr. Mitchell, you might indicate to the jurors the particular situation with respect to the buses. The buses are in the alley, are they?

The Clerk: Your Honor, I have instructed the jurors that they are to remain in line two abreast, and the marshal, Mr. Kennedy, and the marshals here will conduct them downstairs to the basement through the elevator, and they will go up the ramp. The bus is waiting there. And I have instructed counsel as to the further procedure.

The Court: When we arrive at the hospital, on account of the inclement weather, I suppose we will be able to get in all right?

The Clerk: Yes, Your Honor; there won't be any difficulty there.

The Court: All right. We will recess, then, temporarily until we arrive at the Permanente Hospital.

(Thereupon a recess was taken and court again reconvened at the Permanente Hospital, Broadway and MacArthur Boulevard, [4540] Oakland, California, where the following proceedings were had:)

The Court: Mr. Mitchell, are the jurors present?

The Clerk: All jurors are present, Your Honor. Would you like me to call the roll?

The Court: Call the roll.

Let the record show, Mr. Reporter, that this court is duly and regularly convened at the Permanente Hospital for the purpose of taking the testimony of Mr. Christensen on behalf of the defendants in this case.

May the record further show that the court attaches are present.

Mr. Mitchell, would you call the roll of the jurors, please?

(The Clerk called the roll.)

The Clerk: All present, Your Honor.

The Court: The four alternate jurors?

The Clerk: All present.

The Court: So stipulated?

Mr. Hallinan: So stipulated.

Mr. Donohue: Yes.

The Court: And let the record show that the defendants are present.

Mr. Hallinan: So stipulated.

Mr. Donohue: So stipulated.

The Court: You may proceed, Mr. Hallinan.

Mr. Hallinan: I suppose I had better talk from back here. [4541]

The Court: Mr. Christensen, are you able to hear Mr. Hallinan?

Mr. Hallinan: I want to stand so the jurors will hear him.

The Clerk: Could you hear all that was said?

Mr. Christensen: Yes.

The Court: Gentlemen of the press: May we have as much quiet as possible under all the circumstances? Mr. Hallinan has to address these questions to the witness.

Mr. Hallinan: Your name is William Henriksen, is that right, Mr. Henriksen?

Mr. Christensen: Christensen.

The Clerk: May I swear him?

Mr. Hallinan: Excuse me.

WILLIAM HENRIK CHRISTENSEN

called for the defendants; sworn.

The Clerk: Please state your full name to the Court and jury.

A. William Henrik Christensen.

The Clerk: How do you spell the middle name?

A. H-e-n-r-i-k.

Direct Examination

By Mr. Hallinan:

Q. Mr. Christensen, where do you live?

(Testimony of William Henrik Christensen.)

A. 839 Curtis Street, Albany.

Q. In Oakland? [4542] A. Albany.

Q. And what is your occupation?

A. I am a stevedore foreman.

Q. How long have you been a stevedore?

A. Been a stevedore ever since about '23—1923.

Q. And have you worked in San Francisco?

A. I worked all the way around the Bay.

Q. Are you a member of the ILWU?

A. ILWU, Local 10, yes.

Q. How long have you been a member of that organization?

A. Ever since the organization has been formed.

Q. Were you a member of the ILA which preceded it? A. ILA, yes, 38-79.

Q. Have you a family, Mr. Christensen?

A. Wife and daughter.

Q. Do you know Harry Bridges? A. Yes.

Q. How long have you known him?

A. Ever since I came to this country.

Q. What country are you from?

A. Denmark.

Q. And when did you come here?

A. 1923.

Q. Are you a naturalized citizen?

A. Yes, sir. [4543]

Q. Do you know Henry Schmidt also?

A. Yes.

Q. Now, do you remember an occasion in which you, Harry Bridges, Henry Schmidt and some other gentleman went to Stockton; California, to deliver a

(Testimony of William Henrik Christensen.)

talk there before the Stockton local of the ILA?

A. Yes.

Q. Now, I have a paper here, the Stockton Record, for Saturday, June 27, 1936. You have seen this before, have you, Mr. Christensen?

A. Yes, I have seen it in your office.

Q. That is 150 Golden Gate Avenue, the Office of the ILWU, is that right? A. That's right.

Q. Then I showed you at that time also, did I not, the Voice of the Federation for July 9, 1936, with an item showing the meeting in Stockton and the persons who spoke there and the date on which that meeting was held? Do you remember that?

A. Yes, correct.

Q. I want to show you these two documents now.

(Documents handed to witness.)

A. Yes.

Q. The article is at the bottom of the paper and enlarged here. Here is the date, June 27, 1936. This is the article and here is the enlargement of it. Now, if you will look at that [4544] date and then glance at the article. A. Yes.

Q. Now, refreshing your recollection from the two documents that were shown you, can you tell on what day and date it was that you, Mr. Schmidt, Mr. Bridges and the other men went to Stockton for that meeting?

A. We were up there Saturday afternoon.

Q. And what date? A. On the 27th.

Q. June 27, 1936, is that correct?

(Testimony of William Henrik Christensen.)

A. That is correct.

Q. Now, in whose automobile did you go there?

A. In mine.

Q. Who drove? A. I did.

Q. And when approximately did you leave San Francisco?

A. Oh, 3:00 or 3:30 or something like that.

The Clerk: May I ask if all the jurors can hear?

Jurors: Yes.

Q. (By Mr. Hallinan): Mr. Christensen, when were the arrangements made with you to drive to Stockton?

A. As I recollect, it was on Friday night before we went to the Labor Council—San Francisco Labor Council.

Q. And do you remember who it was that made the arrangement with you to drive to Stockton?

A. Henry [4546] Schmidt.

Q. Where were those arrangements made?

A. In the office of the ILA on Clay Street.

Q. Could you state whether or not Harry Bridges was present at that time?

A. He was in and out of the office all the time.

Q. Did you see him that day?

A. Yes, I did.

Q. After the arrangements were made, did you go to some labor meeting or some labor council meeting?

A. Yes, I went to the San Francisco Labor Council that Friday night.

Q. Did Harry Bridges go there?

(Testimony of William Henrik Christensen.)

A. As I recollect, he did, yes. He hadn't missed any of the meetings at that time.

Q. Were you a delegate to the Labor Council?

A. Yes.

Q. Now, do you remember getting to Stockton that night—that is, Saturday afternoon or evening?

A. Yes, we got in there a little late, because I was looking for a barber shop, I wanted a shave, and I couldn't get in at that time.

Q. Did you attend the meeting at which Harry Bridges spoke? A. Yes.

Q. Did you speak yourself? [4546]

A. Well, I said a few words.

Q. Your name is contained in the Voice of the Federation account as having spoken there, is that correct? A. That is right.

Q. After the meeting was over, did you go any place with Harry Bridges?

A. Yes, we went and had dinner with Mahaffey and Silk and some other members, I don't remember the names, up there.

Q. And did you go to any nightclub or anything of that kind?

A. Yes, we went up there and had a few drinks.

Q. About how long did you stay in the nightclub?

A. Well, I think we stayed until closing time; we left there after 2:00 o'clock.

Q. Where did you go when you left?

A. I went back home.

Q. Where were you living at the time?

(Testimony of William Henrik Christensen.)

A. In Albany.

Q. You drove the car down to Albany?

A. That is right.

Q. Now, what happened when you got to Albany? [4547]

A. Well, there was some discussion in the car; they wanted to come back to town. I said, "Just as well come over and have breakfast."

So they came over to the house, and it was kind of early hours, and they rested up in the front room on the couch or chairs, whatever was there, until the Mrs. and the kid got up, and then we had breakfast.

Q. Did you afterwards drive them to San Francisco? A. Yes, I drove them to Frisco.

Q. About what time approximately did you get to San Francisco, would you say?

A. Well, along about eight, something like that.

Mr. Hallinan: I think that is all.

Cross-Examination

By Mr. Donohue:

Q. Mr. Christensen, do you remember signing a statement that had been prepared for your signature several weeks ago? A. Yes.

Q. Do you recall the substance of that statement? A. I don't recall all of it, no.

Q. May I ask you to take a look at it, please (exhibiting document to witness). With particular reference to the first and second paragraphs, do you

(Testimony of William Henrik Christensen.)

note that the word "few" has been scratched out and "one or two" inserted in its place?

A. Yes. [4548]

Q. Do you recall the circumstances under which that change was made?

A. No, I don't recollect.

Q. What happened? What was said in consequence of which the word "few" was scratched and the words "one or two" inserted in place thereof?

A. As far as I recollect it, we talked it over during the first part of week, and the arrangement was made on Friday——

Q. Was it you——

The Court: Mr. Donohue, some of the jurors wish you to speak a little louder, if you will.

Q. (By Mr. Donohue): Was it your first recollection that the word should have been "few" and that you later considered it and thought it should have been either one or two instead of "few"?

A. It was the last two days before we went up.

Q. Do you recall in this statement that you said, or that the statement was prepared: "Sometime a few days before June 27, Henry Schmidt arranged for me to drive Harry Bridges from San Francisco to Stockton for a meeting which Bridges was to address on June 27, 1936"? A. Yes.

Q. And do you recall that subsequently the word "few" was scratched out and it was changed to read "sometime one or two days before June 27"—do you recall that? [4549] A. Yes, I recall that.

(Testimony of William Henrik Christensen.)

Q. But it is your best recollection now that that arrangement was made on Friday night before the Saturday?

A. When we went to the Labor Council, yes.

Q. Do you recall that in the following paragraph you said, "I was at the union hall during the meeting on Saturday, June 27, 1936, where I saw Bridges and Schmidt, and we all left for Stockton in my car at about 2:00 or 2:30 p.m."? Do you recall saying that? A. That's right.

Q. But you did not put in this statement the fact, as you now state, that you saw Mr. Bridges at ILA headquarters Friday night?

A. I saw him Friday afternoon, yes.

Q. You are sure of that? A. Yes.

Q. You weren't asked that at the time you prepared this statement?

A. No, I wasn't asked that, but I recollect now when I saw him.

Q. Who prepared this statement, do you recall, Mr. Christensen?

A. Norman—I can't think of his last name.

Q. Norman Leonard; is that his name?

A. Yes.

Q. Was it brought to you in a completed form for your signature, [4550] or was it written in your presence?

A. It was written down in my presence.

Q. May I ask you, Mr. Christensen, if in 1942 you were on the subscribers' list of the People's World? A. I don't recollect that.

(Testimony of William Henrik Christensen.)

Q. You don't recollect that? A. No.

Q. Were you on the mailing list at Communist Party Headquarters of California in 1944?

A. No.

Q. Mr. Christensen, are you the same William Christensen whose name appears on page 56 of the report of the investigation of the House Un-American Activities Committee of the 7th Congress as one of the——

Mr. Hallinan: Just a minute. Object to that, if the Court please, no proper foundation laid, not proper cross-examination.

Mr. Donohue: I think I have a right to ask him for the purpose of showing, if your Honor please——

Mr. Hallinan: Let him see the paper and ask him if he is the man that is mentioned, but that doesn't entitle him to introduce evidence of that kind.

Mr. Donohue: The name is underscored.

A. What are you speaking about, William Thompson?

Q. No, William Christensen. [4551]

A. To my way of reading, it says "William Thompson."

Q. It is on the other page.

A. It looks like my name down there, but——

Q. Were you then, as stated here, one of the members of the International Longshoremen's and Warehousemen's Union which had signed a petition for the purpose of freeing Earl Browder?

(Testimony of William Henrik Christensen.)

A. I don't recollect.

Q. You don't recollect? A. No.

Q. Did you know Earl Browder?

A. I never seen him.

Q. Do you know who he is or was at the time?

A. I read it in the paper, yes.

Q. Mr. Christensen, are you now or have you ever been a member of the Communist Party?

A. No.

Mr. Donohue: I have no further questions, if your Honor please.

Redirect Examination

By Mr. Hallinan:

Q. Now, Mr. Christensen, as I understand it, you went to the office of the ILWU and made a statement as to driving Harry Bridges and Schmidt and the other gentlemen to Stockton, is that right?

A. That is right.

Q. And Mr. Norman Leonard had a copy of what you said prepared [4552] and you signed it, is that right? A. That is right.

Q. But in the copy that he gave you it said, "Sometime a few days before June 27, 1936, Henry Schmidt arranged for me to drive him and Harry Bridges from San Francisco to Stockton for a meeting which Bridges was to address on June 27, 1936" and you had him change the statement "few days"— "Sometime a few days before" to "Sometime one or two days before," isn't that right?

(Testimony of William Henrik Christensen.)

A. That's right.

Q. So as Mr. Leonard had drawn the document it was in error, that it wasn't a few days before but only one or two days before June 27, 1936, that Henry Schmidt made the arrangement, is that right? A. That is right.

Q. And you know—your mind is such that you now believe that it was Friday that the arrangement was made, is that correct?

A. Yes, the arrangement was made on Friday, since we had to attend the council that night.

Recross-Examination

By Mr. Donohue:

Q. May I ask a question I overlooked, if your Honor please?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Christensen, what time during the year 1946 was it that you went to Russia? [4553]

A. I never went to Russia. I never went to Russia.

Q. You didn't go to Russia in the year 1946?

A. No.

Mr. Donohue: I have no further questions, your Honor.

The Court: Have you completed the examination, gentlemen?

Mr. Hallinan: That is all.

The Court: First, on behalf of the Court, I desire to express our appreciation to the superintendent of this hospital for the accommodations provided.

Secondly, out of regard for several of the jurors who are resident in this particular vicinity, this Court will regularly adjourn at this time for the day, and will reconvene next Monday at ten o'clock at the United States Post Office Building, 7th and Mission Streets. We are now regularly adjourned.

The Clerk: May I say, if your Honor please, that those jurors who live on this side of the Bay that wish to leave from here are permitted to do so. The other jurors who live in San Francisco or on the other side of the Bay will return as they came here.

The Court: Is it stipulated, counsel, under the circumstances that this Court may adjourn at this time?

Mr. Hallinan: So stiplated.

The Court: Regularly?

Mr. Donohue: Yes, your Honor.

(Thereupon an adjournment was taken until Monday, January 30, 1950, at 10:00 a.m.) [4554]

Monday, January 30, 1950—10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. Bring in the jury.

(Thereupon the jury was brought into the courtroom.)

Mr. MacInnis: We would like to interrupt with two short witnesses, if we may, your Honor.

The Court: Certainly.

Mr. MacInnis: We will call Mr. Aubrey Lee.

AUBREY F. LEE

called for the defendants; sworn.

The Clerk: Will you state your full name to the Court and jury.

The Witness: Aubrey Ferrell Lee.

The Clerk: Will you spell the two first names.

The Witness: A-u-b-r-e-y F-e-r-r-e-l-l.

Direct Examination

By Mr. MacInnis:

Q. Mr. Lee, what is your address?

A. 774 Edgewood Road, San-Mateo.

Q. What is your business address?

A. 220 Montgomery Street, San Francisco.

Q. What is your business or profession?

A. I am a chartered life underwriter with the New England [4555] Mutual Life Insurance Company.

Q. The New England Life Insurance Company?

A. Yes.

Q. And that has been your profession for about how many years? A. Since May 18, 1938.

Q. Did you engage in any special college training to prepare you for that work?

A. I have taken special studies since I have been in the business to get my degree of chartered life underwriter.

(Testimony of Aubrey F. Lee.)

Q. You are a graduate of what university, Mr. Lee?

A. I went to Princeton University for four years, but I am not a graduate.

Q. You have been a resident in the area surrounding San Francisco for about what period of time?

A. I first came to San Francisco in November 1919 and I was there except during the time I was at college until 1925. I was away from San Francisco until October 1941, and I have been living in San Mateo since that time.

Q. Are you a man of family, Mr. Lee?

A. Yes, I am. I have a wife and two children.

Q. And when were you married, Mr. Lee?

A. I was married on June 27, 1936.

Q. June 27, 1936. And where was the marriage ceremony celebrated?

A. At the First Presbyterian Church in Stockton, California. [4556]

Q. And have you any recollection as to the time of day or night at which your wedding was celebrated?

A. The wedding was scheduled for nine o'clock that night, but actually started at 9:20.

Q. And the time of the wedding ceremony consumed about how many minutes or fractions of an hour?

A. Approximately a quarter of an hour.

Q. After your wedding ceremony was there a reception or party?

A. Yes, at my wife's home there was a reception for the wedding party and for a good many friends.

Q. Did you have ushers at your wedding?

A. Yes, I did.

Q. Do you remember the names of any of those ushers? A. Yes, I do.

Q. Can you offer to us such names?

A. Certainly.

Q. As recall themselves to your mind?

A. Robert Hastings, Robert Sawyer, Kirk Clagstone, Louis Ross, Algerly Hammond, Howard Hammond, Andrew McCarthy, George Hammond and Holland Smith.

Q. Was it a formal wedding?

A. It was a formal wedding.

Q. In other words, the gentlemen in attendance wore swallowtail coats, white shirt fronts, and the like? A. They did, that is correct. [4557]

Q. I show you a certified copy of a marriage certificate, being a certified copy of the State of California Department of Health Statistics, showing that Aubrey Ferrell Lee and Mary Garvin Hammond were married at Stockton, California on June 27, 1936, and I will ask Mr. Mitchell to hand that to you. Are you the person designated upon that record? A. I am.

Q. And is that a true representation as to the time and the place of your marriage?

A. May I see it again?

(Document handed to witness.)

It is.

(Testimony of Aubrey F. Lee.)

Mr. MacInnis: We offer the document in evidence, your Honor.

Mr. Donohue: No objection.

The Court: It may be marked.

(The copy of marriage certificate was marked Defendant's Exhibit P-2 in evidence.)

Q. (By Mr. MacInnis): After the wedding party or reception at the home of the bride, Mr. Lee, where did the guests go, if you know?

A. I know what they told me when I returned from my wedding trip.

Q. In other words, you did not accompany the guests upon any later engagement that night. [4558]

A. No, sir.

Q. So that any recital of what they did would of course have to come from the lips of one of those persons present? A. It would.

Mr. MacInnis: I will state, in view of the smiles coming from these gentlemen, that one of the other persons is out in the anteroom.

Mr. Paisley: We are always smiling.

Mr. MacInnis: I can differentiate between snickers and smiles at the table.

Q. Mr. Lee, will you tell the Court and jury in what fashion your name came into this case or in what manner you were contacted?

A. Yes, sir. I was away on my wedding trip for approximately two weeks, and on my return there was considerable discussion with friends, with members of the wedding party who lived in Stockton,

(Testimony of Aubrey F. Lee.)
including my wife's brother, about what took place while we were away, and particularly what took place the night of the wedding.

Q. I think that probably under his Honor's ruling, naturally you will not be able to recite any hearsay conversations taking place out of your presence, but what I had in mind by the question is, in what manner did you come into this court, and who contacted you from the defense? How did you get in touch with the defense? [4559]

A. I was reading the paper about the trial with some interest, having read a comment by one of the Supreme Court justices on some previous trials, and so I followed this trial with interest, and I saw the date June 27 mentioned as an important date in this case, and in my mind I associated the date of my marriage with Harry Bridges because of certain events that I had long believed, ever since that date, took place on the evening of that marriage. And so, seeing the significance of the date to both the defendant and to the Government, I felt it was my duty to inform your firm of my belief of what transpired on that day. So I went up to the office without anyone having contacted me at all.

Q. What office is that, Mr. Lee?

A. Your office on Franklin Street, Hallinan and MacInnis on Franklin Street, and the secretary, the girl receptionist, greeted me and asked me what I wanted. I said I wanted to talk to somebody about the Bridges case. She said there was no one there, because Mr. Hallinan was handling the case and he was in court. And I asked when he would be back. She said, "He doesn't come in during the time he is in court, but he will get in touch with you by phone." I said I didn't care to have him do that, wasn't there someone else. And she said, "Well, Mr. MacInnis isn't here either." But finally she went out into the back room and came back and said, "You can talk to Mr. Cleary." So I went to Mr. Cleary and I said I had some evidence [4560] on the Bridges case that I would like to tell him about and have him assess as to its value, and if it was of importance, why, he could use it.

Q. Did you leave your card with Mr. Cleary at that time? A. I did.

Q. I hand a card to Mr. Mitchell, and I will ask you if that is your card which you left at the office on the occasion you have described. A. It is.

Q. Had anyone contacted you prior to that meeting? A. No, sir.

Mr. MacInnis: We offer this card in evidence, your Honor.

Mr. Donohue: Object to it. It serves no purpose. The gentleman said he was there. The fact that he left his card doesn't add anything to it.

The Court: It may be marked.

(The card was marked Defendants' Exhibit Q-2 in evidence.)

Q. (By Mr. MacInnis): After that did you receive a subpoena directing your attendance here?

A. Mr. Leipsic appeared on Saturday morning and requested my appearance and I agreed to come.

Mr. MacInnis: Thank you very much.

Mr. Donohue: We have no questions, your Honor.

Mr. MacInnis: Thank you.

We will call Mr. Clagstone. [4561]

KIRK CLAGSTONE

called on behalf of the defendants; sworn.

The Clerk: Will you state your full name to the Court and jury?

A. My name is Kirk Clagstone.

Q. Will you spell the last name?

A. C-l-a-g-s-t-o-n-e.

Direct Examination

By Mr. MacInnis:

Q. What is your residence address?

A. 1413 Bernal Avenue, Burlingame.

Q. What is your business address?

A. I work for Cahill Construction.

Q. Cahill Construction Company?

A. That's right.

Q. Is that a San Francisco firm?

A. Yes, sir.

Q. Doing business in the San Francisco area?

A. It is.

Q. And at present are you engaged with that construction company? A. I am.

Q. On some particular job?

A. Yes, we are working now with the addition for Burgemeister's brewery.

(Testimony of Kirk Clagstone.)

Q. You are putting up an addition to their plant? [4562] A. That is correct.

Q. Mr. Clagstone, do you know a man named Aubrey Lee? A. I know him very well.

Q. Do you remember the occasion of his wedding? A. I do.

Q. Did you have any part in that wedding ceremony? A. Yes, I was an usher.

Q. Was that a formal wedding?

A. It was a formal wedding.

Q. You wore what kind of clothes?

A. Well, it was full dress; we wore tails.

Q. And where did the wedding take place?

A. In Stockton.

Q. Was that a church wedding?

A. It was a church wedding.

Q. After the wedding was there a ceremony or reception of any kind?

A. There was a reception.

Q. Was that a home reception?

A. It was a home reception.

Q. And after the reception tell us whether or not you and any of the other ushers or persons connected with the wedding party went out for any further refreshment or social engagements?

A. We did.

Q. Where did you go? [4563]

A. We went to a nightclub called Mattioni's.

Q. Is that a Stockton nightclub? A. It is.

Q. Tell us, if you will, what if anything you remember about going to Mattioni's nightclub that night?

A. Well, when we—there was quite a group of us from the wedding party.

Q. About how many?

A. Well, I would say there was about at least 14 or 15 of us that went to Mattioni's and when we arrived there Harry Bridges with a group of his men were present.

Q. Pardon me. How did you know that it was Harry Bridges? A. I recognized him.

Q. Had you ever met him?

A. I had never met him personally, no.

Q. But you knew the man to be Harry Bridges?

A. That is correct.

Q. Did any incident take place in the course of the evening by which the presence of these other people recalled itself to your mind?

A. Yes, there was an incident. We were dressed in formal dress and one of the men from Mr. Bridges' party made some remark about the way we were dressed. Shortly after another man from Mr. Bridges' party came over and apologized for that remark. One of the fellows who was talking to him said, "After all, I [4564] borrowed my dress from an undertaker." So from then on it was smooth.

Q. Then did you and the other party have conversation with each other?

A. Several of us did, and we walked around, and so forth.

(Testimony of Kirk Clagstone.)

Q. I suppose you naturally kept no record as to the date of the marriage in your own mind?

A. No, I had forgotten it completely.

Q. But are you positive that this situation happened the night of the marriage of your friend Mr. Aubrey Lee? A. Very definitely.

Q. To refresh your memory, if I may, Mr. Clagstone, I am going to show you a photostatic copy of the society section of the Stockton Daily Evening Record for Monday, June 29th, and call your attention to the left hand columns and ask you if this refreshes your memory as to the time of the wedding. Does that piece of paper refresh your memory in any way? A. Yes, it does.

Q. And do you recall, based upon that section of the Stockton paper, that the wedding took place Saturday night, June 27, 1936? A. I do.

Mr. MacInnis: We offer the photostat of the Stockton Record into evidence, your Honor.

Mr. Donohue: Object to it, if your Honor [4565] please.

The Court: Sustained.

Mr. Donohue: It can only be used for the purpose of refreshing recollection.

The Court: Sustained.

Mr. MacInnis: I ask that it be marked for identification.

The Court: So ordered, for identification.

(The photostatic copy of the Stockton Record page 6/27/36 was thereupon marked Defendants' Exhibit R-2 for identification.)

(Testimony of Kirk Clagstone.)

Mr. MacInnis: I have no further questions.

Mr. Donohue: Are you finished?

Mr. MacInnis: Yes. [4566]

Cross-Examination

By Mr. Donohue:

Q. Mr. Clagstone, were you introduced to Mr. Bridges? A. You mean at the reception?

Q. Yes. A. No, I was not.

Q. Had you ever met him before?

A. Never met him before.

Mr. MacInnis: Mr. Donohue, in order to obviate bringing further witnesses, will you stipulate that Harry Bridges was in Stockton on the night of June 27th, 1936?

Mr. Donohue: Mr. MacInnis, that is a very clever question. If I was there and saw him, I would be glad to so stipulate. Since I was not there, I can not.

Mr. MacInnis: Thank you very much, Mr. Clagstone.

HENRY SCHMIDT

recalled as a witness on behalf of the defendants; previously sworn.

Direct Examination
(Continued)

By Mr. MacInnis:

Q. Now, Mr. Schmidt, before we go further in the narrative that you were offering us, I would like to establish a little more definitely the date

(Testimony of Henry Schmidt.)

upon which you became a member of the ILA, the original union of the longshoremen. So I am going to pass you a document, of which I have some [4567] photostatic copies, a union record of dues payment, and I am going to ask you if by usage of this document, calling your attention to some of the writing on the upper portion, you can tell us what was the initiation date of yourself into the ILA.

A. I was initiated into that union on July 27th, 1933, in the Labor Temple at 16th and Capp Streets.

Mr. MacInnis: We ask that the photostatic copy be received for identification, your Honor.

Mr. Donohue: No objection, if your Honor please.

The Court: So ordered.

(Union record of dues payment referred to was thereupon marked Defendants' Exhibit S-2 for identification.)

Q. (By Mr. MacInnis): Now, in respect of the election of yourself and Harry Bridges to the Executive Committee or Strike Committee—I guess this was the Executive Committee of the original ILA—I am going to show you the original board minutes book of the ILA during the period of time prior to the 1934 strike. I am going to call your attention to a certain page which appears following the minutes of August 26, 1933. I will mark the page, Mr. Mitchell suggests, and I will show a photostat of that page to the prosecution. So merely to establish the approximate date of the time when you were actually functioning as a member of the Executive Committee of the ILA, I show you that page and I tell you that if you turn the page back [4568] you will see that it follows the minutes of August 26, 1933, and that the minutes following it are in chronological order as well. A. Yes, sir.

Q. I ask you if by usage of this document to refresh you memory you can tell us at what approximate time you became or were elected to the Executive Committee of the ILA.

A. In August of 1933.

Mr. MacInnis: Thank you. We ask that the photostatic copy of that page be marked for identification, your Honor.

The Court: So ordered. Have you examined those documents, Mr. Donohue?

Mr. Donohue: Yes, your Honor.

(Minutes of August 26, 1933, were thereupon marked Defendants' Exhibit T-2 for identification.)

Q. (By Mr. MacInnis): Now, to go a little further along the testimony in which we were engaged on Friday last when we adjourned at noon, having finished the recitals concerning the testimony of John Schomaker, I am going to ask you some questions concerning the next witness who took the stand for the prosecution, a man named Henry Schrimpf.

Now, in the first place, Mr. Schmidt, can you tell us what was the Labor Relations Committee of the employers and the longshore union?

(Testimony of Henry Schmidt.)

A. The Labor Relations Committee was a joint body. It is [4569] representative of the union—in this case the longshoremen's union in San Francisco —and the Waterfront Employers Association of San Francisco. That committee was established in accordance with certain paragraphs which appeared in the award that was handed down on October 12th, 1934.

Q. The award was handed down by what person or what body?

A. The body was known as the National Longshoremen's Board, and the persons thereon were Archbishop Hanna, a lawyer by the name of Cushing, O. K.——

Q. That is the late O. K. Cushing?

A. I think it was O. K. Cushing, and Edward F. McGrady, who was then the asistant secretary of Labor.

Q. Was the establishment of the Labor Relations Committee a matter of some importance so far as the previous demands of the strikers had been concerned?

Mr. Donohue: I object to that question, if your Honor please. I think the significance or importance is immaterial. The function may be important.

Mr. MacInnis: I will rephrase the question, your Honor.

Q. Just tell us the circumstances under which the request for such a Labor Relations Committee was made?

A. As I understand it, or as I understood it at the time, it was a must that obliged the parties to the arbitration hearing to set up such a committee, and a few days after October 12th the union met somewhere in San Francisco and one of the orders of [4570] business that was transacted at that meeting was the election of union members to the Labor Relations Committee.

Q. Who was elected from the union to that Labor Relations Committee following the rendering of the original award of which you have spoken?

A. The award provided that there should be at least three men from each side. The local union decided to elect five.

Q. Do you remember what they were?

A. Yes, George Woolf, Charles Connors, Fred Knopff, I believe, Henry Schrimpf and Henry Schmidt.

Q. Pursuant to that election did the men whose names that you have offered us actually go into attendance at Labor Relations Committee meetings?

A. Well, it may have been the day following. In any case, a short time thereafter a group met with three representatives of the Employers' Association.

Q. And what was the purpose or function of the Labor Relations Committee at that time?

A. The No. 1 job was to establish a hiring system as provided for in the award, to locate some premises where we could set up a longshore dispatching hall, to reach some agreement with respect to working rules and dispatching rules, and through the years the job of the Labor Relations Committee has been to attempt to adjust the disputes that arise on the job.

Q. Is that Labor Relations Committee still in existence? [4571] A. It is.

Q. It was not, then, a temporary board or a temporary measure for replacement by some more permanent group?

A. No, sir, that committee has functioned through the years and is in existence today.

Mr. MacInnis: I will ask Mr. Mitchell if he can get us a document marked for identification on behalf of the employers, the original—I guess the Waterfront Employers Association books which were brought here the other day.

Q. Mr. Schmidt, I will show you a document entitled Defendants' D-2 in evidence and I will ask you to look at the face of the first page: Minutes of Meeting of Longshore Labor Relations Committee of San Francisco, October 16, 1934, these being phostatic copies of documents in the possession of the employers. I will ask you if by looking at that first page you can refresh your memory as to what persons were actually in attendance at that meeting on behalf of the longshore union.

A. The members present were Captain Fred Knopff, Henry Schrimpf, Henry Schmidt, George Woolf and Charles Connors and on behalf of the employers there was Frank Gregory, Jack Bryan and Captain W. J. Petersen. Mr. Bryan, incidentally, was the writer of the minutes, and I recall distinctly that all of us were very much astonished to see him there sitting on the employers' side of the table.

Q. Mr. Bryan? [4572] A. That is right.

Q. Mr. Schmidt, apart from the official document which you have in your hand, do you have a personal memory of seeing Henry Schrimpf at that first meeting of the Labor Relations Committee?

A. Absolutely.

Q. So that when Mr. Schrimpf told the jury that he was never a member of the Labor Relations Committee and never attended any such meeting, he was, to say the least, in error?

Mr. Donohue: I object to the question, if your Honor please. That is purely argumentative.

The Court: It is argumentative. Sustained.

Q. (By Mr. MacInnis): Mr. Schmidt, tell us, if you will, what circumstances, if any, attended the presence of Henry Schrimpf upon that Labor Relations Committee. Tell us whether he attended regularly and, if not, what occurred.

A. Well, it is my recollection that he came to the first meeting and I seem to remember that he came to the second meeting also. And by the way, the committee was meeting almost every day then. The committee was on the payroll of the union because we had no time to work on the waterfront. And it seems to me about the third or fourth meeting Henry Schrimpf did not attend any longer.

Q. Upon that point I will show you again the official records kept by the employers. I think I

(Testimony of Henry Schmidt.)

have the third, fourth and [4573] fifth meetings marked with yellow paper. I will ask you if you will open those pages and recall the dates to the Court and jury and tell us whether or not Henry Schrimpf began to absent himself from the meetings.

A. It seems that on October 23rd, according to the minutes, Mr. Schrimpf was absent; likewise on October 24th; and again on October 25th.

Q. Apart from the dates which are supplied you by the records, do you have any independent memory of the circumstance attending the absence of Henry Schrimpf on those occasions?.

A. Yes, we had a meeting with the employers one morning in October, and we recessed at lunch time. We were discussing some sort of problem—I do not recall what it was. We all had the desire to discuss it with Bridges, and we proceeded to return to union headquarters at 113 Stewart Street, and as we entered the place we ran into Bridges, and it is my clear recollection that Schrimpf and I started to talk to Bridges almost simultaneously and he indicated he was busy——

Q. Pardon me. Who do you mean by "he"?

A. Bridges. He indicated he was extremely busy and was about to do something else and he had no time. At that point Schrimpf got extremely angry—in fact, he blew his top, and after that he refused to function.

Q. When you say that he refused to function, you mean he indicated he would no longer attend or did he just disappear? [4574]

A. There were some words to that effect, and after that he failed to show up at the LRC meetings.

Q. Was there some salary or per diem that the members of that committee received?

A. Yes, the union membership voted to pay the members of the Labor Relations Committee the high sum of $35 per week, which happened to be the salary that the then officers were receiving.

Q. Do you remember whether or not there was any controversy or discussion as to whether Henry Schrimpf should receive his wages for sitting upon that committee despite the fact that he was absent?

A. No, I do not recall that, Mr. MacInnis.

Q. In other words, anything that may have taken place in that direction would have been outside your presence?

A. Well, later on there was some discussion between Bridges and Schrimpf so far as that salary was concerned.

Q. Do you know whether or not Henry Schrimpf ultimately resigned from that committee—I mean, formal action at the union meeting by which he recognized that he had been a member of that committee and asked to be permitted to resign?

A. Yes, but it seemed that this happened after the passage of several weeks, some sort of action in a membership meeting.

Q. I will show you on that point the general membership minutes of the union in that period that I have marked with a yellow slip of paper, the date upon which I wish to call your attention, [4575]

(Testimony of Henry Schmidt.)

and tell us if you will, looking at that document, whether your memory is refreshed as to whether Mr. Henry Schrimpf resigned from the Labor Relations Committee and if so, upon what date.

A. At the top of the page there is a sentence indicating that his resignation be accepted. The minutes are dated November 13th, and this is an action that was held over from the previous meeting.

Q. Those are the minutes of what body or organization?

A. These are the minutes of the ILA, 38-79, meeting on November 13th, 1934, in the Building Trades Temple on Guerrero Street in San Francisco.

Mr. MacInnis: We ask that a photostatic copy of the minutes of that meeting be received and marked for identification.

The Court: So ordered.

Mr. Donohue: No objection.

(Minutes of ILA 11/13/34 referred to were thereupon marked Defendants' Exhibit U-2 for identification.)

Q. (By Mr. MacInnis): Mr. Schmidt, what is your first memory of the man called Henry Schrimpf upon the waterfront? What was your first meeting with him, as you recall it, and what was the nature and extent of your acquaintanceship with him?

A. The best I can remember is that we got acquainted about the time the strike was supposed to start, that earlier date, March 22nd or 23rd. I believe he was a member of the strike committee. [4576]

Q. By March 23rd you mean March 23, 1934, do you? A. Yes, of course.

Q. What was the nature of that meeting? Were you thrown together in any intimate way so that you were in each other's company much, or was the acquaintanceship ever that great?

A. Well, I recall that on the evening of March 22nd or 23rd, whichever is the correct date, there was a rather late meeting of the strike committee, and the discussion had to do with President Roosevelt's request to pass upon the strike, and everybody was somewhat disgusted because we were all anxious to go on strike, and everybody was very vocal on the question, and I recall that Schrimpf did some talking there also, and I may have gotten acquainted with him prior to that date, but that is just too long ago, counsel. I can't remember.

Q. Did anything ever happen that caused ill feeling to arise between you and Henry Schrimpf?

A. Well, not at that point.

Q. When?

A. Well, after he resigned from the Labor Relations Committee I got rather impatient with him. I didn't think it was proper for him to resign.

Q. Did you have some conversation with him about it?

A. I think I probably told him that he should not get that impatient about those things just because Bridges didn't have time to talk to us at that

(Testimony of Henry Schmidt.)

moment; why, we may have an opportunity [4577] to talk with him later on. There was no reason for him to blow his top in the manner that he did.

Q. Tell us whether or not drinking had anything to do with this discussion or controversy between Henry Schrimpf and Harry Bridges?

Mr. Donohue: I might suggest, if your Honor please, that is a little bit leading.

Mr. MacInnis: It is—a little bit.

The Court: What is the purpose of going into that phase of the matter?

Mr. MacInnis: Merely to establish the nature of any controversy, if there was a controversy, between these men. In other words, we have no personal concern with what this man's habits were.

The Court: Mr. Schmidt can state if any controversies exist and the reasons as best he can recall, how and why they did exist, if you can state them. I do not know that any characterization as to his drinking might enter into it or might not. You may answer the question.

The Witness: I can certainly state after Schrimpf resigned from the Labor Relations Committee, my association with him became less and less, and I decided the less I saw of him the better it might be for both of us.

Q. (By Mr. MacInnis): Was there ever any incident taking place between you and a man called Henry Schrimpf of involving physical [4578] violence of any kind?

A. There was so much coughing I would like to hear the latter part of your sentence.

(Testimony of Henry Schmidt.)

Q. I said, was there ever any incident taking place between you and Henry Schrimpf involving physical violence?

A. Well, yes. Of course, Mr. Schrimpf was always going around threatening people, and he frequently punches somebody in the nose.

Q. I am speaking of one incident, or if there were more, involving you and Henry Schrimpf.

A. Well, that was much later. That was some years later when I had been elected president of the local union. Schrimpf came into the office one morning, or it may have been the afternoon, to make an inquiry about something. I can't recall what it was. I think it had something to do with the union funds or board of trustees' report, and he was standing in front of my desk and I was sitting behind the desk. And he made some sort of remark which caused me to get angry, and I jumped out of my chair and said, "Are you accusing me of being a crook?" And his answer to that question was a punch in the face, which I managed to dodge, and I got it on the shoulder.

Q. What happened thereafter?

A. Well, I got hold of Mr. Schrimpf and shoved him into the corner and held him there. A couple of longshoremen happened to be in the office and they stopped the fight, if it can be [4579] called that.

Q. After that did you have any relationships of a friendly status with Henry Schrimpf?

A. No.

(Testimony of Henry Schmidt.)

Q. After that time did he appear to consider you his enemy? A. I would say so.

Mr. MacInnis: Shall we take the recess, your Honor?

The Court: Ladies and gentlemen of the jury, we will take the morning recess. The same admonition not to discuss the case under any conditions or form or express an opinion until it is submitted to you.

(Recess.) [4580]

Q. (By Mr. MacInnis): Now, Mr. Schmidt, you saw Henry Schrimpf, I suppose, throughout the following years after the strike?

A. Yes, I saw him all the time through the years.

Q. Was there ever an occasion when Henry Schrimpf ran for office in the union against a man called Bill Marlowe?

A. Yes, he ran against me for president and he ran against Marlowe for the office of vice president, and he ran against me a couple of times.

Q. On each of those occasions Mr. Schrimpf was defeated for office in the union, is that correct?

A. That is right.

Q. What if anything happened concerning the contest between Mr. Marlowe and Mr. Henry Schrimpf for union office?

Mr. Donohue: Isn't that purely a collateral matter, if your Honor please, which ought not to be the subject of inquiry?

Mr. MacInnis: No, I think, your Honor, the

(Testimony of Henry Schmidt.)

only things we are interested in are matters which concerned Mr. Schmidt and Mr. Bridges.

Mr. Donohue: If he was concerned in the election between Schrimpf and Marlowe I have no objection, but otherwise it would seem to me purely collateral.

Mr. MacInnis: I will reframe the question, your Honor.

Q. Who was backing Mr. Marlowe for candidacy in union office when he ran and defeated Henry Schrimpf? [4581]

A. As I recall it, Bridges was running for president at that time and he was backing Marlowe.

Q. And what year was that?

A. I think that would have been 1936.

Q. And what if anything happened—what conversation, if any, took place in your presence involving Henry Schrimpf following that election?

A. Schrimpf was also a candidate for the office of vice president, and he apparently heard that Bridges had decided to back Marlowe. He came storming into the office like a madman—incidentally, that has been his behavior through the years, and that is putting it very, very mildly—and he started to take Bridges to task for backing Marlowe. The conversation took place in the doorway, and after the exchange of some very heated words and a number of threats, Schrimpf went out on the sidewalk and there he sort of took a vow to the general effect that he would never rest until he got that so-and-so

(Testimony of Henry Schmidt.)

Bridges "and you too, Schmidt," he said in an aside.

Q. Did he say that in your presence?

A. Oh, yes.

Q. Where was he standing and where were you standing when these remarks took place?

A. Right in front of No. 27 Clay Street in San Francisco. I was standing just inside the building.

Q. Where was Henry Schrimpf standing? [4582]

A. On the sidewalk directly in front of the door.

Q. How many others were there?

A. There were a number of longshoremen.

Q. When you say he took a vow there, what do you mean?

A. He sort of raised his fist as if he was looking for something to hit—maybe it was on the wall, and there wasn't any wall handy, or on a desk and there wasn't a desk handy.

Q. Did he utter the words that you have recited just now?

A. Substantially those words.

Q. To come back to the testimony of Henry Schrimpf in this case, did you ever in 1933 or 1934 or any other time hand Henry Schrimpf an application card to the Communist Party?

A. That never happened at any time. And it is understandable that Schrimpf would testify to that effect, because he is out to eliminate Bridges and a few other people, and he will do anything to accomplish that objective—anything at all.

Q. Did you ever have any conversation with

(Testimony of Henry Schmidt.)

Henry Schrimpf at the time he suggested or at any other time in which you told him to get wise to himself and join the Communist Party?

A. I made no such remark. It is useless to tell that fellow to get wise.

Q. Did you ever say that to him?

A. Of course not.

Q. Did you ever advise him that he should join the Communist Party? [4583]

A. I never advised him with regard to anything except I told him he shouldn't get off the Labor Relations Committee.

Q. Did you ever attend any Communist Party meeting with Henry Schrimpf? A. No.

Q. Did you ever attend any meeting with Henry Schrimpf dedicated to discussing Norma Perry and whether or not she should lose her job?

A. I did not.

Q. Did you ever tell Henry Schrimpf you were a member of the Communist Party?

A. Did I ever tell him?

Q. Yes. A. No.

Q. Now, with reference to the next witness who took the stand, Stanley Hancock, did you ever see that man before in your life?

A. Never saw him before.

Q. Did you meet him at the American Federation of Labor convention in 1935 at San Diego?

A. Well, since I never saw him before, I didn't see him at the American Federation of Labor convention.

(Testimony of Henry Schmidt.)

Q. Did you ever attend any meeting of any kind in his presence, Communist meeting or otherwise?

A. No meeting in his presence.

Q. To the best of your memory, were you ever at the Sumner [4584] Apartments in San Diego at the corner of 12th and B Streets?

A. I am sure that I wasn't at that place. There was one meeting, it was a caucus, that was held in the same building where the convention took place, and right now I can't recall what building that was. As I recall it, that was about the only meeting I went to other than the regular convention meeting. There was a world's fair going on in San Diego at that time, as I recall it. On one occasion a group of us jumped into an automobile and went to Tijuana, Mexico, and we found Schrimpf down there, too, drinking pretty heavily. I recall I went to the world's fair, and as I say, the only meeting that I went to other than the convention was that one caucus in the same building.

Q. Well, now, what kind of a caucus was that? Did that have anything to do with the Communist Party or a discussion of Communist Party ideas or aims?

A. It had to do with whatever business was going on in the convention, possibly the election of officers. I recall that the question as to whether the delegates should vote to reelect Paul Scharrenberg to the office of secretary was of great interest, and in all probability that was discussed in this gathering in that building.

(Testimony of Henry Schmidt.)

Q. Was it a gathering that you understood in any fashion had to do with the Communist Party?

A. Of course not. [4585]

Q. Now, coming to the next witness who testified against you in this case, the witness named Kermit Charles Krolek, do you know him?

A. Oh, yes.

Q. When did you meet him and what has been the extent of your acquaintanceship with that man?

A. My recollection is that he was in Portland during one of the numerous conventions that we always were going to, and the year might have been '37 or '38, and he was the man who found the dictophone or microphone in the wall of the room that Bridges occupied. A group of us met in the lobby of the Hotel Multnomah, and somebody said there was a microphone or some such instrument in Bridges' room. I can't recall who made the statement, but Krolek was in the group, and everybody knew that he was an expert radio man, and he volunteered to make a search of the room. We went to the room. Bridges came in. Schomaker was there. He put on a little bit of an act as we entered the room.

Q. What do you mean by that?

A. Well, as soon as we entered the room, for the benefit of the microphone, if such instrument were hidden in the walls, Schomaker said, "Well, Hank," addressing me, "do you have that sack of roubles from Moscow?"

Q. And what did you reply?

(Testimony of Henry Schmidt.)

A. Oh, I suppose I said, "Yes, I have got it right here under [4586] my arm."

Q. Was there a microphone found in the wall at that time?

A. Yes, Krolek moved the furniture and he took the tips of his fingers and he went all over the wall, and eventually down near the baseboard he found a soft spot, and he ripped the wallpaper away, and just as he ripped the wallpaper away, the microphone was moving in away from us.

Q. Other than that incident which you have related did you go to any meetings with the man named Krolek? A. I can't recall any.

Q. And did you know whether or not Mr. Krolek was a member of the Communist Party in the years when you knew him?

A. Never gave it a thought; didn't know.

Q. Did he ever announce to you that he was a member of the Communist Party?

A. He did not.

Q. By the way, going back for a moment to the witness Schomaker, the first witness who testified against you, did you ever know whether or not Mr. Schomaker was a member of the Communist Party?

A. I didn't.

Q. Did he ever state that he was?

A. Not in so many words.

Q. Well, were you ever of the opinion that Schomaker was a member of the Communist [4587] Party?

A. Well, on one occasion when he and I met in the streets that was after the war; anyhow, it was after he came out of the service—he waved a copy of the People's World at me and made quite a number of complimentary remarks about the paper, and said that I ought to read the paper more frequently and get on the beam, he said.

Q. That is the only remark that he ever made directly about that matter linking him in your mind with the Communist Party?

A. That's right.

Q. Well, now, to be specific on the testimony of Kermit Charles Krolek, did you in May of 1936 go to an apartment in Long Beach and which he describes as being the Venetian Square Apartments, up a spiral staircase to the second door to the right of the landing? Did you ever go there with Mr. Krolek?

A. No, sir. The only spiral staircases that I can recall are some ancient castles over in Europe.

Q. Did you go to a meeting in any apartment at Long Beach at which Krolek was present along with a man named R. A. Pyle, a man named Pringle, a man named T. J. Van Erman, Harry Bridges, Harry Jackson and a woman named Hazel Wood?

A. Mr. MacInnis, what was the second name you mentioned?

Q. A man named Pringle.

A. I don't know any such man.

Q. Do you know the other persons whose names have been mentioned? [4588]

A. Pyle I know.

Q. Who is he?

(Testimony of Henry Schmidt.)

A. He was a member of the Radio Operators Union.

Q. And how about T. J. Van Erman?

A. It seems to me that fellow was around here about twelve years ago.

Q. And what was his job, if you know?

A. I think he was a radio man, too.

Q. How about the woman named Hazel Wood? Did you ever know her?

A. I knew a Virginia Woods that used to work for the ILWU.

Q. This is a woman who apparently had an apartment in Long Beach. Did you ever go to the apartment or room of any lady by that name in Long Beach? A. I did not.

Q. Well, what is your testimony, then, as to whether or not you attended the meeting mentioned by Krolek in Long Beach.

A. It is completely untrue. I might say that I have been in Long Beach so often, and the meetings that I went to had mostly to do with the Government job that I had during the war, and this little Government agency never met in anybody's room.

Q. What was the Government job that you had during the war which you now mention?

A. I was a member of the Pacific Coast Maritime Industry Board representing the ILWU on that agency. [4589]

Q. Now, Mr. Krolek also testified that he came up to San Francisco to 121 Haight Street, and he

(Testimony of Henry Schmidt.)

said he remained in the corridor while you, Harry Bridges and John Schomaker went into an office where was sitting a man named Schneidermann. Now, did that take place?

A. No, it did not. And I might add this also: that years after the incident in Portland where the microphone was found, years afterwards I met Krolek on the street here in San Francisco, and of course we immediately started to talk about the microphone incident. I asked him what he was doing, because I hadn't seen him around union affairs any more, and he told me that he had a job —I think he said he had a job with Governor Olson, but since I heard him testify here, I recall he said that he had a job with the brother of Governor Olson. And those are the two occasions that I saw the man, and I didn't see him any more until he walked in here one day.

Q. By "in here" you mean in court?

A. That's right.

Q. Did you ever go to any meeting in the Lennox Hotel or New Lennox Hotel in Portland with a man named Krolek?

A. He may have been there; I can't recall.

Q. By meetings, I mean in the language of the witness, Communist meetings.

A. Oh, no, no. I am talking about the Pacific Maritime Federation convention meetings or meetings of the ILWU. I recall [4590] there was an ILWU convention in Portland one time, and when it was finished it was followed immediately by the

(Testimony of Henry Schmidt.)

Maritime Federation convention, and there were possibly 125 delegates at both affairs. [4590-A]

Q. In connection with the lady named Irene Harris, Irene Patty Harris, who testified here, you have already stated in response to the testimony of Schomaker that you never heard Harry Bridges make certain statements; did you ever go to a party at the home of a man named Jack Shaw at which Mrs. Harris was present?

A. I thought I explained that last week. I testified last week that I was in Jack Shaw's house on one occasion. It was a social affair and everybody was walking around with a drink in their hand. Everybody was talking at the same time, and I don't recall ever having seen Mrs. Harris at that place.

Q. Did you ever see her at any place where Harry Bridges made a speech?

A. I doubt it very much.

Q. Did you ever hear Harry Bridges at any private home, whether it be Jack Shaw's home or anywhere else, announce that he was a member of the Communist Party and urge a group of people to join that party?

A. I never heard him make such a speech at any place, apartment, open meetings or any other type of meetings.

Q. Calling your attention to the testimony of a man who came here as Lawrence Seton Ross, did you go with Harry Bridges to a place called the

Sokol Hall at an occasion when the man named Ross was present, and did you there listen to a speech by Mr. Schneidermann? [4591]

A. I can only repeat what I said last week. I went to Sokol Hall one time years ago—I can't recall what year. It was a social affair. These people whom you mention were not there. I didn't see them.

Q. The occasion when you went to Sokol Hall was not a political meeting, as you explained?

A. It was a social affair there, with the Jugoslavs and other Slavonian people. They had an orchestra there. There was dancing, drinking and singing.

Q. Did you ever attend any meeting of any kind having to do with the Communist Party in company with a man named Lawrence Seton Ross?

A. No, sir.

Q. Going to the last witness who mentioned your name, a man named George Wilson, did you ever attend any Communist Party meeting with George Wilson?

A. No, sir, but hundreds of other kinds of meetings.

Q. What do you mean by that?

A. Well, George Wilson was the president of the CIO Council here in San Francisco. I was its vice president while he was president. I recall another time when I was president of the Council when he had the job of secretary of that Council. George Wilson, believe it or not, was executive secretary of the Bridges Defense Committee eight

(Testimony of Henry Schmidt.)

or nine years ago, and he made his headquarters in the building at 150 Golden Gate, where [4592] our office is, and through the years we met in the Council. The Council Executive Board would meet on a Friday night. The Council itself would meet the following Friday night, and since the ILWU had offices in the same building, why, we would see each other almost daily.

Q. George Wilson says this: He is asked one direct question: "Did you ever attend a Communist Party meeting at which the defendant Henry Schmidt was present?" and he said, "Yes." He does not tell us where or when. But carrying your memory over all the years, were you ever at any meetings along with Gorge Wilson which could have been denominated a Communist Party meeting?

A. I am pretty sure I have not. If he doesn't know, I couldn't know either.

Q. Tell me this: Did you have any knowledge as to whether George Wilson was a member of the Communist Party? A. Absolutely none.

Q. Do you believe that he was?

A. Well, I doubt it a little bit.

Q. You doubt that he ever was a member of the Communist Party? A. Yes.

Q. Do you have any reason for doubting that?

A. Well, I never heard him make any remarks, that he carried the People's World around in his pocket or anything like that.

Q. And you have never been possessed of the

(Testimony of Henry Schmidt.)

opinion in your [4593] life that George Wilson was a member of the Communist Party?

A. That is right.

Q. Calling your attention to an incident taking place in the summer of 1936 concerning which many witnesses have testified here, do you remember going to Stockton with Harry Bridges on any occasion upon which he spoke in that city?

A. I was there.

Q. With whom did you go to Stockton and when?

A. That is a very peculiar incident, and with regard to some of the happenings on this trip my memory fails me. I know there was talk about the office about Bridges going to Stockton and my going to Stockton. Willie Christensen was quite bothersome about it, a couple of days before this particular Saturday, and I am satisfied that I rode to Stockton in Willie Christensen's car, but I can't remember the trip up. I remember the meeting in the Teamsters Hall. I recall that Bridges spoke for a long time. I thought he talked too long. And I clearly remembered the business in the night club.

Q. What do you mean by that, the business in the night club?

A. Well, I recall that we went to visit the night club after the meeting was finished, that we sat around there for quite a while, and drank. I recall that somebody passed the word to the master of ceremonies that Bridges was in the house, and as a result of that information having been passed,

(Testimony of Henry Schmidt.)

the spotlight was turned on Bridges—that I recall very clearly. I don't remember [4594] anything about the information that the witnesses supplied here this morning. I don't remember that. And I recall the ride back and our having breakfast in Willie Christensen's home. This would be on Sunday morning, very, very early.

Q. Do you remember in what fashion you were taken back to your own home here in San Francisco?

A. I have a vague remembrance that I had my own car parked in a parking lot diagonally across the street from the Ferry, and when Willie took us to San Francisco I picked up my own car and proceeded home.

Q. You said a moment ago that in that week before you went to Stockton that Willie Christensen was being pesty about Bridges going up to Stockton. Did you talk to Willie Christensen all week about the prospective trip?

A. Yes. He apparently came in to see Bridges on a couple of occasions and I don't know whether he found him or not, and he would tell me about them, because he insisted that I also go. The reason being that in the Maritime Federation convention Bridges and I carried the proxy vote for the Stockton local. Therefore it was, well, almost obligatory on our part to go to that local and make a report having to do with the convention proceedings.

Q. When Willie Christensen came into the union office to solicit Bridges' attendance in Stockton, was Bridges around the office?

A. I think on one occasion when Christensen came in, he was, [4595] but I don't recollect that too clearly.

Q. When was the arrangement made, so far as you remember, for you and Harry Bridges to go up to Stockton in the car of Mr. Christensen?

A. I think we knew it a couple of days before we went.

Q. Had you discussed that with Bridges?

A. We had some discussion but I can't recall just exactly what was said.

Q. Was that discussion between you and Harry Bridges had here in San Francisco?

A. Oh, yes. Where else would we be talking?

Q. Well, Bridges was not in New York either on that Saturday or during the preceding week, was he?

A. He definitely was not in New York.

Q. To come to some of the later matters with which you are charged in this case, you appeared, as we are told by the documents now in evidence, as a witness for Harry Bridges when he applied for United States citizenship in the months of August and September, 1945, here in San Francisco, is that correct? A. That is right.

Q. Will you tell the Court and jury how and under what circumstances you were asked to be a witness in that proceeding?

A. Well, again I must explain that there are

(Testimony of Henry Schmidt.)

some things I can't remember. I recall that Bridges asked me to come along and be a witness. I agreed. We went to the City Hall. The [4596] proceedings took place—and I am now talking about the second hearing, for it goes by that name——

Q. You mean the hearing in court?

A. Yes. And I heard Mr. Garner testify here and I heard him explain with regard to an examination that took place in August, as he testified, but I have absolutely no remembrance of that. All I can tell you is that with regard to the hearing in court, there was a gentleman handling the situation, and I guess it was Mr. Garner, but I don't remember. And I recall that he eventually turned to the Court and said, "Your Honor, the Government is satisfied," or maybe he said, "Your Honor, these witnesses are satisfactory to the Government." That I do remember. I can't recall if that was Mr. Garner or some other man.

Q. When Harry Bridges asked you to be a witness for him, did he tell you what was desired for you to say?

A. No, the conversation lasted about half a minute.

Q. What did he say, as best you remember?

A. He said, "How about coming along to the City Hall?"

Maybe he said, "It is going to happen tomorrow."

Maybe he said, "It is going to happen this morning."

(Testimony of Henry Schmidt.)

I don't know. I said, "All right. What time is it?" And that is all there was to it.

Q. Mr. Schmidt, have you ever been a witness for other persons who sought citizenship before?

A. On a number of occasions I appeared as a witness for some [4597] longshoreman. As a matter of fact, I was a witness for my own father. I became a citizen of this country before my father did.

Q. When your father was naturalized you were his witness?

A. Yes, his two sons were his witnesses, my brother Gustav and I.

Q. Did you know from that experience generally what the scope of the examination would be in a naturalization hearing?

A. Yes. It is usually a proceedings that takes four or five minutes in so far as the witnesses are concerned.

Q. When Harry Bridges asked you if you would be a witness for him, did you have any discussion, agreement, understanding or colloquy about the subject matter at all?

A. No, the conversation was very short. Maybe I said, "Well, it is about time."

Q. Did you have any discussion or did he indicate to you or tell you or ask you in regard to anything that he would have wanted you to say?

A. Not a word.

Q. Did you ask him any questions about what you should say?

(Testimony of Henry Schmidt.)

A. I am sure I did not need to ask him any questions. I have been here so often I almost know it by heart.

Q. Was there a man named Paul Schnurr who was a friend of Harry Bridges and was asked to come along as a second witness for him? [4598]

A. Yes, Paul Schnurr was then the secretary of the CIO Council of San Francisco.

Q. As I understand it, he is retired now, is that correct?

A. Yes, and he, as happens to be the case with myself, was foreign born. I recollect he told the gentlemen there in the City Hall that he had derivative citizenship. He couldn't prove it, and the man told him that being the case, he couldn't be [4599] used.

Q. Do you remember anything in connection with the first emergence of the name of Mr. J. R. Robertson as a witness for Harry Bridges?

A. At that point, when it became clear that Mr. Schnurr could not act as a witness, Bob Robertson jumped into the breach. He had walked over to the City Hall with the group.

Q. He had been with you over there?

A. Yes, I recall he went over there with us.

Q. And what conversation, if any, took place in your presence regarding the use of Robertson as a witness? A. Conversations with me?

Q. Or in your presence. Did you overhear any conversation between Bridges and Robertson, between Robertson and the immigration examiner, or any other person?

A. No. All I can recall is that when it became clear that Schnurr could not act as a witness, somebody ran to the door or somebody actually shouted, "Hey, Bob, come here," and it was briefly explained, and Bob Robertson stepped up to a high counter and he testified—I guess it was Mr. Garner—that he had been born in Texas, and a few minutes later he was a witness.

Q. That incident, of course, refers to the events taking place in the City Hall but not in the courtroom of Judge Foley? A. That is right.

Q. Did you later go back to court? [4600]

A. I can recall the judge sitting on the bench, and there was a man down there talking to him, and I guess that was Mr. Garner, and that is about all I can remember of those proceedings.

Q. Do you remember this: During the interim of time between the first visit that you had to the City Hall with Bridges and Robertson and Paul Schnurr and the time when you ultimately went to court, did you have any conversation, agreement or understanding with Harry Bridges as to what you were going to say?

A. With respect to his citizenship?

Q. Yes. A. No.

Q. Did he ever ask you to be sure to say any particular thing? A. No.

Q. Did he ever ask you to be sure to conceal any particular thing? A. Absolutely not.

(Testimony of Henry Schmidt.)

Q. Did he ever tell you to be sure not to say anything about the Communist Party?

A. No.

Q. Did you ever say to him that you would be sure not to say anything concerning the Communist Party? A. No.

Mr. MacInnis: Shall we take the recess? [4601]

The Court: Yes, we will take the noon recess and resume at two o'clock this afternoon. Remember the admonition not to discuss the case under any conditions.

(Thereupon a recess was taken until 2:00 p.m. this date.) [4601-A]

Monday, January 30, 1950—2:00 P.M.

Mr. MacInnis: May we interrupt again, your Honor?

The Court: Mr. Schmidt.

Mr. MacInnis: May we interrupt the testimony again?

The Court: Certainly.

Mr. MacInnis: May we call Mr. Daniel Del Carlo.

DANIEL F. DEL CARLO

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury, please.

The Witness: Daniel F. Del Carlo.

(Testimony of Daniel F. Del Carlo.)

Direct Examination

By Mr. MacInnis:

Q. What is your residence address, Mr. Del Carlo? A. 1859 Vallejo.

Q. And have you been a resident of the City and County of San Francisco for some years past?

A. Since 1903, when I was born.

Q. You were born here and have lived here all your life? A. That's right.

Q. What is your business or profession?

A. I represent the San Francisco Building and Construction Trades Council of the American Federation of Labor. [4602]

Q. Have you held any post upon the Golden Gate Bridge and Highway District?

A. I am a director of the Golden Gate Bridge and Highway District.

Q. Who appointed you to that post?

A. The Board of Supervisors.

Q. And previously have you been a member of any commission within the City and County of San Francisco?

A. I was a member of the Fair Rent Committee appointed by Mayor Rossi. I was a member of the Public Utilities Commission appointed by Mayor Lapham. I was a member of the Regional Manpower Commission appointed by Franklin D. Roosevelt. I was a member of the Selective Service Committee appointed by President Truman; a member—past president of the Golden Gate Bridge and Highway District.

Q. Do you hold any position in the Democratic Party?

A. I am a member of the Democratic State Central Committee.

Q. Were you a delegate to the last national convention of the Democratic Party?

A. Yes, sir; I was a Truman delegate to the Democratic national convention.

Q. That is the convention which last year nominated President Truman?

A. That's right, in Philadelphia in 1948.

Q. Do you know Mr. Harry Bridges? [4603]

A. Yes, I do.

Q. And for what period of years have you known him?

A. I met Harry Bridges in about 1934.

Q. And you have known him ever since?

A. That's right.

A. And do you know Mr. Henry Schmidt?

A. Yes, I do.

Q. When did you meet him?

A. Approximately about the same—about the same time.

Q. And has your acquaintance with both of those men carried over the years which followed?

A. Yes, it has.

Q. You have seen them on and off on both——

A. I have on occasions, yes.

Q. You have seen them, I suppose, on political engagements as well as social engagements?

(Testimony of Daniel F. Del Carlo.)

A. That's right.

Q. And have you from time to time discussed the character of Harry Bridges and of Henry Schmidt with other members of this community?

A. Oh, I have heard it—I have heard their names mentioned many times both in political and fraternal and business groups.

Q. And from your own knowledge of these two men, Harry Bridges and Henry Schmidt, and from such conversations as you may have heard concerning them from other persons in this community, are [4604] you in a position to know the reputation of each of those men in this community for truth, honesty and integrity? A. I think so, yes.

Q. What is the reputation of Harry Bridges for truth, honesty and integrity?

A. Well, in my business I always call them as I see them, and on occasions—one paticular occasion, I had occasion to——

Mr. Donohue: I must object, if your Honor please. Specific instances are not admissible.

The Court: Yes; the witness may give his answer to the question as posed.

Mr. MacInnis: I think his Honor's observation is of course correct. Upon that question you must answer as to what the reputation of the man is.

A. Good.

Q. What is the reputation of Mr. Henry Schmidt in this community for truth, honesty and integrity?

A. Good.

Q. With reference to Harry Bridges, in addition to any political activities of a general nature

(Testimony of Daniel F. Del Carlo.)

or social matters had between you, has you acquaintanceship with him extended into trade union matters? A. Yes, it has.

Q. Now, will you describe in what way you have had dealings with Harry Bridges in trade union matters. [4605]

A. On one occasion—I was at that time business representative of the Glaziers Local Union No. 718 of San Francisco, and I had organized the auto glass shops; and shortly thereafter, the United Auto Workers passed pamphlets out to what we call a raid of our union.

Mr. Donohue: Excuse me, Mr. Witness. I must object to this, if your Honor please. This certainly is not proper character testimony.

Mr. MacInnis: I think, your Honor, it merely goes as to the foundation for his period of acquaintanceship, which is part of the basis for the answer of the witness.

Mr. Donohue: He has already answered the question.

The Court: I think he answered the question, Mr. MacInnis. He may be cross-examined upon the basis of the answer given, but I sustain the objection.

Mr. MacInnis: Very well. That is all, then.

The Court: Do you have any questions?

Mr. Donohue: Yes.

Cross-Examination

By Mr. Donohue:

Q. Mr. De Carlo, when were you notified to come here first and testify?

A. At two o'clock today, or I would say one o'clock I was served with a subpoena.

Q. Prior to having been served with a subpoena had you discussed the fact of your having to come here and your testimony with [4606] any person or persons?

A. With Mr. MacInnis in the anteroom about ten minutes ago.

Q. And the service of the subpoena upon you at one o'clock was the first indication you had had that you might be called here to testify?

A. That's right.

Q. Can you tell us, Mr. De Carlo——

A. The name is Del Carlo.

Q. I am sorry; Mr. Del Carlo—any person or persons with whom you have discussed the reputation of Mr. Bridges for truth, honesty and integrity?

A. Well, I have discussed it—I have heard it discussed amongst hundreds of people, but I have discussed it at times with men such as the District Attorney of San Francisco, Pat Brown, with Harold Berliner, with whom I served on the Selective Service Board for five and a half years, and countless members of labor unions that I wouldn't be in a position by memory to remember their names.

Q. And you have heard Mr. Bridges' reputation discussed among hundreds of persons.

A. That's right.

Q. Have you ever heard anyone state that in

(Testimony of Daniel F. Del Carlo.)

his opinion Mr. Bridges was a member of the Communist Party? A. No.

Q. You have never heard that said? [4607]

A. No, sir.

Q. Mr. Del Carlo, if evidence establishing beyond a reasonable doubt that Harry Bridges was a member of the Communist Party was called to your attention, would you still say he had a good reputation for truth, honesty and integrity?

A. Well, I said earlier that I call them as I see them; I do not judge my fellow men by the thinking of other people, only by what I think.

Q. Are you testifying as to your personal judgment that Mr. Bridges has a good reputation for truth, honesty and integrity, or are you taking the word of hundreds of people with whom you have discussed that subject?

A. Do I have to answer that?

Q. You may ask the Court.

The Court: Do you have any objection, Mr. Del Carlo? Have you any objection?

The Witness: It don't make sense to me.

Mr. Donohue: Would you read the question.

The Witness: I am called here and asked my opinion on the character of a man, and I have honestly given it.

Mr. Donohue: May I ask the question again in another form?

The Court: Yes, rephrase it.

Q. (By Mr. Donohue): I am asking you, Are you stating your opinion or are you stating the con-

(Testimony of Daniel F. Del Carlo.)

solidated opinion of hundreds [4608] of people with whom you have discussed Mr. Bridges' reputation?

A. I would say the consolidated opinion of hundreds of people that I have discussed his reputation with, as well as my own.

Q. As well as your own opinion?

A. That's right.

Q. And your opinion would not have been changed by the fact that you were persuaded by evidence beyond a reasonable doubt that Mr. Bridges was and had been a member of the Communist Party? A. No, I didn't say that.

Q. May I ask you the question, Would it be changed? A. Oh, yes.

Mr. Donohue: I have no further questions.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Del Carlo, among the persons whom you say you talked to about Harry Bridges was a Mr. Harold Berliner. Was he the Collector of Internal Revenue here in San Francisco in years past?

A. Yes, he was.

Q. And you mentioned our District Attorney, Mr. Pat Brown. Were you the campaign manager for Pat Brown last year?

A. I handled the labor end of his campaign.

Mr. MacInnis: Thank you.

Mr. Donohue: I have no further questions.

The Court: Mr. Del Carlo is excused. [4609]

Mr. MacInnis: We will call Mr. Gaynor, please.

AUGUSTIN F. GAYNOR

called for the defendants; sworn.

The Clerk: Will you state your full name to the Court and jury.

The Witness: Augustin F. Gaynor.

Direct Examination

By Mr. MacInnis:

Q. Mr. Gaynor, what is your residence address?

A. 2491 - 35th Avenue, San Francisco.

Q. How long have you lived in San Francisco?

A. 35 years.

Q. Where were you born, Mr. Gaynor?

A. I was born in County Limerick, Ireland.

Q. You came to America at what age?

A. At the age of 12.

Q. And as you state, you have lived in San Francisco for the past 35 years, is that true?

A. Yes, sir.

Q. What is your business or occupation?

A. At the present time I am head clerk in the freight claim department of the Southern Pacific Company at 65 Market Street.

Q. You have been with the Southern Pacific Company how many years? [4610]

A. Over 30 years.

Q. Are you a member of any labor union in connection with your work with the Southern Pacific Company?

A. I am a member of the Brotherhood of Railroad Clerks?

(Testimony of Augustin F. Gaynor.)

Q. And have you held offices in that union?

A. I have been president of my local, secretary of my local, business agent and Grand Lodge representative.

Q. Have you been a member of any other organization connected with the labor movement in San Francisco?

A. I was State chairman of Labor's Non-Partisan League, and I was the first temporary chairman of the Association of Catholic Trade Unionists which was organized in San Francisco during the 1937 store strike.

Q. Do you know Harry Bridges?

A. Yes, I do.

Q. For how many years have you known him?

A. I met him first, I think it was in 1935.

Q. And have you known him steadily over the ensuing years? A. Yes, I have.

Q. What has been the extent of your relationship or acquaintanceship with Harry Bridges?

A. Well, as a member of the Railroad Clerks, I had quite a bit of dealings with him personally in regards to the rating of Railroad Brotherhoods by the United Railroad Workers.

Q. What was that incident, Mr. Gaynor? [4611]

Mr. Donohue: I object, if your Honor please, to the incident.

The Court: Sustained. [4611-A]

Q. (By Mr. MacInnis): Mr. Gaynor, in addition to knowing Harry Bridges over the years that you have described, have you also had occasion to

(Testimony of Augustin F. Gaynor.)

overhear other persons speak concerning his reputation in this community? A. Yes, I have.

Q. Have you known Henry Schmidt?

A. Yes.

Q. For how many years have you known him?

A. I would say I met him about two or three years after I first got acquainted with Mr. Bridges.

Q. And has your acquaintanceship with Henry Schmidt been continuous over that stream of years?

A. It has.

Q. In addition to knowing him, have you also from time to time heard other persons in this community discuss Henry Schmidt?

A. Yes, I have.

Q. From your own knowledge and acquaintanceship with each of those men, and based upon any conversations which you may have participated in or overheard with other people, are you in a position where you can say that you know what the reputation of each of those men may be in this community for truth, honesty and integrity?

A. I would state from my own experience with Mr. Bridges that he has wholeheartedly cooperated with me in matters concerning our union, the Brotherhood of Railway Clerks, and the Railway [4612] Brotherhoods also; and also in that connection I have heard discussions about his character, integrity and ability.

In connection with Mr. Schmidt, I have had only occasional discussions with him about trade union matters, but I have heard his name very favorably mentioned by some people in the community.

Q. From all of those bases, what is the reputation of Harry Bridges for truth, honesty and integrity in this community?

A. I would say it is excellent.

Q. And what would be your answer to the same question in respect of Henry Schmidt?

A. The same answer.

Q. Mr. Gaynor, referring to another matter—and I make this remark merely for the guidance of the Court and jury with respect to the subject matter—a witness testified here with respect to a meeting he claimed he had with Harry Bridges and others in 1940 with respect to funds of Labor's Non-Partisan League. Upon that matter I want to ask this gentleman a few questions.

Mr. Gaynor, what was Labor's Non-Partisan League?

A. Labor's Non-Partisan League was first organized in 1936 by President Berry of the Webb Pressman's Union, and later on, about 1938, Mr. John L. Lewis of the United Mine Workers became national chairman and Mr. Eli Oliver, executive director of the League, came out here in about 1937 or 1938. I was personally acquainted with Mr. Oliver. He asked me if I would take over the organization of Labor's Non-Partisan League, which I did. [4613]

Q. And for what period of time did you take

(Testimony of Augustin F. Gaynor.)

over the organization of Labor's Non-Partisan League here?

A. I stayed with Labor's Non-Partisan League from the latter part of 1937 on to about July of 1939.

Q. What was the purpose of Labor's Non-Partisan League?

A. Labor's Non-Partisan League came into being originally for the election of Franklin D. Roosevelt in 1936 and in 1937, when Mr. Oliver came out here, after we contacted him. The purpose was to get labor aroused for political action in the State of California to elect a liberal government here.

Q. Mr. Gaynor, do you have any knowledge as to when, if ever, certain funds of Labor's Non-Partisan League were sent on to California?

A. Yes, I do.

Q. When was that?

A. That was in about September of 1938.

Q. Who sent those funds out here and what was the ultimate disposition of those funds?

A. After the contact being made with Mr. John L. Lewis, the national chairman of Labor's Non-Partisan League, John L. Lewis sent $25,000 to Mr. George Creel.

Q. Who was he?

A. He at that time was one of the Democratic leaders in the State of California and had his offices at 200 Bush Street.

Q. What did Mr. Creel do with those funds when they reached [4614] him, if you know?

A. Mr. Creel phoned myself as chairman, Vernon Burke as secretary of Labor's Non-Partisan League, and Herb Resner, and asked us to meet in his office at 200 Bush Street, that he had received a check from Mr. Lewis, which Mr. Lewis had instructed him to contact the leaders of Labor's Non-Partisan League.

Q. Did you have a conference then with Mr. Creel?

A. We did. We had a conference with Mr. Creel.

Q. In about what month of what year did that conference take place?

A. That conference took place in September of 1938, about September of 1938. It was after the primary election of 1938 in which Olson had been nominated for governor of California.

Q. What was done with the funds of Labor's Non-Partisan League as a result of that conference?

A. At the conference we discussed the dividing of the money between the northern part of California and the southern part of California. After much discussion it was agreed, because the bulk of the vote was in Southern California, the bulk of the money should go to Southern California. It was agreed there that we send $17,500 to Los Angeles—I think the treasurer at that time was Phil S. Gibson—and that $7500 would be kept in San Francisco, to be used for the campaign up here,

(Testimony of Augustin F. Gaynor.)

and that was the final disposition made of that money.

Q. Was the money used as you have [4615] indicated?

A. Yes, the money was used to pay campaign expenses.

Q. Would there have been in late 1940 in the language of one of the witnesses who testified here any funds in existence at all belonging to Labor's Non-Partisan League?

A. As far as I know, the only money we ever had was the $25,000 we got from John L. Lewis.

Q. Was that disbursed in the calendar year of 1938? A. It was all spent in 1938, yes.

Q. What happened to Labor's Non-Partisan League thereafter?

A. To the best of my knowledge, the League went out of existence and I say that for this reason, that in 1940 John F. Shelley named me as his alternate delegate to the 1940 Democratic convention, which convention nominated Roosevelt for the third term, and when we returned to San Francisco we discussed labor's participation in the campaign, but because there was no political group organized to carry on the campaign like Labor's Non-Partisan League in 1938, we organized a Labor's Committee for Roosevelt, of which we elected, I think, Sandy Watchman chairman, I was secretary, Germaine Bulcke was vice-chairman, and Jennie Matthes was treasurer, and we collected the funds then for the 1940 campaign.

Q. In 1940, as you indicate, there were no funds

(Testimony of Augustin F. Gaynor.)

in existence belonging to Labor's non-Partisan League for distribution to any source?

A. None that I know of. [4616]

Mr. MacInnis: Thank you.

Cross-Examination

By Mr. Donohue:

Q. Would you say, Mr. Gaynor, that there was not in 1940 a deposit in the Bank of San Francisco in the name of Labor's Non-Partisan League with a balance?

A. No, I would not say there was not a deposit or balance. There might have been an amount left to keep the account open.

Q. You do not know? A. No.

Q. When was this meeting that you had to divide this money?

A. You mean the $25,000?

Q. Yes.

A. That was in 1938 after the primary elections nominating Olson, Downey and Patterson for governor, lieutenant governor and senator from California.

Q. Who participated in the division of these funds?

A. George Creel was there, Vernon Burke, who was secretary of Labor's Non-Partisan League, Herb Resner, who was assistant secretary, I think, and myself as chairman.

Q. What did you say Mr. Resner's position was?

(Testimony of Augustin F. Gaynor.)

A. Well, I don't know. He was assistant secretary or something. He was something in the League. I don't know at that time what he was.

Q. As far as you can now tell us, he was assistant secretary?

A. He might have been that, yes. [4617]

Q. Is that your best recollection?

A. That is my best recollection, yes.

Q. Whom did he represent, if you know?

A. He was part of the Labor's Non-Partisan League. As to whether he was representing some union, I wouldn't answer without reviewing the records.

Q. Is he the Herb Resner who has been identified as a member of the bar, a practicing attorney here in San Francisco?

A. That is the man, yes.

Q. A law partner of Mr. Gladstein and Mr. George Anderson?

A. I don't know who his law partners are. I know he is an attorney.

Q. Mr. Gaynor, you say that you have heard Mr. Bridges' reputation favorably discussed by some people? A. Yes, sir.

Q. Have you heard it unfavorably discussed by some people?

A. Not in any discussions in which I participated, no, not in any discussion I participated in.

Q. You would not have heard it if you had not participated, would you, sir?

A. No, that is correct.

(Testimony of Augustin F. Gaynor.)

Q. Can you tell us any person or the names of some persons with whom you have discussed the reputation of Mr. Bridges for truth, honesty and integrity and who said it was excellent?

A. Yes. [4618]

Q. Would you name them for us, please?

A. Well, I will name the time and the person. In 1938 when we were discussing the political campaign, after the primaries now, I was discussing the campaign with the county chairman of the Democratic Party, Mr. Malone, and he stated that his participation was all right, and that he was willing to go along with——

Q. Was Mr. Malone simply discussing Mr. Bridges' participation in the campaign or was he discussing Mr. Bridges' reputation for telling the truth?

A. We were discussing the people that were going to participate in the direction of the campaign, and as to whether they were reliable and those kind of people we could have in the campaign to conduct the campaign.

Q. By reliable, do you mean politically reliable or morally reliable?

A. No, I would say morally reliable.

Q. Was that the occasion for discussing the moral reliability of Mr. Bridges?

A. We discussed the reliability of everyone, because in the political campaign that was going to be tough, we wanted to be sure everyone was on our side.

(Testimony of Augustin F. Gaynor.)

Q. Again moral and not political?

A. No, political.

Q. With whom else did you discuss the moral reputation of Mr. [4619] Bridges?

A. In the store strike of 1937, when I was invited to participate in the organization of the Association of Catholic Trade Unionists, Father Paul of St. Boniface Church was at that time interested in the store strike, and he was also interested in the Association of Catholic Trade Unionists, and at that time we discussed various people in the labor movement in connection with the strike and also in connection with the Association of Catholic Trade Unions, and I know at that time that Father Paul stated to me—we were talking about the honesty and integrity of labor men in the labor movement—and at that time he stated that he considered an honest trade unionist was Harry Bridges.

Q. Father Paul said he considered Bridges an honest—

A. An honest and sincere trade unionist, that is correct.

Q. Anybody else?

A. At this time that is the only names I can remember.

Q. You have been in San Francisco for 35 years? A. That is correct.

Q. And you have been active in the labor movement? A. Yes, that is correct.

Q. Talked to lots of people in San Francisco?

A. That is correct.

(Testimony of Augustin F. Gaynor.)

Q. Have you ever heard anyone say that Harry Bridges was a Communist?

A. Well, I would say that I couldn't name anyone who said it. [4620]

Q. Did you ever hear it said by anyone?

A. Well, I couldn't—I can't say that I heard it said by anyone. I have seen it in the papers but I haven't heard it said by anyone.

Q. In all the people you heard talk in the past 35 years that you have been here you never heard anyone say Harry Bridges was a Communist?

A. I might say this: I have talked to some people who said, "I think he was a Communist." Nobody said he was, but they said, "I think."

Q. Could you tell us who that person may have been?

A. Well, I can name a lot of people who say they think, but they don't come out and say he is. It was rather loose talk, if I might say that.

Q. Have you heard few or many people say that they thought Harry Bridges was a Communist?

A. Just a few. I wouldn't say very many.

Q. A few is a relative term. What is your best judgment?

A. About a half dozen at the most.

Q. In 35 years? A. That is about right.

Q. Mr. Gaynor, if you had been presented with evidence which established to your mind beyond a moral certainty that Harry Bridges was a member of the Communist Party, would you still say he was a truthful and honest man of integrity? [4621]

(Testimony of Augustin F. Gaynor.)

A. May I have that again?

Mr. Donohue: Will you read the question?

(Question read.)

A. If—I would answer it this way, that to me his political philosophy, I don't think, would make me change my belief of his honesty, sincerity and desire to do the right thing on the job he has.

Mr. Donohue: Thank you so much. No further questions.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Gaynor, I take it that no one has ever presented you with such evidence showing that Harry Bridges was a member of the Communist Party or ever had been? A. No, sir.

Mr. MacInnis: That is all.

The Court: The witness is excused. Thank you.

HENRY SCHMIDT

recalled on behalf of the defendants; previously sworn.

The Clerk: The witness on the stand is Henry Schmidt, heretofore sworn.

(The last several questions and answers of Mr. Schmidt were read by the Reporter.)

By Mr. MacInnis:

Q. Mr. Schmidt, either before you went to the City Hall on the first occasion to indicate that you

(Testimony of Henry Schmidt.)

would be a witness for Harry Bridges and to qualify by reason of your [4622] own citizenship, either before then or before the second occasion, when you actually went to court, did you have any conversation, agreement or understanding with Harry Bridges by which you were to say any particular thing concerning him? A. No, sir.

Q. What memory, if at all, do you have concerning any interview which may have taken place between you and the naturalization examiner identified here as Mr. Lloyd Garner?

A. Well, Mr. Garner called attention to an interview which I think he said took place August of that particular year, and if that is the first interview, I have no remembrance of it at all—nothing—but I do remember, as I told you this morning, some of the proceedings that occurred in the second hearing.

Q. Do you have any recollection at all of any man connected with the Naturalization Service asking you in advance of the court hearing whether or not you were a member of the Communist Party?

A. No, sir.

Q. Do you have any recollection of any man connected with the Naturalization Service asking you in advance of the immigration or naturalization hearing whether or not Harry Bridges was a member of the Communist Party?

A. I don't recall it.

Q. If such questions had been asked you, do you think they would now be recalled to your [4623] mind?

(Testimony of Henry Schmidt.)

A. I have been trying to remember some of these things ever since I heard Mr. Garner testify and I just can't.

Q. Calling your attention to the testimony of Mr. Garner concerning the oral conversation that he says he had with you, there is one part in which he says, concerning you, Mr. Henry Schmidt, "I asked him if he had ever been arrested and he said no." Now, do you have any recollection of that conversation?

A. Yes, but it is my recollection that that took place at the meeting we had with him, if that was Mr. Garner, in September of that year.

Q. What would your answer have been to that question?

A. With regard to having been arrested?

Q. Yes.

A. I would have told him I had been arrested once.

Q. And you would not under any circumstances have answered no?

A. I could not have, for the simple reason that I have only been arrested once, and it just so happened that it happened on my birthday, and you just don't forget those things.

Q. Was that an arrest in connection with the movement which caused the longshore union to leave the A. F. of L. and go into the CIO?

A. Yes, there was a small group of longshoremen who saw fit not to go along with the change to CIO. They separated themselves from the ILWU.

They set up headquarters at 113 Stewart Street, which had been our headquarters years ago, and they proclaimed [4624] that that was headquarters of the the ILA and they became known as the Lost Battalion. They had us in court about every other day. One of their members came to the office of the ILWU and kicked up some sort of fuss, and a few minutes later he was fighting out in the street with another ILWU union member whose name was Axel Anderson. The name of the other man was Edward Aschstatter. I think it is spelled A-s-c-h-s-t-a-t-t-e-r. I noted the fight going on. I ran across the street and asked some fellows to help me separate these two men. I laid hands on them, so did others. We separated them and that was the end of it. And later that day I was arrested. That is to say, no policeman came after me. Somebody called me from the Hall of Justice, in a voice identifying himself as the Police Department, and said, "Schmidt,—" I think he said "Johnny Engels wants to see you."

Q. Who is he?

A. I don't know what his title was. He may have been a police captain at that time.

Q. Is he Captain Johnny Engels of the Police Department?

A. I think so. So after a while I walked up to the Hall of Justice and surrendered. I was fingerprinted and I was bailed out almost immediately.

Q. And, I take it, the case was dismissed and you never had to appear? [4625]

(Testimony of Henry Schmidt.)

A. Never had to appear and heard no more.

Q. If Mr. Garner had asked you that specific question, would you have given him the specific answer that you have given us here?

A. I would have answered his question in the affirmative, and I would have given this explanation if he had asked for it.

Q. Do you have any personal memory of leaving the ILWU offices on the day that you went to court with Harry Bridges? Do you remember who was with you, of what persons the group was composed or what was done? [4626]

A. The group included some seven or eight people as we left our offices, and by the time we got to the courthouse the number increased. I think some people were waiting there. I am pretty sure that Robertson walked along, and there was Miss Theodora Kreps.

Q. She was along, too?

A. She was along. I think Mr. Bridges' daughter was along, and I was there. I don't know if my daughter was there or not; I think she may have been.

Mr. MacInnis: May I have the Government's Exhibit No. 3, please.

Q. You do remember appearing in court before His Honor Judge Foley, do you not?

A. I remember appearing in court, but I don't remember that it was Judge Foley.

Q. Now, does the transcript, whose contents referring to your answers to questions put to you by

(Testimony of Henry Schmidt.)

Mr. Garner, correctly reflect what you said at that time and what you really thought? I will read them to you:

> "Q. The witnesses are both citizens of the United States?
>
> "Mr. Schmidt: Yes.
>
> "Q. You each have known the petitioner for the last five years or longer?
>
> "Mr. Schmidt: Yes.
>
> "Q. And you know him to be a resident of this County at [4627] this time?
>
> "Mr. Schmidt: Yes.
>
> "Q. Do you each vouch for his loyalty to the United States?
>
> "Mr. Schmidt: Yes.
>
> "Q. Do you recommend him as a person of good moral character?
>
> "Mr. Schmidt: Yes.
>
> "Q. Do you recommend him to this Court for citizenship?
>
> "Mr. Schmidt: I do.
>
> "Mr. Garner: These witnesses are satisfactory, your Honor."

Do you remember whether or not this transcript correctly reflects what you said in court?

A. I am satisfied that it does.

Q. And when you made the answers ascribed to you in that transcript, tell the Court and jury whether or not you really believed that Harry Bridges was a fit and proper person to receive citizenship in this country.

(Testimony of Henry Schmidt.)

A. I certainly did.

Q. When you said that you would vouch for him as a citizen of this country—as a prospective citizen—did you really believe when you said that that he was a proper person to be given citizenship?

A. I did, without hesitation,

Q. When you made those answers did you really believe that [4628] Bridges was in truth devoted to the principles of our Constitution?

A. I did, certainly.

Q. When you made all of those answers did you have any intention of concealing any secret knowledge on your own part concerning any supposed membership by Bridges in the Communist Party?

A. There was nothing to conceal as far as I was concerned.

Q. Well, Mr. Schmidt, in this case you are charged with entering into a fraudulent conspiracy to deceive our Government and to evade the laws of the United States. Will you tell us, please,, what were your bases for making those answers as you gave them, and what were your reasons?

A. Well, No. 1: My very long association through the years with Harry Bridges in our trade union activity, which came to mean that this man is engaged in the same sort of activity which $ happen to be engaged in, which has as its objective to improve the standard of living of the workers, and I didn't think that that was a bad thing; and, secondly, I had read the decision of the Supreme

(Testimony of Henry Schmidt.)

Court, and I thought, well, as long as the highest tribunal in the United States of America has made a decision with respect to this case, the matter is now settled for all time; and I had no hesitation to recommend this man for citizenship.

Q. Well, did you rely, in making the answers that you gave, upon all the matters which you have just now mentioned? [4629]

A. Yes; on the fact that I had read the decision and also because of my association with the man through the years.

Q. In other words, you relied upon two things: Your own knowledge and association with Harry Bridges over the years, and, secondly, your own reading of the opinion of the Supreme Court of the United States in the matter involving Bridges, is that correct?

A. Yes, and I thought that that was sufficient.

Mr. MacInnis: We now offer into evidence, if the Court please, what I believe to be the defendants' exhibit possibly first in order. May I see it?

We offer into evidence the document now marked for identification as the Defendants' Exhibit B, being the opinion of the Supreme Court of the United States of America made at the October term of 1944 and entitled, "Harry Bridges, Petitioner, v. I. F. Wixon, as District Director Immigration and Naturalization Service, Department of Justice."

Mr. Donohue: We are back where we began, if your Honor please. It was objected to and it was marked for identification. Of course, we object to it now. I am sorry that the rules of evidence don't permit it to be introduced into evidence, but under the rulings which your Honor made when these matters were argued at length in the pre-trial stages by the firm of Gladstein, Andersen, Resner & Sawyer, and by the rulings which your Honor has made some months ago when we first [4630] began these proceedings, this document is patently objectionable, and for that reason and the reasons stated, I object to it.

Mr. MacInnis: Your Honor, the special prosecutor——

The Court: The objection is sustained.

Mr. MacInnis: Pardon me, your Honor. The special prosecutor obviously feels that we are trying to inveigh the previous rulings of your Honor.

The Court: There is no occasion to explain it.

Mr. MacInnis: Pardon me, Judge.

The Court: I have sustained the objection.

Mr. MacInnis: I have all of the cases on this point, and the law is unanimous that where a defendant is accused of fraud, he may place before the court and jury all of the reasons for the activity in which he is alleged to have been engaged.

The Court: I anticipated that. The objection is sustained.

Mr. MacInnis: Well, now, this matter, if I may say, with all respect to your Honor, is not one in which I wish to incur your disrespect by persisting, but it is important enough to ask that we be al-

(Testimony of Henry Schmidt.)

lowed a few minutes for the presentation of authorities, and I would like very much to do that: I am sure that you would be willing to listen. When we have that request granted, I am prepared to submit the authorities to your Honor at once. [4631]

The Court: You can submit them in writing. Do you have them in writing?

Mr. MacInnis: I have them in writing, but I would like to argue it orally as well.

The Court: I can read them over the night period. I am satisfied that my ruling will be the same. I am more or less familiar——

Mr. MacInnis: I am satisfied that all the cases, including the cases of our Supreme Court and Circuit Court of appeals, hold that it would be prejudicial error to refuse to admit this document into evidence. That is what the cases hold.

The Court: I am willing to rest on my ruling.

Mr. MacInnis: Despite your assertion, is your Honor going to refuse to allow me to present the matter?

The Court: I am willing to hear argument. I am willing to take your memorandum. If you desire to argue the matter now orally, I would be happy to hear it.

Mr. MacInnis: That is what I would like to do.

The Court: All right. We will take the recess, ladies and gentlemen of the jury.

Mr. Hallinan: Might we have a moment, if your Honor please?

The Court: Yes.

The jurors may recess. I will hear oral argument.

Mr. MacInnis: I have one question first by way of [4632] foundation.

May I pass this to the witness?

The Court: Yes.

Q. (By Mr. MacInnis): Mr. Schmidt, having in your hand Defendants' Exhibit No. B for identification, being the opinion of the Supreme Court of the United States, will you tell us whether or not that is the document you read when you made that reference in your testimony?

Mr. Donohue: I object to the question, if your Honor please.

Mr. MacInnis: Merely to identify it, your Honor.

Mr. Donohue: You mean that particular document which he has in his hand now, or——

Mr. MacInnis: Or a facsimile of it.

Mr. Donohue: I object to the question, if your Honor please.

The Court: You may answer.

A. I read this document or another document which contains the same information.

Q. (By Mr. MacInnis): Did you read the entire opinion of the Supreme Court?

A. I read it again in its entirety a few weeks ago, and as I was reading it I recalled that I read it several years ago.

Q. Did you read the majority opinion of the Supreme Court of the United States in that matter? [4633] A. Yes.

(Testimony of Henry Schmidt.)

Mr. Donohue: I object, if your Honor please. He said he read it entirely; he read it all.

The Court: Sustained.

Mr. MacInnis: Well, now, your Honor, I have this thought: In reference to the argument which your Honor says we may have in the absence of the jury, we have a witness coming at three, and if we might proceed until three——

The Court: Certainly.

Mr. MacInnis: We could then put the witness on the stand, and then we could have the discussion of the legal authorities, if that would be acceptable to you.

The Court: That is agreeable.

Q. (By Mr. MacInnis): Now, Mr. Schmidt, did you ever at any time become possessed of the notion that you had done something wrong in aiding Harry Bridges to obtain citizenship in this country?

A. It never occurred to me and I never gave the matter any more thought until one day in Honolulu last year some of my fellow workers told me that the Marshal was looking for me.

Q. And what information was then brought to you?

Mr. Donohue: I object, if your Honor please. What difference does it make what information was brought to him?

Mr. MacInnis: He is accused of fraud, your Honor. All of the matters involving his intention—— [4634]

Mr. Donohue: This is long after the fraud was committed, if your Honor please.

Mr. MacInnis: I think, your Honor, that an absence of any guilty knowledge either before, during or after the event would be proper evidence.

The Court: You might answer.

A. You mean I should explain how it came about?

Mr. MacInnis: Yes. His Honor says you may answer.

A. Well, I was in Honolulu at the time, and on this particular day I recall very clearly that I was visiting with the superintendent of the Queens Hospital in Honolulu. There was a longshore strike on and there were articles appearing in the paper that there was a great shortage of medicinal supplies in that hospital. I went there to ask the superintendent if the reports were true and he indicated that there was a shortage, and I told him I would see what could be done to discharge medicinal supplies out of one of the strikebound vessels. And as I left the hospital a longshoreman came along in an automobile and he said, "You better come to the office, because there is a rumor around that you are to be arrested."

So I returned to our headquarters and called on our ILWU attorneys there, and then I heard about the indictment. I telephoned——

Q. What were you doing in Hawaii at that time?

A. I was there for about six months, beginning with May 2 or 3, [4635] and I was—I was attempting to give the strike committee ~~and the~~ membership of that union there a hand with the strike.

Q. At the time you were indicted you were engaged in the prosecution of the Hawaiian strike, is that correct?

A. That is right. I acted as advisor to the membership there and the strike committee.

Q. Well, now, Mr. Schmidt, following your own activities through the years, following those concerning which you have spoken, was there a time in the recent war at which you left the employ of the union and took up some other occupation?

A. Well, it didn't amount to my leaving the employ of the union, although that may be almost a correct statement. I began to work for the Pacific Coast Maritime Industrial Board, which was an agency established by Admiral Emory Land, who was the administrator of the War Shipping Administration. I received a telegram from that gentleman advising me—asking me if I would act, in the beginning, as an alternate member representing the union on that maritime board. I answered his wire in the affirmative. And then some time later I was appointed as a permanent member, due to the fact that another man by the name of James Corley had resigned as a permanent member; me being the alternate, I followed in his footsteps.

Q. What was the nature of your work with that board?

A. First I would have to explain what the job of the board was. [4636]

Q. Yes.

A. The board was an adjunct to the War Shipping Administration, and the order that created the board said in so many words that it should be the job of the board to attempt to expedite the movement of cargoes through the Pacific Coast ports, in the furtherance of the war effort. And in connection with that we tried to do the best we could under the circumstances.

Q. For what period of time did you serve as a member of the Pacific Coast Maritime Board?

A. I can't recall the year, but it was shortly after the war started that the assignment came down, and I served until the war ended,—several years.

Q. Do you have any recollection as to the date on which your appointment terminated?

A. Well, I think it was after V-E Day.

Q. I will show you, if I may, to refresh your memory, a copy of a letter signed by yourself addressed to Admiral Emory S. Land, and ask you if this refreshes your memory as to the circumstance of your leaving that board.

A. Yes, sir. This is a copy of a letter that I wrote to Admiral Land on advice of the chairman of the board, and that was Mr. Paul Eliel. He said to the members of the board that inasmuch as the war had ended, the board would wind up its affairs and the members thereof would be required to resign. And this is the letter that I then wrote to

(Testimony of Henry Schmidt.)

Admiral Land, and [4637] it is dated December 11, 1945.

Q. Is that a true office copy of the letter you sent to Admiral Land?

A. It appears to be such.

Q. And do you remember whether or not the original was actually mailed to Admiral Land?

A. Oh, yes.

Mr. MacInnis: We offer the letter into evidence, your Honor.

Mr. Donohue: I object to it, if your Honor please, except for the purpose of showing the day on which he left the Pacific Coast Maritime Industry Board; otherwise it is just self-serving, self-praise.

The Court: Objection sustained.

Mr. MacInnis: I think, your Honor, that the unfortunate comment of the special prosecutor should be stricken from the record. It isn't a letter of self-praise at all; it is just a letter of resignation. If the contents are not to be before the jury, your Honor should instruct the jury to disregard the remark of the special prosecutor.

Mr. Donohue: I withdraw my objection to its introduction.

The Court: The objection is sustained.

Mr. MacInnis: Pardon me. He withdrew the objection.

The Court: The objection is withdrawn; it may be received.

(The letter was marked Defendants' Exhibit V-2 in evidence.) [4638]

Q. (By Mr. MacInnis): Who is the man named Paul Eliel whom you mentioned a moment ago?

A. Mr. Eliel is a professor. I don't know just what his particular branch is. I recall he had connections with the Stanford University. He presently has offices down in the financial district, and, as I stated a while ago, he was the chairman of this five-man board, and he represented the Government. Mr. Cole Jackman and I represented the ILWU; Mr. Frank Foisie and Mr. Frank Gregory represented the Waterfront Employers of the Pacific Coast; and the job of the board was, as I stated a while ago, to expedite cargo movements specifically in the longshore branch, and that we attempted to do. And we were constantly traveling up and down the coast, had conferences with the several employers' associations in the coast ports and also contacted the unions in connection with this job, and I recall among other things that on one occasion we had a rather lengthy conference with the Russian Purchasing Commission in Portland, Oregon, and among those present I believe was an admiral of the Red fleet. I don't know whether that was a Communist meeting or not. I am satisfied that the admiral was a member of the Russian Communist Party. The reason that the Soviet Purchasing Commission was located in that port, I suppose, was because of the cargo movements that

(Testimony of Henry Schmidt.)

had to do with the transport of goods to the Pacific Coast ports of Russia which were handled through the Port of Portland. [4639]

Q. Was the man named Paul Eliel whom you mentioned the man who recommended you to Admiral Land for service upon the Pacific Coast Maritime Board?

A. I think both he and Senator Wayne Morse of Oregon did that.

Q. What was the approximate date when you went into service with the Pacific Coast Maritime Board?

A. Well, I think it was shortly after we entered the war. I recall that I was working on the waterfront and Cole Jackman coming down to the ship to contact me. We were working on a Dutch vessel and we were discharging bales of rubber. And as to the date, I can't name it; I think it was early in the year, February or March, it seems to me.

Q. Early in 1942? A. That could be it.

Q. Well, now, was there any occasion in the year 1942 in the month of August when it became necessary for Paul Eliel to write a letter referring to you and addressed to the United State Immigration and Naturalization Service at Washington?

Mr. Donohue: I object to that question, if your Honor please. I don't know this man, but if he is going to testify by a letter, I object to it. If they want to bring this man in here and give us a chance to cross-examine him, I have no objection.

The Court: May I see the letter? [4640]

(Testimony of Henry Schmidt.)

Mr. MacInnis: Yes, your Honor. I might say that this letter, since it was received by the Naturalization and Immigration Service, might well be admitted into evidence as an admission against the Government in this case.

Mr. Donohue: In the light of that statement, if your Honor please, I withdraw my objection and ask him to read the letter to the jury.

The Court: Are you going to produce Mr. Eliel in court?

Mr. MacInnis: I hadn't thought of doing so.

Mr. Donohue: That is the usual way, if you want to introduce character witnesses, to produce a man and let us cross-examine him.

Mr. MacInnis: The special prosecutor has withdrawn his objection, your Honor.

Mr. Donohue: I might just as well, because you are going to tell the jury what is in the letter. You might as well read it all in.

Mr. MacInnis: Thank you. This letter, with the kind permission of the special prosecutor, reads as follows:

Heading: "United States War Shipping Administration. Pacific Coast Maritime Industry Board. 200 Bush Street, San Francisco, California, August 26, 1942.

"United States Immigration and Naturalization Service, Washington, D. C.

"Gentlemen:

"Please be advised that I have known Henry Schmidt for [4641] a number of years, and that dur-

(Testimony of Henry Schmidt.

ing the last six months I have been in peculiarly close contact with him as chairman of this board of which Mr. Schmidt is a member.

"I can say without the slightest reservation that I have the highest respect for his integrity and ability, and have no reservation whatever as to his complete and unfaltering loyalty to the Government of the United States.

"Very truly yours,
"PAUL ELIEL,
"Chairman, Pacific Coast Maritime Industry Board."

Q. Now, Mr. Schmidt, the man named Paul Eliel was a man who had some connection with the strike of 1934, was he not?

A. Yes, he was employed by the Industrial Association of San Francisco, but I can't recall in what capacity.

Q. What was the Industrial Association of San Francisco?

A. It was an organization of employers.

Q. So that the man who wrote the letter which I have just now read was a man who was a member of the employers' group in the 1934 strike?

A. That's right.

Mr. MacInnis: May we substitute a photostat for the original, your Honor, and offer it into evidence?

The Court: So ordered.

The Clerk: Marked Defendants' W-2.

(Copy of letter was marked Defendants' Exhibit W-2 in [4642] evidence.)

Q. (By Mr. MacInnis): Now, Mr. Schmidt, sometime after you left the Pacific Coast Martime Board, the war having been over as a practical matter, did you make any application for any post with any phase of the United Nations?

A. Yes. Shortly thereafter or about that time.

The Court: Could we interrupt the examination at this time? Is the witness available that you spoke of?

Mr. MacInnis: May I call him? Is Robert Kenny available?

The Court: Mr. Schmidt, do you mind stepping down?

The Witness: No.

Mr. MacInnis: Thank you, Judge.

The Court: Then we will have the recess period immediately after this witness, or perhaps I think the jury would like to recess at this time.

Mr. MacInnis: All right.

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition not to discuss the case under any conditions or form or express an opinion until the matter is submitted to you.

(Recess.) [4643]

Mr. MacInnis: Your Honor, the other witness will not be available until 10:00 in the morning, so I will finish with Mr. Schmidt.

Q. I think I was asking you this, Mr. Schmidt,

(Testimony of Henry Schmidt.

when a recess was suggested: After you resigned from the Pacific Coast Maritime Board, did you make any application for any position or post with the United Nations Relief?

A. Yes, I attempted to secure employment with UNRRA; United Nations Relief and Rehabilitation Administration is the full and complete title.

Q. Did you actually receive your appointment with that body?

A. Well, after some negotiations, as I recall it, I called at two places, first at an office on the lower end of Sutter Street, and then later on I had a conference with a Dr. Friedlander in Berkeley, following that I was required to take a physical examination in the Government Building on Sansome Street. I passed that examination, and then some time thereafter I received—I think following that I filled out an application blank, and then some time thereafter I received a telegram from the UNRRA office in Washington advising me to report to their Washington office in 24 to 36 hours.

Q. Did you actually accept the post with that body?

A. No, I discussed the situation with Bridges and we talked about the job that I would probably get which had to do with the displaced persons in Europe. To make a long story short, he [4644] talked me out of it. He pointed out that I was holding an elective job with the union, that my term had not expired, and that I ought to stay with the union, and that I could do fairly good work here.

(Testimony of Henry Schmidt.

Q. And so he persuaded you to stay in San Francisco? A. That is right.

Q. What post or office, if any, do you hold now with the ILWU?

A. My title is international representative.

Q. Mr. Schmidt, what was the nature and extent of your formal education?

A. Well, Mr. MacInnis, it amounts to practically nothing. As I testified earlier, my father brought me to this country when I was a little older than 11, and I went to school in Germany for a little while. I went to school in The Netherlands for a little while. And that is all the schooling I have had.

Q. You never returned to school after you came to this continent?

A. After we arrived in Canada, I secured a job on a farm. The Canadian Immigration Service also operated an employment service for immigrants to be placed on farms, and on my twelfth birthday I arrived on a farm in Canada.

Q. Isn't it a fact, then, that you have been working ever since you were twelve years of age?

A. Yes, sir, I have worked with my hands for over a quarter of a century. [4645]

Q. And you did not continue any formal education after 1917 when you came here to San Francisco?

A. I have never seen the inside of a school building, either here or in Canada.

Mr. MacInnis: That is all. Your Honor, in view of the matter which Your Honor has consented to hear, I would suggest that we take the adjournment so far as the members of the jury are concerned now.

The Court: Have you finished with the witness?

Mr. MacInnis: Yes.

The Court: Mr. Donohue may take up the examination in the morning of this witness.

Mr. Donohue: Yes, your Honor.

The Court: And then you will have a character witness in the morning, Mr. MacInnis?

Mr. MacInnis: Yes.

The Court: Ladies and gentlemen of the jury, we will take the afternoon adjournment. The same admonition to you not to discuss the case under any conditions or to form or express an opinion on the matter until it is submitted to you. You may now retire.

(Thereupon the jury retired from the courtroom and the following proceedings were had in the absence of the jury:)

Mr. MacInnis: Now, your Honor——

The Court: One moment, Mr. MacInnis. To the end that you [4646] may not think that my view on the matter was one born immediately upon your assertion to me of the principle you now espouse, I desire to tell you that in your instructions I read the Hyde case, the Miller case and the several other cases upon which you relied. It was for that reason I told you then and now reassert, I cannot see the theory upon which the Supreme Court decision would be admissible as forming a basis in connection with any matters, extraneous or otherwise, that these gentlemen may have relied upon.

Now, the Hyde case was a matter involving banking, president, vice president; the Miller case, and so forth, all upon conversations had with other people and circumstances upon which reliance might be placed. So we may start with that general understanding.

Mr. MacInnis: I would like to make this presentation, Judge, as frankly and as fully as possible.

The Court: I give you that merely so that you have a starting point.

Mr. Hallinan: I wonder if it would be all right if I left at this moment.

The Court: Certainly.

Mr. Donohue: I wonder if Mr. MacInnis has prepared a written memorandum, and if he has, if we might have a copy of it.

Mr. MacInnis: Yes, I have a copy to give the prosecutor. As I say, I would not want your Honor to have the impression in [4647] advance that we are merely trying to evade some ruling previously made, although that may appear to be the case. It is not a matter that if one route does not succeed, try something else, because this route for the introduction into evidence of the Supreme Court report has been in our minds since the start of the case and has always existed, without dispute so far as I was concerned, upon the introduction of evidence.

Now, here is a situation that I fear has fallen upon us without any reflection on any person, and I can give your Honor one or two illustrations.

It is fundamental, and we would all agree, that a matter may be inadmissible in evidence totally from one perspective and yet it may be admissible from another, and the Court on many occasions has taken that position in this case. Matters were mentioned at the start of the case, and they appeared at the outset to be wholly extraneous, and indeed, since your Honor naturally had not studied all the ramifications of evidence which he had not yet seen, it would have been hard to see how your Honor could have, without complete disclosure, perceived the relevancy of certain things. Now, I have in mind this: At the start of the case, there was some mention made about the 1934 strike and its having to do with the matters of evidence in this case. Your Honor used these words, and I think very properly. Your Honor said:

> "I do not want to be prophetic, but at this time I want you [4648] gentlemen on both sides to understand that we are not trying a labor dispute here. We have certain issues in the case and I think we should follow those issues."

Now, obviously, your Honor could not have seen at that time the relevancy of the 1934 strike. That was during an opening statement being made by Mr. Hallinan. But then, with the first major prosecution witness, a man named John Schomaker and the man who followed him, Mr. Henry Schrimpt, it at once became apparent that there could be no discussion of many matters in connection with the charges involved, against defendant Bridges particularly, without some intrusions into the matter of the strike. Then there were many other matters that came up that were, and I think very properly at first the Court said, "I can not see how that matter is relevant to this case."

For instance, there was a charge of wire-tapping made in one of the opening statements and your Honor said, "I am trusting that no evidence in this case will be introduced based upon wire-tapping and hence I am going to instruct the jury to disregard that mention. It is not relevant to this case."

Then we proceeded a little further into the evidence and it developed out of the testimony of one witness that a detailed speech by Harry Bridges upon the issue of wire-tapping very properly came into evidence. Now, of course, your Honor could not have perceived that matter at the outset, and none of the counsel were prepared in their grasp of the case to disclose the [4649] route by which that particular matter might come into the record. Similarly, before the witness Schomaker left the stand there was developed out of the lips of that witness the story of some other wire-tapping up in Portland. So there are many instances which I suppose your Honor encounters in any bitterly contested trial where certain items of evidence coming before you unadorned, without any explanation, may seem to you as foreign to the particular case as any subject matter can be.

So it was with the matter at hand. Now, the matter at hand has become something that has evoked, to say the least, many discussions. I remember in the selection of the trial jury I mentioned the Supreme Court decision in this matter for the first time, and there was an objection, and everyone took the position that the Supreme Court decision was not a matter which could properly find its way into this case. There were some attempts made, first upon the cross-examination of the witness Garner, a route which we believed proper to a certain extent at the time, to bring the matter into the record, since the witness had evinced a certain familiarity with portions of the decision. Your Honor in his discretion ruled we could not cross-examine the witness on that point, and with that ruling we are not making any quarrel. But all the time, underlying every mention of the Supreme Court report, always there was the purpose that we now have in mind:

The two defendants, Schmidt and Robertson, who are charged [4650] with fraud, obviously had some time to take the stand and testify what they did, what they believed, what the truth was, what their opinions were, and what, if anything, underlay everything they said in this case. So, as I say, we always believed there was a legitimate and a proper route by which the opinion of the Supreme Court of the United States might come before the Court and jury.

Now; this afternoon when I made the last offer of this same document into evidence, the special prosecutor made what was to me an interesting remark. He said: "I only wish that the law permitted such evidence to be introduced in this case." Well, of course, if he really felt that way the cases which your Honor has already reviewed would confer upon you at least a discretion. Your Honor apparently is of the opinion that those decisions are not mandatory upon you in this kind of endeavor, but the special prosecutor in this case takes the position in this case that he wishes that there was some state of the law by which this decision could come before the Court and jury.

Again, I think almost insensibly, almost all of us have allowed our minds to be surrounded by certain taboos in the matter of this Supreme Court decision. There were unfortunate incidents in this trial that I can recall very vividly, and those unfortunate incidents have left their marks upon the thinking of all of us. They have upon me. I think they have [4651] probably upon your Honor, and they may well have upon the prosecutor. So vivid was the original impression in this case that the defense was trying to bootleg into evidence some improper and extraneous matter, that I fear that it is difficult to abstract that original impression from the offer of evidence which we now make, and there are other matters which surround the whole undertaking. In this case the prosecutors, of course, so appointed by our Government—and we have the very strange situation of the Government of the United States, represented by these special prosecutors, zealously striving from the outset of this matter to keep out of evidence and away from the ears of the jury the recitals of our last court of resort. I am not speaking on this occasion from the perspective of the other matters which have been argued. Mr. Donohue said to you all of these things had been argued out before. I say to you that they have not. I say to you that there is not a line in the record, there is not a hint or a suggestion upon any of the other mentionings of this subject matter which has to do with the purpose of this offer. The original argument had before your Honor was on the matter of double jeopardy. Your Honor very properly ruled against that particular defense. I do not think it has anything to do with the particular case. The matter came up in a different shade of perspective upon the argument on the doctrine of res ajudicata. That, we thought, did have a relevancy from the phase of law alone, unconnected with the facts of the [4652] case, but now we come before you with this proposition.

The Court: Mr. Cleary argued that.

Mr. MacInnis: Yes, your Honor. We come before you now. Forget everything that was offered before. Forget that we had some words over the intrusion of this document into evidence. Forget that possibly at one or two times an improper effort was made to exploit the contents of the document in this case, and we come to this: The defense is now being presented. Mr. Robertson and Mr. Schmidt are charged in an indictment in rather mysterious language saying in effect that at times and places to the grand jurors unknown and with persons to the grand jurors unknown, they entered into a conspiracy to defraud the United States. Now, that being the case, in everything that they offered you here by way of their own activities, their good faith is in issue, the motives which they may have possessed are in issue in the case, and I say this: Considering the document, which is a decision of the Supreme Court of the United States, it is our law and I have

in this case, and we come to this: The defense is now

not found any case to the contrary, that where defendants are charged with fraud, and particularly with a fraudulent conspiracy, anything upon which they may rely which would show their good faith ought to come before the Court and jury, and that would be true regardless of whether we had here a document of such dignity as the opinion of the Supreme Court of the United States.

Under our law it would not matter if the document upon [4653] which they pretended to rely was a frivolous one or whether or not it contained true statements, because the issue would be that they have a reasonable reliance. Were there such things in that document upon which they might have reached a conclusion that they espoused?

Now, I will very briefly speak to you about a decision which I think I did not cite in the [4653-A] instructions.

This case is one which I think will be of interest to your Honor. It goes a little further upon the same facet or legal theory discussed in the other cases, and it is this: The 1916 decision of Buchanan v. United States as found in Volume 233 Fed. Rep. at page 257. In that case the defendants had been convicted of conspiring to injure or oppress or intimidate the citizens in the free exercise of any right or privilege secured by the laws of the United States, a rather all-embracive kind of statute under which they were charged. The conviction was reversed by our own Circuit Court of Appeals under the facts of the case.

The defendant Buchanan and people claiming title under him had gone upon the land held by a man named Scott and his wife. They entered this land by virtue of an unperfected homestead entry, and when they went in they tore down buildings and improvements and used the land as they wished. When the case came before the trial court certain matters were offered in evidence by the defendants which I will discuss in a moment, and they were excluded. On appeal, the court said this, in effect: that the question involved was, first, whether the intent to interfere with the exercise of the Scotts, husband and wife, of their homestead rights, was a malicious one, or whether the other people under Buchanan believed in good faith that Buchanan was indeed entitled to remove these improvements, and the court said this: [4654]

> "If the belief was entertained in good faith and the intent of Buchanan's helpers was to aid him in the assertion of his supposed title, they did not violate the act of Congress."

In other words, whether they were right or wrong, whether Buchanan in this case had any real title, if these people charged with him entertained and in good faith believed that he owned the land, then they could not be guilty of conspiracy to evade or violate the laws of the United States. So the court went further.

> "Whenever the belief of any person or the motive or intent of his act or conduct is material, he may testify directly what it was." Citing Wigmore on Evidence, Section 581. The case says, "He may also give the grounds of his belief or his motive or intent, including statements of third persons to him."

The trial court had refused to allow the statements of third persons made to the defendants in the case upon the ground that they were hearsay statements, they did not prove anything, they were not binding upon anybody. But the appellate court said this:

> "In the case at bar statements of third persons to the accused which were excluded were not offered as evidence of their truth, but as tending to show the state of mind they produced, and, therefore, they were not within the [4655] rule against hearsay evidence. It was immaterial whether the statements were true or false; the fact that they were made was material."

Now, obviously there would be no difference between an oral statement and a written document, although I will come to that matter with another decision in a moment. In this case it wouldn't matter whether the decision of the Supreme Court was binding upon you in your present endeavors or not. Your Honor has ruled that the decision of the Supreme Court is not binding in our present trial, and we have proceeded along that line. But it wouldn't matter if the decision of the Supreme Court contained facts which were untrue, because if the statements were made, why, the issue should be properly be put before the jury: What were the statements upon which these men relied? Was that a reasonable reliance? Because it would all go to proof of absence of any criminal intent.

Now, as to the matter of written documents as distinguished from the statements of third persons, I would cite to your Honor the decision of Harrison against the United States. That case came out of the Sixth Circuit, and it is found at 200 Fed. Reports at page 662. The defendants in that case were convicted of conspiracy to use the mails to defraud, another kind of charge very similar to the charge brought against the defendants Robertson and Schmidt. The decision was reversed by the Circuit Court of Appeals. [4656]

In the case of the alleged fraudulent matter which they sent through the mails consisted of advertising circulars for an Easy Washer. I imagine that that was one of those inventions and washing machines that preceded the implements we have in homes today. So in any event, these men sent materials through the mail telling what this Easy Washer would do, and it developed that their statements were untrue; that the washer wouldn't do those things at all. Apparently people bought the machines, lost money, and so there was a prosecution and a conviction.

In reversing the conviction, the Circuit Court of Appeals said this:

> "If the highly laudatory statements in the advertising as to the capacity, performance and merits of the washer were made in the belief that they were true, that belief would be a complete defense however inaccurate the statements might turn out to be." [4657]

Now, if we stop there just a moment, if Henry Schmidt and Bob Robertson relied upon their own good intentions and made statements about Harry Bridges, it wouldn't matter at all what the ultimate fact would be in the case. In other words, this is a separate and distinct defense which those two defendants possess in this case. And the Court said this, to continue:

> "To support the claim that he believed what he said, his counsel offered to show that certain testimonial or commendatory letters received in the regular course of business had been shown to him and that those letters contained statements that machine did everything claimed for it."

In other words, this man who was charged with using the mails to defraud by developing or sending out information on this washing machine, had in his possession testimonial letters from other people, and he offered those in evidence as showing his own good faith. The trial court ruled that he couldn't produce or introduce those letters unless he put in all the letters that he received from all sources. So the appellate court said this:

> "This ruling rests on a misapprehension of the ground on which the letters were receivable. If they were in fact laid before respondent as genuine letters and if he believed them so to be and in that belief acted on them, these things bore on his intent; it was not necessary, first, to show that they were signed by the writers or mailed by the writers or that their recitations of fact were true. The [4658] primary question was whether or not Harrison saw those letters and

believed them to be genuine correspondence and on them based his statements."

Now, similarly, where we offer on behalf of the defendant Henry Schmidt at this time the opinion of the Supreme Court of the United States of America which he read and which he says formed part of his thinking in regard to Harry Bridges, he is entitled, not only to show his good faith, but he is entitled to have the benefit of any persuasive language contained in this decision. And upon that score I have another decision of which I will speak in a few moments to your Honor.

I think that the defendants Robertson and Schmidt would obviously, in the ordinary course of life, have had their thinking tempered by this document, since we all know it existed. Now, for example, if somebody says to me, "Is Judge Harris a member of the Communist Party?" Well, I don't know if you are or not. I don't think you are. I say, "I don't think he is; I don't have any proof."

If somebody asks you about me, I would trust that your statement would be somewhat the same. And so it is with everybody concerning everybody else in the ordinary walks of our lives. But not so concerning Harry Bridges, because if you were around, as these men were, and questioned in 1935 right after this decision was uttered by the Supreme Court and you were asked, "Do you know whether Harry Bridges is a member of the [4659] Communist Party" first you would have the background of your own acquaintance with the man and your own thinking, but also there would come into your mind:

"Why, I just read the other day the decision of the highest court in our land, and it says in effect the way I interpret it anyway, that he is not and never has been a Communist. The decision says he has never even been affiliated with the Communist Party in the legal meaning of that phrase."

Then you would say, based on those things, "I can tell you that I believe he is not a member of the Communist Party." And in that respect Harry Bridges would be in a singular position, abstracted from the position of any person you might conjure up as an example.

The other cases seem to follow the same kind of reasoning. In 1917, the decision of Sparks against the United States, which also came out of the Sixth Circuit, being reported in 241 U. S. 777, the case involved six persons who again were charged with conspiracy to use the mails to defraud. All of the convictions in that case were reversed because of the exclusion by the trial court of evidence showing innocent intent. The defendants in that case were officers of a bank which became insolvent. The alleged false matter sent through the mails consisted of semi-anual bank statements.

The Court: You have the memorandum for the Court. I shall read it over during the night period and save you reading it now. [4660]

Mr. MacInnis: Yes.

The Court: As it is running late. It is now after 4:00. I will read it over during the evening period and save you reading it now.

Mr. MacInnis: Yes. May I say one more thing, Judge?

The Court: Yes.

Mr. MacInnis: I just wanted to say this: I don't know if I can find the right words to approach you, but in considering this matter which is of great importance to us, forget about the disputes which arose in connection with this subject matter before. Now, forget, and I am sure you can, about matters and routes which you thought at the time to be improper. Whether we agree with you upon that way of thinking would not be important at all, but in looking at this don't consider it as just one more attempt to get something inflammatory into evidence, because while realistically we know the immense value of the persuasive language of our Supreme Court, we also know that in this particular attempt to introduce the document into evidence, we have nothing but a line of decisions which tell us that we can do so; and if your Honor feels that he is vested with any discretion in this matter, why, I think that that discretion should be resolved in favor of the defense.

We have had all kinds of instances in this case where opinion evidence has come into the record over the objection of one side or another. I am not saying this at the time in a complaining [4661] tone, but your Honor has resolved his discretion on several occasions to allow witnesses against these defendants to state their opinions. Now, you have a matter again offered to your discretion. The defendants testify that they had a certain belief; that they relied upon their own associations with Harry Bridges and their own knowledge of his life, and also that that reliance was culminated and supplemented by a further reliance upon a decision of our Supreme Court.

According to all the case law that I have been able to find, they are entitled not only to state their reasons, but they are entitled to have the persausiveness of such reasons, hearsay though they may be, presented to the jury. And I feel, and I do feel confident that if you will consider this problem abstracted from any bitternesses which have passed between us in the course of this trial—and I mean bitternesses in connection with any attempts to intrude matters into evidence—that you will resolve your discretion in favor of the defense.

The Court: Your observations in that connection are not entirely relevant to the discussion on the law. And I might say parenthetically, without any intention of intruding myself, that all matters of legal suasion have received dispassitonate, careful consideration. When I ruled on the matter of res judicata, I handed down a memorandum written opinion. You have considered that, have you, in the light of this discussion?

Mr. MacInnis: Yes. [4662]

The Court: Mr. Donohue, have you anything to say?

Mr. Donohue: I, of course, if your Honor pleases, listened with interest to what Mr. MacInnis had to say. If there was anything to what he says from the point of view of law—which there isn't—he says this: At the outset, your Honor ruled certain matters not properly admissible and therefore should not be put before the jury. And then he recited three instances in which those very matters were in some measure brought to the attention of the jury by witnesses who were called for the United States, without telling your Honor, because he did not have to, because your Honor knows that all of those matters that were elicited in any measure or to any degree before the jury were elicited by the cross-examination of Mr. Hallinan or Mr. MacInnis. Now that is the question of fact. [4663]

Tuesday, January 31, 1950, 10:00 A.M.

The Clerk: The case of the United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Do you have a witness to call?

Mr. MacInnis: Yes, your Honor. May we call Robert Kenny?

ROBERT W. KENNY

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury, please?

A. Robert W. Kenny, K-e-n-n-y.

Direct Examination

By Mr. MacInnis:

Q. What is your occupation, Mr. Kenny?

A. Lawyer.

Q. What is your residence address?

(Testimony of Robert W. Kenny.)

A. 415 North Rossmoor, Los Angeles.

Q. What is your business address?

A. 215 North Hope, Los Angeles.

Q. For how many years have you been a member of the bar? A. Since 1926.

Q. Additional to your practice in the profession of law, are you on the board of directors of any bank? A. Yes, I am. [4668]

Q. What bank is that?

A. The Citizens Bank in Los Angeles.

Q. And have you in the past held directorships in various corporations in Southern California?

A. Yes, on a brewery and in an oil company.

Q. Have you in years past held public office in the State of California? A. Yes, I have.

Q. Have you been a judge of the Superior Court of the State of California? A. Yes.

Q. During what years did you hold that office?

A. Between 1932 and 1939.

Q. After you left your post as superior judge, did you hold any other office in the State of California?

A. Yes, I was State Senator for four years after that.

Q. And after that, what public office did you hold?

A. And then I was Attorney General from 1943 to 1947.

Q. Your office as Attorney General was in the years 1943 to 1947, is that correct?

A. Correct.

(Testimony of Robert W. Kenny.)

Q. Now, do you know a man named Harry Bridges? A. Yes, I do.

Q. How long has your acquaintanceship with him extended?

A. From, I would say, around 1937 or '38 to the present time. [4669]

Q. And has your acquaintanceship with him been continuous from that date up to the present time? A. Yes.

Q. In addition to your own acquaintanceship with Harry Bridges, have you had occasion to hear his name discussed by other persons in this community or in the State of California?

A. Yes, I have.

Q. Now, from your own knowledge of the man and from such conversations of other persons which may have reached your ears, are you in a position to know what his reputation is at this time for truth, honesty and integrity? A. I believe I am.

Q. What is that reputation? A. Good.

Mr. MacInnis: Thank you.

Cross-Examination

By Mr. Donohue:

Q. How often have you seen Mr. Bridges in the past five years?

A. Oh, twenty times, I would say.

Q. And who are some of the persons who have discussed with you Mr. Bridges' reputation for truth, honesty and integrity?

(Testimony of Robert W. Kenny.)

A. If I may answer it this way: I have been in discussions with persons in which Mr. Bridges' honesty and integrity was discussed. I don't know whether I did the talking or whether they did the talking, but it was a subject of discussion. [4670]

Q. Such persons as——

A. Well, Mr. Justice Rutledge of the United States Supreme Court.

Q. Now deceased?

A. Now deceased. Governor Olson of California; John Gunther, the writer; the various members of the State Senate when I was there; newspaper men and writers who came to California to write of our scene here in California.

Q. Are you, Mr. Kenny, expressing what other persons have said concerning the reputation of Mr. Bridges for truth, veracity and integrity, or are you giving us your personal opinion?

A. Expressing the sense of discussions that I had with other people on that particular trait.

Q. Mr. Kenny, were you correctly quoted in the People's World in the issue of Thursday, December 7, 1939, quote:

> "State Senator Robert W. Kenny said he was acting in the defense of thoroughgoing Americanism by associating himself with the counsel of William Schneidermann, state secretary of the Communist Party."

A. Yes; that counsel was Wendell Willkie, if you remember.

Q. You were associated with Mr. Willkie?

(Testimony of Robert W. Kenny.)

A. I was associated with Mr. Willkie and we won the lawsuit.

Q. As counsel for Mr. Schneidermann, you did not appear in the Supreme Court?

A. I admit I lost in the lower court and Mr. Willkie won in [4671] the Supreme Court.

Q. Are you correctly quoted in the San Francisco Chronicle of Monday, September 23, 1940, stating as follows:

> "Senator Robert W. Kenny, Los Angeles Democrat, waged a lone fight against the legislation to purge the Communist Party in California although he said he opposed any group seeking to overthrow the Government."

A. That is correct. I was—I opposed the bill on the grounds that it was unconstitutional and a year later the Supreme Court of this State unanimously agreed with me and held the bill unconstitutional.

Q. Mr. Kenny, were you a sponsor of the California Labor School and so listed in 1946 and 1947?

A. Well, Mrs. Kenny was—I know Mrs. Kenny made some donations to the California Labor School, and I might have been a sponsor. I rather think if she made the contributions I was the sponsor. [4672]

Q. You knew that the California Labor School was on the list of subversive organizations as listed by the Attorney General of the United States on the revised list of May 1st, 1949?

A. I don't know that. You mean—when I was Attorney General?

(Testimony of Robert W. Kenny.)

Q. Well, were you Attorney General in 1946 and '47? A. Yes, I was Attorney General.

Q. And were you one of the sponsors of the California Labor School at that time?

A. I was, yes.

Q. And were you one of the sponsors of the organization called American Youth for Democracy?

A. I don't know whether I was a sponsor. I have attended various things that were for youth groups and for democracy. I don't recall if I was a sponsor.

Q. Are you familiar with the fact that the American Youth for Democracy is also on the list of subversive organizations as prepared by the Attorney General of the United States?

A. No, I am not.

Q. Mr. Kenny, were you in 1945 a sponsor for the American Committee for Spanish Freedom, headed by Leo Gallagher as chairman?

A. Well, I don't know about who headed it or whether I was in that group, but I have been a supporter of Spanish freedom in one form or another for ever since 1937 and '38, around in there, at the time of the Civil War there.

Q. And did you know that the American Committee for Spanish [4673] Freedom was also on the list of subversive organizations as listed by the United States Attorney General?

A. No, I don't know anything about that list. Is that some court proceeding or something, Mr. Prosecutor?

Q. No, the list of the Attorney General of subversive organizations is the list which is prepared by him pursuant to provision of Part 3, Section 3 of the Executive Order of the President of the United States, No. 9835, which provides that the Department of Justice shall furnish the name of each foreign or domestic organization, association, movement or combination of persons which that Attorney General, after appropriate investigation and determination, designates as totalitarian, Fascist, Communist or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence, to deny others their rights under the Constitution of the United States or as seeking to alter the form of government of the United States by unconstitutional means.

Mr. Kenny, were you affiliated with or a member of the American League for Peace and Democracy?

A. I don't remember such, but I certainly am for peace and democracy. I don't know the league as such.

Q. I can identify the American League for Peace and Democracy as the successor to the American League against War and Fascism, and also the predecessor of the American Peace Mobilization. Does that refresh your recollection as to whether or not you [4674] belonged to that organization?

A. No, I think I was an active member of a group known as the Hollywood Anti-Nazi League, and as I recall it, the American League for Peace and Democracy was a national outgrowth of this Hollywood group.

(Testimony of Robert W. Kenny.)

Q. Were you, Mr. Kenny, listed as a sponsor for a dinner given by the Youth for Democracy, which is the successor to the Young Communists League, at Los Angeles on December 16, 1945, on the occasion of the second anniversary of that organization?

A. Yes, I remember that dinner. I was there with General Evans Carlsen of the Marine Corps.

Q. Now deceased?

A. Now deceased. And Frank Sinatra, now alive.

Q. Mr. Kenny, you appeared as counsel for the ten Hollywood writers who refused to disclose to a Congressional Committee whether or not they were members of the Communist Party?

A. Well, I can't adopt your characterization of that. I did appear for ten Hollywood writers. In fact, I have been attorney for the Screen Writers Guild. I appeared for ten writers who were not given an opportunity by a committee, which I maintain and which the Supreme Court has yet to pass on, were acting unconstitutionally.

Q. They were indicted for their failure to give testimony?

A. Yes, they were indicted, but eight of them have never been convicted and two were, and their cases are now before the United [4675] States Supreme Court.

Q. And the two convicted were the only two tried?

A. And in a federal Court, one of those writers

I obtained a verdict from a jury of $150,000 for damages.

Q. Has that been appealed, Mr. Kenny?

A. That is on appeal, too.

Q. And that hasn't been decided yet either?

A. No.

Q. Mr. Kenny, are you now appearing in this court as counsel for the attorney in fact of the manager of the now People's Republic of China, which controls the Bank of China in Pekin?

A. That's right, for Frederick Field, who—I am appearing—two factions of the Bank of China, and I am appearing for those who claim to be the depositors under the new faction.

Q. In other words, under the new Communistically controlled Bank of China, you appear as counsel for the designated attorney in fact for the manager?

A. Well, it is government controlled, two-thirds. 600,000 shares outstanding of fact, 400,000 are government held and 200,000 belong to private parties.

Q. And you are personal counsel for Mr. Hallinan in a proceeding now pending in the Ninth Circuit Court of Appeals? A. That's correct.

Mr. Donohue: I have no further questions, your Honor. [4676]

Redirect Examination

By Mr. MacInnis:

Q. What is that proceeding, Mr. Kenny, in which you appear as counsel for Mr. Hallinan?

A. That is an appeal from a judgment of contempt.

Q. Had in this court?

A. Had in this court here, yes.

Q. And rendered in the present trial in which we are now engaged? A. That is correct.

Q. Now, Mr. Kenny, in view of the multitude of questions put to you by the special prosecutor, let me ask you this: Have you ever been a member of the Communist Party?

A. No, I have never been a member of the Communist Party. I have been accused of being a Republican on occasions. I am a Democrat.

Q. Well, now, in respect of these organizations to which reference was made by the special prosecutor who told you that the organizations were on the so-called subversive list of the Attorney General, did you know, Mr. Kenny, that practically every charitable or humanitarian organization, outside of the Community Chest and the March of Dimes, has been named at one time or another by the subversive activities list of the Attorney General?

Mr. Donohue: I not only object to the question, if your Honor please, but I object seriously on behalf of the Attorney General of the United States as to the imputation contained in [4677] the question that the Attorney General of the United States in the exercise of his high office would put charitable organizations on a subversive list.

Mr. MacInnis: Well, now, your Honor——

(Testimony of Robert W. Kenny.)

The Court: Objection is sustained.

Mr. MacInnis: Well, now, pardon me, Judge. We haven't objected to these questions although they were highly objectionable.

Mr. Donohue: Why didn't you?

Mr. MacInnis: These questions are much like the new rule of impeachment which the special prosecutor invented the other day when he said to a witness, "When in 1946 did you go to Soviet Russia?", knowing that there was no such evidence and knowing that the man had never been to Soviet Russia. Now, these questions are not impeaching of anything. The special prosecutor arises before us, he has a document which is hearsay so far as this record is concerned, and witnesses come here and are confronted with the question, "Are you the man mentioned in a certain report?" In one instance the Rev. Edward Peet of Mill Valley came here and we find that there is no such document as the one referred to by counsel in his question to that man.

Now, I have in my hand a volume published by the United States Government concerning the so-called subversive organizations. It is 144 pages long, there are about six to eight organizations listed on every page, and most of the organizations [4678] of most innocuous names. Almost anything with the word "American" in front of it is apparently subversive. American Friends of the Chinese People, American Friends of the Mexican People, American Friends of the Spanish People,

(Testimony of Robert W. Kenny.)
American Friends of Czechoslovakia, American Federation for Political Unity, American-Croation Congress, American Council for Democratic Greece, American Council on Soviet Relations, American Committee for Jugoslav Relief, American Committee for Struggle Against War. Why, I could go on—it would take an hour to read these names. Yet every person who comes here in the perspective of this special prosecutor is to have his integrity impugned because some organization has run afoul of a general policy of the Attorney General, and because some man in the exercise of his own generosity has sent $10.00 for Jugoslav relief after he is shown a pamphlet of some starving children, or if he has sent $10.00 to some league to abolish war.

Now, that is the situation in which we find ourselves on these so-called impeaching questions. The questions are asked without protest, because we want the record to be complete. We don't want to be in the position of pretending to hide things, and we are not going to make the objections. But then, when we put a characterization on the question and bring out the fact about the so-called subversive activity lists, then we are criticized and an objection is made to your Honor. Why, this counsel well knows that the list of persons named by the [4679] Un-American Activities Committee would include Dean Acheson, the Secretary of State, would include the late Franklin Roosevelt himself, would include some of the greatest human beings who are citizens of our country; and yet it is apparently

(Testimony of Robert W. Kenny.)

allowed as proper impeachment. Now, that is the whole purpose of the questions which I had in mind.

Mr. Donohue: If it please your Honor, I shall be glad to hand counsel a copy of the subversive organizations, the revised list of May 1, 1949, and if he doubts its authenticity, I will be glad to have it properly certified in Washington and forwarded to him.

Mr. MacInnis: It will probably contain some additions to this list. My copy, of course, was only published in December, 1948. I can well imagine that there are many other organizations added. But that is not a form of evidence and your Honor has repeatedly espoused the ruling that there can be no guilt by association in this court, and your Honor has repeatedly espoused the ruling that hearsay testimony may not be used to impugn any witness.

The Court: Any further questions of Mr. Kenny?

Mr. MacInnis: Let me see. Yes, I think so.

Q. Now, Mr. Kenny, in view of the colloquy which has ensued and the questions of the prosecutor and the attitude evidenced by the prosecutor, let me ask you this: Have you any interest in coming here other than to tell the truth? [4680]

A. No, I haven't.

Q. And have you told the truth in this matter to the best of your ability? A. Yes, I have.

Q. And did you believe when you placed your name either in membership or in sponsorship in any of the organizations which are now mentioned by the special prosecutor, that you were doing something disloyal to your country?

A. No, I didn't. I don't think so today. [4681]

Q. Have you done anything in any of the activities that have been brought out today and mentioned by the prosecutor which you feel in the slightest degree will reflect upon your integrity as an American citizen? A. No, I don't.

Mr. MacInnis: Thank you.

Recross-Examination

By Mr. Donohue:

Q. May I ask you, Mr. Kenny, does the Western Worker of December 16, 1937, correctly state that you were scheduled to appear at a Mooney-Billings mass meeting in Los Angeles on the 17th of December, 1937?

A. Well, it could be. I made—when I was Superior Judge I made several speeches for Tom Mooney with his attorney, George Davis, and we spoke in San Pedro, I remember, and I remember once we spoke on Santa Monica Boulevard. I remember that because the streetcar kept going by and heckling me and I couldn't get my speech over very well. That is true; it is around that time.

Q. Does the People's World of November 28, 1938, recite the fact correctly when it states that you were a sponsor of the People's World, $60,000 sustaining drive?

A. No, that is not correct. That was brought out, and a great issue was made of that when I was running for Attorney General in 1942, and it simply was not so. I think they said that I had a meeting in my home or something like that, but that was the big issue in my campaign in '42, and I won by a margin of [4682] 400,000 votes.

Q. Mr. Kenny, does the People's World correctly state on January 25, 1945, that in a letter to President Roosevelt and Attorney General Biddle you asked that the deportation proceedings against Harry Bridges be immediately dismissed?

A. That is correct.

Q. On the 12th of October, 1946, as quoted in the San Francisco Chronicle, did you send a wire to Dave Jenkins, then head of the California Labor School, in this language: "Nothing in this so-called fact-finding committee can shake my faith in the integrity of the school"?

A. That is right. Dave Jenkins, I believe, was before some congressional committee, and he defied them in some way, and they threatened him with contempt. And he apparently was right, because he never was prosecuted for contempt.

Q. On the 1st day of May, 1947, in both the San Francisco Chronicle and the San Francisco Examiner a statement appeared that you had been named by Pravda as one of the Russian-American Friends. Were you so named by Pravda?

A. I don't think so. I never saw it. I am not a subscriber to Pravda.

Mr. Donohue: No further questions.

(Testimony of Robert W. Kenny.)

Further Redirect Examination

By Mr. MacInnis:

Q. Do you read Russian, Mr. Kenny?

A. Not very well. I think I can read "vodka"; that is the [4683] only word I am familiar with.

Q. With reference to this California Labor School, which seems to interest the special prosecutor, did you know that one of the sponsors of the California Labor School, who was also listed as subversive because of that fact, was Mr. Frederick Koster of the National Association of Manufacturers, who was president of the Chamber of Commerce in San Francisco, and also president of the State Chamber of Commerce in another year?

A. Well, I didn't, I am sorry.

Q. Now, with reference to the letter that you signed addressed to the President concerning the previous Harry Bridges case, word of that letter was published in all of the daily papers, although the special prosecutor has chosen to read the item from the People's World; is that correct, according to your understanding?

A. I didn't think I was that important, that it was published at all. I know that I joined several hundred people in a telegram at that time, but I didn't know that I got particular attention.

Q. And what was your reason for signing the letter asking that the proceedings against Harry Bridges be dropped?

A. Well, I thought he had been pushed around

(Testimony of Robert W. Kenny.)

because he was an honest labor leader who wouldn't be bought out by anybody, who was incorruptible, and because he had not sold out his people at any time he was being pushed around, and I wanted to [4684] get that word to President Roosevelt.

Q. That was your thought in signing the letter asking that the proceedings be dropped?

A. That's right.

Q. The special prosecutor also asked you if you spoke at some Mooney-Billings luncheon headed by Mr. George Davis, Mooney's attorney. Do you know that Mr. George Davis is the same George Davis who was the Northern California manager for President Truman's campaign in the last election?

A. That's right.

Q. Now, in all of the matters which have been brought to your attention, and in many of the trials in which you have taken part as a defense counsel in recent years, have you attempted to be a champion of the oppressed?

A. Well, I think so. I have also pros cuted cases I thought I was trying to champion the oppressed.

Q. You handled the prosecutions, of course, in the name of the State of California during the four years in which you were the Attorney General of this State, is that correct? A. That is correct.

Q. Now, in any of those instances did you feel that you were doing anything that was a sign of disloyalty to the principles of our Constitution?

A. Well, no.

Q. The special prosecutor has offered a criticism in that you [4685] are the attorney for Vincent Hallinan?

Mr. Donohue: I didn't offer that in the spirit of criticism; I just asked him the question.

Mr. MacInnis: Why did you bring it up, then?

Q. Now, Mr. Kenny, that is an appeal from a judgment of contempt and sentence of six months imposed upon a member of our bar during the course of a trial, is that correct?

A. That's right.

Q. And you are appearing in that matter in the exercise of the freedom of advocacy on the part of this lawyer as well as all lawyers, is that correct?

A. Yes, that's right.

Mr. MacInnis: That is all.

Mr. Donohue: I have no further questions, your Honor.

The Court: You are excused.

The Witness: Thank you, Judge.

Mr. Hallinan: I would like to ask Mr. Kenny a question while he is here, if you don't mind, Mr. Kenny.

Q. Just one point: On your kindly and courageous offer to appear for me in the proceedings that have been instituted against me, in order to make the matter perfectly clear, for conduct alleged to have been contemptuous on my part in the first week of this trial I have been sentenced to six months' imprisonment and disbarment; that is your understanding, isn't that correct? [4686]

A. That is right.

Q. And that is the matter that you have come forward and have offered to appear and are now conducting the appeal in the Circuit Court of Appeals of this District, is that correct?

A. That is right.

Mr. Hallinan: Thank you.

Mr. Donohue: I have no questions, your Honor.

The Court: Mr. Kenny, you are excused.

HENRY SCHMIDT

resumed.

Cross-Examination

By Mr. Donohue:

Q. Mr. Schmidt, you have Americanized your name, too, have you not? A. No, sir.

Q. Wasn't your name before you reached Canada Heinrich Schmidt?

A. Oh, yes, the name Henry was spelled differently in the old country.

Q. How old were you when you left Germany?

A. Well, I guess I was almost twelve.

Q. And you left Canada when?

A. I came to Minneapolis in 1915, so that would mean sixteen years of age.

Q. Canada was at war when you left there in 1915, was it not, or when you reached there in 1915?

A. I didn't reach there in 1915. [4687]

Q. When you left there, then?

A. Canada was at war, yes.

Q. And the United States wasn't at war when you came to the United States in 1915?

(Testimony of Henry Schmidt.

A. No, the United States didn't go to war until 1917, I believe.

Q. Were you in the military service during the first World War? A. In this country?

Q. Yes. A. No, sir.

Q. During the last war you served with the Maritime Commission that you told us about yesterday? A. No, sir, that isn't the right name.

Q. What is the right name, Mr. Schmidt?

A. The right name is Pacific Coast Maritime Industry Board.

Q. At the time you served with that board the United States was at war? A. Oh, yes.

Q. And at that time Soviet Russia was an ally of the United States, was it not?

A. Yes, I think so.

Q. Don't you know so, sir?

A. Well, I am trying to fix the date. I would say yes.

Q. You were interested in the war effort, you stated? A. Oh, yes. [4688]

Q. ——yesterday, in your employment with the Pacific Coast Maritime Industry Board?

A. Unquestionably.

Q. It wasn't an imperialistic war then, was it, sir? A. It wasn't an imperialistic war?

Q. Yes.

A. I wasn't interested in that phase at all.

Q. At any time did you call the second World War in Europe an imperialistic war?

(Testimony of Henry Schmidt.

A. I don't think so.

Q. Aren't you one of those who spoke on the subject that "The Yanks were not coming"?

A. I don't think so. I am pretty sure that I didn't speak anywhere on the subject that "The Yanks are not coming." As a matter of fact, I was opposed to that kind of thinking.

Q. You are sure you never spoke on the subject "The Yanks are not coming"?

A. Yes, very sure.

Q. Was this a full-time job you had with the Pacific Coast Maritime Industry Board, or were you also engaged otherwise in your labor activities?

A. The answer is both, but that requires some explaining. The message that we received from Admiral Land was to the effect that we were to be paid on a per diem for each day that we would serve on the board. And in the beginning we didn't serve each [4689] day, and on those days on which we did not serve on the board, we carried on our regular union duties as members of the Pacific Coast—as members of the ILWU Coast Labor Relations Committee.

Q. Do you recall how much compensation you received in 1943 for your services on this board?

A. No, I don't recall the exact sum; I imagine it was around somewhere between $5,000 and $6,000.

Q. And do you recall what compensation you received in 1944?

A. Approximately the same sum, I think.

Q. Are you able to tell us what your income was

(Testimony of Henry Schmidt.)

during either or both of those years from your labor activities?

A. No, not from memory. I would have to go to our office and check. I would add this, though, that whenever we were on the payroll of the Pacific Coast Maritime Industry Board, we received no pay from the union, and vice versa.

Q. Directing your attention, Mr. Schmidt, for the moment to your testimony given here on Friday, January 27 of this year, let me ask you if you recall these questions and having made these answers:

> "Q. Did you ever know anybody by the name of Lawrence Seton Ross?
>
> "A. Oh, yes.
>
> "Q. When did you know him?
>
> "A. Well, I can't be quite sure, but I think he was a man [4690] who came to the strike committee or the publicity of the strike committee in 1934 and made us a proposition to give us a hand with the issuance of the daily bulletin, and his explanation was he was working on the Western Worker and—well, I don't know just exactly what he said, but eventually his proposition was accepted, and I think Ross came there with that proposition."

Do you recall that testimony, sir?

A. Yes.

Q. Do you recall, Mr. Schmidt, on May 15, 1941, when you appeared as a witness before Judge Sears being asked the following questions by Mr. Gladstein and making the following responses:

(Testimony of Henry Schmidt.)

"Q. Do you know Mr. Hanoff?

"A. No, I don't.

"Do you know a woman by the name of Betty Gannett? A. I don't know her.

"Q. Do you know a man named Lawrence Ross? A. No, sir.

"Q. Do you know a man named Sam Darcy?

"A. I have heard of him.

"Q. Have you ever met him?

"A. I don't think so."

Did you make those responses, sir, to those questions?

A. Well, I don't remember it clearly, but if that is the record I accept it, and that [4691] requires——

Q. Pardon? A. It is easily explained.

Q. Would you explain it for us, please.

A. Oh, certainly. When the man Ross walked in here the other day I said to myself, "I think that is the fellow that came to us with that proposition in 1934 during the strike," and since my memory told me that, I repeated what my memory told me.

Q. In other words, the sight of Lawrence Ross refreshed the recollection that was absent in 1941?

A. Well, why not?

Q. I am asking you, sir.

A. I didn't see Mr. Ross in 1941, you know.

Q. I understand that.

A. He didn't walk in here at that time.

Q. But it had refreshed your recollection and your recollection was not refreshed in 1941?

(Testimony of Henry Schmidt.)

A. For the simple reason that you didn't bring him in here in 1941.

Q. I wasn't here.

A. That's right. It was Mr. Delgurcio.

Q. Yes. Don't you know as a matter of fact that Lawrence Ross never came to San Francisco until long after this strike was over?

A. That is what he said here.

Q. You don't know that to be a fact? [4692]

A. No, I don't.

Q. When do you say it was that you first saw him? A. As I stated last week.

Q. When?

A. Well, I stated last week—I guess it was last week—that I thought that the fellow that came to us during the strike and conducted the publicity committee was the man Ross.

Q. Was it in the early days of the strike or was it in the later days of the strike?

A. It was shortly after the strike started. [4693]

Q. Well, what do you indicate by "shortly"?

A. Well, I would say one day would be very shortly. If he came here nine days later, that would still be shortly. If he came a couple of months later, I wouldn't call that shortly.

Q. Then it is your present testimony that you saw Lawrence Ross some time in the month of May of 1934?

A. I think I would fix it in that month. That is the best of my recollection and my memory.

Mr. Donohue: Mr. Mitchell, would you ask the witness to look at what has been marked U. S. in evidence No. 1 and draw his attention, if you will—I am sorry, U. S. in evidence No. 2, to line 22, and then invite his attention to the date on the back.

(Document exhibited to the witness by the Clerk.)

Q. (By Mr. Donohue): Is that your name which apears on that page, Mr. Schmidt?

A. On line 22?

Q. Yes, sir.

A. I don't see my name there at all. I see here the name of one J. R. Robertson. Perhaps you gave me the wrong paper.

Mr. Donohue: May I have it back, please?

(Document returned by the Clerk.)

Q. (Mr. Donohue): Look at line 23, please.

(Document returned to witness by the Clerk.)

A. Yes, my name appears to be typed in on line 23. [4694]

Q. Now, will you look on the back and see the date? A. June 23, 1945.

Mr. Donohue: May I have it back, please, now, Mr. Mitchell?

(Document returned to counsel.)

Q. (Mr. Donohue): Does your examination of this document refresh your recollection as to when it was that you first discussed with Mr. Bridges your sponsoring as a witness his application for citizenship?

A. You mean by reading my name and then June 23rd on the back?

(Testimony of Henry Schmidt.)

Q. Yes. A. Not at all.

Q. Then if it appears from this document that it is dated June 23, 1945, and that there appears a filing stamp on the back of the document which indicates that it was filed on the 23rd of June, 1945, will you state now your best recollection as to when it was that you first discussed with Harry Bridges the fact that you would be a witness for him on his petition for citizenship?

A. Well, I have no recollection of any discussion with him in so far as that date is concerned.

Q. Would you say that you discussed it with him prior to the time in June when he filed this application?

A. Well, that could be, but I don't know.

Q. You have no recollection on that matter at all? A. No.

Q. Well, will you tell us when it was, as far as you can now [4695] recall, that the defendant Bridges asked you to be of any assistance to him in the matter of his application for citizenship?

A. I can only try to make clear again what I said yesterday.

Q. I wish you would.

A. To the best of my recollection, it was on the day that we went to the City Hall.

Q. And you went to the City Hall on the 8th of August, 1945?

A. No, I think we went to the City Hall on the day he became a citizen, which, according to the statements that I have heard here, was in September of that year. I have no independent recollection of the month of the year when these things happened. When I mentioned September now and August, I am going by the documents.

Mr. Donohue: Will you, Mr. Mitchell, now hand Mr. Schmidt U. S. in evidence No. 2 and invite his attention to the printed name, the signature and the date?

(Document exhibited to the witness by the Clerk.)

Q. (By Mr. Donohue): Is that your signature, Mr. Schmidt? A. Yes, it appears to be.

Q. And that signature was made by you on what date?

A. I see the date of August 1st here.

Q. You have seen a great many dated papers before. Can't you look at that and tell us when you signed it?

A. You mean you want me to read the whole thing? [4696]

Q. No, I want you to tell me from looking at that document when you signed it. You ~~did~~ sign it?

A. Oh, yes, I signed it.

Q. Well, tell me when.

A. Well, the date that is typed in there is August 1st.

Mr. Donohue: May I have the document back?

(Document returned by the Clerk.)

The Witness: I have no recollection if I signed it on August 1st.

(Testimony of Henry Schmidt.)

Q. (By Mr. Donohue): May I read you from this document:

> "The following witnesses, each being severally, duly and respectively sworn, depose and say:
>
> "My name is J. R. Robertson. My occupation is labor union official. I reside at 1815 Powell Street, San Francisco, California.
>
> "My name is Henry Schmidt. My occupation is union official, ILWU. I reside at 1156 Sanchez Street, San Francisco, California. I am a citizen of the United States of America. I have personally known and have been acquainted in the United States with Harry Renton Bridges, the petitioner named in the petition for naturalization, of which this affidavit is a part, since August 1st, 1940. To my personal knowledge, the petitioner has resided immediately preceding the date of the filing of this petition in the United States continuously since the date last mentioned [4697] and at San Francisco in the State of California continuously since August 1st, 1940, and I have personal knowledge that the petitioner is and during all such periods has been a person of good moral character, attached to the principles of the Constitution of the United States and well disposed to the good order and happiness of the United States; and in my opinion, the petitioner is in every way qualified to be admitted a citizen of the United States.
>
> "I do swear that the statements of fact I

(Testimony of Henry Schmidt.)

> have made in this affidavit of this petition for naturalization, subscribed by me, are true to the best of my knowledge and belief, so help me God."

Signed: "HenrySchmidt," and then:

> "Subscribed and sworn to before me by the above-named petitioner and witnesses, in the respective forms of oath shown in said petition and affidavit, in the office of the Clerk of said Court at San Francisco, California, this 8th day of August anno domini 1945. I hereby certify that the certificate of arrival No. 22-56274 from the Immigration and Naturalization Service, showing the lawful entry for permanent residence of the petitioner above named, together with declaration of intention No. 103785 of such petitioner, has been by me filed with, attached to and made a part of this petition on this date. H. A. Van der Zee." [4698]

Scully, apparently, is the deputy clerk whose handwritten signature appears.

Q. Now, does that refresh your recollection?

A. No, sir, it does not. I don't remember all those words, and I do not recall that I signed that document on the date that you have mentioned. However, the document speaks for itself.

Q. You wouldn't question the fact that you did sign that document on the 8th day of August?

A. No, I don't think so. I am merely trying to point out to you, Mr. Donohue, that my memory fails me. And if you don't want to believe that, why, that is just very unfortunate.

The Court: We will take the morning recess, ladies and gentlemen. The same admonition to you, not to discuss the case under any conditions.

(Recess.) [4699]

Mr. MacInnis: May we interrupt again with a witness?

The Court: Certainly.

Mr. MacInnis: Will the bailiff call Mr. Walther.

ALEXANDER F. WALTHER

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury.

The Witness: Alexander F. Walther.

Direct Examination

By Mr. MacInnis:

Q. What is your occupation, Mr. Walther?

A. Real estate and business opportunity broker.

Q. And where do you live?

A. 603 Flint Avenue, Redwood City.

Q. Did you live in the City and County of San Francisco for some period of years?

A. Yes, some twenty-nine and a half years.

Q. And were you ever employed as a longshoreman? A. I did.

Q. And what years did you work as a longshoreman, Mr. Walther? A. 1916 to 1919.

Q. Do you know a man named Henry Schmidt?

A. I do.

Q. And for how many years have you known him? A. Approximately thirty years. [4700]

Q. And in addition to your own knowledge of Henry Schmidt, have you heard his name mentioned and discussed by other persons in this community?

A. Yes, a great deal—a good many times.

Q. From your own acquaintance with Mr. Schmidt and from such things as other persons may have said, do you know what his reputation is in this community for truth, honesty and integrity?

A. As far as my personal experience, always infallible.

Q. You say "always infallible"? A. Yes.

Mr. MacInnis: Thank you.

Mr. Donohue: I move to strike the statement, if your Honor please. The opinion previously stated, as he expressed it, is his personal opinion.

Mr. MacInnis: Well, if we are quibbling about words, I can rephrase the question.

Q. Mr. Walther, basing your answer upon your own acquaintanceship with Henry Schmidt plus those things which you have heard other persons say about him, tell us what is his reputation in this community for truth, honesty and integrity.

A. Very sound.

Mr. MacInnis: Thank you.

(Testimony of Alexander F. Walther.)

Cross-Examination

By Mr. Donohue:

Q. What have you heard other people say of Henry Schmidt, Mr. Walther? [4701]

A. Always that he is a good, reliable person and a good representative of labor, because it is mostly with labor people I discussed Henry Schmidt.

Q. Did you ever hear discussed the question as to whether he was an honest or dishonest man?

A. No.

Q. Did you ever hear——

A. Yes, we always discussed the man, of his behavior and ability as representing organized labor.

Q. Did you ever hear anyone discuss the question of his truth?

A. Never doubted it. Never discussed it and never doubted it.

Q. I understand you don't doubt it, sir, but have you ever heard his truthfulness discussed by anybody? A. No, sir.

Q. Have you ever heard his integrity as a man discussed by anybody? A. Many times.

Q. Will you tell us with whom you have had discussion about the integrity of Mr. Schmidt.

A. Various members of the Longshoremen's Union, friends—mutual friends.

Q. When during the last thirty years—what is the most recent time in which you have discussed it with anyone?

A. About eight or ten months ago. [4702]

(Testimony of Alexander F. Walther.)

Q. Can you tell us with whom?

A. Yes. Carl Alvin.

Q. Just the two of you together, sir?

A. No, in a group of members of the Consumers Cooperative Society. Alf Borjeson.

Q. What was the occasion for discussing Mr. Schmidt's integrity at that time?

A. I will say as members of the Consumers Cooperative, of different promises he made for us—to me personally, and his behavior in the union for representing the organization members.

Q. Have you heard anybody in the past thirty years during which you have heard Mr. Henry Schmidt express an opinion that he was a member of the Communist Party? A. No.

Q. On no occasion? A. No, on no occasion.

Mr. Donohue: No further questions.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Walther, did you know Henry Schmidt in the year 1934? A. I did.

Q. Are you the man whom Henry Schmidt invited to deliver a eulogy over the bodies of two men who were killed during the 1934 strike?

A. I am. [4703]

Mr. MacInnis: Thank you. That is all, sir.

HENRY SCHMIDT

resumed.

Cross-Examination
(Continued)

By Mr. Donohue:

Q. Mr. Schmidt, you have testified that you have frequently appeared as a witness for others who have sought naturalization; correct? A. Yes.

Q. Was it not the custom and was it not the fact that in each instance the person or persons for whom you so appeared asked your permission to use your name as one of the qualifying witnesses?

A. I believe that is the custom, that they first contact one in order to secure that permission.

Q. Well, did Mr. Bridges ask you for permission to use your name as one of his two sponsoring witnesses? A. I believe so.

Q. When? A. I can't recall the date.

Q. Do you recall the circumstance, where it was and what he said?

A. I can only repeat what I said yesterday: that on the particular day on which Harry Bridges was naturalized—and it may have been the day before—he simply said, "We are going to the City Hall. How about being my witness? How about [4704] coming along?" And in all probability at that point I asked him, "What time are we going?" and he gave me the answer, and then later on we found ourselves at the City Hall.

Q. You know that he was naturalized on the 17th of September, 1945?

(Testimony of Henry Schmidt.)

A. Yes, that I do recall, because I was present there.

Q. Your first recollection of this entire incident begins on the 17th of September, 1945, when you were asked by Mr. Bridges to go down to the City Hall, or possibly on the day before, is that correct?

A. That is correct. I have no remembrance of the incidents that apparently happened in August.

Q. Now, you don't deny the fact that in the application for a certificate of arrival and preliminary form for petition for naturalization filed by Mr. Bridges on the 23rd of June, 1945, that your name appears on that application as the second qualifying witness?

A. No. But are you making the point that I signed that on June 23?

Q. I didn't ask you that, sir; I asked you if it isn't a fact that your name appears.

A. My name appears, yes.

Q. And it is now your statement that you do not recollect on any occasion prior to the 23rd day of June, 1945, when this application was filed by Mr. Bridges, any conversation with [4705] Mr. Bridges concerning the use of your name as one of the two qualifying witnesses?

A. Are you asking me prior to June 23 now, is it?

Q. Yes, prior to the day on which this document was filed.

A. Well, I don't follow you. The document states that I signed it on August 1. What has the June 23 business to do with it?

Q. No, document states that you signed it on August 1, Mr. Schmidt. A. Yes.

Q. I will come to that document in a minute. I am talking about this document which you have examined and in which you failed to find on line 22 but did find on line 23——

A. You told me to look on 22, you know.

Q. I quite understand, and I know it is difficult to read from line 22 to line 23 on this document.

A. Quite difficult.

Q. I ask you now, sir, if it is not a fact that your name appears on this document, which, by the document itself, was filed on the 23rd day of June, 1945?

A. My name appears on it, but I have no personal knowledge of ever having seen it at any time, let alone June 23.

Q. Then I ask you this question: Did you at any time before Mr. Bridges filed this document on the 23rd of June, 1945, have any discussion with the defendant Bridges about the use of your name as the second qualifying witness? [4706]

A. I have no recollection.

Q. Do you recall discussing with Mr. Paul Schnurr, whose name appears on this document filed the 23rd day of June, 1945, about Mr. Schnurr appearing as the No. 1 qualifying witness?

A. My memory tells me that we discussed that

(Testimony of Henry Schmidt.)

on or about the day that we went to the City Hall when Bridges was naturalized.

Q. Now, you saw the document marked United States in evidence No. 2 on which your name appears? A. Is that the one I had a while ago?

Q. Yes. A. I saw my name there, yes.

Q. Do you remember signing your name on that document? A. Is this the August 1st one?

Q. No, it is the August 8th document, Mr. Schmidt.

A. The document that you showed me this morning, the date August 1 was typed in it, and when I said I saw my name yesterday, that is the one I have in mind. Now you are talking about August 8.

Q. I am talking about the same document.

A. I see.

Q. Do you not know from your own experience as a witness in matters of persons who have applied for naturalization that it is necessary for the witnesses to state that they have personally known the applicant for citizenship for a period of at least five years prior to the time the application is [4707] filed?

A. I believe it is common knowledge.

Q. Do you not know from your own experience as a witness in matters of this kind that that is the reason why the date August 1, 1940, appears, because August 1, 1940, was more than five years before August 8, 1945, the day on which you signed this application? A. That seems reasonable.

Q. Now, having seen this document, Mr.

(Testimony of Henry Schmidt.)

Schmidt, and the document stating that you signed and swore to it on the 8th day of August, 1945, does that refresh your recollection as to whether or not on or before the 8th day of August, 1945, you had any discussion whatsoever with Mr. Bridges about your appearing as a witness for him with respect to his petition for naturalization?

A. I repeat: I can't remember any. We may have had some, but I just don't remember it.

Q. Would you say now, sir, in the light of your recollection having been refreshed, at least with respect to the signing of this document, that you had no conversation with Mr. Bridges?

A. No, I wouldn't say that.

Q. Mr. Schmidt, directing your attention to Volume 5, page 596 of the typed record, the testimony of the witness Lloyd Garner taken on the Friday morning session, November 18, do you recall this question being asked of Mr. Garner and Mr. Garner making this response: "Question"—— [4708]

A. Excuse me; you mean his testimony here?

Q. Yes.

> "Q. Will you tell his Honor and the ladies and gentlemen of the jury just what you did, what was said by Mr. Schmidt on this occasion?
>
> "A. Mr. Schmidt appeared as a witness on behalf of the applicant, Mr. Bridges. I swore him in the usual manner to the tell the truth, all the statements to be made by him under oath.
>
> "Q. And when you say you swore him, do

(Testimony of Henry Schmidt.)

> you mean you swore the defendant Henry Schmidt?
>
> "A. I swore the witness Henry Schmidt, the defendant here. Then I proceeded to inquire of him as to his qualifications as a witness."

And may I say to you, sir, that this incident refers to the time and place as the 8th day of August, 1945, in the office of Mr. Garner, in the naturalization section of the clerk's office in the City Hall. Do you recall Mr. Garner having made the responses as read to the questions as were asked of him here?

A. Yes, sir, I recall his testimony, and I tried to remember the incident. I couldn't and I still [4709] don't.

Q. And it is now your testimony that you have no recollection whatsoever of going to Mr. Garner's office on the 8th day of August and there being sworn?

A. No, my recollection tells me that all of these incidents took place in the month following, which apparently was September 17th.

Q. Then may I read further, and will you——

A. May I make this clear, that I have had the impression all the time that we went to the City Hall just once, and your impression indicates that we were there twice.

Q. Now, would you listen, please, to these questions and answers, all in the same day, of the same witness:

> "Q. What questions did you ask him (referring to you), sir, which would qualify him as a witness?

(Testimony of Henry Schmidt.)

"A. I asked him where he was born—first, his name and his address and his occupation.

"Q. And he made answer?

"A. He answered he was born in Germany. I asked him then whether he was a naturalized citizen. He said he was and he offered to me in proof of that a naturalization certificate issued in his own case through the United States District Court in San Francisco under date of July 11th, 1927, certificate No. 2588949, according to the record I made at that time."

Mr. Donohue: And may I ask you, Mr. Mitchell, to show the [4710] witness No. 2588949 on this paper, dated August 8th?

(Document exhibited to the witness by the Clerk.)

Q. (By Mr. Donohue, continuing): Would you look at that number, 2588949, and may I ask you if the questions and answers read and the inspection of that document now refresh your recollection as to whether or not you were at the City Hall on the 8th of August, 1945, and made the responses to the questions as indicated?

A. No, sir, I do not recollect it.

Mr. Donohue: May I have the document back, Mr. Mitchell?

(Document returned.)

Q. (By Mr. Donohue): Now, may I ask you, Mr. Schmidt, if the reading of this portion of Mr. Garner's testimony refreshes your recollection:

> "Mr. Garner: I then asked him (referring to you, sir) if he was acquainted with the applicant, Harry Bridges, and he said he was. I asked him how long he had known Mr. Bridges. He told me he had known him since about 1932 or 1933. I asked him then about how often he saw the applicant, Mr. Bridges. He stated that he saw him on an average of at least once a month or oftener. I asked him under what circumstances he usually saw the applicant, whether in business or socially, and he replied in business, that they were both officers or officials of the same union, the ILWU." [4711]

Does that refresh your recollection as to this conversation, sir? A. No, sir.

Q. Further:

> "I then asked him whether he was a Communist or a member of the Communist Party. He said that he was not.
>
> "Q. When you say you asked him, whether he was a member of the Communist Party, and he said that he was not, do you mean that you asked Mr. Schmidt if he, Mr. Schmidt, was a member of the Communist Party?
>
> "A. I was speaking about Mr. Schmidt, the witness. My questions were all directed to him as a witness. I asked him personally whether he was.

(Testimony of Henry Schmidt.)

"Q. His answer was what?

"A. No—the answer was in the negative, that he was not. I asked him whether the applicant was a member of the Communist Party and he answered negatively at that time.

"Q. By the applicant, you mean the defendant Harry Bridges?

"A. You mean the defendant Harry Bridges here. At that time there was no petition, he was merely an applicant to file a petition."

Does that refresh your recollection as to this incident in the City Hall on the 8th of August, 1945?

A. No, sir, not with respect to the 8th of August. All I can [4712] tell you, that I remember conversations with a man who had to do with Harry Bridges' naturalization, and I can't now say that that was Mr. Garner, but it is my recollection it took place on the day on which Bridges was naturalized, which as you say, was not August 8th.

Q. Which you know to be September 17, 1945?

A. Yes, I know that now, since I have been made acquainted with the date.

Q. Well, would you listen again, please:

"Q. Was there any further questioning of Mr. Schmidt as a qualifying witness?

"A. Yes, I asked him whether in his opinion the applicant, Mr. Bridges, was attached to the principles of the Constitution and qualified for citizenship and he said he believed so. He gave me the impression that that was his understand-

(Testimony of Henry Schmidt.)

> ing. I asked him whether the applicant, Mr. Bridges, had been out of the United States during the period of his acquaintance. He said no, he did not know of any such. He gave me the impression he did not know of any absences."

Does that refresh your recollection?

A. No; sorry.

Q. Mr. Schmidt, in the number of instances in which you have appeared as a qualifying witness for others who have sought naturalization, do you not know, as a matter of fact, that it was [4713] and is the practice for the qualifying witnesses to appear before a naturalization examiner on some occasion prior to the date on which he appears in court?

A. No, I don't recollect that. I had the impression all the time that you appeared just once. I recall that a man by the name of Joe Ring asked me to call up at this building one time, and I am pretty sure I only came once, so far as he was concerned, and didn't hear of him any more.

Q. Well, don't you know, sir, as a matter of fact, that the document which you examined, which bore the date of June 23, 1945, was not a petition for naturalization filed by Mr. Bridges but merely an application for a petition to file a petition for naturalization by Mr. Bridges?

A. Oh, I didn't pay much attention to those technical details.

Q. And don't you know as a matter of fact that no petition for naturalization could have been filed

(Testimony of Henry Schmidt.)

by Mr. Bridges until he and the qualifying witnesses went before the naturalization examiner, as you did, on the 8th of August, to satisfy the requirements of the statute, and that it was on that date that the petition for naturalization was filed?

A. No, sir, a person employed by the Naturalization Service might remember all those details, but I wouldn't even try.

Q. Well, now, you do remember something about the 8th of August, Mr. Schmidt, don't you?

A. No, sir, no. [4714]

Q. Well, you have stated heretofore, on yesterday, some of the things that happened on the 8th of August, have you not?

A. That is possible, but my memory tells me that those things took place on the 17th of September.

Q. You remember that Mr. Schnurr was there on the 8th of August, 1945, don't you, sir?

A. I remember Mr. Schnurr being in the City Hall on September 17th when he couldn't act as a witness.

Q. And you are sure that was on the 17th of September, not on the 8th of August?

A. I am pretty sure. If he had been there on the 8th of August, why didn't they discover on that date they couldn't use him?

Mr. Donohue: Would you hand what has been marked as Government's in evidence No. 2 and direct Mr. Schmidt's attention to the name and the information on that portion of the paper?

(Document exhibited to the witness by the Clerk.)

(Testimony of Henry Schmidt.)

Q. (By Mr. Donohue): Looking at the document in your hand, Mr. Schmidt, which is the document which was sworn to on the 8th day of August, 1945, you see the name J. R. Robertson?

A. Yes, it appears right above the name of Paul Schnurr, whose name has been stricken.

Q. Does that not refresh your recollection to the fact that it was on the 8th of August and not on the 17th of September that [4715] Mr. Schnurr's inability to qualify led to the substitution of the defendant J. R. Robertson in his stead?

A. Well, if that is so, what was Schnurr doing in the City Hall on September 17th?

Q. Is that your answer to the question, sir?

A. That is my answer to that question.

Q. Well, then, let me ask you the question again. Isn't it a fact that on the 8th day of August, 1945, that the name J. R. Robertson appears above the name Paul Schnurr which has been scratched out?

A. That is what I just said.

Q. But you have no recollection of that happening on the 8th day of August, 1945, do you?

A. That's right.

Q. And you have no recollection of having seen Paul Schnurr in the office of Mr. Garner on the 8th day of August, 1945, when this document was prepared, do you?

A. No recollection in so far as August 8th is concerned. I am sorry.

Q. Do you have any recollection of Mr.——

Mr. MacInnis: Pardon me. Now, your Honor, I feel that there is a little difficulty in these questions in that the name of J. R. Robertson is now also on the June 23rd document. Now, this counsel has just informed Mr. Schmidt that it was on the 8th day of August that the name J. R. Robertson was placed [4716] on the document; on the June 23rd document the name Paul Schnurr is also crossed out and the name of J. R. Robertson inserted. Now, it obviously was done at some later date, because the application was probably filed on the date that it bears.

Mr. Donohue: The only difficulty with that, if your Honor pleases, is that Mr. J. R. Robertson signed and swore to this document on the 8th day of August, 1945, as we shall develop when Mr. J. R. Robertson offers himself as a witness.

In the meantime, would you hand that again to Mr. Schmidt and ask him to see the signature of Mr. J. R. Robertson?

(Exhibited to the witness by the Clerk.)

Q. Are you familiar with the signature of Mr. J. R. Robertson, Mr. Schmidt?

A. I was just going to say I am not too familiar with it, no.

Q. Then you wouldn't be able to tell us whether or not that was Mr. J. R. Robertson's signature?

A. Inserted there right over the name of Paul Schnurr?

Q. No, where it is signed by J. R. Robertson on the same line as you have signed Henry Schmidt.

(Testimony of Henry Schmidt.)

A. No, I am not sufficiently acquainted with his signature to identify that.

Q. Then you don't recall, as a matter of fact, that you and Mr. J. R. Robertson signed that and were sworn simultaneously by the officer who took the oath and on the 8th day of August, 1945? [4717]

A. On the 8th day of August, no.

Mr. Donohue: May I have the document back again, please?

(Document returned to counsel by the Clerk.)

Mr. MacInnis: Your Honor, I don't know precisely what that argument is leading to, but there is nothing in issue; Mr. Schmidt admits that he was examined by some man and that he later testified. He says he doesn't remember the date. Now, if some stipulation is invited, we would enter into the stipulation because this is a senseless undertaking, arguing that with the man over whether he remembers the date of August 8th. He says he doesn't remember it, but he does not deny that he signed the application or the petition or that he said he believed Bridges to be qualified for citizenship. Now we are quibbling about the date, and we will stipulate that whatever the date may be, Mr. Schmidt did in fact appear there.

Mr. Donohue: It is nice of Mr. MacInnis to offer to stipulate as to something concerning which his witness is unable or unwilling to remember. But I say to your Honor that I am not wasting the time of the Court. I have, in the classic language of my two distinguished adversaries, a point which I would like to be able to develop.

Mr. MacInnis: Oh, if he says that, I will make no offer for a stipulation and let him continue.

Mr. Donohue: Might this be a convenient time to recess, if your Honor please? [4718]

The Court: We will take the noon recess, ladies and gentlemen. The same admonition, not to discuss the case under any conditions, nor to form nor express an opinion until the matter is finally submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [4718-A]

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IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume X
(Pages 4307 to 4762)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In .... Volumes

Volume X

(Pages 4307 to 4762)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

Tuesday, January 31, 1950, 2:00 P.M.

The Clerk: The witness on the stand is Henry Schmidt, heretofore sworn.

HENRY SCHMIDT

resumed.

Cross-Examination
(Continued)

By Mr. Donohue:

Q. Mr. Schmidt, are you familiar with the Voice of the Federation?

A. Yes, that used to be the official organ of the Maritime Federation.

Q. Was it in 1939?

A. Yes, I am pretty sure it was.

Mr. Donohue: Mr. Mitchell, would you hand this to the witness and call his attention to that headline which is marked with the red L.

Q. Would you read that headline, Mr. Schmidt.

A. "ILWU Leaders Blast OCF Action in Taking Sides in Imperialist War."

Q. May I ask you, sir, were you an ILWU leader in December of 1939?

A. I think I was an ILWU officer.

Q. Were you one of those who blasted the action of the group as so stated?

A. Well, right now, Mr. Donohue, I don't recall what "OCF" [4719] stands for.

Q. Would you read the text and perhaps it would refresh your recollection.

A. Oh, Oregon Commonwealth Federation. Are you asking me if I wrote this article?

(Testimony of Henry Schmidt.)

Q. No, sir, I am asking you if you were one of the ILWU leaders who, in the language of that headline, blasted the OCF for taking sides in the imperialist war. A. I doubt it very much.

Mr. Donohue: May I have the book back?

Q. Would you read the paragraph which is set off by red crayon and tell us what you did in fact say on the date as the newspaper indicates.

A. Is this in the same issue?

Q. I think not. You will probably catch the date on the top.

A. The one I am reading from now is October 5, 1939. It reads, " 'We've got to get behind the program to keep America out of the war to be able to show the world that the Yanks aren't coming,' Schmidt said."

Q. Are you correctly quoted there?

A. I don't think so.

Mr. Donohue: Referring again to your testimony of this morning that you first met Lawrence Ross shortly after the strike of 1934, with your definition of the word "shortly" indicating that that would mean sometime during the month of [4720] May, 1934, at which time Mr. Lawrence Ross offered you the use of the Western Worker in the strike, I will ask the clerk to mark this as United States for identification next in order.

The Clerk: With your Honor's permission, may it be marked Government's 12 for identification.

(Testimony of Henry Schmidt.)

(Document marked U. S. Exhibit 12 for identification.)

Mr. Donohue: I will ask the clerk to ask you first to look at the face——

Mr. MacInnis: May I see it?——

Mr. Donohue: Surely.

Mr. MacInnis: Your Honor, this is apparently an effort to establish by hearsay testimony something that the witness Ross did not establish himself. However, we make no objection. We are not going to follow that practice unless it is necessary.

The Clerk: Counsel asked that you look at the page that is marked (exhibiting document to witness).

The Witness: Yes.

Mr. Donohue: May I have it back?

Q. Does this photostat of the fall term announcement of courses of the Los Angeles Workers School, September 24 to December 15, 1934, at 230 South Spring Street, Los Angeles, California, with the mark indicating that Ross would give a course on Wednesday nights on Leninism refresh your recollection on the question as to whether or not you saw Lawrence Ross in May of 1934 in [4721] San Francisco, at which time he asked or offered you the services of the Western Worker for the purpose of the strike.

A. What was the first date you mentioned, please?

Q. September. Fall term announcement, courses

(Testimony of Henry Schmidt.)

of Los Angeles Workers School, September 24 to December 15, 1934?

A. No, that doesn't help me at all.

Mr. Donohue: Will you mark this, please, United States for identification next in number.

The Clerk: Marked Government's Exhibit 13 for identification.

(The document was marked Government's Exhibit 13 for identification.)

Mr. Donohue: Would you ask the witness to look at the cover and then observe the date.

The Clerk: Counsel requests that you look at the cover and observe the date here (exhibiting document to witness).

The Witness: Yes.

Mr. Donohue: May I have that back?

Q. Mr. Schmidt, does an examination of the record of the hearings investigation of the Un-American activities by the House of Representatives Sub-Committee in the city of Los Angeles on August 8, 1934, on which date Lawrence Ross gave testimony before this committee, refresh your recollection on the question as to whether or not you saw Lawrence Ross in San Francisco during the month of May, 1934, at which time he offered you the [4722] services of the Western Worker for the purpose of the strike?

A. I don't see how it could. If Lawrence Ross was in Los Angeles in August of 1934 he still could have been in San Francisco in May of 1984. [4722-A]

(Testimony of Henry Schmidt.)

Mr. Donohue: Will your Honor indulge me for just a moment?

I ask the Clerk to mark this United States for identification next in order, a copy of the Western Worker under date of Thursday, October 11, 1934, and ask him to ask the witness to attempt to refresh his recollection by reading that portion which is marked off in red.

The Clerk: May it be marked——

Mr. MacInnis: May I see it, too?

Mr. Donohue: Sorry.

The Clerk: May it be marked Government's 14 for identification, your Honor?

> (Whereupon issue of Western Worker, Thursday, October 11, 1934, referred to, was marked United States Exhibit No. 14 for identification.)

> (After being examined by Mr. MacInnis, the document was handed to the witness by the Clerk.)

The Witness: What is the date of this paper?

Mr. Donohue: I am afraid I will have to—I think it is October 11, 1934.

The Witness: It is November 11.

Mr. MacInnis: Pardon me. On this matter I take it you are asking him to read over this article to himself to see if it refreshes his memory?

Mr. Donohue: No. I am simply asking him to look at the article, to refer to the date of the news-

(Testimony of Henry Schmidt.)

paper, to see if it refreshes [4723] his recollection as to when he saw Lawrence Ross.

Mr. MacInnis: Well, I am a little puzzled; since this was the counsel who made so many objections when the same paper, the Western Worker, was shown on cross-examination to Lawrence Ross who was the editor of that paper. Now he shows it to a man who had nothing to do with its presentation. But if it can refresh his memory, I certainly will not object to Mr. Schmidt reading the article to himself and telling us if it enlightens him on anything.

Mr. Donohue: I have no idea of asking him to read it to the jury, Mr. MacInnis.

The Witness: Well, the paper was presented on October 11th, apparently, in San Francisco. I haven't seen anything yet to indicate that this article on Lawrence Ross indicate that he was speaking, or at Los Angeles.

Q. (By Mr. Donohue): Don't you see that that article, Mr. Schmidt, identifies Lawrence Ross on the 11th of October, 1934, as the secretary of the Communist Party in Los Angeles and as the candi-ticle on Lawrence Ross indicates that he was speak-trict in Los Angeles?

Mr. MacInnis: Now, your Honor, the special prosecutor is doing precisely what he objected to our doing, except he is going much farther. He is asking this gentleman to be bound by some self-serving statement of another man in another paper as to his own whereabouts. [4724]

Mr. Donohue: Oh, I have other records, if your Honor please, that I think will cause him to waive his objection.

Mr. MacInnis: This man said he saw Ross during the strike of 1934, which was in the early spring and summer. Now, Ross' whereabouts in August, October or any other date would not be impeaching of that statement.

Mr. Donohue: This witness, if your Honor please not only said he saw Ross for the first time in May of 1934, when he offered the services of the Western Worker, but he also said in response to a question, "Isn't it a fact that Mr. Ross didn't come here until the late fall or winter of 1934?", he said, "That is what Ross said about it." I want to show now that that was a fact.

Mr. MacInnis: Well, if your Honor thinks that is material, we won't press the objection. We don't care what date that man came here, but if it is of interest, I won't object to it.

Mr. Donohue: Well, I do because if this witness said he was here in May, then he apparently saw the man when he wasn't here.

The Court: All right.

The Witness: Well, alongside his photograph there appears this language, "Lawrence Ross, secretary of the Communist Party in Los Angeles and communist candidate for Congressman, 14th District." Then in the first sentence it makes reference to October 1st to a conference. But I can find nothing here that [4725] indicates that he was not in San Francisco in May of 1934

(Testimony of Henry Schmidt.)

Mr. Donohue: I now ask the Clerk to mark as United States for identification next in order——

Mr. MacInnis: I would suggest that if there is some issue connected with whether or not Lawrence Ross was in San Francisco, that Lawrence Ross could be brought back to testify, and we recall his previous appearance very vividly—maybe he could tell us some more things. I think he would be the one to tell us, though; not some hearsay document.

Mr. Donohue: Of course, the obvious answer is that the process of this Court is open to Mr. MacInnis. If he wants Lawrence Ross back here for cross-examination, all he has to do is issue a subpoena and he will be here.

I ask the Clerk to mark as U. S. in identification, next in order, a copy of the Western Worker under dateline of San Francisco, California, July 2, 1934.

(Thereupon Western Worker, issue of July 2, 1934, referred to above, was marked United States Exhibit No. 15 for identification.)

Mr. Donohue: Would you ask the witness to look at this periodical, as to the date, and call his attention to the encircled matter? (Displayed to the witness by the clerk.)

The Witness: July 2, 1934. And you are calling my attention to the words "Los Angeles Congressman, 14th District, Lawrence Ross"? [4726]

Mr. Donohue: Thank you.

I now ask to be marked for identification a certified copy——

(Testimony of Henry Schmidt.)

Mr. MacInnis: Well, now, if I may beg your pardon for just a moment?

Mr. Donohue: Certainly.

Mr. MacInnis: Your Honor, here is now what has been done. A document is passed to Mr. Schmidt for the purpose of asking him a question, to see if it refreshes his memory; so that counsel hands him a paper and Mr. Schmidt reads the line aloud that he is shown, and then counsel asks no question at all. He merely has the document handed to the Clerk.

Mr. Donohue: Rather than ask individual——

Mr. MacInnis: It is an attempt, obviously, to get something into evidence by a hearsay route. Now, I haven't made a formal objection because I don't think the matter is important. But I am going to tell Mr. Schmidt that on these future occasions just look at the document to yourself, and then let the prosecutor ask you a question on it. But don't read the document and thus supply something in evidence which has no place in evidence.

Mr. Donohue: I have no objection to Mr. MacInnis thus advising his witness.

I ask the Clerk to mark as United States for identification next in order a certification by the Secretary of State for California of a declaration for candidacy for public office.

(Thereupon declaration of candidacy referred to above was [4727] marked United States Exhibit No. 16 for identification.)

Mr. MacInnis: Now, your Honor, I am a little puzzled by this document—unless it is a further effort by the special prosecutor to impeach the witness who gave his name as Lawrence Ross, because I see here that Ross swears that he had been a citizen of the United States—and this was 1939—for 31 years. I don't think he had been here that many years at that time. Now, if this is to impeach Ross further, I suppose it could be shown Mr. Schmidt. But otherwise, the utter unreliability of any statement that Lawrence Ross ever made about himself ought to be so apparent that these hearsay statements of Ross', whether in the Western Worker or in any other form, ought not to be shown to Mr. Schmidt as binding or impeaching evidence.

Mr. Donohue: Of course, if your Honor pleases, I shall not usurp the prerogative of the jury in determining the credibility of any witness. I am asking that this be shown to the witness only for the purpose of refreshing his recollection, in order to determine whether in truth and in fact he first saw Lawrence Ross in May of 1934.

The Court: For that purpose it may be shown to the witness.

Mr. MacInnis: Yes. Well, your Honor, the point is, the document contains an assertion that we now know to be false because of the assertions of Ross on the stand here. I think the document bears that taint, since it is a sworn document by the man who then called himself Lawrence Ross. [4728]

Mr. Donohue: I touched it, if your Honor

(Testimony of Henry Schmidt.)

pleases, and I don't feel a bit contaminated by the taint.

Mr. MacInnis: Well, you don't feel a bit contaminated by producing Ross here? I am not in the slightest bit surprised.

Mr. Donohue: No, I don't.

(Document exhibited to the witness by the Clerk.)

The Witness: Am I required to read out loud from this?

Mr. Donohue: Mr. MacInnis suggested that you not. Would you just look at it, please, and read it to yourself?

The Witness: Yes?

Mr. Donohue: May I have it back, please, Mr. Mitchell?

(Document returned to counsel by the Clerk.)

Q. (By Mr. Donohue): Mr Schmidt, does the fact that Lawrence Ross announced himself by a declaration of candidacy filed with the Department of State——

Mr. MacInnis: Pardon me just a moment. Now the prosecutor is assuming something not in evidence, reading from a hearsay document. He may ask this gentleman if the document refreshes his memory, but he may not now attempt to bind Mr. Schmidt as though this were an impeaching document uttered by Mr. Schmidt.

Mr. Donohue: No, this comes out of the State of California.

Mr. MacInnis: Otherwise anything——

(Testimony of Henry Schmidt.)

Mr. Donohue: It is from the State Department.

Mr. MacInnis: Yes. Well, we are not bound by some document upon which Lawrence Ross made another false statement to [4729] the State of California. That doesn't lend any sanctity to it.

Mr. Donohue: Are you testifying as a witness, Mr. MacInnis?

Mr. MacInnis: No, I am stating what is the fact.

Mr. Donohue: And it is a fact because you state it?

Mr. MacInnis: That is one good reason. Another is that Lawrence Ross confessed that he lied here about the time he became a citizen, and that appears to the contrary in the document which this man has in his hand, your Honor.

Mr. Donohue: May I proceed, your Honor?

The Court: Proceed.

Q. (By Mr. Donohue): Mr. Schmidt, does the fact that on the 23rd of June, 1934, Lawrence Ross filed with the Secretary of State of the State of California a declaration of candidacy for Congress in the 14th District of California on the Communist Party refresh your recollection on the subject as to whether or not you first saw Lawrence Ross in San Francisco in May of 1934, at which time he offered you the services of the Western Worker? [4730]

Mr. MacInnis: Now, pardon me, your Honor. The prosecutor now asks a question in which he states as a fact something that is not in evidence. Now, we are not bound, as I said before, by any previous false statements of Lawrence Ross any more than we are bound by his present false statements. Now, the prosecutor has a hearsay document in his hand and attempts to ask this witness questions based upon it. It violates a most fundamental rule, your Honor, and I think a stop should be put to that kind of examination.

The Court: The avowed purpose of the examiner is to determine a date. For that purpose the document may be used, and solely for that purpose.

Does that refresh your recollection, sir?

The Witness: I would like to answer it this way: It doesn't refresh my memory in so far as Lawrence Ross is concerned and his running for public office, and I still say that based on my seeing him walking into this courtroom my memory tells me that he came to the strike committee with that proposition as I earlier testified.

Mr. Donohue: I ask the clerk to mark as United States for identification next in order a copy of the Western Worker under dateline San Francisco, Thursday, December 12, 1934.

The Clerk: Marked Government's Exhibit 17 for identification.

(Western Worker, December 12, 1934, was marked U. S. Exhibit [4731] 17 for identification.)

Mr. Donohue: Would you ask the witness to examine the matter which is in the box on the front page.

The Witness: Yes, sir. What is the question?

Mr. Donohue: May I have it, please.

Q. Does the fact that the Western Worker on the dateline of San Francisco, Thursday, December 20, 1934, with the San Francisco byline December 17, which states that "World News and Weekly Marxist Review of Current Events is the title of a radio extension course to be broadcast every Wednesday night at 6:45 p.m. over Station KTAB beginning December 26 by the San Francisco Workers School. The course will be conducted by Lawrence Ross, co-editor of the Western Worker" refresh your recollection on the question as to whether or not you in fact saw Lawrence Ross in May of 1934 and that at that time he offered to you the services of the Western Worker in the strike of 1934?

Mr. MacInnis: The objection, your Honor, on this occasion is that the question is unintelligible; that it refers to two entirely unconnected dates; that the man is asked to say whether or not a statement concerning Ross' whereabouts in December, 1934, refreshes his memory as to whether or not he saw him in May. Now, I suggest there is no connection, your Honor, and that for some purpose that I can't perceive, because I don't know the meaning of the article in reference to this case, the prosecutor is trying to read it into evidence. I can't object [4732] strenuously, because I can't see that it has any bearing on the case at all, but the question is unintelligible.

The Court: The objection is overruled.

(Testimony of Henry Schmidt.)

Q. (By Mr. Donohue): In the light of these matters, Mr. Schmidt, which have been handed you, and only for the purpose of refreshing your recollection, do you now say that you first met Lawrence Ross in May of 1934 and that he then offered you the services of the Western Worker?

A. Yes, it is my recollection that that was the man.

Q. And that that was the time?

A. Somewhere in May of 1934. The last article you showed me had something to do with December, 1934. The strike was all over with for several months.

Q. You recall I asked you this morning whether it was not a fact that Lawrence Ross did not come to San Francisco until after the strike was over?

A. Yes, I think you asked me that.

Q. I think you have testified heretofore that you didn't know or that you had never met Sam Darcy; am I correct?

A. Yes, I think I was asked that question.

Q. Did you ever meet Sam Darcy?

A. No. I may have seen him some place. I think I said I saw him at some meetings.

Q. Do you recall when?

A. I recall one meeting many years ago at Dreamland Auditorium [4733] where he made a talk.

Q. Did you see him at all during the 1934 strike?

A. Not that I can recollect. He didn't speak at

(Testimony of Henry Schmidt.)

any meetings in Dreamland Auditorium during that strike.

Q. You were a member of the strike committee, were you not?

A. Was I a member of the strike committee?

Q. Yes. A. Yes.

Q. At any time during the course of the strike when you held meetings did you see Mr. Darcy?

A. At the strike committee?

Q. Yes. A. No.

Q. Mr. Darcy was quite active in the strike, was he not? A. So I have heard.

Q. You didn't observe any activity on his part?

A. In relation to our strike committee?

Q. In relation to your strike. A. No, sir.

Q. You knew what position he occupied during the 1934 strike, did you not?

A. I think I learned that afterwards.

Q. What did you learn?

A. That he was an official of the Communist Party.

Q. Wasn't the Communist Party in the forefront of the strike? [4734]

A. So I have heard Mr. Schrimpf testify, but I thought that we were sort of running the strike.

Q. And of course you deny that the Communist Party had anything to do with the strike?

A. Oh, yes.

Q. May I read you briefly from an editorial——

Mr. MacInnis: May I see it?

Mr. Donohue: Surely.

(Testimony of Henry Schmidt.)

Mr. MacInnis: Your Honor, under what rule of law would the cross-examiner be permitted to read from some editorial as he suggests? I see nothing in here suggesting that Henry Schmidt wrote the editorial.

Mr. Donohue: No suggestion that he did.

Mr. MacInnis: Then I see no reason that he should be allowed to read from it. I will ask your Honor to look at the document and see if it has anything to do with any possible cross-examination.

Mr. Donohue: I ask your Honor to examine it in the light of the last question and answer put to the witness.

(Document handed to Court.)

Mr. Donohue: I might say to your Honor that that offer to ask the witness that question is predicated upon the examination by way of cross-examination of the defendant Schomaker and the defendant Schrimpf, for the obvious purpose on the part of the defense of showing that the purposes of the Communist Party [4735] and the purposes of the labor union in the strike were the same, and for that reason, and in the light of the answer of the witness, the fact that while, as he said, Henry Schrimpf claims the Communist Party ran the strike, I disagree with him. I think I have the right to ask him if he agrees or disagrees with the expression noted in the editorial.

Mr. MacInnis: Well, your Honor, the situation would be not unlike the production of some letter alleged to be written by a man in the position of

Sam Dracy. In other words, suppose the prosecutor had a letter from Sam Darcy saying, "I ran the 1934 strike. I directed everything that went on." Now, would he able to introduce that into evidence? Of course not.

Mr. Donohue: On cross-examination, yes. This is cross-examination. I have heard you say that many times: "This is cross-examination."

Mr. MacInnis: Yes. I have not attempted to cross-examine any witness by an editorial written by somebody else. Suppose there were such a thing in existence, this man must be tried upon evidence, not upon the hearsay statement of some third person whose name is not even attached to the article. Suppose some unknown were to say that Sam Darcy ran the whole strike. Is he now to be bound by that kind of statement and the defense tainted by that kind of thing? Sam Darcy has been under subpoena by the special prosecutor during all of this case, at least so far as his statements to the newspapers are concerned, [4736] and he has not been produced, but we are brought here instead——

Mr. Donohue: Do you want his address?

Mr. MacInnis: We are brought here an editorial by some unknown person and that is supposed to reflect upon the credibility of Mr. Schmidt. Now, it is incompetent, irrelevant and immaterial and it is not proper cross-examination. It is an attempt to intrude hearsay into the record. If the writer of the editorial is in existence and if the matter is

(Testimony of Henry Schmidt.)

otherwise material, he might be brought here. But how can an editorial be read to Mr. Schmidt——

Mr. Donohue: If your Honor has the slightest doubt about it, I will withdraw the question. I will withdraw the question.

Mr. Hallinan: I would like to get Mr. Darcy's address. He says he has it in his pocket.

Mr. Donohue: Ask Mr. Gladstein; he has been in touch with him.

Mr. Hallinan: You just said you had it.

Mr. MacInnis: I thought you said you were carrying his address in your pocket.

Mr. Donohue: I will supply Mr. Darcy's address——

Mr. MacInnis: Give it to me.

Mr. Donohue: I don't carry it in my pocket.

Mr. MacInnis: You said you did. We are going to take the prosecutor up on that. In the first place, if he is allowed——[4737]

Mr. Donohue: At the recess time I shall be glad to supply the address of Mr. Darcy if they don't want to ask Mr. Gladstein.

Mr. MacInnis: I ask that the gratuitous remark be struck from the record and the jury instructed to disregard the special prosecutor, your Honor.

Mr. Donohue: Disregard me or what I said?

Mr. MacInnis: Well, both.

Mr. Donohue: That is what I thought you meant.

The Court: We will take it up at recess.

Q. (By Mr. Donohue): Mr. Schmidt, do you have any recollection now of being asked by Mr.

(Testimony of Henry Schmidt.)

Garner in his office in the clerk's office in the City Hall on the 8th day of August, 1945, the question, "Are you a member of the Communist Party?" and your replying, "No"?

A. If the question was put to me on August 8, I am sorry, I have no recollection; but since you have the documents there, I am not going to argue with you. I am satisfied that I was there on August 8. And I would like to add this: about two or two and a half years ago Bridges and I were having lunch in a small restaurant on Montgomery Street or somewhere near the foot of Columbus Avenue; we were sitting at a booth, and a gentleman came in and he sat down at the lunch counter. Bridges waved at this gentleman and said, "Hello, Judge," and the gentleman waved back. I said to Bridges, "Who was that?"

He said, "That was Judge Foley." [4738]

And I said, "Who is Judge Foley?"

And he answered very impatiently, "Don't you remember? He is the man that was sitting on the bench when I was made a citizen."

I didn't remember that, and if you were to bring Judge Foley into the court today I wouldn't recognize him. [4738-A]

Q. Mr. Schmidt, you didn't consider your sponsorship of the petition for naturalization of Mr. Bridges lightly, did you, sir?

A. ~~Oh~~; no, not at all.

Q. You knew that the granting of citizenship to

(Testimony of Henry Schmidt.)

Mr. Bridges was a matter of considerable importance to Mr. Bridges?

A. Oh, yes, I can subscribe to that statement.

Q. And as a close personal friend and associate of Mr. Bridges, it was likewise a matter of some importance to you, right? A. I suppose so.

Q. Now, do you now remember that at some time during the proceeding Paul Schnurr, who had accompanied you to the City Hall, came out of the room and Mr. J. R. Robertson went into the room from which Paul Schnurr had left?

A. Yes, but it is my impression that that took place on September 17th.

Q. Well, I am sure you do not want to impeach the record that shows that it occurred on August 8th?

A. Well, it may have happened on August 8th, but I don't recall it in that manner.

Q. Well, whenever it happened or wherever it happened, where were you when you first recall seeing the defendant Robertson?

A. That I can't remember. I recall that we walked over to the City Hall, but if you are asking me where he was in relationship to my position during those interviews——?

Q. Yes. [4739]

A. There was a group of people milling around. I can't place it.

Q. Do you recall Mr. Gladstein saying anything to Mr. Robertson on the day this incident occurred?

(Testimony of Henry Schmidt.)

A. I recall that he made some remarks to the judge.

Q. No, I am not talking about courtroom, Mr. Schmidt; I am talking about the occasion when you and Mr. Robertson signed this document which was sworn to by you before a deputy clerk of the court and by Mr. Robertson, on the 8th day of August, 1945.

A. And you are asking me if Gladstein was there and said something?

Q. Yes.

A. I have no recollection of seeing Gladstein on that day.

Q. You don't recall in the substantial language of Mr. Garner that Mr. Gladstein came to the door and called Mr. Robertson to go into the room, you then being in that room? A. No, sir.

Q. Well, now, the first recollection that you have, apparently, of these transactions was a recollection of what happened in the courtroom, is that correct?

A. Yes.

Q. Now, you do remember being in the courtroom?

A. Oh, later on we went into the judge's chambers, I believe.

Q. Well, when did you go to the judge's chamber?

A. Well, I can't recollect that. [4740]

Q. Was it on the same day that Mr. Bridges was naturalized?

A. Oh, yes, I think that was so.

(Testimony of Henry Schmidt.)

Q. And was it before or after his naturalization?

A. That I don't recollect.

Q. Well, can you remember who went to the judge's chambers? Might that refresh your recollection as to when it occurred with reference to whether it was before or after the naturalization?

A. Oh, I went there, of course, and Bridges was there, naturally. I think his daughter was there and I guess Robertson would have been there, too.

Q. Was that the time and place at which certain photographs were taken which you perhaps may recall?

A. Yes, I have seen some photographs of that happening.

Q. And it is your best recollection that they were taken in the judge's chambers and after Mr. Bridges had received his citizenship?

A. Yes, that is the best I can do with it.

Q. Now, you do remember being in the courtroom with Mr. Bridges?

A. Yes, I picture him in the witness chair, I believe.

Q. And do you recall that prior to the time that Mr. Bridges took the witness chair that you and Mr. Robertson were sworn and that you answered certain questions?

A. This will be on September 17th?

Q. Yes, sir.

A. Yes, I think I recall that. [4741]

Q. And what do you recall as having happened after you and Mr. Robertson had been examined on

(Testimony of Henry Schmidt.)

the 17th in court, and I think you said yesterday you heard the immigration official say the witnesses were satisfactory? What is your recollection of what occurred after that?

A. I think then the judge went through the proceedings of naturalizing Bridges. But it doesn't stand out too clearly. The thing that stands out very clearly is the remark made by the examiner and I am satisfied that it was Mr. Garner. And he stated, as I have previously testified, that "The Government is satisfied" or "The witnesses are satisfactory."

Q. Now, do you recall that after Mr. Garner had examined you and stated to the Court that "The witnesses are satisfactory, your Honor," that Mr. Bridges then took the stand and was asked a series of questions by Mr. Garner?

A. I think that would naturally follow, that he would take the stand after myself.

Q. And do you remember that at that time while Mr. Bridges was being questioned by Mr. Garner, and in Judge Foley's court, that Mr. Garner asked him this question:

> "Do you now or have you ever belonged to the Communist Party of the United States?,"

to which Mr. Bridges made the reply: "I have not, and do not."

A. I don't recall those words coming out of Mr. Garner's mouth but I am satisfied that he asked those questions. [4742]

(Testimony of Henry Schmidt.)

Q. Were you there when, after his questions had been completed, Mr. Bridges was asked by the Court to make a statement, and that Mr. Bridges did make a brief statement?

A. Yes, I think he made a short speech. Yes, he was invited by the judge to say something.

Q. And your recollection is that in fact he did say something?

A. I am pretty sure he did, yes.

Q. And what happened then?

A. I think that was the end of the ceremony.

Q. And was Mr. Bridges then sworn in as a witness—I should say as a citizen?

A. Well, I thought we were all past that.

Q. No. Well, did you see Mr. Bridges when he took the oath as a citizen?

A. Oh, yes, I must have been there, yes.

Q. And was that before or after Mr. Bridges had made the statement or the short speech as you have termed it?

A. Well, I think that he made the statement after the ceremonies were all finished with.

Q. These events all occurred in the courtroom?

A. Oh, yes.

Q. And then subsequently, I take it, you went to the judge's chambers where there were certain photographs, some of which were reproduced in the press?

A. Some pictures may have been taken in the courtroom right [4743] after the proceedings, but there were some pictures taken in the judge's chambers.

(Testimony of Henry Schmidt.)

Q. Now, do you recall Mr. Robertson being in the courtroom?

A. Yes, I can visualize him sitting on the witness chair.

Q. And to your best recollection, did he, too, remain with you until the ceremony had been completed?

A. Oh, I am sure he did. I recall a photograph where he is standing alongside of Bridges or standing alongside of myself.

Q. Then your best present recollection is that both you and Mr. Robertson remained in the courtroom until the proceedings had been concluded and Mr. Bridges had taken the oath as a citizen of the United States?

A. Oh, I am satisfied that he did. There was no reason for us to leave.

Mr. Donohue: Shall we take the recess at this period, your Honor?

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions, nor to form or express an opinion until it is submitted to you.

(Whereupon the jury left the courtroom, and the following proceedings were had outside the presence of the jury:)

The Court: You have a matter to take up at the recess?

Mr. MacInnis: There was some matter referred to in the last few minutes that your Honor said we

(Testimony of Henry Schmidt.)

would take up, but it [4744] has skipped my mind. What was the matter? It kind of jumped out of my mind in the last——

The Court: Well, if you haven't any recollection of that event——

Mr. MacInnis: Do you remember that event?

The Court: Yes, that was the matter of the address.

Mr. MacInnis: Well, no, that was something else. The address of Sam Darcy was one thing, but what was the other?

The Court: That seemed paramount in your mind at the moment.

Mr. MacInnis: No, there was something else, though, your Honor, that your Honor said we would take up at the recess. Some objection that I made.

The Court: No, you asked Mr. Donohue for the whereabouts of Mr. Darcy.

Mr. MacInnis: That is another matter, but there was some matter that I recall your Honor saying we would take up at the recess. But it doesn't come back to my mind.

Mr. Hallinan: I think that was it.

Mr. MacInnis: I can't think of it now, Judge, anyway.

The Court: All right, we will recess.

(Recess.) [4745]

Q. (By Mr. Donohue): Mr. Schmidt, with reference to your statement concerning the alleged statement of yours in the Voice of the Federation that we should stay out of the war and that the Yanks were not coming, I understood you to say that you don't think you made that statement?

A. I have absolutely no recollection of having made it.

Q. This was in 1939.

A. This was the paper you showed me which had an article——

Q. Yes, in 1939.

A. ——regarding the Oregon Commonwealth Federation?

Q. No, it was under a byline of the CIO convention which was to be held in San Francisco later that year in which you are purported to have said that our effort should be to keep America out of the war and the Yanks weren't coming. Do you recall that quotation, or shall I show it to you?

A. If you don't mind, I would like to look at it again. I think we were talking about the OCF, which, as I recall, means Oregon Commonwealth Federation.

(Document exhibited to witness.)

A. Yes.

Q. Now, you are quoted here in the Voice of the Federation of Thursday, October 5, 1939, as having said, "We've got to get behind a program for getting America out of the war to be able to show the world that the Yanks aren't coming, Schmidt said." And is it your present recollection that you did not make that [4746] statement?

(Testimony of Henry Schmidt.)

A. Yes, I would rather say that I didn't make it.

Q. Well, the Voice of the Federation was a publication of the Maritime Federation of the Pacific?

A. That's right.

Q. And the ILWU was a member of the Maritime Federation of the Pacific?

A. It was one of the component organizations.

Q. Did you hold any office in the ILWU in 1939?

A. It seems to me that was the year that I was not president of the Local 10 in San Francisco.

Q. It is your present recollection that you did not hold any position in the ILWU in 1939?

A. Well, I can go over it chonologically, if you don't mind.

Q. Not at all.

A. I was elected president, as I recall, in the fall of '36. I held the office until the fall of '37, twelve months. I was reelected. That gave me another twelve months. That brings us into the fall of '38, and then the constitution of the local provides that you cannot serve three consecutive terms. Therefore I was out of that office from the fall of '38 until the fall of '39, and I recollect that I was again a candidate, was elected, served twelve months, was again a candidate, and was reelected and served another twelve months. So there was a period there in the latter part of '38 and a substantial portion of [4747] '39 when I wasn't in that office.

Q. Did you make any complaint to the publisher or editor of the Voice of the Federation for having

(Testimony of Henry Schmidt.)

quoted you as having made a statement which you now say you didn't then make?

A. If you can tell me who the editor was at the time, I might recollect it, but just like that, I can't recall.

Q. Could you tell by looking at the paper who the editor was?

A. Oh, I imagine his name is in there. (Document handed to witness). Well, there was an editorial executive board; I notice my own name there as being a member of that executive board.

Q. Do you now recall, Mr. Schmidt, whether you took any step or steps to——

A. Protest, you mean?

Q. ——protest the statement which you now say you didn't make?

A. No, I have no recollection. I don't recall having read the paragraph that you called my attention to.

Q. Did I understand you to say this morning that you were not then in 1939 in favor with those who took the view that the Yanks should not and were not coming?

A. No, I didn't subscribe to that theory at all.

Q. You knew that Bridges did, do you not?

A. Well, he and I are often at variance on some matters.

Q. Is it your now testimony that on this matter you and Mr. Bridges were at variance? [4748]

A. "Were," you say?

Q. You were at variance on this matter?

(Testimony of Henry Schmidt.)

A. Oh, yes, yes.

Q. You were at variance? A. Yes.

Q. And despite the quoted article in the Voice of the Federation, you were at variance?

A. Yes, of course.

Q. Do you know whether or not in October of 1939, the date of this publication, that at that time Russia and Germany were in a peace pact?

A. Whether or not they were already in a peace pact?

Q. Yes.

A. No, I haven't the date fixed in my mind at all.

Q. You don't recall when it was that the pact was broken by the attack on Russia by Germany?

A. It seems to me that that was some time later.

Q. Some time later. And if the invasion of Russia by Germany took place in June of 1941, would that knowledge refresh your recollection as to whether or not in 1939 Russia and Germany were at peace under a non-aggression treaty?

A. Yes, I recall the situation. I recall the situation, but I am not clear on the dates.

Q. What is your present position with the ILWU, Mr. Schmidt?

A. Well, as I stated previously, the title is International [4749] Representative.

Q. Is that an elective or appointive position?

A. That happens to be an appointive position.

Q. And the appointment was made by whom?

A. Well, it came about in a peculiar manner that requires some explanation.

(Testimony of Henry Schmidt.)

Q. Would you mind telling us?

A. Not at all. I was asked to go to Hawaii on May 2 or 3 of last year, because a strike had developed there on the last day of April. It was my assignment to look after that strike, the strike of longshoremen. At that time I held the elective position of Coast Labor Relations Committee member. That term was about to expire. In fact, it did expire several weeks or perhaps a month or two after my arrival in Hawaii, and my successor filled my place here in the San Francisco office. At that point I received a letter from Vice President J. R. Robertson, pointing out that after consultation with the other international officers they had appointed me international representative, and along with it he also pointed out that my salary would be cut somewhat.

Q. What was the last elective office you held in the ILWU?

A. The Coast Labor Relations Committee.

Q. Were you recently a candidate for election in Local 110 of the ILWU?

A. Yes, sir, I was a candidate for president, and I was [4750] defeated.

Q. Is the ILWU affiliated with the CIO?

A. It is.

Q. Has any step or steps been taken by the national office of the CIO to cancel the charter of the ILWU?

A. There have been such threats, but no steps that I know of. I understand that charges have been preferred which will make it necessary for some of the international officers to appear somewhere, I suppose in Washington, for a trial.

Q. And was the nature of that charge or those charges a domination of the ILWU by Communists?

A. I believe the charges—I haven't heard these charges made; I wasn't at that convention back East, but I have read about them, and I——

Q. Is that your version of it?

A. My version would be that the union is charged with following the "line."

Q. Now, you have been a member of that union for a great many years? A. Since 1933.

Q. Do you know any members of the Communist Party who are members of that union?

A. Yes.

Q. Would you say that they are few or many?

A. Would I say what? [4751]

Q. That they are few or many?

A. Oh, I would say they are few.

Q. By the way, at the time when you met Lawrence Ross, did you then know that he was a member of the Communist Party?

A. No, I didn't. I didn't ask him when he came into the headquarters at the time. I suppose I took it for granted that he would be, because he started to talk about the Western Worker.

Q. And what did you understand the Western Worker to be?

A. I think he made it clear that it was the organ of the Communist Party. I think it was a weekly paper at that time.

(Testimony of Henry Schmidt.)

Q. And if Lawrence Ross offered you the services of the Western Worker, a Communist paper, as you describe it, for the purposes of the strike, did you accept it?

A. Oh, I didn't personally.

Q. Well, did he come to see you about it?

A. Yes. I recollect a conversation with this man. I can't recall just what was said. I am pretty sure that we took the proposition and discussed it in the strike committee, and later that day or maybe the following morning. I can't recall what was said there and then. All I can recollect is that the job was done later on. They helped us in getting out this sheet.

Q. Then there isn't any doubt in your mind but that the Communist Party helped you in the '34 strike, is there?

A. In so far as this publication is concerned, yes.

Q. Do you recall the witness Henry Schrimpf testifying that all [4752] of the decisions made in the '34 strike were made by Sam Darcy as head of the Communist Party, that they were good decisions, and that even as he sat on the witness stand, he said he wouldn't have changed one of them; do you recall that?

A. Well, if Henry Schrimpf was satisfied with them, I can't argue with him.

Q. Well, do you disagree with his statement that the decisions were made with respect to the conduct

(Testimony of Henry Schmidt.)

of the strike by Sam Darcy, speaking for the Communist Party?

A. That the decisions were made by Sam Darcy?

Q. Yes.

A. I think that is ridiculous. I am just wondering what we were doing on the strike committee. We were making motions, we were discussing propositions, we sometimes opposed motions as members of the strike committee. When motions were adopted, we carried them through to the best of our ability.

Q. And do you remember the witness John Schomaker stating that all the decisions in the '34 strike were made at the instance and upon the advice of Sam Darcy?

A. I recall his testimony, yes.

Q. And you disagree with that statement also?

A. That the decisions were made by this man Darcy?

Q. Yes. A. I certainly do.

Q. And as far as you are able to state, the only help that the [4753] Communist Party gave in the '34 strike was by offering the use of its publication, the Western Worker?

A. That is correct, and it was accepted by the strike committee. And later on, I don't know how much later on, that practice had discontinued. How that came about, I can't recall.

Q. Referring to the incident which you described shortly ago, in which some two and a half years ago you had Judge Foley pointed out to you and you

(Testimony of Henry Schmidt.)

didn't recall him, would that kind of memory perhaps answer the question as to why you don't recognize Stanley Hancock?

A. Will you give me that again?

Q. You testified shortly ago that two and a half years ago——

A. About two and a half years ago.

Q. Which was not much more than two years after the naturalization proceedings before Judge Foley, you saw Judge Foley in a public place, he was pointed out to you by Mr. Bridges, and you failed to recognize him. Do you recall that?

A. I pointed out that these gentlemen waved at each other. They were about 12 or 14 feet from one another, and then I asked Bridges, "Who's that?" and he said, "That is Judge Foley." And I said "Who is he?" Then he said impatiently, "Why, that is the man that made me a citizen. Don't you remember?" So I looked and I said, "Oh."

Q. Well, in your experience thus far, Mr. Schmidt, have you found your memory giving you trouble? [4754]

A. Not too badly. I recall there was an incident took place here at three o'clock when several people couldn't remember something that happened, an hour ago.

Q. And you could? A. Pardon me?

Q. And you could? A. No, I couldn't.

Q. You are sure that it isn't your memory and not a matter of fact that you never saw Stanley

(Testimony of Henry Schmidt.)

Hancock before you saw him seated in the witness chair in this courtroom?

A. No, I am pretty sure that I have never seen Stanley Hancock before.

Q. Can you give any explanation or reason why Stanley Hancock should identify you as one who sat with him at a meeting of Communists if such were not the fact?

A. Why, yes. These fellows have become professional stoolpigeons, and they will lend themselves to this kind of program, apparently without much hesitation or none at all.

Q. Did you hear Stanley Hancock from that witness chair say that on the day he received the subpoena and left from Erie, Pennsylvania, to come here to testify, he handed in his resignation to the newspaper for which he worked?

A. Yes, I believe he said that.

Q. What reason do you have for believing that Stanley Hancock is a stool pigeon? [4755]

A. Well, he sat here.

Q. You mean the fact that he testified against you and Mr. Bridges ipso facto classifies him as a stool pigeon?

A. In my humble opinion, yes.

Q. May I ask you if you know the following persons. You have said already that you know Mr. William Schneidermann?

A. Yes, I testified that he was at a public meeting at Dreamland Auditorium, and on another occasion he spoke to a membership meeting of the

(Testimony of Henry Schmidt.)

San Francisco longshoremen, and I have since discovered that he debated a fairly important question and the other person who debated with him was Mr. Paul Smith, of the San Francisco Chronicle.

Q. They were not both on the same side of the debatable question, were they, sir?

A. I fear not.

Q. Are your fears for Mr. Smith or Mr. Schneidermann?

A. Well, I wasn't much worried. They debated one of two questions, either the Russo-Finnish war or the Nazi-Russian pact, one of those two.

Q. Do you know that Mr. Schneidermann is today the district organizer for the Communist Party of this district?

A. Well, it has been repeatedly so stated in these proceedings.

Q. Do you know a man by the name of Walter Lambert?

A. I have met him somewhere, but I can't recall where.

Q. Do you know whether or not Walter Lambert is a member of [4756] the Communist Party?

A. No, sir.

Q. Would you believe it if I told you that Mr. Bridges had said publicly and under oath that Walter Lambert was a member of the Communist Party? Would you then believe that Walter Lambert was a member of the Communist Party?

A. If you told me Bridges had so testified?

Q. Yes. A. Oh, I think so.

(Testimony of ~~Henry~~ Schmidt.)

Q. And if Mr. Bridges had so testified, would you believe that Mr. Bridges knew that Walter Lambert was a member of the Communist Party?

A. That is the same question, isn't it?

Q. No, no. The first question was, Would you believe that Mr. Bridges so testified only if I told you, and I appreciate your saying that you would.

A. Well, will you tell me again?

Q. The second question is, Would the fact that Mr. Bridges had so testified under oath persuade you that Mr. Lambert was a member of the Communist Party?

A. Well, that Mr. Bridges so testified? [4757]

Q. Yes. Well, I suppose that makes Lambert a Communist? A. I don't know.

Q. Didn't you know him to be the trade union director for the Communist Party for the State of California?

A. I have heard it so stated in these proceedings.

Q. And you have never met him?

A. Lambert?

Q. Yes.

A. I told you that I had met him, but I can't recall where.

Q. Can't recall any of the circumstances under which you met him? A. No, sir.

Q. Did you ever know a man by the name of Harry Jackson? A. Yes, sir.

Q. Did you know Harry Jackson to be a member of the Communist Party?

A. 'Well, he was generally known on the water-

(Testimony of Henry Schmidt.)

front back in '34 as the organizer of the Marine Workers Industrial Union, and that organization was labeled with the red brush, and I sort of took it for granted that Harry Jackson was a member.

Q. You have already testified that you knew that Sam Darcy was a member of the Communist Party?

A. That was common knowledge.

Q. Did you know a man by the name of Alex Noral? [4758] A. Alex what?

Q. Noral, N-o-r-a-l.

A. No, I don't recall that name.

Q. Did you ever know a man by the name of Walter Stack? A. Oh, yes.

Q. Did you know Walter Stack to be a member of the Communist Party?

A. Yes, sir. He has often so stated.

Q. Did you know a man by the name of David Saunders?

A. Is that the man that goes by the nickname of "Butch"?

Q. I am sorry, I never had the pleasure of meeting him. I wouldn't know. Do you know a "Butch" Saunders that you think might be named Dave?

A. That could be.

Q. Did the "Butch"—perhaps Dave—Saunders whom you know, to your knowledge, belong to the Communist Party?

A. I don't know. The last time I saw Butch Saunders I was standing on the dock and a ship was just pulling away and he stuck his head out

(Testimony of Henry Schmidt.)

of the porthole and greeted me. He said, "We are off for Shanghai," or some place.

Q. Did you ever know a man by the name of Archie Brown? A. Oh, yes.

Q. Did you know him to be a member of the Communist Party?

A. Everybody knows it. He is a member Local 10, ILWU, and he has frequently stated that he is a member of the Communist [4759] Party.

Q. He is one of the members of the ILWU whom you know to be a member of the Communist Party?

A. Well, he says so. I believe he is telling the facts. Saw him yesterday.

Q. Did you know a man by the name of George Maurer, M-a-u-r-e-r? A. M-a-u——

Q. M-a-u-r-e-r.

A. No, that name I don't know.

Q. Did you know Ida Rothstein?

A. How do you spell all that?

Q. Ida, I-d-a Rothstein, R-o-t-h-s-t-e-i-n.

A. No.

Q. I think you said the other day you did not know Elaine Black? A. I didn't say that.

Q. I am sorry. Did you know or do you know Elaine Black?

A. Yes, sir, and I saw her husband over at the Permanente Hospital the other day when we were there. He is an American-born Japanese who fought in the American army and was refused employment after he got back from the war. He is a well known Communist, incidentally.

(Testimony of Henry Schmidt.)

Q. And did you know Elaine Black to be a member of the Communist Party?

A. I take it for granted she is.

Q. I think I mistook her name for Hazel Woods. I think you [4760] were asked about Hazel Woods yesterday; do you recall?

A. About being asked yesterday?

Q. Yes, about Hazel Woods.

A. And my answer was that I didn't know the lady, that I knew somebody by the name of Virginia Woods.

Q. Didn't you know that Hazel Woods was the wife of Walter Lambert?

A. I never saw Hazel Woods, not to my knowledge.

Q. Did you know a woman by the name of Louise Todd?

A. I have heard that name in San Francisco, but I can't place it.

Q. Did you know a man by the name of Pettus Perry? A. What was that again, please?

Q. Pettus, P-e-t-t-u-s, Perry, P-e-r-r-y.

A. No.

Q. Did you know a man by the name of Rudy Lambert? A. Brother of Walter Lambert?

Q. Yes.

A. I have heard that name in San Francisco, but I haven't had the pleasure.

(Testimony of Henry Schmidt.)

Q. Do you know whether or not he was a member of the Communist Party?

A. Since I don't know, I wouldn't know.

Q. Did you know Betty Gannett?

A. No, sir. [4761]

Q. You did know John Schomaker?

A. Oh, yes.

Q. And did you know him to be a member of the Communist Party? A. No.

Q. Did you know that Mr. Bridges has stated that John Schomaker was known to him to be a member of the Communist Party?

A. Well, apparently Bridges knows more about these things than I do.

Q. You testified the other day about some incident when John Schomaker shook a People's World at you and made some remark. Do you recall now what it was that you said?

A. You are quoting me substantially correctly.

Q. Do you recall when that took place?

A. Well, I think I explained that the other day. It was after Schomaker came out of the service; he had been in the Seabees in Honolulu, I believe. He frequently wrote me from there, commented on what a nice job I was doing, but he was very critical of Bridges in his letters and that stood out when he came back. It was during a convention here in the ILWU building at 150 Golden Gate Avenue, and it was during the noon recess that I met him, down in the financial district. The reason that I was down there is because our offices were then at 644 Montgomery Street. And during the lunch hour we ran into each other and we had a very brief conversation about the convention proceedings. He made some fairly bitter remarks about Bridges, pointed out [4762] that he was on the beam and that the reason he was on the beam was because he read this paper, People's World.

Q. And do you know the People's World to be a Communist publication?

A. Oh, I take it for granted that it is.

Q. And was the fact that John Schomaker had the People's World with him what led you to the conclusion that he was a member of the Communist Party?

A. Well, he was so emphatic about it. He said, "Brother, I've got a program, and you read this paper and you will get on the beam."

Q. And that was probably 1945 or 1946, after the war?

A. Well, I would like an opportunity to check when that convention took place, and then I could better fix it.

Q. Well, it was after the war?

A. Well, he was no longer wearing the uniform, so I guess it was after the war.

Q. You were a witness in Mr. Bridges' deportation proceedings, were you not?

A. You mean nine or ten years ago?

Q. Yes. A. Oh, yes.

Q. And didn't you know that at that proceeding

Mr. Bridges had testified that John Schomaker was a member of the Communist Party? [4763]

A. No, sir, I didn't sit here every day in those days, and I haven't read every word of that stack of books that was lying on that table for so long.

Mr. Donohue: Might we take our recess at this time, if your Honor please?

The Court: All right.

We will adjourn until tomorrow morning at 10:00 o'clock, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions, nor to suffer any person to converse with you on any subject of the trial. You are not to form or express an opinion until the matter is submitted to you.

(Whereupon an adjournment was taken to tomorrow, Wednesday, February 1, 1950, at 10:00 o'clock a.m.) [4764]

Wednesday, February 1, 1950, 10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: May we interrupt with another witness, your Honor?

The Court: Yes.

Mr. MacInnis: Will the bailiff please call Father Paul Meinecke.

FATHER PAUL MEINECKE

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury.

The Witness: My name is Father Paul Meinecke.

The Clerk: Will you spell the last name.

The Witness: M-e-i-n-e-c-k-e.

Direct Examination

By Mr. MacInnis:

Q. Father Meinecke, you are a duly ordained priest in the Roman Catholic Church?

A. That is correct.

Q. And you have been a priest and duly ordained and acting as such for about how many years? A. Almost twenty years a priest.

Q. Where are you stationed now, Father Meinecke?

A. I have my own parish in Eureka, [4765] Nevada.

(Testimony of Father Paul Meinecke.)

Q. And who is your superior?

A. His Excellency Bishop Thomas K. Gorman, Bishop of Reno.

Q. His office and his cathedral is in Reno, Nevada, is that correct? A. That is correct.

Q. Previous to the last few years were you in San Francisco?

A. I was stationed here as an assistant in a parish for about ten years.

Q. What parish was that, Father Meinecke?

A. That was St. Boniface Church, right here in the neighborhood.

Q. And what were the ten years approximately in which you served as assistant in St. Boniface Church?

A. I would say about from 1936-37 to the following ten years.

Q. Now, while you were at St. Boniface Church you were known as Father Paul in the monastery at St. Boniface, is that correct?

A. That is correct. In a religious order it is more or less the custom that you are addressed by your first name rather than your last name.

Q. And as I understand it, after that time you received a papal dispensation to be transferred to do missionary work in Nevada?

A. That is right, with the full approval of my superiors.

Q. And what is the nature of the missionary work in which you are now engaged in addition to your duties as the head of a [4766] parish?

(Testimony of Father Paul Meinecke.)

A. Well, like I told you before, I have my own parish there in Eureka, but there are not too many priests in Nevada. We are called on to do a lot of extra work, and I not only take care of Eureka, I take care of Austin, that is about 70 miles east of the town of Eureka and the next town. I also take care of the parish of McGill, Ruth, Caliente and Pioche, a distance of about 500 miles.

Q. Those towns are denominated as missions in the course of your work, is that correct?

A. Not exactly. They are real parishes. If there were enough priests working in Nevada we would have an ordained pastor in every one of those parishes.

Q. But what I mean is, you travel from one place to another?

A. That is right. I cover all my parishes at least once a month.

Q. While you were in San Francisco, Father Meinecke, did you at any time become interested in the labor movement in San Francisco?

A. Yes, I was very much interested in it, as many other priests are, too.

Q. Did you have anything to do with the forming of the association of Catholic Trade Unions in San Francisco?

A. Well, Mr. MacInnis, some people forget things, but it has always been one of my very happy memories that I conceived the [4767] idea of organizing that association and bringing it here to San Francisco, that is, the Association of Catholic

Trade Unionists, which I believe is still in existence.

Q. What was the purpose of that organization, Father Meinecke?

Mr. Donohue: Excuse me, Father. I am afraid I must object, if your Honor please. I assume that the witness was brought here as a character witness, and while interesting, this matter is not pertinent.

Mr. MacInnis: This is preliminary, your Honor, merely to show his relationship to one of the defendants.

The Court: I will overrule the objection.

Q. (By Mr. MacInnis): What was the purpose, Father Meinecke, of the Association of Catholic Trade Unionists?

A. Oh, it is an instrument to—by which you can train and teach union people their duties and obligations toward the union, make them better acquainted with the principles of trade unionism. It isn't an organization that is opposed or separate from a trade union, it is a supplement; it is a place where we give them training, and it has its source in the Catholic Church. It was organized specifically at the wishes of Holy Father Pope Pius XI, who wanted such an organization.

Q. Now, Father Meinecke, in the course of your activities in connection with the labor movement, did you come to meet a man named Harry Bridges?

A. I did. Among many other labor leaders, I met Harry Bridges. [4768]

(Testimony of Father Paul Meinecke.)

Q. When approximately did you first meet Harry Bridges?

A. Well, I couldn't say definitely. I couldn't give you the day or the hour or the place, but I would say that we were fairly good friends by about 1937-1938.

Q. What were the circumstances, if you can remember, of your early meeting with him?

A. Well, due to my work, I had to make it my business to get to know those people, especially to know the leaders in the unions. And as I said before, I couldn't put my finger on the precise day, but I say by about '38 we were fairly good friends, because I was trying to rehearse my memory just when I met the gentleman. But the earliest outstanding thing in my memory is I can remember Mr. Bridges coming over to our church one day and asking me if I could recommend a Catholic school for his daughter, and I believe that is the first time that I met his daughter. And if my memory doesn't fail me, I believe that I approached the authorities of St. Brigid's school here in San Francisco, and his daughter was placed there to his satisfaction. But I know that definitely at that time we were good friends, because he looked me up specifically for that purpose. [4769]

Q. In other words, from time to time Mr. Bridges visited you and I suppose you visited him, is that correct?

A. That is correct, and we met as a group.

Q. When you say, "We met as a group," do

(Testimony of Father Paul Meinecke.)

you have reference to any particular persons?

A. Other members of the trade union movement, people—even priests like myself who realize that is part of our work, something we should be interested in.

Q. Mr. Bridges, I take it, consulted you upon religious problems as well as upon problems connected only with the labor movement, is that correct?

A. That is correct. That is correct because he was a Catholic, although he was not a member of our parish, and certainly those things came up.

Q. Did your acquaintanceship or friendship with Harry Bridges remain constant during all of the years you were here in San Francisco?

A. That is right.

Q. Did you from time to time discuss Harry Bridges with other persons in this community and did you hear his name mentioned by other persons?

A. He was a very frequent topic of conversation.

Q. When I suggest that he may have been a topic of conversation, I have reference to his reputation in this community for truth, honesty and integrity. Did you hear those qualities discussed [4770] by people in this community?

A. Well, not directly as you put it, but we all were aware of the gossip and all the rumors and, if you wish, newspaper talk about him, unfavorable opinions that people had of him, and so we who knew him thoroughly could not help but express our own opinions about those things.

(Testimony of Father Paul Meinecke.)

Q. Father Meinecke, based upon your own acquaintanceship with Harry Bridges and based also upon such words or utterances of other people which have come to your ears, are you in a position to tell us what the reputation of Harry Bridges is for truth, honesty and integrity?

A. I give you my personal opinion. I would say it is of the best. In all of his associations with me personally as a priest, he not only was truthful, honest and an upright man, he was more.

Q. Thank you very much.

A. As a priest—I beg your pardon—as a priest, you know, I do not say that I am as smart as most people, but you should give each priest a little credit for shrewdness, a little judgment of character, and you know that I would not associate myself publicly and be known here in the city by many thousands of people as a very good friend of Harry Bridges if I had the slightest doubt about his character. See?

Mr. MacInnis: Thank you. [4771]

Cross-Examination

By Mr. Donohue:

Q. Did I understand you to say, Father, that Mr. Bridges is a Catholic or was a Catholic?

A. Is a Catholic.

Q. Do you know as a matter of fact that Mr. Bridges has married a second time with a first wife surviving? A. Many Catholics do that.

Q. Do you know whether Mr. Bridges was married by a Catholic priest and in the Catholic church?

A. I am not aware that he was, but I can tell you that if the circumstances are as you say his second marriage could not have been performed by a priest unless the first one was investigated by his bishop and declared to be invalid. Then he may marry again and a priest may perform the ceremony.

Q. If he were not married a second time by a priest, would you say that he was still a Roman Catholic?

A. That is one thing you cannot erase.

Q. What is the one thing you cannot erase?

A. When a man is baptized a Catholic, he is a Catholic forever, whether he works at it, whether he is faithful to his religious obligations constantly, or if he drops them for a while. If he wants to come back, he does not have to be baptized a Catholic again. He is always a Catholic, and while there is life there is hope.

Q. Do you know of your own knowledge whether Harry Bridges is [4772] what you understand by the term a practicing Catholic?

A. No, I would not consider Harry Bridges a practical Catholic.

Q. During the time that you knew Harry Bridges did you know him to attend regularly the obligations of the Catholic church, to attend mass on Sundays and holy days of obligation?

(Testimony of Father Paul Meinecke.)

A. Mr. Donohue, that was part of my business, and our association to work towards that end.

Q. Did he answer just as I do towards many people who are not as practical as they ought to be? Did Mr. Bridges?

A. He did not belong to our parish. Neither did he live in our neighborhood. Therefore I could not give you—I wouldn't know.

Q. In your close personal friendship for Harry Bridges over a good many years and in the very numerous instances when you discussed, as you said to Mr. MacInnis, religious matters with him, did you discuss with him the salvation of his own soul?

A. As I said before, that was a big piece of our association and that subject came up many times.

Q. Are you not in a position to tell us whether or not during the years that you knew Harry Bridges he was a practicing Catholic and participating in the sacraments of the Catholic church?

A. My talks with him were not as successful as I wish they might have been, but I said before, while there is life there is [4773] hope.

Q. Isn't it a fact, Father, what you are saying is Harry Bridges was a Catholic, and there is still hope that he might again become a Catholic?

A. He can't become a Catholic again. He could become a practical Catholic but he is a Catholic. I know that he comes from a Catholic family.

Q. Isn't that the reason for your stating that he is a Catholic because he came from a Catholic family?

(Testimony of Father Paul Meinecke.)

A. Would you rephrase that, please?

Q. Isn't that the reason that you now state that Harry Bridges is a Catholic because you know he came from a Catholic family?

A. No, I know he is a Catholic on his own. Whether his mother and father were or were not would have no bearing on it. My own father and mother are not Catholics, but I am.

Q. You also know he is not a practical Catholic, do you not, Father? A. I know that.

Q. In the organization of the Catholic trade union movement, did you come in contact at all or have any experience with the fact that the trade union movement in this area as well as in other areas had been infiltrated by the Communist Party?

A. All the more reason for us to get interested in it.

Q. Would you answer the question, Father: Did you find that to be a fact? [4774]

A. Just like in any other organization like a trade union, you will find all sorts of people.

Q. Would you still answer the question, Father: Did you find any infiltration by the Communist Party in the trade union movement in this area?

A. Yes.

Q. And as a priest of the Catholic church, did that cause you any concern?

A. It certainly did. It made me more interested in the trade union movement and aware of our obligations to get to help those people.

Q. Help what people?

(Testimony of Father Paul Meinecke.)

A. People who were in the unions, show them that we priests have an interest in their problems.

Q. Did you ever discuss with Harry Bridges the question of the infiltration of the Communist Party into the trade union movement?

A. Not that I specifically remember. It may have come up, but it slips my memory now as a subject of conversation.

Q. Among the many rumors and bits of gossip that you stated you heard about Harry Bridges, were any of those bits of information with respect to the question as to whether or not Harry Bridges was a member of the Communist Party?

A. Look, Mr. Donohue——

Q. Could you answer the question, [4775] Father?

A. I made it my business to investigate that very thing.

Q. Tell us the result of your investigation, Father.

A. I will. Over the period of years I knew the man and I have discussed many, many things with him over periods of hours, I made it my business as a priest to find out what kind of ideas were in his head, what sort of philosophy he was dominated by, his own principles. And give me credit enough for being enough of a judge of human character and human nature that I could plant discussions on him. I could put in questions so that even though he did not give me a direct answer, I could read between the lines.

(Testimony of Father Paul Meinecke.)

Now, this is not once. This is over a period of years, because I was aware of all the rumors about the man and the gossip. People would ask me, they would say, "Father, you know Harry Bridges. What do you think?"

And I will tell you what I always told them: "I know the man. I know his ideas. There is a great distinction, although some people are not aware of it, between militant trade unionism and Communism. There is a great difference." And I would say that Harry Bridges is, was during those years that I knew him, a militant trade unionist and a great leader, because when he comes up for election in his union, he could get dumped but they always revoted him in. He got reelected.

But going back to that question——.

Q. Will you answer it? [4776]

A. I know it is important, but from all my conversation with him, all the times we discussed the subject, I always went home with the idea, "They are all wrong. Harry is no Communist. Harry is not a radical. He is a militant trade unionist, but he is not a Communist." I can recognize Communism.

Q. Can you tell a Communist when you see him, Father?

A. I certainly—not by seeing him, no, but give me the man and let me talk with him, not for an hour, but over a long period of time, to meet him again under different circumstances, and I can point out a Communist to you. It is ideas in their head which will come out in their conversation and if he were a Communist——

Q. Father——

A. I beg your pardon—if he were a Communist, he would have slipped at least once or twice and said something that would convince me the man is a Communist. But he never slipped. He never defended the thing. He never gave out with any ideas that would lead me to believe that he is a Communist. And I tell you that very sincerely. Mr. Donohue, as a Catholic priest, if I had the slightest notion that Harry Bridges was a Communist, I would not be here. If I had any suspicion whatsoever that he was, I would not be sitting here as his friend.

Q. Now, will you answer my question?

A. Will you rephrase it? Pardon me for being so windy. [4777]

Q. I asked you, Father, whether or not among the items of gossip and rumor which you stated to Mr. MacInnis came to your attention about Harry Bridges, was there any part of that concerned with the fact that he was a member of the Communist Party?

Mr. MacInnis: That is a different question altogether, Your Honor.

The Witness: That is rather involved.

Q. (By Mr. Donohue): Let me put it a little simpler to you, Father: Did you ever hear anyone say that Harry Bridges was a Communist?

A. Loads of people say that, victims of gossip, people who repeat things they do not know about, and they just repeat and repeat. Surely, I have heard people say that Harry Bridges was a Communist.

Q. And you say loads of that character?

A. Yes, lots of people said that.

Q. How many people have you heard say he was a man of honesty, veracity and integrity?

A. You do not say that thing about a person.

Q. Let me ask you, did you ever hear anyone say he was a man of honesty, veracity and integrity?

A. That is not fair.

Q. Will you answer the question, Father?

A. You are involving me in something that can be twisted against [4778] a man, something I do not intend to do.

Q. Do you understand, Father, that you are here to testify not as to your personal opinion as to Harry Bridges but as to his reputation in the community for truth, veracity, honesty and integrity?

A. By the very fact, Mr. Donohue, that no one among the people who knew him impugned his veracity or spoke against his uprightness, then I will answer your question and say, certainly, people said good things about him on that score. By the

(Testimony of Father Paul Meinecke.)

fact that they did not attack those qualities in his character, they did not impugn him.

Q. I ask you again the direct question, Father: Did you ever hear anyone say in your presence that Harry Bridges was a man of honesty, integrity, truth and veracity?

A. As you put it, like the lines out of a play, of course not. Who is going out of his way to make a statement like that? My bishop has probably never heard anyone say those things about me just that way.

Q. Then it is a fact, Father, you never heard anyone say that Harry Bridges was a man of truth, honesty, veracity and integrity, correct?

A. In those very words I have to say yes, but that is not a fair question. No one said that about me either. Those qualities are assumed until someone attacks them.

Q. And your testimony is based upon that assumption except for [4779] your own personal experience?

A. Maybe I am dumb. Will you do that over again, please?

Q. Is your testimony based upon that assumption of negative testimony except for your personal experience with the defendant Harry Bridges?

A. No, there is lots of positive in it, too.

Q. Would you tell us the positive that you heard from some other person other than yourself?

(Testimony of Father Paul Meinecke.)

A. You are asking me to remember conversations that go back five, ten, fifteen years. What man can do that?

Q. I am asking you only, Father, if you are able to tell me if any person or persons ever discussed with you the reputation of Harry Bridges and said he was a man of truth, honesty, veracity and integrity?

A. If you boil those three things down, those three qualities, boil them down to one element, then I would say that we who knew him always came to the conclusion that he had those qualities.

Q. Father, are you naive enough to believe that a member of the Communist Party would tell you that he was a member of the Communist Party?

A. Some did. I knew Communists who boasted about it.

Q. Are you naive enough to believe that Harry Bridges, who has denied his association and membership in the Communist Party on every possible occasion, would tell you if he were a member of the Communist Party? [4780]

A. If he told me he were not and yet he were a Communist, out of all of our associations I would have found out about it. And you would say, "Why?" By reading between the lines.

Q. Father, you are a priest and not a psychiatrist, are you not?

A. Every priest is a fairly good [4780-A] psychiatrist.

Mr. Donohue: If your Honor pleases, at this

(Testimony of Father Paul Meinecke.)

time I move to strike the testimony of the witness on the ground that he has testified only as to his personal opinion of the defendant Harry Bridges, which negatives the possibility that his testimony may stand as to the reputation of the defendant Harry Bridges because, despite what may be, the rule in People v. Adams, which I think Mr. MacInnis cited one day——

The Court: 1902.

Mr. Donohue: ——the rule in the Federal Court is well established that a general reputation for good character is a factor which a jury is entitled to consider among other bits of evidence in arriving at a determination of the guilt or innocence of an accused—a general reputation for good character. A man's character, as I understand all of the decisions, is what in fact he is. His reputation is the estimation of that man's character in the community in which he lives or works.

I most respectfully, therefore, say to your Honor that this witness has voiced nothing other than a personal opinion and has in fact negatived by his own testimony any possibility that the opinion which he is citing here is a statement of the reputation of Mr. Bridges, but is positive in that it is his own personal opinion. And for that reason I most respectfully urge your Honor to strike his testimony from the record. And if there be any doubt as to the accuracy of my statement, I shall be glad to submit a memorandum to your [4781] Honor.

(Testimony of Father Paul Meinecke.)

Mr. MacInnis: Now, the only striking thing about the remarks of the special prosecutor is that they are not so, because this witness, prodded by the special prosecutor, said that he had not only negative evidence of the character of Harry Bridges but positive evidence. He said that the precise words "truth, honesty and integrity" were not used in that stilted language, but many people who discussed the matter with him came to the same conclusion as himself. And that is the only test that the law imposes, that the opinion given by a witness be a composite of his own knowledge and acquaintance with the person involved plus such discussions as may have come to his ears from members of the community in which he lived. Now, he said that, your Honor; he has said it three or four times, and because he has expressed a personal opinion due to the cross-examination, his testimony becomes stronger, not weaker, for that reason, and there is no possible ground upon which this testimony should be stricken.

I will invite your Honor to ask the witness if the answer he gives is not a composite of his own knowledge of the man plus what other people in the community have said.

The Court: Mr. MacInnis, you are counsel for several of the defendants. You may ask him that if you are so advised.

Mr. MacInnis: Yes.

The Court: It is not the province of a court to examine the witness. You ask the questions, if you like. [4782]

Mr. MacInnis: Yes, I will be glad to do that.

Q. Father Meinecke, tell us if it is not a fact that the opinion that you give concerning the good reputation of Harry Bridges for the qualities of truth, honesty and integrity is based upon two things: First, your own knowledge and acquaintanceship wth him, and, secondly, such things as you have heard said by other persons in this community.

Mr. Donohue: I object to the question, if your Honor pleases.

A. You are absolutely correct.

Mr. Donohue: Just a minute, Father. I object to the question, if your Honor please, because the law is certain that it is not the individual's opinion which is admissible before a jury as a matter of reputation; it is the general reputation in the community of the particular defendant for the particular virtue which Mr. MacInnis ascribed.

The Court: The so-called trait involved. That is a correct statement of the general principle, no question about it.

Mr. MacInnis: That is right.

The Witness: May I say this: What you gentlemen were arguing about, my personal opinion——

Mr. Paisley: No volunteer statements.

The Witness: It is largely dictated by—what do you call that other thing?—public opinion or the opinion of others, their estimation of the man. These people who knew him maybe [4783] better

(Testimony of Father Paul Meinecke.)

than I did dictated largely my own opinion, and my own experiences confirmed that opinion. I did not learn this thing as though I were living in a little watertight compartment. I dealt with other people whose ideas about Harry Bridges I listened to, people who knew him, people whose opinion I could trust, people whom I knew knew what they were talking about. To name names—of course, I do not wish to involve others, but I remember on many occasions, he was then Senator John Francis Shelley; he was a very good friend of ours. I knew that he knew Bridges and he was a very good friend of mine. Those people always did some wonderful things for me. I never forget what they did for me back in 1940 when I needed a friend.

Q. (By Mr. MacInnis): What was 1940?

A. But these people——

The Court: Mr. MacInnis asked you a question.

Q. (By Mr. MacInnis): What was 1940, Father?

A. Now, I suppose that is a personal thing. 1940——

Mr. Donohue: Just a minute, please, Father. I think, if your Honor please, that a question should be asked of the witness to develop the only fact or factor which is admissible as a matter of law, and that the good Father should not be permitted to make generous voluntary statements which are not admissible as a matter of law.

Mr. MacInnis: Judge, I didn't invite the cross-examination. [4784]

(Testimony of Father Paul Meinecke.)

Mr. Donohue: This is a court of law and not——

Mr. MacInnis: The special prosecutor may not quell the statements of a witness because he is displeased with them. And he chose to cross-examine the witness and open various avenues——

The Court: Mr. MacInnis, proceed with the question, if you have one.

Q. (By Mr. MacInnis): You said that persons such as Mr. Shelley and Mr. Bridges performed some service for you in 1940. What was that?

Mr. Donohue: I object, if your Honor please, What difference does it make what the service was?

The Court: Is this a matter of personal concern, Father?

The Witness: No, it shows——.

The Court: Would you answer the question.

The Witness (continuing): ——the attitude of those men towards me.

The Court: It was a matter of personal concern to you, was it not? Whatever services were performed were of a personal nature?

The Witness: Involving all the members of their unions, yes.

Mr. MacInnis: I think it would be a proper subject, your Honor.

The Court: I will sustain the objection. [4785]

Q. (By Mr. MacInnis): Now, Father Meinecke, the special prosecutor chose to ask you some questions about the personal life of Harry Bridges, the fact that he has remarried. Let me ask you this: Has he consulted you as to any steps which

(Testimony of Father Paul Meinecke.)

he might take in order to validate his second marriage in the eyes of the Catholic Church?

A. Years ago when I was an assistant here as a priest here in San Francisco he did approach me on that very subject.

Q. Now, as a Catholic priest engaged in the work which you have followed, as you say, for twenty years, you are not a friend of Communism, I take it? A. By no means.

Q. The special prosecutor asked you if you had found any infiltration of Communists into unions in San Francisco, and I take it from your answer that you actually conducted an investigation to that end, is that correct?

A. I made it my business to be well aware of that situation, and how many there were and what they were doing, and who they are and their tactics and their program. I made it my business to know all those things. As many another has expressed this, we want to know what the opposition is doing, so we try to be alert on the subject so that we do not go off half cocked and make gratuitous statements about Communism. We tried to get the facts.

Q. Let me ask you this: If you were not convinced from all of [4786] the bases which you have outlined that Harry Bridges was not and could not have been a Communist, would you have given the testimony that you have offered to the Court and jury?

(Testimony of Father Paul Meinecke.)

Mr. Donohue: Just a minute. Just a minute. I object to the question. It doesn't make any difference whether he is convinced or not convinced.

The Court: The witness has already testified on that subject.

Mr. MacInnis: Thank you very much.

Q. (By Mr. Donohue): Father, are there trade unions up in Eureka, Nevada, where you are now stationed?

A. Unfortunately, the present policy of Washington is that no mining is to be done in Western United States. Our mines are closed. There are no jobs. My poor little parishes are suffering. So where there are no mines operating, there are no workers, there are no unions.

Q. I was wondering whether there was any reason, after your ten years' experience with the trade union movement, for your being assigned to an area in which there is no trade union movement at all.

A. A very interesting question. No connection whatsoever, and I forgive you for the slur.

Q. I didn't ask for forgiveness, and I meant no slur. I asked you a question. You understand that this is a court of law. [4787]

A. Yes, sir. My superiors always gave me loyal backing and approval and urged me to take an interest in the trade union movement and in the problems and knowing these people and being helpful to them. My superiors approved of that fully and gave me full encouragement.

(Testimony of Father Paul Meinecke.)

Q. And it was your superiors who moved you to Eureka, Nevada?

A. No, I requested it. The records show that.

Q. Father, did you ever hear in the years that you knew Harry Bridges, Harry Bridges ever make a public utterance in opposition to the Communist Party? A. That, like your other question——

Q. Did you or did you not, Father?

A. You see, I say "No," then you draw a conclusion from that. There was no occasion for it.

Q. Father, you are not a lawyer as well as a psychiatrist, are you? Are you, Father?

Mr. MacInnis: I would suggest, your Honor, that——

A. No.

Q. (By Mr. Donohue): At the present time?

A. No, Mr. Donohue.

Mr. MacInnis: If you won't do anything, I will. I won't stand for questions like that.

The Court: Mr. MacInnis, there is no impropriety——

Mr. MacInnis: If you won't interfere here——

The Court: Mr. MacInnis, there is no impropriety in the [4788] question addressed to Father Meinecke by Mr. Donohue. Very many priests have graduated from law, distinguished themselves as lawyers. I have in mind Father Raymond Feeley.

Mr. MacInnis: I know of him.

The Court: A distinguished priest.

Mr. MacInnis: He is the only one I have ever heard of.

(Testimony of Father Paul Meinecke.)

The Court: I have in mind others. But it may well be that Father Meinecke pursued a professional career before he espoused the priesthood. That applies likewise to Christian Brothers and the priests.

Mr. MacInnis: I don't think that you think that, Judge.

The Court: It is perfectly proper.

Mr. MacInnis: I don't think that the prosecutor meant it in that light.

The Court: How the prosecutor meant it is probably for the jury and probably for the Court. Whatever inference you may draw, of course you may draw. The question was perfectly proper.

Mr. Donohue, proceed.

Mr. MacInnis: I suggest the prosecutor meant to draw an entirely improper inference from the question.

The Court: That may be your opinion. You are entitled to harbor it.

Q. (By Mr. Donohue): Would you answer the question, Father, as to whether or not during the many years that you knew and [4780] were a close friend of Harry Bridges you ever heard him publicly utter a single word of criticism against the Communist Party?

A. I didn't hear it with my own ears, but I remember one day when—probably a public fact; if the Court will pardon me I will quote the statement. May I be forgiven for quoting it directly?

(Testimony of Father Paul Meinecke.)

I remember being told, "See see, Harry Bridges is not a Communist."

I said, "What convinced you?"

He said, "Because he told"—I don't know who the name was at the time; he was the head of the Communist Party around in these parts—he said, "Harry Bridges told him to go to hell." And among ourselves we know you can't do that in a disciplined organization of the Communist Party.

Q. Now, in the many years that you knew Harry Bridges, Father, you were pretty close to him?

A. Right.

Q. You followed his public career, right?

A. Right.

Q. Is that the only incident that you can tell us in which Harry Bridges in the countless thousands of public speeches and public utterances, has ever uttered a single word critical of the Communist Party?

A. Because in his speeches at unions that I attended where I listened to him, he was being positive; he had his mind on [4790] his business; he was not taking in extraneous subjects; he was talking about the business at issue—the cause of the strike or the problem before the men.

Q. In his countless thousands of public utterances over the years you have known him, Father, did you ever hear him utter a single word critical of the Soviet Government?

A. If I had more time to refresh my memory I might be able to dig up some. Tonight I will

(Testimony of Father Paul Meinecke.)

probably think of five answers to that question, but right now nothing is fresh in my memory.

Q. In your attempt to eradicate Communism from the trade union movement in this area, if you made such an attempt, what part did Harry Bridges play in the effort?

A. He always gave me his good will. If he were for it, he would have discouraged me, he would have thrown cold water on my efforts.

Q. Did you ever hear him make a speech in your behalf before a labor union or before the public of this area in which he urged his audience to eliminate Communists from the union?

A. They were not as great a problem as some people think in those days. The fact that we knew who they were and how they operated—men like Mr. Bridges could nullify their efforts.

Q. Did you ever hear Mr. Bridges make a statement to his union urging his union to expel the Communists from his union?

A. I don't think that is possible. If you knew how unions operate, you would know that is not possible. If you were an [4791] employer and had 15 people working for you in a shop and his agent came in and organized them, got them into a union, say you had two Communists working for you among those 15 workers. They are blanketed into the union. The blame is upon the employer for hiring two Communists. What is the union going to do? It wants to make union people there out of your place who are hiring the Communists.

(Testimony of Father Paul Meinecke.)

Q. Father, it may be a difficult task, but it isn't impossible——

A. What would you do as an employer?

Q. Each will share his part of the blame.

A. What would you do as an employer?

Mr. Donohue: I have no further questions of the witness.

Mr. MacInnis: Thank you very much. Shall we take the recess?

The Court: One question, Father Meinecke.

Q. Did you receive a subpoena to attend this court?

A. That is the reason I am here, your Honor. A subpoena was served on me over in Eureka, Nevada, and I consulted with people who are my superiors what I should do about it, and they told me, "Obey."

Q. Did you arrive here today, Father, this morning? A. I came in yesterday.

Q. Have you had any discussions before taking your place on the witness stand with any persons?

A. Yes, I spoke to Mr. MacInnis. [4792]

Q. At his offices?

A. Not at his office; at his home.

Q. At his home. When did you meet at his home, Father? A. Last evening.

Q. Did you have dinner there at his home?

A. That is correct, your Excellency — your Honor——

The Court: Thank you very much.

The Witness: I thought you were my Bishop.

(Testimony of Father Paul Meinecke.)

The Court: You are rather complimentary. After you spent the evening there and enjoyed the social activities, then you had a discussion concerning the testimony tht might be given in this case?

A. That is right. I asked that my memory be refreshed; I very rarely see a newspaper.

Q. May I ask you, Father, to what extent did you ask Mr. MacInnis to refresh your memory or recollection?

A. To tell me how the case has been going up to the present time——

Q. He no doubt told you the case was going all right for the defendants, did he?

Mr. MacInnis: I thank your Honor for his thoughtfulness.

The Witness: His general tone was optimistic.

The Court: Just a moment.

The Witness: His general tone was optimistic.

The Court: Now, to what other extent did your memory [4793] become refreshed by your conversation with Mr. MacInnis?

A. I was trying—I knew that questions would be asked me and I wanted to try to be direct and factual and to the point and not hedge. So the first thing we had to agree on was what year I first got to know Harry Bridges, and then——

Q. Do you have difficulty, Father, with your memory or recollection under ordinary conditions?

A. In Nevada there are no clocks and no calendars. We don't know one day from another, and it is easy for one to become careless about pegging

(Testimony of Father Paul Meinecke.)

dates, although I wasn't that way when I was here in San Francisco.

Q. In San Francisco, Father, you were perfectly conversant and well oriented, weren't you, with respect to dates and the like? A. That's right.

Q. Since you went to Nevada your orientation has become poor, has it?

A. No; the years have sort of run together. I say a couple of years ago, and then I remember back, it was 15 years ago.

Q. Have you been recently subjected to medical treatment, Father?

Mr. Hallinan: If the Court please, I am going to object to these questions.

Mr. MacInnis: Let me in.

Mr. Hallinan: I want to enter a legal objection. Your [4794] Honor has seen the Manning Johnsons, the Courches, and Rosses and everybody get on that stand and we asked whether they were insane or not. I object to your Honor's question. I object to that last question and assign that a misconduct, and I ask that the jury be instructed to ignore the implication of the question.

The Court: There is no occasion for any admonition to the jury. Mr. MacInnis invited it.

Mr. MacInnis: I never heard of such a question.

The Court: Mr. MacInnis invited me to ask the question.

Mr. MacInnis: Your Honor refused to do that and I asked a question.

(Testimony of Father Paul Meinecke.)

The Court: I have the greatest respect for men of the cloth, as we all have.

Mr. MacInnis: You are demonstrating it.

The Court: There is no impropriety in my questioning.

Mr. MacInnis: I say there is.

The Court: He asserted his present memory is not good. I asked him whether or not his recollection was good while he was here years ago. He said yes, it was good years ago. I don't see any reason for the criticism.

Mr. MacInnis: When one of the prosecution witnesses was on the stand we asked him if he had received medical treatment, and now you ask a priest who comes here and gives testimony the same question. [4795]

The Court: Ladies and gentlemen——

Mr. MacInnis: I think you should cite yourself for misconduct.

The Court: Ladies and gentlemen——

Mr. MacInnis: I have never heard anything like that. You ought to be ashamed of yourself.

Mr. Donohue: If your Honor please, could I ask your Honor to recess at this time and ask the Father to remain until after the recess period?

The Court: Ladies and gentlemen of the jury, I say to you at this stage of the case that the questions that I asked were asked in perfect propriety. Any question I addressed to the priest was born as a result of the examination conducted on direct and cross-examination. Mr. MacInnis invited me to query the priest. At that juncture I refrained from interrogating him.

I say to you that the respect I have for the priest or any priest or any man of the cloth, be he Catholic, Protestant or any other faith or denomination, is not to be reflected upon by anything I asked this man. A witness coming into a court of law, ladies and gentlemen, subjects himself or herself to cross-examination, and when a person responds to direct questions, that person in the course of events is to be and should be subjected to cross-examination. I believe that the questions presented by Mr. Donohue to this priest were dignified [4796] and proper. I think that the questions I asked the priest were dignified and proper.

Now we will take a recess.

Mr. Hallinan: May I make a motion before you do? I move for a mistrial upon the misconduct of the Court in the type of questions addressed to this priest as tending to reflect—the jury could arrive at some conclusion that it was a reflection upon the credibility of Father Paul.

The Court: The motion——

Mr. Hallinan: And we move for a mistrial upon the ground that your Honor's questions were improper and tend to prejudice these defendants by causing some shadow and some reflection to be cast upon a witness who has merely obeyed a subpoena to come in to give his opinion.

The Court: The motion is denied. In fact, I developed the situation that the witness was subpoenaed. It was my first question, Mr. Hallinan.

The motion for a mistrial is denied.

We will take the recess.

Father, do you mind remaining for a few minutes?

The Witness: No, certainly not.

The Court: You may come into my chambers if you wish, or make yourself perfectly at home.

The Witness: Thank you.

The Court: Be careful going down the [4797] stairs.

(Thereupon the jury retired from the courtroom.)

The Court: Do you have some matters, Mr. Donohue?

Mr. Donohue: No, your Honor. I simply asked your Honor to ask the Father to remain a few minutes. You have already done that.

The Court: Father Meinecke, would you mind remaining a few minutes?

The Witness: I beg your pardon?

The Court: May I ask you to remain for a few minutes?

The Witness: Certainly.

The Court: We will take the recess.

(Recess.) [4798]

Mr. Donohue: If Your Honor pleases, at this time I would ask Your Honor to ask Father Meinecke if he may not remain over until tomorrow morning.

Mr. MacInnis: What is the purpose? If there is some legitimate purpose, we have no objection and we couldn't have, but if the counsel will state the purpose, as we so often have been required to do——

The Court: Mr. MacInnis, I appreciate your comment. If Mr. Donohue is prepared to disclose the purpose——

Mr. Donohue: Yes, Your Honor. I wish to read the transcript of the Father's testimony before further cross-examination is had.

Mr. MacInnis: We have no legal objection. If he can do that by 2:00 o'clock today, it would be better. I assume that it would be within Your Honor's discretion to ask Father Meinecke to remain, and we will not object to it if you think it is proper.

The Court: Thank you. Ladies and gentlemen of the jury, I have one brief statement to make to you in the light of a possible misconception on the part of the Court, at least on the part of counsel and the Court addressing questions to witnesses. I have not had an opportunity to examine the transcript. There was considerable discussion at or about the time that I addressed several questions to the father. I said to you then, and I repeat now, that the questions that I addressed to Father [4799] Meinecke were, I believe, pursuant to the inquiry at hand. Only in passing I think the first question I asked him was whether or not he was subpoenaed. That was overlooked. I think in fairness to Father

Meinecke it was a question that should have been asked, showing his purpose in coming here.

As I indicated to you at the outset of this case, and as I repeat constantly, and as I will have occasion to tell you at the conclusion of this case, the question of the credibility of witnesses, their reasons or motives in testifying, all and singular, the factual issues remain with you and are for you in their ultimate determination. I have no province—ordinarily not, I say—in the determination of the factual background or consideration of this case. Any conversations I have had with counsel on either side, prosecution or defense, or any colloquy that we may have had, may not be regarded by you as reflecting the Court's view upon this matter at all, nor as reflecting upon either Mr. Schmidt now on the stand, Mr. Robertson or Mr. Bridges. Any discussions with counsel in your presence or out of your presence, if they have been brought to your attention, are not to prejudice you in any manner concerning the guilt or innocence of these men on trial. It is my sworn duty, and it is your sworn duty, to provide the defendants on trial with a fair and impartial trial. Likewise under our oath it is our sworn duty to accord the prosecution, the Government of the United States, a fair trial. [4800]

Latterly, in my examination of Father Meinecke some mention was made by counsel concerning the asserted impropriety of a question on my part to the father. I might say to you that that was not born of any desire on my part, nor was it designed to inquire into Father Meinecke's mental processes.

Nor was it to reflect upon his integrity. The question was born and conceived out of a desire on my part to accord fairness to the witness, for the reason that mention was made during the course of this testimony that he left San Francisco for Nevada; an inference might be drawn from that departure that it had something to do with activities in trade unionism and the like. The father on the witness stand volunteered that he asked to be transferred. I merely wanted to inquire, ladies and gentlemen, a very simple question, not born of curiosity on my part, but born of a desire to provide you with all the facts surrounding the father, and it was to the end that I might inquire as to his health. Very many people have to leave large metropolitan areas to go to less burdensome parishes and that was the reason underlying my question.

Now, you may proceed, counsel.

Mr. MacInnis: Before I proceed, I want the record to show an objection to those portions of your last remarks which are offered in explanation of the questions posed to the witness, Father Paul Meinecke, upon the ground that your remarks are self-serving, gratuitous, and have the total effect of adding injury [4801] to injury. I think we obviously have no position in this case to offer in argument in rebuttal of Your Honor's remark, but I suggest that the explanatory remarks are at least partially as improper as the ones originally made, and I want to object to those remarks remaining in the record.

The Court: The objection is overruled.

HENRY SCHMIDT

resumed the stand.

Cross-Examination (Continued)

By Mr. Donohue:

Q. Mr. Schmidt, when you gave us your address I think you said 559 Eleventh Avenue?

A. That is right.

Q. I take it that that is your residence address?

A. Correct.

Q. How long have you lived there?

A. Only since the first of January.

Q. What was your residence address in San Francisco prior to that time?

A. I lived at 722-25th Avenue for approximately 13 months, but during that 13 months' period I was in Hawaii for six months, but I kept the little apartment.

Q. Prior to 722-23rd Avenue, where did you live in San Francisco?

A. I lived for one year in Marin County in the house of Mr. Robertson. During that period he was in Hawaii most of the time. [4802]

Q. And in San Francisco at what other address or addresses have you lived?

A. At 1156 Sanchez Street for about 12 years. Prior to that at 218 Madison Street.

Q. I am sorry—was that Addison?

A. Madison—oh, 8 or 9, perhaps 10 years at that residence. I lived at 2795 Clay Street a long time ago, about the end of the first World War and that

(Testimony of Henry Schmidt.)

Q. Of your own personal knowledge, Mr. Schmidt, was any meeting of any unit of the Communist Party ever held any place where you may have lived at the time?

A. You mean in my places?

Q. Yes. A. No, sir.

Q. For a moment, Mr. Schmidt, going back to the first time you met Lawrence Ross, do you recall that heretofore—first, let me ask you this: He was not alone?

A. Yes, it is my recollection that he was.

Q. Isn't it a fact that he came as one of a committee at the time you first saw him?

A. No, that is not my remembrance.

Q. Do you recall that Mr. Bridges has heretofore testified that he, too, met Lawrence Ross and for the same purpose as stated by you, and at the same time, during the 1934 strike, and that Elmer Hanoff was with him? [4803]

A. I don't recall Mr. Bridges testifying to that.

Q. Well, if he did so testify, will you say that his recollection is not as is yours, that Mr. Ross came alone?

A. I can only give you what I recollect.

Q. And your recollection is that Mr. Ross came alone? A. Yes, sir.

Q. And you have heretofore denied that you ever met the man identified as Elmer, sometimes called Pop Hanoff? A. Yes, sir, I do not know him.

Q. Mr. Schmidt, was there any significance in your mind to the fact that during the period of time the witness Henry Schrimpf testified that he was a member of the Communist Party, and also a member of either the ILA or its successor, the ILWA, that he was frequently elected to office in either one or both of those organizations, and that subsequent to his withdrawal from the Communist Party he was consistently defeated for office?

A. I did not quite follow you—that he was elected to what?

Q. Is there any significance in your mind to the fact, as testified to by Mr. Henry Schrimpf, that during the time he stated he was a member of the Communist Party, he was elected to several offices in either the ILA or its successor, the ILWA, but that after his withdrawal from the Communist Party he was consistently defeated every time he became a candidate for office.

Mr. MacInnis: Pardon me. What is that ILWA? [4804]

Mr. Donohue: I am sorry, Mr. MacInnis, to confuse you—the ILWU.

A. I don't know if I understand your question correctly, and I don't recollect what Schrimpf said on the witness stand with respect to his membership in the Communist Party. Maybe for that reason I am not quite clear. But I recall that he was elected to a number of positions in both unions, the ILA and its successor, the ILWU, for quite a number of years. I recall him going to conventions for many, many years.

Q. Then you do not think that either his membership in or his withdrawal from the Communist Party in any way affected his ability to successfully candidate for office in the ILWU?

A. Oh, I see what you mean now. No, I wouldn't attach any importance to that.

Q. I take it, you do not believe that your election to office has in any event been persuaded or influenced by the fact of your own membership in the Communist Party?

A. Well, in the first place I do not belong, and I attach no importance to it. We do not run for office in our union on the basis of having membership in a political organization. I suppose we have developed some sort of reputation among the men of our union, and if they see fit to vote for us, we are elected, as was the case here a couple of months ago. Some of the men didn't see fit to vote for me and I didn't receive enough votes and I was defeated. [4805]

Q. Mr. Schmidt, has it not been the practice over the years prior to an election in your union for the Communist Party fraction in that unit to meet and to agree upon a slate of candidates for office?

A. I was not a participant. It may have been the practice but I didn't know about it.

Q. Do you recall stating that at the 1934 American Federation of Labor convention held in San Diego—by the way, you did attend that meeting?

A. Oh, yes, I was there.

(Testimony of Henry Schmidt.)

Q. Can you tell me who the delegates were from Local 38-79 to that convention?

A. That would be rather difficult, but I will try.

Q. Let me ask you, was Mr. Bridges a delegate?

A. Oh, yes.

Q. Was Mr. Schomaker a delegate?

A. I believe so.

Q. Was Henry Schrimpf a delegate?

A. Yes, I am pretty sure he was, because I recollect seeing him in Tia Juana.

Q. Was John Larson a delegate?

A. Yes, now that you mention it, he was a delegate, and we rode to Tia Juana in his automobile.

Q. And you also, I take it, were a delegate?

A. Yes. [4806]

Q. Do you recall whether you and Henry Schrimpf and Mr. Bridges and a man named Carl Tillman—do you know Carl Tillman?

A. Yes, I remember him as a member of the SUP and a very vocal fellow.

Q. Did you people all go together to this convention? A. You mean from San Francisco?

Q. Yes. Do you recall whether you traveled together?

A. No, I didn't travel with Tillman. We went down on the railroad.

Q. Did you see Mr. Schneidermann at all in San Diego during the period of that convention?

A. No, sir.

Q. Would you know his signature if I showed it to you?

(Testimony of Henry Schmidt.)

A. Would I know Bill Schneidermann's signature?

Q. Yes, Bill Schneidermann's signature.

A. Not at all.

Q. You testified that during or immediately prior to this 1935 convention at San Diego that you did not attend a fraction meeting of the Communist Party as testified heretofore by Stanley Hancock at the apartment?

A. Are you saying that now that was my testimony?

Q. Yes. A. Yes, and I repeat it.

Q. You do say that you attended a caucus possibly regarding election of officers. Do you have any clear recollection of [4807] that caucus?

A. Well, not clear recollection.

Q. What is your best recollection?

A. My best recollection is it was held in the same building where the convention was.

Q. Who was present?

A. I don't recall whether that was held in a hotel or whether it was held in the San Diego Labor Building. There may have been 55 or 60 people in the room, but as to who was present, I am sorry, I can't tell you.

Q. You are sure that this caucus you are talking about was not the fraction meeting of the Communist Party for the same stated purpose as Stanley Hancock testified to?

A. It was supposed to have been held in an apartment?

Q. Yes. A. I am sure of that.

Q. Do you think Harry Bridges was at this caucus?

A. The caucus in the Labor Building?

Q. Wherever it may have been held.

A. I am pretty sure he was there.

Q. Do you think that John Schomaker was at that caucus?

A. He may have been. At this point I am not exactly sure if Schomaker was a delegate to that convention. If you have any union records there——

Q. Do you know John Schomaker's signature? [4808] A. Yes, I think so.

Mr. Donohue: Would you hand the witness what I shall ask you to mark United States for identification next in order?

Mr. MacInnis: May I see it, please?

Q. (By Mr. Donohue): Will you call the witness' attention to it?

A. Yes, that seems to be his signature.

Q. Then would that refresh your recollection, Mr. Schmidt, as to the fact that John Schomaker registered at the same hotel at the same time as you, that he was at the 1935 convention in San Diego?

A. Yes, the name that you have there is J. D. Schomaker, and I am satisfied that that was the man who identified himself here as John Henry Schomaker.

Q. You heard him say that he was known in the

(Testimony of Henry Schmidt.)

Communist Party sometimes as John Delaney?

A. Oh, yes.

Q. Did you ever hear him called John Delaney?

A. I have heard other people call him John Delaney on the waterfront some time after he appeared there.

Q. From your familiarity with his signature, would you say that you ever saw him sign John D. or J. D. Schomaker?

A. I don't recollect John ever signing his name in my presence.

Q. In any event you are satisfied now that he was at this convention in San Diego? [4809]

A. Oh, yes, yes.

Mr. Donohue: May this be the proper time to take a recess?

(The document referred to was marked United States Exhibit No. 18 for identification.)

The Court: Ladies and gentlemen of the jury, we will take the noon adjournment and resume at 2:00 o'clock. The same admonition to you not to discuss the case under any conditions nor to suffer any person to converse with you on any subject of the trial nor to form or express an opinion until the matter is submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [4810]

Wednesday, February 1, 1950—2:00 P.M.

Mr. MacInnis: We have another short witness. I assume we may call him without objection.

Call Mr. Sawyer, please.

ROBERT SAWYER

called for the defendants; sworn.

The Clerk: Will you state your name to the Court and jury?

The Witness: My name is Robert Sawyer.

Direct Examination

By Mr. MacInnis:

Q. What is your residence address, Mr. Sawyer?

A. It is 1758 The Alameda, San Jose.

Q. What is your business or profession?

A. I am a retailer.

Q. And what is the name or nature of the enterprise you conduct?

A. It is the Home and Patio Shop, and we sell largely decorative home accessories.

Q. And for how long have you been engaged in that particular business?

A. Since March 15, 1947.

Q. And prior to that date what was the general nature of your [4811] occupation?

A. I was in the Army.

Q. And before that?

A. I was with the Stockton Savings and Loan Bank in Stockton.

(Testimony of Robert Sawyer.)

Q. Are you a graduate of some local college or university? A. Yes.

Q. What school is that? A. Stanford.

Q. Now, you say that you worked in Stockton, California. Was that your home town?

A. Yes, sir.

Q. And you lived in Stockton about how many years?

A. From approximately 1934 until I went in the Army in 1942.

Q. Did you ever have occasion to attend a wedding between Mr. Aubrey Lee and a Miss Hammond of Stockton, California? A. Yes.

Q. Did you know those people or one of them prior to the time of the wedding?

A. I knew them both.

Q. And were you invited to attend that wedding in any particular function?

A. I was an usher.

Q. Do you remember whether or not that was a formal wedding? A. Yes, it was.

Q. Can you remember independently the year of that wedding? [4812] A. No, I can't.

Q. Now, if I showed you a copy of the Stockton Record bearing date Monday, June 29, 1936, having reference to the wedding as having occurred on the previous Saturday discussed at length in the columns, would it refresh your memory? I will have Mr. Mitchell hand that to you.

A. I would say if this is a photostatic copy of the Monday, June 29, 1936, issue of the Stockton

(Testimony of Robert Sawyer.)

Record, that the wedding must have occurred the previous Saturday.

Q. Did you actually attend the wedding as an usher? A. Yes, sir.

Q. Did you attend any wedding reception after the celebration of the wedding?

A. Yes, sir.

Q. And after that wedding celebration did you and any other members of the wedding party go anyplace? A. Yes, sir.

Q. Where was that, if you recall?

A. We went to a little party for the wedding party at a night club called Mattioni's.

Q. That is a Stockton night club?

A. Yes.

Q. Do you have any memory as to what approximate time in the night your group came to that place called Mattioni's?

A. I think it would have been rather late in the evening. I [4813] don't know exactly, but it must have been—I think it would have been after 11 o'clock; sometime between 11 and 12, maybe.

Q. About how many persons were in your group?

A. I don't know exactly. We had a—I think it would be safe to say there were eight to twelve; something like that; maybe more.

Q. Were the persons in your group still wearing formal attire? A. Yes.

Q. Do you remember how the evening was spent so far as activities were concerned at this night club, that is, what you did while you were there?

(Testimony of Robert Sawyer.)

A. Well, we had a very nice table at which we sat. We had something to eat, I don't recall what, and we chatted about the wedding and about things in general, and I recall we danced a little.

Q. There was dancing also? A. Yes.

Q. Tell me this: Was there any other group of persons several in number sitting at a nearby table whom you can now recall as a group?

A. Yes.

Q. What was the nature of that group, if you recall?

A. Well, my impression was that it was a group of working men as against, you might say, white-collar men, that were having a little party of their own. [4814]

Q. Did any incident take place which brought the two groups into contact with each other?

A. There was an incident that brought me together with the group in some respects.

Q. What was that, sir?

A. The incident was the fact that during the first part of the evening we were at the party we were chided a little bit because we looked somewhat like waiters.

Q. You mean because of the tails?

A. Because we had our tails; and at a later—sometime during the evening before I left Mattioni's, one of the men that was in the group—the party next to us—came up to me and spoke to me concerning the remarks that these other gentlemen in his party was supposed to have made.

(Testimony of Robert Sawyer.)

Q. What was the substance of that conversation, if you recall it, Mr. Sawyer?

A. This gentleman said—I don't recall his exact words now, but he said in substance, "I wish to apologize for my boys."

Q. Now, I know it is fourteen years ago, but do you have any recollection as to the name of the man who came over to your table?

A. I haven't any clear recollection.

Q. Do you have any impression that might guide you?

A. I think it was Mr. Mahaffey.

Q. Was the name Mahaffey known to you while you were a citizen [4815] of Stockton?

A. Yes.

Q. And in what character or fashion did you know him?

A. Well, I knew him as—through articles about him in the paper at various times, because he was active in union work in Stockton.

Q. Was he a well known labor leader in Stockton in 1936, as you recall?

A. Well, I would say relatively speaking, yes; his name would have been mentioned as much or more as any other labor leader up there.

Q. In other words, that impression of his name has remained in your mind over the years?

A. Yes.

Q. Is that correct? A. Yes.

Q. Now, tell me this: Do you have any recollection, whether clear or indistinct, concerning the

(Testimony of Robert Sawyer.)

presence of a man named Harry Bridges at that group?

A. I have an impression that Mr. Bridges was connected with the party that was next to us. Whether he was there while I was there or was there before I got there, or came there after I left, I don't know.

Q. Is that an impression that you have carried throughout the years? [4816] A. Yes.

Q. And of course you have probably not had many occasions to discuss this incident over the past years, have you?

A. Not recently. [4816-A]

Q. Well, let me ask you this, Mr. Sawyer: Did you leave San Jose on some business engagement of your own last week? A. Yes, I did.

Q. Did that take you to some other city?

A. Los Angeles.

Q. About how long were you in Los Angeles?

A. About ten days.

Q. And some time during your absence from San Jose did a member of the Immigration Service come to your premises in San Jose and leave a message for you to call?

A. When I got back there was a note on my calendar.

Q. When did you get back?

A. On Wednesday night—last Wednesday night.

Q. That would be a week ago today?

A. That's right.

Q. You came back from Los Angeles a week ago

(Testimony of Robert Sawyer.)

today, which is Wednesday, February 1st. And what message, if any, did you find?

A. There was a note there saying the U. S.—I forget whether it said U. S. Immigration Service, or just call a certain number, so I did call a number.

Q. Did you talk to a person?

A. I talked to a Mr.—I believe his name was Mr. McGowan.

Q. What conversation did you have with him?

A. He asked me if I recalled the night of June 27, 1936. I think I said not offhand. He asked me if I remembered the [4817] Hammond wedding; and I said yes. He asked me further if I went to a nightclub after the wedding, and I said yes. And he asked me if I recalled having seen Harry Bridges there. And at that point I hesitated; I didn't know; it was a long, long time ago, and I said, "Well, I would have to stop and think," and then we discussed—I said the most clear recollection I have is of the incident with respect to the tails. That sticks in my mind. It was somewhat humorous.

He said, "Well, do you know who spoke to you when you—in connection with that incident?" And my first response to him, I think, was, "Well, it might have been Harry Bridges," and we just talked in general about trying to recall what actually happened up there that night. And he asked me at one point if Mr.—if that was Harry Bridges, did he introduce himself to me or was I introduced to him. And I am not quite sure now whether I told him that I might have been introduced to him

(Testimony of Robert Sawyer.)

or that he might have said he was Harry Bridges. But the upshot of the conversation after we talked back and forth was that I didn't—that I didn't know for sure whether he was there or not. That was about the end of the conversation.

Q. And since the time the Immigration Service has not called you or contacted you in any other way? A. No.

Q. Now, at the time you had the message to call the Immigration Department and followed through with that suggestion, had [4818] any person connected with the defense of this case talked to you?

A. No.

Q. Had any friend of yours present at the wedding talked to you concerning it? A. No.

Q. Now, since that time have you learned that Mr. Aubrey Lee did become a witness in this trial?

A. Yes.

Q. And after that time the defense did contact you? A. That is correct.

Q. But before Mr. Aubrey Lee became a witness in this case, the Immigration Service had already contacted you?

A. Well, a man purporting himself to represent the Service talked to me.

Q. Yes.

A. I didn't actually check to find out who it was.

Q. You called him collect, though, to San Francisco, is that correct? A. I called a number.

Q. It was a Yukon number? A. Yes, sir.

Mr. MacInnis: Thank you.

(Testimony of Robert Sawyer.)

Cross-Examination

By Mr. Donohue:

Q. I take it, Mr. Sawyer, that the information [4819] you gave the gentleman from the Immigration Service was substantially as you have testified here today as to your recollection of what happened that night?

A. Yes, I think it should—I think I should state that when he called me that I wasn't—I was less certain and I didn't talk—than I was later when I had more time to think about it. I think perhaps I gave him a more definite impression that I had talked to Mr. Bridges.

Q. And what is your impression today?

A. My impression today is that I don't know for sure who I talked to. I believe it was Mr. Mahaffey because I can visualize him approaching me. I knew him by sight, now that I have had a chance to really think it out. I was more or less talking over an incident 14 years back on the spur of the moment when I first talked to the Government. I also feel that if it had been Mr. Bridges who spoke to me that I would have had a very clear impression of him. [4820]

Q. And you do not have that impression today?

A. No.

Mr. Donohue: I have no further questions.

Redirect Examination

By Mr. MacInnis:

Q. And when you talked to this man from the Immigration Department on the telephone, you told him that you had an impression that you may have talked to Harry Bridges that night?

A. That is right.

Q. And the impression concerning the presence of Harry Bridges at that nightclub is one that you carried for the past many years since the occasion?

A. That is correct.

Mr. MacInnis: That is all.

Mr. Donohue: We have no further questions, Your Honor.

HENRY SCHMIDT

resumed the stand:

Cross-Examination
(Continued)

By Mr. Donohue:

Q. Mr. Schmidt, having examined the hotel record for the hotel in San Diego in 1935, has it refreshed your recollection to the point—that is, with respect to the persons who registered from San Francisco—has that refreshed your recollection to the point that you are able to tell us with whom you may have gone to San Diego from San Francisco to that convention? [4821]

A. No, sir, I didn't recall until you showed me the hotel register what the name of the hotel was.

(Testimony of Henry Schmidt.)

I looked at my own name and the name of Schomaker and you mentioned the name of Tillman: I found that. Other than that, I didn't read the document. My memory tells me we went down by railroad, and after all, a railroad car is a pretty large thing. I can't recall who all was in the car.

Q. And you can not now recall whether Mr. Schomaker accompanied you or went in your company to San Diego?

A. No, sir. I remember some things about the convention that I could recall. I do not know whether they are important or not.

Q. Can you recall whether Henry Schrimpf went down with you?

A. When you say with me, just what do you mean?

Q. In your immediate company. Did you arrange to go together, leave San Francisco together, to arrive in San Diego together, and register at a hotel together?

A. We may have traveled in the same railroad car, but I recollect no arrangements to do that. It may well be, Mr. Donohue, that the secretary of the union bought the railroad tickets. If we had a sleeper, he would make those arrangements and we would wind up in a Pullman or a tourist car.

Q. You can not tell us whether Mr. Bridges was in your company as you went to San Diego?

A. I don't recollect Bridges traveling with us at all. [4822]

Q. Can you tell us whether or not John Larson went with you?

(Testimony of Henry Schmidt.)

A. John Larson probably drove down because, as I told you this morning, he drove us to Tia Juana to San Diego one late afternoon, and if he had his car with him, he would not be traveling on the railroad.

Q. You did not observe John Larson's name on the hotel register?

A. No, I didn't catch that.

Q. Don't you know, as a matter of fact, he was staying at the Sumner Apartments in San Diego?

A. I didn't have the slightest idea.

Q. When you went to Tia Juana with Mr. Larson, where did he pick you up?

A. I don't know.

Q. Who went to Tia Juana?

A. I think there were two others in that car, and I can't recall who they were. I think Schrimpf must have traveled in another vehicle. The thing that stands out in my mind, so far as that short trip is concerned, is this, that John turned on the radio in his car and we heard a rebroadcast of a conversation that was being put on the air from Geneva, Switzerland, and the discussion had to do with the sessions of the United—of the League of Nations going on there, and this being the year of 1935, I was amazed at this mechanical wonder where I could ride in an automobile in the state of California and hear a voice that was going on the air in Geneva, Switzerland. [4823]

Q. You did note on the hotel register that there were four names from San Francisco registered at the same time, namely, Mr. Schomaker, Mr. Schmidt, Mr. Schrimpf, Mr. Bridges, a Carl Tillman, with whom you said you didn't travel—five names registered at the same time at the hotel in San Diego.

A. I didn't notice that when you gave me the paper.

Q. Will you hand it to the witness, please? I will show you a photostat.

A. Yes, we have Schomaker, Schmidt, Schrimpf, Bridges, Tillman and so on.

Q. Does that refresh your recollection about the fact that Mr. Larson did not go to the hotel where you were staying?

A. Well, I don't know just how you mean that. Do you want me to be positive that he wasn't there, because he showed me the document—or do you want me to remember?

Q. I want you to tell us what you know about it, Mr. Schmidt.

A. I have no remembrance whether Larson was there or whether he was not there.

Q. The inspection of a document does not stimulate your recollection at that point?

A. No, sir, I am sorry.

Q. You had no difficulty recollecting an incident that you say occurred in Stockton, California, on the 27th of January, 1936, having refreshed your recollection by looking at a newspaper.

Mr. MacInnis: Pardon me. It is your recollection that is [4824] in error. The month is June.

(Testimony of Henry Schmidt.)

Mr. Donohue: Thank you for setting me straight.

Q. Substitute June for January.

A. Well, that is one of those things I can't explain. Sometimes one remembers, sometimes one does not.

Q. You knew that Mr. Larson was a delegate to the convention?

A. I am satisfied that he was.

Q. And that some time during the convention you did ride in his automobile down to Tia Juana?

A. Yes.

Q. Isn't it a fact that you did know, then, as a matter of fact that he was staying at the Sumner Apartment?

A. No, sir, I do not know that at all.

Q. At no time when you rode down to Tia Juana with him in his automobile did you ask him why he was not staying at the hotel with the rest of the delegates? A. No, sir.

Q. And he never told you? A. No, sir.

Q. I should say he never told you where he was staying?

A. That is what you asked me.

Q. What was the purpose of this caucus that you attended during the San Diego convention?

A. Well, I have a recollection that as soon as the convention started there were the usual introductory remarks, there were [4825] some speeches, there must have been an invocation, and then several gentlemen started to make speeches which were very complimentary to Paul Scharrenberg. And then later that day, or maybe the following day, or maybe it was the third day, there was a gathering which addressed itself to the selection of a nominee for the office that Paul Scharrenberg then held, and the discussion had to do with that subject matter.

Q. You stated, I recall, on direct examination that the caucus possibly was held regarding the election of officers. Is that the point you are making now?

A. Scharrenberg was an officer of the Federation.

Q. What office did he hold?

A. Secretary, I believe.

Q. Why the caucus on the selection?

A. That is the custom.

Q. Who would be eligible or who did, in fact, attend this caucus? Excuse me. May I withdraw that question?

Didn't the election take place on the floor of the convention by all the delegates?

A. Yes, but everyone knows, and it is one of the things I learned there, because that was about the first convention I had come to, that before such nominees' names are mentioned on the floor, there are usually groups that meet in the same building for the purpose of discussing this, and it developed quite clearly on the floor of the convention that some people were [4826] anxious to have Paul Scharrenberg reelected, and there were others that were anxious to have someone else reelected, and the

(Testimony of Henry Schmidt.)

group that I am talking about, of course, were opposed to Paul Scharrenberg.

Q. Do you see any parallel between the type of caucus which you are now discussing and the type of fraction meeting which Mr. Hancock testified met at the Sumner Apartments to determine the slate of candidates for office at this 1935 convention?

A. I wouldn't know about these fraction meetings because I just don't know.

Q. I think I asked you just before lunch if it was not a fact that with respect to all of the union elections in which you have participated, if it is not a fact that prior to the election meetings of Communist members of that union at which you were present were held for the purpose of assuring the election of persons who were favorable or friendly, if not members of the Communist Party?

A. They may do that, but not to my knowledge, and I was not present, so I can't give you an accurate description.

Q. From your long experience in the ILA and the ILWU, and as one who has at times been elected and at times been defeated for office, have you ever seen any evidence that such Communist Party fraction meetings have been held prior to union elections? A. You mean was I present?

Q. No, have you ever seen any evidence of it at the union meeting [4827] at which the election was held?

A. I would say no to that. As a matter of fact, while we were in convention in San Diego, since

(Testimony of Henry Schmidt.)

you mentioned that sometimes I have run and been elected and sometimes I have run and been defeated, I was at that time a candidate for the secretaryship of the local union here in San Francisco, and if my memory serves me correctly, I learned that I was defeated by Ivan Cox for the secretaryship of the local union while I was still in San Diego.

Q. Do you have a pretty definite recollection of some of the matters that were discussed at this 1935 convention?

A. Oh, I can remember some things. Well, I don't remember whether this was at this convention or another one, but I suppose I might as well tell you about it. There was some sort of proposal looking toward amending the Constitution, and whatever it was, it developed into a terrific wrangle on the floor. Somebody proposed the proposed amendment to the Constitution should be referred to a referendum vote of the entire membership in the State of California, and another man who was opposed to that procedure said, "We haven't got time to submit those things to a referendum." And then he made a statement something like this: "Whenever you are involved in a strike and the cops are coming out to beat you up, you haven't got time to take a referendum." And I think that remark must have made quite an impression on the assembly. As I recall it, the [4828] proposed constitutional amendment was adopted in convention.

I recall also there were also nominations for the

(Testimony of Henry Schmidt.)

vice presidency, and I guess the constitution of the State Federation of Labor provides that there shall be several vice presidents and a man got up and nominated Bridges, and he called him the father of the labor movement on the Pacific Coast. And I thought that was a little bit on the ridiculous side.

Q. He was too young in 1935 to have been the father of the labor movement?

A. You mean Bridges?

Q. Yes.

A. Well, after all, there were a number of other gentlemen there who had been in the labor movement for quite a few years. I think Mr. Mike Casey was there, and so was his son. I recall also when we left there we got into a railroad car and a man by the name of Jimmy Hopkins sat down right behind me. He was a delegate from the Teamsters Union, as I recall it. I don't think he was active in the union at that time. I recall him later on being the superintendent of the Ferry Building. As he sat down, he said, "Well, that was a hell of a convention, Henry, not enough entertainment." And I believe Dan Murphy, who is now the sheriff of this county, was also in the car. He had been a delegate from his union; whatever union he represented I can't recollect.

Q. You did not think it was a very fruitful convention then, [4829] Mr. Schmidt?

A. I wasn't giving that much thought. Apparently it was Mr. Hopkins' idea that it was not very fruitful.

(Testimony of Henry Schmidt.)

Q. Deviating for just a minute and talking again about the elections, isn't it a fact that your defeat for reelection recently in your own local was brought about by the so-called right wing anti-Communist faction which opposed you in that election?

A. Well, that is the way the newspapers labeled it.

Q. Perhaps you are more familiar with it than the newspapers. Is that your version of it, sir?

A. No, it would not be. Our union is composed of two factions. I suppose one might say that. Through the years there have been the pro-Bridges forces and the anti-Bridges forces.

Q. And you would label the right wing forces the anti-Bridges forces?

A. That is the best name I can think of.

Q. But you would not name the pro-Bridges forces the pro-Communist forces?

A. Hardly.

Q. Have you ever discussed the question of the Communist infiltration in your local with any of the national officials of the CIO to which your organization has been affiliated?

A. No, sir. Apparently I am not an important enough figure in the labor movement. I can't even get near those gentlemen. [4830] They live in large buildings and offices in Washington, D. C., and I don't get there very often.

Q. Has Mr. Bridges discussed the matter with you?

(Testimony of Henry Schmidt.)

A. Oh, we talk about it sometimes but not in the sense that you have just put it to me.

Q. May I read to you, sir, a proposition—and I am reading from the proceedings of the 1936 annual convention of the California State Federation of Labor held at San Diego, California, September 16th to 20th, 1935.

Mr. MacInnis: May I see it?

Mr. Donohue: I have no objection.

Mr. MacInnis: Your Honor, the counsel proposing to read part of a resolution—I have not read all the text—the same counsel who objected to the defense reading prosecution witnesses' resolutions prepared by themselves. Now, if this is a resolution prepared by Mr. Schmidt, I would have no objection. Obviously I couldn't have. And if you will make that statement, then I can be prepared to act. Is this a resolution propos' by Mr. Schmidt?

Mr. Donohue: No, Mr. MacInnis, it is not. It is a resolution, Mr. MacInnis, that was proposed and was adopted on the floor of the convention.

The Court: You may proceed.

Mr. MacInnis: The objection, of course, is that this is an attempt to intrude hearsay testimony in the record. If [4831] there are people who said these things, they should be brought here.

Mr. Donohue: You did not bring Governor Olson here. You read his speech.

Mr. MacInnis: The defense many times attempted to read resolutions to the authors who took the stand here, and the defense was balked by objec-

(Testimony of Henry Schmidt.)

tions of the prosecution. I do not know what the matter is, but I do not see how it can be binding on the defendant Schmidt, and I object to it on that basis.

Mr. Donohue: May I proceed, Your Honor?

The Court: You may proceed.

Mr. MacInnis: May we have a ruling?

Mr. Donohue: The Court already ruled.

The Court: I said you may proceed. That implies the objection was overruled. In the very nature of things, with respect to your observation, Mr. MacInnis, concerning prior resolutions, I might add, again parenthetically, not only did I allow cross-examination to go in that concerned itself with a resolution, but I allowed the full speech of Mr. Bridges to go into the record.

Mr. MacInnis: Yes, but the witness Crouch said he had prepared the resolution himself.

Mr. Donohue: I am afraid inadvertently Mr. MacInnis caused me to lose my place.

Mr. MacInnis: I will find it for you. I remember. [4832]

Mr. Donohue: You remember. Thank you. Thank you very much.

"Chairman Buzzel." I hope I do not massacre his name. "Chairman Buzzel submitted the following report and these proceedings were had on the third legislative day, Wednesday, September 18, the morning session. 'Proposition No. 1 presented by Robert L. Ennes, Federated Trades Council, Sacramento. The committee recommends that the second

(Testimony of Henry Schmidt.)

resolve be amended as follows: that it would be highly desirable——" [4833]

Mr. Hallinan: Pardon me. Might I have the number of that in the document, because we intend then to read all the remainder of the document. What is that that you are reading from?

Mr. Donohue: I am reading from the proceedings of the 36th annual convention of the California State Federation of Labor.

Mr. Hallinan: What date, please?

Mr. Donohue: Held at San Diego, California, September 16 to 20, 1935.

Mr. Hallinan: We will then put in the entire proceedings.

Mr. Donohue: "That it would be highly desirable if Central Labor Councils of the State of California would declare that they are the judge of their own membership and refuse to seat delegates elect of proven membership from the Communist Party or active supporters of that Party in its program, and to expel already seated delegates of the same qualifications, and that the delegate-elect from this Federation to the American Federation of Labor conventions be instructed to seek the approval of the American Federation of Labor for such action by Central Labor Councils.

"The following delegates voted against the adoption of Resolution 1 as submitted by the committee."

And I now for the purpose of identification ask your Honor to mark this document as United States Exhibit next in [4834] order and ask Mr.

Mitchell if he will be good enough to ask the witness to look at it.

Mr. MacInnis: We have the same document in evidence already.

Mr. Donohue: You do not mind if I put this in also?

Mr. MacInnis: The same document was offered before, but an objection was made to balk us when we attempted to intrude the same kind of matter.

The Witness: Are you asking me to find my name here somewhere? [4835]

Q. Yes, it is underscored in red, I think, on the bottom part of the right-hand page. A. Yes.

Mr. Donohue: May I have it back?

Q. Do you now recall, sir, that Harry Bridges, John D. Schomaker, Henry Schrimpf, Henry Schmidt and John Larson, who you have heretofore testified were delegates to this convention, voted against the committee recommendation which I have just read?

A. I have no recollection of it, but I am satisfied that the record is correct.

Q. I understood you to say, Mr. Schmidt, that you did not attend a meeting at the Venetian Square Apartments in Long Beach, the meeting as you recall was testified to by Mr. Krolek. Do you recall Mr. Krolek's testimony on the question of the meeting at the Venetian Square Apartments?

A. The spiral staircase and all that sort of thing?

Q. Yes, sir.

(Testimony of Henry Schmidt.)

A. I recall his words; not all of them, of course.

Q. You did know Mr. Krolek and you did know him back in 1936?

A. Yes, in Portland, I believe.

Q. What was the convention which was held in Long Beach in May of 1936, can you recall?

A. No, sir, I can't. There wasn't any CIO in those days. [4836]

Q. Could it have been the Maritime Federation of the Pacific?

A. The Maritime Federation of the Pacific, as I recall, met in San Pedro.

Q. How far is it from San Pedro to Long Beach?

A. Oh, it is about half an hour's ride on the red cars.

Q. Did you attend the Maritime Federation of the Pacific convention at San Pedro in 1936?

A. Yes. I think that must have been that long siege we had down there when we had an ILA convention that [illegible] for several weeks, and it was followed by the MFP convention which also lasted for several weeks, and I was away from home I think about six weeks.

Q. Your recollection is that you attended both of those conventions?

A. Yes, I was a delegate to both.

Q. Do you recall having seen Kermit Krolek during either or both of those conventions in 1936?

A. No, sir, I have no recollection of seeing Krolek at those sessions.

(Testimony of Henry Schmidt.)

Q. Did you see a man named A. T. Pringle at either of those conventions?

A. That man I don't know.

Q. Did you see Harry Bridges at either of those conventions?

A. Oh, yes, I am sure he was there.

Q. Did you see a man named Harry Jackson? [4837] A. No.

Q. Do you know Harry Jackson?

A. Yes, I see him quite frequently here in recent years. He is a delegate to the CIO Council here in San Francisco from ILWU Local No. 6.

Q. You don't recall whether you saw him at either of these conventions in 1936?

A. No, sir.

Q. I think you have already said you didn't know Hazel Wood, the wife of Walter Lambert?

A. No, I don't know that lady.

Q. You do know Walter Lambert?

A. I have met him a couple of times, but as I told you a while ago, or a couple of days ago, I can't recall where.

Q. Did you see Walter Lambert at either of the convention sessions in 1936 in San Pedro?

A. No; my memory tells me that I had a casual meeting with that man here in San Francisco somewhere.

Q. You know Roy Pyle? A. Oh, yes.

Q. Did you see him at either of these conventions?

(Testimony of Henry Schmidt.)

A. It seems to me that Roy Pyle came into the picture rather late and he may have been around in those years and he may not have. If you have a record showing him at the convention, I am satisfied he was there. [4838]

Q. Do you know a man named T. J. Van Erman?

A. Yes, but he has been out of this territory for 12 or 13 years, I believe.

Q. Did you see him at either of these conventions in 1936? A. I think he was there.

Q. Do you know a man named Mervyn Rathborne? A. Oh, yes.

Q. Did you see him at either of the conventions in 1936?

A. The Maritime Federation, yes, that could be; and if he was there, then maybe—probably Roy Pyle was there also, because they were from the same union.

Q. Now, Mr. Krolek said that in May of 1936 and at the Venetian Square Apartments at Long Beach, California, a Communist Party fraction meeting attended by himself, A. T. Pringle, H. R. Bridges, Henry Schmidt, Harry Jackson, Hazel Wood, Mervyn Rathborne, Walter Lambert, Roy Pyle and T. J. Van Erman was held. Is it your testimony now, sir, that you weren't at that meeting?

A. That's right. And you mentioned the names of at least two people that I don't know, so I couldn't have been there.

Q. Now, you also heard Mr. Krolek testify about an incident which occurred at 121 Haight Street, correct? Do you recall it?

A. Yes, I think so.

Q. In June of 1936, which would make it at a time subsequent to the convention at San [4839] Pedro.

A. There arises a question, Mr. Donohue. I recall that those two sessions lasted a long, long time, and I don't know——

Q. You recall that Mr. Bridges has heretofore testified that he got into San Francisco after those two conventions not later than the 20th of June, 1936; do you recall that?

A. Bridges hasn't testified here yet.

Q. I said "heretofore"; I didn't say "here," sir.

A. You mean years ago?

Q. Yes, years ago.

A. I don't recall his testimony years ago.

Mr. MacInnis: I am wondering now if there is some rule by which this defendant can be cross-examined upon what the prosecutor says Mr. Bridges testified to years ago.

Mr. Donohue: I only asked him if he remembered it, if your Honor please. I haven't said Mr. Bridges said it.

Mr. MacInnis: It is a new rule of evidence.

Q. (By Mr. Donohue): Is it your present testimony that you weren't in San Francisco at any time during the month of June, 1936?

A. No, I wouldn't say that. After all, we did go to Stockton on June 27.

(Testimony of Henry Schmidt.)

Q. And if Mr. Krolek states that in June of 1937 he saw Mr. John Schomaker, Mr. Harry Bridges and Mr. Henry Schmidt walk into the office of William Schneidermann while he, Mr. Pringle and Mr. Pyle stood in the corridor, that incident, I take it, [4840] you said did not happen?

A. Well, I think he dreamed it up.

Q. I beg your pardon?

A. I think what's-his-name—Krolek probably dreamed it up.

Q. You think he dreamed it up. Do you think Mr. Krolek was also dreaming when he testified that he attended Communist Party meetings at which you were present at the Lennox Hotel in Portland during the 1937 convention in Portland?

A. Well, as I told you last week, I have no recollection of Krolek being anywhere in Portland except on the occasion when he discovered the microphone in Bridges' room.

Q. You didn't believe Mr. Krolek was dreaming when he discovered the microphone in Bridges' room, did you?

A. After all, I saw that with my own eyes.

Q. Can you ascribe any reason for Mr. Krolek's testifying falsely about you, Mr. Schmidt?

A. Yes, sir; that becomes very clear to me as time goes on.

Q. Would you explain that to us?

A. There is a movement on to smash the unions in this country, specifically our own. Apparently we are considered to be the weak link in the chain,

(Testimony of Henry Schmidt.)

and the powers that be are coming down upon our good little union, and these fellows will lend themselves to this purpose.

Q. And you think Mr. Krolek is aligned with some power that is in order to destroy your [4841] union?

A. That is what I subscribe to, yes, sir.

Q. Mr. Krolek never made any vow that he would get either you or Mr. Bridges as you say Henry Schrimpf did, did he, sir?

A. I didn't notice him do it, no, sir.

Q. You have called Henry Schrimpf a stool pigeon? Would you call Kermit Charles Krolek also a stool pigeon?

A. He is also in the same class.

Q. Is it a fact, then, that you classify as a stool pigeon anyone who testifies against you and/or Bridges?

A. It all depends what the issue is.

Q. Is it a fact that you classify or characterize as a stool pigeon anyone who testifies that either you or Mr. Bridges are or have been members of the Communist Party?

A. Well, if we have done something wrong and a man comes along and testifies against us, I think that is perfectly all right. But inasmuch as I cannot see where we have done anything wrong, and these people come along and testify with the intent and purpose to cut our throat, there must be something wrong with those people.

Q. When you say you have done no wrong, do you mean that it isn't wrong to be a member of the

Communist Party, or that it is wrong to be charged with being a member if you are not?

A. I don't know as I understand your question. I understand it isn't a crime to belong to that Party.

Q. You do so understand that it is not a crime to belong to [4842] the Communist Party?

A. It is my impression that it is not illegal—let me put it that way.

Q. Has that always been your impression, Mr. Schmidt, that it is not illegal to belong to the Communist Party?

A. I don't recollect any time that the organization was declared illegal.

Mr. Donohue: Might we take a recess at this time, if your Honor please?

The Court: We will take the afternoon recess, ladies and gentlemen of the jury. The same admonition to you not to discuss the case under any conditions nor to form an opinion until it is submitted to you.

(Recess.)

Q. (By Mr. Donohue): Mr. Schmidt, you say you do not think it is illegal to belong to the Communist Party? A. That's right.

Q. Have you made any study of the doctrine of the Communist Party?

A. Not very deeply.

Q. Have you penetrated the subject deeply

(Testimony of Henry Schmidt.)

enough to agree with the statement of some of the Government produced by the witnesses?

Mr. MacInnis: "Government produced by the witnesses"—what kind of a question is that? [4843]

Mr. Donohue: I apologize for my poor grammar. I will reframe the question, with your Honor's permission.

Mr. MacInnis: You should.

Q. (By Mr. Donohue): Mr. Schmidt, has your penetration into the subject matter of Communism been sufficiently deep to give you an opinion on the statement of witnesses who have been here produced who have said that the Communist Party in the United States is wholly dominated and controlled by the Soviet government of Russia?

A. I wouldn't believe these witnesses that you put on here under any circumstances.

Q. I know that you wouldn't Mr. Schmidt, and I didn't ask you that question. I asked you if your study into Communism was sufficient to permit you to give an expression of opinion as to their statement that the Communist Party in the United States is completely under the domination and control of the Soviet government of Russia?

A. I thought your first question was, Did I hear the witnesses talk with respect to that matter and if I had formed an opinion as a result of making that explanation.

Q. Do you now——

A. And I repeat that I haven't studied the subject too deeply, and I recall to you my statement of

(Testimony of Henry Schmidt.)

several days ago that I am a man of but little education, and I apologize for my almost complete illiteracy. [4844]

Q. Mr. Schmidt, have you made sufficient study into the subject of Communism to know whether or not it is not a practice of the Communist Party to conceal the membership of its members?

A. I don't know about that.

Q. Can I gather, Mr. Schmidt, from the statements you make that the Communist Party is not in your judgment illegal, that you are in sympathy with the tenets of the Communist Party?

Mr. MacInnis: Pardon me just a minute. The prosecution is misstating the evidence. The evidence adduced from the lips of this witness which he now paraphrases is that he knows of no illegality concerning membership in the Communist Party. Now the prosecutor offers that as his opinion. That is an entirely different thing. He doesn't espouse that. He does not say that is his opinion. He says there is apparently no law against being a Communist, which is an entirely different thing.

Mr. Donohue: I will be glad to reframe the question, if your Honor please.

Q. In the light of your statement that you know of no law which makes membership in the Communist Party illegal, do you now state on the witness stand that you are in favor and advocate the tenets of the Communist Party?

A. I wouldn't say that.

Q. Do you?

(Testimony of Henry Schmidt.)

A. No. I would like to add this: that I am not going to get [4845] up on the rooftops and shout to the world that I am opposed to everything that they stand for, because if I were to do that I wouldn't know what I was talking about.

Q. Well, you have had your opportunity, have you not, Mr. Schmidt, in the various discussions that have taken place within your own union to express your agreement or disagreement with the principles of the Communist Party?

A. You mean in large membership meetings?

Q. Large or small.

A. Well, I must say that there has been but little opportunity for that.

Q. On any occasion that you can now recall, can you tell us when and where and what you have said publicly in criticism of the Communist Party?

A. Yes, I think so.

Q. Would you tell us?

A. Well, I have made, perhaps not public utterances—my opposition to the Russians invading Finland. I was critical when the Nazi-Russian pact came along; and I recall that when the local sheet here began to beat the drums respecting the Second Front, that I thought that was, well, let me say premature.

Q. Now, are these expressions of personal opinion on your part, or are they matters which you have publicly stated and discussed? [4846]

A. Oh, I have stated these matters to persons.

Q. Can you tell us to whom? A. Oh, no.

(Testimony of Henry Schmidt.)

Q. You do know John Schomaker, of course?

A. Oh, yes.

Q. And you heard John Schomaker discuss an incident that occurred at the home of a man named Jack Shaw, did you not?

A. Well, it seems to me there was testimony from him and from the lady Harris and maybe somebody else, too.

Q. Now, were the incidents which were testified to by John Schomaker with respect to the meeting at the home of Jack Shaw true or false?

A. Well, you better tell me what he testified to. I can't recall now just what he said.

Q. Do you recall that Mr. John Schomaker testified that at a meeting at the house of Jack Shaw on Pine Street—and by the way, you do know Jack Shaw, do you not? A. Oh, yes.

Q. ——in the fall of 1938, referring to Volume 9, pages 1034 to 1040 of the record, among the people present were Jack Shaw, William Malin, Emma Waugemann, Charles Waugemann, Henry Schmidt, William Schneidermann, Walter Lambert, Mrs. Malin and Mr. Bridges—— A. Mrs. Bridges?

Q. Mr. Bridges; that a statement was made by Mr. Bridges that [4847] he was a Communist and solicited others in the audience to join the Communist Party.

A. No, sir. I can tell you again I was at that residence on one occasion, and it was a social affair; the house was packed with people, and everybody

(Testimony of Henry Schmidt.)

seemed to be carrying a drink in their hands, and everybody was talking at the same time.

Q. Was John Schomaker there?

A. I don't remember.

Q. Was Mrs. Harris there?

A. I don't remember.

Q. Well, would you say that John Schomaker is a stool pigeon?

A. Well, now, after all, he was here, he testified; considering the amount of money that these people have received for testifying, these weaklings will probably stoop to anything.

Q. Then you would just say John Schomaker was a weakling? A. Yes.

Q. Not a stool pigeon?

A. Well, if you like, I will add the other term also.

Q. It isn't a matter of my preference, Mr. Schmidt. I am trying to get your mental attitude toward John Schomaker.

A. You have it, sir.

Q. Is Mrs. Irene Harris a stool pigeon?

A. Well, that poor little lady, I am afraid, didn't know what she was doing.

Q. You think she is perhaps mentally incompetent? [4848]

A. Well, I wouldn't make such uncomplimentary remarks about the lady.

Q. You heard, Mr. Schmidt, a witness named Walter Buck testify in this proceeding?

A. Yes.

(Testimony of Henry Schmidt.)

Mr. Donohue: Mr. Mitchell, would you hand the witness a copy of the official transcript and ask him if he can refresh his recollection as to the date upon which Mr. Walter Buck testified.

(Document handed to witness.)

A. Yes, sir.

Q. It appears, does it not, that Mr. Buck testified on Wednesday, the 25th of January?

A. A few days ago, yes. [4849]

Mr. Donohue: Will you hand him Volume 41, please, sir, calling his attention to the name Oscar W. Pearson and ask him if he can determine——

(Document handed to witness.)

A. Yes.

Q. You know Mr. Buck? A. Slightly.

Q. You know Mr. Pearson better, perhaps?

A. Yes.

Q. You know Mr. Pearson to be, as he stated, president of the Pacific Maritime Association?

A. Yes. I knew him when he held another job in Los Angeles harbor, and I also knew him when he was in the service of the military forces, the United States Army Water Division. If I am not mistaken, Mr. Pearson was a longshoreman one time.

Q. Would you explain to us, Mr. Schmidt, what the Coast Labor Relations Committee is and who are its components, if you know?

A. At the moment?

Q. Yes.

A. The Coast Labor Relations Committee is an agency set up as a result of certain provisions of the Coastwise Longshore contract. It consists of five members, two representing the employers' association—that would be the Pacific Maritime Association—and two members representing the union. Bridges is also a member representing the union, but he doesn't function on it [4850] very frequently. Its members are Bodine, representing the union, and Mr. Thomas is the other union member, who is my successor, incidentally; and Mr. Henry Clark is the employer representative, and right now I can't recall who the other employer representative is. The fifth member would be the Coastwise arbitrator, Mr. Sam Kagel. Do you want me to tell what this agency is, what its duties are?

Q. Yes, if you would.

A. Well, the ~~contract was~~ recently revised, but in the main the duties of the committee are the same. The committee is obliged to attempt to administer the contract on a coastwise basis. It is obliged to interpret or attempt to interpret certain provisions of the contract in case a dispute should arise. The committee also handles arbitrations whenever a dispute arises that can not be settled without the arbitrator, and when such disputes take place, the employer representatives prepare their case and present it to the arbitrator, and the union members function in like capacity. And there might be hearings that would take sometimes a day, sometimes a few hours. If the issue is of great importance, why, such an arbitration hearing might take a week.

Q. Do you recall when Mr. Buck was there that I asked him the question whether or not it was in the exercise of a sound business practice for him to come and testify as to the good character of certain of these defendants? [4851]

A. Yes, I recall you posing that question.

Q. And do you recall that I asked the same question of Mr. Pearson? A. I think so.

Q. Is it not a fact, Mr. Schmidt, that the Pacific Coast longshore agreement, the Pacific Coast steam schooner agreement, and the welfare plan have not yet been finally signed by the respective parties to that agreement?

A. That is a question that you had better address to Bridges and members of the Coast Committee, because I——

Q. How well do you know Mr. Bodine?

A. Oh, very well.

Mr. Donohue: Will you hand this letter to the witness and ask him if he can identify the signature of Mr. Bodine?

Mr. MacInnis: May I see it first?

Mr. Donohue: If he identifies the signature.

Mr. MacInnis: In the first place, I think that if there is some contrary inference to be elicited, it should be done not through a hearsay document but through testimony. Whether he knows the signature of the man or not wouldn't make any letter admissible, unless it is admissible by some other route. That is why I would like to see it.

The Court: Show it to counsel.

(Document exhibited to Mr. MacInnis.)

Mr. MacInnis: It is a hearsay document written by one man [4852] not a party to this case to another man not a party to this case.

Mr. Donohue: May I ask the preliminary question: Do you recognize the signature?

A. I do.

Mr. Donohue: In order, if Your Honor please, that I might not in any way prejudice the matter, I ask Your Honor for permission in absence of the jury, to make an offer of proof.

The Court: I have no objection. You may do so at the recess period.

Mr. Donohue: Well, it would be appropriate now if I might. It won't take but a few minutes, I should think; then we may have this matter concluded.

Mr. MacInnis: If it is a very brief one, we might go into chambers.

The Court: It would take how long?

Mr. Donohue: Five minutes.

The Court: The jury may retire. We have had a rather lengthy day. Perhaps they can take five minutes.

Ladies and gentlemen of the jury, we will discuss the matter in court. You may retire with the same admonition to you not to discuss the case under any conditions.

(Thereupon the jury retired from the courtroom and the following proceedings were had outside of the presence of the jury:) [4853]

The Court: Is it stipulated that the jurors are absent?

Mr. MacInnis: Yes.

Mr. Donohue: If Your Honor pleases, I expect to show—and the foundation was laid by the cross-examination of the representatives of the Pacific Maritime Federation who came here—that as a matter of fact that on the dates upon which Mr. Buck and Mr. Pearson testified that there was at that time pending the ratification——

The Court: What was the last word?

Mr. Donohue: The ratification of certain agreements which had heretofore been agreed upon, I assume by committees that were to be subsequently ratified by the organizations concerned before a formal signing of the agreement would take place. I therefore offer to show to Your Honor that these witnesses were procured to come here and testify as to the good character of these defendants under the pressure one might well expect to exist between the Pacific Maritime Association and the particular unions involved when the agreement had not at that time been executed, and I therefore, if Your Honor pleases, by this witness who said he knows the signature of H. J. Bodine of the Coast Labor Relations Committee, a man who has, as he stated himself, at one time served as a member of that committee, who knows the addressee of the letter, Mr. O. W. Pearson, president of the Pacific Maritime Association, that by letter dated January 26, 1950, the day following the testimony of Mr. Buck [4854] and the same day on which Mr. Pearson gave his testimony, that Mr. Bodine wrote a letter for the Coast Labor Relations Committee to Mr. Pearson, concluding by saying: "We would appreciate a meeting of the parties at your earliest convenience for the purpose of formally signing the respective Coastwise agreement, reference being made to the above."

Therefore, if Your Honor please, I think it is wholly proper to ask this witness, who knows Mr. Bodine and who has identified his signature, whether in the light of this letter it is not a fact that these signatures were not, or the fact that the signaures would be appended to this agreement was not made known to Mr. Pearson and Mr. Buck until after they testified in this court and I then, I think, if Your Honor please, have a perfect right to argue to the jury that it is apparent that these people came here under pressure, fearing lest if they failed to testify this agreement would not be consummated, and that is my offer of proof.

Mr. Hallinan: That is charging perjury in a peculiar way against one of the biggest capitalists in San Francisco. Counsel makes the mistake of proving everybody according to the estimates he has formed of men such as Manning Johnson, Paul Crouch and Lawrence Ross. To suggest that Mr.

Buck, a man with 90 million dollars, has come in here to testify falsely so that the union will sign a document is to show a misapprehension of human nature, a complete misjudgment of character [4855] of decent people by Mr. Donohue.

Mr. Donohue has dealt too much with the Maragons, the Davis Phil Kastels and the Frank Costellos, and I think this offer, Your Honor, is an insult to decent people who come in here and testify. If he attempts to argue that, let the jury appraise it, but to have it put in as a piece of evidence is something entirely different. [4856]

The Court: Mr. Hallinan, so I may be clear in my mind, would the fact that Mr. Buck has $90,000,000 tend to affect his credibility?

Mr. Hallinan: I think it would make a price, if perjury could be purchased of Mr. Buck, it would be at such a price that the ILWU could scarcely afford to pay it.

The Court: Mr. MacInnis, may I hear from you?

Mr. MacInnis: If we take for a moment and pretend that the prosecutor is serious in making this claim, the inquiring judge must, of course, try to follow his trend of thought. Here is what he says. Pearson and Buck testified as character witnesses for Harry Bridges. They did not testify as character witnesses for Henry Schmidt. Henry Schmdit says he knows nothing about the contractual negotiations. So he says by hearsay letter from a man named Bodine to Mr. Pearson or vice versa, whichever it is, showing the date of a contract, that he should now be permitted to cross-examine Henry Schmidt, who knows nothing about it, and thus raising the inference. If it were not utterly hearsay evidence, we would be blocked by the further lack of logic, for there is no connection between the witness Henry Schmidt and the witnesses Buck and Pearson. But the prosecutor pays the Court a great, and I think peculiar compliment in asking the Court to permit evidence of that kind against citizens who come here to give testimony, asking the Court to entertain the inference that [4857] perjury was committed by these people under some economic threat. In other words, he is not rude, as we are. He does not come out and yell, "Liar and perjurer" as we do to Manning Johnson, Paul Crouch, Lawrence Ross, John Schomaker and all the rest. He has a different kind of subtlety, although it is the subtlety of an elephant in the last analysis.

The Court: The subtlety of what?

Mr. MacInnis: Of an elephant. He says to the Court this: "I want to show Henry Schmidt, who knows nothing about these negotiations, a letter from a man named Boldine or Bodine to Mr. Pearson bearing the date of the contract so that I can impeach Mr. Schmidt or Mr. Pearson." Now, I can't follow that. But the deeper inference is the macabre thing in the offer of proof that is made here. The deeper inference, couched in the polite words, "We want to raise the inference or we want to show that these men came here under compulsion"—the deeper inference is this: [4858]

Pearson, the head, the president of the Maritime Association, lied under oath; Walter Buck, owner of the controlling interest in the Matson Navigation Company, lied under oath and he wants to prove it in that devious and circuitous fashion. We do not want to close the doors to the raising of any inference. We do not want to leave anything unexplained. But in a relatively short time the defendant, Harry Bridges will take the stand. Harry Bridges is chairman, at least pro forma, of the Labor Relations Committee. Harry Bridges may be cross-examined. He is familiar with that matter. Henry Schmidt is not.

The Court: What harm would be incurred in asking Mr. Schmidt if he is familiar?

Mr. MacInnis: He has already said he is not. If we are to sit here merely to find if the matter is harmful or not, I had not understood that was our purpose, but Henry Schmidt has already said he knows nothing about the negotiating matters. Now he wants to make an oblique charge of perjury by bringing a letter here. Now, I didn't understand it. It is ridiculous in the first place to say that those men would come here with that kind of motivation, because they would come back again and say the same thing after the contract is signed. I suppose he would raise a different inference then, but he can't raise it in this fashion and I think it is a terrible suggestion to make to the Court that such an inference is a proper one to be [4859] thrust upon a witness in the guise of a letter.

Mr. Donohue: If Your Honor please, I didn't have any idea that such a storm was going to be created out of a request that I should make in a legal offer of proof. It seems a bit strained. Mr. Hallinan, who in his opening statement, attacked with great bitterness shipowners who were a part of that immense conspiracy of 125 people——

Mr. Hallinan: If the Court please, I am sorry, I have to corret that. I said originally the shipowners did try to have Mr. Bridges put out of the country, but the shipowners were now desirous of retaining him here. I said that specifically in the opening statement.

Mr. Donohue: And it is equally amazing, if Your Honor please, that these lawyers who have charged poor working men with perjury are so quick to rise to the defense of so-called upper class.

Mr. Hallinan: Pardon me. We haven't charged any working man with perjury. We have charged hired professional witnesses such as Manning Johnson, Lawrence Ross, Paul Crouch. Poor working men? $2,000 Crouch took away from the United States Government, he and his wife, to stand by here a month to give the perjury he gave. $10,000 they have paid out to one of the other poor working men for the time that they had him here. Poor working men, forsooth! The poor working men are being well paid in this kind of occupation. If that is being a poor [4860] working man, being a stool pigeon, a professional perjurer has risen to a new dignity, if the Court please. The wages are getting good. Who are the poor working men that we have accused of being perjurers?

Mr. Donohue: Do you have any objection to my making a statement to the Court?

Mr. Hallinan: I have an objection to your misstating what we have said.

Mr. Donohue: If Your Honor please, I ask your Honor at this time to grant us permission to call Mr. Pearson and I shall ask Mr. Pearson to identify the letter that was sent to him.

Mr. MacInnis: To that we have no objection.

The Court: Do you have any objection?

Mr. MacInnis: None at all.

The Court: You may recall Mr. Pearson. You may recall Mr. Buck, if you please. You may recall any other witnesses. The same latitude applies to the defense. It seems to me, gentlemen, after hearing the discussion generally, that the surrounding circumstances with respect to the agreement or potential agreements or the tentative agreements may be gone into, not with respect to any alleged perjurious statements, but with regard to motive, underlying reason, overhanging necessity and all the other myriad details that go into bringing a witness into court. [4861]

Mr. MacInnis: We agree thoroughly with that.

The Court: I think Mr. Donohue is entitled to go into the letters, the day to day working operations on the waterfront, what the operations were and so forth.

Mr. MacInnis: The only objection is not to going into those details but going into them with a man who knows nothing about them.

The Court: That may well be true. Recall the jury.

(Thereupon the jury returned to the courtroom, and in their presence the following occurred:)

The Court: All of the jurors have returned? Are all the jurors here?

The Clerk: Yes, Your Honor.

The Court: You may proceed.

HENRY SCHMIDT

resumed the stand.

Cross-Examination
(Resumed)

By Mr. Donohue:

Q. You were not on the waterfront before you were elected to office in the ILA, were you, Mr. Schmidt?

A. What office do you have reference to?

Q. Any office.

A. It was quite a number of years. I was elected to the executive board of the ILA in 1933 and I had been around then for quite a number of years.

Q. When did you begin to devote your full time to the business [4862] of the union?

A. That would be in the fall of 1936, I think is the right year, when I was first elected president of the local union.

Q. Then since the fall of 1936 you have not actually worked as a longshoreman?

A. Oh, yes.

(Testimony of Henry Schmidt.)

Q. When? [4862-A]

A. I was president in 1936, 1937 and from 1937 to 1938, and then there was a 12 months' period when I was out of office, and during that 12 months' period I worked on the waterfront for several months, but not the entire twelve months, because something else happened. I went on the road with a staff member of the Lafollette Committee for the purpose of tracing down or trying to find Ivan F. Cox, the former secretary of our union. The Lafollette Committee was making an investigation. I became acquainted with a man who served on that committee as a staff member, and he came to our office and asked certain questions, and I gave him all the answers that I had, and he said. "Well, we have got to find this fellow Cox. Why don't you make some kind of arrangement with your union to take you off the waterfront so we can start searching for him?" And that was done. And that took quite a number of weeks.

Q. How much of the last 14 years since 1936 would you say was devoted by you to work for the union and how much time to working yourself on the waterfront or otherwise?

A. Oh, the major part of the time has been union work. I worked on the waterfront after my fourth term as president expired, and I know I was working on the waterfront in the early days when the war started. I recall I was working on the waterfront one Christmas day. The war was already on. I recall everybody ran up on deck to see

(Testimony of Henry Schmidt.)

the steamer Coolidge come back into port, the steamer President Coolidge. [4863]

Q. Did you write articles at any time for the Western Worker? A. No, sir.

Q. I am sorry; the Waterfront Worker?

A. Oh, yes.

Q. Who controlled the Waterfront Worker, do you know?

A. Well, according to some testimony that I have heard, it was the Communist Party, and then there was the group in the Albion Hall later on, I believe, sort of controlled it. But so far as my writings were concerned, that was early in the game, while I was working at the Admiral Line docks.

Q. Do you know who was in control or who did control the Waterfront Worker at the time when you were writing articles for it?

A. At that time I didn't have the slightest idea where it came from or who had anything to do with it.

Q. You met Mr. Bridges in 1933?

A. Yes, it must have been 1933. I have no recollection of knowing him in 1932.

Q. In 1934 both you and Mr. Bridges were first elected to office in the ILA?

A. No, I told you a while ago that we were elected to the executive board of the ILA in 1933.

Q. 1933, in July?

A. Well, I don't know what month it was.

Q. Isn't it a fact that your rise from a waterfront worker to [4864] the many offices you have

(Testimony of Henry Schmidt.)

had in the ILWU is attributed to the support which you have obtained from the Communist Party?

A. I hardly think so.

Q. Do you have any certain knowledge on the subject?

A. Well, I do not know what you mean by "certain knowledge" now.

Q. Do you know as a matter of fact whether the Communist Party has helped you attain some or all of the offices which you have held from time to time in the union?

A. I may say I have seen no evidence of them opposing me, and if that be a crime, then maybe I am guilty.

Q. If they did support you, and I assume from what you have stated that they did, did they oppose you as one who was friendly to the Communist Party or did they aid you as a member of the Communist Party?

A. They didn't aid me as a member.

Q. When did you first meet George Wilson?

A. That I can't recall.

Q. What is your best recollection?

A. I recollect that he was the executive secretary of the Bridges Defense Committee, the second case, I guess. I am thinking of the hearing before Inspector Sears.

Q. Would that be 1941?

A. That would be the correct year, and he may have been an officer of the CIO Council before that. I guess he was. [4865]

(Testimony of Henry Schmidt.)

Q. Do you recall testifying in your direct testimony that at one time George Wilson was president of the San Francisco CIO Council?

A. Oh, yes, I know he was that.

Q. Do you remember when that was?

A. No, off the cuff I can't tell you.

Q. Do you remember testifying that at one time when George Wilson was secretary of the CIO Council you were the president of the Council?

A. Yes, I have a recollection that he was secretary. I can picture him there taking the minutes at the meetings of the Council and I was in the chair.

Q. When were you president of the CIO Council?

A. You will have to give me an opportunity to go to their office and check the records. You see, there was a period there when I was president of the San Francisco local and I was president of the CIO Council at the same time. The official job as president of the CIO Council didn't really amount to much, because all the president had to do was come to the meetings on Friday night and chair the meetings. The secretary ran the affairs of the Council. It was a job without pay, too, incidentally.

Q. Can you tell us whether George Wilson was secretary of the Bridges Defense Committee before or after the time when you were president of the San Francisco CIO Council? [4866]

A. No, sir, I do not know, and I can't understand why you expect me to remember those things.

(Testimony of Henry Schmidt.)

Q. It was not too many years ago, was it, Mr. Schmidt? A. Eight or nine years ago?

Q. Pardon? A. Eight or nine years ago?

Q. Yes.

A. Lots of water has run under the bridge.

Q. You have a pretty good memory or recollection about some incidents that happened on a day or two before the date in June of 1936 when you say you drove to Stockton, California?

A. I can't help it. Some things come to mind and some do not.

Q. You knew George Wilson pretty well, didn't you? A. Yes.

Q. You said you attended hundreds of meetings with him?

A. Yes, there must have been at least a hundred.

Q. Did I understand you correctly to say that you did not know that George Wilson was a member of the Communist Party?

A. I didn't have the slightest idea.

Q. You heard him state here under oath that he was a member of the Communist Party?

A. I heard him and I thought it was a pitiful performance.

Q. You did not believe him? A. Hardly.

Q. Can you suggest any reason why George Wilson under oath in this community in which he was as well known as apparently he was should testify under oath that for a number of years he had been a member of the Communist Party?

A. Well, apparently you people have got some-

(Testimony of Henry Schmidt.)

thing on him that made him perform here as he did.

Q. Is that the only explanation that you can offer, Mr. Schmidt?

A. Yes, I think that is a good explanation.

Q. You have known George Wilson much longer than I have, [4867] haven't you?

A. I do not know how well you knew him.

Q. I met him when I came to San Francisco, when he came into this courtroom or a few days before.

A. I can tell you what my impression were when he was sitting here and I was sitting down there.

Q. You knew him for a great many years, didn't you? A. Yes.

Q. You do not know anything wrong that George Wilson ever did?

A. I don't understand the first part of your sentence.

Q. You knew him for a great many years, George Wilson? A. Yes.

Q. You do not know of anything wrong that Mr. George Wilson has done, do you?

A. No, I can't think of anything.

Q. Now, you heard George Wilson say that he knew you were a member of the Communist Party, did you not?

A. I don't think he said it in those words. He seemed very uncertain, too.

Mr. MacInnis: I will give you the page of the testimony, if that is what you are looking for.

Mr. Donohue: I think I have it. Thank you. Page 4010:

"Q. With respect to the defendant Henry Schmidt, did you ever attend a meeting of the Communist Party at which Mr. Schmidt was present? [4868] A. I did.

"Q. And would you say that you attended one or more than one? A. More than one."

A. That is what he said, but he didn't say where or when.

Q. Did you ask your counsel to cross-examine him and ask him where or when?

A. Did I ask my counsel?

Q. Yes. A. No.

Q. You know that your counsel didn't ask him where or when, do you not?

A. I believe that is correct.

Q. Do you think George Wilson is a stool pigeon?

A. As I stated before, you people must have something on him, because when he sat here—I would like to give you my impression, if you don't mind.

Q. I would be very interested to hear it. Perhaps the jury might, too.

A. That man was talking to us when he sat here. It made a deep impression on my mind and I won't forget it soon.

Q. That man was what?

Mr. MacInnis: Please let him finish his answer. He is giving his answer and every time he stops for a split second you interrupt. He said he wanted

(Testimony of Henry Schmidt.)

to tell you. You said you [4869] would be happy to hear.

Mr. Donohue: I would.

Mr. MacInnis: Would you continue, please, Mr. Schmidt?

The Witness: As far as I can recollect, he was the first witness who identified the three defendants by using only their first names. He said, "Yes, there is Harry in the gray suit. Yes, there is Henry sitting next to him. And there is Bob sitting next to Henry." And it was my impression that that man was talking to us three at that moment and he was in effect saying, "Look, fellows, I can't help it. I don't like to do this but they have got something on me, and that is the reason I am doing it." I don't mind telling you it demoralized me for the rest of the day and I don't get easily demoralized.

Q. You do not think it was a very pleasant task for Mr. George Wilson under oath to testify that he had been a member of the Communist Party and to point out three old comrades in the Communist Party, do you?

A. I think it was the other thing he was thinking of, that he was testifying about something he didn't know, and he became very deeply moved, and I recall that a recess had to be declared so that he might gain his composure again.

Q. Did you ask your counsel to ask Mr. Wilson if anyone had anything on him or he had been in any way threatened or persuaded to give the testimony that he did? [4870]

(Testimony of Henry Schmidt.)

A. I recall there was some discussions out in the hall. I don't exactly recall what was said. Apparently the lawyers decided not to ask him any more questions, and they are running this little show, not I.

Q. Did you tell your counsel it was your opinion that George Wilson was talking to you and not talking about you?

A. I told them that later in the day.

Q. And did you also tell them that your impression was that George Wilson acted like a man whom someone had something on and forced to do something he didn't want to do?

A. I think I made that remark somewhere along the line, yes.

Q. And the many years that you knew George Wilson, you knew he was a man who told the truth?

A. I always took it for granted that he did, yes.

Q. And the only explanation that you can give for his testimony here under oath is that he acted like a man——

A. Under compulsion, as he stated to one of the newspaper reporters out in the hall.

Q. He stated what?

A. He stated to one of the newspaper reporters when he was asked, "Are you doing this under compulsion, George?" He said, "Yes, absolutely, and it will all come out once I get back on the stand."

Q. He was back on the stand. Did you ask your counsel to ask him what compulsion there had been?

Wasn't a subpoena issued [4871] by this Court against George Wilson?

A. Let me put it this way: If I had been handling my own affair, I would have interrogated him on that point.

Mr. Donohue: May we adjourn at this time, if your Honor please?

The Court: Yes, we will adjourn at this time until tomorrow morning at the same hour, 10:00 o'clock.

The same admonition, ladies and gentlemen, not to discuss the case under any conditions or to form or express an opinion thereon until it is submitted to you.

(Thereupon an adjournment was taken to tomorrow, Thursday, February 2, 1950, at 10:00 o'clock a.m.) [4872]

Thursday, February 2, 1950—10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: Call Father Paul Meinecke again, please.

I understood that the special prosecutor wanted to investigate Father Meinecke and thus had him held over until today. So if there are some questions, he is now available.

Mr. Donohue: The special prosecutor made no such statement, that he wanted to investigate Father Meinecke. He said he would like to read the transcript of testimony and ask him some more questions.

The Clerk: The witness on the stand is Father Paul Meinecke, heretofore sworn.

FATHER PAUL MEINECKE

recalled.

Cross-Examination
(Continued)

By Mr. Donohue:

Q. Father, during the period that you were here in San Francisco you were a member of the Franciscan Order of the Catholic Church?

A. You are absolutely correct, sir.

Q. Are you still a member of that order, Father?

A. No, sir.

Q. And at the time, Father, when you left San Francisco after ten years in the Franciscan Order here, in which, as you stated, [4873] you devoted much of your time to the problems of labor, was the decision to leave San Francisco fully voluntary on your part?

A. It is true there seems to be an apparent contradiction there between what I said yesterday and what you are bringing out now. If you will pardon me a moment, you see, every priest takes a vow of obedience, and must be like a soldier ready to go and come for any assignment. I had been working, as you say, here in San Francisco about ten years in the same parish in those activities you refer to, and my superior saw fit to use my services in another parish in Spokane, Washington. But during

(Testimony of Father Paul Meinecke.)

the years that I was working here in San Francisco, maybe for five or six years, I had the good fortune to be appointed as the chaplain of the San Francisco recreation camp in the high Sierras. There I discovered that I had a great yen for the wide open places, for mountains and valleys where there aren't too many people; and when I was up in Spokane, corresponding with some other priests who had volunteered for the Nevada missions, I likewise conceived the idea, and through proper channels, through my superiors and through the Bishop and finally with the approval of the Holy Father himself, I was allowed to volunteer for the Nevada mission where I am now engaged in priestly work.

Q. And that, Father, was while you were in Spokane, not while you were here in San Francisco?

A. That is correct. [4874]

Q. Was your leaving San Francisco and going to Spokane under orders of your order, or was it a voluntary request on your part?

A. At that time it was—it falls into the first category; it was obeying an order, as every one of us priests must do.

Q. Father, yesterday when you said that Harry Bridges was not a member of "our parish," referring to St. Boniface, you *didn't to* give the impression that he was to your knowledge a member of any other Catholic parish of this city or diocese?

A. He would automatically be a member of the parish within whose confines or parish limits that he lived.

(Testimony of Father Paul Meinecke.)

Q. Do you know of your own knowledge whether he is an active member of any Catholic church in the City of San Francisco?

A. To the best of my knowledge, I would not be able to answer that question in the affirmative.

Q. When you talked with Mr. Bridges, Father, about the possibility of his coming back into the Church as a practical Catholic, when was that, approximately? A. I beg your pardon?

Q. When was it? A. On many occasions.

Q. When was the——

A. That was a great part of the motive of my association with Mr. Bridges; I had that hope.

Q. Did he talk with you on that subject on many occasions? [4875] A. That is correct.

Q. What is your best recollection, Father, as to when the last occasion when you discussed that subject with him occurred?

A. I could not say that exactly, but I would say that out of three—out of three times that we would meet, on at leeast one of them I would bring the subject up and I would tell Mr. Bridges how much it would—oh, it would redound to his influence. I thought it would be a great help to him to be a practical Catholic and also a great labor leader; that his influence would be all the greater.

Q. Do you recall with respect to his personal circumstance at the time when you last talked with him whether he was then married to the same wife with perhaps whom you may have talked yourself at one time or another?

(Testimony of Father Paul Meinecke.)

A. Yes, I knew her and I spoke to her, and at that time he was married to her.

Q. Have you talked with him at all or has he discussed with you at all the subject of the possibility of becoming again a practical Catholic, if he ever was one?

A. I think I had him right on the edge a couple of times ready to push him over.

Q. Was that, Father, before he had taken a second wife after having divorced the first?

A. That is correct.

Q. Is there some rule in the Catholic Church whereby one [4876] becomes excommunicated for having married a second time with a living spouse by the first marriage?

A. No, the penalty is not excommunication.

Q. Is there a penalty of excommunication for a Catholic who fails to carry out his Easter duty?

A. Not any more.

Q. Then you still consider Harry Bridges a Catholic?

A. Yes. Once baptised, as I said, sir, he will always be a Catholic. He can never erase that fact. A person may wander a bit, may forget about religion, fail to practice it for many years of their lives, as many people do, but when they return to the Church the only thing they have to do, they go to confession, say, "Father, I have been away for twenty years; I want to get myself lined up again," and the priest merely hears his confession, gives him absolution, and the man is in good standing with the Church again. [4877]

(Testimony of Father Paul Meinecke.)

Q. You were here, Father, form 1938 through 1947? A. Approximately.

Q. And I take it that during the period of your activity with the Association of Catholic Trade Unions that you sought to warn the members of your organization of the dangers of infiltration in the labor movement of members of the Communist Party, did you not?

A. That is one of the very purposes of the organization, to make the members aware of that.

Q. In consequence of that type of instruction, Father, I take it that you yourself familiarized yourself in some measure or in some degree with the principles of the Communist Party?

A. I believe I made more than an ordinarily thorough study of the subject. If you will pardon me for going back a few years, I believe as early as 1934 you would have seen me in Union Square in New York or on the Common in Boston on a soapbox talking and arguing with Communists. In fact, I would interject myself into the arguments of some other soapbox orators and heckle them until such time that the Communist or worker or all sorts of Communists and Socialists would finally in extreme exasperation say,—well, they would use a little rough language. If I may be pardoned, they would usually say, "If you know so damn much about it, why don't you come up here?", and I was waiting for such an opportunity, and I used those opportunities.

Meanwhile, at home I studied and I discussed

(Testimony of Father Paul Meinecke.)

Communism in a [4878] practical way with Communists and with Socialists and every variety of radical, so that I would not only have that book knowledge, but likewise I would see how it was interpreted by the man in the street who posed or thought he was a Communist. And when I came west, I did not have the opportunities that I had on the East Coast, but I began to familiarize myself with the scene of Communism as it worked in San Francisco, tried to meet the man who was a Communist, the men who were Communists, talk to them, read about them, and of course at the same time I was working with my own group. Especially I was working with a group of young people who were called the Young Christian Workers. One of the main purposes of that organization was to combat Communism positively. We did not fight Communism in the negative; in other words, always preaching against it. We tried to teach the positive principles of the good trade unionism. We figured we would be wasting our time if we were always walloping Communism. We had a program, a very positive program of our own, which we wished to sell and which we devoted most of our time to, being positive, not negative.

Q. Then I take it, Father, that because of your familiarity with the Communist doctrine, that you carefully examined the manifestations of the Communist Party by way of their propaganda in the United States during the period of time in which you were here in San Francisco?

(Testimony of Father Paul Meinecke.)

A. You are absolutely right. I watched it like a hawk. [4879]

Q. Taking you back, then, Father, to August of 1939, at the time when Russia and the Nazis signed their famous peace pact and became allies and then proceeded to divide Poland between them, each taking substantially a half, do you recall that at or about that time the Communist Party propaganda in the United States was one which called the war in Europe an "imperialistic" war and one which opposed any aid on the part of the United States to either England or France, to aid them in their fight against Hitlerism? Do you recall that that was the Communist Party line in 1939?

A. Yes, that is when the Communist Party did one of their seasonal flip-flops, and we all had a good laugh at them.

Q. And do you recall that at or about the same time it was the propaganda line of the Communist Party in the United States to oppose the lend-lease bill, to oppose the draft act, and to propagandize that now famous statement, "The Yanks are not coming"?

A. That was part of their program at that time, as far as I remember now.

Q. Now, was the fact that at the same time Harry Bridges urged and argued the same propositions as were argued by the Communist Party at all significant to you in forming your estimation of the character of Harry Bridges or his membership or non-membership in the Communist Party?

(Testimony of Father Paul Meinecke.)

Mr. MacInnis: Pardon me just a minute. Now, that question [4880] assumes facts not in evidence. The facts as stated by the special prosecutor are not true in the first instance. Harry Bridges did not advocate those policies, and the question put to this witness is an unfair one, telling him in advance that these things are true and then asking him to give an opinion.

Mr. Donohue: I will withdraw the question and ask another one, if your Honor please.

Q. Do you know, as a good friend of Harry Bridges and one who, as you say, was familiar with this Communist line in the United States at that time, whether or not Harry Bridges advocated the same principles we have just discussed?

A. I beg your pardon? I hope I did not misunderstand you. Did you mean to say that Harry Bridges was familiar with all those things?

Q. I am asking you now, Father, if you do not know—— A. Or am I familiar?

Q. I beg your pardon. May I ask you, Father, as a matter of fact, do you know whether or not during this same period of time Harry Bridges also advocated or opposed, let me say, lend-lease, opposed the draft act, was in favor of the principle that the "Yanks are not coming," and designated the then war between the allies in Europe and Hitler as an imperialistic war?

A. Well, that is a pretty big bundle, but I would say definitely I do not know whether he was for or against those things, [4881] because to the best of

(Testimony of Father Paul Meinecke.)

my recollection now, I do not recall having a conversation with him on any one of those subjects.

Q. Is this during the period of time, Father, when you were forming your estimation by reading between the lines as to whether or not Harry Bridges was a Communist? A. That's right.

Q. But you did not ask him his views on these matters which at that time seemed to have assumed a great proportion in this country?

A. I think I can truthfully say that I had my mind pretty well formed about Harry Bridges' stand on Communism before those events came up.

Q. That is, before 1939?

A. But what he may have done during this time, I could not say now. Maybe through your ability to investigate those things, you could tell me. But I do not know.

Q. Then let me ask you, Father, if you were assured, as a matter of fact, or if you knew as a matter of fact, during that period of time that Harry Bridges did advocate those things which were also advocated by the Communist Party, would your opinion as to his membership or non-membership in the Communist Party be subject to review?

Mr. MacInnis: Pardon me. We in this case are not prepared to accept the assurances of the special prosecutor as to this fact or any other fact, and hence we object to the question as [4882] stating facts not in evidence.

Mr. Donohue: I haven't made any assurance. I asked him if he were assured.

(Testimony of Father Paul Meinecke.)

The Court: This is cross-examination; I will allow it.

A. If I were assured, you know what I would do?

Q. I am interested, Father.

A. I would go look up Harry and find his motivation and say, "Why?", because there are many other people in the country whom we know were not and are not Communists but who followed various points of that program as you outlined it. Some very outstanding men, but not Communists.

Q. Father, do you recall that there came a time in 1941 when the peace pact between Nazi Germany and the Soviet government was interrupted by an attack in June 1941, by Hitler upon Russia?

A. Yes, sir.

Q. And do you recall from your familiarity with the doctrine and operation of the Communist Party that the Communist Party in the United States immediately then changed the term from an "imperialistic" war to a "people's war"?

A. That's right; they did another flip-flop.

Q. Now, do you know whether or not at the same time and simultaneously therewith Harry Bridges did a flip-flop, as you have termed it?

A. Hmm. Another one of those subjects we did not discuss. [4883]

Q. Father——

A. You see, look, please—if I may say this?

Q. Surely.

A. In our association I told you before that we were positive. We wasted little time on these other

(Testimony of Father Paul Meinecke.)

issues. If I went to see Harry Bridges, it was about something, a problem in trade unionism or something that came up in my group and I needed a little help, or it was something about a job for someone, or it was something about a certain member of his union who may have got into a little scrape with the union officials and appealed to me, and would I present the facts to Mr. Bridges, you see.

Q. Yes. Father, as a matter of fact, were you lulled into a false sense of security on Mr. Bridges' relationship with the Communist Party by the mere fact that he talked to you at some time or another about the possibilities of his returning to the fold as a practical Catholic? A. No, sir.

Q. As a matter of fact, he never did anything about returning to the fold as a practical Catholic, did he, Father?

A. Yes, he took some very important steps.

Q. You don't mean that his second marriage was a very important step in that direction, do you, Father. A. I did not say that.

Q. Then what steps do you have in mind, Father?

A. By his close association with me, if I may say so, by his [4884] continuation of that friendship and that helpful attitude toward me, that deferential and respectful way of treating a priest, I saw that we were making progress.

Q. Don't you know, Father, that many persons who are not of our faith are very deferential to Catholic priests and to all men of the clergy?

(Testimony of Father Paul Meinecke.)

A. I think that if their motivation is not unworthy——

Mr. Hallinan: I think this discussion, your Honor, of theological and ecclesiastical matters ought to stop, and I do say, after an experience in the court yesterday, that persons of a non-Catholic faith seem to have more respect for certain priests, at least, than some members of the Catholic faith. But it seems to me that this inquiry into Mr. Bridges' ecclesiastical beliefs is going a little bit too far. If counsel is just trying to show off what he professes to know about it, why, he can do it in some other form; but doesn't it seem to you that we have about enough inquiry into whether Mr. Bridges goes to confession or does not, and what his activities are in that behalf?

Mr. Donohue: May I proceed, your Honor?

The Court: I might say, in response, Mr. Hallinan, that I believe the cross-examination now is within proper bounds.

Mr. Hallinan: I concede, but in the meantime I want to make the objection, your Honor. I want to point out that little suggestion, backing up counsel's statement about non-Catholics [4885] frequently having more respect for the priest than Catholics show.

Q. (By Mr. Donohue): Father——

A. Yes, sir?

Q. Do you recall that immediately after the conclusion of the last World War that the Communist Party in the United States began to demand the

(Testimony of Father Paul Meinecke.)

immediate withdrawal of American troops from China and Korea, so as not to deter the so-called "valiant" Chinese Reds from taking over all of China?

A. I remember reading that fact, reported in the newspapers.

Q. Do you know, Father, from your close contact with Harry Bridges whether he too advocated the immediate withdrawal of American troops from China?

A. You see, that would be another one of those subjects that we wouldn't discuss unless I made a deliberate point to do it. And right now I have to tell you that I do not remember asking Harry, "How do you stand on that?"

Q. And do you remember, Father, that when the Marshall plan was developed in this country, and for the purposes with which we are all familiar, that that too was bitterly opposed by the Communist Party in the United States?

A. I remember reading about that in the paper, too.

Q. And do you remember, Father, whether, or do you know whether or not as a matter of fact Harry Bridges also at the same time opposed the Marshall Plan? [4886] A. I do not know that.

Q. Is it a fact, Father, that before these incidents just inquired about which began in 1939, that you had closed your mind on the subject as to whether or not Harry Bridges was a member of the Communist Party?

A. No, I had already used what we might call a reasonable, more than reasonable amount of judgment, perspicacity, investigation, to arrive at a conclusion, and a man like Mr. Bridges does not certainly change his principles. Due to the aforesaid investigation, I have told you about, I had already come to the conclusion that the man was, well, if I may describe him, he seemed to be affected with a virus; he has a bug in him. That bug is militant trade unionism. I do not think that the man will ever rest until everyone, white collar workers, and all the workers, are in a good union. He has dedicated his life to that ambition. That is his work, that is his ideal. And I discovered that in the earlier years of our association. Perhaps it appears here that I am going a little out of the way to put in a word for him, but I must tell the truth. When you served that subpoena on me and I was told to come here; I thought I would just be able to say yes or no and go home. I live almost a thousand miles from here, over mountains and ice and snow. I was not prepared to—I did not expect this. But you have goaded me into saying these things, and so pardon me if I speak with a little bit too much earnestness or, as someone said, loquaciously. [4887]

Q. You understand, Father, that I didn't issue a subpoena for your appearance here.

A. No, but the officer of the law did, and here I am.

Q. You understand that you were subpoenaed by the defendants? A. That is correct.

(Testimony of Father Paul Meinecke.)

Q. As a witness as to the character of Harry Bridges?

A. I beg your pardon for saying "you."

Q. With respect to that subject, Father, when did you first discuss with anyone the fact that you were coming here to testify as to the character of Mr. Bridges.

A. When did I first discuss it with someone? Last Wednesday or Thursday in Eureka, Nevada, with some of my parishioners.

Q. At that time, Father, had you been asked by someone if you would come here?

A. Just a moment. Correction. I was warned over the telephone. I was warned over the telephone by Mr. MacInnis.

Q. And when you say you were warned, you mean——

A. Then I discussed it with some of my parishioners.

Q. When you say you were warned, you mean you were alerted for the trip here to San Francisco for the purpose of giving your testimony?

A. Yes, as far as I remember it, I was alerted that I would be served a subpoena.

Q. When had you been in San Francisco last, Father, before you came here a day or two ago? [4888]

A. A month or two ago.

Q. Did you discuss this subject matter with anyone at that time?

A. In a general sort of way, yes, but not involving me personally.

Q. With whom did you discuss it in a general sort of way? A. Mr. MacInnis.

Q. Have you discussed it with Mr. Bridges?

A. Mr. Bridges was there on one occasion, likewise Mr. Hallinan.

Q. Father, you were in San Francisco in July of 1940, were you, sir? A. I believe I was.

Q. And at that time you were active in the Association of Catholic Trade Unionists?

A. July?

Q. July of 1940.

A. No; I am sorry; I wasn't in San Francisco. I was at Camp Mather. I know that for sure. I was out of San Francisco in 1940, I was away from San Francisco from Memorial Day until about two days after Labor Day, when I returned. I know that exactly, and I think that if you—I have got a very good witness to prove that I wasn't in San Francisco at that time.

Q. Father, did you ever have called to your attention an article by Richard Lamb on the general subject of Catholic Unionists organized to drive out the racketeers, which appeared [4889] in the San Francisco edition of the San Francisco News on Friday, July 19, 1940?

A. I am not aware of the article or not familiar with it.

Q. Are you familiar with the Monitor, the official organ of the archdiocese of San Francisco?

(Testimony of Father Paul Meinecke.)

A. That's right.

Mr. Donohue: I will ask the clerk to mark this United States for identification next in order and ask him to direct the attention of the witness to a published letter from Harry Bridges to the Rev. Father Charles Owen Rice, and the reply thereto, and ask him——

Mr. MacInnis: May I see it first?

The Clerk: May it be marked Government's Exhibit 19 for identification, your Honor?

The Court: So ordered.

The Clerk: Government's 19 for identification.

(Newspaper marked U. S. Exhibit 19 for identification.)

Mr. MacInnis: Your Honor, this is a letter which might well be shown to Harry Bridges as a witness because it contains a letter by Bridges and a reply apparently by Father Rice, but so far as this witness would be concerned, I think it would be purely hearsay.

Mr. Donohue: Only this, if your Honor pleases: If the witness has never seen the letter and the reply, obviously I could ask him no questions [4890] about it.

The Court: You might ask him if he has seen it.

Mr. Donohue: If he has, then I think I am entitled to ask him whether it affected his judgment of Mr. Bridges.

The Court: Do you understand?

(Testimony of Father Paul Meinecke.)

The Witness: Certainly. I will read it. I will be glad——

Mr. MacInnis: Pardon me. The question is, Did he ever read it before?

Mr. Donohue: Yes.

Mr. MacInnis: Not to read it now.

Mr. Donohue: Yes, surely; had he never seen or read the article before?

A. Finished. May I hold it for a moment?

Q. Had you ever read the letter before?

A. I do not remember. When was this again?

Mr. Donohue: Then I may not question the Father if he hasn't read it.

A. '48, August. I wasn't in San Francisco.

Q. I understand, Father, and that article or those letters were not heretofore called to your attention?

A. No, but right here, if I may, if you will pardon me, right in the article Father Rice says none of these things alone would make you a Communist.

Q. I quite understand.

A. I know of Father Rice; I know of his wonderful activities for labor. I think if Father Rice were not a Pittsburgh [4891] priest but rather working here on the West Coast closer to our picture and the man under discussion—you would say that is just my opinion——

Q. Perhaps I wouldn't, Father.

A. To get to know a man you have to be close to him, to know his motivation in making a decision. It isn't easy to—oh, the greatest temptation is to make a snap judgment, and because the Communists say that a thing is red and Harry says that a thing is red, therefore he is a Communist.

Q. Father, do you draw your estimation of men's characters by what they say or by what they do? A. Both, and between the lines.

Q. Isn't there something in the Good Book that says that "Not by faith alone"?

A. Yes, but I don't see the implication.

Q. "Faith without good works is dead"?

A. Right.

Q. You are not in any way or would not in any way be persuaded in your estimation of the character of Harry Bridges by an analysis of the question as to whether or not he did follow the same doctrine as the Communist Party followed from 1939 to the present day?

A. As I answered before, I said that many another man occasionally, or almost all the time, was following what the Communists advocate, and yet we know they were not Communists [4892] themselves.

Q. That fact wouldn't create even a suspicion in your mind, Father?

A. I told you the other day if I had a reasonable suspicion that Bridges was or is a member of the Communist Party—I am with you—I wouldn't be here; I wouldn't lend aid and assistance to an enemy of our country or the principles of our country.

(Testimony of Father Paul Meinecke.)

Q. You believe——

Mr. Hallinan: Let him finish, please.

The Witness: That we are all working for.

Q. (By Mr. Donohue): Then tell me——

Mr. Hallinan: He interrupts at every word. He tries to stop and arrest the witness.

Mr. Donohue: That is not so.

Mr. Hallinan: When he had Johnson and Crouch and Ross on there, every question that was asked—if you asked the man's middle initial, he was allowed to argue and speak upon his principles and his beliefs, and every question that is asked of Father Paul and every answer he gives, Mr. Donohue now interrupts. We ask that the witness be permitted the courtesy of finishing his answers.

The Court: Father, do you feel any degree of discourtesy in connection with your examination?

A. No, this is all somewhat——

Mr. MacInnis: Pardon me: I don't think it is proper for [4893] the Court to ask that of the witness.

The Court: I wanted the Father to be perfectly comfortable.

Mr. MacInnis: I don't think he has been allowed that, if the Court please, and I don't think it is for the witness to be allowed to point that out.

The Court: That rests in my discretion.

Mr. MacInnis: I think the counsel in the case——

The Court: A lot of other things rest in my discretion.

Mr. MacInnis: I appreciate that.

(Testimony of Father Paul Meinecke.)

Q. (By Mr. Donohue): Have you finished, Father? A. What were we talking about?

Q. I am not too sure, Father, by reason of the interruption.

A. I was merely trying to help you. You see, you bring back so many things. You throw a whole big load at me and I give you an answer, then you cut it up into little pieces and you throw each little piece at me, and the way you word things—I don't want you, because you are a very clever gentleman and well trained in what you are doing, to tie me into a knot.

Q. It isn't my purpose——

A. And I am using my limited intelligence to try to be truthful and honest and straightforward and tell you, as you made me swear, tell you the whole truth.

Q. We are concerned only with the truth, Father. May I ask you, Father, if you are familiar with the Labor Leader, the [4894] national organ of the Association of Catholic Trade Unionists?

A. I used to—may I just see the masthead? Yes, I used to be a regular subscriber.

Mr. Donohue: I am going to ask the clerk to mark this as United States for identification next in order.

The Clerk: May it be marked Government's Exhibit 20 for identification.

> (Newspaper marked U. S. Exhibit 20 for identification.)

Mr. Donohue: I shall ask the Clerk, Father, to

(Testimony of Father Paul Meinecke.)

hand you the issue of July 1, 1940, and ask him to direct your attention to a statement therein and ask you to read it and make no comment, please, until I ask you another question. A. I have read it.

Q. Had you read that article prior to this morning, Father, with particular reference to that section which I think is marked off in red crayon?

A. July 1, 1940, I was up in the mountains as chaplain of Camp Mather.

Q. Does your best judgment——

A. No doubt my mail piled up here at the church, and when I came home I would look them all over hurriedly. You can imagine how many were stacked up; I was away for more than three months.

Q. Then the likelihood—

A. This isn't too good a period, because Memorial Day, 1940, I [4895] just had been released from the hospital where I spent almost a year ill in the hospital. The circumstances were such that I did very little reading.

Q. Then you have no recollection, Father, of having read specifically that article?

A. You are absolutely right.

Mr. Donohue: Let me have it back, Mr. Mitchell.

Q. At any time, Father during the period that you were at St. Boniface did you ever discuss the reputation of Harry Bridges with your co-religionists at St. Boniface?

A. Not only there, but in other places, too, with many priests. Any priest who was labor-minded and interested in these things, he was bound to come up as a subject of conversation.

Q. Can you tell us the name, Father, of any of the fathers who stated to you that Mr. Bridges' reputation for truth, honesty and integrity was good?

A. You did that to me yesterday. People do not speak in such stilted language or in an utterance of that sort. They are either—they are either for the man or they are against him. If they are themselves upright people, men of good judgment and they are for him, you know that their judgment is based on something more than just the color of his hair or the curl; it is based on fundamental qualities of the man's character. And I do not think that from now to the end of my life I am ever going to have anyone come up to me and say, "You [4896] know, Father, that Joe Brown is a man of truthfulness, honesty and integrity." Put all those qualities together and get the essence of them as they appear in a man's demeanor and his behavior and his attitudes and his actions and his talking and the way he treats other people, then you know indirectly that he is a man of truthfulness and honesty and integrity. And that is the way I explained yesterday, and I repeat now, that is how I arrive at that conclusion which I gave you under oath.

Mr. Donohue: I have no further questions.

(Testimony of Father Paul Meinecke.)

Redirect Examination

By Mr. MacInnis:

Q. Now, Father Meinecke, the prosecutor put to you these words: "Faith without good works," and he suggested that you should look to the works of Harry Bridges. Do you find any good works on his behalf in analyzing his character here?

A. Mr. MacInnis, the history of Harry Bridges is already written here, it is part of the warp and woof of San Francisco, and while I do not give him credit for doing all the things that some of the newspapers give him credit for, I do give him credit for many of the gains and advantages that have been made by the working people of this city, not only in his own trade unions but in others which were on the occasion involved in a strike and he and his leaders and his members helped. I remember specifically when the little girls that sell ribbon behind the counters in our stores here in town—I believe [4897] they call them retail clerks—they were out on the street for a while. The white-collar workers had been underpaid at that particular time; everyone admitted it, although we all deprecated the strike, but I know that Harry Bridges and all his men were in there helping the kids get a decent wage, teaching them that if they all stick together and join their union and work from within the union they will be able to get somewhere.

I know we have discussed many times efforts to try to organize other groups in San Francisco of

(Testimony of Father Paul Meinecke.)

white-collar workers; they are usually the last to join a union, because they fail to see the value of it. If I had the time and the opportunity I could sit down and draw you a long list of good things—good works, if you wish—that Harry Bridges has done for San Francisco. I do not say thereby that I approve of all of his policies. I am not a member of his union; I am not a member of the executive board or the officials of the union. I had no voice in those things, but I always presumed that if honest and upright labor people, after considering all the other methods of getting justice, if they call a strike, they have good reasons to do so, and if I were in their position I might do the same thing—although I do not like strikes because of that one feature: They hurt the common welfare, they hurt the public. But sometimes working men can't get justice in any other way except by being on a strike. [4898]

Q. The special prosecutor asked you some other questions to probe into the ways you really did consult with Harry Bridges from time to time on these matters.

Mr. MacInnis: Now, I am going to ask that there be marked for identification a letter which I have already shown the prosecutor, then I am going to show it to you and ask you if it is actually a letter that you sent to him. It is out of Mr. Bridges' files.

Mr. Donohue: I have to object to it, if your Honor please. I take it the witness has been pro-

(Testimony of Father Paul Meinecke.)

duced as a character witness. This is merely his self-serving declaration, a personal letter which the Father wrote to Mr. Bridges, obviously has no evidentiary value. He can ask the question——

The Witness: When did I write that [4899] letter?

Mr. MacInnis: Many questions have been asked probing into whether or not these things took place. Now, if the inference of recent fabrication is at all present, why, this letter, which is a self-serving declaration from Father Meinecke to Harry Bridges in 1943, in his own handwriting, would be some evidence of the truth of what he says here. Now, that is the purpose of the question.

The Court: Do you have any objection to that letter, Mr. Donohue?

Mr. Donohue: Well, it is a self-serving declaration, if Your Honor please, but I have no objection to it.

The Court: I have not read it, but it may be received.

The Clerk: The exhibit is marked Defendant's X-2 for identification.

Mr. MacInnis: I believe it is in evidence.

The Clerk: In evidence, X-2.

(Whereupon letter, Meinecke to Harry Bridges, was received in evidence and marked Defendant's Exhibit X-2.)

Mr. MacInnis: May it be shown to Father Meinecke?

(Document handed to the witness by the Clerk.)

The Witness: Yes, I have read it.

Q. (By Mr. MacInnis): Is that your handwirting? A. Yes.

Q. Would you give it to Mr. Mitchell, please?

(Document returned to counsel by the [4900] Clerk.)

Mr. MacInnis: Reading from the exhibit just now introduced, "Young Christian Workers, 135 Golden Gate Avenue."

Q. I take it that is the St. Boniface Church school address, is it?

A. No, that was the address of the Youth organization that I was taking care of.

Mr. MacInnis: "December 8, 1943.

"Dear Harry:

"I was reading over the proceedings of the sixth constitutional convention of the CIO (November 1st, 1943), and I see that on page 4 one of your speakers said, 'Labor alone is a mighty power. Religion alone is a strong force. But in order to definitely assure the winning of the peace, no greater combination is more formidable than a union of organized labor and established religion.'

"That is just what I told you Sunday night. Your influence and power for the good of the workers would double if you would go back to your religion. What about your big boss of the CIO,

(Testimony of Father Paul Meinecke.)

Phil Murray? Is not he a good Catholic and a good labor man? You could be the same, and knock all the stuffed shirts off their pins. They would never be able to touch you. You would have too many real backers who would fight for you.

"I am sending you the Crowned Heights comment, a Catholic labor paper, to show what some of the priests are doing [4901] for labor.

"Yours in Christ, our leader,
"FATHER PAUL."

Q. Is that the letter you sent Harry Bridges on the date mentioned? A. That's right.

Q. Now, the special prosecutor asked you some other questions about national and international events. Are you of the opinion that every other American citizen who opposed our entry into the war before Pearl Harbor was a Communist?

A. No, no. Many, many great patriotic leaders of this country opposed that move and after the war was all over, some good people still doubted its wisdom.

Q. Two more short subjects mentioned yesterday. Is there anything wrong with your memory, Father Meinecke?

A. No, Mr. MacInnis. I suppose I am liable to err and quote from a fallacious memory at times, but I believe my memory is as good as average and on some things I would like to say I am sharper than the average. I can name for you every parishioner in my parish, I know every person in my town by name, and by face. How many do you know in San Francisco? I know all my people in my parish over in Eureka.

Q. Let me ask you this. Some inquiry was made about the state of your health. Are you suffering from any physical disability?

A. You might call it that. I once had an amputation and lost [4902] my left leg. But it doesn't affect my memory.

Q. When did you lose your left leg?

A. 194—1939. The day that Hitler went into Poland, I went in the hospital, and about 20 days later they amputated my leg.

Q. Was there any circumstance connected with the loss of your leg that has to do with your point of view in these matters?

A. Well, I supose I have to answer, I would say this: Anybody that goes through a little suffering becomes more sensible and a little bit more keenly attuned to the needs of other people. You become a little bit less selfish. You get, having suffered a bit yourself, you are more inclined to consider the feelings and susceptibilities and sensibilities of other people. If you mean that that was my motivation for becoming interested in the working, in the trade unionism and in helping people to better their wages and hours and conditions, I suppose it contributed to it.

Q. No. I mean, was there some incident in connection with your recovery from the ailment in connection with the amputation of your leg? Were there some blood transfusions?

A. Oh, yes. Well, that was because of the people in Chicago that I was able to help. They were also militant trade unionists.

Q. Who helped you?

A. And in their papers.

Q. Who helped you in the first instance, when you were in the [4903] hospital here?

A. The first person to come to my rescue?

Q. Yes.

A. Oh, I believe that was Mr. Redfern. He is a—well, I believe he is a Master Mason. I used to kid him quite a bit about that—"Masonic blood saves life of Catholic priest."

Q. And he donated that?

A. And that is why he told me afterwards when this Jewish boy of Chicago appealed for a donation, Mr. Redfern was the first to suggest that I pass on some of that Masonic blood to the Jewish boy in Chicago.

Q. In other words, when you were in the hospital with your leg amputated, a Master Mason donated blood to you and you in turn donated blood to save the life of a Jewish boy in Chicago, is that correct? A. That is about it.

Mr. MacInnis: That is all.

Recross-Examination

By M Donohue:

Q. Father, isn't it a fact that while all the

(Testimony of Father Paul Meinecke.)

persons who opposed the entry of the United States into the war were not Communists, that all Communists did oppose the entry of the United States into the war? A. I don't know.

Mr. Donohue: Thank you, Father. No further questions.

The Witness: I would have to know all the Communists. [4904]

Mr. MacInnis: No further questions.

The Witness: May I go home?

The Court: Yes, you may be excused.

We will take the morning recess, ladies and gentlemen of the jury. The same admonition to you, not to discuss the case under any conditions, nor to form or express an opinion until it is submitted to you.

(Recess.)

Mr. MacInnis: May we interrupt with another witness? Call Mr. Bailey, please.

The Clerk: Call Mr. Bailey.

STANLEY BAILEY

called on behalf of the defendants; sworn.

The Clerk: Will you state your name to the Court and jury, please?

A. Stanley Bailey, S-t-a-n-l-e-y B-a-i-l-e-y.

Direct Examination

By Mr. MacInnis:

Q. Mr. Bailey, what is your address?

(Testimony of Stanley Bailey.)

A. Portola, California, Plumas County.

Q. And what is your occupation or profession?

A. I am editor and publisher of the Portola Reporter.

Q. And for how long in the past have you had that particular profession?

A. It will be three years the first of [4905] March.

Q. What had you done previously, Mr. Bailey?

A. I was reporter for the San Francisco Chronicle, and during that period that I was employed with the Chronicle I was on leave of absence as assistant director of the State Department of Industrial Relations and acting director and assistant director of the War Manpower Commission.

Q. What was the latter post?

A. With the War Manpower Commission.

Q. Yes, sir.

A. Assistant director, in San Francisco, for Northern California.

Q. And what function did that particular post have?

A. Handling the various problems of manpower during the war—labor stabilization.

Q. I see. Now, in the city of Portola, in your county, are you a member of any public body or organization?

A. I am a member of the Plumas County Chamber of Commerce.

Q. Do you hold office in that body?

A. I am the president.

(Testimony of Stanley Bailey.)

Q. I see. Now, Mr. Bailey, have you known a man named Harry Bridges? A. I have.

Q. And have you known a man named Henry Schmidt? A. I have.

Q. Can you tell us, respectively, when you met those two men? [4906]

A. I met Harry Bridges in the spring of 1934, shortly after the start of the 1934 waterfront strike.

Q. And have you known him consistently ever since? A. Well, periodically.

Q. I see. In other words, your acquaintanceship has continued through the years, although, of course, you haven't seen him every week or anything like that? A. Yes.

Q. How about Mr. Schmidt? When did you meet him?

A. I think it was about 1936 when I first became acquainted with Mr. Schmidt. I may have seen him before but I don't recall.

Q. And has your acquaintance with Mr. Schmidt continued over the years until the present time?

A. It has.

Q. Now, in addition to your own acquaintanceship with the other two men, have you heard their reputations in the community for truth, honesty and integrity in general discussed? A. I have.

Q. From the basis of your own acquaintanceship plus such utterances of other persons as may have come to your ears, are you in a position to tell us what is the reputation of Harry Bridges for truth, honesty and integrity?

A. I consider it good.

Q. And if I asked you the same questions upon the same bases [4907] in respect of the reputation of Henry Schmidt for truth, honesty and integrity, what would your answer be?

A. I consider it good.

Mr. MacInnis: Thank you.

Cross-Examination

By Mr. Donohue:

Q. Mr. Bailey, when you were director of the War Manpower Commission, did you know a man by the name of Lewis Michener?

A. I may have met Mr. Michener. I first remember hearing his name when he was with the Department of Industrial Relations. He was in Southern California, I believe.

Q. Yes. Did he serve with the War Manpower Commission?

A. He held a position in Southern California for a time. I am not sure about that. You see, California was divided into two states, Northern California and Southern California, for administrative purposes.

Q. And did you know a man named Mervyn Rathborne? A. Yes, sir.

Q. Did he serve with the War Manpower Commission?

(Testimony of Stanley Bailey.)

A. He was a member of Management-Labor Committee.

Q. Well, is that a part of the War Manpower Commission?

A. It was a volunteer committee of management and labor set up to assist the War Manpower Commission.

Q. Did you know at the time that Mervyn Rathborne was serving with the War Manpower Commission that he was a member of the [4908] Communist Party? A. I did not.

Q. When you knew Mr. Michener in connection with the same organization, did you know that he was a member of the Communist Party?

A. I didn't say that I knew Mr. Michener in connection with the organization; I am sorry.

Q. Oh, I am sorry. When were you asked to come here and testify, Mr. Bailey?

A. I can't recall specifically the date. I received my subpoena over the weekend.

Q. Had you discussed your testimony with any person or persons before you received your subpoena?

A. I had been asked if it would be possible for me to come down and I replied it would be if I were subpoenaed.

Q. And when were you asked?

A. Some day before I received the subpoena; some time in the last week, it would be.

Q. And by whom? A. By Mr. Schmidt.

Q. Were you asked by telephone? A. Yes.

(Testimony of Stanley Bailey.)

Q. And have you discussed in general the nature of the questions that would be asked of you with anyone?

A. I talked to Mr. Hallinan, I think, for about two minutes in [4909] the corridor.

Q. Today? A. This morning, yes.

Q. Now, how long were you with the San Francisco Chronicle? A. Approximately 15 years.

Q. And you have been——

A. Except for the time I was on leave of absence.

Q. Now, during the period when you were here and knew Harry Bridges, did you ever hear his reputation discussed by other persons?

A. Yes, I have heard him discussed many times.

Q. Would you have any recollection of who may have been party to the discussion?

A. Well, after three years it is difficult to remember names or I mean, specific instances, but I have discussed him; I know I have discussed him with Mr. Kagel, and Mr.——

Q. Mr. Who, sir? A. Kagel.

Q. Who is he?

A. Sam Kagel. He was director of the War Manpower Commission.

Q. Did you think of any other person or persons? A. Not right offhand, no.

Q. And can you recall the reason for the discussion of Mr. Bridges' reputation?

A. Well, anybody—that is, any reporter—has discussed Mr. [4910] Bridges.

(Testimony of Stanley Bailey.)

Q. At any time during the years when you were here and were acquainted with Mr. Bridges, did you hear anyone say that in his opinion he thought he was a member of the Communist Party?

A. Yes, many times.

Q. Did those remarks enter into your general estimation of the good character or good reputation of Mr. Bridges?

A. Well, naturally, when you hear such remarks, you consider them. I have heard the same thing said about a great many other people, that they are Communists.

Q. And in estimating their general reputation, would you also consider those remarks in coming to some conclusion? A. Why, yes.

Q. Would you say you heard these remarks on few or on many occasions?

A. Concerning Mr. Bridges?

Q. Yes. A. Oh, numerous occasions.

Q. If you had formed an opinion that the remarks that Harry Bridges was a member of the Communist Party were true, would that have affected your estimation of his general reputation?

A. May I have the question repeated, please?

Mr. Donohue: Would you read the question for the witness, please?

(Record read.) [4911]

A. In other words, if I thought he was a Communist, would that——?

Q. Yes. A. Why, yes.

(Testimony of Stanley Bailey.)

Q. Would you think that membership in the Communist Party would affect one's general reputation for truth, honesty and integrity?

A. It would depend upon the circumstances.

Q. You do not think that the mere fact that one belonged to the Communist Party would in any way affect his reputation for truth, honesty and integrity?

A. Again I say it would depend upon the circumstances.

Q. What circumstances do you have in mind, sir?

A. Well, I feel that a person has a right to belong to a political party if it is a party, to belong to a political party of their own choice.

Q. And do you consider the Communist Party is a political party?

A. Well, I am not an expert on the Communist Party, nor am I an expert on Sovietism.

Q. I understand. But what is your now view of the Communist Party as being a political organization.

A. Well, I think that there are people who operated in the Communist Party for political purposes purely.

Q. You think that those persons you have in mind are members of [4912] the Communist Party, but who devote their efforts soley to political ends?

A. I have no particular person in mind when I say that.

Q. But do you have in mind——

(Testimony of Stanley Bailey.)

A. Because I know only one or two people who are Communists, or who have said they were Communists.

Q. Are you at all familiar with the principles of the Communist Party?

A. Only very vaguely.

Q. And are you at all informed on the philosophy of the Communist Party?

A. Only very vaguely.

Q. And are you informed as to the purposes of the Communist Party of the United States and within the United States?

A. Only very vaguely, from general reading.

Q. Would you say that you are not sufficiently familiar to determine whether or not the Communist Party is something other than or more than a mere political organization?

A. I am not sufficiently familiar, no.

Q. Did you know Mr. Schmidt during about the same time that you knew Mr. Bridges?

A. I knew Mr. Bridges prior to my acquaintanceship with Mr. Schmidt.

Q. And have you heard the general reputation of Mr. Schmidt for truth, honesty and integrity discussed by others? [4913] A. I have.

Q. Are you able to recall any specific instance in which Mr. Schmidt's general reputation for truth, honesty and integrity was the subject matter of discussion? A. Not specifically, no.

Q. Did you ever hear it said that Mr. Schmidt was a member of the Communist Party?

(Testimony of Stanley Bailey.)

A. I think I have, yes.

Q. And would your answers with respect to the effect which such information might have on your estimation of Mr. Schmidt's general reputation be the same as you have already made with respect to Mr. Bridges? A. It would.

Mr. Donohue: I have no further questions of the witness.

Mr. MacInnis: No questions. Thank you. [4914]

HENRY SCHMIDT

resumed.

Cross-Examination (Continued)

By Mr. Donohue:

Q. Mr. Schmidt, yesterday we were talking about the testimony of a witness, George Wilson. Did you know at some time between the return of the indictment and the date of this trial that George Wilson had testified before the grand jury?

A. When you say the return of the indictment, would you fix the date?

Q. You were in Hawaii, I take it?

A. I take it.

Q. Sometime early in May. May 25, I am told.

A. As I recall it, that was the day I surrendered to the Marshal there. And did I know what, did you ask me?

Q. At any time between that date and the date of this trial, and prior to his appearance on the witness stand, did you know that George Wilson had testified in these matters before the grand jury?

A. I don't think I had that information. As a matter of fact, I was so busy in Hawaii that I gave the matter very little thought.

Q. When did you return from Hawaii?

A. The 2nd or 3rd of November.

Q. At any time between the 2nd or 3rd of November and the day on which Mr. Wilson appeared here as a witness did you learn [4915] that Mr. Wilson had testified before the grand jury?

A. I suppose I did learn that, yes, but I have no clear recollection as to who made the statement or where I got the information.

Q. At any time after you learned that Mr. Wilson had appeared before the grand jury and before his appearance here as a witness, did you ever discuss with Mr. Wilson the reasons for his testifying here? A. Well, I haven't seen him.

Q. Then you hadn't discussed that fact with him? A. How could I?

Q. I didn't know, sir; I asked you.

A. Well, apparently you are trying to find out if I saw the fellow.

Q. Correct. And you didn't?

A. No, I didn't see him.

Q. To your knowledge did Mr. Bridges talk with George Wilson at some time or times subsequent to the return of the indictment and prior to George Wilson's appearance on the stand as a witness?

(Testimony of Henry Schmidt.)

A. I have no knowledge of that. That is a question that you will have to ask Bridges.

Q. Mr. Bridges at no time discussed with you whether or not he had talked with George Wilson prior to his testimony?

A. Not that I can recall. [4916]

Q. Do you recall, Mr. Schmidt, saying—referring to Volume 42, between pages 4522 and 4536 in this proceeding—that at some time prior to the 16th of June of 1934 you left the Bay Area and went to Portland and Seattle and were there for some eight or nine days?

A. Yes, I think I made that statement.

Q. And do you recall testifying in a prior hearing, referring to Volume 24, page 4093——

Mr. MacInnis: Pardon me. May we see the selection before the witness is confronted with it? If he is to be asked concerning some prior testimony given in some prior hearing, I think we should see the document and have it identified.

Mr. Donohue: I haven't it here, your Honor. I will bring it here after the noon recess.

I ask the clerk to mark a copy of the Western Worker dated September 2, 1937, as United States for identification next in order and ask him to exhibit it to the witness, calling his attention to the portion which is marked in red.

Mr. MacInnis: May I see it, please?

The Clerk: Marked Government's 21 for identification.

(Western Worker, 9/2/37 was marked U. S. Exhibit 21 for identification.)

The Witness: May I look at the date?

Mr. Donohue: Surely. (Document handed to witness.)

Q. Mr. Schmidt, having looked at a copy of the Western Worker [4917] dated September 2, 1937, at the article which is captioned "Union Leaders to Speak at Labor Rally Planned by San Francisco ICL" under the San Francisco dateline, "Prominent trade unionists will be featured"——

Mr. MacInnis: Pardon me. As I understand it, the article was not written by Mr. Schmidt. He may be asked if the material refreshes his memory, but the special prosecutor now launches into a reading of the article. That has not been the custom of the court under the rulings of the court heretofore. I think that you may put the question to the witness but not read the article.

Mr. Donohue: I can't put the question, if your Honor please, unless I read this brief article, which I do not contend was written by Mr. Schmidt, but which is a news account of an activity of Mr. Schmidt's, and I want to ask him if it is correct as to his activity, and I think I have a right to do it.

Mr. MacInnis: I have been stopped on forty occasions by the prosecutor for attempting to read an article to a witness in the form of a question. That has been denounced as improper conduct. Now I suggest that the prosecutor must fall under the same inhibition as the rule he espoused himself. I have no objection at all, and could not have, to a proper question as to whether or not Henry Schmidt remembers some incident or whether or not his memory is refreshed; but to read the article before we find out if the event ever took place would obviously [4918] be a false method of proceeding.

Mr. Donohue: I do not know of anyone, if your Honor please, who was privileged to exercise wider latitude on cross-examination than Mr. MacInnis. I don't ask the Court to permit me to go that far, but I do think I am quite within the rules of evidence to ask this witness by reading a statement made in the press whether he in fact did what the press said he did. He may then make any comment he wishes to.

Mr. MacInnis: The curious thing, your Honor, is that this situation has been the subject of criticism by the prosecutor; that by attempting—by pretending to refresh a witness' memory that we are actually trying to intrude matters from the press into evidence, and they have risen, they have objected, they have said that you can't get newspapers into evidence. Now he says it is perfectly proper for him to do it. I think in order to be consistent, that he can't pursue that line of reasoning.

Mr. Donohue: I think, if your Honor please, that the record on the clerk's desk which shows the defense has gone several times through the alphabet in offering papers from which they have liberally

(Testimony of Henry Schmidt.)

read and quoted and exhibited, and the meager few exhibits the United States has offered, is a complete answer to the suggestion of Mr. MacInnis. All I am asking to do is something which he has already done on many occasions. [4919]

The Court: This has to do with an event, has it?

Mr. Donohue: Yes, your Honor.

The Court: And solely an event?

Mr. Donohue: Solely an event.

The Court: There is no subject matter couched therein that might have any reflection one way or the other?

Mr. Donohue: No, your Honor.

The Court: You may ask it.

The Witness: May I have the date of the paper again?

Mr. Donohue: This is September 2, Thursday.

Mr. Hallinan: Pardon me. Might I be heard a little on this, too, your Honor? We had here in a matter of events several witnesses, some of them people who are utterly neutral, who came in and volunteered their testimony here on the matter of Mr. Bridges' presence in the longshore union meeting in Stockton——

The Court: Mr. Hallinan——

Mr. Hallinan: On June 27.

The Court: Show the newspaper to the witness, Mr. Donohue, and ask him the question if it refreshes his recollection concerning the event.

Mr. Donohue: It has already been exhibited to him.

(Testimony of Henry Schmidt.)

Mr. Hallinan: If he says it doesn't refresh his recollection, they can't come in now and say, "I am reading something out of a newspaper; does that refresh your recollection?" [4920]

The Court: Have you any independent recollection before the reading of that newspaper article?

A. Yes, and also because Mr. Donohue referred to some testimony that I gave at an earlier hearing. I think that is the matter that Mr. Delgurcio and I discussed at length nine or ten years ago.

Mr. Donohue: If he has a recollection of it, if your Honor please, certainly I should be permitted to read it.

Mr. Hallinan: Then before you have read it, if he has a recollection, there is no need of refreshing it.

The Court: You might ask him the identity of the newspaper.

Mr. Donohue: I will withdraw the question, if your Honor please, if there is any question.

Q. Mr. Schmidt, did you at a labor rally sponsored by the Young Communists League on September 8 at Franklin Hall, 1859 Franklin Street, speak as president of Longshoremen's Local 38-79?

A. No, I did not, and I have never been in that hall and I don't know where it is. And if I am not entirely mistaken, I made that explanation to Mr. Delgurcio nine or ten years ago, and I told him then that I recollected placards appearing on the waterfront advertising that such a meeting was

(Testimony of Henry Schmidt.)

to take place; that my name appeared on those placards; that I knew nothing about it; that my permission had not been asked as to [4921] whether I was willing to speak. And I told him as a matter of fact I did not speak there.

I recall also that a man by the name of Joe Casey, an official of the Teamsters' Union, took me to task because he had seen the placards on the waterfront. And I am pretty sure I told Mr. Delgurcio that I told Joe Casey that he needn't worry because I wasn't going to speak there, and I did not speak.

Q. Did you make any effort or take any steps to counteract the wrong impression that was given by the placards around the waterfront that you were in fact going to speak at this rally?

A. I believe so. You might help me out a little.

Q. Be glad to any time.

A. Does the name Archie Brown appear in the little article?

Q. Yes. A. Yes, I——

Q. As one of the speakers.

A. I recollect a conversation with him, and I think it possibly took place after the meeting date was past, and I took him to task for advertising my name and not contacting me about it.

Q. You knew Archie Brown to be a member of the Communist Party?

A. I still know it. I just talked to him out here a little while ago. Most peculiar things happen in this corridor. Archie Brown, a Communist, comes and speaks to me. Two minutes [4922] later a

(Testimony of Henry Schmidt.)

corporation lawyer from Hawaii comes over and speaks to me.

Q. Each had occasion to come into contact with you, Mr. Schmidt?

A. Well, they both shook my hand and wished me good luck.

Q. You knew that the Western Worker was a Communist publication? A. Oh, yes.

Q. Did you talk to Archie Brown and chide him for your name appearing in this Communist paper before or after the date you are stated as having made the speech?

A. Oh, I couldn't recollect that.

Q. Again, may I ask you did you write a letter to the editor of the Western Worker and complain that you had wrongfully been stated to be a speaker at a Young Communists League rally?

A. I couldn't remember. I would have to check the files.

Mr. Donohue: Shall we take the adjournment at this time?

The Court: Yes. We will resume at two o'clock this afternoon. The same admonition not to discuss the case under any conditions.

(Thereupon a recess was taken until 2:00 p.m. this date.) [4923]

Afternoon Session — 2:00 P. M.

HENRY SCHMIDT

recalled.

The Clerk: The witness on the stand is Henry Schmidt, heretofore sworn.

Mr. MacInnis: Your Honor, in reference to the last questions put to Mr. Schmidt, he has here a document, and he would like to add an explanation to his answer. So I suggest that he may do so.

Mr. Donohue: Before that is done, if your Honor please, I am advised that Stanley Bailey is in the hall. May I ask that he be recalled for further cross-examination.

The Court: Mr. Stanley Bailey?

Mr. Donohue: Yes, sir.

The Court: There is no objection, I assume. All right, you may recall him.

STANLEY BAILEY

recalled.

Cross-Examination

By Mr. Donohue:

Q. Mr. Bailey, did you hold any office with the American Newspaper Guild in 1938?

A. In 1938?

Q. Yes, sir.

A. I couldn't answer that. I have held minor offices. [4924]

Q. Do you recall whether you were vice president in 1938? A. I could not.

(Testimony of Stanley Bailey.)

Q. Mr. Bailey, were you the chairman of a class on Current Labor Management and Government Relations held at the California Labor School in 1945? A. The chairman of a class?

Q. The chairman of a class on Current Labor Management and Government Relations at the California Labor School, as reported in the People's World of March 24, 1945.

A. Not that I recall. I have attended—I attended during the war, I attended one conference at the California Labor School, and I have never run a class there.

Q. Mr. Bailey, did you participate in the American-Russian Institute Forum Series on "What's on Your Mind About Russia?" as reported in the People's World of April 30, 1946?

A. I did——

Mr. MacInnis: Pardon me just a moment; these repetitive statements about "as reported in the People's World" of a certain date—I assume that there are many matters that are reported in all papers, including the People's World, but that there is some special significance attached to those words—if this witness wrote the article or if he had anything to do with the People's World, I suppose that could be mentioned, but I imagine that that paper reports many things that are reported in all of the current dailies. And I suggest that the [4925] innuendo be no part of the question, unless the document be shown to the witness and to the opposing counsel. I suggest, your Honor, that

(Testimony of Stanley Bailey.)

the question is incompetennt, irrelevant and immaterial; it contains a statement by the special prosecutor that certain materials are printed in a certain paper. To make that paper proper evidence, we would have to have a foundation, we would have to have the document displayed to the witness.

The Court; The objection is overruled.

A. What was the date, and the question?

Q. (By Mr. Donohue): Did you participate in the American-Russian Institute Forum Series on "What's On Your Mind About Russia?" as reported in the People's World of April 30, 1946?

Mr. MacInnis: I assign the repeated use of the same words as misconduct on the part of the special prosecutor uttered for the sole purpose of influencing the audience, the jury, and all persons present into thinking that this man on the stand had something to do with the People's World.

Mr. Donohue: It is obvious, if your Honor please, that I couldn't possibly infer that this man had anything to do with the People's World. I asked him only if, as reported in the People's World as of that date, he participated in the American-Russian Institute Forum series on "What's On Your Mind About Russia?"

A. I did act as impartial arbitrator at a discussion of the [4926] American—sponsored, I believe, by the American-Russian Institute. As I say, I was an impartial arbitrator.

Q. Now, Mr. Bailey, did you participate in a forum held on June 25, 1946 on "Labor in the

(Testimony of Stanley Bailey.)

Soviet Union" which forum was under the auspices of the American-Russian Institute and the Russian War Relief, as reported in the Labor Herald of June 21, 1946? A. I think that is the——

Mr. MacInnis: Pardon me. I assign the asking of the question in the same language as misconduct, and I ask the Court to instruct the jury to disregard any innuendo contained in the question.

The Court: The objection is overruled. The motion is denied.

A. I think that is the meeting which I recalled in answer to your first question. I acted as impartial arbiter at one meeting sponsored by the American-Russian Institute.

Mr. Donohue: I have no further questions of the witness. [4927]

Redirect Examination

By Mr. MacInnis:

Q. Mr. Bailey, in view of the questions just now put to you, have you ever been a member of the Communist Party? A. I have not.

Q. Do you feel that by acting as an arbitrator in any discussion involving the word "Russia" you were doing something disloyal to the United States? A. I do not.

Q. Do you feel that you did anything that should subject you to any criticism here?

A. I do not.

Q. Did you ever write any articles for the People's World or have any affiliation with that paper?

A. I have not.

Mr. MacInnis: That is all.

Mr. Donohue: I have no further questions, Your Honor.

The Court: Mr. Bailey is excused.

HENRY SCHMIDT

resumed the stand.

Cross-Examination
(Continued)

The Court: Mr. Schmidt has a statement he desires to make?

The Witness: With regard to the matter that was discussed just before lunch, I recall it had to do with a meeting in Franklin Hall, and I believe the special prosecutor is charging [4928] me with being present there.

Mr. Donohue: No, I asked you if you were there as reported in a press notice which I think I called to your attention.

Mr. MacInnis: Well, it is the same thing because the only reason for asking the question would be to carry the notion that he was in fact there, because the special prosecutor knew in advance that Mr. Schmidt had already denied ever being present on that occasion.

Mr. Donohue: I wanted to see if he still denied it, Mr.—

(Testimony of Henry Schmidt.)

Mr. MacInnis: Well, now, he has a statement to make that I think may interest you also.

Mr. Donohue: I will be interested to hear it.

The Witness: I have checked the minutes of the meetings of our union, and the minutes of September 8, 1937 call attention to the fact that there was a general membership meeting in Eagles Hall here in San Francisco that started at the hour of 8:20 in the evening and adjourned at the hour of 11:20 in the evening. It was rather a wild meeting and the subject matter that was discussed was a publication which has already been mentioned in these proceedings, namely, the San Francisco Longshoreman. And I have the minutes here in my hand, along with the minutes of many other meetings.

Q. (By Mr. Donohue): And in consequence of having refreshed your recollection of the minutes of a meeting held in 1937, was it? [4929]

A. That's right.

Q. You are now able to say that you did not make the address as stated in the publication exhibited to you this morning?

A. Oh, as a matter of fact I knew that before I saw the minutes, but just as a matter of interest, we went to the office and checked the minutes.

Q. And the minutes show that you attended a meeting on that night?

A. Yes, the first sentence says, "Meeting called to order at 8:20 p.m. by President Henry Schmidt."

Q. Mr. Schmidt, deviating for just a minute, did you know that John Larson who accompanied you to the 1935 A. F. of L. convention in San Diego was a member of the Communist Party?

A. No, sir.

Q. You did not know at that time that as a matter of fact John Larson had openly stated that he was a member of the Communist Party?

A. Well, John Larson, Mr. Donohue—perhaps you don't know him—is somewhat of a clown. He will make statements that he really shouldn't make. I recall now that on one occasion when he was business agent of the local union while I was president, he was sitting at the window one morning collecting dues, and its seems at the membership meeting at the evening before there had been some discussion with regard to this "ism" that we are always talking about, and I noticed that John, about every time [4930] a man stepped up to the window to pay his dues, he would say to him, very confidentially, "Hey, don't you want to join the Communist Party?" And I overheard this a couple of times and I said eventually, "Now, John, this is about enough of this clowning. Stop it." And "Some of these fellows will take you seriously."

Q. You don't think John Larson intended that he be taken seriously, I take it?

A. It is pretty difficult to take John Larson seriously at times.

Q. Even with respect to his membership in the Communist Party?

A. Well, I don't know that he is a member. Perhaps you know.

Q. Mr. Schmidt, were you a member of the, or president of the, trade union committee for Leo Gallagher in his candidacy for election as Secretary of State for the State of California?

A. Will you give me the name of the body again, the convention?

Q. In the year 1938 were you president, or as president of the longshore union, a member of, the Trade Union Committee for Leo Gallagher in his candidacy for election as Secretary of State for the State of California?

A. I don't recall. It may have happened. I don't know.

Mr. Donohue: Would you ask the witness to look at what I shall ask you to mark as U. S. for identification next in order?

(Document examined by Mr. McInnis.)

The Clerk: May it be marked Government's 22 for identification. [4931]

(Newspaper dated October 6, 1938, referred to above, was thereupon marked United States Exhibit No. 22 for identification.)

Mr. Donohue: And would you ask him to look at that portion which is marked in red? (Handed to witness by the Clerk.)

The Witness: May I look at the date?

Mr. Donohue: Surely. I think you will find it October 6, 1938.

A. Yes. Well, I don't know. I don't think so.

(Testimony of Henry Schmidt.)

There is mention *had here,* names of men, a man by the name of Harold Fewtherer. I don't remember ever meeting such a person. He is named as campaign manager. Then there is a man by the name of Sid McClintick, vice president of the Laborers' Union. That man I don't know. And there is the name of Sam Jaye, of Local 110. I don't recall anything like that, any name like that, belonging to our outfit. It may have happened but I can certainly say this: If this body met any place on 320 Market Street, I am pretty sure I was not present at any of their meetings.

Q. Do you know now and did you know then that Leo Gallagher was a candidate for the office of Secretary of State of California on the Communist Party ticket?

A. Oh, everybody in the state knows that, Mr. Donohue. I am sure that I read it in the papers in 1938.

Q. Mr. Schmidt, in 1942 were you, as then president of the CIO Council, appointed as the official sponsor for the Joint Anti-Fascist [4932] Refugee Committee?

A. That may have happened.

Q. Do you know Oleta O'Connor Yates, Mr. Schmidt? A. Yes, sir.

Q. In 1943 were you a member of the campaign committee of the San Francisco County Communist Party to elect her as City Supervisor?

A. No, that I was not.

(Testimony of Henry Schmidt.)

Q. And did you know, Mr. Schmidt, that the Joint Anti-Fascist Refugee Committee, with respect to which you said a moment ago you may have been appointed on the committee as asked in the question, was on the list of subversive organizations dated May 1st, 1949, issued by the Attorney General of the United States?

Mr. MacInnis: Pardon me. There is a quick innuendo in that question that I don't know that we can take as an established fact. The special prosecutor refers to an organization, and he says, "which, as you know, was on the subversive list." Now, that assumes a fact not before us in evidence: there is no evidence as to what Mr. Schmidt knows about any of these organizations and I think that that matter must be elicited by testimony. And again, it must not be by the gratuitous statement of he special prosecutor. So we object to that question and ask that the foundation be laid.

Mr. Donohue: Certainly, if Your Honor pleases, if he knows [4933] that the Joint Anti-Fascist Refugee Committee was on the list of subversive organizations as listed by the Attorney General of the United States, he can say, "Yes." If he doesn't know, he can say "No."

Mr. MacInnis: That isn't what he asked.

The Court: Ask him if he does know.

Q. (By Mr. Donohue): Do you know, Mr. Schmidt, whether or not the Joint Anti-Fascist Refugee Committee is on the list of subversive organizations as listed by the Attorney General of the United States?

A. I do not know it of my own knowledge, but I suppose it is. On the other hand, I suppose some pro-Fascist organizations wouldn't be on the list.

Q. Mr. Schmidt, on September 3rd, 1940, did you speak at a rally——

A. What date, please?

Q. 1940. Did you speak at a rally at the University of California under the auspices of the Campus Committee against Conscription?

A. Yes, I recall making a few remarks there at what they call Sather Gate, if that was the year. I have no clear recollection that that is the year. But I recall on one occasion I held forth there on a soap box. [4934]

Q. On May 3, 1941, Mr. Schmidt, did you make a speech on Pier 42 in protest against plans to convoy American ships?

A. Did I make a speech to convoy American ships? What was the date?

Q. In protest against convoying American ships on May 13, 1941.

A. No, sir, nothing like that. I made speeches on the waterfront in advocating that scrap iron not be shipped to Japan.

Q. I am talking about an incident, perhaps you may recall, in which Dave Jenkins also made a speech at the same time, Walter Stack and Frank Hendrix and yourself?

(Testimony of Henry Schmidt.)

A. No, sir, I don't recall that. What was that date again?

Q. May 13, 1941.

A. It must have been my unlucky day, May 13. I don't recall it.

Q. Do you recall, Mr. Schmidt, testifying that John Schomaker was not one of the original Albion Hall group but came considerably later?

A. Do I recall that I so testified?

Q. Yes.

A. I think so, and that is my memory.

Mr. Donohue: Would you mark as United States for identification next in order a copy of the ILWU Dispatcher dated June 4, 1943.

The Clerk: Marked Government's 23 for identification.

(Copy of ILWU Dispatcher, 6/4/43 marked U. S. Exhibit 23 [4935] for identification.)

Mr. MacInnis: The way to prove a fact, as I understand it, is by the testimony of a witness. Now, I object to this hearsay document being shown this witness, who did not write the article, and the contents of it have been intruded into the record. It is purely hearsay, not binding upon the defendant Henry Schmidt, and certainly not proper impeaching material.

Mr. Donohue: At the moment, if your Honor please, I haven't even shown it to the witness.

Would you ask the witness to look at the portion of this document which is marked in red and ask him to read it.

(Document exhibited to witness.)

Mr. MacInnis: I take it you mean to read it to himself?

Mr. Donohue: Of course, yes. A. Yes.

Q. Having read an article in the ILWU Dispatcher under date of June 4, 1943, and thus perhaps having refreshed your recollection——

Mr. MacInnis: No; let him state whether or not the article refreshes his memory. I think that the special prosecutor now may not tell the witness that the article has refreshed his memory; he must ask him that.

Mr. Donohue: Do you even object to the form as well as the substance of every question I ask?

Mr. MacInnis: I think I do, yes.

Mr. Donohue: Would you repeat the question as far as it [4936] had gone, and I will finish it. And don't answer it until the Court has an opportunity to rule on Mr. MacInnis' objection, please.

(Question read as far as framed.)

Q. (Continuing): ——are you now able to state that John Schomaker was one of the original Albion Hall group?

Mr. MacInnis: Pardon me. The same objection, and we cite the special prosecutor for misconduct for attempting to read into evidence the hearsay article contrary to the facts, contrary to the original record of John Schomaker, which is already received into evidence, summarizing the contents of the article solely to couch the question so that it will appear in the record in this case. The only question that can be asked is whether or not extraneous material refreshes the witness' recollection. If he says it does not, I take it the inquiry is closed; but the special prosecutor, wishing to get the material into evidence, summarizes the article in question, and we object to it, we cite it as misconduct.

The Court: The objection is overruled.

A. I am sorry. After all that talking by both counsel, I have now not in mind the very carefully framed question, and so if you don't mind, will you repeat it?

Mr. Donohue: Would you be good enough to read it for him, Mr. Reporter?

(Question read.) [4937]

A. No, sir, and the passage that you called to my attention doesn't say that. I think it says that he was one of the early comers, or something like that.

Q. (By Mr. Donohue): Didn't you read it where it said he was one of the original Albion Hall group?

Mr. MacInnis: Again we cite the reading of the article as misconduct—an attempt to prove something by hearsay which the witness produced by the prosecution has denied.

Now, the other day this prosecutor very carefully read to the Court and jury the testimony of John Schomaker saying that he came to the waterfront in November, 1933. Now he wishes to read an article from which a different inference can be drawn, a hearsay article, and get this pretended testimony into the record. We cite the doing so as misconduct.

Mr. Donohue: If your Honor please, I wouldn't have mentioned the article except that the witness misquoted it, and I think I then have a right to ask him if the article didn't state as I read it and not as he had misquoted it. And if there is any question about what it says——

The Court: Mr. Schmidt, do you have any further answer to make?

The Witness: No, sir, I can't help counsel.

Mr. Donohue: Was the last question which I asked the witness answered?

(The reporter read the last remark of the witness.) [4938]

Mr. Donohue: Just before Mr. MacInnis made his most recent objection I think I had asked a question of the witness with respect to what this magazine said.

(Last question read.)

Mr. MacInnis: Well, now, we object to the repetition of the same question, trying to get into evidence out of a piece of paper something that living witnesses cannot testify to; hearsay; doing it in the face of a repeated objection. We cite it as misconduct again on the part of the special prosecutor. He can't put John Schomaker on the stand, establish that he went into the waterfront movement in November, 1933, and then because of another purpose bring some piece of paper to pretend that he came there earlier. That is the whole point of this.

Mr. Donohue: May I have an answer to the question, if your Honor pleases?

The Witness: I am sorry. I don't know where we are now.

The Court: If I may suggest it, to avoid objection I may suggest to ask the question of the witness whether or not Mr. John Schomaker was one of the original Albion Hall boys, and thus avoid objection.

Mr. Donohue: I may say to your Honor, as I said a moment ago, I wouldn't have read a line from this article except that the witness had misquoted it.

The Court: The direct question might be presented to the witness. [4939]

Mr. Donohue: I will withdraw the original question and ask the witness:

Q. Is it not a fact that John Schomaker was one of the original Albion Hall group?

A. No, sir. I can't testify to that. I can't even recall if I came to the first meeting, the second meeting or the third meeting, but I would mention this to you, so far as Equality Hall is concerned, I have been going to that place for years—for several years, prior to the organization of that so-called Albion Hall group. I knew of the place before the other fellows knew anything about it. I belonged to an organization there that is still in existence, which, if it is important, is the workmen's sick and death benefit fund, a fraternal organization that pays sick and death benefits, and the branch has its San Francisco headquarters in that building. It has been there for 45 years, I think.

Q. In 1943, Mr. Schmidt, were you an officer in the ILWU?

A. Oh, I am pretty sure I held some sort of an office; Coast Labor Relations Committee, I suppose, if it is '43.

Q. And the ILWU Dispatcher is the official publication of the ILWU, is it not?

A. That's right, and frequently makes mistakes.

Q. In 1943 did you note any mistake in this article and call it to the attention of anyone who may have been responsible for the publication of the Dispatcher? [4940]

A. I do not recollect, and I don't know what you are talking about.

Mr. MacInnis: He hasn't seen the article yet. You have forgotten——

Mr. Donohue: Oh, no, it is the same article we talked about just a few minutes ago.

A. No, I don't recollect camping on Morris Watson's desk and telling him he made a mistake.

Q. It wasn't apparent in 1943 that the article, the truth or falsity of that article, might become important, was it?

A. You mean the statement that the article contains that Schomaker was one of the original members of the group?

Q. Yes.

A. The chances are, Mr. Donohue, that I didn't even read it.

Q. Are you able to say now whether you did or did not read it?

A. I have no recollection if I read it or if I didn't read it.

Q. Are you a subscriber to the Daily People's World?

A. I have been. Presently I am not.

Q. Have you served at any time on the board of directors of that publication? A. No, sir.

Q. Mr. Schmidt, do you know a man in Seattle, Washington, by the name of Chester Burt Harman?

A. What is the name, please?

Q. Chester Burt — B-u-r-t — Harman — H-a-r-m-a-n. [4941] A. No.

Q. Did you attend the Maritime Federation convention in Seattle in 1935?

A. Would that be the organizational meeting, the very first one? Yes, I think that is the year in which it took place. Yes, I was there.

Q. During the time that you were in Seattle in attendance at that convention did you meet a man named Chester Burt Harman?

A. How do you spell that last name again?

Q. H-a-r-m-a-n.

A. No, sir, I don't know anybody by that name, and the word—the first name "Chester" is completely strange to me.

Q. At any time during the period of the convention in Seattle in 1935 do you recall attending a meeting at which Mr. Bridges, Mr. Harry Jackson, a man by the name of Sparks, Henry Schrimpf, Bob Dumbroff, Earl King, Mr. Van Erman, Walter Stack, Roy Pyle, Henry Pilcher and Chester Burt Harman were together?

A. May I have the second name again, please?

Q. A man by the name of Sparks—S-p-a-r-k-s.

A. Sparks, I don't know.

Mr. MacInnis: What is his first name, tell us that?

Mr. Donohue: I am sorry, I don't know, Mr. MacInnis.

A. Sparks I don't know, Harman I don't know, and I am pretty sure I wasn't at such a meeting. But the other fellows, to the best of my recollection, were delegates from their respective [4942] trade unions, and that would be all maritime unions.

Q. Would you say, Mr. Schmidt, that you did not attend a meeting which was a meeting of members of the Communist Party and restricted to members of the Communist Party at which the persons whose names I have just read to you were also present?

A. Well, I don't know anything about it, Mr. Donohue.

Q. Do you recall where you stayed in Seattle at that convention in 1935?

A. Yes, I think so. I think that is about the second time I came to Seattle. I think it was at either the Richmond or Richland Hotel.

Q. And during the period of your stay in Seattle at that time is it your testimony that you attended no meetings of the Communist Party in Seattle? A. Oh, of course.

Mr. Donohue: I have no further questions of the witness.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Schmidt, to go swiftly, if we may, over some of these matters upon which you have been interrogated by the special prosecutor, let me ask you these questions. In regard to the naturalization proceedings of Harry Bridges, you say that you have no independent memory of the date August 8 of 1945, is that correct?

A. Yes, sir, that is correct.

Q. Although you make no point over the fact that you were [4943] present, if the record so shows? A. That is right.

Q. You merely don't remember that particular day, is that correct?

A. If I remembered it, I would tell you about it.

(Testimony of Henry Schmidt.)

Q. You do remember, though, distinctly the 17th of September, the day you went to court with Harry Bridges? A. Would you repeat that?

Q. You do remember distinctly the day in September upon which you went to court with Harry Bridges?

A. I remember certain phases of the happenings of that day.

Q. At any time, whether it was back in June when Harry Bridges filed his application before you had to sign any papers, whether it was in August when you signed a petition, or before the hearing in September, did you have any conversation, agreement or understanding with Harry Bridges by which you were to say something that was not true or by which you were to conceal some fact which you knew to exist?

A. We had only one agreement, that I would be his witness. And that was one of the most casual conversations that I ever heard two men make.

Q. Now, to come to the second phase of the questions put to you by the special prosecutor, he quoted the testimony of two witnesses, Schomaker and Schrimpf, and asked you to regard certain items of that testimony and asked you if it was not true, [4944] as they claimed, that the Communist Party had dominated, controlled and won the 1934 strike. Do you remember him asking you that?

A. Yes.

Q. Do your also remember, Mr. Schmidt, the Government witness Crouch upon the stand infer-

(Testimony of Henry Schmidt.)

ring that it was the Communist Party which ordered the United States into war in 1941?

A. I have a recollection that he made substantially that sort of statement.

Q. In 1939, regardless of what your attitude may have been upon the phrase, "The Yanks are not coming," did you consider any American who was against war and who advised his fellow citizens to stay out of war, was a traitor?

A. Of course not. I don't see anything wrong with being against war.

Q. Did you know that in 1940, the following year, Franklin Roosevelt ran for President upon that very platform of keeping America out of war?

A. That is right, and I voted for him.

Q. You didn't think he was disloyal to the country by having that platform, did you?

A. Well, hardly.

Q. Although Mr. Donohue reads to you a summary of a paper which you are supposed to have made in 1939 saying you were against war, you don't think you were disloyal to the country if you did [4945] make that statement, do you?

A. No, I do not, but I have no recollection of making the statements. Besides, I don't think it is important. [4945-A]

Q. Well, were the members of the Communist Party the only persons against war in 1939?

A. Oh, I am sure they were not.

Q. Coming to another group of questions which

(Testimony of Henry Schmidt.)

were put to you in great seriousness by the special prosecutor; you were asked about Lawrence Ross and whether or not you were certain that Lawrence Ross who appeared here was actually a man who did come to the strike committee during the 1934 strike. Do you remember that? A. Yes.

Q. You had answered that you recalled that Ross did come before the strike committee in that year, in 1934; do you remember that?

A. Yes, I said that I was——

Q. And the special prosecutor then showed you some papers.

Mr. MacInnis: Now may I have those?

Q. (Continuing) While Mr. Mitchell is finding them, I think I probably recall most of them. He showed you a photostat of a prospectus of some labor school in Los Angeles with the same name of a course, and the name "Ross" upon it. Now, I suppose you don't know whether that Ross is Lawrence Ross, Charlie Ross or any particular Ross. Was your memory refreshed at all by that document?

A. Well, at the time that I looked at it, I think it had something to do with Ross being in attendance at a school in Los Angeles. [4946]

Q. It just says "Ross," saying that from September 24th to December 15, 1934, there was a course by a man named Ross on Wednesdays in Los Angeles. Now, does that document cause you to feel that Lawrence Ross did not come to San Francisco and appear before the strike committee?

(Testimony of Henry Schmidt.)

A. Hardly. And I so stated when Mr. Donohue showed it to me.

Q. Now he showed you a volume of public hearings of the Un-American Activities Committee held in 1934 on August 8th of that year, when the man called Lawrence Ross testified. Now, does that refresh your memory and cause you to feel that Lawrence Ross was not in San Francisco during that strike?

A. I don't know what difference that would make, by showing me a document that he was in Los Angeles or Washington, D. C. It does not prove to me he could not have been in San Francisco on that date.

Q. It is still your memory he did come before the strike committee?

A. As well as any human being can remember after the passage of 15—no, 16 years, it is.

Q. Now, again, the special prosecutor showed you a copy of the Western Worker for October 11th with an article by Lawrence Ross and asked you whether that refreshed your memory as to whether he was in San Francisco during the strike and you replied it did not. Again, he showed you the issue of July 2nd of the same paper, the Western Worker, and asked you if that refreshed [4947] your memory. He showed you——

Mr. Donohue: If Your Honor pleases, are these questions? I haven't heard any response from the witness. Maybe Mr. MacInnis better change places with him.

Mr. MacInnis: It is preliminary to establishing a point. If you want, I can stop and have him answer this fully, but this is just a review of what has been said.

Q. (Continuing): And finally the special prosecutor showed you a date in December of 1934 with a reference to the name "Lawrence Ross," and asked you if that refreshed your memory. You replied it did not? A. That's right.

Q. Now, you still say, do you, that Lawrence Ross did appear before the strike committee?

A. That is what my memory tells me.

Q. Now, were the services of the Western Worker, that particular paper, offered to the strike committee during the 1934 strike?

A. My recollection is that this man spoke to myself and another man. As to whether or not it was offered to the strike committee while that body was assembled, I have no memory.

Mr. MacInnis: Now, so that the special prosecutor will now perceive one of the points that we are approaching, I will hand him a copy, a photostatic copy of the document which I will now show to the witness, being a photostatic copy of the minutes [4948] of the strike committee for May 9, 1934. (Handing document to counsel.)

Q. And I will ask you to look at these minutes at the place I have marked in red, and tell us whether or not your recollection is refreshed as to the approximate date of that occurrence. (Document handed to witness by the Clerk.)

(Testimony of Henry Schmidt.)

A. Are you calling my attention to a sentence, and may I read it, or is that——

Q. Well, I ask you whether or not your memory is now refreshed.

A. No, sir, I am sorry, Mr. MacInnis. I don't remember this incident, but I suppose it happened since it is in the minutes. My recollection of that particular meeting is that we discussed all sorts of preparations for the strike because we were then in it, and we were reviewing preparations and so forth.

Q. Well, does the reading of the piece of paper, the official minutes of the strike committee, confirm your memory that the representatives of the Western Worker did come to the strike committee and offer the support of the paper?

Mr. Donohue: I object to that, if Your Honor pleases, unless he wants to read exactly what that document says. Then I would have no objection.

The Court: May I have that read? Would you read that, please?

Mr. MacInnis: I think he says he has no objection.

Mr. Donohue: If he reads the exact language of the document, [4949] I have no objection.

Mr. MacInnis: Fine. Read the sentence.

Mr. Donohue: Even though I think I should call the Court's attention to the fact that he is doing exactly what he objected to my doing a moment ago.

Mr. MacInnis: That is quite true.

Mr. Donohue: But I have no objection if he

(Testimony of Henry Schmidt.)

reads the document exactly as the document was written.

The Witness: Under the heading of "Reports of Committees," there appears this sentence, "Representative of Western Worker spoke and offered the full support of their paper."

Q. (By Mr. MacInnis): And what is the date?

A. The date of the meeting is May 9th.

Mr. MacInnis: All right. Now we offer a photostatic copy of those minutes for identification, Your Honor.

The Court: So ordered.

(Whereupon excerpts from minutes 5/9/34 were marked Defendants' Exhibit Y-2 for identification.)

Q. (By Mr. MacInnis): Now, Mr. Donohue showed you various copies of the Western Worker, apparently offering those portions which had to do with the name of Lawrence Ross on particular dates.

Mr. MacInnis: Now, Mr. Donohue, will you tell us this: Have you any other copies of the Western Worker for that period which would have shown Lawrence Ross here? [4950]

Mr. Donohue: Mr. MacInnis, I am not on the witness stand. I will get you any copy of the Western Worker you want if you can't get it for yourself. Happy to get it.

Mr. MacInnis: Well, I just want to establish that. Did you attempt, as best you could, to bring here any copy of the Western Worker which would show Lawrence Ross in San Francisco?

Mr. Donohue: Yes, I did, and I offered it in evidence, the first copy I could find that showed he was here in December, 1934.

Mr. MacInnis: That is all I wanted to find out, because now I will show you the Western Worker on the very date that we are talking about.

Mr. Donohue: I will be very happy to see it.

Mr. MacInnis: Lawrence Ross in San Francisco.

Mr. Donohue: Very happy to see it.

Mr. MacInnis: I take it that you made every human effort?

Mr. Donohue: I made no effort at all. I merely presented what they handed me.

Mr. MacInnis: What was that? Would you read what Mr. Donohue said?

The Reporter: I didn't hear it.

Mr. MacInnis: He said, "I present what they hand me." He said, "I make no effort whatsoever."

Mr. MacInnis: Now, Mr. Donohue, so that you will be advised, I will hand you a photostatic copy of the organ in which you [4951] made this search for the name of Lawrence Ross, the Western Worker of April 23rd, 1934, and I will mark a place where it is shown where Lawrence Ross was to be in San Francisco on May 6th. And if I may, Your Honor, I will ask that the witness look at the original article and see if that confirms the same memory.

Mr. Donohue: I have no objection to the introduction in evidence, if Your Honor please.

The Court: It may be received.

Mr. MacInnis: That may be received as our exhibit next?

The Court: Mr. Donohue, you have no objection?

Mr. Donohue: I have no objection to it being introduced in evidence.

The Court: It may be marked in evidence.

The Clerk: The photostatic copy?

The Court: So ordered.

Mr. MacInnis: Thank you.

> (Whereupon photostatic copy of issue of Western Worker of April 23, 1934 was marked Defendants' Exhibit Z-2 and received in evidence.)

Q. (By Mr. MacInnis): So that, Mr. Schmidt, to supplement the search that the special prosecutor made in the Western Worker for Lawrence Ross, to see if there was any mention of his being in San Francisco at that time, I will read from this photostatic copy, the paragraph marked. The whole article is in evidence.

"Delegates will assemble at 121 Haight Street Sunday [4952] morning for the convention, and that evening a great mass meeting will be held at California Hall, at which the main speakers will be Sam Darcy, district organizer of the Communist Party, Pettus Perry, Louise Todd and Lawrence Ross."

That is Defendants' next.

(Testimony of Henry Schmidt.)

Mr. Halinan: What date is that?

Mr. MacInnis: He was to be in San Francisco on May 6th for a speech and the records of the strike committee already show that the Western Worker was offered to the strikers three days later on May 9th.

Mr. Donohue: May I ask Mr. MacInnis now, in return for the question asked me, and since he has brought a bound volume of the Western Worker here, if he will produce the first record of the Western Worker which shows that Lawrence Ross was the co-editor or editor of the Western Worker? duction in evidence, if your Honor please.

Mr. MacInnis: Certainly, I will be glad to produce anything. I will be glad to look through the bound volume and find that. We certainly don't want to be in the position of concealing any evidence if we have it.

Q. Now, you were asked yesterday by the special prosecutor about your attendance at the 1935 convention of the State Federation of Labor, and, I think, at San Diego, and he asked you how you voted on a certain resolution.

Mr. MacInnis: Might I have that document? It is in [4953] evidence twice, and I think it is over here. Thank you.

Q. (Continuing): Now a portion referred to by the special prosecutor had to do with a motion to bar the Communist Party, I think, from the floor of the convention. The special prosecutor read off the fact that it appears that those voting against the motion were Harry Bridges, John D. Schomaker, Henry Schmidt, Henry Schrimpf and John Larson. Now, I will ask you to look at page 87 of the same document, and I will ask you whether or not there were 50 or 60 people voting against that particular measure, and not just the few names read out to you by the special prosecutor.

(Document handed to the witness by the Clerk.)

A. Would that be Resolution No. 1?

Q. I have some of those names marked in red. You will find it on that part of the page.

A. Yes, I see it. Oh, there are any number of names here in very small print. Some of them go over to the next page. The paragraph winds up by stating that "These delegates who voted in the negative on this resolution represented 16,328 votes."

Q. That is all with it. May I have the volume back, please?

(Returned to counsel by the Clerk.)

Q. ~~Now, would you~~—Strike that, please.

Now, without reading the names of all these delegates.—I am sorry I said 50 or 60 because there appear to be many more than that—I will ask you this: Culling out of the list [4954] some names, I will ask you if these people were well known conservative labor leaders and not even Communist affiliates, sympathizers or anything else: George Kidwell. Do you know him?

A. Yes, he is what is usually called an old line A. F. of L. labor official. I recall him as being a member of the General Strike Committee in 1934.

Q. And Clarence J. Walsh?

A. No, I can't place him.

Q. E. F. Dillon?

A. Ed Dillon of the Machinists Union? Yes.

Q. And was he a known conservative trade unionist?

A. He is generally so recognized.

Q. And those names appear along with many others upon this vote which you were criticized for participating in?

Mr. Donohue: Oh, I object to that inference. I didn't criticize him; I asked him a question.

Q. (By Mr. MacInnis): Now, do you remember the witness Stanley Hancock who testified here?

A. Yes.

Q. Do you remember that witness testifying that he, as a Communist Party representative, was interested in the passage of a resolution involving the Vigilantes? Do you remember that?

A. I remember it vaguely.

Q. Well, now, who was Edward Vandeleur? [4955]

A. Mr. Edward Vandeleur, in those days, was the secretary—no, he was the president of the San Francisco Labor Council.

Q. Now, was he——

A. And I think that he was a delegate to the San Diego convention, either representing that Council or possibly the Streetcar men, because he was a member of the Streetcar men's union.

(Testimony of Henry Schmidt.)

Q. Was he a conservative labor leader?

A. I would say so.

Q. You mean he was really a conservative?

A. Oh, yes.

Q. Now, I will hand you the same document and call your attention to page 104 and ask you if you can look at the top of that page and refresh your memory as to who actually presented the Resolution No. 87, which was the subject of the Vigilantes.

A. You say 87?

Q. Yes.

A. It appears that Proposition No. 87 was presented by Harry Bridges of the International Longshoremen's Association, San Francisco.

Q. And reading a few lines down, what person submitted an amendment to that resolution which also carried?

A. It reads, "President Vandeleur submitted the following amendment:"

Q. And what was the amendment? Would you read that? [4956]

A. "This convention here and now calls upon the Governor and the Attorney General and their fellow officials to stop these outrages committed upon their fortunate fellow humans, and we await their answer. If it does not come and if they fail to observe this solemn oath to uphold the Constitution, then we propose to do it for them and to that end we go into this fight with all our strength, whether it means recall of weak-backed politicians or any other method of defense that is within our means. This is the last word. Either these outrageous Vigilantes and others of their ilk shall be stopped in their unlawful pursuits or organized and unorganized labor will stop them. The amendment by President Vandeleur was adopted, report of the committee was adopted as amended."

Q. Now, was President Vandeleur, who sanctioned and made that amendment, ever accused of being a member of the Communist Party?

A. On the contrary.

Mr. MacInnis: May I have Exhibit No. 3 of the Government, please?

Q. While Mr. Mitchell is getting that, I want to ask you this: You said that at one point in your work as a salaried official of the union, you went to work with the Lafollette Committee, is that correct? A. That's right.

Q. What is the Lafollette Committee?

A. I believe its official name was "A Senate Committee on [4957] Education in Labor." Now I may not be quoting it correctly.

Q. But it was the committee headed by Senator Robert Lafollette of the United States Senate?

A. That's right. And it gets its name from his name.

Q. And what was the nature of the work which you undertook with that committee?

A. Well, as I recall it, staff members of the committee or their investigators came to the Coast to investigate the activities of the Associated Farmers and the Waterfront Employers Association. And this gentleman who came to me, I am trying to think of his name—Ralph Winstad—he introduced himself as the staff member and showed his credentials and indicated that he was assigned to starting an investigation, and he wanted to know some things with regard to our union. And I called to his attention several attempts that had been made to disrupt the proceedings of our union, the things that we have, through the years, called "plots" to destroy our Union. And I talked to him for hours and I explained many things, and then on one occasion he said, "Well, what we need to do here in order to get to the bottom of all this is to find the former secretary of the local union, Ivan F. Cox." And "Do you know where he is?," and "Where can we find him?" And then, "Can't we prevail upon you to help?"

Well, I said, "I am working on the waterfront and if I leave that job, I won't be making any money." He said, "Can't you [4958] prevail on the international officers to put you on the payroll and we will try to find this fellow?" So I contacted Mr. Mahaffey, who was then the vice president of the Coast Union. He in turn talked to Mat Meehan, the secretary, and they put me ~~on the~~ payroll, and then we started to search for Mr. Ivan F. Cox, which took a little time. We remembered, or rather I remembered, that Mr. Cox was rather a religious man. He belonged to an organization known as the Foursquare Gospel, and he was an ordained minister. So, in order to find a lead from

(Testimony of Henry Schmidt.)

which we could start, I suggested to Mr. Winstad that perhaps we ought to find a Foursquare Gospel mission in San Francisco and start from there. We did that. He found a mission somewhere here in Mission Street. From there we started out on an automobile tour to Sacramento. We visited a mission there, they directed us to Oroville. There we found some people that belonged to Mr. Cox's Foursquare Gospel, and they told us that they thought he was around in Eureka somewhere.

Q. Well, Mr. Schmidt, without going into all the evolutions concerning the finding of Mr. Cox, did you participate in the investigation?

A. Yes, we eventually found him. We took him to a hotel in Eureka, and we sat down there with him for several days and the information just poured out of him and he made it perfectly clear that he had been duped, that he had been in collaboration with several people who are known to as professional union [4959] busters, and that in fact, his successor, who was then the secretary-treasurer of our union, who was unfortunately reelected here recently, was a labor spy and was working with people who make it their business to disrupt trade unions.

Q. Now, were those findings actually made by the Lafollette Committee of the Senate of the United States?

A. No, I am sorry to report that the committee didn't finish its job. I talked to Winstad on the phone here not so very long ago, and he said all of the papers are buried in a cellar of the Senate Office Building in Washington, D. C.

Mr. MacInnis: I can finish with Mr. Schmidt if you like, or we can take the recess; whatever Your Honor feels necessary.

The Court: We might take the recess.

Mr. MacInnis: All right.

The Court: Ladies and gentlemen of the jury, we will take the afternoon recess, and the same admonition to you, not to discuss the case under any conditions, nor to form nor express an opinion until it is submitted.

(Recess.) [4960]

Q. (By Mr. MacInnis): Mr. Schmidt, in the work you undertook with the committee of Senator Lafollette, who were the persons named as those attempting to destroy the labor unions?

A. Well, the people that Ivan Cox mentioned specifically were Harper Knowles——

Mr. Donohue: I object, if your Honor please. This now is hearsay twice removed. I thought he was going to say something he knew himself. Now he wants this witness to testify as to a list, which list was given to him by the person named Ivan Cox, which is hearsay.

Mr. MacInnis: That is not the point of the question, nor is it the point of the witness' testimony.

The Witness: I heard Harper Knowles testify.

Q. (By Mr. MacInnis): Where did you hear Harper Knowles testify?

(Testimony of Henry Schmidt.)

A. In the first—I think it was the first Bridges hearing on Angel Island before Dean Landis.

Q. You heard him testify then?

A. Yes, and he testified that he was giving orders to George Arms, the secretary-treasurer of our local union.

Q. Was Harper Knowles found to be false in his testimony by the Trial Examiner?

Mr. Donohue: I object, if your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): Mr. Schmidt, among the other matters brought to your attention by the special prosecutor was the [4961] issue of whether or not you, as a member of the Longshore Union, endorsed a lady named Oleta O'Connor Yates for supervisor in 1943. Do you recall that?

A. I recall the question, yes.

Q. This afternoon. Now, in the year, 1943, as well as in the other years, did the longshore membership itself vote the slate of candidates for public office who were to be endorsed?

A. That is the way the thing works, Mr. MacInnis. Candidates for public office will come to our meeting, and they will speak their piece. Sometimes they send a representative, and very often a meeting night is set aside for that purpose, and then if the membership sees fit, why, they may endorse some or they may not endorse others.

Q. Now, in 1943 the longshore union did endorse Oleta O'Connor Yates for supervisor, is that correct? A. I think that is right.

(Testimony of Henry Schmidt.)

Q. Now, I am going to show you a paper called the Longshoreman's Bulletin of October 26, 1943, and I will ask you if by looking at it you can tell us the list of candidates for public office which the longshore union then endorsed.

Do you want to see a copy? (Handing copy to Mr. Donohue). A. Yes.

Q. Can you by looking at that document refresh your memory as to the list of candidates for public office endorsed by the longshore union in 1943 in addition to Oleta O'Connor Yates? [4962]

A. Well, their names all appear in large print.

Q. Can you tell us who they are?

A. I read here the name of George R. Reilly, candidate for mayor; Edmund G. "Pat" Brown for district attorney; Peter Maloney, sheriff; Oleta O'Connor Yates, supervisor; Fred Meyer, supervisor; Bart Bacigalupi, supervisor; Dewey Mead, supervisor; John J. Sullivan, supervisor; Francis McCarthy, supervisor; Twain Michelson, Municipal Court No. 4; George B. Harris, Municipal Court No. 1; Clarence W. Morris, Municipal Court No. 3, and Frank W. Dunne, Municipal Court No. 2.

Q. And did you support all of those candidates at that time?

A. That's right. The last line in that bulletin reads: "Take this to the polls."

Q. Now, one other matter that was suggested by the special prosecutor is this: Mr. Schmidt, as to the length of time in which you were a salaried official of the ILWU as opposed to being a man

(Testimony of Henry Schmidt.)

working on the waterfront with your hands, tell the Court and jury what your salary is with the ILWU.

A. Well, the salary has varied through the years, Mr. MacInnis.

Q. I mean right now.

A. Right now I am drawing $90 or $95 a week, plus $20 for expenses.

Mr. MacInnis: May a photostatic copy of the document be received for identification?

Mr. Donohue: No objection, your Honor. [4963]

The Court: So ordered.

The Clerk: May it be marked Defendants' Exhibit A-3 for identification.

(Document marked Defendants' Exhibit A-3 for identification.)

Mr. MacInnis: No further questions.

Recross Examination

By Mr. Donohue:

Q. Did you know that Oleta O'Connor Yates was a member of the Communist Party and a Communist functionary?

A. That has been known here for years, Mr. Donohue.

Q. She was not elected, I take it?

A. Pardon?

Q. She was not elected, I take it?

A. No, I don't think so.

Mr. Donohue: May I have a copy of the Western Worker?

(Testimony of Henry Schmidt.)

Q. Now, Mr. MacInnis asked to read a portion of the Western Worker of San Francisco under date of April 23, 1934, with reference to the fact that Lawrence Ross was in San Francisco on that night; correct? A. What was the date, please?

Q. April 23, 1934.

A. Yes, I heard that read.

Q. Now, you didn't testify that it was on April 23 that you first saw Lawrence Ross when he came to you to talk to you about [4964] the cooperation of the Western Worker, did you?

Mr. MacInnis: Pardon me. I object to this as, I hope, not a deliberate misstatement of the evidence, but at least an inadvertent one. The issue of the Western Worker bears the date now mentioned, but the date in question in connection with Lawrence Ross was May 6. If you will look just a little more sharply, you will see the May 6 date, Mr. Donohue.

Mr. Donohue: Yes, surely.

Mr. MacInnis: Three days before the May 9 date in the minutes of the strike committee.

Mr. Donohue: I haven't come to that yet, Mr. MacInnis.

Mr. MacInnis: You asked him if he ever said that Lawrence Ross came on that April date.

Mr. Donohue: That is correct.

Mr. MacInnis: He never said that.

Mr. Donohue: I asked him that question. He can deny it if it isn't true.

A. No, I never said I saw him April 23.

Q. When did you say you saw him?

(Testimony of Henry Schmidt.)

A. I think I have said all the time that he came to the strike committee or subcommittee of the strike committee on May 9, or maybe the following day.

Q. Didn't you tell us, Mr. Schmidt, that you saw Mr. Lwrence Ross shortly after the strike began in 1934?

A. Yes, sir. We went all over that. You asked me what [4965] "shortly" means, and I explained.

Q. Didn't you say that one day would be too shortly, but ten days would not be out of the way?

A. Something like that; that's right.

Q. You said that it was sometime within ten days after the strike began in May of 1934, is that correct?

A. I am pretty sure it wasn't ten days after.

Q. Now, you know, do you not, sir, that in this issue of April 23, 1934, that the story from which you read the quotation—and I will reread the quotation so that Mr. MacInnis need not complain about it—is a story under a San Francisco April 16 dateline, which is a call to all labor and fraternal organizations to elect delegates for the California State nominating convention of the Communist Party—you saw that in here?

A. You mean when it was shown to me?

Q. Yes. A. I didn't read it.

Q. Well, you did read that delegates to the convention I have just indicated, the California State nominating convention of the Communist Party—and reading from the point where Mr. MacInnis has outlined in red:

(Testimony of Henry Schmidt.)

"Delegates will assemble at 121 Haight Street, Sunday morning, May 6, for the convention, and that evening a great mass meeting will be held at California Hall, at [4966] which the main speakers will be Sam Darcy, District Organizer of the Communist Party, Pettis Perry, Louise Todd and Lawrence Ross."

Correct?

A. Yes, I recall that being read out loud.

Q. Now, does that refresh your recollection—an article in the Western Worker of April 23 indicating that Lawrence Ross will speak at the Communist Party convention at Communist Party hedquarters on May 6——

Mr. MacInnis: Pardon me.

Mr. Donohue: ——on the question whether or not you saw Lawrence Ross in the early days of the strike and that he then talked to you about the use of the Western Worker for the purposes of the strike; is that correct?

A. Oh, no, no, I still stick to my memory that a man came to see me after the strike commenced and talked to me in the daytime in the strike headquarters in a large room adjoining the strike headquarters proper..

Mr. Donohue: Mr. Mitchell, may I have the copy of the Western Worker which was exhibited the other day under date of December, 1934.

The Clerk: December 20, 1934?

Mr. Donohue: Yes, sir.

Q. In the meantime, Mr. Schmidt, when you saw this document, which is the report of the proceedings

(Testimony of Henry Schmidt.)
of the 36th annual [4967] convention of the State Federation of Labor, 1935, did you observe that one of those who joined you and Mr. Bridges and Henry Schrimpf and John Schomaker and John Larson in voting against Proposition 1 purposed to evict Communists from the American Federation of Labor movement, that Walter H. Mahaffey also voted with you on the subject?

A. Is it your question, did I notice that while I read it?

Q. Yes, did you notice that?

A. No, I didn't.

Q. May I ask you to look at the point where it is checked and see if this refreshes your recollection about the fact that Mr. Mahaffey——

Mr. MacInnis: I will say the name is there.

A. I see Mr. Mahaffey's name, yes.

Q. (By Mr. Donohue): Thank you. And while Mr. MacInnis called your attention to the fact that Proposition 1 was defeated, nonetheless those delegates defeating represented 16,328 votes——

A. The other was 55,000 and something.

Q. Those present who voted for Resolution 1 represented some 55,113 votes, is that not a fact?

A. Yes, sir, that is correct, but in a convention like that one may vote as one pleases according to your lights.

Mr. Donohue: Would you ask Mr. Schmidt to look at United [4968] States for identification No. 17 and refer to that article in the box on the front —on the other side, on the top left side in the box.

(Testimony of Henry Schmidt.)

A. You mean the workers' school business?

Q. Yes.

A. It seems to me I have seen that before.

Q. Yes, you remember I showed it to you the other day. A. Yes.

Q. What is the date of that copy of the Western Worker? A. December 20.

Q. 1934? A. Yes.

Q. Did you ever see any copy of the Western Worker earlier than December 20, 1934, which contained any statement showing that Lawrence Ross was the co-editor of the Western Worker?

A. The only answer to that question is: I don't know.

Q. That does contain a reference to the fact that he was co-editor, the issue of December 20, 1934?

A. In the article in the box?

Q. Yes. A. Yes, that is what it says.

Mr. Donohue: May I have the publication back? That document which you identified for Mr. MacInnis shortly ago, the mimeographed paper, Mr. Mitchell, to which no objection wase made to its introduction in evidence—the strike [4969] committee, I think it was——

Mr. MacInnis: I will be glad to accept that offer. The special prosecutor says he has no objection to the strike committee meeting minutes being introduced.

Mr. Donohue: I said I had no objection providing he read it, as I assume he did, exactly as it appears.

(Testimony of Henry Schmidt.)

Mr. MacInnis: May it now be received in evidence?

Mr. Donohue: No objection, if your Honor please.

The Court: So ordered.

Mr. MacInnis: That is in evidence?

Mr. Donohue: Yes, no objection.

Q. Now, these minutes of the strike committee meeting of May 8, 1934, from which you read that a representative of the Western Worker spoke and offered the full support of their paper—there is no reference in these minutes to the fact that that representative was Lawrence Ross, was there?

A. I didn't see it, no.

Q. And when you stated that you talked to Lawrence Ross about using the facilities of the Western Worker for the purposes of the strike, you said you talked with him alone, did you not?

A. No, I said that another man was with me, and my memory tells me that that was Ralph Melin.

Q. Then what reason was there for Lawrence Ross to talk to you and Ralph Melin on the subject of the use of the Western Worker for the purposes of the strike if a representative of the [4970] Western Worker came to a meeting of the strike committee and offered the full support of their paper?

Mr. MacInnis: Pardon me. That is unintelligible. How would he know what reason a man had? How could he pass upon the mental process of the other person?

(Testimony of Henry Schmidt.)

The Court: Well, it is argumentative.

Mr. Donohue: I will withdraw the question if counsel objects to it, if your Honor please.

The Clerk: If your Honor please, for the sake of the record, may I understand this is now in evidence?

The Court: Yes, sir.

The Clerk: Defendants' Y-2 in evidence.

(Defendants' Exhibit Y-2 for identification was received in evidence.)

Q. (By Mr. Donohue): Mr. Schmidt, is it your practice to designate any member of a union who takes or makes any effort to remove Communist members from his union as labor spy?

A. Oh, no, sir.

Q. And is it your practice to designate any former member of the Communist Party who testifies against another member of the Communist Party as a stool pigeon? A. Well, that is my belief.

Mr. Donohue: I have no further questions. [4971]

Further Redirect Examination

By Mr. MacInnis:

Q. And, Mr. Schmidt, what designation do you have for people who come into court and swear that innocent men belong to the Communist Party when in truth and in fact they do not?

A. They are pretty low human beings, I would say.

Mr. MacInnis: That is all.

Mr. Donohue: I have no further questions, Your Honor.

The Court: We have reached about the adjournment. I have several orders that remain open, and rules to make, so we may devote the balance of the time. The jury may be excused until tomorrow morning at 10:00 o'clock.

Ladies and gentlemen, we will take the adjournment until tomorrow morning at 10:00 o'clock. May I admonish you not to discuss the case under any conditions, nor to form an opinion thereon until it is finally submitted to you. You are not to converse with any person on any subject of the trial. You may now retire.

> (Thereupon the jury retired from the courtroom and the following proceedings were had in the absence of the jury:)

Mr. Donohue: If Your Honor please, at this time I would ask Your Honor to recall the witness Robert Kenny in consequence of information we have received which we could not have known about at the time he testified because it was with respect to an incident which has occurred subsequent thereto and which [4972] we believe is important on the question of the interest of the witness Kenny in this prosecution. And for that reason we respectfully ask Your Honor to recall the witness Robert Kenny for further cross-examination.

Mr. MacInnis: We have no objection. I don't know if Mr. Kenny is in San Francisco. I understand that he probably would be released from the court and he would probably return without process, in any event.

The Court: I am sure he would. Is the matter of that trial on, Mr. Mitchell, in court here now?

The Clerk: It is not, Your Honor. As far as I know, that has been completed.

The Court: Well, is it necessary to make an order?

Mr. Donohue: I would think not. I am sure if you asked Mr. MacInnis to ask him to come back, he will come.

The Court: I am sure he will respond to any call you make.

Mr. Donohue: Surely, Your Honor.

The Court: There was an offer made with respect to the opinion of the Court in Bridges v. Wixon. The Court had already ruled upon the more recent offer and the direct examination of the witness Schmidt. Thereafter Mr. MacInnis asked if the Court would undertake the reading and digesting of a memorandum, and I have had an opportunity to read the same. In addition, I have considered the several cases, particularly the decision of Harrison v. United States in 200 Fed. 662, at 674, and [4973] all and singular the subject matter of the memorandum. I find nothing contained herein, nor in the Harrison case that would persuade me to change my rule heretofore made.

In passing, I might note for the record that the memorandum opinion which I handed down at the time Mr. Cleary argued the matter on the question of res adjudicata appears recorded in 87 Fed. Sup.

at page 14, and I make particular reference to the subject matter at page 15, wherein I believe I disposed of the situation then at hand and likewise presently confronting the Court with respect to the more recent offer.

Accordingly, being so advised, I sustain the objection interposed by the prosecution to the offer of the Supreme Court decision in evidence, more recently adverted to, as I say, during the examination of Mr. Schmidt.

There was one other item with respect to the matter of order, and that is, I did not rule upon—at least I can't recall having ruled upon—the motion to strike the testimony of Father Paul Meinecke. Mr. Donohue, you make such a motion?

Mr. Donohue: Yes, on the ground, if Your Honor please, that a reading of his testimony would indicate that the father was giving an opinion of his own with respect to the character of the defendant Bridges, and my understanding of the law is that only his general reputation in the community in which he lives or works is admissible in evidence and that the father negatived the possibility that the opinion which he voiced was [4974] his general reputation rather than it was his own opinion. On that basis I ask Your Honor to move to [4974-A] strike.

The Court: Mr. MacInnis?

Mr. MacInnis: Well, I am rather surprised that ~~the matter has thus~~ come up again. I thought that the Court had ruled on it.

The Court: No, I had not.

Mr. MacInnis: And in our favor.

The Court: I examined the record last night and it appears I have not ruled, nor have I ruled today on it.

Mr. MacInnis: Well, now it would appear to me recalling very vividly as I do the testimony of Father Paul Meinecke, that his words on direct examination met the same standards set by the Court and by our courts of last resort for the testimony of any character witness. Now, he said that he was basing his answer upon his own acquaintanceship with the individual involved, Mr. Harry Bridges, and upon such remarks and statements of other persons in the community as had come to his ears, and that it was a composite of— I can't quote his exact words, but what he believed to be the reputation in the community.

Now, thereafter he was subjected to lengthy cross examination, and in the course of that cross examination he made many statements which, of course, had nothing to do with general reputation but which involved, in the words of the prosecutor, personal opinion. However, we didn't invite that cross examination; the prosecutor did, and the prosecutor undertook to argue with the particular witness as to what were the bases for **[4975]** his personal opinion. And the whole examination departed from the concept of general reputation in the community of a particular witness. Now, the cross examiner having thus departed from the ordinary scope of the direct examination, can hardly now rise before us and say, "This defendant doesn't meet the standard required by law." I can't think of any possible disability that that testimony would contain.

Mr. Donohue: Your Honor, may I ask you at this time, in reading the testimony of the father last night—I read also the testimony of a number of other character witnesses. May I ask Your Honor at this time to withhold any ruling on the testimony of the father in order that we may, perhaps, make a broader motion at a subsequent time which may include the testimony of other witnesses. We would like to be heard at that time on it.

The Court: Well, I should like the motions to be made timely, to the end that we keep a current record. It is difficult to have these matters become embedded in the record, so to speak, and then at some later time or at a later hour make a motion to strike.

Mr. Donohue: If your Honor pleases, would your Honor hold your ruling on this matter? We shall come to a conclusion on other matters not later than Monday.

The Court: Do you have in mind any specific items that I might have in mind? [4976]

Mr. Donohue: Not at the minute, if your Honor please. I don't recall the names. I recall the testimony without being able to ascribe it to persons.

Mr. Hallinan: It seems to me, if the Court please, if I might be heard in that, that the purpose is, by including some other minor matter, to make the motion to strike Father Meinecke's testimony seem a little less infamous. I think we ought to have a rule on that one item alone.

The Court: Well, I am prepared to rule on the matter.

Mr. Hallinan: Well, we ask that your Honor rule on it, now.

The Court: I am prepared to rule on the matter. I will deny the motion to strike. I read the testimony last evening, and I feel that, probably as Mr. MacInnis pointed out, that there was an attempt on his part to have a composite; at least, that was the father's testimony.

And I might say, Mr. MacInnis, that in reading the transcript, I concluded that the proper administration of justice and maintenance of respect due the courts require me to certify that yesterday you committed conduct in the actual presence of this Court constituting contempt.

Mr. MacInnis: Before your Honor finds——

Mr. Hallinan: Might I represent Mr. MacInnis in this before you say anything further?

The Court: And I say for the record, that the Court, in [4977] the proper exercise of its function, propounded a relative and pertinent question to the witness, Father Paul Meinecke, whereupon Mr. MacInnis addressed the Court as follows:

> "I think you should cite yourself for misconduct. I have never heard anything like that. You ought to be ashamed of yourself."

That appears at transcript page 4796. I say to you, Mr. MacInnis——

Mr. Hallinan: Your Honor, might I be heard on that before——

The Court: I say to you, Mr. MacInnis, that this Court will file a certificate and an order pursuant to Rule 42 of the Rules of Criminal Procedure.

Mr. Hallinan: Your Honor, may I be heard?

The Court: One moment, Mr. Hallinan.

Mr. Hallinan: I have never heard such a—Why can't I be heard in the matter?

The Court: And making such order and fixing such punishment will be deferred. I will defer the punishment to later, to a later date in the trial.

Mr. Hallinan: Very well.

The Court: We will now stand adjourned until tomorrow morning at 10:00 o'clock.

(Whereupon an adjournment was taken to tomorrow, Friday, February 3, 1950, at 10:00 o'clock a.m.) [4978]

Friday, February 3, 1950, 10:00 A. M.

The Clerk: United States v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: Call Mr. Robertson.

JAMES R. ROBERTSON

was called on his own behalf; sworn.

The Clerk: Will you state your full name to the Court and jury?

A. James R. Robertson.

(Testimony of James R. Robertson.)

Direct Examination

By Mr. MacInnis:

Q. What is your residence address, Mr. Robertson?

A. 343 Montford Avenue, Mill Valley.

Q. What is your business address?

A. 150 Golden Gate Avenue, San Francisco.

Q. What is your occupation or profession at that address?

A. I am an official of a labor organization.

Q. And that is what?

A. The International Longshoremen & Warehousemen's Union, referred to as the ILWU.

Q. What office do you hold with the ILWU?

A. I am its first vice president and director of organization.

Q. What does the term "director of organization" imply so [4979] far as your own functions are concerned?

A. It means that in that capacity I am responsible for all the organizational activities of the international union.

Q. Where were you born, Mr. Robertson?

A. I was born in Texas, in Wood County.

Q. And when did you come to California?

A. I came to California in 1930, I believe.

Q. And you have been a resident of California ever since, is that correct?

A. Yes, only for those periods of time when I was assigned to organizational work outside of the

State of California, and that has been considerable in the past few years.

Q. You mean when you traveled on ILWU business? A. Yes.

Q. And I suppose in those periods of time you kept your regular residence in and around San Francisco or at least in the State of California?

A. Yes, I have always felt that I was a resident of California, although the nature of my work is such that I have spent considerable period of time in other states, and naturally you establish residence there, and if you are there for, say, over a year and you want to participate in the activities that happened to go on in that area, you follow out the usual procedure to do that.

Q. When did you first come to live in and around San Francisco? [4980]

A. In about 1932, I believe, the early part of 1932.

Q. At that time what was your occupation?

A. Counsel, those were lean years. I had no steady employment. The first steady job I got in this state was working for a grocery warehouse, the Public Food Warehouse.

Q. Is that Public Foods warehouse here in San Francisco?

A. It is Public Food warehouse that was in San Francisco. That firm is now out of business.

Q. What is the nature of the work you first understook with Public Food warehouse?

A. Oh, for many months I was engaged in help-

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ing the Teamsters who serve all of the retail stores, and to use the vernacular of the warehousemen, I was a lumper. I was a helper working odd jobs, let's say, an hour here, an hour there. I kept that up for several months, and finally I worked into a steady job, in what we would refer to as the dry warehouse department of that operation.

Q. What does that mean, Mr. Robertson, the dry warehouse department?

A. That means where all of the packaged goods and dry commodities are warehoused and processed and/or prepared for distribution to their retail outlets.

Q. At that time, Mr. Robertson, had you taken any part in the labor movement?

A. No. I have been a worker all my life. Now, I don't know [4981] what you mean by that. I had taken no part in any organized activity, if that is what you mean.

Q. When did you first take any part in organized labor activity? A. In early 1934.

Q. What was the occasion that brought you then into the labor movement?

A. Well, it was during the 1934 waterfront strike, and as a result of that strike, particularly here in San Francisco, all of the people working in or near the waterfront, and it so happened that our warehouse was established and located near the waterfront, we all became concerned and interested, and we started thinking about organization,

(Testimony of James R. Robertson.)

and step by step we began to consider the stages we would go through in forming an organization of our own. That is, shall I say, the first of the organization that I am proud to be a member of, which is known today as Local 6.

Q. By Local 6 I suppose you mean the warehousemen's office of the ILWU?

A. The Warehouse Division, yes. All of my activities in the ILWU have been primarily concerned with the Warehouse Division.

Q. Did you yourself have any personal part in the organizing of the warehousemen?

A. Oh, yes.

Q. I am speaking now of the days of the 1934 waterfront strike and the general strike that followed it. [4982]

A. I did not participate to any great degree in the '34 strike other than as an individual along with others who found themselves working in the warehousing industry, such as myself, and lent what individual aid we could. For example, longshoremen would drop by our place occasionally. They would tell us what was going on—and they didn't have to tell us they needed food—and we would to the best of our ability take up collections and pass it on to them and help them out in that manner, and go out when we had spare time and help them by doing a little picket duty, and help them in that phase of the work.

Q. Did you ultimately play some role upon any committee during the 1934 strike?

(Testimony of James R. Robertson.)

A. No, not in the 1934 strike. I was functioning primarily in the warehouse union which is now known as Local 6. You see, I have never been directly engaged in waterfront activities. My activities have been concerned entirely with the Warehouse Division, and beginning in early 1934—I think it was May—we started to build our local organization. When I say "we" I say those of us who felt the need or the desire to band ourselves together and follow in the footsteps of the longshoremen and the waterfront workers, and that we did, and in my small but unimportant way I played a small role in those early days in working with others in developing this organization. [4983]

Q. When did you first meet Harry Bridges?

A. I would have to think because the name Harry Bridges has been constantly before me for so long it is hard to remember exactly. But we knew that Harry Bridges was engaged in these waterfront activities from the first moment that I became interested in organization, and as our union began to develop and grow, as we advanced, when I can say we actually had a small local, then I became a little better acquainted with Harry Bridges, the individual, but not having met him personally. And I think that I can say that the first time I remember having met him in a rather formal sense was in 1937, when our local union, in conjunction with the Pacific Coast Division of the ILA, decided to develop and expand warehouse organization on

(Testimony of James R. Robertson.)

a coastwise basis, and there it was necessary to consult with others, to solicit their aid, their help and whatever support we could from them, although they recognized the need for developing this phase of our work as an auxiliary to the waterfront organization.

Q. Before you formally met Harry Bridges had you seen him or heard him speak at any public or semi-public gatherings?

A. No, I don't think I did.

Q. After the 1934 strike did you continue at your job with the Public Food warehouse in San Francisco?

A. Yes, I continued on that job until sometime in 1935. I [4984] was discharged there for union activities. I think I should spend a moment and explain that during this period—and I refer now to 1934 and '35—there developed in this country a real feeling among the workers for organization. And I say that based on how it happened to be and how it happened to those people who were around me, because of action of our Government in setting up facilities which made it legally possible for workers to organize. And I can well recall the enthusiasm that was shown. And of course we all of us became a little more bold and a little more active, and I guess I wasn't excluded from that group, and in 1935 I was discharged from my job at the public food warehouse. At that time I held the position of full case order clerk. That is a guy that goes around and pulls all of the full cases off of the orders in the—that go out to the retail stores. And

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we had, I think, some 140 or 150 retail outlets that we were servicing at that time, and my job was to jerk the full cases off orders servicing all those stores.

Q. After you thus lost your job, what occupation did you follow for the remainder of that year, 1935, and for the following year, 1936?

A. Oh, I worked around the various warehouses through the office of the union, and I worked longshore on a permit that the longshore local would grant to other locals directly affiliated to it in placing those who were unemployed in the union. [4985]

Q. So you did temporary work, then, both as a longshoreman and as a warehouseman for the balance of the year 1935?

A. Yes, it was very temporary, very casual work.

Q. When did there come a change in your type of employment?

A. Well, by this time our local had grown to the extent that we had elected officers—the usual routine in a local of this kind. We had the president, the secretary, the treasurer, the board of—the executive board, and all of the various small committees that function in a local of that type. And I was elected to the executive board, I believe, in 1936, and I had functioned on one of the local committees all along during the period when I first went into the local organization. And during 1936 I became the business agent for the local.

Q. Now, what was the function of that particular job?

A. Oh, its functions were many. You service your membership. You carry on an organizational campaign, and you meet with employers and you do the many—the thousand and one jobs that size was faced with during that period—numerous jobs. And I would say, primarily because of the very nature of things at that time, I concentrated on organizing, because we recognized that unless we extended our organization, we were not going to be secure in the individual houses we had organized.

I well recall when we would negotiate with an employer, let us say in the grocery industry or in a public warehouse—and in those days we didn't have each of the industries [4986] completely organized; we would have a house here and a house there in this industry group; maybe one house in this industry group.

Maybe I had better explain what I mean by industry groupings. That is, starting directly with the waterfront, that is to say, the Marine Terminals, they are the groups of individual warehouses that come more directly in line with the longshoremen—marine terminal warehouses; they are the warehousemen that work in the marine terminals. Then we have what we call our public warehouses. They are the warehouses that handle public warehousing operations, that handle all of the manufacturers that ship in from other places and all of the jobbers, et cetera; they handle public shipments in here, and they are stored in those public warehouses. Then we have what we call captive warehouses, which are

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certain warehouses operated by chain operations, some of them national and some of them local. And all those captive warehouse operations, of course they are so diversified that they cut across the whole industrial life of the City of San Francisco, where we furnish commodities which are shipped to the consumer every day, to the entire population of the city.

That is why I would say we would have one house organized in a public warehouse—maybe one or two or three; we would have a house in the grocery, and maybe one in drug. So we would have to meet and negotiate a contract with those employers [4987] and we would sit down with them and start our discussions. And the thing that impressed me most is that these employers would invariably say, "Well, we have read your demands, and we would be more than glad to grant them, but you must consider the competitive angle of this situation, and we cannot grant these demands until you have organized other operators in this particular industrial group." And they themselves encouraged organization, and that is what we did: We went out and we organized, and in carrying on our organizational activities, it is at this point that I began to discover that on the one hand when we were negotiating with a single employer he would insist on our organizing, and when we would go out to organize, we would find the forces of law and order put out to stop us and deter us in every way possible.

(Testimony of James R. Robertson.)

Q. In 1936 did this work which you have now described center itself around San Francisco?

A. Definitely so. Definitely so.

Q. When, if ever, did your activities go beyond the City of San Francisco in the same kind of work?

A. Oh, in early 1937, I believe—very early in 1937, I was sent in to the Northwest.

Q. Was that by virtue of some appointment from the union?

A. Yes; that is because when we had to sit down with other locals in this area that comprised what was then known as the Pacific Coast Division of the ILA and we sat down and we [4988] discussed the value of extending the warehouse organization—warehouse in its broad sense—up and down the coast, because by the end of 1936 and the beginning of '37 we had been successful in establishing a substantial organization in the warehousing field generally in San Francisco—then we recognized the need—and this is peculiar—based again on the employers' remarks to us in negotiations. Once we had organized an industry, it didn't revolve around the *felling* of one employer in one house in one kind of industry, they began to say, "Why don't you get all of the industries in the locality organized? Why place us at a disadvantage?" So we followed that process, and it is because of these reasons among many, many others we discussed the advisability of moving up and down the coast, but because of the activities carried on in San Francisco to a certain degree, warehouse organization had started up and down the coast.

Now, that sounds a little lengthy, but I am sure it is well that I go into this, because I want everyone concerned to know the background of the struggle that has gone on. I want them to know what we have been faced with. I want them to know what we have been up against. I want them to know how we have had to struggle to develop the organization we have today. And I think once they know, some of these fears they might have in their minds will be dispelled. That is why I want to spend some time and go into this, because I am both humble and proud [4989] of the work I have done in these last few years. I am humble because I am a product of this movement that we call the labor movement. I am humble because this is the only chance I have ever had to work and develop something that is going to help me—I say that selfishly—but at the same time help my fellow man. And I am proud because of the record of our organization as established. And I ask that all here bear with me and let me tell my story. I have been here now for several weeks, and this is the first opportunity I have had, and I want to go into detail and let you know why it became necessary to begin to develop and expand the warehouse division of our union. And it is at this point that I went into the Northwest, into Seattle and into Portland, and began there to develop these processes that were taking place in San Francisco, and with some degree of

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success. We won a few and we lost a few. We didn't win them all, but organization began to develop and grow, and we encountered there the same opposition that I had encountered earlier here in our efforts to organize these workers into our union. [4990]

Q. After your work in the Northwest, as you have described it, were you sent to any other part of our community or state, or did you go outside the State of California?

A. Yes, 1937. I spent the early part of that year in the Northwest. I came back to San Francisco for a short period of time and then I was assigned to the Southern California area, and we started to develop there, our organizational program as I have described, both for the Bay Area and for the Northwest, and I continued in those activities for the rest of 1937 and up until 1938.

Q. What was the title of the post that you held in Southern California?

A. I was, as far as our own union is concerned, I was an organizer, and I was also given the title of regional director, I believe, of Southern California for National CIO. I held that title for a very short time.

Q. After your work in Southern California where next did you go?

A. In the late spring of 1938, and after our convention of that year had decided to broaden our organizational activities on a national basis, I was assigned to the Gulf area, and I proceeded

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to New Orleans and we started developing our campaign of organization there.

Q. In one of his questions to the previous witness, the special prosecutor attempted to draw the inference that you had gone down to New Orleans to rid some other union. Will you explain [4991] that?

A. Yes. Evidently the special prosecutor for the prosecution does not understand organization in the labor movement. We went there because the workers of the South, having watched from afar the development of a movement on the West Coast directly related to the waterfront, having watched that development, they themselves asked that some of us come there and see what we could do in developing this type of organization in the South. And I haven't gone into detail when I say this type of organization, and it is perhaps well that I pause for a moment and do that, because when I say this type of organization, let me again say, humbly and very proudly, the leftwing type of organization—and let me explain what that means: Leftwing means rank and file democracy. Leftwing means that the membership of an organization controls its activities. Leftwing, of course, is a relative term. And I apply this to the labor movement. There emerged in '34, '35 and '36 this rank and file movement that people other than myself have referred to as leftwing, and in its simple form it means control of the organization by the membership, where the membership itself

(Testimony of James R. Robertson.)

has democracy, where it has freedom of action, where it has control at all times of the activities of the organization. And the officers serving that rank and file are only their servants. Now, that is what I mean when I say they recognized a development on the West Coast.

Now, as a result of developing this type of organization there accrued to the workers involved something I believe to be [4992] the greatest gain a group of workers have ever had, and that is some control of their security, some control of the method in which employment is handled. On the waterfront they call that today the hiring hall. Before we had a hiring hall they called it the shapeup. In the warehousing industry, again to use the vernacular of warehousemen, we call it spec—speculation—where a large group of workers will center around a particular warehouse in the morning and spec for a job. All of these things have been eliminated and the union itself now sees to it that workers are dispatched to jobs when they are available, dispatched in order and without discrimination, and each of us gets an equal chance and an equal share of the work.

Now, these are the most important gains in my opinion that have been made, because all of the other issues, all of the other pork chop issues, if I may be so bold, fall into our laps. What do I mean by pork chop issues? I mean the amount of money that you take home at the end of the week and all the other things that go with the money situation

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involved. But I think the greatest gain we have made is the security of the individual, security for himself and for his family, and the union has done this to us. That is how I feel about it, and these workers themselves have recognized this. They asked us to come into the South. They ask us, "Come assist us."

And we recognized something else, that as long as we had the West Coast organized as it was on the waterfront, and with [4993] the offshore workers that were working closely with us, we had not attained our maximum of economic security unless we were able to organize other workers in the same field in other sections of the country.

So let's say for selfish reasons, in addition to going to the assistance of other workers—for selfish reasons we wanted to go into the South to extend our organization, and it is on this basis that we went there. Several of us were assigned. I was assigned generally to the warehousing division of that operation. But the major drive was on the river front of New Orleans, and we conducted an intensive campaign—an intensive campaign—for many, many months.

Q. So far as your own efforts were concerned, will you tell us what you did and what took place?

A. Well, when you go into a situation of that kind in the role of an organizer, his first duty is to get acquainted with the people involved, sit down with them and discuss their problems, find out what the situation is, and then we have—and pointing

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out at all times that we, coming from the outside, can do nothing unless they are willing to themselves take part in the activities—developing an understanding of what we had done here, but also making them understand what they would have to do there. These are the initial steps you take, and they were all eager. But they began to tell us what they were confronted with, and it is at this point that I began to understand what the shapeup [4994] really means. That term has been used here and frequently, but it is during my experiences in the Gulf that I really learned the real meaning of the shapeup.

Q. What is that meaning?

A. That is where a group of workers will have to assemble at a given point at a certain hour in the morning—and down there it is as early as 5:00 in the morning—and maybe a ship won't be ready to work or maybe cars won't be ready to be unloaded until 8:00, 8:30, 9:00, 10:00 or 11:00 o'clock. But they have to shapeup that early in the morning. They have to stand around and they pick out leadermen. Now, a leaderman is an individual who might be responsible for three, four, five or six workers. That is the term that they refer to there. And let's say if there is a group of cars on a spur track to be unloaded, the supervisor, the person acting in a supervisorial capacity, will call out these leadermen and he will have a bunch of paddles in his pocket. He will throw these paddles out ten or fifteen feet and he will let all these people dive in and fight for

(Testimony of James R. Robertson.)

them and the leaderman that gets the paddle is the leaderman that works for that day with his gang. Amazing! I couldn't understand it. Inhuman! But further than that, to be a leaderman and to participate in this type of activity, this person is responsible for seeing to it that everyone working with and under him gets his hair cut at a certain barbershop, buys his groceries at a certain grocery store, five per cent of his money [4995] is kicked back, he brings a jug of wine or a chicken if he raises poultry or something like that occasionally as payoff. These were the things that were going on under the shapeup, and it is this type—it is this type of operation that those people were tired of, and it was repelling to me.

These are the things that we found. But there were other things. The moment we began to develop our activities there we immediately ran afoul of the law. They were not interested evidently in seeing us come in and help those workers organize, help them develop a program such as we had developed, because at every turn the workers were intimidated, and intimidated in devious ways, through the employer, through threats, through the forces of law and order, if any action would be taken to offset the employers' threats, and as our program began to gain momentum, as we began to organize and bring in countless hundreds of workers into our movement, and as we were approaching that period of time where an election would be held—and in this process we were working with many groups—

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and I refer specifically now to the workers on the riverfront and the workers driving the rigs, the teamsters, the skinner we call them—and we were organizing these groups. And the teamsters, because of the vicious intimidation that was going on at that time, were forced to take strike action, and it is here at this point that the real terror started. Every day for at least three weeks our union offices were raided by the police [4996] department every day. Anywhere from two, three, four to eighty people who happened to be in our hall would be arrested and taken down and jailed, and with vicious intimidation and terror—vicious intimidation and terror—vicious! And I know of what I speak. I was there. I was there. I went through those experiences. I went through with those experiences with the people there.

Q. How about yourself? Were you involved in any of the episodes of which you speak?

A. Yes, I was involved.

Q. And what was that?

A. Well, it seems that during this period the forces of law and order were anxious to get rid of the leadership, shall I say, and by leadership I refer to those of us who were sent in there and those local people who had emerged as leaders within the movement we were developing there, and our leaders were constantly being picked up and arrested and held on any charge, and particularly were they concerned with arresting us on a Friday. And it took me quite some little time to figure out why,

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but they have some peculiar laws down there. If you are arrested on Friday, you can't be bailed out unless you get permission from some judge there. They all go out of town over the weekend and we found it impossible to find a judge in town who would let us out. So that is a technique they would use to hold us in jail over the weekend. I am very familiar with that. [4997]

At one point—and this is a matter of record, by the way—at one point the police department of the City of New Orleans had made the public announcement through its then acting superintendent of detectives, a Mr. Ryer, I believe, that he was going to drive the Communist CIO out of the City of New Orleans. And it was at this period that they started a roundup, and they picked me up that afternoon. I can't recall the day of the week. I can't recall at the moment the date. I know I was picked up. I was picked up early in the afternoon and I was taken down to a downtown precinct station. There I was photographed, fingerprinted, and then I walked up a little stairway onto a platform, and I couldn't see people, but I heard people talking, and I knew they were looking at me. And then I walked down, and as I got down into the narrow hallway, it was lined with policemen, both plainclothesmen and others. And they stopped me there. And they started working me over. It wasn't pleasant. It isn't pleasant to discuss. But they stopped me there and they really started working me over. They didn't give much reason. Stopping me, a

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person on this side would hit me on the head, and naturally I would duck, and a person on this side would hit me here and I would duck, and I would grab myself and as I would go down they would hit me over the head, and they kept that up for several minutes. Then they took me out of that station. They took me out from that. I guess that was just a warmup because they put me in a car and they took me somewhere [4998] else to an outlying precinct and they threw me in that precinct. They threw me in a cell in that precinct. It was a small affair. It had a wooden board, I guess, as a bunk 14 or 16 inches wide, and it had toilet facilities in the other end that hadn't been cleaned for 40 years. They threw me in there. And you lose account of time. You lose completely the count of time in these situations, but I know later I was taken out of this cell and I was taken into the main office of the precinct. And there they started questioning me: "What are you doing here, Robertson? You are a pretty smart guy. Why don't you get out of town? You know you can't win. There's 1500 of us here. We got orders from up above to get rid of you guys and we're going to get rid of you. Why don't you get out?"

I didn't answer. I stood there. And they started working me over again. Yes, they started working me over again, and it isn't pleasant. They kept backing me up to a table like that one the prosecutors are sitting at. But it had a thick top. You know, you don't forget these things. And when

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they had me back against that table, there were policemen all around me and policemen on this side —one person asked me a question and I started to answer, and a policeman on this side said, "Oh, he will get smart with a cop, huh?" He clipped me in the chin and I ducked, and when I ducked the person on this side clipped me, and as I catch myself the guy standing in the middle hits me over the head and down I go. And they pick me up again, and [4999] they keep that up, and they keep backing me, backing me, backing me over that table, and finally I collapsed. And they picked me up and they drug me back and threw me in the cell. And a few hours later they brought me in again and they held me up and they worked me over again. And they threw me back in the cell.

I wanted some water. They didn't give me any. I took my shirt, tore strips off my shirt, and I let it fall down into the facilities that they had there, and I would suck that to get a little water because I was in great pain. And three times that night they took me into that room and they beat me up.

Mr. Donohue: If Your Honor please, I realize the defendant is entitled to make a full and complete explanation of every item of his defense. I think I have been quite patient for the past hour. I think it is about time that the defendant was asked to testify concerning the allegation in this indictment which is the allegation that he aided and abetted and conspired with Harry Bridges and Henry Schmidt that Bridges would obtain his

(Testimony of James R. Robertson.)

naturalization by perjury. We have gone back to New Orleans, to the Pacific Northwest, and I think it is about time that we got down to San Francisco and the allegations in the indictment. I respectfully urge Your Honor to require counsel for this witness, this defendant, to confine his examination to the charges contained in this indictment.

Mr. MacInnis: Your Honor, when the worst of professional [5000] perjurers sat in the witness chair, he was allowed to explain, to make excursions to Soviet Russia, to make invocations to Beelzebub, to give any explanation that his heart desired.

Now, the issue is not as simple as the prosecutor tells you in the objection which he just made. At the start of this case one of the other prosecutors made an opening statement, and he said this about Mr. Robertson. He said, "We will show you Mr. Robertson is a Communist, that Mr. Bridges is a Communist, that Mr. Schmidt is a Communist, and that each knew the other was a Communist."

Now, is he to be confined to a denial of that statement? Is he to be permitted to say only, "No, it is not true that I am or that I ever have been a Communist"? No. The sum total of his life will show whether or not he is a Communist. We have seen that demonstrated on many occasions by the special prosecutor so far as his perspective is concerned. When Henry Schmidt was on the stand yesterday, he went into the life of Henry Schmidt: "Did you do this? Did you do that at a certain

(Testimony of James R. Robertson.)

time? Did you know that the Communist Party at the time you said those things stood for certain things?" The man's life in the labor movement will show whether or not a man who is an organizer for the ILWU is a Communist or not. He has a very short portion of this recital left.

The Court: Mr. MacInnis, the incidents related by Mr. Robertson with respect to police activities, as I see it, would [5001] not immediately tend to prove or disprove any issue in the case, but I shall not foreclose Mr. Robertson from completing his narrative.

The Witness: Thank you, sir; thank you.

The Court: You may proceed.

The Witness: Early in the morning—you don't have to ask me where I was—you don't forget these things—early in the morning they came into the cell and they picked me up again, and I was scared to death, because they told me they were going to kill me, and I was scared. Believe me, I was scared. I didn't know what they were going to do. But they drugged me out—and I mean that, because I couldn't hardly walk. I had to limp. They took me by the office and they took me up to a police car and they drove me over to where they had picked me up, where we had established our headquarters, our union offices. They took me into the place. They got my belongings, made me carry them out to my car, threw me in my car, made me drive, two sitting alongside me in the front seat and three

(Testimony of James R. Robertson.)

in the back and started escorting me out of town. And they told me again, "Robertson, you are a smart guy. We've got our orders from up above. We have our orders from the industrial association of this city to get rid of you guys and we are going to get rid of you if we have to wipe you out. Now we are going to take you across the Mississippi River and we are going to turn you loose, and you keep going, Robertson, until you get out of [5002] Louisiana, because if you stop at any point in this state, when the sheriffs of these outlying parishes get hold of you, they will really show you how to work you over."

And they drove me out of town and they left me and told me to keep going. And I drove several miles—I don't know how far—until I came to a filling station and I stopped. And I asked that I be allowed to use the phone, and I went in and used the phone. I went in because the guy there helped me, and he was curious to know what had happened. And I didn't tell him. I just said, "May I use your phone?" And he let me us it. And I got in touch with our counsel, a Mr. Dowling in New Orleans, an attorney there. I told him where I was and what had happened, and he said, "Well, we have been looking for you now for a long time because there is no record—there is no police record of your having been arrested, and we will be out to get you as soon as we can." And eventually they did come out and they did get me and they took me into town, and I was hospitalized.

Q. Did you receive any permanent injury from that transaction?

A. Yes, I received a fractured spine. [5003]

Q. And you said a few moments ago that you were referred to as one of the Communist CIO. Was that a phrase or name that was applied to all ILWU workers?

A. That was applied to everyone at that time. I well remember John Brophy. He was the director of organization for the national CIO, a devout Catholic, and during this period of intense terror, he came down there, and the State Legislature passed a resolution condemning his presence, saying he was there fresh from Moscow, and the State legislators there said he should be thrown in the Mississippi River—Mr. John Brophy and all connected with him. Oh, I have been branded a Communist for so many years—so many years—so many years—so many years—but a lot of other people have, too.

Mr. MacInnis: May we take the recess?

The Court: We will take the morning recess, ladies and gentlemen. The same admonition not to discuss the case under any conditions nor form an opinion thereon.

(Recess.)

Q. (By Mr. MacInnis): Mr. Robertson, in view of the very last remarks that you made at the time of the recess, I want to interrupt with these questions: Have you ever been a member of the Communist Party? A. I have not.

(Testimony of James R. Robertson.)

Q. Did you ever join the Communist Party?

A. I have not. [5004]

Q. Did you ever make any application to join the Communist Party? A. I have not.

Q. Did you ever pay dues to the Communist Party? A. I have not.

Q. Was the statement made at the outset of this case by one of the prosecutors that not only were you a Communist but that you knew Harry Bridges and Henry Schmidt were also Communists a true statement or a false statement?

A. False statement.

Q. Now, to return to the narrative of the years of your activities with the ILWU, which you carried up to the point of your own injury in New Orleans, let me ask you this: Did the union attempt any action at law in order to put a stop to activity of that sort?

Mr. Donohue: I object, if your Honor please. Obviously we couldn't be bound by an action which may have occurred in the City of New Orleans.

The Court: Yes, I think so, Mr. MacInnis. The retaliation that may have been taken by his union on his behalf would not tend to affect any issue in this case.

Mr. MacInnis: I don't pretend to state that the union retaliated. The union was in no position to retaliate.

The Court: Well, or any action that the union might have taken in that matter. I will sustain the objection. [5005]

(Testimony of James R. Robertson.)

Q. (By Mr. MacInnis): How long did you remain in New Orleans?

A. I remained there until the summer of 1939, I believe. I returned to the coast for our own convention—when I say "our own," I mean the ILWU convention of that year—and I returned again to the Gulf, to New Orleans, and I remained there for several months.

Q. And did you bring to any point of termination the work of organizing in that region?

A. Yes. We mobilized our forces as best we could, turned our organizational work over to local people, and I returned to the West Coast, to San Francisco.

Q. In other words, there was a time when the reign of terror stopped?

Mr. Donohue: I object to that question, if your Honor please. I think there is no justification for the suggestion in the question of a reign of terror, and I object to the question.

Mr. MacInnis: I will rephrase it.

Q. The activities of the industrialists of New Orleans, which you have narrated, did those activities come to a stop?

Mr. Donohue: I object, if your Honor please. There is no evidence that the activities that were suggested as having taken place by the New Orleans police department were the activities of the New Orleans industrialists.

Mr. MacInnis: He says they were. [5006]

Mr. Donohue: That doesn't make it so.

(Testimony of James R. Robertson.)

Mr. MacInnis: It makes it so so far as I am concerned.

Q. Did the activities concerning which you have given us the narrative stop or did they continue?

Mr. Donohue: I object, if your Honor please. If he wants to ask this witness whether he was assaulted or arrested again, of course I would have no objection; but to ask him whether certain activities which he has narrated as having been personal with himself continued, I think, is an improper question.

✓ The Court: Well, Mr. Robertson, you may continue. I assume that this narrative as to New Orleans will be concluded shortly, Mr. MacInnis.

Mr. MacInnis: I believe so.

A. I would say the industrialists of the South, which would include the industrialists of the New Orleans area, were not as far advanced as industrialists in other sections of the nation, and, based on my personal knowledge, their activities against unions did not cease. And that was demonstrated when the union itself went into court trying to secure injunction proceedings to stop some of the activities that were going on. The injunction was not granted. Federal Judge Borah—by the way, now deceased—heard that case. He did not grant court injunction, but did he say that if that type of activity carried on at that time by the police department of New Orleans continued, he would issue an injunction. And I would say in [5007] that respect it eased up a little bit. I was never arrested

(Testimony of James R. Robertson.)

again in New Orleans, but sitting in the office of an employer in 1939—I was called there early one morning because the workers on the job had some dispute that they wanted to settle, and they called me in—we were sitting in the office of the employer, and suddenly four policemen appeared on the scene in the office, and they asked the employer, "Do you want us to get rid of these so-and-sos?" The employer said, "No." And they said, "Well, if you do, just let us know; we know how to handle them." He said, "No, everything is all right." And everything was all right for the simple reason that the workers on the job were standing by outside awaiting a settlement of the dispute at hand. When the police department left, we did settle the dispute to the satisfaction of both parties, and that incident was closed.

Q. Where did your work with the ILWU take you after you left New Orleans in 1939?

A. I returned to the West Coast in 1939 and worked with our various local organizations up and down the coast for a period of time, and then I was assigned to start organizational work in the Midwest and East, and I went East in early 1940, I believe, and I continued my organizational activities in various sections of the nation from 1940, from that point until I believe the summer of 1944. I concentrated primarily in the City of Chicago, Cleveland, the Twin Cities—that is, [5008] Minneapolis and St. Paul—Washington, D. C., Baltimore, Maryland; to a limited extent St. Louis, Missouri;

(Testimony of James R. Robertson.)

Freeport, Illinois. These are all that come to mind at the moment—with major concentration in two industrial areas, being Chicago and Cleveland.

Q. Speaking of those areas in which there was major concentration so far as your work was concerned, what was the nature of that work and what happened there?

A. Well, the nature of my work then, as it is now, is organizational—is of an organizational nature. And spending a moment on detail—and I do so because I think it is important—when you move into an area where an organization has no established locals, you have to spend a lot of time in the preliminary work such as surveying the industrial section, finding out what plants would be best to concentrate on, and then go through the detailed procedure of working in and around those plants, using the techniques of an organizer in getting acquainted with individuals, finding out how they feel toward organization, developing an acquaintanceship, finding out how others feel, and by this laborious process begin to sow the seeds of establishing organization in a given unit or plant. These are the details, and all of my time has been spent in that direction for these many years.

And I might say in passing that the nature of my work is such that I have met with many people, primarily those people [5009] who are working in plants or organizations that we want to organize, and in selecting a force in each locality to help carry on this work, it is left up to my best judgment,

(Testimony of James R. Robertson.)

and we—I did the best I could to pick out people that I thought would carry on our activities.

Now, I labor this point to make it known that in my day-to-day activities over a period of years I have had countless, numerous meetings, not one, not two, but meeting all day and far into the night, with diversified types or groups, depending entirely on the plant or the group of plants we were concerned with organizing. And this is important to know, because, for example, working in the Cleveland area, we were concerning ourselves with organizing the particular plant, Patterson Leach. That was a structural steel warehouse. They had been in the AFL special skill workers for some forty years. And these workers came to us—and I hope this clarifies the question of rating—they came to us and told us that they were interested in organization; they were particularly interested in the type of organization where the rank and file would have some say in their local activities. And I remember I spent considerable time with that group, first of all explaining that there is no magic power from the outside coming in and help them and do the job that they would have to do; that this group of workers would have to recognize that if they wanted to belong to the type of the union that would give them the democracy [5010] they were seeking, they would have to proceed and carry 99 per cent of the load. They said they were willing to do that and wanted immediately to sign up in our union; and I felt it would be wise policy to refuse them,

(Testimony of James R. Robertson.)

telling them, "Get your group in the plant organized, get every individual worker into discussions, and let them know what you are trying to do, and let them know that if you want to change affiliation from that group to ours, what it means," and that they themselves would have to carry the brunt on this thing. And I recall we were three or four months in this process. There were some 160 workers in this plant, and we had 159 of them signed up and ready to make the move.

May I interrupt, counsel, by saying I am going into all of this detail on the one incident because it will cover many, and to give you the details of one will be the details of all, let us say, varying of course by degree, depending on the circumstances.

But this group of workers had proven not by what they had said but by their actions that they were ready to develop the type of organization that we have been developing—left-wing, rank and file control—that is what it means—and they made the move. They became members of our union. And suddenly there developed a situation as far as fury is concerned comparable to New Orleans, because this group of workers working on the job one day—and I can't mention the specific day of the [5011] week or I can't mention the specific day of the month, but it was in the early '40s—they were on the job working; they had made the move, the transition move to get into the ILWU. There was something peculiar going on that morning, though, because for the first time in the experience of the

(Testimony of James R. Robertson.)

workers on that job mounted policemen were circulating an area of eight or ten square blocks around that particular warehouse, and at noon, during the noon hour, suddenly some 300 people descended on that plant, and policemen, both mounted and foot, were around. And these men were from the AFL, and they started in on this group of 160 workers, and they beat them mercilessly. Twenty-eight of them were hospitalized, three of them were on the verge of death because of the beating that they took during that period. The policemen were there; they saw what was going on. Not one of the 300 people that descended on that plant was arrested. Not one. Not one arrest was made. Not one. [5012]

This employer had secured support from the A. F. of L. to the extent that they were willing to close down other structural steel warehouses and bring workers in to take the jobs of the workers who had organized into our union if it became necessary to break the organization of this group. I cite this detail in passing because it is typical of many others. And let me say when I tell you of my experiences with the forces of law and order as they deal with the police departments, don't think I am giving blanket condemnation of the forces of the law and order. I am telling you of my experiences in these particular situations where these forces were used, and I can only relate them as I live them and as I know them. And as a sidelight, when a group of workers were on strike, I have yet to see one instance where a policeman will arrest an

(Testimony of James R. Robertson.)

employer for violation of some law during that strike. I have yet to see that. But I want to say again emphatically I am not, in a blanket sort of way, condemning our forces of law and order. I am saying this, that the industrialists of this nation—and I say a large percentage of them—have down through the years learned that organization is here, organization of working people is here, and it is better to go along and deal with them rather than carry on this type of activity.

And I wanted to spend a moment in explanation there because I well recall, as I recite this incident, earlier experiences, the experiences that happened when I was growing up in the labor [5013] movement here in San Francisco. We had a picketing ordinance on the books here, and that picketing ordinance was used by the forces of law and order to carry on certain activities against the labor movement when we were trying to develop organization, and I well recall that the entire labor movement in this city rose up in arms, and with their united strength of labor they were successful in nullifying that ordinance.

Now, to continue with the Patterson Leatch story in Cleveland——

Mr. Donohue: May I ask, if Your Honor please, what possible bearing the Patterson Leatch story in Cleveland could have on the issues before this Court?

Mr. MacInnis: I think, Your Honor, we are at the last phase of the years that bring us up to the matters at hand. It is a very short portion.

(Testimony of James R. Robertson.)

The Court: You may proceed.

The Witness: Thank you, sir. There developed in the city of Cleveland, because of the organization activities of the CIO, of which we were a part, a certain type of struggle, and this Patterson Leatch is one of the incidents that resulted from this struggle. And I can well recall that the CIO Council of the City of Cleveland—now, that is a City Council which represents all the local organizations affiliated to the various CIO national unions in a given area—had audience with the mayor, Mayor Lautsche, and discussed this problem and told him of the [5014] seriousness of the thing, and what would ensue if some steps were not taken. Steps were taken by the city of Cleveland to eliminate this type of struggle, but it was after the incident I have related. But to continue as to my personal involvement, during this period of intensive organizational activity, we had concluded a meeting in the CIO Building which was downtown one evening and I started home. This was after the Patterson Leatch incident. I had started home, and I will never forget the night for two reasons: first, it was raining cats and dogs. It was really raining. And secondly, because of an incident which occurred when I reached my home there. I drove up the driveway into the garage, and as I got out of my car and left the garage, I started to make a dash for the house. Two men suddenly jumped out and they conked me over the head with a long piece of pipe. I did the only thing I guess a human being will do. I jumped straight in the air and I let out a war whoop like a wild Indian. I guess it frightened them because they ran away. But Robertson had received a head wound.

I finally got into my house because people living in that building came down and helped me up, and finally the police arrived. I told them my story. They took me over to the hospital. They patched up my head. Later they brought me out a whole raft of pictures asking me to identify someone who might have committed this assault, when I couldn't even see them because it was dark and because it was raining. [5015]

This little incident is again an illustration of the type of struggle that went on and what we were up against when we were trying to develop the organization of the ILWU. I tell of my own experiences because they are closer to me, but there were others. There were workers involved that took far more punishment than I did in these situations, believe me, because they were the ones that suffered the full brunt of the attack. And carrying on our organizational activities during that period, they were broad and extensive. They extended into the East Coast and Gulf, and being the director of our national organizing drive, we had many people at that time working for us. And you might have heard of a person named Panto. I believe that name has been mentioned. He among others was helping us extend organization to the Atlantic seaboard and into the Gulf, and just as Carey in New Orleans,

(Testimony of James R. Robertson.)
they disappeared. Cary was murdered. These people disappeared. We never found out what happened to them, didn't know what happened. They were helping in developing this organizational program I speak of, and this is typical of the type of activity I have carried on down through the years. I am an organizer; that is the nature of my work. I have met countless numbers of times with countless numbers of people. At all times I have to do that, morning, noon and night. Wherever workers are available I meet with them, regardless of who they might happen to be, and if they are working in a plant or in an industry that we [5016] are interested in organizing, we organize them, and we do not look down their throat to see what color their tonsils are or what church they go to or what other beliefs they have. All we want to know is that they are a worker on a job, that they are interested in organization, and that they will help to establish an organized movement of workers.

Q. What was the termination of your work in Cleveland and Chicago?

A. We have established locals in those areas you speak of now. I returned to the West Coast, as I say, in the summer of 1944 and my headquarters have been here ever since. But the nature of my work is such that I have to make tours of the nation. Sometimes I have to go to the Territory of Hawaii and occasionally I have to go up into Canada. That is the nature of my work, and direct-

(Testimony of James R. Robertson.)

ing our organization activities. The two phases: first, the organizing of the unorganized, and second, the servicing of our newly organized groups, and generally speaking, that is the nature of my work as it was and as it is today.

Q. Coming to the one incident in the record of evidence in this case in which your name is mentioned, a man named George Wilson, without telling us the time or the place or the persons present, said that he had attended a Communist meeting with you. Is that true or false? A. False. [5017]

Q. Did you ever attend any Communist Party meeting with a man named George Wilson?

A. I have never attended any Communist Party meetings with anyone.

Q. Did you know the man called George Wilson?

A. I knew George Wilson—not well. George Wilson came into the labor movement during that period of years I was away from the West Coast, and I have met him intermittently when I would have occasion to come in to San Francisco or when I would be attending a national convention of the CIO—and I have had the extreme good fortune of being a delegate to all the national CIO conventions with the exception of the 1939 convention held in San Francisco—and I would meet him rather casually, and it is in this manner that I have known George Wilson.

Q. Does any incident come to your mind which might serve as a motive for the testimony in which George Wilson gave your name?

(Testimony of James R. Robertson.)

A. Well, I am an organizer. I work hard. I am called a slave-driver by those who work with me, and knowing that George Wilson was head of our Bridges Defense Committee for many years, I have been critical of George Wilson because of his lack of activity in his position as head of the committee in not helping us develop and extend the support in this particular case. And I have been critical of George Wilson. I have been very critical. I think he is lazy. I think he is one of those types of persons in the labor movement that like the title that goes [5018] with the job and all the glory that might ensue but does not like to do the work, and that I can't tolerate.

Q. Did you have anything to do with the removal of George Wilson as head of the Bridges Defense Committee when he left?

A. No, I had nothing to do directly with the removal of George Wilson. I think in 1945, after the Supreme Court decision came down, the Bridges Defense Committee was disbanded and that automatically eliminated the job of secretary of the Bridges Defense Committee. That is the best I can remember.

Q. But you had been openly critical of him for a period of time?

A. I have been critical of George for a long time.

Mr. MacInnis: Shall we take the noon recess?

The Court: Yes, we will take the noon recess, ladies and gentlemen, and resume at two o'clock this afternoon. The same admonition to you not to discuss the case under any conditions.

(Thereupon a recess was taken until 2:00 p.m. this date.) [5019]

Afternoon Session, Friday, February 3, 1950

The Clerk: The witness on the stand is James R. Robertson, heretofore sworn.

JAMES R. ROBERTSON

resumed.

Direct Examination
(Continued)

By Mr. MacInnis:

Q. Mr. Robertson, after you came back to San Francisco, as you testified, in the year 1944, did your work ever carry you to the Territory of Hawaii?

A. Yes, I believe I made my first trip to the Territory in 1946. We had been conducting an intensive organizational campaign on in the Territory for the past two and a half years, I believe, and my services were required there in my capacity as director of organizational activities.

Q. And you were there about how long?

A. Oh, at that time I think I was there for a couple of months.

Q. And did you do about the same kind of work in Hawaii as you did in the Gulf region and in the Cleveland and Chicago territory?

A. Yes. That nature of my work is such that I

(Testimony of James R. Robertson.)

have to visit all of our various units. And we had many at that time in the Territory. We had just concluded a successful organizing campaign in three of the basic industrial groups there. And I [5020] refer primarily to the waterfront group—that would include the longshoremen and the auxiliary groups that work with them. That would include the workers in the sugar industry, and the workers in the pineapple industry. And I refer now both to workers in the mill and in the field in regards to sugar, and in the cannery and in the field in regards to pineapple. And it was my duty, of course, as an organizer, to visit all of our various units throughout the Territory, and we had established organizations on the six principal islands, I believe, in the Territory.

Q. Now, in any of the matters that you have told us about, were your efforts inspired or directed by the Communist Party?

A. Not at all. My efforts were inspired and directed by the program of our organization, and particularly that phase of our organization's program which dealt with organizing the unorganized workers.

Q. Now, in 1934 at the time of the strike or at the time preceding the strike, what were the wages current in the warehouse where you worked?

A. I was getting 37½ cents an hour.

Q. What is the wage prevailing for that job today?

A. The basic wage in the warehouse industry to-

(Testimony of James R. Robertson.)

day, as a result of the last contract, is \$1.47½. We have rates above that, but that is the basic wage which is paid in the warehousing industry now throughout the San Francisco Bay area. [5021]

Q. Immediately preceding the time when you went down to the Gulf States and engaged in the organization work that you have told us about, what was the basic wage in that territory?

A. The basic wage of the warehousemen and those workers that would be directly connected with that phase of work ranged anywhere from 18 to a tops of 25 cents an hour. And that is for each hour worked. You remember in those days—well, that applied to San Francisco as well as New Orleans in those days—you were paid for the number of hours you worked per day. For example, if a group of workers would show up to unload a string of boxcars on a siding somewhere first they might have to wait around until nine o'clock in the morning until the cars are spotted and then they are ready to go to work, and they would unload them, say, in three hours; they would get paid for that three hours' work. And if there was a break, if it took a few more hours to get another string in for them, they would have to stand by and they would not be paid for those hours in between, and if they happened to get eight hours additional that day, then they would only be paid for the hours they worked. And of course at that time premium pay, commonly referred to as overtime—or more specifiically as it applies to our union, time and a half—was unknown in those days. I can recall in my own case; I was in the grocery industry, and I was getting 37½ cents an hour just for those hours I worked, and on many occasions we will have to go to work early in the morning. [5022] That is when the fresh produce is assembled and loaded onto the trucks for delivery to the retail outlets, and I would work several hours usually in the morning, and maybe they would tell me to stand by and there will be an hour's work later in the day, and naturally I would stand by to get paid, and stand by for the work, but I would only be paid for the hours actually worked. And finally when I developed to the point that I had, let us say, a steady job in the dry warehouse that I referred to earlier, I would work steadily; I would work eight hours, and if I had occasion, I would work overtime. If I would work beyond the eight hours, we wouldn't get premium pay or time and a half, we would get straight time regardless of the number of hours worked. And I know of countless numbers of instances where workers would get 60 or 70 or 80 hours a week at the straight time rate of pay.

Q. So that there were other improvements additional to any hourly wage rate increase?

A. Counsel, that is the purpose of the trade union.

Q. Yes.

A. To—primarily, the purpose of a trade union is to concern itself with bettering the wages, the hours of work and the general working conditions. And as a result of developing a simple program of that kind, we have been able to secure for our membership such things as vacation with pay. That varies, but all of our people get at least one week and a majority of [5023] them two weeks' vacation each year, depending on their length of service in a plant. We all have sick leave. We all have job security. And I think that is the most basic thing that we have gained in our movement, is job security, because that means that the individual is secure in his job; it means that the employer cannot discharge a person because he might not like the way he parts his hair or he might have some other little grievance against him, or as is the case in many institutions in the past in my experience, he might have a relative of his that he would want to put on the job, and he would bring him down, and he would indiscriminately let someone who was working on the job go and place his friend. These are little examples of conditions before and conditions after. All of this has been eliminated, of course, and it has been eliminated in the sense that should a grievance develop, over any of these procedural things that I have raised, we have machinery within our union contract calling for a committee within the plant to meet with a committee of the employers and there they sit down and they work out a solution to those problems, but not at the expense of the individual employee. And I might say that today there is a feeling of mutual respect each for the other. And by that I mean a feeling of mutual respect: The employer respects our organization, and we respect the employer. And when

(Testimony of James R. Robertson.)

a condition such as that exists, it is [5024] easy to work out all of your differences, because my experiences as a worker and my experiences as an official of a labor organization have proven to me beyond any question of a doubt that working people are not unreasonable people; that they can settle their differences with their employer or employers if they have the proper type of machinery set up to do it, where they are not always constantly involved in struggle on the part of the workers to get this type of recognition. So I would sum up by saying the greatest gains we have made—and I speak in this broad sense now, but I refer particularly to the organization I am a member of, the ILWU—the greatest gains we have made down through the years: One is recognition, that is, the right of our union to live, where employers are not always attacking us; they have recognized the right of our union to live, and from that basic right comes all of the other things I have talked about, and primarily in my mind the most important is security—security of the individual on the job, knowing that his job rights are protected, and that if this individual is guilty of something, we have a trial, if I may call it that—trial in the sense that the union has machinery set up where we meet with the employer and we reason it out; if we find the individual guilty, he is meted out a sentence, if that is the proper way of expressing it. He is penalized if we find him guilty. But it isn't done indiscriminately. The union has as much

(Testimony of James R. Robertson.)

voice in determining this issue as the employer. And that is the important thing. [5025]

And finally, this has resulted in a feeling of security, a feeling that working people have the human dignity that they are entitled to. And, oh, how that was needed in the Territory, in my experiences there in the few years since I have been going over there. Now they have self-respect. They can hold their heads up and they can live like human beings. And they have gotten away from those terrible days that they lived in the past. And I have had any number of individuals, particularly in the Territory, come to me and tell me the conditions that they had to live under there. And you talk about low wages. When I made my first tour of the Islands——

Mr. Donohue: If your Honor please, I do not think that anything that may have had something to do with the conditions in the Territory of Hawaii is at all pertinent to the question of whether or not this defendant on the 17th day of September, 1945, conspired with Harry Bridges and Henry Schmidt to violate the naturalization laws. While I appreciate he is a very voluble speaker, I think at the same time there should be a limit set within which Mr. Robertson may be permitted to express his experiences. I think we ought to come down to the issue in this case.

Mr. MacInnis: Of course, if the only thing that the special prosecutor understands from what has been said is that Mr. Robertson is a voluble speaker,

(Testimony of James R. Robertson.)
I could not undertake to educate him. But the special prosecutor concludes that every [5026] activity of these men has been a Communist activity. I think that we ought to put before the Court and jury the sum total of everything that they have done, to point out to the Court and jury the difference between militant trade unionism on the one hand, and what is alleged to be Communism on the other. I just have one or two short questions on the same subject, your Honor.

The Witness: May I continue, your Honor?

The Court: Yes.

The Witness: The situation in the Territory of Hawaii, that is a volume in itself, but to deal with the two or three points I was making, when I made my first tour of the Islands I found workers getting 18 cents an hour, workers who had been pinned down to plantations, pinned down because of the war situation, and they were not allowed to leave those plantations.

Now, bear in mind these people were of Japanese ancestry. They were from the Philippine Islands. They were from the West Indies. They were from China. They were from all over the world, a conglomeration, and believe you me, it is just that. But they happen to be the working force that we found in the Islands. And the conditions under which they worked, the wages they received, their being tied down to the job, all of this combined made them recognize the need for drawing themselves together and trying to better themselves just a little, and

(Testimony of James R. Robertson.)

they did just that. When I mentioned they were getting 18 [5027] cents, 20, 25 cents an hour, these were top wages. I think the top wage in the Territory in the sugar industry—and I speak of field workers, the guy that cuts that stalk of cane, sends it in to the mill, and it comes to us in the form of sugar—that guy was getting the tops of 31 cents an hour, and he was pinned to that job. He couldn't leave that job and go into the metropolitan area, and it is confined primarily to the city of Honolulu. He had to stay there. Yet countless thousands of workers were brought into that Territory and they were paid the prevailing wage rates established on the mainland by the various crafts, and that was much, much greater, much, much greater than the wage rates these workers received.

Now, that deals with the wage question. But something else that amazed me. I would go into a plantation, a sugar plantation. You would have your mill and you would have all of the surrounding area where the sugar cane is grown, and you would have your center of activity around the mill, and you would have your various types of workers. You would have your Americans of Japanese origin, you would have your Americans originating from the Philippine Islands, and you would have Americans originating from the south of Europe. And I mention this in detail because not only was the wage structure controlled, but their very existence was controlled. These people lived in various sections of the community in their plantation, narrow as it might be, based on what their nationality happened to be. The [5028] Americans of Filipino extraction were given the worst jobs. They did the manual, dirty labor. The Americans of Japanese extraction were given the jobs on the next rung of the ladder, let's say the semi-skilled work, both in the mill and in the field, and the Americans from the south of Europe were given the highest skilled jobs, and they were drawn for the second, third and fourth level of supervisory positions.

But this is the control the employers had, not only of the economy of the Territory as it applied to the working people, but their social existence as well.

And we preached a simple doctrine, call it whatever you may: "Let's all get together. Let's sit down and review what our problem happens to be." Then all of us working together, we can eliminate all of the various forms of discrimination that has been going on, both economic and as far as their social life is concerned.

I must confess to you that we did that. Today we have 25,000 workers organized in the Territory of Hawaii. Their basic wage rate in the basic production groups happens to be 80 cents an hour. Of course, that is not as much as I hope it is in the future, but it is a substantial, a substantial increase from what they were getting, three, four and five short years ago. Now, call this what you may. To me it is ILWU gospel. It is ILWU building a labor movement, and that is all I know, and that is what

(Testimony of James R. Robertson.)

I believe in, and that is what I am [5029] proud of.

Q. There is just one matter left unfinished. You said when you went down into the Gulf territory that the workers of whom you spoke were getting 18½ to 20 cents an hour. A. Yes.

Q. What do they get now?

A. The base rate in the cotton compress industry, I believe, is a dollar an hour. I would use that figure. I might be off a cent or two one way or the other, because it varies. There are so many qualifications there. I would say the base rate is one dollar an hour.

Q. At the time that you were indicted, Mr. Robertson, were you engaged in the prosecution of any strike? A. Oh, yes.

Q. What strike was that?

A. The international, through the machinery of our organization, and in discussions with the local officers and the membership of Local 6, had worked out a program which called for assigning me as one of the international officers to work with Local 6 in developing a program of mobilizing the membership to secure the demands that were then being discussed and had been presented to the employers, dealing with a contract opening in the contract that existed between Local 6, which is the warehouse local of the ILWU in San Francisco, and its environs, and the employers as represented through the employers' association. [5030] I was assigned by the international as one of the international officers to devote not my full time but a majority of my

(Testimony of James R. Robertson.)

time to working with Local 6 in devolping a program of carrying us through this pre-negotiation, negotiation period to secure our contract.

Q. What salary do you make now, Mr. Robertson?

A. I make $125 per week, and I am allowed, I think it is, $20 a week expenses.

Q. That expense account is a fixed amount?

A. That is fixed by each of our conventions.

Q. It cannot be increased?

A. It cannot be increased at any time other than a national ILWU convention. The salary of the officers of our union—and we only have four titled officers—it is always fixed at convention, and convention means every two years now—we used to hold them once a year. Every two years we call together delegates from all our various locals throughout the nation, and there we work out a policy and a program to guide and direct us for the ensuing period, and among many, many other things, questions such as what are we going to pay the officers comes up, and fortunately they gave us a ten dollar a week raise at the last convention.

Q. To proceed to the matters involving your appearance as a witness in the citizenship application of Harry Bridges, after you met Harry Bridges, at a time which you say was probably in [5031] 1937, how well did you get to know him?

A. Oh, I know Harry as well as anyone can know a person when you work with him, not day to day, on the basis of personal contact, but when you work

(Testimony of James R. Robertson.)

with him as closely as I have worked with Harry down through the years since I became a national officer. I became a national officer of the ILWU in 1939, I believe. That is when we reorganized our structure and it was at that time that I was elected first vice president of the international and also head of the organizational activities, and I have held that position ever since. And the nature of my work brings me in contact with Harry sometimes every day in the week, and as I have told you, when I am away on trips I do not see him for some periods of time, but I know him probably as well as any human being can know another under the set of circumstances.

Q. On one day in August, 1945, did you go over to the City Hall at a time when Harry Bridges was filing a petition for citizenship? A. Yes.

Q. What was the circumstance under which you happened to go along with the others on that day?

A. I was on my vacation at the time and I drifted into the office. I was going to the courthouse that day. Whether I went to the office or not—because I knew—Now I can't fix the dates. I can only tell you this story as it develops in my [5032] mind, and based on everything that has come out here, I am sure it is the 8th of August that Harry went down to the courthouse and we all went down. I was among them. I was standing around like everybody else, and there were many, many people there—in fact, people in the building up on the second floor, down in the basement—they all came up. I guess they all knew what was going on. So there were crowds around, and I was standing in the room. And for the life of me I couldn't at this moment tell you just where the room was or any details such as that, but I was there.

Suddenly, and I do not know what was happening inside because I wasn't there—suddenly Dick Gladstein stuck his head out of the door and he looked over at the crowd and he saw me and he said, "Come on, Robertson. You will be a witness for Bridges," or words to that effect. And of course, I was proud of standing up for Bridges and being a character witness for him. I had no idea that this was going to happen, because some time before I had talked to Harry—I think we met at the Bridges Defense Committee office. You see, we were at 604 Montgomery at that time, and our general offices were upstairs, and we had the Defense Committee office in a room downstairs, and I went in there one morning and Harry was in there. This was weeks before the August period and Harry was there, and a general conversation—Harry was there, others were there. Frankly, I can't remember the others that were there. I know [5033] Harry was there and I was there and a few others, and this question of who was going to be a witness or who was going to be Harry's character witnesses came up, and someone said, "Well, in view of the Supreme Court decision it would be easy to get anyone you would want to be a witness."

And Harry, I can remember very emphatically—

(Testimony of James R. Robertson.)

Harry said, "No, I want two people from the labor movement to represent me. As far as I am concerned, it could be Paul Schnurr." Paul Schnurr, you know, at that time was president of the CIO City Council and Paul, of course—Paul Schnurr has a long record of labor activities. He has been in the labor movement long before I ever knew anything about it, and he has a wonderful record. Harry indicated that that was one of the persons he wanted, and then he said, "And Henry Schmidt." Henry happened to be secretary of the council, and in that position with Paul they represented not only the ILWU, but they represented all of the CIO unions that happened to be affiliated to the Council at that time. And he indicated very strongly that he wanted two people from the labor movement to represent him. They were going to be his character witnesses. So I took it for granted it is going to be Henry and it is going to be Paul. They are going to be his character witnesses.

Q. At any time previous to the moment when you found yourself summoned into the room at the City Hall, had anybody on behalf of Bridges or any other person asked you to do anything in respect [5034] to Bridges' application for citizenship?

A. No. As I told you, the only conversation I had with Harry on this subject matter dealt with the story I have just told. No one has ever asked me anything in that regard.

Q. Did you have any understanding or agreement with any person prior to that August date as to what was to be said or as to what was not to be said?

A. Oh, certainly not, no discussion even.

Q. When you went into the room of the immigration examiner on that morning in August of 1945, what took place?

A. Well, I was called in and, I guess, I sat down. I don't recall all the details. And I was presented as one of those who was going to be a charac witness for Mr. Bridges, and I was asked the routine questions: my name, my place of origin, am I a citizen of the United States. "How long have you known Mr. Bridges?" And I told how long I had known him. I think I said ten years or so. I don't recall exactly what answer I gave. And "Is he a man of good moral character?" I said, "Yes, he is." "And is he a man you would recommend for citizenship?" And I said, "I most certainly would." That is the gist of what happened there.

Q. After that time did you make any arrangement or were you told by Harry Bridges or by any other person that you would be expected to accompany him to a session of the Superior Court? [5035]

A. Well, knowing that I had been a witness in the earlier proceedings, it followed in my mind when it is finalized, I am going to have to appear with him. Now, I can't recall receiving any letter or anything like that. I just knew that the 17th of September had been set as the date and I knew I was going to be there. That is the best I can remember on that.

(Testimony of James R. Robertson.)

Q. In other words, some time between August 8th and September 17 information came to you that September 17th was going to be the day?

A. Yes, that is right.

Q. Now, at any time between those two dates did Harry Bridges or any other person tell you what to say at the hearing? A. Oh, definitely not.

Q. At any time between those two dates did Harry Bridges or any other person tell you what not to say? A. Oh, definitely not.

Q. Did you have any agreement or understanding with Bridges or with any other person about what you should say or what you should not say?

A. I had no discussion with anyone on this matter, no discussion at all.

Q. When you appeared before the Superior Court in the person of His Honor Judge Foley on September 17, 1945, does this transcript already read to the Court and jury reflect what was said by you in answer to questions. And I will read [5036] them again:

"Q. The witnesses are both citizens of the United States?

"Mr. Robertson Yes.

"Q. You each have known the petitioner for the last five years or longer?

"Mr. Robertson: Yes.

"Q. And you know him to be a resident of this county at this time?

"Mr. Robertson: Yes.

(Testimony of James R. Robertson.)

"Q. Do you each vouch for his loyalty to the United States?

"Mr. Robertson: Yes.

"Q. Do you recommend him as a person of good moral character?

"Mr. Robertson: Yes.

"Q. Do you recommend him to this court for citizenship?

"Mr. Robertson: I do.

"Mr. Garner: These witnesses are satisfactory, your Honor."

Is that your memory of what took place at that juncture?

A. Yes, but if I recall correctly, I think there is a point where they said they could be excused, because I know I walked out from wherever we were, the room we were in—I walked out of the room and went down the hallway for something. That I recall, leaving the immediate vicinity of where I was at that [5037] time and walking down the hallway.

Q. When you made those answers in response to to the questions of the immigration representative, did you truly believe that Harry Bridges was a person qualified and fit to become a citizen of the United States?

A. Without any question whatever.

Q. Do you still believe the same thing?

A. Yes.

Q. When you made those answers to those questions, did you believe that Harry Bridges was in

(Testimony of James R. Robertson.)

truth devoted to the principles of our Constitution?

A. Yes.

Q. Do you have the same belief today?

A. Yes.

Q. What were your reasons, Mr. Robertson, and what were the bases for the answers which you gave and the position that you took in being a sponsoring witness for Harry Bridges at that time?

A. Well, I lived with the guy. I knew him. I knew what he stood for. I had been guided more or less by the things he had fought for and stood for. I admired him. And he helped to build this movement of ours and made one of the greatest contributions that could have been made, in my opinion. I respect him highly as well as just liking him as a person. I think he has made a real contribution to the labor movement. I know [5038] him and I know what that guy has been through in the last 15 years. I know how he stood up and fought when others might have turned and run, and foremost—foremost in all these battles that have ensued over the years is the fact that he has fought for the type of union that we have had. Now, these are some of the basic reasons that I feel that Harry Bridges is entitled to be a citizen of this country and he is just as good a citizen as you will ever find.

Q. Did you base the answers that you gave at that time and the position that you took as a sponsoring witness for Harry Bridges in his citizenship proceeding entirely upon your own observations of him or did you base them upon any other matters as well?

A. Counsel, one does not live in a vacuum. One sees what goes on around him, and down through the years I have heard the question of Harry Bridges raised. [5039]

Beginning away back in 1938 when I attended the first CIO convention, 1939, 1940, 1941, 1942, down through the years, the question of Harry Bridges has been raised at gatherings such as these, and the labor movement—the labor movement as represented in those official bodies have always given support to Harry Bridges. And I have talked to many individuals, countless individuals within the labor movement and without on this case down through the years, and they all see this case directed to destroying the militant union movement and using Harry Bridges as the figure to shoot at to do it, and in so doing thinking—thinking they can destroy the movement. Now, that is one facet of my thinking; having met with people in the labor movement, I have read various materials on this subject matter. There have been countless pamphlets out; there have been countless statements made. I recall now the Lafollette Committee report. The Lafollette Committee, I think, is a subcommittee of the Senate Committee on Labor and Education, and I read a report——

Mr. Donohue: Just a minute, please, Mr. Robertson. I think if we are going back as far back as the Lafollette Committee report, if your Honor please, we will never finish. I think this defendant is entitled to make as broad and as complete a statement as he wishes of what he has himself done or what he has said. But to permit hearsay testimony by this witness of the investigation or conclusion of the Lafollette [5040] Senate Committee or any other committee is certainly not pertinent, not relevant to the issue, and I object to it.

Mr. MacInnis: A few minutes ago the special prosecutor asked us when we would come to the question of whether or not the defendant Robertson conspired with the other defendants to evade the laws of the United States. He is charged with engaging in a fraudulent conspiracy. His intentions, his motives, the good faith of what he did, his reasons, the soundness of them, the honesty of them, are all in issue in this case. He is entitled to tell the Court and jury what his reasons were for making the answers he made and for taking the position that he took. Now, that is exactly what he is doing, and in stating to the Court and jury what the bases for his answers were, for what he thought about Harry Bridges, for what he says he knows about Harry Bridges.

The Court: As I recall, yesterday reference was made to this same committee in the testimony of Mr. Schmidt.

Mr. MacInnis: Yes.

The Court: The question was presented to Mr. Schmidt, and my recollection further is that we did not launch into the internal operations of the

Lafollette Committee. I think Mr. Schmidt made some reference to it.

Mr. Donohue: Yes, because Mr. Schmidt said he was engaged by the committee to do a particular act, and we made no objection to it. [5041]

The Court: I will have to sustain the objection, counsel.

Mr. MacInnis: To what?

The Court: I sustained the objection.

Mr. MacInnis: To what?

The Court: To the question presented with respect to the operations of the Lafollette Committee.

Mr. MacInnis: There wasn't any question asked about that.

The Court: I understood you were launching into that phase.

Mr. MacInnis: What question does your Honor have in mind?

Mr. Donohue: The witness discussed in answer to the last question asked of him by Mr. MacInnis what had been the attitude of the Lafollette Committee.

The Court: Would you read the last question?

The Reporter: I haven't the last question, but the last part of the answer was, "I recall now the Lafollette Committee report. The Lafollette Committee, I think, is a subcommittee of the Senate Committee on Labor and Education, and I read a report"——

The Court: All right.

Mr. MacInnis: You see, in explanation of what

(Testimony of James R. Robertson.)

has taken place now, the objection of the prosecutor isn't really an objection to the question, because the question was just the blanket question, "What were your reasons for stating what you did?" But what he says now is that Mr. Robertson may not [5042] utter the words "Lafollette Committee report"; that if he says, "I depended upon that" he objects to it, he can't say that, says the prosecutor. Now, I say——

The Court: Would you reframe the question?

Mr. MacInnis: I say that the question was entirely consistent——

The Court: Would you mind reframing the question. Perhaps I can rule on it then.

Q. (By Mr. McInnis): Mr. Robertson, tell the Court and jury what the bases were, in addition to your own observations and knowledge of Harry Bridges, for the answers you gave concerning him at the citizenship hearing.

A. Well, as I started to say, discussions with others, actions taken by organizations, studying of the transcript of the various trials, particularly the Landis trial and the Sears trial, and all of the stages from the Sears trial up to the Supreme Court decision—all of these things had a bearing in making up my decision on this matter. And I have read them: I have read the statement of Philip Murray, how he dealt with this situation. I have read the statement of others connected with the CIO, and particularly with reference to how we can use this type of an instrument to move in on the

(Testimony of James R. Robertson.)

labor movement and how we must come to the assistance of individuals who are being persecuted in this manner. Of course, I read the Lafollette Committee report. That report was several [5043] years in being—in investigating and being developed, and it came out in 1943. And years after many of these things has happened, that report brought out very clearly why the employers and why other forces were interested in pressing the case against Harry Bridges; the vicious attacks in the newspapers against him; the vicious methods used to undermine our union from forces within, using all of the various devices that employers had at their command in those days. This was all brought out in this report, and surely that had some bearing. Why? Because I had lived those experiences here in San Francisco in the early years and I had some personal knowledge of what was going on. And finally, a decision of the U. S. Supreme Court came out. I studied that decision. I studied the majority decision and I studied the concurring decision, and I made up my mind then and there that President Bridges was not, had never been, and was never affiliated with the Communist Party; and the Supreme Court of the United States is something that I think speaks with authority.

Q. I will hand you, if I may, Defendants' Exhibit B for identification, which is the decision of the Supreme Court of the United States in the matter involving Harry Bridges, and I will ask you to tell us whether or not this is the decision you say you read, or a copy of it.

A. Mr. Justice Douglas—yes, yes, yes. Yes, it sure means that to me, and this last paragraph sure spells it out very, [5044] very clearly.

Mr. Donohue: Just a minute, Mr. Robertson. I object, if your Honor please, to the witness reading from any portion of the opinion of the Supreme Court of the United States. Of course, Mr. MacInnis, knowing that this document has been ruled out consistently, now apparently feels that he can get it in by having this witness say that his decision to testify as a witness for Harry Bridges came to him because he had read the decision of the Supreme Court of the United States. I say, if your Honor please, that this decision is purely hearsay as far as this witness is concerned; even if it were not hearsay, and even if the only reason why he appeared as a witness for Harry Bridges was a decision of the Supreme Court of the United States, that wouldn't justify it being read, nor would that justify him standing as he did for Harry Bridges in the face of the allegations in this indictment.

Mr. MacInnis: Well, now, the special prosecutor, if I may say so, offers the astounding statement—astounding statement—that accepting as true the statement of Mr. Robertson that he relied upon this decision and its contents, accepting that as true, he still would not have been justified in relying upon the Supreme Court of the United States. I don't know what to say.

The Court: Mr. MacInnis, I ruled on the matter late yesterday afternoon in association with the testimony of Mr. [5045] Schmidt.

Mr. MacInnis: I appreciate that.

The Court: I again rule. You are now making your reoffer of the document. You have reoffered the matter for the record, and I again sustain the objection for the reasons therein assigned.

Mr. MacInnis: No further questions.

Pardon me. We again offer the document into evidence as Defendants' Exhibit B in evidence.

The Court: And the objection is sustained as heretofore interposed.

Mr. MacInnis: That is all.

Mr. Donohue: Shall we take the recess at this time, your Honor?

The Court: Ladies and gentlemen of the jury, we will take the afternoon recess. The same admonition to you not to discuss the case under any conditions.

(Recess.) [5046]

(The following proceedings were had in chambers out of the presence of the jury:)

The Clerk: I wish to call to your attention the fact that there has just been filed in the office of the Clerk a motion by Mr. MacInnis, which I might ask Mr. Donohue to read. He is more familiar with legal phraseology than I am.

Mr. Donohue: The pleading caption is "Motion," bearing the following language:

(Testimony of James R. Robertson.)

"Certificate of counsel.

"I, James Martin MacInnis, hereby certify that the attached affidavit, the same being in support of a motion to disqualify United States Judge George B. Harris upon the matters and things therein stated, is filed in good faith.

"Dated February 3rd, 1950.

"/s/ JAMES MARTIN MacINNIS."

Mr. Hallinan: That has nothing to do with this case; that has only to do with the contempt proceeding. Why is the prosecution interested in it?

Mr. Donohue: Attached to which there is a document captioned "Affidavit and Statement of Disqualification of United States Judge George B. Harris."

"James Martin MacInnis, being first duly sworn, deposes and says:

"I am an attorney at law practicing in all the courts [5047] of the State of California and in the District Courts of the United States and I am an attorney for certain defendants in the above-captioned cause. Because of matters and things arising in the course of said trial and discussions and controversies between affiant and Hon. George B. Harris, Judge of said Court, and because of affiant's position as such attorney for said defendants, there has grown up between affiant and said Judge a great ill will and hostility; that said Judge has manifested and shown said ill will and hostility on numerous occasions throughout said trial by his conduct and demeanor toward affiant and his statements addressed to him and said Judge has many times in the court in the presence of numerous persons publicly insulted affiant and criticized and threatened him and has displayed toward affiant a growing hostility and ill will.

"By reason of the foregoing and certain other matters occurring before the inception of said trial, the said Judge bears toward affiant a strong feeling of malice, hostility and ill will and also bears toward affiant personal hatred, prejudice and bias."

Signed, "James Martin MacInnis," and subscribed and sworn to on this 3rd day of February, 1950.

Mr. Hallinan: I don't see how that concerns you at all. Why are you taking a part in that? What are you taking an [5048] interest in it for? If Mr. MacInnis doesn't want to have the remainder of the contempt proceeding tried by Judge Harris, why is that any of your business?

Mr. Donohue: There wasn't anything in that, Mr. Hallinan, that says it only related to the contempt proceeding.

Mr. Hallinan: Of course it has nothing to do with this case at all.

Mr. Donohue: It bears the number of this case.

The Court: Perhaps unwittingly, Mr. Donohue, I think I suggested that it be read.

Mr. Hallinan: It has nothing to do with the trial at all.

The Court: No reflection on either——

(Testimony of James R. Robertson.)

Mr. Hallinan: It has only to do with the contempt proceeding.

The Court: Mr. MacInnis, I stand on the record in this trial and my conduct in the trial toward you. I regard the affidavit as insufficient as a matter of law.

I referred to a number of cases earlier in the transcript during the time that Mr. Hallinan's matter came on, and I now reaffirm the doctrine of those cases in connection with this affidavit. I therefore deny the motion.

Mr. Hallinan: Has the document been filed?

The Court: Yes, it appears to be filed.

Mr. Hallinan: So he put it in the record, Judge; that is the proper thing to do. [5049]

The Court: Mr. Hallinan, I say to you, and I say to you, Mr. MacInnis, that whatever document you may require in the record, that is your privilege.

Mr. Hallinan: It is too bad that caption misled anyone into thinking that it had to do with this case, because it hasn't.

The Court: There is no reflection on Mr. Donohue, because I think when the matter was called to my attention——

The Clerk: I may take the blame, if your Honor please. I wish to apoligize.

Mr. Hallinan: Then nobody has to take any blame, because you have been doing enough without having to take the blame——

The Clerk: I felt that the terminology of it was

(Testimony of James R. Robertson.)

such that perhaps it had a bearing here upon this trial.

Mr. Hallinan: I probably didn't specify closely enough that it was in the contempt matter. That was an oversight.

The Court: All right. It has been filed. Let us proceed.

The Clerk: Thank you for coming in, gentlemen.

Mr. Hallinan: Not at all.

(The following proceedings were had in the courtroom in the presence of the jury:) [5050]

Mr. Donohue: May I proceed, your Honor?

Cross-Examination

By Mr. Donohue:

Q. Mr. Robertson, directing your attention back to the time when you appeared in Judge Foley's court as a witness for the defendant Bridges would you have said then and do you say now that a member of the Communist Party is a person who is devoted to our form of government and devoted to the principles of our Constitution?

A. Will you ask the question again, pelase?

Q. On the 17th of September, 1945, the day on which you appeared as a witness in the naturalization proceedings of the defendant Harry Bridges, were you of the opinion then that a member of the Communist Party was a person devoted to our form of government and devoted to the principles of the American Constitution?

do

A. I have no knowledge of the program or principles of the Communist Party, Mr. Special Prosecutor, and not knowing what their principles or program happen to be, I can't answer that question.

Q. Mr. Robertson, you told us a few minutes ago that before you determined that Mr. Bridges was a man devoted to our form of government and who had adhered to the principles of our Constitution in answer to questions that were asked you in Judge Foley's court that you had read a number of pamphlets and that you had read a number of opinions and talked to a number of people, did you do all that in the few minutes intervening between the time [5051] that Mr. Gladstein notified you to come in and add your signature of endorsement to Mr. Bridges.

A. Mr. Special Prosecutor, the answer to that question is obvious: No one would have time to read the volumes of material dealing with this subject matter in that instant in which I was called from a room to appear as a witness for Mr. Bridges.

Q. Mr. Robertson, was it necessary for you in order to assure yourself that Mr. Bridges was such a person to whom citizenship might well be granted to refer to and to study all of the documents and pamphlets that you have recited?

A. No, let me qualify that, Mr. Donohue. All of these documents and all of these pamphlets that you referred to is only part of the things that helped me to make up my mind about Harry Bridges, just a part of it. I would say this: When I read the United States Supreme Court decision, and my interpretation of that decision removed in my mind all legal doubt that there might be that this gentleman was associated with or had ever been a member of the Communist Party.

Q. Was that why you were willing to take a chance and appear as a witness for him, Mr. Robertson?

A. Not at all, not at all.

Q. You are sure of that?

A. I am positive of that, Mr. Donohue.

Q. Now, during the time that you were busy in New Orleans, Cleveland, Chicago, Washington, D. C. and other places, in your [5052] capacity as an organizer for the ILWU, were you at the same time doing any organizational work for the Communist Party?

A. I have never in my life been associated with a member of or have done any work with the Communist Party, Mr. Special Prosecutor.

Q. Were you advised by Mr. MacInnis to refer to me repeatedly as "Mr. Special Prosecutor," Mr. Robertson?

A. May I answer that, your Honor?

The Court: Yes.

The Witness: Mr. Special Prosecutor——

Q. (By Mr. Donohue): Yes, Mr. Robertson.

A. ——in this courtroom or in an alley, man to man, you or no one else can intimidate or tell me what I am going to say.

Q. Have you seen any indication that anyone is trying to intimidate you in this courtroom?

A. I think the way you are developing these

(Testimony of James R. Robertson.)

questions is enough to do that, and I am very familiar with the techniques that are used.

Q. Do you object to the questions that I am asking you? A. Not at all, not at all.

Q. Then what is the objection to the technique I am implying in asking these questions?

A. What is the purpose?

Q. To develop the truth, Mr. Robertson.

A. Rest assured, rest assured, Mr. Special Prosecutor, you [5053] will get the truth.

Q. Where were you born, Mr. Robertson?

A. Born in Texas.

Q. I heard you say that this morning. Would you mind telling me over and above the county the name of the town in which you were born?

A. Alba, Texas. It is a small mining area, or it was at the time of my birth.

Q. And you were born there when?

A. July 15, 1905.

Q. What was your father's name, please?

A. Milton Robertson, Milton D.

Q. And your mother's name?

A. Kate Robertson.

Q. Where did you obtain your preliminary schooling?

A. In the grade schools in that area.

Q. And your high schooling?

A. I haven't had any high school training. I didn't complete grade school.

Q. When did you leave Texas?

(Testimony of James R. Robertson.)

A. My family left Texas in 1916, to the best of my remembrance.

Q. And you lived with them?

A. Yes.

Q. And where did you go?

A. They migrated to the Tri-State Mining District, Oklahoma, [5054] Missouri and Kansas. They located in that section of Missouri.

Q. How long did you remain there, Mr. Robertson?

A. Oh, I remained there until 1919, I think.

Q. Do you remember when you went there?

A. The exact date I can't tell you that. I can give you approximate dates.

Q. If you left there in 1919, approximately when was it that you went there?

A. I would say 1916, and I can't give you the day of the week, the month or the year.

Q. When you left there in 1919, where did you go?

A. Oh, I was a youngster at that time and I left home and I started out on my own.

Q. And where did you go?

A. And I think my first experiences after leaving home was working in the harvest, in the wheat section of the nation.

Q. Do you recall what state?

A. I think it started in Kansas. When you are working in the harvest, it seems it develops in the southern section of the nation and goes on up to the northern country, and if I remember correctly, I followed it that year.

(Testimony of James R. Robertson.)

Q. How long did you continue in that kind of occupation?

A. Oh, I followed it all season that season.

Q. What did you do the next season?

A. And intermittently I have worked in the harvest. I have [5055] worked in the harvest since then.

Q. That would bring us up to the harvest season of 1919 or 1920, possibly? A. Yes.

Q. Where did you go then?

A. I went to Idaho, if I remember correctly, and went to work in the mines.

Q. How long did you stay there?

A. Oh, I am trying to think. It is hard to remember. A period of months.

Q. When you left the mining fields, where did you then go?

A. Oh, I think I moved into the coastal area. I started working in logging camps and work such as that, in the timber industry.

Q. About what year was that?

A. This is 1919 or 1920 would be my recollection.

Q. You were 15? A. Very young.

Q. 14 or 15 years of age?

A. 14 or 15 years of age. I have been very big for my age for a long time, Mr. Special Prosecutor. I passed for 21 years old ever since I was knee high to a duck.

Q. After you left the coastal area, where did you go?

A. Oh, I think I worked in the woods and in and around mills in the Northwest for a considerable period of time and then—let me think now. I think it was about this time I went to sea [5056] with the U. S. Shipping Administration. I think, if I recall correctly, they had a training program at that time. You go in and you go through a training program. They put you on a ship and you take a cruise on the ship. You come back, and if you pass, pass all of the examinations and so forth, then they turn you—they turn you loose and then you are ready to take jobs at sea in private industry.

Q. Do you know where it was you went to sea?

A. I don't exactly recall. I know after going through this preliminary period that I am speaking of now, I was in New York. I don't know the date clearly. I do know it was on the day that they had the Wall Street bomb explosion. I remember that, because several of us were up in the office of the shipping company being paid off at that time, and I recall quite distinctly that there was a big flurry, a big hullabaloo, a lot of people were in the streets and we found out what it was all about at that time. I was being discharged from that vessel and I was drawing transportation back to the West Coast. I returned to the West Coast at that time. Now, these are approximate dates. I can't give you exactly what the date is. [5057]

Q. (By Mr. Donohue): Were you christened James R. Robertson?

A. I was christened Christopher Columbus Robertson, and having had many experiences as a child growing up, going to school and in my early youth, I stopped using the name Christopher Columbus and people began to call be Bob, and I have been known as Bob down through the years.

Q. Did you ever enlist in the United States Navy under the name Chris Robertson?

A. I enlisted in the U. S. Navy in 1921, I believe, and I was in the Army for a few months and I came out of the Army, and I think it was in 1923 I enlisted in the Navy. And I was in the Navy for a few months and I got out of the Navy.

Q. Isn't it a fact, Mr. Robertson, that you enlisted in the Navy on the 4th of August, 1924, and deserted the United States Navy on the 10th of November, 1924?

A. I don't remember the dates, special prosecutor. I know that I was in the Navy following my experiences going to sea—following my experiences in the Army, I was in the Navy for a few months. I went through what they called at that time "boot training," and I told the officer—that was a CPO, I believe, in the gymnasium, conveyed to him the fact that I was dissatisfied and didn't like it, and he said, "Well, if you don't like the Navy you can take steps to get out." And I took those steps. He said, I remember—I forget, rather, what he said it would cost; I think it was—I think it was a [5058] hundred dollars, $125; I forget the amount. But anyway, I know that he was given this amount, and I stayed around San Diego for, oh, a period of time waiting for things to clear, and finally everything,

(Testimony of James R. Robertson.)

they said, was clear, and I left San Diego, and I have heard nothing of that since, Mr. Special Prosecutor.

Q. Mr. Robertson, don't you know as a matter of fact that in the records of the United States Navy as of today that your status is in desertion from the United States Navy?

A. I do not.

Q. Would you say that it was not?

A. I don't know that. I am telling you of my experiences in getting out of the Navy, just as I got out of the Army. I was in the Army a few months, and I was told by one of the non-coms how I could get out, and I followed that procedure. And when I was in the Navy I followed the same procedure, and as far as I know, everything is square and clear.

Q. Mr. Robertson, isn't it a fact that when you enlisted in the United States Navy on the 4th of August, 1924, you gave as your date of birth the 15th of July, 1903?

A. I don't recall, Mr. Donohue.

Q. Do you recall where you said you were born in the application that you filed for the United States Navy? A. No, I don't recall.

Mr. Donohue: May we take the adjournment at this time, if your Honor please?

The Court: We will take the adjournment, ladies and gentlemen, until Monday next, February 6, at 10:30, gentlemen—10:30 rather than 10 o'clock.

Ladies and gentlemen of the jury, February 6 at 10:30 in the morning. In the interim may I again admonish you not to discuss the case under any conditions nor to form or express an opinion until the matter is submitted to you.

(Thereupon an adjournment was taken until Monday, February 6, 1950, at 10:30 a.m.) [5060]

February 6, 1950, 10:30 A.M.

The Clerk: United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is J. R. Robertson, heretofore sworn.

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Cross-Examination
(Resumed)

By Mr. Donohue:

Q. Mr. Robertson, are you a married man?

A. Yes.

Q. Where and when were you married?

A. I was married in 1944 in Reno, Nevada.

Q. Do you recall where it was that you enlisted in the army?

A. It was a city in the Northwest.

Q. Was it Vancouver?

A. Frankly, I don't recall what city it was. I don't recall.

Q. Do you recall when it was?

A. Vaguely.

Q. What is your best recollection?

(Testimony of James R. Robertson.)

A. It would be late 1920 or '21.

Q. And——

A. Somewhere in there. I don't know the exact date. I am not clear on it.

Q. Do you recall where you were discharged from the army?

A. I was discharged—I was let out in Fort Sam Houston, I think [5061] they call it.

Q. Do you recall where you stated your place of birth and your enlistment in the army?

A. I do not. I had no recollection of those things.

Q. And do you recall where you stated your date of birth in the navy?

A. I do not. I have no recollection.

Q. Now, on Friday, with reference to your release from the navy, you stated as follows:

> "I went through what they called at that time 'boot training' and I told the officer—that was a CPO, I believe, in the gymnasium, I conveyed to him the fact that I was dissatisfied and didn't like it, and he said, 'Well, if you don't like the navy, you can take steps to get out.' And I took those steps. He said, I remember, I forget, rather, what he said it would cost. I think it was, I think it was $125. I forget the amount. But anyway, I know that he was given this amount and I stayed around San Diego for, oh, a period of time, waiting for things to clear, and finally everything, they said, was clear and I left San Diego."

(Testimony of James R. Robertson.)

Did you get any kind of a discharge when you left the navy? A. No, I didn't.

Q. And did you get any kind of a receipt for the money you said you paid to a chief petty [5062] officer?

A. No, I don't recall. I don't recall. That has been so long ago I can't remember. The details, as I gave them, as vague as they are, are the details. I don't know the—I just don't know anything about it. I have forgotten.

Q. What were you waiting to clear or to have cleared?

A. Well, I gave this person the money and he said—it is so vague—he said, "Go ahead." I got shore leave and he said, "Don't come back." And that is all I can remember. "Everything will be taken care of and everything will be fixed up." And I stayed around San Diego for some period of time, some—I don't know just how long—a few weeks, and then I left San Diego and I never heard anything about this.

Q. Now, from your experience in the army—and how long were you in the army, by the way?

A. I don't recall. I was only in the army a few months. I don't remember when I went in the army and I don't know exactly when I got out.

Q. Would you say——

A. I can't recall those dates or those years.

Q. Would you say that you enlisted on June 20, 1921? I am sorry, January 20, 1921.

A. I don't know. I don't know.

(Testimony of James R. Robertson.)

Q. And do you know whether or not you were discharged in July of the same year?

A. I don't know. I have no knowledge of dates during that [5063] period.

Q. Well, would you say you were in the army for a period as long as six months?

A. I don't recall the period I was in the army. I know it was a few months.

Q. And how long were you in the navy?

A. I don't recall the exact period I was in the navy.

Q. Some months?

A. Some few weeks, some few months.

Q. Now, from your experience in both the army and the navy, did you believe that you could give a warrant officer $125 and procure a release from the navy without getting a discharge?

A. I didn't know what a warrant officer was. I was——

Q. Well, a chief petty officer.

A. Well, I was in such a short period of time, and I am sorry, I can't remember the person I talked to; and he told me it was easy to get out. I gave him this money. He says, "When you take shore leave, everything will be O.K.; beat it." And I did that.

Q. Well, you beat it after waiting around some time?

A. I stayed in San Diego, yes; I stayed around San Diego for a few weeks. [5064]

Q. Now, you told us on Friday that while you

(Testimony of James R. Robertson.)

were christened Christopher Columbus Robertson, that from your experiences as a child growing up and going to school, "and in my early youth I stopped using the name Christopher Columbus and people began to call me Bob and I have been known as Bob down through the years." Correct?

A. That is the statement.

Q. In 1924 when you enlisted in the Navy you enlisted under the name of Chris Robertson, did you not?

A. I don't know, Mr. Donohue. I have seen nothing that would verify that.

Q. When you enlisted in the Army don't you know that you enlisted under the name of Chris C. Robertson?

A. I don't know, Mr. Donohue. I have seen nothing to verify that.

Q. Isn't it a fact that the last time that you used the name Chris Robertson was the time you enlisted in the Navy?

A. I have used the initials C. C. Robertson up until the '30s, I believe, Mr. Donohue; I dropped the name Christopher Columbus in my early youth. I retained the initials and I never referred to myself as Christopher Columbus.

Mr. Donohue: If your Honor please, I have asked the Selective Service to produce under a subpoena duces tecum the Selective Service registration of the witness J. R. Robertson. I understand the record is in court. Would your Honor [5065] ask the Clerk to call for the record?

(Testimony of James R. Robertson.)

The Clerk: Is the party here who has the records from the Selective Service? Step forward.

(A woman sitting in the body of the courtroom approached with a folder of documents.)

Mr. Donohue: Would you mark this United States for identification next in order, and I would ask permission when I am finished with it to substitute a photostat so that the original may be returned to the file.

(Selective Service record marked U. S. Exhibit 24 for identification.)

(The exhibit was handed to Mr. MacInnis.)

Mr. Donohue: Would you ask the witness if he can identify his signature on page 7.

The Witness: I looked at this document and I have studied it very carefully, because at the time I was registered I was in the Michael Reece Hospital recovering from a serious injury, and I wanted to study it carefully to see if it was correct, and I note there that they say I completed grade school and four years of high school. That doesn't sound right to me, because I never completed grade school. This is my signature, J. R. Robertson. And I do not remember in detail being asked those questions. I remember a lady came in one day and said they were registering, and she went through all the motions asking those questions, and those [5066] are the—seemingly those are the answers I gave. I have no recollection of that.

(Testimony of James R. Robertson.)

Q. Do you recall that you did testify on Friday that you had not had any high school training and that you did not finish grade school?

A. I didn't finish grade school and I have had no high school training.

Q. You state now that in answer to the questions on your statement of registration, on your Selective Service questionnaire, that you did not say that you had eight years of elementary school and four years of high school?

A. I have no recollection of having said that, Mr. Donohue. I have no recollection whatsoever.

Q. You say that you did not make that statement?

A. I have no recollection of what I said, Mr. Donohue.

Q. Your recollection has been refreshed, has it not, as to the fact that this document was signed by you on the 26th day of April, 1941?

A. I have no recollection of signing that document on the 26th of April, 1941. I remember being registered for the draft in 1940 when I was in the hospital, and I have no recollection of when that was signed, if it was not when I was in the hospital.

Q. Well, if the registrant's affidavit signed by you and sworn to before an officer of the draft board states that it was [5067] subscribed and sworn to before him on the 26th day of April, 1941, would you say that that was the date on which you signed it?

A. I have no recollection of that date, Mr. Donohue, but I don't question it. I am just telling you I don't remember.

Q. Now, on this date or at the time when you did sign this application, if you do not recall the date, you knew that you had had military experience in both the Army and the Navy, did you not, sir?

A. I did not consider my short time in the Army and Navy military experience, Mr. Donohue. I was in such a short period of time, and it was so long ago, I didn't even consider that military experience and of no consequence.

Q. Did you observe that under the military service, wherein you are asked to indicate whether you have served in the Army, Navy or National Guard, the date of entry, whether or not still in service, the date of discharge, and the type of discharge, as to whether honorable, dishonorable, bad conduct, not honorable, undesirable, or other, and that you answered "None"?

A. I have no recollection of having answered those questions.

Q. Do you have any recollection of having told the party before whom you registered that you had had service in both the Army and the Navy?

A. I have no recollection of anything that was said, Mr. Donohue. I just have no recollection.

Q. Well, you knew as a matter of fact that in the registration for military service that prior service in the Army and the Navy was an important factor for the draft board to know, did you not?

A. I have no knowledge of that. I made no

(Testimony of James R. Robertson.)

thorough study of that, and my time in the Army and in the Navy was so short and so long ago that it meant nothing to me, and I considered I had never been in the service. I was only in a few months.

Q. Now, you said you signed this at the time you were in a hospital?

A. I was registered for the draft at the time I was in the hospital. A lady came in and asked me a series of questions, and I don't remember those questions.

Q. You said on Friday in response to a question from Mr. MacInnis whether or not you had any permanent injury, you said that you did; you had a fractured spine; correct?

A. I don't know, Mr. Donohue, whether or not you would call that a permanent injury. I do not know whether you would.

Q. As a matter of fact——

A. May I finish?

Q. Yes. A. May I finish?

Q. Why, of course.

A. We call that heckling in our union, and I would like to finish my statement, if you don't mind. [5069]

Q. I have no objection.

A. Thank you, sir. You might consider a spinal injury of no consequence, but I do; I do. And I can live through those weeks and weeks and weeks in the hospital when they had me strapped on a board about two feet wide and I couldn't move. I couldn't move. You can't forget those things. You just can't wipe them out of your mind, and to me that seems like a permanent injury.

Q. Isn't it a fact, Mr. Robertson, that you were classified first 1-A in the draft?

A. I don't know what I was classified as.

Q. And isn't it a fact that on the 30th of June, 1941, that after a physical examination you were still carried in Class 1B?

A. I didn't ask for deferment, Mr. Donohue, if that is what you are getting at.

Q. And isn't it a fact that on the 29th of August in 1942, or July of 1942, you were reclassified to 1-A? A. That is right.

Q. And that is men fit for physical duty, isn't that right? A. That is right.

Q. You said you did not ask for deferment. You were deferred?

A. I was deferred because it was the policy of our union, Mr. Donohue. We made a policy. We recognized what this war was about and we recognized the need of men in the service, and we had to weigh very carefully whether our officers would go in the service or stay on the job, and the union made the [3070] decision, not me, as to whether I would be—whether they would ask for deferment for me.

Q. There were men in the union who were not deferred, were there not?

A. Thousands of them. Thousands of them.

Q. Were you in some different category or classification?

(Testimony of James R. Robertson.)

A. I was no better or no worse than anyone else, Mr. Donohue, and I know our union, working with the Government, they gave consideration as to where a man would fit into this war struggle, and it is on this basis our union, discussing this problem seriously with the Government forces, agencies—I don't remember who they were—but it was pointed out that there had to be some people stay home and carry on the war so far as the union was concerned. That was an important role. It was not only the union's conviction but it was the Government's conviction as well. And they said some of us would have to stay back, and it was the union that asked that I be deferred.

Q. And you were deferred?

A. I was deferred.

Q. Mr. Robertson, do you recall the testimony of the witness George Wilson?

A. I recall he testified, Mr. Donohue.

Q. Do you recall that Mr. Wilson testified concerning a meeting that was held in the Governor Hotel here in San Francisco, at [5071] which meeting was a discussion with respect to a difference of opinion between Mr. Louis Goldblatt and Mr. Mervyn Rathborne? A. I have a recollection——

Mr. MacInnis: Pardon me. That testimony does not concern Mr. Robertson.

Mr. Donohue: I am not so sure.

Mr. MacInnis: The testimony naming Mr. Robertson is on another page and discusses another incident. The testimony about this alleged Governor Hotel meeting mentioned other persons. How can he be asked to testify to a meeting of what another man spoke about a group of other persons?

The Court: The objection to the question in its present form is a valid one.

Mr. Donohue: I have simply asked him thus far if he recalls the testimony of Mr. Wilson.

The Court: Yes. You were in court at the time?

A. I was in court at the time, your Honor, and I remember George Wilson testified to it, and if counsel will read from the transcript what he is referring to, that will refresh my memory. [5072]

Q. (By Mr. Donohue): First, let me ask you if you recall—and I shall come to that in a moment—that Mr. Wilson was asked this question:

> "Do you, Mr. Wilson, know to what unit of the Communist Party Mr. J. R. Robertson was assigned?"

To which, on page 4009 of the record, Mr. Wilson answered:

> "Well, it was my understanding he was attached to the same unit as I was."

Do you recall that testimony?

A. If you are quoting from the transcript, there?

Q. Yes.

A. I recall testimony to that general line, and if you are quoting from the transcript, I will agree that is what Wilson said.

Q. Did you belong to the same unit in the Communist Party as Mr. Wilson?

(Testimony of James R. Robertson.)

A. Mr. Donohue, I do not now and I have never belonged to the Communist Party.

Q. Do you recall ~~later~~ that Mr. Wilson was asked on page 4010 of the record:

> "Would you say, Mr. Wilson, that you attended one or more than one meeting of the Communist Party at which the defendant J. R. Robertson was present?"

And the answer:

> "More than one." [5073]

And I take it that you deny now that you ever attended any meeting of the Communist Party at any time with Mr. Wilson or with any other person?

A. Will you ask me a direct question, Mr. Donohue?

Q. Surely. Did you attend a meeting of the Communist Party or more than one meeting of the Communist Party with Mr. George Wilson?

A. I have never attended a Comunmist Party with anyone, Mr. Donohue.

Q. Do you recall that I then asked these questions of Mr. Wilson and he made the following answers:

> "Q. Do you know a man by the name of Mervyn Rathborne? A. I do.
>
> "Q. Do you know a man by the name of William C. Schneidermann? A. I do.

(Testimony of James R. Robertson.)

"Q. Do you know a man who is referred to as Slim Connolly? A. Yes.

"Q. Do you know a man by the name of Lou Goldblatt? A. Yes.

"Q. And do you know Harry Bridges?

"A. I do.

"Q. Did you attend a meeting with the persons named? A. I did.

"Q. If so, will you state the time and place? [5074]

"A. The place was in the Governor Hotel, the time I don't know.

"Q. What is your best recollection of the time, Mr. Wilson?

"A. Somewhere between 1942 and 1944.

"Q. And are you able to tell us in whose room in the Governor Hotel it took place?

"A. I think Rathborne made the reservation.

"Q. And can you tell us first what was the subject matter under discussion at the meeting?

"A. Some difference of opinion between Rathborne and Goldblatt, as I recall it.

Do you recall that testimony, Mr. Robertson?

A. I recall the testimony.

Q. Were you at that meeting?

A. Mr. Donohue, I came back to San Francisco in the summer; I think it was July or August of 1944. Get that clear. And I had been away from

(Testimony of James R. Robertson.)

the Coast, as I stated earlier, in my organizational work, and I doubt if I was even in San Francisco during that period. I came back intermittently to attend our conventions, to attend our international board meetings and to attend various conferences that would be called. And I am not clear on the specific dates on which I was in San Francisco, but I doubt very much if I was even in San Francisco during that period. [5075]

Q. Then the reading of the testimony does not refresh your recollection that you were present at the meeting described in the Governor Hotel?

Mr. MacInnis: Pardon me now. The special prosecutor now reads some testimony by the man named Wilson, in which he names a group of other persons as being present at an alleged meeting and he says to this man, "Now that doesn't refresh your memory, then, as to whether you were there?" Well, unless he is trying to impeach his own witness, he can hardly proffer us that suggestion. Now how could negative testimony refresh this witness' recollection or his present memory?

Mr. Donohue: It is possible that a narrative of the incident which occurred might refresh the recollection of the witness to the fact that he too was there.

The Court: Well, he stated he hasn't any recollection.

Mr. Donohue: Correct, your Honor.

Mr. MacInnis: Pardon me, your Honor.

The Court: We will take the——

(Testimony of James R. Robertson.)

Mr. MacInnis: He hasn't said that; he says he wasn't there. He didn't state he doesn't have any recollection.

The Court: All right; that is a correct statement of the record.

You were not there?

The Witness: I was not there, Your Honor.

The Court: All right, we will take the morning recess, [5076] ladies and gentlemen of the jury. Same admonition to you not to discuss the case under any conditions, nor to form or express an opinion until it is submitted to you.

(Recess.)

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): When was it that you went to New Orleans, Mr. Robertson?

A. In 1938.

Q. Do you recall by whom you were notified that you were to go there?

A. Well, we had just concluded our convention, and—decision of our national convention was to extend our organizational work into the southern area and I was one of those who was chosen to go.

Q. Now, do you mean the national ILWU or the national CIO?

A. National ILWU, in conjunction with the national CIO. We were working—it was a joint endeavor, but we were concerned with our particular jurisdiction. The national CIO was heading the

(Testimony of James R. Robertson.)

national—was heading it nationally, and we were carrying out our work as a national union.

Q. Were the funds for this project provided by the national CIO or by the national ILWU?

A. Both; primarily from the ILWU, but the national CIO was contributing funds as well as the ILWU. But a major portion of [5077] the funds, as far as I know, came from the ILWU.

Q. Do you have any idea how much money was spent on that project?

A. I can get you the records, Mr. Donohue, and account for the penny, right down to the penny.

Q. I asked the question because I understood you to say that the people down there on the Coast invited and urged you folks to come down there and do some organizational work. Is that not a fact? A. Oh, they sure did.

Q. Is there any reason why they shouldn't have paid for it, rather than the national ILWU or the CIO?

A. Or the national CIO? Mr. Donohue. Evidently you don't know much about——

Q. That is perhaps why I asked the question, Mr. Robertson.

A. ——evidently you don't know much about the labor movement. How could a group of workers, how could a group of workers in the South, such as I encountered and had occasion to work with, whose earnings were so low that they could barely exist, how could they contribute financially to an organizing drive?

(Testimony of James R. Robertson.)

Q. Then your answer is, I take it, that they were financially unable to pay ~~the~~ cost?

A. Financially unable.

Q. And the cost was borne, in the major part, by the ILWU and in part by the national CIO?

A. That's right. [5078]

Q. Now, do you know who was in charge of the Maritime Committee of the national CIO for the purpose of organizing the East and the Gulf Coasts into the ILWU?

A. I am trying to think who was the head of the national CIO organizing at the time. Walter Smithhurst, I believe. Now, he had the overall charge of organizing, by the national CIO, on a national basis. And if I remember correctly, I think Walter Smithhurst was the head of the national CIO's organizing, national director of organization.

Q. Did Mr. Rathborne have anything to do with it?

A. Mervyn Rathborne; I think he was one of the people assigned at the top to head a general maritime drive, as I remember it.

Q. Who went down to New Orleans with you?

A. There was Bjorne Halling. He was there when I got there. There was Bert Nelson, there was Paul Heide and myself.

Q. Was Mr. Bruce Jones with you?

A. Mr. Jones, along with Mr. Halling, had been assigned to that area earlier. Mr. Jones' assign-

(Testimony of James R. Robertson.)

ment was in the East Gulf, in a different part of the Gulf.

Q. Did you know Mr. Jones at that time?

A. I didn't know Mr. Jones at that time. I just didn't know him.

Q. Did you come to know him later?

A. I have known Jones casually, but not to any great extent.

Q. Do you recall him testifying here? [5079]

A. Yes.

Q. Do you recall him saying that he was a member of the Communist Party or had been a member of the Communist Party?

A. I recall that testimony.

Q. Did you know that fact? A. I did not.

Q. Did you know that Mr. John Halling was a member of the Comunnmist Party?

A. I did not.

Q. Did you know that Mr. Bert Nelson was a member of the Communist Party?

A. I did not.

Q. Did you know that Mr. Paul Heide was a member of the Communist Party?

A. I did not.

Q. I noticed on that Selective Service that you signed your names James Riley Robertson.

A. James Riley.

Q. How long have you used the middle name "Riley"?

A. Oh, I never used it. It is just James Riley, but I always use my name J. R. Robertson. Some-

(Testimony of James R. Robertson.)

times I use James. When they ask me what is my full name, such as when I got my driver's license, I usually said James Riley Robertson. When they asked me there on the Selective Service thing, I said James Riley. But I seldom use that [5080] name.

Q. You used it on your draft registration?

A. Yes.

Q. Now, getting back to the incident of Mr. Bridges' naturalization petition, you recalled that some weeks ago before the day in August that Mr. Bridges had a discussion with you concerning his application and he indicated that he was going to ask Paul Schnurr and Henry Schmidt to appear as his witnesses; do you recall?

A. I recall having talked to Harry down in the Bridges Defense Committee office. There was others there, and I can't tell you the names of those people. They were just discussing who was going to be his witness, and I know that Harry insisted on people from the labor movement representing him as witnesses, and he insisted on picking two old-timers. And he mentioned Schnurr, and he gave the reason why of it. Paul Schnurr was an old-timer in the labor movement, he was an officer of the CIO Council, and that Henry Schmidt was an old-timer in the labor movement. A member of the ILWU. And he was also an officer of the Council, and he wanted two guys from the labor movement to appear as his witnesses. [5081]

Q. You know Paul Schnurr?

A. I knew Pop, not too well. I have never known him intimately; I have known him in a casual sort of way.

Q. Did you know him to be a member of the Communist Party? A. I did not.

Q. I take it, then, that this conference was held at a time prior to the dissolution of the Bridges Defense Committee?

A. I do not clearly recall, Mr. Donohue, whether they had disbanded or not. I don't clearly recall. I know they were still there, and I didn't know whether they had officially closed the committee or not. I know that the offices were open. I just don't recall the procedural steps there.

Q. Would that help you to tell us about the time it was or when it was that you had this discussion with Mr. Bridges?

A. It can only be roughly, very roughly, approximate. It was a few weeks before the time I went down to the City Hall, and I think we have established that as——

Q. August 8?

A. August 8. It was a few weeks before that. I don't recall just when, but I do recall it was a few weeks before. Now, I can't give you exact dates on this. I just don't remember that.

Q. Did you hear Mr. Bridges make his statement in court?

A. I don't recall. I don't recall whether I heard him or not, because I was milling around the room and I walked out. I [5082] read the transcript and

I tried to refresh my memory as to my exact location in the building, and it was very hard for me to figure out in the detail in which you are asking the question whether I heard him say everything that is in that record. I just don't recall. In fact, that was of no consequence. The fact that Bridges was getting his citizenship was the important thing to me, and that was the big thing. I don't recall the details. Now, the transcript is there, and I don't question it. But I am just telling you I don't recall.

Q. You went there for the purpose of aiding Mr. Bridges in acquiring his citizenship, did you not?

A. Now, what date are you referring to, Mr. Donohue?

Q. The 17th of September, 1945.

A. The 17th of September I was required, I believe, to go there because I was substituted earlier, as you know, for one of the character witnesses and I had to be there, and I was there.

Q. And you were there for the purpose of helping Mr. Bridges get his citizenship?

A. I was there for performing those functions that a witness such as I was called upon to be would do.

Q. You were interested in Mr. Bridges getting his citizenship, were you not?

A. I thought Harry Bridges was one of the best men in the country, and he was surely entitled to it, Mr. Donohue.

(Testimony of James R. Robertson.)

Q. And you were interested in the fact that he would get it? [5083]

A. I thought he was entitled to it, and that he was entitled to it, Mr. Donohue, more—more than any other man in this country, more than any other man in this country, because——

Q. Mr.—— A. May I finish?

Q. Yes.

A. I wish you wouldn't heckle me. You asked me to answer.

Q. I think you are finished. I don't do it on purpose, believe me.——

A. I am not finished, Mr. Donohue, and I don't want to get in a crossfire. My way of saying things might seem gruff. They are not; it is just the way I talk. I can't help it. And don't heckle me, please. Let me tell you. You have asked me. I am sitting here, Mr. Donohue, and you are trying to send me and two of my associates to prison, and I want to tell this jury, who is going to decide whether I go to prison or not, the facts in this case, and I don't like to be heckled by you.

I think Harry Bridges was entitled to his citizenship. The union was at stake there, and he was a part of that union. He was molded into the building of that union, Mr. Donohue, and again—and I forgive you for it—but I just don't think you understand how a militant, progressive trade union works; you just don't understand it. If you could have spent the last two days, Saturday and Sunday, as I have in a democratic rank and file union discussing their problems, seeing real [5084] democracy as we understand it and knowing it working, then you would have an inkling of what I am trying to tell you here and why I believe Mr. Bridges was entitled to citizenship. It is not based on something that cropped in my mind on a moment's notice. It is something that I have lived with down through the years. It is something that I told you earlier I have read a lot about. It is something that my practical experiences in my association with the man had taught me. All of these things coupled together. And I mentioned a few specific documents that I read and you objected. I don't know why, Mr. Donohue. I read these documents. They were documents prepared by the Federal Government and they were dealing with the situation in San Francisco during the years, and they expose completely, at least to my satisfaction, how these industrialists, joining with the newspapers, were trying to destroy a man, carrying on all this vicious propaganda, Mr. Donohue, and that record is very, very interesting for anyone to read, whether you are in the labor movement or out. If you are honest and if you believe things should be brought out, and we should know what the facts are, these papers working with industrialists carried on a vicious campaign against this man in the early years, trying their best, trying their level best, to wreck our union, using him as a spearhead.

And finally, Mr. Donohue, when I read that Supreme Court decision I was in Chicago. I hadn't come to the Coast yet. No, [5085] no, I am wrong there. I came to the Coast in 1944. I read that decision. I came to the Coast in 1944. I read that Supreme Court decision, Mr. Donohue, and that helped—and that was a major influence in my thinking, because the U. S. Supreme Court, when they rule on a matter like this, when they rule after all the evidence has been presented and they say that a man has never been associated with nor a member of the Communist Party, that helped me finally make up my mind. That helped me finally make up my mind if there were any doubts in the first place, and I couldn't doubt ever since that had happened, plus the fact that I was personally acquainted with this guy, literally lived with him—not from day to day, but in the nature of our union work; I knew what made him tick. And it was for these reasons that I thought Harry Bridges should become an American citizen. I think he helps the labor movement. This is what I believe, Mr. Donohue.

Q. Are you finished now?

A. I am finished.

Q. Now will you answer my question? Were you interested in Mr. Bridges acquiring his citizenship on the 17th day of September, 1945?

A. Mr. Donohue, I will let the statement I have just made be the answer to that.

Q. Then in the light of that interest didn't you remain to hear him sworn in as a citizen of the United States? [5086]

A. Yes, but I can't tell you what spot I stood in. I can't tell you—I can't describe the room to you.

Q. Do you have any reason for trying to put yourself out of Judge Foley's courtroom at the time when Harry Bridges was sworn as a citizen of the United States?

A. Not at all, Mr. Donohue, not at all.

Q. Then do you remember the testimony of Mr. Henry Schmidt, reading from page 4744 of Volume 44 of the record, when he was asked this question or these questions:

> "Now, do you recall Mr. Robertson being in the courtroom?
>
> "A. I can visualize him sitting on the witness chair.
>
> "Q. And to your best recollection did he, too, remain with you until the ceremony had been completed?
>
> "A. Oh, I am sure he did."

A. I don't question that. I don't question that at all.

Q. Then do you now——

A. I don't question that at all, Mr. Donohue.

Q. Will you now tell me whether or not, as a matter of fact, you remained in the courtroom while Mr. Bridges was questioned by Mr. Garner and remained in the courtroom until after Mr. Bridges had been sworn as a citizen of the United States?

(Testimony of James R. Robertson.)

A. I was in the courtroom. Now, as to all of the details, I can't remember them.

Q. Mr. Robertson, do you recall that some time during the war that there was threatened a strike by the CIO oil workers? [5087]

A. Will you give me more information? You say the oil workers threatened a strike during the war?

Q. Do you recall being here in San Francisco when such an incident may have in fact occurred?

A. Mr. Donohue, will you give me dates?

Q. I can't give you the dates. I am asking you if you recall it.

A. I don't recall. If you don't associate some incident, some date or something, I can't recall whether I was or was not. I can only tell you when I was in San Francisco, and I would have to do that by checking our union records.

Q. Well, could you tell us whether or not you recall attending a meeting at 604 Montgomery Street at some time during the war when the subject matter under discussion was a threat by the CIO Oil Workers in California of a strike?

A. I don't clearly recall, Mr. Donohue. You haven't made it clear enough. I would have to have dates again to even know if I was in the city.

Q. If I were to say to you that among others present at that meeting were Mervyn Rathborne, James Doherty, Mr. William Schneidermann, yourself and certain others, would that refresh your recollection? A. Not at all.

(Testimony of James R. Robertson.)

Q. Mr. Robertson, do you recall the CIO national convention at Atlantic City in 1946? [5088]

A. No, I do not, Mr. Donohue.

Q. Were you a delegate to that?

A. I was a delegate to that convention.

Q. Do you recall whether at that convention any action was taken by the national CIO on the question of Communism?

A. I don't recall, Mr. Donohue. You can look at the proceedings of that convention. Now, don't get yourself trapped, Mr. Donohue, because I was a delegate to that convention.

Q. I understand you were.

A. And I did not attend that convention.

Q. That is why I asked you that question.

A. Don't get yourself boxed in. I happened to be elected a delegate to that convention, but I didn't go. I didn't go because we had union work at that time that was more important.

Q. Thank you for putting me on my guard, Mr. Robertson.

A. You are welcome, Mr. Donohue. You are welcome.

Q. When was the national CIO convention in Atlantic City in the year 1946?

A. Well, let me answer you this way: National CIO conventions are always held at the tail end of the year, and I think they are always held in November, and there was one year we didn't hold a national CIO convention, and it isn't just clear to me which year it was, because of transportation

(Testimony of James R. Robertson.)

difficulties. Unless I could study the record, I don't know if the convention was held that year. I think it was 1945 that they did not [5089] hold the convention. I am not sure of this. I know that one year they did not hold a convention. I know that every convention, national CIO convention, with the exception of 1939, I have been a delegate to that convention by virtue of the fact that our membership as a national organization elects its delegates to go to the convention. Now, on two occasions I did not attend conventions because I was too busy carrying on the work of our union, and I think 1946 is one of those years. So I don't think I was there. I could be wrong. I am just not sure of dates there, and when you ask me these questions as to what went on, I would have to have more than this to refresh my memory. [5090]

Q. Now, as a national officer of a union affiliated with the national CIO, have you been aware of the efforts on the part of the national CIO to divorce itself from any Communist infiltration?

A. Mr. Donohue, we in the family of labor have our difficulties and I don't like to go into that subject matter with you because we'll iron these differences out within the house of labor, and I don't like to go into them unless His Honor says that I must go into them. We have hair-pullings all the time in the labor movement, but as a result, we have a bigger and better labor movement, Mr. Donohue, and the fact that this trial is going on today is doing just the opposite of what some people

(Testimony of James R. Robertson.)

thought it would do—split our union. It is pulling it together. There is more unity in our ranks than we have ever had before, because they see how this trial is being used as another instrument to wreck and destroy our union if they can create dissension and they raise this bugaboo that you are trying to raise now, and it has been raised by experts, Mr. Donohue, believe me it has. And I would not like to go into all the problems that might arise in the CIO unless I am instructed to by the judge.

Q. I ask you again, Mr. Robertson: Have you been aware and are you aware of the measures which were taken by the national CIO beginning with the convention in 1946 to eradicate the Communist Party influence from the national CIO?

A. Mr. Donohue, if you will get the records of the CIO convention, [5091] get their proceedings, get them on the table there, spread them out and read to me specifically what you are referring to, Mr. Donohue, on the actions our national CIO has taken, official actions, get it on the table, read it out to me, let me know clearly what you are talking about, then I will give you my views on it. When you ask me these vague questions, I am going to answer you just as I have.

Q. Do you mean that you would have to have your recollection refreshed on that subject before answering?

A. Mr. Donohue, why raise that question? Just get the convention proceedings. That is all that I am saying.

(Testimony of James R. Robertson.)

Q. I am interested in knowing what you know about it, Mr. Robertson, and I ask you again, do you know whether or not at the national CIO convention in Atlantic City in the year 1946, any measure was adopted at that convention which had to do with the question of the Communist infiltration into the CIO?

A. I would have to see the convention proceedings, Mr. Donohue, before I could answer that question.

Q. And would that be your answer with respect to any action the national CIO may have taken subsequent to 1946 and on the same subject?

A. And what do you mean by "subsequent," Mr. Donohue?

Q. Following.

A. Following; but be specific.

Q. 1948, 1950. [5092] A. 1948?

Q. Yes. 1949.

A. 1949—the Cleveland convention. I think everyone is aware of the action taken by the national CIO in regard to the subject matter you are raising. I think that is a matter of common knowledge.

Q. Then you have the same information, at least, as the rest of us have on that subject?

A. Yes.

Q. Now, do you recall, following the national convention in 1946 of the CIO, that a meeting was called in the city of San Francisco by a man named Archie Brown to discuss the resolutions adopted by the national CIO at its Atlantic City convention?

A. No recollection whatever.

Q. Do you know Archie Brown?

A. I know Archie Brown. He is a member of the Local 10 of our local longshoremen here.

Q. Was he at one time the California state trade union director for the Communist Party?

A. I have no knowledge of that. I do not know.

Q. Let me ask you if you recall attending a meeting called by Archie Brown, the meeting being held in the Gold Room of the Bellevue Hotel.

A. Where is the Bellevue Hotel, Mr. Donohue? What city?

Q. I am afraid I do not—San Francisco. [5093]

A. I have no knowledge of such meeting, no knowledge whatever.

Q. Then let me ask you, then, if you recall a meeting at which the three following groups were represented: No. 1, the State Executive Board of the Communist Party for California; No. 2, the Communist Party CIO Subcommittee; and No. 3, the members of the Executive Committee of the CIO who were Communist Party members, and leading union officers of the CIO, who were also Communist Party members.

A. Have no knowledge of such meeting.

Q. And let me ask you if you recall the meeting at which the first group, the State Executive Board of Communist Party of California were represented by the following persons: Tex Hobbs, Hugh Bryson, Morgan Hull and Archie Brown, Al Richmond,

(Testimony of James R. Robertson.)

Dorothy Healy, Loretta Starvis, David Jenkins and Rena Battagliana. Remember attending a meeting at which those persons were present?

A. Some of those names I don't even know, and have never heard of. I have no knowledge of such a meeting.

Q. Then let me ask you if the Communist Party CIO Subcommittee was there represented by the following persons——

Mr. MacInnis: Pardon me just a minute now. Your Honor, the witness says that he has no recollection of a meeting alleged to be in existence by the special prosecutor. He says he has never heard of some of the persons, but undaunted by that the special prosecutor goes on and says, "Let me ask you if at [5094] that meeting the following persons were not present." Well, if he wasn't at the meeting, he can't tell whether other people were at the alleged meeting either.

Mr. Donohue: This being cross-examination, if Your Honor please, I think I have the right to refresh his recollection as to the details of this meeting, for the purpose of seeing——

The Witness: I have no knowledge of it, Your Honor.

Mr. Donohue: ——if it does not stimulate his recollection on the subject.

May we take a recess at this time?

The Court: We will take the noon recess, ladies and gentlemen of the jury. The same admonition not to discuss the case under any conditions.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [5095]

February 6, 1950, 2:00 o'clock P.M.

The Clerk: Case of United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is James R. Robertson, heretofore sworn.

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Cross-Examination
(Resumed)

By Mr. Donohue:

Q. In a further attempt to refresh your recollection, Mr. Robertson, concerning a meeting at the Bellevue Hotel on the 7th of December, 1946, would it refresh your recollection if I told you that other than the persons named, in addition, Frank Slavey, Lynn Haines, Ralph Grunon, William Ruby, Nathan Jacobson, Carl Brandt, Harold Rossman, Sanford Goldner, Paul Pinski, Mat Crawford, Goodman Bruckney, Mervyn Rathborne, were also present?

A. I have no knowledge.

Mr. MacInnis: Pardon me, just a moment. Now, Your Honor, what we have represented by this type of question is this: The special prosecutor, having failed to produce evidence of these alleged events, now gives the testimony himself, states the matter as a fact to the witness, and asks him if it would

(Testimony of James R. Robertson.)

refresh his memory if he, the special prosecutor, told him that a certain thing was true. Now, Your Honor, in the first place, [5096] that assumes facts not in evidence and is hence improper cross-examination. In the second place, in this case we do not accept facts because they are alleged by the special prosecutor; he must produce evidence in order to prove facts.

Mr. Donohue: I have stated nothing as a fact, if Your Honor pleases. I am trying to refresh the recollection of the witness concerning a meeting about which he has said up to this moment he has no recollection.

Mr. MacInnis: Well, he says it never took place, Your Honor, and I can not see how, where a man states something did not take place, so far as he is concerned, the special prosecutor may then intrude alleged evidence which has never come into the record, by way of making a statement himself. He should bring those people here, if that is the fact.

Mr. Donohue: The witnesses here have, Your Honor, so often refreshed their recollection by reading newspapers; it may be that some incident which occurred, if I asked him about it, at that meeting, may refresh his recollection.

The Court: Have you enumerated or narrated the persons present at the meeting or the several meetings?

Mr. Donohue: Yes, Your Honor.

Mr. MacInnis: Pardon me, Your Honor; the alleged meetings.

The Court: All right; I will amend that and admit it as "alleged" meetings. We assume them to be alleged. You might ask the witness the final question, whether any of the names [5097] identified in the alleged meeting would tend to refresh his recollection.

Q. (By Mr. Donohue): Does the reading of the list of names I have read to you, Mr. Robertson, refresh your recollection at all as to whether or not you were present at a meeting at which these persons so named were also present?

A. I have no knowledge of such meeting. I could not have been present.

Q. Are you familiar with a publication known as the Labor Herald?

A. Yes. The Labor Herald is the—I think it is the official organ of the CIO, state or city CIO.

Q. And were you familiar with it in the year 1946?

A. As familiar as I am now. I know that it comes out. I seldom look at it or read it.

Q. Do you recall ever having been present at a meeting when the question as to whether or not it was financially advisable to continue the Labor Herald was under discussion?

A. I have no knowledge of such meeting.

Q. Did you ever serve on a committee with Paul Schliff and Sanford Goldner to take some steps with respect to the continuation of the Labor Herald?

A. I have no knowledge of having served on such a committee.

Q. Would you say that you did not serve on such a committee?

A. I have no knowledge. I just—I have no knowledge of it, Mr. [5098] Donohue. I don't know.

Q. It is just that you have no recollection of it, I take it?

A. I have no knowledge of it. I have no knowledge of a committee that you suggested. I have no knowledge of my being on it, being there or anything.

Q. Do you know Mr. Schneidermann?

A. What Mr. Schneidermann?

Q. Mr. W. Schneidermann, district organizer for District 13 of the Communist Party.

A. I have met Mr. Schneidermann.

Q. How many times have you met him, Mr. Robertson?

A. Oh, probably three or four times.

Q. Has he ever been to your home?

A. He has never been to my home.

Q. Do you know Mr. Roy Hudson?

A. Mr. Roy Hudson—I don't think I do.

Q. Would you say that you never met Roy Hudson?

A. Do you have a picture of him? When you mention a name, maybe I could identify the name by seeing a picture. That would help me.

Q. No, it has been stated here in evidence that he is the trade union director of the Communist Party, national.

A. Well, I have no knowledge of the statement you have just made, Mr. Donohue.

Q. I said it has been stated here in evidence, that he was [5099] occupying that position. But as far as you recall, you never met him?

A. As far as I recall, I have never met him and I don't know what he would do, having never met him.

Q. Now, you have told us this morning that you knew Archie Brown? A. Yes.

Q. But you did not know that he was the California trade union director for the Communist Party?

A. Mr. Donohue, I know Archie Brown is a member of Local 10, and when you ask me if I know whether this or that person is a member of the Communist Party, I do not. Let me tell you why I do not. In our union a person has a record there. You have a book and you have a union button you wear, and you can be identified by these things. When you belong to a political party—and I am a member of the Democratic Party, or I was until the last presidential election, and I switched over to the Independent Progressive Party and voted for Wallace. You can find out in the record what a person belongs to. Now, I have no knowledge of these people being Communists. I have never seen anything to indicate to me they were Communists. I have read in papers where these people are speaking for the Communist Party, and I would assume that they were Communists on that

(Testimony of James R. Robertson.)

basis. But I have no personal knowledge of their being Communists. [5100]

Q. Well, now, do you have any personal knowledge of how much work as a member of your union Mr. Archie Brown has done, let's say, in the past year?

A. You can check the work records of Local 10 and find that out. I have no knowledge of how much work he has done.

Q. Well, are you able to tell us as a matter of fact whether he has done any work as a member of your union?

A. I am not. He is a member of Local 10. That is the longshore local. I am a member of Local 6. That is the warehouse local. I would be more familiar with warehouse than I would with longshore, because I am more familiar with the warehouse end of it. I don't know whether the man has worked or not.

Q. While you were in Chicago, Mr. Robertson, did you ever meet Mr. Earl Browder?

A. Never met him in my life.

Q. While you were in Chicago, did you ever attend a meeting of the 34th Ward Branch of the Communist Party? A. I did not.

Q. You never met Mr. Browder?

A. Never met Mr. Browder.

Q. While you were in Cleveland, were you a member of the Executive Committee of the Cleveland Citizens Committee to Free Earl Browder?

A. I don't recall, but if you will show me some

(Testimony of James R. Robertson.)

document or something that I might bring to mind, something like that, then [5101] I can answer you with more decisiveness. Now let me say why I say that, Mr. Donohue. In our union, and as one of its officers, we are called upon, oh, countless thousands of times to lend our name, our organization to many, many causes. And down through the years if in my judgment the organization I belong to has adopted a general policy or a program conforming to the issues that might be involved in any particular subject matter, and someone has asked me to lend my name to it, I probably have lent my name to it, and there are so many of them I don't recall the specific one that you mention. But I will say this: Never, since I have represented the ILWU, have I lent my name to anything that would be contrary to a policy adopted by our union, which policy is adopted through the rank and file, through the membership of our union, through the structural and procedural methods we have of doing it. Now, that is the best answer I can give you on the signing of this document or any other document. And let me say, I have lent my name when in my best judgment lending my name to a cause came within the scope or the policy of the organization I represent. [5102]

Q. And you do not remember at the present moment? A. I do not recall.

Q. While you were in Chicago, Mr. Robertson, were you an instructor at the Abraham Lincoln School during the spring session of 1944?

(Testimony of James R. Robertson.)

A. Oh, I think representatives of the school came to our office and asked if I would conduct a class, and I told them the nature of my work. I am in town today, I might be here a week, and then I might be out for several weeks. I just would not be here steady enough to perform any function like that. "If using my name will be of any assistance to you, that is all right." Now, under those conditions my name may have been listed as being an instructor, as you say, or talking about some particular subject matter at a group meeting, and in that sense it could have been used. I don't recall having seen it being used.

Q. Did you know that the Abraham Lincoln School in Chicago was on the United States Attorney's list of subversive organizations?

A. I did not. I have never seen that list. I have heard a lot of talk about it. I do not know that that organization is on that list. I have never read it, Mr. Donohue.

Q. Were you in 1945 a discussion leader at a forum conducted by the California Labor School?

A. Was that the discussion group that Arthur Caylor from the [5103] San Francisco News was also a participant?

Q. I wouldn't know, sir. If you were there maybe you can tell us.

A. I recall one discussion I was involved in at the California Labor School where I think it was Arthur Caylor was also one of the people that participated. Now, that is the only discussion I have

(Testimony of James R. Robertson.)

ever had in something like that, and I forget what the subject matter was. I think it dealt with labor management or something like that. We had representatives of, I think, management—this newspaperman was there and myself. I can't remember who else was there.

Q. In 1943 were you a subscriber to the Daily Worker while in Chicago?

A. I don't recall, Mr. Donohue, I don't recall.

Q. Did you ever meet a man named Morris Childs while you were in Chicago?

A. Morris Childs—I don't recall having met him.

Q. Do you know where District No. 8 of the Communist Party has its headquarters?

A. I do not know what District No. 8. I don't know where District No. 8 of the Communist Party has its headquarters, Mr. Donohue.

Q. You were never a member of the District Committee of District No. 8 of the Communist Party?

A. I have never been a member of the Communist Party in my [5104] life.

Q. Mr. Robertson, as first vice president of the ILWU were you a member of a committee which sponsored a celebration of the twentieth anniversary of the Daily Worker at Orchestra Hall on Sunday, January 16, 1944?

A. This is very vague. You mention Orchestra Hall. I do not know whether Orchestra Hall is in Kokomo, Chanute or Puckyhuddle. You will have to be more definite than that, Mr. Special Prosecutor.

Q. Where were you on the 16th of January, 1944?

A. Now, Mr. Donohue, that is just like asking one of those questions, you know: All women are people, but all people aren't women. If you will be a little more definite I will try to answer you on that.

Q. Where were you living in January, 1944?

A. In January, 1944, I was stationed in Chicago.

Q. Do you know a hall in Chicago called Orchestra Hall?

A. Offhand I do not. Offhand I do not.

Q. Did you ever attend any meeting in Chicago at which a man named Robert Minor, a member of the Communist Party National Committee, was the speaker?

A. That I do not recall, Mr. Donohue.

Q. Do you recall whether Robert Minor was a speaker at a meeting in Chicago on the 16th of January, 1944, at a celebration of the twentieth anniversary of the Daily Worker? [5105]

A. I do not know.

Q. You do not know whether you were a member of a committee which sponsored that meeting?

A. I do not know.

Q. Mr. Robertson, you are the editor of a column called "On the March" in the Dispatcher, or you were, is that correct? A. That is right.

(Testimony of James R. Robertson.)

Q. May I ask you, sir, if under date of September 5, 1947——

Mr. MacInnis: May we see the written material, please?

(The document referred to was shown to counsel for the defendants.)

Q. (By Mr. Donohue): Do you recall writing on September 5, 1947, the following: "During the war against"——

Mr. MacInnis: I think the witness, under the procedures adopted at your assistance here, must be shown the document first and then if any part of it is admissible, the whole document must be admitted.

Mr. Donohue: I have no objection at all. (To the Clerk): Would you ask the witness to refer to his own column.

(The document was shown to the witness.)

A. Yes.

Q. (By Mr. Donohue): Do you believe that we are engaged in a class struggle and a class war, Mr. Robertson?

A. Mr. Donohue, it isn't so much what I believe. The facts are before us. I have never yet—I have never yet experienced a [5106] situation where an employer would grant gains to a group of workers without that group of workers being in a position where the employer would have to respect their strength and their right to get it. Never yet have

(Testimony of James R. Robertson.)

I seen that happen; I just haven't. Our experiences in the movement I have grown up in the last few years in, based on my own experience, working in a grocery warehouse, we could never get anything unless the workers themselves were organized and organized in such a way that the employer would respect them. And when the employer began to respect them, then we could resolve our differences, and I have seen that develop over the years. And I base it on my personal knowledge as a worker, which I have been all my life, and I base it on my experiences since I have become involved, and more or less grown up in the labor movement. Now, that is what I mean when I say class struggle. There is an employer's side and then there is a worker's side, and these workers are always striving to better themselves. If they are organized they can do a better job. Now, if in that sense you mean, Do I think there is a class struggle, Mr. Donohue, there is a class struggle and it can't be overlooked.

Q. I want to know, Mr. Robertson, in what sense you understood a class war on September 5, 1947, when you said, "Now we are involved in a class war with one class the bosses and leaders of reaction fighting to annihilate the working class and those who support them." [5107]

A. I have tried to explain, without taking up too much time, but if I may I will go into a little more detail. Remember the old NRA days? That is a long time ago, and I am not going to take too

(Testimony of James R. Robertson.)

much time, but that is when President Roosevelt was in office, when he first went in office, and one of the first things that developed was to establish this NRA, National Recovery Act, I believe, and under this proposition for the first time in the history of our country workers were given the legal right to organize, and they began to organize, Mr. Donohue, and finally down through the years we had what we called the Wagner Act—and I think we are all familiar—maybe some of us are not. Maybe I should be a little more detailed. Maybe we are not all familiar with how there developed during those years the processes from the old National Industrial Recovery days into the adoption of the Wagner Labor Relations Act and how the workers began to respond. And you know why they began to respond, Mr. Donohue? Because there was removed from their minds certain inherent fears that a worker has, and principally that centers around insecurity. Oh, how well I know that, a worker's feeling of insecurity! That is the basic reason.

And when this law was passed, which enabled these workers to organize, the record speaks for itself, down through the years, as to the countless millions of workers that have joined labor organizations during this period. But what happened? Did the employers accept the Wagner Act? They fought it all the [5108] way down the line—all the way down the line they fought that law. They were never willing to go along with it when it was on the

(Testimony of James R. Robertson.)

statute books, even going so far as to challenge its validity in the U. S. Supreme Court. And when the U. S. Supreme Court finally ruled that the Wagner Act was constitutional did the employers accept it? They did not. They started devising ways and means again to destroy the effectiveness of the Wagner Act. Now, that was in 1937 or 1938, Mr. Donohue, and it took them eight long years—nine long years up to 1947 to get that law amended to where it has effectiveness as far as protection of workers is concerned. It took them that long to enact the Taft-Hartley Law, and if you think I am the only one that thinks the Taft-Hartley Law is detrimental to labor, just ask anyone in the labor movement, Mr. Donohue, what they think about it.

Oh, some of them have said, "Well, let us not fight it as hard as we were going to at first. It is on the books. Let us try to live with it."

Our union has not taken that position. But the Taft-Hartley Law is the end result of the employers' trying to destroy the Wagner Act. It has been one of the things that has given the working people of this country the weapon through which they could make the greatest gains they have ever made in the history of this nation.

That is a little background. When you say to me, when I [5109] wrote that article in 1947, what was the purpose of writing that article, you know you can't just ask a question sometimes, Mr. Donohue, "Why did you do this? What are the reasons beyond doing it?"

(Testimony of James R. Robertson.)

I am trying to explain to you now what I mean. When I wrote that article—it speaks for itself—we felt that the Taft-Hartley Law was not good for the working people. I still feel that it is not good for the working people today. Now, you say, "Does this create the class struggle?" We did not create it, Mr. Donohue. We did not try to get the Wagner Act amended. It was the employers, and through their actions, Mr. Donohue, they themselves carried on the so-called rift or misunderstandings between labor and the employers down through the years. Now, it is in this sense that I answered your question, Mr. Donohue——

Q. The Taft-Hartley Law is the law of the land? A. It sure is.

Q. Is your union not one of those which refused to file the anti-Communist affidavits as required by the Taft-Hartley Law?

A. Mr. Donohue, our union, before the Taft-Hartley Law was passed, during the preliminary period when the Taft-Hartley law was being discussed, before its enactment, our union discussed this as a policy matter and we took a position on it, Mr. Donohue, and our position is clear-cut in the record, in the record of our conventions, in the record of our international [5110] board meetings, and in the record in so far as all our local unions are concerned, this question of Taft-Hartley. We did not think it was a good thing, Mr. Donohue, for the American people; especially we didn't think it was a good thing for the American working

(Testimony of James R. Robertson.)

people, Mr. Donohue, and we did what we could to let the people know what we felt the effects of this law would be, and all of the labor movement, if I remember those years before it was passed—yes, and even after it was passed—I do not know of one person in the American Federation of Labor, in the Congress of Industrial Organizations, or in the independent unions or any other groups in the labor movement that were in favor of the passage of the Taft-Hartley Law as Congress passed it. It is a law; it is a law of the land.

Now, when you say to me, "Are we one of those unions that have not signed the anti-Communist affidavits," Mr. Donohue, that would have been the simplest thing in the world for us officers to do. All you have to do is sign an anti-Communist affidavit and then when some little thing happens in the union, all you have to do is sit back and say, "Well, membership, don't worry about that. We have signed the anti-Communist affidavit and we can't do anything about it."

It would have been an easy way out for the officers of our union to escape our responsibility, by hiding under the clause, having signed an anti-Communist affidavit. That was the easy way out in those days, and we didn't sign. We didn't sign [5111] because we didn't think it was good union policy to comply with the law, because there are many, many things in that law that do not meet the eye, Mr. Donohue. Once you comply by signing an anti-Communist affidavit, then your hands are tied as a union; your

(Testimony of James R. Robertson.)

hands are really tied when you get in that meat grinder, and we took this position after the law was passed, at this point—and that was immediately after its passage or when our national union, through its convention and through its national board, took action on it: "We are not going to comply with the law." We were not concerned with whether or not we signed affidavits. We were concerned with all the other dangers of the law, Mr. Donohue, and we said, "We are not going to sign it; we are not going to comply. But if there ever comes a time—if there ever comes a time that it will serve the best interests of our union, then at that time we will consider, and if at that time we decide it is the best thing to do, then we will comply with the Taft-Hartley Law, and we will comply in all of its aspects, not just the signing of an anti-Communist affidavit."

Yes, we have given this question consideration over the years, Mr. Donohue, and we have taken the position that we have—"we"—I do not mean Bob Robertson or Bridges or the other two titled officers, but I mean the membership of our union. We have taken this position down through the years of non-compliance because, Mr. Donohue, we felt that it was good [5112] sound trade union policy. Now, that is a brief history of this whole question of Taft-Hartley, and that is my answer to your question. [5112A]

Q. Did you change your views just a few days ago?

(Testimony of James R. Robertson.)

A. Our international officers considered that problem, Mr. Donohue. We seriously considered it. We considered it in light of what was going on around us today. And we are recommending now, we are recommending to our international board and to our membership through our locals compliance with the Taft-Hartley Law, although we recognize the dangers that exist. But we had to carefully weigh every factor in this situation. We knew, Mr. Donohue, that there were forces in the labor movement that were out to raid and wreck our union, and they were using the fact that the ILWU had not complied as another red herring situation, and they were making an issue of that. We knew that if we complied with Taft-Hartley Law, it might weaken our hiring hall setup. We knew all of these things, but we weighed one thing carefully against the other. and we felt that for the best interests of our membership, the union, we would recommend compliance. The officers can only recommend. We are not like some unions, Mr. Donohue; we can't just sit up on our throne and say, "This is what the union is going to do and that is the way it is done." We can recommend to our membership on these serious policy matters, and the membership, through the established structure of our union, will determine this issue. The recommendation of the four titled officers of our union is to comply, to comply with Taft-Hartley, because of the various reasons I have given you: our weighing carefully the [5113] advantages against the disadvantages, and we think at this time it is a good union policy to follow.

Q. Did Mr. Goldblatt concur in that decision?

A. Mr. Goldblatt, Mr. Bulcke, Mr. Bridges and myself, the four titled officers of our union.

Q. Now, how long a period of time intervened between your first decision not to comply with the requirements of the Taft-Hartley Act and file a non-Communist affidavit and your more recent decision, to do so?

A. Well, you know when the law was passed, Mr. Donohue; and we have never complied with the law. We have, as a set of officers—we are recommending compliance now.

Q. I would like to——

A. And you keep stressing that word "signing an anti-Communist affidavit." Are you trying to impress someone, Mr. Donohue? I have tried to tell you that is the least part of the compliance with the Taft-Hartley law. It is the least part. It takes away your security, it takes away large segments of your membership because the law says that certain members of our union can no longer be members of our union. We are concerned with that.

Q. Why ca[illegible] they?

A. Because they say they are in managerial positions, and they can't be members of our union. And we don't subscribe to that. They have been members of our union ever since our union [5114] existed, and we think they should continue to be. Just to make one point.

(Testimony of James R. Robertson.)

Q. Now, I would like to read the September 19th issue of 1947.

Mr. Donohue: At this time, Your Honor, I would like permission to ask the Clerk to mark the preceding copy of the Dispatcher as United States for identification next in order.

> (Whereupon September 5, 1947, issue of Dispatcher, referred to above, was marked United States Exhibit No. 25 for identification.)

Mr. Donohue: And likewise with the September 19, 1947, issue, and I particularly direct the witness' attention to the portions which are marked.

> (Whereupon September 19, 1947, issue of Dispatcher, referred to above, was marked United States Exhibit No. 26 for identification.)

> (United States Exhibit No. 26 for identification handed to the witness by the Clerk.)

The Witness: M-hm.

Q. (By Mr. Donohue): Now, what did you mean in your article of September 19, 1947, Mr. Robertson, when you said, "There is no such thing as a good boss"?

A. I think, Mr. Donohue, if I may be permitted or you will read that entire article, your question will be answered.

Q. You did say that?

A. Read the entire article, Mr. Donohue, and you will find out [5115] just what I meant. The article speaks for itself.

(Testimony of James R. Robertson.)

Q. Is that your answer to the question as to why you said there is no such thing as a good boss?

Mr. MacInnis: Pardon me. That is not only the answer, but that is the law. Now, a cross-examining counsel may not take one sentence out of a context and compel the witness to subscribe to that sentence as his whole point of law. As the witness suggests, the whole article is the article he wrote, and I suggest that it must be read if the witness chooses to make that request.

The Court: I believe, Mr. MacInnis, the cross-examiner is entitled to an answer to the segmented questions he is presenting to the witness. Then if the witness desires to advert to any of the article, he may do so as qualifying his testimony.

Mr. MacInnis: Yes, I think that is the proper suggestion.

The Court: He did not give an answer.

Q. (By Mr. Donohue): May I at this time ask the witness to read the whole article, and then tell me what he meant by the expression, "There is no such thing as a good boss," either from the article or any other source.

(Document handed to the witness by the Clerk.)

A. I am not too good at reading. (Reading): "The NAM (National Association of Manufacturers) truly represents what its name implies—National Association of Manufacturers. This is a bosses' union. They have a [5116]

(Testimony of James R. Robertson.)

closed shop, also checkoff of dues and other methods of control that keep their members on the beam. Strictly according to the bosses' standards. Another important point is that they have just one national organization. They are not divided, like the labor movement, where we have the A. F. of L., the CIO and the independent unions. Also, they are affiliated with all of the international bosses' organizations. They have to, and do function, just as effectively on an international basis as they do at home on a national basis.

"This same NAM made full use of the newspapers, which they control, during the period the Congress was debating the Taft-Hartley law. We must remember those ads. The NAM tried to tell the American people how fair the Taft-Hartly law was, how it would stabilize boss-worker relations. Anyway, today we have the Taft-Hartley law. If the Taft-Hartley law is as good for American workers as NAM told us the abolishing of OPA and price controls would be for people, then workers are in for a pretty rough kicking around from this time on. That is, unless we do something about it. But doing something about it means more than people, especially workers, just grumbling about high prices, lack of housing——"

This was written September, 1947, during that struggle to abolish OPA. [5117]

(Testimony of James R. Robertson.)

"——increase of unemployment and relief rolls and union members beefing about the new slave labor law; crying over spilt milk won't solve today's problems.

"There is a solution, though, and putting this solution into action makes the bosses and the political hacks they control shake in their very boots. Why? Because the solution calls for uniting all of the little people in this country around a common program of united action to bring about a change. Think of it in terms of the recent ILWU struggles, the pineapple workers' fight against the employers' lockout in the Hawaiian Islands last month. The bosses gave us the works: police brutality, mass arrests, and finally, use of the courts to persecute our members. You think it isn't class war? Did you ever hear of a cop being on the workers' side during a strike? Did you ever hear of a cop beating up a boss for going through or breaking workers' picket lines? And the cops are employees of the people—that is, we pay the taxes that pay their wages, but the bosses direct their activities.

"The prosecuting attorney plays his role for the bosses, too. He sees to it that the workers are tried in the courts. And the courts; whose side are they on? Not the little people, the workers. The courts are still trying to convict the pineapple workers. Yes, these things make a guy think a little. This same judicial system

(Testimony of James R. Robertson.)

of [5118] ours lets the big bosses get away with legal murder. Anti-trust records show that five big boss groups on the mainland have been convicted for criminal violations for a total of 54 times. Did any of these big bosses go to jail? You know the answer. The same system of prosecuting attorneys and courts handled the pineapple workers in the Islands, and the big bosses on the mainland. The only difference is, the little people are sent to jail and the big bosses are not. Any worker who has been through a tough strike knows what I am talking about.

"The real danger lies in the fact that we workers forget these experiences too easily. That is one of the reasons I keep telling everybody who will listen, 'There is no such thing as a good boss.' As union members, our first step is through our union; starting on the job, the steward is the spearhead more than ever before. He has to know all of the answers. And an ineffective steward on the job is just like an ineffective squad leader in the army. Either one can get by when things are normal. The real test comes when we are on the battleline and under fire. The war is on, the battle has started. We are under fire. Every group, large or small, and every local must be fully mobilized and ready for battle. Every member must know the fighting rules, union program, on the job and off the job, 24 hours each day.

(Testimony of James R. Robertson.)

No member can enjoy the luxury of [5119] beefing about this or that. There is no answer to each and every problem, nowhere to find the answers. Work a little harder for the union and you will know your union better and it will work for you. Your union is what you make it. You are the union. This is the first step. Remember, in any organized shop or group where you find poor working conditions, members not attending union meetings, lots of individual beefs, you will find a weak union on the job. This condition will destroy the union if not corrected. Therefore, it is the responsibility of the entire membership, especially the membership in strong, well organized shops to know the general condition existing in all shops. Further, it is the responsibility of the entire membership to see that immediate steps are taken to correct all these internal union weaknesses. Once these weaknesses are known, correcting the situation is easy; through the local union structure, utilizing the entire union family if necessary.

"Doing all these things is political action because it prepares the entire membership for other forms of activity which reach beyond the eight hours of work on the job each day, such as, each member becoming more alert to what is going on in the neighborhood in which he lives and participating with the neighborhood

(Testimony of James R. Robertson.)

> group that is fighting for the same common objectives as our union, everybody [5120] working and doing his share, lays the groundwork for the bigger battle ahead."

Now, that is the answer.

Mr. Donohue: May we take the recess at this time, if your Honor pleases?

The Court: We will take the afternoon recess, ladies and gentlemen, and the same admonition to you.

(Recess.) [5120A]

Mr. Donohue: May I proceed, your Honor?

The Court: Very well.

Q. (By Mr. Donohue): Mr. Robertson, you are the author of this article that you just read?

A. Yes.

Q. You realize, of course, that while people have to work, there must always be a boss, do you not?

A. Yes.

Q. Who would you substitute as a boss if you believed that today there is no such thing as a good boss?

A. No need for substitution. Keep the same ones. Let us let them adjust themselves and recognize the changes that must take place in the relationship between the employee and the employer. Let us keep them. I have no desire to get rid of them. Let's have them have a change of heart. Let's let them recognize that on this American scene

(Testimony of James R. Robertson.)

of ours there is need for adjustment so far as their thinking is concerned.

And further than that, Mr. Donohue, you have raised the question of compliance with Taft-Hartley. The one thing you have left out, the one thing you have left out, and which I think is very important for people not familiar with this law to understand, is the fact that compliance with this law is a voluntary thing; it is not compulsory. The law does not require you to comply. A union can comply if it desires the services of the Taft-Hartleyized National Labor Relations Board, [5121] and we didn't comply because we didn't want any part of it. Now, further than that, on this question of bosses, Mr. William Green, president of the American Federation of Labor, has said publicly that the Taft-Hartley Law is a slave labor law. President Philip Murray of the National CIO has said the enactment of the Taft-Hartley Law is the first step toward Fascism in America.

Q. Is that the reason, Mr. Robertson, that so many of their unions voluntarily, as you say, sign the non-Communist affidavit as required by the law?

A. Mr. Donohue, if you ask me something about the ILWU, and particularly about its organizational work, I can answer. I can't answer for any other union. ILWU is all I know.

Q. The other day, Mr. Robertson, in answer to a question asked of you by Mr. MacInnis you said, on page 5004 of the record, "Oh, I have been

(Testimony of James R. Robertson.)

branded a Communist, for so many years, so many years, so many years, so many years."

A. Uh-huh.

Q. Does that make up all of the years, Mr. Robertson?

A. No, if you would say each of those "so many years" meant a year, then you would have to go back to the time I became active in the labor movement, and you would have to add a few "so many years" to it if you want each of these little quotes to represent a year.

Q. Then you would say that since you have been active in the [5122] labor movement you have been branded a Communist?

A. Since I have been active as an officer of our union.

Q. And that was when, sir?

A. The thing that stands out most in my mind is in 1938, and not only was I branded a Communist, but everybody in the CIO was branded a Communist, and I tried to make that plain.

Q. Was Phil Murray ever branded a Communist?

A. Well, I know John Brophy was. I know John Brophy was. And for the record, let me correct the statement I made this morning. You were asking me who was the head of the CIO national organizing work. I said Walter Smithurst. I checked the record. He was an assistant. Mr. John Brophy was the director of organization for National CIO until 1939 I believe and then Mr

(Testimony of James R. Robertson.)

Alan Haywood took that post and he has held it ever since.

Q. Then your answer is that your labor activities are the reason why you have been branded a Communist so many years four times?

A. My activities in the labor movement, working with working people to better our conditions, is the reason that forces in opposition to our building our movement has branded me a Communist, in an effort to frighten the people, to scare them, to continue the fear in their minds, to use that as a device to get away from the real issue, which is security of the individual. That is why they use these things. That is why they brand militant labor leaders Communists, Mr. Donohue. [5123]

Q. No other reason?

A. That is the only reason I know, Mr. Donohue.

Q. It couldn't be the fact that you are?

A. I am not.

Mr. Donohue: If your Honor please, save for the purpose of examining this witness further on certain documents which I expect will reach me tomorrow, I have no further questions.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Robertson, the special prosecutor pointed out to you an article written by yourself in the longshore paper in which you criticized the Taft-Hartley

(Testimony of James R. Robertson.)

Act. Do you know what the position of our President is upon the Taft-Hartley Act?

A. Yes. It is a matter of common knowledge that President Truman himself has said that the Taft-Hartley Law is such a law that it creates struggle between workers and employers, class struggle. The President of the United States has said this.

Q. Is that one of the platform which the President promised to work for and did do his best work for after reelection?

A. That was one of the planks in the platform of the Democratic Party when President Truman was last elected, fighting to abolish the Taft-Hartley Law, fighting to repeal it.

Q. The same special prosecutor showed you another article by yourself in which you were so bold as to refer to the existence [5124] of a class struggle.

Now, if I may ask him, Mr. Donohue, is it your statement and your position that the idea of a class struggle is the inspiration of the Communist Party.

Mr. Donohue: May I say, your Honor, I have seen some strange things in this trial, but this is the first time I have been interrogated while not on the witness stand.

Mr. MacInnis: You decline to answer.

Q. Now, Mr. Robertson, when you first became a member of a labor union, the union which you joined had what name?

(Testimony of James R. Robertson.)

A. It was the International Longshoremen's Association, and the local name was Ware's Warehousemen and Cereal Workers Local 38-44, and we were affiliated with the parent body, the American Federation of Labor.

Q. From that experience are you familiar with the existence of a document called the constitution of the American Federation of Labor?

A. I am familiar with it. I have read it.

Q. I am going to call your attention to that part which is called Preamble, which I have now shown the prosecutor. I am going to ask Mr. Mitchell if he will hand you the constitution of the American Federation of Labor as adopted in 1933, and ask you to look at the preamble (handing Defendants' Exhibit B-3 for identification to witness). Did you read that?

A. Let me read it again, please. Let me look at it again. I [5125] am just glancing at it.

Q. You can read it aloud, if that is the document you are familiar with.

A. Oh, yes; yes, sir.

Mr. Donohue: If your Honor please, I do not see what purpose the constitution of the American Federation of Labor of 1933 has to do with the thinking of the witness as an officer of the ILWU in 1950.

Mr. MacInnis: Your Honor, counsel showed a witness a newspaper article written by himself.

Mr. Donohue: That is right.

Mr. MacInnis: And he says, "Now, you are the person who wrote about a class struggle," as though those terrible words would indicate something terrible inspired by the Communist Party. We want to show that the notion of a class struggle is nothing new. The notion of a class struggle isn't any thought owned exclusively by the Communist Party, the Democratic Party, the Labor Party, or any other group, but that it is in the preamble of the constitution of the American Federation of Labor.

The Court: If that be so, then the witness has no need to read it.

Mr. MacInnis: Pardon?

The Court: I say the witness has no need to read it, if that be the preamble. Is there any issue on that matter? [5126]

Mr. Donohue: I do not know, if your Honor please. I do not know the matter about which I examined the witness was identified by him as his own writing. There is no proof that anything in this book is the preamble of the American Federation of Labor constitution.

Mr. MacInnis: That is the title of the book.

Mr. Donohue: That does not make it so. It should be proven.

The Witness: Your Honor, may I be heard? May I say a word? I have read this preamble and it recalls in the early days my reading of this many times, because they set out in simple language a set of principles for working people to follow, and as a youngster, as a young person coming into

(Testimony of James R. Robertson.)

the movement, it impressed me very much, and I don't think it is bad. It is good. And I remember having read it. And it tells about the struggle, what American workers have to do, that there is a class struggle, that the working people have to organize, and this is the preamble of the American Federation of Labor constitution, your Honor.

The Court: Well, no one seems to deny the matter, Mr. MacInnis.

Mr. MacInnis: If no one denies it——

The Court: I can see no immediate issue on the matter unless you do.

Mr. MacInnis: I brought it up because the prosecutor, I [5127] assume out of some criticism or as a foundation later to criticize Mr. Robertson, showed him his article and asked him if he was the person who wrote about the class struggle.

The Court: With respect to a good clause or a bad clause.

Mr. MacInnis: That was the second article.

The Court: I can see no immediate issue, unless you do.

Mr. MacInnis: I think it is covered, your Honor.

Q. Mr. Robertson, you said on Friday last and again this morning when questioned by the special prosecutor that after you had been in the Navy a few months you bought your way out. What did you mean by that? Did you mean you bribed somebody, or was there some recognized transaction by which that could be done in those days?

A. I mean, Mr. MacInnis, that I bought my way

(Testimony of James R. Robertson.)

out of the Navy just as I had bought my way out of the Army a couple of years before.

Q. Was that a recognized practice in those days?

A. Oh, definitely so, definitely so.

Q. With reference to the name Christopher Columbus Robertson, with which you were gifted at birth, where were your parents born? Can you tell us that? What were their names, and so forth?

A. My mother's name was Kathleen Idella Higginbothom. My father's name was Milton Davis Robertson. My mother was born in Texas in 1884. My father was born in Texas in 1872.

Q. How about your grandparents? Where were they born? [5128]

A. Well, my grandparents on the maternal side, Christopher Columbus Higginbothom was my grandfather's name on the paternal side; Isabella Harrison was my grandmother's name. Grandpa was born in 1848 in Tennessee and Grandma was born in 1858 in Texas. My grandparents on my father's side: Aunt Hattie was my grandmother's name, and Eby was my grandfather's name on my father's side. My father is of Scotch-Irish extraction. My mother is of Dutch and Cherokee Indian extraction.

Q. And for how many generations to your best knowledge have those branches of your family lived in this country?

A. Well, do you want to go into what little research I have on the Cherokee Nationas a tribe of Indians?

(Testimony of James R. Robertson.)

Q. No. Let me ask you this: Do you have any brothers or sisters?

A. Yes, I have one brother and three sisters.

Q. Did any of your brothers or sisters find it fitting to change their names?

A. The oldest in the family, my sister, was christened Nancy Charm.

Q. Did she change her name?

A. She stopped using Nancy Charm and is now known as Mary. My sister, who is the third oldest, was named Gertie. She stopped using the name and uses the name of Jane now. My mother was Kathleen Idella and I have known her all my life as Kate. [5129]

Mr. MacInnis: That is all. Call Frank Andrews.

The Court: Mr. Donohue, you reserve the right to call Mr. Robertson?

Mr. Donohue: Yes, your Honor.

FRANK MELVILLE ANDREWS

called for the defendants; sworn.

The Clerk: Will you state your full name to the Court and jury, please.

The Witness: Frank Melville Andrews.

Direct Examination

By Mr. MacInnis:

Q. What is your address, Mr. Andrews?

A. 1211 East Fourth Avenue, Olympia, Washington.

(Testimony of Frank Melville Andrews.)

Q. What is your business or occupation?

A. Longshoreman.

Q. Are you a member of any union?

A. Yes.

Q. What union is that?

A. The International Longshoremen's and Warehousemen's Union.

Q. Do you belong to any local of that union?

A. No. 47.

Q. Are you an officer of that local?

A. I am chairman now of the local labor relations committee, is the only office in the local.

Q. How long have you lived in the State of Washington? [5130]

A. All my life.

Q. Do you belong to any other organization in the City of Olympia?

A. The Pogy Club, the Williams Post of the Legion——

Q. By "the Legion" do you mean the American Legion? A. The American Legion.

Q. Are you a charter member of the American Legion?

A. I joined the Legion as a charter member in Tacoma when I first returned from World War I. I think it was just before the turn of the year 1919.

Q. Were you a member of any union prior to the establishment of the ILWU? A. Oh, yes.

Q. What union was that?

A. That was the ILA, Pacific Coast District 38.

Q. When did you first become a member of that

(Testimony of Frank Melville Andrews.)

union? A. The ninth month of the year '26.

Q. 1926? A. Yes.

Q. Have you been doing longshore work continuously since the year 1926?

A. I started in 1925 on the waterfront, at the opening gun of the Port of Olympia, and I continued through until the year 1929, when I was blacklisted by the Waterfront Employers, and my earnings went as low as $50 a month, and I had to seek other [5131] occupation.

Q. What did you do then?

A. I worked as an electrical worker between what I worked on the waterfront.

Q. Do you know a man named Harry Bridges?

A. Yes.

Q. When did you first meet him, approximately?

A. 1934.

Q. Since that time have you known him constantly over the passage of the years?

A. Yes.

Q. In addition to your acquaintanceship with Harry Bridges have you heard other persons discuss his reputation for truth, honesty and integrity?

A. Yes.

Q. Basing your answer upon such statements of other persons as have come to your ears, as well as upon your own knowledge of the man, what is his reputation for truth, honest and integrity?

A. Good.

Q. Mr. Andrews, you say that you joined the ILA in about 1926, is that correct?

(Testimony of Frank Melville Andrews.)

A. That is correct.

Q. When the waterfront strike was about to be called in San Francisco in the early months of 1934, but before the strike [5152] was actually in progress, did you become a member of any committee in the Northwest?

A. I was a member prior to that time of the executive board of the Pacific Coast District ILA.

Q. What was the function of that board at that time?

A. I don't believe in 1934 I was a member of the board. Prior to that time I had been a member of the board. I was on the Northwest Strike Committee during the 1934 strike, if that is what you want to know.

Q. Who set up the Northwest Strike Committee? A. The locals by referendum vote.

Q. You mean the unions? A. Yes.

Q. A man named John Schomaker testified in this case that the strike committee was set up under the direction of a man named Sam Darcy. Did you ever know that man?

A. I never heard the name until this trial started.

Q. To your knowledge did the Communist Party set up the joint strike committee in the Northwest? A. Hell, no.

Q. So far as you know, did it have anything to do with the strike committee?

A. No, absolutely none. The Northwest strike committee was made up of the elected delegates

(Testimony of Frank Melville Andrews.)

from each of the locals of the ILA plus delegates allotted—a certain number of delegates [5133] allotted to each marine union branch in that area. In that area—I mean by that the Puget Sound area.

Q. Were you ever a member of the Maritime Federation of the Pacific?

A. That is correct; I was a delegate to their conventions.

Q. What was that organization?

A. That was an organization that grew from a resolution brought in to the Northwest strike committee in 1934.

Q. And do you remember about when the Maritime Federation of the Pacific was first established?

A. 1935, the spring of the year. [5134]

Q. Were you a member at that first occasion?

A. First convention, yes.

Q. Well, now, what was the function of the Maritime Federation of the Pacific?

A. Coordinate and embody all the marine groups, coordinate union activities dealing with meetings with the employers, working conditions.

Q. What were the marine groups?

A. The ILA at that time, the Marine Cooks and Stewards, the ARTA, the Marine Engineers, Master, Mates & Pilots, the Sailors Union of the Pacific, the Marine Firemen, their union, and I believe we had in at that time, or shortly after the founding convention we had in the Marine Shipyard Workers and some other allied marine groups,

(Testimony of Frank Melville Andrews.)

small groups—fishermen, tugboatmen, I believe, later came in.

Q. Now, the same witness whose name I have mentioned, the man called John Schomaker, testified that the Maritime Federation of the Pacific was set up under the express direction of the Communist Party. Is that a correct statement?

A. It was not.

Q. How was it set up, and if you know, tell us whether or not the Communist Party had anything to do with it.

A. In early '33 all over the Coast there had been extreme discussion of some way of getting the marine workers' unions together into some kind of a joint action for hiring halls, better [5135] hour conditions on the waterfront. Then in '34 when the strike broke, we first had set up—we didn't have the Northwest Strike Committee, we had the ILA Strike Committee which met in Tacoma, in the City Hall Annex at Tacoma. And to start that strike, there was a big hue and cry that we had to feed the starving Alaskans. So the Government made a request and we finally reached an agreement with the shipowners to work Alaska ships. In reaching that agreement, we had to sit down and have a discussion with the other marine unions, because all we did was load the ships. We didn't sail them, they had to sail them. And that caused the setting up of the Northwest Joint Strike Committee of all the marine unions. That was in the first—about 15 or 20 days of the strike, in my opinion, and

(Testimony of Frank Melville Andrews.)

about the end of that month we first—then after that was set up, we voted in that meeting that anyone that worked the ships, loaded them, sailed them or had anything to do with the ships, 50 per cent of their earnings went into the Northwest Strike Committee to support the strike on the Pacific Coast. 25 per cent went to the local and the other 25 per cent of his earnings went to the individual for his family. There was a resolution brought on the floor of that Northwest Strike Committee by a man named Ed Morton, an old-timer on the waterfront—I mean by that he started in eighteen eighty-something on the waterfront, and other union activities. He brought in a resolution, setting aside a part of the 50 per cent that was turned over [5136] to the Northwest Strike Committee to establish a maritime setup amongst the maritime unions, and all groups participate in setting aside that money.

That was the start of the Northwest Strike Committee in the Northwest—the Northwest Strike Committee of the Maritime Federation. Then each branch in the local area on Puget Sound, through the Subdistrict Council of Puget Sound Locals we acted and recommended to our international and the other groups in the district, like Columbia River, Northern and Southern California group of the ILA, and the other marine groups, acted likewise through the other branch offices and to their district office, that we have a founding convention for the Federation. And it was finally adopted, and

(Testimony of Frank Melville Andrews.)

that convention was held in the spring of, I believe, '35.

Q. Did the Communist Party have anything to do with the direction or with the operation of the Joint Strike Committee of the Northwest?

A. Not to my knowledge.

Q. Did the Communist Party have anything to do with the direction of the Maritime Federation of the Pacific? A. Not to my knowledge.

Q. Does the Communist Party have anything to do with the direction of the ILWU? A. No.

Mr. MacInnis: That is all. [5137]

Cross-Examination

By Mr. Donohue:

Q. When did you live in San Francico?

A. I have never lived in San Francisco, only to stay here at a hotel.

Q. How much time have you spent in San Francisco?

A. Well, it all depends on what year you are referring to.

Q. Oh, all the years. The sum total. How much time would you say you have spent in San Francisco?

A. I would have to look into my yearly book that tells what I do every day, because when I am called out—I don't work steady for the international. I am a working longshoreman. I only get paid when I am called in and I——

(Testimony of Frank Melville Andrews.)

Q. Well, let's say——

A. One year will be in negotiations. Maybe that year I will spend 60, 90 days. Some years it runs as high as, I would say, I have been on the payroll of the international, the working days approximately six months.

Q. Well, let's say in the last 15 years, what percentage of your time have you spent in San Francisco?

A. Oh, small percentage. I would say maybe 10 per cent of the time. That is a rough guess; I would have to check up to find out myself.

Q. I understand that. Now, the people that you have discussed or have stated that you have discussed Mr. Bridges' reputation with, where did you discuss his reputation with them? [5138]

A. Here in Frisco, in practically every port on the Pacific Coast, back in Washington, D. C., in New York, back at Boston at the international CIO convention.

Q. Well, now, of all the people you have discussed Mr. Bridges' reputation with, in various cities and places in the United States, what percentage of those persons would you say you discussed his reputation with lived in San Francisco?

A. Oh, at first when I asked his reputation, was to find out—he run for the district president. I discussed, I imagine, with maybe 30 or 35 of the top men—I mean, I thought they were top men—in the Frisco local, in the marine unions, the rest of the discussion was with shipowners, with other

(Testimony of Frank Melville Andrews.)

marine workers, in Portland, Pedro, from San Diego, Seattle, from Tacoma, Port Angeles, all the ports. Some of the discussion was open caucus of elected delegates of the local where we were trying to decide what the man, what his reputation was to run for the president, and who we would support, which we do practically at every convention. We have a caucus to discuss our nominations.

Q. And you have discussed Mr. Bridges' reputation with hundreds of people?

A. That's correct. I would say thousands.

Q. Thousands of people?

A. In the course of time I have been—since '34.

Q. You are now——?

A. From the Governor of the State of Washington down. [5139]

Q. You are now employed by the international ILWU, are you not, by the international office?

A. Now?

Q. Yes. What is your present employment?

A. I am elected international executive board member, from the state of Washington. I get paid when I am called in by the international, and only then, when I am on service. The rest of the time I worked in the hold. In fact, I was injured January 14th working on a ship in Olympia.

Q. Now, Mr. Andrews, among the thousands of people that you have discussed the reputation of Mr. Bridges with, did you ever hear anyone say he was a member of the Communist Party?

(Testimony of Frank Melville Andrews.)

A. Hearsay, that somebody had told them they thought he was.

Q. Well, anything that anyone told you good about him was hearsay, too, wasn't it?

A. That's correct. In fact, some of the witnesses at this trial has told me contrary to what they stated on the witness stand about Mr. Bridges when I asked them. Mr. John Schomaker, I asked him at the '36 convention in San Pedro as to Mr. Bridges' reputation and it is completely opposite to what he told in this courtroom.

Q. Well, you know John Schomaker wasn't called here as a character witness for Mr. Bridges, don't you Mr. Andrews? A. That's right.

Q. And are you familiar enough with the principles of the [5140] Communist Party to know that Communists do not disclose either their own membership or the membership of their comrades?

A. I never had any desire for anything the Communist Party had. I have never studied their doctrines. I believed this country was good enough for me. If I wanted what the Communist Party had, I probably would have went to Russia, under the Communist regime. I am an American citizen, my ancestry was born in this country, and I believe in changing the laws in this country under the present existing laws, or electing people to change them for us through the proper manner.

Q. You know, as a matter of fact, that we do have some native-born members of the Communist Party, do you not, sir?

A. That's correct, and I believe there is no law

(Testimony of Frank Melville Andrews.)

in the United States that I know of today says it is illegal for a man to belong to the Communist Party. It is on the ballot.

Q. And if you knew that a man was a member of the Communist Party, it would not affect your own estimation of his character or his reputation, would it?

A. If I had known, yes—no, I don't believe it would. I believe a man has a right—I know of some men I think highly of that have professed that they are members of the party, but they are honest about it.

Q. Now, during the 1934 strike, you were a member of some executive committee of the strike?

A. I was a member of the Northwest Strike Committee. I had [5141] charge of what is known as the "flying squad." That is when a ship would come in and started to work, and we wanted to stop her. I took a crew out to stop them, to the best of my ability.

Q. Surely. And where did you serve with your flying squad? A. The Puget Sound area.

Q. What part of the strike period did you spend in San Francisco? A. None in '34.

Q. And you would hardly know whether a man named Sam Darcy met nearly daily with the strike committee here in Washington, would you, sir—or here in San Francisco?

A. I don'' believe I testified as to whether he did or not.

Q. Didn't you say that you never heard the name of Sam Darcy?

(Testimony of Frank Melville Andrews.)

A. I was asked if I knew Sam Darcy and I said I never heard of him until this time——

Mr. MacInnis: Now, the purport of the testimony is being misplaced. The witness Schomaker testified that the Northwest Strike Committee was set up under the direction of Sam Darcy and that the Maritime Federation of the Pacific was set up in the same way, and that is what this witness has testified about. He didn't say anything about his knowledge of this waterfront during the strike.

Mr. Donohue: I am just trying to find out what he knows about Sam Darcy, if anything.

Q. Do you know, Mr. Andrews, as a matter of fact, whether or not Sam Darcy met daily with the local strike committee during the [5142] 1934 strike? A. Where at?

Q. Here in San Francisco.

A. I couldn't tell you. I wasn't in Frisco.

Q. Now, just what was your personal relationship to the foundation of the Maritime Federation of the Pacific?

A. I was highly in support of it, as practically every working longshoreman in the area I come from—we voted almost unanimously for the establishment of the Federation.

Q. Now, would you know, as a matter of fact, whether or not Sam Darcy played any part in the organization of the Maritime Federation of the Pacific?

A. If he did, it was an awful silent one up where it originally started from.

Q. Were there persons from San Francisco who

(Testimony of Frank Melville Andrews.)

had anything to do with the inception and organization of the Maritime Federation of the Pacific?

A. I believe the only man that—or one of the men come up from Frisco, sent up by his local, was Henry Schmidt.

Q. And would you know whether or not Henry Schmidt, when he was sent up by his local, was influenced or persuaded to go there by a man named Sam Darcy?

A. I couldn't tell you. The information we had, and I believe the credentials he carried, was under the seal of the local, 38-79, representing that [5143] local.

Mr. Donohue: I have no further questions of the witness, if Your Honor please.

I raise one question to Your Honor: As I understand the law on character testimony, the testimony of good character is confined to testimony in the community in which one lives. Now, it becomes apparent that this witness has spent, in his best judgment, ten per cent of his time in the last fifteen years in the City of San Francisco. I seriously question, if Your Honor pleases, whether his evidence of the good character of the defendant Bridges is evidence such as would establish a general reputation for good character in the community in which Mr. Bridges lives. For that reason I move to strike his testimony on the question of character.

Mr. MacInnis: Well, that objection, of course, would be one going to the weight of the evidence, rather than to its admissibility. This gentleman

(Testimony of Frank Melville Andrews.)

says he has been here a percentage of the time and that he talked to people here, and obviously, any question about the dgeree of persuasiveness from the statement of people in the Northwest, including, as he says, the Governor of the State of Washington, would be a matter of going to the weight of his testimony. I think it is quite sufficient on that point, as a matter of law.

I have one other question, if I may.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Andrews, I had thought to ask [5144] you this question on direct examination. I hope I may include it now. Do you know anything about a man named Henry Schrimpf?

A. I have known him—I met him the first time in 1936, at the district convention in San Pedro.

Q. Do you know anything about Henry Schrimpf in relation to Harry Bridges?

A. Yes, I have heard some statements he made.

Q. When you say "he," to what person do you refer? A. Schrimpf.

Q. What did he say and when, as best you can remember? A. At the last——

Mr. Donohue: I object, if Your Honor pleases. There has been no foundation laid for this series of questions.

Mr. MacInnis: No foundation?

Mr. Donohue: No.

(Testimony of Frank Melville Andrews.)

Mr. MacInnis: If Henry Schrimpf made statements about Harry Bridges, they certainly would be pertinent.

Mr. Donohue: He was never asked whether or not he made any statements to this man or in this man's presence which this witness may rebut.

Mr. MacInnis: That is what he is—No, he is testifying that Henry Schrimpf made these statements to him.

Mr. Donohue: As to Henry Schrimpf, he was never asked the question, if Your Honor pleases, as to whether or not he ever made any statement in the presence of or to this gentleman on [5145] the witness stand.

Mr. MacInnis: Henry Schrimpf was asked so many questions about that point, Your Honor, that they amounted to blanket questions, and he denied that he had ever at any time to any person made statements against Harry Bridges or detrimental to his character, or statements showing any hostility. That was the testimony of Schrimpf. I think he was questioned quite extensively on that point.

The Court: He was on matters of policy. He distinguished; he said on matters of policy. I will allow the question.

A. At the last caucus of the longshore group, held in the International Building in the Santa Maria Room, I was elected a delegate to that caucus from my local. At that caucus I was elected sergeant of arms of the caucus. During the course

(Testimony of Frank Melville Andrews.)

of the caucus I was having a discussion with Mr. Moleto from Local 19 in Seattle, their president, and Mr. Hopkins from Local 19, and the other sergeant at arms. And there was a discussion on the floor, and Schrimpf got dissatisfied and he started out by the sergeant of arms at the door, stopped to talk with some of them, and he made the statement to the group, myself included, that if it took the rest of his life, he was going to dump both Harry and Henry Schmidt.

Mr. MacInnis: That is all.

Mr. Donohue: I have no further questions, Your Honor.

The Court: You mentioned the other afternoon that you had [5146] a reserved ruling or you desired to make a motion to strike with respect to another witness' testimony?

Mr. Donohue: Yes. I do not wish to press that motion, if Your Honor please.

The Court: You do not wish to press it?

Mr. Donohue: No, Your Honor.

The Court: In this instance I will deny the motion to strike. The testimony given by the witness, as indicated by Mr. MacInnis, is a matter for the jurors to determine, as to the weight of the evidence. The witness did state he spent part of his time in San Francisco. To that extent he testifies that he did talk to certain people here, and I think to that extent it is admissible. Accordingly, it is for the jury.

You are excused. Thank you.

We have reached the adjournment period now, ladies and gentlemen. Unless there be some other matters?

Mr. MacInnis: No, Your Honor.

The Court: We will adjourn until tomorrow morning at 10:00 o'clock, with the same admonition: not to discuss the case under any conditions, nor to suffer any person to converse with you on any subject of the trial. You are not to form or express an opinion until it is submitted to you.

(Thereupon an adjournment was taken to tomorrow, Tuesday, February 7, 1950, at 10:00 o'clock a.m.) [5147]

February 7, 1950—10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Hallinan: Harry Bridges.

HARRY RENTON BRIDGES

one of the defendants herein, called for the defendants; sworn.

The Clerk: Your full name is?

A. Harry Renton Bridges.

Mr. Hallinan: I might say parenthetically, Your Honor, in order to facilitate matters, to give the prosecution a chance to get their rebuttal testimony together and to suit the convenience of everybody,

(Testimony of Harry Renton Bridges.)

that, except for the possibility of one or two short character witnesses who may appear here, Mr. Bridges is our last witness.

The Court: Thank you.

Direct Examination

By Mr. Hallinan:

Q. Your name is Harry Bridges?

A. Right.

Q. And what is your occupation, Mr. Bridges?

A. Presently union officer—labor union officer.

Q. Of what union?

A. International Longshoremen & Warehousemen's Union.

Q. Where were you born? [5148]

A. Melbourne, Australia.

Q. When? A. July 28, 1901.

Q. What is your father's name?

A. Alfred Ernest Bridges.

Q. What was your mother's name?

A. Maiden?

Q. What is your mother's name?

A. Maiden name?

Q. No, her present name.

A. Julia Bridges.

Q. What was her name?

A. Julia Dorgan, D-o-r-g-a-n.

Q. Did you have any brothers and sisters?

A. Yes.

Q. How many? A. Six—no, four.

(Testimony of Harry Renton Bridges.)

Q. Four. Are they still alive? A. Yes.

Q. How about your father and mother?

A. Father is dead; mother is alive.

Q. When did your father die?

A. November—November, '47.

Q. During his lifetime what was his occupation?

A. He was a real estate agent, realtor. [5149]

Q. He lived in Melbourne, Australia, until his death, did he? A. Right.

Q. He died there? A. Right.

Q. In '47? A. Yes.

Q. Does your mother still live in Melbourne?

A. Still lives in Melbourne.

Q. With reference to your family, what does the other four consist of?

A. Three sisters and a brother.

Q. And where do they live?

A. Two of my sisters, I think—two of my sisters definitely do live in Melbourne, one in Sydney, and my brother is in Melbourne.

Q. At least they live in Australia now?

A. That's right.

Q. And will you tell us a little about your early schooling and education?

A. Oh, my schooling was the average or usual schooling more or less of a child in Australia. The laws of Australia require any child to begin attending school at the age of four and a half. I started in school at four and a half and I went to what might be the equivalent of grade school here in the United States, until I was 11 or thereabouts, and

(Testimony of Harry Renton Bridges.)

then I put in two [5150] years at junior college, what I would say would be roughly the equivalent of a high school.

Q. And then what was the first occupation that you undertook?

A. Shortly after leaving school I worked in an office for a short time, I forget how long—an office of a large stationery firm in Australia.

Q. In what capacity? Office boy?

A. Office boy. Junior clerk. That was in the early days of the first World War.

Q. You copied letters in a big round hand, did you? A. Yes.

Q. After that what was your next occupation?

A. I went to sea.

Q. How old were you when you went to sea?

A. I went to sea in 1916, so that would make me 15.

Q. 15 years. In what capacity? On what sort of ship?

A. Seaman. In the first place, a cadet, later on ordinary seaman, and later on an able seaman.

Q. Did you attend prior to that time any school of navigation or school for training seamen?

A. Yes, while in my latter days—latter part of my schooling and shortly after schooling, I went to a kind of Sea Scouts arrangement in Australia where they had——.

Q. Who was that run by?

A. At that time it was run by the inspector of shipping of [5151] Melbourne, Australia. That was

(Testimony of Harry Renton Bridges.)

a federal bureau, and the man's name was Captain Sufferen, S-u-f-f-e-r-n.

Q. That was a school for training boys in preliminary seamanship to fit them for a life at sea?

A. I would say it was the equivalent of the Sea Scouts. It was kind of——

Q. Was that sail or steam?

A. At that time sail.

Q. In other words, you started in as a sailor in ships propelled by sails instead of by steam?

A. No, not the first—my first trip and a half or two trips was in steamboats. After that I switched to sail and spent the rest of my time while—until with a couple of exceptions, until I came to the United States.

Q. And that school that you mentioned amongst sailing men is a rather famous school for preliminary training and sailing ships, isn't that correct?

A. It was at that time. The school was built around the idea of keeping or training a group of young people in order to have available material for sailing ships in order—the real idea behind it was the idea of a group of old-time sailormen, that is, square-rigged sailormen, sailing ship men, to train enough material to man the ships at that time that were still running from Australia to Europe with wool and wheat. That continued for some years, but that was the idea at the time. [5152]

Q. And then you say that your first cruises were on steamboats? Were those short or long cruises?

(Testimony of Harry Renton Bridges.)

A. Relatively short. Those were cruises up around the Dutch East Indies to the north of Australia. There was a large shipping company in Australia that used to have a run, so we cruised up by Malaya; Sumatra, Batavia, Java; up around the Dutch East Indies, the British Straits Settlements, up around there. I made about a trip and a half or two trips up there.

Q. And then when did you start on sailing ships? How old were you?

A. Oh, that would be around the end of 1916, fall of 1916. I had just turned 15.

Q. I see.

A. I put my age ahead a few years at the time.

Q. In order to get in?

A. Well, at that period of time in Australia there was, without it being official government program, the general idea was to have people quit school early, boys quite school early. There was a great manpower shortage on account of the war, so parents were generally urged, not necessarily through government agencies, but through various organizations of a so-called patriotic nature, to add to the manpower pool.

Q. That was the first World War, was on, at that time, commencing in 1914, ending in 1918 or '19?

A. And there was a great manpower shortage in Australia, what [5133] with the army and so on.

Q. And what did you do with regard to sailing on sailing vessels? What was your career in that?

(Testimony of Harry Renton Bridges.)

A. I continued sailing until, with the two exceptions where I made a trip in steamboats—that was still during the war—but from the end of the war on, until I landed here in the United States in 1920, I was in sailing.

Q. So that, then, from 1916, the end of 1916 up until 1920, with the exception of a couple of cruises with steamboats, you were on a sailing ship in what capacity? What were you then?

A. Able seaman. First of all, ordinary seaman; later on, able seaman.

Q. And would you tell us briefly what some of your duties were as an able seaman?

A. Well, an able seaman on a sailing ship, of course, in the terms of the trade at that time—my memory is getting dim, of course—you had to be able to hand-reef and steer. In other words, you were supposed to be a helmsman, be able to steer, steer not only by compass, but by watching the sails. In other words, when you are handling your ship, what they call close-hauled, in the parlance of the trade, steer by the sails, as it were, and keep the edge of the sail "lifting," meaning shaking (indicating), so as to keep the ship close-hauled on the course; that is, separate and apart from steering by compass. You had to be able to handle the sail, reef it, stow it, [5154] break it out. In addition, you had to be able to do the various types of work: splicing, worming, as they call it, do various types of rope work, line work, and keeping the ship in order, rigging and things like that. Generally

(Testimony of Harry Renton Bridges.)

speaking, the able seaman's duties aboard a sailing ship comprise taking care of the ship, handling the ship, taking care of the gear, the sails and doing everything except, you might say, the cooking or the navigation of the vessel. And in steamboats, more or less the same thing, except there is an absence of sail and your duties more or less are keeping the ship in trim. There was more painting, scaling, work of that nature.

Q. Now, what was the average number of the crew on the ships that you used to sail on?

A. Oh, it would depend. That would always depend, first of all—do you mean sailing ships?

Q. Yes.

A. That would depend on the vessel. It might go as high—I was on one ship once, we had a crew of 135, but she was a pretty big one. She was a big Frenchman, during the first World War, and in addition to the regular ship's crew, she had two six inch guns on her, and we had a large gun crew, a big French four-master, full-rigged ship at that time. So then I was on a smaller one, smaller ones. That would all depend. That would really—I don't know, but it would depend.

Q. About how many trips did you make altogether on sailing [5155] ships?

A. Oh, I don't know. I don't know. I would have to check my records. I have got my old papers lying around somewhere. I would have to check.

Q. How far would the trips be? What were the longest you took?

(Testimony of Harry Renton Bridges.)

A. By and large, around the Australian coast, between Australia and New Zealand, Australia and Tasmania, Australia and the Southwest Pacific, a trip over to the United States, and a trip to the Chilean coast. They were my various trips in sail. When I went to Europe, I made a couple of trips to Europe; that was in the first World War. They were steamboat trips. They were on transports.

Q. The necessity of using sailing ships at that time, I suppose, is revived by the shortage of shipping, is that right, and then after the war the sail ships died out?

A. No. When I went to sea in 1916 there was quite a large fleet of sailing ships operating around Australia and around the South Pacific Islands. Quite a fleet. And then of course the big clippers on the wool run and wheat run, they were still going big—Frenchmen, British ships, Finnish ships, Norwegian ships, Scandinavian ships. Quite a large fleet used to sail every year, make the trip around the Cape, Cape Horn, and home across the Atlantic.

Q. And then in the course of your work on those ships, did you meet men of many different nationalities and races, men from many [5156] different climes? A. Of, of course, quite a few.

Q. Mingled together with them through all those years?

A. Yes, that is true. That is always the case when one goes to sea.

Q. Now, at the time that you were in Australia

(Testimony of Harry ~~Renton~~ Bridges.)

and during the time that you were working on these ships, did you take any interest in labor movements or union movements?

A. Very difficult to work for a living in Australia without being connected with a union.

Q. As of that time?

A. As of that time, yes. Well, as of that time.

Q. Why was that, Mr. Bridges?

A. I joined—I was more or less required or did join the Seamen's Union shortly after I went to sea. I could have—it wasn't exactly necessary for me to belong, because I went to sea as a cadet and I didn't have to belong immediately to it at that time, but anyway, I was a member of the union very shortly after I went to sea and I can still recall about my first trip and a half or two trips, we were laid up because we were on strike in support of the West Coast longshoremen here in the United States. The seamen and longshoremen. In other words, the union down there—I can't recall the details, and it didn't affect the ship I was on because we weren't trading to the United States, but it did affect some of the other vessels. [5157] But indirectly it affected myself because I was a member of the union. I had no part in it other than being just an ordinary rank and file member of the union, but I distinctly recall it because I had only been going to sea a few weeks when that occurred. That was in 1916. And then in 1917 there was a general strike of Australia, where everything was shut down by the labor unions at that time, and the president of the Australian

(Testimony of Harry Renton Bridges.)

Seamen's Union was a pretty famous individual. His name was Tom Walsh. Later on he was imprisoned. He was imprisoned later on for advocating or participating in strikes in violation of the arbitration laws of Australia, and he married the daughter of Mrs. Pankhurst of suffragette fame. Mrs. Sylvia Pankhurst. Tom Walsh married her daughter. That was Mrs. Adele Pankhurst, and I got to know both of them, because Sylvia—I mean, Mrs. Tom Walsh—that is, Mrs. Pankhurst's daughter, was placed in jail in Melbourne, a place called Pentridge Stockade, and my aunt was the governor of the jail. So she was a political prisoner in the jail. She hadn't committed any crime. The laws of Australia required all labor disputes be submitted to compulsory arbitration, and although technically speaking, the right to strike is preserved, there can be certain penalties assessed against people who refuse to follow the compulsory arbitration provisions. So Tom Walsh and his wife were imprisoned. She was, at that time, in 1917. And I remember visiting my aunt in the jail. She took me in to see Tom Walsh's [5158] wife, that is, the former Adele Pankhurst.

Q. And what became of Tom Walsh ultimately?

A. I don't know. I recall hearing about him around the early '30's. I don't know.

Q. Well, let me ask you this, Mr. Bridges: Were the unions in Australia at that time in a strong or a weak condition?

(Testimony of Harry Renton Bridges.)

A. Strong. Well, after the 1917 strike there was a general strike all over the nation.

Q. What do you mean by a general strike? Will you explain?

A. That was a general strike, where everything was shut down. It began in the railroad yards. The railroad workers, although the railroads there are government owned, all the workers are organized, and the railroad unions were one of the strongest unions. So in 1917 some workers were discharged or locked out in the railroad yards in the state of New South Wales, and the railroad workers declared a strike. And the miners joined in sympathy and when the miners joined, that is, the coal miners, they declared all industries using coal, they declared coal, the commodity of coal, incidentally, I mean, they declared it "black" or as we might say over here in this country, "hot cargo." And therefore every industrry using coal more or less shut down in sympathy, and that went for the sea-going industry, that is, the shipping industry as well as any other. That resulted in a national strike of the entire country in 1917. Well, that was still during the war. [5159]

Q. How long did that last?

A. Oh, I forget, but I remember that the strike wasn't successful. It was, if not broken, it was considerably softened up by the federal government stepping in and taking some pretty extreme measures.

Q. But taking the federal government as of that

(Testimony of Harry Renton Bridges.)

time, by and large, was it more pro or anti labor?

A. Well, very, very pro-labor. The prime minister at that time, a very famous man in Australia, was William Morris Hughes. He was a longshoreman. He had been president of the longshore union, and he became prime minister of Australia. So the labor government during the war was very, you might say, pro, and the unions were very strong, even though the labor government eventually split on the issue of conscription. There was three referendum votes on conscription. Billie Hughes, as he was known—that was the prime minister of the country—and I remember him "soap-boxing" when I was a young person; he went over to England and he became, he came back "Sir William Morris Hughes" and that kind of washed him up with the labor movement in Australia, and in addition to that, he advocated a program of conscription in Australia. Well, that program was put to a referendum vote of the people, I think three different times, and voted down each time. Strangely enough, the weight of the vote, the vote was pretty close. Each time it was decided by the absentee votes of the soldiers overseas. So up until that point, until the labor party was split, the union were very strong and the labor party very strong. [5160]

Q. Let me ask you this: How long prior to that time had labor been in political power in Australia, approximately?

A. Oh, I really can't recall exactly when the labor government went into power, but the unions were very strong.

Q. Let me ask you this——

A. And the Labor Party—if you were a member of a labor union—if you were a member of a union in a compulsory fashion you became a member of the Labor Party, because you were required as part of your union duties, and part of your union dues went to the support of the Labor Party, and, of course, under the law of Australia, it is compulsory to vote; you must register and you must vote, otherwise you are fined.

Q. Was that the rule at that time?

A. It still is.

Q. Did you personally, even though only a child in years, take any part or any interest in these union activities at that time?

A. Only as a member. Only as a member of the union, rank and file.

Q. Did you take any interest in it? Did you study it and take any interest in the matters——

A. Not to any great degree. I took—other relatives of mine, that is, cousins, uncles and so forth, who were also involved in certain political aspects; I had uncles who were involved in running for office on the Labor Party program.

Q. Tell us who they were and what they did, briefly. [5161]

A. Well, one uncle was killed in the war. I was named after him in part. I had an uncle called Harry Renton, who was killed in the first World

(Testimony of Harry Renton Bridges.)

War, but he had gotten away, he had left Australia around 1915. He was a great pro-labor person, you might say. He was a veteran of the Boer War and you might say pretty anti-Empire. I had another uncle who later on served for many years in the upper chamber—what they call the upper legislative chamber in New South Wales, and I had some cousins who were in various jobs or industries where the labor union activities required—well, were pretty strong, active and going on all the time, so in that way I indirectly more than directly got to learn about labor matters. I didn't take any active part in the early strikes I was involved in beyond doing the things I was required to do as a member of the union—picket duty and things like that. I had no part in the program or policy of the leadership or anything like that.

Q. So, Mr. Bridges, these devices that have been testified to here to better the condition of labor, such as strikes—the general strike occurred in Australia before even the Russian Revolution of 1917, is that correct? A. Oh, sure.

Q. All those devices, were they devices that had long been recognized as proper tools in a labor struggle, or were they introduced with what is now called Communism?

A. Oh, no, I think that almost any student of labor history or [5162] world labor organization I think knows that at the beginning of the first World War possibly Australia was one—was the best organized country in the world. Its unions were strong and progressive, and Australia had already established, not only by the activities of the various labor unions down there, but by the activities of the labor government, they had established many, many reforms that we are only getting around to here in the United States now.

Q. What? A. What is that?

Q. What?

A. Well, in 1909, for example, in the shipping industry the eight-hour day was established, certain overtime was established, certain other things such as insurance was established by the actions of the union in collaboration with the Labor Party. And here in the United States, why, the unions—I think we got the eight-hour day here in the shipping industry, that is, for seamen, in 1919. And then there were certain other things such as old age pensions, the basic minimum wage law here; we call it the basic wage law down there; a certain type of medical and health programs, health insurance program, the baby bonus, various things like that.

Q. Would you tell us briefly now, because this is pertinent toward an inquiry as to what you were trying to help the longshoremen get in San Francisco—give us a little more detail on those things, that is, by the eight-hour day you mean the [5163] eight-hour day for men as well as women?

A. The eight-hour day was established in Australia by law very, very—pretty early in the game, in the early 1900's. I forget; there is—we celebrate

(Testimony of Harry Renton Bridges.)

—used to celebrate in the unions in Australia the eight-hour day.

Q. Was that an eight-hour day for men?

A. For everybody.

Q. Or only for women?

A. For everybody, except there were certain industries that were exempt, something like certain industries are exempt here from the basic minimum hour and wage law. But that was established by political action in Australia.

Q. What about your basic wage rate? What was that? A. I forget—there was——

Q. I don't mean the amount, but what was the operation of it?

A. Notwithstanding what job you were working in in Australia, you had to receive a certain number of pounds a week. It was a minimum wage law. That was established, I think, around 1909 or '10 or '08.

Q. What about the old age pension?

A. Oh, that was a pretty early development in Australia. Old age pensions I think were set up around shortly after the turn of the century in Australia.

Q. And roughly what did they provide?

A. Pensions for elder citizens, not too— well, at least to [5164] my way of thinking, not enough, not too liberal, but——

Q. Something?

A. They were considered pretty radical at the time.

(Testimony of Harry Renton Bridges.)

Q. Then what about the baby bonuses that you mentioned?

A. That was a very simple affair, that everybody—that the government, the federal government, paid the parents five pounds at the time—it is more now—upon the birth of every baby. The idea was to give the baby a start in life by being able to buy some clothes for it, some food, and something like that.

Q. Then were labor unions protected, I mean, were they permitted to exist with the aid of the government? Were repressive measures against them forbidden?

A. Not in Australia since the 1890's. There was some pretty hectic battles fought between the labor unions and the government as well as the big industries down there in the 1890s. The unions were defeated. They were defeated by certain laws that were passed notwithstanding the fact that the unions were strong enough in an economic sense to defend themselves by strike or economic action. So, as a result of the gains of labor in Australia, that is, the gains that were made in the 1890s, being threatened by certain legislative steps that were taken by the pretty big interests in Australia, the Labor Party was established, and the labor unions set to work through political action or legislative action to preserve their gains and their [5165] organizations by laws and have succeeded in doing that in many, many ways.

(Testimony of Harry Renton Bridges.)

Q. So that then for some 25 or 30 years before this Communist-directed strike on the San Francisco waterfront, Australia had the things that you have just discussed and told us about, is that right? I mean the so-called or the charged Communist-dominated strike?

A. Oh, yes, that is true.

Q. And was Australia during any part of that time what you could call a Communistic country?

A. Well, every trade union in Australia has as its general basic theme, you might say—it is stated in the preamble of the trade union—a Socialist objective. They frankly—and I think that is without any exceptions down there; I am just stating what the facts are—all the trade unions of Australia are definitely, frankly and objectively supposed to drive towards a Socialist objective, meaning the ownership, operation and control of the various enterprises of Australia by a Socialist government, a Socialist regime and administration.

Q. I see. When you left Australia to come to San Francisco had you already had some considerable experience and made some considerable study of the trade union activities, tactics and techniques?

A. I wouldn't say considerable, but a certain amount. I was unable to avoid a certain amount. The way it used to work on [5166] the vessels—and I think that it was the Australian seamen's unions that more or less established this method of administrating a union—while a ship was at sea, that ship was organized where the various members

(Testimony of Harry Renton Bridges.)

of the crew elected a ship's delegate. In other words, you had a ship's committee, and that committee would have a chairman, maybe a vice-chairman or secretary; it met every so often; handled the grievances of the crew by in effect having a spokesman for the crew take the matters up with the master of the vessel or the chief mate of the vessel. So all the time there was a certain amount of union activitiy aboard a ship, and in that sense I of course gained a little experience, not too much. I didn't act in any official capacity on any of those ships except maybe the last 18 months before I came over here, like I was the chairman of the ship's committee on the vessel that I landed in—I left here in the United States in 1920. That was a sailing ship called the Isabelle.

Q. That is when you came to San Francisco, in 1920? A. Right.

Q. Landed here?

A. I was the chairman of the ship's committee.

Q. When you landed here where did you go to live then, Mr. Bridges? A. San Francisco.

Q. And what type of work did you take up then? [5167]

A. I continued to sail a ship out—I transferred into the Sailors Union of the Pacific, and at least—no, I didn't transfer; I joined the Sailors Union of the Pacific, but I had no trouble because I was a member of the Australian seamen's union, and I started to sail out of San Francisco.

(Testimony of Harry Renton Bridges.)

Q. And you tell us that as early as 1917 there was a strike in Australia to support the demand of striking longshoremen in San Francisco?

A. No, 1916.

Q. 1916?

A. Right, 1916. I think that is a matter of—I think that is pretty well known.

Q. The Sailors Union of the Pacific to which you belonged—how long did you remain in that type of work?

A. Until shortly after the 1921 strike. The Sailors Union, which was a part of the International Seamen's Union of America at that time, called a strike in May, 1921, and that strike eventually was lost, fizzled out, and I let my membership in the union lapse shortly after around the fall of that year.

Q. What did you do then? What kind of work did you take up?

A. I was still going to sea, but in the meantime I joined the—during the course of the strike I became a member of the IWW.

Q. What was the IWW?

A. Industrial Workers of the World. [5168]

Q. Who had founded that?

A. Eugene Debs.

Q. That was the——

A. Union of Debs.

Q. The great Socialist who died here a few years ago? A. Right.

(Testimony of Harry Renton Bridges.)

Q. And this Industrial Workers of the World—how long did you belong to it?

A. A few months, I think. I was in there until the end of '21 or the beginning of '22, if I recall correctly.

Q. What were the circumstances of joining and leaving it?

A. Well, the International Seamen's Union at that time was composed of a series of unions. On the West Coast, as far as the deck department was concerned—that is, the seamen that sailed on the deck—it was called the Sailors Union of the Pacific; at least that was one of the component parts of the national. The firemen were organized into the Marine Firemen, of course, and the stewards' department was organized into the Cooks and Stewards Union. There was other branches for ferryboats, fishermen, and so forth.

In the East the union was known as the Eastern Gulf Association, and my membership had been transferred at that time to the Eastern Gulf Association, and I was in New Orleans during the strike—during the '21 strike I was on strike in New Orleans. So that strike was in bad shape, to my way of thinking [5169]—not only to my way of thinking but to the way of thinking of quite a few of the members of the union it was being sold out, the leaders of it were selling us out. So that had quite a bit to do with my joining the IWW, as well as that organization at that time offered a more progressive, militant program, a more democratic

(Testimony of Harry Renton Bridges.)

program. There was very little democracy in the old ISU, and I eventually during the strike joined the IWW, the Wobblies, as they were called—and eventually I went to sea as a Wobbly organizer.

Q. How long did that last?

A. Oh, just a few months, up until the beginning of 1922, I think.

Q. Then under what circumstances did you leave?

A. I just quit; I quit my ship, and then I joined the United States Coast and Geodetic Survey for a while. [5170]

Q. That was in the employ of the United States Government? A. Right.

Q. And how long did you stay in that?

A. Oh, I think until around—I have my papers; I was discharged, I left in the fall of '22, I think in October.

Q. Now, did anything occur with regard to the head or one of the heads of the IWW that caused you to look with suspicion thereafter upon such organization?

A. Yes. One of the top leaders, one of the men we looked up to and admired at that time who—he was the secretary of the Sailor's Union of the Pacific, he was the secretary of the union that I belonged to. Although I held membership in the East, I was still a member of the Sailors Union on the West Coast, and the secretary of the union, a man named Thompson at the time, and also a leader of the IWW, was later on—I didn't know it at the

(Testimony of Harry Renton Bridges.)

time, I learned it later on—he was exposed as being on the employers' payroll all the time. He was on the payroll of the shipowners all the time.

Q. And acting as a spy upon the union?

A. Well, he was one of the leading officers of the IWW. He was one of the very militant, so forth and so on, but later it developed that all the time he was working for the shipowners. Not that the membership knew it, of course, I mean.

Q. When, approximately, did you find out that that man was working for the shipowners? [5171]

A. Oh, I don't know; some time after the strike of '21.

Q. I see.

A. Some time after that strike of '21.

Q. Now, the strike of '21, then, having been lost, did you return to San Francisco?

A. Yes.

Q. And when, Mr. Bridges?

A. In the later part of the year, in 1921, I took a ship out of New Orleans and came around to the West Coast here, and I left it here and then I joined the Coast Survey.

Q. I see. And then when did you finally give up following the sea? A. 1922.

Q. And you undertook what kind of work then?

A. Longshore work.

Q. I see. So that at that time, then, you would be approximately 21 years old?

A. No, before—let me see. First of all, after leaving the Coast Survey, I worked as a lumber

(Testimony of Harry Renton Bridges.)

piler here in San Francisco, for Van Arsdale-Harris was the name, the name of the firm. I forget how long I worked there. So in reality I don't think I went to work as a longshoreman until probably—it might have been later in '22, more likely early in '23.

Q. Now, would you describe briefly to the jury the situation of the longshoremen of San Francisco from that time up until the [5172] formation of the union, around 1933? That is, the conditions under which they worked, their pay.

A. Well, it wasn't so bad. The conditions on the waterfront were not so bad when I first started, in '22; '23. Although a few years before, the bona fide union on the waterfront had been smashed along with the many, many other unions as a result of strikes that occurred in the post-war depression and the strike was smashed in 1919. And a company union was established here in San Francisco, called the "Blue Book." That was established in 1919, 1920, and conditions were fairly—weren't so bad, relatively speaking, up until around 1924. There was an attempt in 1924 to revive the old union, and I recall the case because I joined up just prior to Labor Day, 1924. And we entered in the Labor Day parade on Labor Day. Around 400 of us were members of the labor union, which was the ILA at that time. The president was George McNulty who is now the chief probation officer of San Francisco. And we paraded up Market Street in September, 1924, and the company union agents stood on the sidewalk and took all our names down, all of those

(Testimony of Harry Renton Bridges.)

that they knew or could recognize, and we were all blacklisted for a couple of years, for the next couple of years, for about '25 and '26. We couldn't work at any of the regular jobs, and quite a group of us just got by, hit and miss, where we could. By and large, those who were citizens of the United States found employment out at the army transport docks. Those that were not [5173] citizens, and that is the category I was in, we generally picked up a little work at the old docks where the Japanese ships used to come in. Strange, but happens to be true, that about the only line that didn't do business with the company union, the Blue Book, was the Japanese lines. So there was always a few hours' work to be picked up down there, even though you were not a member of the company union. And then during the spring of the year, when the fishing vessels went to Alaska, used to send up quite a fleet of big square-riggers at that time, as well as some steamboats later, we could pick up a little work there. Then a few odd jobs, car-loading and one thing and another. Anyway, we hung on for a couple of years, and then the thing fizzled out and we got by, were able to work again pretty steady along the waterfront. That is, we could work anywhere, but in the meantime, of course the speedup started; particularly during the year 1925 I would date the real speedup starting on the waterfront. And when I say speedup I mean it was pretty killing.

Q. Well, what do you mean now by speedup?

(Testimony of Harry Renton Bridges.)

A. Well, the men, the various longshoremen, both as individuals and as members of a gang, they were driven at a pretty hard pace. Because by that time, the group of longshoremen on the waterfront were about evenly divided into two groups. You had one group of men that you might say worked steady, relatively speaking, and another group of men that worked casually. We [5174] used various names for them, but generally you had a situation like this: The men that were working steadily, they were in the docks working on the job, and 24 hours a day, or pretty near 24 hours a day, certainly 16, 18 hours a day, there was always a large group of men standing outside the docks, see, ready and willing to take the place of any person working inside that wasn't working fast enough. Now, in order to understand that, it should be borne in mind that the men that were standing outside willing to take a job of a so-called man working steady, merely had in mind trying to make a living. They were pretty desperate, hard up, wanted to eat, hungry. So by juggling this type of situation around, why, the various steamship companies and stevedoring contractors, they were able to step up production. That is, the manpower output and the gang hour output of the San Francsico longshoremen. They were able to step that up until it was the highest in the world. I would say, and I have found out since by research, that without a question of doubt, the output per man and per gang in San Francisco during those years or on the Pacific Coast during those years was higher than any other country in the world. And

(Testimony of Harry Renton Bridges.)

"speedup" simply means that every opportunity that presented itself, the number of men in the gang or the number of men per operation was reduced. And therefore you had a situation where two men might be required to do the work of, say, eight men, where under normal circumstances without any pressure or in the absence [5175] of any type of bona fide trade union organization. you would actually have eight men doing a job. But in order to save costs, the men were knocked off and two men were pushed into doing the work.

I worked down on that waterfront there in the hold of a ship where there was only two of us in the hold, stowing the ship. Now, of course, generally speaking, we have eight men and that has been the case for many, many years and was the case just prior to that. That was an extreme or an unusual situation. But every man that was on the waterfront in those years, when you talked to them about "speedup," they know what it means. And it was a killing speedup. The men would drop on the job and you would pack them off and lay them to one side and leave them lay there until—if they had an attack of heart failure, well, they would maybe lay there an hour or two until the ambulance came there and picked them up. Nobody worried much about them. I was on jobs on three different occasions when men dropped dead, just—that was the end of them. They were done. There was long hours, tremendously long stretches. You were required to work—you weren't required to work, but you were afraid not to work the long stretches because if you laid off to let somebody take your place, that simply meant that the person would stay in your place and you wouldn't come back. So you might work stretches of 24, 36 hours.

Q. You mean 24 or 36 hours without a [5176] stop?

A. No, a stop for meals, with a stop for meals and that is all.

Q. And what about the rate of pay? Was there overtime beyond any particular hour?

A. Yes, on some companies, overtime; on the majority of docks there was overtime. That wasn't a point; nothing wrong with that, because overtime in the longshore industry is charged to the ship. In other words, you only work overtime when called upon by the shipping company or the ship. The best examples is, a foreign ship comes in, and they make a contract with the contractor stevedore to unload the ship. Now, the ship determines whether you want to work overtime or not, or whether the men will work overtime. In which case, it is a cost plus affair. The stevedoring contractor works the men overtime and charges the ship. So it was always a matter of actual fact that the bulk of the companies, the majority of the companies paid overtime when overtime was worked, and the rate was generally time and a half. There was some exceptions to that. Some companies paid straight on overtime all the way through. Many companies, or some companies, again, paid below even the company

(Testimony of Harry Renton Bridges.)

union standard. The company union standard was —well, at the lowest point it reached 75 cents an hour and time and a half—75 cents an hour, and 30 cents on overtime, additional 30 cents an hour for overtime. It went up and we started to organize and they gave us a voluntary raise to 85 cents an hour and $1.25 overtime. Some companies, as I say, paid not only less than the [5177] straight time rate, but as low as 50 cents an hour. But they paid straight on overtime. But that was an exception to the rule, rather than the rule.

Q. Now, what about this matter that has been described or called a shapeup?

A. Well, the shapeup existed only in the port of San Francisco because the company union existed in San Francisco. In all other ports they had an employer-controlled hiring hall, called by the men the "fink" hall. Now the reason for that was that San Francisco being the major port in the Pacific Coast, generally controlled or generally laid down the pattern of labor relations. Wages, for example, were set by and large by San Francisco. A wage would be set in San Francisco by fake collective bargaining, fake and phony collective bargaining between the company union here and the employers' association, and that would be established as the rate in San Francisco, and the shipping companies and the stevedoring contractors in other ports as they used to tell us, "out of the goodness of their hearts," wanting to do the right thing by their employees and workers would voluntarily follow the

San Francisco rate, even though they were under no compulsion to do so. So the way the thing worked, the company union was maintained here in San Francisco in order to give an appearance of collective bargaining, and then the rest of the ports used to fall in line, and along with the company union, used to get the shapeup in San Francisco [5178] only. In other ports——

Q. Let's interrupt for a moment. What do you mean by a company union?

A. A company union, why, is a dummy union set up by the shipping operators, controlled by the shipping operators, the officials were hand-picked by the shipping operators and it was used to play a role on the waterfront where, instead of defending the rights of the working people on the waterfront, the members of the company union, the way the company union was used, that if you raised—if you made a complaint, even about the violation of a company union rule because there were certain rules, there were certain wage standards and working rules; the way the company union worked, if a member on the job or any member of the company union,—and you had to be a member of the union to work, union membership was compulsory. They had a complete closed shop. Any complaint against a violation of working rules, pay rates and so forth, the company union was an agency that reported you to the employer, and you were fired, and you were blacklisted. You weren't only blacklisted in San Francisco, you were blacklisted on the entire

Pacific Coast, because your name was sent out, up and down the Coast in each port, and if you showed up and tried to go to work as a longshoreman in any other port on the Coast, you might get by for a few days, but as soon as they checked their record, that was all, you were finished. So the company union acted as a blacklisting [5179] agency, and instead of doing anything to protect the rights of the workers, in the first place it served as a phony, fake collective bargaining agency, as a stool pigeon agency that used to turn in the few people that used to complain about the chiseling that went on. In addition, the agents of the company union and the officers of the company union, they used to act as checkoff men. In other words, and I have—I don't raise any particular point—there used to be quite a few places operating on the waterfront at that time, they were "blind pigs," bootleg joints. There was a practice of, when you got your brass check as a longshoreman, and each longshoreman received a brass check when he was hired in the shapeup. He was hired, picked out, and then you were given a brass check, and that brass check was a timekeeper's check. And when you went to collect your pay for the job, you turned in that check and you received your pay in return for the check. Well, a practice developed, sponsored, pushed, supported and in some cases demanded by the company union where you would cash your brass check in, or at one of the bootleg joints.

Mr. Hallinan: May we take the recess now?

The Court: Yes, I think so, Mr. Hallinan.

Ladies and gentlemen, we will take the morning recess. May I again admonish you not to discuss the case under any conditions.

(Recess.) [5180]

Q. (By Mr. Hallinan): Now, you were telling us about these halls that the employers ran, what you call fink halls. Would you tell us just what you meant by that?

A. On the Pacific Coast here for a period of years—that is, between the breaking of the unions, the longshore union in 1919 and '20 and the seamen's union in '21—up until we finally eliminated the last vestige of the hiring hall, of the fink hall, in 1936, there was a structure or an organization—it truly was—known as the Fink Hall. That was the term applied by the longshoremen and the seamen. In reality it was an employers' hiring hall, and it operated in, as I say, all ports with the exception of San Francisco for the longshoremen, although we had a hall here for the seamen in San Francisco. Now, by the use of a hiring hall structure—that is, its organizational structure—the application of the basic principle that was underlying the hiring hall, the employers in the shipping industry were able to, first of all, prevent any effective or bona fide labor organization. Anybody that started to take any effective steps toward organizing a labor union, the fink hall was the instrumentality by which and through

(Testimony of Harry Renton Bridges.)

which they were blacklisted, forced out of the industry, if possible. Secondly, it was also through the fink hall that some groups or some individuals could be favored over others; that is, longshoremen; for example, a work record of their various jobs, their earnings were kept and the—by the use [5181] of these records the job opportunities could be juggled around in such a way so as to discriminate, to play favorites, and thus that was an additional reason why some men felt required to do more work than other men.

Q. Would you give us an illustration of how a man would be blackballed, as you put it, the reason for it, and the procedure they went through to arrive at that to drive him out of the industry?

A. Well, in the—in the various ports outside of San Francisco, the principle was simple. There were some exceptions, but by and large, here is all that happened: All the longshoremen of the port were hired through the fink hall—the longshore fink hall, or the longshore employer-controlled hiring hall. That was the only way you could get on the job. There were certain exceptions to that, but they were exceptions only, such as after a group of longshoremen had been sent to work through the fink hall, they might be working until night, for example, and one of them might get hurt, so there was a shortage of a man, in which case the boss might go outside the dock and pick up the first person that came along. Generally speaking, he would pick someone that was waiting outside of the dock for

(Testimony of Harry Renton Bridges.)

just that thing to happen. And that might be midnight; it might be ten in the morning; it might be any time of day or night. So outside of those exceptions, all other jobs came through the fink hall as far as longshoremen were concerned, [5182] and the same with seamen. So if you got in bad standing with the employers for any reason, such as union activities, raising complaints about chiseling on your pay envelope; if you didn't play ball in some respects, that is, with certain bosses, by cashing in at a certain bootlegger, or doing certain other things; if you didn't kick back to certain bosses, the fink hall was the instrumentality by which you just didn't go to work. You would go up—you could show up at the fink hall every day. In other words, the discrimination wasn't practiced by discharging one after being hired; the discrimination was practiced by not being hired. You were never told anything; you never knew anything; you were just hanging around there and you never got hired; more or less it just happened anyway. So there wasn't any evidence. The employers were always in a position to say, "There is no blacklist going here; you are just out of luck, that is all. You just don't get hired." See? And that is the way it used to work.

The same thing occurred in the shapeup. That is, the longshoremen in the City of San Francisco. The shapeup was the method by which they were hired. And in the picking out of the men we all

(Testimony of Harry Renton Bridges.)

used to assemble on the waterfront right down across from the Ferry Building in San Francisco in those days, and every day, holidays and all, that was the only way you had a chance of getting a day's work. And after about seven or seven-thirty in the morning—the work would generally start [5183] at eight o'clock—after the various individuals had been picked from the shapeup there across from the Ferry Building, then you would scatter and you would spend the rest of the day wandering around the waterfront hanging around in front of a dock in the odd chance that someone didn't show up, someone had gotten hurt, someone was short-handed and the boss might come out and call you in to get a day's work. Generally speaking, that is the way the thing worked. And then of course scattering through both—through the fink halls as well as through the shapeup, scattered through the ranks the employers had certain agents. They were pretty well known by the man that a certain character, Joe Blow, or whoever he might be, you had to keep an eye on him because his job was to report back, either through the company union officials or through the operators of the fink hall or to the employers themselves, the employers or company representatives or bosses themselves, they were around there; they traveled around working through the various operations. One of their prime purposes would be to keep turning reports about so-and-so was talking too much, so-and-so said this on the job, or so-and-so said that such-and-such

(Testimony of Harry Renton Bridges.)

a company is lousy, trying to chisel, or something like that. Those statements used to catch with you. Somehow or other you didn't work maybe for two or three months if you were working steady; if you were not working steady, the same situation kept on going, [5184] because you couldn't do a great deal of harm anyway. But the purpose of that was to weed out of the so-called steady groups of men, steady gangs, any individual that did not conform all the way down the line, work like the devil and keep your mouth shut and make no complaint about conditions, and if you were chiseled by the paymaster from your pay envelope you had to accept it. There was all forms of chiseling. In other words, you would work eight hours. Well you would go down to get paid; you would find that you would go to the paymaster and you were paid for seven hours in your pay envelope, see? Well, if you made a complaint, that was just too bad; you didn't work for a while. And eventually we caught up with a few of the paymasters that used to take the pay out of the pay envelopes and put it in their pockets. In some of those cases I think it is correct that those things did not happen with the direct knowledge or approval of the ship operators as such, but the whole-setup down there was such that people could do those things on their own. The petty individual racketeering chiselers thought it was all right to do these things, because that was the overall nature of the setup, although it might not have been with the direct knowledge and approval of the top level people in the shipping industry, at least it was winked at.

Q. The people whom you have just described as turning in men who might indulge in any suggestion of organization, those [5185] people were paid spies of the employers, is that correct? A. Yes.

Q. And how long——

A. That was a regular practice in those days not only in that industry but in all industry that was applied. I think that was all thoroughly exposed later on when the United States Senate Civil Liberties Committee conducted a thorough investigation and made a report, and we had them down there.

Q. Was that a recent thing, or did you observe it over a long period of years?

A. That was going on—that was going on for years. That was going on when I was—as I told you before, some people I can think of, that is, the secretary of my union, the secretary of the Sailors Union of the Pacific in 1921 turned out to be an agent of the employers on the employers' payroll, and his purpose was to turn over information to the employers not only of individuals that should be eliminated from the industry because they were considered too militant as trade unionists in the industry, but his program was to work from the inside and sabotage any active trade union or constructive trade union program, or sabotage and sell out the strikes that might occur over questions of hours, wages and working conditions. That was Thompson, who at the same time as he was secretary of the union, he was also one of the greatest respected leaders of the IWW, on the employers' payroll, paid all along. Later [5186] on—later on in 1936 and '37 the same thing was proven over and over and over again.

Q. But what I am trying to get at is this: You knew then for a number of years prior to the 1934 strike that not only in organizations like the IWW but right in the group of men with whom you were working there were men employed to spy upon anyone who would try to organize a union or try to raise any protests against the conditions, is that right?

A. Oh, sure. Every man down there knew that. I am talking now about people who were employed amongst the working ranks as well as the company union officials. Of course, every company union official, we knew that that was his job; we knew about them. But in addition to them, I am talking about people in the rank and file.

Q. So every man that you had working alongside of you, you had to regard with some suspicion as possibly being a spy? A. Not in every case.

Q. You had to regard with some suspicion, at any rate? A. Oh, definitely, yes.

Q. You stated a great many men used to wait outside the docks while other men worked 24 to 48 hours at a stretch. How was that?

A. Well, by and large—and this was true in every port on the coast—the men were divided into

(Testimony of Harry Renton Bridges.)

two groups. There were certain gangs of men and they were steady gangs, and there were [6187] other gangs of men that were so-called casual gangs. And then there was another large group of men that about equalled the number in the first group, that is, the group of men that were in the steady and casual gangs—another group of men about equal in number were just individuals hoping to get into a steady or a casual gang.

Now, the way it used to work is this: I worked in a steady gang for many, many—for quite a number of years. You maintained your job in a steady gang because of your ability to keep going over a long period of time at a high rate of speed. In other words, we produced. The various gangs used to specialize in various types of work. I worked for many years for the steel company. We worked ships of the United States Steel, the Isthmian Line, and our gang was a great steel gang. I was the rigger in the gang. So we used to be shunted around to the various jobs where we unloaded steel from the ships; that is, not only long steel, 60 or 70-foot steel, 40-foot, but ~~in addition~~ prefabricated steel. I worked ships, for example, that unloaded quite a bit of steel that went into the Golden Gate Bridge and the San Francisco Bay Bridge. We worked almost all the steel that went into the Carquinez Straits bridge. And that was—that type of work we generally needed gangs there that were pretty highly skilled in their work so they could produce any tonnage at all. It was pretty dangerous work. Now, if you got a gang of workers that

(Testimony of Harry Renton Bridges.)

didn't know what [5188] they were doing, you could poke around all day on a ship and not haul out one piece of steel. Well, this was true in all kinds of commodities, whether they handled sack commodities, such as barley, wheat, various grains that moved from the harbor, died fruit, canned goods, general cargo. Various gangs were kept doing the special types of work, and in that way attained quite a high degree of production.

Then in addition to that there was various ways and means of stepping up, as I say, the output per man, per gang hour. Now, then, as an individual in those gangs, when you weren't able, as the expression went at the time, to meet the hook, you were quickly eliminated from that gang, and one of the fellows who were hanging around day in and day out was right there to take your job. So we had the pressure of the large group of men that were waiting around, as well as the other devices in shaping up, the fink hall, the racketeering, the payoffs, one thing or another—all those pressures combined, as well as, above all, the absence of any real trade union on the waterfront. That kept the pressure on the people in the steady gangs and forced them to produce at high speed or high production. [5189]

Q. What was the pay-off?

A. Well, there was—some of the gangs, they were pretty well known, the way you stayed in those gangs and worked steady, you kicked back to the boss or you paid off.

(Testimony of Harry Renton Bridges.)

Q. What were they paid, for instance?

A. Well, you would cash your checks with him and he held out 10 per cent or 5 per cent. In other words, you would cash your brass check, the boss acted as banker. As you went to work in the gang, you would turn over your brass check to the boss and when the job was finished, he would give you your pay less 10 per cent that he kept, and that went for every man in the gang. Now, I want to say this much at this time. Many of those bosses then are members of my own union now. They were operating under those conditions, that was one of the many ways that they could get away, get by. Now, the employers at that time encouraged such a thing and winked at it. They definitely encouraged it, because they knew that that type of thing played its part in the speed-up, too. When I say these things at this stage of the game, all that has been eliminated, and many, many of those men, those bosses that engaged in that practice at that time are amongst some of the best men we have in our union today, because the union freed them, too. It gave them a chance. They never had a chance before. And many of them, why, it is no secret, they know it, we don't talk about it any more. But they joined in the first chance they had, they joined, fighting [5190] for the union, because through the union they were not forced or required to engage in such practices in order to hold their job as a boss, because any boss—it is not all bosses, didn't do it. All bosses didn't do it. But quite a few of them did. But in those companies that approved of the practice, if you didn't do it, you wasn't a boss very long, either. So the pressure was on the bosses, and in turn on us.

The bosses' job was to drive us, to drive the men in the gangs to the limit of their endurance and to the limit of their ability to produce. And in order to get the bosses or to force the bosses to do these things, why, these other practices were not only allowed, but the companies connived in the practice. Here is the way they did it. After all, your brass check was your property. All the companies had rules in order to protect their payroll, that the only person that could collect the pay envelope was the person who did the work.. In other words, I was hired and I went to work. I was given a brass check. Technically, or theoretically speaking, I was the only individual that was supposed to show up at the pay window with my brass check, either myself or a member of my family—my wife, for example, or my children, see? But the boss would how up, the boss of the gang, and he would show up with maybe 50 brass checks or all the brass checks in the gang. The company union agent would show up, the company union agent would go up, the company union agent would show up at the pay window, and he would [5191] have brass checks of a couple of hundred men to cash in, to collect the money. And the company paymaster, who was an insured, bonded person, carrying the full authority of the company, would pay off, see? So, although it might be said that the company as such didn't institute the practice, everybody around

(Testimony of Harry Renton Bridges.)

there and every company knew what was going on, and each company, as I say, condoned, was a party to the practice by paying off these people, because on more than one occasion a group of us would get together and try to put a stop to the practice, see? by invoking what we thought was a legal ruling that the company paymaster had no right to pay off anybody except the person that in truth and in fact did the work and who owned the paycheck and the brass check. But we didn't get to first base. We took, upon occasion, we took complaints up to the State Department of Industrial Relations, but they had that pretty well under their thumb, too, at that stage of the game.

Q. Now, let me ask you this: Did this speed-up and so forth result or not result in injuries or death to men?

A. Quite a few. Two things happened as a result of the speed-up. Many, many people met with injuries, some cases minor injuries, some cases major injuries. I remember, when I was working there around that time, we used to have a habit of checking up on the gang to see if we could find a man in the gang that had never suffered an injury. And for years on end I never worked in a gang where anyone [illegible] the gang had not suffered, [5192] not one, but a whole series of injuries. So there was all kinds of injuries suffered by the men because of the speed-up, as well as accidentally as a result of bona fide accidents. And then there was the other part of that, if you, by just sheer bad luck, speed-up or anything else, if you suffered an injury and you had to go on compensation for a while and then you returned to work and generally you were returned to work before your injury was cured, the next time you got injured, that was also a reason to eliminate you. You was considered an unsafe insurance risk there, and the insurance companies got to work under those circumstances, and you were just eliminated. They had some pretty ridiculous excuses. I can still remember where a fellow that was working in one of the gangs I was working with, he was our hatch tender, so called; he just came back to work after being off for some three months for a broken leg. He came back to work and was working a couple of days, and a barrel of hardware fell on him and broke, fell on his foot and broke the bones in his instep. That was the last we seen of that person, in so far as our gang was concerned or any other gang on the waterfront, and he was blacklisted all along the waterfront. And the reason, the official reasons were given that he was soft-boned. The keg that fell on his foot weighed about 350 pounds, and it broke the bones in his instep and the insurance companies, the official report—we looked into it. When I say "we" there was always a group of us around there, individuals, one thing [5193] and another, that tried to make, tried to do something about these things. And when we looked into it, his name was Joe Olson, and when we looked into the official reason as to why he was eliminated from that gang and that dock and other docks, he was a bad risk, because he was soft-boned. His bones wouldn't stand up under a 350-pound keg falling on them. So you had to watch your step. If you got hurt too many times, well, there was nothing wrong with the work, nothing wrong with the speed-up, nothing wrong with the gear or anything like that. He was eliminated because——

Q. Your bones weren't right?

A. Oh, you was a careless worker or something else like that. There was all kinds of very elaborate safety programs, but they were put in for another reason. I went through a training program down there and was given a certificate as being a so-called "expert in first aid." We went through all those things, but the reason for those things, these elaborate training—these elaborate programs on safety, safety programs on paper, was because by having such programs and being able to point to them, the insurance premium per hundred dollars of payroll were reduced. There's the compensation and accident insurance premiums that the employers are required to pay by law; they were reduced. But in so far as any actual practice of safety, there was never any actual practice of safety until we got the union in. And if you tried to practice, take any real bona fide safety steps, you were fired right then and there. [5194] You were asked "Who the hell do you think you are? We are running the job around here. You do as you are told. Never mind those rules. None of your business." And things like that. You were eliminated. And another aspect of that: If a man was hurt and got —they got sued, and some of them tried it, if you

(Testimony of Harry Renton Bridges.)

dared to appear as a witness—you might have been there, you might even be subpoenaed to appear in the damage suit; because the men were able to sue the various insurance companies or the stevedoring companies for negligence on account of the gear, bad gear, faulty gear, and where the accident—and I am talking now about accidents that resulted in people being crippled for life, married men with families would suddenly get hurt, that was the end of it. They were so crippled that they could never work again, and they might institute a suit. Well, everybody on the waterfront knew that if you showed up in that court as a witness, even under subpoena, it was just too bad; you didn't work again. And on a couple of occasions, I know some people, they are still on the waterfront. They tried it; they didn't work for years. As a matter of fact, they didn't get back on the waterfront until after we established a union that could protect them and could take care of such things.

Mr. Hallinan: The next matter I had was to ask Mr. Bridges about the formation of the union. As it is a new matter, why, it might be well to take the recess at this time. [5195]

The Court: We will take the noon recess. Until two o'clock, ladies and gentlemen, and the same admonition, not to discuss the case nor to form nor express an opinion until it is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.) [5195-A]

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IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

Volume XI
(Pages 4763 to 5254)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Appellants,
vs.
UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

In .... Volumes

Volume XI
(Pages 4763 to 5254)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

Afternoon Session, Tuesday, February 7, 1950

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Harry Bridges, heretofore sworn.

HARRY RENTON BRIDGES

resumed.

Direct Examination
(Continued)

By Mr. Hallinan:

Q. Well, now, Harry, how long after you arrived on the waterfront did you yourself take any interest in reactivating the union activities of the men or doing something, contributing something toward ameliorating the conditions you described?

A. Very shortly after. There was a——

Q. Will you tell us now briefly, then—first, I think you told us something about the conditions of the union that had existed up to that time. Will you tell us now what were the steps that were taken that included your own activities toward the amelioration of these conditions?

A. In 1923 there was a waterfront strike in San Francisco. In 1922 there was a waterfront strike—longshore, I mean—in Portland, Oregon. Both of these strikes were conducted—were organized by the IWW, and although in those certain areas they found quite a bit of support among the longshoremen, they [5196] were not successful. The IWW at

(Testimony of Harry Renton Bridges.)

that time was in pretty ill repute, and it didn't succeed in getting any great amount of support.

And then in 1923 here in San Francisco there was an effort to get some improvements with respect to the longshoremen that went up the river to load the grain cargoes, called the barley workers or barley packers. For many, many years, and even today, grain ships used to go up the bay—up the northern part of the bay here to Port Costa, Vallejo, and around there, and load wheat a barley grown in the Bay Area. So in 1923 there was an abortive attempt to get some premium pay for the workers that were working on the barley or grain ships, because that work was hard work. And in addition to the work being very hard work up the country, it was required to travel as well as eat up there, and the arrangements for traveling and eating were unsatisfactory. That is, even though you were paid a certain amount, they were considered very unsatisfactory, and also the work being the type of work it was, being very hard work, backbreaking, there was a kind of a small strike around the barley ships in 1923. I recall that, because the word went along the waterfront, "Don't take any jobs at Port Costa or Martinez," kind of an unofficial movement to boycott those jobs. That was in 1923, very shortly after I came on the waterfront, and I remember it very well. I had no direct part at that time, because I wasn't working those ships, only once in a while. I had no direct [5197]

(Testimony of Harry Renton Bridges.)

part. I just remember the incident. However, the next year, as I say, 1924, the movement to revive the union that had been smashed in 1919 started. When I say the union that had been smashed in 1919, I mean the old riggers and stevedores union, called the ILA.

Q. Who led that strike? A. In 1919?

Q. Yes.

A. Well, that was before my time, and I only know that by reading the history and talking to other people and so forth, but one of the officers of that union is now State Assemblyman Tommy Maloney from San Francisco here. He was the——

Q. What happened to that strike?

A. The union was broken, the strike was broken, and a company union was set up, at that time.

Q. What do you mean by "broken"?

A. I mean that the union was smashed; the leaders of the union were eliminated from the waterfront, blacklisted; every member from the union was barred from employment. Some of them were jailed because of alleged incidents that occurred during the strike. It was a pretty rough strike from what I can hear now. This is second-hand, other than what I gathered in talking with Tommy Maloney as well as other men on the waterfront. And the company union was set up in its place and agreements were signed with the company union extending over a long period [5198] of time. The shipping operators and stevedoring contractors

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signed a coast shipping agreement with the company union that lasted for five years at a stretch, and those agreements provided that unless you was a member of the company union you weren't eligible to work for the bulk of the companies on the waterfront, with the exception of those companies that I have mentioned, the Japanese ships [5198-A] and——

Q. Is that Tommy Maloney the man who is now and has been for many years a state senator?

A. That's right, that is Tommy—I don't know whether he is a state senator or——

Q. He is now, has been for many years.

A. Senator?

Q. You are losing track of your stevedores. Well, go ahead.

A. No, Tommy is the speaker of the house pro tem; he was. I mean, he is in the Assembly. He might have been busy on a few other things recently. He might be senator now.

Q. Well, go ahead. What was done?

A. That is the same one. It is Tommy Maloney here, from the district here, and former president of the All-Longshore Association. That is, for the former secretary—no, the president. Well, that was in 1924. As I say, I had little to do with it myself, other than joining the union. My old partner at that time was an old Irishman, works for the city now. And we got together a union of about 400 in 1924. That again was a revival or a reactivation of the

"Red Book," the old ILA. The president at that time, as I say, is now the chief probation officer, George McNulty.

Q. Was he a stevedore then or longshoreman?

A. I forget what McNulty was doing then. I really forget what he was working on, whether he was working on the—I don't think so. I think he was barred, he was blacklisted. He was, he had been [5199] a stevedore, an active stevedore, but in 1924 one of the reasons for organizing the union was to allow George McNulty and some of these people that had been blacklisted since 1919, to try and let them return to work on the waterfront. It wasn't only these people, there was others, see? Anyway, I have told you what happened to that attempt in 1924, as I say. We paraded in the Labor Day parade, and that was all for the time being. And that was the last Labor Day parade, incidentally, until we revived the Labor Day parade in 1934. There wasn't a Labor Day parade in San Francisco from '24 to '34, because following the post-war depression, that is, the first World War, the depression that followed, the plan was set into operation throughout the United States, called the "American Plan." In effect, that was a name, but the various employers, the National Association of Manufacturers and then they had state and city branches that were called industrial associations—they established throughout all industry, the various basic industries, the so-called American Plan, and that was

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the day of the "yellow dog" contract, that before you could get a job, you had to sign an individual contract saying that you would not join a labor union. The so-called "American Plan." It was called that to give it a patriotic tinge, and it got the support of patriotic organizations, but it was really an open shop plan that was aimed at organized opposition, against any form of true labor organization. So with the advent of the American [5200] Plan and these various industrial associations, it was very, very difficult to organize a union. Generally, they were eliminated overnight. And that was the story on the waterfront.

And then in 1928 there was another move on the waterfront, and this time it took a little different line. What happened was this: The national officers of the International Longshoremen's Association, that is, Joseph P. Ryan, together with certain other officers of the American Federation of Labor here in San Francisco, started a move toward chartering the company union, to give it the American Federation of Labor charter. When we on the waterfront heard of that—when I say "we" again I mean just generally speaking, quite a few of the fellows down there—we opposed that move. Although we wanted to get rid of the company union, we didn't want to get rid of it by having it receive an American Federation of Labor charter, because that would simply give it a mantle of respectability. It would make it look like a bona fide union, when there would have been no change at all. There would have been the same officers, the same practices, the same control, and things like that. So, in 1928 we had to get busy and start a movement along the waterfront to urge everybody we could to pay up their dues in the company union so we could vote in a referendum that was going to be held at that time as to whether the company union would get a charter from the American Federation of Labor.

So I and many, many others, we got together enough people [5201] and got them to pay a year's dues, because by paying a year's dues, it made you eligible to vote in this referendum and we voted down the idea of the American Federation of Labor issuing the Blue Book or the company union charter. However, in the course of all this, in order to spur the fight and the idea of giving the company union a charter, the company union was seated in the San Francisco Labor Council. That was in 1928. Well, we went up to the Labor Council and we protested against that. John O'Connell at that time was secretary of the Labor Council. Paul Scharrenburg was secretary of the State Federation of Labor, now the director of Industrial Relations for the State of California. He is the head of the Department of Labor for the state. They, by and large, were the people in charge at that time. So the company union was, as I say, seated in the Labor Council, but nevertheless the move failed because we were able to

(Testimony of Harry Renton Bridges.)
amass sufficient votes on the waterfront—not many, I think it was around five or six hundred we got together—that we voted down the move to charter the company union, and that was in 1928. Then after that was defeated, the company union remained seated in the Labor Council until we had them ousted in 1933.

Now, around 1932 or '31 the Marine Workers Industrial Union tried to organize on the waterfront, as well as a couple of other organizations. The IWW was busy, not so much in this port, but in the port of San Pedro and Portland. So [5202] that didn't affect us much here. But around 1932, the next move to start an organization—that is prior to NRA—was the Marine Workers Industrial Union. Now, the Marine Workers Industrial Union was an organization affiliated to what at that time was known as the "Red International of Trade Unions"; generally understood to be a Communist-affiliated or controlled organization. The Red International of Trade Unions or the TUUL or TUEL, as it was known at that time, aimed at organizing longshoremen and seamen into one union, industrially. So they had organizers and speakers on the waterfront, as near as I can remember, in the early part of 1932, around that time. But they didn't catch on at all because, although their program was pretty revolutionary, pretty idealistic, and—it didn't make much headway, even though things were very, very bad at

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that time. We were in the middle of the depression. It so happens in our port here, the Port of San Francisco, depression hits the waterfront first. Not only does domestic and commercial trade slack off, but foreign trade slacks off. So any time we are moving into a depression, why, things get pretty bad on the waterfront. And incidentally, things are pretty bad here right now.

So things were bad at that time, and despite the fact that the people felt pretty desperate, they didn't cotton too much to the idea of the Marine Workers Industrial Union, the form of organization, even though they used to have speakers down there [5203] on the soapboxes. They were preaching a lot of things. The men, by and large, sympathized with them. They particularly sympathized with them when the police came around. The police used generally to come around and arrest them and sometimes beat them up and the fellows sympathized with them, even though they didn't agree with their organizational or political views. And then after the passage of the NRA in 1933, organizers came in from the ILA again. That is the American Federation of Labor. That was in the spring of '33 and——

Q. What did the NRA have to do with that, Mr. Bridges?

A. That was the National Recovery Act, and that began in the early days of the New Deal following the election of Franklin D. Roosevelt, where he started in, the first part—I think it was the first Fireside Chat or his first Message to Congress, in the early part of 1933, proclaimed that there was going to be a new deal. He proclaimed that workers were going to be protected in their right to organize. After all, the workers in the United States always had the right to organize; what had to be taken care of was a little protection so that if they ever exercised their right, they didn't get thrown into jail or some of the things of that nature because that is the way it was at that time. We have always had the right to organize under the Constitution and the Bill of Rights. The trouble was that, if you dared to exercise the right, why, that was just too much of a chance to take. So with the advent of the New Deal and the [5204] NRA, the NRA first of all started, or it had one particular section that encouraged, at least to some degree, organization of workers into labor unions. And it became in part, part of the New Deal program, the federal program. So it gave a little more courage and incentive to the workers to organize, and they did by the many, many, many thousands, including the waterfront.

Q. Did it require the employers to deal with the organization of workers?

A. Yes, in a way, because the first National Recovery Act required that after a vote was taken the employers should deal, but the first National Recovery Act also did something else. It authorized and legalized the minority unions and as well

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as the majority unions. So the way the National Recovery Act worked on the waterfront, it legalized the company union. And in the latter part of 1933, when we were trying to get organized the committee was established to go into our complaints that the company union down there was still defying, in effect, the NRA, still opposing the federal law as we seen it, and still blacklisting people that refused to pay dues to the company union. So a three-man committee was set up to investigate, a kind of an arbitration board. I forgot who they were now. Anyway they were set up and they came along with a decision under the NRA that said that the company union was a bona fide organization, that its contracts, its collective bargaining contracts were bona fide contracts and that it was a requirement to work on the [5205] waterfront to be a member of that union. So far as we were concerned, that didn't give us much of an opinion of the NRA and the way it operated.

So, anyway, we continued on with our efforts to organize the ILA, but as a result of these legal things that happened or could happen, and as a result of a certain group of officers or people in the union who preached a policy of depending upon taking these votes under NRA, in order to get recognition, the union didn't get far. Now, here is what I mean by that. Under the NRA a group of workers were supposed to be able to get together, join a union. They were supposed to be able to take a referendum vote, something like the

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votes that were held and are still being held under the National Labor Relations Act and the National Labor Relations Board. And after a majority of the workers cast ballots, the various employers were supposed—they weren't required by law, but as good citizens they had agreed to sit down and recognize the unions, and bargain collectively with the unions.

Well, myself and a few others, I guess we were somewhat cynical or skeptical. Anyway, that is the way we worked out. We took the position that no shipowner alive would do business on that basis out of the goodness of his soul or heart, and that is the way it worked out. In some of the ports up and down the Coast, they voted half a dozen times for recognition. The vote was 99 per cent. But no recognition. Now the policy we followed [5206] here in San Francisco was that we get recognition the hard way. All those fellows standing outside the docks that wouldn't go to work, the shipowners could count them and they would be members of the union. And all the fellows inside working on the dock, working their ships, they wouldn't be members of the union. And we figured we would win that way, and when the thing was finally counted, we won. That is the way we got recognition.

But it caused an argument within the union between certain people who, with all honesty possible, officers of the union, saw the best way to do it by taking these votes as against the attitude repre-

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sented by myself and others. That is the way to get recognition, was the way that any union would get recognition—get the men off the job, and if the employers wanted to do any counting, they could count them while they was on the sidewalk and after they had got through counting and made up their mind that the union represented a majority, we could go to work. So over that matter of policy there was a division in the union at that [5207] time.

Q. Now, have you any list or statement or is there any document that shows who were the men who were first active in forming this new movement that finally terminated in the 1934 strike?

A. Yes.

Q. Where is that? Have you it on you or have I it here? A. I think——

Q. Did we have it marked for identication?

A. I don't think so. We have got the organizing minutes of the local. I haven't got them with me, but I have got same. I don't think they are in evidence or haven't been put in, as far as I know. I am talking about minutes in early '33; I am talking about minutes going back to June and July, '33, or July, '33.

Q. Taking this June and July figure of '33, was there already by that time a movement on to reactivate this ILA union?

A. Well, in addition to the organizing of the union itself, we had an organizing drive on. I wasn't one of the official officers. The organizers were appointed by Joseph P. Ryan, who was at that time president of the ILA. I was just a rank-and-file longshoreman. So I joined the union. There was quite a few arguments. The first argument which came up again was the question, Should the longshoremen go with the MWIU, which was a union pretty left—I mean left at least in the progressive sense of the word or honest sense of the word—pretty [5208] left. However, that didn't find a great deal of favor. So we started to organize in various docks, and the dock I was working on, the American-Hawiian dock, we were one of the first docks to get pretty well organized and wear our buttons openly. The issue at that time was this: If you were caught wearing a union button, you were fired. The shipowners, at that time at least—of course they have changed now; the shipowners are an entirely different crowd today than they were at that time—if you were caught wearing a union button, that was the end, you were fired. I was working at that time on the American-Hawaiian docks, and we were *on* of the first docks to get organized a hundred per cent and to start even making a few improvements by some unofficial collective bargaining, and at the same time started to wear our union buttons openly and to defy the shipowners to fire us. We worked out a little program where we all got together and where we said, "The first time a man is fired, let's all walk." This got back to the powers that be on the dock at that time. None of us were fired. How-

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ever, that wasn't true on other docks. So the first thing we had to do was to try and protect the men that were fired. The officers of the union at that time began to approach a different policy. They started out with the policy saying, "Well, in the organization of a union there is bound to be a few victims and casualties; there is bound to be a few people fired." We changed that. We said, "Let's get the membership, and the [5209] first time they fire anybody for joining the union, let's shut down the waterfront."

Again this caused a certain division in the union. The officers at that time, they were appointed officers, at least to our way of thinking. They weren't accounting for the monies collected during the organizing drive; they weren't calling meetings; they weren't setting up a constitution of the union. And we thought—at least I thought—I knew the background of the old Seamen's Union; of course it was pretty undemocratic. I was amongst a group down there that was determined that another union wouldn't come on the waterfront that would be undemocratic or a company union. So we started right at the start to see that the union that would be set up would be a local of that kind of a union. So in order to achieve this, after we had gone a few weeks, and see that the new officers didn't call any union meetings or didn't set up a new procedure and didn't start to adopt a constitution, I organized myself in July of 1933 a committee that we called the Committee of 500, and we organized

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it right on the waterfront. That was a committee that later became known as the Albion Hall group. It got its name because it met at the Albion Hall, but the first meetings of the committee and the organization of the committee in '33 in July, we met down in restaurants and then on the waterfront on the sidewalks. The purpose of the committee was to get the union started, to get the union to take official action, to [5210] defend people that joined the union, to have the union set up a constitution and to have the union elect regularly elected officers by men of the waterfront instead of by being appointed. That was the way it started up. I have still got my books where some of the original members of the union, where I noted down some of them gave 25 cents, some of them gave 50 cents, and some of them gave a dollar, the original members of the Committee of 500. Not only did the Committee of 500 participate in the elections that took place in August, '33, but we ran a full slate of officers in the election of the union after we forced the adoption of the constitution in July. And following the adoption of the constitution where many of the provisions of the constitution that we demanded were included in the constitution which guaranteed the union a good democratic rank-and-file union, then the next thing was the election of officers.

That election took place in August, '33. The Committee of 500 sponsored a full slate of candidates. We put out cards and literature on the

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waterfront, and the majority of our candidates were elected, and they were installed in office in early September, '33. I was elected on the executive board; Schmidt was elected on the executive board; and two of our candidates for business agents were elected out of three, business agents. We lost on the presidency and we lost on the secretaryship. We lost those officers, we lost the [5211] presidency and the secretaryship, but our candidates were elected, two out of three business agents were elected, and the majority of the executive board that we supported was elected.

Q. I am going to have the Clerk show you a list of the executive board and ask you if you recognize it.

A. That's right. That is the list of officers as of that time. That was the new officers, or these are the officers that were installed in the first election of the union,——

Mr. Hallinan: Could I have that back?

A. ——that was elected in August, '33, installed in the first part of September, '33.

Q. And do you know whether or not this is copied from the regular minutes of the International Longshoremen's Association of America as of that time? A. Right.

Q. This is a photostatic copy of the original minutes?

A. That's right. I recognize it, because at that time—later on all those records came into my possession, and I can recognize it.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: This is Defendants' T-2 for identification and it contains the membership of the executive committee that was elected, you say, in September upon a slate presented in August in pursuance of the policies that were enacted in June and July, 1933. Is that substantially correct?

A. I wouldn't take it back as far as—I wouldn't take it [5212] back as far as June. Here is why: Because the first meeting to initiate—that is another thing we forced—the first meeting of the union to initiate candidates—candidates were being signed up, but they were not being initiated into the union. When I say "initiation," I mean that we had a union meeting and that the candidates were required to stand up and identify themselves and take an oath, an obligation to adhere to the constitution, the rules and by-laws of the union. The first meeting to initiate members of the union was not held until July, and it couldn't have been held unless we had forced the holding of that meeting. That was the first thing. The first thing was the drive to sign up new members, and then when they were signed up, the next order of business was to initiate them and only those that were members of the union participated in the union meeting adopting a constitution. Only after the constitution was adopted could we elect officers. Those were the three steps. And all of those steps were taken only after we had forced them to do it by the organization of this Committee of 500.

The rules of the Committee of 500 were very simple. No. 1, they had to agree to support our program; No. 2, they had to be working longshoremen, no outsiders allowed, because there was a few politicians from uptown trying to horn in. They seen the situation down there in political terms. We didn't want any of them. Some of them are still trying. And the third thing, they had to be regular members of the union. So [5213] that is how the committee was set up.

Mr. Hallinan: I offer at this time in evidence, if the Court please, Defendants' Exhibit T-2 for identification, being the list of membership of the Executive Committee just described by Mr. Bridges.

Mr. Donohue: Might we take another look at it, your Honor? I haven't seen it for some time. Would you pass this for just a moment?

Q. (By Mr. Hallinan): Now, Mr. Bridges, this Executive Committee having been elected, what did it proceed to do?

A. The first thing that—I can still recall the first meeting of that Executive Committee. You have got to understand that the Executive Committee was elected by reason of the adoption of a constitution that at that time was a very democratic constitution. I—again not myself; when I say "I" I don't exactly mean myself, but I mean as one of this group of the so-called Committee of 500—we never had anything like 500 people in it; we called ourselves the Committee of 500 and we done our darnedest to make everyone think we had 500——

Q. Where did the 500 come from? How was it selected? What was the method of getting it together?

A. I walked along the waterfront, I and a few others, and we would say, "Hey, Joe Blow, sign up. Give us four bits, 25 cents or a dollar. We are going to get out a leaflet. You are a member of that committee"—just that way; simple, straight [5214] organizing, to agree to support the program, and he was a member of the Committee of 500. So we got out a printed leaflet, that was all. There was no real meeting down there, except a few of us got our heads together on what to do.

Q. Have you any idea how many men were working longshore at that time in San Francisco?

A. 3,000.

Q. How many? About 3,000?

A. There would be less than that working. I doubt if there would be more than 1,500 or 2,000.

Q. I mean available for work.

A. Available, there would be more like four or five thousand available. There was really only about 1,500 jobs, but there was more like four or five thousand workers available for those jobs.

Q. Tell us the next steps then.

A. The constitution was adopted and the membership voted. We were successful in having nobody but members of the union vote on the constitution. And that was quite a struggle. It might seem a little strange, but during my stay down there there were some people that formerly had been workers many, many years ago, but were no longer working on the waterfront, and in our opinion they had no business voting, so we finally got it where only members of the union voted.

Q. What do you mean, they wanted to intrude themselves on the [5215] union?

A. Politically speaking that waterfront is a powerful place. People who have been officers of that longshore union, you look in the various political offices in the city and you will find them. They reach political office by doing that. I am not saying anything against them, but that is one of the ways to get into office, and we just didn't want it to happen. So we adopted a constitution which provided—and I wrote the provisions—that the executive board—the executive board would run the union between membership meetings. All decisions of the executive board had to be approved by membership meetings. Nobody could be a member of the executive board unless they was a working longshoreman. All officers of the local were excluded from being members of the executive board except the chairman and the secretary, who would be ex officio members of the executive board. So the idea was the executive board was a board of 35; every one of them had to be a member of the union; they couldn't hold any other office of the union; they couldn't be a paid official of the union, and every one of them had to be a working longshoreman. So that is one of the main provisions of the constitution.

And another provision that we wrote in at that

(Testimony of Harry Renton Bridges.)

time—and it is still there—you can only hold office in the union for two years, then you must go back to work as a longshoreman. That provision is still in the constitution. There were [5216] certain other things all aimed at keeping the control of the union in the hands of the working membership without any outside interference or control or anything like that. When I say "outside interference," I mean any kind of outside interference, any kind of political interference, social, religious, fraternal, or anything like that. And that is the way the union is today.

So the elections came pursuant to that type of atmosphere and the adoption of that type of constitution.

Then the first thing we done after the board was elected, the first executive board, I myself made the motion that we strike the Matson dock in order to defend our four union members that had been discharged from the Matson dock because they joined the union. The Matson dock was the center of the company union strength on the waterfront at that time, and of course the Matson dock was the leader in establishing the company union.

Q. Let me ask you this: Whence emanated or where did you get those ideas that you speak of having insisted on and promulgated into the constitution?

A. Two reasons: First of all, as I say, I was in the strike in New Orleans in '21, in the '21 seamen's strike, and those unions were darn undemo-

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cratic unions. The strike was called from the top and the strike was sold out from the top by the top leaders. Later on several of the leaders were proven to [5217] be crooks and racketeers. That was much later, 1936 and 1937. So by that time, with what little experience I had had in trade unions, I was generally opposed to undemocratic union structures where the officers run the union, paid themselves huge salaries and generally grafted on the union treasury, and so forth.

And then we had another difficulty. Because the ILA as such was in such bad repute on account of being organized on the East Coast and run by gunmen and gangsters on the East Coast, there was a lot of men on the waterfront in San Francisco who said, "What's the use of joining a lousy outfit like that? All that will happen, we will be run by a lot of darn gunmen and racketeers and crooks who won't do us any good. We might as well stay where we are in the company union." Whereas a group of us advocated, "Let's get in that outfit and let's start out and make it a good union." We had a particular issue here that made that possible, because when the West Coast district of the ILA in 1916 had rejoined the national ILA, back at that time—they had been out for some time; they pulled away over some squabble—when the West Coast of the ILA rejoined the national organization in 1916, an agreement was made with the national organization giving the West Coast autonomy. In other words, the West Coast had home rule. So we took advantage of that and got a guarantee from the national organization so that we again on the West Coast had home rule, [5218] as we called it, and under that we organized so that we could set up right from the start a democratic organization not controlled by gunmen, racketeers, and so forth. So we built the organization that way. And it came about because of the experience of some of us in the past with certain racketeers of our union and certain undemocratic practices.

Q. With regard to strikes, in the matter of strikes, the voting for calling strike and cancellation of strikes and settlement of them, did the membership vote on that?

A. At that time, yes. At that time in the general sense of an official strike, yes; but the strike I am talking about, the Matson strike which occurred in October of 1933, the early part of October, there was no vote taken on that. All we did was very simple; we went down there one morning, we lined up in the shapeup, and as the fellows started going in to work, we stopped every one of them and said, "Look, fellows, four guys have been fired for joining the union. Let us have a program where they hire these four fellows back or none of us goes to work." So everybody stayed out. That affected the docks, and the strike lasted for five days. The Matson Company and the Waterfront Employers Association at that time went up to Skid Road and they hired a bunch of men from the employment halls, and of course we spoke to those men and got most of them to quit. Anyway, the strike lasted for five days. Eventually a committee was set up, and an arbitration board was set up [5219] headed by George Creel, and the arbitration board found that the men had been discharged for joining the union, and the company was ordered by the board to reinstate them, and the company complied, not because the company wanted to, but because by that time we had worked up such a momentum that if that company had not complied with that arbitration award reinstating the four men, we had worked up enough momentum to stop work on the waterfront. So the four men were reinstated. That estatblished the union on the waterfront; that was the end of fear and intimidation. After that—there was many, many of the men that was still maintaining their membership in the company unions; they were afraid to join the new union, but after that, after we won the strike at the Matson dock and after we demonstrated, No. 1, that you could join the union and wear your button, and if the company tried to fire you we had enough power to tie up that waterfront in order to enforce the demand, from that time on the union was established, it was recognized, it was in business. That was a long, long time before Schomaker ever seen that waterfront, as I [5220] can show.

Q. And was there any ceremonial held with relation to that?

A. Yes, at the time of the Matson strike we were organized, we organized the fellows to burn their blue books. We made a bonfire of the blue books right in front of the Matson dock, during the course of that strike.

Q. And with what result?

A. The result was that more and more fellows joined, more and more people joined the union. The union picked up power and strength and began to go places. And then, of course, we started other moves then. But in the course of all this our organization, which was truly an organization in the union, within the union, more or less secret at first it is true,—that was the Committee of 500. Then our organization, we started to meet up at the Albion Hall, at the Matson strike; around that time. And it was during that strike, or around that time, that we took over the old Waterfront Worker from the MWIU, and started to operate the Waterfront Worker.

Mr. Hallinan: Just a moment. Any objection to having this offered in evidence?

Mr. Donohue: Yes. If your Honor pleases, in the first place, it is a photostat of an original. It is unsigned.

The Court: May I see it, please?

(Document handed to the Court by the Clerk.)

Mr. Donohue: It is not identified, and in the second place, if your Honor pleases, it can be neither relevant nor material [5221] because while this is an interesting recitation, I must say to your

Honor that there is no allegation in the indictment which charges that Mr. Bridges was indicted for any activity he may have engaged in with respect to his union.

Mr. Hallinan: What about your allegations of Mr. Schomaker that the strike was all activated and impelled and organized by the Communist Party? Aren't we supposed to be able to refute that? Or are we limited to what Mr. Schomaker says on the subject?

Mr. Donohue: Well, we have been here three hours.

Mr. Hallinan: Yes, you put Mr. Schomaker on for several days to hand us that sort of garbage, and I think we ought to be entitled to overcome it.

Mr. Donohue: I think the record will show I had Mr. Schomaker on for two hours, and you had him on for about four days, Mr. Hallinan.

Mr. Hallinan: This was the principal part of your story, how he ran errands back and forth to tell these men what Mr. Darcy was directing them to do.

The Court: Did you fix the time, Mr. Hallinan?

Mr. Hallinan: Yes, your Honor. He said that was the list that was elected in September of 1933 and that was obtained from the union records.

The Court: I will allow it.

(Whereupon document containing list of names as cited [5222] below, was received in evidence and marked Defendants' Exhibit T-2.)

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: I would like to read the names out that appear on this.

Q. Then the membership of the executive committee of the International Longshoremen's Association of America, Local 38-79, which apparently then had its offices at 130 Stewart Street, San Francisco, elected, you say, in September, 1933: "Lee Holman, Ivan F. Cox, John Johnson, Harvey McCarty, J. Hanson, John Benson, Herman Helwig, Pat Quinn, Harry Curtis, Henry Schmidt, Frank Ohlberg, Jack Shields, Frank Clark, Ed Valente, Jack Quinn, William Benson, Axel Nyberg, Michael Cassidy, Boots Powers, Jim Fogery, Harry Bridges, Willis Ferguson, C. Anderson, Bjorne Halling, Thomas McEntee, Fred Wehr, Alf Christensen"?

A. Right. The bulk of them, I would say three-quarters of those names there, were members of the Committee of 500, officially endorsed by the Committee of 500, and we put out printed sheets urging everybody to vote them into office.

Q. In other words, the entire executive committee was not taken from the ranks of your Committee of 500, but a substantial majority of them were?

A. About three-quarters of them were.

Q. And then the 500, I take it, were the more active and militant members of the union?

A. The Committee of 500 was a name; it was a name that we gave [5223] ourselves at the time.

(Testimony of Harry Renton Bridges.)

We had to have a name. We had to—we didn't want to be putting out these things without giving them a name. Now, generally speaking, the fellows on the waterfront knew who the Committee of 500 was, who sparkplugged the committee, but we called ourselves the Committee of 500.

Q. Now, you know this witness John Schomaker who testified here some weeks ago? A. Yes.

Q. And do you know, do you know of your own knowledge, until you heard his testimony, just when he had appeared on the waterfront?

A. He always told me he came there during '32 and I didn't know until he testified here that he came down later. He told me, and he has told, he has said in meetings time after time, union meetings, that he came down there in 1932, and until he testified here today I never knew that that man hadn't come down there until November, 1934. And if he didn't come down there until November, '34, he couldn't be a member of the Albion Hall group, the Committee of 500, so-called, for one reason that I know of, and I have got our records to prove it. To be a member of our group, you had to be a member of the union and a working longshoreman. You had to be. Now, I never checked up on the man, but over the years I have heard Schomaker speak many, many times, and he told me personally and he used to pretend, he used to stand up in union meetings and talk about himself as [5224] one of the guys that founded the union. And, well, I just thought that that was so. I was a little surprised when I heard him here say that he had only joined the union in 1934, or December in '34. And he only came down on the waterfront in November of '34.

Q. You mean '33 instead of '34?

A. '33, yes.

Q. His testimony was that—he said he came in the middle of October, but his record from the hospital showed that he left there in November, November 1st, and the record introduced here shows that he became a member of the union in December, 1933.

A. Well, as I say, he always told me that he was down there. He used to say to me, he said, "You mean to say you don't remember me around here in '32?" I would say, "Well, there—there were a lot of people around here, there was four or five thousand people, fellows on the waterfront." It was possible for him to be around with me, without me knowing it.

Q. But you never questioned the truth of what he was telling you?

A. I had no reason to.

Q. Now, will you tell us, then, this organizing having arrived at that relative degree of strength that it had, what were the events that led up to the 1934 strike, and who were the—if you will tell us a little, a brief history of the steps, the persons involved, and the determination that led to [5225] that strike.

(Testimony of Harry Renton Bridges.)

The Court: I suggest, Mr. Hallinan, we might take the afternoon recess. It is now five minutes to 3:00.

Mr. Hallinan: Very well.

The Court: Ladies and gentlemen, we will take the afternoon recess. The same admonition to you, not to discuss the case under any conditions.

(Recess.)

Q. (By Mr. Hallinan): Will you tell us now, Mr. Bridges, what was the Waterfront Worker and what was done about your organization or the ILA taking over the publication or control of that periodical?

A. The Waterfront Worker was a paper that was being put out, I forget exactly when it started, I think it started at the beginning of 1933. And it was put out by the Marine Workers Industrial Union, or as far as I remember—and along toward the time that this Matson strike that I talked about occurred, the paper went out of business. That is the way I recall it. One of the fellows attached or connected with the paper, I recall,—some way or another—I recall getting the impression that the paper was out of business. So when the Matson strike came along and we needed some instrument, some organ in order to communicate with the unemployed and others that the Matson strike and Waterfront Employers Association were attempting to use strikebreakers we thought of using the Waterfront Worker. At least using the name and the format and

(Testimony of Harry Renton Bridges.)

so on. Up to that time our [5226] committee, as I say, the Committee of 500, as we called ourselves, we were functioning—every time we wanted to say something we would have the leaflets printed, collect a few dollars amongst ourselves, put up our money and we would have a leaflet printed. And we would distribute the leaflet. So we just seized upon the idea that if this Waterfront Worker was going out of business, we would take it over and run it, and we took it over around this time and we published it anonymously, put it out in the name of a group of rank and file longshoremen, members of the ILA. And we utilized that paper.

Q. How often was it published?

A. Oh, I think every—twice a month.

Q. And then how long did you continue to publish this paper in that fashion?

A. A number of years, I think, up to about 1936.

Q. And did you contribute to that paper or contribute articles and so forth? A. Yes.

Q. What was your position with the paper, Mr. Bridges?

A. Well, after all, we were at that time not experts in putting out even a mimeographed paper. And it was a kind of a cooperative affair. We all used to run it. I and the others. I can't recall too well at the moment, but we would have it mimeographed, we would urge people to write in articles, we would promise not to publish their names. Now, the reason for that, it wasn't so [5227] much that we were concerned with secrecy, but the union, even despite our victory on the Matson docks, which incidentally took a little while to be consolidated, it took a little while to convince the rank and file workers on the waterfront they could join the union with safety.

What we were aiming at was this: We were trying to tell the fellows, "Now, look, if Joe Blow, the boss down at such and such a dock, chisels you out of your money, the amount of money you have got coming, come along and give us a letter and we will make an issue of it through the union with the employers." In other words,——

Q. That "Joe Blow" used to get around a lot, didn't he?

A. Well, I am just using the name. That is all. We had all kinds of names—we used to use them, the name "Gloomy Gus" was a boss, "Russian Louie," various names were attached to these bosses in the language of the waterfront. So we used to use all these things in the paper and the paper was published anonymously, and when a member of the union or any worker sent in a letter, in most cases they would sign their name, but we would withhold their name and we published it in the paper, and the paper became very effective. The paper became especially effective in straightening out a lot of little disputes on the waterfront. That is, disputes over on the job conditions, because after we had been functioning a while, the bulk of the bosses on the waterfront really lived somewhat in holy [5228] terror of having their name mentioned in that paper as being a no-good so-and-so that drove his men or chiseled them, and so forth. They really got worried. And on the other hand, of course, the blue book agents, the ship agents, or the shipping companies' agents and the companies themselves——

Q. And I suppose——

A. ——began to be plenty worried about that little paper.

Q. I suppose the language was more direct and forceful than elegant, was it?

A. Well, we were concerned at that time in saying what we thought would be effective.

Q. Let me ask you this, Mr. Bridges: Whose idea was it to take over the publication of the Waterfront Worker?

A. Oh, I don't know. I would say it was a collective idea. I can't——.

Q. Were you among the persons who wanted to take over the Waterfront Worker?

A. Oh, yes, I was for it; I was part of the idea, you might say, and was certainly all for it. No question about it.

Q. I was just going to ask you that. Will you state whether or not you pressed and endeavored to have your group take over the Waterfront Worker?

A. Oh, yes, always for it.

Q. And when was it taken over?

A. Well, I happen to know that, because the question of when [5229] we took it over, the date as to when we took it over, came up in my last trial. No, let me see,—it came up in the hearing before the

(Testimony of Harry Renton Bridges.)

Board of Immigration Appeals after the Sears trial. But it came up in the Sears trial, too. And, well, it came up in the trial before Landis, but we didn't go into it very far. Then it came up in the Sears trial. Then it came up in other hearings, the hearing before the Board of Immigration Appeals. So I remember it pretty well, because the time, the date, as to when we took it over became a real point of issue. And that was, as can be seen by the various issues that were introduced in evidence at that time, we took it over in September of '33, I think.

Q. In September of 1933?

A. September 15th, yes, around that time.

Q. All right. So would there have been any reason why John Schomaker would have to come out to your house and induce you and attempt to persuade you to furnish him some copy to publish in the Waterfront Worker?

A. Not if he is telling the truth here. Now, understand, I always thought that Schomaker had been on the waterfront since '32 and I didn't know that he had come down later until I heard him testify here that he hadn't come on the waterfront until November of 1933. Now Schomaker, if he told the truth when he testified here, he couldn't have been a part of that paper until a couple of months after we had taken it over and had [5230] gotten it going, and after I had already been writing articles for a couple of months. There is no question about that; that can easily be established, because I remember the paper, the copies of the paper, being introduced, the first issue that we published, and the whole record of that paper is analyzed in the findings by the Board of Immigration Appeals, following the Sears hearing.

Q. Let me ask you now, Mr. Bridges: Will you tell us now, then, what steps were taken by this reactivated ILA union, which led up finally to the strike in 1934? What was done, what considerations were balanced, what arguments were made, what persons moved on it, what persons advised you and what persons instructed or supported it?

A. Our committee—now again, I am talking about the Albion Hall group, or the Committee of 500, which is the same thing. Incidentally, we got hold of a transcript of the code hearings for the shipping industry that were held in Washington, D. C., and at those code hearings a plan was being worked out then that we didn't think was going to be of much use for us here on the Pacific Coast. It was going to establish a board of compulsory arbitration on the Pacific Coast to handle disputes here. That was the proposal being put forward in our name at that time by the national officers of the union, and that was, as I say, in November, 1933, when the hearings took place. Well, we got ahold of the transcript of that code, and we [5231] brought it up here in the local membership meeting of the San Francisco local—that is, 38-79. And as a result of—I made the report and told the rank and file of the union, "Here is what is going on. We know nothing about it. These people that are saying that

(Testimony of Harry Renton Bridges.)

we approved this plan, we don't approve it. It looks like a real phony. It will take all the power out of the hands of the working rank and file. The decisions will be made for you," and so on.

"We oughtn't to go along with it." So the local elected me and another person, named Dietrich, Dutch Dietrich,—Schrimpf's deadly enemy, incidentally—to make a tour up and down the Coast to urge the calling of a coastwise convention. So we visited the various locals in Portland and Seattle and in Los Angeles, and finally we got the district leadership—that was the district leadership of the ILA——. I should explain this, that we had one coast local. There was Local 38, and it was broken down into what they called "series of locals." So that finally, when you wound up, you had 38-79, 38-34, 38-97, 38-12, 38—so forth and so on. The 38 meaning the local number, then the dash, then the number following meaning the series number. So the way the local, what was meant by local 38-79, in San Francisco, was Local 38 series 79. But the way the organization was constructed, there was one coast local that had the jurisdiction from the Canadian border to the Mexican border, and it was broken down into these locals that existed in the [5232] various ports. So we sought to have a local convention, which meant a coastwise convention. And in order to do that, we visited the locals, to have them go on record to urge the coast local officers to call this convention. And at that time the coast local officers, I think, was a man named Bjorkland, and a

(Testimony of Harry Renton Bridges.)

man named Dewey was president of the coast local. So finally we prevailed, and a convention, a coastwise convention of the ILA, was set for February, 1934. And we urged a rank and file convention; that is, that the convention be composed exclusively of delegates elected by local unions, and that those delegates in turn must again be working longshoremen. That is, men working on the job. And we were successful in having this convention come about in the month of February, 1934. And my local here, that is, the local I belonged to here in San Francisco, 38-79, we elected 20 delegates to that convention. And out of that—it was during the course of that convention that we drew up the program to unite the coast as a whole, to draw up a set of demands for the coast as a whole, and if necessary, to strike for those demands.

However, the strike program was worked out in this fashion. We would have a set of demands: No. 1, recognition, hiring hall and increased in wages, and other improvements so far as working conditions are concerned; and that these demands would be presented to the ship operators. And if the demands were rejected by the ship operators, we would take a referendum coastwise [5233] vote to see if the longshoremen on the Coast wanted to strike for those demands. So that was done during the course of the '34 convention. The demands were drawn up, the committee was elected right there at the convention to call upon the waterfront employers.

(Testimony of Harry Renton Bridges.)

Q. Wait a moment, Mr. Bridges. Now, we haven't the time established of that convention. When was the convention held?

A. I think it was February the—oh, around the middle of February. I forget. It is a matter of record. I don't remember.

Q. Have we that at the ILWU—are these available?

A. Yes, we have got the minutes. They were verbatim minutes. That is another thing we insisted on that comes to my mind now. There had been a coastwise conference before, a coastwise conference had been called in July of 1933.

Q. Were you a delegate to the '34 convention?

A. Yes, I was a delegate, and Schmidt was our candidate for president. [5234]

Q. At that time were you an officer of the ILA at all?

A. No, I was a local executive board member.

Q. That is all? A. That is all.

Q. And then you had been made an emissary or a delegate to go up and down the coast to urge these people to attend the convention? A. Yes.

Q. At the convention in February of 1934 you were elected a delegate to that convention, as I understand it, is that right?

A. Along with nineteen others.

Q. But at that time now, in February, 1934, at that convention you were still not an officer of any local or any portion of the ILA, is that correct?

(Testimony of Harry Renton Bridges.)

A. I was not an officer of the local until September, 1934, until after the strike.

Q. Until after September, 1934?

A. Right.

Q. So when Mr. Schomaker also says that Sam Darcy wanted him to get you as an important officer in the ILA, that could not have been so, is that right?

A. I wasn't an officer. I was only an executive board member at that time. I would like to feel I was that important at that time, inasmuch as I worked at it. I am pretty sure I wasn't [5235] as well known as that, and I wasn't important enough for that, that is, for what importance that was worth.

Q. Tell us now what happened then? Continue with your narrative. I only interrupted to get the date.

A. Well, in the 1934 convention, the coastwise convention——

Q. How many people were there approximately?

A. Oh, I guess there was about a hundred delegates approximately, and we drew up a coastwise constitution, adopted a coastwise constitution, elected a set of officers, district president—that was a coastwise president, a coastwise secretary, and a coastwise executive board, and they were put in charge. And that convention, incidentally, put the responsibility and the authority on the coastwise officers and that district executive board to call the strike, if any strike was going to occur, and that board, and that board alone, had the authority to

(Testimony of Harry Renton Bridges.)

call the strike—that is, of course, pursuant to a coastwise ballot being taken as to whether the membership wanted to strike or not.

So the 1934 convention in February set up the list of demands, elected the officers, elected the coastwise committee, which was the coastwise executive board, and that became the coastwise strike committee, and that committee was charged with the responsibility of setting the strike date or calling the strike after the coastwise membership had voted to strike if our demands and recognition were refused by the shipowners. So [5236] at the convention a committee was set up to call on the Waterfront Employers Association. The Waterfront Employers Association refused to even talk to our committee. In other words, they wouldn't recognize the union. So the committee came back, reported to the convention, and it was agreed in the convention that if by a certain date—I think it was a date in March—the Waterfront Employers refused to recognize us on a coastwise basis, a strike vote would be taken in judgment, and if the strike vote was favorable to a strike, a strike date was set, however to be postponed—a strike vote was tentatively set, but the power to put the strike into effect rested in the hands of this coastwise committee, the coastwise officers. So the strike vote was taken and——

Q. We are a little ahead of this now. So, as I understand it then, this coastwise committee would not have power to call the strike unless first a refer-

(Testimony of Harry Renton Bridges.)

endum was held by the members of the union authorizing them to do so, is that right? A. Right.

Q. Did the coastwise committee then submit to the shipowners' association the demands that you had agreed upon? A. That is right.

Q. When was that?

A. During the course of the convention—February.

Q. Then what followed next?

A. As I say, the Shipowners' Association at that time—— [5237]

Q. Pardon me. Of course, the Shipowners' Association recognized the justice of the demands and immediately granted them, is that right?

A. No, they did not.

Q. What happened then?

A. Well, a lot of water has gone—after all, the shipowners at that time were the same ones that appeared up here. They have undergone a little change.

Q. I have forgiven them, too.

A. I haven't forgiven them. That is not the point. They learned the hard way. Let us put it that way. They have changed. The point is when we went around with the demands I wasn't a member of the committee at the time because, as I say, it was the coastwise officers that were set up, and they approached the ship operators, the Waterfront Employers Association. So first of all they refused to recognize and deal with the committee because they said they have a bona fide contract in existence with

(Testimony of Harry Renton Bridges.)

the blue book, the company union; and second, they could not deal with the committee on a coastwise basis because they could only talk for the shipowners here in San Francisco, and the main demand of the union committee at that time was that the shipowners sit down with the committee and deal on a coastwise basis. For all the shipowners up and down the coast. And we reached an agreement, and it would be one coastwise agreement, not separate port agreements. [5238] So, as I say, the Waterfront Employers refused to recognize the union for those reasons.

Then the committee came back, reported to the convention, and the convention instructed the committee to initiate the strike vote and make the strike vote, that is, the results of the strike ballot returnable as of a certain date, and if that vote was favorable, and that was put on the ballot, then that committee had the authority to call the strike on if they made no progress in the way of recognitions and negotiations with the shipowners.

Q. Then what followed with regard to the referendum?

A. Oh, the referendum to strike if our demands were not granted carried by a big majority.

Q. Can you tell us a little of the machinery of that referendum, so that we can find out now whether it was in fact a rank and file determination or something dictated either by the officers or some outside political party or anything of that kind?

(Testimony of Harry Renton Bridges.)

A. We set up a balloting committee in the convention, and the balloting committee was instructed and authorized to draw up a ballot and to mail it out to the various locals, and the ballot would be secret, and each local union would elect its own balloting committee and would make arrangements for the balloting. The balloting then would take place, and each local union would count the returns of the ballot and certify them [5239] send them in to the office of the district officers, district secretary at that time. So that is how the ballot was conducted with the local unions being in charge of conducting the ballot in their own local union, with their own local balloting committee, a balloting committee elected from the rank and file members, and the returns had to be certified by a meeting of the local union before being sent in.

Q. Have you any memory now of approximately how many locals there were?

A. There were at that time about 25 or 30.

Q. That was from the Canadian border to the Mexican border? A. Right.

Q. Then can you tell us approximately what was the result of the ballot on the referendum?

A. It carried the strike by a wide margin, and then that ballot was in, I think, by around March 7. So another attempt was made to deal with the shipowners and again they refused.

Q. What attempt was made now? What was done?

(Testimony of Harry Renton Bridges.)

A. The coastwise committee contacted the shipowners and sought to sit down and have a meeting with them and bargain with them and try to work out an agreement.

Q. Pointed out that the referendum had been favorable to the strikers?

A. Right, and if there was no dealing, no recognition, there was liable to be a strike—in fact, there was a strike. They [5240] met and didn't get anywhere, and they notified the shipowners without telling them what date the strike would be called that they were going to put in effect the strike ballot. Of course, the various locals at that time, specifically at least the local that I was in, the San Francisco local, we were making preparations by setting up strike machinery. I am now talking of March.

Q. What do you mean by strike machinery?

A. We established a strike committee in the local.

Q. What were the purposes of that?

A. To conduct the strike on a local basis in the event it became necessary to strike. In other words, in the event that the coast officers put the strike ballot into effect by calling the strike, we had been instructed or told by the coast officers to establish our strike machinery. And that was done on a local basis. In the local I was in at that time—that was the San Francisco longshore local—we set up our strike machinery, strike committee, and divided up into several committees, and one thing and another like that. I was elected chairman. I can remember I got the job of chairman largely because no one else wanted it, not because of much of anything else.

(Testimony of Harry Renton Bridges.)

Q. Then what was done?

A. President Roosevelt at that time wired the coast officers to postpone the strike to give him a chance to set up a board of mediation, to see if by working through such a board a [6241] coastwise strike could be averted, and that request was granted. Strike action was postponed; a board of mediation was established. That board met—held public meetings, and they finally came out with a recommendation, that the recommendation would cover only the Port of San Francisco, and they further recommended that the local unions in the other areas like in Portland and Seattle and Puget Sound and Southern California, that they meet and go into negotiations with the local employers and urge them to accept as a pattern or basis for settlement the same pattern of settlement recommended for the Waterfront Employers of San Francisco and the union in San Francisco, which was the major port.

Q. Let me ask you, how closely did the recommendations of that board coincide with the demands that your convention had determined upon?

A. Oh, they didn't come close. I forget the details, but I remember one thing that was absolutely unacceptable as far as we were concerned. The recommendations of the board did not provide for one coastwise agreement. They recommended separate agreements in each port and separate negotiations in each port to get an agreement. We didn't want that. That was one thing. And they did not recommend the establishment of a hiring hall. I do

(Testimony of Harry Renton Bridges.)

not think they recommended any wage increases. They just recommended negotiations. So the recommendations of the board didn't get anywhere. [5242]

Q. How long did those negotiations continue or those determinations?

A. These were hearings before this Federal Board of Mediation at the time, a board of three men, and they continued for a few days, and the board came out with its recommendations in the month of April.

So after the board's recommendations were made, the union still attempted, based on the board's recommendation, to try to negotiate a contract directly with the shipowners' association, saying, "Now, look, even the Federal board set up by the President is a basis to work on. Let's see what can be worked out, and in that way a strike will be averted."

Well, I had nothing to do with this particularly. I was not a member of the committee that was doing the negotiating for the union, see? Other than getting around every chance I had and observing it, and so forth. And, of course, I attended the hearings before the special board of mediation. So negotiations finally broke down completely, and suddenly on May 9 the coast officers declared the strike, called the strike on the morning of May 9, 1934.

Q. Then what took place?

A. Well, we were on strike.

Q. Now, who? When you say "we were on strike," the ILA then went on strike, is that right?

(Testimony of Harry Renton Bridges.)

A. The longshoremen struck on a coastwise basis on May 9, 1934. [5243]

Q. Can you give us an approximation of about how many men were involved in that strike?

A. To start with, longshoremen on a coastwise basis, around twelve to fourteen thousand to start with. They struck May 9. On May 10 the Marine Workers Industrial Union struck with us. Now, the Marine Workers Industrial Union at that time had a few ships organized, and we met with them, and we worked out a program where any ships they had organized, where they had the majority of the men on the ships organized, they would pull them off. Where they had less than a majority of the men organized on the ship, they would let them stay aboard for a while so as to try to have them organize the entire ship and pull them off on strike in support of us. That was May 10.

Now, either May 10 or 11 the Boilermakers and the Machinists took action and what not. At least they took action to the extent that they refused to work on any struck ships here on the Pacific [5244] Coast.

On May 12th Coastwise Shipping Company suspended operations. We already had them shut down so they had to cease operations.

On May 15th—on May 15th the International Seamen's Union declared a sympathy strike in support of us and their own demands, and they called what members they had off the ships. And they had darned few members at that time, very few. They had less members than the MWIU. About a month later the licensed officers and the form of the Marine Engineers who were an independent, unaffiliated union at that time, and the Masters, Mates & Pilots, they likewise walked off.

Around the same time another independent organization, the ARTA, radio operators, about 25 or 30 days after the longshore strike, they got together an organization and they walked off, too.

So within 30 days after the longshoremen had struck, all the maritime unions, technically at least, were on strike, but they did not have a great amount of membership, and our strike was tightening up.

Within two weeks after May 9th the Teamsters here—the Teamsters stayed at work, at least in this port, the Teamsters stayed at work for about two weeks after that strike, and finally they went on strike not to haul to and from the waterfront even though they kept working elsewhere throughout the city. Generally speaking, that is the situation. [5245]

Q. (By Mr. Hallinan): Taking the men actually on strike, what is your best estimate of the total number of men that were on strike?

A. I would say the men directly affected by the strike vote 30 days after we struck would approximate around 30,000.

Q. About 30,000 men? A. Yes.

Q. Will you tell us what steps were taken by the organization of which you were a member toward winning the strike, to protect the men, to feed them,

(Testimony of Harry Renton Bridges.)

to hold them in line, and sustain their morale? Will you tell us just what was done?

A. We set up. I—in this particular phase of the activity, I was here in San Francisco, and I was chairman of the strike committee in San Francisco.

Q. How many men were on the strike committee?

A. 75.

Q. Where did they come from? Who elected them?

A. It has been testified to here. We came in with the proposition—when I say "we," again I mean myself, and that part is true—the so-called Albion Hall group, we made the proposal—I made the motion myself—that our strike committee set up would be that the longshoremen on each dock would select a couple of people that they wanted to elect. So they were elected on a dock by dock basis; and that they would compose a strike [5246] committee plus the executive board. So therefore we had 50 longshoremen elected dock by dock that composed the strike committee, plus the executive board of 35 or 25 as it was, I think, and the whole thing made up our strike committee of 75 to 85.

Q. When you talk about each separate dock electing the members of that committee, how were the men assigned to the dock?

A. The people that happened to be working on the dock; in other words, the men that worked at each dock. Ordinarily the number of steady gangs were assigned to the various docks. For example, my dock was Pier 26 and 28. I was working on a steady gang at Pier 26 and 28, the American-Hawaiian Company.

Q. What did they do toward electing the men is what I want to find out.

A. They called a meeting of the men working on the dock, they called it right outside the dock gate, held a meeting, made nominations, and said, "Everybody hold up their hands, all in favor of Joe Blow, hold up your hands." So Blow was elected, Henry Schmidt, Bridges, Schrimpf, whatever the case may be. And in that way we got together a rank and file committee of 75 with all officers excluded from the committee except as ex-officio members unless they were members of the executive board. We were determined that the control of that strike would rest in the hands of the people on strike, and any stories—I mean anyone that knows anything about that strike, anyone that was down there, knows that any stories to the contrary are so much [5247] baloney.

Q. Well, we weren't there, Mr. Bridges, and we don't understand exactly what you mean by strike story, so if you will kindly explain what those proceedings were, what this board did, what the strike committee did in winning the strike.

A. The strike committee was a committee of 75 longshoremen. They met daily; in the early days of the strike they met all day and most of the night. I was chairman of the strike committee, largely—I was chairman, because as I say, they looked around, they said, "Well, now, look, let's try to get a man who has had a little experience with strikes," and

(Testimony of Harry Renton Bridges.)

I really got the job because really no one else wanted it more than I got elected to it for any other reason. And the fellows knew—I was generally well known along the waterfront because of the '24 activity, the fact that I had been involved in the 1921 strike, and so forth.

As a matter of fact, one of the first things we did, we printed picket cards, and the picket cards that I had saved when I was on strike in New Orleans in the '21 sailor strike were copied in order to make the picket cards for the longshoremen here in San Francisco. It was a picket card, an oblong card, with numbers around the border, 1 to 31 that represented the days of the month. And as you got your credits for picket duty, the picket captain of each picket squad would punch the number around the border, and the rules of the union required that you [5248] had to have so many days punched each month, otherwise you got into trouble, you would be penalized by the union for missing picket duty. I had saved my picket card from the strike of '21, and we used them to set up—one of the first things that strike committee did was to equip everybody with a picket card as a means of identifying him and as a means of checking up on their picket duty and so forth. That was the setup of our strike committee. The strike committee was divided into sub-committees; we had a picketing committee, we had a relief committee; we had a publicity committee; we had a defense committee; and all those committees, as I

(Testimony of Harry Renton Bridges.)

say, they functioned and they directed those various activities.

Q. Now, what, for instance, was the duty of the picketing committee?

A. The daily meeting of the strike committee was when we brought all subcommittees together and we met as a committee of the whole, and that was the committee that determined every bit of strategy in the strike. I have still got the minutes, I have got the minutes of the motions made, myself as chairman, for the whole '44 strike, who made the motions, the discussion, and so forth. I have still got the minutes of that strike committee.

So the whole committee would meet as a committee of the whole with the subcommittees and they determined the strategy, and when the subcommittees went out to do their work—the [5249] picketing committee, for example, they were in charge of all picketing, they would assign pickets, they would check up to see that everybody was doing picket duty, they would appoint picket captains whose job it was, each picket captain had a squad, and that picket captain was responsible for that squad, and he would punch the cards. We had certain special punches made, and we changed the punches every now and again so that someone couldn't get hold of a similar punch and punch his own card and never do picket duty. So the picket captain was in charge of the picketing squad and he was in charge of this duty and assigned them.

The publicity committee was in charge of getting

(Testimony of Harry Renton Bridges.)

out press releases, arranging for radio programs, arranging for mass meetings, establishing a speakers' bureau so that speakers were assigned to represent the strike committee at other unions in the city, and to public bodies to explain the issues of the strike and ask that they send—pass resolutions or send donations of money or food, and so forth. [5250]

The relief committee was in charge of the soup kitchens. They established a soup kitchen, and in addition to feeding the men on the waterfront while they were on picket duty, we also had a wagon go around and give them doughnuts and coffee, as well as a system of relief where married people with families were given boxes of groceries in order to feed the families, because the relief through the soup kitchens did not do the married people much good. So that was the duties of the relief committee.

And then the defense committee, their duty and responsibility was to arrange for bail if someone was arrested or got into trouble, and there was a lot of trouble, because it was illegal to picket in those days. We had a picketing ordinance, and that reminds me, the lawyer that we hired, if you recall, to try to get an injunction to stop the police from interfering with our picketing was a man named Hallinan, Vincent Hallinan.

Q. I was licked.

A. Yes, you were beaten. I can still recall that the strike committee didn't want to hire him because he was a bourgeois capitalist lawyer; we didn't want to have anything to do with such characters.

Q. Maybe you would be better off if you took their advice on this case.

A. Those are the various duties of the committee.

Mr. Hallinan: Do you mind if we recess? [5251]

The Court: It is four o'clock. Ladies and gentlemen, we will adjourn until tomorrow morning at ten o'clock. The same admonition to you not to discuss the case under any conditions nor to form an opinion thereon until it is finally submitted to you.

(Thereupon an adjournment was taken until Wednesday, February 8, 1950, at 10:00 a. m.) [5251-A]

February 8, 1950, 10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Harry Renton Bridges, heretofore sworn.

HARRY RENTON BRIDGES

resumed.

Direct Examination
(Continued)

By Mr. Hallinan:

Q. Now, yesterday, Mr. Bridges, you identified a photostatic reproduction of a list of members of the executive committee. I want to show you a certain file. Have you seen that document before?

A. Yes.

Q. And what is it, please?

(Testimony of Harry Renton Bridges.)

A. These are the minutes that were kept in the early days of the union, amongst the first—these are the first official minutes that were kept by the union at that time.

Q. Now, have you been personally familiar with those minutes from the very time of their drawing up to the present?

A. I was instrumental in having them preserved.

Q. Are those minutes kept in the regular order of the business of the union as it was revitalized at that period? A. Yes.

Q. Does it show the inception of the revitalization of the union? [5252]

A. In some ways it does.

Q. And when do those minutes commence?

A. Well, the one I have got here is headed—by the nature of the minutes, on the letterhead which reads "Ferryboatmen's Union of California," which is the——

Q. Reads what?

A. "Ferryboatmen's Union of California." This is the minutes of the meeting of the organizing committee held at the time when the union didn't even have a place to meet, and it was using the office of the Ferryboatmen's Union of California at that time. We were using the office of a man named Deal—Clyde W. Deal; we were meeting in his office. These are the minutes—the first minutes here are the minutes of the organizing committee of the union. That is all we had; we had an organizing committee; we didn't have any officers, and the

(Testimony of Harry Renton Bridges.)

organizing committee was signing up the men, receiving the monies and doing things like that.

Q. And that is dated July 10, 1933?

A. That's right, July 10, 1933, Room B Ferry Building.

Q. Will you turn to the piece of yellow paper that is thrust up from the top. What is that page that that paper identifies or marks?

A. This is a paper that—this is the original of the photostat you had yesterday.

Q. In other words, it is the original of the document that was [5253] introduced here yesterday as Defendants' Exhibit T-2, a list of the membership of the executive committee of the union of the International Longshoremen's Association?

A. And this was the listing of the members that were present at the first meeting when it came to order, and the original check marks are by the secretary at that time, Ivan T. Cox. I know his handwriting; I can identify it from that alone without anything else.

Q. There isn't any date on that list, is there?

A. No.

Q. But can you tell from its position in the minutes approximately when that list was compiled and when that meeting was held which was so checked off by the secretary?

A. I recognize it as the first meeting of the board after the board was elected and installed. This was the first time it came to order, and I know why.

Q. When was it? In September '33?

(Testimony of Harry Renton Bridges.)

A. Approximately, I know when the first board meeting—I recall the early part of September '33, but I have got my own reasons for knowing why this was the first meeting of the board.

Q. What is that?

A. Because there is a man here who only attended one meeting, the first meeting; the man's name is Harvey McCarthy. He attended the first meeting. He didn't attend any meetings after.

Q. May I have that, please? [5254]

A. I know that because Harvey was a member of our slate, and although we had arrangement where he would be marked present at some meetings, but he was busy on other business. He was organizing—he was excused to organize warehousemen's local 34. That was testified. He helped organize Warehousemen's Local 34—38-34, that was testified to here as being organized. So one of the reasons I know about the original meeting——

Q. I notice in some of these meetings that they are written in longhand on what practically amounts to scrap paper. Are you familiar with that?

A. Right.

Q. And then I notice that some toward the end are on the heading, on the letterhead of the Riggers' and Stevedores' Union, Office 113 Steuart Street, organized July 25, 1853.

A. That was some—the answer to that is the stationery there of the Riggers' and Stevedores' Union, that was some old stationery that was left over from the union when it existed in 1919. One of the board members, I forget which one, had some old stationery, because he was one of the former officers of the union in 1919, and he came down and we used that. The union was in such shape at that time that it never had any of its own stationery. That came along later in more prosperous times. [5255]

Mr. Hallinan: And I notice such matters as this:

> "At a meeting in September Brother Miley Farnsworth and Bob Baker wanted permission to establish a lunchroom with cigars, tobacco and candy in this hall. Will pay a graduated rental commencing with $10.00 a month until the maximum of $20.00 is reached, and will also do the janitor work."

Mr. Donohue: May I suggest, Your Honor, we are going a little bit far afield in the examination of this witness.

Mr. Hallinan: This document bears on its face, if Your Honor please, evidence of its relative antiquity, and I do not want to bother to have it passed among the jurors now. The jurors understand they can take any exhibit that we have. I am going to offer the entire book of the minutes in evidence, so there can not be any question that documents have been extracted. There was some criticism made that certain records were not the bound records. For instance, this photostat I am sure we only did it for the purpose of keeping the record down and to prevent an accumulation of exhibits, but it is a copy of a document bound in this book, which was re-

(Testimony of Harry Renton Bridges.)

moved and photostated, but now in order to obviate any question——

The Court: Mr. Bridges has so testified.

Mr. Hallinan: ——in order to obviate any question, I am going to offer the entire record of the minutes. They run from July down to some time in September, 1933, as Defendants' exhibit next in order. [5256]

Mr. Donohue: I object to the admission of this document on the ground that it has no pertinency or relevancy to any issue in controversy here. There has been no suggestion that any witness who has testified for the prosecution raised a controversy, as a result of which this document might be offered.

Mr. Hallinan: We are directing it specifically at the testimony of Schomaker, that he having come on the waterfront in the middle of October, received some time thereafter directions from Darcy, Samuel Darcy, that he reactivate the union on the waterfront, by showing that the union on the waterfront had been reactivated at least five or six months before Mr. Schomaker even made his appearance there.

Mr. Donohue: The record will show, if Your Honor please, that the witness John Schomaker testified he joined the ILA in November, 1933, Your Honor.

Mr. Hallinan: Exactly, and we want to show all these things were done from July to September, the entire union gotten under way, the machinery that Mr. Bridges described already set in motion before Mr. Schomaker even presented himself there.

Mr. Donohue: Mr. Schomaker never contended, if Your Honor please, and the record will so state, that he ever formed the ILA. It was formed, according to Mr. Bridges' testimony yesterday, by the——

The Court: The photostat, Mr. Donohue, I have admitted in evidence and it is appropriately marked, and it is identified [5257] by Mr. Bridges as the first meeting of the particular committee.

Mr. Donohue: Yes, Your Honor.

The Court: Sufficient foundation has been laid, and accordingly the document has been appropriately marked. With respect to the balance of the file folder, however, I will mark the balance of the matter for identification. I can not see, Mr. Hallinan, how that would affect the issue involved in this case. No doubt extraneous matters appear in the minutes. In support of your contention that it is an ancient document, that may well be true, but we are not attempting to prove any document by that source or upon that foundation.

Mr. Hallinan: No. But I mean if it should be contended by this witness that there is some recent fabrication or that these documents are not what they purport to be or were not made out at the time they were made out, although the minutes themselves bear internal evidence of the fact, for that reason we offer them in evidence.

Here is what we are doing: We are taking out our records from the files and exposing them to everybody. There isn't any concealment. We are not hiding documents and records and pretending that

(Testimony of Harry Renton Bridges.)

they can not be obtained. We are bringing them in here. He can search through them and see if there is anything that will give him comfort. The jury can look through them to determine if it is true or false that Mr. Schomaker, on the advice of Mr. Darcy, started the reactivation of this union that [5258] involved so many thousands of men. That is the purpose of it. If counsel does not want them in, if he wants to persist in his policy of keeping out as much as possible, not only what we ask for but what we offer ourselves, I do not see why we should make any objection to it. We want to put everything in. We said originally we want all the cards on the table face up. These are the original minutes of that union. They can search through them. If they can find something that indicates Communist infiltration or influence by Mr. John Schomaker or Mr. Samuel Darcy or anyone else, let them dig it out. They are the original minutes. Nothing could be more honest, nothing could be more straightforward than to tender them.

Furthermore, as I say, we have had this criticism, that because a document shows by punchholes in it that it has been removed from some sort of file, that it is open to question. We bring in the entire file and say, "All right, this should remove the question." They should take a position on the matter lest they be banned by the devil for having blown hot and cold in the same breath.

Mr. Donohue: Your Honor, the objection made yesterday to this photostat, as Your Honor will

(Testimony of Harry Renton Bridges.)

recall, was predicated on the fact that it was unsigned and undated. The original is just as unsigned and undated.

The Court: Mr. Bridges has identified that document. I have admitted it. With respect to the other matters, they may [5259] be marked for identification.

> (The minutes referred to were thereupon marked Defendants' Exhibit B-3 for identification.)

Q. (By Mr. Hallinan): Have you seen that file before, Mr. Bridges? A. Yes.

Q. Can you tell us what it is?

A. This is a file of the official minutes of the longshore local here in San Francisco for the year 1934 and halfway through 1935. These are the minutes of the regular membership meetings as distinguished from committee meetings, executive board meetings.

Q. Are those the original minutes?

A. Yes.

Q. Were they prepared at the time they purport to state the facts? In other words, is that a running set of minutes of the meetings as they occurred?

A. Yes, except this: The secretary at that time, Ivan F. Cox, would make a few notes and then the minutes would be typed up in between meetings. These are the minutes that would be read at the following meeting and approved, in which case his pencil notes would be destroyed, and these became

(Testimony of Harry Renton Bridges.)
the official minutes. After all, Cox did not sit at the meeting with a typewriter in front of him.

Q. I understand. [5260]

A. These minutes were typed by Cox. These minutes were not typed by a stenographer. Cox used to sit there and peck away at the typewriter and do his own typewriting. I saw him do it many, many dozens of times.

Q. And were they kept in the regular course of business of the union? A. Yes.

Q. And then preserved in the record of the union since? A. Right.

Q. And you are familiar with them personally?

A. To my own knowledge, yes.

Q. Will you turn to page 3, which I think is also marked with a yellow sheet, and tell us what that is. [5261]

A. "Minutes of Special Meeting. Minutes of special meeting of Local held on March 21, 1934," where among other things the District President made a report, that is, William J. Lewis, District President at that time—incidentally, he was also one of the—a part of the slate that were supported as business agents in the 1933 elections. W. J. "Burglar" Lewis, we used to call him. He was elected as a business agent, later on elected against our Henry Schmidt for next president. He makes a report at this meeting on the progress of the negotiations with the President's mediation board. And this was the meeting where the strike committee was elected, and I made a motion there to establish the strike committee. That carried. And then the names of the men who had already been designated by their various docks were given over to the meeting, and the meeting approved the election of the various members of the strike committee by the various longshoremen on the respective docks, and that is the main thing in these minutes.

Q. Did you hear Mr. MacInnis reading out to Schrimpf the list of the names of the strike committee? A. Yes.

Q. Was that the same list that you have there?

A. This is the official list. It is all here.

Q. And then the minutes that you have there, are they documents that recite the very events that you were testifying to yesterday? [5262] A. Yes.

Q. As to not only the formation of the union but the appointment of the committees, the negotiations with the employers and the appointing of the strike committee?

A. The minutes say, "Moved, seconded and carried that we elect a strike committee consisting of 50 members. Brother Bridges spoke, describing in detail how this committee would function and suggesting that one member from the docks in Oakland and Alameda be appointed on this committee. Moved, seconded and carried that the suggestion of Bridges be adopted. The following members were selected and appointed. Each one named came to the platform as his name was called." Then it goes on with the list of the various members, but towards the end it says, "No steady work, J. D. Schomaker."

Q. What does that mean?

A. He was not working on any dock noted in the minutes.

Mr. Hallinan: At this time, if the Court please, we offer in evidence the general membership minutes of the ILA, Local 38-79, from 1/24/34 through 1/27/36, and with the same comment, that they are the original minutes bound together, that documents have been subtracted from these, photostated, and offered here either in evidence or for identification before; that this obviates any contention or discussion that the entire record is not here. Counsel is free to search it again. The jurors and the Court are entitled and invited to inspect it and see [5263] if there is any contradiction in anything Mr. Bridges said yesterday contained in it.

Mr. Donohue: If your Honor please, as I recall this matter, historically the witnesses Schomaker and Schrimpf were called by the United States in support of the allegation in the indictment that these defendants were members of the Communist Party and conspired together to obtain the naturalization of the defendant Harry Bridges by fraud. On the direct examination of both the witness Schomaker and the witness Schrimpf their testimony was restricted by the prosecution to testimony placing two of the three defendants in the Communist Party. Not a single question was asked by the prosecution of either of the witnesses with respect to the question of the 1934 strike, the ILA or the ILWU, or any other organization. These matters came into this record in the very lengthy cross-examination of Mr. Schomaker and Mr. Schrimpf by counsel for the defendants. We took the position at that time that that question of a strike of the ILA and the ILWU and any other union was purely a collateral matter, and that under the law if a question is asked of a witness on cross-examination on a collateral matter, the defense asking the question is bound by their answer. Now, it is all very well and good for Mr. Hallinan to hand a time-beaten folder and have Mr. Bridges say that he has personal knowledge that these are the records that were kept back in 1934 or 1935. Whether they are or whether they are [5264] all the records is a matter about which I am uninformed. But I most respectfully say to your Honor that there is not a bit of help that can be given to the Court or the jury by the offer or the acceptance of the minutes of the ILA in 1934, 1933 or 1935, because there is not a single allegation in this indictment which requires proof of any minutes of any meeting that Mr. Bridges may have attended with respect to the ILA or the ILWU. The indictment charges membership in the Communist Party, and I most respectfully say to your Honor that to clutter up the record with a series of ancient documents of this kind, which can only serve as self-serving declarations [illegible] assist Mr. Bridges in establishing matters concerning the strike which are wholly collateral, can be of no help to any of us in deciding the issue of the membership of Mr. Bridges in the Communist Party. I respectfully say to your Honor that I object to the introduction of this [5265] record.

Mr. Hallinan: Might I say, if the Court please, as counsel so often and vociferously protested his honesty and innocence in this matter, I must attribute what he just said to some discrepancy of memory, because it is very distinct, I think, in everybody's memory that among the pertinent things that Mr. Donohue thought should be adduced so as to bolster the story of the fable of Mr. Schomaker where there was one that Mr. Schomaker received from Mr. Sam Darcy instructions, either written or oral, on every phase and portion of the reactivation of the ILA and every phase and portion and every activity of the strike committee, which he transmitted to Harry Bridges as orders from the Communist Party and which Harry Bridges then put into force and effect. And Mr. Schrimpf testified, not on cross-examination, but on direct examination by Mr. Donohue, that he, accompanied by a number of other persons, made some kind of a fantastic journey to a prune orchard in Santa Clara County where they met a man named Browder, who gave them similar advice, encouragement and directions. And all of those were put in by Mr. Donohue himself. And now the fact that Mr. Donohue finds this important material contradicted by unassailable records is no reason why the defendants should be precluded from putting in those records to establish that contradiction. I can't understand or imagine why counsel should either forget or pretend to forget that these matters were introduced by himself through the testimony of witnesses on direct examination. Your Honor [5266] has his notes; if not, we have the record. If there is any question about it, we can produce it.

Now, you remember that Mr. Schomaker on his direct examination was very definite and specific not only as to the time, place and the frequency with which he transmitted these orders from Mr. Sam Darcy, but the very nature of them. He told us on direct examination in response to questions put to him by Mr. Donohue and in support of the rest of his fable, that he received orders:

First, that the Albion Hall group should be created;

Second, that the ILA should be reactivated;

Third, the wages and other demands that should be given to the employers;

Four, the exact date when the strike was to be called;

Five, every single thing that was done in connection not only with the calling of the strike, but with its administration.

It is true that a considerable time was devoted upon cross-examination to discover again, to have Mr. Schomaker repeat these matters in the face of records which we were able to confront him with and give some sort of a specific statement as to whether the instructions were oral or in writing, how they were transmitted, and that Mr. Schomaker spent a long time, a day or two, evading, running around

(Testimony of Harry Renton Bridges.)

and trying to get away from answering those questions, and finally, it all seemed to fade into one thing: that it amounted in the end to the transmission [5267] of a document and a resolution that they were supposed to introduce at some meeting. But all of the previous meetings, all these directions, were adduced by Mr. Donohue from the witness on direct examination. I don't see how Mr. Donohue can have forgotten it.

The Court: The document to which Mr. Bridges made reference may be admitted in evidence. That is on the dates in question, the 21st—what was the other? The 21st to the 24th, was it?

The Witness: March 21st to 24th, special meetings.

The Court: That may be admitted in evidence, may be received.

Mr. Hallinan: We also offer all the minutes.

The Court: The minutes may be marked presently for identification. If any question arises, they may be looked at.

Mr. Hallinan: If the prosecution wishes to go over them, they are welcome to.

The Court: Is that clear to you, Mr. Mitchell?

The Clerk: Which page is it?

Mr. Hallinan: I will find it.

The Clerk: May the page referred to, Your Honor, be marked Defendant's C-3 in evidence?

Mr. Hallinan: It is marked Page 18, I notice, in the file itself.

(Testimony of Harry Renton Bridges.)

The Clerk: Page 18. May the folder be marked Defendants' [5268] D-3 for identification.

> (Minutes referred to were thereupon Defendants' Exhibit C-3 in evidence, and the folder was marked Defendants' Exhibit D-3 for identification.)

The Court: Will you have that photostated, Mr. Mitchell?

The Clerk: May I ask that counsel have it done?

Mr. Hallinan: We will provide it.

Q. Now, I notice here in the minutes of May 29, 1934, that the purpose of the meeting being to take in discussion proposals submitted by the employers to the district executive board, May 28, 1934:

> "Meeting called to order at 8:00 p.m. by vice president Joseph Johnston.
>
> "District President William J. Lewis——"

That is what you just referred to, the district president? A. Right.

Mr. Hallinan (Reading): "Presented to the membership the proposed agreement as submitted by the employers. At the conclusion of the reading, the chairman presented the question formally before the membership for acceptance or rejection:

> "1. All those in favor of the proposed agreement say aye. Not one single sound was heard.
>
> "2. Now, all those who reject the employers' proposal say no. The 2500 members present with one accord shouted no." [5269]

Do you recollect that that is what happened?

A. Right. That was the rejection of the first proposals we received from the employers.

Q. That was rejected apparently by 2500 members present in the hall by a voice vote taken at that time? A. Right.

Q. And that was on May 28, 1934?

A. May 29th. May 28th we remember because May 28th we had a battle. That is when Schomaker got beaten up.

Q. I notice here in an item May 7, 1934:

> "Motion. Regularly moved by Brother Bridges that the special committee shall have full power and authority to enter in negotiations. This motion after vigorous discussion was withdrawn."

In other words, you weren't directing or running things; your motion was argued and then withdrawn by you, is that correct?

A. I think I was trying—I think the purpose of that was I was trying to have a committee set up that would conduct negotiations, or something of that type, and when it was pointed out that the final authority to conduct negotiations on a Coastwise basis rested with the Coastwise Executive Board, I withdrew my motion and agreed to support such a proposition. And the Coastwise Committee, as I have told you, was headed by the district president, who was William J. Lewis at that time, and a group of other people. [5270]

Q. And then I notice on Tuesday, July 25th a meeting called to order, the purpose of the meeting to be for the specific purpose of discussion of the question whether this local should go back to work without the seamen. Was there some difficulty arose from the fact that the employers offered to make an agreement with the longshoremen and not to include the seamen? A. That is true.

Q. And what was done on that?

A. It was rejected. In other words, on June 16, 1934, an agreement was reached by the national officers. Joseph P. Ryan came out here from New York and he in conjunction with the mayor at that time—that was Angelo Rossi—Dave Beck, Rossi, Beck and one of the board members named Finnegan—that is, the ILA board members named Finnegan—and Ryan signed an agreement putting us back to work, that is, the longshoremen back to work. The first we knew about it was when we read it in the newspapers. And the agreement not only was——

Q. Pardon me; we are a little ahead of ourselves. A. The agreement was rejected.

Q. I want to get something else before we get into that, because we want to keep it in some order of time.

Now, you told us yesterday, Mr. Bridges, about the division of your executive committee into certain subcommittees for picketing, relief, defense, matters of that kind, and you told us something about the relief committee; that they established a [5271] soup kitchen and were sending food and money out to people with families. Now, where was the food and money coming from?

A. The money was collected by—collected from, well, any source we could collect it from. We got quite a large amount of money, the bulk of the money came from other labor unions, from the San Francisco Labor Council here in San Francisco. That is where we got the bulk of our finances, because the Council officially went on record to give full financial support to the strike as well as other support, and generally speaking, all the unions did extend a large degree of support financially. In addition to that, we accepted money from any source; we weren't fancy. I recalled at that time I think that we got a donation from the waterfront employers at that time. We sent them a bumming letter as well as we sent a lot of other people, and for some reason or other, they sent it back with a check for I think $25.00. I can recall we sent a letter to Barbara Hutton, who was just getting married around that time, and we thought that she might help us, we were having a tough struggle. And I forget; I think she was—the reason we sent the letter—incidentally, I think that there was a statement in the newspapers that she was getting married, had planned to honeymoon in Hawaii but the ships were tied up and it was difficult to make it, so they decided to honeymoon in Paris. In some way at least we got the idea we would send her a telegram saying so long as she was getting along so well and having [5272] a happy time, that she might be able to spare a few dollars for the strikers on the waterfront. I don't recall that we got any money. I think we got a nice letter back from her; I don't think we got any money from that source.

So in addition to the trade unions that we asked and who came through very, very generously, we didn't turn down money from any source. And that, incidentally, included the Communist Party. So we got money from the Communist Party. I think we got money from the Socialist Party. There was quite a few political organizations of that type around here then,—the Workers Party, the Proletariat Party—all of them, they sent in donations and it was thankfully received and primarily went to feed our strikers.

Q. Will you tell us now what course the strike then took? First, what day did it start? What day did the strike commence? You told us that yesterday. A. May 9th.

Q. How long did it last? A. July 31st.

Q. Will you tell us now what was the source of the strike?

A. Well, I was the chairman of the strike committee. I pointed out that I was largely selected because they thought—the rest of the committee thought that I had a little bit of prior experience and so forth, and I was also a former sailor. In addition, I was at that time an Australian, and the background [5273] of waterfront history here has been, as I have suggested, one where amongst the

(Testimony of Harry Renton Bridges.)

first unions that—that is, the first unions of other countries, that always came to the support of the West Coast seamen and longshoremen were the seamen and longshoremen of Australia. These were more or less the reasons I was chairman of the strike committee, more than anything else, I think.

And looking back at that time, as most of us did, over the history of past waterfront struggles, we had, to the best of our ability at least, analyzed the weaknesses of past strikes, what had lost them, and we found that two things stood out. One was generally when the longshoremen were on strike the seamen stayed at work, and when the seamen were on strike the longshormen stayed at work. For example, when I was on strike in New Orleans, I had a picket squad down there, and one of my jobs was to get around and talk to the longshoremen. But that during our 1921 strike, the seamen struck and the longshoremen stayed at work. And then when the strike was broken, then of course later on when the longshoremen struck the seamen found this a chance to do the same thing that they did to us. They went ahead and did it and that ended the longshoremen. So that in 1934, or '33, we wanted to take steps that, above all, that didn't happen, and we took those steps.

Again the leaders of the seamen's union at that time advised their men to stay on the job, advised their men to stay at work. And I attended a meeting in 1933, and later on in early [5274] '34 I went over to a meeting in Sailors Hall here in San Fran-

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cisco and I heard the officers telling the men it was none of their business, to stay aboard the ships, "You are not on strike, the longshoremen are no good, and never were," and so forth and so on.

The other thing that we had to watch out for, because we regarded it as very important from the trade union standpoint as well as other reasons, and that was the organization of the Negro people, because in the 1919 strike the Negroes were imported in great numbers as strikebreakers. So we were determined that that wouldn't happen this time. So right from the start—right from the start we fought for a policy of organizing everybody irrespective of race, creed, color or background.

Q. Let me ask you this: What justification did the Negroes have for acting as strikebreakers? Were they barred from the union themselves at that time?

A. Up to that time—I think we were about the first union here to start on a program of equality as union people for Negroes as well as every other type of person.

Q. So the colored people first had the reason that they were barred from participating in the union?

A. Attending the unions.

Q. And then went out as strikebreakers?

A. Quite a few unions at that time barred all persons black, brown or yellow. [5275]

Q. What did your union do?

A. We eliminated that. We were about the first union that broke down all of those barriers and everybody was accepted as equals. And even to

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this day that policy continues. Of course it is a regular thing now, but it was pretty progressive in those days, pretty Communistic in those days. It was one of those things that led to our union being called a Communist organization or being charged as being a Communist organization. It was one of those things that led to myself, Schmidt and others being accused as Communists because we had stood for that policy in those days, and it was considered pretty radical, pretty Communistic.

Q. Aside from any humanitarian principle, it was sound policy not to keep these people off to one side where they could be used as strikebreakers?

A. Very simply; they were there. They had been used before. Everybody knew about it. But even with some of the members of the old riggers and stevedores union, we had to argue with them at first, in the first instance, even though they had been through it, their union had been broken by their refusal to accept various races into the union in the olden days. We had to argue it. Of course we had a straight, simple issue. You can't expect those people, notwithstanding their color, no matter what color they are, you can't expect them to work with us, be a part of us, refuse to go ahead and be strikebreakers [5276] unless they are a part of the union with all the rest of the union members. That is what they were given in our union.

Q. Go ahead. What further——

A. The strike took place, as I say. The strike committee was first of all concerned with getting ourselves organized. The first few days were pretty hectic, and primarily seeing that the rank and file ran the strike; that any agreement reached was a coast agreement; no agreement would be reached or finally lost without a full vote on the strike, in other words, without a vote of the rank and file; that we wouldn't have our strike broken by the seamen not standing with us.

One of the first steps we took was to guarantee to the seamen if they came off the ships and raised a list of demands including an increased wage, and mainly job security, we would refuse to call off our strike until they had attained some satisfactory settlement.

Of course the organization of the whole strike was that we would eliminate the possibility of strikebreakers, and we would eliminate the two large groups of people that existed at that time that had traditionally been used—traditionally been used as strikebreakers, namely, the unemployed and the Negroes. And we were pretty successful along those lines, so that the employers at that time had to scratch around quite a bit to get strikebreakers; they had to go to the universities and get the football teams. That is what they did. And there wasn't too [5277] many takers in the ranks of the unemployed and of the various racial minorities, and we were largely successful in getting the seamen to walk out in support and sympathy with us, and later on to raise their own set of demands, and eventually when the strike was over we all returned to work. And of course in the course of the strike——

Q. Let me ask you this now: Was the strike, so far as the numbers involved and the ability of the strikers at that time to successfully conduct the strike? Did it operate efficiently?

A. I think so. I mean, we have had quite a few arguments with those Waterfront Employers and shipowners over the years. I might say parenthetically we have had less in these days, and it will continue, I hope. There is one thing they agree with us on, and that is that that was a successful strike.

Q. What went on then? Was there any violence or any difficulty in proceeding? What steps did you take to see that your demands were enforced?

A. It was a very violent strike.

Q. Who started the violence?

A. Certainly we didn't. I have never seen a working man or someone who is a striker or a picket, I have never seen them taking a delight into running into a policeman or anyone else that is generally armed with a gun, a club or machine gun or shotgun or teargas gun—in my experience in trade unions I have never seen any group of strikers or individual relish any [5278] type of thing like that, notwithstanding what was said. But in this strike it was a very violent strike, a very bitter strike up and down the Coast. We lost nine men killed—nine men, longshoremen and seamen

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killed, and hundreds of men wounded, shot and clubbed in various cities, the reason for that being, at least here in the Port of San Francisco and elsewhere, there was a picketing ordinance. It was illegal to picket, so-called, notwithstanding the so-called rights under the Constitution to picket. That ordinance was later on repealed. [5279]

Q. Well, wasn't it declared unconstitutional?

A. It was declared unconstitutional, yes.

Mr. Donohue: If your Honor pleases, we have been through this '34 strike three of four times.

Mr. Hallinan: From your side. Now we are entitled to go through it from our side. Mr. Schomaker, Mr. Schrimpf, were allowed to give their versions.

Mr. Donohue: On your examination.

Mr. Hallinan: No, on your examination.

Mr. Donohue: Not on my examination.

Mr. Hallinan: Your memory is sadly deficient on those things.

Mr. Donohue: Everyone, your Honor, has conceded the '34 strike was long, bitter and successful. Now, is there anything to be gained by repeating it again?

Mr. Hallinan: Now we want to show also that it was not run by some magic worker named Sam Darcy, operating through a puppet named John Schomaker; but that it was run by some thirty or forty thousand men, honest working men, who were trying to get some humane treatment and consideration, and that it was not run by any such delegated

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authority as counsel here has been contending for. While we all know that, he doesn't. He is from the East Coast and he hasn't any recollection of these things. But we are entitled to show now just what was done, the reasons that they were done, that the violence on the [5280] waterfront, and so forth, was not motivated by Mr. Sam Darcy and a few other gentlemen up at 128 Haight Street, but that they were the result of efforts on the part of agents of the employers and of the police to smash the picket lines and break the strike. Now, I think that the simple sort of justice would permit us to tell our side of the story—so much having been already said about the 1934 strike being run in the manner that I have indicated.

Mr. Donohue: I most respectfully say to your Honor that unless we get down to the issue in this indictment, we may be here forever.

Mr. Hallinan: Well, don't be in a hurry. After you get used to California you begin to like it. It is really a very nice place. The spring is coming, and stick around for a while. You will find that it is quite agreeable. I don't think we should be in any hurry; we gave them plenty of time. The corn won't be in the shock or the frost on the pumpkin, or whatever you call it, for several months yet.

The Court: I will overrule the objection. You may answer.

A. There was quite a bit of violence, as I say.

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Q. (By Mr. Hallinan): But tell us—will you give us a little brief narrative now how it started, what was its culmination and how it ended?

A. Well, the shipowners got an old vessel, an old Dollar Line [5281] vessel, and moored it down here at Pier 14, and that was a kind of a floating boarding house. And they recruited strikebreakers and they put—they maintained them aboard that floating boarding house.

Q. Boarding house, you say?

A. Yes, sort of a boarding house.

Q. I think I remember Mr. Paisley suggesting I was turning the court into a "boarding house," or something that sounded like that.

A. No, boarding, where the strikebreakers used to live on the ship. And they would be taken to the various docks by motor launch so that they would never come ashore. However, they got a lot of money, you know; they used to make their money and they sneaked ashore every once in a while to spend it. And generally, in order to protect their persons, because there being quite a feeling built up in the newspapers by and large that if they come ashore they would risk their lives—so they used to come ashore prepared. They'd have a knife or a club or a gun. They would have something of that type. So that was one place where a little violence came along, and I will admit that our fellows were down there protecting their jobs, too. And they weren't at all backward if they run into any of these fellows in saying what they

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thought of them, and maybe a few other things. But the main thing was the picketing ordinance. The picketing ordinance prohibited picketing, and we insisted on [5282] picketing the docks. And the first clash we had with the police, we were on the picket lines, was May 28. That was the day that Schomaker got beaten up in the picket line, as well as a lot of others—Willie Christensen, incidentally, too, and a few others. Because we insisted on picketing. We said that the law was unconstitutional. We went ahead, and the police just charged in and started to shoot, club, fire tear gas, and the attack was wholly unexpected. As a matter of fact, it surprised most of us. We were under the impression—we had been around that waterfront for quite a while. We knew quite a few of the policemen—at least many of us that had been around—and we were under the impression that they would never do anything like that to us. However, we got a pleasant, or unpleasant surprise. We found out later that they removed many of the old policemen off the waterfront and put them on another beat away from the waterfront and brought in a bunch of younger and newer fellows that didn't know the men down there, and probably got a little fun out of it, a little exercise out of moving in on us. Anyway, that is what happened. Then later on, after the strike was on two or three weeks, the control and operation and the administration of the strike was turned over to the Industrial Association of San Francisco. The Industrial Association of San

Francisco was a strikebreaking, union-busting organization, and the shipowners turned over the complete conduct and control of the strike, as well as negotiations for a strike settlement, [5283] to that organization. And from there on in, things really moved, because the whole program of the Industrial Association, avowedly announced publicly, their written program was to break strikes by force and violence. And they had a very simple way of doing it. They would prepare a proposition that might look halfway decent on paper to offer to the strikers as a price of settlement. But a day or before that was going to be offered to the strikers, they would create an incident where the police would move in, as well as a bunch of professional deputy sheriffs, and work over a few of the strikers, that is, by shooting at them, tear gas, vomit gas at that time they used to use, clubbing around, and that was supposed to soften up the strikers so they would be more amenable to considering or accepting a proposition that would be offered a couple of days later. So we knew that every time they moved in on us on the waterfront, and a few more of our fellows were beaten up or shot, we knew that a day or two later we would get another proposition; so we were always prepared. That is what they did, that is what we went by, and sure enough, after a real good rousting around on the waterfront and a real good dumping we would get a proposition to settle the strike in some form or other. But it didn't work out that way. The fellows just

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got madder and madder. And as a matter of fact, the job of myself and other leaders of the strike, that is, members of the strike committee—it wasn't to push the fellows on or to [5284] goad them on. We were busy at that time holding them back so they wouldn't go out on a very hopeless program of really getting themselves in trouble. We didn't have to push anybody along or goad them into any action. Our job was to try and really keep them together, because they were so mad that they were—they felt pretty bad around things, and it wouldn't have taken much to have them really go on a real drive against——

Q. What was the situation that they called "Bloody Thursday"?

A. That was July 5, 1934, starting early in the morning, and suddenly they rounded up all the police reserves and they suddenly attacked our picket lines. We had——

Q. How many men on your picket lines, approximately?

A. We had strengthened the picket lines that day. Periodically we used to call on all the other unions in the city, as well as anyone else that would volunteer to come down and help us picket. It was truly, really a demonstration—not necessarily a demonstration of strength, but in the form of a public demonstration. So, July 5, the day after July 4, we had called for a massing of everybody on the picket line in the form of a demonstration. So very early in the morning the police attacked the picket lines and ~~the~~ battle went on all day long. They shot down—that day they shot down around 400 of the people on the picket lines, not only strikers but non-strikers. And that was the day two men here in San Francisco was killed—one of our longshoremen and another person, a member of the [5285] Cooks' Union, was down there in response to our request for picketing. So in addition to the two men being killed, we had about 400 wounded that day by shots, clubbed, gassed, and so forth. That was—and then at the end of July 5, July 5 wound up, there was so much battling and fighting that Governor Merriam, at the request of the ship operators and the Industrial Association, called out the National Guard. And a day or two later, why, the National Guard was on the waterfront. They set up machine gun emplacements, armored trucks, they had tanks rolling up and down the waterfront—all supposedly to watch us. And we were cleared away for three blocks on the waterfront for a while, and later on we was allowed to return to our union headquarters, and the National Guard stayed there until it was removed, as a result of the general strike here in San Francisco.

The Court: We might take the recess, Mr. Hallinan.

Mr. Hallinan: Yes.

The Court: Ladies and gentlemen, we will take the morning recess. The same admonition to you, not to discuss the case under any conditions.

(Recess.) [5286]

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Q. We were coming toward the end of that July 5 matter, Mr. Bridges. Would you finish up the recital of what took place on that day?

A. Well, it was a pretty tough day for us, pretty hard maybe to understand, unless one understands the Industrial Association had a set program which was generally in effect all over the country at that time—a set program for breaking strikes, that is, to whip up a lot of public hysteria. I remember around that time, July 5 and thereabouts, and even prior to that time, the form it was taking. There was a bloody revolution of the waterfront. Russia was running the strike. The Communists had taken control. For a while I was attacked as chairman of the strike committee. In the early days of the strike the general editorial comment or content of the newspapers was I was a British agent out to destroy the American merchant marine. Then when the Industrial Association took over the strike, the whole thing was played up as a strike that was directed from Moscow, a bunch of Communists were running around with bomb throwers. We had a bloody revolution. And of course that built up the circumstances and the atmosphere so that around, first of all, July 3 and July 5 the police suddenly descended upon the picket lines. When I say "descended" I mean just that. They massed by the hundreds, and all of a sudden at a word of command they just charged, shot at us—and when I say—that is with six-guns, rifles, sawed-off shotguns, gas [5287] guns—and then they moved into close quarters and went after the fellows and all of us with clubs. So it was a part of a plan, and the accusations about the strike being run from Moscow, Communist strike committee, Communist union and all that, that was purely for effect and atmosphere.

Q. Did you people have any support from any of the newsapers?

A. No—well, no, not any of the commercial newspapers. The commercial newspapers met together. They, under the leadership of John Francis Neylan or through his orders—he was in London at the time—I know about these things for other reasons—the newspapers had already formed a publishers' committee in order to handle the strike. But we had the support of two papers at the time. We had the support of the Catholic Leader. The Catholic Leader was a paper put out here in San Francisco. Originally it had been founded way back in the early part of the century, that is, around the 1901 strike. It was by Father York, a well known labor priest around here at that time, and that was one newspaper that gave us full support right from the start. And the other paper was the Western Worker, the Communist paper. We received and gratefully accepted support from both sources.

I distinctly recall the Catholic Leader, and it more or less ties into these charges about the strike being Communist-dominated and the police down there merely looking for trouble. As I say, I have never seen a working man yet who wants to [5288] charge into a mounted policeman or an armed policeman or any other kind of person with arms and clubs. We haven't got a chance. But I recall the pictures in the Cathoic Leader; and it was written up so as to show. The caption on the picture said more or less, "Picture of Red Revolution on Waterfront. Workers Attack Police." And then it showed the policeman on a horse—these are regular, official photographs that had been taken by a member of the staff of the paper—showed a couple of mounted policemen, their horses rearing up, and one policeman clubbing down, another policeman is shooting down, and it shows a couple of longshoremen falling to the ground, and the caption of the picture is, "Workers Attack Police." Of course, it was noticeable that no police got hurt. Maybe a punch in the nose or something; that was about the extent of any injuries to any policeman down there.

As a matter of fact, in the City of San Francisco we had quite a few policemen on the force who were former teamsters, longshoremen, and so forth, and quite a few policemen at that time turned in their badges and refused to take orders from the Industrial Association. And I recall the firemen. The firemen were called upon—or they were going to call upon the firemen of the city, the San Francisco Fire Department, to turn out and to turn the hoses on us in order to break up so-called riots, and so forth. The firemen refused. They were not going to do it if called upon, and they officially [5289] told us that. So, as I say, all this led up to the battle of July 5.

Q. As I understand it, you went to your union hall that same day. What happened there?

A. Well, we had to—there were so many people hurt, as I recall, we had a list of them at one time, —we had approximately 400 people that were seriously hurt—I don't mean the ones that were just gassed or clubbed, but I mean clubbed or shot or gassed sufficiently that they had to be laid out. By "laid out" I mean on some form of stretcher or on the floor. We had our whole union hall floor of them, probably a couple of hundred of them at 113 Steuart Street. They were all laid out, stretched over the floor. We had a couple of doctors who volunteered their help. They are still our union doctors. There was Dr. Lagan and a couple of others. They came down and volunteered their help. Fellows were lying all over the floor—not all our fellows, but members of other unions, too. And while we were in the process of taking care of these fellows who were laying on the floor, then the police shot tear gas and vomit gas into the windows of the hall and gassed us out of there, too. So we had to get out and seek some other place. In the course of all this a lot of our people as well as other people were taken up to 121 Haight Street. That was used as a kind of hospital, because again that was one of the places that was available to us. In other words, they came around with [5290] cars and gave us a helping hand. We didn't look around at that time to wonder who they were. We didn't care.

Q. That was the headquarters of the Communist Party?

A. The Communist Party—no, I don't think it was at that time. Maybe I am mistaken. It is my impression that the headquarters of the International Labor Union—I think the headquarters of the Communist Party was somewhere else, but I might be wrong on that.

Q. Mr. Bridges, what eventually led to the solution of the strike?

A. The National Guard was called out by the Government. Governor Merriam was Governor at that time. Governor Rolph had died, and the lieutenant governor, Governor Merriam, took over. Later it was found out that the shipowners had contributed $30,000 to his political campaign. And so he called out the Guard, and as a result of the Guard being called out on the waterfront we started a drive—the newspapers started the drive for the general strike of the city.

Q. How was that? Will you tell us what was the mechanism of getting that into operation?

A. All we did was, we went around with speakers to the various unions. We printed a hundred thousand leaflets, and by simply those means we went around and appealed to all labor as well as other organizations to protest, not only against the shooting down of people simply because we were on

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strike for a hiring [5291] hall—we was only on strike for a hiring hall and an increase in wages—but there was a big to-do that we were on strike and in a bloody revolution dictated from Moscow and all that, and we just went around and told the unions the truth and told the people the truth and asked them to take a strike vote. And we would bring the thing to a general strike in protest against the violence being exerted against us on the waterfront.

And I remember at the time the strike committee and this talk about—the Communists had nothing to do about the violence down there and neither did the strikers. They neither get the credit nor the blame if either attacked. It was our own battle down there. The strike committee handled every bit of strategy, and I remember when the National Guard moved in the strike committee took an official position, and I went on the radio as the chairman of the strike committee to urge our people and all people not to get in any battles with the Guards, to talk to the National Guard, that they were generally relatives or sons or friends of working people and many of them were; to point out we had nothing against them, any more than we had, for example, against most of the members of the police department. That was the official position of the strike committee at that time. And I was instructed to not only issue a public statement, which I did, and it appeared in the press, but to make the announcement over the radio, which I did. [5292]

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And we set about to organize and call for the general strike; No. 1, as a protest against the terror and the brutality and the violence exhibited by the city authorities through the police department, and the special committee set up by the mayor towards our fellows on the waterfront, all of us; two, in order to insist that the National Guard be removed from the waterfront before any negotiations to settle the strike would take place, and the San Francisco Labor Council set up a special committee of seven, it was called the Strike Strategy Committee; and later on, of course, the Labor Council, when the general strike broke out, they set up a general strike committee. The general strike was organized in a very simple way. The people were enraged around here, the people in the labor movement, and they just responded when we asked them. They all took strike votes and eventually walked out. But prior to that time, July 9 and 10—I think it was July 9—we had a funeral here.

We had two men killed, as I say. We held their bodies for a couple of days in the union hall. And then we had a mass funeral for them where we paraded up Market Street and we buried them. We buried one at the Presidio because he was a veteran, and we buried another one at another cemetery. I remember the time, because Sam Darcy—the second man that was killed there was a Communist, and Sam Darcy—I went out to the graveyard and attended the burial, first of all the burial of my own [5293] union member, Sperry, at the Presidio, and then later on I went out to the other burial at a private cemetery. And I remember ~~at~~ that time Sam Darcy speaking at the graveside about this man who was a Communist; Bordeaux, his name was.

So after we had the funeral, then we started amongst the unions to urge them to take a general strike vote.

Q. How many men did you have in the parade?

A. It was quite a large parade. I don't know how many, but there was quite a few there; there was quite a few, between fifteen and twenty thousand.

Q. Marched up Market Street? A. Right.

Q. Orderly?

A. Very orderly. I think very orderly, very quietly. It was a funeral parade. We did our own policing, our own picket captains and squads policed the whole setup, all the way out to Dugan's funeral parlor, and there was no trouble, no disturbance.

Q. Did that help arouse some popular feeling?

A. It certainly did. That was part of our purpose. In addition to burying our people. And part of our purpose was, by having this funeral parade, to show the people just what was going on and to show it in a quiet, peaceful manner, that we weren't looking for trouble; we didn't want trouble. We were getting no fun out of our people getting clubbed and killed, [5294] and we did want to bring

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to the attention of the people of the city who was responsible for the violence and what was going on, because we were being accused by the newspapers that we were fomenting the violence. If we were going to believe what was said at that time, why, all we were doing, every time we saw a cop with a club or a gun in his hand, we took a delight in charging in on them and took a chance on getting ourselves killed. That was the gist of what was being said at that time. The fact of the matter was entirely different. The entire labor movement responded.

Q. What percentage of the unions in San Francisco would you say participated in the general strike?

A. All of them, all of them except those unions where it was agreed that they would stay on the job, such as the Milk Drivers' Union—that is, the Milk Drivers' Union delivered the milk, the bakers, and the bakery wagons, Bakery Wagon Drivers, hospital workers, people like that. [5295]

Q. Was that by agreement with the other unions and with yours?

A. Definitely. That was by action of the general strike committee that was set up later.

Q. And then that included, did it, American Federation of Labor unions and all unions?

A. Well, yes, all the unions at that time practically were American Federation of Labor unions, and there was a few independent unions, the Maritime Engineers' Union was indpendent, the P. G.

& E. Workers Union was independent, the Radio Operators were independent—those three were independent, I recall.

Q. What was the effect of the general strike? I mean, how extensive was it and how long did it last?

A. Lasted four days; it extended throughout the city and over in Oakland, and in my judgment, it was highly successful, because it achieved exactly what we expected it to achieve, namely, the general strike was called off after it was agreed that the National Guard would be removed from the waterfront, after it was agreed that the ship operators would arbitrate all issues, and after it was agreed that as a part of the arbitration, all strikebreakers would be removed from the ships and the docks. And that was eventually done, and the general strike ended July 20th, and the whole maritime strike ended July 31st, and at 8:00 o'clock on the morning of July 31st, everybody went back to work on the waterfront, seamen and longshoremen. We all went back to work at 8:00 o'clock in the morning. [5296]

Q. Now, let me ask you this: How was that arbitration set up? Who were the arbitrators? Who appointed them? What did they do?

A. The arbitration board was appointed pursuant to a special joint resolution passed by the United States Congress. That resolution was passed some time in June. President Roosevelt called upon the Congress to give him powers through a special joint resolution to set up this board of mediation in an attempt to settle the strike, and also to be a board of arbitration if both sides voluntarily agreed to submit the issues in dispute to arbitration by this board. So early in June—no, I think it was early in June—I mean, late in June or early in July, the board was established by the President, consisting of Mr. O. K. Cushing, a San Francisco attorney; the former Archbishop Hanna and Edward F. McGrady, Assistant Secretary of Labor at that time. So the board came out, and first of all, it functioned as a kind of fact-finding body. It held hearings right in this courtroom. I appeared before the board here, right in this very courtroom, July 11, 1934, when they went into the issues in the strike. They gave everybody a hearing, the various —I spoke for my union at the time, and I spoke as chairman of the Joint Marine Strike Committee. We set up a joint Marine Committee at that time that included in addition to longshoremen, we included seamen, and later on when the shipowners agreed that they would submit the issues to arbitration, and we finally [5297] agreed to that, we would submit the issues to arbitration. And both parties agreed they would be bound by the determination of this board or the decision of this board, that board became a board of arbitration, and it functioned as such. And eventually it rendered an award that in part is in existence to this day.

Q. What was the award?

A. The award, as far as the longshoreman was concerned, established a jointly controlled hiring

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hall, a jointly operated hiring hall, it set up machinery to handle grievances, it established the Joint Labor Relations Committee that we have heard discussed here; the duties of that Joint Labor Relations Committee was to register every man, every longshoreman that had been working on the waterfront at that time for one year, and that they would be the men that would work on the waterfront, that the work on the waterfront would be divided equally amongst all those men, and unless the needs of the port required more men to work on the waterfront, that list of men would be sufficient to do the work. And also that the men should be placed on the list irregardless of race, creed, color, nationality, so forth and so on.

Q. Was that accepted by the workers?

A. Right.

Q. Was it accepted by the employers?

A. Yes. [5298]

Q. Are most of the matters involved in that still in force on the waterfront?

A. The fundamental matters; that is, the hiring hall, the Labor Relations Committee, the registration, the joint grievance machinery, the arbitration of all disputes, and things like that. All those things are in full force and effect. And of course, over the years, we have worked them out so we have an entirely different situation on the waterfront now than then.

Q. Those matters, all were accepted by the employers? A. Yes, no question about it.

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Q. Have they been observed by the employers?

A. Yes.

Q. Has it been found that they were to the benefit of everybody or detrimental to one class?

A. No, I think that any shipowner down there now, none of them, in my opinion, would want to return to the old days. We have our troubles with them. We still represent two interests, of course, but I don't believe there is a shipowner down there now that would go back to the old days of the racketeering, the kickback, the shapeup. They realize our hiring hall is a good, constructive thing. We work out our problems. Right now, as a matter of fact, we are engaged in many joint enterprises. We are engaged right now, the Waterfront Employers, shipowners, and the union, we are jointly going to court to oppose an attempt by the National Labor Relations Board to do away with the hiring [5299] hall. So we are joined together in that endeavor, which I think is as good a proof as any that things do change. We might have our differences with them down there and our various opinions but I haven't met any of them in recent years that would want to get back to the old way of doing things, the old methods of speedup and what not. They want more work—they are always complaining about us not doing enough, and we argue over that. They think we are overpaid, and we argue over that.

Q. But the basic relations between them is one in which they ascribe and give more dignity to the

(Testimony of Harry Renton Bridges.)

working men and the working class in their dealing with them, is that right?

A. That's right; we have got now—we have had now for about 18 months or since the end of last maritime strike, in '48, we have had what we call the "New Look." And so far we have managed to work out every problem by negotiations. We have got a standing arbitrator, both sides pay him; he is a part of the contract, and he has been operating now since January 1st, 1949. We haven't had to use his services once.

Q. What do you mean by the "New Look"? Is that part of the New Look?

A. The New Look, I mean, is what we call the changed relationship on the waterfront, where we keep out of trying to tear each other's head off, and sit down and work things out. And it has been very successful the last, as I say, since the last maritime strike here, which was in December '48. And also, the [5300] new leadership of the waterfront employers. Some of them came up here,—Vic Pearson. Vic Pearson is a master mariner, he is a practical man in the industry. He grew up with the industry and he knows the industry. With all due respect to the attorneys in this case, one of our troubles down there, we used to have the so-called labor relations experts and attorneys, and they were always butting into things and generally gumming up the works.

Q. You don't have to concern yourself with all due respect to us, because we don't get much respect.

A. Well, I am just saying.

Q. Now, there has been some discussion here, Mr. Bridges, about vigilantism during that period of the waterfront strike. What was that?

A. There was forms of—well, there was various groups roaming the city. We didn't know who employed them. They weren't, certainly, working for us, but they made a practice of calling at the houses of the leaders at night or in the daytime; that is, the strike leaders, members of the committee, our picket captains. And these were a bunch of plug-uglies. They were strangers. They weren't San Francisco fellows. They were out-of-town. They used to drive around in—I remember the type of car they had at that time. They had these Marmons. And they made a practice of calling upon our leaders at nighttime, and if they could get them to open the door,—and it happened two [5301] or three times before we got wise—they just kidnapped them right then and there and beat the daylights out of them, break their arms, their fingers, and really give our fellows a bad time. That was one form of vigilantism at that time. Later on it got to where, under the cover of all this hysteria that was created, it started to raid the various halls of union organizations, the headquarters of the Communist Party was raided, the headquarters of the IWW, the MWIU, various radical organizations around the city at that time. These gangs moved in on them, dumped the people in there, smashed up the

(Testimony of Harry Renton Bridges.)

place, and broke it up, broke up the furniture and things like that. And then of course from '34 on, until 1936 and '37, in the various parts of the state, we had to contend with organized vigilantes that were organized and set up for the express purpose of fighting the extension of labor organizations.

Q. Were you—were any offers made to you to detach you from the support of the strike?

A. In '34?

Q. Yes.

A. At one time there was an offer, but——

Q. What was it?

A. There was an approach made to me through one of the fellows in the union for a payoff. It was rejected, which was——

Q. What was the amount?

A. Oh, they mentioned an amount of $50,000, but—— [5302]

Q. What was the consideration? What were you supposed to do to get that?

A. To put the issues to arbitration at that time. Only trouble with that was, I couldn't have done it if I wanted to, which I didn't want to do. And furthermore, no credit attached to me because 99½ per cent of the men would have did the same things as I did. So they would have turned it down, too. So no particular credit to me. And even besides, what they wanted me to do, I couldn't have done if I wanted to. So those things happened in the course of any strike; it wasn't peculiar to our strike by any means.

(Testimony of Harry Renton Bridges.)

Q. Now, do you remember any incident in which an attempt was made to plant some explosives in the hall of the union?

A. Two or three times.

Q. Where were those?

A. We had a member in the union at that time, a very militant guy—I can recall him because he was very active at the time of the Matson strike. Later on he was exposed as an agent of the employers, a provocateur. He came around with a bunch of hand grenades, and he said he wanted to use them for a little work on the shipowners. He said, "Now, I want to leave them in the union hall. Save them for me; put them in the safe until I come back and get them." Luckily our secretary at that time, who was no great supporter of mine, that was Ivan F. Cox—he had enough sense to sense the possibilities of this thing so he just [5303] quietly wrapped them up in a piece of paper and called in one of the strike committee men and says, "Take these things out in the Bay and dump them." And that is what happened with them. Later on there was—well, there was quite a few amusing incidents at that time. A policeman walked into my office, that is a couple of members of the Homicide Squad here. I think it was Mike Desmond and Johnny Engler. They walked into the strike headquarters at one time and they said, "Now, look, Harry, give us that Maxim silencer." "Maxim silencer?" "What do you mean?" Well, they said,

(Testimony of Harry Renton Bridges.)

"Look, here's the situation. There's two Maxim silencers in San Francisco, only two—we know. Now, we know where they are all the time. There's one in Chinatown and there's one somewhere else. The one in Chinatown is missing, and our tip is it's down here and you've got it." I said, "Look, I don't even know what a Maxim silencer is, and certainly it is not down here." So, and that was the truth. However, I did find out shortly afterwards that one of the fellows, one of our members, or some of our members, did have that Maxim silencer. So back into the hands of the people who owned it in a hurry. I don't know what they were going to do with it, but I remember that incident.

And I remember also that when the National Guard moved in and after the battles of July 3rd and July 5th a lot of our fellows armed themselves. A lot of our fellows. They was mad, enraged, and they were going to protect themselves. So I [5304] remember the strike committee took official action and we called in, we had a group of fellows who were called our "squad car men." They were the ones that cruised around the waterfront, around all over the waterfront here and there, in squad cars. They were kind of roving pickets. That is all they were. So we used them, and we had rounded up, rounded up everybody, called into the union hall in a file and searched, and we pulled any weapons that any of the fellows had, and we piled them all in the safe, so that not a single man of ours on strike

(Testimony of Harry Renton Bridges.)

was armed. And we didn't have too much success in the frisking, but what hardware the boys were packing around they got rid of, and we piled it in the safe until we got rid of it, because we were deathly afraid of frameups, provocative action. We was afraid our union hall would be raided and some weapons discovered, and grenades. Of course, those things are usual in a strike, and we took every precaution we could to prevent them. [5305]

Q. Now, sometime in the course of the strike, or when it was in preparation, did the Communist Party or members of the Communist Party offer assistance or help?

A. All kinds of organizations offered assistance. I have got copies of the strike minutes, and all through the minutes are offers of assistance down there from organizations. It included the Communist Party. It included other organizations. I remember the Workers' International Relief came down with a scheme for relief. It was considered by the strike committee at the time.

Q. What was the name?

A. Workers' International Relief. It was claimed to be a Communist organization; I don't know; and at that time we didn't care. Anybody came along with an offer of support, we didn't even think to ask, "Is this a Communist organization, Socialist organization or Republican or Democrat?"

Q. What is your first recollection of any posi-

(Testimony of Harry Renton Bridges.)

tive action by members or officers of the Communist Party toward giving you some help in the strike?

A. I am not sure whether they came down before the strike started or shortly after, but I distinctly remember that a committee did come down and offer us the full support of the Daily Worker and of the Communist Party generally, and also offered to—offered the services, that is, the facilities—they had a printing press, they had a paper and they printed [5306] their paper, and they offered to print a daily bulletin for us. That offer was accepted. That was in the early days of the strike, according to the minutes. I have read them in the last few weeks at least personally, and they say—it says May 9. I thought it was a little earlier than that, but that is about the way I remember it.

Q. That would be May 9, 1934?

A. Yes. I couldn't fix the date by memory, but I think the minutes are probably correct.

Q. Would you tell us then what was the extent of the assistance which the Communist Party gave you strikers?

A. No. 1, the support they gave us, the Daily Worker would print the strike bulletins. We wrote the bulletins; all they did was print them.

Q. Did they own their own printing press?

A. That is the way I remember it. They had a printing press. We wrote that bulletin. That bulletin was the strike committee's bulletin. There was nothing to even identify the Daily Worker or Communist Party with it, as I recall. They offered us the services of the printing press and we accepted. They offered us what support they could give us through their own organization; that is, where they had an organization in various areas, and so forth; in terms of money, donations of canned food and things like that.

Q. Was that a substantial donation, or were they rather small [5307] relatively?

A. Relatively speaking, it was small. Most of our help came from the labor movement. It was small, relatively small, but every little bit helped. The Communist Party wasn't the only organization. The only point about that, the role was played up, it was magnified. I am not going at this late stage to try to take away any of the credit they are entitled to, because they did contribute something towards helping the strike. We were grateful for it at that time; the men were grateful for it, and I just think it would be crawfishing and ingratitude to try to kiss it off now and say we never had anything to do with them, because they did help in the way I have said, not only with the helping to print the bulletin and with what financial donations as well as food donations they could get, as well as they—when we called upon all organizations, particularly labor organizations, to help us man the picket lines, the Communist Party responded to that call, too, and so did other parties, so did—not the Republican or Democratic Parties; they were darned conspicuous

(Testimony of Harry Renton Bridges.)

by their absence, but I mean the smaller minority political parties. I recall at that time there was the Proletariat Party around here, there was the Workers Party, the Socialist Workers Party; there were several. Most of those radical, left-wing parties, and they more or less vied with each other to try to prove to the longhoremen and the other strikers how much they were helping. And by and large, the role [5308] of all that was pretty much magnified, particularly the role of the Communist Party was played up purposely by the shipowners and Industrial Association and the city departments, for a reason, and the reason was hysteria so that it was easier to break the strike under that smoke screen of hysteria.

Q. Did you know Sam Darcy?

A. I knew Sam Darcy, yes.

Q. Had you know him before the strike, or did you meet him in the course of the strike?

A. I recall Sam Darcy, I think, speaking on the waterfront in the depression. I think Darcy—I knew him positively during the strike, but it is my recollection that I recall him from earlier, namely, that he used to speak down there on the waterfront around 1932 during the depression. We used to have a lot of people down there on soapboxes.

Q. Let me ask you this: Did Sam Darcy or any other members of the Communist Party, so far as was discovered by you, have any special knowledge or experience that was necessary to you people in the conduct of the strike?

(Testimony of Harry Renton Bridges.)

A. Not that I thought. It was always my position—everybody on the waterfront knows that—that I fought, fought from the very start; I said, "We are the experts on this waterfront"; we took the position we had forgotten more about handling strikes and waterfront problems than any outsider ever knew; and even before there was any question of the Communists, I already [5309] pointed out back in July when some city politicians wanted to come down and say, "Now, look, we are experts at this. We was here on the waterfront in 1919; we will show you how to run the strike." We said, "Yes, you people lost your strike; you know very well that you lost your darned strike. We don't need that kind of advice or help, and we don't want it." The men in that union are the experts about those things, as well as strike tactics. It is ridiculous. I don't want to boast, but I think I have forgotten more about strike tactics than any of those people ever knew. And everybody in that union sees that way. It was the rank and file person in our union that knows that, and they didn't need any help, and they don't want it, and they couldn't get any help from the outside in the matter of tactics. In that particular line they are the experts. They felt they know it as well as anybody does. We have been in the longshore and shipping industry. We have lived in the industry. After all, I have been in this industry since 1916. Why, it is utterly ridiculous that people can come along from the outside and start telling me about it. I am a sailor, I am a seaman, I am a rigger, and the shipowners have said a lot about me, but they never said I wasn't a good workman. I know the game from A to Z. So do our members know it, and they are their own experts, and we have always endeavored to run our business through rank and file control, to run our strikes. The first people that will agree that we [5310] of the union are the experts are the shipowners. They are the ones that had to put up the money in order to pay us off when we won our strikes; they are the ones that know it.

Mr. Hallinan: Shall we adjourn?

The Court: We will take the noon adjournment until 2:15. The same admonition to you not to discuss the case under any conditions or to form an opinion thereon until the case is submitted to you.

(Thereupon a recess was taken until 2:15 p.m. this date.) [5311]

Wednesday, February 8, 1950

Mr. MacInnis: May we interrupt with a short witness, your Honor?

The Court: Yes.

Mr. MacInnis: Would you step down, please. Call Mr. Ortega.

JOSE MANUEL ORTEGA

called for the defendants: sworn.

The Clerk: Will you state your full name to the Court and jury.

The Witness: Jose Manuel Ortega.

Direct Examination

By Mr. MacInnis:

Q. What is your address? What is your address, sir?

A. 1309 Castilla, Santa Barbara, California.

Q. For how many years have you been a resident of Santa Barbara? A. For 71 years.

Q. You have lived there 71 years. What is your occupation at this time? A. Retired.

Q. And in what year did you retire?

A. December 1, 1948.

Q. At the time of your retirement what job did you hold? [5312] A. Post office clerk.

Q. That is with the United States Post Office?

A. Yes, sir.

Q. For how many years had you been employed as a United States Post office clerk?

A. Twenty-seven years.

(Testimony of Jose Manuel Ortega.)

Q. Commencing with what approximate year?

A. 1921.

Q. Now, prior to the year 1921 what had been your occupation? A. A hod carrier.

Q. And where did you work as a hod carrier? In what city or community?

A. Santa Barbara.

Q. Did you hold any office with the international of the Hod Carriers Union at Santa Barbara?

A. I did.

Q. What was that office?

A. Recording secretary, financial secretary and corresponding.

Q. Now, did you hold those offices at the time when you became an employee of the United States Postal Service? A. I did.

Q. After becoming a Federal employee did you continue to hold office in that union?

A. I did.

Q. What was that office? [5313]

A. Recording secretary, financial——

Q. Following the year 1922 you continued as secretary of the union, is that correct?

A. I did.

Q. Now, how long did you hold that office?

A. Continuously for 31 years.

Q. Do you still hold that office? A. I do.

Q. What title do you hold now?

A. Financial, corresponding and recording secretary.

(Testimony of Jose Manuel Ortega.)

Q. Now, is that the local of the International Hod Carriers Union at Santa Barbara?

A. Yes, sir.

Mr. MacInnis: Now, so that the Court and jury may perceive the subject matter of this testimony, I will tell you this, Mr. Ortega: In November of this year a man named John Schomaker gave testimony in this case, and referring to page 761 of the transcript, this is what he said: Question by the prosecutor——

Mr. Donohue: Just a minute, if your Honor please. This isn't a question; this is a recitation of evidence.

Mr. MacInnis: I am merely pointing out the subject matter, your Honor.

The Court: All right.

Mr. MacInnis (reading):

"Q. Now, after your discharge from active duty in the [5314] Marine Corps in 1925 where did you go to live?

"A. I went to Santa Barbara.

"Q. And what was your occupation while you were in Santa Barbara? A. Hod Carrier.

"Q. And while you were a hod carrier at Santa Barbara did you belong to any union?

"A. I belonged to the Hod Carriers Union, the international of the Hod Carriers Union.

"Q. When did you leave Santa Barbara?

"A. It was in the middle of 1926."

Now, Mr. Ortega, some time in the month of Decem-

(Testimony of Jose Manuel Ortega.)

ber of this year did you receive a request to consult your records to see whether or not a man named John Schomaker was in fact a member of the Hod Carriers Union at Santa Barbara in those years?

A. I did.

Q. And pursuant to that request did you go through such records as were available?

A. I did.

Q. Did you find whether or not there was such a man named John Schomaker who was a member of the union? A. I did not.

Q. Now, did you keep those records yourself?

A. I did.

Q. And have you a list, referring to those records, in your [5315] handwriting which you consulted to determine whether or not there was any man named John Schomaker who was ever a member of your local? A. I did.

Q. Now, did you yourself, as secretary of the union, attend regular meetings throughout all of the years from 1922 forward. A. I did.

Q. How often were those meetings held?

A. At that time weekly.

Q. During that period of years what was the approximate number of members of the Santa Barbara local of the Hod Carriers International?

A. Between 20 and 30.

Q. Did you know each of those men personally?

A. I couldn't say definitely, but coming in contact with them I would know them.

(Testimony of Jose Manuel Ortega.)

Q. Now, does the name John Schomaker appear on any of the records as a member of the Hod Carriers Union at that time? A. No, sir.

Q. If a description were given you of a man about 6 feet 4 inches in height, well proportioned in weight according to that size, would that refresh your memory as to any man named John Schomaker who was a member of your union?

A. I think it would. [5316]

Q. Do you remember any such person?

A. I do not.

Q. Now, additional to the endeavor of consulting your own records concerning this man, did you address a communication to the national office?

A. I did.

Q. Of the Hod Carriers Union? A. I did.

Q. In order to supplement your own study of the matter? A. I did.

Q. And did you ask the International or national office to determine for you if a man named John Schomaker had ever been a member of the Hod Carriers Union? A. I did.

Q. And did you find out from that source as to the time when John Schomaker first joined the Hod Carriers Union? A. I got no information.

Mr. MacInnis: I will show the prosecutor a letter addressed to this witness, J. M. Ortega, Secretary Hod Carriers Local Union No. 195, Santa Barbara, bearing the postmark of February 1, and the letter itself (handing document to Mr. Donohue). I might say we are going to ask that the letter be marked so that these gentlemen can make copies of it, if they wish.

Mr. Donohue: Of course, the letter isn't admissible in evidence, if your Honor please. It is a letter from some third [5317] person to this present witness.

The Court: It may be marked for identification.

Mr. Donohue: Since the letter is apparently written by somebody here in San Francisco, there is no reason why the writer of the letter cannot be called.

The Court: It may be marked for identification, Mr. Clerk.

Mr. MacInnis: And the envelope as well, merely to show the date of mailing.

The Court: So ordered, as one exhibit for identification.

Mr. MacInnis: Yes.

The Clerk: May it be marked Defendants' E-3 for identification.

Mr. MacInnis: Merely to demonstrate the extent of the inquiry made, not for the contents.

(The letter was marked Defendants' Exhibit E-3 for identification.) [5318]

Q. (By Mr. MacInnis): Is that the letter that you received in response to your inquiry?

A. It is.

Q. Now, do you base your recollection upon the contents of that letter as well as upon your personal memory and the records that you kept in Santa Barbara? A. I do.

Q. Additional to that letter, did you, in the noon hour of today, hand me a volume of the records of the International Hodcarriers' Local at Santa Barbara? A. I did.

Q. And does the volume which I have in my hand—I won't trouble Mr. Mitchell to bring it to you—represent that particular record?

A. It is.

Q. Is this volume kept in your handwriting?

A. It is.

Q. And you have been the secretary of that local of the Hodcarriers' Union at Santa Barbara from—since 1921 or '22? A. No, sir.

Q. Since when? A. 1919.

Q. Since 1919, continuously up to the present time? A. Yes, sir.

Q. In the years 1925 and '26, the years mentioned by this man [5319] John Schomaker, was there any other local of the Hodcarriers International in Santa Barbara?

A. No, sir, not of Hodcarriers, no.

Q. I see.

Mr. MacInnis: I am not going to ask that your records be kept here, but I will state that if the prosecutor wishes to look at them in examining you, of course he is free to do so.

Q. Let me ask you this question, Mr. Ortega: Who contacted you first with reference to coming here?

(Testimony of Jose Manuel Ortega.)

A. A man by the name of Clyde Dorsey.

Q. Did you ever know him before?

A. Never saw him before.

Q. And did he introduce himself to you as a member of the ILWU at Santa Barbara?

A. He introduced himself at that time, he did.

Q. And before today had you ever met Harry Bridges in your life? A. No, sir.

Mr. MacInnis: That is all.

Mr. Donohue: If Your Honor pleases, we have no cross-examination at this time, but I would reserve the right to recall the witness later.

Mr. MacInnis: We will be glad to let you go over these records now. I don't know what there is that you would want—you mean you want to have Mr. Kaiser or someone look into his [5320] background? This man has come up from Santa Barbara and unless some purpose will be stated—I don't want to hamper the examination, but I don't know what this gentleman's situation is either. I can't say whether he has any necessities of getting back or not.

The Court: I have granted each side in this controversy considerable latitude on these things.

Mr. MacInnis: That is true. All right, we wouldn't resist it at all. May I suggest this: that if Mr. Donohue doesn't want to proceed immediately, that Mr. Ortega may go home and be brought back subject to Your Honor's order if he is required?

(Testimony of Jose Manuel Ortega.)

The Court: Mr. Donohue, precisely what have you in mind concerning this witness?

Mr. Donohue: I want to check the record, if Your Honor pleases. I haven't seen the records.

Mr. MacInnis: Here they are.

Mr. Donohue: We want an opportunity to check them.

The Court: All right.

You might remain. Could you remain over tonight in San Francisco?

The Witness: Yes, I can.

The Court: Would you rather have the witness return? Would it be more convenient?

Mr. Donohue: Whatever is more convenient for the witness, [5321] if Your Honor pleases.

The Court: Would it be more convenient for you to return to the court at some later date?

The Witness: Well, it is quite a distance. I am not so young, and I thought maybe I could lay over tonight, until tomorrow.

The Court: All right, sir; if that is convenient to you. Thank you.

The Witness: Thank you.

(Witness excused.) [5322]

HARRY RENTON BRIDGES

resumed the stand on behalf of the defendants; previously sworn.

Direct Examination (Continued)

By Mr. Hallinan:

Q. Mr. Bridges, commencing with the strike in 1934, did you witness any activity of the United States Immigration Department with regard to that strike? A. During the strike, not before.

Q. I mean during the strike. And what were they doing? What was being done by officials or officers of that department?

A. Agents of the Immigration Department were visiting the picket lines, telling the fellows to get back to work, get off the picket lines; that is, if they were aliens, particularly people of Filipino extraction. Telling them, other foreign born people, telling them that they had better get wise to themselves, get off the picket lines, get back to work, get out of the union, or it would be too bad for them—they would get deported.

Q. And with regard to yourself, at what period did you first become aware of any efforts to get you deported as an alien?

A. There was a demand—the Industrial Association—well, let me see. Either the Shipowners Association or the Industrial Association began to call for the deportation of all aliens, I think. I don't think they mentioned me by name, but it was very

(Testimony of Harry Renton Bridges.)

obvious they meant me. Around in June, 1934. I recall that I discussed the matter with Ed O'Grady, Edward F. O'Grady at that time was Assistant Secretary of Labor. The Immigration and Naturalization [5323] Bureau was under the Department of Labor at that time, and of course he, in his official capacity, was out here trying to mediate or settle the dispute. But I think around June, 1934, the ship operators and the Industrial Association began to publicly call for my deportation.

Q. And upon what ground?

A. Undesirable alien—Communist-dominated, all kinds of things.

Q. So that as early, then, as June of 1934 you were already being accused of being either a Communist or associated with Communists, and your deportation was being demanded upon that ground, is that true?

A. Oh, not only me—every member of the strike committee, every single member of the strike committee.

Q. Who was an alien?

A. Oh, alien—otherwise didn't make any difference.

Q. No, I say as regards to deportation.

A. Yes.

Q. All right. Now, you remember a telegram that was sent by Roger Lapham to the Secretary of Labor some time in the summer of 1934?

Mr. Donohue: I object to any reference to such telegram. Obviously it is hearsay, if your Honor please.

Mr. Hallinan: Well, we can produce the telegram, or you people have it. It goes to the witness' acquaintance with the efforts being made, so as to militate against the probability [5324] that he was then continuing, if he ever had been, any association or affiliation with Communists, and so as to disprove the suggestion that he was joining a party of that kind or having meetings with them and entrusting his safety to such strangers or comparative strangers, as either Schomaker, Schrimpf or any other people who have been produced here.

Mr. Donohue: The witness certainly, if your Honor pleases, is entitled to express his own opinions, what he has said or what he has done. He certainly is not entitled to express an opinion stated by somebody else in a telegram to a third person.

Mr. Hallinan: We are not interested in that. What we are interested in is his knowledge of the activities looking toward an accusation of that kind against him.

The Court: He did state the fact, Mr. Hallinan, he stated the fact that to his knowledge Mr. Lapham did send a telegram. That fact is established.

(To the Witness): You so stated, Mr. Bridges?

The Witness: Well, that was later.

Q. (By Mr. Hallinan): When?

A. That took place around July, I think. That was later. I think that took place after the board was out here. I had reference to what took place before the special mediation board was set up.

Q. Well, now, tell me— [5325]

A. That was—it seems to me that Lapham's telegram came about after there had been a law and order committee established by the city and so forth, and it was through that channel that he addressed a long telegram to the secretary of Labor. A little later, but before—I was referring to before that time, when an investigation was started against me, particularly, and others, seeking my deportation because of being an officer of the strike committee.

Q. Well, tell us now. What was done, that you participated in, or what questions were addressed to you or inquiry made concerning you in that matter? A. At that time?

Q. Yes.

A. I was questioned briefly once, that was all. I was questioned by some agents about just—there wasn't any more to it. I was asked about when I came to this country and so forth, and I answered the questions, and that was all there was to it at that time. Because amongst other things, we were being accused, or I was being accused of having just came down to the waterfront. When I told the agents, I recall, I told them, "Look, I have been around here since 1922, or 1922 or '3," that "All this baloney about me just being especially imported on the waterfront in the last few months to stir up a lot of trouble, why, that is a lot of hogwash." So apparently they were satisfied—at least at that

(Testimony of Harry Renton Bridges.)

time. Later on, of course, I found out [5326] differently. But at that time it was just a brief questioning, and they didn't bother me any more. And I was picked up by the police for questioning and I was let go as soon as I more or less established my identity.

Q. Was there any inquiry by the police at that time touching some activities that you were alleged to have engaged in in Australia before you came here?

A. They asked me, yes, I was asked about those things.

Q. Now, did you ever hear around that time any contention that you were in reality a well known Communist named Harry Harvey?

A. They asked me about that. That was the point, that I was supposed to have been a well known Communist organizer that was especially placed on the waterfront in order to organize this strike and agitate and so forth and so on. [5327]

Q. And these were in thumbprints taken that were compared with the record of Harold Harvey or Harry Harvey that disproved that?

A. No, but I had my seaman's passport, and sometime prior to that had sent a circular over to the postmaster general here. They were looking for me. I hadn't written home for many years and they didn't know. They was trying to find out what happened to me. So they sent a printed circular over with my picture on it. So I told them I had my seaman's passport and that had my finger-

(Testimony of Harry Renton Bridges.)

prints on, and I think by examination of those things they found out they were on the wrong trail.

Q. That there was such a man as Harvey?

A. I don't know.

Q. Were you subjected to any investigation regarding having gone into Canada unlawfully?

A. I was asked.

Q. What was that?

A. I think that was later. If I—I think that was later; that was later. We used to have a man in the local union—I think he is still there—we used to have a little fun with it. He somewhat resembled me, and we used to have a little fun. A lot of people would ask him, "Aren't you Harry Bridges?" and he would generally say, "Yes." His background was somewhat of a vaudeville act. He used to get a little fun out of it. It didn't bother me any. He used to say, "Sure," give him a long [5328] song and dance and make a bit of a joke. That came up later, but with no special significance in so far as these matters are concerned.

Q. Did you ever see any report from the Immigration Department of a man who in Canada had used some sort of resemblance to you to pass as you and declare he was you?

A. That was later on. That was '35 or '36. At that time a Mr. Cahill was head of the Immigration Department here in San Francisco, and Cahill was a pretty decent sort, far different to the average run of the immigration agent, in my opinion. I think that I discussed that or he discussed that mat-

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ter with me. The reason on that, when Ed McGrady—Ed McGrady, he was a liberal mediator. Incidentally, and in 1936 again, he was assigned by the President to the Department of Immigration because of a maritime strike, and when he came to town he used to borrow Mr. Cahill's secretary as his secretary. There was a woman there. Her name was Rose; I forget her other name. So in that way I remember that connection with Mr. Cahill, and on one occasion—two occasions I had a conversation with Mr. Cahill over my immigration status, and I connect the incident that you refer to up with that conversation with Mr. Cahill, who at that time, as far as I recall, headed up the Immigration Service here in San Francisco.

Q. Was that some inquiry you instituted as to the feasibility of getting your citizenship? [5329]

A. I was the one that was asking for an investigation and inquiry. I was the one that asked.

Q. What advice did Mr. Cahill give you then?

A. In 1935 Mr. Cahill advised me to take it easy until things cooled off. He said although he knew the truth, he knew the score, that if I pushed my citizenship application in 1934 I would lose. He said, "Things are lined up for you. You aren't going to get it, and you will be blasted in the press—after you are rejected for citizenship you will be blasted, and the basis for your rejection will be given as not being in support of the American institutions and the American form of government."

Now, he told me that, and he told me more or less in confidence at the time, and I don't believe I am revealing any great secret by telling it now. I was up there to see him officially, and that was the gist of the conversation.

Q. Was it true that continuously during 1934 and thereafter you did or did not know yourself to be under constant surveillance by the agents of the Immigration Department?

A. I knew it in 1935. In '35 the Anti-Trust was down there, the Internal Revenue was down there —there were charges against us for violation of the Anti-Trust.

Q. Tell us that in detail. Down where?

A. My union headquarters.

Q. What took place? [5330]

A. Oh, they came around, asked questions, asked questions of me, and I think some of the other officers. I was an officer of the union at that time. I had been elected as president of the union. But I remember the Internal Revenue, I remember the Anti-Trust, I remember the local Red squads of the police department, and I remember the local squad prior to that time. And, of course, the incident before that that I refer to, the immigration agents and later on the incident with Mr. Cahill. And I knew there was a form of investigation going on, but my attitude, and I told Cahill and the police department now—"Anything you want to know, we will let you find it out. We have nothing to hide. Investigate all you want." And as far as I know, they did.

(Testimony of Harry Renton Bridges.)

Q. Thereafter did you have occasion at any time to testify before the Immigration Department under oath as to any affiliation or membership in the Communist Party?

A. I had a special hearing in 1937 in New York City before the Solicitor General at that time, Generally Reilly, and I testified there.

Q. Were you asked these questions——

A. I was asked a lot of questions.

Q. Were you asked if you were a member of the Communist Party? A. Yes.

Q. What did you answer? A. No. [5331]

Q. Were you under oath? A. Yes.

Q. Were you asked any questions about affiliation with the members of the Communist Party?

A. Yes, affiliations, meetings, top fraction meetings, and a lot of things. The answers—well, I forget all the answers, but I answered anyway, and generally speaking all my answers were "No," so far as I recall. That hearing is a matter of record; there was a transcript there. General Reilly was Solicitor General of the Labor Department at that time. He conducted the hearing. I was represented by an attorney in New York, Sidney Cohen, and that was an official hearing called pursuant to a demand made for my deportation two or three years hence, going over a period of time, not only a demand by the shipowners but certain other organizations as well—I think the Portland police department, Mr. Boyd was in it up to his neck at that time—Boyd, Norene and Bonham. That was sub-

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sequent to the tapping of my room in the Portland hotel, and so forth.

Q. Tell us the incident of the tapping of your room in the Portland hotel. When was that?

A. That was in June, 1937. The Multnomah Hotel. I was up there attending a convention of the ILA—no, not the ILA, the Maritime Federation of the Pacific—and I moved into my room on Sunday, and shortly thereafter I got a tip. I really forget [5332] now who gave me the tip, but it proved to be correct, that there was a dictaphone in my room. I think I got the tip a day or two later, around Tuesday. So then we set out to find the microphone or the dictaphone, and the way we did it, we called a bunch of fellows up in the room and we were carrying on a conversation so that the people in the other room could record it, and while this conversation was going on, in order to cover up or distract them, we searched for the microphone, and the lad we used, because he was supposed to be an expert, was this character Krolek who showed up here as a witness. But we staged a lot of funny things. That was the time the Russian flyers flew over the North Pole and flew down the coast and landed, I think, in Santa Barbara. And while we were all sitting around in a rigged meeting for the benefit of the people who were tapping my room, we were carrying on a conversation on that issue—in other words, we used the situation—and in order to protect myself, let me say this: that before we went into this meeting we had a couple of representatives of the press in Portland, Oregon, at that time who we let into the secret so we couldn't be accused of being serious about this matter. So some of the press were in on the secret, and it worked this way: we told some of the members of the press, "Now, look, here is what we are going to do. There is a tap in this room. Here is what we are going to do: When we get in there discussing these matters—you people are in on the secret [5333] in case we need to prove it." And we all sat around there, a bunch of us union fellows. We were talking about the Russians coming over from Moscow and dropping a bag of rubles there to stir up the revolution here. That is what we talked about. That is what we thought the people next door were after, the agents of the Immigration Service and the police department. We rigged up that kind of thing for a few days and a few other stunts until we found the dictaphone. At the same time we had a couple of fellows standing guard on the room next door because we didn't know. We were trying to find out who was on the other end of that dictaphone. We knew they were in the room next door, but we didn't know who it was, so we were trying to find out not only what they were doing but who was doing it. [5334]

Q. And then at that time during that convention did you have some discussion with Bonham of the Immigration Service on the question of the dictaphone?

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A. Yes, when I was—one of the Immigration agents in Portland was a man named Roy Norene. Norene was playing around with the people that were tapping the room. Norene was with the Immigration agents that picked Schrimpf up to question him. I know that because we were standing across the street—we were trailing them—they thought they were trailing us, we were trailing them. We were standing across the street from the hotel when they went into the hotel in company with the Immigration agent, and it was all one dirty mess there together, a few characters in the Portland Police Department, Immigration agents and so forth. Now, we complained, we sent a telegram to the Department of Labor, and as a result of our complaint to the Secretary of Labor, Mr. Bonham, who was Director of Immigration from Seattle, came down —he was Boyd's boss—he came down and pretended to make an investigation to clear the Immigration Service. But they didn't fool anyone; the Immigration Service was in it up to their neck.

Q. Did Bonham come down and address the convention as was disclosed in the testimony of Schrimpf?

A. Bonham came. Bonham was introduced to me by somebody. Bonham had never met me. I told Bonham, "I know you. You and your gang were tapping the room there. Quit trying to kid [5335] people around here." So he got up and made a speech at the convention that was read off here.

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Q. After that event took place, you had the discussion or you had the testimony before Joe Reilly in New York, is that correct?

A. That was after.

Q. That was in the year 1937? A. Right.

Q. Then in the year 1938 was some further activity taken by the Immigration Department trying to deport you?

A. A warrant for my arrest was issued in March, and I surrendered, I think, in Baltimore, early in March.

Q. So that then in about March, 1938, a warrant was issued by the Department of Labor for your deportation? A. Right.

Q. On what ground?

A. Membership in or affiliated with the Communist Party at that time. Then here is what happened. The law, I think, at that time provided for deportation if you was a member of or affiliated with a proscribed organization at the time of the arrest. And in the meantime, a case went before the United States Supreme Court, which was called the Strecker case, and as a result of that decision—I forget what that decision held, but I know this much: that proceedings against me were stopped pending the outcome of that case before the Supreme Court in the [5336] Strecker case. When they stopped the proceedings against me, the union—we started to insist upon a hearing, we started to insist upon a trial, and it was a result of my insistence backed by my union for a trial in order to go into

(Testimony of Harry Renton Bridges.)

this charge that the proceedings were held before Landis. We wanted to get them there on the record. We said, "Haul in your witnesses," because you must remember by 1938 I had the letter, the Coffee letter of Schrimpf; I had the letter that Lewis had sent here saying that Schrimpf was turning information over to the Department of Labor about me. So we were demanding a hearing, a fair trial, where the witnesses would have to get up and get sworn and tell their lies or tell their stories under oath and we could cross-examine them and point out and prove they were liars, and the hearing was held on our insistence. That trial was held on our demand.

Q. When was that?

A. In '39, only after a period of many, many months when the hearing proceedings were suspended awaiting the outcome of the Strecker case before the Supreme Court of the United States.

Q. In the meantime now, you heard the testimony of Schomaker and Mrs. Harris that in the interim between the issuance of that warrant and the trial, as they put it, some time in the fall of the year 1938, that you got up at some public meeting at Jack Shaw's house or private meeting or whatever it may be and told the people there that you were a member of the Communist Party. [5337]

A. No. I listened to that testimony. Of course Schomaker—I have got an idea what motivates Schomaker, but Mrs. Harris, I don't understand it. No, no such thing happened. The only way that

I can figure is this: There have been times that myself and others over a period of time, we have developed a habit when we are being attacked on the basis of issues—there have been many public meetings I have been in, various types of forums, question and answer periods, where I have been asked questions about being a Communist, the Communist program, Communist this, that and the other, and on many, many occasions I and other officers of the union have said, "Look; here is what we stand for; here is what we are trying to do. Here is our program. Here is what we are trying to do. If these things are Communistic, then we are Communists." It is entirely possible such a thing like that happened, but I don't even remember anything like that at any meeting or conference or party at Shaw's place. I have been at Jack Shaw's place. The only time I remember being at Jack Shaw's—I know Jack Shaw well; incidentally, he was one of the four men fired on the Matson dock back in '33 over which we pulled the strike to have him reinstated and he was reinstated. That is how long I have known him. All I remember about Jack Shaw, he bought an old mansion over here on Pine Street, and I remember going down there to some kind of a party or housewarming. I never recall ever making a speech there, but if I ever did I certainly don't [5338] recall that I ever made a speech such as was testified here. The only way that I could explain that incident—I don't recall it ever happening, but the only way I could explain

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anything like that would be that a statement such as I have just indicated might have been made at some time; but no such statement the way it was described here was ever made by me, that I am positive.

Q. You heard B. B. Jones testify as to the first meeting which you held some time just preceding the strike in 1934 here on a ship where you were a member of the stevedore gang and he was a member of the crew that was just taking over. Do you remember that incident?

A. I remember the incident. I have got a good reason to remember it, because at that time on the Paxon—the Paxon was an American-Hawaiian ship; I worked American-Hawaiian docks; I was in the stevedore gang that worked No. 2 hatch, and I remember Jones sailing at that time, and I remember a few words of conversation. The time he spoke to me everybody was off the ship, the ship was finished, because we were in No. 2 hatch, and because I—the No. 2 hatch was the hatch where the heavy lifting gear was stationed, meaning that in addition to the ordinary ship's gear, there is a derrick there that is used to handle heavy pieces of equipment; in other words, an extra heavy load, a piece of machinery, something like that. There we had been using that heavy equipment, and I was engaged—after all, the [53[illegible]] ship was through, we were all ready to quit, I, together with two or three others, we were engaged in rigging down

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this equipment and lashing it away. The ship was finished, it was getting ready to go to sea. I remember the conversation with Jones, because we knew there was a good possibility that the strike might be called, I don't know for sure, see, but he knew what the score was as far as I recall it from that conversation, and he knew what he was going to do on that ship if and when the strike took place of the crew. He said, "As far as I am concerned, we are going to pull the boys and picket her in the event any strike takes place, whether we are on this Coast or on the East Coast."

Q. Now, did B. B. Jones or Schomaker ever in a restaurant at Stewart and Market Street in the month of December, 1933, or in any other place or at all or at any time or under any circumstances ever ask you to become a member of the Communist Party?

A. I don't know; they might have. They might have asked me. They might have asked me.

Q. Did you ever on any occasion at the place I mentioned, at the time I mentioned, or any other time or any place, ever sign any application to become a member of the Communist Party?

A. No, and the incident testified to by Schomaker never happened. And when I say they might have asked me, on more than one occasion then I was asked to join the Communist Party, and I never did. So when it comes to the question was I ever asked, [5340] that is one thing; when it comes to

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a question of signing an application, joining up, or the incident testified to here by Schomaker, that never happened at no time under any circumstances.

Q. Did you ever have any Communist Party book issued to you in your own name or in any other name?

A. No. That is about the only thing in this trial —in this trial there are two things that haven't been testified to. There hasn't been a witness who testified or giving any testimony about me being in a meeting and giving the Communist Party salute, and there hasn't been a witness brought here upon the stand that saw me pasting stamps in a book. Other than that, it is all old stuff.

Q. It sounds like where you came in?

A. Just about where I came in.

Q. Did you ever pay any dues to the Communist Party? A. No.

Mr. Hallinan: May we have the recess?

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition not to discuss the case under any conditions.

(Recess.) [5341]

Q. (By Mr. Hallinan): Now, Mr. Bridges, with regard to any solicitations that might ever have been made of you to join the Communist Party, what attitude did you take or what response did you make?

A. I declined. I didn't get to the point where

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it was necessary to discuss the merits of the program, but I knew at that time that membership in the Communist Party would subject one, at least to the possibilities of deportation. I had been a member of the IWW, I had been in the union where later on, many, many years after I was out of it, of course, I—I was only in there a short while—members of the union were persecuted. Many, many of them were deported. So I was no fool—that is, I say "foolish" in the sense that it wasn't a question of agreement or disagreement with the program as much as it was that I knew that membership in the Communist Party would subject me, as well as any alien, to deportation. However, that wasn't the first reason or the main reason, necessarily. The men on the waterfront, myself included, they were seeking an answer to their problems, and the problems were, first of all, job security; the big thing on the waterfront was the fact that the casual nature of the work, you didn't know if you was going to work from one day to another. And the various other conditions, the bad working conditions, the speedup, the chiseling, the racketeering, the kickbacks and the indignities of the whole thing. So the truth of the matter is [5342] that the men on the waterfront, they wanted a solution to their problems, and so did I. And although the spokesmen or the organizers of the Communist Party at that time, as well as the organizers of other groups, such as the Marine Workers Industrial Union, their

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program might have been somewhat Utopian or idealistic, revolutionary, it didn't as far as I was concerned, and I know that was the general feeling of the bulk of the fellows on the waterfront—it offered no answer to our immediate problems. It was a nice, fine revolutionary program, and all that, but in so far as answering the question, "How can we work steady? How can we get a wage increase? How can we stop the racketeering, the kickbacks, the abuse, and so forth?" we just didn't think that it fitted. That is, that any answers they had fitted our problems. Now, that is about as simple as it is.

And everybody knew my attitude. No one more so than the few people around there that say they were spokesmen of the Communist Party. I didn't know Schomaker was one of them, but Darcy I did know was a Communist, although I don't recall him ever soliciting me for membership. But, generally speaking, my attitude was well known on that issue. It wasn't an attitude where I particularly quarreled with them, "Well, I don't want to join for this, that or the other reason"; it was largely an attitude such as I have described, "I can't see any need of it; I don't see any answer to the problems." I [5343] had enough sense to know that in addition to the Communist Party not answering the immediate problems, I would also be, as an alien, subjected to the risk of deportation and other things. So there are the simple reasons that, even though I recall being solicited for membership on

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more than one occasion, it was kissed off just the way I am telling you. They had nothing to offer me, incidentally, in the way of—it has been testified to here, the way I got the testimony, that as a result of joining the Communist Party or as a member of the Communist Party, that that is the way I kept my job. That is sheer, utter nonsense. The way I keep my job, I get elected by the members of the union. And no outside force, like the Communist Party, can elect me or any other officer. Only the working rank and file elects me. And I keep my job by getting elected by those people. And we have the most democratic union in the United States, and they are the only folks that can remove me. And I might say, in parenthesis, that they can do it any time 15 per cent of my membership is dissatisfied with me or any other officer —by merely signing a petition, they can remove me. The membership can get together, 15 per cent of the membership in good standing. They can get a paper petition that says on the top of the petition, "We don't want any more of Harry Bridges; his nose is too long." They can get 15 per cent of the membership and I am finished; I am out of office just like that. That is the way—— [5344]

Q. Who proposed that into the constitution?

A. I fought to write that particular provision into the constitution myself.

Q. And then——

A. And it is still there right now.

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Q. And if a man is removed, then what has to be done, he has to be reelected over again?

A. No, he is recalled; he is out of office. That recall—and then there is charges filed, there is a recall election, and so forth. But before we get around to that, he has got to go through a series of steps, and it is pretty hard to regain office if you are recalled by the 15 per cent petition recall method. It hasn't happened yet.

Q. Now, let me ask you this: With regard to people like Darcy, so far as you knew, did they understand also that an alien would be deported if he joined the Communist Party?

A. As far as I knew Darcy, Darcy for my money was a good man. I had nothing against Darcy. I didn't have many connections with him. All I recall of him, for whatever reasons he might have had or said as far as the union was concerned, he claimed that he was down there to try and help out. He was accepted at face value, and that was that. Many of us recall Darcy. As far as I remember, I recall him being down there in the early days, in 1932. You have got to remember, we was in the depths of the depression. $10 a week was a lot of money at that time. [5345] I recall we struck in 1934, and one of our demands was 30 hours of work a week at a dollar an hour, which meant $30 a week. And when we proposed these demands, most of the fellows on the waterfront said, "Look, that's going too far. There's nothing like that possible in this world, $30 a week every week. Uh-uh (negative).

Don't you think we are asking for too much?" That was the attitude of the fellows down there. So under those circumstances, Darcy was around, along with many others. We overlook a few things. Herbert Hoover was down on that waterfront making speeches, the city supervisors, you and others were down on that waterfront making speeches. I recall Herbert Hoover being down on the '32 election, and him and his people saying, "Listen, if we don't win, there will be no ships running out of the harbor; we will all be starving to death." Because, of course, it didn't make any difference to us; we were starving to death anyway. So I say, there is nothing remarkable about these various people coming down and soap-boxing on the waterfront. I distinctly remember the Communists, because they would mount a little stand like a ladder, they had an American flag there, and they would start to speak, and it lasted about five minutes, and then in would run the cops and beat them up. And the fellows didn't like it. They didn't like to see the treatment. I would guess not one-half of one per cent of the people agreed with them, but the kind of treatment they got, the slugging around and the pushing [5346] around they got, well, none of the fellows down there liked it. I didn't, and I guess no one would.

Q. Don't you realize that if you take a kind of position against the Communists and insult them and repudiate them, you would probably be better off in this court?

A. No, I don't think I would. I don't think I would. I might be better off in the court, but I am still representing a union, and my job, I am president of an organization. I have got a constitution. In a trade union you have got to operate on a basis that no matter what a person is, he is eligible to join the union if he is working for a living in that particular industry. When we go out to organize—Father Paul gave that answer better than I can give it. There is 15 people working for an employer, you go out to organize them. You can't go out—they are hired, they are working. You can't go out and say, "Now, we are going to organize everybody except Communists or alleged Communists." If you do that, you will never have a union. And in a union, at least the way we see it—I know a lot of unions don't agree with it, but our union is a pretty well organized outfit. Now, it can stand up and fight back, and it does. But the one way it maintains its unity is that everybody in its ranks is entitled to their own political belief. There is no discrimination because of political beliefs, no discrimination because of religious beliefs, national origin, color, or anything like that. All we ask them, and that [5347] is the only way you can have a union operate on a united basis—anybody that is in the union, they are asked a simple question: "Are they for better wages, are they for shorter hours?" and so forth. Because a union can give no person anything except a chance to unite and work and fight collectively. That is all a union

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can give anyone. Now, political matters, of course, are outside the union. They should, and the way we see it, they should be dealt with through a political party, whether it be the Democratic Party or the Republican Party or a labor party. Personally, I happen to favor a labor party, but that is beside the point.

The way the union feels, and the way I am instructed to operate as a union officer, I am bound by my constitution. I am bound by the orders of the people in the ranks. They are the ones that reelect me, they are the ones that pay me. And when I take office, I take an obligation. And the obligation is to carry out the constitution. When it is a question of a union man, my duty is to defend him, right or wrong, practically. That is what I am instructed to do. And I am not allowed—I am forbidden, even if I wanted to personally—which I don't—I am bound to defend him and to stand up for him as long as I am holding office, notwithstanding what his political beliefs are. And we make no change. The best example I can give you is this: We have a large number of Negroes in our union. You can tell a Negro by looking at him. But [5348] there is no way in our union to find out how many Negroes are in the union. You can't take the books of the union, and it doesn't say, "Joe Blow, white; John Jones, colored," and so forth. Absolutely, expressly forbidden. And just the same, you can't go down the rolls of the union, and you haven't got a mark after a man's name, "Communist, Socialist, Republican, Democrat, Catholic, Jew, Negro," or anything like that. Because those things lead to disunity in the union. It splits your ranks. And so we try to operate, even though I admit it brings a lot of criticism, a lot of charges and accusations—but this much is noticeable: Our union still functions in the interest of the membership. It makes gains. It preserves the job security of the people. It gives them as much as possible, anyway, wages, hours and working conditions, and that is what we are in business for—that and nothing else. And all the other accusations against me or any other officer or member of the union, it is a lot of hogwash, it is a smoke screen, a means of attacking the union because the union does stand and does fight for the rights of everybody in the union and the conditions of everybody in the union, notwithstanding their race, creed, color, political beliefs or anything else. That is the whole secret of that. There is nothing more to it than that.

Q. How many are there in the union now, approximately?

A. In our national union, I don't know; around 60,000 in the national union. [5349]

Q. (By Mr. Hallinan): Now——

A. 60 or 70. It varies.

Q. You described here some time ago the weakness of the union back in 1933 and 1934; a few hundred militant men who gathered together, the

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difficulties they had in bringing up a union at all. Now, what has been the most recent achievement of the union?

A. We just recently here—the most recent achievements for the longshoremen have been—our union is divided into divisions. We have a warehouse division, we have a longshore division, we have a large group of workers in Hawaii. We just concluded a contract with the Waterfront Employers. That is the Pacific Maritime Association headed by Captain Pearson covering hospitalization and welfare plans. That is a prepaid medical plan on a coastwise basis for all our longshoremen, dock workers, car workers, clerks, and so forth, where they will be covered by a hospital plan that gives them hospitalization, medical treatment, life insurance, as well as accident insurance, meaning when they are laid up, in addition to the compensation they get, if they are injured on the job, they will get an additional sum, and if they are injured off the job and have to lay up, in addition to the medical attention, they will also get a certain amount of money. That has just been completed, that agreement.

Q. We went over to Permanente Hospital and had a session the other day with Willie Christensen. Was he receiving treatment [5350] under this plan?

A. Yes, the Permanente Health Plan is the plan that we are both agreed to use, and the Permanente Hospital facilities are the facilities that we have both agreed to use in Los Angeles Harbor, San

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Francisco Bay Area, Portland in Oregon and we have not been able to use it up in the State of Washington because no such facilities exist up there as yet.

Q. Could you give us roughly, subject to correction and supplying by records that you undoubtedly have, what wage raises there have been in the longshore industry since the 1934 strike? What were they getting before the 1934 strike?

A. We were getting 75 cents an hour straight time and time and a half for the nighttime rate. We didn't really ever have overtime on the waterfront. We had a nighttime rate where you got a premium rate for night work as distinguished from overtime. We used time and a half. In 1934 it was 75 cents an hour and time and a half. If it was an expert, it was $1.10 an hour, 75 and 1.10. Well, when the unions started to organize in an effort to block union organization or the advance of the union organization, a voluntary increase of 10 cents an hour was given, making it 85 cents an hour and $1.25 an hour nighttime rate. That was when the strike took place.

Then the board of arbitration award granted us another 10 cents, making it $1.05 and $1.40, and now the rate is up to $1.82 an hour, and time and a half for the nighttime. That is, [5351] any work after 3:00 o'clock in the afternoon. We have a six-hour day.

Q. So then, since 1934 up to the present time—that is a period of 15 or 16 years—the wages have been increased for the longshoremen by your union from 75 cents to $1.82 an hour for the straight time, and you have a health, medical and hospital plan that is functioning to provide medical treatment and hospital treatment for people injured or ill on or off the job, is that correct?

A. We have many more things than that. We have our vacation, we have our premium scale rates, we have our six-hour day, we have the hiring hall, we have quite a few things.

Q. Tell us what they are. You know them. We don't, Mr. Bridges. What else have you got? The hiring hall has been pointed out as being one of the essential matters, and that is the thing you say the employers and employees are now fighting to maintain in the face of the new Taft-Hartley Act, is that correct?

A. That is true. The hiring hall is the central dispatching hall in the whole Bay Area here in San Francisco. When a steamship owner or a steamship contractor wants longshoremen, they send their orders in daily to the central hiring or central dispatching hall. A dispatcher or a series of dispatchers hired and paid jointly by both sides—that is, the employers and the union—dispatches the longshoremen, sends them out to work, [5352] whether it be the dock here in San Francisco, the docks in Oakland, in Richmond and all around the whole Bay Area. So that is the thing.

And then in addition to the hiring hall being used as a dispatching hall, there is a corps of clerks in there. They keep a record or track of the earnings of each longshoreman daily and the earnings are equalized over a period of time. So that at the end of the year the earnings of each longshoreman are equalized, so that each longshoreman throughout the year again, notwithstanding race, creed, color, nationality or anything else, every longshoreman earns approximately the same amount of money. It hardly varies. It doesn't vary more than maybe fifteen or twenty dollars in the course of a year. That is, if a man has been available for work. If he has been injured or sick, of course, it is an exception. But generally speaking. So that is the reason for the hiring hall, not only to distribute the work, not only to dispatch the men to work, to keep track of their earnings, but also in order to prevent discrimination.

The way the men are hired, there is a list of names on the board and a list of gangs, and when we look at that list of names, you can't tell who the man is. He might be any nationality, any religion, any color, or any political belief, and he might be the supporter of the officers of the organization such as myself, or he might be, in terms of the union, a deadly [5353] political enemy. It makes no difference. And our union is unique in that respect. I can't do anything about any person in the union who is a political enemy of mine or vice versa. He is entitled to his right and my job is to uphold his rights, and that is something both the shipowners and ourselves, in the course of the year, we pretty religiously carry it out now, and there is no argument and there is no dispute about it.

(Testimony of Harry Renton Bridges.)

The hiring hall is the big thing because it represents job security—job security. Every man who is a registered longshoreman and a member of the union, both the things going together, has a claim on his job on the waterfront. He is entitled to an equal share of the work. If there are 4,000 men working, one man is entitled to one four-thousandth of the work, and that is the way it works notwithstanding who he is or what anyone thinks of him. Then there is the six-hour day, six hours straight time and all work after six hours a day is paid at the time and a half rate. There is a 30-hour week, Saturdays and Sundays are holidays. That is premium pay days. So there is a 30-hour week that has been established. And, of course, there is the $1.82 an hour. But over and above the base rate which is $1.82 an hour, there are scale differentials. Gang bosses, for example, get an extra 15 cents. Winch drivers and hatchtenders who are skilled men, get an extra premium rate. And then in addition to that, there are penalty rates for certain cargoes that are extremely dangerous, that is, dangerous to your health. [5354] There are all types of cargoes—they really constitute a health hazard, such as sulphur and things like that. There are premiums for those things. So all those things have been established, and, of course, they are strictly enforced all along the line.

We have established a safety program, where now the safety of the man comes first. We have established a motto on the waterfront that if it is a question of safety versus tonnage, safety first. Safety versus production, in other words. Safety first. Safety versus convenience, and we mean here the convenience of the employer. It is safety first, the safety of the men.

I do not say, of course, the employers agree with us on all these things. They don't. They think in some of the things we go too far. But there is a pretty friendly relationship down there now. We are working together and continue it. I am pretty sure they will continue it. These things have been established by and large because we have battled over them. But now by and large, I think both sides agree that they are good things and will remain. So the union, or working through the union, the men have achieved these improvements, and I don't believe the waterfront will ever get back to the conditions that prevailed many, many years ago, no matter what happens.

Q. Let me ask you this, Mr. Bridges: What was the reason and what was the course of proceedings that carried the ILWU into [5355] Hawaii?

A. We established a longshore union down there in 1934 or early 1935, following the organization of the union and strike here in San Francisco on the Coast, on the mainland, as it were, and then we organized the longshoremen. But the setup in Hawaii, the economic setup in Hawaii, where the longshoremen in reality are employed by the big firms or the big corporations in Hawaii,—they are generally referred to as the Big Five—the longshore-

(Testimony of Harry Renton Bridges.)

men in reality are employed by them. At the same time the employers of the longshoremen are the employers of the sugar workers. They are the employers of the workers in the sugar—on the sugar plantations, in the sugar mills. They are employers of the cannery workers in the pineapple canneries. They are the employers of the workers that work in the pineapple fields. So we soon found out that we couldn't get to first base trying to get an agreement between the longshoremen and their employers down there unless we organized all the basic industries of the Hawaiian Territory. So after two or three attempts and some years, which were interrupted incidentally by the war, trying to struggle with just the longshoremen, we made up our mind that the only way we will get anywhere down here is to organize the whole work. So we set out to do that.

We started an organization of the basic industries of Hawaii, the sugar industry and the sugar workers, the pineapple industry and the pineapple cannery workers, as well as the longshoremen, [5356] and they are all in the ILWU now in the Territory of Hawaii, and we are the major organization in the Islands now.

Q. The conditions in Hawaii have been testified to here by Mr. Robertson? A. Right.

Q. Would your testimony be substantially the same as to those conditions before the ILWU went in there?

(Testimony of Harry Renton Bridges.)

A. He knows far more about it than I do. On the organizing end I always got by pretty easy. All the hard work generally was done by Robertson and his staff, and all I mostly got was the credit. I very seldom had much of the work, I am sorry to say at this time.

Q. At the time you three men were indicted there was a strike in Hawaii, wasn't there?

A. Right.

Q. Who were striking then?

A. Longshoremen.

Q. Anybody else?

A. No, no, just the longshore group down there was on strike for a wage increase. Schmidt was in charge of that strike.

Q. The conditions down in Hawaii, at least from reading the papers on it, sounded something like the conditions on the waterfront down here in 1934.

A. Worse.

Q. So far as the breaking of the strike was concerned? [5357]

A. Worse—worse, because the employers in Hawaii are very powerful, far more powerful, relatively speaking, than any employers on the mainland. Hawaii is a Territory. When we moved in to the organization of Hawaii, the first thing we had to do was establish the fact that the Constitution of the United States applied to Hawaii, and we had to go to the Supreme Court to establish that fact. Of course, the employers down there and the government down there, the Territorial Government

(Testimony of Harry Renton Bridges.)

down there, took the position that the Constitution of the United States and the Bill of Rights did not apply to Hawaii because it was a territory.

Q. And that would deprive one of the rights of the writ of habeas corpus, trial by jury, and anything of that kind?

A. If you struck, you were thrown in jail, and in this last strike down there that lasted almost six months, the Territory of Hawaii, that is, the Territorial Government, which has incidentally far more power than a State Legislature, passed a law saying it was illegal for our people to be on strike; and they ordered them back to work, and they got injunctions that said that if they remained on strike and on picket duty, they would be arrested. And then, of course, our friends of the Immigration Service came in. We have a lot of Chinese workers, Japanese workers, Korean workers, Philippine workers. Our pals were busy saying, "Get back to work. They have passed a law now that if you stay on strike, you are in violation of the law and [5358] we will deport you." And, of course, they intimidated quite a few of our people, and that is how I found myself on the picket line. I had to get on a picket line down there to show them the Constitution of the United States was still in existence and would still protect them.

Q. And were you arrested on some injunction proceedings down there, contempt proceedings?

A. No, they didn't arrest me. They served me,

(Testimony of Harry Renton Bridges.)
but they didn't arrest me. The case is still pending, and I am still liable to do a year for it.

Q. At the same time that the strike was on in Hawaii, was there a strike here in San Francisco?

A. A warehouse strike. [5359]

Q. How long did that strike last?

A. 110 days.

Q. What was the result of it?

A. We figure we won. It was a strike for a wage increase and the wage increase was granted.

Q. What about the strike in Hawaii? Who won that? A. Well, we think we won.

Q. Now, do you remember, Mr. Bridges?

A. We settled the strike eventually for 21 cents an hour wage increase. We would have settled the strike before the strike broke, we would have settled for 17 or 18 cents before the strike broke at all, but they wouldn't talk to us. They figured they could lick us. It wasn't just a strike for a wage increase. The Big Five group down there, they thought they could put us out of business, so it was really a showdown fight until some better heads moved in the fight, such as Mr. Buck. Mr. Buck and I, we went down there to Hawaii and finally got that strike settled. But the employer group down there, they have held power so long that it was less a matter of question of wages than a struggle by the workers in Hawaii to establish their position. It became a question of face. Face in Hawaii is a whole lot more important than maybe over here. On wages, we came out all right. We

(Testimony of Harry Renton Bridges.)

got 21 cents an hour wage increase. We would have taken 17 or 18 cents very early in the game.

Q. Anything else? [5360]

A. A renewal of our contract and a general understanding that we would have more respect for each other in the future; they would have more respect for our ability, they being first around, and, of course, we would have a little respect for their power, too.

Q. About how many people have you in the Islands? A. Around 25 or 30 thousand.

Q. So then the union that started off with a committee of 500 which didn't amount to 500 at all in 1933 has by this time been able to go down and rescue the workers in Hawaii from feudal conditions against the powerful Big Five, is that right?

A. I would say that is correct, without taking maybe too much credit for our movement. I would say every working man in our union in Hawaii would agree with that statement.

Q. Do you remember this, Mr. Bridges: At the time of the filing of this indictment the United States Attorney General made the statement in a public speech that this indictment would break the condition up in Hawaii?

A. No. The statement was that by this indictment we would hope to cure the situation in Hawaii and bring that strike to a conclusion.

Q. Now, with regard to Schomaker and his testimony about yourself signing a document or application for membership in the Communist Party, at

(Testimony of Harry Renton Bridges.)

the conclusion of which he and B. B. Jones walked for fifteen minutes up Market Street to turn it in, you [5361] say no such incident ever took place?

A. No, not there or any other time with Schomaker or anyone else.

Q. And you have never been a member of the Communist Party? A. That's right; no.

Q. Never joined it? A. No.

Q. Never filed an application to join it?

A. No.

Q. Never paid any dues nor had any book issued to you? A. No.

Q. Under your own name or any other name?

A. Right.

Q. Now, have you ever had any discussions with members of the Communist Party concerning matters that might be of mtuual interest to them and to your union?

A. On occasion. Any time that I thought it was necessary or any time that I thought it would do the union any good, I never hesitated to call upon any official of the Communist Party or functionary or what have you, at any time. That was known to my union members; it was known to the authorities, and in my previous hearings, why, at the first hearing when I was before Gerald Riley, Solicitor General, I made the same statement. He said, "That's all right; I am not finding fault with that. What we are concerned with is any affiliation or membership in [5362] the Party."

(Testimony of Harry Renton Bridges.)

So they, the Immigration Service, knew all about that; the Government knew all about it. They investigated me from top to bottom, my family in Australia, my schooling. They brought up the question of my marriage status, or the status of my first marriage, and so forth. They went into all that, and they well know it.

Q. Now, you told us that a trial was held in the year 1939 before Dean Landis?

A. That's right. [5363]

Q. He was dean of Harvard Law School specially appointed on that matter, is that correct?

A. That's right.

Q. And testimony was introduced on the very matters that we are concerned with here?

A. For the first time in the history of the Immigration Service, a public trial was held. That was one of the things we forced, very much to their distaste, of course.

Q. Without going into the merits of that matter, without going into any of the matters that were testified there, that matter was decided in your favor, is that correct? A. Yes. Yes.

Q. Now, however, did that end the inquiry and surveillance under which you found yourself?

A. No. Immediately after the Landis I moved immediately at once to secure my final citizen's papers, and what happened then, a few weeks after the Landis trial and the decision which came at the beginning of the year 1940, I think in February,

(Testimony of Harry Renton Bridges.)
1940, Congressman Allen of Louisiana introduced a bill in Congress for my deportation notwithstanding any evidence or anything else, a bill of attainder.

Q. Notwithstanding any law?

A. Notwithstanding any law. And that bill was announced by the then Attorney General of the United States, Mr. Jackson, and the bill was pigeonholed eventually. But out of that came a [5364] second investigation, and where, as a compromise,—as a compromise for that bill, the Department of Justice started another investigation against me; and, furthermore, as a compromise of that bill the Immigration Act was amended to make it a deportable offense if at any time since entering the country an alien was found to be a member of or affiliated with a proscribed organization, including the Communist Party. So as a result of that amendment to the law in 1940—I think it was the Smith Act—the amendment was proposed by Congressman Hobbs, and in speaking in favor of the amendment he said that the purpose of this amendment was to secure the deportation of Harry Bridges, "which we haven't been able to do so far." That amendment carried. And then the next investigation and trial took place. That was a trial again in this courtroom, before Judge Sears, right in this courtroom.

Q. Let me ask you this: In the hearing before Judge Landis, or Dean Landis, were you under oath? A. Yes.

(Testimony of Harry Renton Bridges.)

Q. And were you asked whether or not you were a member of the Communist Party? A. Yes.

Q. And what did you answer?

A. "No."

Q. Were you asked if you ever had been a member of the Communist Party? [5365]

A. Yes.

Q. And what did you answer? A. "No."

Q. All right.

A. I was asked about a lot of meetings, too—a lot of meetings, a lot of people, and the answers, generally speaking, were the same.

Q. On the hearing before Judge Sears were you under oath? A. Yes.

Q. And were you asked then if you were a member of the Communist Party? A. I was.

Q. And what did you answer? A. "No."

Q. And were you asked then if you had ever been a member of the Communist Party?

A. That was what the hearing was about. I was asked those things. There was witnesses——

Q. What did you answer to that?

A. "No." And in the hearing before Reilly, too.

Q. You were asked the same question?

A. Yes. That was the third hearing—that was the third hearing before Sears here. That was the third time I had had a hearing.

Q. And after or during the Sears hearing and at any time around [5366] that, did you find any further wiretapping or dictagraphing?

(Testimony of Harry Renton Bridges.)

A. Afterwards. After the Sears hearing I went to New York, and the Department tapped my room in the Hotel Edison in New York. We caught them at it. They was exposed before the whole City of New York, because I played with them—not I, but a group of us, we played around with them for five weeks. We made a joke of them before the whole City of New York, and they have been burned up about it ever since.

Q. What did you discover at that time?

A. Exposed their love-nest, too, back there.

Q. What did you find them doing?

A. They were tapping my room in the Edison Hotel.

Q. What do you mean by "tapping"?

A. Oh, they had a ditaphone in a small telephone box on the wall. They planted the dictaphone in and they bored a hole through the wall where the telephone once went through, and had a recording machine next door.

Q. How did you discover it? What did you do to discover it?

A. I spotted a person in the hotel room—I mean, in the hotel lobby that was carrying on like a dime novel detective, with papers before his face. And I happened to recall that he was one of the agents I had seen in this courtroom here during the Sears trial, see? So I recalled—in the lobby of the Edison Hotel there is big pillars there, and the pillars are kind of square, and they are all surrounded by mirrors. So [5367] where the house phones are, you ~~could~~ stand at the house phone, and I could watch, and every time I tried to call up on the house phone one of these characters was right behind me. So I just kept my eyes and ears open. I soon found out in the space of a few hours that they were next door to the room that I had. So I made a few tests. I remember it was towards the end of the week, and this room I was in—I thought I was getting a very nice room. It was a nice, big room with a bath, twin beds, away over in one corner of the hotel. It was part of a suite of rooms. I think I was only paying $5 a day for it. I thought I was getting very well treated, because those New York hotels don't usually treat you so well. So I checked out of this room for the week-end and I went up country visiting some friends way up country—it was summertime—and when I came back, they assigned me to the same room at the same rate. I thought it was very strange, see. So putting all these things together, I decided to keep a watch out, and I soon discovered, in the course of a few days, that the people next door—some people next door were tapping my room. Other things made me suspicious, too. I knew the room was occupied, but I could never hear a sound of anybody moving around. I have moved around quite a bit and as a result of that I have learned some things. I have got a few little tests of my own, that if there is one man in a room, there is plenty of noise, he sounds like the [5368] room has

(Testimony of Harry Renton Bridges.)

got a dozen people in it. If there is two guys in a room, there is plenty of noise, too. So when there is a couple of people in a room and there is no noise, you can be pretty sure there is a reason for it. I am only going by my own personal observations in these matters. So I soon discovered that my room was tapped, and then I started searching it, and I found it in this little black telephone box. And from there on we had a little play. I went across the street in another room in another hotel which looked into the window of the room that I was in. I hired a room there, and I went out to my friends, and I lined up all the binoculars and field glasses I could. And I kept that room there for five weeks. And every night it was a regular thing to gather up a group of friends and go up to this room in the other hotel—the name of it was the Piccadilly Hotel—we would go up there and we would work out a little scheme. I would supply my friends with the field glasses and the binoculars, so that they could watch, and we got together, and we worked out a little circus act, and we would go over to my room and we would put on the act, and my friends would be watching the agents next door do the recording.

Q. What kind of an act?

A. Oh, they would put on the earphones——

Q. I mean, what would you do?

A. We would talk about the—we would talk about everything I could think of, all the cops-and-

(Testimony of Harry Renton Bridges.)

robbers stories, and everything else, and they believed the whole works. [5369]

Q. Tell us one or two of them.

A. Well, I would get on the telephone, for example, and I knew they were listening in. I would be very mysterious, I would say, "Say, Bill, I will meet you down in the corner drugstore in ten minutes, and I will turn over the loot," or something like that, see? And sure enough, I would show up. I says, "I will sit on the stool second from the end at the lunch counter and I will be drinking a chocolate milkshake with a red cherry in it," or something, just to identify myself—"So keep an eye open for me." Then I would wait a few minutes, then go down to the drugstore, and the place was cluttered with agents; you would look around all over and you would see them all around there.

Mr. Hallinan: May we have the recess now?

The Court: We will take the afternoon recess. Ladies and gentlemen, the same admonition to you not to discuss the case under any circumstances or to form an opinion until it is finally submitted to you.

(Thereupon, an adjournment was taken to tomorrow, Thursday, February 9, 1950, at 10:00 o'clock a.m.) [5370]

February 9, 1950—10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: May we interrupt with a short witness, your Honor?

The Court: Yes.

Mr. MacInnis: Call Mr. Pearson, please.

OSCAR PEARSON

recalled; previously sworn.

The Clerk: The witness on the stand is Oscar Pearson, heretofore sworn.

Direct Examination

By Mr. MacInnis:

Q. Mr. Pearson, we have asked that you come back to the witness chair because of a request made by the prosecution and a statement made by the prosecution with respect to your testimony. I want to call this to your attention and then ask you some questions. On, I believe, Thursday of last week, the special prosecutor, whose name is Mr. Donohue, said this at page 4854:

> "I, therefore, offer to show to your Honor that these witnesses (referring to you) were procured to come here and testify as to the good character of these defendants under the pressure one might well expect to exist between the [5371] Pacific Maritime Association and

(Testimony of Oscar Pearson.)

the particular unions involved when the agreement had not at that time been executed, and I, therefore, if your Honor pleases, by this witness (referring to Mr. Schmidt at that time) who said he knows the signature of H. J. Bodine of the Coast Labor Relations Committee, a man who has, as he stated himself, at one time served as a member of that committee, who knows the addressee of the letter, Mr. O. W. Pearson (yourself), president of the Pacific Maritime Association, that by letter dated January 26, 1950, the day following the testimony of Mr. Buck, and the same day on which Mr. Pearson gave his testimony, Mr. Bodine wrote a letter to the Coast Labor Relations Committee, to Mr. Pearson, concluding by saying, 'We would appreciate a meeting of the parties at your earliest convenience for the purpose of formally signing the respective coastwise agreement, reference being made to the above.' Therefore, if your Honor please, I think it is wholly proper," said the prosecutor continuing, "to ask this witness, who knows Mr. Bodine and who has identified his signature, whether in the light of this letter it is not a fact that these signatures were not, or the fact that the signatures would be appended to this agreement was not made known to Mr. Pearson and Mr. Buck until after they testified in this court, and I then, I think, if your Honor please, have a perfect right to [5372] argue to the jury that it

(Testimony of Oscar Pearson.)

> is apparent that these people came here under pressure fearing lest if they failed to testify, this agreement would not be consummated."

Mr. Pearson, was that statement communicated to you some time after it was made here in court?

A. I was aware of it, yes.

Q. I mean the statement made by the prosecutor? A. Yes.

Q. And since that statement was made known to you have you consulted with the other members of your committee? A. I have.

Q. Who are those members, so that we will have them in mind?

A. The members of that committee are the two other gentlemen who were here and testified at the time.

Q. That is Mr. Brown, Mr. Hubert Brown, and Mr. Kenneth Finnesey?

A. That is correct, and also the entire committee.

Q. Composed of what other persons?

A. Mr. Joseph Sevier.

Q. S-e-v-i-e-r?

A. Right; Mr. Gordon Jones, and Matland Pennington.

Q. That is P-e-n-n-i-n-g-t-o-n?

A. Right.

Q. In coming here today at the request of the prosecutor are you authorized to speak on behalf of all those men? [5373]

(Testimony of Oscar Pearson.)

A. I am. I am authorized to speak for the committee and to make it clear that in the testimony given by the gentlemen, including myself, we were here as members of that committee. I am authorized to speak for them on that very subject which you have brought up.

Q. In answer to any question put to you on that subject, what is your position—and I will ask you the direct question: Did you or any of the other men come here and give false testimony under any kind of pressure?

Mr. Donohue: I object, if your Honor please. No one has alleged that anyone has given any false testimony. That is a connotation put on the question which I raised to the Court, which is not justified by the statement. I move that the question be stricken from the record.

Mr. MacInnis: Your Honor, the prosecutor made that charge in a kind of polite way without using the word "false." If it is objected to I will rephrase the question.

Q. Did you give your testimony or any part of it or any shading of it or any atmosphere of it out of any kind of pressure exerted on you?

A. None whatever.

Q. Did you give your testimony out of any fear that you thought might be exerted against you if you didn't testify in the manner that the record shows?

A. I did not, and I so stated at my [5374] testimony.

(Testimony of Oscar Pearson.)

Q. Do you have any statement to make concerning the inference, if we can call it that, raised by the special prosecutor in the statement just now read to you?

Mr. Donohue: I object, if your Honor please.

The Court: Sustained.

Mr. MacInnis: Your Honor, the special prosecutor asked that Mr. Pearson be brought back here for this very purpose, and I hardly think he can foreclose us now from opening the very matter he wished to speak about.

The Court: The question presented is objectionable as to its form; asking the witness to make a comment on inferences that may be drawn might raise a question in his mind, but it is not altogether apparent to the Court and jury. If you address questions to him you might pursue it [5375] further.

Q. (By Mr. MacInnis): Well, now, Mr. Pearson, were any persuasions or pressures or threats or matters of that kind in any way addressed to you, compelling you to testify here?

A. None whatsoever.

Q. Did you in your mind have the lurking presence of any fear or any possible pressure when you came here to give testimony?

A. No, I did state that I preferred not to testify, but in view of the fact that I was subpoenaed I was here and testified and so did the other gentlemen, as we did.

(Testimony of Oscar Pearson.)

Q. Now, the statement has been read to you and to the Court and jury a few moments ago by me, that is, the statement that was originally made by the prosecutor. Was there any connection between the date of any agreement between the union and the Pacific Maritime Association and the giving of your testimony? A. No.

Q. Well, now, the prosecutor, to be specific, said that he would show that on the same day on which you gave your testimony, a letter was written to the Coast Labor Relations Committee concerning the new contractual relations, and that the letter was not signed until after you gave your testimony. Was there any connection between those two things? A. None whatever.

Q. Well, what was the status of any existing agreement between the union and the Pacific Maritime Association? Had it been consummated before you came here and gave testimony, or did it [5376] hinge on the giving of your testimony?

A. The contract which the letter referred to had been ratified by both sides some time in December. The letter itself was a formal means of advising us of the results of that ratification.

Q. Now, when you say that the contract had been ratified, do you mean by that that the locals of the ILWU had voted to ratify the agreement long before you came here?

A. I have particularly taken pains to develop through our staff in various ports when those ratifications were held, and I would like to give you the dates. I have made some notes on that, if I may refer to those notes?

Q. Yes, I am sure you may.

A. In Seattle, the Seattle local had a referendum vote on December 7, 8 and 9, 1949.

Q. And did they ratify the contract?

A. At which time the master contract was ratified by that local. In Portland the Portland local ratified a master contract in December, 1949, when the union had a coastwise referendum vote. I do not have the specific date. In San Francisco Local 10 had a referendum vote on December 27th through December 30, 1949, at which time they ratified a master contract. At Los Angeles, Long Beach Harbor, they had a referendum vote on the master contract on December 19th through the 21st, 1949. The ballots were counted on the 22nd, and announced to the local membership on January 4, 1950. I might state that this [5377] information was common knowledge in each of the respective ports in December, although no official notice was served by the local union officials on our staff.

Q. So that it is definitely not a fact that the date of January 6th was the date upon which the union ratified the contract?

A. That's correct. We were advised that we would be notified early in January, we were advised that we would be advised by January 26th.

Q. And the charge that the ratification of the agreement was held up until after you testified is not a true charge?

A. It has no basis of fact whatsoever.

Mr. MacInnis: Thank you very much. Now probably the prosecutor will wish to pursue the same matter.

Mr. Donohue: Sure will.

Will you ask the witness to identify the signature on that, on the photostatic copy of a letter?

(Document handed to the witness by the Clerk.)

Mr. Hallinan: It is under your elbow, if you will look around for it.

The Witness: I have the copy of the letter, and that I can identify as being the same, although the copy does not have the signature.

Mr. Donohue: May I move, if your Honor pleases, that this be admitted in evidence as United States next in order and ask your Honor's permission to read it to the jury. [5378]

The Court: May I see it?

Mr. Hallinan: We have no objection.

The Court: It may be marked.

(Whereupon, letter referred to, dated January 26, 1950, from ILWU to Pacific Maritime Association, was received in evidence and marked United States Exhibit No. 27 in evidence.)

The Court: It may be read to the jury.

(Whereupon, United States Exhibit No. 27 in evidence was read to the jury by Mr. Donohue.)

Cross-Examination

By Mr. Donohue:

Q. That is the letter which you received?

A. That's correct.

Mr. Donohue: I have no further questions.

Redirect Examination

By Mr. MacInnis:

Q. And again, was there any connection between the date upon which that letter was written and the concluding of any negotiations between the union and the Pacific Maritime Association?

A. No, that was concluded, the actual physical negotiations were concluded prior to that time, and the ratification on both sides had been completed.

Q. And before you came here to give testimony, you had knowledge which you had possessed since the end of the month of December that the existing agreement had been ratified by all of the locals of the ILWU? [5379] A. That's correct.

Mr. MacInnis: That is all.

Now, Mr. Ortega, would you step up, please?

JOSE MANUEL ORTEGA

recalled on behalf of the defendants; previously sworn.

The Clerk: The witness on the stand is Jose Ortega, heretofore sworn.

Cross-Examination

By Mr. Donohue:

Q. Mr. Ortega, you have been with the union since 1921? A. 1919.

Q. 1919. In Santa Barbara? A. Yes, sir.

Q. Do you recall the earthquake in 1925 at Santa Barbara? A. Beg pardon?

Q. Do you recall that there was an earthquake in Santa Barbara in 1925? A. I do.

Q. Is it your recollection that some units of the United States Marines were brought into Santa Barbara at that time to do police duty?

A. There were some brought there to do guard duty.

Q. Was the office of your organization affected at all by the earthquake? [5380]

A. No, sir.

Q. Do you know, sir, as a matter of fact, whether or not after the earthquake there was a considerable amount of building and reconstruction in Santa Barbara? A. Yes, sir.

Q. And did your union, among others, recruit a number of people at or about that time for work?

(Testimony of Jose Manuel Ortega.)

A. Yes, there was quite an influx of labor come in then.

Q. And some of those came in to your organization, too? A. Yes, sir.

Q. And I take it that they were temporary persons, who did not continue for a long period of time to reside in Santa Barbara?

A. Yes, sir.

Q. What kind of cards were they given in your union, if you can recall? Were they given a permanent, regular card or were they given a traveling card, or were they given a transfer card, if you know, if you can recall?

A. It all depends on the previous connection with the union.

Q. Assume they had no prior connection with the union.

A. If they had no prior—they were given a permit, issued every week.

Q. Do you know where those permits were granted for your union during the time immediately following the earthquake?

A. Those permits were issued by the business agent.

Q. Do you recall whether or not there was a time when, in an [5381] open air space in the downtown area, persons were being recorded or being enrolled in your union during the period we are talking about?

A. I have no recollection.

Q. Would you say that didn't happen?

A. Definitely, I couldn't say.

Mr. Donohue: I have no further questions, if Your Honor please, of the witness.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Ortega, reference is now made to temporary workers instead of persons who are regular members of the Hodcarriers Union International, so let me ask you this: What would have been the longest approximate time in which a man working under a temporary permit would have been with the Hodcarriers?

A. I should say about two or three months after the earthquake. I don't recall the exact date.

Q. A man wouldn't work for a year and a half or two years under a temporary permit?

A. Absolutely not.

Q. And if a man worked under a permit, he had to pay some fine or penalty back to the union, didn't he, in exchange for his permit?

A. Our rules at that time were a dollar a day for every day worked. [5382]

Q. And would the international office of the union have a record of such payments and such persons? A. They would not.

Q. I see. And you, however, had personal contact with all of the members of your Hodcarriers International at that time?

(Testimony of Jose Manuel Ortega.)

A. As they applied for work, yes.

Q. And you knew every member of the Hodcarriers International in Santa Barbara?

A. I did.

Q. And having checked your own records, as you said yesterday, and having written for further advice to the international itself, you find no record of any man named John Schomaker?

A. No, sir.

Mr. MacInnis: That is all.

Mr. Donohue: No further questions, Your Honor.

The Court: This witness is excused. You are excused. Thank you. [5383]

HARRY RENTON BRIDGES

resumed the stand on behalf of the defendants; previously sworn.

The Clerk: The witness on the stand is Harry Renton Bridges, heretofore sworn.

Direct Examination
(Continued)

By Mr. Hallinan:

Q. Mr. Bridges, in view of the testimony that Mr. Pearson just gave, would you tell us just briefly what is the situation as regards the signing of those agreements between the union and the shipowners that was ratified in the month of December?

(Testimony of Harry Renton Bridges.)

A. Well, the agreements were negotiated prior to the month of December. The negotiations on those agreements ended around September 30th and then, as is the case with all our agreements, they are only negotiated and an agreement reached, tentative agreement reached, subject to ratification by a referendum vote of the working membership.

Q. Once that referendum has been held and ratified, have the officers any other authority except to sign the formal agreement?

A. No, the signing is a mere formality. I mean, the signing is purely a formality. [5384]

Q. In other words, the agreement would be just as much in force after ratification as if it were not signed at all, is that right—as if it were not signed at all?

A. I wouldn't like to get into a legal battle over that under the present circumstances, particularly with Taft-Hartley. We have enough trouble where there is no agreements at all, only verbal agreements. Our agreements, after they have been ratified by a referendum vote of the membership, the officers must sign them. We have no alternative. We couldn't do a thing about them even if we wanted to.

Q. In an earlier part of the trial the same witness, Schomaker, testified that an organization called the Maritime Federation of the Pacific was—I forget just which part of the anatomy of Mr. Darcy he said it originated from, whether his brain, his liver, or his lights—but there was some such

(Testimony of Harry Renton Bridges.)

matter, thought or plan of having the Maritime Federation of the Pacific an offspring of Mr. Darcy's judgment. Will you tell us what the Maritime Federation of the Pacific was, what and when were its origins, and what its course was?

A. Well, first of all, it was quite true that Darcy, the Communist Party generally, as I remember it, they were quite enthusiastic supporters of the Maritime Federation of the Pacific when it was formed. But in so far as the Federation's springing from that source, that is not a fact as far as I recall. I have distinct recollections on some of this. And the minutes will [5385] show it; the minutes I had here yesterday will show it. In 1933, even before our longshore union was formed, Clyde W. Deal, at that time the secretary of the Ferryboatmen's Union—that was a union affiliated with the International Seamen's Union—and another old-time longshoreman, an old-time organizer on this coast named Ed Morton, who was at that time the president of 38-12, the Seattle longshore local—they had gotten together, together with other people, and had started up an organization called the Council of Marine Crafts. It was aimed at being a coastwise council of longshoremen, seamen and other unions, and that was its name—Council of Marine Crafts—and that was even early—that organization had met even early in 1933, as I say, before we had received a charter here in San Francisco for our longshore union. And one of the first orders of business—one of the first orders of

(Testimony of Harry Renton Bridges.)

business that came up here in the longshore union of San Francisco after receiving our charter was the question: Would we affiliate and pay a capita dues to the Council of Marine Crafts? The matter was debated at great length. I think we decided against it at the time, not because we were opposed so much to principle as for other things. I remember we had quite a battle over Clyde Deal being an officer of our union. He was not a longshoreman. He was a member of the Ferryboatmen. But the point is that the Council of Marine Crafts was actually a going concern set up with a constitution, officers, and [5386] collecting dues before our union in San Francisco was even chartered in 1933.

And furthermore, when the Maritime Federation was eventually established—and it is true that I introduced a resolution—I introduced a resolution in our convention here in San Francisco in February, 1934, calling for the re-establishment of the old City Front Federation. Now, this was just a repeat of ancient history. In the 1901 Teamsters' strike—and of course I only know about that by reading about it and talking to one of the leaders of it—towards the end, before he died, old Michael Casey and I became friends. Michael Casey was vice president of the Teamsters' Union. Michael Casey was the leader of the teamsters' strike on the San Francisco waterfront in 1901, which was joined by the waterfront unions. So old Mike Casey used to talk to me by the hour about the happenings at that time. And I might mention at this time

(Testimony of Harry Renton Bridges.)

I recall he used to say, "They call you people Communists and radicals. You are nothing but a bunch of pansies and pantywaists. You should have seen me in 1901. You should have seen me in 1901. Bloody Mike Casey, they called me." And that is the way Mike Casey used to refer to us.

He told me a lot about the City Front Federation and a man named Ed Newman, who at that time was down in Santa Cruz, was secretary of the old City Front Federation that was formed in 1901, and he came up with all his old minutes and [5387] the constitution and he turned them all over to us. So in reality the City Front, the waterfront Federation of the Pacific—the Maritime Federation of the Pacific was merely a continuation of the old City Front Federation that was in this city operating in 1901.

The Council of Marine Crafts followed the same general principle and, as I say, that was an already established concern in the early part of 1933. And later on, right after the strike, one of the first things we did, after the 1934 strike, right here in the San Francisco local, we elected delegates, official delegates to the Council of Marine Crafts, and that, I would say, was around September or October, 1934, after the maritime strike. So all this talk about who set up the Maritime Federation of the Pacific, it had its birth in reality in the Council of Marine Crafts. The Northwest Joint Strike Committee, which was testified to here by Andrews, they set aside money during the strike itself. Our

(Testimony of Harry Renton Bridges.)

strike was a coastwise strike. San Francisco didn't run the strike. The coast operated as a whole. The Northwest Joint Strike Committee, which covered Oregon and Washington, they covered the northwest part. We operated the Northern California part, and we had a Southern California strike committee, but we collaborated on the coast as a whole, and that strike was not run from San Francisco. It was run on a coastwise basis. And all this talk about who set up the Maritime Federation, any of the [5388] sources outside, that is just not so. The records are there. If you look through those minutes you will see report after report by Clyde Deal to the Council of Marine Crafts as early as June and July, 1933.

Q. That is in the minutes of July, 1933?

A. The minutes I had here yesterday, yes.

Q. I took them back to have a photostat made of the pages that were introduced, so I haven't it here right now. Then what was the course of that organization? Did it get going again?

A. Yes. Why, on June 17, 1934, in the middle of the strike—that was the day after Joseph P. Ryan with Dave Beck and Mayor Rossi had signed an agreement we knew nothing about and was not even subject to our approval, putting us back to work and losing us our strike—the day after we had a meeting here, and the various maritime unions attended the meeting and urged us to stay on strike, and as a result of that meeting we set up here in San Francisco what was called the Joint Marine

Strike Committee. It consisted of five delegates elected by each union, and there were ten unions that were members of that Joint Marine Strike Committee at that time: all the maritime unions, the longshoremen, the boilermakers, the machinists' union, and a couple of others. I forget for the moment. So we had the nucleus, you might say, of the Maritime Federation of the Pacific set up as a matter of strike strategy in the 1934 strike, and joined the Marine Strike Committee that [5389] took over the entire negotiations of the strike and eventually negotiated the settlement of the strike..

Q. Did that Maritime Federation of the Pacific continue along for some time? Is it still in existence?

A. No, it was disbanded in 1939, and we established in its stead a national CIO maritime committee. In other words, we tried—our idea was to make it a national organization, and at the suggestion of the ILWU, that is, the longshoremen, myself joining with some other unions, we disbanded the Maritime Federation of the Pacific, or we merged it with the national CIO Maritime Committee.

Q. You were telling us about the matters that led up to the consummation and the winning of the 1934 strike and this matter of Ryan and his efforts. Who was Ryan? Who was Joseph P. Ryan?

A. Ryan was and is the president of the ILA. That was the old organization that we were formerly affiliated to. That is an American Federation

(Testimony of Harry Renton Bridges.)

of Labor organization. We left that organization and swung over to the CIO.

Q. Where was Ryan from? Where does he operate?

A. Joseph P. Ryan lives in New York. We had our disagreements with him. We didn't like the way he operated and certain other things. That and for other reasons we left the ILA and we left Joe Ryan.

Q. While the strike was in progress in 1934 did Ryan come to [5390] the Pacific Coast?

A. Ryan came to the Pacific Coast, met in secrecy with the representatives of the shipowners, with the Mayor of the city at that time, Dave Beck of the Teamsters' Union, and negotiated an agreement, and then gave a written guarantee that we would accept the agreement and go back to work in a day or two.

Q. What terms did the agreement embody?

A. Oh, I can't recall all of them. I know it set up a kind of a hiring hall that was inadequate. It provided for some type of grievance machinery that was completely inadequate. It made no provision at all for the seamen. The fundamental part about the agreement was it would have put the longshoremen back to work and left the seamen on strike. It would have broken the strike, in other words. It would have broken the solidarity of the marine locals.

Q. Then what happened with regard to that proposal?

(Testimony of Harry Renton Bridges.)

A. It was rejected.

Q. How? What took place?

A. It was rejected by a vote of longshoremen in almost unanimous vote.

Q. Was that a voice vote or a written vote? Do you remember if Ryan appeared before your organization?

A. It was a voice vote. It was a voice vote. I think it was a voice vote in every local up and down the coast, because the men on strike were so mad and so exasperated they refused to [5391] even give it the consideration of putting it to a referendum.

Q. That being rejected, what happened to Ryan? Did he leave here?

A. He left town with a big public statement saying he threw up his hands; he couldn't do anything; the waterfront was in a state of revolution; all the people on strike were Communists, and all the leaders were Communists, and they were all taking orders from Moscow, and that a good respectable character like Ryan had better get out of here.

Q. So Ryan went——

A. Back to New York.

Q. And all the Communists and Muscovites went on to call the strike? A. That is right.

Q. Mr. Bridges, ultimately, then, did there come a time when there was a division between the AFL and the CIO which involved the transfer of allegiance from one to the other of your organization?

(Testimony of Harry Renton Bridges.)

A. We switched affiliation from the American Federation of Labor to the CIO in 1937. We received our charter in July of 1937.

Q. Will you tell us briefly now what the CIO was. I imagine most of the jurors know, but if you can tell us in a few words what the CIO was and what its procedure was, we may have a better understanding of what took place.

A. The CIO, now known as the Congress of Industrial Organizations, [5392] at that time was a committee of unions within the American Federation of Labor itself. It was composed of some ten unions led by the United Mine Workers of America, headed at that time by John L. Lewis. All of the unions were in the American Federation of Labor. They were advocating and pushing along a program of organizing the basic industries of the United States. There was no organization in the basic industries such as in steel, in rubber, in the automobile industry, and many other industries like the white-collar industry, the oil industry, and so forth. There was no real organization in those basic industries here in this country. So this group of unions, ten unions, formed a committee within the American Federation of Labor itself, and that committee began to propound a program of organizing the unorganized into industrial unions, particularly the unorganized in the basic industries, as well as to follow a program of organization that did not discriminate in any way because of race,

(Testimony of Harry Renton Bridges.)

creed or color, as well as to follow an organizational policy that was far more progressive and democratic at the time than anything that existed in the American Federation of Labor, generally speaking. So that was the original Committee for Industrial Organization.

Q. Who headed it?

A. John L. Lewis, at that time president of the United Mine Workers. Its secretary was Howard. I think, a Mr. Howard of the Typographical [5393] Unions.

Q. So that John L. Lewis was then an officer of a union affiliated with the American Federation of Labor and in charge, appointed by the unions within the American Federation of Labor to take charge of this new Congress of Industrial Organizations?

A. Right. Lewis was president of the United Mine Workers. He was vice president of the American Federation of Labor. And the ten unions, because of their organizing activity and because of the program they were supporting, were suspended from the American Federation of Labor by a vote of the Executive Board of the American Federation of Labor. And when the American Federation of Labor national convention came around in Florida that year—that was the year 1936—because the Executive Board had already acted to suspend the ten unions of this committee, they were not therefore allowed to participate in the convention, and that gave the opposition to the ten unions that was led by William Green at that time and Bill Hutchinson of the Carpenters—that gave opposition enough strength in the convention and enough voting power to *install* those unions; in other words, to support the action of the Executive Board. Unless the Executive Committee of the American Federation of Labor had taken action prior to the national convention to suspend these unions and thereby rob them of their voting strength, the people who were opposed to the Committee for Industrial Organization at that time in the AFL would not have [5394] been able to muster sufficient voting strength in the convention in order to suspend those unions or make the suspension permanent or expelling them. However, by this device they did secure enough voting strength in the AFL so that the unions were suspended and eventually expelled, and after that they set up their own committee, the Committee for Industrial Organization, now known as the Congress of Industrial Organizations.

Q. Then what did that congress do with regard to trying to enlist other unions under its aegis instead of all of the AFL?

A. It held out the prospects of a more constructive, a more progressive, a more united program than the leadership of the program that the American Federation of Labor was offering at that time.

Q. In your opinion at that time was the Ameri-

(Testimony of Harry Renton Bridges.)

can Federation of Labor a frankly trade union organization?

A. Not—well, not according to the way our union does things.

Q. What was its porcedure that distinguished it from the Committee of Industrial Organization as of that time?

A. We thought it was, in terms of its views, extremely conservative. It was extremely bureaucratic and undemocratic. It did not believe at all in following a program where matters of policy as well as matters of agreement and strike would be [5395] submitted to the working rank and file for a vote of approval or consideration or matters like that. We were very much concerned with that. I believed in functioning as a national organization where a small group of men, nine in number at that time, I think, or ten, sat in Washington or Miami, Florida, for a few weeks out of the year and made all the decisions and anybody who questioned those decisions were thrown out on their ear.

Q. Did they employ any force to put their programs across?

A. Yes, I would say they did.

Q. In what way?

A. They took a few steps on occasion, as we remember, to push those who disagreed with them around a bit, strong-arm stuff and what not.

Q. Was the AFL a Jim Crow organization?

A. Not as such, not the American Federation of Labor as such. The position that the American

(Testimony of Harry Renton Bridges.)

Federation of Labor took—and technically speaking they were correct—the national organization, which was a federation of labor unions, had no authority to discipline the respective international unions. In other words, each union enjoyed autonomy under the American Federation of Labor, and the matter used to come up in every convention with the national organization, and that is the parent body, the American Federation of Labor, taking the position that if the individual national unions wished to discriminate because of [5396] race, creed or color, there was nothing much the parent organization could do about it because the unions had autonomy to do as they pleased on such matters.

And most unions—well, quite a few unions exercised their autonomy in that direction—not all of them, however, not all of them.

Q. When it came to a choice, then, between the CIO in 1937, what proceeding did the ILWU take and what was the result of it? I mean, what steps did they take to determine what their affiliation would be and what was the result?

A. In the course of the Maritime Federation of the Pacific convention in Portland, Oregon, in 1937, in June, all the unions affiliated with that organization, that is, the Maritime Federation of the Pacific—we all agreed that we would take a secret ballot on the question of affiliating with the [5397] CIO. And we all took a secret ballot, and in each case, in the case of each of the unions, the ballot, the outcome of the ballot was overwhelmingly in favor of affiliating with CIO. But in the case of a couple of the unions, they waited until after the ballot was taken and then they burned the ballots. And those unions didn't affiliate. We were one of the——

Q. What unions were those?

A. Sailors Union of the Pacific was one, headed by Lundeberg. There was another one. I forget. There was two of them, but I remember one. After the ballot was in, they burned it and they didn't affiliate anyway.

Q. Have you any recollection or thought as to the percentage by which the coast unions decided to affiliate with the CIO?

A. You mean the longshore union?

Q. Yes.

A. Oh, I think our vote was 80, 90 per cent.

Q. 90 per cent to affiliate with the CIO?

A. As far as I recall, yes.

Q. All right. Now, did that lead to any bad blood or friction between organizations like the Sailors Union of the Pacific, which, as you say, burnt the ballot, and the ILWU?

A. Oh, well, I think that any person connected with labor, or I presume most people outside of labor, knows about the battle between the two organizations. It gets pretty fierce and pretty bloodthirsty at times, and of course it has led to a [5398]

(Testimony of Harry Renton Bridges.)

lot of friction. The friction still exists and you still have two organizations in the field, the National A. F. of L. and the National CIO. And they are battling all the time in the jurisdictional battles, political battles, policy battles, all types.

Q. Do those take the form at any time of physical violence?

A. Well, it certainly has in our experience or I would say offhand, our own union, we have lost about six organizers—dead, missing. We don't know what happened to them. We have got our own ideas, but we know what happened to one. One was found.

Q. What was his name?

A. A man named Panto, Pete Panto. He was found, he was discovered buried in a block of cement in a field in New Jersey. As far as we can find out, he was murdered by that crime club, that Murder, Incorporated, that was operating back there, Lucky Luciano and that gang, Costello and his boys.

Q. Whose employ were they under? Whom were they representing? I mean, what organization?

A. Who?

Q. The killers.

Mr. Donohue: I must object, if Your Honor please. I think this is purely hearsay, if Your Honor please. How would he know what organization they represented? I think there is some limit with which hearsay ought not to be permitted, and I think [5399] this is one.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: Well, let it go. We will withdraw the question.

There is a paper there that Schrimpf was questioned about.

The Witness: My statement on Panto wasn't hearsay; it was one of our men. That is, the other thing, Your Honor, might be hearsay as to who they represented, but my statement on Panto is not hearsay.

The Court: Well, if you desire to make a statement, Mr. Bridges, you may.

The Witness: No, sir, Your Honor, the question as to who these people represented that did the killing, I don't know. That would be guesswork on my part. But the fact that Panto was murdered, buried in a block of cement and finally dug up in a field in New Jersey, that is not hearsay. And the fact that we had five other organizers on our payroll on the East Coast waterfront, they just disappeared, we have never found them—that is not hearsay. I know those things, personal knowledge.

Mr. Hallinan: That is it.

Q. Do you know whether or not Henry Schrimpf took some position on this CIO affiliation, hostile to yours and to the other 90 per cent of the union?

A. Henry Schrimpf on every single issue in the union has always taken an opposite position, since 1934, since I canned him off that committee in October, 1934, for being drunk. No matter [5400] what the issue was, all Henry stood for, if I was

(Testimony of Harry Renton Bridges.)

for it or Schmidt was for it, he was against it. That even included—if it was even a raise in wages for Schrimpf, he was against it. That is the way Schrimpf operates.

Q. And——

A. I fired him. The question came up, he was on that committee in '34.

Q. What committee?

A. I fired him off it because he was drunk and not showing up at the meetings. I did give him the break to resign on the record so that he wouldn't be exposed before the membership. He had had a good record during the '34 strike. He was a bad fighter, he was fired, and since that time Henry has followed a simple position. He is a pretty violent guy, and if you argue with him too much, he takes a swing at you. Anything we were for, automatically he was against, just like that.

Q. Did he ever on the floor of the conventions or the union express any hatred or feeling against you or Henry Schmidt?

A. Oh, why, everybody knows that. On two or three occasions on the convention floor he started jumping over chairs to reach us. He started across the convention floor and he would be so mad that he would be hopping over chairs to—Henry is known in all the conventions for where he stands, how violently and bitterly he stands toward Schmidt and I. No question about that—common knowledge. [5401]

(Testimony of Harry Renton Bridges.)

Q. Now, ultimately, Mr. Bridges, has there been some dissention within the CIO itself so that there is now some difference as regards policy, or some difficulty, as regards policy between the ILWU and some of the eastern portions of the CIO?

A. Some. Any labor movement that is going to be democratic, truly democratic, there is going to be disagreement over policy and other matters. The only organization that I see where there is no differences was—well, a good example was the Blue Book on the waterfront, the company union. There was no differences in that union. You didn't get a chance to have any differences. So differences in an organization don't disturb us. They are bound to occur all the time, and they are a sign of somewhat of a healthy organization, healthy disagreements, those things are on and I guess they will continue. They don't disturb us at all.

Q. Let me ask you this: When you were having the 1934 strike on the waterfront, that strike was being held under the auspices of an American Federation of Labor union; that's correct, is it?

A. That is true. As a matter of fact, most of the important gains we made—purely as a matter of fact, was made while we was in the American Federation of Labor, not in the CIO.

Q. And what was the name, what was the designation being given by the employers and the employer groups at that time to the American Federation of Labor? What was the term they [5402] used against it?

(Testimony of Harry Renton Bridges.)

A. Oh, well, it would take me too long to recite them all.

Q. No, I say, did they use the term Communist?

A. Certainly. They accused us of being Communists, anarchists, radicals, and so forth. But it is a long time ago, as I say.

Q. Now, when the CIO separated from the American Federation of Labor, what did the American Federation of Labor call the CIO?

A. Oh, same thing. I think that there was more abuse and more accusations of Communist control, Communist activity, Communist philosophy, Communist program and so forth, more accusations of that nature were hurled against John L. Lewis and the national CIO than were ever hurled against myself and the ILWU.

Q. But now that there is some kind of a rift between the eastern department of the CIO and the ILWU, are the CIO people now calling the ILWU people Communists?

A. Oh, well, we more or less take those things—it might be hard to understand, I guess, for someone that is not a part of the picture, the labor picture. We take those things in our stride. It is pretty common and simple these days; whether it is within a trade union, whether you are running for political office. Any Congressman that is running for office feels duty bound to get up and say he is against Communists and to label anything of the opposite side Communist. Right now in the Republican Party I notice there is a battle going

(Testimony of Harry Renton Bridges.)

on between the [5403] so-called leftwing and right wing, even in the Republican Party. And so it goes, all the way down the line.

Q. Well, just to complete the circle——

A. That is ordinary stuff, where it is a simple way to handle a member of the opposition, or your opponent. Call him Communist, call him an agent of Moscow, call him a stooge of Joe Stalin, and then you don't have to meet logic with logic or facts with facts, or proper argument. That is true in public life, political life, and it is true in trade unions. And, frankly, there is much more said about it than truly exists. We have gotten used to it, and we take it in our stride. At least, in our union we do. We don't have very much trouble about it.

Q. Well, Mr. Bridges, in order to complete the circle, is the CIO now calling the A. F. of L. Communist in a vote that has taken place right here in this city?

A. Oh, that goes on all the time. I don't want to get into all these problems of labor and so forth.

Q. What about this telephone vote that took place here yesterday or the day before?

A. Well, the CIO lost that vote. That is purely my opinion, that they lost it because—I think that the CIO lost the vote because they were trying to label the American Federation of Labor union a Communist union, and the workers didn't believe them. [5404]

(Testimony of Harry Renton Bridges.)

Q. So then it swung around complete now that now the CIO is calling the American Federation of Labor Communistic, is that correct?

A. In some cases, and vice versa. Now, we are all even. It happens both ways. So I don't think you can blame either the A. F. of L. of the CIO. They are about even on that score.

The Court: We will take the morning recess.

Ladies and gentlemen of the jury, we will take the morning recess, and may I again admonish you not to discuss the case under any conditions, nor to form nor express an opinion until it is submitted to you.

(Recess.) [5405]

Q. (By Mr. Hallinan): Mr. Bridges, you remember the testimony of Schomaker and Schrimpf that you attended some sort of meeting which questioned the loyalty of a woman named Norma Perry?

A. Yes.

Q. Will you tell us what that incident was? First, when did it take place, roughly? Well, I think that Schrimpf——

A. I would say that it was either toward the end of '34 or the beginning of 1935. That is, I refer now to the incident as to the accusations against Norma Perry.

Q. When did you first meet her?

A. She came on the waterfront in the fashion that has been described here. I first recall her working for the strike committee in 1934. I had

(Testimony of Harry Renton Bridges.)

nothing to do with her being hired. I think that she came down there as it has been testified to here, offered her services. She was a very efficient craftsman, a good stenographer and typist, and her help was gratefully received and duly appreciated like a lot of other help we got.

Q. Then what happened? What was the first thing that you heard that questioned her integrity or her loyalty?

A. For the duration of the strike she served very effectively, efficiently; she was secretary, that is, stenographer to the publicity committee that had most of the paper work to do, and she served for the duration of the strike, and then after the strike was over the chairman of the publicity committee made the proposal that she be hired by the union as a stenographer or [5406] secretary to the president and put on the payroll, which—that happened. I mean, the union approved of the proposal and she went to work for the union as secretary or stenographer. And she made a mistake—in my opinion, at least—that happens sometimes, that she got some fancy ideas about trying to operate the union, pull wires behind the scenes and things like that, as much as anything else. And a few months later I recall Schrimpf, Schomaker and some others, they came to me—I was the president of the union after I had been elected in September, 1934—they came to me with complaints about Norma's reliability as to who she was mingling with and who she was working with and connections with anti-labor forces such as the industrial association or shipowners association and so forth.

Q. Was there any meeting in which you participated in a discussion with the woman in front of those people?

A. Yes, I had a meeting with Schomaker and Schrimpf and those people on that issue.

Q. Did that involve any alleged Communist betrayal or was it a betrayal to the industrial association of what was going on?

A. What I remember of the meeting—I forget where we had the session—and I think that Schomaker and Schrimpf might have been there; I don't specifically recall. I just remember a meeting and I remember the purpose of the meeting was they wanted to tell me what was going on as far as Norma was concerned and what they knew and so forth and so on, and that they were [5407] very, very suspicious. So I listened, and then I said, "Well, let's get together with Norma and find out what the score is." So we did that. We had another session later on, and she explained what her activities were and why, and so forth.

I recall a couple of the incidents that was raised against her, and I agreed with her position instead of agreeing with the position of Schomaker and Schrimpf and the others, and she kept her job instead of being released from her job. One of the complaints was, for example, she was very friendly with the secretary of our union at that time—that is the financial secretary, a man named Fred Frater,

(Testimony of Harry Renton Bridges.)

Scotty Frater. Later on he was removed from the union because he was engaged in some very bad activities, that they had more to do with the embezzling of funds than any connections with the employers' association. She was also very friendly and apparently working close together with Bill Marlowe, who later on, in fact, we did find out had connections with the shipowners' association and went over to work for them and is now their manager in Southern California.

So they admitted there was something to charges at that time, although they looked to me to be more of a personal nature than having any foundation in fact. The other thing that was raised against her—and I thought her position was somewhat correct—her husband at that time operated a cafe, a kind of French restaurant out here on Baker Street—Norma's husband—and it was placed on the "We don't patronize" list of [5408] the San Francisco Labor Council as being a non-union concern. This was one of the other questions brought up by Schomaker and Schrimpf against Norma. Norma took the position that the place was unorganized; that it was not organized by the Culinary Workers, which was an A. F. of L. union because there was some Filipino workers working in the restaurant, in the kitchen, and Filipino workers were not eligible to join the union; they were being discriminated against because they were Filipino workers, and that her husband who was part owner of this restaurant, as I recall, took the position that they would pay—they would pay union wages and all the union conditions to them if the union didn't want to take in these people as long as they were working and the union discriminated against them. And that was Norma's position and answer to the accusations against her that her husband was working a non-union restaurant, or participating in running it. And I was inclined more or less to agree with her position, even though I was a delegate to the San Francisco Labor Council at the time. So putting it all together, after I heard all these things—I was president and general manager of the union; it was up to me as to whether Norma would remain on the job—I decided that there was a certain amount of personalities in the matter, particularly from Schrimpf's point of view, and I just dismissed the whole thing and Norma remained in her job. Later on, however, there were certain other developments in connection with Norma's [5409] activities which changed my mind on the whole thing.

Q. What was that?

A. Well, some time later, I think that was in '35, a member of the Waterfront Employers Association tipped me off that she had connections with their association. Now, in order to understand that, even during the '34 strike, all the members of the Waterfront Employers Association, which was an association made up of steamship owners and opera-

(Testimony of Harry Renton Bridges.)

tors and stevedoring contractors, there was a few exceptions that did not completely agree, at least, with the attitude of the Association towards the longshoremen or the industrial association. They believed that there were a lot of bad things down there that should be corrected, a lot of evils, such as the shapeup and the racketeering and what not. So there was a few of them that remained on a fairly friendly basis with us. And this particular member of the Association told myself one day there, he said, "Listen, I will give you a tip." He had reasons for telling me this. "Watch your secretary; she might not be all that she seems to be." So that was a little surprising to me, and the prior stuff come back, and I said to him, "Well, wait a minute now. Which one?" He said, "Look, Bridges, you are no dumbbell. I have said enough. If you've got any brains, that ought to be enough." So I said, "Well, now, wait a minute. I've got two secretaries. Which one do you mean?" So, oh, he said—so I remember how he described Norma and I said, "Oh, I get you." [5410] So that was all there was to it. And I did a little checking up, and I found out sufficient to my satisfaction that she had connections with agencies that didn't mean any good for our union, so I got rid of her then and there. I called her into my office and I said, "I'll give you until this evening"—the executive board was meeting this evening—"I will give you until this evening to resign and get out of here, and the only reason I am doing it, I feel so darn foolish that you have been around here so long and working for me, and even though the matter was brought to my attention some months ago, I kind of defended you instead of believing. And I would like you to get out of here without me having to fire you, and report the whole thing to the membership, because it makes me look so darn foolish." So she got out.

Q. Now, so then, as early as that time, you were aware of a person in your employ who was spying upon you and retailing matters back to persons hostile to you?

A. In the sense that I mean, in the sense that I mean. I think it was a gradual step for that girl. I don't know. I am only going by the facts as I knew them at this stage of the game.

Q. Let me ask you this. Will you finish what you were telling us yesterday about the matters in 1941 in the hotel in New York?

A. Oh, well, that was an incident. I might say in that connection that as I explained I just came from the Sears hearing [5411] here, and I didn't feel so good about that hearing because there was all kinds of people testified there that I didn't think were worth much, confessed murderers and what not. And so then, I go back to New York and this was in July or August of 1941. My room was tapped and I would like to say this much. Although I deliberately set out at that time and did, I think, successfully expose and hold up to public ridicule those particular agents, our purpose was not to show any disrespect generally or generally ridicule the government agencies as such, but here was a group of government agents. They were sworn to uphold the law. They were sworn to protect my rights, and when they was accused of wiretapping, they sanctimoniously and hypocritically denied that they would ever do such a thing. When they are exposed and held up, as I think was entirely proper, to public ridicule and scorn, they had it coming. They were truly, in my opinion, un-American. In the next room listening in on me. And I even made a test of them at that time. There was a strike on in the city of New York at that time and I pretended to hold a meeting having to do with that strike, just a test as to whether those individuals would pass that information on to that employer in order to hurt those workers and that strike. And sure enough, a couple of days later it appeared in the newspapers that I was running that strike, even though I had no connection with it. And the only way that information could have gotten to those employers was through those agents in [5412] the next room to me, tapping my room.

So when I took the steps that I did over a period of four or five weeks to expose those individuals and to ridicule them and make a joke of them—and we did that—my purpose definitely was to go after them, because of their hypocritical, sanctimonious attitude, even though all the time they were committing a felony. Wiretapping is a felony. And everything I said about them here is said in even stronger language in that Supreme Court decision, that is not yet in evidence. So what I am saying isn't anything I am thinking up. It was a finding of fact. Judge Sears found as a matter of fact that my room and my telephone was tapped, and the Supreme Court had upheld it.

And I have got records in my office now, we have got a teletype in my office, and every once in a while we are trying to put through a teletype and the operator probably makes a mistake because she said, and it appears on the teletype—I can get it here in the courtroom—it appears on the teletype, one operator speaking to another on the teletype, "Hold on, the FBI is not on the line yet," or "The Immigration Service isn't on the line yet." Now, that is what goes on. I've got the teletype tapes, the official teletype tapes of that type of thing. And sometimes even on the telephone they make a mistake. We hear them. I don't know how they tap in, but sometimes they make a mistake. So it is a pretty dirty business, and when people engage in that, I look upon them as not carrying [5413] out their official, legal duties as a government agency. But in other words, they are violating the law, and they deserve to be held up to public ridicule and scorn, and that by doing so I think that myself and my union, we are doing more to support and cooperate with those government agencies and strengthen them than those particular individuals are.

Q. Did you take the matters up with the government agencies themselves?

A. I filed an official complaint with the United States Attorney in New York City.

Q. And recited the facts?

A. Recited the facts, yes.

Q. Did you do anything finally toward leading these men to disclose themselves?

A. Oh, a lot of things, yes.

Q. Well, what did you do?

A. I have already pointed out, this went on for five weeks. Why, they had—the maids in the hotel are kind of elderly women. They were all Irish women. One of them came to me and said, "Look, these agents have told me—and if I don't do it, it will be too bad for me," she was an old woman of at least 60 or 70. She says, "Look, I don't like to do this, but let me tell you, I have to, I have been ordered to turn over the contents of your wastebasket, wastepaper basket to these agents." I said, "You go right ahead. Don't you get into trouble on me. [5414] I can handle these people. They can push you around, but I have got an organization with me." So here they were, searching through my wastepaper basket. But we fixed them up on that. They used to look in my wastepaper basket to see what notes I had thrown

(Testimony of Harry Renton Bridges.)

away. I had a little portable typewriter, and I used to type. So I got myself some carbon paper and I shoved it in the typewriter and I pounded away at it, and I would turn it upside down and pound away some more. So I had it criss-crossed, upside down and every other way, and I tore it up in little small pieces, as small as I could, and I threw it in the wastepaper basket. And the next day we looked through our glasses and we watched the agents in the next room putting the carbon paper together with tweezers, trying to fit it together. So I told the poor old Irish maid about it, and she thought that it was no more than they deserved. So there was that.

And later on I got ahold of a newspaper man, and we took pictures of these people. The newspaper PM in New York City. At that time the editor or publisher of that paper was—later he went into the army. I forget his name. But he assigned a reporter and eventually, of course, the whole thing was exposed in the public press. And the identity of these people was exposed because after they got out of the room—we kept them holed up. We had them in a spot. They was in the room. The manager of the hotel wouldn't open the room. I made a complaint to the management of the hotel about my room being tapped. By that [5415] time I had my room rent down to $2.00. They wouldn't throw me out so I used to keep on going in and asking for a reduction of rent, just to test it out. So I finally had my room rent down to about $2.50 a day; the room was a $10.00 a day room.

(Testimony of Harry Renton Bridges.)

Q. Did you have any little plot of having them come into your room to catch you doing anything in particular?

A. All kinds of things; anything I could think of. I went over that.

Q. Tell us more.

A. But the point of all this was, it wasn't the idea of ridiculing a government agency. I was thinking in terms of those particular agents. I don't know whose instructions they were acting under, but we had raised the question here in this court room as to my room being tapped in various places, being followed and so forth, and of course it was all denied, hypocritically, sanctimoniously denied. "We'd never do a thing like that." These were the same people that, within a month or two after, they were the ones in New York. That is the way I felt about it, and I would do the same thing again. The only point I am trying to make here is that our union cooperates, supports and respects government agencies, all of them: city, federal, state, so forth. But when some of these individuals in these government agencies take it upon themselves to abuse their authority, their badge of office, that is an entirely different thing. We will expose them every chance we get. And I know as well as [5416] anyone knows, since that time, why, they don't like me, and heaven help me if they ever get me into a corner where they can do something about it. I am as well aware of that as they are.

(Testimony of Harry Renton Bridges.)

Q. Now, let me ask you this, Mr. Bridges. There has been testimony here about meetings that you are alleged to have attended, participated in. They have been described in various ways—Communist meetings, open Communist meetings, mixed Communist meetings, closed Communist meetings, upper fraction meetings, upper faction meetings, a number of thinks like that. Now, do you remember taking a trip in August or the first part of September, 1936, to Grants Pass, Oregon, with Schomaker? A. Say the date again.

Q. He said in August or the first part of September, 1936, that he and you met some place out on Mission Street and drove up to Grants Pass, Oregon.

A. I remember his testimony, I just wanted the date. In the first part of September it wouldn't be so, because I went to New York then. And that is the first part of September. I want to get the dates nailed down first. Incidentally, on these dates I have got a pretty accurate record of all my movements those years. I was doing something every day and night, practically, and we were busy people. I was in meetings. So anybody that is going to put me in a meeting, they have got to be careful.

Q. You say you did go to New York in September, 1936? [5417]

A. The early part of September, I think.

Q. On what business, on what affair, do you know?

(Testimony of Harry Renton Bridges.)

A. A meeting with our national organization, and the assistant Secretary of Labor, and the National Labor chairman of the Democratic Party at that time. That was Dan Tobin. We were approaching the '36 presidential elections, so I went back there for a conference of the international union. That is the ILA at that time. It was a conference with the secretary and the assistant Secretary of Labor, because at the same time the expiration of our contracts was coming up, September 30th, and a meeting with the Maritime Commission, and also we had a session back east in the Biltmore Hotel with Dan Tobin, who at that time was labor chairman of the Democratic Party. So that was the first part of September. I left here around September, the first week in September. Now, so that meeting would have to be in-between the time I came back from Seattle, and I got back here in San Francisco around July 10th—or July 20th. The reason I know that, I came back on the train and I met a woman on the train. She lives in Chicago, works in Chicago, and I have got a record on that. So this would be between July 20th and the first week in September. And I made no such trip. And it would be unnecessary for me to make such a trip to speak to Bert Nelson or Rappaport. Incidentally, on that, the first time I *went* Rappaport was later on. I have a distinct recollection as to when I first met Rappaport. And that was later on. But [5418] on Bert Nelson, I just came back in San Francisco on July 20th after spending a couple of weeks in Seattle where I had had a chance to speak to Bert Nelson every day if I wanted to. So I just can't put together the need for me to suddenly pay a visit to Grants Pass to meet Nelson and Rappaport within a week or within a month or a few weeks, after I had just come back from a visit in Seattle, where I had spent a couple of weeks. I went to Seattle for a board meeting at that time. The reason we know it, because that is when I was sworn in and took office as president of the Coast Union, the Coastwise President. It was my stepping up from the local president to the coast president. And that is what I was doing in Seattle, and I returned from that trip July 20th.

And then I have got the records, I have got the records of where I was during the rest of that month, and generally through the month of August. So if we can only get that meeting pinned down to a day——

Q. They won't do that.

A. No, I know it, I know it, because I have got the records.

Q. Now, you heard the nature of the subject and the discussion that you are supposed to have driven for two days up to Grants Pass to discuss with these two men, when Schomaker was on the stand. Do you remember what he said: You drove up there to discuss something about supporting certain persons for office?

A. I remember what he said, and getting out the

(Testimony of Harry Renton Bridges.)

left and the [5419] right side and "Hello, Wolf," and so forth. I remember.

Q. Well, would there have been any reason or sense at all in driving up to Grants Pass, Oregon to meet those men just to discuss the matters that he mentioned?

A. There was on such meeting, no such driving. It didn't take place, and I can't conceive any reason why I at that time would be driving up to Grants Pass, Oregon. No reason at all. I don't know where Schomaker got that story or what he was smoking, but he was chewing on something.

Q. Now, you remember a man named Hancock that testified here? A. Yes.

Q. And he testified that in September, 1935, during an American Federation of Labor convention, there was a meeting at which you, John Larson, Schmidt, some sailors, Harry McNeil, J. C. Clark, Hancock, Rayburn and Lambert, Johnstone and Schneidermann? No, he didn't mention Schneidermann. Schomaker says that. Schomaker and Hancock both testified to that. Do you know anything about that meeting? Do you know anything about Hancock?

A. Never saw Hancock; that is, as far as I know, never met Hancock in my life until he came to this courtroom. Now, I met a lot of people, and you can't remember them all. If I ever met Hancock, it was in the way of being introduced to him, shaking hands, saying hello or something, and I don't even

(Testimony of Harry Renton Bridges.)

recall that. And mine isn't the best memory in the world and it mightn't [5420] even be good, but it is average. I had never spoken or met Hancock in my life until he come into this courtroom. And as far as ever sitting in a meeting with him, at no time, under any circumstances. [5420-A]

Q. (By Mr. Hallinan): Were there any meetings during that 1935 convention that were not part of the convention caucus?

A. Sure, sure. In every convention—why, in every convention we have our caucuses and sessions and meetings for one reason or another; nothing secret about them. That is, they are secret only to the extent that you try to avoid inviting someone in from the outside in the particular opposing faction, group, or what have you. But to that degree only. And in that convention in 1935 I think the record will show that meetings were announced on the floor of the convention and everybody was requested——

Q. Let me ask you, is it normal in those conventions for persons interested in procuring certain offices for themselves or for other persons or in putting across particular programs or planks in a platform to have meetings together and determine upon strategy and persons who are to be represented and persons who are to be supported? Is that the normal thing?

A. Oh, that is normal in any convention. It may not be the best way to do it. But never mind labor conventions. How about these smoke-filled back rooms of the political parties? I wouldn't want to go into all the quiet little sessions I have been in even around these parts, not only dealing with labor matters but political endorsements and things like that—plenty of them, more than I can ever remember, more than I can count. Some of them you might call secret, some not so [5421] secret, but all for one purpose, to achieve a common objective: elect someone to office, support a program, and things like that. And that goes to the officers of the labor unions, the AFL and the CIO, representatives of all political parties of all kinds, and people who are aspiring to all types of political office, as well as trade union offices.

Q. I think it was the man who described the spiral staircase—I am not sure whether it was he or Krolek. Do you remember whether or not you ever had such meetings in Portland or a private home as well as in the halls of the convention, and so forth?

A. I recall Krolek's testimony and, of course, I recall that convention, and we had quite a few meetings during that convention around the issues, around our slate of candidates. But, first of all, I do not recall that meeting. And there is a strange thing I noticed about that meeting Krolek testified to. The people he named in the meeting were all radio operators, all radio operators. They were a part of our trade group at that time in the Maritime Federation. Those people he referred to, as I recall them, were part of our particular caucus, see?

(Testimony of Harry Renton Bridges.)

Q. Mr. Bridges, I skipped from the Hancock meeting to the Krolek meeting. I didn't intend to. All I wanted to do was determine whether it was Krolek or Hancock who described the circular staircase and the apartment on the left side, having gone [5422] down to look at it a few days before.

A. I remember him being the one who described the staircase. He went down to L. A. at his own expense and in his spare time with Mr. Kaiser went over to take a look-see.

Q. With regard to the meeting that Hancock testified to, that is, during the convention of 1935, did you ever at that convention attend a meeting at which everybody, at least so far as you knew, with the exception of yourself, was a member of the Communist Party?

A. No, no. As far as I recall that testimony, the purpose of the meeting was to work out a scheme to present to the larger meeting.

Q. Yes.

A. And the people who was in there helping us work out the scheme and the program were Hancock, and I forget who else. So this is the way it stacks up: Here I am sitting in a meeting; I am a delegate to that convention. We got a whole group of delegates. We are all instructed. Before we ever went to that convention my membership had voted and instructed me what to do at that convention. So this program that Hancock was talking about, the only thing wrong with his story is that before we ever went to the convention my own local union had

(Testimony of Harry Renton Bridges.)

passed a series of instructions saying, "You people go down and do these things and carry out these instructions," and these were the things that Hancock says were worked out in that meeting. That is [5423] all that was wrong with that. And in addition to the fact that the meeting never took place. Those things are a matter of record in our official minutes. I can bring them up here and show the instructions we voted on before we ever left San Francisco.

Q. With relation to the meeting Krolek testified to, which he says took place at the Venetian Apartments at Long Beach, have you any recollection on that matter?

A. Only what I have stated. We had meetings in 1936. That was a pretty hectic convention. There were two conventions down there, the Federation convention and the ILA convention. Both of them went for some weeks. Pretty hectic, and some pretty bitter factional battles, and we were caucusing all over the lot everywhere. No question about that. Caucusing was a daily and practically nightly affair, in the noontime, and so forth. We didn't have time to get as far away as Long Beach. That is quite a long ways.

Q. What do you mean by "caucus"?

A. All the delegates of the convention of one mind that we could get together to jointly agree to support one program or one set of officers or something like that, we would call regular caucuses or meetings.

(Testimony of Harry Renton Bridges.)

Q. In other words, a certain number of persons might belong to the same delegation or be of the same mind and they would meet someplace and agree to some tactics and then when they returned to [5424] the convention they would try to put them in effect?

A. That's it, that and no more. The whole thing had to do purely and simply with trade union matters and absolutely nothing else.

Q. With Krolek you say the names you recognize as being members of the trade of radio men?

A. Yes.

Q. He named the persons as Pyle, Pringle, Van Erman, yourself, Henry Schmidt, Harry Jackson, Hazel Wood, Walter Lambert, and Mervyn Rathborne. Now, except for yourself, Henry Schmidt and Hazel Wood, do you recognize the other names?

A. Yes, all radio operators.

Q. They are radio operators?

A. Yes, and I know most of the other people there, too.

Q. Do you know whether or not those people were also delegates, representatives at that convention? A. I think they were, yes.

Q. Would it be ordinary that you might solicit the help of other delegates, whether they happened to be members of the Communist Party or not, in putting across a program or slate of candidates at the convention?

A. Sure. Those delegates were all part of our general caucus. They were all supporting the same program. We were all supporting the same program together. I can't see why there would be a meeting of just those three particular people. [5425]

If we are to believe that story, you have got Harry Jackson, Walter Lambert, and two or three other people; you have five officers of the Communist Party allegedly instructing about four of us what to do. Why, that is so ridiculous to the average person in our trade union movement on this coast that it is funny. That is so ridiculous that the average rank and file member of my own union would dismiss it with a horse laugh, it is so stupid.

Mr. Hallinan: Shall we take the recess?

The Court: Yes, we will take the recess and resume at two o'clock. The same admonition to you, members of the jury, not to discuss the case.

(Thereupon a recess was taken until 2:00 p.m., this date.) [5426]

Thursday, February 9, 1950, 2:00 P.M.

The Clerk: The witness on the stand is Harry Renton Bridges, heretofore sworn.

Direct Examination
(Continued)

By Mr. Hallinan:

Q. Now, we want to get to the time that you were elected to the Central Committee of the Communist Party, in June 27th, 1936, Mr. Bridges, and see what we can do with that little tale. Now, were you

(Testimony of Harry Renton Bridges.)

ever elected to the Central Committee of the Communist Party? A. No.

Q. Were you ever elected to anything in the Communist Party, from janitor up to commissar of public safety or whatever it may be? A. No.

Q. Did you ever attend a Communist Party convention in the year 1936, in New York?

A. No.

Q. 1938? A. No.

Q. Any other place? A. No.

Q. All right. Now, were you in New York City in the year 1936? A. Yes.

Q. And when? [5427]

A. First time for the year in September, later, again, in December.

Q. So you went to New York City in September, 1936. What did you go there for?

A. A conference with the national officers of the international union at that time. I also went on other matters dealing with the maritime industry, Maritime Commission. I tried to appear before a Senate Committee, as I recall, the Copeland Committee. I had a conference with the Secretary of Commerce at that time, Mr. Roper, Daniel Roper. A few other items. I went there, I left here about the first week in September, or so. I was later on in New York in December of 1936, but prior to September, 1936, I hadn't been in New York in the period between July, '35 and September, '36.

Q. And you have told us what you did in New

(Testimony of Harry Renton Bridges.)

York City in September, 1936. I am just fishing out a lot of papers here.

A. Yes, there's a record of that conference.

Q. Now, Mr. Bridges, in the regular course of its business, as has been indicated before, the ILWU, the ILA, the Executive Committee and all those portions and parts of the operation of that union, kept regular minutes, is that true?

A. Yes. That is, after the first few months, some of the minutes that we have got there, after the first few months or weeks of the organization. I would say the first two or three months of the organization in 1933, until we got fairly well [5428] organized and got a little more efficient. From that time on our minutes, et cetera, were in fairly good shape.

Q. Now, covering, as far as we go, the two weeks involving the time in which it was declared that this convention took place and any possible, reasonable time thereafter at which you could have gotten there during the year 1936, were you pretty busy in union matters?

A. Every day in the week.

Q. And were there meetings, a great many meetings that took place in and around that time?

A. Day and night.

Q. And what organizations now were you chairman of?

A. 1936, I was coast president of the ILA.

Q. Of the ILA?

A. Yes. That is, International Longshoremen's

Association. Also the Pacific Coast District 38, or Local 38. I was chairman of the San Francisco Council of the Maritime Federation. That is District Council 2. That was two. I was a delegate to the San Francisco Labor Council. Later on, during the year 1936, I was elected as a vice president of the State Federation of Labor. That wasn't, however, until September. So prior to September, or all during the year, as I say, those—I held those positions.

Q. Now, I am going to show you a set of minutes (presenting to counsel for the Government for examination). [5429]

A. I forgot to say I was president of the longshore local here in San Francisco until July the 7th, 1936, at which time I left the local to take my position as the president of the Coast. I resigned from the local in July of '36 to become district president. I had just been elected.

Mr. Hallinan: What we have done is, we have taken the original minutes of the meeting involved out of the file and substituted for them photostats, so the original minutes could be here. Now, that has led to some little criticism. In other words, it was called to the attention of the Court and jury that these minutes were loose minutes. Well, the reason is that we took them out, trying to be a little more honest in the thing, and substituted photostats in our original document.

Q. Now, will you look at the paper that is being shown you there, Mr. Bridges? First, what is the matter contained in the file? [5430]

(Testimony of Harry Renton Bridges.)

A. This is a file of minutes of the meetings of the longshore local, that is, the membership meetings as distinguished from the minutes of the committee or Executive Board.

Q. Are those kept in the regular and ordinary course of business of the union?

A. That is right, minutes, and including various other things.

Q. Are you personally familiar with those minutes?

A. Right. I was the chairman at all of these meetings, most of them, as the minutes show.

Q. You see the part that you were looking at where the photostats are—— A. Yes.

Q. Where is the original from which that photostat was made? The document that you have in your hand, is it? A. Yes, one of them.

Q. What you were shown was Defendants' Exhibit S-1, and that is the minutes of the regular meeting of Local 38-79, ILA, held in Scottish Rite Auditorium, on Monday, June 22, 1936, meeting called to order by President Bridges at 8:20 p.m. Is that borne out by what you see there?

A. Have you got the original?

Q. I have the original, yes.

A. You have got it there. I haven't got it here.

Q. The photostat is in there.

A. I have the photostat, yes. [5431]

Q. Are you familiar with the signature of Ivan F. Cox, the recording secretary? A. Yes.

(Testimony of Harry Renton Bridges.)

Q. Is that his signature at the bottom of those minutes? A. As far as I can tell, it is.

Q. Now, if these minutes show the meeting called to order by you, was it in fact called to order by you?

A. I have no specific recollection of calling that meeting to order, but I wouldn't trust my memory as against these minutes. These are official minutes. And we had a rule in the union in that time that if the officers were not present at the meetings, they had to have some kind of official excuse from the membership not to be present. They could only be absent if they were ill or were on union business. They could be only excused by the membership.

Q. This shows the meeting was declared adjourned at 11:20 p.m., is that correct?

A. Yes, that is the way our meetings used to go in those days. They went pretty late.

Q. So that on the night of Monday, June 22, you were present and chairman at a meeting of the ILA held in the Scottish Rite hall from 8:20 to 11:20 pm., is that correct? A. Right.

Q. Now, I will show you Defendants' Exhibit T-1 for identification and ask you if you will identify that document. [5432]

A. That is the copy of the official minutes we used to put out in our District Council—from the District Council of the Port of San Francisco, Bay Area District Council No. 2, the Maritime Federation of the Pacific. Now, these minutes—here is the way it used to work: Each delegate attending those

(Testimony of Harry Renton Bridges.)

Council meetings was entitled to a set of the minutes and each union was entitled to a set of the minutes. So the secretary used to write the minutes up on a stencil and the secretary would sign the stencil, the secretary of the Council, in this case Rathborne; he signed the stencil. The minutes would then be run off on a mimeograph machine, and these would become the official minutes. They would subsequently be corrected at the next meeting of the District Council, and the first order of business was any correction in the minutes as prepared and mailed out to the delegates and component organizations by the secretary. Any corrections that were made were noted in the minutes of the following meeting. If no corrections were made the minutes were adopted as prepared and mailed out by the secretary. So the only original of these minutes would be the stencils that were prepared for mimeographing on the mimeographing machine, and these minutes are signed by the secretary by signing with the stylus on the stencil.

Q. Who was the secretary? A. Rathborne.

Q. What is his first name? [5433]

A. Mervyn Rathborne.

Q. He was regularly secretary, duly and regularly elected and acting secretary of that board, is that right?

A. That is right, and this is his signature.

Q. You are familiar with the signature?

A. Very much so.

Mr. Hallinan: Might I have both documents?

We offer in evidence, if the Court please, this document which has already been identified as taken from the files.

Q. Were these minutes kept in the regular course of business of the Executive Board of that organization, the document you have just shown to me marked T-1 for identification, signed by Mervyn Rathborne? Were they kept in the regular course of business of the Executive Board?

A. Of the Maritime Federation?

Q. Yes.

A. No, those minutes are the property of our union. They are the official copy of the minutes that we kept.

Q. But I say they were kept in the regular course of business of the union, is that right?

A. Certainly, our union as well as the Council, which I was chairman of.

Mr. Hallinan: We offer it as defendants' exhibit next in order, if the Court please.

Mr. Donohue: If your Honor please, the objection which we [5434] took the other day, we do not advance now, because the deficiency of the librarian has been supplied by the witness. He has identified the signatures and testified they were kept in the regular course of business. We did, however, supply your Honor with a memorandum on the question as to whether or not these union minutes are within the purview of the statute, and subject only to that point we offer no other objections.

(Testimony of Harry Renton Bridges.)

The Court: The objection is overruled.

(Defendants' Exhibit T-1 for identification was received in evidence.)

Q. (By Mr. Hallinan): Now, these are the minutes of the regular meeting of the San Francisco Bay Area Council, District Council No. 2, held in Room F, Ferry Building, San Francisco, California, on June 23, 1936, the meeting being called to order at 8:22 p.m., and adjourning at 11:50 p.m. That is District Council No. 2 of what, the Maritime Federation?

A. The Maritime Federation of the Pacific.

Q. MFP, Ferry Building. Now, this shows the chairman Harry Bridges, secretary Mervyn Rathborne. Meeting called to order at 8:22, and then the secretary read the minutes. There is a roll call showing present ILA 38-79, Bridges, is that right?

A. Right.

Q. And then there is a notation on page 9 that the chairman declared that nominations for the office of secretary of District Council No. 2 for the coming year are now open. [5435]

Now, I have to find the Executive Board minutes of June 24. I have it right here. It will take me a minute to dig it out. There is the photostat, and that is the original (referring to Defendants' Exhibit U-1). [5435-A]

Q. Now, Mr. Bridges, the book in the file the bound papers, you have already identified as being the minutes of the ILA Executive Committee?

(Testimony of Harry Renton Bridges.)

A. That's right.

Q. And the single page is the original, removed from that book, for which a photostat has been substituted, is that correct? A. That's right.

Mr. Hallinan: All right. Could I have those?

(Documents returned to counsel by the Clerk.)

Q. (By Mr. Hallinan): And these you have already identified as being kept in the ordinary course of business of the union also?

A. That's right.

Mr. Hallinan: Now we offer, if the Court please, this minute of the regular meeting of the executive board, held Wednesday, June 24, 1936, as Defendants' exhibit next in order.

The Clerk: It is in evidence, U-1.

Mr. Hallinan: Oh, it is in evidence? Thank you.

Mr. Donohue: May I see it?

Mr. Hallinan: It has been admitted. Were you going to object to it, Mr. Donohue?

Mr. Donohue: You will never know now.

Mr. Hallinan: Well, this is the minutes of a regular meeting of the executive board held Wednesday, June 24th, 1936.

(Whereupon Defendants' Exhibit U-1 was read by Mr. Hallinan.) [5436]

Q. (By Mr. Hallinan): So then on Wednesday, the 24th of June, you were at an executive board of the ILA, is that right? A. That's right.

(Testimony of Harry Renton Bridges.)

Q. From 9:00 to 9:15 p.m. Now, at the time that is involved in this period, you say you were also a delegate to the Building Trades Council, is that right? A. No. San Francisco Labor Council.

Q. San Francisco Labor Council, yes. And at that time, in the month of June, 1936, was the San Francisco Labor Council engaged in some matter or some organization concerning which you were greatly interested?

A. Oh, quite a few activities. Organization of certain workers throughout the state as well as we were engaged in organizing, an organizing campaign in the warehouse industry at that time.

Q. Let me ask you this, Mr. Bridges, preparatory to another question: On the two previous hearings before Judge Landis in 1939, and before Judge Sears in 1941, or even in the preceding matter in 1937, had anybody ever claimed that you were at the Communist convention in New York City in 1936? A. Not that I recall. I don't think so.

Q. Well, did anybody say that they saw you elected to any Ceneral Committee or anything of that kind?

A. No, but I do recall there was some testimony —I forget which hearing—pretty ridiculous testimony, where I was at a convention. I presume that this is the same convention, but I [5437] was up on the stage and I was hiding behind a curtain, and only my nose was sticking out. Every once in a while they wanted to consult me on something, and they would run up and I never appeared before the audience, you understand, and he would run up and I was standing behind the curtain, and they would take up a question with me around the curtain; although the audience was there, all they could see was the curtain. So there was some testimony to that effect. I don't know if that referred to the Communist Party convention in '36 or '38, but that is the only thing that I remember that might have——

Q. Might even wink in this direction, is that right? A. That's right, yes.

Q. What I am getting at is this: Have you ever, up to the present time, been under any necessity of gathering records together or making a search of records to establish that you were in San Francisco in the week of June the 21st, 1936? A. No.

Q. This is the first time, all right. Now, have you made any effort, do you know, can you reasonably guess or estimate or tell where you were on the night of Friday, June 26th?

A. Yes, I was at the Labor Council here in San Francisco.

Q. All right. A. I know why, too.

Q. Well, just a moment. I am going to ask you that. Now, will you tell us what causes you to remember that you were at the [5438] Labor Council on June 26th?

A. When I heard the testimony here in the courtroom, when I heard the testimony here that I

(Testimony of Harry Renton Bridges.)

was supposed to be in New York at that particular time, I immediately recalled for very good reasons that I was here in the Pacific Coast around that time. Here is the way the dates go: We had our Maritime Federation convention and our ILA convention in San Pedro, and that Maritime Federation convention ended, and I returned back to San Francisco around June the 15th, around that time. I knew that I had to be in Seattle on July 10th, and I was in Seattle on July 10th, and I left here around July 6th or 7th. The reason I knew it, I was running for the presidency, the Coast presidency; the elections were on and I was doing a little campaigning. So I well remember, as well as other reasons. So the only dates that I had to start checking on, I knew as soon as the evidence came out here, because those dates were fixed in my mind, July 10th, when I was installed in office in Seattle, of '36, and June the 15th, when I returned here from the San Pedro convention of the ILA and the Maritime Federation of the Pacific. So when I heard that testimony, immediately it occurred to me, well, that could only be in that period of time. Then the next thing I recall was the meeting was being held, the Labor Council, the day before the Stockton meeting. This all happened here in the courtroom; as soon as I heard that testimony, because I remembered having gone to the meeting in [5439] Stockton.

Q. So you had only three weekends?

A. That's right.

(Testimony of Harry Renton Bridges.)

Q. That the Stockton meeting must have occurred in?

A. Right. June the 20th, the 27th or July 4th.

Q. But why? What made it come into your mind that you must have been at Stockton in that period?

A. Because I remembered two or three things. No. 1, I was running for office as Coast president. I was campaigning. I was—I held the proxies for the Stockton unions. I was duty-bound to make the report to those unions after coming back here from the convention. So I not only had an independent recollection of having been at Stockton, but I knew that according to the rules of our union, that as long as I held the proxy of those locals up there, I was duty bound to make a report to those locals from the convention, see? But I remembered the Stockton meeting and started to run-down that date after I remembered the Labor Council, because at that period of time the Labor Council was pretty active and pretty important to us. We had, for example, the whole hardware warehouse industry here in San Francisco on strike. We were organizing the hardware industry, and that was on strike. At the same time we were engaged, we were taking the lead—that is, myself and some others in the ILWU and other unions—we were taking the lead advocating a drive to organize the agricultural workers in the United States. [5440] We had done so much work on that, that some of the office of the State Federation of Labor finally agreed for one reason or another that the drive would go ahead. And I was concerned at that time with seeing that two particular people that we didn't think so much of, for certain reasons, were not put in charge of that organizing drive of the agricultural workers. The two people were named Fred West and J. B. Nathan. Both of them had been involved in the original organizing effort on the waterfront of the longshoremen and two of them, both of them fell in the category that I have described here, where we thought that they were trying to horn in on the organization on the waterfront, even though they were not longshoremen. Then the next time they would pop up, after a certain amount of activity, they were going to start an organizing drive of agricultural workers, even though neither of them was an agricultural worker.

So these are the things that brought it to my mind. And I remembered that period of time, because it could only happen in those three weekends, of the Labor Council meeting Friday night. I remember the start or the announcement of the organizing drive. Ed Vandeleur—Vandeleur was the chairman of the State Federation of Labor, and at the same time, chairman of the Labor Council. There had been an agricultural conference also in Stockton. So I remembered being at the Labor Council and all I had to do was to find out, was it June 20th, 27th or July 4th. [5441]

Q. Let me ask you this, Mr. Bridges.

A. So I checked up on it and found out when it was.

(Testimony of Harry Renton Bridges.)

Q. Now, in one of the prior hearings, when the importance of this was not immediate or when there was no importance to this, do you remember—I haven't the volume right here, but we can get it out if necessary—that you testified that you did attend all of the Labor Council meetings that were held in San Francisco in this period while you were in San Francisco? A. Yes, that's right.

Q. We can find that piece of evidence?

A. I think so.

Q. All right. Now, I want to show you now some further documents here. We will have to go through this matter again.

(Documents handed to witness by Clerk.)

You have seen that photostat of the Stockton Record already, is that correct?

A. Yes, that's right.

Q. Now, does that refresh your recollection as to the—well, wait. Withdraw that.

I want to show you at the same time (indicating) —I will show you at the same time the Voice of the Federation for that year, including the editions of July 2nd and July 9th. Now, look at the July 9th first. That little part that I indicated down at the bottom of the page. [5442] A. Yes.

Q. Do you see the date that is given there to the meeting in Stockton?

A. June 27th, Saturday night.

Q. All right. Now, and is that before or after the meeting took place? A. After.

(Testimony of Harry Renton Bridges.)

Q. All right. That is in the edition of July 9th, 1936, and gives what information?

A. That I spoke at the meeting. I spoke at the meeting Saturday night, June 27th. That was a mass meeting of the longshoremen, ship clerks and bargemen and so forth, and that I was invited to speak at the Labor Day picnic they were holding Labor Day.

Q. All right. Now, turn to the photostat of the Stockton Record there, and will you tell us what, if anything, that refreshes your recollection concerning?

A. Well, it says that I will address the Stockton members of the Association tonight and this meeting will be in the Teamsters Hall, 421 East Miner Avenue, at 7:30 o'clock. Then it goes on to say, "Bridges is waging a campaign for Pacific Coast presidency of the ILA. Other ILA officers and candidates for district office to be heard will include Henry Schmidt, member of the Executive Board of the San Francisco local; Eugene Dietrich and Henry Schrimpf, members of the Executive Board of the Maritime [5443] Federation of the Pacific, leftwing organization of the waterfront workers. Walter Mahaffey, business agent for the Stockton ILA, this afternoon urged all members possible to attend the meeting."

Q. And what date is that? A. That is——

Q. Look at the masthead of the paper.

A. June 27th. This appears in the Stockton Record of June 27th.

(Testimony of Harry Renton Bridges.)

Q. So now, Mr. Bridges, are you certain that around that time you did speak in Stockton?

A. I remembered speaking—I am certain, and I remembered. I was the one that remembered.

Q. No, just answer that question first.

A. Yes.

Q. You did remember before you saw these documents at all and you told us that you had gone up and spoken at Stockton on one of those weekends?

A. (Nodding in the affirmative).

Q. And are you certain now that you did go to Stockton and speak? A. Certainly I am.

Q. All right. Now, refreshing your recollection from those documents that you have just seen, those writeups in the paper, can you tell us what dates you spoke at Stockton?

A. I spoke in Stockton on June 27th, 1936, and I remembered [5444] speaking in Stockton as soon as I heard the testimony here. I was the one that remembered the Stockton meeting, and from there on, followed the search for these documents to guarantee the fact that I did speak there.

Q. You personally advised us to send someone to Stockton to look at the records there and find which of those Saturdays it was, isn't that correct?

A. I was the one that went to this file and went through the file of our union paper at that time and got out the story that showed that I had been speaking in Stockton, because I remembered speaking in Stockton as soon as I heard the evidence here in this

(Testimony of Harry Renton Bridges.)

courtroom. All I had to do was nail it down to what, whether it was June 20th, 27th or July 4th.

Q. All right. Now——

A. And it had to be a Saturday, you see. It couldn't be any other day in the week because every other day in the week I was busy. I had a meeting.

Q. Now, since this transpired, did you send over and have a search made of the records of the Labor Council to discover whether or not they had some record of your presence there and what was said and so forth?

A. I went over to try and get the roll call, because at the Labor Council they kept a roll call, a sergeant-at-arms.

Q. Were you able to obtain it?

A. No, I couldn't. [5445]

Q. Why?

A. Oh, they said they didn't have it or something. At least they didn't have the record, the record didn't go back any further than '41 or so.

Q. Don't you remember, they said they were soaked by water in the basement?

A. That's right; they said water had seeped into the basement, the basement had got flooded.

Q. Destroyed the record? A. Yes.

Q. But do you remember that in the Labor Clarion there is a record of a meeting having taken place on that night of the Labor Council?

A. Right. But my memory springs from the fact that we had a big important strike of the warehouse

(Testimony of Harry Renton Bridges.)

hardware industry at that time, as well as the other incident I referred to, namely, the agricultural drive that involved the later appointment of West and Nathan to head that drive, and those incidents took place at the Labor Council that night. As a matter of fact, there was a discussion about that, and I also remember another thing. It used to be a regular habit of ours after the Labor Council meetings, we would go away in a group to a restaurant or to a beer joint and have some coffee or beer and discuss these matters. And I first remembered the Labor Council because it was the Labor Council, the night prior to the Stockton meeting, [5446] that I recall knowing that I was going to Stockton in Willie Christiansen's car. The reason I remember that is because I came, I drove back from San Pedro with Willie Christiansen in his car. He had a new Chevrolet, I had a car—a Ford coupe at the time—and I had driven back along with some others from San Pedro after the convention, and Willie Christiansen's car was used and it was at the Labor Council that night, with Willie Christiansen—he was also a delegate—that I knew we were going to drive to Stockton the next day in Bill's car.

Q. Now, do you remember any of the incidents of going to Stockton and what transpired at the meeting, and what took place after that or anything of that kind?

A. I remember going up, I remember getting there, I remember having supper. We had supper in a restaurant right across the street from the old

Stockton Hotel, or down near the railroad tracks, I think, in Stockton. Then we went to the meeting, and I remember going out after the meeting to a nightclub of some kind. But all I remember about that was the incident with the spotlight, and nothing more.

Q. You do not remember the instance that was testified to concerning some men in full dress or matters of that kind?

A. No, no recollection. I remember the spotlight incident, and that is all. I remember going out afterwards and the spotlight incident, nothing more.

Q. Now, calling your attention (indicating) to the issue of [5447] the Voice of the Federation of July 2nd, 1936, can you tell us, can you refresh your recollection from that and tell us some of the points of your talk up there and some of the things that were discussed? If necessary, in refreshing your recollection, you can read them off, if that is the only way you can remember. [5447-A]

A. Well, the only thing I have an independent recollection of now—of course, it was important—the article says so—I reminded the Stockton membership I was a candidate for district president and hoped they would vote for me, and apparently they did because I carried these locals at that time. And I notice that in this column it mentions other things, and I have no recollection of these other items, but it would be the same things I would talk about. But the only thing I do have a recollection of was going

(Testimony of Harry Renton Bridges.)

up there and trying to line up a few votes for myself as coast president, and that column refers to that.

Q. Do you remember leaving the night club, what time you left or how you returned?

A. We drove back. I don't remember what time we left.

Q. Do you remember whether you came directly over to San Francisco, or what you did?

A. I remember the incident of having breakfast at Willie Christiansen's house.

Q. When? A. The next morning.

Q. Sunday morning. About what time would that be, Mr. Bridges? A. I don't remember that.

Q. At any rate, it would probably be in the early morning, is that correct? [5448]

A. That is right.

Q. Now, at that time in the year 1936 you say you went to New York in September and you also went in December, is that right? A. Right.

Q. How did you get there? A. Plane.

Q. From your experience what was the time that it ordinarily took to get from San Francisco to New York by plane in that year?

Mr. Donohue: I object, if your Honor please. I think he might well tell the time he left and what time he arrived in New York.

Mr. Hallinan: That is all I want, so far as his experience goes.

The Court: His own experience he may testify to.

Mr. Hallinan: They can bring in their logs and show exactly.

A. Well, as I recall it at that time, in '36, I would say 24 to 28 hours it used to take to get—the schedules might be one thing, but those planes are still having a tough time keeping on schedule. I made quite a few trips around in those days.

Q. Starting when?

A. Oh, after I was the coast president, because at the same time I became a national officer of the union and I used—it [5449] used to take me 24 hours to get to New York by plane.

Q. Why was that? A. And more.

Q. Where would they stop and where would they go?

A. The plane would go to San Francisco, San Francisco to Oakland, Oakland to Sacramento, Sacramento to Elko, Nevada; Elko, Nevada, to Reno, Reno to Utah, that is, Salt Lake City, and after Salt Lake City there were other intermediate stops—North Platte, Grand Island, Des Moines, and so on to Chicago, and then after leaving Chicago, Toledo, Cleveland, and so on down the line. They used to hop short distances, hedge-hop across the country. They were the old Boeings and later the DC-3s. And I remember those trips because they weren't very good. I had a bad case of stomach ulcers at that time.

Q. From the time you would leave San Francisco until the time you arrived in New York City flying by plane at that time, you had to count from 24 to 28 hours, is that correct?

A. That is the way I remember it.

Q. In one of the previous hearings there was some testimony that you gave relative to a talk with a man named Aaron Sapiro, who was a witness in the hearing against you? Do you remember so testifying?

A. I remember testifying with respect to Aaron Sapiro.

Q. You have read the transcript and that portion of your testimony. This is the hearing before—was it Sears or Landis? [5405] I see Miles G. Humphreys, so that would be——

A. That is the Landis. I can't be expected to remember all that transcript.

Q. You were asked about a meeting with Sapiro in June of 1936? A. Right.

Q. And the question was put, "Where was that meeting and what did you discuss, if you recall?"

> "A. I had more than one meeting with him in 1936. I met him in Los Angeles, I think I met him after June, 1936, in San Francisco, and later on in the year.
>
> "Q. I refer to the San Francisco meeting at the Hotel St. Francis. Do you recall that meeting?
>
> "A. I recall at least one meeting. I think there were more.
>
> "Q. Can you place that meeting? Was it in June or July of 1936?

(Testimony of Harry Renton Bridges.)

> "A. I would say the latter part of June, but more likely in the early part of July."

Now, I want to show you a document. The original of this has been marked for identification also. It is the minutes of the regular minutes of the San Francisco Bay Area District Council No. 2, held in Room F, Ferry Building, San Francisco, California, on June 30, 1936, Chairman Harry Bridges, Secretary Mervyn Rathborne, and I want to call your attention to a portion there alongside of which I have drawn a pencil mark, and [5451] then, Mr. Bridges, I want to show you minutes of a regular meeting of the same organization on June 23, 1936, Chairman Harry Bridges and Secretary Mervyn Rathborne, and show you something on page 7, alongside of which I have drawn a pencil mark.

A. That is right.

Q. You notice that one of those documents refers to the fact that Aaron Sapiro has been retained as an attorney in some piece of litigation?

A. Right.

Q. And the other one refers to the fact that Mr. Sapiro will address a meeting of the organization on June 26, 1936, is that correct? A. Right.

Q. Taking your testimony given in the Landis case with the statement of Sapiro's retention and the fact that he addressed that meeting on June 26, 1936, can you make some sort of approximation as to when it was that you had the conversation with Sapiro in San Francisco that you testified to?

(Testimony of Harry Renton Bridges.)

A. I think it was Friday, the morning of Friday, June 26th. I think that could also maybe be nailed down. The matter that I discussed with Sapiro, in addition to the Modesto matter, I specifically had a discussion with Sapiro, who had a legal matter on hand at that time. It had to do with the Sailors' Union of the Pacific, and I was protesting his legal approach to that [5452] matter, in separating the Sailors' Union of the Pacific from the other two maritime unions, that is, the Firemen and the Cooks, because those three unions had always dealt as a group through the ISU, and I thought it was unwise, legally unwise as well as unwise from the trade union point of view, for him to separate the sailors from the other two, and that was in the courts here before the NLRB at that time, and it was the day that he was proceeding on that or filing it.

Q. Take a look at that document; that is Defendants' Exhibit V-1. What is that, Mr. Bridges?

A. These are the minutes of the regular membership meeting for Monday, June 22nd.

Q. No, look at it again. It is minutes of the reconvened meeting of June 22nd, but held on what date?

A. Oh, that is right; June 29th. It is a continuation. It is a reconvened session of the meeting of June 22nd held on June 29th.

Q. In other words, the exhibit Defendants' S-1, which are the minutes of the regular meeting held at the Scottish Rite Auditorium on Monday, June 22, 1936, was adjourned and carried over to the subsequent date: "The chairman added this meeting would be reconvened next Monday night to take up unfinished business." That is the next to the closing line on the meeting of June 22nd.

A. The meeting was not adjourned then; it was recessed.

Q. So that this Exhibit V-1, then, is the reconvened session [5453] held at the Scottish Rite Auditorium on Monday night, June 29, 1936, and states, "Continuance of session held Monday, June 22, 1936. Meeting called to order by President Bridges at 8:15 p.m.," and the meeting adjourned at 11:10. So then on Monday night, June 29, you were at the ILA reconvened meeting, Scottish Rite Auditorium, from 8:15 to 11:10?

A. That is right.

Mr. Hallinan: This one has only been marked for identification, your Honor. We offer it as Defendants' Exhibit next in order; that is V-1, the minutes just identified.

Mr. Donohue: In the light of your Honor's ruling we offer no objection to it.

The Court: It may be marked in evidence.

(Minutes of 6/29/36, previously marked Defendants' Exhibit V-1 for identification, were received in evidence.)

Q. (By Mr. Hallinan): Will you show him that?

(Defendants' Exhibit V-1 was handed to the witness.)

Will you tell us what that document is, Mr. Bridges?

A. Minutes of regular meeting of San Francisco Council of the Maritime Federation of the Pacific for June 30, 1936. These are the minutes signed by Rathborne.

Q. And were they kept similarly in the ordinary course of business as you have identified the previous minutes?

A. That is right. These are the official minutes kept in the files. [5454]

Mr. Hallinan: We offer them in evidence, if the Court please, as defendants' exhibit next in order.

Mr. Donohue: Likewise and for the same reason we have no objection, if your Honor please.

The Court: They may be marked in evidence.

(Minutes of 6/30/36, previously marked Defendants' Exhibit W-1 for identification, were received in evidence.)

Q. (By Mr. Hallinan): So these are the minutes of the regular meeting of the San Francisco Bay Area District Council No. 2, which would be the same one as is marked on Tuesday, June 23, Chairman Harry Bridges, Secretary Mervyn Rathborne. Meeting called to order at 8:18 p.m. The roll call shows ILA 38-79, Bridges present, and the meeting adjourned at 11:57 p.m.

(Testimony of Harry Renton Bridges.)

A. The Council met every Tuesday night. That is a membership meeting. The Executive Committee met at other times.

Mr. Hallinan: Might we take the recess at this time?

The Court: Yes. We will take the recess, ladies and gentlemen of the jury. The same admonition to you not to discuss the case under any conditions or circumstances.

(Recess.) [5455]

Q. (By Mr. Hallinan): Now, I have two documents, Mr. Bridges, marked defendants' for identification A-2 and X-1, and I will ask you to take a look at them and see if you can identify them.

(Documents handed to witness by the Clerk.)

A. One of them, X-2, is the minutes of the Executive Committee of District Council 2 for July 1, 1936, signed by Rathborne, and the other, A-2, are the minutes of the regular meeting of the longshore local executive board for July 1, 1936.

Q. All right.

A. Signed by Henry Schmidt, secretary pro tem, also countersigned by Ivan F. Cox.

Q. So then on Wednesday, July 1st, there were two meetings, one of the Executive Committee of the District Council at 268 Market Street, Harry Bridges, Chairman, and Mervyn Rathborne, secretary. The roll call shows Harry Bridges present, representing the ILA. It involved a consideration of the July 5th memorial services and you recog-

(Testimony of Harry Renton Bridges.)

nize the signature as being that of Mervyn Rathborne, is that correct? A. That's correct.

Mr. Hallinan: We offer it in evidence as Defendants' exhibit next in order, if the Court please.

Mr. Donohue: I assume, your Honor, it will be admitted subject to the same objection we made before?

The Court: It may be marked in evidence.

(Whereupon, Defendants' Exhibit X-1, previously marked for [5456] identification, was thereupon received in evidence.)

Q. (By Mr. Hallinan): And the other document which you identified, Defendants' A-2 for identification, is the minutes of the regular meeting of the Executive Board of the ILA held Wednesday, July 1, 1936, at 8:30 p.m., is that correct?

A. That's right.

Mr. Hallinan: And we offer this, then, as Defendants' next in order.

The Court: So ordered.

(Whereupon, Defendants' A-2 previously marked for identification, was received in evidence.)

Q. (By Mr. Hallinan): So that at 11:00 a.m., on Wednesday, you were present at a meeting at 268 Market Street, of which you were chairman and which adjourned at 12:45. So it ran an hour and 45 minutes. And that same night you were chairman at a meeting of the ILA Executive Board.

commencing at 8:30 p.m., and adjourning at 12:18 a.m.? A. That's right.

Q. Now, we have no record that will establish your whereabouts on July 2, 1936, but we have two documents here, one already introduced in evidence, being Defendants' E-2, being the minutes of the meeting of the Longshore Labor Relations Committee of San Francisco, July 3, 1936, called to order at 10:00 a.m., and adjourning at 12:35. And this document was a record of the employers' group already introduced in evidence, and shows [5457] that you were present at that meeting, and for the Employers' Association: F. C. Gregory, Allan Boyd and James Cribbin; and for the ILA, Charles Connors, R. Goulet, J. Creary, H. R. Bridges and J. E. Hogan. And among other things this document states that Mr. Bridges discussed the possibility of using the radio to broadcast orders for gangs, but no action was taken.

Now, I want to show you the other document marked Defendants' Z-1 for identification (handed to witness by the Clerk).

A. These are the minutes of the Executive Committee of District Council 2 for July 3rd.

Q. All right.

A. Meeting called to discuss the July 5th parade.

Q. And who was the secretary of that?

A. Signed by Rathborne, his signature appears there.

Q. All right.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: We offer Defendants' Exhibit Z-1 for identification in evidence as Defendants' next in order, if the Court please.

The Court: It may be marked.

The Clerk: Marked Defendants' Z-1 in evidence.

The Court: Subject to the same objection heretofore made.

(Whereupon, Defendants' Exhibit Z-1 for identification was received in evidence.)

Q. (By Mr. Hallinan): Now, the next day, then, was Saturday, July 4th, and I have a document here on the July 5th celebration, [5458] but this appears in the Voice of the Federation of July 9, 1936. Do you remember if you did officiate, having refreshed your recollection from some of these papers, at the ceremonials held on July 5th of 1936?

A. Definitely. In 1935 and '36, that is, within the two years after the '34 strike, the July 5th demonstration was a big affair, and I was bound to be there, separate and apart from my own recollection, because I would not have been excused from participation in that particular parade or demonstration.

Mr. Hallinan: Well, I don't intend to go through that.

Q. But, at any rate, you officiated at the parade on July 5th, and then I have a final document, the last one being marked Defendants' B-2 for identification. And it is on Monday, July 6, 1936, minutes of the regular meeting of the ILA, meeting called to order by President Bridges at 8:10 p.m., and adjourned at 10:35 o'clock.

That is still marked for identification, but I don't think we have to bother going beyond the one week to prove that matter further.

Mr. Hallinan: I might also say that with regard to the date of 6/26, that is, Friday, the 26th of June, 1936, I can refer counsel to the addition to the Labor Clarion, which can be found in the San Francisco Labor Council library, the issue of 7/3/36, at page 10, which shows that minutes of the 6/26 Labor Council meeting, that shows that it lasted from 8:15 [5459] to 9:05 p.m. That was an Executive Committee that reported on resolutions and so forth, and by consulting that you can make some check upon the holding of a meeting on Friday, the 26th. But from the information we get, the minutes of that have long since been destroyed by water and are not available now.

Mr. Donohue: May I say to your Honor that the Clarion itself would not be admissible in evidence. I am sure that no search of mine of the Clarion would make it any more admissible. I move the statement just made by Mr. Hallinan be stricken from the record.

Mr. Hallinan: I only suggest that as giving counsel an opportunity to check upon it. If he doesn't want to, he doesn't have to. We are not concerned if he does or not.

Q. Now, Mr. Bridges, in view of the fact, and unless all sorts of things are denied categorically

(Testimony of Harry Renton Bridges.)

and eliminated, people think a tacit concession has been made to the truth of them. You have already stated that the incident that was narrated by Schomaker of a meeting in a restaurant between you, B. B. Jones and himself, which resulted in your signing an application for admission to the Communist Party, that that meeting never occurred, nor anything like it, is that correct?

A. That's right, it didn't.

Q. Now, in the meeting that took place with relation to injuring as to the activities of Norma Perry, was that a meeting just of union members engaged in determining whether there was [5460] some espionage ~~as~~ regards their union activities, or was that a Communist meeting?

A. It was a union meeting. That is the only way I remember it. No need for it to be any other type.

Q. Now, you remember Schomaker's testimony that some time late in 1935 or early 1936, your first wife, Agnes, was injured by falling from a window and that you asked him to go up and get your book so that if the "snooty" reporters came around, they wouldn't find it. Did any such incident as that ever take place? A. No, no.

Q. And with regard to your wife, now, concerning the testimony that was given before the Court at the time you were admitted to citizenship, some sort of affidavit was presented, not introduced, but shown to the judge; do you remember that incident?

A. That's right.

Q. But prior to that time and prior to the divorce from your wife, your wife had furnished an

(Testimony of Harry Renton Bridges.)

affidavit for use in these deportation proceedings denying all of the things that were contained in that second affidavit, is that right?

A. That's right.

Q. And had testified in the divorce case in accordance with the statements in her first affidavit, isn't that so?

A. I think—she was asked certain questions. I think there is a record of that. [5461]

Q. Well, if so, it is in the affidavit?

A. She was asked about signing that statement, and in the divorce proceedings a part of her defense was that she had given these statements, so forth, without any pressure, voluntarily, of her own free will, and so forth, as I recall it. I think, however, that there is a record of all those things.

Q. Now, you have already stated, you have already discussed the meeting at Jack Shaw's house.

A. And let me say this much. On the Communist Party book, there is an alleged Communist Party book of mine in the possession of the Immigration Service. It was introduced in a hearing, into evidence at one of the prior hearings.

Q. What name was on that?

A. Dorgan, I think—Harry Dorgan, one of the books was under the name of Harry Dorgan. It was introduced in one of the prior hearings. The Government has still got possession of it, and at that time there used to be a character running around here manufacturing so-called party books of mine and peddling them for $500. Now, the Gov-

(Testimony of Harry Renton Bridges.)

ernment has got a copy of one of those books, and they can produce it if they want to.

Q. Was that a book ever issued to you?

A. Never, never. It came about, as I have described, because a particular person here in San Francisco in the labor movement told me about it and told me how he and some other people around here were stung by this fake character. Mr. Boyd's friend, [5462] Stanley Morton Doyle. Mr. Boyd was just interviewing him a couple of months ago in connection with this case.

Q. Is he the man who was selling the books?

A. Yes. Not Boyd—that is Doyle.

Q. Now, with regard to the alleged resolutions and directions that Schomaker says were transmitted from him to you, emanating from Sam Darcy, did Schomaker ever deliver to you any instructions or resolutions or recommendations that Sam Darcy was supposed to have given him for use in the 1934 strike?

A. Well, certainly not in that form. Not that I can ever recall. I can't ever recall Schomaker coming along and saying, "Now, look, here's what Darcy orders, proposes, instructs," or so forth. The best that Schomaker could ever do on that committee was to get up as a member of the committee and make a motion. And if the people agreed with him, his motion was carried; if the people didn't agree, his motion didn't carry. That is the way our union is today. People get up and they are supported on the basis of the program or idea they

(Testimony of Harry Renton Bridges.)

propose, or they are not supported. And that is the best that Schomaker could ever have done all during that strike. The minutes of the strike committee will show that we—various people appeared before the strike committee and made propositions. They were debated, accepted or rejected by the strike committee as a whole. And there was no instructions at any time that I can ever recall, in no way, from Sam Darcy or the Communist Party. [5463]

Q. And you say that Sam Darcy used to come down to the waterfront and help out in the strike, and gave the use of the printing press, and that the Communist Party put up some money for food and things of that kind, is that right?

A. That's right. Now, insofar as Sam Darcy coming down to the waterfront in the '34 strike, so much. I said I recall his first coming down there as a speaker, soapboxing in 1932. And, of course, I remember seeing him around in 1934. I seen him on two or three occasions. I have a couple of occasions in mind. I am pretty sure that Darcy came down, and it is also my recollection with Ross, I think, in the early part of the strike to make the proposition on the Waterfront Worker. I recall talking to Darcy on at least a couple of other occasions during the '34 strike because they are fixed in my mind by certain events. So that is what I meant by Darcy being around. [5464]

Q. Now, after the president's board had made a recommendation, did you take that question as to whether it should be accepted up with Darcy and

Schomaker out near Candlestick Cove, Lambert, and one or two other people?

A. We had agreed and voted to accept the recommendations or the decision of the arbitration board before the arbitration board had made a decision. We were bound—in other words, the return to work was coupled to an acceptance of any decision that the arbitration board handed down. So there was no way out of that. We couldn't take that up with anyone, because we were bound by an agreement to accept the award of the board, and we may have worked under the conditions of that award, and the award was not put to a vote. It could not be put to a vote because we had already agreed beforehand. It was an arbitration award. So, therefore, the answer to the question, of course, is no.

Q. Mr. Schomaker also said that he, Mr. Schomaker, and Darcy discussed the formation of the Albion Hall group and you were present. Is that right?

A. Well, I have discussed the Albion Hall group.

Q. No, this is the formation of it.

A. No, the Albion Hall group—the Committee of 500 was formed, as I have told you and when I told you, in July. It was the Committee of 500 who got the name of Albion Hall group, because later on we held meetings in the Albion Hall. That was formed [5465] before Schomaker ever came on the waterfront, if he told the truth here in his testimony.

Q. Did you ever receive any instructions emanating from Sam Darcy and carried by Schomaker as to what you were to do with regard to the Ryan sell-out agreement?

A. No. I mean, that was very simple. It was not a question of what I wanted to do. The meeting was called—after all, I was only the chairman of the San Francisco local. We had a Northwest strike committee covering two States and we had the Southern California strike committee.

Q. That was the meeting at which you say the membership unanimously rejected such a settlement agreement?

A. And we had delegations from a half dozen unions up there. We had a delegation from the Sailors' Union of the Pacific, a delegation from the Firemen's Union, the Marine Engineers, and the Masters, Mates and Pilots. All those unions sent special delegates to our meeting at that time on June 17th and urged us to reject that agreement and urged us to remain on strike until they had secured recognition, and an agreement, and urged us to return to work, if we ever returned to work, as a group, as a united body.

Q. Schomaker also says that he transmitted some instructions to you as to the manner in which you should conduct yourself before the National Longshore Board. Did any such thing as that occur or were you born that way? [5466]

A. I guess I was born that way.

(Testimony of Harry Renton Bridges.)

Q. Did you need either Mr. Schomaker or Mr. Darcy to tell you how to conduct yourself in the meeting before the board?

A. There were two hearings. There was the hearing before the board when it was sitting as a board of arbitration, and there were hearings of the board held in this courtroom here in July of 1934. Now, I remember representing my union right here in this courtroom when the board was here, and I didn't have any orders as to what I should say. I knew what to say. I was speaking as a representative of the union, and I was able to speak also as a practical longshoreman.

Q. Did you ever attend any meeting that was a Communist Party meeting? A. As such, no.

Q. Did you ever attend any meeting at which any information was conveyed to you or you had any intimation that nobody but Communists were supposed to be present at it?

A. No. Well, it all depends now on what you mean. No, I never attended. I was going to give you an example. I had in mind something else, but not in that form.

Q. In other words, I am not talking about a meeting now such as Krolek described in which labor leaders were asked to participate or talk, but any meeting which you understood was supposed to be limited to Communist members, so that the other members would have any reason for assuming that you were a [5467] Communist.

A. No, not in any meeting where I knew in advance or during the meeting or had any understanding at all that it was exclusively a closed meeting or a Communist meeting as such, and I distinguish between such a meeting now and, for example, say a delegation of official officers of the Communist Party might come up to see me in my office. There might be two or three of them, and they are all Communists, and I know it. My office is open to them. Everybody knows that. If it is a question of union business they want to take up with me or anything at all.

Q. What would a matter like that be? Can you give us an illustration of some problem in which you might be engaged, in which a meeting of that kind would be held?

A. Well, for example, not so long ago the officers of the local—I think the local or the State Communist Party came around and asked if they could see me about a matter, and they came right into my office. They were sitting outside for a while, while I was busy on something else, and later on they came in. There was two or three of them. What they wanted at that time was to see if they could get authorization or permission from me to have their candidates for political office appear at our local union meetings. So all there was to that discussion, I said I wasn't in charge of such matters; they would have to ask the local unions directly; they had control of such matters. [5468] That was one thing.

(Testimony of Harry Renton Bridges.)

They have come around on various other matters, and I can't specifically recall them all at the moment, but I could, with possibly a little thought. And that is all there was to it. Now, a meeting like that or a conference like that, a delegation visiting me in my office or something like that, I didn't have any reference to that one. I was referring to so-called Communist meetings. That is not the way I understand it.

Q. Delegations to consult you about some matter or seek your assistance where they felt they were being oppressed or unjustly treated or something like that, I suppose?

A. It might be anything. I don't know. It might be anything. It is no secret. It is no secret. I have discussed this before in prior hearings. I have never made a secret of it that any time I thought in my official capacity as president of the organization or as an officer of the organization I had to meet with anyone or confer with anyone, I have done it. I didn't understand there was anything wrong with it, and I will probably continue to do it, unless it is illegal or something. It might not be—well, what happens is this: It is not considered maybe too politically wise. I might avoid it for that reason, because it might represent the general viewpoint of my membership. But now I am describing what has happened in times gone past and what I have in mind when I describe a [5469] meeting, a Communist meeting——

Q. There are enough timid people. Keep on doing what you have been doing. Now, did you ever meet that Manning Johnson that was up here?

A. Never met him in my life.

Q. While he did not profess to have seen it or been there, he said during the 1934 strike you, Stachel, Eisler and Browder used to meet secretly in San Francisco. Did any such thing occur?

A. I never met Browder until 1936. The first time I met Browder was here in 1936, when he spoke at the Dreamland Auditorium, when he was speaking as a presidential candidate. That was the first time I ever met Browder in my life, and since then I think I met him once.

Q. How about Eisler?

A. All I know about Eisler is what I have read in the newspapers.

Q. You knew Wilson, who testified here?

A. George Wilson, yes.

Q. He was head of the Bridges Defense Committee for a long time, wasn't he?

A. Secretary, yes.

Q. How long?

A. He wasn't head; he was secretary. Oh, two or three or four years. [5470]

Q. And he said he attended some sort of meeting with you that was a Communist meeting. Would your answer be the same touching that one as you gave on he other so-called Communist meetings?

(Testimony of Harry Renton Bridges.)

A. That is right. That is right. He knows—he well knows that is not the case.

Q. Can you tell us whether or not you ever did attend any sort of meeting at Herman Mann's house which concerned Norma Perry?

A. No need for that. Well, my memory may not be as good as some of the witnesses', but I have no specific recollection of attending any session at Herman Mann's house on any occasion on anything, Norma Perry or anything else. However, I can't recall at this time any particular date, unless there is something to fix it by, and the recollections I have of the meetings I referred to with respect to Norma Perry—I think they are in our union headquarters, not in anybody's house. No need for them to be.

Q. These people, Mann, Schomaker, Schrimpf, Perry, were all employees of the ILWU, is that right? A. Yes.

Q. So what reason would there be for going any place else?

A. None that I know of; none that I know of. The question of Norma and the scuffle over her—it might not have been exactly common property throughout the union at that time, but [5471] it was known by more than just a handful of people.

Q. Did you ever have any such meeting revolving around the lady at 121 Haight Street?

A. No. I was at 121 Haight Street two times in my life, and I can recall those occasions.

(Testimony of Harry Renton Bridges.)

Q. Now, with regard to Lawrence Ross, did you ever attend any meeting at Sokol Hall that you can remember?

A. No, I never was at Sokol Hall in my life, not that I can recall, at any time, for any reason at all.

Q. So in the early fall of 1935 you have no recollection of being at Sokol Hall where 40 or 50 people were present, including Schneidermann, Hanoff, Oleta O'Connor, Black, Schomaker, Lambert, Schmidt and Ross, is that right?

A. I am about as vague on Sokol Hall as Ross himself, and that sure was vague.

Q. There was a discussion about a trip you are supposed to have made in June of 1934 with a group of other people who went down to a prune orchard in Santa Clara to meet Browder. Did anything like that happen?

A. That is the Kincaid ranch, Cupertino. That is an old chestnut from my previous trial. The answer is no. I have heard about that one before. No such meeting. No prune orchards.

Q. There was some collection of documents to discover if it could be established where you were on the Sundays in the month [5472] of June, 1934, somewhat similar to the research to establish your whereabouts during the month of June, 1936, is that correct?

A. With this difference: I didn't need any documents to know that I wasn't there. The other

(Testimony of Harry Renton Bridges.)

place I remember that I was there. I don't need to have any documents to know I wasn't there. I know I wasn't there.

Q. We have here copies of letters and matters of that kind that have been introduced in evidence or offered for identification relating to your whereabouts on the four Sundays of June, 1934. At least, at this time I am not going to bother to——

A. I remember what I was doing on some of those Sundays because I have since looked at the documents and refreshed my memory on them, but I have no independent recollection as to where I was on those Sundays. I have a very good recollection as to where I was not, and one of the places I was not was the prune ranch or orchard.

Q. How about a meeting near the Harding golf course at which Henry Schrimpf was called upon to express his critical faculties on the proper conduct of the 1934 strike, together with Larson, Jackson, Schomaker, Perry, Darcy and Walter Lambert? Did you ever have any such meeting as that? And to put it a little more closely, and even poetically, around dusk?

A. No. I mean, it is ridiculous. All of those people there [5473] except two were members of the union, members of the strike committee, and what would we be poking around at Harding golf course at dusk for during the 1934 strike?

Q. Maybe you were stealing golf balls.

A. It is absolutely ridiculous. We didn't need any such meetings. I don't know.

(Testimony of Harry Renton Bridges.)

Q. Was there anything to prevent Darcy, who seems to be the only one here who was not a member of your union, was there anything to prevent Darcy from coming into your union headquarters and talking to you if he wanted to do so?

A. Not particularly. Our attitude on those matters is pretty well known. Jackson you have there —Jackson, incidentally, was an organizer for the MWIU, and was seated as a fraternal member of our strike committee. Walter Lambert—I think he was a member of the AFL union at that time, the Cigarmakers seem to connect up in my mind. So the only purpose of such a meeting—and I know Lambert; I first met him in 1933, as I recall, a good trade unionist, and the only purpose of that meeting—I can't figure out what the purpose would be. If the idea is the purpose of that meeting was to tell us how to run the strike, that is as much a pipe dream as all the other stories. We were running our strike, and apparently we were making a pretty good job of it, and we didn't need any advice. That I remember. We needed help; we didn't need advice. I draw a line between advice [5474] and help.

Q. People like Jackson and Walter Lambert, if they were members of the Communist Party, and the fact that they are identified by people such as Schomaker, Ross and the others would cast considerable doubt upon them, were also working men interested in the strike itself, is that correct?

(Testimony of Harry Renton Bridges.)

Mr. Donohue: I object to that question. Mr. Hallinan will be given ample opportunity——.

Mr. Hallinan: We will withdraw the question if it is objectionable.

Mr. Donohue: It is objectionable.

Mr. Hallinan: If you don't like it we won't force it on you.

Q. Then Mr. Krolek had some other meetings at a studio building on Park Street, and from his astounding memory he gives the date as the second week of June, 1937. Have you any recollection of such a meeting? A. Where?

Q. Portland, at the Studio Building on Park Street, the second house from the left.

A. No. I was in Portland possibly around that time. We had our convention. The Maritime Federation convention was on in Portland at that time, so I was there. We had a lot of meetings. I don't know what I would be doing on Park Street. It was more likely some of the meetings he described in our hotel rooms. We would have plenty of them, but they were in connection [5475] with our convention, and so forth.

Q. Some of these people that have been presented in here you would expect to find on Park Street feeding the squirrels. How about 121 Haight Street? He said two weeks after the Long Beach meeting in May, 1936, while he and two other men waited in the corridor, he could look in the door and see you and Henry Schmidt in the office of

Mr. Schneidermann. Did anything like that take place that you know of? Have you ever been up to 121 Haight Street with Mr. Schmidt to meet Mr. Schneidermann?

A. No. I have been in 121 Haight Street twice, and both of those times were in 1934. I was not in the building after that. I was never in 121 Haight Street since 1934 for any reason at any time, any purpose whatsoever. Anybody that says otherwise, they are making a mistake or they have a reason.

Q. Previous inquiries have been made here as to whether or not you should be expelled from this country for all the bad things that are narrated here. You heard that you enlisted in the Communist Party under the name of Harry Dorgan. When is the first time you heard that you were enlisted under the name of Comrade Rossi, if at all?

A. I think that was testified to—it was either in the hearing before Riley or in the Landis hearing. I think either Riley asked me that question or it was testified to in the Landis hearing. [5476]

Q. Any contention made that you had been elected to the Central Committee of the Communist Party under that name or any other name at any of those hearings or were you ever questioned in relation to them?

A. Not that I recall, outside of the incident I related this morning, if that in fact referred to that convention. I can't recall. However——

Q. Did you ever meet this Russian brigadier

(Testimony of Harry Renton Bridges.)

general Crouch before he planted his form on the stand there, Mr. Bridges?

A. No. I remember the incident on Gypsy Rose Lee.

Q. But not Mr. Crouch's being in the audience?

A. No.

Mr. Hallinan: Your Honor, I will have a few more questions, not many more.

The Court: We have reached the adjournment period, Mr. Hallinan. Ladies and gentlemen of the jury, we have several matters to discuss in connection with the future of the case, that is, so far as the court days are concerned, and this Court this evening will stand adjourned out of respect to the memory of the Most Rev. James T. O'Dowd, late bishop of San Francisco, whose untimely and tragic death has been brought to our attention within the last week. The services are to be held tomorrow morning at the cathedral. Accordingly this Court will adjourn out of respect to and for his memory.

Tomorrow afternoon Mr. Mitchell has some matters for the [5477] Court to attend to in connection with other pending cases, and Monday we shall take the legal holiday.

Therefore we will separate this evening and meet again next Tuesday, February 14th, at 10:00 o'clock. Is that clear to everyone now? Next Tuesday, February 14th, at 10:00 o'clock.

In the interim, separated as we are, may I again admonish you not to discuss this case under any conditions, in your home, socially or otherwise. We are reaching the closing stages and as has been indicated by counsel, and it is particularly important during the closing stages, during the arguments, during the instructions, during the closing matters of evidence, to refrain from any discussions at all. I have given you that admonition persistently and constantly. I again admonish you with respect to newspapers and the radio. Accordingly, this Court will adjourn as indicated.

(Thereupon an adjournment was taken to Tuesday, February 14, 1950, at 10:00 o'clock a.m.) [5478]

February 14, 1950—10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Harry Renton Bridges, heretofore sworn.

HARRY RENTON BRIDGES

resumed.

Direct Examination

(Continued)

By Mr. Hallinan:

Q. Now, Mr. Bridges, you are shown a press release with a signature on it. Whose signature is that? A. My signature.

Q. Have you seen the document before?

A. Yes.

Q. Now if you will look at it, Mr. Bridges, you will see that it is a press release announcing the period for July 5, 1936, is that correct?

A. That is right.

Q. And the document itself says that some resolution was passed on the 30th of June. Do you notice that? A. That is right.

Q. Now, it also asks that it be printed in the Friday paper. Do you notice that?

A. That is right. [5479]

Q. This is your signature and a release that was put out by you, is that right?

A. It is an official release that we put out at that time from the San Francisco Council.

Mr. Hallinan: We now offer in evidence Defendants' Y-1 for identification.

Mr. Donohue: No objection.

The Court: It may be marked in evidence.

The Clerk: Marked Defendants' Y-1 in evidence.

(Defendants' Exhibit Y-1 for identification was received in evidence.)

Mr. Hallinan: Now, the document reads as follows. It is on the letterhead of the San Francisco Bay Area District Council No. 2, Maritime Federation of the Pacific, Room 145, 268 Market Street, San Francisco, California. Harry Bridges, President; Mervyn Rathborne, Secretary-Treasurer; Harry Hook, Vice President. From the letterhead

(Testimony of Harry Renton Bridges.)

I take it that the document is written on a piece of stationery no longer in use; that isn't the address any more, nor the persons who are officers, is that right? A. That is right.

Mr. Hallinan: It reads this:

> "Official Release by District Council No. 2 for Friday's papers.
>
> "On Maritime Memorial Day, July 5, 17,000 of San [5480] Francisco maritime unions will pay tribute to the seven union men who were killed on the Pacific Coast during the maritime strike of 1934.
>
> "The San Francisco Bay Area District Council of the Maritime Federation of the Pacific Coast, at a regular meeting held on June 30, requested its 27 affiliated unions to take part in the observance of July 5. The day will be commemorated by a parade of several thousand seamen and longshoremen; a memorial meeting at Civic Center and services at the graves of Nicholas Bordoise and Howard Sperry, two union members who were killed by police on a picket line at Mission and Steuart Streets on July 5, 1934.
>
> "The line of march for the parade will begin at noon, will be on Market Street from the Ferry Building to the Civic Center. The memorial meeting will be held at 2:00 p.m. The spot where Sperry and Bordoise fell will be decorated and a guard of honor will be posted during the day.

"The San Francisco Bay Area District Council has invited trade unions and friends of organized labor to participate in the observance of July 5. Similar services will be held in Seattle, Portland and San Pedro.

"San Francisco Bay Area District Council No. 2, Harry Bridges, President," and signed "Harry Bridges." [5481]

Q. Now, to pick the day on which this release was sent out, Mr. Bridges, it asks that it be printed in Friday's paper, and it discusses that on June 30 the resolution was made to put that out, so that this paper then was obviously put out either on Wednesday, July 1, or Thursday, July 2, is that correct?

Mr. Donohue: I object to the question, if your Honor please. It is leading and argumentative.

The Court: It is argumentative, but I will allow it.

A. It was our practice to put out such release the day before it was to appear in the press. It wouldn't be put out on Wednesday, because Wednesday night—I wouldn't think it would be put out on a Wednesday, because Wednesday night we would wait for the approval of the local union as to the Council's action.

Mr. Donohue: I move that the answer be stricken, if your Honor please, as apparently an attempt to give what was a common practice and not inquire as to what specifically was done in this instance.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: I think there is a presumption of law that the ordinary course of business has been followed, so that if he says that that is the fact, that the ordinary course of business was to put it out the day before, that would be some evidence to that effect.

The Court: Motion denied.

Mr. Hallinan: I have another document (handing to witness). [5482]

The Witness: These are the minutes of our District Executive Board; that is, the Pacific Coast Executive Board of District 38, ILA.

Q. (By Mr. Hallinan): And what does that show? There is only one matter that I am interested in. Those are the minutes of the meeting or convention that started on July 10, 1936, where?

A. In Seattle, Washington.

Q. At Seattle, Washington. And that is one of the incidents that you used to refresh your recollection or determine whether you were in Stockton in 1936, is that correct?

Mr. Donohue: If your Honor please, I object to the use of this paper. It is a mimeographed paper, unsigned, and therefore we are denied the right to cross-examine whoever may have——

The Court: It is asked for the particular purpose of refreshing his recollection——

Mr. Hallinan: That is all.

The Court: ——as to the week-end events?

Mr. Hallinan: That is all. [5483]

(Testimony of Harry Renton Bridges.)

Q. Let me ask you this, Mr. Bridges: Have you had that document in your possession or in the possession of the union ever since its execution and ever since it was drawn up?

A. Yes, I don't know—yes, I saw these minutes in the Landis hearing, because the point came up then as to where I was at this time. It came out, I think, in connection with something else, but this is when the board met, July 10th, 1936, in Seattle, Washington. The purpose of the meeting, amongst other things, was to install me as the new Coast President. I had just been elected.

Q. And does that recite that you were installed as the new Coast President?

A. Amongst other things. These are the minutes. The Board at that time was required to count the ballots, that is, to check the ballots, and in addition to installing the new officer, that is, the new president and secretary and the new members of the executive board, and that was the purpose of this meeting.

Q. Now, Mr. Bridges, there has already been introduced in evidence here minutes and records showing the convention in, was it San Pedro?

A. That is right.

Q. That ended some time in June?

A. That is right.

Q. All right. And then this is the—these are minutes of the subsequent convention that you went to in July in Seattle, on [5484] July 10th?

A. That is right.

(Testimony of Harry Renton Bridges.)

Q. So the three weekends in between would enable you to direct research to the Stockton local to find out if you had been up there on the 27th of June, 1936?

Mr. Donohue: If your Honor pleases, every question Mr. Hallinan is asking Mr. Bridges, who is on direct and not on cross-examination, is a leading question. I submit——

Mr. Hallinan: Well, that one is somewhat leading. I will withdraw the question.

Q. Mr. Bridges, now you remember that documents were put in here. Is there any question that documents were put in here evidencing the convention that was held in San Pedro ending in June? What was the name of that convention? What organization was that?

A. Maritime Federation of the Pacific.

Q. And that followed some other convention, is that right?

A. International Longshoremen's Association convention.

Q. And they were held in San Pedro?

A. Right.

Q. All right. And ended approximately when?

A. Around the 12th of June, the last one.

Q. And then the next thing that you have a document of, the next convention or meeting out of San Francisco, is this meeting or this convention in Seattle, Washington, starting July [5485] 10th? A. That's right.

Q. All right. And then——

A. I went to this convention, I left here, went to Portland, and Mack Meehan, who was the new coast secretary, we drove up from Portland to Seattle, got into Seattle the night of the 9th and registered at a hotel called the New Richmond. We tried to check the record of that hotel since; they haven't got it. But I remember it now because I was reminded of it by Meehan, to whom I was speaking not so long ago, and he said, "Don't you remember that night? We were only able to stay at the hotel a couple of nights and then we had to leave because there was a convention on and the hotel was sold out, and we had to go and search all over town for another hotel, because every hotel was filled up on account of the convention."

Q. And then since Crouch and Johnson testified that you were in New York on the 27th of June, 1936, an effort has been made to see if that hotel's records were still preserved, but we have been unable to locate them, is that right?

A. The New Richmond Hotel in Seattle, yes.

Mr. Hallinan: Might I have the document again, please?

(Document returned to counsel by the Clerk).

Mr. Hallinan: Now, we will offer that document in evidence, if the Court please, as Defendants' exhibit next in order.

Mr. Donohue: I object to it for the reasons stated, if your Honor please. It is a mimeographed document, and unsigned. [5486]

Mr. Hallinan: Well, that doesn't mean anything.

Mr. Donohue: We are denied the right to cross examine whoever might have signed it in order to question the authenticity.

Mr. Hallinan: You can question him.

Q. Let me ask you this: You say this document was also introduced in the Landis hearing or referred to?

A. I don't know if that is the particular document; a similar document was introduced.

Mr. Hallinan: The only purpose——

The Court: Mr. Hallinan, other than to establish the purpose of his presence at that time, has the document any other purpose?

Mr. Hallinan: No.

The Court: I will allow it for that limited purpose; not the contents thereof.

Mr. Hallinan: The only purpose is to show that he was inducted into office in July, July 10th of 1936, at Seattle.

(Thereupon minutes relating to 7/10/36, ILNU, referred to above, were received in evidence and marked Defendants' Exhibit F-3.)

Q. (By Mr. Hallinan): So to finish this particular subject now, Mr. Bridges, the documents that you have introduced here, that you identified, in addition to what is contained in the document—is your recollection refreshed that on Monday, the

22nd of June, 1936, you were chairman of an ILA meeting at the [5487] Scottish Rite hall on the evening of that day? A. That's right.

Q. All right. And on Tuesday, that you were chairman of a meeting at the District Council No. 2, Maritime Federation of the Pacific, held at the Ferry Building from 8:20 to 11:50 p.m., is that right? A. Right.

Q. And is your recollection refreshed that on Wednesday, the 25th of June, 1936, you were chairman at a meeting of the ILA executive board that adjourned at 9:15 because there wasn't a quorum? A. Correct.

Mr. Donohue: If your Honor please, all these questions are leading. This witness is under direct examination, and I object to it.

The Court: Well, probably it is a resume.

Mr. Hallinan: That is all, yes.

Q. Now, as far as the arrangement that Mr. Silk and Mahaffey testified, and Christensen testified, occurred on Thursday, the 25th, have you any independent recollection of those? A. None.

Q. Don't remember those. But now, on Friday, the 26th of June, is your recollection refreshed by the documents that you have seen and the previous testimony given that you were present at a meeteing of the Labor Council in San Francisco on the night of [5488] Friday, June 26th, 1936?

A. I remember that for the reasons stated, the hardware strike, as well as making the arrangement to drive up in Christensen's car.

(Testimony of Harry Renton Bridges.)

Q. And taking the testimony——

A. As well as, incidentally, the other item that I recalled that was important to us at that time, the beginning of the drive to organize the state agricultural workers; and we was concerned because two of the principals involved in that, one Fred West and J. B. Nathan, we had had experience with them in the waterfront drive in '34 and——

Q. You testified to that already.

A. And '33, yes.

Q. Now. And you had testified in a previous hearing in the Landis case before any question came up about being back in New York that you had a conversation with a man named Aaron Sapiro, and taking your previous testimony as to the time, plus the document that was shown you for your recollection as to Sapiro making a talk before one of the union bodies on the 26th of June, 1936, is it your recollection that it was on that day that you had the conversation with him?

A. I think so.

Q. All right. Now, looking at the document, refreshing your recollection by the documents that have been introduced here, the newspaper announcing the date of it, the Stockton Record, [5489] the Voice of the Federation, stating that the meeting was held on the 27th of June, 1936, the document from the union showing that the payment for the rent of the hall was made on Monday, reflecting back to that day, the letter from Mahaffey to the Voice of the Federation stating that you, Christen-

(Testimony of Harry Renton Bridges.)

sen and Schmidt had talked at Stockton on the night of Saturday, January the 27th, are you certain that you did speak at a meeting at Stockton on January 27th? A. Right, I am.

Q. Now, taking Sunday, June 28th; do you remember you stated already that you remembered having breakfast at Christensen's home the morning after you came from the Stockton meeting, is that right? A. That is right.

Q. And refreshing your recollection from the ILA record that has been introduced in evidence here, is your recollection now refreshed that on Monday, the 29th of June, 1936, you were chairman at a reconvened meeting of the ILA, held at the Scottish Rite Hall, which was reconvened from the preceding Monday, June the 22nd?

A. That's right.

Q. And then on Tuesday, the 30th of June, reading the document, the union record that has been introduced in evidence here, is your recollection now refreshed that on that night you were chairman at a meeting of District Council No. 2, Maritime [5490] Federation of the Pacific?

A. That's right.

Q. All right. Then on Wednesday, July 1st, is your recollection refreshed by the document that has also been introduced in evidence that that evening you were chairman of a meeting of District Council—no, this was in the afternoon; one was in the morning and one was in the afternoon—the District Council No. 2 at 11:00 a.m., and chair-

(Testimony of Harry Renton Bridges.)

man of an executive board meeting of the ILA from 8:30 p.m. to 12:45 a.m. that night?

A. That's right.

Q. And then the document that I have just introduced here, the press release, undated, about calling attention to the parade on Sunday, July 5th, and stating that a resolution had been passed on Tuesday, June 30th; does that refresh your recollection that it was on Thursday, the 2nd of July, that that press release was issued? A. Right.

Q. And then finally, on Friday, the 3rd of July, is your recollection refreshed by the documents that were introduced that you attended the—well, if you can read that, you are better than I am—on—oh, yes, the Longshore Labor Relations Board, from 10:00 a.m. to 12:35 p.m. and an executive board of District Council No. 2, Maritime Federation of the Pacific, from 3:12 p.m. to 4:25 p.m.?

A. That's right. [5491]

Mr. Hallinan: I think I will move that out of the way now.

A. (Continuing): Plus the fact that those times, no officer of the local union was allowed to leave the city without permission from the local. And if such permission had been sought for and granted, it would have been a matter of record in the minutes. We had a strict rule that no officer on the payroll could leave his work. He could go away on Sunday, maybe, out of the city, but during the working hours that he was paid for during the week, if he was on the local payroll and the law is still in effect, he was not able to leave the city and leave his work without express permission of the local, voted by the membership.

Q. Now, you spoke here the other day about the FBI tying in on calls and tying in particularly on a teletype message that you have, and you have seen this document that I am showing you here, this long teletype message? A. Yes. [5492]

Mr. Donohue: If your Honor please, we object to the use of this piece of paper, first, on the ground that it is immaterial to any issue in this case, and, secondly, I think it will probably take an expert to explain the system——

Mr. Hallinan: No.

Mr. Donohue: ——in order to determine exactly what purpose is sought to prove.

Mr. Hallinan: We will have it identified first by Mr. Bridges.

Q. Now, will you explain just what that document is that you have been handed?

A. It is a teletype paper. That is one of the sheets of paper that come off the roll on the teletype, from our files.

Q. Will you tell us briefly what a teletype is and how it operates, in case some of the jurors might not know precisely what it is.

A. I will have to think just how to describe a teletype.

Q. I am taking you away from the book.

A. Well, it is a machine that—established in a

(Testimony of Harry Renton Bridges.)

place of business or an office where an operator employed by an agency such as Western Union types out messages and it appears on a paper like this. That runs on a roll, so that you stand around and look at it or get the message, and it is like a typewriter operating with no one at the keys, that is, when you are receiving a message. When you are sending a message someone sits [5493] at the teletype and types away just like you would on a typewriter, and the message goes out over the wires to the person who is receiving on the other end. And there is relay stations in between, I presume—I don't know—but generally it operates, you want to put in a call, it is like sending a telegram, you just sit down at the typewriter in your office or the teletype in your office and type out the call number. Each teletype station has got a call number. You type out the call number, and when you get connected, then you just type your message. These companies charge you not on the number of words but on the amount of time you use teletyping. We have this teletype in our organizations all over the country, as well as other organizations have teletypes. Sometimes we talk directly. And sometimes we get them all on the line, which is known as a conference call. This here reads that I had a conference call. We have sent out word that we want a half dozen stations on the line at once. In that way you kind of have a union meeting—you have a union meeting by teletype; you have got a group of union officers, you might say, standing

(Testimony of Harry Renton Bridges.)

around the teletype in each union office, and we started to talk to each other by this method. And in this case there was someone with me in New York, Washington, D.C., Seattle, Los Angeles, and other places.

Mr. Donohue: I object to any reading or any description of what is contained in the paper until your Honor rules on it.

Mr. Hallinan: He isn't doing that. He is just telling the [5494] customary thing.

Q. In other words, members of the union would be standing at the rolls, I suppose, and the same message would be coming over each wire on each station, and each one could read it as it revolved and came out of the machine, is that correct?

A. That's it. You send the same message to, say, half a dozen union officers at the one time.

Q. Is that the original paper that came out of the machine at the time we are discussing?

A. Yes.

Q. Were you present as that was coming out of the machine, as the messages were being written, or would you remember, or do you happen to know?

A. Well, I am trying to figure out where I was present. I could be present at any one of five or six stations.

Q. Let me ask you this—I will have to read it: When you put a statement in there from Operator; in other words, when an operator cuts in, is that an employee of the ILWU, or is that a telegraph company operator?

(Testimony of Harry Renton Bridges.)

A. That is the teletype company operator. "Operator" means the company's operator. When our employee talks, we give our own number.

Q. Now, would that person who would come in as operator be an employee of the union?

A. No. [5495]

Q. Now, you said in your last testimony, your recent testimony, that during the course of certain teletype conversations that you had, the operator stated that the FBI were coming in on the conference. Do you remember giving that testimony?

A. Yes.

Q. Now, is that the original record of your statement, interrupting the conversation between union members?

A. At least this is one of them. I think we have others, but this is one of them.

Q. Does it show on that teletype just what the operator said on that subject? A. Yes.

Mr. Hallinan: We offer it in evidence, if the Court please.

Mr. Donohue: Objected to for the reason stated, your Honor; that it has no pertinency to any issue.

The Court: Yes.

Mr. Donohue: As I said before, it would take an expert to explain it.

Mr. Hallinan: The places mentioned are marked with pencil marks on the side.

The Court: I will sustain the objection, Mr. Hallinan.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: Very well. We will offer it for identification.

The Court: It may be marked for identification. [5496]

The Clerk: Marked G-3 for identification.

(The document was marked Defendant's Exhibit G-3 for identification.)

Mr. Hallinan: If counsel wants to use it, he may do so; we don't care. It is only substantiation of what has already been testified to.

Q. Now, Mr. Bridges, you heard the testimony of Lawrence Ross that he saw you present at a Communist convention in Fresno at one time. Do you remember that testimony? A. Yes.

Q. Were you ever present at any Communist convention at Fresno?

A. No, that was—that convention was—that same question came up in the hearing before Sears, I recall. The convention was held on Saturday just before or after Christmas, so we couldn't get it nailed down. It was the only date around that month where I couldn't prove my whereabouts, so that date was carefully selected. I think it was Sunday, the 24th or 26th of December of 1935. So I was never at the convention, and it was hard to prove that I was somewhere else because I couldn't get that date—I had nothing to show that I was elsewhere on that particular date.

Q. With regard to the testimony of Michener

(Testimony of Harry Renton Bridges.)

as to a meeting of Communists that was held in the Sunset District—did you know Michener?

A. Yes. [5497]

Q. Did you ever attend any Communist meeting with Michener in the Sunset District or any other place?

A. No, not as such, no. I have attended a lot of meetings with Michener, but not in the way he describes them or not a meeting as you describe it now.

Q. What is your relation with the Reuthers?

A. Well, if you mean do we see eye to eye on certain matters——

Q. I mean, is there a grave hostility, or what is the situation, just briefly?

A. We don't agree.

Q. Now, with relation to the testimony that he gave concerning the transfer of the presidency to one of the unions from a man named Connolly who had been elected to some other person, would you tell us what that was.

A. That was purely and solely my idea. I decided——

Q. As I understand it, according to Michener, Connolly was a member of the Communist Party, and you made some suggestion of transferring the presidency of this organization from Connolly, who was a Communist, to another man who was not.

A. That wasn't my purpose. That wasn't so. The reasons that I wanted the change was for other

(Testimony of Harry Renton Bridges.)

reasons entirely. Connolly had just been elected president of the San Francisco—I mean of the California State Council. We were approaching the 1944 Federal elections, that is, the national presidential elections. It was my idea, and I got to work on this even before we went [5498] to the Philadelphia convention in 1943, that we should broaden the leadership of the State Council. There was quite a few complaints being raised, separate and apart from whether the complaints had any merit to them or not, that the State Council was too much one way in terms of leadership. So I thought, Well, if that is the case, let's make the leadership all-inclusive in terms of the unions represented in the leadership. So, even though Connolly had just been elected president shortly before, I approached Connolly as well as a couple of other people and put forward my idea, because right from the start—that was nothing new; when we first set up the State Council in 1938 I made the same approach, to have broad leadership, right, left and center, in the State Council. And that is a matter of record.

So when we got back to the Philadelphia convention, the first person I talked it over with and got complete agreement wasn't Phil Murray at all, it was Sidney Hillman. And when I explained the purpose of the move and why, Sidney Hillman not only agreed to it but supported it wholeheartedly. I discussed the matter with Jim Thimmes, as well as with Connolly. It is true that Michener didn't

(Testimony of Harry Renton Bridges.)

agree with it. And of course another person that didn't want any part of it was Rathborne. As a matter of fact, as a result of the switch, he just disappeared for two or three weeks, went on a drunk or something. And I know that he eventually sent me a picture with Thimmes, and [5499] being a little—trying to be a little sarcastic, he sent me a framed picture of Thimmes to put on my desk; with a Chinese back-scratcher—one of the wooden back-scratchers. So I talked the matter over back in Philadelphia with Sidney Hillman, saw Phil Murray on the matter, then I assembled a caucus of the entire California delegation—that is, all the delegates to the CIO convention from the State of California, all of them, and we discussed the matter there and I put forward the idea, the reasons for it, and got general agreement. And then we elected a committee to talk the matter over with Murray, so that he would understand what it was all about, and that was done. So the whole idea of that was that—it was my idea, no one else's—purely for trade union purposes, purely with the idea of strengthening the union and the State Council, purely with the idea of greater unity and greater solidarity. Now, I remember that was the 1944 elections. My position was that 90 per cent unity wasn't good enough; we needed 100 per cent unity, and we wanted the lowest common denominator. And that was the purpose of that move, and the question of who was or who was not or might be or might not be a Communist,, had nothing to do

(Testimony of Harry Renton Bridges.)

with it at all. It is nothing new in trade unionism. We do it all the time. That is the whole story of that, and as far as anyone else having anything to do with it, no one else had anything to do with it. I was the Regional Director at that time, I was the president of [5500] same organization I am president of now. I thought of the idea, and nobody had to suggest it to me, order me or tell me what to do, or anything like that.

Q. Now, some talk has been had here about the position that the union took, or, more specifically, that you are alleged to have taken, with regard to certain policies of the national Government of the United States with regard, I think, to matters pertaining to war and things of that kind, and the inference has been raised that you followed what they call the Communist line. Could you tell us something about your position on the situation as the United States has been drawn into the European war?

A. Our union is against war. We are against war, always have been; no change; no change at any time. However, we are not pacifists. We do not follow a policy of pacificism, because we believe if you are attacked you must fight. That is true within our union. That is true with respect to any matter of war. However, the position of myself and the union is a matter of record on any one of these points, and instead of me depending upon my memory on any particular item like that at all, I can come here with the records, the minutes of our union conferences and everything like that. I can bring into court the records of how we have stood and what I have said officially as an officer of the union over the years on every one of those specific points. And if there was any truth at all to some of [5501] the accusations that have been made here by Mr. Donohue and others, if there was any truth at all, they certainly must be able to bring forward one simple example, just one, to prove their point. If they can do it I will be very surprised. On every item that I have taken a position on, on any matter of international policy, national policy, war and peace, and so forth, they are a matter of record in our union files, in our convention minutes, in our conference minutes, in our caucus minutes, in our union minutes, and so forth. And we have always taken a position on such matters as trade unionists. Many times we have taken unpopular positions—that is, unpopular at the time. I can think of many positions, but always our position has been based on what we thought was the best for our membership. Now, of course, we might have been wrong; we could have been wrong—I still don't think so, incidentally. We are not infallible. At all times, we thought we were doing the best thing for the membership of the union, and at no time did we see anything incompatible between—or that was incompatible in so far as the interests of our union are concerned and our country was concerned. We always operated on the theory that

(Testimony of Harry Renton Bridges.)

what was good for the membership of our union was good for the nation, and what was correct for the nation was correct for the membership of our union. And that went for matters of national policy as well as international policy. There is quite a few items along those lines. Sometimes we [5502] are being subjected to pretty severe criticism not only by agencies of the national Government but by the executive branch. Well, they didn't—such criticism didn't bother us a great deal as long as we felt we were right and as long as we were doing our best upon our own convictions upon matters of that sort. However, there has been many times—there has been quite a few accusations leveled against myself and other members of the union and the unions as a whole against positions we have taken, and all I can say about it is we have got the records on every single item; we have got the record of every position that we ever took. Name the occasion and the item and I can come in and show you with the official records the how and the why and the wherefore, how it was done, and so forth and so on, including at all times what position I took, because I was always—myself and other officers, that is, we always—it is our policy that we couldn't duck an issue; we had to speak up one way or the other; we had to be for or against an issue. We could never take positions such as some union leaders take that they will take no position, they will leave it up to the ranks. We always operate this

(Testimony of Harry Renton Bridges.)

way: that we would take the position, we would make the recommendation to the whole ranks, and then the ranks could accept or reject as the case may be, and many times because of that policy we have found ourselves in hot water as far as the ranks are concerned. We have taken a position on certain political [5503] questions, and we have taken a position of certain matters of international policy, and so forth, and that on numerous occasions our ranks did not agree with us at all. So what they did, they voted the officers down, and that was that. But at no time did our policy come from any other source than what we thought was best for our union. We operate as trade unionists always—at least, I always do, I am a trade unionist, and we have operated as trade unionists at all times and in no other way. [5504]

Q. Now, with regard to activities that took place, even before the United States was drawn into war, did you personally have anything to do with furnishing information to the United States Government of threats to our peace or security?

A. Only in the course of my work as an officer of the union, when the information came to my attention, I passed it on where I thought it would be helpful.

Q. What would be an example of that?

A. Years ago when we were first of all engaged in organizing the aircraft plants in Southern California, we found what in our opinion were certain

(Testimony of Harry Renton Bridges.)

activities going on in those plants; as I recall it, we found that the Nazi Bund was holding meetings in the plants or on the job. We tried to get something done about such meetings. I personally on that occasion conveyed the information to the Attorney General at that time, who was Frank Murphy, later on Supreme Court Justice of the United States. Went to see him in his office in Washington. Then we complained about certain activities of the fishing fleet here on the Pacific Coast. Many of the fishing boats being manned by Japanese. We got the information, I forget how at the moment, but we were organizing fishermen, too; we got the information some of these boats were equipped with certain types of equipment that we didn't see where such equipment was necessary for the type of work they were supposed to do, namely, catching fish. So we sought to have that type of activity investigated by [5505] the government. It eventually was, I think, and we were more or less proven correct in that respect. There were some other activities. I can't exactly recall them at the moment. But I think they are a matter of record. With a little research work, I could dig them up.

Q. Did the ILWU or the predecessors take any position on loading scrap iron for Japan?

A. That is true. Not only in 1933 here in San Francisco in the Labor Council, but our union was one of the first acting upon the request of the German trade union leaders.

(Testimony of Harry Renton Bridges.)

In 1933, quite a few unions in the United States here,—I know the American Federation of Labor national organization received an appeal, and our union, amongst others, was appealed to by the trade union leaders of Germany who at that time were already behind the barbed wire in concentration camps. Our union was appealed to by them to boycott German goods, because the trade union leaders pointed out that the goods that were being manufactured at that time by the workers of Germany were being used to build up Hitler and his whole political regime and his war machine. So we raised the question here in San Francisco in the Labor Council, in the San Francisco Labor Council, in 1933 for a boycott of German-made goods. It wasn't a very popular idea at the time, at least not right then. It got to be a little more understood later. Shortly after that, around 1934, '35, in '35 specifically, we opposed the shipment of war [5506] materials to Italy. That was during the war—that was during the invasion of Ethiopia by Italy. And at one time here in the city of San Francisco, the city garbage wagons were sent around the city to get scrap iron, mainy brass and copper and things like that. And that scrap iron was hauled down and placed upon the docks and it was consigned to the Italian Red Cross, part of Mussolini's government. We refused to handle that type of cargo. We considered it blood money on the docks here.

And from 1935 on, around that time, on every

(Testimony of Harry Renton Bridges.)

occasion that we could, the men on the waterfront not only in the port,—and these activities were not just confined here to the port of San Francisco, they were coastwise in scope, the longshoremen, they didn't need any particular urging. It wasn't a question of their officers asking them to do it, they felt that way themselves. They did everything they could to refuse to place aboard the ships the scrap iron; in addition to scrap iron, there was all kinds of other materials going to Japan. Scrap iron was one of the main items, but there was oil, that is, gasoline and lubricating oil, there was airplane engines and airplane parts, certain types of ammunition and things like that.

So for a period of years the workers on the waterfront in the city that they considered that they were loading ships and material for Japan that would eventually come back the way it eventually did come back, and I can recall when we first of all engaged in these programs, number one, we were [5507] severely criticized from many, many directions and sources for engaging in such activities. Such activities were called Communistic, the fact that the union engaged in those activities was part of the charges against me in the previous trials; in other words, that was a ground being urged for my deportation, that only a Communist would advocate such things, or only a Communist organization would advocate such things. But generally speaking, it was the official attitude of the union, we thought we were

(Testimony of Harry Renton Bridges:)

doing right, and although we were severely criticized by some branches of the government of that time, the workers still kept on doing it and we haven't changed our opinion yet as to whether we were right or wrong. We think we were right.

Q. And those criticisms, for instance in the 1939 hearing, were before the United States was drawn into the war? A. That is right.

Q. Now——

A. And our position never changed. Our position never changed before the war, during the war or after the war, with respect to any of those governments, any of those aspects of the war. At no time.

Q. Now, did you ever do what has been described by one of the major authorities on the subject, the Russian brigadier general Paul Crouch, as a flip-flop?

Mr. Donohue: I object to the question, if Your Honor please. [5508]

Mr. Hallinan: Well, that is a description of him, isn't it—Russian brigadier general?

The Court: The objection is sustained.

Mr. Hallinan: Well, he lost his rank through a ruling there, so we will put him down to just Mr. Paul Crouch.

Q. There was some discussion that you, particularly, took these 70,000 members of your union into a flip-flop. Do you know anything about that? That is, after Germany attacked Russia?

A. The position of the union and myself—and after all, we have to think of the position of the union; my position doesn't count, and without my

(Testimony of Harry Renton Bridges.)

union I am an individual. Nobody worries anything about what I do or say. There was no flip-flop in our union, and if there were, such things don't bother us. We do what we think best to do. And maybe it can be considered a flip-flop, but lots of times we change our strategy, we change our pace, we change our strategy, the only part we have in mind at the time is, "Will it be good for our union?" And again I say that we have never had any other thought in mind than that anything that is good for our union —because the majority of our union members are American workers, and we think it is good for the country as a whole. We operate that way. I know of no flip-flops. I don't know of any time that the union engaged in any flip-flops. I don't know of any time that the officers engaged in any flip-flops. And if anyone has got any evidence [5509] of such flip-flops, again, I will be mighty surprised if such evidence can be produced. I am talking now in terms at least of evidence of a documentary nature or of some people that can be believed. I will recognight that people can be produced who will testify to anything for a few dollars. I don't mean that type of evidence.

Q. Let me ask you this: Did the union have any difficulty with Schomaker within recent years?

A. Yes.

Q. What did that stem from?

A. Schomaker wanted us to set him up in business. Schomaker was in the business of—he had a business after he came back from the Seabees of making——

(Testimony of Harry Renton Bridges.)

Q. What year would that be, do you remember, approximately?

A. What I am talking about, the time that I am speaking of, was around late '46 or the beginning of —well, the early part of 1947.

Q. And then what took place, what conversations did you have with him or——

A. Schomaker had spent quite a bit of time during the war years in Hawaii. Our organization was organizing Hawaii. One of the problems we have to meet in Hawaii is the question of low-cost housing. Our union has been very active in Hawaii trying to work out ways and means to develop a constructive program of low-cost housing. The problems that stand in the way largely is [5510] the question, first of all, of the availability of land. There is very little land available in Hawaii. That is, land that is not owned or controlled by certain economic interests down there. You build a house in Hawaii, you can't buy the lot; all you can do is lease it for 99 years. So we have been engaged for some time in trying to, as I say, make available to the working people of Hawaii some low-cost housing.

Schomaker was in business after he came back from the war, of building cement blocks which are used for building houses. He had had a chance to observe the situation in Hawaii, so he came around to our union with a program to have the union set him up in business in Hawaii to build houses. He wanted us to finance him. He had the machinery all

(Testimony of Harry Renton Bridges.)

ready and if we financed him, he agreed that he would sign a note to repay the money, and in addition, we would get a cut; that is, the officers would get a cut on the profits of 10 per cent or something. Well, Schomaker was down to our headquarters, him and his wife were down at our headquarters, 604 Montgomery Street, around '46 or '47. He didn't speak to me directly on the matter, that is, in detail. He was sitting outside in the reception hall when I happened to come in, and said hello, and spoke to him and he outlined what he was after. And I kissed it off by saying, "Well, that's Lou Goldblatt's department; he is the secretary-treasurer." And later on they seen Lou Goldblatt. I had gone out in the meantime and was coming back, and I run into Schomaker and his wife [5511] as they were leaving the building at the foot of the stairs. Then I said, "Well, how did you make out?", meaning, "How did you make out with your program with Lou Goldblatt?", who was the secretary-treasurer of the union. So Schomaker kind of sneered, and he said, "No good." Said, "I guess there's not enough left after you fellows get through with it." Now, the remark—I didn't pay much attention to it at the time, but the remark meant, in view of the conversation I had had with him shortly before meeting him at the foot of the stairs—he had explained the proposition to me and was trying to enlist my support of the proposition. And later on, see, Schomaker's remark at the foot of the stairs meant that there was no money in the—no money to spare to

(Testimony of Harry Renton Bridges.)

finance him, that after we had got through getting our cut out of the funds of the union, there was none left over for him. That is what he meant at the time.

Q. Well, now, coming to that, Mr. Bridges, what is your present salary from the union?

A. $135 a week.

Q. $135 a week; and how long have you been getting that? A. Since 1947.

Q. And prior to that what was it?

A. Oh, I forget. Let me see. I think it was— I think it was $115, and that——

Q. And that was since when, 1945?

A. Our convention meets every two years; the convention sets [5512] our salary. So the best way to go at it would be the other way. Our salary, the salary of all of the officers, and I am the highest paid officer of the union, was $75 a week up until, I think, 1943.

Q. $75 a week?

A. 1943. There was a raise, I believe, to $90 from 1943 to 1945. There was a raise from $90 to $115, I think, from 1945 to '47. And in '47 it was raised to its present amount. And in '45, in the '47 and '49 convention, our '49 convention took place last April, the '47 and '49 convention, the officers opposed any salary increases for themselves.

Q. Now, have you personally held down the salaries of all the officers, including yourself, during all that time, to an amount less than what the member wished to pay you?

A. No, not necessarily, no. We have a rule in our union that the officer can't receive salaries out of line with what the average member receives, or another way of putting it, there are men in our union that work on the job and receive more money in salaries—not many of them, a minority of the union, that is—that receive more money working on the job than the officers of the union receive. And at best you might say the way our union functions, we can't, the officers of the union can not receive more money than some of the members of the union might receive working as workers.

Q. Well, take your present salary of $540 a month. Is it [5513] possible that a man working, a man working in the union, could earn a much as that?

A. Oh, we've got quite a few that earn more. I say, that is what I was trying to explain that we haven't—the rules of the union provide that the officers can not receive more than the highest paid worker in the union, let us say, and we've got quite a few people in the union that earn more than the officers.

Incidentally, they are not the average worker on the job. They work in some capacity, as a boss or a supervisor, like a walking boss.

Q. Yes. Do you own your own home?

A. After another twenty years of payments I will, I hope.

(Testimony of Harry Renton Bridges.)

Q. Do you know what it cost originally?

A. $14,000.

Q. And about how much is still owing against it?

A. Oh, around nine, I think, ten.

Q. And do you have an automobile?

A. I have.

Q. What year? A. 1940.

Q. What make? A. DeSoto.

Mr. Hallinan: Might we have the recess at this time?

The Court: Yes. We will take the recess, ladies and gentlemen. The same admonition to you, not to discuss the case under any conditions nor to form an opinion thereon.

(Recess.) [5514]

Q. (By Mr. Hallinan): Now, Mr. Bridges, laboring a little point on that meeting with Sapiro on Friday, June 26, 1936, I want to show you a photostatic copy of the minutes of the San Francisco Bay Area District Council No. 2 of the Maritime Federation of the Pacific and ask you if you can identify that document. It was offered for identification before, I think. No. This is what it is (exhibiting document to counsel)—the one for the 23rd, relating to Sapiro.

Do you know what that document is? That is the photostatic copy of the minutes of that organization for what date? A. June 23, 1936.

Q. June 23. Will you look at that page and read that blocked part. What does that relate to?

(Testimony of Harry Renton Bridges.)

A. "Dietrich reported there will be a special meeting of the Modesto defense committee on Friday, June 26, at 2:30 p.m. to Hansford Building."

Mr. Donohue: I don't think he can read from the document.

Mr. Hallinan: I want to refresh his recollection. I will offer it in evidence.

Q. These are the regular minutes kept in the regular course of business of the union, are they?

A. Yes, these are the official minutes.

Q. You are familiar with this book of minutes, are you? A. Yes.

Q. Who are they signed by? [5515]

A. Mervyn Rathborne.

Mr. Donohue: I object, if your Honor please, unless they are offered for some specific purpose.

Mr. Hallinan: I will tell you the reason. We want to see if we can more definitely pin down the conversation with Aaron Sapiro to Friday, June 26.

Mr. Donohue: Then I object, if the Court please. He can refresh his recollection——

Mr. Hallinan: You asked me to state the purpose. Permit me to finish. These are the minutes of June 23.

The Court: I understand. That one excerpt, Mr. Bridges, does that refresh your recollection, by reading that reference to the minutes?

The Witness: Reference as to what?

The Court: As to the meeting in the afternoon with respect to Aaron Sapiro.

Mr. Hallinan: Your Honor, I want this for another purpose besides refreshing his recollection.

The Court: All right, proceed.

Mr. Hallinan: I will tell you what it is.

The Court: Proceed.

Mr. Hallinan: This one is dated June 23. It says Sapiro will address a meeting on June 26. I want to follow it with the minutes of June 30 showing that Sapiro was employed as an attorney to represent these men although it doesn't [5516] give the date on which he came in, but it is obviously some place between the 23rd and the 30th.

The Court: All right.

Mr. Hallinan: It will heighten the inference that it was on the 26th that Mr. Bridges had a chance to talk to Mr. Sapiro. That is my purpose in offering this particular set of minutes in evidence, merely to support the inference and to support the witness' recollection, which he only has refreshed by these documents, that it was on that day that he had the conversation with Mr. Sapiro.

I want to show afterwards that he did testify that he had had that conversation on or around that time, at a time when there was no question of his having been in New York on that date, so that it would bring it within the rule of what they call recent fabrication, to take away any such supposition.

Mr. Donohue: If your Honor please, the mere statement by Mr. Hallinan that it will perhaps heighten an inference obviously would negative any possibility that these documents are admissible in evidence.

Mr. Hallinan: I think you can heighten an inference—why not?—you can support, add to it. The documents do this. They are documents made in 1936. That is 14 years ago.

The Court: Mr. Donohue, have any objection with respect to the documents themselves apart from the matter you state? [5517]

Mr. Donohue: No, if they are used for the purpose of showing, at least in so far as the document may show it, that Mr. Bridges was some place as he states in the stated alibi, I would have no objection, but for any other purpose I do object.

Mr. Hallinan: That is our only purpose.

The Court: Apparently Mr. Hallinan is seeking to correlate the events with the conversation had with Mr. Aaron Sapiro, who was then representing an organization or certain persons charged with a crime. Is that the purpose?

Mr. Hallinan: Exactly.

The Court: You may proceed.

Mr. Hallinan: We offer them both in evidence for that limited purpose.

The Court: They may be received for that limited purpose.

Mr. Hallinan: I also want to call to the attention of Mr. Bridges, upon the matter of possible alleged recent fabrication, that in the hearing before

(Testimony of Harry Renton Bridges.)

Judge Landis, Dean Landis, in 1939, and in the hearing before Judge Sears in 1941—and it must be understood, if the Court please, that in neither of those two hearings was it contended that he was in New York attending the Communist convention, so there would be no necessity of fabricating a date—that he testified to being present at the Labor Council meeting, inferentially the one of the Friday, the 26th of June. And that is the sole purpose of this evidence. [5518]

Mr. Donohue: No objection.

Q. (By Mr. Hallinan): Then, Mr. Bridges, in 1939, in the hearing before Dean Landis, do you recollect this testimony by you:

> "A. Friday evening was Labor Council night. The record of the San Francisco Central Labor Council will show my attendance on every Friday night I was in San Francisco all during '34, '35 and the major part of 1936."

Do you remember giving that testimony?

A. Yes, I remember that, and the reason for that testimony was this: In the 1939 trial we had drawn up a calendar of my movements for every day going back over the past five or six years, back to 1933, and in the course of drawing up that calendar we had inspected the minutes of the Labor Council. So that testimony was pursuant to the knowledge that we had at that time, that the book of the Labor Council, roll call of the Labor Council, would show me present at every night when I was in San Francisco.

Q. And then importantly too in 1941 before Sears the same proposition arose:

> "A. Oh, yes, I think that was around 1936 some time.
>
> "Q. Now, how often would the San Francisco Labor Council hold meetings?
>
> "A. Every Friday night.
>
> "Q. Did you attend all those meetings until the time you [5519] resigned?
>
> "A. Every one. As long as I was in San Francisco I never missed a meeting."

That was your testimony?

A. Again, it was the rule of our union that if you was a delegate to the Labor Council you were bound to show up, and you couldn't be excused unless you were working or you were ill.

Q. And so far as you know, the records of the Labor Council which now have been destroyed because of leakage into the basement were then in existence and could be consulted?

A. That is correct; they had been checked.

Mr. Hallinan: And I might say that there is added significance in this in that the witness Manning (Johnson) testified that he was present ready to testify in 1941 and was not called. And I think that this has some bearing upon his testimony, too, as to whether he had informed the authorities——

(Testimony of Harry Renton Bridges.)

The Court: You made one error, Mr. Hallinan. You referred to Manning; the man's name is Manning Johnson.

Mr. Hallinan: Manning Johnson.

Mr. Donohue: I move to strike that statement, if your Honor please.

The Court: The motion is granted.

Q. (By Mr. Hallinan): You also stated here on your last examination that in one of the previous hearings a Communist membership book had been presented by the Government, and I [5520] call your attention to this statement made in the Landis hearing in 1939.

Mr. Donohue: I object to the statement being read, if your Honor please.

Mr. Hallinan: It is just to show that there was such a book, not presented in evidence, but stated by the Government to be in its possession and offered for identification.

Mr. Donohue: It has no bearing here, if your Honor please.

The Court: Sustained.

Mr. Hallinan: Mightn't it have this bearing? I was going to ask them to produce that book and let us take a look at it. It must be still in their possession, since they presented it at that time. And the only thing that I want to read here is the statement made not by Mr. Bridges but by the attorney for the Immigration Department on that hearing.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: I am not bound by a statement that he made.

Mr. Hallinan: No, but the Department is, it seems to me. I might ask now: Where is that book?

Mr. Donohue: I never saw any such book.

Mr. Hallinan: I wouldn't assume that Mr. Donohue had, but somebody connected with the Immigration Department must still have it.

The Court: You make formal demand for that book?

Mr. Hallinan: Yes.

The Court: Upon Mr. Donohue as an [5521] attorney?

Mr. Hallinan: Yes, and these other attorneys here.

The Court: As far as the reference is concerned, I sustain the objection.

Mr. Hallinan: Very well.

The Court: The demand is made, for whatever significance it may have.

Mr. Hallinan: Very well.

The Clerk: At this point, if your Honor please, may I call to Mr. Hallinan's attention that the two documents last offered, copies have heretofore been marked for identification on January 26 and both had been admitted in evidence on last Thursday, the 9th.

Mr. Hallinan: These two have already been offered?

The Clerk: They are in evidence as of the 9th.

Mr. Hallinan: I will withdraw the photostatic copies.

I want to just read one paragraph from each of these that bears upon the subject that we had in mind.

Mr. Donohue: Wait a minute.

Mr. Hallinan: First, Defendants' W-1 are the minutes of June 23, 1936, and they state: "Note: All delegates are urged to make sure that their organization's representatives to the special meeting of the Modesto Defense Committee to be held Friday, June 26, at 2:30 p.m. at room 220 Hansford Building, 268 Market Street. Attorney Sapiro will be present at this meeting. Do not fail to [5522] attend."

And then in the minutes of June 30, 1936, it contains the statement that Brother Pyle for a committee, reported for the Modesto Defense Committee, and states certain discussions that he had with attorney Sapiro and states that Sapiro has been retained to defend one of the men in the Modesto murder. And both of these documents are signed by Mervyn Rathborne as secretary.

And that is all that we have with Mr. Bridges.

Cross-Examination

By Mr. Donohue:

Q. How much was your expense account last year, Mr. Bridges?

A. I don't know. I can produce the record.

(Testimony of Harry Renton Bridges.)

Q. What is your best estimation?

A. I have no idea, Mr. Donohue. I think I can dig it up in the recess or at noontime, ask the bookkeeper to give you a detailed account. It is all a matter of record. I have got a bookkeeper; she knows more about a set of books than I ever knew.

Q. You have had an expense account for some time, haven't you, Mr. Bridges?

A. What kind of an expense account? We have——

Q. How many expense accounts do you have?

A. It depends. An expense account can be a train—train fare, airplane fare. An expense account can be a voucher we fill out. [5523]

Q. I understand that, Mr. Bridges. I am only concerned with the kind of expense accounts you have and the extent of such expense accounts.

A. I will enumerate them. I will enumerate them.

Q. I wish you would, please.

A. When the officers of the union leave town or go out of town, they are allowed a per diem as well as transportation expenses. The per diem is $14 a day. That is supposed to cover board and room. That is a maximum. It doesn't necessarily mean that you draw $14 a day, you may draw less. On many occasions the officers draw less, but if it costs you more than $14 a day, and many times it does, that is just your hard luck, plus as I say, train fare and plane fare. That is one form of expense account.

(Testimony of Harry Renton Bridges.)

We have an allowance for a car, depreciation, gas and oil allowance. That is another expense account.

Then we have a flat sum per week.

Q. What is your flat sum each week?

A. $25. That is all I get, no matter how much I spend, and believe me, I spend more.

Q. Would you think that your expense account was greater than your salary per year?

A. At all times. Wait a minute. What is that?

Q. Would you think that your expense account was greater than your salary in amount each [5524] year? A. No. You mean the $25——

Q. Your total expense. You travel a lot, don't you? A. No.

Q. You don't?

A. No. I probably travel least of any of the officers.

Q. Since the time of your indictment last May you have traveled a good bit, haven't you?

A. I have traveled more on account of the indictment. The membership wishes to know what's cooking, what you are trying to do, so they demand that I travel around and tell them.

Q. As a matter of fact, even before you were indicted you were in New York?

A. Yes, I traveled to New York upon numerous occasions, Washington, D.C., Hawaii, yes. I don't know—I mean "frequently" is a relative term.

Q. How much of your time would you say in the last year have you spent traveling?

(Testimony of Harry Renton Bridges.)

A. Oh, figured on the basis throughout the year, last year was a pretty exceptional year, maybe about 15 or 20 per cent.

Q. Going back to this statement——

A. I have got records of those things, Mr. Donohue.

Q. I wish you would get them for me.

A. If you can name the item, I will ask the bookkeeper. We have got an excellent bookkeeper; she keeps wonderful records.

Q. I would like to know what your total expense was for all [5525] purposes, let's say for the last two years.

A. I couldn't tell you, but I will furnish it if you wish it. I will bring you the figures if you wish. I will give you the audit.

Q. Now, Mr. Bridges, going back to your testimony this morning about this incident concerning——

Mr. Hallinan: Pardon me. What do you want, the two calendar years of '48 and '49?

Mr. Donohue: Yes.

Mr. Hallinan: Or do you want two years back from today?

Mr. Donohue: '48 and '49. [5526]

Q. Going back to your testimony this morning about the removal of Mr. Connally, that was in 1943, wasn't it? A. That is right.

Q. Did you know at that time that Mr. Connally was a member of the Communist Party?

A. Not necessarily, no.

(Testimony of Harry Renton Bridges.)

Q. Well, did you?

A. No. Of my own knowledge?

Q. Yes. A. No.

Q. Do you know it today? A. No.

Q. You don't know that he is a functionary today, a paid functionary of the Communist Party?

A. No.

Q. How well did you know Connally?

A. I have known Connally very well over a period of years. He has been a personal friend in many ways, as well as done me certain favors—did certain favors for me. So I would say I know Connally pretty well.

Q. But it never came to your attention that he was a member of the Communist Party?

A. Oh, well, I have heard it said. I am operating now on the theory that you would ask me to state that positively, and my answer would be I really couldn't. Even now. Now, it is one [5527] thing to have someone say so-and-so is a Communist or something like that, but when you get right down to brass tacks and have to say how you know, or could you be sure, that is a different thing, the way I understand it.

Q. Did you ever sit in a meeting of persons, the admission being restricted to members of the Communist Party, at which Mr. Connally was present as well as yourself?

A. Not that I know of, no. The answer to that is "No."

(Testimony of Harry Renton Bridges.)

Q. Now, you stated that the California CIO State Council was too much one way in terms of leadership. A. That's right.

Q. Did you mean too much Communist in terms of leadership? A. I didn't.

Q. What did you mean?

A. I meant too much old-time unions in the state, as against the newer unions that had grown. For example, the union I represent, we were around here before there ever was such a thing as the CIO. We were battling and organizing and fighting around here before CIO was born. I meant in the sense that the ILWU, that is, the Longshoremen & Warehousemen and certain other unions, they had been around here for many, many years, whereas, as a result of CIO, new unions had formed. And there was just too much of a tendency for the older unions or the older union members and officers to regard the new unions as Johnny-come-latelys and not extend to them a sufficient share in the [5528] affairs in the organization and the leadership of the organization. That is what I meant.

So my idea was to—Thimmes represented the Steel Workers Union. That was a union that wasn't organized until 1937. So it was more just a point of extending leadership to cover, to give the later unions, the unions organized after we were organized, a greater share of that leadership.

Q. And what union did Mr. Connally represent?

A. Guild, Newspaper Guild—also organized away before the Steel Workers.

(Testimony of Harry Renton Bridges.)

Q. Now, when did you first make up your mind that Mr. Connally should be removed?

A. Oh, I didn't make up my mind to any such thing. No one could remove Connally unless he wanted to voluntarily agree with the plan and resign. And I can't exactly say when. It is before I ever went to Philadelphia.

Q. Didn't you say this morning, "It was my idea"? A. Yes. My idea.

Q. Your idea? A. Yes.

Q. Now, is that the usual way in which you impress your ideas upon your rank and file?

A. I am not backward about impressing my ideas. If I think I have got a good idea, my rank and file knows that I go all out to try and sell it. And that is all that I can do. I try to [5529] convince them by argument and logic, and no pressure of any other type than that. So when it is a question of my idea, my rank and file knows that I work hard at selling them on the idea. I don't always succeed, you understand, but I try.

Q. But you continue, whether you succeed or fail, don't you, Mr. Bridges?

A. No, that is not so either. When the rank and file says, "Wrong," and then when we make a decision I have to change; change or get out.

Q. Well, now, did you sometimes make decisions without consulting the rank and file?

A. Not necessarily no.

Q. Well, did you consult the rank and file in your decision about Connally? A. Yes.

(Testimony of Harry Renton Bridges.)

Q. When? A. Back in Philadelphia.

Q. Well, now, who was in Philadelphia with whom you consulted, representing the rank and file?

A. I assembled the entire delegation from the state of California and in that sense I meant that I consulted the rank and file. I don't think it is truly consulting the rank and file in being able to go to a meeting of the rank and file, in that sense, but in terms of the elected delegates, that is what I had in mind. [5530]

Q. Let's see how truly it was representative, Mr. Bridges. How many delegates were there from California to the CIO convention in 1943?

A. I don't know. A matter of record.

Q. What is your best judgment?

A. I don't know.

Q. Were there two or twenty?

A. Two or twenty?

Q. Yes. A. Oh, closer to twenty.

Q. Closer to twenty?

A. I would think so, yes.

Q. About how many do you think would constitute the rank and file eligible to elect Mr. Connally to the position of president of the California CIO Council?

A. Oh, I don't know, but I am making—I am holding no brief for this method. I don't believe that operating through delegates elected by the rank and file is truly democratic or truly rank and file, in my opinion. It was the way it was done in this case. I will admit that. But I am not a supporter of the method, by any means. I believe, when I talk about really operating through the rank and file, I have in mind putting the matter to a vote of the rank and file, either by a referendum or by a membership meeting.

Q. Which you didn't do in this instance? [5531]

A. That's true. That wasn't done in this case at that time. Later on, however, later on, I believe it was referred to the local unions for approval. Now, that often happens in a union, too. You just, if you are going to take any responsibility as a union officer at all, you have got to take some steps upon occasion subject to subsequent approval.

Q. You mean after it had been accomplished, an accomplished fact, then you gave the rank and file an opportunity to rubber-stamp it? Is that what you mean?

A. No. What happened was this: No one could remove Connally unless he wanted to agree to the program for the reasons stated. And subsequently, at an executive board meeting that occurred some weeks or months later, Connally resigned, explained the reasons for resigning, said that he agreed with the general idea and thought it would strengthen the Council. And that is what happened.

Q. Now, when did you first discuss it with Mr. Connally?

A. That was, in my opinion, prior to going back East. Now, I have a distinct recollection of taking this up with Connally in Los Angeles prior to going back to the convention at that time.

(Testimony of Harry Renton Bridges.)

Q. Well, if you had discussed it prior to the time that you went to Philadelphia, why didn't you get the approval of the rank and file before you went to Philadelphia?

A. I don't know. First of all, I had to find out if the thing was workable. If there was no chance of persuading Connally it [5532] was a constructive move, you may as well drop it right then. If there was no chance of persuading Thimmes in his turn to accept the presidency if Connally resigned, why, why take it any further and cause confusion?

Q. Well, you knew that Connally had been popularly elected to this office, did you not?

A. Yes.

Q. He had been opposed and had defeated his opposition? A. Yes. So what?

Q. Well, why did you reserve to yourself the right to decide that Mr. Connally should be removed?

A. I didn't reserve to myself. I had what I thought was a good idea, and when I get a good idea, I try to do something about it. It mightn't be a good idea, I will admit that—but in this case I had a good idea, and I went to work on it and we won the election. We did a good job on the election. So I am satisfied, and I think so was everyone else at that time, that the idea was a good idea. And when we carried it out, it added quite a lot of unity and solidarity to our organization. Sufficiently, in-

(Testimony of Harry Renton Bridges.)

cidentally, to allow us to do an excellent job in the 1944 federal elections.

Q. Now, will you explain to us, Mr. Bridges, how it adds to the solidarity of a trade union unit for you to remove the elected president and to substitute in his place someone else?

A. It wouldn't. If I was to do that, I doubt if—there might be [5533] some extreme circumstances where that might help, but generally speaking, that wouldn't help at all. That would create disunity, if I was to do the removing or anyone else.

Q. Well, who did it if you didn't?

A. I would say that it was done through the machinery that we had at hand, the State Council and the individuals themselves, after being discussed and acted upon in the way that I described. Now, if I was able to go out and remove the president of the State Council, that would cause disunity and do harm.

Q. Had you supported Connally in his campaign for election?

A. I think I did, yes, against Pollard. I am sure I did. Later on, incidentally, in 1946, I had to have another session, and I was in this spot. Thimmes was the president of the State Council. The question come up as to—this was in 1946—whether he should be reelected. I said to Thimmes, "Look, Jim, as far as I am concerned, if you run I will throw all the support I can get behind you. It won't be as much as we have been able to get in the past. I wouldn't even be able to persuade my

(Testimony of Harry Renton Bridges.)

own union to give you full support. And it might be a 60-40 deal. But if you want to run for the office, I feel duty bound to do my best." He decided not to run and we elected, we joined together to elect another president. Now, those things are commonplace in conventions, Mr. Donohue, in union conventions.

Q. Now, I take it from what you have said about this meeting that the fact that Mr. Connally was a member of the Communist [5534] Party and that Mr. Thimmes was not, had nothing to do with your carrying out your idea that Mr. Connally should be removed?

A. Purely a trade union move. I was acting purely as a trade unionist. I was—all my decisions were made as a trade unionist. That is the way I operate and that is all I was thinking of, that is all we did.

Q. Now, was the decision which you say was your idea about Connally in any way influenced by any of the proceedings before the national CIO convention in Philadelphia in 1943 on the subject of Communist Party and its relations to the national CIO?

A. No, not that I know of, in any way at all.

Q. You were present at that convention, Mr. Bridges?

A. That is the time we was—as a matter of fact, we were present at that convention. That was the convention of the CIO that the PAC was formed. Sidney Hillman says, "We are putting your union down for a donation of $10,000." Well, I screamed all over the place. I said, "What's the big idea? We are only comparatively a small union. You can't put Murray's union of a million strong down for $100,000 and put our union down for $10,000, one tenth." He said, "Look, $10,000 from your union. It is not the amount of money. The mere fact that your organization is in fighting and supporting this thing is the big thing that counts. It won't work unless you people are in with it and supporting it and fighting for it." That was the CIO-PAC. [5535]

Q. Now, my question, Mr. Bridges, was, was there any discussion at the national convention of the CIO in Philadelphia in 1943 on the question of Communist infiltration into the national CIO?

A. Not that I know of. What do you mean by "communist infiltration," Mr.——? I know what the term "infiltration" means when I read it in a dictionary. Now, if you will tell me what you mean? Because, after all, I have been in the union for quite a while. I have heard this term loosely applied. I have been accused of Communist infiltration myself, and the only way I can figure that out I had to start a long, long way back to infiltrate into the labor movement. Now, if you will tell me what you mean, I will be able to give you a better answer than I will otherwise. And all I am trying to do is to let you know all the facts, believe me, because I don't think—there is quite a few you don't know.

Q. Well, Mr. Bridges, I hope through you we will learn all the facts.

A. That is what I am trying to do.

(Testimony of Harry Renton Bridges.)

Q. Particularly the facts about this so-called question you now raise about Communist infiltration.

A. That's right. Now, I will give you all the answers I can properly give.

Q. Now, you have been in the labor movement since you joined the IWW, have you not?

A. I was in before that. [5536]

Q. When before that and where?

A. I joined my first union in Australia in 1916, shortly after I went to sea. That was the Australian Seamen's Union.

Q. Now, as a member of the Australian Seamen's Union, did you ever have to cope with the problem of infiltration into that union by the Communist Party?

A. Not that I recall. I don't think so.

Q. And of course, when you belonged to the IWW, you had no problem, did you?

A. Meaning in what sense?

Q. Of coming in contact with any question of infiltration into the IWW by the Communist Party?

A. Not that I recall.

Q. The IWW was a pretty revolutionary organization, wasn't it, Mr. Bridges?

A. It was, it was.

Q. But you didn't leave for that purpose, did you, or because of that fact?

A. I didn't agree with its policies. I wasn't much concerned with its revolutionary policies at the time. I left it because I thought it had, I thought

(Testimony of Harry Renton Bridges.)

it developed some pretty bad trade union policies. It developed a policy I mentioned here before, that one of its leading officers was an employers' agent. That wasn't the main reason I left it.

Q. Isn't that the reason you stated the other day? [5537]

A. Amongst others. I didn't mean to give the impression that was the only reason.

Q. What was the other reason or reasons why you left the IWW?

A. We had just gone through, or the Seamen's strike of 1921 was still on. And the IWW, at least in the Gulf, the branch of the IWW was the MTW510. They developed a policy of urging all the members to go back to work on the ships and to carry on the strike on the job. In order to go back to work on the ships, the other part of the policy of the union was to go back to work on the ships even if you went back at a wage below prevailing rates. Now, as a result of a strike, wages, I think, were cut to seventy-two-fifty or sixty-two-fifty a month. And the basic policy of the union as it was construed, or to be carried out, was, you go down to apply for a job on a ship, and if you had to go to work for $5.00 a month less, you do so, with the idea in mind that you would get on the ship at almost any cost in order to organize the ship and carry on the strike on the job. Now, it didn't make sense to me and that is the main reason I quit the organization at that time. As well as, as I said, I was pretty disillusioned with the International Sea-

(Testimony of Harry Renton Bridges.)

men's Union. It sold out the strike, I think, through its policies. There was no unity between the longshoremen and the seamen. I was running a picket squad in New Orleans at the time.

Q. When? A. That was in 1921. [5538]

Q. Yes?

A. I came back to New Orleans from Central America. I forget when I landed, although it is a matter of record. That also came up in prior hearings. And I went right on the picket line there and I had a picket squad of seven men around the docks in New Orleans. And one of them, I can still remember that one of the main things I used to try to do was to get support from the longshoremen. The longshoremen were working, the strikebreakers were on the ship. The seamen—and the longshoremen, who were union longshoremen, ILA longshoremen, they were working with the strikebreakers, and we were trying to point out, "Look, you shouldn't be working with these strikebreakers. You break our strike and after we are broken, you people will be broken." And that is exactly what happened.

Q. Well, you became unhappy with the IWW and you left, didn't you? A. Yes.

Q. Now, the next union you belonged to was a company union, wasn't it? A. Yes.

Q. And how long did you remain a member of the company union?

A. Around 1932, I think. I have got my book. I think I have got a record of it.

Q. Mr. Bridges, can't you testify to anything without your records? [5539]

A. Oh, yes. I said around 1932. Look, Mr. Donohue, I will get it down to days, months.

Q. With your records?

A. Yes. Now, I don't——

Q. Without your books, what is your best recollection?

A. I don't want any of this "summer months" business. I will try to get it down specifically to the day, if you want me to.

Q. Well, for the present purpose, what is your best recollection as to how long you belonged to the company union? A. '32—late in '32.

Q. You joined it late in '32?

A. No, no, no.

Q. When did you join it? A. '23, I think.

Q. Then you were in the company union for about nine years? A. Right.

Q. And you became unhappy with that and you left the company union?

A. I was unhappy from the very start.

Q. Unhappy for nine years?

A. Don't get me wrong. The waterfront employers, the shipowners of this port, had a tight hold on that waterfront.

Q. So you have said.

A. No, that was the one place we infiltrated, in the company union. That is where we did a little infiltration, would be my [5540] idea.

(Testimony of Harry Renton Bridges.)

Q. You are quite familiar with the term "infiltration," aren't you, Mr. Bridges?

A. In that sense.

Q. We will come to the other sense shortly.

A. But you see, when you talk about infiltration into the labor movement, the only way I can tie that in, I had to start right in off in 1916, when I was a seaman, and as a part of going to sea we used to do longshore work. And after going to sea, I started as a longshoreman. I started a long, long time ago to infiltrate.

Q. Well, now, after nine years of unhappiness in the company union, you joined what other union?

A. The ILA.

Q. And that at that time was affiliated with the American Federation of Labor?

A. Right.

Q. Then you became unhappy with that infiltration, with that affiliation?

A. You forget, I joined the old ILA in 1924.

Q. Well, wasn't that an A. F. of L. union?

A. Right, it was the same union.

Q. And you became unhappy with the A. F. of L., did you not? A. No.

Q. When did you disaffiliate from the American Federation of [5541] Labor?

A. You mean the move to CIO?

Q. Yes.

A. Well, it wasn't a question of whether I was unhappy or not. I think that there was a little more to it than that.

Q. But you did disaffiliate?

A. The union disaffiliated and went to CIO.

Q. And now, the CIO is unhappy with you?

A. I can't tell you that, Mr. Donohue.

Mr. Donohue: We will come to that after lunch. May we take the recess now, your Honor?

The Court: We will take the noon recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions, nor to form nor express an opinion thereon until it is submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [5542]

Afternoon Session, Tuesday, February 14, 1950

The Clerk: The United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Harry Renton Bridges, heretofore sworn:

HARRY RENTON BRIDGES

resumed.

Cross-Examination
(Continued)

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

By Mr. Donohue:

Q. Mr. Bridges, you do know, do you not, that the Mr. Phil Connolly we are talking about is the same Mr. Phil Connolly who is carried on the masthead of the People's World as the Los Angeles editor of the People's World?

A. That's right.

Q. When did you come to believe, if you ever did come to believe, that Mr. Connolly was a member of the Communist Party?

A. I didn't say that I ever came to believe it.

Q. I asked you, have you ever come to believe it?

A. I haven't given it any thought. I haven't particularly had any reason to believe it. I know he has been connected with the People's World in the last—well, fairly recently since—I know something about his resignation from the Los Angeles CIO Council. That resignation took place some time [5543] ago, and then somewhat after that I heard he was one of the staff of the People's World.

Q. Do you know that a non-Communist would be Los Angeles editor of the People's World?

A. I don't know, Mr. Donohue. It could be; I don't know. You expect me to know more than I am supposed to know or need to know. I have got—incidentally, I have got over here what you asked me to bring. I have got the minutes of the Executive Board of the State CIO Council that Connolly—where Connolly resigned. I haven't got the transcript that carried the verbatim remarks of everybody at that time. That is available being used in another court.

Q. I think we all agree that he did resign?

(Testimony of Harry Renton Bridges.)

A. Oh, it says here why he resigned and what happened. And in that transcript it will show something I forgot myself this morning, why he resigned, and a complete explanation. I will have that.

Mr. Hallinan: Just a minute. We will offer it in evidence, if the Court please, if there is such a transcript. Any objection?

Mr. Donohue: To what?

Mr. Hallinan: We will offer the transcript in evidence.

Mr. Donohue: I understood him to tell me he didn't have the transcript in his possession.

Mr. Hallinan: He said he will get it later, the verbatim [5544] transcript. If he hasn't it we will offer the minutes in evidence.

Mr. Donohue: I know of no——

The Court: Mr. Donohue, you may proceed. If Mr. Hallinan has something to offer, he may offer it at a later time.

Mr. Hallinan: Very well.

Q. (By Mr. Donohue): Mr. Bridges, you will have an opportunity to explain what Connolly said in just a minute, but before we come to that, do you recall telling me just before the recess that when you said that it was your idea that Mr. Connolly should be replaced by Mr. Thimmes, that your purpose was to make a representation of the CIO Council not so much one way in terms of leadership but to make it all-inclusive?

(Testimony of Harry Renton Bridges.)

A. To broaden it, yes. That as well as maybe some other things.

Q. Do you recall that you told me——

Mr. Hallinan: Just a minute. Pardon me. Counsel inadvertently——

Mr. Donohue: I don't think that the witness ought to be allowed to make a speech every time I ask him a question.

Mr. Hallinan: Inadvertently, counsel doesn't permit the witness to finish his answer.

Mr. Donohue: He tries to make a speech every time I ask him a question.

Mr. Hallinan: May I make a little speech?

Mr. Donohue: Surely. [5545]

Mr. Hallinan: Your Honor, after Manning Johnson was permitted to make long, long speeches in explanation of his answers, the least that should be accorded the defendant is he be allowed to finish his answer. Now counsel asked him a question. The witness is about halfway through his answer when counsel interrupts him. I think we ought to be permitted to hear what he has to say.

The Court: Maybe on that question I think there was an interruption. However, Mr. Bridges has not been circumscribed thus far in his testimony.

Mr. Hallinan: No, certainly not by any rulings of the Court, but counsel, I think he did it inadvertently, as he has done with other witnesses, when the answer is halfway through he asks another question.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: Would you read the question and answer of Mr. Bridges back to him, Mr. Reporter?

(Record read.) [5546]

The Court: You have something to add to that?

The Witness: Yes. Here is the point, your Honor.

A. (Continuing): The State Council of the CIO, the California State Council, like all councils, are composed of the local unions, affiliated to the State Council. Jim Thimmes was the West Coast regional director of the Steel Workers Union, CIO. Quite a few locals of the Steel Workers' Union were not affiliated to the California State Council. So amongst other things, in order to broaden the leadership, another consideration that I had in mind was—and Thimmes promised to do it—that if Thimmes, the West Coast regional director of the Steel Workers, was president of the State Council, that that would be one way of getting all the local steel workers' unions in the state of California to affiliate with the State Council. As I recall, only about 60 per cent of them were. So that was another consideration, where we thought the other 40 per cent of the locals would affiliate with the State Council if Thimmes was made president. Now, if the steel locals affiliated with the State Council, that would also mean that they would contribute financially and in other ways to the political program as well as to the organizational program of the State Council. That was also a consideration.

(Testimony of Harry Renton Bridges.)

Q. Now, Mr. Bridges, isn't that the third reason you have given for supplanting Mr. Connally with Mr. Thimmes?

A. Well, it is an additional one. I didn't know that when I [5547] was asked before. I didn't necessarily break them down.

Q. Well, do you recall that I asked you just before we recessed if it wasn't a fact that you had stated on direct examination that your purpose in supplanting Mr. Connally with Mr. Thimmes was to bring about a broader representation between right, left and center?

A. Right, that was my——

Q. And did you not then——

Mr. Hallinan: Pardon me. Let him finish.

Mr. Donohue: Let me finish my question; pardon me.

Mr. Hallinan: Well, no, there were two questions asked. First he asked the question, and the witness starts to answer and then counsel starts to ask another question, "And didn't you——." Now let him answer the one question.

The Court: In this instance, Mr. Hallinan, I think Mr. Bridges had answered that question and Mr. Donohue was about to address another one to him.

Mr. Hallinan: He should give the witness a few moments more time. Counsel is in such a hurry to get home, your Honor, that now he is rushing the thing too rapidly. I think that we ought to give a few moments now. We have spent a lot of time in the prosecution's case. We only want a few minutes to explain everything out. Let's not keep anything covered over or hidden.

Mr. Donohue: You had four and a half days. [5548]

Mr. Hallinan: Well, give him a few minutes. You are a young man yet; you have got a long time.

The Court: Mr. Hallinan, I say it without reflecting on either counsel at this time; there was very little, if any, interruption on the part of Mr. Donohue in your examination, and I think that unless there be some reason—and I think Mr. Bridges is probably a judge of that.

(To the Witness): Do you have any explanation you desire to make? If so, you may make it.

The Witness: Thank you.

Mr. Hallinan: And, your Honor, I might say this: the only objection I make is to letting the witness finish the answer. In other words, it isn't an objection to the question or it isn't saying that he shouldn't be asked that. It is just to let him tell the story, let him finish his answer. That is all I asked.

Mr. Donohue: Mr. Reporter, would you read back the last question, please?

(Record read.)

Q. (By Mr. Donohue): Have you fully answered the last question, Mr. Bridges?

A. It was one of the reasons.

(Testimony of Harry Renton Bridges.)

Q. Now, isn't it a fact that when I asked you the question on cross-examination you said that the reason for supplanting Mr. Connally with Mr. Thimmes was in order that there be a broader [5549] representation from the point of view of the new unions and the old unions? A. Right.

Q. Now, which of the three explanations you have given is the one?

A. All of them are correct.

Q. Then why didn't you give us the full explanation on the first question?

A. First, I wasn't asked, Mr. Donohue; and second, in the noon recess I went to the records. As I say, my memory, I think it is fairly good, but I can forget things. So instead of trusting my memory and having a lot of union records in my office and all I have to do is go through the minutes. I have got them here and I can help you out. Now, all I did was, I gave the main reason that stuck in my memory. But when I checked up on the written record, I find additional ones, and that is all I am adding now. That was all.

Q. Well, will you search through all your union records and tell us what the record shows was in your mind when you told the jury that it was "my idea" that Mr. Connally be supplanted by Mr. Thimmes?

A. I don't need the union records for that. I remember that. Now, you were not asking me that; I thought you was asking me why did I get the idea, for what reasons. Now, I remember that was my idea. I remember that much. The records mightn't reveal [5550] that. But all I can find out from the records is, why did I do it. What were the reasons. And I thought that was what you was asking about.

Q. Now, after you decided to do it, and you told us this morning that you decided to do it before you left California to go to Philadelphia?

A. That's right.

Q. What did you do about it when you got to Philadelphia?

A. I discussed it, as far as I recall, I dismissed it with Sidney Hillman and I asked him, "Do you think this is a good idea, Sidney?" He said, "I think it is." And I called the delegation, the California delegation, together and I took it up with them. And then they agreed, and then from there on we went to Phil Murray with a committee. And I have got the minutes of the '43 convention here; and incidentally, looking through the minutes, I find no speech or any action by the CIO or Murray on the question of Communist infiltration into the labor movement. I looked through it. I couldn't find anything about that. But I've got it here.

Q. Did you look through the 1935 A. F. of L. convention? A. '35?

Q. Yes. You remember me asking Mr. Schmidt about it? A. 1935?

Q. State convention, A. F. of L.

A. Oh, yes, I have looked through those, yes. And I can recall [5551] the proposition No. 1. I can tell you the whole story about it if you like.

(Testimony of Harry Renton Bridges.)

Q. I am sure you could, Mr. Bridges, but let me ask you this.

A. I can tell you the true story about it, Mr. Donohue.

Q. Did Mr. Hillman vote to elect Mr. Connally to the presidency of the California CIO Council?

A. No, no, he didn't, because he never had any authority. But his representatives, that is, the representatives of the local unions in California, did. I have got that, that is what this record shows here (indicating).

Q. Why did you talk to Mr. Hillman about it? He hadn't helped elect Mr. Connally?

A. Mr. Hillman at that time was in charge, although there hadn't been any official machinery set up, he was in charge of the political action for the national CIO. We faced what we thought at the time a very delicate or tough political question. President Roosevelt was running for his third term. That was 1944. It was coming up. It was the general opinion of all of us that we had to have far more understanding and agreement amongst the ranks and leaders of all trade unions, if that election campaign was going to be successful. And that is one of the things that I say that motivated us. We tried to build here in California, because we didn't only have the national elections, but we also had a series of Congressional races that we wanted to be successful. And we were largely successful. We [5552] cleaned out some of the reactionary—to us at least—people in the state here that was holding office.

(Testimony of Harry Renton Bridges.)

Q. Now, Mr. Bridges, when you gave us as your supplementary explanation for the removal of Mr. Connally and the substitution of Mr. Thimmes on the basis of new and old unions, you said that the steel workers' union was a new union, correct?

A. Sure.

Q. When was it formed?

A. 1937, as far as I recall.

Q. And when was the Guild formed that Mr. Connally represented?

A. '34, to my knowledge.

Q. Are you sure that it wasn't formed in Los Angeles, California in 1937?

A. Which Guild?

Q. The Guild that Mr. Connally belonged to.

A. Oh, you mean the local? That could be. I mean, the local chapter of the Guild in Los Angeles, I didn't—I didn't mean that I knew when that was formed. I know when the Guild was formed in this city, I know when the national Guild was formed.

Q. The national Guild was formed in the East, wasn't it? A. Yes.

Q. And Mr. Connally belonged to the Guild in Los Angeles where he lived and worked, didn't he?

A. As far as I know, that is correct. But he was at one time a national officer of the Guild. [5553]

Q. Then it is your statement now that the difference in age between the Guild that Mr. Connally belonged to and the age of the Steel workers' union in the CIO was a substantial factor in the removal of Connally and the substitution of Thimmes?

(Testimony of Harry Renton Bridges.)

A. No, I didn't mean that, no.

Q. Well, you stated that this morning, didn't you, sir?

A. Well, if I did, I didn't mean to convey that impression. I was talking generally, and I had in mind mainly that the ILWU was an old, established union here on the Pacific Coast and certain other unions, maritime unions, the Woodworkers and the Steel Workers' union, was only formed after the CIO was formed.

Q. So was the Guild, wasn't it, the Newspaper Guild?

A. No, the Guild was an independent organization that was a going concern before the CIO was formed. And it joined, it first of all joined the A. F. of L. and then it switched to CIO.

Q. When did he switch to CIO?

A. As far as I recall—let me see. 1937, I think.

Q. And it was new in the CIO, wasn't it?

A. Pardon?

Q. It was as new in the CIO as the Steel Workers' Union, wasn't it?

A. Oh, in that sense, yes. But I mean, it was a union that was organized and had already been organized for some time before the Steel Workers' Union was organized. [5554]

Q. Mr. Bridges, isn't it a fact that not only did you not discuss with Mr. Connally his removal before you went to Philadelphia but that you bitterly opposed the removal of Mr. Connally?

A. No, no.

(Testimony of Harry Renton Bridges.)

Q. That is not a fact?

A. No; Michener was haywire on that.

Q. Now, it is a fact that Mr. Michener was at the 1943 convention in Philadelphia, wasn't it?

A. I don't know. I would sooner look at the record and check.

Q. Well, since you are a man who can only tell what happened by looking at the record, suppose you look at the record and tell us.

A. Oh, no, that is not so, Mr. Donohue. I can tell by records and I can tell by my recollection, but when I have got both, I would sooner depend on the record. That is the only point.

(Consulting book.)

Lew Michener is listed as an official delegate from the Automobile Workers' Union, CIO.

Q. Now, having looked at the record, does that refresh your recollection to the point, Mr. Bridges, where you can tell us whether or not Mr. Michener was in Philadelphia as a delegate to the CIO national convention, 1943?

A. I don't—he could well have been. I have no distinct or independent recollection on that point. He could well have [5555] been. I don't know.

Q. Now, this caucus that you said you called of the California CIO delegates—— A. Yes.

Q. Where was it held?

A. In one of the hotels there. I couldn't say which one. I have a distinct recollection of the caucus. I can remember that we held it in a room,

(Testimony of Harry Renton Bridges.)

or a suite of rooms, where we were sitting on the backs of chairs and things like that. So——

Q. You wouldn't know whether it was at the Bellevue-Stratford Hotel, where the convention was held?

A. It sounds reasonable to me. It might very well be at the Bellevue-Stratford. I was staying at another hotel. I was staying at the Benjamin Franklin Hotel at the time, at that convention, so the Bellevue-Stratford was the headquarters of the convention, the convention like all conventions had conference rooms available for those committees that want to meet, or those unions that want to hold caucuses. It could well have been at the Bellevue-Stratford.

Q. Well, the action that was discussed at that caucus wasn't taken until you came back to California, was it?

A. The action—do you mean the actual resignation of Connally?

Q. Yes.

A. That was taken here. That was taken at the meeting of January 14th, 15th and 16th, 1944. [5556]

Q. Well, then, why did you call a caucus of the CIO delegates from California in Philadelphia in 1943 to discuss it?

A. Because that is the way we do business, work it out with the national CIO, so that they know what is going on, so that we keep the national leaders of the CIO acquainted with what is going on and——

(Testimony of Harry Renton Bridges.)

Q. Why couldn't you wait—I am sorry. I didn't mean to interrupt you. Go ahead, Mr. Bridges.

A. And to gain all the benefits we could out of the move.

Q. Couldn't you have waited until you came back to California and discussed it with all the members of the California CIO Council?

A. Not necessarily because all the delegates of the national unions were assembled there in one spot, so in addition to having the delegates of the unions assembled there in Philadelphia, we also had the national leaders of the CIO assembled. So we took advantage of the opportunity to do it that way. [5557]

Q. Well, having taken some action at this caucus, did you notify leaders of the CIO that you were going to reverse the outcome of a rank and file vote and supplant Mr. Connolly by Mr. Thimmes?

A. That isn't the way to put it. We weren't reversing anything. We weren't setting aside a rank and file decision. We did what I have said. We sat down there. I explained the reasons for the move. I succeeded in convincing most of the people. I discussed the matter with Sidney Hillman, and after we had agreed that it was a constructive step in the interests of great unity and better understanding all around, we took the matter up with Philip Murray. Phil Murray said, "I think it is a fine idea. Glad to see that is the way you people are doing things. Too bad we haven't got more of that throughout the national CIO; too many darn

(Testimony of Harry Renton Bridges.)

State councils here, they are always bickering among themselves with factional fights. I am darn glad to see in an important State like California that is large enough and big enough on these things, that you people are making this approach." Phil Murray blessed the whole business, and that was that.

Q. Then it is a fact that this thing, which was your idea and which your co-delegates ratified in Philadelphia, was communicated to the national president of the CIO, Phil Murray? A. Sure.

Q. Why? [5558] A. What is that?

Q. Why?

A. Well, first of all, I was president of the CIO and I guess because there are other reasons. I said, "Phil, we are a bunch of good boys here; that is the way we do things." He is president of the organization. I have always felt it a policy of keeping him as well informed as I could as to just what was going on. I was, understand, Regional Director of the State of California at that time, as CIO Regional Director instead of being president of the ILWU. So to some degree the full participation of the local CIO unions in the State of California in all phases of the CIO program was my responsibility. That is why I made the decision. So I was duty-bound to take such matters up with my superior, who was Phil Murray.

Q. Now, which of the three explanations did you give Mr. Phil Murray for the action that you took at this caucus?

A. Just the ones I have given here, Mr. Donohue: that we were trying to draw together the State of California, to get a more solid united movement.

Q. Did you perhaps—I am sorry, did I interrupt you, Mr. Bridges? A. No.

Q. Did you perhaps emphasize to Mr. Bridges the first explanation you gave with respect to greater equality, left, right and center? [5559]

A. No. You mean Mr. Murray?

Q. Mr. Murray, yes.

A. Yes, I am sure that we made that point: that by doing this we would develop greater unity in the State of California between the various groups.

Q. Now, Mr. Bridges——

A. Look, Mr. Donohue, you see, let me tell you something. The ILWU, Longshoremen and Warehousemen, in the State of California, they sometimes—all too much so—have quite an idea that—and to some degree it is a matter of fact—that they built the CIO in this State. Now, to quite a degree that is true, because if it had not been for the longshoremen and warehousemen in the State of California, there would never have been a CIO. They were the people that got it started and kept it going. They were the men that got out and fought the battles, and they were the men that put up tens of thousands of dollars to finance and help finance and build and organize the CIO in this State. So one of the problems we were up against there, I had to say to my own people, "You are not the whole labor movement. So these other people, union people, came along later; maybe they are not the big battle veterans of '34 and '36, but nevertheless they have had considerable to do with building this union." They are the kind of things we had to straighten out within our own ranks and within the unions. [5560]

Q. Mr. Bridges, isn't it a fact and a fact known to you that almost since its inception the California CIO Council has been wholly and completely dominated by Communists and the Communist Party?

A. Absolutely not; not a fact, not known by me. And I think that I can come in here with the records, I can come in with the record of the first convention—I was chairman of the first convention, and the record will show where I went out of my way to go down and urge certain people to run for office. I was more or less severely criticized not only by left-wing people but right-wing people even for asking a labor faker like that to run for office.

Q. Isn't it a fact that only within the last matter of days that the national CIO has revoked the charter of the California State CIO Council because it is Communist-dominated?

A. They have revoked the charter and they have set forth as reasons for it what you say, but the reasons is something else again, Mr. Donohue, and I know the reasons are something else again, something that is an internal matter in the organization, and I am in a position to know. I am still an officer in the national CIO; I am still on the Executive Board of the CIO, and I know.

Q. You are still——

Mr. Hallinan: Let him finish.

Mr. Donohue: I am very sorry. [5561]

Mr. Hallinan: He is giving his reasons. Let him finish.

Q. (By Mr. Donohue): Are you finished, Mr. Bridges?

A. Well, I will stop there. I don't want to give the real reason if I can avoid it.

Q. Were you reelected in the national CIO convention in Cleveland?

A. As Executive Board member?

Q. Yes. A. Yes, unanimously.

Q. Mr. Bridges——

A. I can bring the record in to show you, Mr. Donohue.

Q. I will show it to you before I get through, Mr. Bridges.

Mr. Hallinan: May I say this, your Honor: Since it is a fact that the inquiry should cease with the year 1945—now there is some contention here by the indictment that Bridges was a member of the Communist Party up to the year 1945. I think these inquiries into present controversies in the union are outside the proper scope of the inquiry. What difference does it make what happened in 1949, 1950 or 1948? I submit that these questions as to the present controversy in the CIO do not come within the scope of the indictment.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: May I say these questions are pertinent and proper, your Honor, to test the credibility of this witness, who has testified under oath on the stand that he was not ever, either on the day he sought his naturalization, before that day, [5562] or up to the moment he sat on the witness stand, a member of the Communist Party. For that reason——

Mr. Hallinan: Of course, your Honor, any inquiry on a collateral matter such as that, he would be bound by the answers, so it wouldn't do him any good anyhow, wouldn't attack his credibility. I submit he is limited in his inquiry as to the facts up to the date of the indictment. If we are going to go into a question of the intramural difficulties of the CIO as of the present time, that isn't going to solve any question in this matter. As a matter of fact, that is all that counsel is trying to do, he is trying to build a case on the controversy that exists now between Mr. Bridges and other officers of the CIO or Mr. Bridges' union and other persons of the CIO to bolster what he thinks is a case that is supposed by its terms to have ended in 1945.

Mr. Donohue: I may suggest, your Honor, that these men are trying to build a case upon attacks by the police department of San Francisco upon the strikers in the 1934 strike.

Mr. Hallinan: No, because their inquiry went back to that.

The Court: The objection is overruled.

(Testimony of Harry Renton Bridges.)

Q. (By Mr. Donohue): Mr. Bridges, could it be that you have confused the caucus which you have described as being held at some unknown hotel, with a Communist Party meeting which Mr. Michener described as having taken place at the Bellevue-Stratford [5563] Hotel in Philadelphia?

A. No, I didn't confuse it; maybe Michener did. I have a recollection of that caucus that you are referring to, and it was held as stated. I organized it, I was responsible for it, and I know.

Q. You heard Mr. Michener say that among some 15 people present was Mr. Connolly himself?

A. Yes.

Q. You heard him say that Jim Dougherty was there. You know Jim Dougherty, don't you?

A. Yes.

Q. You heard him say that Ruby Hyde was there?

A. I heard him say Dougherty was there. Of course the record shows that Dougherty wasn't there.

Q. You mean the record shows he wasn't a delegate? A. Yes, that's better.

Q. That wouldn't stop him attending a Communist meeting in Philadelphia?

A. I guess it wouldn't stop him attending a meeting, no, sir.

Q. You heard him say Ruby Hyde was there?

A. Right.

Q. You know Ruby Hyde?

(Testimony of Harry Renton Bridges.)

A. Sure. And the record shows she was a delegate.

Q. Do you know whether or not Ruby Hyde was a member of the Communist Party? [5564]

A. No, sir, I don't.

Q. Do you know whether Jim Dougherty was?

A. Look, just so that I won't make any mistakes, Mr. Dougherty—believe it, I would like it for you to know all the facts in this case as well as I know them.

Q. Very anxious to, Mr. Bridges.

A. That is what I am trying to do. When you ask me—now, when you ask me do I know whether someone is a Communist, I want to know, so that I can answer properly and so that I won't be making any mistakes, just what do you mean? Now, I assume that when you asked me the question you want to get an answer, Do I know of my own knowledge?

Q. That is correct.

A. All right. The answer is no.

Q. Just the same as when I ask you, Are you a member of the Communist Party, as of your own knowledge.

A. That's right. All my answers—I base all my answers on that understanding. That is what I know, in other words.

Q. Then as of your own personal knowledge, all the persons I have named to you were not known to you as being members of the Communist Party?

A. That is right.

Q. Including Mr. Michener?

(Testimony of Harry Renton Bridges.)

A. Mr. Michener?

Q. Yes. Do you know him to be a member of the Communist Party? [5565]

A. No, I certainly did not. I didn't really think he had it in him, frankly.

Q. You mean you didn't think he had what in him?

A. I have got my own ideas about Communists, that it takes quite a bit of courage from what I have seen and from what has been going on around. I may lack enough of what it takes to be a member of that Party. I never thought Michener had enough of what it takes to be a member. That is my own personal opinion.

Q. You mean it takes some virile qualities to be a Communist?

A. I would say—you take a fellow like B. B. Jones—you take a look at Michener, and it tells me something.

Q. You are a man of some courage, Mr. Bridges.

A. Not enough to boast of, Mr. Donohue.

Q. Enough to be a member of the Communist Party?

A. I wouldn't say so, no. One of the things—one of the weaknesses I have, I just don't have enough something; I get too darn scared on a lot of occasions.

Q. Did you know Mr. Charles Pfeiffer, who Mr. Michener said was at this meeting?

A. Sure. Charlie was one of the local officers of the union in the State of California.

(Testimony of Harry Renton Bridges.)

Q. Do you know whether or not he was a member of the Communist Party?

A. I do not. [5566]

Q. He mentioned one more name, Roy Hudson.

A. Hudson I know. I have known Hudson for years. That is, I have known him. I haven't seen him for a year and a half.

Q. When did you last see Mr. Roy Hudson and where?

A. Oh, I seen Hudson—let me see; a few months ago.

Q. Where?

A. I ran into him right outside our building at 150 Golden Gate Avenue. I was just coming out of there and I ran smack into him and said, "Hello," talked for a few minutes. I was on my way home, as far as I can recall.

Q. Did you meet him in an automobile?

A. Recently, not that I remember, no.

Q. When you met in front of 150 Golden Gate Avenue was he walking?

A. I don't remember. As far as I know, he was.

Q. Mr. Hudson is from New York, isn't he, Mr. Bridges?

A. I don't know. I don't know. I would say he was from New York, sometimes other places. He is a sailor. He might be from a lot of places.

Q. When to your knowledge did Mr. Hudson sail last?

A. Well, I am a sailor too. That has got nothing to do with it, when I sailed last. I am a darn good

(Testimony of Harry Renton Bridges.)

sailor. So is he. I haven't been sailing for years, but I could go back and sail tomorrow. That is what I mean by being a sailor.

Q. You meant that Roy Hudson can sail, not in the sense that [5567] it is his occupation; correct?

A. Oh, well, that is true. That is true. I think you are right there.

Q. Mr. Bridges, don't you know, and haven't you known for years, that Roy Hudson is and has been the national director of trade union activities for the Communist Party?

A. I don't exactly know what his position is, but I have known for years that Roy Hudson has been some important national officer, some national officer of the Communist Party. I have known that for many, many years.

Q. You have talked with him on many occasions, have you, Mr. Bridges?

A. Some occasions, yes.

Q. How many times would you say you have talked with Mr. Hudson?

A. I couldn't tell you over a period of years. I have known Hudson since, I guess, oh, probably I have known Hudson since 1936, I would say, and to start asking me the number of times I have talked to him, that is a pretty tall order. I couldn't tell you.

Q. You couldn't tell me whether it was a great many times or a very few times?

A. Both of those terms are relative. What would you call a great many times?

(Testimony of Harry Renton Bridges.)

Q. What would you call it, Mr. Bridges? [5568]

A. I don't know. Again it would depend.

Q. Are you unable to tell us how many times you have talked to him?

A. I would say if it was in a period of time of say thirty days, ten times in thirty days, that would be a great many times. If it was ten years it would be a few times.

Q. How many years have you known Mr. Hudson?

A. I think since about 1936—'35 or '36.

Q. In the last fourteen years what is your best recollection of the number of times you have talked to Mr. Hudson?

A. Probably a dozen or so, maybe.

Q. And where?

A. Various places. I have seen Hudson in New York on one occasion—I recall only one occasion—and the other times I think have all been here in San Francisco.

Q. Where did you see him in New York?

A. I forget.

Q. Isn't it a fact that you saw him on several occasions in New York at Communist Party headquarters?

A. No, I have never been in Communist Party headquarters in New York in my life.

Q. You are sure of that?

A. Postive of that, Mr. Donohue, in my life. I have heard about it, and one of the reasons I didn't go there, I—I figured there was people just watching to see if I would do [5569] that very thing.

Q. Do you know where it is now, Mr. Bridges?

A. I only know West Ninth Street, or Tenth Street, something like that, I know it in that sense, not where it is by personal knowledge. And if I were to go there, the way I would get there, I would go to New York and take a taxicab.

Q. Have you stayed with Mr. Hudson at his home?

A. Never in my life. I couldn't tell you where he lives for a million dollars. Never in my life.

Q. You are positive of that?

A. Postive of that. That gang of informers you have got are off the beam.

Q. You know some of them, Mr. Bridges?

A. I have seen some of them up here. You pay them too much.

Q. Mr. Bridges, when is your best recollection within the last few months that you saw Mr. Hudson in front of ILWU headquarters?

A. I think it was after—it was after or toward the end, but my recollection it was after the 1948 maritime strike. There was a story in the paper—I remember there was a story in the newspapers during the maritime strike that Hudson was in town and had been observed around, and I remember saying to someone, "Well, look at that." And connecting it up with that, I think it was shortly after the maritime strike.

Q. Now, you want us to believe that it was purely a coincidence [5570] that you happened to meet the

(Testimony of Harry Renton Bridges.)

national trade union director of the Communist Party out in front of your building at 150 Golden Gate Avenue?

A. As far as I was concerned, it was a coincidence. When you say a coincidence, do you mean that I didn't meet him by design?

Q. Yes.

A. That's right. Just the way I stated it.

Q. You are sure of that as a fact?

A. Look, Mr. Donohue——

Q. Yes, Mr. Bridges——

A. There is no reason that I should deny meeting Hudson. I have known Hudson off and on. Any time Hudson wants to see me, he knows he can call right in my office and say, "Harry, got a few minutes?" "Sure." Hudson is an old sailor. He has been around here for years. It isn't a question of whether I agree with his program or policy or anything like that. But that is how it is. Now, it might seem strange to you, but that is the way it is. So I wouldn't have any reason that if I had met Hudson in any other way or any other occasion, I would tell you about it. And believe me, anything I said, you want to know, you will get a straight answer, whether it is Hudson or anyone else. Believe me, if I have met them by design, you will get an answer, and if it is by accident, you will get that answer. [5571]

Q. You wouldn't have had occasion to go up to his office?

A. It would be the first time I ever knew that guy had an office.

(Testimony of Harry Renton Bridges.)

Q. The first time you ever knew he had an office?

A. Yes.

Q. You don't think the Communist Party has enough room in its headquarters to give the national director of trade unions an office?

A. In that sense of having headquarters, yes, I understand, yes. Again, if I did have something that required me going to his office, I would probably go. Now, by that I don't want you to get the impression that it is daily or weekly occurrence. Such meetings as I have had with Hudson or any other Communist officers or officials, they have been very infrequent, they have not been a regular occurrence, not a daily or weekly or monthly occurrence; they have been very infrequent. But as president of the organization, the CIO—I was West Coast Director—or the director of the CIO, I have to operate in such a way that anyone that wants to see me, they can make an appointment and see me. I don't know what they are going to talk about, or what they wish to see me about, but any time someone wanted to see me, I don't care what political party they belong to, they can see me. I frankly didn't give a great deal of thought if I considered them members of the Communist Party. At the same time I have met people of other political [5572] faiths far more frequently then in Philadelphia than people who were Communist officers.

Q. When you and Mr. Hudson would have these meetings, Mr. Bridges, did you talk sailing, Communism, or trade unionism?

(Testimony of Harry Renton Bridges.)

A. What meetings, Mr. Donohue?

Q. You said you have met with Mr. Hudson many times.

A. I didn't understand that you meant meetings.

Q. Let's say conversations.

A. All right.

Q. Did you talk sailing, Communism or trade unionism?

A. Probably all three. Probably all three.

Q. Are you sure, Mr. Bridges, that the last time you saw Mr. Hudson was in front of your building in San Francisco in the year 1948? A. Yep.

Q. You are sure of that?

A. Yes, as sure as I can be. I don't recall seeing him any other time.

Q. Now, Mr. Bridges, Mr. Michener said that at this meeting in the Bellevue-Stratford Hotel in Philadelphia; among the other persons I have named as being present, Roy Hudson was also present, was he? A. Are you asking me?

Q. Yes.

A. No, no. As a matter of fact, the last time I seen Sam [5573] Darcy was in Philadelphia.

Q. You don't remember seeing Hudson?

A. No, but I did see Darcy in Philadelphia at that time. [5573-A]

Q. Are you asking me?

A. No, no. As a matter of fact, the last time I seen Sam Darcy——

Q. But you did not see Hudson?

(Testimony of Harry Renton Bridges.)

A. No, not that I recall. He wasn't at that meeting that I remember.

Q. A few minutes ago, Mr. Bridges, you said that the last time you saw Mr. Hudson was the incident you described in front of your building a few months ago. Do you consider just after the 1948 maritime strike was not being a few months ago? A. December, 1948?

Q. Yes. A. About a year——

Q. About a year.

A. Yes, it could have been. When I say after the 1948 strike, I have in mind the last month in 1948, or early in 1949. That is what I have in mind.

Q. Could it be that you have seen him since this trial began in November?

A. No—that is, I haven't seen him. I have seen other people, but not Hudson, that I recall.

Q. Well, if you had seen Mr. Hudson here in San Francisco as recently as a few months ago when this trial began, you would remember it, wouldn't you.

A. I sure would, I sure would.

Q. Your statement is you have not seen him? [5574]

A. Yes, because I got hold of some of those people. I was looking for some information. I wanted to get some records and do some research work. So I have seen them to get some of these records, and if Hudson was amongst the people I have seen, number one, I would recall it and, number two, I would have no hesitancy in telling you.

Q. Who are the people you saw?

(Testimony of Harry Renton Bridges.)

A. I had a session with Bill Schneidermann and a couple of others about a month ago. That was pursuant to a meeting I had with them before. I was trying to find some records having to do with some events that I figured would come up in this trial, and which have come up, such as some of these people who are claiming they were members of the party. I asked what records they had available, if I could get any of them, and so forth.

Q. You knew the man you called Bill Schneidermann pretty well, Mr. Bridges?

A. I have known Schneidermann, I think, since 1936 or 1937—around 1936.

Q. Where did you have this meeting about a month ago with Bill Schneidermann?

A. In my office.

Q. Who was with Mr. Schneidermann?

A. Schneidermann, Archie Brown, a couple of others—I forget who—one or two others—I forget who. There was a couple who came in, stayed for a while, and left. There was two of them. [5575] I forget the other two.

Q. Archie Brown has the same position in California as Roy Hudson has on a national scale, does he not? A. I don't know.

Q. You do not know that Archie Brown is the director of the Communist Party in the State of California?

A. No. This meeting was pursuant to a request of mine. See, I had a session with them before, right after the indictments in conjunction with the

(Testimony of Harry Renton Bridges.)

attorneys, in starting to do some research work to prepare for this case. I contacted those people to see what, if any, records might be available to us to disprove some statements that might be made here, statements as to my membership in the Communist Party, records as to the membership of other people. I had a couple of sessions at that time, and this last session that occurred four or five weeks ago was a kind of a windup where they said, "Well, more or less, no records available or anything like that that was of any use."

Q. Then it is a matter of fact that before and since the beginning of this trial, you have asked the Communist Party to make available for the purpose of impeaching prosecution witnesses and sustaining your defense that they make available to you and for you any and all records in their possession?

A. I asked them if it was possible for me to get anything we thought might be valuable. They said, "Maybe yes, maybe no. [5576] If we could make available anything that might be helpful, we think we can do so in accordance with our regulations, we will do so."

So far the amount of material we have been able to get has been very little. We have had to depend on our own research work, and we have had very little assistance from them, very, very little. That is the sum total of it.

Q. I take it, then, Mr. Roy Hudson was not at this meeting that Michener described?

A. Which one now? In Philadelphia?

Q. The Bellevue-Stratford Hotel in New York.

A. Certainly not, not the meeting of the California delegates or any others that I recall at that time in that convention that I was at.

Q. Then Mr. Michener was not testifying to the truth when he said Roy Hudson came to that meeting and stated in substance that the Communist Party high command felt that unless some of the more permanent Communist Party members like Mr. Connally as head of the California CIO Council were supplanted by so-called right-wingers that there was a likelihood in the CIO convention then in session that action might be taken to exclude or expel the Communist Party members from the CIO? You heard Mr. Michener in substance say that?

A. Yes, I heard him say that, but if you will check a little more on Michener's record in the labor movement, you will know [5577] that—you will soon find out from people who are far more friendly than I might be that he has got a habit of making exaggerated statements and making things up, and as far as anything like that taking place in the 1943 convention, it is news to me. It is something that is pure fabrication of Michener himself. It is something that he thought up or dreamed up.

Q. Michener was not telling the truth about that?

A. Of course not, Mr. Donohue. Maybe—I am not saying, you know, he wasn't telling the truth.

(Testimony of Harry Renton Bridges.)

You can be fooled, you know. But I know he wasn't telling the truth.

Q. Let's see, Mr. Bridges, whether you do or not. Did you call San Francisco on the telephone during the 1943 convention of the CIO and discuss this question of Connally versus Thimmes with anybody?

A. I might have. I don't know. I might have.

Q. You said this morning when you came back you talked with Mr. Mervyn Rathborne about it, didn't you? A. Undoubtedly, sure.

Q. Do you remember now that you talked to Mr. Rathborne on the telephone from Philadelphia?

A. It could well be. I don't think he was a delegate to the Philadelphia convention. I remember that I talked to him, as far as I recall, before I ever went East.

Q. I am asking your if you recall calling him from Philadelphia on the telephone. [5578]

A. No, but I am saying I make calls back to my home office while I am away, out of town, or when something occurs, very, very frequently, and I see no reason why I shouldn't have called. The chances are I probably did.

Q. What was Mr. Rathborne's position with the CIO at that time?

A. Secretary of the State Council.

Q. Of which Mr. Connally was, at least momentarily, president?

A. Oh, no, not momentarily president. He had been president for quite a number of years.

(Testimony of Harry Renton Bridges.)

Q. Except he was being removed at this convention? A. He was what?

Q. He was being removed at this convention?

A. No, he was not. No, he was not.

Q. He was removed, Mr. Bridges?

A. He resigned.

Q. Let's say he resigned.

A. The point is he resigned voluntarily. He didn't resign under pressure.

Q. Then why did you call a caucus if he resigned voluntarily? Why was it necessary to call a caucus?

A. Well, we have to get the value out of a move. There is no good having a man resign unless you explain it to everybody, so that everybody gets the idea and learns the reason as to why these moves are made, and the good that comes out of them. There [5579] is no good doing these things unless you explain it to people, so that they draw the full value. That is all.

Q. Isn't it a fact, Mr. Bridges, not only that you called Mr. Rathborne on the telephone from Philadelphia but that while you were making the call, you had Mr. Roy Hudson talk to Mr. Rathborne on the telephone?

A. Not that I know of. No call of mine, nothing like that. I had nothing to do with it. If Rathborne were talking to Hudson without my knowledge, I know nothing about it—know nothing about it as of this moment.

Q. Isn't it a fact, Mr. Bridges, that when you returned to San Francisco you discussed this matter with Mr. Rathborne in some detail?

A. Oh, yes, I remember that. He was on a drunk, didn't show up for two or three weeks.

Q. Were you with him when he was on this drunk? A. No.

Q. How do you know he was on a drunk?

A. He told me.

Q. Told you so?

A. He told me he was so disgusted he couldn't resist the temptation. He went out and got soused.

Q. So disgusted at what?

A. At what he said was a phony move, this matter of moving a man like Connally out and putting in a hobo like Thimmes. [5580]

As I say, he went on a drunk for two or three weeks and expressed himself by sending everybody pictures of Thimmes with a little note, "You love the guy so much, put this on your bedroom dressing table." And he gave me one of these wooden back scratchers. I didn't quite get the point of that. I guess it meant, you scratch my back and I will scratch yours, something like that. And I still have the picture and the back scratcher.

Q. Isn't it a fact, Mr. Bridges, when you talked with Mr. Rathborne here in San Francisco about this matter that you told him that you had bitterly opposed this move at this Communist Party fraction meeting in Philadelphia?

A. No, that does not make sense to me either, Mr. Donohue. If I had bitterly opposed it—if I

(Testimony of Harry Renton Bridges.)

had bitterly opposed it, I think I could have swung enough weight.

Q. Could you swing enough weight to overcome the command of the Communist Party headquarters, Mr. Bridges?

A. At any and all times, Mr. Donohue. There has never been a time when I didn't pack at least that much weight. I think frankly you are making a mistake in trying to give to the Communist Party much more influence than they have got coming, particularly in the trade union movement.

Q. Isn't it a fact, Mr. Bridges, that you told Mr. Rathborne here in the city of San Francisco that you thought it was about time to stop red-baiting and that you saw nothing to be gained [5581] in the removal of Connally except to weaken the Communist Party control over the California CIO Council?

A. No, absolutely not, nothing like that. The move was made for the reason I stated. I engineered it. It was my idea. I am darned proud of it and it worked out very well.

Q. Isn't it a further fact, Mr. Bridges, that when Mr. Rathborne opposed this move—and he did oppose it, didn't he? A. Yes.

Q. When Mr. Rathborne opposed this move, you said, "What is the sense of you and I discussing it? The Party decision has been made. All we can do is follow it"?

A. No, nothing like that. That is cops and rob-ber stuff, Mr. Donohue. Things don't happen that way.

Mr. Donohue: May we take the recess at this time?

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition to you.

(Recess.) [5382]

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Bridges, was Mr. Sam Darcy a delegate to the 1943 CIO convention in Philadelphia? A. I don't think so.

Q. How did you happen to meet him there?

A. Run into him in the convention hall, come up and said hello to me, and I had known him since '34. That is the first time I had seen him for many years. We went into a nearby place there where I was having lunch, had a cup of coffee and talked with him at that time. I saw him in the convention hall. He told me he was living in Philadelphia, said he was doing something or other and we just talked for a while. That was all.

Q. When had you seen him last before 1943?

A. I don't remember. I couldn't tell you. Not for quite some time, not for some years prior to '43.

Q. Do you recall when it was that he left California? A. No.

Q. Did you know him quite well when he was here?

(Testimony of Harry Renton Bridges.)

A. I knew him—yes, I ~~knew~~ him in 1934 and '35, I believe.

Q. He was then district organizer here for the Communist Party, was he?

A. I think he was, yes.

Q. Have you seen him since 1943?

A. No. [5583]

Q. Mr. Bridges, you seemed quite disturbed in talking about the incident in 1941 when you claim that your telephone in a New York hotel was tapped by agents of the FBI, were you?

A. Yes, sir. I was disturbed. I have got my reasons. I wasn't disturbed because I suffered from any guilty conscience, I wasn't disturbed because I thought they would find out anything about me. I was certainly disturbed at the officers of the government tapping my room and the way they were doing it. And as I say, amongst other things I made a few tests. I satisfied myself as far as I was concerned that the information they were getting from my room, they were using to break a strike of workers that was on at that time among workers in New York. And all these tests, and I was pretty disgusted and pretty shocked. At the same time these were the officers, the government officers that proclaimed publicly and pretty sanctimoniously, I thought, that they would never do such a thing. "Tap telephone wires? Tap a room? Oh, no, not us. We are officers of the law. We represent the U. S. government. We uphold the law." So I was disturbed in that sense, definitely.

(Testimony of Harry Renton Bridges.)

Q. And you spent four or five weeks playing cops and robbers with them, to use your own expression, didn't you?

A. In that sense you are right. I thought that they deserved to be exposed, and, you might say, shamed, and I did my best to bring that about, yes.

Q. Now, why do you think that agents of the Federal Bureau of [5584] Investigation would tap your telephone wire if they did tap your wire?

A. Oh, it was a part—that was a part of what had gone before. I know why. I know the whole picture and I know why the deportation cases came about in the first place. I know what they were directed at. I knew where they started, how they started, what had happened and I knew that this was merely a continuation of the previous deportation cases. I knew that back many, many years before that a certain group of employers in the city and on this Coast got together and they worked out a program where I was handy for a stalking horse in order not to attack me so much as to attack the labor movement. I was a handy stalking horse, a whipping boy—everything made to order. I was an alien, I was the officer of a union, I had been a part of the union and had gone through a strike, the union had accepted help from the Communist Party during the strike, all those things were a matter of record. So all the ingredients could be put together and that is a matter of official record. And I knew those things. I could bring that record into court here. That was investigated over a pe-

(Testimony of Harry Renton Bridges.)

riod of time by the United States Senate Civil Liberties Committee. It is a matter of record there. And a decision was made, a decision by certain employer interests and certain political interests controlled by those employer interests to make me the goat in order to attack labor unions. They didn't—it wasn't a question of me, because after [5585] all, unions will come and go whether I am a part of them or not. We don't make any mistakes on that point. But here was the whole matter built up. So everything was made to order. And I knew that the tapping of my room there in the Edison Hotel in New York, after I had been on trial here for the third time—I had just completed my third hearing on the same issues, right here in this courtroom before Judge Sears, and even after that, after the trial here, they had—during the trial they had again denied that they were following people around, trying to frame people up. I caught them in the act trying to frame me. For what purpose? Not because I was a member of the Communist Party or anything like that. I was no danger to the country. Everybody knew my record, the Government more than anyone. But in order to attack organized labor, that was what was going on, and I did just what I thought was the proper thing to do. I exposed the fact to the labor movement and to the people of America because I just don't believe that the average, ordinary American of the United States here believes that the agents of government should stoop so low as to tap phones, listen

(Testimony of Harry Renton Bridges.)

in or conversations, tap your room, bribing the poor housemaids to go down and search your room, your wastepaper basket and things like that. Pretty dirty business. And I will do it again and I don't mean any disrespect to any government agency whatsoever. But there comes times, you know, when officers of the government, they forget who they are supposed to [5586] represent, who they work for, what their authority and duties are and who pays them. The people pay the Government and the government agencies, and the people pay these agents to protect the rights of the people and to observe the laws. Wire-tapping is a felony. You know that, Mr. Donohue. So I went down, I couldn't get anywhere by complaining to the authorities. We tried. We went to the U. S. Attorney General. He kissed us off. We couldn't get anywhere complaining to the authorities, so I did the next best thing. I exposed the fact publicly. I enlisted the aid of a couple of newspapers in New York. They took pictures. They took pictures with telescopic cameras of these people, catching them in the act.

So all I did was, as I say, to expose the fact that agents of the Government, sworn to uphold the law, servants of the people, were the very ones that were violating the law, committing a felony, and they in truth were the ones that in my opinion were undermining our form of government, not me. I never have, and wasn't then.

Q. Finished, Mr. Bridges? A. Yes.

Q. Do you know of any other labor leaders whose wires were tapped when yours were tapped?

A. At that time?

Q. Yes.

A. Not to my own—not that I could swear to. I am talking [5587] about something I know, now. The same as, "You know someone is a Communist?" "No, I wouldn't want to swear to it."

Q. You are not either an alien, a whipping boy or a stalking horse now for the waterfront employers, are you? A. Some of them I am.

Q. Then there is a difference of opinion on the waterfront, is there?

A. About Bridges, Mr. Donohue?

Q. Yes, "about Bridges, Mr. Donohue."

A. Yes, Mr. Donohue, there certainly is.

Q. I am glad to hear that.

A. And unions as well as in the ranks of the employers. Now, I go down to Hawaii, a lot of employers down there, they've got a long way to go. I just came through a battle down there where they insisted that the demand of the federal government, supported by our union, to arbitrate labor disputes was a plot directly from Moscow. So there is a difference of opinion.

Q. Was it?

A. No. Why, of course not. The Department of Labor and Conciliation, Mr. Cyrus Ching, heads that department. They proposed before the Hawaiian strike came out, they proposed to both sides that the issues in dispute be arbitrated. On behalf of the union I accepted. The answer of the employer group was, "We are not going to go for any Communist plots like that." The strike [5588] ensued.

Q. Mr. Bridges, you have twice told us that tapping a wire is a felony. A. It is.

Q. Don't you know that it is not? That it is only a felony to make or publish the effect or result of wire-tapping which is proscribed by the law?

A. Well, my lawyers told me it was a felony then.

Q. Suppose you ask them again after court.

A. I sure will. I thought that tapping a wire, I thought that tapping a telephone wire is a felony, Mr. Donohue.

Q. Suppose you consult with your counsel——

Mr. Hallinan: If Your Honor pleases, just a moment. I ask that counsel's statement be stricken out and the jury be instructed to disregard it because wire-tapping is itself a felony. Taking off any communication address by one person to another over a wire is a felony. It isn't a disclosure of it at all. I don't know why counsel makes that statement. It seems remarkable that he should be so ignorant of the law that he is talking about now, and wire-tapping itself is a felony—not just the disclosure of it to anybody. That is ridiculous, and that is stating something that is not a fact, and I don't see what right he has to impose that upon the jury or to attempt to impose upon the witness. We make the motion, if the Court please, that the jury be advised to ignore Mr. Donohue's misstatement of the law on wire-tapping. Now the law is available, the Court can [5589] refresh his recollection on it if there is any question.

The Court: There are two or three cases on the subject, just as familiar to you gentlemen as they are to me.

Mr. Donohue: Correct, Your Honor.

The Court: And my recollection of it—and I may have to consult the books at the recess also—is that the disclosure of the subject matter of the wire-tapping is the gravamen of the offense and constitutes the felony.

Mr. Donohue: That is my idea.

The Court: Now, I may be subject to correct on that, but that is my recollection of the law.

Mr. Donohue: That is my recollection, too.

Mr. Hallinan: I think I can refresh Your Honor's recollection as to that.

The Court: There are two cases on it, as you know, bearing upon the matter.

Mr. Hallinan: In other words, we are to understand that it is the law that any person can tap anybody's wire and learn anything he wants to, so long as he doesn't convey it to somebody else.

The Court: There are two federal cases on the subject. You have to distinguish the State code section from the Federal section.

Mr. Hallinan: I mean the federal statute, Your Honor; the federal statute makes it a felony to take off from anybody's wire, [5590] whether you do it for your own delectation or your own profit or in order to convey or gossip on the subject to somebody else.

Mr. Donohue: I shall state the federal statute to Your Honor at the close of the day. Will Your Honor withhold your ruling on Mr. Hallinan's motion concerning my ignorance of the law?

Q. Mr. Bridges, do you not know as a matter of public information that only a few days ago the Attorney General of the United States stated publicly and it was carried widely in the press, that at the present time there are 170 telephones being tapped in the United States?

A. I read a statement to that effect.

Q. And they would continue to be tapped?

A. I think he said that, too.

Q. And do you not recall that he said at that time that the only way a telephone may be tapped is on his order, on application by the director of the bureau of investigation to him as attorney general?

A. Attorney generals still depend on political support for their appointment to the job. I know that, too. I am familiar with attorney generals and they are politicians, too. I don't—they just don't get there because they are always great brains or 100 per cent trustworthy, either.

Q. Let me ask you a question, Mr. Bridges. As a loyal American [5591] citizen, do you approve of the action of the Attorney General in approving the use of wire-tapping, which resulted in the arrest of a British scientist as an atomic energy spy?

A. I am not opposed to any measures taken against espionage.

Q. Now, did it ever occur to you that your wire may have been tapped, if it was tapped, as you say it was, because you have been reputed to be a member of the Communist Party?

A. No, I don't believe that is it at all. That might be offered as an excuse for it. A lot of things can be offered as an excuse of "fighting Communism." That is the way many things happened. I notice that in the trade unions. Anyone that has got a scheme that they are going to make a little money out of, if they've got a personal ax to grind, whether it be in trade union politics or other types of politics, my experience has been that the safest way and the popular way to do is to say, "I am fighting Communism." That is what Hitler said, that is what Mussolini said, that is what the Japanese said. I am hard to convince on that point. So I quite realize that the best excuse to give for tapping my wires is for a government agent to say, "We have got nothing against Bridges; what we are doing here is fighting Communism." But then to take the information gained and use it to fight a group of workers, organized workers that are trying merely to get better wages and better conditions, that is what happens, Mr. Donohue.

Q. Now, you knew—— [5592]

A. I have already told you, if you will look up the report of the Senate Civil Liberties Committee, it is all spread out there for you about the

(Testimony of Harry Renton Bridges.)

meeting right here in our state, back in 1935, I think it was where the meeting was held and certain employers were given the job to carry out my deportation and to raise the question, that the means or the best means of stopping the growth of organized labor here on the Pacific slope was to raise the question of Communism, say that, "We are fighting Communism," and ask my deportation. Not that the labor movement would stand or fall because I was here, or a part of it. That is not the point. But I was just a handy stalking horse. Now, that is a matter of record in the Lafollette Senate Committee's report, the Committee on Education and Labor. That is a matter of record. And as a matter of fact, the man that first sent the telegram in 1934 demanding my deportation in the 1934 waterfront strike, Mr. Roger Lapham. We have got that as a matter of record. That is all in the report, too. He was the person that was assigned at that time to start the ball rolling, by a meeting of the industrialists.

Q. Finished, Mr. Bridges?

A. For the time being, yes.

Q. Now, you have just quoted Hitler and Mussolini. Let me ask you, sir, if you agree with Mr. J. Edgar Hoover, the director of the Federal Bureau of Investigation, that the Communist Party in the United States is the greatest existing threat to our [5593] national security?

A. To agree with a statement like that, I would have to be somewhat of an expert on the Communist Party, wouldn't I? I would have to know—in order to be able to state here under oath just what the whole program was. And believe me, Mr. Donohue, I am not that well informed. I am a trade unionist. That is my job and I consider myself a good trade unionist.

Q. Do you think Mr. J. Edgar Hoover might be an expert on Communism and its subversive effect on the security of the American people?

A.. He might be.

Q: Would you accept his word on that subject?

A. There's a lot of things I wouldn't accept his word on. A lot of things I wouldn't accept his word on.

Q. And his views on Communism are one, are they not, Mr. Bridges?

A. Oh, no, no, no, no—I am not going by that. Look, I had a little experience with some of the government agents that get busy, like some of those characters in New York that were poking around my hotel room. And there has been a few trials in the East lately, this Coplan trial and this Hiss trial, and I have seen reports of those agents that were made public in that trial, and they were pretty—I thought they were pretty ridiculous, and in some places pretty outrageous. They had everybody in the report. I remember here some years ago, some of these reports, [5594] they had Shirley Temple in the Communist Party—darned near everybody in Hollywood. Now, some of these things get to pretty ridiculous lengths, and I have learned the hard way, maybe; maybe I am not as trusting as I used to be. I want a little evidence on something before I am liable to believe anyone.

Q. Do you object to the use of wire-tapping in the Hiss case that you just mentioned?

A. I don't know enough about it.

Q. Do you object to the use of wire-tapping——

A. I am only going by the position of our government, Mr. Donohue, what the Supreme Court, what the President said at one time, and it is a pretty dirty business. And I still think—and it has been said by better people than I am—that what you might lose and what might happen to our general, the way of living by tapping people's wires might be worse than what we might gain by the evidence we get from such tapping.

Q. Do you think it was dirty business if it resulted in stopping an employee of the Department of Justice from turning over vital secrets of the United States to a Russian agent?

A. I am not opposed to any means that are properly taken against espionage, Mr. Donohue. That is all I can tell you on that. Now, when you get down to specific details, all I would have is your statement to that effect. But generally speaking, there is my position. It is not a new one, it is one I have had all the time. [5595]

Q. At the time of your——

A. The wire-tapping, per se, you have got my opinion on it. I don't think it will change.

Q. You don't want to give me any further ex-

(Testimony of Harry Renton Bridges.)

pression of yours on the opinion of Mr. Hoover with respect to the Communist Party, do you, Mr. Bridges?

A. Well, I guess the Department can make a few mistakes. I know that during the war there was all kinds of ships leaving the East Coast, and something was happening to those ships, and we tried to get the agency to conduct an investigation. They conducted an investigation, and somehow or other, they couldn't seem to get very far, but the ships continued to sail, the cargoes continued to shift, and the ships continued to capsize and disappear. They found nothing wrong, even though we put the evidence before them. The stevedoring company that was loading the ships, they being interned in the first World War as a German agent, a German agency, that was doing the same thing then. But old J. Edgar Hoover couldn't find out much wrong, and we kind of lost a little faith then. We thought that they could be a little more efficient. We are not ready to run away with the idea that they are super-duper.

Q. You are not one of those who is seeking his removal at the minute, are you, Mr. Bridges?

A. Not particularly, no, no, no. I would like to see him carry out the job that he is supposed to carry out. Lay off [5596] the labor unions, for a change.

Q. Mr. Bridges, at the time of your indictment, who was your counsel? A. My counsel?

Q. Yes, sir. A. Personal counsel?

(Testimony of Harry Renton Bridges.)

Q. Yes.

A. Well, I never had any, you might say. We had, the union had a firm of attorneys, and that was Gladstein, Sawyer, Andersen, Resner. They have been mentioned here many, many times. And then later on, I was lucky enough to get the services of Mr. Hallinan and MacInnis, and so forth, as attorneys.

Q. Now, Mr. Gladstein, Resner, Andersen and Sawyer made a number of appearances on your behalf in this matter prior to the time when Mr. Hallinan and Mr. MacInnis filed an appearance, correct? A. In the preliminary stages.

Q. Yes.

A. On arguing the legal motions and things like that.

Q. Yes. A. That is right.

Q. And you heard Mr. Hallinan state that Mr. Leonard, who is in association with that firm has been doing some work in assisting your defense?

A. Still is, right now—doing an excellent job, too. He does [5597] research, does a wonderful job.

Q. And Mr. Resner of that firm has done some work in assisting your defense, has he not?

A. Well, as far as I know, everyobody that we think we can get to help us in research work, we make no bones about asking them. We probably would come around and ask you, if we figured you could be of any value.

Q. Except I am busy otherwise?

A. Yes, you are very busy.

(Testimony of Harry Renton Bridges.)

Q. Or perhaps I couldn't be of any value?

A. I am not so sure.

Q. Do you know, Mr. Bridges, of your own knowledge, whether or not the firm of Gladstein, Resner, Andersen & Sawyer are currently acting as counsel in an injunction proceeding for the California CIO Council, of which the charter was recently revoked by the national CIO?

A. I know Mr. Resner is; now I don't know whether the whole firm is employed at it, but I certainly know that Mr. Resner is, and he is acting on behalf of the Council as well as the unions, trying to prevent the property of the Council being taken over. I know that much. [5598]

Q. Do you recall at the time or just subsequent to the time of your indictment that Mr. William Schneidermann was called to testify before the Grand Jury which indicted you?

A. Yes, I think he was one who was called in some capacity or other. I don't recall the details, but I remember hearing about it.

Q. You recall that the public press widely stated that Mr. Schneidermann was called and refused to answer questions which were asked of him?

Mr. Hallinan: If the Court please, when we tried to inquire of some of the prosecution witnesses as to matters that occurred before the Grand Jury, who was present, and so forth, objections were sustained to such questions. Now, Mr. Bridges hasn't any connection with Mr. Schneidermann and I suggest that these questions are incompetent, irrelevant and immaterial.

Mr. Donohue: I am only asking him, your Honor, what appeared in the public press.

Mr. Hallinan: We are not bound by what appeared in the public press. What appears in the public press is ordinarily matter dictated by Mr. Donohue as press releases and handed out. We are not bound by what appeared in the public press.

Mr. Donohue: I submit the question is proper.

The Court: The objection is sustained.

Q. (By Mr. Donohue): Mr. Bridges, do you know who was [5599] counsel for Mr. Schneidermann when he appeared before the Grand Jury?

Mr. Hallinan: Now, if he means does he know of his own knowledge or what he read in the public press? I do not think the question is specific enough.

The Court: Do you know of your own knowledge?

A. I saw Schneidermann after the Grand Jury appearance. I told you I seen him after that. He told me about being up there.

Mr. Donohue: That is right.

A. I can't recall who his counsel was. We didn't talk about that. I remember talking to him about his grand jury appearance. That is one of the meetings I referred to, when I asked him what the chances were of getting any records the Communist Party had to prove the defendants in this case were not members at the time you are saying they were. That is what we were after.

(Testimony of Harry Renton Bridges.)

Q. And you did not discuss with him who his counsel was?

A. As far as I remember, I didn't, I don't think.

Q. To your knowledge, Mr. Bridges, was Mr. Schneidermann ever a member of a trade union?

A. I think he was, yes.

Q. Of what union was he a member?

A. Carpenters, I think, at one time. I have never known him to be active as such, as a member of a trade union. What knowledge I have had of Schneidermann has been as an officer of [5600] the Communist Party. I do not know him in any capacity as a trade unionist.

Q. What was your mutual interest, if there was any? A. Mutual interest?

Q. Yes. A. With who?

Q. With Schneidermann.

A. I never said there was any.

Q. I said if there was any.

A. Offhand I don't know now. That is a general question. Any interest I might have had as far as Schneidermann was concerned had to do with certain things in the trade union movement. That and only that.

Q. What was Mr. Schneidermann's interest in the trade union movement as district organizer for the Communist Party? A. I do not know.

Q. You have talked with him many times, haven't you, Mr. Bridges?

A. Well, that may be, but that is a different question. Now, if you are asking what we talked about, as far as I recall, I can tell you.

Q. Yes. What did you talk about?

A. Oh, the sessions I had with Schneidermann—and this can go back over quite a few years—would be generally, for example, they would seek an endorsement or support of some [5601] enterprise by the union movement, at least that part of the union movement that he thought I might be able to officially influence. They would seek some endorsement or financial or other support of some particular part of their program. They might want to bring to my attention as a representative of the CIO or a labor union certain matters such as—I can recall one case in particular where there was some colored people on trial in the deep South and they said that they were the only ones that were doing anything about seeing that they got a fair trial, and wanted to see if we could help out on something of that type. As I say, there have been occasions when they had candidates running for political office and they would not only seek my endorsement but ask me if I could get some endorsement from the unions.

There have been a couple of occasions when I wanted to talk to them on certain matters that concerned something I was after. One of them I have already told you. Since these indictments I tried to find out what records they had that I could use in this trial to prove that some of the people getting up here didn't know what they were talking about, and they said they didn't have any such records.

I can recall another occasion where, as a result of a situation in a union, I called upon them in connection with some of the activities of their members or alleged members in the union. I took up a matter with them on that occasion. So [5602] I could go into further detail on these items if you wish me.

Q. Mr. Bridges, have you been conscious at all of any degree of infiltration into the ILWU by members of the Communist Party?

A. As such, no. That is not the way I regard infiltration. Infiltration to me means that someone is deliberately put into a particular position for a definite purpose and a definite objective, and the very contemplation of the word indicates somewhat a destructive objective, and I have not been conscious of that, and as far as I am concerend as a trade union officer the handful—first of all, this is being overdone. Now, I know the membership of our union generally. I do not mean to say that of all the thousands I know them individually, but the handful of Communists in our union, they couldn't do much about our union one way or the other in so far as deciding its policy. The best they could do, and everybody in the union knows it, they stand up on the floor, Communist as well as other people, and they propose a certain proposition, make a certain point, and generally the attitude of our rank and file of the union is if the person talking, man or woman, has got a good point, they will get support, notwithstanding whether they are Communists or not. If they haven't got a good proposition, they won't get any support no matter who they are. And that goes for me, too. I go down to those union meetings, and if I have got a good program, some of the rank and file [5603] will support me, and if I haven't, you would be surprised what happens, Mr. Donohue. They don't take anything from me or anyone else.

Q. But they take you, Mr. Bridges?

A. Well, they don't always do that. I guess they are just waiting until someone better comes along, and seeing how successful you are in getting me, if this scheme succeeds this time. This is about the fourth trial. Our union won't die whether you do or not. We take our risks. We don't build a one-man union; and that union or any other union is not dependent on Bridges-Robertson-Schmidt. We don't build unions so they fold up. No one is indispensable.

Q. You know a great many union leaders and labor leaders, Mr. Bridges?

A. I certainly do. I know a great many union officials. I might differ with you as to whether they are leaders or not.

Q. Is there any leader other than yourself, Mr. Bridges, in the union movement?

A. Quite a few, far better leaders than me, far better than I will ever be.

Q. Have you discussed with any of these other leaders of the labor unions the problem of infiltration into their membership by Communist personnel?

(Testimony of Harry Renton Bridges.)

A. Possibly, not in the way you talk about it, but in so far as talking with them about Communist activities, and so forth, [5604] the answer is yes, yes.

Q. And do you find that some of these union leaders have indicated that they have a problem in their particular unions because of Communist Party infiltration?

A. Quite a few of them have said that that is what is wrong, but I don't always agree. There may be some cases where there is something to it, but in the majority of cases my experience with union leaders or union officers would be, hollering about Communism and activities of Communists in the union is a handy smoke screen. When I see someone start hollering about Communists I begin to look around behind the scenes to find out wherein he is getting away with union funds or whether he is grinding a personal ax or doing something like that.

Q. Your union has no such problem?

A. No, we've got no such problem. The question comes up once in a while and everybody knows my position. Anybody in the union, no matter who they are, can stand up and speak their piece, and anybody who wants to get up and ask that question stands up and asks it, no matter who they are. If someone wants to get up and extol the alleged or real advantages of Communism, they have the right to do it in the union, and then someone else can get up and speak as to how they feel about any alleged advantages of Communism or disadvantages of Communism, and that is that. Therefore, we all get

(Testimony of Harry Renton Bridges.)

along; we [5605] have unity, and therefore when we find we have to put on a strike to improve our wages or working conditions, we manage to stick together and get that much done. That is how smooth it is. We think in terms of unifying our ranks and not getting our ranks split up. It is not only a question of Communism, but another thing, if you inject in the local the question of religion you will bust the local wide open. You will even do that in a drawing room. There are certain rules we follow. We are peculiar in that respect. We manage to stick together, and looking around I notice that these unions that start witch-hunts and looking under beds for alleged Communists, once you start down that path you can't stop. Now, I know unions in the country that have gone to work and have spent most of their energy that should go into protecting the rights of the working rank and file, so they have spent a lot of energy in cleaning out the official Communists or admitted Communists, and then they go after the alleged Communists, and then they have to start after the ex-communists, and by the time you get around to that you've got a beautiful union. The only trouble with it is that it has no membership. We just don't want to make that mistake. That is all there is to that.

And believe me, Mr. Donohue, I can take you down to the waterfront and elsewhere and you can speak to the people yourself. You just speak to some of those fellows. You will learn, in a way bet-

7.

(Testimony of Harry Renton Bridges.)

ter than I can describe here. You can't [5606] fool those people. They know where you stand. They know what you stand for. You can't fool them. They know what they are after, and they are not letting any problems of Communism bother them. What bothers our workers today is they want to be able to work; they haven't got enough work. There isn't enough jobs. The unemployed are growing. The people aren't making enough. They are beginning to go hungry. They are getting insecure. Payments are becoming due on their house, the automobile, the radio, and they've got to give them up. Day in and day out we get more and more complaints, and believe me, the question of Communism is not a real problem, not as far as our union is concerned. The question of the workers getting enough to make a living and getting a little security, that is the real problem.

Q. Communism is a real problem in Local 6, isn't it, right now, Mr. Bridges?

A. That is not so. Let me tell you about that. A bunch of fellows in Local 6 are trying and did succeed to some degree in fooling the working rank and file by talking a lot about Communism, but behind the scenes here is what was going on: They were on the payroll of another union, the Teamsters Union, and the whole purpose of it was to raid Local 6 of the warehouse union, and the officers, myself and Bob Robertson, we moved to expose the whole thing. We called the working rank and file together in a convention a couple of weeks ago, where the people [5607] in the convention were elected right off the job. The various rank and file workers in the warehouse elected their delegates right from the warehouse and those delegates were responsible only to the rank and file workers. We had a little convention, and the so-called people who were raising the question "What was wrong with the union was Communism," they walked out, and now they suddenly turn up. Now it is exposed to all the rank and file that they are working on the payroll of the other union out to destroy our union altogether. Now our locals are wise. Now our rank and file workers are going around and saying, "Gee, Bridges and that gang are once again being proven right, doggone it. They keep on telling us they know what they are talking about, and once again they are being proven right." Here is Gallo and his gang, they come around trying to say it was an issue of Communism, whereas they were simply on the payroll of the Teamsters Union, working to bust the union they were part of. They made an issue of Communism in that form, Mr. Donohue, and again I extend you an invitation right now to present yourself at the next meeting of Local 6. The working ranks are there. They aren't Communists; they aren't pro-Communists. Most of them are anti-Communist. I extend you, as president of the organization, an invitation to come down and bring Mr. Paisley, if you wish, down to speak to the next meeting of Local 6, Warehousemen's Union, and you ask them the question you just asked me, and the answer you [5608] will get—well, it will probably be a better answer. It might not be as windy as I am.

Q. I take it your answer is you have no Communist problem in Local 6?

A. No, no Communist problem. We have a problem of keeping the union together, preventing raids on it, and keeping the union doing the job it was set up to do, namely, to organize and fight for improved working conditions, hours and wages. That is what we are in business for. We are a trade union and nothing else. And any Communist Party or outside organization—it is impossible for them to gain control or affect the program or policies of our union in any way whatsoever.

Mr. Donohue: We will ask you about that tomorrow, Mr. Bridges. May we have the recess?

The Court: We will take the adjournment, ladies and gentlemen of the jury, until tomorrow morning at ten o'clock. The same admonition to you not to discuss the case or form or express an opinion until it is submitted to you.

(Thereupon an adjournment was taken until Wednesday, February 15, 1950, at 10:00 [5609] a.m.)

February 15, 1950, 10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Harry Renton Bridges, heretofore sworn.

Mr. Hallinan: Your Honor, before any proceeding in that takes place, I want to call your attention to Title 47, Section 605, on telegraphs, telephones, etc.: "Unauthorized publication or use of communication by wire or radio shall divulge or publish the assisting in receiving, or transmitting, or assisting in transmitting, any interstate or foreign communications by wire or radio shall divulge or publish the existence, contents, substance, purport, effect or meaning thereof, except through authorized channels of transmission or reception, to any person other than the addressee, his agent or attorney, or to a person employed or authorized to forward such communication to its destination, or to proper accounting or distributing officers of the various communicating centers over which the communication may be passed, or to the master of a ship under whom he is serving, or in response to a subpoena issued by a court of competent jurisdiction, or on demand of other lawful authority; and no person not being authorized by the sender shall intercept any communication and divulge or publish the existence, contents, substance, purport, effect or meaning of such [5610] intercepted communication to any person."

So far it relates to intercepting and divulging it, but then the next paragraph goes on:

> "And no person not being entitled thereto shall receive or assist in receiving any interstate or foreign communication by wire or radio and use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto."

And then a third paragraph:

> "And no person having received such intercepted communication or having become acquainted with the contents, substance, purport, effect or meaning of the same or any part thereof, knowing that such information was so obtained, shall divulge or publish the existence, contents, substance, purport, effect or meaning of the same or any part thereof"—and then in the disjunctive—"or use the same or any information therein contained for his own benefit or for the benefit of another not entitled thereto."

Now, the violation of this is a felony. There are cases holding that the section applies to officers, Federal agents and others in the prosecution of the violation of criminal acts. It applies to them also. And there are cases holding that even where by accident an operator puts another person onto a conference and he uses the information, that he is guilty of a violation of the act. [5611]

I might say also with regard to another comment upon this matter that twice within the last few years the Federal Bureau of Investigation has attempted to procure an amendment of this act to permit wire-tapping by Federal agents in espionage cases, and in both cases Congress has refused to make that amendment to the law. So it still stands today the same.

Mr. Donohue: If your Honor please, there is only one case on the point that we raised yesterday, and I read briefly from U. S. v. Gruber, cited at 39 Fed. Supp. at page 291, in which the court says this:

> "'There is no Federal statute that prohibits or punishes wire-tapping alone. The only offense under the present law is to "intercept any communication and divulge or publish" the same. Any person, with no risk of penalty, may tap telephone wires and eavesdrop on his competitor, employer, workman or others and act upon what he hears or make any use of it that does not involve divulging or publication.'"

Mr. Hallinan: The facts in that must have been entirely different.

The Court: That appears to be a quote from a letter emanating from the Attorney General, as I read the case. I also have that case, and in the course of the investigation I made last evening after we recessed I concluded, Mr. Hallinan, that divulgence is a necessary criterion under the statute, and I [5612] see no occasion at this juncture to admonish the jury with respect to any matters of law as requested by you yesterday afternoon. As a matter of fact, the subject matter appears to be collateral to the investigation before this court.

Mr. Hallinan: I grant that.

The Court: It creeps in in a purely collateral vein, and to that extent I see no occasion to comment to the jury here upon the matter before the Court.

Mr. Hallinan: But then it does also cast some question upon Mr. Bridges' interpretation of his rights, the things that he was interested in when he was spying upon the people who were tapping his telephone. It throws some question upon the proper interpretation of what he considered his rights to be. I think Mr. Bridges was entirely right. I will call your Honor's attention to this, that recently here in California a man was arrested and charged with tapping his own telephone. He suspected that his wife was having some sort of affair with another man. He went into the basement, tapped the telephone, and intercepted the message, and he was convicted under that.

The Court: As I attempted to point out to you yesterday afternoon, the State statute is entirely distinct and apart from the Federal statute. The State statute under subdivision 1, as I recall it prescribes against interception and subdivision prescribes against interception and publication, so that mere interception under the State statute is a misdemeanor. [5613]

Mr. Hallinan: Yes.

The Court: I think I am correct in my view of

(Testimony of Harry Renton Bridges.)

the law, Mr. Hallinan. If there has been any misconception on the part of Mr. Bridges concerning his rights, I admonish the jury to disregard any misconception on his part, so the matter may be clarified. The question of wire-tapping has come into this case only as a collateral matter. There is no contention before this jury or before the Court that any of these matters which occurred on some prior date in any wise affect the matters before this Court or that the prosecution is using or has attempted to use any of that evidence. Accordingly, I instruct you to disregard any version that Mr. Bridges may have had or any misconception of the law that he may have had. [5614]

Mr. Hallinan: Of course we can't agree to that, that they are not using matters so obtained. We don't give them any such credit as that. They contend that they are using matters, whether legally or illegally obtained.

Mr. Donohue: Before Mr. Hallinan came into the case, the law firm of Gladstein, Andersen, Resner & Sawyer couldn't agree to it either, but we argued the matter fully before Your Honor, and one of the numerous motions that were filed by them——

Mr. Hallinan: I was just reading this morning a statement made by this gentleman in that exact connection.

Mr. Donohue: Exactly.

Mr. Hallinan: He says, "I will not put a single

(Testimony of Harry Renton Bridges.)

witness on the stand for whose credibility I will not personally vouch."

Mr. Donohue: And I so stated.

Mr. Hallinan: So I don't think we ought to go into matters that occurred before the trial. I think Mr. Donohue might rather well wish to relegate those to the past and obscurity. We are not blaming him now; we think he might have been mistaken in so offering his credit to support these people.

Mr. Donohue: And I still so vouch, Mr. Hallinan.

Mr. Hallinan: Well, then, your credit is getting less and less.

The Court: At this juncture the matter before the Court is clarified to the extent that Mr. Bridges, or at least the view obtained by Mr. Bridges in the past concerning the wire-tap [5615] incident, is not to prejudice Mr. Bridges in the eyes of the jury. That was a concept that he had, and apparently it was based upon some representation made to him. What error of law there may have been is not his error.

Cross-Examination
(Continued)

By Mr. Donohue:

Q. Mr. Bridges, directing your attention to page 5343 of this record, the testimony by you on Wednesday, February 8th, do you recall saying this:

"I didn't know——"

Well, let me go back to the beginning of the paragraph:

> "And everybody knew my attitude. No one more so than the few people around there that say they were spokesmen of the Communist Party. I didn't know Schomaker was one of them, but Darcy I did know was a Communist, although I don't recall him ever soliciting me for membership."

Do you recall saying that, sir?

A. Yes, that is right.

Q. Now, may I ask you, Mr. Bridges, if you remember at the first deportation hearing to which reference has been made,——

A. Which one was that? There's so many I lose track occasionally.

Q. Well, just to help your recollection, so you will have the record,—— A. The 1937 one?

Q. 1939 one, Mr. Bridges, at page 2596. [5616]

A. Oh, I see.

Q. Do you remember being asked these questions and making the following answers, and this in 1939? A. Yes.

Q. (Reading): "Do you know whether John Schomaker was a Communist in 1934?

"A. I don't think he was.

"Q. Do you know whether he is now?

"A. I don't know. I believe that Schomaker is. My opinion definitely would be that he is, but he never told me so.

"Q. What leads you to that impression?

"A. Schomaker has been pretty active in Communist Party affairs."

(Testimony of Harry Renton Bridges.)

Do you remember having so testified in 1939?

A. No, but the record is there; I wouldn't pit my memory against that record.

Q. And referring further in the same proceeding,—

A. And that is consistent there with what I said here. I am not trying to say my memory is better now than it was ten years ago, eleven years ago. It was far better on those facts eleven years ago than it is now.

Q. Eleven years ago Mr. Schomaker didn't testify against you, did he, Mr. Bridges?

A. No, he didn't.

Q. Mr. Schomaker has never testified against you until this [5617] proceeding, has he, Mr. Bridges?

A. I guess he was still trying to make out some other way. He couldn't get what he was after any other way, so he wound up here on the witness stand in the courtroom.

Q. And that is the first time he has ever testified against you, is it not, Mr. Bridges?

A. I don't know. The first time he has testified publicly. After listening to his testimony here, that hundred page statement and a few other things, I don't know. Now all I have got is his word for it. He has told me a lot of things. I accepted them at one time, but now, of course, I am a little skeptical.

Q. Well, now, let me ask you, Mr. Bridges—you have referred to a 1937 inquiry made in New York

(Testimony of Harry Renton Bridges.)
and to a 1939 inquiry made here, and to a 1941 inquiry made here, have you not?

A. Yes, that is right.

Q. On any one of those occasions did John Schomaker testify against you? A. No.

Q. On any one of those occasions did Mr. Henry Schrimpf testify against you?

A. Do you mean in terms of getting up on the witness stand and—I think Schrimpf's been passing information on to the Immigration Department since '37.

Q. Would you answer my question, Mr. Bridges?

A. Well, in terms of getting up on the witness stand where he [5618] can be faced and cross-examined, no. But in terms of sneaking around the back door and telling a lot of lies, yes.

Q. Now, in either one of those three hearings, did Mrs. Harris testify against you?

A. No, no.

Q. And at any of those hearings did Mr. Stanley Hancock testify against you?

A. Not that I know of.

Q. And at any one of those hearings did Mr. Lew Michener testify against you?

A. Not that I know of. That is, publicly, no. Not that I know of. I don't know what he might have done otherwise.

Q. As a matter of fact, Mr. Bridges, has any witness who has testified in the proceedings here and now ever testified against you before?

A. In terms of getting up on the witness stand,

(Testimony of Harry Renton Bridges.)

well, where we can see them, come out in the open, no, not as far as I know.

Q. Now, referring again to the 1939 proceeding and reading now from page 2689 of the record, may I ask you if you recall the following questions and you having made the following answers:

> "Q. Well, I think you stated yesterday—for your information that was on page 2596—'Do you know John Schomaker,' and the answer is, 'I do.' 'Was he ever known as Delaney?'
>
> 'That was his middle name—John Delaney Schomaker.'
>
> 'Has he ever gone by the name of John Delaney?' 'I don't [5619] know. Not on the waterfront.'
>
> "A. That is right. He has been a member of the union since early 1933, as John D. Schomaker, and that is the only name I have ever known him by.
>
> "Q. Do you recall when it was that you first met John Schomaker?
>
> "A. Yes, in 1933.
>
> "Q. Was that during the Albion Hall——
>
> "A. (Interrupting): Before it.
>
> "Q. Before that?
>
> "A. Before the Albion Hall group. I met him around——
>
> "Q. (Interrupting): What name was he known by then? A. Schomaker.

"Q. Was he a member of the strike committee when you were chairman?

"A. He was.

"Q. Did you ever hear him at that time referred to or called John Delaney?

"A. No, he was charged—I recall the charges, that were disregarded. There were a lot of things said like that. For example, my name. Even at that time I had three or four other names or was supposed to have. Everybody was.

"Q. (Interrupting): What would they be?

"A. Oh, I forget. I was supposed to have a long list of aliases and be wanted for dynamiting in South America and [5620] had blown up a few bridges in Australia or what not.

"Q. You never used any of those?

"A. I never used any other name. I am just talking about these phony charges that they made during the strike. Everybody was a Red, every conservative leader in the A.F. of L. was a Red at that time.

"Q. Do you remember any aliases for John Schomaker, for instance?

"A. Any aliases for Schomaker?

"Q. Yes.

"A. No, if I recall the court case right, he was charged with working under an assumed name somewhere else and the whole thing was investigated, and when it was brought up in court, it was found that the whole thing was a lot of lies, as I recall. That is my distinct impression and the case was dropped.

"Q. Did you ever hear that his party name was John Delaney?

"A. Oh, certainly I have heard that.

"Q. You have heard that his Communist Party name was John Delaney?

"A. Certainly I have heard it.

"Q. Do you remember when you first heard that?

"A. Around the same time. I believe that was one of the accusations made.

"Q. Around what? [5621]

"A. I believe that during the early days of the union or during the strike ~~or~~ at some time."

Do you remember being asked those questions, and did you make those answers? [5621-A]

A. I don't remember, but it sounds like my testimony, is just about what I would say. I wouldn't change it right now either. I already told you at that time we didn't go very deeply in when Schomaker came on the waterfront. It would have been very, very simple for me to look at the union records like we did in this case. I was going by the fact that my memory told me that Schomaker had always pretended he had been on the waterfront prior to 1933. Now, Schomaker could have been on that waterfront. Nobody told me. What misled me, until he testified in this courtroom that he didn't.

(Testimony of Harry Renton Bridges.)
come on the waterfront until November, 1934, I was always under the impression he had been there since 1932.

Q. Don't you mean November, 1933, Mr. Bridges, not November, 1934?

A. No, since he testified here for the Government here in this courtroom, I have seen the records of the union and found out—when you register on the waterfront—and that was the record I think Mr. Robinson identified here—you have to say when you started work, and the records show that Schomaker said that he started work on the waterfront in '32.

Q. Didn't you introduce, or your counsel introduce in evidence here, the minutes of the ILA which showed that John Schomaker was inducted into the union in November of '33?

A. That's right. That's why we introduced them, because he told us, he had always pretended he had been on the waterfront prior to that time. [5622]

Q. Why did you say November, 1934, a few minutes ago?

A. I didn't. Well, if I did, that was a mistake; I meant '33.

Q. I thought that you probably did.

A. If I said '34 that was a mistake, Mr. Donohue. I was under the impression for many, many years that Schomaker had been on the waterfront prior to the formation of the union, because—and the reason I was under that impression, he had not only told me that many, many times, but I have heard him say in various meetings and conferences—in other words, he would parade as an oldtimer; he would parade as someone that was down there prior to the union being formed, and until he testified that he never came on that waterfront until November, 1933, I was under the impression, and it is a matter of record, that he started working on the waterfront from '32. That is what I went by, and the testimony that I gave in '39 was based on that. We didn't go into that. In 1939 if there had been a point made, if I had been asked, "Could you go to the records of the union and find out?", I would have said, "Yes"; I would have been able to produce the record at that time. Going only by memory and what Schomaker had told me, I had no reason to doubt his word then. That was the reason for that answer. That and no other reason.

Q. Mr. Bridges, the fact that in the 1939, you were quite free to testify that you knew that John Schomaker was a Communist, even knew his name and the fact that in this trial you stated under oath that you didn't know that John Schomaker was a [5623] Communist is not influenced or affected at all by the fact that John Schomaker testified in this hearing and didn't testify in the 1939 hearing, is it?

A. No. As I see it, there is no difference between my testimony in 1939 and what I have said now. Again, 1939 is eleven years ago, and I will go by what I said then because I can't—there is reams and reams of testimony in the former hearings; it is impossible for me to memorize it or even attempt it. The best I can do is go by what I remember and

(Testimony of Harry Renton Bridges.)

what I recollect, supported by such records as I can produce. And what I said in 1939 as you have read, is just about the way I remember it now, with such changes that are necessary to be made because of Schomaker's own testimony here.

Q. You were quite friendly with Schomaker, weren't you? A. Yes.

Q. You were neighbors? A. Pardon?

Q. You were neighbors for some time?

A. For a while.

Q. How long?

A. Oh, I forget; about a year; a year or a year and a half.

Q. Visited each other in your several homes?

A. Occasionally.

Q. Do you think John Schomaker would have any reason for coming here and testifying under oath falsely against you, Mr. Bridges? [5624]

A. Why, of course. Let me tell you, Mr. Donohue, I have known Schomaker for a long time and it is just the same in a labor union as any other place; you have got to organize the people that are working, you have got to try to trust people; you have got to find workers on the job; at least that is the way that we do it in our organization, and you have to put them in positions of responsibility and trust and leadership. And sometimes, you know, people can't carry the load. There is too many people—the way they see it, some people in the trade union movement, they look after their own selves, their own security at the expense of the people at

Schomaker got the point, he tried it in the union movement, got elected a couple of times and they didn't like the way he did business, [5625] and they didn't reelect him. He was disgruntled over that. I remember he came to see me and said, "Look, I want you to do a little more for me." He kind of hinted around as to whether I didn't have a job for him on the national payroll. So that the going just got too tough for John Schomaker, and he sold out. The only people in the union movement that can't sell out are the people down below working on the job. The leaders can always sell out. You take it from me, every day, there isn't hardly a day goes by when an officer can't make a good deal for himself and lots of money in the game if you want it that way. That is all that happened to Schomaker. So he got

work down below; or the other way to do it is to understand that your own security depends upon the security of the people down below. So over a period of time, after all these steps, Schomaker put up in the union movement, he didn't move along fast enough; he didn't make enough money out of it; it took too much hard work and sacrifice; his wife used to come—on two or three occasions his wife came to me and complained bitterly. She said, "I have served notice on John, he can choose between me and the union. Enough of this business of attending business meetings, out every night in the week. I am supposed to stay at home. He has got to give me at least a couple of nights a week. There is no money in it." and so forth. So finally

(Testimony of Harry Renton Bridges.)

bogged down in the country down there with his boarding house, and mortgages and one thing and another. His business to be a housebuilder didn't work out. And I have even got the letters he wrote to our officers in Hawaii offering to cut them in on the deal, to give them 10 per cent of the take. I have got that in writing. So the story of Schomaker is not a new story. It happens all the time, not only in labor unions but in governments, too, you know. Even members of the bench, you know, sometimes sell out. And these people—I have always noticed another thing: in the process of selling out, the best way to cover up what you are doing is to be an expert anti-Communist and holler Communism all over the lot, be a superpatriot, pretend what you are doing you are doing in the interests of security of the country. [5626]

Here we have a spectacle of J. Parnell Thomas, who was the leading expert on Communism in the United States, chairman of the un-American Activities Committee, and all the time he was engaged in that activity he was making his four stenographers on his staff kick back. And now, after that he is only doing six months. If that had been me, they would have thrown the key away from me. Things like that, when I see what happens, the story of Schomaker is an old story, and it happens all the time.

Q. Now, will you tell me, Mr. Bridges, what you think Mr. John Schomaker has personally gained by coming here under oath and identifying himself as a former member of the Communist Party?

(Testimony of Harry Renton Bridges.)

A. You ask me what I believe. I think that Schomaker, from what B. B. Jones told me, he says, "Look, I am stuck here with a big house, and Donohue and his gang have been around, and they have told me that if I don't play along with them, they will pass the word at the university, whom I depend upon for roomers and boarders in my house, they will pass the word amongst the students to keep away, and I am stuck with this house on my hands, the mortgage is due, and I will be out of luck." That is what I think the truth of it is, as well as the fact that Schomaker is bitter, he tried it the hard way, he just didn't have enough to keep going and he gave up the battle, that is all. That isn't a new thing—you forget a few things, Mr. [5627] Donohue—for a fellow that is disgruntled and bitter. There was even one amongst the Twelve Apostles, you know. It isn't a new thing; pretty old.

Q. Now, Mr. Schomaker—I am sorry.

A. Yes, it is all right. I don't get mixed up, though.

Q. You didn't find any fault with John Schomaker in all the years that he was your close, intimate friend, did you?

A. It wasn't a question of being a close, intimate friend. I don't find fault with anyone——

Q. And you didn't——

Mr. Hallinan: Let him finish.

Mr. Donohue: When he is finished, and I sometimes doubt if he ever will be.

Mr. Hallinan: If counsel wouldn't hurry his

(Testimony of Harry Renton Bridges.)

questions so fast and give the witness a chance to collect his breath and answer——

Mr. Donohue: And think.

Mr. Hallinan: Then counsel is in such a hurry. He shouldn't be that way.

Mr. Donohue: If it wasn't for you, maybe I wouldn't be.

Mr. Hallinan: If you will let him finish his answer, that is all we will ask.

Q. (By Mr. Donohue): I am sorry, Mr. Bridges, I didn't mean to interrupt.

Mr. Hallinan: Don't let him interrupt you, Mr. Bridges. [5628]

A. My point is this: It wasn't my job to find fault with Schomaker. Schomaker was an officer of the local union. I don't find fault with people as long as they are doing their job. Maybe the standards we set are pretty high. We leftwing unions have, I guess, a hard driving program, and Schomaker just didn't measure up. It wasn't my finding fault with him, it was the men that he represented. They elected him, and he didn't measure up, and they tossed him out. And Schomaker went around trying to find another way, trying to find an easier way where he didn't have to work as hard, and it just didn't work out. There isn't enough room for everybody to be officers in a union, just as there is not enough room for everybody to be lawyers or capitalists or anything like that. Somehow or other most of the people find there isn't enough room for them in those places.

(Testimony of Harry Renton Bridges.)

Q. (By Mr. Donohue): Have you completed your answer? A. Yes, Mr. Donohue. [5629]

Q. Now, when Mr. Schmidt was defeated by the right wing, you took care of him, did you not?

A. When was that?

Q. In the last election. A. No.

Q. When was he last defeated?

A. Local office, just a couple of months ago.

Q. What is he doing now?

A. He is working for the international—has been for the couple of years prior to the elections.

Q. You mean he was on the payroll of both his local union and the international payroll, too?

A. No, I do not. Henry Schmidt, very much against his objections, has been on the international payroll for the last couple of years.

Q. Against his objections?

A. Against his objections.

Q. If you hadn't put him on the international payroll after he had been defeated for president of Local 10, what alternative would he have had?

A. He would have been back on the waterfront, and that is where he is going. You watch now. He will be back on the waterfront. If he had had his own way, he would have been back there months ago. We made him. He takes orders. He is one of the officers of the union, and when he gets orders [5630] for a job to do—and that strike in Hawaii wasn't any picnic, believe me. If Schmidt wanted to do as he liked he would have been back working on the waterfront, and as soon as this case is over that is where Schmidt will be, back on that waterfront.

Q. When was he last on the waterfront, Mr. Bridges, to your knowledge?

A. I don't know. No so long ago.

Q. When?

A. I forget—I don't really know. Three, four or five years ago, I think. I don't know.

Q. Who was the president of Local 6 prior to the present president of Local 6?

A. James Kearney.

Q. Who defeated him?

A. Bulcke, Germain Bulcke, I think—no, I think Walter Bell preceded him.

Q. Mr. Bridges, yesterday you indicated as one of the necessary qualifications for membership in the Communist Party the quality of courage. Do you think Schomaker had the courage necessary to be a member of the Communist Party?

A. I never said that yesterday, Mr. Donohue. I said I might have had some of my own opinions. That is the way I look at it. I see those people. The way I see it, everybody is blasting them, pushing them around, all the rest of it. Sometimes [5634] I wonder what they see in it. It is only my own personal opinion that people that want to join, sponsor, advocate and work for such an unpopular cause, doggone it, it seems to me to take quite a bit of what it takes. And on Schomaker? No, I don't think he's got it. I used to think so one time, but I don't think Schomaker has got it, and I haven't

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thought that for quite a while. And that is something that pre-dated his coming up here, too.

Q. Do you think he had it the day he got dumped on the picket lines?

A. So what is the dumping?

Q. Where were you?

A. I was right there with him; don't worry, Mr. Donohue. The way our union functions, the officers don't ask the rank and file to take any chances they won't take themselves.

Q. You didn't get hurt, did you?

Mr. Hallinan: Let him finish his answer. Your Honor, he cuts him off.

A. No, that has been a matter of luck in all these skirmishes. Maybe I can run a little faster than the others; that's all. I haven't managed to get hurt. Maybe I duck faster or run faster. But I have been there. I am darn painful that I didn't get it. And I don't want to get hurt, and if I can keep on preventing getting hurt, that is just what I am going to do. I'm not backward about saying it. Don't judge people [5632] by me.

Q. It couldn't be that you are at the union headquarters?

A. For a while I was, yes. I was all over the place at that time. I was generally where I thought I was needed.

Q. Mr. Bridges,——

A. You are trying to say, Mr. Donohue, I was scared? Because if you are saying that, I was.

Q. You said so yesterday.

A. If somebody comes at me with a rifle or a shotgun I am scared. I am not one of those people who aren't scared. I would like to try it on you.

Q. It has been tried, Mr. Bridges.

A. All right. And you weren't scared?

Q. No, I wasn't scared.

A. You are a better man than I am, Mr. Donohue.

Mr. Hallinan: That is wonderful. Now we have Mr. Donohue the hero. He has been wearing Army boots around here for months and wearing an Army coat to let everybody know he saw some service. If he did, I'll bet the only injury he might have gotten was his backside blistered sliding around on a swivel chair.

Mr. Donohue: I will match mine against yours any time.

Mr. Hallinan: We have had so much talk about alleys around here, I don't want to indulge in any discussion, such bombast. People who have to bark about their courage [5633] don't ordinarily show it when the time comes. I am not pretending to be any more courageous than the most insignificant person, and I am not going to pretend to something just to make an impression on the jury in order to get something on some other people.

Mr. Donohue: May I proceed, your Honor?

Q. Mr. Bridges, yesterday you testified that you had been unanimously reelected to the Executive Committee of the National CIO at the eleventh constitutional convention on Friday, November 4, 1949. A. That is right.

Q. May I read you from the record and ask you if this is not what took place: "Secretary Carey, calling the roll of unions"——

Mr. Hallinan: This is not an answer given by Mr. Bridges. I think he ought to be shown the record if it is intended to refresh his recollection.

Mr. Donohue: He was there.

Mr. Hallinan: Let him see it. He can't take your word that you are reading it correctly. Your eyesight may be defective. It looks like you might be having difficulty, observing you putting on your glasses.

(The document was handed to the witness and returned to Mr. Donohue.)

Mr. Donohue (reading):

> "Secretary Carey, Longshoremen's and Warehousemen's [5634] International Union, delegate Meehan"——

I take it he is from that union?

A. He certainly is.

Q. "——on instructions of our membership I wish to place in nomination the name of our worthy president, Harry Renton Bridges..

"Vice President Curran: Mr. Chairman and Delegates, I wish to challenge the eligibility of Harry Bridges to serve on the Executive Board on the basis of the constitutional amendments which have been adopted and are now a part of this CIO constitution. Also on the same grounds that were enumerated by Delegate McDonald. I hope the Executive Board will take action in

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> this case, too. In the meantime the National Maritime Union and its delegation will abstain from voting on this nomination.
>
> "President Murray: The question of the eligibility of Delegate Bridges will be brought to the attention of the next meeting of the executive Board. Those favoring his election to membership on the Board will say Aye; not a very loud vote. I shall refrain from asking for a vote in opposition in deference to the wishes of Vice President Curran, and the matter of Bridges' eligibility to serve as a member of the Executive Board will, under the constitution, be brought to the attention of the next Executive Board meeting of the CIO." [5635]

Is that what took place?

A. That is what took place, Mr. Donohue.

Q. And that is your conception of a unanimous reelection?

A. No, the convention rules, governed by Cushing's Manual, lay down the rules, and by all the rules of the convention what I told you yesterday is an absolute fact. If there was no "No" vote, the election was unanimous. You can't find a "No" vote in the record.

Q. I ask you again, Mr. Bridges, is this your conception of a unanimous reelection?

A. No. I am saying I agree with what the record shows there. There is no "No" votes there.

Q. You do not question the record?

A. I do not, in that respect. I question the record in a lot of places, but not on that particular point. The record, I would say, is correct. You have just read what actually took place, and an election is unanimous if there are no "No" votes cast in opposition. Votes to abstain are counted for the affirmative as a matter of parliamentary law; correct, Mr. Donohue?

Q. That is right.

I was trying to find whether this is your conception of a unanimous reelection.

A. Technically it is a unanimous reelection, but representing a good rank and file union it is not my personal idea of a [5636] unanimous reelection, no, sir.

Q. Mr. Bridges, while we are on the subject, what was the constitutional amendment to which Vice President Curran made reference when he challenged your eligibility to serve on the basis of that constitutional amendment? [5636-A]

A. It is a matter, I think—you have got it in the record there, Mr.—Look, on some of these matters, Mr. Donohue, it is a policy of our union that we don't like to wash, you might say, labor's dirty linen here in a courtroom or in public, but I am getting a little bit afraid that my reluctance to go into those matters might be construed as wanting to conceal something. Now, if you want to get into this little battle we have had over certain matters of policy in the labor movement, I have no real objection, except I am still a member of organized labor, and as a matter of principle and policy I just dislike ironing those things out in a court of law. That is the only reason I have had for not going into some of these matters. Now, if we get into this, I will tell you what the story is on them, and I will tell you what it is from the inside. But of course I will hurt a lot of people's feelings, and cause some people of my own union—those who agree with me as well as those that don't—to question my conduct in this matter. That is, when I say "my conduct," why, to question my actions in talking about these matters here particularly in a court of law, although there is nothing secret or wrong about it. But in any labor movement differences of opinion over matters of policy occur. There's all kinds of pulling and tugging for position and one thing and another. And I just hope and always strive to have the machinery of the trade union organizations themselves democratic enough to [5637] straighten out the matters within that machine and by that machine. That is my only point.

Q. Do you think that the question of the infiltration into the American labor movement by Communist Party members is merely a matter of policy as far as the union is concerned?

A. No, I think it is a big smoke screen, where a lot of—well, we call them "pie cards" or "labor fakers." I think it is just a big smoke screen behind which such type of individuals operate. It is true what I have told you, Mr. Donohue; when I see a person in the labor movement that begins to

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operate as an expert on Communism, begins to squawk about Communist infiltration in the labor movement, I begin to look around and find out where he is feathering his own nest, what ax has he got to grind, what office is he running for. And it is the same in public life, the same in public life. Most politicians employ the same device, and I have got a little skeptical and cynical, you know, because I have found that most all the crooks in the labor movement, all the crooks and the liars and opportunist, they climb on that bandwagon. So that——

Q. Do you think that Mr. Phil Murray is a labor faker?

A. Well, you know—will you accept my definition of a labor faker?

Q. Well, you used the term; it is yours, Mr. Bridges. You have a right to define it. [5638]

A. Well, there's quite a few things that Phil Murray does that I don't agree with. I don't think they are democratic; I don't think they are good trade unionism. I don't believe, for example, that people should be called out on strike without the people that are going to do the striking and the suffering getting a chance to vote whether they will go on strike or not. That is one disagreement I have with Mr. Murray. I don't wish to comment or criticize his standing as a union leader, but we can have those differences without them going to the question of his honesty and integrity, and they are honest differences in many cases.

Q. Do you have any difference with Mr. Phil

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Murray on the question of how important it is for a union to determine whether or not the Communist Party has infiltrated into that union through Communist Party members?

A. Maybe I wouldn't if I knew that that was really the subject they were concerned with; but I know it is not. I know that that is the argument that is used, and what is really going on in the CIO is someone is trying to make a political party out of it instead of a trade union. You've got too many opportunists in the CIO that are trying to feather their own nests and secure political positions for themselves by making a trade union organization a political organization. And I am opposed to that, my union is opposed to it, and we are trying to do what we can to have the trade union movement used as a trade [5639] union movement, to improve wages, hours, and working conditions, and not to be used for political purposes by some of its leadership.

Q. Now, is it your contention, Mr. Bridges, that the ILWU is only a trade union and has no politics, has no views on political matters?

A. It is a trade union first, second and last, and any political actions or any political views it has are purely incidental and supplementary to its trade union views and trade union program. It is a trade union. That is the purpose for its existence and it is going to stay that way, and it is a good trade union, too.

Q. Don't you remember a very extensive answer which you gave us yesterday in which you discussed not only your own but the viewpoint of your union on all the great national and international problems of the last few years?

A. No, I didn't give you any such answer. You ask me about any problem or issue, and I will dig into the records and show you where we stood on it. That is what I told you. And I also said that you couldn't produce one single instance to support some of the things you have said here about the union and about me, about the "flipflops" and things like that. If it is true, what you have said, that the union is Communist-dominated, the officers run the union and all those things, you ought to be able to produce at least one example of that, [5640] one documentary example, I mean, Mr. Donohue. I don't mean the witnesses you have produced. But you can't do it.

Q. You don't trust witnesses, do you, Mr. Bridges?

A. Oh, it depends. Some witnesses I am perfectly willing to trust; but when you bring people up here and you've got them in a rack and you make them talk (indicating), otherwise you take an extra turn of the screw, you don't trust people like that because you know it does happen. The policemen can get people down in the basement of the jail and they can beat confessions out of them. Now, look, we are grown-up people, Mr. Donohue, you and I—and we have been around, at least I have.

Q. You much prefer records to confessions——

Mr. Hallinan: Let him finish the answer.

A. Yes, I do. I think that records certainly speak for themselves, and they can't be changed. However, witnesses, you know, you can put the squeeze on. And I have had too many dealings with Mr. Boyd and his cohorts there (indicating); Boyd's been working on this case for too many years, and it is a matter of record. Don't take my word for it; there was a finding of fact on these things, Mr. Donohue, by the Senate of the United States, the Committee on Labor and Education. It is all in there, it is a matter of record. I can bring it down here and read it to you by the hour, if you will let me do it. So it is not a question of what I think, but the United States Senate [5641] set up a special committee to investigate and found out far more than I am telling you here, far more than I am telling you here, where this was plotted and programmed, and that certain witnesses were brought along here. And when you start talking about your witnesses, the only suggestion I have to you, you are paying them too much. Take a guy like Rathborne; you don't need to pay him $25 a day, Mr. Donohue. You will get him for $5; he will do the same thing for $5. And I am still a taxpayer, and you are still spending my money.

Q. You get $14 expense, don't you?

A. Only when I am out of town. Only when I am out of town. Would you like me to bring along—Listen, at that Cleveland convention you are

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talking about, I have got my expense account, my hotel bill. I was getting $14 a day, my hotel rent alone was $10 a day.

Q. I haven't forgotten the Cleveland convention, Mr. Bridges. We are going to come back to that.

Mr. Hallinan: Let him finish the answer. Mr. Bridges, you are entitled to finish your answer, and if counsel interrupts, just go right ahead.

I object, your Honor, to this constant interruption.

Mr. Donohue: I am not a mind-reader, if your Honor please.

Mr. Hallinan: Well, counsel is infatuated with the sound of his own voice. I think everybody else would sooner hear the witness. We want to hear what the witness has to say, not [5642] what counsel has to say. And these remarks that he hasn't forgotten about Cleveland, the Cleveland convention, are of no interest here. I think that we want to hear what Mr. Bridges has to say in response to the questions that are put to him. He should be entitled to finish his answers.

A. On my expenses, Mr. Donohue, now a room, on expenses—we want to have the right thing. Why, during the course of this trial, for example, I went to Honolulu, stayed over a weekend. So my plane fare amounts to around $350 or $360, and taxicabs to and from the airport a couple of dollars more. But my personal expenses was $28. So although the final expense account might show up to around

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$450 or $500, the amount of personal expenses I got out of that shows up as $28, Mr. Donohue.

So it is unfair to take the money that is meant for train fare or plane fare and charge it to me. And I didn't go down there for the fun of the thing. I had to go down there on business, and I don't get any fun out of taking those trips. I would sooner stay home right here in San Fracnisco with my family. I would get much more fun doing that. But when there's an expense bill of four or five hundred dollars, and that is the charge, that trip to Hawaii. All I get out of it for my expenses was $28, a couple of days at $14 a day. And I can bring you my hotel bill again, and you will see that again—the room alone cost me $8 a day. Well, so that—I used the [5643] other $6 a day for all the other expenses—taxicab fares, telephone—not telephone calls, they are additional—but meals, and so forth. And believe me, you don't make any money on it. The expenses I get when I am traveling out of town, particularly in your city of Washington, is pretty expensive to live in those places. But we have got a pretty unsympathetic rank and file. They figure we should get along. We have got a flat sum, and if you spend any more, that is just too bad. Now, that is the whole story. But we are coming in, I have got my bookkeeper and my office staff preparing a detailed breakdown, and then we have got the certified public accountant lined up if you want him to attest to the truth of expenses, to turn over to you.

(Testimony of Harry Renton Bridges.)

Q. Have you finished, Mr. Bridges?

A. Yes, thank you.

Q. You have made several references to a finding of fact by a Senate committee on labor and education. That committee didn't hear the testimony of John Schomaker, did it?

A. I am not so sure; maybe it did.

Q. Did that committee hear the testimony of George Wilson?

A. Maybe it did; I don't know.

Q. Did that committee hear the testimony of Mrs. Harris?

A. You mean the testimony they gave here?

Q. Yes. [5644] A. Not that I know of.

Q. Did that committee hear the testimony of Lewis Michener? A. Not that I know of.

Q. Can you think of any witness who testified before this trial on the subject of the issues framed by this indictment who appeared before the Senate committee on Education and Labor?

A. I don't know. I couldn't—I will get the record and look it over. I will read the record there. That is a pretty long book, you know. It is a big, thick volume, and I will have to look. But I will do that tonight. That will give me something to do at home.

Q. Now, Mr. Bridges, going back to this unanimous election or re-election of yours, may I ask you again, do you have any independent recollection of the constitutional amendment to which refer-

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ence was made by Mr. Curran in the statement that I read to you? A. Yes.

Q. What is your recollection on it?

A. There was a constitutional amendment slipped over by crooked means, in my opinion, that gave the Executive Board of the CIO power to suspend or expel a union or a member of the Executive Board if the union or the member of the Executive Board persisted in following Communist Party objectives or—yes, trying to achieve Communist Party objectives instead of following policies [5615] of the national CIO. That was the amendment.

Q. Generally termed an anti-Communist amendment; true?

A. Oh, well, I mean—that is—I wouldn't term it that. When you say "generally termed," you mean the sponsors of it, they would term it that. But if you would ask me what I would term it, I would term it a racketeering, corrupt, crooked, cover-up for a lot of dirty goings on, so that certain people can use a great organization like the CIO for their own personal political advancement. And it is a very simple thing to explain, Mr. Donohue. The big argument there is, I am a hundred per cent opposed to any union top brass sitting in the city of Washington and telling the rank and file workers that live here in the city of San Francisco in the State of California, who after all dig up their hard-earned dollars to pay the freight, how they should vote, who they should endorse for political office, what type of a political policy they should follow.

Let me give you a concrete example. That amendment stops me as an officer of my union, and stops my membership, from working together with our employers here on the waterfront, some of whom appeared in this courtroom. Now, there's a lot of things we disagree on with our employers. They are still operating ships in the interest of profit. The more profits they make, we figure that is the less we are getting wages on, so we don't—we continue to fight over those things. But far more friendly and constructive atmosphere than heretofore, [5646] and we have learned a lot of hard lessons. But let me give you one concrete example. There's one thing that we are agreed upon, generally speaking, and that is, we would like to increase the amount of traffic or freight moving through the port of San Francisco and other ports.

We are not a manufacturer's area here in the Bay area so much; we are a commercial gateway, the old "gateway to the Pacific," as we say. Now, then, the American shipowners, members of the Shipowners' Association of the Pacific Coast, the PMA, they are all desirous of doing trade with China. Notwithstanding the change in the government of China. They agree with us, both sides, the employers and our union agree that in the interest of our city and in the interest of our industry, they will make profits, our men will get work. We would like to work together and we are working together to try and have trade resumed with China, as well as Indo-China, as well as Indonesia, and as well as British Malaya, because their ships will operate full both ways and our men will be working. There will be more work and they will make more money.

The CIO tells me that I can't work together, even if I am instructed by my union; I can't work together with my employers for those ends. And the answer we have given to the CIO is one that I don't want to repeat in this courtroom, and I have did so under the instructions of my own union membership, who retain the right, in their opinion, to formulate policies [5647] that they think will be to their best interests.

Q. Were you as anxious to trade with Nazi Germany and Fascist Italy as you now are to trade with Communist China? A. No.

Q. What is the difference?

A. Well, now, that will take me a little while to answer that, Mr. Donohue.

Q. We have lots of time.

A. All right, fine. O.K., let's go. Now, look——

Mr. Donohue: May we take the recess first, if your Honor please?

The Court: We will take the morning recess. Same admonition to you, ladies and gentlemen, not to discuss the case under any conditions.

(Recess.) [5648]

Mr. Donohue: May I proceed, Your Honor?

Q. Did you want to answer the last question, Mr. Bridges?

A. I think the question, Mr. Donohue, was that

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we were not so ready to do business with Nazi Germany, Fascist Italy and Spain as we were with China, and I said we were not, and here are the reasons:

Our yardstick happens to be maybe our own supplemented with the opinions of other people, opinions that I think we can afford to trust. The way I look at another country, and the way, generally speaking, the union I represent looks at another country, if no unions are allowed to exist in that country, that is not a democratic country. If the people can't vote, it is not a democratic country. If they can't organize, it is not a democratic country. If they are denied trial by jury, it is not a democratic country. And if they discriminate against their own citizens because of religion or race, it is not a democratic country. Now, there is a few of the simple tests that we apply to a nation, and in the case of Nazi Germany, I have no direct personal knowledge. I have to admit that my information is secondhand. It has come from other people. But I have no reason to doubt it. I am not going by anything I read in any newspaper or heard over the air or from any propaganda agency, but I think it is a fact that Nazi Germany was built around a principle and a policy of discrimination against Jewish people and against other people because of their religion and [5649] their race. Certainly they advanced the idea of the super-race, the super-man, the Aryan race. Certainly they smashed and eliminated trade

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unions. Certainly they did away with the people's right to vote. And certainly they—Nazi Germany and the leaders of Nazi Germany set out to conquer, capture and enslave the world, and all the time they accompanied it with righteous claims and declarations that they meant no harm to any country, including our own here. What they were trying to do was save the world from Bolshevism. Mussolini and Italy the same thing. Mussolini started off as a Socialist and so did Hitler in Germany. They all started off with claims and proclamations that they are out to do the right thing for the common people. But as the whole situation developed in Italy, the Fascist corporate state was set up and inevitably—inevitably as a result of those things we find the nation engaging in a war, and generally in a particular type of war, a war that has as its purpose the conquering and enslaving of another country and another country's people; in the case of Mussolini and Italy, at least an attack upon Ethiopia, a feudal state, maybe not too much to commend the state of Ethiopia—it is a slave state—but nevertheless it was a country that was more or less minding its own business. And I can well recall a few things about that. I recall the book written by Mussolini's son, the fun he got out of dropping bombs on the defenseless people and saw the bits of people rise in the air like the [5650] unfolding of the rose. I was down in Hollywood some months ago when Mussolini's son was imported into Hollywood to make moving pictures

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by the Hal Roach Studios, and I got together with some people down there to run him out, to shame him out. That is a matter of history. So in so far as Mussolini and the Italian regime that he founded, built, with all its cruelties, lack of privileges and liberties, of course I think that is an entirely different situation. The same goes as far as Spain is concerned. It is many, many years ago since I was in China, but from what I saw of that place at that time the cheapest thing in China was the human life, and I think the people have finally taken over and changed things, something like they did here in the United States in 1776. I think they have had a people's revolution down there, and if they are wrong, then the people of the United States were wrong in 1776.

And, blieve me, I am no supporter of the British Empire. I have been anti-British Empire from the day that I could first understand what it meant. I visited most of the parts of the British Empire. The British Empire is a slave empire. The parts of the empire that are not a slave state are only—they only got their independence because they took up arms and fought for their independence, the same way the colonies did here in the United States. Australia did. Very few people know that. Australia fought to establish her independence and become the commonwealth of Australia by force of arms. I am glad she did. [5651] The same with Ireland.

Well, to put it simply, those parts of the British

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Empire that are slave colonies, I think that as soon as they can find some ways or means to change their status, they ought to do it, and I would be perfectly willing to do everything we could to help them. I draw a line, therefore, between a country—on one hand, a country dominated by a Hitler or Mussolini, where the general rights of the people are abrogated or done away with, and a country that is going through a revolutionary struggle where the people try to get away from corruptness and inefficiency and starvation and famine; it takes some very extreme means to set up a new government.

I recognize that in China, from what I have heard again—it is many, many years since I was in China; I have only got secondhand reports—these people have risen up, armed themselves, and have changed their government by force and violence. They have overthrown their government. But from what I have also heard, there was a pretty corrupt and inefficient government. Now, for quite a while, our union again took the lead and we were in a mighty unpopular position for many, many years in supporting the old government of China, the Chiang Kai-Shek regime, and I had recorded a speech made to our union by Madame Chiang Kai-Shek herself some years ago, where she was instructed to make that speech to our union, and that was the only union in the country she was ordered to do that. And it was in [5652] recognition for the support and services our union had tried to render to her country and her government. That, of course, was support against the Japanese nation, support against Japanese bombing of defenseless Chinese people and Chinese citizens. And over in my union office now hangs a banner, a special banner presented to my union by the Chinese people in this city, the city of San Francisco, in recognition of the steps we took to try to prevent the shipment of ammunition and scrap iron to the Japanese at the time they were being used to bomb the Chinese people.

Now, that had nothing to do at that time with whether we saw eye to eye with the government of the country, what was going on in another country, without official declaration of war, without any reason at all, because Japan had fallen into the hands of a certain military clique; they had decided to go over and seize the port of the other country and butcher and torture the people, as we all know. We didn't stop and consider whether the government of China was a good one or bad one so much. We were not so much interested in its political aspects. It was a pretty simple thing. But today there is the story. Now, on the other hand, we are not right now so much interested in the various aspects of the political regime or control of the Chinese government. We, of course, have heard that it is a Communist government. I am under no illusions at all that some of the leaders of that revolution or that fight down there are [5653] Communists, officially so, proclaiming themselves to be, and so forth. But what we are concerned with here

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is this: San Francisco lives by its port, by its trade. There is no coal mines around here, no steel mills, anything like that. We are a commercial center. We import and we export. Unless the West Coast, and particularly San Francisco, gets back that China trade, we are heading for one great depression around here and everybody will suffer injury, and the people I represent, the workers who work on the waterfront and in the warehouses, we see eye to eye on that point with the shipowners. Now, no one is telling me—Mr. Roger Lapham, I understand, is going to be a witness here—Roger Lapham was storming all over the place. He is one of the leading advocates of the resumption of trade with China. He, of course, points out as far as he is concerned, it is not a matter of who is running the government of China at the moment. Apparently people in control of the government have been people who, one way or the other, get the support—maybe even grudgingly or reluctant support—the recognition of the Chinese people, and that is true. We had the same thing occur after the American Revolution. Remember, after the American Revolution here in 17—this word "revolution"—people seem to shy away from in these days. I didn't invent the word. But in the days of the American Revolution, like the French Revolution, America, the United States, went through the same thing. All the world was jumping on it and pointing out the Communists in [5654] the United States, meaning George Washington, Paine and others. The same thing was happening, and it will happen more and more. So our union can't bear any responsibility. And because we have advocated trade with China in the interests of getting more work for our longshoremen on the waterfront, who unless they get work, of course, they can't have a union, the union will fall apart, and maybe I will have to do something else, even myself—that is not so much what I am thinking of—but it is as simple as that. The port here, the City of San Francisco, believe me, lives by its waterfront. That is a matter of simple economics. And the bulk of our trade, fifty per cent of the foreign trade that moves through the port of San Francisco was China trade. We have got to re-establish that trade, otherwise we can't have prosperity and employment here in the United States, particularly in the port of San Francisco, and a lot of people around here would be out of a job, and if people are out of work around here, our city, of course, will not have properous times and will not have security.

So here we have a situation where people who do not agree with us on anything else, certainly people you can't call Communists, pro-Communists or anything else as they are anti-Communist—they agree with our union on the promotion of trade relations with China, so the merchants of the city will do business, the exporters and importers will do business, the ships will run full both ways, and there will be more work for a large number [5655] of workers in the city, and because there is more

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work there will be more money to pay the grocery bills, to pay the house rent, buy furniture and other things. It is as simple as that. And the question of the whole political complexion of the government is secondary or incidental. And as far as the difference is concerned, I see a vast difference between the program of Hitler and Nazi Germany and what they set out to do.

Gosh, it isn't so long ago that I have forgotten it, I still remember—I still remember pictures and the stories, the stories I read as well as the stories the people who came back told me, of the ovens—you know, Buchenwald, the concentration camps, the Jews being burned in the ovens and things like that. Nothing like that has happened in China. Now, even when China, Russia or any other country starts doing those things, I will guarantee that you will see, if I've got anything to do with it, you will see our union in the front of the fight, complaining and doing all we can to damn and criticize and prevent and urge and fight against those things no matter where they happen. We play no favorites.

I have a few simple tests, as I say, of what is a democratic nation. One of the first leading tests is a nation that does not allow trade unions to be organized. A nation that does not allow trade unions to be organized is not a democratic nation and can't be called such by any stretch of the imagination. That is one of the tests we make. And, of course, a country that [5656] discriminates against its own citizens because they are of a different color or different religion is not a democratic nation. We all know the Hitler and Mussolini attitude toward the Jewish people. We all know the question of the trade unions. We all know the question of the right to vote. We all know the question of trial by jury. Those are tests we make. The countries that do not have those things, as far as our union is concerned, they are not democratic countries, and I am in favor of resorting to some particular extreme measures to change them.

Q. Have you finished, Mr. Bridges?

A. Yes. [5657]

Q. What was your attitude and the attitude of your union on the rape of Poland by Russia?

A. Well, I don't know much about it. Now, here is the way I understand that situation—and again, my information is second-hand, other than this point: Because of a lot of questions being asked me, such as you are asking me, Mr. Donohue, a lot of questions being asked of me by my own union membership as well as people outside of my union, I got this idea. I says, "Well, about the best thing to do is select four of our own union workers off the job, four American workers, all officers barred, four workers responsible only to the membership of the union right off the job, and pay their expenses and send them on a tour of Europe; send them to talk to the Polish people, the Russian people and the German people and to bring back a report in their own words to the membership." We did that not so long ago. We

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did that, and the report is printed, I can bring it up here and you can read it for yourself, and there is a report in there about Poland and what the Polish people think about that.

Q. When? A. What is that?

Q. When? A. You mean——

Q. When was this survey made?

A. A couple of years ago; two or three years ago. In 1948; [5658] just in 1948.

Q. Do you think that Poland—I am sorry; if you had something more to say, go ahead.

A. So in addition to the information that I got, now, four men of my own union, four workers, men right off the job to make the trip—it was my idea, I worked it out, to have them selected by the union, all local and national officers were barred, they weren't eligible, and it was as democratic as we could be in the selection. The union selected them; I didn't select them. They were told to go over and find out the truth the best way you can and bring back a report to the members. We didn't want to go by the newspapers; you can't trust a newspaper on these issues. I didn't want to have to go by the statements of self-seeking politicians or anybody like that. In addition to that, I have been fortunate enough to have many conversations with quite a few people who were born in those countries, that were over there and observed such things, and from all I can find out, at that period of time, after many, many detailed conferences and not any one conference, here was a country where

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the government collapsed and the way I look at it, the country of Russia she took steps to prevent or to meet what eventually transpired; namely, she figured her country was to be invaded and she took certain steps. That is what happened. It isn't a question of what I think or what my beliefs are. I am going by what happened. [5659]

If you want a good report, there is a report, and I will refer you to the report put out by the Foreign Policy Association. That is a good non-union or anti-union organization and makes a practice of studying such matters, and that is what they say. Amongst other people that have told me the same thing was a man named Henry Wallace—he is still alive—and a man named Wendell Willkie who also told me those things along the same general line. Of my own personal knowledge, I don't know. I haven't been there, but as far as what I have found out secondhand talking to other people whose word I would hesitate before I would ignore, that is the best I can tell you about it.

Q. Do you think there is democracy in Latvia, Lithuania, Czechoslovakia, Hungary and Bulgaria and in Russia?

A. If I am going by what people have told me, that come from those countries, such as Estonia and those states, the Baltic States, who left those states when they were under the regime before the Russians took over—if I can go by what they have told me, and I have no personal knowledge, I would

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say that there is more democracy in those countries now than before they were seized by the Soviets. Prior to that, they were all dictatorships. If you want to know where I stand on dictatorships, I am against dictatorships, Mr. Donohue; I don't care where they exist.

Q. Is it your belief that Russia is a totalitarian state? [5660]

A. Well, what do you mean by that?

Q. What do you mean by it, Mr. Bridges? I am interested in your thinking.

A. If I look in the dictionary, I will find that the meaning of totalitarian is this: That is a state or an organization that is governed by one faction.

Q. Then according to that definition, do you think that there is democracy in Russia?

A. According to that definition, well, I would have to—on the other hand, certain agencies of our government and certain—I am just reading a newspaper now where there is a report by a man who is writing for the Christian Science Monitor who spent many, many years in Russia, and he says that a majority of the Russian people are urging to break loose, they are trying to get away and they want a change in the setup, if I am to believe him. Well, if that is the case, it seems to me there is more than one faction in Russia. Therefore, the definition of totalitarianism as I read it in the dictionary falls down; I can't believe that definition.

There is another definition of totalitarianism and that is that there is only one party or people run

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for office without any party, and it can be both. Now, if you apply that term, I find myself in this position: that the majority of trade unions in the United States are totalitarian, because when you run for office in a trade union, you don't run as a Republican, a [5661] Democrat, a Communist or a Socialist, you run on your own record and you are elected or rejected on the basis of your record. So a technical application of the totalitarian principle to a trade union, you would have to designate trade unions as totalitarian. So I can't apply that principle.

Now, I think that, if what you mean by totalitarian—I asked you what you meant by totalitarian.

Q. I mean what any American means by it, a democracy as opposed to totalitarianism.

A. I will have to—there is a lot of difference of opinion on democracy. Your idea of what a democracy is and mine might differ. Your idea of democracy might mean putting me on the griddle and trying to run me out of the country or throw me in jail on the word of a bunch of liars, perjurers and stool pigeons.

Q. Do you think you would get that chance in Communist Russia?

A. I don't know. If I didn't get it, I would yelp just like I am trying to do now. If I couldn't have those things, I would try in some way to make myself known and where I stood. If I can't get those things, if I can't get the right to speak in Communist Russia and the right to a fair

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trial, I don't want any part of Communist Russia or any other country. This is my country, Mr. Donohue. I came here voluntarily. I wasn't driven out of any country. I am not ashamed of where I came from. I am not ashamed of being born in Australia, or being an [5662] Australian. It is a pretty good country, and a lot of G. I. Joes were over there and they are going back. This is my country. If you want to cross-examine me on where I stand with respect to the United States, I will go with you.

Q. We will come to what you have said about the United States at a later stage.

A. I hope so.

Q. Just now I am trying to find out what you have to say about Communist Russia as compared with your statements about Nazi Germany.

A. I am trying to speak of my own personal knowledge. You know, I get around quite a bit. I was never fortunate or unfortunate enough to pay a visit to Soviet Russia. I have been to other countries—so I can't speak from my own personal knowledge. And one of the things that I stand for in the CIO—I have told you, and I think in the CIO there are experts on Communist Russia, and I generally start off by asking them one question: "Have you ever been there?" And if they say no, I say, "I don't know where you stand, but I have learned this much, I will keep my mouth shut if I don't know what I am talking about." I generally don't like to talk about places where I haven't been.

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If you are asking me about places I have been, I could tell you about them.

Q. Have you ever been in Germany?

A. No. [5663]

Q. You talked a lot about Germany.

A. I can talk about Russia the same way, based on what I have heard and the people I have talked about. I will talk to you about Russia the same way.

Q. As an American citizen, Mr. Bridges, do you have any faith or confidence in the Department of State of the United States or the foreign policy of the United States?

A. Certainly. Not blind faith. I think, and I have said this before—they have made their mistakes. Up until September, 1941, right on these ships, the men in my union were loading steel and scrap iron and airplane engines for Japan. I used to go down there aboard the ships with a crowbar, and I would break open these big packing cases marked "Farm Implements," and every one was a Pratt & Whitney airplane engine, being shipped to Japan. And right now our men on the waterfront are still unloading dead bodies off ships.

Q. What about sending airplane engines to Communist Russia?

A. I will get to that in a minute. I have a telegram in my file from the State Department—we said: "Look, we don't want to work these ships. There is going to be a war, and if we send them scrap iron and steel and these airplane engines and

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airplane parts, they are going to be used to kill our people." And I have got a telegram from the State Department, Mr. Donohue, saying, "Don't interfere with our diplomatic relations with a friendly nation." And I did not only not believe [5664] those things or got very cynical, but so did my entire membership. What was your question about Communist Russia?

Q. In our foreign policy, according to our Constitution, is the foreign policy established by the President of the United States or the President of the ILWU?

A. Oh, I think by the President of the United States plus the Congress.

Q. Aren't you satisfied with the decision of the President of the United States and the Congress of the United States makes?

A. I thought it was my right, Mr. Donohue, any time I am not satisfied that I can yell my head off.

Q. Nobody complains about your right, because you have been doing it.

A. That's right; that is why I am in trouble, I guess.

Q. I am simply asking you to explain how you can excuse your present desire to trade with Communist Russia on the ground that your motive is purely economic.

Mr. Hallinan: He didn't say Russia; he said China.

Mr. Donohue: Communist China.

Mr. Hallinan: You said Russia.

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Q. (By Mr. Donohue): And at the same time justify your position about trading with another totalitarian state, Germany, on the ground that your objection was political.

A. Because I was of the opinion and the members of my union are of the opinion, and our opinion came about because we were [5665] told, as I already told you, away back in 1933 the German trade union leaders that were put in concentration camps behind barbed wire and later on burned in the ovens, they sent us word that many years ago saying that the whole program of Hitler Germany was to make war on the United States. The German trade union leaders told us, "Watch out what you are doing; don't support this program, or you will pay for it in blood." That is how we got that idea. The situation isn't just the same. I still don't believe—and I understand that is the policy of our Government—that Russia means to make war on us. If she does—if she does, I guess it won't make much difference what I think, the people of the United States will determine what to do then. They will fight. I don't believe in getting pushed around [illegible] anyone. I don't believe in looking for trouble, but when someone starts to pushing anybody around, I believe everyone else will react the same as I do. You just don't turn the other cheek. I believe in fighting back, and that goes again for any country. Any country. [5666]

Q. Now, Mr. Bridges, before we get into the question of foreign policy, you made the statement

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that with respect to this non-Communist amendment to the constitution of the national CIO, adopted in November of 1949, that it was slipped over by illegal means. Now, just what did you mean by that? How was it proposed, how was it acted upon, and in what measure was that conduct illegal?

A. Again, Mr. Donohue, I just don't like to go into all the little things that happened in the trade union movement, but the purpose of the amending of the constitution at that convention is in order to empower certain leaders in the trade union movement to be able to do certain things that, in my experience and in my opinion, are for the purpose of advancing themselves politically and in other words, instead of doing the best thing for the rank and file of the trade union movement. And that amendment was slipped into the constitution to give a small handful of officers at the top of CIO complete dictatorial political control of an important national organization. We had—let me give you this kind of example, Mr. Donohue. In the course of the testimony of Henry Schmidt here, a list of endorsements by my own local union was read off, where candidates appeared before the local union. The people that are standing for political office show up or send a representative, and they get up and say, "I am a candidate for District Attorney. I promise you that if I am elected District Attorney, with your [5667] endorsement and support, I will do thus and so." or "I am a candidate for Con-

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gress," and so forth. The CIO has decided—And then, to continue that up a little further, then my own local membership, who are residents, taxpayers, registered voters here in the City of San Francisco, they look the field over, they make their choice, they go on record and they urge the membership of the local union to support, finance and help elect so-and-so to such-and-such a political office. In all honesty and sincerity. And they believe they have —they are doing the best thing for themselves and the community as a whole, and they go forward and do it. Of course, they can't force any man to vote or any woman to vote as they so vote. But it is an expression, it is an endorsement, it is leadership. Well, what has happened is this: There was a sudden change of policy by that national CIO, where the officers of the national CIO tells me and tells my local union they can't do it; they've got to only support, endorse and finance people selected for them by the officers of national CIO sitting in Washington, 3000 miles away. If my local union down here wishes to endorse and support, contribute funds to the campaign of Jack Shelley for Congress or Franck Havenner or even His Honor the Judge here, that is the business of my local union here, who live and pay taxes and are registered voters of this city. And we don't concede to Mr. Phil Murray or any of the other officers of the national CIO in Washington [5668] to be able to tell us what to do in that respect in order that they can go around and pull certain political deals in Washington that redound to their own benefit and credit. Now, that is what we are opposed to and that is what—it was in order for them to have greater power to do those things that they put that amendment in the constitution.

If you will read a little further in that record, Mr. Donohue, you will find I stand up on the floor of the convention and I address the chairman, and I will say, "Where are the resolutions calling for constiutional amendments that were sent in here in accordance with the rules and regulations of the constitution by the ILWU?" The chairman says, "What resolutions? We are sorry, they have disappeared."

Q. I will give you an opportunity, Mr. Bridges, to state fully what you said before this meeting, but I would like to get down to the question to determine whether you and I are talking about the same thing. A. We are.

Q. Whether, when you were talking about his Honor and Jack Shelley and voting for somebody else—let me ask you if this is the——

A. I am telling you the purpose of that amendment. When I said it was put in there for corrupt purposes, you say it was put in there to fight Communism.

Q. Let me read it and see if we are talking about the same—— [5669]

Mr. Hallinan: Let him answer the question.

Mr. Donohue: I have let him answer all along.

Mr. Hallinan: All counsel is doing is indulging in a bad temper, unseemly tirades back and forth with the witness. If he doesn't get the answer that he would like to get, I don't know why he should want any answer but a true answer—if he is the honest man he says he is—why, then he should let the witness finish and not lose his temper and snap and snarl and get waspish about it. I think counsel could be a little more urbane in his demeanor toward the witness. All we ask is that the witness finish his answer. Counsel shouldn't scream at me.

Mr. Donohue: I might say, my soft-spoken friend might be right.

Mr. Hallinan: Mr. Bridges, the Court can support you, and you can finish your answer. Don't be frightened by this counsel, however much he might protest his heroism; he will not make any personal assault on you, I feel nearly sure. So just answer fully.

A. My only point, Mr. Donohue, was, I know that the wording of the amendment states certain things, but I am here to tell you, I am an officer of the CIO, I am not a newcomer in the labor movement; that it very often happens not only in labor circles but in Government too, it is like the small print in an insurance policy. It can mean an entirely different thing, you know. [5670]

Q. Let me read it to you, Mr. Bridges.

A. That is what that amendment means.

Q. And see whether we were talking about the same amendment. A. Yes.

Q. Article IV, concerning officers and Executive

Board, is amended by the insertion of a new section 4, which reads as follows:

> "No individual shall be eligible to serve either as an officer or as a member of the Executive Board who is a member of the Communist Party, any Fascist organization or other totalitarian movement, or who consistently pursues policies and activities directed toward the achievement of the program or the purposes of the Communist Party, any Fascist organization or other totalitarian movement, rather than the objectives and policies set forth in the constitution of the CIO."

That was the amendment, wasn't it?

A. Right.

Q. Now, you were, prior to your unanimous reelection in November of 1949, already a member of the Executive Committee of the CIO?

A. I have been a member since it was formed.

Q. Isn't it a fact, Mr. Bridges, that in May of 1949, the May preceding the November we were talking about, that the quesiton of this resolution or this change in the constitution [5671] was fully discussed by the Executive Committee of the CIO in Washington?

A. No, you are wrong, Mr. Donohue. Let me tell you what happened. You see, that is one of the other complaints that I have against the CIO, that they won't make available—I am instructed by my union, I come back and report to my union

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on what happens at Executive Board meetings. And I have to tell my union, "You've got to take my word for it, folks, because the minutes of the CIO Executive Board seem to be top secret. They are not even allowed to be circulated amongst the members of the CIO."

Now, here is what happened at the May, 1949, meeting. An entirely different resolution than that was adopted. The resolution that stated what the CIO was truly trying to do. That is exactly what happened, and there was no mention of Communist Party activities. But that is where these people come out in the open and they said, "From here on in, members of the CIO Executive Board must take orders from the national officers of the CIO and not from the union that elects them." And the resolution started out—I will bring you up a copy of it and you will find it is entirely different.

So what happened in the months intervening between May, '49, and the CIO convention, the officers of the CIO saw that they would have to retreat, and they would have to do some double-talking; they couldn't put over their scheme to [5672] establish the CIO as a political dictatorship. So then they came along with the old red herring. And it has been my experience in the labor movement, when you have got something crooked to slip over, dress it up in the old red herring and you've got a better chance of doing it. And the same in a lot of other things, too. And that is what was done here in Cleveland, and the resolution adopted in

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Cleveland, the constitutional amendment was entirely different than the resolution passed by the CIO Executive Board in May. And in that way, that is another little crooked bit of crooked business. The CIO resolution passed by the Executive Board in May was referred to the convention for action. That disappeared, too. The action of the Executive Board, the resolution passed by the Board, that disappeared. And when we came to the CIO convention—this is the thing that crops up—and this is one of the questions I asked, "What happened to our resolution that was passed by the Executive Board in May?" "Where is that in this convention?" That was gone with the wind, too, along with the resolution introduced by the ILWU.

I led a delegation down before the constitutional committee of the convention. I said, "Listen, where is the resolutions put in by the ILWU asking for certain matters?" The committee says, "We haven't got them. They have disappeared."

So there's a quite a few things. Another thing let me tell you, Mr. Donohue, what that amendment is to conceal. I have [5673] been one of a group of officers in the CIO that have been demanding a financial accounting of CIO. The CIO has been going for many, many years. It has collected and spent many, many millions of dollars. The members of my union that work in the warehouses and the docks of the city, they asked me to get a financial accounting from the officers of CIO as to what happened to the millions of dollars, part of which they have contributed to. And in all the years I have been in CIO I have not been able yet to persuade the national officers of CIO to turn over a financial accounting to my membership as to what has happened to all the money. So that has caused some differences between myself and the national officers of the CIO.

Q. And is that why you voted against the non-Communist amendment to the constitution of the CIO, because you couldn't get a financial statement?

A. One of the reasons, certainly—one of the reasons, because I well recognized in order to combat our drive to get a financial accounting, as well as to keep the CIO a democratic organization, the old red herring was being raised. Now, the ones that decide what is a Communist activity are the officers of the CIO, you see. And the way it works, Mr. Donohue, if you are going to play ball with the top, there's all kinds of things, come your way. But if you are going to buck and try to fight for a democratic trade unionism, you are going to be in [5674] trouble, and that is—I am not being kidded—that is one of the reasons I am here today on this witness stand. I am not being kidded.

Q. Have you finished your answer, Mr. Bridges?

A. Yes, thank you.

Mr. Donohue: May we take the recess?

The Court: We will take the noon recess and resume at two o'clock, ladies and gentlemen. The same admonition to you, not to discuss the case under any conditions.

(Thereupon a recess was taken until 2:00 p.m. this date.) [5675]

February 15, 1950, 2:00 o'Clock

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Harry Renton Bridges, heretofore sworn.

Cross-Examination
(Continued)

By Mr. Donohue:

May I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Bridges, are you at all familiar with the trade union situation in Russia?

A. Not too familiar, Mr. Donohue. My information on that comes, I would say, from three sources: reports of officers of the national CIO themselves; and reports of various other representatives of the United States Government that have —I have talked to on the matter; and the reports of the delegation that my own union sent over to Russia a couple of years ago. Now, that is my information. I have never been to Russia. I don't put any faith in newspaper reports. I don't put any faith in the reports of renegades or—I mean by that people that allegedly escaped from Russia and came over to the United States and write best sellers about their experiences. I think those things are self-serving. I have talked to various people about Russia. I have talked to Mr. Donald Nelson, I have talked to Mr. Henry Wallace, I have talked to Wendell Willkie when he [5676] was alive. I have talked to my own union delegation and I have talked to the officers of the CIO, and their reports are officially—have been publicized.

During the United Nations Conference here in San Francisco, when the United Nations was established, I talked to the representatives of the Soviet trade unions themselves. That is what my information depends upon.

Q. Do you know when, if ever, there was a strike by a labor union in Russia?

A. No, but I heard that point discussed by Mr. Torazo (?), who was secretary of the Council of Russian Trade Unions on the possibility of a strike in Russia. I asked him that very question. I said, "Listen, how about this business of strikes in Russia?" So he gave me an explanation and whether that explanation is correct I don't know, but I got an explanation that did kind of make a little sense.

Q. Now, Mr. Bridges, have you ever read in the bulletin issued by the United States Department of State a report on the infringement of trade union rights which was a statement prepared by Leroy D. Steinbauer, United States deputy representativ in the Economic and Social Council of the United Nations?

A. I haven't read it, but I am certainly willing to. I will read anything.

Q. May I ask you if this statement coincides with the information you got from the various sources you have already stated: [5677]

> "Trade union rights are meaningless or worse if the associations are state-controlled, state-dominated and state-serving. A labor union in a Communist dominated country can hardly be distinguished from a labor front of Nazi Germany. Both serve the interest of the state or the party against the freedom of the worker. Even if the trade unions were free and independent, workers could hardly be bargaining equals of the government. The fact that the employer is the government which controls not only the condition of work but all other aspects of daily life makes the worker all the more helpless. That is bad enough, but when the so-called labor unions themselves are agents of an employing government operating through officers picked by the union oligarchy, the worker is really exploited by both."

Does that conform to the information that you have received from your sources?

A. It may be true of Russia. It sounds also to me to be a true description of the situation, that is, as I have heard it, that exists in England at the present time and in Belgium and in France.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: Pardon me. Could we see the document and inspect the rest of it and see if there is something in it?

The Witness: It is my understanding, Mr. Donohue, that there is no collective bargaining left in England. Just recently [5678] the trade unions of **France** went on strike in order to reinstitute their collective bargaining. There is a wage freeze and because the workers in effect work for the government, it seems to me to be a similar situation. Now, that is the facts. I didn't say I approved or disapproved. I know something about the trade unions of the United States, and on that I consider my knowledge is good. I am not so well informed, only by second-hand information, on the trade union movement and methods and strategy of Russia or any of those places. But I do know this much: It is quite an issue in England today. Trade unions in England can not strike today, and that is a vaunted democracy, not that I think it is, but I know that it is just too bad. And I know there is a labor government over there, and I know that trade union leaders are members of the Cabinet. I know there is a wage freeze, and if you try to strike, the troops are brought in and shoot you down. That is the situation in France because the majority of the workers work for the government.

Now, if that is what you are referring to, I have no use for it in England, France, Russia or any other place, for this is my country, sir, the United

(Testimony of Harry Renton Bridges.)

States of America. I came here voluntarily, of my own free will, and I hope to stay here.

Q. Mr. Bridges, do you recall Mr. Murray stating this on the Monday, October 31, 1949, session of the eleventh constitutional convention of the CIO, quoting Mr. Murray:

> "In May of the present year the CIO executive board met [5679] in the city of Washington."

Mr. Hallinan: If the Court please, this isn't a proper way of examining the witness. First we have had a dissertation or a statement by some person, I don't know who he is. Now, we are having read into the record what counsel says Mr. Murray said. That isn't a proper way of examining the witness. The only thing that he could be confronted with is something that might be shown to him to find out if it refreshed his recollection as to something that occurred that would dispute what he has already said, or something that might refresh his recollection on some matter. Now, to stand up here and read off a statement by Mr. Philip Murray is to introduce Mr. Murray's testimony without the benefit of cross-examination.

Mr. Donohue: I have no objection to the witness refreshing his recollection by looking at it.

Mr. Hallinan: If it does. [5680]

Q. (By Mr. Donohue): Does that refresh your recollection on what Mr. Murray said, Mr. Bridges?

A. Sure. He wasn't telling the truth, that's all. I have got the resolution he referred to right here, Mr. Donohue, if you want to see it. And if you will compare the resolution to what he says there, you will see he is not telling the truth. I have got it right here in the official CIO paper. I brought it with me to help you.

Q. I appreciate the help, Mr. Bridges. Will you tell us now before you call that to my attention, in just what measure Mr. Murray fails to tell the truth in this statement which you have just read?

A. His statement that you are referring to there says that he is speaking at the convention in Cleveland, November of this year, of last year—October. And he is saying that in May of this year the executive board of the CIO met and adopted a resolution on Communistic activities in the CIO. Isn't that what he says?

Q. You just read it, didn't you?

A. And I have got the CIO paper here dealing with that same resolution, and if you can find a word in there about Communism I will eat it.

Q. Then Mr. Murray is not telling the truth when he states in this speech of his at the convention on the day I called to your attention that in May of the present year, "The CIO [5681] executive board met in the city of Washington"——

A. Oh, he is telling the truth to that degree.

Q. Were you at that meeting? A. Yes.

Q. "In pursuance to instructions given by the last national convention of the CIO, it adopted another resolution, and that resolution proclaimed to our membership the fact that no

> one who adhered to the Communistic philosophy and propagated Communism to the detriment of our trade union movement in this country could hope to serve in office or be a member of our international executive board. The May declaration of the CIO executive board was fought bitterly by certain elements within the board. This servile process of serving the interests of the Communist Party continued following the May declaration of the CIO executive board."

Now, you tell us that didn't happen?

A. That's right, it didn't happen. Now, here you see, I have here what the resolution said, following CIO policy. In the May executive board meeting of the CIO——

Mr. Hallinan: Pardon me, pardon me. I think it should be suggested that Mr. Bridges read the actual declaration.

Mr. Donohue: I have no objection to Mr. Bridges reading anything, Mr.——

A. (Continuing) Mr. Donohue, at the May executive board [5682] meeting the resolution did come in——

Mr. Hallinan: I would light that light, Mr. Bridges.

The Witness: I can see.

A. (Continuing) And the resolution was adopted by the CIO executive board, and I am one of the elements there that fought bitterly against it, and it is a matter of record why I fought it. I said, "Look, with all due respect to you, President Murray—"; Philip Murray is not a person I exactly detest. I have a certain admiration and respect for Phil Murray for the good things he does. When he is wrong, I say so, that I think I disagree with that. But I said, "What you are doing here, you are destroying this union, this CIO. I represent an organization that helped build it." We poured in approximately $600,000 into helping build the CIO, Mr. Donohue, as well as many of our fellows hurt and pushed around and a lot of other things.

I says, "Now, what you are doing here—I am elected to this board by my membership. The CIO doesn't elect me to the executive board. My union elects me. I am instructed by my union that elects me and pays my wages to carry out certain policies to this board. I am the voice, the representative of my union on this CIO board. You come in with a resolution now and say that unless I take orders from you, Mr. Murray, notwithstanding what my membership tells me, I am not eligible to serve on this board." I said, "That is a violation of the CIO [5683] constitution, that is a phoney, it is a racket, and if you are going to carry through a policy like that, you are going to destroy CIO." And that is what is happening to CIO today; it is being destroyed because of those type of policies.

In addition to the fact that it is depriving my membershp—I was one of the leaders here on the Pacific Coast that took the lead in 1937, urging my own union to get out of the American Federation of Labor. And certainly we had a lot of faults to find with the American Federation of Labor, and to go over into the CIO. And we have got a solemn written compact, a solemn agreement with the CIO saying that our membership could always have its autonomy—autonomy meaning its right of self-government. There is a long background to it, Mr. Donohue, with our organization. Believe me, to the ILWU, autonomy means the same thing as home rule to Ireland. It means the same thing. Our fellows like to have the right to fight amongst themselves. The CIO comes along and says, "Well, we will take care of that. There is no further need to fight amongst yourselves. We will make the decisions for you, and then you will all have to go along." So our fellows being the kind of people they are, because of the background of the fight for home rule, they insist upon the right to fight amongst themselves if they want to fight, and that is what the big battle is all about.

Here was a resolution passed, in effect, saying "No more [5684] need to fight amongst yourselves. We will make all the decisions for you back here in Washington. All you people have to do out there in the West Coast is pay your dues, send the money in, keep your mouths shut, don't raise any questions, do as you are told, and when we tell you what to do, do it and carry out the orders and be good boys and you will be out of trouble." I tried to stand up and say, "Mr. Murray, you don't know my union. You don't know my membership. No one could get away with that.. It is not a question of the merits of the issue, whether they agree with you or not; they reserve the right to disagree. That is the way they see it. That is what they were promised when they joined the CIO, and you are heading into trouble when you try to pass a resolution like that."

However, the resolution had nothing to do with Communism. The resolution said, and I have got it here:

> "All members of the board who are unwilling to enforce the constitution and to carry out the instructions of the convention, and in between conventions the decisions of the board, are called upon to resign. All unions affiliated with the CIO who are represented in this board by members unwilling to do the above are called upon to insist upon the resignation of such representatives and to nominate successor representatives who are willing and will comply."

And that is the end of the quote. And that is the resolution. So I took this resolution, I came back, I called meetings of my [5685] own local union and I said, "Listen, fellows," I said, "Look, here's the way the national CIO wants it. In order to get along with them, let's say we do this. Let's let Phil Murray appoint from the ILWU anyone he wants to represent the ILWU on the board, and let

(Testimony of Harry Renton Bridges.)

Bridges resign. And let us furthermore instruct the representatives of the ILWU on the CIO executive board that any time Murray says, 'Vote yes,' to vote yes; any time Murray says, 'Vote no,' vote no; any time Murray says, 'Abstain,' to abstain. Let them have that." And my membership said, "Look, Bridges, if that is the way you feel, if you carry out a program like that, we will get ourselves another president. We didn't elect you for a program like that. Now, if you haven't got the guts, if you haven't got enough in you to get in there and fight, we will find someone who will do the job for us."

So that was my orders, and that is the way that wound up. And in the May resolution at the May board, there wasn't one single word in this resolution on Communism, Mr. Donohue. And again, I will produce the original resolution and I will swallow it whole right here in the courtroom if you can find one word along those lines.

Q. When, Mr. Bridges, was the resolution which you agree this morning, when I read it to you, was the resolution which was adopted by the convention at the convention in Cleveland first presented to the CIO? [5686]

A. I don't know. I marched into the constitution committee looking for the resolutions that our union had presented.

Q. And what are the rules or what were the rules then which were called to your attention about

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the time within which such a resolution must be presented to the resolution committee?

A. Ten days prior to the convention. We lived up to the rules; we was in there 60 days prior to the convention, Mr. Donohue. And somehow or other all the resolutions presented to the national CIO convention by my union, they had disappeared. And if you will look in the record there, you will find that I stood upon the convention floor in Cleveland and said, "President Murray, where are the resolutions of the ILWU?" President Murray says, "I don't know." I says, "Well, they are in here, they were sent in." He says, "Well, that's a fine thing to raise on the convention floor." I said, "Well, I raised it in the committee." He said, "Let's go on to the next order of business."

Q. In other words, you said that you had sent them in but the CIO said they never received them, correct?

A. Yes. Well, I admit, I turned around to my delegation and says, "O. K." I says, "next time we will register them." I told my own fellows, my own delegates, "that is one up on us, fellows. Next time we will register them."

Q. Now, Mr. Bridges, this isn't the first time that you have rebelled against an attempt within a labor organization to pass [5687] an anti-Communist resolution, is it?

A. As such, I don't worry about such things. When I see an anti—it depends. Here's my position, Mr. Donohue, and I am well known for it.

I am opposed, in my union or any labor union, to any outside agency trying to run that union. Now, I am all over the record, I can bring you all kinds of documentary proof on that. I will fight any organization that tries to operate or manipulate the union from the outside. The union is the property of the members that belong to it, and they are the ones that must operate it. And I have fought and will fight anyone that tries to do anything else. But here's what happens: There are quite a few people in the labor movement that make a specialty of being anti-Communist. Look, here's a beautiful example, Mr. Donohue.

See this paper here? Charlie Real, "Teamsters oust" him. Charlie Real is the former president of the State Federation of Labor in California. Charlie Real is an officer of the Teamsters Union. Charlie Real was the leading anti-Communist in the state of California, and when he was telling the membership, "Look out for them Communists," over there, Charlie Real was stealing $110,000. A good example of what I am telling you about here. It is in the newspapers today. Now, I don't want to put any faith or trust in this lousy sheet here (indicating), believe me; it is a Hearst sheet. But just as a matter of example, it is one what I am telling you about. [5688] Charlie Real of the Teamsters Union in Oakland, one of the leading exponents and battlers of Communism. Charlie Real never attended a meeting, in my experience, where he wasn't warning people like you warn them,

(Testimony of Harry Renton Bridges.)

"Look out for Communist infiltration." But all the time while he was pointing in this direction, he had his hand over here in the moneybags, $110,000. That is more money than I have received from the trade union movement here in the United States all the time I have been connected with it. And you can add in expenses and everything else, Mr. Donohue. And he stole it. While he was telling the working rank and file, "Look out for Communists."

Now, that is what I mean. And when people come along with anti-Communist programs and resolutions and things like that, as soon as I see it is for the purpose of raising a red herring or a smokescreen, so that they can advance themselves or line their pockets, that is when I fight. Now, what it means—whether it is anti-Communist, anti-Republican, Democratic or anything else—when the idea is to let someone poke around and utilize the trade union movement for political and other selfish purposes, that is for the advantage of the individual, I am opposed. I don't care who it is or what it is.

Q. Have you finished, Mr. Bridges?

A. Now, look, my idea, Mr. Donohue, is not to make speeches. I am the first to admit, my own membership tells me, that I talk too much. I will agree. But all I am really trying to do [5689] is give you all the information. You know, you have been dealing with a bunch of characters like Rathborne and Krolek, and those guys, Mr. Donohue.

Maybe they have been kidding you. Maybe they have been fooling you.

Q. Now, before I come back to the question which you have not yet answered, let me hand you another newspaper, which you probably won't equally characterize, and ask if you are correctly quoted. (Newspaper handed to witness by the Clerk.)

A. Can I read it?

Q. Well, surely. Read the headlines first.

A. The headline reads, "Bridges urges support of the People's World." San Francisco, June 5th, 1947;

> "Harry Bridges, president of the CIO International Longshoremen's & Warehousemen's Union, issued a statement today urging support of the Daily People's World."

Now, I don't know at the moment whether I issued this statement. Let me read it first.

Q. Sure.

A. If I issued this statement, don't you worry about me saying so here. I am not going to make any statements here, Mr. Donohue, where I am backing away from anything I ever said or done to try and change it.

Q. We both understand what the People's World is, do we not, Mr. Bridges?

A. The People's World is a newspaper that, in my opinion, [5690] represents the aspirations and the desires of the American workers and the American people far more than the average commercial

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daily paper here in the United States, that must depend upon its advertising from the big corporations of the United States.

Q. It is a Communist——

A. Now, I don't want you to misunderstand. I don't care whether it is Communist-dominated or not.

Q. Now, you—— A. I don't care.

Q. Now, that is a Communist paper, isn't it, Mr. Bridges?

A. I don't know. I never said that. I said that as far as I am concerned, my union, the members of my union, my local union, are far more liable to get an accurate account of what they stand for in this paper than they are in the Hearst press. Now, don't let's get into any argument about what the Hearst press is; we both know that.

> "Reaction pounds away 24 hours a day with its controlled radio, controlled press, propaganda through the mails, and even phoney programs designed to teach school children to hate unions.
>
> "On the other hand, labor unions and progressive people, such as those who turned out by the thousands to hear Henry Wallace, are woefully short of the means of getting both sides of a proposition to the common people—the man on the street, the average [5691] worker.
>
> "The average people are now in danger of

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having what few inadequate instruments they have got taken away from them, through such measures as the Taft-Hartley bill.

"We saw the cries of outrage raised against Henry Wallace who had to travel to Europe so the American people could hear in the American press and on the American radio what he had to say.

"To some degree, at least, the People's World fills a part of the gap. And if similar papers were scattered throughout the country, we wouldn't face the dangers of a slave labor bill, nor could the people be so easily hoodwinked with a program of hysteria such as that embodied in a so-called Truman Doctrine.

"If the Taft-Hartley bill passes, it's broad enough and vicious enough to deny a union bargaining rights if an officer of the union was a subscriber to the People's World—or for that matter, to any liberal magazine, including the one of which Henry Wallace is the editor, the New Republic.

"In short, it will be a crime to read what you want to read and think what you want to think.

"If the People's World is successful in organizing only a handful of people to support labor, under its aims and oppose passage of slave labor legislation, it's worth my support as a union officer and worth many times [5692] the price of a subscription."

I don't remember the article being given out at that time, but I am certain—I am for it right now, Mr. Donohue. I don't remember issuing the statement then, but I certainly think it is a good statement and I subscribe to it right now at this moment.

Q. And you are for the People's World right at this moment?

A. I am for that statement and what it means to say.

Q. Are you a subscriber now to the People's World, Mr. Bridges?

A. Yes—oh, now, listen; that is not fair, Mr. Donohue. It is just like these meetings I have with people, like the meetings with Communists. You take meetings that occupy about one-hundredth of my time, notwithstanding the scores of meetings or the dozens of meetings I have weekly or daily with Democrats, Republicans. You jump on a few meetings, infrequent meetings I have maybe with some Communists in the course of my work. The same with this paper; I subscribe to that paper, but I subscribe presently to a lot of other papers. I subscribe to a lot of other magazines. Now, if we are going to be held up here by what I subscribe to, that is too bad.

Q. Mr. Bridges, to go back to the question I asked you a few minutes ago, and which I submit you did not answer, let me repeat it. Is it not a fact that your opposition to the non-Communist amendment to the CIO constitution was not the

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first or only time upon which you have also opposed a non-Communist [5693] program in an American labor union?

A. I am not trying to dodge any answers. I have opposed and rebelled against all kinds of programs in the union movement. I will do it again. I am not ashamed of it. I am against corruption and gangsterism and racketeering and crookedness and lack of democracy in any trade union. I have always opposed any measures that sought to encourage such things. Now, of course, too many people try to call opposition to such matters anti-Communism or Communism, or what have you. Now, when you get right down to what I have opposed, you point out what you mean and I want to try to answer and not to dodge any answers.

Q. All right.

Mr. Donohue: Mr. Clerk, will you ask Mr. Bridges to read Proposition No. 1 to the A. F. of L. convention in 1935 in the State of California. (Presenting document to clerk.)

The Witness: I don't need to. I remember it. You can save yourself the time. I remember it very well, if you like.

Q. Now that was, I think you recall——

A. Proposition No. 1.

Q. Yes.

A. It was passed prior to the convention by the Theatrical Federation of the State of California. The labor union, the Theatrical labor union, met and adopted Proposition No. 1. [5694]

(Testimony of Harry Renton Bridges.)

Q. Well, now——

A. You want me to tell you about it?

Q. I want to ask you, Mr. Bridges, if it isn't a fact that the proposition was adopted at the subsequent convention of the A. F. of L. at San Diego, California, in September of 1935, by a vote representing, by delegates representing 55,113 votes, against delegates representing 16,328 votes?

A. I think so. That is in the record, and I fought and voted against it. I think I spoke against it, voted against it, did all I could do to defeat it. Now, I know the reasons why, and here is the reasons why, if that is what you are after. The Theatrical Federation, at that time, Mr. Donohue—you don't know these things, but I do, and very, very few people do—but it recently has come to light, these many, many years after. Let me put it this way: In November of last year by a finding in the Federal Tax Court there was a finding of fact, the situation came about as a result of a man named Frank Mitti. He was called the "Enforcer." Frank "The Enforcer" Mitti. He was one of the Capone gang. He was called "The Enforcer" because he used to follow the collection man, who was a man of another name. So here was this mobster, the mobster used to go around to collect for certain things, and if the mobster had any difficulty in collecting, he was followed up by Frank "The Enforcer" with the "Chicago Pianos," as they say (indicating). It was just too bad. Now, this all grew out of the gangster situation in [5695] Hollywood.

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where Bioff and Brown, who captured the IATSE, the International Association of Stagehands' Union; they captured it with machineguns. That union, the mobsters of that union held control of the production workers in Hollywood. So here many, many years after, where I and a few others tried to do something about freeing the workers of Hollywood from gangster control, where the gangsters were working with the Hollywood Motion Picture Producers Association to keep honest trade unionism out of Hollywood and get paid off for it; that is all they—all those mobsters were doing that, fighting Communism. Bioff and Brown. Their big battlecry, lined up with the Hollywood Producers, was they were trying to keep these Communists out of Hollywood, including Bridges. And of course all Bridges was doing, according to them, was to try and bring Communism into Hollywood. But what we are trying to do was to organize an honest trade union down there, and an honest industrial trade union, so the Theatrical Federation meets, and because we were beginning to gain some ground because we were beginning to make headway with the rank and file of the workers in Hollywood, the Theatrical Federation meets and passes this big "hoopdedo" resolution on Communism. And later on, as I say, last November, a finding in the Federal Tax Court—you will see it if you look it up because Frank Mitti died and he evoked this novel defense in order to have his estate pay taxes, Mr. Donohue. He says that the money he left behind was not

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money [5696] earned. He wouldn't say where he got it. He left the implication he stole it. So the U. S. Government goes into court and proves the case in court, and a decision is handed down that the estate of Frank Mitti was in reality the result of money earned, and that money was earned by being paid off by the Hollywood producers in order to keep honest trade unionism out of Hollywood, in the years '35 to '40, and the money was paid to Frank "The Enforcer" Mitti because he was collecting for Al Capone and he was collecting from Bioff or Brown at that time, who were the leaders of the union in Hollywood at that time, you see. And at first the split was fifty-fifty, fifty per cent for the Hollywood boys, fifty per cent for Al Capone. [5697]

Later on it was two-thirds to the leaders and one-third to Al Capone, and we tried to expose and wreck the gangster set in Hollywood at that time, and some of the leaders in those unions, some of those gangsters, as well as some honest people, were misled and intimidated and dragged this resolution out and rammed it through the State Federation of Labor. And I fought and opposed that resolution, because I was interested in getting an honest, decent trade union in Hollywood, getting rid of the gangsters and mobsters in Hollywood, getting rid of the Capone mob, getting rid of the Costello mob and a few others. And it is a matter of record in Hollywood they came out here in 1936 with their Lincoln Zephyr black limousines——

Q. This was 1935?

A. It went to 1936, Mr. Donohue, and a similar mob came from Chicago in 1936; they came out in the big black Lincoln Zephyr bulletproof limousines, and I got an emergency call from the actors and others in Hollywood to have some of the longshoremen come up from San Pedro harbor and take care of those gunmen and other mobsters in the Lincoln limousines, and they did it bare-handed. So if you want a story of that resolution, I have given it to you, and that is only very, very briefly, and it is a matter of record, too.

Q. And that is why you voted against the non-Communist or anti-Communist resolution in the 1935 AFL convention? [5698]

A. Because—exactly, Mr. Donohue, because the resolution came from the theatrical union, and the purpose as I seen it was to over up the activities of the mobsters in Hollywood by a big smoke screen of fighting Communism, and the money that the gangsters got was a million dollars; I might say heaven knows how much they paid off, but the money that Mitti got alone was a million bucks. That is a matter of record. I refer to the Tax Court. I will come in here with the whole matter. I will bring you the whole record of it from the Internal Revenue, that is the Tax Court where the Internal Revenue was the prosecutor.

Q. Mr. Bridges, is it your point of view that every anti-Communist is a gangster or a crook or both?

A. No, Mr. Donohue. As a matter of fact, there might be some like you that may be honestly misled. I don't think you are a gangster or a crook, but you could be fooled, you know.

Q. Mr. Bridges, did you note as you read this resolution that proposition No. 1 was presented by Robert L. Ennis of the Federated Trades Council from Sacramento?

A. I know that, but I know that Ennis got it from the theatrical division. I can check—there is no question in my mind. Ennis was from the Sacramento Trades Council. He was the stooge that shoved it through. That is how it worked. Ennis was down there representing the Trade and Labor Council of Sacramento, he was the front; it was shoved in through him. [5699]

Q. He wasn't a gangster or crook, just a stooge?

A. I never said that. So you know that can happen. I don't go by the newspaper accounts, but I just read a report in yesterday afternoon's newspapers about a little matter of gangsters or some other fellows pulling a lot of stuff down in Los Angeles. Something is cooking down there. Such things do happen, Mr. Donohue; at least, out here in the State of California.

Q. Mr. Bridges, would you be good enough to tell us something about the organization which is known as the World Federation of Trade Unions?

A. I can't tell you very much, Mr. Donohue.

Q. What do you know about it?

A. Well, here is what I know. It is a federation—the WFTU is a federated body of trade unions of most of the countries of the world that

(Testimony of Harry Renton Bridges.)

have gotten together on a general economic—on a general program of working together on a worldwide basis. It is a trade union United Nations, I say; it has got the same basis, the same general principles, the same ideas as the United Nations. So it would be a copy of the United Nations where instead of nations being represented trade unions of nations are represented. So it is a United Nations of labor unions throughout the world.

Q. When was it formed?

A. 1945 right here in San Francisco, and it was celebrated here [5700] by a big mass meeting at the time, and I had a little to do with it.

Q. What nations originally belonged to the World Federation of Trade Unions?

A. All the nations that at that time were attending the setting up of the United Nations in our city.

Q. Now, since the formation of the World Federation of Trade Unions have any nations withdrawn from that organization?

A. Any nations?

Q. Yes.

A. You mean the unions of some nations?

Q. Unions representing some nations.

A. Oh, I would say that that has happened in some cases. I would put it two ways: No. 1, in some cases the national labor movements of some countries have withdrawn, and in some cases the leaders of some national labor movements have withdrawn their movements despite the feeling of the rank and file.

(Testimony of Harry Renton Bridges.)

Q. Now, it is true, is it not, that the British Trade Union Council, which was an original member of the WFTU, has withdrawn?

A. Not to my knowledge. It is true that the leaders of the TUC have announced their withdrawal. I think the executives of the Trade Union Council—TUC means British Trade Union Council—it is my understanding that the executives of the British TUC announced their withdrawal. It is not my [5701] information that the action or the approval of withdrawal has been voted by the rank and file of the British labor movement. That is not my understanding.

Q. Do you know whether the Dutch unions which were a member of the WFTU have withdrawn?

A. Which part? The Dutch union movement is split into three parts.

Q. What part belonged to the WFTU?

A. All of them.

Q. Do you know whether any of the three parts have withdrawn?

A. My information is that the majority of the workers in Holland is still affiliated.

Q. Have their unions withdrawn, Mr. Bridges?

A. Some of them have and some of them haven't.

Q. Can you tell us which have and which have not?

A. I think the left-wing unions in Holland are still affiliated, and some other unions. After all, the

(Testimony of Harry Renton Bridges.)

trade union movement in Holland—and my information again is secondhand, according to communications and reports received—is divided into three parts. There are three different union movements there. It is my information that the majority of the union workers of Holland through their movements are still affiliated with the WFTU. However, I can be wrong, because my information is secondhand.

Q. What is the situation in the United States with respect to [5702] the WFTU?

A. Well, the CIO has withdrawn and the AFL was never affiliated, so I would say that the bulk of the trade union movement officially has withdrawn as far as the leaders are concerned. Of course, you know that is one of the troubles we have, that some of these decisions are seldom made by the rank and file, the workers who after all do the hard work and pay the freight. That is one of the things I have a grievance with the upper brass.

Q. Mr. Bridges, you believe in democracy with your union?

A. We have got the most democratic trade union in the United States.

Q. That statement has been challenged by other labor leaders who think likewise, has it not?

A. They can challenge it, but they can't prove it. I can prove it.

Q. It was challenged as recently as the recent national CIO convention?

A. Challenged by whom?

(Testimony of Harry Renton Bridges.)

Q. Was it challenged in the—who is the head of the NMU? A. Old Joe Curran.

Q. Joe Curran?

A. When I first came across Joe Curran he was down in the forecastle; I done a lot of good hard work building the union. He wouldn't have had a union if it wasn't for us. Don't worry [5703] about him.

Q. He challenged your suggestion, didn't he?

A. Joe will challenge anybody. Like it is now, he can't have a union meeting without 400 policemen keeping order. Joe stands up on the rostrum, a motion is put, and no matter what way she goes, Joe rules she is carried in favor of Joe Curry. If someone gets up and says, "That isn't right, that motion didn't carry," wham! there is two hundred policemen to club him down. Joe Curran needs from two to four hundred policemen to hold a meeting. If Bridges ever showed up at a union meeting in the company of one cop, they would throw me right out of my job.

Q. Isn't the reason for that because after he threw the Communists out of the union, the gangsters have moved in, and they have had to call the police to put them out?

A. No, Mr. Donohue. After Joe whipped from the membership every known Communist, which only amounted to one-quarter or one-half of one per cent of the membership, Joe got after the alleged Communists, and after he cleaned them out, he got after those that were classed as being alleged

(Testimony of Harry Renton Bridges.)

Communists, and after he got through with them, he got after the ex-Communists, and the ex-Communists would be practically everybody that supported Cowan in the past. So all Joe has got with him left is a bunch of Yes-men and stooges that gather around him, and they are darn few. [5704]

Q. He doesn't have any Communists left in his union, does he?

A. I don't know; I don't know whether he has or not. He could have, but he has certainly made the welkin ring about getting rid of them, and what a great job he did getting rid of them, he got rid of everybody and wrecked the union.

Q. He got rid of the Communists?

A. He wrecked the union.

Q. Which would you rather do with your union, keep it Communist-dominated or get rid of the Communists?

A. My union is not Communist-dominated. It is impossible to have it dominated by anybody. If I have to have a choice between the two, the thing I want is a union, because in those days in San Francisco I and all the other people on the waterfront and the warehouses here were bums, we were no good, because we had no union and we had no self-respect because we were not organized, and I am never, never going to forget that, believe me.

Q. To come back to the World Federation of Trade Unions, Mr. Bridges, there was a time when the CIO was the American representative in that World Federation, was there not?

(Testimony of Harry Renton Bridges.)

A. Yes, that is true, the CIO was affiliated, yes. [5705]

Q. When did the CIO withdraw from the WFTU?

A. I think it withdrew early in 1949, I think. The officers withdrew and the action was later on approved at the Cleveland convention.

Q. In November?

A. In November, yes.

Q. Were you present at any meeting of the national officers or Executive Committee at which the question of withdrawal by the CIO took place?

A. I was.

Q. What was your view on that subject?

A. I bitterly opposed it, Mr. Donohue. I don't understand that, you know. I don't like these people that, when they don't like the game, they pick up their marbles and run away. It is just like in the United States, if one State does not get along with the Federal state, it says, "We are getting out of the union," or it is like the United Nations. One country doesn't like it, they get out. The way I look at it, with all the world problems—and on a reduced scale it is that way with the labor union—you do not search out the areas of disagreement. You try to find the areas of agreement, and in that way there might be a possibility of getting along before it gets to a basis where you have to fight. That is the way we see it in the labor movement, because if it is true for the labor movement, then we ought to bust up the United Nations. [5706] In my opinion the United Nations is the one great hope of peace for the world. I do not think that the hydrogen bomb or the atom bomb is the hope of peace for the world, but I think the United Nations is the one hope for peace. That is not a Communist idea. Winston Churchill in England is saying that now. He is saying, "Sit down with the Soviet Union and find an area of agreement." That is what Roosevelt said. People who like the CIO, because they can't have their way, say, "We are getting out," they are picking up their marbles and scramming—well, they aren't my idea of good leadership. I just don't think it is a constructive program.

I admit all the time maybe we can be wrong the way our union sees it, but that is the way we see it. It would be the same, as I say, if one of the 48 States or one of the territories said—well, look here in the State of California we have a battle going on with our Federal Government as to who owns the oil fields that are just offshore here, the tidelands. The State says they belong to the State; the Federal Government, through the Department of the Interior, says they belong to the Federal Government. The State of California might say, "We are going to join the British Empire or the Dutch Empire," and that would be a fine state of affairs. We do not believe in doing things that way. It is that simple to us. I think the CIO is all wrong. It should have stayed in the international family of labor. It should have stayed in the international United [5707] Nations of labor. I tried to utilize the machinery in there to try to work out the problems, not to get out and join the reactionary clique. It is too darn popular these days to try to force people to go along with the reactionary trend of things, to try to judge people by what you are against and not what you are for. We have a simple program in our union. We want to be judged for what we are for without being constantly asked as a test of our patriortism and Americanism, "What are you against?" I can't thing of a more ridiculous situation, because I remember it from the first World War when I was in Australia. People came along. They want to find where you stand on the United States of America. They don't ask you where you stand on the United States of America. They say, "Where do you stand on Russia? Where do you stand on Greece? Where do you stand on China?" And you say the same thing to me. Here is where I live, right here, in the United States. The way my union sees it and the way I see it, we would like to be judged on where we stand as to our position here in the United States and not on other things.

Q. I take it you did oppose the action within the Executive Committee in the national CIO to withdraw from the WFTU?

A. For the reasons I stated, they should have stayed in the United Nations.

Q. When the matter came up for ratification——

A. You forget, Mr. Donohue, I meant to tell you,

(Testimony of Harry Renton Bridges.)

when the [5708] United Nations was set up, the WFTU had a kind of affiliation to the WFTU, something like the united labor organizations, the WFLA. There is a connection between the WFTU and the United Nations. When you withdraw from the WFTU it is the same in effect as withdrawing from the United Nations. And we have a situation similar to the United States withdrawing from the United Nations. That is the way I see the withdrawal from the WFTU.

Q. And you have the same thing as Molotov exercising his right of veto, is that what you mean?

A. You know, I spent a few hours over here when the United Nations was being set up. I knew a few of the people there. As I remember it—it occurred here in San Francisco—wasn't it the United States who insisted on the veto, Mr. Donohue?

Q. I think you are quite right, and the United States has exercised the veto least of all United Nations members.

A. You see, I don't know about Molotov or anyone else. I don't know the principle, but I know this much, that it takes two to make a fight, and the veto idea might not be such a bad thing. Never mind Russia. Let us use it right here in the United States, and if we handle it correctly, maybe the veto principle is a good principle, because it is merely an inverted principle of taking two to make a fight. And I look upon the veto principle as a preservation of our sovereignty, our autonomy. I

(Testimony of Harry Renton Bridges.)

have already explained, as a trade union we highly value [5709] our autonomy. When it comes to nations, it is a matter of sovereignty, and as I understand the veto as applied to the United Nations, each nation retains its sovereignty. I am for that; I am not opposed to that.

Q. How much autonomy did the CIO find it had as a member of the WFTU?

A. Quite a bit. They had a graduated scale of voting. They were in the majority. The way it stacks up in the arguments generally used is this: The Russian trade unions, together with the satellite trade unions, had the majority of the vote in the WFTU. The opposite is true, Mr. Donohue.

Q. Why did the CIO withdraw?

A. Do you want my opinion?

Q. No, I want what was stated at the Executive Committee meeting by the persons who voted to support the withdrawal.

A. That might not be the truth. Don't go by what they stated. I have the record. I will produce the record if you want what they stated. I will produce the official record. If you want my idea of what the truth is, I can give you that.

Q. I would like first, Mr. Bridges, your recollection of what was said by those members of the Executive Board of the CIO who favored the withdrawal of the CIO from the WFTU; then I would be glad to have your opinion of what they said.

A. The reasons advanced in the CIO was that

(Testimony of Harry Renton Bridges.)

the WFTU would not endorse and support the Marshall Plan. [5710]

Q. That is all? A. Yes.

Q. Was there no statement made by anyone present that the WFTU was dominated by Communist Russia and its satellites?

A. Oh, I think that went along with it. Now, I have already explained that, that when they talk about "dominated," I couldn't understand it, because there is a graduated scale of voting in the WFTU, in order to prevent the countries with the most members in the trade unions dominating it. So the majority vote, or the main amount of power, rested in the anti-Communist unions. So I could never understand that.

Mr. Hallinan: Let him finish, please.

Q. (By Mr. Donohue): Are you finished, Mr. Bridges? A. All right.

Q. Mr. Bridges, don't you believe that the majority who voted at this meeting of the Executive Committee of the national CIO were just as intelligent and just as honest as you were in their views?

A. No, no, not by any means. And I know. You want—well, listen. I don't want to sit here—I am still a member of organized labor, Mr. Donohue, and I am not going to sit here and get out of what may be a tight spot and start attacking the individual members of the CIO Executive Board as to their honesty and integrity. The answer I have given you, however, is one I am well qualified to give. The answer is "No." [5711]

(Testimony of Harry Renton Bridges.)

Q. I take it, then, that you also opposed the approval of this action of the CIO Executive Board when it came on the floor of the convention in Cleveland in November?

A. Did I oppose it?

Q. Yes.

A. You bet you. I did with everything I had, and a lot of people agreed with me, too, and came around and told me, but said, "Don't tell anybody; I might get into trouble."

Q. Does your union still belong to the WFTU?

A. Yes, in a kind of indirect way. It is a kind of tenuous affiliation at the moment. I will admit that. We do not belong, incidentally, the way we used to belong because the CIO was affiliated with the WFTU, but we have taken this type of position, that the CIO never had any authority, was not empowered by a vote of our membership to pull our union away from the WFTU.

Q. Did they make some kind of special arrangement so your union could continue in the absence of the CIO to be affiliated?

A. Not as yet. We are still working on that, Mr. Donohue. We are trying to persuade the national CIO that our union, because of the type of union it is, needs to maintain its connection with unions in foreign countries in order to maintain, to protect the union, its life and its name.

Q. That was your argument on the floor of the convention, wasn't [5712] it?

A. One of them. The main one, yes, and it is still my argument, and that argument is supported by the hard facts of life. Every member of my union understands it.

Q. Subsequent to your arguments along that line the majority voted to confirm the action taken by the Executive Board, did it not?

A. The majority of the convention?

Q. Yes. A. Oh, yes, that is true.

Mr. Donohue: May we have a recess at this time?

The Court: Yes, we will take the afternoon recess, ladies and gentlemen, and the same admonition to you not to discuss the case under any conditions or to form or express an opinion on it.

(Recess.)

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IN EIGHTEEN VOLUMES

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume XII
(Pages 5255 to 5748)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

In .... Volumes

Volume XII
(Pages 5255 to 5748)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: May I proceed, your Honor?

The Court: Very well.

Q. (By Mr. Donohue): Mr. Bridges, what relationship is there, if any, between the World Federation of Trade Unions and the Maritime Federation of the World, sometimes referred to as the World Maritime Federation?

A. The Maritime Federation of the World is an international trade union department or division of the World Federation of Trade Unions. It corresponds to the old International [5713] Transport Federation, which was an international maritime department of the old Amsterdam International. When our organization was in the ILA, affiliated with the American Federation of Labor, we were also affiliated on an international basis with the ITF, that is, the International Transport Federation. The International Transport Federation in turn was affiliated with what used to be known on an international basis as the Amsterdam International. That was a general International trade union setup.

Q. Is it therefore a fact that the membership of the Maritime Federation of the World would be composed of those maritime unions in those countries which are members of the World Federation of Trade Unions?

A. No, not to my knowledge.

Q. What are the components of the World Maritime Federation?

A. All maritime unions and unions of dock workers and longshoremen are eligible to membership in the Maritime Federation of the World, irrespective of their affiliation. That means that if they are affiliated with the WFTU indirectly or directly, or it also means that they are eligible even though they are not affiliated.

Q. What American maritime unions are members of this branch of the World Federation of Trade Unions?

A. Only two, I think, maybe three—two or three. I am not so sure as to how you would measure the degree of affiliation. [5714] The ILWU was one, but at the moment we are in a state of half in and half out. Our affiliation, such as it is, is still subject to a vote of our entire membership by referendum. Now, until that membership—until that referendum is taken and completed, it cannot be truly said that even the ILWU is affiliated. A couple of other organizations—I am not so sure as to whether steps—the complete affiliation has as yet taken place.

Q. What were those other organizations?

A. I think the Marine Cooks and Stewards was one and the Fishermen's Union. Now, I am not sure about either of those unions at the moment. I am pretty busy in these last two or three months in court, and I haven't had a chance to attend to a lot of routine duties that I should attend to.

Q. When the convention of this Maritime Federation of the World was held in Marseilles, France, in June of last year, the delegates from

(Testimony of Harry Renton Bridges.)

your union also represented the Marine Cooks and Stewards, did they not?

A. That is true, that is right; our delegates carried credentials from that union.

Q. Do you know, Mr. Bridges, whether the withdrawal of the British TUC from the WFTU took out all the British maritime unions from this organization? A. No.

Q. What British maritime union now belongs to the Maritime [5715] Federation of the World?

A. I do not know at this moment. I really couldn't give you a correct answer on that. The British dock workers, incidentally, are divided into a couple of groups, and at the time the convention took place in Marseilles there was quite a big strike on in England, and that, I am informed, is what prevented those unions from sending official delegates to the meeting in Marseilles. Otherwise they would have been there.

Q. At this meeting of the Maritime Federation of the World held in Marseilles this past June you were unanimously elected to be president, were you not?

A. I was not there, Mr. Donohue, as you know. I tried to get your permission to go over there, but you said I would skip away and wouldn't come back to the United States. I was not able to make the trip, but I am informed by our delegates I was elected, even though I had to stay here to answer for my crime, so-called, in this court.

Q. With reference to your statement that I would not let you go, as a matter of fact you filed a petition through your then counsel, Messrs. Gladstein, Anderson, Resner & Sawyer, for permission to go to Marseilles, France, did you not?

A. Yes, and your answer was, "Why, the first thing you know he will be doing the same thing as Eisler done." Here we have a case where this Eisler jumped bail, and so forth. And you accused me of having a plot to jump bail. But I told [5716] you, I said I wouldn't miss it for the world. I knew what was going to happen in this courtroom. I knew some of those characters were coming up here, and we exposed them for what they were. I wouldn't miss it for the world.

Q. I hand you a transcript of the record of proceedings in this court in this matter on July 6, 1949, and ask you to examine it.

Mr. Hallinan: May I take a look at it first under the rule?

(Transcript handed to Mr. Hallinan.)

Mr. Donohue: Would you ask Mr. Bridges to look at this and to note, first, the appearance for the United States and, secondly, the marked portion of his affidavit.

A. Yes.

Q. Did you note, Mr. Bridges, that in this hearing on your application to go to Marseilles, France, that the appearance for the United States was entered and the matter was argued by Robert McMillan, Esq., assistant United States Attorney?

(Testimony of Harry Renton Bridges.)

A. Yes.

Q. Does that refresh your recollection that I was not here at the time of this hearing?

A. I remember Mr. McMillan saying he had received orders from Washington to do thus and so, and "before we can let this man get out of the country, and he will never come back," and so forth—and I was put on the witness stand and Judge Roche [5717] asked me, "How about it?"

I told the Judge—I didn't read that there, but I am just going by what I remember now—I told Judge Roche, "Can't get rid of me that easy. I've got a lot to say about this case when I get a chance." And that is what I am doing now.

Q. You did not think I am so important in Washington that when Mr. McMillan said he had orders from Washington, he had orders from me, did you, Mr. Bridges?

Mr. Hallinan: If the Court will remember, when I came in the case just three weeks before the date set for trial and applied to your Honor for an order of extension so I could adequately prepare it, Mr. McMillan appeared here and said as far as he was concerned it was all right, but he had talked to Mr. Donohue on the telephone and Mr. Donohue told him to resist the motion for a continuance as hard as he could. [5718]

Now, I do not know if Mr. McMillan was misrepresenting the thing or if Mr. Donohue has again forgotten the matter, but Mr. McMillan has purported at all times to be doing only what Mr.

(Testimony of Harry Renton Bridges.)

Donohue instructed him. I call Your Honor's attention to the fact that that is precisely what Mr. McMillan said at the time I asked for a continuance upon the ground that it was impossible to adequately prepare this case within three weeks.

Mr. Donohue: I assume that even Mr. Hallinan can distinguish between a motion for a continuance of a trial date and the application on the part of the defendant to leave the United States and go to Marseilles, France. May I proceed, if Your Honor please?

The Court: May the record show in that connection that Judge Roche, United States District Judge, made and entered an order denying the petition of Mr. Bridges; is that the fact?

Mr. Donohue: That is the fact.

The Court: After a full and complete hearing.

Mr. Donohue: Yes, Your Honor.

Q. Do you recall, Mr. Bridges, in your affidavit seeking permission to go to this meeting in Marseilles, France, stating as follows:

> "At the conference in Marseilles representatives of Chinese seamen and longshoremen's unions will be present. This Court is well aware of the fact that a complete change in the government of China has occurred. The new Chinese [5719] government is vitally concerned, according to information, with reopening its ports and renewing trade with the rest of the world, and it is particularly interested in renewing trade with the United States. The

(Testimony of Harry Renton Bridges.)

> ILWU representatives at the Marselles conference propose to meet and discuss with the Chinese trade unionists the question of finding ways and means looking toward resumption of trade between the new regime in China and United States business and economic interests. This matter, of course, is of vital concern to all Americans, and if the ILWU can be of assistance in this regard, it is to the interest of our organization as well as the people of our country that we contribute what we can to this accomplishment."

Was that a part of your affidavit, sir?

A. That is right; in the reports that came from the WMTU, who sponsored and called the conference, we were so advised and we agreed and we set it forth in that statement. That is just what we said: No change in our position as of yet.

Q. Who in fact did go as representatives of your union?

A. Our international secretary-treasurer, Louis Goldblatt, and a member of our international executive board, John Maletta.

Q. Mr. Bridges, I take it you are familiar with certain resolutions which were adopted at the meeting held in Marseilles, France, of this Maritime Federation of the World, are you not?

A. Not directly. [5720]

Q. Then I hand you a copy of a release issued——

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: If the Court please, we will object to any discussion of resolutions passed by a committee or an organization at which Mr. Bridges was not only not present, but was prevented by an order of this court from attending. He can't be bound by resolutions passed by that organization in his absence.

Mr. Donohue: The difficulty with that objection, if the Court please, is it was promulgated by the International Longshoremen's & Warehousemen's Union, CIO, Morris Watson, Director of Information, 150 Golden Gate Avenue, San Francisco 2, California, and I ask Your Honor for permission at this time only to hand the witness the news release of the organization of which he is president.

Mr. Hallinan: Let me take a look at it and we might see what the purport is. [5721]

Mr. Hallinan: We will stipulate it may be introduced in evidence.

Mr. Donohue: Will you mark it U. S. in evidence next in order, please?

The Clerk: The exhibit is marked Government's 28 in evidence.

> (Whereupon document captioned "News," from International Longshoremen's & Warehousemen's Union, CIO, dated 7/26/49 referred to above, was received in evidence and marked United States Exhibit No. 28.)

Mr. Donohue: I ask permission of Your Honor at this time to read it to the jury.

The Court: You may.

(Whereupon United States Exhibit No. 28 in evidence was read to the jury by Mr. Donohue.)

Q. (By Mr. Donohue): You are familiar with those resolutions, Mr. Bridges? A. Yes.

Q. Do you know whether or not your delegates to this conference advised the members of the conference that the inability of Mr. Bridges to attend this conference was as the result of an order after hearing upon your application by a judge of this court and not by action of the Attorney General, Tom Clark?

A. I don't know; I wasn't there. The apparently advised them that I couldn't make it. I guess they must have made some [5722] explanation, but I couldn't say exactly what happened.

Q. Well, you don't yourself contend, do you, Mr. Bridges, that the Attorney General of the United States, Tom Clark, prevented your going to Marseilles, France?

A. Well, let me see. Didn't the representative of the Attorney General Clark, here in the courtroom, oppose me making the trip?

Q: Do you think the decision was made by the representative of the Attorney General or by the Judge who sat on the bench, His Honor Judge Roche?

A. Oh, I think—I don't think that was made by the Judge, no. I think it was made by the Attorney General. I think the Judge asked the representative of the Attorney General, "Any objections?" and they said, "Yes, we have got plenty." I think—now, after all, I am not an attorney, Mr. Donohue. I think that if the representatives of the Attorney General had said that "we think it wouldn't hurt to make the trip. We expect he will come back," and so forth, I think the Judge would have agreed to it. Now, that is my opinion. I could be wrong, but the Attorney General didn't say that. They said, "Look, Your Honor, if this fellow ever gets out of the United States, we will never see him again. It will be all the same as Eisler. He will never come back," they said. And furthermore, they said, "Furthermore, we are instructed to say this much, that if the Judge overrules us or sees fit to overrule us, we want at [5723] least $100,000 bail." And it is my judgment that if the representatives of the Attorney General's office had offered no objection, I doubt if the Judge would have refused me permission to go.

Q. Have you finished, Mr. Bridges?

A. Yes.

Q. Mr. Bridges, these resolutions were adopted after your indictment and before your trial, correct? A. That's right, I think.

Q. Did you seek, Mr. Bridges, or did the organization of which your are president seek, to intimidate all persons from coming here and testifying under oath against you by adopting a resolution condemning every person who testified against you as a stool pigeon, and offering to boycott them and their ships in the ports of the world?

A. No, I didn't want to intimidate them. I wanted some of them to show up so as to be able to prove to my membership that what I was saying was the truth. I would have been a pretty disappointed person if you hadn't gotten some of these characters in here. I have gone around to some of my members and said, "You folks, you watch things closely. Watch what is going to happen. Donohue is going to come in and McMillan is going to come in here, and they are going to come in with a bunch of liars, rats and stool pigeons, and we will prove that's what they are," and that is exactly what happened, Mr. Donohue. Now, I [5724] can go back to my membership and say, "See, I told you so." And believe me, they are saying, "By golly, right again, right again."

Q. Mr. Bridges, let me ask you this question: Did you instruct your delegates to instruct their Russian colleagues that under the American system of jurisprudence it is for a jury of American citizens to determine the credibility that will be given to the testimony of a witness, and not some international labor organization?

A. I didn't instruct them, but I hope they told them that, and it is certainly a principle that I stand for, and support and uphold, and I am darned thankful for it, believe me.

Mr. Donohue: May we adjourn until tomorrow, Your Honor, please?

The Court: Ladies and gentlemen of the jury, we will take the adjournment until tomorrow morning at 10:00 o'clock. The same admonition to you, not to discuss the case under any conditions nor to form nor express an opinion thereon.

(Thereupon an adjournment was taken to tomorrow, Thursday, February 16, 1950, at 10:00 o'clock a.m.) [5725]

February 16, 1950—10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Harry Renton Bridges, heretofore sworn.

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

HARRY RENTON BRIDGES

resumed.

Cross-Examination

(Continued)

By Mr. Donohue:

Q. Mr. Bridges, do you recall the 17th of September, 1945, the day on which you were naturalized? A. I do, Mr. Donohue.

Q. While you have not been asked about it, I take it that you were sworn in that proceeding?

A. Yes.

Q. And you did make the answer which has been read into the record? A. Yes.

(Testimony of Harry Renton Bridges.)

Q. Do you recall Mr. Schmidt and Mr. Robertson being in the courtroom with you?

A. I am not sure. I have no reason to doubt that they were.

Q. Do you have a recollection of their having given certain testimony? [5726]

A. They were in the courtroom. I thought you meant at the time I gave the answer.

Q. Yes.

A. They were in the courtroom at one period of time at least. I don't know whether they were there the particular moment I was sworn. I was like kind of in the jury box together with a lot of other applicants.

Q. Do you recall the incident of August 8 at the portion of the clerk's office in the City Hall used by the Immigration Service? A. I do.

Q. Do you remember Mr. Garner as the man who was there? A. I do, yes.

Q. Were you in the room when Mr. Schmidt and Mr. Robertson made the answers to the questions that were asked of them by him?

A. No, I was by myself with Mr. Garner in the room.

Q. Do you recall the time that Mr. Schmidt went into the room?

A. Yes, I recall him being called in. We were not examined together. I was examined by myself.

Q. When did it first come to your attention that the witness you had brought, Paul Schnurr, was not, at least momentarily, acceptable as a witness?

(Testimony of Harry Renton Bridges.)

A. That day, that morning. It was up in the City Hall. I remember—I forget what room it is; I could find it again—Schnurr came in, and then he went out along with Mr. Garner, [5727] and I kind of remember Mr. Garner standing at the door while Gladstein took up this question with the rest of us there, and Paul Schnurr explained what the difficulty was. And that is when Robertson was substituted. It could have been somebody else, incidentally. It was Robertson's hard luck. I kind of had a choice between Robertson and another young lady friend of mine who was there.

Q. Do you recall that was on the 8th of August?

A. I don't specifically remember of it being that date, but the records say that.

Q. You do recall it was some time prior to the day on which you went to the court?

A. It was not September 17. It was prior to that time, because that was when I and the witnesses were notified to be in court, September 17. We were very anxious to know how long the whole proceeding was going to take. What we were doing in the Superior Court in the first place was because the Federal calendar had a long waiting list. We would have had to wait approximately a year, as far as I could find out, before I could get my citizenship, and having been through the process a few times before, and after I had been through a trial and being called and the way was readied for citizenship, in between the time I was able to

(Testimony of Harry Renton Bridges.)

secure the final papers, that is, to make all the arrangements, why, so many things would happen and once again it would be delayed. So I had good reason to [5728] inquire right then and there and to remember that I would be coming up shortly thereafter for the final ceremony.

Q. Mr. Bridges, do you believe that when a contract is signed by two parties thereto that there are certain obligations and responsibilities on both parties to carry out the terms of that contract?

A. I certainly do.

Q. Would you say that over the years you have executed or signed a great many contracts?

A. I have.

Q. And would you also say that you have observed those contracts?

A. We have. I don't—I don't observe contracts. My union—I presume you mean union contracts?

Q. I mean contracts which you signed as an officer of the union, yes, and I assume for the union.

A. Of course. I don't sign for myself. But those type of contracts, I sign them, and we carry them out religiously.

Q. Do you believe in arbitration?

A. Just went through a big strike down in Hawaii fighting for arbitration, Mr. Donohue. We believe in arbitration and use it quite a bit. There is various forms of arbitration. Some forms I don't believe in. Well, I wouldn't say some forms

(Testimony of Harry Renton Bridges.)

I don't believe in. There are some issues that I don't believe lend themselves to arbitration either by an employer group or [5729] by a union. I don't believe that an employer group, for example, should submit the question of whether they stay in business to arbitration. I don't believe the union should submit such a question to arbitration either.

Q. Do you recall the negotiations in the fall and winter of 1948 which culminated in the signing of a contract between your union and the Waterfront Employers Association? A. I do.

Q. Was there some trouble just prior to the execution of that contract, Mr. Bridges?

A. Do you mean the small matter of a strike?

Q. A small matter of a strike, yes, sir.

A. There was, Mr. Donohue.

Q. Was one of the demands which you for the union presented to the employers' group for the settlement of that strike a provision that your longshoremen would be under no obligation to serve any vessel or handle any cargo declared unfair by the World Federation of Trade Unions?

A. It was.

Q. Do you recall when the agreement was executed by the parties to that dispute?

A. I think around Thanksgiving—around Thanksgiving in November of 1948 or early in December. [5730]

Q. Now, was one of the——

A. Now, are you referring to the return to work agreement?

Q. Yes, sir.

A. That is—I think that was early December, Mr. Donohue.

Q. Was one of the stipulations which were made by the employers' group that the performance of the contract executed by you for your union be guaranteed by the national CIO?

A. In a form, yes, that was a provision that had been in the contract for nine years, eight years. Nothing new.

Q. What is its purpose, Mr. Bridges?

A. Oh, the leaders of the employers' association, as a part of their whole propaganda campaign, I would say, raised the question of the union not being responsible in so far as the contractual matters were concerned, that the union was irresponsible, that the union did not live up to its contracts, the union engaged in stoppages of work in violation of the contracts and so on. In so far as the main part of those allegations are concerned, Mr. Donohue, there was no truth to them. It is true that in some respects, over a period of time, the union had upon occasion, stopped work, at least in technical violation of the contract. It is also true that in the same period of time, although not on so many occasions, the employers had locked the union out in violation of the contract. And the only true way to measure that would be to go to the official records, which I can produce, and to go by the official decisions made by the [5731] arbitrator; that is, upon the occasions when he ruled

(Testimony of Harry Renton Bridges.)

either the union or the employers' association in violation of the contract. And if we go by that, we will find that over a period of some ten or twelve years, I think, there were thirty-odd occasions in that period of time where the union was ruled in violation of the contract. There was some twelve or fourteen occasions where the employers were ruled in violation of the contract. And when I am talking about violations of the contract in this case, I mean where the employers locked the union out in violation of the contract, and where the union ceased work in violation of the contract. That is what I had reference to.

Q. Would you say, Mr. Bridges, that the guarantee of the national office of the CIO on a contract, the parties thereto being the Waterfront Employers Association and the ILWU, was an indication of a lack of faith on the part of the Employers Association in their willingness, or in the willingness of the union to carry out the terms of its contract?

A. I would not. I would not. I would say that the guarantee given by the CIO isn't worth the paper it is written on. The only way that the contract can be carried out is by the union that I represent, and if there is no good faith on the part of that union or on the part of the officers, all the guarantees of the CIO could be written on cloth of gold and studded with diamonds, but they wouldn't be worth anything.

Q. Would you say, Mr. Bridges, that between

1934 and 1947 there [5732] had been as many as 1399 work stoppages by your union?

A. Be careful of that propaganda, Mr. Donohue. Believe me, that was the way we won the strike, because I crashed through the leaders of the Association, I started to go directly to the principals themselves with that type of stuff. And I asked them, I said, "Look, now, here's what your representatives are saying publicly. Here's what they are printing. They are putting it in paid ads. They put it before a government agency." Now, I went to certain companies and I said, "If you can find just one bit of truth, just one example of where your Association representatives are telling the truth, I will believe it necessary or proper for me to resign my position, recommend that the men call off the strike and return to work, and recommend that they come out and state publicly that they are all wrong and the shipowners are all right." I went to shipowner after shipowner with that challenge and some of them took me up and started to investigate it, and had to come back and say, "Well, by golly, that's right. We have searched our records and we can't find one instance in the records of our company extending back over a period of years where such a thing has taken place, notwithstanding what the Association, the representatives of the Association were saying." And 1300 stoppages of work, they became a big thing. The only thing that is wrong with them, you see, is that the bulk of those stoppages, our union had nothing to do with. They were [5733] stoppages of work by other unions, the Teamsters Union, the Sailors' Union and all those good, non-Communist or anti-Communist or anti-Bridges unions, Mr. Donohue. We had nothing to do with them.

Q. Didn't you say just a few minutes ago that there were at least thirty instances of violation of contracts by the union?

A. Oh, and they are all a matter of record. They are in the archives of our department and the shipowners' department. I am saying outside of those. We admit them. But, look, it wasn't all one way. And eventually that is how we settled it, the strike. We sat down and got our heads together and here's what we said, "Well, look, let's cut out the funny business here. Both sides are to blame in this, and without trying to assess now who is to blame the most, let's forget it—water over the dam. Let's sit down and negotiate a contract for a long period of time. Let's have a new look around here." And that is exactly what we did, and that is what we have got now. And our relationships on the waterfront between the new Association or the newly organized Association—it is the old one reorganized—are better now than ever before, than they ever were. Believe me, I want to see it stay that way. The union is putting everything into seeing that it stays that way. The ship operators are better off, our union is certainly no worse off, and finally, after all these years, the

(Testimony of Harry Renton Bridges.)

shipowners' association has decided that they will try operating a different way. They will try to let—to agree that the union is going to [5734] be around here for a while, it is going to live. And they have also decided that they will have to deal with the officers elected by the union, not the officers that they want to select. And I again can go back to the government records, Mr. Donohue, the record of the senate committee, to show where this shipowners' association met and drew up a program and then in addition to drawing up the program, financed it with large sums of money, to use every angle in the book—and it is spelled out there, and this is from the findings of the U. S. Senate—to use every angle in the book, including the Immigration Service to secure the support and the cooperation of the Immigration Service to select leaders of the union satisfactory to the shipowners, so that the shipowners could make nice little deals with them. That is a matter of record, as a result of the investigations conducted by the Senate of the United States. That is not what I am saying.

Now, they have agreed to cut that out and they are getting along better than they have ever gotten along before.

Q. You mean the new look guaranteed as to performance on your part by the national office of the CIO?

A. No. I mean the new look in so far as both sides carrying out their obligations under the contract, and in addition to that, both sides now pool-

(Testimony of Harry Renton Bridges.)

ing their resources and their energies, as well as a lot of the energy and money that formerly went into fighting each other, to do certain things that will react [5735] to our mutual interests.

Reviving the China trade and the trade to the East Indies is one, trying to get an adjustment of Panama Canal tolls in orders to revive intercoastal shipping is another. Trying to do something about the coastwise trade, so as to rebuild that trade, that suffered severely from competition, rail and truck competition.

Q. And from strikes?

A. Well, somewhat from strikes, but also mainly from the improvement in highways; the main reason coastwise shipping has suffered is from competition, truck and rail competition.

We are also working closely together with the farms of California, the cotton farms of California. The cotton farms here not only have their 1949 crop backed up and stored, they have got their 1948 cotton crop backed up. They want to get rid of it. There is a big market across the Pacific for that cotton. Our union, the shipowners, want to ship the cotton, the terminal operators as well as the cotton growers of California, are also working together, putting a lot of the energy that we formerly spent fighting each other, in the direction of trying to get that crop shipped. And, of course, on shipowners' ship, of course what goes on shipowners' ship over the terminals and through the warehouses, members of the ILWU handle it and

(Testimony of Harry Renton Bridges.)

they get darned good hours, wages and conditions for doing so. And therefore Bridges has got something to do and [5736] is president of the union, you see.

Q. Getting back to this question——

A. They won't try to cut my wages.

Q. Getting back to this question of work stoppages, Mr. Bridges, do you remember an action taken by your union in November of 1945 deciding on a one-day coastwise work stoppage to take place on the 3rd of December for the express purpose of propagandizing the hasty return of our troops from overseas?

A. Yes, it worked, too. Now, get all the story in there, Mr. Donohue. If you recall, at that time the war was over, you had thousands of men squatting on islands in the Pacific. Christmas was coming on, there was nothing for them to do. They were being told, and they were being told incorrectly by the authorities in Washington, by the transportation authorities, that there were no vessels available to bring them home in time. It was true that they had nothing to do. They didn't need them any more. Thousands upon thousands of men. They were being told that there was no ships available to bring them home back here to the United States. Then they were being told there was no planes available. When, as a matter of fact, the American shipowners were already taking ships out of the troop transport trade and putting them back into the luxury trade, carrying passengers.

The Matson Line had a couple of big vessels. They were going to put them back into carrying passengers. The Matsonia, [5737] from here to Honolulu, from here to Australia. Another line called the Pacific-Argentine-Brazil Line, had already taken one of its big passenger vessels and had it booked full, and it actually sailed. To where? To Argentina. And here at the same time the troops in the Pacific were told, "Too bad, we would like to bring you home for Christmas, but we will do our best to ship you down some turkey for Christmas dinner."

I got thousands of telegrams, Mr. Donohue, from the G.I.'s in the Pacific asking me if I would act on their behalf to see if we could do something to bring to the attention of the public here in the United States, including their families, that they were being dished out a line and that they didn't like it. [5738]

So we did that, and the net result of it was the troop ships were taken back out of the luxury passenger trade and put to work hauling the troops in the Pacific, and all the airplanes that had been turned back to private companies—to the private companies for the purpose of the private companies making money—they were turned back to the business of carrying troops for a few extra months, and we here at home had to get along a little longer without taking pleasure cruises and without running around in airplanes.

Q. Of course, you knew at the time—you have talked about the Pacific—that the Russian government and its Communist Party affiliate in the United States were very anxious to get the American troops out of Germany, too, didn't you?

A. I didn't know it, didn't think about it, didn't care, don't care now. I have told you what we did and why we did it. We had no other objective in mind, and, somehow or other, all the troops agreed with us and I refuse to believe they had in mind what the Communist government was trying to do, the Russian government or any other government was trying to do. They wanted to get back to the hot dogs, and the milkshakes, and their girls. It is as simple as that.

Q. Don't you think you might well leave that matter to the joint chiefs of staff with respect to the disposition of military forces?

A. Not necessarily. We can help out. During the war, Mr. [573[illegible]] Donohue, I as well as other leaders were called in, not because we had any particular intelligence or anything, but because we were representatives of labor—we were called in by the joint chiefs of staff. Certain matters were discussed with us so that we might help out.

Q. Did they ask your advice?

Mr. Hallinan: Let him finish.

Mr. Donohue: I never know when he has finished, Mr. Hallinan.

(Testimony of Harry Renton Bridges.)

The Witness: They didn't ask our advice on anything, Mr. Donohue. That wasn't the point. But they did suggest certain ways of doing things and asked what we thought of them, and so forth. And we did discuss certain ways of stepping up supplies and other matters. However, the joint chiefs of staff—I guess they could be wrong once in a while. And you know, my experience with people in high military circles is they get an idea that they can't be wrong. So there is some reason for our Government putting the control of the Army and the Navy, the War Department, in the hands of civilians. I have heard some talk about it. They don't like to trust them with military men.

Q. Do you trust them? A. Who?

Q. Military men.

A. That depends. Some I do not. Oh, no. You know, during the [5740] war I found some military men running around here, organizations like America First, General Wood and others. They seemed to be trying to get lined up with the Nazis and Japanese.

Q. Mr. Bridges, do you include yourself among the many people who could be wrong?

A. I certainly do, Mr. Donohue, I certainly do. I have certainly been wrong so many times it isn't even funny. I just try to have enough brains and intelligence to change my mind when I am wrong.

Q. This work stoppage that you talked about a moment ago was a direct violation of your contract, wasn't it? A. Not necessarily.

(Testimony of Harry Renton Bridges.)

Q. Didn't the arbitrator Stuart Daggett render a decision saying it was a breach of contract?

A. That was not what that issue was. He decided in advance before the work stoppage took place, and we got into a battle with old Daggett over something entirely new in labor relations. Mr. Daggett started to inject into labor relations a very dangerous principle and that is the principle of injunctive power, of restraining a union from doing something before the union had tried to do it. Now, it is all very well in court of law and one thing and another, but in the field of industrial relations, Mr. Donohue, when you start anticipating what is going to happen, and when you start giving an arbitrator power, or when the arbitrator takes upon himself the power—and I [5741] being a member of organized labor for some time and that was the first time I had ever seen anything like that happen, when an arbitrator took it upon himself to say, "Now, I believe notwithstanding that I have no evidence before me that the union is going to do thus and so, I now rule that if the union does thus and so they will be violating the contract." That is a devil of a note. So I just took a delegation over to the University of California to Mr. Daggett and I said, "Mr. Daggett, as an arbitrator you are finished. You are fired." Of course he didn't like it. That was one of the prerogatives we had under the contract.

Q. And he was fired?

A. He stayed fired, too.

Q. So was Judge Sloss fired?

A. No, he was not. Wrong.

Q. What happened to Judge Sloss?

A. Judge Sloss resigned after serving as our arbitrator for some years and we got along very well together. We had a few arguments with him once in a while, but that is what an arbitrator is for, Mr. Donohue.

Q. Do you recall what Judge Sloss said when he resigned?

A. I think he said he worked very hard or something like that.

Q. Did he say, "Now, it seems perfectly plain that the action (work stoppage) that has been taken in this instance is a violation and it presents an objection to me. I am not willing to [5742] proceed as arbitrator unless the action is immediately remedied"?

A. When did he say that? October 1935?

Q. When he resigned.

A. Oh, no, you are wrong. I don't think he did.

Q. You do not have recollection of his having said that?

A. I definitely have a recollection of Judge Sloss when he left us and ceased to function, but I have another recollection that in 1935 he resigned or threatened to resign under some such circumstances. Now, let me tell you the circumstances. That was the time when the union was refusing to load the brass and copper here to Mussolini's Red Cross. We

(Testimony of Harry Renton Bridges.)

were very much disturbed. The Mayor of the city, Mayor Rossi, and a couple of supervisors—and a couple of our supervisors of the City of San Francisco—later on during the war, incidentally, they were removed from the Pacific Coast as dangerous enemy aliens—they put the city garbage wagons to work. Those garbage wagons paid for by the taxpayers! And they put on a kind of scrap iron drive around this city, and the purpose of the drive was to have people donate metals such as copper, zinc, brass, and all their brass and copper and zinc was hauled down and dumped on the docks at the expense of the people of this city and was consigned to the Italian Red Cross. And that was going to Italy, and that was going to be used as a part of the war against the Ethiopian people. It was not a question of what I liked or what I didn't like. The men on the waterfront said, [5743] "Look, we aren't so hard up that we need to earn money like that. There is blood on it and we don't want it. Let Mr. Rossi, let the shipowners, let them get someone else—let them go out on Skid Road and get men or somewhere else. We don't care who does it." It was just the question that we didn't want to do it. So Mr. Sloss took this position, that under our contract we were bound to handle that material. We took a different position, and said under our contract we were not bound to commit suicide, to kill ourselves off, and that is taking that contract too far. That is the way the fellows seen it. They said, "Look"—maybe they were wrong, but I am telling you the way they saw the picture, and as long as they seen it that way, that was good enough for me, because they elect me, they pay me, they hire me, I work for them, and that is the way it is going to be, right or wrong. However, they said, "If we engage in a project like this, one of these days we will be on the receiving end, too. Today it is the Ethiopians; tomorrow it might be us." And eventually it was us at Pearl Harbor.

Q. And Judge Sloss did resign?

A. I think he resigned at that time unless we worked that ship. So it was my duty as the president of the organization to go to the fellows and say, "Fellows, people don't understand these things. The Judge has whipped up a lot of public hysteria against you. The shipowners, backed by the Judge now or based [5744] on the Judge's opinion, are going to lock you out. Now, I advise you, until there is more public understanding of these matters, and until you get more public support in these matters, you had better work that stuff." And eventually reluctantly I got enough of them to work, so that after two or three of the ships had sailed we eventually got the stuff away in some fashion or other.

Q. Judge Sloss was a highly respected member of this community and of the bench of the State of California, was he not?

A. At one time I think he was on the bench. I think he had a little trouble. I think if you check

(Testimony of Harry Renton Bridges.)

in the record you might find he had a little trouble on the bench, Mr. Donohue.

Q. Now, you have had two arbitrators resign. Let us come to a third.

A. Oh, it was a half dozen.

Q. How about United States Senator Wayne Morse? He was an arbitrator.

A. Yes, probably the best we ever had.

Q. Why did he resign?

A. He was elected to the United States Senate, with our support.

Q. Let me ask you if you remember Senator Wayne Morse saying this, "I certainly could not in the interest of my professional self-respect and professional pride sit in an arbitration hearing when a few blocks away an award which I know to be honest [5745] and impartial, an award which is based upon the record made by the parties before me, stands violated." And referring to you and your union.

A. Are you saying that Morse accused us of violating the award?

Q. I ask you if you recall Senator Morse having stated exactly as I have stated in the question here.

A. I do not, but Morse is a very forceful man and he was not at all backward, as I recall, about telling us his opinions, and when he thought we were wrong we knew all about it. He used to say it; he used to say it very forcefully. He was as forceful a man as Hallinan upon occasions the way he said things.

(Testimony of Harry Renton Bridges.)

Q. Now, you had an arbitrator by the name of Paul Eliel? A. No, never.

Q. He never was an arbitrator?

A. No—wouldn't have him.

Q. Did you have an arbitrator named Arthur Miller? A. Yes.

Q. He resigned, too, didn't he?

A. No, we fired him.

Q. You mean in this arbitration business that you said you believe in a little while ago that if you or your union is unhappy with the arbitrator you just fire him? A. Not necessarily. [5746]

Q. Well, you fired two, according to your testimony in the last few minutes.

A. With Mr. Miller the contract ended. "Mr. Miller was in our opinion a bad arbitrator, but we could be wrong about that, too. The contract ended, and as soon as the contract ended I personally wrote a letter to Mr. Miller and said, No. 1, "We don't want any more of you," and No. 2, "If we keep you on the payroll any longer the union will be broke. You are the most expensive man we ever had within a mile of the union as an arbitrator."

Q. You have not had very good success with arbitrators, have you, Mr. Bridges?

A. Oh, wrong. We have had good success with arbitrators.

Q. You mean there are some arbitrators who did not either resign or get fired?

A. No, I never said that at all. An arbitrator

(Testimony of Harry Renton Bridges.)

can't last forever. We have had excellent success with arbitrators, and we have had excellent success with arbitration. Don't look at me. I am a great supporter of arbitration. I believe in it. And, as I say, we have just lived through a strike for nearly six months down in Hawaii trying to fight for arbitration in Hawaii as a method of settling disputes instead of strikes, particularly Hawaii being an island community. But you know there was too many of those—too many Crouches and people down there hollering "Communism." So the employers took the [5747] position down there, particularly after the announcement made by the Attorney General at that time, that arbitration is a proposition imported directly from Moscow.

Q. Don't you mean to tell us, Mr. Bridges, that you are for arbitration unless the arbitrator decides against you or your union?

A. No, no, no, not at all. All our contracts provide for the selection of arbitrators by the Government of the United States.

Q. They also provide that you should fire them?

A. No, they do not. But an arbitrator is no good, you see, an arbitrator serves no good purpose, Mr. Donohue, if one side with grounds can say, "Look, you may as well get out because we can't sell your decisions any more. We can't have our people understand them." I say "with grounds." Now, if there is no grounds you can't do those things. And we have had many battles with our arbitrator. Wayne Morse is a good example. Morse

(Testimony of Harry Renton Bridges.)

ruled against the union as many times as he ruled for the union, but at no time was there any question in the minds of the men when he ruled against them that he was not calling the shots as he saw them.

Q. Mr. Bridges, on this statement of yours that the union is a trade union and not a political organization, is it a fact that when you took a strike ballot in 1948 you also on the same ballot had the union vote on the question of the Marshall Plan?

A. No, not a fact. [5748]

Q. That is not a fact?

A. Not a fact. I will tell you the story there.

Q. Did you ever submit——

Mr. Hallinan: Just a minute. Permit him to finish his answer.

Mr. Donohue: I am sorry, Mr. Hallinan. I do not mean to cut Mr. Bridges off. I am sorry, Mr. Bridges; go ahead.

A. Our strike ballot, Mr. Donohue, was taken for all our longshore clerks, bosses in the locals the length and breadth of the Pacific Coast, and the ballot was put out by the national union. In other words, a national committee prepares the ballots, mails them to the local unions, and as the local unions conduct the actual voting, that is, the local unions set up a local balloting committee, and after a certain number of days allowed for the balloting, they count the ballots and mail—they certify the results and mail the results back to the national office, plus the ballots that have been used, plus any

(Testimony of Harry Renton Bridges.)

other unused ballots. All ballots must be accounted for. All ballots are numbered with the corner to be torn off. Well, inasmuch as conducting an election in our union or a ballot in our union costs money, particularly if it is a large local, the cost of taking the referendum vote can run, say, five or six thousand dollars, many of our locals take the opportunity when a ballot is being conducted by the national organization—they have to ballot anyhow—they save up a [5749] few little things to add on the ballot in order to save money, and one of our locals seized that opportunity to take a vote, referendum, secret ballot, as to whether the members were for or against the Marshall Plan, whether the members should endorse the third party, or whether the members should endorse or oppose Henry Wallace, and that was the San Francisco longshore local.

Q. That is your local?

A. I am a member of it. It is not my local, oh, no; it is not my local. You only have to go down there. Believe me, Mr. Donohue, you ought to come down and visit us. You would see whose local it is. I was down there last night until 10:30.

Q. You told us the other day, Mr. Bridges, that you just happened to run into Sam Darcy at a convention in Philadelphia in 1943?

A. That is right.

Q. That was the national convention of the CIO?

A. Yes, that is the national CIO. I ran into Darcy there.

Q. Where was it that you saw him, do you recall?

(Testimony of Harry Renton Bridges.)

A. No. I think around the convention hall.

Q. Do you know what business Darcy had at the convention? A. At the convention?

Q. Yes.

A. As far as I remember, he was just down there listening in as a member of the public, up in the galleries, something like [5750] that. I don't specifically recall. The thing I remember was I met Sam Darcy, went and had a cup of coffee, talked about certain things, one thing and another. I think he told me what he was doing or something. That was all.

Q. And you had not seen him, I take it, since he left California?

A. As far as I remember, that is true. That was the first time I had seen Darcy probably in many, many years.

Q. Do you recall when it was that Darcy left California? A. No, I don't really know.

Q. Do you recall when it was that you first met Darcy? A. Yes.

Q. When was that?

A. 1934, during the strike. I recall Darcy—at least I think I remember it that way—Darcy being a speaker on the waterfront in the early days of the depression or in the middle of the depression, around 1932. There used to be quite a few people come down there and speak from stairs or soapboxes, various political groups, working class groups, and so forth, and my first recollection of Darcy as being

(Testimony of Harry Renton Bridges.)

one of those speakers was then, because I was somewhat impressed by him at the time. [5751]

Q. Did you get to know him fairly well?

A. Fairly well, yes.

Q. And I take it you had some regard for his ability or integrity or both? A. Yes, I did.

Q. With respect, Mr. Bridges, to your statement on direct examination that the Communist Party in fact gave you or your union very little help during the 1934 strike, do I correctly summarize your position on that? A. Very little help?

Q. Yes.

A. I don't know how I could measure the amount of help. I would say it would be a more correct statement, what I meant, that they seemed to give us what help they could. Now, as to how much help that was, it is hard to figure out. But I know it didn't amount to so much, anywhere near as much as we received from the labor movement. The Communist Party added a certain amount of help, other parties of a similar character, the Workers Party, the Proletarian Party at the time, other groups of that nature, added a little bit here and there. But the bulk of our support at the time came from the official labor movement. Now, that is the only way I could describe that, Mr. Donohue.

Q. I think you told us also that you didn't need any advice on how to conduct the strike, because you had had plenty of experience yourself? [5752]

A. I didn't—no, I didn't say that. I didn't say I didn't need any advice on how to conduct a strike

(Testimony of Harry Renton Bridges.)

because we had plenty of experience. As a matter of fact, I might have had a little more experience than—which is true—most of the people down there, but we learned the hard way. We just went in there and probably pretty brash in some ways, but we certainly didn't need any advice, and we didn't take any advice.

Q. From the Communist Party I am talking about, and I assume you are, too?

A. Well, I think we fought against taking advice from practically anywhere at that time. The Labor Council here, the San Francisco Labor Council set up a committee called the "Strike Strategy Committee," and we opposed advice from them just as much as we opposed taking the advice of the Communist Party. And that is true today, Mr. Donohue, believe me. It is only recently I had to mail a pamphlet, and I did mail the pamphlet out to all our members and accompanied with a little note on the front, telling them to beware of any attempts from any outside agency to try to run their union or control their union or direct their union. There is only one way to run a trade union for my money, and that is by the members of it. Them and them exclusively. That is the way we operate.

Q. By the way, Mr. Bridges, while we are on the subject, just how extensive was your experience in the strike in New Orleans?

A. In New Orleans? [5753]

Q. Yes.

(Testimony of Harry Renton Bridges.)

A. At that time, my participation?

Q. Yes.

A. I was on the picket lines for a while, and later on I was picket captain of a picket squad, which consisted of anywhere from five to nine men.

Q. Now, this was in 1921? A. 1921, yes.

Q. You were about 20 years old then?

A. Right. Oh, I thought I knew a lot, you understand—you know, 20 years old, you get funny ideas. You think you know a lot, much more than you do.

Q. You haven't changed your mind, have you, Mr. Bridges?

A. Oh, yes, I have. No, there's a lot of ideas I had at 20 that I haven't got now, Mr. Donohue.

Q. I think you told us that when you got to New Orleans, the strike was in process?

A. I think I was at sea when the strike broke out.

Q. When, do you recall, was it that you got to New Orleans?

A. I don't know. I think you will find that in the trial before Judge Sears. The Immigration Department had all my records. They had every place I had been in, every time I had turned around. It is a matter of record. I think if you will read the record there, it was read off to me and I didn't object to it because it was probably correct, and I have no distinct [5754] recollection. But they had all the records, all the dates, when I left the port, when I came back, what ship I was on and so forth.

(Testimony of Harry Renton Bridges.)

And I think if you refer to that record, you will get the correct dates.

Q. I appreciate the suggestion, but I am interested in your recollection at this time, Mr. Bridges, as to when you got to New Orleans during the '21 strike.

A. It is my—as far as I remember, I was at sea and I think I came back two or three weeks, probably, after the strike started. The last run home was from Havana, running to New Orleans.

Q. And how long, in your judgment, did the strike last after you reached New Orleans?

A. Why, there is no way of knowing that. I could get the date it was called off. The way it was called off was very—very, very funny, very bad. I can recall, I was a picket captain. I was on the picket line with a squad, and one morning I remember I showed up on the picket line with my squad, and I suddenly looked aboard the ships, and I see a lot of my fellow strikers at work on the ships. So, of course, wanted to know what is doing here, how come, see? Well, they said the strike is off, and then I noticed something very peculiar about those people on the ships. They were all the close friends of the union officers, you see. So the word had been quietly passed down, "Now get down and get aboard the ships, and after you have all gotten aboard and after you are all back to work,—"—there was [5755] some kind of an inside deal, and then the ordinary rank and file, like myself, the word kind of seeped out that the strike was off, so far as the East Coast

(Testimony of Harry Renton Bridges.)

was concerned. The West Coast remained on strike for a while, at least.

Q. You didn't ship out until the strike was over?

A. Until the strike was over?

Q. Yes.

A. No, Mr. Donohue. Do you want to see the union book with the strike clearance in it? That has become, that has come up before, too.

Q. No, I am trying to fix the termination of the strike, Mr. Bridges, through your recollection.

A. I can't help you, Mr. Donohue. The strike ended in that fashion and as for trying to fix a certain date, I don't think it ended as of a definite time at all.

Q. I asked you if you shipped out after the strike for the purpose of trying to fix the date on which you shipped out.

A. I shipped out some time after the strike. I wandered around a bit. Ships were hard to get, and I eventually shipped out, as I told you, as a member of the IWW.

Q. And you can't remember when it was that you did ship out?

A. Oh, I think it was in the fall of the year. I think that I remember that. Around maybe September or so—August or so, I think.

Q. Mr. Bridges, are you familiar with the rather lengthy article [5756] captioned "The San Francisco Bay Area General Strike," written by Sam Darcy in the October, 1934, issue of The Communist?

A. I am not familiar with it now, but I think that I have heard of that before. Let me see. That is the—I think that one came up in the Landis trial, it came up in the Sears trial again, and I don't recall everything that is in it, but I know it was used to some great extent in both those trials, and I was examined on it and asked what part I had in writing it and things like that. I remember it to that degree.

Q. I don't expect to ask you if you wrote it, Mr. Bridges; I take it that Sam Darcy was the author.

A. Well, now, then, that was a little difference because in the Landis trial, the line was this, that I had wrote it and Sam Darcy signed his name to it. So I think that——

Q. You use that word "line" with facility, don't you, Mr. Bridges?

A. I am an old sailor, Mr. Donohue; every sailor has got to be very familiar with line and lines.

Q. But all persons who are familiar with the word——

A. If you mean—do you mean the party line? Is that the angle?

Q. Well, I am asking you, Mr. Bridges, because all persons who with equal facility use the word "line" are not sailors, like you and Mr. Roy Hudson.

A. No, longshoremen and sailors, they've got to be very familiar with lines. But look again, Mr. Donohue. I am telling [5757] you, I am a trained unionist. My "line" is the trade union line, and I try to be as good at that line as I can, and I have no apologies to make. At any time that line crosses the line of some other political party or anything else, that is just too bad. If it is good for the union, I am going to do it. Now, I am not trying to back away from anything here or take a position in this courtroom that might be different to a position I have taken in the past. My line is a trade union line and I am a trade unionist, believe me. I would like to be a better one if I could. But that is my line, and I am going to continue carrying it out.

Q. With respect, Mr. Bridges, to your statement that if it is good for the union, you are going to do it, would that even extend to joining the Communist Party if you thought it was good for the union?

A. Well, I couldn't figure that one. That is pretty hypothetical. So far I haven't found it necessary to join the Communist Party in order to be a good unionist. That is my position. I haven't found—I haven't as yet seen where it is necessary, and—look, believe me, I have got troubles enough, Mr. Donohue. My troubles in the union, first of all, go to trying to answer a lot of the questions of the people down below who are not getting enough work; they are struggling to make a living, and I have got a few troubles in this courtroom. And in addition to those troubles, I don't want to take on the job, all the [5758] problems that go along with being a member of the Communist Party, if I can believe one-tenth of what I have heard, or one-tenth of what you say. And that is enough trouble. I am not getting any younger. I have had a little trouble with my stomach, and I have developed a nice crop of stomach ulcers, and incidentally on that, you won't find anything on my expense accounts when they come in here about them paying for my hospital bills for getting my ulcers treated and cleaned up. And ulcers are an industrial disease, whereas civilization is coming around to recognizing that. So with all my present troubles, I have got enough without taking on the troubles that I think go along with being a member of the Communist Party, being a disciplined Communist as Mr. McMillan said—disciplined, where I have to follow every twist and turn and flop-flip or flip-flop, and all those things, carry out the "line." Doesn't work that way. I am a trade unionist. Pure and simple. And there is no mystery about it. And everything I have done as a trade unionist, as a matter of record, you name it and I will bring it into court and if you can show in anything I have done as a trade unionist anything connection with following the Communist Party, well, then, I will be a very surprised person, Mr. Donohue. I will be almost willing to stake the outcome of this case on that.

Q. Mr. Bridges, has it ever occurred to you that all these troubles that you have been talking about may well stem from the fact that you are a member of the Communist Party? [5759]

A. No, no. Why should they?

Q. I am asking you, sir.

A. Well, I couldn't—wouldn't know.

(Testimony of Harry Renton Bridges.)

Q. They are your troubles, not mine.

A. Well, all the troubles I have got have not come about because I am a member of the Communist Party. Again, don't take my word for it. You have got a decision there of the United States Supreme Court, Mr. Donohue. They will tell you what the reason for my troubles are. You have got the result of the investigation by the Senate Civil Liberties Committee. You have got the decision by the Board of Immigration Appeals. You have got the decision by Dean Landis, you have got a statement, you have got a decision by—an opinion by the District Court, the Federal District Court of Appeals. Now, all those things spell out in better language than I can use the cause of my troubles.

Now, I am not complaining, I am not sitting up here crying. I have got some troubles, and the way I figure you meet troubles, you try to put the best face on it that you can. But at the same time they have a little effect. They have a little effect—ten or fifteen years ago, I could handle them much better than I can now. And at the same time, I wouldn't—I don't want to go to jail. I am not up here having a lot of fun. I recognize that if there is a guilty verdict in this trial, I go to jail, I get deported. My wife and family—well, I don't know what will happen to them. So this is not funny to me, and [5760] I am not following any "line" except the trade union line. I know the cause of my troubles, not because of anything I know myself, but—not only because of that, but because of numerous decisions by the highest authorities in the United States. Now, you can't deny that. They are here; except I know they are taboo. But I just wanted to mention them.

Q. Mr. Bridges, did Mr. Justice Landis, or "Judge" Landis, as you call him, did Judge Sears, did the Attorney General of the United States, did the Board of Immigration Appeals, did the Immigration examiner in New York in 1937, or the Supreme Court of the United States, hear a single word of testimony from a single witness who has testified in this proceeding? [5761]

A. I don't know.

Q. You do know, do you not, Mr. Bridges,——

A. No, I don't know.

Q. You were at all these hearings, weren't you?

A. Yes.

Q. Did any one of these witnesses who appeared here testify?

A. Well, now, you included in there the Attorney General of the United States.

Q. And the Attorney General of the United States, in reviewing the decision of Judge Landis and in reviewing the decision of Judge Sears?

A. How do I know who was in contact with him, who he heard? You are talking about Mr. Biddle now?

Q. Oh, it is your understanding at that time that the——

Mr. Hallinan: Pardon me, Mr. Bridges has not finished his answer.

Mr. Donohue: Excuse me, Mr. Bridges. Go right ahead.

A. (Continuing) You are talking about Attorney General Biddle?

Q. I am talking about the Attorney General of the United States at any time, who discussed the case of yours.

A. Then I—then the answer is, "I don't know." I don't know who they spoke to. I can have a lot of deep suspicions, but suspicions, I don't want to deal with them here. You ask me what I know. I don't know. But I have got a very, very healthy suspicion that a lot of characters talked to some of those [5762] people..

Q. Then it is your opinion that the Attorney General of the United States would consider evidence which was not in the record of your proceedings? A. Mr. Donohue,——

Q. Is it?

A. Why, he taps wires, he puts stool pigeons in my union—well, not stool pigeons, but spies, to report to him. They are running around now, agents of the Immigration Department. My own members come up to me and tell me, "Look, Harry, I am with you, but don't tell anyone, will you? I am trying to get my citizenship papers. If I am heard, if the Immigration Department finds out that I am supporting you, even as a brother union member, I wouldn't get my papers."

(Testimony of Harry Renton Bridges.)

Look at the Herman Mann incident. Why, Mr. Donohue, I am a pretty old, cynical character. But unless I knew it myself, I would never have believed a branch of our government would have stooped to that level, where they went to a man's boys and the man himself and said, "Look, your wife is dying in the hospital of cancer. We have got influence with the cancer fund. Testify against Bridges, and we will save your mother's life." And when the man—when one of our longshoremen,—and they are a pretty hard-boiled bunch, too—stood up in the union meeting and told that story, he broke into tears. I have seen things, I would never have believed it. And—what I have always [5763] —I have got a habit of saying, "Look, what will shock me will make a crowbar sweat." But from what these government agencies—Agent Jack Myers and Kessler, the two agents. They went to that woman in the hospital. She died July 1st. Mrs. Herman Mann.

Q. And who told——

A. And you know that.

Q. Who told you all these things?

A. Mr. Herman Mann. Do you want him up here? Do your want his boys up here?

Q. You bring them here.

A. I will not. They have got enough trouble. I won't inflict any more trouble on that poor family, if I go to jail for fifteen years.

Q. Well, he is a fellow Communist, isn't he?

(Testimony of Harry Renton Bridges.)

A. He is not, to my knowledge; he is a fellow unionist.

Q. Then you bring him here.

A. Well, I am telling you what I said, that that family has got enough trouble.

Q. Let him come here and state that under oath.

Mr. Hallinan: You bring him in, Donohue; you have more power than Mr. Bridges has.

Mr. Donohue: No, he is Mr. Bridges' friend.

Mr. Hallinan: Why, you protected your own Mr. Kessler when he was up here. We tried to bring up some of this for the defense when you brought him up here, and to get the exact [5764] facts, and you could hear Mr. Donohue hollering all over the place. We put in an affidavit and made an offer of proof, and he wouldn't let it be heard.

Mr. Donohue: You know and I know that the only way you can get that in is to get him here and bring it up through him.

Mr. Hallinan: The only way we can get it in here is to sneak it in; anything you see that favors the defense here, you try to shut it up. If it is in favor of the prosecution, it goes in; if it favors the defense, it goes out, if it is the decision of the Supreme Court of the United States. What are you talking about!

Mr. Donohue: To that I have no answer, if Your Honor pleases.

The Court: We will take the recess, ladies and gentlemen. The same admonition to you, not to

(Testimony of Harry Renton Bridges.)

discuss the case under any conditions, nor to form an opinion thereon.

(Recess.) [5765]

Mr. Donohue: Shall I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Referring now to the——

Mr. Hallinan: Just a minute, if the Court please. The question that was last asked was interrupted by a statement of counsel's, a statement of counsel's criticizing the defendant for not bringing persons here when, as I suggested, it is up to him himself. The rule is if it favors the defendant, it stays out. He doesn't bring it in. I suggest that the witness be permitted to finish the answer. There was an interruption by counsel in the midst of it. And I also at this time, if the Court please, assign as misconduct and ask that the jury be instructed to ignore the suggestion to Mr. Bridges that he bring in witnesses here. The rule is he can bring in the witnesses himself and cannot charge the defendant upon the stand with some obligation of supplying evidence that is just as available to him or more so. I ask that the jury be instructed to ignore that statement.

Mr. Donohue: Of course, that is not the law, if your Honor please. This witness has sought to introduce here a statement of someone who, as far as I know, has not testified under oath with respect to a matter which he has just discussed.

Mr. Hallinan: There is an affidavit of Mr. Mann in the clerk's record under oath.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: Let Mr. Mann come here at the request or [5766] subpoena of Mr. Bridges and submit himself to cross-examination and the process of this court is as open to Mr. Bridges as it is to the United States.

Mr. Hallinan: I renew the motion, your Honor. I think the jury should be instructed to ignore that colloquy between counsel and Mr. Bridges. He had no right to make it.

The Court: The motion is denied.

Q. (By M.. Donohue): Mr. Bridges, referring to the article by Mr. Sam Darcy with respect to which you say you had some prior information——

A. Are you talking now about what we were discussing before the recess?

Q. Yes, I am talking about the article written in the October 1934 issue of the Communist on the San Francisco Bay Area general strike, Sam Darcy.

A. It is true, Mr. Donohue, you asked me a question before and I was trying to answer it.

Q. I am sorry, Mr. Bridges. Will you continue or complete your answer?

A. You recall, as I remember, you asked me, in the form of making a statement, wasn't it a fact that my troubles were due to being a Communist? That was the question I was answering, and I had not finished the answer.

Q. I am sorry, Mr. Bridges. Would you complete your answer?

A. Of course, I feel pretty strongly about the matter and my [5767] union feels pretty strongly

(Testimony of Harry Renton Bridges.)

about the matter for this reason: that at least if it is true, if there is any truth to the fact that my trouble or the troubles of my union came about because I am a Communist or allegedly a Communist, well, then, that is a situation that should be corrected. The fact of the matter is there is no truth, and all I was trying to do was point out a situation, and apart from any knowledge or testimony in the matter that I might have or might give there are records and, as I say, the records of the United States Government, the courts, the courts of appeal, Landis—they actually point out that for fifteen years certain employer interests, powerful political interests, have used the Government of the United States, particularly the Immigration Department, to constantly raise these charges, to bring people along, professional witnesses along to make these accusations, and the purpose of such accusations are not to cause me trouble, but in order to attack the union. I might not have all the experience in the world, and I am not swell-headed enough to believe that any one person can be so important. The Government of the United States is a very powerful organization, tremendously powerful, and I am not so stupid as to think that the Government as such puts that power to work trying to set aside or get rid of me and a couple of other individuals. But I do have good reason to believe, and my reasons are supported by the official decisions of high agencies of the government, to understand the fact that government agencies have been used in this matter, and it is

(Testimony of Harry Renton Bridges.)

not [5768] a question of Communism. Schrimpf—so Schrimpf is a Communist.

In 1941 when I was on trial here and the charges against me was being a member of or affiliated with the Communist Party, right in this courtroom—that was in 1941, and if these charges had been proved I would have been deported—yet Mr. Schrimpf got his citizenship papers in 1943 after admittedly being a Communist. That is point No. 1. So on that point alone I know Communism is not the issue, or whether I am a Communist. There have been other cases where these people came up. I notice that every witness here has had something to do with the Immigration Department.

Mrs. Harris—her husband is a member of my union and until she got up in this room I didn't even know he was an alien, that is, that he had to get his citizenship papers. Krolek, another foreign-born person. All these people—there is a lot of them, there is a lot of them, and I know from my own experience for what it is worth as a trade unionist that my troubles do not come from Communism.

The concurring opinion of the Supreme Court, Justice Frank Murphy, his language says that this case will stand forever as a monument of man's intolerance to man. For fifteen years agents of the United States Government as well as police forces, as well as political interests and employer interests, powerful interests, have watched me, my movements, tapped my phone, [5769] used labor spies, and so forth, all in an effort to attack my union, because it is an effective organization that not only fights and fights hard for the rights and advantages of its own members, but we fight for a lot of other things. We fight for the rights of other people, security of all citizens, old age pensions, hospitalization plans, prepaid medical plans. We fight against discrimination of citizens because of their race, creed or color, and things like that. And we stand up and we talk back to an agency like the Immigration Department. That agency does not like our union, Mr. Donohue, because in the trial I went through at Angel Island that was the first time in the history of the United States that immigration trials were open to the public. We forced that issue on these people. They didn't like it. They preferred to railroad people in secrecy and silence, and they have never forgiven my union for it, or me, for that matter. I know they have never forgiven me for the little fun we had with them in their tapping my room in New York City. Things like that.

I know, and it is a matter, I say, not a question of what I think but what I know. Here on the one hand I am accused of having no faith, placing no reliance upon our Government and its institutions, and on the other, when I try to rely on what the Government says, what it finds as a result of investigations, what the highest court in our country determines, when I try to rely on those things again you come in and say, "Your [5770] troubles are all not because of what the Supreme Court says, the Board of Immigration Appeals says, the Circuit Court of Appeals, Dean Landis say and what a lot of other people outstanding in stature say, it is something else." Will Schneidermann—Schneidermann is an official of the Communist Party. Schneidermann got his citizenship, and it was returned to him after there was an attempt to take it away. He is a known official Communist. So that is beside the point. And if I wanted any more proof, when the Smith Act was amended in 1940—and this is a matter of record—Congressman Hobbs of Alabama said, "The purpose of this amendment to this Act, this will allow the Government to do what we have been unable to do so far and that is to deport Bridges." And that amendment to the Smith Act was put in there, and the Congressman who proposed that amendment made that statement, and that is a matter of record.

So when you put all these things together it is wrong to say my troubles come about or my union's troubles come about because I am a Communist, because if that was the case, Mr. Donohue, I would do something about it. I would not dare—I might be—I am no great moral character, but I wouldn't dare have the gall to go to my union members and ask that their energies and their monies be expended to defend me in a proceeding of this kind, the fourth and fifth proceeding—the fourth proceeding. [5771]

(Testimony of Harry Renton Bridges.)

And, look, just the other night you know at the University of San Francisco, Mr. Donohue, you spoke and you told the law students at that time, "Now, if you are all good boys, if you work hard, if you study your law, you might represent the United States Government in the sixth Bridges case." And you told the students at the University of San Francisco a couple of Friday nights just that thing yourself, and you represent the Government of the United States. And furthermore, when we was engaged in a strike in Hawaii, and that was a bitterly fought strike, the employer interests in Hawaii are feudal interests—as a matter of fact, there was a decision made in the case of those employer interests by the United States court, and the language of the court actually says, and his Honor Judge Harris participated, says that the law and the conditions in Hawaii are worse than the conditions that George III tried to impose on the original colonies. That is the language of the court in Hawaii, and while the union that I represent is in a struggle down there for increased wages, the Attorney General of the United States speaks to an organization in Milwaukee and says that as a result of these indictments we hope to bust that strike in Hawaii. That was the Attorney General of the United States that appointed you, Mr. Donohue, talking.

Q. You heard him say that?

A. In Milwaukee in the German Club. [5772]

Q. You heard him say that?

(Testimony of Harry Renton Bridges.)

A. I have people who heard, see? Now, you can bring them if you want them. We will give you the names and you can bring them in, too. They have nothing to gain. They have never met me in their life. They were just somewhat shocked that a high Government Cabinet officer would say such a thing. When all that was said, around here was this indictment. All the Government was concerned with here was a violation of the law. They are only concerned with me now. The picture has changed. I understood when this case started out the Government said, "There is no labor matters involved in this case. The Government has found out where a person has been violating our law, and it is just the same as any other case with us. We are not concerned with labor policy or anything like that. Here is a man who got up and swore falsely under oath. We are only treating him the same as any other citizen."

Of course, I have done a little research work. There are thousands and thousands of citizens who have been given their citizenship since I appeared up there and not one of them has been investigated to find out whether they told the truth. I'm not being kidded, Mr. Donohue. And when you say—and let's be fair about this—all my troubles stem from the fact that I am a member of the Communist Party, that is not the truth. My troubles stem from the fact that I am a member and happen to be an officer of a trade union that makes a [5773] pretty effective fight for its existence, for its pro-

(Testimony of Harry Renton Bridges.)

grams not only on behalf of its own members but on behalf of members of other unions and on behalf of all citizens, because we believe—and there is nothing wrong with that—if everybody had a good job, better wages, security for our old aged people, hospitalization for all the people, even those who can't afford it, we will have a better country, and we would like to see that all over the world. And we believe in working with workers all over the country, over the world, in bringing that, too.

There are those things where many, many people are scared to raise the issue and fight the issue. It is not a question that I as an officer of a trade union have any more courage than anyone else. I am a little better off because I have an organization backing me, and if I am standing up there and I take a couple of raps on the chin, as it were, and get anything back into the arms of my union, they push me back and tell me to get back there and pitch, "We are still with you." I am in a lot better position than a lot of other people who have to stand alone in doing that. That is the point. I think it should be understood in all due fairness, that it isn't any affiliation I have or ever have had with the Communist Party or any other party that is the cause of my troubles, but as a matter of record, Government record, Government decisions, exhaustive hearings, and so forth, it is because this union is [5774] in the picture. And this is the last gasp. This is the last kick in this case. We have our problems pretty well straightened out with our

(Testimony of Harry Renton Bridges.)

employers. Some of them came up and told you that, some of them where many, many years ago they were working just as hard for my deportation; they are up here now saying they don't agree with me; they want to prevent wage increases and things like that. That is their business. We respect them for that. No harm done. But we are getting along. But all these things grow out of the old past strikes, and our union hasn't changed. We are plodding along trying to do a job. My problem is as long as I am going to hold on to my job, I am going to to try to carry out the orders of the members, and these charges will be brought. And I know as well as I sit here you were telling the truth the other night, that probably there might still be the sixth Bridges case; there might still be. This is the fourth one. There might be a fifth and sixth. If that is not what you think, I don't know what you were doing out there telling a bunch of college students things like that. You can accuse me of a lot of things, but I have never done anything like that. However, again I am not suggesting that you go by what I say. I am under oath trying to tell the whole story. But the records of the United States is what I am going by, and as I understand, it is a situation where on the one hand I rely on those records, rely on those decisions and try to follow them out, when they [5775] are to be ignored, and at the same time I am accused of having no respect for the institutions of the Government, no respect for Government agencies, trying to overthrow the Government by force or violence or a lot of other things. Those accusations have been made. They are not in the charges here. The charge here really is not perjury. If the charge here was perjury we would be talking about it. The charge here is I am accused of being a Communist, and, as you say, that is why I am up here. You just got through saying I am up here—"the troubles I got in this courtroom, aren't they because I am a Communist?" The answer is No, because if that was the case Mr. Schrimpf would have troubles too. If the agency was on the up and up, the Immigration Department would start deporting Henry Schrimpf, because he is an admitted Communist. He is a proven Communist. But he is staying in this country. He has his citizenship. And let me tell you something else. If you were the one who had to go down to the waterfront and tell the longshoremen, "Fellows, work with him, don't walk off the job because it is all rigged; if you fellows walk off the job because you don't like to work for the man, it is all rigged for you; I have been so informed, that you will lose the Army and Navy work"—and I was the one who had to do that—but every man down there knows the score, and if there was anything to this Communist angle, Henry Schrimpf could not have got his citizen's papers, because it is a violation [5776] of the law, and you would be seeking to deport him, and that is the way it is. Communism has nothing to do with it.

Mr. Donohue, let me tell you this: Some of the questions you have asked me in this courtroom indicate to me that what you know about unionism is very little, believe me. I am not sure what kind of an expert you are on Communism. I am willing to believe you are a darn good lawyer. But, believe me, what you know about unionism, democratic, left-wing unionism, is very, very little. I would be willing to say this: that if you knew more you would understand this problem much more than you do, and I don't think you would have any ideas about my troubles being because of Communism.

Thank you. [5777]

Q. By the way, talking about Henry Schrimpf and asking the men not to leave the job, do you know as a matter of fact whether he has had a job since he testified on this stand?

A. I don't. I am telling you, he is a member of my union and I warned my boys, I said, "Look, as long as I am president of the union, why, I have the obligation, I am duty-bound to protect every member of my union. I know the lousy spot we are in, we are having to protect the interest of that character who came up here and did his best to destroy that union that brought him dignity and respect and high wages, the highest in the world, and all he does is to try to come up and try to destroy our union, because these people here, you have got him where you want him, you say to him, 'Play ball, perjure yourself, or we take your papers away and put you out of the country.' That is the score.

(Testimony of Harry Renton Bridges.)

Q. Mr. Bridges, do you think an administration which has sought the repeal of the Taft-Hartley law and which has done as much for organized labor since 1933 as this administration, would go to all that trouble you have indicted to get your union?

A. You are talking about another administration, Mr. Donohue, and how well I know it. Don't get this administration mixed up with the past Democratic administration. I know something about those things, and what I think about it is, I go by the record. I know what the present administration has done for labor. Thank goodness, we have still got our union, no thanks [5778] to the administration. I know why they were trying to get our union. I sat in this courtroom and heard the administration up here trying to get out an injunction against the union I represent. I know what they have tried to do. We have gone through a five months' strike. Schmidt was handling the five months' strike down in Hawaii, and I know what the administration done there. Don't let's get into an argument here about the present administration. If we want to talk about the administration when it was headed by Franklin D. Roosevelt, I will talk about it. Don't get the two things mixed up. There is a vast big difference—a big difference. And I don't know —I don't know what the administration has done to repeal the Taft-Hartley Act; I don't know anything about it. I know a few things the other way, so does my union.

Q. Have you finished, Mr. Bridges?

(Testimony of Harry Renton Bridges.)

A. Yes.

Q. Talking about Mr. Roosevelt, you and your union supported Wendell Willkie, didn't you, sir?

A. No, that is not quite true, Mr. Donohue.

Q. What is the truth?

A. I supported Mr. Willkie. I thought, and still think that Mr. Willkie was a great American and I think he proved it before he died, proved it far more than he did in the first place. I went and said that to my union. I can't—I can't recall anyone now that agreed with me in the union. Almost unanimously, [5779] they repudiated me, told me I was wrong, they didn't see it that way. And we have got a democratic union. I was an officer of the CIO at the time, and I had spoken to Mr. Lewis. He had told me what he knew about Mr. Willkie. I had spoken to other people. Mr. Willkie's campaign manager here was Paul Smith, managing editor of the San Francisco Chronicle.

Then there was another little item that made me make up my mind. Mr. Willkie was touring the country, if you recall, as a candidate for the presidency of the United States. You may remember people started to throw rotten eggs and tomatoes. If I wasn't for Willkie, then, I was for him after that, because it is just too bad here in the United States when a candidate for the presidency can tour and speak out in defense of his program, whatever it may be, without organized mobs stoning him with rotten eggs and tomatoes, that is getting toward a pretty bad state. And that was one of the

(Testimony of Harry Renton Bridges.)

reasons that at least convinced me, although I couldn't convince my union. I am willing to admit that when I went before my union and recommended support of Willkie in keeping with the advice I got from John L. Lewis of the CIO, almost unanimously, every local voted me down. It didn't do any harm. I had the right to do what I was doing. What I did was the right thing, and I did it less to destroy Mr. Roosevelt than to support a person I thought was a good man. Willkie, I thought —I thought that Mr. Willkie was somewhat of a rank and file candidate in the Republican Party, if such was [5780] the case. I thought he had come up from below and he burst through the old reactionary, ironclad machine of the Republican Party. And later on—later on I think that he proved to almost everybody in the country that he was a great man, a great American. No apologies at all.

Q. Mr. Bridges, didn't you state not too long ago that you did not consider yourself indispensable, that if anything happened to you your union would continue?

A. That's right. But don't take to mean I am not worried about the possibility of going to jail. You just can't flip that off. I don't like the prospect. But all I am saying is this: There is just too many people in the labor movement consider themselves indispensable. I wish they would learn how well the workers can get along without them—in most cases how well the workers would be better off without them. I don't want to fall into that cate-

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(Testimony of Harry Renton Bridges.)

gory where I have got any funny idea that if I am not president of the union there will be no union. I am the first one to tell my own membership that at all times.

Q. Your union would survive your absence, Mr. Bridges?

A. If anything else was true, it would be a bad state of affairs. If that happened, I would consider I'd have done a lousy job organizing a trade union if because I wasn't around the union would collapse.

Q. In what way do you assign this prosecution of yourself, Mr. Schmidt and Mr. Robertson as prosecution of your union? [5781]

A. It is one method of attack, Mr. Donohue. As long as I am up here—the three leading officers of the union are up here wasting our energy, our funds and everything, at the same time the Immigration people have got these characters running around in my union trying to sabotage things down below. All kinds of employer interests are at work, and rival unions are raiding our organization; we are being attacked right and left. It is not because I am a Communist, as I have told you. We are an effective union that packs a certain amount of economic and political weight. We get in people's way. We stop people from putting over their phoney and crooked deals. Maybe we get into a lot of trouble because we put our nose into other people's business. We regard the trade union movement as our property. We are part of the trade union movement of the United States. What another union does is our business, and what we do we consider is someone else's business. On this whole question, as long as we are up here having to pay out tens of thousands of dollars to defend the officers of the union and we have to be in the courtroom, that cripples our union, that uses its funds, it ties up its energies, and it makes it more vulnerable to attack.

You have got another case. If this jury finds us not guilty in this case, you people know you have another civil suit pending against me; I have to go through another trial to defend my citizenship papers, notwithstanding what happens in this [5782] trial. You know that. And that means more money, more time spent, more months spent in court.

Now, I think this: Maybe the union would be better off without me—maybe the time will come when I will tell my union, or say to the union, "Maybe you would be better off without me." Maybe that is what the whole scheme is. If and when that time comes, believe me, there will be no hesitation on my part, I will do it, too.

Again speaking from all the experiences I have had as a trade unionist, I know the drain it is upon a union when three of its leading officers that are badly needed—we are not overstaffed; we are understaffed—have to sit in a courtroom for months on end and the membership themselves are without their services, as well as having to spend a lot of energy and money to defend them.

Q. Have you finished, Mr. Bridges?

A. Yes.

(Testimony of Harry Renton Bridges.)

Q. The day you became naturalized and under oath made certain answers to certain questions, you did so as Harry Renton Bridges, not as Harry Renton Bridges, president of the ILWU, did you not? [5783] A. I did so as both.

Q. Beg pardon?

A. I did so as both. If I hadn't been the president of the union, I would have had those papers years ago.

Q. Do you think that you bound your union by your statement made before Judge Foley?

A. No, I could not bind my union, but the fact of the matter is, if I had not been president of the organization, I would have had my papers years ago. If I had not been president of the organization, no one would have worried about what I thought or did, Mr. Donohue. When I worked on this waterfront down here as a longshoreman, no one worried about what my political beliefs were, and no one worried, no one cared whether I starved to death or not. The Immigration Department didn't worry about whether I was eating or working, whether my wife and children were eating or living. No one cared what I thought or did until a union was formed and I became a spokesman or an officer of that union, a spokesman for it, for my fellow workers on the job. And then things began to happen, and they have been happening ever since.

Q. Mr. Bridges, let me ask you, do you agree or disagree with the statement of Sam Darcy.——

Mr. Hallinan: Just a moment. If the Court please, object to this method of trying to slide in statements of Sam Darcy. If he wants to ask him something to refresh his recollection, [5784] if he wrote it himself or is familiar with it, that is one thing; but to read off statements alleged to have been made by a man and then ask him if he agrees with it is a highly improper way of conducting a cross-examination.

The Court: Is this contained in the article to which reference was made?

Mr. Donohue: Yes, if Your Honor pleases, it is offered for this purpose. This witness has testified, and at some length, that while he knew Sam Darcy, that neither Sam Darcy nor the Communist Party gave any except token acceptance in the conduct of the 1934 strike. Now, I want to ask Mr. Bridges if he agrees or disagrees with what Mr. Darcy has said the Communist Party did with respect to the '34 strike.

Mr. Hallinan: Bring Mr. Sam Darcy in. You gave us his address the other day, you have it. I understand you have him under subpoena. You so stated in one of your newspaper releases.

Mr. Donohue: I gave the address so you could bring him in. I wouldn't vouch for him.

Mr. Hallinan: Bring him in here and put him on the stand. But to try to put in, Your Honor, hearsay of what this gentleman says Sam Darcy wrote is an entirely different thing. Now, here's what he purports to do, apparently—to take some

(Testimony of Harry Renton Bridges.)

document and say somebody said so and so, "Do you agree with it?" Now, if Mr. Darcy is a witness, let him put him on the stand. But to offer a document by saying, "Do you agree with what Mr. Sam Darcy said?",——

The Court: The purpose of the prosecution is not to offer it in evidence?

Mr. Donohue: No, Your Honor.

The Court: It is merely to take a segmented portion and ask the witness concerning his views, whether or not he agrees or disagrees?

Mr. Donohue: That is my only purpose.

Mr. Hallinan: But here is the vice of it, if Your Honor please. Now, if he asks him if he agrees or disagrees with a certain principle or purpose, let him go ahead and do it. But affixing to it the statement of what Sam Darcy says, means that counsel by indirection can get the testimony of his pal, Sam Darcy, in—because Mr. Darcy is probably one of his stooges, too,—without subjecting Mr. Darcy to the ordeal that he had to submit his stooge, Mr. Ross, to. That is what he wants to do. Now, what a fine position he would have been in if he could have brought in Mr. Ross' statement or Mr. Crouch or Mr. Manning Johnson's statement and ask Bridges; "Do you agree with these things?" That is what he is afraid of. He can't risk putting any more of these rascals up on the stand, and we are coaxing him to put one or two on. There's going to be a Roman holiday if he does it in the rebuttal. So we want him now, if he is going to bring in

(Testimony of Harry Renton Bridges.)

things Mr. Sam Darcy says, to trot him up into court here. Let's take a look at him. Let's [5786] ask him a few questions. But to bring in an article here now and read it off to the jury and say to the witness, "Do you agree with that?" is not only improper legal procedure, it is about as unfair as any person can devise, about as unfair a scheme as he could well devise, to put the matter in.

Mr. Bridges has been flattering Mr. Donohue with statements that "You don't know what this is about, Mr. Donohue," and "You are being misled." But it is inconceivable that Mr. Donohue could be misled so far along such a perfidious road without having some place observed where his feet were taking him. So that is the trouble with this, Your Honor. That would be identically the same thing as if he had brought in a statement by his pal, Mr. Ross, and got it into evidence and read it off to the jury without the opportunity that we are entitled to, and were afforded, to show exactly what Mr. Ross was, what he had to say and what manner of man they were producing.

The Court: Are you familiar with this article?

Mr. Hallinan: I have never seen it, never heard of it.

The Court: Show it to counsel.

Mr. Hallinan: I never heard Mr. Darcy's name until I strolled into this courtroom.

(Document handed to Mr. Hallinan by Mr. Donohue.)

Mr. Donohue: Shall we take the recess? Mr. Hallinan may keep that over the recess if he wishes.

The Court: We will take the noon recess, ladies and [5787] gentlemen. The same admonition to you not to discuss the case, nor to form nor express an opinion thereon until it is finally submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [5787-A]

February 16, 1950, 2:00 P.M.

HARRY RENTON BRIDGES

resumed.

Cross-Examination
(Continued)

Mr. Hallinan: If the Court please, with regard to the matter that was under discussion at the time that court recessed, counsel has given me a photostatic copy of the document there on which he proposes to question the witness. Now, if anything could illustrate more than this what I said about one rule under which they proceed in the matter is this: If it is in favor of the defendant, it goes out; if it is against the defendant, it goes in.

Here is what they have done in that connection: When Mr. MacInnis attempted to cross-examine Michener about speeches that Michener had made on the floor of conventions, counsel objected most strenuously to them. When he also attempted to cross-examine on articles appearing in the newspaper of which Ross was the editor, counsel objected to them very vociferously; Ross said that he

(Testimony of Harry Renton Bridges.)

had no personal knowledge or recollection of them, and the Court sustained the objection. Now, we are not questioning the Court's ruling in that behalf, as Ross, whether truthfully or untruthfully, disclaimed any connection with them, any personal connection, the ruling of the Court was probably correct, or at least it was arguable.

But here they bring in a document which they say, ex parte, [5788] without any proof, is written by a man named Sam Darcy and published some years ago in a magazine. No connection is shown between it and Mr. Bridges. He is not shown to have been familiar with it, to have authorized it, to have conveyed to Darcy any of the information contained in it. Now they want to read off these things as being a statement, an ex parte statement, of things that Darcy would perhaps not be willing to testify to under oath, put it in evidence before the jury on the pretense that it constitutes some cross-examination of the defendant. And I say, your Honor, that a stop should be put to that procedure by counsel, and that they have no right to ask him any questions about this document at all; it would be misconduct for counsel to ask the witness anything on it, especially after he has identified it as having been written by some person whom other witnesses of his have already claimed had something to do with the 1934 strike.

Mr. Donohue: If your Honor pleases, without interruption and without objection, this witness has been permitted to express a wide variety of opinion

(Testimony of Harry Renton Bridges.)

on a wide range of subjects and personalities. I think it is wholly proper, in the light of the fact, first, that the witness has indicated his already familiarity with this publication, and secondly, on the ground, as stated to your Honor before the recess, that this witness as testified that the amount of help which the Communist Party gave him and his union during the 1934 strike was modest or moderate—I think I have a perfect right to ask him now whether [5789] he agrees or disagrees with Mr. Sam Darcy, whom this witness knows and whom he knew during the time of the strike, with what Mr. Darcy says was the amount of help which the Communist Party gave Mr. Bridges and his union during the 1934 strike.

Mr. Hallinan: I assign the making of that statement as a pretended argument as misconduct and ask that the jury be instructed to ignore it. The most that counsel is contending is this: that Sam Darcy, or at least he says Sam Darcy—I don't know who wrote the article or what it is—that Sam Darcy claims to have given more help to the strikers than he actually gave or that the witness says he gave. Counsel now wants to put in an ex parte unsworn statement alleged by him to have been made by Sam Darcy out of court and published in some document as evidence in the case with which to contradict the witness.

Mr. Donohue: You did not object when your witness this morning testified to something that someone else told him the Attorney General of the United States said.

Mr. Hallinan: And every answer the witness gave was a direct response to a question put by Mr. Donohue. That is a different thing. If Mr. Donohue wants to elicit from the witness statements made by Sam Darcy or anybody else, he may do so; but it is a different thing from counsel putting this in himself, getting up here and reading off a document and [5790] saying that his friend Sam Darcy said so-and-so.

Mr. Donohue: Mr. Bridges' friend.

Mr. Hallinan: No, he is your friend. You are the man who vouched for him to Bridges; you are the man who put Crouch and Johnson and all these people on the stand. We never heard of them until they appeared here. You have had them out here, you knew all about them. You had been dickering with them, you and Mr. Kaiser slept with them, and Boyd, and all the rest—bedfellows of them.

The Court: I think, Mr. Donohue, if a foundation is established with respect to the familiarity, if any, on the part of the witness, Mr. Bridges, with respect to the article in question, that reference might be made to the subject matter that you have under discussion.

Mr. Hallinan: Your Honor, I suggest that mere familiarity with it certainly is not enough. Suppose a person reads an article. That makes him familiar with it. Then is he to be questioned, "Well, now, do you agree with this and do you agree with that?"

That is just getting in hearsay testimony twice removed by indirection. We have no objection to them bringing in Mr. Darcy or anyone else, putting him on the witness stand and asking him what he did in that strike or what contributions were made by anyone else. But to put them in in this fashion, by indirection, it is cheating the witness. He is defrauding the defendant.

The Court: It is difficult for me to read the article in the short space of time allotted to me, and——

Mr. Hallinan: Your Honor may remember this also: Do you remember that the copy of the newspaper that we showed to Schrimpf, in which a letter that he had sent around was published, and that Schrimpf said he was familiar with the paper but he had nothing to do with its editorial policy. While he had read it and knew about it, knew about things that were in it, he was not responsible for anything except the letter that was published. [5792] Upon that showing counsel objected very vociferously to us asking any questions on it, and I think properly the Court sustained the objection. Now, all we ask is the same thing, that the same rule be made, that counsel be forced to observe the same rule.

Mr. Donohue: If your Honor pleases, in the light of Mr. Hallinan's advice to Mr. Bridges, I still would like permission from the Court to ask Mr. Bridges to look at this document, tell us whether or not he knows that Mr. Sam Darcy did or did not write that article.

Mr. Hallinan: Well, I don't think that Mr. Bridges would have any familiarity with that, or what difference does it make if he knows whether or not Mr. Sam Darcy wrote it? The question is, did Mr. Bridges write it or did Mr. Bridges authorize it?

The Court: Mr. Donohue, I will afford you an opportunity to lay a foundation with respect to the subject matter of this article. In the light of that foundation, then, I will rule on your objection.

Mr. Hallinan: Very well, your Honor.

Mr. Donohue (To the Clerk): Will you ask Mr. Bridges to look at that? (Document handed to witness by the Clerk.)

The Witness: What is the question, Mr.——?

Q. (By Mr. Donohue): Will you look at the cover and see if it refreshes your recollection as to when the article was written?

A. No, when I mentioned that I thought I had seen this [5793] publication before, this article, I had another article in mind. Sam Darcy—well, I don't really know if he wrote it, but I was asked in the 1939 trial about an article written by Sam Darcy in the July issue of this magazine, and I was questioned on that. This is the first time I have ever read this, as far as I can see, as far as I know.

Q. You knew Mr. Darcy in October of 1934, did you not, Mr. Bridges? A. Yes.

Q. And for how long a period thereafter did you know Mr. Darcy?

(Testimony of Harry Renton Bridges.)

A. Oh, when you say "know him," what do you mean?

Q. Did you ever see him?

A. After October, '34?

Q. Yes.

A. Well, I don't know. I might have—I can't recall specifically at this time. Why, I think I did. But he left San Francisco, so I have heard testified to here, and I have some recollection he left there some time after October, '37. I can't recall if I actually seen him—I mean, October, '34. I can't recall if I seen him after October, '34, but I might well have. I can't recall when he left.

Q. Now, you were still interested in the matter of the San Francisco general strike in October of 1934, were you not, Mr. Bridges?

A. No. [5794]

Q. Is that because the strike had ended and you had lost interest in it?

A. Yes, I would say so. I was interested in it while it was on and what interest I had in the strike after it was over was to maybe discuss the strike with people, point out the lessons of the strike or something like that, to discuss whether it was a good thing or a bad thing, what it had achieved, what it did not achieve, the purpose of it and matters like that. In that sense I was interested in it and no other way.

Q. There was a great deal of comment in the press and magazines before, during and after the strike, was there not, Mr. Bridges?

(Testimony of Harry Renton Bridges.)

A. No, not that I recall. During—I don't think it was too much before: I don't know if there was any—I don't recall much after. Quite a lot during.

Q. Did you ever discuss with Mr. Darcy any statement that he may have written about any participation he may have had in the 1934 strike?

A. Not that I can specifically recall at the moment, but it is quite possible. I would discuss it with anyone. If Darcy wrote an article on the '34 strike, it might in some way have been called to my attention by him or by someone else.

Q. And that is the question I asked you, Mr. Bridges. Was that article which purports to be written by Mr. Sam Darcy on the 1934 strike ever called to your attention by anyone, and did you ever [5795] discuss it with Mr. Darcy?

A. Not that I can specifically recall at the moment. However, it could be. I might have. I can't remember that well, Mr. Donohue. It might well be. I had in mind this morning when you asked me this question, another article, as I say, on the strike; it was in the July issue of The Communist. Because I was asked about that at the time, and I can remember the general nature of the questions and the general nature of my answers, I think.

Q. Also by Sam Darcy?

A. The article was supposed to be by him, and the article was somewhat the same as—somewhat along the line as Schomaker's testimony. And I notice a similar statement in here, that if it hadn't been for Sam Darcy, there wouldn't have been a

(Testimony of Harry Renton Bridges.)

strike, a general strike. Well, I don't think Sam Darcy, incidentally is a rascal or a stooge. My recollection of the man, he might have had a good opinion of himself. I thought he was a pretty smart person. But I wouldn't agree with any statement that if it hadn't been for Sam Darcy, there wouldn't have been a general strike or the strike would have been lost or anything else. I wouldn't agree with those things. At the same time I can understand a man like Sam Darcy kind of exaggerating, taking a little more credit than might be due him. And that is not new in politics. Every day you run into politicians around the town here—they take credit for anything. One of the troubles, [5796] we have the Republican Party politicians, they claim credit for this and that, and the Democrats claim credit for the same things. And so that is nothing new. We accept it as a matter of fact. And people in political life, or looking for political office, they claim credit for a lot of things. So they exaggerate, particularly around election time. So you kind of, you know, weigh one against the other and do the best you can.

Now, Darcy, of course, was bitten by the same bug, I guess, where he was liable to exaggerate, in my opinion. But at the same time I wouldn't classsify him as a rascal or a stooge, frankly. My recollection of the man, I haven't seen him since, as I say, in 1943, and I haven't seen him for some years prior to that time.

Q. What is your best recollection at this minute,

(Testimony of Harry Renton Bridges.)

Mr. Bridges, as to whether or not you discussed the subject matter of that article with Mr. Darcy?

A. I just don't recall, Mr.—. This specific point, I can't recall having discussed this specific article with Mr. Darcy. It is quite possible I might have, and if it was, if there was some way that I could referesh my memory on it, I would have no hesitation in telling you that I did and what was the discussion was all about.

Q. Well, will you be good enough to take that with you this evening and read it and see if it may refresh you recollection as to whether you did or not? [5797] A. Sure will.

Mr. Donohue: And until that is done, I will not proceed with this matter any further, if your Honor pleases.

Q. Mr. Bridges, you recall the testimony of a man named George Wilson with respect to a meeting which took place in the Governor Hotel in this city? A. I do.

Q. When did you first meet Mr. Wilson?

A. 1936, I think. I can recall my first meeting with him; that is the first time I recall meeting him. I can recall the circumstances and that is how I recall the meeting.

Q. And what were the circumstances under which you met Mr. Wilson?

A. Our union was locked out on the waterfront. The shipowners' association had locked the San Francisco union, trying to separate that union from the rest of the union, the rest of the longshore locals

(Testimony of Harry Renton Bridges.)

on the Coast. The reason given for the lockout by the shipowners was that they wouldn't allow the union members to work any longer unless they got rid of its Communist leadership, meaning Bridges and others. The shipowners' association's demand. George Wilson at that time was a reporter for the San Francisco News and he came down to interview me on the matter. That was the spring of '36, I think March, February or March, I believe. That is the first time I recall meeting him.

Q. Did you see him frequently or infrequently after your first [5798] meeting with him?

A. Well, not—I didn't see him too frequently. As far as I recall, not in the next two or three years. But later on, in 1941 or thereabouts, 1940, he became an officer of the local CIO Council here, or some time around there—don't exactly recall when—and I saw him pretty often. And later, when he got connected with certain other duties, I saw him more frequently.

Q. What was Mr. Wilson's position with the San Francisco CIO Council?

A. President, I think, president of the Council.

Q. At one time Mr. Schmidt was president, too, wasn't he? A. I think that is true.

Q. And was Mr. Wilson for some time secretary of the San Francisco CIO Council?

A. I think he was for a while. I can't recall how long. It is a matter of record. Those things could be checked from the records.

Q. Now, there came a time when he became associated with you, did there not, Mr. Bridges?

(Testimony of Harry Renton Bridges.)

A. He was associated with me indirectly all along.

Q. What do you mean, indirectly all along, Mr. Bridges?

A. Well, while he was an officer of the CIO Council, I was regional director of the CIO, so we was associated all in the same organization. He was a member of the Newspaper Guild, the [5799] Newspaper Guild was the union of the newspaper men here. George Wilson was a working newspaper man. So in that way he was associated with me. So he was associated with me from the year 1936.

Q. Now, when did he become secretary of the Bridges Defense Committee? A. 1941.

Q. And over what period of time did he continue as secretary of the Bridges Defense Committee?

A. I think until the latter part of 1945, the fall of 1945—until, I think, shortly before the committee was disbanded.

Q. What was he doing?

A. That was the local committee?

Q. Yes, the local Bridges.

A. Not the national committee.

Q. Well, you had a State CIO Bridges Defense Committee, did you not?

A. No, I had a State Council.

Q. State Council?

A. Had a local committee. The national committee was established by the national CIO, and Wilson was not—they had another secretary. There was a national chairman, a national secretary.

Q. Who was the state chairman?

(Testimony of Harry Renton Bridges.)

A. Maybe Wilson. I am not sure. I think it may be Wilson. [5800]

Q. What was Mr. Wilson doing just prior to the time that he became associated with the Bridges Defense Committee?

A. Dealing in terms of what? What was his job?

Q. Work—yes, what was his job?

A. He was either working for the newspaper at that time or he was an officer of the Council. I forget. He might have been both.

Q. Your relations had always been friendly with him? A. Yes.

Q. Now, directing your attention to the incident which he testified, about a meeting held at the Governor Hotel, do you have any recollection of such a meeting? A. No; he hasn't either.

Q. Mr. Wilson testified that present at that meeting, over and above himself and you, Mr. Bridges, that Slim Connally was there.

A. I heard him.

Q. And I think you told us the other day that you knew Slim Connally quite well? A. I do.

Q. And you have been to his home in Los Angeles?

A. Yes. He has been to mine here in San Francisco.

Q. But I think you also said that you never knew at any time that Mr. Connally was a member of the Communist Party?

A. After discussing with you what you meant by the question, I [5801] gave you that answer.

Q. Did he ever discuss with you the circumstances surrounding his resignation as secretary-treasurer of the Los Angeles CIO Council?

A. Connally?

Q. Yes.

A. I think he did. I wouldn't say he discussed with me, and I think it was the other way around; I think I discussed it with him.

Q. Was there some suggestion in your discussion with him that it was because of his alleged Communist activity that he was asked to resign?

A. No, no, I discussed the whole question of the CIO Council with the national officers of the national CIO, and Connally resigned along with all the other officers of the Council, effective as of a certain date, so the Council could be reorganized. And that was done.

Q. And that had nothing to do with the question of Communism?

A. You mean as far as I was concerned?

Q. The resignation of the officers in a body and its reorganization.

A. Not that I know of. There was a lot of accusations made, but I know the reasons that they resigned and I know what was wrong with the Council and so did everybody affiliated with the Council now. There is no more freedom and democracy left in [5802] that council. It is a stooge council.

Q. No more Communism left in it either, is there, Mr. Bridges?

A. Oh, if you mean that the delegates to the Council that were always accused of being Communists are still delegates to the Council, the answer is "yes." They are still there.

Q. No, what I asked you, Mr. Bridges, was whether or not there was any suggestion of Communism at or about the time that the members of the Los Angeles CIO Council resigned. Now, was there or wasn't there?

A. Well, the suggestion of Communism is a broad term.

Q. Well, was it discussed at any time?

A. With me?

Q. With you, yes. A. By whom?

Q. By anybody who was a member of the Council, Mr. Bridges.

A. Oh, there was all kinds of accusations hurled against the Council. That is just the same as the accusations hurled against my union and myself. The same thing. I didn't know you were referring to that. Certainly, the people that wanted to grab off that Council and control it and use it for their own purposes, as well as the funds and the property of the union; in order to achieve that objective, they said, "All we are trying to do is to take the funds away from the control of the Communists which have it now." Which included Connally and others. So my advice to Connally and the others was [5803] to resign and call in all the unions and let the unions vote on what they wanted to do. So at a special convention of the Council that was arranged, all of

(Testimony of Harry Renton Bridges.)

the officers resigned, the membership voted and they set up a new organization and that is the organization that is going now. I wouldn't give you five cents for it, but it is an organization, [5803-A] so-called.

Q. Mr. Bridges, Mr. Wilson said that Mr. Goldblatt was also at this meeting. You know Mr. Goldblatt? A. Very well.

Q. He is an officer of your union?

A. A very good one.

Q. He is the same Mr. Goldblatt who substituted for you at the international conference of the WFTU?

A. He did a better job—he was very effective. He did a better job than I could do.

Q. Do you know Mr. Goldblatt to be a member of the Communist Party? A. No.

Q. Did you ever hear him use the name Louis Miller? A. No. Why?

Q. I asked you, Mr. Bridges. Did you?

A. No. The only time, the only name I have ever heard him use or know about is his name, Goldblatt. I never heard any other name. This is the first time I have even heard it mentioned that he had another name.

Q. Mr. Wilson also said that Mr. Schneidermann was at this meeting and, of course, you know Mr. Schneidermann? A. I do.

Q. When Wilson indicated that the subject matter of this meeting was a dispute between Mr. Mervyn Rathborne and Mr. Lou Goldblatt; you heard him say that? [5804] A. Right.

(Testimony of Harry Renton Bridges.)

Q. When did you first meet Mr. Mervyn Rathborne?

A. Oh, I think that was pretty early in the game, probably around '35 or '36—'35, '34 maybe.

Q. At any time to your knowledge did Mr. Rathborne hold any position in a labor organization? A. Yes.

Q. What position?

A. I first recall him—my first recollection of Rathborne holding an official position, I think, was secretary—secretary of District Council No. 2 of the Federation. Later on he went back East and became president of the radio operators' national organization, and he returned here to San Francisco and became secretary of the San Francisco Council, and later secretary of the State Council. And then he finally wound up where we have seen him, an unfortunate case.

Q. Where did you see him, Mr. Bridges?

A. Up here trying to do his little piece. Too bad about Rathborne. The boos and other things finally got him. I told him for many, many years that they would.

Q. Is this, Mr. Bridges, the same allegation that you have made against every other person who has testified against you?

A. No, I divide them up, Mr. Donohue.

Q. Just how do you divide them?

A. Well, I know Rathborne. One of the difficulties I had with [5805] Rathborne, while he was serving in the labor movement he used to drink too much. He had a hankering for getting into big poker games. He used to play down on the Peninsula with a lot of people who was very wealthy. I have been down at the horse races with Rathborne and have saw him lose four or five hundred dollars. I knew what he was making. I would say, "How are you doing that, Merve?"

On two or three occasions I received complaints, although it was truly none of my business, about Rathborne making out checks of the State Council's money to pay gambling debts.

He was a very, very heavy drinker, and time after time I tried to help him out and did help him out in trying to get him straightened out. I said, "Look, you can't do these things and carry out an honest program in the labor movement," and eventually—I saw the way Rathborne was going, and I did my best to save him. And when I told you the other day I know, Mr. Donohue, he has been getting a payoff for the past many, many months, and what I told you the other day, you didn't have to pay him $25. I mean, you could get him for less. After all, I am still a taxpayer. It is still part of my money you are spending, and you shouldn't throw it away. And when you have a person like Rathborne, give him enough money to do a few items like that, but you can save money. Don't pay $25. $5 or $10 is enough, and he will do it for as much. I know the history of Rathborne. I know Rathborne's background. [5806] Him and I were close friends. Time after time when he was

(Testimony of Harry Renton Bridges.)
beginning to slip by the wayside I tried to give him a helping hand. I know what happens to people, and I know in my opinion what motivated him. And I remember when he resigned from the State Council I made a big speech for him and I took up a collection amongst my own union people to help him out, he and his wife and family. His wife came around, talked to me, asked me to give him a helping hand, to bear with him and not to join with the rest of the people who were trying to cut his throat. And those things I did. And it was truly no surprise to me to hear that Rathborne had finally gotten down to the level that he did get. Another tragedy, another casualty in the labor movement, because people can become corrupted. I put Rathborne, incidentally, in a different spot than I put a man like Wilson.

Why, just a couple of weeks ago, or I think after Wilson had testified—no, before Wilson had testified –I went down to Los Angeles and called him up. I spoke to him, I spoke to his wife. His wife put his little boy on the phone, see? So I know these people. I know what the score is on Wilson. Wilson told me, he said, "Give me a break. I've got to do it. They've got me. If I don't do it I am through, I am finished, my job is gone." He said, "I'm not going to say anything that is going to hurt you." You know the rest of the story. He came up here and almost passed out. They really had the squeeze on him. Those things [5807] happen. We understand them. I just want to draw a

(Testimony of Harry Renton Bridges.)

little bit of a distinction between a person like Rathborne, who's got certain weaknesses, and a person like Wilson.

Then you have the other type of Schomakers and the Schrimpfs. I put them all maybe in a different category. I don't generally all lump them together, and I am trying to be charitable towards them, too.

Q. Are you finished? When you said you talked to Mr. Wilson before he testified, you mean after he had testified before the Grand Jury and before he testified here in court, correct?

A. Right. Right.

Q. You talked with him more than once, didn't you, Mr. Bridges?

A. You mean at that time?

Q. At any time between the time he testified before the Grand Jury and before he testified in this court.

A. Oh, yes. I talked to him once in Los Angeles personally, that is, he was there present after he had testified before the Grand Jury, and then I talked to him, as I say, in the Christmas holidays over the telephone, he and his wife and his baby, his little boy. Those are the two occasions.

Q. The time you talked with him in person down in Los Angeles you were not alone, were you, Mr. Bridges? A. No.

Q. Who was with you?

A. Herb Resner. [5808]

Q. Of the law firm of Gladstein,——

(Testimony of Harry Renton Bridges.)

A. Andersen, Resner & Sawyer.

Q. And associate Norman Leonard?

A. Right, and a darn good law firm, too. The law firm does a good job. They are the best set of labor lawyers in the United States.

Q. What was your purpose in talking to Mr. Wilson when you talked with him down in Los Angeles in person with Mr. Resner?

A. I don't know if we saw him especially because of the fact that he testified before the Grand Jury, but I know that that was mostly what we talked about.

Q. And what was your purpose in talking to him the second time on the telephone just prior to his testifying before this court and jury?

A. Let me see. I think I wanted to ask him was he going to testify, going to be a witness.

Q. Didn't you know that he was, Mr. Bridges?

A. No. He told me he was not. When I first called him he said, "Give me a buzz the next time you come down this way." He said he wasn't going to be a witness. He said he didn't know anything about me. He told you he didn't know anything about me, couldn't testify to anything about me, and he was trying to avoid the squeeze; he was trying to hold onto his job. He was working for the Los Angeles Daily News. The Los Angeles Daily News is owned by a man named Bodie, who [5809] is more or less of a big shot in the Democratic Party. The squeeze is on the guy. He had been out of work eighteen months. It is pretty tough.

He said, "I have been trying to get by." The last time I seen him, I called up his wife—I have known his wife for quite a while, very friendly. She said, "I want to put so-and-so on the telephone to say hello to you." A little boy was put on the telephone. I talked to him a few minutes. I said, "He has grown. The last time I saw him he was only an infant." His wife Dorothy said, "He is sleeping right now. Call back later." So I called back later and talked to George. And George said, "I'm not going to be a witness. I am under subpoena, but that is only to stop you people from subpoenaing me." He said, "No, no, I know nothing about you and I won't be a witness. I can't tell them anything." But he said, "I want to watch my step because I am dundee if I don't do as they tell me, and it is pretty tough going."

Q. Mr. Bridges, do you think I called George Wilson under subpoena because I knew he knew nothing about you and your membership in the Communist Party?

A. No, you called him because you made him testify to things you wanted him to say.

Q. George Wilson is not an alien, is he, Mr. Bridges?

A. No, no, no; what you have on him you know, Mr. Donohue, as well as I do.

Q. He is not one of those men who, as you said before, we [5810] have called to testify because as aliens they fear we might deport them, Mr. Bridges?

(Testimony of Harry Renton Bridges.)

A. He is one of those just as I described to you, Mr. Donohue, and it was my request of the attorneys that he be asked no questions. The man was in such obvious distress here, suffering so much—listen. You can put people up on the rack here like Wilson and turn the screws on him, and I didn't want to see myself, either myself or through my lawyers, getting up there taking an extra turn out of that screw.

Q. Pretty difficult for George Wilson to sit here and tell the truth about an old friend, wasn't it, Mr. Bridges?

A. No, I wouldn't think so.

Q. You wouldn't think so?

A. No, I wouldn't think so. I told George, I said, "George, get in there and tell the truth. I can take it better than you can. Go right ahead. I am satisfied with what you are telling me, and I can battle it through. Now, don't get yourself caught. I know what they've got on you. I've an idea." So that is all we said.

I said, "Get up there," and he did, and I didn't think his testimony was any harm one way or the other; in addition to the fact that I figured we had records enough to prove that his testimony, No. 1, was not true, and, No. 2, would not amount to anything. And now I refer to the fact that there was no reason for the meeting at the Governor Hotel and the incident [5811] he testified to about the battle between Rathborne and Goldblatt. That is a matter of record. I've got the records, the minutes.

There is no need to have any meetings in the Governor Hotel on that. That issue was a matter of public and open knowledge amongst all the members of the Executive Board of the State Council. I can bring the records in here and show you.

It was my opinion as long as the poor guy could wiggle through by saying a little bit, you had the squeeze on him—you were going to take his job away from him as well as do other things, and probably prosecute him for perjury because of the oath that he took when he was working for the Government, I didn't push him around, even try to, and he wasn't pushed around here either.

Q. Mr. Bridges, you have known George Wilson for a long time, haven't you? A. Yes.

Q. What has George Wilson ever done wrong that anyone might threaten him?

A. What is that?

Q. What has George Wilson done wrong that anyone might threaten him?

A. Oh, I don't want to say. I don't want to go into that, as a matter of my own knowledge under oath.

Q. You would just rather speculate and tell the jury that the [5812] Government of the United States coerced and threatened George Wilson, which caused him to testify against you, is that so?

A. No, that is not speculation on my part, Mr. Donohue. Again I will go to the records where it is a matter of record. It is a matter of a decision by the United States Supreme Court, by the Board of Immigration Appeals, a proceeding before Judge Landis, a proceeding before the courts—District Court of Appeals. That is a matter of official Government record about the intimidation of witnesses and the pushing around of people in order to get them to testify against me. That is not speculation; that is knowledge. That is something I can prove.

Q. I am talking about George Wilson, Mr. Bridges.

A. Well, in so far as George Wilson is concerned, I can bring you statements here where George Wilson says the same thing about the Government. If you want me to do that——

Q. And that is your opinion as to why he testified here and that is the pressure we have on him; is that your statement?

A. Well, he didn't look like a person who was up here having a picnic, you know. He didn't look like anyone enjoying himself. Anybody with half an eye could see he was up here and someone had a gun pointing at him somehow, somewhere, from some direction, and that was a loaded gun, too; it was not an empty gun.

Q. Didn't he look to you like a man who was telling the truth, [5813] Mr. Bridges?

A. No, siree. He looked to me like a guy who was about to croak, because he was telling a lie, and that lie might put me in jail. That is the way it looked to me.

Q. Now we have gone through everybody who I

(Testimony of Harry Renton Bridges.)

think Mr. Wilson said was present at this meeting at the Governor Hotel. Is it not a fact, Mr. Bridges, that there was a dispute between Mr. Rathborne and Mr. Goldblatt?

A. Sure. [5813-A]

Q. Isn't it a further fact that at one time Mr. Goldblatt was the secretary-treasurer of the California CIO Council? A. Right.

Q. And he was succeeded by Mr. Rathborne?

A. Right.

Q. And there came a time subsequently when Mr. Goldblatt was sent to Washington to represent his union? A. Goldblatt?

Q. Yes. Didn't he go to Washington for a short time to represent his union and then return to San Francisco?

A. He might have. He might have taken a trip back there like any other officer took a trip, some special assignment.

Q. When he returned to San Francisco, assuming that he was away for a short time, what was his occupation?

A. Secretary—I think that he was part of the leadership of the international union; I don't know—he was acting secretary at the time. He became acting secretary when our secretary joined the army.

Q. That is, Mr. Goldblatt had a full time job with the union and Mr. Rathborne had Mr. Goldblatt's old job with the California CIO Council, correct?

A. Right. I made the decision—as a matter of fact, I decided that we had let the services of probably our best officers of the State Council long enough. We wanted him in our international union, and after giving them sufficient notice, Goldblatt was [5814] let out of the State Council and went to work for the international union. We needed his services too badly. Rathborne took his place.

Q. You say you decided it. How is it that you didn't submit it to the rank and file?

A. Shortly afterward it was submitted to the rank and file. The only way Goldblatt could be secretary was by the rank and file, and in so far as Goldblatt going to work for our union, I made that decision.

Q. Mr. Bridges, a man who has developed the forensic art to the degree you have has no difficulty in swaying his union?

A. I am not quite sure what that word means.

Q. I wasn't when I heard it first. I enjoyed it. I understand it is to speak well.

A. Nobody ever accused me of that. They accused me of speaking too much.

Mr. Hallinan: So you don't misguide Mr. Bridges, the word "forensic" doesn't mean that.

Mr. Donohue: Would you be good enough to tell us what it means?

Mr. Hallinan: It comes from the Latin word "forum" and it means to speak in court.

Mr. Donohue: We will accept Mr. Hallinan's definition.

(Testimony of Harry Renton Bridges.)

The Witness: He scares me, too, sometimes, Mr. Donohue.

Mr. Donohue: Don't misunderstand; he doesn't scare me. [5815]

The Witness: I know that.

Mr. Hallinan: Mr. Bridges, we will have Mr. Donohue telling us how he charged bravely up San Juan Hill as he tried to before.

Q. (By Mr. Donohue): Do you recall there came a time, Mr. Bridges, when, in consequence of a dispute between Mr. Goldblatt and Mr. Rathborne, that Mr. Rathborne wrote Mr. Goldblatt a letter in essence telling Mr. Goldblatt to mind his own business?

A. I sure do. He wrote a dilly of a letter, and I think he circulated it amongst the other officers of the State Council. He either circulated the original letter or a letter that he cleaned up a bit after I discussed the matter with him. I said, "Listen here; you are too strong; you shouldn't do that to Louie."

Q. You were pretty familiar and friendly with Mr. Rathborne in those days, weren't you?

A. Sure, certainly that is true.

Q. Yes, but you only changed after you saw in the press that he had testified against you before the grand jury; isn't that so?

A. To a degree that is true, to a degree. I knew that—here is the way I would describe it. I knew he hit the bottom then. I knew prior to that he was on the way down, and I tried to help him put on the brakes, and I wasn't successful. I and other people tried to slow him up. You know, you get a combination [5816] of drink, big poker games, playing the horses and those things, well, certain things happen to you.

Q. That all spells and adds up to a man who is a perjurer if he dares to testify against Harry Bridges, doesn't it?

A. No; I think that there can be another test. I don't think anyone who testifies against me is a perjurer. I think the people that testify against me for the purpose of hurting my union and stoop to testify against me and don't tell the truth, they are, number one, perjurers, and number two, they are union busters. They are not hurting me. They are hurting the people I represent, because it isn't a question of hurting me.

Q. Mr. Bridges, you did know that just prior to the time he was called to testify before the grand jury that Mr. Rathborne was sailing as a radio officer on board a ship, do you not?

A. Oh, sure; he made a full round trip, and an Immigration officer made the trip with him.

Q. You also——

A. And gave him a thousand dollars, I understand—give him a thousand dollars to go back East and talk to some people back East in order to get up enough courage to do a job.

Q. You know that of your own personal knowledge, I take it, or you certainly wouldn't testify to it?

(Testimony of Harry Renton Bridges.)

A. Am I bound, sir, by things I know of my own knowledge?

Q. It is generally supposed when we testify to things that we are testifying to things we know of our own personal knowledge. [5817]

A. I am not using that test. I am using a double test, things I know of my own personal knowledge and things too I am satisfied in my own mind.

Q. Was it Mr. Rathborne sailing, as you know he did as a radio officer on board a ship, which led you to get Mr. Goldblatt to have this international appendage of the WFTU to pass the resolution which made it impossible for him to sail on another ship?

A. I didn't know he was sailing, Mr. Donohue. My understanding was that he quit sailing and had gone into the real estate business down in Half Moon Bay and he had a big political deal on. He had invested in a lot of land down there and he is trying to get some politicians in the Democratic Party to build a breakwater down at Half Moon Bay so as to increase the value of his land, and he had certain guarantees along that line, I am pretty sure you know about them.

Q. You know that of your own personal knowledge, I take it?

A. Uh-huh (affirmative).

Q. You do?

A. Uh-huh. I went out and had a little checkup; I asked Congressman Havenner. He will give you the dope to start with.

(Testimony of Harry Renton Bridges.)

Q. I am sure that you have, Mr. Bridges.

A. Now, look, I am not asleep; I am on trial here for something that will put me in jail, Mr. Donohue, if I am found guilty. I am working at trying to disprove all the things—a [5818] lot of things you said, not because maybe you know them of your own knowledge, but because somebody tells you or you believe something that some of those crooks you bring around tell you. If those things are believed, I go to jail. Don't worry, I am not kissing that off.

Q. I suppose you are prepared to prove that an immigration officer sailed with Rathborne on the last trip he made?

A. We hope to; when you bring Rathborne in here, we hope to.

Q. Mr. Bridges, what happened as a result of the dispute between Mr. Rathborne and Mr. Goldblatt?

A. I don't know. It wasn't that serious. I think the dispute was over the State Council collecting funds for political action as against the international union. We settled the dispute.

Q. Isn't it a fact, Mr. Bridges, that it became necessary to settle the dispute in a top fraction Communist Party meeting of the CIO at the Governor Hotel here in San Francisco?

A. You know, sometimes I wonder, Mr. Donohue, if you actually believe those things. That is pretty ridiculous and nonsensical. Look, let's put it this way: Here is Goldblatt and myself and the other officers of my union and the State Council. We are here; we are elected officers of the union; we have the authority, the responsibility, the power, as well as the knowhow, as well as something else—the confidence and the loyalty and the support of the majority of the rank and file down [5819] below. Now, what in blazes do we need a top fraction so-called meeting for to decide anything for? We decide those things. If we don't, our rank and file will find it out and fire us. That is what they elect us and pay us for. Who is going to make those decisions? And how and why? We make the decisions, as I have told you. Believe me, if you go out and listen to some of those people that have come in and told you these things in order to get onto the payroll of the Immigration Department for a few bucks a day, you will give them——

Q. Isn't that why Schneidermann was there, Mr. Bridges, because you couldn't agree?

A. No, I can't agree with you on that. I can't agree with you about the meeting. There was no such meeting, and I know nothing of Schneidermann being there, and I can't see what he would have added to the matter even if he was. The truth is what I told you, Mr. Donohue. We made the decisions; we were the people who—you know, I am beginning to think you kind of put me in the position of being a stooge. Now, I am not a swell-head type of person, but I am the president of a national organization. That organization—it isn't the biggest organization in the United States, but when it comes to quantity, maybe we prefer quality. There is bigger organizations, but the people that have got them can keep them. I will take my organization. So I am the president of a national organization. It knows its way around; it can take care of the advice, and we [5820] don't need any advice from anyone or any decision from anyone. The way this thing is going, I am being made to look like a stooge, if someone pulls a string, I jump—things like that. It just doesn't happen that way. As president of that organization, I have certain responsibilities, certain authority and certain powers. Those powers have been given me by the people I represent. I represent them and no one else. I am responsible to them and no one else. They and they alone tell me what to do, and they and they alone are the people that I serve. Now, that is the truth, Mr. Donohue. And no one—no one interferes with that setup.

Q. Then I take it that you thought Mr. George Wilson perjured himself when he said this meeting took place?

A. To the best [illegible] his recollection, he said that. The reasons he said it are what I am telling you. I am not going to go into the question whether he perjured himself or not. I have got my information and my opinion on the matter. I am going by what he told me here during the Christmas holidays. I know what he told me then. I think he was telling me the truth.

Q. Did you see him during the Christmas holidays or did you call him on the telephone?

A. Called him on the telephone, and I called him also—I had—I was with Vincent Hallinan; I called him with the distirict realization that you, Mr. Donohue, or one of your agents was listening in on the telephone, too. I don't have to be [5821] afraid of what I said. I don't know if he had to be afraid of what he said. I related to you what he said, what his wife said and what his little baby said.

Q. Did you see Mr. Schneidermann while you were down at Los Angeles over the Christmas holidays? A. No, no.

Mr. Donohue: May me ~~take~~ a recess at this time, your Honor?

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition to you not to discuss the case.

(Recess.) [5822]

Mr. Hallinan: If the Court please, if I might interrupt Mr. Donohue?

Mr. Donohue: Certainly.

Mr. Hallinan: During the recess, your Honor, some of the gentlemen of the press addressed some inquiry to me that raises the thought that possibly some misinterpretation was put upon what I said about counsel putting in evidence and excluding evidence. It was asked me whether I was making a charge that the Court was observing a rule of leaving in what was unfavorable to the defense and

(Testimony of Harry Renton Bridges.)

barring what was favorable to the defense. I thought I made it perfectly clear that I addressed that criticism only to counsel for the prosecution. I know you won't have any such interpretation, and I am afraid the jurors might get the impression, if anybody else did, and I want to assure both the Court and the jury that no such thought was intended. I thought I had made it clear enough, but in case there is any doubt, my statement was that the prosecution acted upon one rule, to keep out what was favorable to the defendant and to keep in what was unfavorable, and that was all.

The Court: All right.

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Bridges, you recall the witness Charles Krolek? [5823]

A. Krolek?

Q. Yes, sir. A. John Krolek?

Q. Charles Krolek, Kermit Charles Krolek.

A. Right.

Q. You have known him a long time, too, haven't you, Mr. Bridges?

A. Quite a while.

Q. And did I understand you to say at some earlier stage in the proceedings today that he was another one of those aliens that the Bureau of Immigration had something over about his naturalization?

A. No, I didn't mean that. I did point out the fact that nearly every witness here was an alien,

(Testimony of Harry Renton Bridges.)

and would necessarily have to have dealings with the Immigration Department. And it is strange, to say the least. I have my own opinions on that, buttressed, as I say, by what has gone on before. But Krolek is a Canadian, or was, according to his testimony here. It was the first time I knew it.

Q. Well, you are not suggesting that a Canadian, or one born in Canada, isn't capable of telling the truth?

A. No, no, I am not suggesting that. There's a lot of difference between people who are born in Canada and people who show up here, kind of ushered in by the Immigration Department. [5824]

Q. Don't you know, Mr. Bridges, that having come here with his parents as a child, that he obtained his citizenship by the naturalization of his parents, and that he had no contact with the Immigration Service?

A. When I mentioned Krolek earlier in the day, Mr. Donohue, I didn't have in mind—it wasn't my intention to reflect upon his citizenship as such. What I meant was, he was showing up here as a witness, and Krolek's story speaks for itself, that, if I recall his testimony, back in 1939 he gave a statement to the FBI because it was expedient to do so. He joined the Communist Party because it was expedient to do so. He left because it was expedient to do so. Everything, apparently, Mr. Krolek has done is because it was expedient for Mr. Krolek to do so; it meant something to Mr. Krolek. And when he come up here, it was because

(Testimony of Harry Renton Bridges.)

it was expedient for Mr. Krolek to do so. There was something in it for him. When he took that trip down to Los Angeles to that apartment with the wrought iron railing, that was expedient for Mr. Krolek to do so. So——

Q. Can you give us some reason, Mr. Bridges, why Mr. Krolek, now employed as he told you by a national organization, would have to come here in this court and publicly concede that he was a former member of the Communist Party?

A. Only based on what has gone before and what has happened to certain people in connection with the present case, the immigration agents work this way, whether you know it or not, Mr. [5825] Donohue: They go around and they start in like this to people, "Now, you want to be a good American, don't you?" "Yes, sure. Everybody wants to be a good American." "You want to be a good, patriotic American citizen, don't you?" If you are not, incidentally, parenthetically, if you are not an American citizen, they say, "You would like to be a citizen, wouldn't you?" And of course the average person who is not a citizen says, "Yes, I am trying to be a citizen." And the Immigration Service, without coming out and saying in so many words, they make their meaning plain. And then they say to the person, if he happens to be working for a corporation, "Well, now, look, I have just got through talking to your employer, and your employer would like to see you a good American citizen too. You understand that, don't you?" And the person says, "Yes." And, "Your employer has informed me that they think any cooperation you can give the Government in this case is something that you ought to do. You understand that, don't you?" And the person says, generally says, "Yes." And, you know, they kind of get the point along the way. So I presume that the same thing could easily have happened in the case of Mr. Krolek. I guess the makers of radio and television, that company he works for, they are probably—they have probably been approached. That has happened in other cases, so that is the way it works out.

Q. How do you suppose or why do you suppose that anybody [5826] would contact Mr. Krolek unless they knew that as a member of the Communist Party he could identify you as such a member?

A. Well, I mean, what is the good of bringing up someone here that you can't get to say, for one reason or another, because you have got the heat on him or the pressure on him, or because you hold a threat of losing his job,—you have first of all got to get someone up here to say, "Yes, I was a Communist, and while I was a Communist I told lies and ~~I did~~ everything rotten then. Not that I am doing them now, of course." Now they are telling the truth, supposedly, since they were a Communist at one time and are no longer a Communist. That is the kind of character you have to get. You won't get a decent person, because decent persons don't lie. So you have got to get a person that was an

(Testimony of Harry Renton Bridges.)

ex or, like Krolek, that did everything because it was a matter of expediency, because Krolek had something to gain, and he was up here because he had something to gain. It is pretty obvious, at least it would be to me, whether I was involved in this case or not. That is the way it would appear to me, Mr. Donohue.

Q. You mean to say that decent people don't join the Communist Party, Mr. Bridges?

A. No, I haven't said that. But some of the characters that drop out of it don't seem to be too decent.

Q. Didn't you say just a few minutes ago, about George Wilson, that he was afraid he would lose his job if he did testify, [5827] and now Krolek is afraid he will lose his job if he won't testify? Isn't that right?

A. No, I said the same thing about both; Wilson told me he would lose his job if he didn't testify.

Q. If he didn't testify? A. Yes.

Q. Oh.

A. He is working for the Los Angeles Daily News. He told me that. He told me he had been out of work for a year and a half, and he had just got this job. He went down to work for the Los Angeles Daily News. His wife and family were living up here. It was months and months before he could get a chance to move them there. He says, "Now after being out of work, I didn't do a tap of work for a year and a half." He says, "So they asked me, come up to the Grand Jury." He says,

(Testimony of Harry Renton Bridges.)

"What was I to do? If I didn't go up, no job." So I said, "Well, did they tell you that?" He says, "Well, they didn't say so in so many words, but I know what they meant." I said, "For crying out loud, George, why didn't you come out, come out and tell the truth? Put it in the form of a statement," I said, "Sit down; tell the truth about it. We will get in there and fight them together. Let's expose this rotten mess as to what they are trying to do to you. What is a job?" He said, "Well, I've had enough."

Q. And that is when you—— [5828]

A. That is what he told me.

Q. And that is when you told him, "Go ahead and tell the truth," that you could take it better than he could, right?

A. I said, "Listen, go and do the best you can. If you've got to maneuver around to try and save your skin," I says, "well, I guess I will make out without you losing out, George." That is what I told him, George. I wasn't so much thinking of him. I know his wife, I know his kids, and the truth of the matter is I am better able to battle through than Wilson. It is as simple as that. Now, maybe you don't understand, Mr. Donohue, but again let me get back to what I have told you. Wilson is always—was always a unionist, at least he was—for all I know is still. And some of these things you learn in the trade union movement. You learn to stick together—at least I try to carry it out. Now, that is, as soon as I thought—as far as

(Testimony of Harry Renton Bridges.)

I could figure out in my own mind that Wilson wasn't trying to testify because he was getting paid off, he was on a per diem, he was no Crouch, Johnson or anything like that—they are paid professional liars, those people. They travel around the country and make a good thing out of it. As soon as I found out or was satisfied in my own mind that Wilson wasn't trying to do that, I tried to help him. Now, that is how simple it is.

Q. Mr. Bridges, did you go down to Los Angeles to see George Wilson to help George Wilson or to help Harry Bridges? [5829]

A. No, I went down on some other business, I think. But now I am not trying to kid you, Mr. Donohue. Along with helping George Wilson, I knew indirectly it might help me, certainly.

Q. Why didn't you tell Mr. Wilson, "George, you know I am not a member of the Communist Party. Get on that stand and tell the truth, because if you tell the truth you can't hurt me"?

A. I told him that.

Q. Oh, when did you tell him that?

A. I told him that very thing. He says, "That is what I told the Grand Jury." He said, "I told the Department of Immigration about that." I said, "Well, listen, George, now what good are you to them?" And, "If you told the Grand Jury the truth, what harm can you do me and what good are you to the Immigration Department?" He says, "I don't know. They are not going to use me anyway. They have given me a subpoena to stop you

(Testimony of Harry Renton Bridges.)

from subpoenaing me." That is what he told me.

Q. Mr. Bridges, I can ask you, do you think the United States Government would have subpoenaed George Wilson and called him as a witness if he hadn't given us testimony against you, Mr. Bridges?

A. I don't know. Now, in order to prove that, why don't you come in with the transcript of what he said before the Grand Jury, and then we can find it out? Now, why conceal this thing? I am going by what he told me, Mr. Donohue. Now, the way to find out whether he told me the truth and what he [5830] said before the Grand Jury was something other than what he told me, would be to come in with the transcript of what he told the Grand Jury. That is what—I am telling you what he told me. And his wife told me the same thing.

Q. His wife wasn't before the Grand Jury, was she?

A. No, but she told me over the phone, both of them said, "We know George knows nothing about you, Harry; he couldn't say anything about you even if he wanted to." And they told the officers of the Immigration Service that. That is what they told me. [5831]

Q. Mr. Bridges, you went down to see George Wilson to try to find out what he did tell the Grand Jury, didn't you?

A. No, the meeting I had with him was for that purpose, at least in main part, but as far as going down to Los Angeles for that purpose, that is not

(Testimony of Harry Renton Bridges.)

true. I was down there for some other business, as far as I recall.

Q. And the reason you sent Morris Watson and several others down to Half Moon Bay to talk to Mervyn Rathborne after he testified before the grand jury was to find out what he had told the grand jury, isn't that right?

A. That is more or less true—more things than that. Not only what he had told the grand jury but just to find out what was wrong with Mervyn.

Q. And the reason you sent B. B. Jones and several others down to Menlo Park to talk to John Schomaker was to find out what John Schomaker told the grand jury?

A. I didn't send B. B. Jones. I didn't know until he had gone. I didn't know until after B. B. Jones had gone and came back and told me the results of his conversation. He had gone down unbeknownest to me. Jones and I hadn't been very friendly over a period of years. Jones was friendly with Schomaker and he went down there with several other people, and after he had been down there, that is when he came and told me.

"Gee," I said, "that is pretty important. Go and tell the lawyers about it." That is all that happened with Jones. [5832]

Q. You heard Krolek testify about a meeting in the Venetian Square Apartments? A. Yes.

Q. You were down in that section for the double conventions in May and June, 1936, were you not?

A. I was down in San Pedro.

(Testimony of Harry Renton Bridges.)

Q. Did I understand you to say it was a long way down there from Long Beach; it was too far for you to have gone to any meeting?

A. No. I said it was not too far, but it isn't exactly right alongside of San Pedro. It seems to me quite a long ways to go to a meeting during a convention. There is no need for that.

Q. You remember Mr. Krolek said, "The following persons were present: Mr. A. T. Pringle, Mr. R. A. Pyle, Mr. T. J. Van Ermen, Mr. Harry Bridges, Mr. Henry Schmidt, Mr. Harry Jackson, Mr. Walter Lambert, his wife Hazel Wood, and Mr. Mervyn Rathborne"? A. Right.

Q. Do you recall testifying, reading from Volume 51 of the record of this proceeding at page 4526, reading the full question and answer beginning at page 5425——

Mr. Hallinan: You said 4526. What page?

Mr. Donohue: I am sorry. 5425 and carrying over to 5426, Volume 51:

> "Q. Would it be ordinary that you might solicit the help [5833] of other delegates, whether they happened to be members of the Communist Party or not, in putting across a program or slate of candidates at a convention (question by Mr. Hallinan)——.
>
> "A. Sure, those delegates were all part of our general caucus. They were all supporting the same program. We were all supporting the same program together. I can't see why there would be a meeting of just those three particu-

(Testimony of Harry Renton Bridges.)

lar people. If we are to believe that story, you have got Harry Jackson, Walter Lambert and two or three other people. You have five officers of the Communist Party allegedly instructing about four of us what to do. Why, that is so ridiculous to the average person in our trade union movement on this Coast that it is funny. That is so ridiculous that the average rank and file member of my own union would dismiss it with a horse laugh, it is so stupid."

Who were the five officers of the Communist Party?

A. According to what you read off, that is what I was going by. Read the list again and I will explain what I mean.

Q. Reading now from page 54—I had better read——

A. Read the list there, the list.

Q. The list is contained in the question of Mr. Hallinan.

A. That is what I have reference to. That is what I mean.

Q. He named the persons as Pyle, Pringle, Van Ermen, yourself, Henry Schmidt, Harry Jackson, Hazel Wood, Walter Lambert and [5834] Mervyn Rathborne.

A. All right. I had in mind——

Q. Who were the five officers of the Communist Party?

A. I had in mind the people other than the

(Testimony of Harry Renton Bridges.)

radio operators there and myself and Schmidt, of course. Jackson, Wood, Lambert—is it Jackson, Wood, Lambert and Rathborne? Isn't that the four?

Q. Jackson, Wood, Lambert, Rathborne.

A. Anybody else?

Q. Pyle, Van Ermen, Pringle, yourself and Schmidt.

A. Then that is four officers of the Communist Party, not five.

Q. What office did Mr. Harry Jackson have in the Communist Party?

A. I don't know at that time.

Q. What office did Hazel Wood have in the Communist Party? A. I don't know.

Q. What office did Walter Lambert have in the Communist Party? A. I don't know.

Q. What office did Mervyn Rathborne have in the Communist Party? A. I don't know.

Q. How do you know they were officers?

A. That was just a term used. I knew by the testimony here, Rathborne testified he was a Communist. I knew Lambert had some official position in the Communist Party. As far as I [5835] recall, I think that Harry Jackson had some official position of some type or other. I might be a little mixed up there on his being an organizer for the MWIU. And my understanding, as I explained here, Hazel Wood had some official position. I was going by the testimony that has been given here in the courtroom. I didn't know that that was the

(Testimony of Harry Renton Bridges.)

particular import of the question. The point I was making here is you have got, as I thought, five of one giving orders to four of the other, and we were all officers of the trade union movement, and you have five officers or five members, I really meant, of the Communist Party giving orders to four trade unionists, when as a matter of fact the only difference is you have four alleged Communists there giving orders to six members of the trade union movement, and it is just as ridiculous.

Q. Have you finished, Mr. Bridges?

A. That is the only import of that. You asked me what I meant. There it is. If I had been asked to explain at that time, I would have given the same explanation. I did not think it was of any great importance at the time.

Q. Reading still from page 5425:

> "Q. He named the persons ("he" referring to Krolek) as Pyle, Pringle, Van Ermen, yourself, Henry Schmidt, Harry Jackson, Hazel Wood, Walter Lambert and Mervyn Rathborne. Now, except for yourself, Henry Schmidt and Hazel Wood, do you recognize the other names? [5836]
>
> "A. All radio operators."

Is Walter Lambert a radio operator?

A. No.

Q. Was Hazel Wood a radio operator?

A. No. My answer didn't mean that. My answer meant the radio operators. I know Lambert

(Testimony of Harry Renton Bridges.)

was never a radio operator. I didn't mean to infer that or say Hazel Wood was a radio operator. I know Jackson was not a radio operator. Gee, if you have to stretch things around, Mr. Donohue, to try to get that out of the question——

Q. I am not trying to stretch anything, Mr. Bridges.

A. If you want to stand there and throw trick questions at me, I guess I can struggle along, but I think we ought to get down to business.

Q. I only wanted to find out who the five officers of the Communist Party were at this meeting and how you knew they were officers?

A. I did not. I was going by the testimony here. I used the term "officers" when I really had in mind members of the Communist Party, because they were down there in that capacity. The purpose of the meeting, the way it was testified to here, here were representatives, officials or officers of some type, people of importance or authority in the Communist Party. As I heard the testimony, the purpose of that meeting was to tell us what to do. That is the way I understood the testimony at [5837] that time, and I was only pointing out it was pretty ridiculous, whether it was four or five telling us what to do. It wasn't true then, not true now. The rest is inconsequential. I didn't place any importance, I didn't worry about being correct in each detail on that point.

Q. You do not give it serious consideration, Mr. Bridges?

(Testimony of Harry Renton Bridges.)

A. No, I don't have to. Why should I? Little points like that, little things like that? If you believe they warrant serious consideration, I will give them great consideration before I start answering those questions.

Q. Reading from page 5476 of the same volume, 51, question by Mr. Hallinan:

> "Some of these people that have been presented in here you would expect to find on Park Street feeding the squirrels. How about 121 Haight Street? He said two weeks after the Long Beach meeting in May, 1936, while he and two other men waited in the corridor, he could look in the door and see you and Henry Schmidt in the office of Mr. Schneidermann. Did anything like that take place that you know of? Have you ever been up to 121 Haight Street with Mr. Schmidt and to meet Mr. Schneidermann?
>
> "A. No, I have been in 121 Haight Street twice, and both of those times were in 1934. I was not in the building after that. I was never in 121 Haight Street since 1934 for any reason at any time, any purpose whatsoever. [5838] Anybody that says otherwise, they are making a mistake or they have a reason."

Do you recall the question and the answer?

A. Right. That still stands.

Q. Excuse me. Did I cut you off?

A. I said it still stands, the same answer.

(Testimony of Harry Renton Bridges.)

Q. What significance does the address 121 Haight Street have to you, Mr. Bridges?

A. I remember it as a building in 1934, and I remember the reasons I went out there, and the strange part of it is I don't remember it being the headquarters of the Communist Party. But I remember the two occasions I went up there. They were both in 1934. I haven't been there since.

Q. Since you don't recall it being the headquarters of the Communist Party, tell us why you went there.

A. The first time I went up, I went up to discuss with some people who were there at that time the question of legal defense, that is, here is the way I recall the occasion. The International Labor Defense, I think, had offices in that building. A delegation from that organization had appeared before our strike committee or something like that, and the strike committee had designated a subcommittee or myself to go up and investigate their proposal of help, that is, the offer of the help of the International Labor Defense during the strike, and I went up there on an occasion, I think, in company [5839] with some other members of the strike committee and in connection with that matter. That is the first time that I recall. That was in 1934, I think, shortly after the strike took place. The next time was the occasion I have told you about here, when after the battle of July 5th some of our people were taken up there, shot, wounded and spread out on the floor, and I paid a visit up

(Testimony of Harry Renton Bridges.)

there then to look them over and try to pick out the ones that belonged to us and see what could be done with them. That is the two times that I recall, both in 1934, both during the strike period of 1934 that I was in 121 Haight Street. I have never been there since. [5840]

Q. Do you recall telling us at the time you talked about bringing the wounded up there, that they were brought up to Communist Party headquarters? A. I might have.

Q. Is it your present impression that when you went to 121 Haight Street the two times that you have releated in 1934 that it was the Communist Party headquarters?

A. Yes, I have heard it discussed here. All that I meant by that was—the funny thing in my impression was that I couldn't reconcile in my own mind the impression that I had that in 1934 at the time I am talking about, that the Communist Party headquarters was somewhere else.

Q. That is just the point, Mr. Bridges. It was somewhere else, wasn't it?

A. Then I am right.

Q. Yes.

A. Thanks for the help, Mr. Donohue. I thought I was off the beam. See, that is what I mean; that is all I had in mind. I thought I was wrong. I thought that I had had a wrong impression, that I had made a mistake after hearing some of the testimony, because there is no need to argue about it, I was up to 121 Haight Street. Whether it was Communist headquarters or anything else doesn't make much difference to me, but I couldn't quite recall. I know it was in connection—I knew 121 Haight Street had some connection with some Communist [5841] Party organization, but at the same time I kind of—had an idea that Communist Party headquarters was somewhere else.

Q. Can you tell us where Communist Party headquarters was during the period of the strike?

A. No, I forget. I forget. I have got an idea where it was, but for the moment I forget. I could probably do a little research work and come up with the answer.

Q. Then are you certain when you went to talk about the International Labor Defense that you went to 121 Haight Street?

A. Yes, I am certain of that. I am certain of that because I remember the big building.

Q. Do you know when 121 Haight Street became the headquarters of the Communist Party?

A. No, I thought it was—I thought it was the headquarters maybe at that time. I am a little hazy on that. There is no particular reason why I should know, you know.

Q. Where is the Communist Party headquarters today? A. I don't know.

Q. Mr. Bridges, as well as you know Mr. Schneidermann, you don't know where his office is?

A. No.

Mr. Hallinan: Pardon me.

A. If I want——

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: Pardon me for interrupting the examination and asking, Where were the Communist Party headquarters in [5842] 1934?

Mr. Donohue: I just asked Mr. Bridges.

Mr. Hallinan: I mean, is it something that you want him to produce, or would you mind telling us if you have it?

Mr. Donohue: I do not have it. I know it was not at 121 Haight Street.

Mr. Hallinan: Because I remember Mr. Schomaker relating how he and Mr. Jones walked up to 121 Haight Street with Mr. Bridges' application. So I would like to know where that place was. If the information is within your reach, would you get it for us?

Mr. Donohue: If you will agree with me, otherwise I will prove it for you, Mr. Hallinan, that 121 Haight Street became the headquarters of the Communist Party from June 6, 1935, to sometime in September, 1934.

Mr. Hallinan: Could you tell where were the headquarters in December, 1933?

Mr. Donohue: 37 Grove Street.

The Witness: That is right; now I remember. That is what I had in mind.

Mr. Hallinan: Well, now, I am not sure; I don't want to create a misimpression. It may be that that was the address that Schomaker gave. I know it was in that neighborhood.

The Witness: On the present address, Mr. Donohue, I don't know where Mr. Schneidermann's office is, but if I wanted [5843] to call him I can look in the telephone book for Communist Party headquarters and find him. That is how I knew—that is how I could get in touch with him if I wanted to.

Mr. Hallinan: Pardon me; I have the notation on it. It was 37 Grove that Schomaker testified to.

Mr. Donohue: Thank you.

Q. Mr. Bridges, referring now to the testimony of John Schomaker and Henry Schrimpf concerning the meeting at Herman Mann's house concerning the subject matter of Norma Perry, which is alleged to have occurred sometime late in December of '34 or January of 1935, I understand you to say that you attended no such meeting at Mr. Mann's house for any such purpose?

A. That's right. I remember having a couple of sessions on the issue of Norma Perry as I have stated, but I certainly don't recall being at Herman Mann's house for such a purpose. I see no reason why I should be there, and I don't think it is possible that I am mistaken on that point.

Q. In other words, the question of Norma Perry was purely a labor matter and had nothing to do with the Communist Party; is that your understanding?

A. That's right. That is what I was concerned with. What she wanted to be was her own business. She was working for the union, she wasn't a member of the union. She was working for the union. You don't know our union. Our union takes a posi-

(Testimony of Harry Renton Bridges.)

tion on those things that people that work for us, what [5844] they do in their spare time is their own business. I am president, and as such the union takes care that I don't go fooling around and changing any of those rules. We have a rule about people that work for our employers. We are the employers, and we can't take one position with regard to our own employers and do another thing with our employees. People that work for us, when they leave the job, what they do is their business. We can't follow them.

Q. Did you know at the time Norma Perry worked for you that she was a member of the Communist Party?

A. I don't—I heard some such thing later. I don't know whether I heard it at the time or knew it at the time or not. I am not so sure. It would be hard for me to be sure even now, but as to whether I knew at the time, that is pretty hard to put my finger on a particular year.

Q. Did you ever learn that she had been expelled from the Communist Party?

A. I have heard that at some time, I forget when, but that seems to more or less ring a bell, as you might say.

Mr. Donohue: Would you ask the witness to look at the Western Worker dated Thursday, November 28, 1935, and call his attention to this article (showing document to counsel).

The Witness: Uh-huh (affirmative).

Q. (By Mr. Donohue): Does that refresh your

(Testimony of Harry Renton Bridges.)

recollection, Mr. Bridges, as to the fact that Norma Perry was expelled from the [5845] Communist Party?

A. Well, my recollection before I read the article was to that effect. That doesn't help me to say—well, I didn't look at the date.

Q. I am sorry, I forgot to ask the clerk to ask you to look at the heading.

A. I wouldn't argue with the date; that probably happened around there. I have no independent recollection, but I wouldn't argue with the date or with the article. It seems to me that article has a statement in it to the effect that she has been expelled from the Communist Party; it occurred around there.

Q. That was November, 1935—November 28, 1935?

A. Yes. Now, I would say that somewhat shortly after that time or sometime after that date the matter possibly came to my knowledge.

Q. You recognize the Western Worker as having been at that time the Western organ of the Communist Party of the United States?

A. Yes, I know the Western Worker.

Q. This time, Mr. Bridges, November 28, 1935, appears about the time that Mr. Schrimpf and Mr. Schomaker said these meetings were held, that one at Herman Mann's house, and then at 121 Haight Street, for the purpose of disciplining and finally removing Norma Perry, is it not?

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: I submit, if the Court please, that that is [5846] argumentative. It is very reasonable that both Mr. Schrimpf and Mr. Schomaker based their alleged recollection upon the article. So that is an argumentative question.

The Court: Overruled.

A. I don't know. That was what they testified to here; is that what you mean?

Q. (By Mr. Donohue): Yes. Does that newspaper article in any way refresh your recollection about the fact that you did attend a meeting either at Herman Mann's house or at 121 Haight Street or at both such places, the purpose of which meeting was to discipline Norma Perry as a member of the Communist Party? [5847]

A. The only meetings I attended were the ones I told you about, Mr. Donohue, and neither of those meetings took place at the places you mentioned. Now, as to when they took place, I can't exactly say. The meetings were for the purposes that I stated, and my recollection is they took place at the union headquarters, as far as I recall.

Q. Now, your testimony, Mr. Bridges, I am sure you will recall, was that Schomaker and Schrimpf and some other people came to the union headquarters to discuss the question of Norma Perry's reliability?

Mr. Hallinan: Pardon me, Mr. Donohue. Inadvertently, I think, the question has misstated the evidence. The testimony of John H. Schomaker was that the meeting concerning Norma Perry was in

(Testimony of Harry Renton Bridges.)

December of 1934 or in January of 1935. That is at page 1069 of the transcript. December, 1934, or January, 1935.

Mr. Donohue: Correct.

Mr. Hallinan: Whereas the paper that you have says November, 1935.

Mr. Donohue: If you will recall, Mr. Hallinan, there were two meetings. The first one held at the time you have just stated, at Herman Mann's house, and the second one at 121 Haight Street.

Q. Now, Mr. Bridges, you testified, did you not, that Henry Schrimpf and John Schomaker and some other people came to the union headquarters and discussed this question of Norma Perry's unreliability with you? [5848] A. Right.

Q. And that at that time you thought it was a personal matter and took no action in the matter, correct?

A. Yes, I told you what I recall, of what I found out when I looked into the matter.

Q. How many persons can you now tell us were there in this group other than Mr. Schrimpf and Mr. Schomaker?

A. You mean when the matter was brought to my attention?

Q. Yes, yes.

A. Well, now, a delegation didn't come to see me, you know. I forget exactly how the thing was communicated to me in the first place, but when I sat down with Schomaker or Schrimpf, and my recollection is it was Schrimpf, and I don't even

(Testimony of Harry Renton Bridges.)

know about Schomaker, but I have in mind there was someone else. But I can't remember if that well. After it was brought to my attention, then I had a session with them. I don't just remember who was there. Not only—as a matter of fact, I didn't even remember Schomaker or Schrimpf being there until they testified to it here. But I don't see why I should argue over it.

Q. Well, then, you had a session with a number of people, Mr. Bridges?

A. My impression is it wasn't a number of people. I would say maybe two, three, four.

Q. And that was in your office?

A. That is my recollection. [5849]

Q. Did you keep any minutes or records——

A. And Perry was there, Norma Perry was there.

Q. Did you keep any minutes or records of that meeting?

A. No, not that I know of. Not that I remember.

Q. Now, at that time, after this conference, you dismissed the charges as being personal and retained Norma Perry?

A. Hm-mm (affirmative). I told you why.

Q. And some later time you testified somebody told you that she was giving information to the shipowners? A. That's right.

Q. Is there anything unusual in your accepting the word of that somebody as against the word of a group of members of your own union on the prior occasion? A. Yes.

(Testimony of Harry Renton Bridges.)

Q. What was the reason for that, Mr. Bridges?

A. I would say it is unusual to accept the word, at that time at least, under those circumstances, very unusual for me to accept the word of a shipowner.

Q. But you did?

A. Is that what you meant?

Q. Yes. But you did, did you not? You accepted the word of some shipowner with respect to Norma Perry, though you did not accept the word of a group of your own union members who made a like complaint to you some time prior to that?

A. No, that is not true. [5850]

Q. What is true?

A. First of all, I would have to go into all the circumstances under which the information was conveyed to me, and I would like to avoid that if I could. I don't want to start telling about a lot of people. But after this particular—he wasn't a shipowner, he was a stevedoring contractor, a waterfront employer. After he passed the information on to me, I conducted a little investigation all my own, and independently of what the shipowner told me, I satisfied myself that the tip that he gave me had a lot to it. In other words, I made up my own mind, following the tip that he knew what he was talking about.

Q. Just what did you do, Mr. Bridges, in that investigation of your own?

A. Kept an eye on Norma.

Q. Yes? A. That was enough.

Q. You mean you could tell by looking at her?

(Testimony of Harry Renton Bridges.)

A. No, no, no; you see, she had a little habit of sneaking out during the daytime, disappearing up the street, going into a saloon, having a few drinks. And always there used to be certain other people around there that she used to talk to, and it used to occur with frequency. And all I had to do was keep an eye open and watch her, and then have someone else watch around the people that she was doing business with. I got enough information to satisfy me that we didn't need her any more. [5851]

Q. Did you keep any minutes of any of these meetings that you had with any person or persons with respect to dismissing Norma Perry?

A. No, not—there was no need for that. But the matter became official in the union, because some time later I was required to file charges against Ivan F. Cox, who at that time had got himself tangled up with the Immigration Department, where they were using him also as a spy in the union. And I eventually filed charges against Ivan F. Cox, and had him removed from the office and removed from the union. And in the course of that trial, and a transcript was kept of the trial, the whole matter of Norma Perry was discussed, too, before the union trial committee, in the matter of Ivan F. Cox. And Ivan F. Cox was removed from his office and expelled from the union because of playing around with enemies of labor, such as certain labor spies and agents of the Immigration Department, working in connection with labor spies in the union and union-busters.

Q. Prior to that time,——

A. Names, Mr. Bonham and Mr. Boyd and others.

Q. Prior to that time, Mr. Bridges, had you ever consulted the rank and file and got their permission to fire Norma Perry? A. No.

Q. Did you ever give her a trial?

A. No. You must remember what I told you, she was—she would slip out of the office during working hours, go up the street a [5852] few doors into a saloon. And while standing at the saloon and imbibing a drink or two, of course no complaints about that, there was always someone around there handy to talk to her and discuss a few matters. They weren't any friends of our union.

Q. But you didn't give the union a chance to determine whether she should be expelled or fired, did you, Mr. Bridges?

A. She was working—she was my stenographer, my secretary, Mr. Donohue, and I didn't have to take such matters to the union. Maybe the union don't think a great deal of me, but they put enough trust in my judgment to allow me to hire and fire a stenographer without any explanations.

Q. Either to them or to her, correct?

A. Well, we tried to do the right thing. We don't like to victimize people. She had a far better deal from our union and me than I would ever expect to get from your end of this case or any other case.

Mr. Donohue: May we take the adjournment at this time, if Your Honor please?

(Testimony of Harry Renton Bridges.)

The Court: We will take the adjournment until tomorrow morning at 10:00 o'clock. The same admonition to you, ladies and gentlemen, not to discuss the case under any conditions, nor to form or express an opinion until it is finally submitted to you.

(Thereupon an adjournment was taken to tomorrow, Friday, February 17, 1950 at 10:00 o'clock a.m.) [5853]

February 17, 1950—10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Harry Renton Bridges, heretofore sworn.

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

HARRY RENTON BRIDGES

resumed.

Cross-Examination
(Continued)

By Mr. Donohue:

Q. Mr. Bridges, returning to your testimony of yesterday for a moment, and reading to you from page 5811, beginning at line 20, were you correctly reported as having said:

> "I said, 'Get up there' (talking about George Wilson) and he did, and I didn't think his testimony was any harm one way or the other; in addition to the fact that I figured we had

(Testimony of Harry Renton Bridges.)

> records enough to prove that his testimony, No. 1, was not true, and, No. 2, would not amount to anything. And now I refer to the fact that there was no reason for the meeting at the Governor Hotel and the incident he testified to about the battle between Rathborne and Goldblatt. That is a matter of record. I've got the records, the minutes. There is no need to have any meetings in the Governor Hotel on that. That issue was a [5854] matter of public and open knowledge amongst all the members of the Executive Board of the State Council. I can bring the records in here and show you."

You recall saying that yesterday?

A. Yes. I have got the record here, too.

Q. Now, when you said that yesterday, Mr. Bridges, did you mean that at the time you talked to George Wilson in Los Angeles, you knew the things that you were talking about or you learned about them later?

A. No, I am talking about the first conversation that I had with him. He said, "I can't tell them anything about you. I have told them that. I don't think they will use me." And he says, "All I can tell about is some matters, union meetings and one thing and another."

And I said, "Well, that won't hurt."

He said, "I've told them about some meetings with some other people." I think he mentioned Henry Schmidt or something.

(Testimony of Harry Renton Bridges.)

And I said, "What kind of meetings?"

"Well," he said, "they claim that they are Communist meetings or something."

I said, "Well, what do you think?"

I am relating the conversation as best I can recall it.

And he said, "Well, you know how those people are; they—every meeting is a Communist meeting to those people."

So, what was—I wasn't going to argue with him. I [5855] said, "Well, if that is all there is to it, what are you worried about? That kind of testimony won't hurt me. Go in there and tell them about it. If that is all you are worried about or are bothered about."

And he mentioned—that was the first meeting, I think. Later on, however, was when he ~~mentioned~~ something in a little more detail, that is, about being subpoenaed. As far as the meeting is concerned, that is, the specific meeting in the Governor Hotel, that was never discussed by us in detail. We just discussed the meetings generally, where he had said that he—he told me that he had spoken about the "God's Committee." He said, "I told them about the God's Committee." That used to be the name that was thrown at us, somewhat in a derogatory fashion, by the CIO representatives in Southern California. He said, "All I told them about was the meeting of the *Guards* Committee."

And I said, "Well, that was just our own meetings, our own CIO meetings."

(Testimony of Harry Renton Bridges.)

He said, "Yes, but you know, those fellows—the meetings, those people, the Immigration Service, almost every meeting is a Communist meeting."

So in general that was the situation.

Now, when he came up here and testified as to the meeting that actually took place in the Governor Hotel, that was what I had reference to when I said, —well, nothing in that [5856] testimony. I told the attorneys, that is practically what he told me. That is, in a general sense, that he had nothing to testify to. And I said, "As far as that meeting he is testifying to, I can tell you right now there is nothing to it. I have got records to prove that meeting was held, that is, on that incident." I was going by the incident, the battle between Goldblatt and Rathborne at that time. That meeting was held right in headquarters of the CIO. Letters were sent out to quite a few people as to the meeting and what it was all about, and everybody knew about it. And I have got the letters here, Mr. Donohue (showing), saying where the meeting took place. It is calling the people to the meeting, and it says the meeting is at 150 Golden Gate Avenue. That is what I had in mind.

Q. There is no dispute about the fact that there was a dispute between Mr. Goldblatt and Mr. Rathborne, is there, Mr. Bridges?

A. No, I wouldn't call it a dispute. I think that it wasn't a question of a dispute between those two people, it was a question of—a matter of certain policies that required a meeting to straighten out, that was all.

(Testimony of Harry Renton Bridges.)

Q. But you state now that the dispute was settled among the CIO people? A. Yes.

Q. And you disagree that there was a top fraction meeting of [5857] the Communist Party at the Governor Hotel with Mr. Schneidermann and yourself and Mr. Rathborne and Mr. Wilson and Mr. Goldblatt and others, in order to settle that dispute, don't you?

A. Certainly. All that has happened is that you have taken a meeting that actually occurred, that is a matter of record,—you have moved it a couple of blocks away from 150 Golden Gate Avenue down to the Governor Hotel. You have shoved in a couple of extra people; that's all Wilson has done. And as against him having to do that and getting bumped out of his job, particularly when I have got the records to show what the meeting was about, where it took place, I don't think it was worth worrying about.

Q. Mr. Bridges, you said yesterday that Mr. Wilson told you that if he didn't testify here and state publicly that he was a member of the Communist Party, that he would lose his job on the newspaper, didn't you?

A. That is what he told me.

Q. Isn't it a fact that Mr. Wilson told you that if he did testify before this trial, or at this trial, and state publicly that he had been a member of the Communist Party, that he was afraid that he would lose his job? A. No, no, no.

Q. You heard Hancock testify?

(Testimony of Harry Renton Bridges.)

A. You are talking about Wilson.

Q. You heard Mr. Hancock testify, Mr. Bridges? [5858] A. Yes.

Q. You heard Mr. Hancock say he worked for a newspaper in Erie, Pennsylvania, didn't you?

A. So what does that mean to me? You don't expect me to believe Hancock, do you?

Q. I don't expect you to—May I strike that, please?

Mr. Bridges, you heard Mr. Hancock testify that before he left his newspaper and came here to give his testimony that he submitted his resignation to the newspaper, did you not?

A. Maybe, maybe. Maybe the $25 a day he was getting from you people was more than he was making. I don't know. [5859]

Q. Do you think that Mr. Wilson's value to his newspaper is enhanced by the fact that he has publicly testified that he had been for some time a member of the Communist Party?

A. Oh, no, I don't think so. It all depends on how the owner of that newspaper looks at it.

Q. You seemed to know yesterday how he looked at it.

A. I have a general idea about how working people look at such matters, and I think Wilson is probably one of the most uncomfortable men in the United States today. He is a working newspaper man. I have no love of newspapers. I know who owns and runs the newspapers. But I have had to work for people who were no good, too. So do working newspaper men. It is a living. I understand that. But I think you would have to stretch a point to figure out how that newspaper down there, how its value is enhanced by him coming up here and doing what he did.

Q. Mr. Bridges, was it your intention yesterday to tell us you were more concerned with George Wilson's state of mind on the witness stand than you were with your own personal security, and that is why you told your counsel not to cross-examine Mr. Wilson?

A. No, I think I said yesterday I was concerned with both matters. After all, Wilson came up here. What I had to look at, was he up here like the other people because he wanted to be up here? He was trying to make money out of it? No. Wilson was under compulsion. Wilson told me he came up before the [5860] grand jury under compulsion. He was not subpoenaed before the grand jury. I ask him, "Why did you go, George?"

He said, "They came up. They went in to see the boss. If I hadn't gone—I went up over a weekend. If I hadn't gone up, no more job."

I said, "Did they tell you that?"

He said, "No, they did not." He said, "You know what the score is. They didn't say it in so many words, but you know."

And, of course, I don't say the agents go around and are that blunt about it. They don't do it. I explained how they did it. That is what Wilson told me. And when I see the way he acted and the way he spoke to me, and knowing a little about his background, judging his whole demeanor when he spoke to me, and when I see the way he acted on the witness stand, I believe what he said when he spoke to me, and I don't believe what he said on this witness stand.

Q. On both occasions when you talked to Mr. Wilson down in Los Angeles your counsel was with you?

A. No—oh, wait a while. Yes, on the first occasion we were sitting in the bar of the Alexandria Hotel—the Alexandria Hotel in Los Angeles, and Herbert Resner was with me, if not all the time, part of the time. But what happened was that Resner left. He sat around for a while and then he left, and George and I stayed on and chatted for quite some time. The last time I was down there I only talked to him on the telephone, and counsel [5861] wasn't with me.

Q. And counsel was in Los Angeles, wasn't he?

A. Los Angeles is a big city, Mr. Donohue.

Q. You were in his company down there?

A. No, I was not. He had his wife.

Q. Didn't you attend a meeting on the night of December 28th which you both made a speech?

A. Right.

Q. Then you were in company at some time in Los Angeles?

A. Oh, yes, we traveled down together. I don't deny that. I thought you meant was he in my company at the time I telephoned.

(Testimony of Harry Renton Bridges.)

Q. No. After you talked to Mr. Wilson on the first occasion, did you discuss what Mr. Wilson had said with your then counsel, Mr. Resner?

A. I think I did later. Let me see. I think Resner wrote it down later.

Q. After you talked with Mr. Wilson the second time, did you discuss it with your counsel, Mr. Hallinan, as to what he said?

A. Sure. But, as I recall it, Wilson wouldn't discuss the matter with me while Resner was present.

Q. But in any event, in both instances you communicated to your counsel the substance of your conversation that you had with Mr. Wilson?

A. Sure, sure. I asked George—I have told you I asked him, "What did you tell the grand jury? What are you going to do? [5862] What are you mixed up in this thing for? What have they got on you?"

Q. You said yesterday or made some reference yesterday to turning the screws on cross-examination; do you recall? A. Yes.

Q. You do not think anyone has turned the screws on you, do you, Mr. Bridges?

A. You mean yourself?

Q. Yes, myself.

A. I am bearing up under it.

Q. You do not think you have been asked any unfair question, do you, Mr. Bridges?

A. I think the whole procedure is unfair right from the start, Mr. Donohue. What am I doing here in the first place?

(Testimony of Harry Renton Bridges.)

Q. You are being tried, as I understand it, Mr. Bridges, on an indictment returned by a United States grand jury.

A. Yes, yes. I am being singled out, too. There are thousands of other people who had their citizenship papers. There is Henry Schrimpf, and there were three people up here, clearly as a whistle, lying like nobody's business: Crouch, Johnson and the Kentucky colonel, lying like hell.

Q. Mr. Bridges, you saw a number of witnesses called by the United States subjected to pretty severe cross-examination, didn't you?

A. Yes. You mean by Mr. Hallinan and [5863] MacInnis?

Q. Yes.

A. Yes, that is, as long as we could keep them here, as long as you didn't get them away out of the city like you tried to get Ross away.

Q. They were subjected to pretty complete cross-examination, weren't they, Mr. Bridges?

A. That is right. If you are saying I have good attorneys, I am not going to argue with you, Mr. Donohue. I think I have.

Q. It is now your position that you are so concerned about the physical and mental welfare of George Wilson that you advised your counsel not to submit Mr. Wilson to cross-examination, correct?

A. Well, let us put it this way: I think I had quite a lot to do with it. I think if I had insisted that he be cross-examined and everything gone into what

(Testimony of Harry Renton Bridges.)

we knew about him, thought we knew about him at least, I think they would have done it.

Q. Weren't you afraid of what he might say, Mr. Bridges, if you did cross-examine him?

A. No, mm-mm.

Q. That was not the reason?

A. No, not at all, Mr. Donohue. The reasons are what I have told you. The man was up here. He looked like someone who was in a bad way to me.

Q. And yet you did not think it was advisable to call to the attention of the jury by cross-examination of Mr. Wilson rather [5864] than some self-serving declaration on your own part the fact as to whether or not George Wilson was under any pressure from anyone, did you?

Mr. Hallinan: Just a minute. I want to get a definition, so we know that these gentlemen are talking about the same thing. Is that your conception of a fair question?

Mr. Donohue: Yes, I think so.

Mr. Hallinan: Just so we get you established by your own standards.

Mr. Donohue: Mr. Bridges has had an opportunity to think about the question. but in any event will you read it, Mr. Reporter?

(Question read.)

A. I merely expressed an opinion to the attorneys as to what I thought about it. After all, my attorneys, they are the experts on the trial procedure in the courtroom. I expressed an opinion as to what

(Testimony of Harry Renton Bridges.)

I thought. I succeeded in convincing them. That is all I had in mind at the time.

Q. Mr. Bridges, do you recall George Wilson testifying that Mr. J. R. Robertson belonged to the same Communist Party group as he did?

A. Yes.

Q. You told us just a minute ago that when you talked with George Wilson in Los Angeles your first conversation with him after your indictment that he made some reference to the *guards* [5865] committee? A. Right.

Q. They are the same organization, aren't they, Mr. Bridges? A. What is that?

Q. The *guards* committee and the particular Communist Party group to which George Wilson said both he and J. R. Robertson belonged?

A. No, the term "God's committee," if I remember it correctly, was one invented by William Connally and it referred to myself and Rathborne and others, officers of the CIO, and representatives of the CIO here in Northern California, operating at 150 Golden Gate Avenue, that laid down policy that on many occasions Connally thought was haywire and Connally used to storm around and attack us by saying we set ourselves up as *guards* committee, that is all. Could do no wrong, Or knew the answers to all the questions. On the other hand, there were certain occasions when we thought Connally did not know what he was doing. It is as simple as that. That is what I mean by *guards* committee. And when Wilson told me about what he told the grand jury or

(Testimony of Harry Renton Bridges.)

told the people, he said, "I told them about the meetings of the *guards* committee." And that is when I said, "What have you got to be afraid of? There is nothing wrong with those meetings, George." He said, "Well, you know, they see one under every bed; every meeting is a Communist meeting to them." [5866]

Q. Mr. Rathborne was a member of the God's committee, wasn't he, Mr. Bridges?

A. Yes, in the sense that Connally referred to it.

Q. Mr. Bridges was a member of the *guards* committee?

A. In the same sense, sure. I was the regional director of the CIO, Mr. Donohue.

Q. Correct, and William Connally at that time was—— A. Not a member of the committee.

Q. Pardon?

A. Not a member of the committee. Connally always thought he was a victim.

Q. He was the president of the CIO Council, was he?

A. He was up to the time when you made that switch in Philadelphia that you insisted was dictated by the Communist Party and which I told you I figured out my own self.

Q. Who else belonged to the *guards* committee?

A. I think the officers of the—there was no formal or official committee. It was a combination office that was referred to by Connally, as I say. The brains—I think the officers of the San Francisco Council were Rathborne, who was secretary to the

State Council, myself as regional director—that is about all.

Q. It was a combination of Communists, was it not, Mr. Bridges, which was known, as a matter of fact, as the top fraction of the Communist Party in the California CIO?

A. No, Mr. Donohue. It was what I am telling you. It was a [5867] group of CIO people that used to get together upon occasion to determine matters of policy or try to determine them as things came up from day to day, and Connally was one of those that always believed that there was more organizational activity going on in the southern part of the state and, for example, maybe it would be better to move the office of the State Council down to Los Angeles. See? And Connally used to resent, as I say, three or four of us. It was too easy to gather in Rathborne's office or my office up here and talk matters over, grab the telephone and say, "Here, Slim, here is what we think."

Connally said what? "So the committee has been at work again?" He was kind of popping off on the issue.

Q. You made reference a minute ago to that Philadelphia meeting. That was in '43, was it, Mr. Bridges?

A. The Philadelphia convention of 1943, that is right.

Q. You were a member of the California CIO Council at the time? A. No.

(Testimony of Harry Renton Bridges.)

Q. Your union was a member of the California CIO Council?

A. Part of it was. The California locals, that is, the locals located in California, I think, were affiliated; not all, some of them were.

Q. What was your position with the California CIO in California just prior to the 1943 convention in Philadelphia?

A. I don't know. I was still regional director for the whole [5868] state or the northern part of the state. I was one or the other.

Q. You were one or the other? A. Yes.

Q. And you were also a member of the national executive board of the CIO? A. And still am.

Q. By that unanimous election?

A. That is right, Mr. Donohue.

Q. Mr. Bridges, at any time during the period prior to the 1943 CIO national convention in Philadelphia, did it come to your attention that there was any difference of opinion within the California CIO on the question of whether or not the California CIO was dominated and controlled by members of the Communist Party?

A. Oh, there was a lot of argument about the wrong people in control, meaning largely the unions of the ILWU, and those unions that went along with the ILWU—quite a few arguments over that, not arguments about protests and one thing and another.

Q. Were there any protests that came to your attention? A. Oh, quite a few.

Q. From any of the so-called right wing or center

(Testimony of Harry Renton Bridges.)

unions about the question as to whether or not, in fact, the California CIO Council was dominated by Communists? [5869]

A. What would you call a right wing union?

Q. You are more familiar with that than I am, Mr. Bridges.

A. I am more familiar with the left wing.

Q. You certainly know who the right wing unions are? A. The opposite of the left wing.

Q. I beg your pardon?

A. The opposite of the left wing.

Q. The officers of the left wing——

A. The opposite of the left wing.

Q. Just enumerate again some of those unions.

A. What?

Q. That were opposite the left wing.

A. I couldn't do that. I forget. I know most about my own union, the ILWU.

Q. You do not know anything about the opposition?

A. I know a few things. I don't want to go into it here. I don't think this is the place. I don't want to sit up here and start criticizing to pieces other unions. I might have my differences of opinion with them, but the principle of our union, we try to keep internal labor problems out of courts if we can.

Q. Was it ever called to your attention just prior to the 1943 national CIO convention in Philadelphia that the Communist officers who dominated and controlled the California CIO Council included its president, Mr. Slim Connally, its secretary-treasurer, [5870] Mr. Mervyn Rathborne, and such executive board members as James Doherty of the Utility Workers, Sam Markel of the United Electrical Workers, Louisa Marino of the Food, Tobacco and Agricultural Workers, Richard Linden of the ILWU; among others?

A. Yes. You mean have I heard it said——

Q. Yes. A. That——

Q. ——within the circles of the California CIO was it said that those persons as officers and members of the executive board of the California CIO were the Communists who with others tended to dominate and control the California CIO?

A. I have heard it said that they were Communists or allegedly Communists and I think I heard it said, and more so, that the ILWU dominated the California CIO. The ILWU is the biggest union in the State Council, and most of the accusations have been directed against the ILWU controlling the State Council, more so than the question of Communists controlling or dominating [5871] them.

Q. In your position at the same time as also being a member of the national Executive Board of the CIO, did it come to your attention at any time that there were protests made by other unions in California which were members of the CIO about the domination within the California CIO of the Communist Party?

A. Oh, such allegations were made, certainly.

Q. And were those made——

(Testimony of Harry Renton Bridges.)

A. And they came to my attention too. I mean, anybody can make an allegation. You just asked me was such allegations made. Sure.

Q. Was there a discussion among the members of the national Executive Board of the CIO of protests made by California unions that the California CIO was dominated and controlled by the Communist Party? A. Not that I recall.

Q. Well, you stated that there was some protest that you heard made while a member of the national Executive Board of the CIO.

A. Oh, that is a different thing. Here is what those protests were about.

Q. What were they, Mr. Bridges?

A. As an officer of one of the unions, I was connected with one of the unions affiliated with the California State Council, which was the largest union in the Council. It was the [5872] moving force that built the Council, organized the Council in the first place. It was the force that mainly financed the Council in its earlier days. I am talking about the ILWU. And when the State Council was established, I was chairman of the first convention that established the Council. The unions affiliated with that Council had certain guarantees, and I thought those guarantees were given in good faith by the national officers of the CIO. Amongst the guarantees that the unions that are situated here in the State of California were given was the guarantee that on all political matters they would have autonomy. The voters—the workers who are voters and members of the CIO

(Testimony of Harry Renton Bridges.)

here in the State of California reside here and pay their taxes and do the voting here. It was my understanding right from the start that they and only they would be the people to make up their own minds as to who they wished to support for political office, that is, in a presidential election or a State election or municipal election. And that is the way it was for many years, until some people in Washington as well as some of them stooges and carpet-baggers that they imported into our State here made up their minds that they wanted to do a little political dealing, and they decided that the CIO rank and file here in the State of California can't make a move even to endorse and support a person in a local city election without having the decision made for them by some high officials of the CIO in the State [5873] of Washington. And I got up on the Executive Board and I cried loud and long about it, and told them there wasn't enough power in that board to make the workers in the CIO in California accept a deal like that. And there certainly wasn't enough in the whole CIO to even get started with the ILWU in this State. That is just the way it has gone. There isn't much of a State Council left these days. And that is one of the things that has helped wreck it. But that is what the battle has been over, Mr. Donodue, and the matter is being fought out now in another court in our city, and possibly it will be gone into pretty exhaustively and all the details and all the evidence submitted, and so forth.

Q. Then despite the fact, Mr. Bridges, that there

(Testimony of Harry Renton Bridges.)

was some discussion within the California CIO unions about the question of the domination of the California CIO Council by Communists, there was no discussion of that subject matter by the members of the national Executive Committee of the CIO?

A. Not that I recall. Now, there was some meetings I missed. It might have taken place when I wasn't there, Mr. Donohue. I am talking about meetings of the CIO Executive Committee when I was present; I can't recall any. And that is one of the difficulties: the CIO doesn't allow anyone to have any minutes of the board meetings,—the only organization I know of that doesn't do that as a labor organization. I know the NAM meets and some of those organizations meet and keep their [5874] doings and actions secret. There is no need for a labor organization to do that.

Q. Mr. Bridges, you have been unhappy with the CIO ever since the time you joined it?

A. No, no. Now, listen, it isn't a question of my being unhappy, Mr. Donohue. Again, you just don't understand the labor movement. I merely operate along these lines: I think that a labor organization belongs to the membership of that organization. I don't think any officer has got a right to come along and to start regarding a labor organization as his personal property or try to use it for his own political advancement. I don't think he has got a right to dip in the funds or steal them or embezzle them or do away with them. I don't think he has got the right to pad his expense account and things like that. I don't think he has got a right without consultation with the membership to call strikes and sign agreements. I don't think he has got a right without the approval and support of the membership to endorse candidates for political office, and things like that. Now, that is all we are concerned with, and a lot of squabbles occur over those things inside the labor movement, and the fights are generally between those who think along the lines I have just indicated and those people who are in the labor movement to get out of the labor movement what they can for themselves, and that causes trouble.

Q. Are those the reasons why you have been at loggerheads with [5875] the majority of the national CIO Executive Board, the reasons you have just stated?

A. Some of them in recent months, yes. There is a few other things. I don't like the idea of Joseph Curran as vice president of the CIO, who holds meetings in New York City, as I have told you, and needs 200 to 400 policemen to help him run the meeting, so that the rank and file of that union cannot express itself. I do not agree on things like that. I think a vice president of a national organization, like I say, ought to be a person who conducts himself in a proper fashion, someone that the workers will respect, someone with dignity, someone with integrity. I don't think that Curran has any of those things at the moment.

Q. Mr. Bridges, why haven't you and your union withdrawn from the CIO?

A. Give us time, Mr. Donohue. I mean, that we invested seven or eight hundred thousand dollars into building the CIO, and maybe if the CIO comes along and makes us a proposition that I can pass on to our membership, they will give us back the money that we put into the organization right from the start, less of course anything that they feel ought to be deducted for what assistance or what help they might have given us over the years, that might be an entirely different proposition.

Q. Isn't it a fact, Mr. Bridges, or is it a fact, that you [5876] stayed in the CIO for the same reason that you went into the CIO, and that is because the national policy of the Communist Party has told you to do so?

A. No. No, not at all. The policies of the union I represent are made by that union and no one else—the Communist Party and no other party; and the policies of the union I represent are not made by the national CIO. That is what causes the trouble. If I was willing to agree and if the members would accept the idea that the national officers of the CIO make the policy for them, there would be no trouble. That is what the battle is about. And I can't sell it to my membership. They tell me if I want to play that kind of a game, they will get themselves another president, but as long as I want to stick around and carry out the policies that they decide on, they figure that they may as well keep me around, too, as president for the time being.

Q. Do you know, Mr. Bridges, as a matter of

(Testimony of Harry Renton Bridges.)

fact that before the 1943 national CIO convention in Philadelphia that the top fraction of the Communist Party in the CIO in California were instructed by Mr. Schneidermann on this question of Phil Connolly's resignation?

A. Resignation from where? From the State Council?

Q. From the presidency of the State Council, to which he had been elected only 30 days before the convention.

A. No, nothing of the kind. I have told you how Connolly [5877] happened to resign. I have told you whose idea it was, I have told you the reasons for it. Schneidermann had nothing to do with it. The Communist Party had nothing to do with it—it was a trade union decision made by myself and recommended to the rest of the leaders of the national CIO as well as the State ~~CIO,~~ general agreement reached, final result Connolly resigned and was replaced by Thimmes.

Q. Connolly had just defeated a man named Pollard, had he not?

A. Walter Pollard, I think, at the Fresno convention.

Q. Wasn't Thimmes suggested and approved at this Communist Party fraction meeting because he belonged to Phil Murray's own union?

A. Well, the reasons that I thought Thimmes would be the best man was, at least in part, because he was a member of the Steel Workers; you know, he was an officer of the Steel Workers Union. And

(Testimony of Harry Renton Bridges.)

furthermore, I had other reasons. At least Thimmes was a steel worker. I think he is about the only national officer of the Steel Workers that ever saw a hunk of steel the hard way. So I had that in mind, too. Thimmes was a member of the Steel Workers Union, the Steel Workers and Tin Workers Union in Chicago. So I had that in mind, that he had some claim to know something about the steel industry. And I have already told you that quite a number of the steel workers' unions were not affiliated with the State Council. We thought that by getting Thimmes to be president that they would move [5878] in, and apparently some of them did, but most of them still stayed out. But another excuse for them not joining, many of the unions raised the question they wouldn't join the State Council because Connolly was president. When Connolly wasn't president, when their own man was president, they still stayed out.

These things happen, and they are just a part of the strain and the tear and so forth of a labor organization where expression is allowed and freedom of action is allowed. And those things just happen, but I know how they happen. And such things don't flow from any dictates or influences outside the labor movement; not as far as I know.

Q. Then to the best of your knowledge and belief, the Communist Party through Mr. Schneidermann or Mr. Roy Hudson had nothing to do with the substitution of Mr. Thimmes for Mr. Connolly?

A. Absolutely and positively, Mr. Donohue. Believe me, you are wrong on that. If you knew more

(Testimony of Harry Renton Bridges.)

about the internal workings of labor unions you would know how—it is really stupid, it is nonsensical.

Q. We will pass to another subject, Mr. Bridges. Do you remember the witness Mr. Michener?

A. Yes.

Q. How long have you known him?

A. I don't know; quite a long time. Probably maybe '37 or '38. [5879] It was after the auto workers were organized. They were organized around '36 or '37. I think it was probably sometime in '38 I first met Michener. Maybe I might be wrong there, but that is the best I can remember.

Q. Was he connected with or associated with the California CIO Council in any capacity?

A. I think he was at some time; I think he was a vice president and member of the Executive Board or something like that.

Q. Did you ever know him to be a member of the Communist Party? A. No.

Q. You heard him testify about a meeting that occurred in August of 1940 in a private home in the Sunset District of San Francisco? A. Yes.

Q. You heard him say that at that meeting the following persons were present: Mr. Walter Lambert, Mr. William Schneiderman, Mr. Lou Goldblatt, Mr. Phil Connolly, Mr. Paul Klein, Mr. Lewis Michener and Mr. Harry Bridges?

A. I heard that testimony. [5880]

Q. And you recall that he said that one of the subjects of discussion was the distribution of funds deposited to the credit of Labor's Non-Partisan League? A. That's right.

Q. Did you attend that meeting?

A. No, had nothing to do with the funds of Labor's Non-Partisan League, had little to do with the Labor's Non-Partisan League, for that matter. You heard Mr. Gaynor's testimony—he was an officer of the League. And you heard what he said about the funds. I never had anything to do with any funds at all.

Q. Yes. You recall Mr. Gaylor?

A. Gaynor.

Q. Gaynor. A. Yes.

Q. You remember him testifying that all the money was spent in 1938? Do you recall him saying that?

A. I don't remember. He might have said that. I can't remember his testimony in that much detail. I remember the testimony about the funds and who had the authority to divide them, and it didn't seem to me that the authority belonged to anybody meeting out in the Sunset District.

Q. May I call to your attention just for the purpose of refreshing your recollection, reading from page 4616 of the [5881] record, when Mr. Gaynor was on the stand, this question:

> "Q. Would there have been in late 1940, in the language of one of the witnesses who testified here, any funds in existence at all belonging to Labor's Non-Partisan League?

> "A. As far as I know, the only money we ever had was the $125,000 we got from John L. Lewis.
>
> "Q. Was that disbursed in the calendar year of 1938?
>
> "A. It was all spent in 1938, yes.
>
> "Q. What happened to Labor's Non-Partisan League thereafter?
>
> "A. To the best of my knowledge, the League went out of existence."

Do you recall Mr. Gaynor so testifying?

A. I think that that is what he said.

Q. Do you remember, Mr. Bridges, attending a meeting of the Labor's Non-Partisan League held on October 23, 1941, at 593 Market Street, San Francisco, a meeting called for the purpose of giving candidates for various public office an opportunity to speak; and that after their presentation of their platforms that a committee was formed to make recommendations as to the candidates who had spoken, the members of that committee being Mr. Henry Schmidt, Mr. E. E. Reite, Mr. Dick Linden, Mr. C. W. Shangle, Mr. Louis Goldblatt, Mr. Mervyn Rathborne and Mr. Harry Bridges? [5882]

A. No, I do not, Mr. Donohue. 593 Market Street—I am just trying to think where you would hold such a meeting. We used to have some offices there. We had a small conference room, and the way I remembered, the way you read it off, it would seem to me that that committee was present, plus various

(Testimony of Harry Renton Bridges.)

candidates for political office—well, all the available space we ever had at 593 Market Street, we would have been pretty crowded to have had to go through an operation like that. I don't recall such a meeting. There were quite a few meetings. I certainly don't recall one of that description. There's nothing wrong with it if there was such a meeting, but I just don't recall it.

Q. Oh, there is no suggestion that there was anything wrong with it, Mr. Bridges. I am simply trying to determine, if I can, through your recollection, that as late as 1941 there was a meeting of the Labor's Non-Partisan League in the city of San Francisco which you attended.

A. I don't recall such a meeting, Mr. Donohue. If Labor's Non-Partisan League was still going at that time, I was—I held no office in Labor's Non-Partisan League. I was a member. The way you join Labor's Non-Partisan League, you took out a card, you paid a dollar, a dollar a year. That is all. Outside of any contributions you might make at a rally. So I was never an officer of Labor's Non-Partisan League, and as far as I know, never participated in any committee, as far as I know.

Q. Since Mr. Gaynor has testified on January 30th, have you [5883] examined the accounts of the Anglo-California National Bank of California, Seaboard Branch at 101 Market Street, to determine whether or not as late as 1942 Labor's Non-Partisan League maintained an account in that bank and that there were funds on deposit? A. No.

(Testimony of Harry Renton Bridges.)

Q. As of that day?

A. We haven't—I haven't. I never thought of it.

Q. Now, your recollection is not refreshed in any way as to whether or not, in fact, in August of 1940, you attended any meeting anywhere for the purpose of discussing the division of funds of Labor's Non-Partisan League as between the north and south of California?

A. That's right. I didn't. Not—you are referring to the meeting you described before the Sunset meeting?

Q. Yes.

A. No, I know of no such meeting, attended no such meeting, Mr. Donohue.

Q. Now, had you had any trouble, Mr. Bridges, with Norma Perry drinking in the light of your statement yesterday that you followed her into a saloon or saloons at lunch hour and saw her take a drink?

A. No, not that I recall, not that I recall. If I had, it would only have been the question of taking a little time out and going to have a drink while she was supposed to be working. [5884] We frown on that practice. I know what happened. People don't have to do those things. But I don't recall any particular trouble over that point.

Q. Did Mr. Bruce B. Jones ever make any complaint to you about Norma Perry?

A. I think he did. I think that Jones was one at that time that complained—I have a more or less faint recollection in my mind connecting Jones up

(Testimony of Harry Renton Bridges.)

with the happenings at that time in connection with Norma Perry. I don't recall him making any complaints about her drinking.

Q. Well, was it in fact B. B. Jones who told you that Norma Perry was unreliable?

A. I don't remember that. I don't think so. I recall, the main complaint being made by Schrimpf, and I related what I remember of that and how I remembered it.

Q. But you didn't fire Norma Perry on the complaint made by Mr. Schrimpf?

A. That's right. Schrimpf was a pretty ragged character himself, you know.

Q. I beg pardon?

A. He was a pretty ragged character himself. I just got through firing Schrimpf for, off the committee, you know, for not attending to business.

Q. Not because he disagreed with your Communist practices?

A. According to his testimony here, he was a Communist. [5885]

Q. Until when? A. I forget.

Mr. Hallinan: If I can supply the information, according to Schrimpf, '35; according to Ross, '37.

Q. (By Mr. Donohue): When did you fire him?

A. Well, he was elected to the Labor Relations Committee right after the award of the Longshore Board at that time. The National Longshoremen's Board handed down an award October 12, 1934, according to the minutes that I looked over recently. That committee was elected around October 17th,

(Testimony of Harry Renton Bridges:)

Schrimpf attended three or four meetings, then he got on a drunk and I wouldn't sign his check. We had a rule in the local at that time, and still have—I wrote it in there myself as a part of the constitution, or at least I fought to have it put in the constitution—that each check required three signatures. I just refused to sign Schrimpf's check at the time. Instead of being on the job, he was out getting drunk. So of course he didn't like it, and as I say, I gave him a choice. I said, "Get off or otherwise I will take the matter to the membership and I will throw you off." So he resigned. And he went ahead, and I remember he made some explanation, that the reason he was getting off the committee, he didn't like to set up there across the table from a bunch of shipowners that had been such nasty people during the recent strike. That was the excuse he gave. But the real reason was, he was drinking. [5886]

Q. Is drunkenness a common failing among the people who testify against you, Mr. Bridges?

A. Well, let me check them off now and see. Starting with Schomaker, no, I never knew Schomaker to drink a great deal. Schrimpf, well, Schrimpf likes his tea, consumes quite a lot. Hancock and those other people, I don't remember Hancock, so I know nothing about him. Krolek I didn't know well enough to know whether he drinks a lot or not. Johnson, Crouch and Ross—well, I can't say. Crouch and Johnson I have never seen before in my life, and what I remember of Ross, that is, I don't remember how much he drank. He doesn't remember much of anything himself, so I can't do much about that. So Wilson is a pretty heavy drinker. George is a fairly heavy drinker. I am not saying that he doesn't get his work done—somehow or other those newspaper men seem to be able to do both, or many of them do, anyway. They can push a pencil and get away with their share. And all the witnesses that have come along so far, why, I would say the worst would be Schrimpf himself, and Wilson can handle his share. Now, I know you have got one staked out here that is a dilly, though. I mean Jim O'Neal is staked out over at the hotel, and you've got a couple of agents watching him to make sure he doesn't get within a mile of a bottle, because if Jim ever gets his hands on a pint, why, his testimony here will be mixed up with pink elephants and some of those other things. [5887]

Q. He wasn't too much of a drunkard when he served your purpose well, was he?

A. He was, Mr. Donohue. That was one of the things that was too bad about the man. I first ran into him by giving him $75 to take the cure. He was a man, he is a good craftsman. I tried to help him get straightened out. But he used to slip every once in a while, drank too much, see? And as you know, you know, you have got him staked out here. You have been hauling him around for quite a while, down in Los Angeles. So Jim O'Neil, he says, "Well, I'll only testify to what I have testified to before. I was found guilty of perjury for testifying to it before, served time, nobody will believe me—and besides, it is $10.00 a day." And he is—he is on the edge of Skid Road, and if your agents don't keep their eyes open, he will get his hands on a pint of whisky and his imagination will run riot, and he will have you in the Communist Party.

Mr. Hallinan: Pardon me, Mr. Bridges. Just so long as there is no error in this matter, the testimony given by O'Neil was on behalf of the Government against you, isn't that correct? O'Neil was a witness for the Government in the Sears deportation.

The Witness: Against me, right.

Mr. Hallinan: Sure.

Mr. Donohue: And who——

Mr. Hallinan: So what you mean by "served his term," the thing is they got O'Neil drunk and worked an "oral" statement, [5888] out of him. Then they put him on the stand and tried to make him confirm or conform to that oral statement and when he wouldn't do it, they had him indicted for perjury and sent him to the federal penitentiary. So when you are talking about holds on people, that is what we mean. But to say that O'Neil was doing something for Mr. Bridges is to show that you completely misunderstand the thing.

Now, here is your trouble. You've got Schrimpf, Schomaker and O'Neil, paying them a large amount of money, working eight hours a day, with Kaiser and some of these other gentlemen who fall into somewhat the same category, I think, that Crouch falls into. And they are giving you all these questions and you are just being deceived and misled.

(Testimony of Harry Renton Bridges.)

You don't have the proper conception of the thing. You will be seeing pink elephants yourself in a few more days. But this statement about O'Neil doing something for Mr. Bridges just completely is reversing the picture.

Mr. Donohue: If Your Honor pleases, in the light of the fact that what Mr. Hallinan has just said is neither true nor proper, I ask Your Honor, because I can't engage in an impropriety myself by making answer, I ask Your Honor to strike his remarks from the record and instruct the jury to disregard it.

Mr. Hallinan: Suppose we do this, Your Honor. Suppose we wait until they produce the witnesses and then see how much of it is true. [5889]

Mr. Donohue: An impropriety, if Your Honor pleases——

Mr. Hallinan: Let's see how much of it is true.

Mr. Donohue: ——must be met when it occurs.

Mr. Hallinan: What part do you say is untrue, that the three of them have been working with the agents preparing the questions that you are asking?

Mr. Donohue: If I were capable, Mr. Hallinan, of engaging in the same kind of impropriety, I would answer that.

Mr. Hallinan: Well, we haven't gotten one admission out of this gentleman. He wouldn't even admit that Harry Bridges was at Stockton on June 27, 1936, so I suppose it is futile asking him to make any concessions. Well, still following that same rule, if it is bad for the defense, he will get it in, if he

(Testimony of Harry Renton Bridges.)

can; and if it is to their favor, he won't admit it. He will keep it out.

Mr. Donohue: I ask Your Honor again to strike from the record the untrue and improper remarks of Mr. Hallinan and to ask the jury to disregard them.

The Court: With respect to O'Neil, that matter has crept in on the cross-examination of Mr. Bridges. I do not have O'Neil's record before me. I do recall certain phases of the matters that are not altogether vivid in my recollection, but I say——

Mr. Hallinan: Your Honor will remember that Schrimpf testified to O'Neil being convicted for that matter. [5890]

The Court: I think the record will be served by an instruction and admonition to the jury to disregard the remarks of Mr. Hallinan in this connection, and in particular, the constant and repeated assertions that Mr. Donohue, the prosecutor, is attempting to avoid or divert evidence from the jury.

The province of Mr. Donohue, as well as the province of Mr. Hallinan and Mr. MacInnis, is separate, and they are separate, from the province of the Court. The province of the Court is to rule upon matters of law. As I admonished you at the threshold of the case, as I admonish you now and as I will admonish you when I finally instruct you, when the full burden and impact of this case rests in your hands, I will then instruct you that as to the law and my findings thereon, that you are finally and conclusively bound. The reference to Mr. Donohue with respect to an attempt to block out evidence might be regarded, impliedly or inferentially, as some reflection on the Court—although I do believe that as a result of yesterday's proceedings, that Mr. Hallinan did not undertake to make a direct reflection upon the Court. At least in the late stages of the afternoon he so undertook to tell the jury. For the purpose of the records, yesterday afternoon, I will accept his statement. The statement, apparently made, was the result of discussions had with the newspaper men. What the Court may have believed at that time concerning the reference to Mr. Donohue is not a matter of immediate concern. As I said before, [5891] I accept Mr. Hallinan's statement made, that the reference was to Mr. Donohue and not to the Court. For, if the statement were not directed to Mr. Donohue, and to the Court, and in the light of my rulings which are made—and I stand upon the record—I would regard it as contemptuous and contemptible.

Now, Mr. Donohue's province is to present the evidence, Mr. Hallinan's province is to present the evidence, to the best of their ability. And they are entitled to exhaust themselves in that respect. My province is to rule thereon. And if there be any matter of blocking out evidence, I suppose, again inferentially, it would rest with this Court. I have tried to rule in the best possible way I know how, under the law and under the facts.

With respect to the Supreme Court decision to which reference has been made persistently during the trial of this case, I say to you that prior to the trial, after lengthy discussions and argument in court by able counsel, and after consideration of many, many hours, I concluded that the Supreme Court decision was not applicable as a matter of law or as a matter of fact. Now, that decision on my part is binding upon you. If I am wrong and if occasion arises hereafter, that will be the subject of a review. That is exclusively my province.

Now, I think that explains the matter. I admonish you to disregard the last assertion made by Mr. Hallinan, and we will now take the morning recess. The same admonition to you.

(Recess.) [5892]

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Donohue): For the purpose of fixing a date, Mr. Bridges, do you remember when it was that you first met Tommy Raye, or perhaps for the purpose of refreshing your recollection may I ask you to take a look at page 5765 of the proceedings in your second deportation and read a few lines (handing transcript to witness).

A. I see.

Q. Does that refresh your recollection as to when it was that you first met Tommy Raye?

A. No, but my memory in 1939 was much better than it is now, eleven years later, and I wouldn't quarrel with that. That says I met him later in 1937.

(Testimony of Harry Renton Bridges.)

Q. In the month of June?

A. Does it say June, 1937?

Q. Let me read it to you:

> "Q. Now, can you say what fixes the date 1937 in your mind as meeting Roy Hudson, was it? A. No, Tommy Raye.
>
> "Q. Tommy Raye. What was it that occurred at that time that fixes the date so definitely in your mind?
>
> "A. A conference of longshoremen and seamen in New York in June, 1937, that Tommy Raye attended."

A. I have no recollection of the incident now, but I say that [5893] was much closer. That was only a couple of years after the incident, and I wouldn't quarrel with that record, Mr. Donohue.

Q. Do you recall what the conference of longshoremen and seamen in New York was at that time?

A. At the moment offhand I do not. I could do a little research in our records, and if there was such a conference I could probably find it. Here is what I mean: There were quite a few conferences maybe around that time.

Q. I understand that.

A. That was around June—what puzzles me is that the Maritime Federation convention was in June, 1937.

Q. Yes. When was that, Mr. Bridges? That was in Portland? A. Yes.

(Testimony of Harry Renton Bridges.)

Q. Do you recall when that was?

A. June, I think.

Q. 1937?

A. Yes. I am not sure. I would have to check the record. I think it was June, and now you say a conference in New York. Now, it might be, because we finally worked out a program in conjunction with the national CIO, and I went East shortly thereafter. There could have been a conference in New York in June or July.

Q. When you met Tommy Raye did you know at that time that he was in the top echelon of the Communist Party? [5894]

A. I can't recall that. I have no recollection of that, Mr. Donohue.

Q. Did you ever learn or know that that was a fact?

A. Maybe I did. I can't remember that particular point. I know who Tommy Raye is, incidentally. I have seen him in recent years. I didn't pay enough attention to it to worry about it one way or the other.

Q. Do you recall that it was in 1937, that the national CIO Maritime Committee was formed?

A. Yes.

Q. And do you recall that you attended a meeting of that committee in Washington, in July of 1937?

A. It could be. I don't recall, but it could be. I attended quite a few meetings. If there was a meeting in July of 1937, I might have attended and probably did.

(Testimony of Harry Renton Bridges.)

Q. Can you relate the three incidents now, Mr. Bridges, as to time: Your recollection in 1939, that you met Tommy Raye in New York, in June, 1937; your recollection that you attended a meeting of the national CIO Maritime Commission in Washington, in July of 1937; and your attendance at the Maritime Federation of the Pacific convention in Portland, which you think was in June, 1937?

A. I remember the Maritime Federation of the Pacific convention in Portland. I don't remember the other items. I don't remember them at this time, but I wouldn't say they couldn't [5895] have happened. As far as meeting Tommy Raye, I was going by what that record says. I have no recollection of when I first met Tommy Raye. I have seen him very infrequently. There is a record there showing I testified I met him in June, 1937, and I was testifying in September, 1939, and I was testifying to something that happened only a couple of years before. So I assume I can go by that record on that point, and as far as any meeting of the Maritime Committee in New York or Washington in 1937, I have no specific recollection at the moment. I could search the records and probably come up with a better answer.

Q. Do you remember when it was you first met John L. Lewis? A. Yes.

Q. When was that? A. '36.

Q. In 1936?

A. I went back East in 1936, September. I think I met him in Washington or New York, one of the

(Testimony of Harry Renton Bridges.)

two. I discussed with him the possibility of a West Coast maritime strike and he took the matter up with the President at the time to try to get the situation straightened out.

Q. Could you tell us whether or not you went to New York at the time in June of '37, when you met Tommy Raye before or after the Maritime Federation of the Pacific convention in Portland? [5896]

A. I don't think I was in New York until after the Maritime Federation convention, not any time in 1937. That is, the first part of 1937 I don't think I was in New York. I think I went to New York for the first time in 1937, after the Maritime Federation convention, which would be at the earliest in June or later.

Q. If you attended the national Maritime Committee of the CIO meeting in July in Washington of 1937, do you recall now whether you remained East or came back and returned to the meeting in Washington?

Mr. Hallinan: Well, he has not said he attended a meeting in Washington, if the Court please. That is an argumentative question, assuming things not in evidence.

Q. (By Mr. Donohue): What is your present recollection, Mr. Bridges, as to whether or not you did attend?

A. I don't recall such a meeting, Mr. Donohue, but at the same time I have attended quite a few meetings. I wouldn't want to deny it at the moment. The best thing for me to do maybe would be to look up the record. I have a calendar, as I say. I can tell you where I was in June of 1937, practically every day.

Q. Would you do that for me, Mr. Bridges?

A. Sure will. Any particular date?

Q. What I would like to know is, No. 1, when it was in June of 1937, as you stated, that you saw Tommy Raye, whether it was [5897] before or after the national Maritime—or the Maritime Federation of the Pacific convention in Portland; if you did attend the meeting in July of 1937, in Washington, at the formation of the national Maritime Committee of the CIO, and if so, whether you returned from New York to California and then returned in July to Washington, or whether you stayed East.

A. I will see what I can do on that. I have a record of my movements.

Mr. Hallinan: Can you give us any closer dates in June that you want?

Mr. Donohue: I do not know, except that Mr. Bridges said, that he met Mr. Tommy Raye——

Mr. Hallinan: He probably would not have a record of when he met a particular person. You would have to do it by some meeting or some convention. The thing is we do not want to spend several hours now rambling through a lot of records to find something of no consequence. If you will tell us what you want to get, we will get to work on it. But to ramble through our records to find out when he met Tommy Raye or whoever else it may be, we do not want to spend time on that.

(Testimony of Harry Renton Bridges.)

Q. (By Mr. Donohue): Do you understand what I want you to find out for me, Mr. Bridges?

A. If I attended a meeting of the CIO Maritime Committee——

Q. In July, 1937, in Washington. [5898]

A. Yes, and whether I came back to California after attending that meeting or did I go to New York.

Q. No, whether or not prior to that meeting you were in New York, as you stated in the record, in June of 1937, and met Mr. Tommy Raye, having in mind that at some time about that time the Maritime Federation of the Pacific convention occurred in Portland, and I understand you were present at that convention.

A. Right—well, it might be. I might have some records that would indicate I met Tommy Raye at that time. Possibly all I could find out is if I was in New York at the times you mentioned and in Washington and what was I doing there.

Q. No, whether you were in Washington.

A. Yes.

Q. In July, 1937.

A. Yes, I can find that, I am pretty sure.

Q. And in New York in June, 1937.

A. Yes. I think our records will reveal that. They might not reveal as to whether I met Tommy Raye.

Q. Thank you, Mr. Bridges. When was the 1936 strike?

(Testimony of Harry Renton Bridges.)

A. October—it commenced October 28, 1936, and finished on February 4, 1937.

Q. October 26, 1936? A. October 28, 1936.

Q. To when, sir? [5899]

A. February 4, 1937.

Q. Did you receive any help from the Communist Party in the second strike, Mr. Bridges?

A. By golly, I can't recall whether we did or not. Certainly what help we received on the second strike doesn't stand out in my mind as much as the help we received from them on the 1934 strike. The second strike was a pretty peaceful affair, an entirely different type of strike, and was mainly a seamen's strike more than it was a longshoremen's strike. We were kind of going along for the ride, a supporting position.

Q. Do you recall a meeting in Seattle, in 1935, for the purpose of promoting a convention of the Pacific Coast Maritime unions? A. In 1935?

Q. Yes.

A. Sure, the convention held in March, 1935, following a conference held in San Francisco in February, 1935.

Q. Did that idea originate in what was known as the Waterfront Bureau of the Communist Party here in San Francisco?

A. You mean the idea of the convention?

Q. Yes.

A. To find the Maritime Federation of the Pacific?

Q. To call the meeting in Seattle out of which the Maritime Federation of the Pacific was in fact formed.

A. No, Mr. Donohue, no. Let me tell you again, the idea of [5900] a waterfront or city front federation is an old thing. There was a city front federation around here many, many years ago, 1901, and later in 1916, and that idea did not originate there. We passed a resolution in our convention in February, 1934, supporting the idea of a maritime federation. That was passed unanimously by all the delegates, and then as I know myself, during the 1934 strike the Northwest Joint Strike Committee—that was the committee that handled the strike strategy for the entire Northwest—they set aside money, and I have already told you that early in 1933 there had been established on the Pacific Coast here the Council of Marine Crafts, and that was a going organization before the San Francisco longshore local was chartered. So you had the makings right then and there of the Maritime Federation a long time before any convention of March, 1935, and as far as I know, possibly a long time before the establishment of any bureau of the Communist Party or any other party; that had no connection with the whole thing whatsoever.

Q. Mr. Bridges, did you, together with Dave Saunders of the Sailors Union of the Pacific, Redels Cayton of the Marine Cooks and Stewards Union, and Mervyn Rathborne of the ARTA, constitute the District Bureau of the waterfront section of the Communist Party in California, in 1935?

(Testimony of Harry Renton Bridges.)

A. Rathborne and I and who? Saunders?

Q. Dave Saunders and Redels Cayton. [5901]

A. What do you call the district bureau, Mr. Donohue? What do you mean by that?

Q. A top fraction of the waterfront section of the Communist Party. A. No, no.

Q. After the 1934 strike and before the 1936 strike, did you ever attend a meeting the attendance at which was restricted to persons who were members of the Communist Party, at which Mervyn Rathborne was present? A. No.

Q. Mr. Bridges, there came a time when after the Seattle meeting of 1935, the Maritime Federation of the Pacific came into being; correct?

A. Right.

Q. And here in San Francisco was District Council No. 2? A. That is right.

Q. Who was the first president?

A. The first president?

Q. Yourself?

A. I think I was. I am not sure, but I think I was.

Q. And who was the first secretary-treasurer?

A. Rathborne, I think. I am not sure, but the records will reveal that.

Q. Is it or is it not a fact that you as president and Rathborne as secretary were picked by the waterfront section [5902] of the Communist Party?

A. No, of course not. I was the logical person to be president, I would say. I was the president of the longshore union here in San Francisco. The

(Testimony of Harry Renton Bridges.)

longshore union in San Francisco is more or less the anchor union. That is the backbone union of the maritime unions. All the rest of them put together do not amount to much without being tied in with the longshoremen or supported by the longshoremen. So I was the logical choice, being president of the longshore union, to be president of the council. [5903]

Q. Was Rathborne as equally a logical choice for the first secretary-treasurer?

A. At one time the secretaries of all the Councils—we had four Councils, Portland, Seattle, Los Angeles and San Francisco. I think at one time the secretaries of those Councils were all radio operators, possibly because they were handy with the pen and pencil or typewriter. Most all radio operators can type. So they were selected, I guess, because maybe they could write and talk better language than the rest of us; keep books, such as they are, write minutes, and things like that.

Q. Then he was just as equally a logical selection for secretary-treasurer?

A. Oh, yes, for the reason I state. It wasn't because—it wasn't the economic power that he possessed in his union so much as maybe other abilities that I have referred to.

Q. He never was rich? A. What?

Q. You mean he never was rich, is that what you mean?

A. He is working hard at it now. He is going to

(Testimony of Harry Renton Bridges.)

be a big real estate operator, he thinks, if he gets that breakwater in down at Half Moon Bay.

Q. Mr. Bridges, when the 1936 strike occurred was there appointed here locally or named in some method here a joint strike committee?

A. Yes. [5904]

Q. Who comprised the joint strike committee?

A. The representatives of all unions that were affiliated with the Maritime Federation; I think they were around 11 or 12 in number, and each union elected certain representatives that represented that union on a coastwise basis, and they were here in San Francisco, and those representatives put together comprised the Joint Maritime Strike Committee.

Q. Was there a joint strike committee locally here in San Francisco?

A. I think so. That is generally the way things went; you would have a coastwise joint strike committee; you would have an area or local joint strike committee.

Q. And is it a fact that the officers of San Francisco District Council No. 2 of the Maritime Federation of the Pacific were designated as the joint strike committee for the 1936 strike here in San Francisco?

A. You mean the local joint strike committee?

Q. Yes.

A. I don't know; I could check on it. It would be the logical thing to do, the officers of the District Council would be the local strike committee—local joint strike committee. You just change the thing around; they would operate in both capacities; they

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would operate as district council and they would operate as the joint strike committee.

Q. Do you recall that in consequence thereof you became president [5905] of the joint strike committee and Rathborne was secretary?

A. Locally here?

Q. Yes. A. That would be the case, yes.

Q. Was that decision made by the Waterfront Section of the Communist Party?

A. Of course not. You are wrong on those things, Mr. Donohue. You run away with the idea that the Communist Party can wield a lot of power in these unions. Take it from me, it isn't so. It isn't so.

Q. Mr. Bridges, did you know Walter Lambert during the period of the 1936 strike?

A. I think so. I have known Walter Lambert for some time. I think I have known Walter Lambert since '33 or '34.

Q. At any time during the period of the '36 strike, were you advised by Mr. Lambert that you were under surveillance and to be careful of what meetings you attended and to attend only meetings to which he personally invited you to go?

A. No, not that I recall. I wouldn't have to be told by Walter Lambert that I was under surveillance; I knew that.

Q. Did you and Mr. Rathborne ever discuss the same instructions from Mr. Lambert?

A. No, no.

Q. Isn't it a fact that in consequence of that instruction that you and Mr. Rathborne sometimes

(Testimony of Harry Renton Bridges.)

went in a single automobile to [5906] certain meetings designated by Walter Lambert?

A. No, Mr. Donohue. Believe me, you are getting too mysterious there. The thing that has always protected me was that I have operated out in the open. I knew that. If I had been operating the way you talk about, Mr. Donohue, instead of having these characters that you have hauled up here as witnesses, you would have had secret agents of the Immigration Service or the FBI up here giving testimony, plants in the ranks. The fact that you can't produce any speaks for itself. No, I haven't operated that way. My position is clear; it is known to everyone. I don't have to sneak around to go to meetings. My office is open. If I want to go to a meeting in my office or outside my office, I play safe by making sure that some people know about it so that it cannot be said, you see, that I am attending any kind of a Q.T. meeting or anything like that. It is true on more than one occasion it might be necessary under the circumstances not to broadcast what I am doing to the whole wide world or to the press, but I learned over a period of years the best way to play safe is if at any time I am going to a meeting to make sure that other persons in the union know about it—my secretary and others know about it, so that no one can say that I was poking around without a lot of people knowing exactly what I was doing, where I was going and why. And in that way I am safe. And that is why, for some of these so-called meetings you are talking about, if you

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produced the date [5907] and the time, I will probably be able to prove that I was somewhere else, like the Stockton meeting. That is the way we do it.

Q. Mr. Bridges, is it or is it not a fact that on innumerable occasions during the 1936 strike you and Mervyn Rathborne and Walter Lambert met at the place designated by Walter Lambert at which you discussed two things: Strike strategy and Communist Party instructions with respect to the strike?

A. No; I didn't have to discuss strike strategy with other people. I have discussed strike strategy with Rathborne many, many times and I have—I know Lambert: He is a member of a union, as far as I know, around here, and possibly I would regard him as a good trade unionist possibly that might know quite a bit about strike strategy. But in so far as strike strategy on the waterfront, Mr. Donohue, we think we are just about as good as you can find; we don't need any advice from other people. Help was one thing; you understand, during the strike, help was one thing. That is a different thing to advice. But advice as to strategy, we don't need it; we get along very, very fine as it is without any help from Walter Lambert, or other people.

Then there is another part of this point that you have got to remember. You know, you give the impression that there is loads of Communists operating in these unions. I would have a hard time to name twenty Communists, I believe, that I know in [5908] a union. And the way it really works is

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the Communists in trade unions, they speak their piece as union people; if they are going to get any steps at times against individual Communists in the support, they get it as union people, not as Communists. And I have been very critical and taken steps at times against individual Communists in the ranks, again not as Communists, but because I thought that the policies they were advocating were bad union policy. I even have gone so far upon occasion as to go directly to the heads or officers of the Communist Party and say, "Look, how about this? Are you people responsible for these individuals doing these things?" Generally, I will have to admit they say, "Listen; we have got no responsibility for that type of policy; it doesn't represent any policies we stand for and those people are wrong." I have taken steps like that. So what you talk about, this question of Communists in the ranks of the union, that is something that is being fed to you, it has got no relation to the facts, just like the infiltration angle. A lot of people get them mixed up. I have seen Communists operate in a union in such a way that I thought was bad for a trade union, and I had no hesitation in saying, "That is no good," but I did not regard that as infiltration. That wasn't my understanding. All I seen was some people there that were doing wrong things. Whether they were doing it as a result of orders or instructions from their political party, I mightn't know it; I didn't care. The fact that they were doing certain things was enough for me, and I [5909] did my best to stop it by going to the individual or by going to what might have been their superiors.

I can give you a concrete example. I will show you what I mean. In around November or December, 1947, the Waterfront Division of the ILWU held a caucus in the city of Seattle, a coastwise conference — we hold them periodically. In the course of doing business with the conference, we were looking ahead, knowing our contract was going to expire in June of 1948. We expected trouble with our employers—that is, our waterfront employers at that time, and our fears were borne out in that direction. So we were discussing in November or December of 1947, how best to draw the union together to eliminate any dissension or difference of opinion, and so forth. The president of my local union who is, believe me, not a Communist, I don't think, his name is Kearney, he got up as the president of the San Francisco longshore local and he said, "Now, look here, Bridges, I wish you would, in the interests of unity—I agree with what you have just said, and I would like to add a little—" —I should explain what I just said was this: "Look, we have got a big battle on our hands ahead. Let's cut out all this arguing and fighting and criticizing people for their religion" —I didn't say "religion"; I said, "their political beliefs," and after we get over the hump and get our contracts signed I am working out, we will set aside a special time where everybody can go after everybody else and then we will [5916] have a free-for-all for a whole month;

(Testimony of Harry Renton Bridges.)

we can afford the luxury, if the people want to talk about the Communists and scream about them, fine and dandy, and vice versa and so on.

Kearney got up and said, "I agree with that proposition; I am all for it. I would like to add one thing. I have noticed that the fellows in the union listen to you, Harry. I wish you would do something about members of the union, who, I claim, some of them are Communists, saying that if I am elected to the presidency of the union, certain things will happen." [5911]

Kearney is an official of an organization called the A.C.T.U., the Association of Catholic Trade Unionists. "I see there's people running around, and I think some of them are Communists, saying that if I am elected to the presidency of the union, the Pope will run the union. They are also saying that I am anti-Negro." So he said, "Now, maybe you can take steps to clear that situation up." And I agreed with him. I says, "I will get busy on it right away." I came back to San Francisco and I started, first thing I did, I put a phone call through to the headquarters of the Communist Party. I said, "Look, if there's any individual members of yours or any members of yours doing things like that, I just want you to know you had better cut it out because there will be trouble. And when I say there will be trouble, I mean I am talking as far as I am concerned, I will make the trouble." They disclaimed any such program and knowledge. They

(Testimony of Harry Renton Bridges.)

said, "If you can catch any people parading as Communists that are saying things like that, we wish you would bring it to our attention. They will be expelled from our party forthwith." That was their position.

Then the very first chance I had down at the union meeting here, I took the matter up in the union meeting and spoke on the platform, and I pointed out that people that were saying things like that were just as much union wreckers and union busters as the people that came around and criticized Communists because they were Communists, even if they didn't agree with [5912] them.

Now, there's an example of what I mean. So we have to always watch—at least that's the way I look at it. I watch what the individual in the union is doing. And, notwithstanding who that individual was, what political beliefs he has or political party he follows. We judge him by his activities and his program within the union movement. There's no question about it. Now, that is the way things work in the union movement, Mr. Donohue. And again, believe me, one way you could find out, you could come down to one of our union meetings. You will be treated courteously, you will get all due respect. Don't worry about it, there will—it will all be off the record, you can get up and talk to the fellows there, you can give them your views on how bad Communism or anything else is. The overwhelming majority of them are all anti-Communists. They are all

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anti-Communists. But they are anti-Nazi, too, and I think you fall into a common error that a lot of people make. You know, there's all kinds of people. I have met all kinds of people, they are anti-Nazi and they are anti-Communist. I have met all kinds of people that are anti-Nazi and anti-Fascists and are just non-Communist. I have met all kinds of people who are anti-Fascist and anti-Nazi and pro-Communist. I have met all kinds of people who are anti-Fascist and anti-Nazi and pro-American. But there's one thing I have never met, one thing—it is a very simple test: I have yet to meet in all—and I get [5913] around quite a bit, Mr. Donohue—I have yet to meet one single person who was pro-Nazi and pro-Communist. I have never met anybody like that.

Now, what happens is that people have a habit of putting these two things together; that is, like the loyalty oaths that we run up against these days, people breaking their necks to have loyalty oaths written, where anybody who is a member of a Nazi or Communist organization or Fascist organization, by lumping all these things together, there's a slur or an attack directed upon that particular group. And I have found in my work in trade unions, I have got to learn to separate. I can't approach a person on the basis that he is a pro-Nazi or a pro-Fascist or a pro-Communist because I can tell you, I have never yet met a single person. I would like to meet one. Never yet met a single person. I meet a lot of people the way that I have told you, and we operate in the

(Testimony of Harry Renton Bridges.)

trade unions as individuals, and any time I find any person in the trade union movement, whether they be Communist or anything else, if they are not following the program of the union, if their allegiance is not first to the union, as far as I am concerned, they are in trouble and they all know that, and we play no favorites. I have attacked the members of the Communist Party in my own union—maybe not as much as I have attacked other people. They generally handle things pretty well as trade unionists, and that is all we ask of them. And if they do a good job as members [5914] of the union, follow the rules, we don't care what they are and what they think. Now, that is how simple it is, and you are off the track on these things. And if you attend one of our union meetings, Mr. Donohue, believe me, you would be able to frame your questions to me and be able to give me a much tougher time on some of those questions. And I can guarantee you, you will get all the proper respect and courtesy from the fellows, and they will be glad to see you and if you have time, to answer a few questions. Off the record—it won't hurt the case here, it would be completely off the record. And believe me, you'd learn a lot about how those unions run, and how absolutely impossible it is, impossible, for anybody outside, like the Communist Party, to do anything to the membership of the ILWU or to run them or dictate to them, give them instructions or anything like that. Absolutely impossible.

Mr. Donohue: May we take the noon recess, Your Honor?

The Court: We will take the noon recess and resume at 2:00 o'clock, ladies and gentlemen. The same admonition to you, not to discuss the case under any conditions.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [5015]

February 17, 1950, 2:00 P.M.

HARRY RENTON BRIDGES

resumed.

Cross-Examination
(Continued)

By Mr. Donohue:

Q. Mr. Bridges, do you remember yesterday reading to the jury a statement of yours in the People's World in which you were praising that publication?

A. I remember the statement, yes.

Q. And do you remember testifying that you were at this time a subscriber to the People's World.

A. Amongst other publications, that's right. Quite a few other publications I subscribe to.

Q. May I ask you, Mr. Bridges, to look at an article termed "Portrait of a Stool Pigeon" in today's issue of the People's World.

Mr. Hallinan: Let me see it first.

Mr. Donohue: I thought you had possibly seen it.

Mr. Hallinan: No, you haven't given us the courtesy of handing it to us yet. (Examining document).

This seems a little bit long. I will look at it afterwards.

(Document handed to witness by clerk.)

A. You want me to look at the picture or the article?

Q. (By Mr. Donohue): Both, if you will, Mr. Bridges.

A. Well, I glanced through it. I haven't—what—— [5916]

Q. Did you discuss the subject matter of that article with anyone, Mr. Bridges, before its publication?

A. The first time I have seen it, the first time I knew anything about it. I know nothing about it, Mr. Donohue. This is the first time I have seen it. I might subscribe to a paper, but it doesn't necessarily mean that I endorse its views or approve of all the material in it. My statement with respect to the People's World was what I said yesterday, that as compared to some other commercial papers that are largely, I would say, owned and controlled by anti-labor interests, I would say that there is a better chance of labor unions getting their points of view put forth or set forth in this paper than those papers. I think that is about the extent of my remarks.

(Testimony of Harry Renton Bridges.)

Q. Will you look at it enough, Mr. Bridges, to gain an idea as to the nature and purpose of that article?

A. Well, it would seem to me that the article in effect makes this point: That at one time——

Mr. Hallinan: Well, now, just a moment. I think he shouldn't be examined about some document that isn't his composition or asked to read part of it or any of it in the record.

The Court: You have another question to address to the witness?

Mr. Donohue: Yes, when he has read enough of it to [5917] familiarize himself with its general purpose.

The Witness: Yes.

Q. (By Mr. Donohue): Do you subscribe, Mr. Bridges, to the principle of attempting to deny a jury the right to determine the credibility to which a witness who may testify in this court is entitled?

Mr. Hallinan: Pardon me just a moment. Your Honor will remember that you made an order which I have no doubt the jury has subscribed to, that they are not to read the newspapers. Now, if this document, I think the gentlemen said came out today—is that when you said it came out?

Mr. Donohue: Yes, today.

Mr. Hallinan: Well, I don't assume that the jury has either read it or is going to read it, and if it bears upon the credibility of one of Mr. Donohue's witnesses, it is not likely that the jury is going to be swayed by it. So I submit that the questions are improper at any rate.

Mr. Donohue: Mr. Hallinan has wholly and completely misunderstood the purport of the question. It is not my thought for a moment that the jury would read any publication, not to say the People's World, because I know that the jury will conform to the suggestion of your Honor. I have asked this witness only the question as to whether or not he felt the publication of such an article, in the light of his endorsement of this newspaper, is in keeping with the American tradition [5918] that the credibility of a witness is to be determined by a jury and not by the People's World.

Mr. Hallinan: Well, I think, your Honor, that counsel wants to unduly interfere with the freedom of the press now, that Mr. Bridges has no control over the People's World or any other paper, and if he had, I suppose he wouldn't try to curtail the paper's activities in printing whatever it wants to say. Now, if the People's World considers that some of Mr. Donohue's friends or witnesses, or whatever they may be, are unworthy of credence, I think they have a right to say so, and I don't think that is taking away from the jury the jury's right to pass upon that issue. The papers may be right or they may be wrong, but we have no control over them, and I don't think Mr. Bridges can be reprimanded if the People's World publishes an article that reflects upon certain people that Mr. Donohue brings in here.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: I am not interested, if your Honor pleases——

Mr. Hallinan: I think there has been a great deal of reflection in the public press upon many such witnesses in one way or another. I don't think that it is any part of this trial.

Mr. Donohue: I am not concerned, if your Honor pleases, No. 1, with the People's World or what it may say, nor am I concerned, No. 2, with a witness who has appeared and who has given his testimony on the stand. I am only concerned at [5919] the moment with whether or not this witness, who has testified under oath that he endorses this newspaper, endorses also an article in this newspaper referring to a person who has never been called as a witness in this proceeding.

Mr. Hallinan: Well, if the Court please, we have a further objection to that, that one of the ways that Mr. Donohue has been trying this case since its very inception is to issue press releases, and when a couple of young ladies went down and interviewed one of his prospective witnesses, he caused them to be indicted by the Grand Jury on the uncorroborated testimony of that witness as against what the two young ladies had to say—affording them no opportunity to appear before the Grand Jury to testify themselves at all. He is the very last one that should talk about assassinating witnesses in advance or impeaching in advance. Now, the whole inquiry is improper. He has no right to do it. He has set a notable example himself. We have been hearing all kinds of things about "Sunday punches" and "surprise witnesses" and "we would go crazy if we knew who they were," witnesses that were going to be called in, all that sort of whipped-up hysteria. And certainly Mr. Bridges isn't responsible for the publication of the People's World.

Mr. Donohue: I may say, if your Honor pleases, on one further basis, that yesterday Mr. Bridges also said that he was the international president of an international federation [5920] of maritime employees, an arm of the World Federation of Trade Unionists, which at a convention in Marseilles, France, at which two American delegates were present, adopted a resolution prior to the date of this trial characterizing any person who testified against Mr. Bridges, as a stool pigeon.

The Court: Well, in that instance, Mr. Donohue, there was some exercise, at least to the extent that Mr. Bridges assertedly had some control over the preparation of the resolution, or at least——

Mr. Hallinan: We made no objection to it.

The Court: Or at least suggested control over it, and for that reason it had some legal or logical relevancy to the cause at bar. But I cannot see, under Mr. Bridge's own testimony, wherein he stated that he has nothing to do with the policy or nothing to do with the writing of the article, how or in what manner he would be bound by any matter therein contained.

Mr. Donohue: I shall not pursue it any further, if your Honor pleases.

Mr. Hallinan: I will tell you, if we read the article we might agree to stipulate to have it put in evidence and read to the jury. But we should be afforded an opportunity to do so.

The Court: I will sustain the objection.

Mr. Hallinan: Let us have the paper and read it over, [5921] and after we read it over, if we so desire, we may stipulate that you may put it in evidence.

Mr. Donohue: Fine. [5921-A]

Q. Mr. Bridges, you did write a column called "On the Beam" at least at one time you did, in The Dispatcher, which is a publication issued by your union?

A. Yes, I used to. The editor of the paper gave up trying to hound me to write it. I was too lazy. Just caused him too much trouble. He finally quit in disgust in forcing me to meet the deadline. Besides, I am no writer.

Q. In the light of all the things you have said about your own union, Mr. Bridges, have you ever said that a country that has a totalitarian government operates like your union?

A. I don't know. I can't recall—I remember one article that I wrote at one time where I pointed out that you had to be careful the way you juggle this word "totalitarian" around. I mentioned it here in my testimony. You have to first of all find out what it meant. Otherwise we would find what people are saying about other countries would apply to our

(Testimony of Harry Renton Bridges.)
union, and I didn't want to see that happen. That is the only time I recall making any mention about the word in connection with our union.

Mr. Donohue: After handing to your counsel for examination, a copy of The Dispatcher dated April 18, 1947, I will ask you to look at it. (A paper was handed to Mr. Hallinan.)

Q. (By Mr. Donohue): Would you note the two places marked? First, you may read the whole article if you wish.

Mr. Hallinan: First, note, too, the article is not written [5922] or purported to be written by Mr. Bridges. There is a note at the top that says he has not written it.

Q. (By Mr. Donohue): Mr. Bridges, as you perhaps have noted, this column, which otherwise is written by you, purports to be by the editor of The Dispatcher, a condensed version of the speech made by you before the Seventh Biennial Convention of the ILWU in support of a resolution which denounced red-baiting and government witch-hunting. Were you correctly quoted, Mr Bridges?

Mr. Hallinan: Just a minute. I object to this method of cross-examination. If there is a speech that Mr. Bridges made, the speech would be admissible in its original form, but I do not thing anybody has a right to make what he calls a condensation, publish it and make that binding upon Mr. Bridges. Now, they undoubtedly have all the speeches made in these various conventions and they can bring in the original one and we will stipulate that it go in evidence.

The Court: If Mr. Bridges recalls the subject matter as a direct quote here, something he may have said on that occasion, he may say so. If he does not, he may deny it.

The Witness: I don't know, Your Honor, but we have the record. I notice the note at the top where it says, "inasmuch as Bridges hasn't got time to write his column this week, I will write it for him, and therefore I offer a condensation of a speech that he made at a convention." Now, we have a complete [5923] transcript of everything said there and that would be better than my memory of it. I will find it and bring it in.

Q. Will you provide us with a transcript of your speech at that convention?

A. Sure. I have those dates that you asked me about, Mr. Donohue. All during the month of June, I was in the city of San Francisco and on the Pacific Coast and in Portland. I have every date here and what I did. June 1st to the 4th in San Francisco, and where I was; 7th and 8th, and so on—I have it up to June 30th. I have every date here.

Q. What year?

A. 1947—1937; June, 1937. And then July 2nd, 3rd and 4th I was in the Maritime Federation convention in Portland, and I left—July 7th I was at the CIO Maritime Committee in Washington, D.C., Tower Building, 11:00 a.m., 21 people present, and the people are named. I have the minutes of the meeting. July 8th and 9th, meeting of CIO Maritime Convention which was formed, CIO offices, and who was present. July 10th, went to New York City; subcommittee, Rathborne and Bridges, delegates to meet Joseph P. Ryan. On Saturday, couldn't get a meeting. Finally got a meeting July 12th, late in the afternoon. I've got a report of that meeting. Left for San Francisco after the meeting that night. That is the night of July 12th, I left for San Francisco. July 14th, Wednesday, in San Francisco. July 18th in Seattle for a one-day meeting of the District executive [5924] board to discuss CIO affiliation. I have the minutes of that meeting. So that brings me from June 1st, 1937, up to July 18, 1947, in Seattle, and apparently I went to Washington direct from Portland, arriving in Washington July 7th. Apparently, according to the records I have checked, that is where I first met Tommy Raye.

Q. Where did you first meet Tommy Raye?

A. I first met Tommy Raye. Now, I notice in reading from the transcript of the Sears hearing—not the Landis hearing—I first said I met Tommy Raye in June, 1937. The question was not pressed at the time and I was not asked to search the records, but now, searching my records, I would say I first met him at this meeting, in Washington, D.C., in July, 1937, because I was not in Washington, D.C., all during the month of June, 1937. I was in Portland. I can account for my whereabouts every day during the month of June, 1937.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: I have the documents here, if you want to use them. I will use them on redirect if you do not. We have minutes and telegrams substantiating what he said.

Mr. Donohue: I only wanted to know if he was in error when he testified heretofore that he first met Tommy Raye in New York, in June, 1937.

Q. And it is your testimony now from refreshing your recollection from the records that you first met Tommy Raye in Washington, D.C., in July?

A. I would [5925] say so, Mr. Donohue. I say again the question was not gone into in the hearing before Sears. I was asked the question, "Where did you first meet Tommy Raye?" and I said, "June of 1937." And apparently, according to my records, it was in July, 1937, at Washington, D.C., at this meeting. If I had checked up on it then I would have caught the error of one month at that time.

Q. You hadn't refreshed your recollection before the question was asked until the question arose here?

A. No, I didn't refresh my recollection here until you asked me the question.

Q. I say until now when the question was raised.

A. That is right.

Q. Mr. Bridges, going back to the question we were on just prior to the last answer this morning, you indicated that you may have talked with Walter Lambert during the 1936 strike because of his experience as a trade unionist. What experience did Walter Lambert have as a trade unionist other than the fact that he was the California Trade Union Director for the Communist Party?

(Testimony of Harry Renton Bridges.)

A. I don't think I testified to that, Mr. Donohue, and I notice now—I discussed it in the noon recess with my attorneys, those trick questions. Now, I haven't been watching out for concealed questions within a question. I have just been accepting your questions at face value, thinking you were asking me [5926] a question to get the answer to the obvious question. You know, you can stand there and say, "Do you think Mr. Donohue wearing a blue tie is no good?" and I will say, "No, I don't think Mr. Donohue is no good." And you will say, "No, I am wearing a green tie." I am not looking out for trick questions. I notice you are putting questions together to quote me or misquote me, and I didn't give any such testimony. I didn't testify I had consulted with Walter Lambert during the 1936 strike, because he had experience as a Communist trade unionist, because I have no such recollection. I think I said I recall Walter Lambert as having been a trade unionist. I remember distinctly the first time I ever saw Lambert, he marched into the San Francisco Labor Council—I think it was in 1933—and his head was all bandaged up. I think he was a member of the Cigar Makers Union. He had been beaten up on the picket line. We had an anti-picketing ordinance at that time. He was in trouble, and I can remember he was up there seeking the support from the A. F. of L. Council, and I think the Council voted support. He was up there with a delegation.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: Pardon me, Mr. Bridges. I want to interrupt at this moment, if the Court please. I think there should be a correction in the record based upon what Mr. Bridges has just said. He was asked by counsel this morning, "Mr. Bridges, do you recall George Wilson testifying that Mr. J. R. Robertson belonged to the same Communist Party group as he did?" [5927]

"A. Yes."

Whereas the only testimony of Mr. Wilson in that behalf, occurring on page 4409 (21), was:

> "The Court: You might answer that, Mr. Wilson, as to a particular unit, if any, to which Mr. Robertson was attached, if he was attached to a particular unit.
>
> "A. (By Mr. Wilson): Well, it was my understanding he was attached to the same unit I was. It was my understanding."

And another matter that we suggested to counsel yesterday, on the Norma Perry matter, counsel showed Mr. Bridges a copy of a paper called The Western Worker, that showed Norma Perry was expelled from the Communist Party in 1935, and asked if it wasn't a fact that the meeting that he had concerning her spying upon him in union matters occurred around that time, and I called to Mr. Donohue's attention the fact that Schrimpf had testified that that happened in December of 1934, or January of 1935, almost a year before that date. Mr. Donohue then said that there was a second meeting at a later date.

(Testimony of Harry Renton Bridges.)

Now, I find in Schomaker's testimony on page 1165-69:

> "A. We will get to that later. It must have been three or four months later, I would estimate, Bridges brought charges against Norma."

So I think Mr. Bridges is justified in saying counsel, I know inadvertently—I know inadvertently—has been asking that [5928] type of question that, if they were purposely asked, could be considered trick questions.

Oh, another thing. He told Mr. Bridges today that Mr. Michener had said Klein attended a meeting in the Sunset District and Michener said no such thing. He said Klein came up there and then they separated and then he named the persons at the Sunset meeting, and Klein was not there. I warned Mr. Bridges today at noontime that he will have to watch the questions. He is taking, as he says, the questions being asked in good faith.

The Court: Mr. Bridges denies the meeting in its entirety, apart from the individual members.

Mr. Hallinan: But still it puts into the record a statement that is not justified by the record because, you may remember, Michener said Klein separated and went away from him because then he had some confusion afterwards as to how Klein happened to be sleeping in the same room under a different name.

Mr. Donohue: If your Honor please, there are two observations I think I should make: Number one, I think I should know whether or not this latest statement by Mr. Hallinan is an objection to a specific question which is now before this witness——

Mr. Hallinan: Not a specific question, but the general principle of asking questions of that kind.

Mr. Donohue: And number two, I would like to ask Mr. [5929] Hallinan if he is not the same Mr. Hallinan who in this court on a prior occasion has said he thought the asking of a trick question was wholly justified.

Mr. Hallinan: Oh, yes, yes, you can ask trick questions. I don't mind your asking trick questions. I only advised Mr. Bridges not to be too innocent, you, see, that he watch you like a hawk. [5930]

The Witness: You asked me, I think, if I recalled meeting with Walter Lambert, the trade union director of the Communist Party, in New York, in order to get advice on the 1936 strike.

(Question read.)

A. As far as I know, as far as I can recall, Mr. Donohue, I recall Lambert on the first instance as a member of the Cigarmakers' Union. After that, later on, I think he was a delegate to the San Francisco Labor Council, and I know later on he was some—he had some—he did hold some official position in the Communist Party; whether it was trade union director or not, I don't know. It could well have been. I don't recall at any time meeting with

Lambert to discuss the strategy of the 1936 strike. As a matter of fact, I am positive I didn't. Never mind the "don't recall" stuff; I am positive I didn't.

Q. Mr. Bridges, when you went to New York on any occasion after the 1936 strike was over, or—May I withdraw that question a minute?

May I ask you one further question with respect to this 1936 strike? Did you ever meet with Mervyn Rathborne and Walter Lambert during the period of the 1936 strike in an apartment on North Point Street, just opposite the chocolate works?

A. No, not that I can recall.

Q. Could you be mistaken, or are you certain of that, Mr. [5931] Bridges?

A. I am pretty certain. I mean, anybody can be mistaken. I am pretty certain. Here is why I—when I say I am pretty certain, here's why I say that, Mr. Donohue. An apartment on North Point Street, across from the chocolate works, did you say?

Q. Yes.

A. I don't know what I would be doing there. I get around quite a bit, but no connection with any chocolate works or North Point Street or apartments on North Point Street. I might get around to an apartment or two on occasion—I might at that time, but I can't recall any connection with Rathborne or Lambert or anybody like that, or on North Point Street either.

Q. Now, after the 1936 strike Rathborne went to New York, did he not?

(Testimony of Harry Renton Bridges.)

A. I don't know. Do you mean when he went back East to——

Q. Yes.

A. ——to become head of the Radio Operators Union?

Q. Yes, sir.

A. I think it was around that time.

Q. Did you ever see him in New York?

A. Oh, yes.

Q. On few or many occasions?

A. Quite a few occasions. I think—but I would date them [5932] from 1937. This meeting here, I think this meeting here (indicating), that in—that was in July of 1937; that would be about the first time I seen him.

Q. After you left Washington—Mr. Rathborne was in Washington with you, wasn't he?

A. Yes, at that time, sure.

Q. And did you return to New York with him, do you recall? A. Yes.

Q. And how long did you remain in New York?

A. July 10, went to New York.

Q. How long did you stay there?

A. July 12, left New York for San Francisco, after—left New York the night of July 12. I was in San Francisco Wednesday morning, July 14.

Q. Flew back?

A. Yes. Took that long, too.

Q. Pardon?

A. Took—well, it took quite a while then, you know.

(Testimony of Harry Renton Bridges.)

Q. Did you know when you got on the plane in New York and when you landed in San Francisco?

A. No, no. I remember those trips, particularly in the summertime. They used to be pretty rough.

Q. Mr. Bridges, while you were in New York, during the time you have just indicated, did you go with Mr. Rathborne to the ninth floor of Communist Party headquarters in New York? [5933]

A. No, I am sure of that. I have never been in the Communist Party headquarters in New York in my life. I have heard about Communist Party headquarters; I have heard about the ninth floor. I have been in New York and heard a lot of discussion about the ninth floor. It is one way that people kid each other, some people back there kid each other, and another way that they throw accusations around, and I have been in sessions back in New York in some of the unions where I have heard some members say to other members, "Well, how long has it been since you have been up to the ninth floor?" or "How about the orders from the ninth floor?" and things like that. So I know about the ninth floor. I have never been in Communist Party headquarters in New York in my life, Mr. Donohue.

Q. What was the significance of the ninth floor, Mr. Bridges, at Communist Party headquarters?

A. I don't know: I thought——

Mr. Hallinan: Probably it means it is between the eighth and the tenth. What is the question? I think the question is ambiguous.

(Testimony of Harry Renton Bridges.)

Q. (By Mr. Donohue): You testified just a moment ago that you knew all about the ninth floor, Mr. Bridges, and I take it that what you know, from what you said, was something other than the fact that it was probably between the eighth and tenth floors? Have you exhausted your recollection what you knew as to the significance of the ninth floor of the [5934] Comunist Party headquarters?

A. I didn't say I knew all about it. I said I had heard about it. I had heard about it on many occasions in New York, as I say, in the manner that I described. The ninth floor. Now, I always took it to be that that was the offices that they owned or rented, the ninth floor of a building, and that that is where their offices were. Now, I have never given it any more thought than that. The references I have made to the ninth floor are what I have told you, that in a union meeting or a conference some people, by way of, I guess, trying to kid, or on some occasions try to kid people, on other occasions trying to criticize or attack people, would mention the ninth floor as I have indicated. But as far as knowing any more about it than that, Mr. Donohue, I don't. I have never been there in my life. Anyone that says that I have is making it up.

Q. Isn't it a fact, Mr. Bridges, that you do know that the Communist Party has an entire building and that the ninth floor is the offices of the top hierarchy of the Community Party?

A. No, this is the first time I have ever known that, and I will take your word for it.

(Testimony of Harry Renton Bridges.)

Q. Not necessarily——

A. I don't see any reason why you should kid me on that point.

Q. Not necessarily, Mr. Bridges.

A. Well, the answer is I don't know; never knew it. [5935]

Q. In all of the talk you heard about the ninth floor, you never heard it suggested that was the floor on which the top hierarchy had their offices?

A. Well, not that I paid any attention to. The impression it created on my mind is the one I have given you, that the ninth floor meant a suite of offices on the ninth floor. That is the impression I had. Now, I never have given it any more thought, and I don't know whether they owned a building, believe me. The first time I have known it.

Q. Now, isn't it a fact, Mr. Bridges, that on at least two occasions you went to the ninth floor of Communist Party headquarters with Mervyn Rathborne and there discussed Communist matters with Earl Browder, Roy Hudson and Jack Stachel?

A. Wrong. Wrong. Never went there in my life with Rathborne or anyone else. Never went up there to meet those people, never discussed anything up there with those people. Wrong, Mr. Donohue.

Q. Now, you said earlier that the last time you saw Roy Hudson——

Mr. Hallinan: Pardon me, Mr. Donohue. Have you any objection to giving us the dates upon which these alleged visits were said to have occurred, or something close around, so that over the week-end we can run them down, a la the Crouch, Johnson debacle? If you could give them some approximate time Mr. Rathborne is going to testify they went there, we [5936] might be prepared to point out to Mr. Rathborne he may be suffering from some slight confusion of memory. Can we have the time?

Mr. Donohue: I think you can get much more accurate information from Mr. Bridges.

Mr. Hallinan: Well, Mr. Bridges just gave very accurate information that no such thing occurred. What I would like to get now is what the pretense is as to when these visits occurred. Are you going to give them to us or no?

Mr. Donohue: You shall learn that in your own good term, Mr. Hallinan.

Mr. Hallinan: All right.

Mr. Donohue: May I proceed, if your Honor pleases?

The Court; Yes.

Q. (By Mr. Donohue): **I began to ask you, be**fore I was again interrupted by Mr. Hallinan, if you did not testify shortly ago that some few months ago you last saw Roy Hudson here in the city of San Francisco? A. That's right.

Q. That you just happened to meet him out in front of ILWU headquarters?

A. That's right, as far as I can recall.

Q. When was the first time you met Roy Hudson? A. On any occasion?

Q. On any occasion. [5937]

(Testimony of Harry Renton Bridges.)

A. Oh, back sometime, I think, I would say I met Hudson around 1936. I kind of recall meeting him when I had my office down on lower Market Street, and that would be in the latter part of '36. That seems to me the first time now. It is a long time ago, Mr.— And let me suggest, I was asked that question, I think, before Dean Landis, and that was only two or three years afterwards, and my memory on that occasion would be better than it is now. But my memory now, I kind of connect up my first meeting, as I remember, when I had my offices on lower Market Street, and that would be in the last six months of '36.

Q. When did you first learn that Roy Hudson was the national trade union director for the Communist Party?

A. I don't know if I ever learned that, and I can't recall, if I did learn it, when the first time was. I don't know.

Q. Well, as of now do you know whether he is or not the trade union director for the national Communist Party?

A. No, I really don't know. I don't know. I have got the idea in my mind, and I don't know if I got it during the course of this trial or knew it before—I am not just quite sure on that. It has been mentioned here that he is, and it might well be that I picked up the idea during the course of this trial, or it might be that I knew it before. I really couldn't separate the two things at the moment.

(Testimony of Harry Renton Bridges.)

Q. At any time, Mr. Bridges, did you go with Mervyn Rathborne [5938] to the home of Roy Hudson? A. Where?

Q. On James Street in New York City.

A. No. Didn't even know where he lived in New York. I didn't even know he lived in New York City. I had an idea he lived in Pennsylvania now, as a matter of fact. And I have never been to his home in New York City or elsewhere, with Rathborne or anyone else. Postive of that, Mr. Donohue.

Q. Mr. Bridges, when did your union withdraw from the AFL and affiliate with the CIO?

A. About—our charter, I think, was granted July 11, 1937. I think we withdrew around the beginning of July, the first two weeks in July of 1937.

Q. At any time did you discuss the question of your union remaining in the AFL or joining the CIO with Roy Hudson?

A. Not that I recall, no.

Q. If you had discussed it with Roy Hudson, would you recall it, do you think, Mr. Bridges?

A. Well, I think so. Let me see. If I can go by what I think is in your mind, the answer is no. If, on the other hand, you mean did I ever have a conversation in which that matter came up, with Hudson, the answer is it could be. In other words, I mightn't recollect at the moment, but it could well have happened. But in so far—I take it your

(Testimony of Harry Renton Bridges.)

question is, what your question means, did I discuss the advisability [5939] of the move or making the move, or something like that, with Roy Hudson?

Q. Yes.

A. First of all, before it happened and with an idea as to whether we should do it or not, depending upon what advice he gave—now, I take your question to mean that?

Q. That is correct.

A. The answer is no.

Q. At any time, Mr. Bridges, were you aware of any opinion which the Communist Party had on the question as to whether or not your union should remain affiliated with the AFL or become associated with the CIO?

A. No, no, I knew what my position was, I knew what the position of my union was, and I know we carried it out. And when we decided to go into the CIO, it was only after certain things had happened, and after we couldn't get any satisfactory guarantees from Joseph P. Ryan. That is what that meeting in New York was about in 1937. We went to Washington—I read the minutes today—then we went to New York. We put a proposition up to Joe Ryan and said, "Now, if you will agree to these conditions," and they were pretty simple conditions, "we are going to stay in the AFL." That was my position.

Q. Now, is it a fact, Mr. Bridges, that your determination on the question of staying in the AFL

(Testimony of Harry Renton Bridges.)

or associating with the CIO was made subsequent to the trip that you made to Washington and [5940] New York in July of 1937?

A. No, I can prove that to you.

Q. Did you just tell us a minute ago that because of some conversation you had with Mr. Joseph Ryan, you came to a position or a determination on that subject?

A. Partly. Here is the way the situation was: Joseph P. Ryan was the president of the organization at that time, the international president. We were unsatisfied, we were dissatisfied with the structure of the organization, because we thought it lacked certain basic democratic features. We asked Ryan if he would correct two or three of those things, and that if he did, we didn't see any reason why we should leave the American Federation of Labor. Joe Ryan refused to correct the issues or the problems that, the weaknesses that we raised, and that was the final point. From there on in, what was only an idea that was in the making, or a move that was in the making, became something that was definite.

Now, as a matter of fact, before I went back East to Washington or New York in 1937, the Maritime Federation of the Pacific had already gone on record to take a referendum vote of all the unions affiliated with the Federation as to whether the union should go into the CIO or not. That happened before I ever went back. And while I was back East the referendum vote was already under way.

Q. Now, I come back again, Mr. Bridges; had the decision been [5941] made by your union to withdraw from the AFL and affiliate with the CIO prior to the time you laid down in New York City certain conditions to Joe Ryan, and for your union remaining within the AFL?

A. Not completely. The referendum—I say, the vote was under way, so no one could lay down a decision until after that vote was completed. But the vote was under way when I was back in New York talking to Ryan, and our proposition to Ryan was this: that "if you can offer the membership something that will meet the requirements that they have raised, the matter can be resubmitted to another vote." That was the situation.

Q. Then the decision was not made until you returned to California?

A. The decision was made by a vote of the membership.

Q. When was the decision determined by the vote of the membership, Mr. Bridges?

A. Oh—I've got the calendar here. I think we had a meeting July 18 in the city of Seattle. The Coast Executive Board of the union met, and that was where the result of the referendum——

Q. What date, Mr. Bridges?

A. July 18, I think. Now I will do a little further checking on that to make sure, but I believe

(Testimony of Harry Renton Bridges.)

that that was the date, July 18. And that was when the referendum was to be considered. That was the outcome of the referendum. [5942]

Q. When did you get back to California?

A. July 14.

Q. Now, isn't it a fact, Mr. Bridges, that before a final determination of the issue as to whether or not your union would withdraw from the AFL and associate itself with the CIO, that you went to Communist Party headquarters in New York and got instructions? A. Instructions?

Q. Yes.

A. No, Mr. Donohue. Absolutely not. I am telling you what happened. We had a meeting of the Maritime Federation in the city of Portland prior to going to that meeting; that convention of the Maritime Federation, I think that most of the locals affiliated to the ILA had already passed resolutions favoring affiliation with the CIO. The officers were really the ones, myself amongst others, that were saying to the membership, "Now take it easy. Before we jump out of the American Federation of Labor, let us see what can be worked out with the national officers of our national union." And that was one of the reasons that I left the convention in Portland before that convention was over. Went back to Washington to see John L. Lewis. John L. Lewis arranged a meeting with Joseph P. Ryan. We went up to try and discuss the matter with Ryan. We said, "Now, listen, if we can get a little democracy in the organization, we will stay in the AFL." I remember we wanted two or [5943] three things, such as all officers must be elected by secret ballot, no strikes to be called unless the membership had the right, had a chance to vote on going on strike, no agreements to be signed unless those agreements were subject to approval by the membership through secret ballot. Two or three items like that, as well as eliminate the gunmen from the payroll. There was a lot of gunmen on the international payroll at that time. Now, I can recall those three or four points that were proposed. And we said, "Now, look, Ryan, if you will agree to these things there will be no move, as far as we are concerned. We won't agree to go along with any proposal to leave the organization and go into the CIO."

Ryan wouldn't even meet with us. Ryan wouldn't even talk to us. He sat in another room and sent two or three plug-uglies to pass backwards and forwards, and we sat down around—well, there was a bunch of people around us watching us, and got the messages that way.

Q. If you had come to terms with Mr. Ryan, you were prepared to resubmit the issue to the membership, were you not? A. Sure.

Q. Were you equally prepared to resubmit the issue in the event that the membership voted to remain affiliated with the American Federation of Labor? A. Sure, could have been.

Q. It was an important determination by and for your union [5944] at that time, was it not,

(Testimony of Harry Renton Bridges.)

whether you should remain in the AFL or become associated with the new CIO? A. Yes.

Q. And you were in New York in July of 1937, before the results of the plebiscite had been determined, were you not? A. That's right.

Q. And you didn't talk to Roy Hudson, the national trade union director of the Communist Party, about this decision?

A. No. I was back there under instructions. As a matter of fact, before—and my sheet shows it—before we went back East, we had a coastwise caucus, as it is called, of our union at that time. And at that caucus, that caucus instructed me what I should do back there, so I was operating under tight instructions before I ever went East, and those instructions were along the line that I told you. I was instructed to see if we could work out some type of a program with Joseph P. Ryan, and if there could be, if we could, the officers would get together and say, "Let's stay in the American Federation of Labor." If it couldn't be worked out, then, depending upon the outcome of the vote, that would decide the issue. That was before we ever left the Pacific Coast.

Q. Was there any fraction meeting of the Communist Party on that subject over and above a caucus before you went to New York?

A. You mean in Portland? [5945]

Q. In Portland, yes. A. Oregon?

Q. Yes.

A. No, no, my notes show that we had an ILA

(Testimony of Harry Renton Bridges.)

caucus; that is, a caucus of all the delegates from our union on a coastwise basis, to decide the matter.

Mr. Donohue: May we take the recess at this time?

The Court: Yes. We will take the afternoon recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions.

(Recess.) [5946]

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Bridges, in the references that you have heard made about the ninth floor of the Communist Party headquarters, did you ever hear it called the American Kremlin?

A. No.

Q. Did you ever meet a man by the name of Al Lanham? A. Yes.

Q. What position did he occupy at the time you met him? A. I forget.

Q. Did you meet him more than once?

A. I met Al Lanham quite a few times here and there.

Q. Did you ever know him to be a waterfront organizer for the Communist Party nationally?

A. I think at least subsequent to the first time I ever run across him he held some kind of position. As to whether that would be it, I don't know.

Q. Did you ever meet with him at Roy Hudson's house? A. No.

Q. Mr. Bridges, do you recall the first constitutional convention of the CIO held at Pittsburgh?

(Testimony of Harry Renton Bridges.)

A. Yes.

Q. When was it? 1938?

A. I know it was 1938. I was trying to nail down the month and the day. I think it was November, 1938. I think it began [5947] a day or two before Thanksgiving and went a day or two after.

Q. At that time were you a member of the CIO executive board?

A. They didn't have an executive board. The executive board was formally and officially created in that convention with the adoption of the CIO convention. What used to be conferences called by the national CIO from time to time, representatives of these various unions, part of the Committee for Industrial Organization at that time.

Q. Were you a member of any such committee or committees? A. Yes.

Q. At that time the CIO was in its infancy?

A. Yes, a pretty lusty infant, but still in its infancy.

Q. At such conferences on a national level which you may have held prior to the CIO convention in Pittsburgh in November of 1938 was there any talk at that time that came to your attention about Communism and its relation to the CIO?

A. Not that I recall, nothing specific, outside of maybe some general discussions. I don't recall anything specific, if I can grasp what you mean.

Q. Did you know that at that time there was a top fraction Communist Party unit operating within the upper structure of the CIO? A. No.

(Testimony of Harry Renton Bridges.)

Q. At some time during the 1938 CIO convention in Pittsburgh, and prior to the date of the election of officers thereof, did [5948] you attend a meeting in the William Penn Hotel at which, other than yourself, the following persons were present: Mr. Roy Hudson, Mr. Julius Comspack, Mr. Irving Potash, Mr. Ben Gould, Mr. Louis Merrill, Mr. Abraham Flaxa, Mr. Mervyn Rathborne?

A. Well, I could well have met with everybody in that group of names except Hudson in the William Penn Hotel. I was staying in the William Penn Hotel at the time of that convention. All the people you have named there, with the exception of Hudson are officers of the CIO or various unions of the CIO and we had two or three sessions at that convention. I can recall what those sessions were about and why. The only sessions I recall were meetings amongst ourselves in order to discuss certain aspects of the convention, the adoption of the constitution, certain things we wanted in the constitution. We had a session there once where we elected a delegation to go and see John L. Lewis over the question of having John Brophy elected secretary of the CIO, and we sent the delegation. We lost out. Brophy was not elected secretary. Carey was, and we have regretted it ever since.

Q. Do you recall a meeting in the William Penn Hotel at which the persons I have named were present, in which there was an original discussion between or among Mr. Mervyn Rathborne, Mr. Roy Hudson and Mr. Harry Bridges on the subject matter of a resolution which Mr. Rathborne had introduced in the floor of the convention on the preceding day? [5949]

A. No, I don't recall any such meeting. I don't recall Rathborne in a resolution. I will do a little more checking up for you. I will read the minutes of that convention. I do not think you will find that one. Not that I recall. I remember we got into a squabble about the adoption of the constitution.

Q. Was there any resolution which you can now recall introduced at that CIO convention on the question as to whether or not there should be permitted any discrimination for political affiliation as to CIO membership? A. A resolution?

Q. Yes.

A. I don't specifically recall. But again, I say the minutes would be the best source on that, Mr. Donohue. I don't recall any specific resolution along those lines, but it could be. I could look at the minutes and find out.

Q. If there had been such a resolution, do you think you may have remembered it or that you might remember it? A. I would think so.

Q. Would you have been interested in that kind of a resolution had it been adopted or had it been presented on the floor?

A. Well, it would depend on what was in the resolution. I have got your description. I am not quite sure what you mean. Your idea of what union is and what a Communist is and what a lot

(Testimony of Harry Renton Bridges.)

of other things are, are funny ideas. I am not quite sure. I am getting careful, you know. I am wondering what you mean. [5950] If you will tell me what you mean, I will do my best to recall and check up.

Q. It might be eaesier had I been there, Mr. Bridges, but you were there. I am simply trying to find your recollection as to what happened at that convention, if you have a recollection.

A. I am just reluctant to try to pit my memory against an official record that is in existence on everything that was said and done at that convention. That is a convention that took place twelve years ago. I have a complete—I mean, I have a record of everything that happened, everything that was said, the resolutions that were introduced, who said what on what question, that is far better than my memory is.

Q. But you are certain of one thing, Mr. Bridges, and that is that you met at no time at that convention with Roy Hudson?

A. That is about as certain as I can be. You asked me a while ago did I have a session with Rathborne and Hudson on the subject of some resolution Rathborne introduced.

Q. Correct.

A. No. You asked me also if I had a session with a group of people including Hudson.

Q. Correct? A. No.

Q. Do you recall whether Roy Hudson was at the convention in 1938 in Pittsburgh?

(Testimony of Harry Renton Bridges.)

A. I don't recall. He might have been. That would be a different [5951] thing. He could be there. There was quite a few people in attendance. Hundreds, thousands of them sitting around, in addition to the delegates and attendants. It was in a big convention hall. In addition to the people who attended the convention themselves, the observers. That is true at all conventions.

Q. If Roy Hudson had been there, he would not have been there as a delegate, would he, Mr. Bridges?

A. I don't know. He might well have. At least he could have been there as a delegeate. I don't know now. At CIO conventions quite a few people show up as delegates. I sometimes wonder how come, but I am not in charge.

Q. Did you ever know at any CIO convention which you have attended Roy Hudson to be there as a delegate?

A. Oh, no, I don't recall any such thing.

Q. Do you recall the national CIO convention of 1939 held here in San Francisco? A. Yes.

Q. At that time you were a member of the executive committee or board of the national CIO?

A. Yes.

Q. At that time were you conscious of the fact that there was within the executive board, national executive board of the CIO, a top fraction of Communist Party members? A. No. [5952]

Q. At that time, Mr. Bridges, were you a member of the top fraction of the Communist Party operating within the national executive board of the CIO?

A. I just said I have no knowledge of the top fraction then or at any other time.

Mr. Hallinan: I wonder if we could not get some kind of distinction as to just what denomination a top fraction takes. Lower fractions might be halves, sixteenths, thirty-secondths, and so forth. I think we should have some kind of designation here as to just what a top fraction is. It is kind of puzzling question. I think Mr. Donohue ought to clear the atmosphere a bit by telling us exactly what he means. He has used the term repeatedly. The witness has said ad nauseam he is not and never has been a member of the Communist Party, never a member of any portion of it, fraction, denominator, quotient, dividend, least common denominator or any other mathematical term. Counsel keeps repeating the things and repeating the matter, and one of his witnesses had it a top faction meeting. Counsel seems to take the side of the fractioners rather than the factioners, and I think we ought to have some sort of ground now upon which we finally come to rest to determine exactly what it means. I might point out to your Honor that Mr. Michener suggested at certain geographical locations the portion or quotient or whatever it may be that counsel refers to is known as a faction, and then in the more northerly latitudes like the ones [5953] we inhabit, it is apparently called a fraction. But then just what proportion of this thing constitutes a top fraction, a middle fraction or a lower fraction is something I think counsel ought to clear up for us, because the witness obviously is not in a position to pass upon such matters of expert opinion. I think the questions are all unintelligible in view of the confusion that counsel's witnesses have created around that subject.

Mr. Donohue: May I proceed, if your Honor please?

The Court: Well, that question has arisen in two or three instances, and the same observations you made then you make now. So there may be no confusion in terms, if there be any, I suppose we might have some definition. But Mr. Bridges says he can not make a definition.

Mr. Hallinan: That is what I say. He has no knowledge on it at all.

The Court: I suppose in the final analysis we sort of beg the question because we might assume there are no degrees in Communists. A Communist is a Communist, I suppose.

Mr. Hallinan: I don't know. I doubt that very much from what I have seen here, your Honor. The ones that have been presented here seem to be what you call a descending scale. Communists such as Mr. Crouch, Mr. Ross or Mr. Johnson are in the same category with people like Hancock and Krolek and I would put Mr. Schomaker even down below them. So I wouldn't [5954] assume they all occupy the same position, morally, socially or even as witnesses. I do not know enough about it, but, as I say, only from what I have observed here.

The Court: Mr. Bridges has said there are certain categories of witnesses; there may be some definition you have with respect to Communists. Do you have any definition?

Mr. Donohue: I might say, if your Honor please, it has been defined here by a half dozen or more former members of the Communist Party in this respect, that a fraction meeting is a meeting of members of the Communist Party who belong to a particular organization, such as the ILWU, and is designated as a fraction meeting, because of the presence at that meeting of a functionary of the Communist Party who is not a member of a trade union or other organization to which they belong, and the distinction as termed here by a number of former members of the Communist Party between a fraction meeting and a top fraction meeting is a distinction dependent upon the degree of proximation to the top eschelon of the Communist Party which is occupied in the Communist Party.

Mr. Hallinan: What is an eschelon? That is a new one to me. An eschelon of the Communist Party? I have heard in recent times the use of that term in French military maneuvers, but I have not heard it yet in this. Could we find out what is a fraction meeting? What is that? Something else again? Mr. Michener was describing fraction meetings. Mr. Bridges having [5955] thoroughly and conclusively, I think, disclaimed any connection

(Testimony of Harry Renton Bridges.)

with the Communist Party or with any, as I say, such mathematical divisions of it as counsel likes to play with, why, further inquiries of that kind seem to me to be assuming things not in evidence, transgressing upon everybody's patience, bringing the frost back on the punkin and all that sort of thing, and I think we might have an end of it. If counsel can do no more than he has done, I think we should not have any more inquiry about those quotients.

Mr. Donohue: May I proceed, your Honor?

Mr. Hallinan: I object to further questions on those subjects.

The Court: If Mr. Hallinan has any particular objection as far as Mr. Bridges is concerned with respect to the definitions, I suggest that you ask Mr. Bridges, so he may not be confused, with respect to a meeting. Call it a meeting.

Q. Is there any confusion concerning these terms, Mr. Bridges?

A. I asked Mr. Donohue this morning, your Honor, what he meant by a fraction meeting. He explained to me that it was a closed Communist meeting. That is what I thought he said earlier in the day.

The Court: So there may be no confusion in terms and so the answers may be eatgorical denials or affirmations, whatever it may be, I suggest you now ask him concerning them. [5956]

Q. (By Mr. Donohue): Are you now at ease, Mr. Bridges? A. At ease?

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Q. Yes.

Mr. Hallinan: Is he giving any indications of some disturbance to his ulcers? If he is, I don't blame him. He has been on the witness stand for several days. I hadn't noticed any indications of distress. I think it is kindly of counsel to inquire. Is there anything about him that you have noticed?

Mr. Donohue: I thought perhaps you had seen some outward signs.

Mr. Hallinan: No, I haven't. As a matter of fact, the only one I have noted any lack of ease in is Mr. Kaiser out there. He jumps and chortles and chuckles and threatens to fall through the ceiling. He is the only one I have observed. That is so congenital and fixed and has lasted so long and has occupied the entire time we have been on the case, that I have even paid no further attention to him.

Q. (By Mr. Donohue): Mr. Bridges, during the period of the national CIO convention in San Francisco in 1939 did you attend a meeting in the Whitcomb Hotel at which the following persons were present: Mr. Abraham Plaxa, Mr. Louis Merrill, Mr. Joseph P. Selli, Mr. William Schneidermann, Mr. Harry Bridges and Mr. Mervyn Rathborne?

A. A meeting? I presume you mean a meeting in some formal [5957] or semi-official sense, don't you, Mr. Donohue?

Q. Yes.

A. The answer is no. I have in mind this: that during conventions there is quite a few things happen, and in that 1939 convention preceding the national CIO convention we had a State convention. Well, you know, little groups get together in various rooms; they may throw a little party, and things like that, and you wander around. You don't question everybody that is there. You don't even ask to see their credentials. They might even be outfitted with a badge, that could be a delegate's badge or a visitor's badge or an observer's badge. So I wouldn't want to go so far as to say in some of these conventions I might wander into the wrong room or someone else's room where people are sitting around having a little social time. I am answering your questions with the idea in mind that you have—that you refer to some kind of a formal gathering, official gathering, semi-official gathering.

Q. Correct, assembled for a specific purpose.

A. That's right. The answer is no.

Q. Was it at this 1939 convention of the national CIO, Mr. Bridges, that Mr. John L. Lewis for the first time denounced Communism?

A. No, I don't think so. Not in that sense. I can recall the Executive Board meeting following the convention, and I recall Lewis' remarks on that matter or in connection with that [5958] matter. Here is what he said: The Dies Committee at that time was very active, and the Dies Committee, along with certain other people in political office here and there, certain big corporations that the CIO was trying to organize, were loosing some pretty

(Testimony of Harry Renton Bridges.)

vicious attacks upon the CIO, particularly upon Lewis himself, the general nature of the attack being, as far as I can recall, that it was—the CIO was an organization imported directly from Moscow, John L. Lewis was a stooge of Moscow, and a lot of things like that. And Lewis in the confines of the board meeting discussed this matter and his remarks were, as near as I can recall, to the effect that the CIO was an organization dedicated to certain purposes, and those purposes alone; the CIO was going to be operated by the membership and officers of the CIO and operated in the interests of those purposes; if the CIO decided to take certain steps or take certain actions, or to espouse certain programs, that it, the CIO, thought were for the benefit of the working people and the people of the country generally, as well as people of other countries, the CIO was going to do just that thing, and, as Mr. Lewis put it, he didn't care how many Dies Committees or peanut politicians didn't like it, we were going to continue doing just as we had been doing. We were taking certain actions at that time, if you recall. That was 1939. We have discussed some of them here, saying that they were actions that grew out of the WFTU, and is wasn't so. I have in mind [5959] for example, that the CIO at that time—Lewis spoke along these lines—supported such things as boycotts of war materials to Japan; spoke out or came out flatly against Nazi Germany and the regime, Hitler regime. I am not so sure that these things—some of these

(Testimony of Harry Renton Bridges.)

things happened prior to the 1939 convention, the '37 convention or the '38 convention. And all these matters were discussed generally, as I recall, in Mr. Lewis' talk to the Executive Board, and he in effect said what I have been saying here: that because we do these things as a trade union movement, and because some people that don't know any better or don't seem to have enough brains to know any better try to find through association of ideas that the program we are following is a Communist program, that the organization we belong to is Communist-dominated or controlled, we just can't stop in a labor movement that is trying to do a job here in the United States in the interests of the working people of our own country as well as all other countries because of such critics. That was the tone of the discussion, as I recall it, and all those matters—I remember Mr. Lewis was pretty eloquent on the thing. Amongst other things he pointed to some of the things that our union and other unions had stood for in the past, that is, with relationship to these boycotts and so forth. And in that way the issue of Communism was discussed. However, it was tied into another issue, and that is the possibility of the coming war. This [5960] was in October or November '39. In September '39—September '39, the war had started over in Europe, or the beginnings of it had started, and naturally the question of the United States being involved in a new World War occupied some part of the convention's time and the discussions of the Executive Board, and that was discussed and was

(Testimony of Harry Renton Bridges.)

pretty well understood that we took with respect to that matter, would be a position taken as an organization of labor unions and would be taken because of our own ideas and no others. However, it was made clear, I think by resolutions and speeches in the convention itself, that although we took these positions, that they in no way affected the loyalty of the organizations, the loyalty of the members or officers of the organization towards the United States and a proper program of security the defense of the United States.

Q. Do you have any recollection at any time during the convention that John L. Lewis denounced Communism?

A. During the convention, no, I haven't. Again, the records would be the best place to find that out, Mr. Donohue.

Q. Was it at this convention, Mr. Bridges, that John ~~L. Lewis~~ removed you as West Coast director of the CIO?

A. No, he didn't remove me. He thought I had too much to do. I was West Coast Director of the eleven Western States, and that is too much for one man, he said, "even as good a man as you are. From here on the job is abolished; from here on you [5961] are California director of the CIO."

I said, "Thanks, John; about time."

Q. When were you originally appointed West Coast Director for the CIO? A. When?

Q. When?

A. About the time we got our charter from the

(Testimony of Harry Renton Bridges.)

CIO, the ILWU. August—I said before we got our charter in July. It was in August, I think around the 1st of August.

Q. '37? A. '37, yes.

Q. When you were West Coast Director for the CIO, what territory did you encompass?

A. The eleven Western States.

Q. And in the 1939 convention that office was abolished and you were made what?

A. California Director. [5962]

Q. And how long did you remain as California director?

A. Oh, I forget—'42, '43, I think. Some time two or three years ago. No, a little later than that. I think maybe around '46, maybe—somewhere around there. I was reduced to Northern California director and then a couple of years ago, why, they decided that I wasn't a good director any more.

Q. In other words, you began as West Coast Director, then became California State Director, then Director for Northern California and now no director? A. That's right.

Q. Now, do you recall——

A. But don't read anything wrong into it, Mr. Donohue.

Q. I am not. I am just asking questions, Mr. Bridges.

A. No. Here today, gone tomorrow. You are a special prosecutor today.

Q. Correct, sir. Mr. Bridges, at the meeting of the persons I have just listed in the Whitcomb Hotel, did you make any statement concerning your removal as West Coast director for the CIO?

Mr. Hallinan: Now, of course, that is assuming something that the witness hasn't said, something that he has denied. He said there was no meeting, then counsel says, "At this meeting was something said"?

Mr. Donohue: I withdraw the question, if your Honor pleases. [5963]

Q. Mr. Bridges, is your recollection refreshed as to whether or not you attended such a meeting by my asking you whether or not you made a statement concerning your removal as West Coast director of the CIO?

A. I made a—first of all, that is one of those fancy questions you have. Which part do you want me to answer, both parts?

Q. Well, in turn, both parts, yes.

A. All right. First of all, there was no meeting; second, there not having been any meeting, there was no statement made. Thirdly, I make statements but not at such meetings.

Q. Did you ever attend a meeting at the Whitcomb Hotel during the 1939 convention, a meeting the membership of which was restricted to members of the Communist Party, at which there was a discussion and a determination of policy on the relationship of the Communist Party to the national CIO? A. No.

Q. Did you attend any meeting during the 1939 national CIO convention at which Mr. William Schneidermann was present?

A. During the 1939 convention?

Q. Yes, sir.

A. No, not that I certainly recall. I have been at meetings with, when Schneidermann was present, of different types, but I don't recall any at that particular time. Outside of what I have already described, during a convention. Quite a few little sessions [5964] get going, and a lot of people drift in and out.

Q. But you have no recollection of talking to Mr. Schneidermann during the 1939 CIO convention and about the CIO convention business?

A. Well, now, that—no, because, listen. Here's what you are saying now. Now it is ridiculous, it is getting pretty ridiculous. Schneidermann, even if he is given all the authority that it is claimed he is supposed to have in these, what I have heard in this courtroom, at best represented the Communist Party in the State of California. And now, that would be a question of him deciding policy for the national CIO or deciding what policy some of us in the national CIO should follow in a national CIO convention. It didn't happen, Mr. Donohue, believe me; it didn't happen.

Q. Are you indicating that it couldn't happen, Mr. Bridges?

A. I don't—well, you are asking me as far as I am concerned?

Q. Yes.

(Testimony of Harry Renton Bridges.)

A. No, I don't know what could happen or what couldn't happen.

Q. Well, you make some point about the fact that Schneidermann was only the top Communist in California.

A. Yes, that is the way—frankly, that is how ridiculous it appears to me, that being at a meeting with Schneidermann who at most according to the testimony here, was in charge of the Communist Party affairs in the State of California, and purely because [5965] of the fact that the CIO convention was being held in California or in San Francisco, Schneidermann was going to lay down policy for that convention. You just don't know John L. Lewis, Mr. Donohue, believe me. I could draw myself a picture of that one.

Q. Mr. Bridges, in the many conversations or conferences which you have had with Mr. Schneidermann, did you ever ask him how, as state director of the Communist Party in California, he received his instructions from the New York office and how he passed those instructions on to his members?

A. No. Never asked, don't know. Not particularly concerned.

Mr. Donohue: If your Honor pleases, I have finished this phase. I have some more questions of Mr. Bridges. May we go over until another day?

The Witness: May I say, your Honor, I have those expense accounts. I have got this magazine. I never read it, that I can recall, Mr. Donohue. I have got my expense accounts which you asked

(Testimony of Harry Renton Bridges.)

for and I have got the letters that Rathborne sent around, and it mentions the meeting place on that squabble we had between Rathborne and Goldblatt that I mentioned.

Q. (By Mr. Donohue): Will you bring them with you on Monday?

Mr. Donohue: I may say, your Honor, with respect to that article by Sam Darcy in the Communist magazine, if Mr. Bridges states, as he does now, that he has never read it, I withdraw any question concerning it. [5966]

The Witness: I have a copy of the Milwaukee Journal. You asked me if I was at that meeting, where Mr. Attorney General Clark attended, and I wasn't able——

Q. (By Mr. Donohue): Did Mr. Hallinan ask you to take that up on the stand and make some comment about it, Mr. Bridges?

A. It was my idea.

Q. Your idea? A. Yes.

Mr. Hallinan: He is entitled to do that, isn't he? Isn't he supposed to answer your question?

Mr. Donohue: I have asked him no question, Mr. Hallinan.

Mr. Hallinan: You asked him if he were present at the meeting and raised the implication that it hadn't been said. He has the article right there in which he says the precise thing.

Mr. Donohue: You and I might disagree on the propriety, Mr. Hallinan.

Mr. Hallinan: I don't think we could; we both want to tell the jury everything, don't we? Here's an article published in a paper that we had no control over, in May, 1949, the time Mr. Bridges was indicted, stating precisely what Mr. Bridges said Mr. Clark said. You raised the implication that it hadn't been done. You said to Mr. Bridges, he wasn't there.

Mr. Donohue: If you haven't practiced law long enough to know you can't prove a fact by a newspaper article, Mr. Hallinan, there's nothing else I can say. [5967]

Mr. Hallinan: You won't have to prove a fact; in other words, if it is a fact, let's tell the jury about it. Why do we have this squabbling about technicalities on it? If it happened, let's tell the jury so.

Mr. Donohue: I will submit the question as to the propriety to the Court, Mr. Hallinan, and not to you.

Mr. Hallinan: Let me ask you this: Do you deny that Mr. Clark did make the statement that Mr. Bridges is attributing to him?

Mr. Donohue: I don't know.

Mr. Hallinan: That the indictment of Mr. Bridges would break the Hawaiian strike?

Mr. Donohue: I deny that he said that.

Mr. Hallinan: Well, read it in the paper there. He has it right there, with Clark's picture on it.

Mr. Donohue: Don't you know yet that a newspaper is hearsay, Mr. Hallinan?

Mr. Hallinan: Some newspapers apparently—

not the newspapers—what are you trying to produce here with the People's World, asking Mr. Bridges about some article written on your friend, Mr. Rathborne?

Mr. Donohue: The newspaper that Mr. Bridges so loudly endorsed and so apparently frequently reads as subscriber.

Mr. Hallinan: All right, I will endorse the Milwaukee Sentinel and that will get it in. Let's endorse that. [5968]

Mr. Donohue: While you are talking about articles, why do you object to Mr. Darcy?

Mr. Hallinan: We don't know Mr. Darcy; he is your man, you are going to bring him out here. You have been talking to him. You had him before the grand jury.

Mr. Donohue: I gave you that one.

Mr. Hallinan: That's your man.

The Court: Well, we will adjourn, then, unless other matters appear. Mr. Bridges, you will return with that article?

The Witness: I was just trying to turn it back before we recessed for the weekend, your Honor.

The Court: Well, we will resume, unless we have other matters, at 10:00 o'clock Monday morning. And may I again admonish you not to discuss the case under any conditions, nor to suffer any person to converse with you on any subject of the trial. You are not to form nor express an opinion thereon until it is submitted to you.

(Thereupon an adjournment was taken to Monday, February 20, 1950, at 10:00 o'clock a.m.) [5969]

Monday, February 20, 1950—10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Harry Renton Bridges, heretofore sworn.

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

HARRY RENTON BRIDGES

resumed.

Cross-Examination

(Continued)

By Mr. Donohue:

Q. Mr. Bridges, have you referred to the original speech in order to determine whether you were correctly quoted in your column, "On the Beam," in the issue of April 18, 1947?

A. In part it is correct. I forget now whether I brought those minutes with me this morning. If I didn't it was an oversight, Mr. Donohue. I had them there.

Mr. Hallinan: Pardon me. The minutes of what?

The Witness: That was the 1947 convention of the ILWU.

Q: (By Mr. Donohue): Did you refresh your

(Testimony of Harry Renton Bridges.)

recollection from reading that speech to determine whether you were correctly quoted as saying, "A country that has a totalitarian government operates like our union"?

A. I didn't believe you wanted me to do that, Mr. Donohue. [5970] It was my impression that I said I could bring the entire speech here and the minutes, and you asked me to do that. I didn't do it that way. I didn't look it over. I am sorry if you meant that; it was my mistake. When the matter came up I thought I said, "I've got the whole speech. I can bring the minutes here and that would be better," And I thought you said, "Would you please do that?" and I agreed to do it. I had the book there this morning, and between myself and the attorneys I guess we forgot it. I will have it at noon, at the recess.

Q. Have you read the article in the People's World entitled "Story of a Stool Pigeon," which you said you would read over the week-end?

A. Yes.

Q. Have you determined from reading that article whether in any way you gave any of that information to anyone for the purpose of its publication?

A. They didn't get it from me. As a matter of fact, I learned a few things from the article I didn't know.

Q. Then you in no way were responsible for the publication of that article?

(Testimony of Harry Renton Bridges.)

A. No, I wouldn't agree with the article in this sense: I wouldn't agree with the article. I wouldn't agree that Rathborne is a stool pigeon. A stool pigeon is someone, as I understand it at least, who knows something and tells it. [5971]

Q. And you do not think Rathborne knows anything?

A. Oh, he knows something, but I am talking about truthful things. My idea of a stool pigeon is someone that tells the truth in some respects about certain things he knows, that he was there. Now, it is my idea Rathborne is fabricating with a purpose about things that he knows nothing about.

Q. Mr. Bridges, were you correctly quoted in the issue of the Labor Herald of November 25, 1947——

Mr. Hallinan: Just a minute, if the Court please. I object to this manner of cross-examining. In other words, it is the same procedure of reading evidence and then asking the witness if he was correctly quoted on that. Now, if he wants to show the witness the document to refresh his recollection, that is all right.

Mr. Donohue: I have no objection, if the clerk will ask Mr. Bridges to read the article indicated.

Mr. Hallinan: Let us see it first.

(The document was handed to Mr. [5972] Hallinan.)

(Document was thereupon examined by Mr. Hallinan, then handed to the witness by the Clerk.)

(Testimony of Harry Renton Bridges.)

A. Was I correctly quoted?

Q. Yes.

A. As far as I recall, yes.

Q. Then is it a fact that about November 25th, 1947, you state that under the six-year leadership of Rathborne, the California CIO Council has expanded and earned the loyalty and respect and the support of local unions, correct?

A. I said that. I thought it was true at the time. I didn't know until later, until after Rathborne left the Council, he had been syphoning off the money, stealing it, and a few things like that. I said that in all good faith. I thought that the fellow was honest at the time. I knew he had certain weaknesses; he told me he was resigning because he couldn't—the pressure of the work was so great that he couldn't take it any more. It was driving him to drink, and he was having trouble with his wife, and a lot of other things. It was only afterwards I knew he was lying and found out he was lying, and he was really getting out because he had been doing away with the funds of the State Council and padding his expense account and things like that. Now, he told me at the time, and when I made the speech I took up a collection for him, $250 among the membership of my own union. I said, "Look, here's a fellow that's in a bad way. He is ill, needs a rest." And I was just [5973] fooled. I thought that—and when I made the statement, I thought that that was the fact, and, you know, you learn these things later, Mr. Donohue.

(Testimony of Harry Renton Bridges.)

Q. Isn't it a fact, Mr. Bridges, that you changed your mind about Mr. Rathborne after you saw in the paper that he had testified against you before the grand jury?

A. I changed my mind when I heard a couple of things: first, when some of the people in the State Council, one way or another, told me—and I am not talking about supporters of mine, I am talking about people who more times than they do otherwise, take an opposite viewpoint—told me that he had been using Council funds to gamble with. I changed my mind when I found out that he left the Council funds short. I changed my mind when I found out a few other things. That is when I changed my mind, and that is a couple of years ago.

Q. When did you first give any public manifestation of your change in heart about Mr. Rathborne since you publicly expressed praise and approbation of him, in November of 1947?

A. I don't know, but I didn't go out of my way to rush it into print. He was out of the Council, I didn't know where he was. The first I knew about it, I heard he was roaming about the streets of Los Angeles, and very, very drunk, and in a pretty bad way. And I was a little concerned. I thought, "That's too bad." I thought the fellow was going to kind of get straightened out. He was going back to sea and try and get [5974] straightened out. I forget who brought her a report. She said, "Gee, too bad about Merve; he is roaming around the streets of Los Angeles. He is talking

(Testimony of Harry Renton Bridges.)

very funny for a decent person." And so forth. "He is talking about what he is going to do to you and a lot of other people." And this was all over a year ago.

Q. Mr. Bridges, do you just advisedly associate yourself with drunkards like Schrimpf and George Wilson and Mervyn Rathborne, or do you drive them to drink?

A. Well, I guess people want a drink for certain reasons—now, I am not the type of person, I have got nothing against a person who drinks. I realize, too, that people that become real alcoholics are not drunks, they are sick people. There is something inside them, something inside their head, something wrong with them. They have got a complex, and this complex seeks a way out, manifests itself by their taking a drink. Rathborne is that type of a person. He is a pretty weak person. This is not the first time. Rathborne resigned as vice president of the American Communications Association. Now, I was back in New York at the time. He gave me the same song and dance, and I thought the guy was really ill. So it is just a peculiar type of person, and it is not a question of whom I associate with or do I associate with people who drink. I associate with a lot of people that drink. That is neither here nor there. I have got nothing exactly against people that drink, but I wasn't referring to [5975] that.

However, when you start drinking as a cover-up, when you start using drinking as an excuse for

(Testimony of Harry Renton Bridges.)

some pretty evil things, when you start drinking at the expense of your fellow workers, financially and otherwise, and when you start parading as a decent person when in reality you are something else, nothing but a hypocrite, and when you start betraying people that you have worked with—and I don't mean me, I mean the average rank and file worker in the unions. Rathborne knows what he is doing, working with you people. It is not a question of being after me; he is after the trade unions. Then, of course, that is a different thing. And drink has got nothing to do with it, but because he has got such a rotten, guilty conscience, he needs plenty of drinks to salve it. That is the situation. Now, I am no psychiatrist but I have to work with people all the time, and I have to get along with them, and that is my analysis of the person—purely my own, nothing expert about it. It doesn't get strengthened from my being a psychiatrist or any medical knowledge, but that is how it looks to me.

Q. Isn't it a fact, Mr. Bridges, that the first word of personal criticism you have ever uttered against Mervyn Rathborne was made subsequent to the time when you read in the public press that he had labeled you as a Communist before the grand jury?

A. No, that is not a fact, Mr. Donohue. I am saying it is all of eighteen months ago that I discussed the situation about [5976] Rathborne with certain members of my union, certain people, and

(Testimony of Harry Renton Bridges.)

the state he was in. And members of my union, officers of my own union said, "Well, we don't know anything about these things." Well, I said, "I would like to. I want to give the guy every benefit of the doubt." But that is what happens. The so-called right wing member of the organization came into my office and he had a couple of checks with him, I think, for $100 apiece. He said, "Look, this is pretty bad stuff. Now, I was sitting in a poker game with Merve, and I paid the money out of my own pocket to pick up these checks, because they are State Council checks." He said, "This is pretty bad, Merve gambling with the state funds in this fashion."

Now, this was while he was still in office. So it even goes back that far, Mr. Donohue. And after he got out of office, after he got out of office, why, I got these reports. Now, when he got out of office—this is nothing unusual when a person leaves, maybe all the good things you say about them may be slightly exaggerated. That is neither here nor there. But what I said about Rathborne when he quit office, I meant. I thought the man was a sick man. I thought what he told me was the truth. He was lying.

Q. You mean that you let Mr. Rathborne resign from the national or from the secretary-treasurership of the California CIO Council with your words of praise ringing in his ears, Mr. Bridges, if you knew that he had been gambling with funds [5977] of the State CIO?

(Testimony of Harry Renton Bridges.)

A. I knew he had been doing it; some people can make mistakes. I knew he had been doing it. And that, his explanation to me was that he just used the checks of the Council upon his own account, because he had run out of checks himself. So I have got a checking account and if my checkbook happens to be empty, why, I can get another check and scratch out the name and write a check on my own account. That is what Rathborne explained to me, and I accepted his word. I find out later that it wasn't so. Now, after all, the State Council wasn't exactly my business. It wasn't under my direct authority or anything like that. I accepted the person's word. [5978]

Q. And when did you find out the contrary?

A. I don't know; some time later.

Q. How much later?

A. I know there is a judgment—I understand there is a warrant; the Council is trying to get a warrant for his arrest to try to get their money back. That is my understanding. The State Council isn't under my direct control or jurisdiction, Mr. Donohue, understand me.

Q. You seem to know a great deal about it.

A. Well, in a general sense; in a general sense. I know a lot about you in a general sense.

Q. You mean reports of your investigators, Mr. Bridges?

A. Yes, Mr. Donohue. Now, I don't like to go around investigating people, but when they start to go around investigating me on every fact of

(Testimony of Harry Renton Bridges.)

my life, personal and otherwise, what is good for the goose is good for the gander.

Q. Have I asked you a single personal question about your personal life, Mr. Bridges?

A. Have you?

Q. Yes.

A. No, Mr. Donohue. You have been very nice about that.

Q. I shan't either, Mr. Bridges.

A. Look, Mr. Donohue, believe me, there is no good of my hiring what is considered good lawyers and me being the doctor, just like going to a doctor, I go to a doctor, and he says, "Here's [5979] what needs to be done." He is an expert. I am not going to tell him, "You don't know your business." In the courtroom my attorneys handle the matter, I take orders, by and large. Sometimes I try to put in a word edgewise, but it doesn't always work, even here.

Q. This warrant that you are talking about is a matter that was discussed only subsequent to Mr. Rathborne's testimony before the Grand Jury, isn't it, Mr. Bridges?

A. I don't know, Mr. Donohue.

Q. Did you ever hear any discussion of it before?

A. I didn't. I didn't. All I knew was that when the Council books were checked after Rathborne's leaving—and it isn't unusual in a labor organization, because there is just too many enemies of labor that every chance they get they seize upon an

(Testimony of Harry Renton Bridges.)
item and magnify it. They don't care about the honesty of a person. Every once in a while—every once in a while an officer embezzles funds.

Q. When did Mr. Rathborne leave the California CIO Council?

A. Oh, a couple of years ago; two or three years ago; November, '47. It was in Santa Cruz. I just want to explain, Mr. Donohue, the purpose of this: that every time a labor officer is dishonest enough, or in a moment of weakness—both things happen—to steal the funds of the union, it isn't always good policy for the labor union to step out and raise a big public fuss about it, for the reason that there are too [5980] many enemies of labor seize upon it. They say, "See, all labor officers are crooks," and the follow-through is they tell the workers, "Keep out of labor unions. The labor unions and the officers will steal your money." That is the reason it is done; it isn't necessarily done for the protection of the individual. That is why it is done.

Q. Mr. Rathborne left in November, 1947. Was any action taken by anyone concerning any allegation that Mr. Rathborne owed or stole from the CIO anything until after you were indicted, Mr. Bridges?

A. I really don't know. My recollection is that it was before, certain actions were taken to try to recover that, and part of the monies were recovered. Now, I might be all wrong in this. I can check on it. I understand part of the monies were

(Testimony of Harry Renton Bridges.)

recovered from Rathborne. There was no—they didn't go to the courts; they didn't go to the courts to try and collect, I don't think, until after this started.

Q. They didn't file suit until after this trial, did they, Mr. Bridges?

A. Can I explain the reasons why? Labor unions try to keep these matters out of courts because it is a basic principle of a labor organization not to wash its dirty linen in the courts if it can be avoided. A lot of these questions you ask me about internal squabbles in the labor movement, the only reason I answered those was so the jury won't think I have got anything [5981] to hide. Believe me, I don't like to tell people—I am still a member of the organization; the labor movement might have disagreements with me and I might have some with them, but I don't want the enemies of labor to have the information directly or otherwise; I want to leave that to the Schomakers, the Rathbornes, and the like.

Q. Don't you know, Mr. Bridges, that the only internal squabble at the present time is whether or not you have been conscious of any degree of Communist infiltration into the CIO?

A. No, that is wrong, Mr. Donohue. I have told you before, and I can tell you again, we are having certain squabbles in the CIO at the moment and other unions. The only squabbles revolve around a demand by the boys of my union—and it is a good union of the CIO—they have ordered me to

(Testimony of Harry Renton Bridges.)

ask the CIO for a financial accounting. I mean by a financial accounting, they want a written accounting of the large amount of money that has been taken in, how much money has been taken in, how it has been spent, and they want it in their hands of the rank and file of the union. It is a very simple thing. There is an organization that collects millions of dollars, there is an organization that spends millions of dollars, and every member of my union, including myself, has still got to see a financial accounting of it.

Let me make this very clear: We are not making any accusations against any national officer of the CIO that anything [5982] wrong has been done with the money. That isn't the point. It is just one of those things, you go to your bank, you want a bank statement. Well, you want a bank statement; you are not accusing the bank of stealing your money. It is that simple. Working people are like that. They think they are correct. They would like to have an accounting, that is all it amounts to. That is one particular element.

I have told you about the members of my union all live and vote here in California. They want the right, and when they joined the union they were guaranteed that right, to make up their own minds by their own vote on what they will do with respect to political matters here in the State of California. There is a difference of opinion there. Whereas, the national officers of the CIO say, "You can't make up your mind until we make it up for you, and then when we decide what should be done in the State of California we will tell you to do it, and if you don't do it, you are in bad standing with us." There is two concrete examples, the latter example being the argument about autonomy, home rule. So we have those differences in the labor movement, and the merits of the issue bcome insignificant beside the principle of the issue. In other words, when you get into the question of the political issue, the merits of the political issue are secondary to the other thing; that is, the right to do certain things. So it all boils down to the autonomy issue. There the issue is the right of the fellows to do what they want. It boils down to something very peculiar. [5983] The fellows want the right to be wrong. I agree with them. Our members want the right to be wrong. It isn't a question of whether it is right or wrong; they want the right to be wrong and the right to be right. There is a little squabble occurring on that issue. They are the main issues, and that is, whether the national officers make the decision or we are going to make the decision.

Q. You mean they are the issues as far as you are concerned, but are they the main issues as far as the national officers are concerned?

A. They are not as far as the national officers are concerned, I will admit that, in that quite a few of the national CIO officers raise the issue about Communism. If you take this courtroom here, you know, at first glance, before you look deeply, that the main issue in this courtroom is the question: Have I committed perjury? But you know that isn't the main issue.

Q. You don't believe that, do you, Mr. Bridges?

A. No, I don't, and, believe me, I wouldn't be up here; the thing has been tried three or four different times before. This time it is perjury; the other three times it was something else. I am not up here because I allegedly committed perjury over here in another court. If you want to go after people for perjury, you have got your Schrimpfs and your Schomakers, you have got ten times more on them than you ever had on me.

Q. Along that line, you mentioned William Schneidermann. [5984] A. Yes.

Q. Do you know of any instance in which William Schneidermann has ever denied under oath that he is a member of the Communist Party?

A. No.

Q. Don't you know as a matter of fact that when he appeared before the grand jury, as reported in the public press, he refused to answer that question?

A. No. He refused to answer that question?

Q. Yes.

A. Oh, well, I don't know specifically, but I know that the official position of Communist officials these days, they refuse to answer because there is a case pending and answering the question might incriminate them. I understand they are taking that position. The only way I know that is talking to some of the attorneys on that legal point.

Q. Since you mentioned Mr. Schneidermann, you can't show me, can you, Mr. Bridges, any instance in which Mr. Schneidermann has ever under oath denied that he was a member of the Communist Party, as you did?

A. As far as I know, he never has. But when you say as I did, you mean I denied it?

Q. Yes.

A. I have always denied it, under oath and without being under oath. It is nothing new. I have been trying to deny it for [5985] fifteen years. The Immigration Department for fifteen years has been saying I had been. The only difference in this case is a new set of characters up here swearing otherwise. And the only additional thing that has been added was the convention in New York. That is the only new thing in this case. All the rest were brought out before.

Q. Did you ever hear John Schomaker testify before? A. In what way? Against me?

Q. About the incident, Mr. Bridges, when he met you in a restaurant with Mr. B. B. Jones and saw you sign an application for membership in the Communist Party and later saw your card.

A. No, I have never heard him testify that way before.

Q. Then there is something new that has been added, isn't there?

(Testimony of Harry Renton Bridges.)

A. Well, that testimony, that is nothing new. The same thing, different time and different persons, that is all.

Q. Did you ever hear the secretary of your defense committee testify before that you attended a meeting the attendance at which was restricted to members of the Communist Party at which he too was present?

A. I didn't even take his testimony that way here when he said that; I didn't even get that at all out of what he said.

Q. That is something new, isn't it, Mr. Bridges?

A. Oh, yes, something new in that sense, but the same thing has happened. All you have got is a new person to put the [5986] screws on you.

Q. Mr. Bridges, referring to the record of Thursday, February 16, and reading from page 5853:

> "Q. But you didn't give the union a chance to determine whether she should be expelled or fired, did you, Mr. Bridges?
>
> "A. She was working—she was my stenographer, my secretary, Mr. Donohue, and I didn't have to take such matters to the union. Maybe the union don't think a great deal of me, but they put enough trust in my judgment to allow me to hire and fire a stenographer without any explanations."

Do you remember saying that?

A. Right.

Q. Have you referred, Mr. Bridges, to the minutes of the Executive Board meeting of the ILA of September 4, 1935, to determine that a motion was made and carried in lieu of accepting Norma Perry's resignation to grant her a two weeks' vacation?

A. It could be; I don't know; I haven't referred to them, but if the minutes do state——

Q. Would you refer to the minutes of the Executive Board meeting of September 4, 1935, and see if that is not the fact?

A. If you have the minutes there, if that is what the minutes say, I would say they are correct. I haven't looked it up. [5987]

Q. Then let me ask you this, Mr. Bridges, referring to the matter or incident to which you have already made reference, that is, a trial before your union of Ivan Cox—— A. Yes.

Q. In that case you acted as the prosecutor, did you not, sir? A. I think I did.

Q. Do you remember, reading from page 165 of the record, you as prosecutor making this statement——

A. What record? The record of that trial?

Q. The record of the trial of Ivan Cox.

A. I am glad to see it. I am glad to see you found it. We was wondering where that record went. We are glad to see that it has shown up in your possession, Mr. Donohue.

Q. On Sunday——

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: May we take a look at it before you question him?

Mr. Donohue: Surely (handing record to Mr. Hallinan).

The Witness: We had lost it. It disappeared. That was the only copy of that record, and we was wondering where it went.

Mr. Hallinan: I guess Merve didn't only take money.

I think under the circumstances we might ask, if this document is the property of the union, until surprisingly it turns up in the prosecutor's hands, that it ought to be returned, or it could be marked for identification or put in evidence. [5988] Certainly if it were taken out of the records of the union by some unauthorized person, it should not continue so. There is a notation on the front that says that it is to be returned to the CIO records, or some such matter as that. [5988-A]

Mr. Hallinan: Might we ask the source from which this document came into your possession, Mr. Donohue?

Mr. Donohue: It would appear, Mr. Bridges, that this is a reporter's transcript, and I think you and I have both had experience to know that all you have to do is go to the reporter and get a copy.

Mr. Hallinan: I notice on the front there is some statement, "Return to CIO files." Is that so?

Mr. Donohue: No, that is not so.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: What is the paper? What does it say on it?

Mr. Donohue: That is the file number of the Immigration service, Mr. Hallinan.

Mr. Hallinan: Oh.

Mr. Donohue: May I proceed, if Your Honor please?

The Court: Yes.

The Witness: Except in that case, a thing like that, the reporter does not give out transcripts, not if we get a bonded reporter. If we get a bonded reporter, Mr. Donohue, and we tell that reporter that no one gets a copy of that transcript, my understanding is that under his bond that even the United States Government can't get a copy of that transcript. That transcript there was the only copy in existence, and it disappeared from the files of the union. I am not saying the Immigration got it by any illegal methods, but that is the story. I was looking for it for quite a while. I am glad it turned up. [5989]

Q. (By Mr. Donohue): Mr. Bridges, on the date of August 23rd, 1936, did you make this statement, reading from page 165:

> "Mr. Bridges: The question was brought up. I will try to confine my line of questioning to the things admissible to the trial. The charges were made that this girl had been fired. I have been attempting to prove the charges were not correct. Those charges were not made

> by me. My line of questioning has been to prove that she was not fired, but she resigned."

Do you remember making that statement?

A. Right.

Q. Isn't it a fact that you did not fire Norma Perry for the reasons stated, that she was giving information to the shipowners?

A. You read my testimony, Mr. Donohue. I testified here when the issue first came up that I let her resign because I felt I had been such a damn fool, because she made such a fool out of me, and when the matter was first brought to my attention by, I think it was, Schrimpf, I didn't believe it. Later on when I discovered it myself, I think if you will read the testimony I gave at this trial, I gave her a chance to resign because I was so ashamed at being made such a fool of. I was supposed to be a smart person and know what was going on, and if I was fooled, my union was fooled. So just for the sake of the record, I let her resign. That is what I said and that is what [5990] I had reference to there. That is the situation. That is nothing new. It happens all the time. It even happens in the government.

Q. Mr. Bridges, do you remember as prosecutor in this case making the statement, "I do not think each question should be answered with a speech. My questions are direct and can be very easily answered yes or no, and what little I know about court procedure, the questions are answered yes and

(Testimony of Harry Renton Bridges.)

no and not qualified all the way around by a speech"?

A. If you are trying to accuse me of being a sea lawyer, Mr. Donohue, why, I guess you will probably find me guilty. My membership insists, I always insist I talk too much. There is nothing new about that.

Q. I was just suggesting as a one-time prosecutor you appreciate the problem which is mine here.

A. The difference there is the purpose of the prosecution. I was prosecuting Ivan F. Cox for working with the Immigration Department and labor spies to destroy the union. If you will read the transcript, you will find that out.

Q. Isn't it a fact, Mr. Bridges——

A. You read the charges and you will see who he was working with: Mr. Boyd, Mr. Bonham, Stanley Morton Doyle, down here in the hotel, dictaphones, dictagraphs all over the place. They filed a five and a half million dollar suit and took in every decent citizen in the state of [5991] California.

Q. To refresh your recollection, reading from page 5 of the record, may I read you the charges which you prepared against Ivan F. Cox?

A. No, you want——

Q. "Chairman Marlowe——"

A. Make sure I prepare the charges. Now, I might have prosecuted the charges in my capacity as president of the union. The question of presenting the charges—maybe someone like you, Mr. Donohue. I do not know whether you prepared the charges against me. You are prosecuting me.

(The document referred to was handed to Mr. Hallinan.)

Mr. Hallinan: Right.

Q. (By Mr. Donohue): Did you prosecute Mr. Ivan Cox under these charges:

"Chairman Marlowe: In the absence of the clerk, I will read the charges."

This is dated August 4, 1936.

"I hereby prefer charges against Secretary Ivan Cox for making statements at the regular business meeting of Local 38-79 held Monday, August 3, 1936, said charges being as follows:

"1. That Secretary Cox at the regular meeting of August 3rd made the statement that he was the victim of an attempted frameup designed to remove him from office.

"2. That Secretary Cox by direct inference implicated [5992] myself"—meaning you, Mr. Bridges—"as being part of said frameup, in that money he was responsible for had disappeared, was not due to his general inefficiency and incompetency, but was stolen or otherwise disappeared by persons placed there for that purpose.

(Testimony of Harry Renton Bridges.)

> "3. That Secretary Cox, in making these statements, has undoubtedly raised in the minds of members of Local 38-79 definite suspicions regarding my actions and conduct as president and business manager of the local.
>
> "Signed: H. R. Bridges."

Now, is there anything in that charge, Mr. Bridges, or in those charges to support the statement you have made twice, the last time just a minute ago, that Mr. Bridges—Mr. Cox was charged with having done business with Immigration agents?

A. Yes, that is the bare language of the charges. The best way to look at it is this: Later on Cox came in and admitted the truth of my charges in a signed sworn statement, how he was victimized, misled, intimidated and what not, and I can bring the sworn affidavit into the courtroom here. We will bring Cox into the courtroom if you wish. Of course, that is one thing that we might like to do, because later on Cox confessed the whole thing. I think he was telling the truth. I think he was misled. He was a religious kind of person, he was a kind of itinerant preacher. I think what he was doing, he was doing in all honesty and sincerity, and he eventually said when the United [5993] States Government came around and told him these things, he had no idea that the agents of the Government were misleading him and lying to him and he believed them. So the agents of the Gov-

(Testimony of Harry Renton Bridges.)

ernment, working together with these labor spies and union-busters convinced Cox that the money that had disappeared—now, we do not know how the money disappeared—Cox is responsible. So it was not a question of the disappearance of the money, but here is what Cox fell for: He was convinced that the money had been stolen by Communists in the union in order to blame Cox for the missing funds and thereby have him removed from office in order to put in his place a so-called Communist. That is what the agents of the Immigration Service got hold of poor old Ivan Cox and convinced him of, and Cox's own sworn statement—we can probably find the man—we certainly have his sworn statement—he said, "Look, I didn't think the agents of the Government would lie to me like that." He said, "I didn't know I was dealing with a bunch of labor spies and stool pigeons, Stanley Morton Doyle and others, and they fooled me." Now, there is the facts of that case. So when I pressed the charges against him—if I hadn't done it, there was a terrific demand on behalf of the membership, I had to do it in my official capacity. The technical charge was he actually got up before the membership meeting and he read a long statement, and that statement said just what I am saying now, that certain people in the union—he inferred that I was one of them—had deliberately gotten away [5994] with some funds in order to make it appear that he was responsible for stealing money—I do not think the man stole any money—he was responsible, and the purpose of it was to furnish a basis for removing him from office, so that a Communist could take the job of secretary-treasurer. ~~And~~ that is what happened. And therefore I had to bring the thing before the membership and have him removed from office. I didn't know at the time—I didn't know at the time the fellow was being misled. Again, I thought he was doing it deliberately.

Q. As a matter of fact, Mr. Bridges, wasn't Ivan Cox found not guilty on this trial?

A. Oh, no—I forget.

Q. You say he was not?

A. I don't know. I don't remember. I don't believe that. Cox got out of the union, out of the job, and I don't know what happened to him. If that is the case, you only have part of the record, Mr. Donohue.

(Document was handed to Mr. Hallinan.)

Mr. Hallinan: That is all right.

Mr. Donohue: Would you ask Mr. Bridges to read the concluding paragraph?

Mr. Hallinan: Just read it off.

Mr. Donohue: Reading from page 198 of the record:

> "Chairman Marlowe: In answer to the first charge that 'Secretary Cox at the regular meeting of August 3rd made a [5995] statement that he was a victim of an attempted frame-up designed to remove him from office,' the jury

(Testimony of Harry Renton Bridges.)

> answers that by saying they find Brother Cox guilty of having made that statement. They believe that any testimony presented does not cast any reflection whatsoever upon Brother Bridges' character, and they find him not guilty of charge 2 and charge 3."

And you will remember, as I just read to you, that charge 2 was that "Secretary Cox, by direct inference, implicated myself—you, Mr. Bridges—as being part of said frameup, and that money he was responsible for had disappeared, was not due to his general inefficiency and incompetency, but was stolen or otherwise disappeared by persons placed there for that purpose," and that he was found not guilty of charge 3, which reads "that Secretary Cox in making these statements has undoubtedly raised in the minds of members of Local 38-79 definite suspicions regarding my actions"—meaning you, Mr. Bridges—"and conduct as president and business manager of the local."

A. It just shows you how fair a trial people get in our union. Now, where is all this Communist control of the union, Mr. Donohue? There is a rank and file committee. That shows you how we do business. Where is Bridges dictator in that setup? Why can't we throw people out of the union just like that? Or have them dumped by dumping squads, as the Government charges and complains, and some of these characters who come up [5996] here and testify. Something is wrong. There is the truth. The fellow was found guilty of the main thing, as far as I was concerned, that is, he got up before the membership meeting and admitted he had been playing around with labor spies and the union-busters. That is all I was concerned with. I wasn't worrying about the few dollars that might or might not disappear. I was never sure—I never did think the man had stolen the money. Cox wasn't that type of a person. He was very inefficient, even though he did his best. He was a victim of these other agents working on the outside, and that includes the Immigration Association—I mean the department, Boyd, Bonham and others. And Bonham and Boyd—I am not sure if Mr. Boyd was there at the time, but Bonham comes down from Seattle, brings Cox over to a hotel room here, and gets a long, sworn statement from him alleging all these things, and so forth, and the guy was dreaming. Later on he was only repeating what he had been told to say. We have that and we can prove that all those charges—I proved that in the charges, and that is all I was concerned with, to bring to the attention of the union membership just how labor spies operated in the union, just how stooges operated in the union, and just how the Immigration Department used labor spies in and outside the union to bust the union. And I proved that, and that is what the trial committee found [5997] was so.

Q. Mr. Bridges, you had had a little more power by 1950 with the union than you had in 1936, don't you?

(Testimony of Harry Renton Bridges.)

A. No, no more power in '50 than in '36. Probably a little less, Mr. Donohue, probably a little less.

Q. Now, Mr. Bridges, referring to page 5390 of the transcript, of Thursday, February 9th, do you recall being asked this question:

> "Q. Did that Maritime Federation of the Pacific continue along for some time? Is it still in existence?
>
> "A. No, it was disbanded in 1939, and we established in its stead a national CIO Maritime Committee. In other words, we tried—our idea was to make it a national organization, and at the suggestion of the ILWU, that is, the Longshoremen, myself joining with some other unions, we disbanded the Maritime Federation of the Pacific, or we merged it with the national CIO Maritime Committee."

A. Did I say 1939 there, Mr. Donohue? Because I think that is a mistake, if I did say that on the year. I think the Maritime Federation was going after that. I believe—because in the 1941 convention of our international union, I presented a recommendation on the Federation. Now, I am not saying that I didn't say '39, but if I did, believe me——

Q. You were mistaken?

A. I think I was mistaken as to the date. There is no need for me to say the Federation went out of business in '39 when it [5998] could have gone out in '40 or '41. That is a mistake. As far as I can

(Testimony of Harry Renton Bridges.)

recall. And the record is the best thing; the Federation was still going in '41.

Q. Do you recall that it was in '37 that the National Maritime Commission or the Maritime Commission of the National CIO was formed?

A. National Maritime?

Q. Yes. A. That's right.

Q. '37? A. Yes.

Q. And the Maritime Federation of the Pacific continued until '41, did it not? A. I think so.

Q. Do you know, Mr. Bridges, of your own knowledge, whether or not as a matter of fact the Communist Party was interested in the continuation of the Maritime Federation of the Pacific, at least until the time when the National Maritime Committee of the CIO became effective?

A. I don't know that I was. We were; the union was. And although the Maritime Committee was established in 1937, my recommendation at our '41 convention was that the ILWU at that time lead, to have the Maritime Federation of the Pacific, as such, disbanded and to become a sort of a western division of the CIO Maritime Committee. That was the recommendation. So as to [5999] whether the Communist Party was for it or against it, I don't know. If it was for it, it had good sense. If it was against it, they were crazy.

Q. What was the reason, then, for its ultimate disbandment?

A. Ultimate disbandment of what?

(Testimony of Harry Renton Bridges.)

Q. Maritime Federation of the Pacific. If it was good in '37 to continue it, why wasn't it good in '41?

A. I don't know. A lot of things were good in '37 and no good in '41, Mr. Donohue. A lot of things were, you know—times change. Progress sets in. There was a good solid organization, did a very good job, and effective job. But it eventually had served its purpose. Expansion was needed. The thing had to grow. It was no longer, the Maritime Federation of the Pacific, was no longer suitable, in my opinion, or capable of serving the needs of the membership of the organization. It needed to broaden, needed to take on additional duties. It needed to become national and even somewhat international in scope. So it no longer served, as at least I seen it, the best interests of the membership. We could do a better job with a broader organization, and that was the only reason.

Q. Mr. Bridges, do you remember on the 14th of May, 1937, having made a speech at the University of Washington Luncheon Club?

A. Oh, I remember that one; that is an old chestnut, Mr. Donohue.

Q. You remember that one? [6000]

A. Yes. Do you want me to tell you about it?

Q. I want you to tell me, Mr. Bridges, whether or not you were correctly quoted in the press——

A. No, I don't know what happened in the press, but the press at that time, there was one paper in Seattle, there was—this was at the University of Washington, Seattle. There was one paper we had a strike against, the Newspaper Guild was on strike against the paper at the time, and we were not correctly quoted in that paper. Now, I may be wrong as to that, but there was one particular paper that quoted what I said, that was—they had it all wrong.

Q. Suppose I ask you, after Mr. Hallinan looks at it, to look at the account of your speech in the Seattle Daily Times.

The Court: Is this a convenient time to recess?

Mr. Donohue: Yes, Your Honor.

The Court: Ladies and getnlemen, we will take the morning recess at this time. The same admonition not to suffer any person to converse with you on any subject of this trial, nor to form or express an opinion thereon until it is finally submitted to you.

(Recess.) [6001]

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Bridges, would you look at the article in the Seattle Daily Times of the 14th of May, 1937, and read the quote from your speech before the University of Washington Luncheon Club and tell me if you are correctly quoted?

(Document handed to witness by the Clerk.)

A. No, that is not a correct quote, Mr. Donohue.

Q. Can you tell us what you did say?

A. I was speaking before a meeting of the students of the University of Washington in that year, by invitation. And after I had spoken on the

(Testimony of Harry Renton Bridges.)

various labor problems, I think that fundamentally the issue being discussed was the question of various forms of trade unionism; that is, such as craft unionism versus industrial unionism. It was the time when there was switching over of many unions from the American Federation of Labor to the CIO. And after I had spoken on this matter, there was a question period, an open forum. And various students asked questions. Eventually one little girl gets up, I guess she was a girl about 14 or 15, and she presents me with this kind of a question: Now, Mr. Bridges, isn't it true that if you succeed, if you want to, as you seemingly want to succeed, in organizing all the workers into unions, and if all these workers through their organization get good wages and certain other things, and if the union movement succeeds in having all the old age pensions [6002] —liberal old age pensions for elderly citizens, health plans and things like that, and if in great part such matters have to be paid for by taxes, heavy taxes on corporations, businesses and what with high wages, employers can't stay in business, then all the employers will go out of business, won't they, and all the workers in the United States, not having any work to do will starve to death? Well, I said, "That is a hypothetical question, but it would seem to me that as far as the American people are concerned, if they have got a choice between starving to death and having the employers in business, they will keep on working, whether the employers are in business or not. They can produce the clothes and the shoes and the other things. They will produce the food and they will eat. And if the employers can't make any money doing those things, then there won't be any employers, I presume. But I don't think the people will stand idly by and starve to death for that reason."

So it was a hypothetical question, that type of answer was given, and the report appeared in the press; it was the result—I checked on it and issued a statement of denial at the time. The next morning when the statement appeared. We had a convention on, the matter came up, it was discussed in my own convention, and an official press release was issued from the convention saying it was a complete distortion. And then we checked up, got in touch with the newspaper, and they said, "Well; we quoted one of the students on the campus that was acting as a [6003] reporter that day and sent in the story," and that was their story. Now, that is the whole question.

Q. Then the article in the Seattle Daily Times does not accurately quote you?

A. That's right. And again let me point out that the denial in effect stating what I have said here today was issued at the time, or the next day, or the day the statement appeared, I think.

Q. Would you look at the article in the Seattle Post-Intelligencer and see if you are correctly quoted in that article concerning the same speech?

(Document handed to witness.)

(Testimony of Harry Renton Bridges.)

A. This is the same statement.

Q. In a different newspaper?

A. Yes, that's right. Same statement, same story.

Q. Then would you look at an article——

A. This part down here (indicating) might have been exact wording, but it looks like a statement I had made, but that is a different matter.

Q. Would you take a look at the Associated Press dispatch to the San Francisco Examiner and see if you were also misquoted in that newspaper?

(Document handed to the witness.) [6004]

A. Yes, this is the same statement, and the Associated Press lifted it. The story originally only appeared—I don't know, I didn't look at the date of that Seattle P. I. Is it the same date?

Q. The following day, Mr. Bridges.

A. The Seattle P. I. picked it up and the Associated Press picked it up and the Seattle Times. The Seattle Times originally got it from a student on the campus that was practicing to be a reporter. The explanation is what I am telling you. It was denied at the time.

Q. Do you believe, Mr. Bridges, that there will come a time when there will be no employer class in the United States?

A. I will never decide that question. I don't know. Your guess is as good as mine, Mr. Donohue. It might depend more on the employers than it does upon anything I believe in. I would say that it is not a question of what I do about it. There

(Testimony of Harry Renton Bridges.)

are certain countries in the world where the people of that country have seen fit to, in some respects at least, do away with the employer class as a whole. In some other countries they did away with certain sections of them. That is neither here nor there. What has that got to do with me? I am not responsible for it. The people of England—the people of England want to nationalize their banks. Well, I guess a lot of explanations can be found, but the fact of the matter is it is an accomplished fact, and I presume—I don't know how the [6005] new election is going to come out in England, but I understand the labor movement is running on a program of more of the same.

Q. Would you favor the abolition of the employer class in the United States, Mr. Bridges?

A. It depends. If they start favoring my abolition I will favor their abolition.

Q. Have you publicly stated, as was testified by one of your witnesses, that there is no middle ground in your mind between the employer and the employee?

A. I don't know what we are doing with these shipowners and other employers around here, trying to reduce Panama Canal tolls, working with the California cotton growers to get their cotton stored and shipped away, instead of shipping Texas cotton or Brazilian cotton to the Far East, working to reestablish trade with China, working to settle various disputes. It is a funny way to go about the abolition of the employing class. In fact, I have been

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accused in my union of strengthening them too much. I am having a hard time explaining some of the things we are doing. However, in the way we operate as a union, we can't help the fact that as a group of union people on one side of the bargaining table we are after more wages and other things that are costing employers more money. The employer is in business to make a profit. The way he makes a profit is he sells goods for a profit, and the more wages he has [6006] to pay the less profit. That is what he is doing in business. No hard feelings because of that. When we sit across the table from an employer we know he is not in business to give us jobs. Some employers try to tell us that. Some of them actually believe it, but we just don't believe it, because we haven't yet seen any employer in business to give anybody jobs. When it is unprofitable to stay in business they shut down, and generally speaking—maybe they don't like to do it. I don't say that all employers like to do it. They don't deliberately shut down in order to throw people out of work. But the fact of the matter is we had a big depression ten or fifteen years with many million people out of work and a lot of employers went out of business. A lot of small businessmen went broke and busted. A lot of banks failed. But the fact of the matter is we representing the trade union, as I have to, sit across the table from an employer or a group of employers, and I know as a matter of simple economic fact that if they pay more wages their profits are less. They

(Testimony of Harry Renton Bridges.)

are in business for greater profit. So there is a clash of interests there. Now, what are we going to do about it? There are two or three ways to settle it. You can settle it under the law and the system of society that exists, and try to compromise the issue, which is the way we do it. Or you can pick up guns and start shooting each other. Now, that is the way the thing operates. We use the compromise method; collective bargaining, organization of labor unions, [6007] arbitration and other things, and upon occasion the collective bargaining process results in a strike. But our union never uses a strike except as a last resort. We never strike until the workers who have to do the striking have had a chance to vote, sometimes on two or three occasions—not only once, two or three times by secret ballot. We have a rule in our union that unless the ballot carries by 85 or 90 per cent we won't risk strike, and every time we go on strike all the officers go off the payroll, including me. That is a rule in our union. No strikes in our union where the workers are on strike and the officers are getting paid; none of that business. Off the payroll we go, too. So we got a few rules about strikes in our union, because we realize, we believe at least, strikes are pretty horrible, dangerous things. The people who really and truly suffer in a strike are the workers. But some classes or groups of employers, sometimes there is no other way to handle the situation, and no one regrets more than the officers

(Testimony of Harry Renton Bridges.)

of our union, believe me, when a situation develops to a strike situation.

Q. Mr. Bridges, I ask you again, were you correctly quoted by your witness as having said that there is no middle ground between the employer and the employee?

A. You mean Jaworski of Stockton?

Q. Yes.

A. At that time I was correctly quoted. I think he correctly [6008] quoted just about what I said and what I felt at that time. And, believe me, there was no middle ground. But the reason is the employers were saying that at the time, they were sending people all over the State here, the State of California; they were sending out letters; they were on the radio; they were moving through the chambers of commerce and various other types of employer organizations, and it was an employers' slogan: There is no middle ground. We must stop the march inland. They were referring to the fact that our union was spreading, organizing away from the waterfront. At that time there was very little organization, and up in Stockton there was no middle ground. One of the officers of our union in Stockton was shot dead on the street. His name was Morency, a friend of Mahaffey. He was shot dead on the streets of Stockton by an employer. The employer went to jail; pleaded guilty, I think, of manslaughter and went to jail for two or three years. But our own officer, Walter Mahaffey, was dead, and it was more than our life was worth to go in some of these areas in California because there was an organization operating called the Associated Farmers. It was financed by the big interests here in San Francisco. So when I made the statement at that time, "There is no middle ground," I was repeating or parroting the slogan of the employers." "There is no middle ground in this fight," they were saying. "It is destroy them or they will destroy us." So in that sense I was correctly quoted. [6009]

Q. And that is the same argument that you advanced to the students of the University of Washington?

A. Look now; let's get this straight. If someone is out to destroy me, Mr. Donohue, I thought I said that all along—what am I going to do? Stand around? Be pushed around? I do not mean to convey that impression. I don't mean we are looking for trouble, that our Union is looking for trouble with employers or anyone else, but we are not going to stand idly by and be destroyed. And we fight. It is that simple. I thought you had the same idea. I guess I was mistaken.

Q. Mr. Bridges, what is your attitude toward the opposition in your union?

A. Oh, I think it is a kind of healthy thing; as long as they keep them above the belt it is fine and dandy. We don't mind opposition. We do a lot to stir up opposition. All we ask is to keep the punches high, keep the thing fair, play according to the rules, lay off behind-the-scenes activity with

(Testimony of Harry Renton Bridges.)

the Immigration Department, Mr. Boyd. You don't understand, Mr. Donohue. Right now we are in a fight in our union with a group of people who want to support Dave Beck. You know, Mr. Dave Beck was instrumental in getting Mr. Boyd appointed to his job. Dave Beck is in effect getting paid off by some of the things that are going on here right now. Check it and you will find it is true. It dates back to a battle in 1937 we had with Dave Beck. You do a little checking up. We have a group [6010] of people in our union that have been paid off. They have been paid off by the Teamsters Union, a rich, powerful union. They are trying to swing the union over to the Teamsters Union run by a gangster like Beck. Gangsters' work. Those things happen, but they won't get to first base with the bulk of our membership. They will mislead a few, and once again these people become Communist experts. They say, No, we are not trying to wreck the union. They are trying to liberate the union from Communists. That is the argument always used. We are old hands in the game; we know those things are false and untrue. We know what the score is. The opposition in our union, as long as the opposition is honest opposition, as long as they say to our membership like, "Bridges and Bridges' supporters, maybe they are all right to a point, but we think if you elect us to office we can do a better job," they have more guarantees to protect their rights in our union than any other union in the United States. These same people who adve-

(Testimony of Harry Renton Bridges.)

cate following the policies of other unions, if they were in those other unions they wouldn't have the right to talk back. There are plenty of unions in the CIO where the local officers or the members of the rank and file are not allowed to get up and talk back to two or three international officers, but no one hesitates in the union I represent to stand up and say what they think of me. You don't talk back in the Teamsters Union; no one talks back to Dave Beck and keeps his [6011] job or membership in the union. So on the question of what we think of the opposition in the union, I respect the opposition as long as they stay trade unionists. But when they start any phony business, working with forces outside the union that are anti-labor, union-busting forces, they don't become an opposition any more. They become a union-busting organization working within the organization to destroy the union, and therefore to depress wages and worsen working conditions of the members of the union. That is what we resent.

Q. Do you think the present opposition in your union is honest? A. Is honest?

Q. Yes. A. Some of it; not all of it.

Q. Or do you refer to all the opposition as being phonies and stool pigeons?

A. No, I don't. My position in the union is well known, Mr. Donohue. The fellows in the union know that I do not refer to the opposition that way. I make it a point on many, many occasions to say I believe the opposition, at least the bulk of them,

(Testimony of Harry Renton Bridges.)

are honest and sincere and truly believe that a change in a certain situation will be all to the good. And sometimes the opposition is right. Sometimes they are right, at least the membership thinks they are right, and when the membership makes a decision and puts the opposition in the leadership of a union, everybody knows my position, that is, look, you people [6012] have made the choice. My responsibility it to work with these people, and I do.

However, there are certain sections or individuals in the opposition that I classify openly before the membership as being phonies, and for good reason. Anybody I catch working with Mr. Boyd and Barber in order to intimidate, jail or deport members of my union, not because they are concerned with their political status or anything like that, but because they are outspoken in trade unions, I do not consider those people honest opposition. I consider them labor spies within the union. And I am not sitting here talking about something I don't know, Mr. Donohue. When I accuse certain—I don't accuse the whole Department of Immigration, but when I accuse certain agents of the Immigration Department of doing these things, I know what I am talking about and I can prove it.

Q. Mr. Bridges, you indicated that on at least two occasions you have discussed your present defense with Mr. Schneidermann?

A. That is right.

Q. Have you discussed it with him on more than two occasions?

A. I think that I said two or three.

Q. Or three?

A. Yes. I didn't mean, if I did do that, I didn't mean to limit it to two occasions. Now, let me see. Two, possibly three, occasions since the indictment. Maybe the first time was around the time of the indictment or shortly thereafter. [6013] Two, probably three times. I wouldn't like to limit it to two, because it could have been three.

Q. During the second deportation hearing to which we have made some reference, did you discuss your defense then with Mr. Schneidermann?

A. Yes—not the defense. I discussed another point with him and that is this point: The issue in the case was, Was I a member—or the charges was being a member of the Communist Party and the second charge was being affiliated with the Communist Party, and if either of those charges was sustained by evidence, I was subject to deportation. Now, then, in our case we refused to offer any defense of Communism throughout the entire case. We offered no defense of Communism, its policies, philosophy or any thing like that, and when the matter finally went to the court of appeals, the District Court of Appeals and the Supreme Court, the question came up, and the question was raised by us with the Communist Party as to whether we would consent to them trying to say something in a legal fashion through the proceedings in their own defense. The situation was this: All kinds of accu-

(Testimony of Harry Renton Bridges.)

sations and charges were made against what they stood for, and their philosophy, program, etc., etc. We more or less supported all the charges by keeping silent. This was their claim. So they wanted permission of myself and the attorneys in the case to enter some form of a brief, at least in the hearings in the upper [6014] courts, not in the lower courts here, in the upper courts, defending their position or disclaiming a lot of things they were accused of. I forget what happened. I left it up to the lawyers. I thought it was a legal question, and said, "Whatever the lawyers want to decide, that is good enough for me." So I remember that incident.

Q. Then you did discuss the matter of your defense with Mr. Schneidermann at that time?

A. I wouldn't call it that. It was not a matter of our defense; it was a matter of the defense of the Communist Party in the proceedings, as I have stated. They had been attacked. We had more or less concurred with the attack by being silent. We offered no defense of the Communist Party in any form or manner whatsoever, and they merely came in to ask if we would have any objections if they filed a brief, got some legal form before—I think the United States Supreme Court—claiming the allegations against their Party were wrong, and, as I say, on that particular legal point I left the position up to the attorneys, but they were not consulted by our attorneys, as I recall—I, at least.

(Testimony of Harry Renton Bridges.)

Q. Isn't it a fact, Mr. Bridges, on many occasions during that period of time you have met with Mr. Shneidermann in Mr. Rathborne's office and discussed the question of your defense?

A. No, no, no.

Q. Mr. Rathborne was associated in your defense, was he not? [6015]

A. As secretary to the Council? At least in a way he would be as secretary of the Council, yes.

Q. As a matter of fact, more than being secretary of the CIO Council, was he not chairman of the State CIO Bridges Defense Committee?

A. He might be, Mr. Donohue. I don't recall at the moment, but it could be; it might well be. I woudn't want to deny it. [6015-A]

Q. Mr. Bridges, do you recall attending a meeting in Fresno, Caifornia, in the early summer of 1942 at the Hotel California, the meeting being a meeting of the Executive Committee of the CIO?

A. I don't recall, but it is possible I was there. If it was an executive committee meeting of the CIO at that time, it is entirely possible I attended in the capacity of regional director. I just don't recall, but I will check the record and let you know.

Mr. Hallinan: Pardon me. Could we get the exact date and we will go through the record and see what we can find?

Mr. Donohue: I don't have the exact date, but whenever it was that the executive committee of the CIO held their meeting, which I take it was held prior to the annual convention and it was held in the early summer of 1942 at the Hotel California.

Q. Do you recall, Mr. Bridges, that while you were at this meeting you received word of the action of Attorney General Biddle with respect to your deportation proceeding?

A. Well, I recall receiving word of Mr. Biddle's decision. I can tell you exactly where I was. It is something that I mightn't easily forget. If you will check the record, I was staying in the Piccadilly Hotel in New York City at the time, whenever it was.

Q. When——

A. We will check up the time that the decision came out, and [6016] I was registered at that hotel, the Piccadilly Hotel in New York City, I think it was around 1942.

Q. Can you tell us—— A. I think.

Q. ——whether or not, if you recall being at this CIO executive committee?

A. No, I am wrong, Mr. Donohue. Let me correct that. Now, I am wrong. I am a little mixed up there. I was in New York at the time of Judge Sears' decision, not Mr. Biddle's. I was in San Francisco at the time of Mr. Biddle's decision. I am wrong on that.

Q. Now, perhaps do you recall that you were at this meeting at Fresno when you were advised of the decision of the attorney general?

A. It is my recollection I was right here in San Francisco.

(Testimony of Harry Renton Bridges.)

Q. Would you recall having attended a meeting in the Hotel California at which other than yourself, the following persons were present: Mr. Mervyn Rathborne as secretary-treasurer of the CIO Council; Mr. Phil Connally, the then president; Mr. James Doherty, Mr. Revels Cayton; Miss Sandra Martin? Do you recall? A. No, I don't.

Q. Do you recall having a meeting with those persons? A. No, I don't recall.

Q. And do you remember whether or not —— [6017]

A. I have met with those persons as a group and along with others and individuals, many times, and I just don't recall this specific meeting.

Q. Well, would you recall that at this time this group, discussing the question of your defense, suggested the formation of a CIO Defense Committee and that Mr. Mervyn Rathborne be made chairman of that committee?

A. No, I don't recall, but I think that—those things are a matter of record, and instead of me trying to recall it, Mr. Donohue, I can certainly produce the record. I have a distinct recollection at the time Mr. Biddle made his decision I was here in San Francisco and I dispatched a telegram to Mr. Biddle, I think. I sent a telegram off that day on the matter. I received a call from Washington, I think the day I came out I received a call from Mr. Donald Nelson. Donald Nelson at the time was chairman of the War Production

Board. He called me and he says, "I hope this decision won't make any difference in your attitude towards the whole production program." I had already discussed certain things with him; and also there was another development took place, that when the decision came down, some of our fellows began to walk off the job. They were pretty sore about it, pretty mad. So that was the occasion of the phone call from Mr. Donald Nelson. And I sent him a telegram at the time assuring him that the decision, although we felt disturbed about it, would not in any way change our attitude toward the whole [6018] production program. And I issued a public statement for the purpose of urging any of the members of my union that felt mad or disturbed and thereby wanted to quit their jobs, that that wasn't the way to handle it, and they shouldn't do so. So that is why I recall being in San Francisco. And I can check the record on that, too.

Q. Mr. Bridges, George Wilson was secretary to the National Bridges Defense Committee, was he not? A. I don't think he was.

Q. Will you please check your record on that also, too, please?

A. Mr. David MacDonald was.

Q. Would you check your record on that, Mr. Bridges? A. Yes.

Q. Mr. Bridges——

(Testimony of Harry Renton Bridges.)

A. It might seem funny to you, Mr. Donohue, but some of these details of official positions I am not too clear on. There are so many of them that you can get them mixed up, you know. Some people hold a half dozen different titles, and it might seem that I worked very close to some of these people, but that is not quite the fact.

Q. Do you remember one year the CIO national convention was in Chicago? A. Yes.

Q. Do you recall what year that was, Mr. Bridges?

A. '44, Hotel Stevens. I think it was the '44 convention. [6019]

Q. And do you recall that you went to that convention in Chicago in company with Mr. Rathborne?

A. You bet. If that is the time, I think we both took the train together.

Q. Yes. Do you recall that you shared a compartment on the City of San Francisco at the time?

A. Yes, played gin rummy all the way through.

Q. Now—— A. I won.

Q. Now, in addition to playing gin rummy, Mr. Bridges——

A. Rathborne got the gin; I wasn't drinking.

Q. In addition, Mr. Rathborne—or Mr. Bridges, to your playing gin rummy with Mr. Rathborne, who got the gin, do you remember discussing with

(Testimony of Harry Renton Bridges.)

Mr. Rathborne the attitude of the Communist Party toward Phil Murray and the CIO?

A. I might well have.

Q. Do you remember discussing with Mr. Rathborne that you disagreed with the Communist Party policy of appeasement toward Phil Murray?

A. On more than one occasion I did that.

Q. And do you recall that at the same time you discussed with Mr. Rathborne the advisability of fighting Phil Murray on specific units?

A. I said on more than one occasion I did that; I didn't have any specific reference to that conversation. If you travel [6020] across country in a compartment with a person, you can talk about a lot of things over two or three days. But on the question of disagreeing on certain matters with respect to Phil Murray, I did that on more than one occasion. That is, I thought that sometimes the efforts to get along with Phil Murray were a little too strained. And on the question of disagreeing with him, well, that is a fact; I disagreed with him.

Q. Well, do you have any recollection of discussing it with Mr. Rathborne in 1944 on the train between here and Chicago?

A. I have no specific recollection but it is certainly entirely possible.

Q. Did you know at that time, Mr. Bridges, what the Communist Party policy was with respect to Mr. Murray and the CIO?

A. Apparently, if I did, according to what I have heard here, probably I got it from Rathborne.

Q. Do you know what the Communist Party was? A. No.

Q. Toward Phil Murray?

A. No, I can't specifically recall. I am answering your questions. But I have some recollection as to this question of trying to get along with Phil Murray, and it didn't sit well with me on many occasions.

Q. Did you know at that time that Mr. Rathborne was a member of the Communist Party?

A. I don't think I did, no. [6021]

Q. Did you ever know that he was a member of the Communist Party?

A. Well, I am a little mixed up on that. I have a tough time upon occasions trying to remember, whether it is a result of testimony I heard here or some impression I had prior to that time. Now, it is my recollection, my impression that I did not know that Rathborne was a member of the Communist Party.

Q. And it is your present impression that you didn't learn that until you read about Rathborne testifying against you in the public press?

A. More or less that's right. You remember I asked you that once before. Now, when you asked me again whether he was a Communist, I

(Testimony of Harry Renton Bridges.)

asked you, "What do you mean?" you told me and I am answering the question in that light. Of course I don't want to make any mistakes here.

Q. Do you recall a further conversation, Mr. Bridges, in that compartment while you were playing gin rummy about the relationship between Mr. Lou Goldblatt and Mr. Mervyn Rathborne?

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A. I don't remember. Again, as I say, Mr. Donohue, I would be reluctant to try and say what we did or did not talk about. You talk about an awful lot of things in a couple of days traveling across country in the same compartment, with Rathborne or anyone else.

Q. Do you remember saying to Mr. Rathborne at that time that Goldblatt is a good party member and a hard worker? [6022] A. No.

Q. And do you remember that you criticized Mr. Rathborne for continuing the dispute which existed between him and Mr. Goldblatt?

A. Well, if he was doing that, that would probably be my attitude. If I thought that he was carrying on a vendetta against Lou Goldblatt, I would be opposed to that for two reasons, because Goldblatt is a good man, and secondly, I can't see how it would do the union any good. But of course that is the trouble in some of this testimony, Mr. Donohue. You see, it is partly true. Now, you say, "Do you remember Rathborne—." "Did I say that Goldblatt was a good, hard worker and

(Testimony of Harry Renton Bridges.)

a good party member?" Well, I have always said that Goldblatt is a hard worker. So all you have to do is add a little more and you have got something that is partly true, and of course some of it is partly untrue. And that is one of the things that characterizes a lot of the testimony I have heard up here. So Schomaker gets up, what he says is partly true. The important points are lies. Ross gets up. What he says is partly true, but the important point is lies. Manning Johnson and the rest. So these half-truths are hard to fight off.

Q. You mean that portions of the testimony of any witness which would attempt to place you in the Communist Party as a member is always a lie, Mr. Bridges?

A. Yes, as well as other things. I wasn't in Stockton—I wasn't [6023] in New York at that time; I was in Stockton, Mr. Donohue. Of course, conceivably people can be mistaken.

Q. Even you, Mr. Bridges?

A. I have been mistaken so many times it is not funny, Mr. Donohue. But I don't get mistaken to the point that I am on the witness stand taking an oath and trying to send people to jail. I don't get mistaken to that point.

Q. When I asked you the other day about a meeting in an apartment house at the chocolate plant, you said you had no such recollection of any such place, correct?

(Testimony of Harry Renton Bridges.)

A. That's right. The way you described it. But I was thinking it over later. The chocolate plant is what brought it to my mind. And we had a dispute with a place over there, it seems to me it wasn't the chocolate plant, but it was the plant right alongside. And we spent some time out there some years ago, and I got to thinking that over. Now, I believe one of our members or someone lived right across the street from that plant. Now, I don't know if that is North Point Street or anything like that. And I remember going over to the place at one time. I forget who he was. It was somebody—I got the impression he was a member of our union or some other union. He was sympathetic, and I remember spending about five or ten minutes there talking to him during that dispute. Now, I can check up as to when that dispute was.

Q. Mr. Bridges, isn't it a fact that frequently during the [6024] 1936-1937 strike, that you and Walter Lambert and Mervyn Rathborne met often in a second floor front apartment at 995 North Point Street? A. No. I mean, it is not a fact.

Q. Did you ever attend any meetings of any kind at the home of William Plunkert?

A. No. I used to visit Bill Plunkert. Now, I used to get down there.

Q. Prior to the time that Mr. Plunkert entered the Navy at some time during the war, did you meet at his home with Harry Bridges, with William Schneidermann, Walter Lambert and Archie Brown and Mervyn Rathborne?

Mr. Hallinan: The whole thing is explained now. The whole thing is explained. There are two Harry Bridges. One of them is in Stockton, one of them is in New York, the gentleman on the stand is obviously not the Harry Bridges who is referred to as the person with whom he met in some other place.

Now, counsel has said that a couple of times, asked him if he met with Harry Bridges. And it didn't occur to me until just this moment that that explains the entire thing. Now, I think that we ought to have some definition, description or idea of the Harry Bridges with whom this Harry Bridges on the stand is asked, "Did he meet in a certain place?" Now, is this the man, or is it a woman? What about him? Who is he? I think we ought to have that explained right now, and then that clears up [6025] everything. Then Johnson and Crouch and Ross weren't lying, people up at Stockton were all telling the truth, the "Harvey" that Crouch rode with in an automobile may now be the Harry Bridges that counsel brings in. And I think we ought to have this thing straightened out right now as to—I think that this clears up a great deal. It explains the manifest confusion that exists either in the minds of the witness or counsel—and my own; because I had assumed that there was only

(Testimony of Harry Renton Bridges.)

one Harry Bridges involved. Now, could we find out before we go any further who is the Harry Bridges that he is now asked if he met with in that particular apartment?

Mr. Donohue: Quite clever, Mr. Hallinan, and I take it by now Mr. Bridges——

Mr. Hallinan: I don't think it is clever.

Mr. Donohue: ——has resumed his composure.

Mr. Hallinan: I disclaim any cleverness. I don't think it requise any intellectual celerity at all for a person to finally come to the realization that if this Harry Bridges met another Harry Bridges, that there are two Harry Bridges, and to inquire who he may be.

Mr. Donohue: Mr. Hallinan, split personalities are not unknown in cases of this character; but we assume and allege and expect to prove that only one Harry Bridges was a member of the Communist Party—that is the Harry Bridges sitting on the witness stand. [6026]

Mr. Hallinan: Oh. Well, then, is it also alleged that he possesses the virtue of circumambiency for instance, that he can be in two places at the same time; for instance, Stockton and New York? That he meets himself at this place that you have been designating? If there is some mysterious circumstance, I am inclined to think that counsel is a little inclined to accept sort of the miraculous—bizarre and strange notions, and this may well be one of them. Now, if we can find out who is this other Harry Bridges, I think we will have gone far toward solving this proposition. Are there two or are there one? Is there another Harry Bridges? Not "Is there" but "Who is this other Harry Bridges?" Let's have it.

Mr. Donohue: May we take the noon recess?

Mr. Hallinan: Now, I think we should have an answer to that, Judge, before we go further. Counsel doesn't need two hours to think that out.

The Court: I think perhaps we will take the noon recess, Mr. Hallinan. We will take the noon recess, ladies and gentlemen. May I again admonish you not to discuss the case under any conditions, nor to form an opinion until it is submitted to you.

(Thereupon an adjournment was taken to 2:00 o'cock p.m.) [6027]

Monday, February 20, 1950, 2:00 P.M.

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Cross-Examination
(Continued)

By Mr. Donohue:

Q. Mr. Bridges, I don't think I got your answer to the last question I asked you this morning, as to whether or not you had attended a series of meetings in the early days of the war at the home of William Plunkert, with Mr. Schneidermann, Mr. Lambert, Mr. Archie Brown, Mr. Mervyn Rathborne.

A. The answer is "No." I said—I don't know if I said, but I had been in Mr. Plunkert's home many, many times. I was never there for a meeting. I was a friend of Plunkert's, used to visit him more or less frequently. Social visits, as I recall. Bill Plunkert is a very advanced thinker and we discussed quite a few matters.

Q. But you were never there with the parties whose nmes I have called to your attention?

A. In a meeting?

Q. Yes, sir.

A. No. By that I mean I might have been there upon social occasions. Now Plunkert used to have a house and every once in a while he might give a little party and I don't recall who, particularly, was at that party, but some of those people might have [6028] been there. I don't recall. That is what I recall.

Q. Mr. Schneidermann might have been there?

A. He might have been.

Q. Mr. Walter Lambert might have been there?

A. He might have been.

Q. Mr. Archie Brown might have been there?

A. He might have been. I am talking about social occasions. There might have been 30 or 40 other people there.

(Testimony of Harry Renton Bridges.)

Q. Mr. Rathborne might have been there?

A. Might have been.

Q. On this question that Mr. Hallinan raised as to identity, you have not always been known as Harry Renton Bridges, have you, Mr. Bridges?

A. Yes. What do you mean? Yes, I have. What do you mean by that?

Mr. Hallinan: I didn't raise any question as to his identity; it was you that raised the question as to identity. It was counsel that brought in the "doppelganger" or whatever it was, by the name of Harry Bridges, not I.

A. (Continuing): If you mean additional first names, that was what you meant, Mr. Donohue?

Q. Well, under what name was your birth registered, Mr. Bridges? May I hand you——

Mr. Donohue: Let him see it.

(Document handed to the witness by the Clerk.) [6029]

Q. (By Mr. Donohue): ——a certified copy of your birth certificate to refresh your recollection.

A. It is something I have never seen in my life before. I don't know——

Mr. Hallinan: Just a moment, Mr. Bridges. Might we see it before there is any discussion on it?

(Document handed to counsel.)

Q. (By Mr. Donohue): Isn't it a fact, Mr.

Bridges, that your birth was registered under the name of Alfred Renton Bryant Bridges?

A. I think that's right. Which, incidentally, means nothing. I believe if you will look at my testimony in the Landis hearing the same question came up and I testified as to where the "Harry" came from and how. So that is a matter of record. I didn't know that is what you was asking me, Mr. Donohue. I haven't seen my birth certificate before. That was all.

Q. Mr. Bridges, referring again to the committee which you referred to as "God's" Committee, is it your recollection that membership therein was limited to the northern section of California?

A. Yes, that's right; except that was one of the complaints—that it wasn't a formal committee. It was an informal committee. One of the complaints that I think Connally used to make. Well, not that I think; Connally did make it—was that it was a Northern California committee, and that was the name he applied to [6030] it, God's Committee. The "Brain Trust," "Running the Works." Connally used to scream all over the place, "What is this?"

Q. Did you know Mr. Schneidermann to be a member of that committee?

A. No. I was talking about the CIO committee, CIO people. Schneidermann was never a member of it.

(Testimony of Harry Renton Bridges.)

Q. Isn't it a fact, Mr. Bridges, that you were never a member of God's Committee?

A. Well, if we are talking about the same thing —I have in mind what the people from Southern California used to complain about; that is, the fact that Rathborne and I and a few others got our heads together and used to work out matters of strategy and policy and pass them down to Southern California. Lots of times Connally and some of the others in Southern California used to object, less as a matter of merit, in so far as the policy was concerned, but because we had taken it upon ourselves to talk the matter over without calling him or consulting him in the first place. We were just trying to save a little time. We didn't see why we had to say, "Come on up here, Slim; take a trip up here to talk things over." We would talk a few things over and then get on the phone and say, "Here's how we feel about things. What do you think?"

Q. Do you have any recollection that "God's Committee" was reputed to be a CIO executive committee made up of members of the CIO executive committee who were members of the Communist Party? [6031]

A. No, I am telling you what it was.

Q. Do you have any recollection of the fact that Mr. Schneidermann and Mr. Rathborne used to brief you on what decisions or determinations or discussions were had by the members of God's Committee?

A. Well, in the first place, the other question there, you said, before I answered this question—I don't see how else it could be. An executive committee of the CIO composed of CIO members who were members of the Communist Party? I have said that as far as I know, it was a half a dozen people who were all officers of the CIO. That was my understanding of "God's Committee." So to that degree, it would be right. The rest of the tricky part of the thing, "And who were also members of the Communist Party," no knowledge of that. And Mr. Schneidermann never briefed me on any such matter, as I recall it. [6032]

Q. Mr. Bridges, at any time did you ever know any official of the California CIO Council who was a member of the Communist Party?

A. Have I?

Q. Yes.

A. Let me see. Positively that I could swear to I do not.

Q. Then you never knew there to be a time when the California CIO Council was wholly dominated by members thereof who were also members of the Communist Party?

A. Let me see. There was Thimmes, Connolly, Rathborne, Goldblatt—no, not that I know of.

Q. Mr. Bridges, during the period of the Nazi-Soviet pact, that is, roughly from August, 1939, to June, 1941, did you oppose conscription in the United States?

A. I think so. I think I opposed it before that time, too. The period of time of the pact has nothing to do with it. I am opposed to conscription, period, and that is not a personal idea. That is the position of my union; that is the position of the CIO. It has been. I didn't know it had changed. The CIO's position hasn't changed at any time, it seems to me, and at the period of time you are talking about, if I recall—well, don't single me out. Didn't the draft pass in Congress by one vote?

Q. I am asking your views at the minute, Mr. Bridges.

A. I have told you as far as I recall I am opposed to [6033] conscription. In the first World War it was put to a referendum three times and each time it was voted down, and the vote was so close it took the soldiers fighting overseas to vote it down. That is not news to me. I am opposed to conscription. I think if a country is worth while you will get enough volunteers to fight without making people go. On the other hand, I can recognize arguments can be made for conscription. But it is my personal belief, if you want it, any time any country or cause is worth fighting for, you will have no trouble recruiting people voluntarily to fight for that cause, and they will fight.

Q. Is it also a fact that during the same period, Mr. Bridges, that you bitterly stated that the draft bill was aimed at intimidating labor?

(Testimony of Harry Renton Bridges.)

A. I might well have. It would depend upon certain other circumstances. It might depend upon who sponsored the bill. It might depend upon what statements were made in connection with the bill. It seems to me there was a bill introduced at one time and it had—one of the sponsors of the bill, if I recall correctly, specifically claimed that this would put a kink in the labor unions and put them in their place, or something like that, and in that connection I positively would be opposed to it, would say so, and do everything I could to defeat it.

Q. Is it also a fact, Mr. Bridges, during the same period of time you publicly stated your opposition to Mr. Roosevelt's [6034] national defense policy? A. Never, not that I recall.

Mr. Hallinan: Might we see it?

Mr. Donohue: Surely.

(A document was handed to Mr. Hallinan, then to the witness.)

Q. (By Mr. Donohue): Mr. Bridges, are you correctly quoted in the Voice of the Federation under date of November 9, 1940, as follows:——

Mr. Hallinan: Just a minute. Before it is read in, let us have an answer as to whether he is correctly quoted.

Q. (By Mr. Donohue): Are you correctly quoted here?

A. On that point, on the war policy?

Q. Yes.

A. That is the policy during the war?

(Testimony of Harry Renton Bridges.)

Q. Yes.

A. Essentially I think so. That was essentially the position I took. If you will notice, the article there refers to my report on a conference with John L. Lewis, right after John L. Lewis came out on the radio in support of Wendell Willkie. I was supporting that position. I was supporting Wendell Willkie. I thought your question with respect to Roosevelt was, Did I oppose Roosevelt's defense policy? The answer was no. The war policy, the policy of going to war, I was in opposition.

Q. You did say, "We are nuts if you think Roosevelt is not on [6035] the way to war. Every one of us acts, and the people who work with him look in that direction. Since when have we become so blind and foolish that we cannot see these things?"

A. You should read the preceding paragraph and you will see I am reporting on Mr. Lewis' position at the Council. I had just returned from Washington. I was the Regional Director of the CIO. I had had a conference with John L. Lewis. John L. Lewis had endorsed Wendell Willkie and I went back East to find out when and why. And I came back and reported to the delegates on Lewis' position. Incidentally, I concurred. I am not trying to say I didn't concur in it. And we were talking about a pro-war policy at that time, not a defense policy. We were supporting the defense policy, and the defense policy on the one hand was supposed to be a program of defense short of war and on

(Testimony of Harry Renton Bridges.)

the other hand there was a war program. The position of our union, the position of the national CIO at the time which I was following was a program of defense short of war, and therefore we resisted and criticized bitterly the steps towards war, instead of steps toward defense. That was our position.

Q. Do you recall, Mr. Bridges, the question I asked you a few minutes ago was, Did you oppose Roosevelt's national defense policy?

A. That is right, and the answer was no, and I have got the record to show how we supported that wholeheartedly not only [6036] in my own union, in the national CIO, and those resolutions speak for themselves. I have my report to the convention in April, 1941. I have the action of the CIO in September, 1940, and prior to that. So that is clearly spelled out, and I will bring you in the whole record on that.

We are not talking about that, Mr. Donohue. There was a national election on at that time. In November, 1940, there was a national election on, and the program of both major political parties was to stay out of war. Mr. Roosevelt on the one hand, Mr. Willkie on the other hand. What we were critical of there was what seemed to be on the one hand a statement to the effect that we were staying out of the war, and at the same time taking actions that were directed towards getting into the war. I was following a program of the national labor organization at the time as well as my own union.

Q. Then you considered Mr. Roosevelt's national defense program, at least on the 9th of November, 1940, as a war program?

A. I did consider it that. The labor movement I was attached to considered it that, too, and the vote was unanimous in the national CIO. I was a CIO officer and I was an officer in my union, too. The CIO and my union figured it that way, and I am not trying to separate myself from those things. That is exactly the way I stood. So I am quoted there correctly with respect to the steps toward war, when we were supposed to be supporting a program of all aid short of war. You must remember [6037] the Arsenal of Democracy, all aid short of war, and we revoked the Neutrality Act.

Q. Then in the light of your statement here of November 9, 1940, you still say you did not oppose Mr. Roosevelt's national defense program?

A. We opposed certain actions with respect to getting involved in war at that time. We didn't attack it, myself or my union or the national CIO; we didn't oppose any part of the national defense program. We cooperated with it in every way. The only argument on that is we were very, very critical of certain actions that we thought—we were positive—would lead to war. You see, we had had a little experience with this matter. We were concerned about the shipment of Japanese scrap iron which was going on then in full force. As a matter of fact, it reached its peak at that time, and that was still going on. We thought that would lead to war, and we were very bitter about that, too. It wasn't a question of opposition to Mr. Roosevelt as such. It was a question of opposition to the policy. We could never understand—I could never understand, at least—those shipments to Japan, when anyone that wanted to think twice about that matter knew that we were building up the war reserves over there that we were going to get back some day. That is how simple that is.

Q. Mr. Bridges, do you recall in April, 1941, a resolution adopted by the delegates of the ILWU as follows: [6038]

"Labor"——

Mr. Hallinan: Just a minute, before it is read in. I think we should be shown it and the witness should be shown it. Suppose I step over here and look at it.

(The document was handed to Mr. Hallinan and then to the witness.)

The Witness: I don't know, Mister. I would sooner go by our official record. I have the minutes of that convention. This might be right. I have no specific recollection of that exact language. But I certainly could come in with an official transcript of the convention showing just what was done and what was said by everybody with respect to that matter, instead of depending upon that paper. Although that was the official paper, "The Voice of the Federation," we had no direct control over it. I am not saying it was wrong, but I think the official transcript of the convention and the language of the resolution itself, the discussion and the action would be the best record, and I would sooner go by that.

Q. What is your independent recollection of the resolution which was adopted by the ILWU in 1941, in April, with respect to the nature of the war which was then being waged in Europe?

A. I think the action of the convention at that time was to fully concur in the recommendations of the officers, which were contained in the report that I made as president, which was full support and cooperation with the national defense [6039] program of President Roosevelt, and to do all we could to keep America out of war. That was the program.

Q. In any way did you describe the war as a war of oppression and an imperialistic war?

A. I don't recall. I don't recall. I don't think we invented any of those names. I recall a lot of talk at that time about the Sitzkrieg, the phony war, and as far as I know, those terms came from Europe and England. They were not invented by us and, of course, they were discussed by our members like they were discussed by other people, and there was quite a period there when the war was called the "phony war," the "Sitzkrieg," I think

(Testimony of Harry Renton Bridges.)

it was, on the Siegfried Line or the Maginot Line. The forces of two or three countries were sitting there throwing daisies at each other, and the war became known as the phony war during that period. So it is quite possible that members of our union, delegates to our convention, used those terms, thought of it, but as far as the official action of the convention was concerned, my distinct recollection is what I said: If you will look up the record you will see my report shows clear support of the defense program, but we are opposed to getting into the war. [6040]

Q. Mr. Bridges, there is no question in your mind but that during the period from August of '30 to July of '41 you were opposed to the United States getting into this war?

A. Opposed to the United States getting in a war now. I am opposed to war, Mr. Donohue. I am too old to do any fighting, but nevertheless I am still opposed to war. Now, again I say that doesn't mean that I believe in the "turn the other cheek" business. But I know, these days, it has gotten to be so that you are subversive if you are opposed to war. To a person like you, being opposed to war makes me a Communist. Why, that's haywire. I have been opposed to war since the first World War. I went overseas in the first World War as a kid. I wasn't a member of the armed forces or anything like that; I was merely going to sea in ships. And some of the things that I seen then made me opposed to war. It is not a new position. So if you can make something out of it, I am opposed to war. I am opposed to America getting into wars. But that doesn't mean that I go under the idea that under any and all circumstances wars can be avoided. I wasn't opposed to getting into the war after Pearl Harbor.

Q. As a matter of fact, you were in favor of getting into the war before Pearl Harbor, weren't you, Mr. Bridges? A. I don't think so.

Q. Well, we will come to that in a moment, Mr. Bridges. A. I don't think so. [6041]

Q. May I ask you at this time whether or not you read any Communist literature other than the People's World?

A. I don't even read the People's World as Communist literature. Now, as far as any other, I am not so sure. I read a lot of things. I read a lot of things. I don't always look to see if they are Communist literature. But I subscribe to many periodicals, magazines, in one form or another, personally, at home, at my office, through our research department, our library; and every chance I get, I do a little reading, if I can. So I have got—I subscribe to various types of official magazines, periodicals, newspapers, all over the world. And every chance I get, I read them. And I never worry about whether they are Communist, pro-Communist or anything like that. I also subscribe to the Daily Press here; I read that, too.

(Testimony of Harry Renton Bridges.)

Q. Mr. Bridges, as a well read man and a man who speaks often on international affairs, what was the attitude of the Communist Party in the United States between August of 1939 and July of 1941 on the nature of the war in Europe and the responsibilities of the United States with respect thereto?

A. I am not so sure that I know of my own knowledge. All I would know on that would be indirectly, what I might have read or heard. That is the only thing I would know, and I guess you are referring to what is commonly stated, that they said that the war was an "imperialistic" war and so forth.

Q. Yes. You know that, don't you, Mr. Bridges? [6042]

A. No. You are asking me what I know now. Now you ask me what was the position of the Communist Party. I am telling you, you had better go to another source.

Q. Did you ever read the Declaration——

A. To some of the parties who were in the Party at that time, you know—Schomakers and Rathbornes—they probably kept records. I will tell you the position of my union on any of those matters, and my position.

Q. I am interested in your position, Mr. Bridges, and—— A. All right, let's go.

Q. And I am also interested in whether you knew then and can tell us now what the position

(Testimony of Harry Renton Bridges.)

was of the Communist Party of the United States, at the same time as you express your position.

A. You are looking at a bum source for information, Mr. Donohue.

Q. Well, let's pass to the period, Mr. Bridges, after the Nazi attack on Russia in June of 1941.

A. Yes?

Q. What was your attitude then in July of 1941 and before Pearl Harbor on the question as to whether the United States could or should not enter the war?

A. We should keep out of it. That was my position, after June of '41. If you look at the minutes, if you will look in the minutes in the National Maritime Union convention, Rathborne and I both spoke there in July of '41. You will see what I said. It is in the minutes of the NMU convention held in [6043] Cleveland in July of '41. And I didn't make the speech with any idea that you would be using it on me one of these days, or the other way around.

Q. Mr. Bridges, isn't it a fact that in July of 1941 you then supported aid to Britain and the Soviet Union?

A. I don't think so. But I might have. I supported aid to Britain before then. What was I doing supporting Mr. Willkie? You remember Mr. Willkie took a trip to Britain.

Q. Isn't it a fact, Mr. Bridges, that as early as July of 1941, and before we even entered the war, because before Pearl Harbor you were advocating American expeditionary forces?

A. No, no, I told you what we was advocating—all aid short of war. That was the official national program of the Government, as I thought, or of the major political parties and of the labor movement; and it is a matter of record what my position was, and instead of—you want me to come in with the official records, the resolutions, the speeches, the verbatim transcripts? I can do it. Now, never mind depending on my memory—you can develop facts.

Q. Mr. Bridges, what was the Labor Herald?

A. Official organ of the State Council of the CIO.

Mr. Donohue: Would you call Mr. Bridges' attention to this article, with particular reference to that paragraph?

(Document handed to the witness by the Clerk.)

The Witness: So? Bridges asks himself a question and [6044] answers himself:

> " 'Should we go so far as to send an expeditionary force, in view of the fact that the Soviet Union is in the war?' "

he asked—and he replied to himself,

> " 'There are lots of things to do before we even contemplate this. We don't have to consider any American army going abroad until the issues are a lot clearer.' "

(Testimony of Harry Renton Bridges.)

Q. Will you read the first paragraph, Mr. Bridges?

A. Oh. That is the one you had marked.

Q. I had two marked.

A. (Reading): "American labor, in backing aid to Britain and the Soviet Union, is taking a militant, anti-fascist position in support of the people's right to freedom and peace. This was the tenor of a speech given by CIO leader Harry Bridges before the National Maritime Union's convention here last week."

Q. It wasn't an imperialistic war then, was it, Mr. Bridges?

Mr. Hallinan: I don't think he said it was an imperialistic war before. You asked him if he had, and he said, "No." You haven't produced anything to show he said it was.

Mr. Donohue: I think Mr. Bridges knows what the question was.

Mr. Hallinan: And besides, which side was the imperialism on? On the Germans' or the Allies'? You asked him if he didn't advocate an expeditionary force, then the article shows [6045] he didn't. Now, what is the explanation on that?

Mr. Donohue: Mr. Hallinan——

Mr. Hallinan: You wouldn't try to mislead the witness, would you?

Mr. Donohue: Not by showing it to him, Mr. Hallinan. You heard Mr. Bridges read the article.

Mr. Hallinan: Well, you asked the wrong question, then.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: No, I didn't ask the wrong question because in the event you didn't hear it, let me repeat it to you. Quoting Mr. Bridges:

> "Should we go so far as to send an expeditionary force, in view of the fact that the Soviet Union is in the war?' "

and he replied to himself:

> "There are lots of things to do before we even contemplate this. We don't have to consider any American army going abroad until the issues are a lot clearer."

And then he explained that:

> "We must first defeat the appeasers in America and England so we know that we are not off to a false and phony war. And in the meantime, all the materials for a fight against Fascism should be produced under CIO conditions."

Q. That was what you said, was it not, Mr. Bridges?

A. I have got no changes I wish to make in it at this time, Mr. Donohue.

Q. Now let me ask you to look—You were still opposed to war [6046] in October of 1941 and before Pearl Harbor, were you not, Mr. Bridges?

A. Well, I was opposed to war all that time. I mean, being opposed to something is one thing —having to do something about a situation is another thing. I was opposed to war at all times. Still am. But that is not the point here.

Q. Will you take a look at the article in the October 24, 1941, issue of the Labor Herald?

(Document handed to the witness by the Clerk.)

Did Local 110 of the ILWU, in October of 1941, adopt a resolution urging the United States to support the war against Germany?

A. I don't know. Can't tell by that.

Q. That is your union, isn't it, Mr. Bridges?

A. No, it is the union of the membership. I belong to it.

Q. It is the union of which you are a member?

A. Right. That is better.

Q. Now, do you agree or disagree with the article in the Labor Herald, stating that the adoption of the program was accompanied by a discussion participated in by the California CIO director, Harry Bridges, concerning the desirability of a CIO demand for an immediate declaration of war against Germany, and that "Bridges said that this question is of the highest importance and we must reckon with it in the immediate future."

A. Oh, I said that. [6047]

Q. Then you weren't opposed to war or the United States entering the war against Germany in October of 1941, were you, Mr. Bridges?

Mr. Hallinan: I submit that that doesn't follow, if the Court please. The fact that a discussion hav-

(Testimony of Harry Renton Bridges.)

ing come up, and other persons, other than Mr. Bridges, according to this, having made a motion that the United States should enter the war, Mr. Bridges said that it was a matter that had to be discussed and a matter of great importance. Now, that isn't saying that he was urging an entry into the war.

The Court: He may answer it.

Q. (By Mr. Donohue): Did you support the resolution, Mr. Bridges?

A. I don't know what resolution you are talking about there, but as I read the article, there was a discussion about the immediate possibility or the desirability of a declaration of war by Congress, and the article says that I joined the discussion and said, "Yes, that is a very important question and sooner or later we will have to reckon with it."

Q. What was your position, Mr. Bridges, on the day in October when this article was written?

A. If you go by what I said there, I participated in the discussion and said, "Well, this is a very important question, as we all know, one we have to deal with, maybe, in the immediate future." And then I made some positive recommendations to adopt [6048] the CIO program there for all-out production in order to aid the countries in the war. It is in the paper there.

Q. Mr. Bridges, will you check the records of Local 110 for that period and see if a resolution was not adopted in October of 1941 urging the United States to join in the war against Germany, and tell us what your vote on that resolution was?

A. I will check. Now, when you say my vote, I will check to see if the local adopted a resolution. I'll have to check to see if I was present at the time, and I mightn't—the records mightn't reveal how I voted, because when I attend a meeting, I attend as a member. And unless there is some kind of a record showing how I voted—but I will look at the resolution, I will check and try to produce the resolution, the minutes and all the rest of it. But as far as I recall, my attitude in October '41 was against the war.

Q. Mr. Bridges——

(Whereupon document was handed first to Mr. Hallinan and then to the witness.)

Q. (Continuing): ——I ask you to look at the September 19, 1941, issue of the Labor Herald, and take a look at the article suggested. A. Yes.

Q. Does that refresh your recollection, Mr. Bridges, as to whether or not your union endorsed an anti-Nazi stand taken by the San Francisco Council in September of 1941? [6049]

A. You are off to a wrong start. It is not my union, Mr. Donohue.

Q. Well, do you mean—of which you are a member, Mr. Bridges.

A. That's right, that's it. I presume you have reference there to a mention that a certain resolution was endorsed by Local 110. I am a member of that union. I don't know; that union resolves in

(Testimony of Harry Renton Bridges.)

every direction. It is always passing resolutions and motions by the dozens. It resolves itself all over the place, and that is its privilege. Now, as to whether it passed a specific resolution on that matter at that time, I don't know. I can check up. But there's a couple of paragraphs there claiming to be the text of the resolution, and it is quite likely that the local did adopt such a resolution.

Q. Well, would you disagree with the statement in the Labor Herald that longshoremen of Local 110, ILWU, did support the resolution?

A. I won't agree or disagree. I don't know. But I am saying that the best thing to do is to check the records of the local and to find out. If the resolution was adopted, it will show in the minutes, and a copy of the resolution, the original copy of the resolution, would be preserved.

Q. Mr. Bridges, having read the stated foreign policy resolution, does it refresh your recollection as to whether or not that foreign policy resolution, in September of 1941, coincided with your own personal views on the subject? [6050]

A. Oh, I can't tell by that. There's only one paragraph there. There is nothing wrong with that paragraph. It could well have been.

Q. Well, do you subscribe to the paragraph quoted, "We believe the most important issue facing the people of the United States today is that of unity with and giving support to all freedom-loving people in the fight to defeat the menace of

Nazi aggression in this and every other country."?

A. Nothing wrong with that statement. If my union made that statement, the union and I, the local union down here,—whether I liked it or not—that would be the policy I would be duty-bound to follow. But whether it—it sounds like a darned good statement to me.

Q. Did you have any such policy prior to June of 1941, Mr. Bridges?

A. That—First of all, that language there seems to me to be lifted directly out of the resolution that was passed by the national CIO; and second, the other part of the question was what? The other part of your question, Mr.....? The question that you just asked? [6051]

Q. (By Mr. Donohue): Did you change your thinking on that subject between August, 1939, and July of 1941? A. No.

Q. Mr. Bridges, in your reading during the period following the Nazi invasion of Russia did you determine or learn whether or not the Communist Party of the United States changed its concept of the then war in Europe?

A. I might have. Again you are asking me if I had any direct knowledge. All I would have would be, as you say, reading about it or hearing about it, and I recall hearing or reading some such thing.

Q. To what effect, Mr. Bridges?

A. I forget. In other words, I think their position was something along the lines that the invasion of Russia by the forces at least had brought things to a decisive point of view where all the jockeying that was going on at that time between certain forces in Europe, as to whether they could get lined up with Germany against Russia or not; that put an end to that kind of speculation. I think there was something along those lines that I recall.

Q. Didn't the imperialist war become a people's war after the Nazi invasion of Soviet Russia?

A. I don't know in those terms. After all, "imperialist war" is purely a term. I don't know. You are asking me what my impressions were from what I heard, and I have told you. Now, [6052] as to what terms you put it in, I am not going to argue with that. I am telling you what I heard here, what my impressions were.

Q. Don't you know that after the Nazi invasion of Soviet Russia the Communist Party in the United States urged the support of the United States with Soviet Russia and against Nazi Germany? A. No.

Q. You did not know that to be a fact?

A. No. You are asking me—I am here under oath, Mr. Donohue. You are asking me what I can swear to. I take that as one thing. Then you ask me now did I hear this or read that. That is an entirely different question. Am I right?

Q. Yes. A. Correct.

Q. Did you know it? Did you learn it to be a fact?

(Testimony of Harry Renton Bridges.)

A. No, not in the way I have told you and with the understanding that I have as to these questions, no.

Q. Mr. Bridges, after Pearl Harbor do you recall that the ILWU Executive Board early in 1942 urged the opening of a second front?

A. Early in 1942?

Q. Yes.

A. Probably did, I think. I don't know if it was that early. It might have been later. But again check the record.

Mr. Hallinan: When did you say? [6053]

Mr. Donohue: I said early. I say now August of 1942, Mr. Bridges.

A. My recollection is our board did not act until after there had been—after the CIO had taken a position on that matter. That is what I think happened.

Q. I ask you to look at the Labor Herald for August 20 of 1942.

Mr. Hallinan: I do happen to have the proceedings of the fifth constitutional convention of the CIO in November, 1942. It is resolution No. 10 on the second front, if you prefer to have that than the newspaper article. I will stipulate to introduce it, because we are going to introduce all this afterwards anyhow, to show that those policies were policies of the national CIO.

Mr. Donohue: Suppose you introduce them in turn, Mr. Hallinan.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: All right.

Q. (By Mr. Donohue): Mr. Bridges, isn't it a fact that in August, 1942, the ILWU called for an opening of the second front in Europe?

A. I think it did. That paper would indicate that it did. I think that is just about the facts.

Q. Did that coincide with your opinion, Mr. Bridges?

A. If it was the union's opinion, it was my opinion, so it would coincide. The answer is yes. [6054]

Q. Did you know that on May Day, 1942, the Communist Party of the United States called on the workers of America to insist on the second front?

A. No. But what is the connection?

Q. You did in August, didn't you, Mr. Bridges?

A. Yes. Oh, I get you. I am a little slow catching up. May, June, July, August.

Q. Mr. Bridges, is this one of the purely trade union matters which your union was considering in August, 1942?

A. That is what the resolution says. As a matter of fact, there is language in the resolution that refers to that, and the resolution says now these military leaders think a trade unionist has no brains, that it should concern itself with trade union matters only, and it considers such questions as to whether we should go into war or stay out of war, fight or not fight, or sit behind in a swivel chair as purely matters for the top brass of the military. The union says, "Nothing doing." The military wasn't so hot in their decisions as to the scrap iron going to Japan and other places. We might not think they are so hot on some of these matters. So we are going to speak our piece. Maybe we are wrong, but at least we are going to speak our piece. In essence that is what the resolution says. It didn't go along with this idea that there are certain matters we should not make our business.

I will admit our union is like that. It makes a lot of [6055] things its business. On many occasions it considers itself expert on matters it is not too expert on. But you can't hang people for that. They like to be heard and they like to express themselves on anything they think is to their advantage—welfare, and so forth—and that included the question of military tactics. And so the union spoke out and thought it was as good a judge of military tactics as the top brass. Maybe the union was wrong. That is the way it felt at that time, and that is the way I felt.

Q. Did you feel together with your union, Mr. Bridges, that after eight or nine months in the war in August, 1942, that your judgment was superior to that of the joint chiefs of staff as to whether we were ready to make an invasion of Europe and create a second front?

A. No, that is not the point. I think it is a very simple trade union point. Keep out of the battle if you can, but once you get into the battle, get it over quick, fast. That is simple.

Q. I take it your thinking along this line with respect to the second front was in no way influenced by the fact that the Communist Party of the United States took the same principle or the same tactics at the same time?

A. As far as I know—I didn't even know what their position was, had nothing at all to do with it. Our position would have been taken no matter what the Communist Party's position [6056] was. If the Communist Party's position had been against the second front, our position would have been the same, August, July or any other time.

Q. Mr. Bridges, what was your position in November, 1947, on the Marshall Plan?

A. November, 1947? In support of it.

Q. Will you look at the article, "On the Beam," by Harry Bridges, dated the 14th of November, 1947, with particular reference to that portion which is marked off in red?

(Document handed to witness.)

Mr. Donohue: Shall we take the recess at this time?

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions.

(Recess.) [6057]

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Bridges, were you

(Testimony of Harry Renton Bridges.)

supporting the Marshall Plan on the 14th of November, 1947, when you said: "Thus, stripped of all camouflage, the Marshall Plan is a scheme to use money and food of the American people to purchase and turn over to Wall Street at practically no cost to the private interests, the basic industries and raw materials of Germany and all western European nations."

A. The idea of that article there is to try and support the Marshall Plan as it was adopted by the CIO convention. I have here the minutes of Boston, Massachusetts, the convention that took place October 13th to the 17th, and I was just in the recess looking in this record. That was a CIO resolution on the Marshall Plan, and of the appearance of the Secretary of State at the time, George Marshall, a discussion of the plan by the delegates of the convention and by the president of the CIO, and the remarks and the resolution adopted at that time. I supported and voted for it.

Q. What is the date, Mr.——

A. October, 1947. Now, I was a little wrong, maybe, as to the date. Now, the article you are reading there is an article critical of what was becoming the Marshall Plan. We were a little afraid, a little fearful. After the Boston CIO convention in October of 1947, I went to work in the ILWU and [6058] I called regional conferences of the union. I had mimeographed the resolution that was adopted at the CIO convention on the Marshall Plan, as it was known at that time, as well as the full text of the

(Testimony of **Harry Renton Bridges.**)

remarks of President Murray, and I took steps to see that that resolution was presented and explained, together with Mr. Murray's interpretation and analysis of the resolution, to every one of our locals, and urged its adoption. And every one of our locals approved it. I have a record of those actions.

Now, then, here's what happened, Mr. Donohue: If you will recall, the Marshall Plan started with a speech by Secretary of State George Marshall at Harvard University in June of 1947. The speech said that we must send aid in the way of food, money, machinery and other things to the devastated countries, all devastated countries throughout the world. And that was our only purpose, that in sending such aid we would not interfere in any way with the internal affairs of the various countries throughout the world. George Marshall's specific remarks were that we seek no change in any government of any country, to seek to interfere and so forth and so on. That was where the Marshall Plan started. Then in the spring of, I think, '48—I am not sure, I may be a little mixed up on dates—but then I know I supported the plan. I was in sympathy with its humanitarian aims—still am. And I took it to be what it was supposed to be. I was also interested for another reason, and that is, if this aid was going to be shipped in concrete form, it meant [6059] work for the members of the union I represented, warehousemen and longshoremen, work for the seamen. We was particularly interested in California here, because we speedily found

(Testimony of Harry Renton Bridges.)

out that if the plan was going to go through as originally scheduled, a large amount of California produce would move through the ports here, particularly the dried fruit—that is, dried apricots, prunes, and so forth, which has a high food value, and at the same time is cheap.

Now, in between the time that George Marshall initiated the idea, the time he spoke to us at the CIO convention, and the time we supported that plan—and I voted for it—and the time that I took that plan and urged the membership to support it, then Congress got ahold of it, and it became a little different thing. Instead of the food and money going for good and things like that, the money started to be diverted into arms and munitions. So much so, as a matter of fact, that a lot of the produce farmers here in the state of California who had invested and borrowed money with the prospects of shipping their crops, such as dried fruit and other things to be shipped away to foreign countries, they went bankrupt. They went broke, because of the change in the plan from what it was originally supposed to be and what it finally wound up to be. So there was another aspect to it, too. The plan as it was explained to us by the Secretary of State at the time, and the way it was adopted by the CIO convention, according to my understanding, [6060] according to the remarks here of the president of the CIO, was a kind of a continuation of the United Nations food and rehabilitation fund, or agency. That is the way we envisaged it at the time. And

(Testimony of Harry Renton Bridges.)
when the nature of that plan changed, I changed my attitude, our union changed its attitude and opposed the plan. We are in opposition to the plan now. [6060-A]

And that is the explanation of that article, even though that article occurred shortly after this, I think. But there is no true significance of the article. I think we can go by the record here, and I can also produce the resolution and the minutes of the conferences where we acted on the plan, even after that article, even after the date of the article. I can produce the minutes of the conferences, and all that happened was this: We adopted the Marshall Plan based upon original principles and understanding as I heard it myself explained by George Marshall himself, and I have the record here the way he explained it, and we are still in agreement and in support of that original program and idea. But, of course, we must remember that ECA has changed it somewhat, and what we have finally come up against—and it has a very definite effect upon the union I represent—the Marshall Plan now has a boycott against—well, probably half the world—and instead of our ships leaving the docks here and the ports here and going to many of the countries of the world they formerly went to, there is a boycott on those countries and we are not shipping out various forms of American manufactured products, and therefore there isn't much shipping, ships are empty, and the men I represent—they are not entirely out of work, but they aren't making a great deal. They aren't doing much work. And there is some of the reasons that we changed our attitude on the Marshall Plan. We were for it wholeheartedly, [6061] honestly. When it became something else than we thought it was supposed to be, we thought we had been sold a bill of goods, in our union at least. I am not giving you now the position of the CIO; I am giving you the position of the ILWU. That is the story on that.

Q. Mr. Bridges, you were not supporting the Marshall Plan when you stated in this article, "We cannot allow ourselves to be part of a program that intends to use food as a weapon in a 'cold war' to start the march of European people to a better way of life any more than we would refuse to make a contribution to a striking union until it would first agree to switch its affiliation or change its structure."

A. The way we understood the original Marshall Plan, and I think if you will go to the record you will see food was supposed to be given to a country and there was supposed to be no strings attached to it. It wasn't supposed to change its form of government. It was supposed to remain in status quo. Its sovereignty was supposed to be unaffected. If a country wanted to go along with a certain plan for the nationalization of its basic industries, it was supposed to be allowed to do it, and certain things like that.

As a matter of fact—and it is a matter of knowledge—it hasn't worked out that way. You might

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recall—and we objected to it openly, officially—we sent arms to the Dutch Empire and they were used in Indonesia against the Indonesian [6062] people that were trying to free themselves from the colonial slavery of the Dutch. You might recall the incident. When the incident came up the Secretary of State—not at that time Mr. Marshall—I think at that time Mr. Byrnes—he said at that time, "That is all right, we will take the labels off the rifles and machine guns. Where it says 'Made in U.S.A.' we will take those labels off." That has happened in quite a few countries, right or wrong, and the union doesn't see it that way. The union doesn't see it that way. Right or wrong, our union is opposed to colonial slavery. It hits us now the hard way. As long as civil war goes on in Indonesia, our ships go out of this port and all other ports of the Pacific Coast empty, and they come back empty, and the men on the ships, the men in the warehouses and the men on the docks don't work. We have a selfish economic interest in the matter. This is not a question of whether I believe in it. I have been opposed to colonial oppression, Mr. Donohue, for a long time. I learned it in school. To go into that you would have to go into the background of Australia and how Australia came to be a colony and later on a commonwealth, and it fought an armed revolution like the United States. So it is nothing new for me to be opposed to colonial oppression. I always was, still am. If

(Testimony of Harry Renton Bridges.)

that makes me a Communist, then I am sorry, then, that is just too bad. But now I am talking about what I had to stand for because of my union, and as the president of the [6063] union I was advised to take that position, notwithstanding what my personal beliefs were. We are opposed to colonial slavery. We are opposed to food being used as a weapon, particularly food purchased with the money of the taxpayers of the United States, to be used as a weapon to keep countries in colonial slavery. We are opposed to arms and ammunition being purchased here in the United States, again with our money, and shipped on our ships to be used for those purposes. We were told different, and I was at the convention when the Secretary of State Marshall got up and explained the purposes of his plan and said, "It will never be used for those purposes." When the plan finally got through Congress, we found Congress had different ideas. So we changed our position and we changed our minds. Our union did and I did. There is the whole story.

Q. Your change in position, Mr. Bridges, was not affected by the fact that the Communist Party in the United States and the Soviet Government of Russia did not oppose the Marshall Plan until after it had been passed by Congress, was it, Mr. Bridges?

A. I am going by the action taken by the convention. I am going by what we did in October and

(Testimony of Harry Renton Bridges.)

November, 1947. I have told you that my position is one of support. I had in mind the CIO convention from October 13 to the 17th. So I was only a little bit off in the date. Instead of November it was October. I am going by my evidence that is recorded here in the official minutes of the CIO convention. [6064]

Q. Mr. Bridges, do you have in mind the CIO convention of 1948, and were you present on Monday, November 22, 1948, when Phil Murray said, "I do not say everyone who is opposed to the Marshall Plan is a Communist, but I do say that every Communist in the United States is opposed to the Marshall Plan"?

A. I was not at that convention, I am sorry to say. Phil is entitled to his position. I won't quarrel with him.

Q. But you were at the convention in 1949, were you not, Mr. Bridges?

A. Oh, yes, with bells on. You bet your sweet life I was there.

Q. And do you recall on Thursday, November 3, 1949, you made a long speech in opposition to the Marshall Plan?

A. No. If you can find that in the record there, Mr. Donohue, you are a better man than I am. You look twice.

Q. Mr. Bridges, what did you mean——

A. You got the record there.

Q. Yes. A. Now look at it.

(Testimony of Harry Renton Bridges.)

Q. What did you mean on the 3rd of November, 1949, when you said, "As far as I and the organization I represent are concerned, we believe in the worldwide cause of humanity, and we believe in feeding and supplying all the things we can supply to the devastated countries throughout the world. On the question of the European recovery plan, it is not the so-called aims and objectives that are in question so much but the [6065] techniques and the tactics that are used in order to achieve those aims and objectives, the way the thing is working out and as worked out today."

Were you talking about the Marshall Plan?

A. Yes.

Q. And did you vote against the resolution?

A. Read on, Mr. Donohue.

Q. Did you vote against the resolution?

A. I made a motion to refer back to committee for specific purposes.

Q. Did you vote against the resolution?

A. I voted against the resolution because that was the only way I could vote for my motion to refer.

Q. And the resolution was carried overwhelmingly, wasn't it, Mr. Bridges?

A. Well, gee whiz, if you are going to get in a battle with me because I am in the minority on occasion, you will get in a lot of fights with me, Mr. Donohue. So what? I am telling you if you read the record of the convention here, here is what

(Testimony of Harry Renton Bridges.)

happened: I was a member of the resolutions committee. I asked in the resolutions committee that the CIO at least be as progressive as a chamber of commerce, Mr. Roger Ackerman and a few people like that, in drawing up that resolution. In the resolutions committee I couldn't persuade them along those lines. I pointed out the way the present Marshall Plan [6066] was working. The United States of America had a boycott against half the countries in the world. I represented a union of longshoremen and warehousemen. The livelihood of the people I represented depended upon goods and products moving over the docks here on the Pacific Coast, through the Port of San Francisco and through the warehouses. The way the present Marshall Plan was working with the boycott against many countries, so-called socialist, Communist, and other forms of government, those countries were boycotted, a strict boycott. None of our goods were moving to them, and therefore ships were empty, and therefore the people I represented were losing money and out of work. I couldn't see the necessity of it.

And then I referred to the devaluation of the British pound and the fact that other countries were following suit, and what that would do to our country and is doing to us right here on the Pacific Coast right now, lumber products, flour products and other things. They are moving through Canada down to the United States and being shipped around. They are moving from Canada. Canada has recognized China. All kinds of products are moving through Canada to China. The devaluation of the British pound—those countries have the edge on us. So all I was concerned with was a simple, selfish economic fact. The way the Marshall Plan was working, it was working a hardship on the people I represent and a lot of other workers in the United States likewise. With the devaluation of the [6067] franc, the pound, the guilder, and other types of currency, believe me, if something isn't done about it, in our opinion—and of course we can be wrong. We aren't infallible. We may not be great economic experts—we are heading for a depression. That is the way we see it. Again we can be wrong. I hope I am wrong. All I could do was point that out to the convention and urge the resolution be referred back to the committee in order that those matters may be studied and make some changes in the resolution in order to comport to the changed situation because of this boycott, the devaluation of currency in foreign countries, and the effect that it would have on the economy of the country. I voted against the resolution because I wanted to refer it back to the committee. That is the action taken. If you read it you would find that, Mr. Donohue.

Q. Mr. Bridges, is your estimation of the Marshall Plan in any way affected by the fact that Russia and its satellite countries did not see fit to participate in it? A. No.

Q. Are they the countries you are talking about as being boycotted? A. No.

(Testimony of **Harry Renton Bridges.**)

Q. What countries do you mean are being boycotted?

A. There is quite a few. How about Indonesia? How about French Indo-China? A few places like that. As well as, of [6068] course, the so-called eastern European countries as well as the Soviet Union. Now, just a minute on this. If you are asking me do we have any objections to trading with the Soviet Union, generally speaking the answer is no. Let us not quibble about this thing. We have carried on trade with Russia over a period of years. And that is nothing new, Mr. Donohue. Don't go into that question. Why, as a matter of fact, maybe my mind on American history isn't any too good, but I know during the Civil War when the Northern States had the blockade of the Southern States and there was talk about using the British Navy to break the blockade and have the British actively intervene on behalf of the Southern States, two fleets of Russian warships were sent to the United States, one to New York and the other to San Francisco, and they let it be known that if Great Britain intervened on behalf of the Southern States, Russia would be in the war on the part of the Union. And the statement at that time of the Secretary of State was, "Misery makes strange bedfellows."

Don't blame this on me. It is an old story in the United States, before I was ever born, before I ever came here. Furthermore, that is nothing new: during the Civil War also, President Abra-

(Testimony of Harry Renton Bridges.)
ham Lincoln sent a letter, an official document, to the working men of Manchester in London, England because the workers over there boycotted—the blockade of the Southern ports had deprived those factories, not only England but Europe, of [6069] the cotton and the workers in the cotton mills were out of work. There was talk, bolstered of course by the manufacturers or owners of the cotton mills, about intervention on the part of the Southern States, and the workers made and passed a resolution and sent it to the President of the United States, Abraham Lincoln, saying, No. 1, "We are completely in sympathy with the blockade even though it is hurting us and forcing hardship on us," No. 2, "We are completely in sympathy with your aims in the war and your proclamation for the emancipation of the people in the Southern States, the Negro people"; and thirdly, "If our country tries to intervene in the war in behalf of the Southern States, we will fight our own government to put a stop to it."

So these things are not new. I am not going to worry about what you think of me, because I advocate trade with Russia and some of these other countries. I say the only way those countries will get themselves straightened out is through the people in those countries, not by us trying to poke our noses in here. In the meantime I would like to see the products of America carried through our warehouses, across our docks and on our ships so our

(Testimony of Harry Renton Bridges.)

people will have work, and so the seamen will have work. The majority of seamen in the United States are starving to death. Also, our longshoremen. There is a bigger number going on relief all the time. That is what I am interested in. I would like to see food from our country [6070] shipped to these countries overseas instead of guns and ammunition. And I would like to see these potatoes they are burning up and these dried eggs they are burning up and other things—I would like to see them distributed throughout the world instead of being destroyed in the United States to keep up prices. That is a simple fact. And when I say these things I am not only expressing my own belief, but that is where our union stands on this matter. Again, they are trade unions to us. They have nothing to do with Communists in Russia or any other place.

Q. Are you finished?

A. Yes. Thank you very much for the chance to explain.

Q. Mr. Bridges, have you heard of William Foster? A. Yes.

Q. Have you heard William Foster express the opinion that we here in the United States are nonsensical if we believe the propaganda that the United States is in danger of attack by Soviet Russia?

A. I don't know if he said that lately. Do you ask me do I know he said it?

Q. Yes. Do you know he said it?

(Testimony of Harry Renton Bridges.)

A. No, I don't know if he said it.

Q. Is that your view, Mr. Bridges?

A. That we are in danger of attack by Russia?

Q. That it is nonsensical for us to think of war? [6071]

A. Never mind the term. The question is, Do I think Russia is going to attack us?

Q. Yes.

A. You mean now or sometime in the future?

Q. At any time in the foreseeable future.

A. The answer is I don't know. I guess there is sometime in the future the danger, but if you ask me my personal opinion, I think we are in greater danger of being attacked by Great Britain or some other country. We have been attacked before by Great Britain, you know. The United States has never been in a war with Russia. From what little bit I know about the history of the relations of our country with that country, they have always been friendly. There are other countries that have not been so friendly. If you ask me to indulge in guesswork, I will guess all over the landscape.

Q. Do you think we are being propagandized in this country that there is such a thing as a Russian scare or a Red scare?

A. Oh, I certainly do. I certainly think we are being propagandized. We are told to look in that direction while somebody sneaks up behind us and delivers what you might call the Sunday punch and hang one on you when you are looking the other way.

(Testimony of Harry Renton Bridges.)

Q. Have you stated, "Right now in Washington the Government agencies, committees and spokesmen led by President Truman himself are hoopdedooing the Russian scare and the Red scare [6072] high, wide and handsome. Plenty of people are falling for it." [6072-A]

A. What's the date of that statement?

Q. "And plenty of people fall for it."

A. What is the date, and when is that?

Q. 19th of March, 1948.

A. 19th of March, '48. I don't know, I can't recall such a statement. May have made it.

Mr. Donohue: Will you ask him to look at that?

Mr. Hallinan: Let's take a peek at it first.

(Document handed to Mr. Hallinan.)

Mr. Hallinan: All right; on these documents I wish you would have them identified, marked for identification, so I could read the balance of the articles in.

Mr. Donohue: I will be glad to do so.

Mr. Hallinan: And the ones that have already been shown to the witness.

Mr. Donohue: Be glad to do it.

(Document handed to the witness by the Clerk.)

Q. (By Mr. Donohue): Have you refreshed your recollection that you did so state on the 19th of March, 1948, Mr. Bridges?

A. You mean did I wrote that column? Yes, I wrote it. And I wrote what it says there. Now, in explanation of that, Mr. Donohue, you might have recalled, not so long ago, that it was revealed by—let me see. I think it was revealed as a result of Mr. Herbert Hoover, in that commission that was set up to [6073] reorganize the government, that by some bad intelligence or something from Europe in the spring of '48, the American people were led to believe that war was imminent, war was imminent, the United States was in danger of being immediately involved in war, and I think it was by means of an aggressive attack by Russia. And I think the person that came out and said that that was a lot of hogwash was former President Herbert Hoover, and that he discovered that in the course of his work in this commission to reorganize the government. Now, I'll check the records on that and bring it in and show you. So what I said there in March of '48 was eventually backed up later by former President Herbert Hoover. That is only half of the story you've got there.

Q. Mr. Bridges, I ask you to look at a copy of The Dispatcher of March 9, 1945 (handing document to Mr. Hallinan).

Mr. Hallinan: '45?

Mr. Donohue: Yes.

Mr. Hallinan: I suggest Mr. Bridges read the paragraph before the one you have marked, also.

Mr. Donohue: I don't mind him reading the whole thing, Mr. Hallinan.

(Document handed to the witness by the Clerk.)

(Testimony of Harry Renton Bridges.)

Q. (By Mr. Donohue): Are you correctly quoted there, Mr. Bridges?

A. In the column, right. [6074]

Q. Why, in March of 1945, were you opposed to the pressure in the press in the United States to require Russia to enter the war against Japan?

A. I think the article explains. I report there that I attended a meeting in Washington at which Mr. Joseph E. Davies spoke, and he explained, I think, the pact between Japan and Russia, that had a year to run. And that is what that article points out, that it is misleading, that unless that pact is broken, that it amounted to a breaking of the pact, and also the pact was broken, why, the information was misleading because the pact still had a year to run and the newspapers were giving the impression that Russia ought to declare war on Japan at once.

Q. You know, as a matter of fact, Mr. Bridges, this article having been written in March of 1945, that as a matter of fact on August the 10th or on August the 8th, 1945, and while the same pact was in operation, and six days after the end of the war, and two days after we dropped our second atom bomb on Japan, that Russia did attack Japan, do you not?

A. I don't know if I know all that. I know that eventually there was a war between Russia and Japan. That is not what the article is talking about.

Q. Well, don't you know that Russia came into the war only six days before Japan surrendered?

(Testimony of Harry Renton Bridges.)

A. I think that is true. But that is not what we were talking [6075] about there.

Q. Well, let me read to you, Mr. Bridges, what you stated; and would you be good enough to explain what you did mean? A. All right.

Q. (Reading) "If the American press wishes to do a service for the American people and aid in bringing greater unity and understanding between the two great nations of the United States of America and the United States of Soviet Russia, in the interest of the war and the peace to follow, the newspapers will cease their indirect demand that the Soviet Union violated its solemn word and pact, even when such is pledged to an enemy that knows neither honor nor decency. And these same sections of the American press would do far better to make it clear to the American people that even if there is a denouncement of the existing pact between the United States of Soviet Russia and Japan, on or before April 25th, 1945, there can be no war between these two nations until after a year from that day."

Mr. Hallinan: Pardon me. I think, in the first place, Mr. Bridges is not responsible for the foreign policy of either of those nations. And furthermore, I have heard now something like a second Harry Bridges—a coalition or confederation of some kind discussed by Mr. Donohue here that I do not know the existence of. Now, what is this "United States of Soviet Russia?" I [6076] have never heard of that term. I don't know of any collection of nations or of any nation or confederation that exists under that name. Now what are we talking about? What are the United States of Soviet Russia?

Mr. Donohue: Did you misunderstand me, Mr. Bridges?

Mr. Hallinan: Well, what is that country? Where is it located?

The Witness: Well, I didn't get——

Mr. Donohue: Is this an objection, Mr. Hallinan?

Mr. Hallinan: Yes. I would like to know what counsel means by the "United States of Soviet Russia." There is no such aggregation of nations or persons or of any country that I have ever heard of.

The Court: (To the Witness) Do you understand, Mr. ——

Q. (By Mr. Donohue): Did you misunderstand me or did you understand the question?

A. I wasn't paying any attention to that particular part.

The Court: Are you reading it from the article?

Mr. Donohue: I am reading from his article.

Mr. Hallinan: No, there's no such word there. There is no such term there as "United States of Soviet Russia." There is no such country.

Mr. Donohue: Then let me call it as you wrote it, the U.S.S.R.

Mr. Hallinan: Oh, that's the Union of Socialist Soviet [6077] Republics.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: Thank you, Mr. Hallinan.

Mr. Hallinan: You said twenty times, "United States of Soviet Russia." I didn't know what you meant.

Mr. Donohue: I just wanted you to show your familiarity——

Mr. Hallinan: Yes. Well, when you are trying a case involving such wide and sweeping matters as you have been discussing, and blaming Mr. Bridges because he can't control the foreign policies of those countries, the least you might do is to learn the names of the countries you are talking about.

Mr. Donohue: Well, with you as a tutor, I will do so, one by one.

Mr. Hallinan: Well, I'm glad; anyone can learn. You are proving that, if you learn that one thing.

Q. (By Mr. Donohue): Now, Mr. Bridges, will you tell me one by one, what was the interest of yourself and the interest of your union in the question as to whether or not the Russian Government should or should not enter the war against Japan?

A. I don't know. I can't recall at the moment. If you will read the article there, it might help out. I don't know. That article there deals with that particular point at the time, and mentions the fact—I remember the occasion well when I heard Mr. Davies speak at a meeting in, I think, the Washington Press Club. And it refers to a statement made by Mr. Davies on that particular point, I think. [6078]

(Testimony of Harry Renton Bridges.)

Q. Mr. Bridges, you knew that in March of 1945 there were thousands of American boys being killed in the war against Japan, did you not?

A. Right.

Q. Well, what reason would you have at that time for defending the United—excuse me, Mr. Hallinan——

Mr. Hallinan: You see, you haven't learned it yet.

Mr. Donohue: No, I haven't.

Mr. Hallinan: I am wasting my time.

Mr. Donohue: I will keep trying.

Mr. Hallinan: Go ahead and call it the United States of Soviet Russia. We will agree to understand what you mean by it.

Mr. Donohue: Fine.

Q. Why was it then, Mr. Bridges, that you were so interested in March of 1945 in defending the failure of the Russian government to attack Japan?

A. I wasn't.

Q. What was your purpose in writing the article, Mr. Bridges?

A. If you will read from our official paper——

Q. I have just read it, Mr. Bridges.

A. I was concerned with keeping the record straight with our membership. Now, I don't think you can say that the article means or is intended to mean, or states that I am defending the Russian government or the Russian country itself.

Q. You said—— [6079]

(Testimony of Harry Renton Bridges.)

A. And the article does not, nor did the article oppose the entry of Russia into the war on our side. Not by any means.

Q. You said, did you not, Mr. Bridges, that:

> "If the American press wishes to do a service for the American people and aid in bringing greater unity and understanding between the two great nations the U.S.A. and the U.S.S.R. in the interest of the war and the peace to follow, the newspapers will cease their indirect demand that the Soviet Union violate its solemn word and pact, even when such is pledged to an enemy that knows neither honor nor decency"?

A. Well, I think the statement speaks for itself. Now, as I recall the session at that time, generally we had this: There was quite a demand for the concentration of the war in the Pacific. I think that was the situation. And there was two schools of thought. One school of thought was generally along the lines that we ought to concentrate, throw all our energy, forces, material and men into the Pacific, even though the war in Europe, in the European end was in the critical stage, more or less. And concurrently with that, or along with that general idea was the demand that Russia enter the war simultaneously. That was one school of thought. The other school of thought was, "Clean up the war in Europe and then jump in in the Pacific with Russia and all hands." That article merely supports the latter. [6080]

Q. Didn't you know——

(Testimony of Harry Renton Bridges.)

A. The latter approach.

Q. That everybody knew, that all during the war in Europe, that the Russian government maintained in Manchuria a tremendous army which was available for the attack on Japan?

Mr. Hallinan: Well, we will object to that as containing this clause, "what everybody knew." Now——

Q. (By Mr. Donohue): Did you know that, Mr. Bridges?

Mr. Hallinan: Pardon me. If I can get the objection in? Do you withdraw the question?

Mr. Donohue: No.

Mr. Hallinan: Well, if Mr. Donohue knew all these things, including the name of the country that he is talking about, why, he can testify to it himself. But putting in clauses like "what everybody knew"—as I remember, the difficulty was that people who were anti-Soviet at that time and anti-Russian were trying to involve the Russians in two fronts when the Russians thought they could only stand one; and were having a tough time doing that. And people who were more interested in knocking the Russians than winning the war were making that sort of complaint. Not as a means of winning the war but as rapping the Soviet Union.

The Court: You asked the question, Mr. Donohue, of Mr. Bridges?

Mr. Donohue: I asked it of Mr. Bridges, if Your Honor [6081] pleases.

The Court: That is what I thought.

Mr. Hallinan: Well, then, I think the answer is objectionable, or the question is objectionable in the form it is given, including the phrase, "as everybody knew."

Mr. Donohue: I will withdraw that and start again.

The Court: Delete "as everybody knows" and the question is proper.

Mr. Hallinan: Yes.

Q. (By Mr. Donohue): Let me ask you this question, Mr. Bridges: Do you know, as a matter of fact, that there came a time when the Russian government did attack Japan?

A. Yes. I don't know if the word "attack"—I don't exactly know how it come about.

Q. And it was your recollection that it was just a few days before the end of the war?

A. Well, if it was in 1945, it certainly couldn't have been very long.

Q. Don't you know that it was only six days before the end of the war?

A. No, no. I think—listen, the record on those things is better than what I remember, Mr. Donohue.

Q. Do you know of any reason, Mr. Bridges, in the light of your familiarity with the existing pact between Russia and Japan~~, why~~ the same attack couldn't have been made in March rather [6082] than in August?

A. Outside of the matter of policy of those times—now, what is happening here is that it seems

(Testimony of Harry Renton Bridges.)

like anybody that even agreed or said a good word in support of Russia at the time that the United States and Russia were allies, it's going to come back to haunt you. Well, now, what I said at those times, like a lot of other people was said in view of the circumstances then. There was two schools of thought.

Q. What benefit, Mr. Bridges——

A. Two schools of thought. One was that it was better and there would be less loss of American lives, and it would be easier all around on the allies, the various allies in the war, to clean up the war in Europe, so that with that done, all forces could be swung to the Pacific. And later on it developed that there was an agreement to that effect, I understand, with, I think, the meeting that was—one of the international conferences that were held between Mr. Churchill, the President and Stalin. And there was another school of thought. We just went along: That article just goes along with the school of thought that the best policy to follow was to clean up the war in Europe. And of course that was the policy adopted at that time by Great Britain, the United States and the Soviet Union, as far as I recall. And the other policy was disregarded. The other policy was policy, generally demanded by the Chicago Tribune-New York Daily News-Hearst axis, it was known as. [6083]

Q. Mr. Bridges, you knew that we, the people of the United States, had two fronts to fight on, don't you? A. Oh, sure.

(Testimony of Harry Renton Bridges.)

Q. Then why shouldn't Russia have had two?

A. I don't know.

Mr. Hallinan: Now, Your Honor, I think that is going a little afield, holding Mr. Bridges liable for the policy of the Soviet Union.

Mr. Donohue: I will withdraw the question, if Your Honor pleases.

Q. I will ask you, Mr. Bridges, what legitimate trade union objective of the ILWU were you serving when you wrote this article about the failure of Russia to attack Japan?

A. If you will let me have the article, I will show you, Mr. Donohue.

(Document handed to the witness by the Clerk.)

Mr. Hallinan: Suppose you read the whole article. I have read it.

A. (Continuing) The article refers in general, without me reading the whole article, Mr. Donohue—I think it is very clearly stated that the article is an attack upon the American press for sowing confusion, and particularly sowing confusion at a time when we were approaching the establishment of the United Nations here in San Francisco. And this article is directed toward pointing out that seizing upon the fact that Russia wasn't [6084] actively in the war, because it had a pact with Japan, was therefore indirectly an attack upon the whole principle and idea of establishing the United Nations here in San Francisco, so that we could win the peace as well as win the war. And this article goes after the press, really, on that score. The question of military strategy and other things that are involved here was purely incidental and secondary to the whole article.

Now, a reading of the whole article will show you that, and it mentions the press I mean. It said the Chicago Tribune, other papers, and generally other papers—and generally speaking, we know what those papers more or less advocated as a policy during the war.

And it further goes on to say, one part here, about an address by Prime Minister Churchill reporting on the Crimean conference; that was the conference, I think, where it was agreed, and it came out later, I think the conference at Yalta, where it was agreed that as soon as the war was finished in Europe, within 90 days after the end of the war in Europe, Russia would enter the war against Japan on the part of the allies. And that was a decision made at the Yalta conference, and this article generally supports that. Now, it wasn't a question of where we stood. You only read one part of the article. We was generally in support of the whole foreign policy and military policy of the government, and the President, following the decisions made at Yalta at that year. And part of the article, [6085] as I say, deals with the press trying to confuse the issue, particularly on the eve of the United Nations convening here in San Francisco in April, 1945. And the matter of strategy, when Russia gets into the war, that is purely incidental. The article attacks the press. [6085-A]

Mr. Donohue: I offer the article in evidence, if your Honor pleases, and at this time I shall ask the clerk to mark the others to which reference has been made for identification, and after Mr. Hallinan has seen them, I would like to offer those in evidence, too.

This being the recess time, your Honor——

The Court: That may be marked. Mr. Hallinan, you haven't read all the articles, have you?

Mr. Hallinan: No, but I will want to read them all into evidence, I imagine, afterwards.

The Clerk: May the one be marked, if your Honor please, Government's 29.

The Court: That may be marked, and the others may be marked for identification.

> (Dispatcher, 3/9/45, article entitled "On the Beam," was marked U. S. Exhibit 29 in evidence.)

Mr. Hallinan: Of course, we are going to have an enormous amount of things to read into evidence, in view of the fact counsel has put in a sentence here and a sentence there. We will have to read in a great many of the proceedings of these conventions, and we will be prepared to do that, in addition to the articles.

Mr. Donohue: If your Honor pleases, I think I should say that very shortly after we convene in the morning I will finish my examination of Mr. Bridges. [6086]

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: Well, counsel is learning. I am glad to see that, your Honor. We have finally arrived at that little concession to courtesy.

The Court: Ladies and gentlemen of the jury, we will take the afternoon adjournment until tomorrow morning at ten o'clock. The same admonition to you, not to discuss the case under any conditions or circumstances, nor to form or express an opinion until it is submitted to you.

(Thereupon an adjournment was taken until Tuesday, February 21, 1950, at 10:00 [6087] a.m.)

Frebruary 21, 1950—10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Harry Renton Bridges, heretofore sworn.

HARRY RENTON BRIDGES

resumed.

Cross-Examination
(Continued)

(Reporter's Note: The documents offered at the close of yesterday's session were marked as follows for identification: U. S. Exhibit 30, Dispatcher, issue of November 14, 1937; U. S. Exhibit 31, Dispatcher, March 19, 1948; U. S. Exhibit 32, Labor Herald, October 24, 1941; Exhibit 33, Labor Herald, August 21, 1942; Exhibit 34, Labor Herald, September 19, 1941.)

(Testimony of Harry Renton Bridges.)

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Mr. Donohue: Mr. Bridges, I would like to read from your column, "On the Beam," in the May 2, 1947, issue of the Dispatcher (showing document to counsel).

Mr. Hallinan: What date is that?

Mr. Donohue: May 2, 1947.

Q. I take it you are correctly quoted here, Mr. Bridges?

A. In the whole column, yes, sure. I wrote that column.

Q. Would you tell me what trade union purposes you were serving [6088] when you wrote as follows:

> "The most effective atmosphere for the brass to work in in peacetime, as it is in wartime, is one in which they constantly work to create a public feeling that war is imminent, and further that the war is not of their making but is inevitably due to come about because of the Greeks or the Chinese or the Koreans, or because of the alleged expansion of Communist Russia. It would be refreshing to hear some of the brass, including the Secretary of State, let go a blast over the radio against Franco Spain or Argentina, or the dictatorship of Turkey where unions are illegal."

Now, what trade union purposes were you serving when you were so quoted?

A. I think the whole column reveals that. The

(Testimony of Harry Renton Bridges.)

last sentence you just read reveals it. I think the general tone of the column and the theme of the column is that the Army makes a profession of war. The more war—and war means full employment for the Army. It is not so nice for maybe the lower ranks. And that column was generally an attack against the top brass and their ways of doing things, and it was generally a trade union approach; that we don't like it. I think what the column in effect says, or certainly what it means, too many people in the Army, their attitude towards civilians and certainly towards labor unions is not one that fools people, or [6089] is a good one. They like to get people in the military organization, slap a number on them, and from there on in you take orders and no back talk, notwithstanding the rights or the guarantees of the Constitution.

That might be O.K. when the country is actually at war like it was during the last war. As you know, there is quite a few people, at least in our union and the trade union point of view, there are quite a few people, military leaders who see it that way in peacetime too, and who would rather have the country under military control in times of war or in times of peace for many, many reasons. From a trade union point of view we do not think that is a good idea. We think that civilians are far more capable people, more able to run the nation, far more democratic, far more tolerant.

That is the view of many citizens, no matter what their station in life may be. In effect that is the purpose, that is the idea behind the column, and that is the thought that it is intended to express and that is the thought that it does express.

Q. When you say "because of the alleged expansion of Communist Russia," is that your concept of what has happened to Russia since the close of the war in 1945?

A. I don't think you can take one—now you are taking one word out of a whole column, and it isn't a matter of semantics; it is a question of taking the column as a whole. And I don't know; if we are going to get into an argument here over the [6090] expansion of any country—now, I don't want to join the reactionary clique that wants to attack any country. I think that if you start leveling attacks against any country, you start the beginnings of a war program. I have already said it is the way I feel and it is the way that the workers of the country generally feel. They don't like war. We don't regard that as apparently the only way we seem to be able to get full employment and to avoid depressions is by making war upon some other country. We realize there is a lot of things wrong with the world and a lot of things wrong with our country. This point of view is not confined to the union I belong to. It is the point of view of the unions throughout the world generally. We are not so sure that the problems of war can be met

(Testimony of Harry Renton Bridges.)

or the general evils of war can be cured by war. We know there is one thing that happens in war: A lot of people get killed, and the way wars are fought now, not only the military get killed but women and children and non-military people get hurt, and so forth.

So, when you start getting into this question of expansion—expansion by any nation—I don't know how far we can go on that. If you want a simple, brief answer, the union I represent and myself, we are against expansion of any nation, including Russia, if such expansion is going to trespass upon the rights of the citizens of any country. We are against expansion if it is going to mean war. And that goes not only for Russia or England, but even we have that belief towards our own country, the United States of America. [6091]

Q. Well, Mr. Bridges, do you think that the expansion of Communist Russia is a mere allegation of physical fact?

A. Well, you give me an idea of what you mean; point out some concrete examples and I will try my best to answer them. Now, I am certainly not—didn't try to blame the expansion of Communist Russia or capitalist England or the slave states of Arabia—don't try to blame them on me. I have got nothing to do with them. I might have an opinion on them, and if I have got an opinion on them, that opinion springs from where I believe such expansion will hurt me or hurt the members of my union, and the people of the United States gener-

(Testimony of Harry Renton Bridges.)

ally. And I think that such expansion will have an effect, directly or indirectly. I thought it was my right to be able to say so. Am I on trial for that, too?

Q. I am simply trying to find out, Mr. Bridges, what you meant when you used the words I just quoted.

A. Well, why are you trying to find it out? What is wrong with it?

Mr. Donohue: Would you mark that for identification, please?

A. (Continuing) I have tried to point out exactly where I stand. Don't you worry about me, Mr. Donohue. Don't you be afraid about me telling you where I stand on anything. In the past or now. But what you are trying to do, at a time when the United States was at war with some other countries and we were [6092] all allies together, you are trying to lift out things that I said then as a leader of a trade union, that I meant then and don't want to back away from now. That is one of the things that is wrong; there are so many people today trying to back away, in my opinion, from every decent constructive thing they ever said, and to try and hunt a hole, especially if they work for the Government, because certain people, for their own political reasons—the Attorney General of the United States made a speech in San Francisco last night, and what was the nature of his speech? That the strength of the Communist Party in the United States is lower now than it ever was. It was highest that it ever was during the regime of Herbert Hoover. What a wonderful, constructive position for a cabinet officer to be taking! I thought he might come out here and talk about the growing unemployment here in California, or in the city or our state. We are one of the hardest hit areas in the United States. That is part of my job as a member of a trade union and an officer of a trade union. My own membership, members of other unions, come around, they are on relief. They go on relief by the hundreds. It is getting worse all the time. And all the help we can get from a high cabinet officer, your superior, is that the Communist Party was stronger during the days of Herbert Hoover than it is now, thanks to the wonderfully effective program of the present administration. Well, believe me, that is not the answer the people are looking for. [6093] They want to know what is going to be done about stopping the coming depression, the spreading unemployment, old age pensions. Why, there's an attempt here to indict a leader of an old age pension movement in the state of California—not because he has done anything wrong, but because he is leading a move for more pensions for our elderly citizens. And that is all the United States Attorney General can think of, to come out and boast of things like that. And I am not going to be backward about saying what I think. I thought that was the right I had, whether I was a citizen or not a citizen of the United States

(Testimony of Harry Renton Bridges.)

As a trade union official, I am ordered to say such things by my membership, and if they think it is right, I am going to do it, and I don't know, I didn't know you could put anybody on trial for doing such things or saying them. I am not going to back away from anything I said during the war, for the reasons that I have stated; they are in writing there. We have got reams and reams of records. All I was trying to do at the time, along with a lot of other people, well, the leaders of various fighting nations, they had their positions and we were kind of going along in the same direction. Not just blindly and foolishly, but because we thought it was the thing that the majority of the people, the thing that they thought was the correct thing to do, and it was in the interest of the majority of people.

Now, you will find that that is true of all the articles you are reading there, and it is no good of you now only picking [6094] out one sentence—in fact, now you are picking out just one word and trying to make that one word stand alone. That won't work.

Q. Mr. Bridges, why are you so sensitive about the Attorney General of the United States' comforting suggestion that the Communist population of the United States is decreasing?

A. I am not so sensitive about it at all, Mr. Donohue. I am not so sensitive about it. He is the Attorney General of the United States. He was the one that gave the orders that myself and two other union officers be put on trial and indicted.

(Testimony of Harry Renton Bridges.)

Q. Don't you know——

A. (Continuing) He is the one that came into this courtroom. He is the same one that come into this courtroom not so many months ago, before the Judge here—no reflection, I don't intend any reflection on his Honor the Judge—and sought an injunction to force the members of the union I represent to stay on the job for another 80 days, under the same hours, wages and conditions. We tried to argue for arbitration and a lot of other things. Even His Honor here suggested that he couldn't see why arbitration couldn't be utilized. But it wasn't good enough for the Attorney General. He sought the injunction. The purpose of that injunction was to force the workers to stay on the job at the same hours, wages and conditions. There was nothing done about the profits of the employer, nothing done about what they were doing. So we have got our own opinions about the Attorney [6095] General of the United States. We think that he is supposed to serve the people, not the special interests. And we are going to keep on talking out against him and if he doesn't do the job he is supposed to do, we will do, in our own small way, all we can to get him, to find him another job. Let's not worry about those things. I notice Mr. J. Howard McGrath, you know, was appointed to the job from the United States Senate. I notice some of these people when they go to Congress and the Senate, notwithstanding what you think, Mr. Donohue, they are not backward about coming around looking for support. And in various forms. They don't worry about myself and others, notwithstanding our supposedly or allegedly political coloration. They don't worry about what it is, if we can deliver a few votes, a little help, a little endorsement and so forth. They are willing to take it. And they should, because they are not so worried about those things. They probably know the score more than you do. That is the point I am making.

Q. Mr. Bridges, is there anything about this country of ours that you do agree with or that you do like?

A. I agree with lots of things. I didn't know you were talking about that. Now, I wish you would start talking about the things in this country that I agree with. What you are doing, you are searching in every direction to try and pick out things that I mightn't agree with.

Now, that is exactly the way our union works in this [6096] country or any other country. We try to search out the areas of agreement. We try to find out what we agree with everybody on, and work with everybody on the basis of that agreement.

Your method seems to be to search out every little point where there can be disagreement and to try to develop that disagreement. That is one of the things that is wrong with the world today—too darned many people trying to search out the areas of disagreement, trying to search out everything that is bad, and make a point of it. We would be far, far better off if we tried to figure out ways to get along with people and not to try to figure out ways to fight them.

Q. Mr. Bridges, I want to call your attention to an article in a special supplement of the May 2nd, 1947, issue of the Dispatcher, called "The Road Ahead" by the officers of the International Longshoremen & Warehousemen's Union, report to the Seventh Biennial Convention, and draw your attention to a portion of it, and ask you if you endorse it.

(Document handed to Mr. Hallinan.)

The Witness: If it is something I said, I endorse it without even seeing it. If it is something I wrote, I don't even need to look at it.

The Clerk: If Your Honor please, for the record may the last exhibit which was marked for identification be noted as U. S. 35 for identification?

The Court: So ordered. [6097]

(Whereupon The Dispatcher dated May 2, 1947, referred to above, was marked United States Exhibit No. 35 for identification.)

(Document handed to the witness by the Clerk.)

A. I endorse it. I was correctly quoted, if that is what you mean. I didn't write that report; that was a report of the officers of the union. Myself, Robertson, Goldblatt and the vice president, Bulcke. So we all endorse it, we all wrote parts of it. But that is just by way of explanation. I mightn't have written that particular part, but I support it completely.

Q. Then on May 2nd, 1947, Mr. Bridges, you supported the view:

> "These are the objectives of the 80th Congress. Truman is doing his best to at least be credited with an assist when the ball game is tallied. There are other aspects of these programs, but they are subsidiary to the two principal objectives, the destruction of labor and the wrecking of the United Nations."

A. Seems to me that in the last presidential campaign the President went around the United States, and that his main platform was blasting the 80th Congress. That is all we heard in this city and other cities, and from the backs of trains and from the housetops and over the air. President Truman and the "do-nothing 80th Congress." He certainly run for re-election and got re-elected mainly on that platform. But that is not the [6098] reason we were criticizing the 80th Congress. The reasons are there. And what we said about the actions of the President at least being credited with an assist—nothing to take back on that either.

Q. Then you are of the opinion that the President of the United States, and through him the government of the United States, is seeking to wreck the United Nations?

A. We are talking about—you are talking about May of 1947?

(Testimony of Harry Renton Bridges.)

A. The language speaks for itself. It said, "an assist." It is not a question of motives, it is more a question of a negative approach.

Mr. Donohue: I ask Your Honor to have this marked for identification, if the Court please.

The Court: So ordered.

The Clerk: May it be marked Government's 36 for identification, The Dispatcher of May 2, 1947.

> (Whereupon May 2nd, 1947, issue of Dispatcher was marked United States Exhibit No. 36 for identification.)

A. (Continuing) You should understand, Mr. Donohue, in order to make that clear, that our union being a part of a national organization known as the CIO, is called upon to act on certain recommendations. The national CIO takes a certain position with respect to the presidential election, with respect to various Congressmen and the Congress as a whole and with respect to [6099] various issues before Congress. We are asked to endorse certain things, to oppose certain things, separate and apart from our own views may be. Of course, we do the same thing within the union itself. We act on those matters, and those matters include the endorsement or support of certain political candidates for election. So in addition to a president being a president of the United States, he is also the head of a political party. And when elections come around, we approach the thing from the point of view of what the party stands for and what the head

(Testimony of Harry Renton Bridges.)

of the party stands for. What is the problem of the people, including the trade unions, and what is it offering in the way of solving the problems—that is our approach. That has got nothing to do with the President of the United States and nothing to do with the Government; it is purely a political problem. [6100]

Q. Mr. Bridges, you have in your public utterances and in your public writings criticized the President of the United States. In any such form have you ever criticized the chief political officer of the Union of Socialist Soviet Republics?

A. I don't know at this time, but that has got nothing to do with me. This is where I live and work here in the United States. I am not running around criticizing the leaders of other countries for the reasons I have stated. I don't want to join this clique. I have said nothing against Russia. I haven't said nothing against Albania. I have said nothing against quite a few other countries either, because when you start in a program like that, you start—inevitably you just join the war clique, and I just don't believe in hollering my head off unless there is some kind of follow-through, a kind of put-up-or-shut-up affair. And when you start out on this business of blasting the institutions or heads of other nations, unless you mean what you are saying, you should be prepared to follow it up with war.

I just think we have lived too much, and too much of our daily life is determined and dictated by what

(Testimony of Harry Renton Bridges.)
we do in a negative sense. That is not an original thought of mine. Quite a few real leaders in various walks of life here in the United States are beginning to point that out. We live less here in the United States by what we should do in a positive manner than we do by taking a position opposite what some other country does, [6101] particularly Russia. We are in this position: We do the opposite to what Russia says because we want to be sure that no one can in any way accuse us of being of the same type of thinking or doing the same kind of thing. So in this desperate, hysterical drive not to be connected with anything Russia or the Russian leaders or Stalin might do, we desperately go out of our way to do something else. And that is a pretty stupid way to do things, in my opinion.

I am reminded—and this is how far it has gone—Mark Twain wrote a book called "The Connecticut Yankee in King Arthur's Court." Incidentally, that book in recent weeks—months—has been barred from the schools and libraries of the State of New York because it is just what you are pointing out. But in there there is the story of a Yankee in England at that time, and visiting a person of pretty humble character and occupation—I think he was a charcoal burner—he was told, "The man isn't home. He is out hanging his neighbors." And the Connecticut Yankee wanted to know, "What is he doing out hanging his neighbors?"

He said, "If I didn't get out and hang my neighbors—the lord's house has burned down, so we went

(Testimony of Harry Renton Bridges.)

out to hang some people for it, because if I didn't I might be suspected of doing the job."

The Connecticut Yankee said, "How about it? Are they guilty or not?" [6102]

"Well, that has nothing to do with the matter. I am just looking out for myself. If I don't get out and join the mob and hang my neighbors, they might think I done it."

The Yankee then said, "I think you are a damned scoundrel." That was his attitude.

On this business of asking me, "Do you ever say anything against Soviet Russia?" can you tell me why I should? Is that the sign of a good American, Mr. Donohue? I think people should be judged by what they do about the United States of America or any other country in which they live. Now, other countries might have their attitudes toward us. That is just too darned bad about them. But here is the country in which we live. Here is the country I know something about. What happens here in the United States, that determines what my future will be and the future of a lot of other people, it doesn't make any difference whether I think or whether I say anything against Soviet Russia, and I think it is just tragic. I notice every person running for political office, they seem to have to make up their minds, the first place they start off, they have to get up on the public platform and say, "Stalin is a bum," or something, or "Russia is no good." Then there are others that say England is no good or France is no good. All those

(Testimony of Harry Renton Bridges.)

things might or might not be true. But I would sooner see them start talking about what is good or bad here in the United States and try to do something about the bad things, and [6103] there is a lot of bad things, too. Why, here in this State of ours we have had children starving to death recently because they haven't had enough to eat. At least there is a political candidate coming along running for Governor of the State and he is pointing it out. I think that is a step in the right direction. He is saying, "Look, if you elect me Governor of the State, I will take steps to see children don't starve in this State." We are burning and destroying food in recent weeks and months and yet children have starved to death through lack of food out here in the areas. Finally we have a political candidate who is coming along and saying, "at least if you elect me governor I will try to see that no children starve to death." That is what I concentrate on, Mr. Donohue, and I don't give a darn what Russia thinks, what she does, what her policies are. Only when those policies clash with my well-being and my welfare and the welfare of the people I represent in the United States are we going to get too much disturbed about them, and we will have plenty to say about them or any other country either.

There, as briefly as I can make it, or somewhat lengthy, is where we stand on that, as to whether we have said anything about Stalin that I can recall in recent months.

(Testimony of Harry Renton Bridges.)

Q. Mr. Bridges, you have in your public speeches and writings criticized the Secretaries of State of the United States. Have you ever criticized the foreign policy of Mr. Molotov? [6104]

A. What is it?

Q. I am asking you, Mr. Bridges.

A. Well, you tell me. I know what the foreign policy is of the Secretary of State of the United States. I know what that is. Now, I don't know what Molotov's foreign policy is. That part of it that I know about we certainly endorsed. I attended a few sessions of the United Nations here in San Francisco when it was on. There was certainly one part of Molotov's policy I endorsed. I was in the chamber that day when Molotov made his speech against the admittance to the United Nations of Argentina. Well, I think everybody there endorsed what Molotov said. If that is a part of his foreign policy, I endorse that part, too.

I endorse the policy about disarmament. I see a proposal is made for disarmament. I am for that. My union supports that, the national CIO supports it. I think the world would be better off if there was some disarmament and the money being spent in building up armaments now was turned into other channels. It just happens to be my opinion, dealing with the economic matters, that we are heading for a depression all over the world. Unemployment is growing, trade is falling off. We know about the dollar deficit in most of the countries of the world. We know about the devaluation of currency. We know about the slacking down of trade. We know about all those things. It spells growing unemployment, it spells world [6105] depression. And I know I do not have to be a student of economics or have a college education to know that when a depression comes, the average person suffers, particularly the working people, particularly small business, the small farmer, and particularly the older citizens. They are in a bad way.

Q. Mr. Bridges, you have publicly criticized the Attorneys General of the United States. Have you ever criticized the brutal prosecutor of the infamous purge trials and the master of the voluntary confession, Mr. Vishinsky, about that?

A. Again referring to something you brought up here earlier——

Mr. Hallinan: Pardon me, before we go into that. Maybe we ought to indict Manning Johnson, Crouch and Ross before you start talking about perjured witnesses and framed trials. That would be a good sign as to your own sincerity.

Q. (By Mr. Donohue): Are you now prepared to answer the question after the brief interlude?

A. My knowledge on those things is second-hand, but let me tell you this: Mr. Joseph E. Davies was ambassador to Russia. I had only one converation with Mr. Davies, once in his office in Washington, but I heard him speak at a couple of meetings in Washington, D. C., after he came back from Russia. One was at the press club in Washington and another one somewhere else. There was cases, maybe not criminal cases, at least I have learned to some degree to judge and to tell when a witness is telling the truth, when a witness is telling a story that is being third-degreed out of him. If the witness is under pressure or drugs," he said, "those witnesses in my opinion were setting out true confessions." He said, "Those people were traitors to their country." He said, "Those people were condemned to death and most of them or some of them were shot." He said, "In my opinion they received the proper type of treatment. They were shot; they should have been shot." He said, "Now, that is my answer to the question as to those trials, conditions, and so forth," and Mr. Vishinsky handled those trials, I understand. And

an open forum. Questions were allowed to be asked, and someone got up in the audience and asked Mr. Davies the very same question you are asking me now. The words were [6106] practically the same, Mr. Donohue, and Mr. Davies answered, and the best way I can answer your question is to quote what he said: He said this, "I am a corporation lawyer." He said, "I do not hold with the policy, the legal policy of Soviet Russia, which is somewhat the reverse of ours here in the United States. The general idea you are innocent until proven guilty. Over in Russia it is more along the lines you are guilty until you can prove yourself innocent." He said, "Even though I do not hold with that," he said, "I am a corporation lawyer; I sat in the courtroom through those many months of trial. As a corporation lawyer who has tried many instead of taking my answer, there is the answer of a man who was there, who was an attorney, who was [6107] our ambassador to Russia and, of course, I don't think he has any connection with the Communist Party or the Soviet Union or anything like that. [6107-A]

Q. Did you editorialize in your column, "On the Beam," on the Cardinal Mindzenty trial?

A. I don't know; I might have. One of my jobs was to do those things. It is one of my jobs, and I am responsible for everything that appears in the paper. We employ an editor. If there is anything wrong in the paper, I can't blame the editor; I take full responsibility for anything that is said in the paper. Even though sometimes our paper may make a mistake, that is neither here nor there, if it said it, I stand behind it.

Q. What is your present recollection as to whether you made any comment on that question?

A. Specifically, I don't know.

Now, listen, if you are talking about espionage,—you know I am a grown up person, Mr. Donohue, and nobody is kidding me. I think that our country has got spies in every other country in the world, and I have no doubt that other countries have got spies in the United States. I don't limit it to just Russia. I think Russia and England and other countries have got spies here. I hope I am not mistaken, and I have got a hunch I am not. Probably a few of our people are in other countries too; it might be that they are in all kinds of garbs. It is

(Testimony of Harry Renton Bridges.)

nothing new. I didn't invent the idea. They may be disguising themselves as prosecuting attorneys, they may be disguising themselves as ministers of the faith, they may be disguising themselves [6108] as union leaders, as Communists, as Socialists, as Democrats or what not. Don't blame me. Spying is an old honored profession and its is probably still going on. We may engage in it and other countries may engage in it. Just don't blame me; I am not responsible.

Mr. Donohue: I have no further questions.

Redirect Examination

By Mr. Hallinan:

Counsel having introduced portions of the resolutions that you supported or resolutions that you offered—and I hope the jury won't be too dismayed because I will read very short excerpts from them, but if necessary, the entire document can be introduced in evidence—you stated with regard to them, Mr. Bridges, that in a great many of them you were supporting programs of the CIO, and I have here as far back as the proceedings of the first constitutional convention of the Congress of Industrial Organization in Pittsburgh, Pennsylvania in November, 1938, in a resolution proposed by John L. Lewis, Mr. John L. Lewis the first president talking about war and anti-war. See if you can refresh your recollection from the statements that I will give, that these are part of the resolutions:

(Testimony of Harry Renton Bridges.)

> "Who is going to do the suffering and the dying in the future but the sons and daughters of the workers of the country? The workers of this country will never make anything out of war. They merely work and sweat and fight and [6109] die; someone else takes the profits. Who took the profits of the last war? Not labor. If war comes, the United States will need the cooperation of the millions and millions of workers that are members of the CIO."

And then proceeding to the second constitutional convention——

Mr. Donohue: Excuse me. Was that a question?

Mr. Hallinan: Does that refresh your recollection that that was part of a resolution offered by Mr. Lewis?

If you wish, I will introduce the whole proceedings of the constitutional conventions, but I don't want to load the record up, and I am only going to pick excerpts out. If you want, we will offer them for identification, then you can take any part that you want, or I will offer them entirely in evidence, whichever you want.

Mr. Donohue: They are not admissible. We are not concerned with what John L. Lewis said. We are concerned with what Harry Bridges said.

Mr. Hallinan: Mr. Bridges stated on cross-examination that his views coincided with those and followed the line set out by the CIO conventions, and in order to give substantiation of this matter——

Mr. Donohue: The only matters we have sought to introduce from the CIO conventions were what Mr. Bridges said. Anything that Mr. Bridges said at any of these conventions we are glad to have introduced in evidence. [6110]

Mr. Hallinan: Then it is contended by counsel that these were some independent matters that Mr. Bridges thought up himself. I want to show, as he has testified already, that they conformed to and carried out the policies set by the convention of the CIO and its general officers. As a matter of fact, under the rule that if part of a proceeding is admissible it is all admissible, we could read everything in these proceedings on the subject. I don't want to do that. I just want to show the parts of it that substantiate what he said as to following the policies of the CIO in these matters.

The Clerk: If Your Honor please, may the exhibit be marked Defendant's H-3 for identification?

The Court: So ordered.

(Proceedings of 1938 CIO convention were thereupon marked Defendants' Exhibit H-3 for identification.)

Q. (By Mr. Hallinan): In the next convention, that ~~is~~ in 1939 in San Francisco, Governor Culbert Olson speaking in support of a resolution——

Mr. Donohue: I object, if Your Honor please. Certainly anything that Governor Olson may have said at any convention is not admissible in this proceeding.

The Court: I can not see, Mr. Hallinan, how statements made by other political leaders or labor leaders might be relevant to this particular examination. I am willing to give, and I have given, extreme liberality, but I don't see—— [6111]

Mr. Hallinan: Here is the thing—I think there will be no question on this resolution in the matter of labor and the European war. This is the resolution adopted by the convention, and, as I say, is the resolution that Mr. Bridges testifies that he was in part carrying out; that while he has his own opinions on these things and expressed them, he was following the principles of the CIO constitutional convention. And I have here a resolution passed by that convention on the subject of labor and the European war in 1939.

Mr. Donohue: I think——

Mr. Hallinan: I want to read some excerpts from it.

Mr. Donohue: I think what Mr. Bridges may have said about that resolution is admissible, if Your Honor please.

Mr. Hallinan: No, here is the matter that counsel here selects by Mr. Bridges, who is an officer of the organization, where he expresses in his paper and in his union and so forth matters that have been decided at the constitutional conventions of the CIO, resolutions that have been passed, but makes it to appear or attempts to make it appear as though they were his own individual opinions; that he was expressing nothing more than his own individual opinions. In fact, he has tried to raise the inference that in all these matters he was running contrary to the opinions of the CIO.

The Court: Hasn't Mr. Bridges himself differentiated his statements in connection with the local paper which is edited [6112] by him or at least under his supervision, as distinguished from the thinking of the national CIO policies therein set forth?

Mr. Hallinan: I think he made that distinction. We are coming to that paper presently. Now we are coming to the matters that he read and resolutions that he supported in his own union. If counsel has started out to give, as he should give, the impression that Mr. Bridges was only carrying out the policies decided by the national CIO and expressing resolutions by them on the exact subject that he has been talking about—the second front, the second front in Japan and Russia, the support of the WFTU, the International Labor Organizations, the anti-war, the anti-conscription—all those things are policies of the national CIO set out in these conventions in resolutions adopted by them, and Mr. Bridges is only supporting what were the policies of that great union of 600,000 men.

Now, as I say, if counsel wanted to criticize Mr. Bridges for not attacking those things or being a member of the CIO which endorsed them, it might be one thing. But I submit that his whole principle and course that his examination took has been to

(Testimony of Harry Renton Bridges.)

raise the inference that Mr. Bridges was taking a position opposite to the CIO and that the matters which he was standing for were not the principles of the CIO.

The Court: Well, the point I have in mind is this, if you will bear with me a moment: The adverse views of leaders, let us say, such as John L. Lewis and Culbert Olson, upon a given [6113] subject might be as varied as on any subject men may debate upon. It is the net result that matters.

Mr. Hallinan: I see the validity of that suggestion.

The Court: In other words, ten men may debate the subject in many forms——

Mr. Hallinan: The only thing that would be proper would be the resolutions finally adopted by the CIO.

The Court: If there be some logical or legal relevancy in connection with the statements made by the witness on the stand with respect to what may have eventuated, I think those would be relevant.

Mr. Hallinan: That is it. In other words, I will omit the discussion by people like Governor Olson and John L. Lewis and come to the results finally which were binding on Mr. Bridges.

Mr. Donohue: If Your Honor please, the only resolutions of the CIO that I directed to Mr. Bridges' attention were the resolutions in which Mr. Bridges stood practically alone in opposition to the rest of the union.

The Court: If so, that should be reflected therein.

Mr. Hallinan: In other words, if he introduced resolutions that Mr. Bridges stood practically alone for, then certainly we are entitled to show that they were ones which he did not stand alone in.

Mr. Donohue: The resolutions I discussed with Mr. Bridges were the resolutions on which he was overwhelmingly defeated, [6114] and those were, one, the one against Communist domination in the CIO and the resolution endorsing the WFTU, which Mr. Bridges fought for and which were almost unanimously defeated. [6114-A]

The Court: Those are the two that I have in mind.

Mr. Hallinan: All right. Now, I will show, if the Court please, that while that is now the principle of the CIO, there are resolutions to the exact contrary, that the CIO not only passed resolutions endorsing the WFTU and stating that unity of labor organizations all over the world was essential to the preservation of peace and to the betterment of humanity generally, and especially endorsed the WFTU, but the CIO joined the WFTU, and for some years remained in it. The WFTU was a part of the program of the United Nations. The CIO eagerly took it up.

All right, in 1949—that is last year—the CIO changes its mind and withdraws from the WFTU. Furthermore, for several years the CIO, as we will show by the resolutions adopted, here, itself condemned red-baiting attacks upon Russia and other methods of dissolving and re-creating contentions in labor unions, and went right along with that program.

Now, here is the trouble, that when the CIO leaders, for their own purposes, decide to change that and now say, "We condemn what we once supported; we now say that there should be red-baiting against which we have passed resolutions; we now condemn the WFTU which we once extolled so greatly and which we joined," then Mr. Bridges is supposed to have the same lack of integrity that those people have, and he is supposed to change his mind and abandon his principles because it would suit his [6115] purposes. That is the whole proposition. All of counsel's suggestion is this: Mr. Bridges, having embraced principles that were embraced by the leading people not only of the United States but of the world, principles that were noble, principles of humanity, principles that were against the insular notion that we are some sort of an island set apart, and the rest of humanity can go hang so long as we are all right, because Mr. Bridges embraced those things when, as I say, every person of any nobility in the world was embracing it, now, when it might be a politic thing and might appeal to general hysteria for him to come in and apologize and backtrack on those and repudiate them, because Philip Murray or someone else has repudiated them, he is supposed to be a Communist. Everything that is good—if he stood against shipping war materials to Ethiopia and to Italy and to Japan, he is a Communist. If he held out for equality of races in the union, he is a Communist. If, when the war was on and the Russians were bleeding to death against the assaults of Germany, he was in favor of helping him, our allies, the people that we were sworn and bound to help, he is a Communist. If, when the war is over,——

The Court: Mr. Hallinan, don't you think you should reserve some of that argument for your closing argument?

Mr. Hallinan: Well, it is important on this, because I want to show——

The Court: I don't think you should expend yourself in the [6116] middle of the matter, but I would say this to you. If Mr. Bridges stood alone in connection with several resolutions to which reference has been made by the prosecution or by Mr. Donohue, then those matters may be gone into between yourself and counsel. Let us find those resolutions. Now, certainly neither this Court nor the jury can go into the changing tides that may have affected the CIO, nor the erosions of time that may have affected their thinking. But——

Mr. Hallinan: Well, then, suppose we get some place on it. May I ask——

The Court: Could we take the recess at this time and——

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: Your Honor, we have twenty times at recess endeavored to carry out orders of the Court——

The Court: Well, I only thought, Mr. Hallinan, that we might, during the recess time, correlate your thinking and Mr. Donohue's on these specific items and save our time.

Mr. Hallinan: Your Honor, you are setting me a task that I can not do, to correlate my thinking with Mr. Donohue's. He thinks in an entirely different fashion, and we have endeavored, and when we have endeavored to carry out a suggestion like that before, we have always been insulted. We walk up to the table and say, "What about this?" "We are not interested," and away we walk. Now, we can do it in five minutes here.

The Court: Well, I will say to you, Mr. Hallinan, that Mr. Donohue's demeanor in the recess must change rapidly from [6117] what we observe here.

Mr. Hallinan: It does, Your Honor.

The Court: Because his demeanor in court is uniformly courteous.

Mr. Hallinan: As soon as Mr. Donohue gets away from the jury, he is an entirely different man. You have heard him in court, talking about me and Mr. MacInnis when the jury wasn't here. No one would think, to observe him here, that he was capable of descending to the things he has said about us. What we say, we say out openly in front of everybody; but Mr. Donohue waits until the jury isn't around and then tells us whatever he wishes to say.

(Testimony of Harry Renton Bridges.)

Now, I might suggest this, Your Honor. It won't take—it will take only a few minutes. Let's now find out what matter Mr. Donohue claims Mr. Bridges was at variance on with the CIO, and we will limit ourselves to that.

Now, he says one was the WFTU. Is that correct, Mr. Donohue?

Mr. Donohue: That's correct, Mr. Hallinan.

Mr. Hallinan: All right. Now, how about Mr. Bridges' stand against conscription? Do you claim that the CIO was at variance with him on that?

Mr. Donohue: I didn't even ask Mr. Bridges about that.

Mr. Hallinan: All right. So then we will knock out the one on conscription. [6118]

I have one on the WFTU. Now, what about Mr. Bridges' position in 1941, of being in favor of aiding the Soviet Union in its heroic struggle against Germany? Do you think that that was contrary to the CIO's policy?

Mr. Donohue: It sounds like Mr. Bridge's policy.

Mr. Hallinan: All right. Do you think that that is not the CIO's policy, is that right? Well, I have that resolution. All right.

Now, I have another resolution, in 1942, condemning the—the CIO condemning Hitler's puppet states, condemning the Vichy, Finnish and Spanish governments and sustaining Great Britain and the Soviet Union. Do you deny that that was the CIO's policy?

(Testimony of Harry Renton Bridges.)

Mr. Donohue: I didn't ask Mr. Bridges anything about it.

Mr. Hallinan: All right. Then that is not supposed to be his. Now, how about the second front? Do you claim that that was Mr. Bridge's own principle or do you deny that the CIO supported the same position that he did?

Mr. Donohue: I say that that is one of those situations where all persons who wanted the second front weren't Communists, but all Communists wanted the second front.

Mr. Hallinan: All right. Then that puts a lot of us as Communists.

Now, do you deny that the CIO came out in numerous resolutions supporting Harry Bridges and condemning the persecution [6119] by the government agencies of Harry Bridges?

Mr. Donohue: I didn't ask him, because I didn't want to embarrass him by the fact that they are not following now the same line.

Mr. Hallinan: Yes. But they have changed on this, too. I have a wonderful resolution here, too, telling all about the kind of people you represent and stating what a fine man Mr. Bridges is and what a ruthless and unjust persecution he has been undergoing for 15 years. Now, do you want me to read that?

Mr. Donohue: Well, that is true of every man charged with crime up to the time he is convicted, Mr. Hallinan.

Mr. Hallinan: Well, then, I think we will have the consolation of knowing that it will cease.

And you say that you do not contend that it was his position, that he took the sole position, on anti-conscription?

Mr. Donohue: No, I never asked him about that, Mr. Hallinan.

Mr. Hallinan: All right. Now, what about Mr. Bridges' statement that the Federal Bureau of Investigation has been indulging in labor-smashing and spying on unions in the interests of the employers? Do you claim that that is Mr. Bridges' peculiar conclusion?

Mr. Donohue: His and the Communist Party's.

Mr. Hallinan: All right. Now, do you claim that the CIO hasn't said exactly the same thing in resolutions?

Mr. Donohue: If you will prove that at that time the CIO [6120] was not dominated by the Communist Party, I will concede to it.

Mr. Hallinan: Well, then, I think we should be allowed to read that, Your Honor.

Now, I have another anti-conscription policy one here. Now, what about anti-war and imperialism, in 1947? That was the article that Mr. Bridges wrote and which was condemned or for which he was condemned or questioned about, and on which he had said he was opposed to all war, any imperialistic war, including any that the United States might engage in? Do you claim that that is his peculiar statement, or will you admit that it was Resolution No. 4 of the Foreign Policy and World Emergency, of the CIO convention, held in October, 1947?

Mr. Donohue: The only time Mr. Bridges' record, as presented to him, showed he called the war an imperialistic war was before the Nazi Germany attack upon Russia.

Mr. Hallinan: Then I will be forced, I will ask to be allowed to read that one in, Your Honor.

Now, I have an anti-red-baiting resolution of the ILWU, in April, 1947. Do you claim that that was Mr. Bridges' sole notion, or do you admit that that was the policy of the union as expressed in resolutions?

Mr. Donohue: Well, it is pretty hard to say because Mr. Bridges so closely identifies himself with the union. It is difficult to say, Mr. Hallinan.

Mr. Hallinan: We will limit ourselves to those matters, [6121] then, Your Honor. I put the other ones aside. I want to read some excerpts from the resolution on the WFTU as of 1946.

The Court: Now that you have taken those matters up, I think we had better take the recess.

Mr. Hallinan: Very well.

The Court: We will take the morning recess, ladies and gentlemen. The same admonition to you, not to discuss the case under any conditions, nor to form or evpress an opinion thereon until it is submitted to you.

(Recess.) [6122]

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: Reading from the resolutions of the convention of 1944 on the International Labor Unity, I ask you if you remember this resolution, Mr. Bridges. This is a portion of it only:

> "For these reasons the British Trade Union Congress on November 6 of last year issued a call inviting representtaives of organized labor in all countries to attend an international labor conference. The CIO readily accepted. Such an invitation was consistent with the policy that has been prescribed by our previous conventions. We have fully endorsed the program that International Labor Unity must embrace the labor organizations of all United Nations."

Q. Do you remember that? A. Yes.

Q. "This conference must establish a firm basis for International Labor Unity. We have suggested for the agenda of the conference the consideration of the establishment of an international trade union movement with participation on the part of all labor organizations in all of the United Nations, and after victory, all other nations desiring to so participate. The United Nations have demonstrated that through unity during the war nothing can stop our ultimate military victories. Such unity based upon international labor cooperation will bring the true [6123] and durable peace for which the common man throughout the world is now yearning. On its foundation the people will establish the kind of world in which the blessing of freedom of speech,

(Testimony of Harry Renton Bridges.)

freedom of worship, freedom from want and freedom from fear shall accrue to all."

A. Pursuant to that resolution we sent a delegation to London. There was a meeting in London to found a worldwide labor organization.

Q. Then at the convention in Atlantic City in 1946—— A. I was not present.

Q. You have read the proceedings?

A. Later on. Our union was present.

Q. Let me ask you this, Mr. Bridges. As suggested, in addition to being president of the local union, you were West Coast representative at one time of the CIO and then California representative, is that correct?

A. I was president of the international union, West Coast representative of the CIO, and later on, after the convention of 1939, I was California representative, director.

Q. And as such were you obligated, not in the local matter, but in the matter in which you were a representative of the international, to carry out the policies adopted at the international conventions?

A. I was. I was bound as the regional director to carry out the policies and the orders and the directives of the national [6124] CIO, and generally I did. There came a time, however, when I refused to do so and I was removed from the job. And I made no complaint because I well understood that as long as I held that position, the reason I was in the position was in order to carry out the objectives and the program of the CIO as passed by its con-

(Testimony of Harry Renton Bridges.)

ventions, and when I refused to do so the CIO was within its right to remove me from the job.

Q. Taking the program set out in the convention I just discussed, and reading an excerpt upon the department that was created for international affairs, see if this refreshes your recollection as to some of the matters that were embraced in it.

> "In November, 1944, the CIO in its seventh convention resolved: 'The CIO supports the project of a new single powerful international labor body that shall include all the unions of free countries on the basis of equality, excluding none, and relegating none to a secondary place, and be capable of defending the interests of the common man.'
>
> This project has now been realized. Two world trade union conferences have already been the subjects of separate reports from our membership. The basis for the new federation was laid in London in February of 1945, and the work was completed in Paris in October, 1945, when the World Federation of Trade Unions was born." [6125]

Parenthetically, that is the organization that has been referred to by counsel as the WFTU, of which you have recently been elected president, when you were forbidden to leave the country to go to Marseilles; is that correct?

A. Not quite. The organization you refer to is the WFTU. The organization I was elected president of, although it is attached to the WFTU, it is a division or department of the WFTU, with this exception——

Q. What is it called, Mr. Bridges?

A. The International Union of Seamen, Harbor and Port Workers.

Q. Let me ask you, how many workers does the WFTU represent? A. Around 70,000,000.

> Q. "The Paris conference was attended by 185 delegates from 56 countries, representing over 66,000,000 organized workers. In spite of their diversities the delegates established a unity of purpose, thought and action, and an all-inclusive international trade union organization was formed, all-inclusive with the exception of the American Federation of Labor, the one major labor organization in the world which has remained aloof. The workers of all countries can now speak with a united voice on the international scene. Despite its youth and the fact that it had to organize itself amid the difficulties of the past war in Europe, the influence of the WFTU has already begun to be felt in a world development. In accordance [6126] with the Paris conference decision, the WFTU committee visited Germany in February, 1946. After thorough investigation of all four zones it made a complete report on denazification, the revival of free trade unions, and the progress of democratization of German life. This report

(Testimony of Harry Renton Bridges.)

> was adopted by the WFTU Executive Committee meeting in Moscow in June, 1946. The joint allied authorities in Berlin expressed their thanks for the report and they said they found it extremely helpful."

Then skipping over some:

> "Throughout the world the CIO is endeavoring to promote friendships between people based on mutual understanding, human rights and respect for the right of each people to work for its own improvement, according to its own traditions and circumstances."

And finally:

> "In 1944, as in previous years, the CIO presented to President Roosevelt its request for equal representation in the labor delegation to the ILO conference scheduled for April of that year. The American Federation of Labor and its president became so vehement and obstreperous, under conditions as to create the danger of a major conflict in the midst of the tremendous war effort in which the people of this country were then engaged, and accordingly, on April 4, 1944, the CIO advised President Roosevelt that, [6127] conscious of his tremendous responsibility as President and Commander in Chief, and conscious of the necessity for avoiding any division or confusion in the midst of war, we would withdraw our formal request for

(Testimony of Harry Renton Bridges.)

> representation. In view of the position to which the Administration's present position has relegated the CIO and its spokesmen with respect to the operations of the ILO, your officers can see no further utility in participation by our representatives in this advisory capacity or in these special industry conferences. It is quite fortunate that at the present time, when the Administration's decision to limit so sadly American employees' participation in the functioning of the ILO, virtually destroys the utility of that organization, we do have available a far more effective and meaningful medium in a new fully active world federation of trade unions. This organization, representing as it does some 70,000,000 workers throughout the world, including as it does within its fold every single major labor organization in the entire world with the sole exception of the American Federation of Labor, is far more significant as a forum for the exchange of views, information and cooperative action among the workers' organizations throughout the world."

Do you remember that resolution of the CIO at that convention?

A. That is right. And the WFTU was given somewhat of an [6128] informal status in so far as the United Nations is concerned. It is attached to the United Nations as an advisory body, in an advisory capacity.

(Testimony of Harry Renton Bridges.)

Q. Do you remember this from the proceedings of the third constitutional convention at Atlantic City, New Jersey in November, 1940, on the subject of involvement in the war—Resolution R-26, quoting only parts of it:

> "Whereas, 1, the people of this nation are more determined than ever to prevent this country from being dragged into the foreign wars now raging throughout the world, and, 2, John L. Lewis in his masterful Labor Day address in September of 1939, warned the nation of the dangers which beset the country and the efforts that would be made to drag us into the war and, 3, because the consideration on the part of the people of other grave affairs regarding their efforts to drag this country into the war, the candidates of both major political parties in the recent presidential campaign gave their sacred pledge that this nation would be kept at peace; and, 4, under the guise and false pretense of furthering national defense, the enemies of labor and democracy are attacking the living standards of the common people, the existence of labor unions, and the democratic institutions of the nation in their drive toward war;
>
> Now, Therefore, Be It Resolved that, 1, this convention [6129] reaffirms its determination that the nation must not enter into any foreign entanglements which may in any way, drag us down the path to entering or becoming involved in foreign wars. The eternal vigilance by organized labor will be the basic guarantee that a

(Testimony of Harry Renton Bridges.)

> repetition of 1917 will be avoided and peace and security for our nation will be preserved; and, 2, the executive board of the CIO at its meeting in June, 1940, unanimously adopted a policy relating to national defense and stated that the Congress of Industrial Organizations, its officers, constituents, unions and membership are fully prepared to discharge our responsibilities in the approaching national emergency to the best interests of the United States of America.
>
> The Executive Board made it clear and declared in unequivocal terms that we will defend the free institutions of this Republic under which the Declaration of Independence and the Constitution give us the greatest democracy on earth, government of the people, for the people and by the people. This policy is reaffirmed in clear, unmistakable terms. The Congress of Industrial Organizations and its millions of members and the members of their families are determined to protect and defend this nation, not only against our foreign enemies who may dare to attack us directly, but also against those forces within our nation who place the profits of their financial and industrial [6130] enterprises above the well-being of the millions of common people."

Do you remember that resolution?

A. Yes. There is more to it than that. The same resolution was adopted by the ILWU convention in

(Testimony of Harry Renton Bridges.)

April, 1941, word for word, and that resolution was embodied and recommended to our convention in April, 1941. [6131]

Q. And as far as support of England, China and the Soviet Union before the entry of the United States into the war which has been called to your attention, do you remember, from the proceedings of November, 1941, at Detroit, Michigan, this Resolution R-1 concerning foreign policy, which states in part:

> "Resolved, that the CIO reflects the aims and needs of American workers, namely, the desire and right to live and work as free men in a free democracy. American workers cannot and will not tolerate any appeasement of any elements or forces which seek to undermine or compromise American democracy. We are fully cognizant and deeply appreciative of the dangers to our country as a result of the continued aggression of the Nazi government and Hitlerism. We cannot condemn too vehemently the coldblooded murder of innocent civilians in the conquered nations by Hitler and his Nazi hordes and call upon our Government to rally all free nations in their official condemnation of these brutal policies.
>
> At the present time the people of Great Britain and of the Soviet Union and China are engaged in their heroic struggle to smash Hitlerism. President Roosevelt, reflecting the unquestioned desire of the American people, has espoused the policy of extending complete and

(Testimony of Harry Renton Bridges.)

full aid to these nations in their vital struggle which involves the interests of the American people. [6123]

The CIO declares it to be of paramount importance to the security of the nation that we immediately furnish all possible aid to and completely cooperate with Great Britain, the Soviet Union and China, which are the nations now carrying on the struggle to rid the world of Naziism, the enemy of mankind, and thereby bring about the military annihilation of Hitler's regime. This program must be coupled with an aggressive preparedness and active defense by the united efforts of the nations of the Western Hemisphere.

The CIO commends President Roosevelt for his forthright foreign policy and in the joint action of the President and Congress in the recent amendments to the Neutrality Law which permits this nation to immediately arm and protect American ships and American seamen carrying vitally needed supplies to the heroic people of Great Britain, the Soviet Union and China, and thereby assure the quicker defeat of Nazi Germany.

National unity toward this end is essential. Efforts of any such as Lindbergh to disunite the American people on such un-American issues as anti-Semitism must be ferreted out and exposed as Hitler's Fifth Column. The American people demand that all aides of Hitler in this country,

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> be their our own home-grown Quislings or the representatives of his puppet states, such as Vichy, [6133] France, must not be permitted to cause dissension or sow their seeds of disunity in this nation. Only through the united efforts of all our people to protect our great nation through the support of our clear foreign policy shall we survive with the heritage of our founders kept intact."

Do you remember that resolution? A. Yes.

Q. That was an official resolution of the CIO national convention in November, 1941?

A. That's right.

Q. Now, coming up to 1947 and the constitutional convention held in Boston on October 13 to 17, 1947, calling your attention to Resolution No. 4 on foreign policy and the world emergency, and reading only parts of it, I ask you if you remember this resolution in that convention: Going down a few paragraphs that are introductory:

> "1. That people demand peace. They condemn with all the vigor and determination at their command the belligerent predictions of the inevitability of war, from whatever source it may come. The voices which have been raised in a few places in our country calling for a so-called preventive war are not the voice of the American people. We deny any charge that we plan to launch a war. The American people oppose, as inconsistent with [6134] their basic in-

(Testimony of Harry Renton Bridges.)

> terests and aspirations, any such attempt as we oppose any form of aggression by America or any other nation. There must be the most vigorous and relentless opposition by all liberty- and peace-loving citizens to the offensive led by evil forces to provoke and foster the insane idea of another world war."

Passing over some more matters in which they call upon the United Nations to suppress this war hysteria:

> "3. We know that an enduring peace demands that the people everywhere, including the economically backward or colonial countries, be protected in their rights of self-determination and self-government—free from interference or coercion, be it military or economic, from any source—benevolent or despotic. The people of the war-devastated countries look to us for relief, rehabilitation and reconstruction. We therefore support sound programs for post-war rehabilitation. We urge in support of our nation's fight against hunger throughout the world prompt action to provide food and other economic aid for the rehabilitation of their countries. We also urge under no circumstances should food or any other aid given by any country be used as a means of coercing free but needy people in th eexercise of their rights of independence and self-government or to fan the flames of civil warfare.

(Testimony of Harry Renton Bridges.)

"4. Above all, the people of this country demand that [6135] there be a fulfillment of the basic policy of our late President Roosevelt for unity of purpose and action among the three great wartime allies—the United States, Great Britain and the Soviet Union within the United Nations. Failure to accomplish this necessarily means dissension and strife in the world. Each Nation has a right ~~and~~ obligation to present and support its basic principles but must be prepared to temper its firmness with self-restraint and understanding. The spirit and purpose of the United Nations does not contemplate, and we should deplore the use of, the veto to prevent the United Nations from furthering a full and lasting peace. However, the issue of the veto in the United Nations is but a symptom of the more basic underlying disunity that has developed among the Big Three and is threatening the very existence of the United Nations. If we fail to achieve unity then the world faces a war which means the destruction of humanity itself.

"World organized labor, through the World Federation of Trade Unions, has demonstrated that the workers can agree upon a common program for the preservation of peace, the full enjoyment of democracy and economic security and abundance for the peoples of the world. The governments within the United Nations cannot and must not be permitted to do [6136] less."

(Testimony of Harry Renton Bridges.)

Do you remember that? A. I do.

Q. And that conforms essentially with the statements that you made on the same matters, isn't that correct?

A. It is the same idea, same statement, same principle.

Q. Now, you were asked concerning a resume' of a speech made by you or a resolution that was proposed in the ILWU, and you stated that you would bring the original minutes of the proceedings. That was the proceedings of the seventh biennial convention of the International Longshoremen's and Warehousemen's Union in San Francisco in April, 1947?

A. That is the speech dealing with the union——

Q. Red-baiting.

A. Unions being totalitarian, I think.

Q. That is right. That is the part that was cited to you; that is the thing that was shown you?

A. Yes.

Q. So I presume it was written by some other person, and whatever it states in that paper, it isn't your speech but a resume'? A. That is right.

Q. I will read the original resolution:

> "Secretary Caplan: Resolution No. 4, Red-Baiting and Government Witch-Hunting.
>
> "Our country is presently witnessing the whipping up of an atmosphere, by means of red-baiting and witch-hunting, [6137] in which political sycophants and scoundrels of all labels and stripes are frantically scrambling for front line places, hoping that by so doing they will

(Testimony of Harry Renton Bridges.)

win recognition and favor from the reactionary forces. Weak-kneed liberals in government office are seeking to appease reactionary political elements and even attempting to outdo them in the advancement of programs that threaten the very foundation of the American people's civil liberties. Red witch hunts are being called for by almost every high executive in the executive branch of our government, led by the Chief Executive himself. Spying on every act, statement and even thought, of a person's life—past and present—is being advocated and ordered and huge sums of money appropriated for such purposes.

"Proposals are made to restrict the rights of unions to make their laws, write their constitutions, choose their officers and leaders, unless such laws and leaders meet the approval of a government now captured and controlled by labor-hating, monopoly-loving politicians. Every labor spy, stool pigeon and political renegade is being called to testify before committees of our government, with their testimony given prominent display in the columns of the American press.

"Legislation to outlaw minority parties is being advocated by members of the Cabinet, as witness the [6138] proposal of Secretary Schwellenbach to outlaw the Communist Party of the United States.

(Testimony of Harry Renton Bridges.)

"This anti-Red hysteria has a purpose and an objective, and the purpose and the objective is to conceal the true aims of those responsible for organizing and projecting the atmosphere of hysteria. Our country is not suffering from any threat of Communism. Communism is not an issue in the United States, nor are our economy, political democracy or civil liberties threatened by agents of the Soviet Union. The real threat stems directly from the greed and desire for imperialistic world control of American trusts and monopolies. They are determined to depress American living standards; to smash all forms of workers' organizations; and curtail the liberties of the people so that no effective voice can be raised against them. The real issue is the issue of progress as against retrogression; of change as against the status quo—one of more for those that have the most—less for those that have practically nothing now. [6139]

"A great American president, beloved of his people, once stated the issue in simple terms when he said we must fight both reaction and frightened people in the interest of the country's security and welfare. President Franklin Delano Roosevelt in his first fireside chat in 1934 declared: 'We seek the security of the men, women and children of the nation. A few timid people who fear progress will try to give you new and strange names for what we are

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doing. Sometimes they will call it Fascism, sometimes Communism, sometimes regimentation, sometimes Socialism. But in so doing they are trying to make very complex and theoretical something that is really very simple and very practical.'

"Again in the election campaign of 1936 Roosevelt was obliged to speak out and obliged to publicly defend himself against charges of Communism. He stated then: 'In this campaign another herring turns up. In former years it has been British and French and a variety of other things. This year it is Russian. Desperate in mood, angry at failure, cunning in purpose, individuals and groups are seeking to make Communism an issue in an election where Communism is not a controversy . . .'

"Roosevelt refused to capitulate and cringe before the attacks and cries to the effect that he was importing and applying alien Russian Communist doctrines to the [6140] American way of life. Not so his successor, Harry S. Truman, or Truman's cabinet officers. Yet Roosevelt won that election with the greatest majority of votes ever received by an American president. The red-baiting and witch-hunting we are witnessing today is not for the purpose of combatting any threats of Communism to overthrow our form of government or destroy our liberal institutions. It is to conceal the attack of American big business upon the rights and gains of American labor made during the years of Roosevelt's administration. It is meant to divide and confuse the American people and render them frightened and helpless. It is meant to cloak the plans of American monopoly to grasp and control the resources of the nation in righteousness and patriotism.

"Let us at least in the ILWU make sure that we are not confused, divided or misled by this organized program of hysteria.

"We Resolve: 1. To oppose the enactment of any legislation claiming to have as its objective the outlawing of the Communist Party of the United States of America or any other minority political party that is pledged to the social, political and economic advancement of all American people without regard to race, color, religion or place of birth.

"2. To resist with all the resources at our command, [6141] legislation directed towards denying unions collective bargaining and other rights because its officers or leaders or any of its members may be Communists, Communist sympathizers, supporters or just trade unionists who refuse to be intimidated by American big business and its reactionary political puppets.

"3. To do all we can through the machinery of our organization to arouse our rank and file to the dangers to our union and to labor of the red-baiting, witch-hunting policies initiated and pursued by our present administration and Congress.

"On behalf of the committee, Brother Chairman, I move its adoption."

That was Brother Caplan speaking.

"President Bridges: It may be helpful and save a lot of argument and digression from the objective of the resolution if I, speaking for the officers, start the discussion.

"The resolution is submitted by your officers as one of the officers' policy statements. It has a purpose here and its purpose is not the issue of Communism. Its purpose is what is stated in the resolution.

"The premise from which the officers move is that the labor movement, including our union, faces an attack. The purpose of the attack is to confuse and divide labor [6142] people. The officers' position is predicated on many statements made by leaders throughout the years of history, including Presidents of the United States, one of whom is quoted here and others that can be quoted.

"So it is important to remember that the resolution is not for or against Communism. That is not the issue. Nor is the resolution in any way to be construed to deny on one hand a person's rights in our union to express himself as to what his beliefs are in opposition to Communist philosophy or any other. Nor is it to be construed as supporting any person with respect to his beliefs on Communist philosophy or any other belief.

"It is directed towards the upholding of our Constitution which provides that a person in our union can hold political beliefs whether we agree with those beliefs or not, and that they shall not be discriminated against, intimidated, attempts made to bar them from our union membership or from their jobs because of such beliefs, whether they be political, religious or any other type.

"That is the purpose of the resolution. It has no other purpose. It has nothing to do with the issue of Russian Communism or Communist Russia. That is not an issue. We are not suffering from any penetration from Soviet Russia. And although it has many times been said about our and other unions that we take our orders from [6143] Moscow and the Kremlin, I don't have to talk about that question; our membership and our local officers know the answer.

"It might be necessary to also make this statement on behalf of the officers: They are required to learn a few things, especially the chairman. Communism is not a form of government, it is a state of society. It is a system, and it is a system that holds that people can not exploit other people for profit. It simply means you can't own a factory or a ship and do nothing and live on the fat of the land and clip coupons while somebody sweats and slaves for a living. It is a form of society, it is not a form of government. And those who are arousing the hysteria and the hatred today to cloak their true motives and screen their true objectives, of course will not tell the common people that. What is done is to claim that a certain country or a certain philosophy is totalitarian in nature and to lump together Communism and such objectionable regimes and philosophies as Fascism."

Mr. Hallinan: May we take the noon recess at this time?

The Court: We will take the noon recess, ladies and gentlemen, and we will resume at a quarter past 2:00 this afternoon. 2:15 p.m. this afternoon. I again admonish you not to discuss the case under any conditions, nor to form or express an opinion thereon until it is submitted to you.

(Thereupon an adjournment was taken to 2:15 o'clock p.m.) [6144]

Tuesday, February 21, 1950

HARRY RENTON BRIDGES

resumed.

Redirect Examination
(Continued)

By Mr. Hallinan:

Q. To complete that resolution that we were concerned with, Mr. Bridges, it went on, and now coming directly to the question that counsel asked you:

> "It might be necessary to also make this statement on behalf of the officers."

No, I read that.

> "What is totalitarianism? A country that has a totalitarian government operates like our union operates. There are no political parties. People are elected to govern the country based upon their records.
>
> "That is totalitarianism, and it would be the same in this union if we started to divide up and run a Republican set of officers, a Democratic set, a Comunistic set and something else. We would have one hell of a time, and we have democracy, I think. Some unions do it that way and I don't see them getting ahead very far. I know in some big unions in the United States affiliated with the CIO they put on big election campaigns, they call caucuses. This group has got a caucus and a set of candidates, and that group has a set of candidates. The trouble is, they spend their whole damn convention doing nothing else. [6145] They spend the whole year lining up votes. The net result is that the workers get their eighteen and a half cents an hour, and that is all they have had for the past couple of years. The ILWU that doesn't do things that way gets 42 cents and 35 cents an hour.

(Testimony of Harry Renton Bridges.)

> "The lumping together of Fascism and Communism, of course, is another way to confuse the people. It is just as proper and just as similar to saying that the ILWU and the Chamber of Commerce are the same thing because they are both organizations; or that the ILWU and the Pacific Coast Waterfront Employers both being associations are the same thing. Well, they are both organizations and they are both associations, but believe me, they are different.

"As long as we get these simple facts before us, we know the purpose of the resolution simply and clearly, and we shouldn't waste any time getting off the question.

"Communists are supposed to overthrow the government by force and violence. The funny part about it is there is still to be one Communist in the United States in the history of that minority political party convicted of any such crime as that. Now, if the organization was dedicated to such a program, with the FBI, the police departments and all the rest of it going full blast all the time, they should have been able to grab one damn Commy by now and hang him for actually doing something [6146] along those lines.

"The record is even clearer. It is not a question of whether we are for or against Communism. The program of this union has been enunciated too many

(Testimony of Harry Renton Bridges.)

times by the statements of its officers, the resolutions in our conventions, by our actions, to be beyond challenge. But the fact remains that throughout the world, particularly in Europe, large sections of the people have adopted the Communist Party and Communist philosophy as their belief. They participate in government, and in some countries they are the predominating labor party.

"We have to think of those people because we are believers in international solidarity. We are going to need them and their help, and if those people don't know where we stand on the question of what their political beliefs are, maybe they won't think so much of us. They do not ask us to agree and support their beliefs. They only ask the right to have the choice to have beliefs. They have that right. It was guaranteed them in the Atlantic Charter, and we just fought a war over it.

"But it is peculiar in those countries where Communist parties are large and armed, why don't they get busy overthrowing some of those governments by force and violence? Well, they don't. They don't.

"These are matters of fact, not things that I am [6147] making up, and I am not making an argument in support of Communism. Remember I have a Supreme Court decision.

"In some other countries you have people's movements that are armed. China is a good example. The Communist Party in China is in the leadership of large numbers of people that are armed. As to whether it is their program to overthrow the present government by force and violence, if somebody asked me I would say that I think it is. Maybe we might have ideas on that. Maybe it's the type of government that needs overthrowing. And if the Communists and the common people of China are wrong, so are the original people that overthrew the British Crown in the United States in the war of the Revolution.

"Certainly we supported the people in the Dutch East Indies to overthrow their government by force and violence. That is the only way they will get the Dutch out of there.

"And I hope the Indian people sometime get enough power to throw the British out of India.

"Neither of those matters are issues of Communism; they are issues of people's rights, and we support people's rights everywhere.

"It is that simple. And as I said at the outset of this convention, the rule we are applying is what will help labor. During the war we applied the rule 'What will help the war' and we put that first and we had a lot [6148] of things we didn't like. During the peacetime the rule is 'What will help labor' in the United States and any part of the world because what helps labor helps all the people. If we are wrong on that premise I will admit we are wrong on most of the resolutions that are before this convention.

(Testimony of Harry Renton Bridges.)

"Now, the main argument on the so-called Communists is this: that they penetrate and infiltrate into labor movements and take them over and control them. Well, I don't know. I know how I got into this labor movement. I guess it was a big gigantic plot that after going to sea six or seven years (all figured out in advance, of course), I came to work on this lousy waterfront. They booted me around fourteen years. All the time I was penetrating this movement, of course. (Laughter) Eventually, after a strike, I got elected to office by the rank and file of this union and I have been elected ever since. And that is what they mean by penetrating.

"And of course, I control this union. All you people know that. (Laughter)

"I refer you, as a matter of fact, to the minutes of our Aberdeen convention in 1938 where I, as the president of this organization, introduced the 15 per cent recall and got an argument from the floor that it wasn't democratic. (Laughter) And I know that I, not myself but with other [6149] forces, Matt Meehan and others, fought for and instituted all the possible democratic controls in this union we could think of. And believe me, to a lot of people that is plain Communism. That is what Congress calls Communism, and I want you to remember that back in '34 and '35 industrial unionism was Communism; unemployment insurance was Communism; a lot of those things.

(Testimony of Harry Renton Bridges.)

"Infiltrate into a labor union? Why, the cock-eyed phonies, they don't know whether they are coming or going. (Applause)

"But the bills pending in Congress and the public campaign that is being waged by our government is predicated on the fact that Communism and Fascism are the same, and that a big plot is directed from Moscow to overthrow the government. Sympathizers, supporters, members of that philosophy are alleged to be a part of this plot. Therefore they have no part and no right to be in labor unions, and unless labor unions kick them out of office or out of their membership those labor unions will not be allowed to bargain collectively or organize or strike.

"When you think it through, fellows, don't worry about people like me that have been condemned as Communists for a long time. Worry about those others that have been less outspoken you might say than myself and the other officers. The plan is to get everybody that dares to stand [6150] up and talk back to the boss.

"They didn't pay a damn bit of attention to me when they booted me around that waterfront, or any of the rest of you. But when you start to speak for the workers, and that is all I mean, speak for the workers, and when they can't boot you around, when you talk back, and when you realize the strength of your rank and file and know you can fight, well, you all know the angle there, and that is what is behind this whole hate program and this whole hysteria.

(Testimony of Harry Renton Bridges.)

"Let us keep our heads. In any one of our local unions a member can get up and get the floor and state his views against the Communist Party. He can say, 'I am 100 per cent against it, and here is why,' and we can't change that without endangering the solidarity and the unity of this union or the rights of the people in it.

"And the reverse is true. Our present constitution also 4 gives people the right to get up and say they are Communists and remain Communists. A hell of a lot of people think 'Those poor screwballs.' So what? It's a question of the right to do things and believe things. And because we have a policy such as we have, because we have a constitution such as we have, we have made gains through our solidarity.

"Look at some of these other unions that spend so damn [6151] much time passing resolutions to bar Communists, to get on the popular bandwagon. I don't see them getting any better treatment from the bosses. Our great friend, Milton Murray, president of the Newspaper Guild CIO, goes down before a committee of Congress and testifies; licks their boots. (Laughter)

"I don't see Milton Murray breaking any records in organizing extra members into his union or getting them wage increases. Too damn much energy poured out in doing other things.

"Well, it is just plain foolishness if we allow ourselves to do that.

"Finally, on the point of outlawing minority parties, there have been enough people point out the danger of that. The danger of outlawing any political minority party, Communist Party or other, is that that can't be done without eventually and directly jeopardizing our own liberties.

"I will conclude my remarks by once again quoting a man that was not recognized as a great liberal until just before he died, and that is why I selected him. You can find sufficient statements from Abe Lincoln, Franklin D. Roosevelt, and many other outstanding liberal presidents; but I want to quote a statement from a man that didn't undergo any attacks because of his political beliefs or having beliefs along radical lines, and he said this: [6152]

" 'For minorities are rich assets of a democracy, assets which no totalitarian government can afford. Dictatorship must, of necessity, fear and suppress them. But within the tolerance of a democracy minorities are the constant spring of new ideas, stimulating new thought and action; the constant source of new vigor. To suppress minority thinking and minority expression would tend to freeze society and prevent progress for the majority itself is stimulated by the existence of minority groups. The human mind requires contrary expressions against which to test itself, for now, more than ever, we must keep in the forefront of our minds the fact that whenever we take away the liberties of those whom we hate, we are opening the way to loss of liberty for those we love.'

" 'Our way of living together in America is a strong but delicate fabric. It is made up of many

(Testimony of Harry Renton Bridges.)

threads. It has been woven over many centuries by the patience and sacrifice of countless liberty-loving men and women. It serves as a cloak for the protection of rich and poor, black and white, Jew and Gentile, foreign and native-born. Let us not tear it asunder, for no man knows once it is destroyed, where or when man will find its protective warmth again.'

"I think that if we follow out that advice of a great American we can understand why this resolution needs our [6153] support. Not because we are Communists or Communist sympathizers, but because we are defending our own union, our own liberties, and the right to our own beliefs.

"The words which I wish were mine were those of someone I quoted earlier in the convention, the late Wendell Willkie."

Now, that was the resolution and the speech on it, was it, Mr. Bridges? A. That's right. [6154]

Q. I notice in turning to page 229 that there was a change made in the resolution. Can you tell us what that was?

A. I spoke on the resolution. That was the speech you just read. There were other speeches pro and con and eventually the resolution was carried with six dissenting votes, I think. Five of those dissenting votes represented the entire delegation from one of our local unions, and after the resolution was passed this delegation came around to me and said, "Look, now, we are not against that resolution, but we think it would be improperly

(Testimony of Harry Renton Bridges.)

construed, the text of the resolution itself plus your remarks, when you explained some of the things you explained—which they did not disagree with incidentally. By that they meant my remarks there on the nature of a Communist society as being separate from the government, and so forth. They said, "Now, we fear that the resolution, together with the remarks made by the officers could be construed as being an endorsement of or in support of, and not in opposition to the Communist Party or Communist philosophy." And they asked me, "Will you join with us to reopen the matter and reconsider the matter so that the resolution can be amended with a special amendment saying that, 'We do not endorse or support the Communist program, philosophy or party.'?"

Q. Let me read the amendment. A. Yes.

Q. In other words, Mr. Bridges, after this resolution had been [6155] offered and passed, but not unanimously, and after you had made this talk upon it, you reopened the matter so that an amendment to that resolution could be proposed, and assist that amendment:

> "This resolution is not meant as endorsement of the philosophy of the Communist Party or of any political party, nor is it to be construed as sponsoring the organizing of a campaign by any political party within the ILWU."

Was that the amendment to the resolution?

A. That is right.

Q. Did you support that amendment?

A. If you read the record there, you will see that I as chairman of the convention asked leave of the convention to let the delegation from Local Union 19 take the floor in order to put a motion to reconsider on the floor for the purpose of making that amendment, and I pointed out that the matter had been taken up with the officers, that the officers supported the move to reconsider, and the officers supported the amendment. And later on when the vote was taken, and eventually the vote to support the resolution as amended was unanimous, again I made the statement that the officers, without speaking in support of the amendment, favored and supported the amendment. So the final action of the convention, for the reasons I have stated, was unanimous support for the resolution with the amendment that I pointed out for clarification, that the resolution was not meant as any endorsement or support of the Communist Party. [6156]

Q. Mr. Bridges, have you with you the expense account that you were asked to produce here for the years 1948 and 1949? A. Yes.

Q. Taking the year 1948 first, what do you find that your travel and subsistence allowance was?

A. $3,316.92.

Q. And the expense allowance?

A. $780, making a total of $4,096.92.

(Testimony of Harry Renton Bridges.)

Q. So that in addition to your salary, amounting to $6300 or $6400 a year, whatever it may be, you explained you were allowed by the union that year to spend on its business $6,096.92, is that correct?

A. That is right, but that includes everything. I have a breakdown.

Q. That is what I want you to give us. Will you tell us what that breakdown is?

A. Plane fare, $1,167; railroad fare, $435; airport, bus and taxi fares, $150; car expenses, $449; long distance phone and telegrams—that is when I am away out of town and make long distance phone calls—$196, and there is an item of miscellaneous that at this moment I do not know what it is exactly, $90 for the year.

Q. How much did you collect that year, in the entire year, on the $14 a day subsistence?

A. I would say—— [6157]

Q. It is down there? A. Yes, $870.

Q. $870?

A. Yes, and I have a breakdown as to how it was collected.

Q. Will you tell us what that was? In other words, Mr. Bridges, let us get this: Of the $4,096 that the union paid for travel expenses and subsistence expenses for you in the year 1948, only $870 was for your own upkeep; that is at the rate of $14 a day while you were absent from San Francisco?

A. That is right, the $14 a day rate. That comes to $870.

Q. Now, will you tell us what does the $870 cover?

A. During the course of the year I was away out of town a total of 63 days: 17 days in Hawaii—that was with regard to negotiating an agreement for the pineapple and longshore industry down there. I spent twelve days in Washington and New York for the CIO executive board meetings. I am a CIO board member, and when the board is called together I respond and attend, but my union pays my expenses. The CIO does not. Twelve days in Pittsburgh and New York in June. That was with respect to the maritime strike and negotiating matters. I was twelve days in Philadelphia and New York on various other matters, four days in Detroit around Labor Day. I made a Labor Day speech and returned via Seattle. And six days on the West Coast. That would be traveling to Seattle, Portland, Los Angeles and places like that, 63 days. [6158]

Q. So then the only receipt that you got for that year, that $870, that is the only item upon which anything could possibly personally accrue to you, is that right?

A. That is right. The other way outlay on which I had to furnish vouchers—the $870 there, that 63 days at $14 a day, put it that way.

Q. Do you think you spent more or less than the $870 in the 63 days?

A. More. I was just back from the Cleveland convention. That was just last November. I left there to come back here two or three days before this trial started. So that is my last time I was out of town for any length of time, and I was in Cleveland—there were two or three conventions on. The World Federalists were meeting and others. I had a hard time getting a hotel room. My hotel room rent alone was $10 a day. Every day I used to go down and ask for a cheaper room and I couldn't get one, so out of my $14 I was paying $10 a day for a room.

Q. So if you took persons out to meals, that had to be included in the $14 also, is that right?

A. Right.

Q. For the year 1949, Mr. Bridges, will you tell us what your entire expense account ran to for that year? A. $6,259.71.

Q. How is that broken down?

A. Plane fares, $2,598; railroad fares, $406; airport bus and [6159] taxi fares, $135; per diem, $1,414; car expense, $399; telephone and telegrams, $97; miscellaneous, $50, a total of—that much amounts to $5,101.32, and there is an expense allowance in addition to that of $1,158. We had changed our constitution in 1947 and allowed more expenses to the officers because they were losing too much money on their expense account between what they actually spent and what it cost them to stay in office.

Q. Out of that amount the only sum that went directly to you that was not expended for travel, subsistence, so forth, or rather, for fares and matters such as you mentioned, was $1,414?

(Testimony of Harry Renton Bridges.)

A. Right.

Q. And then on the next page you have a breakdown of that, that is, the places you were out of town and for how many days?

A. 101 days.

Q. So that was just $14 a day you received for that. Now, will you tell us where you were for those 101 days?

A. 56 days in Hawaii, New York and Washington, D. C., regarding the Hawaiian longshore strike. That is 56 days. 28 days in New York, Washington, D. C., Cleveland for the CIO executive board meeting and the national CIO convention, 8 days in Southern California on union business, and 9 days in the Northwest, that is the Pacific Northwest, Portland and Seattle, 101 days.

Q. You say on all the items now except the $14 a day you had [6160] to submit vouchers for, is that correct?

A. They were monies paid out, phone bills and other things, that is money paid out, yes. I didn't get it. And neither of the two years—the question Mr. Donohue asked—in neither of the two years did my expenses exceed my salary, and in no year since I have been in office has my expenses exceeded my salary.

Q. You mean by that the amount you spent has always run above the $14 you were allowed?

A. No, I didn't exactly mean that, because that wouldn't really be the case. I am not taking the year as a whole. My total expenses, and that includes rail, plane fares and all that, has never exceeded my annual salary.

Q. I see. Now, you were asked some questions concerning the time that you first met with a man named Thomas Raye. A. Yes.

Q. I have some documents here to help establish that.

(Documents handed to Mr. Donohue.)

Mr. Hallinan: Will you show him these matters?

(The documents referred to were handed to the witness.) [6161]

A. Yes.

Q. Now, you have seen this document before; have you, Mr. Bridges?

A. Yes, these documents are out of my files.

Q. They are kept in the regular course of business of the union, are they?

A. That's right.

Q. And obtained from the files?

A. That's right.

Q. Now, as I remember the question, it revolved around some such matter as this: Counsel wanted to know when you first met Thomas Raye, and according to a statement that you had made in the Sears trial, you said that you had met Raye in New York in June, 1937, but you afterwards corrected that to say that you met him in July, 1937, that the other matter had not been one closely inquired to—you hadn't made any research, and that by looking into your records, you find that the first time you met him was in July, '37?

A. After I looked up those records there.

Q. Now, in support of that, I call to your attention that one of these documents is a wire from John L. Lewis dated June 21, 1937, from Washington, D. C., and addressed to you at the Maritime Federation of the Pacific convention in Portland, Oregon. Was a convention being held at that time? A. Right. [6162]

Q. All right.

Mr. Hallinan: And I offer this wire in evidence, if the Court please, as Defendants' exhibit next in order.

Mr. Donohue: I don't think it is admissible, if Your Honor pleases. I have no objection to Mr. Bridges refreshing his recollection from it.

The Court: May I see it?

(Document handed to the Court by the Clerk.)

Mr. Hallinan: The whole purpose of all these documents, if Your Honor please, is only to establish the time of meeting Mr. Raye.

The Court: Yes, for that limited purpose it will be admitted and solely for that purpose.

Mr. Hallinan: All these documents have the same purpose, and no other.

The Clerk: May it be marked Defendants' I-3?

(Wire from John L. Lewis to defendant Harry Renton Bridges, dated June 21, 1937, was received in evidence and marked Defendants' Exhibit I-3.)

Mr. Hallinan: Now, this is a wire reading:

(Whereupon Defendants' Exhibit I-3 was read to the jury by Mr. Hallinan.)

Mr. Hallinan (To the Witness): Now, in answer to that, I have a copy of a wire dated June 26, 1937, from you to John L. Lewis. [6163]

I offer it in evidence as Defendants' next exhibit, for the same purpose only, also.

The Court: It may be marked in evidence.

The Clerk: May it be marked Defendants' J-3?

(Whereupon wire dated June 26, 1937, Bridges to Lewis, was received in evidence and marked Defendants' Exhibit J-3.)

The Court: For that purpose.

Mr. Hallinan: And I don't know, Your Honor, whether there is any significance to the suggestion that Mr. Bridges may have gone to New York in June, but in case there is, we want to meet it all in advance.

Now, this letter dated June 26, or day letter, reads as follows:

(Whereupon Mr. Hallinan read Defendants' Exhibit J-3 to the jury.)

Q. (By Mr. Hallinan): Now, do you remember going to Washington, D. C., pursuant to those telegrams, Mr. Bridges? A. I do.

Q. And I have here a digest of the proceedings

(Testimony of Harry Renton Bridges.)

at the conference of the representatives of various organized groups in the maritime industry, held in Washington, D. C., on July 7th, 1937, at the invitation of the Committee for Industrial Organizations. Was that the meeting which you attended in pursuance of those matters?

A. That's right. And they are in effect the minutes that were [6164] drawn up as to what the meeting discussed and the action the meeting took.

Q. Do you know when the convention that you were attending in Portland ended?

A. It ended after I left there. I left there in the early part of July.

Mr. Hallinan: We offer the document of the minutes of the meeting as Defendants' Exhibit next in order, and again for the same purpose.

The Court: So ordered.

(Whereupon minutes of meeting of July 7, 1937, referred to above, were received in evidence and marked Defendants' Exhibit K-3.)

Q. (By Mr. Hallinan): Now, there was a convention in Portland at the time you received these wires, and you left that convention, and where did you go? A. Washington, D. C.

Q. Did you go to New York first, or did you go to Washington first?

A. Went to Washington—New York later.

Q. All right. Do you know how you got there? Did you fly or go by train? A. No.

Q. Beg pardon?

A. I either flew or took the train. I can't re-

(Testimony of Harry Renton Bridges.)

call. I think [6165] that I either flew or took the train.

Q. Now, I notice——

A. I could check the minutes of the convention, you see. The minutes of the convention would have me marked present or absent.

Q. Now, this digest of proceedings gives a list of persons who were absent—"Conference opened at 11:00 a.m. by Mr. John L. Lewis, chairman of the Committee for Industrial Organizations. Those present were: Harry Bridges, president of the Pacific Coast District International Longshore Association * * *" Then it gives a list of other men. I won't read them all, nor their designations:

E. R. Stowell
C. W. Deal
Eugene Burke
Mat Batanovich
V. J. Malone
Randolph Meriwether
Charles May
Martin Olsen
P. Fitzpatrick
Samuel J. Hogan
Joseph Curran
Patrick Whalen
Frank Jones
H. P. Trainer [6166]
Captain Pinchin
Mervyn Rathborne
John Green
and then Thomas Raye, Philip Van Gelder.

(Testimony of Harry Renton Bridges.)

Now, it states that Thomas Raye is from the Maritime Council, New York. Does that refresh your recollection as to whether that is the first time you ever met Thomas Raye?

A. As far as I recall, it was.

Q. And at that meeting was there formed a CIO Maritime Commission?

A. CIO Committee.

Q. Committee, I mean, yes. A. Yes, sir.

Q. All right.

Mr. Hallinan: Now, I have here another document, the minutes or a statement of the meeting of the CIO Maritime Committee on July the 8th, 1937, and we offer this now for the purpose of showing the visit to New York following this meeting, if the Court please, for the purposes of meeting Ryan, as the defendants' exhibit next in order.

The Court: So ordered.

> (Whereupon minutes dated July 8, 1937, of meeting of the CIO Maritime Committee were received in evidence and marked Defendants' Exhibit L-3.)

Mr. Hallinan: And in this document there is a paragraph [6167] which says:

> "A resolution was passed that a subcommittee of three, consisting of Mervyn Rathborne, Harry Bridges and Joseph Curran, submit the proposals of the CIO Maritime Committee to Joseph P. Ryan. If Joseph P. Ryan and ILA national and district officers other than those

(Testimony of Harry Renton Bridges.)

> of the Pacific Coast refuse to accept the program as outlined, then a CIO charter will be issued for the West Coast ILA and all support be afforded them in organizing the longshoremen on a national basis."

Q. Does that refresh your recollection now, that you, Mervyn Rathborne and Joseph Curran were made such a subcommittee to call on Joseph P. Ryan?

A. Yes, we went to New York and waited around for him and eventually tried to see him. We never did see him.

Q. So this, then, was on the 8th of July. Do you know when you went to New York? Well, I have another document here, the report of H. R. Bridges on the CIO Maritime conference, and on the last page of that report, by you, it makes this statement:

> "The subcommittee of three——"

withdraw that.

> "The conference adjourned Friday, July 9th, on completion of its instructed duties. It should be noted that all decisions of the conference and the committee of seven were unanimous. The subcommittee of three met with the subcommittees appointed by [6168] J. P. Ryan of the ILA in New York, Monday, July 12th. After putting forth the proposals of the CIO, President Ryan and his committee flatly rejected them, with the announcement

(Testimony of Harry Renton Bridges.)

> they could see nothing in the CIO that was an improvement over the way the Atlantic and Gulf districts of the ILA had functioned for the past 25 years and the improvements that they had gotten for their membership in that time, and proposed to carry on in conjunction with the Teamsters as they had always done.
>
> "I wish to correct at this time the statement made by Delegate Fitzpatrick in his telegram at the maritime convention that the subcommittee had backed out of the job of seeing Joseph P. Ryan and to also state that any report as to tieup of ships on the East Coast by the ILA because of CIO organizing drive is not a report of the conference, but only that of individual delegates' own private opinions, and has no basis in fact."

Now, does that refresh your recollection that the meeting with Joseph Ryan's committee was on Monday, July 12, 1937? A. That's right.

Mr. Hallinan: All right. We offer this document as Defendants' exhibit next in order for that same purpose.

The Court: So ordered.

> (Whereupon report of defendant Harry Renton Bridges on the CIO maritime conference was received in evidence and [6169] marked Defendants' Exhibit M-3.)

Q. (By Mr. Hallinan): And then the minutes of the Pacific Coast District Executive Board on the question of affiliation to the CIO, held in Seattle, Washington, July 18, 1937, contains a report by you on this convention, for the formation of this committee and this language as to the time at which you met Ryan and the time at which you returned to San Francisco, on page 5:

> "When this committee of three was appointed, we got in touch with Ryan and Lewis sent him a telegram. We left Washington on Saturday after being informed both Friday and Saturday that Ryan was out of town and would not go back until Monday. On Monday we got in touch with Ryan again. Ryan said he wouldn't meet with any committee that Bridges was a member of, so we issued a public statement that the committee would give Ryan until 5:00 o'clock that night to meet with the committee and listen to the CIO program; otherwise we would go on the assumption that the answer was 'No.' At 4:30 Curran notified us that Ryan had gotten in touch with him by telephone and was willing to meet with the CIO committee, that he would appoint a committee of three to meet at 5:00 o'clock that night, which was the deadline we had set. On the committee was Holt, international vice president, and an official of the Brooklyn ILA local, and Hasselman, business agent of [6170] the ILA local in New York."

Then it goes on to give the conversations with that committee, and then the statement ends:

> "That is about all. I left that night after the conference and returned to San Francisco last Wednesday. And that is the outcome of the whole thing."

Now, in other words, you left the conference, apparently, on Monday night, the conference with Ryan's people and arrived in San Francisco on Wednesday, is that correct? A. Right.

Mr. Hallinan: We offer that, then, as the last exhibit of the defendant on that matter.

The Court: So ordered.

(Whereupon minutes of Pacific Coast District Executive Board, Seattle, Washington, July 18, 1937, were received in evidence and marked Defendants' Exhibit N-3.)

Q. (By Mr. Hallinan): So that, refreshing your recollection by the documents that you have just seen, the fact apparently is that you first met Tommy Raye or Thomas Raye——

A. Right.

Q. ——in Washington on July the 7th, 1937, or the 8th, whatever it may be, and thereafter, being appointed one of the committee of three, proceeded to New York, interviewed Ryan's committee and then came home?

A. That is the way I remember it. [6171]

Mr. Hallinan: Now, there is a—no, I have a copy of it here.

(Testimony of Harry Renton Bridges.)

(To the Clerk:) You have an exhibit on that subject; do you know what it is?

The Clerk: Yes, I believe I can find it.

Mr. Hallinan: Well, I will use the photostat and then we will—it has been introduced in evidence already.

Q. Now, there has been a photostatic reproduction of a guest registration card at the Governor Hotel by Mervyn Rathborne, and you will remember that in the testimony of the witness George Wilson there was a statement made that a meeting, a so-called Communist meeting, took place at the Governor Hotel, at which Mr. Goldblatt, Rathborne, yourself and one or two other persons were present; and the discussion was then had about a controversy that existed in the union between Goldblatt and Rathborne. You remember the testimony?

A. That's right.

Q. Now, the prosecution produced at the time upon our demand the record having been first removed from the files of the Governor Hotel and retained by the Immigration Department, a guest registration card of Mervyn Rathborne. And so the jury's recollection may be refreshed on the matter, the name is Mervyn Rathborne, address 150 Golden Gate Avenue, San Francisco, Room 709. Number in party: one; arrived 7/8/43. Rate: $2.50. And then on the back of the card it gives the information: [6172] Room 709. Rate: $2.50. He moved in on 7/8/43 and moved out three days afterwards, the total bill being $7.50. The whole record is Defendant's Exhibit No. C-2. The document is marked with pencil 6/1/49, and R. H. Curry, it looks like.

Mr. Hallinan: I understand that that is the name of the agent who removed the document, is that correct?

Mr. Donohue: I don't know anything about that, Mr. Hallinan.

Mr. Hallinan: Well, I think the 6/1/49 was explained as something like that, that the document was taken out on the first of June, 1949, and remained in the custody of the Immigration Department.

Q. (Continuing): Now, I want to show you a copy of a voucher submitted by Mr. Mervyn Rathborne to the California CIO Council for payment of this bill of $7.50.

(Document handed to the witness by the Clerk.) [6173]

Q. I want to show you a copy of a voucher submitted to the California CIO Council for payment of this bill of $7.50. You have seen that document before, have you, Mr. Bridges? A. Yes.

Q. And could you tell us now what was the occasion for Rathborne being in the Governor Hotel for the three days concerning which the hotel expenses of $7.50 were charged to the California CIO Council?

A. There was a meeting of the CIO Council

(Testimony of Harry Renton Bridges.)

Executive Board for those three days, and inasmuch as he lived down the Peninsula he stayed in town so as to be available in case there was need for a meeting earlier, and sometimes for a night session, and he would take a room just around the corner and stay at the hotel. And that was the purpose, and this is the voucher from the files of the Council where he turned in his expense voucher for the hotel there and was paid or reimbursed by the State Council for the room rent.

Mr. Hallinan: We will offer this in evidence, if the Court please, as the Defendants' exhibit next in order.

Mr. Donohue: No objection, your Honor.

The Court: It may be marked.

(Voucher for $7.50 was marked Defendants' Exhibit O-3 in evidence.)

Q. (By Mr. Hallinan): So that the bill of Rathborne ran for three days, the 8th, 9th and 10th of July, 1943, a total of [6174] $7.50, and on July 11, 1943, he submitted a voucher for $7.50 entitled, "Charge Executive Board meeting"; is that correct, Mr. Bridges? A. That is correct.

Q. Now, with regard to the controversy that is alleged to have been settled at that meeting or at some meeting at the Governor Hotel at which Mr. Wilson testified there were certain persons present who he says were members of the Communist Party, you have already seen——

Did your Honor want to take the recess?

(Testimony of Harry Renton Bridges.)

The Court: We will take the afternoon recess. Ladies and gentlemen, the same admonition not to discuss the case under any conditions or circumstances.

(Recess.)

Q. (By Mr. Hallinan): Mr. Bridges, are you familiar with that document? (Showing document to witness.) A. Yes.

Q. Do you know where it came from?

A. It came from the files of the CIO Council.

Q. Kept in the regular and ordinary course of business? A. That's right.

Q. Now, do you know by whom that was distributed, who put that out?

A. Originally this was a memorandum distributed by Mervyn Rathborne, secretary. [6175]

Q. And to whom was it distributed?

A. To the people whose names appear on the memorandum—myself, Philip Connolly, George Wilson, Paul Schnurr, Paul Heide, Eugene Patton and Louis Goldblatt. All those people had—all those people had some title as an officer of the State or local CIO.

Mr. Hallinan: Might I have that?

That document bears upon the quarrel between Rathborne and Goldblatt and concerning which it was testified a meeting of Communists was held at the Governor Hotel by the witness named George Wilson: is that the matter——

(Testimony of Harry Renton Bridges.)

A. This is the purpose of the document in question—the history of the document is this——

Mr. Hallinan: Wait a minute. I offer it as defendants' next in order.

Mr. Donohue: No objection.

The Court: So ordered.

The Clerk: Defendants' P-3.

(The document was marked Defendants' Exhibit P-3 in evidence.)

Q. (By Mr. Hallinan): Suppose I read the document first. It says, "Memorandum Distributed" on the heading of the California CIO Council, CIO Building, San Francisco, telephone number, President Philip M. Connolly, Secretary-Treasurer Mervyn Rathborne. [6176]

Confidential Memo. May 10, 1943. Now, I call attention to the fact that that is two months earlier than the bill from the Governor Hotel that the Government produced here.

Mr. Donohue: Is that a question, if your Honor please?

Mr. Hallinan: No, I call that to the jury's attention, and that that is perfectly proper.

"To: Harry Bridges, Philip Connolly, George Wilson, Paul Schnurr, Paul Heide, Eugene Paton, Louis Goldblatt.

"From: Mervyn Rathborne.

"Subject: Conferences of April 21, May 1 and May 6, concerning the policies and activities of the California CIO Director and California CIO Council and the Los Angeles CIO Council.

"On April 21, at the request of Brother Louis Goldblatt, a conference was held in the State Council office to discuss certain matters of policy concerning the California CIO Council. Present at this meeting were Brothers Wilson, Paton, Goldblatt and Rathborne.

"At the beginning of the meeting Brother Goldblatt announced that he desired to discuss the following items:

"E. Recent activities of the Los Angeles CIO Council with respect to the campaign conducted by that Council to secure added affiliations and the reasons why the Los Angeles CIO Council had recently adopted certain amendments to its constitution. [6177]

"2. The financial condition of the Los Angeles CIO Council.

"3. The discussion about the Labor Herald which took place during the meeting of the State Executive Committee held in Los Angeles April 3, 4.

"4. The relationship between the California CIO Director and the California CIO Council.

"With respect to points 1 and 2, I took the position that it was not proper to discuss those matters except in the presence of Brother Connolly, inasmuch as he is the responsible executive officer of the Los Angeles CIO Council, and also because

(Testimony of Harry Renton Bridges.)
Brother Goldblatt was extremely critical of the Los Angeles Council, its present policies and leadership.

"After Brother Goldblatt had unsuccessfully spent 40 minutes insisting that we discuss the details and merits of points 1 and 2, the discussion finally took place on 3 and 4. Brother Goldblatt was very critical of what he termed the weak attitude taken by the officers of the State Council at the Executive Committee meeting with respect to the Labor Herald. He also contended that in his opinion a very bad relationship now exists between Brother Harry Bridges as CIO Director for California, and the officers of the California CIO Council.

"During his exposition on this subject, [6178] Brother Goldblatt stated in so many words that the officers of the State Council were attempting to usurp the powers and authority of Brother Bridges, and in effect, were trying to do a 'hatchet' job on the California CIO Director.

"Nothing conclusive resulted from the conference except that it was agreed for the sake of unity of the CIO in California and clarification of any policies that might be obscure to Brother Goldblatt, a second meeting, at which Brothers Bridges and Connolly could be present, would be held and the entire policy of the CIO of California would be discussed.

"On May 1, Saturday, the second conference was held in Brother Bridges' office and the policies and activities of the CIO in California were discussed in considerable detail. Among those present were

(Testimony of Harry Renton Bridges.)

Brothers Harry Bridges, Philip Connolly, Paul Schnurr, Paul Heide, Eugene Paton, Dick Lynden, Joe Lynch, Mervyn Rathborne, and Louis Goldblatt. Except for the report made by Brother Connolly with respect to the recent actions of the Los Angeles Council to secure added affiliations and to further cement the unity of the CIO in Southern California, there was no discussion of the points raised by Brother Goldblatt at the meeting of April 21. Brother Goldblatt did not bring up these matters for discussion.

On Wednesday, May 5, at the instigation of Brother [6179] Goldblatt, a third conference was held in Brother Bridges' office. Present were Brothers Bridges, Wilson, Paton, Goldblatt and Rathborne. Although Brother Connolly was in San Francisco, precautions were taken to make sure that he was not present at this meeting. Brother Goldblatt again brought up and stressed his contention that the officers of the California CIO Council were trying to 'move in on Brother Bridges,' to relegate him to a secondary place in the leadership of the CIO in California, and that a 'bad' relationship now exists between Brother Bridges and the California CIO Council. During the discussion Brother Goldblatt made it very plain that he considered it as his 'right' to be 'consulted' in connection with the policies and activities of the California CIO Council. After considerable discussion, a self-appointed committee of three, composed of Brothers Goldblatt, Wilson and Paton, was set up to draft

(Testimony of Harry Renton Bridges.)
'rules and regulations' to govern the future relationship between Brother Bridges, as CIO Director for California, and the California CIO Council.

"After additional investigation and careful consideration of the issues raised by Brother Goldblatt and the motives behind the raising of these issues, I have the following comment to offer:

"1. The relationship which now exists between California [6180] Director Bridges and the officers of the California CIO Council is excellent. Should it require any strengthening or organizational changes, such arrangements will be worked out between Director Bridges and the properly elected officials of the State Council without benefit of blessings by Goldblatt.

"2. It is the publicly announced aim and intention of the officers of the California CIO Council to constantly improve and strengthen the relationship between the Council and Director Bridges, and to afford the greatest degree of support to Director Bridges in all matters affected not only by the CIO but Bridges, personally. It is the hope and desire of the officers of the California CIO Council that Brother Bridges in the future will become more active in the affairs of the CIO in California. It is superfluous to reiterate that the officers of the California CIO Council are entirely amenable to any suggestions which Director Bridges may make with respect to building and unifying the CIO in California or improving the work, policies and programs of the California CIO Council.

(Testimony of Harry Renton Bridges.)

"3. It is, and it will continue to be, the duty and function of the officers of the California CIO Council to make of the Council the largest, most active, influential and effective State CIO in the country. Nothing and [6181] no one will be permitted to interfere with the achievement of this objective or to disrupt or break down the unity of the CIO in this State.

"4. There is no reason why Brother Goldblatt should be 'consulted' about anything which goes on in the State Council to any greater degree than the international representative of any other [6181-A] union.

"When any matters come up in the State Council which affect the ILWU, it will be the obligation of the officers of the State Council that to do as they have done in the past, that is, to consult with the properly elected national or local leaders directly concerned. In no event will Brother Goldblatt be consulted in connection with CIO Council problems which do not directly concern him in his capacity as an international representative of the ILWU. In my judgment, Brother Goldblatt can make his greatest contribution to the work of the CIO if he keeps his nose out of State Council affairs and attends strictly to the job which the ILWU pays him to do.

"5. ——"

Weren't all these people supposed to be brothers in the Communist Party or some such things as that,

(Testimony of Harry Renton Bridges.)

Mr. Bridges, or is my memory going back on me? Well, let us proceed.

> "5. The officers of the California CIO Council will not be parties to, nor will they tolerate any political maneuvering, throat-cutting, partisan fights, diversive or disruptive acts of the kind in which I believe Brother Goldblatt is now engaging. Our job is to build and unify and strengthen the CIO in California—that is the job we are going to do, no matter who does or does not like it.
>
> "We have witnessed too many examples of trade unions which have been torn and disrupted by political maneuvering, [6182] personal and partisan fights and throat-cutting. We have seen these unions brought to a standstill and start to go backwards because the initiative, energy and attention of the leadership was directed toward jockeying for power and position and not toward building and strengthening the organization.
>
> "6. It would be interesting to know why those who called the meeting of me were so anxious to prevent Brother Connally from attending."

Wasn't Brother Connally supposed to be a Communist member, Mr. Bridges, from statements made here? Well, let us proceed.

(Testimony of Harry Renton Bridges.)

"7. It is my intention to present to the State Executive Committee the report of the committee of three which is now engaged in drafting the 'Rules and Regulations' to govern the relationship between Director Bridges and the California CIO Council. If this matter is so serious as to require special attention by the president of the San Francisco CIO Council, the international secretary-treasurer of the ILWU and an ILWU international representative, then it certainly should be brought to the attention of the State Executive Committee and all the issues laid on the table and thoroughly discussed by the members of the body which is officially elected and designated to guide the policies and administration of the California CIO Council between conventions. [6183]

"8. In my judgment, Brother Goldblatt, when he raised these issues, was not motivated by sound trade union standards or policies. Nor do I believe Brother Goldblatt to be genuinely concerned with what he alleges to be a 'bad' relationship between Director Bridges and the officers of the California CIO Council. I am convinced that the manner in which Brother Goldblatt raised and discussed these issues was not only disruptive, but dishonest and insincere.

"Further, it is my belief that Brother Goldblatt is deliberately trying to manufacture a situation with a purpose in mind. That purpose, I believe, is to advance the personal interests and power of Brother Goldblatt. I believe Brother Goldblatt was deliberately attempting to bring about an alleged 'split' between Brother Bridges and the leadership of the California CIO Council, and was maneuvering to convince Brother Bridges that a 'bad situation' exists between Bridges and the State Council. The purpose of such a move is to get Brother Bridges to appoint an unofficial 'acting regional CIO director,' in the person of Brother Goldblatt, to handle the affairs of the CIO director when he is out of town, and to keep the officers of the CIO California Council 'in line.'

"In the event any further attempts along this line are made by Brother Goldblatt, you can rest assured they [6184] will be fought all the way down the line by the California CIO Council. It is my judgment that probably the worst thing which could happen to the CIO in California would be to have Brother Goldblatt function as acting regional director, either while Brother Bridges is out of town or at any other time.

"Further, it is my opinion that Brothers Wilson and Paton are not direct parties to this unprincipled personal maneuvering by Brother Goldblatt, deliberately designed to enhance his personal position and prestige in the CIO. Rather, I believe Brothers Wilson and Paton to be sincerely concerned with the preservation and extension of the unity and strength of the

(Testimony of Harry Renton Bridges.)

> CIO, but they have been, to some extent, taken in by Brother Goldblatt's glib arguments.
>
> "Finally, I would offer some advice to Brother Goldblatt—gratuitous though it may be—if you desire to become influential in the California CIO Council, why don't you seek election as the president or secretary-treasurer, don't try to sneak in through the back door."

June 24, 1943. Now, June 24, 1943, we have gone forward a month and we are still a couple of weeks behind the Communist Party convention in the Governor Hotel:

> "To Philip Connally, Paul Schnurr, Paul Heide, Harry Bridges, George Wilson.
>
> "From Mervyn Rathborne. [6185]
>
> "Subject: Memorandum of May 6.
>
> "On May 6 I sent you a confidential memorandum which dealt with certain organizational problems of the California CIO Council and the difference of opinion concerning these problems which had arisen between Brother Goldblatt and myself. After consultation with Brother Bridges and others concerned, it is my opinion that these problems can best be solved by means of a conference between those concerned. I therefore wish to draw the memorandum of May 6 and ask that if you have a copy you return it to me. If you have destroyed your copy, will you please notify me accordingly."

Q. Now, do you remember the beef that involved this little matter, Mr. Bridges? A. I do.

Q. What was the resolution of it? What happened finally to the matter? And I might say parenthetically, let us have a little guess now as to what will happen between now and Thursday to explain away both Mr. Rathborne and Mr. Wilson on this. We will reserve that parenthetically. But could you tell us now, Mr. Bridges, what was the matter and what happened to the difficulty?

Mr. Donohue: If Your Honor please, I move at this time to strike the remark.

The Court: It may be stricken. [6186]

Mr. Hallinan: It should be a confidential communication between counsel and his attorney. We will have a little guessing game over the holidays as to how they will wiggle out of that.

The Court: The last remark may be stricken.

Mr. Hallinan: Go ahead, Mr. Bridges.

A. I think that Rathborne's memorandum there generally outlines the conspiracy at that time. It was Goldblatt's opinion that the officers of the State Council, that is, Rathborne and Connally principally, were handling matters in such a way that my position as regional director was not being considered, and Goldblatt very strenuously protested, as is indicated by Rathborne's communication there. So we eventually straightened the matter out through the union machinery, by sitting down and going over it, and finding out if there was anything to Rathborne's fears. Rathborne really thought Goldblatt was after his job. That was really it. Yet he didn't put that down in the communication. What Rathborne put down was Goldblatt was trying to create a position for himself as assistant regional director. Goldblatt, you should understand, at that time was a representative of our international union, employed full time and being paid, and had formerly been the secretary of the State Council. He was succeeded by Rathborne. So Goldblatt, in addition to being someone very familiar with the work and policies of our international union, knew something about the [6187] State Council, and when I looked into the whole matter I found it was no more than Goldblatt's fears and worries that the State Council was not living up to the reputation that had been established while Lou Goldblatt was the secretary. He thought that the hard work he had put in building and establishing the State Council in the first place was not being properly recognized by the policies and activities of the State Council under the leadership of Rathborne. It was really a matter of a tempest in a teapot. I was kind of a referee in there, and we got the thing straightened away, just as Rathborne's memorandum shows, through the machinery of the Council, by sitting down and talking the matter over, and finally going out and having a few drinks. And Rathborne called in all these memorandums. He realized when we finally got him sitting down and talking about the matter, he didn't only realize the memorandum he put out was pretty disruptive there, but carried some pretty unfair charges, was a pretty unjust thing to circulate

(Testimony of Harry Renton Bridges.)

against a person like Goldblatt. So the later memorandum was for the purpose of recalling the first memorandum attacking Goldblatt, and they were all recalled or destroyed, as far as I remember, except the only person that didn't destroy the memorandum was Rathborne himself. He had put that in the files and that is where I got that from, and that is where that came from. And finally, all the discussions and meetings and conferences that took place on that took place either in the office of the State [6188] Council, in my office or conference room, and we did not have to go down to any $2.50 room in the Governor Hotel—I do not know how big a room you could get for $2.50 in 1943—but we had far better rooms available in our headquarters, and there was no need of any outside help to massage that little beef or straighten it out.

Q. Mr. Bridges, with regard to some of these charges that were made against you concerning principally the military and political policy of the union of Socialist Soviet Republics, I do not know whether or not counsel is charging you with having some fault in those matters, whatever they may be, but with regard to your attitude toward the Soviet Union, was that any different from the attitude of the CIO generally? [6189]

A. It might be the last couple of years, but before, the answer would be no. Over a period of years. The general attitude of the CIO, certainly the attitude of our union and the attitude of my own union, nothing original.

Q. Well, could you tell us, Mr. Bridges, now what is your attitude and that of the ILWU toward the Russian people? What do you feel on the attitude that the United States Government should have toward, the reciprocal attitude their Government should have toward us? What is your notion on that?

A. Well, our organization sent a delegation to tour Europe, and Russia also; four American rank and file workers from our own union. We have got a pretty simple attitude toward these things. I am speaking now of the ILWU. And in my experience, it is true of the bulk of the workers here in the United States, certainly it is my attitude, that we think the people of all countries should get along together. We don't look upon the people in Russia, at least I don't look upon the people in Russia, as being any different than anybody else. I think they want to get along with us and vice versa.

From what we have been able to find out, what our own delegatioon found out—and this is the reason the delegation went on over there, they went over to find some of these things out. They weren't representing me, they were representing our union. Not only the people of Russia, but of Britain and all the other countries, as far as we know, we [6190] consider our trade union brothers, you might say; but our friends. And we expect and want to get along with them.

We are opposed to war, and although we realize that in trying to get along with people of other countries there's many, many ideas as to how it is best

(Testimony of Harry Renton Bridges.)

to be done—different forms of government, some people have ideas as to Communism, some people have ideas on Fascism, some people have ideas on world federal governments, and so forth. But our attitude is that that is a somewhat secondary thing, that that is the form, how it is to be done, the various governmental structures.

What we complain about, at least this is the way we see it, is that the primary idea has not yet been accepted by too many countries. And that is that people everywhere are more or less the same and want to get along. Generally speaking, they want to live in peace, they want to be able to work and advance and do other things.

But we think the main quarrel springs from the fact that there are too many people that think that because the people of one country are the people of that country, they are different, they are inferior. In some cases it is expressed because of their color, in some cases because of their political views, in some cases because of their forms of government, and things like that. We claim that all those things are secondary, that the first issue, and the first thing to recognize and to establish and to get agreement on is that people generally, [6191] nothwithstanding what their country is, what their color happens to be, what their religion happens to be, their race—people are generally the same. They want to get along, they want to work together, they are friends, they are brothers.

(Testimony of Harry Renton Bridges.)

Now, in essence that is the philosophy of our organization, and as far as I know it is generally the philosophy of the national labor unions. Where the trouble occurs, and where arguments start, is how best to do it. Now, our union takes a very simple position, and generally I try to reflect the views of my organization. It takes two people to start a fight, two countries to start a war. We think that the United States, which is our country, ought to do all it can to avoid a war with Russia or any other country. We think unless that is done, if we eventually get involved in a war and we recognize that is possible, that there is a chance of losing the war. The country that is wrong will lose the war. It is not always a question of "Might makes right." It is not always a question of who has got an atom bomb. The country that is right is liable to win the war in the long run. And as far as Russia is concerned, we also believe that there is a responsibility on that country, and the resolution we passed at the CIO convention—and I was on the resolutions committee; I have always been on the resolutions committee—in 1947, as far back as '47, also says that. There is an equal responsibility on Russia. That is true of other [6192] countries, but right now the other big power in the world is Russia. We know that.

So the way we look at it, there is just as much responsibility on Russia and on the Russian people to hold their government in line, to see that their

(Testimony of Harry Renton Bridges.)

government doesn't start heading up for another war and doing things that lead to war.

Now, we know there's a lot of argument over who might be right or wrong, but in the final analysis it is pretty late after the war starts and bombs start to drop, and it is not only our union that feels that way, but a lot of people feel that way, that the next war is going to be a lollapalooza, it is going to be a dilly. [6193]

It will make the last one look small. And on your question, opposition on war is just that simple. We don't hesitate to make opposition known, that as far as the people of any other country is concerned, we don't believe they have got any quarrel with us. We don't believe that. We don't believe the American people have got a quarrel with the people of Russia, and when we sent a delegation over to ask the people of Russia just that, never mind the leaders, we tried to talk to the people in the street, in the organizations. And our people, as far as the reports we got, they had interpreters, they said, "Look, do you want—are you looking for a war with us?"

Generally, the people in Russia and all the other countries says, "No, go back and tell your union we have had enough. We are trying to build up after the last war."

Why, our delegation didn't move five miles in any direction in Europe without running across numerous people; every one of them had the same story to tell, and we printed it. We printed it in

(Testimony of Harry Renton Bridges.)

a report. They hardly could move without running across people that hadn't lost relatives, children and others in the last war. So our position on war is a very simple thing, and nothing more should be read into it.

But there's a lot of criticism, I know that, and sometimes we have a hard job explaining it. Not because we feel our position is wrong, but because too much hysteria grows up around these things. And our union's position on war has remained the [6194] same. It remained the same all during the war. We was against war during the war. But we weren't against fighting.

Now, after all, if you get into a war and certainly our position changed after Pearl Harbor, certainly our position changed. But after the war was over, we don't want to have another war. And we don't see where we should be criticized for that, or anybody think there is anything wrong with that very simple position. We don't believe the people of the world are looking for war. They are looking for peace, they are looking for security, better wages and things like that. And they want democracy, they want good governments. And we also believe that the people of any country has got the right to choose their form of government, whatever it may be. And they ought to concede the right to those things ourselves and keep their nose out of our business, and vice versa.

Now, that is the way we see things, and that is the way we have advocated in our union, that and nothing more.

Q. Mr. Bridges, you were shown a birth certificate in which your name was put down as Alfred Renton Bryant Bridges; do you remember that?

A. Yes.

Q. Had you ever seen that document before?

A. No, but I have had the name of Harry for a long, long time—when I was a kid in school. Now, that might be the name on my birth certificate, but I know my baptismal name, and I know I [6195] had the name of Harry when I was going to school. I had that name when I was confirmed.

Q. You were confirmed by that name?

A. Yes.

Q. Did you ever make any effort at all to be born in this country?

A. No. Can't blame me for that.

Q. Pardon? A. Can't blame me for that.

Q. Well, don't be too sure. I think that James MacNeil Whistler excused himself being born in Massachusetts by saying he wanted to be near his mother.

Say, now, with regard to another incident that was testified to here, do you remember the gentleman who was a brigadier general in the Red Army, Paul Crouch? A. I remember.

Q. That said every document or other resolution that was proposed in the CIO convention in Oakland, he had to pass on personally before it could go through?

A. And that he wrote the resolution that I introduced. I remember.

Q. That's right. Now, did anything like that occur at all? A. No.

Q. Did you ever remember meeting that fellow before?

A. No. I remember the kissing incident. [6196]

Q. The what?

A. I remember the Gypsy Rose Lee incident. She was at that time supporting the USO, Gypsy Rose Lee—who, just incidentally, happens that I know her. I am not trying to——

Q. Brag? But she did kiss you in public?

A. All right, brag. I don't mean that. We are old friends. At that time it just happened to be that she appeared before the membership of my own local union, requesting funds for the USO. And I opposed the request before the local union, so the request could be channeled through the CIO Council, so that instead of just some unions supporting this idea, the whole Council would support the idea. And that was a little incident where that happened before the meeting at that time. That is the only part that I remember about Crouch. As far as I know, it might have been that he was in that meeting and seen me. But he had never met me in his life, and I never met him.

Q. But you didn't recognize him when he took the stand here? A. No, no.

Mr. Hallinan: Should we have the adjournment?

The Court: Yes. We will take the adjournment.

We will take the adjournment, ladies and gentlemen of the jury; tomorrow is a legal holiday, as you know, and therefore we will regularly stand adjourned until the 23rd. That is Thursday next, the 23rd of February, at 10:00 o'clock. I again admonish you not to discuss the case under any conditions nor to form or express an opinion until it is submitted to you.

(Thereupon an adjournment was taken to Thursday, February 23, 1950, at 10:00 o'clock a.m.) [6197]

February 23, 1950, 10:00 A. M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Harry Renton Bridges, heretofore sworn.

Mr. Hallinan: Just a few questions I have left.

Redirect Examination

(Resumed)

By Mr. Hallinan:

Q. Now, there was some discussion about messages being sent to the Attorney General and so forth at the time he overruled the decision of his appeal board in the second deportation hearing, and numerous protests came in from men who were working on the docks, and so forth. And you had been instrumental to a large extent in devising

(Testimony of Harry Renton Bridges.)

procedures and techniques for rapidly loading the ships and matters of that kind, is that true?

A. To some degree.

Q. And I have here a wire, or a copy of a wire; you recognize that document? (Document handed to the witness by the Clerk.) A. Yes.

Q. Is that obtained from the regular files of your union, kept in the regular course of business there? A. That's right.

Q. And was the original of this sent by you to Mr. Donald Nelson, the chairman of the War Production Board? A. It was. [6198]

Mr. Hallinan: That would be on May 28, 1942. Now, we offer it in evidence as defendants' next in order, if the Court please.

Mr. Donohue: Purely self-serving, but we offer no objection to it, if Your Honor please.

The Court: It may be marked in evidence.

(Whereupon copy of telegram dated 5/28/42, Bridges to Donald Nelson, was received in evidence and marked Defendants' Exhibit Q-3.)

(Whereupon Defendants' Exhibit Q-3 was read to the jury by Mr. Hallinan.)

Q. (By Mr. Hallinan): Now, Mr. Bridges, you were asked in the cross-examination about some statement that the witness Jaworsky made, the man from Stockton, and who testified as to the matter of the adoption of the slogan of the employers, that there was no middle ground between the employer and the employee. Do you remember the other

(Testimony of Harry Renton Bridges.)

statement he made, where he said that he remembered from your speech in Stockton that night that you had said, as I get the effect of it, that if they doubled the hours of wages, to have the amount of work done?

A. I think his statement was that, the one he remembered; I advised them that if they got 95 cents an hour, to do 45 cents an hour worth of work.

Q. Yes.

A. Jaworsky testified here that at that time he was not a longshoreman, [6199] he was a bargeman. The union was attempting at that time, and has succeeded since, in having the bargemen, who used to man and work various types of craft on the Bay and on the river here, given the same status as longshoremen. That is, in terms of wages, hours and working conditions. At that time the bargemen were working ten, twelve hours a day. They were paid approximately, I think, 60 cents an hour, and they didn't receive overtime. And in an effort to meet that situation, why, my advice was exactly somewhat along the lines as Mr. Jaworski testified to.

The barge operators, that is, the operators of these vessels, clung fast to their idea that they were going to try and continue on a ten and twelve hour day and pay the men 60 cents an hour without any overtime, and generally that meant seven days a week. So it is exactly what I said, with a bunch of employers like that—until they changed their

(Testimony of Harry Renton Bridges.)

ways, don't let them get rich on it at that rate; until we can get in a position to change that situation, don't work too hard.

Q. You testified that in the first meeting, that there was—this was of some union organization, just around the time of the 1934 strike, you remember the name of some man who attended there, and the reason you remembered was that he was marked present though he was absent. What was that situation?

A. That wasn't around the '34—That was around the '34 strike. That was the first meeting of the executive board of the [6200] newly created union. That was the first meeting of the elected executive board, following the elections that we had forced through the committee of 500, following the seating of the board. We were a bunch of people who were determined, if you will—we were determined to be new brooms and sweep clean. We had already laid down a set of rules and had a constitution adopted that required, amongst other things, that every member of the board had to be a working longshoreman. We had other rules that you had to attend meetings; no excuses were offered for absence from meetings except actually being at work, that is, working as a longshoreman or being ill. If you couldn't prove that you were doing one or two of those things when a meeting came up, you were removed from the board.

So the first meeting of the board comes along, one of the men on there—and I remember it so

(Testimony of Harry Renton Bridges.)

distinctly because it created a problem for us, it put us in a dilemma. We had preached far and wide along the waterfront that we were going to be a different set of trade unionists. So we find ourselves supporting a man on our slate, we put our printed slate up, who wasn't directly working on the waterfront. He was doing some other work, good work; he was organizing part time as a teamster and trying to organize the warehouses. So he didn't fit our rules and terms of technically, at least, working on the waterfront—although he had been a longshoreman up until recently. And second, he doesn't show up at the meeting, which means that [6201] he would be fired from the executive committee. So we put up a big fight that night, that wasn't fair right at the start—that was the first meeting, and of course our enemies were only too willing—not our enemies, but those who were in opposition to our stringent rules—they were only too eager to pick up our own battlecry and use it against us, making us stay with our own rules. So that was the reason for the action we took at the first meeting. We were criticized pretty severely for it, and—— [6202]

Q. What were you criticized for?

A. No. 1, allowing a situation to develop——

Q. I mean as regards marking him present when he was absent.

A. We were criticized for that.

Q. What was the result of that criticism?

A. There was no more of that. We were told

(Testimony of Harry Renton Bridges.)

to cut out the funny business and stay by our own rules that we had adopted.

Q. For instance, in these minutes of June, 1936, is there any question of any person marked present being actually absent?

A. I don't think so. I was only talking about the first meeting of the union. The meeting I have reference to is the first meeting of the Executive Board of the brand new union, a bunch of people determined to do the right thing, and that is how that situation developed. That is why I remember it.

Q. Mr. Bridges, do you obtain or do you receive any salary from any other organization other than the ILWU? For instance, do you receive any additional salary from the CIO?

A. I have never received any salary from the CIO. I was many years the CIO Regional Director. I was the only CIO Regional Director that was not paid.

Q. In other words, when you spoke of the salary you had been receiving from the ILWU, that is all the money you have been getting for all your activities, is that correct?

A. Our union forbids any of its officers from drawing a salary—drawing more than one salary. I receive my salary as an [6203] officer of the union, as president of the union, and no matter what other jobs I have, I am not allowed to receive any other salary.

(Testimony of Harry Renton Bridges.)

Q. You were questioned about your subscription to the People's World. What other papers do you subscribe to or periodicals?

A. Our newspapers here. I subscribe to the Chronicle, the Examiner, News, New York Times, Wall Street Journal, Journal of Commerce, Nation, New Republic, New Yorker, Weekly Chess Review, and at home we have got a subscription to——

Q. When did you commence to start subscribing to the Weekly Chess Review? Only since "Dynamite" beat you?

A. Oh, no, I have subscribed to that for some time. I subscribe to a magazine called Gourmet, which is a food magazine. There are some others. I forget them.

Q. Have you ever endorsed any other newspaper or written things for them besides the People's World document that was shown to you?

A. Yes, on two or three occasions: P.M., New York Star—those were the same paper.

Q. Any local paper?

A. Chronicle, the San Francisco Chronicle.

Q. There was discussed with you, and you testified to the steps you took to expose the espionage to which you were subjected in the year 1941 in New York that you brought newspaper reporters in on the matter. Are you familiar with the [6204] report called "Some Fun With the FBI" that was run in the October 11, 1941, edition of the New Yorker, narrating a discussion with you by one St. Clair McKelvey? Are you familiar with that?

(Testimony of Harry Renton Bridges.)

A. I remember St. Clair McKelvey's article. It was written as a humorous article in the New Yorker.

Q. Yes, but you can't make fun of people like that. You have seen that before, of course?

A. Some time ago. I have not seen it for quite a while.

Q. Was that written at the time it purports to have been written? That appears in the October, 1941, edition of the New Yorker, Mr. Bridges, is that correct? A. That is right.

Mr. Hallinan: We offer it in evidence, if the Court please, as the defendants' exhibit next in order.

Mr. Donohue: I object to it, if your Honor please, as immaterial, incompetent, and not relevant to any issue before this Court or jury.

Mr. Hallinan: I might say, your Honor, one of the purposes is that if some contention should be made or some inference raised that Mr. Bridges has fabricated or invented any part of the episode which he has narrated, it is set out in that document or in that write-up, written at the time. That is eight and a half years ago.

The Court: Objection sustained.

Mr. Hallinan: I will ask that it be marked for identification. [6205]

(The article referred to was marked Defendants' Exhibit R-3 for identification.)

(Testimony of Harry Renton Bridges.)

Q. (By Mr. Hallinan): You were asked if you consulted any members of the Communist Party since the inception of this trial. What if any help did you receive, Mr. Bridges, from that source?

A. I merely asked them to help out the investigator attached to the case, if there were any questions they could answer. They said they didn't know what questions they could answer. I don't know what happened along that line. Not much, I don't think, as far as I know. Another thing, they did give us the copies of the bound volume of the Western Worker. They gave us those, or lent us those, I should say.

Q. Mr. Bridges, didn't you say in your redirect examination you had written something for the San Francisco Chronicle? A. Yes.

Mr. Hallinan: That is all.

Recross-Examination

By Mr. Donohue:

Q. Mr. Bridges, at the time you sent that telegram to Donald Nelson, the 28th of May, 1942, that was about the time you were beating the drums for a second front in Europe, wasn't it?

A. 1943? It could well be.

Q. 1942.

A. I don't know if it was that early. It might have been. I [6206] doubt if it was that early. That was shortly after Pearl Harbor.

(Testimony of Harry Renton Bridges.)

Q. Yes. Do you recall being asked whether or not, eight months after Pearl Harbor, you had not suggested that despite the opinion of the joint chiefs of staff, in your judgment we should then have opened a second front in Europe?

A. I am not sure it was that early. I thought that came later.

Q. You are certain on the 28th of May, 1942, Soviet Russia was an ally of the United States in the war in Europe?

A. I think that is true, yes.

Q. Mr. Bridges, do you agree with the declaration of foreign policy as enunciated by the President of the United States yesterday?

A. I didn't get a chance to read it yet, Mr. Donohue. You tell me what is in it and I will tell you my views on it.

Q. Mr. Truman is quoted in the morning Examiner, of which you say you are a subscriber——

A. I didn't say I believed it.

Q. Pardon?

A. I didn't say I believed it. I may be a subscriber to the Examiner during this case to find out what you are thinking, Mr. Donohue.

Q. Mr. Bridges, Mr. Truman is quoted in the morning Examiner as having said——

Mr. Hallinan: We object to that, if the Court please, as to reading out from the Examiner what Mr. Truman is quoted [6207] to have said. He can show him the document and ask him if he has any opinion on that subject.

The Court: You might show him the document. If he has any opinion on that matter he may express it.

Mr. Hallinan: There shouldn't be any contradictions between the witness and the newspaper. The Examiner's foreign policy has always been such as to delight Americans.

The Court: Is this asserted to be quoted matter?

Mr. Donohue: Yes, your Honor.

The Court: This is not editorial matter?

Mr. Donohue: No, your Honor.

Q. Mr. Bridges, do you endorse the statement of the President that the great danger of Communism does not lie in its false promises, it lies in the fact that it is an instrument of an armed imperialism which seeks to extend its influence by force?

A. I don't agree with that statement made by the President or anyone else, and here is why, Mr. Donohue——

Q. Yes.

A. The theory of Communism—and if you look it up in the dictionary or an encyclopedia, my understanding is largely the ownership, control and operation of the basic means of production, the basic resources of a country on behalf of the people and in the interests of all the people as against such basic resources and means of production being owned by private [6208] enterprise, you might say. Now, that is one thing as a theory. It seems to me one might have ideas on that score. But on the

(Testimony of Harry Renton Bridges.)

other hand, organizations that set themselves up supposedly to carry out that theory might be something else entirely different. Any political party, the Republican Party, for example, has a lot of slogans, and when you look into what it is supposed to do or claims, what its platform is supposed to be, and what in fact and in truth the leaders of that party or the representatives of that party might do, hey could be two different things.

The same with Democrats, the same with Communists and others, as far as I have been able to find out. There are various shadings of all these matters. Now, then, a general term like that and a general denunciation of the term "Communism," I can't find out from that—that is, as far as I can see—exactly what the President means. Now, if the President means imperialism, if the President means imperialism of any sort—I don't care whether it is Communistic imperialism or any other form of imperialism—if the President there is preaching to meet such imperialism with force of arms, I am in 100 per cent agreement. But I don't believe we should single out any country. I don't believe the world is threatened now by so-called Communist aggressive imperialism. That is my belief. I don't know a great deal about Russia maybe, but I don't know of any Russian colonies. I do know of colonies of [6209] other countries because I have been there. I have been to British colonies; I have been to French colonies; I have been to Dutch colonies. I have seen the people in slavery; I have

(Testimony of Harry Renton Bridges.)

seen them dying of disease and starvation. I have seen absolute oppression and tyranny, no rights of the people. I have seen those things myself personally. And if the President means that we should use force of arms to overthrow such things as that, I think he has got a good program. But these general terms of trying to draw distinctions between forms of imperialism, I just don't see it. I think imperialism of any kind—I don't care if it is carried on in the name of the King of England, the Queen of the Dutch Empire, the King of Greece, or what they choose to call the Republic of Italy these days or the Republic of France—I think they are all no good, and I think the world would be a better place without all of them. And if that includes Russia, then, by golly, yes, I am against any form of Russian expansionism or imperialism, whether it is in the form of aggression or any other type. I don't care so much what the President says and whether I agree—I am not quite sure what that means, but if it means what I am saying now, then I am for it. Unless it means that, I don't see that it means anything one way or the other. It is the statement of a politician, and one of the things maybe that is wrong with our country is too many politicians who claim they are out to save everybody else, to save the world, when [6210] they are really out to only line their own pockets.

Q. May I read you another statement by the President of the United States: "This Communist threat of force"——

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: Just a minute, if the Court please. He is doing exactly what he was told not to do.

Mr. Donohue: Mr. Bridges has seen this, if your Honor please.

Mr. Hallinan: That does not mean he is entitled to read it out, the editorial of the paper or the message of the Presiednt, or whatever it may be.

The Court: I asked specifically on that question. I understand you are reading a direct quote.

Mr. Donohue: A quote of the President of the United States on the subject of Communism.

The Court: Mr. Bridges, may I ask you, Have you read the quoted article?

A. I read through the whole article there pretty rapidly and briefly. My answer, incidentally, which I just gave was intended to cover the whole article, your Honor.

Mr. Donohue: May I read the quotation, if your Honor please? I have the right to ask this witness——

Mr. Hallinan: He can ask him but not put it in the words of another person.

Mr. Donohue: I am going to ask him if he agrees with the statement of the President of the United States. [6211]

Mr. Hallinan: How do we know what he stated on that subject? You have to have the whole message, not special excerpts taken out. As a matter of fact, counsel has been the one who has been sustaining Communism here with ex-Communists all throughout the case.

(Testimony of Harry Renton Bridges.)

The Court: Mr. Bridges said he read the direct quotes. You can ask him about them.

Q. (By Mr. Donohue): Mr. Bridges, do you agree or disagree with this statement made by the President of the United States: "This Communist threat of force is a challenge to all peoples who are free or wish to be free. The fundamental issue is whether men are to be free to choose their own way of life or whether they must live under a system imposed upon them by force. Freedom cannot grow and expand unless it is directed against the armed imperialism of those who would destroy it." **[6212]**

A. Whether the President said it or not, I am in favor of people being free to select their own way of life. I am in favor of them resorting to arms to enforce their choice in that respect. I thought I had said that. And I don't know what particular item the President is referring to, but I certainly believe people should be free to select their own way of life and to have the means at hand to protect their choice.

Q. Now, a minute ago, Mr. Bridges, you indicated that you referred to a dictionary or an encyclopedia to get a definition of Communism. You are better informed on the subject of Communism than one might expect by reading a definition in a dictionary or encyclopedia, are you not?

A. No.

Q. You have read Karl Marx?

(Testimony of Harry Renton Bridges.)

A. Oh, I have read Marx upon occasions. And when you say—I have read a lot of things. Now, I draw a line between reading and studying. I have read a lot of things. But as far as going over and over and keeping them in my mind and making a real study of it, well, there's a little difference, I should say, between that and reading a book. Certainly I have read Marx. I have read Engels, I have read a lot of people. I have read Stuart Chase. I have read quite a few people. After all, I am president of a trade union. I am supposed to be able to come up with some answers upon occasion. I am asked a lot of things. It doesn't do my membership any good to say I don't know. They [6213] say, "What is wrong with you? What do we pay you for? What do you do with your time? Can't you look it up? What do you expect us to do? Do you expect us to do those things? We are down here busy, trying to make a living, working, keeping this union going." Certainly I read. Don't go by what I read, Mr. Donohue. You would be surprised at what I read.

Q. Mr. Bridges, as a subscriber to the New York Times and as the international or world-wide president of an affiliate of the World Federation of Trade Unions, are you familiar with a recent memorandum filed by the World Federation of Trade Unions with the United Nations?

A. On what? Filed on what?

Mr. Donohue: (To the Clerk): Ask Mr. Bridges

(Testimony of Harry Renton Bridges.)

if he will look at this article from the New York Times.

(Document handed to the witness by the Clerk.)

A. (Continuing): Well, I would say this, Mr. Donohue. I haven't read this report as yet—that is, this complaint of the WFTU, but I see nothing in there that I would necessarily disagree with. What you have just shown me there is a report of it in the New York Times that draws attention to the fact that the World Federation of Trade Unions has complained to the United Nations that the rights of workers in trade unions in the United States are being disregarded by the use of the Taft-Hartley Law and other things. I don't need any WFTU to tell me that. I know that. People I represent know that. They learned [6214] that the hard way. I don't have to read that in any newspapers.

Q. And it also states, Mr. Bridges, which you didn't tell us, that the WFTU complaint enthusiastically praises the Soviet Union and other eastern European countries as the "only governments that act in the interests of the workers." Do you agree with that also?

A. That might be a matter of opinion. The people, whoever it was, in the WFTU that drew up the report, I might disagree with them on that particular point. I guess I can't get into any squabbles with them on what they think is the best form of government. I am not going to agree

(Testimony of Harry Renton Bridges.)

with them on those things. I am not well enough informed. The government here is satisfactory as far as I am cocnerned, and I even say that when I might disagree with some people that are supposed to represent it, Mr. Donohue.

Mr. Donohue: May I have the last exhibit filed by the defendant? I think you have your hand on it.

The Clerk: Defendant's P-3.

Q. (By Mr. Donohue): Referring now, Mr. Bridges, to the memorandum which you presented to us on Tuesday from Mervyn Rathborne to yourself and others, when did you first acquire possession of this particular document or memorandum?

A. It was gotten out of the files some time ago.

Q. When, Mr. Bridges?

A. I couldn't say. [6215]

Q. What is your best recollection?

A. Oh, possibly following the—no, it would be before the testimony here. I think we got all the material concerning Rathborne together from all the files, I think, in preparation for this possible appearance here as a witness.

Q. When did you get this document, Mr. Bridges?

A. I couldn't say specifically when, Mr. Donohue. I could probably check with our research department.

Q. Well, did you personally get it or did someone else get it for you?

A. Oh, I had in mind the incident later on, after I heard the testimony. So in that connection I

(Testimony of Harry Renton Bridges.)

asked that a search be made for the document. But prior to that time, that document, along with many, many others, had already been removed from the files, in a general sense, I would say.

Q. Yes, that is what I am interested in, Mr. Bridges. When and for what reason was this and other documents removed from the files in a general sense?

A. We expected that the witnesses that had testified before the grand jury, particularly Rathborne, after all the public statements that he made, would be a witness here. We were just preparing a few things. We figured he would be up here.

Q. Now, again, Mr. Bridges, what is your best recollection as to the time when you first acquired possession of this document?

A. You are asking me when I first acquired it? And by that I [6216] say when we first lifted that out of the files, you might say for the second time. When I say the second time——

Q. Well, did you lift it out of the files twice, Mr. Bridges, or just once? A. Twice.

Q. When was the first time?

A. Where all the material in connection with Rathborne was gathered together by our research staff from all the files. So therefore there was a file on Rathborne, it was about three feet wide (indicating), you might say. Now, all that stuff is together on everything. Then when I talk about the second time is when certain things were selected which would include them. So, fairly recently, in

(Testimony of Harry Renton Bridges.)

the last few weeks, we took that particular document out, for the purpose that it has been used for here.

Q. Now, when you took it out for the purpose for which it was being used here, from where did you take it?

A. From this general file that we have kept on Rathborne since he appeared before the grand jury, and in anticipation of his appearance here.

Q. Then this was taken from the files of the California CIO Council prior to the date of this trial?

A. I think so, with full permission of the Council and the Council's officers.

Q. Can you give us any better estimation as to when, Mr. [6217] Bridges?

A. No, I think a little checkingup will reveal that right to the date, without depending on me. After all, I didn't personally supervise the whole thing, just generally.

Q. I guess this file of Mr. Rathborne's which you have suggested was about three feet wide is much bigger than your file on me, isn't it, Mr. Bridges?

A. Yes, that's right. Don't make it appear we have too much information on you, Mr. Donohue.

Q. Well, I didn't know whether you had any, until you told me I too was the subject of an investigation, Mr. Bridges.

A. Well, you could be a Lawrence Ross.

Q. Pardon?

(Testimony of Harry Renton Bridges.)

A. Well, you could be a Lawrence Ross, you know, for all we know.

Q. Well, you apparently have attempted to find out? A. No, no, not a Lawrance Ross.

Q. Don't misunderstand me. I am not objecting. Now, Mr. Bridges, having had this memorandum in your custody for some time, and having had it read to you very clearly by Mr. Hallinan on Tuesday, do you recall now that there was a dispute between Mr. Rathborne and Mr. Goldblatt?

A. I didn't think it had been disputed. I recalled it very distinctly.

Q. Well, do you further recall, from having had this memorandum [6218] read to you, that in order to resolve that dispute, three conferences were held which were noted herein, one on April 21st, one on May 1st and one on May 6th, true?

A. Well, according to that. I remember the conferences, but that's the best—I would say that is the best document to go by. That nails the dates down.

Q. Is it your recollection now, Mr. Bridges, that one of these conferences was held in Mr. Rathborne's office and two were held in your office?

A. I have a better recollection of the officers in my own office; but I recall myself speaking to Rathborne about it. You see, there was a certain development at that time that this document doesn't show, and that Rathborne didn't know so much about. I notice he even—it didn't seem to mention

(Testimony of Harry Renton Bridges.)

it in that document. Goldblatt became our secretary-treasurer at that time. He became international secretary-treasurer of the international union at that time. The other secretary-treasurer went into the army, Eugene Patton—volunteered. Goldblatt took his place as acting secretary-treasurer, pending election around that time. Now, that doesn't reveal that.

So what was developing here, Goldblatt, the secretary-treasurer of the Council, came into somewhat of a clash with the State Council—correctly so—over the handling of certain funds of our union. And I don't even see any reflection in that document of that particular point. [6219]

Q. Well, is your recollection refreshed to the point now, Mr. Bridges, where you will state as to whether or not after the conference indicated here on April 21st, this simple Labor Council dispute was resolved between the parties?

A. Well, it was resolved.

Q. Then why the meeting on May 1st?

A. I don't know.

Q. And why the subsequent meeting on May 5th?

A. I think the meetings, the subsequent meetings or the meetings were to get this memorandum withdrawn. We just thought that Rathborne had gone out and bought himself a bottle of some kind of white wine or something and really took off on a dandy. And when he sent a memorandum like that around——

(Testimony of Harry Renton Bridges.)

Q. Well, don't you remember, Mr. Bridges, that the memorandum is dated after the third meeting was held to resolve this simple labor union dispute?

A. Right, right.

Q. Then it wasn't settled on any one or all of these three meetings, was it?

A. Oh, I didn't think it was; I didn't mean to say it was. I said it was settled subsequent.

Q. When was it settled?

A. I don't know. I don't know. But I know my position. Goldblatt was the new secretary-treasurer of the union. As such, he was a person of authority, and when it came to the [6220] question as to who would determine the policies of our union, the State Council in the form of Rathborne or Goldblatt as secretary-treasurer, it was no question where I stood. I stood with Goldblatt. And once we got that cleared, there was no more trouble and that is the way it was settled. That I know.

Q. Aren't you reversing the situation, Mr. Bridges? Wasn't the trouble not that Rathborne was trying to run the ILWU, but that Goldblatt, secretary-treasurer of the ILWU, was trying to run the CIO Council?

A. Goldblatt was offering certain suggestions as to how the affairs of the Council should be conducted, and they were resented very much by Rathborne. That is certain. That is true, too. That is all right.

Q. Was Goldblatt a member of the CIO Council?

(Testimony of Harry Renton Bridges.)

A. At that time he was a member, maybe, but he held no official position.

Q. Mr. Bridges, the dispute wasn't settled as late as June 24th, was it?

A. Oh, I think it was settled before the board meeting, I think. I am not so sure.

Q. You recall the memorandum which Mr. Hallinan read to you Tuesday, in which Mr. Rathborne, under date of June 24th, states:

> "After consultation with Brother Bridges and others concerned, it is my opinion that these problems can best be solved by means of a conference between those concerned." [6221]

As late as June 24th, it wasn't solved, was it, Mr. Bridges?

A. All right, then, if that was what the memorandum says, I think that is correct.

Q. Now, the meeting——

A. It was solved subsequent to June 24th, I guess.

Q. The meeting that George Wilson testified about, called to solve the dispute between Rathborne and Goldblatt, he said, took place in the Governor Hotel, didn't he?

A. Yes, with some other people present; as I recall.

Q. And your counsel showed you the photostatic copy of the registration at that hotel by Mervyn Rathborne, in his room, George Wilson said this meeting took place, didn't he?

(Testimony of Harry Renton Bridges.)

A. I don't think he did. I——

Mr. Donohue: May I have it?

A. (Continuing): While I was testifying here, I did not see the registration card. He had it over there, and I don't remember being shown it. But he read what it was; I think he read it.

Q. Well, you know——

A. (Continuing): I was shown the voucher that Rathborne turned in to the State Council.

Q. Then you know substantially that that registration showed that Rathborne was at the Governor Hotel, arriving on the 8th of July?

A. Yes. [6222]

Q. Now, isn't it a fact and known by you to be a fact, Mr. Bridges, that a copy of this memorandum came into the custody and possession of William Schneidermann? A. I don't know.

Q. And do you not know it to be a further fact that Mr. Schneidermann called this meeting at the Governor Hotel during the period of the convention of the executive committee an to resolve this difference between Rathborne and Goldblatt, as George Wilson said he did?

A. I am sure there is no truth to that. There was no such meeting that I recall, because I was supposed to be there. I don't believe the matter would have been—any attempt would have been made to settle it without me. And why go around the corner to the Governor Hotel?

Q. You were meeting in convention at the Governor Hotel, weren't you?

(Testimony of Harry Renton Bridges.)

A. No, no, Mr.—The meetings were held right in the CIO Building. You have got a dozen rooms there. Now, you just paint the wrong picture, Mr. Donohue. Look, let us assume for the sake of argument that what you are saying was correct: there is no need to do any more than just march into my office, half a dozen people there, march into my office, shut the doors and go right to it there. If not my office, Goldblatt's office, a half a dozen other offices, or one of the half a dozen conference rooms in the building. Why sneak around a block [6223] and a half to the Governor Hotel, where, if we were really trying to conceal something, we would really make it look like something. You would be bound to excite suspicion, particularly if there was a convention on. And particularly by renting a room, and so forth, for that purpose. It would be far easier and simpler, believe me, what you are saying wouldn't occur to us under the circumstances. We were all in the same building. It is a big building. It has got all kinds of rooms and offices—Rathborne's office, a half a dozen other offices. They would have been available for such a session. It wouldn't have taken very long. We wouldn't have had to go around and have Rathborne hire a place. The truth of the matter is that Rathborne was staying at the hotel because it was a practice of his, inasmuch as he lived down in the country. He hired a room to sleep in so they wouldn't have to go home. Nothing more than that. [6224]

(Testimony of Harry Renton Bridges.)

Q. Mr. Bridges, in 1943, in July, with your deportation matter pending, do you think you would have had Mr. Schneidermann come down to your office building and have a meeting with you, and Slim Connolly, and Ruby Heide, and Mervyn Rathborne and George Wilson?

A. If necessary, yes; certainly, if necessary, yes, No question about it. I thought I had testified to that. Any time I thought it was necessary as part of my work, if not as president of the organization, the CIO Regional Director, if these people wanted to see me, including Schneidermann, they could see me right down in my office. Or if the occasion warranted, as upon occasion it might have, I would go somewhere else to see them. I thought I had testified to that. If I didn't, that is exactly what happened upon occasion. But what you did, you picked out some of these occasions and it makes it look as if this happened as a regular thing, day in and day out, or week in and week out, or month in and month out, whereas, as against the dozens of meetings or conferences I held with other people who were not Communists, people of other political organizations and faiths, these few infrequent meetings I ever had with Schneidermann or other Communists or officers, they were few and far between, and relatively insignificant. That is the point.

But I wouldn't want to be mistaken here, that any time that I thought it was necessary for me to call up the [6225] Communist officers and say, "Look, I want to see you people on this, that or the

(Testimony of Harry Renton Bridges.)

other thing, whatever it may be," or if they wanted a conference with me on some matters, we would have a conference. But that is a far cry from saying that as a result of any such conferences I took any orders, followed any instructions, or those conferences in any way affected the course of our trade union movement by the policies of our movement, because absolutely nothing like that ever happened.

Q. Mr. Bridges, did you discuss with Mr. Schneidermann, in the presence of others, the dispute between Goldblatt and Mervyn Rathborne?

A. Not to my knowledge. The question might have come up at some time in the course of discussion, mentioned or something, I don't know. But in so far as the discussion with the connotation that you want to give it, meaning that the discussions were with the idea in mind of settling this dispute, no such discussions were held, no such discussions were necessary.

Q. Mr. Bridges, it was not my connotation; it was Mr. George Wilson's connotation I have asked you about.

A. Well, all right, then. That was what he thought.

Q. Can you tell us, Mr. Bridges, when and where this dispute between Mr. Goldblatt and Mr. Rathborne was settled, if it was ever settled?

A. It was settled, as I said, by conferences between the principals. [6226]

Q. When and where, and who was present?

A. When you say "when and where," do you mean what physical place?

(Testimony of Harry Renton Bridges.)

Q. Yes.

A. Right in the building, I would say. The conferences—the only conferences that took place within the respective offices, official places of business, that was where and when, it would be around the time the memorandum refers to, shortly after or between that time and the Executive Board meeting, or during the Executive Board meeting. I couldn't say as to the exact specific date, but around that sometime.

Q. Who was present? A. I don't know.

Q. Do you have any distinct recollection, Mr. Bridges, of the incident or meeting at which this dispute was resolved or settled?

A. No, no. There was a series of conferences. If you are asking me now do I specifically recall the final conferences that settled this thing completely and where it was held and who was present, I really don't, because there was quite a few conferences and I couldn't recall that specifically. I know there was conferences. I know the thing was settled. I know generally where the conferences were held, and specifically where some of them were held, and I know—maybe I don't know everybody who was present, but I know some people who were [6227] not present, and that is the way I remember it.

Mr. Donohue: I have no further questions, your Honor.

(Testimony of Harry Renton Bridges.)

Further Redirect Examination

By Mr. Hallinan:

Q. Just one or two questions on that particular thing: The Governor Hotel, you say, is about a block and a half from the CIO Building at 150 Golden Gate Avenue? A. Two blocks.

Q. And that CIO Building is a rather large building, isn't it? A. Yes.

Q. How many floors, Mr. Bridges?

A. Three—four.

Q. On the ground floor they have a large auditorium with a stage and fixed seats that hold about how many people? A. 1200.

Q. 1200 people? A. Yes.

Q. Then on the second floor they have another auditorium with a stage and fixed seats that is called Santa Maria Hall; how many people does that hold?

A. That is a couple of hundred. But in between there is a mezzanine with a series of offices. That is where the union offices are right now.

Q. Then you have your office upstairs on the second floor? [6228] A. That is right.

Q. And Mr. Goldblatt has his adjoining you, is that right, or across the hall?

A. Except at the time we are talking of here the arrangements in the building were slightly different.

Q. About how many large offices are there on that floor?

A. Oh, probably twelve or fourteen.

(Testimony of Harry Renton Bridges.)

Q. And in some of them you have your executive meetings, is that right?

A. Conference rooms, yes.

Q. How many people will be held in that executive room? A. 25 or 30.

Q. Large table and chairs all around?

A. Yes, and at this time there used to be other conference rooms. We eliminated some of them in recent years.

Q. Have you ever had a convention at the Governor Hotel?

A. Never had a convention, Executive Board meeting, or any other type of meeting, to my knowledge.

Q. Have all conventions since the acquisition of that building been held in the CIO Building?

A. I don't know of a single exception of that rule, not one. I do not recall a meeting or convention or a conference being held any other place but in the CIO Building since we acquired it.

Q. And if I remember correctly, that meeting in the Governor [6229] Hotel room is supposed to have occurred, one, after your hotel room in the Multnomah Hotel in Portland had been dictagraphed, and, two, after your room in the Hotel New Yorker had been dictagraphed, is that right?

A. That is right.

Mr. Hallinan: That is all.

Mr. Donohue: I have no further questions, your Honor.

Mr. Hallinan: That is the defendants' case. We have no further evidence.

The Court: We will take the recess, ladies and gentlemen, and may I again admonish you not to discuss the case under any conditions or to form an opinion until it is submitted to you.

(Thereupon a recess was taken.) [6230]

Mr. Hallinan: Pardon me, I have the document. It just arrived. But I would like to introduce it, if the Court please. It is the report of the Executive Committee meeting for July 9, 10 and 11, 1943. In other words, it is not for the contents of it I want to admit it except as to the matters I will point out. This is the report of the Executive Committee meeting of the California CIO Council held at San Francisco, California, on July 9, 10 and 11, 1943. The minutes show that it was held at the CIO Building, San Francisco, California. It shows the presence of Secretary-Treasurer Mervyn Rathborne. Now, according to the exhibit from the Governor Hotel, Rathborne checked in there at 6:35 p.m. on the 8th of July, 1943. The first session of the Executive Committee was on July 9, 1943, the following morning. And then Rathborne stayed three nights at the Governor Hotel. The convention lasted three days. The record that I am referring to is Defendants' Exhibit C-2, which shows the times that he was at the Governor Hotel are those which I have indicated. We will offer the minutes in evidence for the limited purpose which I have just enunciated.

Mr. Donohue: May I ask your Honor at this time, because I apologize to your Honor and the jury and Mr. Hallinan——

The Court: Before announcing that fact, for the limited purpose announced by Mr. Hallinan, the minutes of the meeting may be received in evidence as to the date, for that limited purpose. [6231]

(The minutes referred to were marked Defendants' Exhibit S-3 in evidence.)

Mr. Hallinan: And also showing that the convention was held in the presence of Rathborne at all sessions.

Mr. Donohue: May I at this time ask your Honor to adjourn until two o'clock? In the meantime I have some documents which I would like to leave with Mr. Hallinan to examine over the recess, and we can discuss them at two o'clock, if your Honor will adjourn until that time.

The Court: No objection. You will proceed with Mr. Robertson at that time?

Mr. Donohue: Yes, your Honor.

The Court: We will adjourn until two o'clock this afternoon, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions nor to form or express an opinion thereon until the matter is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.) [6232]

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TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

Volume XIII
(Pages 5749 to 6246)

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In .... Volumes

Volume XIII
(Pages 5749 to 6246)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Vo⁻ Orden Co., 870 Brannan Street, San Francisco, Calif.

February 23, 1950, 2:00 P.M.

Mr. Hallinan: One matter, if the Court please, that I overlooked. You will remember, in the discussion that Mr. Cleary participated in the Defendants' Exhibit B for identification, the Supreme Court decision, was proffered, if only for the limited purpose of excluding testimony and not offered as a positive matter. We offer it now in evidence as bearing upon the one question of res adjudicata, as establishing that fact.

The Court: The objection is sustained, in accordance with the opinion heretofore rendered.

Mr. Hallinan: Well, we will ask—it appears in the record, it is already marked for identification.

The Court: It may be marked for identification.

Mr. Donohue: Call Mr. Robertson.

The Clerk: Call Mr. Robertson.

J. R. ROBERTSON

one of the defendants herein, was recalled; previously sworn.

The Clerk: The witness on the stand is J. R. Robertson, heretofore sworn.

Cross-Examination

By Mr. Donohue:

For the purpose of refreshing the recollection of the witness, if your Honor pleases, I ask the clerk to hand him a photostatic copy of the United States army service [6233] record of Chris C. Robertson. (Handed to witness by the Clerk.)

(Testimony of J. R. Robertson.)

The Witness: I have examined this record, your Honor, and it refreshes my recollection not at all. I have looked at the material here and I have nothing to say other than what I have said when I was on the stand, in regards to this matter. Both in the army and in the navy, I bought my way out, I did it legitimately, and I have nothing else to add.

Q. (By Mr. Donohue): May I ask you, Mr. Robertson, to look at your signature on the next to the last page of that——

Mr. MacInnis: Well, now, pardon me. So far as the document is concerned, independently of any question put by the prosecutor to the witness, the document reflects matters which are entirely collateral to the representation of the witness. The document is not an impeaching document in any way, in any of the methods prescribed by law. We would object to its introduction here or to the putting of any questions concerning its contents to the witness.

Mr. Donohue: I don't seek to introduce it, if your Honor pleases, nor do I seek to use it for the purpose of impeaching the witness. I do think I have a right to test his recollection and his credibility in the light of the statement that the witness made.

Mr. MacInnis: In other words, your Honor, we don't question the state of the government records. Apparently the records show that Mr. Robertson received an honorable discharge [6234] from the army, and in the navy he was marked as a deserter.

He gave his explanation on the stand. But those matters intruded collaterally as they were, on the cross-examination of the defendant Robertson, would not permit the improper introduction of the records into the case.

Mr. Donohue: I haven't sought to introduce them, if your Honor please. I want to ask the witness this question:

Q. If he will look at the record in his hand and tell us if it refreshes his recollection as to whether, when he joined the United States Army, he stated that he was born——

Mr. MacInnis: Well, now, that matter, your Honor, again would be collateral to the case. This gentleman who was not asked any question on direct examination which could be followed properly by the question now put to him, either as an impeaching question or as one involving a proper cross-examination. It exceeds the scope of the direct examination; it involves purely a collateral matter.

Mr. Donohue: If you will look in the record, you will find on direct examination I asked Mr. Robertson if it wasn't a fact that when he joined the army, he stated that he was born in Alba, Texas, and when he joined the Navy three years later he swore he was born in Kansas City, Missouri.

Mr. MacInnis: Well, you see, he confuses direct with cross-examination. Counsel asked those questions of Mr. Robertson on cross-examination, but he may not cross-examine the witness [6235] solely for the purpose of drawing out further questions of his

(Testimony of J. R. Robertson.)

own. He can not extend the scope of the record, because that is set by the tenor of the direct examination.

The Court: I will allow the question.

A. I don't see any place of birth here. I see where it gives my home address.

Q. (By Mr. Donohue): Would you look on the first page, Mr. Robertson?

Mr. MacInnis: May I see that again, too, please?

(Document examined by Mr. MacInnis.)

Mr. MacInnis: Now, the first pay says "Service Record, Robertson, Chris C." And it gives the army serial number and says, "First infantry."

Mr. Donohue: That is the cover, Mr.——

Mr. MacInnis: Yes, that is the cover.

Mr. Donohue: Just turn over to the first page.

Mr. MacInnis: It says here, "Born in Alba, Texas."

Mr. Donohue: Correct.

Mr. MacInnis: For his place of birth. You mean that by this page, the first page, do you?

Mr. Donohue: Yes, the page following the cover.

(Document returned to the witness by the Clerk.)

A. (Continuing): I see that typewritten in. I have no recollection of telling anyone where or when I was born, Mr. Donohue, if that is your question. I don't question this document. You [6236] have asked me do I recall. I don't. I just don't recall.

(Testimony of J. R. Robertson.)

Mr. Donohue: Will you ask the witness now to look at his service record in the United States Navy and ask him to look at that portion, please?

(Document handed to the witness by the Clerk.)

The Witness: I see the place of birth here. It is typewritten in, "Kansas City, Missouri." Is that what you mean?

Q. Yes.

A. It is typewritten in. Now, are you asking me if I have a recollection of giving this as my place of birth?

Q. Yes, sir.

A. I do not. I am not questioning it, Mr. Donohue. I don't remember. That has been quite a few years ago.

Mr. Donohue: No further questions, if your Honor pleases.

Mr. MacInnis: No questions.

Mr. Donohue: If your Honor pleases, some time during the course of the trial your Honor requested that we furnish the personnel file of the witness George Wilson, and I may say to your Honor——

The Court: You sought to offer it in evidence and Mr. Hallinan wished to glance at the contents.

Mr. Donohue: Well, I may say that I have——

Mr. Hallinan: No, it was never produced.

Mr. Donohue: I have here, if your Honor pleases—— [6237]

The Court: No, to the contrary, Mr. Hallinan. The record, as I recall it, the George Wilson record, and the file containing the record, was exhibited by Mr. Donohue at one stage of the trial, and at that time Mr. Donohue said, "I now offer the document in evidence." And you said, to the best of my recollection, that you would like to examine it.

Mr. Hallinan: Well, then, my recollection is very, very defective. I don't question that your Honor's is far superior to mine, but——

The Court: I may be incorrect, but I am stating what I am remembering.

Mr. Hallinan: But I feel certain, except that I wouldn't contradict you on it, and that I must concede that I would be mistaken more likely than you. I have no reollection of any such thing happening, and it was my positive impression and belief, and it still is, that they not only did not do that but they never produced Wilson's record. Now, that is my impression.

The Court: Mr. Reporter, I ask you to examine the record and determine the facts.

Do you have any recollection, Mr. Donohue?

Mr. Donohue: My recollection is, if your Honor pleases, that some time shortly after this was received, which was early in the month of February, I had it in my hand when some question was raised about it by Mr. Hallinan, and I said, [6238] "I now offer it in evidence," at which time my recollection is that Mr. Hallinan said, "Well, just wait a minute. We want a chance to examine it."

The Court: That is my recollection.

Mr. Hallinan: That didn't happen at all. Now that happened with regard to Michener's statement but never with regard to Wilson's. They never produced it. They produced—here's what happened. Michener's statement, they produced part of the statement and the document showed on its face that there were papers missing from that, and I said we would refuse to accept any ex parte offer of it, because it said on the Michener paper that there was a part of it that wasn't included. We insisted upon getting that. We also insisted upon getting the witness Wilson, when they never produced the Wilson one, and the Michener one. That is all they brought of it. Now, they did bring out also a portion with parts of it torn out of Schrimpf's testimony, but this is the first time they have mentioned Wilson's. [6239]

The Court: I would not like to stake my recollection against the transcript as dogmatic, but at the same time I have a vivid recollection that Mr. Donohue had the file in his hand, that you had demanded at least some time prior the production of the Wilson file with respect to any oath it might contain or asserted oath.

Mr. Hallinan: That is Michener.

The Court: Also Michener.

Mr. Hallinan: Your Honor, I pride myself on my memory. I have never seen this file before.

The Court: You know, curiously, I am a person who also prides himself on his memory.

Mr. Hallinan: I accord that to you. I say what you say may be so, but I have never seen this document before. I have never seen this file that is presented to me.

The Court: I recall the incident. Mr. Donohue had the file and he made an offer of the whole file, and I thought it rather unusual that he would offer a whole file and the contents thereof. You at first appeared to accede and then you said, "I had better look at the contents." That is substantially the record of the testimony.

Mr. Hallinan: I would like to see it anyhow.

The Court: Mr. Reporter, would you check the record on that?

Mr. Hallinan: I think you will find no such thing. Your [6240] Honor has confused Mr. Michener.

The Court: If I am confused on that, Mr. Hallinan, I will instruct the jury accordingly.

Mr. Hallinan: The jury won't get upset about it. I am not upset about it. I do not think it is of any great moment.

The Court: You are staking your recollection on it. I am staking mine.

Mr. Hallinan: Yes, that is correct. I do not think it is of great moment which of us happens to be right. I just say I have never seen the thing before.

Mr. MacInnis: I might say, your Honor, I understood this morning this recess was asked for by the prosecutor so the documents could be inspected by the defense, and here is a new and larger document than either of the others that is handed to us for the first time.

The Court: Is that the Wilson document?

Mr. MacInnis: Yes, if that is the document just handed to Mr. Hallinan.

Mr. Donohue: You may have it and inspect it at your leisure.

Mr. Hallinan: Suppose we hold it during the recess until Monday.

Mr. Donohue: No objection.

Mr. MacInnis: The prosecution is supposedly putting on evidence, your Honor. We are ready to go ahead.

Mr. Donohue: There is a witness out in the hall named [6241] Robertson. I wonder if you would have him called.

Mr. Hallinan: Your Honor, here is an office memorandum dated February 2, 1950:

> "In accordance with your telegraphic request of February 1, 1950, there is forwarded herewith via registered mail the complete personnel file of George Edward Wilson, duly certified by Charles G. Stearns, Director of Personnel, and Planning Branch, Public Housing Administration, Washington, D. C."

Now, the defense had been on long before February 2 and here this letter and memorandum enclosing documents by registered mail is dated February 2. It is easy enough that there should be some confusion with the Michener one, but I felt certain that this document was not transmitted before. Do you contend that you have had this document before February 2?

Mr. Donohue: Mr. Hallinan——

Mr. Hallinan: Do you or don't you?

Mr. Donohue: Who are you talking to?

Mr. Hallinan: You. Did you have this document before February 2, 1950?

Mr. Donohue: You don't have to holler at me.

Mr. Hallinan: Be fair with the Court. The Court and I have had some discussion as to whether this was presented before. Now, you tell us: Did you have it before February 2, 1950? [6242]

Mr. Donohue: If your Honor please, we had that complete file, and we got it certified after the 2nd day of February so there wouldn't be any question about it.

The Court: I suggest during the recess we determine what the transcript shows on the matter and resolve it one way or the other.

Mr. Donohue: Call Mr. Robertson.

KENNETH C. ROBERTSON

called for the Government in rebuttal; sworn.

The Clerk: Will you state your full name to the Court and jury, please.

The Witness: Kenneth C. Robertson.

Direct Examination

By Mr. Donohue:

Q. Where do you live, Mr. Robertson?

A. I reside in Berkeley, California.

Q. What is your business or occupation?

A. I am Regional Attorney, United States Department of Labor, stationed in San Francisco.

(Testimony of Kenneth C. Robertson.)

Q. How long have you been associated or connected with the Department of Labor?

A. Since 1938.

Q. How long have you been with the Department of Labor in San Francisco?

A. Since July 1, 1948 [6243]

Q. Have you in your possession a certain file of documents from the Department of Labor?

A. I do.

Q. What is the document or documents which you have?

A. I have in my possession a photostatic copy of a file entitled "Lew Michener, San Francisco," consisting of photostatic copies of documents appearing in the personnel file of Lewis H. Michener, now in the possession of the Department of Labor.

Q. Is that document or are those documents certified by any officer of the Department of Labor?

A. They are.

Q. And by whom?

A. Harris P. Shane, Director of Personnel, with a further certificate by the Acting Secretary of Labor, Michael J. Galvin.

Mr. Donohue: May I have the doument, please?

Mr. MacInnis: I think if your Honor will glance at this document you will see it is testimony of a negative sort, because there is an affidavit saying the one who forwards this does not purport to say this is the whole record, and also he is not responsible for keeping the record. I have not read further.

(Testimony of Kenneth C. Robertson.)

Q. (By the Court): Do you have any information on this subject?

A. I am advised, your Honor, that the documents—— [6244]

The Court: I will withdraw the question. Perhaps I was somewhat anticipating counsel.

Mr. MacInnis: As I say, I have read only that first page.

The Court: Isn't it a matter of the examination of the witness here?

Q. You are the custodian of the record?

A. I am the present custodian of the documents.

Mr. MacInnis: It may be I can save a little reading time by asking the prosecutor if this document here is the same document or a copy of the one that you showed us before.

Mr. Donohue: It is a photostat of it, yes.

Mr. MacInnis: It is the same document?

Mr. Donohue: It is the same document.

Mr. MacInnis: In other words, we have seen this one?

Mr. Donohue: I do not know that.

Mr. MacInnis: You do not know one way or the other?

Mr. Donohue: I do not.

Mr. MacInnis: You did not compare one with the other?

Mr. Donohue: I just saw the file about ten minutes ago, Mr. MacInnis, so I don't know.

I may say, if your Honor please, at your Honor's request, following a request by the defendant, we asked the Department of Labor in Washington to send us whatever file they had with respect to Mr. Michener, and this gentleman brought it down here a few minutes ago, and that is all I know about it. I [6245] may say, if your Honor pleases, having identified this file, I am not moving its admission. I brought it here only at the request of the defendant and at the subsequent request of your Honor. Any question the defendant wishes to ask this witness on it, I have no objection, of course. Otherwise if they don't want the file I would be glad to return it.

The Court: Have it marked for identification, and then it may be used by either the prosecution or the defense. It is not in evidence for any purpose. It is merely marked for identification. Is that agreeable, counsel?

Mr. MacInnis: Naturally I could not object to its being marked, your Honor. Have you any further questions?

Mr. Donohue: No.

(File re Michener marked U. S. Exhibit 37 for identification.)

Cross-Examination

By Mr. MacInnis:

Q. Mr. Robertson, just so we won't be in the dark about the meaning of this file, you have not of course, been the custodian of this file continuously, have you? A. I have not.

(Testimony of Kenneth C. Robertson.)

Q. And as you say, you embarked upon your duties for the Department of Labor on July 1, 1948, is that correct?

A. That is at this station in San Francisco.

Q. Yes. And the record which has been brought here is one involving the period of time extending during the last war? [6246]

A. That is correct.

Q. And without speaking further of the contents of these papers, you have read them over, have you not? A. I have.

Q. And you were requested to bring them here?

A. I was.

Q. Were you subpoenaed to come here?

A. I was asked to come and told that, if necessary, I would be subpoenaed. Whereupon I appeared without a subpoena.

Q. To whom did you talk, Mr. Robertson?

A. I talked initially with Mr. Kesler.

Q. A Mr. Kesler?

A. That is correct, who is, I believe, an investigator of the Immigration and Naturalization Service.

Q. Did you write to get this record at his request?

A. I did not. As I understand the situation, the Immigration Service attempted to procure the file from the Department of Labor in Washington, D. C., without my knowledge. The Department decided that the proper way to transmit the file was

(Testimony of Kenneth C. Robertson.)

to send it to me, and I was instructed, upon receiving the file, to get in touch with the Immigration Service, which I did.

Q. In other words, you never made any request yourself of the Department of Labor in Washington to send back the record on Lewis Michener?

A. That is correct. [6247]

Q. But some time after the Immigration Department had itself made some investigation you were informed by your superiors that the file would be sent to you? A. That is correct.

Q. And you were told that when the file reached you, you were to contact the Immigration Service?

A. That is correct.

Q. Who is Harris P. Shane?

A. Harris P. Shane is the Director of Personnel of the U. S. Department of Labor in Washington, D. C.

Q. You are familiar, of course, with the affidavit of Harris P. Shane contained in these papers?

A. I am.

Q. You have read the statement of Harris P. Shane to the effect that he could not find the original oath of office of Lewis Michener?

A. That is correct.

Q. So that if such an oath was taken, this file does not reveal it? A. That is correct.

Q. The file does mention the existence of such an oath of office, doesn't it? A. It does.

Q. Although it does not contain the oath itself?

A. That is correct. [6248]

(Testimony of Kenneth C. Robertson.)

Q. Do you have in your hand any other memoranda which might aid us in this matter?

A. I have merely the transmittal memorandum to me of the file.

Q. May I see that, please?

A. It is marked "Confidential." It is not a part of the personnel file of Mr. Michener. I don't believe it would throw any light on the question which you are asking. I would prefer not to show it to you.

Q. But I might have a different idea. I might think it would throw some light. I think, your Honor, probably the document should be made available, unless there is a personal reason, and I take it it is not that kind of document. It is a document which I suppose the witness wishes to safeguard because of the duties of his own office.

A. That is right. It is marked "Confidential." It is addressed to me.

The Witness: May I ask your Honor to examine the document to determine whether or not it should be the subject of examination?

Mr. MacInnis: Before his Honor does that, or while he does it, let me ask you this:

Q. Mr. Robertson, you depend upon the contents of that letter, do you not, for the information that you give the Court and jury today and the request of the Immigration Service for the record of Lewis Michener in Washington? [6249]

A. That is correct.

(Testimony of Kenneth C. Robertson.)

Q. That is your source for making that statement?

A. In addition, I was telephoned from Washington the day before this memorandum arrived by the Solicitor of Labor, who signed this memorandum, advising me one day ahead of time of the contents of the memorandum.

Mr. MacInnis: I suggest this, too, that if the document is to be referred to in the record, it should probably be marked for identification and then shown to his Honor.

The Court: Without my examining the document, do you regard the subject matter of the document as confidential communication between your superior officer in Washington and your department here?

The Witness: I do. I have no objection, I may say, to your Honor's examining it. I am convinced that it has no relevancy to the issue and contains nothing, I think, which expands on the file which is transmitted with the memorandum.

Q. (By the Court): You examined the file folder? A. Yes, I did.

Q. And the covering note? A. I did.

Q. You now testify, under oath, as you are, that the confidential memorandum has no bearing upon the subject matter of that file?

A. It has only the bearing that it indicates that a request was made of the Department of Labor for the file by the [6250] Immigration and Naturalization Service.

(Testimony of Kenneth C. Robertson.)

Q. You have explained that.

A. That is correct. It covers nothing that I consider of any relationship to the file other than that which I have already testified to.

The Court: I see no occasion for this letter.

Mr. MacInnis: I think this, your Honor: This gentleman is undoubtedly speaking the truth about his own opinion concerning the memorandum. There is just some slight possibility that there might be something revealed which would not occur to him since he has not been sitting in this case. That is the only thing I have in mind. We have no wish to reveal something that belongs to the Department of Labor that would have nothing to do with the issues in this case, and obviously if there was such material, there would be no question we could possibly put to the gentleman concerning it. But I think we should see it if it has those references.

The Court: I would see no occasion for the Court to go into the contents of the memorandum between the two departments.

Mr. MacInnis: I do not know, your Honor, whether there is any confidential communication where that would protect——

The Court: The witness has so testified. Now, we prescind from the premise, and as testified, it is a confidential communication. He testified it has no bearing on the controversy at hand. I see no occasion to delve into it. The proseutor has [6251] not seen it, you have not seen it, I have not seen it. The witness states it will not aid or assist any matter before the Court.

The Witness: That is my very solid belief.

The Court: And the explanatory note that you gave is the upshot and purport of the situation.

The Witness: That is correct.

Q. (By Mr. MacInnis): Mr. Robertson, let me ask you this: In discussing your coming here as a witness with any person connected with the Government prosecutor, did you refer to that letter or show the letter to them? A. I did not.

Q. You did not refer to it at all?

A. That is correct.

Q. Do you have some other document in your hand?

A. I have a document, which is not marked "Confidential," which bears the date February 7, 1950, and is addressed from Harris Shane to Mr. Thysen, the Solicitor, which transmits to Mr. Thysen the personnel file for retransmittal to me. I have no objection to your seeing this. I may say the document appears to be a copy. It does not carry the original initials of Mr. Shane.

Q. Mr. Duggan is a member of your office in Washington? A. Mr. Duggan?

Q. Yes. [6252]

A. No, he is not that I am aware of. I would assume he was connected with the Immigration Service in some way.

Q. The heading on this letter is "U. S. Department of Labor." A. Yes.

Q. That is the department with which you are connected? A. That is correct.

(Testimony of Kenneth C. Robertson.)

Q. Then the text says, "Mr. Duggan of this office called"——

A. Then you are correct. I do not happen to know him, but I agree with you. I hadn't read that recently. I would agree that apparently he then is in Mr. Shane's office. [6253]

Q. In other words, that is just an impression that you have?

A. That's right. I don't know him.

Q. And you were given this information, reading as follows: "Incidentally, the District Attorney is not handling the prosecution, a special assistant to the Attorney General has been assigned to the case."

A. That is so stated in the memorandum.

Mr. MacInnis: That is all.

Redirect-Examination

By Mr. Donohue:

Q. Mr. Robertson, while you have been in the Department of Labor in San Francisco since 1948—— A. That's correct.

Q. When did you first become employed in the United States Department of Labor?

A. In December, 1938.

Q. And where were you then employed?

A. In Washington, D. C.

Q. And how long did you remain employed in Washington after 1938?

A. Until 1948, at the end of June of 1948, with a period out during the war.

(Testimony of Kenneth C. Robertson.)

Q. And then you were transferred here?

A. That's correct.

Q. And the document which you brought here this afternoon you received from your superiors in Washington? [6254] A. That's correct.

Q. None of the papers which you have brought here were found in the San Francisco office of the Department of Labor, is that correct?

A. Not since I have been here. They may originally have been here as a part of the labor files, as I understand it, but they were not here.

Q. But not since you have been here?

A. They were not in the files of the department in San Francisco since I have been here.

Mr. Donohue: No further questions.

Recross-Examination

By Mr. MacInnis:

Q. When did you make the search, Mr. Robertson, to see if any of these papers were on file with the San Francisco office?

A. I made no search, because there would have been no occasion to do so, since the War Labor Board at the time it existed in San Francisco was independent of the Department of Labor and upon the dissolution of that agency, the files were recalled to Washington, D. C. and from that point transferred to the Department of Labor in Washington, D. C.

(Testimony of Kenneth C. Robertson.)

Q. How did you know that?

A. I knew that because I was in Washington, D. C. in 1947, I believe it was, when the Wage Stabilization Board, which was the successor agency to the War Labor Board was a part of the [6255] Department of Labor for housekeeping purposes and was finally dissolved, I think, in that year.

Q. Well, from your experience, Mr. Robertson, do you have some notion as to what the regulations were concerning members of the regional War Labor Boards?

A. I do not. I am sorry to say I do not.

Q. You don't know it to be a fact that members of the regional War Labor Boards did have to take oaths of office?

A. I would have assumed so from a mere examination of this file; in that file, it states that an oath was taken.

Q. Well, you know that the regulations promulgated by our government are to that effect, do you not? A. That is correct.

Q. And that the oath of office is missing from the file transmitted to you?

A. That is correct.

Mr. MacInnis: That is all.

Further Redirect Examination

By Mr. Donohue:

Q. Are you familiar, Mr. Robertson, with what the oath of office is, as distinct from the sworn statement on a Form 57?

(Testimony of Kenneth C. Robertson.)

A. I have a general recollection of what the oath of office is, and I believe since about 1940 the oath——

Mr. MacInnis: Pardon me just a minute. The regulations are printed, and would be the best evidence of this fact, Your Honor. [6256]

Mr. Donohue: You just asked him if he didn't know from his experience, a question. Why can't I do the same thing?

Mr. MacInnis: Well, I am suggesting, Your Honor, that the printed regulation would be the best evidence as to the contents of this oath.

Mr. Donohue: May I ask his question now. Withdraw the last question.

Q. To your knowledge, Mr. Robertson, would the oath of office be the same in 1945 as it was in 1942?

A. My best impression is that it was.

Mr. Donohue: Then, if Your Honor pleases, in the George Wilson file is an oath of office signed in 1945, and I am perfectly willing to agree that the same oath of office is the oath of office which would have been signed in 1942.

Mr. MacInnis: No further questions.

Mr. Donohue: Thank you so much, Mr. Robertson.

Mr. Hallinan: On this George Wilson, if the Court please, the file contains the application and oath that was taken by George Wilson. Now it states specifically and unequivocally, "Do you advocate or have you ever advocated or are you now or have you ever been a member of any organization that advocates the overthrow of the government of the United States by force or violence?" "Now are you or have you ever been a member?" And he answered it under oath, "No." And now he also, if the Court [6257] please, answers the question, "Do you use intoxicating liquors?", "Yes," marking it "Occasionally." And he gives among his references Harry Bridges, 604 Montgomery Street, San Francisco, labor official.

Now is it——

Mr. Donohue: Who else?

Mr. Hallinan: Well, he gives four others.

Mr. Donohue: Who are they?

Mr. Hallinan: Well, I don't intend to read the whole thing in. You can read them in. What I am getting at is this, if the Court please. What I am getting at is this: that we were trying to show in the examination that Wilson had filed an affidavit in which he probably denied membership in any organization advocating the overthrow of the government by force——

The Court: Pardon me, Mr. Hallinan. My recollection is that you did not address any questions to Mr. Wilson on that subject.

Mr. Hallinan: I say, to the contrary, to the contrary. While I didn't ask that exact thing, I asked him if he had filed an application at any time for a civil service job with the United States Government.

The Court: That is correct.

Mr. Hallinan: Because I knew that that was contained in it. And as soon as the witness said yes, he did, then I surmised that he had answered that question in the negative, and [6258] that that was the way they were able to force him to say what they wanted. Ergo, if I had seen this document before, I couldn't have neglected it or passed it by. I think therefore I must reaffirm what I say, that I never saw this file before.

The Court: Mr. Hallinan, neither you nor I should become intensely sensitive about our colloquy, and I am sure I didn't intend to provoke you into the tantrum that I saw exhibited here with Mr. Donohue. The same——

Mr. Hallinan: Well, now, Your Honor, I object to the use of that term "tantrum." The term comes from Mr. Donohue. Mr. Donohue is the one who started the tantrum.

The Court: To the contrary, to the contrary.

Mr. Hallinan: Of course, there are good boys around here and what they do means nothing; what the others do is given a great deal of attention.

The Court: I think we should——

Mr. Hallinan: Now I make this statement, Your Honor, and of course the thing is that from certain points of view in a court of law, one can be very urbane and very smooth and very calm about things, but when a document is first, as I contend, concealed and not produced even after the Court has ordered it, then when it was pretended that it was brought in before and contains on its face the evidence that it was not, I think that it is time to stop being so smooth and courteous and kind. We have people here whose liberties are involved in these [6259] things.

The Court: Mr. Hallinan,——

Mr. Hallinan: Mr. Donohue can afford to be quite calm. He is a little boy who is caught. Now that is my position on it and Your Honor calling my conduct a tantrum, I think, is certainly misdescribing it. I am not supposed to pretend that there is nothing to the thing except what Mr. Donohue says. So I reiterate, Your Honor, I am not—I don't—I say we had discussion about the Michener file and the Schrimpf file, and I don't believe that you looked at either one of them. I am not sure, but I don't remember they were shown to you. But I did, and I am definite that whether you saw this or not, or whether Mr. Donohue had it in the court, I never saw it before. That is all I want the record to show.

The Court: Well, Mr. Hallinan, first I will stand on the recorded transcript of the testimony. And if I be incorrect in that, I shall be very quick to make that admission. I say and repeat to you, however, it is my best recollection that Mr. Donohue had the file in his hand and sought to offer it in evidence, and I thought it was a rather unusual situation to offer a file content in evidence. You then said, as I reiterate and as I said before, you said, "I want to look at it." Now, that was the discussion, that was the George Wilson file, and that is my best recollection.

With respect to your assertion made to Mr. Donohue that he has secreted or suppressed the file, I say there is no evidence [6260] before the Court either expressly or by inference that he did suppress the Wilson file, and I admonish the jury to disregard——

Mr. Hallinan: I think, Your Honor,——

The Court: ——to disregard that phase of Mr. Hallinan's discussion.

Mr. Hallinan: Your Honor, I think that should be left to the jury whether he has produced it or not. Now we are charging some of these government officials with having suppressed a great deal of evidence, and to take part of it out like this and tell the jury that it isn't suppressed, I think is invading the province of the jury. I would ask Your Honor to withdraw that admonition, because the jury may well conclude that counsel has only brought it in at the last moment as being the lesser of two evils to him.

Now, we are entitled to argue those matters, and the Court should not remove a matter of fact like that from the jury. And furthermore, the Court might not wish to have any reflection cast on Mr. Donohue, but I don't care about Mr. Donohue, who he is or do I desire to cast any reflection on him. But I say this, Your Honor: These things don't emanate from Mr. Donohue, there are other agents of the government who have them and procure them. He may not know about it.

The Court: Mr. Hallinan, let us attempt,—and if I may proceed without interruption on your part momentarily. The charge or assertion you made that Mr. Donohue is guilty of [6261] suppression of the Wilson file is based upon your present assertion, apparently upon your present assertion, that it is produced at this late stage. I assume that is predicated, that that is the predicate for your assersion. Now, if that were the predicate for your assertion, the whole thing must fall and your assertion must fall, and your charge must fall, for the simple and obvious and apparent reason, to the Court, that this file folder was produced before; and it would seem to require no argument, if that be the fact, that the jury should be admonished to disregard your present assertion that the file folder was suppressed. And I therefore charge them accordingly.

Mr. Hallinan: But that is with the understanding that the record supports the Court's memory as against mine, that it was.

The Court: That is correct.

Mr. Hallinan: If that is so, I will be the first to apologize on this thing.

The Court: There is no apology necessary; it is a question of the verity of the record, and I stand on it.

Mr. Hallinan: Well, I will certainly be the first to admit my fault on it if that be the thing.

The Court: All right.

Mr. Donohue: Your Honor, with respect to this file, I think I should say to Your Honor that Mr. Hallinan, with respect first to the witness Schrimpf, then the witness Michener and now [6262] with the file of the witness Wilson, has drawn a conclusion which the case of the gentleman whom his client seems to know so well, Mr. Schneidermann, does not justify. And that is that as of the date and time when these affidavits were filed, that there was any adjudication anywhere to the effect that membership in the Communist Party was membership in an organization which sought to overthrow the government of the United States by force and violence. Now, of course the inference that Mr. Hallinan is trying to draw is that these people were asked whether or not they were members of the Communist Party and that they had said, "No," and for that reason that the United States was wielding or exercising some sort of duress. Now, the duress that Mr. Hallinan speaks about with respect to the witness George Wilson and which was the line taken by one of the three witnesses when they testified, wasn't, apparently followed by the other two. And now, I most respectfully say to Your Honor what Mr. Hallinan's purpose in reading the fact that Mr. Bridges was one of the persons who endorsed the application of George Wilson for federal employment——

Mr. Hallinan: I didn't say that; I said that Mr. Wilson gave his name as one of his references.

Mr. Donohue: Well, then, as I say, if Your Honor pleases, never knowing just what purpose he may have in mind, I think, since he has read the name of Mr. Bridges, that I should say to Your Honor that the application also shows as names given as [6263] references by Mr. Wilson, the name of Roger D. Lapham, City Hall, San Francisco, Mayor; Frank R. Havenner, Washington, D. C., Congressman; Frank A. Clarvoe, 812 Mission Street, San Francisco, editor San Francisco News; and William M. Malone, Mills Building, San Francisco, attorney.

The Court: I have a telephone call?

The Clerk: Long distance.

The Court: We will take a short recess, ladies and gentlemen. We will take the afternoon recess. It will be convenient now. And may I again admonish you not to discuss the case under any conditions, nor to form or express an opinion thereon until it is submitted to you.

(Recess.) [6264]

The Clerk: For the sake of the record, your Honor, your Honor asked me to look up the record as to certain matters during the recess. May I say that in Volume 40 of the reporter's transcript, Wednesday, January 25, 1950, on page 4299, the record reads as follows:

> "Mr. Donohue: If there be any further documents, we shall produce them.
>
> "Mr. Hallinan: Your Honor, another direction that was made at the same time by the Court, and it can be done at this time, is that all documents relating to the witness George Wilson be also produced. The Court made the same suggestion.

"The Court: George Wilson we approach from a different level. On George Wilson—the record is not before me——

"Mr. Hallinan: The documents are in the same category.

"Mr. Donohue: I will produce it after the 11:00 o'clock recess for George Wilson.

"Mr. Hallinan: All right. That is the whole file.

"Mr. Donohue: Yes, sir, we will offer it in evidence, if your Honor will permit me to reopen our case for that purpose.

"Mr. Hallinan: Let me ask you this—no, we had better see it. Is the Schrimpf file available? Will your Honor look at it during the recess?

"The Court: I will when it is available." [6265]

I think that is all the matter that concerns this question.

Mr. Donohue: If your Honor pleases, at this time I offer in evidence both the Michener file and the Wilson file.

Mr. Hallinan: We agree to the offer in evidence of the Wilson file, but the Michener file on its face is lacking documents. The Michener file states that there are documents lacking from it, and we object to the Michener file being produced in the form it is. We ask that this gentleman produce the entire file. For instance, the document which Mr. Wilson had to make out which contains that information that he never was a member of an organization advocating the overthrow of the Government by force and containing above it the statement that he had never been sentenced on any violation of any law except some traffic law, or something like that, that is missing from the Michener file. That is the exact thing we wanted to see in Michener's file. We know Michener answered those two questions falsely. We want that document produced here. It has not been produced.

Mr. Donohue: Mr. Hallinan is not telling the truth to the Court. He does not know that the Form 57 was signed and signed in the negative, because the record itself shows the Form 57 and it was not signed and was never signed.

Mr. Hallinan: There is an unsigned document in there. We can't accept that. We know a little better of the proceedings [6266] of the United States Government. Why should Wilson have to fill out very closely a form that stated these matters in complete detail in order to get the same job or a similar job to the one Michener had, but Michener had to fill out none? In other words, they substituted and put in here a blank document and pretend that that constitutes the Michener file. We do not accept it. Furthermore, they have no such certificate as they have affixed to the other that is the entire file.

Mr. Donohue: If your Honor please, the suggestion by Mr. Hallinan that we or anyone substituted any document for any other document is a misstatement of fact. It is untrue.

Mr. Hallinan: Now, how does he know that?

Mr. Donohue: Just as I ask you, How do you know that Mr. Michener, as you just stated to the Court and jury, signed a Form 57 in which he denied that he had ever been arrested?

Mr. Hallinan: We have our means of knowing things. We hear things. Some of your babies have been babbling around as to the reason they had to come in and testify. Mr. Michener is one of them.

Mr. Donohue: Then I think he should be asked by the Court to produce such evidence.

The Court: I will order the recall of Mr. Michener. I will order Mr. Michener recalled for further examination.

Mr. Donohue: I would be glad to have him recalled.

The Court: Is there anyone else who made any such statement [6267] as you suggest?

Mr. Hallinan: Where is the one who has not? We have claimed they all are in that category.

Mr. Donohue: I would like to call Mr. Hallinan's attention that if you will read Mr. Michener's testimony, Mr. Michener on the stand bet him a hat he had never signed the Form 57.

The Court: Recall Mr. Michener. The Michener file may be marked presently for identification. The other file is offered in toto. There is no objection to the Wilson file. It may be received. Mark the Michener file for identification pending the return of Mr. Michener to the witness stand.

The Clerk: The Wilson file may be marked Government's 37 for identification.

Mr. MacInnis: I am interested in another matter, a matter which I was about to speak before you received the telephone call before the recess.

The Court: Yes, sir.

Mr. MacInnis: Mr. Donohue had just offered the Court his observations on the significance of George Wilson's answers to the questions, and he said at that time a man could safely say the Communist Party was not one of the prohibited organizations because there had not been any such adjudication. I would like to reply to that by reminding the Court for the record, and of course I know the Court is familiar with the law that [6268] in 1940 was passed the Smith Act, which embraced by its terms any organization having for its object the overthrow of the Government by force or violence or any person affiliated therewith, and that was the act under which Harry Bridges was prosecuted. That act was in existence in 1940, and the evidence produced against Harry Bridges at that time was the same allegation that he at one time had been a member of or affiliated with the Communist Party. So the Communist Party, from the perspective of the Government, was always that type of prohibited organization. [6269]

Now, the other remark I would like to make for the record is this. In respect of the record of the witness George Wilson, Mr. Mitchell has read correctly from the record, showing that the name of Wilson does appear in this record as uttered by Mr. Donohue on January 25th of this year, 1950. Now, here on the very face of this document we find that on February 1st, 1950, at about a week later, the special prosecutor made a telegraphic request to Washington for the complete personnel file of George Wilson, and that he then received that, apparently, air mail and registered out of Washington on February the 2nd. So he would have had it by the very earliest on the evening of the 3rd or 4th of February this year. Now, I would suggest that he could hardly have had the same file in his possession on January the 25th. Whatever he referred to in the record at that time could hardly be the same document concerning this letter speaks, and the letter is here. The letter says that he made the request on February the 1st of 1950.

The Court: Mr. Donohue?

Mr. Donohue: What Mr. MacInnis fails to observe, Your Honor, is that I had a complete photostat of the file, having offered it in evidence, even though Mr. Hallinan shied away from it, on the 25th of January. I then asked for a rephotostat of the file, certified, so I can offer it in court. And the document which is here today bears the certification which I requested of Charles G. Stern, director of the Personnel and [6270] Planning Commission of the Public Housing Administration. Knowing I could not introduce the evidence without the certification, that is the reason for the request.

Mr. MacInnis: Well, let me ask the special prosecutor this: Do you contend that at any time you placed in our hands the record of George Wilson?

Mr. Donohue: Mr. MacInnis, I never said so.

Mr. Hallinan: He never said so.

Mr. MacInnis: Well, if you say you didn't——

Mr. Donohue: I told you as the record shows that you could have it at the 11:00 o'clock recess, but you saw fit to overlook it. You weren't anxious to see it.

Mr. Hallinan: Nothing further was said about it; that is all that was ever said.

Mr. MacInnis: In other words, if there is now no contention that we ever saw the record, the matter should be settled.

Mr. Hallinan: No, there should be a further concession, that the matter was not produced. If he says he did not produce the matter, it was not produced.

The Court: The only fair inference to be drawn by the Court was that the record was available. That was the basis for my position.

Mr. Hallinan: That is all right.

Mr. Donohue: May I recall the witness J. R. Robertson, or rather, the defendant J. R. Robertson for a question that I [6271] overlooked?

J. R. ROBERTSON

one of the defendants herein, recalled; previously sworn.

The Clerk: The witness on the stand is J. R. Robertson, heretofore sworn.

Cross-Examination

(Resumed)

By Mr. Donohue:

Q. Mr. Robertson, does the inspection which you made of the photostat, and in the event there should be any question about that, I have also a certified copy of the photostat—of your service in the United States Army refresh your recollection as to the fact that you joined the army on the 20th of January and that you left the army on the 22nd of July, seven months and two days later?

A. It doesn't refresh my memory at all, Mr. Donohue. I don't question the record, but I have no recollection of when I got in and when I got out.

Q. Well, in the light of your statement that you were in such a short time that you forgot it, would you consider that period of time so short a time in the army as to justify you in forgetting the fact tha you had had such service?

A. What period of time do you mean?

Q. From the 20th of January until the 22nd of July. A. That is a short period of time.

Q. Seven months and two days? [6272]

A. That's correct.

Mr. Donohue: No further questions.

Redirect Examination

By Mr. MacInnis:

Q. Mr. Robertson,——

Mr. Hallinan: It is really six months and two days.

Q. Mr. Robertson, this army service was in the year 1921?

(Testimony of J. R. Robertson.)

A. I think the record shows that. Frankly, I haven't checked it too closely.

Q. And the navy service was in 1924, is that correct? A. Yes, I think that is so.

Q. One of those dates being 29 years ago, 20 years plus, and the other being 16 years plus——

Mr. Hallinan: 26.

Q. (By Mr. MacInnis, continuing): ——Pardon me. 26 years plus, is that correct?

A. About that. I haven't figured it out.

Q. Now, after you left the navy, did you ever receive any communication from the navy?

A. Nothing, nothing.

Q. Were you ever informed that the records of the navy had marked you as one absent without leave? A. Nothing.

Q. Was any inquiry ever addressed to you in the course of your whole life about that?

A. Nothing at all. [6273]

Mr. MacInnis: That is all.

The Witness: Nothing at all.

Recross-Examination

By Mr. Donohue:

Q. Mr. Robertson, after you left the navy in 1924, did you ever have any correspondence with your mother?

A. Oh, I went home after that.

Q. Well, I call your attention to a letter in your navy file stating that the man's next of kin, mother, Mrs. Kate Robertson, had been notified of his desertion by letter and ask you if that refreshes your recollection as to whether or not your mother ever told you she was so notified by the United States Navy. (Document handed to the witness by the Clerk.)

A. I will have to get my specs. Well, this document here says that my mother had been notified, but my mother has never said anything to me, and I talked to mama since I have been on this witness stand, and she says she has no recollection of ever having received anything. That is from my mother.

Mr. Donohue: I have no further questions.

Further Redirect Examination

By Mr. MacInnis:

Q. Now, as to whether or not any communication was ever addressed to you, let me ask you if this refreshes your memory, that there was a letter written by one of the navy bureau chiefs on July 7, 1938, concerning you, saying, "His return to naval custody for disciplinary purposes is no longer desired. However, if you have knowledge of his present whereabouts, [6274] you are at liberty to inform him that if he will communicate with the Bureau requesting discharge, he will be furnished full instructions as to the procedure necessary to follow in order to obtain his discharge."

(Testimony of J. R. Robertson.)

Did you ever receive from any source, any naval bureau or any other person, those forms for discharge? A. I never received anything.

Q. Did you ever know, until the prosecutor used the word in questioning you, that you were apparently charged with desertion from the navy?

A. I sure didn't.

Q. Now, in the army your record shows an honorable discharge with your character marked "Excellent." Did your manner of leaving the navy vary in any fashion from your manner of leaving the army?

A. I did it, I did the same thing in most instances.

Further Recross-Examination

By Mr. Donohue:

Q. Is that—that is, except that in your navy record, it doesn't show an honorable discharge, does it?

A. I did the same thing, Mr. Donohue, in both instances.

Q. The navy doesn't report the——

A. And I don't remember all the details. I am telling you as I reconstruct this thing. That is the situation as it was. I bought my way out. It was legitimate, and nothing has been said down through the years about this thing. That is the way [6275] it is.

Mr. MacInnis: If you are looking for the discharge, I will show it to you.

(Testimony of J. R. Robertson.)

Mr. Donohue: No, I am looking for the letter from which you just read, Mr.——

Mr. MacInnis: Right there.

Mr. Donohue: I think I had better read the whole letter, if Your Honor pleases.

Mr. MacInnis: Well, now, this document is not in evidence.

Mr. Donohue: I know, but you read a part of it, so I think I had better read the whole of it.

"My dear sir:——"

The Witness: May I ask who the letter is from and who it is to and where they got their information? Frankly, I couldn't make it out. I read it myself, Mr. Donohue.

Mr. Donohue: I was hoping you might have asked Mr. MacInnis that, but the letter seems to have been written by J. O. Richardson.

The Witness: And who was he?

Mr. Donohue: Chief of Bureau, A. M. Bledsoe, by direction Chief of Police, New Orleans, Louisiana.

The Witness: No; who was it to and who was it from?

Mr. Donohue: That, Mr. Robertson, I can't tell you.

The Witness: Well, I couldn't figure it out either.

Mr. Donohue: I want to read you a letter from which Mr. [6276] MacInnis read a part, and the letter reads:

"My dear sir:——"

(Testimony of J. R. Robertson.)

The Witness: And when is the letter dated?

Mr. Donohue: 7 July 1938.

The Witness: That is just after I was beaten up in New Orleans by the cops. I remember it. I remember the day, I remember the period quite well.

Mr. MacInnis: Pardon me. I think this, Your Honor: that the previous two purposes, one by the prosecutor and one by myself, of calling the attention of Mr. Robertson to portions of this file was upon the avowed purpose of refreshing his recollection. Now he can show him this letter, but that is hardly an excuse to read from the letter or to read it in its entirety over objection.

Mr. Donohue: Well, why did you read from it, Mr. MacInnis?

Mr. MacInnis: You didn't make any objection.

Mr. Donohue: Well, you shouldn't object to my reading the rest of it, then.

Mr. MacInnis: I am not bound by your conduct. It is not of any importance, but the matter is not evidence, Your Honor.

Mr. Donohue: Oh, I won't read it, then. That is all, Mr. Robertson.

Would you call Mr. Lawrence Armond, please, who I think is in the hall?

The Clerk: Call Mr. Armond. [6277]

LAWRENCE C. ARMOND

called on behalf of the United States; sworn.

The Clerk: Will you state your full name to the Court and jury?

A. Lawrence C. Armond.

Q. Will you spell your last name, please?

A. A-r-m-o-n-d.

The Clerk: Lawrence C. Armond.

Direct Examination

By Mr. Donohue:

Q. And where do you live, Mr. Armond?

A. San Mateo.

Q. And what is your business or occupation?

A. I am with the United Air Lines.

Q. And how long have you been with the United Air Lines? A. About 17 years.

Q. After examination by counsel, I want to hand you what is captioned "June '36, the Official Aviation Guide of the Airways," and ask you a question.

(Document examined by defense counsel.)

Mr. MacInnis: Well, I don't propose to read the book. It covers all of the airlines in the United States about proposed schedules, but I see what the book is.

Mr. Donohue: Would you ask the witness to look at the book?

(Document handed to the witness by the Clerk.) [6278]

Q. (By Mr. Donohue, continuing): What is that which you have in your hand, Mr. Armond?

A. This is the Official Aviation Guide that was used by all air transport companies in that year as a reference periodical for ascertaining schedules.

Q. Would you refer to that guide and tell us what the air schedule flight and time was from San Francisco to New York City in June of 1936?

Mr. MacInnis: Pardon me. If the Court please, this question obviously calls for hearsay. There is no foundation whatsoever laid. If we have the particular flight records of the week involved, why, that of course could be received in evidence. But this is a hearsay document, it deals with proposed schedules, and there is no foundation at all that would allow this witness, despite his years of service with airlines, to read from a booklet and tell us what the schedules were in 1936. There would be little provative value, but the main objection would be that is based on hearsay, without any proper foundation. Now, a witness may refresh his memory by use of a document for direct testimony only in certain instances, particularly if a memorandum is prepared by himself or under his direction, and constitutes his entire recollection. This, I take it, is not one of those instances, and that foundation has not been laid and we hence make the objection.

The Court: Well, time tables and the like are taken prima [6279] facie, as I recall the law, until some rebuttal testimony is shown, or some negative testimony is shown. I assume that this is just an attempt to lay the foundation for the prima facie showing, is that right?

Mr. Donohue: Yes, your Honor, and I simply want the witness to refresh his recollection by reference to that airline schedule and tell us from his long experience, if he can, what the schedule between San Francisco and New York was in June of 1936.

The Court: Very well.

A. I can, sir, tell you what the schedules were on those days. This is a publication that has been in use for a great many years, and as I mentioned, has been the book from which we quote schedules to anyone inquiring. There were three daily schedules in each direction in this month. Do you want me to give you the departure hours and arrival hours?

Q. If you would.

A. First schedule of the day left San Francisco at 1:00 p.m. and arrived in New York at 8:45 the following morning. The second one left San Francisco at 6:45 p.m., arrived in New York at 2:30 the following afternoon. There was a third one, which left San Francisco at 11:00 p.m. and arrived at New York at 7:15 the following evening. There were three schedules also returning. Do you want those?

Q. Would you give us the return schedules, too, please? [6280]

A. The first one left New York at 8:30 in the morning and arrived back in San Francisco at 1:26

(Testimony of Lawrence C. Armond.)

a.m. the following morning. A second one left New York at 4:30, arrived at San Francisco at 9:16 a.m. the next morning.

Mr. Paisley: 4:30 what? a.m. or p.m.?

Q. (By Mr. Donohue): A.m. or p.m.?

A. Left New York at 4:30 p.m., arrived at San Francisco at 9:16 the following morning. The third one left New York at 11:00 p.m., arrived at San Francisco at 4:11 p.m.

Q. Can you tell us, Mr. Armond, from your experience with the airlines whether or not at that time schedules were pretty well maintained?

Mr. MacInnis: Pardon me. Now, your Honor, that obviously calls for speculation.

The Court: Yes, it does. You might, if you have any records available, determine whether or not there were any conditions of an unusual nature during that period of time or the like.

Mr. MacInnis: If there are any flight records, we would be very glad to receive them.

Q. (By Mr. Donohue): To your knowledge, are there any flight records available as of that time, Mr. Armond?

A. Not to my knowledge. However, that is not a record that I have had much experience with. I know of them, but you would want other men to produce those, I am sure. [6281]

Q. Were you with the air lines in 1936?

A. I was.

Q. To what air line were you then attached?

A. The United Air Lines.

Mr. Donohue: I submit, if your Honor please, from his own experience with the air line in 1936 he is qualified, if he recalls or can tell us whether or not at that time schedules were maintained or were not maintained.

Mr. MacInnis: Of course, your Honor, that would hardly be a subject for expert testimony in the first place, and in the second place, we have not been given the particular job which this witness had at that time, whether he supervised the flight schedules, the departures, the arrivals, and so forth.

Q. (By Mr. Donohue): What was your occupation at that time with United, Mr. Armond?

A. Basically the same as it is now. My present title is Staff Superintendent, Telephone Sales, and the group I supervise today is charged with the responsibility of providing accurate information on future schedules and the delivery of those schedules, as we call it, on a day-to-day basis, handling inquiries as to when flights are going to arrive.

Q. That was essentially your occupation or your assignment in 1936? A. That is correct.

Mr. Donohue: I submit, if your Honor please, the man is [6282] qualified. May I withdraw that and ask another question?

Q. Did you personally handle flights of the Transcontinental Lines in 1936?

A. No, my travel in 1936 was coastwise.

Q. Then I will ask you this question. Don't answer until the Court has had an opportunity to rule.

(Testimony of Lawrence C. Armond.)
From your experience with the air lines in 1936 are you able to tell us whether or not the transcontinental schedules maintained, or to what degree of accuracy with respect to their scheduled operations did they maintain that schedule?

Mr. MacInnis: The same objection, your Honor.

The Court: You may answer as a general proposition.

A. It could be nothing else but general. I do recall the advertising claim, which I believe to be true, on the part of most air lines then that they were completing better than 95 per cent of their schedules. However, that does not imply completion on time. That is completing at some time. I would be only guessing, and one which I do not frankly feel too well qualified to say, as to what per cent were on time. That is as close as I can come.

Cross-Examination

By Mr. MacInnis:

Q. Mr. Armond, who first contacted you in this case? A. A Mr. Kesler.

Q. How long ago was that?

A. I would guess a month or a little more. [6283]

Q. Was he alone when he first saw you or did he have someone else with him?

A. He was alone, as far as I recall.

Q. Did you see him once or more than once?

A. I believe I have seen him twice, today being the second time.

(Testimony of Lawrence C. Armond.)

Q. Were you served with some subpoena?

A. I was.

Q. Requiring you to attend here today?

A. That is correct.

Q. When you were first approached by this Mr. Kesler did he ask you to inquire into all available records to see if you could give some fairly specific information on flight schedules in 1936 in the month of June?

A. He asked what records were available.

Q. Is the book that you brought with you today about the only record that is available?

A. This?

Q. Yes. A. I didn't bring this, sir.

Q. I understood you to——

A. No, there are many copies of this in existence, I presume. I know another one is in our library in Chicago.

Q. Is that document the only record that was available?

A. You are inquiring now about locally? [6284]

Q. I was speaking only of transcontinental flights from San Francisco to New York and return.

A. United Air Lines had no records here that I was able to locate of the flights of that year. Does that answer your question?

Q. Yes. Before coming here had you consulted the record before you, that is, the booklet to which you refer? A. Yes.

Q. Where did you do that?

(Testimony of Lawrence C. Armond.)

A. In a room down the hall here.

Q. You mean you came here and sometime before you took the witness stand some person connected with the prosecution asked you to look over that book? A. Rather naturally, yes, sir.

Q. Hadn't you seen it before you came here?

A. This book? Oh, surely.

Q. I don't mean the precise copy.

A. I have seen hundreds of these; work with them every day.

Q. Had you made any independent investigation as to what that book showed as to transcontinental flights in June, 1936?

A. No, sir, I have not, but my memory is pretty—I mean, when you have worked in a business that long you remember those things as they developed pretty well. These schedules are correct.

Q. So far as the schedules themselves were concerned. [6285] A. That is correct.

Q. In other words, there would be bound to be certain variations in schedule depending on many factors; isn't that true?

A. Weather, mechanical delays, and what not.

Q. Yes. A. Certainly.

Q. In other words, even today, fourteen years later, air line schedules are not perfect, are they?

A. I am afraid you are right, sir.

Q. Would you say, Mr. Armond, that air line schedules have improved over the last fourteen years? A. Definitely.

(Testimony of Lawrence C. Armond.)

Q. In other words, the schedules that we meet now, and which we find when we engage in air travel, are infinitely better than they were in 1936, isn't that true?

A. The schedules are faster, definitely.

Q. And there are less delays today, are there not?

A. In the last year that is true.

Q. Where did airplanes land in New York in June of 1936?

A. This book refreshes my memory on that. Newark Airport was the only one used by commercial planes in that year.

Q. From Newark, which is in New Jersey, one would have to traverse or go under the Hudson River to get into New York?

A. Yes, they use the Pulaski Skyway and the Holland Tunnel, that is correct. [6286]

Q. Was the Holland Tunnel finished in 1936?

A. Yes.

Q. And how long would it take a person from the Newark, New Jersey, airport to get into metropolitan New York? I shouldn't say metropolitan New York; I will say downtown Manhattan.

A. At the time the accepted quoted time for that transaction is an hour. Actually it is a little bit less, but for rough purposes that would take him in to his actual destination as a rule.

Q. In other words, the limousine which I suppose was used in 1936 was marked as taking an hour, although you say it could make it in less, from the Newark, New Jersey, airport to some point in midtown Manhattan, is that correct?

(Testimony of Lawrence C. Armond.)

A. That is right. [6287]

Q. There would be some necessary delay, in any event, between the landing of any plane and the start of the limousine from the airport?

A. That hour generally includes the time for delivery of the baggage at the landing. An hour should take you to your destination.

Q. According to all the information in your possession, there are no accurate records possessed by United Airlines concerning actual flight, departures and arrivals, at that time?

A. To the best of my knowledge, there are none here. I do not know of any other upon search at any point.

Q. And when you give us these various periods of time, the departure from San Francisco and arrival time in New York, for example, do you take into consideration the three hour differential in time?

A. Yes. I should have mentioned that the schedules that I read from this guide use Pacific Standard Time in San Francisco and Eastern Standard Time in New York, which makes your transit about 17 hours eastbound, about 19 hours westbound.

Q. In other words, actual flying time, if the schedule was perfect, would be 17 hours in the air going east and 19 hours in the air coming west?

A. Approximately.

Q. You would answer that the time spent in travel, and you would answer that any necessary or unforeseen delays? [6288]

(Testimony of Lawrence C. Armond.)

A. You would add to that if you wanted to establish the total amount of time required, yes, sir.

Q. The least total time which you could figure if the schedule were perfect from San Francisco to New York would be 17 hours in the air plus whatever time a person consumed going to and from airports, and having in mind in New York the landing field was at Newark, New Jersey?

A. That is correct.

Q. And coming west there would be two hours added to that, making it 19 hours, plus the travel time——

A. Due to prevailing westerly winds, that is true.

Mr. MacInnis: That is all.

Mr. Donohue: No further questions. Thank you, sir.

I would like to have this marked only for identification, if your Honor please.

The Court: It may be marked for identification only.

(The Airline schedule referred to was thereupon marked United States Exhibit No. 39 for identification.)

Mr. Donohue: We have no further witness available at the moment, if your Honor please, and at this time I respectfully ask your Honor to give us an adjournment until Monday morning, when we shall be able to proceed without further delay.

Mr. MacInnis: Of course, that matter again is entirely within your Honor's discretion. We would prefer to go ahead, but only for the purpose of going ahead. We have no other reason [6289] if your Honor feels inclined to grant the request, of course our objection would not be one based upon any rule of law. We would like to go ahead but it is within your Honor's discretion.

The Court: Friday afternoon Mr. Mitchell scheduled several criminal cases.

The Clerk: If I may for the sake of the record say, your Honor, there is a very important habeas corpus matter concerning an inmate of Alcatraz that I should like to put on your Honor's calendar for tomorrow morning.

The Court: Mr. Karesh and Mr. Zirpoli

The Clerk: Yes, your Honor, and the [illegible] e some four other cases that I think might take the day.

The Court: Under the circumstances the request is granted, and we will adjourn this case then until Monday, tomorrow being Friday, Monday at 10:00 o'clock. Accordingly, ladies and gentlemen of the jury, this case and the Court in this matter will stand adjourned until next Monday, February 27th, at 10:00 o'clock. There will be no court tomorrow, Friday; next Monday at 10:00 o'clock and I again admonish you not to discuss the case under any conditions nor to form or express an opinion on the matter until it is finally submitted to you, and not to suffer any person to converse with you on any subject of the case.

(Thereupon an adjournment was taken to Monday, February 27, 1950, at 10:00 o'clock a.m.) [6290]

Monday, February 27, 1950—10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: May I proceed, your honor?

The Court: Yes, sir.

Mr. Donohue: Would you call Mr. Mervyn Rathborne.

MERVYN RATHBORNE

called for the government in rebuttal; sworn.

The Clerk: Will you state your full name.

The Witness: My name is Mervyn Rathborne.

Direct Examination

By Mr. Donohue:

Q. Where do you live, Mr. Rathborne?

A. I live in Half Moon Bay, off Kelly Street.

Q. How long have you lived there?

A. At that particular address I have lived there about approximately three years.

Q. Are you a married man, Mr. Rathborne?

A. Yes, sir, I am.

Q. Of what does your family consist?

A. My wife and two children.

Q. Where were you born, Mr. Rathborne?

A. I was born in Santa Monica, California.

Q. And when? [6291]

A. June 3, 1905.

Q. Will you briefly tell us the extent of your formal education or schooling.

(Testimony of Mervyn Rathborne.)

A. Well, I went to the various public and private schools in Southern California, Los Angeles, and later took a course in radio, and then went to sea for a while and alternated between going to sea and going back to school, and I completed high school and some college work.

Q. At any time did you do any study and preparation for the teaching profession?

A. I did.

Q. What was that study and to what extent did you qualify?

A. I took some special courses in connection with getting a state vocational teacher's credential, and I think it was in 1930 or 1931 I completed the work satisfactorily and obtained a California State vocational teacher's credential.

Q. Did you exercise the privilege granted by that certificate? A. I did.

Q. In what manner, Mr. Rathborne?

A. Well, I taught courses in electrical work and radio work and theory in two of the public schools in Southern California.

Q. How long did that continue?

A. For two years.

Q. Did there come a time when you came to San Francisco. A. I did. [6292]

Q. Approximately when?

A. My recollection is it was in the spring of 1934.

Q. In what occupation were you then engaged?

A. Shortly after I arrived in San Francisco I

(Testimony of Mervyn Rathborne.)

was employed by the Mackay Radio and Telegraph Company as a radio engineer in their station down near Half Moon Bay, about seven miles south of Half Moon Bay.

Q. How long did you work for the Mackay Radio Corporation?

A. A few months; I believe four or five months. I am not certain of that.

Q. What were the circumstances under which you left that occupation?

A. Well, at that time the union activity was being carried on among the employees of that station, and I was quite active in that work, and I was given notice that my employment was terminated. The notice given me was it was a staff reduction. My opinion and the opinion of the other fellows who worked was because I had been active in union organizing.

Q. Were you then a member of a union, Mr. Rathborne? A. I was.

Q. Of what union were you then a member?

A. An organization known as the American Radio Telegraphists' Association.

Q. When you left your employment with Mackay, what occupation did you then follow?

A. At that time when I worked with Mackay the 1934 maritime [6293] strike was going on, and shortly after I left Mackay I shipped out as radio officer on the President Adams, I think it was, on a trip around the world that took a little over three months.

Q. And when you returned were you still in the calendar year of 1934, as you recall it?

A. My recollection is it was late in 1934 when I returned. I believe it was November.

Q. That was about the time you got married, wasn't it, Mr. Rathborne?

A. I got married on December 1, 1934.

Q. Then what was your next occupation?

A. I came ashore here in San Francisco and went to work on a volunteer basis in the union that I had been a member of, the ARTA, and completed that activity of trying to organize radio men on the ships particularly and also in the station to shore for some time.

Q. Did there come a time when you became a full-time employee of the American Radio Telegraphists' Association? A. Yes, there did.

Q. When, Mr. Rathborne?

A. Sometime in 1935, I believe in the early part of 1935. The then secretary, Mr. Pyle, was elected to national office in the organization and I was named as acting secretary of that organization, Local 3, here in San Francisco.

Q. Did you later become full-time secretary rather than acting [6294] secretary?

A. At the next election I was a candidate and was elected to the regular secretary job.

Q. Was that at the 1935 convention of your union?

A. No, the election took place by referendum

(Testimony of Mervyn Rathborne.)

vote of the membership, and I believe there was an election in 1935; at least I recall I was elected by the membership.

Q. In that same year did you assume any other position with any other organization, Mr. Rathborne, 1935?

A. Yes. That year the Maritime Federation of the Pacific was founded and there were district councils, local councils of that organization set up in various ports along the Pacific Coast, and one was set up in San Francisco. At that time I was designated as secretary-treasurer of this council in San Francisco, the Martitime Federation.

Q. Was that District Council No. 2 of the Maritime Federation of the Pacific, do you recall?

A. I believe the full name was the San Francisco District Council No. 2, Maritime Federation of the Pacific.

Q. And at the time when you were elected secretary-treasurer who was the president of San Francisco District Council No. 2?

A. At the same time I was elected secretary-treasurer, Mr. Bridges was elected president or chairman of the Council. [6295]

Q. And in what year was that, Mr. Rathborne?

A. It was in 1935.

Q. Had you met Mr. Bridges prior to the time of your dual election to these two positions with the District Council No. 2?

A. Yes, I did.

(Testimony of Mervyn Rathborne.)

Q. Under what circumstances had you met Mr. Bridges before, Mr. Rathborne?

A. My recollection is that after I returned from this trip around the world, and I was working in the union, I went out to lunch one day with Mr. Pyle down to a restaurant down on lower Market Street near the Embarcadero. I think it was the Cooperative Restaurant. I am not certain. Anyway, it was on the south side of Market Street a few doors from the Embarcadero. And while we went into the restaurant Mr. Bridges was sitting there having lunch, and Mr. Pyle introduced me to him.

Q. Now, you continued, I take it, then, as secretary-treasurer of the San Francisco Council or District No. 2 of the Maritime Federation of the Pacific, and at the same time with the secretary of Local 3 of the ARTA? A. That's right.

Q. And did you continue in those two occupations during the period of the 1936-1937 strike?

A. Not during the entire period, no. I left San Francisco for New York early in 1936.

Q. Early in '36? [6296]

A. Early in 1937, I believe. That's right, '37.

Q. When is your best recollection as to the time when the '36 strike began?

A. My recollection is that it began either late October or early November and continued until about February.

Q. And was the strike still in progress at the time when you left San Francisco for New York?

(Testimony of Mervyn Rathborne.)

A. It was.

Q. Now, during the period of the strike did you occupy any position with respect to the strike?

A. Yes, the District Council of the Federation, District Council No. 2, became the joint strike committee for the San Francisco area by action of the unions. And the officers of the Council became officers of the strike committee.

Q. And then I take it that during the '36-'37 strike, at least while you were in San Francisco, that Mr. Bridges was the president of the joint strike committee for San Francisco and you were the secretary of that committee?

A. That's right.

Q. Now, what is your best recollection as to the time when you left San Francisco?

A. My recollection is it was early in '37, I believe January.

Q. And will you tell us the circumstances under which you left San Francisco and where you went?

A. Well, in 1936 the union to which I belonged, the ARTA, held [6297] national elections and my name was on the ballot for president of the organization, and I was elected president, and I was supposed to have taken office late in '36; but because of the strike here on the West Coast, the retiring president, Mr. Haddock, consented to remain in office until the strike was over and until I could leave to go to New York and take the job there.

Q. Then you did go to New York early in '37 as president of the American Radio Telegraphers Association?

A. That's right. As president-elect. I mean, I actually didn't take office until I——

Q. Reached New York?

A. Reached New York.

Q. Now, did there come a time when the American Radio Telegraphers Association changed its name? Did it become any other organization?

A. Yes, it changed its name at a national convention held in New York, I believe in '38. I am not certain as to the date.

Q. And what organization did it then become?

A. Changed its name to the American Communications Association, or known as the ACA.

Q. And did you continue as president of the organization under its new name? A. I did.

Q. Did there come a time, Mr. Rathborne, when the ARTA or its [6298] successor, the American Communications Association, became affiliated with the CIO? A. Yes.

Q. When was that, Mr. Rathborne?

A. Well, it was shortly after I got to New York, because I recall one of the first things that I did was talk to Mr. Haddock about the need for affiliation. Our organization was non-affiliated at the time, although we had entered into an understanding with the Commercial Telegraphers Union of the A. F. of L. to affiliate with them. But the Commercial Telegraphers Union raised certain demands or certain additional requirements for our affiliation, and it

(Testimony of Mervyn Rathborne.)

appeared that affiliation was not possible. Therefore Mr. Haddock and I talked it over and we made arrangements to talk to John L. Lewis, who was then chairman of the newly formed Committee for Industrial Organizations. We went down to Washington early in '37 and talked to Mr. Lewis about it, and after going through certain motions within the organization to get approval to apply for affiliation, we applied and our affiliation to the CIO was accepted. I believe it was April or May of 1937.

Q. That wasn't too long after you went to New York as president-elect of the ARTA, was it?

A. It was a few months.

Q. Does the American Communications Association still exist? A. Yes. [6299]

Q. Same organization, as an organization?

A. It does.

Q. And is it still affiliated with the CIO?

A. Yes, it is.

Q. As president of the ARTA and subsequently of the ACA, and subsequent to its affiliation with the CIO, did you then occupy any position with the CIO?

A. Yes, I occupied a couple of positions.

Q. What were they, Mr. Rathborne?

A. Well, the CIO, when it was formally organized at its first constitutional convention, set up an executive board, a national executive board, consisting of the officers of the CIO—that is, the president and the secretary-treasurer and I believe the vice president, plus one representative from each

(Testimony of Mervyn Rathborne.)

affiliated organization such as the Steel Workers and the Auto Workers and the Longshoremen, and so on. And at a convention of my union, I was designated to represent my union on an executive board ~~of~~ the national CIO, and I served in that capacity from the time the executive board was set up until I left the East. And in addition to that,—

Q. That was during what years, Mr. Rathborne?

A. Well, it was from the first convention at Pittsburgh, when the constitution was adopted, up until the end of 1940.

Q. How many CIO conventions do you recall having attended, national conventions, at which time you were then a member of [6300] the executive board of the CIO? A. Two or three.

Q. Do you know, Mr. Rathborne, whether or not at the time you were a member of the executive board of the national CIO, that Mr. Bridges was also a member of the executive board of the CIO?

A. Yes, after his union became affiliated, I believe he was designated by his organization to serve on the national CIO executive board.

Q. Do you recall having seen Mr. Bridges and talked with him at any of the conventions you may have attended between '38 and '40 at which time you were both members of the executive board of the CIO? A. Yes, I do.

Q. Now, there came a time, Mr. Rathborne, when you left New York and returned to California? A. That's right.

(Testimony of Mervyn Rathborne.)

Q. When was that, Mr. Rathborne?

A. That was late in 1940, right after the 1940 CIO convention in Atlantic City.

Q. Did you attend that convention in Atlantic City? A. I did.

Q. And you returned thereafter, I take it, to California? A. Yes, I did.

Q. What were the circumstances or the reasons for your leaving the presidency of your union in New York and returning to [6301] California?

A. Well, because of the pressure of work and so on and so forth, I became rather ill and I was unable to carry on my duties as president of the ACA in the manner in which I thought they should be carried on. And I also had medical advice that I had to slow down and take it easy, and take a long rest. And in light of that situation, I tendered my resignation to the executive board of my union and came back to California.

Q. Now, when, to your best recollection, was it that you returned to California?

A. At the end of 1940.

Q. And where did you go to live when you returned to California?

A. I went down to live in the Coast side of San Mateo County for a while. We lived in Half Moon Bay and then we later on moved to a place called Moss Beach, which is about five or six miles north of there.

Q. And how long did you continue on your return unemployed?

(Testimony of Mervyn Rathborne.)

A. It was a matter of, I believe, three or four months; I am not certain.

Q. Then what employment did you take?

A. An opportunity was offered me to become the secretary-treasurer of the San Francisco CIO Council and I became a delegate to that Council and was elected to that job and started working [6302] at it.

Q. When you say an opportunity came to you to become secretary-treasurer of the San Francisco CIO Council, can you recall in what form or who notified you or who advised you as to that possibility?

A. Well, when I returned from the East, my intention was to either go back to sea as a radio operator or to become a commercial fisherman at Half Moon Bay. I had no intention of coming back into the labor movement because of the problems I had had with my health and it was too strenuous, and medical advice had been given to me. I was, however, subsequently, during the period I was in Half Moon Bay contacted by a number of people who came down to see me and asked me if I would be interested in taking that job, if I would be willing to take it, and in fact, suggesting rather strongly that I had better take it.

Q. And what did you do in order to qualify yourself for taking that position, Mr. Rathborne?

A. Well, I had during the time I was in New York transferred my membership from Local 3 of the ARTA, which is the Marine Radio Operators

(Testimony of Mervyn Rathborne.)

local to Local 9; the reason being that my license as a radio operator had expired, and eligibility for membership in Local 3, one of the requirements was to have such a license. So I transferred to Local 9, and when I came back here after the request was made that I run for the secretary-treasurer of the San Francisco CIO Council, I attended a meeting of my local at which they elected me as a delegate to the Council and I believe it was the first night I attended the Council I was also as a delegate elected as secretary-treasurer. [6303]

Q. Now, how long did you continue as secretary-treasurer of the San Francisco CIO Council?

A. My recollection is about two years, sometime, I believe, in 1942.

Q. Do you recall who was president of the San Francisco CIO Council at the time when you were secretary-treasurer?

A. During part of the time—I am not sure whether it was all the time, but at least during part of the time George Wilson was the president.

Q. What was your next occupation after you left the position as secretary-treasurer of the San Francisco CIO Council?

A. The next occupation I had was as secretary-treasurer of the California CIO Council.

Q. Will you tell us how you became secretary-treasurer of the California CIO Council?

A. Well, it is a rather involved story. Mr. Goldblatt, Lou Goldblatt, at that time was the secretary-treasurer of the Council. His international organization, the ILWU, wanted Mr. Goldblatt to work

(Testimony of Mervyn Rathborne.)

for them full time, to relinquish his job as the secretary-treasurer of the California CIO Council, and Mr. Goldblatt discussed it with me and a number of other people discussed it with me, and finally it was decided that I should take the job and replace Mr. Goldblatt in that position.

Q. When, as you now recall it, was it that you first took over [6304] your duties as secretary-treasurer of the California CIO Council?

A. My recollection on that point is it was sometime early in '42.

Q. And I take it the California CIO Council encompassed the entire State of California?

A. Yes, that was the body established by the national CIO to coordinate the activities of the CIO on a statewide basis, in California and in the other states in which the council was set up, to carry out the CIO policy, and to forward the objectives of the national CIO.

Q. Over how long a period following 1942 was it that you continued as secretary-treasurer of the California CIO Council?

A. Until the later part of 1947.

Q. And what were the circumstances under which you left the California CIO Council?

A. The circumstances were that I was not a delegate to the last convention, was not eligible for election to office, and was not interested in being elected to office in the organization.

Q. You did not stand for reelection in the convention of 1946? A. In 1946 I did.

(Testimony of Mervyn Rathborne.)

Q. But not 1947? A. No, I did not.

Q. Since you have left the position as secretary-treasurer of the California CIO Council in 1947 what has been your occupation? [6305]

A. Well, right after leaving the Council I went to radio school here in San Francisco, took a refresher course, and got my radio officer's license back, and early in 1948 I shipped out as a radio officer on the President Madison and was employed in that capacity except during the period of the '48 strike, until May of 1949.

Q. Mr. Rathborne, during the time that you were in New York and as national president of the American Communications Association were you appointed to any position by the government of the United States?

A. Yes, during the time in the early years of the CIO John L. Lewis and the CIO made available to our union a considerable sum of money to pay for organizers to organize other branches of the communications industry, particularly the telegraph, Postal Telegraph and Western Union, and other branches like what is known as point-to-point broadcast, and so on; and in connection with this work our organization became quite active in helping to organize telegraph messengers, and that was the days before the wages and hours law, and those boys were getting in those days—I believe the average take-home pay nationally was about $6 a week—and we were trying to correct that situation, and in connection with that work with the telegraph

(Testimony of Mervyn Rathborne.)

messengers I came into contact with a number of youth organizations and with the program of the NYA, National Youth Administration, and we had a number of quite successful strikes [6306] among the telegraph messengers, and we were also able to lobby in Washington to have the telegraph messengers included under the 25-cent-an-hour minimum in the Wages and Hours bill, which was in the process of being passed by Congress. There were several amendments to leave them out, and through aid from other organizations and support from the Department of Labor, the program of our union plus the groups it was working with succeeded and we had them included in the 25-cent minimum wage bracket.

As a result of this work I came in contact with the officials of the National Youth Administration and with Mrs. Roosevelt, and some time after these events that I have related I received a letter from the President asking me if I would serve on the National Youth—on the National Advisory Board for the National Youth Administration.

Q. And you did so serve for some period of time? A. I did, yes.

Q. During the period of time when you were here in California as secretary-treasurer of the California CIO Council were you appointed by the government to any Federal board here in California?

A. During the war I served as a member of

(Testimony of Mervyn Rathborne.)

the—I believe they call it the District—District Labor-Management Committee of the War Manpower Commission. I also served as an alternate member of the larger commission, the Regional Labor-Management [6307] Committee of the War Manpower Commission.

Q. Were you ever the labor panel member of the War Labor Board? A. Yes, I was.

Q. Sometime during the year 1945 and while you were still occupying the position of secretary-treasurer of the California CIO Council, did you make a trip into the Pacific? A. Yes, I did.

Q. What were the circumstances under which that trip was made and by whose appointment?

A. At that time the war in Europe was on its last lap. Everybody was pretty sure it would be won and the military authorities in conversations we had had with them on various occasions had expressed considerable fear that when the war in Europe was won there would be a reaction in this country that the war in the Pacific is just a minor affair and there might be a tremendous letdown, particularly in production, and also in public interest. And conversations of that time went on for a period of time, and finally, after discussing these problems, it was determined that one of the ways of counteracting the situation would be to send a group of Pacific Coast labor representatives out to the Pacific to the battle areas to see how tough the going was out there, how the things that were being produced in this country were being used by the fighting forces, what the morale of the fighting forces was like, and also to let the fellows out there know that labor and the people generally [6308] in the states were behind them, because apparently there were some morale problems involved, and also for this group to report back to various organizations and groups of their experiences and what they saw, and in that way give a closer contact between the fellows who were actually doing the fighting and the dying and the fellows who were—officials of the labor organizations whose members were doing the producing of the materials of war.

Q. How large was that group, Mr. Rathborne?

A. That group was ten.

Q. And you served as a member of that group?

A. That is right.

Q. On your return what did you do about what you had seen or heard?

A. Well, the invitation that was extended to us to go on the trip was extended jointly by the Secretary of the Army and the Secretary of the Navy, and as a part of that invitation we had the responsibility to report on what we had seen, and all of us made a joint report, which was quite widely publicized, and in addition each one of us wrote stories for various labor publications particularly, and we were interviewed by the newspapers and gave reports on what we had observed.

Q. Did you make any report to the California Assembly?

(Testimony of Mervyn Rathborne.)

A. Yes. Shortly after we returned the Assembly was in session in Sacramento, the State Legislature, and a resolution was [6309] adopted requesting members who had made this tour to come up and make a report to the State Assembly, and the naval officer who accompanied us requested Mr.—he was a fellow in the AFL Building Trades—I can't remember his name—anyway, one of the AFL representatives and myself to come up to Sacramento and report to the State Assembly, which we did.

Q. Mr. Rathborne, did there come a time in your experience when you made an application or made application to join the Communist Party?

A. Yes.

Q. When and under what circumstances?

A. Well, that occurred early in 1935. I was, as I related, active in the work of my union——

Mr. Hallinan: Just a minute. I object. The question has been answered, your Honor.

The Court: Yes.

Mr. Donohue: I asked him to explain the circumstances, if your Honor please.

Mr. Hallinan: We will object to the circumstances as not binding on the defendants. The fact that he joined is sufficient.

Q. (By Mr. Donohue): What did you do, Mr. Rathborne, in order to become a member of the Communist Party?

A. Well, one of the things I did was to sign the application.

(Testimony of Mervyn Rathborne.)

Q. Do you know to whom you delivered that application after you [6310] signed it?

A. The application was given to me by a Mr. Pyle, Lee Pyle. I signed it and gave it back to him.

Q. Did there come subsequently a time—and this was in what year? A. '35.

Q. Did there come subsequently a time when you received a membership book or card?

A. Yes, shortly after I joined I started attending what was known as new members' classes, and during that period, sometime during that period, I was given a membership book, I believe.

Q. At the time you made application and received a membership card in the Communist Party, did you make application in your own name or in some other name?

A. I made application in another name.

Q. What was that name, Mr. Rathborne?

A. James Jennings.

Q. Why did you make application in the name other than your own?

Mr. Hallinan: I object to that as incompetent, irrelevant and immaterial, if the court please.

The Court: Overruled.

Mr. Donhue: You may answer, Mr. Rathborne.

A. There were a number of reasons for that. First, I was [6311] advised by a fellow by the name of Elmer Hanoff, who was——

Mr. Hallinan: Just a minute. I object to this, your Honor, as calling for hearsay. It is out of the defendants' presence, not binding on them.

(Testimony of Mervyn Rathborne.)

Mr. Donohue: I assume, if your Honor please, the purpose of this testimony is not to bind the defendants but is merely to qualify the witness as a member of the Communist Party familiar with its——

The Court: We had a ruling heretofore on the matter, and I ruled that the evidence along this line was admissible, not as binding upon the defendants at bar, but for the purposes as announced by Mr. Donohue. We had a stipulation also on the subject.

Mr. Hallinan: Yes.

The Court: Do you wish to engage in the same stipulation?

Mr. Hallinan: Yes, I will do that. We will have the stipulation that the objections are made that this is hearsay, calling for the opinion and conclusion of the witness, res inter alios acta, and we won't have to repeat it to each question.

The Court: I will make the same order on the same stipulation.

Q. (By Mr. Donohue): Will you state now the reasons for your seeking membership or applying for membership in the Communist Party under a name other than your own? [6312]

Mr. Hallinan: If the Court please, there is another objection to this matter, and while I assume that the preceding matters were all preliminary, that is, leading up to background, and so forth, isn't this the rule, that rebuttal testimony must be directed to new or different kind of testimony introduced in the defense, and that the prosecution cannot simply reopen its case and start putting in new evidence to the same effect? Now, the only new evidence that has been introduced by the defendants related to reputation evidence and evidence establishing that Harry Bridges was in Stockton or in San Francisco at the time he was testified by Johnson and Crouch to have been in New York, and that is the only testimony to which rebuttal can be properly directed. They have no right to simply hold witnesses out and then reopen their case and start the entire case all over again, which seems to be what this gentleman is leading up to.

Mr. Donohue: I have in mind, if your Honor pleases, thus far only qualifying the witness. I have asked him no questions concerning his testimony. I do, however, expect to ask the witness concerning certain incidents about which the defendants upon their examination denied as having taken place. I suggest to your Honor that I certainly am well within the rule of rebuttal testimony to inquire of this witness with respect to those matters. I think also the rule undoubtedly is that your [6313] Honor has sufficient discretion, which he may exercise at the request of Mr. Hallinan, to permit this witness to testify as to any pertinent matters.

The Court: I will meet the objections as I come to them, as announced by Mr. Hallinan, but specifically this last question has to do with his familiarity with an organization known as the Communist Party.

Mr. Donohue: Yes, your Honor.

The Court: I will allow that. It is preliminary. With respect to the other matters, I will rule on them when the time arrives.

Mr. Hallinan: I might suggest in passing questions cannot be asked of the defendant on cross-examination for the purpose of them refuting them on rebuttal. [6314]

Q. Mr. Rathborne, pursuant to His Honor's ruling, would you now state to us the reasons for your applying for membership in the Communist Party in a name other than your own?

A. Well, I was advised by the man whom I had been brought into contact with, who I was told by Mr. Pyle was a representative of the Communist Party, Mr. Hanoff, that I should sign up under an assumed name. This was before I signed the membership application. And I was advised, told by Mr. Hanoff, that this was done for a number of reasons: first, for security reasons in so far as the records of the Communist Party were concerned; second, that it was the common practice for those members of the Communist Party who were active members of the trade unions or officers, to have an assumed name because they didn't want to be revealed as open Communists in the union, because their work as Communists could be most effective if carried on in the way where the membership of the union

(Testimony of Mervyn Rathborne.)

did not know that they were Communist Party members. And I was advised by Mr. Hanoff that that was the policy and procedure of the Communist Party at that time.

Q. Is the Mr. Hanoff you just referred to the same Mr. Hanoff who conducted the first Communist Party school to which you made reference a few minutes ago, as having attended?

A. Well, it wasn't——

Mr. Hallinan: Just a moment. Object to that as leading and suggestive and assuming something not in evidence, if the [6315] Court please.

Mr. Donohue: He testified, Mr. Hallinan, a few moments ago that shortly after he made his application, he attended a new beginners' class, and I understood him to say that Mr. Hanoff was the teacher.

Mr. Hallinan: I didn't remember any such testimony.

Q. (By Mr. Donohue): Did you so state, Mr. Rathborne?

A. My recollection is that I stated that shortly after I signed the membership aplication I was assigned to a new members' class. I believe that is what I—that is my recollection of what I said.

Q. Who conducted that class, Mr. Rathborne?

A. Well, the class was conducted at one time by Mr. Hanoff, another time by a fellow by the name of Freeman.

Q. And what generally was the nature of the instruction of this class?

Mr. Hallinan: We renew the objection, if the Court please; this is new matter, it is hearsay, not binding on the defendant. He is reopening the entire case again with this same sort of discussion.

The Court: Overruled.

A. I didn't——

Q. What was the general nature of the instruction that you were given at this class?

A. The instructions were generally along the lines of indoctrinating [6316] new members in the basic theory of Communism—it is known as Marxist Leninism and Stalinism, I believe is the general name for it; and indoctrinating them in the basic teachings of Karl Marx, Lenin and Stalin, so that they could be in a position to understand and to carry out the ideological objectives of the organization to which they belonged.

Q. Now, did there come a time after your course of instruction in the Communist Party that you were assigned to any unit of that party?

A. Yes, after attending these classes I was assigned to the unit or branch that existed within my own local union, Local 3 of the ARTA.

Q. And as a member of that unit or branch, did you attend meetings? A. Yes, I did.

Q. How regularly or irregularly?

A. Regular meetings were scheduled for once a week, and then occasionally there were extra meetings, special meetings called.

Q. Now, did there come a time, Mr. Rathborne, when you were assigned to any other unit or to a unit other than the unit within your own local union, the ARTA?

A. Well, yes, there was; the unit within my own local union, like all the other units in similar unions, elected or designated representatives to serve on what was known as a waterfront section committee, and after being in my own unit for some [6317] time, I was designated to be a member of the waterfront committee of the Communist Party here in San Francisco.

Q. And as a delegated member from your union to the waterfront section of the Communist Party, did you attend meetings of that section?

A. I attended a number of meetings of the section committee, yes.

Q. Did you ever hold any position as a member of the waterfront section of the Communist Party, or did you continue only as a member?

A. I never was elected to a particular position, no.

Q. Did you continue as a delegated member of the waterfront section of the Communist Party up until the time of your transfer to New York?

A. Well, after the formation of the District Council of the Maritime Federation, there was a group established known as the fraction of the District Council; that is, the delegates to that District Council were also members of the Communist Party—were set up as a group to meet and to act on the problems that came before the council in

(Testimony of Mervyn Rathborne.)

these fraction meetings, Communist fraction meetings, and then to put their ideas and recommendations before the council at this meeting.

Q. Can you tell us, Mr. Rathborne, how frequently the fraction of District Council No. 2 of the Maritime Federation of the Pacific would [6318] meet?

A. My recollection is that they usually met a day or two before the council meetings and then from time to time as emergencies arose, there were special meetings to consider emergency problems on the waterfront and so on. However, as I recall it, their meetings were on a regular weekly basis. A few of them were missed. That is, they didn't always meet weekly.

Q. Now, did you continue as a member of the Communist Party fraction of District No. 2 of the Maritime Federation of the Pacific and as a delegated member of the waterfront section of the Communist Party until the time that you left San Francisco for New York?

A. As far as attending meetings of the waterfront section committee, I didn't attend those regularly after the District Council fraction was set up. I used to attend occasional meetings, but not regularly. But I continued as a member of the fraction in the District Council No. 2 until I left for New York.

Q. Now, when you went to New York, Mr. Rathborne, as you have indicated, early in 1934, did you

(Testimony of Mervyn Rathborne.)

continue in New York as a member of the Communist Party?

A. Well, that was early '37.

Q. I am sorry, 1937.

A. Yes, I was transferred by District 13 out here to a unit in New York that existed within my own union back there, CP unit in [6319] the marine locals.

Q. Now, while in New York, and I take it from your testimony you were there from early '37 until late '40—— A. That's right.

Q. Did you belong to any other section or branch of the Communist Party other than the fraction within your own union?

A. Well, it wasn't a fraction, it was a unit. The unit is a home base. That is the group which a member of the Communist Party is duly assigned to as a member, the one to which he pays his dues. And I continued as a member of that unit. I also became a member of what is known as the national fraction of our organization which consisted of the officers of our union who were also Communist Party members, and later on I became a member of what was known as the national fraction of the CIO, national CIO, which consisted of members of the national CIO executive board who were also Communists.

Mr. Donohue: I wonder if we might take the morning recess at this time.

(Testimony of Mervyn Rathborne.)

The Court: Yes, we will take the morning recess, ladies and gentlemen; the same admonition to you not to discuss the case under any conditions nor to form an opinion thereon until it is finally submitted to you.

(Recess.) [6320]

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Mr. Donohue: To intrude for a moment, Mr. Rathborne, I forgot to ask you, did there come a time when you became a member of the CIO maritime committee? A. Yes, sir.

Q. Would you tell us exactly what that organization was and what your responsibilities were with respect to it?

A. Well, during the entire time our union was negotiating for affiliation with the CIO, and after we became affiliated, a number of us talked to Mr. Brophy who was then the secretary of the Committee for Industrial Organization, and Mr. John L. Lewis, about the problems of the maritime industry and the need for effective national organization, and the job that had to be done on the West Coast in bringing better organization to the various maritime workers. Our union was one of the first, I believe the first, union that had maritime members, sea-going members, to become a CIO affiliate.

Q. You mean the ACA or the ARTA?

(Testimony of Mervyn Rathborne.)

A. The ARTA, then. And Mr. Lewis conferred with other officials of the maritime unions and the result of these conferences was, the national CIO or Mr. Lewis determined to set up what was known as the CIO maritime committee, the national committee, consisting of representatives of the various maritime waterfront unions who were either in the CIO or about to go in. And [6321] such a committee was organized, and Mr. Brophy, John Brophy, was named the chairman of that committee and I was named as secretary of it. And that committee functioned, I believe, from '37 until I think it is still in existence.

Q. Now, getting back, Mr. Rathborne, to the time when you went to New York and you were assigned or transferred as to your party membership from District 13 to the unit within your union and then subsequently to a waterfront fraction in New York?

A. I did, sir, for a period of time on the waterfront section committee in New York. I attended several of its meetings.

Q. And we have reached the point where you said you were a member of the Communist Party fraction of the CIO executive board?

A. That's right.

Q. Now, did you continue as a member of that unit until you severed your connection with the ACA in 1940?

A. Well, I served part of that in that group, that fraction, until I left the East. When I left the East, I ceased to become a member of the national CIO executive board.

Q. Now, on your return to California, what happened to your Communist Party membership?

A. When I returned to California, I was inactive for a while and later on, after I became secretary of the San Francisco CIO Council, I was assigned to a group, a study group of about nine people which was considered to be a very hush-hush group [6322] because there were about, all of the members of the group were government employees except myself. And I continued to be a member of that group for some time. And then later on, I was sent back to the unit within Local 9 of my own union of the ACA.

Q. Now, during the period when you were a member of the—or as secretary-treasurer of the San Francisco CIO Council, you were a member of this special study group or a Communist Party member within the unit in Local 9?

A. That is my recollection, yes, sir. [6323]

Q. Now, when you became, I think you said, in 1942 secretary-treasurer of the California CIO Council, did you change your Communist Party unit or did you continue as a member of the unit you have described?

A. I continued as a member of the basic unit in Local 9 of my own union.

Q. Did you belong to any other Communist Party unit or organization?

(Testimony of Mervyn Rathborne.)

A. Yes, there was in existence at that time a group known as the top fraction of the State CIO, which consisted of the members of the State CIO Executive Board; the officers were also Communist Party members. In addition to that the members of that committee who lived in Northern California were assigned to a group here in San Francisco which was known as a special committee or God's committee, referred to facetiously by some of the members of the Communist Party who were not members of that group.

Q. You were a member of God's committee, Mr. Rathborne? A. That is right.

Q. To your personal knowledge was every other member who was a member of God's committee also a member of the Communist Party?

Mr. Hallinan: Just a minute. Now, if the Court please, I object to this as improper rebuttal. This is starting the trial of the case all over again. Counsel asked questions on cross [6324] examination of the defendants for the purpose of producing a witness on rebuttal, and that is improper, and it has often been held so.

The Court: The question itself, Mr. Donohue, I believe requires additional foundation before an answer is permitted by the Court in the light of my prior rulings.

Mr. Donohue: I will withdraw the question, if your Honor please.

'he Court: With respect to the other objection urged by Mr. Hallinan as to the propriety of these witnesses on rebuttal, I will hear you on that if you have any observation.

Mr. Donohue: Yes, if your Honor please. We find ourselves in this position——

Mr. Hallinan: If we are going to argue this matter the jury might be excused for ten or fifteen minutes.

Mr. Donohue: I have no objection if your Honor please.

The Court: Ladies and gentlemen of the jury, we will discuss these legal matters that have arisen this morning.

Do you think it will take fifteen or twenty minutes?

Mr. Hallinan: I do not think so.

The Court: The jury may then retire until they are called in the jury room. The same admonition to you.

(Thereupon the jury retired from the courtroom, and in their absence the following occurred:)

Mr. Donohue: If your Honor pleases, before calling your [6325] Honor's attention to a couple of citations on the legal point involved, I think there is another matter which your Honor should consider in a determination of the legal issue involved: No. 1, the defense has challenged the United States to produce the witness Mervyn Rathborne; No. 2, Mr. Bridges as a witness for himself gratuitously and without solicitation has sought to massacre the character of Mervyn Rathborne; No. 3, with reference to the matter that was just under inquiry, no one ever mentioned the term "God's committee" except Mr. Bridges. Mr. Bridges contributed to the evidence in this trial the fact that there was such a committee as God's Committee, and whether he was intrigued by the fact that a name, or a committee with such a high-sounding name should have been one of which he was a member, he even stated he was a member of that committee. I most respectfully say to your Honor that in the interests of justice this jury, which has not been blind or deaf to the challenge offered to the United States by these defendants, and who have not been unmindful of the fine piece of surgery which Mr. Bridges used to mutilate the character of a witness who at that time was not called, but who is now here present, is a matter which I think your Honor should consider carefully, in addition to the question of law, before coming to a conclusion as to the limit with which this witness may be called to testify.

Now, when I called the witness this morning I had in mind [6326] asking the witness only with respect to matters of which I had inquired of the defendants, particularly the defendant Bridges, and which the defendant Bridges had specifically denied. I have no objection, because while I know Mr. Hallinan will seek if he can to confine to such a limited scope of examination, he will nonetheless feel that the field of cross-examination is wide open

(Testimony of Mervyn Rathborne.)

for himself, even on matters that we have not examined about on the direct examination of this witness.

On the question of how far this witness in rebuttal may be examined, I would like to call your Honor's attention to the case of Marron v. the United States cited in 8 Fed. Rep. 2d Series, and reading from page 257——

The Court: That is from this circuit, isn't it?

Mr. Donohue: No, I am sorry—yes, your Honor, this is from the Ninth Circuit.

The Court: I remember the case. I know the case.

Mr. Donohue: In which, briefly quoting, the court said:

> "Lathan's testimony was received in rebuttal, and error is predicated thereon. The testimony controverted Gorham's statement that he was unable to secure admission to the flat. It was therefore proper rebuttal. It is also to be said that the order of proof is in the discretion of the trial court, and it is not ordinarily error to receive in rebuttal testimony which ought to have been offered as a part of the case [6327] in chief,"

and citing as its authority Goldsby v. United States; 160 U. S. 70; Seebach v. United States, 262 Fed. page 885; and U. S. v. Heitler, a District Court case, 274 Fed. 401.

In addition, and from the Ninth Circuit, I would

(Testimony of Mervyn Rathborne.)

ask your Honor to consider the case of Austin v. United States, decided in this circuit and reported in 4 Fed. Rep. 2d Series, and quoting from page 775, it would seem that the defendants in error reserved testimony for rebuttal—the defendant in there was the United States—that should have been offered as a part of its main case. Thus the government proved as part of its case in chief that the multigraph letters to the bank and the trust envelopes were delivered to the wife of the plaintiff in error by his direction, and that she usually paid the bills by checks, and if the government intended to prove that the indictment letters were signed by the wife, that was the proper time and place to do it. But it is not prejudicial error to admit testimony in rebuttal which should have been offered as a part of the main case unless the party against whom the testimony is admitted is denied the right to controvert or contradict it, and there was no denial of that right in this case.

In the instant case we have the contradiction or denial by the defendant Bridges even before the witness was called. And so I most respectfully say to your Honor that as a matter of law it would appear that it is within the discretion of your [6328] Honor, and not a matter of error, for your Honor to allow this witness to testify as though he were being brought here as a witness in chief and not a witness on rebuttal.

I am invited, if your Honor please, to call your Honor's attention to one further authority confirming those already cited to your Honor; that is

Osborne and another v. the United States, also from this circuit, cited in 17 Fed. Rep., 2d Series, at page 246.

I most respectfully say to your Honor that if ever there was a circumstance wherein the discretion of your Honor might well be exercised as the law permits in allowing the widest latitude in the testimony of a witness, this is such an instance, an instance in which we have been badgered and threatened with respect to the testimony of Mervyn Rathborne, both in the presence of the jury and out of the presence of the jury, a witness who has been referred to in this court as a burglar, a witness who has been referred to as a drunkard, a witness who has been referred to as a gambler, a witness who has been referred to as a thief, a witness who has been referred to as a liar. Now, in answer to that challenge, and with an opportunity in the interests of justice to let the jury determine as between Mervyn Rathborne and Harry Bridges, it does not seemly come from the defense to offer objection.

Mr. Hallinan: While, of course, it is a rule that the matter of proof is within the discretion of the court, it is [6329] always held that proper rebuttal is only to meet new evidence put in by the defense, that is, evidence of a new and a different kind. I think there will be no question of that. Now, these so-called challenges and the discussions about Rathborne's character all emanated from questions put to Mr. Bridges by Mr. Donohue, and not one word

(Testimony of Mervyn Rathborne.)

was addressed to Mr. Bridges or any other witness on the stand by myself or Mr. MacInnis in that respect. Mr. Donohue took it on himself to question Mr. Bridges about Mr. Rathborne, how he happened to leave the union, what his relations with him were, what discussions he had had, a great number of questions of that kind, and everything in that relation was adduced on cross-examination. That is whole vice of it, and he cannot ask questions on cross-examination simply for the purpose of reopening his case.

What it amounts to is this: that having put on their case, the case having been refuted, then in order to refreshen it, to bring it back into the limelight again, their side of the matter, they ask questions on cross-examination, hold a witness out and then put the witness on. The witness on rebuttal should be confined to rebuttal, not to a reopening of the case. They are not requesting the right to reopen the case; they request the right to use as rebuttal what is not proper rebuttal. In all these cases they have cited, which I assume are trial court decisions——

The Court: No, the Marron case, I presume, is a Court [6330] of Appeals decision. That is a conspiracy case involving Marron, the Assemblyman.

Mr. Hallinan: I suppose when that is done one is always confronted with the situation that on appeal matters that may not be prejudicial are overlooked, and the language that has been cited is,

(Testimony of Mervyn Rathborne.)

"There is no prejudicial error." That does not mean that it is not error, and that does not mean it is not proper procedure, and, as I say, all the statements about this man's character, his drinking, his stealing funds from the union, his embezzlement of an automobile, were adduced on cross-examination by the prosecutor, and no question whatever was put to the defendant by his own attorneys on the matter.

The Court: I am prepared to rule on the matter, gentlemen. In ~~the~~ light of the trend the evidence has taken, and in the interests of justice, and in the broad discretion which is reposed in the trial court, I will allow both sides complete and full latitude with respect to the examination of this witness. You might call the jury in.

(The jury was recalled to the courtroom and the following proceedings were had in their presence:)

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Rathborne, who other than yourself were members of this committee referred to heretofore as God's committee? [6331]

Mr. Hallinan: If the court please, in view of the ruling you have just made, I suppose it will be unnecessary for us to repeat the objection that all these matters do not relate to the new matters suggested are improper rebuttal, do not constitute rebuttal, and we object to them upon that ground, and may we have the stipulation, to save repetition, that it is unnecessary to repeat that objection to each such question?

Mr. Donohue: I shall be glad to so stipulate.

The Court: The objection is overruled. The stipulation may be recorded in the record.

The Witness: I beg your pardon?

Mr. Donohue: Would you read the question.

(Question read.)

A. I cannot recall the names of all the members, but the ones I can recall included William Schneidermann, George Wilson, Bob Robertson, David Hedley and myself. There were a number of others whose names I don't recall at the moment. [6332]

Q. Now, at the time, Mr. Rathborne, of the existence of this committee, were you at that time the secretary-treasurer of the California CIO Council?

A. I was.

Q. And what position at that time did Mr. Wilson, George Wilson, occupy?

A. My recollection, at that particular time, or during part of that time, he was the secretary of the Bridges Victory Committee, I believe they called it.

Q. What position did Mr. Robertson hold at that time?

A. He was an officer of the International Longshoremen & Warehousemen's Union.

Q. And David Hedley?

A. He was connected with the Political Action

(Testimony of Mervyn Rathborne.)

department of the state CIO.

Q. And William Schneidermann?

A. He was an official, I belief the chairman—I am not certain—of the Communist Party in California. He was secretary or chairman.

Q. Mr. Schneidermann had no function or position with either the California, the San Francisco or the national CIO, did he?

A. Not that I know of.

Q. You have used the expression a moment ago that you were a member of the top fraction of the state CIO, correct?

A. I believe that was correct. [6333]

Q. Would you explain to the court and jury just what you mean by the words "top fraction"?

A. Well, according to the Communist organization procedure, they had within various groups, such as the state CIO, a committee of the members of that organization—in this case the members of the executive board of that organization—who were also Communist Party members, and they designated that group as a "top fraction," and used to meet and function as such.

Q. Now, shortly ago you stated that you were a member of a fraction of the waterfront.

A. I believe I stated that the San Francisco District Council of the Maritime Federation also had such a group functioning within it.

Q. Would that also be called, or was it called, so-called, a "top fraction"?

(Testimony of Mervyn Rathborne.)

A. That is ~~my~~ recollection; yes, it was.

Q. Mr. Rathborne, you have stated that you joined the Communist Party some time in 1935 or '34? A. '35.

Q. '35. Over how long a period did you continue as a member of the Communist Party?

A. Until sometime early in 1947, I believe.

Q. Now, what were the circumstances leading to your non-membership in the Communist Party?

A. Well, over a period of time I had a number of differences, [6334] that is, I became more and more to disagree with certain policies and certain actions and things that were espoused and were put forward as the party line, and one particular instance was the organization of a third party, political party. Another one was the line to be carried on following the end of the war within the trade unions. And more and more, during 1946, I indicated differences and opposed certain policies and certain programs that were forwarded or put forward by the Communist Party officials or by the decisions in various meetings, and it finally came, early in 1947, two people came to my office—Mr. Brown, Archie Brown who I believe was then state trade union director, and a lady by the name of Loretta Starvis.

Q. And who was she?

A. She was a member of the state committee—California State Committee of the Communist Party. And Mr. Brown.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: Just a moment. Object to any statements outside the presence of the defendant as hearsay, if the Court please. Here is a conversation——

The Court: I make the same ruling and the same admonition as I have heretofore given, that this evidence is not elicited as binding upon, nor is it presumed or intended to bind either of the defendants or any of them, and for the avowed purpose, I take it, of showing the reasons underlying the severance of this witness from the Communist Party.

Mr. Donohue: Correct, your Honor. [6335]

The Court: That is correct.

Mr. Donohue: For no other purpose.

The Court: I admonish the jury accordingly.

Q. (By Mr. Donohue): You may continue.

A. There two came to my office at 150 Golden Gate, and Mr. Brown advised me that a meeting of the state committee of the Communist Party had been held, at which my derelictions and activities had been discussed, and that because I was, had refused to carry out the party line, because I was considered to be politically unreliable and because of my opposition to the policies and programs put forward by the party, that I had been dropped from membership by action of the state committee and that in consideration of the long membership I had had in the party and also the fact that I had occupied a position of considerable importance in the labor movement, in their eyes, they were not

(Testimony of Mervyn Rathborne.)

making this suspension or dropping, or whatever—I forget the term used—public, but were advising the party members, the comrades in the various meetings throughout the state, what the situation was; that I was no longer considered to be a reliable and trustworthy Communist.

Q. Did you ever attend any Communist Party meeting after this visitation by Archie Brown and the lady whose name you mentioned, Loretta Starvis?

A. Not that I recall. I don't—I am pretty sure I didn't.

Q. Did you pay any dues to your knowledge, after that time, [6336] Mr. Rathborne?

A. No, sir, I did not.

Q. And since that time have you ever again reassociated yourself in the Communist Party as a member thereof? A. I have not.

Q. Now, going back, Mr. Rathborne, to the year 1936, did you at that time attend a convention of the Maritime Federation of the Pacific which was held in San Pedro, California?

A. Yes, I was a delegate to that convention.

Q. And at that time you were a delegate representing the ARTA?

A. I was either representing the ARTA or the District Council of the Federation. I am not certain. I was representing one of them, anyway.

Q. Do you recall about when it was that the '36 convention was held in San Pedro?

(Testimony of Mervyn Rathborne.)

A. My memory is that it was during the summer, because I remember it was quite warm?

Q. Do you recall how long you remained there during the period of the convention?

A. Well, certainly several days. I believe it was a week. It might have been longer, but I would say it was between five and ten days. The record of the convention will show how long it was in session.

Q. Now, while you were in attendance at this convention, Mr. Rathborne, do you recall having seen the defendant Harry Bridges [6337] present?

A. Yes, he was there.

Q. Did you attend any meeting while in attendance at this convention other than a regularly scheduled meeting of the delegates to the convention?

A. Oh, I attended quite a few meetings other than regular convention sessions.

Q. You knew Roy Pyle at that time?

A. Yes, I was working very closely with Roy Pyle during that time.

Q. And what was his position in the labor movement at that time?

A. My recollection is that at that particular time he was still secretary of Local 3 of the ARTA.

Q. At that time did you know a man named Pringle? A. Tim Pringle, yes.

Q. And what was his position in the labor movement, if you knew?

A. He was, I am pretty sure at that time he was secretary of the local of the radio operators,

(Testimony of Mervyn Rathborne.)

ARTA, in Seattle. I know that he held that position, and it is my belief that it was at that time.

Q. Did you know a man by the name of Van Ermen? A. T. J. Van Ermen?

Q. Yes. A. Yes. [6338]

Q. And what was his position in the labor movement, if you know?

A. Well, he was connected either with the radio operators of the District Council, or the Maritime Federation of the CIO; I don't know. There was—the reason I am not sure, at one time Pringle was the secretary of the local in Seattle and at another time Van Ermen was, of our own local, and I am not certain just when the change took place.

Q. Did you know a man named Henry Schmidt at that time? A. Yes.

Q. What position, do you know, did Mr. Schmidt occupy in 1936?

A. Well, he was an official of, I believe the president of the San Francisco Longshoremen, at least he was connected with that organization and he was a delegate to the Maritime Federation convention from the San Francisco longshoremen. That is my recollection.

Q. Did you know a man named Harry Jackson?

A. I am not certain. I knew Harry Jackson; I am not certain whether I knew him at that time or not.

Q. What position did he occupy at the time when you did know him?

(Testimony of Mervyn Rathborne.)

A. At the time I knew him, he was—I don't know, he was working with a fellow by the name of Rappaport in Seattle, and he was active on the waterfront for the Communist Party. What his position was I am not certain.

Q. Did you know a woman by the name of Hazel Wood? [6339] A. Yes, I did.

Q. Did you know a man by the name of Walter Lambert? A. Yes.

Q. What position did Mr. Lambert occupy?

A. Well, Mr. Lambert was in an official capacity known as a—or usually referred to as a—full time functionary of the Communist Party, at one time. I am not certain, again, as to whether it was this particular time, Mr. Lambert was state trade union director for the party. It is my recollection that he was state trade union director in 1935, but again, I am uncertain as to the time.

Q. And you knew Harry Bridges, I take it, at that time? A. Yes, I did.

Q. Now, at some time during the Maritime Federation of the Pacific convention in San Pedro in the summer of 1936, did you attend a meeting at which the persons whose names I have just listed were also present?

A. I attended a meeting—I don't recall whether Mr. Jackson was present at any meeting I attended in San Pedro.

Q. Where, if you can tell us, was it that you recall a meeting with the persons named other than

(Testimony of Mervyn Rathborne.)

Harry Jackson?

A. Well, it was in an apartment or an apartment hotel in Long Beach down near the waterfront, just, oh, a few blocks toward San Pedro along the pike there—I mean, the extension of the pike. [6340]

Q. Do you recall how you were informed that there was going to be or would be such a meeting?

A. My recollection is that I was informed either by Mr. Pyle or by Mr. Lambert that a meeting would be held at this particular place.

Q. I forgot to ask you, Mr. Rathborne, do you know a man named Charles Krolek?

A. Yes, I did.

Q. He is your brother-in-law, is he not?

A. That's right.

Q. And what was his position at that time?

A. He was—again I am not sure at that particular time, but he was connected with the Radio Operators' Union in Portland and either at that time or very shortly after, he was the secretary of that local of the Radio Operators.

Q. Do you recall that he was present at the meeting which you are about to describe?

Mr. Hallinan: Now, just a moment. Your Honor, this is leading and suggestive. Of course, the entire line of questioning has been so; instead of asking him if he were at a meeting and who he remembers being there, he first asks him if he knows these people, stating it so there can't be any question of memory or recollection. Now he says, "Were you at a meeting of all these?" That is highly improper, but now he adds onto that by adding in another name to the question, putting still another [6341] person in there.

Mr. Donohue: Proof of that——

Mr. Hallinan: The whole question, all these questions asked of this witness, are leading and suggestive. He doesn't ask him to give the information about the meeting and then tell who the people were who were there, which is the proper mode, but names out people and says, "Were you at such a meeting?" and then adds another person at the end of it.

Mr. Donohue: Proof of——

Mr. Hallinan: He might as well get up and testify himself, as have a witness up there.

Mr. Donohue: I think the proof to the contrary as to my intention, if Your Honor please, is evidenced by the fact that the witness said one name I mentioned, to his recollection, wasn't there.

Mr. Hallinan: Oh, that is just to make it look a little more veracious; that is a common known trick, nobody falls for that.

Q. (By Mr. Donohue): May I ask you this question, Mr. Rathborne: With reference to a meeting which you had in an apartment at Long Beach during the Maritime Federation of the Pacific convention, during the summer of 1936, to which your attention was called either by Roy Pyle or Walter Lambert, who other than yourself do you now recall was present at such a meeting? [6342]

(Testimony of Mervyn Rathborne.)

A. My recollection of that meeting is that it was attended by Pyle, Roy Pyle, Krolek, Earl King, Walter Lambert, Hazel Woods and myself. And there were several others present, but I am not—Mr. Bridges was there, and several others that I am not certain as to who they are, at this particular time.

Q. What was the subject of discussion at this meeting, Mr. Rathborne?

A. As I recall it, there were several things discussed. One of the matters under discussion was the coming election of officers in the Martime Federation convention, and there was quite a bit of discussion over the presidency, I believe, and the secretaryship of the organization, as to who should be recommended and supported by the Communist Party forces in the convention. Another matter which was discussed there was the matter of the farmer-labor party resolution because I remember being on the committee that time to consider the Farmer-Labor Party, and subsequently in a—in that convention I made a minority report for the committee in connection with the convention, going on record supporting a Farmer-Labor Party and at this particular meeting in Long Beach, that matter was discussed because I remember asking that it be discussed, be brought up and consideration be given to it in order to try to see what the attitude was on a Farmer-Labor Party.

Mr. Donohue: May we take the noon recess at this time?

The Court: Yes, we will take the noon [6343] recess. Ladies and gentlemen, the same admonition to you. We will resume at 2:00 o'clock this afternoon.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [6343-A]

Afternoon Session—Monday, February 27, 1950

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: May I proceed, your Honor?

Q. Referring still, Mr. Rathborne——

The Court: Where is the witness?

Mr. Donohue: The man who wasn't there, your Honor.

MERVYN RATHBORNE

resumed.

Direct Examination

(Continued)

By Mr. Donohue:

Q. Mr. Rathborne, referring still to the meeting you have described during the 1936 MFOP convention in San Pedro, do you recall the name of the building in which this meeting was held?

A. My recollection is it was the Venetian Square Apartments.

Q. Do you know who leased or lived in the apartment in which the meeting was held?

A. The people that were living there apparently

(Testimony of Mervyn Rathborne.)

were Mr. Lambert and his wife. I remember kidding them about it being such a fancy layout.

Q. And was the Hazel Wood whom you indicated as having been present the wife of Walter Lambert? A. Yes.

Q. What was the occasion for this meeting being held down in [6344] Long Beach with the convention taking place in San Pedro?

A. My belief is it was called down there for security reasons, that is, not to hold such a meeting in the same vicinity of the convention.

Q. Mr. Rathborne, from your personal knowledge of the persons who were there and the subject matter of the discussion are you able to tell us if this was or was not a meeting of members of the Communist Party?

Mr. Hallinan: Just a minute. We object to that as calling for the opinion and conclusion of the witness, if the Court please, and no proper foundation laid. This witness has testified to the names of four or five people. He said there were several other people there whose names he doesn't remember. The nature of the discussion has already been explained to the Court and jury, and there is no reason why the witness should qualify it.

Mr. Donohue: If your Honor please, this witness has already stated that he was himself a member of the Communist Party, that for security reasons he attended a meeting which discussed some phase or phases of the Maritime Federation of the Pacific convention which was being held in San

(Testimony of Mervyn Rathborne.)

Pedro, that this meeting occurred in an apartment which was under lease or in which at that time lived the training director of the Communist Party of the State of California, Walter Lambert and his wife, and he has stated the subject matter of the meeting was the Communist [6345] Party's attitude toward, one, the election of officers, and, two, this question of some farm labor movement. Having been present at that meeting, having participated in the discussion, I think no one is better qualified nor has there been a more complete foundation for this witness now to say what was the nature of that meeting.

Mr. Hallinan: It is up to the jury to reach its own conclusions, especially as the witness has identified several persons who were not there.

Mr. Donohue: I concede, you Honor, that would go to the weight of the testimony, not to its admissibility.

The Court: Did he testify as to the person who may have issued the call?

Mr. Donohue: He said he was notified to appear at the meeting there by Walter Lambert or Roy Pyle.

The Court: I will allow it.

Mr. Donohue: Would you read the question?

(Question read.)

A. I attended the meeting as a member of the Communist Party, and as being invited to a Communist meeting, and the conduct of the meeting was in accordance with the procedure of the Party, and the Party was mentioned frequently at the meeting, and the attitude the Party should take on different issues was mentioned. My recollection is it was presided over by Mr. Lambert, but I am not certain as to that point. [6346]

Q. (By Mr. Donohue): Going back for a moment, Mr. Rathborne, to the preceding year, 1935, at which time you stated you were a delegated member from your union to the waterfront section of the Communist Party, how frequently did you attend meetings of the waterfront section of the Communist Party?

Mr. Hallinan: If the Court please, that is a construction and a twist upon the thing that even this witness' testimony does not bear out. The question was: Was he delegated as a member of his union, that is, delegated from his union to some Communist Party organization. That is the witness' testimony. The most that he says is that he was delegated by the political organization that he belonged to, the Communist Party, as a member of this so-called——

Mr. Donohue: I am happy to amend the question to include the fact, if the court please.

Q. With reference, Mr. Rathborne, to the waterfront section of the Communist Party to which you were a delegated member from the Communist Party unit in your labor organization, the ARTA, how frequently did you attend, let us say, during the year 1935 meetings of that waterfront section?

A. I attended a number of those meetings. I

(Testimony of Mervyn Rathborne.)

am not certain as to how frequently. I would say—well, I can't break it down to 1935. I would say I attended probably ten or twelve meetings of the waterfront section committee during the time I was in San Francisco. [6347]

Q. Where were those meetings held?

A. They were held at various places, sometimes in private homes, sometimes they were held up in one of the rooms in the ARTA hall, and other times they were held at different places.

Q. Can you from your present recollection tell us who, other than yourself, attended these meetings of the waterfront section of the Communist Party at the time you are now discussing?

Mr. Hallinan: Can we limit this? The question was addressed to 1935. The witness says he can't break it down to 1935. Can we find what time we are discussing?

Q. (By Mr. Donohue): During what period were you a delegated member to the waterfront section?

A. The period during which I attended the meetings was sometimes, I would say, after the middle of 1935, until I left for the East, which was, I believe, early in 1937.

Q. Then may I ask you, without referring only to 1935, during the period of time that you were a member of the waterfront section of the Communist Party what is your best recollection of the number of meetings in toto that you attended?

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: I submit that has been answered, your Honor. He said ten or twelve meetings.

Mr. Donohue: He said 1935, and you asked him not to limit it to 1935.

Mr. Hallinan: No, he said during the time he was here.

The Court: What was is approximately? [6348]

A. I would say, your Honor, all together during that period I probably attended from ten to twelve meetings of that organization. After I became connected with the District Council group my attendance at the waterfront section meetings was not too regular.

Q. (By Mr. Donohue): Who other than yourself, Mr. Rathborne, do you now recall as having attended at the same time as you were present meetings of the waterfront section of the Communist Party?

A. On various occasions I attended meetings of the waterfront section committee with Dave Saunders, John Schomaker, Henry Schmidt, Harry Bridges; Walter Lambert was present at several of the meetings, I believe; Al Quintana was representing the sailors' unit on the committee at that time, and there were quite a few others, because the personnel at different meetings was frequently different. [6349]

Q. Directing your attention now, Mr. Rathborne, to the period of the 1936 and '37 strike, at least up until the time when you left early in '37 for New York, did you ever attend any meetings with reference to the strike at which, among other persons being present, Mr. Walter Lambert or Mr. William Schneidermann were also present?

A. Yes, I did.

Q. Would you tell us where these meetings were held?

A. They were usually held at an apartment down, I think it was on Bay Street, anyway, it was right across the street from the Ghirardelli Chocolate Works, there on the second floor, I recall.

Q. How frequently did you meet in that apartment so located?

A. In some periods during the strike we met there daily.

Q. And who was present at these daily meetings?

A. Normally meetings would be attended by Harry and myself and Walter Lambert. Occasionally Mr. Schneidermann would be present.

Q. And when you say "Harry," you mean Mr. Bridges? A. That's right.

Q. What was the purpose of these meetings among you, Walter Lambert, Mr. Bridges and so on, and on occasion Mr. Schneidermann?

Mr. Hallinan: Just a moment. Object to that as calling for the opinion and conclusion. He can state the substance of the conversation, Your Honor, the statements that were discussed. [6350]

Mr. Donohue: I am glad to accept that suggestion, if Your Honor please.

Q. What was discussed at these meetings, Mr. Rathborne?

(Testimony of Mervyn Rathborne.)

A. I was the secretary of the strike committee, Mr. Bridges the chairman, and at these meetings we discussed various phases of the development of the strike, what—well, for example, at one point, upon one occasion, the sailors were beginning to start independent negotiations to settle the strike, and we discussed issues such as that, and what policy should be recommended to the joint strike committee to meet the various issues that confronted the striking unions.

Q. Now, neither Mr. Schneidermann nor Mr. Lambert were members of the joint strike committee, were they?

Mr. Hallinan: Just a moment. Object to that as leading and suggestive, if Your Honor please.

Mr. Donohue: I will withdraw the question, if Your Honor pleases.

Q. Was either Mr. Lambert or Mr. Schneidermann a member of the strike committee?

Mr. Hallinan: It is always held, Your Honor, that to ask a leading question, have an objection sustained and withdraw it and then simply repeat it in another form retains the original vice of the procedure. We object to this also as leading and suggestive.

Mr. Donohue: If Your Honor pleases, I can see an error in [6351] its original form. I can see no error in asking a witness who has testified that at the time these meetings took place Mr. Bridges was the president of the strike committee and that he was the secretary, and that at these meetings they discussed the subject matter of strikes, strike strategy; to ask him whether or not either Mr. Schneidermann or Mr. Lambert were members of the joint strike committee of which the witness was secretary and Mr. Bridges was president.

Mr. Hallinan: That isn't the vice, Your Honor: the question is, he first asked a leading question, that they were not, when the Court sustained an objection or appeared about to—he withdrew it and changed the form of it to ask, "Are they?" It is still a leading question because of the original question. Now, that is a vice that counsel frequently falls into; I don't want him to get started off on it again. Therefore we object to it.

The Court: Let us enumerate the members of the strike committee, then by process of exclusion I assume you can identify the others.

Q. (By Mr. Donohue): Would you tell us who were the members of the strike committee as you now recall them, Mr. Rathborne?

A. That would be very difficult. Each union elected a number of delegates. I don't exactly recall how many delegates were from each union, and at this time I could not enumerate all of the members. I could enumerate certain of them. [6352]

Q. How many persons would you say constituted the joint strike committee?

A. There was a coastwise committee and a San Francisco committee. I would say in the neighborhood of 40, Mr. Donohue. That is my best recollection of the number.

(Testimony of Mervyn Rathborne.)

Q. Will you identify the Walter Lambert present at these meetings you have just described?

Mr. Hallinan: Object to that as calling for the opinion and conclusion; no proper foundation laid.

The Court. Overruled.

Q. (By Mr. Donohue): Will you answer the question, Mr. Rathborne?

A. The Mr. Lambert was what is known in the parlance of the Communist Party as a full-time functionary of the party, and in other words, full-time employee, and held—it is my recollection that he held at that time the position of state trade union director.

Q. For the Communist Party? A. Yes.

Q. And Mr. Schneidermann's position at that time was what?

A. He was also a functionary, my best recollection is he was state secretary of the Communist Party. I am certain that he was an official, just what office he held I don't recall at this time.

Q. Can you tell us in what measure or to what degree Mr. Lambert [6353] or Mr. Schneidermann participated in this discussion with you and Mr. Bridges, what their function or purpose was?

Mr. Hallinan: Object to that as calling for the opinion and conclusion, Your Honor, and again, he can ask the conversation, the witness can state it or at least the contents of it.

Q. (By Mr. Donohue): Have you exhausted your recollection as to what the conversation may have been or was at these meetings, Mr. Rathborne?

A. Well, as I stated, my recollection is that we used to discuss specific issues pertaining to the strike and to work out programs and ideas, recommendations to bring back to the strike committee. The substance of each individual conversation I have forgotten.

Q. And did Mr. Lambert and/or Mr. Schneidermann participate in the discussion of the subject you have just indicated? A. Yes, sir.

Q. In consequence of the discussions which were held at these meetings, what, if anything, did either you or Mr. Bridges do as a result thereof, to your own knowledge?

Mr. Hallinan: Just a moment. Object to the part about Mr. Bridges as calling for the opinion and conclusion of the witness, if the Court please.

Mr. Donohue: I asked him what he knew of his own knowledge.

Mr. Hallinan: And no proper foundation.

The Court: Well, if he knows of his own knowledge or was [6354] acting with or in association with Mr. Bridges, he may testify.

Mr. Hallinan: Well, that is a foundation that is lacking. He didn't ask him that, he asked him what did he or Mr. Bridges do. He laid no foundation to show what the witness' knowledge would be.

Mr. Donohue: Would you repeat the question, Mr. Reporter, as asked?

(Record read.)

Mr. Hallinan: You see, that is calling for the opinion and conclusion.

The Court: You might rephrase that, Mr. Donohue.

(Testimony of Mervyn Rathborne.)

Q. (By Mr. Donohue): What, to your knowledge, Mr. Rathborne, did Mr. Bridges do in consequence of these meetings which were held in the manner you have just indicated?

Mr. Hallinan: The same objection, Your Honor, that does not lay the foundation; that is merely calling for the opinion and conclusion of the witness. We first have to get the basis for the witness' knowledge, before such a question is proper.

The Court: Overruled.

A. You want me to answer?

Q. (By Mr. Donohue): The Court said you may answer.

A. Well, as a result of these discussions that took place certain conclusions were reached or decisions were made. Or sometimes these decisions were relayed directly to the strike committee; sometimes they were taken up with the Communist Party [6355] units within the unions; and on occasions we would reach some kind of a conclusion or decision at these meetings at this place I have mentioned and at the next meeting or shortly thereafter make recommendations along those lines to the strike committee.

Q. And did these meetings continue, Mr. Rathborne, up to the time you left San Francisco in '37?

A. Yes, they did.

Q. Could you estimate how many times you met there with Mr. Bridges?

A. Oh, it was a good many times. It is difficult

(Testimony of Mervyn Rathborne.)

for me to recall, but I would estimate at least 30 such meetings took place.

Q. Did there come a time, Mr. Rathborne, when you attended a CIO national convention in Pittsburgh? A. Yes.

Q. Do you recall when it was?

A. Well, it was the first constitutional convention, and when the CIO changed its name from the Congress of Industrial Organizations to the Committee for Industrial Organizations. I think that was in 1938. I am not certain of the year.

Q. Now, where was the convention held?

A. In the William Penn Hotel in Pittsburgh.

Q. Did you see Mr. Bridges at the convention?

A. Yes, he was present there.

Q. Did there come a time, Mr. Rathborne, when you made a [6356] motion on the floor of that convention which had something to do with one's political belief as a condition precedent for membership in the CIO?

A. Yes, there was at that time, yes, sir.

Q. Do you recall what the motion was that you made or its substance?

A. At that time the constitution was being adopted, of the national CIO, and at each section of the constitution, as it was being read to the delegates at the convention, and there was a clause there regarding qualifications for membership in the CIO. As I recall it, the clause or section was read that there shall be no discrimination for membership in the CIO because of race, color or creed. And at that point I, after this had been read to the delegates, asked for the floor and was given it by Mr. Hillman, Sidney Hillman, who was acting chairman, and I offered an amendment, the amendment being to the effect that they add the words "political affiliation," so that it would read that there would be no discrimination as to membership in the CIO because of race, color, creed or political affiliation. And there was quite a to-do. As a matter of fact, it stopped the convention.

Q. Now, in consequence of having offered that motion or having made that motion on the floor, did you ever subsequently thereto attend a meeting at which that motion was the subject matter of discussion? [6357] A. I did.

Q. Where and when with relation to the time of having made the motion was the meeting held?

A. That meeting was held either that night or within a day or two of the time that I made this motion on the floor.

Q. And where was it held, Mr. Rathborne?

A. It was held in a room in the William Penn Hotel.

Q. And whom do you now recall as having been there present?

A. Well, my recollection is that Mr. Roy Hudson was there, Julius Emspak, Harry Bridges, myself, I believe Louis Merrill of the Office & Professional Workers was there, I believe there were

(Testimony of Mervyn Rathborne.)

about eight or nine people altogether. That is my—as I recall the meeting.

Q. Now, by whom were you notified of this meeting, Mr. Rathborne?

A. I believe by Mr. Hudson. I am not certain, however.

Q. Whom did you know Roy Hudson at that time to be?

A. Roy Hudson at that time——

Mr. Hallinan: Just a moment. Object to that as calling for the opinion and conclusion and no proper foundation.

The Court: Overruled.

Q. (By Mr. Donohue): The Court said you may answer, Mr. Rathborne.

A. Roy Hudson at that time was a member of the national committee of the Communist Party and I believe its national trade [6358] union director. Again, I know he served in that capacity, as national trade union director, but I am not certain that he was in that position at that particular moment.

Q. Now, had you met Roy Hudson prior to this meeting in the William Penn Hotel in Pittsburgh?

A. I was very friendly with Roy Hudson. I used to know him very well.

Q. And you knew him prior to this meeting about which you are now talking?

A. I did, yes.

Q. Will you tell us as best you can recall what

(Testimony of Mervyn Rathborne.)

was said and if you can tell us, by whom, at this meeting?

A. Well, I remember that meeting rather clearly, because this national CIO convention was my first national trade union convention that I had attended, other than attending conferences of the CIO——

Mr. Hallinan: Pardon me. Have we fixed a month in 1938 when that was held? I don't think that was discussed. Could we have it a little more specifically as to time?

Q. (By Mr. Donohue): Do you recall the month when this convention was held in Pittsburgh?

A. It is my recollection—I am not certain of the month, but it was toward the end of the year. It was in the winter, it was very cold.

Q. And your recollection is it was 1938? [6359]

A. That is my best recollection. However, the records will show when the national—the first constitutional convention of the national CIO was held.

Q. Now, what is your best recollection of what was said and by whom at this meeting?

A. Well, as I say, it was my first major national labor convention, and when we attended this meeting Mr. Hudson was particularly annoyed and angry at me, and he gave me a very good dressing down because he said I acted in an undisciplined and individualistic manner, that I had not discussed with the party making such a motion and that by making such a motion I had created em-

(Testimony of Mervyn Rathborne.)

barrassment to the leftwing or Communist forces of the convention because when the motion was put to a vote, a very large number of delegates at the convention voted on it and it stopped the convention, created quite a furor in the press. And the newspapers in Pittsburgh the next day came out with big headlines that "John Lewis crushes leftwing revolt in CIO," and that I had, Mr. Hudson pointed out, worsened the relationship that the party was trying to build with John L. Lewis in working within the CIO and gave me a very severe criticism, and repeatedly called to my attention that I was not acting as a disciplined and effective Communist Party member in carrying on that kind of activity. That sentiment expressed by Mr. Hudson was shared and expressed by others, some of the other people who were present at the meeting in the hotel room. [6360]

Q. Do you recall whether or not Mr. Bridges expressed any opinion at this meeting?

A. My recollection is that he said I had made a mistake and deserved a lot of criticism for it.

Q. At that time, Mr. Rathborne, were you a member of the executive board of the national CIO?

A. Well, not at that particular time, because the executive board of the national CIO was not created until after the convention or during the convention, and I believe I became a member of the executive board shortly after the convention.

Q. Were you a delegate to the convention from your union? A. I was.

(Testimony of Mervyn Rathborne.)

Q. And to your knowledge, was Mr. Bridges a delegate to the convention from his union?

A. It is my belief that he was; he was on the floor.

Q. And while you state that you can not now recall the name of some other persons who were present, at the time of this meeting did you know the identity of every person who was present?

A. I am reasonably certain that I did, yes.

Q. Were all of the persons other than Mr. Roy Hudson delegates to the national CIO convention at that time? A. I am not certain of that.

Q. Mr. Rathborne, from the source of the notification which you had of the meeting, from your own experience as a member of [6361] the Communist Party and from your knowledge of the discussion which you had at this meeting, can you tell us whether or not this was a Communist Party meeting?

Mr. Hallinan: Just a moment. Object to that, if the Court please, as calling for the opinion and conclusion of the witness, no proper foundation laid.

Mr. Donohue: If your Honor pleases, I think the answer to the question on the foundation laid is admissible and only an objection could be had as to the weight of the evidence, not as to the admissibility.

Mr. Hallinan: No, we object to its admissibility.

The Court: Overruled.

Mr. Donohue: Would you repeat the question?

(Record read.)

A. It was my opinion then and it still is, that this particular meeting I referred to was a meeting of the top fraction of the national CIO, top CP fraction. [6362]

Q. Was there any discussion, Mr. Rathborne, at this meeting about the relationship between the Communist Party and the national CIO?

Mr. Hallinan: If the Court please, he has already stated that subject. Moreover, that is leading and suggestive. He can be asked the conversation that took place, not pick out isolated matters and ask him about those.

Mr. Donohue: I asked him that, if your Honor please, and I take it he has exhausted his recollection.

Mr. Hallinan: So he said. He said he told about that.

The Court: Overruled. You may answer.

A. The only other matter that I recall being discussed there, after I got my hair combed, was the matter of the election of officers of the newly formed CIO, and the fact that there was no dispute or discussion hardly on who the logical choice would be for president. That was John L. Lewis. However, there was some discussion on the secretaryship, and if I remember correctly, it was decided that the Communist forces at that convention should try to prevail upon Mr. Lewis to accept Mr. John Brophy as the secretary-treasurer of the CIO,

(Testimony of Mervyn Rathborne.)

and subsequently Mr. Brophy was not elected, incidentally.

Q. (By Mr. Donohue): Do you recall, Mr. Rathborne, when the CIO national convention in Philadelphia was held?

A. Philadelphia—let's see. I believe that was during the war. I believe it was in 1943, if I remember correctly. [6363]

Q. Were you a delegate to that national convention? A. No.

Q. Did there come a time, Mr. Rathborne, when during or subsequent to that convention held in Philadelphia that you learned about a move to cause Mr. Connally, who was the president of the State CIO Council, and that he be supplanted by somebody else?

A. Yes. I received a telephone call from Mr. Connally, Pittsburgh—in which he stated he was in Pittsburgh—advising me that a decision of that kind had been reached, and that Phil Murray was to be contacted and advised of it.

Q. Did there subsequently come a time when you learned the decision had in fact been reached during the convention in Philadelphia?

Mr. Hallinan: I object to that as calling for hearsay and no proper foundation.

The Court: Sustained.

Q. (By Mr. Donohue): Did you ever talk to Mr. Bridges about it, Mr. Rathborne?

A. Yes, I did.

(Testimony of Mervyn Rathborne.)

Q. Will you tell us where and when and what was said?

A. Well, the first time I recall talking to him about that particular incident, that is, the subject matter I had discussed with him prior to Philadelphia, but the actual matter of making the decision to change the State president was during the course of the convention, during the time the convention was in [6364] session. Mr. Bridges called me on the telephone, which was after the call that Mr. Connally had made, and it was in response to a telegram or telegrams I had sent after Mr. Connally had called me very vigorously protesting against the decision that Mr. Connally had advised me of, and at that time I was extremely angry on his telephone conversation and told Mr. Bridges, "If Roy Hudson wants to run the State CIO, let him come out here and run it and I am going to get out and let him take my place, if that is the way things are going to be done." He asked me to hold off and not do anything, hold my fire until the delegates from Philadelphia got back to San Francisco and the thing could be explained.

Q. What was the occasion in your telephone conversation with Mr. Bridges for your having made reference to Roy Hudson and his trying to run the California CIO?

A. I had been advised by Mr. Connally——

Mr. Hallinan: Just a minute. I object to this as hearsay.

(Testimony of Mervyn Rathborne.)

Q. (By Mr. Donohue): What did Mr. Bridges say about that, Mr. Rathborne, if anything?

A. Well, he indicated considerable irritation at my mentioning Mr. Hudson's name and just asked me not to take any action or not do anything precipitous, because at that time I had told Mr. Bridges I was going to wire Phil Murray and submit my resignation to him, too, and so I was disgusted and didn't like—thought this move was extremely objectionable to me because we [6365] we had a State Executive Board here, we had a convention in Philadelphia, and in my judgment the convention and the elected delegates were the proper people to elect the officers and to make changes in the officers. So he merely asked me to withhold taking any action, and I didn't promise to do anything.

Q. As a matter of fact, you did not communicate with Mr. Murray as you had indicated that you might?

A. No. The extent of my communication on the subject was to talk to Mr. Goldblatt at great length about the matter and also to send either one or two telegrams, I believe, to Philip Connally in Pittsburgh expressing extreme opposition to the decision to make that change.

Q. You mean Pittsburgh or Phiadelphia?

A. I am sorry. It was in Philadelphia.

Q. When, as a matter of fact, before this CIO convention was it that Mr. Connally had been elected and by whom was he elected president of the California CIO Council?

(Testimony of Mervyn Rathborne.)

A. We held a convention of the State CIO, I think it was in Fresno—I am not certain of that—about a month or maybe—a very short period of time, a month or less before the national CIO convention. That State convention was attended by several hundred delegates from the various unions affiliated to the California CIO Council, and at that time there were elections held of officers as one of the orders of business of the convention, and at that convention there were candidates for the [6366] various offices, including president. Mr. Connally at that time was elected president by secret ballot of the several hundred delegates present.

Q. Who was his opponent in that election, if you recall?

A. My recollection is he was oposed by a fellow from the Shipyard Workers at that time.

Q. Was Connally already president and was this a compaign for reelection?

A. He had been president in a prior year, yes.

Q. Do you recall who was the candidate against Mr. Connally in the preceding year?

A. I believe it was Thimmes of the Steel Workers.

Q. Who was it who did in fact supplant Connally after the 1943 national CIO convention as president of the California CIO Council?

A. At an Executive Board meeting of the State CIO held in Los Angeles some weeks after the national CIO convention Mr. Connally resigned as president and Mr. Thimmes was elected by the

(Testimony of Mervyn Rathborne.)
Executive Board as acting or temporary president until the next election, until the next convention.

Q. Do you recall when Mr. Bridges returned to San Francisco after the convention in Philadelphia?

A. Yes I do. I mean I don't recall the exact date or I didn't meet him at the airport or anything, but I know he did return to San Francisco. [6367]

Q. Did you have any discussion with him at that time concerning the action that had been taken, if any had been taken, in Philadelphia?

A. Yes, I did. I had one or two discussions with him at least.

Q. What is your best recollection as to what he told you about what happened while he was in Philadelphia?

A. Well, I was still hot under the collar about the thing, and I got in touch with Harry quite soon after he got back and said—expressed my opposition. The reasons for my opposition were that the convention had just elected a president, that that was the democratic way to do it, and also that we had a State Executive Board here in California that was supposed to make decisions for the State CIO between conventions, and that this decision to replace Connally with Thimmes had not been taken up with the State Executive Board; it was made by a group outside the Executive Board. It was violating all the principles of democracy of the organization, and that, as I expressed it on the telephone, in my judgment Roy Hudson was trying to run the State CIO by remote control from Philadelphia, and for those

(Testimony of Mervyn Rathborne.)

reasons I was very violently opposed to it and I still thought it was the wrong thing to do.

Q. What was Mr. Bridges' answer to that?

A. He stated my objections were—he didn't think they were valid because I was paying too much attention to form and not to substance. Sure, this State Executive Board was the form, [6368] but it was not the substance. The actual substance was to get a setup here that would be a better relationship with the so-called center forces of the CIO, including Philip Murray, and he had objected to it for entirely different reasons, that his objections were based on the ground that we were giving too much—making too many concessions to the phonies, that is, the anti-left-wing forces, and that by opening this door it would be encouragement to take over the State CIO, and once they took it over, why, we were finished, we were out, because they were not going to give the same kind of consideration to us as we were giving to them, or words to that effect. That is my recollection of the conversation.

Q. Did Mr. Bridges indicate to you by whom the decision was made?

Mr. Hallinan: I object to that as leading and suggestive, if the Court please. He can ask the rest of the conversation and not suggest it.

Q. (By Mr. Donohue): Have you exhausted your recollection on the conversation you had with Mr. Bridges, Mr. Rathborne?

A. There is one other remark that I recall: "The thing is done now, the decision. There is nothing we can do about it. We've got to go along with it. That is all there is." That is the extent of my recollection of that particular——

Q. What did you understand by Mr. Bridges' statement that it was a decision and you had to go along with it? [6369]

Mr. Hallinan: Just a minute. I object to that as calling for the opinion and conclusion of the witness.

Mr. Donohue: I have a right to, if your Honor please.

Mr. Hallinan: His understanding is not important. It is the words that were uttered. The jury has the right to draw its own conclusions.

Mr. Donohue: Mr. Rathborne has stated as best he can recall the words that Mr. Bridges used about its having been a decision and there was nothing they could do except go along with it.

Mr. Hallinan: Counsel asks a number of prepared questions and gets prepared answers out of them, and it is just the same as if counsel were testifying himself. It is not a matter of asking the witness the questions; it is a matter of counsel suggesting and recommending what the witness shall answer.

Mr. Donohue: I think, if your Honor please, in the light of the fact that the witness has given his best recollection of the statement made to him by the defendant Bridges, that he has a right to state his understanding of the remark made to him by Mr. Bridges.

Mr. Hallinan: That is a new rule of law, when a witness can state his understanding of what was said. He can state what was said.

Mr. Donohue: He has already stated what was said.

Mr. Hallinan: That should finish it. [6370]

The Court: Did you give all the conversation to the best of your recollection, Mr. Rathborne?

A. That is the sense of the conversation as I recall it, your Honor.

The Court: I will sustain the objection.

Q. (By Mr. Donohue): At any time, Mr. Rathborne, did Mr. Bridges discuss with you the mechanics whereby this decision was reached in Philadelphia while he was there?

Mr. Hallinan: The same objection, your Honor, leading and suggestive. The witness has stated he has given the conversation as he remembers it.

Mr. Donohue: After having exhausted his recollection, if your Honor please——

Mr. Hallinan: You do not supply it by putting in your own conclusions.

Mr. Donohue: I am not putting in any conclusions.

The Court: What do you mean, as the formula under which this recommendation——

Mr. Donohue: Yes he is discussing what happened here.

The Court: I understand.

Mr. Donohue: I want to find out if he has any recollection of what Mr. Bridges may have said with

(Testimony of Mervyn Rathborne.)

respect to what happened in Philadelphia. (To the witness.) You were not in Philadelphia?

Mr. Hallinan: He has already stated what the conversation was or the alleged conversation with Mr. Bridges. What counsel [6371] wants to say now, or what he wants to do is to put in some invention of his own or something he has agreed upon shall be said, and ask the witness that. That is all it amounts to.

The Court: Of course, whatever rule I may make, I do not subscribe to any suggestion on your part, Mr. Hallinan, that there has been any conduct on that score. I am merely ruling on the matters that you interposed in the nature of objections. I think if the witness has given his full understanding to the best of his recollection of the conversations, unless he does know the formula of his own knowledge tending to result in any recommendations that were made by outside persons or external influences, I think that is the end of the matter.

Mr. Donohue: I shall not pursue it further.

The Court: Unless he has an independent recollection of these other matters; that is a matter he knows and not I.

Q. (By Mr. Donohue): Mr. Rathborne, did there come a time when as secretary-treasurer of the California CIO you had some difference of opinion with a man named Louis Goldblatt?

A. Yes, there was one occasion when I had some——

(Testimony of Mervyn Rathborne.)

Mr. Donohue: May I see the defense in evidence which is the memorandum we discussed the other day? Would you ask Mr. Rathborne to refer to that, to take a look at it?

(Defendants' Exhibit P-3 was handed to the witness.)

A. (After examining document.) Yes, I recall this. [6372]

Q. (By Mr. Donohue): Mr. Rathborne, what was the basic difference of opinion between yourself and Mr. Goldblatt?

A. The situation arose this way: It is my recollection Mr. Goldblatt had been in Washington or had been back East somewhere working for his union, that he came back to California, and when he came back he started sitting down with various people in the State CIO Council, his staff members, the people on the Labor Herald, research department, and so on and so forth, kind of making an investigation of the affairs of the Council and making certain recommendations to them with regard to things that should be done. These people we sat down with came and asked me, "What about it? Goldblatt says to do this and he says to do that. What should we do?"

I said, "Goldblatt ought to at least"——

Mr. Hallinan: Your Honor, this does not appear to have been said in the presence of the defendants. We object to it as hearsay.

The Court: Sustained.

Q. (By Mr. Donohue): Did there come a time.

(Testimony of Mervyn Rathborne.)

Mr. Rathborne, that you prepared this memorandum? A. Yes.

Q. Do you recall now from this memorandum that there were three meetings held to discuss the subject matter of this memorandum?

Mr. Hallinan: I object to that as leading and suggestive, [6373] if your Honor please.

Mr. Donohue: You introduced it in evidence, Mr. Hallinan.

Mr. Hallinan: We object to the question as leading and suggestive.

The Court: How many meetings were there, where were they held, and so forth? Does that show on the face of it?

Mr. Donohue: The memorandum was prepared by the witness and submitted in evidence by Mr. Hallinan.

Mr. Hallinan: That does not give him any right to ask leading questions on the subject. He can ask the witness, if he wants, but he hasn't any right to state a fact, "If that is so, isn't that so?" The objection is not to an examination on the subject or on the memorandum, but counsel placing his own interpretation on it.

The Court: Mr. Donohue states in the document there is a showing as to the number of meetings.

Mr. Hallinan: Granted. It does say that.

Mr. Donohue: I will withdraw the question.

Mr. Hallinan: That does not permit him to ask leading and suggestive questions.

The Court: All right.

(Testimony of Mervyn Rathborne.)

Q. (By Mr. Donohue): Were any meetings held, Mr. Rathborne, concerning the subject matter of this memorandum?

A. Yes, there were.

Q. How many? [6374]

A. There was the original meeting in my office with Goldblatt, where he made a number of——

Q. Who was present?

A. My recollection is—I think it says in the memorandum there George Wilson, Gene Paton, myself and Goldblatt, I believe, if I recall the meeting correctly; that is who it was.

Q. Mr. Bridges was not present at the first meeting? A. No.

Q. Where was that meeting held, Mr. Rathborne?

A. It was held at the office of the California CIO Council.

Q. Did there subsequently come a time when there was a second meeting?

A. Yes, shortly after that.

Q. Where was that held?

A. That was held in Mr. Bridges' office.

Q. Can you tell us what ~~took place at~~ the meeting in Mr. Bridges' office?

A. Well, the issues in dispute or in controversy were discussed to some extent, that is, the matter that Mr. Goldblatt was very critical of the State CIO Council, various actions they had taken, and that matter was gone into at considerable length. Another was some business with regard to the Labor

Herald. I believe the Labor Herald was running in the red at that time, or there were some problems concerning the paper. And general matters of the State Council were discussed and the differences of opinion [6375] between Goldblatt and myself, the differences in point of view were brought out rather sharply.

Q. Do you recall that there was a third meeting?

A. There was another meeting later on, also in Mr. Bridges' office, and if I remember correctly at this meeting it was brought out by Mr. Goldblatt that the State Council was trying to supersede, to supplant the Regional Director of the CIO, who was Harry Bridges, and kind of act in his capacity to take over the functions and duties of his office and kind of put him in the shade. That was the burden of Mr. Goldblatt's charges at that time against me, I believe.

Q. Do you recall the memorandum dated June 24, 1943?

A. I guess I just saw it. I recall sending it.

Q. Do you note that in that memorandum you state, "The difference of opinion concerning these problems which had arisen between Brother Goldblatt and myself, after consultation with Brother Bridges and others concerned, it is my opinion that these problems can best be solved by means of a conference between those concerned." Do you recall that?

A. That is right: I recall that.

(Testimony of Mervyn Rathborne.)

Q. Was there such a conference for the purpose of resolving these differences?

A. Yes, there was a final conference which did fairly well succeed in resolving most of the differences.

Q. Where and when was that conference [6376] held?

A. That was held not long after this memorandum you read was sent out, at the Governor Hotel here in San Francisco.

Q. Who was present at that conference?

A. Lou Goldblatt was there, George Wilson, Harry Bridges, Bill Schneidermann, and David Hedley; I think Paul Schnurr, but I am not certain of that.

Q. Who arranged for this conference, Mr. Rathborne?

A. Mr. Schneidermann arranged for it.

Q. Can you tell us what was said by any one of those persons who were present at the time this conference was held?

A. I recall Schneidermann being extremely critical of me for writing that first memorandum, saying that that was not a comradely way to behave, that any differences I may have had with a fellow comrade should not be resolved by sending out memorandums, that people could get hold of and make capital out of; that there are channels within the Party to settle such differences and they should have been taken up within the structure of the Communist Party and settled that way without involving a lot of other people and without writing things that might be dangerous if they became public, and that I was very, very roundly and severely criticized by Mr. Schneidermann, and he was also quite critical of Mr. Goldblatt, and we were both told to get in line and stay in line, to behave ourselves or we would be subject to strict Party discipline, that is the Party would take action to see that we would behave ourselves. [6377]

Q. At that time, Mr. Rathborne, in 1943, you stated that you were a member of the top fraction of the Communist Party within the state, State California CIO? A. That's right, yes.

Q. How many persons would you say constituted that top fraction of the California CIO?

A. At that particular time?

Q. Yes, '43, let's say.

A. Well, the actual top fraction itself consisted of the officers of the State Council who were Communist Party members and the executive board members; and it is my recollection that that group was about, right in the neighborhood of ten. It may have been three or four one way or the other, but right around that number.

Mr. Donohue: May we take the afternoon recess, if your Honor please?

The Court: Yes. We will take the afternoon recess, ladies and gentlemen, and the same admonition to you, not to discuss the case under any conditions.

(Recess.)

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Rathborne, can you tell us when, in relation to the time of this meeting at the Governor Hotel, that the California CIO executive committee had its meeting? [6378]

A. It was during the meeting at the Governor Hotel, that was held during the period the executive committee was in session.

Q. Where did the meetings of the executive committee take place during its session here?

A. In the CIO Building at 150 Golden Gate Avenue.

Q. Was there any reason why the meeting you said was called by Mr. Schneidermann was held in the Governor Hotel and not in the CIO headquarters building? A. I believe there was, yes.

Q. What reason?

A. Because that meeting in the Governor Hotel was the Communist Party meeting.

Q. In what room in the Governor Hotel was it held, Mr. Rathborne?

A. I don't recall.

Q. Do you recall in whose room it was?

A. It was held in the room in which I was registered.

Q. You do not now recall the room in which you were registered? A. The number?

Q. Yes. A. No, sir, I don't.

(Testimony of Mervyn Rathborne.)

Q. Mr. Rathborne, did you attend the 1939 CIO national convention in San Francisco?

A. I attended the national CIO convention or part of it in San Francisco, yes, sir. [6379]

Q. At that time you were permanently in New York as president of the American Communications——

A. That is where I resided, in New York, at that time, yes, sir.

Q. And were you a delegate to the 1939 CIO national convention? A. Yes, sir.

Q. At that time were you a member of the executive board? A. I was.

Q. Over what portion of the convention, do you recall did you attend?

A. I didn't attend very much of it because we had a strike going on here in the Western Union in San Francisco at the time, my own union, and I only attended a small number of sessions of the convention. However, I did attend executive board meetings that were held in connection with the convention.

Q. Do you recall attending a meeting held in the Whitcomb Hotel in San Francisco during that portion of the CIO national convention which you did attend?

A. I recall attending a meeting of the national CIO executive board, yes, sir.

Q. Did you attend any meeting in the Whitcomb Hotel which was not a meeting of the executive board of the national CIO? A. Yes, I did.

(Testimony of Mervyn Rathborne.)

Q. Would you tell us when, where and who was present, as you best recall it? [6380]

A. As I recall it, there was a meeting held there at the Whitcomb Hotel in one of the rooms, and it was attended by—I know it was attended by Mr. Schneidermann. I am not certain about Mr. Hudson. I may have that confused with another meeting. Attended by Louis Merrill, myself, Mr. Bridges, I think Ben Bolt was there, and I think Julius Emspak was there. That is my recollection they were.

Q. Can you tell us anything that was said by anyone of the persons who were present?

A. Yes, I remember that meeting quite well, that is, the subject matter, because we held an executive board meeting of the national CIO a day or two before, and at the national CIO executive board, John L. Lewis, for the first time, came out against the Communists. He made a statement in the executive board that "no aspiring young Communist is going to get anywhere in the CIO, and mark that down in your book," or words to that effect. And then some time after that, or very shortly after that, he said, "There are going to be some changes in the CIO. The position of West Coast director of the CIO is abolished. It doesn't exist any more. Present West Coast director will be the California director and I will appoint new directors for the rest of the area," that had formerly been covered by the West Coast director. And I know it came as quite a shock and surprise to everyone there that he would

(Testimony of Mervyn Rathborne.)
make these two statements, first in effect denouncing or announcing that as far as the [6381] Communists were concerned, well, he didn't say they weren't welcome, but he made the statement that no aspiring Communist needed to think he was going to get anywhere, and the subject matter of Lewis's address, remarks to the executive board, was discussed at this subsequent meeting that I have already talked about.

Q. Can you tell us what was said by anyone at that meeting?

A. I can recall that the problem came up there of, "Well, now Lewis has opened up or he has expressed disapproval, what should the attitude be of a party group in the CIO toward Lewis?" and so on and so forth. It was a matter of policy, of approach, and I recall that Harry made the statement that, "Well, as far as the directorship is concerned, I don't think that should be an issue, trying to argue the fact that I was demoted," and that "Our attitude toward the national CIO leadership should be one of cooperating to try to work with John L. Lewis. But at the same time we ought to build our party forces stronger down below in the unions so that we can have a greater influence and be in a position to more effectively prevent Lewis and his henchmen from red-baiting and taking an anti-party position in the future." And there was a general discussion along those lines, engaged in by all of us, and subsequently it was decided that that would be the policy that we would recommend with respect to the working members and officers of the CIO, and also

Communists within the CIO. That was the general tenor of the [6382] discussion, as I recall it.

Q. Mr. Rathborne, do you remember attending the 1944 CIO convention in Chicago?

A. Yes, I believe I do, yes.

Q. Do you recall whether you went alone or in company with anyone else to that convention?

A. Well, I went back to that convention, on, I believe it was the City of San Francisco, and I shared a compartment there with Mr. Bridges.

Q. Do you recall any discussion that was had with Mr. Bridges and yourself at that time about the subject matter of that memorandum which you have heretofore identified?

A. We talked about a number of things, including the fact that I had had this dispute with Lou Goldblatt, and we went into it rather casually, and I tried to point out the dispute was settled. I mean, I wasn't carrying on any continuing feud. I discussed it with him in the light of certain mistaken ideas that I thought Lou had had. It wasn't a heated discussion at all, it was just a friendly talk——

Mr. Hallinan: Pardon me. What year is this?

Mr. Donohue: '44.

Mr. Hallinan: 1944?

Mr. Donohue: Correct, sir.

Mr. Hallinan: All right.

A. (Continuing): We did discuss the incident.

Q. (By Mr. Donohue): Do you recall anything that was said by Mr. Bridges on the subject?

A. Well, he said, he stuck up for Lou pretty

(Testimony of Mervyn Rathborne.)

much. He said he was a good boy, good party man and a hard worker, and he had done a good job, and he was all right. And I generally agreed with him. And then we discussed Goldblatt a little bit as two friends would about another person who was pretty much—pretty much just a friendly discussion about the incident.

Q. Mr. Rathborne, while you were in New York City did you ever see Mr. Bridges in New York?

A. I saw him on quite a number of occasions in New York, yes.

Q. Did you know when you were in New York where Communist Party headquarters in New York was?

A. Oh, yes, very definitely.

Q. Did you ever go there with Mr. Bridges?

A. Yes, I went there on, I believe two occasions with him.

Q. Can you tell us where you went, whom you saw and what may have been said by anyone present?

A. Well, on one occasion—I am trying to remember the year, my recollection is 1937. We were both in New York, and the matter of the maritime situation, so far as the CIO was concerned, was rather a hot issue then. And I was asked by somebody in the Communist Party, I can't remember who it was, if it would be possible to arrange a meeting with Harry, and I said I would try.

Mr. Hallinan: Pardon me. I didn't get that last statement. [6384] Could I have it repeated?

(Testimony of Mervyn Rathborne.)

(Record read.)

Mr. Hallinan: Thanks.

A. (Continuing): Subsequently a meeting was arranged and he and I went up to the CP headquarters, what they called "the Kremlin," up on the ninth floor and had a meeting with—I know Hudson was present, Stachel, and I am pretty sure Mr. Browder was there. And we stayed there for, oh, I believe half, three-quarters of an hour, about three-quarters of an hour, I would say, discussing this matter with respect to the maritime setup in the national CIO. And kind of reviewed what the policy of the CIO maritime groups would be and what the Communist Party policy was, and seemed to be pretty much in agreement on it.

Q. (By Mr. Donohue): How long—Was that the first time you went tehre with Mr. Bridges, to your best recollection?

A. I cannot remember, Mr. Donohue, whether that was the first or the second time.

Q. Can you recall anything that may refresh your recollection about a second incident at Communist Party headquarters?

A. I think there was one time where a meeting was arranged there and Mr. Bridges declined to go there because he thought it was too hot; and we subsequently met in the home of Roy Hudson down in Greenwich Village, on James Street, I believe it was. I used to be a frequent visitor at Mr. Hudson's home in those days. [6385]

Q. Who was present at this meeting at Roy Hudson's home on James Street?

A. Well, four of us, I think—Tommy Raye, Roy Hudson and Harry Bridges.

Q. Were you at Mr. Hudson's home with Mr. Bridges on one or more than one occasion?

A. I don't recall any other occasion except the one I have just related. Trying to place it in point of time. I don't remember what year it was.

Q. Was it during the period of time when you were permanently in New York with the ACA?

A. Yes, it was during that period of time.

Q. And that was from some time in early '37 until late '40? A. That's right.

Q. Mr. Rathborne, from your experience as a trade union leader and as a member of the Communist Party, can you explain for us the method whereby the Communist Party seeks to make its influence felt in a trade union?

Mr. Hallinan: Object to that as calling for the opinion and conclusion of the witness, if the Court please; not a proper subject for expert opinion.

Mr. Donohue: If your Honor pleases, Mr. Bridges——

The Court: Overruled, overruled.

Mr. Donohue: Would you repeat the question to the witness, please? [6386]

(Record read.)

A. Yes, that is quite a long subject, but I will do the best I can. To understand the methods the Communist Party uses in the unions, one has to have some understanding of the ideologies and objectives

(Testimony of Mervyn Rathborne.)

of it, and it was taught to me at least, when I attended various courses and discussion groups in my own unit and also other Communist Party meetings, that the major purpose of the Communist Party is to work within mass organizations, in order to, so that they can be with people, so they can contact the people, and that the trade unions are, from their point of view, one of the best types of mass organization in which to carry on the work of educating people to their ideology and recruiting members to the Communist Party. As a matter of fact, in some of the classical literature, Lenin refers to the trade unions as "schools of Communism," and states that every means, method, legal or illegal, must be used to penetrate the trade unions, to bring——

Mr. Hallinan: Well, now, just a moment. Object to this as not the best evidence, if the Court please. This gentleman is purporting to be reciting from some book, which must be available, or some document.

Mr. Donohue: I submit the witness is qualified, if your Honor pleases, to answer the question.

The Court: He may answer.

A. (Continuing): I am merely trying to explain what produces [6387] results. And to carry on the work in these mass organizations, in order to become leaders within the mass organization and to sell the program and ideology of Communism, and thereby bringing the members of these mass organizations over into a sympathetic position, and to recruit membership. In order to accomplish this, the

(Testimony of Mervyn Rathborne.)

Communist Party has what they call, I believe in the military service, a "table of organization." They have an organized setup. The unit, for example, is the basic setup, the basic organization, and that consists usually of, from, oh, five to 15 Communist Party members, who are members of the same trade union. And unit meetings are frequently attended by some functionary of the Communist Party. The purpose of the unit is to hold regular meetings and to discuss problems within the union and to introduce in that union the issues and programs of the Communist Party.

To be a good Communist in a trade union, one first has to be a good trade unionist. That is the basic teaching. Because by activity in the trade union, regular attendance at meetings and working for the organization, promoting the economic program, the members of the Communist Party in the union can put themselves in a position where they are recognized as leaders and have influence among the rank and file, and thereby more effectively work within the organization to disseminate and to put into effect the other sections of the Communist doctrine and ideology. [6388]

Mr. Hallinan: Well, now, if the Court please, here is certainly something that is not only reopening a case, but starting a whole new case. In other words, Mr. Donohue is now trying the sixth Bridges case instead of leaving it up to the pupils at the USF. We are starting now in a wholly new principle, we are getting into the Communist Party

(Testimony of Mervyn Rathborne.)

principles as regards trade unions and starting all over again on the matter. This is certainly something that is far, far removed from rebuttal. It was explained here that this gentleman should be in justice allowed to testify here because Mr. Donohue had shown on cross-examination of Mr. Bridges that he is a liar, a thief, a drunk, and a lot of other things. But now that doesn't bring in the right to show that he is some sort of expert on Communist penetration of trade unions. We are starting off on a whole new career, not touched upon before.

Mr. Donohue: If your Honor pleases, Mr. Bridges himself on many occasions has said, "No outside influence, particularly the Communist Party, has any determination or any control over my union." I expect to show by this witness to the contrary.

Mr. Hallinan: Well, this is a different—We are back in Russia now, we have got Lenin. We are clean out of San Francisco. We are back in St. Petersburg or wherever it is. This has got nothing to do with any contention here as to whether Mr. Bridges is or ever was a member of the Communist Party. Now, this gentleman having earned his $34 a day, brushing up as an [6389] expert for these people, is going to earn it for a few minutes by giving out his opinion of the matter Lenin taught. Well, we are not interested in that. As I say, that is starting a whole new case now. They have finished this case, the defense is put on, and off we go again on the merry-go-round with a new set of expert testimony.

(Testimony of Mervyn Rathborne.)

First, we had the overthrowing the government, turning it over to Russia, starting a black republic in the South. But now this gentleman is coming in, we have got a whole new line of issues to meet, as to what they are doing in trade unions, and particularly what Lenin said about it. I submit, your Honor, that this is just starting a new trial all over again. We are not concluding the first one, we are beginning the second one.

The Court: Objection overruled.

Mr. Hallinan: Take the witness and sober him up and wash him and bring him in here with his furbished story about trade unionism.

Mr. Donohue: If your Honor pleases, at this time I move your Honor will strike the last remark made by Mr. Hallinan and instruct the jury to disregard it.

The Court: Yes, the last remark may be stricken from the record, ladies and gentlemen, and I admonish you to disregard the statement made by Mr. Hallinan concerning the witness on the stand, Mr. Donohue or any other person having sobered him up to bring him in here. You may proceed. [6390]

Q. (By Mr. Donohue): Would you continue, after the interruption, Mr. Rathborne?

A. Well, I don't want to make my answer too long. As I said, the first requirement of a good Communist in the trade union is to be a good trade unionist, in order to become effective and achieve a following. [6390-A]

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: Now, your Honor, I submit that if he is going to testify as an expert, at least there ought to be some foundation laid to show where he is getting his knowledge from, what documents he has read. Let us find out what he has done toward making himself an expert, because this is expert testimony being offered now.

The Court: In part it may be regarded as expert; in part I assume, Mr. Hallinan, it can be regarded as based on the sort of contacts, if any, he may have had with Communists, his dealings, and the like in and with respect to the trade union movement.

Mr. Hallinan: That is an assumption that the witness hasn't any support for.

The Court: He testified, to the best of my recollection, at least he started his training in this original school, and thereafter I assume with respect to the contacts he had with these men that he may embellish thereon.

(To the witness): The subject matter of your testimony, Mr. Rathborne, you may give based upon your experiences.

The Witness: That is what I am doing, your Honor.

The Court: You may proceed.

The Witness: I am merely giving what I learned and by reading, by contacts, and by attending classes while a member of the Communist Party. That is the extent of my knowledge on the subject. At these unit meetings within the various unions [6391] various issues before the union are discussed—for example, in my own Local 3 here in San Francisco at our unit meetings we would take up under discussion the regular order of business, coming negotiations with the shipowners, what attitude the Communist unit within the union would recommend or try to favor at the membership meeting. Also we would take up political issues. We used to get bulletins and directives from the county committee or from the waterfront section or with regard to certain political issues, such as the situation that existed in Spain or some other matter. We would discuss those and try to bring into the union meetings resolutions on these various political subjects in which the Communist Party was interested. We were bound to go into the union meeting and fight to maintain and put over the position and the line of the Communist Party and influence the membership of that organization to vote the way—on the basis of the decisions that had been either handed down to us or made in our own unit. So that is the way my experience has shown the Communist Party works within an individual trade union. And there are higher echelons, as I explained: the section committees, waterfront section, industrial section, and then the fractions within each labor group which meet and discuss those problems in much the same way as a unit and operate in much the same way as the unit.

Q. Mr. Rathborne, at any time has Mr. Bridges expressed his views to you on the relationship between the Communist Party [6392] and the trade union movement?

A. We have discussed the subject on a number of occasions, yes.

Q. Do you have any recollection of anything that may have been said by Mr. Bridges on that subject?

Mr. Hallinan: Might we have the time and place?

A. I have had a large number of discussions on the subject. I would say that the one that stands out, or more than one that stands out clearly was around in '36, when we used to discuss the activity and role of the Party on the waterfront and the desirability of making—building a strong Party movement there within the unions in order to bring the unions under unified leadership, that is, the leadership of the Communist Party. This particularly came about in connection with the Sailors' Union, where there was a considerable anti-Communist element led by Mr. Lundeberg, and there was a vigorous and vain effort made by the Communists to build up strength among the membership of the Sailors' Union, to try to overthrow Mr Lundeberg's policy and try to move him out of office. Those discussions, as I recall them, took place on various occasions in San Francisco in 1936.

Q. Can you recall specifically what Mr. Bridges may have said on that subject?

A. I can't recall his exact words, no, sir. I know we discussed the matter, the method of work, and the necessity for creating strong organization within the unions was discussed, but as [6393] far as the honor.

Mr. Donohue: I will withdraw the question, if your Honor please.

Q. To your knowledge, Mr. Rathborne, did Mr. Bridges ever receive any instructions with respect to exercising care or caution with respect to attendance at Communist Party meetings?

Mr. Hallinan: No proper foundation laid there, your Honor. He should state the basis for such information he had.

The Court: I take it the question asks for the basis or bases of the information. If you have any knowledge you may answer; if you haven't, of course you can say so.

A. On the matter of security precautions to be taken during the 1936-1937 strike, I was advised——

Mr. Hallinan: That is hearsay, your Honor. We

details as to what he said and what I said, I don't have any independent, clear recollection.

Q. At any time, Mr. Rathborne, during the years that you were a member of the Communist Party did you ever publicly disclose the fact that you were a member of the Communist Party?

A. I did not, no, sir.

Q. At any time during the period that you were a member of the Communist Party did you ever receive any instructions with respect to keeping your Party membership secret or avoiding detection?

Mr. Hallinan: I object to that as calling for hearsay and not binding on these defendants, your are [6394] talking about Mr. Bridges, not this witness.

Q. (By Mr. Donohue): Do you know whether Mr. Bridges received any advice during this time, Mr. Rathborne?

Mr. Hallinan: I object to that on the ground that there is no foundation laid to show who was present when any conversation was had.

Mr. Donohue: I will withdraw the question.

Q. Mr. Rathborne, did you ever attend any of these meetings during the 1936-1937 strike up near the chocolate plant with Mr. Lambert or Mr. Schneidermann at which you entered the meeting with Mr. Bridges? A. I did.

Q. Was anything said as to the reason why you two went together?

A. Not particularly, not as to why we went together. Sometimes we went together and sometimes we went separately.

Q. At any time during that period of time did Mr. Bridges tell you anything about security?

A. I don't recall Mr. Bridges ever telling me anything like that.

Q. Mr. Rathborne, have you ever been convicted of a felony? A. No, sir.

Q. Did there come a time in your life when you were arrested for some offense?

A. Yes, there was.

Q. Will you tell us the nature of that offense and what [6395] happened?

A. In 1924 I was attending a radio school in Los Angeles, a YMCA radio school——

Q. How old were you then?

A. Nineteen, I believe. And I was a very avid radio amateur, and very much interested in radio, both as an avocation and a vocation, and I made the very serious mistake of trying to take some radio parts from the school that I attended. I was arrested and charged with this, whatever the charge was, and between the time——

Mr. Hallinan: Let us find out. Was he charged with electricity, radio or what? The charge was burglary. They know that. I think that is the only method the witness should have, your Honor, of telling what the charge was.

Mr. Donohue: You will have an opportunity to show it.

Mr. Hallinan: You know what it was. Why not come right out and let him say what it was?

Mr. Donohue: Was it first degree or second degree, Mr. Hallinan?

Mr. Hallinan: What difference does it make whether you commit burglary in the daytime or in the nighttime? Do you think it is more noble to do it in the daytime than in the night? If a man is a burglar, he is a burglar. We are not quarreling with him about that, but what we are going to quarrel about is that he is also a perjurer. [6396]

Mr. Donohue: May I again at this time ask your Honor to——

Mr. Hallinan: I think, your Honor, they have no right to quibble on anything like this. Counsel knows the nature of the charge. He knows when the witness says he has not been convicted of a felony that that is false, that that is perjury. He has been convicted of burglary. He knows it. We have the record. He hasn't any right to start this sort of explaining it in advance and exculpating it and excusing it as a means of getting rid of impeachment. [6397] I do not think counsel will even challenge the statement. The witness has been convicted of burglary in Los Angeles. Counsel extenuates it by saying it was second degree burglary: it happened in the daytime. It is still burglary. It is still a felony. And he has no right to have the witness told or advised it is not a felony.

Mr. Donohue: If your Honor pleases, in the light of the injudicious statement made by Mr. Hallinan, I would like to call your Honor's attention to the fact that under Section 1203.4 of the Penal Code of California, reading from the 1949 edition, the California Code provides:

> "Every defendant who has fulfilled the conditions of his probation for the entire period thereof, or who shall have been discharged from probation prior to the termination of the period thereof, shall at any time thereafter be permitted by the court to withdraw his plea of guilty and enter a plea of not guilty, or if he has been convicted after a plea of not guilty, the court shall set aside the verdict of guilty, and in either case the court shall thereupon dis-

> miss the accusations or information against such defendant, who shall thereafter be released from all penalties and disabilities resulting from the offense or crime of which he has been convicted."

Mr. Hallinan: That doesn't make any difference, if the Court please. While it has been held that that relieves a [6398] person from the penal punishment, he is still guilty of the conviction of a felony within the meaning of the impeachment rules.

The Court: Was there a decree expunging the record?

Mr. Donohue: I am so informed and, of course, I shall present the entire record.

The Court: Present the matter in due course and I will make my ruling on it.

Mr. Donohue: May we have the recess at this time, if your Honor please?

The Court: Yes, we will recess until tomorrow morning at 10:00 o'clock, and may I admonish you to disregard the remarks, ladies and gentlemen, made by Mr. Hallinan, at this stage at least, until we have the record before us. May I have some quiet, please? Until such time as the record is before us and the status of this gentleman's record be determined with respect to any alleged felonious conviction or conviction for felonious conduct, that Mr. Hallinan's remark be disregarded by you, that is, his assertion that, first, this witness perjured himself, and, second, he was convicted of a felony. I ask you to disregard the suggestions made by Mr.

Hallinan. At a proper time he may examine the witness concerning the matter and at the proper time I assume Mr. Donohue will bring in the record.

Mr. Donohue: Yes, I will.

Mr. Hallinan: I think that the jury should be instructed to [6399] ignore Mr. Donohue's amelioration of the situation. Let the jury and the Court pass upon it themselves.

The Court: The whole matter may be ignored at this juncture until such time as we have the record before us.

May I again admonish you not to discuss the case under any conditions and not to form or express an opinion until the matter is submitted to you. You may now retire.

(Thereupon an adjournment was taken to tomorrow, Tuesday, February 28, at 10:00 o'clock a.m.) [6399-A]

Tuesday, February 28, 1950, 10:00 A.M.

The Clerk: United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: If your Honor please, I think we ought to discuss the question of law involving the alleged conviction. I will ask your Honor to excuse the jury for a few minutes while we discuss that question of law.

The Court: I have undertaken to do some work last evening in association with my law clerk. I am prepared to rule on the matter. I do not think the matter will require extended argument.

Mr. Donohue: Very well, your Honor.

The Court: I shall rule on two cases——

Mr. Hallinan: I would like to make——

The Court: Would you like to argue the matter?

Mr. Hallinan: I would like to make some argument.

The Court: Have you considered People v. Mackey?

Mr. Hallinan: I do not remember the case offhand.

The Court: If it is only a question of convenience with respect to the jury, you can argue the matter now if you desire.

Mr. Donohue; Very well.

The Court: Or we can have the jury retire and recall them. I suppose under the circumstances the jury may retire momentarily during the pendency of this legal argument, and you will be [6400] called at the conclusion thereof. I again admonish you not to discuss the case under any circumstances.

> (Thereupon the jury retired from the courtroom and in their absence the following occurred:)

Mr. Donohue: I would like to offer the Court the record of the expungement (handing document to Court).

If your Honor pleases, at page 6397 of the record of yesterday Mr. Hallinan stated, "Counsel knows that when the witness says he has not been convicted of a felony"——

Mr. Hallinan: What page did you say that is?

Mr. Donohue: Page 6397. "Counsel knows that when the witness says he has not been convicted of a felony, that that is false, that this is perjury." I am sure your Honor has had——

Mr. Hallinan: It goes on: "He has been convicted of burglary,"

Mr. Donohue: I am sure your Honor has had called to your attention an article in 13 Cal. Law Review at page 301, from which I quote as follows:

> "A witness' character may be impeached by showing that he has been convicted of a felony. What is the conviction? The verdict of the jury or the judgment? The Court holds that the verdict of the jury is sufficient. If a witness has been convicted of a felony he may be impeached even though he has been pardoned. A pardon does [6401] not blot out guilt. How about probation? In view of the large number of probationers the question is of some practical importance. In People v. Mackey the court held that a witness who had been granted probation, which he had successfully completed, could not be impeached for conviction of a felony. Suppose, however, the question is asked the witness. What should be his reply? The only way in that case to keep the impeaching fact from the jury would be to deny that he had ever been convicted."

And I am sure it is unnecessary for me to call your Honor's attention to the Mackey case, because I am sure your Honor has read it, but to read briefly from the pertinent opinion, reading from page 131——

Mr. Hallinan: What is the citation, please, and the date of the decision?

Mr. Donohue: 58 Cal. App. Rep. 1922; reading from page 131: After a lengthy argument the Court concluded:

> "On the whole we conclude that the legislature intended by the enactment of Section 1203 that no convicted person discharged after probation thenceforth should be regarded as one possessed of the degree of turpitude likely to affect his credibility as a witness. The trial court did not err in excluding the record against Rustin."

And, of course, as your Honor will recall, Rustin was the principal witness against the appellant in the case of People v. [6402] Mackey. And I am sure your Honor has considered the fact that the purpose of this statute is like the purpose of a probation act itself. Its purpose is to rehabilitate one who has been convicted of an offense, including felony, the circumstances being such as upon careful inquiry and investigation a report by a probationary officer to the court persuades the court that in the absence of the imposition of any sentence which may be served, that the ends of justice are satisfied by the court's placing the accused on probation and giving him an opportunity to rehabilitate himself. And as your Honor knows, the advantage which accrues to one in that position from that section of the California Penal Code to which reference has been made continues to attach with him forever unless and until there may come a time when once again he may be charged with an offense, and then as we must concede by the authorities from California courts, that should one in that position again commit an offense, the purposes of the statute are not then met by permitting him to deny the prior conviction. If he were accused of crime and were a party defendant, then the purpose of the statute would not be served in permitting him to deny that he had ever been convicted of an offense, including a felony. But unless and until that situation arises, such a person is entitled to all the benefits of the statute. Of course, the witness is not on trial. He is here as a witness and not as a defendant. I therefore most respectfully say to [6403] your Honor that for the purposes of impeachment, the witness Rathborne has not been convicted of a felony, and I most respectfully say to your Honor that he has not committed perjury when within the purview of the law he has denied a conviction of a felony, and I therefore respectfully ask your Honor to say to the jury that the witness Rathborne under California law has not been convicted of a felony and his credibility may not be thus impeached nor has he committed perjury when he denied that conviction.

Mr. Hallinan: Your Honor, could I have an opportunity to look at this review of the two documents counsel has, and if I may have a few minutes, I may find something that will be of help. [6404]

Mr. Donohue: I might add, if your Honor pleases, just one more thought. There is a rather well established principle of law which is based in soundness and reason, and in support of which there are many *sighted* authorities, and I quote only the principle from 70 Corpus Juris at page 871:

> "An inquiry into the character of a witness must relate and be confined to a time so recent as to throw some light on his present character. Questions as to conduct so remote as not reasonably to bear on his present character being improper. What constitutes remoteness as to justify exclusion of a question is a matter for the court's discretion."

In that light I call your Honor's attention to the fact that the incident sought here by way of impeachment occurred nearly 26 years ago, at a time when the witness was then 19 years of age; and I most certainly say to your Honor that the theory of remoteness is like the principle upon which the expunging statute of California is based, and that is upon the theory that one should be entitled to an opportunity to rehabilitate himself, and having done so, he ought not to be impeached by an offense committed more than a quarter of a century ago, particularly when the offense was committed at a very youthful age.

Mr. Hallinan: Your Honor, on this Mackey case I know I have had the experience of having the opposite pointed out in a criminal case, that even though a person had been granted [6405] probation, there had been an expunging, that he could still be confronted with this. I notice that the decision that counsel cites is in June, 1922, and I would feel sure there have been further adjudications on the matter since that time. I would like to have any discussion on that reserved until the afternoon recess. We may be able to find something on this, unless you have satisfied yourself in advance that there is nothing. Of course, counsel's statement about the antiquity of the charge is in sharp contrast to the degree of inquiry that he instituted with regard to the alleged desertion by Bob Robertson years before that, when he was 19 or 20, or 21. And counsel persisted and persisted, although the witness testified, the defendant testified he had bought his way out of the army or out of the navy and in trying to show or trying to raise an implication that the record contained an allegation of desertion. So he is scarcely in a good position to take the position of the "poor boy" being revived by his diligence and going down here since this indictment and having the record expunged. In other words, the expunging the defendant in this case, the defendant in the case that we are discussing now, Rathborne, having pleaded guilty to a felony, to wit, burglary, and being put on probation—nothing is ever done about that until the year 1941. In the meantime the witness has voted.

Mr. MacInnis: 1949.

Mr. Hallinan: 1949, I mean. The witness has voted, he [6406] has made affidavits he hasn't ever been convicted of a felony, and everything else of the same nature. Then, undoubtedly with the connivance of the prosecuting officers in this case, in September, 1949, an expunging order is made. Now, I am not sure even if the Court would have jurisdiction any longer to do that. But it is apparently the rule that to testify against Bridges, the crooked path becomes straight and the rough road becomes smooth, and I would like the opportunity at noontime, if the Court please, to look into that a little further and see if by this late maneuver they can remove the impeaching evidence or the implications of it.

Mr. MacInnis: I would like to add something further to that, your Honor. Now, in the course of this trial from time to time where legal objections have been made one way or the other, we have had occasion to cite California cases and California code sections, and invariably when we do so, the prosecutors in this case arose and informed your Honor that this was a federal case and that probably we weren't used to federal procedure, and that the California law, while persuasive, was not binding upon the federal court. And often the Court—and I am not commenting now upon the propriety of those rulings sustained the prosecution, upon the theory that California authority would not be binding upon your Honor.

Now, we come to the one situation in which the federal code itself holds entirely differently to the California law. [6407] It is fundamental that under the law of California a man is only convicted of a felony in certain circumstances, outlined by the California code. For example, if a man is found guilty of burglary, but if the trial judge satisfies himself there are some extenuating circumstances and gives the man a year in the county jail and suspends the penitentiary term, then that is not a felony conviction in the State of California. However, according to the Federal Code, the test of what is a felony and what is not a felony is determined by the punishment for which the act is susceptible. In other words, if the punishing or penal clause of the code section states that the act can be punished by a penitentiary sentence, then the act in federal court contemplation becomes a, felony.

Now, there is introduced by the special prosecutor the California code section, I think he said it was 1203 of the Penal Code, which permits under certain circumstances the expunging of a record. Now, I am very frank to concede that in all respects as would involve the civil status of the man involved, the expungement of the record would erase his character as a felon. He could vote, he could own property, he could have all the ordinary incidents of the citizenship. But can that code section wipe out something which existed as a fact in the past? I think that the prosecutor asks you and asks us to go a long way with an astounding distinction, which is almost metaphysical in its content, because here is what he says. Back [6408] in 1924 Mervyn Rathborne was convicted of a felony. Now we come to a period right there. Anybody who looked up the record of Mervyn Rathborne at that time would see this man has been convicted of a felony and that's all there is to it. He was given probation, which does not militate against the character of his act remaining a felony. So, many years passed. Twenty years passed. And all of that time Mervyn Rathborne was a convicted felon. That was a fact that was true during all of those stages of his life. But then Mervyn Rathborne was produced in May of 1949 before the grand jury in this federal court as a witness against Harry Bridges. At that time he was still a convicted felon. Nothing whatever had been done to that record. So upon the threshold of this trial, on September 12 of 1949, with the Bridges trial in preparation, with Rathborne a contemplated witness, Rathborne is taken down to Los Angeles and some application is made, and we are certain that it was made by persons connected with this case—and now after the passage of all those years, suddenly that man is no longer a felon. Well, I just cannot follow that. I certainly don't claim that the expungement of the record does not restore to him his civil rights, but that man cannot say in this court with any standing that for twenty-odd years of his life he did not exist in this community or any other community as a convicted felon. Rathborne was convicted of a felony. Now that is the question which is the classic impeaching question. Whatever his status may be [6409] now, I suppose can be shown in amelioration of that fact; but Rathborne was nevertheless convicted of a felony and that is all there is to it.

The Court: Counsel, much of what you might say as to the philosophy underlying the rule no doubt was addressed to the District Court of Appeals in the case of People v. Mackey in 58 California App. 123 at page 128, wherein the language which was mentioned was particularly pointed out.

Mr. MacInnis: Yes.

The Court: The judge, as I recall, in that decision, reached the conclusion that the prior record of conviction was not admissible against the alleged felon or person convicted of felonious conduct. He reached that conclusion after considerable argument and after a rather lengthy opinion. Now, true enough, in these courts we look to our own decisions, but here in this ~~instance~~ we have penal code section 1203 subdivision 4, a rehabilitation section. From the offer made to the Court, it appears to the Court that Judge Robert Scott, on a date mentioned in the transcription of the record, duly and regularly expunged the conviction of felony. Thus automatically there was a restoration of all the rights and privileges and benefits to which Mr. Rathborne may have been theretofore denied. The effect of that decree, I take it, operates immediately and retraces the steps to the time of the original conviction, notwithstanding the intervening years and notwithstanding the [6410] vicissitudes, both socially and economically, as well as politically perhaps, that may have entered into the man's career during the intervening years.

Now, apart from our research under the California law we encountered the following decisions which seemed to fortify the conclusion which I have reached. Judge Yankwich, in the case of In Re Ringnalda, 48 Fed. Sup. 975, "with approval from the Mackey holding in connection with the naturalization of an alien whose conviction of a crime had been wiped out or expunged by application of Section 1203, subdivision 4 of the California Penal Code section. Thereafter the court granted citizenship to the applicant.

Also, the late Judge St. Sure, who as you may recall, presided over these courts many, many years, reached a similar conclusion in the case of In Re Paoli, reported at 49 Fed. Sup. 128, following the provision of Section 1203, subdivision 4 of the Penal Code.

Mr. MacInnis: What was the issue in that case, Judge?

The Court: Practically the same.

Mr. MacInnis: Was that a citizenship hearing?

The Court: Yes.

Mr. MacInnis: In other words, the man's status as a felon was in issue but not the impeaching question?

The Court: Yes. Now, I am prepared to rule, gentlemen, under the Mackey case. [6411]

Mr. MacInnis: All right. May I say one more thing, Judge?

The Court: Yes.

Mr. MacInnis: Now, your Honor, in reading the document offered today, a certified copy of this order expunging the record of Mervyn Rathborne, it was said that the order in its effect would retrace its steps over the years, that it would be retroactive.

Now, I have had some practical experience with those orders and I know they are not retroactive, and I will give you the practical analogy.

I represented a man, oh, within the last year or so, who had applied for a job with the State of California. It was determined that he had been convicted of a felony many years ago. He had had the record expunged, so he made an answer in his application that he had never been convicted of a felony. The State of California took the position that the order was not retroactive at all, that the order restored him to his status as a citizen, the order made him in effect no longer a felon, but that there was a period of time in which he had been a convicted felon.

Now, it is just like Mervyn Rathborne. Now, if this order had a recital that it was made nunc pro tunc as of 1924, then it would be a retroactive order. But that we, in this tribunal, should for the sake of rehabilitating this man called Mervyn Rathborne, read a retroactive inference into that is astounding.

The Court: There is nothing astounding about an interpretation [6412] on the part of this Court with respect to a California Penal Code section. That section is incorporated in the statutory law as the result of legislation on the subject. I am interpreting it in the light of the California decisions in the Mackey case and in the light of the interpretations placed upon it by two distinguished judges of these courts. Now, there is nothing startling about it. As I see it, it is a plain question of application of judicial rule. Nor do I see anything amazing about it. Those statutes were incorporated for the benign influence of rehabilitation. Now, whether the application was made in 1949, 1939 or any other date may be regarded as purely accidental or coincidental.

Mr. MacInnis: Well, it is not accidental with the government——

The Court: Well, it may well be—not affecting the prime rights of the parties.

Mr. MacInnis: Well, it is hardly accidental that it be determined that the government prosecutors arranged for this man to have this record expunged. [6413]

The Court: Counsel, I do not know that. Your statement has been made by Mr. Hallinan. I do not know the facts, whether Mr. Rathborne appeared individually or whether he appeared in association with any counsel.

Mr. MacInnis: What do you think his reason would be to wait until the year 1949 in September to make this application?

The Court: I have no idea. I am ruling on this matter on the evidence before me.

Mr. MacInnis: Of course, there is another facet to the problem, your Honor, if I may add that to what has already been said. We are not confronted here with a situation which might have arisen under your present ruling if the witness Rathborne had been asked the simple question on cross-examination, "Have you been convicted of a felony?" Our attention is directed to this whole incident on direct examination by the prosecutor, who brought out from the witness the fact that he had pleaded guilty to the crime of burglary. Now, that is the situation we are in now, and having opened that subject it can hardly be foreclosed by this happy production of a record, however incidental, coincidental, or what the intervention of the Government may have been.

The Court: You offer that transcript in evidence, Mr. Donohue?

Mr. Donohue: Yes, your Honor.

The Court: It may be received and marked in evidence. [6414]

(The record referred to was marked U. S. Exhibit No. 40 in evidence.)

Mr. MacInnis: I would suggest this, your Honor, in view of the manner in which this incident came before us: that your Honor withhold any ruling until questions be put to the witness himself so that objections can then be made and rulings made by the Court, because we are apparently discussing now, however much we may disagree with each other, a purely hypothetical matter. There is no question here.

The Court: Not altogether, counsel, for the reason that Mr. Hallinan late yesterday afternoon said to the witness Rathborne, or at least charged the witness Rathborne with committing perjury in the presence of the jury. Now, under those circumstances I feel that the matter should receive prompt disposition and such clarification made as may be in keeping with the record and in the light of the law as I read it, and I intend to make prompt disposition of this matter.

Mr. MacInnis: Let me be prompt, then, to assure your Honor we will demonstrate further evidences of perjury out of the lips of the same witness.

The Court: Counsel, I shall meet these matters as they arise step by step. At the present time there is only one matter before me. I accordingly rule that the matter of the charge made by Mr. Hallinan in open court and in the presence of the jury that Mr. Rathborne had committed perjury in connection [6415] with his testimony late yesterday afternoon was improper, and I accordingly——

Mr. Hallinan: Might I make this suggestion, Judge: We have a record, gotten some time back, of Rathborne's conviction. We never knew about this expunging thing until it was produced this morning.

The Court: Nor did I. I said yesterday afternoon if counsel produced a record expunging the prior conviction, that I would entertain the matter and rule upon it. Now I am ruling.

Mr. Hallinan: What I am discussing now is the type of language that you employ in discussing the matter. In other words, to say the thing is improper, the allegation that there was a conviction of a felony with the information we had—we had no idea that the prosecution had taken the step to expunge this record at so late a date—we have the record; I have it with me, a certified copy of the transcript received some months ago prior to this

September date, showing merely the conviction of a felony. Therefore, we simply made the charge in good faith, without any notice, although I would have asserted the same thing, arguing with the Court and discussing it with the Court, however; but we had no knowledge that they had taken any such procedure as they have taken.

Mr. MacInnis: In other words, your Honor, at the time we saw the record it was a judicial fact that Mervyn Rathborne was a convicted felon, and on that basis the offer and the [6416] statement was made.

The Court: Counsel, the order made by Hon. Robert Scott is an official record of the courts in Los Angeles and public notice and knowledge is given to all official records. Therefore it is presumed you had notice and knowledge of that record expunging.

Mr. Hallinan: The Government did not trouble to send us a copy when it obtained this expungement for Mr. Rathborne.

The Court: That may be.

Mr. Hallinan: I do not think we can be charged as individuals with the contents of the criminal records of the County of Los Angeles. There are a great number of cases that hold for certain purposes a recordation of a public document is notice, but it is always notice to a particular person who is put upon inquiry on the matter.

The Court: Mr. Hallinan, do you not agree at this stage of the proceeding that it is only fair and proper that this Court instruct the jury that the charge made by you that Mr. Rathborne had committed perjury in connection with his answer made yesterday afternoon should be stricken from the record and that they should be admonished to disregard the same?

Mr. Hallinan: If your Honor is going to give an admonition it should be along those lines. It should not involve a criticism of us in the matter, because so far as the information we had, there was no such document as this extant. [6417]

The Court: Call the jury.

(Thereupon the jury returned to the courtroom and the following proceedings were had in their presence:)

The Court: Ladies and gentlemen of the jury, at this state of the proceedings I desire to instruct you, in addition to the instructions which I gave you last evening, that the statement made in court and in your presence that Mr. Rathborne had committed perjury in this court in connection with any alleged prior conviction of a felony should be dismissed from your minds and stricken from the record. I accordingly readmonish you to do that, to ignore any such assertion made. I think for the present that will suffice, unless counsel for the Government requests an additional instruction or admonition.

Mr. Donohue: Not at this time, if your Honor please.

The Court: All right; you may proceed.

MERVYN RATHBORNE

Direct Examination

By Mr. Donohue:

Q. Mr. Rathborne, returning again to the time of the national CIO convention in Philadelphia, do you recall testifying yesterday that you did not attend that convention? A. Yes, sir, I do.

Q. You testified yesterday that you received during the period of that convention a telephone call from Phil Connally and a telephone call from Mr. Bridges?

Mr. Hallinan: I object to this, if your Honor please. [6418] Most of it has been asked and answered. The questions are in their present form leading.

The Court: The question is leading. You might answer.

A. I recall testifying to that effect, yes.

Q. (By Mr. Donohue:) I would like to ask, at or about that same time you received another phone call from some other person? A. I did.

Q. And from whom?

A. From Mr. Roy Hudson.

Q. Now, following the closing of that convention did you attend a meeting in San Francisco with reference to the incidents which occurred at that convention? A. I did.

Q. Where and when was that meeting held, Mr. Rathborne?

A. The meeting was held shortly after the delegates who were present at the convention at Philadelphia returned to California, to San Francisco here; I would say approximately three or four days, possibly a week.

Q. Where in San Francisco was that meeting held?

A. At a home on Pierce Street, I believe.

Q. Do you recall by whom you were informed as to that meeting?

A. Yes, I recall that. During the period from the time I received the information from Philadelphia until after the delegates returned, I remained in my home in San Carlos and did not go near the office, because I did not want to let people know around the CIO how I felt about the thing until I had an opportunity to cool off and talk to the people who came back from Philadelphia. I was called at my home by Mr. Schneidermann, who said——

Mr. Hallinan: Just a minute. I object to this as hearsay, if the Court please.

Q. (By Mr. Donohue): In consequence of the phone call from Mr. Schneiderman what then did you do?

A. I attended a meeting that Mr. Schneidermann has notified me about on the telephone at this place on Pierce Street.

Q. Who was present, Mr. Rathborne?

A. I recall Philip Connally, Slim Connally was there, George Wilson, Lou Goldblatt, Bill Schneidermann, and I an reasonably sure David Hedley was there; and there were several others, I believe

(Testimony of Mervyn Rathborne.)

—my recollection is that Paul Schnurr, Sandra Martin were also there, but I am not positive of that.

Q. Were any one of the defendants here present at that meeting?

A. I believe Mr. Robertson was there, but again I am not certain of that.

Q. Can you recall what was said by any person or persons at that meeting?

A. Yes, I recall it very clearly because of my feeling on the matter after I had been advised what had taken place. Mr. Schneidermann opened the meeting with a discussion or a talk telling us what the Party line was at that time and what he— [6420]

Mr. Hallinan: Just a minute. We object to this, if the Court pleases. In the first place, it has not been shown that any of the defendants was there.

Mr. Donohue: The witness has said——

Mr. Hallinan: He says he thinks Robertson was there, but that it is not enough to establish that fact.

Mr. Donohue: He said his best recollection is Mr. Robertson was there.

The Court: Let us ask him again and see.

Q. (By Mr. Donohue): What is your recollection as to whether or not Mr. Robertson was present?

A. It is my recollection that he was there.

Mr. Hallinan: He would be bound to answer it that way, given such opportunity; but originally the answer was not that.

The Court: I didn't hear you.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: I said he would be bound to fill it in that way, but his original answer was he thought; he wasn't sure whether he was or was not.

Mr. MacInnis: May we have the date of this alleged meeting?

Q. (By Mr. Donohue): What is your best recollection of the date, Mr. Rathborne?

A. The best way I can place the date, I would say within two weeks after the convention, this national CIO convention that was held in Philadelphia. It was a few days after the delegates returned from that convention, which I would say would put it [6421] within two weeks after that convention.

Q. What is your best recollection as to what was said by anybody who was present?

A. As I said before, Mr. Schneidermann opened the meeting with a statement of what the position, line, decision of the Communist Party at that time was in relation to this matter, in relation to the attitude of the Party for the CIO, and that position as he stated it was that it is obligatory upon the Communists to work closely and for unity with what he called the center forces of the CIO, which he typified by Philip Murray; that unity was essential for the war effort and essential so that they could influence the center forces and help isolate the right-wing forces. This particular decision to remove Slim Connally and substitute him with Thimmes as president came from the national office of the Party, and it was in the furtherance of this

(Testimony of Mervyn Rathborne.)

policy or this line that Mr. Schneidermann laid down, it was a decision that had been gone over in Philadelphia with the California people there, and it was final, and so far as the purposes of the meeting was concerned, it was to clarify the reasons for the decision; and that that was as much as the meeting could do, that there was no—the decision could not be changed.

Then following that there was considerable discussion by quite a number of people including myself. I raised some very strong objections to it. The objections were along the same lines as I stated here yesterday, as I gave to Mr. Bridges at [6422] the meeting in his office some time later.

Q. Do you recall anything said by anybody else?

A. I recall that Slim Connally reported on the meeting that was held in Philadelphia, and the burden of the discussion there, and reported that he was satisfied with the decision and that he intended to carry it out; and that was the way we should proceed, was to have unity with the right and center forces, and the best way to do that in California would be to offer to one of Phil Murray's men, namely, Thimmes, the presidency of the State CIO as a practical way of demonstrating the desire for this unity with the so-called center or Murray forces in the CIO.

Q. As a matter of fact, was this meeting which you are now discussing held prior to the time when Mr. Thimmes actually did replace Mr. Connally?

A. Yes, Mr. Connally resigned at an Executive

Board meeting of the State CIO held in Los Angeles I think in March—I am not certain as to the month—in March of 1944. At least early in 1944.

Q. Were you present at that meeting in Los Angeles, Mr. Rathborne? A. I was.

Q. Upon the resignation of Mr. Connally what action was taken by the CIO Executive Board?

A. The motion—when Mr. Connally resigned somebody took the chair—I believe Mr. Zussman—and he called for a motion for [6423] the election—for the nomination of an acting president, and thereupon Mr. Thimmes was nominated and was elected by, I believe, the unanimous vote of the Executive Board to serve in Mr. Connally's place until the next convention.

Q. Do you recall whether Mr. Bridges was present at that 1944 meeting in Los Angeles?

A. I don't recall him being there. I don't believe he was. My best recollection is he was not.

Q. Mr. Rathborne, on some occasion yesterday you testified as to membership on a unit, sometimes referred to as God's Committee. How often did that organization or that unit meet?

A. It was scheduled as a regular weekly affair. It was a regular weekly meeting. However, there were occasions when weekly meetings were not held by virtue of conventions, absence from town, people in other regions.

Q. Was your attendance at the meetings of that committee fairly regular?

(Testimony of Mervyn Rathborne.)

A. It was quite regular during the periods I was in San Francisco.

Q. Over what period of time can you now tell us was it that you were a member of this committee?

A. The committee—that particular group, I believe was organized in 1944 or thereabouts, and I functioned with it until sometime in 1946. I would say about two years. That is approximate, [6424] though.

Q. Mr. Rathborne, how do you distinguish between the top Communist Party fraction in the CIO, which you have heretofore described as God's Committee?

A. Well, the State CIO top fraction technically consisted of only the members of the State CIO Executive Board and the officers of the State CIO who were also Communist Party members. The so-called God's Committee or special committee consisted of those people I have just described who resided in San Francisco or near by, plus a number of local people connected with the San Francisco CIO Council and some of the unions here.

Q. Then membership on the God's Committee was restricted to persons in Northern California or in the Bay Area?

A. I would say on the San Francisco side, because on the Oakland side they had another committee known as the Joe Hill Committee, which functioned on that side of the bay, much the same as God's Committee did on our side.

(Testimony of Mervyn Rathborne.)

Q. Was Mr. Bridges a member of God's Committee? A. No, sir, he was not.

Q. What if any was the relationship of Mr. Bridges to God's Committee?

Mr. Hallinan: Just a minute. I object to that as calling for the opinion and conclusion of the witness, if your Honor please. It is not a matter that he knows. If he wants to state a conversation or lay a further foundation——

Mr. Donohue: I will withdraw the [6425] question.

Q. Mr. Rathborne, did you ever discuss any of the activities of God's Committee with Mr. Bridges?

A. I did. [6425-A]

Q. Will you state the circumstances and reasons for such discussion?

A. From time to time I would see Mr. Bridges and relate to him some of the things that had happened at the meetings of this so-called God's Committee.

Q. Would you do so alone or were you ever accompanied by anyone else?

A. Some cases I did it alone, some cases Mr. Schneidermann and I would call on Mr. Bridges at his office usually and discuss the matters with him that have been taken up by this committee.

Q. How frequently would you say that either you alone or in company with Mr. Schneidermann discussed with Mr. Bridges the activities of the so-called God's Committee?

A. Oh, I—the best way I can answer that is to

(Testimony of Mervyn Rathborne.)

say on a number of occasions over that period of time. In other words, we kept him advised; that is, I kept him advised of what was going on, what the decisions were, and what the discussion was from time to time.

Q. Was there ever any discussion between you and Mr. Bridges as to why Mr. Bridges was not meeting with the God's Committee?

A. No, not particularly.

Mr. Donohue: This is a convenient breaking place, if Your Honor pleases, if we may take the morning recess.

The Court: All right. We will take the morning recess [6426] ladies and gentlemen; the same admonition to you not to discuss the case under any conditions.

(Recess.)

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Rathborne, when did you first publicly declare your membership in the Communist Party?

A. The first time, I believe was at the grand jury proceedings in May of last year.

Q. May of 1949? A. Yes, sir.

Q. Had you prior to that time ever denied under oath that you were a member of the Communist Party? A. Yes, sir.

Mr. Hallinan: Wait a minute, wait just a minute. What was that?

(Testimony of Mervyn Rathborne.)

Mr. Donohue: Would you read the question for Mr. Hallinan, please?

(Record read.)

Mr. Hallinan: Denied under oath that he was a member of the Communist Party?

Mr. Donohue: Why, certainly, Mr. Hallinan; you knew that, didn't you?

Mr. Hallinan: This witness?

Mr. Donohue: Yes, this witness. [6427]

May I proceed, Your Honor?

Mr. Hallinan: Now, what about that perjury statement, Your Honor, that we raised here?

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Mr. MacInnis: Pardon me please. I think at this time we should make a formal request that Your Honor now recall the admonition given to the jury that this witness had not committed perjury.

The Court: Counsel, the motion is denied. Proceed, Mr. Donohue.

Q. (Mr. Donohue): Would you state where and when you so testified, Mr. Rathborne?

A. I gave testimony before what was known as the Dies Committee, I believe the Un-American Activities Committee, and also before what was known as the Tenney Committee.

Q. Was that testimony given in Washington or in California?

Mr. Hallinan: Now, just a moment. Object to this as leading. I think we ought to get the circumstances from the witness.

The Court: All right.

Q. (By Mr. Donohue): Will you relate the circumstances as to time and place and before what body?

A. Some time in 1940, I believe, I was subpoenaed by the Dies Committee, the Un-American Activities Committee which is a committee of Congress to appear in Washington, D. C., at a [6428] hearing or proceeding they were holding. I did appear and testified there. Some time later, I think it was in 1941, I was subpoenaed to appear before the Tenney Committee which is a committee set up by the California Legislature to appear in San Francisco. I appeared at hearings of that committee and testified.

Q. Now, will you state to His Honor, and to the ladies and gentlemen of the jury the reasons for your denying your membership in the Communist Party before both the House Un-American Activities Committee and the Tenney Committee?

Mr. Hallinan: Now just a minute. Object to that, if the Court please, as incompetent, irrelevant and immaterial. The witness has no right to exculpate himself. First he is freed of a burglary charge and now he is going to be freed of a perjury charge on some sort of an explanation. Now, he hasn't any right to make such explanation, if the Court please, particularly on direct examination. Here, if this witness has testified falsely that he was not a member of the Communist Party at a time that he has just sworn before this jury he was, then that is proper impeachment. But it is nothing for these people to now take and allow him to give some sort of explanation as to why he committed perjury.

Mr. Donohue: I submit, if Your Honor pleases, the witness has the right to answer the question as to why he so testified in 1940 and 1941.

The Court: Objection overruled. [6429]

A. I testified to the question, to the effect that, "Are you a member of the Communist Party?" and I gave my answer as "No," because at that time I considered myself to be a good Communist and I was acting under Communist Party instructions. I was advised by the Communist Party that the——

Mr. Hallinan: Now, wait a minute. Object to this, if the Court please, as hearsay. He was advised by the Communist Party!

Mr. Donohue: I submit it is proper, if Your Honor pleases. He was a member of the Communist Party, he had attended their schools, he had discussed——

Mr. Hallinan: This is a matter of hearsay, if the Court please.

The Court: Objection overruled.

Mr. Hallinan: Well, then, at least, if Your Honor please, a party can not advise anybody. Let the gentleman give the names of the persons who advised him.

The Court: All right.

A. (Continuing): In connection with the appearance before the Dies Committee, I consulted with Mr. Hudson of New York——

Mr. Hallinan: Pardon me. Let me get that, will you, a minute? What Mr. Hudson is that?

The Witness: Mr. Roy Hudson of New York.

A. (Continuing): And advised him of the fact that I had been subpoenaed and that I was going to appear, that I had to appear under the subpoena—— [6430]

Mr. Hallinan: Pardon me. I missed that.

Mr. Donohue: Would you read back what the witness said, Mr. Reporter?

(Record read.)

Q. (By Mr. Donohue): Will you continue, Mr. Rathborne?

A. And in that particular instance, naturally the question came up, because the Dies Committee at that time was carrying on an investigation into alleged subversive activities, as to whether I would be asked whether I was a member of the Communist Party. And he advised me to answer "No," and he told me that the Dies Committee was a part of the—as he put it, capitalist state that was suppressing the working classes and that we should have no respect for them and not to—committing perjury under those circumstances was an act that was looked on with favor by the Communist Party. And further told me that as far as the state setup, the setup of the state was concerned, that is, the legislative, judicial branches of the government, they

(Testimony of Mervyn Rathborne.)

were merely the means of suppressing the working people, used by the capitalists in order to keep the working people under subjection, keep them from taking over the ownership of the means of production and so on and so forth.

Mr. Hallinan: Pardon me. Are we having now an answer to what Mr. Hudson told him at this time?

Mr. Donohue: That's right.

Mr. Hallinan: In other words, the gentleman hasn't discovered [6431] this in the seven years that he had been in the Communist Party up to that time? That is all I wanted to find out.

Mr. Donohue: He hasn't said.

Mr. Hallinan: That he was having a refresher course, I take it, in perjury.

Mr. Donohue: He hasn't said that, Mr. Hallinan.

Mr. Hallinan: Well, let's go on; it's interesting.

Mr. Donohue: Why don't you let us go on?

A. (Continuing): I discussed this at some length with Mr. Hudson. It was a very serious thing, and I asked what the justification was; why, if I was to carry out my responsibilities, I should put myself in this position. We had considerable discussion about it. I believe it lasted for a good part of an evening. On the second occasion I consulted with Mr. Schneidermann here in San Francisco, and while I didn't have any prolonged discussion with him, as I had with Mr. Hudson, he advised me——

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: Just a moment. Object to this as hearsay also, if the Court please, and furthermore, Your Honor, that neither Mr. Hudson or Mr. Schneidermann has the right to advise any person to commit perjury, nor can a person commit perjury and then remove himself, exculpate himself by putting it on the shoulders of some person he said advised him. In other words, under such circumstances, both persons would equally be guilty of a felony. [6432]

Mr. Donohue: So what?

Mr. Hallinan: Well, of course, go right ahead. He is just in line with some of the other gentlemen who have preceded him. I shouldn't have been surprised, but I am, a little bit.

A. (Continuing): On the second occasion I consulted with Mr. Schneidermann regarding the Tenney Committee appearance and he gave me the same instructions, the same advice, to deny my membership in the Communist Party.

Q. What had you been taught as to your responsibility to the party, in the Communist Party schools which you attended with respect to admitting or denying your membership in the Communist Party?

Mr. Hallinan: Now just a moment, if the Court please. Object to that as incompetent, irrelevant and immaterial, and it is no justification for a man to say that he has been taught a thing to excuse perjury. If this gentleman has committed perjury on two occasions as he has stated he has done so,

(Testimony of Mervyn Rathborne.)

he can not justify or excuse himself by saying he was taught that in some school. Now, he has been taught differently, I take it, in other schools, and it is no justification what he has been taught or what he has not been taught. In other words, Your Honor, if he is merely a member of the conspiracy to commit perjury, if he is a co-conspirator to commit perjury either in this case, as we believe and feel, or before the Dies Committee in conjunction with Mr. Hudson or other members of the Communist Party, and Mr. [6433] Schneidermann, that does not excuse him. It is the law that where persons advise, aid, abet and assist others in the commission of crimes, they are all principals. Now, if this gentleman is a felon and a perjurer, he can not excuse himself by saying somebody else advised, abetted and aided him in committing his perjury. There is no justification in that at all.

The Court: Mr. Hallinan, I am limiting this testimony with respect to the alleged internal operations of the Communist Party, and instructions, if any, received by this man with respect to the situation then confronting him, and for that purpose only.

Mr. Hallinan: Might I ask this, Your Honor: For what purpose can that be a justification? Suppose he says, "Some other scoundrel as black as myself, advised me to commit perjury. Therefore I am freed from any culpability." What is the purpose of bringing in these other people? Does it excuse him being a perjurer? Does it make him any the less a felon or a liar that somebody else told and advised and instructed him to do so? Now, it might all be very well if he is so weak and so insipid and such a fool that he has taken somebody else's advice as to what he shall do to excuse himself in a moral sense. But it doesn't excuse him in the sense in which he is brought here as a witness, and it doesn't make him any the less a felon, a liar and a perjurer. Why, here Mr. Donohue told us last night that Mr. Bridges on the witness stand said that this [6434] man was a thief, a drunk, a liar and a perjurer. Well, the only thing that we haven't gotten that he has admitted now is a drunk, so far.

The Court: Ladies and gentlemen of the jury, I think that it is my duty under the law, and under my oath, as I perceive it, to instruct you to disregard the remarks of Mr. Hallinan in their full contents. The testimony, as I told you at the start, the threshold of this case, and as I will tell you when we finally conclude and I finally instruct you, comes from the witnesses and not from the arguments of counsel, not from the declarations made in open court, not from invective or not from any other matters that may be contained in the remarks made by Mr. Hallinan. True enough, the background of this witness has been exposed to us, both to the Court and to the jury, by reason of statements made off the witness stand and in open court. This witness, equally with the litigant in this case, is entitled to some degree of protection at the hands of this Court, and he will receive that protection. Now you may proceed.

Q. (By Mr. Donohue): Would you continue—

Mr. Hallinan: I might suggest, Your Honor, that the exposure of the burglary and the perjury comes from the witness' own examiner; it is not cross-examination; it is not charges made by us.

The Court: Ladies and gentlemen of the jury, I admonish you that the last remark of Mr. Hallinan represents misconduct [6435] with respect to any alleged burglary. During the recess period, while you retired, this Court heard legal argument. At that time I considered the law under Section 1203.4 of the Penal Code of the State of California. That is a rehabilitation section. The legislature of the State of California, in a benign way, has seen fit to incorporate under the penal statutes, a section wherein a person theretofore either convicted of felonious conduct or entering a plea thereto, might in terms of rehabilitation receive after the full probationary period has expired, a certificate from the trial court wherein he first appeared. That certificate has been received in this case. The record has been expunged of any alleged felonious conduct. This witness may not be impeached with respect to that particular transaction. Mr. Hallinan is mindful of that statement.

Mr. Hallinan: Pardon me, Your Honor. Might I make one suggestion?

(Testimony of Mervyn Rathborne.)

The Court: Yes.

Mr. Hallinan: Now, you have two elements involved in the conviction: You have the act of burglary and the conviction of a felony. The conviction of a felony, the effects of it, may be wiped away, wiped out by the decision of the court, but the act of burglary is not wiped out by the decision of the court. For instance, the commission of perjury in 1940 can not be prosecuted in the court because that statute of limitations has expired.

The Court: Mr. Hallinan, without again unduly interrupting [6436] you, I told you when we had the legal argument that I would meet each point as it arose.

Mr. Hallinan: But you get my point, Your Honor, the distinction between the two.

The Court: Just a moment. In fairness to the Court, I have reached the initial point, and I ruled under the matter presented to me. I instructed the jury. Now, proceed.

Mr. Hallinan: Very well.

Q. (By Mr. Donohue): Would you continue——

Mr. Hallinan: We enter an exception to the Court's admonition to the jury.

The Court: You have an exception as a matter of law, to any and all rulings of this Court.

Q. (By Mr. Donohue): Would you continue, Mr. Rathborne, where you left off?

A. I have forgotten what the question was.

Q. The question was, what were you taught in the Communist schools which you attended and by the Communist literature which you read with respect to the subject matter of concealing your own membership in the Communist Party?

Mr. Hallinan: Well, now, if the Court please, we object to that upon the further ground that it is not the best evidence, that if he has read some books, let's see these books that are supposed to justify him. We further object to his calling for hearsay, opinion and conclusion of the witness; it is incompetent, [6437] irrelevant and immaterial what he was taught or what reasons he had.

Mr. Donohue: If Your Honor pleases, the motive, the state of mind of this witness when he testified in 1940 and 1941 with respect to these membership matters in the Communist Party is a matter to which he is now entitled to state. Mr. Hallinan makes the mistake of forgetting—and it is an advised mistake—that the witness is not on trial, the three defendants are on trial.

Mr. Hallinan: Yes, and it is strange. In other words, the three defendants are charged with perjury and they are on trial; the witness comes up and admits perjury and is not on trial. Counsel is correct in saying that. But the fact that I should forget it is not so strange.

Mr. Donohue: In the light of that statement, if Your Honor pleases, I think Your Honor should refresh Mr. Hallinan's recollection — though it doesn't need it because he inadvertently stated it a moment ago—that this offense committed in 1940 and 1941, and not discovered by the government

(Testimony of Mervyn Rathborne.)

until 1949, is barred by the statute of limitations and we couldn't prosecute Mr. Rathborne even if we desired to.

Mr. Hallinan: We grant that. That was the point I made.

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Rathborne, would you proceed? [6438]

A. I am sorry. Will you ask me the question again?

Q. The question was——

Mr. Hallinan: The court has not ruled on the question. Your Honor has not ruled on that.

The Court: Was it a question or an argument?

Mr. Hallinan: It was a question that was asked, and I made the objection that it called for hearsay. He said books he read, things he had heard.

The Court: The objection is overruled. [6439]

Q. The question was, Mr. Rathborne, what had you been taught in the Communist schools which you attended? What had you learned by the Communist literature which you had read on the subject of disclosing your membership in the Communist Party?

A. We were told in the classes and in the meetings we held that we should not disclose our membership in the Communist Party except with the approval and by the decision of certain echelons within the Communist Party, depending upon the area in which we operated; that is, certain people,

(Testimony of Mervyn Rathborne.)

for example, operating in California, it would be a matter for the State Committee of the Communist Party to determine whether that comrade should be permitted to come out in the open as an open Communist or be permitted to so testify or to operate as an open Communist.

Q. Were you in fact in 1940 or 1941 a member of the Communist Party? A. I was.

Q. And are you in fact today a member of the Communist Party? A. I am not.

Mr. Donohue: You may have the witness.

Cross-Examination

By Mr. Hallinan:

Q. Well, to get this straight now, Mr. Rathborne, you were a member of the Communist Party in the year 1940, is that right?

A. Yes, sir, I was. [6440]

Q. You had filed an application, is that right? You had filed an application for membership in it, had you?

A. I filed the first application, as I testified, I believe in 1935.

Q. Books had been issued to you, had they?

A. That is my recollection, yes, sir.

Q. You were paying dues? A. Yes, sir.

Q. You were a full-fledged member of the Communist Party in the year 1940, is that right?

A. That is my recollection, yes, sir.

Q. You were a full-fledged member of the Communist Party in the year 1941, is that right?

(Testimony of Mervyn Rathborne.)

A. That is my recollection.

Q. And you received a subpoena from a committee called the Dies Committee, is that right?

A. I believe the proper name was the House un-American Activities Committee.

Q. That is a committee of the United States Congress, is that right? A. That is right.

Q. So before going there you went and consulted a man named Roy Hudson as to what you should say, is that correct?

A. That is substantially correct.

Q. And Roy Hudson held some sort of office also in the Communist [6441] Party, is that right?

A. My recollection is that up to that time he had been National Trade Union Director.

Q. What did he do for a living besides that? What was his ordinary occupation?

A. He was a full-time paid employee or functionary of the Communist Party.

Q. Do you know what his trade had been before he became such?

A. I believe he was originally a seaman. As a matter of fact, I am pretty sure he was.

Q. A seaman? A. Yes.

Q. An ordinary seaman sailing on ships, is that right?

A. I don't know whether he is an ordinary seaman or an able seaman, but at least he told me he used to go to sea.

Q. Do you know when he became a member of the Communist Party? A. No, sir, I do not.

(Testimony of Mervyn Rathborne.)

Q. Do you know when he became a hired functionary of the Communist Party?

A. I don't know for sure, but I would say it was probably around 1935.

Q. And then in addition to the advice he gave you, you had also been prior to that time taught in some school that you should not answer as to your membership in the Communist Party except upon the advice of some top echelons, as you put it, is that it? [6442]

A. I didn't say except upon advice of the top echelons. I believe I testified on the advice of the proper echelon or proper group or division within the Communist Party.

Q. And then when you came out to San Francisco and received a subpoena from the Tenney Committee, which is a committee of the California State Legislature, I take it, is that right?

A. That is my understanding.

Q. Then you went to Mr. Schneidermann, is that right? A. That is right.

Q. And you asked him about it, is that correct?

A. That is——

Q. When you asked Mr. Hudson about the matter, he told you as this committee represented a part of the hostile capitalist state, that you should not give it the dignity of answering its questions correctly and you should commit perjury, is that right?

A. That is substantially my recollection.

(Testimony of Mervyn Rathborne.)

Q. So you went ahead and committed perjury, is that right? A. That is correct.

Q. And when you came out before the Tenney Committee you took the stand and also committed perjury, did you? A. That is right.

Q. And you say this is a practice of Communists, is that right?

A. I don't quite—— [6443]

Q. I say, you say such procedure is a practice of Communists, is that right?

A. I would say, based on my own experience, yes, that was the procedure they followed generally.

Q. Therefore it is, according to you, a procedure, a legitimate procedure of Communists to take the witness stand, swear to tell the truth, the whole truth and nothing but the truth, and testify falsely, is that correct?

A. I would say that has been the position of the Communist Party at times in telling their own members to do such a thing, yes, sir.

Q. And it was your position at the time you testified before the Dies Committee and the Tenney Committee, is that right? A. That is right.

Q. So that at least in the years 1940 and 1941 you could not be believed under oath, could you?

Mr. Donohue: I object, if your Honor please. The question is argumentative.

Mr. Hallinan: Oh, no, I think that is proper cross-examination, if the Court please. It is preliminary.

The Court: Overruled. You may answer that.

(Testimony of Mervyn Rathborne.)

A. I would like to put my answer this way: As to the things I testified to before these two committees, the only wrong or prejurious answer I gave was the answer to my membership in the Communist Party. As to that fact I would deny membership in the [6444] Communist Party during that period, and did.

Q. (By Mr. Hallinan): So you felt free, then, at least in the years 1940 and 1941, to lie under oath on matters concerning the Communist Party, is that right?

A. On matters concerning my membership in the Communist Party.

Q. Only matters concerning your membership?

A. That is the only matter that I testified to.

Q. Did you testify in that hearing as to the membership of any other person?

A. Yes, I did.

Q. Did you testify truthfully?

A. No, I did not.

Q. Were you asked, for instance, whether Mr. Hudson was a member of the Communist Party?

A. No, I was not, not that I recall.

Q. Who were you asked concerning?

A. I was asked concerning a number of people. I don't at the time recall their names.

Q. And those people, were they members of the Communist Party?

A. I would have to see the list in order to——

Q. I haven't the list. You tell us who they were.

(Testimony of Mervyn Rathborne.)

A. I don't recall all the testimony that I gave at that proceeding.

Q. Let me ask you this: Were you asked concerning the membership of any one person in the Communist Party other than [6445] yourself before the Dies Committee?

A. It is my recollection that I was.

Q. And was that person a member of the Communist Party?

A. Well, again, Mr. Hallinan, I don't recall the names that were——

Q. If you had been, if you were asked concerning the membership of some person in the Communist Party, would you have denied it at that time, or did you deny it?

A. It is my recollection that I was asked concerning—I was asked whether certain people were members of the Communist Party. As I say, I don't recall who the names were, and it is also my recollection, at least—well, some of them were and I denied their membership. That is the clearest statement I can give you.

Q. That is what I am trying to get. So you felt free to lie under oath not only concerning your own membership but concerning the membership of other persons, is that right? A. That is right.

Q. And you felt free to lie as to when you had entered the Communist Party and when you had left it, isn't that right?

A. I don't think that question was asked.

Q. Let me ask you this, Mr. Rathborne, and

(Testimony of Mervyn Rathborne.)

see if you can figure this one out: How anyone can tell right now whether you are lying as to whether you were a member of the Communist Party.

Mr. Donohue: I object, if your Honor please. That question [6446] is argumentative.

Mr. Hallinan: I think it is proper cross-examination. He was asked and allowed to give his reasons for saying and doing things, his own motives, his own purposes and philosophies in it, and we are entitled to inquire into it further.

Mr. Donohue: I object to the question, if the Court please——

Mr. Hallinan: And furthermore, I might call counsel's attention to the difference between the manner in which the defendants were cross-examined and the manner in which Government witnesses were cross-examined. We did not interpose a single objection to any question asked except as to "Please allow the witness to finish his answer." But every witness they put up here has to be protected, nursed and coddled along. Now we are starting in again, and this man, who admits he committed perjury before a congressional body of the United States Congress, your Honor, has to be protected from the reasons he had.

The Court: I have not seen any nursing or coddling.

Mr. Donohue: May I say that the record shows 34 times yesterday Mr. Hallinan interrupted.

Mr. Hallinan: That is your witness—putting in hearsay, but we did not make one objection to any question you asked of the defendants on cross-examination.

The Court: Mr. Hallinan, I will overrule the objection.

Mr. Hallinan: Very well. [6447]

The Witness: Will you repeat the question, please?

(Question read.)

A. The only answer I can give to that, I came here and I took an oath to tell the truth, and I am telling the truth as I know it, and I believe it is up to the jury and the Court to determine the weight of the evidence.

Q. (By Mr. Hallinan): Yes. You went before the Dies Committee and you took an oath to tell the truth, the whole truth and nothing but the truth, and you lied, didn't you?

A. I didn't tell the truth with respect to the points I told you about, my own membership in the Communist Party and other people that I might have been questioned about.

Q. Let us break it down a little. When you went in before the Un-American Activities Committee you were put under oath, weren't you?

A. I believe that is true, yes.

Q. You raised your right hand, you swore to tell the truth, the whole truth and nothing but the truth, didn't you? A. That is right.

Q. And you lied, didn't you?

(Testimony of Mervyn Rathborne.)

A. With respect to the matters I related I did, yes.

Q. You lied with respect to any matter that you felt like lying concerning, isn't that right?

A. That is not right.

Q. Now you came into this court and you swore to tell the [6448] truth, the whole truth and nothing but the truth, didn't you? A. I did.

Q. Can you tell me how the jury or anyone else can tell whether you have changed your philosophy or not, and whether you are not just lying now?

Mr. Donohue: Again I object, if your Honor please.

The Court: The objection is sustained as argumentative.

Q. (By Mr. Hallinan): Well, here, how can anyone know whether you ever were a member of the Communist Party or whether you left the Communist Party, and how can anyone know whether you are not now up here telling some lies under Schneidermann, Roy Hudson or anyone else?

Mr. Donohue: I object to that as a double-barreled question.

Mr. Hallinan: He knows the meaning of if. Let him figure it out.

The Court: I sustain the objection. I think the witness has answered it in one form or another. The objection is sustained.

Q. (By Mr. Hallinan): Now, this Mr. Hudson —how long had you known Mr. Hudson at the

(Testimony of Mervyn Rathborne.)

time he told you to go before the Dies Un-American Activities Committee and commit perjury?

A. It is my recollection that I first met Mr. Hudson in either 1935 or early 1936.

Q. You knew him first in 1935 or 1936? [6449]

A. That is my best recollection.

Q. Where did Mr. Hudson live during the time that you knew him?

A. When I went to New York in 1937 he lived, at least for a part of the time I was there, in Greenwich Village on Jane Street.

Q. How old a man was Mr. Hudson?

A. I would say that Roy is in his forties, 46 or 47, around that.

Q. Is he about the same age as yourself?

A. I would judge approximately. I don't know for sure what it is, but I would say approximately the same.

Q. A seagoing man around the same age as yourself? A. He might be a little older.

Q. You went to him and asked him what you should do, as to whether you should commit perjury or not when you went before the Un-American Activities Committee?

A. I didn't go to him as a seagoing man, Mr. Hallinan. I went to him as a person with whom I had been working very, very closely and under whose general direction and guidance I had been working in the Communist Party.

Q. Before you went to Mr. Hudson had you made any resolve in your own mind as to what you

(Testimony of Mervyn Rathborne.)

would do when you went down before the congressional committee?

A. I don't think I had. I think the only resolve I had made [6450] was to talk it over with the Party and see what their decision would be in the matter.

Q. So you went to see Mr. Hudson and then you talked to Mr. Hudson, and it wasn't until after you talked to Mr. Hudson that you made up your mind to commit perjury, is that right?

A. That is my recollection. It happened a long time ago. To the best of my recollection that is correct.

Q. How long did your conversation with Mr. Hudson take on that occasion?

A. My recollection is I spent an evening at his home discussing the matter with him, and I would say the conversation—we were together, I would say, two or three hours.

Q. And then when you talked to the other gentleman Mr. Schneidermann, about your testimony before the Dies Committee, how long did you spend talking to him?

A. I wouldn't—I would say a comparatively short period of time, something like a half hour. I don't recall the exact time. [6451]

Q. And you say that this was in the year 1940, is that right? A. What was in the year 1940?

Q. The testimony before the Dies Committee.

A. That is my recollection of the matter, yes, sir.

(Testimony of Mervyn Rathborne.)

Q. Well, now, did you know in November, 1939, Mr. Earl Browder had appeared before the Dies Committee and admitted that he was general secretary of the Communist Party and given them a list of the members of the Central Committee for the years 1936 and '38?

A. I didn't know that.

Q. You didn't know that? A. No, sir.

Q. And you didn't know that many, numerous other persons, officers of the Communist Party had appeared and testified that they were members of the Communist Party before that committee and furnished them with evidence?

A. I have some general knowledge that open members of the Communist Party had appeared before various committees and admitted their membership. I also have general knowledge that so-called members whose names were not supposed to be revealed had appeared and denied their membership. That was general knowledge that I had.

Q. Now, a point was made that you were 19 years old when you were arrested and charged with burglary in Los Angeles. How old were you when you went down before the Dies Committee [6452] and committed perjury?

A. Oh, you subtract—35, I would say.

Q. 35?

A. About 35; born in 1905, and that was 1940.

Q. Do you think you were a better person when you were 35 than you were when you were 19?

Mr. Donohue: I object, if Your Honor pleases.

(Testimony of Mervyn Rathborne.)

The Court: Sustained.

Q. (By Mr. Hallinan): Now, with regard to the Los Angeles situation, did you know when you came here to testify that there had been an order expunging the record of your conviction, that the guilty plea had been set aside and a not guilty plea entered?

Mr. Donohue: Object to the question, if Your Honor pleases. That is a matter of law which Your Honor has already ruled upon.

Mr. Hallinan: No, this is on a different point, Your Honor. This is not with regard to an impeachment at all, this is for an entirely different reason.

The Court: I have ruled on that matter.

Mr. Hallinan: Why, Your Honor ruled that it is not impeaching as proof of the conviction of the felony. But the matter is still in the record, it was introduced by themselves and we have the right to inquire into it. That is all.

The Court: All right. [6453]

A. Will you repeat the question, please?

Mr. Hallinan: All right. Well, will you show the witness this document, which is U. S. Exhibit 40?

(Document handed to the witness by the Clerk.)

Q. Have you ever seen that document before?

A. Yes, sir, I have.

Q. Now, when did you see this document before?

(Testimony of Mervyn Rathborne.)

A. Oh, I saw it, I believe, in the latter part of last year.

Q. Where?

A. In—I believe it was Mr. Barber's office.

Q. And where was that?

A. Down on Sansome Street.

Q. In San Francisco? A. Yes, sir.

Q. Had you gone to Los Angeles yourself on this matter? A. No, sir.

Q. What was the first time that you heard of this, now? You say you saw it in Mr. Barber's office; what was said to you about it?

A. Well, in discussing the case with Mr. Barber, I had previously told him about this matter that occurred.

Q. Well, what had you told him?

A. I told him that I had been arrested in Los Angeles——

Q. On what charge did you tell him?

A. In 1924, and that—as a matter of fact, I said —I am not [6454] certain exactly what it was and I would like to find out, get the records and look at them, see what the thing amounts to.

Q. Did you get the records?

A. Because I had gone back to Los Angeles in 1928 or '29 and inquired of the probation office there, and they said the whole thing is dismissed. I asked them if I could vote and they said, "Yes, you can." So I thought the thing was ended. But I mentioned it to Mr. Barber and he got the records.

(Testimony of Mervyn Rathborne.)

Q. And did he show you the record?

A. Yes, sir, he did.

Q. The entire record?

A. He showed me—I don't know, the entire record. He showed me——

Mr. Hallinan: Could we have the document that was shown to him?

Mr. Donohue: Of course (handing to Mr. Hallinan).

Mr. Hallinan: Thank you.

Q. When did he show you the record?

Mr. Hallinan: Show him that document, please.

(Document handed to the witness by the Clerk.

A. I believe it was some time in 1949. I am not——

Q. Can you tell us when in 1949?

A. I don't recall.

Q. Well, was it in the early part or in the late part, or what part of '49? [6455]

A. I think it was in the late part of '49.

Q. Can you tell us what month?

A. No, sir.

Q. All right. Now, will you look at line 23 of that and see if it states the nature of the charge, the first page?

Mr. Donohue: If Your Honor please, of course Mr. Hallinan always likes to try witnesses instead of the defendant.

Mr. Hallinan: When they are these kind of witnesses, it is a pleasure.

Mr. Donohue: I most respectfully say to Your Honor that as to asking this witness to look at a line and read the charge, that is wholly improper. If Mr. Hallinan insists on opening up this question, I therefore ask Your Honor to let the whole record come in, not a line or a piece of it.

Mr. Hallinan: All right, let's take the whole record in and not just the part you brought.

Mr. Donohue: Let's be fair about this thing, if we can.

Mr. Hallinan: We will take the whole thing. Well, I will find out.

Q. But going back to that line, do you know the nature of the charge that was brought against you—don't you?

Mr. Donohue: I object to it, if Your Honor pleases, unless he want to read the whole record there of what happened in that court. Then I would have no objection.

The Court: Mr. Hallinan—— [6456]

Mr. Hallinan: All right; all right.

The Court: ——may I ask you, for what purpose or purposes is this examination designed?

Mr. Hallinan: Your Honor, it is a preliminary question. I have another question I wanted to ask him, to show an attempt to deceive in this court. I don't know now what precautions he will take; ordinarily the cross-examiner is not required to state the nature of his cross-examination.

The Court: I have a perfect right to ask you

(Testimony of Mervyn Rathborne.)

that question under the Supreme Court decisions.

Mr. Hallinan: That is what I—the right to ask the question can scarcely be denied. That fact, if the question is asked, that ends the matter. But as far as the purpose, I think if I were allowed a wee bit of latitude, the purpose will become manifest immediately. Now, there isn't any question, I don't think—it has been stated to the jury what the nature of the charge was.

The Court: No question about it.

Mr. Hallinan: So there is nothing upon which a witness can be decived.

Might I have the document back again? (Document returned.)

Q. You were told, were you not, when you saw the record in Mr. Barber's office that the nature of the crime you were charged with was burglary? Isn't that right?

A. No. As a matter of fact, we discussed the thing and there [6457] was quite a question as to whether a misdemeanor or whether it was a felony.

Q. We are not talking about that now; we are talking about whether it was burglary.

Mr. Hallinan (To Mr. Donohue): You have seen the entire record, undoubtedly, I hope (handing document to Mr. Donohue).

Q. When you came into this court, did you know that the offense you had been charged with in Los Angeles was burglary, whether it was a misdemeanor or a felony?

Mr. Donohue: I object, if Your Honor pleases.

The Court has already ruled, and I think for Mr. Hallinan to continue to attempt to try this witness for an offense with respect to which Your Honor has already told the jury the record has been expunged——

Mr. Hallinan: I am not the least bit interested——

Mr. Donohue: ——is flying in the face of Your Honor's decision.

Mr. Hallinan: I am not in the least interested in trying the offense; but counsel himself introduced this matter and questioned the witness on direct examination as to the exact facts upon which he had been arrested. I will read the——

The Court: We will take the noon recess and I will examine the transcript as to the context and as to the extent to which Mr. Donohue examined the witness, or I examined him or you examined [6458] him.

Mr. Hallinan: Look at page 6395, Your Honor; you will find the whole thing there.

The Court: Ladies and gentlemen of the jury, we will take the noon recess and resume at 2:00 o'clock this afternoon. The same admonition to you, not to discuss the case under any conditions nor to form an opinion until it is submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [6458-A]

Tuesday, February 28, 1950—2:00 o'Clock P.M.

MERVYN RATHBORNE

resumed the stand:

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. Now, Mr. Rathborne, will you please tell us about that visit that Harry Bridges made with you to the Communist headquarters in New York in 1937? Now, first, where were the Communist headquarters in New York in 1937?

A. My recollection, in 1937, they were on 13th Street, not too far from Broadway. I don't recall the up and downtown streets there.

Q. How long have you known those headquarters to be at that location?

A. The first time I recall being at those headquarters was during a convention of my union that was held in New York, I believe it was in 1935. I am not certain of that. We——

Q. And how long have you known of them to be there continuously? Are they still there?

A. Well, of my own personal knowledge, the last time I recall being there I think was in 1940 just before I left New York.

Q. When in 1940 did you leave New York?

A. The latter part of the year, around November, I believe.

Q. Now, will you tell us, with relation to this

(Testimony of Mervyn Rathborne.)

incident in which you say that Harry Bridges accompanied you there in the year 1937, what part of 1937? [6459]

A. It is my recollection it was around the time the CIO maritime committee was organized. That was organized in Washington during the first part of 1937, is my best recollection on the date.

Q. And then when did you and Mr. Bridges go to the Communist headquarters in New York?

A. Well, my recollection on that is that after returning from Washington that he and I came back from Washington to New York, and it was during that period.

Q. Well, then, then what period after you left Washington would it be?

A. I would say shortly after.

Q. Well, what do you mean by "shortly" after?

A. A matter of days.

Q. Two or three days, four days, a week, what?

A. I think it would be less than a week.

Q. Now, did you attend the maritime convention in Washington, D. C.?

A. You mean the maritime, the CIO maritime committee?

Q. Yes. A. Yes, I was there.

Q. All right. Now, there has been some testimony about that, that there was a convention to form a maritime committee or a maritime committee was formed at Washington some time in the year 1937, and you attended that convention, did you? [6460]

(Testimony of Mervyn Rathborne.)

A. Well, it wasn't a convention, it was—as I recall it——

Q. Well, it was a meeting called by John Lewis to form a maritime committee, wasn't that it, substantially?

A. That is substantially it, from my recollection, yes.

Q. All right. And you attended?

A. I did.

Q. Representing what union?

A. Representing my own union, the ARTA or the ACA—I forget; the ACA, I believe it was.

Q. Did you remain in Washington for the entire conference? A. I believe I did.

Q. All right. Did you first meet Harry Bridges in Washington?

A. That I am not sure. I am not sure whether I met him in New York and went to Washington or met him in Washington. The reason I am not sure is because he made several trips back east and there were other occasions when I met him in New York.

Q. So you can't tell us now whether you met him in New York and went down to Washington or whether you met him in Washington?

A. I am not certain of that, no, sir.

Q. Well, have you any opinion on it, any idea?

A. I just can't recollect.

Q. Can't recollect. Well, at any rate, you did—you were in Washington with him at that convention. He attended that same meeting or convention that you attended, isn't that right?

A. I am reasonably certain of that, yes, [6461] sir.

Q. All right. Well, then, you went up to New York with him, is that correct?

A. I wouldn't say that I actually was in the same train or in the same conveyance with him.

Q. Did you have any reason for going to New York with Harry Bridges?

A. Well, I believe I did, because my recollection is that the committee set up, the maritime CIO—the CIO maritime committee set up a subcommittee to go and see Joe Ryan.

Q. What about?

A. About trying to work out some kind of a unity program with Ryan, where he would come along with the CIO program.

Q. And who was Ryan?

A. Joseph Ryan was the president of the ILA at that time.

Q. All right. National president?

A. Yes, sir.

Q. All right. So the committee that was formed in Washington then proceeded to New York to have a conference with Ryan and to try to persuade Ryan to come into the CIO, is that substantially correct?

A. That is my recollection, Mr.——

Q. Fine. And who was on the committee that went up to interview Ryan?

(Testimony of Mervyn Rathborne.)

A. I believe the committee consisted of Harry Bridges, Joseph Curran and myself. That is my recollection. [6462]

Q. All right. And did you have the interview with Ryan?

A. Well, we met some other gentleman in Mr. Ryan's office. I don't recall that we ever met Joseph Ryan himself.

Q. Now, do you remember what day of the week you left Washington?

A. No, sir, I do not.

Q. Do you remember what day of the week it was that you had your first conference or attempted to have a conference with Ryan?

A. No, it was shortly after the end of the conference, a few days after the end of the conference.

Q. Now, some time then in the course of these proceedings you got a message, you said, from somebody asking you to bring Harry Bridges to the Communist headquarters, is that right?

A. That is my recollection, yes.

Q. Who gave you that message?

A. That I can not recall.

Q. Where did you receive the message?

A. I received it at my office at 10 Bridge Street, New York City, is my recollection. I might, however—I, however, might have received it at home.

Q. But you did receive it in New York City?

A. Yes, sir, that is my recollection.

Q. Not down in Washington?

A. That is my recollection, yes, sir.

(Testimony of Mervyn Rathborne.)

Q. And did you receive it before or after you left Washington [6463] and went to New York?

A. That I am not certain of. I am not sure whether it occurred before the meeting or after the meeting.

Q. Now, you can't tell us who was the person that gave you that message or made that request to you?

A. I don't recall who it was at this moment, no, sir, at this time. I have forgotten.

Q. But you say that when you went to New York with Harry Bridges you did go with him to this Communist Party headquarters?

A. It is my recollection that during the time that we were both in New York, at that period there, that we—he and I—went together to what is known as the "Ninth Floor."

Q. In other words, it is your recollection that following the conference in Washington and after this committee of three had gone to New York to consult with Ryan and during the period you were in New York, having the consultations with Ryan and immediately around that time, that you and Harry Bridges went to Communist Party headquarters on the ninth floor of the building on Thirteenth Street near Broadway, is that correct?

A. That is my recollection, yes.

Q. And you testified already that you went there in response to a request from some person in the Communist Party headquarters asking you

(Testimony of Mervyn Rathborne.)

if you would have Harry Bridges come there, is that correct? [6464]

A. That is substantially correct.

Q. All right. But you can't tell us now who that person was? A. No, sir, I can not.

Q. All right. Can you tell us what time of the day or night you went with Mr. Bridges to that place?

A. My belief is it was during the daytime. Now, what hour of the day, I am not—I don't recall.

Q. Morning or afternoon?

A. Well, I couldn't be sure, Mr. Hallinan.

Q. All right.

A. But I would—my best recollection is morning, but I am not certain of that.

Q. Well, now, can you tell us what was the general context of the message that you had gotten?

A. The general context was that, well, when Harry comes to New York, "we would like to see him, like to meet with him."

Q. Now, when you went to that building, who was there?

A. You mean where, in front of the building or——

Q. Well, in the office on the ninth floor wherever you went.

A. Well, we went in the building and went up the elevator.

Q. Whom did you meet there?

A. Well, you mean——

(Testimony of Mervyn Rathborne.)

Q. Well, let me put it this way. Withdraw that. Did you have some kind of a meeting then?

A. Yes, we did. [6465]

Q. Well, was it just an informal social call or was it a business meeting?

A. It was a discussion about maritime problems.

Q. About what? A. Maritime problems.

Q. All right. Now, who was present at that discussion?

A. I am certain that Mr. Roy Hudson was there, and my recollection is that Mr. Browder was there, Earl Browder, and I also, although I am not certain, because I get this mixed up with other meetings. But I believe Mr. Stachel, Jack Stachel was there.

Q. Now, is it your recollection that it was one of those three persons who phoned you to make the appointment and have Mr. Bridges come up there?

A. No, I don't believe it was. The—I just don't have any clear recollection of who it was that contacted me, although I know I received the message.

Q. Well, when you got up to the building, did you arrive there by appointment? Had you phoned and made an appointment to be there at any particular time or did you and he just go up on the chance that you would meet whoever waited to see him?

A. It was my recollection that after receiving

(Testimony of Mervyn Rathborne.)

the message and discussing it with Harry, I made an appointment or I called back and said that we would, could be there at a certain time.

Q. Well, do you know whom you had that talk with?

A. I believe it was Mr. Hudson. [6466]

Q. So then, so far as you can remember, there were these three men whom you just named, yourself and Mr. Bridges present at that meeting?

A. That is right.

Q. When you went in did you introduce Mr. Bridges to Mr. Earl Browder?

A. I don't believe I did. I think—they appeared to be acquainted, is my recollection.

Q. They appeared to be acquainted?

A. That is my recollection.

Q. Did you introduce him to Mr. Jack Stachel?

A. I don't think I did.

Q. Did anybody introduce him to him?

A. My recollection is it was just "Hello" and we sat down and started to talk. I don't think there was any formal introduction as such.

Q. What did you talk about?

A. We discussed particularly this problem of the maritime industry and unity in the maritime industry, and the matter of what had happened in Washington at the CIO maritime committee and the problem of trying to work out something to bring the seafaring and the longshore unions together in some kind of national unified organization. That was the burden of the discussion.

(Testimony of Mervyn Rathborne.)

Q. How long did you say it lasted?

A. Oh, I wouldn't say it lasted very long. Perhaps—my [6467] recollection is say 45 minutes probably—a half hour to 45 minutes.

Q. Then you and Mr. Bridges left, did you?

A. That is right.

Q. Where did you go?

A. I believe he left me. I believe I went back to my office personally, and I do not recall Mr. Bridges coming back to the office with me.

Q. Did this happen before or after the conclusion of the conferences with Ryan's delegates?

A. I am not certain. It was about that time. That is the closest I can bring it to actually pinning it down to a date.

Q. Had you ever been in that building prior to that time? A. Yes, sir.

Q. How many times?

A. I would say probably ten times—no, not at that time, no, sir. I am incorrect in that statement. That was in '37. I had been up there, oh, perhaps two or three or four times at that date.

Q. From that time until you left New York in November, 1940, how many more times did you go there?

A. I would say that my best estimate as to the total number of times I was there would be about ten or eleven.

Q. Now, this union that you were a member of, at that time was it called the ACA or the ARTA, which? [6468]

(Testimony of Mervyn Rathborne.)

A. At that time it was the ARTA.

Q. When did it change its name to the American Communications Association?

A. My recollection is it was at a convention in 1938. Now, it could have been 1939, but my memory is 1938.

Q. Under the descriptions you have given heretofore about domination of trade unions, would you say that the ACA was dominated by the Communist Party?

A. Yes, sir, I would, at the time I was president of the organization.

Q. You would say it was so dominated?

A. I would say this: that the Communist Party put forward after these meetings that I have described with the various groups within the union a program and recommended it, and that program was almost uniformly adopted by the union.

Q. Did you ever have any connection with an organization called the American League for Peace and Democracy?

A. I believe I did at one time.

Q. What was your connection with it?

A. I don't recall the exact connection. My recollection is that that organization was formerly known as the American League Against War and Fascism, before it adopted this other name here, and that while I was here in San Francisco I served on some sort of committee or did some other—I know I was actively helping the work of that organization. [6469]

(Testimony of Mervyn Rathborne.)

Q. Taking your conversation with Roy Hudson relating to your testimony before the congressional committee, how long after you were served with a subpoena did you have that conversation with him?

A. Again it is a matter of shortly after. I couldn't say whether it was ten hours or ten days, but it was comparatively—the best I could put it, it was a comparatively short time in terms of days.

Q. Where did the conversation take place?

A. As I recall, it took place in New York City.

Q. Where? In what part of New York City?

A. My recollection is that it took place in Mr. Hudson's home. It could have taken place in my own home.

Q. Who else was present?

A. Just the two of us.

Q. What did you tell Mr. Hudson?

A. I told him that I had been—required to appear before the Dies Committee and, of course, the Dies Committee was a well known committee at that time. It was making headlines almost every day. I discussed with him this matter of my experience and particularly what the policy was in the event I was asked if I were a member of the Communist Party.

Q. Where were you served with a subpoena?

A. It was my recollection it was mailed to me or served on me in New York City. [6470]

Q. Did you show him the subpoena when you had the conversation with him?

(Testimony of Mervyn Rathborne.)

A. I don't believe I did, no sir.

Q. You say that the subpoena was mailed to you?

A. No, I did not. I said—it was either mailed or served on me. I received it in New York City. The method of transmittal I do not know.

Q. Hadn't you made any effort to avoid being subpoenaed?

A. I had no knowledge that I was to be subpoenaed.

Q. Let me ask you this: Was it the policy of the members of the Communist Party at that time to avoid such subpoenas if possible?

A. To my knowledge it was, yes, sir.

Q. And was it the policy of the Communist Party also, where subpoenas were served, to refuse to answer any questions?

A. I don't believe that was the general policy. I know of one occasion where a gentleman was brought before the Committee and he just created such a rumpus and refused to answer that they bodily removed him from the Committee meeting.

Q. Isn't this the fact: That it was the general policy of the Communist Party, and has been ever since, either to go in and tell the truth or else to refuse to answer any questions on the ground that they might incriminate themselves?

A. I think that matter, that gimmick about giving answers degrading or incriminating themselves, came along later. I don't [6471] recall that being the policy at the time. My recollection is,

(Testimony of Mervyn Rathborne.)

as I told you, was to deny membership unless specifically authorized to state otherwise by competent people.

Q. Now, you have seen your testimony before the Un-American Activities Committee lately, have you not? A. Yes, I have.

Q. When was the last time that you saw it?

A. Oh, about two or three weeks ago, I believe.

Q. Didn't you see it today at noon time?

A. No, sir, I did not.

Q. Did you read it over entirely two or three weeks ago?

A. I could best put it this way; I skimmed through it; I read through it rather hurriedly.

Q. Where was that?

A. That was down in the Appraisers Building on Sansome Street.

Q. Did you take a volume of the testimony with you? A. No, sir, I did not.

Q. Or a copy of it? A. No, sir.

Q. Have you ever had a copy of your testimony before the Un-American Activities Committee?

A. Have I ever had one?

Q. Yes.

A. I had one in my office in New York, yes, when I was with the union. [6472]

Q. What has become of that?

A. I presume it is still in the files there.

Q. I find that you testified in the month of May, 1940; is that your recollection?

(Testimony of Mervyn Rathborne.)

A. If that is what the record says, that would be it.

Q. You say that you skimmed through it two or three weeks ago and you were down at the Appraisers Building at the time? A. Yes, sir.

Q. Who was with you?

A. Well, Mr. Kaiser was with me at the time.

Q. How long were you there on that occasion?

A. Oh, three or four hours, I believe.

Q. Now, do you remember this discussion taking place at that committee:

> "The Chairman: Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?
>
> "Mr. Rathborne: I do.
>
> "The Chairman: Let the record show Congressman Vito Marcantonio is appearing as counsel for the witness."

Do you remember that Mr. Marcantonio was your attorney on that occasion?

A. He appeared with me, yes, sir.

Q. Appeared as your attorney, is that right?

A. There seemed to be some question as to whether he could [6473] appear as an attorney. He appeared there with me in my behalf.

Q. He accompanied you from New York, did he? A. No, sir.

Q. You met him in Washington and went there; you came down from New York, I take it, is that right?

(Testimony of Mervyn Rathborne.)

A. That is my recollection, yes, sir.

Q. Mr. Marcantonio made this statement:

> "May I make this statement: In the course of the questions that will be asked of Mr. Rathborne he will have an opportunity to deny, as will be the procedure with respect to every witness, every charge that has been made against you."

Oh, no, pardon me. This is by the chairman. The chairman says this:

> "We cannot permit a witness to read statements or make general statements. The Committee established that policy unanimously some time ago and we have had to refuse witnesses the opportunity to do so. However, in the course of the examination questions will be framed that will enable you to enter a denial of any charge you see fit to deny and make any appropriate or material explanation where a direct question affords you such opportunity.
>
> "Mr. Thomas"——

That is a member of the Committee. Do you remember him?

A. I believe he was from New Jersey, wasn't he? [6474]

Q. I am not sure.

> "Mr. Chairman, may I interject here for a moment? I understand that Mr. Rathborne has already sent a statement to the press in

(Testimony of Mervyn Rathborne.)

connection with his appearance here today. I am wondering if Mr. Mathhews, who is going to ask the questions, has a copy of the statement. Do you have such a copy, Mr. Matthews?

"Mr. Matthews: I have not seen it."

Do you remember the statement that was made to the press? A. No, sir, I do not.

Q. Have you a copy of that?

A. No, sir, I do not.

Q. Have you seen it lately? A. No, sir.

Q. (Reading):

"The Chairman: As far as the Chair is concerned, he is not interested in what any witness may say with respect to his views in any other place, but in the course of the hearing that is an entirely different matter. What any witness may think or say in any public form or in the press or otherwise is a matter for the witness himself and this Chair is not concerned with it.

"Mr. Thomas: I agree with that, but at the same time——

"The Chairman: I am only speaking now with reference to what goes on in the course of the investigation. [6475]

"Mr. Thomas: At the same time there may be a couple of questions Mr. Matthews might want to ask in regard to this statement.

"Mr. Marcantonio: May I interpose an ob-

(Testimony of Mervyn Rathborne.)

> jection at this point to questioning this witness regarding the statement he issued to the press? I do not think that comes within the purview of this investigation and I do not see what it has to do with it."

Now, this testimony took place on the 8th of May, 1940. Do you remember that to be so?

A. As I stated previously, my recollection on the matter was the early part of 1940. If the record shows I was there on the 8th of May, I certainly accept the record as being correct.

Mr. Donohue: You might show that to the Court.

The Court: You might read it.

Q. (By Mr. Hallinan): This is the statement that you issued to the press, is it not?

A. I believe it is, yes, sir.

Mr. Hallinan: We offer it in evidence as Defendants' Exhibit next in order.

Mr. Donohue: I object, if your Honor please. I think it is time we started to try the defendants instead of the witnesses, and I see no purpose——

Mr. Hallinan: Then why object?

Mr. Donohue: You do not mind if I am [6476] heard?

Mr. Hallinan: Oh, no, no, I like to hear you talk.

Mr. Donohue: You speak well, too. I see no purpose, if your Honor please, in the statement that this witness made to the press in a case involving the defendants Bridges, Schmidt and Robertson.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: Sit down and let the witness take care of himself. Let the jury pass on whether or not it is important.

Mr. Donohue: You have taught me some bad habits.

Mr. Hallinan: Too bad I didn't teach you some good ones, but I guess you are too old to learn a new crop. [6477]

The Court: I can't immediately understand your purpose or purposes in offering as against the witness this document, but if you have some purpose in mind, you may tell me. I can't see its immediate relevancy.

Q. (By Mr. Hallinan): You sent a telegram to Mr. Hon. Martin Dies of the House Office Building, Washington, D. C., as follows, did you not, on April 27, 1940——

The Court: Mr. Hallinan, I addressed a question to you. May I have an answer? What is the purpose?

Mr. Hallinan: Well, I want to show now that he didn't go there in response to any subpoena at all. He wired them and asked them for a chance to have a hearing there. Now, his whole story of the subpoena and the necessity of going and asking people what to say and fabricating is itself a fabrication. He went there on a wire that he sent.

The Court: I am not as ready or willing to jump at that conclusion, Mr. Hallinan.

Mr. Hallinan: Well, Your Honor asked me the reason. Now, let's ask him.

(Testimony of Mervyn Rathborne.)

The Court: Yes, ask him the question.

Q. (By Mr. Hallinan): All right, you sent a wire to the Hon. Martin Dies, House Office Building, Washington, D. C., on April the 27th, 1940:

> "Your committee has accepted as testimony malicious slanders against the American Communications Association, CIO, and [6478] its officers. The witness Fred M. Howe, an expelled employers' agent, is continuing through your committee, his former union-busting activities. I hereby request an opportunity to appear immediately before your committee in order to answer these lies, and I request that I be given an amount of time equal to that accorded to Howe. I also request a copy of the transcript of Howe's testimony. (Signed) Mervyn Rathborne, President, American Communications Association, CIO."

Did you not?

A. I don't have any independent recollection of sending that telegram, but I don't deny that I could have sent it.

Q. All right. And then you sent out under the heading of the Congress of Industrial Organizations, 1106 Connecticut Avenue, N.W., Washington, D. C., District 3582, a release entitled "For Release Morning Papers, Saturday, April 27, 1940:

> "President Mervyn Rathborne of the American Communications Association, CIO, today asked the Dies Un-American Committee for an

> opportunity to answer the malicious slanders made before the committee against the union and its officers. Mr. Rathborne's wire to Chairman Martin Dies of the House Committee follows."

That's correct, isn't it?

A. As I say, I wouldn't challenge the authenticity of the document. I don't have any independent recollection of ever [6479] sending it, but——

Q. So when you went before the——

Mr. Hallinan: On the offer in evidence, what is the Court's ruling on that?

The Court: It may be received.

Q. (By Mr. Hallinan): When you went before the Un-American Activities Committee, you didn't go in response to a subpoena at all, did you?

A. Apparently the record shows there that I received the communication from that committee saying that, as I recall it. Now, that is my—testifying a while ago, I said either by mail or by person. And as I remember, I received a communication from the committee saying that I would be heard at such and such a time.

Q. In other words, here is what happened——

A. I was in error in saying it was a subpoena, if these facts are correct.

Q. Obviously. That's right. Don't mind that. In other words, what you did was, you sent a wire to the committee asking to be heard, as stated in that wire. That's correct, isn't it?

(Testimony of Mervyn Rathborne.)

A. Well, from the document it appears that that is correct, yes.

Q. And then you received a communication from the committee specifying a time at which they would hear you; that is correct, [6480] isn't it?

A. Again I am not absolutely certain, but it would appear to me to be correct.

Q. And then after you had—before you received that communication, you gave the newspapers a release setting out the wire that was just read to you, didn't you?

A. Well, I believe the document speaks for itself. I don't have any recollection of putting out that press release or sending that wire.

Q. Now, some days after you received the answer to your wire, you consulted Roy Hudson as to what your conduct should be before the committee, isn't that right?

A. Not having any recollection of sending the wire, I can't place it by conversation with Roy Hudson in point of time, from the wire.

Q. You told us not regards the wire, now, but with regard to the answer to the wire, you told us that at some time after receiving the answer, receiving the subpoena, you said, or whatever was mailed to you, you didn't know whether it was ten hours or ten days, you spoke to Roy Hudson on the subject, is that correct?

A. That is my recollection, yes.

Q. And on that conversation Mr. Hudson ad-

(Testimony of Mervyn Rathborne.)

vised you to swear falsely as to matters touching your membership in the Communist Party, is that correct?

A. That is my recollection. [6481]

Q. What was your intention at the time you sent the wire and before you spoke to Mr. Hudson?

A. My intention was to answer certain slanders that had been made about the union and about its activities before the committee.

Q. Did you intend to answer them truthfully or falsely?

A. My intention was to answer them truthfully, as I believe—I mean, I don't——

Q. So at the time you received the wire, before you sent the wire, then, you intended, if your offer were accepted to go before the House Un-American Activities Committee and truthfully answer any questions put to you on the subject embraced in the wire, is that right?

A. I wanted to—my intentions, as best as I can recall it, were to answer these charges or these allegations that had been made by Mr. Howe before the committee. I mean——

Q. Were you going to answer them truthfully or falsely?

A. Well, as I say, calling it to my attention, I wanted to answer them truthfully.

Q. You were going to answer them truthfully. So before you sent the wire and at the time you sent the wire, it was then your intention to go before the House Un-American Activities Commit-

(Testimony of Mervyn Rathborne.)

tee and answer truthfully the slanders that had been made against your union, is that correct?

A. Well, I would say substantially, yes. I don't recall my [6482] exact process of thinking at that time.

Q. And the slanders that had been made against the union before that committee were that your union was dominated by the Communist Party, isn't that right?

A. That was one of the—only one of the allegations.

Q. And the other allegation was that you were a member of the Communist Party, isn't that right?

A. I believe that was one of the allegations. I don't recall Mr. Howe's testimony in detail.

Q. Well, you now know that you refer to Mr. Howe's testimony; now, Mr. Howe's testimony was limited to contending that the ACA was dominated by the Communist Party and that you were a member of the Communist Party, is that right?

A. That is my recollection of it, in part. I believe there was quite a bit more to Mr. Howe's testimony.

Q. The truth is that you were a member of the Communist Party, is that right?

A. That's right.

Q. The truth is that the ACA was dominated by the Communist Party, is that right?

A. That's right.

Q. So you intended to go to Washington and state both that you were a member of the Communist Party and that the ACA was dominated by the Communist Party, is that right, at the time you sent the wire? [6483]

A. Well, I didn't think I would—in my recollection, that it would be that way. I wanted to answer these questions that Mr. Howe had raised about the union. These were part of it. So——

Q. You were going to answer them truthfully?

A. Well, that is, I believe—yes.

Q. And you weren't under any compulsion to go there at all, you were going there voluntarily to give those answers, weren't you?

A. Apparently, from the documents here, that was the case, yes. My recollection on that was in error. I thought I was subpoenaed to go there, but apparently I wasn't.

Q. So now, let's look at some of the questions that you were asked and which Mr. Howe had previously testified to.

The Clerk: The exhibit has been marked Defendants' Exhibit T-3 in evidence.

> (Whereupon press release dated April 27, 1940, referred to above, was received in evidence and marked Defendants' Exhibit T-3.)

Q. (By Mr. Hallinan): Now, you remember being sworn to tell the truth? "Testimony of Mervyn Rathborne. Do you solemnly swear to tell the truth, the whole truth and nothing but the truth, so help you God?

"Mr. Rathborne: I do."

(Testimony of Mervyn Rathborne.)

You remember that, don't you?

A. An oath was given there, yes. [6484]

Q. Now, you were asked this question:

"Mr. Matthews: In August of 1939 Mr. John P. Frye appeared before this committee and on page 104 of the printed hearings of this committee there appeared the following statement made by Mr. Frye:

"'With regard to American Communications Association, a few days ago Richard D. Hallett, chairman of the Washington local of the American Communications Association, resigned because he declared that the organization has too much of a tieup with the Communist Party. The president of this organization is Mervyn Rathborne, a Communist.'

"He goes on to say:

"'There has been considerable argument with regard to the status of this man, but so much information has come in in the past six months in regard to his Communist connections that one can not be in doubt how he stands.'

"That is the end of the statement that refers to you (Mr. Matthews said).

"Mr. Rathborne: Well, the comment that I have to make on it is that it is not a truthful statement and I see nothing in the statement made by Mr. Frye that is any conclusive evi-

> dence. It is just merely a general opinion on his part that may be the case, and Mr. Frye was incorrect in his assumption.
>
> "Mr. Matthews: In respect to the matter of stating that [6485] you were a Communist?
>
> "Mr. Rathborne: That is correct, yes."

That answer was false, wasn't it?

A. Yes, sir, that particular answer was.

Q. It was made under oath, wasn't it?

A. That's right.

Q. You knew when you went there that you were going to answer that question falsely, didn't you?

A. Yes, when I went before the committee.

Q. Then you knew, at least a couple of weeks before, that you were going to answer that question falsely, didn't you?

A. No, sir, I am not—I don't have any recollection of having that opinion.

Q. And you weren't under any subpoena or any compulsion to go to this hearing, were you?

A. Apparently not, no.

Q. All right. A. Now——

Q. Now, going a little further, a comment having been read out as to some statement of a man named Ferguson:

> "Do you wish to make a comment on that statement?
>
> "Mr. Rathborne: Well, the same comment that I made before, that I am not a Communist

> and that this is a statement, a gratuitous statement by Mr. Ferguson of his opinion and it is an incorrect opinion." [6486]

That statement was false, wasn't it?

A. I don't get—I didn't get—could I look at that section, Mr. Hallinan, to get the context?

Q. Here is the statement:

> "Mr. Rathborne: Well, the same comment that I made before, that I am not a Communist and that is a statement, a gratuitous statement by Mr. Ferguson of his opinion, and it is an incorrect opinion."

Do you remember that testimony?

A. I don't remember it in detail.

Q. At any rate, that is a false statement, isn't it? A. That's right.

Q. Then:

> "The Chairman: Well, that is not quite accurate. Mr. Ferguson said that he sat in a fraction meeting of the Communist Party with you. That is not an opinion, in so far as he is concerned. It may not be true, but it is not an opinion. He says that he sat in a fraction meeting of the Communist Party with you. The answer, as I understand it, is that that is not true?
>
> "Mr. Rathborne: No, the only meeting that I sat with Mr. Ferguson were meetings of the official union body.

(Testimony of Mervyn Rathborne.)

> "The Chairman: And you deny his statement?
>
> "Mr. Rathborne: That's right."

That was a false statement, wasn't it? [6487]

A. Yes, sir, it was. All having to do with my denial of membership in the Communist Party.

Q. Yes. Proceeding:

> "Mr. Rathborne: The only meeting that I sat in with Mr. Ferguson were meetings of the official union body of the maritime union of the Pacific Coast, known as the Maritime Federation of the Pacific.
>
> "The Chairman: That wouldn't include any meetings of Communist groups?
>
> "Mr. Rathborne: No, it is a union group.
>
> "Mr. Thomas: Mr. Rathborne, have you ever at any time sat in on any Communist fraction meeting?
>
> "Mr. Rathborne: No, sir."

Do you remember that testimony?

A. I don't recall it in detail, but if it is in the record there——

Q. And that testimony was false, wasn't it?

A. Yes, sir.

Q. And you knew when you went there that you would be asked that question, didn't you?

A. When I went to the committee I had a reasonable—I had reason to believe that this matter might be brought up, yes, sir.

(Testimony of Mervyn Rathborne.)

Q. And you intended to answer those questions falsely, didn't you?

A. Yes, I did, I would say so. [6488]

Q. Then further down the page:

> "The Chairman: I thought he answered it. He said he wasn't a Communist, didn't he?
>
> "Mr. Rathborne: Yes, sir."

That statement was false, wasn't it?

A. The same statement I made about four other times before that committee.

Q. And:

> "The Chairman: And you never have been a member of the Communist Party?
>
> "Mr. Rathborne: No, sir."

That statement was false, wasn't it?

A. Yes, sir.

> "The Chairman: Never have been affiliated in any respect with the Communist Party, have you?
>
> "Mr. Rathborne: No, sir, I haven't."

That statement was false, wasn't it?

A. It was.

> Q. "Mr. Casey: Was that what you had in mind when you said it was his opinion and his opinion was incorrect?
>
> "Mr. Rathborne: I say that was Mr. Ferguson's opinion, and if that is his opinion, it is an incorrect opinion."

(Testimony of Mervyn Rathborne.)

Do you remember that statement?

A. No. As I say, I don't independently recall.

Q. Well, that statement is false, too, isn't [6489] it? A. Well——

Q. That Mr. Ferguson's opinion that you were a member of the Communist Party was incorrect?

A. Well, I don't know how Mr. Ferguson had any such opinion because I don't ever recall attending any party meetings with Mr. Ferguson.

Q. You were asked if you ever sat in a Communist fraction meeting. That was the question that was asked you, and you said you never had, don't you remember that? A. You——

Q. Now, just a moment ago I read to you:

> "Mr. Rathborne, have you ever at any time sat in on any Communist Party fraction meeting?
>
> "Mr. Rathborne: No, sir."

A. I said that was an incorrect statement.

Q. Yes, all right. Now the next one:

> "The witness testified here (this is referring to Ferguson) he sat in a fraction meeting.
>
> "Mr. Voorhees: Did Mr. Ferguson so testify?
>
> "Mr. Matthews: There were two statements. First was at a meeting and the second does not state the connection in which he claims to know about Mr. Rathborne.
>
> "Mr. Voorhees: Does he say the meeting was a Communist fraction meeting?

(Testimony of Mervyn Rathborne.)

"Mr. Matthews: He doesn't say a fraction meeting, he said [6490] a Communist Party meeting.

"The Chairman: Let us proceed.

"Mr. Marcantonio: If I may interrupt, Mr. Chairman, so as we can have the record clear— I don't want to have any confusion on this point as to the meetings, whether he said he sat in a fraction meeting or any kind of a Communist meeting at all—if that is what in my colleague's from Massachusetts mind? Is that correct, Mr. Casey?

"Mr. Casey: That is correct.

"Mr. Marcantonio: I think Mr. Rathborne ought to be permitted to answer that question.

"The Chairman: He answered it.

"Mr. Marcantonio: I believe he has, but at the same time, it——

"The Chairman: He said he had not.

"Mr. Rathborne: If that is what Mr. Ferguson says, he was not telling the truth."

Did you so testify?

A. I believe the transcript of the testimony is correct, Mr. Hallinan.

Q. So that was a false statement, wasn't it?

A. I guess so.

Q. Now, did you know this Mr. Ferguson?

A. I remember a fellow by the name of Ferguson, who was in the Fireman's Union out here in San Francisco, I believe in [6491] 1936.

(Testimony of Mervyn Rathborne.)

Q. And Mr. Ferguson had testified before the Un-American Activities Committee that you were a member of the Communist Party and had sat in Communist Party meetings to his knowledge; that's correct, isn't it?

A. I believe that is what the record shows, yes, sir. [6491-A]

Q. And you went in voluntarily before the House Un-American Activities Committee and accused Mr. Ferguson of prejury, didn't you?

A. I don't believe I actually used that language. I said if he made that statement he was incorrect.

Q. Although he was correct, wasn't he?

A. That is what you read to me there.

Q. What is that?

A. I said that is what you read to me there. The statement I made, if he made that statement he was incorrect.

Q. In other words, you stated that Mr. Ferguson was not telling the truth when he said you were not a member of the Communist Party, isn't that true?

Mr. Donohue: I object, your Honor. He told Mr. Ferguson whatever the record shows he told him, and Mr. Hallinan has no right to put words in his mouth.

Mr. Hallinan: This is the exact language he used.

The Court: Whatever language is used, the witness admits is correct as to what he said.

Mr. Hallinan: I want to get his state of mind on the proposition.

Q. Do you remember this testimony:

> "Have you ever been at Communist headquarters in New York, Mr. Rathborne?
>
> "Mr. Rathborne: I have been downtown to the bookstore, [6492] downstairs a couple of times.
>
> "Mr. Matthews: On 13th Street?
>
> "Mr. Rathborne: That is correct.
>
> "Mr. Matthews: But not in the headquarters of the Party upstairs?
>
> "Mr. Rathborne: No, sir.
>
> "Mr. Thomas: Have you ever been in any other Communist headquarters in New York City?
>
> "Mr. Rathborne: No, sir.
>
> "The Chairman: Well, let us stick now to the statement that he has seen you at Communist headquarters dozens of times. Is that true or false?
>
> "Mr. Rathborne: That is not a true statement."

Did you so testify?

A. As I said previously, Mr. Hallinan, if that is what the record shows, I believe that is the way I testified.

Q. Being asked as a part of this question that you were not ~~in~~ the headquarters of the Party upstairs, your answer was, "No, sir." That was a

(Testimony of Mervyn Rathborne.)

false statement, wasn't it? A. That is right.

Q. Then you were asked this:

> "Have you ever been in any other Communist headquarters in New York City?"

Had you ever been?

A. That is 1940? [6493]

Q. Yes.

A. Yes, I had been down at the waterfront section headquarters on 23rd Street.

Q. So your answer, "No, sir," to that was false also, wasn't it? A. I believe that is right.

Q. You were asked this question:

> "The Chairman: Let us get to that when we come to that part. The first thing is you have read his statement. This is Mr. Howe's statement to the effect that you are a Communist. Now, is that true or false?
>
> "Mr. Rathborne: Well, I have denied that several times and I will deny it again for the record."

That was a false statement, wasn't it?

A. Yes, sir.

Q. A false answer that you gave?

A. That is right.

Q. Then in talking to Mr. Howe again—do you remember who Mr. Howe was?

A. He was at one time the secretary of Local 2 of the ARTA in New York, the marine local.

Q. Mr. Howe had testified before the House Un-American Activities Committee as follows:

(Testimony of Mervyn Rathborne.)

> "Mr. Matthews: Now, will you please first answer the question and then give as definitely as you are able a reason [6494] for your answer. Is Rathborne a Communist?
>
> "Mr. Howe: Yes.
>
> "Mr. Rathborne: I would like to comment on the answer and also comment as to why I believe it was given, because later in this testimony Mr. Howe makes the statement to the effect that everybody who was opposed to him was a Communist, and certainly I was one of those who opposed Mr. Howe when he was in the American Communications Association."

Do you remember that testimony?

A. As I stated previously, Mr. Hallinan, I do not have any independent recollection of the testimony, but if it is in the record there, why, my recollection is correct.

Q. Now, you tell us about this one:

> "Mr. Casey: You say the allegations with respect to the control of your organization by Communists as set forth in the letter are true or false?"
>
> Answer by you: "I say it is false."

Was that a false statement?

A. Essentially, yes.

> Q. "Mr. Casey: I think he ought to have an opportunity of explaining that.
>
> "Mr. Rathborne: I would like to read a brief excerpt from the constitution of our union,

(Testimony of Mervyn Rathborne.)

Article VI, Section 1, stating, 'The supreme authority of the international union [6495] shall be in the general membership, which from time to time through referendum and convention may delegate such powers as it deems proper, necessary and desirable to the international executive board, the president or any other officer or officers of the international union.' In practice that is the way our organization functions, and in the first place all of the officers are nominated by petition signed by the members. For example, any member of our union who has been a member for two years and obtains 250 signatures on a petition may have his name put on the ballot to run for president, and then the requirements for other officers are one year service and 100 signatures. The officers are elected by direct secret referendum of the membership. The international officers of the union, of which there are nine, constitute the international executive board, which sets the policies of the union between conventions. The conventions are attended by delegates who are elected by a secret referendum vote of the members of the various local unions. These delegates gather together in a convention, and the policies and program of the union are set forth and determined at those international conventions of ours, and the people directly elected by our 20,000 members gather together in conference and determine the policies of our

(Testimony of Mervyn Rathborne.)

> organization and who run the union and who elect the officers, and with that kind of setup it [6496] is obvious to any fair-thinking person that any small group could not be running the union because it is very easy for the members of the union to recall the officers if they violate the constitution or if they go contrary to the policies and program set down by our international convention, and the major decisions of the convention are always submitted to referendum vote for approval by the membership before they become effective."

Do you remember that testimony?

A. Not in detail, as I recall.

Q. Now, that statement was true, wasn't it?

A. To a certain degree it was, yes.

Q. In other words, you did accurately set out the procedure by which the American Communications Association elected its officers and passed upon measures that came before it, isn't that right?

A. Yes, but there is other matter in there that doesn't——

Q. That is a fact, is it not, Mr. Rathborne: that the American Communications Association was not dominated by Communists, and when you went down there you were going to tell the truth about that and did tell the truth to that extent, and it was when you were out of the union that now you want to blacken the union together with the defendants in this case, isn't that correct?

Mr. Donohue: I object, if your Honor please. That question is too comprehensive. [6497]

Mr. Hallinan: Might we have the recess?

Mr. Donohue: I thought counsel was quoting Mr. Bridges.

The Court: Is there an objection at all?

Mr. Donohue: Yes, there is, your Honor, to that question.

The Court: Sustained. We will take the afternoon recess, ladies and gentlemen. The same admonition to you not to discuss the case under any circumstances.

(Recess.)

Q. (By Mr. Hallinan): Now, you testified before the House Un-American Activities Committee that the American Communications Association was a democratic union, and you gave the proof that it was democratic in the language that I have just read. Now, today you testified that it was controlled by the Communist Party. Which of those statements is true?

A. Mr. Hallinan, I said that the Communist Party operated within the union—I believe in my testimony—was able to put over its program with the union, utilizing—I didn't say this, but the procedure was utilizing the very democratic procedures that we set up in our constitution.

Q. Was the union run democratically or not?

A. It had a democratic constitution, and in connection with certain matters that you have read there, the officers were elected by referendum vote,

(Testimony of Mervyn Rathborne.)

and so on. The actual policy decisions of the union were in practically all instances conceived and put into effect by the various Communist Party units and organizations within the union, and they [6498] were—in most instances they prevailed in the organization. The record of the union for following or for adhering to the Communist Party line I think is well known.

Q. Are you still a member of it?

A. Not that particular organization, no, sir.

Q. You are not a member of the ACA?

A. No, sir.

Q. Of what organization are you a member?

A. I belong to the American Radio Association of the CIO.

Q. Is that a CIO organization? A. Yes.

Q. What was the ACA?

A. A CIO organization.

Q. Are they both still in existence, or are they both in existence now? A. Yes, sir.

Q. Now, do you remember this testimony:

> "Mr. Matthews: Did you, Mr. Rathborne, at any time ever have any official connection with the American League for Peace and Democracy?
>
> "Mr. Rathborne: No, I had no official connection with them, no."

Was that answer false?

A. I don't believe I ever had any official connection. I worked with the organization. I don't

(Testimony of Mervyn Rathborne.)

believe I had any official [6499] connection. That is my best recollection.

Q. According to the count I kept as we went along, Mr. Rathborne, in this one hearing in 1940 you testified falsely on thirteen separate occasions, is that correct?

A. I testified earlier when Mr. Donohue was questioning me that I did give false answers in that hearing before the Dies Committee, and you pointed some of them out.

Q. Would you like to make some modification of your statement that you did it at the behest of Mr. Hudson? A. No, sir.

Q. You still stay with that. Then when you came to California you appeared before the Tenney Committee of the State Senate, isn't that right?

A. That is right.

Q. Do you say you were subpoenaed on that?

A. It is my recollection still that I was subpoenaed in both instances, both before the Dies Committee and the Tenney Committee. That is my best recollection on the matter.

Q. Did you talk to somebody during the recess about what you had testified to preceding the recess?

A. No, I discussed it—not the specific testimony.

Q. With whom?

A. I talked with Mr. Kaiser.

Q. Where? A. In the hallway. [6500]

Q. Did you go into any room, or just stand in the hall? A. We stood in the hall.

(Testimony of Mervyn Rathborne.)

Q. How long were you talking to him?

A. Maybe a minute, two minutes.

Q. About your testimony?

A. No, talking generally about——

Q. What? A. We didn't discuss——

Q. What did you talk about?

A. What I said to this. I said my recollection is I was subpoenaed—still is—subpoenaed before the Dies Committee, but I had forgotten about that telegram or that other paper that you introduced there.

Q. So then Mr. Kaiser said, "Well, go back and just say you were subpoenaed," is that right?

A. No, he did not.

Q. What did he say?

A. I think he said, "Well, that is all right," or something like that.

Q. Tell us now.

A. My recollection is he said, "Well, that is all right," or some passing remark like that.

Q. Had you gone over your testimony with Mr. Kaiser before you came on the witness stand here?

A. Some of it. [6501]

Q. Is he the Roy Hudson of this case?

Mr. Donohue: I object to the question and ask your Honor to ask the jury to disregard it.

The Court: Sustained.

Mr. Hallinan: I think it is a fair question.

Q. When you returned to California you appeared before the Tenney Committee. You say you believe you were subpoenaed to appear before it?

(Testimony of Mervyn Rathborne.)

A. That is my recollection, Mr. Hallinan. [6502]

Q. Do you know where the subpoena was served?

A. It must have been at San Francisco, because that is where the hearing is.

Q. Well, now, don't guess; if you don't know, tell us. Do you remember where it was served on you?

A. Well, I don't distinctly remember a subpoena. It is my recollection that I was subpoenaed, but I don't actually remember being served with a subpoena before the committee, to appear before the committee. That is my best recollection, that I was subpoenaed.

Q. Well, as a matter of fact, you appeared voluntarily before the Tenney Committee, too, didn't you? A. No, sir, not to my recollection.

Q. Did you issue any press release on that?

A. I don't recall any.

Q. Did you go there accompanied by an attorney? A. No, sir.

Q. And who did you see, whom did you say you talked to before you went there?

A. I talked with Mr. Schneidermann.

Q. When? A. Some time before.

Q. How long before you went before the Tenney Committee did you talk to Mr. Schneidermann?

A. I am not certain. [6503]

Q. Where did you have the talk with him?

A. I believe it was in my office in San Francisco.

Q. Who else was present?

(Testimony of Mervyn Rathborne.)

A. No one that I recall.

Q. And then you told Mr. Schneidermann that you intended to appear before the committee, is that right?

A. My recollection of the matter is that I was subpoenaed before that committee. Now—and that we discussed my appearance before the committee.

Q. Were you ever a member of the Young Communists League? A. No, sir, I never was.

Q. Now, when you appeared before the Tenney Committee, you were asked this question—oh, you were put under oath there, too, weren't you?

A. That is my recollection. I believe so. I believe if you have the record there, it will show it.

Q. Sworn to tell the truth, the whole truth and nothing but the truth, isn't that correct?

A. That is my recollection, and I believe the record bears that out.

Q. Yes. You were living at that time in Moss Beach, is that so?

A. 19—what? 1941, is that correct?

Q. Yes.

A. Yes, I was living in Moss Beach in part of '41. [6504]

Q. And now do you remember being asked this question:

> "Have you ever been affiliated with the Communist Party?" and the answer by you:
>
> "No, sir."

Did you give that answer?

A. I believe so, yes, sir.

(Testimony of Mervyn Rathborne.)

Q. Was that answer false?

A. That was a false answer. As I stated, Mr. Hallinan, I have already testified that I gave false answer both before the Dies Committee and the Tenney Committee and you are now in the process of bringing out the specific answers.

Q. Now, do you remember this testimony:

> "Q. Do you know any persons who are members of the Communist Party?
>
> "A. Yes, I know a few.
>
> "Q. Are they members of your union?
>
> "A. No, sir.
>
> "Q. Any of them? A. No, sir."

Did you give that testimony?

A. Again, if the record shows it, I believe I did.

Q. Well, have you read your Tenney testimony recently?

A. At the same time I read the Dies Committee testimony.

Q. In the presence of Mr. Kaiser?

A. I am not sure whether it was in his presence or not, but it [6505] was—he was——

Q. These matters were discussed with him, of course, were they?

A. Well, he had the copy of the testimony and gave it to me.

Q. I see. These matters were discussed with him at the time, isn't that right?

A. Yes, they were discussed with him.

Q. Did you and he have some debate as to what

(Testimony of Mervyn Rathborne.)

answer you would make on the subject if you were confronted with the record on this trial?

A. No, sir, no debate.

Q. Did you have some discussion about it?

A. The only discussion about it is, I called his attention to the fact that I had appeared before the Dies Committee and the Tenney Committee and that the time I appeared, I had denied membership in the Communist Party and had at that time perjured myself. And so he secured the records, and we looked them over, and discussed what was in them.

Q. All right. Well, now, you were asked if you knew any members of the Communist Party; you said, "Yes, I know a few." And then:

> "Q. Are they members of your union?
> "A. No, sir.
> "Q. Any of them? A. No, sir."

Was that statement false? [6506]

A. Yes, sir.

Q. Then you were asked this question:

> "Q. Are they members of the CIO?
> "A. Some of them are, yes.
> "Q. Do you recall their names?
> "A. I know one. I know Archie Brown.
> "Q. Any others?
> "A. I know a Ben Jones, a longshoreman.
> "Q. Ben Jones, a longshoreman?
> "A. Yes.

(Testimony of Mervyn Rathborne.)

"Q. Of what union is he a member?

"A. ILWU, I believe.

"Q. ILWU? A. Yes.

"Q. That is what?

"A. You mean the full name?

"Q. Yes.

"A. The International Longshoremen's & Warehousemen's.

"Q. Here in this city?

"A. That's right.

"Q. How do you know he is a Communist, Mr. Rathborne?

"A. Because I have seen him get up in a membership meeting when I happened to attend the longshore meeting and make that statement.

"Q. Yes. Is it your opinion, Mr. Rathborne, based, of [6507] course, on your experience in union matters and contact with their members, there has been quite an infiltration in the longshoremen's union in this country?

"A. I wouldn't say there was, no.

"Q. You wouldn't say there was?

"A. No.

"Q. You think the unions from time to time felt the pressure of Communists from the outside——"

Well, wait, before we get to that;

"A. I really don't quite understand the question.

"Q. What I mean is this: Regardless of

(Testimony of Mervyn Rathborne.)

whether or not there is an infiltration of Communists in the longshoremen's union, is it or is it not a fact that Communist activities are exerted to affect the longshoremen who are members of that union?

"A. I am not a member of the longshoremen's union; I *really speak* authoritatively on that subject.

"Q. All right. Now answer that question with regard to your own local.

"A. As far as my own local, I happen to know how the policies of that local are determined.

"Q. Yes?

"A. They are determined by the executive board, by recommendation of the officers to the membership and all actions taken by the local are recommended at membership [6508] meetings and debated and voted on at membership meetings. And what the membership votes on, votes, is the policy of that particular local.

"Q. Yes. That is characteristic rank and file control? A. Yes."

Do you remember giving that testimony?

A. I do not, in specific detail. I remember——

Q. Was that testimony true?

A. That testimony would be true.

Q. That testimony would be true?

A. I might say, however, that the situation of Communist control, that testimony is true; from the

(Testimony of Mervyn Rathborne.)

situation of Communist control, it could still be present.

Q. Now, you testified in this same hearing that you were acquainted with Mr. Bridges, is that correct?

A. I don't have an independent recollection, Mr. Hallinan.

Q. Well, you didn't mention Mr. Bridges as being one of the persons whom you knew that was a member of the Communist Party, did you?

A. No, sir.

Q. You hadn't known Mr. Bridges since 1933, had you?

A. No, I believe the first time I met Mr. Bridges was in 1935.

Q. Do you know any reason why you said before the Tenney Committee that you had known him since 1933?

A. I don't know of any reason as to that. Might have been an [6509] error on my part or on the part of the recorder.

Mr. Hallinan: We offer in evidence at this time, if the Court please, the entire record in the transaction involving Mr. Rathborne's arrest in Los Angeles.

Mr. Donohue: For what purpose?

Mr. Hallinan: Well, you told me, "Bring in the whole record and we will stipulate to put it in." That was the very suggestion you made before the noon recess.

(Testimony of Mervyn Rathborne.)

Mr. Donohue: May I ask again, for what purpose is it offered in the light of the decision which the Court made this morning?

Mr. Hallinan: Well, the fact that though Your Honor was going to read that testimony at noontime?

The Court: Yes, I did read it. At page 6395 and 6396.

Mr. Hallinan: It started at 6393, didn't it?

The Court: Yes. I read it.

Mr. Hallinan: And Your Honor will observe that the question comes in on direct examination. He was asked the question as to the nature of the charge that he had been arrested under and gave an opinion on it, gave his statement on it. We are not concerned at this time with impeachment on anything in the record, but upon a matter involved in his testimony since appearing in this court.

The Court: As I ruled under the Mackey case, the record produced before me, I assume this to be the same record which I [6510] had in part this morning, may not be offered or received for the purpose of impeachment of Mr. Rathborne. Now, your present position is that there is some testimony offered by him yesterday that bears upon it, concerning which you desire to examine him, is that right?

Mr. Hallinan: That's right, yes. In other words, it does not affect the merits of that at all.

The Court: Well, I might say that so far as my reading the transcript is concerned, I could not perceive any matter therein contained that might

(Testimony of Mervyn Rathborne.)
lend itself to that type of examination. I am not inclined to foreclose you. Now, at 6395 Mr. Rathborne answered, "Mr. Rathborne, have you ever been convicted of a felony?," and the answer is "No, sir." I held this morning, and now hold and reiterate, that he was in perfect propriety in that answer given, in the light of the record and in the light of the decree expunging the record. So as to that matter, I see no ground for further examination. I do not know precisely what you have in mind, Mr. Hallinan. I am not inclined to foreclose you. I will await a period when I do determine it. Now you may proceed, having in mind my ruling.

Mr. Hallinan: Yes. Well, Your Honor, there is only one preliminary question. I want to ask him and then I want to ask him something out of the record as he testified.

The Court: As to the transcript itself, if you will pardon me a moment, as to the transcript itself, I sustained the [6511] objection, if it is offered for the ground of impeachment.

Mr. Hallinan: Yes.

The Court: All right.

Mr. Hallinan: Now, would you show the witness that document please? (Document handed to the witness by the Clerk.)

Q. Are you familiar with that?

A. Yes, I read it during the noontime.

Q. You have seen it already, have you not?

A. I read it at lunchtime.

(Testimony of Mervyn Rathborne.)

Q. Yes. Now, you had seen that same document before in the possession of Mr. Barber, had you?

A. Not the entire thing, no.

Q. Not the entire thing. But when had you seen the document in Mr. Barber's possession?

A. At lunchtime I talked to Mr. Barber about that, and his recollection was some time along in August of 1949.

Q. His recollection was some time in August? We would sooner have your recollection, if you will. Do you remember when it was?

A. Well, my discussion with him refreshed my memory, and that is also my recollection.

Q. So in August of 1949 you saw the portion of the record that Mr. Barber had, is that right?

A. Yes, sir.

Q. Is it the same record that you see [6512] there?

A. Well, there is a portion of the record—the record I saw is a portion of this document here (indicating).

Q. And did you read the portion that he had?

A. Yes, sir, I did.

Q. Did you discuss it with him? A. I did.

Q. Did you discuss with him anything relating to procuring the order that has been introduced in evidence here expunging any conviction?

A. I did.

Q. All right. And you knew when you were testifying here yesterday that the nature of the charge, regardless of its disposition, was burglary; that's right—didn't you?

A. I have read the document. I knew that's what the document stated, yes. But my concern or my thought was on the matter of whether it was a misdemeanor or whether it was a felony. That was my——

Q. But you knew what the nature of the charge was, you knew the name of the charge, didn't you? Well, do you have a recollection of events that led up to the charge?

A. Yes, sir, yes, I knew——

Q. And the events that led up to the charge were contained in the document that Mr. Barber which you read, isn't that right? A. That's right.

Q. It narrated the exact things that you had done that led to [6513] your arrest, isn't that correct? A. That's correct.

Q. And you knew that the charge was burglary, didn't you? A. I believe I did, yes, sir.

Q. All right. Now, yesterday when you were testifying, you said this——

Mr. Donohue: What page, please?

Mr. Hallinan: 6396.

The Witness: I said the charge, I believe, whatever it was.

Q. Yes. A. Words to that effect.

Q. No, 6395. Counsel here asks you this:

> "Q. Mr. Rathborne, have you ever been convicted of a felony? A. No, sir.

(Testimony of Mervyn Rathborne.)

"Q. Did there come a time in your life when you were arrested for some offense?

"A. Yes, there was.

"Q. Will you tell us the nature of that offense and what happened?

"A. In 1924 I was attending a radio school in Los Angeles, a YMCA radio school——

"Q. How old were you then?

"A. 19, I believe. And I was a very avid radio amateur, and very much interested in radio, both as an avocation [6514] and a vocation, and I made the very serious mistake of trying to take some radio parts from the school that I attended. I was arrested and charged with this, whatever the charge was, and between the time——"

and then I interrupted you.

Now, when you gave that answer, "* * * charged with this, whatever the charge was * * *," you knew at the time you gave this testimony yesterday that the charge was burglary, didn't you?

A. Yes, sir, I did, but——

Q. Yes. And you had some kind of a conversation with somebody preceding your testimony, in which you were to try to conceal from the jury that it was burglary, isn't that right?

A. That is not correct, Mr. Hallinan, at all.

Mr. Donohue: Just a moment, Mr. Rathborne. I object to that question, if Your Honor pleases.

Q. (By Mr. Hallinan): Did you have a discus-

(Testimony of Mervyn Rathborne.)

sion with any of the members of the prosecution on that subject?

Mr. Donohue: Just a moment, Mr. Hallinan.

The Court: Just a moment, Mr. Hallinan. I will overrule the objection. I think the answer was made.

(To the Witness): You answered the question, did you?

The Witness: Can I comment a little on my answer, Your Honor?

The Court: Yes, you may. [6515]

A. (Continuing): Yesterday in my testimony I didn't deny the charge of burglary. I just said, "Whatever the charge was." I didn't say it was anything or I didn't say it wasn't anything.

Q. (By Mr. Hallinan): What I am asking you is this: Do you have any discussion, or did you have any discussion with anybody connected with the prosecution that you should answer in this fashion, "* * * and charged with this, whatever the charge was * * *" and try to conceal from the jury the fact that the charge was burglary?

A. No, sir, I did not.

Q. Now, at the time that you separated from the CIO you had an automobile belonging to the CIO, is that right?

Mr. Donohue: I object to the question, if Your Honor pleases.

Mr. Hallinan: It goes to the witness' motives, interest, bias.

(Testimony of Mervyn Rathborne.)

Mr. Donohue: The CIO is not on trial here, Mr. Bridges is on trial.

Mr. Hallinan: Well, to some extent it shows his animus toward the union and toward the persons, of which Mr. Bridges is a member.

Mr. Donohue: I think if Your Honor pleases that we have—— [6516]

Mr. Donohue: I think, if your Honor please, we have reached the time that the cross-examination should be circumscribed within the limits authorized by law.

Mr. Hallinan: You said that two hours ago.

Mr. Donohue: I thought you might ultimately get to trying Mr. Bridges and not the witness.

Mr. Hallinan: It is the same thing, your Honor, just trying to protect their witnesses at every step. Anything that goes to the credibility of the witness, his motives, his past misstatements, past perjuries, anything of that kind is strongly objected to. We had an objection a few minutes ago when this witness had testified that in response to a subpoena, under compulsion he had been required to appear before the Un-American Activities Committee to give testimony. Faced with that difficulty he had gone and consulted Mr. Hudson as to what his statements would be if he were questioned concerning his Communist Party membership. Then I produce a document, a press release, containing a wire from this gentleman which proves conclusively that no such situation existed, and that he was not under any compulsion, he was not under any subpoena. He had wired the Committee asking permission to go there, raising the necessary implication that he went there of his free will, voluntarily, and with the full and avowed intention of committing perjury as it suited him. And counsel protested very vehemently against the introduction of this release concerning that telegram establishing [6517] that fact.

Mr. Donohue: I protested because——

Mr. Hallinan: That is just being dishonest, your Honor. That is just trying to keep out things that are very material, that go right to the——

The Court: The characterization that that is a dishonest practice is not in accord with my notion any more than, let us assume, you entered serious objections to a matter that you regard——

Mr. Hallinan: We have not done any such thing. We have not done any such thing.

The Court: That may or may not be.

Mr. Hallinan: We have made a few objections to hearsay. Almost all of the rulings we have been involved in have been efforts on our part to put in evidence records, not to keep them out.

The Court: Mr. Hallinan, without, if I may suggest it to you, dwelling on personalities, may I have your precise question now? That is, did he have an automobile and did it belong to the CIO?

Mr. Hallinan: Yes.

The Court: I will allow the question. I do not know where you intend to go. I will rule when you arrive at that point.

(Testimony of Mervyn Rathborne.)

Q. (By Mr. Hallinan): Is that true?

A. No, sir, it is not true. [6518]

Q. I beg your pardon?

A. That is not true. I had an automobile which I was in the process of purchasing from the CIO.

Q. You sold the automobile?

A. I beg your pardon?

Q. You sold the automobile, didn't you? Whose name was the automobile registered under?

A. At the end of 1947?

Q. Yes.

A. I believe it was under my own name.

Q. Was it under the name of the CIO?

A. No, sir.

Q. Did you sell the automobile?

A. Yes, sir.

Q. Did you return the money to the CIO?

A. Part of it.

Q. Has the CIO procured a judgment against you for about $700 as the cost of that automobile?

A. I purchased the automobile from the CIO after taking it up with the Executive Board of the State CIO and getting their permission, and I made a payment on the car. Since then I have been unable to pay for the rest of the car. The debt is a legitimate debt. A judgment has been entered in civil court for the collection of that debt, and I hope when circumstances permit to pay that [6519] debt.

Q. How much is the debt?

A. I believe it is $650.

(Testimony of Mervyn Rathborne.)

Q. And the CIO has procured a judgment against you upon that, is that right?

A. That is correct.

Q. You defaulted, isn't that true?

A. That is right. I didn't keep up the payments.

Q. How long ago did you say you sold that car?

A. I don't recall exactly, Mr. Hallinan. I believe it was about the end of 1947 or early in 1948. I am not certain on that point.

Q. To whom did you sell it?

Mr. Donohue: I now object, if your Honor please. I think we certainly have gone far enough.

The Court: The objection is sustained.

Q. (By Mr. Hallinan): Did you sign the CIO's name to the pink slip of the car when you sold it?

A. I did—when I sold it?

Q. Yes. A. Or when I bought it?

Q. Either one.

A. When I bought it I signed my name as secretary-treasurer of the State CIO, after having secured permission—authority from the State Executive Board of the CIO to purchase the car.

Q. You received authority from the State Executive Board, is [6520] that correct?

Mr. Donohue: I object, if your Honor please. I again say, if your Honor please, there can be no connection between the purchase or sale of an automobile, the payment of default in the payments in the transaction, and the issues in this case.

The Court: I am inclined to agree with you at this juncture. The witness has testified to the acquistion and the sale of the car. He defaulted in his payments and judgment has been taken against him.

Mr. Hallinan: We charge him with embezzling the car. That is what we are trying to prove.

Mr. Donohue: I ask that the jury be instructed to disregard the highly prejudicial statement.

Mr. Hallinan: I ask that we be allowed to develop the point. Why should he be protected on that? Why, your Honor, here with Bob Robertson they were exploring around there for hours on the supposition that he might have gone AWOL thirty years or so ago from the Navy. That went on for hours and hours.

The Court: Ladies and gentlemen of the jury, I admonish you to disregard the statement made by Mr. Hallinan that the witness on the stand embezzled the car. Disregard that, and I strike it from the record.

Q. (By Mr. Hallinan): You testified here you were working on the President Madison during most of the years 1948 and 1949, [6521] is that right?

A. My recollection is up until sometime in May of 1949 is when I left the ship.

Q. What were your earnings? How much were you earning a month at that time?

Mr. Donohue: I object, if your Honor please. On what basis would the man's earnings be utilized for the purpose of impeaching his credibility or proving the guilt or innocence of these defendants?

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: He said that he was unable to make payments on the car, and I want to show he had ample funds with which to do that.

The Court: The objection is sustained.

Mr. Hallinan: It was a self-serving declaration that he made.

Q. You testified that you saw that record that was shown to you. Do you still have it?

A. I have it here, Mr. Hallinan.

Q. Sometime in August of 1949?

A. That is my recollection, yes, sir.

Q. Did you have some discussion with Mr. Barber about that record? A. I did.

Q. Was any arrangement then made that Mr. Barber would secure the expunging of the [6522] record?

A. Yes, I told Mr. Barber that I had been back to the office in Los Angeles—I believe it is the probation office—in either 1928 or 1929, and the card there shows the case being dismissed, and he apparently had a check made on it and said, "There is no record of expungement."

Q. You said the card showed it had been dismissed?

A. I had made an inquiry and I was told, advised by a person I contacted in the probation office.

Q. Who was the person? A. I don't recall.

Q. Was that a written communication or an oral communication?

A. No, it was oral. I went down and visited with him.

(Testimony of Mervyn Rathborne.)

Q. Did you go there or telephone?

A. No, I went there.

Q. Did you see the card yourself?

A. No, sir.

Q. Was it a man or a woman you talked to?

A. It was a man I spoke to.

Q. How old a man?

A. I don't recall how old.

Q. Do you know what department he was in?

A. I contacted someone in the probation department in Los Angeles.

Q. Had you ever met that person before?

A. I don't recall having met him. [6523]

Q. He did not show you the record, but told you it had been dismissed, is that right? A. Yes.

Q. When was that?

A. I had been going to sea then, and—let's see. My recollection is somewhere around 1928 or 1929 I made inquiry about the status, my status, because I was concerned about my right to vote.

Q. That was in 1928 you were concerned about your right to vote, is that right?

A. 1928 or 1929, yes.

Q. And you have been voting continuously since that time, is that right?

A. Yes, I have been voting since that time, yes, sir.

Q. Did you vote prior to 1928?

A. I don't recall, Mr. Hallinan.

Q. Well, don't you remember an occasion in which you spoke to a man named Schlipf?

(Testimony of Mervyn Rathborne.)

A. Paul Schlipf?

Q. Yes. A. Yes, sir, I know him.

Q. About the indictment of some man for voting after he had been convicted of a felony without the record being expunged? Do you remember that?

A. I never recall such a conversation. [6524]

Q. Do you remember anybody being so indicted, some friend of yours?

A. No, that is something entirely new to me. I have not heard of that one.

Mr. Hallman: I might suggest, your Honor, I have some documents that bear upon these matters. It will take a few minutes to locate them.

The Court: We will take the recess and adjourn until tomorrow morning at ten o'clock.

Mr. MacInnis: May we detain the Court for a moment? I have a legal matter I would like to address.

The Court: Ladies and gentlemen of the jury, we will take the afternoon adjournment until tomorrow morning at ten o'clock. May I again admonish you not to discuss the case under any conditions or form an opinion until the matter is finally submitted to you.

(Thereupon the jury was excused, and in their absence the following occurred:)

Mr. MacInnis: Judge, in that interest which I am sure the Court would have in viewing further ~~authorities on the discussion which took place this~~ morning, I would like to bring before you a more recent decision. Now, the Court, as I understand

(Testimony of Mervyn Rathborne.)

it from the remarks made today, and the prosecutor alike rely upon the Mackey case, the decision reported in Volume 58, Cal. App., I think a 1922 decision, as supporting the present [6525] ruling to the end that Mervyn Rathborne is not a convicted felon. Now I have with me a decision, not of the District Court of Appeals but the Supreme Court, and it is not a 1922 decision but it is a 1949 decision, and it discusses the effect of that very section cited by the Court; Section 1203, subsection 4 of the Penal Code of this State, and in this decision the Mackey case is discussed and overruled, as well as all of the earlier cases, and without reading all of the decision our Supreme Court in the case of Meyer v. the Board of Medical Examiners, decided by the Supreme Court of California en banc on July 15, 1949; cited in 206 Pacific Reporter, 2nd Series at page 1085, said this—and this language was an approval of a previous Supreme Court decision, also a modern decision, called In Re Phillips, 17 Cal. (2d) at page 55. The Supreme Court in the opinion written by Mr. Justice Spence said this:

> "The powers possessed by the trial courts under the probation statutes and by penal code sections 1203 et seq. are concerned with mitigation of punishment and confer discretion upon the courts in dealing with a convicted defendant. The power of the court to reward a convicted defendant who satisfactorily completes his period of probation by setting aside the

> verdict and dismissing the action operates to mitigate his punishment by restoring certain rights and removing certain disabilities, but it cannot be assumed that the Legislature intended that such [6526] action by the trial court under Section 1203.4 should be considered as obliterating the fact that the defendant has been finally adjudged guilty of a crime. This is made clear by the provision that the fact of the defendant's conviction can be used against him in any later prosecution, despite dismissal of the action under Section 1203.4. In brief, action in mitigation of the defendant's punishment should not affect the fact that his guilt has been finally determined according to law. Such a final determination of guilt is the basis for the order of disbarment in this case."

That involves a doctor before the Medical Board, and the Supreme Court in this decision of Mr. Justice Spence cites with approval People v. Majado, 22 Cal. App. (2d) at page 323. It cites In Re Phillips, 17 Cal. 2nd Series at page 55. And it says this regarding the cases which were discussed earlier:

> "From this standpoint appellant's theory that the import of the probation statement and the dismissal proceeding is to expunge the record of the crime (Sherry v. Ingalls, supra; People v. Mackey, supra), cannot be sustained."

That, I believe, is the latest expression of the Supreme Court of the State of California, and I think it discusses precisely the proposition now before us, and I would commend this decision to the Court, and if the Court reads it we may [6527] be——

The Court: Now, I may say to you from the reading you have made, it is not inconsistent with the finding I have made in the light of the Mackey case.

Mr. Donohue: May I say, if your Honor please, there are many other decisions which follow the same decision here, still not in conflict with the Mackey case, because what Mr. MacInnis overlooks is the fact that in the Mackey case the law was applicable, as here, to a witness, and in the case which he has just cited it is sought to apply the same law to a defendant in a subsequent proceeding.

The Court: Judge Works devoted two pages to that same argument. We will take the afternoon recess.

Mr. MacInnis: May I read you another——

The Court: I will read it this evening.

Mr. MacInnis: In case you have any doubt as to my understanding of this decision and what it means, let me read this paragraph——

The Court: I will read it tonight. We have had a lengthy day.

Mr. MacInnis: Yes, haven't we?

The Court: We will take the adjournment until tomorrow morning at ten o'clock.

~~(Thereupon an adjournment was taken until~~ Wednesday, March 1, 1950, at 10:00 [6528] a.m.)

Wednesday, March 1, 1950—10:00 A. M.

The Clerk: United States of America v. Harry Bridges, Henry Schmidt and J. R. Robertson, on trial.

MERVYN RATHBORNE

resumed.

Cross-Examination

(Continued)

By Mr. Hallinan:

Q. Mr. Rathborne, before you joined the Communist Party had you attended any meetings of that Party?

A. No, sir, I don't recall attending any such meetings.

Q. Now, you told us that you were expelled from the Communist Party when?

A. I believe I testified a committee consisting of Archie Brown and Loretta Starvis came to my office in the early part of 1947, I believe, and advised me that I had been dropped from membership in the Communist Party by action of the State Executive Committee of the Party.

Q. Those persons, you testified, were officials of the Communist Party, is that right?

A. Mr. Brown at that time was the State Trade Union Director and Miss Starvis was a member of

(Testimony of Mervyn Rathborne.)

the State Executive Committee. That was my understanding of their positions.

Q. What part of 1947? Did you say the early part? Can you place it more closely than that?

A. My recollection is probably—oh, I don't know; probably [6529] March or April. I am not certain, Mr. Hallinan, as to the date.

Q. Had those two people ever been in your office before that time?

A. Mr. Brown had on a number of occasions. I never recall Miss Starvis being there.

Q. How about Mr. Schneidermann? Had he ever been in your office?

A. On many occasions, yes, sir.

Q. I beg your pardon?

A. On many occasions.

Q. You also testified that on some occasions following the Philadelphia convention, on two occasions you took Mr. Schneidermann to Mr. Bridges' office, is that correct?

A. Mr. Schneidermann and Mr. Bridges and I used to meet at Mr. Bridges' office—had met at Mr. Bridges' office on a number of occasions.

Q. How many times would you say?

A. Well, I would estimate maybe ten to fifteen times, something like that.

Q. Were other persons present on any of those occasions? A. Sometimes there were, yes.

Q. Who, for instance?

~~A. On one occasion I remember that we met~~ down there when Donald Henderson was present and we talked about the food, [6530] tobacco and agricultural workers organizing a drive of the canneries.

Q. When Mr. Schneidermann called to see you at your office did he announce his name over the telephone? Did he have the girl call in to you and say, "Mr. Schneidermann is here to see you"?

A. Yes. Usually my secretary used to say, "Well, Bill is outside; he wants to see you." Sometimes he would call by telephone.

Q. The same thing as regards Mr. Brown and Miss Starvis, is that right, or Mrs. Starvis, whichever it is?

A. I believe on that particular occasion, although my recollection is hazy, that they had called me previously, I had spoken to them, and I told them——

Q. At any rate, what I am getting at is this: Those people simply announced their names to the girl, the girl transmitted the message, and you say, "Send them in," and the person came in, is that right?

A. Sometimes that was right and other times they would call up previously and make an appointment.

Q. What I am getting at is that there was nothing secret about it or surreptitious about it. They just came as they wanted, is that right?

A. They—on occasions they would drop in; on other occasions they would make [6531] appointments.

(Testimony of Mervyn Rathborne.)

Q. Let me ask you this: Is the first notice that you had that you were in difficulty with the Communist Party the message that you got from Mr. Brown and Miss Starvis?

A. That wasn't the first notice, not by a long shot.

Q. Is it Miss Starvis or Mrs. Starvis?

A. I don't know, Mr. Hallinan.

Q. Had you received any prior information that you were going to be dropped from the Party?

A. Not that I was going to be dropped. I had attended meetings before that where I was—had been very roundly criticized for my failure to do certain things that were not in accordance with the Party line.

Q. When you received this message from Mr. Brown and Miss Starvis did you do anything further about it? A. At that time?

Q. Yes.

A. No, I just said, "Well, if that is it, I guess that is it."

Q. Did you do anything at any subsequent time about it? A. What do you mean do anything?

Q. Did you take any steps to have that set aside or find out what the difficulty was or anything of that kind? A. No, I did not.

Q. Did you talk to anybody else about having been expelled?

A. Well, they told me it was not in the form of a regular expulsion. I had just been dropped.

Q. I [6532] say, did you talk to anybody else about that?

(Testimony of Mervyn Rathborne.)

A. I don't recall whether I did.

Q. There has been introduced here in evidence a paper dated November, 1945, relating to your resignation from the CIO or your being dropped from the CIO. Which was it? Did you resign or were you dropped? In 1947, I mean.

A. I believe I testified to what happened. When the convention came up I made no effort and was not elected a delegate to the convention, and I was not a candidate for any office.

Q. You dropped out yourself then?

A. That is right.

Q. When was that?

A. That, I believe, was in November, 1947.

Q. And at that time, then, you severed your connection with Mr. Bridges and gave up your office, and so forth, is that right? A. That is right.

Q. You had maintained an office in the ILWU as CIO secretary-treasurer for some time, is that right?

A. I maintained an office in what was then the CIO building. I understand the ILWU has since taken that building over, but at the time it was known as the CIO building.

Q. And you simply moved out of your office?

A. I turned it over to the man who was elected.

Q. Who was that? A. Mr. Allen. [6533]

Q. When you left, some sort of dinner was tendered to you, is that right?

A. I don't recall.

(Testimony of Mervyn Rathborne.)

Q. Did Mr. Bridges make a talk at some dinner that was tendered to you and make a collection for you?

A. Mr. Bridges made—introduced a resolution at the convention of the State CIO. The resolution was in the general way of lauding me and the work I had done, but I don't think there was any collection. My understanding was that the ILWU delegates there voted to make me a gift of $250 from the union treasury. I may be in error. [6534]

Q. Well, did Mr. Bridges make that proposal? Was he the one that started that?

A. I am not certain about that, because I wasn't on the inside of it.

Q. At any rate, you received the $250?

A. That's right.

Q. Now, will you tell us this: Who is the first person to whom you spoke concerning testifying against Harry Bridges or becoming a witness in this proceeding or whatever the subject was that led to your occupying the position you are now in?

A. Well, the first time that I was contacted by the government—is that what you want?

Q. Yes.

A. ——was on the day that the President Madison sailed on the second trip. I was on it.

Q. When was that?

A. Well, I recall I went on the ship, let's see—March, I believe, or the trip would be about two months. It would be about May of 1949, I believe.

(Testimony of Mervyn Rathborne.)

Q. May of 1949? A. Yes, sir.

Q. That is the first time?

A. 1948, I am sorry. 1948.

Q. And that is the first time that any one connected you with the government or anyone suggesting that you become a witness against [6535] Harry Bridges contacted you, is that right?

A. Well, put it this way: It is the first time that I talked to any government official, that is, directly. There had been a number of phone calls made to my house prior to that time but I had not done anything about them.

Q. When was the first phone call to your house?

A. I don't recall.

Q. Approximately?

A. I would say some time around early in 1948. Probably March or February. If I remember correctly, it was while I was going to this radio school taking this refresher course to get my license back.

Q. Where was that radio school?

A. Here in San Francisco.

Q. Had you spoken to anybody in the school——

A. No, sir.

Q. ——about any unwillingness to become a witness against Bridges? A. No, sir.

Q. So the first——

A. As a matter of fact, at that time I didn't know, when the phone calls were being made, I didn't know what the purpose of the calls were. Although I——

Q. At any rate, in February or March of 1948,

(Testimony of Mervyn Rathborne.)

so well as you can remember, you first received a phone call from some person concerning your testifying against Bridges, is that right? [6536]

A. No, I received the phone call from somebody in the Immigration Service wanting to see me.

Q. All right, who was that person?

A. I believe it is the gentleman who is now dead. I can't recall his name. He—at the moment the name escapes me. I may be able to remember it.

Q. All right. And where did you get the call?

A. At my home in Half Moon Bay.

Q. Did you speak to the person?

A. No, I didn't speak to him. My wife spoke to him and told me—well, Mr. So-and-so called you from the Immigration Service and he wants you to call him back. But I never called him back.

Q. Now, when did you receive the next phone call?

A. Well, I think during that entire period, between the time that I shipped out, there were about three phone calls and none of them resulted in anything.

Q. Well, after this first phone call, when would you think the next one was?

A. Oh, I would—I mean, my memory is not good on that. It is a period of weeks, I would say, or——

Q. What was the name of the person who called you on the second call?

A. My recollection is that it was the same person that called all three times. I am sorry, I can't remember.

(Testimony of Mervyn Rathborne.)

Q. Did you speak to him on the phone on any of those occasions? [6537]

A. No, on all occasions my wife spoke to him.

Q. On all occasions?

A. And gave me the message.

Q. Were you present during any of the conversations that your wife was having with that agent?

A. No, sir.

Q. There were messages that you received asking you to get in touch with him, is that right?

A. That's right.

Q. Did the agent say to your wife, or did your wife say that the agent had stated, it was in connection with Harry Bridges?

A. No, sir, just merely said he wanted, would like to talk to me.

Q. All right. Then when is the first time, then, that you personally spoke to anybody connected with the Immigration Service or with the FBI or with the police department or whoever it may have been?

A. Well, the first time—incidentally, the only people I have ever been contacted on this case by is the Immigration Service.

Q. All right.

A. With one exception.

Q. What is the one exception?

A. Well, at one time here about Christmas time the FBI got in touch with me, this last Christmas.

Q. That is in December of 1949? [6538]

A. Yes, sir.

Q. And what was the name of that man?

(Testimony of Mervyn Rathborne.)

A. I don't recall his name.

Q. Did you have a talk with him?

A. Yes, sir.

Q. Where? A. Here in this building.

Q. What part of the building?

A. Upstairs on the fourth floor.

Q. What date was it, do you know, approximately?

A. I would say probably around the 20th of December. I am not sure; it was just before Christmas, the way I recall, or it might have been just after. Now, I am not certain.

Q. How long did that conversation last?

A. Oh, maybe half an hour.

Q. Anybody else present?

A. There were two FBI people present, people who identified themselves as FBI agents.

Q. And can you give us the name of either of them? A. I am sorry, I can not.

Q. Anybody else present with them?

A. At this time I don't recall. I don't think there was.

Q. Was there any stenographer there?

A. I don't—no, sir, I don't believe there was.

Q. Nobody took down any statement as you dictated it? [6539]

A. Yes, there was a statement taken.

Q. At that time? A. Yes, sir.

Q. In the presence of these two men?

A. Yes, sir.

Q. Was it dictated or how was it given?

(Testimony of Mervyn Rathborne.)

A. I wrote it out.

Q. You wrote it out in longhand?

A. Yes, sir.

Q. How long was that statement?

A. Oh, I would say, I believe it was three or four pages; I am not sure.

Q. Could you tell us which, three or four?

A. I would say either three or four. I don't recall exactly, Mr. Hallinan.

Q. You wrote it out entirely in your own handwriting? A. That is my recollection.

Q. And signed it? A. Yes, sir.

Q. Dated it? A. I believe I did, yes.

Q. And then gave it to these men, is that right?

A. That's right.

Q. Did they give you a copy of it?

A. No, sir. [6540]

Q. Have you ever seen it since?

A. No, sir.

Q. Haven't read it since? A. No, sir.

Q. Now, aside from those men you talked only to Immigration officials, is that right?

A. That's right.

Q. And who was the first one?

A. Well, there was two gentlemen that came down, I had made one trip on the President Madison and it was the sailing date of the second trip that I was on there, and I was rather busy. And these two gentlemen came down and asked to talk to me, and I talked to them for a few minutes, because I——

(Testimony of Meryyn Rathborne.)

Q. And that was when?

A. Well, that would have been about May of '48, I believe.

Q. And you talked for a few minutes on the ship, is that right? A. That's right.

Q. What part of the ship?

A. In my quarters on the ship.

Q. And did they show you any credential, or how did they identify themselves?

A. They had credentials in their pocket.

Q. What were their names?

A. I am trying to remember the names, and I can't do it. One of them, as I say, is a gentleman who has died about several [6541] months ago.

Q. That is the same man who put in the phone call, is that right? A. I believe so, yes.

Q. And who was the other one?

A. And I don't recall the other man's name at all.

Q. Have you seen him since?

A. The other one?

Q. Yes. A. I don't recall that I have.

Q. Don't remember the name of either person?

A. No, sir.

Q. Then you talked for just a few minutes?

A. I could get that information.

Q. Beg your pardon?

A. I could get that information if you wanted it, I believe.

~~Q. Then who did you next talk to?~~

(Testimony of Mervyn Rathborne.)

A. My recollection of it is the next person I talked to was Mr. Barber.

Q. That is Mr. Bruce Barber?

A. That's right.

Q. And where did you talk to him?

A. I believe it was in Half Moon Bay. I believe he came down to see me, he and another gentleman.

Q. Who was the other man? [6542]

A. I don't remember his name.

Q. And they visited you at Half Moon Bay?

A. Yes, sir.

Q. When was that?

A. Well, that was after this trip that I have talked about, so that would be, I would think, about, some time in the summer of '48; that is, probably July. It was shortly after my ship got back, after I made this trip, and the trip takes about, all together about eight weeks. So it would be approximately eight weeks after the first interview.

Q. And these two men, Barber and the other man came to your house at Half Moon Bay?

A. That's right.

Q. How long did they stay on that first occasion?

A. We went out to the Miramar and I think we talked for maybe probably an hour.

Q. Where did you go in Miramar?

A. To the Miramar Hotel.

Q. And sat in the Miramar Hotel?

A. Yes, sir.

Q. What part of it? A. In the bar there.

(Testimony of Mervyn Rathborne.)

Q. Have you ever had any interest in that hotel?

A. No, sir.

Q. And you sat there for about an hour, is that right? [6543] A. Yes, sir.

Q. Now, did they tell you what they wanted to speak to you about?

A. I believe it was at that time that they did.

Q. They told you it was something involving Harry Bridges, is that right?

A. That's right. I am not positive, Mr. Hallinan, but it is my recollection that that was the time that they mentioned to me in connection with the case.

Q. Told you they intended to indict him for perjury?

A. No, my recollection is they said they were conducting an investigation regarding Communist activities in trade unions, and particularly Communist Party membership of Harry Bridges.

Q. And did you tell them what you knew about such matters? A. No, sir, I did not.

Q. You didn't tell them any of the things that you have testified to here?

A. Not at that time, no, sir.

Q. Did you tell them any of them?

A. I don't believe at that particular time that I did.

Q. Did you tell them that you didn't know anything about that matter? A. No, I did not.

Q. Did you tell them that you didn't know whether Harry Bridges [6544] was a member of the Communist Party or not at that time?

(Testimony of Mervyn Rathborne.)

A. I don't recall that question ever being asked at that particular time.

Q. They didn't ask you that?

A. I don't recall that they did, no, sir.

Q. Did they ask you if you had been a member of the Communist Party?

A. They definitely did.

Q. And what did you answer?

A. On that occasion I believe I said I had been.

Q. You weren't under oath then?

A. No, sir.

Q. When they asked you that question you said you had been, although when you were asked that question under oath before the Un-American Activities and the Tenney Committee, you denied that fact, is that right?

A. At that particular time I testified before the Tenney Committee and the other committee I was a member of the Communist Party and I was following Communist Party discipline and its instructions in the matter.

Q. I see. But as soon as you got out, then you admitted you had been a member of the Communist Party?

A. I didn't go around admitting it publicly.

Q. No, but I mean, on this occasion you admitted it to these two men? [6545]

A. My recollection, they asked me how long I had been out of the party.

Q. But then they asked you, did they, if you knew anything about Harry Bridges being or not being a member?

A. Not at that particular time, no, sir. That is my recollection. I don't—I am certain they asked me if I knew him and I said certainly I did.

Q. They [6545-A] told you they were investigating Communist Party matters, infiltration, and particularly any Communist connections or membership of Harry Bridges; they told you that at that time, is that right?

A. That is my recollection, yes.

Q. And you did not give them any information except you had been a member of the Party yourself, is that correct?

A. I wouldn't say—I didn't give them any information about Mr. Bridges; I will put it that way, but I discussed other things with him.

Q. Between the time that Mr. Bridges had been party to this eulogistic talk about you in the latter part of 1947 and the collection of a fund for you, had you seen him? A. No, sir.

Q. So between that time and the meeting with Barber and the other man at Half Moon Bay you had not seen Harry Bridges?

A. No, sir, I don't recall having seen him since the convention in Santa Cruz.

Q. You had had no quarrel with him?

A. No, sir.

Q. No difficulty of any kind?

A. No, sir.

Q. He had always treated you fairly, is that right? A. That is right.

(Testimony of Mervyn Rathborne.)

Q. Decently? [6546] A. That is right.

Q. Been your friend?

A. We had our differences of opinion, but generally we had been friendly.

Q. He had been your friend? A. Yes, sir.

Q. When these gentlemen came to see you did you get in touch with Mr. Bridges and tell him such an inquiry was on foot?

A. No, sir, I did not.

Q. When did you next see anybody connected with the Immigration Department? This conversation, you say, was approximately July, 1948. When did you next see anybody?

A. I believe it was September of 1948—no—yes, I think it was September of 1948.

Q. Whom did you see then?

A. I saw Mr. Barber.

Q. Where? A. At the same place.

Q. Did you go out to the Miramar Hotel again?

A. Yes, sir.

Q. Why didn't you talk to him in your own home?

A. Well, I don't know any particular reason why I did not.

Q. Did he call at your home?

A. He called me at my home and asked if he could see me, and I said, "Sure, I will meet you at the Miramar." [6547]

Q. "I will meet you at the Miramar," and you met him there?

(Testimony of Mervyn Rathborne.)

A. I believe he was calling from there, but I am not certain.

Q. You think he phoned from the Miramar, and you went out there to see him, is that right?

A. That is my recollection, but I am not certain about it.

Q. How far is the Miramar from your home?

A. About two miles.

Q. Was that in the evening, in the daytime, or what?

A. My recollection is it was in the afternoon.

Q. What day of the week?

A. I couldn't tell you. I don't remember.

Q. Was it a Sunday, a holiday, or what?

A. I am sorry, Mr. Hallinan, but I just don't remember.

Q. When you got there, who accompanied Mr. Barber, if anyone? Was anybody with him?

A. I believe Mr. McGowan was with him at that time.

Q. Was that the first time you had ever met McGowan?

A. I believe—my recollection is that is correct, yes, sir.

Q. And then you had a conversation with those two men, is that right? A. That is right.

Q. How long did that last?

A. I would say approximately an hour. I am again uncertain as to the exact time.

Q. Did anybody take any notes or take any statement from you [6548] at that time?

(Testimony of Mervyn Rathborne.)

A. Mr. Barber may have taken some notes, but there was no statement.

Q. Nothing that you signed? A. No, sir.

Q. And nothing had been signed on the previous occasion, is that right? A. That is right.

Q. No statement written out that you saw?

A. That is right.

Q. On that occasion did they again tell you they were investigating Harry Bridge's alleged connection with the Communist Party?

A. They did. We discussed a number of—a large number of things.

Q. Did you tell them anything then that you have testified to on this occasion, that you have testified here in the last few days?

A. I recall—and I am reasonably certain it was at that particular meeting—of telling them of my strong conviction that I thought the Communist Party was definitely working an injury to the labor movement, and the situation today was one where we were very definitely, in my judgment, in a cold war condition in this country, and that I was apprehensive about the situation from those points of view.

Q. Did you discuss Harry Bridges? [6549]

A. I believe—yes, I believe he was discussed.

Q. Did you tell anything to them then that you have testified to on the witness stand here?

A. I am not certain. I may have, I may not ~~have. I don't recall all the remarks that were made.~~

(Testimony of Mervyn Rathborne.)

Q. On the occasion that you were at the Miramar, that second occasion, did you have anything to drink?

A. I believe we each had a bottle of beer.

Q. Is that all? A. Yes, sir.

Q. On the previous occasion——

A. We may have had two bottles of beer, but certainly no farther than that.

Q. On the previous occasion did you have anything to drink?

A. I don't recall, Mr. Hallinan. I don't think so, but it could have been.

Q. Without inquiring too much into your personal habits, because I do not care about that, is that what you customarily drink, beer, when you have occasion to drink?

A. I occasionally drink beer, yes, sir. I mean, sometimes I drink beer and sometimes I drink other things.

Q. On this occasion your belief is you had one or two bottles of beer? A. Yes.

Q. Nothing more? [6550]

A. It was in the summertime and my recollection is we had a couple of bottles of beer.

Q. And you told him on that occasion, then, some of the matters you have narrated concerning Harry Bridges, is that right?

A. My recollection is he was discussed, yes, sir.

Q. I say, did you tell them any of the things that you have testified to in this trial about Harry Bridges?

A. I don't recall clearly, but I may have.

Q. Did you tell them about any of these alleged meetings that you say he attended?

A. I am not certain. I don't recall the conversation clearly enough to remember.

Q. When did you next see anybody connected with the Immigration Department?

A. It was quite shortly after that.

Q. How long after?

A. I am not—again, I am not sure. My recollection is sometime in September.

Q. How many days would you say after this conversation you have just testified about did you have the next conversation?

A. I am not really in a position to——

Q. Approximately? A day, two days, a week, or what?

A. I would say probably a week or ten days. That is more an estimate than an opinion.

Q. Whom did you see then? [6551]

A. I saw Mr. Boyd and Mr. Barber.

Q. Where?

A. I saw them at Half Moon Bay. Mr. Barber came to Half Moon Bay, picked me up and took me out to the San Francisco Airport, where we met Mr. Boyd.

Q. Barber called at your house?

A. No, that is not right. Barber called me on the telephone and asked me—said, "There is a gentleman coming in from Washington," a gentleman he would like to have me meet, and could I meet him at the San Francisco Airport, I believe. Anyway, I know we all wound up at the airport.

Q. Yes, but where did Barber purport to phone from?

A. I don't recall, Mr. Hallinan. I know Mr. Barber contacted me. My recollection is he contacted me and asked me——

Q. Do you know where you were when you received this phone call?

A. I must have been at home, because that is the only place I could have been.

Q. Then did you drive to the San Francisco Airport yourself?

A. I believe I did, yes. That is my recollection.

Q. Were you alone? A. Yes, sir.

Q. Nobody else in the car with you?

A. Not at that time.

Q. Your own car. [6552]

A. That is my recollection.

Q. You went to the San Francisco Airport. What time did you arrive there?

A. My recollection is it was in the morning.

Q. Had you made some previous arrangement with Barber that you were going to San Francisco Airport if you received a call from him?

A. No, I had not. As I recall it, during our discussion, our previous discussion, he said there was a fellow, Boyd, coming out from Washington and he would like to have me meet him.

~~Q. Did he tell you who Boyd was?~~

A. He said, "He is connected with our service," I believe. I don't know whether he gave me his title then or not.

Q. Where did he say he was from?

A. From Washington.

Q. Boyd was located and stationed in Washington, is that right?

A. That is the information that I recall Barber having given me.

Q. Barber told you that in the meeting in September, 1948, in the Miramar, is that right?

A. He might have told me that, or he might have told me that in the telephone conversation, but it is my recollection he told me about Mr. Boyd when we met.

Q. Then you drove out to the airport and you found Barber there? [6553] A. Yes.

Q. And then did Boyd appear or was he there when you got there, or what?

A. I don't know whether he was there when we got there or whether he came in on the plane or not. Anyway, he eventually turned up there, but I don't know whether he had arrived when I got there or not. My understanding was he was coming in by plane from Washington, D. C. and Mr. Barber was out there to meet him, and whether Mr. Boyd was actually at the airport when I arrived, or whether he arrived later, I don't recall.

Q. You do not remember whether you might have waited some hours for him to arrive?

A. I certainly didn't wait any hours.

Q. But you are not sure whether he was there or

(Testimony of Mervyn Rathborne.)

came in later? A. I am not, no, sir.

Q. Then when he arrived was there anybody with him or was he alone?

A. He was alone, I believe, yes.

Q. Did you go any place with those two men?

A. No, we didn't. We stayed at the airport there.

Q. What part of the airport did you go to?

A. We were sitting out in the car in front of the airport.

Q. Whose car?

A. I don't know whose car it was. It was the car Mr. Barber was driving. [6554]

Q. Not your own car? A. Not my own car.

Q. You sat in the car, then. Would you know what Boyd's first name is? A. John Boyd.

Q. You sat in the car with John Boyd and Barber at the airport, is that right? A. Yes, sir.

Q. How long did you sit there?

A. Oh, for several hours.

Q. Can you tell us what time you got to the airport?

A. My recollection is it was in the morning, Mr. Hallinan.

Q. About what time?

A. I couldn't say other than it wasn't really early in the morning. It was probably after eight o'clock. I am certain of that, reasonably sure of that.

~~Q. Did Mr. Boyd purport to know something~~ about you already when he met you?

A. Yes, he did.

(Testimony of Mervyn Rathborne.)

Q. Did he have any introductions to you from other people whom you knew? A. No.

Q. Did he know the matters that you had already spoken to Barber about?

A. He seemed to have a pretty general knowledge of my general [6555] activities, also of my—the fact that I had been in the Communist Party and was out of it, and a few other things like that.

Q. He stated he knew you had been in the Communist Party and was out of it, is that right?

A. That is right.

Q. Did he state matters concerning that subject other than the ones that you had told Barber and McGowan?

A. Well, I will put it this way: He seemed to have a familiarity with them and with quite a few matters that I hadn't discussed with him.

Q. When these men first appeared to talk to you —in other words, when you first spoke to anybody in the early part of 1948—that person then told you that he knew you were out of the Communist Party; that is correct, isn't that right?

A. Two gentlemen came down aboard the ship——

Q. Yes.

A. ——and asked me the question, "How long have you been out of the Party?"

I said—I think I said—I gave them some offhand answer, "How do you know I was in?" or something like that.

Q. When you talked to Barber did Barber tell

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you that he knew just how long you had been a member of the Communist Party, when you had left, and what you had done in the Communist Party?

A. I will put it this way: Mr. Barber, during our conversation, indicated some considerable knowledge of my activities [6556] while in the Communist Party.

Q. Matters over and above what you had told him? A. That is right.

Q. Then when Boyd talked to you did Boyd seem to know even more than Barber had known?

A. Well, as I stated before, Mr. Hallinan, he indicated a knowledge of my general activities, both in the Communist Party and in the labor movement.

Q. Did he also appear to know, or did he tell you that he knew, a considerable amount about your personal affairs, your financial situation, and so forth? A. No, sir, he did not.

Q. It all related to your activities in the Communist Party and in labor matters?

A. That is right.

Q. In the several hours that you spent there with Mr. Boyd there was just Boyd, Barber and yourself present?

A. There was a young lady there also.

Q. What was her name?

A. I don't know what her name is—was.

Q. Do you know what her occupation was? Was she a stenographer?

A. Yes, sir, she wa a stenographer.

(Testimony of Mervyn Rathborne.)

Q. Did she take down a statement while you were there? A. She did.

Q. Had you had anything to drink at the airport? [6557] A. No, sir.

Q. You didn't go into the bar at all?

A. No, sat in the automobile all of the time.

Q. Did you go out and have lunch?

A. No, we did not.

Q. How many hours were you in the automobile?

A. Well, we got out and walked around a little bit a couple of times.

Q. What do you mean by several hours?

A. I mean three or four hours.

Q. You got there in the morning and then you waited a while, you met Boyd, and then went and sat in the automobile for three or four hours?

A. That's right.

Q. You got out and went to lunch, didn't you?

A. My recollection is, Mr. Hallinan, we had lunch—gosh, I really don't remember when we had lunch.

Q. You had some liquor at lunch, didn't you?

A. No, sir—I don't recall lunch on that day, but I do remember sitting out in the airport with Mr. Boyd, Mr. Barber and this young lady at the airport there in this automobile for a long period of time.

Q. Had you had anything to drink that day at all? A. Not to my recollection, no, sir.

Q. Did you have anything to drink before you left home? [6558] A. No, sir.

(Testimony of Mervyn Rathborne.)

Q. After being there for three or four hours, then where did you go? What happened then?

A. As I recall it, I got in my car and went home.

Q. Alone? A. Yes, sir.

Q. What time did you get home?

A. I don't remember the exact time.

Q. This young lady had taken down a statement in the meantime, had she? A. That is right.

Q. Took down a statement of what you had said or what you were saying? A. That is right.

Q. Was that reduced to typewriting while you were there? A. No, sir.

Q. It was not seen by you and it was not signed by you? A. That is right.

Q. When did you next see any of these people?

A. A few days later.

Q. How many days later?

A. I would estimate probably a week.

Q. Whom did you see then?

A. My recollection is that I saw Mr. Barber.

Q. Where? [6559]

A. Down at the Miramar Hotel.

Q. Was he alone or with somebody else?

A. I am not certain, Mr. Hallinan, on that particular occasion. He may have been accompanied by Mr. McGowan, but I am not certain.

Q. Can you scratch your brains a little now to remember?

A. Well, there was quite a number of occasions on which I met Mr. Barber and Mr. McGowan, sometimes singly, sometimes together, and I don't recall this particular occasion whether Mr. Barber was alone or whether he was with Mr. McGowan.

Q. At any rate, about a week after you had the conversation with Mr. Boyd and Mr. Barber at the airport Mr. Barber and possibly Mr. McGowan talked to you again at the Miramar Hotel?

A. That is right.

Q. How did you happen to go there on that occasion?

A. Well, I guess it just became more or less a habit of meeting there. Mr. Barber knew where it was and he called me up and asked me if I could meet him at the Miramar, and I said, "Sure."

Q. Where did he call from? From the Miramar?

A. I believe he called from San Francisco.

Q. You believe he called from San Francisco and made an appointment with you to meet him at the Miramar?

A. That is my recollection.

Q. At what time were you to meet him?

A. My recollection is it was in the morning, but I am not [6560] certain of that.

Q. So you went over to the Miramar then and saw him. Was he there already, or did he arrive after you had been there a while?

A. My belief is he was there.

Q. Where did you sit that day? In the bar also?

A. The same place, at a booth there in the bar.

Q. They have a bar with booths on the side, is that correct?

A. That is right, facing overlooking the ocean.

(Testimony of Mervyn Rathborne.)

Q. How long were you there with Barber?

A. I guess it was about an hour.

Q. Did you have anything to drink on that occasion?

A. I can't recall. We may have had.

Q. Don't you remember that you did?

A. As I told you previously, Mr. Hallinan, I met Mr. Barber and Mr. McGowan on a number of occasions at the Miramar Hotel. On some of those occasions we had a drink and on other occasions we did not. On this particular one I am just not certain as to whether we had a beer, a highball, or whether we didn't drink at all.

Q. Was there any occasion on which you went into the bar at the Miramar Hotel, occupied a booth, and did not order a drink?

A. Yes, there was one or two occasions.

Q. There were one or two occasions that that did happen? A. Yes, sir. [6561]

Q. Then you stayed there with Barber about an hour, is that right?

A. That is my recollection.

Q. Did you talk with him then? A. I did.

Q. On the same subject? A. That is right.

Q. Did you tell him anything that you have talked about here? A. Yes, I did.

Q. On the occasion that you were talking to Mr. Boyd and Mr. Barber at the airport did you tell them any of the matters that you have testified to here? A. I did.

(Testimony of Mervyn Rathborne.)

Q. All of them? A. No, sir.

Q. You did not tell all of them?

A. No, sir.

Q. About what percentage of them did you tell?

A. That is a little difficult. I would say a small percentage.

Q. I beg your pardon?

A. A small percentage.

Q. A small percentage of what you have testified to. When you talked to Barber at the Miramar Hotel did you add anything to what you had already told Boyd and Barber? [6562]

A. I don't recollect that I did. He had a copy of that statement.

Q. How long is that statement?

A. I am not certain. I think it was about seven or eight pages now. I don't recall it. [6562-A]

Q. Did you read it? A. Yes, sir.

Q. Did you sign it? A. Yes, sir, I did.

Q. Sign every page? A. No.

Q. Just at the end, is that right?

A. Yes, sir, just at the end.

Q. All right. And that statement contained only a small percentage of the matters that you testified to in this hearing, is that right?

A. That's right.

Q. What do you mean by "small percentage"? Say ten per cent?

A. Well, I would say approximately that.

(Testimony of Mervyn Rathborne.)

Q. Now, when did you next see anybody connected with the Immigration Service, after this meeting with Barber at the Miramar Hotel?

A. Well, after the meeting with Barber at the Miramar Hotel, I at that time, and also Mr. Boyd previously had asked me if I would testify in any proceedings, and I said I would not. And some time after that Mr. Barber got in touch with me and he said, "The Attorney General would like to see you. Will you make a trip to Washington?"

Q. All right. Now, when you talked to Boyd at the airport he asked you if you would testify in any proceeding that would be [6563] a proceeding against Harry Bridges, is that right?

A. That's right.

Q. You said you would not?

A. That's right.

Q. And then when Barber appeared with this statement he asked you the same thing and you said you would not, is that correct?

A. That's right.

Q. And in the statement that you had given, there was nothing to indicate or to raise any inference that Harry Bridges was a member of the Communist Party, was there?

A. I am not certain about that, Mr. Hallinan. There may have been.

Q. There was nothing in there that said he had attended any meetings at which only Communists were present, was there?

(Testimony of Mervyn Rathborne.)

A. I believe there was.

Q. You believe there was? All right. Now, when you talked to Mr. Barber on this second occasion after you had—on which you had signed the statement, you say he asked you then about going to Washington to meet the Attorney General, is that right? A. He did.

Q. All right. And Mr. Boyd had spoken to you on that subject prior to that time, is that right?

A. No, he had not.

Q. Well, you said a minute ago that Mr. Boyd had also spoken to you on that subject, didn't you? [6564]

A. I said a minute ago that, as I recall it, Mr. Boyd had asked me about testifying.

Q. I see.

A. And I told Mr. Boyd no.

Q. I see. Yes. And then on this occasion on which Barber brought down the statement, he asked you if you would go to Washington and talk to the Attorney General, is that right?

A. That's right.

Q. Now, what did you say to that?

A. I said, "Well, sure, I will go to Washington, I will talk to anybody.

Q. All right. Then Barber left, is that correct?

A. That is my recollection. You are talking about this meeting at Miramar?

Q. On this occasion then, yes. A. Yes.

Q. Now, when did you next meet anybody connected wit. the department?

(Testimony of Melvyn Rathborne.)

A. I don't recall, Mr. Hallinan.

Q. Well, approximately?

A. I had some contact with Mr. Barber.

Q. Well, let's see if we can get them as accurately as possible. Now, you remember that some time in September, 1948, Mr. Barber called at the Miramar Cafe and you talked to him there and you signed a statement for him. Now, taking that as the starting [6565] point, when did you next see anybody?

A. I may or may not have seen Mr. Barber or Mr. McGowan in the next few days. I am not certain as to that, Mr. Hallinan. I don't just——

Q. Well, where do you recollect next seeing those gentlemen?

A. My next recollection of seeing Mr. Barber is when I met him—well, I think he came back down and talked to me about, he said he would like to have me go to Washington, and well, I am not certain about that. Anyway, the next place I am certain I saw him is, I met him at the airport and took a plane back to Washington.

Q. When was that?

A. I think that was October, if I am correct.

Q. And who did you meet, McGowan or Barber?

A. Mr. Barber.

Q. You think that was when? A. October.

Q. In October, 1948. All right. And do you know what arrangement, how the arrangement was made or do you remember how the arrangement was made for you to meet Barber at the airport on that occasion?

A. My recollection is that he called me on the telephone and said, "Well, we've got your transportation arranged for such and such a time and date. Can you meet me at the airport?" That is all.

Q. And then you met him at the airport?

A. That is my recollection.

Q. How did you get to that airport on this occasion?

A. I believe my wife drove me over.

Q. I see. And you met Barber there?

A. No. Let's see. I think I—I believe I did meet him there now. I am not exactly sure as to the circumstances, but I know I met Barber at the airport.

Q. Well, had you been given your ticket, your airplane ticket or anything in the meantime?

A. No, I believe he had it there.

Q. He had that with him? A. Yes.

Q. And he gave you the ticket, is that right?

A. That's right.

Q. And you got on the plane?

A. That's right.

Q. Did he get on the plane? A. Yes, sir.

Q. He went with you? A. Yes.

Q. Go all the way back to Washington with you?

A. That's right.

Q. And how long did that entire trip take?

A. I think it was about a week, Mr. Hallinan. I am not [6567] certain.

Q. When you went to Washington, did you go directly from San Francisco to Washington or what route did you follow, any stopovers?

(Testimony of Mervyn Rathborne.)

A. We didn't—it was a through plane. I mean, it landed a couple of places on the way but it was a——

Q. But you didn't get out, you didn't have any meetings with any other persons on the way?

A. No, sir.

Q. All right. And when you got to Washington where did you stay, what hotel, what place?

A. I don't remember the name of the hotel. It was a small hotel there, but I am sorry, I don't recall the name of it.

Q. And then did Mr. Barber take you to the Attorney General? A. That's right.

Q. When? How long after you got there?

A. Oh, a day or two, I believe. A day—about a day, I would say.

Q. Had you met anybody else connected with the government or the Immigration Department before you went to the Attorney General's office?

A. I believe my contact with the Immigration Department, there was these two gentlemen I told you that spoke to me on the ship, whose name I can't——

Q. No, no, I mean on this occasion while you were in Washington. [6568]

A. No, I met Mr. Boyd back there.

Q. All right. When you arrived at the Washington airport, now, where did you go from the airport?

A. I think we went to a hotel, and then we went over——

Q. Was that the same hotel that you stayed at later? A. Yes.

Q. All right. And then went where?

A. We went over to Mr. Boyd's office.

Q. All right. Whom did you meet in Boyd's office? A. I met Mr. Boyd.

Q. Just he?

A. Oh, there were other people around there. I don't think I met them.

Q. And then you and Mr. Boyd and Mr. Barber had a conversation, did you? A. That's right.

Q. How long did that last?

A. Not very long.

Q. Well, what do you mean by "not very long"?

A. Well, I would say probably a few minutes or so.

Q. I see.

A. Boyd told us, "Well, I think the Attorney General will see us at such and such a time," and discussed this, how we were, and so forth. An informal, friendly conversation. Nothing——

Q. And nothing further was said, I take it, about your [6569] testimony or what you had to say about Harry Bridges on this occasion?

A. No, sir, not that I recall. I don't recall anything.

Q. And then did you go from Boyd's office to the Attorney General's office?

(Testimony of Mervyn Rathborne.)

A. Not directly. I think we saw the Attorney General the next day, as I remember it.

Q. All right. Where did you go after leaving Boyd's office? A. Oh, I don't remember.

Q. Well, let me ask you this. During the time that you were in Washington, where did Barber live, so far as you know? Did he live in the same hotel with you? A. Yes, he did.

Q. Same room or in an adjoining room or what?

A. I think it was an adjoining room. Now, it could have been the same room; I am not certain as to the arrangements there, Mr. Hallinan.

Q. You are not sure whether he occupied the same room you did or an adjoining room, is that right? A. Not certain, no, sir.

Q. That was all the time that you stayed there?

A. Yes.

Q. How many days did you occupy a room in that hotel?

A. Oh, I think it was four or five. I am not certain about that, but it was a number of days. A short number of days. [6570]

Q. Now, during the four or five days that you were with Mr. Barber there, did any other person connected with the Immigration Department occupy a portion of your room or an adjoining room, so far as you knew?

A. Not as far as I knew, no.

Q. I see. All right. So Mr. Barber then occupied either the same room with you or an adjoining room, the first night that you got there, is that correct? A. That is my recollection.

(Testimony of Mervyn Rathborne.)

Q. In other words, you went to Boyd's office and had a talk with him, then you went to the hotel and Barber stayed there in your room or in the adjoining room, is that correct?

A. That is my recollection, that's right.

Q. All right. Then, the next day you went to see the Attorney General?

A. That is my recollection.

Q. All right. Did you go any place that evening, the evening before you went to see the Attorney General?

A. I believe we went to a movie, is my recollection—that we did.

Q. Did you have dinner with Mr. Barber?

A. Yes, sir.

Q. And went to a movie with Mr. Barber?

A. That is my recollection. Now, I could be confusing that evening with another evening. [6571]

Q. Did you have lunch with Mr. Barber?

A. I believe I did.

Q. Did you have anything to drink at lunch?

A. Well, that I can't recall, Mr. Hallinan. I may have and I may not have.

Q. Did you at dinner?

A. I am reasonably certain we had something to drink at dinner, yes.

Q. All right.

The Court: Do you want to take the morning recess now, Mr. Hallinan?

Mr. Hallinan: Very well.

The Court: We will take the morning recess, ladies and gentlemen; the same admonition to you not to discuss the case under any conditions.

(Recess.)

Q. (By Mr. Hallinan): Did you have any conversation at the recess with any of the gentlemen connected with the Immigration Department or the prosecution of this case?

A. Yes, sir, I did.

Q. Concerning the subject of your testimony?

A. I did.

Q. Whom did you talk to?

A. I talked to Mr. Kaiser.

Q. And how long did that conversation take place? [6572]

A. Oh, four or five minutes, I guess.

Q. I see. Did he warn you about something you were saying up here?

A. He asked me if I went, if when I went to dinner with Mr. Barber, if I had sugar in my tea or if I had milk in it.

Q. Did he tell you the name of the hotel you stayed at? A. No, sir.

Q. Is that all he asked you, if you had sugar or tea? A. That's right.

Mr. Hallinan: Could I have Mr. Kaiser step up here a moment for purposes of identification, your Honor? If there is no objection on that.

Mr. Donohue: I think he has been identified.

~~The Court: He has been identified.~~

Mr. Hallinan: No, not closely enough. He has been too far away. I don't think anybody has seen him. I want them to see him, to be quite sure. I have my own purpose in this. I would like to have Mr. Barber identified——

Mr. Donohue: I object to the request, if your Honor please, unless he expects to call him.

The Court: He has been identified, Mr. Hallinan. I think that was sufficient.

Mr. Hallinan: Well, could we ask him to stand up again for a moment?

The Court: There would be no objection as to that. [6573]

Mr. Hallinan: Would you mind standing up, Mr. Kaiser?

(Mr. Kaiser arose.)

Q. (By Mr. Hallinan): Now, is that the man you spoke to? A. That is the man.

Q. Mr. Kaiser?

Mr. Hallinan: Just a moment, if you please, Mr. Kaiser.

Q. That is the man who asked you if you put cream or sugar in your coffee, is that right?

A. In my tea?

Q. In your tea? A. Yes.

Q. All right. And that is all he asked you during the recess, is that right?

A. About the particular case, yes.

Q. Anything connected with this case?

A. That's right.

Q. All right. Now, he didn't tell you the name of the hotel you stayed at? A. No, sir.

Q. Did anybody?

(Testimony of Mervyn Rathborne.)

A. No. As a matter of fact, I asked Mr. Barber if he remembered the name and he said he had forgotten it, too.

Q. Now, you went to the moving picture, you say, with Mr. Barber?

A. That is my recollection, that we went to a movie that night. [6574]

Q. And then the next day where did you go?

A. Well, I am reasonably sure the next day we went up to see Mr. Clark.

Q. All right, what time did you go to see him?

A. I think it was in the morning.

Q. And what is the rest of his name?

A. Tom Clark is his name, as far as I know.

Q. And he was Attorney General of the United States at that time, is that right?

A. That's right, yes, sir.

Q. All right. What time did you get to his office? A. Some time in the morning.

Q. Who went with you?

A. Mr. Barber went with me.

Q. Anybody else?

A. No, we met Mr. Boyd, I think we met Mr. Boyd in the office and picked him up and then went over to Mr. Clark's office. At least Mr. Boyd was there with us at the Attorney General's office.

Q. And then you had a conversation with Mr. Clark, Mr. Boyd and Mr. Barber, is that right?

A. That's right.

Q. And how long did that conversation last?

(Testimony of Mervyn Rathborne.)

A. Oh, over an hour, I would say.

Q. Now, will you tell us what was the subject or substance of [6575] the conversation?

A. Well, after I was introduced and some small talk, Mr. Clark said that he had heard quite a bit about me and that he was, the government was very seriously concerned with regard to Communist infiltration into the trade unions and also with regard to the Communists generally in this country, because we were in a cold war with the Soviet Union and in the event of a shooting war, it was the opinion of the Department of Justice that the Communists would work for the Soviets and act as a fifth column here in this country. And that the Department of Justice was carrying on—I don't remember the exact language, but was engaged in activities to prevent the Communists from being an effective menace in this country in the event we engaged——

Q. Well, tell us what he said about Mr. Bridges.

A. And in that connection, that they were making an investigation.

Q. That who was making an investigation?

A. The government was making an investigation.

Q. All right. Now, let's get this, Mr. Rathborne: At this conversation with Mr. Tom Clark, the Attorney General of the United States, yourself? A. That's right.

Q. Then there was Mr. John Boyd of the Immigration Department, is that right?

(Testimony of Mervyn Rathborne.)

A. I believe he was deputy commissioner of Immigration. [6576]

Q. Of Immigration. And there was Mr. Bruce Barber of the Immigration Department?

A. That's right.

Q. Anybody else present? A. No, sir.

Q. All right. And at that time who brought up the subject of Harry Bridges?

A. The Attorney General.

Q. Clark himself? A. Yes.

Q. Said they were trying to get something on Harry Bridges, is that right?

A. No, he said that they were making an investigation and it was their opinion that on the basis of as far as the investigation had proceeded, it was the government's opinion that Mr. Bridges was a Communist and that something should be done to remove his influence, because they figured it was dangerous to the country.

Q. Well, did he tell you also that they contemplated trying to get Mr. Bridges indicted for perjury? A. No, sir, they did not.

Q. Didn't tell you that? A. No, sir.

Q. Did he tell you anything——

A. He said this, though. He said that they were making an [6577] investigation which, while they weren't sure, they thought would result in proceedings against Mr. Bridges. And he didn't describe the proceedings at all.

~~Q. He didn't say criminal proceedings?~~

(Testimony of Mervyn Rathborne.)

A. No, he did not.

Q. He said that it would result, however, in proceedings against Mr. Bridges, is that right?

A. That's right.

Q. All right. And he told you also that they wanted to get Mr. Bridges out of the labor movement, is that right?

A. Well, he didn't—I don't recall he put it that way. He said they wanted to remove the influence of Mr. Bridges and other Communists.

Q. From the labor movement?

A. From the labor ranks, yes.

Q. Now, at that time you hadn't told any of these people whether or not in your opinion Mr. Bridges was a Communist, had you?

A. I am not certain.

Q. And you hadn't—you had only told them about 10 per cent of what you have testified to here, is that right?

A. That is approximately correct, yes.

Q. All right. So when you went back there, all that you had told was about 10 per cent of what you testified here, isn't that right?

A. That's correct. [6578]

Q. All right. So Mr. Clark told you then their information convinced them that Mr. Bridges was a Communist, he was detrimental or dangerous to the security of the country, that he wanted to get him out of the labor movement, is that right, is that the substance, is that substantially correct, or they wanted to remove his influence from the labor movement, is that right?

A. That is substantially correct.

Q. And the best way to remove him from the labor movement was to put him in the penitentiary, is that right?

A. He never mentioned that at all. He said—I described what the conversation was.

Q. All right. So then, so far as you knew at the time that you went there, there was nothing that contemplated depriving Harry Bridges of his freedom and locking him up in a jail, was there?

A. No, sir, there was not.

Q. You weren't lending yourself to that yet, were you?

Mr. Donohue: Object to that question, if Your Honor pleases.

Mr. Hallinan: Withdraw the question.

Q. All right, now, did Mr. Clark at that time also discuss the maritime strike which was then in progress on the Pacific Coast?

A. No, sir, he did not. I don't recall that he mentioned it. During our conversation I believe I mentioned it. I told Mr. Clark that in the first place any proceedings that the government should start, if they did start it, should not be directed against labor as such and that I was concerned that the government would put itself in a position to where it would do harm to the labor [6579] movement, and that——

Q. You did not want the Government to do harm to the labor movement; you told Clark that?

(Testimony of Mervyn Rathborne.)

A. That is correct, I told him so, and I recalled to his memory, I said I thought that in the last Bridges case, when the Government took the position that everybody in the CIO was a Communist, that that was a very bad thing to do and that it was detrimental, "and if that kind of proceeding is going to be carried on, you are going to make a serious mistake, because you are going to turn a lot of honest people in labor against the Government. And one of the things involved here should be the Government should lean over backwards to make sure they are in no way harming the existence of any labor organization or in any way weakening it in so far as its ability to secure better conditions for its membership is concerned."

Q. In other words, you advised Mr. Clark then, as I understand it, that the Government should not put itself in the position of weakening the ability of the labor unions to secure such conditions as hours and wages, and so forth, as they should be entitled to; is that right?

A. Yes, not to do anything that would break or seriously harm any union.

Q. In other words, don't chop off their toes, chop off their heads, is that right? Withdraw the question. All right. You talked to Mr. Clark then and this other gentleman for about an [6580] hour?

A. That is right.

Q. At that time there was a strike of the maritime unions on the Pacific Coast, is that right?

(Testimony of Mervyn Rathborne.)

A. I believe that is correct, yes, sir. It must have been, because I was off my ship then.

Q. You were out on strike? A. Yes.

Q. Do you know when the strike started?

A. Technically our union was not on strike.

Q. The strike ran from September to the end of December, 1948, isn't that right?

A. That is my recollection.

Q. The maritime industries on the coast were all involved in that strike, isn't that right?

A. That is true. Not all the unions were on strike, however.

Q. The ILWU was supporting the maritime strike, wasn't it?

A. Yes, I believe it was.

Q. In fact, they went out on strike to support the strike of the sailors and the radio operators and the other persons connected, isn't that right?

A. I am not familiar with the details of that strike, Mr. Hallinan.

Q. Are you still a member of the same union?

A. Yes, sir. [6581]

Q. What was the name of that union?

A. The American Radio Association.

Q. Are you still a member of it?

A. That is right.

Q. Are you an officer of it? A. No, sir.

Q. Were you an officer at that time?

A. Not of this organization.

Q. That strike, that martime strike, ended in

(Testimony of Mervyn Rathborne.)

December, 1948, with a victory for the strikers, isn't that right?

A. Well, I believe it did.

Q. Were your wages increased?

A. I think we did get a wage increase.

Q. Surely you got a wage increase. Don't you remember what it was?

A. It wasn't very much. No, I really don't know.

Q. What other conditions did you win—your own union?

A. I think we got some more money from overtime. I really don't recall, Mr. Hallinan, what came out of that strike.

Q. You do not remember what benefits you derived from it, you personally? A. No, sir.

Q. Do you remember what benefits the other men derived, the sailors, the men on the ships?

A. No, I was not active in the strike except I attended union [6582] meetings during the strike, a few of them. That was the extent of my activity.

Q. Were you on picket duty at the time the strike was on?

A. No, sir, our union was not on strike.

Q. Did you notify your union that you were going back to Washington? A. No, sir.

Q. Are you required to under the by-laws of the union? A. No, sir.

Q. You were not an officer? A. No, sir.

Q. When you went back to Washington were you registered at that hotel under your own name?

(Testimony of Mervyn Rathborne.)

A. I believe I was. It might have been Mr. Barber registered for both of us; I am not certain.

Q. You are not certain whether it was your own name or not? A. No, sir.

Q. Did you notice what name was on your airplane ticket? A. No, sir, I did not.

Q. In the course of the discussion with Mr. Clark the maritime strike on the Pacific Coast was mentioned, wasn't it?

A. Yes, I believe I mentioned it along these lines, that certainly nothing should be done until—if you contemplate anything, nothing should be done until the present strike is over because it might be interpreted as a move by the Government to [6583] harm the strike, or words to that effect.

Q. Who did you say might interpret it in that fashion?

A. I don't recall whether I said anybody.

Q. Would you tell us a little more explicitly now what you said on that subject?

A. There was some discussion, as I recall it, that Mr. Clark said this investigation would lead toward proceedings being taken by the Government against Mr. Bridges, and I stated, as I stated here a minute ago, that if such proceedings are taken, it would certainly be wrong to take them at a time when the union was on strike, because it would be interpreted as a move against the union.

Q. In what way? I don't understand that. How would it be interpreted as a move against the unions?

(Testimony of Mervyn Rathborne.)

A. Well, the union or possibly some of the leadership of the union would say, "Well, here is the Government moving in trying to break our strike by taking our officers away when the strike is on."

Q. Do you think that that action would be capable of that interpretation?

A. I think it would be, because that is why I pointed it out.

Q. What did Mr. Clark say when you told him that? A. He didn't give me an answer.

Q. Did he say he would or would not delay any action so as not to appear to be breaking the strike? [6584] A. He didn't say.

Q. Did you insist upon some program in that connection?

A. No, sir. I was not programming with him. I was just pointing out this particular situation.

Q. Did you discuss further in the presence of Mr. Clark any matters relating to Harry Bridges?

A. Not in any detail, no, sir, just merely the remark that I made. He said the Government was conducting an investigation and the investigation was sufficiently advanced to convince them that they had a sound case, and then he said—he asked me, he said, "I want to ask you, Mr. Rathborne, to cooperate with the Government in this case on the basis the Government is asking you to do it as a citizen, as a good citizen interested in the welfare of the country."

(Testimony of Mervyn Rathborne.)

I said, "I will think about it, Mr. Attorney General." And that was about the end of the conversation.

Q. In other words, you added nothing to what you had already told these gentlemen?

A. No.

Q. You did not give out any further information? A. No.

Q. So when you left the Attorney General's office the information that you had given to all those persons you had met was still only about 10 per cent of what you have testified to here?

A. That is approximately correct. [6585]

Q. That is substantially correct. Where did you go after you left the Attorney General's office?

A. I don't remember exactly. I went quite a few places when I was in Washington those few days. I don't remember my exact itinerary every minute of the day.

Q. You said you went to the Attorney General's office on the second day you were there. The first day you were there you stayed at the hotel and went to the moving picture at night, so far as you remember; the second day you went to the Attorney General's office and met Mr. Boyd and Barber. Do you remember what you did the rest of that day and evening?

A. I can't recall exactly, Mr. Hallinan, no.

Q. Did you go to see anybody else?

A. While in Washington?

Q. Yes. A. Yes, I did.

(Testimony of Mervyn Rathborne.)

Q. Who?

A. I went over to talk to Jimmy Carey of the national CIO. He is the secretary-treasurer of the national CIO.

Q. How long after seeing the Attorney General did you see Mr. Carey?

A. My recollection is it was the next day or it might have been the same day, however.

Q. Did you go there by appointment?

A. I called him up, his office up. I wanted to see Mr. Murray. [6586] Mr. Murray was in Pittsburgh; he was not in Washington.

Q. When you left for Washington did you already have an appointment with Mr. Carey or Mr. Murray? A. No, sir, I did not.

Q. Did you call Mr. Carey personally, or did Mr. Barber call him?

A. No, I called him personally.

Q. What did he say?

A. Mr. Barber didn't know who Mr. Carey was.

Q. You called Mr. Carey from your hotel, I take it?

A. I believe so. It might have been from a telephone booth.

Q. You phoned to talk to Mr. Philip Murray, but he not being there, you talked to Mr. Carey, the secretary-treasurer? A. That is right.

Q. And you went over there the next day?

A. That is right.

Q. Did you go alone or were you accompanied by somebody else? A. No, I went alone.

(Testimony of Mervyn Rathborne.)

Q. Whom did you meet there?

A. I met Mr. Carey.

Q. Anyone else?

A. Oh, I met quite a few people around there that I knew.

Q. Did you have a conversation with Mr. Carey? A. I did.

Q. How long did it last? [6587]

A. Oh, about two hours, I guess, two or three hours.

Q. Did anybody else participate in it?

A. No, sir.

Q. Anybody else present? A. No.

Q. Where did the conversation take place?

A. In Mr. Carey's office.

Q. Did you tell Mr. Carey about your visit to the Attorney General? A. I did.

Q. Did Mr. Carey purport to know that you were going to see the Attorney General?

A. He appeared to know nothing about it.

Q. Did you have a discussion with Mr. Carey about Mr. Bridges?

A. To a certain extent, yes.

Q. Well, he was discussed, wasn't he?

A. Well, now, here is the—I will give you the outline of the conversation I had with Mr. Carey if you want it.

Q. Yes. A. I went in there——

Q. I don't want the whole conversation, but the parts that relate to Mr. Bridges. That is what we are interested in.

(Testimony of Mervyn Rathborne.)

A. I told him about the conversation with Mr. Clark, and I asked Mr. Carey—I told him the Government was in the process of making another investigation against Harry Bridges, and I [6588] asked him what the attitude of Phil Murray was and what the attitude of the national CIO would be in this situation with regard to how the CIO, as a labor organization, would view this kind of proceedings, if they would consider it as an attack against labor, and what position they planned to take, if any, and if they knew about it, and what Mr. Carey personally thought I would do and thought I should do, and I would also like to find out what Mr. Murray's attitude was.

Q. What did he tell you?

A. Mr. Carey said—well, as far as he was concerned personally, he did not consider proceedings of this kind, if they were conducted properly by the Government, to be an attack against the CIO, that the CIO itself had the same problem with Communists and it was handling it in its own way; that as far as—I said I had planned, if I got into this thing, planned to come out openly and publicly and not work in any under-cover sort of way.

And he said, well, I ought to make up my own mind on it. He said, however, he would check with Phil Murray and find out what Phil Murray's ideas were with respect to this kind of proceeding, as to whether Murray would consider it as a hostile act by the Government against the CIO as a labor organization. And subsequently, a day or two—just

(Testimony of Mervyn Rathborne.)

before I left Washington I called Mr. Carey on the telephone. He said he had talked with Murray and Murray had expressed no opposition at all. [6589] He didn't say he was for it. He said he was not opposed to the thing.

Q. That he was not opposed to it? A. No.

Q. Did Mr. Carey tell you so far as he was concerned he thought it was the right and proper thing for you to do? To go ahead and testify against Harry Bridges?

A. He said he thought it would be the best—the right thing for me to come out openly on this issue, yes.

Q. And take the stand and testify against Harry Bridges?

A. It was not in that form at that time. I didn't know what the proceedings would be as far as Mr. Bridges was concerned.

Q. Yes, but you told Mr. Carey now that you had had a conversation with Tom Clark in which Clark had asked you to testify against Bridges?

A. Yes.

Q. You asked Carey if it would be all right with him or if it would be considered inimical to the CIO if you did testify against Bridges, isn't that right?

A. No, I didn't put it that way. I asked him what his opinion was as to what I should do. He said, "Well, better make up your own mind on that, but I think you would probably be doing the right thing if you follow Mr. Clark's advice or request."

Q. You told Mr. Carey that the matter you were interested in was this substantially: That the Government was undertaking some [6590] sort of proceedings against Harry Bridges, accusing him of being a Communist and removing either him or his influence from the labor movement; is that correct?

A. I related to Mr. Carey as well as I could the substance of Mr. Clark's conversation with me.

Q. And that was substantially in the question I just asked you:

A. Yes, that is right.

Q. And Mr. Carey said, so far as he was personally concerned, it was all right to go ahead and collaborate with the Government in doing that; is that right? A. That is right.

Q. But he would call up Mr. Murray and ask him if it was O.K. with him, is that right?

A. No, that is not correct. There were two questions I asked Mr. Carey: One, if the CIO as such would consider such a procedure as this or the proceeding Mr. Clark had outlined to me an attack against the CIO and against labor, or consider it in any hostile way. That was the first question.

The second question was what I should do myself personally.

~~In connection with the first question, he said he~~ would discuss it with Phil Murray. He said his

(Testimony of Mervyn Rathborne.)

own opinion was that it would not be considered such an attack, such a hostile act, but he would want to check with Phil to see how he felt about it. And he must have checked with Phil Murray, because subsequently I called him on the telephone and he told me he [6591] had talked to Phil about that matter and Phil had no objection and felt the same way he did.

During our conversation he said he was certain Mr. Murray would feel the same as he did, but he wanted to check with him and find out. Those were the two points I discussed with Mr. Carey.

Q. Do you know whether Mr. Carey knew Mr. Bridges? Did he state whether he did or did not?

A. I know Mr. Carey knows Mr. Bridges. I know there has been quite a bit of enmity between them for a number of years, too.

Q. Of what type?

A. Well, Mr. Carey is very violently anti-Communist and has been for a good many years.

Q. You say you knew of enmity between Carey and Bridges? Was that the only enmity that you knew that existed between them, the subject that you have just mentioned?

A. I don't know of any specific instances where they have battled.

Q. How about Mr. Murray? Do you know whether or not he had had difficulty with Mr. Bridges?

(Testimony of Mervyn Rathborne.)

A. Well, my belief was, based on what I knew, Mr. Murray and Mr. Bridges were working together as far as the open is concerned, but they were battling a lot behind closed doors. I mean, I attended a meeting in Washington when Mr. Murray removed Mr. Bridges as director for Northern—Southern [6592] California. Mr. Murray at that time was very critical of Mr. Bridges.

Q. Do you know anything about the difficulty that arose from Mr. Bridges' demanding a financial accounting from Carey and Murray?

A. I don't know anything about that, no, sir.

Q. You had heard of it?

A. I may have heard of it. I don't recall it, though. It is something that is rather new to me, because we used to get financial accountings in the national CIO.

Q. Don't you know at two conventions Mr. Bridges demanded that the national CIO make an accounting of the monies it had received and expended?

A. It must have been conventions I did not attend, because I never heard him make such a statement that I recall.

Q. Now, you know, do you not, that on the last movement to get rid of Mr. Bridges, that is, the second deportation proceeding, Mr. Murray came out with a very bitter denunciation of the Government's attitude in persecuting Bridges, isn't that right? A. That is right. [6593]

Q. You have seen that, haven't you?

(Testimony of Mervyn Rathborne.)

A. Yes, I heard him make the statement like that.

Q. He said that Harry Bridges was the victim of an unconscionable conspiracy, didn't he?

A. Well, I believe so, but I am not—I believe—I——

Q. About between that time and——

A. My recollection is, he supported Mr. Bridges warmly at that time.

Q. Now, since that time, however, Mr. Murray's attitude has obviously changed, is that right?

A. Obviously.

Q. Yes. Now, you say that you have seen a financial statement of the National CIO?

A. No, I didn't say that.

Q. Oh.

A. I said that financial reports used to be given to the executive board of the national CIO.

Q. But the national CIO never made a financial statement, did it?

A. Well, they made it verbally, yes.

Q. Made a verbal one, is that right?

A. Yes. In the early meetings of the executive board when I was on the national CIO executive board, Mr. Lewis used to have Mr. Bell, I believe, who was the comptroller, read off the financial report to the executive board, and that occurred on a [6594] number of occasions.

Q. But it was never sent out to the component unions, was it?

A. I don't ever recall having received one.

Q. Yes. And don't you remember now that that is the basis of the difference or the difficulty between Mr. Bridges and Mr. Carey and Murray?

A. That is the first time—I really don't recall hearing about that before.

Q. Well, returning then to your Washington junket, you spoke to Mr. Carey on the third day that you were there. All right. And then did you see or talk to anybody else connected with the government on that same day?

A. No, sir, not that I recall.

Q. Did you see or talk to anybody else connected with the national CIO?

A. Oh, I saw a number of people around national CIO headquarters that I had known and said hello to them, passed the time of day with them.

Q. But no conversation with them. But now, when did you next meet Mr. Barber that day?

A. I think I met him at the hotel in the evening and we had dinner together, is my recollection.

Q. You had dinner with Mr. Barber. All right. Did you go out with him that evening again?

A. Yes, I believe we went out to see, visit some friends of Mr. [6595] Barber's.

Q. Did you go with him? A. Yes, sir.

Q. Do you know who they were?

A. No, other than they were employees of some federal agencies back there, and just—it was just a social evening.

(Testimony of Mervyn Rathborne.)

Q. Was the Harry Bridges matter discussed that evening? A. No, sir.

Q. Was the Communist Party?

A. No, sir.

Q. Were matters concerning the strike on the West Coast? A. No, sir.

Q. All right.

A. Just a social evening, as I said.

Q. Then what did you do on the following day?

A. I am not certain, Mr. Hallinan, as I said. I can't account in chronological order for every hour of my stay in Washington. I just have a general impression.

Q. Well, subject to correction or amending it if you remember something different.

A. I think that the next day I went to New York. I am not certain.

Q. And whom did you see in New York? Or whom did you go to see there? Did you go there for a particular purpose of seeing [6596] somebody? A. Yes, I did.

Q. Who accompanied you?

A. Mr. Barber.

Q. All right. And whom did you see there?

A. I talked to a number of people in New York.

Q. Who were they?

A. Well, you mean about this particular matter?

Q. Yes. A. I talked to Tommy Ray.

Q. Who is Tommy Ray?

(Testimony of Mervyn Rathborne.)

A. Well, he is a friend of mine who was connected with the National Maritime Union.

Q. I see. A. Former Communist.

Q. What does he do now?

A. He—I think he is research director for the NMU.

Q. Research director for the NMU?

A. That's what——

Q. Is that the National Marine Union?

A. National Maritime Union.

Q. Is that the union that Joseph Curran is head of? A. That's right.

Q. And this Tommy Ray is research director of that union, is that right?

A. That is my—I believe that is the position. He holds some [6597] post in the union, though. Now, whether it is——

Q. He is a friend of yours, is he?

A. Yes, sir.

Q. How long have you known him?

A. Oh, I think now about 13 years, 14 years, approximately.

Q. When did you last talk to him?

A. New York City, this occasion that I have been talking about.

Q. You haven't seen him since or talked to him?

A. No, sir.

Q. All right. You went to see Tommy Ray and did you take Barber with you? A. No, sir.

Q. Did Barber already know Tommy Ray, so far as you were informed?

A. Don't think he ever heard of him.

(Testimony of Mervyn Rathborne.)

Q. You went to see Tommy Ray yourself, is that right? A. Yes.

Q. Just a social visit? A. No.

Q. Did you go there at Barber's behest?

A. No.

Q. All right. Now, whom else did you see?

A. I saw Joe Curran.

Q. Is that the Joe Curran who is the head of the NMU? A. That's right.

Q. Who else? [6598]

A. Well, that's about all I saw on this particular situation. I may have seen some others—I saw a lot of people, but I mean—what you are trying to develop here.

Q. But on this particular situation, then, you went to see Tommy Ray and Joe Curran in connection with this case, is that right?

A. In connection with the discussion I have had with the Attorney General, yes.

Q. Yes. Did you try to or suggest to either one of them that they become witnesses against Harry Bridges in any proceeding?

A. No, sir, I did not.

Q. Did you discuss the possibility or the probability of them becoming witnesses? A. No.

Q. Did you ask them for any information concerning Harry Bridges or any documents or files or anything like that?

A. No, I was there to discuss with them primarily my own particular situation and how I

(Testimony of Mervyn Rathborne.)

should respond to the request given by the Attorney General to me, asking me to cooperate with the government in this proceeding. I was wanting to get their opinion. That was my purpose in discussing it with them and I had considerable respect for the judgment of both of them, having been close friends and worked very closely with them over a period of years.

Q. In other words, you first went to see Tommy Ray, did you, [6599] and then went to see Curran?

A. Yes, I think that's right.

Q. Had you known Curran before?

A. Oh, he and I had been very close friends for many years.

Q. I see. Now, when you had the conversation with these men, were they both together, were these two men together or did you speak to them separately?. A. No, I spoke to them separately.

Q. So you went first, then, to Tommy Ray to find out what would be his attitude toward you testifying against Harry Bridges, that right?

A. Well, more than that; the whole matter of his attitude and Joe's, toward the degree of Communist infiltration, how effective it was, whether in their judgment it would be in fact a detrimental, a menace to the country in case of hostilities, and this whole situation was discussed with them.

Q. But then you also discussed with them what their attitude would be toward you taking the stand and testifying against Harry Bridges, is that right?

(Testimony of Mervyn Rathborne.)

A. That's right.

Q. And did Tommy Ray say it was all right with him? A. Yes, I believe he did.

Q. And Joe Curran said, "Do all you can to get him." Is that right?

A. No, I don't think he did. [6600]

Q. Oh, now, what did Joe Curran say about helping get Harry Bridges? Didn't he say, "Lie, steal, do anything you can to get him."?

A. No, he didn't.

Q. What did he say?

A. You know he wouldn't say that.

Q. Well, let me ask you this.

A. Joe and I were friends, and I don't know——

Q. Well, he gave the undertaking his blessing, anyhow, didn't he? A. That's right.

Q. All right. Now, were those the only two men you talked with in New York on that subject?

A. Well, outside of Mr. Barber. I discussed it with him.

Q. Yes. Now, did you meet anybody else connected with the government while you were in New York? A. Yes, I met a number of people.

Q. Who?

A. I met Mr. Boyd there, and I met quite a number of the officials in New York; I don't know who half of them were.

Q. When you went to New York, did you stay more than a day?

A. I think a couple of days. I am not certain.

Q. Where did you stay?

(Testimony of Mervyn Rathborne.)

A. I believe at the Empire Hotel. Now, at least it was a hotel up on some Circle there above Times Square. [6601].

Q. And did Mr. Barber stay at the same hotel with you? A. Yes, he did.

Q. Occupy the same room?

A. No, I am sure he didn't.

Q. Occupied an adjoining room?

A. I believe so, or I think his room was on a different floor. Now I am not certain.

Q. Was Mr. Boyd staying at that hotel, too?

A. I don't think he was.

Q. Any of the other agents or officials?

A. I don't know, Mr. Hallinan, because——

Q. Did you introduce Mr. Barber to either Ray or Curran? A. No.

Q. Or any of the other persons? Did you introduce Boyd to them? A. No, I did not.

Q. None of them was present at any time you were with Ray or Curran? A. They were not.

Q. All right. Did you go to—Where did you have the conversation with Ray?

A. In his home in New York City.

Q. And where with Curran?

A. In his home in Long Island.

Q. Where?

A. At his home in Long Island. [6602]

Q. I see. And did you have dinner with Mr. Barber again that night?

A. I could well have had. I am not——

Q. Did you go to any show or anything like that in New York?

A. I don't believe I did, Mr. Hallinan, I was just there a comparatively short period of time. I don't think I did.

Q. Then did you return to Washington?

A. No, sir, I returned to San Francisco. I got on the plane and came back to San Francisco.

Q. I see. Well, then, some time in the meantime you had gotten the message from Phil Murray giving his blessing to the deal?

A. No; as I said, as I told you previously, just before I left Washington, I called up Jimmy Carey again to say goodbye to him and also ask him if he had talked that matter over with Phil, and he said, "Yes, he had."

Q. I see. A. And I have already said that.

Q. Have you gotten any further communication from Carey on that subject since that time?

A. No, I haven't seen him, I haven't talked with him or discussed it with him.

Q. How about Murray? A. Neither one.

Q. Received no written or oral communication from neither one of them? [6603]

A. No, I have not.

Q. Neither from either one of them personally or transmitted by some third person who said he spoke to them? A. No.

Q. All right. Now, then, you came from New York to San Francisco, is that right?

A. That's right.

Q. And came out with Barber again?

A. No, I was alone.

(Testimony of Mervyn Rathborne.)

Q. I see. Barber remained in New York?

A. I presumed he did; that is where I left him.

Q. All right. And when you came back now, whom did you next see connected with the Immigration Service?

A. Well, I think I saw Mr. Barber again.

Q. When? How long after you returned?

A. Oh, it must have been some time—let's see. No, I don't think I saw anybody until after I made another trip. You see, the President Madison had been tied up during the strike and I was off the ship, and I remember very clearly the ship sailed Christmas Eve, because I had, my family had prepared to have Christmas together, and we were very disappointed that I had to leave Christmas Eve. So I made another trip, and I believe after that trip I saw Mr. Barber again.

Q. Did you see anybody on the trip connected with the Immigration Department? [6604]

A. No, sir, I did not.

Q. And how long did the trip last?

A. Well, the voyage that ship takes usually takes about six to seven weeks from the time it leaves San Francisco until the time it returns here, and I——

Q. So then you would return probably some time in February? A. That is about right, yes.

Q. That would be February of 1949?

A. That's right.

Mr. Hallinan: It is the noon recess time, I think.

The Court: We will take the noon recess, ladies and gentlemen, and resume at 2:00 o'clock this afternoon. The same admonition to you, not to discuss the case.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [6605]

Wednesday, March 1, 1950, 2:00 o'Clock P.M.

The Clerk: United States of America v. Harry Bridges, Henry Schmidt and J. R. Robertson, on trial.

MERVYN RATHBORNE

resumed the stand:

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. After you returned from the trip that you started on Christmas Eve of 1948, you say you returned to your home about February of 1949. Will you tell us now who was the next person connected with the Immigration Service that you talked to after that date?

A. I believe that when the ship went down to San Pedro, after it had been in San Francisco here for some days, that I saw Mr. Barber down there, then.

Q. That would be in February of 1949?

A. I believe it would, Mr. Hallinan. Approximately six weeks, seven weeks after Christmas.

~~Q. All right. When you came to—Did you receive~~

any communication at your home or while you were in San Francisco making an appointment to see Mr. Barber in San Pedro?

A. I believe, I am not certain of that. There was some communication carried on between Mr. Barber and myself by telephone while I was here, while the ship was up here. I think he either called me or somebody called and asked me to call him, or something like that. [6606]

Q. Did you call him?

A. I don't think I did.

Q. Did you talk to anybody connected with that department during the trip on that ship?

A. No, sir.

Q. All right. You had a phone call, then, with Barber while your ship was tied up in San Francisco, and what did that do, make an appointment to meet him in San Pedro, or what?

A. Well, my recollection was that he was in Los Angeles at the time, that I was here in San Francisco, and that he either phoned me or he had somebody phone me. There was some communication advising me to get in touch with him when I got down to Los Angeles or San Pedro.

Q. And when you got to Los Angeles, did you get in touch with him?

A. I called him up at his office, yes.

Q. And then where did you see him?

A. I saw him at his office.

Q. In San Pedro or in Los Angeles?

A. In Los Angeles.

(Testimony of Mervyn Rathborne.)

Q. You went to Barber's office in Los Angeles?

A. That's right.

Q. And can you give us the date of that? Can you fix it by the time the ship was there?

A. Well, as I stated previously, the ship usually took from six [6607] to seven weeks from the time it left San Francisco until the time it returned, and then it stayed here four or five days discharging cargo, and then went to San Pedro.

Q. I see, all right.

A. So it would make it approximately eight weeks from Christmas Eve.

Q. And when you got to his office in San Pedro or in Los Angeles, whom did you meet there?

A. I met Mr. Barber.

Q. Only Barber?

A. I believe—I believe I met Mr. Kaiser there, or—I am not certain. I know that I met Mr. Kaiser at one time in Mr. Barber's office in Los Angeles.

Q. You think that might have been the time?

A. That could have been the occasion, yes, sir.

Q. All right. Now, up to that time you had still not furnished any more than the small percentage of the information which you later gave, is that right? A. That is my recollection, yes.

Q. All right. Now, did you give him any further information when you met him in Los Angeles?

A. I discussed the matter with him. I don't think I gave him any statements.

Q. Did you give him any further information?

A. I may have; I am not certain. [6608]

(Testimony of Mervyn Rathborne.)

Q. You may have, but you are not sure, is that right? A. That's right.

Q. Did you tell him or had you told him previously that you had received the consent or approbation or whatever you may call it of Murray, Carey, Curran and Ray to testifying?

A. I am not certain whether I discussed my——

Q. Did you tell him that in New York before you left?

A. I believe I told him about contacting Carey while he was in New York. I am not certain as to the others.

Q. Hadn't you told him that while you were in Washington?

A. Well, during the trip, I mean, during the time I was with him on the trip, it is my recollection. Now, it might have been in Washington, it might have been in New York.

Q. You told him you had talked to Carey?

A. That's right.

Q. You told him you had gotten an O.K. from Carey and Murray, is that right?

A. I don't think I told him that. I said, my recollection is that I said I would talk it over with Carey and people in the national CIO.

Q. But you didn't tell him yet whether you would testify? A. No, sir.

Q. All right. And then after you had talked to Thomas Ray and to Curran, did you inform him that you had talked to them?

(Testimony of Mervyn Rathborne.)

A. I informed him at some time; exactly when the conversation [6609] took place,——

Q. You don't remember whether that was in New York before you left?

A. I don't believe it was.

Q. But you did tell him at some time that you had gotten their approval of this crusade you were about to launch upon, is that right?

A. I probably did. I don't——

Q. You told them that they had given their O.K. on it, their blessing or approval, whatever you may call it?

A. I believe I did, Mr. Hallinan. I don't remember for certain.

Q. You don't remember whether you gave him that in Los Angeles or in New York?

A. No, but my impression is, my recollection is, it was in Los Angeles.

Q. But by the time you left New York you had added nothing to the information you had already given him? A. That's right.

Q. All right. Now, in Los Angeles you think you may have given him some additional information?

A. That's right.

Q. Now, what percentage more would you say?

A. Well, I don't recall, Mr. Hallinan, because I was also—I also saw Mr. Barber on other occasions in Los Angeles, and I don't recall the specific incident that took place. [6610]

Q. Well, let's take it this way. When you talked to Barber and Kaiser in Barber's office in Los Angeles, how long were you there?

(Testimony of Mervyn Rathborne.)

A. Oh, I believe I was there the better part of an afternoon.

Q. How long was the ship laid up at San Pedro?

A. Several days.

Q. And did you remain in Los Angeles or did you stay on the ship? A. Stayed on the ship.

Q. Did you stay in Los Angeles overnight at all? A. I don't believe I did. I don't——

Q. Did you go any place with Barber and Kaiser?

A. I went—I am trying to remember whether it was on that particular occasion. My recollection is that I did; Mr. Barber and I went out, I went out with him on two or three occasions during that time.

Q. Where?

A. Well, I went to dinner with him once or twice.

Q. During that time that your ship was laid up in San Pedro, is that right?

A. That is my recollection.

Q. So you came back and forth to Los Angeles a few times, is that right?

A. That's right. I was in the city probably three or four times. I am not certain. [6611]

Q. Did you drive or come in on the train or what?

A. Well, on one occasion, or some occasion I took the Pacific Electric. That is the train. And on at least one occasion Mr. Barber drove me.

(Testimony of Mervyn Rathborne.)

Q. He came out and picked you up and drove you in? A. That's right.

Q. On at least one occasion?

A. That's right.

Q. How many at most, would you say?

A. I would say at most two.

Q. I see. In other words, Barber drove out to San Pedro, picked you up and took you in to Los Angeles?

A. Well, no, one time he came down, I think it was around 5:00 or so in the evening, and we went to Long Beach and had dinner there and talked, and then he drove me back to the ship.

Q. All right. Now, on that trip, during the time the ship was tied up in Los Angeles in February, 1949, did you go to Barber's office just once or more than once?

A. Well, it could have been twice. It could have been twice. I think I have been to Mr. Barber's office in Los Angeles altogether about four times. It could have been twice on that trip.

Q. Was it on that occasion, on one of these trips to his office, that you met Kaiser?

A. That is my recollection. Now it might have been later.

Q. Was that the first time you ever met [6612] Kaiser?

A. Yes, sir. The first time I have met Mr. Kaiser was in Mr. Barber's office, and I stated that.

Q. In Los Angeles?

A. In Los Angeles. And this particular trip might have been the time, but I am not certain.

(Testimony of Mervyn Rathborne.)

Q. Well, now, on that occasion in February, 1949, that your ship was tied up at San Pedro, did you give any further statement to Barber?

A. I didn't give any further statement, signed statement, no, sir.

Q. No further signed statement. Did you, however, during that period give him some additional information? A. I did.

Q. Of the matters that you have testified to here?

A. My recollection is that I did, yes, sir. [6613]

Q. Now, about what percentage would you say in addition to what you have already given?

A. Well, it would be very hard for me to estimate.

Q. Would it be as much as you had given him before? A. I didn't think so, no.

Q. Half that much? A. Possibly.

Q. Till about the time that trip was finished you had furnished Barber, let us say, 15 per cent of what you have testified to here, is that about correct?

A. That sounds like a fair approximation, but I am not too sure about it.

Q. You did not stay in Los Angeles any night that you were down there on that trip, is that right?

A. I don't believe I did on that trip. I may have.

Q. Did you meet any other persons at that time connected with either the CIO or the Government?

A. Yes, I ran into some officials of the CIO in the lobby of the Alexandria Hotel, I believe.

Q. Did you have any talk with them on this subject?

A. No, I just shook hands said hello to them. They were having some kind of conference.

Q. But no person that you had any contact with about these matters?

A. Nobody in the CIO, no, sir. [6614]

Q. So you apparently, during the four or five days that the ship was tied up down there, met Barber four or five times, is that correct?

A. I think that would be about right.

Q. That would be practically every day you had some contact with him?

A. Probably that is true, yes.

Q. On the occasion that you went to Long Beach you spent the evening with him? A. Yes, sir.

Q. Anybody else with you?

A. No, just he and I.

Q. On the other occasions that you went there how much time did you spend with him?

A. As I said previously, my recollection is the first time I spent a good part of an afternoon in his office, and then I may have gone to the office again, but I am not certain about that. If I did, it wasn't for any long period of time. And then we spent a couple of evenings together.

Q. Then your ship came back to San Francisco, I take it, is that right? A. Yes.

Q. And arrived in San Francisco when?

A. Well, again relating it to Christmas, Christmas eve, I think the ship sailed from San Francisco early in March. That is my [6615] recollection. So that would be the latter part of February, probably.

Q. So the ship then returned to San Francisco either the latter part of February or the early part of March?

A. The schedule is available of that ship's movements.

Q. Can you get that?

A. I don't happen to have one. I suppose it can be gotten.

Q. After the ship returned to San Francisco—or on the way back did you talk to anybody, was there anybody on the ship connected with the Immigration Department?

A. No, sir, there was not.

Q. On any voyage that you took was there any person ~~aboard~~ connected with the Immigration Department? A. No, sir, there was not.

Q. When you returned to San Francisco did you again see Barber or Kaiser or somebody connected with the Immigration Service?

A. I believe I saw Mr. McGowan. I am not too certain about that.

Q. Was he the next person whom you did see?

A. About along in that period it is my recollection that I met Mr. McGowan.

Q. How long after you came back to San Francisco? A. You mean the ship came back?

Q. Yes.

A. Oh, probably a day or [6616] two.

Q. And where did you meet him?

(Testimony of Mervyn Rathborne.)

A. It is my recollection he came down to my home at Half Moon Bay.

Q. Was he alone? A. Yes, sir.

Q. Did you have a talk with him?

A. Yes, I did.

Q. Where did that talk take place?

A. I believe it took place in my home.

Q. Did you go over to the Miramar Hotel with him? A. I don't think so.

Q. How long did the conversation last?

A. Oh, only a few minutes. He had some message from Mr. Barber, as I recall it, wanting to know about when the ship was sailing or something, or where I could be contacted or something like that. He was merely——

Q. Conveying that message?

A. Conveying some message.

Q. Whom did you meet next then?

A. I don't recall meeting anybody else outside—my recollection is the ship sailed early in March, as I stated, and got back here to San Francisco about the end of April or sometime in April. As I say, if you get the schedule you can get the exact dates.

Q. The ship returning at the end of April, by whom were you [6617] next contacted?

A. When the ship got in San Francisco here, a gentleman came down aboard the ship from the Immigration Service and gave me a message to call Mr. Barber.

Q. What was his name?

A. His name, I believe, was Mr. McAlexander.

(Testimony of Mervyn Rathborne.)

Q. Who? A. McAlexander, I think it is.

Q. Did you get in touch with Barber?

A. Yes, I called him.

Q. Then when did you see Barber?

A. Sometime shortly after that.

Q. Where?

A. I believe in San Francisco. No, I think it was in San Pedro. I think—my recollection is I made the coastwise trip, what they call a coastwise trip, that is, from San Francisco back down to San Pedro and back.

Q. And you met him in San Pedro?

A. That is my belief, yes, sir.

Q. Did you go to his office again in Los Angeles?

A. No; as I recall it on that second trip—and I may be somewhat confused between the two times I was in San Pedro there on the ship, but my best recollection is I had—when I called him on the telephone, after Mr. McAlexander's message, I told him approximately when I would be in San Pedro, and my recollection [6618] is shortly after the ship docked he came down to the ship.

Q. Is Barber stationed regularly in Los Angeles, so far as you know?

A. My understanding was that he was at that particular time. He had an office in Los Angeles.

Q. So your phone call was then to Los Angeles?

A. That is correct.

Q. You phoned him long distance?

A. That is right.

Q. You told him when your ship was going to be

(Testimony of Mervyn Rathborne.)

in San Pedro, and when you got down there he came down to the ship? A. That is my recollection.

Q. Where did you go?

A. I believe we went to his office.

Q. Did you meet anybody else there then?

A. I believe I met Mr. Kaiser there.

Q. How long were you there?

A. You mean in the office?

Q. Yes, in his office.

A. Oh, probably a couple of hours.

Q. Did you give any further statement at that time? A. Not at that particular time, no.

Q. Did you on that trip? A. Yes, sir.

Q. How many days were you down in Los Angeles on that occasion? [6619]

A. Approximately the same time as on the previous trip.

Q. Four or five days, right?

A. Four or five days.

Q. How many of those days did you meet Barber? Every day?

A. No, I think I met him two or three times on that trip.

Q. How many times did you meet Kaiser?

A. Well, I met Kaiser the same times as I met Barber.

Q. You did not meet them apart?

A. No, I met Mr. Barber separately, but I mean at times I was with Mr. Barber.

Q. Did you meet anybody else down there connected with the Immigration Department?

(Testimony of Mervyn Rathborne.)

A. No, sir, not as I recall.

Q. Or visit any officials of the CIO?

A. No.

Q. On any of those occasions did you furnish some further information?

A. Yes, up until that time I had not agreed to give testimony in any proceeding. When I got back there Mr. Barber said that the Government planned to call the grand jury into session and would I be willing to testify before the grand jury. Sometime during that particular trip down there I did not agree to testify, but I did give the additional information.

Q. How much additional information did you give? A. Quite a bit. [6620]

Q. As much as you had given before entirely?

A. I would say more.

Q. How much more?

A. Well, I would say twice as much. I mean, this is very rough.

Q. By that time you had given him about 45 per cent all together of the testimony you had given on the stand, is that right?

A. That is correct, That is my best recollection of it.

Q. So then, this being in the latter part of April, 1949, by the time the ship left——

A. Oh, yes, I am sorry. I made an error there. You asked me if I met anybody else in Los Angeles.

Q. Yes.

(Testimony of Mervyn Rathborne.)

A. At that time I met Mr. Donohue in Los Angeles also.

Q. Where did you meet Mr. Donohue?

A. I believe I met him in Mr. Barber's office.

Q. You are sure it was on this trip?

A. Yes, I am sure that was on the trip.

Q. Did you meet him by appointment?

A. No, here is the way it happened: Mr. Barber, when he got in touch with me, he told me this gentleman was coming out from Washington, D. C., sent out by the Attorney General to look into this case.

Q. To what?

A. To look into it, to investigate it, or something like that. [6621] I believe he used the words "look into it." He had been appointed special assistant to the Attorney General and he would be in his office the next day or the day after, anyway, during the time I was going to be there; would I come into Los Angeles. So I did come into Los Angeles and I met Mr. Donohue in Mr. Barber's office. That is my recollection of it.

Q. Was anybody else there at the time?

A. Mr. Kaiser may have been there. I am not certain as to that.

Q. How long did that meeting take place or last?

A. It lasted—we discussed things most of the afternoon and then it is my recollection we went out somewhere and they took me back to the ship that evening.

Q. Did you go to dinner with them?

A. I believe I did, yes.

Q. Both of them? A. I believe I did.

Q. I beg your pardon?

A. I believe I did. I don't recall it clearly.

Q. Was that the occasion upon which you furnished them some additional information?

A. That was one of the occasions, yes.

Q. Did you meet Mr. Donohue again during that trip to Los Angeles, or did you only meet him on the one occasion at that time? [6622]

A. It is my impression that Mr. Donohue left shortly afterwards for San Francisco. I may have met him again. I may have met him twice there.

Q. You may have met him twice? A. Yes.

Q. Was Mr. Donohue present at the time you furnished the additional information on that occasion?

A. I don't think Mr. Donohue was present at the time I gave a statement. I think I discussed some of the information with Mr. Donohue.

Q. Was the statement reduced to writing?

A. It was.

Q. Was it signed by you? A. It was.

Q. Did it include the previous statements you had made, or was it all new material?

A. It was an amplification of the previous statements.

Q. By the time you returned to San Francisco, including all the information you had given, you had furnished Mr. Barber or Mr. Donohue or both of them with about 45 per cent of the testimony that you have given on the witness stand on this trial; is that about right? A. I am not——

Q. Let us put it this way, Mr. Rathborne: You

(Testimony of Mervyn Rathborne.)
first said——

A. I had given them—discussed the matter with them and given [6623] them, I believe, two signed statements containing information regarding the matters that are in this case here. What percentage it was, I am not really prepared to state, Mr. Hallinan.

Q. But according to your best estimate, without confining yourself too closely, it would be around 45 per cent of what you have testified, is that right?

A. I would say that might be approximately correct.

Q. We only want it approximately. It doesn't have to be exact. We won't hold you to it precisely. Then after Mr. Donohue left Los Angeles did you see Mr. Barber again down there?

A. I believe I did.

Q. Did you only go out to dinner on the one occasion with Mr. Donohue in Los Angeles?

A. I am not sure about the dinner. I am sure of the fact that Mr. Donohue, Mr. Barber and I drove back to the harbor, and the Lurline was laying alongside of the President Madison then, and Mr. Donohue and I walked down the dock and looked at the Lurline. He was very much impressed by it. That is the thing that registers in my memory as far as spending part of the evening with Mr. Donohue.

Q. Then you returned to San Francisco on that trip, and that would bring you to San Francisco approximately when?

A. I think it is around the early part of May.

Q. The early part of May. [6624]

(Testimony of Mervyn Rathborne.)

A. Yes.

Q. Whom did you next see connected with the prosecution or the Immigration Department?

A. I believe I saw Mr. Donohue in San Francisco and also Mr. Barber. He had come to San Francisco.

Q. Who was the first one you saw?

A. I don't recall myself. I saw them both, but I don't recall which order I saw them in.

Q. Were they together when you saw them, or did you see them each separately?

A. Well, I saw them on some occasions when they were together.

Q. I want to get the first occasion after you came back up to San Francisco. Whom did you see first?

A. I believe it was Mr. Barber, but I am not——

Q. Where did you see him?

A. He was staying in a hotel here in San Francisco.

Q. What hotel?

A. I believe it was the Cartwright Hotel.

Q. How did you happen to go see him there?

A. He asked me to see him, to get in touch with him.

Q. In other words, in Los Angeles he asked you to get in touch with him when you got to San Francisco, is that correct?

A. That is my recollection, yes.

Q. And you phoned him and went to see him, is that right? A. That is true. [6625]

Q. And how long were you with him there?

A. Well, I was with him there quite a number of occasions.

(Testimony of Mervyn Rathborne.)

Q. Well, I want to get the first one, if you will.

A. Well, I don't distinctly recall the first one, because there were several occasion on which I saw Mr. Barber at the Cartwright Hotel.

Q. All right. Now, how many times—let's take the period from your arrival back in San Francisco until you first appeared before the grand jury. Do you know what the date was that you appeared before the grand jury?

A. It was some time early in May, I believe.

Q. Do you know what part of May?

A. I am not certain, Mr. Hallinan. There is another matter that the record could be produced on.

Q. It was in the early part of May, though, is that right.

A. That is my recollection, yes, sir.

Q. Let's say some time in the first third of May, some place between the 1st and the 10th?

A. Well, sir, I left the ship, as I remember, on May the 9th and it was—my recollection is it was some time after that, a few days after that. But as I say, those matters can be established much better by the records.

Q. Well, we haven't any record on it, Mr. Rathborne. They don't give us that.

A. Newspaper reporters—— [6626]

Q. They don't give us any records of the grand jury or when anything happened there, so we will have to depend upon your recollection as far as may be. Now, apparently, then, your first appearance before the grand jury was not in the first third of

(Testimony of Mervyn Rathborne.)

the month, but in the first half of the month, let us say, some time before the 15th?

A. That would be my best recollection.

Q. All right. Now, how many times from your arrival in San Francisco in the early part of May, until your first appearance before the grand jury, did you meet Mr. Barber.

A. Oh, I met him almost daily.

Q. You met Barber almost daily?

A. Yes, sir.

Q. Where?

A. Usually in the Cartwright Hotel.

Q. Were you living in San Francisco during that period? A. No, I was living——

Q. You were going back and forth each night?

A. That's right.

Q. How were you getting there.

A. Driving the car.

Q. Your own car? A. Yes, sir.

Q. And how many times from the return to San Francisco in the early part of May until your first appearance before the grand [6627] jury did you see Mr. Donohue?

A. Quite a few times, several times.

Q. How many?

A. Oh, I don't know. Again, I am not certain. A number of times.

Q. Well, just what a "number" means is——

A. Well, a period, apparently, boiling down to about ten days or so between the time I left the ship and my appearance before the grand jury. And I would say that I saw him almost daily during

(Testimony of Mervyn Rathborne.)

that period, whatever it was.

Q. Where did you see him?

A. I saw him in a number of places. I saw him in the Cartwright Hotel, saw him at the St. Francis Hotel, among places I saw him.

Q. And on the occasion that you saw Mr. Donohue, was Barber present with him?

A. Sometimes.

Q. About what percentage of the time?

A. Well, there were occasions when I saw both Mr. Donohue and Mr. Barber, and then I would go somewhere with one of them and so on most instances when I saw Mr. Donohue and Mr. Barber, I saw them together. But during those instances there were occasions when I talked to each one of them separately.

Q. Was Kaiser present on any of those occasions?

A. I believe he was, but I am not certain.

Q. Any other agent or any other person connected with the [6628] department?

A. Mr. McGowan was around then, too. I don't know whether he—I believe Mr. Boyd was also in town.

Q. Boyd? A. Yes.

Q. And was he present at some of these meetings? A. That's right.

Q. Now, did you at any time between furnishing this last statement that you testified to in Los Angeles and your appearance before the grand jury furnish any of these gentlemen with a further statement? A. I did.

(Testimony of Mervyn Rathborne.)

Q. When?

A. A short time before I appeared before the grand jury.

Q. How long before?

A. Oh, I would say a few days.

Q. Can you tell us how many?

A. No, sir, I can't.

Q. And did that statement contain additional information to that which you had already given?

A. It did.

Q. And about what percentage of the testimony that you have given on this witness stand was contained in this further statement?

A. I would say substantially all of it. [6629]

Q. In other words, you made up the remaining 55 per cent, is that right?

A. Well, if you insist on putting it 45 and 55 per cent.

Q. Well, I don't—I want to know approximately. I asked you, you were the one who fixed the figure.

A. Well, my reply is that I gave them substantially all of the information.

Q. So that by the time you were before the grand jury, then, you had furnished three statements containing all of the information that you have given on the trial here, is that right?

A. I would say—I mean, whether it contained every item of information I have testified to, no, but substantially all that information.

(Testimony of Mervyn Rathborne.)

Q. Now, where was that statement given?

A. My recollection is it was given at the Cartwright Hotel.

Q. Who was present?

A. I believe Mr. Barber, and I am not certain—I think maybe Mr. Kaiser may have been present and a stenographer.

Q. Not Mr. Donohue?

A. I don't think so, no, sir.

Q. Had you stated before that time to Mr. Donohue what the balance of your testimony was or what further information you knew?

A. I discussed the matter generally. I hadn't—I didn't know how fully I dicussed it. [6630]

Q. Now, these meetings that you had from the time you arrived in San Francisco in the early part of May up until your first appearance before the grand jury, on an average, how long did those meetings last? Would you stay here all day with those people?

A. No, sometimes they lasted a matter of two or three hours, sometimes for a few minutes.

Q. I see. Did you take your meals with them in the course of these meetings?

A. Sometimes; sometimes I did.

Q. And did you have any social contact with them over and in addition to the business meetings you were having?

A. Well, for example, if we had had a meeting in the afternoon, once in a while we would go out for dinner somewhere, or we would go out to lunch occasionally.

(Testimony of Mervyn Rathborne:)

Q. Take your family along on any occasion or any part of it? A. No, I don't recall.

Q. Or the family or any of the other persons involved?

A. I believe Mrs. Donohue was in town then and she occasionally accompanied us out to dinner.

Q. That is Mr. Donohue's wife?

A. That's right.

Q. How many occasions was that?

A. I don't recall, Mr. Hallinan.

Q. Well, was it a half dozen, three, ten? [6631]

A. Possibly two or three.

Q. Was your wife along?

A. I don't think so.

Q. On any such occassion?

A. Not during that period, no, sir. Not that I recall.

Q. How about Barber, was his wife along?

A. I believe Mrs. Barber was in Los Angeles. I don't think she came up here. I could be wrong on that.

Q. All right. Then you made your first appearance before the grand jury, you gave some testimony, is that right? A. That's right.

Q. Now, between the time that you left New York and the time you appeared before the grand jury, did you have any talk about testifying in this case with any local, state officials of the CIO?

A. No, sir.

Q. None at all? A. No.

(Testimony of Mervyn Rathborne.)

Q. Did you have any discussion with a member of any—with any officer of any union on the subject, any state officer or local officer?

A. I don't recall any.

Q. Did you discuss the matter with your wife?

A. I did.

Q. Tell her what you were going to do? [6632]

A. Told her what I was thinking of doing, yes.

Q. Then you testified before the grand jury.

Mr. Hallinan: Could we have the date of Mr. Rathborne's testimony before the grand jury? Any objection to that?

Mr. Donohue: I haven't it here. I will get it at the recess, if your Honor please. The record is upstairs.

Q. (By Mr. Hallinan): Did you testify before the grand jury once or more than once on this subject? A. Twice, I believe.

Q. Twice. Now, you think that one of them was approximately the middle of the month of May?

A. That is my best recollection, yes.

Q. And how long were you in the grand jury room giving testimony?

A. I believe it was about, I believe about a few hours. Now, I am not—it might have been longer than that.

Q. And what part of the day was that, evening, daytime, what?

A. My recollection is it was in the morning.

Q. Did anybody accompany you to the grand jury room? A. To the room?

Q. Yes. A. Yes.

Q. Who? A. Mr. Barber did.

Q. Barber. Where had you stayed the night before? [6633]

A. I believe I stayed at the Cartwright Hotel here in San Francisco.

Q. Just for the one night, preceding your appearance before the grand jury?

A. My recollection is that I was at that hotel for several days.

Q. Continuously? A. Yes.

Q. In other words, you stayed at the Cartwright Hotel for several days continuously preceding your appearance before the grand jury?

A. I don't say—I don't think preceding it. Now, one of the nights might have been preceding it, I am not certain as to that.

Q. I see. But there was some time that you spent a series of days continuously at the Cartwright Hotel, during which period you testified before the grand jury?

A: That is my recollection, yes, sir.

Q. And how many days was that altogether, do you know? A. That I stayed there?

Q. Yes.

A. No, I don't, Mr. Hallinan. I think probably would be around three or four, but again, my memory is not too——

Q. All right. Well, after you testified before the grand jury, did you return to the Cartwright Hotel? I mean, did you stay there that same night [6634] again?

(Testimony of Mervyn Rathborne.)

A. I think that's right.

Q How long after your first appearance before the grand jury did you make your second appearance before that body? A. Several days.

Q. Can you tell us about how many days?

A. No, I can't.

Q. What do you mean by "several"? Six or seven, ten?

A. Well, I think probably it was a week after my—it was about, as close as I can recall, I testified before the grand jury one week and then again the following week.

Q. And the intervening days, the days between your first appearance and your second appearance you lived at the Cartwright Hotel, is that right?

A. I am not certain that all of that time was spent there.

Q. Did your wife stay with you up there or did she remain in your home in Half Moon Bay?

A. She remained in Half Moon Bay.

Q. Did anybody occupy the room with you at the Cartwright Hotel? A. No.

Q. Anybody connected with the Immigration Department occupy an adjoining room?

A. There were—Mr. Barber was staying there, and I believe Mr. Kaiser was. I don't believe the rooms were adjoining.

Q. How far away from yours was their [6635] room?

A. To my recollection, it was on a different floor.

Q. It was on a different floor?

(Testimony of Mervyn Rathborne.)

A. Yes. I may be wrong about that.

Q. All right. Now, you testified for a couple of hours before the grand jury on the first occasion. How long did you testify on the second occasion?

A. Rather a short period of time. I think maybe 20, 30 minutes.

Q. And on the second occasion, was it simply something you had omitted from your first testimony, or was it a new and different subject that was gone into?

Mr. Donohue: I object, if Your Honor pleases. The substance of the witness' testimony before the grand jury is a matter which Mr. Hallinan has been instructed on prior occasions Your Honor would not permit him to go into.

Mr. Hallinan: Well, I know it is a matter they won't permit us to see, I grant that. But I don't——

The Court: This is a general question as to the overall——

Mr. Hallinan: That is all.

The Witness: May I answer?

The Court: Yes, sir.

A. On the same general subject.

Q. On the same general subject. All right. Now, when you finished your testimony, that is the second testimony before the grand jury, did you continue to live at the Cartwright [6636] Hotel or did you go on home?

A. No, I lived—my recollection is that I lived,

(Testimony of Mervyn Rathborne.)

that I went back home. I mean, as I recall it, my stay at the Cartwright Hotel was a comparatively short time.

Q. After you had finished your second testimony at the Cartwright Hotel, which would be toward the latter part of May, when did you next talk to any of these gentlemen, that is, connected with the prosecution?

A. I don't remember exactly, Mr. Hallinan. I talked to Mr. Barber, I believe, in that intervening there, on several occasions. I believe he came down to see me once or twice. But I don't recall exact times and places. But there was contact between us during that period, rather infrequent. That is not on a daily basis.

Q. Well, let us take—you know when the trial started; it started on the 14th of November. Now, on an average, how often per month did you see Mr. Barber from the time that the case ended until the—that is, the testimony before the grand jury ended, your testimony, and the 14th of November, when the trial started?

A. Well, I say, during this past summer—that is, I guess I saw him four or five times.

Q. Altogether?

A. During the summer, yes, sir.

Q. And then how about the fall—September, October? Well, let's [6637] put it this way. Now take the month of June, 1949; you saw him during that month how many times?

A. Oh, I can't get that specific on it, Mr. Hallinan. My memory is just—doesn't break itself down to that month by month proposition.

Q. Suppose we take the three months of June, July and August; how many times would you say you saw him?

A. My best estimate would be I probably saw him four or five times during that period.

Q. Where?

A. Well, sometimes in San Francisco and sometimes down at the Miramar Hotel.

Q. All right. During that time how many times did you see him at the Miramar Hotel?

A. Probably twice.

Q. Ever see him in your own home during that period? A. I don't believe I did.

Q. Now, how about Mr. Donohue? How many times did you see him, if at all, during that period? That is, June, July and August.

A. I don't believe I saw him at all. I think Mr. Donohue had returned to Washington.

Q. I see. Now, during that three months did you see any of the other agents? A. Yes.

Q. Who? [6638] A. I saw Mr. Kessler.

Q. Who else?

A. I believe I saw Mr. McGowan, and when I visited Mr. Barber in San Francisco, I believe it was during that period I was introduced to a number of other men whose names I don't recall, and I believe I saw Mr. Kaiser during that period, too. I know that I saw Mr. Kaiser and Mr. McGowan,

(Testimony of Mervyn Rathborne.)

and these other gentlemen in the period between the grand jury proceedings and the time this case started.

Q. Well, now, let's get this. We are taking the period of June, July and August, 1949, that you call the summer months.

A. Yes. My best recollection is that I saw, as I said, Mr. Barber on about four occasions.

Q. How many times did you see Mr. Kessler?

A. On quite a number of occasions.

Q. How many in that period?

A. Oh, I would say almost every day. [6639]

Q. Where?

A. Usually down at Half Moon Bay.

Q. Was he living with you? A. No, sir.

Q. Where was he living?

A. He was living at the Miramar Hotel.

Q. Do you know when he started living at the Miramar Hotel?

A. I think it was in June. I am not certain of that.

Q. Did he have his family with him?

A. He had his wife with him.

Q. The Miramar Hotel is about two miles from your home, is that right?

A. Between two and three miles north of Half Moon Bay.

Q. Who first introduced you to Mr. Kesler?

A. Mr. Kesler did.

Q. I beg your pardon?

A. Mr. Kesler himself.

(Testimony of Mervyn Rathborne.)

Q. Did he just show up at your house, phone you, or what?

A. Mr. Barber informed me Mr. Kesler was coming down there to stay and he would be making himself known to me.

Q. And then one day Mr. Kesler appeared?

A. That is right.

Q. He identified himself; he had his credentials, I take it? A. That is right.

Q. Told you he had moved into the Miramar Hotel, is that [6640] right?

A. That is right, that is right.

Q. And then you went over to the Miramar Hotel and visited with him?

A. He came to my house. I went to the Miramar Hotel. We would go fishing together and went up cutting trees together, working together.

Q. Fishing, cutting trees, working—what kind of work?

A. Well, I was clearing a little land and occasionally he used to help me on Saturdays and Sundays.

Q. Do you know if he had any other occupation at that time other than working with you?

A. I don't know about that.

Q. During that period what portion of the day did you spend with Mr. Kesler on an average?

A. Well, during June I would spend probably maybe two or three hours a day with him. In July and August I saw him much less frequently. He

(Testimony of Mervyn Rathborne.)

was going to San Francisco every day, and I saw him, oh, probably two or three times a week.

Q. Did his wife continue to stay at the hotel at the times he visited San Francisco?

A. I believe she did.

Q. Did she visit back and forth at your home?

A. Occasionally, yes, they both did.

Q. And your wife visited her, did she? **[6641]**

A. Yes, I believe so.

Q. Taking Mr. McGowan during those three months of June, July and August, 1949, how often did you see him?

A. I don't think I saw him more than maybe two or three times.

Q. Where?

A. I think on one occasion he was with Mr. Barber when Mr. Barber came down to see me, and my recollection is on other occasions I saw him when I came to San Francisco and talked to Mr. Barber.

Q. How about Mr. Kaiser during this same period, June, July and August, 1949?

A. I don't recall seeing him very much then.

Q. About how many times?

A. Oh, probably about the same as Mr. McGowan.

Q. In other words, two or three times also, is that right? A. That is my recollection.

Q. Where did you see him?

A. I believe I saw him in San Francisco at the times when I came to Mr. Barber's—to see Mr. Barber.

Q. Getting away from that period and coming up to the time when the trial commenced—take August, September, October and November, up to the 14th, up to the time of the trial, or let us leave out——

A. There is one other thing I forgot there in that short period of time. That is why I don't like to break it down too close. [6642] I made a trip to Washington to see Mr. Donohue and saw Mr Donohue, I believe, in July.

Q. That was in July, is that right?

A. Yes, sir.

Q. How were arrangements made for that trip?

A. Mr. Donohue had advised me, I think by letter or telephone—I am not certain—through Mr. Barber, some way he advised me he would like to have me come to Washington to talk to him. I was so advised; I will put it that way. I agreed to go, and I made a trip back to Washington, D. C.

Q. Who made the arrangements for you to make the trip? Mr. Barber, I take it?

A. I believe it was Mr. Barber, yes.

Q. How did you go? A. By plane.

Q. Who accompanied you to the airfield on that occasion? A. I believe my wife did.

Q. Did you meet Mr. Barber there again?

A. I am certain my wife and a couple of friends from Half Moon Bay, we drove over together.

Q. Did you meet Mr. Barber there again?

A. At the airport?

(Testimony of Mervyn Rathborne.)

Q. Yes. A. I don't think so, no.

Q. Where did you get your ticket? [6643]

A. Mr. Barber had given it to me previously.

Q. I see. And then you flew to Washington, is that right? A. That is right.

Q. Did anybody accompany you?

A. No, sir.

Q. You went alone? A. That is right.

Q. Arriving at Washington, whom did you meet?

A. I met Mr. Donohue.

Q. Did you meet him at the plane?

A. No. There was a fellow waiting at the plane, I believe, from Mr. Donohue's office.

Q. Who was that, do you know?

A. I don't know the gentleman's name who took me over to Mr. Donohue.

Q. So when you got off the plane you met somebody from Mr. Donohue's office; he had a car, I take it, and drove you to Mr. Donohue's office, is that right? A. That is right.

Q. Whom did you meet there?

A. Mr. Donohue.

Q. Anyone else?

A. I believe I met his law partner.

Q. What is his name?

A. You will have to ask Mr. Donohue that. I don't know. [6644]

Q. You do not remember the man's name?

A. I don't know.

Q. Were you introduced to him?

A. Yes, I was introduced to him and talked to

(Testimony of Mervyn Rathborne.)

him. Kaufman, I believe? I have forgotten the name. Anyway, it is the other partner in Mr. Donohue's law firm.

Q. You were introduced to him by Mr. Donohue?

A. Yes, sir.

Q. Did he participate in the conversation that you had? A. No.

Q. Did you go out with him or have any social engagement with that man?

A. On one occasion I recall having lunch with Mr. Donohue and his present law partner and his former law partner, who is now a judge in Washington, D. C.

Q. Which is the one that you met on that occasion? The former law partner who is now a judge?

A. No; when I got to Mr. Donohue's office or shortly after, on arriving in Washington, Mr. Donohue showed me through his establishment there and in the process we went into his law partner's office.

Q. I say, is that the one who is now a judge?

A. No, no, the other gentleman——

Q. Did you meet that one? A. Yes. [6645]

Q. That one who is now a judge?

A. Yes, sir.

Q. What is his name?

A. There I don't recall again.

Q. You don't remember his name?

A. No.

Q. Where did you meet him?

A. Well, during the time I was in Washington

(Testimony of Mervyn Rathborne.)

(Testimony of Mervyn Rathborne.)

I was in Mr. Donohue's office and he said, "Let's go to lunch."

I said, "O.K., swell."

He said, "I will get my partner."

About that time his former partner, who is now a judge there, came in and we all went to lunch together.

Q. Came into Mr. Donohue's office?

A. That is right. That is my recollection, and I remember we all went to lunch together.

Q. You all went to lunch together then?

A. That is right.

Q. How long were you in Washington on that trip? A. I think it was four or five days.

Q. Where did you stay?

A. I stayed at the Ambassador Hotel, Mr. Hallinan; that is my recollection.

Q. Did anybody occupy the room with you?

A. No, sir. [6646]

Q. Or any adjoining room? A. No, sir.

Q. No members of the Immigration Department there or any agent of Mr. Donohue's?

A. If they were they didn't make themselves known to me.

Mr. Hallinan: May we have the afternoon recess?

The Court: Yes, we will take the three o'clock recess, ladies and gentlemen. The same admonition not to discuss the case under any conditions.

(Recess.)

Mr. Donohue: Mr. Hallinan, the record shows that Mr. Rathborne testified before the grand jury on the 11th of May at two o'clock, on the 12th of May at ten o'clock——

Mr. Hallinan: Pardon me. On May 11——

Mr. Donohue: At 2:00 p.m.

Mr. Hallinan: May 12?

Mr. Donohue: 10:00 a.m.; June 1 at 3:25 p.m., and June 8 at 3:00 p.m.

Mr. Hallinan: Thank you.

Q. Go on about the Washington trip. You say you stayed at the Ambassador Hotel; you stayed there for four or five days, is that right?

A. That is my recollection.

Q. Well, now, you went to Mr. Donohue's office the first day, and how long did you stay there?

A. I can't recall day by day. I spent during the period I was [6647] in Washington, I spent a good part of the time in the daytime with Mr. Donohue.

Q. What part, on the average?

A. I believe it was about half of each, what we call working day, that is, half the period from, say, eight to five, or something like that.

Q. So you spent about half of each day at Mr. Donohue's office?

A. That is my recollection.

Q. That would be about three or four hours a day? A. That would be about right, yes, sir.

Q. So you spent on a total, then, some place between ten and twenty hours all together?

(Testimony of Mervyn Rathborne.)

A. Well, then I saw him on a number of occasions in the evening, too.

Q. On the occasions that you were at his office did you meet any other person or converse with any other person on the subject of your testimony or what you knew about Mr. Bridges?

A. No, sir.

Q. Just Mr. Donohue alone?

A. That is right.

Q. Were the statements you were making there being reduced to writing? A. No, sir.

Q. You say you also spent some evenings with him? [6648] A. That's right.

Q. How many?

A. My recollection is all—except one evening when I was in Washington.

Q. So either three or four, depending on whether you spent four or five days?

A. That is approximately it.

Q. On the occasions you spent the evenings with him, where were those spent?

A. One evening was in his home, his apartment there, and another evening—two other evenings, I believe, we went out to dinner.

Q. On the occasion that you were at his home who else was present? A. Mrs. Donohue.

Q. Nobody else? A. Not that I recall.

Q. On the occasions you went to dinner was anybody else present?

A. I think just Mrs. Donohue.

(Testimony of Mervyn Rathborne.)

Q. After dinner did you go any place with the Donohues?

A. No. On those occasions we spent most of the evening eating and talking. [6649]

Q. Where did you go, to hotels or restaurants?

A. Some restaurant there.

Q. Now, on that occasion that you were in Washington did you meet any other person connected with the government or the unions?

A. Yes, but not about this case.

Q. Who did you meet?

A. I talked to a couple of gentlemen in the Corps of Army Engineers down at Gravelly Point in connection with the proposed breakwater that the government was contemplating for Half Moon Bay and I also saw Mr. John Steelman.

Q. Who were the gentlemen that you met at the —what is the name of the place, Gravelly Point?

A. Yes, it is headquarters for the U. S. Army Engineers.

Q. G-r-a-v-e-l-l-y?

A. I believe that's right.

Q. The name sounded a little unusual. At Gravelly Point you met whom?

A. I met a lieutenant colonel there.

Q. What is his name?

A. The name escapes me for a moment.

Q. A lieutenant colonel and his name escapes you, Mr. Rathborne?

A. I only talked to the man for half an hour. I don't remember his name.

Q. What was this lieutenant colonel's [6650] position?

A. He has something to do with planning and programming of construction.

Q. He was with the Army Engineers, is that right? A. That's right, yes, sir.

Q. And do you know the name of the other gentleman you talked to?

A. In the Army Engineers?

Q. Yes.

A. No, I don't. I was introduced to him.

Q. Who took you down there?

A. Went down by myself.

Q. Did somebody make an appointment for you to meet them?

A. Yes, sir, I got the appointment through Mr. Donohue. He had some friends to make contacts there for me.

Q. I see. And that matter, however, did not relate to this case?

A. No, I was trying to find out——

Q. All right, we will come to that in a minute. But you say that Mr. Donohue had some friends who made an appointment with these two gentlemen, is that right? A. That's right.

Q. And do you know who the friends were who made the appointments? A. I do not, no, sir.

Q. Was it some judge? [6651]

A. No, sir, I don't know who it was. I merely asked Mr. Donohue if he knew anybody in the

Army Engineers and he said he thought he had some friends, and he did. So——

Q. And he made the contact for you to go down. Where is Gravelly Point?

A. It is outside Washington, near the National Airport.

Q. I see. And these gentlemen, as I understand it, had charge or had something to do with the construction of the breakwater down at Half Moon Bay?

A. Well, my understanding is that their position is, they are the men who do the planning and the programming for the whole, the Army Engineers for the whole nation.

Q. I see. And what is that breakwater, what is that about?

A. What do you mean, what is it about?

Q. The breakwater at Half Moon Bay.

A. Well, in 1945 the Army Engineers held what they called a preliminary hearing in Half Moon Bay.

Q. In 1945? A. Yes, sir.

Q. What part of 1945?

A. I am not certain. Somewhere——

Q. Were you living there at that time, were you living in Half Moon Bay? A. No, I was not.

Q. Where were you living? [6652]

A. I was living in San Carlos.

Q. And in 1945 the Army Engineers held some sort of a——?

(Testimony of Mervyn Rathborne.)

A. Public hearing to—I believe the purpose of which was to determine whether the Army Engineers would recommend the breakwater for construction there, whether there was a need for one.

Q. Did you attend that hearing? A. I did.

Q. And what happened?

A. Well, this colonel who was in charge of the Army Engineers out here—again I forget his name—conducted the hearing and stated that anybody that had any views to express on the breakwater would please come forward.

Q. I see. In other words, there was no opinion expressed at that time as to whether or not it would be constructed? A. No, this was the first step.

Q. I see.

A. As I understand it, in a procedure taken by the Army Engineers when they contemplate construction of a public works of that kind.

Q. I see. And then when you went out to Gravelly Point to meet these two gentlemen, what was it, to find out whether or not it was going through or what had been done?

A. Well, after this—I will have to give you a little bit of history to make this Gravelly Point clear. After this hearing in '45 the local district engineers recommended to Washington that [6653] the breakwater be built. And that recommendation was reviewed by what they called the board of review for rivers and harbors of the Army Engineers in Washington. They made a favorable recommendation to Congress.

Q. When was that? A. In '48, I believe.

(Testimony of Mervyn Rathborne.)

Q. Yes?

A. And in 1948 Congress authorized the breakwater for construction and then in 1949 Congress voted $75,000 to do the final engineering and planning work for the breakwater. And the purpose of my visit was to—I believe the $75,000 was hung up at that time in some—it had been referred to a conference committee of the House and Senate, and there was some wrangle between the members of the committee. And as I recall it, the $75,000 was hung up in that wrangle, and my visit to the Army Engineers was for the purpose of trying to determine first hand when and if the $75,000 for the engineering work was going to be voted by Congress and finally approved.

Q. What was the final result of your inquiry?

A. I was shown the document that they had there that showed their various appropriations, and they said that in their judgment, this conference committee would recommend it, they thought because——

Q. The breakwater was going in?

A. This particular $75,000 had been approved by both Houses, [6654] and the Senate, and there was no argument about this money. So they said they thought it would be approved and subsequently it was.

Q. They thought the breakwater would go in?

A. That's right.

Q. And it was just a matter of getting the money loose on this wrangle that they were having within the army itself?

(Testimony of Mervyn Rathborne.)

A. No, in Congress.

Q. In Congress?

A. The Senate and House had a difference of opinion.

Q. And in the breakwater the money was cleared and the breakwater is going in, is that correct?

A. No, this $75,000 was the final engineering and planning funds. Before the breakwater can be actually constructed, Congress again has to pass an appropriation for the actual construction funds.

Q. Well, did these gentlemen, however, inform you that their recommendation would be such that the breakwater would probably go in?

A. Well, they had already recommended—I mean, the Army Engineers had recommended strongly the construction of the breakwater, in a report made to Congress by the Secretary of the Army Kenneth Royall in 1948.

Q. But what I am trying to get at is just what advantage you derived from meeting these two gentlemen at Gravelly Point.

A. Well, I was a member of what they call the Breakwater [6655] Committee down at Half Moon Point, the breakwater committee.

Q. To try to put that breakwater in?

A. That's right. That committee has been functioning for 35 years.

Q. I see.

A. And I was making this trip to Washington, the committee was naturally concerned with what had happened to the $75,000 that the engineers had recommended and that had been passed by both

(Testimony of Mervyn Rathborne.)

houses and the Senate. And they knew it was some kind of a mixup, so with the approval of the committee I contacted the Army Engineers in Washington to find out just what the score was, what the latest information on the breakwater development was, for them.

Q. But you couldn't get it there?

A. I beg pardon?

Q. But you didn't get any information, so you had Mr. Donohue make this appointment with these gentlemen, is that it?

A. Well, the proper people to go to was the Army Engineers to get the information, and I didn't know anybody in the Army Engineers and I asked Mr. Donohue if he did and he said he thought he had some friends that knew somebody, and so he made this appointment. And I secured the information that I was after.

Q. In other words, you got a little inside information of what the situation was at that time, is that right? [6656]

A. Well, I got the opinion of the engineers who were handling those projects as to what they thought would happen, yes, sir.

Q. Do you own a number of lots down in Half Moon Bay? A. I do.

Q. Within the space that will be benefited by the breakwater project? A. That's right.

Q. You have been buying a number of lots like ~~that within the last couple of years, have you?~~

(Testimony of Mervyn Rathborne.)

A. No, not in the last couple of years.

Q. You bought some in '48 and some in '49, didn't you?

A. I believe—I bought a few, yes.

Q. I beg pardon?

A. I believe I purchased some property in both '48 and '49 down there, yes.

Q. All right. Now, in addition to meeting these gentlemen, did you meet anybody else connected with the government on that trip in July of this year? A. Yes, I met Mr. Steelman.

Q. Who is Mr. Steelman?

A. He is the assistant to the President.

Q. He is what?

A. He is assistant to the President, is his title, I believe.

Q. And who introduced you to him?

A. I knew him for many years. [6657]

Q. I see.

A. He used to be the head of the Conciliation Service of the Department of Labor, and I had been in frequent contact with him.

Q. I see. Now, did Mr. Donohue introduce you to any other persons in Washington on that occasion?

A. I think he introduced me to several of his friends, yes.

Q. Any persons connected with this case?

A. No, sir.

Q. Or the Department of—did you see Clark again? A. No, sir, I did not.

Q. On that occasion, or anybody connected with his office? A. I don't think I did.

Q. Did you see Carey or Murray?

A. No, sir.

Q. Or talk to them? A. No, sir.

Q. Or have any contact with any of the people in their office? A. No.

Q. And then on that four or five days that you were in Washington with Mr. Donohue, were you working on this case? A. That's right.

Q. Well, all right. Now, take the months of August, September and October of last year, 1949; now, what persons connected with the government, with the Immigration Department or this [6658] prosecution, did you see during those three months—remembering that that ends about two weeks before the case went to trial?

A. I saw quite a few people in that period.

Q. Who, for instance?

A. Well, Mr. Barber, Mr. Kaiser, Mr. Kessler, Mr. Donohue.

Q. Pardon me. Barber, Kessler, Kaiser, Donohue. Who else?

A. Quite a number of others. Mr. McGowan among them.

Q. McGowan. Who else?

A. Well, those are the ones that I saw most frequently and actually had contact with.

Q. I beg pardon?

A. I mean, those are the ones I saw most frequently and actually had contact with concerning this case.

(Testimony of Mervyn Rathborne.)

Q. All right. Now take Mr. Barber. In those three months, now—August, September and October—how many times did you see him?

A. Quite a number of times.

Q. How many? A. Oh, I——

Q. Daily?

A. No, I didn't see quite daily, but quite frequently. Possibly, let's see; three months. Probably ten or twelve times, I would say offhand.

Q. And where did you see him?

A. Usually in San Francisco. [6659]

Q. At what place in San Francisco?

A. On Sansome Street, the Appraisers Building on Sansome Street.

Q. And when not in San Francisco, where?

A. Well, my recollection is, Mr. Hallinan, that during that period that is where I saw him. He may have come down my way, but I don't think so because I was coming up to the city quite frequently.

Q. I see. Now about Kaiser. How many times did you see him during that 90 day period?

A. I saw him quite frequently, too.

Q. How often?

A. Well, there was a while there I saw him almost every day and other times when I didn't see him so frequently.

Q. Well, would you say you saw him 40 or 50 times in the three months?

A. I wouldn't think it was quite that many.

Q. How many?

A. Quite a number of times. Let's see. Probably 20 or 30, maybe.

Q. 20 to 30. And then Mr. Kessler; how often did you see him?

A. I saw him quite frequently, too.

Q. Did he continue to live at Miramar?

A. That's right.

Q. I see. During the whole three months?

A. That is my recollection. [6660]

Q. And did you see him practically every day?

A. I would say almost every day, yes, sir.

Q. In other words, you came to San Francisco, then you would see Kessler in the evening at Miramar, or would you see him in San Francisco, which?

A. Well, occasionally I would drive to San Francisco with him.

Q. Did he drive you back and forth?

A. On a few occasions, when I didn't take my own car.

Q. I see. And was his wife continuing to live at the Miramar Hotel with him, too?

A. (Nodding in the affidmative.)

Q. And you saw her almost every day, is that right?

A. Well, I saw her quite frequently. I don't know whether it was almost every day.

Q. And were your wife and she visiting back and forth every day?

A. They used to see each other quite a bit.

Q. And then Mr. Donohue; how many times did you see him during those three months?

A. I don't recall when Mr. Donohue came out here the second time for this case. I don't know whether it was during that period or not.

(Testimony of Mervyn Rathborne.)

Q. Well, how about Mr. McGowan? How many times did you see him?

A. Well, I saw him quite a few times. When I come in to San Francisco I would usually be in touch with him or see him. [6661]

Q. Well, about how many times would you say in that 90 days?

A. I would say approximately the same number as Mr. Kaiser.

Q. That is, maybe 20 to 30 times?

A. Possibly.

Q. And any other agent that you were having contact with at that time?

A. Well, there are others I spoke to, men I spoke to.

Q. Just casually?

A. But I don't think there are any others that I actually——

Q. Did you stay in San Francisco during any of that period?

A. I don't know. My recollection is I did not.

Q. Did you live or stay at the Miramar Hotel on any occasion? A. No, sir.

Q. Didn't stay there. And when you came to the city to see these men, what were you doing at the Appraisers Building and talking to Barber, Kaiser, Kessler and McGowan? What was the nature of your activity?

A. We were discussing this case.

Q. Discussing the case?

A. Yes, sir. [6662]

(Testimony of Mervyn Rathborne.)

Q. What do you mean by "discussing" it?

A. Well, they asked me certain questions about certain things, checking certain information, and I would give them my reply.

Q. They had records, I suppose, they went over with you, is that right? A. That is right.

Q. And verified from you their suggestions and statements that were made to them, is that correct?

A. Well, that is correct. For example, they had a certain paper and asked me if I recalled certain events that were depicted in that paper and I would say yes or no, as the case may be; things like that.

Q. I take it you are being paid some reasonable compensation for all your time, is that right?

A. That is right.

Q. And have been during that period, I suppose, is that right?

A. I believe the situation regarding that is this: When I left the President Madison in May, I believe it was, I took a trip off, a leave of absence, to join the ship—my intention at that time was to rejoin the ship when she returned, which would have been about July. I think it was July. Anyway, it would be about eight weeks afterwards, and during the time I was in Washington I discussed the situation about going back to the ship with Mr. Donohue, told him I would have to get back to the coast pretty quick, because I would have to let my [6663] union know in a few days whether I was going back on the ship or not, and I intended

(Testimony of Mervyn Rathborne.)

to go back. He said, well, at that time he didn't think it was—that I should go back. In addition to that, the WFTU had passed a resolution which in effect put a boycott on me for holding my job. I think the effect of the resolution was that all members affiliated to the WFTU should boycott any ship on which anybody appeared as a witness in this particular case for the Government.

Q. Thinking one thing and another, what was the compensation you agreed upon?

A. The compensation was to be the same approximately as I was receiving on the President Madison.

Q. How much was that?

A. It amounts to about $120 a week.

Q. Is that all they are paying you?

A. Well, that is the same money I was making when I was working on the ship.

Q. I say, is that all the compensation they have been paying you so far, $120 a week?

A. What do you mean, all they are paying me so far?

Q. Is that all the Government has been paying you for these services, coming up to San Francisco, going back to Washington?

A. Since July, yes, sir.

Q. What did they pay you prior to that?

A. The only other—all together I received expenses for going [6664] to Washington on the first trip—I think they were $8 a day or something like that. I know it cost me about $50 out of my own pocket on that first trip.

Q. Well, I would imagine.

A. I received the same—whatever the standard rate is. I think it is $8 a day for the trip that I made to see Mr. Donohue. And then I received a witness fee for testifying before the grand jury.

Q. So then for the months of May, June and July were you receiving only $8 a day?

A. I wasn't receiving anything except during the period of the grand jury testimony, when I was paid a witness fee.

Q. How much were you getting then?

A. I believe it was $30 a day.

Q. And for how long did that run?

A. That ran during the period of the grand jury.

Q. $34 a day, isn't it? A. I think it is.

Q. And $25 witness fee, and $9 sustenance?

A. I believe that is what it is.

Q. $34 a day for that period of five or six days that you were up here for the grand jury, is that all?

A. For the period of the grand jury proceedings.

Q. Do you know how many days that was all together?

A. My recollection is about twenty, Mr. [6665] Hallinan.

Q. I beg your pardon?

A. I think it was about twenty days.

Q. And then since July they have been paying you only $120 a week.

A. That is what it amounts to.

(Testimony of Mervyn Rathborne.)

Q. What is the basis? What base do they use for fixing it?

A. The base they used for fixing it was the earnings that I had earned on the President Madison as radio officer. That is my understanding.

Q. Have you been receiving that money?

A. Yes, sir.

Q. In what form? A. Government checks.

Q. Do you know what the total is that you received to date? A. I do not, no.

Q. Have you been informed by Mr. Donohue or any of these other gentlemen that $25 a day is the amount that is allowed to experts on this kind of case? A. No, sir.

Q. Have you been studying Marxian dialectics, if that is the phrase?

A. No, the only time recently I have done any studying of that kind was when I was on a ship. I went back for my own purposes and re-read a lot of the so-called classics.

Q. When was that? [6666]

A. That was when—during the time I was on the President Madison.

Q. What year?

A. It must have been 1948, I guess.

Q. That was after you had gotten in contact with the Government officials or they had gotten in contact with you?

A. No, it started before that. I had been dropped from membership in the Communist Party

(Testimony of Mervyn Rathborne.)

and had decided that I had made a mistake in supporting the Communist philosophy and principle and ideology at the time I was in the Party, and I was rereading their material with a much more critical eye than I had in the past and trying to punch holes in it and find its weaknesses. In other words, I accepted this stuff as doctrine and as gospel for so many years I thought I would take another look at it from a critical point of view.

Q. There is a little matter on that that has puzzled me for some time, a couple of phrases I have heard; one is Hegel's dialetical materialism, and the other is Einstein's postulate of equivalents. One of them has something to do with mathematics and the other has something to do with Communism. Do you know which is which?

A. I do not know anything about Mr. Einstein's theory, but I do know that the dialetical materialism is a word that is used to denote the Communist approach to the study of history and events. [6667]

Q. Let me ask you this, Mr. Rathborne, and you can fix your own scope in it: On the witness stand here you have told the truth of what you know about this case, isn't that right? A. Yes, sir.

Q. And you have told all you know about it, is that right? A. Well, I don't——

Q. I mean, you have not concealed or kept hidden anything, have you? A. No, sir.

Q. And you have told everything you know about the case, haven't you?

A. Put it this way: I have been responsive to the questions that have been asked me.

Q. Have there been things about the case, things that you know about the case that have not been asked you?

A. I don't understand that question, Mr. Hallinan.

Q. Let us put it this way: Did you have any agreement with Mr. Donohue or anyone else that there would be any subjects that he would not ask you about? A. No, sir.

Q. Was there any agreement that certain matters that might be favorable to the defendants would be omitted from the questions, that you would not be asked those matters? A. No, sir.

Q. Well, was there any agreement that you should not be asked [6668] certain matters that were detrimental to the defendants?

A. Well, yes. In other words, Mr. Donohue could have, if he wanted to go into every incident in the past that I could possibly have testified on, he could probably have had me on the witness stand under direct examination for ten days or so. So some of the matters which I could probably have testified on were not covered by Mr. Donohue in his direct examination.

Q. I see. Now, do you know why it is that you were not called on the case in chief? Was that explained to you?

A. No, I don't know for sure why I was not called, no, sir.

(Testimony of Mervyn Rathborne.)

Q. You went down and saw a man who is the editor of the newspaper in San Mateo County and complained that the stories being told in his newspaper were not properly slanted to give you sufficient credit, isn't that right?

A. No, I didn't make that statement. I wrote the man a letter. He ran a story in his paper which I thought was not sufficiently objective, down the middle, and I wrote him a letter and criticized the article, pointed out my criticism, and in the letter I said, "I certainly do not expect to be favored or anything else, but I would like to see objective reporting in the newspaper."

Q. Now, you know at the present time there is a struggle on between the national CIO and the ILWU; that is right, isn't it?

A. I read about it in the newspapers. That is the extent of my knowledge. [6669]

Q. And the struggle converges pretty much upon the person of Harry Bridges, is that right?

A. Well, now, at the present time, Mr. Hallinan, I have no direct information about that. The only information I get is by reading the newspapers.

Q. Have you any agreement with Mr. Carey or Mr. Murray relating to their getting you some office in the CIO?

A. I have none whatsoever, no, sir. I have never discussed it.

Q. Did you have any discussions with them on that subject? A. I did not.

Q. Mr. Donohue tells us that you testified before

(Testimony of Mervyn Rathborne.)

the grand jury, not twice, but four times. Do you remember if that is correct?

A. Well, again I said at the time my recollection was I testified twice. Apparently I testified more than twice. Apparently I testified four times. My memory was—well, if that is what the record is, that is what it is.

Q. Did you testify on June 1?

A. I believe so.

Q. No, aside from what you have been told, have you any recollection of that yourself?

A. No, I don't recall that particular occurrence on June 1. I recall the first appearance and the last one.

Q. Do you recall testifying on June 8? [6670]

A. Yes, sir, that is the last time. I recall the last time I testified.

Q. You testified that you testified once on May 11 and then on the following day, May 12; at least the dates were filled in by counsel. You testified you appeared the first day and then the second day. You did not tell us anything about June 1 or June 8.

A. I believe I testified it was my recollection I had been before the grand jury twice.

Q. Yes.

A. Now, in that, what I had in mind was the first and the last time. That is apparently from the record I went on in an afternoon and continued the next morning. That to me is one session.

Q. I see. Then you remember testifying on June 8 again?

(Testimony of Mervyn Rathborne.)

A. Yes, that was the last time I appeared. I remember, recall that.

Q. Let us take the period from October 31 to November 14, that is, until the day this case went on trial, were you in constant touch with these same gentlemen whom you have heretofore described, Messrs. Barber, Kaiser, Kesler, Donohue and McGowan?

A. I was in frequent touch with them. I would not say constant.

Q. Is Mr. Kesler still living at the Miramar Hotel? A. No, sir, he is not. [6671]

Q. When did he leave?

A. Let's see. It is my recollection it was shortly after Christmas, last year, last Christmas.

Q. Had you been told at that time that you would not be called as a witness in this case?

A. No.

Q. Were you ever told that? A. Yes.

Q. When?

A. I think sometime during the process of this trial.

Q. When?

A. You mean that I would never be called?

Q. Yes.

A. No, no, I thought you meant a witness on the main case. I believe they call it the case in chief, something like that. [6672]

Q. Were you told that you wouldn't be called as a witness in chief? A. Yes.

Q. Who told you that? A. Mr. Donohue.

(Testimony of Mervyn Rathborne.)

Q. When? A. During this trial.

Q. Well, what part of it, do you know?.

A. Well, yes; my recollection is it was during the time George Wilson was testifying.

Q. I see. Can you relate it to the time that Kessler left the Miramar Hotel?

A. I think Mr. Kessler left the Miramar Hotel some time prior to that. I am not certain about that.

Q. All right. Now, has anybody replaced Mr. Kessler at the Miramar Hotel?

A. No, sir. You mean any Immigration——

Q. Agents, yes. A. No, sir.

Q. Any agent been living in your home since that time? A. No, sir.

Q. Or in Half Moon Bay, so far as you know or in that neighborhood?

A. No, sir. As far as Mr. Kessler is concerned, when some gentlemen from San Francisco came down and visited me—that is [6673] George Andersen and some of the others, apparently somebody in the government got a little bit jittery and they asked that somebody be sent down to my area to watch out for me. And that was done over my protest and objection. And so, as far as Mr. Kessler leaving, I was very happy to see him leave, although I think Mr. Kessler is a swell fellow. I like him. But I didn't particularly like the procedure of having someone down there.

(Testimony of Mervyn Rathborne.)

Q. You like him, but not so much in your neighborhood. Isn't there some other agent that lives down at Half Moon Bay named Maxwell?

A. I never heard of him.

Q. Gerald Maxwell?

A. No, sir, I never heard of him. He may live there, but I don't know him.

Q. Now, have you talked during the period that we have been discussing here, that is, last year or this year, with any of the other witnesses who testified in this case?

A. Yes, I have seen a few of them.

Q. Who? A. I saw Mr. Michener.

Q. When?

A. During the grand jury hearings.

Q. Anyone else?

A. Mr. Ross and George Wilson.

Q. Anyone else? [6674]

A. I don't recall seeing any of the others.

Q. Schomaker?

A. Oh, yes, I have seen John Schomaker.

Q. Schrimpf?

A. I met him once and said, "Hello, Henry, how are you?," about a week ago, I think.

Q. Krolek? A. Who?

Q. Krolek. A. Krolek, no, sir.

Q. Now, have you named all of the witnesses whom you have met in that time?

A. I believe I have, but I am not—frankly I don't know the names of all the witnesses that have testified here for the government——

(Testimony of Mervyn Rathborne.)

Q. When did you last see Schomaker?

A. Oh, a few days ago.

Q. Beg your pardon? A. A few day ago.

Q. All right. Where did you see him?

A. I saw him down on Sansome Street in the Appraisers Building.

Q. What day was that?

A. I think it was last week. What day of the week it was I am not certain.

Q Was he with somebody else? [6675]

A. He was in an office there.

Q. Whose office?

A. I don't know whose office it was. It was one of the government offices.

Q. Was he working there? A. Yes, sir.

Q. What kind of work was he doing, do you know?

A. He was reading some back issues of the Longshoremen's paper, I think.

Q. And did you see any of the agents with him?

A. Well, I saw a couple of them talking to him, yes. I mean, coming——

Q. Did you have a conversation with him at that time? A. I talked to him, yes.

Q. I beg your pardon? A. Yes, sir.

Q. Did you ask him what he was doing there?

A. Well, no, I didn't ask him what he was doing there. It was obvious he was doing some work.

Q. Obviously what?

A. He obviously was doing some work. So I didn't ask him what it was.

(Testimony of Mervyn Rathborne.)

Q. Did you see him on more than the one occasion?

A. I think I had seen him down there on three or four occasions. [6676]

Q. When? What time?

A. Within the last two or three weeks.

Q. And did he appear to be working on each occasion?

A. On a couple of them, he did, a couple of them he was just around the office there talking to, I believe, McGowan and Mr. Kaiser.

Q. Did you talk with him about the facts of this case or any material in it, any records?

A. Yes, I discussed a couple of things with him. One was, I was confused on a couple of dates. I have forgotten them. And I asked him if he recollected them.

Q. Did he?

A. And I believe he did, yes.

Q. What dates were they?

A. They were the dates, one of them was the date of the first Maritime Federation convention in 1935, I believe, and another was the date of the tankers' strike, which was also in 1935.

Q. You had forgotten those and Mr. Schomaker—what did he do, look them up for you?

A. No, we were discussing them and he recalled them and related some other incidents that tied

(Testimony of Mervyn Rathborne.)

them in so I could—and by relating these other incidents, I refreshed my own memory.

Q. I see. Now, how about Schrimpf? Where did you see him?

A. I saw him in the same place.

Q. When? [6677]

A. Well, I believe it was last week.

Q. Once or more than once?

A. Just once.

Q. Was he working also?

A. No, he wasn't.

Q. What was he doing?

A. He was standing there talking to McGowan and I walked by and saw him and I said, "Hello, Henry, how are you," and he said, "Hello, Merve." And I went out the door. That was the extent of my contact with him.

Q. Where did you see Mr. Ross?

A. I saw him, oh, at that hotel, Cartwright Hotel.

Q. When? A. During the grand jury.

Q. Was he staying there?

A. I think he was. It is my recollection he was.

Q How many times did you see him there?

A. Oh, I think a couple of times.

Q. Did you see him subsequent to that?

A. No.

Q. Never since? A. No.

(Testimony of Mervyn Rathborne.)

Q. And how about Wilson?

A. I saw George in Los Angeles one time when I was down there on the Madison, and then again I saw him when he testified before [6678] the grand jury.

Q. And where did you see him when he testified before the grand jury, at the grand jury room?

A. At the Cartwright Hotel.

Q. Did he stay there also?

A. I don't know.

Q. And you say you saw him in Los Angeles on one occasion when your ship was down there, is that right? A. Yes.

Q. When was that?

A. I think it was the first time I was down there, the first time of these two I related here.

Q. Were you alone at the time you met him or someone with you? A. I was alone.

Q. Anybody else accompany the two of you in your discussion? A. No, sir.

Q. Did you talk about the facts of this case to Mr. Wilson?

A. No, I didn't talk about the facts of the case.

Q. Discuss them at all, mention them at all?

A. No, the only thing I mentioned to him, I said, well, the government people are after me to testify, George, and I am thinking about it. And I think that was the extent of the discussion.

(Testimony of Mervyn Rathborne.)

Q. The government people were after you to testify and you were thinking about it, is that right? [6679] A. Yes.

Q. That is before you said anything to the government agents, is that right?

A. No, this would be after the trip I made back east.

Q. At least it is before you gave them any information, is that so?

A. I don't think it was; I think it was after.

Q. You think it was after. After you gave them the original ten per cent or whatever small amount it was?

A. That is my recollection, yes, sir.

Q. Did he tell you whether or not they were after him? A. No, he didn't mention it.

Q. Then Michener, you saw only before the grand jury, is that right?

A. I believe I saw him in the Cartwright Hotel also, when he came up to testify before the grand jury.

Mr. Hallinan: It is now 4:00 o'clock, your Honor. I suggest we take the recess.

The Court: We will take the afternoon recess, ladies and gentlemen, and adjourn until tomorrow morning at 10:00 o'clock; the same admonition to you not to discuss the case under any conditions.

(Thereupon an adjournment was taken to tomorrow, Thursday, March 2, 1950, at 10:00 o'clock a.m.) [6680]

Thursday, March 2, 1950, 10:00 o'Clock A.M.

The Clerk: United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Mervyn Rathborne, heretofore sworn.

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. During the time that the grand jury was in session or that you were standing by to appear before the grand jury, you testified that you lived in the Cartwright Hotel, is that right?

A. I said my recollection, Mr. Hallinan, was that I lived there a portion of the time.

Q. You said that at the same time they were staying at the hotel Michener, Ross and Wilson, is that right? A. I met them, yes.

Q. At the hotel?

A. There is something wrong with this microphone, I think.

Q. And Schomaker. And you met Schomaker at the hotel, too, did you?

A. I am not certain about meeting him at the hotel, Mr. Hallinan. I met him but I am not certain whether it was at the hotel.

Q. During the time that the grand jury was in session that you were standing by to appear before it, how long a period of time was that that you were back and forth to the hotel? Was it [6681]

(Testimony of Mervyn Rathborne.)

some days before you appeared before the grand jury and some days after, or what?

A. It wasn't very long before because I had just gotten back to San Francisco on the President Madison, I believe, just a few days before the grand jury went into session. That is my recollection of it.

Q. At the time that you stayed at the Cartwright Hotel you met, for instance, Lawrence Ross, is that right? A. Yes, I did.

Q. Had you known Ross before?

A. I had.

Q. Was he staying at the Cartwright Hotel at that time, too?

A. I believe he was, Mr. Hallinan, but I am not certain.

Q. Did you have some conversations with him?

A. Yes, I talked to him.

Q. Concerning the case?

A. No, sir, not particularly concerning the case.

Q. Concerning any of the facts that you were testifying to before the grand jury?

A. No, sir, I didn't discuss that with him.

Q. Did you discuss any facts that he was testifying to before the grand jury?

A. No, our discussions were along these lines: first, recalling where we had met before and so on and so forth, more or less of a friendly conversation; and then we had some discussions with [6682] respect to recalling certain events, as to dates.

Q. What events?

(Testimony of Mervyn Rathborne.)

A. Well, I believe I had talked to him about the time that he and I worked together in what was known as the United Labor Party here in San Francisco, I think in 1935. We discussed that to some extent.

Q. Did that relate to the testimony that either one of you contemplated giving before the grand jury?

A. I don't think it directly related to it. It is a subject matter that probably could have been brought up.

Q. Was Mr. Barber present at any of those conversations with Ross?

A. I believe he was—I think I saw Ross once or twice for a comparatively short period of time, and once I know I talked to him alone, and I believe the next time there were several people in the room.

Q. Was Barber one of them?

A. I believe he was.

Q. Who else?

A. I believe Mr. Donohue was present at least for part of the time.

Q. How about Kaiser?

A. I don't recall, Mr. Hallinan, whether Mr. Kaiser was there or not.

Q. Was there any discussion at that time concerning what [6683] testimony Ross was going to give? A. No, sir, there was not.

~~Q. Was there any discussion with you concern-~~

(Testimony of Mervyn Rathborne.)

ing that episode in which Bridges was supposed to have gone to New York in June of 1936?

A. No, sir, there was not.

Q. Was that ever mentioned to you at all?

A. Yes, it was mentioned to me.

Q. When?

A. I believe after or during Mr. Bridges' testimony here in this court.

Q. Not until then? A. No, sir.

Q. And then it was with regard to the minutes of the meetings, I suppose, is that right?

A. That is right, yes, sir.

Q. That you had signed?

A. That is right.

Q. The minutes were all correct, were they?

A. The minutes of the meeting were—I told, I believe, Mr. Kaiser and Mr. Donohue that if I was called upon to testify about those minutes I would say to the best of my recollection they were correct and proper. [6684]

Q. You read the minutes over? A. I did.

Q. Where?

A. Up in the Appraisers Building on Sansome Street.

Q. That is the minutes that had been produced in evidence here, is that right?

A. Well, I don't know about that. They were minutes of the District Council of the Maritime Federation No. 2 that I had kept of the Council meetings, and my signature was on them.

Q. And you read all those minutes over?

(Testimony of Mervyn Rathborne.)

A. I don't think I read them all over, word for word.

Q. Well, let's skip that for the moment. But when was that?

A. I believe that was—my best recollection is, during the time Mr. Bridges was testifying.

Q. Yes, but how long ago?

A. Well, two or three weeks, I believe. I don't recall exactly the dates on which Mr. Bridges was on the witness stand.

Q. In other words, two or three weeks ago is the first time that that subject was called to your attention by anybody, is that right?

A. That's right. I had been asked previously if I knew anything about it and I said no.

Q. About what?

A. About any trip that Mr. Bridges might have made to New York about that time. [6685]

Q. Who asked you that?

A. I believe Mr. Kaiser; I am not certain.

Q. When?

A. Oh, I think after the grand jury's proceedings. I am not certain of that.

Q. How long after the grand jury?

A. I don't know, Mr. Hallinan. I have forgotten.

Q. And what did Mr. Kaiser ask you then?

A. I believe he said, "Did you ever hear about Harry making a trip to New York in June of '36 or in the middle of '36?" And I said, "All I know

(Testimony of Mervyn Rathborne.)

I don't recall any such trip." Or words to that effect.

Q. Well, did he tell you that someone was testifying he had made such a trip?

A. No, sir, he did not. He just merely asked me the question.

Q. Well, did he tell you what the nature of the trip was supposed to be?

A. No, sir, he did not.

Q. Did he ask you if you had any records or any recollection that would verify whether it had happened or hadn't happened?

A. No, sir, he did not.

Q. Well, you read over those minutes at least to the extent of determining that Bridges was present at the meetings that you had signed as secretary; that's correct, isn't it?

A. The minutes that were shown to me—it would be better if you [6686] could give them to me and then I could——

Q. Well, presently. But just generally first.

A. We may be talking about different minutes, Mr. Hallinan. That is the only thing I want to be sure of.

Q. Here's what I am getting at. You never fabricated any of those minutes, did you, or any of the contents?

A. The way the minutes were kept, Mr. Hallinan, was this: I was the secretary of the Council. At the Council meetings I had a roll call book and I would make notes of the proceedings—not ver-

(Testimony of Mervyn Rathborne.)

batim, but rather full notes. I would take that material back to my office and dictate it to the stenographer. She would write out a draft copy, which I would correct, and then she would put it on the mimeograph stencil. Then I would sign the stencil and the minutes would be mimeographed. And the minutes were kept accurately.

Q. And at the next meeting, then, those minutes were——

A. Those minutes were read and approved or——

Q. Read and approved?

A. Or amended, or whatever it was that was necessary.

Q. So they were kept accurately by you?

A. That's right.

Q. And where it appeared that Mr. Bridges was chairman at a particular meeting, he had been chairman, is that right?

A. Well, if the minutes showed it, it would convince me that he was there, yes. [6687]

Q. All right. Now, have you been reading the newspaper accounts of the trial?

A. Yes, sir, I have.

Q. Have you been reading the transcript of the testimony of witnesses? A. Parts of it.

Q. Did you read the transcript of the testimony of Manning Johnson? A. No, sir.

Q. Did you read the transcript of the testimony of Crouch? A. No, sir.

Q. Do you know either of these people?

(Testimony of Mervyn Rathborne.)

A. I don't recall ever having seen either one of them.

Q. Now, you never heard in the course of your dealings with the Communist Party that Harry Bridges had ever been elected to the Central Committee of that party, had you?

A. I had heard it, yes, sir.

Q. When? A. I believe in 1937.

Q. Who told you then?

A. Mr. Roy Hudson. [6688]

Q. Mr. Roy Hudson? A. Yes, sir.

Q. Did you tell that to these gentlemen when they spoke to you, to Mr. Kaiser?

A. I told them at one time, yes; I did. I don't know whether it was during the same conversation or not.

Q. Did you attend either of the Communist conventions in 1936 or 1938?

A. No, sir, I did not. You mean the national convention?

Q. Yes. A. No, sir, I did not.

Q. Did you ever hear that Mr. Bridges—Did you ever know Mr. Bridges in San Francisco under any other name than Bridges? A. I did not.

Q. Or know that he was supposed to have any other name in the Communist Party than Bridges?

A. Well, I heard something about it, but it was just—I believe it was brought up at one of his—at the trials.

Q. In other words, these were rumors that

(Testimony of Mervyn Rathborne.)

floated around in the other two trials, isn't that right?

A. Well, my information on that subject, I believe, came from the newspapers during the other trials, when somebody made a statement that Mr. Bridges was known by some other name.

Q. Now, I want to show you some of these documents.

Wait. I want to pass these for the time [6689] being.

Q. Now, where did you stay last night?

A. I stayed in a hotel on Market Street here.

Q. What hotel?

A. The name of it is Hotel Shaw.

Q. Anybody there with you? A. No, sir.

Q. Any of the agents or officials of the Immigration Service staying at the hotel?

A. Not, to my knowledge.

Q. Did you have any conversation with anybody connected with the prosecution after your testimony last night?

A. Yes. I went up to Mr. Donohue's office on the fourth floor and we had a general conversation.

Q. When did you go up there?

A. Shortly after court adjourned or recessed.

Q. And how long did you stay there?

A. Oh, I imagine about 45 minutes, possibly an hour. I think it was about five o'clock when I left, maybe a little after.

~~Q. About 45 minutes. Who was present?~~

A. Oh, I believe there was Mr. Donohue, Mr.

(Testimony of Mervyn Rathborne.)

Paisley, Mr. Barber, Mr. Kaiser, and a young lady. And this other gentleman here (indicating). I have forgotten his name. Sitting next to Mr. Barber there (indicating).

Q. Have you met him before?

A. Yes. [6690]

Q. How long have you known him?

A. Oh, I met him, I think, about the time the trial started.

Q. And how many times have you seen him or met him?

A. I have seen him quite a few times.

Q. About how many?

A. I am trying to remember. His name just escapes me.

Q. Have you been to lunch with him?

A. I don't think I have.

Q. Dinner? A. Yes.

Q. All right. Now, at the conference that you had last night was your testimony here discussed?

A. In a general way, yes.

Q. Was there a discussion about the testimony that you had given yesterday?

A. I mean we talked about the case and about the testimony, yes, generally.

Q. Was the discussion about the testimony that you had given yesterday?

A. There was some discussion of that subject.

Q. Was there any criticism of any of the testi~~mony you had given yesterday?~~

A. There was comments on it. There was no particular criticism.

Q. Were you told to change any of the statements you had made? A. I was not. [6691]

Q. Or to correct them? A. No, sir.

Q. What about the reference to John Schomaker being employed down at the Appraisers Building? Were you told to change that?

A. I was not.

Q. Was any comment made on that?

A. I believe Mr. Kaiser did comment on it, yes.

Q. He did? Did he tell you to change what you had said? A. No, sir, he did not.

Q. Did he tell you you were in error in what you said?

A. Well, I think his comment was along this line, "Well, I think you were wrong, that John was there for an interview," or words to that effect.

Q. But you saw Schomaker down at the Appraisers Building three or four times, didn't you?

A. I did, yes.

Q. And he was working there?

A. Well, I testified yesterday he was sitting at a desk and had some papers there and appeared to be working, yes.

Q. How long were you in the Appraisers Building? On how many occasions did you see Schomaker down in that Appraisers Building?

A. I believe three times.

Q. And when? When was the first time?

(Testimony of Mervyn Rathborne.)

A. Oh, about two or three weeks ago.

Q. All right. You were down there doing your work, is that [6692] right? A. That's right.

Q. That is the work for which you are being paid $120 a week, is that right?

A. That's right.

Q. Now, that work is assisting in this prosecution, is that correct?

A. I believe you could say so, yes.

Q. And you are doing $120 a week's worth of work, are you? A. Well, I presume so.

Q. In other words, you are earning your hire and you are working as diligently as you can to help the prosecution in the case, is that right?

A. That's right. [6693]

Q. And on this occasion two or three weeks ago that you were down there, how long did you stay in that building? A. Practically all day.

Q. Did you see Schomaker there all day?

A. No, sir, I did not.

Q. How much of the day was he there?

A. I saw him, I believe, around 4:30 or so. He came in and spent a few minutes and went out.

Q. Were you talking to him?

A. Yes, I talked to him.

Q. Did you talk to him about the case?

A. No, sir, I did not.

Q. Then when did you see him the next time?

A. It must have been a day or two after that.

~~Q. How long did you stay there on that occa-~~sion? A. I was there all day also.

(Testimony of Mervyn Rathborne.)

Q. Where did you see Schomaker then?

A. It was virtually the same thing. Around late afternoon he came in and talked for a few minutes with somebody—I believe it was Mr. McGowan—and then shortly after, he left.

Q. Then what was the third time?

A. The third time I walked into an office and I saw Mr. Schomaker seated at a desk reading some documents.

Q. When was this?

A. My recollection is that was about two or three days after [6694] this second incident.

Q. How long ago? How long ago from today?

A. It would be about approximately two weeks, I believe.

Q. About two weeks ago, and were you there all day on that occasion, too? A. Yes, sir.

Q. How long was Schomaker there then?

A. I don't know.

Q. How long did you see him there?

A. Oh, I talked to him for maybe 20 minutes.

Q. You were talking to him about some events, is that right? A. That is right.

Q. For about 20 minutes?

A. That is right.

Q. Did you go over some records with him?

A. Yes, I read something in the Voice of the Federation. There were copies of the Voice of the Federation there. He had read and called my attention to a certain item about the date of the first convention of the Maritime Federation.

(Testimony of Mervyn Rathborne.)

Q. Every day, then, since July you have been working regularly for the Immigration Department, is that right?

A. Yes. I have not been working on all occasions full time every day, but I have been doing some work for them, yes.

Q. Now, Mr. Rathborne, when you started in dealing with the government agents you supplied them with the names of other [6695] persons to whom you sent them as possible witnesses, didn't you?

A. No—what do you mean, when I started in?

Q. I say, as you started working with the agents, you started sending them to certain people whom you suggested to them they might be able to use as possible witnesses, isn't that right?

A. I didn't start sending them, no, sir.

Q. What did you do in that behalf? Did you interview people yourself? A. No, sir.

Q. Did you talk to any person about testifying here?

A. Do you mean in the sense of trying to get them to testify?

Q. Yes. A. No, sir, I did not.

Q. Did you send Mr. Barber or Mr. Kaiser or give them the name of any person whom you recommended or suggested that he talk to?

A. I believe I did something like this: I would name some person and I would say, "In my opinion ~~he knows something about the particular situation."~~

(Testimony of Mervyn Rathborne.)

Q. And did you pick out people, did you mention people who were hostile to Mr. Bridges?

A. No, sir, not necessarily.

Q. Who were some of the people to whom you sent him? A. I didn't send him to anybody.

Q. Whom you recommended, whose names you gave?

A. The way the situation arose, some point—some fact might [6696] be questioned and I would on occasions say, "I think so-and-so might have some information."

Q. Who were some of the so-and-sos?

A. I believe on one occasion I mentioned Mr. Pyle's name in that connection.

Q. All right. Anybody else?

A. I think I mentioned Mr. Krolek.

Q. Anybody else?

A. I don't recall, Mr. Hallinan. I don't think—there were maybe one or two others.

Q. Well, who? A. I don't recall, sir.

Q. Just one or two others? A. That is all.

Q. You suggested to whom that Mr. Krolek might have some information that would be of help? Whom did you suggest that to?

A. I believe Mr. Kaiser. I am not certain.

Q. When?

A. Oh, shortly after the grand jury, I believe.

Q. Let me ask you this: In the testimony that you read over that was given by witnesses for the prosecution did you read Schomaker's testimony?

A. No, sir, I did not.

(Testimony of Mervyn Rathborne.)

Q. You did not read it?

A. No, I did not. [6697]

Q. Did you read Schrimpf's?

A. No, I did not.

Q. Mrs. Harris? A. No, sir.

Q. Krolek? A. No.

Q. Hancock? A. No.

Q. Johnson? A. No.

Q. Crouch? A. No.

Q. Ross?

A. I believe I read a portion of Mr. Ross,' the last part of it.

Q. Michener?

A. Yes, I read Mr. Michener's.

Q. All of his? A. All of his testimony.

Q. How about Wilson?

A. No, I didn't read his.

Q. So you read a portion of Ross and all of Michener's testimony. That is all the testimony you read?

A. I also read a large portion of Mr. Bridges' testimony.

Q. Now, when you were working with these gentlemen did you help [6698] prepare the cross-examination of Mr. Bridges? A. No, sir.

Q. Did you give Mr. Donohue or any other person a list of statements or items that you thought he should ask Mr. Bridges? A. No, I did not.

Q. Did you give him any statements or items that you thought he should ask any person?

A. No, I did not.

(Testimony of Mervyn Rathborne.)

Q. Did you see Schomaker, Schrimpf or any other person doing that?

A. No, sir, I did not.

Q. What was the name of the person in the apartment or flat, or whatever it was, on Bay Street that you attended all the meetings at?

A. On what street?

Q. Down near Ghirardelli's chocolate factory.

A. Incidentally, when I testified on that I made a mistake in the streets. My recollection is it is North Point Street rather than Bay Street. I don't know whose flat or apartment, or whose apartment that was.

Q. Have you seen it lately?

A. No, sir, I have not.

Q. Have you been down trying to find it?

A. I went shortly after the grand jury proceedings—I went down in that direction looking for it. [6699]

Q. With whom?

A. I believe I went down with Mr. Barber.

Q. Had you testified concerning that building before the grand jury?

A. I am not certain, Mr. Hallinan. I may have, but I just don't recall whether my testimony before the grand jury included that or not. It is possible that I did.

Q. You and Mr. Barber, at any rate, went down to North Point Street and endeavored to find this building, is that right?

A. Yes, we looked for it.

(Testimony of Mervyn Rathborne.)

Q. He looked for it, or you looked for it?

A. I looked for it. We both did. I was the one who knew where it was.

Q. Did you know what street it was near?

A. My recollection, as I have testified here, was it was just about across the street from the Ghirardelli's chocolate works. So I located the Ghirardelli's chocolate works and proceeded from there to relocate the place.

Q. Did you locate the building?

A. Yes, I did.

Q. What was the address?

A. That I don't recall. I think it was nine hundred something.

Q. What?

A. I think it was nine hundred and something, but I am not certain as to that point. [6700]

Q. What was the nearest intersecting street?

A. I don't know the name of that street that runs down to the waterfront—to the bay there. I know it is not very far from Van Ness, maybe a block or two.

Q. A block or two from what?

A. Van Ness. That is my recollection.

Q. What color building is it?

A. It is an apartment house, as I recall it. It is a brick building, has a brick front, or has some brick work on the front of it.

Q. Did you go into the building?

A. I went into the lobby, yes, sir.

(Testimony of Mervyn Rathborne.)

Q. Did you find the apartment at which you say these meetings took place?

A. I found what looked to me, as I recall seeing the apartment, yes, sir.

Q. Were you able to identify the name of a tenant or anything of that kind?

A. No, sir, there was nothing that I recall showing the occupancy of the place, that is, the name of anybody occupying it.

Q. Did you talk to the manager or anybody there to get a list of the people who had been tenants?

A. No, sir.

Q. Did Mr. Barber in your presence?

A. No sir—was he in my presence? [6701]

Q. I say, did he in your presence make any such inquiry?

A. I don't think any inquiry was made or we talked to anybody.

Q. Have you any information as to whether any inquiry has since been made?

A. I don't know about that.

Q. Or have you been furnished with any information as to who the person was who rented that apartment when those meetings took place?

A. I don't believe I have, no, sir.

Q. You can't remember now the name of the person who occupied the apartment.

A. I never knew it.

Q. I beg your pardon?

A. I never knew it.

Q. You never knew it? A. No, sir.

(Testimony of Mervyn Rathborne.)

Q. Who did you say used to call those meetings there?

A. The way it used to be, I believe Mr. Lambert had a key to the place, and we would meet him there. When we got there he was usually there. I never recalled meeting the occupants of the place or knowing who they were.

Q. You told us here today, or a day or two ago, about a meeting that took place in the Venetian Square Apartments in Long Beach.

A. That is right.

Q. Can you describe that apartment to [6702] us?

A. Well, that is a fairly large apartment house, I think four or five stories, and it is in Long Beach. It is about, oh, I would say roughly a half mile from the amusement area there in Long Beach. I believe they call it the Pike.

Q. What about the apartment in which this meeting took place which you described? What did it look like or what is the interior method of getting to it?

A. I don't recall all of the details of the apartment. After all, I have not seen it since 1936. But my recollection is there was a window that looked out on the ocean and there were some doors that opened into the hallway.

Q. Do you remember a winding stair that led up to it? A. I don't remember, no, sir.

Q. Have you seen that apartment house lately?

A. I saw that apartment house, oh, I think the

(Testimony of Mervyn Rathborne.)

last time I was in Los Angeles or the one before that.

Q. When were you last in Los Angeles?

A. On the President Madison.

Q. I beg your pardon?

A. When I was on the President Madison.

Q. How did you happen to see the apartment house then?

A. I went down with Mr. Barber to look for it.

Q. You went down with Mr. Barber to look for it? A. Yes, sir.

Q. And you found it? [6703]

A. Yes, sir, I found it. I was satisfied that that was the same place.

Q. Did he point it out to you as being the building?

A. No, he pointed out another place to me as the building he thought it was.

Q. Where did he say he had gotten the information that the other building was the one?

A. He didn't reveal that to me.

Q. He pointed out another building. How far away from this——

A. I believe it was in the same block.

Q. Another building in the same block, another apartment in the same block, he said he thought that was the building? A. That is right.

Q. Did he know the name of the person whose apartment you were supposed to have gone to for this meeting.

(Testimony of Mervyn Rathborne.)

A. No, sir. If he did, he didn't reveal it to me.

Q. Did you give it to him? Did you furnish him the name?

A. Just what name are you looking for now?

Q. The name of the person who rented the apartment or occupied the apartment in which you say that meeting took place in the Venetian Square Apartments.

A. My understanding at the time, the apartment was being occupied by Walter Lambert and Hazel Wood.

Q. Where did you get that information just before testifying here at the time you were talking to Mr. Barber? Did you [6704] remember that from your own recollection?

A. Yes, because I remembered kidding Walter Lambert about being in such a fancy layout there. At that time the officials of the Communist Party were getting something like ten or fifteen dollars a week and it was quite an elaborate setup he had there.

Q. You say that among the people that you put Mr. Barber onto was Mr. Krolek?

A. I didn't say that at all, Mr. Hallinan.

Q. Well, you say that you suggested to Mr. Kaiser after the grand jury hearing that Mr. Krolek might have some information that he could get, is that right?

A. Yes; I was discussing this very meeting with Mr. Kaiser.

(Testimony of Mervyn Rathborne.)

Q. Had you spoken to Mr. Krolek about that matter before then?

A. No, I had not, not in the last two years.

Q. Not in the last two years. Before telling Mr. Kaiser that Mr. Krolek might have some information on that meeting, you had not spoken to Mr. Krolek, is that right? A. No, sir, I had not.

Q. He is your brother-in-law, isn't he.

A. That is right.

Q. Did Mr. Kaiser say whether or not he had been speaking to Mr. Krolek?

A. At the time of this discussion, no.

Q. Now, you remember when Mr. Krolek was called before the [6705] Federal Bureau of Investigation in April of 1941, don't you.

A. I remember that quite clearly, yes..

Q. Mr. Krolek made a statement to you as to what had occurred on that occasion, didn't he?

A. He complained very bitterly about what occurred.

Q. Then you made a memorandum of it and handed it over to the ILWU, did you.

A. I may have. I believe I did. I know I advised somebody about it.

Q. Well, now, did Mr. Krolek state to you that agents of the FBI had visited him at work and had asked him to testify as a government witness at the Bridges deportation hearing?

A. I don't know if he used those exact words——

Q. I mean the substance of it.

(Testimony of Mervyn Rathborne.)

A. There was a conversation about that time along those lines.

Q. Did he tell you that he had informed the FBI that in his opinion he had no evidence to offer which would be of any value in the case, and that he told the FBI agents when they got in touch with him in November, 1940, he had given them the same answer and asked why they were conducting the examination? Did he tell you that?

A. I don't have any clear independent recollection of the conversation. I know I had a meeting with Mr. Krolek in which he discussed the fact that the FBI had contacted him, and what particularly sticks in my mind is that both he and his [6706] wife complained very bitterly about the treatment that they got from the FBI, the alleged [6706-A] intimidation.

Q. What did they say about that?

A. They alleged intimidation.

Q. Beg your pardon?

A. They claimed they were intimidated.

Q. In what way?

A. By being taken down to the FBI office late at night and being held there for some hours and questioned very sharply.

Q. Threatened?

A. Well, that was their statement, yes, sir.

Q. And intimidated?

A. That is what they said.

Q. And Krolek was very frightened, wasn't he?

A. Both of them were.

(Testimony of Mervyn Rathborne.)

Q. And when you went down to visit Krolek, Krolek hid in his room because he thought the FBI agents were coming again, isn't that right.

A. Well, I don't recall that instance, Mr. Hallinan.

Q. All right. Now, at that time Mr. Krolek stated to you he told the FBI agents he knew nothing whatever about Harry Bridges or any Communist affiliation or connections of his at all, did he?

A. Well, as I say, I don't clearly recollect all the details of that conversation, but there was a conversation with Mr. Krolek along the lines of his contact by the FBI and concerning Harry Bridges. Now, just what the details were, Mr. Hallinan, I can't [6707[recall at this time.

Q. Well, let me ask you this: Didn't Mr. Krolek tell you that on that occasion he told the FBI that he had never attended any Communist meeting with Harry Bridges?

A. Well, the answer—I would have to give you the same answer I have just given, Mr. Hallinan. I do not recall all the details of that conversation.

Q. Well, was it aproximately that?

A. I don't know. I really don't remember now as to that particular point. I have given you the part of the conversation that stands out in my mind.

Q. Well, would you see if hearing this recital now will refresh your recollection as to what Mr. Krolek said?

Mr. Donohue: If your Honor pleases, at this time I think I should object. Mr. Krolek testified

(Testimony of Mervyn Rathborne.)

as a witness. Mr. Hallinan had a full opportunity to cross-examine him——

Mr. Hallinan: He was questioned on these.

Mr. Donohue: ——as to what he said.

Mr. Hallinan: He was questioned on it.

Mr. Donohue: Any question that Mr. Rathborne may be asked as to what Mr. Krolek said would be purely hearsay from Mr. Rathborne, and I most respectfully say, if your Honor pleases, that as such hearsay, it is not admissible.

Mr. Hallinan: It has two purposes, of course, if the Court please. Krolek was questioned exactly on this same document, [6708] the exact questions put to him. Now, we are entitled to question this witness as to the responses that were made, and——

The Court: Well, Mr. Hallinan, this witness admits that he gave to someone shortly after conversation with Mr. Krolek a memorandum.

(To the Witness): That's correct, isn't it, sir?

The Witness: I made some kind of a report, your Honor.

The Court: All right. And that was provided to some person thus far unidentified. Now apparently this witness hasn't any quarrel with that memorandum.

Mr. Hallinan: That is all I ask. I only want to refresh his memory.

The Court: Show him the memorandum. If he hasn't a quarrel with it, all right; if he has, then take it up on that subject.

Mr. Hallinan: Well, I am going to hold this for

(Testimony of Mervyn Rathborne.)

a moment. I want to test the witness' recollection, your Honor, in addition to the matters of proving these facts. I want to find out what the witness remembers of these incidents. He testifies to incidents that happened a long time ago, and I want to find out by testing his recollection as to events that happened more closely.

Q. Let me ask you this, Mr. Rathborne: At any rate, Mr. Krolek stated to you he had been very much terrified by this episcde with the FBI, isn't that right? A. That's right. [6709]

Q. All right. He testified that they did try to intimidate him and terrified him, isn't that right?

A. He didn't testify to that; he told me.

Q. I mean, he told you that?

A. He told me that, what I have related here before, substantially.

Q. And he also told you, substantially, that he told the FBI that he knew nothing whatever that would be of any help to them in connection with determining whether or not Mr. Bridges was or was not a Communist, isn't that right?

Mr. Donohue: Just a moment, Mr. Rathborne. I renew my objection, if your Honor please, to anything that the witness Krolek may have said in the presence of Mr. Rathborne and not in the presence of Mr. Bridges.

Mr. Hallinan: This is what—I mean, this is what he said to Mr. Rathborne, not what he said to the FBI.

(Testimony of Mervyn Rathborne.)

Mr. Donohue: It is hearsay on the part of Mr. Rathborne.

The Court: It is, Mr. Hallinan. It comes within that objection. And whether or not you are attempting to test the credibility of Krolek or the recollection of the witness on the stand is not altogether clear in my mind. Now if you have any question directed to the recollection of events—time, place, circumstances, I will allow you, as I said, full latitude. But this is a sort of indirect way of testing the credibility of Krolek, as I see it, on the hearsay aspect. [6710]

Mr. Hallinan: Well, of course, this is not—what I am asking now is not what Krolek said to the FBI, but what Krolek told him he said to the FBI.

Mr. Donohue: And what probative value would that have?

The Court: How would that tend to prove anything?

Mr. Hallinan: Because Krolek was asked directly if he had stated these facts to Rathborne.

The Court: Krolek?

Mr. Hallinan: He was asked directly if he had.

The Court: Krolek, as I recall the testimony—I may be incorrect in this statement, but Krolek did testify on the stand that he did make some complaint to Rathborne.

Mr. Hallinan: That's right.

The Court: Concerning treatment accorded to him.

Mr. Hallinan: Yes.

(Testimony of Mervyn Rathborne.)

The Court: Now, whether or not the degree of treatment attaches the importance that Mr. Rathborne said it does is a matter of testimony. But I can't see that we can impugn the integrity of Krolek or add to the recollection of this man by that type of examination.

Mr. Hallinan: Well, it also goes, Your Honor, to the question of this witness' testimony now as to this Venetian Square apartment building.

The Court: How?

Mr. Hallinan: Because—well, of course, if we argue the [6711] thing out in the presence of the witness, we might just as well——

The Court: All right, I will allow you to proceed, but I can't see that it aids or proves or tends to prove any matter in the case.

Q. (By Mr. Hallinan): Now, you told Kaiser that Krolek could give him some information concerning this matter at the Venetian Square building, is that right?

A. I believe my statement was, we were discussing the meeting and who was there, and I believe he asked me if Krolek knew anything about it, and I said, "He certainly should; he was there." And that is about the substance of the conversation.

Q. You told him that Krolek was there?

A. Yes.

Q. Although you knew your brother-in-law was frightened and had been intimidated and bullied and third-degreed by these people, you still sicked

(Testimony of Mervyn Rathborne.)

them on to them as a potential witness to prove that fact, is that right?

A. That is not—I believe you are drawing a lot of conclusions there, Mr. Hallinan. I didn't say that at all.

Q. Is the $120 all you have been offered or promised in this case, the $120 a week?

A. I have testified as to that.

Q. No. I ask you, is that all you have been promised?

A. I haven't been promised a thing, Mr. Hallinan.

Q. Have you received any other amounts of money other than the [6712] $120 a week and the $34 a day while you were standing by for the grand jury.

A. What do you mean, received any other amount of money?

Q. Have you received any money from the government or through the government or from any of these agents?

A. No, sir, I have not.

Q. Did you have a thousand dollars in cash here a short while ago that you used in buying some property?

A. What do you mean by "a short while ago"?

Q. Well, within the last—since the grand jury met. A. No, sir, I have not.

Q. Now, is your wife being paid anything?

A. No, sir.

Q. She isn't a witness? A. No, sir.

(Testimony of Mervyn Rathborne.)

Q. And she isn't receiving any per diem?

A. No, sir.

Q. Did you know that Crouch's wife was a standby witness and getting $34 a day in addition to the $34 a day he was getting?

A. I never met Mr. Crouch or his wife, so the only knowledge I have about it is what I read in the newspapers in connection with this trial.

Q. Now, after Mr. Krolek, after you told Kaiser that Mr. Krolek was a potential witness for this meeting in the Venetian Square apartments did you talk to Mr. Krolek again? [6713]

A. No, sir, I did not.

Q. How long is it since you have talked to Mr. Krolek?

A. I believe last time I saw him was a year ago Christmas.

Q. A year ago Christmas? A. Yes, sir.

Q. Was any discussion had with him then about this case?

A. Not about this case. At that time he said, "Well, Merve, I am very glad to see that you finally got wise and got out of the party."

Q. Well, I don't want your testimony on that.

Mr. Donohue: I think, if Your Honor please——

Mr. Hallinan: Well, all right, let's hear about your getting wise.

Q. Yes, go ahead.

A. He said, "I am very glad to hear that you finally got wise, like I did, and got out of the party."

(Testimony of Mervyn Rathborne.)

Q. That's right. That is it. Now let me ask you this. When you were back in Washington with Mr. Donohue, did Mr. Donohue introduce you to any other people who could do you some good or forward your interests in the breakwater?

A. The only persons other than in social occasions that Mr. Donohue arranged introductions for was this lieutenant colonel that I told you about, over at Army Engineers.

Q. Now, did you remember the name of the expartner of Mr. Donohue's that you say he introduced you to? [6714] A. No, sir, I did not.

Q. You don't remember that yet?

A. As I say, my recollection of his present partner's name is Kaufman.

Q. Kaufman?

A. I believe that is his name. You should ask Mr. Donohue that.

Q. Did you go out to dinner with Mr. Kaufman?

A. I went out, I think, one day we had lunch—Mr. Donohue, Mr. —, this gentleman whom I believe is Mr. Kaufman and Mr. Donohue's former law partner.

Q. Did the former law partner come along, too?

A. I testified to that yesterday, Mr. Hallinan.

Q. What was his name, Milton Kronheim, Jr.?

A. I think that was it.

Q. Well, are you sure?

A. I am not certain.

Q. How long ago was that?

(Testimony of Mervyn Rathborne.)

A. That seems to ring a bell. I don't know about the Junior part.

Q. Do you hear bells ringing very often?

A. I was just using that as an expression, meaning——

Q. Oh, I see; excuse me.

A. ——you refreshed my memory.

Q. You were introduced to Mr. Milton Kronheim, Jr., went out to [6715] lunch with him?

A. I believe the record yesterday shows that I testified that I was in Mr. Donohue's office.

Q. No, I want to know what your recollection is now. Did you go out to lunch with him?

A. Yes, sir.

Q. All right. Well, now, were you told by Mr. Donohue that Mr. Milton Kronheim, Jr. is the son of Mr. Kronheim, Sr., who controls the liquor lobby in Washington? A. I was not.

Q. Were you told that? A. No, sir.

Mr. Donohue: Just a moment, Mr. Rathborne. May I ask your Honor to strike that question from the record?

Mr. Hallinan: I am entitled to show what inducements were made to this witness; I am entitled to question him about them. I am entitled to find what hopes and promises and illusions have been placed before him, and I don't care who the person involved is. I am entitled to find out about it.

The Court: Do you assert that he is interested in the liquor business?

Mr. Hallinan: Yes. Assert, Your Honor? He is

(Testimony of Mervyn Rathborne.)

the liquor lobbyist in charge of the liquor lobby in Washington.

The Court: No, do you assert that this witness is interested in the liquor business? [6716]

Mr. Hallinan: Oh, I think so. I have another question I want to ask about that.

The Court: All right, you may pursue it.

Mr. Hallinan: All right.

Q. Well, didn't Mr. Donohue tell you that Milton Kronheim, Jr. could get your breakwater like that? A. No, sir, he did not.

Q. Did Mr. Donohue tell you that Mr. Kronheim is his chief client? A. No, sir.

Q. He didn't mention him at all?

A. I will be very happy, if you want me to, to tell the entire incident about this gentleman whom I have——

Q. No, just tell me what he said about Milton Kronheim, Sr. A. He never mentioned him.

Q. Never mentioned him at all?

A. No, sir.

Q. Did you meet John Maragon while you were there? A. No, sir.

Q. Did Mr. Donohue tell you that he is an intimate of his? A. Who is John Maragon?

Q. He is the five percenter, the man who handles the bribes for getting government contracts. Don't you know who he is?

A. Is he the man that has been recently indicted for something or other? [6717]

Q. Yes, that is right.

(Testimony of Mervyn Rathborne.)

A. Yes, I have heard about him. I read about him.

Q. Did you meet him?

A. No, sir, I never met him.

Q. And in the period you were in Mr. Donohue's office did Mr. Maragon come in there?

A. I wouldn't know Mr. Maragon if he did.

Q. You weren't introduced to him, anyhow?

A. No, sir.

Q. Didn't have lunch with him?

A. No, sir.

Q. Did you meet Frankie Costello?

A. No, sir.

Q. Do you know who he is?

A. I have read about him in the newspapers.

Q. Well, did you read in the newspapers, in Mr. Drew Pearson's column, of the contract and tieup between Frankie Costello, Maragon, Kronheim and Mr. Donohue? A. I don't recall.

Q. You haven't read that?

A. I don't think—I believe I read an item in Mr. Pearson's column that made some reference to Mr. Donohue and somebody else, possibly Mr. Maragon, if my recollection serves me.

Q. Is that the column where it said that Mr. Bridges was entitled to a square deal and that it wasn't proper that Mr. "Jiggs" [6718] Donohue, with his alliance with the Maragon-Costello crowd, should be sent to prosecute Harry Bridges? Did you read that one?

A. I think if you will produce the column, Mr. Hallinan, it will speak for itself. I read a column

(Testimony of Mervyn Rathborne.)

in which Mr. Pearson mentioned Mr. Donohue's name and——

Q. In that connection?

A. And also mentioned Mr. Bridges' name.

Q. And in the connection that I have just stated, is that right?

A. I don't believe you are properly interpreting Mr. Pearson's column or properly quoting Mr. Pearson's column. I may be in error in that, but it doesn't seem that way to me.

Q. Say, who recommended to you to go and see Carey and Murray?

A. I did it on my own volition.

Q. Nobody mentioned it before that at all, is that right? A. No, sir.

Q. When you talked to Mr. Clark, did Mr. Clark suggest to you or did you have any discussion with Mr. Clark as to what would be the feelings of Carey and Murray on your testimony?

A. No, the only reference to that point made in the discussion with Mr. Clark, I asked him if Mr. Murray had any knowledge of it, and he said he didn't think so, and I said, "I am planning to see Mr. Murray."

Q. What did he say to that?

A. He said, "Go ahead." I mean, the matter then was whether the [6719] government's investigation should be made known to anybody, and I advised Mr. Clark I was going to discuss it with Mr. Murray so he would know about it.

(Testimony of Mervyn Rathborne.)

Q. Did you tell Mr. Clark when you were in his office then that as of that time, if not as of now, you stood convicted of a felony?

A. No, Mr. Barber had that information; the information was shown on the record there.

Q. At that time?

A. It is my recollection, yes, sir.

Q. And was it discussed in front of Mr. Clark?

A. No, sir.

Q. I beg your pardon? A. No, sir.

Q. When had you seen the information in Mr. Barber's possession?

A. I hadn't seen it in his possession. I didn't say that. I said he had the information.

Q. How do you know he had the information?

A. Because I told him.

Q. You told him? A. Yes, sir.

Q. When did you tell him?

A. I believe shortly before we went to Washington.

Q. How long before?

A. Oh, it would be a short time. [6720]

Q. All right. Did you tell him you had committed perjury before the Un-American Activities Committee?

A. I told him—I don't recall exactly when, but I told him.

Q. Did you tell him before you went to Washington?

A. I am not certain of that, Mr. Hallinan. I may have, and again I may not.

(Testimony of Mervyn Rathborne.)

Q. Well, can you give it a little thought now and let's see if you can't remember if you told that to Mr. Barber before you went to Washington?

A. It is my recollection that I told him on that plane going back to Washington, but I don't——

Q. On the plane going back to Washington you told him you had testified falsely on the thirteen or fourteen occasions you had been asked certain questions before the Un-American Activities Committee, is that correct?

A. Well, my recollection of the conversation was, I said, well, I had appeared before the Dies Committee and testified that I was not a Communist and some time about 1940, or something like that.

Q. Was that mentioned in front of Mr. Clark?

A. No, sir, it was not.

Q. Did you tell—had you told Mr. Barber at that time also that you had similarly testified falsely before the Tenney Committee?

A. Yes, I did. I mentioned both of them. [6721]

Q. And was that mentioned in front of Mr. Clark? A. No, sir.

Q. You are sure it wasn't?

A. I am positive.

Q. No discussion about it? A. No, sir.

Q. Now, when Mr. Barber and yourself appeared before Mr. Clark, Mr. Clark apparently had heard something about the Bridges matter before, from the conversation, is that right?

A. Well, he gave the impression of being—he said that the government was conducting an investigation.

Q. Yes?

A. And that this investigation—said in so many words that this investigation "convinces us he is a Communist."

Q. And you were introduced to Mr. Clark by Mr. Barber, is that right?

A. Either Mr. Barber or by Mr. Boyd; I forget which.

Q. And Mr. Clark said he had heard something about you before, is that right? A. Yes.

Q. And then I suppose you were praised to Mr. Clark by Mr. Barber and Mr. Boyd, is that right?

A. Not necessarily.

Q. But neither one of them in your presence told Mr. Clark that as of that time you stood convicted of a felony, did he? [6722] A. No, sir.

Q. And neither one of them told Mr. Clark as of that time that you were a perjurer, did they?

A. Not in my presence.

Q. And Mr. Clark told you then, you say, that without any help from you they had enough evidence to prove Mr. Bridges was a Communist, isn't that right?

A. I believe I stated before, and my recollection of it is this, that the government was conducting an investigation.

Q. That isn't what I asked you. I asked you this: You stated heretofore that Mr. Clark told you at that time that even without any help from

(Testimony of Mervyn Rathborne.)

you, they had enough information to prove that Harry Bridges was a Communist, isn't that right?

A. I don't recall him making such a statement.

Mr. Donohue: Just a moment, Mr. Rathborne. It does not properly state the testimony of the witness.

Mr. Hallinan: I will find it in the transcript.

Mr. Donohue: I have got the record here.

The Court: I suggest you read the transcript during the recess. We will take the recess at this time, ladies and gentlemen. The same admonition to you not to discuss the case.

(Recess.) [6723]

Q. (By Mr. Hallinan): Am I to understand you have given up your intention of going to sea any longer? A. No, sir, I have not.

Q. You have not. You stated that you asked Mr. Clark or you suggested to Mr. Clark that he not institute any contemplated proceedings against Harry Bridges while the maritime strike was on on the Pacific Coast, is that right?

A. That is generally correct, yes, sir.

Q. Because you said it would be interpreted as a labor-smashing device, is that right?

A. I said that it might be interpreted—that is my best recollection, that I said it might be interpreted by the union at that time as an attack on labor, yes, sir.

Q. At that time the ILWU was out on strike, is that correct? A. I believe it was.

(Testimony of Mervyn Rathborne.)

Q. You believe it was.

A. I think that was the period of the 1948 maritime strike.

Q. And then when the ILWU went out on strike that tied up the ships along the waterfront, is that right? A. These ships were tied up, yes.

Q. And that put your people, your union, in the position where it was not able to operate. They were not sailing on the ships?

A. Our members were not working the ships.

Q. They were being paid their wages, however, weren't they?

A. No, sir, they were not. [6724]

Q. At the time that the ILWU settled the strike——.

A. That last question—possibly some of them were held on standby pay. I wasn't being paid.

Q. At the time the ILWU settled its strike, representatives of your union came to the ILWU and to Harry Bridges and stated that they wanted some increase in wages and some improvement of their condition and asked the ILWU to hang on a while longer, is that right?

A. I have no knowledge of that, Mr. Hallinan.

Q. You do not know that at all?

A. No, sir. It could have happened. I am not denying it happened, but I just don't know.

Q. You say technically your union was not out on strike, is that right?

A. That is the position taken by the union, yes.

(Testimony of Mervyn Rathborne.)

Q. But actually your union did receive certain increases in pay; that is correct, isn't it?

A. I believe there were some benefits derived from the strike.

Q. And the way those benefits were derived from the strike was this—see if this is not correct—that the officers of your union were willing to return without any increase in pay, but a rank and file delegation from your union went up to the ILWU and asked Harry Bridges to induce or try to persuade the longshoremen to hold out until the radio operators could get some increase in pay? Do you remember if that is not so? [6725]

Mr. Donohue: I object, if your Honor please. This question is neither material, pertinent nor relevant.

Mr. Hallinan: I think it is all part of the subject that has been gone into.

The Court: You might answer it.

A. It is my recollection that I was present at a membership meeting where a committee was set up to call on Mr. Bridges or to call on the strike leaders, and I think Mr. Bridges' name was mentioned, to see what could be done for the settlement of the strike and get improvements for our membership, yes, sir.

Q. (By Mr. Hallinan): Although at that time your people were not out on strike? A. Yes.

Q. And the ILWU did hold out somewhat longer until the demands of the radio operators were met, isn't that right?

(Testimony of Mervyn Rathborne.)

A. I believe that is right. I just don't—I wasn't close enough to the picture at that time to really have too good information.

Q. See if this refreshes your recollection now. I have here the martime industries' agreement with the Waterfront Employers, the Pacific American Shipowners' Association, agreement between the American Communications Association, the Marine Division, giving the wage rate effective June 19, 1947. At that time what was your position?

A. 1947? [6726]

Q. Yes.

A. I was secretary-treasurer of the State CIO.

Q. No, I mean as far as being a radio operator is concerned.

A. My government license had expired by virtue of the fact that I didn't have any sea service for a number of years, so I had no radio operator's license.

Q. What did you go back in as?

A. As a radio operator. What did I go back into what? Where?

Q. Let us get this: Your radio license had expired when?

A. I believe in 1937, Mr. Hallinan.

Q. In 1937? A. That is my recollection.

Q. When did you get your license restored?

A. As I said, I went to this radio school early in 1948 here in San Francisco and took a brush-up course, refresher course, and then I went down to the Federal Communications Commission office on

(Testimony of Mervyn Rathborne.)

Battery Street, the Customs House there, and took an examination, theoretical, technical, code examination, and successfully passed on that examination; shortly after that I was issued a license.

Q. When did you get that license?

A. I believe in either January or February 1948.

Q. January or February 1948?

A. Yes, very shortly after I left the CIO, yes, sir.

Q. Did you have to sign any affidavit that you had never been a [6727] member of any subversive organization?

A. No, sir, not that I recall. I think it was——

Q. Did you have to sign an affidavit that you had never been convicted of a felony?

A. No, sir.

Q. Are you sure?

A. My recollection of the form I signed there was merely the date born, name, previous experience, and so on and so forth.

Q. When you started back to work what position did you have? What type of vessel were you on?

A. I was on what is known as a C-3 freighter, passenger freighter; that is, it carried twelve passengers.

Q. A C-3 freighter? A. Yes, sir.

Q. How many radio officers were on that boat?

A. One.

Q. So your rate of pay at that time was $282.70 a month, isn't that right.

A. I don't exactly recall what the base pay was,

(Testimony of Mervyn Rathborne.)

Mr. Hallinan. It was in that neighborhood. My recollection is it was around $300 a month, but I may be wrong.

Q. Would you mind showing him the top line on that? The top line has the amount set out.

A. I believe that was the base pay.

Q. Show him this one, please, the top line also. Might I see them again? Now, this refreshes your recollection that when you [6728] returned, after leaving the CIO, that you started in with a base rate of $282.70 a month; that is correct, isn't it?

A. I believe that is right.

Q. After this strike, this maritime strike that you have discussed with Mr. Clark, your base pay was $323.41, is that right?

A. I believe that is correct in those documents, yes sir.

Q. And then all the other radio operators had received corresponding increases in pay, is that right? A. I believe that is correct, yes.

Q. And furthermore, they had received overtime adjustments and other improvements in working conditions, is that right?

A. My recollection is there was a wage increase and a slight increase in the overtime pay, and I think there was some extra overtime for keeping batteries or something like that.

Q. So at any rate, you got approximately $38 a month more as a result of the ILWU strike, this maritime strike, isn't that right? A. Yes.

(Testimony of Mervyn Rathborne.)

Q. A month?

A. After the strike these improvements were in effect.

Q. Were put in?

A. Were put in effect and came as a result of the strike.

Q. Is that the same pay that you were earning when you left the ship in July of 1949.

A. I would like to state that the $323 or whatever it is is [6729] not the entire pay, because you get paid overtime, percentage, you see. You get a war bonus out beyond the 180th meridian, $2.50 a day, and there is a number of other provisions where there is quite a bit of overtime. So it amounts to considerably more than the base pay.

Q. Let us get to this. I take it you return an income tax each year, do you? A. Oh, yes.

Q. Do you keep a record of your pay for that purpose? A. I do, yes.

Q. How much did you earn as a radio operator in the year 1948?

A. I am not certain, Mr. Hallinan. I have not looked at the record for a long time.

Q. How many months did you work?

A. Well, I worked from March until the strike. How many months would that be? The strike started when?

Q. Were you continuously employed from March until the strike?

A. No, I took a trip off, I believe. My recollection is this: I made two trips and then I took a

(Testimony of Mervyn Rathborne.)

trip off, and during that trip off I took—the strike took place.

Q. What do you mean by a trip off?

A. Under our union regulations a man permanently assigned to a ship is permitted to take—what they call take a trip off; in other words, have the union put a relief man on the ship for one trip, and then when the trip is over go back to the ship. [6730]

Q. Have you ever been in Honolulu?

A. Yes, I have been in Honolulu lots of times.

Q. Did you ever make any observations or notice what the working conditions were in the Islands?

A. I never—the last time I was in Honolulu was 1945, and prior to that time I think it was 1935, and prior to that I think it was 1924 or 1925.

Q. You knew, did you not, that the working conditions in the Islands were pretty feudal?

A. Oh, yes, I knew the setup of the Hawaiian Islands was pretty much of a feudal setup.

Q. People terribly underpaid and overworked?

Mr. Donohue: I object to this line of inquiry, if Your Honor please. It is going far afield.

Mr. Hallinan: It is preliminary to a question.

The Court: Sustained.

Q. (By Mr. Hallinan): Let me ask you this: You asked Mr. Clark or you suggested to Mr. Clark that he not file any proceedings against Mr. Bridges while the maritime strike was on because it would look like a labor-smashing device. Now, at the time

(Testimony of Mervyn Rathborne.)

you testified before the grand jury the big Hawaiian strike was on, wasn't it?

A. I believe that is right.

Q. And a big warehouse strike was on here in San Francisco, wasn't it? [6731]

A. I believe that is correct, yes sir.

Q. And Mr. Schmidt you knew had charge of the Hawaiian strike, isn't that right—Henry Schmidt? A. I beg your pardon?

Q. You knew that Henry Schmidt had charge of the Hawaiian strike, didn't you?

A. I don't know whether I did or I did [6731-A] not.

Q. Did you know that Bob Robertson had charge of the warehouse strike?

A. I thought the officers of that union had charge of it, the local union.

Q. Yes. But he was handling—one man ordinarily handles such a strike, doesn't he? Acts as an overseer, and——

A. I wouldn't say so in a democratic union.

Q. Well, did you know that Mr. Robertson was a very, very active man in the strike, then? Let's put it that way.

A. I mean, it would be a presumption on my part that the unions being on strike, why, naturally, the international officers concern themselves with it.

Q. And did you have any understanding or belief that Harry Bridges was vitally interested in both strikes?

A. Well, it would be natural to assume that,

(Testimony of Mervyn Rathborne.)

and I didn't have any direct information about it, but——

Q. And that he was going back to the Hawaiian Islands and back here to San Francisco, and working very vigorously on the strike? Did you know that?

A. Excuse me (coughing). My knowledge of those strikes, Mr. Hallinan, was what I read in the newspapers.

Q. Yes? A. And——

Q. But you saw that, at any rate, didn't you?

A. Yes, it was in the newspapers about the strike, and in those [6732] items it mentioned particularly about Mr. Bridges.

Q. And you knew that the Big Five in Hawaii and their representatives in the United States Congress and every place else were charging Harry Bridges with being a red czar and the strike a Communist strike, and an attempt of the Communists to take over the Islands; you knew that, didn't you?

A. Again I will just have to say that generally what appeared in the newspapers that I read. I had information on it, because I read the papers. Now, some of those things you say I don't recall having any direct knowledge of them. I knew there was a battle on between the employers in Hawaii and the ILWU, and a strike.

Q. That was typical stuff on strike-breaking, wasn't it, yelling "Reds" and "Communists," and

(Testimony of Mervyn Rathborne.)

dragging the red herring out? That was a typical strike-breaking thing, wasn't it?

Mr. Donohue: I object, if Your Honor pleases. I think we certainly ought——

Mr. Hallinan: Withdraw that question. All right, let's get this.

Q. Now, did you ever read this statement in the paper?

Mr. Donohue: I object, if Your Honor pleases, whether he read it in the paper or not.

The Court: Let us find out. Ask him.

Q. (By Mr. Hallinan, reading):

> "Hawaii is the only spot at the present time where our domestic Communist problem is serious. We may have to [6733] take some drastic action there. But I think that the case against Harry Bridges (president of the leftist CIO International Longshoremen's Union, who is under indictment for perjury) has already been of some help in the Hawaii situation. If we are successful in our prosecution of Bridges, as I am certain we will be, it may be we can break the Hawaiian situation without any other intervention."

Did you read of any United States cabinet member making that statement?

Mr. Donohue: I object to the question, if Your Honor pleases.

Mr. Hallinan: That is preliminary to this gentleman's——

Mr. Donohue: Mr. Hallinan may remember that Mr. Bridges denied that he was correctly quoted——

Mr. Hallinan: All right, maybe——

Mr. Donohue: In several papers in the city of Seattle.

Mr. Hallinan: Well, we will give you that chance, to meet these implications.

Mr. Donohue: Mr. Hallinan knows, if Your Honor please, that long before this trial ever began, the same question which Mr. Hallinan now asks of this witness was raised preliminarily before this Court and the matter was ruled out.

Mr. Hallinan: Oh, that's a lot of nonsense, Your Honor. This goes to the statement that this man says—about his desire to see that the maritime strike wasn't damaged. I want to show [6734] that this gentleman was actively out to help smash the strike, that that was part of the program for which he was employed. Now, let's not be mealymouthed about it. I want to find out what he has got to say about this one question.

Mr. Donohue: If Your Honor pleases, I object to the question on the grounds stated.

The Court: This question is taken from the text of a newspaper?

Mr. Hallinan: Yes, Your Honor. I want to see——

The Court: You asked—— I was interrupted. You asked this witness whether or not——

Mr. Hallinan: If he read that statement in a newspaper.

(Testimony of Mervyn Rathborne.)

The Court: If he read it in a newspaper?

Mr. Hallinan: Yes.

The Court: Then you intend to follow that?

Mr. Hallinan: Yes.

The Court: All right, you may go ahead.

Q. (By Mr. Hallinan): Did you?

A. Did I what?

Q. Read that statement.

A. I don't recall having read that statement.

Q. You know perfectly well, do you not, that that is the statement there that Tom Clark, the Attorney General of the United States, made at that time? Don't you know that?

Mr. Donohue: I object, if Your Honor pleases. There is [6735] no evidence that Tom Clark or any other Clark ever made that statement.

Mr. Hallinan: Well, here's your evidence.

The Court: The objection is sustained.

Mr. Hallinan: Let me see. Ask him if this refreshes his recollection (handing to Clerk).

Mr. Donohue: Mr. Hallinan has been told time and time again that you can not——

Mr. Hallinan: I pay no attention to what you say.

Mr. Donohue: I quite understand that.

Mr. Hallinan: Will you show him the part that has been marked (document handed to witness by the Clerk).

Mr. Donohue: He has been told by the Court time and time again that you can not prove a fact by a statement in a newspaper.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: I haven't been told that. I don't try to prove facts by statements in newspapers.

Mr. Donohue: You try, but not too well.

Mr. Hallinan: You just get all gummed up. You don't know what is going on around here.

Q. Read the paragraph that is marked.

Mr. Donohue: I object to his reading it.

The Court: The objection is sustained. He may read it to himself.

Mr. Hallinan: Yes, I only wanted him to read it to himself. [6736]

The Witness: I have read that part you marked.

Q. (By Mr. Hallinan): You have read it now, haven't you? A. Yes.

Q. All right. Now, does that refresh your recollection that Clark said that at the time this indictment was returned? A. No, sir, it does not.

Q. It does not?

A. I have never read the Milwaukee Journal before, Mr. Hallinan.

Q. Well, it was cited in the local papers. Didn't you read it here?

A. I don't recall having read it here, no, sir.

Q. Well, did it appeal to you that——

Mr. Hallinan: Might I have the paper again? (Returned to counsel by the Clerk.)

Q. Did it appeal to you that the indictment of Harry Bridges at that time would have the exact result that you say you warned Mr. Clark not to ~~bring about by starting anything while the maritime~~ strike was on?

(Testimony of Mervyn Rathborne.)

A. Well, as I understand it, the situation was this, that the grand jury proceedings had been arranged for long before either the Hawaiian strike or the warehouse strike had broken or had come into effect. That is the—I mean, apparently you are trying to indicate that the grand jury proceedings were called to break the strike of the longshoremen in Hawaii and in the warehouses, and it is my recollection that the hearings before [6737] the grand jury had been decided upon before that time.

Q. Yes. That was in May, and when did the strike start? A. I don't know.

Q. Well, it started before that, didn't it? The strike was on when you were here before the grand jury, isn't that right?

Mr. Donohue: If Your Honor pleases, as long as Mr. Hallinan is testifying, I think I should say to Your Honor that the record shows the Hawaiian strike began on the 1st of May, the San Francisco warehouse strike on the 16th of June, and that I came to California for the purpose of presenting the evidence to this grand jury in April.

Mr. Hallinan: Well, we won't accept your statement to that. You didn't know what you were doing when you came out here.

Q. At any rate, on June 27, Monday, June 27, was the date that Mr. Clark made a statement, the statement I just read; the Hawaiian strike started May 1st, and on June 27th Mr. Clark made that statement. Moreover, before these strikes take place, there is always a considerable period of discussion back and forth and attempts to settle them in advance, isn't that right?

A. That is the general procedure, yes.

Q. Yes. And in April when this gentleman came out here to do his strike-busting, they were already contemplating the strike in Hawaii and arbitrating to settle it in advance, isn't that right?

A. I don't know, because I was at sea, and I didn't have much [6738] access to news information then.

Mr. MacInnis: Pardon me. May I interrupt a moment?

The Court: Yes.

Mr. MacInnis: Lest there be some misconception of the matter that distracted Your Honor's attention a moment ago——

The Court: Well, there is none.

Mr. MacInnis: Well, there is a man sitting directly behind Mr. Robertson who keeps talking in his ear.

The Court: Counsel, there is no occasion for——

Mr. MacInnis: Well, there is. Now, I think that while every person who is a member of the public has a right to come here, no one has a right to talk into the ears of any person at either counsel table and I think some admonition to that effect should be given.

The Court: Well, you are very courteous in directing my attention to that, Mr. MacInnis, and

(Testimony of Mervyn Rathborne.)

I was only momentarily distracted by that. Apparently the reason for the distraction has subsided. Unless you indicate otherwise, I see no need for any action at this time. In the event you say otherwise, we may take the matter up at the noon recess and deal with it appropriately at that time.

Mr. MacInnis: I don't know who he is; he keeps talking, and I think his remarks, I have reason to believe his remarks are of an unfriendly nature.

The Court: It is very gracious of you to take it up with [6739] the Court, because I was momentarily distracted during the examination of Mr. Hallinan. I would suggest that we ~~take~~ the matter up at noon if it is of a sufficiently serious nature. We might take it up then.

Mr. MacInnis: I think a general admonition to the courtroom would be sufficient.

The Court: I will say this, Mr. MacInnis: Thus far in this courtroom I think we have had excellent decorum concerning the spectators, during the period that our friend Mr. Mitchell was the clerk here, and I hope and expect that will be the case likewise during the tenure of Mr. Schaeffer; that we will have no demonstration of any kind. It has been a happy privilege for me as a judge to sit in a case of this magnitude, wherein attention has been drawn, as it has, and to see the fine behavior of the spectators in the courtroom. If there has been any momentary discord, I will hear it at noontime. If it approaches the dignity of that which should be dealt with or that deserves my attention, I will hear it then.

Mr. MacInnis: I doubt if it approaches that. If Your Honor would instruct the public generally, I think that is all that would be needed.

The Court: I think they have heeded my advice, and that is my suggestion. They need no suggestion on my part. They behave beautifully.

Mr. MacInnis: I merely wanted to make it clear that Mr. [6740] Robertson was not starting a dispute.

The Court: That goes equally with the members of the laboring groups out in the corridors. I see them out here. They behave there and behave in this courtroom. It is a compliment to them.

Q. (By Mr. Hallinan): Now, Mr. Rathborne, by the time you had dealt with these government people for a while, you arrived at the conclusion that Harry Bridges wasn't even entitled to a fair trial, isn't that right?

Mr. Donohue: I object to the question, if Your Honor pleases.

Mr. Hallinan: It goes to his state of mind. He is an adverse witness.

Mr. Donohue: It is argumentative.

The Court: Overruled; he may answer.

A. I don't see—certainly not.

Q. Certainly not. You thought he was entitled to a fair trial, is that right? A. Absolutely.

Q. Now, at the time of the indictment or shortly after the indictment, what was your conception as to your position? Did you consider that you were an employee of the government at that time or that you were just a witness?

A. My conception of my position all along has been that I am appearing here as a witness, voluntarily, because I think it is [6741] a right thing to do.

Q. Wanting to be fair to both sides, is that right? A. That's right.

Q. All right. Now, for months before your appearance before the grand jury you had been giving the United States agents and the Immigration agents and Mr. Donohue, and all of these people, all the information that you had on the subject of Harry Bridges and his alleged affiliation with Communists, isn't that right?

A. I believe we covered that very well yesterday, Mr. Hallinan, and as to you questioning me in considerable detail as to different times and events; and my answers yesterday are——

Q. Well, your answer, then, would be "yes," that you had given them all that information, is that right?

A. Well, your statement now is somewhat different from your questions yesterday. That is why I said that.

Q. Well, but, is my statement substantially correct that up to the time you had testified before the grand jury you had answered at least all the questions addressed to you by any person connected

(Testimony of **Mervyn Rathborne.**)

with the prosecution as to any matters concerning which you testified before the grand jury?

A. Up to that time, yes, sir, that is substantially correct.

A. All right. Now, after you testified before the grand jury, a couple of gentlemen representing Mr. Bridges went down to see you to find out what you had testified to, isn't that right? [6742]

A. That's right.

Q. Did you know George Andersen prior to that time? A. Yes, sir, I did.

Q. Were you friendly with him?

A. Yes, sir.

Q. Had he ever done you any wrong or harm?

A. No, sir.

Q. How about Mr. Herbert Resner?

A. Same thing applies.

Q. And those two gentlemen went down to see you to ask you to please disclose to the defense what had been the nature of your testimony before the grand jury, isn't that right?

A. That is the general—another gentleman was along, Mr. Watson, too.

Q. Mr. Watson, yes. He is the editor of The Dispatcher, the ILWU paper?

A. That's right.

Q. You were friendly with him?

A. Yes, sir.

Q. Never had any quarrel with him?

A. That's right.

Q. He had always treated you decently?

A. That's right.

(Testimony of Mervyn Rathborne.)

Q. All right. Now, these three gentlemen went down to see you and tried to discover from you what was the nature of the [6743] testimony that was being offered before the grand jury against Mr. Bridges, isn't that so? A. That's right.

Q. And you knew that the government was bringing in witnesses like Ross and Schomaker and putting them on and spiriting them away, so that nobody could find out what they had to say? You knew that, didn't you?

A. I knew that the government was taking precautions to keep the testimony and who appeared before the grand jury from public knowledge.

Q. Secret? A. Yes, sir.

Q. And to keep it from the defendants?

A. Well, certainly.

Q. Yes. Do you think that is fair?

Mr. Donohue: Oh, I object, if Your Honor pleases.

Mr. Hallinan: It goes to a state of mind of the witness.

The Court: Overruled.

A. Well, as I understand it, Mr. Hallinan, at least I was told——

Q. Will you please answer that one question?

A. ——it was the customary procedure by which federal grand juries operate. Now, that's—— [6744]

Q. I asked you: Do you think that is fair?

A. As part of our judicial system I think such inquiries are fair, yes.

Q. You think it is? A. Yes.

(Testimony of Mervyn Rathborne.)

Q. You stated to a reporter for the San Francisco News on the 31st of May that the two attorneys and Mr. Watson pleaded with you to tell them what you had testified to before the Federal grand jury about Mr. Bridges, and you refused to tell them, isn't that right? A. That is right.

Q. Then you told a reporter of the Chronicle that you told Mr. Andersen and Mr. Resner that you did not want to discuss any phase of the case, that they could draw any conclusions that they liked, did you?

A. That is substantially what I told them.

Q. You told them it was a friendly chat, and you poured a beer, "but upwards of thirty times Rathborne said Andersen and Resner took turns in veering the talk back to Bridges." And what was it Rathborne had said to Bridges? "They clearly indicated, Rathborne said, they wanted him to supply what he told the grand jury, but just as persistently Rathborne veered them back to chitchat about the weather, and that is as far as the excursion into that phase of the case got." Did you tell them that?

A. That is substantially correct. [6745]

Q. So when these men came down there to find out what this was all about, you veered it back into chitchat about the weather, is that correct?

A. I believe I told them something else, too. I believe I told them I had taken an oath before the grand jury not to reveal any of the evidence there.

(Testimony of Mervyn Rathborne.)

Q. That you had taken such an oath?

A. Yes, sir.

Q. And that oath was a fake, too, wasn't it?

A. I didn't consider it was a fake. It was given to me by——

Q. By whom?

A. By somebody in the grand jury room.

Q. Didn't Mr. Andersen and Mr. Resner tell you such an oath had no binding force and that neither the grand jury nor Donohue nor anybody else had any right to impose such an oath upon witnesses?

A. I believe they said that was their opinion.

Q. They told you that, and you checked up with Mr. Donohue and found out that was true, didn't you? A. No, sir, I never did.

Q. With whom did you check up?

A. I don't think I checked with anybody. I inquired, I said, "I was told this, I was told that I was bound to keep secret what I had testified before the grand jury."

Q. Who told you that? [6746]

A. I believe it was Mr. Barber. I am not sure. It might have been Mr. Donohue now. I am not certain now. One of those two gentlemen did.

Q. When Mr. Andersen, Mr. Resner and Mr. Watson went down to see you, you told them that you had taken an oath not to reveal what you told before the grand jury?

A. That is my recollection.

(Testimony of Mervyn Rathborne.)

Q. You did not tell that to the reporters for the papers, did you?

A. I believe I did. I am not certain of that now.

Q. Well, don't you remember that you just said this, that you told them, "I don't want to discuss any phase of the case. You can draw any conclusions you like"?

A. I also made that statement, too. I recall making that statement.

Q. And didn't you make the statement that you veered them back to chitchat about the weather? Did you tell them that?

A. I believe I told them substantially that, yes.

Q. Did you know, did you read that Mr. Donohue had said in the columns of the same paper that it was the intention of the prosecution to surprise the defendants?

A. I don't know whether—I don't recall whether I read such a statement or not.

Q. I beg your pardon?

A. I don't recall that I read such a statement made by Mr. [6747] Donohue at that particular time or not. I may have, and then again I may not have. I just don't recollect.

Q. Will you give that a little thought? Don't you remember Mr. Donohue said in the papers about that same time, "We intend to surprise the defendants"?

A. The best answer I can give you, Mr. Hallinan, is I may have or I may have not. I haven't any clear recollection of reading that specific thing.

(Testimony of Mervyn Rathborne.)

Q. Aside from reading that, you knew, however, it was the prosecution's intention to surprise the defendants, didn't you?

A. Well, I knew it was the prosecution's intention to carry on these proceedings with as much secrecy as they could do it, but I also knew the persons involved were aware of what was going on, because they had stated so publicly.

Q. They were aware that there was an investigation going on, but they didn't know what anyone was testifying to, isn't that correct? Isn't that what Mr. Andersen and Mr. Resner told you?

A. I don't think they told me that. They told me they wanted to find out what I had testified to.

Q. By surprising the defendants, by the prosecution surprising the defendants, you understand that means blackjacking the defendants or stabbing them in the back, don't you?

A. I wouldn't interpret the word "surprise"—I don't define it that way, no, sir.

Q. Have you read of any of the surprises that they subsequently [6748] sprang on the defendants?

A. I don't quite understand your question.

Q. Did you read about people who were brought out here and who testified before the grand jury and then immediately left the State of California and did not reappear until the trial, so nobody knew what they were going to testify to or anything about them?

A. I read such comment in the press.

Q. And then you learned, did you, about Mr.

(Testimony of Mervyn Rathborne.)

Crouch and Mr. Manning Johnson committing perjury on the witness stand here? You heard that, didn't you?

A. I read the accounts after—of that incident that you refer to in the newspapers.

Q. And you read the account of Mr. Ross committing perjury on the witness stand, didn't you?

A. Yes, sir.

Q. But you were willing to make yourself part of a little conspiracy of secrecy against these men that had been your friends, is that right?

A. That is not a correct statement, no, sir. I made my position clear when I testified before the grand jury. I made a public statement on what my position was.

Q. You never said a single thing about what you were testifying before the grand jury, did you?

A. I didn't reveal any of my testimony, [6749] no, sir.

Q. You did not say one word as to any fact or circumstance that you had testified to pretending or intending to connect Harry Bridges with any Communist Party, did you?

A. At that time I don't believe I did, no. However, it was not secret. It is a matter of public knowledge. It was in the press.

Q. It was in the press that the prosecution had indicted Mr. Bridges for testifying falsely as to his connection with the Communist Party and membership, but ou did not read anything in the

(Testimony of Mervyn Rathborne.)

public press as to what any one single witness had testified in that connection, did you?

A. No, I don't recall. I don't think any of that testimony was made available.

Q. Even the names of witnesses, except for yourself and Schomaker, were not included in the press notices, were they?

A. I think a number of the names were included.

Q. Who? Who do you remember was included in the press notices?

A. I think Sam Darcy's name was mentioned.

Q. He was not a witness, was he?

A. I don't know whether he was a witness before the grand jury or not. You asked me whose name was mentioned in connection with that.

Q. Sam Darcy——

A. That is my best recollection.

Q. Who else was disclosed in the papers as having testified? [6750]

A. I believe Henry Schrimpf's name was mentioned in the newspapers, if I remember correctly. I think Henry made a public statement after he testified before the grand jury.

Q. I don't think so. Do you remember that pretty clearly?

A. That is my recollection. I made some comment on it that Henry came right up to the grand jury chambers, walked out, and talked with the newspaper reporters after he had testified. That is my recollection.

(Testimony of Mervyn Rathborne.)

Q. Anybody else?

A. That is all I can recall, Mr. Hallinan. I think there were four or five. I think there was some mention of George Wilson's name, but I am not certain of that.

Q. Then when these gentlemen went down and talked to you as you have testified, you refused to give them any information whatsoever?

A. That is correct.

Q. As to what the nature of your testimony had been? A. That is right.

Q. Didn't give them any writing or suggestion of any kind? A. That is right.

Q. Did not tell them whether you had testified that Mr. Bridges had some connection with or membership in the Communist Party or whether he had not?

A. I just testified I wouldn't give them any information at all, so obviously I didn't tell them that. [6751]

Q. You thought that was fair? You think that is a fair way of handling a case, do you?

A. Yes. I had taken a position and I was sticking with it. I think our legal procedure in this country is generally a fair and proper procedure.

Q. If you were in the position of the defendants you would think it fair to have people brought in without giving you an opportunity of knowing what they were talking about, what they had to say, or even who they were, is that right?

(Testimony of Mervyn Rathborne.)

A. That is the process by which a grand jury works, as I understand.

Q. I just found that out. All right. Now, let me ask you this: In addition to refusing to give these gentlemen any information, you immediately ran to the prosecution to tell them they had been down to interview you, didn't you?

A. No, I did not. As a matter of fact, the first person I told about it was the reporter from the San Francisco Chronicle. They called me up and wanted to know what was doing, and I said I had some visitors this afternoon, or this evening, it was, and gave them the incident.

Q. Told them what they said?

A. I made it a point to tell them it was a friendly visit, and so forth.

Q. That you poured a beer?

A. Yes. [6752]

Q. Veered the chitchat back to the weather?

A. We have gone over that, Mr. Hallinan.

Q. I say, you told the reporters that, did you?

A. I issued a statement, or I mean I gave them information.

Q. A press release?

A. Well, I didn't give them a press release. I gave them information over the telephone on the lines of that statement that you read.

Q. Did you call up the reporters or did they call you up?

A. No, they called me up.

Q. Which reporter? The reporter of what paper?

(Testimony of Mervyn Rathborne.)

A. It was a fellow with a Swedish name from the Chronicle—no, he came down to my house. Eric——

Q. Von Stroheim? A. No.

Q. He came down to your house, the gentleman from the Chronicle, and you told him about the meeting with Messrs. Andersen, Resner and Watson? A. That is right.

Q. And you told them what you had said and what they had said? A. Yes.

Q. Fully and completely?

A. Yes, I discussed it. I don't know whether I told them every word, but I gave him the facts as I understood them.

Q. And then did you tell the same thing to other reporters on [6753] the same day?

A. Yes. My recollection is that this visit down to my house by this reporter—Nielsen, I think his name is, Eric Nielsen, is my recollection—was the day following the call on me, the evening call by Mr. Resner, Mr. Andersen and Mr. Watson.

Q. He just happened to drop down?

A. Well, at that particular time, if you will recall, I had issued a statement just shortly before that regarding my position, a public statement, and there was naturally—apparently the press was——

Q. You were a big shot.

A. They were interested in it, and this fellow came down to ask me some questions.

Q. So you told him all about it. Now, how did

(Testimony of Mervyn Rathborne.)

you happen to tell the other papers? Did you then call the other papers and tell them?

A. No, they called me.

Q. They called you also? A. Yes.

Q. And you told them all about this?

A. I told them, as I say, substantially what is in that paper.

Q. You didn't keep anything a secret from them?

A. I didn't tell them anything about what I testified before the grand jury.

Q. No, but you told them the conversation between Andersen and [6754] Resner; you did not keep any of that secret?

A. I had no reason to.

Q. And then you popped up before the grand jury and told the story of what you had said to Mr. Andersen and Mr. Resner before the grand jury, did you?

A. I didn't pop up there. I was requested to appear before the grand jury by Mr. Donohue, and I related to them what had happened.

Q. And you came up and told the grand jury that, did you? A. I told them of the visit.

Q. How did you happen to discuss the matter with Mr. Donohue?

A. I believe I saw Mr. Donohue and Mr. Barber some time the next day, or maybe they read it in the papers. I think they did. They read it in the Chronicle, about this visit, and they called me and

(Testimony of Mervyn Rathborne.)

asked me about it—they asked me. I wouldn't say they called me.

Q. They asked you about the visit they read in the paper. And then what happened?

A. Then, as I recall, the Attorney General made the statement about alleged intimidation of Government witnesses or something like that, and I was asked to appear before the grand jury.

Q. Well, Mr. Andersen or Mr. Resner or Mr. Watson made no effort to intimidate you, did they?

A. I made that very, very clear to the newspapermen, to the grand jury, to Mr. Donohue and everybody else, that in my [6755] judgment it was a friendly visit with no undue pressure or any method that could be remotely construed as intimidation.

Q. They came down and begged you to tell them? That is about what it amounted to?

A. That is about what it amounted to, yes.

Q. The statement you are talking about was not the Attorney General's; it was Mr. Donohue's, and you added in the Examiner this little gem: "Donohue, taking his first official cognizance of the visit of Bridges' attorneys, George Andersen and Herbert Resner with Government witness Mervyn Rathborne last Saturday night announced that 'the United States Government is prepared with every resource at its command to detect quickly and to punish severely any person or persons who may interfere with in any manner or to any degree molest any of its witnesses who have given or may be called upon to give testimony.'" Do you remember that that was the statement?

A. I recall such a statement. I was proceeding in error. I thought it came from Washington. Maybe I was wrong. It was my recollection the Attorney General made a statement on it, too.

The Court: We will take the noon recess, ladies and gentlemen, and resume at 2:15, 15 minutes past two o'clock this afternoon. The same admonition not to discuss the case under any conditions or circumstances or to form an opinion thereon.

(Thereupon a recess was taken until 2:00 p.m. this date.) [6756]

Thursday, March 2, 1950, 2:15 o'Clock P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

MERVYN RATHBORNE

resumed the stand.

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. When the attorneys for Messrs. Andersen and Resner, accompanied by Mr. Watson, called upon you, they wanted to know two things, did they not: one, what was the nature of your testimony before the grand jury; and, two, what was

(Testimony of Mervyn Rathborne.)

behind the resumption of the prosecution against Mr. Bridges. Is that right?

A. I believe that's right, yes, sir.

Q. All right. In other words, they asked you in addition to what you had testified to, whether or not you knew anything as to why this old persecution had been brought up again at this time.

A. I believe that they asked that. I am not—I don't recall the entire conversation.

Q. Now, you didn't tell them, you wouldn't tell them, you didn't tell them either, about your visit to Messrs. Carey, Curran and Tommy Ray, did you?

A. No, sir.

Q. You didn't tell them about your visit to Clark?

A. The only thing I told them, I believe you made the statement [6757] there.

Q. Well, now, you hadn't taken any oath not to tell them about your visit to Curran, Ray, Carey and what's the other—Murray, had you?

A. No, I hadn't.

Q. You hadn't taken any oath not to tell them about your visit to Clark or your dealings with the agents, had you? A. No, sir, I had not.

Q. You said that the reason you wouldn't give them any information is that you had taken an oath before the grand jury not to?

A. I don't believe I said that. I said the reason I didn't give them any information concerning my testimony to the grand jury was for that reason. If I recall, that is what I said.

(Testimony of Mervyn Rathborne.)

Q. You didn't give any reason for not giving any information on the other subject, did you?

A. No, I just declined to discuss the whole thing with them.

Q. In other words, Philip Murray, James Carey, Joe Curran, Tommy Ray, all bitter enemies of Harry Bridges, had engaged in a slimy conspiracy to get him; you were part of it and you wouldn't warn him, would you?

Mr. Donohue: I object to the question, if Your Honor please.

The Court: Sustained.

Mr. Hallinan: I think it goes to his state of mind. You mean the form of the question, Your Honor, or the content? [6758]]

The Court: The form, Mr. Hallinan.

Mr. Hallinan: All right, very well.

Q. All right, you have testified heretofore, and you knew that Ray and Curran were bitter enemies of Harry Bridges, weren't they?

A. I don't believe I gave such testimony. I don't think so.

Q. Well, is that something you didn't know?

A. I don't think I said anything about Tommy Ray.

Q. Well, what about it now?

A. Who are you referring to? Ray, Curran or both of them?

Q. Yes, Ray and Curran, first.

A. As far as I know, there are disagreements between Curran and Mr. Bridges.

(Testimony of Mervyn Rathborne.)

Q. Would you call a murder a disagreement?

A. Well, I wouldn't call a murder a disagreement, no, sir.

Q. Well, how deep do you consider the disagreement, as you put it, between Curran and Harry Bridges to be?

A. Well, it is a considerable degree, I would say.

Q. Yes. In other words, Curran hates Bridges, doesn't he?

A. I don't think his disagreement extends that far, to actual hatred.

Q. And Ray, Thomas Ray—you know Bridges had him thrown out of a convention in 1948 as being a stool pigeon and a fink, didn't you?

A. I don't—never heard of that. [6759]

Q. Never heard that? Did Ray tell you?

A. 1948?

Q. Yes. A. No, sir.

Q. Did Ray tell you that?

A. No, sir, he did not.

Q. Did he tell you that any incident of that kind occurred at any time?

A. That is the first I have heard of it, as you are mentioning it here now.

Q. Now, as far as Carey and Murray is concerned, Carey and Murray are concerned, you know that there is a great hatred now between Carey and Murray and Mr. Bridges, don't you?

A. As far as Mr. Murray's attitude is concerned, I certainly would not characterize is as a great hatred.

(Testimony of Mervyn Rathborne.)

Q. Just a determination to get Mr. Bridges' out of the ILWU, isn't it?

A. A dislike; it is a dislike on Mr. Murray's part.

Q. A very active dislike. Now, although you had been a friend of Mr. Bridges for many years, he befriended you, he never had done you any wrong or any harm, you didn't let him know that this manipulation of Carey, Murray, Curran and Raye was going on, did you?

A. Well, in the first place, Mr. Hallinan, it was not a manipulation. I went to see these people of my own volition and my [6760] own motivation. I sought them out; they didn't seek me out.

Q. All right. So you didn't tell——

A. I went to them to get the benefit of whatever advice they cared to give me.

Q. But you didn't tell Mr. Bridges that that was behind the prosecution either, did you?

A. I don't understand your question.

Q. You didn't tell the lawyers when they went down to see you anything on that subject, did you?

A. No, sir, I did not.

Q. You weren't under any oath not to tell that, were you? A. That's right.

Q. All right. So far as the oath is concerned, you say that Mr. Andersen and Mr. Resner told you that such an oath is not binding, that the grand jury or the district attorney has no power to administer such an oath, didn't they?

A. They said that was their opinion, yes.

(Testimony of Mervyn Rathborne.)

Q. And then you checked up on that afterwards with Mr. Barber, didn't you?

A. I discussed it with him.

Q. And Mr. Barber told you that as a matter of fact the oath was not binding, didn't he?

A. He never told me any such thing.

Q. Well, what did he tell you?

A. I think—I don't think he explained the thing at all. He [6761] said, "Well, you took an oath and you are not supposed to talk about it." That is all, or words to that effect.

Q. Have you since verified that such an oath is not binding?

A. I have not, no, sir; I don't know.

Q. All right. Now, after we entered the case, and just some two or three weeks before the trial, we sent a young man down to see you, former lieutenant in the Army Intelligence, named Harold Lipsit. Do you remember him? A. I do.

Q. All right. Now, that was long after Messrs. Andersen and Resner had been down there?

A. Yes, sir.

Q. And you refused to give Mr. Lipsit any information, didn't you? A. Yes, I did.

Q. Did you notify the attorneys for the prosecution that Mr. Lipsit had called upon you?

A. Yes, I told Mr. Barber he had been down to see me.

Q. Now, you say you went in and testified before the grand jury concerning Mr. Andersen, Resner and Watson calling upon you, isn't that right?

(Testimony of Mervyn Rathborne.)

A. I was requested to do that and I did.

Q. Who requested you to do so?

A. I believe Mr. Donohue did.

Q. What were you trying, to get these people indicted? [6762]

A. No, sir. As I recall it, I believe Mr. Donohue told me that the Attorney General had called him, and to make a complete investigation of the case and report it to him, or words to that effect. And Mr. Donohue asked me to go before the grand jury and state what happened and I did, and that was it.

Q. What did he tell you, that he just wanted to terrify anybody from finding out what the case was against these defendants?

A. He said he wanted the facts produced. He wanted the grand. jury to know what happened. That is all.

Q. And you noticed the press releases that went out at that time that were read to you this morning?

A. You read a statement you had by Mr. Donohue this morning.

Q. Now, how long have you known Harry Bridges? A. Since 1935.

Q. Do you know his wife?

A. Yes, I have met her.

Q. His children?

A. No, sir, I know his oldest girl.

Q. His wife and yours have been friendly? Have they visited or met each other?

A. I believe they have.

(Testimony of Mervyn Rathborne.)

Q. How long have you known Rob Robertson?

A. I think from 1937. I am not certain as to the first time——

Q. Do you know his wife Laura?

A. I have met her. I won't say I know her. I mean—— [6763]

Q. Has he always treated you with friendliness, courtesy and kindness?

A. I have no—yes.

Q. Do you know Henry Schmidt? A. Yes.

Q. Do you know his daughter?

A. I may have met her.

Q. Do you know his wife?

A. No, I don't know his wife. I may have met her, but either one I wouldn't know.

Q. And he has always treated you with kindness and friendship, has he not? A. That is right.

Q. I beg your pardon? A. That is right.

Q. And Harry Bridges—when you would go off on occasional drunks he would cover up for you at the CIO, wouldn't he?

A. That is not true. I mean, there was no occasion for him to cover up.

Q. Do you know a young woman named Jean Murray? A. Yes, sir, I do.

Q. How long have you known her?

A. I think I first met her during the war. I am not certain of that.

Q. Can you tell us what year? [6764]

A. No, I can't. I can tell you the circumstances more or less, though.

(Testimony of Mervyn Rathborne.)

Q. Tell us the time approximately.

A. The best recollection I have is during the war, Mr. Hallinan, some time during this last war.

Q. Can you tell us the early part, the middle, or the late part?

A. Well, my recollection is probably about the middle. I am not positive about it.

Q. What year would you say? 1942, '3, '4—what?

A. My recollection is probably about 1944.

Q. 1944? A. I am not sure of that.

Q. And you say the circumstances under which you met her——

A. I recall that—I believe the warehousemen in Oakland were putting on a dance or something like that, and she was selling advertising for the program for the warehousemen's dance, and she did a very good job of that, and as a result of that I recommended her to Mr. Irvine to do advertising work for the Labor Herald.

Q. And did she do that?

A. I believe she did. It is my recollection that she worked for a while.

Q. And did you become acquainted with her?

A. Yes, I became acquainted with her. [6765]

Q. Did you ever visit her home?

A. On one or two occasions, yes, sir.

Q. Did you ever accompany her any place, to any place of entertainment, meals, or anything of that kind?

A. I think there was one year when I was in

Sacramento representing the State CIO up there that we had dinner together.

Q. Just once?

A. I believe there was another occasion in Sacramento and also—I can't recall—there may have been a number of occasions in Sacramento when we had dinner.

Q. What year was that?

A. My recollection would be 1944, but I am not at all certain of it.

Q. What were you doing in Sacramento at that time?

A. I was the legislative representative for the State CIO.

Q. How long were you up there?

A. I was up there during the sessions of the Legislature. I used to go up there every year when the Legislature was in session.

Q. How long did you stay up there altogether in that year?

A. Well, in the first place, I am not certain as to the year, but I stayed up there during the period of the Legislature, or a large part of the period of the Legislature, which was a matter of months. That is, I didn't stay there continuously. I would sometimes go up there on Monday morning and come back on [6766] a Friday night. Sometimes I would make two or three trips from Sacramento to San Francisco during the week.

Q. How many months did it consume?

A. I think the Legislature——

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**TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES**

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume XIV
(Pages 6247 to 6742)

**PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record
In 17 Volumes
Volume XIV
(Pages 6247 to 6742)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

(Testimony of Mervyn Rathborne.)

Q. I beg your pardon?

A. I attended, oh, eight or ten sessions of the Legislature up there, both special and regular, and my memory is not clear enough on each one as to know the exact time that they convened and adjourned, but the regular sessions were, as I recall them, some time in January and would adjourn some time in the summer, some time in June, I believe. And special sessions of the Legislature were usually for shorter periods of time. So I am not sure as to the exact period of time.

Q. What was her occupation at that time?

A. I don't know what she was doing at that particular time. I believe she was working in Sacramento for some legislative committee. That is my recollection, but I am not at all certain about it.

Q. Do you know hat kind of work she did?

A. I believe she did stenographic work.

Q. Did you know what her approximate age was?

Mr. Donohue: I think it is time to object, if your Honor please. I do not see possibly what the age of some woman whom he knew was to do with the issues in this case.

Mr. Hallinan: Well, we get all kinds of history in there [6767] of everything everybody does from the cradle to the grave, and I think this lady's age might be of some relevancy.

Mr. Donohue: I renew the objection, if your Honor please.

The Court: I will overrule the objection at this time.

(Testimony of Mervyn Rathborne.)

A. Are you referring to her age at that time?

Mr. Hallinan: Yes. What is her age approximately at the present time, if you know?

A. I would say in her thirties.

Q. How old are you, Mr. Rathborne, again?

A. Forty-five.

Q. During the time that you attended this legislative session in Sacramento, you say you went out on numerous occasions with this young lady to dinner, and so forth, is that right?

A. I wouldn't say numerous.

Q. How many times all together?

A. Well, on all the times—I am not now just referring to the one session of the Legislature but all the times I probably went out with her were four or five times.

Q. Only four or five times all together?

A. Yes.

Q. And you visited her apartment on occasion, did you? A. No, sir.

Q. Neither in Sacramento nor elsewhere?

A. I did here in San Francisco on two or three occasions, yes, sir. [6768]

Q. Now, your relations with her were always friendly? A. Yes, sir.

Q. She treated you courteously and kindly, did she? A. Yes, sir.

Q. Was your friend? A. That is right.

Q. Tried to advise you and help you out in every way she could?

A. My friendship with her was not to the degree where I discussed things that I needed advice on.

Q. When you were in trouble or difficulty didn't you go to this young lady and tell her your troubles?

A. No, sir.

Q. Never?

A. I don't recall any such event.

Q. Now, you know a young lady named Betty Texeira? A. Yes, sir.

Q. When did you first meet her?

A. I can't recall exactly. I think it was possibly 1940 or 1941, around in there.

Q. Under what circumstances did you meet her?

A. She for a considerable period of time was employed by the State CIO as one of the legislative representatives in Sacramento.

Q. And over what period of years did you know Mrs. Texeira?

A. Well, from the time she—I met her before she came to work [6769] for the CIO and became acquainted with both her and her husband.

Q. What is his name?

A. His name at that time was Mr. Green.

Q. What was his occupation then?

A. He was a supervisor here in San Francisco.

Q. You knew both her and her husband, is that right? A. That is right.

Q. Then she and her husband were divorced, is that right? A. I believe they were, yes.

Q. And she has remarried to a man named Texeira? A. That is my understanding.

Q. Do you know?

A. I have met him, yes.

Q. What is his first name, do you know?

A. I don't recall, Mr. Hallinan. I don't know that I ever knew it, as a matter of fact.

Q. In the interim between the two marriages did you get to know Betty Texeira pretty well?

A. Well, as I explained to you, she went to work for the State CIO as a legislative representative, I think in 1944 or 1945. I am not certain again as to the year. And during sessions of the Legislature she would go to Sacramento representing our organization.

Q. Then you would see her on these occasions?

A. Frequently, yes, sir. [6770]

Q. Did she work with you on any such matters?

A. Oh, a large number of matters.

Q. For how many years?

A. Probably two or three years.

Q. Had you been accustomed on occasion to visit her in her home, in her apartment?

A. I think I was—during that period I think I was at her home once.

Q. Did you take her out to dinner or places of amusement?

A. Well, we used to frequently have breakfast together, and after committee hearings we would go out and have dinner together sometimes.

Q. Do you know what her approximate age is?

A. I would say she is also probably in her early thirties.

Q. When had you last seen either of these young

(Testimony of Mervyn Rathborne.)

ladies before you testified before the grand jury?

A. I think I saw the first one, Miss Murray, a few days before that.

Q. A few days before you testified?

A. Yes, sir.

Q. Where? A. In San Francisco.

Q. At what address?

A. I don't know the address. It was on Geary Street.

Q. Whose place was it? [6771]

A. It was her place.

Q. It was her apartment, wasn't it?

A. Yes, sir. When I returned from the trip on the Madison I called up a number of people that I had known, told them I was back and would like to see them, and she was one of the people I called at that particular time.

Q. So you called her up and made an appointment to come up and see her; that is correct, isn't it?

A. That is right.

Q. You called her at her apartment on Geary Street? A. That is right.

Q. And you had a conversation with here there?

A. That is right.

Q. Did you have any discussion with her then about this case? A. No, sir.

Q. Did you have any conversation with her about your appearance before the grand jury or that you intended to appear before the grand jury?

~~A. No, sir, I did not.~~

(Testimony of Mervyn Rathborne.)

Q. Not at that time. It was just a friendly call that you made upon her, is that so?

A. She invited me to lunch, I accepted her invitation and had lunch with her.

Q. In her apartment?

A. That is right. [6772]

Q. Anybody else present?

A. Not at the time. During the time I was there another young man dropped in. I forget what his name was. A friend of hers, apparently, a neighbor.

Q. Did you call her again after you testified before the grand jury?

A. Not to my recollection, no, sir; I don't recall.

Q. Do you know anything about dictagraphing?

A. Dictagraphing?

Q. Yes. A. No, sir.

Q. You have never set up a dictagraph?

A. No.

Q. Have you ever been dictagraphed yourself?

A. I don't know—you mean—I have seen a dictagraph machine, if that is what you mean.

Q. Have you heard your own voice read off from one of them? A. No, sir.

Q. About what time of day did you get to Miss Murray's apartment?

A. I believe it was around noon.

Q. It was about 1:45 in the afternoon, wasn't it?

A. It might have been. I am not sure.

Q. You had a cocktail and you had lunch, isn't that right? A. That is right. [6773]

(Testimony of Mervyn Rathborne.)

Q. But you had already testified before the grand jury, hadn't you?

A. I am not certain as to that date, Mr. Hallinan. It was about the time I testified before the grand jury.

Q. Now, you had some lunch and after lunch you had a conversation with Miss Murray on the subject of your testimony before the grand jury, didn't you?

A. I don't recall any such conversation. I had a conversation with her. I remember talking about Communism with her and my present attitude or my attitude at that time toward Communism and the Communist Party.

Q. Was she a member of the Communist Party, so far as you knew?

A. I believe she was not at that particular time.

Q. But she had been?

A. That is my understanding, yes.

Q. How about Mrs. Texeira?

A. I don't know about that. I don't know if she was ever a member or not.

Q. Now, your name had been in the paper already as far as it being announced that you were going to be a witness before the grand jury, is that right?

A. I have told you, Mr. Hallinan, my recollection is not clear on the point. It was around the time that I testified before the grand jury.

Q. Well, now, did you have in part this conversation with Miss [6774] Murray on that occasion

(Testimony of Mervyn Rathborne.)

in her apartment on Geary Street, where Miss Murray said to you:

> "Mervyn, why are you cutting off all your friends with such lies? You know Harry Bridges never joined the Party."

And you answered:

> "Well, maybe he never was in the Party as a member, but he certainly went along with men that may have been. I honestly consider him a Communist."

Did you say that?

A. I don't recall any such statement, no, sir.

Q. Would you say that that was not said?

A. I say I don't recall any such statement as that.

Q. What is your present impression as to whether anything to that effect was said?

A. I don't believe it was.

Q. You don't believe it was? A. No, sir.

Q. And you only had one visit at her apartment, is that right? A. That is right.

Q. Do you remember that Miss Murray said, "Well, they said that about Roosevelt. I can't understand what makes you become a traitor. Why did you sell yourself and to whom?"

And you answered, "I didn't sell myself. It was the right thing to do. I did the right thing and I will prove it to you." [6775]

And Miss Murray said, "What is your angle, Mervyn? Why are you doing this? Are you afraid to work for a living? It is like those Christmas

(Testimony of Mervyn Rathborne.)

eve sailings we used to talk about when the men had to work. But you never had to work on Christmas eve with the men. What are you trying to do, build a bankroll?"

And you answered, "You don't understand. If you had a home you would think differently. If you were in business you would know what I am up against. It is too tough. The pressure is too great. I have nothing against Bridges personally, but the Government against him this time is big."

Did you say that to her?

A. That—I am sure that I did not.

Q. You are sure you did not?

A. I am certain I did not.

Q. Did she say to you, "What do you mean by 'It isn't personal'? It must be terribly political, then."

And you answered, "Well, I am doing the right thing. You would see the right, too, if you would talk to the right kind of people."

Miss Murray said, "You mean talking to Government agents?"

You answered, "No, not only to Government agents. The national CIO had to make a decision on Bridges."

Did you tell her that?

A. I might have discussed the matter of the—that doesn't [6776] sound like my language at all. I might have discussed the national CIO with her and its attitude toward Mr. Bridges. [6776-A]

(Testimony of Mervyn Rathborne.)

Q. And its attitude toward Mr. Bridges?

A. Yes.

Q. Now, did she say this: "I know all about Philip Murray and Reuther and the squeeze play they are trying to work against the ILWU, but Mervyn, you know Harry Bridges was never foolish enough to join the Communist Party," and you answered, "I never testified he joined the Communist Party."

A. I don't recall that conversation, Mr. Hallinan.

Q. Well, did you tell Mrs. Murray in any sort of words that you didn't know whether or not Harry Bridges ever had joined the Communist Party?

A. I don't recollect any such conversation, no, sir.

Q. You don't recollect whether you said it or not?

A. That's right. I remember discussing Mr. Bridges to some extent there, and when I talked to her, but I don't recollect any such statement.

Q. Well, do you remember Mrs. Murray telling you that she knew that he had never joined the Communist Party? A. No, sir, I did not.

Q. You don't remember that either?

A. No, sir.

Q. Were you sober when you were there?

A. Yes, sir.

Q. Did you have anything to drink at her apartment?

(Testimony of Mervyn Rathborne.)

A. I think we had one or two cocktails before lunch. [6777]

Q. Had you had anything to drink before you got there? A. No, sir, I had not.

Q. Now, did you speak this way to her, did you say, "I didn't tell any lies to anybody. Everybody I have talked to says I am doing the patriotic thing." Did you say that to her?

A. I may have; I don't recall it, though, but I may have said it.

Q. Now, did she ask you this—didn't she say, "Mervyn, you know you are being a traitor to everything real in your life. However were you talked into doing this? Who bought you?" And you said, "I haven't gotten any money. All I want is the right to get along in the world." She said, "You don't have to get money. You probably have a promise from Philip Murray of a big job with the rightwing CIO. How about that, Mervyn? You told me when you shipped out an FBI agent sailed with you." Remember that?

A. No, sir, I don't.

Q. All right. Did any member of the Immigration Department board the ship at Manila?

A. No, sir.

Q. Or at any port where you stopped?

A. In San Francisco, yes, sir.

Q. But only at San Francisco?

A. Yes, sir.

Q. Did any agent of the Immigration Department come out on the [6778] sloop that meets the

(Testimony of Mervyn Rathborne.)

ships; the pilot sloop, or at any port that you stopped at on any of those trips?

A. There may have been Immigration agents coming out to take care of the——

Q. No, I mean one who spoke to you.

A. No, sir.

Q. You are sure of that?

A. I am positive.

Q. You never told Miss Murray so?

A. I don't ever recall telling her so.

Q. Now, did you tell her this, that you would be back in the CIO some day and she would see you do the right thing, that she shouldn't worry about Bridges and ILWU, that people don't have a chance these days, that the monopolies have everything so sewed up that you have to play ball, they are really going to get Bridges this time, "The only thing I can do is play ball with that part of the labor movement that wants to keep the old system going."

A. Certainly I never made such a statement as that.

Q. You didn't, huh? Now, did you tell her this, "Jean, they are going to get Bridges this time whether I go along with them or not."

A. I don't think so; I don't recall that.

Q. Well, did you tell her that you had received information that they were able to prove a case against Bridges without [6779] your help?

A. No, what I discussed with her very largely,

(Testimony of Mervyn Rathborne.)

Mr. Hallinan, she wanted to know my reasons, for either going or testifying or going to testify. And we discussed that. That was the main burden of the discussion.

Q. Well, what was said?

A. I told her my reasons.

Q. What did you tell her?

A. I told her that I thought that the Communist Party was harmful to American labor. That has been my—I finally reached that conviction. I thought, although I hated to contemplate it, that there was going to be trouble between this country and the Soviet Union, and that the Communists in this country would act in behalf of the Soviet Union in case that trouble took place. I told her I thought that Mr. Bridges made a very serious mistake in sticking along with the Communists, that he should have broken with them, and that I was not in sympathy with him in that respect, although I had no quarrel with him personally.

Q. What did you mean by "breaking with the Communists"?

A. Well, that is what I said, breaking with the Communists.

Q. Was that the expression you used?

A. It might not have been the exact expression, but it implies I——

Q. Well, what did Miss Murray say about that?

A. She said she thought I was wrong. She said she thought I [6780] would lose many friends, that

(Testimony of Mervyn Rathborne.)

I was making a very serious mistake and words to that effect.

Q. What else did she say?

A. I think that was the—now, what I have just said are not her words. I mean, that is the impression she conveyed to me. And I think that was the general theme of her discussion during the time I was there.

Q. Did she use any expression such as "treason" or "traitor" to the working class?

A. No, I believe she said I would be looked on by many of my former friends as a stool pigeon.

Q. Did she use the word "traitor"?

A. I don't recall, Mr. Hallinan. She may have, she may have not.

Q. Did she ask you what you had testified to?

A. I am not certain because I don't recall whether that incident took place before or after my appearance before the grand jury.

Q. Well, did you tell her what you were going to testify to about Harry Bridges?

A. No, sir, I did not.

Q. Did she ask you?

A. She may have and she may have not. I am not certain on that point.

Q. Did she ask you if you were going to testify that Harry Bridges had ever been a member of the Communist Party? [6781]

A. I don't recollect any such question.

Q. Did she tell you that you knew that he never

(Testimony of Mervyn Rathborne.)

had been? I say, whether that is true or not, did she say that to you?

A. I don't recall whether she did or whether she didn't, Mr. Hallinan.

Q. Did you have any argument with her other than the things you have already said here?

A. Yes, I had an argument with her to the extent that she was trying to prevail upon me not to embark upon this course of action or not to follow it, and that I said I was going to do it. And we argued about that for some time. She explained reasons why she thought I shouldn't.

Q. What reasons did she give you, what did she say?

A. Well, as I have related here, my best recollection is that she thought it was the wrong thing, she said she thought it would be harmful to the labor movement and that it was not the right thing to do.

Q. What did she say, how it would affect yourself, according to her judgment?

A. I don't—she said that I would lose a lot of friends. I remember that statement.

Q. Was she speaking to you in a kindly way, a friendly way, trying to persuade you out of the course you were embarking on?

A. To a certain extent, yes. She was, I would say, angry.

Q. But you didn't tell her either—if the conversation took [6782] place after your grand jury

(Testimony of Mervyn Rathborne.)

testimony, you didn't tell her what you had testified to; if it took place before your testimony, you didn't tell her what you were going to testify to, is that correct?

A. It is my recollection that I didn't discuss my direct testimony with her, yes, sir.

Q. She asked you, though, is that right?

A. She may have, but I am not certain.

Q. Don't you remember that she said, don't you remember that this took place, that she said that if you had testified before the grand jury that Harry Bridges was a member of the Communist Party, that that would be a lie and you said you didn't tell any lies, you didn't say Harry was a member of the Communist Party, you just answered the questions put to you?

A. I don't recall any such conversation as that.

Q. Think it might have occurred?

A. I just don't recall. My recollection would be that it didn't occur, but I just don't recall it.

Q. Did you have any discussion with her in which she handed you some money?

A. No, sir.

Q. Some small amount of money?

A. No, sir.

Q. Didn't she give you thirty dimes and tell you that that was the classic price for treason? [6783]

A. No, sir, she did not.

Q. She didn't do that? A. She did not.

Q. Didn't hand you thirty dimes and tell you that the labor movement owed you that?

(Testimony of Mervyn Rathborne.)

A. She did not.

Q. You are sure? A. I am certain of that.

Q. Did you remember the name of the young man who came in there while you were there?

A. No, I didn't, sir.

Q. How long were you there?

A. I guess for two or three hours. I don't recall exactly how long it was.

Q. It was in the early evening when you left, wasn't it?

A. My recollection is it was probably around 4:30 or 5:00 o'clock.

Q. All right. Now, when did you next meet Mrs. Murray?

A. I next met her in Half Moon Bay.

Q. When?

A. Some time in December, last December.

Q. And was she with anybody else?

A. Yes.

Q. Who?

A. Pardon me a minute, will you, please? [6784] (Coughing.)

Q. Whom was she with when you met her at Half Moon Bay?

A. She was with Mrs. Texeira.

Q. And do you remember what date that was?

A. About the middle of December, my recollection is, Mr. Hallinan.

Q. All right. And how long prior to that had you last met Mrs. Texeira?

A. I met her at a Democratic luncheon over in

(Testimony of Mervyn Rathborne.)

San Mateo, I guess approximately a year before; I am not certain. It was——

Q. About a year before. Did she live some place down in San Mateo County, do you know, at that time?

A. I believe she did. I met her there with her husband at this luncheon and that is the time I saw her before.

Q. So under what circumstances did you meet these two ladies at Half Moon Bay that day?

A. In the evening, I think it was around—well, it was just before the time my wife was ready to get dinner, the telephone rang and my wife answered it, and the person at the other end said, "This is Betty Texeira," and she wanted to speak to me. So I spoke to her. She said she would like to see me.

Q. Had your wife known Mrs. Texeira before?

A. Yes, sir.

Q. All right. So what happened?

A. So I made an appointment to see her at the restaurant nearby. [6785]

Q. What restaurant?

A. Place called Dominick's.

Q. You told her you would meet her at Downey's, is it? A. Dominick's.

Q. Dominick's? A. Yes, sir.

Q. How far away from your home is that?

A. About a block.

Q. Did you come to the phone and answer the phone when—— A. I did.

Q. ——she said she wanted to talk to you and you told her you would meet her at Dominick's, is that right? A. That's right.

Q. All right. So then did you go to Dominick's?

A. I did.

Q. How did you get there, walk or drive?

A. Walked.

Q. Walked over. And was Mrs. Texeira there?

A. She was.

Q. Who was with her? A. Nobody.

Q. She was alone? A. Yes.

Q. All right. And was she in the building, in Dominick's?

A. My recollection is that she was waiting for me in front of [6786] the place.

Q. All right. And did you have a conversation with her then? A. We went inside.

Q. And sat down? A. Sat down.

Q. Have something to drink?

A. That's right.

Q. All right. And will you tell us what the conversation was with her?

A. She said she had come down to see me. She wanted to talk to me. And she asked me a considerable number of questions.

Q. What?

A. Well, was I going to testify in the Bridges case, and what were my reasons for taking this position that I would testify and——

Q. Did she ask you what your testimony had been before the grand jury?

A. I don't recall that she did.

Q. Did she ask you what your testimony was going to be on the trial?

A. I don't think she asked for any details about it.

Q. Well, didn't she ask you generally what you had testified to?

A. I don't recall that she asked that particular question, no, sir.

Q. You say she asked your reasons for [6787] appearing? A. That's right.

Q. Did you tell her what your reasons were?

A. I did.

Q. Did you tell her you had met Mr. Carey, had a message from Phil Murray, had talked to Mr. Curran and Mr. Ray? A. I told her——

Q. Or did you give her this general patriotic bunk that you have been talking about?

Mr. Donohue: I object, if your Honor please, and ask your Honor to strike the remark.

The Court: Sustained. It may be stricken.

A. My recollection is that I told her that I had talked to the national officials of the CIO. I don't know whether I named them or not. Now, I am not sure.

Q. You told her you had talked to the national officials of the CIO? A. That's right.

Q. You don't remember whether you named them or not? A. That's right.

Q. How long did the conversation with her take place, how long did it last?

(Testimony of Mervyn Rathborne.)

A. Oh, in that particular place it took place for, oh, I would say, 20 or 30 minutes.

Q. All right. Now, did she ask you what you had testified to before the grand jury? [6788]

A. Mr. Hallinan, I am not certain whether she did or whether she didn't. I just don't have any recollection of such a question.

Q. If she did, did you tell her?

A. No, I didn't tell her; I know that.

Q. Now, did you tell her the details of what Curran, Raye, Murray and Carey had said to you?

A. My recollection is that I made some statement along the lines that I have contacted the national officials of the CIO and as far as they are concerned, they do not consider the Bridges case an attack on labor, or on the CIO. That is my recollection of the extent of my discussion with her on that particular subject.

Q. That was all that was said? A. Yes.

Q. Now, did you also give her some other reasons why you were testifying? A. I did.

Q. The same ones that you have said that you gave Mrs. Murray? A. That's right.

Q. This cold war turning into a hot war, et cetera? A. That's right.

Q. Is that right? A. That's right.

Q. All right. And however, your recollection is definite that [6789] nothing was said as to the nature of the testimony you were going to give or had given?

A. I am reasonably certain, yes, sir. I don't——

Q. And are you reasonably certain that she didn't ask you?

A. I don't recall discussing any facts about what I was going to testify to, or if I had said this or hadn't said that. But it was generally a discussing regarding my reasons for testifying and her dislike for it. That was the general——

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition to you, not to discuss the case under any conditions nor to form an opinion until it is submitted to you.

(Recess.) [6790]

Q. (By Mr. Hallinan): Have you talked this matter over with anybody during the recess?

A. Not in any detail. I talked to Mr. Kaiser during the recess.

Q. Get a few suggestions?

A. No, sir, I did not.

Q. What the continuance of your testimony would be? A. No, sir.

Q. No corrections of any kind?

A. No, sir.

Q. Any little cream and sugar jokes to throw around? A. No, sir, not today.

Q. Now, you have told us the substance of what occurred in the conversations between you and Mrs. Texeira in Dominick's, is that right?

A. As I recall them.

(Testimony of Mervyn Rathborne.)

Q. And then did you go elsewhere with that lady?

A. Yes, she said Miss Murray was sitting out in an automobile and would like to see me and would I go out to talk to her. [6790-A]

Q. Was that the first time you knew Miss Murray was in an automobile?

A. When she told me, yes, sir. I mean, during the conversation.

Q. Where was the automobile stopped?

A. It was parked right across the street.

Q. From Dominick's? A. Yes, sir.

Q. Was it the only car on the block at the time?

A. It was parked out on the corner there. I don't recall whether in that particular block there were other cars or not.

Q. Was it parked right close to Dominick's?

A. Right across the street.

Q. Right across the street? A. Yes, sir.

Q. When you first saw Mrs. Texeira she was standing in front of Dominick's, is that right?

A. That is right.

Q. Did you observe the car at that time?

A. I don't believe I did. It was a rainy night and was dark, and I didn't observe the car. I may have noticed it, but if I did, I didn't attach any particular significance to it.

Q. You hadn't noticed whether Miss Murray was in it or not? A. No, sir.

Q. Then after Mrs. Texeira had finished her conversation with [6791] you, you say she asked you to step out and see Miss Murray?

A. That's right.

Q. Then what did you do?

A. I went across the street and we got—the three of us got in the front seat of a car. It was a rather small car; it was crowded.

Q. How were you seated?

A. My recollection is I was seated on the side closest to the curb and that Miss Murray was next to me and Mrs. Texeira was on the side toward the road.

Q. What conversation took place now from the time you first got there until you left?

A. Mrs. Texeira related substantially in Miss Murray's presence the questions she asked me in Dominick's and the answers that I had given, and then there was some other discussion along the same general line.

Q. What was the discussion?

A. Well, about my testifying in this proceeding, about how they thought I was making a serious mistake, I shouldn't do it, and they said they were working with the defense.

Q. Now, wait. Who said they were working with the defense?

A. Mrs. Texeira, as I recall.

Q. Is that the first time she said that when you were in the car?

A. My recollection is yes, but I think she mentioned something [6792] about her being sympa-

(Testimony of Mervyn Rathborne.)

thetic to the defense in the restaurant, when we were talking there.

Q. While you were in the restaurant she said she was sympathetic to the defense?

A. That is my recollection, yes.

Q. But she didn't say she was working with the defense until you were in the automobile, is that right? A. That is my recollection.

Q. What did she say about working with the defense?

A. She didn't expand on it at all. She just made some statement about, as I understood it, my recollection is, working with the defense.

Q. Can you give us her language as closely as you can?

A. I have tried to do that, Mr. Hallinan.

Q. What did she say? "I," "we," or what?

A. That I don't recall.

Q. I beg your pardon?

A. That I don't recall. The statement left the impression with me, as I say, she was working with the defense.

Q. But you can't remember what her language was nor the context of it, is that right?

A. Not the exact language, no, sir, I cannot.

Q. Then what was said?

A. Oh, there was some discussion about——

Q. What did you say when she said she was working with the [6793] defense?

A. I believe I said that everybody had the right to an opinion on this thing and to support or work

(Testimony of Mervyn Rathborne.)

with anyone they chose, and if she was working with the defense and for the defense, more power to her, or words to that effect.

Q. Well, go on. What else was said?

A. We discussed—went over the same ground, pretty much the same ground as in the restaurant.

Q. Did you participate in the conversation in detailing the same ground, or did Mrs. Texeira merely recite what had been said? Which?

A. For the most part she recited what had been said, and I believe on one occasion, possibly two, I corrected her. She said, "This is what Mervyn said."

I said, "No, this is what I said."

Q. What were those corrections?

A. That I can't recall.

Q. Well, approximately what did they relate to?

A. They related to some statement I had made to her in the restaurant.

Q. Do you remember what the statements were?

A. Not the exact statements. They had to do with my general reasons——

Q. Can you tell us what part of that subject they related to?

A. Let's see if I can remember it. No, my memory is not good [6794] on those particular points, Mr. Hallinan, but it was merely one or two corrections in connection with statements I had made to her in the restaurant.

Q. Were they very serious corrections or very minor? A. No, sir, very minor.

(Testimony of Mervyn Rathborne.)

Q. Very minor. Then what was said?

A. I believe it was Miss Murray said, "Well, we have talked this thing over, Betty and I, and if you testify in this Bridges case we are going to your wife"—Oh, no, before that they said, "How would you like to see your son discredited?"

Q. Your what? A. Son.

Q. Your son discredited?

A. Yes. "How would you like to have your wife leave you?" or words to that effect.

Q. Yes?

A. And I said I wouldn't like that.

Q. Well, go on.

A. And as I say, I believe it was Miss Murray said, "Betty and I have talked it over and we are going to fight you, and if you persist in testifying in the Bridges case we are going to your wife and we are going to tell her that you have been unfaithful to her with both of us, and we will each corroborate or each substantiate the other."

Q. You say these young women said [6795] that? A. Yes, sir, they did.

Q. Now, Mr. Rathborne, did you make up that lie, that infamous lie, yourself or did somebody make it up for you and give it to you?

A. That is not a lie, Mr. Hallinan. That is the truth. The incident happened and the ladies said to me——

Q. These two respectable young women suggested to you that they would go to your wife and

(Testimony of Mervyn Rathborne.)

say that you had been unfaithful with them and they would tell her, is that right?

A. That is correct.

Mr. Paisley: Your Honor, he is testifying now. He calls them respectable women. He calls it infamous lies. That is testimony.

Mr. Hallinan: Well, certainly nobody is safe. The fine, gallant Southern chivalry apparently does not even rise up to defend women but condemn them and back up this fellow's story.

Q. (By Mr. Hallinan): What else was said then?

A. I made some statement. I said, "If that is the way you are going to play it, goodbye," or something like that. I was very angry and I got out of the car.

Q. That was all that was said?

A. I believe I made some remark about being a very dirty way to do things, or words to that effect. I became very angry at that point and left. I made several—two or three remarks of that nature. [6796]

Q. That happened?

A. That actually happened, yes, sir.

Q. Mrs. Texeira, a married woman, told you that she would go over and tell your wife that you had been unfaithful to your wife with her, is that right?

A. My recollection is I believe I testified Miss Murray made that statement.

Q. Did Mrs. Texeira support her?

(Testimony of Mervyn Rathborne.)

A. One supported the other, yes, sir.

Q. Miss Murray was a married woman, too, wasn't she? A. I don't know.

Q. You never had been unfaithful to your wife with either one of them, had you?

Mr. Donohue: I object to the question, if your Honor pleases.

The Court: Sustained.

Q. (By Mr. Hallinan): You never did have any intimacies or relationship with either of those two women, did you? A. No.

Mr. Donohue: I object to the question, if your Honor pleases.

The Court: Sustained.

Q. (By Mr. Hallinan): Have you got some kind of deal with Donohue that he is to get up and object so everybody will think that you did [6797] have?

Mr. Donohue: I object to the question, your Honor.

Mr. Hallinan: I think that is a proper question, your Honor.

The Court: No, Mr. Hallinan. I sustained the objection properly under many decisions, and the objection was well taken.

Q. (By Mr. Hallinan): Let me ask you this: When I put those questions to you, you did not answer them; you just sat there, and for the first time Mr. Donohue jumped up and objected, lending the implication that something like that probably did happen. Did you want to give that impression to people?

Mr. Donohue: I object to the question, if your Honor please.

The Court: Sustained. [6798]

Mr. Hallinan: In other words, your Honor, counsel now is trying to leave some sort of an implication to the discredit of these young women that is not supported, and he won't let this man even state that there is no basis for any such implication.

Mr. Donohue: Mr. Hallinan asks these questions, if your Honor pleases, not I.

Mr. Hallinan: Well, we deny that any such thing ever happened or that he ever had any such relations or that any such thing was ever said.

Mr. Donohue: Well, what were they doing down at Half Moon Bay?

Mr. Hallinan: Trying to find out what the scoundrel had to say; what do you think they were trying to do down there? Trying to persuade him he shouldn't destroy himself by being their tool.

Mr. Paisley: I move that your Honor admonish counsel and strike from the record his use of the word "scoundrel."

Mr. Hallinan: Counsel asked what they were doing down there; I am entitled to answer it.

The Court: As I said before, personalities are not going to help in this case or tend to prove any fact in the case. I will strike the statement from the record and admonish the jury to disregard the statement.

Q. (By Mr. Hallinan): This having happened, did you go running up to tell Mr. Donohue [6799] about it?

A. The first thing I did, I went home and told my wife about it.

Q. And then when did you tell Mr. Donohue?

A. The next day.

Q. You are sure you didn't tell Mr. Donohue before you told your wife?

A. I am certain of that, sir.

Q. Where did you tell Mr. Donohue the story?

A. I met him in Sharp Park.

Q. How did you happen to meet him there?

A. I called him on the telephone and told him I would like to see him.

Q. When did you call him on the telephone?

A. I talked to him the next morning.

Q. What time?

A. My recollection is it was rather early, around 8:00, 8:30.

Q. Beg your pardon?

A. I say, my recollection is rather early, Mr. Hallinan; around 8:00, 8:30, approximately.

Q. Where did you phone him?

A. I believe I phoned him at his hotel.

Q. And what did he, drive down immediately?

A. No.

Q. With screaming sirens and cops and things?

A. No, I have never seen Mr. Donohue play cops and robbers, Mr.—— [6800] I met him at Sharp Park, I believe it was about noontime the next day, or it might have been in the afternoon.

Q. How did you happen to meet him in Sharp Park? Why was the arrangement made for that?

A. Well, it was kind of a central place where he wouldn't have to drive all the way to Half Moon Bay and I wouldn't have to drive all the way to San Francisco. So I met him there.

Q. Anybody with him?

A. There was a gentleman with him, I believe.

Q. Who?

A. I think Mr. Kaiser was with him. I am not—yes, he was; Mr. Kaiser was with him.

Q. And a stenographer? A. No, sir.

Q. All right. And then did you have a conference with Mr. Donohue and Mr. Kaiser?

A. I talked to Mr. Donohue and I related the facts substantially as I have related them here, of this visit of these——

Q. Did you tell them everything they said?

A. Yes, sir.

Q. Did you tell him this story?

A. I told him, to my best recollection, everything I have said.

Q. Did you tell him this story they said they would tell your wife that you had been unfaithful to her? A. I certainly did. [6801]

Q. You did tell him that? A. Yes, sir.

Q. All right. Now, Mr. Donohue having picked up this little gem, left, I take it, did he?

A. That's right.

Q. And you returned down to your own home?

A. M-hm (affirmative).

Q. And when did you next see Mr. Donohue?

A. I think it was about a week afterwards or several days after that.

Q. On this same subject?

A. He called or had a call made. I don't know which. And asked me to come to the city to see him.

Q. And you went up? A. I did.

Q. And what did you do?

A. I talked to him.

Q. And then what happened? Was that taken—Where did you talk to him on that second occasion?

A. In this building here.

Q. In this building? A. Yes, sir.

Q. Anybody else present?

A. At the beginning of our conversation there was not, no, sir.

Q. Well, then, who entered? [6802]

A. A couple of gentlemen entered the room.

Q. Who?

A. A couple of men. They were FBI agents.

Q. You know what their names were?

A. I don't recall their names. I was introduced to them, but I don't recall their names.

Q. And what happened then? Is that when you wrote out the statement that you are telling us about? A. That's right.

Q. You had now had two conversations with

(Testimony of Mervyn Rathborne.)

Mr. Donohue and then a couple of FBI agents entered and then you wrote out a statement for them, is that right? A. That's correct.

Q. And was Mr. Kaiser present at both of these conversations? A. No, he was not.

Q. All right. Then what was the next thing that happened on this subject?

A. Well, I read the statement, or I gave the statement to these gentlemen and—are you referring to that time?

Q. Well, what was the next step? What was the thing in the circus, the next act?

A. Well, it wasn't a circus.

Q. Well, whatever you call it.

A. Well, Mr. Donohue said that he was having the matter thoroughly checked and that he would refer it to Washington and see [6803] what Washington thought about it.

Q. All right. And then what happened?

A. Well, that is all that happened there then.

Q. How many days was that after this occurrence took place at Half Moon Bay, at Dominick's?

A. Not very many days.

Q. How many days?

A. Oh, my recollection is probably four or five.

Q. Four or five, all right. Then Mr. Donohue stated that he would have the matter thoroughly checked at Washington, is that right?

A. That is one error I want to correct, Mr. Hallinan.

Q. Yes?

(Testimony of Mervyn Rathborne.)

A. My wife was with me, and my child, my little boy, when I came to call on him.

Q. How old is your little boy?

A. Ten years old.

Q. The little boy who was going to be discredited or something?

A. He wasn't present, however, at this meeting with Mr. Donohue.

Q. And your wife and little boy, where did you say they were?

A. My wife was with me when I was talking to Mr. Donohue and also when, while I was talking to the FBI agents.

Q. Not down at Sharp Park, but up here?

A. Up here, yes, sir.

Q. And then Mr. Donohue told you he was going to have the matter [6804] thoroughly checked and find out what Washington thought about it, is that right?

A. That is the general statement he made, yes.

Q. All right. And then when did you next hear from the incident?

A. Oh, several days after that.

Q. Now, let's see if I can tell you what happened after that.

Mr. Donohue: May I ask the Court if Mr. Hallinan is now going to testify?

Mr. Hallinan: Yes, leading question. We will have the witness testify.

Q. Now, you tell me if this isn't the series of events that followed. You have been reading the

(Testimony of Mervyn Rathborne.)

newspapers as to what was taking place, isn't that right? A. Yes, sir.

Q. On December the 20th there appeared in the newspapers the statement that the defense had produced documentary evidence that showed that Crouch and Johnson had committed perjury when they said that Bridges was in New York on June 27th, 1936; do you remember that?

A. I remember reading about it in the newspapers, yes, sir.

Q. All right, fine. And then on December 27th there was another article in the newspaper that the defense had transmitted photostats of all these documents to the federal grand jury, the presiding judge and the Attorney General, demanding the indictment of Crouch and Johnson. Do you remember that? [6805]

A. I recall reading the newspaper stories, yes, sir.

Q. And the next day you got a telephone call from Mr. Donohue as follows: "Merve, this is Jiggs. Get up here right away. They have caught Crouch and Johnson in perjury and we got him off the hook. I want those two dames indicted."

And the next day the two dames were indicted. That was the sequence, wasn't it?

A. I think you are letting your imagination run away with you, Mr. Hallinan.

Q. All right. The two girls were indicted on the 29th of December, weren't they?

A. I am not certain as to the date.

(Testimony of Mervyn Rathborne.)

Q. You came up and told this same story that you have told on the witness stand here, didn't you?

A. Now——

Q. You told the grand jury the same story about these two girls that you have told on the witness stand, didn't you?

A. I related the facts as I recalled them, yes.

Q. The girls weren't called before the grand jury, were they?

A. Not to my knowledge, no, sir.

Q. Well, you know they weren't, don't you?

A. I said not to my knowledge.

Q. And on your word alone they got those two poor women indicted, just to cover up the perjury of Crouch and Johnson, isn't that what happened, Mr. Witness? [6806]

Mr. Donohue: I object to the question, if your Honor pleases, because Mr. Hallinan——

Mr. Hallinan: Might I be heard on it, your Honor?

Mr. Donohue: Mr. Hallinan is testifying about something he doesn't know anything about.

Mr. Hallinan: Might I be heard about this? This gentleman has been working actively with the prosecution on all these matters. He is not just a witness here, he is part of the prosecution. He is part of that little scheme. And I am entitled to find out what he knows about it.

Mr. Donohue: I may say to your Honor that it just so happened that Mr. Hallinan's associate entered an appearance for these two young ladies. He

(Testimony of Mervyn Rathborne.)

is very anxious to find out what evidence there was before the grand jury, and I for that reason ask your Honor to hold——

Mr. Hallinan: Bring it in.

Mr. Donohue: ——that the question he just asked is highly improper, because he is stating something he doesn't know anything about.

Mr. Hallinan: Bring it in.

Mr. Donohue: Well, on the right day.

Mr. Hallinan: You will never show up with it; you know that.

Q. Now, let me ask you this, Mr. Rathborne.

The Court: The objection is sustained. [6807]

Q. (By Mr. Hallinan, continuing): At the time the grand jury met and the two girls were indicted, you talked to the newspaper people, didn't you?

A. I refused to discuss it with anybody.

Q. Now, did you read the articles in the newspapers? A. Some of them I did.

Q. Yes. For instance, did you read in the San Francisco Chronicle for Friday, December 30th, "Rathborne testified that the incident occurred two weeks ago. One of the women telephoned him, he said, and advised him to meet her in a restaurant near his home in Half Moon Bay"——

Mr. Paisley: I object to his reading from the newspaper, your Honor.

Mr. Hallinan: Oh,——

Q. Does this refresh your recollection——

Mr. Paisley: Just a moment. I object, your

Honor. I insist on counsel waiting for the Court to rule. He doesn't want to wait for anybody, even the Court.

Mr. Hallinan: Well, I don't want to wait——

Mr. Paisley: I object to him reading from the newspaper, your Honor. It is not in evidence.

Mr. Hallinan: I am simply asking if he made these statements.

Mr. Paisley: You are reading from the newspaper.

Mr. Hallinan: Yes, I am reading it and asking if he gave [6808] these statements to the newspaper.

Mr. Paisley: And you know that is not proper, lawyerlike conduct.

The Court: Proceed.

Q. (By Mr. Hallinan): "——to meet her in a restaurant near his home"——

Mr. Paisley: I object, your Honor,——

Mr. Hallinan: The Court said to proceed. Don't just be thinking of what you are going to say next.

Q. (Continuing): "——at the restaurant he said he met Mrs. Texeira who led him to a parked automobile in which Mrs. Murray was waiting. The proposition was advanced, according to Rathborne's testimony, as the three sat in the parked car. Rathborne said he told the women they were attempting to blackmail him, and he would not be shaken from his determination to testify in the Bridges case. Rathborne left the car and from a distance saw the

(Testimony of Mervyn Rathborne.)

two women go up to another car parked a short distance away and consult with two men."

Do you remember reading that in the papers?

A. Yes, I do.

Q. Was that what you testified before the grand jury, substantially? A. I believe it was.

Q. All right. Now, you saw these headlines, "Two Women Charged in Bridges Case Fix. Major Witness Accuses Pair of Trying to Blackmail Him, Force Him to Revise Testimony at Trial." [6809]

You remember that, don't you?

A. I remember reading it in the newspapers, yes.

Q. And you saw the girls' pictures in the paper, didn't you? A. Yes, sir.

Q. And then you saw in the Examiner, in the more colorful language of Mr. Dick Pearce, "Two Women Were Accused yesterday of trying to use the sex bunco game to silence Mervyn Rathborne, major government witness due to appear soon in the Harry Bridges trial."

You saw that, didn't you?

A. Yes, sir, I did.

Q. All right. Now, let me ask you this, Mr. Rathborne. Where is all that secrecy that you were talking about that is supposed to attach to the testimony in the grand jury, that you talked about when you wouldn't tell the lawyers what your testimony had been before the grand jury?

A. Mr. Hallinan, I just finished testifying, before you started on your little newspaper reading undertaking there, that I had not mentioned the instance to anybody connected with the press.

Q. Well, do you know——

A. It happens——

Q. Do you know who gave this information to the press?

Mr. Paisley: Wait a minute. Your Honor, the witness was not through. [6810]

Mr. Hallinan: Go ahead and finish.

The Court: I can't hear both at one time.

Mr. Hallinan: Withdraw the question.

Q. Go ahead and finish.

Mr. Paisley: Object to it on the ground that he interrupted the witness, which he does constantly.

The Court: Sustained.

Mr. Paisley: At any time it suits him.

A. As a matter of fact, it was a matter that I asked Mr. Donohue about. I asked him, "How in the world did all that stuff get in the newspapers? Who gave it to them?"

Q. What did he say?

A. He said, well, it must have been somebody around here told them. That's all.

Q. Didn't he say who told them?

A. No, he didn't.

Q. Didn't say he did it himself?

A. No, he did not.

Q. Did you ask anybody else about it?

A. I don't recall asking anybody else about it. Newspapers called me, a number of them, and I said, "I have nothing to say about it."

(Testimony of Mervyn Rathborne.)

Q. Well, did this change your opinion now as to the sacredness of grand jury testimony and how secret it must be kept?

A. Well, I am not responsible for the fact that the newspapers [6811] got hold of a story and decided to use it.

Q. The newspapers got hold of a story? Well, don't you see, don't you believe that this is what happened, that when it was to their interest to conceal from Mr. Bridges the nature of the case they were building up against him, they preserved that secrecy; but when they wanted to put a smear on the defense and cover up their own two perjured witnesses, they spread this all over the newspapers. Don't you know that that was what the deal was?

Mr. Donohue: I object to the question, Your Honor.

The Court: Sustained.

Q. (By Mr. Hallinan): Was that the agreement that you had with Mr. Donohue, Kaiser, et al.?

Mr. Donohue: I object to the question, if Your Honor pleases.

The Court: Sustained. [6812]

Q. Have you ever in your life done anything dirtier than that?

Mr. Donohue: I object to the question, if your Honor please.

The Court: Sustained.

Q. (By Mr. Hallinan): You say you never knew Paul Crouch, is that right?

(Testimony of Mervyn Rathborne.)

A. It is my recollection—I don't recall ever having met Paul Crouch.

Q. At any time up to the present?

A. No, sir.

Q. You have seen his picture in the papers?

A. I don't know whether I have or have not.

Q. I mean during the time that he was testifying did you see his picture in the papers?

A. I probably did, but I don't have any recollection of it.

Q. You do not recognize that you ever met that man? A. No, sir, I do not.

Q. What did you have to do with the 1941 CIO convention in Oakland?

A. 1941? Was that the State CIO convention?

Q. Yes.

A. I believe I was a delegate there. I am not certain of that.

Q. And weren't you chairman of one of the committees?

A. I believe I brought in a report on the Labor Herald on some matter connected with that paper. [6813]

Q. Were you on the resolutions committee?

A. I don't believe so. I don't recall being on the committee.

Q. Were you on the publicity committee?

A. I might have been.

Q. And you never met Paul Crouch?

~~A. No, I don't recall ever meeting Paul Crouch.~~

(Testimony of Mervyn Rathborne.)
The record of the convention will show what committees I was on and whether I was there.

Q. Now, you testified, reading from page 6355, of your break-up with the Communist Party and the reasons for it. You said, "Well, over a period of time I had a number of differences, that is, I came more and more to disagree with certain policies and certain actions and things that were espoused and to forward as the Party line, and one particular instance was the organization of a third party, political party." Do you remember that?

A. Yes, sir, I do.

Q. And you gave a story to the Call-Bulletin on the 27th of June, 1949—no, May—as follows:

> "Rathborne's story told to the Call-Bulletin was one of a virtual Damon and Pythias friendship between himself and Bridges, which finally broke up over political ideologies. Rathborne, active in labor affairs here since 1931 and once national president of the American Radio Telegraphists' Association, admitted, 'I was closely identified with Communist Party elements in the early day.' " [6814]
>
> "Q. When did you first begin breaking with this group? A. During the war.
>
> " 'Q. When did the break become open?
>
> " 'A. It became irreconcilable in 1946 when Communist Party headquarters in New York handed down orders to form a third political party in California. I considered such a politi-

(Testimony of Mervyn Rathborne.)

> cal party a betrayal of the labor movement as it would only have served the purpose of defeating many men in public office who have proved themselves friends of labor.' Rathborne said he ran for secretary-treasurer of the State CIO in 1943 at Bridges' request and insistence."

Do you remember giving that statement?

A. That sounds—yes, sir.

Q. Would that be about your testimony now if you were asked those questions?

A. That is right.

Q. Well, the Communist Party had a third party for many years, hadn't it?

A. You mean the communist Party itself?

Q. Yes.

A. Yes, but this situation was considerably different from that.

Q. The Communist Party had a registered party that ran candidates, collected funds, and so forth, just like any other political party for many years, is that right?

A. My objection to the third party, Mr. Hallinan, was based on [6815] the fact——

Q. No, I asked you if it is not true that the Communist Party did maintain a political party, run candidates for office, canvass for votes, and do things that other political parties do?

A. They did in California.

Q. For many years? A. That is right.

(Testimony of Mervyn Rathborne).

Q. Now, you in 1942 were elected a delegate to the Democratic State Central Committee, weren't you?

A. I was—I am not certain of the year, but I was elected, or I did attend meetings of the Democratic State Central Committee.

Q. And you have been a registered Democrat for a number of years, haven't you?

A. That is right.

Q. And when you were talking to these Democratic bigwigs that you met in Washington, one of the things that was suggested to you that you might do as a sort of side-swipe would be to smear the Progressive Party, isn't that right?

Mr. Donohue: I object to the question, if your Honor please.

Mr. Hallinan: I think it is proper, your Honor, to show purpose and motive. It is a leading question.

The Court: Overruled. [6816]

A. No such conversations took place, Mr. Hallinan. Put it this way: I may have discussed the third party with a great number of people.

Q. (By Mr. Hallinan): I mean when you were back in Washington on the conference that you had with Mr. Clark, you discussed the third party, didn't you?

A. I never mentioned it, no, sir.

Q. When did you discuss it?

A. I might have made the statement to Mr. Clark. I didn't discuss it with him. I might have

(Testimony of Mervyn Rathborne).

said—the same statement that I made there—that one of the reasons I was opposed to the Communist Party was because of their efforts to try to force, shove down the throats of the people of California a third political party.

Q. Do you remember way back on July 23, 1935, at a regular meeting of the San Francisco Bay Area District Council No. 2, Maritime Federation of the Pacific, Chairman Harry Bridges, and you being secretary, the following matter coming up:

> "Brother Dietrich speaks on United Labor Campaign Committee and introduces the following motion, that this Council go on record as endorsing the ULTC."

What does that mean? A. ULTC?

Q. Yes. ". . . send delegates to its meetings, seconded by Wolf. Now Brothers Rathborne and Dietrich speak at length on [6817] desirability of a labor party and give reasons why the Maritime Federation should support political action by organized workers. Brother Markey, Kanning, Francour, Frietsche, Delagan, Olson, Wilson and Baker also spoke on the question. Brothers Kanning, Francour, Frietsche and Delagan opposed the motion on the ground that the constitution of their organization prohibits their union from engaging in political activities. Brother Bridges relinquishes the chair to Brother O'Grady to speak on the Labor Party. He tells about Labor Party in Australia and how it prevented the use of police and soldiers to break strikes and to enforce a selective service draft during the war. He recommends the Council adopt the motion."

Do you remember that?

A. I don't remember it, but I could say something in connection with——

Q. Do you remember a discussion——

Mr. Paisley: Just a minute. The witness can answer.

The Court: He asked him if he remembered it. (To the witness) You may make an explanation if you wish.

A. I don't specifically remember it, but I wouldn't quarrel with the record.

Q. (By Mr. Hallinan): In other words, if it is in the minutes you accept it?

A. I would like to say something in explanation of the answer if I may. [6818]

Q. What is your explantion of the answer?

A. My explantion is this: that at this particular time I am not opposed to a third party, and at that time I was not opposed. I have never been opposed to a third party as such. I think people have the right to organize a third party if they want to. What I was opposed to was the Communist Party coming here to California, Bill Schneidermann coming here from New York and saying, "We are going to have a third party in California, because it is the decision of the Central Committee back in New York. We are going to have it."

Q. You didn't care about the third party; it was the persons who put the third party in?

(Testimony of Mervyn Rathborne.)

A. Another thing, at that particular time I considered we had a number of good pro-labor congressmen and other representatives who might lose their seats——

Q. All right, let's go on.

A. May I continue?

Q. Pardon me. Go ahead.

A. ——who might lose their seats by a third party and be replaced by people who would not be as friendly to labor. That is the basis of my opposition to a third party at that particular [6819] time.

Q. It was all right back in 1935 when you were down on the record, is that right, and it is all right now because you know we have a letter later than that in which you ask for advice on forming a third party, but as you have committed yourself on some discussion with the Communist Party in 1946. that was one time when it was not all right, is that it?

A. I said the objection I had to it was the way it was presented, the fact that the people in California here were not consulted about it. It was not a native grass roots movement, but it was injected from the top by Communist orders and at that particular time I thought it was dangerous because some of the people who had been friends of labor would have third party candidates and other candidates against them and stand to lose their seats in Congress, and thereby lose funds for labor.

~~Q. You were a member of the Communist Party~~ then, weren't you? A. When?

Q. In 1946.

(Testimony of Mervyn Rathborne.)

A. Yes, I was, but I was in the process of breaking with them.

Q. All right. To get back to yourself now, "Rathborne and Dietrich speak at length on desirability of a labor party and give reasons why the Maritime Federation should support political action by organized workers." You did that, didn't you?

A. Yes, if you want, I will volunteer additional information.

Q. No, we will get to that after. Let us get these things [6820] first so we have it with a series of hammer blows, so you can't get away from something.

A. I will concede I was for and supported a third party in 1935, Mr. Hallinan, and I have no opposition to a third party as such if the people themselves organize it.

Q. In 1936 you supported one, didn't you?

A. I may have.

Q. The only thing you want is that the people themselves organize it? A. That is right.

Q. In 1935 you wanted the Maritime Federation of the Pacific to organize?

A. To help support it, I believe.

Q. I beg your pardon?

A. I believe the resolution is for endorsement, is it not?

Q. Now, at a subsequent meeting of the same organization, "Brother Rathborne, ARTA, reports that his organization today endorsed the new union

(Testimony of Mervyn Rathborne.)

labor party and made provisions for sending delegates to its next meeting." Is that correct?

A. Not only did that, but I was very active in the labor party campaign and helped it in every way I could.

Q. Say, incidentally, just as a kind of hors d'oeuvres along the line, I notice in one of these matters back in 1935, "Moved and seconded that secretary be instructed to write to all affiliated organizations requesting them to vigorously prosecute [6821] the Hearst boycott." What was that?

A. My recollection is during the 1934 strike or shortly thereafter that the Hearst newspapers were giving the unions a bad time with respect to the way they handled the publicity about the unions, and that the unions had to declare a boycott on the Hearst newspapers. Now, that was the maritime unions had. That is my recollection of it.

Q. Now, I notice in a subsequent session of the same organization, "Moved and seconded that this Council nominate a committee to attend the conference on July 16th for the formation of the labor party, and the committee determine the purpose of this meeting and report its finding to the Council." That would be consistent with what you have already said, is that right?

A. Yes, sir. I mean,——

Q. Now, I notice so early as 1935 that Mr. Bridges took the floor to explain meetings that had ~~taken place in the east which he had attended and~~ which had been said to be Communist meetings. Do you remember that? A. No, I don't recall that.

Q. All right. This is in June of 1935: "Newspapers reported that Bridges attended two Communist meetings while in the East. Bridges stated that one of these meetings was called by a group of A. F. of L. unions presided over by an official of the Typographical union. Brother Bridges was invited to speak at this meeting by Heywood Broun. The second was an official [6822] meeting of the ILA local in Boston. Brother Bridges states that the Boston ILA is bitterly opposed to Ryan for breaking a longshore strike in 1931 with negro strikebreakers. He states that the West Coast program was howled down by convention delegates from the East, several of whom were appointed. Six ILA locals in New York have not held meetings in one to five years. The convention increased Ryan's salary to $12,000 a year. Do you remember this?

A. I don't remember that particular thing. I don't even know what you are reading from.

Mr. Hallinan (To Mr. Donohue): Is there any question? Do you want to look these over?

Mr. Donohue: No.

The Court: Shall we take the recess, Mr. Hallinan?

Mr. Hallinan: Very well. We will hold that until the morning.

The Court: Ladies and gentlemen of the jury, we will take the afternoon adjournment until tomorrow morning at 10:00 o'clock. The same admonition to you not to discuss the case under any conditions or to form an opinion thereon.

(Thereupon an adjournment was taken to tomorrow, Friday, March 3, 1950, at 10:00 o'clock a.m.) [6823]

Friday, March 3, 1950—10:00 A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Mervyn Rathborne, heretofore sworn.

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. (Handing document to witness): Do you remember that document?

A. Yes, now that I have seen it, Mr. Hallinan, I recall it.

Q. Did you have any discussion with any person connected with the prosecution about it last night?

A. I asked, I believe, Mr. Paisley if he had seen the document and what was in it, and he gave me a a general outline of its contents.

Q. Did you have a discussion with him about it then? A. No, sir.

Q. What answers would be to questions touching it or anything like that?

A. No, I did not. I just asked for information concerning the contents of the document.

(Testimony of Mervyn Rathborne.)

Q. You wrote out the memorandum, did you not?

A. Yes.

Q. You received the answer? A. Yes.

Q. And put it in your file? [6824]

A. That is right.

Mr. Hallinan: We offer this in evidence, if your Honor please, as defendants' exhibit next in order.

Mr. Donohue: I object, only on the ground that it has no bearing, so far as I can see, on the issue in this cause.

The Court: This is as to the establishment of a third party?

Mr. Hallinan: That is right.

Mr. Donohue: I think the witness should be allowed to explain it if it is to be received.

The Court: He may upon redirect.

(The document referred to was marked Defendants' Exhibit U-3 in evidence.)

Q. (By Mr. Hallinan): Were you given an explantion last night on it?

A. I would like to comment on it if I may.

Q. Let us get it this way: Were you told some explanation that you should give of this document?

A. I was not.

Q. Was there any discussion with Mr. Paisley on the explanation that would be given this document? A. No, sir.

Q. Nothing was said about it, but you do want to give an explanation of it, do you?

A. I would like to say—— [6825]

(Testimony of Mervyn Rathborne.)

Q. Wait a minute, please.

A. ——how the document came to be written, if I may.

Q. We will give you a chance to explain it. Let us get it this way: You talked to Mr. Paisley about it last night, did you? A. I did.

Q. Who else did you talk to?

A. I don't recall talking to anyone else.

Q. Did you talk to Mr. Donohue about it?

A. No, I believe he volunteered to me the information that was in it. I didn't ask him about it. He said, "It is some memorandum or paper to Gladstein asking what requirements were to set up a third party."

Q. And at that time was there some discussion about an explanation of the document?

A. No, sir.

Q. Nothing said about it at all? A. No.

Q. You did not tell them that you would make some explanation about the document?

A. No; all I said was, as I recall it, the document was merely a request for information, and the discussion was dropped right there.

Q. Can you tell me now how Mr. Donohue knew that you wanted to make an explanation of this document?

A. I do not know that he did. [6826]

Q. You just heard him get up here and say, "The witness should be allowed to explain the document." You heard him say that?

Mr. Donohue: I object to that, if your Honor please. It is apparent that counsel has introduced in evidence a document about which he has not asked a question except if the witness recalls it. It is not fair to the witness. He should be entitled to an opportunity to explain it.

Mr. Hallinan: I am going to give him the opportunity. All I want to know is, How did Mr. Donohue know, if all the conversation that you have told this jury is truthful, how did Mr. Donohue know that you wanted to make some explanation about this document?

A. You had better ask Mr. Donohue that.

Q. He won't tell me either, I assure you. Now, you left the Communist Party when, did you say?

A. My recollection is sometime in the early part of 1947.

Q. What part of 1947?

A. I think it was April. I am not certain. It was around in that period.

Q. In June, on June 7, 1946, you wrote a letter to Richard Galdstein, a memorandum on the stationery of the California CIO Council, President James G. Thimmes; Secretary-Treasurer Mervyn Rathborne; that is right, isn't it?

A. That is right, sure.

Q. Was James G. Thimmes—— [6827]

A. He was not president at that particular time, but that was a letterhead left over from his——

Q. From Mervyn Rathborne, Subject "Qualifying Political Party."

"Will you please send me a memo at your

(Testimony of Mervyn Rathborne).

> early convenience containing information as to the necessary legal steps for qualifying a political party in the State of California. Keep your hat on. We are just asking for the information."

You sent that out to Mr. Gladstein, the attorney?

A. Yes, that is right.

Q. And then you got a letter back on August 5, 1946:

> "To the California CIO Council,
> "150 Golden Gate Avenue,
> "San Francisco, California.
>
> "Attention Mervyn Rathborne.
>
> "Re: Qualifying Political Parties.
>
> "Dear Merve:
>
> "In reply to your memo of June 7, 1946, we wish to advise you that the California election Code provides for two alternative methods of qualifying new political parties in California:
>
> "1. A party is qualified to participate in a primary election if on or before the 75th day preceding the primary an examination of the Registrar's records indicate that voters equal in part to at least one per cent of the entire vote at the last preceding gubernatorial election had [6828] declared their intention to affiliate with such party; or
>
> "2. A party shall be qualified to participate in a primary election if on or before the 75th day prior to such election there has been filed

(Testimony of Mervyn Rathborne).

> with the Secretary of State a petition signed by qualified voters equal in part to at least 10 per cent of the entire vote of the last preceding gubernatorial election declaring they wish a certain party named in the petition to participate in that primary election."

And don't try to explain that.

> "Obviously the first method presents the least difficulties. There were 2,000,423 votes cast at the last gubernatorial election. A registration therefore of 22,344 would be needed to qualify a new party.
>
> "Sincerely yours,
>
> "Richard Gladstein."

That was the answer you received, is that right?

A. Yes. [6829]

Q. Apparently, then, in the 1945 election, approximately two and a quarter million votes were cast for governor of California. Now, you have some kind of an explanation worked out with Mr. Paisley and Donohue on that subject, have you?

Mr. Donohue: I object to that.

Q. Let's have it.

Mr. Donohue: I object, if Your Honor pleases.

The Court: Sustained.

The Witness: The purpose of the memorandum——

The Court: The objection is sustained. Would you reframe the question?

(Testimony of Mervyn Rathborne).

Mr. Hallinan: Well, they seem to have some desire to put in an explanation. I don't know what it is.

The Court: The witness may explain independently of any asserted influence exercised by counsel. There is no evidence in the record that counsel has exerted any influence over this witness at any stage of this particular examination this morning. You may make an explanation, Mr. Rathborne, if you have one.

The Witness: Thank you, Your Honor.

A. The purpose of the memorandum, I think, is self-evident; it was to secure information regarding certain sections of the state election code in connection with the organization of a third party, which was then a hot issue in the CIO, as I recall it. We were about to have a State CIO executive board meeting, at which the matter of a third party was to be discussed, and I was [6830] equipping myself with the information to make available to the executive board regarding certain issues, regarding the third party. And I asked the counsel of the state CIO, Mr. Gladstein, to supply me that information so it would be available to the membership of the state executive board, so whatever action they took on a third party, they would have this information before them. That is my recollection of why the memorandum was written.

Q. (By Mr. Hallinan): The CIO was interested ~~in forming a third party, is that right?~~

A. No, sir, the issue of a third party, as I said

(Testimony of Mervyn Rathborne.)

yesterday, was brought back from New York by Mr. Schneidermann after attending a meeting of the Communist Party in New York City, in which he laid down the post-war line of the Communist Party.

Q. For a third party?

A. For a third party and for rapid demobilization of all the troops and for creating all the upset and unrest in this country and other countries in the world, preventing capitalist encirclement of the Soviet Union, and a lot of other things that he made into a report.

Q. Was that good or bad?

A. I beg your pardon?

Q. Was that good or bad?

A. I thought it wasn't so good.

Q. Oh, I don't blame you a bit. I would go along with you on a [6831] lot of these things. Now, Mr. Rathborne, at that time, then, you began to have surges of conscience on this third party proposition; you were opposed to a third party, weren't you?

A. I was opposed to it, yes, sir.

Q. In other words, you were, if you were going to have a third party,——

A. I was opposed to the manner in which——

Q. I understand.

A. ——the third party was conceived and born and nursed, as a front organization for the Communist Party.

(Testimony of Mervyn Rathborne.)

Q. In other words, instead of coming from the grass roots, where you like to see things come from, it was coming from above, where you don't like to see things come from?

A. The orders for the organization of the third party were coming from above, yes, sir.

Q. All right. Just passing, and parenthetically, so it won't be made a contention that any statement that Mr. Bridges made about the Hearst papers on the stand relates only to his own difficulties with them and the misinterpretation they have put on his activities, I notice in one of your minutes back in June the 29th, 1935, "Brother Olson spoke upon the Hearst paper boycott and requested the delegates not to patronize stands that deal with Hearst publications."

Remember that?

Mr. Donohue: Object to the question, if Your Honor pleases. [6832] I think we are going a little bit far afield in the trial of these three defendants.

Mr. Hallinan: Well, no, because this point——

Mr. Donohue: Any publication——

Mr. Hallinan: ——was raised by counsel himself. You brought that up yourself.

Mr. Donohue: I brought up no such thing.

Mr. Hallinan: Well, you just get into arguments. Counsel's memory is short, it is kind of difficult——

The Court: I don't see that this will be any aid in this case in solving any issue. Objection sustained.

(Testimony of Mervyn Rathborne.)

Q. (By Mr. Hallinan): Well, now, back in 1936 there was also considerable discussion about forming a third party, isn't that right?

A. At the Maritime Federation convention in San Pedro?

Q. Yes.

A. There was an issue of the Farmer-Labor Party in which I brought in a minority report from, I believe, the resolutions committee, favoring the organization of a Farmer-Labor Party which was voted down by the convention, is my recollection.

Q. Yes, sure you did. Did you get directions from the Communist Party to do that?

A. Certainly did. That was——

Q. Oh, you did?

A. That was one of the issues discussed at that meeting in the Venetian Square Apartments. [6833]

Q. Oh. Resolution 51a, minority report and resolution 11, substitute for resolution 51:

> "Whereas in the absence of a Farmer-Labor Party presidential candidate; many trade unions have gone on record in support of President Roosevelt for reelection, and whereas this support of President Roosevelt by organized labor is being used by the reactionary forces to prevent the reorganization of a Farmer-Labor Party during 1936 on the grounds that a Farmer-Labor Party would split the vote for President Roosevelt and possibly result in the election of a Republican as President of the United States. and

(Testimony of Mervyn Rathborne.)

"Whereas, the Farmer-Labor Party will not have a presidential candidate in the field in 1936 but will confine its efforts to the election of workers and farmers to public office in city, county and state executive and legislative offices and to the Congress of the United States, and

"Whereas, the election of Farmer-Labor candidates to public office in municipalities, counties, states and the Congress of the United States will exert considerable pressure upon Democratic and Republican officeholders for the passage of legislation favorable to labor, for the enforcement of existing laws which favor workers and farmers, and for the repeal of such anti-social statutes as criminal syndicalism laws, et cetera, and

"Whereas the organization of local Farmer-Labor parties, [6834] based upon the trade unions, provides the only means by which organized labor can protect itself against those employers and reactionary politicians who openly oppose organized labor and who are responsible for the use of police, National Guardsmen and other public servants for the protection of strike-breakers and other anti-social purposes; now, therefore, be it resolved,

"That this second annual convention of the Maritime Federation of the Pacific Coast call upon all affiliated unions and district councils

(Testimony of Mervyn Rathborne.)

> to immediately, one, assume the leadership in organizing local trade union committees that will sponsor the formation of local Farmer-Labor Parties, and, two, work for the endorsement and sponsorship of local Farmer-Labor Parties, by other trade unions, Central Labor Councils, State Federations of Labor, and similar bodies; and be it further resolved,
>
> "That this convention endorse the formation of local Farmer-Labor Parties, with the reservation and understanding that the Farmer-Labor Party will not place a presidential candidate in the field in the presidential elections of 1936, and also that all labor candidates who are nominated by local Farmer-Labor Parties on the Pacific Coast must be members of a bona fide labor union and shall have worked at their trade under such union conditions for at least two years. [6835]
>
> "Submitted as a minority report by J. Stern, M. Rathborne and A. Pringle. Brother Rathborne speaks in favor of the minority report."

Do you remember that?

A. I certainly do.

Q. That was way back in 1936?

A. Well, Mr. Hallinan, as I stated yesterday, at that time and at the present time, I have no opposition or objection to a third party as such, if in the judgment of the people who want it, they want to organize one. But——

(Testimony of Mervyn Rathborne.)

Q. Let me ask you if this isn't the difficulty, if this isn't your difficulty: When you gave out these press releases that were read off yesterday, you said that the reason you broke with Harry Bridges and were doing the things you did, was over a third party. Remember that?

A. I said that that was one of the things that the Communist Party advocated that I disagreed with. I believe that was my statement.

Q. But in 1935, 1936 and 1946, you yourself were advocating a third party, weren't you?

A. Not in 1946, no, sir.

Q. Well, I just read off what you said in 1946. You sent a letter to Richard Gladstein about the formation of the third party?

A. I said—if you will read that memorandum very carefully, Mr. [6836] Hallinan, and read it the same way I do, you will see at the end there it says, "Hold your hat, we are just looking for information, we are not going to do anything about it." Now, if that is——

Q. Well, you wanted to make a report to the convention; you had taken it upon yourself to find out how to go about forming a third party, hadn't you?

A. In my capacity as an officer of the State CIO, I was securing certain information to place before the members of the executive board so that they would have factual information in their discussions of a third party.

Q. And then to make it more difficult and to

(Testimony of Mervyn Rathborne.)

give you the—the necessity of this matter, of your opposition to the third party, which was involved in that split, was because it came not from the grass roots, but from the Kremlin or the ivory tower, or whatever, wherever it was, in 1947; yet in August you were endorsing a third party, weren't you?

A. In August of 1947?

Q. Yes.

A. I believe what you have reference to——

Q. You what?

A. I say, if you and I are talking about the same thing, I made an amendment to a motion that was adopted by our executive board, I believe in Los Angeles, where there was a very violent disagreement at that time—— [6837]

Q. What was your motion, your amendment?

A. Well, can I——

Q. Well, tell us first and then explain it.

A. My amendment was, a third party is necessary—this motion was a motion on independent political action, and I made a trick amendment.

Q. A trick amendment?

A. In order to get the members of the Communist Party on the executive board to vote against a third party, which I knew was against their line. And I was putting them on the spot.

Q. Well, good for you. In other words, in 1947, when you advocated a third party, it was just a trick amendment, is that right?

A. You are very right. And if you read the

(Testimony of Mervyn Rathborne.)

record, you will see there was only one vote for it, and that is my own.

Q. Only one vote for it and it was your own?

A. That's right.

Q. All right.

A. Yes. And I would like to explain the situation in which that amendment was made.

Q. Well, if——

Mr. Paisley: Well, Your Honor, I submit that he ought to let the witness——

Mr. Hallinan: Well, we will let him explain it. I wanted to ask him the question I have first. [6838]

Mr. Paisley: Well, he can't just run the whole court.

Mr. Hallinan: Well, I object to this "running the whole court."

Mr. Paisley: The witness ought——

Mr. Hallinan: As a matter of fact, I didn't recognize the voice coming along behind me. I have been hearing Mr. Donohue.

Mr. Paisley: Well, I just want to be fair to the witness, Your Honor.

The Court: There is no objection before the Court. The witness may make his own explanation.

Mr. Hallinan: Mr. Paisley is taking quite an active part lately with you in the trial of the case, you notice.

The Witness: Yes, I notice.

Mr. Hallinan: Glad to see that.

The Witness: I noticed he was on his feet a couple of times this morning.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: For a while I thought he had just been sent out to demonstrate why the people of the State of Tennessee don't believe in evolution.

Q. (By Mr. Hallinan): Now, at this convention of the CIO that was held at the hotel,——

A. May I explain——?

Q. At the Hotel Clark——

A. Can I have the opportunity of explaining this?

The Court: Yes. Mr. Hallinan said you would have the [6839] opportunity.

Mr. Hallinan: Yes, if you will just listen to it first, and then you can explain.

The Witness: I have already given an answer which I would like to amplify, if I may, before any further question——

Mr. Hallinan: An amplification is not an explanation, if the Court please. I think the statement——

The Court: You may explain.

Q. (By Mr. Hallinan): I will ask you this question, and you can explain the whole deal on it.

Mr. Donohue: No, he hasn't explained his last question, Mr. Hallinan. Now be fair to this witness.

Q. (By Mr. Hallinan): Have you explained the question next preceding the last one?

A. If you——

Q. Hop to it, go ahead, let's hear the explanation.

A. At the time the amendment was made, there was a strong difference of opinion with the national

(Testimony of Mervyn Rathborne.)

CIO and with a majority of our Political Action Committee out here who were carrying out the party line in connection with this party matter, the matter of a third party. The CIO had stated it was opposed to a third party, and it told us in effect that any resolution we adopted out here favoring a third party would be contrary to the national CIO policy. At this executive board meeting, as I say, I believe it was in Los Angeles, a resolution was brought in favoring [6840] independent political action. Now, this resolution was a resolution that was drawn up by a small committee to get the state CIO on record as far as they thought they could get without violating the CIO national—the national CIO policy, in favor of a third party. And my position at that time was opposed to a third party. And when the resolution got before the executive board, I offered an amendment to the effect that we should favor independent political action, including a third party, if necessary, because I stated at that time, as I recall it, "That is what you mean; now why don't you say so, and quit trying to bend the CIO policy line just as far as you can, to just the point where you think you can get away with it. And why don't you come out and say what you mean?" And I made the resolution, I made the amendment purposely to be able to—knowing it would be voted down and knowing that the Communist Party members of the executive board would vote against it; so I will be able to say,

(Testimony of Mervyn Rathborne.)

"You guys are pretty hot third-partyites, and when an amendment is offered to a resolution for a third party, you guys go out and vote against it."

And that is the reason behind it. The party didn't want to break with the national CIO at that time on that issue. And so they brought in this resolution, which was a compromise. My amendment was to lay the issue right on the table there and bring it out in the open and see if they had the guts enough to vote what their line was and they didn't do it. They didn't—— [6841]

Q. Have you come in the back door yet or are you still running around the building?

A. I am giving an explanation of it.

Q. In other words, you were opposed——

A. The record will show that I was the only one who voted for it. [6841-A]

Q. You were opposed to a third party?

A. That is right.

Q. Or opposed,——

A. This particular third party I was opposed to.

Q. Just this particular one. So you offered an amendment recommending the formation of a third party just to put those other rascals on the spot?

A. I didn't offer an amendment recommending. I offered an amendment specifically mentioning the third party to put them on the spot, yes, sir.

Q. To put them on the spot? A. I did.

Q. And then it did not put them on the spot?

A. It certainly did. He had all these fine left-wingers there who were carrying out the Party line

(Testimony of Mervyn Rathborne.)

on record voting against an amendment favoring the third party, which is something they didn't like very well, I can tell you that. I have seen those kind of tactics engaged in in other places, Mr. Hallinan.

Mr. Hallinan: Well, I am frank to confess that this awfully, awfully clever young man is too awfully clever for me, and what an awfully, awfully clever young man this clever young man must be. I don't know what he means by anything he said, and I therefore will pursue that subject no further.

Q. I notice on your cold war getting hot—did you notice [6842] last night that Senator O'Mahoney said there was no possibility of an aggressive war by Russia against the United States?

Mr. Donohue: I object to that unless he also wants to include what Mr. Symington said on the air last night, that this country is vulnerable to an attack by Russia with atom bombs or hydrogen bombs. If he wants to put both of them in the question, I have no objection.

Mr. Hallinan: I do not know who Mr. Symington is.

Mr. Donohue: Secretary of the Air.

Mr. Hallinan: When people like Senator O'Mahoney think there is no possibility of Russia attacking, I do not think Symington, or whatever his name is, has any chance of stirring one up.

Q. At the time when you were back in Washington and had your conversation with Mr. Clark, the maritime strike was on; that is correct, isn't it?

(Testimony of Mervyn Rathborne.)

A. That is my recollection, yes, sir.

Q. Was that a legitimate strike?

A. I certainly believed it was.

Q. The longshore struck for better hours and higher wages and won them, is that right?

A. I believe—I am not familiar with exactly—what the exact issues were, the exact demands.

Q. You were interested in the labor movement at that time, weren't you? You still had some shred of interest, didn't you? [6843]

A. I wasn't acquainted with the exact demands. They were along the lines of wages, hours and conditions.

Q. And then the sailors also profited; they put in demands that were granted?

A. That is my recollection.

Q. And then your union, the radiomen, right at the end they came in with specific demands which were granted, is that right?

A. That is my recollection.

Q. Do you remember that among those demands that the radiomen put in and which were granted was that the spread of hours was narrowed, that it used to be that while you only had to work eight or ten hours, whatever it may be, that could be selected out of any of the 24 hours so that the radiomen were always on call, and in this strike that was narrowed down to a period of 12 hours, so that if they were called on special duty outside of that 12 hours they would get overtime pay?

A. I recollect a program of that kind, yes, sir.

Q. What was the name of the president of your organization? A. At that time?

Q. Yes.

A. I believe it was Philip O'Rourke.

Q. Do you remember Philip O'Rourke and a delegation of your union, the rank-and-filers, going up to the ILWU hall and Philip O'Rourke publicly stating their gratitude to the ILWU for holding out so as to get those benefits, and that without the [6844] assistance of the ILWU and Harry Bridges they would have gotten nothing? Do you remember that?

A. I remember that the matter was discussed in a membership meeting.

Q. I mean to that general effect.

A. That is my recollection, yes, sir.

Q. You have been receiving that higher rate of pay based upon that gain that was gotten through the longshore strike; that is right, isn't it?

A. That is right, sure.

Q. And the $120 a week—is that what you are getting now as a Government agent, employee, or whatever you are? A. That is right.

Q. Informer—that rate of pay is based upon the increased wages that you got through this strike, is that right?

A. Well, it is based upon the wages I was receiving.

Q. As increased by that strike?

A. That is right.

(Testimony of Mervyn Rathborne.)

Q. Don't you think it would have been a kind of moral justice to have accepted a scale of pay based upon the rate that you had been receiving before Mr. Bridges and the ILWU got you the raise? A. I don't see any point to that.

Q. You make no point. When you were tossing out press releases after your statements to the grand jury, and on May 29, 1949, [6845] you gave this little statement, didn't you:

> "The 1948 waterfront strike was 80 per cent political, 20 per cent wages, hours and working conditions. It was directed primarily at the Marshall Plan."

Did you state that?

A. I don't know whether I stated those exact words.

Q. Do you want to refresh your recollection?

A. I expressed some sentiment——

Q. I beg your pardon?

A. I expressed a sentiment along those lines. I don't know whether those were my exact words at the time. I say I expressed a sentiment along those general lines. I don't know whether those are my exact words at the time.

Q. In other words, the sentiment you expressed and publicized was this strike which you have testified about this morning, if your recollection serves you clearly, was a legitimate strike for wages and better conditions, and at that time you spread out to the general public that it was 80 per

(Testimony of Mervyn Rathborne.)

cent political, 20 per cent wages, hours and working conditions, and was directed primarily against the Marshall Plan, didn't you?

A. That was my opinion at that time.

Q. Is it now your opinion?

A. To a certain degree, yes.

Q. Where were you when you issued that press release?

A. I believe I gave it to somebody on the telephone from my [6846] home in Half Moon Bay. This is my recollection.

Q. Think hard now, Captain. Weren't you in Mr. Donohue's office? A. Me?

Q. Yes. Didn't you phone down to Mr. Wilson and read it off to him down in Los Angeles from Mr. Donohue's office?

A. Not that statement.

Q. You read off a statement from Mr. Donohue's office to Mr. Wilson over the telephone, didn't you?

A. That is right; I did.

Q. You phoned down at our expense—taxpayers generally—and told Mr. Wilson of this press release that you wanted him to run in the papers in Los Angeles, isn't that right?

A. I gave him a copy of the statement I had issued here in San Francisco.

Q. A big long statement?

A. I don't know how long it was. I think you have a copy of it.

~~Q. Mr. Wilson called your attention that this~~

(Testimony of Mervyn Rathborne.)

was costing money reading all that over the telephone, and you said the Government was paying for it, didn't you?

A. I don't believe I ever made such a statement.

Q. I beg your pardon?

A. I don't believe I ever made such a statement. As a matter of fact, the Government was not paying for it.

Q. Did you pay for it? [6847]

A. No, sir, I did not.

Q. Who paid for it?

A. I called from Mr. Donohue's hotel room. I believe Mr. Donohue paid the bill.

Q. Please, please. When you go out to the El Prado with your wife and Mr. Donohue, and so forth, does he pay the bill?

A. As a general rule, yes.

Q. Always, isn't that so?

A. I think I have been to the El Prado twice with Mr. Donohue and both times he paid the bill.

Q. And on those occasions when you went out with Mr. Barber he paid the bill, didn't he?

A. Not always.

Q. Don't you know when Mr. Donohue pays that bill he gets it back from the Government and it comes under this heading, "Entertaining informers"? A. Is that right?

Q. Yes. A. I didn't know that.

Q. Have no illusions as to your standing and position with anyone.

(Testimony of Mervyn Rathborne.)

Mr. Donohue: I move that that remark be stricken.

The Court: That remark may be stricken from the record.

Mr. Hallinan: That is a little discussion with the witness.

Q. Now, you say that part of your purpose in this case is not [6848] union-busting?

A. I certainly did, yes, sir.

Q. No part of it? A. No, sir.

Q. You have no desire to damage or hurt the labor movement at all? A. That is right.

Q. And you do not conceive that the actions you have taken here are detrimental to the labor movement? A. No, I do not.

(Document handed to Mr. Donohue.)

Mr. Donohue: Tell us what year this was.

Mr. Hallinan: It is either 1937 or 1938. He can probably tell it.

Q. You know generally what that document is, don't you? A. No, I don't recall it.

Q. Were you a member of that Maritime Council?

A. May I have an opportunity to read it?

Q. Before you do I will ask you a couple of questions that might enable you to determine what it is. Do you see the heading on it?

A. "New York Maritime Council"; yes, sir.

Q. Were you a member of that?

A. I was chairman of that organization.

(Testimony of Mervyn Rathborne.)

Q. What years? [6849]

A. My recollection is 1937 and 1938, probably.

Q. And was Mr. Thomas Ray a member of that organization? A. He was the secretary.

Q. Was that organization fighting the Copeland Bill? A. Yes, very definitely.

Q. What was the Copeland Bill, generally.

A. The Copeland Bill was a bill introduced by Senator Copeland to require all seamen to carry what is known as continuous discharge books as a requirement——

Q. In a happier day you called them "fink books," did you not?

A. Well, fink books, continuous discharge books, as a condition of employment, and those books carried the record of the seamen. Our argument was that if somebody didn't like him he would put a bad record on it and he would have to carry his own blacklist.

Q. In other words, if he didn't like maggoty meat he didn't get a job on the next ship, is that it?

A. If he had a bad recommendation from his employer, or if he had engaged in union activities—it could have been used as a union-busting device, and we were fighting it.

Q. The Copeland Bill was to make those compulsory under the national law?

A. To make every seaman carry one of these books before he could get a job, and the way the Copeland Bill was rigged up was to require, as we put it, previous condition of servitude, [6850] his last employment, whether he was good, bad, indifferent character, and a lot of other stuff like that, which, as I say, in our judgment would have had the man carrying his own blacklist with him.

Q. It was your judgment, too, and of the Maritime Council that any labor activities, any legitimate labor activities on the part of the seaman would result in his being blacklisted so he was off the sea, is that right?

A. Yes. We believed that labor activities would be reason to cause employers to give certain hostile captains orders to make bad entries in the book and thereby blacklist him.

Q. The Copeland Bill also contemplated that the license of radio operators could be taken away for a number of things, including the word "misconduct," isn't that right?

A. I don't know whether that was in the Copeland Bill or in separate legislation, but my recollection is an issue of that kind was raised.

Q. The Copeland Bill with those facts as you contemplated would fix it so that any efforts that a man took on a ship to ameliorate bad conditions or to betterment of their situation or increased wages would result in being blacklisted?

A. Well, yes; any activities that the shipowners might consider detrimental to themselves, there was a very grave danger of a man being blacklisted if he had to carry a continuous discharge book. [6851]

Q. And the Copeland Bill was being put out,

(Testimony of Mervyn Rathborne.)

supported and advocated upon the contention that it was out merely to catch Communism, isn't that right?

A. That was one of the contentions. [6852]

Q. That was the whole contention, wasn't it?

A. No, I believe there were other contentions. But it was the main contention. I wouldn't argue it wasn't one of the main contentions.

Q. And so the Maritime Council put out this long statement that you have here, showing that this red-baiting and charges of Communism were only a smokescreen and a disguise to hide much more nefarious purposes of people who were trying to support the Copeland Bill, isn't that right?

A. I believe that is right.

Q. You put out a number of such documents, didn't you?

A. Yes. Well, I concede that attacks on Communism and red-baiting are used as smokescreens for a considerable number of things. I wouldn't deny that.

Q. For destroying perfectly legitimate unions, aren't they? A. They could be, yes.

Q. They have been used to put militant trade labor men out of jobs, isn't that right?

A. Well, I don't recall any specific instances, but I wouldn't deny it.

Q. They have been used to put militant individual union leaders in jail, hasn't it?

A. It might have, during strikes, yes, sir.

Q. Yes. Now, do you recognize that as one of the documents that was put out at the time that the Copeland Bill was pending, [6853] discussing exactly the point I am just making?

A. If you will give me an opportunity to look it over a little bit, Mr. Hallinan, I will comment on it if you like.

Q. All right. Well, we have three of them, and as it will take some—hold that one for a moment, if you will, and I will show you these other two and see if you can identify them and identify your signature on them. (Documents handed to the witness by the Clerk.)

And then at the recess maybe you can look them all over and see if they are not——

A. You want me to hold these 'till after the recess?

Mr. Hallinan: May we have them marked for identification first?

The Clerk: The exhibit first shown to the witness is marked Defendants Exhibit V-3.

The Court: Are they marked separately or in one designation?

Mr. Hallinan: I think separately, your Honor.

The Court: So ordered.

The Clerk: The other two documents are marked W-3 for identification and X-3 for identification.

(Whereupon, documents designated as released under signature of Mervyn Rathborne, Harry Bridges and Mervyn Rathborne, and Mervyn Rathborne, respectively, were marked

Defendants' Exhibits V-3, W-3 and X-3 for identification.) [6854]

Q. (By Mr. Hallinan): Now, the first document, the long one that you looked at first, you see—what number is on that tag that the Clerk just affixed? A. You mean V-3?

Q. Yes, Defendants' Exhibit V-3 for identification. You want to read that over, but do you recognize it as a release that was put out by the organization of which you were chairman at that time?

A. I believe so. I would like to read it, if you don't mind.

Q. All right, take a look at the next one. What is that document marked by the Clerk?

A. X-3.

Q. Defendants' X-3 for identification. Will you look at the signature on it? Whose signature is that?

A. Harry Bridges and Mervyn Rathborne.

Q. Your own signature is attached to that, is that right? A. Oh, yes.

Q. So that was put out with your permission and consent, and it is partly, at least, of your composition?

A. I believe I wrote it. I am not certain.

Q. All right. Now, look at the third document.

A. That is W-3.

Q. All right. Will you look at the signature on that? A. That is my signature.

Q. Your signature also. So you put that document out, is that [6855] right?

A. I don't dispute it.

Q. All right. Well, now, if you will hold those and you can look at them at the recess, we will go to something else.

Well, suppose we identify that, and then you can look at that at the recess, too.

Mr. Hallinan: Might we have this document marked for identification?

> (Thereupon, document referred to was marked Defendants' Exhibit Y-3 for identification.)

Q. (By Mr. Hallinan): Now, will you look at that document and will you look at the last page on it? Well, look first at what the heading is. Now, look at the last page. You see the name typed in there; whose name is that?

A. It is my name typed there.

Q. All right. Now, will you look at the side and see the stenographer's designation?

A. Oh, I would like to read it. I mean, I——

Q. Well, yes, I mean, but before—I will give you that chance to read it.

A. I don't recall who "G.:L." is.

Q. Who what? A. G. L.

Q. Miss Lee; don't you remember her? That was your stenographer at the CIO? [6856]

A. Oh, yes, Gloria Lee. I had forgotten the name.

Q. Gloria Lee. And she was your personal stenographer, was she? A. Oh, yes.

Q. And do you recognize that document now?

(Testimony of Mervyn Rathborne.)

A. I would like to read it, Mr. Hallinan.

Q. I say, without reading it,—I am not holding you to, I just want to know if you recognize the document itself, without regard to all the contents?

A. No, I don't recall it.

Q. Do you remember giving a—dictating a statement to Miss Lee on your interview with your brother-in-law, Krolek, relating to his discussion with the FBI in 1941?

A. As I said yesterday, I believe—I recall making some report, but I didn't recall it at that time, yesterday, whether it was verbal or written or what kind of report.

Q. Well, now, does that refresh your recollection that it was written?

A. Well, I would have to read it. I just read the headline. If I wrote it, I will say so. I mean, I am not trying to——

Q. Well, we will hold it until the recess. You can hold it until recess also. Keep it with the other matters and read that over.

Now, do you remember offering a resolution at the CIO convention in Los Angeles in September, 1944, as follows? Do you remember getting up, giving this talk: [6857]

"Sister Chairman and Delegates:——"

there was a lady chairman, remember?

"I know you are anxious to get on with the rest of the business. However, I would like to point out a few things. Much has been said

(Testimony of Mervyn Rathborne.)

about the leadership of Brother Bridges in the past. I think we should also look toward the future. We are now entering one of the most difficult stages of the trade union movement, and the American people are confronted with one of the most difficult problems they have yet had to meet, the problem of readjustment with peacetime programs. We are confronted in California with two courses: One of these will lead to the possible unemployment of more than half of our working people in this state; the other can lead to full employment and prosperity for all people of the CIO and all working men and women of this state. We need the kind of leadership that Brother Bridges has demonstrated he can give, that will help chart the course and carry out the program that will make us go in the direction of securing jobs and security for all of our people. And I think we have to give plenty of consideration, based on the record of the past, to the necessity of keeping with us and supporting the kind of effective leadership that Brother Bridges has proved he can give in this period to come. I think that is an aspect of this particular problem that we have to consider very [6858] seriously, because we all know Brother Bridges is on the beam on these issues. He also has been and he always has new ideas and suggestions, et cetera, every day. He is not only a sparkplug in the labor movement of California,

(Testimony of Mervyn Rathborne.)

> but in the national labor movement, in projecting new ideas that are in the interest of the American working men and women. I wanted to point out that particular phase of the problem, which to me is more important than what has gone on in the past."

Do you remember making that little talk at the CIO convention?

Mr. Donohue: I object, if your Honor pleases. There isn't any question. Mr. Rathborne has stated——

Mr. Hallinan: What?

Mr. Donohue: ——Mr. Bridges' efficacy as a trade union leader. If we attempt and permit in evidence every statement that has been made by Mr. Rathborne on that subject, there is no end to what the size or proportion of this record might meet.

The Court: The objection is overruled; he may answer.

A. I may say, I don't recall the exact words, but I am reasonably sure I made such a statement. I made many statements commending and supporting Mr. Bridges' leadership. We worked together very closely in those days, and I was certainly one of the ones that supported him most strongly.

The Court: We will take the morning recess, Mr. Hallinan. [6859]

Mr. Hallinan: Very well, your Honor.

The Court: The witness may have an opportunity to read these documents.

(Testimony of Mervyn Rathborne.)

Ladies and gentlemen of the jury, we will take the morning recess. Same admonition to you, not to discuss the case under any condition or circumstance, until the matter is submitted to you.

Those two little yellow papers you had better return to Mr. Hallinan.

Mr. Hallinan: They are of no importance. Just throw them away.

(Recess.) [6860]

Q. (By Mr. Hallinan): During a portion of that 1948 strike Curran's union did operate ships in and out of the port, didn't it?

A. I am not very familiar with that, Mr. Hallinan. I wouldn't say yes and I wouldn't say no. There was some comment in the newspapers, I believe.

Q. Has Curran ever visited you at your home?

A. Yes, he has.

Q. When?

A. I think it was this last summer. The last time he was out here.

Q. When was that?

A. My recollection is the summer of 1949, or maybe it was spring. He was out here about a year ago, I believe.

Q. Do you remember what month?

A. I can't recall the month, Mr. Hallinan, no.

Q. Do you know how long he was out here?

A. He was out here for several days.

(Testimony of Mervyn Rathborne.)

Q. How many times did he call at your home?

A. Just once, he and his wife came down and paid us a visit.

Q. How long did they stay?

A. We spent the afternoon and evening together.

Q. Had dinner? A. Yes, sir.

Q. Did you see him on any other occasion during that visit of [6861] his?

A. I talked to him on the telephone. I don't recall having seen him.

Q. You did not visit him in San Francisco at all?

A. I don't think so. He was out here with some kind of conference and he was pretty busy.

Q. Have you seen him since the summer of 1949?

A. No, sir, I have not.

Q. Did you see him between that time and your visit to him in 1948 in New York? A. No.

Q. I beg your pardon? A. No, I did not.

Q. When you visited him in New York in 1948 and discussed your testimony concerning Harry Bridges——

A. I didn't discuss that with anyone.

Q. I beg your pardon?

A. I said I didn't discuss my testimony of Harry Bridges.

Q. You told him, however, you were going to testify against Harry Bridges?

A. I told him I was considering it, and I related what I have testified.

(Testimony of Mervyn Rathborne.)

Q. And you told him the Immigration Department was about to stir up another action against Harry Bridges claiming he was a Communist, didn't you? [6862]

A. I related to him my conversation with Mr. Clark and also Mr. Carey and others.

Q. Well, did Mr. Curran express any surprise at that?

A. I wouldn't say that he did, no.

Q. Did you tell Mr. Curran that you intended or were asked to give information which would support a contention that Mr. Bridges was a member of the Communist Party?

A. I believe my statement to Mr. Curran was along the lines that I was seriously contemplating cooperating with the Government in this proceeding.

Q. But in the direction of attempting to prove that Mr. Bridges was a member of the Communist Party, is that right? A. That is right, yes.

Q. Did Mr. Curran express any surprise that such might be the fact?

A. What might be the fact?

Q. That Mr. Bridges should be a member of the Communist Party? Did he consider that a surprising revelation to him? A. No, sir.

Q. Did he seem to be, or didn't he express any surprise that there should be any serious contention that Mr. Bridges was a member of the Communist Party?

A. He didn't express that to me, no, sir.

Q. He did not? A. No. [6863]

(Testimony of Mervyn Rathborne.)

Q. You know that Mr. Curran testified in the second Bridges deportation hearing that he never knew of anything that would indicate that Mr. Bridges was or ever had been a member of the Communist Party? You knew that, didn't you?

A. I recall that Mr. Curran testified—I never heard his testimony. I never read it. But my understanding is it was favorable to Mr. Bridges.

Q. Yes, he testified on behalf of Mr. Bridges, didn't he? A. I believe he did.

Q. Give your recollection a little more work and see if you can recall ever having sent out any circulars describing in part what Mr. Curran's testimony was in the 1941 hearing before Sears.

A. I don't recall sending out any. I may have, because I was quite closely connected with the Bridges case at that time.

Q. Without going exactly into what you heard, you do know that Mr. Curran testified in the 1941 deportation hearing against Bridges as a witness for Mr. Bridges?

A. I believe it was 1941. I know he testified in a proceeding——

Q. And you know that at that time there were two matters in issue: (1) Was Harry Bridges a member of the Communist Party? or (2) Had he affiliated with Communists? You knew that those were the only two questions involved in that proceeding, isn't that right?

A. I am not—That is my recollection, [6864] yes, sir.

(Testimony of Mervyn Rathborne.)

Q. And you knew that Mr. Curran had testified substantially that he had no information or knowledge of any kind to indicate either that Mr. Bridges had ever been a member of the Communist Party or that he had even affiliated with members of the Communist Party; you knew that, didn't you?

A. Mr. Hallinan, may I say this in answer to your question: I have stated the extent of my knowledge of Mr. Curran's testimony, that he testified favorably for Mr. Bridges. I believe the testimony will speak for itself. I don't recall the exact testimony. I wasn't there——

Q. I say, it was to the general effect of what I have just said, isn't that correct?

A. It may have been. I am not certain. I wouldn't deny it, however.

Q. In view of that circumstance didn't Mr. Curran express some surprise that his testimony had been in error in 1941?

A. We never discussed it.

Q. You did not go into it at all. When you told him the purpose that the Government was going to launch upon again, didn't Curran say, "Is it never going to end? I went out there and testified for him myself in 1941 that he had never been a member of the Communist Party, and I have never seen or heard of anything to indicate it"?

A. I never heard anything like that.

Q. Did you know Curran in 1941? [6865]

A. I have known Joe Curran since 1937, 1936.

(Testimony of Mervyn Rathborne.)

Q. Did you meet him in 1941 when he was out here testifying?

A. I don't recall. I met him on several occasions when he came to the West Coast. If one of those was 1941, I can't pick it up. I could have met him; I may have met him, but I am not certain.

Q. After you visited Mr. Curran in New York in 1948 did Mr. Curran visit you in 1948?

A. No, he did not. I saw him twice when I visited him in 1948. I went down to his office and talked with him for a while and he said Loretta—that is his wife—"would like to see you. How about coming out and spending the evening at my home on Long Island?" We made the arrangement and went out to spend the evening.

Q. When was that?

A. That was when I was back East, I believe, in October, 1948.

Q. And you are sure Mr. Curran was not out here in November, 1948, is that right?

A. I don't think it was that soon after my visit to the East that I saw him.

Q. He came out here some time before the summer of 1941; he made two visits out here, didn't he?

A. The only visit I recall, Mr. Hallinan, was when he was out here and he got in touch with me and my wife; and I invited him and his wife down to our house. We spent an afternoon [6866] together. We had dinner that evening and he went back to San Francisco.

(Testimony of Mervyn Rathborne.)

Q. You recognize that document, do you not (handing document to witness)?

A. Yes, that is one of quite a number of letters we signed and sent out.

Q. What is that?

A. I said this is one of quite a number of letters of this general type that I sent out.

Mr. Hallinan: We offer it in evidence. The letter is the copy of the one that I have. This is the same thing. We offer it in evidence as defendants' exhibit next in order.

Mr. Donohue: No objection.

The Court: It may be marked in evidence defendants' exhibit next in order.

(The letter was marked Defendants' Exhibit Z-3 in evidence.)

Mr. Hallinan: Now, Defendants' Exhibit Z-3, reads as follows:

"March 20, 1945

"Mr. Walter J. Fort
"California State Assemblyman
"Sacramento, California

"Dear Mr. Fort:

"Governor Mon C. Wallgren of Washington in a letter to President Roosevelt on March 3, said, 'I can see no justifiable reason for the continuance of these proceedings [6867] and recommend that the charges be dismissed.' Governor Wallgren referred to the deportation order issued by Attorney General Biddle against California CIO Director Harry Bridges. Other well known Americans recently have expressed similar sentiments. CIO President Philip Murray has characterized the Bridges case as a burden upon the conscience of the American people. California Attorney General Robert W. Kenny said on January 18: 'I urge seriously and respectfully that the Bridges proceeding, an unnecessary and dangerous obstacle to the full development of the United States as a nation, be immediately dismissed.' Similar comments by other prominent people are contained in the enclosed pamphlets. As a leader and as an informed and fair-minded citizen we ask that you join with these other outstanding Americans to bring to an end the ten-year persecution of one of America's great leaders, Harry Bridges. We urge that you (1) write to President Roosevelt and Attorney General Biddle requesting them to dismiss immediately by executive action the deportation order against Mr. Bridges.

"(2) Request the introduction of a vote for the enclosed resolution, which will be introduced into the Assembly of California when it receives the support of not less than 41 assemblymen. After you have had an opportunity to study the facts underlying the Bridges case we [6868] know that you as a fair-minded person can reach only one conclusion. This case should be ended now by the dismissal of charges against

Mr. Bridges so that the way will be clear for him to become a citizen of the country he has loyally served, the United States of America.

"Sincerely yours,

"JAMES G. THIMMES,
"President,

"MERVYN RATHBORNE,
"Secretary-Treasurer."

That was a letter that you sent out?

A. I sent out a number of letters like that, yes, sir.

Q. You sent out similar letters to almost all the members of the California State Assembly, is that correct?

A. Mr. Hallinan, I worked very hard——

Q. No, I asked you, did you send out such letters?

A. Yes, I did, and I would like to add an explanation that I worked very hard and very diligently in the defense of Harry Bridges in those particular proceedings, and you can probably produce a stack of documents a foot high——

Q. Three feet high.

A. ——with my signature attached to them showing——

Q. Three feet high.

A. ——showing that I acted in such capacity.

Q. You are just a liar whichever way you feel like going, aren't you, Mr. Rathborne?

Mr. Donohue: I not only object to that, if your

Honor [6869] please, but at this time I say to your Honor I can personally withstand the insults of Mr. Hallinan——

Mr. Hallinan: We haven't come to you yet.

Mr. Donohue: A witness is entitled to the protection of this Court, and I ask your Honor at this time to advise Mr. Hallinan that his demeanor toward this witness is reprehensible.

Mr. Hallinan: Oh, my demeanor. I think I have been courteous and kindly; don't you think so, Mr. Witness? Your Honor. I am entitled to ask the witness to characterize his own situation. Now, either these statements are true or they are lies. I want him to tell us himself what his state of mind is in regard to that. Will he tell lies when it suits him, or will he not?

The Court: I might say to the ladies and gentlemen of the jury, adverting only momentarily, as I said before, the credibility of this witness, Mr. Rathborne, is your task. Ultimately it will be your bounden duty under your oath to determine whether or not he is telling the truth on this witness stand. The characterizations made by Mr. Hallinan or by any other person in this courtroom concerning his credibility as bare; unadorned statements or charges may not be regarded by you as evidence. As I indicated earlier in the case, only yesterday, I told you the matter of personalities and characterizations would not suffice as evidence. Therefore, you are to consider the record of the evidence only, the testimony of this witness [6870] and other witnesses.

Now, may I have the question itself read?

(Question read.)

The Court: That is a blanket charge. It is objectionable. I strike it from the record and ask the jurors to disregard it.

Mr. Paisley: Your Honor, as I remember the record, the witness was in the process of testifying when Mr. Hallinan broke in on him as usual.

Mr. Hallinan: I don't think so. I think you were asleep.

Mr. Paisley: I think it is fair that the witness be permitted to continue.

The Court: Is that true, Mr. Rathborne? I can't recall now.

Mr. Hallinan: I think he had finished. He said he had worked very hard for Mr. Bridges, and that is all he said.

Mr. Paisley: He had not, your Honor.

Mr. Hallinan: Did you know what he was going to say?

Mr. Paisley: No, but I do not like to see a witness bullied, your Honor, and that is why I am objecting. The witness was trying to make an explanation.

The Court: Mr. Paisley, it is the duty of this Court under countless Supreme Court pronouncements to protect this witness or any other witness from bullying and the like. If this witness feels at any time or made uncomfortable, I ask him to

(Testimony of Mervyn Rathborne:)

address himself to the Court and I will undertake any such measures as [6871] may be responsible in this case. We are reaching the closing stages now and there is feeling, naturally. There is a conflict of personalities, and I feel we ought to get on with the testimony. You may proceed now.

Mr. Paisley: Your Honor, may the witness continue his explanation?

The Court: If he has one.

Q. Mr. Rathborne, were you interrupted?

A. I was, your Honor, but I am perfectly willing to drop it where it is.

The Court: Was there a question before the witness now?

Q. Do you have a question submitted to you?

A. I don't recall any, your Honor.

Mr. Hallinan: No, your Honor, there was none.

Q. You have that document now. May I have it? This was the resolution that you enclosed with the letter to the Assemblyman that has been referred to in the last letter, the last exhibit, is that correct? A. That is my recollection.

Mr. Hallinan: We offer it as defendants' exhibit next in order.

The Court: It may be marked in evidence, Schaeffer, as defendants' exhibit next in order.

(The paper was marked Defendants' Exhibit A-4 in evidence.)

Mr. Hallinan: This is on the heading of the California [6872] Council of the CIO, President

James G. Thimmes, Secretary-Treasurer Mervyn Rathborne. By the way, Mr. Thimmes was never a member of the Communist Party, so far as you know, was he?

A. Not so far as I know, so, sir. As a matter of fact, I am quite sure that he was not.

Mr. Hallinan (reading):

"March 19, 1945

"Memo to all local CIO Councils in California.

"From Mervyn Rathborne.

"Subject: Campaign to have State Assembly adopt resolution requesting dismissal of charges against Harry Bridges.

"Enclosed are copies of a resolution which will be sent on March 20 to each member of the California Assembly. It is urged that your organization immediately contact the Assemblyman or Assemblymen representing the areas in which your members reside and ask that they request the introduction of and vote for in the Assembly a resolution which calls upon President Roosevelt to immediately dismiss by executive action the deportation proceedings against Director Bridges. A follow-up by your organization is necessary if we are going to muster sufficient votes to have the Bridges resolution adopted by the Assembly. Attached is the proposed resolution. [6873]

"'Whereas, this assembly has twice, on January 31st, 1944, and again on June 13th, 1944, acted by resolution in praise of the war production effort and post-war program of the International Longshoremen's & Warehousemen's Union; and

" 'Whereas, Harry Bridges, as president of the International Longshoremen & Warehousemen's Union, in large measure, is responsible for the leadership that has resulted in full support of the union in all phases of the war effort and in increased understanding and unity for the post-war management-labor-farmer-government cooperation, which will be necessary to a prosperous peace; and

" 'Whereas, there now pends against Mr. Bridges an order of deportation whose origin was in a period long since by-passed by historic events; and

" 'Whereas, such deportation of the ranking officer of a union which is deserving of the highest praise and cooperation for its efforts can add nothing of constructive nature to state or national unity or to the development of peaceful industrial relations in the crucial future ahead, but on the contrary can only do incalculable harm to these hopes; and

" 'Whereas, the deportation warrant was initiated by the executive branch of the federal government and can, as stated by the courts, be controlled by that branch;

" 'Therefore, be it resolved by the general

(Testimony of Mervyn Rathborne.)

> assembly of the State of California, that it be made known to the President [6874] of the United States and the Attorney General of the United States that we desire cancelation of the warrant and clearance of the way for Mr. Bridges to become a citizen of our country and our state.' "

Do you remember that resolution?

A. I do.

Q. And it was the fact, was it not, Mr. Rathborne, that Mr. Bridges in large measure was responsible for the leadership that resulted in full support of the union in all phases of the war effort?

A. I think Mr. Bridges' record during the war as helping win the war and maintaining production was an enviable and excellent one. I have said so publicly many times, and I still think so.

Q. All right. And you also think this, don't you:

> ". . . and in increased understanding and unity for the post-war management-labor-farmer-government cooperation, which will be necessary to a prosperous peace"?

A. Well, that was a pious hope we expressed at that time. It didn't seem to work out that way.

Q. It hasn't worked out, is that right? You know that the employers, representatives of the employees, came up here and testified for Mr. Bridges on this identical trial, don't you?

A. I read it in the newspapers.

Q. Yes. And that he has helped establish peace and unity on the waterfront. You know that, don't you? [6875]

A. Well, according to the testimony. I mean——

Q. This was only a pious hope at that time, is that right?

A. Well, I will withdraw that statement. I will say it was something we were looking forward, something we hoped for.

Q. Now, what about this:

> "Such deportation of the ranking officer of a union which is deserving of the highest praise and cooperation for its efforts can add nothing of constructive nature to state or national unity or development of peaceful industrial relations in the crucial future ahead, but on the contrary, can only do incalculable harm to those hopes"?

A. In the light of the situation at that particular time, in the middle of the war and with the activity being carried on by the unions and by the Communist Party, I was all for it. I think we had a good program during the war, and it did a good job. And that expressed those sentiments very well at that time.

Q. Do you recognize that as a letter you also sent out?

(Document handed to witness by the Clerk.)

A. I don't recall the exact letter, but as I stated previously, I sent out a number of letters.

(Testimony of Mervyn Rathborne.)

Q. Would you like to see the whole group of them, to see if you can identify the ones of the letters you sent out?

A. I have no objection to it. I mean——

Q. They are all the same, but you might recognize some of the names.

(Handed to witness by the Clerk.) [6876]

A. I recollect that a group of such letters were sent out, Mr. Hallinan.

Mr. Hallinan: All right; we offer one of them in evidence, if the Court please, as Defendants' exhibit next in order.

Mr. Donohue: No objection, Your Honor.

The Court: It may be marked in evidence.

(Thereupon letter dated 3/16/45, ILWU to Hon. Hiram Johnson, was received in evidence and marked Defendants' Exhibit No. B-4.)

Mr. Hallinan: In other words, Your Honor, I have a great number of them, but I am only offering one in evidence.

The Court: All right.

Mr. Hallinan: As a sample. They are all identical.

The Court: All right.

(Whereupon Mr. Hallinan read Defendants' Exhibit B-4 to the jury.)

Q. (By Mr. Hallinan): You sent that letter out, didn't you?

(Testimony of Mervyn Rathborne.)

A. I believe I did. I sent a number of them out to different people.

Q. And it was the fact that Mr. Bridges and his warehousemen's union, or his union, led the way for the continuation of those harmonious relationships into the period after the war, to the end that the entire nation may achieve a permanent and prosperous peace: That was true, wasn't it? [6877]

A. That was the opinion and sentiment expressed at that time, and I believed that at that time, yes.

Q. Now, some of the letters were sent out to Hon. Cecil B. King, Clyde G. Doyle, U. S. Representative; Chet Hollyfield, Carl Henshaw, U. S. Representative; John Phillips, U. S. Representative; Edward V. Isaac, U. S. Representative; Gordon L. MacDonough, U. S. Representative; Harry R. Sheppard, U. S. Representative; Frank R. Havenner, U. S. Representative; John H. Tolin, U. S. Representative; George P. Miller, House of Representatives; John Z. Anderson, House of Representatives; Bertrand W. Gearhart, House of Repsentatives; Jerry Voorhees, House of Representatives; George Outland, Ned Healey, Helen Gahagan Douglas, Richard Welch, Ellis Patterson, all members of the House of Representatives; is that correct?

A. I wouldn't dispute the copies of the letters, Mr. Hallinan. As I say, I don't have any independent recollection, but I am certain it went out.

Q. Is your recollection refreshed that you did submit the memorandum that was shown to you as Defendants' Exhibit for identification Y-3, concerning the discussion between Charles and Esther Krolek and yourself?

A. Well, I don't recall the specific memorandum, but I wouldn't dispute it.

Mr. Hallinan: We offer it in evidence as Defendants' Exhibit [6878] next in order.

Mr. Donohue: I object to it, if Your Honor pleases. It purports to be a statement dictated by the witness with respect to a conversation he had with third persons, which is purely hearsay.

Mr. Hallinan: But it is on a subject that the third person was questioned about in the exact language of that document. It only goes to establish that this witness made that at the time.

Q. Did you make that at the time that you had the conversation with the Kroleks?

A. I don't recall when I made it, Mr. Hallinan.

Mr. Donohue: The only purpose it could have served, if Your Honor pleases—and it was employed for that purpose—would be to cross-examine Mr. Krolek, not to cross-examine Mr. Rathborne.

Mr. Hallinan: Well, Mr. Krolek was cross-examined on it, on the matter of the statements. Now, Mr. Rathborne is asked as to the subject for the purpose of——

The Court: And this witness was cross-examined yesterday on the subject?

Mr. Hallinan: In part, yes.

Mr. Donohue: Yes, Your Honor, and I say, if

(Testimony of Mervyn Rathborne.)

Your Honor pleases, that anything that Mr. Krolek may have told Mr. Rathborne is hearsay, not binding on Mr. Rathborne; and to permit in [6879] evidence a written memorandum of Mr. Rathborne's recollection is hearsay evidence, and certainly doesn't give it any more value. Object to it, if your Honor pleases.

Mr. Hallinan: As I say, your Honor, Mr. Krolek was questioned on those exact things, right down the line on it. Now, Mr. Rathborne has stated substantially a considerable amount of what is contained in there, but I wanted to get it all. I wanted to have it all exactly, so there is no question that Mr. Krolek was asked the matters that were not substantiated.

The Court: I have a transcript of Mr. Krolek's testimony here; I was attempting to review it. I believe this is hearsay as to the present record, Mr. Hallinan. I will sustain the objection.

Mr. Hallinan: Might I have the record?

The Court: It may be marked for identification.

The Clerk: The document has been marked already Defendants' Exhibit Y-3 for identification.

Q. (By Mr. Hallinan): At any rate, you read this document?

A. That's right, I read it during the recess.

Q. All right. Now, does that refresh your recollection, does the reading of the document refresh your recollection that Mr. Krolek told you the following matters on or about April 13, 1941——

Mr. Donohue: Object to it, if your Honor

(Testimony of Mervyn Rathborne.)

pleases, because he is now attempting to do indirectly what your Honor has already said he might not do. [6880]

The Court: No, he may examine on the statement. I see no objection to that.

Mr. Donohue: If he is permitted, if your Honor pleases, to read from the statement in the examination of this witness, we might just as well let it in evidence.

Mr. Hallinan: No, he can deny it. He can say it—Well, do you want it in?

Mr. Donohue: No, I objected to it as hearsay.

Mr. Hallinan: Well, I am only reading parts, only the parts that were asked Mr. Krolek.

The Court: What was the question?

Mr. Donohue: Because the question he is asking this witness, if your Honor pleases, is, "Did Mr. Krolek say this to you?"

Mr. Hallinan: Yes, Mr. Krolek has already been questioned.

Mr. Donohue: You can ask him, but not Mr. Rathborne.

Mr. Hallinan: And then if he says "No," why, we just drop it, is that the idea?

The Court: I will allow the question.

Q. (By Mr. Hallinan): Now, did Mr. Krolek state to you that agents of the FBI had visited him at work and asked him to testify as a government witness at the Bridges deportation hearing; that he informed the FBI that in his opinion he had no evidence to offer which would be of any value in

(Testimony of Mervyn Rathborne.)

the case; that he stated he also had told the FBI agents when they got in touch with him in November, 1940, and had given them the same answer and asked [6881] him why they were contacting him again; that a few days after the FBI agents had visited him at work, he was called by the FBI down to an office located at 111 Sutter Street, San Francisco, which he stated is the local headquarters of the FBI; that at this meeting at 111 Sutter Street he was cross-questioned by the FBI and it was obvious that the FBI agents were attempting to intimidate him; he stated that he advised the FBI agents that he possessed——

The Court: Mr. Hallinan, if I may interrupt you momentarily, I assumed you would address a question to the witness. Now, this is getting in by indirection over the objection——

Mr. Hallinan: Well, do you want me to ask him each sentence? I will do that.

The Court: Not necessarily. But I reiterate that I think my rule is correct, that it is hearsay. It is not proper cross-examination of this witness. Krolek was examined on the subject matter of the FBI contacts and this witness has been thoroughly examined. I can't see any purpose to be served.

Mr. Hallinan: Well, then, I will ask him if his recollection is refreshed that the statement——

Q. ——so far as I read it to you was made to you by Mr. Krolek.

A. Well, Mr. Hallinan, as I testified yesterday,

(Testimony of Mervyn Rathborne.)

my direct recollection of that conversation was that Esther and Charlie, or Mr. and Mrs. Krolek, complained bitterly to me about the treatment they had received at the hands of the FBI, alleged [6882] they had been intimidated and undue pressure put on them, and so on and so forth. And also that they had been hauled down to the FBI offices. That was my general summary recollection of the conversation that I had with them. As a matter of fact, the memorandum there indicates three conversations; I didn't recall three conversations, I thought there was one.

Q. All right. Did the Kroleks tell you that these visits of the FBI had been repeated several times, that they had been called on at their home and at work?

A. Well, it is my recollection that he said the FBI was bothering him or after him or pestering him or—definitely I have a recollection of words to that effect.

Q. All right. Did Mr. Krolek tell you that he had been taken to the FBI headquarters at 111 Sutter Street a number of times?

A. Well, I mean, I didn't recall that. My independent recollection of that conversation is not to that effect, that he had been taken there a number of times.

Q. Well, having read this memorandum——

A. Or that he was taken.

Q. Is your recollection refreshed that he did tell you that? A. No, it isn't.

(Testimony of Mervyn Rathborne.)

Q. You don't deny that you made out this memorandum, do you?

A. No, I am not quarreling with what is in the memorandum. I am merely trying to give you and the Court and the jury what my own independent recollection of the conversation is. [6883]

Q. All right. But your recollection at the time this memorandum was written was better than it is now, isn't that right?

A. Well, naturally.

Q. And what you would have put in the memorandum would be nearer to the things that were told you than your independent recollection at this time, isn't that so? A. Why, certainly.

Q. All right. So if you put in the memorandum that Mr. Krolek told you that he had been taken to the FBI headquarters at 111 Sutter Street a number of times, that is probably what he told you, isn't that right?

A. I wouldn't quarrel with it. I wouldn't—I mean, I am merely saying my recollection at this time is that I didn't know he was taken there a number of times. It seems to be that, to me, he was taken there once late at night.

Q. All right. Do you remember that Mr. Krolek told you that he and his wife had twice been taken from their Belmont home to the FBI headquarters at San Francisco?

A. I remember the discussion about being taken, and I think even late at night from his Belmont home, to the FBI headquarters; but again, my recollection is that it was once. But as I say, I won't quarrel with it.

Q. All right. Do you remember now that Mr. Krolek told you that the FBI agents had really put extreme pressure on them to make statements which would be detrimental to Harry Bridges? [6884]

A. I believe I testified to that yesterday.

Q. Yes, you did.

A. Before I saw the memorandum.

Q. Yes. All right. Do you remember that both Mr. and Mrs. Krolek stated that they had been given the third degree by Mr. Delgurcio and approximately twelve FBI agents?

A. I don't recall that part of it, no, sir.

Q. Would it refresh your recollection if I show it in your——

A. No, my independent recollection is that extreme pressure part, but I don't remember Mr. Delgurçio being named or the number.

Q. I want you to refresh your recollection and tell us, as refreshed, the part that I have marked with the pencil. (Document handed to the witness by the Clerk.)

A. The point is, I am not trying to be cute about this, Mr. Hallinan——

Q. No, that isn't what I asked you.

A. I don't recall actually writing the memorandum.

Q. Would you mind reading what is marked in the memorandum? A. Yes.

(Testimony of Mervyn Rathborne.)

Q. The part that is embraced in that little bracket in pencil that I put in the side?

A. Yes, I have read it. I read it at the recess.

Q. Well, now, does that refresh your recollection that Mr. Krolek told you that Mr. Delgurcio and twelve FBI agents had given him [6885] and his wife the third degree?

A. Well, I have no recollection as to the number of twelve or as to Mr. Delgurcio. My recollection is several or a number.

Q. All right.

Mr. Hallinan: Might I have it again, please?

(Document returned to counsel by [6885-A] the Clerk.)

Q. Do you remember Mrs. Krolek stating that the FBI agents fired questions at her from all directions, that she became nervous and upset and started in to cry?

A. My recollection is that she became quite upset. Maybe she said she became ill. I know at the time, one of the times I spoke to her or saw her she was crying.

Q. Do you remember this: Mr. Krolek telling you that Delgurcio told him that unless he testified as a Government witness against Harry Bridges he would be discharged from his job with the National Youth Administration?

A. I don't have any independent recollection of that; no, sir.

Q. Do you remember a discussion at all about

(Testimony of Mervyn Rathborne.)
his employment with the National Youth Administration? Now, the second bracket, if you will.

A. No, I don't, because when I read this——

Q. That does not refresh your recollection that Mr. Krolek told you that?

A. No. I read this, but when I read it I was not conscious of the fact that he had worked with them in any way. I don't recall that fact. I don't know whether he did or did not.

Q. Did you say that Mr. Krolek was your brother-in-law?

A. At this point independently I don't know whether he did or did not work in the NYA.

Q. Do you remember he told you something about Mr. Delgurcio saying he would lose his job if he didn't testify? [6886]

A. I recall that he stated threats, intimidations and pressure was used on him.

Q. I want this one particular point now: Do you remember that Mr. Krolek told you Delgurcio said he would lose his job, whatever it would be, if he did not testify against Harry Bridges?

A. No, sir, I don't recall that specific statement.

Q. Mr. Krolek was your brother-in-law; that is right, isn't it? A. That is right.

Q. He was not employed by the ILWU or anything like that, was he?

A. No, sir, he was not.

Q. Do you know what his occupation was at that time or at the time he had the talk with you?

(Testimony of Mervyn Rathborne.)

A. It was my impression he was manufacturing X-ray tubes. That is my recollection of it.

Mr. Donohue: Just a minute, please. If your Honor please, at this time I should like to say that these papers are a carbon copy with no signature. If Mr. Hallinan is going to inquire further about this document, I would ask your Honor to ask Mr. Hallinan to produce the original which is signed by Mr. Rathborne, so we can determine whether we are talking about the original signed by Mr. Rathborne or a purported carbon copy.

Mr. Hallinan: All in good time. We are not trying to impeach the witness. [6887]

The Court: Do you have such a document?

Mr. Donohue: Where is the original?

The Court: Do you have it?

Mr. Hallinan: Your Honor, I want to see what Mr. Rathborne says about the copy. Now, it is a perfectly legitimate matter to inquire, to see whether a denial will be made on the copy, and then it goes to his recollection, his veracity, and then if necessary, and if available, another document will be produced.

The Court: No, I want you to produce the original if it is in your possession.

Mr. Hallinan: Your Honor, it is the same old thing of forcing the defense to disclose its hand and disclose what it has to the prosecution, and, what is worse, to the prosecution's witness. That is what they want to do.

The Court: No.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: They want to use the Court to force you——

The Court: No one is using this court for any purpose.

Mr. Hallinan: I hope not. What they want you to do is get you to force us to disclose to them exactly what we have. They have done it before. They will do it again.

The Court: No, I am reminded of the interchange we had on Mr. Schomaker's testimony concerning a transcript.

Mr. Hallinan: Yes, a perfectly proper device.

The Court: On that score we disagreed [6888] then.

Mr. Hallinan: Is your Honor still of the opinion that there was something wrong in that, that that should not have been done?

The Court: There is no immediate occasion to discuss that, but if you have an original, Mr. Hallinan, I respectfully submit to you that you should produce it for the witness' scrutiny. That appears to be a copy. Do you have an original?

Mr. Hallinan: I will tell you, Mr. Witness, you are perfectly safe in denying anything about it. I haven't any signed document. Now, go ahead and deny anything that is in it. There is the whole story. The only thing we have is a copy of it, a copy taken from Rathborne's files when he left the office. We haven't any signed copy. So you are perfectly safe to say none of the things that are in it were said by Krolek at all. Mr. Donohue has obtained the purpose he set out to do, and we are all through with that document.

The Court: Mr. Hallinan, in fairness to the witness let us retrace.

Mr. Hallinan: Your Honor, let's be fair to me a bit.

The Court: I have been eminently fair.

Mr. Hallinan: I want the right to find out from this witness what he had to say without disclosing to the witness whether I could contradict him. It is just the same as yesterday. He started out to deny a conversation he had with Miss Murray, until there was some suggestion that the [6889] conversation might have been dictographed, and then he shifted ground and admitted that he discussed the matter. He said first, your Honor, yesterday that there was no conversation with her at all touching Harry Bridges or his testimony before the grand jury or whether he was going to be a witness or not. I asked him then whether he had ever been dictographed, and he backed away so quickly he almost fell off the chair. We have no dictograph. We will tell you that, or tell them that, and we haven't any signed copy of that, and we will tell him that and tell them that, but we have a stenographer to whom he dictated it and we can prove this thing.

The Court: Mr. Hallinan,——

Mr. Hallinan: Your Honor, what I object to is being forced to disclose to the witness how far we will be able to contradict or impeach him. I have never seen it done before. I have never before had a court order me to disclose to the witness just how far he is safe in going.

The Court: Mr. Hallinan, I think the record will disclose that in the course of your examination of Mr. Rathborne as well as every witness produced by the prosecution that I have given you more or less unbridled latitude in your examination. At times I have chided myself for the latitude I have allowed. Now I think we are talking at cross purposes. If I may suggest to you about this document, the document itself Mr. Rathborne does not dispute in general. [6890]

The Witness: I believe I testified I had no quarrel with it.

The Court: As to that subject matter I just asked you a simple question: If you have it, it should be produced. If you haven't an original, then you can produce secondary matter. We haven't any quarrel on that point. I do not think you should become——

Mr. Hallinan: I trust your Honor——

The Court: You should not chide the Court for what you may regard as an improper ruling. I think I have been extremely liberal with you as well as your colleague.

Mr. Hallinan: I hope I am not called upon to reply to that.

The Court: Well, all right. All right. All right. That is merely my feeling and I will rest on the record.

(Testimony of Mervyn Rathborne.)

Q. (By Mr. Hallinan): Do you remember Mr. Krolek stating that at previous meetings he consistently told the FBI that he could not testify in the Bridges case as a government witness, first, because he had no evidence which would be of any interest to either the prosecution or the defense?

A. I do not independently recall that statement.

Q. As I say, now you do not have to recall any of it.

A. Mr. Hallinan, I testified I had no quarrel with the document as such.

Q. The document is not in evidence. You know that. Did he [6891] state to you, did Mr. Krolek tell you that he had told the FBI that he had no particular use for Harry Bridges as an individual, and his refusal to testify did not arise from any personal loyalty or consideration for Bridges but from an aversion as a matter of principle to giving false testimony?

A. I don't recall such a statement, no, sir.

Q. Did he tell you that that was so, he so stated even though by giving such false testimony he was tacitly assured by the FBI that his job would be secure?

A. As I stated previously, I don't recall any discussion about his job. I just recall a discussion about, generally, he stated he was threatened, intimidated, coerced, pushed around, and that is my general recollection of what he told me.

Q. Now, the first visit was April 14, 1941. Do you remember that about April 23, 1941, you again

(Testimony of Mervyn Rathborne.)

visited Mr. Krolek and Mrs. Krolek at their home in Belmont?

A. As I stated previously, Mr. Hallinan, my recollection was it was one visit. Apparently that shows there was more than one. I am not disputing the fact that I might not have discussed it with him on more than one occasion.

Q. Do you remember that Mr. and Mrs. Krolek told you this, or this in substance: that they had been taken down to FBI headquarters in San Francisco on the preceding Sunday night, severely grilled by FBI agents for approximately four hours; that they had heard of the third degree but had never experienced it [6892] before, and that they were both in an extremely nervous condition?

A. That is substantially what I said yesterday.

Q. Is that substantially what they told you?

A. That is my best recollection of it, yes.

Q. Now, did they tell you that they had been served with subpoenas to appear as witnesses and that on Monday morning, April 21, Mr. Krolek had been brought down to the Post Office Building where the Bridges deportation hearings were being held? Do you remember that he said he was subpoenaed as a witness in the second deportation hearing?

A. No, I don't remember that. My recollection is that——

Q. Mr. Krolek has testified here he was subpoenaed.

A. I don't recall it; that is all. I recall he did testify.

Q. Did he tell you Mrs. Krolek was also supposed to have appeared at the same place on that morning, but because of the extreme pressure on her by the FBI she had suffered a nervous relapse, was sick in bed and unable to appear; that Mr. Krolek told you before he was supposed to appear on the witness stand he informed the FBI that he would make any statements he thought necessary to protect himself and would in his testimony put in an appeal to the trial examiner against the persecutions, intimidations and methods used by the FBI in their attempt to force him and his wife to give false testimony against Bridges against their will? Did they tell you substantially that? [6893]

A. I think—as a matter of fact, I advised him to do that, to do everything possible to refuse not to testify.

Q. And to notify the inspector that they had been put under pressure, third-degreed, persecuted and intimidated, is that right?

A. Yes. My mission at that time was to try to keep Krolek off the witness stand, and I was engaged in that activity, and my recollection is I advised him to object as strongly as he possibly could.

Q. Do you remember that Mr. Krolek told you that Mr. Delgurcio stated that he would communicate with the Department of Justice in Washington and advise the Department that Mr. Krolek

(Testimony of Mervyn Rathborne.)

was not a proper person to be working for the United States Government, that he was disloyal, unwilling to cooperate with the government agency in its efforts to deport a dangerous Communist and should be out of his job?

A. I don't recall any statement of that kind, other than under the general—I mean, my recollection, as I said, generally threatening and putting pressure on the man.

Q. Let me ask you this: Mr. Krolek did tell you, however, after being subpoenaed here that he had told the FBI he would inform the presiding officer of their actions and they did not call him as a witness; isn't that right?

A. Well, now, I don't remember quite how it came about. Anyway—— [6894]

Q. He didn't testify?

A. What was going on was a battle between myself and the FBI to see whether Krolek would testify or not——

Q. This memorandum——

Mr. Donohue: Let him explain his answer.

A. I say, what was going on at that time, as I recall it, was a kind of battle between the FBI and myself to see whether Krolek was going to testify or not.

Q. (By Mr. Hallinan): Yes, I understand. Now, let me ask you this:——

A. Apparently our side won out on that one.

Q. What?

A. Apparently our side won out on that one.

(Testimony of Mervyn Rathborne.)

Q. "Our side won out on that one." This memorandum you prepared for what purpose?

A. As I say, I don't have any independent recollection of preparing the memorandum, although I am not quarreling with. But it would have been for the purpose of aiding the defense in the case.

Q. Of aiding the defense? A. Yes.

Q. In other words, you gave this memorandum to the defense, a confidential memorandum to the defense from yourself, isn't that right?

A. That was the only purpose such a memorandum would serve. [6895]

Q. And you retained a copy of it yourself in your own files, didn't you?

A. Well, sir, I don't recall. I mean, I don't say yes and I don't say no. I don't recall.

Q. This memorandum was not for public consumption or publication, was it?

A. Obviously such a memorandum of that kind on the face of it is not for public use.

Q. Were you telling the defense the truth?

A. The——

Q. Were you telling the defense the truth?

A. Certainly; I was making a report. I say I reported to the defense, yes.

Q. And you did not put anything in that memorandum that you gave the defense as to what had actually been told you by Mr. Krolek, did you?

A. My report to the defense would, to the best of my ability, accurately reflect the proceedings between Mr. Krolek, his wife and myself at the particular time and as best I could reflect them.

Mr. Hallinan: Suppose we take the recess, your Honor, now.

The Court: We will take the noon adjournment and resume at 2:15, ladies and gentlemen of the jury. The same admonition to you not to discuss the case under any conditions.

(Thereupon a recess was taken until 2:00 p.m. this date.) [6896]

Friday, March 3, 1950, 2:15 o'Clock P.M.

MERVYN RATHBORNE

resumed the stand;

Cross-Examination (Continued)

By Mr. Hallinan:

Q. Now, your brother-in-law, Mr. Krolek, you knew to be a naturalized alien, didn't you?

A. I don't ever know that I knew he was a naturalized alien; I knew he was born in Canada.

Q. How long is it since you have talked to him last?

A. My recollection is it is over a year, Mr. Hallinan. I believe about a year ago Christmas, or thereabouts.

Q. And then how many times did you see him in, let us say, the preceding year?

A. Oh, probably saw him three or four occasions,

(Testimony of Mervyn Rathborne.)

two or three occasions, at my wife's parent's place.

Q. So your recollection is, then, that you last saw him, let us say, prior to December, 1948; is that right?

A. That is my recollection, yes.

Mr. Hallinan (To Mr. Donohue): Those are just answers to those letters. (Handing documents to Mr. Donohue)

(To Clerk): Would you ask him if he recognizes that batch of letters? (Documents handed to witness by the Clerk.)

Q. (By Mr. Hallinan): They are all pretty much to the same effect, acknowledgments and comments on the letters that you wrote, that have been heretofore introduced in evidence. Do [6897] you recognize them as such?

A. Yes, I believe to the degree I have looked at them, that is what they are. Do you want me to look at them all?

Q. Well, just to verify that is what they all are.

A. Yes, they are letters in answer, replies from various Congressmen to the letters that I identified this morning.

Mr. Hallinan: We will offer them as one exhibit, Defendants' next in order, if the Court please.

Mr. Donohue: I object, if Your Honor pleases. These are——

The Court: May I see them? (Documents handed to Court by the Clerk.)

Mr. Donohue: ——responses to the letters which were identified this morning, and I think historically we know that despite the pressure they put on the Attorney General and President Roosevelt, he took no action.

Mr. Hallinan: Yes, pretty tough when you are not on the side of wealth and power around these parts, I will tell you.

(To the Clerk): Would you show him that document? (Document handed to the witness by the Clerk.)

The Witness: Do you want me to look at some particular part——

The Court: These responses may be marked for identification. Objection sustained.

Mr. Hallinan: Well, then, I won't even offer them for identification. Withdraw the offer. [6898]

The Witness: If there is some particular section of this you want me to——?

Q. (By Mr. Hallinan): Right opposite there. What I wanted to do is see if I can establish one of these dates that you told me I could find by looking in the schedule of sailings of the Madison. Can you pick that out there?

A. These are dates after I got off the vessel, I believe.

Q. Yes, but you notice—now, for instance, the Madison there in July was due to sail from San Francisco at what time? You have some dates there. You fixed your trip to Washington, when you went to see Mr. Donohue, by some date that the Madison was supposed to sail, that you would have to notify

(Testimony of Mervyn Rathborne.)

your union in time, if you were going to make the next trip.

A. I believe it shows July 15th, here, to Manila, Cebu, Hongkong and so on.

Q. In other words, the boat was supposed to sail on that day, the schedule was on July the 15th, 1949, for what places?

A. Manila,—let's see; Manila, Cebu, Hongkong, Kobe, Nagoya and Yokohama.

Mr. Hallinan: Might I have it back again? (Document returned to counsel by the Clerk.)

Q. And now, could you tell us, using that as a basis, when it was that you made the trip to Washington in which you had the conference with Mr. Donohue? Let me ask you this: Did you make that trip on the 15th? [6899]

A. No, sir, I did not.

Q. You didn't sail on that one at all?

A. No, sir, I did not.

Q. Well, now, will you tell us when it was that you made the trip to Mr. Donohue's office?

A. Oh, my recollection on that matter is, I would say, late June or early July.

Q. Well, haven't you made any effort to check and find out just when it was from these gentlemen, from the airplane tickets or whatever it may?

A. I haven't made any effort at all, Mr. Hallinan.

Q. All right. Well, now, you told us that there was some discussion about what you would have to do toward accepting employment on this case, based upon the time you would have to notify your union whether you would make the next trip on the Madison. What did you say about that? What discussion did you have on that subject?

A. The discussion I had on that subject with Mr. Donohue was, I said, if I recall it, "I am going to soon have to let the union know whether I am going to return to the Madison or give up the job on the ship." Because the union's rules provided that you could only take a trip off, and if you didn't rejoin the ship or notify the union that you intended to rejoin the ship before it sailed, why, somebody else would be assigned.

Q. Well, had you taken a trip off? Were you on a trip off at [6900] that time?

A. Yes, sir, I was.

Q. I see. And when had that trip ended, do you know?

A. Well, it would be approximately eight weeks prior to July 15th.

Q. I see. A. That was, eight or nine.

Q. And then how soon before——

A. Pardon me. I have a little better recollection. Just before the grand jury proceedings.

Q. The trip ended? A. Yes, sir.

Q. All right. Now, how soon before the ship sailed would you have to notify your union?

A. There is no specific regulations on it, Mr. Hallinan.

(Testimony of Mervyn Rathborne.)

Q. Well, what did you say, now, to Mr. Donohue on that subject?

A. Well, I said, "I am taking this trip off. I took this trip off the ship to appear before the grand jury, and I am going to have to rejoin her when—let the union know before she is ready to sail from San Francisco whether I am going to go back on the ship or not. And it is my intention to do it." And then he asked me some questions about the sailing schedules of the ship, where it was going and how long it would be gone and so on and so forth.

Q. Well, now, you told us that there was some discussion then [6901] about what compensation you would require or would be paid you to work for the government on this case. Now, what was that discussion in Mr. Donohue's office at that time?

A. I am not certain whether that was with Mr. Donohue or Mr. Barber, after I returned. I think Mr. Donohue. You want me to finish the conversation in Mr. Donohue's office first?

It is my recollection on that conversation, he said, "Well, I don't think you ought to go back to sea because we don't know when the case is coming to trial, and we want to be able to get a hold of you," or words to that effect. And that was about the extent of the conversation with Mr. Donohue.

Q. Well, what about the discussion on the WFTU barring you from going to sea again? What did you say to him about that, or what did he say to you about it?

(Testimony of Mervyn Rathborne.)

A. I don't believe I discussed the matter with him at that time.

Q. Well, now, didn't you testify here yesterday that that was a discussion, that that fixed the necessity for paying you a salary?

A. I don't believe I testified in that way. I believe, as I recall my testimony, that I related a part of this discussion with Mr. Donohue and then I also mentioned the fact that the WFTU had passed such a resolution.

Q. Well,——

A. I didn't—I mean, I might have given the impression I mentioned that to Mr. Donohue, but if I did, I don't recall having mentioned it to [6902] him.

Q. Did you discuss it with Mr. Barber on the way back to Mr. Donohue's?

A. I didn't see Mr. Barber until I returned to San Francisco.

Q. Did you discuss it with Mr. Donohue at all, that WFTU resolution?

A. It is my recollection I didn't discuss it at that time.

Q. What?

A. It is my recollection that I didn't discuss it with him during that particular conversation.

Q. Who was the last person prior to your testimony now that you discussed the WFTU resolution with? I mean, yesterday or today whom did you discuss it with?

(Testimony of Mervyn Rathborne.)

A. I discussed it with Mr. Kaiser yesterday.

Q. At what time?

A. During one of the recesses. I am not sure which one.

Q. You are not sure which one? Give it a little thought. What time did you have the discussion with Mr. Kaiser on that subject?

A. I would say the morning recess. I am not certain of that.

Q. It was after you testified on the subject of that discussion with Mr. Donohue?

A. I believe it was.

Q. In other words, you first testified you included that in the discussion you had with Mr. Donohue fixing your salary, and then after you had gotten off the stand Mr. Kaiser talked to [6903] you about it, is that right?

A. No, I asked Mr. Kaiser if he remembered the date of the WFTU resolution, because I was not sure of it.

Q. And he told you that the WFTU resolution had not been passed until after the 15th of July, didn't he?

A. He advised me it had been passed on the 15th of July.

Q. I beg your pardon?

A. He advised me it was passed on the 15th of July.

Q. So you did not discuss with Mr. Donohue the matter of the WFTU resolution preventing you from working, did you?

(Testimony of Mervyn Rathborne.)

A. Not in Washington during the visit, I did not. I had discussed the matter with Mr. Donohue and it was my impression I had discussed it at that time, but obviously I could not have done it, because the resolution was not passed until later.

Q. Here you say——

Mr. Donohue: What page?

Mr. Hallinan: 6663. You have the page marked already.

Q. You went over the record with Mr. Kaiser since that time, didn't you?

A. No, sir, I did not.

Q. Did you go over what you testified to in that connection? A. No, sir, I did not.

Q. With anybody? A. No, sir.

Q. Mr. Donohue? [6904]

A. I have not seen the record in so far as that particular piece of evidence is concerned.

Mr. Donohue: Do you want to look at it (indicating transcript)?

The Witness: The extent of my conversation, as I told you, there was some question in my mind as to that date, and I asked Mr. Kaiser if he knew what it was, and he furnished the date to me.

Q. (By Mr. Hallinan): Now, you say, "I believe the situation regarding that is this"—oh, pardon me. You had, however, made your arrangements for your salary with Mr. Donohue before you left his office on July, hadn't you?

A. I don't think I made any arrangements as to specific amounts. My recollection is he asked me

(Testimony of Mervyn Rathborne.)

what I was earning as a radio officer and I told him. As a matter of fact, when I left Mr. Donohue's office there was no understanding or agreement that I would be employed.

Q. Now, you said yesterday that there was, didn't you?

A. I don't recall that. I think I stated that I discussed with him my return to the President Madison and that he stated that he didn't think I should return to sea. That is my recollection of my testimony yesterday—I believe it was yesterday.

Q. Here you testified:

> "When I left the President Madison in May, I believe it was, I took a trip off, leave of absence to join the ship. My intention at that time was to rejoin the [6905] ship when she returned, which would have been about July; I think it was July. Anyway, it would be about eight weeks afterwards. And during the time I was in Washington I discussed the situation about going back to the ship with Mr. Donohue, told him I would have to get back to the coast pretty quick because I would have to let my union know in a few days whether I was going back to the ship or not, and I intended to go back. He said, well, at that time he didn't think it was—that I should go back. In addition to that, the WFTU had passed a resolution which in effect put a boycott on me for holding my job. I think the effect of the

resolution was that all members affiliated to the WFTU should boycott any ship on which anybody appeared as a witness in this particular case for the government.

"Q. Taking one thing and another, what was the compensation you agreed upon?

"A. The compensation was to be approximately the same as I was receiving on the President Madison.

"Q. How much was that?

"A. It amounted to about $120 a week."

Did you so testify?

A. If the record shows it, I believe I did, but it certainly does not—as I pointed out, I didn't intend to indicate that I had discussed the WFTU resolution with Mr. Donohue, and I think the record bears that out. [6906]

Q. After you had so testified, then you had a conversation with this Mr. Kaiser, is that right?

A. I asked Mr. Kaiser what the date of the WFTU resolution was, because I was not certain about it.

Q. Why did you ask him that?

A. Because I was not certain about it.

Q. Because you knew you had testified that you had discussed the WFTU resolution with Mr. Donohue, isn't that right?

A. I don't think the record shows that, Mr. Hallinan, the record you just read.

Q. When you got off the witness stand you had

(Testimony of Mervyn Rathborne.)

the impression that it did show that, didn't you?

A. No, sir, I was puzzled about the date of that resolution because I wanted to try to settle in my own mind where I had discussed the WFTU resolution with respect to my—this boycott being against me.

Q. Let's see if this was the situation, that you testified that you had talked to Mr. Donohue about going back to your ship, the necessity of informing your union in time before the next sailing, which would be July 15, and in the same conversation you discussed yesterday the matter, in addition to that, you had been boycotted by the WFTU, and after you got off the stand or while you were still on the stand you began to worry that maybe this WFTU resolution had not yet been passed; is that [6907] correct?

A. No, what I began to wonder about is that testimony that you just read there contains this statement that you read: "In addition to that, the WFTU resolution"—when I testified to that it appeared that it was part of the conversation with Mr. Donohue.

Q. That is what I say.

A. Which I didn't intend, when I testified, to put in that context. It might appear that I had discussed that with Mr. Donohue, when it actually had not been passed. That is what I was trying to check up on.

Q. So then you got hold of Mr. Kaiser?

A. Yes.

(Testimony of Mervyn Rathborne.)

Q. So you said to him, "Kaiser, Bill, dear"—or whatever you call him—"when was the WFTU resolution passed," is that right?

A. That is right.

Q. Did Kaiser go and get the WFTU resolution out of the exhibits?.

A. I believe he made a telephone call or something.

Q. Where did this conversation take place?

A. Upstairs in this building.

Q. Was it at the noon recess?

A. I can't recall, Mr. Hallinan.

Q. Who else was there at the time?

A. I believe Mr. Donohue was present. I am not certain. I believe he was there. [6908]

Q. All right. When you got off the witness stand you went to the room upstairs, is that right?

A. That is right.

Q. On that occasion how long were you in that room? A. A few minutes.

Q. Who else was with you while you were in the room?

A. I distinctly remember Mr. Kaiser, and I believe Mr. Donohue was there.

Q. You believe Mr. Donohue was there?

A. Yes.

Q. Were you seated or were you all standing?

A. Yes, I was sitting down, Mr. Kaiser was sitting down.

Q. Where was Mr. Donohue?

(Testimony of Mervyn Rathborne.)

A. I believe he was sitting behind the desk.

Q. Was it in Mr. Donohue's office?

A. Well, it was the place he is using as an office.

Q. I beg your pardon?

A. It is the place he is using as an office, yes.

Q. Anybody else there?

A. On that particular occasion I don't recollect.

Q. Is that where the discussion took place about the WFTU resolution? A. That is right.

Q. Was that the first time it was mentioned, or had you mentioned it to Kaiser in the [6909] court?

A. No, I said, "What is your recollection of the date that the resolution was passed?"

He said, "Wait a minute and I will check up and find out."

Q. Where did he phone?

A. I don't know where he phoned.

Q. Weren't you sitting there listening?

A. He was sitting at one end of the desk and I was sitting at another. He picked up the telephone, started dialing and got somebody.

Q. How did he address the person whom he got?

A. I think he called him Mac, if I recall correctly.

Q. What?

A. I think he referred to him as "Mac," if I recall.

Q. "Mac"? A. Yes.

Q. What was the conversation from that end of the line? What did you hear?

(Testimony of Mervyn Rathborne.)

A. I heard Mr. Kaiser say, "Can you give us the date on the WFTU resolution?"

Q. Did he hold him on the line there? Did he hang up and someone call back, or what?

A. It is my recollection he held the line.

Q. How long did he hold it?

A. Maybe a couple of minutes, something like that.

Q. Then what did he say? [6910]

A. He said, "Well, it was July 15, 1949."

Q. Then what did Mr. Donohue do? That (placing hand on check)?

A. No, I said, "Thanks, Bill," and I walked out.

Q. That was all that was said about it?

A. That was all that was said about it.

Q. You did not tell him what your difficulty was, that there may have been some confusion in the minds of the jury that your discussion with Mr. Donohue in New York concerning salary included a discussion of the WFTU resolution?

A. There was some confusion in my mind on the point and I wanted to clear it up.

Q. Did you say that to Mr. Donohue?

A. I don't believe I did.

Q. Did you say it to Mr. Kaiser?

A. I believe I did.

Q. You believe you did?

Mr. Donohue: May I arise to say that Mr. Hallinan forgot to ask Mr. Rathborne whether he held the telephone in his left hand or in his right hand.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: That is like the sugar and cream thing; you know, trying to make a little fable on the witness' part seem of no importance or consequence at all. I do not think little shabby devices like that have any validity, and I think you might just as well cease bothering to employ them.

Q. Did you explain to Kaiser what your predicament was? [6911]

A. No, my recollection is I said something like that "Thinking that over, I am not certain whether I discussed the WFTU resolution with Mr. Donohue. Will you check on the date?" It was something along that line. I didn't have any lengthy discussion with him. I was disturbed in my own mind about the fact that I may have given the impression that the WFTU resolution or the matter—there was something wrong there, something that didn't quite fit in, and I wanted to check up and find out what was wrong, if anything.

Q. Then did you explain to Mr. Kaiser that difficulty? A. No, I didn't explain to him.

Q. What reason did you give him for asking him to call up and find out when the WFTU resolution was passed?

A. I have stated that. I talked with him and said, "I want to make sure of the date the thing was passed."

Q. A minute ago I asked you if you had explained that difficulty to him and you said no.

A. No, I didn't say no, Mr. Hallinan. I said I had mentioned the matter to him. I do not re-

(Testimony of Mervyn Rathborne:)

call my exact language, but I believe he understood why I wanted the date on the resolution.

Q. Then he told you the date on the resolution was the 15th? A. That is right.

Q. Now, regardless of whether you talked about it to Barber, Donohue or anyone else, the WFTU resolution did enter into your calculations of accepting employment from the Government, is that right? [6912] A. Yes, it was a factor.

Q. And because of it you failed to notify your ship that you were going to sail on it, is that right?

A. Not entirely because of that, no, sir.

Q. As a matter of fact, it could not possibly have anything to do with your determination as to whether you were going to work for the Government at $120 a week or go back on the Madison, isn't that right?

A. At that time, that is, going back on the Madison, it couldn't have, no.

Q. Because the Madison was going to sail on the 15th, isn't that right?

A. It could have had a lot to do with my seeking other employment.

Q. Do you read French? A. No, sir.

Q. "Resolution et solidarite et sympathie envers." Would you understand that?

Mr. Donohue: Not with that accent.

Q. (By Mr. Hallinan): So the WFTU resolution had nothing whatever to do with your determination to accept employment by the Government and not to make the trip on the Madison, did it?

(Testimony of Mervyn Rathborne.)

A. In so far as the part about the Madison, that is correct.

Q. When did your pay start? You say your pay started in July, didn't it? [6913]

A. Yes. I am not certain as to what time in July.

Q. Well, it started before you went back to sea, Mr. Donohue, didn't it?

A. No, definitely not.

Mr. Donohue: (Returning document) Merci beaucoup!

Mr. Hallinan: That was French twice transmitted. In other words, Mr. Paisley, who can barely speak English, whispered to Mr. Donohue, who can't speak French.

The Witness: As a matter of fact, Mr. Hallinan, my recollection is that my compensation with the Government started after the WFTU resolution was adopted.

Q. (By Mr. Hallinan): The convention of the WFTU took place in Marseilles, France, from the 15th to the 18th of July, 1949. You found that out since, didn't you? A. No, sir, I haven't.

Q. And the resolutions were not printed and sent out here for at least a month after that?

A. However, there was an item in the newspapers, I believe, right around the time of the convention, because I remember reading it. I remember some of the fellows down at the union asking about it. [6914]

Q. So was anything further said then between you, Mr. Donohue and Mr. Kaiser relating to the

(Testimony of Mervyn Rathborne.)

attitude you would take on this information you had just learned? A. No, sir.

Q. In other words, if Hallinan asks you about it, then make this correction. But if nothing is said, then let it stay as it is and give the jury the impression that it was discussed at Mr. Donohue's office, and that is where the matter was arranged. Was that the scheme that was finally arrived at?

A. No. In response to your question, I would like to say I believe you have a very vivid imagination, Mr. Hallinan; and that no such discussion took place.

Q. No such thing was discussed. Well, when you came back on the witness stand here for the rest of yesterday and for today, you didn't disclose that there had been an error in this matter or that an erroneous impression might have been created due to your misconception on that fact, isn't that so?

A. That's right. As a matter of fact, I didn't distinctly recall the record on it.

Q. Now, the resolution wasn't distributed until August the 5th, 1949, isn't that right?

A. I don't know a thing about that.

Q. When did you first see it, if you ever saw it?

A. I have never seen it. That is, in resolution form. All I have seen is newspaper reports [6915] about it.

Q. Well, when did you see the first newspaper report?

(Testimony of Mervyn Rathborne.)

A. Well, my impression, Mr. Hallinan is, right about the time or shortly after it was passed.

Q. What paper did you see it in?

A. I believe it was the Call-Bulletin.

Q. You read an article in the Call-Bulletin upon this resolution, is that it?

A. I am not definitely positive it was the Call-Bulletin, but it is my recollection it was.

Q. Well, was it one of the four San Francisco newspapers?

A. One of the San Francisco newspapers.

Q. Either the Examiner, Chronicle, News or Call-Bulletin? A. That's right.

Q. And can you tell us what it was?

A. My recollection on that is right around the time it was passed; I would say some time in the middle of July.

Q. About the middle of July?

A. Because my recollection is it was a report on some news story emanating from the convention. Now, that is the best I can——

Q. But that was after you had returned from your trip to Washington and seeing Mr. Donohue?

A. Yes, it must have been.

Q. And was it before or after you had agreed upon the compensation you were going to receive?

A. I don't remember whether it was before or after. [6916]

Q. Well, now, first, you furnished Kaiser or Barber, whoever it might be, with approximately 10 per cent of your testimony, as you testified here.

(Testimony of Meryyn Rathborne.)

That's correct, isn't it? A. That's right.

Q. And then you furnished an additional 5 per cent, isn't that correct?

A. Well, I mean, that matter of discussing—that is all in the record.

Q. Well, I say, you have so testified; isn't that right?

A. I believe you and I both recall the testimony, without——

Q. Yes, I recall it quite clearly; you do, I trust?

A. I do.

Q. Yes. And you place these percentages or proportions of your testimony out to the person who was questioning you, Mr. Barber I think it was; but during that time you hadn't arrived at any compensation or anything of that kind, is that right?

A. Well, of course these discussions you were referring to with Mr. Barber occurred, I believe, early in or during 1948. The period we are discussing now is in the middle of 1949.

Q. Well, let's say 1948. I don't care when it was. At any rate, when you furnished Mr. Barber the 10 per cent of your testimony, you didn't arrive at any figure that you would receive as pay or compensation, did you?

A. Well, there was no discussion of that sort.

Q. Well, that's all right. And then when you added the other 5 [6917] per cent, you didn't arrive at anything, did you?

A. There was no discussion of the subject.

(Testimony of Mervyn Rathborne.)

Q. All right. Well, then, ultimately, having given him a little look at this, look at that, you finally got to a place where you did agree on a price, is that right?

A. I believe I stated that I entered into full cooperation with the government concerning the matter of working with the government in this case, in May or right around the time of the grand jury.

Q. Well, now, wait a minute.

A. That is my recollection of my testimony on that point.

Q. And before you arrived at this full cooperation, before you yielded completely—let us put it that way—a compensation had been agreed upon, isn't that right? A. It had not.

Q. No compensation was fixed until after that, is that so? A. That's right.

Q. Not until July? A. That's right.

Q. And now you tell us that the compensation was not fixed in this conversation with Mr. Donohue, but in a subsequent conversation with Mr. Barber, is that right?

A. That is my belief, Mr. Halliman. Now, in the talk with Mr. Donohue, he made the statement he didn't want me to go back to sea, and as I recall, he asked me how much I was making on the [6918] ship. He didn't offer me any employment, that I recall, or make any statement as to exact compensation.

Q. Were you on the $120 a week stipend or did you get $34 a day for the time that you were occu-

(Testimony of Mervyn Rathborne.)

pied with testifying against the two young ladies?

A. I was—present compensation.

Q. Beg your pardon?

A. Present compensation, $120.

Q. Now, any of your activities in the evening in that connection, did you get overtime for?

A. No, sir.

Q. And on the trip to the grand jury that was simply testifying against the two girls, that was simply included in your weekly stipend, is that right; no special or extra compensation?

A. No, sir.

Q. Did you ask for the $34 a day for that period?

A. I did not.

Q. Now, I showed you some documents today and asked you to look them over at the recess, and the file of those was marked Defendants' V-3 for identification. That was the release from the New York Maritime Council? A. Yes.

Q. You identified that as having been put out by the organization of which you were chairman, is that right?

A. I am reasonably sure it was put out. I don't recall the [6919] particular document, but I wouldn't say that we didn't put it out.

Q. You put out similar documents?

A. That's right.

Q. You embraced and accepted the sentiments contained in the document, is that right?

A. The sentiment contained in the document expressed the position we had at that time.

(Testimony of Mervyn Rathborne.)

Q. That you took? A. Yes.

Mr. Hallinan: I offer it in evidence as Defendants' Exhibit next in order.

Mr. Donohue: I object, Your Honor, only because it serves no purpose here. It does not tend to impeach or discredit the witness. It is not pertinent or relevant to any issue before this court, and I object to it. On the same theory we might just as well put in evidence every letter or document this witness ever signed while he was president of the union or a member of the CIO.

Mr. Hallinan: That is all right. Maybe it should be done. But if the Court please, this is the purpose on it now, to simplify the matter: This witness has testified that certain contacts, conversations that he had with Murray and Carey and Curran, Ray—enemies of Mr. Bridges and at loggerheads with the ILWU. We accuse him of being in a plot to help destroy that union; [6920] and now obviously also at the behest of those people, he has claimed here that his charges of red-baiting or that his red-baiting charges, his allegations that unions are Communist-controlled and so forth, and especially the allegations he has made against Mr. Bridges are not a union-breaking device, and that that is not the purpose of him making them. Now, I want to show that he has acknowledged, himself, in these documents that precise point.

Mr. Donohue: That isn't what he said this morning, Your Honor; he said this morning he thought

(Testimony of Mervyn Rathborne.)
in some instances the charge of red-baiting was used against a union.

The Court: Yes, he so testified.

Mr. Hallinan: Yes, partly.

The Court: I will allow it.

(Whereupon Defendants' Exhibit V-3 previously marked for identification was received in evidence.)

Q. (By Mr. Hallinan): Now, this Thomas Ray who is mentioned in this document is the same man that you went back to talk to before you decided to accept the compensation from the government and enter into the spirit of things, is that right?

A. Well, that question has about three barrels to it, Mr. Hallinan.

Q. Well, I say, it is the same Thomas Ray, at any rate; let's have that part of it.

A. It is the same Thomas Ray I described in earlier testimony. [6921] Now, this is the New York Maritime Council of the CIO, 10 Bridge Street, New York City, Whitehall 3-4649. Release, a.m.s. Monday, March 20th.

Mr. Donohue: What year, Mr. Hallinan?

Mr. Hallinan: I am not sure whether it is '37 or '38.
It is either one of them.

"The Senate Committee to investigate the maritime unions was warned yesterday against attempts by Senator Royal S. Copeland and the shipowners to make the approaching inquiry

A

(Testimony of Mervyn Rathborne.)

> into a witch-hunt or red-hunt or fishing expedition designed to provide another forum for anti-union employer propaganda or to provide another weapon for the shipowners in their fight on the seamen. The warning came in a 3500 word letter dispatched by the New York Maritime Union, an affiliated organization of nine marine and harbor unions, to the five Senators on the committee: Royal S. Copeland, Arthur H. Vandenberg, Vic Doheny, Richard B. Russel, Jr., and Elbert D. Thomas. The letter was signed by Thomas Ray, secretary of the Council."

Then it gives portions of the letter in this part. But then it states, the letter follows, and I will only read out those portions that are pertinent:

> "You have been appointed as a committee authorized to conduct what has been described on the one hand as a full and complete investigation of all matters relating to [6922] existing conditions in the American merchant marine, and on the other hand, as an out-and-out red hunt. The New York Maritime Council, affiliated body of nine marine and harbor unions, has no objection to any investigations of its activities or of the activities of its component organizations, providing these investigations are confined to existing conditions as outlined by Senate Resolution 231.
>
> "We do object, however, to any organized

witch-hunt or red-hunt or fishing expedition designed to provide another forum for anti-union employer propaganda or to provide a weapon for the shipowners in their fight to prevent the maritime workers from organizing in unions of their own choice.

"Our experience with the Senate Commerce Committee during its hearings on proposed amendments to the Merchant Marine Act of 1936, Senate Bill 3078, has made us apprehensive of any senatorial inquiry into the merchant marine. At the start of these hearings there was a pretense of impartiality, an attempt to give the impression that the hearings were open and above-board. As they progressed, however, this pretense was dropped and the so-called hearings degenerated into a series of labor-baiting orgies. The seamen and their organizations were placed on trial. The trials were conducted by the prosecution, Senator Royal S. Copeland and the shipowners. Every conceivable charge [6923] that could possibly be leveled against human beings seeking to win better working conditions were thrown in the teeth of the seamen. Since the whole procedure was cloaked with informality, there was no necessity, apparently, for observing ordinary rules of evidence or fairness.

"The inquiry on the proposed amendments thus gave way to an examination of the seamen's personal habits, their opinions of Senator

(Testimony of Mervyn Rathborne.)

> Copeland and the shipowners, their efforts to build their own union and their political affiliations. The record of the hearings was deliberately sprinkled with a variety of strange documents having little or no bearing on the pending legislation. 1. There was inserted an hysterical anti-union article from the New York Sun by one of the shipowners' most articulate apologists, William McFee, a former novelist, whose continual plaint in the press is 'Communism, Communism, Communism.' Mr. McFee's fulminations have become so wild in recent months that the only persons still quoting him are Joseph F. Ryan and Senator Copeland. Mr. McFee sailed as an engineer back in the quiet, orderly days of the belaying pin and the bucko mate. To Mr. McFee there is no one quite so despicable as a union seaman, and no one quite as saintly as a shipowner—in spite of the revelations of the Black Committee.
>
> "Mr. McFee's chief complaint in the article in question [6924] is that the New York Maritime Council's report on the maritime commission's economic survey is clumsy and probably written by a Communist. What has such reasoning got to do with amendments to the Merchant Marine Act of 1936? The answer is, of course, obvious."

Then there follows a description of a letter from a boat called the "Black Falcon," describing some trouble with a cook, which has been inserted. And

(Testimony of Mervyn Rathborne.)

then certain letters from some owners of the steamship Hoover, and other matters not relating to the subject I have in mind, that I won't bore anyone with reading. But that can be read, and the document is in evidence.

All right. And then:

> "And then came the climax. The testimony of Joseph P. Ryan, an alleged labor leader. Just how much of a labor leader he is, of course, is evident from his efforts to break the Pacific Coast longshoremen's strike in 1934 and his support of the Mahoney anti-labor mayoralty campaign in New York last fall.
>
> "Again, the witnesses' attitude toward the proposed legislation was only incidental to his real testimony. His real testimony had nothing to do with legislation; it was directed solely at union seamen and their efforts to better the miserable conditions under which they have been forced to work. One would think that the Red Square would have been worked to death by that time. But not for Joe [6925] Ryan and Senator Copeland. The terrible beating that the red-baiters took in last year's mayoralty campaign has taught them nothing. The Red Square was good enough for their predecessors, it is good enough for them, they hope. Ryan admitted on the stand that he took money from the shipowners' to send our men down there with bats and try to break the last seamen's strike. It is no accident that Ryan is

known among rank and file longshoremen as 'Judas Joe.' That affectionate soubriquet does not seem wholly apt, however, when it is recalled that Judas sold out for a paltry 30 pieces of silver. Joe is no piker when it comes to selling out. Now, that is the type of man brought down to Washington to testify regarding proposed amendments to the Merchant Marine Act of 1936. What possible bearing can such testimony have on legislation of any kind, let alone merchant marine legislation. Is legislation going to be passed or defeated because Judas Joe solicited the shipowners for money with which to break a strike? We doubt it.

"Our own witnesses were questioned as to their political affiliations, their economic views, their salaries and their opinions on existing political, social, economic and governmental institutions. This questioning descended in some instances to actual badgering. Senator Copeland asked Ralph Emerson, our legislative representative, if he [6926] would like to change our order. He also asked, 'Would you destroy the wealth and income of those men who are living in Palm Beach and Miami?' Senator Copeland read into the record a quotation from a statement of John L. Lewis regarding 'a communal form in which the whole people and not just a few are given consideration.' He then asked Mr. Emerson, 'Does that analyze your views?' and so on. May we ask what this has to do with legislation?"

(Testimony of Mervyn Rathborne.)

And then skipping along:

> "An attempt will be made to show that some of our members are Communists. We won't deny it, because we don't think that the political affiliations of our members are anyone else's business. We have among our rank men with all shades of political belief. We have Republicans and we probably have anarchists. If a man is a seaman or a maritime worker, and not a paid stooge of the shipowners, he has a right to belong to our unions. We can not deny him that right and we don't wish to.
>
> "There will be an attempt to prove that the National Maritime Union is a red organization, that it is dominated by aliens and that its aims are un-American. Our aims, as everybody, including Senator Copeland and the shipowners, know, are decent wages and better working and living conditions aboard ship. But witnesses will be produced who will testify that these aims are un-American. To be [6927] un-American, apparently, one must be content to work for any old wage, eat any kind of food, sleep on boards and work twelve hours a day.
>
> "Our methods also will be attacked as un-American, particular emphasis will be laid on the sit-down strike. Witnesses will testify that the sit-down strike is un-American, that it is a red weapon, that all sit-downs are financed from that inexhaustible torrent of Moscow gold,

(Testimony of Mervyn Rathborne.)

which apparently has financed everything progressive since Wat Tyler's Rebellion. As a matter of fact, most seamen's strikes have been forced on the crew by the shipowners, hoping to replace militant crews with docile ones; because the seamen were successful in defeating these moves, they are red. This unconscious tribute to militance, we predict, will go unnoticed by the committee. [6928]

"Once this evidence is adduced the shipowners will set up a howl about signing agreements with the union. Then, of course, if the Red hunt is engineered properly there will be plenty of inspired propaganda calculated to support their position. Then will follow a campaign in the press, over the radio and in Congress to clean out the maritime unions. The shipowners will then have the moral justification for any acts of violence necessary to break the unions and beat down wages again. The Chicago Memorial Day massacre, if you remember, was perpetrated less than one year ago. We have no intention of being maneuvered into a position of defending the political affiliations or convictions of any of our members. We will, however, defend their rights to those convictions. The constitutions of our component unions forbid discrimination against any member because of his religious or political belief, his race or nationality. We believe this is just. Our organizations were built up by the mem-

> bers themselves for their mutual protection. Those organizations will continue to exist for mutual protection. Our program is better working and living conditions in industry. We intend to continue working for that program. If the investigation turns out to be nothing more or less than a new attack on our organizations, we shall be forced to meet it with every resource at our command. We have worked long and [6929] hard to build our unions and we are certainly not going to stand by and see them torn down by the shipowners or persons acting for them."

Do you remember that?

A. As I said, I don't remember the exact document.

Q. The statements in it were pretty true, weren't they?

A. At that time, yes. I think it was a good statement.

Mr. Hallinan: May we have the recess?

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition not to discuss the case.

(Recess.)

Q. (By Mr. Hallinan): Do you remember the meeting that you described took place at the Venetian Square Apartments at Long Beach?

A. Yes, sir.

(Testimony of Mervyn Rathborne.)

Q. What were the names of the people that were there?

A. The ones I recall being there were Walter Lambert, Hazel Wood, Charlie Krolek, Harry Bridges, myself and Earl King. I believe there were some others, but I don't recollect their names.

Q. How many were there altogether?

A. My recollection is probably twelve or fifteen people were there.

Q. How long did that meeting or that gathering stay together?

A. I would say approximately for about two or three hours. [6930] My best estimate would be about three hours.

Q. Have you gone over with anybody the names of the persons who were present there before testifying here?

A. I saw information regarding the names, for example, Mr. Krolek recalled being there, yes, sir.

Q. What is that?

A. I saw a paper, a document which showed Mr. Krolek's recollection of who was there.

Q. Was that a document that Mr. Krolek had signed or something to that effect?

A. I am not sure whether it was or whether it was not.

Q. When did you see that?

A. Oh, some time ago. A matter of two or three months, I believe.

(Testimony of Mervyn Rathborne.)

Q. Who showed it to you? A. Mr. Kaiser.

Q. It was some sort of document, you say?

A. Yes, sir.

Q. Was it before the trial started?

A. I am not certain whether it was or was not. It could have been either before or just after.

Q. Was the memorandum in the form of handwriting, typing, printing or what?

A. It was typewritten. That is my recollection.

Q. Typewritten? [6931] A. Yes, sir.

Q. How large a piece of paper was it on?

A. The paper was the usual size of typewriter paper.

Q. Did it contain anything except a list of names?

A. Oh, yes, there was quite a lot of writing on the paper.

Q. I beg your pardon?

A. There was quite a lot of writing on the paper.

Q. Did you read the entire thing?

A. I don't know whether I did or I did not.

Q. Did you have a copy of it?

A. Do I have one? No, sir.

Q. Were you given a copy of it?

A. I was given a file or a folder with this paper in it and asked to look it over.

Q. Did you take the file with you?

A. No, sir.

Q. Have you a desk or an office in the Appraisers Building? A. I have not.

Q. When you do down there to work where do you do your work?

(Testimony of Mervyn Rathborne.)

A. In one of the offices there.

Q. Is there a desk assigned to you?

A. Not particularly, no, sir.

Q. You just use any one that happens to be vacant? A. That's right.

Q. Is there a room containing several desks or are they [6932] offices with single desks in them?

A. There are quite a number of offices with desks in them and I usually, when I go down there, occupy one of the ones that are vacant.

Q. Who assigns you to the office you are supposed to use?

A. I look in an office and if it is vacant I say, "Is it O.K. to use this?" or something like that.

Q. The material with which you are working, where do you get that?

A. Well, it is usually furnished to me.

Q. By whom?

A. Usually by Mr. McGowan.

Q. Take a typical day, for instance. Did you work, let's say—take some day before you came up here and testified. What would be the nature of the documents or the matter that Mr. McGowan would give you to work on?

A. Well, for example, he will give me a volume of testimony and ask me to read it over, and I read it over, and offer any comments I may care to make on it.

Q. Whose testimony was the last that he gave you?

A. I believe it was Mr. Bridges'.

Q. Mr. Bridges' testimony? A. Yes, sir.

(Testimony of Mervyn Rathborne.)

Q. How long did it take you to read over Mr. Bridges' testimony? [6933]

A. I read it on several occasions.

Q. You mean you have read and re-read the testimony?

A. In some instances, yes, and in other instances I have read it once.

Q. And then have you read over other persons' testimony also?

A. A few of them, yes; sir.

Q. Whose, for instance?

A. My recollection is that I read the last part of Mr. Ross' testimony and Mr. Michener's and most of Mr. Bridges'.

Q. The last part of Mr. Ross'?

A. Yes, sir.

Q. You mean the part relating to his family and who he was?

A. It happened to be in a book containing or a volume containing Mr. Michener's testimony, where his testimony started later, and the last part of Mr. Ross' testimony was in this volume. So I started at the beginning and read all the way through.

Q. Then did you correlate the testimony with any other documents? A. No, sir.

Q. Any graphs of how things agree, disagree, what John Schomaker said and what Ross said, anything like that?

A. I haven't seen any such graphs.

Q. Have you seen any documents or anything like that that might contain such matters?

A. No, I haven't seen such documents. [6934]

Q. The testimony of witnesses divided in lines and showing how they correspond or disagree? Has that been called to your attention, anything like that?

A. I believe the testimony is indexed. I haven't had anything to do with anything like that.

Q. I beg your pardon?

A. I say I believe the testimony is indexed, or whatever is done.

Q. Have you helped prepare any of those indexes? A. No, sir.

Q. Have you used the indexes to discuss what you wanted in the testimony? A. I have not.

Q. This file of papers that was given to you by Mr. Kaiser, which contained a list of the people in that Venetian Square building, that is, about two or three weeks ago that was given to you, isn't that right?

A. No, I think it was longer than that, Mr. Hallinan.

Q. Two or three months ago? A. Yes.

Q. That was given to you where? Down in the Appraisers Building? A. Yes.

Q. During your regular working hours?

A. Yes, sir. [6935]

Q. Did the file contain other material also?

A. It did. I didn't read it. I don't know. It was a rather thick file. [6935-A]

Q. Well, how did it happen that this was called to your attention or given to you?

(Testimony of Mervyn Rathborne.)

A. I believe Mr. Kaiser was asking me about my recollection of who was present at the meeting, and showed me this thing Krolek had there, and I said, "Well, I didn't recall," or words to that effect. That my recollection was different than Krolek's.

Q. Did you memorize the names?

A. I did not.

Q. Your recollection was different from Krolek's, is that right?

A. That is my—as I recall it.

Q. In other words, some of the people whom Krolek mentioned, according to the best of your recollection, were not there, is that right?

A. Put it this way: Some of the people he mentioned I don't recall. I don't recall that they were present.

Q. Were there any persons whom he mentioned that you remember as not having been there?

A. Well, I don't remember who these names of the people that were on the list were now, that I was shown at that time.

Q. Well, without having read that statement of Krolek's, I daresay you wouldn't have remembered any of the names, would you?

A. That is wrong, because I had stated my recollection of the names a long time before I saw that document.

Q. When did you state them? [6936]

A. I believe just before the grand jury proceedings, is my best recollection.

(Testimony of Mervyn Rathborne.)

Q. And under what circumstances did you state them then?

A. I believe I gave them in a statement.

Q. Was it included in one of the statements that you made?

A. That is my recollection, yes, sir.

Q. Now, you told us that this record of the difficulty that you had in Los Angeles was shown to you one time by Mr. Barber, was it?

A. That's right.

Q. All right. Now, after that event had happened in Los Angeles and your final appearances in the court down there, had you ever seen that record until you saw it in Mr. Barber's possession?

A. Not that particular record, no, sir.

Q. And when was that that you first saw it in his possession then?

A. I don't recall, Mr. Hallinan, exactly when it was. It was, I think it was in the summer of last year; now, that is the best of my recollection on the matter.

Q. What part of the summer?

A. I don't recall much more closely than that.

Q. Well, when did you first mention to one of these people that such an error, such a record, was in existence?

A. My first mention of the incident was to Mr. Barber, as I [6937] recall it, when I went back to Washington with him, or before I left for Washington. About that time, about the time he was—

(Testimony of Mervyn Rathborne.)

either just prior to or around the time of the trip to Washington.

Q. All right. Now, what did you tell him?

A. Well, I told him I had been in some difficulties when I was a youngster, and I explained what they were, as I recall them.

Q. I see.

A. I said I hadn't seen the record of them, but I gave him an outline of what they were.

Q. And you knew a man named Raymond Thompson, didn't you? Raymond F. Thompson?

A. I don't recall him. Is he in the advertising business?

Q. Well, do you remember Raymond Thompson, in 1947, being indicted in Alameda County for a felony; that is, having voted in the State of California after having been convicted of a felony? Remember that?

A. I have no recollection of any incident of that kind.

Q. Don't you remember discussing that matter with Paul Schlipf? A. No, I do not.

Q. Don't you remember telling Paul Schlipf that you were in the same difficulty?

A. I do not recall any conversation along those lines at all.

Q. You don't remember a man named Raymond F. Thompson at all?

A. I don't have any recollection of Mr. Thompson. [6938]

(Testimony of Mervyn Rathborne.)

Q. Well, you had voted continuously for many years prior to the time that that record was expunged, isn't that right? A. That's right.

Q. And you tell us that you had gone down and asked somebody in the probation office about your right to vote, is that right? A. That's right.

Q. And that occurred when?

A. My best recollection is around 1928 or '29, Mr. Hallinan. I know I returned from my trip to sea, and I called on some gentleman down there, whose name I have forgotten now and asked about it.

Q. And how long was that after the original conviction?

A. I would say approximately four years—four to five years.

Q. All right. Now, you told Mr. Barber either before or on your way to Washington about this conviction; that's right, isn't it? A. That's right.

Q. You told him the nature of it?

A. That's right.

Q. Did you tell him that you had been voting continuously since? A. I don't believe I did.

Q. Did you tell him that you had been elected on the Democratic Central Committee, San Mateo County?

A. I don't know whether I told him then or later. I believe I [6939] told him at one time. As to what occasion I told him, I am not certain.

Q. Now, then, some time in the summer of 1949 you saw a copy of the record in Mr. Barber's possession, is that right?

A. That's right; that is my recollection, yes.

Q. Was it a copy of the complete record?

A. No, it was the document that Mr.——

Q. Just the two pages?

A. ——Donohue had in court here the other day.

Q. Just those two pages?

A. Yes, sir, that is all I have seen.

Q. That is all he showed you?

A. That is all I had seen up until the time you showed me that file that you had.

Q. Yes. And you had a conversation with Mr. Barber about that at that time, did you?

A. Yes, I told him about it and he asked me some questions, and I answered them. My memory was not too good regarding details.

Q. Well, how long after your first conversation did you see this document in his possession?

A. Quite some time.

Q. How long?

A. Well, let's see. Oh, several months, I believe. That is my best recollection of the matter. [6940]

Q. You saw the document in his possession several months later; and did you have some further conversation with him? A. Yes, I did.

Q. And what was that conversation?

A. Well, it was along the line of, "here's the information or the stuff we have got from Los Angeles," and he handed it to me and let me look it over. And he said that it appeared to be, that there appeared to be no record of the matter having been expunged and that it should have been expunged.

(Testimony of Mervyn Rathborne.)

Q. Had you told him about your trip down to the office there in 1928 or '29?

A. I don't believe I did.

Q. Did you tell him at this time?

A. No, I don't think I did.

Q. All right. Did you tell anybody until you testified here? A. Yes, sir, I did.

Q. Who was the first person you told, connected with the department?

A. I believe it was either Mr. Barber or Mr. Donohue.

Q. And when?

A. Oh, about a week ago, I believe—something like that.

Q. Beg your pardon?

A. About a week ago, I believe.

Q. That means a week from today?

A. Approximately, yes. [6941]

Q. That is the first time you told anybody connected with the prosecution about this visit in 1928 or '29 to the probation office, is that right?

A. That is my best recollection, yes, sir.

Q. All right. Now, when you had the conversation with Mr. Barber in which he had this record, what was the rest of that conversation?

A. Well, he said that the matter—that something should have been done about it or words to that effect, and apparently there was no record of any expungement or anything. And that was about all at that particular time.

Q. And then was any recommendation made or

(Testimony of Mervyn Rathborne.)

statement made ~~as to~~ what would be done on it?

A. Well, he said, "We will check up on it," or words to that effect.

Q. All right. And then when did you next hear from it? A. Oh, some time later.

Q. How much later?

A. I don't know. Maybe a matter of a few days, probably a couple of weeks.

Q. All right. And then what happened?

A. Well, he had a paper he wanted me to sign in connection with it.

Q. What was the paper?

A. I believe it was a request for expungement. [6942]

Q. Have you a copy of that? A. No, sir.

Q. Did you ever get a copy?

A. I never did.

Mr. Hallinan: Could we have a copy of it?

Mr. Donohue: Copy of what?

Mr. Hallinan: The document that he signed for Mr. Barber.

Mr. Donohue: If there is such a document, I will be glad to get it.

Mr. Hallinan: Very well. If we could have it on Monday?

Mr. Donohue: I might say I also have a photostat of the record in the probation office showing the case dismissed as of the 11th of November, 1927. I will be glad to let you have that, too.

Mr. Hallinan: Yes; when was that done, this week?

(Testimony of Mervyn Rathborne.)

Mr. Donohue: It was done the 11th of November, 1927.

Mr. Hallinan: Nuts!

Mr. Donohue: I will bring it down here.

Mr. Hallinan: You mean you have one that is dated back, nunc pro tunc?

Mr. Donohue: I may say I have a photostat that was sent me, if your Honor pleases, by the probation office in Los Angeles, with a covering letter. I will be glad to let Mr. Hallinan have both.

Mr. Hallinan: Well, we will take a look at it. [6943]

Mr. Donohue: Be glad to offer them in evidence, too.

Mr. Hallinan: All right.

Q. You signed some document for Mr. Barber, then, is that right? A. That's correct.

Q. What was the nature of that document?

A. I believe it was—my recollection is it was a request for expungement.

Q. Was it a long document or a short one?

A. One page.

Q. One page? A. Yes, sir.

Q. What size page?

A. My recollection is it was just an ordinary size.

Q. Letter size? A. Yes.

Q. Size of an ordinary letter, is that right?

A. Yes.

Q. And how much language was on it, very much language or just a little?

A. I believe maybe 10 or 15 lines.

(Testimony of Mervyn Rathborne.)

Q. 10 or 15 lines?

A. Something like that.

Q. To whom was it addressed?

A. I am not certain.

Q. Was it an affidavit? [6944]

A. I didn't swear to it.

Q. It wasn't sworn to at all. And there was no space for a notary's signature?

A. Not that I recall. As I remember it, I just put my signature on it.

Q. Well, can you tell me what was stated in that letter?

A. Well, my general recollection is the letter was some kind of a form that is required to be gone through in that process, a request or——

Q. Well, was this a printed form?

A. No, sir, it was typewritten.

Q. Typewritten letter. It was already typed when you saw it, is that right?

A. That's right.

Q. Was it on a letterhead?

A. Let me see, now. I may have written it out in my own handwriting. I am not—I recall signing a document, a one page document for Mr. Barber. I am not certain whether it was typewritten or in my own handwriting. There was no letterhead on it.

Q. What did it say?

A. Beg pardon?

Q. What did it say?

A. I think it said I either authorized somebody to take these proceedings or I requested the proceedings be taken, or words to that effect. [6945]

Q. Authorize who to take the proceedings?

A. That I am not certain, Mr. Hallinan. I don't recall the document clearly enough to give you other than the general—my recollection.

Q. Did you say it was or was not on a letterhead?

A. My recollection is there was no letterhead.

Q. Where did you sign or write out this document?

A. I think it was down in a place called Princeton, near Half Moon Bay.

Q. I see. Now——

A. One other point of correction, I might make. The document might not have been on regular, ordinary—you know, writing paper. The shape of it or the size of the paper might have been slightly different. I don't know. But it was a piece of paper that I signed.

Q. Now, before you went back to Washington, you had also told Mr. Barber about committing perjury before the Dies Committee, is that right?

A. That is my recollection, either before or during the trip.

Q. All right. During the trip. All right. And then when did you first see a copy of your testimony before the Dies Committee?

A. Oh, it is quite a long time after that. I am not certain as to when it was. But I saw Mr. Barber in San Francisco.

Q. Approximately when?

(Testimony of Mervyn Rathborne.)

A. Prior to this trial and prior to the grand jury, I believe. [6946]

Q. How long prior to the grand jury?

A. I am not certain, Mr. Hallinan.

Q. Did you read it? Did you read your testimony?

A. This was the House Un-American Activities Committee?

Q. Yes. A. Yes, I did. [6946-A]

Q. Well, now, with relation to the expurgation of that record, you signed this letter; you did not go down to Los Angeles yourself?

A. No, sir, I did not.

Q. You did not sign any other document?

A. Not that I recall.

Q. What is the next that you heard of it?

A. Mr. Barber advised me sometime after that that the authorities in Los Angeles had taken the expungement action apparently on their own motion because they—with apologies, because the thing should have been done many years ago and they overlooked it, or something like that.

Mr. Hallinan: Could I see that expunging record?

Q. This order is dated September 12, 1949?

A. I believe it is.

Q. So then it must have been sometime shortly after this that that was done, is that right?

A. That sounds logical, yes, sir.

Q. Was the letter that you signed—well, you said it was—before this date, though, is that right?

A. That is my recollection.

Q. You signed a letter at Princeton sometime before September 12, 1949. Can you tell us how long before? A. I cannot.

Q. Was it a month or two months, or just a few days before, or [6947] what?

A. It is my recollection it was in the summertime. I can't relate the two, Mr. Hallinan.

Q. Then Mr. Barber told you that the Court had done it of its own accord, is that right, or the probation department had done it of its own accord?

A. He didn't say the court; he said the authorities—I don't remember his mentioning actually who the people were.

Q. What did he say to you about it?

A. He said—the conversation along these lines: We contacted those people down there and they—something—a lot of the records were missing, and checking up on it, and their proceeding on this expungement thing, apparently on their own motion, or words to that effect. They overlooked it. That was the general tenor of the conversation.

Q. Then what happened? What was the next that you heard?

A. I believe the next I heard was the expungement had come through or had been granted.

Q. Were you shown this document, that is, U. S. Exhibit 40?

A. No, the first I saw of it was the other day, shortly before it was introduced here.

Q. Now, in the record that was sent down, in the letter that was sent down to the Court for the expunging, did it call attention to the fact that your probation had been completed?

A. Not that I recall, Mr. Hallinan. [6948]

Q. Did it say anything about that you had complied with all the terms of your probation?

A. No, sir.

Q. Nothing of that kind?

A. I don't recall anything like that. My recollection is it was simply a request for somebody to do it, or a request for it to be done. It was a comparatively short thing.

Q. It did not contain any information that even before this expunging had gone through you had been voting regularly, did it?

A. No, sir, it did not.

Q. It did not contain any information that in the period between your conviction and the letter you had signed, you had testified falsely under oath before the House Un-American Activities Committee, did it? A. It did not.

Q. Did Mr. Barber state that he was, however, conveying that information to Judge Robert H. Scott, who was going to sign this expunging order?

A. No, we didn't discuss it.

Q. Did Mr. Barber tell you that he had notified Judge Scott that you had been for many years a member of the Communist Party? A. No, sir.

Q. And he didn't tell you that he was calling to Judge Scott's attention the fact that you had testified falsely under oath on [6949] thirteen separate

(Testimony of Mervyn Rathborne.)

occasions before the Un-American Activities Committee? He didn't tell you that?

A. That matter was not mentioned.

Q. I beg your pardon?

A. That matter was not mentioned.

Q. And you did not have to sign any affidavit, you did not have to ~~appear~~ before the court, you did not have to appear before the probation officer to prove that you had complied with the terms of your probation, is that right?

A. That is right.

Q. Nothing like that at all?

A. That is right.

Q. When you went back to Washington and talked to Mr. Clark in Mr. Barber's presence, Mr. Barber, I think you have already testified, did not inform Mr. Clark that you stood as of that time convicted of a felony?

A. Not in my presence he did not.

Q. And he did not tell him in your presence that you had testified falsely under oath before the Un-American Activities Committee, did he?

A. No, we covered that yesterday, I believe; not in my presence he did not.

Q. When you appeared before the grand jury here, you did not tell them and you were not asked if you had been convicted of a felony or stood convicted of a felony as of then, were you? [6950]

A. No, sir.

Q. And you were not asked and you did not tell the grand jury that you had committed deliber-

(Testimony of Mervyn Rathborne.)

ate perjury on thirteen different occasions before the House Un-American Activities Committee, did you? A. I did not.

Q. First Mr. Barber took you back and goldbricked the Attorney General and then Mr. Donohue took you down here and goldbricked the grand jury, is that it?

Mr. Donohue: I object to the question, first because of its form and second because, as usual, Mr. Hallinan does not know what he is talking about.

The Court: I will sustain the objection.

Q. (By Mr. Hallinan): You own some premises down at Half Moon Bay that is improved with a two-story building, is that right?

Mr. Donohue: I object to the question, if your Honor please.

Mr. Hallinan: Preliminary, your Honor.

Mr. Donohue: What this witness may own by way of property is neither pertinent nor relevant to the issue.

Mr. Hallinan: The next question will show the relevancy of it.

Q. Is that right?

The Court: You may answer.

A. Yes, I own a home down there. [6951]

Q. (Mr. Hallinan): Is part of that building rented to some agency of the United States Government?

A. Yes, sir, it was rented to the United States Government when I bought it.

Mr. Hallinan: Do you see the relevancy?

(Testimony of Mervyn Rathborne.)

Mr. Donohue: Yes, I see it.

The Witness: When I purchased it in 1946 it was rented.

The Court: What is that?

A. When I purchased the property in 1946 I believe it was rented to the Government then, so I just took over.

Q. (By Mr. Hallinan): Is the Government agency only occupying the same amount of property now that it was in 1946? A. That is right.

Q. What rent is paid by it?

A. The Government pays $50, Federal Government.

Q. $50 per month? A. Yes, sir.

Q. Is that the same rent it was paying when you took the place over?

A. No, I believe it was—my recollection is they were paying $40 at that time when I took it over.

Q. When was it raised?

A. Oh, about a year ago, I believe.

Q. I beg your pardon?

A. A year or a year and a half ago is my recollection. [6952]

Q. They were paying $40, is that right?

A. That is right.

Q. Which was it, a year or a year and a half ago?

A. I don't recall, Mr. Hallinan, as to exactly when that change took place.

Q. In the strike of the maritime unions in 1948, which you described in the newspaper story that you gave as 80 per cent political and 20 per cent

(Testimony of Mervyn Rathborne.)

wages, hours and working conditions, and that it was directed primarily against the Marshall Plan, do you know whether or not that strike had been held pursuant to a vote taken under the auspices of the United States Government?

A. I do not know that fact, no, sir, one way or the other.

Q. You do not know one way or the other?

A. No, sir. [6953]

Q. Do you know that on a secret ballot, concluded in accordance with the United States Government's plans and arrangements, 95 per cent of the employees voted for the strike?

A. I do not recall any such information. I may have read it in the newspapers at the time.

Q. You did not bother to find out before you released a smear on the unions, as you did when you gave them that writeup on May 29, 1949, is that right?

A. The basis of my information regarding that was the fact that I had been present at a meeting where Mr. Schneidermann made a report in which he said that, "The job we have to do now is to prevent the clear crystallization of a foreign policy of this country that will be hostile to the Soviet Union, and we have to produce all kinds of activity to prevent the crystallization of that policy, both in this country, France, China and a number of other places."

Q. That sounds something like what Mr. Ray said they were going to say about the effort to amend

(Testimony of Mervyn Rathborne.)

the Copeland bill, doesn't it? The thing I just read before the recess, that you had sent out back in 1938.

A. You can make the comparison yourself, Mr. Hallinan.

Q. The release put out in 1938, wasn't it?

A. That release?

Q. Yes.

A. My recollection is '37 or '38. [6954]

Q. Wasn't that Memorial Day massacre in 1937, and the release says that was a year ago? Do you remember that is the fact?

A. The Memorial Day massacre—I don't recall the exact date—it was around 1937, I believe.

Q. While you were in Mr. Donohue's room in the St. Francis Hotel you phoned to Mr. George Wilson, is that right? A. That is right.

Q. And you read out to him the same statement that you gave to the newspapers here in San Francisco, isn't that correct? A. That is right.

Q. And there was some discussion between Mr. Wilson and yourself as to who was paying for this long telephone call, isn't that right?

A. I don't know as there was any discussion as to who was paying for it.

Q. Was Mr. Donohue present while you were having the conversation with Mr. Wilson?

A. Yes, he was.

Q. Who suggested phoning down to Wilson and getting that printed in the papers?

A. I don't recall who suggested it or whether anybody suggested it.

(Testimony of Mervyn Rathborne.)

Q. Was anybody else present in the room besides you and Donohue?

A. I don't recall anybody there.

Q. Did he suggest to you to phone down to Mr. Wilson and give [6955] him this information?

A. I just told you, Mr. Hallinan, I don't recall whether it was my idea or his suggestion or how it came about.

Q. What was the purpose of it? Why should either of you be bothered phoning down to Wilson and giving him this?

A. Well, I wanted to get it in the newspapers, that is why.

Q. You wanted to get it in the newspapers?

A. That is right.

Q. It was your personal desire, is that right?

A. That is definitely right, yes, sir.

Q. In other words, you had a personal desire now, aside and apart from anything that Donohue said, to get this matter in the newspapers?

A. That is right.

Q. And you were not content with getting it into the newspapers in San Francisco; you wanted it in the newspapers in Los Angeles, is that right?

A. That is right.

Q. And you also wanted to have Mr. Wilson spread it around in the newspapers down there; that is right, isn't it?

A. No, my recollection—the reason for calling Mr. Wilson was undoubtedly there would be some wire stories on the thing coming to Los Angeles. I wanted him to have the text of the statement just the way I put it out.

Q. The Hawaiian strike was on that time, as we have agreed [6956] already, is that right?

A. I am not certain. I believe it was.

Q. The warehouse strike was on in San Francisco at that time, as we have agreed already, isn't that right?

A. I believe that is correct.

Q. That strike extended all up and down the Coast, didn't it? A. That is right.

Q. At that time and in that period and with those strikes on you wanted to get not only in San Francisco papers, but in the Los Angeles papers the statement that the 1948 maritime strike was also 80 per cent political, 20 per cent wages, hours and working conditions, and directed primarily against the Marshall Plan, didn't you?

A. I didn't mention that in my conversation with Mr. Wilson.

Q. Why didn't you put it in that it was financed with the inexhaustible flow of Moscow gold, Mr. Rathborne?

A. I will be glad to get a copy of this statement I phoned to Mr. Wilson, if you would like to see it. I believe it is in evidence here. If it is not, I will be glad to get it for you.

Mr. Hallinan: Might we defer further examination until Monday?

The Court: We will adjourn the case until Monday morning next at 10:00 o'clock, and the same admonition to you, particularly over the weekend period. May I ask you not to read news accounts or radio reports of the trial and to refrain from discussions with any members of your family or other person on [6957] any subject of the trial and not to form or express an opinion until the matter is submitted to you.

(Thereupon an adjournment was taken to Monday, March 6, 1950, at 10:00 o'clock a.m.)

Monday, March 6, 1950, 10:00 o'Clock A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is Mervyn Rathborne, heretofore sworn.

Cross-Examination

resumed

By Mr. Hallinan:

At this time, if the Court please, I offer in evidence Defendant's Exhibit X-3 for identification, being the release that was made on January 26, 1936, and relating to the attacks upon labor under the guise of red-baiting. It has been already identified by the witness.

The Court: Is there any objection?

Mr. Donohue: No objection, your Honor.

The Court: It may be marked in evidence.

(Defendants' Exhibit No. X-3, heretofore marked for identification, was thereupon received in evidence.)

Mr. Hallinan: And a similar document made about the same time which was marked Defendants' Exhibit W-3, which has been identified by the witness, we offer in evidence at this time.

Mr. Donohue: No objection.

The Court: Same order.

(Defendants' Exhibit No. W-3, heretofore marked for identification, was thereupon received in evidence.)

Mr. Hallinan: This document that I have here is a release by the Maritime Federation of the Pacific Coast, San Francisco Bay Area District Council No. 2, Harry Bridges president, Mervyn Rathborne secretary-treasurer.

"January 26, 1936. Press statement for immediate release. The resolution adopted by the California State Chamber of Commerce on January 17 and not released to the press until January 25, is further evidence of the charge made by the San Francisco Bay Area District Council of the Maritime Federation of the Pacific Coast that shipowners have aligned themselves with Chambers of Commerce, industrial associations and other reactionary groups to bring about the destruction of the waterfront unions on the Pacific Union.

(Testimony of Mervyn Rathborne.)

Awards and agreements which resulted from the 1934 maritime strike were not intended to last forever. These awards contained the machinery for obtaining amendments. Shipowners have consistently refused to consider or negotiate a single amendment to the awards, although amendments have been repeatedly requested by maritime unions. The arbitrary attitude of the employers has brought about many stoppages of work which could have been prevented had the owners been willing to negotiate. In addition, the continuous practice of the employers of violating and chiseling on the working rules and agreements has led to quickie strikes. The employers' outstanding violation of the award—of the government longshoremen's award—was their [6959] refusal for eight months to pay the retroactive wage increase ordered by the government arbitrator, Judge Sloss. Employers have denounced waterfront unions for uniting in a maritime federation. At the same time shipping interests, shippers, industrial associations and Chambers of Commerce and bankers have formed their own federation designed to precipitate a coastwide lockout of thousands of members of marine unions, to destroy organized labor on the Pacific Coast, to institute an industrial upheaval which would discredit the Roosevelt Administration during an election. The democratic makeup of the Maritime Federation of the Pacific makes it impossible for

(Testimony of Mervyn Rathborne.)

any group, radical or otherwise, to dominate the federation. A significant fact is that the clause of the federation's constitution which is objected to by both the shipowners and international officials of the I.S.U. is the one that provides that no strike may be called or terminated without a referendum of the membership of the unions comprising the federation. This section absolutely prevents minority groups, radical or otherwise, from calling strikes, or which is much more important, terminating strikes by means of a sellout."

Is that fact true?

A. To the best of my recollection, the Maritime Federation constitution contained those provisions, yes.

Q. "The constitution of the Maritime Federation provides that [6960] all affiliated unions must conform to the principles of the American Federation of Labor. The Maritime Federation is founded upon the same principles as the United States, majority rule.

"As stated in their campaign, shipowners, Chambers of Commerce and allied interests have attempted to boycott the Chronicle, leading San Francisco morning newspaper, and other publications which have attempted to present the truth. This boycott was an effort to force their newspapers to publish highly colored and anti-labor stories."

Do you know if that was true?

A. I don't recall that particular incident, Mr. Hallinan. [6961]

Q. Well, don't you remember that an effort was made on the part of the shipowners and allied interests to put no advertising in the Chronicle, in the San Francisco Chronicle in this year, around the end of 1935 and the beginning of 1936, because the Chronicle was giving a fair resume of what the controversy was between the maritime unions and the shipowners?

A. Well, the only point I make, Mr. Hallinan, I don't dispute it at all. I just don't recollect such an instance. But I recall that the Chronicle was running stories side by side in adjacent columns, one representing the employers, shipowners' point of view, and the others representing the unions' point of view. I remember that.

Q. And then on the other hand, you remember references that were made to a boycott of the Hearst newspapers running through these things; the Hearst newspapers were refusing to give workers' side of the story, isn't that right?

A. That was the belief of the union at that time, and the position, I believe, of the—I am not sure whether it was the Federation Council's, but it was certainly the position of many of the unions that some of the newspapers, including the Hearst press, were giving more weight to the shipowners' side than they were to the unions' side.

Q. Just like on this——

(Testimony of Mervyn Rathborne.)

A. That is my recollection of it.

Q. You have been reading the newspapers of this trial? [6962] A. I have.

Q. Well, have you noticed that if you read, let's say, the Call and the Chronicle, you wouldn't know it was the same trial they were talking about?

Mr. Donohue: I object to the question, if your Honor pleases.

The Court: Sustained.

> Q. (By Mr. Hallinan): "Waterfront employers and allied interests have attempted to bully and coerce certain steamship lines into participating in the contemplated lockout of all marine unions. The Grace Line has been threatened with a boycott by all shippers of freight unless it agrees to the shipowners' plans for a coastwise lockout. This action was taken because the Grace Company at times has adopted a policy of dealing fairly with waterfront unions.
>
> "The General Engineering Company also has been boycotted by waterfront employers because it signed an agreement with the International Machinists Union, a member of the Maritime Federation. Because of the boycott, General Engineering, which performs repair work on ships, has been forced to close its local plant and discharge several hundred workers."

Do you remember that incident?

A. Not the specific incident. As I say, I just don't recall that particular incident. [6963]

(Testimony of Mervyn Rathborne.)

Q. But you do remember instances of the industrial association and the Waterfront Employers Association boycotting people who were originally members of their business, and competitors, and so forth, to force them to join in this lockout; do you remember that?

A. My recollection along those lines, Mr. Hallinan, is that it was a bitter fight going on between the unions and the shipowners and the unions at that time were in more or less of an organizational stage and were trying to maintain and improve the gains they had made in the very tough 1934 strike. My recollection is that both sides, the unions on one hand and the employers on the other, were using all kinds of tactics and devices and pressures and everything they could possibly do, one to offset the other's program. That is my recollection. Things were very tough in those days and conditions were very bad on the waterfront and on the ships.

Q. Except that the workers only had the organized men, poor working men, organized; and the employers had the wealth, had the federal government to fall back on, police department, industrial associations, and all those sort of things. Isn't that right?

A. Well, I think the record speaks for itself.

Q. Do you agree with what I just said?

A. No, I don't exactly, not in every word. I agree generally with the characterization. [6964]

Q. And originally, from what you knew about the story, just a couple of years before this or a year and a half before, the unions on the waterfront, the maritime unions, were very weak and very helpless, isn't that right?

Mr. Donohue: I object to the question, if your Honor pleases.

Mr. Hallinan: Oh, he has testified on those matters.

Mr. Donohue: So what, if your Honor pleases? Can we at some time come to the issue in this trial and stop trying the '34 and '36 strikes?

Mr. Hallinan: This gentleman has said that the '36 strike was dictated by the Communist Party and that the——

The Court: Objection overruled. You may answer.

The Witness: I didn't——

The Court: Do you understand the question?

The Witness: I don't remember it.

The Court: Have it read.

Mr. Hallinan: I will repeat the question.

Q. Prior to the '36 and during '36 the union, maritime unions on the waterfront and down the coast, had been very weak, hadn't they?

A. I would like to answer that question at a little length, your Honor, if you don't mind.

Q. Go ahead.

A. The situation, as I recall it, was this, that the country was [6965] emerging from a depression or was in a depression around that time, and that after the 1921 strike, no effective organization had existed on the Pacific Coast among the seamen, the long-

(Testimony of Mervyn Rathborne.)

shoremen and other maritime workers; and that after the election of President Roosevelt, an effort was made to build trade union organizations. Conditions were very bad. We had the shapeup on the waterfront, we had low wages, poor conditions on the ships, and the conditions of the maritime workers were very, very bad at that time. And that effort to organize the unions on the waterfront was vigorously opposed by the employers, by the shipowners, and in that connection, I was blacklisted myself a couple of times for engaging in union activities. And it is also my recollection that during the time I was in there, that the Communist Party was very active in helping build these organizations and that their trade union program at that time was one that I supported and worked with, and it was one of the major reasons that I joined the Communist Party: because they were doing a good job, in my judgment, at that time, in building the unions and helping overcome some of these abuses which I believe everybody will agree today were abuses that should have been corrected. So at that time, Mr. Hallinan, that is my recollection of the situation, and it was certainly, in my judgment, an excellent thing that the unions were organized. They were able to get the gains that they did win for the maritime workers, including myself, and it was a needed and necessary thing [6966] to bring some balance into the situation with respect to the bargaining power and the influence of labor on one hand and the employers on the other. Now, does that answer your question?

(Testimony of Mervyn Rathborne.)

A. That is all right. And at that time the influence, or at least the efforts, rather, of the Communist Party, were quite benign, weren't they?

A. I believe today, sir, that the work carried on by the Communist Party members on the waterfront was work in the direction of helping the working people, the maritime workers, overcome these terrible conditions that existed then; and I certainly have no quarrel with it and I think that some of the things that they did were excellent. I still believe that today.

Q. Then the members of the Communist Party who helped on that strike and who worked and went on the picket lines, they worked hard and they worked diligently so far as you know, isn't that right?

A. I believe I previously testified, sir, that one of the main requirements of the Communist in a trade union was to be a good trade unionist.

Q. Yes, all right. And the efforts that they were making, the hard work that they put in, was directed toward getting rid of these, what you described as terrible conditions; isn't that right?

A. The immediate efforts, the immediate tactical program of the party was to build strong and effective unions on the waterfront [6967] and to win gains for the workers, as I understood it at that time.

Q. And to get it down to specific things, to get them decent wages, decent hours and decent working conditions, isn't that right?

(Testimony of Mervyn Rathborne.)

A. That was part of the program.

Q. To get them more than $10 a week wages, keep them from having their work spread out over a period of 16 or 17 hours, the shapeup and all the atrocious things you have testified to. The Communists who were working on the strike had that same purpose in mind, didn't they?

A. Those issues that you mentioned, my recollection is that at least at the time that I joined and the time they were talking to me about joining, these were reasons give to me why I should join the Communist Party.

Q. And you came out to the coast when?

A. I came out to the Coast—what do you mean?

Q. When did you come to San Francisco?

A. My recollection is some time during 1934 in the early part, before the first half of the year.

Q. Yes. Now, do you give Harry Bridges any credit for the work that he did in those strikes and in helping organize those unions?

A. Certainly I do. I don't deny that he worked effectively and hard along this program, for these unions. [6968]

Q. Well, do you think that his work was very important?

A. Well, I think that the work of everybody there that was doing that, carrying on that activity, was important and he occupied quite an important place in the picture. I don't credit him as being the savior of the working class or being the guy that, singlehanded, organized the unions.

Q. He didn't say that either.

A. Well, I say, I am trying to show a difference, the way I approach it. As I say, I think the entire work, the entire organizing of the unions and correcting these unions, was important and that Mr. Bridges occupied an important place in that picture.

Q. And then that union continued to get stronger and stronger, didn't it, all those unions?

A. Over a period of time, they did, yes, sir.

Q. And then finally they got strong enough that the conditions of the waterfront workers is now a comparatively good one, isn't that right?

A. As far as the wages, hours and working conditions, they are comparatively good.

Q. Well, of course, the port is paralyzed now because there is no trade with China, isn't that correct?

A. Well, I wouldn't——

Q. I mean, relatively. There is a lot of the work——

A. My observation is that there is much less shipping now than [6969] there used to be.

Q. There is more?

A. I say there is much less shipping out of the port of San Francisco than there used to be.

Q. That is the reason, though, isn't it?

A. I wouldn't say entirely. I am not familiar with all the reasons, Mr. Hallinan.

Q. All right. And you know that Harry Bridges has worked continuously all those years in the ILWU and in its affiliated unions?

A. Yes, I know that.

(Testimony of Mervyn Rathborne.)

Q. All right. And would you say that his influence has been a good one?

A. The only quarrel on that point that I have, and I have stated it here before, is that I believe, I am certain that Mr. Bridges has consistently supported and followed the line of the Communist Party, and I think that that differentiating between '34, '35 and '36 and today, that following that line is inimical to the best interests of the labor movement, inimical to the best interests of this country, and something that a man who is really an American labor leader should not do. That is the——

Q. I understand.

A. ——point of departure.

Q. Now, as far as his influence up until the time that you [6970] arrived at this decision is concerned, his influence was a good influence, wasn't it?

A. Generally speaking, in so far as wages, hours and working conditions for the people, yes. But there were situations where political matters injected themselves into the picture and where in my judgment now, looking back on it, unions took positions from political motivations directed from the Communist Party, rather than from trade union motivations. And in those situations the results were not always beneficial to the union, in my judgment.

Q. In other words, he would see that a stevedore sat down and ate a steak dinner, but he talked some kind of improper economic ideology to him, is that about it?

(Testimony of Mervyn Rathborne.)

A. That is not exactly it, no, sir.

Q. Well, all right, let's get this, then. Finally, the unions, of which Mr. Bridges is the head, became so strong——

A. Well, now, Mr. Bridges wasn't the head of all the union, Mr. Hallinan.

Q. No, but this ILWU, let's take, for instance.

A. Yes, sir.

Q. That ILWU became so strong, it was able to go over to the Hawaiian Islands and break the terrible conditions that had existed there for a century, isn't that right?

A. Well, I don't deny it, but I am just not very familiar with the Hawaiian situation. My information along that line is that [6971] the ILWU carried out an organizing campaign over there, did secure quite a number of members, engaged in several kinds of negotiations and strikes, and so on and so forth, and got some agreements which improved the conditions of the people. That is my general knowledge of the situation.

Q. You didn't know anything about the pick-handles and the gas bombs over there, or the bullets, or anything? You never heard of those? They just went over there and made a few discussions with employers and the employers made these concessions to them, is that it?

A. No, Mr. Hallinan: I am not so naive and you are not so naive as to believe that a trade union organizing campaign is not accompanied by a considerable struggle to try to establish a union, par-

(Testimony of Mervyn Rathborne.)

ticularly in an area that has been previously non-union. But I don't have the——

Q. By a "considerable struggle," you mean that they resort to violence, murder, all sorts of terrible things, to keep the working men from getting the increases in wages and what they are entitled to, don't you?

A. As far as my information in the Hawaiian situation, Mr. Hallinan, I am not—it is derived from reading the newspapers, labor and commercial papers, and it is rather limited. So I don't know the details of what went on there.

Q. All right. Now, to continue with this exhibit:

> "Any leader of a maritime union who is not a United States [6972] citizen and whose actions are found to be in violation of any law by a regularly constituted court of justice may be deported. However, the California State Chamber of Commerce should not be the body to interpret the law. Courts have been established for this purpose. If any significance could be attached to the label 'radical' as applied by the California State Chamber of Commerce and the attaching of this label was sufficient ground for persecution, then President Roosevelt and Secretary of Labor Perkins, who both have been labeled 'Reds' by similar reactionary forces, would have been prosecuted long before this."

Remember that statement?

(Testimony of Mervyn Rathborne.)

A. I don't remember the exact statement. [6973]

Q. Do you remember that Franklin Roosevelt and Mrs. Perkins were called Reds?

A. I distinctly remember the election campaign that President Roosevelt was called a Red, a Communist, a horrible man, and a lot of other bad names.

> Q. "As for aliens, at least one large employer, member of the Waterfront Employers' Association, is an unnaturalized alien. In addition, an investigation will reveal a plan of American interests to use foreign shipowners and foreign finance to bring about a national upheaval in the maritime transportation industry. This disturbance will vitally affect the interests of thousands of American workers and their families."

Do you remember that there was uncovered around that time a plan of the shipowners to involve foreign shipowners in an effort to break unions all over the world?

A. It could well be, but I mean I just don't recall the details. Apparently that statement was put out by Mr. Bridges and myself, was put out on the basis of information we had at that time, but I just don't recollect the specific thing.

Q. You don't, I take it——

A. It woud be my recollection that that charge was made, but I don't just recall the actual incident, that's all.

Q. You don't, I take it, think it improper for working men all over the world, marine workers, to unite in such an organization as the WFTU for their protection, do you?

A. I think that an effective trade union organization on a [6974] local, State, national and international basis to achieve the legitimate aims of labor is perfectly proper, Mr. Hallinan.

Q. Now, to continue:

> "It is because of these facts that the leaders, alien and otherwise, of Pacific Coast marine unions are demanding that Congress investigate the subversive and un-American activities of the shipowners, Chambers of Commerce and allied interests.
>
> The record of any alien labor leader is open to investigation.
>
> The Maritime Federation has not violated any anti-trust law. It urgently requests and welcomes Congressional investigation, strict enforcement of ship subsidy laws, regulations governing safety of life at sea and other statutes which are being openly violated by shipowners." [6975]

Do you remember the demand for a Congressional investigation by the unions?

A. Yes, I believe there was a demand at that time for——

Q. Did you testify before the Lafollette Committee when it held its hearings out here?

A. I don't believe I testified, no. I may have, but I don't recall any testimony. I know I was in

(Testimony of Mervyn Rathborne.)

contact with the Lafollette Committee. Whether that contact actually went to the point of testifying, I am not certain. I helped them in their investigations, and I am not certain that I actually testified.

Q. All right. Did you read the findings of the Lafollette Committee?

A. I read some of the Lafollette Committee documents. I recall there was maybe 30 or 40 volumes they put out, and I read some of the testimony and some of the findings, but I am not—I don't recall it all.

Q. Did you read the finding that there had been an active campaign among the shipowners to get rid of Harry Bridges by claiming he was a Communist?

A. I don't recall that I did or I did not.

Q. Did you know this——

A. I was familiar with the procedure—I mean, I knew that to be a fact at the time.

Q. Now, let me ask you this——

A. I mean, I knew the shipowners were after Bridges, and they [6976] were trying to get him deported and the charges they were using were Communism. I knew that.

Q. And you knew that they were having articles written in the newspapers and trying to build up a popular hatred against Harry Bridges as being a dangerous alien and a dangerous Communist?

A. I didn't have any direct knowledge of that, no, sir.

Q. Do you know this—now, see if you can re-

(Testimony of Mervyn Rathborne.)

member this: that the reason that they were going to boycott—that the employers wanted to boycott the Chronicle that Paul C. Smith, the managing editor of the Chronicle, supported Harry Bridges in his demand for an investigation of the Un-American activities of the shipowners?

A. That could have been. I mean, I just don't—I don't recall it, that is all.

Q. Do you know Mr. Smith?

A. Yes, sir, I do.

Q. Did you ever have any discussion with him on this subject I am talking about around that time?

A. I am not sure whether I did or did not. I had a number of discussions with Mr. Smith around that time on the general subject, as I recall it, of the objectivity of the Chronicle, and as a result of those discussions, and I believe other discussions Mr. Bridges had, Smith, I believe, finally adopted the device, if you want to call it that, of running in adjacent [6977] columns statements made by the employers and statements made by the unions so that the public could read both sides and draw its own conclusions. That is my recollection of the conversations with Mr. Smith around that time.

Q. Don't you remember that Mr. Smith went much further than that, and that he, as managing editor of the Chronicle, editorialized that Mr. Bridges' demand for a congressional investigation should be granted and a congressional investigation should be held?

(Testimony of Mervyn Rathborne.)

A. I don't recall it. It could have happened, but I am not—I mean, I am not——

Q. Do you remember a finding of the Lafollette Committee that the efforts of the shipowners through the papers had been so successful that almost all the public entertained the false belief that Mr. Bridges was a Communist and a dangerous alien?

A. I just don't recall any such findings, Mr. Hallinan; they may have been made.

Q. Well, do you recall some language to that effect?

A. I don't think those hearings of the Lafollette Committee were ever published.

Q. Yes, they were.

A. I am not sure. Anyway, I recall reading a great many things about the situation at that time, and, as I testified here, it was my opinion at that time, and still is, that there was an endeavor on by the employers to try to have Mr. Bridges [6978] deported and that Communism was one of the charges. Now, that is my recollection. All the individual different things that happened in connection with it, I just don't recall.

Q. That isn't what I am talking about now. What I am talking about now is the organized campaign of publicity to defame Mr. Bridges among the public and cause it to so dislike and hate him that it would be easy to procure his deportation. Do you remember that that was the subject of the discussions and testimony?

(Testimony of Mervyn Rathborne.)

A. In the Lafollette Committee hearing, you mean?

Q. Yes.

A. No, I just don't recall that.

Q. Well, aside from wheher you recall that, was that the situation?

A. Well, I had no specific evidence of any organized procedure. I will say this: that the newspapers generally were very hostile to Mr. Bridges and represented in my judgment, now and then, the employers' point of view over and above the unions' point of view.

Q. And do you remember this: that whenever the charge was made in a newspaper that Mr. Bridges was a Communist or in any way connected with Communists, it was always done as narrating something that carried a privileged communication so that the newspaper could not be sued for libel and slander?

A. Well, now, I really don't know what a privileged communication [6979] in a legal sense is.

Q. I mean something said in a court or something said in Congress or in some body of that kind so that if it were repeated in a newspaper Mr. Bridges would not be able to file suits against them.

A. Well, Mr. Hallinan, my recollection is that the newspapers were generally——

Q. I know that; you answered that.

A. ——were hostile, were antagonistic toward the unions and also Mr. Bridges. I don't remember every article that appeared, and I don't remember all the specific details. The general policy or the general approach I certainly do recollect.

Q. Well, you have never seen any article in any newspaper which intimated or charged that Mr. Bridges was a Communist or a member of the Communist Party upon which an action for libel could be based, have you?

A. Well, now, Mr. Hallinan, I am not an attorney or a lawyer, and I don't know when material is libelous and when it is not.

Q. Don't you know——

A. I repeat that I saw a lot of charges and a lot of accusations against Mr. Bridges. Now, whether they were libelous or whether they were not, I just couldn't judge.

Q. Don't you remember that there were——

A. I think some of them were libelous.

Q. Don't you remember that there were discussions with the [6980] attorneys for the union about the instituting of actions for libel by Mr. Bridges and it was pointed out by the attorneys that even though false, the statements were privileged and hence a suit could not be maintained on them?

A. It is my recollection that Mr. Bridges filed a couple of libel actions against the newspapers.

Q. Do you know what happened to those?

A. No, sir, I don't.

Q. The filing of the actions were for calling him a Communist, isn't that right?

A. That could have been.

Q. Yes.

(Testimony of Mervyn Rathborne.)

A. I think it was generally attacking his character, and, as I say, I believe one of those—one of the allegations was that, to my recollection.

Q. Don't you remember that the only answer that the papers made was not that the statement was true but that it was privileged?

A. Well, now, sir, I don't recall that. It is my recollection that they were disposed of, dismissed, or anyway, I don't ever recall them coming to trial. What the disposition was I don't recall.

Q. Do you remember in the Hawaiian strike that the papers recited statements that had been made in Congress by one or two senators of the Copeland type that Mr. Bridges was the Red czar of Hawaii? Did you notice those things? [6981]

A. Well, I may have read something about it in the newspapers. I don't deny that I did or that I did not. I read casually pretty much about the Hawaiian strike and the other situations, whatever appeared in the newspapers at that time about the situation. That is, I didn't read every newspaper every day, but over a period of time I probably read six or eight newspapers a week, and what appeared in the papers is what I learned about the strike.

Q. Did you ever notice this after the Hawaiian strike started, right in line with the discussion we have been having about damaging that strike, that a certain representative stood up in Congress and called Mr. Bridges the Red czar of Hawaii, and then the Hearst papers ran as a headline "Bridges

(Testimony of Mervyn Rathborne.)

Red Czar of Hawaii" and in small print "says Congressman So and so"? Did you notice that at all?

A. I don't recall reading that statement.

Q. Would you consider that an anti-labor device? A. Yes, I would.

Q. Did you consider that the Hawaiian strike was a proper strike and a legitimate strike?

A. Well, here with my position on the Hawaiian strike as I discussed it with a number of people. I said, in my judgment, knowing what I did about it, which wasn't very much, that it was certainly time that the people in the Hawaiian Islands should be organized and their conditions should be [6982] improved, and that it is unfortunate that this strike for wages, hours and working conditions is tied up in these other issues.

Q. In what issues? A. Of Communism.

Q. You had no knowledge or information that the strike in Hawaii had anything to do with Communism, did you?

A. I have just been pointing out that a lot of charges about Communism were made.

Q. I say, you have no belief——

A. No, I did not.

Q. You don't think that the employers, the big five in Hawaii, were dong anything different toward their employees than the Waterfront Employers had been doing in 1934 to theirs, do you?

A. Well, I had no information as to what the

(Testimony of Mervyn Rathborne.)

employers were doing in the Hawaiian strike other than what I read in the newspapers.

Q. And from what you read in the newspapers did you make any effort to question it, or to determine whether those statements were true or false?

A. No, sir. My estimation of the situation, though, was generally favorable to the strikers and to the union, and my own personal attitude—I argued that position.

Q. Did you argue that with Clark?

A. No, but I did argue it or state it to Mr. Donohue and Mr. Boyd. [6983]

Q. What position did they take?

A. I believe they just said—I don't think they took a position on it.

Q. You say you argued it to them?

A. I presented my point of view to them.

Q. And what point of view did they present to you?

A. I don't believe they presented any. I believe they just——

Q. Didn't they tell you that it was a Communist-instigated and controlled strike and that the whole issue down there was the Communists taking over Hawaii?

A. No, sir, they never told that to me.

Q. When did you have this argument with them?

A. Well, it wasn't an argument; it was a discussion.

Q. I am using your own phrase; you say you argued it.

(Testimony of Mervyn Rathborne.)

A. I would say it was more of a discussion than argument.

Q. Where did that discussion take place?

A. To the best of my recollection, the discussion with Mr. Barber took place in the Appraisers Building.

Q. Did you have separate discussion or just one discussion? A. Well, that I don't recall.

Q. When was it?

A. It must have been during the strike. My recollection is it was during the strike.

Q. When did the strike start and end, do you know?

A. I believe the strike started in May of last year, didn't it? [6984]

Q. And when did it end?

A. Some months later; I don't remember the exact date.

Q. Now, when did you have the conversation with Mr. Barber in the Appraisers Building?

A. During the period of the strike.

Q. What part of it?

A. I can't—I don't recall every day of the strike, Mr. Hallinan, and every conversation I have had with Mr. Barber with respect to the particular date it took place on.

Q. Well, I don't care about that. Was it in the early part of the strike, the middle of the strike, or what?

A. My best recollection would be in the middle of the strike; I am not certain.

(Testimony of Mervyn Rathborne.)

Q. Would you say it was in the month of May that it happened?

A. I wouldn't say because I don't know.

Q. Place it by the grand jury hearing. Was it before you went before the grand jury or after?

A. I am reasonably certainly it was after.

Q. How long after?

A. Well, now, my best recollection of the date would be about the middle of the strike, Mr. Hallinan.

Q. About the middle of the strike?

A. I just don't remember.

Q. Anybody else present at the time?

A. I don't believe there was. I don't [6985] remember.

Q. Just you and Mr. Barber. Now, you had this discussion about the strike in which you took the position that the strike in Hawaii had nothing to do with Communism or the Communist Party, is that right?

A. No, he asked me, he said, "Merve, what do you think about that Hawaiian strike? What is your opinion of the Hawaiian situation?" or something like that. He listened—I mean he made an inquiry about my position. [6985-A]

Q. And then you told him what you thought?

A. I did.

Q. What did you say?

A. Well, I told him substantially what I said here before.

Q. Tell us again. I didn't get it.

(Testimony of Mervyn Rathborne.)

A. Generally, that it was time that the people were organized down there and it was time their conditions were improved, and that from what I observed in the Hawaiian Islands the conditions were not good; and as far as the trade unions' objectives of a strike are concerned, that I was in sympathy with them and that I thought it was long overdue that the people down there had their conditions improved. And I also said it was unfortunate, or too bad, that this other issue, in the interest of the people there——

Q. What other issue?

A. This other issue of Communism and all this thing, had got involved in the situation, because from the viewpoint of effective trade union organization and better wages, hours and conditions for these people, it was way overdue. And that generally my sympathy was in the direction of hoping they won the strike and came out of it all right and got better conditions.

Q. What did you tell him about it being too bad that these other issues like Communism became involved in it? What was the discussion on that? In what way was that unfortunate?

A. Well, I don't remember the exact details, but in connection [6986] with the fact that there had been Communist activity in connection with the strike. That is about as far as——

Q. Did you tell him that there had been——

A. In my opinion, there had been.

Q. I thought you said you knew nothing about it.

(Testimony of Mervyn Rathborne.)

A. Well, again, I told you that my information regarding the strike came from the newspapers, and I was expressing a judgment based on my information received from the newspapers.

Q. That there was some Communist influence in the strike in Hawaii, is that right? A. Yes.

Q. And in other words, the newspapers were charging that this was an example of Communist infiltration and domination of workers in Hawaii, is that right?

A. Well, that is the general position they took.

Q. And you read that? A. That's right.

Q. And you believed it? A. Not entirely.

Q. You believed some of it?

A. Some of it, yes.

Q. What percentage?

A. Well, now, Mr. Hallinan, I can't be that specific. You asked me about my information, and my opinion of the strike. I gave it to you. Now, I can't be more specific at the present [6987] time.

Q. And then did you see any distinction between that situation, in which the newspapers were saying that the Hawaiian strike was a Communist infiltration and dominated by the Communists, the difference between that and the strikes that took place on the waterfront in '34 and '36, in which the papers were saying identically the same thing about the longshoremen and sailors?

A. Well, there was a very definite difference, because in the waterfront strikes of '36 and '37, and during '35, I was actively engaged in union work

(Testimony of Mervyn Rathborne.)

and I was actively a member of the Communist Party, and I had information as to what was going on and had that specific and definite, detailed information. In connection with the Hawaiian strike, most of my information, as I have related here, came from the newspapers and based on my previous ideas and experience plus what I read in the newspaper, I reached the conclusion which I told you I expressed to Mr. Barber.

Q. Well, now, what was Mr. Barber's opinion on that? What did he say, that he did think it was Communist controlled and Communist infiltration? What did he say to you?

A. I don't believe he said very much of anything. He asked for my opinion, as I recall it, and I expressed it.

Q. Well, did he agree with you or disagree with you?

A. I don't believe he agreed with me.

Q. You don't believe he agreed with you?

A. No, sir. [6988]

Q. Well, then, he disagreed with you, did he?

A. If he did, it wasn't any violent disagreement. He said, well, he didn't think so, or his opinion was otherwise, or words to that effect.

Q. His opinion was that it was Communist-dominated, is that right?

A. Well, my recollection is, Mr. Hallinan, that he made some expression or expressed an idea that he didn't agree wholly with the opinion that I had expressed.

(Testimony of Mervyn Rathborne.)

Q. Did he claim to have some information from the inside on it, from the Big Five, for instance?

A. No, sir, he did not.

Q. Well, where did he say he got his information that caused him to differ with you?

A. As I recall, he merely said it was his opinion.

Q. Well, by that time, now, you were an active anti-Communist, weren't you?

A. That's right.

Q. Yes. And your position was certainly no more favorable to the Communists than Mr. Barber's was, is that right? A. That's right.

Q. But Mr. Barber went further than you did on the situation in Hawaii and disagreed with you. Now, didn't he tell you what information he had that enabled him so to contradict you?

A. As I said, Mr. Barber expressed disagreement in part with the [6989] statement I had made, but he did not reveal to me any information that he may have had or may not have had regarding whether he formed the opinion from reading newspapers or from other sources. He didn't——

Q. Well, did Mr. Barber——

A. He didn't, for example, produce a file and say, "Well, here's proof that the Communists are running the strike," or anything like that.

Q. When did you talk to Mr. Donohue on this same subject?

A. I believe it was during that same period; around the time that the Hawaiian strike was mentioned in the newspapers, quite commonly.

(Testimony of Mervyn Rathborne.)

Q. When did you have a talk with him?

A. I don't recall exactly, Mr. Hallinan. My best recollection would be either in the Cartwright Hotel or some place where I had seen or met Mr. Donohue.

Q. Was it before or after you talked to Barber?

A. I would say just about the same time. I am not——

Q. Just, you mean, a day or two separating the two conversations?

A. Well, I can't place the two conversations either in order or in time they took place, other than my recollection is, they took place about the middle of the strike.

Q. Now, where did Mr. Donohue—what was the conversation with Mr. Donohue?

A. I believed I instigated and expressed the same opinion to him [6990] as I did to Mr. Barber.

Q. What did he say?

A. I think he said he didn't know anything about it.

Q. Now, he said he didn't know anything about it, is that right?

A. That is my recollection, or that he wasn't—he didn't have too much information on it, or something.

Q. Did he say he had any information on it?

A. Not that I recall.

Q. Did he say he had any opinion on it?

A. I don't recall him expressing any opinion. I believe—my recollection is that I volunteered the information or the discussion and that he—I don't recall him expressing any opinion particularly.

Q. Well, did he tell you that the opinion of Mr. Tom Clark on that subject was as follows:

> "Hawaii is the only spot at the present time where our domestic Communist problem is serious. We may have to take some drastic action there. But I think that the case against Bridges has already been of some help in the Hawaiian situation. If we are successful in our prosecution of Bridges, as I am certain we will be, it may be that we can break the Hawaiian situation without any other intervention."

Mr. Donohue: I object to the question, if your Honor pleases, for the reason that there is no proof that the Attorney General ever made that statement. [6991]

Mr. Hallinan: I am asking. I am not suggesting this is proof; I am asking this gentleman.

Q. Did Mr. Donohue tell you that Mr. Clark, that that was Mr. Clark's opinion on the Hawaiian strike? A. He did not, no, sir.

Q. Well, did anybody tell you that?

A. You did, yes, sir.

Q. Is that the first time you heard it?

A. Yes, sir.

Q. Have you checked up since I [illegible] you, to find out whether on June 27, 1949, in the city of Milwaukee at the German Relief Day Festival at Old Heidelberg Park, Mr. Tom Clark said exactly that language? A. No, sir, I have not.

(Testimony of Mervyn Rathborne.)

Q. You made no effort; did you ask Mr. Barber?

A. No, sir, I did not.

Q. Ask Mr. Donohue?

A. The information I have about that particular statement in the document you have here appears in the testimony in this proceeding. The only information I have about it.

Q. Would you look at the middle picture in this and tell me if you can identify Mr. Tom Clark? (Document handed to the witness by the Clerk.)

Mr. Donohue: I object to the question, if your Honor pleases. What difference does it make whether it is a good or a [6992] poor resemblance to Mr. Clark?

Mr. Hallinan: We are not concerned with that; I don't care about the artistic end of it.

Mr. Donohue: Unless Mr. Hallinan suggests the witness doesn't know Mr. Tom Clark?

Mr. Hallinan: I don't know. Let's see if it is the same Tom Clark he met in Washington.

The Witness: From the picture here it appears to me Mr. Clark is the gentleman in the white suit.

Q. (By Mr. Hallinan): In the white suit?

A. Yes. Not a very good reproduction, however.

Mr. Paisley: Let's take a look.

Mr. Donohue: May we see it?

Mr. Hallinan: Oh, sure. You should have read that long ago. It might change your outlook.

Mr. Donohue: I may say, if your Honor pleases, I read it at the time that your Honor ruled in the preliminary stages that this was no proof that the

Attorney General of the United States ever said any such thing.

Mr. Hallinan: How long ago was that, might I ask?

Mr. Donohue: Prior to your employment and during the period when Messrs. Gladstein, Resner, Andersen and Sawyer argued a great number of motions.

Mr. Hallinan: Well, then, Mr. Clark has had ample opportunity to deny it if he didn't say it, hasn't he? And I haven't [6993] seen it denied.

Mr. Donohue: You haven't seen him, either.

Q. (By Mr. Hallinan): Now, might we inquire this. This Barber—what is his occupation, so far as you know? A. At the present time?

Q. Yes.

A. He is, I believe, head of the Immigration Service here in San Francisco.

Q. That is the outfit you are working for now, is that right? A. Yes, sir.

Q. All right. And he is head of the Immigration Service. Was that his business or occupation at the time you had this conversation with him?

A. I am not certain.

Q. Well, did he ever tell you or express to you why it was any of his business what was happening in Hawaii? A. No, he never did.

Q. Well, did he ever tell you why it was any concern of his as a member of the Immigration Department whether there were Communists in Hawaii or not? A. He never did.

Q. Did he ever tell you why it was any business

(Testimony of Mervyn Rathborne.)

of his whether the unions in this country were dominated by Communists or Communism or not?

A. He never did. Mr. Clark did. [6994]

Q. Yes. Did he express any reason why he should be junketing all over the country trying to get rid of Communists and trying to get rid of labor leaders who are charged with being Communists?

A. He never made such a statement to me.

Q. Did he express to you any belief that that was involved in his duties as immigration officer?

A. Well, Mr. Barber, I believe, told me on perhaps one occasion, perhaps more, that he had instructions to secure certain information and certain evidence in connection with the proceedings that are now going on here.

Q. From whom did he have that direction?

A. He didn't tell me.

Q. All right. Now, let me ask you this: Are your duties at the Immigration Department confined strictly to working on this case?

A. That's right.

Q. You haven't gone up in that jail that they have on the upstairs floor of the Appraiser's Building, where a great number of people are confined awaiting what they call "processing" of their right to enter the country?

Mr. Donohue: I object to the question.

The Court: Sustained.

Mr. Hallinan: I think it goes to his activities in the matter.

The Court: The objection is sustained. [6995]

(Testimony of Mervyn Rathborne.)

Mr. Donohue: If your Honor pleases, may we some time come back away from the case of Hallinan v. Rathborne to the case of the United States v. Bridges?

Mr. Hallinan: No, you are going to be a long time on it.

Mr. Donohue: I think the Court has something to say about that, Mr. Hallinan.

Mr. Hallinan: Yes.

Q. Now, let me ask you this. Now, did Mr. Barber have any discussion with you about that Chinese woman who jumped off the Appraisers Building here a few months ago after being locked up there for a year and a half, trying to have her case proceed?

Mr. Donohue: I object to the question, if your Honor pleases. I ask your Honor to instruct the jury to disregard it and I ask your Honor to require Mr. Hallinan to conduct his cross-examination according to the rules.

Mr. Hallinan: I wish your Honor would hold that for just a couple of questions now, because it will lead directly to what I want to ask, as to the Immigration Department's activities in this case.

The Court: The objection is sustained, Mr. Hallinan.

Mr. Hallinan: All right.

The Court: I admonish the jury to disregard the statement made by Mr. Hallinan concerning the incident of the Chinese lady, for the simple and obvious reason that apparently it thus far hasn't anything to do with this case. [6996]

(Testimony of Mervyn Rathborne.)

Now, we will take the morning recess, and the same admonition to you, not to discuss the case under any conditions.

(Recess.) [6996-A]

Q. (By Mr. Hallinan): Now, in his discussion with you on the Hawaiian strike did Mr. Barber tell you that the immigration authorities had been moving around among the strikers in Hawaii and arresting and deporting any who would not return to work who were aliens? A. No, sir he did not.

Q. He didn't say that to you? A. No, sir.

Q. Now, did you know that your friend Joe Curran ordered his men to work the ships that were entering the Hawaiian port?

A. No, I did not know that.

Q. You didn't check on that at all?

A. No, sir. I told you the information I had about the Hawaiian strike was derived very largely from reading newspaper accounts of it.

Q. Well, did you know this: Did you know that the only issue in the Hawaiian strike was the issue of arbitration?

A. I did not know that that was the only issue. I knew that it was an issue, because it was mentioned in the newspaper reports that I read. My recollection is that the union was demanding arbitration and the employers were refusing it. That is my recollection.

Q. Correct; the union was demanding arbitration and the employers were refusing it?

(Testimony of Mervyn Rathborne:)

A. That is my recollection of what I read in the newspapers. [6997]

Q. And do you know that the United States Government proposed the arbitration which the union accepted and which the employers rejected?

A. I probably read it at the time, but the fact doesn't stick in my memory. The thing that sticks in my mind is that the union were favoring arbitration.

Q. You know that the arbitration was to be before an officer of the United States Government, or by an officer of the United States Government, isn't that right? A. That I don't know.

Q. That is ordinarily true?

A. Not necessarily.

Q. Isn't there an arbitration and conciliation department in the Department of Labor?

A. No, sir, there is not. There is a mediation and conciliation service, but not arbitration.

Q. And you know that the unions in Hawaii offered to submit every issue of wages and hours and conditions to arbitration?

A. Well, Mr. Hallinan, I don't know that as a positive fact. I may have read it at the time, but it doesn't stick in my memory. I have told you my information about the Hawaiian strike was none too complete.

Q. Let us take your information on that. Your information was to that effect?

A. I may have read it in the newspaper, but it doesn't stick [6998] in my mind at the moment.

(Testimony of Mervyn Rathborne.)

Q. Did you have this information: That the employers put full-page advertisements all over the country, even in the New York newspapers, in which they said that arbitration was a Communist scheme imported directly from Moscow. Did you see any of those advertisements?

A. I don't recall seeing them.

Q. Do you believe that they did it?

A. I don't believe it and I don't disbelieve it. I don't think—the thing that amazes me, if they did, why they would be so stupid to do a thing like that.

Q. When there is hysteria, anything can happen —a Red scare, getting people whipped up, that is why.

A. I have heard lots of employers hollering for arbitration on lots of occasions, so I don't know why they were so stupid to bring in or make a remark like that.

Q. I will bring in one of the pages of the New York Times, a full page that cost them $18,000.

Mr. Paisley: Is that a question, or is that Mr. Hallinan's testifying?

Mr. Hallinan: Mr. Rathborne asked me, and out of courtesy and kindness to him I felt compelled to answer, that is all.

Mr. Paisley: He has already said half a dozen times that he didn't know.

Mr. Hallinan: To keep Mr. Paisley busy, might we ask this: [6999] Would you bring in, Mr. Paisley, the canceled checks that have been paid to Mr.

Rathborne during the time he has been employed by the department? May we have those?

Mr. Paisley: Pardon me. You know how to subpoena evidence, Mr. Hallinan.

Mr. Hallinan: Might I ask the Court—

Mr. Paisley: If you want evidence, subpoena it.

Mr. Hallinan: Might I ask the Court to require that the prosecution do that?

The Court: Yes, they may be produced.

Mr. Hallinan: Thank you. I want all the checks paid out, particularly the first ones that were paid to this gentleman, to show the date on which his employment commenced.

Q. Now, did Mr. Barber, in his discussion with you in which he stated that he had been employed to or directed to gather information on this subject did he state what percentage of the Department of Immigration was to be turned over to that occupation?

Mr. Donohue: I object to the question, if your Honor please.

Mr. Hallinan: It goes to this man, an employee of the Department of Immigration, and the Department of Immigration interest has been directly involved, and I think it is a pertinent inquiry. It goes to his interest.

The Court: I think there may be some limit or delimitation to the employment on the part of the Immigration Department of [7006] this man. He so delimited his employment, at least in his testimony, and over all questions I believe would not aid any particular purpose. I think that I have allowed all questions pertinent to this particular proceeding. I will continue to allow them, but I think that any policies of the Department would not be disclosed to this man nor would he be able to testify to them.

Q. (By Mr. Hallinan): Let me ask you this, then, Mr. Rathborne: In addition to Mr. Kessler living down at Miramar and chopping down trees for you on Saturdays and Sundays, have you been favored with the services of any other employees of the Department? A. No, sir, I have not.

Q. No baby-sitters?

A. I don't know what you mean by "favored with the services," but——

Q. Haven't you had the use of any baby-sitters?

A. No, sir.

Q. Mr. Schomaker has, you know. Didn't you know that? A. No, I didn't.

Mr. Hallinan: Oh, yes.

Mr. Donohue: I object to that statement, if your Honor please.

Mr. Hallinan: Mr. Schomaker said that the Department of Immigration official on three separate occasions was taking [7001] care of his children while he was engaged in the work of testifying here. He said that.

The Court: I think, Mr. Hallinan, in fairness, the record will disclose there were security reasons why Mr. Schomaker then disclosed or at least asserted.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: No, not on the baby sitting. Security reasons were for Mr. Crouch.

The Court: Maybe the record will disclose that. In connection with Mr. Schomaker's testimony there were certain security reasons outlined. However, I will pass it now.

Mr. Hallinan: As far as Mr. Kessler being two and one-half miles away from you at Miramar, did you know that Mr. Crouch had one sleeping opposite his room and one sleeping on each side of his room?

Mr. Donohue: Object to the question, if your Honor please.

Mr. Hallinan: I asked him as to his activity.

Mr. Donohue: It is incompetent, irrelevant and immaterial to this issue.

The Court: Objection sustained.

Q. (By Mr. Hallinan): Any of the agents go help your wife shopping, buying shoes, as was done to Roza Schomaker? A. No, sir.

Q. Nothing of that kind? A. No, sir.

Q. Now, do you know any of the immigration agents who are [7002] spotted here and there throughout the courtroom as spies and informers upon what people may have to say?

Mr. Donohue: Object to the question.

The Court: Sustained.

Q. (By Mr. Hallinan): Did you know the gentleman that was planted behind the counsel table here in the first weeks of the trial, a big, tall fellow named Maxwell?

Mr. Donohue: Object to the question, if your Honor please.

(Testimony of Mervyn Rathborne.)

The Court: Sustained.

Q. (By Mr. Hallinan): Now, is there any purpose or object in Mr. Kaiser being right in a dead line with the witness sitting up here that you know of? A. I didn't——

Q. Do you look to him for any nods?

A. No; I was just looking to see where he was.

Q. Do you look to him for nods or hints or tips as to what you shall say? A. Of course not.

Q. Well, are you taken in when you are involved in these matters down at the Immigration Department on the stratagems and devices that are to be employed upon the trial?

Mr. Donohue: Object to the question, if your Honor please.

The Court: Overruled.

A. I am not.

Q. (By Mr. Hallinan): Because you know when we want to put him on [7003] a wild goose chase we just whisper things aroind and they act in accordance. A. I am sure you are very clever.

Q. That explains the parachutist dropping down in your lots in Half Moon Bay that night.

Let me ask you this now: You have seen, have you not, dozens of immigration officers from the Department of Immigration running around on searches in this case, haven't you?

A. Well, I think you ought to get your question a little more specific.

Q. Well, there have been people named, McGowan, Kessler, Kidder and some other "K," and

(Testimony of Mervyn Rathborne.)

just dozens named. Do you know all of those people? Have you been active for all of them working on this case?

A. I believe I have testified here as to my general acquaintance with the people who are working on this case.

Q. Their activity—their co-activity in the case?

A. Well, now, that is a—the people that I have testified to here in my observation have been working toward securing a case for the Government.

Q. You people have not organized any union down there entitled "The American Association of Persons Who Make a Living Trying to Ruin Harry Bridges," have you?

Mr. Donohue: Object to the question.

Mr. Hallinan: He might have. He might [7004] have.

The Court: Sustained.

Q. (By Mr. Hallinan): On this job that you have, is it fixed in hours of the day; I mean, is your activity limited to any particular hours of the day? What is the spread?

A. No particular spread, Mr. Hallinan.

Q. Any number of hours a day that you are supposed to work?

A. Not necessarily, no, sir.

Q. No overtime or anything like that?

A. No, sir; no, sir.

Q. You better get the ILWU to throw a picket line around that Immigration Department.

(Testimony of Mervyn Rathborne.)

A. I am sure they would be happy to do it.

Q. I beg pardon?

A. I am certain they would be happy to do it.

Q. To get you some better hours and conditions. To go on with this document that we were reading, Defendants' Exhibit X-3, it continues:

> "The recent loss of the steamer Iowa is but one example"——

We were talking in the preceding paragraph at the time that Mr. Paisley interrupted me, about the violations of the regulations governing safety of life at sea and other statutes which are being openly violated by shipowners.

> "The recent loss of the steamer Iowa is but one example of the shipowners' disregard for anything except profit. This ship proceeded to sea at midnight, without [7005] a pilot, in the teeth of a 90-mile gale at a spot popularly known as the 'graveyard of the Pacific.' Storm warnings had been posted prior to the time the Iowa passed the Columbia River bar. The slight extra expense of employing a pilot for the Iowa would have probably saved 34 lives."

Do you remember that incident?

A. I don't clearly recall it, no, sir. I was thinking that ship was sunk outside the Golden Gate. About the Columbia River, I don't recall [7006] that.

Q. Your recollection does not retain the mem-

(Testimony of Mervyn Rathborne.)

ory of the 34 poor sailors who perished on the Iowa, is that right?

A. I said I did not clearly recollect or even recollect the particular incident. When you read it and started to read it, I thought it was the ship that sailed out of San Francisco here, or was coming in, an American Hawaiian ship, that sunk right down, oh, at Seal Rock. That one I don't recall.

Q. You don't remember that the Iowa was sunk and 34 crewmen lost their lives because they were too cheap, the owners were too cheap, to hire a pilot to take them through the bar?

A. Well, obviously, if I don't remember or recollect the sinking of the Iowa, I don't recollect the incidents connected with it.

> Q. To continue: "The portion of the resolution adopted by the California State Chamber of Commerce states that this Chamber of Commerce cooperate with other industrial and commercial bodies and with the public generally, by whatever means the directors of this chamber shall determine, to bring about a cessation of such restraints and restore the free flow of commerce.
>
> "As further proof of the charges made by the San Francisco Bay Area District Council of the Maritime Federation of the Pacific Coast that shipowners have aligned themselves with Chambers of Commerce, industrial associations, and other reactionary forces to

bring about the destruction [7007] of waterfront unions through coastwise vigilante organizations which will take over the enforcement of the law on the Pacific Coast. Such action will inevitably result in the destruction of all trade unions. It is highly significant that the State Chamber of Commerce adopt this resolution on January 17th—ten days before the contemplated attack on marine unions by shipowners and their cohorts. The resolution of the California State Chamber of Commerce is a direct threat to every worker in the state. It means that organized capital is on the verge of launching a general attack directed against the entire labor movement and the New Deal policies of the Roosevelt administration."

Signed: "San Francisco Bay Area District Council, Maritime Federation of the Pacific Coast, Harry Bridges, President; Mervyn Rathborne, Secretary-Treasurer."

Now, what do you mean by the statement that "industrial associations and other reactionary forces will bring about the destruction of waterfront unions through coastwise vigilante organizations, which will take over the enforcement of the law on the Pacific Coast"?

A. Mr. Hallinan, as I have pointed out to you previously, I don't recollect the details of every one of the possibly hundreds or maybe thousands

(Testimony of Mervyn Rathborne.)

of documents and statements that I participated in during the twelve years that I was actively serving in the labor movement. And as I further pointed out to you and [7008] this Court and jury, at that particular time when this document refers to, there was a violent and bitter fight, battle, going on between the maritime unions and the employers. And in that fight, in that battle, we made many charges and many counter-charges were made. Now, I am very glad to admit that I participated on the side of labor and that I helped——

Q. That isn't what I asked.

A. I am trying to give you——

Q. I only want to get this definition of one term. A. I don't recall——

Mr. Paisley: I think the witness might continue, Your Honor.

Mr. Hallinan: Your Honor, I ask that the answer be stricken as not responsive. I asked him the one thing, what did he mean by "vigilante organizations taking over the enforcement of law on the Pacific Coast.

The Court: I thought he had about completed his last statement. In any event——

The Witness: May I finish?

Q. (By Mr. Hallinan): The one thing I wanted to know is what did you mean by that?

A. I will answer the question, if you will permit me to continue.

The Court: You may answer it.

(Testimony of Mervyn Rathborne.)

A. (Continuing): I don't recall what I meant. I don't even recall making the statement. But I certainly would not deny that I [7009] did make the statement.

Q. What would that mean, that language?

A. Well, that would be—you want me to give my opinion at this time, now?

Q. Yes. A. Of what I meant?

Q. Yes.

A. My opinion at this time, now, is that we probably had some information that a group of employers were trying to get together and break the organizations we were then in the process of establishing, and that they possibly, or they probably—we had information they intended to use vigilante activities. Now, that would be my opinion today.

Q. What does that mean?

A. As to what we meant there, then.

Q. What does "vigilante activity" mean, and why were you fearful of it in suggesting it?

A. Well, we certainly had examples of vigilante activity during the early days on the waterfront where our union halls were wrecked and where individuals were accosted and beaten up by groups of people. Now, that——

Q. What kind of groups of people? Who hired them? Who were they? I don't know, at least, what you mean by "vigilante organizations."

A. Well, I don't specifically remember what kind, or what, who—[7010] I don't believe I ever

(Testimony of Mervyn Rathborne.)

knew who hired the people. I knew, we made certain allegations, but——

Q. Well, what were some examples that would illustrate the phrase?

A. Well, as I recall it, around '35 there was numbers of union halls that were broken into by groups of men, and that the furniture was busted up and destroyed and people were molested and, generally the attacks were made on union halls. And on the individual persons of union members. And we designated that then, and it certainly was in my judgment, vigilante activity.

Q. What do you mean by "molested"?

A. Well, I mean beaten up or pushed around or threatened.

Q. With what purpose?

A. Well, the purpose appeared to be the purpose of intimidation.

Q. To what end? I don't get it. People don't go around just to intimidate people generally, I take it. What was the purpose of the intimidation by the vigilantes?

A. My recollection of the purpose is that it was to—alleging that the unions were "wrecking the city" or something like that, the waterfront unions were; and it was anti-union activity, in my judgment.

Q. Well, was it to break strikes?

A. Well, my recollection is at the time I was here, when those attacks took place, there was no strike on.

(Testimony of Mervyn Rathborne.)

Q. In other words, people hired by interested persons, probably [7011] shipowners——

A. I don't know whether they were hired or not, or whether they did it on their own motion, or how they did it; because I never had any information along those lines.

Q. But a crowd of men would descend upon a union hall, wreck the furniture, beat up the persons present—officers and so forth, is that right?

A. Yes, they descended on the headquarters of the Communist Party, is my recollection, and also upon a number of union halls.

Q. Communist Party also? A. Yes, sir.

Q. Did the Communist Party people ever go out and land on the shipowners' offices?

A. Not that I—I never heard of it.

Q. Before they had any Communists, the thugs used to go around and beat up the union men, didn't they?

A. Well, Mr. Hallinan, I testified that my recollection as far as the San Francisco situation was concerned, started when I became active in the labor movement here, in 1935, and that is all I can testify to.

Q. Well, we'll go into it a little further. I have some more statements by you of a similar nature by you that might refresh your recollection.

Now, reading from Defendants' Exhibit W-3, a statement issued by the San Francisco Bay Area District Council of the [7012] Maritime Federation

(Testimony of Mervyn Rathborne.)

of the Pacific. And they have a pair of hands clasping; was that their trademark (indicating)?

A. Yes, that appeared on the letterhead.

Q. Underneath, "An injury to one is an injury to all"; remember that?

A. That was the slogan.

Q. That was their slogan?

A. Yes, sir.

Q. It wasn't true, though, was it?

A. It certainly was.

Q. It isn't true now?

A. Well, I think it certainly is.

Q. I beg your pardon?

A. I think it certainly is.

Q. Well, an injury to Bridges isn't an injury to all, is it?

Mr. Donohue: I object to the question.

Q. (By Mr. Hallinan): An injury to Robertson isn't an injury to all?

Mr. Donohue: Object to the question.

Q. (By Mr. Hallinan): An injury to Schmidt isn't an injury to all, is it?

Mr. Donohue: I object to that question.

The Court: Sustained.

Q. (By Mr. Hallinan): Now, I notice in this release, they were calling on the United States Government, too, for some arbitration [7013] and protection. Do you remember that?

A. Could I look at it?

Q. The workers——

A. Could I look at the document?

(Testimony of Mervyn Rathborne.)

Q. You read it already and it has been introduced in evidence. I will read some of it.

A. Yes, would you read some of——

> Q. "Unless the United States Government intervenes, there will be launched on the Pacific Coast within a month a struggle which will inevitably achieve the proportions of civil war.
>
> "This situation will result from the attempt of shippers and waterfront employers to repudiate all existing agreements with the maritime unions, to withdraw recognition from them and to institute open shop conditions, which will be maintained by force and coercion."

Do you remember that statement? Withdraw that.

Do you remember that that was the situation you felt yourselves actually threatened with?

A. Yes, yes, I do.

Q. Well, there wasn't any Communist propaganda in that, was there? You actually believed that the shipowners were going to try to repudiate the agreement they had made as a result of the 1934 strike and reestablish the open shop in San Francisco; isn't that right?

A. It was our opinion at that time that the shipowners were [7014] trying to bust the unions that had been organized in 1934, yes.

Q. Yes. And reestablish the open shop?

A. Well, that would follow, naturally.

Q. And that they were going to try to do it by force and violence, isn't that right?

(Testimony of Mervyn Rathborne.)

A. I guess that was our belief, yes, sir.

Q. All right. And it was a sincere belief, wasn't it? A. It certainly was.

Q. And you had good reason for believing it, didn't you?

A. Well, if we made the statement, we certainly should have had good reason for believing it.

Q. Continuing:

> "We set forth the matter in the following order: First, the steps the employers proposed to take to obtain their objectives; secondly, the evidence of these intentions; thirdly, the arguments advanced by them as justification of their intentions; and finally, our contentions as to the merits of their arguments.
>
> "On a date yet to be decided, probably in February, waterfront employers associations of all Pacific Coast seaports will take the following steps: One, full page advertisements will appear in the larger daily newspapers, which will state the intention of the employers and present argument in support of their actions; two, in an effort to maintain an appearance of peaceful resistance, they will [7015] then evict seamen and longshoremen from their jobs by laying up ships, ostensibly because 'exorbitant' union requests make operations financially impossible; three, all awards to and agreements with maritime unions will be publicly repudiated in the advertisements; four,

(Testimony of Mervyn Rathborne.)

> recognition of all maritime unions will be withdrawn and the shippers will attempt to deal with the men only on an individual basis; five, shippers will attempt dictatorial control of wages and working conditions. Representatives of almost every shipping company of the United States have met secretly and frequently in the offices of the Waterfront Employers Association of San Francisco for the past two months. They met, for instance, on December 9, 1935, and on January 7, 1936."

Do you remember that you had been able to obtain inside information as to what was going on in the employers' councils?

A. That is my recollection, that we had at that time, yes, sir.

Q. Yes. In other words, this wasn't just a guess, this was information you actually had; isn't that right?

A. We received quite a bit of information about what the employers were doing in those days.

Q. "At the December 9th meeting they set out their complete plan in a resolution, the few copies of which have been guarded jealously. The date for the opening of the attack has been postponed time and again, because certain ship [7016] owners with integrity are unable to bring themselves to participate in the affair. The utmost pressure is being brought on these

(Testimony of Mervyn Rathborne.)

men, however, to force them to join forces with the less ethical majority.

"In preparation for the attack, Elisha Hanson, attorney for the ship operators in Washington, has for weeks been demanding that the Department of Labor and Department of Justice prosecute the Maritime Federation of the Pacific for illegal conspiracy in restraint of trade."

Remember that? A. I believe I do; yes.

Q. In other words, they tried to bring in the Antitrust Department of the Department of Justice to break up the Maritime Federation, isn't that right?

A. My recollection is that this shipowners' lobbyist in Washington was making demands to that effect.

Q. Continuing:

"While Pacific Coast newspapers have at all times remained silent, the Atlantic Coast press has presented evidence of collusion between shipowners. Louis Stark, labor editor of the New York Times, said in a byline story on December 31, 1935: 'Employers on the Pacific Coast virtually have completed a coastwise vigilante organization to protect their interests in the event that they find themselves unable to obtain redress from the government. Pacific Coast owners [7017] are said to be in constant contact with Atlantic operators, and

(Testimony of Mervyn Rathborne.)

it is probable that a meeting of both groups will be held in San Francisco.'

"That meeting was held on January 7th. A committee of three eastern steamship executives was in San Francisco at the time. The New York Times telephoned Harry Bridges, Federation District President, asking for comment on the coming lockout. One prominent eastern ship operator warned a West Coast maritime union official of what was planned. The shipowners have sought and been promised the aid of industrial associations, chambers of commerce, and other such organizations all over the Coast. Every conceivable agency that can be of use to them will be employed.

"Early in September the industrial association of San Francisco called a meeting at the Chamber of Commerce. Executives of all the larger industries attended, including publishers of San Francisco newspapers and executives of the press associations. The story of that meeting was set in type at two papers and sent out by the Associated Press. When the mistake was discovered, the Associated Press sent out a mandatory order to kill.

"Foreign shipping lines have been offered full compensation for any losses suffered during the lockout, solely as an inducement to cooperate until the unions are broken." [7018]

You remember that those facts were true?

(Testimony of Mervyn Rathborne.)

A. I remember that general situation. The shipowners had planned to lock out the unions, and I believe those were some of the steps.

Q. In other words, this isn't something that either the unions or the Communist Party or anyone else was starting, but the shipowners themselves were starting it?

A. Certainly they were. There was a real battle going on there.

> Q. "In the advertisements these arguments will be presented: One, the unions are 'irresponsible and fail to keep their agreements, thereby disrupting the free flow of American commerce'; two, the unions are run by Communists, reds and radicals, whose objective is the destruction of American shipping; three, ships can be run only at a loss if owners have to pay living wages; four, shipowners would be willing to keep agreements with 'responsible unions.'
>
> "To these charges, repeated many times, we answer: One, the unions are not irresponsible. For every dispute or ship tieup, there is definite evidence of discrimination, bath faith or violation of agreements by shipowners. Men do not strike for the fun of it. They strike when they are being treated unfairly. Filthy sanitary conditions we can list as one very good cause for recent disputes. Yet seamen who object to such things are termed 'irresponsible.' Companies keeping the agreements

> do not have strikes or [7019] tieups. Witness the case of the Grace Line, whose ships run regularly, simply because its executives play fair; two, that the unions are run by their members, not by Communists, reds, or radicals. It is a peculiarity of Pacific Coast maritime unions that officials must submit every action of the slightest importance to a majority vote of the membership. And that is precisely what the owners object to. They do not like democracy. They profess admiration for the Atlantic Coast maritime unions, where the members have absolutely nothing to say as to the functions of their own organizations."

And that phrase is underlined, "where the members have absolutely nothing to say as to the functions of their own organizations."

That includes your friend Curran's union, doesn't it?

A. I wouldn't say it did, because Curran's union wasn't even organized at that particular time.

Q. What happened here a week or two ago when Curran's goons went in with pickax handles and broke up the rank and file revolt against him? Do you remember that?

Mr. Donohue: I object to that question, if Your Honor pleases. That is something with which this witness has no concern.

The Court: Sustained.

Q. (By Mr. Hallinan): Well, do you have any part in advising [7020] Mr. Curran as to going in there with pickax handles and kicking out the rank and file rebelling people?

Mr. Donohue: I object to the question, if Your Honor pleases, and suggest that Mr. Hallinan's examination is trifling with the time of the Court and the time of the jury.

Mr. Hallinan: Oh, you are still getting in a hurry.

The Court: Objection is sustained.

Mr. Hallinan: I told him if he waited spring time would be here—very pleasant and nice. We will be around here a long time yet. So don't be in a hurry.

Q. All right. At that time did the Atlantic Coast maritime unions—did the Atlantic Coast have maritime unions whose members had absolutely nothing to say as to the functions of their own organizations?

A. It is my opinion they did, yes, sir.

Q. That was a true statement, wasn't it?

A. Oh, I believe it was, yes, sir.

> Q. "Obviously this is the core of the whole matter. It is democracy the shipowners dislike. It is autocracy they desire."

Was that true?

A. In very large part, I think it was.

Q. In an undemocratic union, all they would have to do is buy up one or two leaders, isn't that right?

A. Well, in an undemocratic union, the member-

(Testimony of Mervyn Rathborne.)

ship is not given [7021] opportunity of voting on certain things that affect people very directly.

Q. And I say, all that the owners would have to do is buy up one or two leaders?

A. Well, that might be one of the methods, yes.

Q. Beg your pardon?

A. I say, that could be one of the methods.

Q. That has often happened, hasn't it?

A. I believe it has, yes.

> Q. "Because they do not like democracy, they call it Communism, in an effort to obscure the real issue."

You find that to be true?

A. Well, that was true in part, yes. It wasn't completely true. [7022]

> Q. "3. Owners do not run ships at a loss if they pay decent wages. Under mail contract subsidies alone the shipowners received approximately $28,850,000 in 1935."

Is that true? A. I believe it was.

> Q. "This is more than the combined annual wages, subsistence, maintenance and repair cost of the operation of all American flag vessels on ocean mail routes, these costs amounting to $28,460,000 a year according to the operators' own estimates."

Was that true?

A. I know they were receiving tremendous subsidies, and these subsidies were finding their way in their own pockets instead of paying decent

(Testimony of Mervyn Rathborne.)

wages or providing decent conditions for maritime employees.

Q. Who were doing that?

A. The shipowners were.

Q. In other words, aside from any monies they were receiving from the operation of their ships carrying cargoes and passengers, the shipowners were receiving from the United States Government in 1935 $28,850,000, and the total cost of all wages, subsistence, maintenance and repairs on the operation of all the American flag vessels on ocean mail routes amounted to $28,460,000 a year, according to the operators' own estimates, is that [7023] right?

A. Well, on that point, Mr. Hallinan, a committee of the United States Senate made an investigation. It was known as the Black Committee, headed by a gentleman who is now a Justice of the Supreme Court, Hugo Black, and they made a very detailed inquiry into the amounts of subsidies paid the various shipowners, the way these subsidies were spent, and the Committee concluded that the shipowners were not employing these subsidies properly but were almost practically bleeding the Government blind on these things, and as a result of that recommendation and investigation of the committee I believe the Merchant Marine Act of 1936 was passed. I am not certain.

Q. Of course, they never indicted all these shipowners for fraud on the Government, did they?

A. I don't believe they did.

(Testimony of Mervyn Rathborne.)

Q. You know very well they didn't?

A. The matter was brought before Congress and was corrected by it as Congress saw fit.

Q. To continue:

> "With all the above expenses met with mail contract pay, the operators have left only the expenses of fuel, incidentals and overhead to meet out of cargo and passenger revenues. Their losses would be slight if they never carried a single ounce of freight or a single passenger. Their profits, which they carefully conceal, must be tremendous." [7024]

Was that your honest opinion?

A. I believe it was. I think we got that information from Black's report, if my memory serves me correctly. I may not be completely right on that.

> Q. "4. When shipowners say they would be 'willing to keep agreements with responsible unions,' they mean they like to deal only with unions controlled by themselves. They cannot control democratic unions, they admit; it is a logical deduction that they are able to control autocratic unions.
>
> "In closing, we quote from the preliminary report of the special committee of the Senate of the United States to investigate air mail and ocean mail contracts (Report No. 898 Senate, 74th Congress, 1st Session):

(Testimony of Mervyn Rathborne.)

> "'The subsidy does not always reach its intended beneficiary.
>
> "'While the clamor has always been made that our marine subsidy would provide funds for the payment to American seamen of wages set at a proper level, and substantially in excess of foreign wages, in many instances, the proper wage scale has been cut and money transmitted to mail contractors in constructive trust for American seamen has been diverted by the contractors to their own private profits for exorbitant salaries and unearned bonuses. This practice and result is wholly indefensible.'"

That was the finding of the Black congressional committee, [7025] wasn't it?

A. That is my recollection. I believe that is the incident I testified to a couple of minutes ago.

Mr. Hallinan: "This statement authorized by San Francisco Bay Area District Council No. 2 on January 14, 1936.

> "Issued by Harry Bridges, President, Mervyn Rathborne, Secretary."

Now, would it be possible that we get the checks that are to be brought in by this afternoon, for the opening of the session of this afternoon?

Mr. Donohue: I beg your pardon?

Mr. Hallinan: Could we get the checks which the Court ordered brought in this afternoon?

Mr. Donohue: I will have to say to your Honor that I don't know. I don't know enough about the mechanics of government to know where the checks are that were paid Mr. Rathborne. I will have to make inquiry.

Mr. Hallinan: If there aren't checks, if we could have a copy of the account, whatever shows it most accurately.

Q. When you issued the statement from Mr. Donohue's room at the St. Francis Hotel which you phoned down to Mr. Wilson down in Los Angeles, had that statement been reduced to writing?

A. Yes. You have—all the time, Mr. Hallinan, here you are referring to one statement and I am referring to another. I think that situation ought to be corrected, because I think [7026] we are getting at cross purposes on that one.

Q. You didn't think we were playing on the same team all along, did you?

A. I don't believe I have any illusions on that point.

Q. Well, you made out a statement, some statement originally, is that right?

A. I prepared a written statement at the time that I testified before the grand jury.

Q. A written statement for the newspapers?

A. That's right. That is the statement that I phoned to George Wilson from Mr. Donohue's room. It isn't the statement that you read to me here yesterday.

Q. It is the same statement that appeared in the San Francisco papers, isn't that right?

(Testimony of Mervyn Rathborne.)

A. Well, again, there were probably several results reported of inquiries to me that appeared here in the San Francisco newspapers, and what I am trying to do is to find out which statement we are talking about.

Q. Fine!

A. Because it could have been any one of six or eight statements that you may have seen in the newspapers. That is the only statement that I reduced to writing, this one that I am referring to now that I phoned to Mr. Wilson.

Q. So that when you made a statement—when you testified before the grand jury you wrote out a statement, did you? [7027]

A. That's right.

Q. Have you the original statement?

A. No, sir, I do not; not to my recollection. I believe I typed out three or four copies and I gave it to newspapermen.

Q. You gave it to newspapermen and then you read that statement over the phone to Mr. Wilson?

A. That is correct.

Q. Now, before you gave the report or the statement to the newspapermen did you discuss it with Mr. Donohue?

A. I believe I told him that I was going to issue a statement and I showed him a copy of the statement that I either had or was about to issue.

Q. Oh, well, now—— A. I don't recall.

(Testimony of Mervyn Rathborne.)

Q. You wouldn't have issued it without first having him read it, would you?

A. I don't see why not.

The Court: We will take the noon recess and resume at two o'clock.

Ladies and gentlemen, I might say to you that the Court has a criminal case on at three o'clock, a matter that has been pending for some time, and accordingly have in mind that we will adjourn court this afternoon at three o'clock. We will resume, however, at two o'clock this afternoon. The same admonition to you.

(Thereupon a recess was taken until 2:00 p.m. this date.) [7028]

Monday, March 6, 1950—2:00 P.M.

MERVYN RATHBORNE

resumed.

Cross-Examination

(Continued)

By Mr. Hallinan:

Q. Now, you notice the double-page ad in the Washington, D. C., newspaper, Mr. Rathborne, on the Hawaiian strike?

A. Well, I haven't noticed what the subject is yet, Mr. Hallinan. Do you want me to read it?

Q. Just take a glance at it. I don't suppose you have to read it all. You see the center block there, the last paragraph about the Communist strike; while they can't prove it is a Communist strike, they know it is, et cetera, et cetera.

A: Yes, I have read that, Mr. Hallinan.

Q. Did you see advertisements similiar to that at the time of the Hawaiian strike disseminated over the country?

A. I don't recall having seen any.

Q. What date is that screed there?

A. It is the Evening Star, Washington, D. C., Thursday, June 23, 1949.

Q. Thursday, June 23; that is four days before the Clark release that I told you about, is it?

Mr. Donohue: Is that evidence, if your Honor please?

Mr. Hallinan: I would like to just show it to the jury, not to introduce that in evidence, but as an example of the [7029] extent to which advertisements were being disseminated to establish that contention that this Hawaiian strike was some sort of a Communist strike that was being engineered in the interest not of the working men. As I say, I don't want to introduce it; I would like to show it to the jury.

Mr. Donohue: That is an inconsistency I don't understand, but I object to it——

Mr. Hallinan: Well, I will introduce it.

Mr. Donohue: ——as irrelevant and immaterial and not pertinent to this issue, certainly not binding on the witness.

The Court: Objection sustained.

Q. (By Mr. Hallinan): Did you know that in

(Testimony of Mervyn Rathborne.)

addition to the charge of Communist influence that the dear Hawaiian newspapers were stating that this strike——

Mr. Donohue: I object to reading from any newspaper, if your Honor please, which isn't in evidence.

Mr. Hallinan: I won't read it from the newspaper; I will stand back here—that the Hawaiian strike was being fostered solely for the purpose of establishing Harry Bridges as the dictator of Hawaii?

A. Unfortunately, at that period I wasn't reading the Hawaiian newspapers, so I don't know anything about it.

Q. You don't know one way or the other?

A. I didn't read the Hawaiian newspapers.

Q. Did you ever read any of those cards saying, "Harry is going [7030] to need dough, Joe"—Joe being the Hawaiian field worker, and the good newspapers were only interested in the welfare of that field worker and were telling what a menace Harry Bridges was?

Mr. Donohue: Just a moment. I object to this line of inquiry as being immaterial and irrelevant, and not pertinent to any inquiry here.

The Court: Objection sustained.

Mr. Hallinan: Did you see in an issue of Life the pictures of the wife of—Mrs. Richard Cook, the wife of one of the executives of the Big Five, out with a housemaid's apron on and a broom counter-picketing the Hawaiian strikers? Did you see that?

(Testimony of Mervyn Rathborne.)

Mr. Donohue: I object to the question, if your Honor please, as being——

The Court: Sustained.

Q. (By Mr. Hallinan): In one of the exhibits that you were shown here, a series of letters that you wrote to the California State Assemblymen, you stated in that letter, in which you say that "CIO President Philip Murray has characterized the Bridges case as a burden upon the conscience of the American people." You say, "Similar comments by other prominent people are contained in the enclosed pamphlets." Do you remember that?

A. As I stated, I recall the letters, generally, Mr. Hallinan—the sending of such letters to members of the State Assembly. [7031]

Mr. Hallinan: There is an exhibit that is an exact copy of this, but there is no use of digging it out.

Q. Now, you see that line (showing document to witness)? A. Yes, sir, I do.

Q. These three pamphlets were enclosed with that letter, were they not?

A. I would say this in reply to that: They could have been; I don't recall.

Q. Come a little closer now. As a matter of fact, you have read—look at the other two also, if you will.

A. As I say, the only comment I could make on it, Mr. Hallinan, they could well have have been; I don't specifically recall they were, but I certainly wouldn't deny them.

(Testimony of Mervyn Rathborne.)

Q. You are familiar with those three pamphlets, at any rate, are you not?

A. I recall having seen those pamphlets or ones similar to them.

Q. And you did hand these to the Assemblymen, did you not?

A. I helped in distributing them.

Q. You helped distribute them? A. Yes.

Q. You adopted and embraced the language of them, didn't you?

A. Oh, yes; I was vigorously fighting in behalf of—against the deportation of Mr. Bridges at that time.

Mr. Hallinan: We offer the three pamphlets, if the Court please, as the defendants' exhibits next in order. [7032]

Mr. Donohue: Are you offering them for identification?

Mr. Hallinan: No, I am offering them in evidence.

Mr. Donohue: I object to them, if your Honor please, No. 1, they are purely hearsay; No. 2, they are self-serving declarations; No. 3, this witness has stated many times in the past week that during the time he was a member of the Communist Party and during the time that Mr. Bridges' deportation proceeding was pending, that he gave every possible aid and service. He hasn't denied that. And for that reason, if your Honor please, these matters are wholly self-serving; they are not admissible in evidence.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: Your Honor, he said he adopted and embraced the language in the three documents.

Mr. Donohue: If they sought to impeach or contradict anything this witness has said.

Mr. Hallinan: They do serve—that is the purpose of them—to impeach the testimony of this witness, certainly.

The Court: The objection is sustained, and they may be marked for identification.

The Clerk: The documents are marked as a group——

Mr. Hallinan: Your Honor, may I have that last answer of the witness to my question on these documents read again?

The Court: He said he adopted in part at least——

Mr. Hallinan: No, not in part. May I have it read, and then may I be heard further on it? [7033]

The Court: Let us assume that he said that he adopted each and every part of the memorandum.

Mr. Hallinan: And distributed them, sent them out to people. Suppose he wrote a letter and signed his name to it, wouldn't that be admissible in evidence? Suppose he puts out a press release and doesn't sign his name, isn't that admissible in evidence?

The Court: Were you the author of these letters?

The Witness: No, sir, I was not.

Mr. Hallinan: Suppose he takes a document that some other person wrote and he says he embraced

(Testimony of Mervyn Rathborne.)

it and hands it out to others, isn't that admissible as an impeachment?

The Court: I heretofore ruled, I think, during the testimony of Mr. Schrimpf along the same line. We had a similar situation wherein you sought to introduce the subject matter of circulars or letters that Mr. Schrimpf testified that he had no quarrel with, but he wasn't the author. I think it had to do with certain waterfront circulars. I sustain the objection upon the same theory that I sustained the objection therein.

The Clerk: The exhibits are marked Exhibits C-4, D-4 and E-4 for identification.

(The pamphlets referred to were marked Defendants' Exhibits C-4, D-4 and E-4 for identification.) [7034]

Mr. Hallinan: Well, did you believe at the time you wrote this letter, on March 20, 1945, that Harry Bridges was a symbol of incorruptible labor action and that his deportation would be the signal for an attack on all progressive labor in the country?

A. That is the position that I took at that time, yes, sir.

Q. All right. Was it your opinion that the only thing behind the persecution of Harry Bridges was the desire to get Bridges because he was an honest labor leader?

A. That was the position I was taking at that time, yes, sir.

(Testimony of Mervyn Rathborne.)

Q. Well, did you believe that to be so? Not the position, but was that your actual belief?

A. Well, I know a little more about it than I say there.

Q. You knew he wasn't an honest labor leader, is that right? A. No, I didn't say that.

Q. Well, is there any——

A. I wasn't telling all I believed at that particular time.

Q. Well, is there anything, any place along the line that anything that you said to the unions of which you were a member of the CIO of which you were a member, or anything you wrote or published or uttered, publicly or privately, anything that you testified to under oath before any court or any Congressional committee or any place else, that a person could rely upon as being the truth?

Mr. Donohue: I object to the question, if Your Honor [7035] pleases.

Mr. Hallinan: We are entitled to get a statement——

The Court: Well it encompasses a great deal of territory and a great number of hearings, I suppose, but I will allow it.

A. Well, Mr. Hallinan, at that particular time that you are talking about in those particular documents, I, as I have testified here before, was active in the trade union movement, I was also a member of the Communist Party. I was associated with and working with Mr. Bridges at that time. I was following both the line, if you want to call it that,

(Testimony of Mervyn Rathborne.)

of the Communist Party and the policy of the trade unions, and it so happened out here in California, the California CIO, those two happened to coincide rather exactly. However, at that time the national CIO was also on record in support and on behalf of Mr. Bridges, and because I may have changed my opinion and my attitude today—at that particular time I was following out just what I have told you.

Q. But you have changed your attitude and opinion today; but was your attitude and opinion at the time you expressed it in any sense true? Did it reflect anything that you actually felt?

A. Well, it certainly did. It might not have reflected everything I felt, but it reflected certainly a substantial part of it.

Q. Well, you cited here a little while ago Philip Murray's statement about Harry Bridges. Do you remember discussing that? [7036]

A. I believe I testified yesterday that I heard him make a speech supporting the case against Mr. Bridges' deportation.

Q. And did you support the sentiment contained in his speech? A. Oh, I did.

Q. Did you believe it to be true?

A. I believed it on the basis of the information Mr. Murray had, yes, that he was expressing what was in his mind.

Q. And did you concur in what Mr. Murray had to say in that respect?

A. Oh, very definitely.

(Testimony of Mervyn Rathborne.)

Q. And embraced it as your own?

A. Well, I concurred in it, I supported it.

Q. Approved of it?

A. Yes, I applauded when he made the speech, if I recall correctly.

Q. Now, might I ask you if this is partly what Mr. Murray said, if this——

Mr. Donohue: I object, if Your Honor please, to Mr. Hallinan reading from a document which Your Honor has said is not admissible in evidence.

Mr. Hallinan: When a person makes a——

The Court: He may read it in part.

Mr. Hallinan: Just the part that applies to this. Just that part of it, not the rest of it.

The Court: All right. [7037]

Q. (By Mr. Hallinan): Now, skipping by a portion of it, introductory, this is Mr. Murray's speech, or is this Mr. Murray's speech:

> "In the course of the last convention I took occasion to talk to the delegates about this matter, and I had this to say, that as president of this organization, I would not attempt to defend any man or woman in the United States who sought to undermine our country or our form of government; but that I had taken a great deal of time to investigate Mr. Bridges' record and that so far as I was able to glean from such information that I can get, Bridges' conduct as a member of a CIO union comported itself to all the requirements of a good

> member of a labor organization in the United States, and that there was nothing subversive in any of his activities."

You remember that part of his speech?

Mr. Donohue: I would like to ask Mr. Hallinan to state the date on which Mr. Phil Murray made that speech.

Mr. Hallinan: November 4th, 1943, in Philadelphia, Pennsylvania.

A. I don't recall that one. I wasn't present on that occasion, I don't believe.

Q. Beg your pardon?

A. I wasn't—I don't recall that I was present.

Q. You read it afterwards. You said you heard it and applauded [7038] it, didn't you?

A. I didn't know you were referring to that particular speech. I heard Mr. Murray make a number of speeches about Mr. Bridges.

Q. Well, let me ask you if you heard him say this, this part.

A. Well, Mr. Hallinan, obviously I couldn't have heard him if I wasn't there.

Q. He said it more than once.

The Court: Will you show it to the witness, Mr. Hallinan, please?

Mr. Hallinan: Well, just the part marked with the pencil, I want. (Document handed to the witness by the Clerk.)

The Witness: Yes, I have read this part you marked there,

(Testimony of Mervyn Rathborne.)

(Document returned to counsel by the Clerk.)

Q. (By Mr. Hallinan): I will ask you if you also embraced and accepted this part.

Mr. Donohue: I object, if Your Honor pleases. What difference does it make whether he embraced it or didn't embrace it? You might ask him if he embraced the more recent speech of Mr. Murray of Mr. Bridges.

Mr. Hallinan: I am going to come to that.

Mr. Donohue: The one in 1949.

Mr. Hallinan: I am going to ask him that, and whether the speech was made after Mr. Bridges wanted to know why he was paying $15,000 for a penthouse rental.

Mr. Donohue: That is Mr. Bridges' [7039] explanation.

Mr. Hallinan: I am coming to that. You will get a bellyful of Mr. Murray by the time you are through.

Q. Now, to continue:

"Now, my decision was not based on what Mr. Bridges has been doing since the war started, but also upon what Mr. Bridges had been doing before the war got under way. The record will show that Mr. Bridges was largely responsible for the building of a mighty labor organization of longshoremen on the West Coast, a militant organization, a progressive organization; that he wrung substantial con-

(Testimony of Mervyn Rathborne.)

> cessions out of the interests controlling the shipping industry, of a beneficial nature to the longshoremen; that he improved their conditions of employment; that he increased their wages; that he shortened their hours of labor and that he instituted many other improvements of a beneficial character to the longshoremen.
>
> "The fight was a tremendous uphill fight against mighty corporations on the West Coast. Finally he developed an organization out there that won for itself the respect and admiration of most of the citizens on the West Coast."

Now, I asked you this morning about your opinion of Mr. Bridges' contribution to the struggle of the longshoremen on the West Coast. You didn't give him as much as Mr. Murray gave, did you?

A. No, but I believe I expressed the same general sentiments.

Q. In other words, your general sentiments would coincide with [7040] what I just read, is that right?

A. At that particular time, yes, sir.

Q. All right.

> "Later the war came along and with the coming of the war he conceived ideas designed to expedite the shipment of goods to our armed forces overseas. He advocated the CIO industrial council plan. He not only advocated the

(Testimony of Mervyn Rathborne.)

plan, but he was largely responsible for its institution in the shipping industry out on the West Coast.

"He won for himself the respect and the admiration of the employers out there. He was commended at employers' meetings and at the meetings of certain business groups on the West Coast for the great work that he was doing. The Kilgore Committee recently completed a report, which it submitted to the United States Senate, the substance of which contains many of the suggestions made by Mr. Bridges to the shipping industry in the United States. He has appeared repeatedly before the Maritime Commission and other government agencies in the city of Washington advocating the institution of agencies designed to help our nation successfully prosecute this war."

Did that coincide with your sentiments?

A. I believe I so testified here two or three days ago, that it was my opinion, along the lines that Mr. Bridges' record, as far as helping win the war, was a very excellent record. I still [7041] think so.

Q. Was it——

A. It happens to be that it coincided also with the line of the Communist Party along that time.

Q. Yes, I get that. If we just leave the little additions out, it would sound more like a witness and less like a lawyer, an employee of the agency.

(Testimony of Mervyn Rathborne.)

But you can do it if it makes you feel better.

Now, let me ask you, finally, if you agree with this paragraph:

> "Now, it can not be charged under those circumstances that Mr. Bridges' conduct was subversive before the war or that it has been subversive since the war started. As a matter of fact, the reverse has been true. His conduct as an officer and a member of the CIO union has been good, exceptionally so. Now, is it to be that because one man, whose name is Lundeberg, and who is an officer of a rival union out on the West Coast, wants Harry Bridges to be deported and his organization thereby destroyed, that the government of the United States should accept that individual's testimony and have Bridges deported and the longshoremen's union perhaps destroyed?"

What is your sentiment on that?

A. I agree with that sentiment.

Q. Well, suppose we substitute for Lundeberg—Murray, Carey, [7042] Curran and Ray. Think that would change it?

A. That particular document you are reading from, as is shown on it, and the sentiments expressed there, apparently was issued around 1943. There was considerable difference——

Q. Things are different now?

A. ——in my judgment.

Q. We are not sleeping in the same bed any

(Testimony of Mervyn Rathborne.)

more.

A. Between 1943 and 1950. You may not agree, but I believe that is true.

Q. Well, as of this time, the time it was being said, however, you agreed with the sentiment, is that right?

A. I agreed with the general sentiment. I have said that I believe, at least half a dozen times, that I was actively working in behalf of Mr. Bridges and against his deportation at that time, and expressed similar sentiments.

Q. All right, then a paragraph:

> "The whole case against Bridges is built on hatred and prejudice."

Do you believe in that?

A. No, because I have a little more information than Mr. Murray had there.

Q. But regardless of what information you had, you still knew that the whole case against him was built on hatred and prejudice, didn't you?

A. No, sir. [7043]

Q. You didn't have any conception that the government cared whether Mr. Bridges was a member of the Communist Party or not; you knew that what the Immigration Department was concerned about was smashing the labor unions, isn't that right, in 1942, now? I am not talking about now.

The Court: Will you permit the witness to answer the question? You had three questions in one.

Mr. Hallinan: All right. I will withdraw the question and ask it this way:

(Testimony of Mervyn Rathborne.)

Q. In the year 1942, now—passing up what has happened since—you knew that the reason that they were trying to deport Harry Bridges actually had nothing to do with whether he was a member of the Communist Party or not, isn't that right?

A. I didn't fully know what the government's motives were in that particular proceeding, or the one before it. I wasn't——

Q. Well, you knew this——

A. I wasn't advised by the government what their motives were.

Q. But you had arrived at the conclusion, and I mean a conclusion in your own mind, that whoever was behind the persecution of Bridges, whether it was the Immigration Department or the shipowners or whoever it might be, or rival unionists, that they wanted Bridges out, so as to break the ILWU, and that the issue of communism was only the excuse that they used. Isn't that correct?

A. My position at that time was that it would have been harmful [7044] to the labor movement here on the West Coast if Mr. Bridges would have been deported, yes, sir.

Q. Think it would have been harmful to the country generally? A. I don't—'42?

Q. Yes.

A. It could have had an adverse effect on the waterfront, yes.

Q. Could have had? Would have had; isn't that right?

(Testimony of Mervyn Rathborne.)

A. I said it could have had. That is my judgment.

Q. Didn't you say yourself in a convention after the war that the three persons in the United States who had most contributed, who had contributed the most effort to winning the war were Franklin Roosevelt, Philip Murray and Harry Bridges?

A. I made a statement to that effect, yes, sir.

Q. And you made a statement to that effect to people who were working with you and Bridges, and who would know whether you were telling the truth or not, isn't that right?

A. I made it at a convention. It was a public speech, yes, sir.

Q. Now, to continue:

"The whole case——"

Mr. Donohue: If Your Honor pleases, I again rise to say to Your Honor that Mr. Hallinan persists in reading from a document which Your Honor some time ago said would not be admitted in evidence.

Mr. Hallinan: We didn't admit it. The Court said I could examine him from the document and that is all I am doing. The [7045] document has not been admitted in evidence.

Mr. Donohue: And may I say further to Your Honor, that anything Mr. Phil Murray may have said in 1942 or '43 or any date, up till this moment, has no probative value before this Court and jury on the question as to whether or not Mr. Bridges was a member of the Communist Party when he falsely swore that he was not.

The Court: Mr. Donohue, I think that Mr. Hallinan is entitled to examine the witness as to his views then as compared to his views now, and to make comparative analyses, testing the credibility and the like. But I am inclined to agree that reading from Mr. Murray's statement may not be the proper manner, because whatever this man said and whatever he did, and whatever conduct he engaged in, would be evidence against him with respect to his present state of mind, or at least clarify his present state of mind. But he may well adopt, reject or modify the views of Mr. Murray, or embrace them. He may embrace the views of many other people. I can't see that it has——

Q. (By Mr. Hallinan): All right. Did you attend the 1942 convention in Boston?

A. It is my recollection that I did. Now let me see. 1942 in Boston?

Q. Well, you did.

A. It is my recollection I did, Mr. Hallinan. If I could——

Q. I will show it to you. [7046]

A. If I could see the record of the convention, I could tell you right away.

Q. Now, do you remember Mr. Murray making a statement there that he had personally investigated Harry Bridges and the charges, had discussed the matter with the Attorney General and found there was not a shred of evidence to support the charge that Harry Bridges was a Communist?

Mr. Donohue: I object, if Your Honor pleases.

The Court: Sustained.

Mr. Hallinan (To the Clerk): Will you show him this document, please? (Document handed to the witness by the Clerk.)

Q. Do you recognize that?

A. Yes, sir, I do.

Q. That is the speech that you delivered at the labor-management conference, is it?

A. It is my recollection, yes, sir.

Mr. Hallinan: Might I have it, please? (Document returned to counsel by the Clerk.) [7047]

Q. Now, yesterday when you were testifying here, do you remember that you testified as follows:

> "A. I think Mr. Bridges' record during the war as helping win the war and maintaining production was an enviable and excellent one. I have said so publicly many times, and I still think so."

That is what you testified, do you remember?

A. That's right, I remember.

Q. You repeat that today?

A. Yes, sir, I do.

Q. And that is a fact, isn't it?

A. That is so.

Q. That during the war his record in helping win the war and maintaining production was an enviable and excellent one; correct?

A. That's right; I still believe that.

(Testimony of Mervyn Rathborne.)

Q. You also testified yesterday, on page 6877:

> "Q. And it was the fact that Mr. Bridges and his warehousemen's union, or his union, led the way for the continuation of those harmonious relationships into the period after the war, to the end that the entire nation may achieve a permanent and prosperous peace. That was true, wasn't it?
>
> "A. (By you): That was the opinion and sentiment expressed at that time, and I believed that at that time, yes."

You so testified? [7048]

A. That is my recollection, Mr. Hallinan.

Q. Fine. Now, your testimony as of now is that Mr. Bridges' efforts during the war were excellent and for the benefit of the country, isn't that right?

A. That's right.

Q. That he did all that he could do, and it was a great deal, to help win the war?

A. Yes, from Pearl Harbor to the end of the war, yes.

Q. That is, getting munitions out, getting the ships out, and seeing that there were harmonious relations, getting the men to stay at the job, is that correct?

A. Correct. I made several speeches on the subject, and I think I—there is one of them on the table, and I can tell you where you can get some more, if you want them.

Q. All right. Well, I think we will have enough of these, and I don't want the jury to feel discouraged by the statement I made this morning that we would stay here a long time, because we won't. We will let you off fairly shortly.

Now, you testified also yesterday that when you appeared before Mr. Tom Clark and had a conversation with him in the presence of Boyd and Barber, as follows, page 6577:

> "Q. And at that time who brought up the subject of Harry Bridges?
>
> "A. (By you): The Attorney General.
>
> "Q. Clark himself? [7049] A. Yes.
>
> "Q. Said they were trying to get something on Harry Bridges, is that right?
>
> "A. No, he said that they were making an investigation and it was their opinion that on the basis of as far as the investigation had proceeded, it was the Government's opinion that Mr. Bridges was a Communist and that something should be done to remove his influence, because they figured it was dangerous to the country."

Do you remember that?

A. I recollect the testimony.

Q. Now, going back from this conversation with Mr. Clark to the time that you were making these speeches about Mr. Bridges' ability, which you now confirm, and his efficacy, at that time, if Mr. Bridges had been removed it would have been a positive detriment to the country, wouldn't it?

A. It would have hurt the war effort.

(Testimony of Mervyn Rathborne.)

Q. Might have cost the lives of a great many soldiers who fought in the Pacific, mightn't it?

A. That could have been the result.

Q. That is, from the slow-up of production?

A. Yes, if it would have had the effect of causing a slow-up in getting the ships loaded, it would have.

Q. Going on with this conversation with Mr. Clark:

> "Q. All right. And he told you also that they wanted to [7050] get Mr. Bridges out of the labor movement, is that right?
>
> "A. Well, he didn't—I don't recall he put it that way. He said they wanted to remove the influence of Mr. Bridges and other Communists.
>
> "Q. From the labor movement?
>
> "A. From the labor ranks, yes.
>
> "Q. All right. So Mr. Clark told you, then, that their information convinced them that Mr. Bridges was a Communist, he was detrimental or dangerous to the security of the country, that he wanted to get him out of the labor movement, is that right? Is that the substance, is that substantially correct, or they wanted to remove his influence from the labor movement, is that right?
>
> "A. That is substantially correct."

You so testified, is that right?

A. That is my recollection, yes.

Q. So Mr. Clark then told you that the reason that they were making this investigation of Mr. Bridges was that they wanted to get rid of Mr.

Bridges because they considered him a detriment to the country, is that right?

A. I believe my testimony on that point was that they wanted to remove his influence from the labor movement.

Q. Because he was a detriment to the country?

A. That is my recollection of it, yes, sir.

Q. Now, you said this to him, didn't you—by the way, have [7051] you ever heard your voice over a dictograph? Excuse me; we used that. You said this to him, didn't you—you said, "Now, Mr. Clark, if you do that, nobody will believe you, because back in 1941, when Mr. Bridges was an absolute necessity to the country, when he was by no means a detriment, when he was helping the war effort and of great benefit to the country, you wanted to get rid of him, too"? Did you say that to Mr. Clark?

A. Why don't you play the dictaphone record?

Q. Did you say that to Mr. Clark?

A. Play it back and see what I said to Mr. Clark. No, sir, I did not.

Q. Didn't you say to Mr. Clark, "Well, Mr. Clark, if you try to pretend now that you are trying to remove or that the forces trying to get rid of Mr. Bridges are trying to get rid of him because he is now a detriment to the country, then everybody is going to say, 'Why, seven or eight years ago when he was not a detriment to the country but a great aid to the country, they were trying to get rid of him, too,' so nobody will believe that fable"? Did you say that to Mr. Clark? A. I did not.

Q. Well, why didn't you?

Mr. Donohue: I object to that, if your Honor please.

Mr. Hallinan: Withdraw the question.

Q. Why didn't you say to Mr. Clark, or did you say to Mr. [7052] Clark this: Did you say to Mr. Clark, "We will have to find some other excuse. Let us say he has fleas or something like that."

Mr. Donohue: If your Honor please, shouldn't Mr. Hallinan wait until the proper time to make his argument to the jury? This is nonsensical. Mr. Hallinan knows that no such questions were either stated by Mr. Rathborne or by the Attorney General of the United States, and he is making a joke of it.

Mr. Hallinan: No, I have reason to believe they either were or should have been.

Q. Did you say any of those things to Mr. Clark?

A. You mean just what you got through saying?

Q. Yes. A. No.

Q. Nobody thought of that, did they, at this conference that you were having?

A. I beg your pardon?

Q. Nobody mentioned this inconsistency in taking the position that they would now put him out of the country because he was a detriment against—that they wanted to put him out of the country when he was not a detriment?

A. Nobody mentioned it, and I don't believe there is any inconsistency in it. If your Honor pleases, I would like to explain now why I think there is no inconsistency in the position then and

(Testimony of Mervyn Rathborne.)

the position in '43 or 1944, whenever it was. [7053]

The Court: You may.

A. In the particular reference to the time Mr. Murray made that speech, this country was at war. At that particular time we were allies with a number of nations. I think the prime concern of everyone was the winning of the war. It so happened that the policy of the United States Government, the policy of the Allies, the policy of the CIO, the policy of the Communist Party and the policy of the trade unions was to do the most effective job to win that war. And, as I have testified, I think Mr. Bridges did a very effective job in that connection. Following the war the Communist Party changed its line and the line of the Communist Party then became the matter of trying to prevent throughout the world a situation developing where there would be what they termed capitalist encirclement of the Soviet Union; to prevent the crystallization in this country of a foreign policy which would be hostile to the Soviet Union. And in connection with that they put down or they recommended a program. That program, as it was explained to me by Mr. Schneidermann, was to create within every area in the world that it was possible, a situation where it would be impossible for the governments in the chaos and the disruptions attending the end of the war to have an anti-Soviet policy; to create strikes, to create political unrest, to bring about situations that would maintain chaotic conditions for the dual purpose of preventing so-called capitalist govern-

(Testimony of Mervyn Rathborne.)

ments or [7054] governments unfriendly to the Soviet Union from securing a firm and holding and maintaining a firm position against the Soviet Union, and for the second purpose of creating situations of insurrection and revolution whereby the Communist elements in those countries could take over power or could make decisions on the part of the government.

Q. (By Mr. Hallinan): You have missed the point.

A. I am trying to explain, your Honor.

Q. Here is what I am trying to get——

A. There was a big point why I changed my position.

Q. I am not talking about your position. I am talking about the Government's position. Now, you have just told us that back——.

A. May I complete my answer?

Q. No, I will give you a chance to explain this other answer. This is what I want.

The Court: He is explaining the last one.

Mr. Hallinan: He has explained it.

The Court: If he wishes to continue, I will permit him. He is entitled to make his explanation.

Q. (By Mr. Hallinan): Have you some further explanation on that?

A. My explanation is that with regard to the changing of my position in this matter was because those policies were advocated, and those policies were policies with which I did [7055] not agree and quite a few other people do not agree, and it was my

(Testimony of Mervyn Rathborne.)

judgment continuing following those policies within the labor movement and within this country is detrimental to the interests and welfare of this country.

Q. You have missed the point entirely. If you will listen, I will explain what I mean. Back in 1941, if it had not been for the Supreme Court decision Harry Bridges would have been deported, isn't that correct?

A. I believe that is correct.

Q. In other words, they had a hearing out here in which a man named Sears made a ruling against Harry Bridges, eh?

A. Yes, I recall the process; and finally the Attorney General——

Q. Then the appeal board—the Attorney General overruled the board and reversed Sears and said he should not be deported; that they had no proof that he was a Communist, is that correct?

Mr. Donohue: Mr. Hallinan is testifying, if your Honor please.

Mr. Hallinan: I am entitled to lead. These are leading questions on cross-examination.

A. Mr. Hallinan, I recall the general process from the Sears hearing up until the Supreme Court decision.

Q. That is what I am asking you.

A. At which time the Supreme Court did not affirm Mr. Biddle's decision but in effect Mr. Bridges became a citizen; I recall that. [7056]

(Testimony of Mervyn Rathborne.)

Q. The Supreme Court decision didn't come down until 1945; do you remember that?

A. That is my recollection, yes, sir.

Q. So all the time there from 1941 until the Supreme Court decision in 1945 it was obviously the intention of Biddle to have Harry Bridges deported from the country; that is right?

Mr. Donohue: I object to the question, if your Honor please, as to the intention of the Attorney General.

The Court: The objection is sustained.

Mr. Hallinan: As far as you knew.

A. Well, the intention of the Attorney General was made clear in his statement, I believe in 1942 or '43 when he said Bridges ought to be deported.

Mr. Hallinan: That is what I wanted.

The Witness: That is my landmark or flag as to the intention of the Attorney General.

Q. (By Mr. Hallinan): That is right. And it was the intention of the Attorney General to have him deported even though at that time his deportation would have been a bad blow to the shipping of American arms and munitions, and so forth, and might even, if it resulted in some slow-down or taking away of his efficacy and his efficiency in loading ships, might have resulted in the death of a great many American soldiers? You said that already, didn't you?

Mr. Donohue: I object to that. We would have won the war [7057] even without the aid of Mr. Bridges.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: You certainly would have when you charged up San Juan Hill, as was brought out in this proceeding before. That doesn't affect this. This goes to the truth of the statement that a certain cause, a certain reason, was assigned to this gentleman by the Attorney General.

Mr. Donohue: If your Honor please——

Mr. Hallinan: It is inconsistent with reality. I want to point that out and find out if it happened.

Mr. Donohue: It is also inconsistent with reality that we would have lost the war if Bridges had been deported.

Mr. Hallinan: No, nobody has said we would have lost the war if Bridges had been deported, but this gentleman said——

The Court: This witness has said that Mr. Bridges, according to his testimony, served well and was effective in his labor work, and so forth. What the Attorney General may have had in mind or what this man may say he had, is entirely——

Mr. Hallinan: I am trying to get his conversation with the Attorney General at that time. I think he has forgotten it. I think he left out some essential parts of it.

The Witness: I never talked to Mr. Biddle.

Q. (By Mr. Hallinan): To Mr. Clark. You told Mr. Clark that—see if you can't remember that you told Mr. Clark this, as a logical man, "Mr. Clark, when Mr. Bridges was of positive help to the country and when his help was important to the [7058]

(Testimony of Mervyn Rathborne.)

country, in furthering the war effort, when he was working night and day to help win the war, your predecessor, Biddle, tried to kick him out of the country"; did you tell him that?

A. No, I didn't tell him that.

Q. You didn't tell him then, "And the reason that your predecessor, Biddle, wanted to kick him out of the country was that the forces that wanted to get rid of Harry Bridges cared more about getting his influence out of the country than they did about the lives of American soldiers"? Did you tell him that?

A. What I told Mr. Clark in that connection—I believe I have previously testified to that—was that I thought that the Government had made a mistake in the second deportation hearing.

Q. Then didn't you tell Mr. Clark: "Now, if you pretend that the reason you want to throw Bridges out of the country is that he is a detriment, nobody will believe that tale; we will have to make up something a little more reasonable"? Did you tell him that? A. I certainly did not.

Mr. Hallinan: We offer at this time the address of Mr. Rathborne that he identified as having been given, as the defendants' next exhibit in evidence.

Mr. Donohue: I object to it for two reasons, if your Honor please: No. 1, because it does not in any way or to any degree impeach the testimony of Mr. Rathborne. No. 2, Mr. Rathborne has said that in 1942, if that was the date of the [7059] speech, the line of the Communist Party coincided with the opinion of the trade union movement that Mr.

(Testimony of Mervyn Rathborne.)

Bridges should be retained in the United States at all costs, and that he did everything humanly possible within his own power to see that that result was accomplished. Therefore, that speech or any number of speeches he or anyone else may have made is not or are not admissible; they are merely self-serving declarations, and for that reason I object to them. [7060]

The Court: You might, if there is any part hereof that is the subject matter of impeachment or that may be used on asserted impeachment—I will allow it for that purpose, Mr. Hallinan. Otherwise I——

Mr. Hallinan: That is the purpose, Your Honor.

The Court: ——sustain the objection.

Mr. Hallinan: It is for that purpose, of course—impeachment. In other words,——

Mr. Donohue: I would like to ask him to point out wherein the document impeaches the witness in anything he has said on the stand.

The Court: I may be mistaken, but I thought that when you read excerpts, he said he had no——

Mr. Hallinan: I haven't read any of this.

The Court: Pardon me. I thought you had.

Mr. Hallinan: No, that was a different document.

Mr. Donohue: If Your Honor pleases, if Mr. Hallinan contends that the purpose of asking the admission of this document is for the purpose of impeaching the witness, I ask him to point out to the Court wherein that document impeaches anything the witness has said.

(Testimony of Mervyn Rathborne.)

The Court: The witness is entitled to be confronted with the subject matter of impeachment and may make any explanation or admit or deny it.

Mr. Hallinan: Yes, he read that and said he gave that [7061] speech and that that was the sentiment at the time.

Mr. Donohue: Wherein does that impeach him?

Mr. Hallinan: It impeaches what he has said on his direct examination.

Mr. Donohue: Well, I think, if Your Honor pleases, if it is sought——

Mr. Hallinan: If it doesn't impeach him, what harm does it do?

Mr. Donohue: It serves no purpose.

Mr. Hallinan: Then why get so excited about it? The very fact you get so hot about it is some additional reason why I think it probably should get in there. But at any rate, if the Court please, in that document are contained sentiments and statements at variance with what the witness testified on his direct examination. It is true that on cross-examination he has taken back a lot of those or amplified, changed or modified them, but this sort of completes the thing. Now, I want——

Mr. Donohue: I think Mr. Hallinan is giving his cross-examination a greater degree of efficiency than, perhaps, it deserves.

Mr. Hallinan: I haven't any such pride in myself as that.

Mr. Donohue: But I think if you ask him to point to the record, if Your Honor pleases,——

The Court: I will mark it for identification at this time.

> (Whereupon speech referred to above was marked Defendants' Exhibit F-4 for identification.) [7062]

Mr. Donohue: If he can point to any statement in the record which is impeached by that——

Mr. Hallinan: I don't care about having it marked for identification.

Mr. Donohue: I will withdraw the objection if he will show in the record any statement impeached by that speech.

Mr. Hallinan: Oh, go and sit down!

Q. Let me ask you this, Mr. Witness: When you were talking about Mr. Clark now, you had this discussion, as you testified on page 6577. I asked you part of it just a few minutes ago:

> "A. No, he said that they were making an investigation and it was their opinion that on the basis of as far as the investigation had proceeded, it was the government's opinion that Mr. Bridges was a Communist and that something should be done to remove his influence, because they figured it was dangerous to the country.
>
> "Q. Well, did he tell you also that they contemplated trying to get Mr. Bridges indicted for perjury?
>
> "A. No, sir, they did not.
>
> "Q. Didn't tell you that?
>
> "A. No, sir."

(Testimony of Mervyn Rathborne.)

Is that correct?

A. I believe that is correct.

Q. That wasn't mentioned at all?

A. No, not that particular subject. [7063]

Q. In other words, Clark's position was that Mr. Bridges, and I suppose the ILWU, followed policies which Mr. Clark considered to be Communistic, is that right?

A. I believe that what Mr. Clark said along those lines was that they had been doing a lot of investigating of Communist and Communist activities in this country and reached the conclusion that they were definitely—that is, the Communists were definitely detrimental to the country.

Q. Communist policies were detrimental to the country? A. That's right.

Q. And that Mr. Bridges and the ILWU had been following a Communist policy, is that right?

A. No, I believe he said he had conducted an investigation and had proceeded sufficiently far to convince him that Mr. Bridges was a member of the Communist Party.

Q. Now, "a member of the Communist Party" or "a Communist"? Or was a "Communist"?

A. My recollection is, "was a Communist."

Q. Yes. In other words, you can be a Communist without being a member of the Communist Party, isn't that right?

A. Well, I guess a distinction like that can be made. I presume it can.

(Testimony of Mervyn Rathborne.)

Q. Well, a person can have Communist ideas and be entirely sold on the principles of Communism, but still not a member of the Communist Party, isn't that correct? [7064]

A. That is possible.

Q. And that is what Mr. Clark said—not that Mr. Bridges was a member of the Communist Party, but that he was a Communist; isn't that right?

A. That is my recollection of the conversation, Mr. Hallinan.

Q. All right. And nothing was said at all about Mr. Bridges having testified falsely on any proceeding, was there?

A. No, sir, there was not. I am sure of that.

Q. All right. Then you went over and saw Mr. Carey. Now, here is your talk with Mr. Carey, at page 6588:

> "A. I told him about the conversation with Mr. Clark, and I asked Mr. Carey—I told him the government was in the process of making another investigation against Harry Bridges, and I asked him what the attitude of Phil Murray was and what the attitude of the national CIO would be in this situation with regard to how the CIO, as a labor organization, would view this kind of proceedings, if they would consider it as an attack against labor, and what position they planned to take, if any, and if they knew about it, and what Mr. Carey personally thought I would do and thought I

(Testimony of Mervyn Rathborne.)

> should do, and I would also like to find out what Mr. Murray's attitude was."

So at the time you talked to Mr. Carey you did not know exactly what the nature or the direction of the government's investigation of Harry Bridges was going to be, did you? [7065]

A. No, I didn't learn that until quite a long time later.

Q. Yes. And you didn't tell Mr. Carey, because you didn't know, that it involved any alleged perjury on the part of Mr. Bridges?

A. I had no information; I merely told Mr. Carey what I talked about with Mr. Clark.

Q. All right. (Continuing):

> "Q. What did he tell you?
>
> "A. Mr. Carey said—well, as far as he was concerned personally he did not consider proceedings of this kind, if they were conducted properly by the government, to be an attack against the CIO, that the CIO itself had the same problem with Communists and it was handling it in its own way; that as far as—I said I had planned, if I got into this thing, planned to come out openly and publicly and not work in any undercover sort of way.
>
> "And he said, well, I ought to make up my own mind on it. He said, however, he would check with Phil Murray and find out what Phil Murray's ideas were with respect to this kind of proceeding, as to whether Murray would

> consider it as a hostile act by the government against the CIO as a labor organization."

Do you remember that testimony?

A. Yes, I do.

Q. All right. And you further testified——

Mr. Paisley: Your Honor, are we going to have to listen to [7066] Mr. Hallinan read what the witness testified before? It seems like to me, that is unnecessary, we can dispense with that.

The Court: I assume he is coming to a point that he has in mind.

Mr. Hallinan: Surely.

Mr. Paisley: Well, he must have read that last one for about five minutes, and that certainly is unnecessary.

Mr. Hallinan: So what I am getting at is this. Counsel having apparently not heard most of the matter—he takes a short nap after lunch.

Q. The thing is that you had these discussions with Mr. Clark, with Mr. Carey, and at that time you didn't know, nobody had said anything to you, what direction the investigation against Harry Bridges was going to take. That's correct, isn't it?

A. What the exact conclusion would be. Let's put it that way.

Q. And what direction it was going to take. You didn't know that either, did you?

A. I knew it was in the direction of him finding as to Communist activities.

Q. Yes, as to Communist activity. So that as far

(Testimony of Mervyn Rathborne.)

as you knew at that time, the complaint against Mr. Bridges or the matter that concerned Mr. Clark did not relate either to Mr. Bridges' membership in the Communist Party nor any perjury that he had committed on that matter, but to his general Communist sympathies and activities, is that [7067] correct?

A. Well, I believe Mr. Clark was concerned, and I believe I testified to that effect that in the event of any hostilities, that the Communists in this country might act as a fifth column.

Q. Yes.

A. And cause trouble within the country which might prevent it from properly defending itself or carrying on and conducting war activities.

Q. And that included Mr. Bridges?

A. That's right. I mean, that is my understanding of it.

Q. In other words, Mr. Clark's concern at that time was this, that the cold war might turn into a shooting war, is that right?

A. That is substantially right, yes.

Q. And that if we get into a war with Russia, then Mr. Bridges could not be counted on, safely, to support the United States, is that right?

A. That is generally the impression he conveyed to me, yes.

Q. All right. So for that reason, his influence on the labor movement should be removed?

A. That is my—I believe I testified to that.

Q. Yes, you did. And nothing was said about

(Testimony of Mervyn Rathborne.)

punishing Mr. Bridges for being a member of the Communist Party?

A. Not that I recall. There was no——

Q. Mention of that?

A. No. He said, "Proceedings of some [7068] kind."

Q. And nothing was said about punishing Mr. Bridges for having committed any perjury, is that right?

A. I am definitely sure that's right, yes.

Q. And then in your conversation with Mr. Carey at page 6590, you were asked, I asked:

> "Q. Did Mr. Carey tell you so far as he was concerned he thought it was the right and proper thing for you to do? To go ahead and testify against Harry Bridges?
>
> "A. He said he thought it would be the best —the right thing for me to come out openly on this issue, yes.
>
> "Q. And take the stand and testify against Harry Bridges?
>
> "A. It was not in that form at that time. I didn't know what the proceedings would be as far as Mr. Bridges was concerned.
>
> "Q. Yes, but you told Mr. Carey now that you had had a conversation with Tom Clark in which Clark had asked you to testify against Bridges? A. Yes."

Do you remember so testifying?

A. That's right, yes.

Q. Yes. And:

(Testimony of Mervyn Rathborne.)

"Q. You asked Carey if it would be all right with him or if it would be considered inimical to the CIO if you did testify against Bridges, isn't that right?

"A. No, I didn't put it that way. I asked him what his [7069] opinion was as to what I should do. He said 'Well, better make up your own mind on that, but I think you would probably be doing the right thing if you follow Mr. Clark's advice or request.'"

Do you remember that?

A. Yes, I remember testifying to that.

Q. And:

"You told Mr. Carey that the matter you were interested in was this substantially: that the government was undertaking some sort of proceeding against Harry Bridges, accusing him of being a Communist and removing either him or his influence from the labor movement; is that corerct?

"A. I related to Mr. Carey as well as I could the substance of Mr. Clark's conversation with me.

"Q. That was substantially in the question I just asked you. A. Yes, that is right."

Is that correct?

A. That's right, I recall it, yes, sir.

Q. All right. And then on page 6591, you said you called back again, "And he must have checked with Phil Murray, because subsequently I called

(Testimony of Mervyn Rathborne.)

him on the telephone and he told me he had talked to Phil about that matter and Phil had no objection and felt the same way he did." And then a paragraph and then:

> "During our conversation he said he was certain Mr. Murray [7070] would feel the same as he did, but he wanted to check with him and find out. Those were the two points I discussed with Mr. Carey."

That is correct, isn't it? A. Yes.

Q. All right. So then not only with Mr. Clark, but with Mr. Carey and with Mr. Murray, the questions that you addressed to them and upon which you asked their opinion, and the matters they recited to you, were not involving any membership, actual membership of Harry Bridges in the Communist Party nor any perjury that he might have committed, but that of being a Communist and following the Communist line, let us say, following their policies; they wanted him removed from the labor movement, is that right?

A. That is substantially correct, yes, sir.

Q. And that is what we are here for, isn't it? You understand that that is what you are trying to do now, isn't that right?

A. No, I don't quite follow you. Will you——

Q. You understand that the role you are playing here is to assist in removing Mr. Bridges from the labor movement, isn't that right?

(Testimony of Mervyn Rathborne.)

Mr. Donohue: I object to that question, if your Honor pleases.

Mr. Hallinan: It goes to the witness' state of mind.

Mr. Donohue: His role here is to testify to the truth as a [7071] witness called by the government.

Mr. Hallinan: Oh, if that were the truth, the case wouldn't have lasted a week; if you were only going to have truthful witnesses it would have gone long ago. Your Honor, we are entitled to know his state of mind.

The Court: Yes, you may answer the question.

The Witness: Would you read the question for me? I have forgotten the exact language.

(Record read.)

A. That is not my understanding, complete understanding of why I am here, no, sir. It is not.

Q. (By Mr. Hallinan): What do you understand that you are doing? Now, I mean not what you are doing here; I know we will hear a lot about telling the truth and patriotism and so forth. But the ultimate purpose for which you are here, the ultimate purpose for which you are here, the reason you came in here, the reason that you volunteered your help was, was it, to put Harry Bridges in the penitentiary? A. No, sir, it was not.

Q. Was it to remove him from the labor movement?

A. It was to remove, to help remove what I consider today subversive influences from the labor movement, yes, sir.

Q. To remove Harry Bridges' subversive influence from the labor moement?

A. That was part of it. [7072]

Q. That was what you think you are doing up there, isn't that right? — A. That is part of it.

Q. Do you think or do you realize that what you are up there for is to put this man in the penitentiary?

Mr. Donohue: I object, your Honor. That is improper.

Mr. Hallinan: It goes to his state of mind again, your Honor.

Mr. Donohue: The question of punishment has always been a matter for the court to determine.

Mr. Hallinan: Well, there won't be any question about that.

Mr. Donohue: I object to it.

Mr. Paisley: Your Honor, suppose we were trying a homicide case here and the witness happened to be at the scene of the homicide; would he be asked such questions as this, "Are you trying to put my client in the penitentiary?"

Mr. Hallinan: This isn't a homicide case; you have got it mixed up with some other case.

Mr. Paisley: That is not fair to a witness, your Honor. It is not fair to a witness.

Mr. Hallinan: Counsel obviously doesn't understand the case.

The Court: The objection is sustained, Mr. Hallinan.

Mr. Hallinan: It is now 3:00 o'clock.

The Court: We will take the adjournment, ladies and [7073] gentlemen, in this case until tomorrow morning at 10:00 o'clock. The same admonition to you, not to discuss the case under any conditions or circumstances, not to form an opinion thereon.

(Thereupon an adjournment was taken to tomorrow, Tuesday, March 7, 1950, at 10:00 o'clock a.m.) [7073-A]

Tuesday, March 7, 1950, 10:00 o'Clock A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Mervyn Rathborne, heretofore sworn.

Mr. Hallinan: Might I ask if he have the canceled checks that were supposed to be brought?

Mr. Donohue: If your Honor please, the checks are, of course, in Washington. They could only be obtained from the Treasury Department, but ~~I have~~ a statement which was prepared by the Immigration Service, and as I hand it to Mr. Hallinan, I now ask your Honor to ask Mr. Hallinan to produce for the United States an itemized statement of the expenditures made by the Bridges-Robertson-Schmidt Defense Fund.

Mr. Hallinan: We do not care to accept this statement, if the court please. Any statement produced by the Immigration Department we look upon with the gravest suspicion. If they have some records from which they can compile this statement, we want to see the original statement.

The Court: The original records?

Mr. Hallinan: Yes, the record itself.

The Court: May I see it, Mr. Hallinan?

(The document referred to was handed to the court.)

The Court: Would this serve your purpose at the present time subject to the production of such records as may be [7074] available here?

Mr. Hallinan: I have not examined it closely enough.

The Court: It might serve your purpose, subject to whatever additions you may require in the light of the production of any records that may substantiate the memorandum.

Mr. Hallinan: This statement is obviously not correct because the witness testified he received monies prior to July 18, 1949. He received monies when he came up before the grand jury at $34 a day. This thing starts with July 18th, and it is just to get rid of a point we make. I am not interested in it.

Mr. Donohue: There are two things I would like to say, if your Honor please: number one, any monies that were paid Mr. Rathborne prior to the 18th of July were monies paid for his appearance before the grand jury. Mr. Hallinan knows those monies were paid out of United States funds by the United States Marshal's office here——

Mr. Hallinan: I know nothing about it.

Mr. Donohue: If Mr. Hallinan wants those records, the marshal's records in this court are as available to Mr. Hallinan as they are to us, and he is free to get them.

Mr. Hallinan: I do not believe this is a correct and true statement. I think it is another fraud.

Mr. Donohue: I renew my request to your Honor for the same purpose as this document was required. I ask your Honor to require Mr. Hallinan to present us with a statement of all the [7075] expenditures made by the Bridges-Robertson Defense Fund since the inception of the trial.

Mr. Hallinan: When we charge you with fraud, why don't you say, "What about Stalin?" That is the classic answer. Might we see the original, the book from which these are compiled? Where is it?

Mr. Donohue: I do not know where there is a book, if your Honor please. I shall be glad to procure for your Honor such records as there are from which this is taken. If Mr. Hallinan wants the checks, they are in the custody of the Treasurer of the United States and he knows how to get them.

Mr. Hallinan: You have been ordered to bring these things in. What I want to see is how much money this man has been paid, and I particularly want to find out when his pay started.

The Court: Mr. Donohue, do you represent to the court that this statement, so far as you know, is a compilation of all the items over which you had any direction or control?

(Testimony of Mervyn Rathborne.)

Mr. Donohue: Yes, your Honor, except for monies paid as witness fees for this witness before the United States grand jury. Those are not paid by the Immigration Service or the Department of Justice. They are paid by the marshal.

The Court: I ask you that question only as a preliminary to a request to the marshal's office, if I may direct my attention to the marshal, to ask the marshal to produce such additional records as may be available. [7076]

Mr. Donohue: Yes, your Honor.

The Court: And then I ask you to bring into court, Mr. Donohue, such supporting documents as you may have for the memorandum.

Mr. Donohue: I will be glad to.

The Court: Thank you. [7076-A]

Mr. Hallinan: That would include the expenses to Washington on the trips that he made.

The Court: Is that reflected there?

Mr. Hallinan: I don't know. One of these was for certain vouchers. The rate of pay seems to be $25 a day.

Q. Is that what you are getting?

A. The first time I knew it was $25 a day was when I saw the piece of paper this morning, Mr. Hallinan. I was told that I would be paid at the rate of what I was getting on the President Madison, and the checks indicated no daily rate or no period for which the compensation was paid.

Q. Let's get this, then. We might use these for the purposes that——

(Testimony of Mervyn Rathborne.)

The Court: That is what I had in mind: that you pursue the matter with these, and for such matters as you may require further I will make an appropriate order.

Mr. Hallinan: Thanks; I will be satisfied with it.

Q. The first voucher that these gentlemen tell us about here purports to be one dated July 25, 1949, at Washington. Were you in Washington on July 25, 1949? A. No, sir, I was not.

Q. What date were you back there going over with Mr. Donohue the records preparing this case, and so forth?

A. My recollection was the latter part of June or the early part of July. [7077]

Q. Well, now; here you are getting a check dated 7/25/49, they say, "Period covered July 18, 1949, to August 5, 1949, 15 days at $25 a day, $375." Now, is that the first check you got?

A. Yes, sir.

Q. You are sure of that?

A. I got a—no, I got a check after that for the travel expenses.

Q. I asked you if this was the first check you got.

A. On that—on this arrangement that we are talking about.

Q. On this arrangement? A. Yes.

Q. In other words, you had this arrangement for employment at the same rate you were getting on the ship?

A. That was my understanding of it, yes, sir.

(Testimony of Mervyn Rathborne.)

Q. You were getting $25 a day on the ship, were you?

A. It averaged between five and six hundred dollars that I was earning on the ship, my gross pay.

Q. How much a day was that?

A. I never broke it down on a daily basis.

Q. Did you go over any records yesterday or the day before with anybody connected with the Immigration Department from which these statements were compiled? A. No, sir, I did not.

Q. Were any of them shown to you—any document or any record or statement of any [7078] kind?

A. I believe I saw the first voucher; that is the one covering the period you just mentioned there.

Q. When did you see that?

A. Oh, I think it was yesterday.

Q. Who showed it to you?

A. I think Mr. Barber did.

Q. What did it look like? What kind of a form was it?

A. It is a standard—my understanding of it, it is a standard Government form for that purpose—voucher.

Q. By "voucher" do you mean a check?

A. No, sir, it is a printed document.

Q. Is it the document you take to the bank to deposit or cash? A. No, it isn't negotiable.

Q. Was it payable to you?

A. No, it is—I think they call it a voucher, and

(Testimony of Mervyn Rathborne.)

its purpose seems to be an authorization for payment.

Q. Authorization for payment?

A. That seems to be the purpose.

Q. Was this the original copy you saw, Mr. Rathborne?

A. This was the one I had signed, so it must have been the original.

Q. It had your signature on it, did it?

A. That's right.

Q. In addition to signing that paper did you also receive a check? [7079]

A. My understanding of the process, Mr. Hallinan——

Q. I asked you what you received; I am not interested in the process. Here on some day during the month of July, 1949, you apparently received $375. You say you remember that that was the first one you received, is that right?

A. That's right.

Q. Are you sure of that?

A. I am sure of it in this particular situation. I have received other checks drawn for traveling expenses and things I told you about. On this particular arrangement, that is the first one.

Q. Then yesterday you saw the voucher that you had signed in Mr. Barber's possession?

A. That's right.

Q. In addition to signing the voucher did you sign some other document at that time?

A. Not at the time I signed the voucher, no, sir.

(Testimony of Mervyn Rathborne.)

Q. Did you sign a voucher each time you received a payment?

A. I signed a number of vouchers at one time and gave them to Mr. Barber, and he kept them in his possession. They were blank forms; there was nothing filled in on them except my signature.

Q. How many?

A. My recollection is five or six; something like that.

Q. When did you sign those?

A. Oh, I think it was at the time I signed that first voucher, [7080] the first one, I think.

Q. You signed five or six in blank?

A. That would probably be the latter part of July.

Q. You signed five or six others in blank?

A. That is my recollection.

Q. And gave them to Mr. Barber?

A. That's right.

Q. In what form was the money paid to you that you received?

A. In a check drawn on the Treasury of the United States, regular Government check.

Q. What did you do with the first one that you received?

A. I think I deposited it in the bank. I am not certain. I may have cashed it.

Q. What bank?

A. I believe the American Trust Company in Redwood City.

Q. You say you believe?

(Testimony of Mervyn Rathborne.)

A. I am not certain. I may have cashed it or I may have deposited it. I am not certain of that.

Q. Have you accounts in more than one bank, deposit accounts?

A. No. I have an account in the American Trust Company.

Q. In what name was the deposit made?

A. If I recall correctly—I am not certain that I deposited it. If it was deposited, I think it was deposited in my wife's bank account there.

Q. In whose bank account? [7081]

A. My wife's bank account.

Q. What name is that under?

A. That is under my name and my wife's name.

Q. What are the names?

A. Mervyn and Lenay.

Q. I beg pardon?

A. Mervyn and Lenay Rathborne.

Q. Is the name "Rathborne" used?

A. Yes.

Q. It is a joint account? A. Yes.

Q. You said your wife's account.

A. I refer to it as my wife's account. She is the one that uses it. I don't.

Q. Did you deposit any of these checks in that account at Redwood City?

A. It is my recollection, yes, Mr. Hallinan. Some of the checks I gave to my wife, and I don't know at this time whether she cashed them at the bank or whether she deposited them in the account, or how she disposed of them. I didn't inquire. I am not

(Testimony of Mervyn Rathborne.)

certain as to just what happened as far as whether the actual checks were deposited or not.

Q. At any rate, at the time you received the first payment of money from Mr. Barber on this arrangement that you have, you signed about five blank vouchers, is that correct? [7082]

A. No, that is not correct.

Q. At the time the first voucher was sent in——

A. I am going to tell you my understanding of the process. As I understand it, these vouchers or requests for payment are signed and transmitted to Washington, and then checks are drawn in Washington and sent back here. That is my understanding of it. So the first voucher, I believe, was signed in the latter part of July, and it is my recollection that the first check did not arrive until sometime in August. I may be in error in that.

Mr. Hallinan: May we see that voucher?

Mr. Donohue: I don't have them here.

Mr. Hallinan: Mr. Barber has the voucher; the gentleman saw it yesterday.

Mr. Donohue: He doesn't carry it around in his pocket.

Mr. Hallinan: May we have it at the recess this afternoon?

Mr. Donohue: I have told the Court I would bring every record there is in the Immigration Service.

Q. (By Mr. Hallinan): The voucher is dated, according to this list that we are given, Washington, D. C., 7/25/49—the 25th of July, 1949, is that right?

A. I don't know. I don't recall the date on the voucher. I mean, I didn't read it carefully enough to recall it; the voucher when I signed it, or this document when I signed it, there was nothing on it, no date or no amount or no anything. [7083]

Q. At any rate, you had already made your agreement with the prosecution as to the rate of your pay at that time, hadn't you?

A. It was generally—I mean, it was understood that it would be generally the same compensation as I received on that ship. Now, that wasn't spelled out in actual detailed amounts, and it was my understanding at the time it would be—I believe the terms we discussed it in was in the neighborhood of 500 a month, and from——

Q. Well, now, according to the record that we have produced here the other day, your pay as a radio operator after the increase that the ILWU and Bridges had gotten you, ran to around $325 a month, isn't that right?

A. No, sir. That was the base pay.

Q. How much overtime did you get on the last trip you were on at sea, the last month you worked?

A. My last trip, my recollection is, Mr. Hallinan——

Q. Pardon me. Might I say, well, try to be accurate, because we will have to go down and bring the records of the shipping company.

A. Why don't you do that?

Q. I want to see how far you will go to helping us along first. Now, what was it?

(Testimony of Mervyn Rathborne.)

A. It was over a hundred dollars. I don't know how much.

Q. How much over a hundred dollars?

A. That I don't remember. [7084]

Q. Was it——

A. I made a number of trips on there and I don't recall.

Q. A number of what?

A. I made a number of trips on that ship. Each time I made out the overtime I don't recall the hours or time for which it was.

Q. A trip took six weeks, didn't it, or eight weeks?

A. The pay period, I think, was around six or seven weeks.

Q. Was it a hundred dollars or over?

A. A hundred hours, I said.

Q. A hundred hours, you said?

A. It was around a hundred hours; that is my recollection.

Q. That was taken on the entire trip, is that right? A. Yes, sir.

Q. How much was that? Would that be one month?

A. You can't break it down that way, because you make out records for the trip.

Q. Let's put it this way: How long was the trip?

A. My recollection is it was about six weeks, the pay period for the trip. It may have been a little more; I am sure it wasn't a little less. [7085]

(Testimony of Mervyn Rathborne.)

Q. It was about six weeks, and in that six weeks on that trip you put in something like a hundred hours overtime?

A. That is what—I had to make an overtime report.

Q. What was the overtime rate?

A. I think $1.60. Again, I could be wrong.

Q. $1.60? A. Yes, sir.

Q. So there would be $160 overtime?

A. That is low, if anything.

Q. I beg your pardon?

A. That is low, if anything. And then, of course, there was the war bonus.

Q. Let's say at $160 it would be around $27 a week. What was your base pay?

A. Right around $325.

Q. What do you mean by "right around"? Do you know what it was?

A. I don't recall exactly what it was. It was $324 or $325, something like that.

Q. And then you say a war bonus?

A. Yes.

Q. Are you still getting a war bonus?

A. They are still paying it, yes.

Q. How much?

A. $2.50 a day west of the 180th Meridian.

Q. How many days were you west of the 180th Meridian on the last [7086] trip?

A. Probably about 30 days.

Q. About 30 days?

A. Yes. That could vary.

(Testimony of Mervyn Rathborne.)

Q. So that would be about $75 for the trip and about $50—and that would average about $50 a month. So at that time, taking overtime, base pay and war bonus, you would make about $483 in the month?

A. My recollection, it was right around $500 a month and that is what I advised Mr. Barber.

Q. I noticed on this list that they gave me the first period covers July 18, 1949, to August 5, 1949, with a note above it, "No pay for Saturdays, Sundays and holidays. 15 days at $25 a day, $375." The next check covers the period of August 8, 1949, to August 19, 1949, ten days at $25 a day, $250. So that is exactly one month between those two checks. Do you observe that? A. I do.

Q. Do you see now that that is true? In other words, the two checks cover from July 18 to August 19, 1949, and they total $625, one of them for $375 and the other for $250; that is $625.

A. I think if you take that entire period, Mr. Hallinan, shown on that thing there and divided by the number of weeks, you will find——

Q. That it comes out to that. [7087]

A. I have never done it myself because I never knew exactly the exact period for which each check was, so when I testified here I said it was about $120 a week, and I think if you will take the total number of weeks and the total payments, you will find it comes out pretty close.

Q. The next check is August 22nd, ten days at

(Testimony of Mervyn Rathborne.)

$25 a day, and the next one is September 6th and it is nine days at $25 a day, and the next one is September 19th and it is ten days at $25 a day, and the next one is October 11th and it is ten days at $25 a day, October 17th, ten days at $25 a day, October 31st, nine days at $25 a day. They docked you for the holidays. And then the next, November 14th, 23 days at $25 a day, $575. No pay for holiday, November 24th. And then on January 6th, 14 days, $350. Now, on January 31st, 17 days at $25, amounting to $425 altogether for 17 days.

Is that your recollection of what you were getting?

A. I told you that I was receiving checks from the Treasury of the United States and the only thing that appeared on the checks was my name and the date the check was issued. There was no indication of the period of time that was covered, and my best recollection of the thing, and my idea of the thing was the compensation amounted to about $120 a week, and I think if you take all the weeks there and all the money and divide it, you will come pretty close to it. As I say, I haven't done it.

Q. When you were working on a ship, were you paid for the time [7088] that you were not on a trip? A. I don't get it.

Q. Let's say the ship came in and laid up——

A. Take a trip off, you mean?

Q. Yes. A. Oh, no, oh, no.

Q. Were you paid for the time between trips?

(Testimony of Mervyn Rathborne.)

A. If you stay on the ship, yes, sir.

Q. If you did not remain on the ship——

A. I don't quite understand your question.

Q. Here is what I am getting at: Suppose the Madison came in to San Francisco and stayed here about a week before it sailed again: would you be paid for that week?

A. Oh, yes. You mean before it sailed on a deep sea voyage?

Q. I don't know whether it was deep or shallow.

A. The procedure is this: The ship comes in and the voyage terminates.

Q. What is that?

A. Each trip on the ship, every member of the crew signs what they call articles, signs an agreement for that trip, and when the ship sails, a few days before the ship sails, these articles are signed, and when the ship returns to port, the articles terminate, and they usually—and then new articles are signed. Well, if you are going to make another trip, you have to sign the new articles and that takes place during the time the ship [7089] is in port. For example, on the Madison it is my recollection the articles were over about two days after it got into port, and if you wanted to make the next trip, you would sign new articles, oh, two days before sailing. So usually you stayed on the payroll until the articles terminated. Do I make myself clear?

Q. Do you know under what title you are presently employed by the Immigration Department?

(Testimony of Mervyn Rathborne.)
What is the name of the job that you have?

A. No, sir, I do not. I do not know that I have a title.

Q. Has there been anything on the checks or vouchers to indicate it? A. Not that I recall.

Q. Has there any withholding tax been retained from the checks you have received?

A. No, sir.

Q. Is withholding tax——

A. There is no record on the check. I presume there is not because I have received no record of it.

Q. Calling your attention to another matter that you discussed the other day, when you said you were in Washington talking to Mr. Donohue, you were asked, "I take it you are being paid some reasonable compensation for all your time, is that right?"

> "A. That is right.
>
> "Q. And have been during that period, I suppose, is that [7090] right?
>
> "A. I believe the situation regarding that is this: when I left the President Madison in May, I believe it was, I took a trip off, a leave of absence to join the ship. My intention at that time was to rejoin the ship when she returned, which would have been about July. I think it was July. Anyway, it would be about eight weeks afterwards."

Now:

"And during the time I was in Washington

(Testimony of Mervyn Rathborne.)

I discussed the situation about going back to the ship with Mr. Donohue, told him I would have to get back to the Coast pretty quick because I would have to let my union know in a few days whether I was going back to the ship or not, and I intended to go back.

"He said, 'Well, at that time he didn't think it was——' that I should go back. In addition to that, the WFTU had passed a resolution which in effect put a boycott on me for holding my job; I think the effect of the resolution was that all members affiliated with the WFTU should boycott any ship on which anybody appeared as a witness in this particular case for the Government.

"Q. Taking one thing with another, what was the compensation you agreed upon?

"A. The compensation was to be the same approximately as I was receiving on the President Madison." [7091]

Do you remember that some little period elapsed and you found out that the WFTU resolution had not been passed until some time between the 15th and 18th of July? You remember that, don't you?

A. Yes, I remember that.

Q. You remember you had the talk with Mr. Kaiser in Mr. Donohue's presence and he phoned to somebody named Matt and found out it was at that particular time, and then when you were questioned about that, having told us about that,

(Testimony of Mervyn Rathborne.)

you explained all about this matter of who phoned, and as Mr. Donohue suggested, whether the telephone was held in the right hand or left hand—a little diversionary matter—and I said, "So you did not discuss with Mr. Donohue the matter of the WFTU resolution preventing you from working, did you?"

> And you said, "Not in Washington during the visit I did not. I had discussed the matter with Mr. Donohue and it was my impression I had discussed it at that time."

When did you discuss it with him?

A. I discussed it with Mr. Donohue after he got out here to the Pacific Coast, I believe. I recall discussing it with him.

Q. And then you went on:

> "But obviously I couldn't have done it because the resolution was not passed until later."

So at that the time you testified here the language I read before, it was then your impression that you had discussed with [7092] Mr. Donohue when you were in Washington in July, is that right?

A. That was my impression at the time.

Q. I beg your pardon?

A. I say that was my impression at the time, but I was somewhat puzzled by it, and that is why I checked up and talked to Mr. Kaiser about it.

Q. The thing is when you were on the witness stand here and gave the testimony about the WFTU it was your impression then that you had discussed that with Mr. Donohue in Washington when you were there in July and fixed the compensation?

A. There was no compensation fixed in Mr. Donohue's office. I testified to that.

Q. It was your impression that you had discussed it with Mr. Donohue?

A. I gave my best recollection of my discussion with Mr. Donohue on that point, and as I stated previously, Mr. Hallinan, as far as the WFTU resolution, I was—after I testified as to that, there was some doubt in my mind about it, and that is the reason I checked up.

Q. Here is what I am trying to get at. I grant you were mistaken on the thing. You just testified a moment ago that when you first testified on the trial concerning that WFTU resolution, in the language that I read about your discussion with Mr. Donohue in Washington, and going back to the ship, and also the WFTU had passed a resolution, when you were on the stand here a [7093] few days days ago, it was your impression that you had discussed the matter with Mr. Donohue in Washington, wasn't it?

A. That was my impression, which I later on found to be a wrong impression or a false recollection.

Q. Well, when you were on the witness stand, it was your impression that you had discussed that with Mr. Donohue at that time, wasn't it?

A. I think the testimony speaks for itself.

Q. Will you please be explicit on it? I want a definite answer.

A. No, I connected the two. I think the first testimony I gave shows that I was not sure whether I discussed it with Mr. Donohue or not. I think if you read my first testimony you will see that the statement about the WFTU is in there, but it does not necessarily say that I discussed it with Mr. Donohue. I am not clear on the point, Mr. Hallinan.

Q. We are off the beam. Here is what I am trying to get——

A. I remember discussing the WFTU resolution with Mr. Donohue. I have discussed it. And at the time I first testified on that point, it was in my mind that I had discussed it with him when I visited him in Washington.

Q. In July of 1949?

A. But there was a doubt about it. I resolved that doubt by seeking additional information from Mr. Kaiser.

Q. I am not quarreling with that, but when you were testifying on the stand about it, you then had the erroneous impression that [7094] you had discussed it with Mr. Donohue in Washington in July, 1949, isn't that right?

A. Well, to a certain degree, yes. I was puzzled about it.

Q. Will you listen to this: On page 6908 on that same subject, after Mr. Kaiser had phoned and found out this date was too late for that, and after

(Testimony of Mervyn Rathborne.)

I had questioned you about that difficulty, you said this:

> "When I testified to that, it appeared—'in addition to that the WFTU resolution.' When I testified to that it appeared then it was part of the conversation with Mr. Donohue.
>
> "Q. That is what I say.
>
> "A. Which I didn't intend when I testified to put in that context. It might appear that I had discussed with Mr. Donohue when it actually had not been passed. That is what I was trying to check up on."

Do you remember that?

A. That is right.

Q. So when you told us this that I just read, you were trying to give us the idea that it had not been in your mind that you had discussed the WFTU resolution with Mr. Donohue, is that right?

A. No, I wasn't because if it hadn't been in my mind, I would not have asked Mr. Kaiser about it. I would not have tried to get my uncertainty on that point straightened out.

Q. Now, you further stated this, as we went along trying to get [7095] out of this Gordian knot. You said this:

> "The Witness: As a matter of fact, Mr. Hallinan, my recollection is that my conversation with the Government started after the WFTU resolution was adopted.

"Mr. Hallinan: The convention of the WFTU took place in Marseilles, France, from the 15th to the 18th of July, 1949. You found that out since, didn't you?

"A. No, sir, I did not.

"Q. And the resolutions were not printed and sent out here for at least a month after.

"A. However, there was an item in the newspapers, I believe, right around the time of the convention because I remember reading it. I remember some of the fellows down at the union asking me about it."

Correct?

A. Yes.

Q. So that your compensation, then, was not fixed until after you found out about the WFTU resolution, isn't that right?

A. I don't know what precise time my compensation was fixed because it wasn't fixed by me.

Q. Then I asked you about what paper you saw that item in; my impression is right about the time or shortly after it was passed.

"Q. What paper did you see it in?

"A. I believe it was the Call-Bulletin."

And then you said you were not definitely positive but it was your recollection that it was.

"Q. Well, was it one of the four San Francisco newspapers?

"A. One of the four San Francisco newspapers.

(Testimony of Mervyn Rathborne.)

> "Q. Either the Examiner, Chronicle, News or Call-Bulletin? A. That is right."

And then I asked you:

> "Can you tell us now when it was?
>
> "A. My recollection was it was right around the time it was passed. I would say some time around the middle of July."

Now, a little search on that subject—(To Mr. Donohue): I suppose you do not need to see these; you undoubtedly have checked this already.

Q. The first mention of these resolutions appeared on July 27, 1949. Do you remember that?

A. My recollection was around the middle of July.

Mr. Donohue: May I say, if Your Honor please, we have already introduced with the consent of Mr. Hallinan the ILWU announcement of this resolution, which was dated July 26.

Mr. Hallinan: Will you show him that? He didn't see that. He saw it in one of the four San Francisco papers. I have all four of them (handing newspaper to witness).

Now, will you show him this one also? [7097]

(Handing another newspaper to witness.)

Q. Now, do you remember that the first time that you saw anything in the paper about that was not prior to July 27th, 1949?

A. Well, if your statement is correct that that is the first time that appeared in the press, apparently that was the first time I knew about it. It is my impression I knew about it earlier. I don't know how.

Q. But you read it in the paper?

A. I said I read it in the newspaper.

Q. And this paper that you just read now, or these papers, purport to be the first announcement of it, isn't that right?

A. I do not know about that.

Q. "Bridges case retaliation hinted. Bridges foes face blacklist for aiding U. S."

Those are the two headings on the paper. Did you have any discussion with Mr. Kaiser as to when the first appearance of the news of that resolution was contained in the local papers?

A. I did not.

Q. Nothing was said about that at all?

A. No, sir.

Q. You testified here the other day that you saw something about it in the papers, and you say that no information has come to you that Kaiser or anyone else made any research to find out when it first appeared? A. None whatever. [7098]

Q. Did you? A. No, sir.

Q. Did you call up any of the papers or go down and examine the files?

A. I made no effort to try to remember that date, because it was my recollection, and still is, it was right around the time of the convention. I didn't think I needed——

(Testimony of Mervyn Rathborne.)

Q. You figured it was better to leave sleeping dogs lie?

A. I didn't figure there were any sleeping dogs involved in the thing.

Q. Do you now remember that some time prior to July 18th, 1949, your compensation was fixed at $25 a day?

A. No, as I told you, my discussion on that matter—my best recollection of it, it was with Mr. Barber when I returned from Washington after seeing Mr. Donohue, and it went along the lines that I would soon have to notify the unions and go back and find a ship, much the same as to Mr. Donohue.

Mr. Hallinan: I might furnish this information to Mr. Donohue and his colleagues, if they want to check on these things: the two newspapers I have here, and they may have them and read them over, are the San Francisco Chronicle for July 23rd, 1949, page 8, column 6 and 7, and the San Francisco Call-Bulletin for July 27th, 1949, page 5, column 2.

Q. Did you know a paper called The Pilot?

A. Interview Pilot? [7099]

Q. Yes. A. I have seen it, yes.

Q. What is the Interview Pilot?

A. My understanding is it is the official publication of the National Maritime Union.

Q. Is that the union of which Curran is the head? A. He is the president, yes.

Q. And of which Tommy Ray is a member?

A. An official.

(Testimony of Mervyn Rathborne.)

Q. An official? A. Yes, sir.

Q. Do you get that paper?

A. At this time?

Q. Yes. A. No.

Q. Have you read any since this trial started or since this investigation started?

A. I don't recall having read any copies of it since I was——

Q. You know Tommy Ray was subpoenaed as a witness before the grand jury out here, don't you?

A. I knew that fact, yes.

Q. I beg your pardon?

A. Yes, I knew that.

Q. Did you talk to him when he was out here?

A. No, sir, I didn't see him. [7100]

Q. Do you know that he published in the NMU as part of an article his experience out here:

"I do not know that Harry Bridges——"

Mr. Donohue: If Your Honor please, that is wholly improper. Mr. Hallinan ought to know it.

Mr. Hallinan: Oh, no, it goes to the discussion he had with Mr. Ray as to whether Mr. Bridges was a Communist.

Mr. Donohue: He can call Mr. Ray.

The Court: He said he had no discussion here in San Francisco.

Q. Is that correct?

A. That is what I said.

The Court: I will sustain the objection.

Q. (By Mr. Hallinan): Did you know that yesterday in the New York Times Mr. Ray in effect called you a liar?

(Testimony of Mervyn Rathborne.)

Mr. Donohue: Of course Mr. Hallinan is irresponsible and irrepressible, but I object to the question and I ask that it be stricken from the record.

The Court: Yes, it is stricken from the record.

Mr. Hallinan: I want to get what his reply to that was. I am not interested so much in what Ray said.

The Court: The question is stricken from the record.

Q. (By Mr. Hallinan): Did you know that Mr. Ray published yesterday in the New York Times a denial of your evidence here?

Mr. Donohue: Just a minute. I again say to Your Honor that [7101] Mr. Hallinan is, as too often is his custom, now going to do indirectly what Your Honor has just said he could not do directly. I ask that the question be stricken.

The Court: The objection is sustained. The question is stricken.

Q. (By Mr. Hallinan): During the time that you were here in San Francisco, did you have considerable dealings and affiliations with members of the Communist Party?

A. What period are you referring to, Mr. Hallinan?

Q. Well, while you were a member of the Communist Party in San Francisco, as you have heretofore testified.

(Testimony of Mervyn Rathborne.)

A. The two periods, one from—let's see, 1935 to 1937, and the other is from 1941——

Q. Take the early part, when you were out here around 1935, '6 and so forth. You were out here then, weren't you? A. Yes, sir.

Q. Did you have dealings with members of the Communist Party out here then?

A. Yes, I did.

Q. Did you get to know many of them?

A. Oh, I would say quite a number, yes.

Q. Was John Schomaker a member of the Communist Party then?

A. It is my recollection that he was.

Q. Henry Schrimpf?

A. I am not certain about that. [7102]

Q. Lawrence Ross?

A. Yes, Lawrence Ross was at one time during that period, as I recall, editor of the Western Worker. [7102-A]

Q. Ernest Harris?

A. I don't recall about Ernest Harris.

Q. Well, did you know him?

A. I think I did casually.

Q. How about his wife, Irene Harris?

A. I never met that lady at all that I recall.

Q. Were either of them members of the Communist Party?

A. I don't know, Mr. Hallinan.

Q. Did you ever meet them at meetings of Communists? A. I don't recall that.

Mr. Hallinan: Well, it was a good try.

(Testimony of Mervyn Rathborne.)

Q. After you had your conversation with the Attorney General, Mr. Clark, and with Mr. Carey and received the information that you did from Mr. Murray as to whether or not you should testify against Mr. Bridges, you still weren't satisfied as to the extent, if any, that the Communist Party might or might not be detrimental or a menace to the country?

A. No, I wouldn't—I don't—I don't understand your question. I mean, what——

Q. Well, let us put it this way: At page 6600 you were asked:

> "Q. So you went first, then, to Tommy Ray to find out what would be his attitude toward you testifying against Harry Bridges, is that right?
>
> "A. Well, more than that; the whole matter of his attitude and Joe's"—that isn't Joe Stalin, is it? That is [7103] Joe Curran. "——the whole matter of his attitude and Joe's."

What Joe is that?

A. That, I believe, would be Joe Curran.

Q. Joe Curran?

A. Yes, sir, that is my recollection.

> Q. "——the whole matter of his attitude and Joe's, toward the degree of Communist infiltration, how effective it was, whether in their judgment it would be in fact a detrimental—a menace to the country in case of hostilities, and this whole situation was discussed with them."

(Testimony of Mervyn Rathborne.)

Do you remembar that?

A. Yes, I recall that, sir.

Q. So when you went to see Mr. Joe Curran and Tommy Ray you wanted to inquire of them their attitude toward the degree of Communist infiltration and how effective it was, isn't that right?

A. I wanted—yes, I wanted to get information; I wanted to find out what their thinking, what their information was on a number of subjects.

Q. And you also wanted to find out whether in their judgment—that is, in the judgment of Tommy Ray and Joe Curran—it would be in fact detrimental and a menace to the country in case of hostilities; you wanted to ask them that, didn't you? A. That's right. [7104]

Q. That was after you had talked to the Attorney General, after you talked to Carey and after you received the message from Phil Murray?

A. That's right.

Q. And the whole situation was discussed with them.

> "Q. But then you also discussed with them what their attitude would be toward you taking the stand and testifying against Harry Bridges, is that right? A. That's right."

That was your testimony, wasn't it?

A. Yes.

Q. And at the discussion with Ray and Curran, in which you say they gave their blessing to the enterprise, nothing was said——

A. That was your language, Mr. Hallinan, not mine, that "blessing" part of it.

Q. I asked you if he gave his blessing to the enterprise, and you said yes.

A. You asked me a large number of questions at that point, and I made——

Q. Well, at that time——

A. I indicated general approval, is the way I would phrase it.

Q. Would you say enthusiastic approval?

A. I said "general approval," Mr. Hallinan.

Q. Very great and enthusiastic approval?

A. Certainly not. [7105]

Q. Well, did Curran offer to lend you his baseball bat brigade to go out and knock them bums?

A. No. As a matter of fact, Mr. Curran was in the process of helping Mr. Bridges at that time, at the request of Murray, in connection with some negotiations that were taking place here in the '48 strike. Mr. Bridges had apparently got himself into a pretty bad box, and went back to see Mr. Murray and said, "Phil, I am in trouble. I need some help. Will you help out?" Phil Murray did help him, and also called on Mr. Curran and he also helped out in the situation.

Q. That was at the time of the 1948 strike?

A. Yes.

Q. Mr. Bridges had got himself in some trouble?

A. Apparently he got several thousand people out here on strike and there appeared to be no way of settling the strike, so he appealed to Phil Murray for aid.

Q. What kind of aid?

A. To help him settle the strike.

Q. Financial or physical or moral?

A. No, to negotiate a settlement, because the employers had said, as I understand it, they wouldn't deal with Bridges, they considered the strike a strike against the Marshall Plan and the strike was Communist-inspired and they would not negotiate with Mr. Bridges. That is my recollection of it. And he had to go back and get Mr. Murray's intercession in his behalf. And [7106] I do know that Mr. Murray interceded, and I do know that Mr. Murray sent two representatives of the national CIO out here, and that they did work with the ILWU in securing the settlement of the strike. It is my understanding that the national CIO underwrote or guaranteed the performance of the agreement. Now, that is my recollection. So Mr. Curran's attitude at that time was not one of hatred toward Mr. Bridges or one of an enthusiastic "get the guy" or anything like that.

Q. Now, in other words, as I get it, in the 1948 strike the employers dragged out the red herring, is that right? A. Yes, I believe they did.

Q. And they said, "This strike is also Communist-inspired," is that right?

A. That is, I believe, the general position they took.

Q. They said, "This doesn't relate to hours and

(Testimony of Mervyn Rathborne.)

wages; it is an attempt to wreck the Marshall Plan;" is that right?

A. I believe that is one of the contentions.

Q. Did they say, "Mr. Bridges is a Communist and a Red"? A. I don't recall.

Q. So then Mr. Bridges went back and got Mr. Phil Murray, who certainly couldn't be called a Communist and a Red, and Mr. Bridges stepped out of the negotiations and said, "All right, if you are going to pretend that, negotiate with Murray"; is that what happened?

A. I know that Mr. Bridges asked Mr. Murray for his help and [7107] he received it.

Q. And do you know this: that every time that they have dragged out the red herring on one of these strikes that Mr. Bridges has been in, Mr. Bridges has offered to resign from his position in the union if it would help settle the strike?

A. I hadn't heard that.

Q. Have you ever heard of him doing that?

A. I don't recall ever hearing that.

Q. Have you ever seen advertisements that Mr. Bridges and the ILWU put in the papers in which Mr. Bridges offered to resign from the ILWU if it would help settle the strike? A. No.

Q. If they were accusing it of being Communist-dominated? A. I have not.

Q. Now, you testified also that you knew of Carey's enmity against Bridges, is that right?

A. Yes, I have known of that for quite some time.

(Testimony of Mervyn Rathborne.)

Q. And you testified that while Mr. Murray and Mr. Bridges seemed to be friendly on the surface, you knew of the battling that went on behind closed doors, is that right? A. That's right.

Q. And you knew that both Tommy Ray and Mr. Joe Curran were enemies of Mr. Bridges, isn't that right?

A. Well, I wouldn't classify either one of them as enemies. There was dislike and there was disagreement. [7108]

Q. You said you thought Mr. Curran's feelings merely consisted of dislike and enmity, didn't amount to actual hatred, is that right?

A. That is generally right, yes.

Q. Now, you went out of the Communist Party, you testified, in April of 1947?

A. I don't believe I testified in April. I believe my testimony was along that line there—it is my recollection it was the early part of '47, probably about April.

Q. Spring? A. I am not sure.

Q. We don't want to be too definite. Then in November you got out of the CIO?

A. That's right.

Q. When you got out of the CIO Mr. Bridges made a laudatory talk about you at the CIO convention, isn't that right? A. That is right.

Q. And a collection was taken up at Mr. Bridges' instance, from which you received about $250, is that right?

A. I don't think it was a collection. My recollection of the matter, although I had nothing to do with it—the information that I recall receiving at that time was that the ILWU delegates at the convention voted to authorize a contribution from the union. I may be wrong on that point; I don't know, because I wasn't at the meeting that this thing took place. [7109]

Q. But you testified, at any rate, that Mr. Bridges had always been friendly to you?

A. That's right.

Q. Treated you decently and kindly, is that right? A. That's right.

Q. Tried to help you when you needed it?

A. Yes. I mean, there was——

Q. Had never done anything to harm you or offend you or insult you or injure you, is that right?

A. We had had quite a few disagreements, but usually disagreements over matters of trade union policy and approach, and so forth and so on.

Q. Nothing personal?

A. Not so much so, I don't think.

Q. You also testified that in February or March, 1948, you were first contacted by agents of the Immigration Department, is that right?

A. That's right.

Q. And then Mr. Barber and some unknown man, some man you don't know, came down to see you, is that right?

A. Yes, I related those contacts as best I recalled them, Mr. Hallinan.

Q. You said that first your wife spoke to you and you didn't know the name of the agent, and she told you that Mr. So-and-so called from the Immigration Service. Would that be Mr. [7110] Kaiser?

A. No, I am certain it wouldn't be Mr. Kaiser.

Q. Anyhow, these people came down to see you starting in February or March, 1948, and why didn't you tell Mr. Bridges then that they were investigating him?

A. Well, at that particular time I wasn't sure, and the matter never occurred to me.

Q. Well, all right. Mr. Barber and ~~the~~ unknown man who came down to see you told you that they were conducting an investigation on Harry Bridges, isn't that right?

A. Yes, they told me that.

Q. You didn't tell Mr. Bridges that, did you?

A. No, sir.

Q. You weren't under any oath imposed by a grand jury to conceal what you knew, were you?

Mr. Donohue: I object to that. Neither was he under any duty to inform Mr. Bridges.

Mr. Hallinan: No.

The Court: You may answer.

The Witness: I beg your pardon?

Q. (By Mr. Hallinan): I say, you weren't under any oath from any grand jury at that time, were you?

A. Well, the circumstances connected with my leaving of the Communist Party left some strained relations, and I wasn't in contact with anybody in

(Testimony of Mervyn Rathborne.)

the CIO that I recall except those that came to see me for a period when I left in 1947 until I [7111] went East in '48.

The Court: Are you finished?

The Witness: Yes, your Honor.

Mr. Hallinan: Might we have a recess?

The Court: We will take the morning recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions.

(Recess.) [7111-A]

Q. (By Mr. Hallinan): Now, as I say, you got out of the CIO in November, 1947, with the eulogistic statement of Mr. Bridges having been made and the amount of money voted to you and your first contact with these agents was in February or March, 1948. Are you quite sure, Mr. Rathborne, that it was not you that sent word to the Immigration Department that you were available?

A. I am very certain of that.

Q. I beg pardon?

A. I am very certain that I did not.

Q. Had you any information from any other person that an investigation was pending at that time against Mr. Bridges?

A. No, sir, I did not.

Q. Had you talked to Schomaker?

A. No, I had not seen Schomaker for years and years and years.

~~Q. You had not seen him for years and years?~~

A. No, sir.

(Testimony of Mervyn Rathborne.)

Q. You did not talk to anybody who told you that the Immigration Department was in the market for informers against Bridges?

A. I have no knowledge of the whole matter until the—the first time I really knew that the Government was interested in the issue at all was when this gentleman came down aboard the ship.

Q. I want to show you a few documents here (handing documents to the witness). A. Yes.

Mr. Hallinan: Might I have those? [7112]

Q. Those are samples of literally hundreds of telegrams and letters passed between you and Mr. Bridges relating to ordinary trade union matters, is that right?

A. Oh, there were quite a few communications of that kind.

Q. I have a box of them.

A. Probably two boxes.

Q. Relating to ordinary trade union matters. Do you concede that that is true, that in the years that you were a member of the CIO and of the ARTA, that there passed between you and Mr. Bridges hundreds of letters and telegrams relating to ordinary trade union matters?

A. Certainly that is true.

Q. And I also have the minutes kept by you of the Maritime Federation of the Pacific showing the extensive and numerous discussions between the members as to what action should be taken on particular controversies, strikes, and so forth; was that the general practice? A. Oh, yes.

(Testimony of Mervyn Rathborne.)

Q. It won't be necessary to bring all those in for you to concede that the actions of the members of the Maritime Federation of the Pacific were essentially democratic, is that right?

A. No, I will concede that, that the setup was esesntially a democratic setup.

Q. And that all matters, every matter, even of minor importance, was discussed between the members before any action was taken [7113] upon it?

A. On many occasions there were even trivial matters discussed.

Q. I beg your pardon?

A. On many occasions there were even trivial matters discussed.

Q. I ran across things like a challenge of the sailors to the longshoremen for a football game. Matters like that were even discussed, and settlements of strikes and whether a strike should be considered and men advised to go back to work, and things of that kind, is that right?

A. Full and complete discussion of the issues before the Council and the Maritime Federation.

Q. And your relations with Mr. Bridges during all that time as expressed in letters and telegrams have been friendly and warm, isn't that right?

A. There were minor disagreements but generally they were friendly relations.

Mr. Hallinan: Without taking the bother of offering this in evidence, I ran across a letter dated August 21st, 1937, "CIO, Maritime Committee, 10 Bridge Street, New York City.

"Chairman John Brophy, Director, CIO; secretary, Mervyn Rathborne, president American Radio Telegraphists Association; Harry Bridges, president, Pacific Coast District, ILA; Joseph Curran, Deck Division, National Maritime Union; Captain E. T. Pinchin, Master Mates & Pilots, New York; V. J. Malone, Pacific Coast Marine Fireman, Oilers, [7114] Watertenders & Wipers Association; John Green, president, Industrial Union of Marine & Shipbuilders.

"Mr. Harry Bridges, President, Pacific Coast District, ILA, Balboa Building, Room 509, 593 Market Street, San Francisco, California.

"Dear Sir and Brother:

"Final arrangements have been made for the National Unity Conference to be held in Chicago on August 30th. The conference will be held at the Capitol Building, State & Randolph Streets, Chicago, Illinois, beginning Monday morning, August 30th.

"Fraternally yours, Mervyn Rathborne."

Is that your letter?

A. I don't recall the exact letter, but it could well be and I certainly don't deny it.

Q. In addition to the rental by the United States Agriculture Department of your premises

(Testimony of Mervyn Rathborne.)

at Half Moon Bay, are there any other state, county or governmental agencies renting portions of that building from you?

A. Yes, the County Agricultural ~~Agents.~~

Q. I beg your pardon?

A. The County Agricultural Agent rents.

Q. How long have they been there?

A. They were there when I purchased the building.

Q. What do they pay? [7115]

A. I believe it is $30 a month.

Q. Any other? A. That is all.

Q. Do you have a lease with the United States Government? A. No, sir.

Q. Can you tell me what, if any, discussion you had with Mr. Donohue at the time you sent out the release to the newspapers on May 28th, 1949, stating, "The 1948 waterfront strike was 80 per cent political, 20 per cent wages, hours and working conditions and was directed primarily against the Marshall Plan." What conversation did you have with Mr. Donohue on that subject?

A. I don't recall any conversation on that point, Mr. Hallinan.

Q. Was that point mentioned.

A. I don't believe it was.

Q. That was your own desire to put that in the paper, is that right?

A. Well, it was information I had at that time based on discussions I had with some of the people I talked to in the East that I mentioned.

Q. What people?

A. Specifically to Curran.

Q. Curran said that, is that right?

A. Well, here is what Joe told me. He said he had negotiations with the NMU on issues that were much the same as existed on the West Coast, and that the union, the NMU, had been able to [7116] negotiate a satisfactory agreement with the employers without resorting to a strike, and he also told me the Communist Party was called for a national maritime strike against the Marshall Plan at that time, and in his opinion the West Coast strike was in large part due to that agitation, and that the political factor was much greater in the strike than the economic factor, and he cited his experience with his own union to show how he had been able to satisfactorily negotiate and bring about a settlement with what he characterized as some pretty tough shipowners. That was the basis of that statement.

Q. But Mr. Curran's union does not accept his advice. He simply sends goons out who bat them with baseball bats, doesn't he?

A. I have no knowledge of that particular situation. I have read something in the newspapers——

Q. You don't believe the newspapers?

A. About some fights they have had back there.

Q. You got that information, then, from Joe Curran? A. That is right.

Q. In other words, Joe Curran told you this matter about this strike, the 1948 strike being 80 per cent political, 20 per cent wages and hours and was directed primarily against the Marshall Plan? He told you that?

A. He expressed that general idea.

Q. Was that your only basis for arriving at that conclusion? [7117]

A. Well, the other basis was that I was familiar with what the current line of the CP was at that particular time, the Communist Party, and it certainly coincided.

Q. On page 6843 you were asked this:

> "Q. At the time when you were back in Washington and had your conversation with Mr. Clark, the maritime strike was on; that is correct, isn't it?
>
> "A. That is my recollection, yes, sir.
>
> "Q. Was that a legitimate strike?
>
> "A. I certainly believed it was."

Do you remember that statement?

A. Yes, and I think that statement is consistent with what I said, because when a group of guys was out on strike and included among the issues are improvement of their conditions and preservation of their union, regardless of how the strike might be originally instigated or organized, it is a legitimate strike and should be supported. That is my [7118] feeling.

Q. It was your opinion, now, when you were talking with Mr. Clark that the maritime strike was a legitimate strike, isn't that right?

(Testimony of Mervyn Rathborne.)

A. That's right.

Q. And it wasn't your opinion that it was 80 per cent political at that time, was it?

A. My opinion at that time had not crystallized on it, and the information I got from Mr. Curran helped crystallize the opinion that I had.

Q. What was Curran's occupation before he became boss of that union?

A. Curran was a seaman.

Q. And able bodied seaman?

A. Yes, sir. I believe he sailed as a boatswain for a while.

Q. I beg your pardon?

A. I believe he sailed as a boatswain for a while on intercoastal ships.

Q. With relation to that maritime strike, you say it was your belief that was a legitimate strike at the time you had this conversation with Mr. Clark—this is before you saw Curran—on page 6583:

> "Q. In the course of the discussion with Mr. Clark the maritime strike on the Pacific Coast was mentioned, wasn't it?
>
> "A. Yes, I blieve I mentioned it along these lines, that [7119] certainly nothing should be done until—if you contemplate anything, nothing should be done until the present strike is over, because it might be interpreted as a move by the Government to harm the strike, or words to that effect."

(Testimony of Mervyn Rathborne.)

> "There was some discussion, as I recall it, that Mr. Clark said this investigation would lead toward proceedings being taken by the Government against Mr. Bridges, and I stated, as I stated here a minute ago, that if such proceedings are taken, it would certainly be wrong to take them at a time when the union was on strike, because it would be interpreted as a move against the union."

Now, I want you to listen to this to see if you find any distinction between it, between the advice you gave Mr. Clark and what the Government actually did while the Hawaiian strike was on and while the warehouse strike in San Francisco was on. I want to see if you shape out a distinction for us now, because I am sure there must be one.

> "Q. In what way? I don't understand that. How would it be interpreted as a move against the unions?"

That is, for the Government to proceed against Mr. Bridges at that time. Here is your answer:

> "Well, the union or possibly some of the leadership of the union would say, 'Well, here is the Government moving in trying to break our strike by taking our officers away when the [7120] strike is on.'"

Did you say that?

A. Yes, I did.

Q. (Reading)

(Testimony of Mervyn Rathborne.)

"Q. Do you think that that action would be capable of that interpretation?

"A. I think it would be, because that is why I pointed it out."

Now, do you remember having given that testimony?

A. I certainly do.

Q. Well, now, do you see any distinction between the Government proceeding against Mr. Bridges in November, 1948, being interpreted as a move to break the strike by "taking our officers away when the strike is on"—do you see any difference between that situation and the situation that developed in May of 1949 when the Hawaiian and warehouse strikes were on and the Government came in and proceeded against Mr. Bridges and took the officers away while the strike was on?

A. Well, Mr. Hallinan, I pointed out, I believe, to the Attorney General that such a move in 1948 would be interpreted by the unions, and I believe that was borne out in 1949 under additional strike situations, it was interpreted by the union, by certain leaders of the union, in that manner. So I——

Q. You know why the union interprets it that way now, don't you?

A. I can understand their attitude on the matter. [7121]

Q. Their sincere belief that that is what it is, is that right?

A. Well, I don't characterize the belief of the union; I mean their interpretation is there. I think it speaks for itself.

(Testimony of Mervyn Rathborne.)

Q. All right. You also testified on page 6853:

> "I concede that attacks on Communism and Red-baiting are used as smoke screens for a number of things. I wouldn't deny that.
>
> "Q. For destroying perfectly legitimate unions, aren't they? A. That could be, yes.
>
> "Q. They have been used to put militant trade labor men out of jobs, isn't that right?
>
> "A. I don't recall any specific instances, but I wouldn't deny it.
>
> "Q. They have been used to put militant individual union leaders in jail, haven't they?
>
> "A. It might have, during strikes, yes, sir."

That was you testimony, wasn't it?

A. Yes, sir.

Q. All right. You also stated that those statements were true, in the release in the Copeland matter:

> "Once this evidence is adduced the shipowners will set up a howl about signing agreements with the union. Then, of course, if the Red hunt is engineered properly, there will be plenty of inspired propaganda calculated [7122] to support their position."

A. I never said that. I think you are reading from a document.

Q. Listen; you will get it.

"Then will follow a campaign in the press, over the radio and in Congress to clean out the

(Testimony of Mervyn Rathborne.)

> maritime unions. The shipowners will then have the moral justification for any acts of violence necessary to break the unions and beat down wages again."

That was in that release.

> "Q. The statements in it were pretty true, weren't they?

> "A. At that time, yes. I think it was a good statement."

That was your testimony, wasn't it?

A. At that time I was doing my best to be a good, active trade unionist and I was also doing my best to be a good, active Communist.

Q. You could be a good, active trade unionist and feel that way even if you were anti-Communist, isn't that right?

A. That, I think, is a matter of opinion. I think —well, I consider, for example, Philip Murray a good, active trade unionist and an effective leader of a union of several hundred thousand men.

Q. When it was to his interest he took the same position on Red-baiting as a union-smashing device, didn't he? A. Yes.

Q. Now he has changed his position and he now wants to use it as [7123] a tool to get Bridges and some other people who won't take orders from him, is that right?

A. My understanding of Philip Murray's present attitude is that he is first and foremost interested in the welfare of this country and the American trade union movement, and now the Communist

(Testimony of Mervyn Rathborne.)

Party line has changed and he considers it inimical to the American trade labor movement in this country and he is against the Communists. That is my understanding. That is his reasons as told to me by him.

Q. Now, when you were questioned about this release that you said you had given to the San Francisco papers and phoned a copy ~~of~~ to Wilson down in Los Angeles——

A. Your Honor, in order to get this matter cleared up, may I suggest that Mr. Hallinan show me or indicate the release or the statement he is talking about, because there were a number of statements at that time. I am not sure as to the exact statement he is talking about.

Q. Let's read it to you:

> "Q. When you were tossing out press releases after your statements to the grand jury, and on May 29, 1949, you gave this little statement, didn't you:
>
> " 'The 1948 waterfront strike was 80 per cent political, 20 per cent wages, hours and working conditions. It was directed primarily to the Marshall Plan.'
>
> "Did you state that? [7124]
>
> "A. I don't know whether I stated those exact words.
>
> "Q. Do you want to refresh your recollection? A. I expressed some sentiment——
>
> "Q. I beg your pardon?
>
> "A. I expressed a sentiment along those

(Testimony of Mervyn Rathborne.)

lines. I don't know whether those were my exact words at the time. I say I expressed a sentiment along those general lines. I don't know whether those are my exact words at the time.

"Q. In other words, the sentiment that you expressed and publicized was this strike which you have testified about this morning, if your recollection serves you correctly, was a legitimate strike for wages and better conditions, and at that time you spread out to the general public that it was 80 per cent political, 20 per cent wages, hours and working conditions, and was directed primarily against the Marshall Plan, didn't you?

"A. (By you) That was my opinion at that time.

"Q. Is it now your opinion?

"A. To a certain degree, yes.

"Q. Where were you when you issued that press release?

"A. I believe I gave it to somebody on the telephone from my room in Half Moon Bay. That is my recollection.".

Now, do you remember that that was the statement?

A. Yes, I believe I remember later on that I stated that I thought I had given it to Eric Nelson or Eric Nielson of the Chronicle.

Q. Right following that I asked you:

"Q. Didn't you phone down to Mr. Wilson and read it off to him in Los Angeles from Mr. Donohue's office? A. Not that statement.

(Testimony of Mervyn Rathborne.)

"Q. You read off a statement from Mr. Donohue's office to Mr. Wilson over the telephone, didn't you?

"A. That is right; I did.

"Q. You phoned down at our expense—taxpayers generally—and told Mr. Wilson of this press release that you wanted him to run in the papers in Los Angeles, isn't that right?

"A. I gave him a copy of the statement I had issued here in San Francisco."

That was your testimony, wasn't it?

A. That is right, yes.

Q. You stated here that you read that statement off from Mr. Donohue's office; remember that?

A. Well, now, again, Mr. Hallinan, I don't know what statement you are talking about. Will you produce the statements you are talking about so I can identify them, because you were talking about two or three statements, and there you are asking about a statement. I don't know whether it is statement A or statement B or statement Z or whether as a matter of fact some of them exist at all.

Q. Then you said, when I asked you about the taxpayers paying [7126] the bill, you said you phoned from Mr. Donohue's room; you said, "I called from Mr. Donohue's hotel room and I believe Mr. Donohue paid the bill." Remember that?

A. I am not in a position to give any further answer until you clarify my mind, until you produce the statement you are talking about.

Q. You also told me you knew where the state-

(Testimony of Mervyn Rathborne.)

ment was and could get it and bring it in. Where is it? A. I don't have it.

Q. Ask your counsel for it. They have that statement. What did you do with the statement after you finished phoning down to Los Angeles?

A. I don't know.

Q. Well, did you give it to Mr. Donohue?

A. I would like to see the statement.

The Court: What did you have in mind, Mr. Rathborne, the chronology of the events incident to the issuance of the statement?

The Witness: Your Honor, Mr. Hallinan is questioning me as to my recollection about three different statements and he is referring to each one as "the statement," and I am not in a position to differentiate as between the statements, and so I may testify that I did a certain thing with one statemen, and it might be——

The Court: Then you ask him to specify the time and the [7127] place and the date of the statement as it is reflected in the transcript; is that what you wish?

The Witness: Yes, but the trouble is that it started when he first questioned me on it.

The Court: It started in May?

A. The problem, I think, now arose when Mr. Hallinan first questioned me on it in that he apparently was referring to two or three different statements and at the time I thought he was referring to one statement, and I am still confused on the issue. If the statements were here, I would be very happy to tell everything I knew about them.

(Testimony of Mervyn Rathborne.)

Q. (By Mr. Hallinan): Do you remember after that that you said that you would bring in the statement; that you knew about the statement and you would bring it in?

Mr. Donohue: I don't remember that. I remember him saying that he gave all the statements to the press.

Q. (By Mr. Hallinan): What did you do with the statement you read off in Donohue's room to Wilson? That is the one you were phoning long distance to Los Angeles. When you got through with the telephone conversation did you give it to Mr. Donohue? A. No, I don't think I did.

Q. Where did you put it?

A. I think I stuck it in my pocket.

Q. Where is it? [7128]

A. I haven't the faintest idea.

Q. You asked me to produce that statement—that statement you had in your pocket.

A. You could secure a copy of it, I am sure, by getting the file of the Call Bulletin.

Q. You secure them. You have the original. Why should I bother running errands when you have the original? Why should I go down to the Call Bulletin? Besides, I am not interested in what the Call Bulletin has. You have the one you phoned to George Wilson; you didn't give it to the Call Bulletin? A. I certainly did.

Q. It was the same statement, wasn't it?

A. I gave a number of statements to the Call Bulletin. I phoned one statement to Mr. Wilson.

Q. Where is that statement?

A. I don't know. I know where you can find it.

Q. Do you know where you can find it?

A. No, sir, I don't. I can probably dig up the files of the Call Bulletin or one of the other papers and find it.

Q. Now, you told us here about one of the reasons that you knew or believed that the strike on the West Coast was Communist-inspired was a conversation that you had had with Mr. Schneidermann; remember that?

A. I believe I said that—no, I don't remember testifying that way. My recollection is that I testified that I heard Mr. [7129] Schneidermann make a report regarding what the line of the Communist Party was.

Q. (Reading.)

> "Q. (Page 6954): You didn't bother to find that out before you released a smear on the unions, as you did when you gave them that write-up on May 29, 1949, is that right?"

—whether that was true or not; that was the lead-up to it.

> "A. (By you): The basis of my information regarding that was the fact that I had been present at a meeting where Mr. Schneidermann made a report in which he said that 'The job we have to do now is to prevent the clear crystallization of a foreign policy of this country that will be hostile to the Soviet Union, and we have to produce all kinds of activity

> to prevent the crystallization of that policy, both in this country, France, China and a number of other places'."

Do you remember that?

A. I remember testifying that way.

Q. When did Mr. Schneidermann made that report?

A. My recollection is that he made that report sometime in 1946.

Q. Sometime in 1946?

A. The early part of it.

Q. Whom did he make that to? To you personally? [7130]

A. My recollection is that he made that report so-called God's Committee when he returned from the East from attending some what they call plenum, I believe.

Q. Let me ask you this: Wasn't that doctrine and that principle widely enunciated publicly by a great number of people who weren't Communists or connected with the Communist Party at all?

A. What doctrine?

Q. The doctrine that nobody wanted the crystallizing of a foreign policy in this country hostile to the Soviet Union?

A. Well, I think it was.

Q. Do you want a policy in this country hostile to the Soviet Union? A. No, sir, but——

Q. Do you think that it is only the unions who don't want to involve ourselves in a war with the Soviet Union?

(Testimony of Mervyn Rathborne.)

A. Mr. Hallinan, if you are going to question me about the report of Mr. Schneidermann, there was quite a bit more to it.

Q. That is what you said on that subject?

A. That is right.

Q. This is what you gave us. Is it your impression now that the mark of a Communist or one of the marks of a Communist is that he doesn't want this country to get into a war with the Soviet Union?

A. Certainly not. I don't think anybody wants to get this [7131] country into war with the Soviet Union.

Q. Is it your impression that a person is a Communist if he doesn't want this country to get into war with the Soviet Union?

A. No, not necessarily.

Q. Let me ask you this: Is this a necessary sign of a person being a Communist if he comes out publicly and says that people who are short of food and other primary necessities of life and believe that these can be obtained by the overthrow of any government or economic system which doesn't make them available; that today people who have so long borne poverty with resignation as something inevitable have come to believe that if they can take their countries into their own hands and establish a new order they can abolish hunger and poverty? This revolt against hunger and poverty is fundamental because of the upsurge in humanity.

Do you think that is necessarily a Communist principle? A. Not necessarily, no, sir.

Q. That came out of the paper in a statement by Lord Boyd Orr of the United Nations, an English nobleman. You don't think that is necessarily Communistic? A. No, sir.

Q. I suppose you think it is Communistic, though, if a person wanted the United States Government to recognize the new Communist regime in China? [7132]

A. No. I would be in favor of that.

Q. You would be in favor of that?

A. Yes.

Q. Did you do anything or make any protest when you read on Saturday that war planes that we have given the Nationalist government of China had bombed Canton and killed 700 people?

A. I didn't read about it.

Q. Did you know that the day before, on Friday, they bombed Shanghai and killed 100 people?

A. I don't recall reading that, Mr. Hallinan.

Q. Well, I don't think that you would have to worry anyhow, because they are using the new discriminatory bombs that only kill Communists and their kids, you understand. You don't think those things are necessarily Communistic?

A. I testified on that point. [7133]

Q. And even now when you are anti-Communist and think that Communists are a menace to this country, you say the United States should recognize the Communist Government in China, do you?

A. I think from the practical point of view that would be the best policy for us to adopt, yes, sir.

(Testimony of Mervyn Rathborne.)

Q. It would start trade up again, wouldn't it?

A. It would certainly help our foreign trade.

Q. It would revive the San Francisco waterfront, is that right?

A. It certainly should help.

Q. You are unable to tell us now why you were in Mr. Donohue's room at the time you sent out this release, is that right?

A. My recollection is I went up there to see him, and while I was there I called up Harry Wilson on the telephone.

Q. I asked you the other day if you had talked to any other witnesses or prospective witnesses with regard to testifying in this case, and I also asked you if you had furnished the name of any prospective witnesses to any of the government agents. Now, did you tip off the prosecution to a lady named Louisa Morena Bemis?

A. What was that name again?

Q. You knew Louisa Morena, didn't you?

A. Oh, Louisa Morena?

Q. Yes.

A. Yes, I knew Louisa Morena. She served on the executive [7134] committee of the CIO.

Q. Mrs. Bemis?

A. I guess that is her name.

Q. She was a member of the Communist Party?

A. It is my recollection she was, yes, sir.

Q. You know the agent went down to see her and her husband and told her they had gotten that information from you, don't you?

A. No, sir, I do not know that.

(Testimony of Mervyn Rathborne.)

Q. Did you give any agent that information?

A. About what? About her being a Communist?

Q. Yes.

A. I believe I was asked about it, yes.

Q. Who asked you?

A. I think Mr. Barber asked me.

Q. How long ago? A. Several months.

Q. Did he name her or did you name her?

A. I believe he did.

Q. He named her first?

A. I believe he asked me if I knew her.

Q. And you gave him some information concerning her, is that right?

A. I said I believe I knew her or had known her.

Q. Did you tell him that she could furnish some information against Harry Bridges? [7135]

A. No, I don't believe I did.

Q. You did, didn't you?

A. No, sir, I don't recall saying that.

Q. In what connection did you mention Mrs. Bemis?

A. He asked me if I knew her and I said yes, I had known her. She served on the executive board of the CIO.

Q. Did Mr. Barber tell you that they had interviewed Mrs. Bemis and had told her that if she did not furnish information against Mr. Bridges that they would get her deported? A. No, sir.

Q. Do you know that she is up for deportation right now, that they issued a warrant—do you find this amusing—that they have issued a warrant already and are trying to deport that woman because she would not come in and testify against Harry Bridges? Do you know that?

A. No, I know she has—during the time I knew her she was under some sort of investigation or some proceedings or something with respect to her citizenship. I don't know. That is the extent of my knowledge regarding that lady's contact with the Immigration Service.

Q. She had a little more guts that some of these other poor fellows who could be twisted in coming in here and saying things, is that right?

Mr. Donohue: I object to the question.

The Court: Objection sustained. [7136]

Q. (By Mr. Hallinan): Did you sic them onto Frank Slaby?

Mr. Donohue: I object to the question, if the Court please.

The Court: Sustained.

Q. (By Mr. Hallinan): Did you give them information regarding Frank Slaby?

A. Not particularly.

Q. Well, generally?

A. Well, Frank Slaby's name was discussed with me, yes, sir.

Q. And you furnished them information concerning him, didn't you?

A. I told them that he had been on the state CIO executive board.

Q. You sent these Immigration inspectors to interview him and to try to get him to say something against Harry Bridges, didn't you?

(Testimony of Mervyn Rathborne.)

A. No, sir, I did not.

Q. How about Roberta Lovell? Did you give them information about her?

A. Roberta who?

Q. Lovell. You know her. You talked to her yourself and tried to induce her to be a witness against Harry Bridges, didn't you?

A. That is an absolutely false statement, Mr. Hallinan.

Q. Do you know whom I mean?

A. I believe you are talking about Roberta Jones? [7137]

Q. Her name was Lovell. Now she is married to a man named Jones. Did you have an interview with her? A. I talked with her, certainly.

Q. On the subject of testifying against Harry Bridges?

A. No, it was not on the subject. As a matter of fact——

Q. Was that subject mentioned at all?

A. Do you want me to relate?

Q. No, I asked you was that subject mentioned at all?

A. My testifying against Bridges was mentioned.

Q. In the conversation with Mrs. Lovell?

A. That is right.

Q. Or Mrs. Jones. It was you who suggested to Mr. Barber that Mr. Wilson could be got to testify, wasn't it? A. No, sir, it was not.

Q. You had a discussion with Mr. Barber about Mr. Wilson before Mr. Barber interviewed Mr. Wilson, isn't that right?

(Testimony of Mervyn Rathborne.)

A. I don't know when Mr. Barber interviewed Mr. Wilson.

Q. Who do you know interviewed him?

A. I don't know—I don't know for sure who talked to him. As I stated previously, I saw Mr. Wilson when he was up here.

Q. What is your information?

A. What do you mean, what is my information?

Q. As to who interviewed him.

A. I believe it was Mr. Barber but I don't know. I mean——

Q. Did Mr. Barber discuss with you whether Mr. Wilson knew [7138] anything or whether he was in a position where he would be forced to testify?

A. He certainly didn't discuss with me anything about Mr. Wilson being forced to testify.

Q. Have you ever met Frank Hennessy, the United States Attorney here?

A. I may have. I believe at the Democratic Party meetings around here years ago I have met him.

Q. I mean since this case started.

A. No, sir, I have not.

Q. Have you ever been given any reason why the Immigration Department should have procured a private lawyer to come here and prosecute Harry Bridges instead of using the regularly appointed United States attorney? A. No, I have not.

Q. What is that? A. No, I have not.

Mr. Hallinan: Might we take the recess?

The Court: We will take the noon recess, ladies and gentlemen, and resume at 2:00 o'clock this afternoon. The same admonition to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [7139]

Tuesday, March 7, 1950—2:00 P.M.

The Clerk: The United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness on the stand is

MERVYN RATHBORNE

Cross-Examination
(Continued)

By Mr. Hallinan:

Q. Is the last money you got the amount you received on the 31st of January or the 9th of January, whatever it was?

A. No, I think there has been one more payment since then.

Q. Here is one voucher dated January 31, 1950, for $425. Have you received some more than that?

A. No, that is the last one, my recollection is.

Q. This is March 6 or 7. You have received nothing in the meantime?

A. No; there has been one since that, Mr. Hallinan, is my recollection, one during February.

Q. I beg your pardon?

A. My recollection is that there has been one check received during February.

~~Q. How much?~~

A. I think it was 425; that is my recollection.

(Testimony of Mervyn Rathborne.)

Q. $425 in February?

A. Either late February or early March; I am not certain. [7140]

Mr. Hallinan: Could we have that voucher?

Mr. Donohue: It may be that the copy has not been returned from Washington. As I understand it, the original is signed; that and a copy are sent to Washington, where the check is prepared; the check is then forwarded to the witness, and the duplicate is returned. Apparently it has not been received.

Mr. Hallinan: How much was it?

Mr. Donohue: I have no idea.

Mr. Hallinan: Will you ask Mr. Barber?

Mr. Donohue: I will have him check it.

Mr. Hallinan: Can't he tell us right now?

Mr. Barber: I don't know offhand.

Q. (By Mr. Hallinan): You received it either in February or March? A. That is right.

Q. March—this is the 6th or 7th of March.

A. The 7th, I believe, isn't it?

Q. Did you receive it within the last week?

A. I would say probably the last ten days—within the last ten days.

Q. Say sometime in February?

A. Well, I say either toward the end of February or perhaps the first day or two of March.

Q. And that for $425?

A. That is my recollection, yes, sir. [7141]

Q. Now you attended the 1947 convention of the CIO at Santa Cruz, didn't you? A. I did.

Q. At that time you made a statement when

(Testimony of Mervyn Rathborne.)

Mr. Bridges made a talk about you and he presented you with a check of $250? You made a little talk of acknowledgment, didn't you?

A. I did, yes, sir.

Q. And it was Mr. Bridges who handed you the check, wasn't it? A. That's right.

Q. And you said in this talk that "The CIO can be successful in extending democracy and defeating reaction which confronts us today"; do you remember that? A. Yes, I——

Q. What did you mean by "reaction which confronts us today"?

A. Well, I meant the forces that fight and oppose what I consider to be the progressive and American program of CIO.

Q. You didn't consider Communism to be a reactionary force, did you?

A. Well, at that time I considered it to a certain degree reactionary?

Q. Reactionary?

A. To a certain degree, yes.

Q. That isn't what you were talking about when you were urging the CIO to defeat the "reaction which is confronting us today"?

A. Not necessarily, no. [7142]

Q. Do you remember Mike Quill making a talk at the convention? A. Yes, I do.

Q. You were present when he made that talk, weren't you?

A. My recollection is that I was present during a portion of it. I don't recall whether I was there during the entire time.

(Testimony of Mervyn Rathborne.)

Mr. Hallinan: Will you ask him to read the two excerpts, the ones marked on opposite pages with brackets.

A. It is rather difficult for me to read up here and read into a microphone. Did you want me to read it out loud or read them to myself?

Q. No, no, just read them to yourself.

A. Oh, I see. I beg your pardon. I misunderstood you.

Q. Now, did you agree with Mr. Quill at that time in his statement that "One other point that troubles me is Red-baiting. It is a disease"—pardon me. Mr. Quill isn't a Communist, is he?

A. I don't know that he is.

Q. Oh, he is very hostile to Communism, isn't he?

A. As a matter of fact, I think—I don't know that he is or that he isn't at this particular time.

Mr. Hallinan: (Reading)

> "One other point that troubles me is Red-baiting. It is a disease we have in the East. You have it here, too. A great cross-section of Americans have been aroused by Red-baiting. We find it among our own CIO workers. [7143] We should be be patient with them and educate them. When employers use Red-baiting we should lash back at them with all the strength at our command. Within our own union ranks, we should be patient with honest workers and show them that Red-baiting is more than often the divisive tactic of employers to split our ranks and keep us in chains. With honest work-

(Testimony of Mervyn Rathborne.)

ers, be patient. And with honest leaders, be patient. When you meet a pie-card bum who represents nobody, fight back and root him out and boot him out, because he has no place in the labor movement. If you do this and stand up to be counted, and if you give the honest leadership in your organization real support, and if you make your financial reports regularly and give your leadership both on the industrial and political fields the support they need, then we can look to the future with confidence.

"This Red-baiting, Jew-baiting, labor-baiting and Negro-baiting is not the thing that will unite America. The thing that will unite America is what you are working for here—hours, wages, working conditions. The people will not fail you. And before very many elections roll over, we will go back to the New Deal, to the bona fide Wagner Act, to proper wages, hours and proper Social Security. We will go back to the American Party of Roosevelt and Henry Wallace. If we do all that, we will defeat the Taft-Hartley Act, the Tafts and the Hartleys, and all the people they stand for."

Did you hear Mr. Quill give that statement?

A. I don't recall whether I did or wherther I didn't.

Q. Do you agree with its sentiment?

A. Not every word of it, no, sir.

(Testimony of Mervyn Rathborne.)

Q. Did you hear him in the same speech say this—the other thing you read:

> "On the Marshall Plan, we who come from New York will support the policy laid down by the Boston convention. Sure; we want to feed the starving people of Europe. Sure, we are against the third World War. Sure, we want to give surplus to starving people all over the world. Sure, we want to give them machinery and equipment to build a democracy in their own countries, and a world of peace. But we are suspicious when we see some of the gentlemen who are shouting loudest for the Taft-Hartley Bill and the Marshall Plan. We are suspicious when Herbert Hoover comes all the way from California to the White House, and then goes to Europe just like in the old days, and then comes back and says we must reindustrialize the Ruhr. We remember what happened the last time when Herbert Hoover told the American people that the Ruhr should be built up. We want to give food, but we want it to be given through the United Nations, and we don't want supplies given Europe to [7145] be used for aggression purposes."

Do you agree with that statement?

A. I do not agree with every single sentiment expressed by Mr. Quill in that or any other speech, Mr. Hallinan. [7145-A]

The Court: Show that to the witness.

Mr. Donohue: If your Honor please, I have no objection to the witness seeing the document, but I again call the Court's attention to the fact that Mr. Hallinan is trying to introduce the testimony of a witness who is not here, by a purported statement of that witness, one, in the newspaper, and another, by some telephone call from some unknown person in New York City.

Mr. Hallinan: We will get to that in a moment. Your Honor will remember that when Mr. Bridges was being cross-examined by Mr. Donohue, a great many statements were read out to Mr. Bridges that he was asked whether he had read, and so forth. For instance, one is this:

> "May I read you another statement by the President of the United States: 'This Communist threat of force——
>
> "Mr. Hallinan: Just a minute, if the Court please. He is doing exactly what he was told not to do.
>
> "Mr. Donohue: Mr. Bridges has seen this, if your Honor please.
>
> "Mr. Hallinan: That does not mean he is entitled to read it out, the editorial of the paper, the message of the President or whatever it may be.
>
> "The Court: I asked specifically on that question. I understand you are reading a direct quote.
>
> "Mr. Donohue: A quote of the President of the United States [7146] on the subject of Communism.

"The Court: Mr. Bridges, may I ask you, have you read the quoted article?

"A. I read through the whole article there pretty rapidly and briefly. My answer, incidentally, which I just gave, was intended to cover the whole article.

"Mr. Donohue: May I read a quotation, if your Honor please? I have a right to ask this witness——

"Mr. Hallinan: He can ask him but not put in the words of another person.

"Mr. Donohue: I am going to ask him if he agrees with the statement of the President of the United States.

"Mr. Hallinan: How do we know what he has stated on the subject? We have to have the whole message, not special excerpts taken out. As a matter of fact, counsel has been the one who has been sustaining Communism and Communists here all throughout the case.

"The Court: Mr. Bridges said he read the direct quote. You can ask him about it."

And thereupon Mr. Donohue went ahead and asked a great many questions on it.

Mr. Donohue: The distinction Mr. Hallinan fails to make, if your Honor please, although I am sure it is apparent to the Court, number one, Mr. Bridges is a defendant. This witness is only a witness. Number two, Mr. Bridges has denied he was a member of [7147] the Communist Party, in consequence of which we had a full right to examine

(Testimony of Mervyn Rathborne.)

into his philosophy and his belief, including the question of whether or not he agreed with a statement on foreign policy affecting the Soviet Union made by the President of the United States, which is not pertinent comparative matter to the instant matter here.

The Court: I will meet the situation when it arises. I have no knowledge on it now.

Mr. Hallinan: Might I see those again?

Q. Now, you have read these quotations, haven't you?

A. I have read the paper, parts of it.

Q. Have you discussed with Mr. Barber or Mr. Kaiser any statement made by Mr. Ray regarding the testimony before the grand jury or the testimony you have given here?

A. No, I have not.

Q. Even after I asked you the questions on it this morning you said nothing to either of those people about it? A. No, sir, I did not.

Q. Did you talk to Mr. Donohue about it?

A. I did not.

Q. Did you make any effort to find out if Mr. Ray had said the things I told you he was quoted in the paper as saying? A. No, sir, I did not.

Q. You did not ask that? A. No. [7148]

Q. Did either of them tell you he had or had not said those things?

A. Oh, no, I beg your pardon. Going down the elevator at lunch time I asked Mr. Donohue, I said, "Did you read any statement or did you hear about any statement?"

(Testimony of Mervyn Rathborne.)

And he said, "Apparently an item appeared in the New York Times," or something like that.

Q. In which Mr. Ray said you had lied on the witness stand? A. He didn't say that.

Q. What did he say?

A. He said apparently a statement appeared in the New York Times in which Ray said you had not discussed with him testimony in the Bridges case.

Q. That you had not discussed? A. Yes.

Q. But you have testified under oath that you had discussed it with him?

A. No, I did not. I did not say I discussed the testimony. I said I had discussed the issues, the background and the reasons, and I sought his advice.

Q. Did you discuss with him your appearance on the witness stand in the Bridges case or appearing as a witness?

A. On that point I told you, Mr. Hallinan, and I will repeat, that I related to him the substance of my conversations in Washington and sought his opinion on the matter. [7149]

Q. You discussed with him your appearance against Mr. Bridges, didn't you?

A. That is right, but I didn't discuss with him any possible testimony.

Q. Did Mr. Donohue tell you what Mr. Ray said——

Mr. Donohue: I object to it, if your Honor please, because there is no evidence upon which any of us can conclude that Mr. Ray said anything that

(Testimony of Mervyn Rathborne.)

is written on that piece of paper Mr. Hallinan has.

The Court: Mr. Hallinan, I will have to sustain the objection. That might be rebuttal or surrebuttal, as you please to call it, but certainly the newspaper account of what Mr. Ray allegedly said——

Mr. Hallinan: Now I am asking what Mr. Donohue told him, not what Mr. Ray said. I am only refreshing his recollection from this article.

The Witness: I have related the substance of my conversation with Mr. Donohue on that point. That is all that happened.

Q. Didn't Mr. Donohue state to you that what Mr. Ray said was that you had not at any time or anywhere consulted Mr. Ray or discussed with him his attitude as to your appearance as a government witness against Harry Bridges?

A. No, he did not.

Q. He did not tell you?

A. No, sir. [7150]

Q. Did you have a discussion with Mr. Donohue or anyone else as to whether Mr. Ray had not stated before the grand jury——

Mr. Donohue: I object, if your Honor please, to Mr. Hallinan referring to any purported or alleged newspaper account of what Mr. Ray may have said was his testimony before the grand jury.

Mr. Hallinan: This is a direct quote now Mr. Donohue was permitted to read off to Mr. Bridges in his cross-examination.

~~The Court: That was an entirely different situa~~tion, as I see it. I can't anticipate what you have in mind here, but I think that, in the light of the examination of Mr. Bridges, both direct and cross-examination, and the attempt on the part of the prosecution to elicit from him information concerning his philosophy with respect to the Communist Party and the general tenor of the same, that we were confronted then with a situation altogether different from that which confronts the Court at the present time. I will therefore have to sustain the objection.

Mr. Hallinan: Let me ask you this: When you had the conversation with Mr. Donohue concerning Mr. Ray, did you state that Mr. Ray was lying?

A. I related the substance of my conversation with Mr. Donohue. To answer your question, I would just be repeating it.

Q. Let me ask you this: When you had the conversation with the two young ladies down at Half Moon Bay, Miss Murray and Mrs. [7151] Texeira, the girls who had been friends of yours, whom you had gone out with, dined with——

A. They both had been employees also.

Q. They had been friends of yours. You told us that before you came out of the Dominick's Cafe you had this discussion with Mrs. Texeira touching your testimony and your reasons for testifying, and so forth. A. Touching my reasons.

Q. Up to that time no statement had been made by you disclosing your reasons or disclosing what your testimony was going to be, is that correct?

A. No, that is not correct.

(Testimony of Mervyn Rathborne.)

Q. When she went out of the cafe——

A. I don't understand your question.

Q. Withdraw it. When she went out of the cafe, she was already feeling apparently rather badly toward you, is that right? Unfriendly?

A. Yes. I mean, we were on opposite sides of the issue. It was very clear to me, and she so stated.

Q. You testified already that at the time you left Jean Murray's house some weeks before that she was unfriendly to you at the time you left?

A. That is right, she was angry.

Q. When you came out you say you got into the automobile? A. That is right. [7152]

Q. Are you sure you did that?

A. Absolutely.

Q. Did you see any other automobile in the neighborhood?

A. There were several cars parked along the main street there, yes, sir.

Q. You got into the automobile and you say you sat where?

A. My recollection is—I am sure I was sitting on the side next to the curb, myself.

Q. What?

A. I was sitting on the side next to the curb. The car was parked headed north and I was sitting on the east side of the car.

Q. Who was behind the wheel?

A. My recollection is Mrs. Texeira was behind the wheel and Miss Murray was in the middle.

(Testimony of Merwyn Rathborne.)

Q. When you came up to the car now, where was Miss Murray seated?

A. She was seated in the car.

Q. In what car?

A. Well, in the front seat.

Q. Was she driving the car apparently? Was she seated in the driver's seat?

A. I don't recall whether she was seated in the driver's seat—my recollection is when I got in, I got in from the curb side and she had to move over. That would have placed her on the [7153] side, that is, next to the driver, but I am not certain of that.

Q. How about Mrs. Texeira? How did Mrs. Texeira get in? Did she get in on the opposite side or the same side you got in?

A. It is my belief she got in from the driver's side, the side that was away from the street, that is, away from the curb, on the west side, I will put it.

Q. You sat there for how long?

A. Quite a number of minutes. It is hard——

Q. How many minutes?

A. I think the total time elapsed from the time I left my house until the time I returned was between 45 minutes and an hour. That is my best estimate.

Q. How long did you sit in the automobile?

A. That would have made it probably, oh, 20 or 30 minutes probably.

Q. Twenty to 30 minutes in the automobile?

A. Yes, sir.

(Testimony of Mervyn Rathborne.)

Q. Did Miss Murray speak to you when you came up to the automobile?

A. When I got in she did.

Q. Had you had anything to drink before you left Dominick's and went out to the car?

A. Mrs. Texeira and I had two—I forget what it was—they were hot drinks. [7154]

Q. What were they?

A. I think it was hot toddies. That is my recollection.

Q. Had you had anything to drink that day before you met Mrs. Texeira?

A. I am certain that I did not.

Q. What is that?

A. I am certain that I did not.

Q. You sat in the car then and you had this conversation with her? A. Yes, sir, we did.

Q. When you went back up to your house did you tell your wife immediately what the conversation was with these two girls?

A. As I related, she was just about ready for dinner when the telephone call rang, when the telephone call came in, and when I returned we had dinner, and she asked—during dinner she said, "What happened?" I said, "Wait until the kids go to bed and I will tell you." Our two youngsters were eating, that is, and so as soon as the youngsters were in bed I told her about it.

Q. You told her? A. Yes, sir.

Q. You told her you had never had any relations with the two girls, did you?

(Testimony of Mervyn Rathborne.)

Mr. Donohue: I object, if your Honor please. It makes no difference what he told her.

Mr. Hallinan: I think it does. It is his narrative of the [7155] events that transpired.

The Court: I sustained the objection heretofore to the question addressed to the witness.

Mr. Hallinan: That was not the question addressed to him. The question was had he. Now I ask him what he stated.

The Court: As to what he stated to his wife.

Mr. Hallinan: Yes.

The Court: Immediately after this conversation.

Mr. Hallinan: Yes.

The Court: I will allow it.

The Witness: Will you repeat the question?

(Question read.)

A. Yes, I did.

Q. (By Mr. Hallinan): Why didn't you tell the two girls, "Come on up to the house and tell my wife of it"?

Mr. Donohue: I object, if your Honor please. The question is argumentative.

Mr. Hallinan: It goes to his state of mind.

The Court: Overruled.

The Witness: I probably should have done it. I got so angry, so mad when they pulled this thing on me, my impulse, which I followed, was to say, "All right, if that is the way you want to do it"——

(Testimony of Mervyn Rathborne.)

Q. (By Mr. Hallinan): How long after you got in the automobile was this subject broached to you? [7156] A. Just before I left.

Q. Well, now, here you had argued the matter with Mrs. Texeira in Dominick's already, is that right?

A. No, the conversation in Dominick's was along the lines, she asked me, "What are your reasons, why are you taking this position? What are you doing this for?" I gave her quite a number of reasons, an explanation, if you will, and when it was practically all over, she said, "I don't accept your explanation," or words to that effect. "You haven't convinced me along that line. My sentiments are on the side of the defense in this case."

Q. The only reason you can think of why you did not invite these girls to come up and speak to your wife was that you got so mad and so upset, that was your attitude and you walked away?

A. That was my impulse and that is what I did, yes. [7157]

Q. Then you went squealy on them to Mr. Donohue the next day?

A. I told Mr. Donohue the next day.

Q. I have a few questions here concerning your credibility, so if you will listen to these very closely and let us see if you have an explanation of them. You will remember that you were questioned—this was on page 6772—as to your calling at Miss Murray's apartment on Geary Street around the time that you were subpoenaed before the grand jury, or,

(Testimony of Mervyn Rathborne.)

rather, that you testified before the grand jury. Do you remember you discussed that in your cross-examination?

A. I said it was approximately that time, my recollection was either before or after.

Q. Do you remember I asked you this:

> "Q. Did you have any discussion with her then about this case? A. No, sir.
>
> "Q. Did you have any conversation with her about your appearance before the grand jury or that you intended to appear before the grand jury? A. No, sir; I did not."

Do you remember giving that testimony?

A. I believe I do, yes, sir.

Q. I beg your pardon?

A. Yes, I remember. [7158]

Q. And then I said to you:

> "Q. Do you know anything about dictographing? A. Dictographing?
>
> "Q. Yes. A. No, sir.
>
> "Q. You have never set up one?
>
> "A. No.
>
> "Q. Have you ever been distographed yourself?"
>
> You said, "I don't know. You mean—I have seen a dictograph machine, if that is what you mean.
>
> "Q. Have you ever heard your own voice read off from one of them? A. No, sir."

That was your testimony, wasn't it?

A. If that is what the record shows, that is right.

Q. That was your testimony, wasn't it?

A. Yes, sir.

Q. Not just what the record shows. Then you were asked some more questions about this conversation with Miss Murray and you said, "I might have discussed the national CIO with her and its attitude toward Mr. Bridges." Do you remember that? A. That's right.

Q. (Reading):

> "Q. Well, did you tell Miss Murray in any sort of words that you didn't know whether or not Harry Bridges ever had [7159] joined the Communist Party?
>
> "A. I don't recollect any such conversation, no, sir.
>
> "Q. You don't recollect whether you said it or not?
>
> "A. That's right. I remember discussing Mr. Bridges to some extent there, and when I talked to her, but I don't recollect any such statement."

Do you remember that?

A. Yes, sir, I do.

Q. All right. And now, here is what you said:

> "What I discussed with her very largely, Mr. Hallinan, she wanted to know my reasons for

(Testimony of Mervyn Rathborne.)

either going or testifying or going to testify. And we discussed that. That was the main burden of the discussion."

Do you remember that?

A. Yes, sir.

Q. (Reading):

"Q. Well, what was said?

"A. I told her my reasons.

"Q. What did you tell her?

"A. I told her that I thought that the Communist Party was harmful to American labor. That has been my—I finally reached that conviction."

Do you remember that? A. Yes.

Q. All right. So then after you had had this dictograph stratagem pulled on you, you [7160] then said:

"She wanted to know my reasons for either going or testifying or going to testify."

That is right, isn't it?

A. That is right.

Q. But you didn't say that. First you denied it, didn't you? A. No, I didn't deny it.

Q. All right.

A. I think you will see, if you will read the first answers carefully, you will see that the two were not exclusive.

Q. Then you testified on page 6782:

(Testimony of Mervyn Rathborne.)

"A. Yes, I had an argument with her to the extent that she was trying to prevail upon me not to embark upon this course of action or not to follow it, and that I said I was going to do it. And we argued about that for some time.

"Q. Did you have any conversation with her She explained the reasons why she thought I shouldn't.

Q. What reasons did she give you? What did she say?

A. Well, as I have related here, my best recollection is that she thought it was the wrong thing, she said she thought it would be harmful to the labor movement and that it was not the right thing to do.

Q. What did she say, how it would affect yourself, according to her judgment?

A. I don't—she said that I would lose a lot of friends. I remember that statement

Q. Was she speaking to you in a kindly way, a friendly way, [7161] trying to persuade you out of the course you were embarking on?

A. To a certain extent, yes. She was, I would say, angry."

Do you remember that testimony?

A. Yes, sir, I do.

Q. All right. Now, here are the two statements that I want to see how you reconcile them. In between them came this question I asked you about the dictograph machine.

> "Q. Did you have any discussions with her about this case? A. No, sir.
>
> "Q. Did you have any conversation with her about your appearance before the grand jury or that you intended to appear before the grand jury? A. No, sir, I did not."

Now, the next one after the dictograph:

> "No, what I discussed with her very largely, Mr. Hallinan, she wanted to know my reasons for either going or testifying or going to testify. And we discussed that. That was the main burden of the discussion."

Do you remember that?

A. Uh-huh (affirmative).

Q. Now, Mr. Rathborne, as a matter of fact, you never have been a member of the Communist Party, have you?

A. I testified and I was a member of the Communist Party from 1935 until early in 1947. [7162]

Q. When did you testify to that?

A. I believe on direct examination.

Q. You mean in this court? A. Yes.

Q. You testified to it under oath, as you understand it?

A. Well, I was under oath at the time, and I will state that now.

Q. In other words, being sworn to tell the truth, the whole truth and nothing but the truth, you testify that for a certain period of time you had

(Testimony of Mervyn Rathborne.)

been a member of the Communist Party, is that right?

A. That's right. I repeat that testimony now.

Q. Back in 1940, and subsequently in 1941, being put under oath and sworn to tell the truth, the whole truth and nothing but the truth, first before the Un-American Activities Committee of Congress, and next before the Tenney Committee of the State Legislature, being asked that question, you denied that you had ever been a mmber of the Communist Party; isn't that right?

A. That is right.

Q. And the two answers embraced the same period, isn't that right?

A. Well, yes; I mean the same period is included.

Q. You were under oath on both occasions?

A. That's right.

Q. Do you know of any way—can you tell me any way by which [7163] one can determine which time you were telling the truth?

Mr. Donohue: I object to that question, if your Honor please.

Mr. Hallinan: It goes to his state of mind.

The Court: He was asked similar questions heretofore. I will allow it. I think he answered the question heretofore.

A. As far as my appearance in this proceeding, I can only say what I said before: It is up to the Court and the jury based on the evidence that I give and the evidence that other witnesses give,

(Testimony of Mervyn Rathborne.)

to determine the value or the weight and the truthfulness of my testimony.

Q. (By Mr. Hallinan): We are not concerned with that.

A. And I will state, if you want me to, that I am doing the utmost to adhere strictly to the truth in this testimony I am giving now.

Q. You said that down at Washington, didn't you, and you said that before the Tenney Committee. What I want to know is this——

A. Apparently in that there is an irrecon—a contadiction which you cannot reconcile.

Q. In other words, what I want to know is, Can you suggest any clue by which a person—I am not talking about the case, but you yourself—by which a person can tell whether you were lying in your appearance here or whether you were lying before the Un-American Activities Committee?

A. I have testified and admitted that I did not give proper, [7164] right, correct testimony before those two committees.

Q. Well, now, is there any way that we could know that, say tomorrow or next week, you won't testify that you gave false testimony here and that your testimony before the Un-American Activities Committee was true?

A. I don't know how that question can be answered, Mr. Hallinan.

Q. What I would like to do is find some sort of reconciliation to solve everybody's difficulty, the jurors, lawyers, court, everybody—that is all. You

(Testimony of Mervyn Rathborne.)

know of no clue that will identify the situation, is that right?

A. I want to thank you for being so solicitous of the difficulty——

Q. I am not concerned about you. I am concerned about whether the jury can solve it, whether you are a liar now or whether you were a liar then. Let me ask you this: You say, you testified here that the Communist Party instructs its members to lie on occasion in court, is that correct?

A. That is right.

Q. Under oath? A. That is right.

Q. Points out to them that they are entitled to lie when they are sworn to tell the truth in a court; that is correct, is it? A. That is right.

Q. And is there a limitation upon what they are supposed to lie about, or are they entitled to lie about anything so long as [7165] their interest or judgment seems to dictate that course?

A. No, I don't think that is ever the situation at all, Mr. Hallinan. My understanding of it—I can get into a very long, involved answer on this one. I am trying to be short and brief—my understanding of the situation is that that procedure is considered proper in order to protect and defend the Party, to keep without—not make known the members who are not supposed to be known, and generally in the interests of the Party and its program. That is my understanding of the reasons for such—

Q. All right. Then under that procedure or philosophy, a Communist—let us take a person who is

(Testimony of Mervyn Rathborne.)

admittedly a member of the Communist Party, he is, under that philosophy, instructed or entitled to take the stand and testify that even though he is a member of the Communist Party, he will testify that he is not a member of the Communist Party, correct, just like you did in the Congressional——

A. Yes.

Q. Sure.

A. I thought you said someone who was openly a member.

Q. Let us say a person who was secretly a member of the Communist Party, or even openly—let us say a person who is a member of the Communist Party, he is permitted to take the witness stand and testify under oath that he is not a member of the Communist Party, is that right?

A. Well, that has happened, yes, and that is—— [7166]

Q. Under this rule that you told us about, this instruction, this philosophy?

A. Under the philosophy, as I stated previously, the courts and other judicial, legislative and administrative agencies of the Government are considered to be the tools of the exploiting class.

Q. How about the courts?

A. The courts included, to keep the working people under subjection and suppression.

Q. We got that already. Here is what I wanted to know. A. I am——

The Court: Permit him to continue.

A. Under that procedure and under that phil-

(Testimony of Mervyn Rathborne.)

osophy, if you want quotations on it I can give you——

Mr. Hallinan: Just like your own recollection.

A. ——the books you can find it in, that it is perfectly proper from the ideological point of view and policy point of view, to utilize all democratic means and misuse them to the end furthering the interests of the Communist Party.

Q. It is my understanding of what you have already said, in other words, a person who is a member of the Communist Party is entitled to lie under oath in order to achieve the purposes of the Communist Party, isn't that right?

A. That is generally right.

Q. Let us get back to the original situation. Therefore, a [7167] person who is a Communist under such direction or education can deny under oath that he is a member of the Communist Party, can't he? A. He can, yes.

Q. He can deny that another member is a member of the Communist Party?

A. That is right.

Q. Even though that person might be a member of the Communist Party? A. That is right.

Q. He can also say that another person who is not a member of the Communist Party is a member of the Communist Party, can't he?

A. Well, I don't know of any particular incident, but following the line of reasoning, I would say that would be logical.

(Testimony of Mervyn Rathborne.)

Q. All right. He could also state falsely that he had left the Communist Party, couldn't he?

A. I suppose he could.

Q. In other words, being still in the Communist Party, he could pretend that he had left the Communist Party, couldn't he?

A. I presume he could. I don't know of any instance of that kind.

Q. And having left the Communist Party, he could pretend that he was still in the Communist Party, couldn't he?

A. I guess any one of those combinations of circumstances would [7168] be covered by the general——

Q. And he could, if there were a meeting of certain persons, he could falsely state that it was not a Communist meeting, couldn't he?

A. I believe that is right, yes, sir.

Q. And he could falsely state it was a Communist meeting couldn't he?

A. I believe he could——

Q. And there wouldn't be—withdraw that. Is there any way that another Communist could know whether that particular Communist was telling the truth or not?

A. Not unless he had discussed it with him in advance and advised him of the testimony that he was going to give.

Q. In other words, just seeing the person sitting on the witness tand, it would be impossible to tell whether he was telling the truth on those matters or not, isn't that correct?

(Testimony of Mervyn Rathborne.)

A. Under those circumstances, that would be correct.

Q. So that it would be quite impossible to tell, then, from the statements under oath of a Communist himself, a man who was a member of the Communist Party, first, whether or not he was at the time he testified on the witness stand actually a Communist; that is correct, isn't it?

A. In certain instances, under certain conditions, where there is a matter affecting the Communist Party, its interest or its membership and the testimony might adversely affect it, that [7169] would be true then.

Q. And it would be impossible to tell whether he had lied about the Communist Party from just seeing him on the witness stand, is that right?

A. Well, following that reasoning, certainly.

Q. And it would be impossible to tell that another person whom he identified as not being a Communist was in fact not a Communist, isn't that correct?

A. I believe we have been all through this just a minute ago.

Q. I am getting at it in a little different form.

A. The same questions you asked in connection with the other question, in my judgment, apply in this form that you are now presenting them.

Q. Then it would be also impossible to tell if the Communist on the witness stand said a person was a member of the Communist Party whether that statement was true or not, wouldn't it?

(Testimony of Mervyn Rathborne.)

A. If a man was up there for a reason and had been instructed and told and advised by the Party not to give certain testimony or to deny certain facts that were true, yes, that would be the situation.

Q. Then looking at him on the witness stand you couldn't tell whether he had been instructed or not, could you? A. No, you couldn't.

Q. In other words, there wouldn't be any difference in the manner in which he testified from just an ordinary witness [7170] committing perjury on the witness stand, is that right?

A. That is right. That has been brought out in a number of legal cases, I believe, particularly the Whittaker Chambers case, the same situation.

Q. So then it would be quite impossible, granting a person had been a member of the Communist Party, trained in the Communist Party philosophy, it would be quite impossible to determine on matters involving the Communist Party or Communists whether he was telling the truth on the witness stand or not, isn't that right?

A. If the man at the time he testified was a disciplined Communist, devoted to the Communist Party interests and cause, I would say that it would be very difficult to tell.

Q. Well, now, the way you would find out if he were devoted to the Communist Party or its cause or principles would be to ask him about that, wouldn't it? A. That is one way.

Q. You couldn't tell if he was telling the truth

(Testimony of Mervyn Rathborne.)

about the Communist Party or Communist principles?

A. Another way would be to adduce evidence from other people that might indicate that he was a devoted and loyal Communist or whether he wasn't.

Q. Then if you put other Communists on the stand to tell you that, you couldn't tell whether they were telling you the truth, could you? [7171]

A. That could well be true, yes, sir.

Q. So that coming down to it finally, it would be impossible for you to tell whether a Communist was telling the truth or not under all those circumstances?

A. Under the circumstances I have enumerated, that would be a fair assumption.

Q. All right. You go to this Communist school and you learn this philosophy and principles that you have just enunciated. That, I suppose, is taught to you, and it takes some little time to learn it, does it?

A. Yes. I mean the particular—yes, it does.

Q. In other words, the ordinary man has a repugnance against being a liar and a perjurer, so if you are going to educate it out of him you have to give him some hard work at it, don't you?

A. You have got to give him something to replace the things that he is normally taught to believe.

Q. You have got to root out those things and teach him it is perfectly all right to testify falsely under oath in a capitalist court because they are

(Testimony of Mervyn Rathborne.)

enemies of the common people, or something like that?

A. You have got to sell him on the ideology and convince him to a point where, like the person who is a member of a religion, he is willing to follow it even though it might cause him trouble or embarrassment, or something like that.

Q. And that is—— [7172]

A. You have got to indoctrinate him to a point where he is responsive and will follow almost blindly.

Q. Then you would have to get him outside afterwards and reindoctrinate him or get him right around to the point where he sees it is not right to testify falsely under oath in a capitalistic court because they are not the enemies of the working people, wouldn't you?

A. Well, I don't know what the process would be. I know that in my own case, I finally, reluctantly, came to the conclusion that the teaching of the Communist Party was false, its doctrines were wrong, and that I had made a very serious blunder over many years in embracing that philosophy, and I was naturally rather upset, because, after all, for years I had followed a certain course of action, followed a certain philosophy, a certain ideology, and when I finally came to the conclusion I was wrong, it was quite a blow.

Q. This very statement that you just made now may very well be a lie made out of whole cloth, isn't that right?

(Testimony of Mervyn Rathborne.)

A. Well, it doesn't happen to be.

Q. It doesn't happen to be, but it could well be, couldn't it?

A. I don't know why. I don't see how you jump to that particular conclusion.

Q. Here is what I am trying to get. You were indoctrinated and educated into finally becoming a liar and a perjurer, isn't that right? [7173]

A. That is right. That is right.

Q. Now, what education did you undergo that took you out of being a liar and a perjurer and made you an honest man again?

A. Well, I went through a process of re-examination of all the things that I believed for and stood for and fought for and believed in, and, as I say, reluctantly and over a period of time, I came to the conclusion that I had been worshiping gods with clay feet, if you want to put it that way.

Q. Suppose that you substitute Barber for Hudson, well, you would be in the same predicament, wouldn't you?

A. I don't——

Q. If Mr. Hudson, for instance, or some other functionary of the Communist Party could make you get up on the witness stand and commit perjury, deliberate, practice perjury that you intended to do in advance, well, can you tell us any reason why, if Mr. Barber or Mr. Kaiser asked you to get up on the witness stand and commit a deliberate lie and perjury, you wouldn't do it just as quickly? A. Yes, I can. [7174]

(Testimony of Mervyn Rathborne.)

The Court: Just a moment. He may explain that answer.

The Witness: The reason for it is neither Mr. Barber nor Mr. Kaiser, as I have observed them, are trying to inculcate me with any doctrine, any ideology or in any way encourage me to do anything but what is considered right and proper in the ordinary conduct of a citizen.

Q. (By Mr. Hallinan): What do you think the 25 bucks a day is for? A. That is——

Q. That is to buy your soul, isn't it?

A. That is not right.

Mr. Donohue: I object to the question.

Mr. Hallinan: Let me ask you this——

Mr. Donohue: You wait just a moment.

Mr. Hallinan: The answer has been given. The answer has been given.

Mr. Donohue: Will Your Honor make him sit down?

The Court: Sustained.

Mr. Donohue: I wish to object to the record and I will sit down, Mr. Hallinan, when I conclude my objection to the Court.

Mr. Hallinan: Conclude it and sit down.

Q. Let me ask you this, Mr. Rathborne: Do you have any disagreement with this quotation: "When the leopard changes its spots or the Ethiopian his skin, then thou shalt do well to change thy ways, young man, who are accustomed to do evil"? [7175]

Mr. Donohue: I object to a question that even Mr. Hallinan does not understand.

(Testimony of Mervyn Rathborne.)

Q. (By Mr. Hallinan): Do you understand that? Mr. Donohue is a little thick-headed. Do you understand the question?

A. No. It sounds to me like you are quoting poetry.

Q. You wouldn't know much about it. It is from the Bible. And Mr. Donohue wouldn't either.

At this time, if the Court please, I move to strike out all the evidence in this case——

The Court: First, before we strike out evidence, I will strike out your last remark concerning Mr. Donohue and Mr. Rathborne. Starting from that point——

Mr. Hallinan: At this point I move to strike out all the testimony of the witnesses Schomaker, Schrimpf, Krolek, Hancock, Ross, Crouch, Johnson, Michener, Rathborne and Wilson upon the ground that those persons having been members of the Communist Party, and under the testimony adduced by the prosecution, because testimony adduced on cross-examination is testimony of the person producing the witness—those persons are actually unreliable, and it is impossible for this Court or this jury to tell whether they are telling the truth or whether they were falsifying on the witness stand, that none of those people create a conflict in the evidence. Here we have the testimony of this man, unequivocally, that every statement made by one of those people is open to suspicion, so that it is impossible, [7776] even for a person who is an expert, to tell whether they are telling the

(Testimony of Mervyn Rathborne.)

truth or falsifying; ergo, and for a greater reason, it is impossible for people who have not been left within the charmed circle to determine that fact. I therefore move that all the testimony be stricken from the record.

The Court: Mr. Donohue?

Mr. Donohue: It would seem unnecessary to argue the allegation, if Your Honor please. According to the judicial system of the United States, the question of determining credibility of the testimony of a witness is left to the jury. I think that is a complete answer to the motion of Mr. Hallinan.

Mr. Hallinan: That is true under certain circumstances, if the Court please, but when the evidence is uncontradicted, as in this case, that each of those witnesses is suspect from the start, that it is impossible even to a person who is familiar with it, who has been one of them, who has dealt with them, to tell whether they are telling the truth or not—how is it possible for the ordinary juror or the ordinary person who is not one of them to pass upon that determination? In other words, there is a reasonable doubt there as a matter of law.

The Court: Mr. Hallinan, the motion to strike is denied.

Mr. Hallinan: Well, that is all with this witness.

Mr. Donohue: I have no further questions of this witness, if Your Honor please. Shall we take the recess?

The Court: We will take the afternoon recess. Ladies and gentlemen of the jury, the same admonition to you not to discuss the case under any conditions or circumstances or form an opinion until it is submitted to you.

(Recess.) [7177]

Mr. Donohue: Call Mr. Lewis Michener, please.

LEWIS HERBERT MICHENER, JR.

was recalled as a witness on behalf of the United States, and having been previously duly sworn, testified as follows:

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mr. Michener, upon the direction of the Court we have recalled you and I want to read to you a statement made by Mr. Hallinan on page 6266 of the record:

"Mr. Hallinan: ——

Mr. Hallinan: Your Honor, I object to that. That is not a proper way of examining the witness. He should ask him questions and get answers from him. He should not read off statements to him and then ask his reply to that. He should ask him the questions he intends to ask. He should not read to the witness a statement of anybody, counsel or otherwise.

Mr. Donohue: I want to call to Mr. Michener's attention, if Your Honor please, a statement made by Mr. Hallinan in which in substance he states that this witness answered by signing an application two questions falsely, and I want to ask him if in fact he did.

The Court: You may.

Q. (By Mr. Donohue): According to Hallinan:

> "The Michener file states there are documents lacking from [7178] it and we object to the Michener file being produced in the form it is. We ask that this gentleman produce the entire file. For instance, the document which Mr. Wilson had to make out, which contains the information that he never was a member of an organization advocating the overthrow of the government by force and containing above it the statement that he had never been sentenced on any violation of any law except some traffic law or something like that, and that is missing from the Michener file. That is the exact thing we wanted to see in Michener's file. We know Michener answered those two questions falsely. We want that document produced here. It has not been produced."

I now ask you, Mr. Michener, to look at what has been marked as United States for identification No. 37, that document facing you as you receive it, and ask you to examine it and then I will ask you a question upon it.

(Document was handed to the witness and returned to counsel.)

Did you observe, Mr. Michener, that this document contained the question: "Do you advocate or have you ever advocated or are you now or have you ever been a member of any organization that advocates the overthrow of the government of the United States by force and violence?" Did you observe that that question is a part of this document? A. I did, sir.

Q. Did you notice that this document contains this question: [7179] "Have you ever been arrested or summoned into court as a defendant or indicted or convicted or fined or imprisoned or placed on probation or has any case against you been filed or have you ever been ordered to deposit collateral for alleged breach or violation of any law or police regulation or ordinance whatsoever?" Did you observe that that question was there?

A. I observed that that was on there. I couldn't repeat it verbatim, but I recall the essence of it being there.

Q. At any time, Mr. Michener, did you ever sign an application which contained those two questions?

A. No, sir.

Q. Mr. Michener, further on page 6267 of the record, in response to a statement made by myself to this effect: "Just as I asked you, how did you know that Mr. Michener, as you just stated to the Court and jury, signed a Form 57 in which he denied that he had ever been arrested?"

Mr. Hallinan stated: "We have our means of knowing things. We hear things. Some of your babies have been babbling around as to the reason they have to come in and testify. Mr. Michener is one of them."

Have you made any statements, Mr. Michener, either before or since your appearance here as a witness with respect to the reasons why you did in fact testify? A. I have, sir.

Q. What statement have you made? [7180]

A. As a result of a lot of propaganda being put out against me down south, I had occasion also to put out a leaflet that was distributed to the employees of the Ford Long Beach plant.

Mr. Donohue: Mr. Clerk, may I see what the witness has in his hand?

(A document was handed by the witness to Mr. Donohue.)

Q. (By Mr. Donohue): This is something you say you have caused to be distributed?

A. That is right.

Q. Where?

A. At the Ford Long Beach plant to the employees there.

Mr. MacInnis: Of course, this is a self-serving document, hardly responsive to the inference that has been raised, and we object to it. We ask the Court to look at it. As the man says, it is a leaflet that he prepared.

Mr. Donohue: I offer it in evidence, if Your Honor please, with respect to the suggestion made by Mr. Hallinan about babies have been babbling and that Mr. Michener is one of them. That is what he has babbled.

(Testimony of Lewis Herbert Michener, Jr.)

Mr. MacInnis: The leaflet, of course, is self-serving. It is incompetent to prove the issue even raised by the inference. It does not show whether any of his babies have been babbling at all. It shows, rather, that he tried to cover up by showing a statement such as the one now before you.

Mr. Donohue: In light of the fact that Mr. MacInnis has [7181] characterized it, which I have not heretofore done, as an attempt on the part of the witness to cover up, I renew my offer that it be put in evidence and read to the jury.

The Court: It may be received for that purpose or purposes.

(The document referred to was thereupon received in evidence and marked United States Exhibit No. 41.)

Mr. Donohue: Captioned "Liar, stool pigeon, perjurer.

"One. If the above names are to apply to people who exercise their rights as American citizens;

"Two. If the above names are to apply to people who believe in the American form of government and the American way of life;

"Three: If the above names are to apply to people who sincerely want to protect the future welfare of our American labor unions and our nation;

"Four. If the above names are to apply to people that denounce Communism or any other

> ism that would destroy our American way of life;
>
> "Then I must be classed as such by those who opposed my understanding of true Americanism. These are the issues. It is up to you. It is important that you attend your next membership meeting Tuesday, February 14, at 7:30 p.m. at Sciotti Hall, 1005 East 6th Street, Long Beach, California. Signed, Lew Michener."

You may have the witness. [7182]

Cross-Examination

By Mr. MacInnis:

Q. Mr. Michener, do you know a man named Pat Patterson? A. Yes, sir.

Q. Does he work with you?

A. He is the president of the local union of which I am a member.

Q. You talked to him before you testified in this case, didn't you? A. I did.

Q. You told him that you were being interrogated by various agents? A. I did not.

Q. You never told him you were being consulted?

A. I did tell him that I was going to be up here as a witness.

Q. Have you seen him since your appearance here as a witness? A. On several occasions.

Q. Talked to him? A. Almost daily.

Q. That is exactly the point that Mr. Hallinan made and that is exactly what we had in mind. Let

(Testimony of Lewis Herbert Michener, Jr.)

me ask you this, Mr. Michener. How long have you been back in San Francisco on this trip?

A. I arrived here, sir, on Sunday, about noon on Sunday.

Q. You mean two days ago? A. Yes, sir.

Q. And before you came here on this occasion, have you talked to [7183] anybody connected with the Government?

A. You mean here locally or——

Q. Or in Los Angeles.

A. I talked to people representing the Government in Los Angeles, yes, sir.

Q. Who are they?

A. Oh, Mr. Hildring and a Mr. Nolan.

Q. Anybody else? A. No.

Q. Did those men tell you that your appearance here was requested? A. They did.

Q. Did they serve you with any subpoena?

A. They did not.

Q. You came up here voluntarily, did you?

A. That is correct.

Mr. Donohue: I object. He did not come here voluntarily. He came here under the order of Your Honor.

The Court: I made an order that he be here.

Mr. Donohue: Your Honor ordered the prosecution to bring him here.

The Court: I made an open order.

Mr. MacInnis: I heard Your Honor, but I suppose the order would have to be enforced by process. In any event, you were told that the Court had asked you to [7184] return and you did return, is that right? A. That is correct, sir.

Q. When you came back here Sunday, did you see any of the men connected with the Government, between that time and now?

A. I have, sir.

Q. Who are they?

A. Mr. Woolly met me at the airport. I rode into town with him on Sunday. I had occasion to see Mr. Kidder on Sunday. The fact of the matter is I stayed with Mr. Kidder since I have been here at his room.

Q. At his room. Where is that?

A. It is over at the Marines Memorial Center.

Q. Did you see anybody else besides Mr. Kidder and Mr. Woolly? A. Yes, sir.

Q. Who else?

A. I have seen Mr. Boyd, Mr. Barber, Mr. Kaiser, Mr. Paisley, Mr. Donohue.

Q. And you told them generally what you would say upon your reappearance upon the witness stand, didn't you?

A. No, frankly there was an article in the Long Beach paper indicating that I was to be ordered back up here, so I asked Mr. Kaiser if it would be permissible for me to look over some of the testimony that I had given here before. I wanted to refresh my memory on that situation regarding a new hat for you, and so I checked over that, and so far as him telling me what to [7185] testify to on, sir, they did not.

(Testimony of Lewis Herbert Michener, Jr.)

Q. I suppose you brought with you this release that you issued after your testimony here?

A. I have brought several of those along plus also some of the other leaflets that were put out against me, too.

Q. Did you show this leaflet to those gentlemen before you took the stand? A. I did, sir.

Q. In other words, you showed it to Mr. Kidder, Mr. Kaiser——

A. I wouldn't say all the gentlemen saw the leaflet.

Q. You showed it, I suppose, to Mr. Donohue and Mr. Kaiser? A. I did, sir.

Q. When did you show it to Mr. Donohue, do you remember? A. I believe on Monday, sir.

Q. Let me ask you this then, Mr. Michener: What did Donohue mean when he said to you a moment ago, "May I see what the witness has in his hand?" and then when it was passed down to him, he put his glasses on and pretended to read this over for the first time. What did he mean by that?

A. I would suggest you ask Mr. Donohue that question.

Q. What kind of an act was that, may I ask you?

Mr. Donohue: Your Honor, I think Mr. MacInnis hasn't called me as a witness. If he wants to call me as a witness, I shall be happy to [7186] testify.

Mr. MacInnis: We are not playing a game of charades, Your Honor.

Mr. Donohue: Let us conduct ourselves like grownup lawyers.

(Testimony of Lewis Herbert Michener, Jr.)

Mr. MacInnis: The prosecutor asks, "May I see what the witness has in his hand?" and he puts on his glasses and studies this paper carefully, reads it over, and then he walks solemnly over and hands it to me as though he had never seen it before in his life.

Mr. Donohue: May I say that Mr. MacInnis' pantomime leaves me cold.

Mr. MacInnis: I have never seen you very warm, Mr. Donohue.

Q. How about these other leaflets which you brought with you, leaflets put out against you? Have you got those?

A. I haven't them on me. They are in my brief-case.

Q. You did not bring those into the courtroom?

A. No, sir.

Mr. MacInnis: May I have the exhibit involving the record of the witness Wilson? [7187]

Q. Can you think of any reason, Mr. Michener, why you would be offered a position with the Federal Government or appointed to one without being required to sign an application?

A. I am not quite clear, Mr. MacInnis, what you have in mind on that question. Can you explain it to me a little?

Q. Yes. A. If you would explain.

Q. Yes. Can you think of any reason why some exception should be made in your case and you should be given an appointment without the necessity of signing any document?

(Testimony of Lewis Herbert Michener, Jr.)

A. Well, I can, yes, sir, I can think of an exception.

Q. You can think of a reason why there was an exception made in your case? A. I can.

Q. What is that?

A. I first of all was appointed to this War Labor Board; I didn't care too much about serving on it in the first place. Then after I had been notified by—I believe it was Mr. Davis, who was the chairman of the Board in Washington, that international president R. J. Thomas had expressed the desire that I serve on this board, and then after I was on the board and had actually started sitting in on a few cases, I got those documents here to fill out and I noticed in there that there was that one situation that Mr. Donohue just read about "your past record," and I didn't want to be embarrassed by filling that out [7188] because I didn't want to bring that situation to light that happened to me when I was a young man that I testified to here in court about my past in Montana.

Q. You mean that you would have been embarrassed in filling out this application and upon that basis you didn't fill it out?

A. That is correct, sir.

Q. By the way, you were shown by the prosecutor this afternoon this document that purports to be a record of your service with the War Labor Board. Had you seen this before?

A. I believe I had, yes, sir. I remember that being typed up.

(Testimony of Lewis Herbert Michener, Jr.)

Q. Where had you seen it?

A. I believe I seen that one there over here at our old offices on Market Street where the War Labor Board had their offices.

Q. Now, so far as this particular document that I have in my hand is concerned, had you seen it before?

A. I would believe—I would say that I had, yes, sir; it seems to me that something similar to that I have seen, at least.

Q. Where?

A. At the War Labor Board office.

Q. When was that?

A. That was, oh, when I first started to serve there or shortly thereafter, but I completely evaded signing it.

Q. You would have been embarrassed to answer those questions, is that it? [7189]

A. That is correct.

Q. Well, now, you didn't tell his Honor or the jury when you were here before that you well remembered that particular document and had seen it in the War Labor Board office, did you?

A. I don't remember I had occasion to answer such a question, sir.

Q. You think you had no opportunity to give that answer; is that your explanation?

A. I wouldn't say I was denied any opportunity here on the witness stand, but the occasion never presented itself.

Q. Now, you remember very clearly, however,

(Testimony of Lewis Herbert Michener, Jr.)

that you did see this document over in the War Labor Board? A. That is correct, sir.

Q. And this is the same document?

A. I would believe it to be the same document.

Q. Now, have you looked over the other papers that are annexed to this document?

A. I have, sir.

Q. Have you ever seen them?

A. I wouldn't—no, I just looked over the papers that were suggested there by Mr. Donohue. I never read the first part of those papers you have there in your hand.

Q. Had you seen any copy of this document between the time you left the witness stand a couple of months ago and today? A. No, sir. [7190]

Q. Did Mr. Donohue or any of these other men tell you that the Government does not purport to represent that this is a full record on your case?

A. No, sir.

Q. Did he tell you that there is an affidavit of a man named Harris P. Shane, some person in authority in Washington attached to these papers, saying that the personnel files of the National War Labor Board are not and were not in his custody during the life of the agency and that he is not responsible and was not responsible for their maintenance; did he tell you that? A. No, sir.

Q. Did he tell you that this man, Mr. Shane, states that he had caused a search to be made for ~~your personnel record and that this file is all that~~ he can find? Did he tell you that? A. No, sir.

(Testimony of Lewis Herbert Michener, Jr.)

Q. Now, did he tell you that this document mentions a copy of an oath of office that you supposedly took but that that particular oath is missing from the file? Did he tell you that? A. No, sir.

Q. Now, you did sign an oath of office, didn't you? A. No, sir.

Q. You never did? Now, has that always been your position?

A. It was the first time I have ever had the occasion to be involved in that type of an affidavit and——

Q. Pardon me. Go ahead. [7191]

A. ——and that would naturally have been my position. I explained the reason why I did not sign that affidavit.

Q. You wouldn't have signed any oath if it were presented to you at the time? A. No, sir.

Q. You would have refused? A. Yes, sir.

Q. Why would you have refused to sign the oath?

A. Because I wasn't particularly interested in serving on that panel anyway.

Q. Now, I would like, if you will, to have you look underneath the clips on the top of this application page and tell us, if you will, the name of the form. You may have to pull some of those staples loose, but go ahead, because we can restaple the papers afterwards.

A. Application for Federal Employment; is that what you have in mind?

Q. Yes. Does it have any form number on it?

A. I can't discover any. [7192]

Mr. MacInnis: May I see it? May we ask that the Clerk abstract that paper?

The Court: Whatever the number is?

Mr. MacInnis: Yes.

The Court: Do you stipulate to the number of the form?

Mr. Donohue: I assume it was Form 57. I will be glad to stipulate that it is whatever it appears to be. I think it is Form 57.

Mr. MacInnis: I would like to make sure. I think that is what it is, but I have a different purpose.

The Court: Will you determine that, Mr. Schaeffer, the form number, please?

The Clerk: Yes, sir.

Mr. MacInnis: If the Government would stipulate that it is a Form 57, we can save demolishing the document. I will accept that. Do you stipulate that that is so?

Mr. Donohue: I am reasonably sure it is.

Mr. Paisley: Let's look at it.

Mr. MacInnis: The Clerk says that is correct, it is Form 57. He has put his finger on the notation.

The Court: All right.

Q. (By Mr. MacInnis): Having that in mind, Mr. Michener, this is the same form that you saw typed out in the office of the Regional War Labor ~~Board some years ago and which you observed,~~ isn't it?

(Testimony of Lewis Herbert Michener, Jr.)

A. Is that the one that refers to having any past arrests? [7193]

Q. Yes, it is.

A. It is the one that I particularly observed, yes, sir.

Q. That is the one that these gentlemen say is Form 57, according to the title; do you remember that?

A. I wouldn't remember the number offhand, no, sir.

Q. But you remembered the document, didn't you? A. I said yes, sir.

Q. With that in mind, let me ask you this: Let's see whether or not you had an opportunity to tell the Court and jury the truth about that fact when you were on the witness stand before. Referring to page 3860 of the transcript, questions by me to you:

> "Q. When did you last see the application that you made for the War Labor Board?
>
> "A. I will tell you. I have no recollection of making an application for the War Labor Board."

Do you remember giving that answer?

A. That is correct.

Mr. MacInnis: Then I said:

> "Well, now, Your Honor, I am going to ask that the Government counsel produce the original of whatever application this man signed, because it is under oath.

(Testimony of Lewis Herbert Michener, Jr.)

> "The Court: There is no indication that any such application has ever been signed."

Myself:

> "Well, Judge, we know that to be true, that he couldn't be on that board without signing it. I think Your Honor can [7194] take judicial notice of that fact. Would Your Honor request the Government to produce such a document if it exists, for I am sure it exists."

And I had another form in my hand at that time. Whereupon Mr. Paisley rose to his feet.

> "Mr. Paisley: Your Honor, all he has there is a Civil Service application blank. That is what he is parading to the witness."

And I said:

> "I am informed that this is the questionnaire that was submitted to persons wishing to qualify for that post, Your Honor."

And the Court said:

> "Qualify for a particular post on the War Labor Board?"

I said:

> "Yes.
>
> "The Court: This is a Civil Service form?
>
> "Mr. Paisley: Yes, sir, regular old form—what is it? Ought to know the number of it. Form 57. Everybody in the federal service has heard of that."

Then I said:

> "Well, I think, Your Honor, that it is entirely in order to request that you order the prosecution to bring in the original form signed by this man, if there is any form.
>
> "Mr. Paisley: Let me see this.
>
> "The Court: Did you sign any application when you were made or caused to be appointed by this board? [7195]
>
> "The Witness: No, Your Honor; to the best of my knowledge, I really didn't."

Now, when that conversation took place between the Court and the lawyers and you, you didn't tell anybody that that form was typed out, according to your present recollection, and that you had evaded signing it for the reasons that you have expressed here, did you?

A. No, I didn't tell the Court at that time the reason why I hadn't signed it. I told you, though, however, that I hadn't signed it.

Q. And when the judge asked you about the explanation you merely told him that to the best of your knowledge you didn't sign it; you didn't tell him that there was such a form and that you recalled it very distinctly, is that right?

A. I didn't—at this time I do not say that I recall that very distinctly.

Q. Were there any forms that you filled out for this position? A. No, sir.

(Testimony of Lewis Herbert Michener, Jr.)

Q None whatsover? That has always been your recollection?

A. That has always been my recollection.

Q. Then what did you mean when you said on page 3863 to the Court:

> "Now there were forms that I filled out."

What did you mean by that?

A. What was the general atmosphere around that question? I [7196] have filled out forms. I have filled out forms for my international union work and other forms, but for this one specific one, no, sir; and I didn't type that in there myself either.

Q. So that when you were asked by the Court the question and made the answer that there were forms that you filled out, you had in mind forms with your union or some other matter?

A. That is correct, sir.

Q. You are quite sure of that? A. Yes, sir.

Q. I will read you the testimony:

> "The Court: After your name was submitted or your nomination suggested, what procedure was adopted toward your serving and receiving the credentials?"

And you said:

> "I was notified by the president of my organization, R. J. Thomas, that I had been appointed and accepted to serve on the board. Now there were forms that I filled out.

Do you remember that?

A. I believe I do.

Q. Is that the truth?

A. That is the truth. [7197]

Q. And what were those forms?

A. Those were—one form was for a transportation card, as I recall, because we were furnished our transportation. I remember that form. I believe, to the best of my recollection, that is the only form that was really connected with myself and the War Labor Board, with one other exception. There was also a credential card issued by the War Labor Board, on which it said to identify the bearer his signature must be on it, and outside of that, sir, to the best of my recollection, that is the only forms that I was involved with in connection with that War Labor Board service.

Q. As you tell us today, of course, for the reasons that you have expressed, you did not take the oath?

A. I did not, sir.

Q. Then what did you mean on page 3863 when you made this answer to the Court:

> "The Court: Did you take an oath of any kind looking toward your service upon that board?"

And your answer:

> "It seems to me that there was a regular—an oath that I would serve to the best of my ability and not—and so forth and so on, and not"——

(Testimony of Lewis Herbert Michener, Jr.)

A. There might possibly still—could be that slip also, but to the best of my recollections, I don't recall it.

Q. Well, now, which is true, the fact that you did take some [7198] oath or the fact which you announced a few minutes ago that you did not take the oath because you evaded it?

A. Well, I would say right here and now that I didn't sign the oath.

Q. Let me ask you this: When you gave that answer in response to the Court's question, that wasn't the truth, is that it?

A. I wouldn't say it wasn't. I don't intend to misrepresent anything here.

Q. Let's see if I am misrepresenting anything.

> "The Court (to you): Did you take an oath of any kind looking toward your service upon that board?
>
> "The Witness: It seems to me that there was a regular—an oath that I would serve to the best of my ability and not—and so forth and so on."

That was your answer, wasn't it?

A. It was, sir.

Q. Now, you said a few minutes ago that when you were here before you weren't given any opportunity by the questions to tell the jury about this form that was filled out in the War Labor Board on the typewriter without your signing it, is that correct?

A. I did not indicate that I did not have the opportunity. The question was not really placed to me. I told you that I had not signed that affidavit then, and I repeat it again now that I didn't sign that application. [7199]

Q. Do you remember that when these questions were being put to you I had in my hand the civil service application blank, this so-called Form 57?

A. It seems to me that I do remember that, yes, sir.

Q. And do you remember the Court asking you this question, again page 3863:

> "The Court: Was it on a comparable form to that submitted, as referred to by Mr. Paisley as Form 57?"

And your answer:

> "I really—my honest opinion of it, your Honor, I don't believe it was."

Why didn't you tell the Court and the jury that you went over to the War Labor Board, according to what you tell us today, and had this Form 57 filled out on the typewriter because you wanted to evade giving certain answers?

A. I couldn't tell the Court that, sir; that wouldn't be the true set of circumstances. I never went over there and had them fill it out on a typewriter. That was not done at my request.

Q. Didn't I understand you to tell us a few minutes ago that you were over in the War Labor Board office and that form shown you today as an exhibit in this case was typed in your presence?

(Testimony of Lewis Herbert Michener, Jr.)

A. I didn't say typed in my presence, I don't believe.

Q. You said you saw it before? [7200]

A. I saw that typed?

Q. You saw it, didn't you?

A. That's right, sir.

Q. Then when the Court asked you, "Was it on a comparable form to that submitted, as referred to by Mr. Paisley as Form 57," and you answered, "I really—my honest opinion of it, your Honor, I don't believe it was," what were you trying to get the Court and jury to believe?

A. I was trying to get the Court and jury to believe exactly what I meant there. I hadn't had an opportunity to see that document there to refresh my memory. It was many years ago that this transpired, and I really coun't identify that form that you had in your hand at that time honestly here.

Q. Well, do you remember that then there was a discussion between the Court and the lawyers about whether a search should be made for your record? Do you remember that?

A. I remember that, yes, sir.

Q. You remember the Government counsel said that he did not know if there was any such document; do you remember that?

A. I don't know whether those are the exact words or not, sir.

Q. Do you remember——

(Testimony of Lewis Herbert Michener, Jr.)

A. I remember there was a discussion about it, however.

Q. You remember I asked for the document?

A. Yes.

Q. And you remember that the Court said this to me: [7201]

> "Well, of course, counsel, you base your request upon the suggestion that there is an original."

And I said:

> "Oh, I know that to be true.
>
> "Mr. Paisley: How does he know it, sir?
>
> "The Court: Any document that may be in existence or have a reality, under these circumstances, I will order produced. But I would not make an order with respect to a non-existent document."

Now, when the Court said that, why didn't you volunteer that there was such a document; that you had seen it over in the War Labor Board? You didn't do that, did you?

A. Apparently I did not. [7202]

Q. You did not see him, did you?

A. Apparently I did not.

Q. And then there was a further discussion. I will ask you if you remember this. On page 3865, after I had made another request that this document be produced, the Court said to the prosecution:

> "The Court: Mr. Donohue or Mr. Paisley, do you have knowledge whether these documents are now in existence here?
>
> "Mr. Donohue: I never heard of it, if your Honor please. In fact, I am wholly unfamiliar with what the War Labor Board is or was."

Do you remember that?

A. I remember words to that effect, yes, sir.

Q. When that was said why didn't you tell the Court that there was such a document, that you remembered it, that you had evaded signing it, that you had seen it in its typed form?

Mr. Paisley: I do not think that is a fair question, your Honor. The witness is not required to volunteer information. That was colloquy between the Court and counsel.

The Court: He may answer the question if it is clear to him?

Q. Do you understand that?

A. Yes, your Honor.

The Court: He may answer.

A. To the best of my knowledge, at that time I did not knew [7203] that the document was in effect. The War Labor Board had gone out of existence. I did not know where these records were at all, even if there was one at that time, so I couldn't volunteer and tell His Honor where them records were. I never had no copies of them.

Q. (By Mr. MacInnis): Do you remember the record without seeing it, don't you?

(Testimony of Lewis Herbert Michener, Jr.)

A. When it is identified here now,—if it was on a blank piece of paper without that typing on there, I doubt whether I would have honestly been able to identify that for you today.

Q. You would not have remembered that either, is that right? A. That is correct, sir.

Q. Let me ask you one or two more questions about the credit that one can attach to your statements in this court. Do you remember the general examination of yourself by Mr. Paisley, the prosecutor who examined you?

A. It would be hard for me to retrace everything word by word.

Q. Do you remember this, that he asked you in your direct examination:

> "Have you ever had a Communist Party card?"

and your answer on page 3706 was: "I never possessed a card or a card was never issued to me." Do you ever remember making that statement?

A. I do.

Q. Was that the truth? [7204]

A. That was the truth.

Q. Do you remember when you were examined further upon this same subject, largely by myself, and the same question was put to you a day later, and I said, "Were you ever given a membership card?" and then you answered, "I was not personally given a membership card. My wife takes care of my card for me and my stamps."

(Testimony of Lewis Herbert Michener, Jr.)

A. That is correct, sir.

Q. That was true, too?

A. That is correct, sir.

Q. Both of those statements were correct?

A. Yes, sir.

Q. Do you remember that we pursued that subject a little further? Do you remember that? We had some more discussion about that, about your wife holding your Communist Party card? Do you remember that?

A. I can't refresh my memory, as I indicated earlier to you, word by word what went on. If you have something there to make reference to——

Q. Yes. I asked you this question:

> "Was that true, right through until the time you left the Communist Party, from 1938 right through until 1944?"

And your answer:

> "I couldn't vouch for the last month or two months of 1944 because—but up until the last two months of 1944, until [7205] the time I married my second wife, that arrangement was in effect, yes, sir."

Do you remember that answer?

A. Yes, sir.

Q. Now, of course you had not married your second wife? A. That is correct.

Q. Until you had been a member of the Communist Party, according to you, for some years.

(Testimony of Lewis Herbert Michener, Jr.)

A. That is correct.

Q. How many years?

A. There would have been a period there, '38, '39, '40—about four years, approximately.

Q. You knew that while you were married to that lady that she was holding your Communist Party card, don't you?

A. That is right.

Q. You were well aware of that?

A. Yes, sir.

Q. Being well aware of that, Mr. Michener, why did you give this answer: I asked you this question:

> "How soon after you signed this application card—referring to your original entry to the Communist Party—did you discover that in the possession of your wife was your membership card?
>
> "A. Oh, that was a matter of years.
>
> "Q. You did not discover it for [7206] years?
>
> "A. That is right."

Do you remember giving that testimony?

A. I do.

Q. Was that true also?

A. I think that might call for an explanation if you want one.

Q. You have given many explanations: I will come to the one that you then gave. We pursued that point for a few pages and I asked you if that answer was true about your discovery of the card in the possession of your second wife, your previous statement that no card was ever issued to you, and then you said that the Communist Party itself held your card for you.

A. That is correct, for the first period of years when I was not married to my second wife.

Q. In other words, Mr. Michener, if no one had asked you any questions upon the first statement that you made when you were examined by Mr. Paisley, and when you said, "No Communist card was ever issued to me," the Court and jury would have left with a false impression, isn't that true?

A. I don't believe so.

Q. It was only by questioning you four or five times that you finally made different varieties of answers to cover those years, isn't that right?

A. I wouldn't say there was a variety of answers. I think summarized they all add up to practically the same thing.

Q. You think they do? [7207]

A. Yes, sir.

Q. You think the last answer is the same as the first statement that you made: "No Communist Party card was ever issued to me"?

A. That is right. I never carried a Communist Party card. I so testified.

Q. Isn't it much like the other piece of testimony that you gave in the case? You told us that you came up to San Francisco some time in 1940 and that you went to ~~some meeting here and that~~ you stayed at the Shaw Hotel. Now, I asked you whether you stayed there alone or whether you stayed there with this man named Klein. Do you remember your reply?

A. I don't recall offhand.

Q. What is your memory now as to whether you stayed with him?

A. As I indicated in the first answer there, I thought I had registered there at the hotel and stayed there by myself, but later on it was developed that there was somebody else there and it could have been possible that it was Paul Klein. So many years had elapsed since that happened.

Q. Yes, like the War Labor Board. I asked you this question:

> "Did you stay there alone or with any other person?"

and you answered:

> "Stayed there alone."

Do you remember that?

A. That is right.

Q. And then a card was shown you a couple of days later, a [7208] hotel registration card, for a date in August showing you at the hotel in a room with some man whose name was not Klein, isn't that right? A. That is correct.

Q. Some other name, a fictitious name?

A. That is correct.

Q. Or the name of some other person, then for the first time you said, "Oh, that was Mr. Klein who was staying with me."

A. Didn't I say it could have been possible it was Mr. Klein? Not too definite about it.

Q. You are about as definite on that as you have been on these other matters, including the War Labor Board, is that true?

A. I think that is your opinion, sir.

Mr. MacInnis: That is all.

Mr. Donohue: At this time, if your Honor please, I offer the file of Mr. Michener as provided for us by the Acting Secretary of Labor in evidence.

Mr. MacInnis: With the understanding that it is an incomplete record—it states upon its face that it is incomplete.

The Court: The record may be admitted and received in evidence and appropriately marked in the light of the attendant testimony. Whatever marking is on the file, of course, remains on the file.

Mr. Donohue: May the witness be excused, if your Honor please? [7209]

The Court: Yes.

(U. S. Exhibit No. 37 was thereupon received in evidence.)

Mr. Donohue: May I say to your Honor that in the morning we may call one additional witness. If we do, he will be a short witness. We may determine before that time to call no additional witnesses, but I shall notify your Honor at the opening session in the morning.

The Court: At 10:00 o'clock.

Mr. Donohue: Yes, your Honor.

Mr. Hallinan: Then we will prepare to proceed with our surrebuttal.

The Court: All right.

Ladies and gentlemen of the jury, we will adjourn court until tomorrow morning at 10:00 o'clock. The same admonition to you not to discuss the case under any conditions or to form or express an opinion until the matter is finally submitted to you.

(Thereupon an adjournment was taken to tomorrow, Wednesday, March 8, 1950, at 10:00 o'clock a.m.) [7210]

Wednesday, March 8, 1950—10:00 A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The witness recalled by the prosecution is Mr. George H. Wilson, heretofore sworn.

The Court: You may proceed.

GEORGE H. WILSON

recalled for the Government in rebuttal; previously sworn.

Direct Examination

By Mr. Donohue:

Q. Mr. Wilson, it has been testified here that when you heretofore appeared as a witness you did so under a threat by the United States that were you not to testify you would yourself be subjected to a prosecution. Is that true or false?

(Testimony of George H. Wilson.)

A. Well, it is not true. I had committed no offense that I was aware of, and there was no threat of prosecution.

Q. It has been testified here, Mr. Wilson, that you were told by one of your two employers that were you not to testify you would lose your position. Is that true or false?

A. That is false.

Q. When you testified here before, Mr. Wilson, was your testimony truthful?

A. It was. [7211]

Mr. Hallinan: I object to that as calling for the opinion and conclusion of the witness and ask the answer be stricken out.

Mr. Donohue: I ask the question on the basis, if your Honor please, that it has been testified to by the defendants that the testimony Mr. Wilson gave was not true.

The Court: The objection is overruled. Mr. Wilson, you may answer.

Mr. Donohue: You may have the witness.

Mr. Hallinan: No questions.

Mr. Donohue: Thank you, Mr. Wilson.

The Government rests, if your Honor please.

The Court: Mr. Wilson is excused.

(Government rests in rebuttal.)

Mr. MacInnis: Call Mrs. Teixeira.

MRS. BETTY TEIXEIRA

called for the defendants in surrebuttal; sworn.

The Clerk: Will you state your full name to the jury.

The Witness: Betty Teixeira.

The Clerk: Will you spell your last name.

The Witness: T-e-i-x-e-i-r-a.

Direct Examination

By Mr. MacInnis:

Q. What is your address, Mrs. Teixeira? [7212]

A. Route 2, Box 237-L, Mountain View.

Q. What is the name of your husband?

A. John Teixeira.

Q. Have you lived for many years within the State of California? A. Yes, I have.

Q. And you were born where?

A. In Fort Worth, Texas.

Q. And came to the State of California with your family when? A. About 1928.

Q. To what city or place did you come?

A. Los Angeles.

Q. And your family at that time consisted of what other persons in addition to yourself?

A. My mother, my father and my brother.

Q. Now, how long did you live in Los Angeles?

A. Until 1941.

Q. You were educated in that particular region?

A. Yes, I was.

Q. What schools did you attend?

A. Menlo Grammar, Leconte Junior High

(Testimony of Mrs. Betty Teixeira.)

School, Hollywood High School, Los Angeles City College, and for a short time the University of California at Los Angeles.

Q. Did you complete the course or graduate at the school which is called the Los Angeles City College? A. Yes, I did. [7213]

Q. Did you hold any office within the structure of the school while you attended that institution?

A. Yes, I was on the Student Council and then later I was elected Student Body President.

Q. That was in what year? A. In 1939.

Q. So that when you graduated from that school you would have attended UCLA, I suppose, as a junior? A. That's right.

Q. And that was in what year?

A. Starting in September of '40 and ending in January of '41.

Q. Did you leave UCLA? A. Yes, I did.

Q. Under what circumstances did you terminate your schooling? A. I was married.

Q. What had been your maiden name?

A. Betty Magruder.

Q. That is M-a-g-r-u-d-e-er?

A. That's right.

Q. Where did you marry and whom did you marry?

A. I married in Montecito, which is near Santa Barbara, to Robert Miller Green.

Q. Who is Robert Miller Green?

A. He was an attorney and a member of the California State Legislature. [7214]

(Testimony of Mrs. Betty Teixeira.)

Q. You mean an assemblyman, is that correct?

A. That's right.

Q. Was he a resident of San Francisco?

A. Yes, he was.

Q. And did he later become a member of the Board of Supervisors in San Francisco?

A. Yes, he did.

Q. During the time that you were married to him? A. That's right.

Q. Now, you came to San Francisco, then, about the time of your marriage to Mr. Robert Miller Green, is that true? A. That's right.

Q. And lived here at what address?

A. In 214 - 19th Avenue, and then later at 45th and Point Lobos.

Q. While you were married to Mr. Green did you ever meet a man called Mervyn Rathborne?

A. Yes, I did. [7215]

Q. Can you tell us generally the time of that meeting and the circumstances which attended it?

A. My husband had occasion to meet with labor leaders at times, and one time he was present with Mr. Rathborne, and we were introduced by Mr. San Jule.

Q. Who is Mr. San Jule?

A. He was a legislative director for the CIO.

Q. I see. Now, at the time you were introduced to Mr. Rathborne, was your husband a member of the State Legislature, or had he yet become a San Francisco supervisor?

(Testimony of Mrs. Betty Teixeira.)

A. He was a member of the San Francisco Board of Supervisors.

Q. And did you tell us the approximate year of that meeting?

A. I believe it was in April of 1942.

Q. Now after that event, and carrying your memory forward about a year, did you see Mr. Rathborne once, more than once, or not at all during that time?

A. The next time I saw him was in 1943, when I asked him for a job with the CIO.

Q. In other words, about a year had transpired between that first meeting?

A. (Nodding in the affirmative.)

Q. Were you and your husband members of any organization, social or otherwise, in San Francisco, that was formed during the war along with Mervyn Rathborne?

A. Yes, I was a member of an organization called the American [7216] Youth for Democracy, and my husband was a sponsor of the organization; and Mervyn Rathborne also was a sponsor.

Q. Where was that, or when was that organization formed, if you know? A. 1943.

Q. I see. And do you recall offhand any other persons in San Francisco public life who were sponsors of the organization?

A. I believe that Harold Boyd, the comptroller of——

Q. Harold Boyd, the comptroller of the City and County, was also a sponsor? A. Yes.

(Testimony of Mrs. Betty Teixeira.)

Q. Now, what were your activities in that organization in so far as they might have put you into contact with Mervyn Rathborne?

A. The organization was interested in youth problems and in youth in the trade union movement. I don't recall ever having any conversations with Mervyn Rathborne, however.

Mr. MacInnis: Can everyone hear this lady? I think if you will move the microphone in front of her?

(Microphone adjusted.)

Q. (By Mr. MacInnis): Now, you say that in 1943 you went to see Mervyn Rathborne and asked him for a job? A. Yes, I did.

Q. And what was the circumstance of that meeting?

A. He told me that—I told him the kind of work that I had been doing in political campaigns, and he said that if anything like [7217] that came up, he would keep it, keep me in mind and he would discuss it with the other members of the CIO, and he would let me know.

Q. Well, what kind of political campaign work had you been doing that would qualify you for some sort of job?

A. Work—the most recent campaign work I had done was in the campaign of Dan Deasy for the State Assembly.

Q. That is Daniel Deasy, who was a member of the prosecuting staff in the United States Attorney's office here? A. That's right.

(Testimony of Mrs. Betty Teixeira.)

Q. And what was the year in which you had done that work?

A. It was election year. I don't know whether it was '42 or '43.

Q. Well, now, did Mr. Rathborne either obtain for you or recommend any job at that time?

A. Not at that time. Later.

Q. What did develop?

A. In March of the next year, the secretary called me and I went to his office and he asked me if I would like to work, do political work for the CIO and offered me a job that was to begin in about a month. And then a few days, he called me and said that there was another job that would come up immediately, working for Local 6.

Q. What is Local 6?

A. It is the warehouse union in the [7218] ILWU.

Q. Now, you say that was to be political work?

A. Yes.

Q. What was the nature of that work?

A. Attending meetings and helping in registration work, helping in the opening of some headquarters and getting people who were trade union people interested in political campaigns, getting volunteers from the trade union movement to work in the campaigns.

Q. Well, now, was that work in connection with the candidacy of any particular person?

~~A. Franck Havenner.~~

Q. The work that you did under the sponsorship

(Testimony of Mrs. Betty Teixeira.)

of Local 6 was for Franck Havenner, is that correct? A. That's right.

Q. Now, when that job terminated, as you say it was a short one, did you go to work for the CIO itself?

A. I worked for the State Council then.

Q. By "State Council," do you mean the State Council of the CIO? A. The CIO.

Q. And what was the nature of that work and what were your duties?

A. My duties were in connection with political campaigns then in San Mateo and Santa Clara Counties.

Q. And where was your office?

A. The State Council office I worked out of was in San Francisco, [7219] but I was assigned more or less to the field. I didn't come into the office very often.

Q. Well; now, was your work under the supervision of Mervyn Rathborne? A. Yes, it was.

Q. And during the continuance of that job, how often did you see Mervyn Rathborne?

A. Sometimes two or three times a week, sometimes only once a week.

Q. And the job continued from some time in the spring of that year 1943, until when?

A. Until November the 19th——

Q. Pardon me, 1944.

A. Until November of 1944.

Q. That was the general election?

A. That was.

(Testimony of Mrs. Betty Teixeira.)

Q. And the job then terminated, did it?

A. Yes, with the general election.

Q. And in 1945 did you undertake any employment?

A. Yes, I went to work in Sacramento for Arthur Samish.

Q. Arthur Samish?

A. (Nodding in the affirmative.)

Q. And what was the nature of the job you had for him?

A. It was called a legislative observer or watcher. I went to committee meetings, took notes and made written reports to him. [7220]

Q. And that job, I suppose, lasted during the continuance of the legislative session in 1945?

A. Yes, it did.

Q. Which would be over what period of months?

A. From March until the end of June.

Q. Well, now, in those months from March until the end of June of 1945, were you thrown into contact again with the same person, Mervyn Rathborne?

A. Yes, he was the CIO legislative representative in Sacramento; he was there about half of the session.

Q. And under what circumstances did you see Mr. Rathborne during those months?

A. In committee meetings or in the Assembly gallery. Sometimes we had coffee after a committee meeting.

Q. What would be the general purpose of your meeting with Mr. Rathborne? Would they be social or would they be business at that time?

A. Just discussing what had transpired during the day in the committee meeting, or the Assembly meeting.

Q. Now, in that particular year, 1945, did your social connections with Mr. Rathborne extend beyond having an occasional cup of coffee? That is, did you ever have dinner with him or anything like that? A. No, not that I recall.

Q. I see. And then in June of 1945 your employment with the [7221] legislature stopped?

A. That's right.

Q. Now, for the balance of that year, 1945, did you undertake any kind of work?

A. No, I didn't work any more in 1945.

Q. Now, as I understand it, you were ultimately divorced from Mr. Green? A. Yes.

Q. And when did your separation from Mr. Green take place?

A. I got my interlocutory decree of divorce in February of 1946.

Q. I see. Well, were you separated from Mr. Green in the spring of 1945 when you were working in Sacramento?

A. Yes, we had the understanding then that we were going to be divorced.

Q. I see. And did you in fact obtain a divorce, as you say, in February of 1946?

~~A. That's right.~~

Q. Now, what did you do for the balance of the

(Testimony of Mrs. Betty Teixeira.)

year 1946, so far as your own occupation was concerned? A. I went to Los Angeles.

Q. To live with whom? A. My mother.

Q. Now, you stayed in Los Angeles from around February of 1946 until what other date? [7222]

A. Until I returned to Sacramento the following year.

Q. And that would be, I suppose, in the early spring of '47? A. That's right.

Q. Well, now, between February of 1946 and the end of that year, while you were living with your mother in Los Angeles, did you see or hear from Mervyn Rathborne?

A. Yes, I did. He called me once or twice in Los Angeles when he was on State Council business in Los Angeles.

Q. Now, when you say he called you, do you mean on the telephone or personally?

A. Once I spoke to him on the telephone, as I remember, and the other time he called about dinner.

Q. He took you to dinner some time in the year 1946? A. Yes.

Q. In Los Angeles? A. In Los Angeles.

Q. Now, previous to that period of time, had you become acquainted with a young lady named Jean Murray?

A. Yes, I met her in Sacramento in 1944.

Q. And had you and she become friends?

A. Yes, we had.

(Testimony of Mrs. Betty Teixeira.)

Q. Now, to your knowledge was Jean Murray also an acquaintance of Mervyn Rathborne?

A. She knew him in the course of her work.

Q. I mean, that was known to you, was it? [7223]

A. Yes.

Q. Now, on the occasion when Mervyn Rathborne took you to dinner in Los Angeles in 1946, was there any conversation had between you concerning Jean Murray?

A. Yes, he was very interested in knowing about her. He asked me her address, he said he had been attempting to locate her, and he couldn't find out where she lived. He was also interested in knowing if she was still living with her husband.

Q. In other words, he asked you questions about Jean Murray? A. He did.

Q. Now, did you give him any particular answer to those questions? Did you tell him how he could find her or words to that effect?

A. Yes, I did. [7224]

Q. Now, did you see Mr. Rathborne otherwise during the year 1946?

A. I don't recall having seen him.

Q. Now, in 1947 you say you went back to work in Sacramento? A. Yes, I did.

Q. Was that for the same employer, Mr. Samish?

A. Yes, it was. When you asked me if I had worked during 1945 up until the time I went to Los Angeles, I did work again in Sacramento in January, 1946.

Q. For whom was that work?

(Testimony of Mrs. Betty Teixeira.)

A. The same employer.

Q. For Mr. Samish? A. Yes.

Q. Was there some special session of the Legislature? A. Special session, six weeks.

Q. What was the nature of your work in the State Legislature? A. For Mr. Samish?

Q. Yes.

A. I was, as I said before, a watcher or a legislative observer. I attended committee meetings, took notes and typed reports.

Q. In other words, you made reports of on-the-scene activity to your employer?

A. Yes; usually my work was in the afternoon, and then at night committee meetings started at eight o'clock and ran quite late. I typed my work up at night and put in a report the [7225] next day.

Q. While in Sacramento in the spring of 1947 at that legislative session did you again come into contact with Mervyn Rathborne?

A. Yes, I saw him quite frequently during that session. He was again CIO legislative representative.

Q. Would you say that your contacts with Mervyn Rathborne were more frequent in 1947 than they had been before?

A. Much more frequent.

Q. How often did you see him?

A. Sometimes at least—usually daily if he was in town.

Q. Up to that time, that is, prior to 1947, I suppose your relations with Mr. Rathborne had been cordial, had they? A. Yes.

Q. Before that time had you been actually friendly toward each other?

A. I would say so.

Q. And did that friendship continue during 1947? A. Yes.

Q. What would be the general circumstances and the nature of any meetings that you had with Mervyn Rathborne in Sacramento in the spring of 1947?

A. We often attended the same committee meetings, and sometimes he didn't attend meetings and he frequently took me to dinner, which was the only free hour I had, to find out what had gone on when he wasn't there. [7226]

Q. In other words, you would bring him up to date on his own work due to his absence?

A. Sometimes.

Q. Now, you say that dinner was the only free hour that you had. Were you working nights?

A. I worked almost every night. The only nights I didn't work would be when a committee failed to meet.

Q. Now, about how many times during the spring of 1947 did you have conversations with Mervyn Rathborne?

A. Many times. I couldn't estimate the number.

Q. By "many" do you mean a large number?

A. Yes.

Q. You mean fifty, a hundred——

(Testimony of Mrs. Betty Teixeira.)

A. Well, not a hundred; closer to fifty.

Q. You say closer to fifty. How many occasions would those conversations have taken place at dinner? A. Oh, a dozen or so.

Q. About a dozen times. And the other conversations would take place where?

A. In committee meeting or the Assembly gallery.

Q. And you would see him almost every day during that period of time?

A. If he was attending the session, yes.

Q. And you were of course a divorced woman during that period of your life? [7227]

A. Yes, I was.

Q. Before that time had you known that Mervyn Rathborne was married? A. Yes, I did.

Q. And had you met his wife? A. I had.

Q. And you had been to his home, in fact?

A. I had dinner there once, I remember.

Q. What was the circumstance of going to Mr. Rathborne's home and about when did it take place?

A. That was in 1944 when I was making a report of the progress of my work.

Q. Now, with all of those factors in mind, how would you characterize your general regard for Mr. Rathborne, or what was your relationship with him, could you tell us that?

A. Well, he is rather hard to characterize. At times he was a very likeable person, was interesting to talk to; but then there would be other things about him that everyone knew. He drank very heavily and gambled. You might say he was two people. He was frequently seen in the company of women in Sacramento.

Q. Well, what I mean by the question is this: You knew this man was married and you knew that he was seen in the company of many women, but you say you did have dinner with him. What would be the general reason for that conduct?

A. We discussed the business of the Legislature at that time. [7228]

Q. Well, now, did you have any conversation with Mervyn Rathborne in which he told you generally about his personal troubles?

A. Yes, he did.

Q. For example,——

A. He seemed to be a very worried person at that time.

Q. Now, for example, did you ever have any conversation with him in the late spring of 1947 concerning Jean Murray?

A. Yes, sir, he did. He told me once that he was contemplating a divorce and that he was thinking of asking Jean Murray to marry him.

Q. Did he tell you whether he had followed that through by activity or statement?

A. He later said that he had and that she had more or less scoffed at him, and he was quite hurt about it.

Q. And that conversation or that revelation was made to you about when?

A. In the late spring of '47.

(Testimony of Mrs. Betty Teixeira.)

Q. Now, in 1947 in the spring was Jean Murray also engaged in any kind of work at Sacramento?

A. No; she visited me for about ten days in Sacramento.

Q. Did you and Jean Murray and Rathborne ever have dinner together, that is, the three of you?

A. Yes, we did.

Q. About how many times did that situation take place? [7229]

A. Two or three times.

Q. And what was the reason for it? Did he actually ask the two of you to go with him?

A. As a matter of fact, he would ask one of us, and we would both show up.

Q. What was the reason for that?

A. More or less of a joke.

Q. By 1947 would you say that you knew Mervyn Rathborne well? A. Yes, sir.

Q. Did you ever have any conversation with him concerning whether or not he was a member of the Communist Party?

A. He told me that he had been a member of the Communist Party, but that he was in trouble with the Communist Party, having arguments, and that he thought he would get out of it; that he thought the Communist Party was losing its influence and that he was about to be expelled, and he thought he would just get out first.

Q. When did he first tell you that?

A. The first time he told me that was in the late spring of '47.

(Testimony of Mrs. Betty Teixeira.)

Q. That was the period of time in which you saw him most? A. That's right.

Q. That is, as compared to any other period in your life? A. Yes. [7230]

Q. During that same period of time did Mr. Rathborne ever have any conversations with you in which the subject of the conversation was Harry Bridges?

A. Yes, he did. He told me that the Communist Party had been attempting to get him to resign as secretary-treasurer of the State Council CIO and that the Communist Party circulated a rumor that there was a rift between him and Harry Bridges, and that Harry Bridges had denied this and had said that it wasn't true and had supported Mervyn Rathborne.

Q. Well, did he tell you that Bridges had taken any position against the Communist Party?

A. He said that he had said that the Communist Party—had attacked the Communist Party for doing this.

Q. What did he tell you Bridges had said about the Communist Party for that activity?

A. That the sources were unreliable.

Q. Did Rathborne show you any public releases?

A. He showed me a typewritten copy of a press release that Harry Bridges made denying the report that there was a split between him and Rathborne.

Q. And did the statement make any characterization of the persons spreading the rumor?

(Testimony of Mrs. Betty Teixeira.)

A. That the sources were unreliable.

Q. Yes. Now, did Rathborne around that period of time have any conversation with you concerning his leaving the Communist [7231] Party or concerning the fact that the Communist Party was putting him out, whichever it was?

A. Yes, he did. He said he considered the influence of the Communist Party waning and that he decided that he was going to get out of it.

Q. When had he told you that in point of time, as best you can remember?

A. In the spring of '47.

Q. By the way, you made a statement a few moments ago about some knowledge of the personal habits of Mr. Rathborne. Did Mr. Rathborne ever tell you anything concerning an incident in which he had given a CIO Council check to pay a poker debt?

A. Yes, he did; he got in considerable trouble about that. He said he had his checkbooks mixed up, and he had written a check on the State Council to pay a poker debt.

Q. That is what he told you at the time in explanation of it?

A. Yes. I think he said they later got it straightened around on the books.

Q. Now, tell me this: When did your employment of 1947 with the State Legislature end?

A. In June of 1947.

Q. Now, did you undertake any job or employment for the balance of that year?

(Testimony of Mrs. Betty Teixeira.)

A. Yes, I worked for the telephone company.

Q. Where was that? [7232]

A. In Redwood City and Palo Alto.

Q. And did you live down the Peninsula at that time? A. Yes, I did.

Q. Now, for the balance of that year, the autumn and early winter of 1947, did you see any more of Mervyn Rathborne?

A. Several times. I became active in the local county CIO Council in San Mateo County, and Mervyn Rathborne was a delegate to that organization from the radio—from the American Communiations Association.

Q. About how often did you see him in that period of time?

A. He didn't attend the meetings regularly. I would say two or three times.

Q. Well, now, toward the end of the year 1947 did you have any conversation with Mr. Mervyn Rathborne about his leaving the CIO?

A. I knew he was resigning as State secretary-treasurer.

Q. Well, did he tell you anything about leaving, and did he mention anything in respect to the activity of Harry Bridges at the time he left the CIO?

A. He always spoke very well of Harry Bridges. I don't recall any specific instance.

Q. Well, did he tell you—and just give us your memory of what he said to you—did he tell you about anything that Bridges had done or said concerning him at the time he left the CIO? [7233]

(Testimony of Mrs. Betty Teixeira.)

A. At the time after the State Council—after he resigned from this job with the State Council, Harry Bridges got up a fund, I think of $250.

Q. To give to Rathborne? A. Yes.

Q. Did Rathborne tell you that?

Yes, he did.

Q. Now, in 1948 what was your general occupation?

A. I worked for the telephone company for a while. I worked for one month in Sacramento again, and then I did telephone work after that.

Q. Was your work in Sacramento with the same employer? A. Yes, it was.

Q. Was there some other special session of the Legislature?

A. What they call a budget session.

Q. And you covered that for Mr. Samish?

A. Yes.

Q. I suppose you didn't see Rathborne at that time?

A. No, he was no longer in the CIO.

Q. Was he at Sacramento at all in that period?

A. No.

Q. Now, early in 1948 did you have any conversation with Mervyn Rathborne?

A. Yes. One occasion I saw him in Redwood City, and he was very worried over his financial problems. He wasn't employed at [7234] all, and he was attempting to ship again, and he told me that he was having some trouble, he might lose his home, because he had had it remodeled and the bank wouldn't cover the loan on it and he had a short-term note on it and he didn't know how he was going to get the money to meet that note. He said that he had an opportunity to buy some land in Half Moon Bay that would later become very valuable. I think he said he was getting it at a tax sale, but he didn't know how he was going to get the money to buy it. In fact, he told me if I had a couple of hundred dollars, that it would turn out later to be very valuable land.

Q. Did you see Mervyn Rathborne again in the year 1948 at all?

A. In October—in February he attended a San Mateo County CIO Council meeting, and that was the meeting at which I was elected secretary-treasurer of the San Mateo County CIO Council. After that meeting he told me that he had been offered a job by the national CIO as administrator in the event that the national CIO took over the State Council and put in an administrator.

Q. In other words,——

A. He said that he had refused that, however.

Q. That was after he had left his job here in San Francisco? A. That is right.

Q. Toward the end of 1948 after the re-election of President Truman, did you have any meetings with Mervyn Rathborne?

A. Just immediately prior to the election I saw him at a [7235] Democratic luncheon, I think it was the Sunday before the election, and he looked a little better then. I asked him if he had gotten

(Testimony of Mrs. Betty Teixeira.)

his financial troubles settled all right, and he said he had; that he had gotten the loan on his house taken care of, and that he had won a great deal of money at poker while at sea.

Q. Did he say how much he had won?

A. He said a thousand dollars he had won in cash.

Q. Now, in the meantime had you remarried?

A. Yes, I had. [7236]

Q. When did you marry your present husband?

A. In September of 1948.

Q. September, 1948?

A. (Nodding in the affirmative.)

Q. Now, was your husband with you at this meeting in late 1948 when you encountered——

A. Yes, he was at the same Democratic breakfast.

Q. And he was with you when you encountered Rathborne? A. Yes, he was.

Q. Now, after that occasion in late 1948, when next did you see Mervyn Rathborne?

A. I assume in Redwood City; I believe it was in January of 1949.

Q. And what was the general circumstance of that meeting and what conversation, if any, did you have?

A. That was the first time I ever heard him talk against the waterfront unions. He talked against the waterfront strike. He didn't say anything against Bridges, though, even at that time.

Q. I see. Now, at any time in your relationship

(Testimony of Mrs. Betty Teixeira.)

with Rathborne up to the month of December of 1949, had you ever heard him utter a word against Harry Bridges? A. I never had.

Q. Had he ever said to you, on any of these many conversations, that he considered Harry Bridges a member of the Communist Party?

A. He never did. [7237]

Q. Did you see Mervyn Rathborne at all after this meeting on the street in 1949, January, in Redwood City until last December?

A. I may have seen him twice in January or February, but not after that, until I visited him in Half Moon Bay.

Q. Now, what kind of meetings were those, just chance encounters? A. That's right.

Q. On the street?

A. Yes, I believe he said that in the course of his real estate business he went to the title company in Redwood City.

Q. And were your meetings with him in Redwood City at that time? A. Yes.

Q. Well, now, coming up to these later matters, let me ask you this: Have you ever met Harry Bridges? A. Yes.

Q. When did you meet him?

A. At the same time I met Mervyn Rathborne.

Q. Back in 1942? A. '42.

Q. And had you seen Mr. Bridges from time to time over the years?

A. During the time that I worked for the CIO, I saw him at meetings that I attended.

(Testimony of Mrs. Betty Teixeira.)

Q. And did you have a friendly regard toward Mr. Bridges? A. Yes, we did.

Q. Did you visit Mr. Bridges or make known to him anything [7238] concerning Mervyn Rathborne in the fall of 1949?

A. Yes, I did, when I read in the paper that Mr. Rathborne had become a witness against Bridges; I was quite shocked because he had never in any way indicated anything of the nature that I was reading in the newspapers, and so in November of 1949, last year, I went to Mr. Bridges and told him that I knew of Mr. Rathborne's financial difficulties, and I thought that it was more than coincidental that he had his financial difficulties cleared up about the time that he became a government witness. And I said that if any of this information that I knew could be of value to him at his trial, I would be more than happy to offer it.

Q. Well, now, did you have any conversation with Mr. Bridges at that time concerning Rathborne's contact with the national CIO?

A. Would you repeat that, please?

Q. Did you have any conversation with Mr. Bridges at that time concerning Rathborne's contact with the national CIO?

A. In November?

Q. Yes. A. No.

Q. Did you have any conversation with Mr. Bridges at that time concerning any knowledge that you had gotten from Jean Murray?

(Testimony of Mrs. Betty Teixeira.)

A. Yes, Jean Murray had told me of Mr. Rathborne's visit to her in, I believe it was, May of that year or about the time that Rathborne was becoming a witness before the grand jury, and she [7239] told me——

Mr. Donohue: I object, if your Honor pleases, to the hearsay testimony. Let Miss Murray speak for herself.

The Court: Sustained.

Q. (By Mr. MacInnis): Yes, that is perfectly correct. You can't tell us what another person said to you except Mr. Rathborne, who has been a witness in the case already.

Well, now, whatever it was that Jean Murray had said to you, without repeating her words, you conveyed that to Mr. Bridges?

A. That's right.

Q. Now, after that meeting with Mr. Bridges, did you later see Mervyn Rathborne?

A. Yes, I did. I visited him in Half Moon Bay.

Q. Did you visit him by yourself or did any person accompany you on the journey to Half Moon Bay? A. Jean Murray accompanied me.

Q. Now, did you have any arrangement or understanding with Mr. Bridges that you make that visit, or how did it come about?

A. None whatsoever.

Q. Well, what were the circumstances under which you and Miss Murray drove down to Half Moon Bay?

A. I had been doing some Christmas shopping

(Testimony of Mrs. Betty Teixeira.)
in San Francisco and I had determined that I would go talk to Mr. Rathborne. I didn't suppose that he would make any admissions, but I [7240] thought that by talking to him, I might learn something of his reasons for doing this. And this was a good day to do it, so I asked Jean if she would go with me, and she did.

Q. Did you drive down there together?

A. Yes, we did.

Q. And when you arrived at Half Moon Bay, did you put yourself in touch with Mr. Rathborne?

A. I phoned him.

Q. When you telephoned him, to what person did you first talk?

A. His wife answered the phone.

Q. Did you identify yourself to her?

A. I did.

Q. In other words, you made no secret about who you were? A. That's right.

Q. And then his wife put him on the phone, did she? A. That's right.

Q. What did you say to him and what did he say to you?

A. I told him that I was in Half Moon Bay and that I would like to talk to him. And he said that he could see me, and asked me to meet him at a restaurant which was about a block from there.

Q. And did he come? A. Yes, he did.

Q. What was the name of the restaurant?

A. Dominick's.

(Testimony of Mrs. Betty Teixeira.)

Q. Now, did you meet him inside the restaurant or outside it? [7241]

A. Waited in the doorway.

Q. And were you alone or was Miss Murray with you?

A. Miss Murray waited in the car.

Q. In other words, you were alone in the doorway of the restaurant? A. That's right.

Q. Did you and Rathborne enter that restaurant together? A. Yes, we did.

Q. Now, did you sit at a table or in a booth or what?

A. Well, there was sort of a counter or bar up front, and we sat there.

Q. And did you have some refreshments?

A. We had a hot toddy.

Q. You say, "We had a hot toddy." Did you have more than one?

A. I believe we had two.

Q. And did he have two or more than two himself? A. Two or three.

Q. And how many did you have?

A. I think I had one and left the second.

Q. And how long did you stay there?

A. Twenty minutes.

Q. And did you have a conversation with him?

A. Yes, I did.

Q. What was that conversation now, as best you remember it? [7242]

A. I told him that I had been reading in the newspapers of what he was doing and that I was

(Testimony of Mrs. Betty Teixeira.)

at a loss to understand it, in view of his conversations with me on the subject; that I had thought it over and had thought that I would help the defense in any way that I could and——

Q. In other words, you made no secret of the fact to Rathborne? A. None whatsoever.

Q. ——that you were wishing to help out Mr. Bridges?

A. And he said, "Well, if that is the way you feel about it, why, go ahead." And I said, however, before I did that, I thought that there must be some pressure exerted upon him, and I just wondered why he did it. I said I didn't always believe what I read in the paper, and that I just wanted to know if it was true, what was said in the paper. And the things he had been saying——

Q. What did he say?

A. I asked him why it was that he did this, and he repeated, I will say, almost word for word the statement I had read in the paper.

Q. Well, did you call to his attention the fact that he never said any comparable thing to you when you had known him and that in fact he had said contrary things?

A. Yes, I did. I asked him how it was that he could say this now when he had never said it before, and how he, when Bridges had supported him so often against the Communist Party [7243] within the CIO, how he could say this. He said it wasn't a personal thing against Bridges, but it was something that he had to do.

Q. Well, now, did you have any conversation with Rathborne then about the issue or the position of the national CIO?

A. Yes, I asked him when it was that he made this decision to testify against Bridges, and he said, well, he said he had talked to Immigration officials who boarded a ship that he was on, but that he hadn't made the decision then, that he had been thinking about it, but that he went, after he finished shipping, he went east and he talked to national officials of the CIO and that it was as a result of this conversation with them that he had made this decision.

Q. Well, now, was there anything else that was said that occurs to your mind, or was that the substance of the conversation?

A. No, I was quite shocked at that statement on his part, that the national CIO had had anything to do with his doing this, and I didn't say much more. It was raining and I told him that it was cold outside and that Jean Murray was waiting in the car and that I had better go. And so we both went outside and went to the car. And he said he wondered if she would speak to him, in view of the fact that they had had quite a serious argument. And I said he could come out and see. And as I said, it was raining, so when we got to the car, we both got in.

Q. And was there a conversation then among the three of you?

(Testimony of Mrs. Betty Teixeira.)

A. Yes, I believe Jean said to me, "Well, what kind of story [7244] did he tell you?" And I repeated in a few words the nature of our conversation, and then——

Q. Did he make any corrections or utter any protest to your summary of what had been said?

A. The only one I can remember was that, when I asked him if they were using any pressure on him because of the fact that he had been involved in an armed robbery, and he said it was not an armed robbery.

Q. That was the only correction?

A. That was the only correction I can remember.

Q. Now, up to that time while you were alone with Mr. Rathborne in the restaurant, had you made any threat directed against him?

A. None whatsoever.

Q. Had you made any accusation against him to the effect that you were going to make any false story about him? A. None whatsoever.

Q. Now, when you came out into the automobile and Jean Murray was present, did you then make any threat against Mr. Rathborne?

A. None whatsoever.

Q. Did you tell him that you would take any false position if he went ahead and testified in the case? A. Not at all.

Q. Well, did Jean Murray herself have any con~~versation with Rathborne after you had recounted~~ your summary of what he had said to you? [7245]

A. Very briefly, as I remember it, on more than a few sentences, she said that she really didn't have anything to say to him, that we had better go.

Q. And under what circumstances did he leave your presence?

A. After she said that, he just got out of the car and left.

Q. Well, now, did she, did you, or did either of you by implication or by open words, tell Rathborne that you would go to his wife and offer her some story that you and Jean had both been involved sexually with Rathborne?

A. Not at all.

Q. Did that ever take place? A. No.

Q. Well, did you then drive back to San Francisco? A. We did.

Q. What was the next that you heard concerning the result of your interview with Mr. Rathborne?

A. Well, I thought that this information that he had given me about the national CIO would be of interest to Mr. Bridges, and so I telephoned him at his home, and I told him that I had been to see Mr. Rathborne and I thought I had something he would be interested in hearing, and he said he was very much so, but he said that he was baby-sitting that night and he couldn't see us unless we could come.

Q. He was taking a job as a baby-sitter or he was at home?

A. No, he was at home looking after his two children. [7246]

(Testimony of Mrs. Betty Teixeira.)

Q. Yes?

A. And I said, well, we had a car and that we could come to his place, so we did. We went to his home.

Q. And did you tell him what you have told the court and jury now? A. Yes, I did.

Q. Now, after that what was the next you heard concerning this incident?

A. When the United States Marshal arrested me.

Q. And you were arrested then upon the statement of Mervyn Rathborne, made to the grand jury? A. That's right.

Mr. Donohue: Objected to, if your Honor please.

The Court: Sustained.

Q. (By Mr. MacInnis): And as I understand it, you were kept all night in the county jail?

A. I was.

Mr. MacInnis: That is all.

Mr. Donohue: Shall we take the recess at this time?

The Court: We will take the morning recess, ladies and gentlemen. The same admonition to you, not to discuss the case under any conditions.

(Recess.) [7247]

Cross-Examination

By Mr. Donohue:

Q. When did you come up to San Francisco for the purpose of testifying?

A. For the purpose of testifying?

(Testimony of Mrs. Betty Teixeira.)

Q. Yes, for the purpose of testifying this morning, when did you come up here?

A. We have been staying here about two weeks with a friend.

Q. When you say "we"——

A. My husband and I.

Q. Your husband and you. Is your husband working at the moment?

A. The construction job that he was on, his work in it ended about two or three weeks ago.

Q. Who is this friend with whom you are staying? A. His name is Mr. Brown.

Q. Mr. Brown. What is his first name?

A. We just call him Brownie; I think his initials are J. B.

Q. Where does he live?

Q. Where does he live? A. 2227 Market.

Q. Do you know what his occupation is?

A. He is an engineer.

Q. And you have been here about two weeks?

A. Yes.

Q. How often have you seen Mr. Bridges in the two weeks that you have been here? [7248]

A. I haven't seen Mr. Bridges until this morning.

Q. How often have you seen Mr. MacInnis since you have been here?

A. Three times, I believe.

Q. I beg pardon? A. Three times.

Q. And the last time was when?

A. Last night and this morning.

(Testimony of Mrs. Betty Teixeira.)

Q. Did you spend some time last night discussing your testimony with Mr. MacInnis?

A. Until about 11:30.

Q. And who was present?

A. My husband and Miss Murray.

Q. Miss Murray. Now, at the time you were arrested whom did you first call on the telephone?

A. I never used the telephone in jail.

Q. Did you notify—pardon? A. Pardon?

Q. Were you brought here to this courthouse?

A. I was brought to the San Francisco County Jail.

Q. Directly from where it was that you were apprehended? A. Where I was arrested, yes.

Q. Did you ever notify anybody that you were in custody?

A. My husband knew. He followed us up here —the Marshal.

Q. And you made bail the following [7249] morning?

A. My understanding was at the time that Miss Murray got her bail—her mother put up the bail, and we later repaid her.

Q. You were admitted to bail the next morning?

A. That's right, but I understand that bail was ready the evening before.

Q. And with whom did you first discuss the matter after your release from custody?

A. I discussed it with Mr. Frank Hendricks.

Q. When did you first discuss it with Mr. MacInnis? A. That afternoon in his office.

(Testimony of Mrs. Betty Teixeira.)

Q. Now, who made the arrangements for you by which Mr. MacInnis would act as your counsel?

A. He volunteered as our counsel.

Q. Mr. MacInnis volunteered?

A. Yes, he did.

Q. You hadn't known Mr. MacInnis prior to that time?

A. The first time I met him was that afternoon.

Q. And where did you meet him?

A. In his office.

Q. Now, what was the date in December when you drove down to Half Moon Bay and talked to Mr. Rathborne?

A. It was on a Thursday; I believe it was the 15th of December.

Q. And when was it prior to Thursday the 15th of December that you had talked to Mr. Bridges?

A. Sometime in the latter part of November; I don't recall the [7250] exact date.

Q. Within two or three weeks?

A. In the latter part of November.

Q. Now, what time did you leave your home on the 15th of December to come to San Francisco?

A. I don't recall the exact hour; I think——

Q. Approximately?

A. I arrived here around 11.

Q. And how much of a drive is it from here to where you then lived?

A. To Los Altos, it is about an hour and a half.

Q. And you say that you came here for the purpose of doing some Christmas shopping?

(Testimony of Mrs. Betty Teixeira.)

A. I also had in mind visiting Mr. Rathborne.

Q. Was it necessary in order that you visit Mr. Rathborne that you come first to San Francisco from where you live?

A. I wanted Jean to go with me. I—it wasn't necessary, no.

Q. Then when you left your home on that morning you had in your mind the purpose that before that day was over you were going to talk to Mr. Rathborne, and you wanted the young lady you call Jean to be with you; correct?

A. If she wanted to go; I wasn't at all sure that she would want to talk to him.

Q. When did you first make up your own mind that you wanted to go? Was it that morning? [7251]

A. No. I had been thinking about it all during the time that this case was on. I thought——

Q. Had you been thinking—I am sorry.

A. I though that he was lying, and I just wanted to talk to him.

Q. Had you been thinking about it since you talked to Mr. Bridges in the last week of November?

A. And before that, too.

Q. Before that. And when did you make up your mind that you were going to do it?

A. A few days prior to the time that I did.

Q. When did you first let Miss Murray know that you would like her to accompany you to Half Moon Bay?

A. In the morning when I asked her if she would.

(Testimony of Mrs. Betty Teixeira.)

Q. Was that on your arival in San Francisco.

A. When I went to her apartment.

Q. What is your best recollection of the time you went to Miss Murray's apartment?

A. Sometime after lunch.

Q. And what time was it when you left San Francisco to go to Half Moon Bay?

A. I don't remember exactly. It was in the afternoon. We got down there about dinnertime.

Q. What do you mean by "dinnertime"? What is your best recollection of the time you got [7252] there?

A. Oh, around five o'clock.

Q. It was dark, wasn't it?

A. It was a dark day. It was raining.

Q. A rainy, dark, cold night, wasn't it?

Q. Yes, it was.

Q. And when you finished your mission at Half Moon Bay you returned to San Francisco, didn't you? A. Yes, I did.

Q. And you called Mr. Bridges?

A. Yes, I did.

Q. And you went to Mr. Bridges' house and you talked with Mr. Bridges, didn't you?

A. I did.

Q. What did you do then?

A. I went to Miss Murray's apartment and spent the night there. It was quite late then. We had dinner before we went to Mr. Bridges' house.

Q. Now, you had talked to Mr. Rathborne prior to the date in December when you went to the

(Testimony of Mrs. Betty Teixeira.)

place where he lives? When was the last time prior to that that you talked to him?

A. My best recollection is that it was in the latter part of 1948 or early '49.

Q. And you had talked to Miss Murray, and Miss Murray had stated to you the result of a conversation between her and Mr. Rathborne?

A. I believe it was sometime in June that she told me that Mr. [7253] Rathborne had visited her.

Q. June of 1949? A. '9?

Q. When did you first learn that Mr. Rathborne was to be a witness for the United States?

A. When I read it in the papers.

Q. And I think I heard you say that you read a statement made by Mr. Rathborne in the paper?

A. Yes, he made a statement about that time.

Mr. Donohue: Would you ask the witness to look at this to see if that is the statement which she had reference to.

Mr. MacInnis: Let us see it first, please.

Mr. Donohue: You have got me into the bad habit of forgetting courtesy. I'm sorry.

Mr. Hallinan: If you would learn our good habits instead of our bad habits, you would go back east improved instead of getting worse.

(The paper was handed to counsel.)

Mr. MacInnis: This is hardly a newspaper statement, your Honor. This is a self-serving statement, probably the one that Mr. Donohue prepared for Mr. Rathborne at the time, but I don't know

(Testimony of Mrs. Betty Teixeira.)
how this piece of paper would be able to refresh this lady's memory on what she read in the newspapers.

Mr. Donohue: I wish I had had the moral fibre and the intelligence to have prepared this for Mr. Rathborne, but not [7254] having——

Mr. Hallinan: Who did have the moral fibre?

Mr. Donohue: Mr. Rathborne, Mr. Hallinan.

If your Honor please, I respectfully say to your Honor that this writing, which purports to be a statement by Mervyn Rathborne, I am entitled to ask the witness to read to herself for the purpose of determining whether or not this is the statement by Mr. Rathborne which she read in the newspaper. If she says it is, then I think I am entitled to ask her some questions about it. If she doesn't think it is, then I shall forget it.

Mr. MacInnis: I think we ought to have the newspaper if there is a statement that she read at the time.

The Court: The witness may read it.

Mr. Donohue: Mr. Rathborne asked you to produce it. You didn't seem anxious to do it.

Mr. MacInnis: Not having the control over Rathborne that you have, we were hardly able to produce his writings. I see now that he is gone you produce what you claim to be his writing for the first time, but you were rather reluctant when he was here. There is no identification of that statement except by the special prosecutor making a statement, your Honor.

(Testimony of Mrs. Betty Teixeira.)

The Court: The witness might glance at it. If it refreshes her recollection, all very well.

Mr. MacInnis: Very well. [7255]

(The paper was handed to the witness.)

Q. (By Mr. Donohue): Is that the statement that you read in the newspaper?

A. The statement I recall reading in the newspaper was considerably shorter than this. I believe I read it in the Sacramento paper.

Mr. Donohue: May I have the paper back?

Q. What is your present recollection of the statement made by Mr. Rathborne which you did read in the Sacramento paper?

A. It is very hard to remember a newspaper story more than a year ago.

Q. What was the substance of it?

A. To the effect that he was testifying that—a story that he was testifying in the case brought by the government against Mr. Bridges for perjury, and named the other two co-defendants; that—I think the newspaper article went into some of the background of Mr. Rathborne, his position, and it—I think it said that he had been a co-worker or an associate of Bridges, and that he was now testifying in the case. I don't recall any quotes from Mr. Rathborne. [7256]

Q. Now, you had read an account in the newspaper that Mr. Rathborne was going to testify for the United States?

A. I had read the account that he was testifying before the grand jury.

Q. And you had been told by Miss Murray about an extensive conversation had in her apartment between herself and Mr. Rathborne?

A. Mr. Rathborne, yes.

Q. What was, in the light of that fact, your reason for going to talk to Mr. Rathborne.

A. My reason didn't have anything to do with her conversation.

Q. Well, just what was your reason on this rainy, cold December night for going down to Half Moon Bay and talking to Mr. Rathborne?

A. I thought that he was lying in this case.

Q. You thought he was lying? A. I did.

Q. It is a fact, is it not, Mrs. Teixeira, that you are not now and have never been a member of the Communist Party?

A. I am not a member of the Communist Party and I have never been.

Q. And you have never been a member of the Communist Party? A. No.

Q. Then would you know—you did know that Mr. Rathborne had been a member of the Communist Party?

A. He told me that he had been. [7257]

Q. Did you know then that Miss Murray had been a member of the Communist Party?

A. She told me that she had been.

Q. Then how would you know whether or not Mr. Rathborne was telling the truth when he said that Harry Bridges was a member of the Communist Party?

A. Because he had previously indicated to me

(Testimony of Mrs. Betty Teixeira.)

that Bridges was not a member of the Communist Party.

Q. And at the time he so indicated to you, you know that he was a member of the Communist Party, don't you?

A. At that time he told me he was leaving the Communist Party.

Q. And do you think as a non-member of the Communist Party that you can set up your judgment as to its membership as against one who was a member of the Communist Party?

A. Mr. Rathborne obviously is lying at one of these times; he had previously told me otherwise.

Q. You say you believe that Mr. Rathborne has lied on either one of these occasions. On which one of these occasions?

A. I believe he is lying now. I believe he has been paid off.

Q. You believe he has been paid off?

A. I do.

Q. On what basis do you draw that conclusion?

A. Because he was in great financial difficulties at the time that he left the State Council. He had no job and no visible means of support, and when he talked to me, he was very worried. [7258] He was actually worried that he was going to lose his home.

Q. And you know now that he is not in financial straits? A. He told me later——

Q. When?

A. In 1948, just prior to the election in '48, at a Democratic breakfast, that he had had his financial problems settled.

Q. And you concluded from that, did you, that he had been paid off to testify in this proceedings?

A. When I read that he was going to be a witness against Bridges and when I read statements that were contrary to what he had said before, and I read the things that he had told me about his financial problems that appeared to be much more than a coincidence that he got them all taken care of.

Q. And you concluded, therefore, that he is lying now, because he was paid to commit perjury, correct? A. That is my opinion.

Q. What was your interest in this case, Mrs. Teixeira?

A. I have always had a great admiration for Harry Bridges as a trade union leader, and I believe he is unjustly accused.

Q. And you, on your own responsibility, sought to talk to a witness that you knew was subpoenaed to testify for the United States?

A. A witness that I believe was lying.

Q. And what did you expect to gain by talking to Mr. Rathborne?

A. I thought by talking to him that he might in some way indicate [7259] this.

Q. Indicate what?

A. In the nature of his lies.

Q. And what was your purpose then, assuming that he did?

(Testimony of Mrs. Betty Teixeira.)

A. I thought that if he told me anything that would be of use to Mr. Bridges, I was going to tell Mr. Bridges.

Q. Now, do you recall stating just a little while ago on your direct examination, when you were asked by Mr. MacInnis as to why you went down to Half Moon Bay, that you stated that, "I might learn something about his reasons."? A. Yes.

Q. Were you interested in Mr. Rathborne's reasons for testifying or were you interested in what he had to say?

A. I was interested in both.

Q. In both. And you thought it was your personal business to find out what Mr. Rathborne had testified to before a United States grand jury?

A. Yes, I did.

Q. Did you have in mind in any way that you might persuade Mr. Rathborne that he would not testify? A. It would be pretty difficult.

Q. I didn't ask you that, young lady; I asked you if you had in your mind at the time you went down there that to any degree you might be persuasive in influencing Mr. Rathborne not to testify?

A. I believe I stated to him that I wished he would not lie in [7260] this matter.

Q. I ask you again, did you have in your mind when you went down to talk to Mr. Rathborne any idea that you might to any degree influence or persuade Mr. Rathborne not to testify?

A. I didn't hope to persuade him. I thought perhaps he might say something that would be of value to this case.

Q. In other words, you thought you might get some information you could give to Mr. Bridges?

A. That's correct.

Q. Had you made any arrangement to be paid for any information which you might procure or obtain for him? A. Not at all.

Q. Now, when you got into this automobile, I understood you to say a few minutes ago that Miss Murray said she had nothing to say, "Let's go," after you reported what had happened, is that correct?

A. I believe that was the last thing she said, that she had nothing to speak to him about.

Q. What else had she to say?

A. I think she said something to the effect that he should be ashamed of himself for testifying in this matter or lying in this matter.

Q. Do you remember talking to two agents of the FBI in the office of the United States Marshal in this court on the 29th of December 1949? [7261]

A. Yes, I do.

Q. At about 10:00 o'clock? A. Yes, I do.

Q. Do you remember stating to these two men, "I did not ask any questions; Jean Murray asked them."?

A. I don't remember stating that. I think you are referring to the time that we were sitting in the car, and they asked me if I asked Mervyn Rathborne any questions in the car, and I said, "No, I didn't."

Q. And did you not then say, "I did not ask any questions; Jean Murray asked them."?

A. I don't recall that language.

Q. Well, did she ask any questions?

A. I don't recall any questions she asked at this time. She may have asked him how he felt about doing this thing.

Q. Well, did she ask you any questions?

A. When we got in the car, she said to me, "Well, what did he tell you?"

Q. Didn't she ask you whether or not your mission inside had been successful?

A. Not at all.

Q. She didn't? Now, isn't it a fact that you also told these two agents of the Federal Bureau of Investigation——

Mr. MacInnis: Pardon me just a moment. If we are to have statements by the special prosecutor from a paper which he has [7262] before him, I would like to ask him to identify these two persons whom he says are FBI agents.

Mr. Donohue: If she had any difficulty in determining that she had been so questioned, I would have been glad to do so, but she said she recalls the incident.

Mr. MacInnis: Well, the time and the place and the persons present.

Mr. Donohue: I gave them.

Mr. MacInnis: We want the time, the place and the persons present.

Mr. Donohue: If your Honor directs and wants me to give her the names of the persons, when she says she can remember it, I will be glad to do so.

The Court: When the witness identifies the time, the place and the persons present and the circumstances, I see no occasion.

Mr. MacInnis: We request that your Honor direct the prosecution to give us the names of these two FBI agents, and we request that your Honor ask the FBI agents to come in here and give testimony, and not to give it through the lips of Mr. Donohue.

Mr. Donohue: Well, you have been giving testimony through the lips of witnesses so long, Mr. MacInnis, you ought not to complain.

The Court: Mr. Donohue, will you supply counsel, as well as the witness, with the names or the identity or identities of [7263] the agents involved.

Mr. Donohue: I shall be glad to, your Honor. Special Agent Willard M. Ruch, and John A. Kelleher; in the presence of Deputy United States Marshal Lawrence M. McEnerny and in the United States Marshal's office in this building, on the 29th of December, 1949, about—no, I am sorry, at 10:00 a.m. on December 30th.

Mr. MacInnis: Now we ask that the witness be shown the paper, so that she may see all the things——

Mr. Donohue: Oh, I am sure you would like her to see that.

Mr. MacInnis: Well, I rather suspect that you are reading a fragment of the report and not allow-

(Testimony of Mrs. Betty Teixeira.)

ing this lady the benefit of seeing all of it. I don't think you should do that.

Mr. Donohue: You have a right, in the examination of your own conscience, so to suspect; but I most respectfully say to your Honor at this stage——

The Court: Proceed.

Q. (By Mr. Donohue): Do you recall stating at that time to the two men, Mrs. Murray,——

A. My name is Teixeira.

Q. I am sorry. Mrs. Teixeira, "I wanted to ask him why he was going to testify against Bridges and to tell him that I thought he was contemptible and a stool pigeon."?

A. I think I did state that I told Mr. Rathborne that what he was doing was contemptible. I don't say that that was my [7264] intention. I don't recall that exact language.

Q. Did you tell Mr. Rathborne that he was a stool pigeon?

A. I told him that what he was doing was contemptible, that it was lying. I may have used the word "stool pigeon."

Q. When you talked to Mr. Rathborne?

A. Correct.

Q. Now, when you made this statement to the two agents whom I have just identified, did you state to them, "I wanted to ask him why he was going to testify against Bridges and to tell him that I thought he was contemptible and a stool pigeon"?

A. I don't know that that was the exact language that I used.

(Testimony of Mrs. Betty Teixeira.)

Q. Do you recall at that time being asked this question, "Why did you go to see Rathborne?", to which you made——

A. They asked me that question.

Q. Did you make this reply: "Only to tell him that he was contemptible and to ask him why he was doing this"?

A. I don't recall that statement.

Q. Didn't you know from what you had read in the press and from what Miss Murray had told you, why Mr. Rathborne was doing what he was doing?

A. I read why he— No, I didn't know why. I thought he was being paid off.

Q. Had you read any explanation in the paper as to what Mr. Rathborne had said was his reason or reasons for testifying?

A. I had read in the paper that he said something to the [7265] effect that it was to combat Communist influence within the CIO.

Q. Now, if you knew that was the stated reason, by Mr. Rathborne, as to why he testified, why did you take it upon yourself to determine whether or not there was any other reason?

A. He had never in any of his conversations with me connected Bridges with Communist influence within the CIO.

Q. Would you expect a member of the Communist Party to tell you, a non-member of the party, anything about members of the Communist Party and their activities?

(Testimony of Mrs. Betty Teixeira.)

A. He didn't tell me anything about members of the Communist Party and their activities.

Q. I said, would you expect that he would, to a non-member of the Communist Party?

A. I didn't expect anything.

Q. Then why did you go down to talk with him?

A. In the hope he would say something that would help Harry Bridges in this case.

Q. There is no doubt in your mind, is there, Mrs. Teixeira, that when you went down to see Mr. Rathborne on this Thursday evening, that you knew Mr. Rathborne was a witness who was to testify for the United States, is there?

A. I read in the paper that he was going to be a witness.

Q. And you knew at the time you went to see him that the United States expected to call him as a witness, did you not?

A. I had read that in the paper. [7266]

Q. Mrs. Teixeira, while you were at Los Angeles City College, were you a member of the American Student Union? A. Yes, I was.

Q. And you were quite active in its operation, were you not? A. Yes, I was active. [7266-A]

Q. Did you know that the American Student Union was cited as a subversive and un-American organization by the Attorney General of the United States—I am sorry—by the special committee of the United States House Committee on April 23, 1948?

Mr. MacInnis: Well, now, in the first place, we

(Testimony of Mrs. Betty Teixeira.)

object to that question because it is patently ridiculous. He might well ask her if she knows some person and then ask her if that person is not subversive. That is not a proper reason for cross-examination to ask a person if she doesn't know that some committee that she has never heard of has made a certain finding.

Mr. Donohue: She can say so if she doesn't know.

Mr. MacInnis: When did you say this finding was made?

Mr. Donohue: April 23, 1948.

Mr. MacInnis: Well, now, she was in college years before that. How could she know when she was in college that on April 23, 1948, some committee of yours was going to make a finding?

Mr. Donohue: Not mine; the Committee of the House of Representatives. And perhaps she had earlier information than they did, as a member.

Mr. MacInnis: Well, now, your Honor, he has asker her now, he has now revealed the purpose of the question. She was in college in 1938, and he says to her this: "You were a member of the Student Union, weren't you?" Now he says, "Did you [7267] know when you were a member of the Student Union that the Student Union was cited as an un-American group by a committee of Congress baffles me: Did she know that ten years later something else would happen.

(Testimony of Mrs. Betty Teixeira.)

Mr. Donohue: I will withdraw that question and ask another one, if your Honor pleases.

Mr. MacInnis: Ask a better one.

Mr. Donohue: Maybe you will like this one:

Q. Mrs. Teixeira, is it a fact that in June of 1939 you were student body president of the Los Angeles City College and headed a delegation from that school to the American Youth Congress held in New York City from July 1 to July 3, 1939?

A. I did not——

Mr. MacInnis: Pardon me. I don't know what the American Youth Congress is,——

Mr. Donohue: She does.

Mr. MacInnis: ——but I would suspect that it is obviously immaterial what she did in that respect. I don't see that it impeaches anything that she could say on this witness stand.

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The Court: Overruled.

A. I did not head a delegation; I was part of the delegation.

Q. (By Mr. Donohue): Part of the delegation. Now, that was in 1939, wasn't it?

A. Yes, it was. [7268]

Q. Did you know that the American Youth Congress was cited by the Attorney General as being within the purview of executive order No. 9835 as being a subversive organization?

Mr. MacInnis: Pardon me. 983 what?

Mr. Donohue: 9835.

Mr. MacInnis: 9835?

Mr. Donohue: Yes, sir.

(Testimony of Mrs. Betty Teixeira.)

Mr. MacInnis: 9835. And when was that order made?

Mr. Donohue: It was made on repeated occasions, and it is amended and re-amended from time to time.

Mr. MacInnis: Made in the late 1940s?

Mr. Donohue: And new organizations are added to it, Mr. MacInnis.

Mr. MacInnis: I suggest now that the time has come for the Court to admonish the special prosecutor that he may not by leaving out dates attempt to trick this lady into saying that in 1939 she knew that some years later by an executive order whose number he gives here, some subversive stamp was placed upon it. Now, I suggest that that is beyond the realm of human experience. It is palpably unfair.

The Court: When was this promulgation made, or when was the order made?

Mr. Donohue: The order is made, if your Honor pleases, on the 1st day of July every year. I don't know the late date of it. [7269]

The Court: With respect to this particular——

Mr. Donohue: I will have to find that, your Honor. I don't know.

The Court: Presently I will sustain the objection.

Mr. Donohue: Very well, your Honor.

Q. Do you read the People's World?

A. I believe I read it for one year.

Q. What year was that?

(Testimony of Mrs. Betty Teixeira.)

A. I think it was in 1943 or '44.

Q. Then in 1943, on the 20th of October, did you read in the People's World on page 3, column 2——

Mr. MacInnis: Now, pardon me just a moment. These new rules of evidence that are invented specially by the special prosecutor for the special case are a little beyond me—attempting to get by indirection into evidence some hearsay document that he doesn't even have here. He doesn't even have the People's World. He apparently has a typewritten paper. And this lady, because she saw the People's World, I suppose, now can be held responsible for all of its contents and that would be a fine rule of evidence! [7270]

Mr. Donohue: It just so happens, if your Honor please, that she said she read it during the year 1943. If she can't remember reading this, she can say so.

Mr. MacInnis: Bring the People's World here. Counsel cannot state in advance some statement in a newspaper——

Mr. Donohue: I think you can get it easier than I can.

Mr. MacInnis: I think that the People's World is on sale in the public stands, and there is no reason that I could get it any easier than this man, who has the full file of everything that the People's World has ever said, probably, in its entire existence. If he has something that is pertinent, I suggest the rule that your Honor adopted, which I believe to be the correct rule, be followed: that he

(Testimony of Mrs. Betty Teixeira.)

bring the paper, show it to the person and ask the person if that refreshes her memory, but not to read first something whose authenticity we have no way of knowing and also to commit in advance the vice which would attach to that method. I think it is kind of silly and ridiculous that the special prosecutor should be allowed to advocate the line of inquiry that he takes.

Mr. Donohue: If your Honor please, this young lady testified that during the year 1943 she read the People's World. I think I have a right to ask her whether or not she recalls reading an article in that publication.

Mr. MacInnis: And if she read the Cosmopolitan, she might be confronted with the [7271] Cosmopolitan?

Mr. Donohue: If it said something about her, she could. I am going to question her about a reference made to her.

The Court: I suggest that you bring the paper.

Mr. Donohue: If your Honor will recess, we will get the copy of the People's World.

The Court: At noontime?

Mr. Donohue: Yes, your Honor.

The Court: We will take the recess——

Mr. MacInnis: Can't we go on without that?

Mr. Donohue: It is five minutes to twelve. It is quite important.

The Court: We will take the noon adjournment, ladies and gentlemen, and resume at two o'clock. The same admonition to you not to discuss the case under any conditions or form an opinion until the matter is submitted to you.

(Thereupon a recess was taken until 2:00 p.m. this date.)

Wednesday, March 8, 1950—2:00 P.M.

MRS. BETTY TEIXEIRA

resumed.

Cross-Examination
(Continued)

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Q. (By Mr. Donohue): Mrs. Teixeira, when was it that you attended the Los Angeles City College? A. Between 1937 and 1940.

Q. When did you leave City College?

A. I left in June of 1940.

Q. Well, had you been a student during the first six months of June, 1940?

Mr. MacInnis: How long has it been that June has six months? I think that the confusion that characterizes most of the special prosecutor's questions has now become marked. He asks the lady, "Were you at that college within the first six months of June, 1940?" That is rather difficult, Judge. Maybe you can figure it out, but I can't.

Mr. Donohue: I do appreciate that help. May I reframe the question?

The Court: I will sustain the objection. The objection is sustained.

Q. (By Mr. Donohue): Did you at any time during the calendar year 1940 and prior to June of that year attend the City College [7273] of Los Angeles?

A. Yes, it is my recollection that that is the date I was a student.

Mr. Donohue: I ask the clerk, if your Honor please, to hand the witness the People's World of February ~~12, 1940~~, and invite her attention to the marked article.

(The paper was exhibited to counsel and handed to the witness.)

Mr. MacInnis: I thought it was some other year that this lady said that she had read the People's World in. If you want it to be 1940——

Mr. Donohue: No, she said she read it in 1943.

Mr. MacInnis: Yes. Now you show her 1940.

Mr. Donohue: I asked her to read an article about herself in 1940 to see if it refreshes her recollection about the City College of Los Angeles.

May I have the paper?

Mr. MacInnis: The Court might look at the paper to see if it bears on any testimony given in this case.

(The document was handed to the Court.)

Q. (By Mr. Donohue): Does this article refresh your recollection as to whether or not you were a student at the Los Angeles City College in the period beginning with the 1st of January, 1940, and extending up to the 1st of June, 1940?

(Testimony of Mrs. Betty Teixeira.)

Mr. MacInnis: Pardon me. I think she has already said she [7274] was, so there would be no necessity to refresh her memory as to that fact.

Mr. Donohue: It might change her mind.

The Court: It has been admitted, Mr. Donohue. Is there any question about the time or the period she was there?

Mr. Donohue: No, she has testified that she attended up to June, 1940.

Q. Having read this article in the People's World I ask her now if this article refreshes her recollection as to whether she in fact did attend the Los Angeles City College any time between the 1st of January, 1940, and the 1st of June, 1940.

A. My recollection, Mr. Donohue, is that I graduated from Los Angeles City College in February, 1940, and that then, instead of going to UCLA in the middle of the term, I chose to do six months' so-called postgraduate work at the Los Angeles City College.

Q. Well, isn't it a fact, Mrs. Teixeira, that you were refused readmission to the Los Angeles City College?

A. For the period of three or four days, and then I was readmitted.

Mr. MacInnis: Would that be a matter of impeachment? Suppose she were kept after school in high school. Suppose the special prosecutor would bring out that maybe she talked in class when she was in grammar school. I can't see the relevancy of the matter contained in this last question. It cer-

(Testimony of Mrs. Betty Teixeira.)

tainly is [7275] an attempt to cast a reflection upon this lady which is not only undeserved but which has no relationship to the case.

Mr. Donohue: May I proceed, if your Honor please?

The Court: Yes.

The Witness: I was readmitted.

Q. (By Mr. Donohue): What was the reason that you were refused readmission?

Mr. MacInnis: What would it matter——

A. I wasn't refused readmission. I was readmitted.

Q. (By Mr. Donohue): Do you deny the truth of the article that you have just read in the People's World?

Mr. MacInnis: Pardon me just a minute.

A. I say——

Mr. MacInnis: Pardon me. That is scarcely the way to prove any fact in the case, to show this lady an article, and the article being inadmissible, to ask her if she denies the truth of it. In the first place, the contents of the article have nothing to do with the case.

Mr. Donohue: She had an opportunity if she saw this article to refute it.

Mr. MacInnis: I have read a lot of things about you in the papers, too, Mr. Donohue.

Mr. Donohue: Did you insert them?

Mr. MacInnis: There were many things I wish I could have inserted, but not having the control that you have of some of the [7276] press, I have

(Testimony of Mrs. Betty Teixeira.)

been unable to do that. But in this instance, your Honor, this lady is not bound by the writings in the People's World, the Examiner, the Chronicle, or any public paper.

Mr. Donohue: I will pass the matter, if your Honor pleases.

Q. Mrs. Teixeira,—(pronouncing "Texeira")

Mr. MacInnis: "Tisheira."

Mr. Donohue: "Tisheira."

Mr. MacInnis: T-e-i-x-e-i-r-a.

Mr. Donohue: I can't pronounce it quite as easily as you do. I will do my best.

Mr. MacInnis: You mean her name is subversive, it is kind of hard for you to catch on to it, like some of these other things, like the first six months of June? [7277]

Q. Mrs. Teixeira, were you a member of the initiating committee of the organization known as the American Youth for Democracy?

A. I was a member of the committee that arranged the founding convention, so to speak, of the San Francisco chapter.

Q. And as a member of that committee, which founded the San Francisco chapter, when, by the way, was that, do you recall?

A. I believe it was in 1943.

Q. Did you know at that time that the American Youth for Democracy was founded in New York by the 314 delegates to the Young Communists League, a day or two following the dissolution of the Young Communist League?

(Testimony of Mrs. Betty Teixeira.)

Mr. MacInnis: Pardon me, Your Honor, that is now stating as a fact something that is not in evidence. Whether it may be true or not, I can not say. We have no knowledge. We object to the question as being improper.

Mr. Donohue: I am asking her, if your Honor pleases, if she knows, as a member of the founding committee of the San Francisco chapter, as to the origin of this organization in New York.

The Court: The objection is overruled.

Q. (By Mr. Donohue): Did you know that?

A. My understanding was that this organization was formed from many organizations and that one of the organizations that recommended to its members that they go into this organization was the Young Communist League. [7278]

Q. Now, may I hand you and ask you to read——

Mr. Donohue: This is 1943, Mr. MacInnis.

Q. ——the copy of the People's World of Wednesday, October 20, 1943.

(Document examined by Mr. MacInnis, then handed to the witness by the Clerk.)

Mr. Donohue: Will you call the witness' attention to this copy.

Q. Does that refresh your recollection as to when you became a member of the founding committee of the American Youth for Democracy, San Francisco chapter?

A. I believe the San Francisco chapter was formed in November of that year.

(Testimony of Mrs. Betty Teixeira.)

Q. You noted that this newspaper was dated October the 20th, 1943?

A. That refers to a convention in New York. I didn't attend that convention and I have no direct knowledge of what went on there.

Q. Well, did you note under San Francisco dateline of October 19th the statement that an initiating committee consisting——

Mr. MacInnis: Pardon me. This is again an attempt to read hearsay documents into evidence. Now, he may ask this lady if the article refreshed her memory. That he has asked her. That does not allow the special prosecutor to read the article.

Mr. Donohue: If Your Honor pleases, I want to call the young lady's attention to the fact that in a newspaper dated [7279] October 20th, The People's World, under a San Francisco dateline——

Mr. MacInnis: Well, now, he is about to tell the Court the contents.

Mr. Donohue: ——of October the 19th a reference made to her as a member of the initiating committee of the American Youth for Democracy in San Francisco, in the light of the fact that she has just testified that to her best recollection the chapter was founded in November——

Mr. MacInnis: Well, now, I am kind of puzzled, Your Honor, as to the theory upon which this matter is now inserted. Is it to impeach this lady? Is it to show a prior inconsistent statement? Is it to bear upon the testimony she has already given? It seems to me that by none of the known rules of

(Testimony of Mrs. Betty Teixeira.)

cross-examination could this matter intrude itself into the case. The counsel asks her when she thinks she joined this group. She says November. Now he brings a newspaper bearing her name, he says, in the month of October. Now, what would that prove? I can't see the admissibility of it, Your Honor.

Mr. Donohue: It would seem to prove she was mistaken in her recollection, Mr. MacInnis.

The Witness: I believe the organization might have been founded nationally earlier than the actual foundation in San Francisco.

Q. (By Mr. Donohue): Well, you wouldn't have been appointed a [7280] member of a committee on the 19th of October, would you?

A. I think the initiating committee or the founding committee did a couple of months' work before the organization was actually founded by a delegated convention.

Q. Well, didn't this article refresh your recollection to the fact that the organization we are talking about, the American Youth for Democracy, was founded in New York, just three days earlier than this newspaper account, the 17th of October?

A. That speaks of the national foundation, doesn't it?

Mr. MacInnis: You see, Your Honor, the vice of this line of reasoning lies in the fact that if the special prosecutor looked further, he would find one of the founding speeches was made by Mrs. Eleanor Roosevelt.

(Testimony of Mrs. Betty Teixeira.)

Mr. Donohue: I don't see her name in this People's World.

Mr. MacInnis: And there would be no possible impeaching material contained in the suggestion that this lady was a member of the American Youth for Democracy. I just don't see that that is an impeaching organization, however subversive this gentleman may claim it is by the words of some special assistant to the Attorney General, or by any other mandate passed years later.

Mr. Donohue: Instead of Eleanor Roosevelt, I see a speech in here by Max Weiss, the president of the Young Communists League.

Mr. MacInnis: Who is he?

Mr. Donohue: President of the Young Communists League. [7281]

Mr. MacInnis: Max Weiss?

Mr. Donohue: Yes.

Mr. MacInnis: Is he some witness you have in this case? Now I have never heard of Max Weiss, but I have heard of Eleanor Roosevelt, and I just don't see that Max Weiss is a name of any significance in this matter.

Mr. Hallinan: Maybe that was Mrs. Roosevelt's party name?

Mr. MacInnis: Is that it, Mr. Donohue?

Mr. Donohue: It loses its effect when you repeat it, Mr. MacInnis.

Mr. MacInnis: Oh, we work together on these things.

(Testimony of Mrs. Betty Teixeira.)

Mr. Donohue (To the Reporter): Could you tell me what the last question was?

(Record read.)

Q. (By Mr. Donohue): As a matter of fact, you became chairman of the American Youth for Democracy's arrangements committee for the San Francisco area, didn't you?

A. That's correct.

Q. How long did you continue active in the American Youth for Democracy?

A. About five or six months.

Q. And when did you withdraw from active participation in this organization?

A. When I went to work for the CIO, I devoted my entire time to that. [7282]

Q. And when was that?

A. That was in 1944 about March or April.

Mr. Donohue: I have no further questions.

I want to say, in answer to Your Honor's inquiry of this morning, that the first executive order 9835 was signed by President Truman on March 21, 1947.

Mr. MacInnis: So you could hardly have expected this lady to have been conscious of that order back in 1939, is that a fair conclusion?

Mr. Donohue: No, it isn't, Mr. MacInnis, because sometimes it takes the Government of the United States a long time to find out the nature of an organization, and when it does find out the nature, it is put on the subversive organization list

(Testimony of Mrs. Betty Teixeira.)

and the last revised list, if Your Honor pleases, was issued by the United States Attorney General on the first of May, 1949.

Mr. Hallinan: You want to put the Immigration Department on next.

Mr. MacInnis: These lists, as I understand it, are compiled by persons like yourself, for the convenience in attacking persons who belong to various organizations, isn't that the way these lists are fomented?

Mr. Donohue: I have no further questions of this witness, if Your Honor pleases.

Redirect Examination

By Mr. MacInnis:

Q. Mrs. Teixeira, I have. You spoke a [7283] little while ago, this morning, about your arrest and your detention in the county jail overnight and the special prosecutor asked you about whether or not you had any conversation with FBI agents. You said that some of the statements which he read to you sounded familiar and others you didn't recall. What was your physical situation that morning of your arrest? Are you undergoing medical treatment for any ailment?

A. Yes, I am. I have sugar diabetes and I had not had my insulin or breakfast at the time that they questioned me.

Q. Why was it that you did not have breakfast?

A. Because at the time that the matron told me that I would have to hurry in order to get breakfast,

(Testimony of Mrs. Betty Teixeira.)

because she had brought me to the room that the reporters were in when the other people were eating breakfast. She said, "You will have to eat breakfast now if you want to get some." I said, well, I had to take my insulin 15 or 20 minutes before I could eat breakfast. She said, "Well, you will have to take it afterwards." And I said, well, it would be better for me just to wait until I got out. It was my understanding I was to get out about 9:30. That is what the matron told me, that the bondsman would be there at 9:30.

Q. And about what time in the morning was it that you were confronted by these two men who were FBI agents?

A. Around 10:00 or 10:30.

Q. Did you tell them anything different than you have told the [7284] Court and jury here today?

A. Nothing different.

Q. Now, let me ask you this. The special prosecutor asked you about reading the People's World and you said that you had read it during 1943, is that correct? A. That's correct.

Q. You mean by that that you read that paper every day? A. Oh, no.

Q. Who subscribed to that paper and under what circumstances?

A. My recollection is that my husband, who was in political life, subscribed to the paper when two people visited him and said that they were in a circulation drive. And they asked him if he would take a subscription and he took subscriptions to

(Testimony of Mrs. Betty Teixeira.)

almost anything that someone asked him to subscribe to.

Q. Did you subscribe to many other publications?

A. Many publications. And my recollection is that the subscription came to our house for about a year, and from time to time I read it.

Q. Well, now, what was the political affiliation of your husband, Mr. Green?

A. He was a Republican.

Q. And was he elected to the California Assembly as a Republican? A. He was.

Q. And while, I suppose, the election in San Francisco to the [7285] Board of Supervisors was a non-partisan affair? A. That's right.

Q. Did he remain a Republican or did he change his political views?

A. He remained a Republican.

Q. I see. And you say the People's World was taken by him as you have suggested?

A. Yes.

Q. Now, this organization that the special prosecutor tells us now has been determined is subversive by this long inquiry that he, as a representative of our Government, makes, was that organization ever presented to you in the light of a Communist Front club or affair?

A. I didn't consider it such.

Q. Well, were the members, members of the Communist Party?

(Testimony of Mrs. Betty Teixeira.)

A. It is my understanding that there were members who had been members of the Young Communists League.

Q. And about what percentage of the membership did those people comprise?

A. I think I read a report once stating that about 10 per cent of the members were former Young Communist League members.

Q. And as you say, the controller, Harold Boyd, of the City and County of San Francisco, was a sponsor of the organization here?

A. That's right. [7286]

Q. You and your husband, who was a supervisor, were sponsors also?

A. He was a sponsor; I was a member.

Q. Pardon me?

A. He was a sponsor; I was a member.

Q. I see. Your husband was a sponsor and you were a member? A. That's right.

Q. In what activities did you engage during those few months that you remained in the organization called American Youth for Democracy?

A. I attended the council meetings as they were called once or twice a month. Actually, it was volunteer work, so they didn't expect you to do too much.

Q. What was the nature of the organization? Did you do any plotting against the Government or anything like that?

A. The principal interest of the organization at that time during the six months that I was in it was in juvenile delinquency and in aiding in the war effort.

Q. Was there anything in the name American Youth for Democracy which would convey to you that the organization was Communist-inspired?

A. Not in the name, sir.

Q. Let me ask you this: How long has your family been in the United States?

A. My forefathers came to the United States in the first boat [7287] to Jamestown.

Q. Is your mother a member of the organization called the Daughters of the American Revolution?

A. Yes, she is.

Q. I suppose the word "revolution" would connote to the special prosecutor that it is a Red front. She is a member of that group, is she?

A. Yes.

Mr. MacInnis: That is all.

Recross-Examination

By Mr. Donohue:

Q. Did you know that Earl Browder was born on a Kansas farm?

A. I had no such knowledge.

Mr. Donohue: I have no further questions.

Mr. MacInnis: How about Abraham Lincoln?

Mr. Donohue: Born in Kentucky.

Mr. MacInnis: That is all.

Call Mrs. Murray, please.

JEAN MARIE MURRAY

called for the defendant in surrebuttal.

The Clerk: Do you swear that the testimony that you will give to this Court and jury will be the truth, the whole truth and nothing but the truth, so help you God?

The Witness: I swear that it will be the truth. I can't [7288] believe in a heaven or a hell, because I believe in justice on this earth.

The Clerk: Do you affirm that you will tell the truth to this Court and jury?

The Witness: I will.

The Clerk: Will you state your full name, please.

The Witness: My name is Jean Marie Murray.

Direct Examination

By Mr. MacInnis:

Q. What is your address, Mrs. Murray?

A. 1228 Geary.

Q. Are you married or single?

A. I am married, but I am separated.

Q. How long have you been a resident of San Francisco?

A. Well, between now—I came to San Francisco in 1940, and some of that time I have lived with my mother in Oakland.

Q. And what was the place of your birth?

A. Lovelock, Nevada.

Q. Did you live there during your early years or did you move to some other State?

A. We moved—my parents have lived in several

(Testimony of Jean Marie Murray.)

places in the United States, and I moved with them.

Q. Well, where was your education undertaken?

A. The greatest portion of my education was in a convent in Montana.

Q. What was the name of that convent? [7289]

A. The Ursuline Academy.

Q. When did you finish your education at that convent?

A. Well, I went to high school in the convent, and then I went to the Catholic college there, a part of the convent, for two years.

Q. What year was the last year in which you attended school?

A. I attended two terms at the University of Montana.

Q. In what year?

A. This was in 1940—1934, the winter—it must have been 1935, the winter and spring term.

Q. Did you take up some occupation after that time?

A. Well, I was a secretary at that time, trained in the convent.

Q. Well, what kind of work did you do?

A. I did secretarial work.

Q. And you continued to do that kind of work for about how many years?

A. Well, I still am a secretary.

Q. And after you came to San Francisco can you tell us whether or not you met a man named Mervyn Rathborne?

A. Yes, I met Mr. Rathborne.

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TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

Volume XV
(Pages 6743 to 7210)

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

9

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record
In 17 Volumes
Volume XV
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Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

(Testimony of Jean Marie Murray.)

Q. Where and under what circumstances and at what approximate time?

A. Well, I met him in the spring of 1944.

Q. Where? A. In Oakland. [7290]

Q. And under what circumstances?

A. Well, I was the secretary for the Alameda County CIO Council in Oakland, and when I came back—I was campaign secretary in the 1944 campaign—Roosevelt campaign, and the CIO Council in Alameda County was putting out a yearbook, and I was asked to speak to the businessmen in Alameda County and to ask those of them who wished to support the program to give a testimonial of their support to labor, and many of them did.

Q. And that was the approximate time at which you met Mervyn Rathborne, is that true?

A. Yes, he asked me at that time to come to work for the Labor Herald.

Q. Did you take that job?

A. No. I told him that the workers did not read the Labor Herald; I didn't want to work for him.

Q. Did you see Mr. Rathborne from time to time after that date?

A. Yes, I saw him quite a bit, not right in '44; probably '46 and '47 I knew him most.

Q. Now, what kind of work were you doing in 1946 and 1947?

A. Well, I was—during most of 1945—I believe the next time after Mr. Rathborne asked me to go to work for the Labor Herald, the next time I saw

(Testimony of Jean Marie Murray.)
him was when I was part of the CIO delegation to the Legislature.

Q. And that was in what year?

A. Well, I am not—I think this is 1945. [7291]

Q. Well, carrying your memory back as best you can to 1945, did you become well acquainted with Rathborne that year, or did you become acquainted with him only slightly?

A. Well, he provided quite a few opportunities for me to become more well acquainted with him, but I didn't accept many of those invitations; I think only once or twice.

Q. How about the next year, 1946?

A. Well, then I knew him better and I would accept invitations to dinner with him.

Q. Now, how about 1947? Did you see him often during that period of time?

A. Excuse me. During 1946, too, he used to come to my house. I lived then on 17th Street in San Francisco.

Q. In San Francisco? A. Yes.

Q. How about the following year, 1947? About how many times did you see Rathborne during that year?

A. Well, quite a few times, but not—not as often as I had seen him in 1946 and '47.

Q. Now, had you been a member of the Communist Party at any time? A. Yes, I had.

Q. When did you join the Communist Party?

A. I joined in 1936.

(Testimony of Jean Marie Murray.)

Q. And did you remain a member of the Communist Party during [7292] the years following?

A. Until 1946.

Q. What happened then so far as your membership in the Communist Party is concerned?

A. I felt very strongly about the fact that the Communist Party in the United States had betrayed the political principles and philosophical principles to which it had pledged itself. It had ceased to practice what it believed; there had become a discrepancy between what it told the workers and what it was; it was no longer a principled party. I had recognized these things some time before I conducted the political fight which meant my being expelled, but I had tried for a long time to correct the party.

Q. So you were expelled from the Communist Party? A. Yes, I was, sir.

Q. When did that take place?

A. In the spring of 1946.

Q. And you have never thereafter attempted to return to the Communist Party; is that a fact?

A. That certainly is a fact. I don't wish to be a member of the Communist Party.

Q. Well, during these years in which you had become acquainted with Mervyn Rathborne did you come to know whether or not he was a member of the Communist Party?

A. Yes, I knew that for—well, I even knew it before I knew [7293] Mr. Rathborne intimately.

(Testimony of Jean Marie Murray.)

Q. Well, did you know he was a member of the Communist Party from seeing him engaged in activities, or did you know it from hearing him tell you? Which?

A. Well, I knew it both ways, sir. I knew it because he told me. He knew I was a Communist, too, and we discussed many of the policies together.

Q. Had you attended any Communist Party meetings with Mervyn Rathborne, or at least meetings in which he was in attendance?

A. Yes, I had.

Q. Now, from all of these factors can you tell us what, in about the year 1947, was your regard for Mervyn Rathborne? What was your relationship to him?

A. Well, I was very puzzled about this man, because he professed to have a great regard for the working class, and he had quite a reputation for—as a working class person, and yet it seemed to me that he was, well, wanting to do different things than he would if he had been a principled working class leader. But it wasn't obvious—this contradiction in his personality wasn't too obvious at this point.

Q. I am speaking now not of his philosophical beliefs but as to any personal relationship which may have existed between you.

A. Well, this was the background for my interest in—in him. He was drinking very, very heavily at this time, which is a [7294] contradiction. A Marxist doesn't need to drink that heavily, and

(Testimony of Jean Marie Murray.)

he was really drinking, he was gambling, he was doing many things that would give the working class a great reason to distrust him. He certainly did not command the respect of the businessmen with whom he had to represent the working class. I was worried about these things, concerned about them.

Another thing is that the manner in which he treated his wife was distasteful to me, the dishonor that he was bringing on her. Se was never—she very seldom accompanied him to meetings where she would have been welcome had he been a different person. He was seen with many different women, and it was—I know that, especially, well, two or three girls whom I had talked to in the labor movement were embarrassed to go out with him personally because he was mixed up with these other women. [7295]

Q. Well, what was then your reason for seeing him from time to time or frequently, as the case may be?

A. Well, political matters that came up—questions which came up that he was participating in, and, well, toward the last few years I tried very hard not to see this man alone, but to see him when someone else was present.

Q. Well, now, to digress for just a moment from the subject of Mervyn Rathborne, did you have any official job with the Communist Party in Alameda County at any time? A. Yes, I did.

Q. Will you tell us in the year 1941 what was

(Testimony of Jean Marie Murray.)

your post at the Communist Party in Alameda County?

A. Well, I did not yet live in Alameda County, I believe, up until the end of 1941. And I was organizer for the largest branch of the Communist Party in Alameda County.

Q. In your work with the Communist Party in Alameda——

A. I was also—excuse me—county director for the People's World in Alameda County.

Q. In your work with the Communist Party in Alameda County, did you ever encounter a man named Paul Crouch? A. No, I didn't.

Q. Did you ever hear of such a man existing?

A. No, I didn't.

Q. Now, during that period of time were you quite active in the Communist Party in Alameda County? [7296]

A. Well, as I say, I was an organizer of the largest branch there.

Q. Well, now, to return to the subject of Mr. Rathborne in this matter, did you ever have any conversations with Mervyn Rathborne in the year 1947 or before that time concerning Harry Bridges?

A. Well, yes, Mr. Bridges' name is discussed in connection with many issues in the labor movement, and Mr. Rathborne frequently raised his name in connection with some CIO problem and so on.

Q. And merely to call your attention to the dates, did you have such conversations with Rathborne after 1946 when you had been expelled from the Communist Party? A. Yes, I did.

(Testimony of Jean Marie Murray.)

Q. And did you have similar conversations before the spring of 1946 when you were still in the Communist Party? A. Yes, I did.

Q. Well, what was the general nature of the discussions between yourself and Mervyn Rathborne in respect of Harry Bridges?

A. Well, Mr. Rathborne and I were Communists, and there would be problems coming up of Communist policy which it would be necessary to present to the trade unionists, and these policies, Mr. Rathborne complained that on some of these policies, it would have been much easier to get them adopted if Mr. Bridges had been a Communist. And he would—I know of several occasions [7297] when he would ask people who weren't known as Communists to take a Communist position to Mr. Bridges and to ask him if he would endorse it. And I remember on one occasion, he asked me to do this.

Q. To do what?

A. To present a Communist position to Mr. Bridges.

Q. What do you mean by that, to present a Communist position to him?

A. Well, Mr. Bridges was not a member of the party, and the party policy that had been decided was, if it had to do with a legal trade union movement, it had to be presented to these various trade unionists. Sometimes it was a member of the trade union in the steelworkers or some other union.

Q. Well, now, in the conversations that you had with Rathborne concerning Harry Bridges, did he

(Testimony of Jean Marie Murray.)

ever apply any political name to Harry Bridges? Did he say that he fell within any particular category, political category?

A. Well, Mr. Rathborne's characterization of Mr. Bridges was that Mr. Bridges was a political economist.

Q. Pardon me?

A. Mr. Rathborne said that Mr. Bridges was a political economist.

Q. A political economist? A. Yes.

Q. What did he say that was?

A. Well, that is understood to mean someone who understands how [7298] the economy of this society functions, and if that man then is a part of the labor movement, he will understand how to use that knowledge on behalf of the working class. He believes in the economy as it is, he does not believe in changing the economy. He believes in the system as it is now.

Q. Now, when did it first come to your attention that Mervyn Rathborne was going to appear as a witness against Harry Bridges?

A. Well, I was amazed to hear this rumor. A worker called me first, the first knowledge that I had, and I had gotten a letter from the East Coast that said that many rightwing officers in the CIO—that is, non-Communist officers in the CIO—were planning a big campaign to get Bridges out of the trade union movement here.

Q. Yes?

A. And then I think that rumor was also printed

(Testimony of Jean Marie Murray.)

in the paper toward the end of May. I believe that is how the matter first came to our attention.

Q. When did you first encounter the name of Mervyn Rathborne in connection with this case or the case that was to be brought against Harry Bridges?

A. I believe it was in one of the evening papers toward the end of May, that I saw his name brought up, actually.

Q. Well, now, was there any time in the spring of last year, 1949, in which Mervyn Rathborne made some arrangement to call upon you or have lunch at your apartment or anything to that [7299] effect?

A. Yes, he came to lunch at my apartment about the middle of June.

Q. Of 1949? A. Yes.

Q. Well, now, before he came to your apartment on that occasion, had you already learned that he was to be a witness or that he had testified before the grand jury against Harry Bridges?

A. Well, when I read this in the paper, I knew that it must be some kind of a frameup. I didn't believe that Mr. Rathborne was truly going to do this, and I wanted to find out what it was, and if the Immigration officers had pressure on him; I wanted to help him understand that he didn't have to submit to that kind of pressure. And I called him and told him that I wanted to talk to him, and I would appreciate it if he would come to lunch.

Q. Now, did he come at that time?

(Testimony of Jean Marie Murray.)

A. He said he would come and then the next day he called me and told me that he couldn't come. And then it was—I know it was about half a month later that he called up and said, he asked me if that invitation to lunch was still available.

Q. Now, in that interim, had he already testified before the grand jury? A. Yes, he had.

Q. According to what you read in the newspapers? [7300]

A. Yes. I asked him, as a matter of fact, in that when he called up at that time. I asked him, "You have already testified, Mr. Rathborne. I don't think there is anything we have to discuss." He said, "Well, won't you see me?" And I said, "Yes, my curiosity is——," I admitted I would like to know why did he did this.

Q. Did he then come to visit you?

A He did.

Q. About what time of the day did he come to your apartment?

A. Well, was about 1:30 or 1:45 in the afternoon.

Q. And did you have lunch, prepared or anything like that?

A. No, I was in the process of preparing lunch.

Q. Well, did you have a discussion with Rathborne that afternoon relative to the Bridges case?

A. I did.

Q. Now, tell us as best you remember what you said to him and what he said to you.

A. Well, the conversation between us, at first,

(Testimony of Jean Marie Murray.)

was very strained because I had a great contempt for this man for what had already appeared in the papers. And when he admitted to me that the press was not incorrect in quoting him, I went ahead and prepared lunch and he fixed some cocktails, and I had one and I think I had—I remember he made a double set of martinis, and then he made another double set of martinis, and I had one and then I think I had a second one. And it was just toward the end [7301] of lunch, and a most uncomfortable lunch it was, too, that I had waited. I wanted him to open this. To me there was no explanation of why he should do it, but I wanted him to raise this question.

Q. You mean the question of Bridges?

A. Yes. He knew that that was the situation. But he didn't discuss this. So finally after lunch was finished, I said, "Mervyn, how can you do such a thing? Don't you realize that none of the people in the working class will ever have anything to do with you again?" And I said, "They know that you are lying. Why do you cut yourself off from everybody who had any means to respect you before?" I believe he said, "Am I cutting myself off?" And I said, "You already have. How could you become a part of this frameup of the Government? Why did you do it? Were you bought off, Mervyn? I know you were in great financial trouble and that all at once you told Betty that you were no longer in financial trouble. How did this happen? You are no longer working for the CIO,

(Testimony of Jean Marie Murray.)

you were shipping out. How could you settle all these problems about your property? Who bought you off, Mervyn?" He didn't seem to want to answer this question. I said, "Are you part of a frameup between the right wing of the CIO and Truman, who wants to get rid of Harry because he opposed him in the elections? How much money did this combination of forces give you? Or are you promised a big job? Maybe you will become an Immigration official. Maybe you [7302] will become an official in the right wing CIO." But he didn't want to admit that he was bought off. He said, "I am going to sail." And I said, "The workers already realize you will never sail again."

Q. Let me ask you this. Was there any conversation that afternoon about any trip made by Rathborne to the east to speak with officials of the CIO?

A. Well, he told me—I reminded him at that time that he had told me, I think it was some time in November of 1948, that he told me that he had shipped and that FBI officials and Immigration officials had sailed with him on this trip. I said, "I knew they were hounding you, but when did they get you?"

Q. Was there any conversation as to whether or not he knew that Harry Bridges was not a member of the Communist Party?

A. Oh, we had quite a really angry interchange over that, because I knew he was lying and he knew that I knew he was lying, and I accused him

(Testimony of Jean Marie Murray.)

of this, and he said, "Well," he said, "Harry—it is not too difficult to prove." He said—I said, "Proof? You have no proof and you know that the proof is that Harry is not a Communist." He said, "Well, he went along with a lot of the Communist positions and the press had always taken the position that anything militant in the trade union movement was Communist." So that—and, "after all these years, 15 years they have been trying to get Bridges, this time they will do it." I said, "You know Harry is not a Communist. You know he [7303] never was a member of the Communist Party, Mr. Rathborne."

Q. Did he make a reply?

A. I said, "You said yourself that he was only a political economist." I reminded him of those many times that he had told me that he wished Harry Bridges were a Communist, that it would be much easier to resolve some of these problems had Harry been a Communist.

Q. Did he make any response?

A. He said, well, he felt he had to do it. I said, "What kind of pressure are you under?" He admitted that he had finally—when I raised the question of the big shots in the right wing of the CIO—that is what he called them. He saw the big shots in the CIO, went East. I asked him if they paid his way there. "Who paid your way? Did the Government pay your way?" I said, "This looks to the workers as though it is a combination of forces that have finally found it to their interests to finish the job they started 15 years ago."

(Testimony of Jean Marie Murray.)

Q. Let me ask you this. At the end of your conversation with Rathborne on that afternoon, had you prepared any gift of money for him?

A. I was upset when he had called me and told me, asked me if his invitation to lunch were still available, and I felt after he hung up on the phone that I should have told him that I didn't want to see him, or I shouldn't have let my curiosity run away with me. But as I went up to the store to get some other [7304] things for lunch, I went over to the drugstore and got some—I had about 21 dimes in my little change jar that I keep on my dressing table, so I just—I though of Judas' 30 pieces of silver. So I got another dime changed at the drugstore——

Q. Another dime changed?

A. I made another dollar change, excuse me. And got the ten dimes, and I had those ready for him. And at the time that—it was after lunch when—I think it was after I became so angry, that I knew these were lies, that I threw—I had these dimes on my coffee table and I just threw them down at him.

Q. Well, now, at that juncture in your interview with Rathborne, did any other person come as a visitor to your apartment?

A. Not until a little bit later.

Q. And who was that person?

A. It was my neighbor, Bud Sparks—he wasn't my neighbor then, he was my friend. And he was coming to dinner.

(Testimony of Jean Marie Murray.)

Q. Did he knock on the door and obtain admittance? A. Yes, he did.

Q. And when he came into the room, was Rathborne still there? A. Yes, he was.

Q. And were the 30 dimes still on the table?

A. Yes.

Q. And what happened thereafter?

A. Well, Mr. Rathborne turned to—after the introductions were made, Mr. Rathborne turned to Mr. Sparks and said, "She is [7305] giving me hell."

Q. And then did he leave soon after?

A. And then I told him he deserved it. And then he prepared to leave. And as he was leaving, I said, "You are forgetting your pay-off, your thirty pieces of silver."

Q. And did he then leave? A. Yes.

Mr. MacInnis: May we take the recess?

The Court: We will take the afternoon recess, ladies and gentlemen. Same admonition to you, not to discuss the case under any conditions.

(Recess.) [7306]

Q. (By Mr. MacInnis): While you were a member of the Communist Party did you ever use any name except your own?

A. No, I did not.

Q. Did you ever conceal the fact that you were a member? A. I did not.

Q. Did you announce freely to anybody who asked you what your political connection was?

A. I always did.

(Testimony of Jean Marie Murray.)

Q. Now, bringing your memory forward several months beyond June of 1949 when Rathborne had been to your apartment, did you on some occasion in the late fall have a conversation with Betty Teixeira, the subject of which conversation was Harry Bridges? A. Yes, I did.

Q. What was that conversation and what were the circumstances under which it took place?

A. Well, Betty Teixeira has been a friend of mine, and of course after I had seen Mr. Rathborne and found out that he had taken part in this case by his testimony, I let her and any other of my friends know just exactly what I thought of him, and I told her that it was true that he had testified.

Q. Now, did she on some later occasion tell you that she had communicated to Harry Bridges the narrative that you had given her?

A. Yes, she did.

Q. And after that time did she ever ask you whether or not [7307] you would care to drive down with her to Half Moon Bay and visit Mervyn Rathborne?

A. Yes, she said she was thinking of going down to—to see him; that she would like to find out for herself why he did this. And I told her what he had given as his reason at the time that I saw him, and that I thought—well, I thought she had a right to find out for herself.

Q. Well, did you agree to go down with her?

A. Yes. One day she came in and—before Christmas, and we were doing some Christmas

(Testimony of Jean Marie Murray.)

shopping, and she asked me how I would like to go down with her then.

Q. Did you agree to go? A. Yes.

Q. And did you then drive down with her?

A. I did.

Q. And what, so far as you personally observed, took place after you got down to Half Moon Bay?

A. Well, she got out of the car and called Mr. Rathborne's home.

Q. Did you hear her in that telephone conversation? A. No, she told me that.

Q. She later reported to you what it was?

A. Yes, uh-huh (affirmative).

Q. And after that where did she go?

A. Well, after that she parked the car. She told me that he [7308] had asked her to meet him at a restaurant, and she parked the car and I stayed in the car and she went in and talked to him.

Q. About how long was she gone?

A. Well, not more than half an hour; it may have been less than that.

Q. Did you see Rathborne arrive before Rathborne and Mrs. Teixeira entered the restaurant?

A. No, I didn't see him arrive.

Q. Did you see him at all that afternoon?

A. Well, I wasn't expecting to see him, but I was in the car when—and I noticed Betty come up to the side, the driver's side of the car, and then she said, "Mervyn wants to talk to you."

Q. What did you say?

(Testimony of Jean Marie Murray.)

A. Well, I didn't think we had much to talk about, but he was opening the car door—the other car door on the right, toward the curb at that time.

Q. Did he get in the automobile or did he remain outside?

A. Well, he wasn't welcomed very cordially into the car, and he stood in the car door and with the door open, but it was raining, and so he finally said, "It is raining," and he got into the car.

Q. What conversation took place between the three of you at that time?

A. Well, I—I asked Betty to tell me what—what he had [7309] said.

Q. You mean what he had said to her in the restaurant?

A. Yes, what reasons she—you see, many issues that he had discussed with each of us in turn, he would give a different interpretation.

Q. Did she then give to you a narrative or an account of what he had said? A. Yes, she did.

Q. Did he make any correction or objection to her narrative as a true statement?

A. Well, when she said about an armed robbery that the Government had over him, she said—he said it wasn't armed.

Q. And other than that, did he contradict her story as to what she said their conversation had been? A. I don't remember any other——

Q. Was there any talk then about the national CIO among the three of you?

A. Yes, she had repeated the conversation inside.

(Testimony of Jean Marie Murray.)

the restaurant, had concerned the reasons why he had done this, and she stated in this—at this time that he had one—he had gone back to see the national officers of the CIO and that these right-wing officers in the CIO had—the big—the national officials had convinced him that—that he would have nothing to fear in participating in this prosecution of Mr. Bridges.

Q. Now, I notice that you have twice used the phrase [7310] "right-wing CIO." Will you tell us what you mean by that or what you understod it to mean in its usage in the conversation?

A. Well, the workers have known for quite a few years now that the CIO was not any longer one united body; that it had more and more become divided into two parts, and the—the reactionaries in the labor movement are to be found in the right wing, and the rank and file, the persons whom we know to support the rank and file and democratic unions, are to be found in the left wing. Many of the men in the right wing are reactionaries out of not knowing any better, sort of—they are honest persons; but others are very selfish in their interests, wanting great power to—some of them even, I think want to become President.

Q. Well, now, after Mrs. Teixeira had narrated to you what Rathborne told her and after he made the correction that you have mentioned, was there any further conversation, particularly between yourself and Rathborne?

A. There was some conversation. I asked him

(Testimony of Jean Marie Murray.)

how he would have felt, or how he did feel at the time of the big maritime strikes at the stoolpigeons and liars who betrayed the labor movement at that time. And he said, "Well, there were stoolpigeons."

I said, "You mean to say that there are stoolpigeons; you might just as well get some of the rewards for being a liar." I said, "What will your wife think of this? How will she want to live the rest of her life with a man who betrayed [7311] everything that he pretended to believe in for so many years?"

Q. Did he make any reply?

A. No, he didn't.

Q. Did that terminate the conversation?

A. No. I said, "What will your son feel? What rewards can be so great that your son must have that to remember about you? What if every year on his birthday he had to know that his father became this kind of a person?" I said, "Isn't that a horrible birthday present for a father to give his son?"

Q. Did he make any reply to that?

A. No, I don't believe he did.

Q. Well, how did the conversation finally end?

A. Well, he said to me, "I suppose you are working with the defense, too?" he said.

I said, "Well, I believe in telling the truth, and I will make available the truth I know to try to clear up this injustice."

Q. Did he make any reply to that?

A. He was very angry. I think he said, "Do your damnedest," or—he was very angry at this.

(Testimony of Jean Marie Murray.)

Q. Did he then leave or was there more conversation?

A. He said—I said, "I don't think we have anything more to talk about."

Q. What happened then? [7312]

A. And he left.

Q. Well, now, in your presence did Mrs. Teixeira make any threat whatsoever to make any false statement about Mervyn Rathborne.

A. No, she did not.

Q. Did you at that time make any threat to make any false statement about Mervyn Rathborne?

A. No, I did not.

Q. Did you make any threat to go to his wife and invent some relationship between Rathborne or yourself or Mrs. Teixeira?

A. No, I didn't.

Q. Then you drove back to San Francisco, did you? A. Yes.

Q. And about a week later you were arrested?

A. I was arrested on the 29th of December.

Q. Taken to jail and then released on bail?

A. Yes.

Mr. MacInnis: That is all.

Cross-Examination

By Mr. Donohue:

Q. Miss Murray, how long did the conversation in the automobile last?

A. Well, not very long. I can't tell you the exact length of time, but it certainly wasn't—I don't believe it was any more than ten minutes.

(Testimony of Jean Marie Murray.)

Q. Well, what did Mrs. Teixeira tell you Mr. Rathborne had said [7313] inside the restaurant?

A. Well, she said that she had asked him why he did this and why he was working with the Immigration officials against the labor movement, and he said he believed that it was the right thing for him to do. And she reported that she had tried to find out why he had been paid off, how he had gotten his financial difficulties straightened out, was it because he was afraid of the government officials, because she had heard that he had participated in an armed robbery, and he said it wasn't armed.

Q. What further did she say?

A. And that—she said, "Well, when did you—did you make this decision?"

And he said that he had gone east to talk to the national officers in the CIO.

Q. And that is everything that she told you that she said to Mr. Rathborne and he said back to her?

A. No, I think there were some other things; I don't——

Q. Just what else do you remember?

A. Pardon?

Q. Just what else do you remember?

A. I remember that she said she had asked him what he felt to have all of his old friends have such contempt for him and for the rest of his life he would have to be ashamed of his life and that he said, "Well it won't be long." [7314]

Q. Then what did you ask him?

(Testimony of Jean Marie Murray.)

A. Well, I waited until she finished saying the things that they had discussed in the restaurant, and then I just told the Court what I said when she finished.

Q. You talked to him about some stoolpigeons in prior waterfront activities, did you not?

A. I did.

Q. And you talked to him about his wife?

A. Well, I asked him how his wife would feel to be married to a man who——

Q. And you talked to him about his son?

A. Yes, I talked to him, I said, "How will your son feel to have to know that his father had betrayed everything that he had pretended for so many years to believe?"

Q. Did you know that Mrs. Teixeira testified earlier today that when she and Mr. Rathborne came back to the car you had little to say except to say to Mr. Rathborne that you had nothing to say to him and "Let's go"?

A. No. I don't know what Mrs. Teixeira said, but I know that we had very little to say after she finished repeating what they had discussed in the restaurant, and that, as a matter of fact, it was I who said that we had nothing more to discuss. [7315]

Q. Now, when did you first know that you were going down to Half Moon Bay?

A. I just knew it the afternoon of that day that we went down there.

Q. That was in December? A. Yes.

Q. And you had talked to Mr. Rathborne at your apartment in June, had you not?

(Testimony of Jean Marie Murray.)

A. In June.

Q. And you knew that this trial began in November, did you not? A. Yes.

Q. And you knew when you went down to talk to Mr. Rathborne that he was a witness for the United States in this trial, didn't you?

A. Well, I knew that he was being discussed in connection with this trial.

Q. You knew he had testified before the grand jury, didn't you?

A. The paper said he had.

Q. Well, you talked with him in June, did you not? A. Yes.

Q. And didn't you know at that time that he had appeared before the grand jury?

A. Yes, he said so.

Q. And at that time you had called him Judas Iscariot and paid him off or attempted to pay him off in thirty pieces of silver, [7316] hadn't you?

A. Yes, I had.

Q. And at that time he had given you his explanation as to why he was testifying for the United States, had he not? A. He had.

Q. Then why did you go down to Half Moon Bay?

A. My friend asked me to accompany her while she went to ask him why he had done this. So I went with her.

Q. And you felt it was necessary for you to go down there?

A. She asked me to go down there, sir.

(Testimony of Jean Marie Murray.)

Q. Where did you go when you came back from Half Moon Bay?

A. We went to a restaurant to have dinner; first, she stopped and called Mr. Bridges.

Q. Yes, and after you had dinner in the restaurant, where did you go?

A. Well, Mr. Bridges was unable to—Betty had talked with him over the phone, you know.

Q. Yes.

A. And so he was unable to—he did want to hear. That was the first time Rathborne had admitted that he was part of the right wing CIO campaign and plot. And we wanted to tell Mr. Bridges.

Mr. Donohue (To the Reporter): Would you reread the question, Mr. Reporter, to the witness?

(Record read.)

A. Went to Mr. Bridges' house. [7317]

Q. And how long did you stay there?

A. Well, I think it was about, maybe, a half an hour or a little more. I can't estimate time very accurately, sir.

Q. When had you seen Mr. Bridges last before the night that you went to see him at his home?

A. Well, I believe I had seen him toward the end of November.

Q. Now, Mrs. Teixeira testified earlier today that she had seen Mr. Bridges toward the end of November. Did you see him together?

A. She saw Mr. Bridges first and then both of us saw him together.

(Testimony of Jean Marie Murray.)

Q. Well, if she saw him first and then you both saw him later together, how long was the interim between?

A. I think I saw him the evening of the afternoon on which she had seen him. We both saw him together in the evening.

Q. In other words, she saw him in the afternoon and then that evening you both saw him at the same time or simultaneously?

A. Yes. You see, one of the things that they discussed when she saw him in the afternoon was the fact that Mr. Rathborne had been to my apartment in June, and she told him of my anger with Mr. Rathborne, and Mr. Bridges wanted to hear what else had taken place.

Q. Now, when you say you both went there to see him that evening, what time did you go to see him and where did you go to see him?

A. Well, to Mr. Bridges'?

Q. Yes. [7318]

A. Well, Mr. Bridges and Betty came to my house. Betty came first and then Mr. Bridges came after.

Q. You mean they didn't come together?

A. No, they didn't.

Q. Well, how long an interim between the time that Betty came and the time that Mr. Bridges came?

A. Well, Betty came back to my house after she had talked with Mr. Bridges, and she asked me if I would see him, if I would see Mr. Bridges.

(Testimony of Jean Marie Murray.)

Q. Yes? A. And I said, "Yes," I would.

Q. Well, did Betty then remain at your house until Mr. Bridges came?

A. Yes, she did.

Q. Then when you said that you and Betty saw Mr. Bridges together, you mean he came to your house and there you two talked with him?

A. Yes.

Q. And to the best of your recollection, that was some time late in November?

A. Yes, to the best of my recollection.

Q. Are you certain that it was after the 4th of November when this trial began?

Mr. MacInnis: Well, inasmuch as this trial began on the 14th and not the 4th, I don't think that the special prosecutor [7319] should deceive this witness.

Mr. Donohue: I don't know what I would do without you, if you didn't call my attention to my inherent capability of making mistakes. I certainly do wish to thank you.

Mr. MacInnis: You certainly do make them.

Mr. Donohue: Thank you.

Mr. MacInnis: And I certainly will continue to call your attention to them.

Mr. Donohue: Thank you, I appreciate it.

Q. Pardon me, Miss Murray. The trial began on the 14th of November. Can you tell us whether you saw Mr. Bridges at your home after the 14th of November or before?

A. It was after the 14th of November.

(Testimony of Jean Marie Murray.)

Q. You had followed the trial in the press and you knew when it had begun, did you not, Miss Murray?

A. Well, I would have known the date it began had I been a prosecutor.

Q. You mean you wouldn't have made the same mistake I have made? A. Perhaps not.

Q. Before you went down with this other young lady to Half Moon Bay, you had told her what Mr. Rathborne had told you were his reasons for testifying for the United States, had you not?

A. Yes, I had.

Q. And she told you that she had read in the papers the reasons stated by Rathborne for testifying for the United States, had [7320] she not?

A. Well, I think it was assumed we both had read the papers.

Q. Yes. Then did she tell you what her reason was for going down to Half Moon Bay that night in December? A. Yes.

Q. What?

A. She wanted to find out why he had done this.

Q. Didn't she believe what you had told her?

A. Well, sir, you see, a liar seldom tells the same story to two people.

Q. And she wanted to go down to see if he would tell a different lie, is that it?

A. That is right.

Q. Now, had you discussed with Mr. Bridges the night in your apartment when he came there to meet you and this other young lady?

(Testimony of Jean Marie Murray.)

A. Had I discussed——

Q. With Mr. Bridges, the taking of this trip down to Half Moon Bay? A. No.

Q. But you did go to Mr. Bridges' house the same night, when you came back, to tell him about what had happened, didn't you? A. Yes.

Q. And when you were brought to this courthouse awaiting bail, you asked permission to call Mr. Bridges on the telephone, [7321] didn't you?

A. Well, you are misinterpreting something. You see, I didn't know what I was arrested for. I didn't know for three hours after I had been arrested why I was arrested.

Q. And did you want to call Mr. Bridges to find out why you were arrested?

A. Just one moment, sir. You forget the process that went on that day. I was picked up by the United States marshal at 12:00 o'clock and held in this building for about three hours without being told what the case was, what this case was. It wasn't until the press made inquiry, said, "What case is this?" that one of the United States marshals said this was the Bridges case. That was the first I knew that there was anything connected with my activities that would be of interest to this case.

Q. Is that why you called Mr. Bridges?

A. And when they said it was the Bridges case, I wanted to find out what this was; it is why I called.

Q. Now, on numerous occasions since you have taken the stand, you have referred to the "workers." Just whom do you consider the workers to be?

A. I consider the workers to be those many thousands of persons in factories and on farms and in ships who sell their labor power.

Q. What kind of labor power?

A. Their labor power, who sell their own labor power to the companies in order to live. They are not five per centers, sir. [7322]

Q. I wouldn't qualify in your category of workers, would I?

A. Well, you work very hard, I would say, for the monopolies.

Q. Would you say that was true of all professional men that they are not in the category of men whom you classify as "workers"?

A. No, sir, that is not true of all professional men. Happens to be true, I believe, now.

Q. You think it is true now of all professional workers? A. Well, of your profession.

Q. Of my profession?

A. It is against the working class.

Q. Now——

A. The particular role you are playing in your profession.

Q. I understand. Now, I understood you to say shortly ago when you were talking with Mr. Rathborne about his going to sea, you made this statement, "The workers already realize you will never sail again." What did you mean by that?

(Testimony of Jean Marie Murray.)

A. They realized that he no longer needed to sell his labor power in order to live; he had already sold his integrity for your price.

Q. And that is what you meant when you made that statement to Mr. Rathborne? A. Yes.

Q. Now, when was it you left this convent in Great Falls, if it was in Great Falls?

A. It was in Great Falls. [7323]

Q. When was it you left it?

A. In 1934.

Q. And what did you do after you left the convent?

A. I went to the University of Montana for a couple of quarters.

Q. And when did you leave there?

A. In 1935, I believe it was.

Q. Well, you said you joined the Communist Party in 1936, didn't you? A. I did.

Q. Was that also in Great Falls, Montana?

A. It was.

Q. And when did you come to Alameda County?

A. Toward the end of 1941.

Q. Well, when you say toward the end of 1941, what is your best judgment of when?

A. Well, let me see. I believe I moved to Alameda County in approximately June of 1941.

Q. What was your then employment?

A. Well, I was employed, when I first went there, I was a worker in a Westinghouse factory.

Q. Who was the county organizer for the Com-

(Testimony of Jean Marie Murray.)

munist Party in Alameda County when you were there? A. Sir, I don't remember.

Q. Did you ever meet a man named Steve Nelson? A. Yes, I did. [7324]

Q. When did you first meet him?

A. I met him in New York in the national office of the League, the American League Against War and Fascism, and he had just returned from Spain where he had been participating in the war against the Fascists.

Q. When was that?

A. The actual beginning of this second world war.

Q. When was that?

A. I believe that was in the spring of 1938.

Q. Did there come a time when you met Steve Nelson in California? A. There did.

Q. When? A. In 1941.

Q. Where did you meet him in California?

A. In San Francisco.

Q. What, if you know, was his position with the Communist Party at that time?

A. Well, he had just come here from the East Coast.

Q. And what part of 1941?

A. I believe it was about the middle of 1941.

Q. Don't you know as a matter of fact that he came out here to succeed Paul Crouch as county organizer for Alameda County of the Communist Party?

A. No, that was not—I did not know that.

(Testimony of Jean Marie Murray.)

Q. Well, how long did you remain after June of '41 in Alameda [7325] County?

A. Until 1944.

Q. Now, in the period from June of '41 until whatever time in 1944 you left Alameda County; did Steve Nelson have or occupy any position in Alameda County with the Communist Party?

A. Yes, he did.

Q. What position did he occupy?

A. He was the county organizer.

Q. And when did he become the county organizer?

A. He was already county organizer when I came to Alameda County.

Q. Now, you testified that you have attended at least one Community Party meeting with Mr. Rathborne; is that true? A. Yes.

Q. Was it one or more than one?

A. Well, I would say more than one.

Q. Well, will you tell us where and where you attended the first Communist Party meeting with Mr. Rathborne and who, other than you and Mr. Rathborne, were present?

A. Well, I believe the first Communist Party meeting I attended with Mr. Rathborne was in Alameda County.

Q. When?

A. I believe it was about 1942.

Q. Whereabouts in Alameda County?

A. In a restaurant in Alameda County. [7326]

Q. Where was the restaurant?

(Testimony of Jean Marie Murray.)

A. It's called Valentine's Restaurant.

Q. Valentine's? A. Yes.

Q. And where is it located?

A. Well, sir, I don't remember the street address. It is toward the center of Oakland.

Q. Toward the center of Oakland?

A. Yes.

Q. And what is your best recollection of the time in 1942 when this meeting was held?

A. I believe it was about February or March, 1942. Of that I can't be sure.

Q. Do you recall whether the meeting was held in the daytime or in the nighttime?

A. It was held in the afternoon, just about at lunch time.

Q. Now, was this Communist Party meeting held in a public room in this restaurant or in what part of the restaurant was it held?

A. It was held in a booth.

Q. In a booth?

A. Over the—it was over lunch time. Just at lunch time.

Q. Was the booth open at some part or was it wholly enclosed? A. It was open.

Q. Open. How many persons attended this Communist Party meeting held in this open booth in Valentine's Restaurant? [7327]

A. Oh, I imagine there were about four.

Q. Now, who were the persons other than yourself and Mr. Rathborne?

A. I don't remember, sir.

(Testimony of Jean Marie Murray.)

Q. Pardon? A. I don't remember.

Q. Well, can you tell us what the subject matter in discussion was?

A. I believe that the subject matter under discussion at that time involved the fact that many men were being drafted into the services.

Q. Well, that was pretty common knowledge that I think, in February and March of 1942, a lot of people were being drafted into the service. What was the Communist Party interested in, in the subject matter under discussion, if you can tell us?

A. The Communist Party interest in that subject matter under discussion was in the placement of women, the replacement of men by women in various posts.

Q. I didn't quite hear. The replacement of what?

A. The replacement of men by women in those posts.

Q. You mean in Communist Party posts?

A. Um-hm (affirmative).

Q. Now, at that time you belonged to a unit of the Communist Party in Alameda County, didn't you? A. I did. [7328]

Q. And Mr. Rathborne belonged to a Communist Party unit in San Francisco, correct?

A. Yes.

Q. To what unit did these other two persons belong whom you can not now recall as being present?

(Testimony of Jean Marie Murray.)

A. Well, I can't recall to what unit they belonged either, if I can't recall who they were.

Q. Can you tell us whether they were men or women?

A. I don't remember who was at that meeting, sir.

Q. Well, can you tell us who called this meeting, who arranged for it?

A. Mr. Rathborne himself arranged for it.

Q. Now, what information did you first have and how did you get it, that this meeting would be had at lunch time and in an open booth in Valentine's Restaurant some time between February and March of 1942?

A. Well, you see, I was his secretary in the Alameda County CIO Council and I believe that Mr. Rathborne called me himself and asked to talk with me about these things.

Q. Now, do you recall whether or not the other two persons whom you can not identify were persons whom he asked you to bring there or were they persons whom he brought?

A. I believe, as I recall it now, that they were persons whom he brought, because I did not know Mr. Rathborne personally at this time. I was told through the party office that I was to see him, that he was a Communist. I didn't even know at that time that he was responsible—until that time—for party work. [7329]

Q. Had you met him at all prior to this date in 1942 when you attended this meeting with him?

(Testimony of Jean Marie Murray.)

A. No, sir, and I didn't really—I was there. I believe this was the first meeting that we had on the servicemen's problem at that time.

Q. Then this was not only your first meeting with Mr. Rathborne personally, but it was the first meeting that you had with him which you have characterized as a Communist Party meeting; correct?

A. Well, as I recall now, that was the first time that I had any occasion to see Mr. Rathborne.

Q. Now, from your experience of ten years in the Communist Party, was it the practice of the Communist Party to hold Communist Party meetings in open booths in public restaurants?

A. Yes, sir, sometimes.

Q. Well, did you attend any other such Communist Party meetings held under like circumstances?

A. If there were a particular issue under discussion and it could only be arranged at such a time, we did discuss those things then.

Q. Now, in 1942 was the fact that you were a member of the Communist Party a matter of public knowledge?

A. It always was, sir. I have never lied about my being a member of the Communist Party.

Q. But in 1942 the fact that Mr. Rathborne was a member of [7330] the Communist Party was not public knowledge, was it?

A. No, I don't believe so.

Q. And yet you tell us that in a public res-

(Testimony of Jean Marie Murray.)

taurant with a known Communist, yourself, Mr. Rathborne attended a Communist Party meeting in an open booth in a public restaurant; is that correct? A. Yes, sir.

Mr. Donohue: I have a few more questions, if your Honor please. Perhaps we had better defer them until tomorrow morning.

The Court: We will take the adjournment, then, until tomorrow morning at ten o'clock. The same admonition to you, ladies and gentlemen, not to discuss the case under any conditions.

(Thereupon an adjournment was taken until Thursday, March 9, 1950, at 10:00 a.m.) [7331]

Thursday, March 9, 1950—10:00 o'Clock A.M.

The Clerk: United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Jean Marie Murray, heretofore sworn.

Mr. Donohue: May I proceed, Your Honor?

Cross-Examination
(Resumed)

By Mr. Donohue:

Q. Miss Murray, have you refreshed your recollection overnight as to the identity of the other two Communist Party members who attended the meeting in Valentine's Resaurant?

A. No, I have not, Mr. Donohue.

(Testimony of Jean Marie Murray.)

Q. Where and when was the next Communist Party meeting you attended with Mervyn Rathborne? A. I don't remember.

Q. You don't remember?

A. No, I don't.

Q. Do you recall that you did attend another Communist Party meeting with Mr. Rathborne?

A. I recall there were other meetings, but I don't remember when they were.

Q. Where were they?

A. Well, I have a recollection they were in the Bay Area, here or in Oakland, but I don't remember—I can't remember just exactly where they were. [7332]

Q. Remembering as you do, that you attended other Communist Party meetings with Mervyn Rathborne in the Bay Area, can you tell us the identity of any other person or persons who attended those other meetings?

A. No, I can't, Mr. Donohue.

Q. Yesterday, Miss Murray, referring to page 7290 of the record, you were asked this question:

> "Q. And after you came to San Francisco can you tell us whether or not you met a man named Mervyn Rathborne?
>
> "A. Yes, I met Mr. Rathborne.
>
> "Q. Where and under what circumstances and at what approximate time?
>
> "A. Well, I met him in the spring of 1944."

Referring now to page 7236 of the record, I asked you these questions and you made the following answers:

"Q. Now, you testified that you have attended at least one Communist Party meeting with Mr. Rathborne, is that true?

"A. Yes.

"Q. Was it one or more than one?

"A. Well, I would say more than one.

"Q. Well, will you tell us where and when"—the record says—"you attended the first Communist Party meeting with Mr. Rathborne and who, other than you and Mr. Rathborne, were present? [7333]

"A. Well, I believe the first Communist Party meeting that I attended with Mr. Rathborne was in Alameda County.

"Q. When?

"A. I believe it was in 1942."

A. 1942?

Q. Yes, and now reading from——

A. I believe that is a mistake.

Q. Just a moment, please.

Mr. MacInnis: Pardon me. I think the witness might complete her answer. Did you say 1942?

Mr. Donohue: Yes, I said 1942. That is, I read the witness' answer saying 1942.

Mr. MacInnis: I don't remember her saying 1942.

Q. (By Mr. Donohue): Well, you might look at page——

(Testimony of Jean Marie Murray.)

A. Sir, that is a mistake. If it is 1942, it is a mistake. I met, I am sure, Mr. Rathborne a little later than that at least. I am not quite sure when I first met this gentleman.

Q. You said yesterday on direct examination that you met him in 1944 and the record indicates on cross-examination you said you met him for the first time at a Communist Party meeting in Valentine's Restaurant, which you said took place in February or March, 1942. Now, in which year was it in fact that you met Mr. Rathborne?

A. Well, I would say that it was around 1944 when I first met Mr. Rathborne, but it may have been earlier. I met quite a few [7334] people when I came to Oakland, people whom I had not recognized before, and I met them all in a—oh, a period that covered two or three years, many hundreds of people during that time in that work.

Q. Do you recall that on yesterday on your direct examination, referring to page 7291 of the record, you were asked this question:

"And under what circumstances—" referring to the circumstances under which you first met Mr. Rathborne—and you made this answer:

> "Well, I was secretary for the Alameda County CIO Council in Oakland. When I came back I was campaign secretary in the 1944 campaign, Roosevelt campaign, and the CIO Council in Alameda County was putting out a year book and I was asked to speak to the business men in Alameda County and to ask

those of them who wished to support the program to give a testimonial of their support to labor, and many of them did.

"Q. And was that the approximate time at which you met Mervyn Rathborne, is that true?

"A. Yes, he asked me at that time to come and work for the Labor Herald."

Does that refresh your recollection as to whether or not those were the circumstances in 1944 at which time you met Mr. Rathborne? [7335]

A. Well, sir, I wanted to give you the circumstances in which I first became personally concerned with Mr. Rathborne in working on the Labor Herald, and I tried to give you all the circumstances and I would say yes, I remember this as about that time. I can't be sure just when it did take place, but I would say it was some time then.

Q. Were you correct in your recollection yesterday that the first time that you personally met Mr. Rathborne is when, as you state here, in 1944 he asked you to work for the Labor Herald?

A. I would say it must have been some time around then, although I can't be sure just when.

Q. Do you recall that yesterday, referring to page 7330 of the record; and referring to Communist Party meeting in the open booth in Valentine's Restaurant at high noon in 1942, I asked you this question:

"Then this was not only your first meeting with Mr. Rathborne personally, but it was the first meeting you had had with him which you have characterized as a Communist Party meeting, correct?

"A. Well, as I recall now, that was the first time I had any occasion to see Mr. Rathborne."

A. In 1942? [7336]

Q. In 1942.

A. I have told you this morning, sir, that I believe that to be a mistake. I don't believe it was as early as that. I was trying, as I said, to give you the circumstances when I may first have seen this man; when I talked with him concerning the job on the Labor Herald, I am sure it must have been some time later, but I can't tell you just exactly when.

Q. If your recollection on yesterday was that you talked with Mr. Rathborne about the job on the Labor Herald at the time of the 1944 Roosevelt campaign, can you tell us now whether your talk with Mr. Rathborne about the job on the Labor Herald was before or after this Communist Party meeting in the booth in Valentine's Restaurant?

A. Well, sir, I can't remember those dates. Can you remember all of these dates eight years ago?

Q. No. I am not asking you to remember the dates. I am asking you to recall which of the two circumstances occurred first.

A. Well, there were many meetings—many,

many meetings in Alameda County, preceded—of all kinds with all sorts of people preceded my coming to San Francisco, and I can't be sure when these meetings were or which came first or which one second. I kept no record of these things.

Q. Then are you able to tell us this morning whether or not this Communist Party meeting you have described as having taken place between yourself and Mr. Rathborne and two unidentified [5337] other members of the Communist Party at this public restaurant in Oakland occurred before or after Mr. Rathborne had asked you to work for the Labor Herald?

A. My impression, sir, is that it occurred before.

Q. Can you tell us how long before?

A. Well, it may have been 1942 or '43, but I am not sure; I can't give an exact date. It may have even been 1944.

Q. Can you tell us whether the first time you met Mr. Rathborne was at a Communist meeting or was it at a labor meeting of some kind?

A. Well, that I can't recall either, because Mr. Rathborne was both a labor—well, I hate to distinguish him with the title "leader" at this point, but he was in the labor movement, and he was also a Communist.

Q. You mean you find it reluctant this morning to refer to the fact that Mr. Rathborne had been designated by you at one time as a labor leader?

A. Yes. I was mistaken in thinking he was

(Testimony of Jean Marie Murray.)

capable of maintaining leadership of the working class. He preferred to sell his integrity.

Q. I beg your pardon?

A. He preferred apparently to sell his integrity.

Q. Now, since it is your present recollection this morning that the Communist Party meeting in Valentine's Restaurant in downtown Oakland occurred prior to the time that you met—— [7338]

A. You have a strange impression—excuse me, Mr. Donohue, but you have a strange impression of Communists. I think you have been reading a lot of cloak-and-dagger books, you know.

Q. Referring again to the time——

A. Just a moment.

Q. Surely.

A. You seem to think that all of the people who are members of the Communist Party are the type of people whom you have been able to buy, the ones who sold their integrity to you and your corrupt government.

Q. You mean my government?

A. Some of them. This is a government of the monopolies; it isn't a government of the working class.

Q. You mean the Government of the United States, which I am proud to represent?

A. The Government of the United States is a dictatorship of the monopolies; it doesn't represent the workers.

(Testimony of Jean Marie Murray.)

Mr. Donohue: I have no further questions of this witness.

Mr. MacInnis: We have no questions.

The Witness: What?

Mr. MacInnis: We have no questions. Thank you.

Mr. Robertson.

J. R. ROBERTSON

recalled for the defendants in surrebuttal; previously sworn. [7339]

The Clerk: The witness on the stand is James R. Robertson, heretofore sworn.

Direct Examination.

By Mr. MacInnis:

Q. Now, Mr. Robertson, as we have discussed the matter, we wanted to go over some of the things said by the witness Rathborne. You remember that you were elevated by the witness Rathborne to a position on some committee called "God's Committee." Do you remember him testifying to that? A. Yes.

Q. Were you a member of any such committee?

A. No.

Q. Now, on the one occasion on which the witness Rathborne specified any date about any attendance at any so-called Communist meeting at which he placed you as one of those in attendance, we find the date to be specified as November of

(Testimony of J. R. Robertson.)

1943, and referring for the special prosecutor's benefit to page 6421 and to 6420 as well, the witness Rathborne said that within two weeks after the 1943 convention of the CIO at Philadelphia, he attended a Communist Party meeting with you in San Francisco and that there was present also a man named William Schneidermann. Do you remember him giving that testimony?

A. Yes.

Q. And he said this:

> "The best way I can place the date, I would say within two weeks after the convention, national CIO convention, [7340] that was held in Philadelphia; it was a few days after the delegates returned from that convention, which I would say put it within two weeks after that convention."

Now, first of all, did you attend the convention in Philadelphia?

A. I attended the national CIO convention in Philadelphia in 1943, yes.

Q. And where were you living at that time?

A. I was stationed in Chicago at that time and living there.

Q. And what was your job in Chicago?

A. Directing the organizational work of the international.

Q. What was your home address in Chicago?

A. 2121 Milwaukee Avenue, Chicago.

Q. 2121 Milwaukee Avenue, Chicago. And when did you first start living at 2121 Milwaukee Avenue in Chicago?

A. I would say in the early part of 1943.

Q. The early part of 1943. And you lived there continuously except for business trips elsewhere, until what approximate date?

A. I believe the latter part of June, 1944. I lived there over a year.

Q. In other words, until June of 1944 you were living in Chicago? A. Yes.

Q. Did you return to San Francisco immediately after the CIO [7341] convention in Philadelphia? A. No.

Q. Did you attend any meeting in San Francisco in which there was discussed, according to Rathborne, some maneuver under which Mr. Thimmes became president of the California CIO replacing Mr. Connally?

A. No, not having been here, I couldn't have attended any meetings in San Francisco.

Q. You didn't attend any meeting as specified by the witness Rathborne? A. No.

Q. After you heard the witness Rathborne give that testimony, did you consult your personal records in order to see if there were any documents in your possession that would prove you were actually in Chicago at that time?

A. I most certainly did.

Mr. MacInnis: I am going to present some of those documents to you, and I am going to ask the special prosecutor to listen carefully, because at the end of this testimony we are going to ask that the witness Rathborne be similarly cited to the grand jury for a perjury indictment as to his testimony in this case.

Mr. Donohue: I move, if your Honor pleases, that that unnecessary, unjustifiable and personal comment of Mr. MacInnis be stricken from the record. [7342]

The Court: It is stricken from the record and the jury is admonished to disregard it.

Mr. Donohue: I should like to say also for the record that it is unnecessary for Mr. MacInnis to suggest that I listen carefully. I listen carefully to everything that occurs here.

Mr. MacInnis: Sometimes you don't. For instance, you told a witness yesterday that this trial started November 4. I don't think you pay attention——

Mr. Paisley: Let's get along with the case.

Mr. MacInnis: Pardon me. Did you say something?

Mr. Paisley: Yes. Let's get along with the case.

Q. (By Mr. MacInnis): Do you know when the CIO convention in Philadelphia was held?

A. The first week in November, I believe.

Q. You mean by that November 1, 2, 3, 4 and 5?

A. I would have to see the proceedings, but I would say it was around that date—those dates, rather.

(Testimony of J. R. Robertson.)

Q. I will show you, if I may, the proceedings of that convention, and if you will look on the first page inside the cover you will see the dates.

A. Yes.

Q. I will ask you if that document refreshes your memory.

A. The 1st, 2nd, 3rd, 4th and 5th, those are the five days; Monday through Friday, that is. [7343]

Q. Did you travel from Chicago to Philadelphia for that convention? A. No, I did not.

Q. By what route did you reach Philadelphia?

A. From Fort Knox, Kentucky, I believe.

Q. When had you gone to Fort Knox, Kentucky, and for what purpose?

A. Well, the War Department, to further the war effort, had gathered together a large group of persons in the Midwest area, took them to Fort Knox to get them better acquainted with the functions of our armed services, and I was fortunate enough to be one of those civilians that was taken for this two-day conference in Fort Knox, and I left Chicago the latter part of October, I believe—I think it was the 27th—26th, 27th or 28th. I know we had a two-day conference there in the latter part of October, and I went from the conference to Philadelphia for the convention.

Q. In respect of that situation, as well as the other dates that will follow, I have certain records, some of which I believe are personal records of yours, and others officials records of the CIO. Are

(Testimony of J. R. Robertson.)

these records that you have gone over with me prior to coming here to court?

A. Yes. Yes.

Q. Mr. Robertson, would you please tell us what this first voucher is? [7344]

The prosecutor has a photostat of all of these documents for his inspection.

A. Yes. This is an expense voucher of mine, and this——

Q. That is part of the official record of the union? A. Yes.

Q. Can you refresh your memory from that document and tell us when you went to Fort Knox, and when and in what fashion you traveled from Kentucky to Philadelphia?

A. The dates on this expense voucher are October 27 through November 10, and it says Chicago to Fort Knox, Kentucky, and from Fort Knox to Philadelphia, and from Philadelphia to New York, from New York to Baltimore, and return to Chicago, and that is in a period from October 27 to November 10, including my trip to Fort Knox, attending the convention and taking care of whatever responsibilities I had in the East at that time, returning to Chicago, I believe, the 10th or the 11th of November.

Q. And that record brings you up to the 10th of November of 1943, is that true? A. Yes.

Mr. MacInnis: In all of these instances we will ask that the photostat be received instead of the original in evidence. These are official records

(Testimony of J. R. Robertson:)

kept in the ordinary and regular course of business.

Q. Having brought yourself up to the 10th day of November, 1943, I am going to hand you another document and ask you if from this [7345] document you can refresh your memory as to your activities between the 10th and the 12th of November of 1943. That is a letter dated November 12 of which you have a copy.

A. Yes, this is——

Q. What is the letter first?

A. It is a letter from myself to Secretary Goldblatt of the international.

Q. Written by you where?

A. Written by me in Chicago on November 12.

Q. And how can you identify the letter as having been written by you in Chicago?

A. It has my secretary's initial at the bottom of the first page, the usual mark.

Q. Is there any memorandum which was enclosed with that letter that recounts your activities?

A. Yes.

Q. Upon days previous to that?

A. Yes, there is a memo here outlining the matters I took up, organizational matters I took up with other unions, other national unions, during the course of the CIO convention at Philadelphia, and the subsequent trip to New York to work out the details.

Q. When were you in New York upon that errand?

(Testimony of J. R. Robertson.)

A. It was between the 1st and the 10th of November. I can check the record and get the exact date, perhaps, but it was [7346] probably after the end of the CIO convention, which I believe was the 5th, and I took a run into New York to see representatives of the NMU. I would say it would be after the 5th. [7346-A]

Q. So far as your presence in Chicago was concerned after that trip that you made to New York, I am going to show you some other documents and ask you if they refresh your memory. I am handing the witness now some checks, of which the prosecutor also has copies, and, by the way, we offer for evidence the original letter of the witness to Mr. Goldblatt written from Chicago November 12, 1943, and we ask that a photostat be received in lieu of the original.

A. I have examined this material. They are canceled checks. Some of them are personal checks and one of them is payroll check.

Q. Calling your attention to November 11, 1943, can you tell us whether or not in Chicago you wrote any checks upon that day? A. Yes.

Q. What checks were those?

A. Here is one to the real estate firm paying my rent. Here is another to——

Q. May I stop you there a moment? What date does that check bear?

A. November 11, 1943.

Q. Is that an original canceled check?

A. Yes.

(Testimony of J. R. Robertson.)

Q. Does it show upon the back of it that it was deposited? A. Yes, it does.

Q. Upon what bank was that check [7347] drawn?

A. The American National Bank and Trust Company of Chicago.

Q. I think that is the deposit mark. What is the bank upon the face of the check?

A. I am sorry. The Merchants & National. That is the bank I had my account with.

Q. Merchants National Bank of Chicago?

A. Yes.

Q. Did you write any check for any utilities upon that day, November 11, 1943? A. Yes.

Q. What check was that? What amount and to whom?

A. This is a check to the gas company for my gas bill dated November 11th, on the Merchants National.

Q. Was that deposited in Chicago?

A. Yes, yes.

Q. How about the paycheck of which you speak?

A. Here is a paycheck dated November 10th, 1943.

Q. That would be dated in San Francisco?

A. San Francisco, yes.

Q. Did you receive that in Chicago?

A. Yes.

Q. Does it show upon the back of it that it was actually deposited in Chicago? A. Yes.

Q. Where and when? [7348]

(Testimony of J. R. Robertson.)

A. On November 13th, 1943.

Q. Do you have any other check showing the payment of an electric bill?

A. Yes, I have one dated November 11th to the Edison Company for $3.85 for my electric bill drawn on the Merchants National.

Q. Does the back of that check show it was deposited in Chicago? A. Yes.

Q. Do you have any other check in your hand?

A. November 16th. Let's see, I have my electric bill, my gas bill, my rent—yes, I have a couple of personal checks here marked "Cash," one on the 13th and one on the—it might be the 17th or the 11th. The stamp that cancels is——

Q. I see. Were you in Chicago on all of those dates? A. Yes, I was.

Q. To cover again somewhat the same period of time following the 11th, I will ask the Clerk if he will hand to you another letter dated November 13th.

The Court: Mr. MacInnis, interrupting you momentarily, the first letter may be marked—that is, the letter from this witness to Mr. Goldblatt in evidence as Defendant Robertson's exhibit next in order, and the checks may be marked appropriately as exhibit next in order.

Mr. MacInnis: It might be easier for the Clerk if we make them all one exhibit.

The Court: That is agreeable. [7349]

Mr. MacInnis: There will probably be 15 of these pieces of paper.

(Testimony of J. R. Robertson.)

The Court: All right.

Q. (By Mr. MacInnis): Would you hand the witness this letter dated November 13th from Chicago and signed by himself?

A. Yes; this is a letter from me in Chicago to Mr. Goldblatt, our secretary, raising some administrative problem with him, dated November 13th, and it has my secretary's initials at the bottom of the page.

Q. Was that letter written by you in Chicago?

A. Yes.

Q. And you were in Chicago upon that day?

A. Yes.

Mr. MacInnis: I will make the same request as to all of these documents at the end of the series of questions.

Q. Referring to the 15th, 16th and 17th of the same month, November, 1943, I am handing you now a group of checks and I will ask you if you can look at those checks and, first of all, tell us if you were still in Chicago on the 15th, 16th and 17th of November?

A. Yes, I was still there.

Q. What check do you have that you wrote on the 15th of November in Chicago?

A. I have a check here, canceled check, paying my phone bill drawn on the Merchants [7350] National.

Q. Was that check, according to the back of it, deposited in the regular course of business in Chicago? A. Yes.

(Testimony of J. R. Robertson.)

Q. Do you have one for the 16th that you wrote?

A. Yes, I have one for cash here, for $13.80, drawn on the Merchants National.

Q. Can you see from the back of the check if it was cashed?

A. Yes, it has the usual clearance stamp on it.

Q. Do you have any document or check bearing the date November 17th? A. Yes.

Q. What is that?

A. I have two. I have one, my pay check, and one is an expense check that was returned to me.

Q. The pay check, of course, would have been dated in San Francisco the 17th?

A. November 17th.

Q. Can you look at the back and tell us when you deposited those checks or either of them, if they bear different dates of deposit?

A. There is a November 26th date here, 1943, stamped on this one, a November 26th date stamped on this one, on the back. There is some other writing I can't distinguish. The date is clear there. One date is the bank it was deposited in, and I imagine the other stamp is the clearing house and they are both [7351] of them on top of each other. There are two dates here. November 26 stands out very clear and the other one is November—I can't distinguish, I can't make it out.

Q. I will hand you the original of a Western Union wire bearing date of November 19th at 9:29 a.m. and I will ask you if you recognize that wire.

(Testimony of J. R. Robertson.)

A. Yes, this is a wire from myself to Secretary Goldblatt.

Q. Sent by you from where?

A. From Chicago.

Q. On what date?

A. It is dated November 19th. That looks like the stamp where they received it. Up here is 19. It was sent the 19th of November.

Q. What was the subject of that wire?

A. I was suggesting specific dates as to when our international board meeting should be held in Chicago and asked for confirmation from the national office.

Q. Where were you when you sent that wire?

A. Chicago.

Q. I will show you copies of wires bearing dates of November 21st and November 22nd, 1943, and I will ask you if you were continuously in Chicago from the 19th through the 21st and 22nd?

A. Yes.

Q. What wire did you send on the 21st of November?

A. I sent a wire to the national office getting my—asking for [7352] my policy number for my car insurance.

Q. What was the reason for that?

A. I had had an accident.

Q. What wire did you send on the 22nd of November?

A. Another wire dealing with the policy number immediately. She hadn't wired me the number.

(Testimony of J. R. Robertson.)

Q. Your insurance policy number?

A. Yes, the car insurance policy.

Q. Stating that your car was damaged?

A. Yes.

Q. Where were you upon November 21st and November 22nd? A. In Chicago.

Q. I will show you a copy of a letter purportedy signed by you bearing date of November 23rd, 1943. Can you tell us where you were on November 23rd?

A. Yes, I was in Chicago and I have before me a letter from myself to Under Secretary of War Mr. Patterson.

Q. What was the subject of that letter?

A. It was giving him my views of my trip to Fort Knox and making certain suggestions as to how we could follow through with civilians on our end of it after we got home, and trying to better mobilize the people we represented so far as the war effort is concerned. It is a letter along those lines to Under Secretary of War Mr. Patterson.

Q. Where were you when you wrote that [7353] letter?

A. Chicago.

Q. I will show you what appears to be a check from the ILWU at San Francisco issued November 24th, 1943, and apparently sent to you. I will ask you to look at it and tell us whether you deposited that letter in Chicago or not.

A. Yes, this is another payroll check.

(Testimony of J. R. Robertson.)

Q. Where were you when you received that pay check?

A. Chicago, and it has the usual clearance stamp on it and deposit stamp. The date is December 3rd, I believe.

Q. I have also in my hand a copy of a letter signed by Secretary Goldblatt at San Francisco addressed to you on November 27th, 1943, and directed to you in Chicago. I will ask the Clerk if he will hand that to you, please. Do you know that to be a copy of a letter taken out of the official files of the ILWU? A. Yes.

Q. Kept in the ordinary course of business?

A. That is right.

Q. Did you receive that letter, that is, its original? A. Yes, I did.

Q. Where did you receive it?

A. Chicago, at our office there. It is from Secretary Goldblatt to myself dealing in detail with some administrative problems we have had.

Q. Now, so we won't be confined merely to approximate dates because, of course, any person might be entitled to make a [7354] mistake on a matter of days, this witness says it was within two weeks after the CIO convention. We have already covered the balance of the month. I will take you into the month of December. Let me ask you if you came to San Francisco in December of that year.

A. No, I did not.

Q. I will show you, if I may, the original of a letter bearing your signature, bearing date of December 1st, 1943, written from Chicago to Secretary Goldblatt.

A. Yes, this is a letter from myself to Secretary Goldblatt dated December 1st, written in Chicago.

Q. You were in Chicago when you wrote that letter?

A. Yes, taking up details of organizational matters.

Q. By the way, in all these periods of time were you outside the city of Chicago at all except on private business that you have mentioned?

A. No, not during this period that we are discussing, no.

Q. I will show you a letter signed by yourself and bearing date of December 2nd, 1943, and I ask you to tell us what that is.

A. This is a letter from myself dated December 2nd to John Stephens in Seattle, who was a member of our international executive board.

Q. Where were you when you wrote that letter?

A. Chicago.

Q. Where was the person to whom you addressed that letter? [7355] A. In Seattle, Washington.

Q. Are all of these letters shown you letters taken from the original files of the ILWU?

A. Yes.

Q. And sent in the ordinary course of business?

A. That is right.

Q. I will show you, if I may, a wire signed by you bearing date of December 7th, 1943.

A. This is a wire from myself dated December

(Testimony of J. R. Robertson.)

7th to Secretary Goldblatt dealing with some details in preparation for our board meeting to be held in Chicago in February.

Q. Where were you when you sent that wire?

A. Chicago.

Q. I find here a date that I apparently skipped, November 26, 1943. I find here a letter, a copy of a letter addressed by you to Private Eugene Patten at Camp Williams, Utah. I will ask you to look at this copy and tell us if you have already examined it and determined that to be a copy of a letter written by you.

A. Yes, this is a letter from myself dated November 26 written in Chicago in my office to Gene Patten, who was in the service at that time. He was former international secretary of our organization.

Q. So that we can see what your plans were perspectively back in October as to your whereabouts in the following months, I [7356] will ask you to look at a letter bearing date of October 23rd, 1943, describing your plans to go to Fort Knox, and so forth.

A. Yes, this is a letter from myself dated October 23rd, 1943, addressed to President Bridges, written in Chicago, and to President Bridges in San Francisco.

Q. What is the subject of that letter?

A. I state that the War Department had called a conference in Fort Knox and set forth the dates and outlined my itinerary and where I will be after going to Fort Knox, going to Philadelphia, and they

(Testimony of J. R. Robertson.)

had a series of such conferences, and we were making arrangements for our representatives in various sections of the country to attend on a regional basis these conferences called by the War Department, dealing in detail with some of them.

Q. I will show you the copy of the Council meeting minutes held in Chicago on December 16, 1943, and ask you to look at this piece of paper.

A. Yes, this is the mimeographed copy of the usual Council meetings that are sent out to all the local affiliates. This is the official minutes of the Council meeting dated December 16th. I attended that Council meeting. In fact, I was a delegate to the Council and I attended that meeting.

Q. Is that a mimeographed copy of the minutes?

A. This is a regular, mimeographed copy of minutes sent out to all locals at that time.

Q. In other words, the so-called original would be made on a [7357] stencil?

A. That is right.

Q. And the mimeographed copies made from that? A. That is right.

Q. Do you find that you were present at that particular meeting? A. Yes.

Q. Where is the meeting?

A. The meeting was held at 205 West Wacker Drive in Chicago. I have some other checks here. I do not think they are photostatic copies, but I will show them to the prosecutor.

Mr. Donohue: I would just like to have one, if

(Testimony of J. R. Robertson.)

I may; the check of November 12th made payable to the Commonwealth Edison.

Mr. MacInnis: I will get that for you.

The Court: Here it is, November 13th.

Q. (By Mr. MacInnis): While the special prosecutor is looking at that check, I will ask you these questions. I won't trouble the Clerk to take these checks up to you. On the respective dates which I will now mention, were paychecks or expense checks, as the case may be, issued in San Francisco by the ILWU and mailed to you at Chicago: December 1st, 1943; December 6th, 1943; December 15, 1943; December 17th, 1943; December 22nd, 1943; December 29th, 1943; January 4th, 1944; January 11th, 1944; January 18th, 1944; January 25th, 1944; February 1st, 1944; February 8th, 1944; February 16th, 1944; February 23rd, 1944. A. Yes. [7358]

Q. And if it is requested, I suppose we can bring in the records showing your residence in Chicago up to June of 1944? A. That is right.

Q. And you recall that the subject of this alleged Communist Party meeting where Rathborne said you were in attendance was the immediate subject of the replacement of Connally by Thimmes as California CIO president, a move that was engineered at the 1943 CIO convention in November?

A. That was his testimony, I believe.

Q. When did you first come back to San Francisco at all, whether it was for a one-day visit, a vacation, a conference or anything following the month of November, 1943?

(Testimony of J. R. Robertson.)

A. In April of 1944 I spent several days, I think two or three weeks in San Francisco.

Q. In other words, beginning with the CIO convention of 1943, November 1st, 2nd, 3rd, 4th and 5th, when you were in Philadelphia, and prior to that time, you had not physically been in San Francisco until the month of April, 1944?

A. That is correct.

Q. And by April of 1944, the matter of Mr. Connally and Mr. Thimmes and the CIO presidency had become a matter of past history, is that true?

A. I think the testimony of this case indicates that.

Q. And you were not at any such meeting either at San Francisco or elsewhere with [7359] Rathborne? A. That is right.

Mr. MacInnis: Now, if the Court please, we offer as one exhibit and ask that the photostats be allowed to replace the originals, all of the documents to which reference has been made.

Mr. Donohue: We have no objection, your Honor.

The Court: They may be marked as one exhibit, Mr. Schaeffer.

(Checks and letters referred to were thereupon received in evidence and marked Defendants' Exhibit G-4.)

Mr. MacInnis: If I have referred to one or two originals on which there are no photostatic copies, I will be glad to show them to the prosecution.

(Testimony of J. R. Robertson.)

Mr. Hallinan has suggested to me it might be better to put in the originals so there won't be any doubt, and then later on possibly we can withdraw them. So we will put in all the originals I have referred to, and when the prosecutor finishes reading what he has in his hand, that could become part of the same exhibit.

The Court: And likewise a copy of the memorandum.

The Witness: Here is a document here (handing a document to the Clerk).

Mr. MacInnis: Here are two more.

The Court: What is the exhibit number, for the record, Mr. Schaeffer?

The Clerk: G-4, and I shall mark them G-4-A to Q, [7360] inclusive.

Cross-Examination

By Mr. Donohue:

Q. Mr. Robertson, if you were in Fort Knox, Kentucky, or Philadelphia, Pennsylvania, or San Francisco, California, and your utility bill became due and you made out a check and mailed it to the Commonwealth Edison Company, will you look at that check and tell me if there is any way you can tell by that check whether you drew it or filled it out in New York, Baltimore or San Francisco and mailed it to the Edison Company, or whether you filled it out in Chicago and mailed it, or whether you filled it out and took it down there personally?

A. There is no way of distinguishing, Mr. Donohue.

(Testimony of J. R. Robertson.)

Q. Mr. Robertson, you heard Mr. Rathborne testify about this meeting, as you have stated. Did you hear him say that among the persons present at this meeting, presided over by Mr. Schneidermann, there was another person present named George Wilson?

A. I don't recall exactly the testimony, but if that is in the record, I have no argument against it.

Q. In the light of that fact, Mr. Robertson, was there any reason why you did not advise your counsel to ask Mr. Wilson about this meeting when he was on the stand yesterday?

A. I just wasn't there. It was no concern of mine.

Mr. Donohue: I have no further questions, if your Honor please. [7361]

Mr. MacInnis: That is all.

The Court: We will take the morning recess. The same admonition to you not to discuss the case under any conditions.

(Recess.) [7361-A]

Mr. Hallinan: Mr. Bridges, will you take the stand, please.

HARRY RENTON BRIDGES

called for the defendants in surrebuttal; previously sworn.

Direct Examination

By Mr. Hallinan:

Preliminarily, your Honor, I have had a cardboard print or copy made of the information contained on the blackboard. It is amplified in a few places, but it contains only essentially what is on the board. As I want to refer to it later, I would like to offer it in evidence so the portion of the blackboard can be erased.

Mr. Donohue: I would object to it, if your Honor please. I see no basis upon which this may be offered as an exhibit. It may properly be argued.

Mr. Hallinan: Even blackboards, themselves, the writing on blackboards, is made an exhibit, or a copy of it. There is no reason why it should not be. There has been testimony by Mr. Bridges and by other witnesses which has reduced all these matters to a specific point. It is true we could use it instead of the blackboard, but I would like to have it in evidence.

Mr. Donohue: I have no objection to its use, if your Honor please, but I certainly object to its being offered in evidence.

Mr. Paisley: You can't understand me, Mr. Hallinan.

Mr. Hallinan: I cannot. I have tried now for four months. [7362] You are right: I can't understand you.

Mr. Donohue: It is obviously——

The Court: I think it may be used in the course of argument and it may be used in the course of the trial. I cannot see that it would be admissible upon any theory. However, it may be used for the purpose of argument before the jury.

Mr. Hallinan: My chief reason is that it is more legible and easier to read.

The Court: You can have it right up here, placed right near the rostrum.

Mr. Hallinan: Might I have it marked for identification so we will be certain what the document is?

The Court: Yes, it may be so marked.

The Clerk: Defendants' Exhibit H-4 for identification.

(Diagram marked Defendants' Exhibit H-4 for identification.)

Q. (By Mr. Hallinan): Now, Mr. Bridges, you heard the testimony of the witness Rathborne concerning the discussions and conflicts, and so forth, that took place between the ILWU and/or yourself and/or Curran, Murray and Carey; you heard his testimony in that matter? A. I did.

Q. With relation to the difficulties with Curran—incidentally, Mr. Bridges, your union was involved in the strike in 1948, the maritime strike, is that right, in San Francisco?

A. That is right. [7363]

Q. And was the purpose of that strike 80 per cent political and 20 per cent wages, hours and working conditions?

(Testimony of Harry Renton Bridges.)

A. The strike solely over the issue of wages, hours and conditions, and the strike was forced on us. As a matter of fact, in this courtroom here a hearing was held in this courtroom, where the representatives of the Government came in to secure an injunction under the Taft-Hartley. The injunction was granted by this court. And during the course of the discussions and hearings on that injunction, the union offered to arbitrate all issues in dispute. The main issue was the question of the union hiring hall—not the union hiring hall but the jointly operated and administered hiring hall, that is, jointly operated by our organization and the Waterfront Employers Association. The employers Association held that the hiring hall provisions conflicted with Taft-Hartley—the Taft-Hartley Law. The union's position was to continue the provisions of the contract in effect until a determination had been made as to the legality of the contract provisions by the United States Supreme Court and all other matters be submitted to arbitration. That was prior to the time the strike took place. The offer was made here on the record in this court but was rejected by the Waterfront Employers. And eventually the strike did take place after the issuance of the 80-day injunction and after the 80-day injunction had expired, and we won the strike.

Q. How long did the strike last? [7364]

A. It started September 2, and as far as ILWU was concerned, we had reached an agreement—a tentative agreement, it is true, but an agreement that

(Testimony of Harry Renton Bridges.)

we officers knew that we could safely recommend to our membership and they would accept it. We reached an agreement around the first week of November.

Q. And then why did the strike continue?

A. We stayed on strike until the other unions had reached an agreement—the Marine Firemen's union, the Marine Cooks and Stewards, and the Marine Radio Operators—that is the Radio Operators' union.

Q. What was the situation with regard to the Radio Operators' union?

A. They—the officers of that union at that time were not on—they took the position that their union was not on strike. Their union was under attack from another union, a rival union that was raiding it, and the ship operators took the position that they would not bargain with the union because there had been a claim filed that the union did not represent the membership. The membership—the bulk of the membership had left the union and gone and joined another union, an AFL radio operators' union. So the Waterfront Employers—the ship operators took the position that until that matter was straightened out they would not deal with this union, or they were tied up in the courts. The officers of the union took the position that they couldn't afford to strike, and they took the position [7365] that the union was willing to return to work under the conditions that the union had left the job because the union was supporting the strike of the other unions. In other words, they were locked out by the action of the other unions. The rank and file of the union met and elected a delegation that came up to see me and asked if we would refuse to return to work until they had at least secured the improvement in conditions such as hours, wages and conditions that had been granted the other unions, that is, percentagewise. I promised them we would give them full support, and they went back to their union and reported that to the rank and file of the union, and the union repudiated the position of their officers and eventually went into negotiations and secured the best contract it ever had. And our union stayed on strike some three weeks after we had had a separate contract in order to secure a contract for the radio operators' union. That was the situation.

Q. Did that include raises in pay that Rathborne himself received?

A. As far as I know, it included various changes in the agreement that amounted to around $80 a month.

Q. Then what did the radio operators do with regard to you and your union? Did you have any further meeting with them after they had secured the relief they were asking? Did the delegation come up and address your union? [7366]

A. The president of the union—the president of that union at that time, and who is still president, came down before my union, my own local union of the longshoremen, and in front of the membership —there was a membership of 4000 present—three or four thousand—and he stood up there and he thanked the union publicly for that; he said, "If it wasn't for the ILWU and Bridges, we wouldn't have anything. We wouldn't even have a union."

Mr. Hallinan: Would you show those two documents to the witness?

Q. The documents that you have there, Mr. Bridges, you have seen before, have you?

A. Yes.

Q. They go back to the beginning of your controversy with Curran, is that right?

A. That is right.

Q. Will you tell the Court and jury what is the difficulty with Curran? What does it stem from? Withdraw that. Pardon me just a minute. I am a little ahead of myself.

Did the maritime strike in San Francisco in 1948 have anything to do, up or down, above or below, with the Marshall Plan?

A. Not at all; but when we were discussing the possibility of having to strike, that is, even having to strike to hold the conditions we had exclusive of any improvements—as a matter of fact, in the early part of 1948, if we had—if the union had have been able to work out an agreement with the [7367] ship operators to continue our contracts without any change whatsoever, the union was willing to accept such a thing. We were discussing the possibility of being forced to strike in November of '47, and we recognized then that one of the means used to attack the union would be to say that the strike is

(Testimony of Harry Renton Bridges.)

interfering with the Marshall Plan. And here in this courtroom when the Government officers applied for the injunction, the Department of Justice applied for the injunction against us and the men were forced to remain on the job for the 80 days at the same wages, hours and conditions, the reason put forth in order to secure the injunction from the Federal courts was that any strike at that time would interfere with the Marshall Plan. That is how it came into the picture. Of course, sitting in this court, both the representatives of the Government and the representatives of the Waterfront Employers both testified the same way and they used the same argument as Rathborne: that the strike was for political reasons, the strike was not for legitimate trade union reasons, the strike was to oppose the Marshall Plan.

Q. It sounded like 1934 over again, did it?

A. We won.

Q. Now, will you explain to us what was the beginning of the difficulty between you and Curran.

A. In 1946 our organization took the lead in trying to get all the maritime unions together to prevent an onslaught against [7368] the unions as a result of the letdown in the maritime industry following the war. We were trying to prevent, in other words, history repeating itself the way it did after the last war with respect to maritime organization. Many ships were built, many ships were operated, and now most of them were laid up and therefore there was wholesale unemployment. In times of unemployment and depression it is our experience that the employing groups think that is the best time to attack unions and maybe cut wages, and things like that. So we organized an organization in the beginning of '46 called the Committee for Maritime Unity, and we met here in San Francisco in May of 1946 and we agreed that in all the negotiations with shipowners on both the East and West coasts on behalf of longshoremen and seamen, we would negotiate as a group and none of us would settle without all of us settling; in other words, we would all get an agreement or none of us would get an agreement, and we figured to kind of pool our demands. At that time the ILWU, our union, we had a proposition that was almost satisfactory, I would say, from the shipping operators; in other words, we had our agreement, we were safe; we didn't have to fool around with any other union. But anyway, we made this proposal. We called a conference of all these unions here in San Francisco, and Curran representing his union agreed, and we worked out a program to strike on June 15, 1946, for a satisfactory contract for all the maritime unions —seamen, longshoremen, firemen, [7369] engineers, cooks and others. Curran went along with this proposition, and then he tried to sell out the union. He accepted the proposition offered by the East Coast shipowners for an increase of $12.50 a month, and without saying anything to us on the West Coast here, who had agreed to stand by in order for him to get an agreement—up to that time he hadn't been offered anything prospective—so he wouldn't get a thing—without even notifying us, he accepted

(Testimony of Harry Renton Bridges.)

a proposition of $12.50 a month and took it back and recommended that his men accept it, stay on the job, even if we got involved with a strike, and tried to leave us high and dry. I got on the phone, the telephone long distance, and I just told him what kind of a sell-out deal it was. And in addition to that, he went to work with some elements in the CIO, Carey and others, and they actually approached the Maritime—United States Maritime Commission and the Department of Labor, and on our behalf, on behalf of my own union, and without saying a word to myself or the officers and members in the union, and offered a fact-finding proposal. And the first I knew about it is I read it in the papers. So it was a complete sell-out deal all the way down the line Curran tried to put over in 1946 with certain elements in the CIO. I caught him, had it exposed before his own union group and before other groups, and since that time, although he just bided his time, that was the beginning of the breakup. That was one of those matters internal in union organization. [7370] It is a matter of official record. And of course all Curran can do is holler Communism. He was caught in a dirty sell-out deal, just an old score, that he was fighting Communists. Since that time things have gotten worse, so that in the 1948 strike and in the Hawaiian strike Curran ordered his men to sail the ships even though we were on strike, and his men sailed through the picket lines, and Curran flew crews out from New York to man ships on the Pacific Coast while we were from bad to worse, and Curran right now would do anything to wreck us.

Q. Did his union accept the $12.50 a month raise?

A. No, his membership rejected it. I urged his membership to reject it, and his membership went along with our proposal and told him to get back and stick to the agreement that he had made on behalf of the members. Eventually a settlement was reached that amounted to approximately $60 a month instead of the original $12.50.

Q. I have here a telegram that you identified dated May 27, 1946, to Curran on that general subject; is that right? A. That is right.

Mr. Hallinan: We offer it in evidence as the defendants' exhibit next in order.

Mr. Donohue: No objection, your Honor.

The Court: It may be marked next exhibit in order for the defendants. [7371]

The Clerk: Defendants' I-4 in evidence.

> (Telegram, Bridges to Curran, 5/27/46, was marked Defendants' Exhibit I-4 in evidence.)

Mr. Hallinan: It reads:

> "Mr. Joseph Curran, Chairman Negotiating Committee, National Maritime Union, New York.
>
> "On Behalf of Entire ILWU and as Co Chairman of CMU I Most Urgently Advise That NMU Negotiating Committee Reconsider Their Tentative Acceptance of Shipowners' Of-

Committee Can Easily Be Construed as Violation of Convention Program and Commitments Made to That Program by NMU and Other Unions."

Q. "NMU" means National Maritime Union?

A. National Maritime Union.

Q. That is Curran's union?

A. Curran is president.

Mr. Hallinan: (Reading):

"In Addition to Reaching Tentative Agreement This Time Having Disastrous Effect Upon United Front of Maritime Unions Against Shipowners and Upon Chances of Other Maritime Unions Receiving Better Offers From Shipowners I Believe There Is Good Chance of Forcing Better Offers From Shipowners Than That Which They Have Given NMU and Which Your Committee Has Tentatively Accepted. ILWU Is Standing by Its Convention Pledge. It Has Notified Its Membership [7372] That It Will Not Accept Any Offer From Shipowners Including Any Fact-finding Board's Recommendation Unless and Until All Maritime Unions Have Reached Satisfactory Agreements With Shipowners. We Have Not Accepted and Will Not Accept Fact-Finding Board's Decision. Our Locals Notified This Effect and Voted Support This Position. Government Agencies Notified Likewise. Our Position for Strategical and Unity Reasons Not Made Public. In

(Testimony of Harry Renton Bridges.)

> View of Above Urge Reconsideration and Rejection of Shipowners' Offer to NMU Pending Outcome at Least of Washington Meetings. Finally, Wish to Point Out That NMU Acceptance Shipowners' Offer Destroys Chance of Firemen and Cooks Getting Anywhere on Forty Hour Week Demand. ILWU Prepared to Stand by NMU and Other Unions to Bitter End and Strike June 15 With Maritime Unions.
>
> "HARRY BRIDGES."

Q. And the second document which you identified is a letter from members of the crew of a ship in Texas, is that right?

A. That was later on. That was after everything was settled.

Q. Was there a strike held then? A. No.

Q. Settlement was effected?

A. We effected settlement by June—on June 14, 1946, and, as I say, the seamen, as a result of the unions sticking together, taking the position it would be an agreement for all or [7373] an agreement for none, did not only get the wage increases, but the work at sea was reduced from 48 to 44 hours in most cases and 40 hours in port, and for certain departments, such as the cooks' and stewards' department, at sea it was reduced from 63 hours a week to 48 hours a week. There was increases in overtime as well as increases in the basic wage.

Mr. Hallinan: We offer the other letter in evidence as the defendants' exhibit next in [7374] order.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: I object to this, if Your Honor please, because it seems to be addressed to the New York NMU committee in New York. It is not directed to Mr. Bridges and whoever signed it is unidentified.

Mr. Hallinan: Well, it is signed by a great number of people, apparently 25 or 30 people.

Q. How was this transmitted to you, Mr. Bridges?

A. I was a member of the committee.

Q. I beg your pardon?

A. Although it is addressed to the committee, I was a member. We had a broad committee. That was why. That was merely an expression of the ship's crew which indicated how the membership felt about the settlement that was made. That is much later. That is around August or September.

The Court: Mark it for identification.

Mr. Hallinan: I don't care. It is not sufficiently important.

(The document was handed to counsel.)

Mr. Donohue: Is Mr. Bridges the author of this?

Mr. Hallinan: No, the purpose of this is to show that this controversy with Curran is not something that Mr. Bridges invents to explain Curran's hostility, and is just to show there is no recent fabrication but existed prior to any indictment in this case.

Mr. Donohue: Mr. Curran has not been a witness, if Your [7375] Honor please, and I am at a loss to know what Mr. Bridges' connection with this article in some sort of a clipsheet is.

(Testimony of Harry Renton Bridges.)

Mr. Hallinan: We believe this way, that under the rule of law that one who does something by another does it himself, that your Mr. Rathborne was just the facile, though that a poor weak and useless tool of Mr. Curran, Mr. Murray and Mr. Carey to accomplish a very small, mean and treacherous purpose, and that exposing that is an important matter; that Mr. Rathborne, according to his statement at the least went back and consulted those people as to the propriety of what he was about to do. However, an inference may well be drawn that their activity in it was much deeper than that, and that Mr. Rathborne was originally inspired to his position. So that is why Mr. Curran, Mr. Carey and Mr. Murray are involved. Moreover, Mr. Rathborne testified as to all these matters.

Mr. Donohue: I move to strike Mr. Hallinan's observation.

Mr. Hallinan: He asked what was the purpose of it, and then as soon as an explanation is given, he moves to strike it. Now, what do you want me to do? You ask me for something. If you want to be pleased with everything I say, go ahead and write out the answers and I will read them off. But if you want to ask me the purpose of a thing, then I will tell you.

Mr. Donohue: It is too much, Mr. Hallinan, for me to expect you to conform to the rule.

Mr. Hallinan: What rule have you in mind? Your knowledge [7376] of the rules of law, Mr. Donohue, is somewhat different from mine. I have interviewed a number of people whose judgment I respect and they say that your concept of the rules of law is bizarre to them also. Now, they may be wrong and I may be wrong, and they may practice that way in Washington or wherever you hail from, but I will say you say and do some startling things.

Mr. Donohue: I renew my motion, if Your Honor please, to strike Mr. Hallinan's observations, not with respect to myself personally, for I don't pay any attention to them.

The Court: The observations of Mr. Hallinan did represent an argument in effect. We are reaching the period of time, gentlemen, when the arguments will be engaged in by counsel and I again say we might save our energies until that date. I will allow Mr. Bridges to identify the document, whatever it may be, and state the background of it if there is a background.

Q. (By Mr. Hallinan): You observe the part that is marked with a clip, Mr. Bridges. What is that file that you have?

A. This is a file of the strike bulletins that were put out during the 1948 maritime strike here on the Pacific Coast.

Q. What is the date of that particular one you are looking at? A. November 20, 1948.

Q What does it state as regards the NMU action?

A. There is an item here in the bulletin stating that the NMU is urged not to man your ships—that means struck ships—and the [7377] joint action committee called it to the attention of the National Maritime Union president, the NMU officers and others, that the NMU has manned three ships sailing from Tacoma and that they are sending seamen to San Francisco to man ships. In other words, they are calling the attention of President Curran and other National Maritime Union officers that they were sailing ships from behind the picket lines.

Q. The witness Rathborne testified that in his discussion with Mr. Carey on the matters transmitted to him from Murray and in this discussion how much Ray and Curran, and independently of his own opinion, the controversy between Murray, Carey, Curran and yourself had something to do with Communism or Communist activities or sympathies, is that so?

A. No, not to my knowledge. An explanation of those things, of course, puts me in a pretty bad position, and as a matter of principle, I am opposed to discussing internal labor problems in a courtroom. We generally try to keep them within the family circle—not that there is anything necessarily secret about them, but because many enemies of labor take advantage of such matters and highlight them and use them against labor generally. I am in the difficult position that unless I discuss these matters it might make a difference in whether I go to jail or not.

Q. Let me ask you this, Mr. Bridges: Before Rathborne took the stand, and when you testified yourself and stated you disliked [7378] washing out the dirty linens of the CIO controversies in open

(Testimony of Harry Renton Bridges.)

court, had you the definite information that Rathborne gave that he had been authorized or O.K.'d by Murray and Carey to proceed against you to aid in some investigation or some injury to you?

A. Yes.

Q. Did you have it definitely or did you only suspect it?

A. I had it definitely. That is, I had it from sources that I considered, after doing a little checking, plus my own knowledge of the situation. The information I had was sufficient for myself. As a matter of fact, before I went back to an executive board meeting of the national CIO in May of 1949, and before I left the city of San Francisco, I had a meeting in my office of ten or fifteen members of my own local union and I told them at that time that if I carried through our program at that particular meeting, I was going to be indicted, that if I stuck with the orders I received from my union, the ILWU, I was going to be indicted, and there were 15 or 20 people present who were members of my local here in San Francisco. So I knew all about it.

Q. Tell us quite frankly now, since Mr. Carey and Mr. Murray have taken the position of treacherously attempting to do you an injury, just what was the nature of the difficulty between yourself, Murray and Carey?

A. Well, it is largely a question of Carey. Carey is national secretary-treasurer of the CIO. He operates as a kind of hatchet [7379] man. Now, whether Mr. Murray knows of all his activities or

(Testimony of Harry Renton Bridges.)

not, I am not prepared to say. But Mr. Carey knows what he is doing. Now, for some period of time past, three or four years, I have been instructed by my union membership to ask the CIO to make a financial accounting of all the millions of dollars it collects currently. For example, the union I represent, we send a thousand dollars a week, approximately, back to national CIO, and over a period of years we have donated—not donated, but paid—we have no complaint about paying the money; we are affiliated to the national CIO, and our national organization, like other organizations, is duty-bound to pay a per capita tax. It is a tax upon our union, and we have no complaint about that. But in the last two or three years especially my union membership has demanded that I do what I can to secure a financial accounting of the millions of dollars that the CIO has taken in and to find out what it has done with the money. We have not made any accusations and we make no accusations now that the money has been stolen or anything like that. We do have some ideas that the money is not being used properly.

Q. In what way?

A. Well, it is our belief that some unions do not pay any per capita tax, and they are credited with paying a per capita tax, even though they don't pay a per capita tax. Many other things that take place dealing with salaries and expenses paid my membership complains about. It started back some time ago. For [7380] example, in 1945 here, af-

(Testimony of Harry Renton Bridges.)

though the matter became public later, my own membership in San Francisco raised some questions with me because one of the officers of the CIO came out here and was living in a penthouse down here for $1500 a month. The case developed later when the owner of the apartment house was sued for violating the OPA rent ceilings, and here we found the national president of the CIO, who was saying so much about the enforcement of the price ceilings on rent, living in a penthouse here for $1500 a month, when the rent, official rent that was supposed to be paid under the OPA rent ceiling, was around $300, I understand.

My membership came around and asked me about it and I said, "Look, now, fellows. I think it must be a mistake. I am pretty sure the CIO would not do things like that and I will do what I can to find out." I was not exactly trying to do a cover-up job but my membership asked the question.

Another question I raised that particularly goes to Carey is this: It is against the rules in our union, and our membership resented it—incidentally, the $1500 a month for the penthouse, the money to pay for those things comes from the membership of my union. Now, it is nothing wrong. In other words, you can argue whether a labor leader should pay $1500 a month rent for a penthouse or not. There is nothing wrong with it except there are a lot of members in my union who think it is wrong. They give me orders and they insist that I try to change [7381] some of those things.

There is another question. A lot of the officers of the CIO, especially Mr. Carey, in addition to following his job as secretary-treasurer of the CIO, holds many definite positions. He is also paid his salary from the CIO and expenses, and he gets as high as $50 a day for holding government jobs.

Q. What are they, do you know?

A. Oh, he is a labor ambassador at large for the United States and State Department selling the Marshall Plan and doing a lot of other things, running all over the world, he and others, Curran, too. Those people, when they are on jobs like that, they get from $25 a day on up, expenses paid, and things like that, and at the same time they draw their salary from the national CIO. We have a rule in our union where if we are on the union payroll and we get appointed to a government commission for any reason at all, you can't draw both salaries. You have got to give up one or the other. Henry Schmidt was on a board here all during the war. We knocked him off the union payroll and let the government pay him.

So I have raised these questions, on the instructions of my membership, dating back the last two or three years, demanding an accounting of funds and asking that some of these practices be put a stop to and it has not made me at all popular with the secretary-treasurer of the CIO, namely, Mr. Carey, believe me.

Now, I have been an officer of the CIO since 1937. I have [7382] still got to see the first time when I can see a CIO financial accounting. And that is a big, powerful organization. It collects a lot of

(Testimony of Harry Renton Bridges.)

money, and I have been acting under instructions of my union, and as a result of the fight we have put up, at the last executive board meeting of the CIO that I attended last year, it was announced that if I wanted to step up and look over the financial accounts, I could. So at least we are making progress.

But the background of that fight with Carey is because I have taken the lead asking for a financial statement. Then the other main item has been our convention has rebelled against the national CIO.

Q. Pardon me, Mr. Bridges. We will stay with the first matter.

A. That is the important matter.

Q. About the finances.

A. The question of the finances is the main matter, the important matter. That is where all the trouble starts.

Q. Is the sense of the evidence that you have given that Philip Murray was paying $1500 a month for the rental of a penthouse?

A. Personally, Philip Murray himself did not pay it. I don't know the facts.

Q. Who was occupying the penthouse?

A. Philip Murray was occupying the penthouse.

Q. Who owned the building?

A. Mr. Fritz. [7383]

Q. That is Eugene Fritz?

A. He was prosecuted for violating the rent ceilings.

Q. At that time one of the violations was that Murray was paying $1500 for a $300 a month penthouse, is that right? A. That is right.

(Testimony of Harry Renton Bridges.)

Q. And the money, as I understand it, was not being paid by Murray personally, but being paid by the union?

A. I don't know. That is one of the reasons we wanted to see the financial statement. I don't know. And I told my membership for all I knew Phil Murray paid it out of his own pocket, and I don't believe even at this stage—I have had my battles and I still have my battles with Murray—I don't believe at this stage of the game that he knew if the rent was $1500 a month that he was participating in a conspiracy to violate rent ceilings. I don't even believe that right now, but I think Carey would in a minute.

Q. You have some records that you brought with you demonstrating or showing parts of this controversy and the financial report, is that right?

A. Yes.

Q. Will you take a look at this letter and see if you can identify it? Is that a copy of a letter that you wrote to Mr. Murray?

A. Yes, this letter is March 18th, 1948. This is when the thing was pretty far along. It brings in the question of [7384] political financial contributions, what I have been talking on so far, the regular, routine tax payments to CIO.

Q. Let me ask you this——

A. Later on the financial situation broadened out to where it included extra monies donated for support and in financing the political candidates, and that is what this letter refers to.

Q. Let me ask you this: Do you know whether

(Testimony of Harry Renton Bridges.)

or not any other delegate or delegates to the CIO conventions ever demanded such financial accounting? A. Oh, over a period of years, yes.

Q. Might I have the letter back, Mr. Clerk? Well, then, approaching this letter, what is the point about collections for political purposes and what is the dispute between your union, Murray and Carey relating to the political position that those gentlemen took?

A. Under the Taft-Hartley law all collections of money from union members for political purposes must be voluntarily; in other words, a union can not assess its members and tell them to contribute money for political campaigns, that is, federal elections, candidates for the Congress, Senate and things like that. After the Taft-Hartley law was passed, as I say, it required that the donations be voluntary. Then the CIO took the position for the first time (it was around 1947) that no political candidates, even for state offices, such as gubernatorial elections as well as federal office, could be supported, [7385] endorsed or financed in any way from the contributions from a union unless that political candidate received, first of all, the approval of the national CIO. So I, as well as other members of my union, other officers of the union, were put in this position: On the one hand, we wanted to urge and we did urge our members to voluntarily contribute towards a political fund in order to support candidates for political office on a state basis and on a national basis, but we could

(Testimony of Harry Renton Bridges.)

not sell our membership on the idea that they would have no control over the fund once they had contributed the funds, that the funds could only go to candidates, to support candidates that were named by the national CIO officers staying in Washington, D. C. Our membership took the position that the membership in California or Oregon or Washington or elsewhere, that if they voluntarily contributed money to a political campaign, they should have some say as to who is going to receive the money. Of course, that led to a further argument over this and it led to my membership refusing to contribute a nickel to any political candidate or campaign, unless they had some say as to where the money would go.

Then there was additional money items for organizing where the same thing took place. The membership refused. The officers in most ways, myself included, urged them not to make too much of a fuss and said, "Look, sooner than have a battle with the CIO, I would just as soon trust [7386] them."

My membership said, "If you take a position like that, we will fire you." My executive board wrote a letter to the executive board of the CIO and said, "If we catch Bridges going along with that program, we will fire him. We will have him recalled from office."

Q. This letter that you have identified is addressed to Mr. Philip Murray on that general subject; is that right? A. That is right.

Mr. Hallinan: We offer it as defendants' exhibit next in order.

Mr. Donohue: No objection.

The Court: It may be marked.

(Letter to Mr. Murray was thereupon received in evidence and marked Defendants' Exhibit J-4.)

Mr. Hallinan: On the heading of the International Longshoremen's & Warehousemen's Union, 604 Montgomery Street, San Francisco, California, March 18, 1948. You were still using the old stationery, I take it, although you had moved at that time to 150 Golden Gate, is that right?

A. I am not sure if we had moved by that time. I think we had.

Q. "Mr. Philip Murray, President, Congress of Industrial Organizations, 718 Jackson Place, Washington, D. C.

"**Dear Brother Murray:**

"The Executive Board of the International Longshoremen's and Warehousemen's Union has thoroughly discussed the **[7387]** position taken by the National CIO and the CIO-PAC"—

that means Political Action Committee?

A. That is right.

Q. "—regarding political action by National CIO and the affiliated unions.

"As you know, our organization has always

(Testimony of Harry Renton Bridges.)

loyally supported and contributed to PAC. We believe the record will show that in many of the campaigns the ILWU contributed more than its share. Under present circumstances, however, we find that the CIO has taken a position which in effect would nullify the autonomous rights of both our International and local unions.

"The support to and real strength of PAC has sprung from its non-partisan position and the voluntary contributions from the CIO rank and file. The fact that the rank and file could always feel secure in its right to review the political field and make its own choice in both national and local elections has been the wellspring from which our political power was drawn, and the incentive to make substantial financial contributions.

"The present position of the National CIO, however, which is also being imposed upon local CIO Councils, in our opinion destroys the non-partisan policy of CIO, clashes directly with the autonomous rights of our local unions and therefore makes our rank and file [7388] extremely reluctant to make contributions unless they are assured in advance that their money will not be used against them. Consequently, the International Executive Board has instructed the officers to not collect or send any contributions for National PAC unless and until they are so instructed by the Executive Board.

"We sincerely urge the National CIO to return to its policy of non-partisanship in the political field. We further urge, in order to maintain the greatest degree of unity, that local councils be left free to work out a united program on local issues. As an International union we are prepared to participate fully in the program of PAC so long as we are given assurance that its program will not conflict with or destroy the autonomous rights or free political choosing of our union and its members. Our locals have already been urged to cooperate fully with the work of the local PAC's.

"Above all, we believe the policy being pushed by Mr. Brophy against local councils must be ended at once. In the same way that our organization condemned the action of Mr. John L. Lewis when he walked out of CIO because it did not go along with his political endorsements, so likewise do we believe that it is in contradiction of every sound principal of labor unity for you, Mr. Brophy, or anyone else to pressure local unions into foregoing their autonomous [7389] rights and violating the instructions of their membership by threatening suspension of councils or expulsion of affiliates.

"Fraternally yours, /s/ H. R. Bridges, President.

"Adopted by the Executive Board International Longshoremen's & Warehousemen's Union Regular Session, March 18, 1948."

Now, you sent the original of this letter to Murray almost two years ago, is that right, Mr. Bridges?

(Testimony of Harry Renton Bridges.)

A. That is right. That was the Executive Board's answer. The board members themselves drew that letter up. I was ordered to sign it and send it off, and it was following two letters we had received from the National CIO, from Mr. John Brophy and one from Jack Crowell, that our membership could not endorse any political candidate or give them any finances without the approval of the National CIO.

Mr. Hallinan: I have some other documents here, mostly minutes of executive board meetings of the ILWU, and I suggest that I leave these with Mr. Donohue during the noon recess so he can check them. I am particularly interested in the ones that are marked with the papers, and then we can resume in the afternoon.

The Court: We will take the noon adjournment and resume at 2:00 o'clock. The same admonition to you not to discuss the case under any conditions.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [7390]

Thursday, March 9, 1950—2:00 P.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial. The witness on the stand is Harry Renton Bridges, heretofore sworn.

HARRY RENTON BRIDGES

Direct Examination
(Continued)

By Mr. Hallinan:

Q. We have identified this document as Executive Board minutes prepared in August of 1948 of the International Longshoremen's and Warehousemen's Union, and calling your attention to that, Mr. Bridges, in the matter of the request to Murray for a financial report and the refusal to go along with merely accepting the dictates of the National Board on what persons, parties and policies should be adopted in elections, see if this is the letter which was sent by the Executive Board that you identified. This is dated March 18, 1948.

"Mr. Philip Murray, President,
Congress of Industrial Organizations,
718 Jackson Place,
Washington, D. C.

"Dear Brother Murray:

"A full report on the National CIO Executive Board meeting of last January 22 and 23 has been submitted to the undersigned National Executive Board of the International Longshoremen's & Warehousemen's Union by President Harry Bridges, our National CIO Executive Board member.

"Included in Bridges' report was detailed accounting [7391] of the position taken by him at that meeting on the Marshall Plan, on a

(Testimony of Harry Renton Bridges.)

Third Party, and on the autonomy of national union affiliates of the CIO and local union affiliates to CIO state and local councils as regards such political matters.

"We fully and unanimously endorse the position taken by Bridges at the January CIO meeting and subsequently. As a matter of known and published fact, his position was in exact accordance with actions previously taken by ourselves. This Board last December voted to oppose the Marshall Plan as contrary to the interests and security of our union and the American people. We voted out belief that a third party is necessary to give political expression to labor and the people against the present outright reactionary Democratic-Republic coalition. We insist that our union as a national affiliate of the CIO is guaranteed autonomy and therefore the right to support and work for political candidates and issues of its own choosing, regardless of recommendations from top bodies. This goes for our local unions, too, including when they are voting in state and local councils of CIO.

"It seems to us that the CIO is principally an economic organization designed to protect its members, help them to obtain fair wages and conditions and job security, and look to their welfare. It has long been the policy of our union to make this the basis of our unity. We may [7392] disagree and often have disagreed politically and upon

(Testimony of Harry Renton Bridges.)

other matters, but we have never permitted these disagreements, no matter their seeming importance, to interfere with our ability to draw together and rally in our common fight against an enemy seeking to undermine our economic conditions. We think the CIO ought to have the same policy and we so recommend.

"In discussion of Bridges' report, we made it clear to him that if he had taken the position adopted by the majority of the National CIO Board, we would have held him a betrayer of his oath of office, and would have taken steps to bring about his recall as president of the union.

"We regard the policy of the National CIO to be impractical on its merits, and contrary to the actions of the last annual CIO convention held in Boston, Mass. We also consider the attempts to apply the policy within CIO to be thoroughly undemocratic and representing a complete departure from the democratic principles which we were assured were guaranteed when we joined the CIO.

"The locals of our unions are autonomous, both in relationship to our national union and to the CIO. Their delegates to state and local CIO councils are bound to follow and will follow the dictates of the memberships which elect them in all their actions in such state or local councils. Our national union and our local unions [7393] resent and will not stand for dictation or pressure from regional CIO or PAC directors, or from national directors such as John Brophy. Any efforts to place state

(Testimony of Harry Renton Bridges.)

or local councils in receivership because delegates from our local unions refuse to vote in such councils as instructed by these directors will be resisted to the bitter end.

"In addition to the foregoing, we feel it is our duty to note and call to your attention the discrimination against our union on standing committees of the CIO. We deeply resent the fact that no officer or other representative of our union is elected to serve on any standing committee of the National CIO.

"Fraternally yours,

"EXECUTIVE BOARD, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION.

(Unanimously adopted and signed by Board members.)

Frank Andrews
Germain Bulcke
Charles Duarte
Justo de la Cruz
Louis Goldblatt
Oscar Hagen
Frank Hendricks
Jack Kawano

Bernard Lucas
John Maletta
Matt Meehan
S. R. McKenzie
Andrew Nelson
J. R. Robertson
Jack Steinhart"

Q. Now, was it in pursuance of the policy enunciated in that letter that you wrote the letter which you did to Murray? A. Before that.

Q. This came before the letter?

(Testimony of Harry Renton Bridges.)

A. No, that was right. That was the letter signed by all the board members. And in addition, another letter was drawn up by the board, the one that you had here in the morning session, and I signed that. And that was pursuant to the orders of the board. I had no choice. I have no vote as to what I do. I am chairman of the board. I have no vote. I have a say. When the board acts, my job is, I go along, after I have had my say, or they fire me. Now, that is the way our union operates.

Q. There is a letter here also included in these minutes to the CIO Political Action Committee, 728 - 17th Street Northwest, Washington, D. C., January 30, 1948, signed by Jack Kroll, Director.

> "Dear Sir and Brother:
>
> "Enclosed are copies of the CIO Executive Board resolution adopted January 22, 1948, and the statement issued on the following day by the PAC Executive Board.
>
> "These documents clearly state the opposition and the reasons therefor of the CIO and the CIO-PAC to the injection of a third party into the political scene of 1948. All officers and delegates to PAC are obligated to observe the political policy of PAC. Although [7395] each person has the right to vote as he prefers, no officer or delegate to a PAC is to support, by public comment or otherwise, any candidate who is not endorsed by PAC.
>
> "The documents also clearly state the continuance of PAC's positive program on domes-

(Testimony of Harry Renton Bridges.)

> tic affairs and for international peace, and reiterates the importance of the state and local elections and of the primaries. To attain this program, PAC will work with any organized group in the country, including the leagues, institutes and committees of the labor organizations, and other liberal groups and associations fighting for progressive goals. PAC hopes to coordinate all organizations who support the same candidates on local and state levels.
>
> "CIO-PAC believes a unified, aggressive campaign will achieve the most for world peace, security and progress of the people. It calls upon all members to renew their efforts with increased vigor." [7396]

Now, when the CIO-PAC selected a program or a candidate or a party to support, was that program or candidate or party selected by a vote of the members, or was it selected by the Executive Board of the CIO?

A. In this case it was selected by the National CIO-PAC Committee. In some cases it was selected by the Executive Board of the CIO, and in other cases by the National CIO. The difficulty I was in, and the other officers of the union, was this: That CIO told me as president of the organization I had to guarantee my membership would go along or I had to take steps to expel those groups of members that didn't go along. I was ordered by National CIO to deliver the vote in those areas my union was organized to this, that or the other political candidate who received the approval of the national CIO.

I said, "It is impossible and it cannot be done. I can't put over such a program to our union membership. If they can be persuaded to go along, that is one thing, but if you try to force them along those lines, you haven't got a chance."

That is what happened. So it finally got around to where I had to tell the national CIO, as a choice between taking orders from the national CIO in Washington and my own membership, and I stayed with my membership. They elected me, they paid me, and of course that caused trouble. [7397]

Q. (By Mr. Hallinan): Now, here also is a statement of policy on the Marshall European Recovery Plan adopted by the executive board of the ILWU meeting in session March 17 and 18, 1948:

> "The ILWU stands squarely on the position that the tremendous quantity of food, clothing, machinery and other American products, produced in our country by all the modern methods of production, should be made available to feed, clothe and rebuild the hungry, devastated and war-battered nations of Europe.
>
> "We can think of no better use for the products of American labor than this. We know of no more deserving cause to be aided. We wholeheartedly believe that those nations that stood by us in World War II against Fascism are entitled to receive such aid and relief from the

one remaining country in the world whose industries and national resources came through the war untouched.

"The ILWU does not take the position that aid to the needy countries of the world be furnished from the United States of America without any conditions at all attached. Certainly we, as a section of American labor that worked to help produce, distribute and transport American products, want to know that such aid will not be used in any way to build war machines that threaten the future peace of the world again—that such aid will not be used as a weapon to defeat the desires and the efforts of people in foreign [7398] matters to struggle forward to a better life in a world of peace.

"For the above reasons our union has taken a position against the Marshall Plan in the form that it has now taken—namely, the ERP.

"Upon analysis the ERP unquestionably provides that aid to the European nations will be conditioned on such stringent requirements that no nation can receive such aid and retain its sovereignty. We are firmly convinced that a plan such as the ERP can not and will not work. There are some things that people prize above food, clothing and even life itself and that is their right to make their own decisions in their own countries, in their own way, and for reasons that they think best themselves. We might not agree with their decisions or how they are made—with their forms of gov-

(Testimony of Harry Renton Bridges.)
ernment or with the composition of such governments—yet we must recognize their sovereign rights.

"For centuries men have fought and died on battlefields and in struggles all over the world for the right of self-determination and home rule. It is this principle, or rather, the thwarting of this principle, that is inherent in the Marshall European Recovery Plan.

"As a trade union that has affiliated itself to many organizations in the past, the ILWU well recognizes that in the interests of common unity and struggle, there are times [7399] when unions and also nations must submerge or conceive some of their sovereignty, or as it is known in unions, autonomy. This we believe is quite as it should be in times of common struggle and by common agreement. The same principle should attach to the question of feeding hungry nations of the world today. The instrumentality is at hand. It can work. The majority of the world's nations wish to work and not be by-passed. That instrumentality is the United Nations. It is the last remaining hope of peace throughout the world. Here in our country we find leaders of our government and the major political parties joined together in desperate determination to force the will and desire of reactionary elements of our country upon the peoples and nations of all countries and governments throughout the world. We find our government and the political elements serving ultimatums on free nations—ultimatums that in effect say, 'Re-

(Testimony of Harry Renton Bridges.)

organize your country, hold your elections as we tell you, elect only those satisfactory to us, select only those friends we think are fit for you, and then you will be in a position to receive aid from America at the inflated prices determined by American profiteers.'

"We see a President of our country so desperate and determined to be reelected in November that he is willing to set the stage for a third world war so as to be able to [7400] use the crisis brought about under such a setting to ride into office on the votes of frightened and fearful American people.

"It is the firm belief of the ILWU that the people of America—particularly the organized labor movement—will be neither fooled nor frightened by such desperation and desperate moves. We are all well aware that our country does not face attack from any nation in the world. Practically all nations are in sore circumstances, badly damaged and devasted by the recent war. We are well aware of the fact that no critical emergency exists that requires universal military training or, as President Truman now calls for, the reestablishment of the draft.

"What we do know and understand is that these are moves of a desperate politician who has swung our government away from the principles and policies of Franklin D. Roosevelt and the New Deal, who has loaded his administration with the brass

(Testimony of Harry Renton Bridges.)

hats of the military and silver spoonfed representatives of our country's leading banks.

"We therefore again declare ourselves as being opposed to endorsement, support or passage of the Marshall European Recovery Plan in its present form, well knowing that it is a plan to fasten the will of big business of America onto weak, needy and defeneless nations as a price for food and clothing, medicine and machinery for such nations. We [7401] declare ourselves as knowing that the Marshall Plan leads directly to war and to the undermining and destruction of the United Nations which exists today as the greatest hope of the world's people to prevent war.

"We declare ourselves opposed to a plan such as the Marshall European Recovery Plan that will result in a boycott of those nations of the world that do not accept the stringent terms set forth in the plan because we know that such a boycott will result inevitably in widespread unemployment and depression in our country.

"And we finally reaffirm our determination to fight for full aid and relief to all the needy nations of the world, such aid to be administered through the United Nations and in such a way that nations can retain their self-respect, their sovereignty and live and work to prepare for peace instead [7402] of war."

Q. Mr. Bridges, I noticed the other day that the French longshoremen refused to load the ammuni-

(Testimony of Harry Renton Bridges.)

tions sent by this country to France to be sent over to Indo-China. Did you observe that?

A. I have read about it.

Q. Did you observe that they were immediately called Communists for that reason?

A. Well, I have read it. No first-hand knowledge; I will say that.

Q. On this matter of the union arriving at this conclusion that help for the European nations should be done through the United Nations and not through business cartels and agreements with certain particularly selected nations, was that the resolution of your entire body of your union or was it only your own vote?

A. I have always said on the executive board, I haven't even a vote on our executive board. That is a resolution of our executive board, and it is formed on the basis of resolutions that had already been passed by our membership. In other words, it was not a situation where the executive board acted first and the membership later. The membership of our local unions had alrady acted on that matter and the executive board simply drew up that resolution that represented the opinion of the big majority of our membership and put it in the form of that resolution, which the board passed. Incidentally, that resolution that was adopted in March of 1948 does not differ fundamentally from the resolution adopted by the CIO in November, 1947. [7403]

Q. I read off to Rathborne the other day the

(Testimony of Harry Renton Bridges.)
resolution proposed by Quill, which was identical, at least in spirit, if not in exact language, to that. Do you remember that speech in 1947 before the CIO?

A. That is right, that was after the CIO convention in Boston. That resolution that we have adopted here at the board in March of 1948 fundamentally was the same as the resolution adopted at the CIO convention. It carried forward the same principle. The large difference was over the form. The resolution points out the Marshall Plan, in the shape it is now taking—that is, in March of 1948—is quite different from the plan we were sold in the first place.

Q. Will you tell us what the distinction was?

A. Secretary of State George Marshall, speaking at Harvard University in June, 1947, first negotiated the Marshall idea, which was to make food, machinery and other American products available to all the countries of the world, particularly those countries that had been hurt by the war, and in this way it would help rebuild those countries and also it would help to keep industry going here in the United States, and as I recall certain of his words at that time, he said, "We seek to do this job without criticizing or attacking any country or any government, its institutions and other things."

And then at the November convention of the CIO in Boston, Massachusetts—that is in 1947—Secretary of State George [7404] Marshall spoke at the convention and again outlined this general program. Then the so-called Marshall Plan went to Congress

(Testimony of Harry Renton Bridges.)

and it was in the Congress that all these various conditions were hung onto the plan, that when we looked it over, after that job being done, all we could see in the plan was unemployment for a large section of our membership. That is what has happened now. Part of our union is engaged in the shipping industry and the warehouse industry, particularly here in the West, and in our opinion—we certainly can be wrong—but from an economic viewpoint, we think it has brought unemployment in our industry.

Q. What were the fundamental differences? I mean, what were the additions to the Marshall Plan imposed by Congress that your union took exception to?

A. Originally the Marshall Plan, as was explained to us by Secretary Marshall himself at the Boston convention, said that the aid would be furnished countries, in some cases would be distributed as a gift, in some cases loans would be made, and would be given over to all countries without any conditions being imposed as to the form of government of those countries and the form of society.

Q. And what is the limitation?

A. The basic idea would be to feed people who were hungry, to build industries, and so forth, in all countries of the world, and it even included the countries such as Germany and Japan, and the vote in that convention was unanimous. I supported the resolution [7405] myself and our union supported it.

Q. I say what were the limitations imposed in

(Testimony of Harry Renton Bridges.)
Congress upon the distribution of the benefits of the ERP? A. Well——

Q. Did it consist essentially in that we should be allowed to select the type of government, the type of economy under which those countries should live?

A. No, not in so many words, but certain restrictions were laid that we thought at that time many of the countries of the world would be boycotted, and that is exactly what has happened. We might not like it, but there are a lot of countries in the world that maybe don't see things the way we see them in this country. That is what the resolution says. We don't agree with the way people in a lot of other countries do things, their form of society, their form of government. We take the position this is our form of government and we support this government, but it is another thing that we take the position another country should form its government on the way we wish. Our union doesn't like a kingdom, but we don't reserve the right, for example, of telling Great Britain to get rid of your king before you get aid. There are other countries that have a different form of government or different form of society. That resolution simply means that we have to let the people decide what kind of government or society that they want without us forcing or trying to tell them what to do, because we figure that will lead to a war. [7406] We just got through fighting one war for that reason. That was one thing.

Another thing I remember correctly because it dealt with us. In the form the plan was passed in

(Testimony of Harry Renton Bridges.)

Congress, it had no provisions of how the aid, the Marshall Plan aid, was being distributed and we had to get going, to secure certain administrative guarantees at least, that at least a certain amount or a certain percentage of the aid, at least 50 per cent, that is, machinery, food and other things, would be shipped in American flag ships, because as the plan was at that time, there was no provisions for anything like that. All the aid could be shipped in foreign bottoms. We didn't think that was a fair way to spend the money of the American taxpayer. There were certain other things I can't recall at the moment. But because we took that position and took those steps, we were accused of opposing the Marshall Plan in all its essentials, which was never so. We supported the general idea, we still do, but in some of the forms it is being utilized, in some of the ways that the aid is being applied, it hasn't at all been democratic.

Q. Has your union and yourself been strongly in favor of the United Nations?

A. At all times. [7407]

Q. And has there been objection or opposition to by-passing the United Nations?

A. Yes, we think that it is dangerous. We think—we recognize, at least—after all, we are only one union; we may pride ourselves and we do pride ourselves on being independent thinkers, but we are a long way from being infallible.

Q. Do you think that your way of thinking on any subject is to be dictated either by the heads of the CIO or by the persons who happen to be the heads of the United States Government?

A. No, we think that the persons who head the Government are the servants of the people, not the other way around. The way our membership——

Q. You reserve the right to be wrong, if necessary, is that correct?

A. That is what it boils down to; just that and nothing more.

Q. I notice in the International Warehousemen's eighth biennial convention on April 5, 6 and 9, 1949, this discussion in line with what you said today as part of your statement there—Let me ask you, were any representatives of the national CIO present at that convention—that is, the April, 1949, convention in San Francisco?

A. Yes, we had three representatives of the national CIO present at the convention for a special reason.

Q. And was there a demand at that convention that a request be made or that a demand be made upon the national CIO for a [7408] financial statement?

A. Resolutions were passed, yes, sir. The resolutions reflected the demands of our membership. They had become so many and came from so many different places that we were forced finally to take official action.

Q. Well, now, see if this refreshes your recollection as to your position on one point of that. You were talking and you spoke about the family circle:

(Testimony of Harry Renton Bridges.)

"Well, now you know what is burning us up. And the officers did not come along with this because they wanted to make trouble or have differences. We have had so many damn complaints (and you will get them on the deck here today from local unions and other people) that we just had to do something. We are doing it in this way, in the family circle. And we hope that the CIO representatives will get up and make their position clear. But, as I said before (and I will repeat it today and then I am finished) I know what the answer is going to be. You wait and see. It is as I told you.

"You want a CIO financial statement? We are going to be asked, 'Where do you stand on Russia?'

"To hell with Russia! We want a financial statement.

" 'Do you want to talk about some other matter of policy? You are first going to be called upon to condemn Joe Stalin." [7409]

"Well, if it becomes necessary to condemn Joe Stalin, we will do it in a hurry. But what the hell has that got to do with wanting minutes of CIO board meetings?"

Now, did you say that to the union convention there?

A. Yes.

Q. That is before any indictment was returned here at all, isn't that right?

A. That was a part of my speech at that convention.

(Testimony of Harry Renton Bridges.)

Q. And then do you remember a speech by a delegate DeWarty in which he called attention to the fact that a delegate named Lawrence had gotten up and demanded a financial statement and that Philip Murray let off with a big blast at him?

A. DeWarty was referring to an incident that occurred at the 1948 CIO convention. A delegate from our union rose on the floor and asked for a financial accounting there, and President Murray said the reason that he was asking for a financial accounting was because I didn't attend meetings, and that statement was not exactly the truth.

Q. Now, taking a piece of the testimony of Rathborne, he said this with relation to the 1948 strike:

> "As a matter of fact, Mr. Curran was in the process of helping Mr. Bridges out at the request of Murray in connection with some negotiations that were taking place here in the '48 strike. Mr. Bridges had apparently got himself into a pretty bad box and went back to see Mr. Murray and [7410] said, 'Phil, I am in trouble, I need some help. Will you help me?' And Phil Murray did help and also called on Mr. Curran, and he also helped out."

Did anything like that occur? A. No.

Q. Did you go back to see Mr. Murray in the 1948 strike? A. I—no.

Q. What was the situation, Mr. Bridges?

A. I talked to Mr. Murray on the telephone and we asked his assistance and help in the way of finan-

(Testimony of Harry Renton Bridges.)

cial support, and some financial support was rendered. In addition to that, however, the waterfront employers at that time, amongst other things, they said that they would not sit down with the union leadership; that included myself. As a matter of fact, their position was they would never again sit down with Bridges or any of the leadership, and they modified that position later where they agreed to come to the meeting provided there was some representative of the national CIO sitting in. So what really happened was that the employers against whom we were on strike raised the issue or the demand that national CIO representatives attend the negotiations, and I didn't object to that. But I did not go back East to see Mr. Murray. Curran had nothing to do with it. The only help we got from Curran, he tried to break our strike, he ordered his men to sail the ships. The only truth about that Rathborne statement was that I did seek [7411] a certain amount of help from Philip Murray, and that help was in the direction of some financial support of the strike. We got a certain amount of financial support; I think it amounted to around $22,000 in donations. That didn't come from the CIO; that came from the unions affiliated with the CIO.

Q. What is the procedure for collecting funds for the CIO? A. From it?

Q. What is the method? What is the procedure? No, for it.

A. Each union—each union is taxed. Each un-

(Testimony of Harry Renton Bridges.)

ion at the present time is supposed to pay to the national CIO a monthly per capita tax of 10 cents per member per month, so that if our union, for example, has a membership of 50,000 we are required to pay a per capita tax of 5,000 a month, and so on down the line. That is the way CIO gets its main funds for its general account. In addition to that, it receives other funds in the form of voluntary contributions in one form or another.

Q. Then about how many members are there in the CIO, or what is the total amount received, as nearly as you know?

A. I couldn't say that. I have got ideas, but I wouldn't want to tell you. I wouldn't want to try to say how many members are in CIO under oath and for publication.

Q. I notice also back in 1945 in this suggestion of Rathborne that he had some instructions, or there were some instructions from Schneidermann after the war to create trouble, to call out strikes and form all sorts of difficulties to prevent the [7412] crystallization of a policy of encirclement or hostility to the Soviet Union. I refer to the sixth biennial convention in 1945 of the International Longshoremen's and Warehousemen's Union and ask you if you remember these two matters—and I will only read two short paragraphs:

> "We will continue in the interest of the war, in the interest of greater national unity and in the interest of our members and the people's peace to maintain our no-strike pledge, and we

(Testimony of Harry Renton Bridges.)

will condemn as saboteurs of the war effort and of the labor movement those elements that seek to breach this voluntary and solemn pledge of labor given to our country at a time of crisis.

"The ILWU is committed by actions of caucuses, local meetings and its International Executive Board to a policy of post-war industrial peace. We adopted this policy in the belief that a labor union cannot honestly look forward to a post-war era of jobs for all, while planning to call workers from jobs through strikes. We believe that future security and prosperity of our membership must be achieved through methods that fall outside the traditional scope of economic collective bargaining. No employer as such, no labor union as such, or even the two together, can guarantee that workers will have jobs in the post-war. Employers and unions together, in conjunction with government (which represents both) can, by cooperation and practical [7413] planning, supply economic security through 60 million jobs."

Did you approve that program?

A. That program was adopted by the convention. I think the vote was unanimous. I approved it.

Q. And finally, Mr. Bridges, with regard to the operation of the Marshall Plan of encirclement of Russia and all such matters as that as Mr. Rathborne enlarged upon, is it or is it not the American people that you have your primary interest in and the

American country the country you have your primary regard for?

A. We have enough troubles in our own union taking care of our own membership without looking for troubles elsewhere, and that is what we primarily are concerned with. And I just can't help what Rathborne or other people say about us, but our organization is a good, patriotic organization. The members know where they stand, and they know what they think and what they are for, and they respect their government, their country and its institutions and they only believe that the fundamental institutions and the government belong to the people. And that is the way the membership feels, and even if I did feel any other way, which I do not, I would still be bound to follow the membership's wishes in that respect. And that is what they are. So there is no argument in our union over those matters. The main argument generally comes about outside of the unions and a lot of other people trying to decide which [7414] way our membership ought to feel without leaving it to the membership themselves as to how they ought to feel. There is nothing wrong with the membership of the union I represent in so far as its Americanism is concerned or its patriotism. It is second to none.

Q. As far as its program of 1948 with regard to the Marshall Plan, do you know whether it was alone in that or whether that same feeling was entertained by a great many people?

A. Quite a few people, and I think there was anyway—well, 18 or 20 Senators was opposed to it, and others. But we didn't decide on the basis of whether we were for it or against it by ourselves. We looked at the merits. We knew what we were talking about. We were familiar with what we were talking about. We are meeting it every day. Unemployment is growing, and seemingly we are up against a situation where more and more countries of the world are being boycotted, American goods can't go there, and as long as American goods do not move through our ports of our country, our people are not working. It is as simple as that. We are the fellows in the warehouses and on the docks. It is as simple as that.

Q. Can you state whether or not at the time the European relief program was being debated in Congress a great many congressmen took identically the viewpoint the ILWU took on the Marshall Plan?

A. The best I can recall, some did; I don't know how many it [7415] was, but quite a few did. I can't remember how many, but I remember some did.

Mr. Hallinan: I think that is all.

The Court: Mr. Hallinan, you read some resolutions. May I ask ~~you to have~~ them marked for the purpose of the record—resolutions and letters that were embraced in your examination.

Mr. Hallinan: I put in evidence the minutes of the organization.

The Court: I had in mind the resolutions and

(Testimony of Harry Renton Bridges.)

letters you handed to Mr. Donohue for consideration during the noon recess.

Mr. Hallinan: Yes, I read those all.

The Court: I think some mark of identification should be put on them.

Mr. Donohue: I would like to see the one on the Marshall Plan, if I may.

Mr. Hallinan: Let's see. I had those here.

The Court: You did read them while Mr. Bridges was on the stand. I wish you would have them marked in some way. We can attend to it after the examination——

Mr. Donohue: I would like to see the Marshall Plan resolution.

Mr. Hallinan: It is just a matter of finding it here. Here it is.

It is difficult to mark any particular one of them; suppose I offer the whole set of minutes? [7416]

Mr. Donohue: I have no objection, if your Honor please.

The Clerk: The minutes are marked Defendants' K-4 in evidence.

(Minutes of ILWU marked Defendants' Exhibit K-4 in evidence.)

Mr. Hallinan: Pardon me. There was one other matter that I overlooked, Mr. Donohue.

Mr. Donohue: Surely.

Q. (By Mr. Hallinan): Mr. Bridges, Rathborne testified that he had testified before the LaFollette Committee inquiring into labor conditions on the

(Testimony of Harry Renton Bridges.)

Pacific Coast, and especially violations of free speech and attacks on union leaders; you remember that, and the program of publicity that was gotten out against you and other labor leaders?

A. Something like that.

Q. Did you testify also before that same committee?

A. The LaFollette Civil Liberties Committee?

Q. Yes.

A. I think—I don't think I testified. I made a brief appearance, but—I made a brief appearance, and Senator Thomas, who was presiding at that time, asked me to submit two sworn statements, which I did.

Q. You are familiar, however, with the findings of the LaFollette Committee, are you?

A. Oh, yes. [7417]

Q. Particularly with respect to the publicity campaign against you. I ask you if you remember that this is a portion of them?

Mr. Donohue: I object, if your Honor please, to any action which may have been taken either by the LaFollette Committee or any other committee. It is not pertinent to the issues here.

Mr. Hallinan: Rathborne testified to it, your Honor. I want to show the findings of the LaFollette Committee on the campaign, the publicity campaign. It is something included in the United States Government reports, and it isn't any invention or any suggestion of Mr. Bridges; this is a finding of a United States Government senatorial committee directed particularly against that. We had a long discussion here, and we discussed with Rathborne the type of articles that were published in the papers and the fact that these matters were put in, inspired, paid for by the employers, referring to Mr. Bridges in invidious terms, and charges of Communism, and so forth. Rathborne said that the LaFollette Committee so found. I simply wanted to read exactly what the findings were in that regard. It is simply in amplification of what he testified to.

Mr. Donohue: If your Honor please, it could only be a finding of fact relating to a matter which is not in controversy here and is not the subject matter of this case.

The Court: I sustained the objection heretofore, and [7418] consistent with the record, I sustain the objection now.

Mr. Hallinan: I don't think that the offer has been made before.

Mr. Donohue: There was an offer to read some part of the findings of the LaFollette Committee.

The Court: There was an offer made with respect to the findings, as I recall it, and I sustained the objection.

Mr. Hallinan: Very well.

That is all.

Cross-Examination

By Mr. Donohue:

Q. After two years of operation of the Marshall Plan are you still opposed to it, Mr. Bridges?

(Testimony of Harry Renton Bridges.)

A. The way it is operating, you bet, for the reasons stated.

Q. What do you mean by that?

A. I know why I have those ideas, Mr. Donohue, probably not the same reasons you might have.

Q. As a matter of fact, Mr. Bridges, when you first heard the speech or read of it that General Marshall made at Harvard University in which he outlined the plan whereby we, this country, was to aid the devastated countries of Europe, you approved it, didn't you? [7419]

And isn't it a fact that being a mere skeleton of the plan which was ultimately passed by Congress, you thought at the time you approved it it would also include within its purview Russia and its satellite countries?

A. No, it was the CIO of this country that I followed, and its general idea. We approved it later on, ratified it later on at the November convention of the CIO, and later on we submitted the resolution passed by the CIO in December of 1947. We submitted that resolution to all the local unions of the international union and the officers recommended that all local unions concur in the resolution. And along with the resolution passed by the CIO, we submitted a mimeographed statement of Phil Murray's remarks analyzing just what the CIO program was in that respect, point out what it meant, and we urged that all our local unions adopt it. I can produce the resolution, plus the speech Phil Murray made, plus the documents showing that the officers concurred and urged approval by the membership, which the membership in most cases approved. And that was as late as December, 1947.

Q. Now, isn't it a further fact, Mr. Bridges, that your first opposition to the Marshall Plan came when Congress passed the Act and excluded from its purview Russia and its satellite countries?

A. No, no, that isn't the reason. If you recall, Mr. Donohue, the national CIO itself approved the Marshall Plan conditionally, [7420] providing that 11 amendments were made by Congress. And those 11 amendments went to quite a few things; I forget exactly what they were now, but there was 11 amendments the national CIO called upon to be incorporated in the plan, and so forth and so on. Eventually, what happened was this: The national CIO believed that sufficient administrative changes were made in the plan to warrant support of the plan even though those 11 amendments were not made by the Congress. We stuck with the original program and inasmuch as the 11 amendments were not made by the Congress, we did not believe the plan was in a democratic, constructive form. There is the whole thing; and the CIO saw it differently than we did, one of the reasons being that a deal was made between CIO and the national administration, including the Marshall Plan administration, where a lot of people in CIO got paid off with jobs under the plan, and right now they are roaming all over the world here and there, supposedly administrators of the plan. So that was one of the reasons why, in my opinion, from what I know of CIO, that they approved the plan, more for that reason than because of the basic, constructive features of the plan as it now operates. The opposition we have to the plan is what I have said here, and we just think things are getting worse as time goes on. [7421]

Q. Mr. Bridges, wasn't your opposition to contributing funds to the National PAC of the CIO predicated upon the ground that you wanted to use the funds for political purposes, raised by your union for the purpose of supporting candidates approved by the Communist Party?

A. No, at no time. Our position was this, Mr. Donohue, and the scuffle over the PAC fund started in 1946, where myself and other officers of the union—we were the only union in the National CIO that contributed 100 per cent, that is, we were the only union in the drive in 1944, the PAC drive in 1944 and 1946, that contributed $1.00 per head and more to the PAC fund. Now, here and there we found out that the National CIO was handing money out to candidates, political candidates in the field, that were running against candidates that had been endorsed by our local unions, and that the money that the membership had turned in at the request of people like myself and under the pledges given by people like myself, their officers, were being used to fight my own membership, why, they nearly lynched me. It wasn't a question of that at all. I can give you quite a few examples. One of the best examples I can give you is in the state of California, months and months and months ago, the National CIO pledged itself to support the candidacy of Helen Gahagan Douglas for Senator. Our union out here—at the same time the National CIO expects the membership of my union, that is, the largest union in the state of California, to [7422] send in contributions of at least a dollar a head to the National CIO. Then the National CIO, for example, wants to send money back to support the campaign of Helen Gahagan Douglas. Now, it is not a question of who the candidate happens to be. It is the right of the membership that will live here in California, registered here, vote here, to have a choice between Helen Gahagan Douglas and, say, Senator Downey. Now, the way our union works, our locals in California, they can make up their own minds. I predict, without knowing too much about it at the moment, here is the way I think it is going to work out in the senatorial campaign in the state of California:

Some of our locals will support Mrs. Douglas and some of our locals will support Senator Downey. I don't think any of them will support the Republican candidate. But the one thing they won't do, they won't send the money back to Washington and then have the money returned as a gift from President Philip Murray to Mrs. Douglas. So that the way it looks, Mr. Murray is giving Mrs. Douglas something. Our membership, they want to give the money to Mrs. Douglas itself if they feel that way. And they also resent where months ahead of time, in smoke-filled backrooms in Washington, by means of dirty politics, that their vote is pledged to a political candidate and then later on—they are not asked about it, they are told: "Now, you get out and work for that political candidate or you will be expelled from the CIO." [7423]

That is the situation, Mr. Donohue, and believe me, it goes less to the political hue or affiliation of the political candidate than it does to the demand of our membership that they want to be consulted and have a voice, a vote in the selection of political candidates if their vote and their money is going to be used to endorse and support those candidates. That is how simple it is. There is nothing more to it than that.

Q. Mr. Bridges, do you remember on your prior appearance on the stand, my asking you when you last saw Roy Hudson.

A. I remember your asking me. I forget what my answer was.

Q. Let me refresh your recollection. Reading from page 5574 of the record:

> "Q. A few minutes ago, Mr. Bridges, you said that the last time you saw Mr. Hudson was the incident you described in the front of your building a few months ago. Do you consider that just after the 1948 maritime strike as not being a few months ago?
>
> "A. December of 1948.
>
> "Q. Yes. A. About a year.

(Testimony of Harry Renton Bridges.)

"Q. About a year.

"A. Yes, could have been. When I say after the 1948 strike, I have in mind the last month in 1948 or early in 1949. That is what I have in mind.

"Q. Could it be that you have seen him since the trial [7424] started, began in November?

"A. No, that is, I haven't seen him. I have seen other people but not Hudson that I recall.

"Q. Well, if you had seen Mr. Hudson here in San Francisco as recently as a few months ago when this trial began, you would remember it, wouldn't you?

"A. I sure would, I sure would."

Do you recall that testimony?

A. That is right. That is still my recollection.

Q. What is your best recollection now when you last saw Roy Hudson in San Francisco?

A. Are you talking with reference—are you asking me with reference to when the trial started or at any time?

Q. At any time.

A. Oh, quite some time ago. Mr. Donohue. I kind of connect it up with Christmas, and I don't mean last Christmas. It seems to me——

Q. You stated——

A. Around, well, I haven't given it much thought, but I haven't seen Hudson for quite a while and my recollection is I saw him some time after the 1948 strike.

Q. Is your recollection now as it was some little ago that you last saw him in December, 1948, or January, 1949?

A. That is about it. I am placing it by the period since the 1948 strike. [7425]

Q. And is it your recollection that the last time you saw Roy Hudson was when you met him accidentally on the street in front of 150 Golden Gate Avenue?

A. That is right. I have got no recollection of seeing him elsewhere. You are talking about the last time I recall seeing him.

Q. Yes, sir.

A. My recollection is—and I don't think I am mistaken either—that is, I am not saying, "My recollection," just to try to dodge your question here—that is the last time I remember seeing him.

Q. Do you know, Mr. Bridges, what Mr. Hudson's present assignment is? A. No, no.

Q. Do you know that he is now the West Coast maritime coordinator for the Communist Party?

A. No. News to me. Why should I know?

Q. I am asking you if you do know.

A. I don't know, Mr. Donohue. I have no knowledge of him. No one has told me and I wouldn't know.

Q. Do you not know that Mr. Roy Hudson has been living in the city of San Francisco since just about the time the grand jury was considering your indictment? A. No. News to me.

Q. Do you not know, as a matter of fact, that Roy Hudson lives [7426] at 449 Page Street in San Francisco, California?

(Testimony of Harry Renton Bridges.)

A. Absolutely news to me. That is the first I have heard of it. No way of knowing.

Q. Let me ask you, Mr. Bridges, if on the night of October 12th, 1949, Roy Hudson did not call upon you at your house?

A. If he did, I wasn't there.

Q. Did you see Roy Hudson at your house the night of October 12th, 1949? A. No.

Q. Pardon?

A. You are not asking me if Roy Hudson ever called—I am going back to the last time, you ask me the last time I saw Roy Hudson.

Q. I am asking you now if you saw him at your home on the night of October 12th, 1949.

A. The answer is no.

Q. I beg your pardon?

A. The answer is no.

Q. You are sure of that?

A. I recall Hudson coming out to my house once.

Q. When?

A. Well, I don't know when, but it was a long time before October, 1949.

Q. You are sure he was not there on October 12th, 1949?

A. Well, yes, because—let me see—October, '49—— [7427]

Q. It was a holiday, October 12th.

A. What I am thinking of is this: I am thinking of how long I have been in my present house, because my recollection of Hudson calling on me is when I was living in another house.

(Testimony of Harry Renton Bridges.)

Q. I mean your house at 1541 Shrader Street.

A. No, the answer is no. If he was out there, I wasn't there. I will check with my wife.

Q. Mr. Bridges, shortly ago you testified that Mr. Phil Murray had engaged a penthouse apartment in San Francisco at $1,500 a month and that the members of your union objected to it because they felt that Mr. Murray was spending money that they were paying the CIO in dues. Do you remember that?

A. I didn't testify to that. I didn't say that.

Q. What did you say?

A. I said there were complaints because Mr. Murray was living in the penthouse and I said—when I was asked about it—"I didn't know who engaged——" I didn't mean, I didn't say, "engaged," but I said, "I don't know who paid for it." Now, as a matter of fact, I have heard stories to the contrary. But it gets down to what I can tell my membership and be sure I am telling the truth and I can't be boxed in by some of them, where they work me out on a limb and I make a statement and I find I can't back it up. However, during 1945, during the United Nations, Phil Murray was living in a penthouse here in San Francisco and it caused some raising of eyebrows and [7428] some questions among my membership, and I did my best to explain it. And later on when the story came out that the penthouse was being rented in violation of the rent ceilings of the OPA, again I told my membership, "I am not going by what I read in the newspapers or anything like that.

Let's wait until we find out. I will ask Phil Murray. I will ask him myself and I will see that you get a full report. I don't believe it." That is the way the situation arose.

Q. When you asked him, what did he say?

A. I didn't ask him.

Q. Five years ago and you haven't asked him yet?

A. Well, not in so many words. The way the thing eventually developed, that and other things, we went out in the way of trying to get a financial report.

Q. Yes, we have heard about that, Mr. Bridges, but do you not know as a matter of fact there was a prosecution of the owner of that apartment for a violation of the OPA?

A. That's just it, that is how the matter became public, and that is what I had to step fast on, when my members came around and said, "So you are the fine character who was telling us to keep our shirts on and not get excited. Maybe there is some mistake, but you don't believe there is anything wrong about this." It was my membership who came around and said, "This is a fine how-do-you-do. Here is the president of the CIO who is making all the fuss about enforcement of the OPA rent ceilings [7429] and now we find he has been living in a place here in violation of the rent ceilings. How do you explain that?"

And again I said, "Wait a minute. Wait until we find the truth now before you go off half-cocked." That was my position.

(Testimony of Harry Renton Bridges.)

Q. Did you ask Mr. Murray what the truth was then, Mr. Bridges, and report back to your union?

A. I don't think I asked Murray personally himself. I asked other people what the truth was.

Q. Mr. Bridges, don't you know that it was in the public record of the prosecution of Mr. Fritz, and widely publicized in the San Francisco press, that the arrangement for the rental of the penthouse, if that is what it was, was made by the Kaiser people here in California——

A. You mean paid for it?

Q. Yes, sir.

A. That is worse. That explanation is no good to me, Mr. Donohue. Now, listen. You are asking me to jump from the frying pan into the fire.

Q. Don't jump to a hasty conclusion.

Mr. Hallinan: Let him finish his answer, if you will.

Mr. Donohue: I will be glad to.

Mr. Hallinan: Let him hold it there for a while.

Mr. Donohue: You may go ahead and answer. I will come back.

The Witness: It won't take me a minute, Mr. Donohue. Here [7430] is the point: You are simply asking me to say, "Now, fellows, the penthouse wasn't paid for by the CIO; it was paid for by the employer." That is worse, because Mr. Murray himself attacked the vice president of the CIO for going to an employer and trying to borrow—just borrow $5,000. That was Mr. Reed Robinson, who was at that time the president of the Mine, Mill & Smelter Workers, and Murray had him fired out of that job because he committed the crime, mind you, of trying to borrow from an employer. It is not done in union circles. If any of our membership find me taking any gift from an employer, that is the end of me and my job. So I can't go to my membership with an explanation like that, that the CIO didn't pay for it, the employer paid for it, because Henry Kaiser is a firm that has contracts with Mr. Murray's union and, believe me, I am not kidding you, Mr. Donohue, you do not know much about the inside workings of a trade union. It is just not done. If my membership catches me getting presents from the employer, they say, "Look, Bridges, you aren't getting those because those employers like the length of your nose or anything like that. What are you doing to get them?" That is the end of me and my job. That is no explanation to give my membership. That is worse.

Q. Mr. Bridges, you should have let me finish because I would have continued to say if you had read the records you would have learned that as a matter of courtesy to Phil Murray and the CIO, they being in Washington, the Kaiser Company made the arrangement, [7431] signed the contract for the apartment, paid for it by a Kaiser Company check, and as an exhibit in the prosecution, the check for the CIO in repayment was offered in evidence, so it was not paid by Mr. Kaiser, it was paid for by the CIO. Now, what is your explanation for that one?

(Testimony of Harry Renton Bridges.)

A. Well, thanks for the information, Mr. Donohue. I didn't know. Here is all I have to say: I did my best when the membership came and raised these questions with me. I was a CIO director, remember. I held the job here at that time in addition to being president of the ILWU; I was a CIO director. When these people came around in all honesty and some indignation and raised these questions, the best I could do was to say, "Look, wait until we get the facts," and the best way I tried to handle it was, "Well, I will ask the CIO for a financial accounting." That is what I tried to do, and I got into trouble for doing it.

Q. Mr. Bridges, did it ever occur to you as CIO director when an attack was made on the integrity of the president of the CIO, that you might have called him on the telephone and asked him for an explanation and given it to your members?

A. Certainly not. I didn't do things that way. Without bothering Phil Murray, I defended him. That was my job, and I tried to do it without giving him the impression, because I didn't believe it maybe, or for any reason, there was anything crooked involved. My job was to defend the officers of the CIO and I always did it, and I did it to the point where I got into trouble [7432] with my own members. That is what happened.

Q. Mr. Bridges, may I ask you where you have learned the mastery of the art of character assassination by innuendo, by insinuation?

A. You forget, Mr. Donohue, I didn't even want

(Testimony of Harry Renton Bridges.)

to go into these matters until you put someone on the witness stand here to spin out a long line that the difficulties between me, myself and Phil Murray and Carey was on Communism. I am giving you the inside dope. The whole trouble was, the reason they got after me and the reason they are sitting down and playing ball with your group to get rid of me—they can't do it through my membership—was because I started to ask what happened to all the millions of dollars. Where are they going? I know the score. I am on the inside of the CIO and I am not going to talk about these matters except if someone gets up here and I am put on the spot. I either have to talk about it or give the jury here the impression there is something crooked, and I am a part of it, and the payoff is my skin. I am not trying to save myself at the expense of any trouble, but as long as these matters were gone into, I just brought some of them out. I am not assassinating anyone's character, but if you are asking me about the facts of the situation, look, Mr. Donohue, I have told you. It is as simple as that. When there are millions of dollars that change hands and those dollars come from the pockets of hard-working people, from hard-working people who are entitled to [7433] know what happened to them, I don't care who gets the money, but if it is good enough for the government of the United States, it is good enough for the CIO. The government of the United States makes an accounting.

to its members and its citizens. Why shouldn't the CIO?

Q. Mr. Bridges, you will have an opportunity to hear read what you have said about Mr. Murray and others long before Mr. Rathborne ever appeared as a witness.

I have no further questions.

Can we take the recess?

The Court: We will take the afternoon recess, ladies and gentlemen of the jury. The same admonition to you not to discuss the case under any conditions.

(Recess.) [7434]

Mr. Hallinan: We have nothing further, your Honor.

Mr. Donohue: If your Honor pleases, I have an exemplified copy of a report from the probation office in Los Angeles with a letter of explanation from the Director of Adult Division of the Probation Office of the County of Los Angeles, which I would like to offer in evidence after Mr. Hallinan takes a look at it. (Handing document to Mr. Hallinan.)

Mr. Hallinan: We object to it as hearsay, and in addition to that, it isn't any record at all. There is a copy of a letter that is alleged to have been sent out, that is all.

Mr. Donohue: If your Honor pleases, what I have——

Mr. Hallinan: Suppose that the Court take a look at it.

(Testimony of Harry Renton Bridges.)

Mr. Donohue: Yes. That isn't a copy of a letter, Mr. Hallinan.

The Court: May I see it.

(The documents were handed to the Court.)

The Court: Is this the document to which reference is made, dated October 17th and November 17th?

Mr. Donohue: Yes, sir.

The Court: Mr. Hallinan, may I ask you if your objection goes to the authenticity? It appears to be exemplified.

Mr. Hallinan: It is only a letter, though; it isn't a record; it isn't a copy of any record.

The Court: No. You may have overlooked that. I haven't the letter as yet. That appears to be an exemplified copy of a [7435] document coming from the Probation Office.

Mr. Hallinan: All that this document does, the upper one is a statement of what the two lower ones are.

The Court: Yes.

Mr. Hallinan: The upper one of the lower ones is simply a letter; it isn't a copy of a court record of any kind; it is simply a letter addressed to a particular person. The lower one is simply the card. Anyhow, the persons who keep the record would have to come up here and testify on that. I certainly wouldn't put any validity on anything that is contained in there. These people come in here with an expunging of the record dated in

September, 1949. Now, they come in with some other record prior to that time, and I don't trust it. Bring in the person who keeps those records and let's find out what happened.

The Court: These officers will be county officers at Los Angeles.

Mr. Donohue: Yes, your Honor.

The Court: I have no direct authority to order them here. It seems to me that, in light of my brief analysis of the documents——

Mr. Donohue: Certainly the record is admissible, if your Honor please.

The Court (Continuing): ——the two documents, one appearing to be signed by a probation officer dated August 11, 1927, appears to be exemplified in proper form. [7436]

Mr. Donohue: Yes, your Honor. I don't think there is any question about it. If Mr. Hallinan raises objection to that letter, I shan't force it, if your Honor please.

The Court: Mr. Hallinan offers objection to the extent that he feels that the probation officer should be here and subject himself or herself to cross-examination. Is that it, Mr. Hallinan?

Mr. Hallinan: Precisely. In other words, anybody can make a change in a record or add something to a letter or card and send it up here, and at the last moment it is presented to us. Even Rathborne wasn't questioned on it or anything about it. It is very suspicious, I think. Even the so-called covering letter has erasures in the date, the one that is marked 1927. Both things have obviously been erased and a new thing written in—a very mysterious way of trying to put evidence in.

The Court: I regard this document as having some importance.

Mr. Donohue: May I ask your Honor for permission to call the officer?

The Court: Yes, sir. It is an important document. I do think that Mr. Hallinan perhaps should have the right of cross-examination of any officer. This document appears to be exemplified. I think you should be accorded that right.

Mr. Hallinan: I would like a chance to examine the paper a little further.

The Court: You may. I will have a subpoena issued under [7437] the direction of this court directed to the marshal for service upon Mr. Brayton, Adult Probation Officer in Los Angeles, directing him to be here tomorrow morning at 10:00 o'clock.

Mr. Hallinan: May we have the order made also that all records touching this matter be brought up at the time?

Mr. Donohue: No objection.

Mr. Hallinan: All matters——

The Court: I think we have quite a few of them here.

Mr. Hallinan: He may have some more that we have not been favored with.

The Court: Any and all documents, Mr. Schaeffer, under the order of this court, are to be produced bearing upon pertaining or otherwise relating to the matter of Mervyn Rathborne, probation officer in connection with the matters addressed to the Court.

And may I ask the marshal's office to telephone to this gentleman and advise him of the issuance of the subpoena; that transportation be arranged; that he be here tomorrow morning at 10:00 o'clock. Let that be done forthwith.

Mr. Hallinan: Of course, if your Honor please, this would only relate, at any rate, to a record, apparently on the face of it, on a card of what is alleged to be a probation officer, and it wouldn't be a court record anyhow. This doesn't purport to be an order of the court.

The Court: The document to which the exemplification is [7438] attached is the document I would regard as having some evidentiary value.

Mr. Hallinan: But that is only a copy of a letter, as I say.

The Court: That appears to be.

Are there any other matters?

Mr. Donohue: I have no other matter, if your Honor please.

The Court: There was one other item concerned with the marshal's office and that is the production of certain records.

Mr. Hallinan: Oh, yes, the payments made to Rathborne. What about those?

Mr. Donohue: I know the marshal was in the hall a little while ago.

The Court: Call Mr. Roseen. Will you ask Mr.

Roseen to bring in such records as he may have available for Mr. Hallinan's scrutiny and perusal. Are there any other records that you request, Mr. Hallinan, in connection with this?

Mr. Hallinan: I don't remember any right now. [7439]

The Court: Were the basic documents supporting the statements supplied to you?

Mr. Hallinan: I don't know. We were handed a sheaf of carbon copies of what purported to be vouchers for the statements that were made. I glanced at them briefly and handed them back. I don't know whether they are the only ones.

The Court: Mr. Donohue, may I ask that you make a statement for the record so that hereafter no question may be raised concerning the production of any and all documents pursuant to the order of this Court.

Mr. Donohue: If your Honor please, pursuant to your Honor's instruction, I handed Mr. Hallinan a group of eleven carbon copies of documents which are captioned "Public Voucher for Purchases and Services," stating to your Honor at the time that the original of these vouchers is sent to the Department of Justice in Washington for the purpose of preparation of checks drawn on the Treasurer of the United States for payment; that when the check is received by the person who executes this voucher and is deposited in a bank, it is returned to the Treasurer and ultimately goes to the general accounting office for audit. I do not have the originals, because they are in Washington, where they were sent for the purpose of preparing the checks. I do not have the checks. Mr. Hallinan looked at these. He asked some questions of Mr. Rathborne about them, and he tossed them on my desk. He didn't offer them in [7440] evidence. They are here. If he wants to do so, I have no objection.

The Court: Have them marked for identification.

Mr. Hallinan: They only start in July and they end in January. I doubt very much if the first payment made to Rathborne was in July.

Mr. Donohue: I know Mr. Hallinan was very much upset that they didn't show otherwise.

Mr. Hallinan: No, I wasn't either surprised or upset. It was just about the way I figured it would be; no set record is brought in, but just some loose records. Ten or twelve could have been retained, and I imagine some were. I don't know, but it seems to me very dubious that the first payment that Rathborne got from the Government was in July.

The Court: Pardon me, Mr. Donohue. Who is the legal custodian of these records?

Mr. Donohue: Mr. Barber, District Director of Immigration, if your Honor please.

The Court: You received them from him?

Mr. Donohue: I received them from him.

Mr. Hallinan: Mr. Barber was available and is available. Why doesn't he bring in the whole record showing everything that was done in the matter?

The Court: You may mark them for identification.

The Clerk: The vouchers are marked Government's Exhibit [7441] No. 42 for identification.

(Vouchers relating to Rathborne were marked Government's Exhibit 42 for identification.)

The Court: Is Mr. Roseen here? Mr. Donohue, would you get those from Mr. Roseen, please?

Mr. Donohue: May I hand these to your Honor?

The Court: You might hand them to Mr. Hallinan.

(The douments were handed to Mr. Hallinan.)

The Court: Other than these matters that are of immediate concern, are there any other items of evidence that counsel desire to present to the Court and jury?

Mr. Donohue: No, your Honor.

The Court: The defense?

(No response.)

I think, Mr. Hallinan, we might take the afternoon recess and give you a chance to look them over.

Mr. Hallinan: Well, they seem to be fairly clear. One of them shows that Rathborne in May, 1949, received for services as an expert witness in the case of the United States, the following dates, May 11, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 1949, a total of 12 days at $37.50 a day, $450; for expenses actually and necessarily incurred as per following statement: 9½ days per diem at $6, $55.50.

"Half Moon Bay, California, to San Francisco, California, and return, 30 miles round trip. 11 round trips at 30 miles each, [7442] 330 miles at 5 cents per mile, $16.50." A total of $522 for 12 days.

"Explanation: Witness left home by privately owned automobile each morning at 8:00 a.m., arriving home at 7:00 p.m. each night. May 14, 1949, witness remained over night in San Francisco, California at request of Government officers."

Then there is the statement of Rathborne that he was subpoenaed to appear before a special session of the grand jury on May 11, and in pursuance to said subpoena he did appear and testify; represents he has intimate, detailed and expert knowledge of the principles, policies, program, activities, teachings and philosophy of the Communist Party; says that he will appear and give expert testimony concerning the principles, policies, program, activities, teachings and philosophy of the Communist Party, "provided that I am compensated at the rate of $37.50 for each day or fraction thereof that I am absent from my home in order to so appear and testify as an expert witness concerning the matters above set forth; and provided further that in addition I shall receive travel expenses and per diem in lieu of subsistence at $6 under the standardized Government travel regulations." So that the gentleman received $522 at the rate then of $37.50 plus $6, or $43.50 a day. [7443]

Then the next little item of it being May 31st is in May "for services as expert witness in the case of United States," case No. whatever it is.

confidential. "May 24, 25, 26, 28, 31, five days at $37.50 a day, $187.50."

"For expense actually and necessarily incurred as follows: At San Francisco"—each day—3¾ days per diem at $6.00, $22.50.

"Half Moon Bay, California, to San Francisco, California, and return, 30 miles round trip. Five round trips. 150 miles at 5 cents per mile, $7.50, total $217.50."

Then "Certificate of Attendance." This certificate is signed by Mr. John P. Boyd—not present—certifying that Mr. Rathborne appeared before the grand jury in connection with confidential investigation file number, and so forth, on May 24, 25, 26, 28 and 31; the best of his knowledge received from government officials in various parts of the United States, the witness left Half Moon Bay, California, at 8:00 a.m. on each day, and to the best of his knowledge and based upon information obtained from the witness or from government offices, that the witness left San Francisco at 5:00 p.m. on each of those days and arrived at Half Moon Bay, California at 7:00 p.m.

Then Mr. Rathborne again makes a certificate that he has been subpoenaed before a special session of the grand jury in San Francisco May 11th, and in pursuance of said subpoena he did appear and testify: "that I do hereby represent that I [7444] have intimate, detailed and expert knowledge of the principles, policies, program, activities, teachings and philosophy of the Communist Party; that I will appear and give expert testimony concerning the principles, policies, program, activities, teachings and philosophy of the Communist Party, provided that I am compensated at the rate of $37.50 for each day or fraction thereof that I am absent from my home in order to so appear and testify as an expert witness concerning the matters above set forth, and provided further that in addition, I shall receive travel expenses and per diem in lieu of subsistence at $6.00 under the standardized government travel regulations."

So he got $217.50 for that little jaunt.

Then the last one is for services as an expert witness for June 1, 2, 6, 7 and 8, 1949, six days at the same rate of $37.50 a day; $27.00 per diem, $9.00 mileage, a total of $261.00 for six days.

A certificate of Mr. Mervyn Rathborne that he was subpoenaed to appear, and in pursuance he appeared and testified and represents that he has intimate, detailed and expert knowledge of the principles, policies, et cetera, et cetera, and he will so testify "provided that I am compensated at the rate of $37.50 per day, and that in addition, I get $6.00 a day subsistenance and mileage."

And then a certificate by Mr. John P. Boyd, special assistant to the Attorney General, in which he certifies that Mervyn [7445] Rathborne did so appear, and to the best of his knowledge—Mr. Boyd's knowledge—based upon information received from government officers in various parts of the United States, he certifies that Mr. Rathborne left Half Moon Bay at 8:00 at each of those days, and to the best of his, Mr. Boyd's knowledge and information, obtained from government officers who escorted the witness to the place of his departure, that the witness left San Francisco, California, at 5:00 p.m. on each of those days, and according to information obtained from the carrier is due to arrive at Half Moon Bay at 7:00 p.m. on each of those days; and it includes the dates on which the witness actually appeared before the grand jury and/or dates that the witness was absent from his home; and on that occasion, then, the witness received $261. So there is $478 plus $522, which is approximately a thousand dollars, which I take it almost corresponds with the amount that Mr. Rathborne won from the sailors in his crap game.

We offer that in evidence, if Your Honor please, as the defendants' exhibit next in order.

Mr. Donohue: No objection, Your Honor.

The Court: They may be marked.

(Document was thereupon received in evidence and marked Defendants' Exhibit L-4.)

Mr. Hallinan: Mr. MacInnis reminds me that is precisely, exactly $1000—coincidences that baffle one.

The Court: Any other matters?

Mr. Donohue: None that I know of, if Your Honor please. [7446]

The Court: We will await the appearance of the witness from Los Angeles in the morning.

Mr. Hallinan: Your Honor directed him to be here tomorrow, is that right?

The Court: I hope that he will be here tomorrow. I don't want the proceedings of the Court delayed.

Mr. Hallinan: I beg your pardon?

The Court: I prefer that he be here tomorrow morning.

Mr. Hallinan: I dare say that even if the testimony were all concluded, would there be argument or would there be some discussion of the instructions?

The Court: I thought we might discuss them this afternoon, and also the question of the length of argument.

I will indicate to counsel on both sides the instructions I intend to give. We may do that tomorrow morning early, or late this afternoon, if you prefer.

Mr. Hallinan: Either one.

Mr. Donohue: It might be better, in the event the witness is somewhat delayed in coming here, we may dispose of it while we are waiting. I think the Marshal will probably be able to tell us what arrangements can be made so we will know what time he will be here.

The Court: He can reach him by telephone.

Mr. Donohue: Yes, your Honor. I persume the Marshal will do that. [7447]

The Court: Ladies and gentlemen, we will take the afternoon adjournment until tomorrow morning at ten o'clock. The same admonition to you not to discuss the case under any conditions or circumstances.

> (Thereupon the jury was excused, and the following proceedings were had in their absence:)

The Court: First, with respect to the argument, gentlemen, if I might have the views of the defense and the prosecution as to the length of time they anticipate they may require.

Mr. Hallinan: If the Court please, the thing that I would say on behalf of Mr. Bridges is that, in view of the fact that the matter has been on trial for four months running into the fifth month, with the great number of witnesses, it would be impossible to argue the case in less than, let us say, three days. I would expect to be through within that time, or maybe within a little before it. However, I have always found that when there is a limitation placed upon it, it creates a certain psychological block that makes one uncomfortable. I would prefer, and I would suggest to the Court, that no limitation be imposed, but that is about the time I would require on the argument.

The Court: Three days?

Mr. Hallinan: About that, yes. I would hope, as I say, to finish it within that time, or maybe even a little less, but there are a great many witnessses and a great many different parts [7448] of the record that have to be called to the jury's attention. I would say about that time.

The Court: Mr. MacInnis?

Mr. MacInnis: Well, on behalf of the defendants Robertson and Schmidt, I think that a day to a day and a half would suffice, and I too would try to conclude more speedily. I doubt if any of us would want unduly to vex the jury by speaking too long, but I think that a limitation might not be of benefit to any of the counsel in the case. I think that I may well be able to conclude such things as are necessary by the conclusion of one day, or it might be a day and a half; I don't think any longer.

The Court: Mr. Donohue?

Mr. Donohue: It is my judgment, if your Honor please, that since argument of counsel, while helpful to the jury, is not evidence upon which the jury may act, that there should be a limitation placed upon the amount of time which may be allowed. I am satisfied that the United States can present its views to the jury in opening and closing in a time not to exceed a day and a half.

Mr. Hallinan: May I suggest this, your Honor. Originally, at the inception of this case, there was discussion relating to the opening statement of counsel, and your Honor made this statement: [7449]

This is on page 556 of the record:

> "I am not going to foreclose government counsel or defense counsel from the widest argument at the close of this case. I am not going to foreclose them on time. I never have. I assure you, Mr. Hallinan, that I will give you ample time, as well as your colleague, Mr. MacInnis, to argue the matter from its fullest picture."

Now, Mr. MacInnis and I both took that as a promise from the Court that the time would not be limited and, accordingly, we conducted the examination in such way as to retain certain matters for argument, the reading of certain documents and so forth that have been introduced in evidence, instead of having them read by the witnesses, and then preparing—because I have prepared argument on them and have put it in such fashion as to assume that no limitation would be imposed.

Now, as Mr. MacInnis suggests, none of us have any desire to bore the Court or jury; we want to get the case through; but the discomfort of having a time limit imposed, watching the time, being fearful that interruptions and so forth are taking time away from us that, while it may not be necessary, very often one deems it necessary to expatiate upon, I suggest to the Court that the original suggestion of the Court is a fair one; that we should not be limited.

The Court: Perhaps the suggestion of counsel, in the light of time consumed in this case and all and singular the problems [7450] involved, I think that my first suggestion probably is a good one. That was made at the very threshold of the trial.

Mr. Hallinan: The very threshold.

The Court: And I don't think anything has changed my views since that time. However, there is the element of repetitious matter. Counsel for the government and counsel for the defense are experienced. You are not going, I assume, to burden the Court with repetitious argument; but if by chance, gentlemen, we reach a point where I feel that we are overlapping or that there may be repetitious matter going in, out of the presence of the jury at some recess I will make such suggestion to you as may be called for.

Mr. Hallinan: I think you will find there won't be any such necessity because personally I have tried to bring my argument in as cogent and as narrow a compass as possible, and I don't think there will be any overlapping. Mr. MacInnis has one element of it and I have chosen other elements, and, as I say, relying upon what Your Honor suggested, we fixed the argument in accordance with the statement that you made, and we will certainly try to finish it within the time. I have given a larger time element that I assume will be actually required. Mr. MacInnis, I suppose, as well. We will try to keep it below those figures, but for Your Honor's guidance, three days, we can be expected at least to be finished within that time.

The Court: Tomorrow, then, gentlemen, is Friday. It is [7451] the close of the week. I assume that we will have this additional testimony and further other items of importance or more or less import, and it then might be advisable to have the matter stand over until the following Monday.

Mr. Hallinan: I would think so.

The Court: For the purpose of having each side consult the record.

Mr. Hallinan: I would think so.

The Court: And to review the record in such form as they desire, and that will aid and help in the presentation.

Mr. Hallinan: Yes, I think so.

The Court: With that in mind, then, we will adjourn. I think we can discuss the instructions tomorrow rather than this afternoon. It is late.

Mr. Donohue: Yes, Your Honor.

The Court: We will adjourn until 10:00 o'clock tomorrow morning.

In the meantime, may I ask the representative of the marshal's office to take every available means to have that witness present tomorrow morning at 10:00 o'clock.

The DeputyMarshal: Yes, Your Honor.

(Thereupon an adjournment was taken to tomorrow, Friday, March 10, 1950, at 10:00 o'clock a.m.) [7452]

Friday, March 10, 1950, 10:00 o'clock A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: Will you call Mr. Arthur W. Brayton.

The Clerk: Call Mr. Arthur W. Brayton.

ARTHUR W. BRAYTON

called on behalf of the United States in rebuttal; sworn.

The Clerk: Will you state your full name?

A. Arthur W. Brayton.

Direct Examination

By Mr. Donohue:

Q. What is your business or occupation, Mr. Brayton?

A. I am a probation officer, County of Los Angeles.

Q. I beg pardon?

(Testimony of Arthur W. Brayton.)

A. County of Los Angeles.

Q. And how long have you been so employed?

A. Since 1927.

Mr. Donohue: I will ask the Clerk to mark as United States for identification next in order, this document.

The Clerk: The document is marked U. S. Exhibit 43 for identification.

(Documents from Probation Officer of Los Angeles County, State of California, were thereupon marked United States Exhibit [7453] No. 43 for identification.)

Q. (By Mr. Donohue): Would you look at the document, please?

(Document handed to witness by the Clerk.)

Mr. Donohue: Might I have the document back again, please?

(Document returned to counsel by the Clerk.)

Q. (By Mr. Donohue): And you identify this document, Mr. Brayton, as being what?

A. Which one do you refer to?

Q. The one you just had in your hand, sir.

A. Well, first, the top one is an affidavit. The second one is a copy of one of the records in the probation department, the two photostatic copies are.

Q. And you are able to identify this as a photostat of the record kept in the probation office in Los Angeles, California?

A. That's correct. I have the originals.

(Testimony of Arthur W. Brayton.)

Mr. Donohue: Offer it in evidence, if your Honor please.

Mr. Hallinan: We would first like to have a voir dire examination on it. Are you through with the witness?

Mr. Donohue: Only on this one point. I have one other question to ask him.

Q. I hand you what I shall ask the Clerk to mark as U. S. for identification next in order.

> (Thereupon letter of transmittal referred to was marked United States Exhibit No. 44 for identification.)
>
> (U. S. No. 44 handed to witness by the [7454] Clerk.)

The Court: That is the letter of transmittal?

Mr. Donohue: Yes, Your Honor.

Q. Can you tell us what that document is, Mr. Brayton?

A. Well, it is a letter written to Mr. Donohue by myself concerning the papers that I just saw.

Q. And was that letter written after an examination by you of the files in your office?

A. That is correct.

Mr. Donohue: I offer the letter in evidence, if Your Honor please.

Mr. Hallinan: The same request, if we may have a voir dire examination?

The Court: I will reserve ruling pending examination by Mr. Hallinan.

Mr. Donohue: You may examine the witness.

(Testimony of Arthur W. Brayton.)

Cross-Examination

By Mr. Hallinan:

Q. Mr. Brayton, might we see the originals of the documents that you have?

A. Yes, sir (producing documents).

Q. That is all the documents on this matter?

A. Yes, sir. This is the Superior Court file and this is the file of the Probation Department (documents handed to Mr. Hallinan by the Clerk).

Mr. Hallinan: I wonder if we might have 15 minutes to examine them, Your Honor? There is quite a file here and if [7455] the jury would want to take a few minutes' recess, or the Court, it might save wasting their time.

The Court: I have no objection.

Mr. Donohue: I have no objection.

Mr. Hallinan: It is quite a voluminous file.

The Court: All right, ladies and gentlemen, we will take a brief recess in the interval while the file is being examined.

The same admonition to you, not to discuss the case.

(Recess.) [7455-A]

Q. (By Mr. Hallinan): Now, Mr. Brayton, will you please tell us briefly what is the particular procedure in getting a matter dismissed and the record expunged after a period of probation has expired in your office?

A. Why, we write a report about the case, put the case on the calendar and write a report stating that the defendant has made good and requesting the court to dismiss the case.

Q. What do your rules or your procedures call for to precede that motion by you?

A. That his conduct has been satisfactory during the probation period.

Q. And what proof do you require for that?

A. We supervise the man, keep track of his activities.

Q. I beg your pardon?

A. We supervise the man and keep track of his activities.

Q. Who puts through this expunging of the record in this case? Did you handle that?

A. I did.

Q. Who was the first person who spoke to you about it? A. I believe it was Mr. Kidder.

Q. Mr. Kidder? A. That is right.

Q. And when?

A. August or September of last year.

Q. Do you remember what the [7456] conversation was?

A. Yes; I think I do, anyway. He came to me and told me who he was and showed me his credentials and asked if he could see the Rathborne file, and I told him he could, and I went and got the file and he looked it over and asked if the case had been dismissed, and I said according to our records it had, and I believe he told me that the Superior Court records did not reflect that the case had been dismissed, and he told me that Rathborne was going

(Testimony of Arthur W. Brayton.)

to be used in a trial and that he would like to have the case dismissed. And I said, "It should have been done a long time ago. I will see that it is done." And I put it on the calendar and had it dismissed.

Q. Was there anything further done at all except what you have just stated? Any further interviews with Mr. Kidder or anybody else connected with the Immigration Department or with the Government?

A. Not at that time, no.

Q. Was there at any time, from that time until the case was dismissed? A. I don't believe so.

Q. Were you furnished any statement, letter or affidavit or anything of that kind? A. No.

Q. Anything signed by Mr. Rathborne?

A. Not a thing. [7457]

Q. You are sure of that? A. Yes, sir.

Q. I notice there is nothing of that kind in your records. There is nothing that was omitted or not brought up here? A. No.

Q. This record contains everything that you have pertaining to the matter, is that correct?

A. That is correct.

Q. You are certain that you did not receive any letter or affidavit of any kind signed by Mr, Rathborne? A. Not to my recollection, no.

Q. And if there were one, I take it it would be in this record, is that right?

A. That is correct, yes.

Q. When you talked to Mr. Kidder, how long after you spoke to Kidder did you put the matter on the calendar?

(Testimony of Arthur W. Brayton.)

A. Oh, a matter of a week or ten days, I imagine.

Q. Where is the copy of the letter or the petition that was made to the court?

A. It is in that file.

Q. That is that form?

A. That is the one I signed myself, yes.

Q. There is a document here, and I notice that the copy is not signed. It seems to be initialed. What is that "A.M.Z."

A. "J.M.Z."? [7458]

Q. No, "A," it starts, with, "Deputy Probation Officer."

Have we the original? All that has been introduced in evidence here is an order made on September 12, 1949, expunging the record, but we are not provided with any copy of the other document.

The Court: Mr. Hallinan, when you speak of "other document," do you have in mind the more recent document?

Mr. Hallinan: Yes. I will show him this document and ask him if that is the one he has reference to.

A. That is the copy of the original that is contained in the Superior Court files.

Q. Oh, I see. A. This is just our file copy.

Q. In other words, the Superior Court file which I have here and the other one, and the Superior Court file is a public record, is that correct?

A. That is correct.

Q. But your documents are not?

A. That is right.

(Testimony of Arthur W. Brayton.)

Q. And the initials that are referred to there are your own initials, Arthur W. Brayton?

A. That is right.

Q. That document, I notice, is dated also September 12, 1949, is that right?

A. That is right. [7459]

Q. So that the matter was not set on the calendar for hearing or anything of that kind, but you simply took the order in with this statement of yours, the report, and had the court sign the order expunging it, is that right?

A. That is correct.

Q. In other words, it was not set on the calendar for any hearing or anything of that kind?

A. Well, we set it on the calendar. The court may not hear it on that date we set it, but we set it on the calendar.

Q. I notice that this document, a Superior Court record now; probation officer's report, "Recommend termination pursuant to Section 1203 P. C. and dismissal pursuant to Section 1203(4) P. C." and it is dated 9/12/49. A. That is right.

Q. That is September 12, 1949?

A. That is correct.

Q. And then on the same day the court makes its order that the period of probation be terminated and dates it 9/12/49? A. That is right.

Q. I notice here also that there is a file mark. "Filed September 12, 1949," and that is X'd out. Why is that?

A. I haven't the slightest idea why that is X'd out. That was done by the court clerk apparently

(Testimony of Arthur W. Brayton.)

Q. Prior to appearing before the court you had talked to nobody but Kidder? [7460]

A. That is correct.

Q. Did he furnish you with any information as to Rathborne's activity or what he had done, or anything of that kind? A. No.

Q. And you received no further communication or statement or letter or affidavit of any kind, is that correct?

A. That is right, so far as I know.

Q. You simply went and looked at your record. Are these the records that you looked at to make up your mind in that matter?

A. Yes, sir, they are.

Q. Now, that card on top obviously was not sent out, is that right?

A. It probably was sent out and returned.

Q. You mean not received by the person to whom it was sent? A. That is right.

Q. I noticed originally——

A. Because we don't make these in duplicate.

Q. Do you have any records there of Mervyn Rathborne ever calling at your office to inquire about the status of his probation?

A. No, we don't have a record of him calling after—I will get my glasses on—July of 1947.

Q. After July of 1947? A. 1927. [7461]

Q. You have no record of him calling after July, 1927? A. Yes.

Q. That is 1925, isn't it?

(Testimony of Arthur W. Brayton.)

A. Well, he reported to our office during the following years. He was convicted in 1925, but he reported to our office regularly, either by mail or in person.

Q. Now, I notice the last letter there is dated April, 1927. Do you notice that?

A. Well, there is one letter here dated July 11, 1927.

Mr. Hallinan: Could I have those two files back? (Returned by the Clerk.)

Q. And that is the last record you have, July, 1927? A. Yes.

Q. And he was convicted in January of 1925, is that right?

A. I would have to refer to the records to tell you.

Q. Now, would you look at those letters, or that letter, and then I want you to see the one that I am now handing you. A. Yes?

Mr. Hallinan: Could I have the second one back?

(Documents returned by Clerk.)

Q. Now, this is a letter dated March 1st, 1950, receieved March 2nd, by your stamp, apparently:

> "Mr. Brayton, Probation Department, Los Angeles County," et cetera.
>
> "Dear Sir: [7462]
>
> "Confirming telephone conversation of even date with Mr. Kidder of this office concerning the record of the probation department relating

(Testimony of Arthur W. Brayton.)

to Mervyn Rathborne, your number 7656, it will be appreciated if you will address a letter to Mr. F. Joseph Donohue, special assistant to the Attorney General, in charge of the United States Attorney's office, Room 434, Postoffice Building, Seventh and Mission Streets, San Francisco, California, setting forth your opinion that on or about August 11, 1927, action was taken by the probation department before Judge Frank Lamberson in Department 22, Superior Court, to expunge the record of the conviction of Mervyn Rathborne, under Section 123.4 of the California Penal Code, and that after a diligent search, no record can be located of any judicial action denoting the actual expungement at that time.

"Very truly yours, Bruce G. Barber, District Director."

Do you recall that letter?

A. Yes, sir.

Mr. Hallinan: We offer it as Defendants' exhibit next in order.

Mr. Donohue: No objection, Your Honor.

Q. (By Mr. Hallinan): Now will you look——

The Court: One moment, please. It may be marked in evidence, Mr. Schaeffer, as exhibit next in order number——?

The Clerk: Defendants' Exhibit M-4 in [7463] evidence.

(Thereupon letter dated March 1, 1950, Barber to Brayton, quoted above, was received in evidence and marked Defendants' Exhibit M-4.)

Q. (By Mr. Hallinan): Now, will you look at the letter you are now looking at, and there seems to be an erasure on a couple of the dates there, giving the dates upon which the record appears to have been dismissed, is that correct? A. Yes.

Q. And what—do you know what the erasures cover?

A. Yes, my secretary put the wrong date in, and I had her correct it.

Q. What date did she put in?

A. 1927; that is what she has here.

Q. And *what in* before that? What did she erase?

A. I think she erased '47, as I recall it. The date was incorrect and I had her change it.

Q. I see. Well, now, you think she first put in that it was expunged in 1947 and then changed it to 1927, is that right? A. Yes, I instructed her.

Q. I beg your pardon?

A. She changed it at my instructions.

Q. Well, did you dictate the letter to her or did she compile it out of the records?

A. I dictated the letter to her. When it came back to me it was incorrect and I had her correct it. [7464]

Q. How did you happen to dictate 1947 to her?

(Testimony of Arthur W. Brayton.)

A. I don't believe I did.

Q. You told her 1927? A. I think so.

Q. But she changed it to 19—she had it 1947 when the letter was presented to you for your signature? A. That's right.

Q. All right. Now, look at that a little more closely. Hold it up to the light and you will see that it is only the last figure that has been written out.

A. I believe it would be my judgment that the last two figures have been changed.

Q. The last two figures? A. Um-hm; yes.

Q. It was changed from '47 to——

A. That is my recollection. In any event, the date was incorrect as it came back to me for signature and I had her put in the correct date.

Q. Now, when you looked at that record you saw that Rathborne's probation period was three years, is that right? A. That's correct.

Q. It was established for three years. So it couldn't be dismissed before 1928, isn't that right?

A. No, sir. The law provides that you can dismiss it prior to the expiration of the probation period if he has made good. [7465]

Q. When you got out—did you take out these cards while Kidder was in your office? Did you examine them in his presence? A. I did.

Q. And you notice on the card there is typed out "8/13/27, case dismissed. C.L.M." Who is C.L.M.? Who is C.L.M.?

A. Oh, he was then the director of the Adult Department, Carl L. May.

(Testimony of Arthur W. Brayton.)

Q. Where is he now?

A. He has been dead some six or eight years.

Q. Was it customary for Mr. May, when he would do a thing like—when he made a notation like that, to simply have the initials typed in?

A. Well, I imagine that was done by a clerk. I don't think Mr. May would do that.

Q. Who is Mr. Vinacke?

A. He was in the probation office; he was the deputy probation officer there that originally investigated Mr. Rathborne's case.

Q. Where is he now?

A. Well, I think he resides in the vicinity of Long Beach somewhere, I don't know.

Q. Is he still with the Probation Department?

A. No, he has been retired for some seven or eight years.

Q. Well, on this card evidencing Rathborne's probation record, it gives his name, address and then a number of matters in pencil, right down the line, and states what the terms of [7466] probation must be, and then that he is allowed to go to sea on the U.S.S. Gidisee, and then typed in near the bottom are the words "8/17/27, case dismissed," and typed in the initials "C.L.M." Now that is the only place in the card that any initials are typed in. Do you know why that is?

A. No, I don't. I think it was done by a clerk, as I said before.

Q. I beg your pardon?

(Testimony of Arthur W. Brayton.)

A. I believe it was done by a clerk.

Q. Well, do you know any reason why the initials of the head of the probation department should be typed in by a clerk on a notation on the card?

A. No, I don't know why that was done. That was done years——

Q. You have only been there since '27, have you?

A. That's right.

Q. What part of '27? A. September.

Q. September, 1927. So you weren't there at the time this was done?

A. I can't recall the exact date when this transpired.

Q. Now, you say that the rules permit the termination of probation at a period prior to the term set by the court, is that right?

A. That's right.

Q. And under what circumstances? [7467]

A. Where the defendant has made a satisfactory adjustment and it is in the interests of justice. I believe that is the way the code reads.

Q. And then what is done? Isn't an appearance made before the court? A. That's correct.

Q. Is an order—Is a petition prepared, as was done here in 1949?

A. Back in 1927, I doubt very seriously that a petition was prepared. I think that was done orally.

Q. Was there a motion in court made?

A. Probably.

Q. Was there a notation made in the clerk's book? A. There was not.

(Testimony of Arthur W. Brayton.)

Q. I say, under ordinary circumstances?

A. There should have been, yes.

Q. In other words, if there had been an order dismissing this case it should appear in the clerk's books, isn't that right? A. It should.

Q. And you say it was dismissed by a judge named Lamberson, is that right?

A. That's correct.

Q. Where is he now?

A. Well, the records show that he was an out of county judge sitting in the Superior Court of Los Angeles County for one [7468] week.

Q. Is he dead? A. I don't know.

Q. What county did he come from?

A. I couldn't tell you that, either.

Q. Did you look at the records of his department? A. Yes.

Q. Did you look at the records on the date of the 13th of August, 1927? A. I did.

Q. Were there any other probation matters dismissed on that day? A. No.

Q. Is it the customary practice, ordinarily, to put a number of matters on at the same time?

A. Yes.

Q. How many, usually?

A. Well, at that——

Q. Well, let's take it at this time, because you weren't there. How many do you ordinarily put on?

A. Oh, if there are a number of cases expiring we might put on six or eight or ten in one day.

Q. I notice in this record that we have the 21st

(Testimony of Arthur W. Brayton.)

of September, 1949, that it says in each of the following cases it is ordered that probation be terminated. Do you know how many cases probation was terminated on on that day, the 12th of September, 1949? [7469]

A. No, I didn't check the record for that.

Q. Did you attend to the matter yourself?

A. I wrote the report. I did not appear in court.

Q. Where is the report, just the document that shows here?

A. In the Superior Court file, yes.

Q. Just that form that was filled in?

A. That's right.

Q. And did you call to the attention of the Court anything concerning which you have testified to here about that the matter should have been dismissed before? A. No, I did not.

Q. Did you know that Mr. Rathborne had been voting right along, ran for public office?

A. No, I didn't know anything of Mr. Rathborne's movements at all.

Q. Had Mr. Barber or Mr. Kidder informed you that Mr. Rathborne had testified falsely under oath on two occasions, one in 1940 and one in 1941?

Mr. Donohue: I object to the question.

A. No.

Mr. Hallinan: It goes to whether he would have taken these steps, Your Honor. The reasonableness of the story that the witness is telling.

Mr. Donohue: I object, if Your Honor pleases that the witness has testified that if Mr. Rathborne

(Testimony of Arthur W. Brayton.)

was entitled to an [7470] expungement of the record, he was entitled to it on that date in August of 1927 when the case was marked "Dismissed" for the reason as stated by the witness, that his conduct as a probationer entitled him to that.

Mr. Hallinan: We don't believe it was dismissed then. There is no order dismissing it. Anyone can type in a thing on a card. We don't believe that it was.

The Court: Objection sustained.

Mr. Donohue: There are many things you don't believe in that many do.

Mr. Hallinan: I have lost a lot of faith in this court, I will tell you that; a lot of people and institutions I thought people could rely on I have abandoned faith in.

The Court: The objection is sustained, Mr. Hallinan.

Q. (By Mr. Hallinan): Now, why was Mervyn Rathborne's name, since there was a special case here, a special set of proceedings and a special desire on the part of these gentlemen that his name be expunged—why was it shoved in with other people whose names were being submitted to have their cases dismissed on the 12th of September, 1949? Was that to prevent inquiry by the Court?

A. No, just done in the regular course of business. Master calendar department 41 handles a great many cases, and they handle pretty nearly all our dismissals.

Q. Now, in a letter here signed by Rathborne dated January 26, [7471] 1925, on a printed form it says, "Your probation will expire on the 26th day of January, 1928, unless otherwise ordered by the Court." Remember that? A. Yes.

Q. And, "Then at the expiration of your probationary period, if you have complied with the above instructions, the probation officer will have your plea of guilty eliminated from the record." And then signed "Carl L. May," and then "I have read and fully understand the above instruction, Mervyn Rathborne."

You noted that? A. Yes, sir.

Q. Now, you find nothing in this record at all to indicate whether or not Rathborne had complied with the terms of his probation in January, 1928, or back in September, 1927, do you? A. Oh, yes.

Q. What do you find?

A. That record card there shows that he reported regularly and complied with the conditions of probation.

Q. This record card? A. That's correct.

Mr. Hallinan: (To the Clerk): Will you show it to him?

(Document handed to the witness by the Clerk.) [7472]

Q. (By Mr. Hallinan): Now, what does it say on that card that indicates that he complied with his probation?

A. It does not say in words, but it says in marks that I understand——

(Testimony of Arthur W. Brayton.)

Q. What does it say in marks that you understand?

A. It sets forth here that he has notified the probation officer of his change of addresses, where he works, submitted report cards monthly, never missed a month of reporting.

Q. Up to when? A. Up to July of 1947.

Q. 1949? A. 1937—or 1927.

Q. It shows he reported—there are marks on the card that show he reported up to July, 1927?

A. That is correct.

Q. And those are just checks opposite the dates?

A. That is correct.

Q. There is nothing to show that he reported after July, 1927, and up to January, 1928, is there?

A. There is nothing.

Q. Who was the attorney who personally appeared in court on the motion for expunging the record? A. There wasn't any attorney.

Q. Nobody showed up for the probation office?

A. Yes, there was a probation officer in [7473] court.

Q. Did anybody show up from the immigration office? A. I don't believe so.

Q. Nobody representing Rathborne?

A. Not counsel.

Q. Was there anybody representing him other than counsel? A. The probation officer.

Q. That was yourself?

A. Well, one of my deputies.

Q. I notice in the typed copy of this letter that

(Testimony of Arthur W. Brayton.)

you wrote to Mr. Donohue on March 1 that it first read that "According to the record it appeared that on August 11, 1927, in Department 22 of the Superior Court, the Hon. Judge Lambertson dismissed the case," and then at the end of the letter it says, "The above action was taken because we felt that the defendant had sucessfully complied with the conditions of probation in all particulars, and further that this should have been done in 1927," and it has a "6" at the end. It originally read, "1926." The "6" at the end is all that has been changed. It has been changed in ink in your copy. Does that refresh your recollection that the girl did not originally put in "1927" but it was "1926"?

A. Probably——

Q. You didn't state in this letter to Mr. Donohue which he offered here in court that you were not in the probation office in 1927 at the time this was dismissed, did you? [7474]

A. No, I didn't state to Mr. Donohue.

Q. What were you doing in September 1927 or in August 1927?

A. I was in the sheriff's office, Los Angeles County.

Q. You had no connection with the probation department? A. No.

Q. When you started in the probation department, what office did you first take? What duties did you first take?

A. Deputy probation officer.

(Testimony of Arthur W. Brayton.)

Q. Where? Were you in charge of any of these matters?

A. No, no, I was in the juvenile department.

Q. I beg your pardon?

A. I was in the juvenile department.

Q. How long did you stay in the juvenile department?

A. Oh, about nine months, I believe.

Q. And then where did you go?

A. The adult department.

Q. When did you first have any cognizance of this Rathborne matter?

A. When Mr. Kidder walked into my office.

Q. Is that the first time that you had ever heard of Rathborne? A. That is correct.

Q. The first time you had ever inquired about the matter at all? A. That is right.

Q. The first time you knew anything connected with it? [7475] A. That is right.

Q. You had nothing to go on except records?

A. The records of our office.

Q. You have not talked with anybody else who was connected with Rathborne or with his case?

A. A week or ten days ago I talked to some other immigration officers when these photostat copies were made.

Q. No, I mean who were familiar with his case in the probation office. A. No.

Q. You did not speak to anybody who knew Rathborne or knew anything except what was written on those cards, is that right?

(Testimony of Arthur W. Brayton.)

A. That is right. No one is in our office now——

Q. Now, you state this in the closing paragraph of your letter to Mr. Donohue:

> "The above action was taken because we felt that the defendant had successfully complied with the conditions of probation in all particulars, and further that this should have been done in 1927."

What was your basis for feeling that the defendant had successfully complied with the conditions of probation in all particulars?

A. The record, as shown in our records.

Q. The fact that he reported up to July 1927?

A. That is right, no violations of probation.

Q. Don't you think that the language in here would mislead a [7476] jury, that "We felt that the defendant had successfully complied with the conditions"? Why didn't you put in "Our records show that the defendant reported up to July 1927 and does not show any violations of probation," or something like that?

Mr. Donohue: I object to the question as argumentative.

Mr. Hallinan: It goes to his state of mind, his willingness to help the prosecution.

The Court: The observation on your part is not altogether pertinent at this time, Mr. Hallinan. I will overrule the objection, however.

The Witness: Would you read that question.

(Question read.)

A. Well, I don't think what I said would mislead a jury. I could have chosen your words, I guess, as well as mine.

Q. (By Mr. Hallinan): I notice in the Superior Court record there isn't any word—there isn't any word at all of any appearance in court or anything relating to any appearance in court or suggestion, motion or anything in the year 1927; that is right, isn't it? A. That is correct.

Q. No petition in the form that appears now in 1949, no minute order, no order signed by the court, no letter, no affidavit—nothing. That is correct, isn't it? A. That is correct.

Q. Now, the record of the Superior Court, as we say, is a [7477] public record, but your records are private records, aren't they?

A. That is right.

Mr. Hallinan: I think that is all.

The Court: The documents may be received in evidence.

Mr. Hallinan: We object to that, your Honor. In the first place, they are private records, they are not public records, and hence are not admissible under the rule relating to public records, and this gentleman is not familiar with the document as of the time it bears the notation. He did not come to the probation office at all until September, 1927, and then he was nine months with the juvenile court. This notation appears to have been made a month previous to his appearance even in the probation office. After

(Testimony of Arthur W. Brayton.)

nine months he goes to the adult department, but has no cognizance, knowledge or experience with Rathborne's case at all, and I submit that those records are not properly admissible.

The Court: The objection is overruled. They may be appropriately marked in evidence, and the letter read to the jury.

I desire to thank you very much for coming to this court at my instance, Mr. Brayton.

(The documents referred to were marked U. S. Exhibits 43 and 44 in evidence.)

Mr. Donohue: May the two files be returned to the probation [7478] officer? We shall ask permission from the Court to photostat the letter taken from the files.

Mr. Hallinan: Pardon me. Would you mind, Mr. Brayton, another question?

Q. On this matter of the Superior Court record, you say that when Kidder came down to see you, you examined this record, is that right?

A. The probation department record.

Q. You examined the probation record, and in the petition, the probation officer's report recommending termination, et cetera, that was finally signed, you filled in as the expiration date of probation, the one that you presented to the Superior Court to get the order made, that the expiration date was 1/25/28. That would be January 25, 1928. That is three years after the order admitting the defendant to probation, isn't that right?

A. That is correct.

Q. Although at the time you say that you showed Kidder a card, it showed that the probation expired and the case had been dismissed on the 13th of August, 1927? A. That is correct.

Mr. Hallinan: All right.

The Court: Do you have any further questions?

Mr. Donohue: No, I have no further questions, if your Honor please.

The Court: The witness is excused. [7479]

Mr. Donohue: May I ask permission from the Court to photostat the letter taken from this file and introduced by Mr. Hallinan?

Mr. Hallinan: I want to put in also, if the Court please, a photostatic copy of the probation officer's report recommending termination, which was identified, the original of which was identified, in the file of the Superior Court, showing the date that I just asked him. The expiration date of probation as presented to the Superior Court on the 12th of September 1949 was January 25, 1928. That is a copy of the record that he identified.

The Court: May I see it? It may be marked in evidence.

(Copy of probation officer's report was marked Defendants' Exhibit N-4 in evidence.)

The Court: Have you marked the letter in evidence as well as the other documents?

The Clerk: The letter is marked Defendants' Exhibit N-4.

The Court: That completes the record, then, with respect to Mr. Brayton?

Mr. Donohue: Yes, your Honor.

The Court: Are there any other items of evidence?

Mr. Donohue: If your Honor please, I am informed that the Government's Exhibit No. 11, which is the photostated, unsigned form 57 of the witness Michener, is marked only for identification. I at this time offer it in evidence. Also with [7480] respect to Government's No. 24, heretofore marked for identification, which is a photostat of the Selective Service record of J. R. Robertson, I move its admission in evidence. Finally, Government's No. 39 for identification, which is the airline schedule for June 1936, I also offer that in evidence.

Mr. Hallinan: The only one we have any objection to is the airline schedule, because we still make the point it is not the best evidence; that the exact time of arrival and departure of every plane in New York and San Francisco has to be sent to the various departments of the United States and they should know precisely and exactly at what time every plane took off from San Francisco and landed in New York, and what time every plane took off from New York and landed in San Francisco at that time. We object to that as not the best evidence.

The Court: The witness was examined with respect to the schedule.

Mr. Donohue: Yes, your Honor.

The Court: I will allow it.

(U. S. Exhibit No. 11, Form 57 re Michener; U. S. Exhibit No. 24, Selective Service record of Robertson; and U. S. Exhibit No. 39, airline schedule, previously marked for identification, were received in evidence.)

The Court: They may be marked in evidence severally and individually.

Mr. Donohue: I have one further request of your Honor, and that is there are some exhibits which are now in evidence [7481] which we would like permission to photostat and substitute the photostatic copies of the originals.

The Court: Now or at the conclusion of the case?

Mr. Donohue: I would like to do it over the week-end, if it is possible, if your Honor please, and substitute the photostats on Monday.

Mr. Hallinan: We wanted to do that, but after the case had been concluded.

The Court: Whatever would be convienient for counsel.

Mr. Hallinan: I think they ought to remain as they are now until after the argument.

Mr. Donohue: No objection.

The Court: I think that would be the practical thing. Are there any other items, matters of evidence, to take up with the Court at this time? Either on the part of the prosecution or the defense?

Mr. Donohue: We know of none, your Honor.

The Court: The matter stands submitted?

Mr. Donohue: Yes, your Honor.

Mr. Hallinan: Yes.

The Court: Mr. MacInnis?

Mr. MacInnis: Yes.

The Court: Ladies and gentlemen, we have reached the conclusion of the reception and taking of evidence in this case. There are matters to discuss with counsel concerning proposed [7482] instructions, procedural matters, and the like, which ordinarily are discussed in the absence of the jury. Next week in the main will be devoted to argument by the prosecution, by counsel representing the respective defendants. At the conclusion of the arguments the Court instructs you as to the law. I need not again admonish you, particularly in these closing stages of the case and as the event of your deliberations draws closer, that you should refrain from any intrusion on your thinking to the extent that you keep a clear, fair mind, to the end that you may appraise the facts in the light of the arguments, pro and con, and in the light of the instructions as given you by the Court. I say that to you particularly at this time, because it is important. I ask you again not to read newspaper accounts of the trial, not to listen to radio accounts of the trial. I need say no more at this time.

I have a criminal case this afternoon on hearing that has been nearing completion on a motion, and I think that after I complete my discussion with counsel this morning we will adjourn this case until Monday at ten o'clock, and accordingly, I again instruct you not to discuss the case with any person or persons and not to permit any person to converse with you on any subject connected therewith, and not to form or express an opinion until the matter is finally submitted to you. Next Monday morning at ten o'clock. We will take a ten-minute recess.

(Thereupon the jury was excused, and a brief recess was taken.) [7483]

The Court: First, I notice the reporter has prepared a letter addressed to counsel with respect to certain corrections which have been suggested, and these suggestions are incorporated or annexed to his letter of transmittal of March 10, and were made by the Court or suggested during the course of the trial as I read the several transcripts. I should like the corrections to be incorporated in the official records of this court, as the transcript may reflect. It may *well that* counsel for the Government as well as the defense have suggestions to make as to the corrections. If so, I respectfully suggest to them that they be incorporated or noted prior to the argument, if they be very material, to the end that there be no interruptions during the course of the argument as to transcript matters.

Mr. Hallinan: I noticed one or two of the matters you suggested, we had noted already.

The Court: And Mr. Donohue, if you have any?

Mr. Donohue: I know of none, but if we do have them, we will do them before that time, if Your Honor pleases.

The Court: All right. Now, on the matter of the instructions, under Rule 30, it is provided:

> "At the close of the evidence or at such earlier time during the trial as the court reasonably directs, any party may file written requests that the court instruct the jury on the law as set forth in the requests. At the same

> time copies of such requests shall be furnished to adverse parties. [7484] The court shall inform counsel of its proposed action upon the requests prior to their arguments to the jury; but the court shall instruct the jury after the arguments are completed."

For the purpose of the rule, I now will announce to counsel representing the Government as well as the respective defendants that the instructions that I intend to give, as proposed by them. Mindful, of course, that the Court will instruct generally as to the law with respect to matters that the Court may feel require instructions. Some of the instructions submitted by counsel for the Government as well as by the defendants cover a field that ordinarily would be embraced in instructions given by this Court, and to that extent I have indicated that they are covered by the Court and covered elsewhere.

In addition, instructions submitted by the Government, as well as by the defense, do not, in the opinion of the Court, represent applicable principles of law or principles that may be applicable to the fact in the case at bar, and for that reason I have refused to so instruct. However, as to the proposed instructions on behalf of the defendant that I intend to give, I shall read them in sequence.

Instruction No. 4, defense, No. 5—without repeating "No."—8, 9, 10, 12, 14, 24, 28, 31, 34, 35, 41, 42, 49, I shall give—however, deleting at line 10 of the proposed instruction, after the name

"Harry Bridges," deleting down to and [7485] including the words "not guilty." The balance of the instruction I shall give as indicated, No. 94 as modified. Then No. 55, 57, 60, 65, 68, 69, 70, 75, 77.

Now as to the supplemental requested instructions proposed or presented to the Court more recently, within the last several days, and numbered 66-A, I shall give that. 66-B is repetitious. It repeats the subject matter.

Mr. MacInnis: Pardon me. Did you say you were going to give 66-A?

The Court: 66-A, yes, Mr. MacInnis. 66-A. Going to 66-A, I will give that instruction. 66-B is repetitious and therefore refused for that reason; covered by A, 66-A. 66-C I shall give. And 66-D. 66-E is repetitious again; for that reason refused. And 74-A is covered by the Court's instructions as to presumption of innocence and the like adequately and, I believe, fully; and will be covered fully in that. The other instructions proposed by the defense have been refused, either upon the ground that they state principles not applicable or that they represent matters the subject matter of which would be covered fully by the Court in the general instructions.

Government's instructions by number——

Mr. MacInnis: Pardon me.

The Court: Yes?

Mr. MacInnis: Your Honor, the Government has proposed two sets of instructions, each numbered beginning with 1. So we [7486] would have no way of knowing which ones the court refers to.

The Court: Well, I might indicate, then, as we proceed, the subject matter of the instruction.

Mr. MacInnis: Well,——

The Court: Now, instruction No. 1 has to do with reasonable doubt.

Mr. MacInnis: Yes, that is the first submitted.

The Court: Yes. Instruction No. 1 has to do with reasonable doubt. I cover that fully in my general instructions; however, I shall give it in the form as proposed by the Government. It is a form instruction.

No. 2 is as to intent; that, I say again, will be covered by the Court, but I shall give it in the form suggested by the Government.

Instruction No. 3, province of Court and jury, credibility—that will be covered by the Court. I will give it in substance, in effect as proposed. Instruction No. 4 as to conspiracy,—Am I going too rapidly?

Mr. Donohue: No, Your Honor.

The Court: Instruction No. 4 as to conspiracy, I shall give that in the form as submitted. No. 5, on the subject of conspiracy, the Court will give. And the next is 8, instruction No. 8. I intend to give that. No. 10 on credibility, much of that will be covered by the Court. However, I see no objection to giving it. Instruction No. 11 with respect to materiality, [7487] I intend to give. No. 12, likewise.

Do you follow these now? Do you follow me all right, gentlemen?

Mr. Donohue: Yes, Your Honor.

Mr. Hallinan: Yes.

The Court: No. 13, as to motive, I intend to give. 14, in general, the Court will discuss these matters, and if not in the form submitted by the Government, in substantially the same form—perhaps paraphrased. No. 15, with respect to a delineation of the issue, and the matter of suggestions as to what may not be material or what may be regarded as immaterial, the Court will give substantially its general instructions. No. 16 on membership in the Communist Party, the Court will give.

The balance of the instructions presented by the Government I refuse for the reason that they represent either inapplicable principles or matters the subject of which would be covered by the Court under ordinary circumstances.

Mr. Hallinan: Now, Your Honor, I understand we are obligated by the rule to make any objection at this time that we may have to the Court's orders, is that correct? [7488]

The Court: No. I want to read, Mr. Hallinan, continuing:

> "The Court shall inform counsel of his proposed action upon request and the Court shall instruct after the arguments are completed."

The purpose of my announcing to you now is to the extent that you may be guided accordingly in your arguments. Then hereafter it is your duty as follows:

> "No party may assign as error any portion of the charge or omission therefrom unless he

> objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the ground of his objection. Opportunity shall be given to make the objection out of the hearing of the jury."

My practice has been, and I think the current practice in these courts of recent date is that after the arguments are over and after the instructions are concluded, then to have the jury retire. Then counsel point out the subject matter of the objection for the record to preserve the matter.

Mr. Hallinan: I also understand, your Honor, it is not necessary for us to submit instructions touching discussions of fact, common, ordinary instructions of fact; that the Court does not instruct on fact is that correct? I mean, except as is embraced in the instructions as you have already indicated.

The Court: The Court may discuss the facts generally in these courts, permitting the jury to resolve the matters, and [7489] without intrusion on the part of the Court with respect to factual matters, to the end that the Court may discuss matters of fact as narrowing the issues, and so forth. To that extent it is peculiarly and particularly within the province of the Court to do that. I just can't follow you. What have you in mind?

Mr. Hallinan: I mean, your Honor does not comment on the effect or force of facts or the weight of evidence, or anything of that kind, or what impression a fact makes upon you. In other words, what we know from the English procedure of instructing on facts or commenting on facts, to that extent.

The Court: Ordinarily not.

Mr. Hallinan: That is what I understand.

The Court: Ordinarily not.

Mr. Hallinan: And I had not expected it would be, but that is why we did not submit any instructions on such matters. I understand that is the procedure of the court.

The Court: If the Court does instruct on factual matters or does delineate how the Court may feel about a particular matter or matters, it is incumbent upon the Court to instruct the jury that in the final analysis the matter of credibility on factual matter rests in their determination. The rule is distinct in these courts, as you apprehend from the State courts, for in the Federal system a Federal judge may comment on the evidence. [7490]

Mr. Hallinan: But then when the judge does that, then it is ordinarily the procedure to furnish instructions to the jury as to what is their obligation with regard to such comments, and as we assumed there wouldn't be any comment in that way, we did not propose any such instructions.

The Court: If the Court does make any comment in that regard, the Court will give the admonition to the jury in consonance and consistent with the Supreme Court decisions.

Mr. Hallinan: Yes, I understand.

The Court: Are there any other matters for the Government?

Mr. Donohue: No, your Honor.

The Court: I think, then, we might well take advantage of the afternoon, so far as counsel is concerned, in reviewing whatever matters they have at hand for the arguments. I have already indicated my view on the arguments.

We will adjourn until Monday at ten o'clock, at which time the Government will open its argument. Thereafter I take it Mr. MacInnis or Mr. Hallinan will present their argument. The order in which they desire to present it is a matter within their own discretion. I do not assume to indicate to them how they intend to proceed. And thereafter the Government will close. We will adjourn until Monday at ten o'clock.

(Thereupon an adjournment was taken until Monday, March 13, 1950, at 10:00 a.m., for argument.) [7491]

Monday, March 13, 1950, 10:00 P.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: May it please the Court, unfortunately we will have to ask for a little time in the case. Mr. Hallinan's father died this morning. It was a sudden death. I think he was notified at about seven o'clock. I think the funeral will be Wednesday morning. If it would not be too great an intrusion upon the time of the Court and jury, I am afraid we will have to ask that the case be recessed until Thursday morning.

The Court: The Court certainly would have no objection to that request, coming as it does, Mr. MacInnis, under these regrettable circumstances. I am satisfied the prosecution would have no objection.

Mr. Donohue: None whatsoever, your Honor.

The Court: Accordingly, you may advise Mr. Hallinan that the case will adjourn until Thursday. Is that correct?

Mr. MacInnis: Yes, your Honor.

The Court: Thursday at ten o'clock, under the circumstances.

There is also one other matter I am advised of by Mr. Mitchell this morning, and that is Mrs. Maria Vinton, alternate juror No. 4 is ill and under a doctor's care, according to Mr. Mitchell, who received a report from the doctor. She is not [7492] able to attend. I think it would be advisable to excuse the lady from further attendance by stipulation.

Mr. MacInnis: Whatever the Court suggests.

Mr. Donohue: No objection, your Honor.

The Court: All right. Ladies and gentlemen of the jury, and counsel, in the light of the representation made by Mr. MacInnis, Mr. Hallinan's colleague and associate, advising of the death of Mr. Hallinan's father, this court will stand regularly adjourned until Thursday next, the 16th of March, at ten o'clock. Is that understood by all? Next Thursday, March 16, at ten o'clock, and the record may further show that juror No. 4, that is, alternate juror No. 4, is excused by stipulation. The same admonition, ladies and gentlemen of the jury, of course, applies at this interval as it will during the balance of this case, not to discuss the matter under any circumstance or condition and not to form or express an opinion until the matter is submitted to you. We will then adjourn until next Thursday at ten o'clock.

(Thereupon an adjournment was taken until Thursday, March 16, 1950, at 10:00 a.m.) [7493]

Thursday, March 16, 1950, 10:00 A.M.

The Court: Is it stipulated, gentlemen, that the jurors are present together with the alternates save and except alternate juror No. 4, who was heretofore excused on account of illness?

Mr. Donohue: Yes, your Honor.

Mr. MacInnis: Yes.

The Court: You may proceed with the opening argument of the Government.

OPENING ARGUMENT ON BEHALF OF GOVERNMENT

Mr. Donohue: If it please your Honor, Ladies and Gentlemen of the Jury: After some four months the case of the United States against Bridges, Schmidt and Robertson has reached its concluding stage. All of the evidence has been heard. It remains only for counsel to argue their cause, for the Court to instruct the jury as to the law, and for you to return a verdict which shall speak the truth. It is my present responsibility to outline for you the evidence produced by the Government in support of the allegations contained in the indictment. Mr. MacInnis and Mr. Hallinan will follow with their respective statements on behalf of the several defendants. I shall then close for the Government, and I might in passing observe that the reason for the Government's being given the [7494] right to open and close the final argument is found in the fact that the Government of the United States is required to prove the allegations of the indictment against these defendants beyond a reasonable doubt.

Before outlining the Government's evidence, however, I want to set the record straight as to my own participation in these proceedings, since that fact seemed to give counsel for these defendants some concern, as reflected in their repeated reference to me as "Mr. Special Prosecutor." In San Francisco, as in many other places, the office of the United States Attorney is understaffed and overworked. It has long been the practice of the Department of Justice, in recognition of this fact, where specific cases are likely to require long periods for trial, to assign from the Department of Justice special counsel to conduct such causes, as recently instanced here in San Francisco in the assignment of Mr. Tom DeWolfe from the Department of Justice to prosecute the case of the United States v. Tokyo Rose. In making such assignments the Attorney General of the United States may appoint from the regularly appointed staff of the Department of Justice or he may appoint as his special assistant for that purpose some lawyer from private practice, which latter alternative to my personal knowledge has been followed in innumerable instances during my 25 years of experience in the practice of the law in Washington, D. C. I did not ask for this assignment. I do not know why the then [7495] Attorney General, the Hon. Tom Clark, asked me to take it. I only know that I did accept it in the full knowledge that in the light of the experience of others who had tried cases in which membership in the Communist Party became a pertinent matter of evidence I might well expect to be baited, pilloried, belittled, criticized, condemned, and abused by counsel for the defendants. I do not regret my decision. And, parenthetically, I might add that the worldwide reputation of San Francisco and its people for friendliness and hospitality has not suffered in the least by reason of the treatment accorded to me and my associates by counsel for these defendants.

As a matter of fact, and not unlike me, they too are special counsel for the defendants for reasons quite similar to the reasons for my own appointment. The record and the testimony here will show that from the very inception of the case the law firm of Gladstein, Resner, Andersen & Sawyer and its associate Mr. Norman Leonard were counsel for these defendants and have remained such in at least an advisory capacity. The record will further show that that firm, and in particular its senior member, Mr. Richard Gladstein, has represented Mr. Bridges and his union for a great many years. [7496]

It is also a matter of record in this proceeding that the law firm of Gladstein, Resner, Andersen & Sawyer sought postponement of this trial until Mr. Gladstein had completed his then assignment as co-

counsel for the eleven top Communist leaders then on trial before His Honor Mr. Justice Medina in New York.

Mr. MacInnis: Pardon me. I assign the making of that remark as misconduct, wilful misconduct, calculated to prejudice the jury against the defendants in this case. There is not a word in the record before this Court that that was the reason for the employment of Mr. Hallinan and myself. It is not the truth, it is an untruth. If there is any record of any continuances in the case, that record and the reasons ascribed are not records had during this trial, and we assign the making of the statement as misconduct.

Mr. Donohue: Your Honor is familiar with the record. These matters were tried before Your Honor.

Mr. MacInnis: We ask that the jury be instructed to disregard the implication contained in the statement of the special prosecutor.

The Court: The objection is overruled, the assignment is denied.

Mr. Donohue: And yet, despite the fact that the New York trial was concluded timely for Mr. Gladstein's appearance here, the record shows, and for reasons best known to the defendants, that Mr. Hallinan and Mr. MacInnis filed an appearance for these [7497] defendants some two weeks before the opening of this trial.

Mr. MacInnis: We assign the making of that remark as misconduct, as a deliberate lie invented by the special prosecutor for a deliberate purpose.

and we ask that the jury be instructed to disregard the statement. It is untrue and it doesn't play any proper part in this argument.

The Court: The assignment is denied, the objection is overruled.

Mr. Donohue: I think we may well conclude that Mr. Hallinan and Mr. MacInnis are also special counsel for the defense. I think, too, that at the outset I should discuss the great length to which counsel for these defendants went to show that each witness called by the prosecution was carefully, thoroughly and repeatedly interviewed by Agents of the Government of the United States—and subsequently by me or by one of my associates.

You, who may be relatively new to the drama of the courtroom, may perhaps overlook the fact that it was my duty to the people of the United States, whom I represent, to know every detail of the evidence to which a witness would testify before I might call him as a witness; to aid me in this not inconsiderable task, I have had the loyal and capable services of a number of agents of the Bureau of Immigration. Their names are familiar to all of you, as they too have been called upon to share with me the bitter recriminations heaped upon us by the defendants and their counsel. I am proud of the services rendered by Messrs. [7498] Boyd, Barber, Kaiser, Kessler and a host of others. And my mind is eased to know that men such as they are constantly alert in the interest of the internal security of our country.

You may be sure that the witnesses who were called by the defendants were equally and as thoroughly investigated and interrogated by defense counsel and their agents.

Mr. MacInnis: Pardon me. We assign the making of that remark as misconduct. There is no evidence in the case. When a witness is upon the stand, either counsel may cross-examine the witness upon his manner of production. No such questions revealed any such preparation on the part of the defense. We assign the making of the statement as misconduct, outside the record in the case.

The Court: The objection is overruled.

Mr. Donohue: I refer, if Mr. MacInnis would like an instance, to the more recent testimony of Miss Jean Murray, who testified that on the night before the appearance of the first of those young ladies as a witness, the first of the young ladies, Mrs. Teixeira, and her husband and Miss Murray, were in the office of Mr. MacInnins until half-past eleven the night before.

Mr. MacInnis: Well, then, the special prosecutor misinterprets the objection. That is not the objection. Of course I talked to every witness. The objection is that we didn't follow these people for a year, as the evidence shows that the agents [7499] of the prosecution did. That is the point that is not revealed by the record. There is not a syllable of evidence about procurement, cajoling, asking people to do things, paying them money, matters of that kind.

The Court: The objection is overruled, Mr. MacInnis.

Mr. Donohue: If I may go back to a point just prior to the more recent interruption; you may be sure that witnesses called by the defendants were equally investigated and interrogated by defense counsel and their agents, as was their duty to do so to their own clients.

And never forget that they were not without aid in this matter, for in addition to the services of Mr. Hallinan's investigator, Mr. Lipsit, the defense was aided by the considerable resources of the ILWU and by the nationwide officers of the Communist Party.

Mr. MacInnis: Pardon me. We cite that remark as a deliberate lie and as prejudicial and wilful misconduct.

The Court: The objection is overruled.

Mr. MacInnis: Now, Judge, there must be some limit to what can be said. I realize that an attorney may by analogy and by argument speak, of course, of things outside the record in his argument, but he can not state to the jury as a fact, first of all, that which is not true; secondly, that which is not at all reflected in the record. There is no evidence about this adversion to the services of the nationwide group of the Communist [7500] Party. It is not true and there is no such evidence in the case.

The Court: Mr. MacInnis, I appreciate the reasons for your objection. At the same time, of course, you will have an opportunity to respond. I do recall, at least in my humble recollection, certain references to the transcript which may or may not be alluded to by counsel. Do you have the transcript there, counsel?

Mr. Donohue: Yes, Your Honor.

Mr. MacInnis: I have in mind exactly the aid that was conceded in this case. We borrowed the issues of the Western Worker from the Communist Party. That is the sum total of anything that was received in this case from sources of that kind, and that is the only thing in the entire record. Now, if if that is to be the springboard for an accusation that the Communist Party of the United States has been aiding us why, anything can be said.

The Court: Counsel, may I ask you to reserve your argument, in the main, to——

Mr. MacInnis: In the main, yes.

The Court: ——an appropriate time?

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Mr. Donohue: I do not make this latter assertion with respect to the Communist Party solely on the statement of the [7501] defendant Bridges, that he sought aid from William Schneidermann, organizer of District 13 of the Communist Party, but from a more convincing bit of evidence. Let me call it to your attention, and I read from Volume 30, page 3421 of the record of this proceeding, the following:—— [7501-A]

This is a question by Mr. MacInnis of the witness Lawrence Ross:

> "When you joined the Communist Party in 1927, in New York didn't you state that your father worked in a clothing factory?

A. I don't recall that, no, sir.

Q. Do you recall whether he did or did not?

A. He didn't.

Q. Was your father a member of the International Ladies Garment Workers' Union?

A. No, sir."

The witness Lawrence Ross, who had heretofore testified on his direct examination that he joined the Communist Party in California when he arrived here at some early stage in his life in the early 1930's, never testified that at any time he had joined the Communist Party in New York in 1927. Where did Mr. MacInnis get the information that Lawrence Ross filed an application for membership in the Communist Party in New York City in 1927 and that in filing that application for membership in the Communist Party in New York in 1927 he had said his father worked and was a member of the International Ladies Garment Workers Association or Union?

Mr. MacInnis: Pardon me. I object to that statement as a deliberate misstatement of the evidence. It is a statement out of context. If the special prosecutor reads a page farther [7502] he will find that the source of those questions was found in testimony by Lawrence Ross before a committee of our State Legislature, which was read to him, as well as articles in the Hearst papers at the time of his divorce. All of that is in the record, your Honor, not as counsel says.

The Court: The objection is overruled.

Mr. Donohue: And is it therefore not apparent that the defense, with the Communist Party at its elbow, was able to obtain more accurate information as to the activities of former members of its party than was even the Government of the United States through the witnesses it called to testify?

Before reviewing the evidence one more observation. Defense counsel has repeatedly referred to the witnesses called by the United States as "our," meaning mine, or the Government's, "pals." Not so. They were Bridges' pals, Bridges' associates. They were Bridges' friends. They were Bridges' brothers. They were Bridges' comrades in the Communist Party. I am sure that from the very outset you have realized that the only way whereby the Government could prove that these defendants were members of the Communist Party was by calling as witnesses persons who had been members of the Communist Party and who had known the defendants as such. If murder were committed in the San Quentin penitentiary, the killer was an inmate, and the murder was observed by four blackened felons and the Government sought to prove the murder by the testimony of the four felons [7503] who saw it, you can imagine the field day a man like Hallinan would have with those witnesses because of their felonious background. But we could hardly call on the pastors of four of the churches to testify as to a murder which was committed in the San Quentin penitentiary. And yet those convicted felons, being the eyewitnesses, the personal observers of the killing, would be competent, would be qualified, would be alone the witnesses whom the Government might call to establish the murder. We could not have established the guilt of these defendants by the testimony of persons who had never joined the Communist Party nor by those who still hold their membership therein, for we know now from the testimony in this proceeding, if we never knew it before, that these latter persons, present members of the Communist Party, would not testify, and were they to be called they would testify falsely.

Who was closer to Bridges in the hectic days of 1934 than the business agent of his union, John Schomaker? And who in those days was more likely to know if Bridges was a member of the Communist Party than the man who witnessed his signature to his application for membership and who later, as union section organizer on the waterfront for the Communist Party, gave his renewal books to Harry Bridges? John Schomaker. Bridges made John Schomaker his friend and his confidant. The Government only made him a witness. And who in the latter days of Bridges' experience as a member of the Communist Party would [7504] be better informed on that subject than his friend, intimate, comrade, his fellow member of the Communist Party, on the national Executive Committee of the CIO, his Communist Party tool as secretary-treasurer of the San Francisco CIO Council, and later as secretary-treasurer of the California CIO Council? Mervyn Rathborne. And Bridges made and then broke Rathborne when he left the Communist Party, just as the Communist Party, as the record shows, made Lewis Michener to the point where he was Western States representative for a great automotive union, and watched his fall when he left the Communist Party until he is back working with his hands. The Government only made of Mervyn Rathborne a witness. Bridges gave Rathborne gifts in 1947, but now in 1950, after three Bridges-inspired attempts to prevent his testifying failed, and even before he actually appeared as a witness, the same Bridges sought to destroy him: burglar, drunkard, embezzler, siphoner of union funds, and by that God-denying, America-hating Jean Murray, who would make of Rathborne a faithless husband with other women, though carefully protecting and protesting her own stated honor, the witness whom Bridges so carefully coached, the witness to whose apartment Bridges went in the latter part of November, 1949, and the latter part of November, 1949, can mean only one thing to you and to me. It means big John Schomaker, sitting on the witness stand, striking blows against Harry Bridges from which he has never and will never recover. It was then that Harry [7505] Bridges went to this woman's apartment and had a conversation with her, and scarcely two weeks later, on a cold, rainy night she and her companion went down to the little community in which Mervyn Rathborne lives. Mervyn Rathborne told you what happened and so did they. But remember, they could not get back to San Francisco fast enough before they went out to Harry Bridges' house—again to report on their filthy mission.

Jean Murray—the gall of that woman to sit on the witness stand in a United States court and try to draw a parallel by her cheap story that she went to a drugstore to change a dollar to get enough dimes to pay Rathborne his thirty pieces of silver for betraying the master! Can you imagine the gall of that woman to commit the heresy of comparing Bridges to Christ? But don't be surprised. Mr. Hallinan called him in his opening statement, "our hero." God help America if Bridges is the standard of heroism in the country he would destroy! Now, let us not be mistaken about Jean Murray. Don't take my word for the fact that she is a godless woman. Let us read what she said. The clerk, to Jean Murray—the witness whom Mr. MacInnis carefully and repeatedly had to tell you about her convent school education, and two years later she was in the Communist Party, which would destroy God and the rest of it. What happened when she was called as a witness?

> "The Clerk: Do you swear that the testimony that you will give to this Court and jury will be the truth, the whole [7506] truth and nothing but the truth, so help you God?
>
> "The Witness: I swear it will be the truth. I can't believe in Heaven or Hell because I believe in justice on this earth."

That is the woman to whose apartment Mr. Bridges went, and that is the woman who went to Mr. Bridges' home to discuss the results of her mission. Fortunately, it is neither for Mr. Hallinan nor for me, nor is it within the province of his Honor, to determine as between this woman, who denies God, this woman, who stated her hatred for her own country, this woman, who had the consummate nerve to compare Harry Bridges to the Master; it is for you to decide whether you will believe her and her compatriot or whether you will believe Mervyn Rathborne.

No better proof of the value of Rathborne's testimony, no greater tribute to the certainty of his knowledge of the membership of all three of these defendants in the Communist Party can be asked than the desperate attempts of the three Communists sitting behind him, Bridges, Schmidt and Robertson, either to prevent Rathborne from testifying or to destroy him as he did. What they can never understand is that the concern of the Attorney General of the United States over the danger inherent in Communist domination of key labor unions in the event of a shooting war is the concern of all of us and not, as Mr. Hallinan terms it —and I read from page 6788 of the record—, "or did you give her this general patriotic bunk [7507] that you have been talking about?" while his clients sit there and endorse his remarks by their complacence and their acquiescence.

In those critical days, both before and after the then Attorney General of the United States, Mr. Biddle, had ordered the deportation of Harry Bridges, who was closest to Bridges? The executive secretary of his defense committee, Bridges' choice, a respected member of the San Francisco press. So that there may be no doubt as to who this choice of Mr. Bridges was, let me read from what has been heretofore introduced in evidence as the special qualifications of this man when, after the Bridges Defense Committee had been abandoned sometime in the summer of 1945, he sought occupation with the United States Government:

> "Special qualifications: President, San Francisco CIO Council; member Public Welfare Commission by appointment of the Hon. Roger D. Lapham; Selective Service System of California; member of Appeal Board No. 8; San Francisco War Chest, member of the Board of Directors; San Francisco Community Chest, member of the Board of Directors; San Francisco War Council, member of the Board of Directors; San Francisco Chapter of the American Red Cross, member of the Board of Directors; Council for Civic Unity, member of the Board of Directors; San Francisco Bay Area Council, member of the Board of Directors San Francisco Planning and Housing Association, member of the Board of Directors. [7508]

For the answer to the question, "Exact title of your last position?," "Executive secretary, Harry Bridges Defense Committee, 604 Montgomery Street." "Duties and responsibilities?," "Sole responsibility for raising funds, directing nationwide educational and publicity activities, hiring attorneys for the legal defense of Harry R. Bridges, seeking citizenship."

George Wilson, from 1941 until 1945, that close to Harry Bridges. And as I called to your attention on the day when this document was introduced into evidence, recommended for appointment to the service of the United States by Franck Havenner, member of Congress, by Roger Lapham, mayor, by Frank Clarvoe, editor of the San Francisco News, by Harry Bridges and by William M. Malone, lawyer.

Twice Bridges sought to prevent him from testifying; once, by a personal visit to Los Angeles, which Mr. Bridges was careful to say,—and you need not accept it as true—that he went there for some other purpose with Mr. Resner, one of his former counsel, and just casually, while he was there, talked to George Wilson. And then some time during the Christmas recess he happened to be down in Los Angeles and he went, as he always did, at great length, to avoid a direct answer and told you about how he talked to George Wilson's wife and how he talked to his youngster. You know why Bridges went to Los Angeles. You know why he called George Wilson on the telephone. Because Bridges knew that no man, other than Bridges himself, knew as much about [7509] Bridges' activities in the Communist Party, as George Wilson. And you saw George Wilson when he testified on his first appearance. It wasn't pleasant, obviously, for George Wilson, who so short a time ago, was the close friend and confident of Harry Bridges, to come here, publicly, and under oath, to testify against Harry Bridges. It wasn't easy for George

Wilson—and all you had to do was to look at him to know it—who had been an honored and respected man in this community over a great many years, to publicly and under oath state that during the time he was serving his community in the various instances as cited, that he was a member of an organization which was seeking to destroy it, that he was a member of the Communist Party. You observed the consternation in the courtroom when Mr. Wilson testified.

And then we had some beautiful explanations.

Robertson:

> "George Wilson was lazy. I am so industrious in the labor movement, I can't forgive George Wilson for being lazy."

Schmidt:

> "Wilson looked like one of these dual personalities with which we are more recently familiar, which in one aspect of his personality was testifying for the United States, but in that other split in his mind, was saying, 'Fellows, I got to do it. You know they have got the pressure on me, and that is why I am here.' "

Bridges didn't know what to do. The best Bridges could say [7510] was:

> "George Wilson looked sick, and I took the responsibility for telling counsel, 'Don't cross-examine George Wilson.' I would much rather go to the penitentiary." Bunk!

Bridges hasn't any more human sympathy or emotion in his body, except for Harry Bridges, than a piece of stone.

Bridges, who has murdered and assassinated by inference and innuendo, every decent person whose name has been mentioned in this courtroom, including the man whom I have never had the pleasure of meeting, a distinguished member of the court of the State of California, Judge Sloss. And what did Mr. Bridges say about him? He was in some trouble; there was something wrong about him. There was something wrong about everybody who has the temerity (from his point of view), the courage (from mine), to testify against Harry Bridges.

Be that as it may, we gave them a second chance at George Wilson, and they wouldn't take it. Because George Wilson came back wide awake, alert, at ease, to refute the calumny as stated by Bridges, that he was a man testifying with a gun at his head for something that we had on him. And he came back to deny it, and he came back to state, contrary to what Bridges and Schmidt and Robertson had said, that every word he said was true. Now, why didn't they cross-examine George Wilson the second time? Oh, they may give us some fancy explanations, but you ladies and gentlemen come into the jurybox with all of your accumulated experience [7511] as men and women in this community, and you have the right to draw from the failure of counsel to cross-examine George Wilson any inference which you think reasonable and proper.

Let me suggest, too—were they afraid that every time they asked him a question, he would give more than just the information I sought from him? And did they seek to cut it off? And give this some consideration: Is Mr. Bridges more afraid of the Communist Party than he is of the results or the effect of your verdict? Was Mr. Bridges afraid to permit his counsel to say to George Wilson on cross-examination, "Rathborne has testified that he was a member of the San Francisco CIO Council and so were you. Rathborne has testified that he belonged to a Communist Party fraction of the San Francisco CIO Council, and so did you. Who were the other members?" No, Mr. Bridges doesn't dare to expose the name of any person as a member of the Communist Party. Think of that one; because every Communist who has been exposed in this courtroom, we exposed them.

Now, George Wilson was Bridges' comrade in the Communist Party; he was only our witness. And so were the others, Bridges' comrades. Bridges' friends. At least, until they left the Communist Party. Schrimpf, Krolek, Hancock, Johnson, Crouch, Ross, Michener—only our witnesses. And don't misunderstand. I am not repudiating these witnesses. Far from it. I am only calling your attention to the fact that they only became valuable to the Government of the United States because of their former [7512] comradeship with Bridges and his co-defendants. To these witnesses, to each and every one of them, is owed a debt of gratitude, as each appeared—with the one noted exception I have just called to your attention, George Wilson—and that witness became in turn a defendant, with loaded questions and unverified documents. They were subjected to sarcasm, ridicule and calumny. The purpose of so doing was not merely to destroy them and their testimony for this case, it was also very cleverly purposed to discourage any others who might be inclined to come forward and give testimony, not only in the Bridges case, but on any other like case in which the Government of the United States might have a lawful interest.

As former members of the Communist Party, they suffered from no illusions. Each of them knew from his knowledge of the Communist Party that they would be treated exactly as, in fact, they were. But they did testify. And while Mr. Hallinan will talk much about the compensation the government paid the witness Rathborne for his services since his appearance before the grand jury last May, he will remain deadly silent on the resignation of the witness Hancock, as he testified before you, before he left his job on the newspaper in Erie, Pennsylvania, to come here to testify. And Mr. Hallinan will remain even more silent as to what has happened to some of the other witneses since they testified here. Soon it will be for you to determine the credibility to be given to all the witnesses who have appeared before [7513] you—those called by the Government and those called by the defendants, including the defendants themselves. No one can question your judgment in that matter, for that is the function which belongs to you and only to you.

Might we take the recess, Your Honor.

The Court: We will take the morning recess, ladies and gentlemen of the jury, and I again admonish you, particularly during the argument, not to discuss the case under any circumstances or conditions, nor to form an opinion thereon.

(Recess.)

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Mr. Donohue: At one point I had thought that I might laboriously pore through the tomes of testimony to recall to your mind perhaps more vividly the testimony upon which the Government asks for a verdict of Guilty as to each and all of these defendants. On second thought, however, I am sure that that would serve no useful purpose, and therefore without reference to the testimony I shall attempt briefly to review what we sought to prove and what in fact we did prove in support of the allegations of this indictment, and I caution you at the outset, as his Honor has on prior occasions and doubtless will again, that it is not my recollection of the testimony nor is it the recollection of counsel for the defendants; it is your recollection of the testimony which should determine, and I know will determine, the verdict which you will render.

Before reviewing what we have established I would like in a matter of a very few minutes to call your attention to the indictment, because his Honor subsequently at some length will instruct you as to what the issue is as framed by this indictment and, with equal care, as to what the issues are not. Unfortunately, since we began these proceedings we have traveled afar. We have viewed some alleged violent experiences in the city of New Orleans; we were taken to the peat bog marshes of New Jersey where some gangster victim was dug up and paraded for [7515] your inspection. We pulled some cadaver out of the Bay of San Francisco and paraded that for your inspection. We have tried the 1934 strike; we have tried the 1936 strike; we have tried the 1948 strike; we have tried the Hawaiian strike, and we have tried the more recent warehouse strike in the City of San Francisco. Let me, however, call your attention to the simple allegation contained in the indictment in order that we may again be refreshed in our recollection as to what the issue is so that you may see, in the event there be any doubt or misconception in the minds of any one of you, how simple your problem really is, despite the fact that we have been some four months in reaching this stage of the proceedings. For simplification let me first call your attention to the second count of the indictment, which charges an offense under the statute against the defendant Bridges alone and in this simple language:

> "On the 17th day of September, 1945, at the City and County of San Francisco, State of California, in the Superior Court of the State

> of California in and for the City and County of San Francisco, Hon. Thomas M. Foley, Superior Judge, presiding, there came on for hearing a naturalization proceeding, No. 28152, in the records of said Superior Court on the petition of the defendant Harry Renton Bridges for naturalization under the Nationality Act of October 14, 1940;"

You have no problem with that allegation. The proof is [7516] complete. The record of the proceedings is before you and the defendants make no contention that that allegation is not true.

We proceed:

> "* * * that the defendant Harry Renton Bridges then and there was called and produced as a witness in said proceeding then on for hearing and took an oath before said Court that the said defendant would testify truly in said proceeding, and said Court then and there had competent authority to administer the said oath and did administer it."

There is no contention that that is not true. Let us proceed.

> "* * * that the defendant Harry Renton Bridges did then and there wilfully and knowingly make a false statement under oath in certain matters which were material to the issues of said proceeding then and there being heard, giving the following answers to questions asked, to wit:

> "'Do you now or have you ever belonged to the Communist Party in the United States?
>
> "A. 'I have not; I do not.'"

There is no question here but that the defendant Harry Bridges did at that hearing answer the question as stated, as indicated by the language of the indictment. The only question—the only question for you to determine in order to arrive at your verdict as to the defendant Harry Renton Bridges on the second count of the indictment is, on the 17th of September, 1945, [7517] when Harry Bridges under oath said he was not then nor had he ever been a member of the Communist Party, did he tell the truth? And if you find from the evidence which we have introduced for your consideration, and if you so find from the evidence beyond a reasonable doubt that at any time prior to the 17th of September, 1945, that Harry Renton Bridges had in fact been a member of the Communist Party of the United States, your verdict should be Guilty.

The indictment further states that:

> "Said answers so stated and testified to by the defendant Harry Renton Bridges were and each of them was, as said defendant then and there knew, wilfully false and contrary to his said oath, and said defendant did not then and there believe said answers or any of them to be true, and the said answers were and each of them was then and there believed and known to him to be false."

That the defendants have denied, and the truth or falsity of that statement is the only issue before you to determine in reaching your conclusion as to the guilt or innocence of Harry Renton Bridges on the second count of the indictment. The indictment in the second count continues:

> "That in truth and in fact the said defendant at the time of so testifying belonged to and was a member of the Communist Party in the United States and had belong to and had been a member of said Communist Party in [7518] the United States from 1933 up to and including the said 17th day of September, 1945."

That, of course, the defendant denies. And in conclusion Count Two states:

> "That said statement and testimony of said defendant and said answers given by him as aforesaid were upon a material matter and were material in and to the issues of said proceeding."

And, as his Honor will tell you, that poses a question of law which the Court shall decide and is not for your consideration. So you have a very simple issue, when the issue is handed to you with respect to the defendant Bridges on the second count of the indictment: Had he at any time before the 17th day of September, 1945, been a member of the Communist Party? If he had, and the proof satisfies your minds beyond a reasonable doubt, it is your duty to convict him. If he has not, and the evidence has not established that fact to your satisfaction and beyond a reasonable doubt, it is equally your duty to acquit him. That is your problem and your simple problem on the second count.

Now, let's see what we have to argue about on the third count. The third count charges the defendants Schmidt and Robertson, and in that count the defendant Bridges is not named. Let's see what in the language of the statute the Government has alleged in support of the third count of the indictment [7519] against the defendants Schmidt and Robertson:

> "That said defendants on or about the 17th day of September, 1945, at the City and County of San Francisco, State of California, within said division and district, did wilfully and knowingly encourage, aid, advise and assist a person, to wit, Harry Renton Bridges, not then and there entitled thereto, to obtain, accept and receive a certificate of naturalization which was to be procured and was procured by fraud, as said defendants and each of them at all times hereinafter mentioned well knew, said fraud consisting of false and fraudulent statements and representations made in a naturalization proceeding before the Superior Court of the State of California in and for the City and County of San Francisco, No. 28152 in the records of said Superior Court."

Now, did the defendants Schmidt and Robertson aid and assist the defendant Bridges in obtaining a certificate of naturalization? They said they did. Mr. Garner testified that it was necessary for the applicant, Mr. Bridges, to have the supporting testimony of two witnesses and that the two witnesses who gave that supporting testimony were the defendants Schmidt and Robertson. There can be no doubt on the first proposition that they did aid and assist Bridges in obtaining his naturalization. The questions of fact for you to decide are that the statements made by Mr. Bridges to which reference was made in the second [7520] count were false, and secondly that, the defendants Schmidt and Robertson knew them to be false at the time the statements were made, and if you so find, and find so beyond a reasonable doubt, your verdict as to the defendants Schmidt and Robertson on the third count must be that of Guilty. If you do not so find or if you find by a degree of evidence which is not that standard which his Honor will instruct you is the standard required for proof in a criminal proceeding, proof beyond a reasonable doubt, then it will be your duty to acquit and find not guilty the defendants Schmidt and Robertson on the third count of the indictment.

Now, a look at the first count. The first count charges an offense by all three defendants. It is what is generally known as a conspiracy count, and without referring to the words, let me say that in the first count of the indictment it is charged that "on or about the 23rd day of June, 1945, and continuing thereafter until on or about October 1, 1945, and for some time prior thereto, the exact time being to the grand jury unknown, at the City and County of San Francisco, State of California, within the said Division and District, did conspire with each other and with divers other persons to the grand jurors unknown to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws in the manner following, to wit: By having said Harry Renton Bridges fraudulently petition for and [7521] obtain naturalization in a naturalization proceeding in the Superior Court of the State of California in and for the City and County of San Francisco by falsely and fraudulently stating and representing to the said court in the said proceeding, No. 28152 in the records of said Superior Court, that he, the said defendant Harry Renton Bridges, had never belonged to the Communist Party in the United States; that said statement and representations so agreed to be made, and made as aforesaid, as defendants and each of them at all times hereinafter mentioned well knew, were false and fraudulent in this, that said defendant Harry Renton Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including the 17th day of September, 1945; that said statement and representations were material to the said naturalization proceedings."

Now, at a time subsequent, his Honor will carefully and completely instruct you as to the constituent elements of a conspiracy. Suffice it for me to say at this time that before you can find these defendants or any of them guilty on the first count of the indictment you must find, and find by that standard of proof, again repeated, beyond a reasonable doubt, that there was a concert of action by these three defendants, an understanding reached, which need not be in writing and may be raised by implication from their conduct itself, a concert of action, the purpose of which was to hamper and impede a [7522] governmental function, in this instance the operation of the naturalization law.

We are required in a conspiracy count in an indictment to allege that once this understanding has been arrived at by the persons who are parties to the conspiracy, that they did certain acts pursuant thereto, which indicate to you at once that a conspiracy is not merely a state of mind; it is a state of mind plus some action taken to carry that agreement into execution. [7522-A]

And so the Government alleged these following overt acts:

One, that on the 23rd day of June, 1945, the defendant Harry Renton Bridges filed at the office of the Immigration and Naturalization Service, in the city of San Francisco, State of California, an application for a certificate of arrival and preliminary form for petition for naturalization. About that there can be no question. It is here in evidence. The fact that it was so filed and on that date.

Number two, on or about the 8th day of August, 1945, the said defendant Harry Renton Bridges appeared before Lloyd H. Garner, a naturalization examiner of the United States at San Francisco, State of California, in the office of the County Clerk in and for the City and County of San Francisco, and gave testimony in the matter of the application of said Harry Renton Bridges for naturalization. That is admitted. Mr. Garner said Mr. Bridges came there and gave testimony; Mr. Bridges said he went there and gave testimony on the 8th day of August, 1945. So there is no necessity for considering the proof on either the first or second overt acts alleged in the conspiracy count of the indictment.

Three, on or about the 8th day of August, 1945, said defendants Henry Schmidt and J. R. Robertson, and each of them, at the office of the County Clerk in and for the City and County of San Francisco, State of California, signed as witnesses a petition for naturalization in the case of the defendant Harry Renton [7523] Bridges. And that exhibit is here, too, as proof of the fact that that did in fact occur. The witness Bridges said it did, the witness Schmidt said it did. But the witness Robertson was confused, because he said he only recalls going to the courthouse once, on the 17th of September, and does not recall the incident on the 8th day of August. His failure to recall that might well be because of the testimony of Mr. Garner, that on that day Mr. Robertson said under oath, for answer to a question put to him by Mr. Garner, that he, Robertson, was not a member of the Communist Party. But the record is here with Mr. Robertson's signature, so I say there is no question of proof on the first, second and third overt acts alleged in the indictment.

And the fourth and last, that on or about the 17th day of September, 1945, said defendants Harry Renton Bridges, Henry Schmidt and J. R. Robertson, and each of them, appeared in the Superior Court of the State of California in and for the City and County of San Francisco, and gave testimony in support of the petition of the defendant Harry Renton Bridges for naturalization. And the defendants concede that that took place. So with respect to the first count of the indictment, you have no problem with respect to the question of proof on the four alleged overt acts. The only problem you have, in the light of the more complete instructions which His Honor will give you later on the elements necessary for you to find to have existed and to have found them to have existed beyond a reasonable doubt, were in [7524] fact established by the Government. And so again I say to you that despite the fact that we have traveled far, we are now back where we started from, with the same simple issues that were called to your attention at the outset by Mr. McMillan, in which he stated, in substance, as I have stated, "These are the issues, and each of them the Government will meet by proof beyond a reasonable doubt."

Now, let's see the proof. The first witness on this important question, which is the first question that you must answer in your deliberation on any one of the three counts, is a matter of fact: Number one, was the defendant Harry Bridges at some time prior to the 17th of September, 1945, a member of the Communist Party? If so, then he falsely swore on the 17th of September, 1945, when he denied it. Number two, what opportunity did each of his co-defendants, Mr. Schmidt and Mr. Robertson, have to know whether Mr. Bridges on the 17th of September, 1945, swore falsely when he stated he was not nor had he ever been a member of the Communist Party? [7525]

Were their opportunities, those of Schmidt and Robertson, not increased by reason of the fact that each, by the evidence, has been established himself as a member of the Communist Party? And that as to the defendant Schmidt, who has stood in the shadows behind the sunlight that Mr. Bridges thinks shines forever on his head, constant and repeated evidence of Schmidt's presence with Bridges at these Communist Party meetings?

Do you think J. R. Robertson, the member of God's Committee, would be on Mr. Bridges' left hand if he, too, was not a member of the Communist Party and if both Mr. Robertson and Mr. Bridges didn't know it?

And so to meet that challenge, we called first the witness John Schomaker, the business agent of Bridges' union, a member of the strike committee, a member of the Communist Party from 1931 to 1940, a neighbor of Harry Bridges, lived next door some period of time, the unit organizer, then section organizer of the waterfront section of the Communist Party here in your city and ultimately a member of the District Committee, the top board of directors of the Communist Party, for the western states of the United States.

And as you consider the stated testimony of these witnesses, you should ask yourself one question: Was he in a position to know? The qualitative value of testimony depends more upon who said so than who said what. Do you think John Schomaker would know whether Harry Bridges was a member of the Communist Party? [7526]

Oh, Hallinan called him a hobo and a bum when he took an automobile trip as a young boy through the West, because he carried blankets in the car and had to sleep on the ground. And that big, powerful, fine, ex-member of the Marine Corps and the Seabees, sat there with a smile while Hallinan abused him. 'Stool pigeon, they call him.

What do you think is the reward for John Schomaker and his wife and family for his temerity to sit on the witness stand under oath and confess that for nine years he belonged to an organization, quitting it only when he found it was trying to destroy the country that he has served twice, and to subject himself to the abuse of Hallinan and Bridges?

And I mention them together with reference to an old statement so often repeated for me by Bob McMillan: That one goat prefers the company of another goat to a whole herd of sheep.

John Schomaker, the man who testified that he was present when Bridges signed his application for membership in the Communist Party; that he was present when Harry Bridges' Communist book was issued, and as union and sectional organizer on three succeeding years he picked up the old book and gave Bridges the new. John Schomaker, who testified in his own inimitable way, about the incident of the fire when Bridges said, "The old lady jumped out the window. Go up and get my book before them snooty reporters get up there." John Schomaker, the neighbor, the brother in the union, the friend and comrade of Harry [7527] Bridges who testified that on many instances he saw Harry Bridges pay dues to three named persons: But Mr. Bridges hasn't called any one of those three named persons to deny it.

John Schomaker, who told you that, as a member of the Communist Party, he had met Sam Darcy, the predecessor of William Schneidermann, an organizer for District 13 of the Communist Party, long before he ever came on the waterfront, and after he arrived on the waterfront, again in his inimitable style and language, "Go down and get him." "And we went down and got him," says Schomaker. You must believe him.

John Schomaker, the man who testified that he attended Communist Party meetings at Grants Pass in Oregon, at Herman Mann's house, at Communist Party headquarters, at 121 Haight Street with Bridges and Schmidt; at San Diego during the A. F. of L. convention in 1935 with Bridges and Schmidt; at Sokol Hall with Bridges and Schmidt newly appointed district organizer for District 13 and Lawrence Ross was the chairman to hear the of the Communist Party report on the most current international.

John Schomaker, the man who testified that he went down to the Santa Clara prune orchard when Mr. Bridges met his boss, Earl Browder, the then head of the Communist Party in the United States. John Schomaker, who testified as to the contacts made by himself with Bridges, with messages from Darcy.

Ladies and gentlemen of the jury, if you believe the testimony of John Schomaker, as far as the second count of the [7528] indictment is concerned, you need go no further. If you believe the testimony of John Schomaker, then you have in your minds proof beyond a reasonable doubt that Bridges is guilty of the second count of the indictment, and you are well on your way to proof of the third count about Henry Schmidt.

The Court: Shall we take the noon recess?

Mr. Donohue: Yes, Your Honor.

The Court: We will take the noon adjournment and resume at 2:00 o'clock this afternoon. Ladies and gentlemen, the same admonition to you not to discuss the case under any condition or circumstances and not to form or express an opinion until the matter is submitted to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [7529]

Afternoon Session—Thursday, March 16, 1950

Mr. Donohue: You may recall the second witness on the facts called by the prosecution was

Henry Schrimpf. Bearing in mind the suggestion of this morning that the qualitative value of the evidence offered by a witness must consist of a consideration of his opportunity to have known the truth whereof he spoke, Henry Schrimpf identified himself as a member of the International Longshoremen's and Warehousemen's Union. Oh, true, in his usual and skilled way Mr. Bridges and his cohorts called him a drunkard. He had been on the waterfront since early in the '30s. There is no effort here by the defendants to show that the work record of Henry Schrimpf would sustain their assassination of his character, and their attempt to becloud the issue here and to deny you the right to determine for yourself his credibility as a witness consisted of just the loaded question and the scurrilous, voluntary and unsupported statement of the defendants.

You had an opportunity to observe Henry Schrimpf—a physical giant; not the opportunity for much formal schooling, but native intelligence enough to know after scarcely more than a year in the Communist Party that it was a fraud and, to use his own expression, "What they did in the '34 strike or at any other time for the American labor movement put a mortgage on American labor that they will be forever repaying"—a pal of [7530] Bridges and a comrade of Bridges and a friend of Bridges until he left the Communist Party.

And Henry Schrimpf told you in his direct and simple way that he had been handed a card, an application card for membership in the Communist

Party, by the defendant Schmidt, and that he had attended a meeting at Herman Mann's house, a Communist Party meeting, to discipline Norma Perry, and there at that Communist Party meeting were Mr. Bridges and Mr. Schmidt, corroborating John Schomaker. And he testified as to this meeting down at the prune orchard in Southern California, corroborating John Schomaker, and that there he met Earl Browder. And he testified to a third meeting at which Bridges was present on the Harding golf course during the 1934 strike.

Oh, it is apparent why they met at Grants Pass, Oregon, on a chicken farm, and why they met at a prune orchard and on the Harding golf course. That is the kind of an organization the Communist Party is. It cloaks its activities under cover of darkness or in the seclusion of shady places for shady characters.

And the third witness the United States called was that little old lady, Mrs. Irene Harris. Did she know Bridges? "Why, I knew Harry well. My husband and I used to visit at the home of his former wife." Her husband thirty years a member of Bridges' union.

And that little old lady told you in a characteristic [7531] manner which must have impressed itself on your minds, as it did on mine, of a meeting which she attended with her husband at the house of the man who Mr. Bridges said is "my intimate friend," John Shaw, at which meeting, as had been testified to before by John Schomaker, she said Mr. Bridges made a speech, and in that speech Bridges said that he was a member of the Communist Party and urged those present to join also. Why, that little old lady said, "I was flabbergasted to hear Harry Bridges, in the light of all I had heard about his being a member of the Communist Party and the efforts to conceal it, to think that at a public place like that Harry Bridges would say he was a member of the Communist Party and invite those of us who were present who were not to join."

Was she telling the truth? That you must decide. In so deciding, ask yourself the question: Why didn't Mr. Bridges call her husband, who was there with her, a thirty-year member of his union? And as you decide whether that little old lady came here under oath and told the truth, ask yourself: Why didn't Mr. Bridges call John Shaw, his intimate friend for many years? And in the answer to those questions you will find the answer to the question, Did that little old lady tell the truth?

Again I say to you, standing alone, forget all the rest of the testimony, drive it out of your minds, if you believe that that little old lady told you the truth when she said [7532] she was flabbergasted at Mr. Bridges' statement, at his boldness, that and that alone is sufficient evidence for you to find beyond a reasonable doubt the defendant Bridges guilty under the second count of this indictment.

And then we called the witness Stanley Hancock. You will recall him as the relatively young man who resigned his position with an Erie, Pennsylvania, newspaper before he came here for the first time and in this public courtroom to state under oath that he had been a member of the Communist Party from 1932 until 1941.

Would he have known whether or not Bridges was a member of the Communist Party? He wasn't just a member of some unit of the Communist Party on the California waterfront. Stanley Hancock was the organizer for Los Angeles County of the Communist Party, a person to reckon with in Communist circles; a man of some prestige among his comrades; a man who said that he was very active in both the Western Worker and its successor, the People's World, the voice of Communism in California.

He said, corroborating John Schomaker, that he had attended a top fraction of the Communist Party in a meeting participated in and attended by Bridges and Schmidt during the 1935 AFL convention in the City of San Diego.

And I say to you again, if you believe the testimony of John Schomaker, if you believe the testimony of Henry Schrimpf, if you believe the testimony of that little old lady, Mrs. Harris [7533] and if you believe the testimony of Stanley Hancock, you must find the defendant Bridges guilty on the second count of the indictment, and you are well along on your way to the proof of Schmidt's guilt on the third count of the indictment.

Then we called the witness Kermit Charles Krolek—a fine looking young man, who told you that he was now employed by one of the radio or television companies. He told you about his schooling, including technical training at the Massachusetts Institute of Technology. He told you he for a period from sometime in 1935 until sometime in 1937, while he was secretary of a local of the American Radio Telegraphists' Association, of which organization his brother-in-law Mervyn Rathborne ultimately became president, that he joined the Communist Party. [7534]

He was a friend of Mr. Bridges in that never-to-be forgotten narration, in a court of the United States, of Mr. Bridges' experience in a hotel in Portland; when he believed his wires were being tapped, he sent for Mr. Krolek. He is just a character today, according to Bridges, when he testifies against Mr. Bridges. And that gave Mr. Bridges the opportunity, which to me was sickening, to testify about how he played tag with agents of the Federal Bureau of Investigation, in a hotel in New York—when for weeks he was cutting up messages into small pieces and leading them on a wild goose chase. The only protection, the only salvation you and I have to protect this country of ours from the termites who would destroy it—and Mr. Bridges played tag with them and thought it was funny. And so does his crowd think it is funny. But he had no criticism for the OGPU or the NKVD, or the Russian police. Yet he would criticize the arm of the government upon which you and I lean so heavily for security.

Mr. Krolek testified that he had attended the Communist Party meetings, as he called them, "top fraction meetings," at which no one but a member of the Communist Party could or would be admitted; and at those meetings, one of which was presided over by Mr. Bridges as chairman, Mr. Bridges and Mr. Schmidt were present; and his testimony subsequently was corroborated by the witness Rathborne.

I say to you ladies and gentlemen again, with as much earnestness as I can command, if you believe the testimony of John [7535] Schomaker and Henry Schrimpf and Mrs. Irene Harris, Stanley Hancock and Charles Krolek, you have solved the question of the first count of the indictment, because Mr. Bridges is guilty beyond a moral certainty. Then you are well on the way of solving the second count of the indictment, as to the defendant Schmidt.

Then we called the witness Manning Johnson. Manning Johnson, who became a Communist Party organized in 1931 and continued in active leadership, essentially among his own people, until some time following the famous Nazi-Soviet pact of 1939. Manning Johnson said that the only time he ever met Harry Bridges was at a meeting of the newly elected Central Committee of the Communist Party in New York, some time in June 1936. I shall subsequently and shortly read from the record exactly what he said as to the time.

Adopting the standard I suggested before, would Manning Johnson know whether Harry Bridges was a member of the Communist Party? You saw Mr. Hallinan hand Mr. Manning Johnson a photostatic copy of a letter signed by Earl Browder, directed to a committee of the Congress of the United States and purporting to contain a list of all the members of the Central Committee of the Communist Party in 1936. You heard both the witness Johnson and the witness Crouch read from that letter the name "Manning Johnson." Well, one thing there can be no doubt of, and that is that Manning Johnson was a member of the hierarchy of [7536] the Communist Party, its Central Committee from 1936 until 1938; and he was in a position during that time to know that Harry Bridges was not only a member of the Central Committee of the Communist Party in 1936, but from the testimony of Manning Johnson who was not reelected in 1938, the defendant Harry Bridges was reelected in 1938.

Then we called the witness Paul Crouch, a member of the Communist Party for 17 years, a man high in the state and national offices of the Communist Party, a member of the plenum or presidium committee, as he called it, in 1936. He testified that Bridges and Schneidermann were elected to the Central Committee from California in 1936; that he saw Bridges at a meeting of that committee after the election and that Bridges was reelected in 1938. As to the time, shortly and surely, I will recall it to your recollection by reading the record.

And then we called Lawrence Ross. Lawrence Ross testified that he came to California in early 1932, remained here until 1937. Lawrence Ross testified that during the period of time he was in California, he was a member of the Communist Party. Lawrence Ross testified that at some time during his period of years in California, he was the editor of the Western Worker, the Communist Party publication in the State of California. Would Mr.

Lawrence Ross know whether or not, up to the year 1937, when he was here as a member of the Communist Party and as the editor of its publication, whether or not Harry Bridges was a [7537] member of the Communist Party? Lawrence Ross testified that he attended a meeting of the top fraction of the waterfront Communists at the apartment of Norma Perry, at which Bridges was present. He testified to a meeting at Sokol Hall, the meeting already testified to by John Schomaker, at which Mr. Schneidermann made his report and at which meeting the witness Schomaker said Lawrence Ross presided. He said that Bridges was surely present at that meeting and that in his best judgment Schmidt, too, was present. The witness Ross further testified of an incident at 121 Haight Street, the Communist Party headquarters, of a meeting held there—a closed Communist Party meeting—at which the defendants Bridges and Schmidt were present. Lawrence Ross testified, finally that he was a delegate to the 1936 national convention of the Communist Party, held in New York, and that as a member of that delegation, he voted for Mr. Schneidermann and for Mr. Bridges, under the name of Rossi, for membership on the Central Committee of the Communist Party. He said that there were a number of delegations, or a number of delegates, from California to that convention, some of whom he named.

When you consider the question as to whether or not Mr. Bridges was ever elected a member of the Central Committee of the Communist Party, ask yourselves this question: **Why didn't they bring** some of the other delegates from California to the 1936 Communist Party convention in New York to deny the story of [7538] Lawrence Ross that, as a member of that delegation, he did vote for Schneidermann and he did vote for Bridges under the name of Rossi. And in considering that question, as to whether or not Bridges was a member of the Central Committee of the Communist Party in 1936, let me not forget a debt I owe Mr. Hallinan, who asked of the witness Rathborne a question which I could not have asked, first, because the answer would have been hearsay; and secondly, because it would have been an improper question. But Mr. Hallinan was kind enough to ask him this question:

> "Mr. Rathborne, did you ever hear anyone say that Harry Bridges was a member of the Central Committee of the Communist Party?",

and the response was interesting:

> "Roy Hudson told me that several times."

I didn't expect to get the benefit of Roy Hudson's testimony; but there it is. And Roy Hudson isn't a name unknown to you; Roy Hudson at that time was only the national trade union director for the Communist Party. And who would know more whether the great West Coast labor leader was honored by membership on the Central Committee of the Communist Party, other than Roy Hudson, the national trade union director for the Communist Party?

And then we call the witness Lewis Michener, who testified that he joined the Communist Party late in 1938 and left it in 1944. And as I stated preliminarily, if you ever saw the magic [7539] formula work of how an unkonwn man, who worked with his hands, and who joins the Communist Party, rises like a meteor, as he did, and in an incredibly short period of time became the Western States director for the American Automobile Workers' union; and at the same time, see how fast he can fall, how soon after he left the Communist Party he was stripped of his offices and went back to working in the Ford plant, where we brought him from to testify, and with his hands——

Mr. MacInnis: Pardon me. I wish to make an objection to that statement, if the Court please. It is a deliberate misstatement of the evidence. The evidence upon Michener is this, that he lost his office in the union when he declared the North American strike during the war. That is when he lost his office, when President Roosevelt had to call out the troops to quell that strike. That is the evidence as to when Michener lost his office in the union and went back to work, as the special prosecutor says, with his hands. Michener didn't say a word about any relationship to the Communist Party about that undertaking.

The Court: What is the basis for that statement, Mr. Donohue?

Mr. Donohue: I beg your pardon?

The Court: What is the basis for that statement?

Mr. Donohue: The basis for that statement, if Your Honor pleases, is Mr. Michener's testimony as to what he was [7540] and what he did in the year 1938, when he joined the Communist Party, and what his occupation was shortly after 1944; and what it has continued to be since he left the Communist Party. And I most respectfully say to Your Honor that a jury is entitled from the evidence before it to draw such conclusions as are reasonable and proper from that evidence, and I most respectfully say to Your Honor that is a fair inference and a reasonable conclusion that Mr. Michener's fall from the heights in the labor movement to his present occupation bears a direct relationship to his presence in and his absence from membership in the Communist Party.

The Court: The objection will be overruled.

Mr. Donohue: It was he, Mr. Michener, who testified first as to a closed Communist meeting which he attended here in San Francisco in late 1940; at which time he said one of the important matters of discussion was a dispute which had arisen between Mr. Goldblatt and Mr. Bridges, and that Mr. Schneidermann, the district organizer for the Communist Party in this district, was present, together with Mr. Phil (sometimes called Slim Connally), Mr. Walter Lambert, Mr. Bridges, and that attendance at this meeting was restricted to persons who were members of the Communist Party, as he stated he was at that time. [7541]

Then Mr. Michener testified about a meeting concerning which you have heard a great deal,—a meeting held in the Bellview Stratford Hotel in Philadelphia in 1943 during the national CIO convention.

at which he said that he, Michener, Harry Bridges and others named were told by Roy Hudson, the Trade Union Director of the Communist Party, that a decision had been made which was for them to carry out resulting from the determination of the Communist Party that they were not going to press their then advantage in the national CIO to the point where decent members of the CIO would kick them out; that the Party order was that they play ball with the forces of the center and subjugate their own interests at the moment in order that they might bore from within and not have to attack from without, in consequence of which, and you heard the defendant Bridges, who speaks so often about the democracy of his union: "I made the decision that Slim Connally, recently elected president of the State CIO Council, more recently identified as the Los Angeles editor for the People's World, that he should step out and that a man Thimmes should take his place." And Mr. Michener told you that he and Mr. Bridges raised some objection but that Mr. Roy Hudson stated, "This is it; this comes from headquarters," and the order was carried out.

Ladies and gentlemen of the jury, Mr. Bridges, powerful though he is in his union, is not as powerful as Communist Party discipline, and he doesn't turn his back with indifference, [7542] nor has he done so, to Communist Party orders.

And Mr. Michener has testified as to this meeting in Philadelphia at which Bridges, Hudson, Connally and others were present. And when you go to your jury room for the solemn responsibility which is yours, to arrive at a verdict which will speak the truth, ask yourselves this question: If Michener was not telling the truth, why didn't Bridges bring Phil Connally, the subject matter of this dispute, the former president of the California CIO Council—why didn't he bring him here to testify? Maybe you will find the answer in the identification with some reluctance by the defendant Bridges of Mr. Slim Connally or Phil Connally's name on the People's World as its Los Angeles editor.

And then we called the witness George Wilson, who testified that sometime in 1940 or '41 he joined the Communist Party, and that he continued until the spring of 1945, just about the time, its work having been done and well, that the Bridges Defense Committee was disbanded.

George Wilson, intimate of Bridges, comrade of Bridges, who testified that he had attended several Communist Party meetings in an apartment in North Beach in San Francisco in '44 or '45 at which Mr. J. R. Robertson was present, who also testified that Mr. J. R. Robertson—the defendant Robertson—was a member of the same Communist Party unit as was he.

Mr. MacInnis: Pardon me. That is not the testimony. At [7543] page 4009 the witness Wilson said that it was his impression to that effect; he doesn't state it as a fact at all. And that is the only statement he made about the defendant Robertson.

Mr. Donohue: Well, we will have more to say about the defendant Robertson soon, if I may be permitted to continue, if your Honor pleases.

The Court: Yes.

Mr. Donohue: And Mr. Wilson testified about the meeting held in the Governor Hotel in San Francisco concerning a dispute between Mervyn Rathborne, the then secretary-treasurer of the California CIO Council, and his immediate predecessor in that office, the present secretary-treasurer of Mr. Bridges' union, Mr. Louis Goldblatt. At that meeting Mr. Wilson identified the following persons present: Rathborne, Connally, Goldblatt, Bridges, Wilson and Schneidermann.

Some time subsequently, while Mr. Bridges was a witness on the stand, Mr. Bridges brought with him some records, the purpose of which, allegedly, was to show that there was a dispute between Mr. Goldblatt and Mr. Rathborne but that it had been settled, as all these disputes are settled, within the family of the union. And they sought to prove it by a memorandum written by Mervyn Rathborne. And I am sure you haven't forgotten it, because it recalls to our attention that there were three meetings within the brotherhood of the union at which no satisfactory solution was arrived at, and that Rathborne [7544] then said, only a few days before the Executive Committee of the California CIO Council met here in San Francisco, that "We will settle it by a meeting among the persons concerned at a later date." And it was settled at a latter date at a meeting among the persons concerned, and the most important person concerned was Mr. Schneidermann.

who was very much upset about the uncomradely conduct of Communists quibbling in public and making a public display of their inability to get along. And you know that the meeting which George Wilson testified about, and subsequently Rathborne testified about, was the Communist Party discipline meeting to solve the problem that these Communist Party laboring people couldn't solve themselves.

And finally we called the witness Rathborne. Perhaps even more than George Wilson, there isn't a living being who would know better whether Harry Bridges was a member of the Communist Party than Mervyn Rathborne. Mervyn Rathborne, who became, subsequent to his membership in the Communist Party, the international president of the American Radio Telegraphists' Association with offices in New York; the man who became, while he was a member of the Communist Party and after he had left New York and returned to California, the secretary-treasurer of the San Francisco CIO Council and later the secretary-treasurer of the State CIO Council; a man who, while he was a member of the Communist Party, was a member of the Executive Board of National CIO; a man who, while he was a member of the Communist Party, [7545] testified that he belonged to a top fraction of Communist Party members, all of whom were members of the national Executive Committee of the CIO, including Mr. Bridges, and who testified that while he was a member of the California State CIO Council he was a member of the top fraction of the Communist Party operating within the Califorina CIO and that Mr. Bridges was a member.

Again, following the suggestion made earlier, you might well ask yourselves the question: Why didn't Mr. Bridges have his counsel ask Mr. Rathborne, "If you were a member of the top fraction of the Communist Party made up of members of the Executive Committee of the CIO, tell us who they were"? and the same with respect to the California State CIO Council. [7546]

> "You say, Rathborne, that you are a member of the top fraction of the Communist Party operating within the California CIO and I, too, am a member of the fraction. Who are the others?"

Wouldn't you, if you were an innocent defendant, and the allegation was made against you?

> "Who are the others? Bring them here and let us hear what they have to say about whether you are a liar or whether I am a liar."

No, those questions were not asked, and I suggested the possible alternatives to you earlier. From 1935, when he got interested in the labor movement and became interested in the Communist Party as a member until his withdrawal from the Communist Party some time in 1946 or early 1947, as a member of a labor union and as a member of the Communist Party, Bridges and Rathborne were inseparable. When the second Bridges Defense campaign was launched in 1941, who was made the executive secretary? George Wilson. Who at the same time in the same year was made chairman of the California CIO committee for the Bridges Defense? Mervyn Rathborne. During the 1936 strike, who was chairman of the strike committee? Harry Bridges. Who was secretary of the strike committee? Mervyn Rathborne. Who went to Communist Party headquarters in New York with Mervyn Rathborne while Rathborne was in New York, not only as a prominent member of the Communist Party but as the international [7547] president of the union? None other than Harry Bridges. And who went to Roy Hudson's home on James Street with Mervyn Rathborne? None other than Harry Bridges. Oh, how careful Mr. Bridges stays away from the name of Roy Hudson. Could you believe him when after some careful consideration and sparring, he finally decided that the last time he saw Roy Hudson was an instance some 13 or 14 months ago when Bridges happened to walk out of his building at 150 Golden Gate Avenue, and who do you suppose he just happened to meet passing by on the sidewalk? The national trade union director of the Communist Party, Roy Hudson. Incredible! Mr. Bridges would like to dig a ditch as wide as the Pacific between himself and Roy Hudson and others concerning whom we will comment later, but with respect to the subjective tests I have invited you to employ, who would know better than Rathborne whether Bridges was a member of the Communist Party?

Mr. Rathborne testified that during the 1936 strike frequent meetings between Bridges and Walter Lambert, a functionary of the Communist Party here in San Francisco, were held up on North Point Street here in the city of San Francisco. Mr. Rathborne testified as to a meeting, a Communist Party meeting held at Long Beach, California in corroboration of the testimony of Charles Krolek, held, as you will recall, in San Pedro during the 1935 A. F. of L. convention.

Mr. Rathborne testified to another interesting bit of information as to his membership upon a committee called for the [7548] first time in this trial by Mr. Bridges, interestingly, God's Committee. Mr. Rathborne called it; that is what Mr. Bridges called it before the name was ever suggested to him. But, of course, he gave it a different interpretation. Mr. Bridges could not believe that he, Bridges, could not have been a member of a committee important enough to be called God's Committee, so he volunteered himself as a member. Mr. Rathborne said he never was a member, that God's Committee was a committee made up of top fraction party members of Northern California associated with the California State CIO, which met frequently with Mr. Schneidermann and that he and Mr. Schneidermann for security reasons later took and discussed the decisions with Harry Bridges. Who were the members of that committee? Mr. Bridges' counsel would not ask that question. But we asked Mr. Rathborne:

"Whom do you now recall as members of God's Committee?" His answer: "Schneidermann, George Wilson, J. R. Robertson, himself and a man named

David Heide." Was J. R. Robertson a member of the Communist Party? When you come to a conclusion in answer to that qusetion, remember the testimony of George Wilson. My distinguished adversary may quibble by reading from the record as to what George Wilson said about J. R. Robertson's membership on the same unit of the Communist Party as he belong to it, but he did not equivocate about J. R. Robertson's being a Communist, and if there was any doubt, [7549] any lack of clarity in what Mr. Wilson may have said about J. R. Robertson, Mr. MacInnis had the opportunity to clarify that misunderstanding or misconception by a cross-examination of George Wilson. But they let him go like a hot potato. And you know why, and you have a right from their failure to cross-examine him, to draw conclusions and inferences which may reasonably be drawn from that failure.

The witness Rathborne further testified that between 1935 and 1937, the year when he went to New York, he had attended at least ten or twelve waterfront section meetings of the Communist Party. Asked to name those who attended these meetings, he stated, "Dave Saunders, John Schomaker, Harry Bridges, Henry Schmidt, Walter Lambert, Al Quittleman of the Sailors Union and perhaps a number of others."

Mr. Rathborne testified that during the 1936-1937 strike, at least up until the time he left San Francisco for New York, he had attended at least 30 meetings held at this apartment opposite the chocolate works on North Point Street at which Bridges himself, Walter Lambert and sometimes William Schneidermann were present, and that the subject matter of the discussion was the strike policy to be recommended to the joint strike committee of which Bridges was chairman and Rathborne was secretary. But I suppose the poor, befuddled members of that joint strike committee never suspected that its president or chairman and its secretary were getting their instructions from Lambert [7550] and Schneidermann as to how to conduct the strike. Reminiscent of the vigorous denials by the witness Bridges that Darcy ever had anything to do with the 1934 strike! But he did not say so much about Schneidermann's and Lambert's operation in the 1936-1937 strike because Mr. Bridges and his counsel were too busy trying to destroy Rathborne as a witness to ask him anything about his knowledge of Bridges' membership in the Communist Party or to ask him anything about Schneidermann's participation in the 1936 and 1937 strike.

You will recall with reference to the meeting testified to in Philadelphia in 1943 by the witness Michener concerning the removal of Phil Connally that Rathborne testified he got three telephone calls here in San Francisco from Philadelphia: one, Phil Connally, two, Roy Hudson; and three, Harry Bridges. He was informed of the meeting concerning which Michener testified and was told the decision, and he, too, resented it. Of course, it is easy for Mr. Bridges to say, because he hasn't any idea of trying to prove it, that Rathborne went off on a two weeks' drunk and some time subsequent thereto he discussed the subject matter with Rathborne.

That is not quite what Mr. Rathborne says, because Mr. Rathborne said that when the crowd came back from Philadelphia and some time subsequent thereto, there was a meeting, a Communist Party meeting at which George Wilson and the defendant Bridges and Schneidermann were present, in which, for the benefit of those who had not gotten their instructions [7551] in Philadelphia from Roy Hudson, Schneidermann carried the line and stated that the decision had been made at Communist Party headquarters in New York and that there wasn't any necessity or any use in beating their heads against a stone wall, that the party's position must be followed.

Mr. MacInnis: Pardon me. That is another deliberate misstatement of the evidence. What Rathborne said was that Mr. Robertson was present at that meeting. He did not say Harry Bridges was there.

Mr. Donohue: I appreciate that interruption. That is a fact.

Mr. MacInnis: Yes, Mr. Robertson who was in Chicago at that time was at the meeting. I have the page and the line.

Mr. Donohue: I remember now. I am delighted to have the correction.

Mr. MacInnis: I am sure you are, stating that Bridges was at a meeting when you know full well that the witness said something else.

Mr. Donohue: My percentage of error is pretty low, Mr. MacInnis.

Mr. MacInnis: Pretty high.

Mr. Donohue: And I was very careful to tell the jury it is not my statement of the evidence because I can be mistaken.

The Court: This is an appropriate time for the recess.

Mr. Donohue: Yes, Your Honor.

The Court: The same admonition, ladies and gentlemen, not to discuss the case under any circumstances.

(Recess.) [7552]

Mr. Donohue: I apologize to Mr. MacInnis for having left his client out of that Communist Party meeting. If I had given the matter a moment's thought, I would have known that it wouldn't have been necessary for Mr. Bridges to have been there. Mr. Bridges didn't have to attend a meeting in San Francisco after the 1943 CIO convention in Philadelphia had closed to get the instructions from the Communist Party on the removal of Phil Connally from Mr. Schneidermann, because Harry Bridges got it in Philadelphia from Roy Hudson at the meeting testified to by Lewis Michener.

Two more meetings in brief concerning which the witness Rathborne testified.

One was the meeting held in Pittsburgh at the first constitutional convention of the CIO in 1938 and held at a meeting in the William Penn Hotel. Rathborne, you will recall, testified that this meeting was a top fraction meeting of the national CIO top Communist Party fraction, Volume 59, page 6362. Mr. Rathborne said present at that meeting were Roy Hudson, Julius Emsbach, Harry Bridges, Louis Merrill, himself and others to a total of perhaps eight; that he was notified of the meeting by Roy Hudson, and that at that meeting Mr. Rathborne was dressed down for uncomradeshiplike conduct in that, without consultation with the Communist Party, he had had the termerity to make a motion on the floor of the national CIO convention which would have included political affiliation as being a [7553] subject matter over which the national CIO would exercise no jurisdiction.

And you will recall one further meeting held here in the Whitcomb Hotel during the 1939 national CIO convention at a time when Rathborne, as the international president of ARTA in New York, was a delegate to that convention. Rathborne testified that he attended this Communist meeting at the Whitcomb Hotel and that among those present were Schneidermann, Louis Merrill, Rathborne, Bridges, possibly Roy Hudson, he thinks Ben Gold, and he also believes Julius Emsbach; that the reason for this meeting arose out of the fact that at a meeting of the convention itself a day or two before, John L. Lewis made a statement that "no aspiring young Communist is going to get anyplace in CIO," and shortly afterward, quoting Rathborne, Lewis said: "There are going to be some changes in the CIO. The position of West Coast Director of CIO"—held at that time by Mr. Bridges—"is abolished. The present West Coast Director, Mr. Bridges, will be the California Director, and I will appoint directors for the rest of the area."

Rathborne said it was that statement by Lewis which led to the meeting subsequently of a top fraction of the Communist Party who were members of the national CIO Executive Committee. And Rathborne said that at this meeting in the Whitcomb Hotel the remarks of John L. Lewis were discussed and that Bridges thought that "we should cooperate with Lewis and at the same [7554] time build the Communist forces stronger down below in the unions so as to be stronger later on and prevent Lewis from red-baiting and taking any anti-Communist position in the future," and that Bridges' suggestion was adopted as the policy.

Now, with that, save for the recall of George Wilson for the purpose of denying the statements made with respect to him by these defendants and for the purpose of giving them just one more chance at cross-examination, the Government rested.

These, then, have been the witnesses, and these have been the facts upon which the Government has rested its case. And I say to you, ladies and gentlemen of the jury, with all the sincerity at my command, that the Government has sustained the burden of proof required of it by law and has, as Mr. McMillan told you it would in his opening statement, established the guilt of the defendants and each of them beyond a reasonable doubt and to a moral certainty.

It will shortly be the responsibility of Mr. McInnis and Mr. Hallinan to present to you their reasons for urging that the Government has failed to meet the burden of proof required, and to direct your attention and your consideration to the evidence offered by them in support of the general denial of guilt made by each of the defendants. I am sure that you will give to them the same measure of interest and attention for which I now express to you my own personal gratitude.

As you listen to their arguments, I trust that you will, [7555] even as you have in so patiently listening to mine; measure and test them, first, against the allegations contained in the indictment, and, second, against the opening statements made by each of counsel with respect to their several defendants.

One has promised you, even before the taking of testimony and at a time when the identity of most of the witnesses subsequently called by the Government was unknown to him, that he would prove that, the real conspiracy here was not that alleged in Count One of the indictment and participated in by these defendants, but a colossal conspiracy of some 125 people—Government agents, Cabinet officers, the President of the United States, shipowners, labor leaders, liars, perjurers, stoolpigeons, labor spies, provocateurs, quote "the swill of humanity," unquote, and all this mixed up with some irrational and unteiligible metaphor concerning tropical plants and growing fungi.

The other made what he called a solemn pact with you to prove the truth of the general denial of the defendants; to destroy the evidence of the witness John Schomaker; to establish an alibi for one of the defendants with respect to one item of the Government's proof, and to create a reasonable doubt as to the guilt of all the defendants by proof as to each of an established reputation for good character—all these promises requiring several days for statement.

Just briefly, let us take a look at the defense. Has it [7556] occurred to you, ladies and gentlemen of the jury, that over a period of some weeks the defendants called 38 witnesses? Of the 38 witnesses called, there were only two, save the defendants themselves, who could testify as to whether Harry Bridges, Henry Schmidt or J. R. Robertson was a member of the Communist Party, because there were only two of the 38 witnesses called by the defense, save the defendants themselves, who testified that they had ever been a member of the Communist Party.

Now, don't let these defendants fool you. The question for you to decide is not whether Mr. Bridges is or is not the greatest labor leader the world has ever known. The question is not whether Mr. Bridges enjoys an excellent reputation for truth, honesty and integrity. The question is, and the defense must be to that question: Was Bridges a member of the Communist Party? And of the 38 people he brings here, two were members of the Communist Party.

And, as I said to you with respect to the testimony of the Government, don't take the testimony of a witness merely as a fact without determining in your own mind the capability of that witness to know whether that fact was true.

Who testified that Bridges was not a member of the Communist Party? Bruce B. Jones. [7557]

Let me refer to page 4199 of the record, question by Mr. Donohue:

> "Q. Mr. Jones, am I to believe that you said shortly ago that you left the Communist Party because your back hurt and you had stomach trouble?
>
> "A. And the other transaction involved there, Mr. Donohue, was along in 1941 I was trying to get in the navy, and when I couldn't make that, I shipped out. That is correct, yes.
>
> "Q. Then you didn't leave the Communist Party because you had any disagreement with the principles of the Communist Party, did you?
>
> "A. I didn't leave the Communist Party because I had a difference of opinion with the Communist Party.
>
> "Q. And you haven't any different opinion of the Communist Party today, have you?
>
> "A. You are getting into another subject now, Mr. Donohue. I don't know whether my opinions of the Communist Party today or not concern this case, whether it has got anything to do with it, but I know my political opinions as a free-born American citizen is my own damn business and I am not sure you have got any business to ask me what my political opinions are today."

How could we forget Bruce B. Jones, the witness who began with an apology by his counsel for—the mild term—his eccentricities, and who wound up like this: [7558]

Question, page 4254:

"Q. Didn't John Schomaker then turn to each of the three of you, Melin, the man we have called Lambert——

"A. I don't call him that. That is what he calls himself.

"Q. ——and yourself—— A. Yes.

"Q. ——and ask each one of you in turn, did you know the answer to that one, and didn't each one of you say, 'Yes,' including you?

"A. No, that wasn't said, no, no.

"Q. And isn't it a fact that John Schomaker then turned to you and said, 'You signed him up'?

"A. You are a liar for saying Schomaker said that.

"Q. I didn't ask you that.

"A. It isn't a fact.

"Q. I asked you if he made that statement.

"A. It isn't a fact. At no time at these previous meetings I went down with Schomaker did Schomaker tell me in the presence of these other people anything about signing Bridges up, and it struck me very sharply when it came out in the newspapers that he said that.

"Q. And isn't it a further fact that you said, 'The s.o.b. was hard to get dues out of.'?

"A. You are a liar for saying that here,

> and I never said that. You are a liar, Donohue, and Schomaker is, too. [7559]
>
> "Mr. Donohue: That is all. No further questions.
>
> "The Witness: You got that, Donohue? You are a liar and Schomaker is, too, and anybody is that ever said I signed Bridges up."

You remember that Mr. Jones at that time was being asked whether or not in John Schomaker's house where Jones had gone with two others to find out what Schomaker had said about Harry Bridges, that brought on that response. Was I a liar for asking him the question, and was John Schomaker a liar? Bruce Jones says so. But where are the two men who went down with him? Where are the two pals and comrades of Bridges who went down there to John Schomaker's house with Bruce B. Jones, and if John Schomaker is a liar, then why weren't they brought to say so? And that, ladies and gentlemen of the jury, is the number one of the two witnesses who testified that Bridges was not a member of the Communist Party. And that, ladies and gentlemen of the jury, is the testimony, and he is the witness called by Mr. MacInnis pursuant to the solemn pact he made with you to destroy the testimony of John Schomaker.

But they called another, yes, they called another. I said they called two witnesses out of 38, save the defendants, to testify to you as members of the Communist Party or, as stated, former members of the Communist Party, that Bridges was not a Communist. You haven't forgotten this witness either. The lady known as Jean Murray, page 7339 of the record, Miss Murray [7560] speaking, and speaking to me:

> "A. You seem to think that all of the people who are members of the Communist Party are the type of people whom you have been able to buy, the ones who sold their integrity to you and your corrupt government.
>
> "Q. You mean my government?
>
> "A. Some of them. This is a government of the monopolies; it isn't a government of the working class.
>
> "Q. You mean the government of the United States, which I am proud to represent?
>
> "A. The government of the United States is a dictatorship of the monopolies; it doesn't represent the workers."

And there you have it. That, ladies and gentlemen of the jury, is the sum total of the evidence, after weeks and weeks of testimony, totalling 38 in number. That is the sum total of the evidence upon which these defendants will ask you for a verdict of not guilty because they are the only two persons who have stated membership in the Communist Party which would give them the opportunity to know whether Bridges was a member of the Communist Party.

So when they talk about Bruce Jones and Jean Murray, the two witnesses who so testified, just remember the instances called to your attention.

And of course before they talk about their defense, in a practice which is perhaps as old as criminal procedure, one which has been adopted with many refinements by [7561] the Communist Party, their first defense will be a renewal of the attack over the last four months on every witness who has had the temerity to testify against Harry Bridges and against myself and my associates and the government of the United States. And when they have exhausted themselves with everything invective of which they are capable, and when they have stressed the importance of the evidence to destroy John Schomaker and to prove the general denial of guilt by the defendant Bridges, Schmidt and Robertson, they will then reach up their sleeve and pull out what they call their trump card, the "ace in the hole." We have heard about it, because it was precisely timed to stay in the frontal part of your brain during the Christmas holiday. The sudden dramatics of Mr. Hallinan, demanding the arrest and indictment for perjury of Paul Crouch, Manning Johnson, and later he added Lawrence Ross. And in a very ineffective and sham imitation of the same proceedings, his associate, Mr. MacInnis, sought the same thing when Mr. Rathborne testified that Robertson was at this meeting in San Francisco to discuss with Schneidermann the Communist Party line that Bridges got in Philadelphia from Roy Hudson—an alibi that Mr. Robertson would try to fool you into believing, as established by the fact that he wrote a check on a certain date in a month, which means he had to be in Chicago.

Woudn't I be testing the patience of Job if, when I returned to Washington, I used all my canceled checks ~~for~~ paying my utility bills which I have accumulated while [7562] I am here, to prove an alibi that I was in Washington and not in the city of San Francisco? Oh, they will talk about that alibi. Mr. Hallinan interminably gave us a chalk-talk, and now he has this beautifully prepared exhibit here, which he will parade in front of you and talk about for several days.

Let's meet the issue now. Number one, I read you the indictment this morning, with as much care as I could. There isn't a single allegation in the indictment that says that Harry Bridges was in New York City on Saturday night, the 27th of June, 1936. These defendants and their counsel would like to fool you. They would like to put you in such a state of confusion that some time subsequently, when the clouds have been removed and you find yourselves awake, you would say to yourselves, "What a fool I was to have been so deceived." Mr. Hallinan, in his long talk—and it will probably take days to explain this magnificent (physically speaking) piece of work, the purpose of which is to show that Harry wasn't in New York on the night of Saturday the 27th of June, 1936; therefore he could not have been a member of the Communist Party. Well, let's see who said he was in New York on Saturday night the 27th of June, 1936. Far and wide and up and down the land Hallinan and his crowd have talked about the perjury on this matter of Paul Crouch and Manning Johnson? Why? Well, ladies and gentlemen of the jury, what else have they got to talk about? Here for weeks, by witnesses who had to know, by witnesses like [7563] John Schomaker, who for days was subjected to the skill and the cunning of a clever trial lawyer, who at last turned away bleeding from both eyes, beaten by John Schomaker—of course they would like to have you forget John Schomaker. And they don't want to hear any more about the little old lady, Mrs. Harris. And they wish Henry Schrimpf and Charlie Krolek and Hancock had never been born. And Bridges must regret, as he sits here now, and will regret to the last day he lives that he ever met Mervyn Rathborne or George Wilson. Of course they would like you to forget the proof beyond a peradventure of doubt, proof as adequate and complete as is possible in human existence. And there is only one way they can do it, and that is by talking about Mr. Bridges' alibi on the 27th of June, 1936. And remember again, there isn't a scintilla, there isn't a single word of evidence—I am sorry—there isn't a single word by way of allegation in the indictment, that charges Harry Bridges to have been in New York on the night of the 27th of June, 1936, nor which says that Harry Bridges was ever a member of the Central Committee of the Communist Party. [7564]

It came before you as a matter of proof, and before I finish I hope to sustain that proof. But by way of analogy the hue and cry raised by these defendants and their counsel for the obvious purpose of obscuring the truth is as much as to say that a witness who saw a brutal shooting testified that the gun was held in the left hand of the man who did the shooting when the fact was it was held in his right.

I said before, and I say again, on the testimony of John Schomaker alone, on the testimony of Irene Harris alone, on the testimony of Henry Schrimpf alone, on the testimony of Michener alone, on the testimony of Hancock alone, on the testimony of Krolek, Wilson and Rathborne alone, the defendant Bridges is guilty.

Now, let us turn to the record, and I read now from Volume 23, page 2679. The witness was Paul Crouch, examiner Mr. Hallinan.

> "Q. Well, you can't tell us, though, whether it was morning, afternoon or evening?
>
> "A. I am quite certain it was not in the morning, but whether it was afternoon or evening I cannot recall.
>
> "Q. Then of course you don't remember what time it commenced or what time it ended?
>
> "A. I don't remember the number of hours.
>
> "Q. Now, was the Central Committee, its personnel, the fact of its election, discussed at all at the Madison Square [7565] Garden meeting?
>
> "A. The composition was not discussed, and I do not recall any reference to the Central Committee.
>
> "Q. You are sure, however, that the names of the persons were not given?

"A. Definitely sure.

"Q. Now, when did the Central Committee meet to elect the Politburo?

"A. I cannot specifically recall whether the meeting was held the night—Saturday night or Sunday morning, but my best belief and my best recollection is that it was held Saturday night.

"Q. Are you sure that it was held before the final ending of the convention itself?

"A. No.

"Q. I suppose that it wouldn't be reasonable that the committee members would stay in New York for any very long period of time after the convention ended, is that right?

"A. To the best of my recollection, it was held prior to the Madison Square Garden meeting, to the best of my belief and recollection.

"Q. So then it would have to be either Saturday night or Sunday morning?

"A. To the best of my recollection, although I stayed in New York, the best I can recall, for a couple of days after [7566] the 28th for the purpose of a series of conferences on various fields of Party work, and I cannot be too specific, but my best recollection is it was held prior to it. I might—it is humanly possible that I might be mistaken, because I remained in New York for at least two days after June 28.

"Q. When you say 'at least two days,' now, could it have been eight or ten days?

"A. No, it couldn't have been over two or three days.

"Q. Do you know whether or not you had meetings with the Central Committee within that two or three days? A. Oh, yes.

"Q. How many?

"A. One, only one of the full Central Committee.

"Q. And that was after the convention had been closed?

"A. That was after the final nominating session; that is after all the closed meetings of the convention had closed. I do not mean necessarily—not necessarily after the Madison Square Garden meeting."

That latter meeting, you will recall the evidence shows to have taken place on Sunday.

"Q. I am talking about the Madison Square Garden meeting as the ending of the convention. Let us say that Madison Square Garden ended the convention.

"A. The meeting of the Central Committee would then have [7567] been prior to the ending of the convention, from that technical application, from that technical point of view.

"Q. Are you sure whether it was prior to the ending of the convention?

"A. I am not positive. I have already answered that question.

"Q. You stayed in New York a couple of days, and during that couple of days you had at least one meeting with the Central Committee?

"A. I said during those two days I had a series of conferences, various party meetings, trade union work in various other fields, and I stated while I was in New York, not necessarily the two days after—in fact, to my best belief and recollection, it was prior to the Madison Square Garden that we elected the new Politburo. I am almost—I am nearly certain. There is a human element. It could have been later, but my best belief and best recollection is that it was after the—of course, it was after the election started, which I believe we elected the new Central Committee, and prior to the Madison Square meeting.

"Q. Then it would have to be on Sunday morning? A. Saturday night or——

"Q. Saturday night or Sunday morning?

"A. To my best belief and recollection.

"Q. After the Madison Square Garden, did you have any meeting [7568] with the Central Committee, after the Madison Square meeting?

"A. Not unless there is the element of possibility that I could—that I might have been mistaken. I might have been mistaken—I don't think I was—on the date when we elected the Politburo, but aside from the date on which we elected the Politburo, I didn't have any meeting with the full Central Committee while I was in New York. I had one meeting—I attended one meeting of the full Central Committee after the convention was called to order, before I returned to North Carolina.

"Q. You say that you saw Mr. Bridges during the course of the convention as well as at this meeting that you testified to?

"A. I said my best recollection was that I saw him briefly.

"Q. When?

"A. My best recollection is that I saw him during the rather early stages of the convention in the anteroom or at the back of the hall, and my best recollection is of hearing Stachel, or one of the other top leaders of the party in making a remark that he had to go away for some kind of trade union work in which he was engaged and would miss most of the convention.

"Q. And that was in the early part of the convention?

"A. To the best of my recollection.

"Q. Could you remember how soon after the convention started? [7569] A. No.

"Q. It started on Wednesday. Was it on Wednesday?

"A. It could have been. I don't recall specifically, and I stated that my impression, my best recollection on this question, I remember remarks about his being called away by members, leading members of the party, and at no time did he speak on the floor of the convention, but my best recollection is I saw him very briefly either in the ante-room or at the very back of the hall briefly.

"Q. Did you know Mr. Stachel and these other people whose names you mentioned?

"A. Very well indeed.

"Q. Was their conversation addressed to you about Mr. Bridges being called away?

"A. Partly to me and partly to other party leaders with whom I was in company.

"Q. I mean you were close enough and it was addressed sufficiently to you that you would not be mistaken on the context of the thing.

"A. I don't think so.

"Q. The statement was made that he would be called away to do certain trade union matters and would hence miss a large part of the convention; is that correct?

"A. That is as I can recall it, to the best of my recollection. [7570]

"Q. Where were the trade union matters to be handled, do you know? Where would he be called to?

"A. He could have been called to Washington or he could have been called to California. I don't recall. There is nothing now that I can recall to indicate where it would have been.

"Q. Was anything said about the length of time that he would be away?

"A. I don't recall that it was.

"Q. Or how soon he would have to leave?

"A. I got the impression, as I can recall now, I got the impression that he was leaving immediately.

"Q. And you think to either Washington or California?

"A. There was nothing said that I remember about it, and my knowledge—it is only from my knowledge of Mr. Bridges' work that I would draw that inference.

"Q. We agreed that you would not do that, Mr. Crouch, that you would try to tell us first what your recollection was, and then if necessary we would fill it in with what the customary matters were, but your recollection——

"A. I don't recall any mention of where he was going.

"Q. Just that Mr. Bridges was mentioned, that he was there, but that he was going to be called away on some trade union work and would miss the greater part of the convention?

"A. As I recall. [7571]

"Q. And then you saw him again on Saturday afternoon or evening?

"A. If my memory serves me correct—if my memory is correct on the date on which we elected the new Politburo, it would have been Saturday evening or Sunday morning. I stated there is a human element. I kept no notes. I made no memorandum. And that was about thirteen years ago."

The Court: We will take the adjournment, if agreeable to counsel.

Mr. Donohue: Yes, your Honor.

The Court: We will take the adjournment until ten o'clock tomorrow morning. The same admonition to you not to discuss the case under any conditions or to permit any person to converse with you on any subject of the trial and not to form or express an opinion until it is submitted to you.

(Thereupon an adjournment was taken until Friday, March 17, 1950, at 10:00 a.m.) [7572]

Friday, March 17, 1950—10;00 o'Clock A.M.

The Clerk: The case of United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Donohue: As I told you ladies and gentlemen of the jury in the closing moments of yesterday, it would be the purpose and plan of my adversaries, after continuing again their campaign of vilification against the government of the United States and those persons who have had the temerity from their point of view to testify against these defendants, to spend half our time in the discussion of their so-called alibi for the defendant Bridges on the night of Saturday, June 27, 1936. And I read you carefully yesterday from the transcript of the cross-examination of the witness Crouch, and I ask your indulgence to repeat again his closing paragraph on cross-examination:

> "If my memory serves me correct, if my memory is correct, on the date on which we elected the new politburo it would have been Saturday evening or Sunday morning. I stated there is a human element. I kept no

notes. I made no memorandum. And that was about 13 years ago."

Now, of course, Mr. Hallinan and Mr. Bridges have an immediate purpose in seeking to destroy Paul Crouch and in seeking to destroy Manning Johnson, not only because of the value of that destruction in this proceeding, because they will say time and time again, and I thoroughly agree with them, Paul Crouch [7573] and Manning Johnson are professional witnesses. Why? Because they were professional Communists. They were not labor leaders who joined the Communist Party for ambition. They were professional functionaries paid by the Communist Party. You heard Paul Crouch testify. For 17 years, over many more states than 17, was he active in a high official position with the Communist Party. Manning Johnson, a member of the Central Committee of the Communist Party for two years, is another. Who would know more about the activities and the identification all over the United States of the top echelon of the Communist Party than Manning Johnson and Paul Crouch? And just as Bridges and his co-Communist defendants here know that the American people are striking the bill that is the death knell of the Communist Party, they fear not only in this prosecution but that all over the land in the days to come, the witnesses Paul Crouch and Manning Johnson—professional witnesses, yes; professional Communists once for certain—and they want to destroy the ability of those two men in any court in the land to point the finger of accusation and identification against any one of their new comrades in the Communist Party.

And I say to you ladies and gentlemen of the jury, in rereading, as I did yesterday, the testimony of Paul Crouch, you must have in mind these things: Number one, in 1936 Harry Bridges, Comrade Bridges to Paul Crouch, was not the figure that Harry Bridges thinks he is today. There wasn't any particular reason [7574] for Paul Crouch in 1936 to be impressed with Harry Bridges. There were some 40 or 50 people present at this meeting of the Central Committee. And don't forget forever or for a moment that the only uncertainty in the testimony of Paul Crouch with respect to the Central Committee and Harry Bridges was not as to the fact that he was elected a member, was not as to the fact that he attended a meeting; his only uncertainty was as to when that meeting took place, and with all the skill and trickery at his command, Mr. Hallinan sought to pin him down to Saturday night so he could try to prove his alibi. And never forget for a moment that long before Hallinan raised the cry of perjury to destroy this witness, the witness had said in the early days of the convention, in some anteroom or standing in the back of the hall, "I heard Bridges in conversation with Jack Stachel and I heard enough of the conversation to know what Bridges was saying, because he had some labor meeting to attend, that he could not attend all the sessions of the convention." And Crouch said he never saw him on the floor of the convention, saw him only once again at this meeting of the Central Committee, whenever it took place.

And now, let us take a look at the record as to the witness Manning Johnson: On direct examination, again by me:

> "Q. Mr. Johnson, after the convention of 1936, at which you testified you were elected a member of the National Committee, did you meet subsequently with the National [7575] Committee as a member thereof?
>
> "A. Yes, I did.
>
> "Q. Where and when, to the best of your recollection?
>
> "A. To the best of my recollection, it was either at the Center or in a hotel in New York, because we had a number of meetings in different places during that particular time, which is always customary.
>
> "Q. And when?
>
> "A. That was right after the election of the National Committee.
>
> "Q. When you say 'after' you mean how long after? A. Shortly after.
>
> "Q. Will you tell us now, Mr. Johnson, the name or names of such persons as you can recall who were present in attendance at that meeting of the National Committee of the Communist Party?
>
> "A. Well, I can. There was Earl Browder, Jack Stachel, Jay Peters, William Weinstone, William Steiner alias Blake, Sam Don, James W. Ford, Maude White——

"Q. How do you spell that last name?

"A. W-h-i-t-e; Alex Biddleman, A. Brown alias Alpi.

"The Court: How do you spell the last name?

"A. A-l-p-i; Harry Hayward, Alexander Durba, Tritonberg, Morris Childs, Clarence Hathaway, Anna Damon, myself, Manning Johnson, Schneidermann——

"Q. (By Mr. Donohue): Do you know his first name? [7576]

"A. No. He was a district organizer from California, that district, at that time. I don't remember his first name. Paul Crouch, Harry Bridges—he was going under the name of Rossi at that time, alias Rossi, Puro—I forget his first name. George Hewitt alias Tim Holmes.

"Q. How do you spell his name?

"A. Hewitt?

"Q. No, the alias.

"A. Tim H-o-l-m-e-s. There were a number of others I ~~can't recall. I~~ might recall them later."

Now, the same Manning Johnson on cross-examination by Mr. MacInnis. [7577]

"Q. (By Mr. MacInnis): Yes. You had met those ten or twelve persons?

"A. No.

"Q. Did you ever meet Harry Bridges?

"A. Yes.

"Q. When?

"A. I met him in New York City.

"Q. When?

"A. Right at the first meeting of the national committee after convention.

"Q. Who introduced Harry Bridges to you?

"A. Jack Stachel introduced him to the committee—to the national committee.

"Q. Did you meet him personally?

"A. No, he was sitting in the meeting with the rest of the members of the national committee.

"Q. Were you close enough to exchange any personal remarks or shake hands together or anything like that?

"A. Well, we were all in the same room.

"Q. The question is this: Did you personally meet Harry Bridges?

"A. Did I personally meet him? Yes, I was introduced to Harry Bridges.

"Q. You say he was introduced to a group. Were you at any time brought next to the man who you say was the [7578] defendant Harry Bridges to a point where you shook his hand and exchanged ordinary courtesies, remarks of introduction that people say to each other?

"A. I didn't shake hands with him. It wasn't that kind of introduction. They don't shake hands and that sort of thing in the Communist Party.

"Q. Well, did you ever meet him after that? A. No.

"Q. Was that the first time you had ever seen him?

"A. That was the first time I had ever seen him.

"Q. And you never met him thereafter?

"A. No.

"Q. Did you make any written memorandum back in 1936, which is of course thirteen years ago, as to the people you met at this meeting of what you call the national committee of the Communist Party?

"A. Do you mind reading that question?

"(Question read.)

"A. No, I didn't make any written memorandum of the persons present at this meeting."

Reading from 2484:

"The Witness (Manning Johnson): At the national committee meeting, at which Harry Bridges was introduced to the membership, we gave him a big ovation. He was introduced by Jack Stachel, who made brief remarks. After [7579] his remarks Jack Stachel said to the members of the national committee that in the future—in the future Harry Bridges would not be brought to members of the national committee as a security reason, that because of his strategic position in the labor movement out here on the Pacific Coast, that if it became known that he was a member of the Communist Party, he would not be able to move and work in the Party interests, in high labor circles on this coast. Furthermore, because of the fact that Communists on the West Coast were constantly under police surveillance, and that they could not make a move without being constantly checked, that in order to safeguard the key people that the Party had in the labor movement on the Pacific Coast that Bridges would not be asked to come into any more of these meetings.

"Furthermore, they said that they would maintain the past contacts which they had with Bridges, that he would be kept fully informed and aware of every decision made by the national committee of the Party.

"Q. In other words, Mr. Bridges occupied some super-secret position beyond that of Browder, Eisler, Stachel, Peters—any of the persons whom you have named—so that he was able to be introduced once, never seen again, but present in spirit thereafter, is that it?

"A. There were a number of Communists who move and operate [7580] in circles of that kind, where they are not permitted to attend certain meetings, where their identity and membership on leading committees of the Party are held absolutely secret. Not only are they kept secret, but they use different aliases in order to cover their movements and confuse the authorities, governmental authorities.

> That is a common and customary practice in the Party."

Now, on page 2512:

> "Q. (By Mr. MacInnis): Mr. Johnson, concerning the occasion when you say Harry Bridges was presented to a group of fifty-odd people in 1936, did that occasion take place during the 1936 convention of the Communist Party?
>
> "A. (By Manning Johnson): That meeting—that closed session of the national committee took place right after—shortly after the election of the national committee. It was either before the convention adjourned or a day or so following."

That is Manning Johnson's testimony. And Mr. Hallinan and his crowd, across the breadth of this land, have spread the calumny that Manning Johnson perjured himself by saying that Harry Bridges was at a meeting of the Central Committee of the Communist Party in New York City on Saturday, the 27th of June, 1936, when Harry Bridges says he was in Stockton. There is the record.

I don't know where Harry Bridges was on the night of June [7581] 27, 1936. I only know that there is no word in this testimony wherein anyone says as a matter of fact that the meeting testified to by Paul Crouch and Manning Johnson took place on Saturday night, the 27th of June, 1936. And they can give you another blackboard talk, and they can use that diagram from now until the Fourth of July, but I have read you from the record the testimony of the two men who were in a position to know, who kept neither note nor memorandum, but who are telling you, ladies and gentlemen of this jury, under oath that Harry Bridges was not only elected to the Central Committee of the Communist Party in 1936 but that he attended a meeting of that committee some time after its election.

You go back to a convention you may have attended thirteen years ago upon which you kept neither note nor memorandum and try to pin your own memory down to the exact time and place at which a meeting, which was one of innumerable meetings that took place during that convention, in fact occurred.

You have heard the statement made by Mr. Bridges and by almost half the total number of 38 witnesses they called here for the purpose of proving Mr. Bridges' alibi. Again remembering that an alibi, to answer the allegations of this indictment, must begin in 1933 and run until September 17, 1945, to alibi Mr. Bridges out of the proof of his membership in the Communist Party, it is a strange thing that the only non-labor publication evidencing the fact that Mr. Bridges made a speech [7582] in Stockton, California, on the night of Saturday, June 27, 1936, was the newspaper of Saturday, which said that he would make a speech that night; no publication, excepting some days later the labor publication the Voice of the Federation, which said that in fact he made it.

The evidence shows that this meeting at which Harry Bridges made the speech was a joint meeting conducted jointly by five labor unions in Stockton, California. Have they brought before you, ladies and gentlemen of the jury, the minutes of the meeting of any one of those five labor organizations which showed that Harry Bridges did make that speech on Saturday night, if he made it?

And then, starting, as you see, on the Sunday preceding, on the 21st, and going up until the 4th of July, in order to establish his alibi, again not to the indictment but the incident of the proof, Mr. Bridges brings reams and reams of union records. And I say with respect to those that Mr. Bridges gave you the answer when, on Wednesday, February 8, at page 5255, Mr. Bridges outsmarted himself. He wanted to show you how cute and clever he was; he wanted to let you know that he was certain by a record given to him and held in his hand of a stated meeting of the board of directors of the ILWU that it was the first meeting that the directors of the ILWU ever had; he wanted to prove it, and prove how smart he really was, what a great recollection for detail this man had, by showing you [7583] he was sure it was the first meeting because a man marked present was not there. And here is what he said:

> "I know that because Harvey was a member of our slate and although we had the arrange-

ment where he would be marked present at some meetings but he was busy on other business, he was organizing; he was excused to organize Warehousemen's Local 34."

That was testified to. And I say to you, ladies and gentlemen, that 10,000 words from me and a whole reel of moving pictures would never characterize the proof on that blackboard and transposed and added to on this chart was well as Mr. Bridges has characterized it himself: "We had a system whereby they were marked present even though they were absent."

Now, Mr. Hallinan——

Mr. MacInnis: Pardon me. Pardon me. That is another deliberate misstatement of evidence, of the Court please. The witness Rathborne, in whom this special prosecutor places so much faith, told the Court and jury under oath that he, who had kept the minutes of all of the meetings during this period in June and early July, testified that the minutes were true and correct.

The Court: Mr. MacInnis and Mr. Hallinan—you on behalf of Mr. Schmidt and Mr. Robertson, and Mr. Hallinan on behalf of Mr. Bridges—will have a full and fair and complete opportunity to argue the matter on behalf of your respective clients. [7584] Now, ordinary courtesies demand in argument that you not interrupt unless you have a vital objection. If you have an objection, urge it. I admonished you yesterday, where you have an argument, and if the matter arose, the matter of what Mr. Rathborne may have testified or may not have testified is something that you may argue, if the record so reflects, you may argue. I think Mr. Donohue, in fairness, is entitled to proceed without interruption.

Mr. MacInnis: I will say this to your Honor——

The Court: That record is so entrenched and so grounded into our procedure that I thought I would not have to interrupt you.

Mr. MacInnis: In cases of our right to argue, I trust that we will not impose upon either the Court or jury by misquoting evidence, and if we do, I certainly invite either your Honor or the special prosecutor to interrupt either Mr. Hallinan or myself. That is our position. We don't think that the latitude in argument allows a misstatement of what the evidence shows.

Mr. Donohue: My distinguished adversary's interruption calls to mind another of the homilies for which I am indebted to Mr. McMillan: "The hit dog yelps."

Now, subsequently to the mistake that Mr. Bridges made on the 8th of November and which I have just called to your attention by reading from the record, Volume 50, in realization of [7585] the fatalness of that mistake, Mr. Bridges came back in Volume 58, in order to change the record and to remove the deadly damage done by that unreflective, unconscious and quite likely truism, and he said, many hundreds of pages later in Volume 58, on February 23, fifteen days later, Mr. Hallinan asking the questions, and Mr. Bridges the witness:

"Q. What were you criticized for?

"A. No. 1, allowing a situation to develop"——

Not getting the answer he wanted, Mr. Hallinan interrupts his witness and says:

"Q. I mean as regards marking him present when he was absent.

"A. We were criticized for that.

"Q. What was the result of that criticism?

"A. There was no more of that. We were told to cut out the funny business and stay by our own rules that we had adopted."

I think it unnecessary to say more about the reams and reams of documents that Mr. Bridges and his counsel have so carefully prepared in order to convince you that by these records he can establish in your minds a doubt that Harry Bridges at some time during the 1936 convention of the national Communist Party in New York was elected to that committee and attended a meeting.

If you want any further indication of the value of these [7586] documents, listen to Mr. Hallinan as I quote from the record, his idea about documentary evidence—and he is now speaking about a piece of evidence that has been reposed in the office of the probation department of Los Angeles County, State of California, and which was brought here by direction of this Court under subpoena from this Court and in the custody of the probation officer. Mr. Hallinan says, on page 7471:

> "We don't believe it was dismissed then. There is no order dismissing it. Anyone can type in a thing on a card."

That is the same Mr. Hallinan who suggests that anyone could type in on the probation record kept in the office of the probation department of Los Angeles County, State of California, what the probation officer read from that card, "Case dismissed," with the initials and the date. That is the same Mr. Hallinan who suggests that impropriety, who will stand here until we have reached the point of exhaustion trying to convince you that you can rely on the reams of records purportedly made thirteen years ago to establish an alibi, not to the indictment but to one item of proof.

So, ladies and gentlemen of the jury, I say to you that when they have vented their spleen against those who have testified against them, and when they have argued what to them is the most important because it is the only thing they can argue, the question of the perjury of Paul Crouch and Manning Johnson, [7587] don't be misled as to their motives, because remember, too, as I stated yesterday, Mr. Lawrence Ross—You can call him Rosenstein, if you will. He was Ross when Bridges knew him; he was Ross when Bridges and Schmidt accepted the services of the Communist paper for which he was then the editor, the Western Worker, in the 1936 strike. He was Lawrence Ross when Bridges attended the meeting presided over by Lawrence Ross as chairman at which Schneidermann, whom Schmidt, who only met him once, slipped and called him "Bill," and whom Bridges very familiarly called "Will Schneidermann," made his report on the current International Congress. [7588]

Lawrence Ross stated that as a member of the California delegation to that Congress he voted for Bridges and he voted for Schneidermann. As I said again yesterday, he was not the only delegate from California, and why didn't the defendants bring his co-delegates to deny the allegation?

And lastly, on this day, and perhaps more important than all, was the fact that through the lips of Mervyn Rathborne, Roy Hudson, a name to conjure with in the Communist Party, stated that Bridges had been rewarded by election and service on the National Committee of the Communist Party.

And then they have one more talking point. Or perhaps if you will indulge me for a moment, I will take just a few moments to call your attention to the statement of an alibi by a great text writer, and I incorporate, if I may be guilty of plagiarism, his statment as my own:

> "The defense of an alibi, though in itself most reasonable and just, it being sometimes the only defense which an innocent person can make against an unfounded charge, is liable to an objection, the truth and force of which have been exemplified in so many actual experiences as to occasion it to be viewed with peculiar suspicion and distrust. This objection consists in its great liability to abuse growing out of the case with which it may be fabricated

> and sustained by false testimony and the difficulty with which such fraud and perjury are detected. There are two [7589] principal ways in which the fabrication of this species of defense is found to be effective: first, it is effected by collusion and concert between the accused or someone acting in his behalf and one or more individuals who for the sake of hire or an unrighteous friendship profess themselves willing and ready to testify to the necessary fact, though actually false and known to be so, and to accordingly venture upon the course of direct and wilful perjury; second, it is effected by inducing a person who is found to have honestly and innocently received an erroneous impression to state such impression as a fact in the character of a witness under oath. The former of these courses will require no explanation. The latter could be discussed for pages."

Now, when they have finished or perhaps I should say if and when they finish their discussion of the alibi, they will then come to another item of defense always remembering that only two of these 38 witnesses were in a position to and did in fact testify that Bridges was not a Communist. They will want to discuss this question of character evidence, because there is a well recognized principle of law concerning which his Honor will charge you in substance stating that the circumstances of a case may be such that an established reputation for good character standing alone may create a reasonable doubt as to guilt, even though, without such evidence of good character, the evidence of [7590] guilt might be convincing. Let me read you again from a great text writer and if I may be guilty of plagiarism, I will adopt his suggestion:

> "Like the conclusions arrived at by courses of presumptive reasoning in general, the inferences deductible from evidence of character are by no means infallible but on the contrary, liable to more or less error. The great practical difficulty subject to being encountered in the application of this species of evidence consists in the fundamental fact that the reputation for the possession of the particular quality in question is necessarily drawn from the exterior conduct alone, and it is by no means uniformly true that this exterior is the product and result of the internal causes assigned, upon the existence of which its value obviously entirely depends. It is not less true of psychological than of physical facts that appearances are often fallacious. Cases have occurred and continue to occur in this country as well as abroad in which crimes of the highest grade have beyond the possibility of doubt been proved against individuals who, down to the very moment of their discovery, have borne, even among those best acquainted with them, not only good but irreproachable characters, men whose reputation for uprightness in dealing has been almost proverbial, have suddenly appeared as forgeries on the most extensive scale. Men with characters for [7591] mildness and

> gentleness and even the habitual observance of religious duties, have appeared as the perpetrators of atrocious murders. These instances of the apparently sudden ruin of the whole moral character which have sometimes astounded entire communities and are otherwise so inexplicable, become easy of explanation on the assumption that what appeared to be the character and was so reputed was in fact a mere exterior without any real internal foundation. The ruin has not been sudden but the reverse. The real character, where it has ever been good, has for some time been secretly corrupted and would have discovered itself sooner had the proper occasion sooner occurred.
>
> "Cardinal Newman once said character lives in a man; reputation outside of him. A man's character may be unknown and his reputation good or bad. He may have a good character and a bad reputation or a bad character and a good reputation: He may be a man who stole the livery of heaven to serve the devil, or as Shakespeare has said, 'The devil hath power to assume a pleasing shape.' "

And if I might further quote from Shakespeare, who seems to have a word for everything, let me quote one line from Hamlet:

"That one may smile and smile and be a villain."

Now, there isn't any necessity in these days for me calling your attention to the fact that in our own times persons have been charged and convicted of crimes that have shocked the [7592] conscience of our nation, and that incidents in our modern times are so fresh in our memory we can recall instances where the men have established their reputation for truth, honesty and integrity by the testimony of men who stand in the highest positions in the judiciary system of the United States. Undoubtedly the person so accused had a reputation for good character, but the verdict of a jury speaks the truth. Reputation is outside of a man. Character lies within. And the verdict of the jury dissipates the reputation and turns the inside of the man to the outside for the world to see what his character really is.

And so I am persuaded in my own mind that as you analyze, as you will, I am sure, under the careful instructions of His Honor, the value of the reputation evidence, provided you find in the first place that the witness called here established a reputation for good character on the part of these defendants. And I shall not speak of the unhappy situation where five representatives of the shipping interests in the State of California, under the lash of Lou Goldblatt, Bridges' union's secretary-treasurer, came here and sold their conscience and their souls for the dollar of profit.

May we take the recess at this time, Your Honor?

The Court: We will take the morning recess, ladies and gentlemen, with the same admonition to you, particularly during the arguments, as I have given them to you in the past.

(Recess.) [7593]

Mr. Donohue: Having vented their spleen on the Government of the United States and its witnesses, having paraded their alibi, and having congratulated themselves on their reputations for good character, they will then and finally, tell you about the testimony of the three defendants. Robertson said he was called a Communist all his life. Why? Robertson, the man who didn't have sense enough to keep quiet. Robertson, dull and unimaginative, but a pretty good rabble-rouser when you spelled the line out for him slowly. Schmidt—surely, cunning, cold, ruthless; the Communist Party member who gave Henry Schrimpf the card for his application. Schmidt, the man who would hide behind the skirts of his own daughter by calling her as a character witness. Maybe his wife, who wasn't called, and her testimony, which we didn't hear, may more truly have reflected his real character. And Bridges, president of the maritime division of the World Federation of Trade Unions. Bridges, a vain man. Bridges, egotistical, clever, dangerous. Bridges, the man with a greed and a lust for power. Bridges turning to the Communist Party for power is just as natural as a flower turning its face to the sun. Bridges, a fraud and a faker, who prates of the democracy of his union, the union he has ruled with an iron hand. Bridges, whose real devotion to the welfare of his union is a mask to secure the union for his own purpose, the whim of Soviet Russia.

Let me read you from the record, page [7594] 6495:

> "The supreme authority of the international union shall be in the general membership which from time to time through referendum and convention may delegate such powers as it deems proper, necessary and desirable to the international executive board, president or any other officer or officers of the international union."

And then:

> "In practice that is the way our organization functions, and in the first place, all of the officers are nominated by petition signed by the members. For example, any member of our union who has been a member for two years and obtains 250 signatures on a petition, may have his name put on the ballot to run for president, and then the requirements for other officers are one year service and 100 signatures. The officers are elected by direct, secret referendum of the membership. The international officers of the union, of which there are nine, constitute the international executive board, which sets the policies of the union between conventions. The conventions are attended by delegates who are elected by a secret referendum vote of the members of the various local unions. These delegates gather together in a convention, and the policies and program of the union are set forth and determined at those international conventions of ours, and the people directly elected by our 20,000 members gathered together in conference [7595] and determine the

> policies of our organization and who run the union and who elect the officers, and with that kind of setup, it is obvious to any fair-thinking person that any small group could not be running the union because it is very easy for the members of the union to recall the officers if they violate the constitution or if they go contrary to the policies and programs set down by our international convention, and the major decisions of the convention are always submitted to referendum vote for approval by the membership before they become effective."

Sounds like Mr. Bridges, doesn't it? But it wasn't. It was Mr. Rathborne, speaking in 1940, as the confirmed Communist he then was—speaking the same thoughts, voicing and prating the same democracy in his union that Bridges, the Communist, gives you in 1950. On that subject the line hasn't changed, and it wasn't very many questions after that that Mr. Rathborne told you that as a matter of fact his union and its policies were dominated by the Communist Party.

Ladies and gentlemen of the jury, I think I should say to you at this time that in presenting the Government's evidence and in cross-examining the defendants and their witnesses, and now in expressing to you the views of the Goverment with respect to the evidence, I have sought to do so with a careful regard for the rights of these defendants and with painstaking care that no act of mine might in any manner or to any degree [7596] deny them their right to a fair and an impartial trial.

I have also sought to conduct this trial with the dignity and respect for this Court and for our entire judicial system that the people of the United States have a right to expect from one who appears in a representative capacity for them in a prosecution instituted in their name. To do so has not always been easy, for I was a man and a lawyer far longer than I have been a special prosecutor. I may for a long time wonder if perhaps in my zeal to protect the rights of these defendants and in refraining from engaging in a brawl for hire, I may have prejudiced the rights of the people of the United States. In your hands lies the answer to that question.

And as you listen to the views of Mr. Hallinan and Mr. MacInnis, I think you should remember that it was Mr. MacInnis who stated to you that he would prove that Manning Johnson was convicted of a felony. That proved to be a misdemeanor committed by a man called "Man Johnson," long since dead. And I think you should remember that it was Mr. Hallinan who sought to impeach the witness John Schomaker by reading from a transcript that didn't exist, a question and answer that was neither asked nor made. And who justified the same upon his right to trick a witness, it being evident that the exercise of that right would at the same time trick both judge and jury. Lest there may be any mistake about that, let me read from the record, page 1449:

> "Mr. Hallinan: . . . I have no intention of producing a [7597] document to confront this witness with, and now I suppose I am divested of the opportunity to ask other questions of a similar nature which I intend to ask and see if

I could trick him into saying things that would disclose his manifest unreliability as a witness; in other words, his willingness under any circumstances to say what suits his purpose at the time. I submit, if I may be permitted to finish with one more sentence, I do not know anything that impeaches a witness more than to ask him a quetsion whether under oath on a previous occasion he did not state the exact opposite of what he has stated under oath here, [7598] and the witness replies, 'That is very possible, but I don't recall.'

"Now, I am satisfied with the answer and that is all I want. If they want to clear up the matter and produce some transcript, let them do it.

"Mr. Donohue: May I ask this: In order to determine whether the witness has been tricked by Mr. Hallinan, I ask Your Honor to ask the Reporter to read the statement that was made by Mr. Hallinan as a premise to asking the witness certain questions to determine whether or not Mr. Hallinan did not lead us all to believe that he was reading from a transcript, and if that is so, I think he should now produce that transcript.

"His Honor: It certainly was my understanding Mr. Hallinan was reading from a transcript when he addressed those other questions.

"Mr. Hallinan: And I will say that is the impression I tried to convey, not to Your Honor or the jury, but I tried to convey it to the witness to see if the witness, as I say, having no reliability, was willing to testify to anything, thinking, 'He has a transcript. I better say "Yes" or at least give a guarded statement.'

"The Court: He did say 'Yes.' I do not know this his remark would be regarded——

"Mr. Hallinan: That is up to the jury. [7599]

"The Court: Mr. Donohue, what have you to say?

"Mr. Donohue: I think, if Your Honor please, that we were all led to believe by the questions that Mr. Hallinan asked of this witness he was reading from a transcript of that testimony of this witness at a prior proceeding. This jury has a right to believe that.

"The Court: I will say for the record I believed it.

"Mr. Donohue: And this jury, if Your Honor please, had a right to believe, when he waved that document that this witness did make that answer.

"The Court: I believed further Mr. Hallinan's assurance to me that he was going forward in good faith. I accepted his statement.

"Mr. Donohue: It appears now he never did have such a transcript.

"Mr. Hallinan: Your Honor, I do not think we should have a discussion of that kind.

"The Court: I say I believed

"Mr. Hallinan: If we have such a discussion, I think I convince Your Honor very easily. I told you this, when we had the discussion about impeaching this witness, which I abandoned at the time—I was going into these documents and circulars he had distributed around and I abandoned that for the moment. We had the discussion of their admissibility and I told the Court I would mark off on the document [7600] certain portions and wouldn't say anything about them; they were other people's encomiums of Harry Bridges, that I would display good faith to the Court in that connection. But to say, Your Honor, that counsel is forbidden the ordinary devices that lawyers have employed for hundreds of years to trick witnesses in lies and to show a disposition on the witness' part to lie when it is convenient to do so, that is to take away all the weapons for the discovery of truth."

And I ask you, ladies and gentlemen of the jury, as you listen to Mr. Hallinan, to recall that it was Mr. Hallinan, too, who sought to trick the witness Rathborne by the suggestion of the possession by him of a dictograph recording that did not exist. However, I am frank to say it was done in so amateurish a style as quite unlikely to trick anyone. And that it was Mr. Hallinan who said he had proof that the witness Michener had signed a Form 57 in which he had denied under oath two prior convictions of the prohibition act.

Reading from page 6266 of the record:

> "Mr. Hallinan: We know Michener answered those two questions falsely."

At His Honor's suggestion and request, we brought Mr. Michener back.. Where is the proof that Mr. Hallinan would trick you into believing he had?

And I ask you to remember that it was Mr. MacInnis who said [7601] he would prove that the witness Schrimpf had falsely sworn that he was not, nor had he ever been, a member of the Communist Party in an application made by him for his citizenship. And I ask Mr. MacInnis: Where is that proof?

And I ask you, ladies and gentlemen of the jury, to remember that it was Mr. Hallinan who became at least mildly upset when it was suggested during his cross-examination of the witness Rathborne, from a purported carbon copy of a letter, that he produce the original of that letter if there was such.

I caution you at this point, ladies and gentlemen of the jury, because Mr. MacInnis and Mr. Hallinan who not only engaged in the trickery I have just noted, but in addition, they have without exception characterized as a fraud every certified, exemplified, authenticated document produced by the Government, and produced in most instances at their request, whether those documents came from the files of the Immigration Service, the Department of Justice, the Department of Labor, the War Manpower Commission or from the records of the County Court of Los Angeles County, State of California. And, ladies and gentlemen, they will trick you if they can, for they have no faith either in our institutions or in their own cause. And I quote again from the record, page 7471:

> "Mr. Hallinan: I have lost a lot of faith in this court; I will tell you that; a lot of people and institutions I thought people could rely on I have abandoned faith in." [7602]

Ladies and gentlemen of the jury, I shall look forward with extreme pleasure to the opportunity some days hence to answer the arguments of Mr. Hallinan and Mr. MacInnis.

Thank you for your attention.

Closing Argument on Behalf of Defendant Bridges

Mr. Hallinan: The only part, the only description that Mr. Donohue gave of me that I feel much concerned in correcting immediately is the statement I am going to be tiresome and tedious because I will try to not be and not oppress the jury by saying a lot of unnecessary things.

As a matter of fact, when you start out on one of these arguments you should have a purpose, a reason, in consuming time at all in it.

Now, standing up and reciting off what the witnesses whom you have called have testified to is a great waste of time. The jury knows all of that. There isn't any question as to what the witnesses said. In one particular instance here or there it might be advisable to correct an impression or refresh your recollection, but what possible benefit is gained by saying, "This witness said that or this witness said this or this witness said the other thing?" We all know that. We all sat here and listened to them.

The problem that the jury is confronted with is to tell which of two sets of witnesses who are telling conflicting stories are telling the truth. That is the proposition. In other words, [7603] if all these witnesses that Mr. Donohue produced on the witness stand were telling the truth, then there isn't any question as to the effect that their testimony would bear: it would mean, of course, Mr. Bridges had been a member of the Communist Party; had testified falsely and so forth and so on. But the problem that confronts the jury now is to see, Mr. Bridges and his codefendants having denied this, who is telling the truth.

If counsel has some experience or some sagacity that so suggests a clue, why, then it is useful for him to produce it. Personally I take the position that a man practicing law having a larger experience in these things than a jury can possibly have may be of some help, although I wouldn't trade my hair or my blood pressure for Mr. Donohue's. I am several years older than he is, and I think that I have had more experience in the trial of cases than Mr. Donohue has, although that I only gather from his manner of trying the case and what he has said to you.

For instance, ladies and gentlemen, he picks out a small matter and he exaggerates it into a large one. With regard to the little woman Mrs. Murray, there is no proof of depravity or perjury on her part that she disagrees with either the theologic or political faith of Mr. Donohue. There are a great many people in the world, a great majority of the people in the world, who not only do not believe in the existence of a heaven or hell, but have never heard of it. So that the mere fact that a person says, "I do not believe in the existence of a heaven or hell [7604] and which I realize to Mr. Donohue are correct and orthodox, to say, that is the height of depravity is to inject something into human relations that the faintest aspects of justice would not permit.

Now, the young woman said, "I believe in justice on this earth." And some place further along she said to Mr. Donohue, "I consider your government corrupt and a tool of the monopolies." Neither of those things indicates that the woman wasn't telling the truth.

The contention that a government as it exists is the tool of the most powerful interests in a community is certainly not original with Mrs. Murray. The first knowledge that I have of that is in Plato's Dialogues, back some 2300 years ago, in which he made that contention, and people have said matters of that kind without being painted or cursed or considered unfit to be believed in a court of justice before Mr. Donohue ever encountered Miss Murray.

As far as her belief in heaven or hell is concerned, the whole matter comes to this: that instead of being a guage of perjury, isn't that rather an indicium of truth? Now, we are not children. We know that people are shocked by statements of that kind. Mr. MacInnis talked to this young lady. Her political and religious faith are entirely different from his, but, my friends, we are not expunging any records. The witness came in and gave the statement as she felt it and gave her statement [7605] as she knew and remembered it. If we were interested or if she were interested in deceiving the jury, it would be a very simple thing to say to her, "Now forget that; pretend yourself to be very orthodox in these things. People on the jury have certain prejudices, certain beliefs and sentiments; you should go along with them. By doing that you will be more useful to us." That would be the dishonest thing to do, and I doubt very much that the young lady would do it. I think the young lady is a very honest young woman, wrong-headed, perverse in these ideas, willing to pick up the gauge and fight Mr. Donohue and the august representatives of the government right from her own obscure little position, to stand, as she says, for justice on this earth.

Well, we won't worry about her too much anyhow because here is what we are going to do: Mr. Donohue, myself and Mr. MacInnis and numerous others, we are secure of justice on this earth; we are rich and well off, in peace and security, and my friends, we believe in heaven and hell; we are orthodox in our theology, and we are correct in our morals, and we are going to heaven. We are all of us going to heaven. And as one of the concomitants of all virtue is charity, when we get up there, Mr. Donohue and I and all of us are going up and we are going to talk to God, and we are going to say, "This little woman was wrong. Jean Murray hasn't any standing with you; she doesn't believe in a heaven or a hell, but she believes in justice on earth, and if she fought to get [7606] justice on earth while we were concerned with our own welfare on earth and the salvation of our own immortal souls, take some of the grace that flows over in over-abounding abundance into us and give some of it to little Jean Murray so that she may enter into the kingdom with us." That is what we are going to do, and that will satisfy the universal conscience in all respects. And while we are passing upon the subject of Jean Murray, we will take a little glance at a peculiar circumstance that shows some reflection also upon the testimony of Betty Texeira. Now, you remember that she said that Rathborne told her he had won a thousand dollars playing poker on the ship. She could not possibly have known at the time she testified here that the records of the marshal's office show that around that time Rathborne had received precisely a thousand dollars. So there is from outside some concomitant that sheds the light of truth upon what the girl said.

Now, to get up there and say, "They are lying, they are this, they are that, they are Communists," —what is the use of doing that? Here is what counsel is doing, ladies and gentlemen, and it is a phenomenon of our civilization that we are all familiar with. It is what you call the advertising man's approach to the practice of the law. If you get up and say a thing often enough and seriously enough, "He is a Communist, he is a Communist, he is a Communist," why, after a while a certain number of people begin to believe that he is, and that has been [7607] the fate of Harry Bridges now for 15 years. The newspapers, perjurers, officials, lawyers got up and said, "He is a Communist, he is a Communist, he is a Communist," and it is certain that a large amount of it is bound to stick.

Now, I might suggest to Mr. Donohue, having at one time made a study of the phenomenon of hypnosis, that if he get a shiny object like a half dollar and move it back in front of the jurors' eyes so that they keep looking at it, and then keep saying that, and then keep lowering your voice gradually, you sort of lull them into a sleep. They will accept your word. You may write on their minds and they won't pay any attention to anything else, so that you will have infused into them that thought by your own statement, although, of course, you do not know more about it than anybody else and maybe a little bit less.

Hitler exemplified this in his single statement that if you tell a lie often enough, finally everybody will believe it.

Now, another little matter that we might just glance at is the utility of arguing at all. In an opening statement there is some use. A lawyer gets up and he tells the jury in advance what he expects to prove. If he is fair, he will tell them the whole story. He is entitled, and he should say everything which he can reasonably expect he would be allowed to produce in the evidence. I might be wrong. Some ruling of the Court might bar out certain matters. There might be some failures of the proof [7608] that he is unable to supply. But he is entitled, and he should tell the jury exactly what he intends to prove. With some lamentable lack of success, I endeavor to do that in an opening statement to the jury.

Now, as far as the closing argument is concerned, I do not know whether what I would have to say would be any more persuasive. As a matter of fact, in the early part of that trial, the criticisms from my own camp were at least as vigorous as those from the other side, and every time I opened my mouth somebody would come up running from the courtroom—maybe a friendly newspaper reporter, one of my associates or something like that—and say, "Why don't you keep your big mouth shut? You are getting in bad with everybody. Everybody is sore at you." And ordinarily they point out one of the ladies in the jury box, saying, "When you said that, Mrs. So-and-So stiffened." And by the time I got through, this poor lady would have been as stiff as a ramrod.

I am not an amiable or a lovable person. Don't pretend to be. I am what I am. But I haven't anything to sell, and I am not trying to pretend to the jury or pretend to anybody else that I am any different from what I am. What is in me comes right out on the surface.

I started out in the case, Mr. MacInnis and myself, when Mr. Donohue came here, without any quarrel and with a hospitality worthy of the city, as he flatteringly tells us. Mr. MacInnis [7609] and myself went up to Mr. Donohue when he first came in here with all that old western hospitality, you know, a couple of fellows in chaps and gave Mr.

Donohue the big hand and said, "Tie your hoss up at that hitching post and come in and have a drink." And then when the other lad came carooting out here a few weeks afterwards we went up and did the same thing. We were as affable as affable could be.

Well, what was the result? I want to show you the first gun fired in the controversy that now carries Mr. Donohue to the disagreeable finality that he has put here. Here is Mr. Donohue:

> "We expect," he says, as he told you here in this argument, "to present this case with dignity to the United States, carefully safeguarding the rights of these three defendants, and I most respectfully observe to Your Honor that while the contemptible and contemptuous conduct of Mr. Hallinan, who has roamed this courtroom since Monday of last week like a mad dog, disregarding the rights of everyone including your own, I say, if Your Honor please, that the integrity of the courts of the United States require Your Honor at this time that action be taken, that we be not subjected to this kind of conduct in the future."

And he went on:

> "Mr. Donohue: If Your Honor please, I do not concede that the removal of Mr. Hallinan from the representation of Mr. [7610] Bridges would operate to the detriment of Mr. Bridges. I quite definitely feel to the contrary. I concur thoroughly and wholly in what Mr. MacMillan has said."

And Mr. Paisley arose and said this:

> "Mr. Hallinan—I will not refer to him as 'counsel'—I will not prostitute the word by using it in relation to this matter—he has desecrated this temple of justice, Your Honor. This is the temple of justice; he is trying to make this a bawdyhouse."

Now, under what circumstances were these statements made? And prescinding from my own situation, let us take this little statement of Mr. Donohue about Mr. MacInnis, whose reputation for courtesy and politeness is something that he deserves slapped down once in a while. He is too damned nice. They said this about Mr. MacInnis:

> "If Your Honor please, I do not know whether Mr. MacInnis is plainly stupid or cunningly culpable."

Now, getting back to the matter I was discussing myself, here is what it comes to. I am making the opening statement to the jury, trying to tell them what I expect to prove, and which I submit has been proved to the hilt. But Mr. Paisley jumps up and says, "Your Honor, if this is not contempt of court, I have never seen it in my career." Here is an officer of the United States Government now at the outset of the case accusing his opponent of contempt of court and citing the wrath and malice of [7611] the court against him.

> "Mr. Donohue: I object to the question and again state to Your Honor that Mr. Hallinan's

> deliberate and repeated questions, which he knows as a lawyer are beyond the scope of that limitation defined by Your Honor, is highly contemptuous of the decision of this court.
>
> "Mr. Paisley: He has been told a dozen times that what went on in those prior proceedings had nothing to do with the simple issue in this case. He stands here repeatedly showing his utter contempt of Your Honor's rulings."

So here are all these fair gentlemen. Mr. Donohue is preserving the rights of the defendants that come into this court room and attacking another lawyer for doing his duty under difficult circumstances, and citing against that lawyer the hatred and rage of the court by misrepresenting to the Court the effect of what was going on, causing that lawyer to receive a sentence of six months in jail and disbarment from this court. And then, my friends, here is the cream of it: With a couple of bailiffs holding onto the lawyer so he could do nothing or say nothing, to demand that then and there the lawyer's imprisonment start immediately so that he would be removed from the case and that he be not permitted to represent further the man who had chosen him and selected him. I am going to repeat the one statement here, where the Court points out that possibly under the circumstances it might be an injustice to the defendant if he [7612] would not grant me the stay of execution which I solicited, not out of any concern for myself, but in order that my client's rights be protected, and that he be not mistreated and robbed of his rights to a defence. When the Court suggested that that might be right, that I be permitted to stay here and start the sentence after the finish of this case, what do these people do? They paid me the high compliment of getting up here and insisting and demanding and petitioning the Court that that request that I made be not granted and that my sentence be required to start immediately, that the case be continued two weeks and Bridges go out and find other counsel; other counsel who in two weeks could prepare a case as difficult and long as this. And here is this fine gentleman who has talked about fairness—his urbanity, his smoothness, as some of these people define it:

> "If Your Honor please, I do not concede that the removal of Mr. Hallinan from the representation of Mr. Bridges will operate to the detriment of Mr. Bridges. I quite definitely feel to the contrary. I concur thoroughly and wholly in what Mr. McMillan has said."

And poor little McMillan, a hack brought in here to lend this plot some sort of respectability, had first made the objection that I should not be granted that. So when we are talking of fairness, let us not ask, "What does this man say about himself?", but "How does he act?"

The Court: We will take the noon recess, ladies and [7613] gentlemen of the jury, and we will resume at 2:00 o'clock. The same admonition to you not to discuss the case.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [7613-A]

Afternoon Session—Friday, March 17, 1950

Mr. Hallinan: I might remark that something in line with the criticism directed at poor Mrs. Murray was that directed against B. B. Jones. B. B. Jones certainly seemed to be, from outward appearances, a figure of honesty and veracity. He minced no words; he said what he wanted to say in his own way. But counsel takes umbrage at the fact that Mr. B. B. Jones called him a liar and used even stronger words in describing John Schomaker's story.

Now, in a more urbane civilization, an incident like that would receive a higher merit. You may remember Victor Hugo's story of the sergeant at Waterloo, Cambron, the last sergeant of the last square of the old guard, and the rest of the grand army had been swept from the field. He refused to surrender, and Hugo says that Wellington himself rode up to the square and called out, "Surrender, brave Frenchman!" and Cambron answered with an oath. Now, I am not going to offend the ears of the jury and spectators by stating just what the oath is, not too bad, but we will be delicate about the matter. Victor Hugo goes on and says he apotheosized an oath, he glorified a vulgarism. And the French now have a term "mot de Cambron," meaning "Cambron's word." So instead of indulging in a vulgarism, it means that a member of the Chamber of Deputies will stand up and say, "Mot de Cambron." I imagine in a French court if B. B. [7614] Jones had attended there and given the statement he did, that we would now have a new figure of speech, "phrase de B. B. Jones." In other words, "It is a god damn lie." So hereafter when we want to use that term, all we have to say is "phrase de B. B. Jones."

The subversiveness of the language of Mrs. Murray finds some backround in a document that I have no doubt will, at least at the end of this trial, find itself in the Index Expurgatoria of the Attorney General with the lists of all those American-sounding organizations that we have heard about. Here is the language; I disclaim it; I say it isn't so; I back away from it. I only say that it is some authority for the young lady's contention:

> "We have not one or two or three but many established and formidable monopolies in the United States. We have not one or two or three but many fields of endeavor in which it is difficult if not impossible for the independent man to enter. We have restricted credit, we have restricted opportunity, we have controlled development, and we have come to be one of the worst ruled and one of the most completely controlled and dominated governments in the civilized world,—no longer a government by opinion; no longer a government by means of vote of the majority, but a government by the opinion and the duress of small groups of dominant men. If the government is to [7615] tell big business how to run their business, then don't you see that big business-men have to get closer to the government than they are now? Don't you see that they must capture the gov-

> ernment?" ". . . must capture the government. They have already captured it."

Now, who is that? That is The New Freedom, by Woodrow Wilson, President of the United States and president of the University of Princeton. So that contention is nothing novel and shouldn't shock anybody.

Another little matter that was discussed here to which I want to call your attention again because it contains a phrase that may require some explication, in which Mr. Paisley, in carrying out Mr. Donohue's resolution to treat the defendants with great fairness that he has told you he came here prepared to treat them with, Mr. Paisley seconded him ably in that endeavor.

Now, I want to say this: that I am ordinarily fairly cool-blooded, do not lose my temper; but it is impossible to describe the feeling of dismay that I experienced when I suddenly found myself confronted with not the possibility but the probability that I would be removed from the case, with the three or four weeks of hard, active work that I had put in assimilating the material to be produced here, learning what the case was about, and trying to prepare myself for a proper presentation, and that poor Bridges should have to go out and [7616] find himself some person less versed in it, probably less experienced, and bring him in here to contest this matter, and the language, the immoderate language that was employed.

I defy Mr. Donohue to point out in this record or elsewhere, up until the moment that he made the speech that I read off to you, one word or one syllable that evidenced the least discourtesy on my part or that of Mr. MacInnis toward either of these counsel. We were courteous and we were kind to them. We came over and we greeted them. And I will say this: that we were a couple of little babes in the wood. When these gentlemen pulled their chops back over their teeth, we thought they were giving us an affable smile. It was the kind of a smile that the wolf gave Little Red Riding Hood when he met her in the timber. And in a short time the whole effect was changed by statements such as this gentleman has made. He has now run me through the metamorphosis of goat to dog and back to goat again, and I think about completed that entire circle.

And Mr. Paisley, with his delightful little remark, "Your Honor, this is a temple of justice; he is trying to make this a bawdy house." I have been busy in the preparation of the case, haven't had the opportunityto look up the exact significance of the term. I can't tell you what a bawdy house is; I have never been in one, but I have no doubt that Mr. Paisley will furnish you with an exact description. [7617]

In addition to that, this fairness that counsel has, there is another little matter that he played with all through the case; and finally, feeling that it was not sufficiently imbued into the jury and stirred up enough to arouse some prejudice, he came out with it in his closing argument. On every occasion when the name of Mr. Norman Leonard was mentioned as being of some assistance to us, or where there was any discussion of how hard pressed we were to get work done and what shortness of time there was, we were reminded that we had at our beck and call, undoubtedly, the law firm of Gladstein, Resner, Andersen &—some other man, I forget who. All right. And that was constantly drummed, constantly drummed. Law firm. And if somebody's name was mentioned, always, "You mean Mr. So-and-so of the law firm of Andersen, Resner, Gladstein &—". So that Mr. Bridges finally, in amusement, when counsel started in, "You mean Mr.—?" "Yes, the firm of Gladstein, Andersen, Resner and,—". and so on. Well, finally, out it popped. And by the way, permit me for a minute now to point out to you the sinister visage of the gentleman who has been assisting us, Mr. Norman Leonard—very nice, amiable, young man, nothing bad about him, nothing to be concealed.

As far as the firm of Gladstein, Andersen, Resner & Somebody is concerned, it is a firm that for many years has been devoted to handling almost exclusively work for labor organizations and liberal organizations; and in an evil hour for himself, [7618] Mr. Gladstein took upon himself the difficult and arduous task of defending one of the eleven Communists who were recently convicted in New York.

You know, when we were admitted to the bar, we took an oath, and that is one thing that has always stuck in my mind as sort of glorifying and justifying the franchise that the people of the country give us to practice law. It said this:

> "I will never refuse for reasons personal to myself the cause of the downtrodden and the oppressed."

Well, I assure you, my friends, that the carrying out of that promise is a very dangerous and very expensive procedure.

Now, we have had all of this talk about Mr. Gladstein, and finally Mr. Donohue can not resist, in all his fairness. You see, he doesn't want to have anything unfair done to the defendants as to who Mr. Gladstein is and that he represented one of the Communists in New York. And I suppose by that same interpretation, that makes Mr. Gladstein a Communist. Then, to go one step more, that makes his client a Communist. So that makes Mr. Bridges a Communist. And so that we do not fall short of the last distances of logic, then that undoubtedly makes me a Communist. But what is worse than that, the next poor devil I represent, he is going to be a Communist because I represented him. That is the fair procedure that was carried out by this gentleman in pursuance of the high purpose that he said he came here invested with. **[7619]**

Now, we won't pay any attention to little misstatements of the evidence, even where they arise to the dignity of being implications against the intelligence of the jury. For instance, he says this:

> "When Mr. Rathborne left the Communist Party, Bridges destroyed him."

Now, Rathborne testified that he left the Communist Party in June. Then in November he chose not to run again for reinstatement in the CIO, pulled out of it, got out of the way. Bridges made a laudatory talk about him and collected and handed to him $250. He says that when Rathborne got out of the Communist Party Bridges destroyed him! That is another example of the fairness.

And as far as Mr. Gladstein is concerned, now, there have been statements here from the witness stand as to Mr. Donohue's previous mode of earning a living. When Mr. MacInnis came abreast of the situation that existed in the court, in which I was a "mad dog" who should be sentenced immediately and forthwith sent to prison and prevented from further participation in defending Mr. Bridges, Mr. MacInnis and myself suddenly woke up. I felt like a man going in to engage in a boxing bout who finds his opponent has lead in his gloves and murder in his heart. We were up against something that we hadn't expected—here was something deadly and treacherous. That wasn't the ordinary criminal case at all. We thought we were coming in here [7620] and we were going to meet a number of people who said that they saw Harry Bridges at a meeting, a meeting of Communists—a meeting of people who professed things that high officials of the government didn't profess. We thought we were going to have Manning Johnson, something of that ilk, come out here from the east and say what the principles of the Communist Party were, and try to incite a hatred and a prejudice against people who even associated with Communists. But we had no expectation in the world that anybody was going to take the stand, as Schomaker did, and say that Harry

Bridges signed an application; and we had no thought in the world that Crouch and Johnson were going to say, or anybody else, that Harry Bridges had ever been elected to any high office in the Communist Party because those were inventions that imagination could not conjure.

But when we found out what we were up against, when we found the hypocrisy behind the smile and the iron hand in the velvet glove, we started to find out some things about these other gentlemen, and we found them out to such effect that finally Mr. Donohue made a tacit truce with Mr. Bridges on the witness stand:

"I have asked you nothing about your personal life, don't you mention mine." So we won't. But let's ask Mr. Donohue this little question: If you represent and have connections, as your Mr. Pearson claims, with Frankie Costello, the Sicilian gangster and murderer; are you a gangster and a murderer? If [7621] your intimate is John Maragon, the five percenter, corrupter of Congressmen, are you a corrupter of Congressmen? If your chief source of revenue and livelihood is Milton Kronheim, conductor of the liquor lobby in New York, briber of Congressmen, are you a briber of Congressmen? If he purchased for his son, Milton Kronheim, Jr., your partner, a municipal judgeship as was alleged in the public print by the same Drew Pearson and broadcast throughout the world, are you guilty of a part in it? We exculpate you from it. We say you are not. We will judge you by what you do in this case. But don't judge Mr. Bridges, then, by the persons who have represented him heretofore. And we are not apologizing or not explaining that we offer any apology for Mr. Gladstein, because I think all Mr. Gladstein did was bravely defend a difficult case in a bad time.

Now, another suggestion is that the staff of the United States Attorney's office here is undermanned, so they haven't the facilities for prosecuting cases in the ordinary course of events and therefore they must go outside the federal family and hire a private lawyer to conduct the prosecution of this kind. Now, all lawyers dislike that, because when you have the regular constituted authorities, they may step out of line, but ordinarily you have some protection. They have their office to sustain, they are fearful of a reversal, they are fearful of criticism ultimately for having done an unjust thing. But I have never yet seen a special prosecutor in any case—and [7622] I have tried many of them—that the special prosecutor either from an original intention to do all he could to carry out the purposes for which he was put in the position, or being carried along by the spirit of the play or whatever it may be, did all he possibly could to get a conviction by fair means or foul. And that is precisely and exactly what has happened here. If the staff of the United States Attorney was undermanned, what was Mr. McMillan, the chief prosecutor of that office, or the chief deputy, doing here during all of this trial until the day before Lawrence Ross' perjury was exposed? He participated in the matter. He is an able man, a hack. I am madder at him than I am at either

Paisley or Donohue, for this reason, that McMillan and I, I thought, were friends for years. We have always spoken to each other kindly, we have always gone along in a nice, affable sort of way. I have done him little favors and he did me little favors. But when these gentlemen descended upon us out of the East, these Assyrians clad in purple and gold, they swept everybody away. Everybody was unfair. They were such magnificents, descending upon us in carrying upon our ordinary little western court that McMillan fell in with him and he put up one of the strongest arguments of why Hallinan should be driven out of the court and why a stay of execution should not be granted to him. So I have little for Mr. McMillan.

Now, as I have said, too, ladies and gentlemen, in entering the argument I may feel advised that my personality is not such [7623] as to win over any hearts or any minds, and people think and have thought for a long time that I am not a very pleasant or amiable sort of character. And that may all be true. But the jury is not trying my character or my disposition. That is a matter that the jury is not to be concerned with. And the more affable and the more genteel you find the person addressing you, the more you had better look for something that is being put over on you. The man who has something to sell has to adopt a particular attitude in order to get it across. I haven't anything to sell.

Counsel read off that I have said I have lost a lot of faith in this court, meaning in this particular place, and persons and institutions that I had thought I could rely upon. Well, even before I entered this court I had lost a lot of hope, a lot of faith, and what's more important probably, a lot of charity. But the one thing that I still did retain was my sincerity, and I don't want to lose that. And I don't want to change what I have to say, I don't want to call fair foul or foul fair in order to please or placate anybody—I don't care whether it is a judge, jury, prosecutor or spectator.

All this is a matter of development. We don't start off in that way. When I was young I used to run around, you know, breaking lances on windmills and trying to rescue princesses—many of whom didn't want to be rescued—and rushing here to aid that cause and rushing there to aid that one. Well, that is all [7624] very well, but after you get thumped around a bit, you begin to get ringing in your ears, and you finally subside away from that. You get into the place where you crawl off into a corner and curse the injustices of life—maybe take a kick at it once in a while if they come too close. That is about the position that I have degenerated into. In the meantime, I haven't any desire to be offensive or to injure anybody, and sometimes when I am reproached with my manner of talk, action, I am kind of surprised that people criticize them, because I am like the tuba player that said he blew sweet notes into the end of the tuba but they came out kind of sour on the other end. We all have an idea, I suppose, that we are bigger and better and handsomer and more capable than we are. We are like Rostand's story of Chanticleer, the magnificent barnyard cock who had been deluded into believing that his voice was the sweetest in the world, and then one night out in the darkness of the forest he heard for the first time the heart-melting melody of the nightingale, and he was so ashamed and disillusioned that he cried out that he would never sing again. And the tiny bird, lost in the darkness of the tree, conceived his to be the heartbeat of the infinite night, answered him and said, "Learn, oh, comrade, this sorrowful but reassuring fact, that no cock of the morning or evening nightingale has quite the song of his dreams." And when he was going back to his habitation, he reflected sadly that he couldn't abrogate what he had. He said, "We can only [7625] sing the song we know, the song God gave us."

And furthermore, if there is any question about punishing me for being discourteous, talking too loud or otherwise being inappropriate, then I think six months in jail and disbarment is enough to take care of whatever I may have done in this little instance. And as far as my conduct alongside of Mr. Donohue's is concerned, I am a little like the irreverent Jew who was approached by the rabbi for failing to show up on the Day of Atonement. And he said to him "You are so smart!", he said, "You won't even come around and say a prayer asking for forgiveness on the Day of Atonement." So the parishioner said, "Well, rabbi, I will tell you how it is," he said, "I have a separate deal with God." He said, "I had a talk with him last night and I told him, 'Yes, I admit I cut a corner once in a while and I eat food that isn't kosher and I do a lot of things. I don't observe the regulations. But how about you? You fill the world with bloodshed and misery. You make orphans of the child and you slay the infant at its mother's breast.' Then I said, 'I will tell you what you do. You forget my offenses and I will forget yours.' "

And he said, "Well, God said all right, 'we will do that.' " So the rabbi thought a little bit and said, "Well you know," he said, "you let him off too easy. With the advantage you had you could have made him redeem all Israel." **[7626]**

To prescind from these matters that have been forced upon us by the statements of counsel, his criticisms of our conduct, his designation of our somewhat feeble reply, the really harmful things he said against us and his protestations to fairness, we come to consider, ladies and gentlemen, what I said about the matter of determining in this case who is telling the truth. Now, it would be futile and a silly performance for me to start reading off this person's testimony and that one's against it, here, there, and the other one, pretending that the jury will only receive what I have said and ignore what the witnesses have said—a device that counsel has used and which I have seen a thousand times, insurance lawyers and other persons of that sort, put through these little cases that are tried in the civil courts. But you have to consider this: that the great task of the jury in this case is to determine who is telling the truth in this case. Has the prosecution produced credible evidence to establish to a moral certainty and beyond any reasonable doubt the truth of the charge that is made here? And in order to determine your decision in it you have to consider the roles of the various persons that have participated in the drama. Now, it is the obligation of the grand jury to return an indictment if there is a reasonable suspicion that a person has committed an offense. Now, a reasonable suspicion is not a very strong force, so a grand jury returns an indictment when sufficient evidence is introduced before it to raise a [7627] reasonable suspicion that a crime has been committed and to put the person who is charged upon his defense for that crime. Ordinarily, as in this case, the defendants are not heard before the grand juries. Their witnesses are not heard. In this case it seems that certain facts that a grand jury might have taken into consideration, such as the previous perjury of some of the prosecution witnesses, was not presented to it either. But passing that up, the grand jury finds its indictment on reasonable suspicion. Now, the judge who tries the case, it is his obligation to allow the jury to pass upon the guilt or innocence of the defendants if, 'disregarding everything in their favor, and considering only everything that has been said against them, disregarding all inferences, all conclusions as well as all contrary evidence, a jury could find a verdict of Guilty. It is the duty of the prosecuting attorney to present the case for the prosecution as strongly as he can. Now, there is a sort of theoretical and hypothetical supposition, more honored in the breach than in the observance, that the prosecuting attorney is supposed to consult the safety of both the defendant and the prosecution. But, as they never do it, why worry about it? A special counsel is not much worse than regular counsel in that matter. The spirit of the game, the desire to win a victory, the personal glorification of the man, drives him to thing so that subconsciously he hides things away that would affect him under other circumstances, and he puts the case on as strongly [7628] as he can. So we will concede him that right. That is what he does, and that is all he did.

Now, I esteem that it is the duty of the attorney for the defendant to present the case as strongly as he can for the defense. I do not feel that we are under any obligation, and if we were under such, I think I might confess I would slide around the table to get out of it, to find anything or discover anything that would favor a conviction.

And then the question is: What is the function of the jury? Now, the function of the jury is this, that after hearing all the evidence, all the arguments and all the instructions, it must ask itself one question and only one question, and here is the question: Does there now exist a reasonable doubt of the guilt of this defendant? If the answer to that question is "Yes," then it is the sworn duty of the jury to bring in a verdict of acquittal. You can say, "I think the defendant is guilty; I believe he is guilty. I am almost certain that he is guilty." That is not enough. You must then ask yourself one other question: "However, can I say to a moral certainty and beyond any reasonable doubt that there is not one reasonable doubt left of the guilt or innocence of the defendant?" And however strongly you may feel, if your conviction falls short of that test, it is your sworn duty to acquit. Now, you go out afterwards and you can say to the prosecution or you can say to anyone else whom you wish, "I am fairly sure that the [7629] man was guilty. I feel strongly that he probably was. But that was not the question that I was sworn to try. I came into the court and pledged myself to one task and only one task, and that was to determine whether or not there existed and continued to exist after the case had been submitted to me one reasonable doubt of the guilt of the defendant. I found reasonable doubt. I acted upon my oath and my duty and I acquitted him," and that is the task of the jury. The jury is by far the most important portion of the trial, because while the lawyers can manipulate arguments and place witnesses on the stand and ask questions; while the Court can pass upon matters of law, instruct the jury, and so forth, the jury is the sole determiner of the facts in the case, and all these cases are issues of fact: "Is this thing so or is it not so?" That is the thing that the jury has to decide. And it is important also for the jury to have this in mind: that it is by no means an arm of the prosecution. The jury does not sit here as part of the task force that the prosecution can employ to destroy a man. The jury is a part of the defense. The function of the jury from historic times has been this, and this is its justification and this is its glory, because if all the jury is going to do is accept the word of a prosecutor and send people to ruin, then what is the use of a jury at all? Then we just fling ourselves on the mercy of the Donohues and Paisleys who are sent out here to prosecute. What is the use of wasting time if the jury is going [7630] to abrogate its high duty and its high privilege and hand it over to some person who comes out here and says thus and so? What the jury does is this: The jury is a collection of ordinary inhabitants of a country, the fellow townsmen, the co-citizens of the defendant, and they form themselves in a wall around him and they say to the prosecution: "Prove to us that this, our brother, is guilty to a moral certainty and beyond any reasonable doubt and we will deliver him to you. But prove less than that and you must go your way."

And it is the axiom of the law, my friends, too, that it is better that ten guilty go free than that one innocent man suffer. That is a rule of the law that has existed for centuries and is still the rule of the law. And it is the rule of the law that every doubt, every presumption, every question, must be turned on the side of innocence. The law stands before you with the scale in its hands. On the one side it puts the proof of guilt, on the other side is the proof of innocence. But wherever a question or a doubt ensues, the presumption of innocence, like Patroclus' sword, must be thrown in the side of the scale that demands an acquittal. That is not something that is asked of you as a favor. That is what you come in here and swear to do, and to abrogate that would be to do an injury to the jury system, to do an injury to democracy, to do an injury to democratic processes worse than any of these infringements that it is supposed [7631] certain persons are attempting to do to that institution. And that requirement of proof to a moral certainty and beyond any reasonable doubt, what does it amount to? Well, it is a confession to these established facts: One, that it is easy to accuse and difficult to disprove; second, that from time immemorial men have borne false witness against their neighbors; third, that against the terrible power of the state, the individual is helpless indeed; and, fourth, it is a confession to the frailty of human nature. To the temptations under which witnesses succumb to say what is not so, a confession to human fallibility and frailty in identifying the facts as they have happened. It is part of the mercy and a part of the justice that is ingrained in mankind. It is, in fact, finally what has been said, a part of that divine spark that our father Adam carried with him when he looked back through tear-filled eyes to hear across the flaming swords of the guarding angels the dying music of Paradise. And that presumption, that ruling applies not only to the entirety of the case but to every fact, circumstance and condition of it.

We are accustomed to consider countries that do not have the jury system as backward, reactionary, barbaric, undemocratic. In many European countries, especially those that we have been most recently inclined to criticize, cases of this kind are tried before a three- or five-judge court. The judges are appointed by the government, just as the judges in this country [7632] in the federal jurisdictions are appointed by the Government, and we instinctively look with suspicion upon the decisions of those courts, instinctively, and I think rightfully. The great institution that the Anglo-Saxons have transmitted to posterity is the jury system, the jury of ordinary men and women, the cross-cut of the population, the people who represent the defendant who are brothers of his, co-citizens of his, and charged with protecting him against the oppression of the Government itself. That is the glory of the Anglo-Saxon jurisprudence. [7633] And it is necessary and essential that a jury realize the dignity that it must ascribe to itself if the law is to be properly administered in courts of this kind.

The jury, as I have said, is the most important part of the matter. We could dispense with the judge, we could dispense with prosecuting attorneys and we could dispense with the defense attorneys, but still a jury could determine and pass for itself by its own questioning on its own motion on the guilt or innocence of a defendant. So don't take that high office that the people of the country have entrusted to you and make of it less than what they have expected you would make of it. You have to ascribe to yourself the dignity of that office.

Right now you occupy one of the most important offices in one of the most important trials in the world, because this trial has repercussions and is read of in far-off places in languages that none of us could ever understand; and this jury is the most important body, and each individual one of you is the most important man in this courtroom.

The safety of all of us depends upon that one element, and that element, the recognition of its dignity, embodies certain other virtues. You have to have integrity and you have to have courage. You can't feel that you are going to be embarrassed or upset to face some official and say, "We don't accept what you have said; we find in favor of the defendant." You have to have integrity if you are going to keep your oaths and you are going [7634] to keep your word; and if you drop those, then everything is gone. Then there is no use talking about democracy; then there is no use talking about republics; there is no use talking about the freedom of the individual or his right to free speech or his right to free action, or anything else; everything goes.

We live in a world surrounded by terrible forces. We are as though we were inhabitants in a clearing of the jungle. From outside it come all kinds of threats to our existence, threats to our happiness, threats to our security. We would become the victims of lust for gain and the lust for power, the avarice, the ambitions of men. And there is only one protection: that is the dignity that a jury ascribes to its office. It is like that line from Dante when he tells us how he, accompanied by Virgil, traversed some of the pathways down into hell, and was led finally along a narrow causeway beside which flowed a little stream and a rain of fire perpetually fell upon the victims of divine justice who lay beside it. "From this fire," he says, "we were protected by the thin vapors of the stream that bubbled beside us; by such shadowy bulwarks," said the poet, "do the Flemings between Kadzand and Bruges protect their land against the ever-threatening sea."

And by the dignity which a jury ascribes to itself, by its resolution to perform its duty at all hazards, and in accordance with the tradition for which it was created, rests all our security,—everything we have, our freedom, our liberty, [7635] everything.

That a jury will perform its duty and that it will obey that word and that commandment can ordinarily be taken for granted. But of course its resolution in that behalf is affected also by human frailty and environment. They come into court composed of educations, ideas, matters that have been infused into them from childhood. We all think that we have a clear and impartial view of numerous matters upon which we are thoroughly biased and bigoted. It isn't our fault; it is that same human nature and its frailties that we all fall heir to.

It would be rather difficult to assume that all of the jurors, having read about Harry Bridges over the years past, having seen and heard accusations and statements made against him, would not come in here with some prejudice and some feeling in their minds that the man probably is a Communist.

If you take a great heavy weight and suspend it from the ceiling, with all the strength you might be able to muster, you couldn't move it an inch; but if you give gentle taps upon its outward swing, you can soon send it crashing through the wall. And it is an easy thing where a prosecution has a prejudice already established against a defendant at the time it goes into court, to simply keep tapping it in the direction that it is already inclined to take, in order to secure an unjust result. And that is the thing that jurors must guard themselves against.

Now, you, sir, said that you had a bad opinion of Harry [7636] Bridges when you came in here. We didn't care about that. As I said about Jean Murray, the very acknowledgment of that fact was a gauge of the honesty of the prospective juror. We felt that any honest man or woman who would come in here would be speedily convinced that there was no guilt in Harry Bridges, and we were willing to take any honest person, even with the prejudice.

But what would it be if you decided this case upon a prejudice? What would it mean if you permitted to come into court and sit beside you a ghostly mentor, the shadow of things that you had heard outside, and take that phantasmagoria's advice instead of your reasoning of your senses and the things that you heard in the court? Why, it would be the same as though you sat here for four or five months, heard everything that was said, listened to all the evidence, the arguments and the instructions, and then went outside the door and picked up some person who hadn't been in court for one minute, and said to him, "You decide it for me; you pass upon what my verdict is going to be," because that is in effect what it would be. You take the man who came into this courtroom with nothing but a prejudice and with nothing but a feeling that there must be something to it; where there is so much smoke there must be some fire, and so forth, and you are saying to that person, ignorant of what has gone on in here, "I will surrender to you all that I have learned, all of my reasoning and all my [7637] judgment, and you decide it upon the prejudice that you already have." In other words, you would have all wasted your time, wasted your effort and you have defrauded us. And that is something we know isn't going to happen and something concerning which we have no concern.

If there is any figure, any historic figure, that is invested with the contempt of humanity, it is the unjust and biased judge; the judge, who, elected or appointed to high office, sits upon the bench with his mind made up in advance as to what he is going to do in a particular case and how he is going to rule before he has heard the evidence, and then conducts himself in accordance with that resolution.

From time immemorial from the earliest writings of the Talmud, the Koran, the Bible, and from the tomes of ancient Asiatic countries, history and tradition have recorded the contempt and the hatred that mankind has felt for the unjust judge; the judge who acts upon a prejudice and a bias, upon some motive or some consideration foreign and alien to what he has heard in the court. And for a jury to act according to that sort of tenet would be for the juror to constitute himself an unjust judge and to pass his decision and make his decision upon considerations that have justly deserved and received the contempt of all mankind.

Now, there is one difficulty with discussing prejudice, with discussing preordained opinion, and that is that, precisely [7638] and in proportion as he is stupid, does a person nurse and hold to himself his prejudices and his bigotries; precisely as people are ignorant and precisely to the extent that they close their minds against anything new, does a person nurse his prejudices. The German poet Goethe said, "Against stupidity the very gods contend in vain." So that nothing can be done to argue that sort of thing down. There is only one hope, and that is that the stupid person be also an honest person and then he will drive the thing out.

We select a jury upon the basis of its intelligence and its honesty. We try to appraise the people who come in here and sit here to determine what sort they are. We pick people that we feel are both honest and intelligent, and therefore, as I say, we haven't any fear but that any juror who came in here with a prejudice—and we assume, we allow that there may have been some—will not allow that to enter into his deliberations.

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition to you.

(Recess.) [7639]

Mr. Hallinan: If a jury forgets its importance and its function, it is never forgotten by anybody else. If a case goes wrong or if an unjust decision is returned, the judge doesn't take it upon himself to blame himself, the prosecutor doesn't say, "I misled the jury," or "I feel some qualms of conscience at this." They shrug it off immediately to the place where it properly deserves. They put the responsibility on the shoulders that the law designs to carry it—the conscience of the jurors themselves. And I have heard many a prosecuting attorney say of an unjust decision, "The jurors found him guilty." And that's all that is to it. Tolstoy points out that the division of responsibility in our civilization results in a tremendous lot of injustice being done, because each one shifts the blame onto somebody else; and that is illustrative of it.

The district attorney in a case charged with the protection of the defendant as well as with the carrying out of the law, says, "Well, the jury found him guilty, and then the judge had a chance to review it and he didn't do anything about it." The jury says, "Well, the prosecuting attorney advised us so-and-so, and after all, he is an officer of the state, and if we can't rely upon his word, what can we do?" And it wants to divest itself of responsibility. The judge says, "Well, the jury found in accordance with this and that, and I have nothing further to do." The sheriff who carries out the execution order says, "I received the order from the court and it was found by a jury, and that's [7640] all that is to it." So that the jury must realize that it carries the consequences upon its own shoulders; and the jury must realize, to repeat the figure, that it constitutes a wall around the defendant, that it says to the prosecution, "Before you can penetrate through this wall and take this man and imprison or destroy him, you must satisfy each individual one of us to a moral certainty and beyond any reasonable doubt of his guilt, or otherwise we will not surrender him."

In addition to that point of proof, to a moral certainty and beyond all reasonable doubt, the beneficence and the justice of the law, again, to the frailties and chances of humanity, and again a concession to the difficulty that man has of contending against fate and contending against the pressure of the state, invests him with another shield, and that is the presumption of innocence. He is presumed to be innocent. He never loses that presumption. It is a species of proof. It is a great witness that sits beside every other witness and supports and bolsters the witnesses for the defense and contradicts and questions the witnesses for the accuser.

The presumption of innocence is the strongest presumption that the law creates. It says, "Wherever a doubt arises, in the name of humanity, in the name of justice, in the name of mercy, resolve that doubt in favor of the defendants." Do that and you have carried out your duty. And that presumption of evidence applies not only to the total case as it is presented, [7641] but to each and every separate item.

So that all this talk about "Why didn't they bring in this one?" and "Why didn't they bring in that one?" is futile and is an attempt to miscarry, to dull, to set aside or overthrow the presumption of innocence, because it must occur to any reasonable person, as indeed it is the law, that where the question arises as to what a witness would testify to if he were called, the law supplies the answer: He would testify in favor of the defendant. The defendant has to produce nobody. The defendant is not called upon to refute anything by any witness. He isn't called upon to go around and scour the highways and byways to bring in Communists, ex-Communists or anyone else, because the law puts them on the stand for him in advance and says, "That witness would testify favorably to the defendant. We have made the illustration inescapable as to the full proof."

Now, using the same figure as to each separate part; a witness is mentioned, I don't care whether it is Norma Perry or B. B. Jones or Jean Murray or Ivan Hunter or whatever his name is, Hudson—the man Roy Hudson. The jury says to itself in response to the query that counsel addresses to them, "What would that witness have testified to?"—he says, "Why didn't the defendant bring the witness in and put him on the stand?" The jury says, "All right, why? What would the witness have testified to?" We take out the scale, the probability is even; maybe he would have testified for the prosecution, maybe he would have testified for the defendant. [7642] You cannot so speculate. Under your oath you take the full weight of the presumption of innocence and you drop it in the scale that leans toward freedom, and it leans toward acquittal, and you have to say to yourselves, "He would have testified in favor of the defendant."

So what obligation had we to bring in anybody? I don't care who they are. I don't care who they name. The presumption of law—not caprice, not anything that you are given a right to decide for yourselves, not any argument that might be advanced, but the rule of law—requires you to resolve the doubt in favor of innocence. And you must keep it in mind that the purpose of the law is not to destroy but to preserve, that you are a guard around the defendant and not a sword of the prosecution, and that you must not look upon these things that the law allows the defendant with suspicion or with distrust or with scorn. They are our protection, they are what you need, they are what you may need some time, as well as the defendants. Therefore, as soon as it is said to you, "Suppose So-and-So had been brought in; what would he have testified?" you say, "I don't know. Therefore, he would have testified in favor of the [7643] defendant."

We had an example of it. Suppose that following the pattern we took with everybody else we failed to call B. B. Jones. The presumption of law would be that Jones would refute the testimony of Schomaker. The duty would be upon the prosecution, charged with the heavy burden of proving this case to a moral certainty and beyond any reasonable doubt, to go out and bring him in. If he testified in favor of the defendant, the prosecution should not feel upset about that because theoretically the prosecution should be as interested in procuring an acquittal as a conviction in a proper case. But supposing they had gone out and put Jones on the witness stand. What would he have testified? Before he took the witness stand your obligation was to say he would have testified for the defense. As a matter of fact, he did. As a matter of fact, the proof coincided with the presumption, and you may rest assured, aside from any presumptions and aside from any arguments, any witness available to them who could have supported the case of the prosecution would have been brought in here. But no prosecuting department can put a witness on the stand and say, "I was at a meeting with 25 people, including the defendant," and then solicit the defendant to go out and find the other 24 people to prove that it was not so. The exact opposite is the rule. These gentlemen simply anticipate. They are so bold as to make their weakness their strength. If there were ten people at a Communist meeting at which Harry Bridges was present, [7644] no law, no duty, no jury can be satisfied by them producing one man. The question is, "Where are the other nine?" If he says, "We will let the defendant go out and get them," you say, "Why should the defendant perform this task of supererogation? Why should he do what the law has already done for him? What can he do about the presumption that each and every one of the other nine people who are alleged to have been at the meeting would say, "I wasn't there," or "Harry Bridges wasn't there," or, "It wasn't a Communist meeting." So the presumption applies. But what do they do? Boldly and brazenly they put the presumption on their side. They divest—these fair people who are watching out for the rights of the defendant and are so concerned that no injustice is done, they steal the presumption of innocence out of the hands of the defendants and try to add it to the case that they have built up against them. So we always have, wherever the question arises and wherever a witness is not produced, the one thing: You have to presume under the law and under the instructions the Court will give you that that testimony would have favored the defense; and wherever a question, wherever a doubt arises, into the scale of innocence is added that weight.

Now, to get more directly into this case I am going to read off to you four little citations, four little apothegms, statements, credos that help resolve the entire case. The first of them is by John Schomaker. It reads as follows: [7645]

> "Sometimes it seems the easiest way to dispose of a man is to call him a Communist."

The second is a sad realization by Lawrence Ross:

> "When you adopt one lie, inevitably you have got to adopt others to justify and support that lie. That is the lesson I have learned."

And a third was read out of an opinion of Judge Sears, who decided the second trial of Harry Bridges:

> "If I were to believe that O'Neil was framed or his declaration falsified, I would look with suspicion on the entire case presented by the Government."

And that was a Government official. And finally, Mr. Donohue himself, when he asked Father Meinecke, "Are you naive enough to believe that Harry Bridges, who has denied his association and membership in the Communist Party on every possible occasion, would tell you if he were a member of the Communist Party?" But I will say to you, ladies and gentlemen, that unconscious concession to logic is the answer to a very, very great deal of the testimony adduced by the prosecution.

Your Honor, it has been called to my attention by Mr. Mitchell that one of the jurors is somewhat ill. Might we take an adjournment in deference to that?

The Court: Yes. Ladies and gentlemen of the jury, we will take the afternoon adjournment until Monday next at ten o'clock. The same admonition to you not to discuss the case [7646] under any circumstances or conditions or form or express an opinion until the matter is submitted to you. Monday next at ten o'clock.

(Thereupon an adjournment was taken until Monday, March 20, 1950, at 10:00 a.m.) [7647]

Monday, March 20, 1950, 10:00 o'Clock A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Hallinan: If we may go on from where we left off—glad to see you today, Mr. Donohue.

Mr. Donohue: Nice to see you, Mr. Hallinan.

Mr. Hallinan: I had not expected you to be here. I have a motion on this morning in the Appellate Court on which I am requesting a stay of execution in the contempt commitment, and I see by the paper that Mr. McMillan is opposing it. The brilliant, passionate address that you delivered in this court to prevent me from getting a stay of execution might have better success in the Appellate Court; too bad you didn't give it to me. And in addition to that, I always think it is more graceful for a man to do his own hatchet work instead of assigning it to somebody else.

However, he may have as good success as you would have.

Now, the defense, in a case of this kind, ladies and gentlemen, as must appeal to all of you, always has an initial difficulty when a case is declared or asserted to have been made maintained on a basis that does not consult the rights of the defendant, and in its amalgamation and presentation presents a basis of dishonesty or fraud because no matter how obscure an official may be who is involved in such a case, the most [7648] remote constable up to the highest public official always drapes around his own shoulder the aegis of the government and takes upon himself that sense of respectability and that dependency that jurors ordinarily have and should have for the government itself and in officers of the government. So that no matter what is said or how badly a prosecution officer may appear, no matter how fraudulent a case may be, the officer always directs the attention of the jury away from himself by saying that the suggestion that he has not acted fairly or properly, or that agents have gruffly gone around, bribed or coerced the witnesses is an attack upon the government, and then that always has the unfortunate connotation that we citizens of a country always associate ourselves with the government. We consider ourselves a portion of the government, the people that we elect and appoint to represent us. We try to hide from our eyes such weaknesses or defects as they may have because it is an assault upon our sense of security to do otherwise. So there is always that danger that has to be watched out for that because of our own personal vanity and our demand for a sense of security, we are apt to associate first the officer with the government, then the government with ourselves and think, "Well, what is said about these people is an assault upon ourselves."

Now, I had a rather graphic illustration of that one time during the Harding regime. The most astonishing and scandalous accusations were being made against persons high in the United [7649] States Government. The Secretary of the Interior, Albert Fall, sold the naval oil reserves to the Sinclair Oil interests for a miserable bribe of $100,000. The Attorney General of the United States, Dougherty, had engaged in numerous frauds against the government which gained him an enormously larger amount than Fall had received. They both went to prison for it. They were convicted and they were both sentenced to prison. The scandal was of enormous dimensions, involved a great number of people, and I remember riding down in a streetcar. There were a couple of men riding along with me, ordinary looking citizens, and the matter had not yet reached its apex. These two men were having a conversation and one of them was saying to the other, "Why," he said, "these so-and-sos that attack high officers of the govermnment, they would even attack the name of the President of the United States himself. It is just scandalous. It is just terrible."

So I relaxed and thought, "Well, we who profit by the existing order have little to fear from the common people. We can go on right from here."

That is the general attitude that people have. Now, there are numerous illustrations that we have all experienced where officials of the government, high or low, are not such exemplary characters as our traditions and statements that we have been reared on would lead us to believe. [7650]

A very eminent English philosopher, Bertrand Russell, has written a book called "Our Lawless Police." He makes the point that no confession except one made in open court with the defendant represented by counsel should ever be received in evidence, because it is common knowledge that police beat or extort confessions from people. A great many guilty people confess, but a great many innocent people, under stress of coercion, also confess. And I remember Theodore Dreiser's story of "An American Tragedy," in which the district attorney and the police official, the sheriff, satisfied of the guilt of the defendant, didn't hesitate to put a lock of the dead girl's hair on the defendant's camera, so that there couldn't be any question about the matter.

But particularly, in this case, the jury must make a demarcation between the government as such and certain officials of the government. Now, who is the government? What constitutes the government of these United States? Can any three or four people out of the million and a half employees of the government set themselves up and say, "We are the government and what we say and what we do is sacrosanct and beyond inquiry, and there is something wrong into inquiring into it"? Who are the people that germinated, planned, nurtured the plant that we now see unfolding here, for the last 15 years? Is the government Mr. Barber, who sits here? Is it Mr. Kaiser, back here in the first row where he can get a good look at the witnesses all through [7651] the case? Is it even Mr. Dougherty, gloriously out here from the East to do the work that these gentlemen have built up? Who was it back in 1938? Who was the government then? Was it Barber, Boyd and Kaiser? Or was it the Dean of Harvard Law School, who came out here and decided the matter? Dean Landis—one of the most eminent men in the United States, that took the direct and contrary opposite position to what they took. Which was the government then? In 1941, when a similar assault was made, was the government then still Boyd, Barber, Kaiser? Was it Judge Sears even, who ruled very slimly against Harry Bridges? Or was it Mr. Biddle's Board of Appeals that rejected and turned down with contempt the findings that Bridges, not was a member of the Communist Party, but had some affiliation with it? And when they were overruled by Attorney General Biddle, was he the government, or was it the august body, the Supreme Court of the United States?

And in the present instance, who is the government now? Mr. Barber, the absent Mr. Boyd, and

Mr. Kaiser? Or is it yourselves? Who are the people that we can rely on? Who are the government that we, too, have the right to put reliance on, and to say, "We depend on you for our liberty and our safety?" Do we have to throw ourselves into the hands of these people? Or are you the government? Aren't you the last word, the final syllable, in this whole drama?

When we discuss the lawlessness of the prosecution, and [7652] when we say things about certain agencies of the government, such as the FBI, when we give that organization the credit to which it is entitled—when we say as long as that governmental police body functions to detect crime and to bring criminals to justice, when they are running down kidnapers and murderers and dynamiters, we applaud them and they have their proper function. But when they change over to the safer, but more dangerous—for us—position of being a political police, concerned with detecting political heresies and aiding in accumulating things that will destroy political heretics, then we say they have failed their function—their mandate has expired.

When Harry Bridges said to a convention of the CIO in Oakland back in 1941 what he did about the FBI, remember that he was talking to people who had had experience in the very matters that he was discussing with them. He wasn't coming into a lot of strangers who knew nothing about the activities and labor-breaking devices of certain organizations in the United States Government. He was talking to men who had been through it and who knew what they were up against. Here is what he said. Now we are talking, first, about the 1941 decision, Judge Sears'. And remember, I said to you that there were four quotations from this transcript that were anchor points upon which this case could be decided. Now, here was the statement of Judge Sears, who had been a judge in New York, who had dealt with governmental agencies, who knew the extent to which they [7653] occasionally fell. And it wasn't any greenhorn saying something upon which he was improperly advised. He said:

> "If I were to believe that O'Neal were framed or his declarations falsified, I would look with suspicion on the entire case presented by the Government."

In other words, this experienced man, hostile, though he might be to the principles and the persons that Harry Bridges represented, still acknowledged that the government frequently does, or at least sometimes does, coerce witnesses or cause them to falsify their statements. And he said, "If I believed that this one man, that his statement were falsified or he was coerced, then I would look with suspicion on the entire case of the Government."

And I am going to call to your attention presently, my friends, that there isn't one witness that the prosecution has produced whose statement isn't falsified or who wasn't coerced. I am going to ask you to look with suspicion on the entire case of the Government.

But Bridges went on to say this to the convention of the CIO, again in reference to the FBI agents' testimony on the witness stand:

> "He (Judge Sears) said, 'They denied explicitly the alleged intimidation. They were, in my opinion, thoroughly credible witnesses. I believe them implicitly.'"

And we are coming back later on to Rathborne's story of what the [7654] FBI said and did to his brother-in-law Krolek to see how much validity there was to the FBI's denial of intimidation.

Now, Harry goes on:

> "Ask the many union men that have been arrested, intimidated and jailed by FBI agents for union and strike activities. Ask any union man who has had any dealings with the FBI, as to whether they are the angels and souls of honesty that the judge pictures them to be. I know, and the judge admits in his decision, that they violated the law by wire-tapping. I also heard them discussing using the equipment at a union meeting to be held in another part of the hotel when they recently tapped my hotel room in a New York City hotel. I made tests to prove that the information that they got on union matters through tapping my telephone wire was communicated to lawyers for strike-breaking purposes. It is noticeable that our request to prove this was denied by the judge, and the FBI has always denied that

> they engaged in illegal wire-tapping or labor espionage."

Just a few days ago there was one in one of the national periodicals this comment:

> "While the FBI confessed that despite the law and decisions of the Supreme Court, they had listened to telephone conversations between the defendants, it was discovered by chance that FBI agents had gone so far as to illegally tap conversations between the defendants and their lawyers. The [7655] attorney charged that 81 FBI agents were involved in the investigation of his clients. The FBI set the number at 40. Even if the lower figure is correct, it will be seen that quite aside from the ethics and morals involved, it has cost the taxpayers a pretty penny to pay for the FBI's cynical breach of the law and disregard of every concept of human decency. J. Edgar Hoover is himself a lawyer. He ought to have some notion of the highly privileged nature of the relationship between lawyer and client. He is also presumed to know what the Supreme Court had said about wire-tapping."

Now, listen to this language:

> "If the FBI so disregards legal propriety, to say nothing of common decency, as to tap telephone wires in order to hear what a lawyer and a client may say to each other, then it is time for a free people, who never have—it may

be hoped, never will—tolerate a secret police, to abolish the FBI, if nothing short of that will keep it within proper bounds. In the circumstances, it is proper to recall that whereas every other public official of high or low degree is responsible to someone else, the FBI alone seems to have a dangerous immunity from responsibility to some higher authority. Even the President must account to the people for his acts every four years, and in between times to Congress. No group, especially one set up with the [7656] sanction of law, should be permitted to operate as a mafia. It is undemocratic and dangerous for one man, whoever he may be, to have such powers as J. Edgar Hoober has abrogated to himself. A few years ago Mr. Hoover characterized wire-tapping as an archaic and inefficient practice. The federal law forbids wire-tapping. On February 2, 1949, Mr. Hoover in effect said that the FBI is above the law.

"The late Justice Oliver Wendell Holmes called wire-tapping a dirty business. Today it is even dirtier."

Now, that wasn't written by Harry Bridges or some labor man, or anyone connected with it. That was written by Harold Ickes. And you know, who have paid enough attention to the constituting members of our government, and will remember, that of all the people who have been assembled in the Cabinet of a President in the last fifty years, Harold Ickes was the honestest. There was a man who had no concern except for the rights and interests of the people of the United States. He fell a sacrifice to that concern. He occupied the position—at least as high as the Attorney General—of Secretary of the Interior. And he tried to keep the dams, the hydroelectric plants, the national resources of the country that have been conserved and built up with our money, out of the hands of the power companies. And he fell a sacrifice to them. He wasn't secure enough. He didn't have standing enough to resist the pressure to get him out, and out he went. When Harold Ickes went out of the [7657] President's Cabinet, one of the great bulwarks of the American people against the encroachments of private interests went with him. Now, unembittered, still consulting only the interests of the American people, he writes these things as he sees them. And that is the language of a man who knows what he is talking about.

So the FBI is accused of tapping wires illegally, violating the positive law of the country as well as the decisions of the United States. Do they do it? Here is Mr. J. Edgar Hoover's reply of January 15th of this year:

> " 'The Federal Bureau of Investigation has 170 telephones in the United States and its possessions tapped in connection with internal security investigations,' Director J. Edgar Hoover of the FBI said tonight. Hoover said in his special statement, 'This statement contradicts the "hysterical utterance" of those

> who would have us believe that wire-tapping by the FBI is unrestricted and is utilized on a wholesale basis.' "

Now, isn't that nice of him! Isn't it nice that they discharge themselves of the implication that it might be wholesale and say that they are only violating the law of the country in 170 instances. And note the phrase "internal security." Internal security consists in tapping wires between lawyers and their clients, in tapping wires between labor leaders and their associates. Anything that you want to call internal security becomes such. [7658] To descend from the mighty realms of the Washington marble to humbler surroundings, I would like to call your attention also to the description that Hancock gave of certain forces of the government, which are entitled to as much credit when they had their duty to put as much blame and no more when they abuse it as any of the people connected with the Department of Immigration and Naturalization.

> "I can tell you," he says, "about the Imperial Valley where people close to here under the influence of the growers assemble en masse to attack our unions meetings."

Now, this union meeting is a group of little itinerant working people, agricultural laborers, Mexicans, Texans, New Mexicans with their wives and kids up picking cotton and other things in the fields, and when an effort is made to get them some decent hours, decent conditions to make their lives tolerable and not a sink of despair, here is what happens:

> "Q. When you say 'attack' do you mean they had weapons of some kind?
>
> "A. Pickax handles.
>
> "Q. Any other weapons?
>
> "A. Why, I saw a lot of deputy sheriffs with weapons, but I don't recall I ever saw any of these armband citizens with anything other than I have mentioned.
>
> "Q. Did the deputy sheriffs go along with the vigilantes?
>
> "A. It was a mixed group of both." [7659]

In other words, the sworn officers of the law were out with loaded revolvers strapped to their hips to protect the armed vigilantes with their pickaxes, who were going to give these American citizens the rights that they were entitled to of free speech and free assembly, and the deputy sheriffs with their loaded pistols were just as much officers of the government as Barber, Kaiser and the disappearing Boyd. He goes on:

> "Now, Mr. Hancock, when you say the union was dissipated in those days and died out, what actually happened was that the leaders of the union were arrested for criminal syndicalism, isn't that right?
>
> "A. Yes, they were.
>
> "Q. Now, what was criminal syndicalism?
>
> "A. Well, as I recall it, it is a California act which declares something to the effect that

> it is illegal to advocate force and violence, that is, it defines that as criminal syndicalism."

And then he goes on to say that about 10 or 12 people were arrested, charged with criminal syndicalism, confined in the penitentiary, two of them young women not yet 21 years old. And what happened to the charges? After these people had been in the penitentiary and their lives ruined and blasted, because I have met one or two of them since after they had been in the penitentiary for three years—three years taken out of the best part, the flower of their lives—the sentences were reversed and [7660] they were turned loose and set free. That is lawlessness in high places—without compensation, without even an apology.

The Bridges case, of which you form so important a part, has by this time, you may deduce, become one of the more historic cases, one of the cases that has excited the amazement and the concern of people all over the world, that we say it has been concocted, built up by private and selfish agents and interests, abetted and reinforced by a branch or at least certain representatives of a branch of the United States Government, because I think out of all the mystery and all the shadow that has enveloped it, three figures stand out conclusively as the manipulators of everything that has occurred here: Boyd, Barber and Kaiser.

The older gentlemen on the jury may remember the famous case, or at least the end portions of it, that once convulsed an entire nation and attracted attention and concern also over the entire world, and even the younger members may remember the recent announcement, the announcement a few years ago, the death of the principal figure involved in it. That was the celebrated case of Captain Alfred Dreyfus. In 1894 somebody sent anonymously to the French military department a communication which had been addressed by some person who had not signed his name to the German military charge d'affaires, von Schwarzkoppen, and the document showed a previous agreement to transmit to the German intelligence certain documents which were secret, in the files of the French military department. A similarity of the [7661] writing of Captain Dreyfus to the document in question turned suspicion upon him. And then there were certain difficulties when he was questioned: his ability to explain where he had been around the time the document bore date, and a meaner and more hateful connotation appears than here that there was at that time an anti-Semitic wave moving throughout parts of Europe, as it does recurrently, and Dreyfus, while surprisingly enough a captain in the French army, was a Jew. He was put on trial, and the evidence against him was extremely weak. This similarity, his inability to explain certain movements of his, and so forth—not more than to excite a reasonable suspicion—but the president of the military commission, without disclosing to Dreyfus or his lawyers that he had done so, displayed to the other officers of the commission a number of documents which reflected a terror of an assault by Germany upon France in the near future, and it so frightened the members of the board that they returned a verdict of guilty against Alfred Dreyfus and sentenced him to life imprisonment on Devil's Island. He was taken out on the parade ground, his insignia and buttons were stripped from him with all those circumstances of disgrace and dishonor that are used in such matters, and off he went to Devil's Island. He had been there about four years when von Schwarzkoppen was recalled to Germany and a maid who cleaned out his room found a letter, "a little blue letter," it was afterwards known as, which was signed by a Major Esterhazy, and [7662] showed also a connection with the German secret police. A man named Picquart, a major, received the letter and he turned it over to Dreyfus' brother, and Dreyfus' brother then made a comparison of it with the two documents that had already been introduced in evidence, and it was obvious that the original document had been writen by Esterhazy and not by Alfred Dreyfus.

In addition, it was discovered that Esterhazy, first, was not a Frenchman, and, second, he had been dissipating and gambling a great deal, and, third, he had applied for a commission in the Turkish army, expecting to leave France and go to Turkey. Dreyfus put these matters before the authorities. It seems inconceivable, but the immediate effect of it was that Major Picquart was indicted for turning a military document over to a civilian, convicted and sentenced to a year in prison. Emile Zola, the writer, became indignant at the matter and started to lead a further investigation. He was indicted and fled to England to escape imprisonment, while Dreyfus' brother continued to find out what matters he could. Eventually there were two camps, the Dreyfus and the anti-Dreyfus, and they actually engaged in riots in the streets. In England Zola wrote his famous book, "J'Accuse," "I Accuse," and set out the whole of the Dreyfus matter, and then popular opinion stormed and Esterhazy was put on trial by court-martial. He was acquitted surreptitiously and allowed to leave the country and took his commission in the Turkish Army. And then a real storm broke [7663] out and a demand for the retrial of Dreyfus. They brought back Dreyfus after six years on Devil's Island and they tried him again, and the same military commission found him guilty, but sentenced him only to the time he had already served. When Dreyfus refused to be satisfied with that, he demanded exoneration and so did Zola and all the other fair and honorable people who were massing themselves now to prevent injustice on a single individual. Finally they held a civil trial. My friends, the marshal of the French army and every officer of the French army was called into court, stood up before the lectern and refused to testify upon the ground that he was endangering the security of the state, and walked out without injury. Dreyfus was acquitted by the court. The French military personnel destroyed the records upon which they claimed they would be able to prove Dreyfus' conviction at any time.

Now, he was restored to his rank. When Zola's ashes were moved to the Pantheon, so far had the prejudice against Dreyfus been built up in the more ignorant and stupid of the populace, that some man fired a shot at him and shot him through the face, inflicting an injury from which he barely recovered. He became a colonel in the war in 1918 and died just a few years ago. Finally a symbol—a symbol of the justice of the French people—an entire nation rose up in indignation to see that the injustice that was done this one man was reversed. And also a warning—a warning against reposing too much faith in persons merely [7664] because they have been temporarily invested with part of the power, the dignity and the authority that resides in ourselves.

In the present case every lawyer who has had experience in criminal matters knows of police officers beating prisoners, exacting a confession, especially, as I say, if they can salve their conscience with a conviction that the man is guilty anyhow. Every lawyer knows of narcotics agents planting a bindle of heroin in the pocket of some suspected peddler, especially if they can console themselves with the belief that they know he is guilty.

But never—never does anyone see so long, so studied, so complete, so persistent a persecution of one man, one solitary individual, submitted for 15 years to such a crushing, destroying, one would conceive irresistible burden of pressure, of spying, espionage, persecution, a campaign of slander, vilification, lies—all directed against him. No one has ever seen such dissipation of the force and energies of a government agency. So that we have heard, ladies and gentlemen, disclosed on the witness stand, only 10 per cent of the iceberg that appears upon the surface, the names or identifications of 27 agents of the Immigration Department that had been working only for the last two years to destroy this man. And God knows what countless others preceded them in the 13 years prior to the beginning of this particular campaign. Never has anyone observed such waste of public monies. It will sound fantastic to you, but give it [7665] a little consideration. We tried to estimate here some time ago what it had cost us, the taxpayers of this country, for the 15-year wild animal chase that these gentlemen have seen fit to carry on, and we stopped at an estimate of two million dollars. It was running far beyond that. When you consider that a fellow like Rathborne has received a bribe of $5,000 in cash, plus the services of guide and mentor of Kessler down there, and another $5,000 for an entire year, himself and his wife supported at the expense of the government, that is, of ourselves, airplane trips all over the country, it cannot be that that man's testimony alone has cost us less than $40 or $50 thousand. And of the ten or twelve people who are assembled here, all the lawyers—I have never heard the Bridges case discussed that some heroic figure didn't get up and say, "I am not accepting money for this. I am doing it for the security of the country." I suppose we will hear that some time before we adjourn. You will find it is not incredible that at least two to three million dollars has been spent in an effort to get this man, a perversion of the common duties of these people we employ for other purposes. We employ the Immigration Department to see that persons who in our greatness and our vastness we consider fit to dwell among us, are admitted to the country, to find out what sort of people it may be, whether they will become dependents or whether they are of those selected races who, resembling ourselves so much, therefore they are in the image of God [7666] himself and not inferior persons who have a little more pigment in their skin, although their ancestors may have been the philosophers of antiquity. We are not interested in that. However, what do we find these gentlemen doing? Their prison is filled with unfortunate, despairing monuments, so that they commit suicide, while these fellows run around the country with airplanes, transporting this informer here and that perjurer there, building them up, coaching them—what have they done with getting Communists or the active militant labor leaders out of the labor movement in this country? What have they got to do with what they call the internal security of the [7667] nation?

They have a particular function and a particular department and, my friends, they depart from that particular function and that particular department because it is to their personal, financial and political profit to do so. They haven't any right, they have no reason, why they should have interested themselves in this case at all.

Of course, they will say, "Yes, but the department also is interested in them getting rid of such undesirable aliens as may have come in here." But that isn't what they are in it for at all. That is only their excuse, and that is what they will use to color it with.

We are told by Mr. Donohue—and, incidentally, let's say this, Mr. Donohue, while we are passing. What you think of me or what I think of you are matters of no concern to the jury, and do not help them determine the rights or wrongs of this case. I do not intend to indulge in such phrases, in retaliation for the phrase, "Hallinan and his crowd"—I am not going to say "Donohue and his mob," or matters of that sort. Standing up and calling names to people as good as yourself! We won't say better—as good as yourself, sir. It doesn't help determine whether your witnesses or mine, or ours, were telling the truth.

A special prosecutor, as I said, ordinarily has the defect that he is given a particular job for a particular purpose. Again, when we hear Rathborne disclose that certain high functionaries in the CIO, if you please, are going to employ a [7668] jury of United States citizens as hatchet men to get a recalcitrant labor leader out of the way and permit them to take control over his union—when you hear that, and when you hear that Barber goes back and hoodwinks the Attorney General by failing to disclose the sort of cattle that he is going to turn over to him to prove this case, and then comes in and hoodwinks the grand jury by similarly not disclosing that fact, we may look with suspicion upon the motive that actuate a special prosecutor.

That hired officials do the same thing is true;

but generally with more restraint. Now, for instance, a special prosecutor or general prosecutor is a public official, and under the law he is supposed to watch out for the rights and interests of the defendants—as this gentleman claims he did watch out, but which he didn't. And they are not supposed to say, and it is misconduct and reversible error for a prosecutor to say, things like that: "I believe the defendant is guilty, I put my own standing and prestige into the scales and tell you, determine this case not on what you have heard here, but upon my opinion and the secret things that repose in my heart." That is misconduct. Oh, they always manage to get it in in some way, but we let it go. What is the use of chasing every cat up an alley to beat it to death? Let them have it, let them say it. But we feel certain and assured that you are not substituting the opinion or the asserted opinion of a special prosecutor, even a general prosecutor, for your own. [7669]

We have in this District an especially eminent man as United States Attorney, Mr. Frank Hennessy. There is one little thing about him that will define to you what sort of a man he is. Some few years ago Jim MacInnis tried a murder case with some man who was accused of a murder arising in the federal penitentiary at Alcatraz. And Jim, with more innocence than learning—at that time—was trying to put in a line of testimony that I think could be called immaterial. And I strolled up in the corridor and was talking to Frank Hennessy during one of the recesses—not being in the case or not even being associated with Mr. MacInnis at that time; he was a very young man—and one of the deputies who was sitting in the case with Hennessy came up. He didn't know me. And he said, "Mr. Hennessy, I have some cases that hold that all that evidence is immaterial." He says, "That shouldn't go in." Hennessy says, "Listen, I know it. The poor devil is on trial for his life. If he thinks it will help him, let him put it in." If Frank Hennessy were trying this case, the case would never have progressed to this stage. As soon as it was disclosed what kind of people were testifying here, there would have been a motion for a mistrial of the case.

We have a precedent for that right here in San Francisco. You may remember the very recent case in which some three men were indicted and tried for the murder of a man named DeJohn here within a few months. And the principal witness for the [7670] prosecution was a woman named Venza. It was disclosed upon the witness stand that not only was she committing perjury on the stand, but had made false statements outside the trial. The case was submitted to the jury and the jury had been out for three or four hours when District Attorney Edmund Brown—be it said to his credit—appeared before the judge who was trying the case, and said, "Your Honor, I have been reading over the transcript of Mrs. Venza's testimony. I have compared it with statements that she has furnished to the District Attorney and the police, before she took the witness stand. They are in complete contradiction. I couldn't, on my conscience, permit a conviction of these people to be entered, knowing these matters, and I now move for a mistrial." And he showed the judge the documents that he had, and the judge granted a mistrial, and the jury was called back and told their deliberations were ended, and the three men were turned loose—until, at least, credible evidence could be brought in that would justify a conviction.

The Court: Would you like to take the recess, Mr. Hallinan?

Mr. Hallinan: In a few moments, and then we might.

Now, you would think that where the burden is imposed upon the prosecution to prove a case to a moral certainty and beyond any reasonable doubt, that the witnesses produced to fill that difficult task would be persons who should have at least a reasonable degree of integrity. You would think that you would look with suspicion upon every person that was put on [7671] the witness stand to testify against the defendants. But what do we have here? We have a group of people who not by any names that I call them at all, nor any reference that was made to them by anybody connected with the defense, but by their own description of themselves and their confederates and their associates, were, first, traitors; second, liars; third, perjurers; fourth, who in their own exact language, had for years lived lives of fraud and deceit—who by their own statements had been especially trained in schools how to get on the witness stand and commit perjury under oath; who by their own statement, their own description were "bloody, foul, stinking, slimy inhabitants of a cesspool." And those are the people that are now brought in here, and we are told, "Now they are washed white as snow. Their interests have changed. It is no longer to their interest to fill this description, it is to their interest to appear in the guise of honest men. So accept them at face value and destroy these three men upon their credibility." And we answer them with one apothegm: "When the leopard changes his spots and the Ethiopian his skin, thou shalt do well to change thy ways, young man, when thou hast learnt evil."

The Court: We will take the morning recess, ladies and gentlemen. The same admonition to you, not to discuss the case under any conditions.

(Recess.) [7672]

Mr. Hallinan: Of course, it is a tedious thing when people have been sitting for four months or more in the trial of a case to anticipate that argument goes on like this hour after hour, but, ladies and gentlemen, you will bear with me; it is something that has to be done. I wouldn't care how far I had concluded your minds were already resolved; it would be almost a necessity that one would feel compelled to go ahead with it. I will take some time, I am afraid. I would ask you if you will kindly put yourself in the position of coming to court in these four sessions each day as though you were at school. Now, you have an inept teacher, but still he has to give the lesson as he sees it, and even though you may know it better than he, if you will give him the courtesy of your attention, I will be grateful for it. If I am tedious, if I am unpleasant, well, when you get outside you can take it out on me and don't take it out on the poor client. I want to be somewhat in the position of that Roman senator who started to make an address on an unpopular subject, and his associates ran at him with upraised fists, and he said, "Strike, if you will, but hear me." That is all I ask here.

With reference to the people who, as I say, have designated themselves by such unsavory phrases as I repeated a while ago, and who by their own acknowledgments were each and all trained and practiced perjurers, liars and traitors, bad people, treacherous, unreliable, they say, "We have changed. We aren't such [7673] any more. We are now honest men. We have been down at the conventicle and wrestled with the devil. We have emerged from it cleansed by fire. Now, we are not traitors, we are patriots. We are not liars and perjurers, we are truthful men. We are not slimy, scummy, bloody inhabitants of a cesspool, we are washed clean."

Well, we look at them with a little suspicion, but we say, "All right. There is room for every penitent. Who are we to judge you? Come on in. Come into the fold. Behave yourself as one of us. Remain honest and decent. We won't reproach you with your past. You can go ahead and carry out your ordinary occupations and we will see that you have your share of what each one should take. We won't discriminate against you. We won't call you any rash names or recall to your your ignoble or unhappy past. "Of course," say we to them, "for the time being we are not going to let you pass the collection plate in the church and we are going to count the silver when you come to dinner. But even in time that will fade away." So they express their gratitude. They take up this new life. But they come around and they say, "Now we are good people. We are like yourselves. We want you to do something for us. What is it? There is a certain man who was as bad as us. We want you to take him and put him in the penitentiary. We will tell you now he was one of us. He was one of our gang. He is a bad man. He is a bad man, and he hasn't reformed. So you take this man and [7674] put him in the penitentiary on the word of us honest, reformed, fine people."

We say now, "Wait, wait. Our forgiveness and recognition of your regeneration goes not quite so far. We are willing to be charitable to you. We are willing to accept your reform so far as it affects the treatment that we will accord you. But that is a far cry from saying that we will now take your word to destroy another man."

But, they say, "there are eight of us—nine of us. We will come one after the other and testify to what a bad man he is, what harm he has done."

But we say, "If one rascal turns and accuses another and says he was one of my gang, we look on that with suspicion. Don't you know," say we, "that it is the law, for instance, that a person can not be convicted on the uncorroborated testimony of accomplices no matter how numerous they may be? The law based upon human experience looks upon that with suspicion." [7675]

It says, "Now, wait; you admit that you are a criminal, and you now point the finger at another man and say he was also engaged in the same activity with you. Well, it may be so, but the law provides it is a reasonable doubt from that alone, and says that kind of testimony must be rejected. You will have to bring in over and in addition to your own testimony sufficient to justify a conviction of that man, independent of your testimony, or the law kicks it all out."

That is the law on accomplices. "Now, while this may be technically somewhat different, so you can not be called accomplices in this thing, still morally you fill the same role, and we are not going to take your word. By the way, by the way," we ask out of curiosity, "what actuates you to this enterprise that you have embarked on? What is there in it for you? Let's not talk about nobility of purpose now and high attainments and moral regeneration that you talk about. Let's ask now, 'What is there in it for you? Come on, come clean; tell us.'" "Well, here's what it is. There's a police lieutenant in charge of the district that this man lives in, and he hates the man—hates him. And he is paying us money, large amounts of money, to accuse the fellow. Large amounts of money. Why does he hate the man? I don't know. Twice in 15 years he tried to frame him, get something on him. Couldn't do it. Couldn't find it. Couldn't get a thing. He was beaten. And the man ridiculed him and exposed him and talked about him, and this police [7676] lieutenant is just determined to get him, now. Just determined to get him. So he is paying us. But we are still telling the truth. We are taking the money because, you know, we've got to live. But we are still telling the truth." Well, we say, "Is anybody else interested in this project of yours?" "Oh, yes; oh, yes. A rival business man of this prospective victim, a fellow who has a shop around the corner and is trying to buy up this man's lease; he has given us the go-ahead, too. He wants to get this fellow out of the neighborhood. Then he will have all the business himself and he will prosper. So he has told us, 'Yes, you go ahead, work with that police lieutenant.'"

Well, we say, "Uh-uh (negative), we are not interested. You go on your way now and you had better go down to the conventicle and wrestle with the devil a little bit more. This sounds very bad. We are still not going to discriminate against you, and we are not going to prevent you from making your living and so forth, but when thief turns and accuses another man of being a thief, that is some reason for supposing that the other man is not a thief—but when eight or nine thieves turn and jointly, and conspiring together, accuse this man, it is almost conclusive evidence that he isn't a thief. We now are not only going to not permit you to pass the box in church and we are not only going to count the silver when you come to the house, but the next time you come, we are hiding the silver away."

And yet, incredible as it might appear, that is the [7677] concoction that is being presented to this jury to destroy these men. And furthermore, my friends, what kind of men, what kind of man particularly, are our collection of rogues assembled to destroy good men, honest men, decent men, men of integrity, fine men, men upon whose escutcheon there can not be pointed one blot or blemish? What is the proof of that? That I say it? Not at all. I am biased and interested. My statement in that regard wouldn't be worth the breath of uttering it. No more than the contrary statement of this gentleman is worth the breath that it took to utter it.

What right has he to characterize them by any of the terms which he loaded upon them at the recent hearing? What right has he to go outside the evidence in the case and concoct and invent qualities that they do not possess and which he knows they don't possess? Because the proof, the conclusive proof of what I said about them appears right in this court; and we should confine ourselves to this court. We shouldn't go out and inquire as to what happened in other cases in New York or any place else. We shouldn't try to pretend that we know things that are hidden from the jury, because none of us do—neither he nor I nor anyone else. We shouldn't try to pretend that there are other circumstances and other facts that are not revealed to the eye. The proof of the honesty and goodness of these men has been established beyond any peradventure of a doubt in this court. How? I will tell you. [7678]

If you bring in character witnesses of high standing, men of honesty and integrity, men whose own reputation is impeccable, then you help establish, of course, the high standing of a defendant in the community for truth, honesty and integrity. Suppose, now that instead of man of integrity himself, you bring in some little, obsure, dishonest fellow, a man whose own worth is scarcely worth the trouble of putting him on the stand. Then suppose you ask him about the defendant's reputation in the community for truth, honesty and integrity. Do you realize what you have done? Do you realize what a lawyer representing a defendant in a criminal charge has done when he puts even one character witness on the stand and asks him the reputation in the community of the defendant for truth, honesty and integrity? Do you realize the door of inquiry that he has opened? Do you realize the exposure of every act and circumstance of the man's life that you have subjected him to? Because as soon as that witness says that the reputation is good, the prosecution then forthwith asks him at once, "Would your opinion be the same if you knew this and this and this and this and this and this and this?" If any of those three men in his entire life had done one bad, one dishonest or even one questionable thing, we wouldn't dare put a character witness on the stand. And they know that thoroughly. They know that as soon as we put the man's character in evidence, they are entitled to shred it, to tear it apart, examine it, to look into it, to turn upon it the light [7679] of 15 years' research by the FBI, by the Department of Immigration, by their own special agents, and expose every word and circumstance and thing that those three men had done in their lives.

And what was he required to confine himself to? What was he required to confine himself to? "Would your answer be the same if you knew he was a member of the Communist Party?" In other words, "Would your answer be the same if this jury should return an adverse verdict?" That is all they could find to inquire about him. A poor man, emerging here in youth and poverty, with every temptation placed at his disposal to sell, to betray, to advance himself at the expense of others; and they couldn't dig up in the entire span of his life one word or one point that might turn the finger of shame or the glance of inquiry upon his character!

Now, let me ask you, my friends: How many people do you know who could subject themselves to that test and come off unscathed?

Many a lawyer has had the unfortunate circumstance of not knowing his client's character or of having been deceived by the client as to the episodes of his youth—then calling character evidence to establish a reputation that probably had existed perfectly good for 10 or 15 years, and then see flow in convictions of petty offenses, charges that were made, even slanders that were falsified and circulated about him. If Harry Bridges had not done, but even been accused of, a dishonest act, that question, with all the circumstances, the names of the persons involved in it, would have been asked each and every person who took the stand here to testify to his good character.

You will remember how they searched and dug out the misinterpretation of some phrase that he made in his speech at Stockton, in order to say, "Well, do you think a man who would say this is dishonest or has good character?" From 1939 on, Harry Bridges has testified in his own defense in as large a scope as he was required to testify to here. They couldn't pick out of all those days of testimony a sentence of contradiction, a lie, a fraud, an exculpation, that was even shadowed or designed to protect him a little better than the truth might have done. Not a word. He rises, my friends, out of this entire inquiry a rock-ribbed figure of honesty and integrity that few in this city could match. And the proof of it is not that I say it, but that we took his character and that of his two associates and spread them wide on the floor of the courtroom and said, "Search, Mr. Donohue; search, Mr. Barber; turn all your 27 agents loose upon it and see if you can find in there one flaw or one blemish that might cause a single member of this jury to look on him with hatred and contempt." And we told them in advance of our case that we intended to call character witnesses, and even the names of the most of the character witnesses we would call—in fact, all that we had present and ready at that time. [7681]

Now, I want to find a small excerpt here that will help illustrate what I have been saying, and put this in your minds at the start. For 15 years powerful, private interests, combined with these diligent, designing, dishonest searchers, have sought to find something that would destroy Harry Bridges. First, to have him kicked out of the country, and next, to immolate him for the rest of his life in a prison cell. And they have worked with FBI agents until, apparently, so far as now is revealed by this case, the FBI abandoned the matter. Then, with agents of the United States Goverment, the Immigration Department, private organizations, the FBI has dossiers on literally millions of people.

Anybody who has occupied a position such as these men has been screened, tested, questions have been circulated about him, his friends, his associates, his enemies have been convassed. His private and his public movements, utterances and documents, are known and entered. Everybody, for instance, connected with the Communist Party is known to them from stem to stern and truck to keelson. They know from beginning to end what persons were members of any national or central committee of the Communist Party, from its inceptive date to the present time. They know who they were, they have a close description of them. They know their names, their family connections, their activities, their trades—what they have done,—with most of them undoubtedly from seamen's registers and employment records, and so forth. [7682] They have their finger prints. They know that Harry Bridges never was a member of the Central Committee. They knew that when they put the first witness on. They knew that no man was a member of the Central Committee under the name of Dorgan or Rossi. They kept those things to themselves and they permitted these fellows to get up and, for hire, say that he had been.

Now, a few days ago a sort of amusing and interesting news item appeared in one of the local newspapers. It was about a man named Cvetic or some such name, who appeared before the Un-American Activities Committee within the last month:

> "Matthew Cvetic appeared three weeks ago before the House Un-American Activities Committee in Washington. According to the committee's records, he was a Communist Party official. But short, dark, 41 year old Matthew Cvetic had a big surprise. He was actually an undercover agent for the FBI.
>
> "For four days eager committee members heard his testimony. He had worked into the party, and for eight years had supplied information to the FBI. On the long list of Communist names he produced was that of George Dietze."

Now, previous to that, for eight years, he had been a Communist Party official.

> "George Dietze"—his name was mentioned—"was a German immigrant. He had come to

> the United States in 1922 and settled in Pittsburgh, Pennsylvania to become a [7683] jewelry engraver and a music teacher. At the time of Cvetic's damning testimony, George Dietze was a prospering man. But when the papers reported his Communist affiliations, his troubles really started. Friends and neighbors scorned him and his wife was afraid to leave the house. Mild-mannered, 51 year old George Dietze stood it for ten days, then packed his bag and headed for Washington. He, too, went before the House Un-American Activities Committee. His testimony gave the committee its second big surprise. George Dietze, too, was an FBI agent. Since 1944 he had been a trusted member of the party. And as such, he had worked side by side with Cvetic. Neither had known the other's true identity."

But now, there is a little episode that, because of its dramatic impact, brings to light and reveals the intense infiltration into the Communist Party and its public or secret sessions of the agents of the United States Government. I think that the slightest reflection will convince any person, especially those in whom a regard for the diligence and capacity of the FBI has been properly built, the abiding conviction to a moral certainty and beyond any reasonable doubt that these people know everything about every major Communist official in the United States, and probably every minor Communist official.

Some years ago, a few years ago, the New Yorker ran an amazing cartoon that has been reproduced since. It was a picture [7684] of a Communist meeting with a closed fist and other insignia on the walls, and, as they put it, long-haired men and short-haired women sitting around. The chairman got up and said, "Comrades and undercover agents of the FBI:—", and the impact of the cartoon consisted in the fact that everybody knows that is true. Everybody knows it without being told. But the FBI now for two decades has had its best agents right firmly in the Communist Party. When they go out to hound and dictograph and tap wires on a man who is only suspected of some Communist affiliation, for that was the original charge against Harry Bridges, you can imagine to what surveillance they have subjected people who were admittedly members of the Communist Party, who were high functionaries and officials in it, and, I tell you, and I say again, not from what I say but only that you use your God-given intelligence to determine it for yourself, they know from stem to stern and from top to keelson everything about everybody who has ever been a member of the Central Committee of the Communist Party, and they knew when they put those three scoundrels on the witness stand, on that subject, that each and every one of them was deliberately lying about it.

Now, listen to a few little notes culled from the record on their cross examination of witnesses produced here, the witnesses produced for a small matter, persons who were not of great consequence in the case. But listen what they knew about it. Dr. Eloesser. The dossier is open: [7685]

> "Didn't you serve with the Foreign Legion in Spain in 1937 or 1938? Weren't you a member of the American Committee for the Protection of the Foreign-Born?
>
> "Yes—yes—yes."

Or: "Probably," or "I was."

> "Weren't you a member of the American Committee for Jugoslav Relief?'
>
> "A. I probably was.
>
> "Q. Weren't you a member of the National Confederation for Constitutional Liberties?
>
> "A. I probably was."

In other words, here is Dr. Eloesser; give him not less than his due, an ornament of the human race, a man who has carried his great skill and his great learning all over the world among all sorts of people, and in whose interest you wouldn't think he would be the least involved, and yet stopping to arrest plagues in India, famine in China, pellagra in Tennessee, over in the Arabian Desert to try to cure the people of eye diseases. And they knew that that man was a member of those three organizations and they could confront him with it as soon as he took the stand.

Mr. Jones, B. B. Jones:

> "Didn't you work at the Millbrae Dairies and live on a ranchhouse on the Mills Estate in 1931 and 1932? A:. Yes." [7686]

In order to ask him some question, if he hadn't said something at a particular time, they were able to trace where that obscure man, a stevedore, a member of a waterfront union, a member of the Communist Party at one time but never an official, they knew where he lived, the exact location of his residence back in the year 1931 and 1932 on a ranchhouse on the Mills Estate.

The Rev. Mr. Peet who came over here from Mill Valley, and one whom anybody would have thought would at least be insured by obscurity from such an inquiry as this:

> "Aren't you mentioned in Appendix 9 of the Dies Committee Report as having signed a petition to defend the citizenship rights of William Schneidermann?"

That out of the hundreds and thousands of people who signed that document and other documents, they could pick the name of the obscure pastor from a small residential community like Mill Valley, and ask him and confront him with that:

> "Didn't you sign your name to that petition?"

Good heavens! What don't they know about anybody? Why, you would be afraid to take a bath, you would be afraid to take your clothes off lest your blemishes be exposed to public view!

Mahaffey, a small town labor leader:

> "Wasn't your name on a brochure announcing the first California convention of

> American Youth for Democracy, May 6 and 7, 1944 at the North Star Auditorium, 1631 [7687] West Adams Street, Los Angeles, California?
>
> "Did you attend a convention in Seattle in the late 1930's? Was Henry Schmidt?"

So help me, they were able to go back twenty years and tell you what room Schmidt occupied and who shared it with him. Some of those names are so obscure and so unimportant, I do not remember what they testified about.

Mead:

> "On September 31st, 1938—"—this is Dewey Mead, San Francisco supervisor— "didn't you write a letter to the People's World offering your services to the People's World sustaining drive?"

Back in 1938! When Dewey Mead, the supervisor, comes in here they can pick out some liberal or, let us say, subversive act done in his life and confront him with it.

> "On August 15th, 1945, didn't you insert an ad in the People's World describing it as a pro-labor paper deserving of support?"

Good heavens! Didn't you feed your canary that day and underneath his cage put a piece of paper that you had clipped out of the People's World?

Christensen. Who is Christensen? Oh, the man over in the hospital, another obscure labor man who never had been a member of the Communist [7688] Party.

> "In 1942 weren't you on the subscribers' list for the People's World? In 1944 weren't you on the mailing list of the Communist Party?"

Now, we assume, because the gentleman is honest and, as Antonius said, "And sure, he is an honorable man," like Brutus, he would not ask him questions if he did not know that the information was correct.

> "Didn't you sign a petition of the ILWU urging freedom for Earl Browder?"

Here is this obscure working man that 15 years ago apparently signed a petition asking for freedom for some man who was sentenced and condemned on a political proposition. To know that that man had signed that petition is incredible and it is frightening.

Might we take the recess now, your Honor?

The Court: We will take the noon recess. Until 2:00 o'clock, ladies and gentlemen. The same admonition.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [7689]

Monday, March 20, 1950, 2:00 o'Clock P.M.

Mr. Hallinan: The amazing record of close and meticulous espionage information that the agencies of the government were able to bring forth and confront our witnesses with continues at the same rate.

Now, not to cover them all by any means, because I have several pages of close print on it, we produced on the witness stand Robert Kenny, former

Attorney General of the State of California and candidate for governor, and he having given his testimony is confronted with the inquiry as to whether he knew of the report of the People's World of December 7, 1939 that he was associated with Wendell Willkie on the Schneidermann case.

Not only do they have the information as to every activity that our witnesses engaged in, but they have it in so many forms that they can pull out documents that will seem to reflect most against the defendant's case or his witness in order to illustrate it. The fact that Robert Kenny was associated with Wendell Willkie in the defense of Schneidermann occupied space in every paper throughout the United States, conservative, reactionary, liberal, radical, but the one he is confronted with is a notation in the People's World for December 1939 that he was associated with Willkie in the Schneidermann case.

Then he is confronted with the report in the San Francisco Chronicle that he opposed legislation while a member of the [7690] State Senate, to outlaw the Communist Party in California,—a law which was passed and afterwards, as he said, held unconstitutional by the Supreme Court.

These matters of confronting a man, himself a multi-millionaire—Kenny is the holder of great oil lands, a man of prominence, standing, wit, erudite, learned, and a liberal.

I daresay that Kenny is, like a great many of us that, disagreeing with the concepts and principles of the Communist Party, still embrace the apothegm of Voltaire that "I do not agree with a single thing that you say, but will fight to the death to defend your right to say."

But they go on with the research into whatever he has done that seems to step outside the fine path that is to be set down for free-born American citizens by the appointed Attorney General of the United States. Everything that he has done that shows a violation of the spirit or the letter; a compilation of outlawed periodicals and outlawed organizations by that gentleman is put out here, and Mr. Kenny is confronted with it as though the things he should be proud of are precisely the things that he should be ashamed of.

He was affiliated with the American League for Peace and Democracy. In 1945 he was a sponsor of the American Committee for Spanish Freedom. He was counsel for the Hollywood Ten. He is now in court as counsel for the Bank of China. He is Hallinan's counsel. The Western Worker of December 16, 1937 reports [7691] that he appeared at a Mooney mass meeting at Los Angeles. The People's World of January 25, 1945 reports his letter to Franklin Delano Roosevelt urging a reversal of Biddle's deportation order in the Bridges case, and on and on and on.

Then you come to Henry Schmidt. The Voice of the Federation for December 1939 has an article that the ILWU blasts the Oregon Commonwealth Federation for taking sides in an imperialist war.

On October 5, 1939 an announcement that the

Los Angeles Workers School with Lawrence Ross as instructor will hold a session.

This is in 1945: that there was a hearing in 1934 before the House Un-American Activities Committee in Los Angeles at which Henry Schmidt was mentioned. And they bring in here and produce, if you please, a hotel register from San Diego in 1935, 15 years ago. They know the exact room that that man, that obscure working man occupied in a hotel in San Diego during a CIO convention. In 1938 he was a member of a trade union committee for Gallagher's candidacy for secretary of state. He attended at Seattle in 1935 a meeting of the Maritime Federation of the Pacific.

Father Meinecke is confronted with an article in the San Francisco News of July 1940, and another in the Monitor of August 1948, and an article in the Labor Leader of July 1, 1940.

Then we bring in a man named Bailey, a man from Portola, a [7692] small lumber town. He is confronted with the fact that he held a minor office in the American Newspaper Guild; that the People's World of March 1944 reported that he was chairman of a class on labor-management relations at the California Labor School; that the People's World of April 30, 1946, reported that he was chairman of a forum on Russia, a discussion on Russia.

And then, without burdening the matter too far, Betty Teixeira is confronted, so help me, with an article that appeared in her high school paper 15 years ago, an article that reported that Betty Teixeira was one of a number of young people that indulged in some sort of liberal committee or some sort of delegation upon a matter that didn't appear to be within the bounds of what is now orthodox and what we are allowed to believe—out of her high school paper. That is how thoroughly, that is how completely they know everything that has gone on about Harry Bridges, Henry Schmidt, Bob Robertson, the members of the Central Committee of the Communist Party, and be well assured, Lawrence Ross, Mervyn Rathborne, and everybody else that they brought up here. They know all about them from the moment of their birth until the present date.

Of course, it must be obvious by this time that some person fairly high in the Immigration Department of the United States Government is bound and determined that he is going to get Harry Bridges; that if he fails by court proceedings and before administrative officers to have him deported from the country, he [7693] is now possessed of a golden opportunity to do a much more difficult thing, but a thing in which he is encouraged by what people deem to be a hysteria that is supposed to be sweeping over all of us. Personally I have never experienced it, and I have never met anybody who wasn't a driveling coward or an idiot who was laboring under this fear and hysteria that is advertised all over as being possessing and sweeping over the people of the United States. But taking advantage of it and the foreign policy of the government we now have in power, and supposing that other cases and other parts of the country will carry him along in its sweep, they essay now to procure a conviction of a criminal offense where they have been unable to secure a final judgment in a mere administrative proceeding before an appointed officer of the United States Government.

The proceeding undoubtedly had its genesis in the situation that was developed and testified to here—the "get rid of Harry Bridges" campaign started in as a natural part of the struggle between the employers and the employees on the waterfront back in 1933 and 1934. Then that fight being won by the union men, and it being realized that a new order had set in and they weren't going to stand any more for the system and procedures that had gone before, the waterfront employers dropped the matter; the stalking horse of "Get Harry Bridges out of the country" as a dangerous alien, first as an English agent, then as a Russian agent, or Communist, or whatever they want to call him. That [7694] stalking horse, across which they could shoot at militant labor unions in general, was dropped and permitted to collect dust and mildew.

Then along comes the Honolulu strike, in which these men, with a certain dauntlessness, I consider, move in to the futile despotism of Hawaii to do something for the working people there. Then it is resurrected, and it is going to be employed again so that we have a pronouncement of the Attorney General as to what he is going to do under the circumstances, and how the deportation of Harry

Bridges will break the Hawaiian situation—meaning it will break the Hawaiian strike.

But then the Hawaiian strike is settled, and we wonder now what is behind it now. We suspect that these gentlemen, Murray, Carey, Curren, Ray, at the top of the CIO organization, finding themselves at dagger's point with Harry Bridges, are anxious to employ this same old structure now to do their bit. And as they have made some sort of an alliance with the Democratic Party to carry out their policies, they are enable to engage the hatred and the vindictiveness and the malice of the Immigration Department to assist them in it. So up it is resurrected again, decorated once more and set out to accomplish the ends that have so often failed. And it must be obvious, too, what the real purpose is. It isn't to take away citizenship or deny citizenship to Communists. You will remember that William Schneidermann, who was secretary of the Communist Party, who was an alien, [7695] who was an open and avowed member of the Communist Party, was denied citizenship some years ago; he took an appeal to the Supreme Court of the United States, in which he was represented by Robert Kenny and Wendell Willkie, and the Supreme Court reversed the lower court and held that William Schneidermann, although he not only had been but was then a high functionary in the Communist Party, was entitled to citizenship and it should be granted to him. And it was granted to him, and he became and ever since has been an American citizen.

Then we in this court, with the assertion of the purity of purpose this gentleman retails to us, see that Henry Schrimpf, acknowledgely a member of the Communist Party, became an American citizen at the very time that they are moving to try to get Harry Bridges out of the country. So it isn't any effort to keep persons who are Communists from becoming American citizens. That is just a false front. Nor is it to take away citizenship from people who became Communists after they became citizens. For, witness Krolek, who has become an American citizen and whose citizenship is not threatened. Witness Ross, a man who certainly deserves little encomium from the people of the country. But his citizenship is saved.

Nor is it intended in this case, although this is the base of the proceeding that is before you, to punish perjury. Nobody is concerned with perjury in this case at all. That mask has been torn away and that excuse has been long ago relegated [7696] to oblivion. We have seen people come into this court and deliberately commit perjury without any question, and walk out of here unscathed. We have seen Crouch and Johnson caught and detected in a bald, blatant piece of perjury, that they knew was perjury before those men ever took the stand—and walk out of here; and all our protestations and all our demands for equal and exact justice have fallen upon deaf ears. And we saw Lawrence Ross testify. Not only was he caught in perjury, but he admitted that he had committed perjury right in this court. He walked out of here. What has happened to him? Nothing. His family is transported, again at our expense, with an agent of the Immigration Department driving the automobile, to the remote places where he won't be reached.

We are not concerned with Communists or Communism. We are not concerned with punishing perjury. We are not concerned with getting rid of a person who has been a Communist. We are concerned with one thing, and only one thing—"Get that obstinate, stiff-necked, intransigeant Bridges, who started out with certain principles, wouldn't betray them, wouldn't sell them, stayed with them, wouldn't take program, wouldn't try to compel his union to take program, and is standing now in the same position that he was before; get rid of him." And, my friends, to such a degree of infamy has this matter fallen that you will remember Bridges' testimony, that following the government's inability to deport him on the last proceeding, a legislator [7697] introduced a bill in Congress, the first bill of attainder passed in the United States or attempted to be passed in the United States since the American Revolution, ordering the Attorney General to deport Harry Bridges, that one specific man, despite any laws. And such force were they able to employ, and so far were they able to corrupt the interested legislator, if not the integrity of those Congressmen, that it passed the House of Representatives and was only killed in the Senate after a scathing rebuke by the then Attorney General of the United States that it was unconstitutional, unjust and discriminatory.

So they have this concoction of persons fitting the description that we have already had, and which I think is a faithful and decent and even a moderate designation of what kind of people they may be. And with that aggregation they are now, again, going to get Harry Bridges—leaving it to twelve of his fellow citizens, who are certainly as much interested in preserving the individual from that kind of persecution and that kind of tyranny as he is himself. But they are going to get these twelve individuals, now, to be hatchet men for this proceeding.

Fortunately—fortunately—they entrust the concoction of the plot to the "Sorcerer's Apprentice." If you saw Walt Disney's Fantasia, you may remember the interpretation of the musical composition, "The Sorcerer's Apprentice," in which Mickey Mouse was the little man who learned some of the charm [7698] that the old magacian was able to wield and managed to make the broom run his chores for him, carrying water. But he didn't learn what the word was to stop it, and presently the broom was rushing back and forth carrying two buckets of water and threatening to engulf the entire castle. He seized an axe and chopped the broom into a hundred pieces. But each separate piece now raises up and seizes two buckets and starts filling the water more and more, more and more, until finally Mickey Mouse, magacian, broom and all are swept out of the castle in a flood.

Well, the Sorcerer's Apprentice is Mr. William Kaiser. Mr. Kaiser has done such a strange and bizarre job upon this case as to raise the reasonable suspicion that Mr. Kaiser is not a stupid man, and he is certainly a man of diligence. But all that has been wrong in this case and can not be ascribed to mere negative faults. One can not say, "Here is something botched up by a stupid or indolent person." There is something in it that is positive, active—some madness—some frenzy—that engulfs and colors and shapes the whole proceeding. It is not strange that his diligence and his assiduity, flying around the country, baby-sitting, chauffeuring, shopping, coaching and training these people that they put on the witness stand, diligently and painstakingly going down day after day week after week, month after month to tell John Schomaker what to say, to tell Rathborne what to say, to tell this one what to say, to tell that one what to say, hauling one man down to San Diego to walk up a spiral [7699] staircase and another to Long Beach to inspect the facade of a house, sleeping in the same room with his charges, never permitting them to get out of his sight. Now, it is not surprising that under those circumstances he should have built up a false, fraudulent and rather easily suspect sort of a case.

But the peculiar thing about Kaiser, and what you might call the motivating principle and the very genius of this case; is that he never even by accident succeeded in procuring one witness who wasn't suspect immediately of being either a perjurer or acting under coercion; and that his utmost diligence could not suffice to bring before you one single document—I don't care whether it came from their files or the records of the United States Government in Washington, or the parole department of Los Angeles—not one single document that did not bear either upon its face or upon its manner of presentation and production, the obvious signs of fraud; that they haven't produced a single word of evidence that one wouldn't look at with keen suspicion as to whether it had not been so changed, so altered, so constructed or so instructed as to cause any person to refuse to accept it. And that is the distinguishing thing that Mr. Kaiser has added to this case. It is also distorted, confused by a kind of a mania, a sort of a determination as though he thought anything as it appeared as dangerous and a bad ingredient to the concoction, and it must be changed. Any document that was available to the defense must be hidden and concealed. Any [7700] witness, regardless of who he was, must be instructed to say a little more than the witness would have said, and to say it in such a strange and peculiar way that one would think that he were confronted with the products of a madhouse. So that every witness they have put on, almost without exception, had something about him that suggested a frenzy or an insanity in him. And I am satisfied that they have all flown from the strange recesses in the mind of that queer little gentleman who sits out there jittering, jibbering, shaking—if you have happened to notice him?—like a madman all through the case. An object of derision, an object of suspicion, an object of concern to everybody who has been in the case. [7701]

I will tell you this, my friends: if we the defense had produced that mass of perjured testimony, that collection of suspicious documents; if we had engaged in that hiding, concealing, coaching, every one of us would have been indicted for conspiracy to suborn perjury by now, and we would be convicted. And I will say this, that if there should be in the future a Congressional inquiry into this case, if there should be an indictment of agents and witnesses produced by this prosecution, I would guarantee that they could not be acquitted on the charge of suborning perjury because the case is such that you can't stop and say the witnesses committed in, and of themselves. They are too closely linked in with agents and officers who solicited them and who brought them to do what has been done.

Of course, many things are beneath the surface in the prosecution's case. We can't tell what goes on. We do not know what their procedure or what their steps may have been. Our attempts to investigate came to naught.

A young man named Kessler is put on the witness stand to give some testimony. We conceived that we were entitled to show what his interests and his activities may have been. We asked him, "Now fairly and squarely, didn't you accompanied by another agent named McGowan, go out and visit a man named Herman Mann whose wife was then dying of cancer, and offer to him and to his two children that if he would come in and testify against Harry Bridges, you would bring in the Cancer Institute of the United [7702] States to cure their mother?" And we offered in support of that question an affidavit by this unfortunate Herman Mann to that effect, and there was testimony from Harry Bridges that that statement was made to him by Herman Mann, and that the poor woman subsequently died of the cancer, and that shortly afterwards the agents returned and asked him if he was still prepared to take that up. Now, one would think that regardless of what bearing that might have upon a case that a prosecution confronted with that charge and that attack would at least have permitted the man say, "No." But they did not, and they would not do it. They have sedulously concealed and kept away from this jury under the forms and pretenses of legal objections what any of their scoundrels may have said before the grand jury. Let us grant that they are bound to some loyalty by some form of mistaken and perverted loyalty to protect these fellows from disclosure and from being shown for what they are on the stand. Certainly there is no reason why in the accusations that have been made against openly in court and under oath that they should hesitate to put Mr. Barber or a few of their people on the stand to testify as to what they did and what their activities were. But all is concealment, all is hid, all is to suppress; just that there should be permitted to obtrude from the mess sufficiently that the jury could hang its hat on. So help me, my friends, they have started out with the notion that this jury will want to convict, and "If we can give them just enough [7703] so they can say, 'We choose to believe this man in defense of our conscience and in defense of our intellect; we choose to believe in him and we return a verdict of conviction.' "—that is obviously the entire principle on which they have proceeded throughout the case.

Mr. Donohue enters the matter. It is not until last July or last April that he lends his hand to it. As I said before, Mr. Donohue's motives, his personality, his morals, whatever they may be, is of no consequence here, and it may very well be that he accepted the material handed to him in much the same fashion which we must assume the Attorney General of the United States listened to Mervyn Rathborne detailing the story that had been worked up between himself and Barber without ever being told that he was a felon, a convicted burglar and a perjurer, a practiced perjurer who had committed perjury on any occasions on which he chose to do so, and that when they were brought before the grand jury, the same false and fraudulent proceeding was instituted.

We will assume, and we will accept Mr. Donohue's statement, if he wishes to make it, that he knew none of these things, that he never suspected that that may be wrong. If so, there might be some little reflection upon Mr. Donohue's powers of observation. Ordinarily it is a rule that you can't cheat an honest man, and if Mr. Donohue had looked upon the evidence presented to him with the critical eye that his sworn duty [7704] compelled him to look upon it with or demanded that he look upon it with, he should not have presented such a case. And I am afraid that he has now fallen into the situation that subconsciously, and probably without intending to do so, he is going to be a good enough business man that at least he is going to palm off on the jury the deal that was palmed off on him. He may not stop and realize that, but that is a sort of human failing and one of the things that a person may well do without any conscious feeling of guilt or doing anything that is wrong.

He discussed in his opening statement a great many things about what this witness would say and what this witness would say, the force and effect of it, and all you would have to do is believe any one of the witnesses to insure conviction or justify conviction. That is not so at all. That is not so at all. The prosecution must of necessity depend upon three witnesses, only three: Crouch, Johnson, Schomaker. There are only three witnesses who have testified either directly or as a necessary inference that Harry Bridges was ever a member of the Communist Party of the United States. All the other witnesses are only window dressing. They only raise a sort of suspicion. They only allow a jury to develop a kind of dislike for Harry Bridges for associating with or affiliating with people who have been testified to be as bad and as degraded as the Communist Party members have been in this court. In other words, if they can raise an aura of hatred and venom against the Communist [7705]

Party generally and its members, then the jury might feel, "Well, you may not have been a member, but you sat down with them, you talked to them. You apparently sympathized with at least some of their aims, and for that we are going to destroy you."

That is something that they hope. But if the jury is going to confine itself, as I am certain they are, to a determination of the exact question in issue here, to wit, when Harry Bridges swore that he had never been a member of the Communist Party in the United States, was he telling the truth. And the only persons who say he had been a member is John Schomaker, who says, "I saw him sign an application, I delivered a card to him, and I saw him pay dues." His testimony is necessary to conviction, the belief in that man's testimony. A judge or a jury might feel that if Crouch and Johnson were telling the truth and Bridges were elected to the Central Committee of the Communist Party, that he necessarily must have been a member. But those three witnesses are the only ones who testified to such facts, and unless you accept them, unless you put everything else aside and accept those three men, you could not under conscience or morality or anything else return any except a verdict of not guilty.

Now, here is an instruction that the Court is going to give to you. The Court gives to the jury at the close of the case certain instructions which the law requires. The law says that the jury should be instructed upon particular matters, and [7706] particularly matters in issue in the case, and the Court informs in advance the instructions he intends to give. The prosecution submits some; we submit some. The Court calls them out and gives a certain number. We disagree with the prosecution's; they probably disagree with ours. But at any rate, they are the instructions of the Court and they become the law that you have to follow.

Here is one of the instructions, and see if this is not the nucleus of the entire question, if this does not narrow the issue down to make a resolution of this case depending upon the testimony of the three men I have just mentioned. The law says this:

> "The law recognizes various legal relationships that may exist between an individual and an organization. I shall not attempt to enumerate all such possible relationships, but among them are such as associations between a person and an organization, connections of a business, professional or other similar nature, affiliation and membership. Mere association between an individual and an organization does not constitute membership. The same is true of business, professional, social or other similar connections. A person may approve some or all of the aims or activities of an organization, but this does not make him a member of such organization. Even sympathy with the program of an organization or contributions of money to

that organization [7707] do not create the legal status of membership.

"The law also recognizes that active cooperation with an organization in its activities does not constitute membership.

"I have also mentioned the legal relationship which the law designates as affiliation. Affiliation is defined as conduct of a person which indicates an adherence to or furtherance of the purposes or objectives of an organization. Even affiliation, if you find it to exist in this case, would not constitute the same legal status as membership, for the reason that membership refers to something more than and different from affiliation. Therefore, even if you find that the defendant Harry Renton Bridges has established or maintained a relationship with the Communist Party in the United States consisting of associations, cooperation in its activities or objectives or affiliation, but you nevertheless are not convinced to a moral certainty and beyond any reasonable doubt from all the evidence that the defendant Harry Bridges was every a member of such Communist Party in the United States, then I instruct you that the answers given by the defenant Harry Renton Bridges in the naturalization proceedings would be truthful answers and the defendant Harry Renton Bridges would not be guilty thereby of false swearing as charged in this [7708] indictment."

To repeat one or two phrases from it, a person may approve some or all of the aims and activities of an organization, but this does not make him a member of the organization.

Affiliation consisting of adherence to or furtherance of the purposes or objectives of an organization does not constitute membership. So no amount of association, sympathy with, affiliation with the Communist Party, its principles, its prerogatives, its programs, anything it wishes to do, constitutes membership in that organization. The Court will also instruct you and you are sworn to accept the instructions of the Court.

The law fixes certain requirements for the establishment of particular statuses. If the requirements of the law are not complied with, that status never takes form, never becomes a reality, however much the persons may have wished that it should become a reality or however much evidence may exist that such thing is so.

For instance, a man and a woman procure a marriage license, have it regularly issued, go through all the prescribed forms, appear before a minister of the gospel, have the marriage performed, properly certify the license they received, record it in the county, take up their lives, have their home and their cohabitation, numerous children, property owned together, identify each other as man and wife and call each other husband and wife, live as Mr. and Mrs. whatsoever their name may be. Then the man dies and he has in his possession at the time of his [7709] death a great fortune which he inherited from his father or mother, so that it is his separate property. The wife goes in and moves to have letters of administration issued to her and to have this estate regularly distributed so that she shares upon it. Then for the first time it is discovered that a preceding marriage which the man had had not been finally canceled and ended by a decree of divorce at the time of the marriage with the second wife, or indeed, until, let us say, the next day. Now, however unjust it may appear, whatever equities the law has since devised to work out some sort of a reasonable compensation to the woman so that at least she can share in the things that were accumulated as part of their joint efforts and would be under ordinary circumstances community property, she is not his wife, she is not his heir, she is ineligible to act as administratrix of his estate and she can not inherit a nickel of his separate property.

We see such things happen. Every lawyer who has had a reasonable amount of litigation has been confronted with pathetic and tragic things of that exact kind. But, in law—in law—that woman is not that man's wife, and nothing that she can say and no amount of proof of people who will take the stand and say, "Why, the man told me she was his wife; I know her children." The doctor who delivered them, the people who associated with them, and all their friends—it is all wiped out by the one inexorable fact that the marriage was void from the beginning; [7710] that they were never married.

If the strict rule of law can prevail to preserve and to carry out what must appeal to every person as being an injustice, then are we departing from our morality when we say that the strict rule of law should prevail in this case to prevent an injustice? Are we wrong then in asking that the same rule be addressed to Harry Bridges as would be addressed to the woman under those circumstances?

Of course, suppose, for instance, that a man has all his life been a member of the Republican Party. He has contributed money to its support; he has held certain appointive offices under it; he has voted year after year as a member of the Republican Party. Finally he becomes a member for a high office; he is a fit and worthy man; he is elected by an overwhelming vote. After he is elected, it is then discovered that he did not register as a Republican within the time required by law, but was a day late. From beginning to end, his entire election is undone; he can not hold public office. If he collects a nickel of the salary, he is liable on a taxpayers' suit to repay it, and the treasurer who paid him the money, even though he knew nothing about that fault in the registration, is required to repay the money given to that man into the public treasury, because he was not a member of the Republican Party at the time he was elected. Now, it is useless for him to parade documents or certificates, monuments. It is useless for him to call to [7711] the witness stand Republican Party bosses, officials elected and appointed. It is useless for him to state what his sympathies and what his predilections are. Under the law he was not a member of the Republican Party, and that finishes him.

If a man does not receive the sacrament of baptism, he is not a Christian, or he is not a Catholic, or whatever it may be, regardless of the fact that he may believe implicitly in all of the teachings, l of the statements that are addressed to the acolytes of this religion. He may attend the services of the church; he may make sacrifices of his wealth, of his person, of his safety to accomplish and forward its purposes, but he is not a Christian; he is not a member of the Christian faith.

Sometimes that fact is a very important matter where people are devout Catholics and there is a second marriage contemplated. Let us say that a man and woman are married, become divorced, and then suddenly he wants to marry another person and is anxious to have an annulment of the first marriage in the church so that he can continue to be a member of the congregation whose principles he has embraced. A search into the religious history of the spouse from whom he has separated may give him a clue that will enable him to satisfy his conscience and at the same time marry the object of his affections. If it develops that the previous spouse has not been baptized, then regardless of how that person may have carried out all the duties and all the procedures of the religion to which he was [7712] attached, the church will hold that he was not a Christian, and a marriage between a Christian and a non-Christian may be annuled in the church. And I have myself seen the great delight that has been manifested on one or two occasions when that exact situation turned up and people who had been long separated could be finally divorced, go out and marry other people. The mere accidental mischance that the ceremony or the sacrament of baptism had not been performed upon the previous spouse makes them within the eyes of the church not such a marriage as can not be annuled by the church.

Suppose—and it certainly is a wild supposition—that all these obscure sort of people who attempted or seem to have attempted to lift themselves to some force or some grandeur by becoming members of the Communist Party, if only that they should have the secret conspirational delight that seems to be a part of this procedure and which I think reflects badly against it, which would drive Mr. Paisley, for instance, into the Ku Klux Klan, to go around hooded with burning crosses and carry on such matters—suppose that that organization and those people became immensely wealthy; that by some investment in a particular place, there was a discovery of oil or gold or diamonds or magic cities of the east and suddenly the Communist Party was a party of millionaires, all of the 70,000 people had a stake in its holdings amounting to millions upon millions of dollars, and the Communist Party now having become opulent and, let us [7713] say consistent with the frailty of human conduct, not being any longer interested in the welfare of downtrodden humanity, decided that it would disband and it would divide its property, as the law would require, equally among its members. Harry Bridges could go into court and prove that he had sat down with the glorious heads of this organization; that he had taken orders from them, dictation, suggestions, advice; that he had sympathized with all their aims, fostered, encouraged them; refused to come out against issues that they were opposed to, supported issues that they were interested in. He couldn't get a five cent piece out of all the millions that they had accumulated; he was not a member of the Communist Party and that finished it. So that no matter what affiliations, sympathies, mutual cooperations may be proved, they all fall flat and they become useless unless they prove to a moral certainty and beyond a reasonable doubt that he signed that application; and he received a book and paid dues, because I will show you presently by their own testimony, that those were the necessary concomitants of membership, and that without them one was not a member.

It hardly needs amplification to suggest that merely going along with an organization like the Communist Party that happened to have the same interests or the same objectives that one has himself, would not make one a member of the Communist Party as of the time in 1934, '35, '36 and '37 that Harry Bridges sat down and talked to them; that he accepted their help in the [7714] strikes that were going on on the waterfront; that it happened that their interests were the interests of the working man and his interests were those of the working man; it would be foolish to take a stand inimical or hostile to those people and to say to them, I don't care that you stand for the same principles that I do; out of fear of having same people attach blame for me for associating with you, I don't want your help," when that little bit of help, that little aid to what his men were already able to do that might be the very thing which would turn the tide of battle. Just as in the war, the Soviet Union hated capitalism and we hated Communism, but the Soviet Union was interested in destroying the German military machine and we were interested in destroying the German military machine, and we both went along together and succeeded in accomplishing that laudable purpose. But that didn't make them capitalists and it didn't make us Communists.

If Harry Bridges united with the shipowners, for instance, as he is doing now, to try to request the United States to recognize the existing regime in China so that the ships could move out of our harbors and that the stevedores and the sailors could be employed, that doesn't make the shipowners stevedores and it doesn't make the stevedores shipowners.

And what right has anyone to assume that if Harry Bridges had been asked those exact questions in Judge Foley's court he would not have answered them as truthfully as he answered them [7715] on the witness stand here. Suppose, for instance, that Judge Foley said to him this:

> "Mr. Bridges, we are informed by Mr. Barber"—or whoever it may be—"that the Communists in the years 1938 to 1949 stood for the following principles: They didn't want any war with Russia, hot or cold; they think that the United States ought to accept as an accom-

plished fact the Communist government in China, recognize it, resume trade relations with it; they think that the Marshall Plan should be so amended that it does not include shipments of arms by the Dutch into Indonesia, the English into Malaya or the French into Indo-China; they think that the United States Government should start a great housing project, build houses all over the country; they think that the government should start to take over the power plants in this country. What is your opinion on those?"

Well, Mr. Bridges might say, "I agree with each and every one of them," or, he may say, "I agree with so many and I do not agree with others." But I suppose he said, "Yes, I agree with every one of them."

All right. Next question: "Mr. Bridges, do you know William Schneidermann?

"I do.

"Have you ever sat down and discussed with him matters relating to trade unionism? [7716]

"I have.

"Have you ever accepted or followed his advice in such matters?

"It might well be.

"Do you know Roy Hudson?

"Yes.

"Has he ever visited your home?

"Indeed he has.

"Did you visit at his?

"Yes.

"Are there members of the Communist Party with whom you are friendly?

"Indeed there are. There are certain members whom I believe to be brave and sincere persons. I do not go along with them in all ways, but they are entitled to their own opinions. I won't exchange mine for theirs nor ask them to exchange theirs for mine.

"All right. Have you criticized certain policies of the American government in the past the same as the Communist Party has criticized them?

"Well, I don't know that they have criticized. I reserve the right to criticize the government. What am I here for if I can't? What is the use of becoming a citizen or my seeking to have a vote if I am bound hand and foot so I can't say a word against the people who have the power? [7717]

"All right, Mr. Bridges, you have answered all of those questions. Now, I want to ask you one other question. Have you ever as a matter of fact joned the Communist Party?"

And he says, "No, I never have."

Now, all the preceding questions have no relevancy and no bearing upon the determination of the issue with which you ladies and gentlemen are confronted.

The Court: We will take the afternoon recess. The same admonition to you ladies and gentlemen.

(Recess.) [7718]

Mr. Hallinan: I hope it won't upset your afternoon, Mr. Donohue, but the Appellate Court granted me the stay of execution.

Mr. Donohue: You knew that this morning; it wasn't even being argued.

Mr. Hallinan: It said in the newspapers it was, that Mr. McMillan was appearing.

Now to come, then, to the gist of that particular matter, while the testimony introduced by the prosecution is at least foggy as regards what constitutes membership in the Communist Party, they did introduce some slight evidence that I suppose we might take as being the minimum that must be required. Now, all through the case, of course, they have adopted a kind of an attitude that they are not going to tell us anything about the Communist Party, they are not going to bring in any records, they are not going to bring in any officials, they are not going to bring in their rules to show us how one becomes a member or how one separates from being a member, or what their principles or procedures may be. And then they take a double-edged method of excusing themselves from that by saying, "Well, you go out and bring it in. We just say it is so and you go out and disprove it." In exact defiance of the law, the rule of law that the burden is always upon them. I don't know whether the Communist Party has records, rules, application cards, or anything else. But they cannot excuse themselves from proving it [7719] in the regular fashion by taking the same attitude. It is up to them to serve a subpoena on the officials of the

Communist Party, bring in their constitution, their rules and their—As a matter of fact, they probably have them all anyhow from their Congressional inquiries. But we are not required to do it.

However, they don't think it is worth while, since with a case that you are going to try by prejudices that were started fifteen years ago and must be good and strong by this time, what is the use of bringing in proof? So we have the absolute minimum of what one would call legal proof to establish when a person becomes a member of the Communist Party. And that is contained in the great and good Mr. Schomaker's designation.

Now this is all that we know about him:

> "Q. What happens, in your experience, to a member of the Communist Party who failed to pay his dues?
>
> "A. That was the cardinal law of the Communist Party. In order to be an active Communist, you had to pay dues as you had to be an active member. Otherwise, you weren't a member.
>
> "Q. Did you have to have filed an application?
>
> "A. You mean to join the Communist Party?
>
> "Q. Yes.
>
> "A. Certainly. How else could you become a member?"

So now we have that you had to pay dues, and you had to [7720] file an application.

> "Q. Did you have to have a card issued to you?
>
> "A. That's correct, yes."

So now to be a member of the Communist Party, you have to file an application, you had to have a book issued to you, and you had to pay dues. Now tell me, who in this case testified that Harry Bridges signed an application, had a card issued to him and paid dues? One man and only one man—John Schomaker. It goes on:

> "Q. Well, do you know of any instance in which persons were accepted into membership in the Communist Party where they hadn't signed an application?
>
> "A. Well, in my experience in the Communist Party, I never heard of any such instance, no.
>
> "Q. Did you ever hear of any instance in which a person was allowed to remain in the Communist Party without paying dues?
>
> "A. No, I said that was the cardinal principle of the Communist Party."

So, by their own evidence, their own witness, now, we have as a necessary concomitant to membership in the Communist Party, you had to sign an application, you had to have a book issued to you and you had to pay dues. The only witness who has testified to that is John Schomaker. The other two witnesses, Crouch and Johnson, put in some evidence from which I admit a necessary implication would arise that that had been done, [7721] because if a person is elected to the central committee of the Party, I suppose he would have to be a member. So that would be evidence—but only to the extent of supporting and strengthening John Schomaker.

So we have come to the point that upon the credibility of John Schomaker depends your verdict. Everything else is only window dressing, support, attempted confirmation, which without his initial anchor post is worthless and of no consequence whatever.

Now here is Mr. Rathborne on the same subject. We asked him if in conducting the investigation he went back and saw the Attorney General. The Attorney General said they were conducting an investigation of Harry Bridges, that they had evidence that convinced them that he was a Communist, that they considered him detrimental to the labor movement, and they wanted to get him out. Now here were the questions asked him on that. He said:

> "Q. I believe he (referring to Clark) said he had conducted an investigation and had proceeded sufficiently far to convince him that Mr. Bridges was a member of the Communist Party."

Now I asked him:

> "Q. Now 'a member of the Communist Party' or 'was a Communist'?"

His answer: [7722]

"A. My recollection is, 'was a Communist.'

"Q. Yes. In other words, you can be a Communist without being a member of the Communist Party, isn't that right?

"A. Well, I guess a distinction like that can be made. I presume it can.

"Q. Well, a person can have communist ideas, be entirely sold on the principles of Communism, and still not a member of the Communist Party, isn't that correct?

"A. That is possible.

"Q. And that is what Mr. Clark said; not that Mr. Bridges was a member of the Communist Party, but that he was a Communist, isn't that right?

"A. That is my recollection of the conversation, Mr. Hallinan.

"Q. All right. And nothing was said at all about Mr. Bridges having testified falsely in any proceeding, was there?

"A. No, sir. there was not. I am sure of that."

So now we have from their evidence, introduced by them, the testimony that in order to be a member of the Communist Party, which this gentleman is charged with being—Now, remember my friends, he is not charged with being a Communist; that is, in the general philosophical sense that a person may believe in communist principles, may think that the country should own the means and instruments of production, I think is [7723] the phrase, and that there should be a dictatorship of the proletariat to bring that around, which I understand, and that one man cannot make a living by exploiting the labors of another. Those are supposed to be the free principles. Now a man can believe in all those things, he can go out and talk them on a soap box or on a stage or any place else. He can teach them, he can instruct in them. If he didn't file an application for membership in the Communist Party, if he didn't accept a book and if he didn't pay dues, he is not a member of the Communist Party. And if Harry Bridges said, "I am not a member of the Communist Party," and had not done those three things, his answers were truthful.

So that one can be sympathetic to the principles of the Communist Party, he can attend meetings, conventions, he can make speeches on their behalf, he can read and distribute their literature. He can seek with them common objectives, even though those objectives be unlawful—which nobody has claimed that Harry Bridges ever attempted, in this case. Suppose that he even went so far as to get out with a musket and mount a barricade and say, "Let's overthrow the government." He still wouldn't be a member of the Communist Party, let alone that he simply accepted their help in getting decent hours and decent wages for working men. So nothing like that makes a person a member of the Communist Party. He can get out and oppose the Marshall Plan or the Five-Year Plan or the Morris Plan, or any plan he [7724] wants. And he isn't a member of the Communist Party. He can fail to make a public speech or even a private speech criticizing Russia, Brazil, the Republic of Andora or the Duchy of Luxembourg and he still isn't a member of the Communist Party. He can fail at any public or private utterance to criticize Vishinsky, whom our advisor instructs us is the master of "extorted confession," or Mr. Bruce Barber, who is a master of the perjured witness; and he can refuse to criticize Molotoff or Rudolph Valentino or Mickey Mouse, and he is still not a member of the Communist Party. He can drink vodka, he can light his pipe with a babushka, and he can ride around in a samovar, and he is still not a member of the Communist Party. He can grow a beard and like cabbage soup and not be a member of the Communist Party. He can refuse, in advising his friends or his union, to follow the foreign policy dictated by the third assistant secretary of the Navy, or even the first assistant secretary of the Navy. He can take upon himself the gift that we brag about so much, to damn the government and curse the president, or do any other thing that he may feel inclined to do. He can get out and scream like an eagle against using American money to maintain the French Colonial system in Vietnam and the Dutch Colonial System in Borneo and the English Colonial System in Malaya; and still he isn't a member of the Communist Party. He can do all those things, separately or in aggregate. He can add a whole lot of more things, and he still isn't a member of the Communist Party. [7725]

So that, finally and irretrievably, we come back to that laughing baboon, Schomaker, to find out what's the verdict in this case. All the witnesses who would establish simply that Harry Bridges attended meetings at which Communists were present, even if every other person there was a Communist, or who would say they saw him at conventions or at meetings at places where nobody else, so far as they knew, was other than a Communist, haven't any weight or validity at all in establishing the truth or falsity of the answer he gave to that one question. [7725-A]

And parenthetically, and it happened so long ago it slipped my memory, in the examination before Judge Foley, he was asked if he had not associated with members of the Communist Party and he said, "Yes, I sat down and talked with those people many times." The document is in evidence. You can read it. But here are a number of statements you might ponder now from the same Mr. Schomaker's testimony. He is talking about meetings of the Communist Party, and having located a certain party, a certain meeting that took place, the same one that Hancock testified to, he gives this limited description:

> "Everyone who attended that meeting, to the best of my knowledge, was a member of the Communist Party of the United States of America and were affiliated with the California District of the Communist Party."

All right.

"Everyone who attended that meeting, to the

> best of my knowledge now, fell under that category."

So already there is a limitation to the force or gravity of the testimony. But go along a little with Mr. Schomaker. And now, in determining the force and the weight of evidence that Harry Bridges sat down in meetings of the members of the Communist Party, and in estimating how much weight will be given to that, we have to consider these limitations upon it. We have to consider what was said on that matter and whether or not it was customary or at least occasionally happened that [7726] persons who were not members of the Communist Party attended meetings at which everybody else was a Communist, or even attended straight out and out meetings of the Communist Party, because if you find that non-Communists attended meetings with Communists, in which matters that the Communist Party were interested were discussed, or that they even attended meetings with the Communist Party itself, then in all decency and following the presumption of law that favors innocence, and it resolves every doubt in favor of the defendants, you have on your conscience to find that it was in that relationship that Harry Bridges attended such meetings.

Now, here is Schomaker. "Up to the time that I severed my relations with the Communist Party, I carried messages from, particularly during that period 1933 and 1934, from Sam Darcy to Harry Bridges and other members on the waterfront."

"Q. That was after Mr. Bridges had joined, you say, the Communist Party?

"A. Well, even before, that he actually signed an application, that there were meetings of Communist groups with Bridges."

There is Schomaker: "Well, even before, that he actually signed an application, there were meetings with Communist groups with Bridges."

"Q. Now, you answered this, that before Mr. Bridges [7727] joined the Communist Party, he had meetings with Communist members, is that correct?

"A. Well, that is correct, yes.

"Q. And at those meetings matters were discussed relating to conditions on the waterfront, is that right?

"A. That is right.

"Q. All right, and at those meetings Mr. Bridges attended meetings at which everybody was a Communist except him, is that right?

"A. Well, that is pretty correct, yes."

Now, there is their star witness, Schomaker, before Bridges joined the Communist Party, according to his sworn testimony—not that I consider that swearing adds greatly to it, but he testifies, "that at these meetings Bridges attended meetings at which everybody was a Communist except him, is that right?"

"Well, that is pretty correct, yes.

"Q. Now, these meetings were recommendations made by the Officials of the Communist Party to Mr. Bridges?

"A. Were recommendations made?

"Q. Yes.

"A. Well, the policy was discussed and recommendations were not made directly to Mr. Bridges. They were made to the group.

"Q. At which Mr. Bridges was present?

"A. At which Mr. Bridges was present, yes. [7728]

"Q. You say that for a period of about 30 days prior to the time that you say Mr. Bridges signed an application for membership in the Communist Party, he had meetings with persons who are Communists, all persons being present, all persons who were present being Communists except Mr. Bridges, and you said that the number of Communists who would be there would be three or four, and I say in those instances were those three or four members of the Communist Party also officers of the Communist Party?

"A. Well, you could term them officers of the Communist Party in that sense, yes.

"Q. Well, I can't term them anything. I know nothing about them. I ask you were they or weren't they officers of the Communist Party?

"A. I would say they were officers of the Communist Party, yes, sir.

"Q. Now, at those meetings suggestions were made concerning the waterfront situation and what should be done about it, is that right?

"A. That is correct.

"Q. And recommendations were made by these officers of the Communist Party to Mr. Bridges as the reasonable course to be followed, is that right?

"A. Well, I wouldn't say they were made to Mr. Bridges. They were made to the group, and since Herman Mann and I [7729] were members of the longshoremen, that we carried out doctrines that Bridges would not dare touch in those days.

"Q. I see. In other words, the recommendations were to the group and not to Mr. Bridges specifically?

"A. As an individual, that is correct.

"Q. And Mr. Bridges, though not a member of the Communist Party, participated in those meetings, is that right?

"A. Well, he was there. Now, what you mean by participating is another question, but he——

"Q. I mean he talked and discussed back and forth, didn't he?

"A. That is correct, yes.

"Q. All right, and you say that you and the other gentlemen whose names you mentioned, being members of the Communist Party, were also members of the longshore workers' union, is that right?

"A. The ILA, yes.

"Q. But there were members of the Communist Party present who were not members of the longshore union, is that right?

"A. That is right, yes.

"Q. All right, but these men, I suppose, had some special experience or knowledge of labor relations or trade union activities that enabled them to make some suggestions that were advisable, is that right?

"A. Sure they did. [7730]

"Q. All right.

"A. Absolutely.

"Q. Where were those meetings held?

"A. They were held, some in Bridges' home, and we held some in Herman Mann's home, and some in the MWIU headquarters. I think we held some where I was living.

"Q. Any place else?

"A. There must have been others, but I mean to these particular places, because I recall them pretty well.

"Q. What about the Communist Party headquarters? Weren't there some held there?

"A. And there were some held at 37 Grove Street.

"Q. Which was the Communist Party headquarters?

"A. That is correct."

Now, according to Schomaker, for at least 30 days before Mr. Bridges is alleged to have joined the Communist Party, he attended meetings at which every other person was not only a Communist, but an official of the Communist Party. There were discussed other questions relating to the waterfront and the waterfront strike, in which, of course, they had a common objective, and those meetings were even held in the Communist Party headquarters, and under the testimony Bridges was not a member of the Communist Party. So what happens to the meetings he is supposed to have attended? What significance can be given to them?

Now, here is Mr. Michener: [7731]

> "Q. Let me ask you this: Before you joined the Communist Party you were already a labor union official, were you?
>
> "A. That is correct, sir.
>
> "Q. Well, before you joined the Communist Party had you ever sat down and had discussions about labor matters with people whom you knew to be Communists?
>
> "A. I believe I did. In fact I know I did.
>
> "Q. Were there any occasions on which you were the only non-Communist present?
>
> "A. Yes, yes.
>
> "Q. And in those discussions would you be talking over matters of policy affecting your own union and the men who worked with you?
>
> "A. Yes, sir, that would be the general discussion would follow in that particular connection."

Wilson:

> "I couldn't answer that question in the affirmative. I am sorry.

> "Q. And did you know each of the persons who attended the meeting that you have described to be also members of the same committee or group of Communist Party as yourself?"

Then an objection and then the answer:

> "A. No, I couldn't answer that question in the affirmative. Some of the meetings were attended by, only by people who were assigned to that committee. There were other meetings that other [7733] people came to who were not members of the committee.
>
> "Q. I say before you joined the Communist Party at all, and while you were in the labor movement in San Francisco from 1934 to 1940 or 1941, I take it you attended meetings at which Communists were present, is that right?
>
> "A. Oh, yes.
>
> "Q. And did you attend meetings at which Communists were present at which you were the only non-Communist?
>
> "A. I don't know.
>
> "Q. In other words, there might be people there who would or who would not be Communists so far as you know, is that correct?
>
> "A. That is correct."

And finally, this seems to me to be conclusive on the question, there is Krolek's statement of the whole proposition.

> "Q. Well, would there have been meetings during this period of time between members of the Communist Party and persons in the labor

movement who might be sympathetic but who were not actually members of the Communist Party?

"A. Those meetings were quite frequent and they were generally called for the indirect purpose of organization.

"Q. In other words, on those occasions the persons who were asked to attend along with members of the Communist Party were being urged to support some move which would be to [7733] the good of the labor movement generally?

"A. That is right.

"Q. (By Mr. MacInnis): Mr. Krolek, you were telling us on Friday last about many meetings which you attended in which there were Communist Party members and also people who were not members of the Communist Party; is that correct?

"A. That is correct.

"Q. And those meetings, I think you said in substance, would be meetings where the Communist Party members and various progressive persons or members of the so-called liberal groups would have the same end in view, is that correct?

"A. That is correct.

"Q. And I think you said that a meeting where members of the Communist Party met with trade union leaders or other people who were not members would be called an open meeting?

"A. That is true.

"Q. Did you have any categories into which you would divide the phrase 'open meetings'?

"A. Not specifically.

"Q. Well, now, for example, if a group of Communist Party members, let us say ten or twelve of them, were assembled and there were three trade union leaders who were not Communist Party members invited to join, would that be an open meeting? [7734]

"A. That would be.

"Q. Suppose you had the same group and there were only two trade union leaders who were not Communist Party members invited, would that be an open meeting?

"A. Correct.

"Q. Suppose you had the same meeting of Communist Party members and only one trade union leader who was not a member, would that still be an open meeting?

"A. That would be an open meeting. May I qualify this statement by this fact: That to people who were in the Communist Party as well as union leaders themselves, there were occasions at which, for practical purposes, a meeting could be considered a Communist Party meeting and yet have an outsider who may not have been a Communist Party member present at that meeting"

In other words, to repeat it:

> "that to people who were in the Communist Party as well as union leaders themselves, there were occasions at which, for practical purposes, a meeting could be considered a Communist Party meeting and yet have an outsider who may not have been a Communist Party member present at that meeting.
>
> "Q. That is exactly what I am probing to discover. In other words, there would be a real Communist Party meeting and yet there could be a person present, trade union leader [7735] or otherwise, who might not himself be a member of the Communist Party.
>
> "A. That is correct.
>
> "Q. Now, Mr. Krolek, going back as best you can over the period of time in which you were actually a Communist Party member, can you recall for us the names of any trade union leaders who were not Communist Party members but who attended meetings of the Communist Party or meetings with Communist Party members?
>
> "A. It is difficult to recall offhand. I believe one such individual might have been the leader of the Alaska Fishermen's Union in Portland. I believe his name was Martin Olson, who I do recall on several occasions was present at meetings.
>
> "Q. That would be Communist Party meetings? A. That is correct.

"Q. Yet he was not a member of the Communist Party?

"A. He was not a member of the Communist Party in name, but in fact, for practical purposes, he might be so considered.

"Q. In other words, he may have been a sympathizer, and even a deep sympathizer, but he wasn't actually a member of the Communist Party? A. That is correct.

"Q. Can you think of any other labor leader who fell into [7736] that category?

"A. There may have been others; possibly John Brost, in Portland. I recall the name of one man who I believe was present at meetings that were strictly sponsored by the Communists and yet I don't believe he was a Communist.

"Q. What was his last name?

"A. Brost, B-r-o-s-t.

"Q. John Brost. A. Brost.

"Q. (By Mr. MacInnis): What was his labor affiliation?

"A. I believe he was connected with the ILWU.

"Q. And he was not a member of the Communist Party?

"A. Not to my knowledge.

"Q. But I suppose he was deemed to sympathize with the general objectives of the Communist Party? A. That is correct.

"Q. About how many meetings can you recall that this man Brost attended with Communist Party members?

"A. It is very difficult to say. I recall him associated with one meeting; that is, I recall his presence there.

"Q. You can recall at least one meeting specifically? A. That is correct.

"Q. Concerning the man named Olson, who was a director of the Alaska Canneries Union, did you say?

"A. Alaska Fishermen's Union. [7737]

"Q. Can you recall more than one such meeting which he attended?

"A. I could not specifically state, no.

"Q. I don't mean specifically because I don't expect any exact dates, but is it your general recollection that Olson attended more than one meeting with members of the Communist Party?

"A. I would say several; possibly two or three.

"Q. And again, those would be meetings which you called Communist Party meetings?

"A. That is correct.

"Q. Although Olson was actually not a member of the Communist Party?

"A. That is correct."

Now, he says, "May I make this differentiation, however, qualify your question, that such meetings that were sponsored by the Communist Party, that is, held for a general trade union purpose, made no reference in those meetings of any sort pertaining to strictly Communist matters. In other words, the question of recruitment or organization as proposed by the Communist Party was not a point of discussion. The meeting was one of a strictly trade union nature."

So we now have, from sworn testimony of the witnesses produced by the prosecution, from Schomaker, that for at least 30 days prior to his admission into the Communist Party—we will [7738] show you that he can not say that because he didn't know Harry Bridges at that time—for 30 days prior to that he said that Harry Bridges attended meetings of the Communist Party, some of them even took place in the Communist Party headquarters, to discuss labor union matters when they both had the same objective, and Harry Bridges wasn't a member of the Communist Party. Then we have both Wilson and Michener saying that prior to their entrance into the Communist Party, they attended Communist Party meetings and were not members. And finally and conclusively, we have the testimony of Krolek that not before they became members, but for a long period of time * * * [7739] Not before they became members, but for a long time Olson and Brost, who had objectives similar to the ones that at that time the Communist Party were handling in that particular locality, attended numerous meetings, closed Communist Party meetings, although they were not members of the union, which, as we used to say up at St. Ignaitus, Q.E.D.—quod erat demonstrandum, meaning: Which was the thing we set out to show. And why, why, should anyone ask you to make a differentiation between Mr. Brost and Mr. Olson and Messrs. Bridges, Schmidt and Robertson? Why, you would drive yourself to this illogical and unjust conclusion that

Messrs. Brost and Olson, the only testimony concerning whom is that they were not members of the Communist Party, could be convicted in this Court of such membership.

Mr. Hallinan: May we take the recess now, Your Honor?

The Court: Yes.

Mr. Hallinan: Might I suggest this, your Honor: in adjourning I make the suggestion that a very fine gentleman, Mr. John McNab, a member of the Bar, formerly United States Attorney for the Northern District of California, a man of great ability as a lawyer, well recognized for his honesty, his integrity, his probity, his willingness to assist in every good cause who was one of the leading figures in the charities of the Salvation Army and other similar organizations, died a day or two ago, and he deserves the gratitude of the State of [7740] California for all the things that he did for them and all the tasks that he fulfilled, the high offices he held.

I would move the Court that when we adjourn we do so out of respect to his memory.

The Court: Yes. Thank you, Mr. Hallinan.

This Court will then stand adjourned out of respect to and for the memory of the late John L. McNab. I might say, gentlemen, that I knew him well as a youngster growing up in the law; I was trained and received my formative education at the hands of his brother, Gavin McNab. In addition, Mr. McNab was formerly United States Attorney in these Courts. He was a distinguished scholar, a stalwart leader and a great lawyer. This Court will accordingly stand adjourned out of respect to his memory.

The same admonition to you, ladies and gentlemen, not to discuss the case under any circumstances.

(Thereupon, an adjournment was taken until Tuesday, March 21, 1950, at 10 o'clock [7741] a.m.)

Tuesday, March 21, 1950—10:00 o'Clock A.M.

The Clerk: The United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Hallinan: Finally, ladies and gentlemen, concluding on the last suggestion made that not only is the proof, if it could be considered proof at all, but the evidence based upon attendance at meetings at which Communists were present or even where only Communists were present of no weight in this case, because the testimony of their own witnesses shows that on numerous occasions persons not Communists attended even what they called closed Communist meetings, but there is another reason why that testimony has no strength.

Now, if you take, for instance, the situation; let us assume that Olson and Brost, who were heads of labor unions, the Alaska Fishermen's Union, on one hand, and another union on the other, as described by Krolek, and it is admitted and conceded and testified under oath by Krolek that neither of those men was a member of the Communist Party. Suppose now that they were on trial here as being

Communists and the evidence is introduced that they attended all these meetings that Krolek said he saw them at; they attended all of them, discussed labor union matters that they and the Communists happened to be interested in together, that shows proof in evidence that they were sympathetic with certain aims and motives of the Communist Party. Suppose [7742] the jury knew nothing but that, nothing but that came from the prosecution's witnesses, then according to counsel, that would be sufficient proof that these men were Communists, although the actual fact as disclosed by Krolek is that they were not Communists.

What that amounts to finally is this: that the attendance at meetings at which Communists were present, discussing plans, ideas and notions with them, may or may not constitute some evidence that a person is a Communist. It would amount to a circumstance that the jury might consider. In other words, it would be circumstantial evidence tending toward that fact. But the Court will instruct you that this is the rule of circumstantial evidence: that circumstantial evidence must not only be consistent with guilt, but must be inconsistent with innocence. And that flows necessarily from the presumption that we have already discussed, the presumption of innocence, because if the matter is capable of two interpretations, it is the sworn duty of the jury to give it the interpretation that will result in a verdict of not guilty. That is the sworn duty of the jury. So that where you have an equivocal situation of a man attending meetings which, under their own testimony, could be consistent with membership in the Communist Party or non-membership in the Communist Party, then it is the sworn obligation of the jury to give it the innocent interpretation and hold that if Harry Bridges attended such meetings, sat in on meetings at which Communists [7743] were present, until there is evidence he was a Communist, that is not proof of any membership in the Communist Party.

Indeed, the matter gets sort of a ridiculous conclusion, because isn't this what it amounts to: "I know that this man is a Communist because I saw him at Communist meetings; I know they were Communist meetings because I saw him at them." Because certainly that applies to all the people who attended, any two or three or four people there. They say these people are Communists, they are all Communists.

> "How do you know that?"
>
> "I saw them at Communist meetings."
>
> "How did you know those were Communist meetings?"
>
> "Because I saw those people there."

And particularly when all the people who are called here are so unreliable, so loose in their designations and in their testimony, even as to their own friends and associates, that no reliance can be put upon them.

Here is a small example that crops out of the testimony. The prosecution witness Schrimpf says, "I was a member of the Communist Party from the middle of the year 1934 to the middle of the year 1935. Then I quit and I was no longer a member of the Communist Party." Then they put on the witness stand the witness Ross. I have his testimony marked here, but I am not going to bother to read it out of the transcript because your memories probably retain it. He said, "I knew Henry Schrimpf and he was [7744] a member of the Communist Party for the years 1934, '35, 36 and '37." So if they wanted to indict Schrimpf for perjury now upon the ground that he testified he was not a member of the Communist Party in the years 1936 and '37, what do they do? They bring their own man Ross in to say, "Yes, he was a member during those years."

So callous and negligent of the truth, so negligent of the safety of even the people that are associated together with them in the same plot and conspiracy are these people, that they do not even concern themselves as to what the other one has said. Anything goes.

And Michener states that his former wife is a Communist Party member; not that she was a member; she is a member of the Communist Party, though he hasn't seen nor spoken to her since the year 1945.

Even as between themselves, their testimony hasn't any sign, any indicium that they make any effort to determine what the truth is, whether or not they are exact, whether or not they are precise, whether or not the things that they testify here bear the connotations and imputations that they try to put forth.

Mr. Kaiser starts out now with the witnesses who testified to these meetings and who in and of themselves amount to nothing; that is, Schrimpf, Krolek, Hancock, Rathborne, Michener—all of those people, those five or six people who said that they [7745] attended meetings. That evidence amounts to nothing. Then he gets Crouch and Johnson, who are absolutely unreliably, committed perjury not only in this case, but in the matters preceding this case; he brings in Ross, who testifies to being a perjurer not only in this case, but in preceding matters, and under some sort of assumption that the whole is greater than the sum of its parts, tries to make a case out of that kind of evidence. It would be as though you had to get a certain bird into the air; it needs two wings to fly, so they bring in nine or ten birds, each with one wing, and by some sort of alchemy, think that they thereby create a whole bird that will fly where the separate parts will not.

In addition to these difficulties, I suggest that the remarkable testimony of Rathborne, supported and bolstered by similar statements by these other witnesses that all of these people who took the stand here were for a number of years, at least, if not at the present, trained, practicing, deliberate liars and perjurers, persons who had been instructed to lie on the witness stand and had trained themselves to do it. I do not see why, in logic at least, if not in law—and I have some strong belief that it should, even in law, and made the motion to that effect—it doesn't destroy the credibility of all their witnesses: Why didn't that matter, in and of itself, cast a doubt, cast a reasonable doubt upon all the evidence that they have introduced? Now, it is their testimony, not ours. They made [7746] no effort to explain it, no effort to remove it, no effort to get away from the effect of it.

Here is the predicament and the dilemma that anyone is put in who tries to find out whether those witnesses are telling the truth—remembering all the time that if there is a doubt it is to be resolved in favor of the defendants, and that all that need be created here, and all that you can require to be created here, is a reasonable doubt of the guilt or innocence of the defendant. Now, here is Mr. Rathborne who has sat down with Mr. Donohue and gone over the case with him, who has helped prepare the case, who has been employed by them, or at least a bribe given under the pretense of employment, right in the middle of the entire case, creating it, helping coach witnesses, working in with them hand and glove in everything that they say. And here is his testimony:

> "Q. In other words, being sworn to tell the truth, the whole truth and nothing but the truth, you testify that for a certain period of time you had been a member of the Communist Party, is that right?"

On the witness stand:

> "A. That's right. I repeat that testimony now."

All right, but:

> "Q. Back in 1940, and subsequently in 1941, being put under oath and sworn to tell the truth, the whole truth and nothing but the truth, first before the Un-American Activities Committee of Congress, and next before the Tenney Committee of the State Legislature, being asked that question, you denied that you had ever been a member of the Communist Party; isn't that right?
>
> "A. That is right.
>
> "Q. And the two answers embraced the same period, isn't that right?
>
> "A. Well, yes; I mean the same period is included.
>
> "Q. You were under oath on both occasions?
>
> "A. That's right.
>
> "Q. Do you know of any way—can you tell me any way by which one can determine which time you were telling the truth?"

Answer by Mr. Rathborne:

> "A. As far as my appearance in this proceeding, I can only say what I said before; it is up to the Court and the jury based on the evidence that I give and the evidence that other witnesses give, to determine the value or the weight and the truthfulness of my testimony.
>
> "Q. We are not concerned with that.
>
> "A. And I will state, if you want me to, that I am doing the utmost to adhere strictly to the truth in this testimony I am giving now.

"Q. You said that down at Washington, didn't you, and you said that before the Tenney Committee. What I want to know. [7748] is this——

"A. Apparently in that there is an irrecon —a contradiction which you can not reconcile."

Here is his own confession in it now, in that testimony, in that matter: there is a contradiction that you can not reconcile. Now, if we cannot reconcile it and he can't reconcile it, what obligation is there upon the jury to attempt to go outside the law and outside the ordinary rules of law and make a reconciliation of that sort of evidence?

Now:

"Q. In other words, what I want to know is, can you suggest any clue by which a person— I am not talking about the case, but you yourself—by which a person can tell whether you were lying in your appearance here or whether you were lying before the Un-American Activities Committee?

"A. I have testified and admitted that I did not give proper, right, correct testimony before those two committees.

"Q. Well, now, is there any way that we could know that, say tomorrow or next week, you won't testify that you gave false testimony here and that your testimony before the Un-American Activities was true?"

And Mr. Rathborne says:

> "A. I don't know how that question can be answered, Mr. Hallinan."

And I swear and confess, ladies and gentlemen, I don't know [7749] how it can be answered. Now, what ~~would~~ happen if, a week from now, you sat on a jury or a month from now, and Rathborne came in here as a witness and he then said, "The testimony I gave in the Bridges case was false; the testimony I gave before the Un-American Activities Committee is true, and I am repeating that testimony now." What could you say? Just that it is impossible to tell whether a witness in that situation is telling the truth. You would be like a person that was engaged in some place where there was a perpetual April Fool's Day where the principle and rule was that no matter what was said, it was a joke and a trick upon you and you couldn't rely upon it. Somebody might call you up and give you some serious and important information. You wouldn't know whether he was fooling you or sending you off on a wild goose chase, or whether you had better act upon the matter that he had given to you. It would be as though you went into a country where everybody was a liar, that the fact was exactly the reverse, so that you could not depend upon one single word that anybody said. So that, if a man told you that north lay in this direction, you could be fairly sure that it lay in that direction, or at least you would have no guide or compass at all. And this is the testimony that this man puts forth for himself. And, as you will see subsequently, for every other witness they produced here.

Now, he says, when I ask him: if you were to appear next week in a court and say that your testimony here was false and [7750] that your testimony before the Un-American Activities Committee is true, is there any way that anyone can tell whether you are lying or not? And he says: I don't see how that question can be answered. And then:

> "Q. What I would like to do is find some sort of reconciliation to solve everybody's difficulty, the jurors', lawyers', Court—everybody; that is all. You know of no clue that will identify the situation, is that right?
>
> "A. I want to thank you for being so solicitous of the difficulty——
>
> "Q. I am not concerned about you. I am concerned about whether the jury can solve it, whether you are a liar now or whether you were a liar then. Let me ask you this: You say, you testified here that the Communist Party instructs its members to lie on occasion in court, is that correct?
>
> "A. That is right.
>
> "Q. Under oath?
>
> "A. That is right.
>
> "Q. Points out to them that they are entitled to lie when they are sworn to tell the truth in a court; that is correct, is it?
>
> "A. That is right."

All right. Then——

> "Q. Let us get back to the original situation. Therefore, a person who is a Communist under such direction or [7751] education can deny under oath that he is a member of the Communist Party, can't he?
>
> "A. He can, yes.
>
> "Q. He can deny that another member is a member of the Communist Party?
>
> "A. That is right.
>
> "Q. Even though that person might be a member of the Communist Party?
>
> "A. That is right.
>
> "Q. He can also say that another person who is not a member of the Communist Party is a member of the Communist Party, can't he?
>
> "A. Well, I don't know any particular incident, but following the line of reasoning I would say that would be logical."

The situation here. In other words, consistent with his education that he talked about, it would be perfectly logical for a person who had been a member of the Communist Party to take the stand and say that a person who is not a member of the Communist Party is a member of the Communist Party.

> "Q. All right. He could also state falsely that he had left the Communist Party, couldn't he?
>
> "A. I suppose he could.
>
> "Q. In other words, being still in the Communist Party, he could pretend that he had left the Communist Party, couldn't he? [7752]

"A. I presume he could. I don't know of any instance of that kind.

"Q. And having left the Communist Party, he could pretend that he was still in the Communist Party, couldn't he?

"A. I guess any one of those combinations of circumstances would be covered by the general——

"Q. And he could, if there were a meeting of certain persons, he could falsely state that it was not a Communist meeting, couldn't he?

"A. I believe that is right, yes, sir.

"Q. And he could falsely state that it was a Communist meeting, couldn't he?

"A. I believe he could——

"Q. And there wouldn't be—Withdraw that. Is there any way that another Communist could know whether that particular Communist was telling the truth or not?

"A. Not unless he had discussed it with him in advance and advised him of the testimony that he was going to give.

"Q. In other words, just seeing the person sitting on the witness stand, it would be impossible to tell whether he was telling the truth on those matters or not, isn't that correct?

"A. Under those circumstances, that would be correct.

"Q. And it would be impossible to tell whether he had lied [7753] about the Communist Party from just seeing him on the witness stand, is that right?

"A. Well, following that reason, certainly.

"Q. And it would be impossible to tell that another person whom he had identified as not being a Communist was in fact not a Communist, isn't that correct?

"A. I believe we have been all through this a minute ago.

"Q. I am getting at it in a little different form.

"A. The same questions you asked in connection with the other question, in my judgment, apply in this form that you are now presenting them.

"Q. Then it would be almost impossible to tell if the Communist on the witness stand said a person was a member of the Communist Party, whether that statement was true or not, wouldn't it?

"A. If a man was up there for a reason and had been instructed and told and advised by the party not to give certain testimony or to deny certain facts that were true, yes, that would be the situation.

"Q. Then looking at him on the witness stand, you couldn't tell whether he had been instructed or not, could you?

"A. No, you couldn't.

"Q. In other words, there wouldn't be any difference in the manner in which he testified from just an ordinary witness committing perjury on the witness stand, is that right? **[7754]**

"A. That is right * * *."

"Q. So then it would be quite impossible, granting a person had been a member of the Communist

Party, trained in the Communist Party philosophy, it would be quite impossible to determine on matters involving the Communist Party or Communists, whether he was telling the truth on the witness stand or not, isn't that right?

"A. If the man at the time he testified was a disciplined Communist, devoted to the Communist Party interests and cause, I would say that it would be very difficult to tell.

"Q. Well, now, the way you would find out if he were devoted to the Communist Party or its cause or principles would be to ask him about that, wouldn't it?

"A. That is one way.

"Q. You couldn't tell if he was telling the truth about the Communist Party or Communist principles?

"A. Another way would be to adduce evidence from other people that might indicate that he was a devoted and loyal Communist or whether he wasn't.

"Q. Then if you put other Communists on the stand to tell you that, you couldn't tell whether they were telling you the truth, could you?

"A. That could well be true, yes, sir.

"Q. So that coming down to it finally, it would be [7755] impossible for you to tell whether a Communist was telling the truth or not under all those circumstances?

"A. Under the circumstances I have enumerated, that would be a fair assumption.

"Q. All right. You go to this Communist school and you learn this philosophy and principles that you have just enunciated. That, I suppose, is taught to you, and it takes some little time to learn it, does it?

"A. Yes. I mean the particular—yes, it does.

"Q. Here is what I am trying to get. You were indoctrinated and educated into finally becoming a liar and a perjurer, isn't that right?

"A. That is right. That is right."

Now, I can not see any reason or philosophy in any answer to the contradictions inherent in the evidence presented by the prosecution, when their own witnesses, for whom they vouch, get up here and swear under oath that even a member of the Communist Party, who knew all their philosophy, all their procedures, seeing a Communist or an ex-Communist on the witness stand, couldn't tell whether a man was telling the truth or not about matters involving the Communist Party, including the statement that a person who is not a member of the Communist Party is in fact one. And if the persons trained in the indoctrination of that sort of illegitimate philosophy can not recognize when it is being employed, in God's name, what chance has just an ordinary person [7756] of finding out? And why doesn't that evidence in and of itself create without further discussion a reasonable doubt as to the truth or falsity of anything the witness has said?

Now we are going to fly in the face of human experience, of course, and say, "Yes, but he also testified that he has left the Communist Party and he is washed clean, and he is telling the truth now." Well, according to their own testimony you can't believe the witness if he says he has left the Communist Party. You do not know whether he has left it or whether he is still in it. You don't know whether there isn't some mysterious plot or plan going on against Harry Bridges in which all these people are still members of the Communist Party and that they have united with some of these Immigration authorities to get him. How can anyone tell? It would be just a guess or surmise. Every one of these people might be still, so far as we can tell, a member of the Communist Party, or he may never have been a member of the Communist Party. It is an April Fool's joke. If they tell you to look around, your coattail is on fire, you are not going to look around. If they ask you to go some place, that there is an important message waiting for you, you don't go. It is a conspiracy, a fraud, a conspiracy of deceit, and you are the victims of it.

How do we know that Mr. Donohue is not a member of the Communist Party, that Mr. Paisley or Mr. Barber is not? How do we know all these people are not still members of the [7757] Communist Party? How do we know that it is not the Communist Party that is out to get Harry Bridges? You can't tell from any of the evidence that is produced here. You pays your money and you takes your choice. You can make any kind of guess you want, and none of them is more fantastic than the story that they present to you here in apparent sincerity, with these cliches that they think add to the weight of what they say, but really detract from them, matters like, "I say with all the sincerity at my command"—cliches of that kind don't add to the weight of what the gentleman says. They detract from it. The truth is not enhanced by saying, "I believe in this and I believe in that." Or, "You can take my standing with you," assuming in my vanity that I have a great standing with you, and say, "Here, you take my standing now, and with all the sincerity I can command I say this is so." So I, being a hired gladiator, trying to win this particular case, ask you, who are fair, unbiased judges, to substitute my opinion for the opinions you have formed and throw your own reason out. That is the type of argument very frequently heard. It is based upon a peculiar misconception. The misconception is this, that if you get persons of ordinary intelligence, which is about equal to the biggest intelligence, because the heights are not very much —the differences between a person of ordinary intelligence and a person who is recognized as being of great intelligence do not amount to a whole lot in the long run. Sometimes you see the simplest kind of people [7758] arrive at the truest decisions. Their reasoning works as well as the most practiced mind. But the notion of some attorneys is that the minute you put a man or a woman on the jury, that they take their common sense and hang it upon a hatrack with their hats, and then they never try to use it any more. But all you have to do is keep repeating things, saying things, saying things, they are going to swallow it, they are going to substitute for their own judgment and for the conclusions that they should legitimately arrive at the statements of a prosecutor, or sometimes the statements of the defense counsel and I might suggest all such illusions might be gently put aside because it doesn't work. It is in the same category of these matters of repeating, repeating, repeating, the mass hypnosis, saying, "He is a Communist, he is a Communist, he is a Communist."

Well, that shows a kind of juvenile approach to the subject. In fact, it is downright juvenile. In fact, it is the identical thing that the kids in the street yell after Harry Bridges' little girl. Yes, when she goes down the street, the kids come out and yell, "Your father is a Communist, your father is a Communist." And we are going to be subjected now to somewhat the same kind of proof here to convince the jury and trust it with so momentous a burden and so tremendous a duty confronts this jury. And so far as washing these boys clean, let me suggest this: What sort of person goes into an organization and takes there a course in lying and starts out then and there upon [7759] a deliberate career of fraud and perjury? What sort of person was he originally? Can anyone tell you that a decent and honest man would enter an organization, and having entered it, go in and take a course on how to be a liar and a perjurer? Why, if he were misled into entering the organization in the first instance by some altruistic reason, as soon as he was confronted with this he would quit, he would get up, he would say, "I am not interested in a thing like that. I have been inducted in this organization by a fraud and a deceit. I assumed and believed that you were interested in the welfare of mankind in general; that you wanted to alleviate some of the difficulties and faults and injustices of life, and here I am invited to become at the very outset a criminal, that I am going to be instructed to get up and commit felonies. What do you think I am?"

Why, everyone, every novitiate they brought in there would rush out and denounce them. But what kind of men, what was their original nature, these people who can take the stand and boldly say, "I went in and took a course in perjury. I learned how to become a liar. I have led a life of fraud and deceit for 14 or 15 years." Did that man ever have in him any of the strands of integrity? Did he have in him anything that would make him credible or make him believe under any circumstances? Wasn't he of necessity, from the time that he first prattled his first little lie, a liar? What sort of man would make himself a party to such proceedings as that? And then to come out [7760] and say, "I am not a liar any longer"? What change in his nature, in the nature that led him first to embrace so invidious and insidious a philosophy has now been altered? Merely whitewashing the leopard's spots, you know, does not eliminate them, Mr. Donohue. I do not think anybody is going to feel that a person of such nature, a traitor, a liar, a perjurer, a dirty, bloody, slimy, stinking scum, inhabitant of the cesspool, to use their language, their own descriptions (and this is without my adding a single word because no eloquence could add anything to what they could say about themselves), that those kind of men could come out and then, for pay and for profit, get up on the witness stand and carry the least weight in anything they said? I do not care if they said it was daylight. Some reflection should be cast upon that observation. One should go out and satisfy himself that the sun was actually shining and he was not being deceived.

After every war there is always a great wave of violent crime because people who were originally of a peaceful disposition, becoming accustomed to acts and scenes of violence, have their natural sympathies hardened—not all, but a great many. A great many men who have participated in battles come out hardened, cynical, putting much less value on human life than they did before. Within the last year in the State of California, a young man who had never before he went into the army done anything that called the attention of the authorities to [7761] him, who led an exemplary and even a studious life, was arrested in mid-career of a criminal's course that he had entered upon, consisting of burglaries with dynamite, holdups with armed weapons, and in the course of the career he killed an innocent old watchman who had intercepted him in one of his burglaries and two police officers, one of whom had only stopped him for a traffic violation. When he was brought to trial, the story was really a pathetic one, because it was obvious that the unfortunate man was as much a victim as an actor in the tragedy. All the testimony went in to show his fine character in advance. But he testified to his participation in the war, the Japanese violence, the scenes of blood and carnage, the death of beloved comrades, the terrible things he had to participate in himself, and he came out with an utter callousness for the rights of others, an utter callousness as to the value of human life.

When honest man can be so changed by experiences, what pretense can there be that a lot of crooks who get in and take a course in perjury can walk out of a party because they are discontented with it for some reason, or even be kicked out of that party and forthwith become upright, as shining as snow, and make themselves such people as you can rely upon? If a man is in the Communist Party and he lies and commits perjury for the interests of the Communist Party, then you may be very sure that having parted from them, he will lie and commit perjury for his own interests. [7762]

However, nothing dismayed by this, our irrepressible and vicious little Micky Mouse takes these five elements that do not amount in and of themselves to anything and he inserts them in a mosaic that is built around one great thing he has been able to evolve, because in two years of such close association as to raise all sorts of suspicions, he has found, educated, groomed and made into quite a confident, avid, eager, willing turncoat, informer and perjurer, Mr. John Schomaker. In other words, they found this one man who, having been in a situation where some weight might be lent to his testimony, and who, not having been soiled and sullied by having participated in these other perjuries, is a new and sharp tool, and about him they build this mosaic, and these little people who amount to nothing but who give some, what they call conformation as to the stories and inventions—how much conformation I will discuss with you presently.

And then they have one other thing, a phenomenon novel in American history, though not novel in the history of mankind. In all situations where a great change is portending in the economic situation, where the persons who have occupied the superior positions feel their security in those positions threatened, a repressive force emanates from them to destroy and crush this novelty that is moving in on them. Now, I do not discuss that from a moral point of view or even from a practical or pragmatic point of view because it is in human nature to hang [7763] onto what you have, and I do not blame people for wanting to keep the things and positions that they may have obtained either by hard work on their own part or by hard work on the part of their ancestors.

But any rate, historically the situation exists, and we have then a strong, oppressive, well intrenched organization of persons working for a common purpose: to suppress this sort of spasmodic and natural and unorganized movement to change and correct —or at least to change; let's knock out the word "correct"—the existing situation. And then that powerful organization is always able to gather around it all sorts of jackals, poor men and bad and perjured people, who go out and do the dirty work for them and do their will. And we have often had at numerous times in the history of the world, and not too remote history, instances where a national prejudice would be generated against some specific type of persons, let us say on a religious basis, let us say on a political basis, a social and economic basis. And then you will always find a rush of people who will come in and aid and assist the powerful who don't need the aid in their operations of carrying out their campaign against such selected victims; and you will always find that the type of people who do this are reformed members of the majority that is now selected to be exterminated.

Probably the most striking example in history involves the celebrated so-called papish plot in England in the reign of [7764] Charles II. There was a man named Titus Oates, who had been for a long time a Catholic and who had even been a novitiate in the Jesuit colleges in France, who returned to England with a fantastic story that the Catholic Church was about to endeavor to overthrow the English government and restore the position that the church had held in England prior to the decrees of Henry VIII. He carried with him tales of horrible assassins who were going to kill the king. And as Charles II was sort of an easy-going fellow who did not care much about protestantism or catholicity, and as his brother James was a professed and practicing Catholic, a certain suspicion was engendered by this fellow's story, and finally other persons began to get suspicious that there might be some truth in it. Enemies of the government themselves took it up, took up Oates, got him to enlarge upon his story, and finally he became so bold that he stated that he had stood on one occasion behind curtains in the palace and had heard the queen discuss the assassination of the king; he was protected from the rage of the king and the queen by the enemies of the crown in Parliament, and he then began under the guidance and the prodding of such persons as were befriending him, to name names of persons in power as being involved in the plot. And then a popular hysteria was spread out. There had been, years before—you may remember the conspiracy, the Gunpowder Plot of Guy Fawkes, the charge that the Catholics tried to blow up the Parliament House. Two great fires that had ravaged [7765] London in times past had been falsely charged against the Catholics. Now, these fables were again revived. It was now said that they contemplated burning all ships in the Thames and that a French army was to be landed simultaneously, the Pope was to be installed in Westminster, and the Catholics were to rise up overnight and murder the Protestants. The hysteria caught on.

Oates was given an affidavit before a magistrate, and one day the magistrate was found murdered or at least dead, in a field. No one knows to this day whether he committed suicide or whether he was killed by some private enemy or whether it was simply an accident. A most remote possibility is that he may have been killed by some mistaken and zealous Catholic who believed that he was part of a conspiracy against faith, but at any rate it was seized upon immediately as a pretext to carry out a powerful campaign against the Roman Catholics. Warrants were issued; search and seizure parties proceeded all over the country. They searched the house of the secretary of the Chancellor. He had burned his papers, but among the papers he had not destroyed was a document that contained certain pious hopes for the restoration of the church in England, and added little more, but it was said that if he left behind so incriminating a document as that, how bad were the things he destroyed. He was arrested. The Chancellor was arrested. The Chancellor of England was put to death. The trained bands, that is the [7766] militia of England, were in arms in the streets of London overnight. Poor, unfortunate, terrified Catholics, a tiny minority of the country, were fleeing to the continent or in hiding.

I want to read you briefly a little description of the general spirit that prevailed, and this is by not a Catholic: this is by an anti-Catholic, a brilliant writer, but a man whose devotion to the Church of England frequently led him into unwarranted assaults on the Roman Catholic church, that is, the celebrated Thomas Babington Macaulay. In his History of England he gives this story of the papish plot, a terrible story, one of those stories that makes you despair of mankind, one of those things that brings a sense of insecurity upon you so that you think you can not rely any more upon humanity, justice or any of those instincts that we thought were so firmly rooted.

Here is how he continues with the story:

> "Meanwhile the courts of justice which ought to be, in the midst of political commotions, sure places of refuge for the innocent of every party, were disgraced by wilder passions and fouler corruptions than were to be found even on the hustings. The tale of Oates, though it had sufficed to convulse the whole realm, would not, unless confirmed by other evidence, suffice to destroy the humblest of those whom he had accused. For, by the old law of England, two witnesses are necessary to establish a charge of treason. But the success of the first imposter produced its natural [7767] consequences. In a few weeks he had been raised from penury and obscurity to opulence, to power which made him the dread of princes and nobles, and to notoriety such as has for low and bad minds all the attractions of glory. He was not long without coadjutors and rivals. A wretch named Carstairs who had earned a livelihood in Scotland by going disguised to conventicles and then informing against the preachers, led the way. Bedloe, a noted swindler, followed. And soon, from all the brothels, gambling houses and spunging houses of London, false witnesses poured forth to swear away the lives of Roman Catholics. One came with a story about an army of 30,000 men who were to muster in the disguise of Pilgrims at Corunna, and to sail

thence to Wales. Another had been promised canonization and 500 pounds to murder the king. The third had stepped into an eating house in Covent Garden, and there heard a great Roman Catholic banker vow in the hearing of all the guests and drawers, to kill the heretical tyrant. Oates, that he might not be eclipsed by his imitators, soon added a large supplement to his original narrative. He had the portentous impudence to affirm, among other things, that he had once stood behind a door which was ajar, and had there overhead the queen declare that she had resolved to give her consent to the assassination of her husband. The vulgar believed, and the highest magistrates pretended to believe, [7768] even such fictions as these. The chief judges of the realm were corrupt, cruel and timid. The leaders of the Country Party encouraged the prevailing delusion. The most respectable among them, indeed, were themselves so far deluded as to believe the greater part of the evidence of the plot to be true. Such men as Shaftesbury and Buckingham doubtless perceived that the whole was a romance. But it was a romance which served their turn; and to their seared consciences the death of an innocent man no more uneasiness than the death of a partridge. The juries partook of the feelings then common throughout the nation, and were encouraged by the bench to indulge those feelings without restraint. The multitude applauded Oates and his confederates, hooted and pelted the witnesses who appeared on behalf of the accused, and shouted with joy when the verdict of Guilty was pronounced. It was in vain that the sufferers appealed to the respectability of their past lives: for the public mind was possessed with a belief that the more conscientious a past was, the more likely he must be to plot against a Protestant government. It was in vain that, just before the cart passed from under their feet, they resolutely affirmed their innocence: for the general opinion was that a good papist considered all lies which were serviceable to his church as not only excusable but meritorious."

Might we take the recess? [7769]

The Court: We will take the morning recess, ladies and gentlemen. The same admonition to you not to discuss the case under any conditions.

(Recess.) [7769-A]

Mr. Hallinan: Now we have collected, by certain governmental agencies, a stable of witnesses about parallel with the ones whom Macauley describes. They retained, back around Washington and New York, like a cageful of trained cobras, these people to be sent out wherever the occasion might arise, here to get some Communist leaders sent to the penitentiary, there to smash a militant trade union, here to kick some poor college professor out of his job, there to have some person with a little militancy and protest torn up by the roots and banished to the land of his ancestors. You can take the names of Crouch, Johnson, Ross, a dozen others, put them in that book of Macauley's in place of Oates, Bedlow, Carstairs; and you have about the same result. Over a period now of a few years, with the aid of these weapons, with the aid of these auxiliaries, one would think a decent person would prefer to go down and expire rather than employ this system—let alone to crush and destroy an insignificant minority of people. They have battered and smashed and crushed and destroyed and wiped out the Communist Party of the United States. So that the miserable remnants of it are like those victims of the Assyrian kings that you see in the granite of Babylon, flying on before the hooves of the horses and the bows of the archers. Wiped out, through, frightened, terrified—justifiably so.

Having done that now, it is too bad to let all these trained and practiced rascals rot. So they are sent out now to [7770] get people who are not Communists, but people whom they will call Communists. Now we move up to a higher echelon. Having destroyed the people who were first, the nominal objects of this crusade, why, the next step up is, why not use them now to get rid of a few other bothersome persons. Who is there? Whom can we use them to get him too, because they will just say a bothersome fellow here? Is there any bold character that remains? What about Bridges? We can use there to get him too, because they will just say anything that they are asked to say. Huh! Are we limited to what may be true or what may be credible, or even reasonable? Not at all. They will just say it, that's all. Put them on the witness stand and say it. We have got the prejudice built up; you mean to say that you can't go out to a community and pick out a man like Bridges, who has been the object of a campaign of villification for fifteen years, whom everybody knows is a Communist because they have been told it so often? You mean to say that we can't use Crouch and Johnson and these soiled cavaliers, and they won't be just as effective as the most honest man? Ridiculous! All we have to do is put some evidence on that the jury can hang on to and say, "Well, we choose to believe this," regardless of how remarkable and incredible it is. We can use it. We will get him. And when we have gotten him, who is next? Who's next? Who's the next poor unfortunate victim that is going to look up from the counsel table to some fellow, when some fellow walks in the courtroom, [7771] and who says to his lawyer, "Who's this fellow? Never heard of him or saw him in my life before." And who will get up there and say, "Oh, yes, I know him quite well." You, Mr. Juror; you, Mrs. Juror; anyone, the Judge, the prosecutors. What security have they that they won't be the fall victim to it the next day? How little dignity we have left in our regard for propriety and decency and truth!

Mr. Donohue says quite calmly and quite frankly, "Of course they are professional witnesses." In other words, of course they are witnesses who make their living by hiring themselves out to testify against people. Of course they are that. What about it? What about it? Who can point the finger against some informer, some turncoat that says, "I was a member of this organization, I now turn around and I will take money from you, I will make my living, I will make a luxurious living, by coming in and testifying against my former associates or any person whom you want me to identify as having been a former associate." And there is no blush for them, there is no apology for them.

After the French Revolution had lost its purposes and Bonaparte had been beaten and the Bourbons restored to France, a lucrative living was made by a number of persons who had been French revolutionaries, squealing on their old associates at the behest of the returned king. And among them was Barere, who had been a member of the committee of public safety with [7772] Robespierre and Couthon. And he wrote a book, and he came to England and was made much of. This same Thomas Babbington Macauley wrote a criticism of his book, and it finished Berere and all his standing in one sentence. Mr. Donohue might do well to ponder that sentence and learn what the ordinary opinion of human beings in general is about hired informers and professional witnesses. Because in describing this gentleman, Macauley said, "To the profession besides which that of a pimp or a pickpocket is honorable, did now descend Barere."

And yet these witnesses are brought in here. Now if they were witnesses who had not previously been detected in perjury, if they were not witnesses who were not detected in perjury in this Court, there might be some sort of a suggestion or some sort of a shadow that would say, "Well, we might weigh what they have to say." But you would think that if he were not impelled by honesty, he would be impelled by policy to get up and say to the jury, "Now, ladies and gentlemen, I will not attempt to impose upon your credulity by pretending that these witnesses are entitled to the least value. I say you must and you should take their evidence and strike it out from your minds. It is absolutely unreliable. I tell you that from my experience as a lawyer and my principles and instincts as an honest man. You can believe it." He might go on and say, "However, these other witnesses, I suggest, are still credible."

But no, no! As though you were children, incapable of [7773] learning anything by yourself, he had the effrontery to present their evidence to you as something that should turn or change or alter your minds or determine your minds in a thing as important as this. Instead of saying, "These people are truthful and these people are good; and I, with all the sincerity at my command, so assert." It is generally the honorable policy to examine the witness and discover, "Now, is there something about this man that makes his testimony incredible or cast a shadow upon it, or puts in that category where I must say to myself, 'Now, while it may be true and while I am even inclined to believe it to be true, still there is too much doubt upon it for me to accept it at its face value'?"

Now you must discover in the witnesses produced here whether or not that element exists, and that is the only thing that, as I see it, a lawyer can be of any value to a juror in doing. [7774]

There are considerations discussed in the instructions or will be discussed in the instructions that are common to the law and are also based upon human experience and sound common sense, and that is you question first, "What is the motive of a witness? Is there any profit for him in saying what he says? Is he being paid by anybody?" And generally, if you find the witness got as little as a five dollar bill, you will look with some suspicion upon it.

"Well, he got something out of it. That is a little wrong. There is something a little bad about that."

And then you inquire, "Have you any connections with persons interested in procuring a conviction?" Well, even if it is only some small suspicious connection that throws a shadow upon the testimony, let alone a close and interwoven connection with the very persons who are fomenting and motivating the processes toward conviction. Or you look to see: "Has he said something that contradicts something that he said at another time? Has he in a previous proceeding in court said something different from what he says now? If so, how can we tell which was true and why should we bother?"

It is the principle of law that better than ten go free rather one innocent man suffer. That is enough to throw reasonable doubt upon his testimony. "We have done our duty. We have listened. There isn't testimony enough to satisfy our minds with that sort of witness," and he is rejected. Or you [7775] find that the person is doing something that shows a favoring of one side over the other. Why, I have known many cases where jurors—yes, and practiced judges, who had been on the bench for years, rejected in toto the evidence of a witness for no other reason than that while disclosing to one side what he was prepared to testify, he refused to tell the other side. Now, doesn't that show a sense of partisanship, an alliance with one side, a determination to further their purposes and of hostility to this side to whom he refuses to disclose this testimony? And in every one of the witnesses that are brought in here, you can find practically all of those matters, in addition to which, in all of them, there is that conduct which falls within the broad scope of the legal phrase, "any other fact fitted to deceive," upon which, becoming manifest, you are supposed to consult the credibility of the witness.

The processes of cross-examination are not very esoteric. If a man has been practicing law for a number of years, then he should know those small formulae by which a willingness on the part of a witness to deceive may be detected and pointed out. Now, he may not deceive at all. He may not say anything that could be shown to be a deceit. But as soon as the witness shows a willingness to deceive, that there is in him an inherent tendency or bias toward a deception on a particular side, that witness' testimony is suspect, and one of the ways that must appeal to anybody as an obvious method of determining that will even be [7776] an instruction of the Court, and it would be this: You have a person, a witness, who gets on the witness stand, and by his own memory now, without any memorandum, any refreshment of his recollection, without having gone over the matter with some other person who was there, or read some other person's testimony about it, he gives a clear and explicit picture of circumstances and events that happened ten or fifteen years ago, conversations, persons present, minutiae of details that would show an astonishing memory for small matters.

Well, you will suspect that he is telling an invented story, that he has been given a story to tell and he is telling it. How did he find it out? Ask him what he did on some matter involving himself six months ago. Now, if he doesn't know, if he can't give any explanation consistent with the felicity of detail that was embodied in the preceding narration, it is obvious that the man is telling a story that he has rehearsed, that has been built up, and that has been given to him to tell.

And so there is another device that is frequently used, and I have seen the most astonishing sort of things where a man would narrate a circumstance or the circumstances of a conversation that happened ten years before that did not too greatly involve himself or his own interests—persons present, the things they said, what they ate and what they drank—and who would not remember where he had been the day before, literally!

And another matter that must appeal to anyone is the [7777] inherent improbability of his story. Aside from the presumption of innocence, the inherent improbability of the entire tale must strike one as being a strong circumstance that he must look at to determine if the witnesses are telling the truth. There are times of fear and hysteria, and I deny that this is one of them. There are times when people are frightened, seeing ghosts and goblins that may not exist, and I deny that we American people are in such a state. But there are times and circumstances such as that tragic incident and period that was narrated in that papish plot that cost the lives of thousands of innocent people, causing thousands of people to be put to death, that sent thousands of others out into exile, in Van Diemen's Land in New Zealand and the faraway wildernesses of the world, that robbed people of all their possessions and confiscated them to the ground, because the people had created some sort of miasma of fear and terror so they would believe the incredible story that the little minority of the Catholics in England had planned and were about to perpetrate this terrible and great crime and this revolution.

The more improbable a story is, then the stronger should be the evidence and the more credible the witnesses who put it across. Suppose that you met some person who said he was down at the beach and saw a great sea monster lying upon the sand which had drifted ashore. You might look at him a little quizzically. He is not trying to sell you an interest in it or play [7778] an April Fool's joke on you, and while it is not an ordinary thing, you are finally convinced that the man is a credible and decent man, not inclined to fool you, that such phenomena have happened. There is a great sea animal that has floated ashore.

Now, suppose he tries to tell you, however, that that animal is not lying on the ground, but is suspended some six feet in the empty air. Then you no longer believe him. You think he is drunk, crazy or there is some other reason he wants to fool you. Finally he brings in several others in whom you trust and have confidence, truthful people, not jokers. And they affirm what has been said, that the creature is in fact suspended six feet in air with nothing to support *them.* Then you look for some natural explanation—maybe the destruction of the tissue has germinated gases to cause the animal to hang temporarily in the atmosphere. It might be possible. It is an explanation. It might be so. So you finally accept that, and especially when it is not taking anything out of your pocket or anything out of your conscience.

But suppose they tell you some persons came up and cut this animal into pieces, and then another man came down and waved his hand and the creature reassembled itself and entered the water and disappeared. Well, now, I do not know what kind of testimony would be required to make you believe anything like that. In fact, I do not think you would believe it at all, [7779] unless you were an exceptionally credulous and easy-going and receptive sort of person, because a deviation from the physical law of that type is such as to cause one to say, "That thing did not happen. You thought it happened. You may be truthful. There may be some legerdemain perpetrated on you. But, my friend, you are not going to transmit it to me. I do not believe it took place."

Similarly, a deviation from the moral principles into which mankind falls makes the story just as bad as that; to say that sensible, cautious, alert persons do things over a long period of time, that a stupid, careless, reckless suicide creates a situation that makes it difficult to believe the story of a person who is trying to put across that tale.

Now, we have Harry Bridges here, a man who by Mr. Donohue's high, praiseworthy designation, is at least a very clever sort of man. Of course, Mr. Donohue falls into that common error of ascribing to opponents motives less worthy than his own, which he should not do. You should always figure the other fellow is just as square as you are and then you will arrive at the truth. If you start off by thinking everybody opposed to you is a crook, a rascal or a scoundrel, if you work yourself into that sort of thing, you will lead a life of self-deception, and you will never be able to convince anybody else of the story.

And so this man, starting out as a common sailor, when he was 23 years of age, has now under the most difficult circumstances, [7780] against the opposition of unscrupulous rivals in labor unions who did not hesitate to stoop to murder to obscure their acts, against the calumny of enemies, treachery of friends, subjected to a surveillance of 15 years by powerful, unconscientious, unconscionable forces, striving to get something against him and to prove something upon him, living in a fish bowl, visible to every eye, knowing that his telephone is tapped, his walls are dictographed, and suspecting even when they are not that such is the fact, seeing the day that the man who stood beside him in the middle of a riot and endangered his life with him turn upon him and bear false testimony against him, and see tomorrow another friend who had cursed and reviled the previous traitor, now turned traitor himself, knowing himself to be the object of a campaign of vilification by all the great propaganda instruments of modern civilization, the press, the radio, even by word of mouth, who have seen such things happen as this, that his wife, his first wife, poor, unfortunate woman—and there wasn't any fire when she fell out of the window, Mr. Donohue; she just fell out of the window, and you know why people fall out of windows—she fell out of the window, the poor unfortunate woman. First she gives an affidavit that Harry Bridges has never been a member of the Communist Party, has never had any book issued to him; that Lundeberg, when he said that Bridges made an admission to him that he was a member of the Communist Party, had lied, that no such thing had ever [7781] happened; who then went into court and affirmed under oath the truth of that affidavit and, when the misfortunates of their lives lead them to a divorce, turns around and instantly hands to these people an affidavit contradicting that, so that he can not even trust the wife with whom he resides, can not trust anyone—literally, my friends,—his brothers and sisters, his friends, his children, his associates, anyone. All suspect! All suspect! Although he does not suspect them, although with all the treason and all the treachery and all the perjury that has confronted us here, and despite Mr. Donohue's statement that this man is a character assassin, I have never heard him say a word against any one of them. I have heard him say of people like Schomaker and Rathborne, "Well, they did all right but they were weak. You know, we have to give them credit. They did some good, but when a man as he is, they are weak. They buy them up, they buy them up." That is his attitude toward them. That man now, who even thinks that a good person, while still remaining good, is venal and can be bought up, so he must regard every movement with suspicion, so that he walks through a valley where his feet are in darkness and he doesn't know what pits are set forth but is certain that there are some, who knows that every minute of his life is of interest to forces who would destroy him, who knows that every word he utters, every letter he writes, every action he takes can be vended for a price. This [7782] man is supposed to have gone in before not one, not two, not ten, not fifty, not a hundred, not five hundred, but thousands of strangers and delivered himself into their hands; that, having taken oath that he was not a member of the Communist Party; that knowing if he is or becomes one, he will be instantly seized and thrown out of the country, because they endeavored to throw him out only upon the statement that he had affiliated with Communists; that this man walks like some kind of an insane fool into meetings, conventions, addressing them, congratulating them on their procedure, and showing himself to be one of the persons who is subject to this discrimination and injury,—a man whose enemies desire and hope at any cost to fasten upon him as a member of that organization, that he defies all the rules of safety and caution; that he isn't a careful and a prudent man at all but a reckless and silly man, and where he, by the forces and powers and principles within himself, the love of his fellow man, has been able to weld a broken and scattered gang of oppressed and mistreated and exploited men into a strong and powerful little union,—an organization that, having freed itself, can look around and go over to Hawaii and smash the feudal despotism of the Five Families over there and bring something of dignity and something of human values to the people of Hawaii and the working class of Hawaii, that can maintain his position against the violence and other treachery of people like Curran and, as has been disclosed, Phil [7783] Murray and Carey, who are supposed to be his friends and his superior officers; a man who can maintain himself in the position that he has been in and carry on his ordinary life must be a man of extreme intelligence and extreme prudence. He can not let his foot slip once; he can not cease to look around. I swear, ladies and gentlemen, he has the look of a hunted man; he has the look of a man who is constantly on the alert for danger. And this man we are invited to believe, puts himself at the mercy of Manning Johnson, Crouch, Schomaker, Schrimpf, Rathborne, all those cattle; that he delivers himself into their hands and says, "I, who can trust nobody, even those who are dear to me; I, who must lead a life of loneliness because one of my best friends the next minute may wield a dagger; I take and I deliver myself into your hands—into your hands who have entered a life of fraud and treachery and deceit, who by your own acknowledgment, is a rogue and a rascal, an associate of rogues and rascals, who has no faith to the country, who has no faith to his own family, no faith toward his friends—no faith—in your hands I deliver myself." And they have the effrontery to try to put over a story like that on an intelligent jury!

And Mr. Donohue himself recognizes the inherent improbability of such narrative, just as Rathborne recognized the inherent irresponsibility of him testifying falsely today and when testifying tomorrow and trying to tell anyone how he can [7784] tell which time he was telling a lie. Here is what Mr. Donohue asks Father Meinecke, and in it is the answer to their entire case. He says, "Are you naive enough to believe that Harry Bridges, who has denied his association and membership in the Communist Party on every possible occasion, would tell you if he were a member of the Communist Party?" And the irony of his voice was the answer that to the priest whose profession vests him with the obligation of not revealing what he hears, that even to that man Harry Bridges would not encumber himself; that he would not bare his breast to the blow of any person.

Then let us ask you this, Mr. Donohue: Are you so naive as to believe that Harry Bridges would walk into a convention of leopards and cobras and hyenas; a convention of persons who by their own description are liars, perjurers, who lead lives of fraud and deception, who are bloody, slimy, stinking, scummy inhabitants of a cesspool, strangers to him, a thousand of them—are you so naive as to believe that he would walk in there, after having twice denied under oath that he was a member of the Communist Party, and allow himself to be elected a sort of secret sub rosa member of their central governing community, expose himself to all of them, allow himself to be identified and have told in his presence that he is being given some fictitious name because it is important that he be not disclosed, thereby disclosing to this pack the value that may repose in informing against him, and then, to put some icing on the cake, Mr. [7785] Donohue, are you so naive as to believe that, after he had done that, he went out and twice more swore under oath that he was not and never had been a member of the Communist Party? And if you believe it, Mr. Donohue, you will believe anything.

May we take the recess?

The Court: We will take the noon recess, until 2:00 o'clock, ladies and gentlemen. The same admonition to you not to discuss the case.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [7786]

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IN THE

Supreme Court of the United States

October Term, 1952

No. 548

1

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume XVI
(Pages 7211 to 7682)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

Transcript of Record

In 17 Volumes

Volume XVI
(Pages 7211 to 7682)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

Tuesday, March 21, 1950, 2:00 o'Clock P.M.

Mr. Hallinan: I have a friend, a lawyer named Dean Cunha, and Dean had a kidney stone for, oh, 20 or 25 years. It never disturbed him very much, although he knew it was present. Finally in this last war he was drafted into the Army, and then this concretion was discovered in the renal helix, and Dean got a medical discharge. And after he came back to his books, he remarked that he had always been told that if you kept anything long enough, some day it would be of use to you.

So, by analogy, in this case the very fact that Harry Bridges has been pursued and hounded and spied on for 15 years, in and of itself should be a very considerable proof that he didn't continue to go around in a reckless disregard of his safety doing the things that these gentlemen say he did and exposing himself to the fate that all the precautions that were supposed to be taken to avoid. In other words, he is supposed to be taking the most guarded precautions to keep himself from being deported as an alien, and at the same time he is walking into situations which only the strangest kind of a run of good luck could keep him from being deported.

It goes back so far that Schomaker testified, first, that Norma Perry, back in December of 1934 or January of 1935, had been discharged by Bridges as a spy for certain interests. They say she was discharged by Bridges for Communist Party [7787] affiliations. We don't care what it is. At any rate, as early as 1936 we hear from the testimony from the prosecution that they were going to the extent of inserting somebody in the organization to get information and hand it out. And a few months after she is discharged by him, according to Schomaker, she accepted employment in Lundeberg's office, his deadly enemy. So here he has the information that his official family probably contains spies.

In 1937 Schomaker was present when a dictograph is found in Harry Bridges' room. And Bonham, an Immigration officer in that district, appears before the convention and explains that it was not planted by the Immigration officers, leaving it to be suspected who else may have planted it, and there is a discussion from the floor as to the attempts that are being made now to break up the union by deporting any person who is a leader that is an alien. And Schomaker is asked this:

> "Q. Now, Mr. Schomaker, the man whose affiliation they were investigating at that time,"—that is, whose affiliation with the Communist Party or alleged affiliation with the Communist Party the Immigration Department was investigating—"Mr. Schomaker, the man whose affiliation they were investigating at that time and whose deporation they were looking to was Harry Bridges, wasn't it?"

Schomaker says:

> "Whom Mr. Bonham was referring [7788] to?"
>
> "Q. Yes.

"A. It was undoubtedly Harry Bridges."

And way back at the time that he says he signed up Harry Bridges or Harry Bridges was signed up, all sorts of precautions were taken, the mother's maiden name being employed, and he says of this time back in December of 1933:

> "Q. Now, will you tell me this: You said concerning Mr. Bridges' application, that there was something extraordinary about it; that it didn't go through, or the application didn't go through the ordinary channels; is that roughly correct? A. That is correct.
>
> "Q. And the reason for that, I take it, is this: That he was an alien and subject to deportation if he were known to be a member of the Communist Party, and hence his membership had to be kept concealed, is that right?
>
> "A. (By Schomaker): Well, not only for those reasons, because every member his membership was kept concealed, but in Bridges' case, extraordinary precautions were taken.
>
> "Q. For the reason that I have just enunciated, is that right?
>
> "A. Well, primarily, I guess you are correct on that."

So, according to Schomaker's testimony, at the time that this alleged card was signed, precautions had to be taken because it was known that Harry Bridges was an alien and subject to [7789] deportation if he were known to be a member of the Communist Party.

And he testified further that around that time an Englishman named James Branch had been deported simply and solely because he was a member of the Communist Party.

Similarly with Schrimpf, evidencing this necessity for concealment:

> "Q. (By Mr. Paisley): Do you know who selected the meeting places?
>
> "A. We never knew in advance.
>
> "Q. How were you notified?
>
> "A. Someone would come around and inform me. Very often Norma Perry phoned me, as many times as any other individual, where I was to meet. And these meetings, as I attempted to say before, were never given in advance; and the address was never given to you; they would pick you up in a car. Norma Perry had a car, and she was a pretty busy little woman in those days. She would drive you around to the various places. And incidentally, to make it more difficult, to remember these places, the Communists were overly cautious because many times I can honestly say I would travel eight blocks to go two [7790] blocks."

And Manning Johnson:

> "Furthermore, because of the fact that the Communists on the West Coast were constantly under police surveillance, and that they could not make a move without being constantly checked, that in order to safeguard the key

> people the party had in the labor movement on the Pacific Coast, that Bridges would not be asked to come into any more of these meetings."

So in 1936, at the time he is supposed to have been engaged in this bold enterprise, according to their witness Johnson, Communists on the West Coast were constantly under police surveillance and they could not make a move without being constantly checked.

While Mr. Crouch adds this information to the same subject:

> "In connection with the West Coast, the outstanding party leader was Harry Bridges at that time, and it happened that Harry Bridges was known by the national officers of the Communist Party not to be a citizen of the United States, and therefore liable to deportation if his party membership was discovered. And for this reason the name of Rossi had been used for some time prior to this convention in reference to him and to his work."

And then, questioning when that precaution first became or was first called to his attention:

> "Q. You told us this one part, that Harry Bridges, being [7791] an alien, was subject to deportation and that those facts were known to the officers of the Communist Party. When did you first hear that subject discussed?
>
> "A. The first time I can recall hearing that subject discussed was in April, 1934, in a car

between Denver, Colorado, and Cleveland, Ohio, at the time I first learned that Harry Bridges was a member of the Communist Party.

> "Q. Was it discussed in any of these conventions or committees during the period from 1934 to 1938, that the Federal Bureau of Investigation had agents planted in the Communist Party?
>
> "A. I cannot give a correct yes or no answer to that question.
>
> "Q. Well, can you give us a yes or no answer and then explain it?
>
> "A. My answer is no, with this explanation, that the leaders of the Communist Party considered it possible that the Department of Justice would attempt to get its representatives into the Communist Party, but in those days they felt very confident of their ability to recognize them and prevent them from joining the party."

And Ross. Now, Ross was testifying in a previous inquiry, one that was held before some Congressional committee that came out to California and procured testimony from him several years back. And in that time, as he acknowledged in this hearing, [7792] these questions were put to him:

> "Q. Would you care to estimate, if you know, how many of these are loyal and faithful to our ideas and ideals?
>
> "A. (By Ross): In other words, how many stool pigeons we have in the party?

> "Q. That's right.
>
> "A. No, of course, not. If I knew how many there were or who they were, they wouldn't be there at all."

And an explanation of that being asked by Mr. MacInnis:

> "Q. Mr. Witness, when you testified before the Congressional committee in December, 1934, at Los Angeles, you testified that stool pigeons were put into your organization by hostile organizations, is that right?
>
> "A. Yes, sir, I believe so."

So we have all of these witnesses, then, showing that back in 1933 and in the year 1934, when it is claimed that Harry Bridges became a member of the Communist Party, that it was known that spies, stool pigeons of rival and hostile organizations, and legitimate officers of the government, engaged in a proper undertaking of determining what was going on in the Communist Party, were actually members of the Communist Party and placed there for that specific purpose. And I say this, furthermore, ladies and gentlemen, that one of the conclusive matters in this case is that there hasn't been adduced by the prosecution here one honest witness, one man who could say that the things that [7793] he claimed to have discovered and knew, he learned in any legitimate fashion. Now, it would be inconceivable that this long course of membership in the party of that suspect nature, subjected to the surveillance that we all have been told and have had explained to us if was subjected to, that even by chance, not one undercover agent, not one employee of the Federal Bureau of Investigation, not even an employee of the Immigration Department, could be produced here to say, "I, too, saw Harry Bridges at some meeting of Communists." Even the mildest kind of a meeting. It would seem incredible that of all the people, the honest people who were employed legitimately to find out if Harry Bridges were a Communist over the last 15 years, that if he had been one, if he had been a member of the Communist Party, one of them wouldn't, if only by chance, have detected it. Let alone when they were employing all their assiduity, every means at their command, to discover and to detect that one fact.

And then with this situation existing as it did, with Harry Bridges and the Communist Party knowing that if he joined that organization, became a member of it, he would be deported,—here is the conduct in which he engages. And furthermore, in describing these gentlemen again, you will see that I am not using or inventing any names of my own. I am merely using the names that they have applied to themselves.

John Schomaker lied about the time that he started to work [7794] on the waterfront. He said he landed there in October of 1933 and that he was present in November or December at the latest, of 1933—he says the middle of December at the latest, when Harry Bridges is alleged to have signed a Communist Party application. It isn't true that he got to the waterfront in October, 1933, because he didn't leave the Veterans' Hospital until November, 1933. The suggestion is made, well, maybe he had accumulated time off and took it. Uh-uh (negative). They have the records. They stated that, the man who was brought in here said, "Here's the records that we have at the hospital, but the records of the actual hours by Schomaker are in Washington." They have that record, and if the records show that he had accumulated time and had taken it off on a credit, they would have the records here to establish it. So we won't be deluded by that. He didn't go to the waterfront until some time late in November, 1933. So that he couldn't have known Harry Bridges for more than a month. And here this man, who drifts in from nowhere and starts working on the waterfront—Bridges, with all this danger and all this suspicion hanging over him, hands over to that man his safety and his right to stay in the country. And what sort of a man is he?

> "Well, in the period of 1922 I bummed over the biggest part of the Western States. That is, west of the Mississippi.
>
> "Q. For how long a period?
>
> "A. Well, from the spring of 1922 to July the 31st. [7795]
>
> "Q. You were a tramp, is that right?
>
> "A. Absolutely correct."

A tramp, a hobo. Now, that is his language, as I say, not mine. And while that statement was made in cross-examination he gave the same answer on direct-examination:

> "A. Well, like all young guys that want to see the country, I just traveled around. I guess you would call it just bumming the country."

He joins the Marine Corps in July, 1922, and remains a member of the United States Marine Corps until his discharge in 1925. Now, a membership in a military organization in peace times is not such as to recommend one as being an example of diligence and faithfulness and hard-working proclivities. There is nothing wrong with a person who does, but it is the kind of a soft job that somebody takes who hasn't very much of a sense of responsibility.

And then he was asked where he went to, and he said he went to Santa Barbara, and his occupation while he was in Santa Barbara was that of a hod carrier. And then:

> "Q. What did you do after that?
>
> "A. Well, I toured the Western States again, through most of the Western States."

Then what did he do after that? For several years he goes down to the Veterans' Hospital, works as a guard, an attendant and a gardener. Sort of a handyman around a Veterans' Hospital, from [7796] 1927. He quit in 1928, went back in the winter and stayed again until 1933. So he was five or six years engaged in that occupation. Then he comes to San Francisco and goes to work on the waterfront, and he signs Harry Bridges, the cautious, clever man that counsel has been describing—he signs him up as a Communist Party member in 1933!

Now, the man, in addition to this, is not the sort of fellow that one would put much trust or much reliance on. He goes on to give some further descriptions of himself, and there are little things throughout the book, throughout the testimony, that indicate his character and his nature better than anything else that might be said. A certain eccentricity, peculiarity of nature. The kind of thing that would make one look askance upon this man, if anything important were involved. Mr. Schomaker, by counsel:

> "Q. Do you know the defendant Harry Bridges?
>
> "A. Do you know Harry Bridges?
>
> "Q. Yes, sir.
>
> "A. Well, I would know Harry Bridges. His wife Agnes used to call him Bill. That must be the same person, I guess."

Now, here he is called in here as a witness to testify in a case about Harry Bridges, and he starts out with a kind of flip eccentricity as though the identity of the person were in some doubt. And all through the transcript he was a juvenile [7797] and an infantile outlook and fancy. Do you remember such statements as this, page 1128:

> "I am no little Abner."
>
> Another: "I was reading a detective story."
>
> Another: "Sounds like one of them things you get out of a dime detective story."

Another: "Being there's a little Dick Tracy in me, too."

Later: "So I wasn't any Dick Tracy, running around . . ."

And when I asked him, "Well, who are all these people?," and what is the connection between the Dick Tracys and the Little Abners,—well, they are funnybook people, they are characters from funnybooks. Now, if you get little children, seven or eight or nine years old, who gives answers of that kind, and use that sort of language, they might be people that you wouldn't pay much attention to. But when a grownup man has that sort of juvenile mind, that sort of childish and infantile proclivity about him, to think that a man whose safety depends upon that fellow's integrity and good sense, hands over to him or in his presence executes an application card that is a free ticket to deportation from the country, it is straining at one's credulity.

"A. I think I made some kind of a statement about Little Abner.

"Q. Who is he?

"A. He is a comic book character.

"Q. And then in another place you use, 'I am no Dick Tracy.' [7798]

Who is Dick Tracy?

"A. He is a private eye, I think—takes an awful beating sometimes, too.

"Q. Is he some person you know?

"A. No more than I read the funnies. I see the guy there.

"Q. What is that?

"A. When I read the funnies, I see Dick Tracy in some kind of jam.

"Q. What do you mean by 'the funnies'?

"A. The funny papers."

And his description of the interview with Mr. Lipsit, who was an officer in the United States Army in the Intelligence Department before he was released from the army; went down to interview him, and the amazing and bizarre description that he gave of that man, which counsel picks up, that he was waving his tie. I don't know what the waving of the tie means, though counsel seems to interpret it as some indication that he had a dictograph concealed on his person. So I would suggest to you, in view of that, that if you are ever interviewed by anybody and he comes and waves his tie at you, what he is doing is tipping you off that he has a dictograph concealed on his person, and you should be chary about what you say to him.

Schomaker is a man who, I suppose, like all of us, attributes to himself virtues and qualities that he doesn't happen to possess; that he doesn't possess them is not his fault. He [7799] was born with the things he had, and it is impossible that he add to them. But he went into the labor movement, went into the Communist Party. Probably thought he would resurrect himself from the sort of hoboish life that he had led and the life of a general caretaker down at the Veterans' Hospital—make himself amount to something. He didn't have it in him. He isn't the sort of man that anyone would entrust with any matter of moment or concern. And Schomaker saw that his venture into the Communist Party raised him nothing. So he dropped out of it, back in 1939, according to his statement. Then he finds that his efforts in the labor movement avail him nothing to elevate himself from his previous condition and he drops out of ~~that~~ in 1945 or so. [7800]

And now he casts around for some way to establish new friends, new connections, to capture that glory that he thought these other organizations would give to him and which he failed to get. And what is open to him? What is open to him? His abilities are limited to the carrying of a hod. How is he going to satisfy the ambitions that soar above that occupation? Where could he turn? What could he do? Well, he has learned over a period of some years that there is one road to at least some temporary wealth and some temporary standing. By his contact, probably not too close, with Harry Bridges, he ~~has~~ put himself in a position where that man can now be a source upon which he, too, can prey. He has seen two previous efforts, two previous inquisitions in which other men, no better than himself and, in fact, on many occasions worse, rose up to some brief opulence, some standing with the government agents who are interested in using him for the purpose they had in mind, and it occurred to John Schomaker that he might get some temporary, at least, glory or some temporary profit from the same thing. And he turned himself over to these people, to Barber, to Boyd and to Kaiser, as a willing tool, willing to do or say anything that would further the purposes of getting Harry Bridges.

Now, it had become essential by this time, in view of the previous findings in these cases and in view of the decision of the Supreme Court of the other cases, that Harry Bridges must be proved to be a member of the Communist Party. All this talk [7801] about affiliations, associations, attending meetings, and so forth, would not do anything, and there is where John Schomaker finally saw the chance to achieve the supreme road, if John Schomaker could fill in that lack; if he could supply the keystone to the arch which, without it, it must collapse, then he has an importance that he never had before.

What is the result? He says now that he was greatly impressed at one time, and placed in a bulletin a statement that he had run across by chance. This was asked him:

> "At the time you put this into your bulletin, apparently the situation had made a considerable impression upon you that Father Ryan had said and you quoted: 'Sometimes it seems the easiest way to dispose of a man is to call him a Communist.' That was something that must have made a considerable impression upon you in order for you to print what Father Ryan said in the ILA Bulletin, is that right?
>
> "A. It made a tremendous impression upon me."

Into this limited and closed mind there had been injected some place along the line the statement of Father Ryan that it seemed that the easiest way to destroy a man was to call him a Communist. And this has made a tremendous impression upon John Schomaker, so much so that he not only retained it in his mind but embodied it in his writing and in his bulletin, and when he came out of the labor movement the one thing that offered itself as a means of advancement now was to accept the offers that would [7802] be open to call Harry Bridges a Communist.

Your Honor, might I suggest, I think the room at this time of day, it is so warm that it is almost impossible to keep from falling asleep. I feel myself dozing off.

The Court: I noticed this morning that the window was closed and I gave orders to the court attaches to provide us with as much ventilation as possible. The window are as far open as possible.

Mr. Hallinan: I noticed, too, several persons in the courtroom yesterday afternoon said the same thing was observable. It is difficult to get enough oxygen.

The Clerk: I may make this statement; unfortunately last night the workmen in the building worked on the window in the rear. It was nailed so it could not be opened this morning, but we have since had it repaired, so it is open now. If the members of the press do not mind, we could open that window.

Mr. Hallinan: Some of the members of the press even suggested that they were falling to sleep. It might be the tediousness of the discourse. I do not think entirely.

The Court: I think your remarks are pertinent. I felt the extreme heat this morning. We might take an additional recess if you wish now and air the courtroom.

Mr. Hallinan: I think that would be all right.

The Court: We will take a short recess, ladies and gentlemen. The same admonition.

(Recess.) [7803]

Mr. Hallinan: Now, of course, I don't in the descriptions of Schomaker point out these little idiosyncrasies and eccentricities of his, of infantilism, as making or intending any implication against him or any criticism of him. That is not the point. The point is this: Would a man of even ordinary sagacity and with the slightest bit of prudence in his composition hand over to such a man a document that meant his entire safety from then on?

B. B. Jones, you could see from his appearance on the stand, is a strange and eccentric kind of character.

Yet these two men—according to Schomaker, he had known Harry Bridges about a month before he signed him up, or two months at the most. According to the record, he couldn't possibly have known him more than a month at the utmost.

There is nothing to show in the prosecution's testimony how long Harry Bridges is supposed to have known B. B. Jones in December of 1933, but

Jones said he didn't meet Harry Bridges until months afterwards in the year 1934. So at least, as we go to press, we have a situation in which Harry Bridges signs his death warrant on an application card and hands it over to two men who are at least, if not total and complete strangers, one of whom he hasn't known for more than a month at the extreme, and the other of whom he apparently has scarcely known at all--hands over the paper without any further question about it to two men of the eccentricities of the two men who are alleged to [7804] be involved; particularly with Schomaker, that Schomaker displays on this stand after he has been matured as far as he can go by bitterness, disappointment, frustration, if he still possesses the infantilism that make him a funny book, so that he talks in that fashion and with that strange and eccentric, almost frantic and hysterical laughter and he bursts out into. If he is that way, what was he 17 years ago? Was he then a person of such solidity and dignity that any person, a man who felt himself suspect and hunted; and in the very act of the transmittal of this alleged document there was discussed and stated the danger that Harry Bridges would undergo if it were discovered that he was joining the Communist Party, that he would be deported, and some further ceremony must be gone through and some further concealments made.

And then having received the document, what does he do with it?

> "In this particular case, Jones and I went into 37 Grove Street, went up the mezzanine

floor, and Jones, with a smile, gave a card to Samuel Darcy.

> "Q. Was there some sort of a meeting that would pass upon the application?"

Here we have another strange point because, mind you, at this time Darcy and Bridges had not met, according to Shomaker. So not only now does Bridges hand over his life and his liberty and his safety to these two weird sort of men, but they take it [7805] up to the Communist Party headquarters and deliver it to another stranger. And then what happens?

> "Was there some sort of a meeting that would pass upon the application?
>
> "A. That is correct. It was a membership—I think they referred to it as a membership committee or application committee, and any applicants that would apply to join the Communist Party had to be proposed by someone, and from there it would go to a membership committee who would carry on an investigation as best as possible, and then the book would be issued if the peron was considered safe worth, and so forth—met the qualifications of being a Communist."

So our reckless friend has now not only entrusted his safety to Schomaker and B. B. Jones and Sam Darcy, but to certain unknown persons constituting members of the Communist Party who are to pass upon his membership, including, so far as he could surmise, possible representatives of the FBI or other agents of the government.

All right.

"Q. So that ordinarily a membership application was delivered first to a unit organizer and by him to a section organizer and by him it was delivered or it was turned over to a membership committee to pass upon the application, is that right?

"A. That was the general rule, yes. [7806]

"Q. When the application was passed upon verbally, what was done with the application card?

"A. Well, I never saw the application card again.

"Q. Do you know what was done with it? Was it filed? Was it sent to some central headquarters, sent elsewhere, or what?

"A. As far as I know, it was filed for a certain length of time and then destroyed.

"Q. How long was it filed?

"A. That is something I can not answer. I don't know.

"Q. Would it be for several years?

"A. I don't know. I haven't the slightest idea.

"A. I say, to the best of my recollection, that was the total of the functionaries"—he had named the functionaries of the Communist Party at the headquarters.

"Q. That would be, then, in addition to Mr. Darcy, there were five other persons whom you remember?

"A. Yes, that is correct.

"Q. Were there office stenographers there?

"A. There were, yes.

"Q. There were other people who would act as volunteer workers when they had a day or two off?

"A. That is right.

"Q. You do not know how many there have been? There might have been as many as twenty or as few as five or six? [7807]

"A. It varied with the campaign that was under way. If there was a vigorous campaign under way, there would be more. When things slacked off, there would be less.

"Q. You said at the end of the year, for instance, you turned in the old books and had new books issued. To whom did you turn in the old books?

"A. That is what I am trying to explain if you will permit me.

"Q. What was the name of the person to whom you turned them in?

"A. There was a Kay McGee at one time.

"Q. What was her job or her office?

"A. She generally was secretary to Sam Darcy, at times, I say. I think she was the director of membership drives.

"Q. Then who were some of the other people who occupied that same position?

"A. Betty Gannett occupied the position of membership director.

"Q. Did you get some of the books from her or turn in some of the books to her on occasion?

"A. That's right.

"Q. Anybody else?

"A. It was mostly a woman, that is, generally a woman and at this time there are two people that stand out prominently that I remember." [7808]

So we not only now have the application card turned over to these two men, transmitted to Sam Darcy, turned over by him to the membership committee who makes an investigation, then a fuller membership committee, and then it is filed under the custody of persons whom we don't know and whom of course Bridges couldn't have known, and then for the subsequent years during which he says these books were issued they were issued by casual volunteers who happened to be in there and performed that task.

Now, isn't this an obvious conclusion that one arrives at: There is no possibility in the world that Harry Bridges ever signed any application for membership in the Communist Party, because if he did he could never again dare deny that he had done so. Now, he might make some jest or some explanation; he might say it was done as a joke, or that he didn't mean to do it, or having signed it, he immediately demanded its withdrawal and he never went down there with a membership card. But no person of any prudence would ever dare say after he had signed a card like that and transmitted it to the custody of so many persons, that he had never signed the card, and no lawyer would dare risk the safety of his client by ever having him deny that he had signed such a card. And I don't care if the card was handed back to him. There would always have been the possibility that some photostatic copy of it had been made, and you could never safely deny it again. So if Harry Bridges signed that application and then went on and in three or four separate formal court hearings [7809] denied under oath that he had signed that application and was never confronted with it and never was presented with a photostat of it, he ought to drop all his union activities and go down and bet on the horses because he is the luckiest man that ever lived. Nobody else could ever have survived the possibilities inherent in that, and nobody except the most reckless and audacious person could dare take the stand and testify that he had never signed such an application card, because too many persons had seen it. How would he know, surrounded by spies, that agents of the government were not waiting in that room? How could he possibly know that this John Schomaker, who came out of nowhere and who knew him a month, was not an agent of the federal government, an agent of the Imigration Department? How could he know that B. B. Jones was not? How could he know Sam Darcy was not? How could he know that any of the people into whose custody it would fall might not be the very people who were waiting for it to use it as an instrument to destroy him? It is incredible, and it is ridiculous. And then we run into this: The other two men have denied under oath that they ever signed any application or received any book. And, my friends, when you take the three men and subject them to the possibilities of discovery on that one incident, the chances would become astronomical; there would be no possible chance that they could avoid being confronted with that document. And the fact that they could come in and Harry Bridges could come in during all these 15 [7810] years and say, "No, there was no application signed, there was no book issued," is conclusive that no application was ever signed.

As I say now, I think the one thing that is certain and I think the one thing we conclude is that the man is not a fool and he is not an insane man, and I assume that he would at least tell the lawyers who were representing the man what the truth was. And no lawyer would permit a client represented by him who had signed such a card and parted with its custody to ever deny under oath that he so signed that card, even if a lawyer wished that he could do so, and even if the client wanted to do so, because it would be to destroy him.

The most he was up against at any time was that he might be deported. But in these two deportation hearings, to take and put his liberty and his happiness at the risk, at the chance of that card turning up, would have been the height of folly, it would have been suicide. The least a lawyer would say, "Now wait a minute. You may go back to Australia; it isn't so bad; go on back; it is better than a federal penitentiary. I am not going to represent you if you say that you signed such a card."

And Harry Bridges himself, confronted with that probability, admitting that he has been at meetings, admitting that he talked to Communist and so forth, would never venture the hazard of saying that he had never signed an application card. [7811]

I remember an incident that is pretty well known to people, of some men who had signed a promissory note of some kind, and, a demand being sent to them for payment of it, they wrote back and made some question about having ever executed—not being in their recollection. And the person who had the note mailed it to them. So then, being in possession of the very document they had executed, they thought it safe to deny that it had ever been executed at all, and when a suit was instituted, they took that position. And the man who had mailed them the note then produced a photostat he had made it before he had sent it. And everybody knows the possibilities in those things. Here we have produced in this Court photostat after photostat of documents, just as good as an original. An exact replica of the signature of a person. Everybody who has had any experience with such matters knows how that can be done. In a minute. And to think that Harry Bridges, having signed such document, would then have the boldness and the stupidity and the daring to take a position over fifteen years that he had never done so is to challenge anyone's credibility.

And then we are asked to believe this fantasy.

In the year 1938, in March, a warrant for Harry Bridges' deportation upon the ground that he is a member of the Communist Party or affiliated with the Communists issued by the Department of Labor. Warrant is served upon him, trial is set for January, 1939. And then he goes to a party at a man named Shaw's house, and according [7812] to Mr. Schomaker, there was quite a few people there. Some were strangers to him and he didn't know them any too well, but there were quite a few people there. Then:

"Q. In what year did you say that meeting took place, Mr. Schomaker?

"A. That was in the early fall of 1938.

"Q. How many people were there at that time, in terms of numbers? (That is a question addressed by the Court.)

"A. I would say, I would estimate between 30 and 40.

"Q. Now at the meeting that took place in the gentleman's home that you have testified to, you say Mr. Bridges gave a talk. And let's see if I can find what you said Mr. Bridges said at Jack Shaw's house. 'We called a meeting for those people who were interested in the Communist Party.' Now, of course all those people were not Communists, as you have already said, isn't that right?

"A. That is correct.

"Q. All right. Thirty or 40 people. What percentage of them would you say were Communists?

"A. Well, at that time, oh, I would say about 50 per cent."

And what happened? Harry Bridges is supposed to have gotten up with a warrant for his deportation pending and addressed this 40 or 50 people, most of whom were strangers, only half of whom were Communists, and said to them, "I am a member of the Communist Party and I suggest that you join it too." In other [7813] words, now, not having delivered his safety to these men by signing a card that went among 25 or 30 or 40 people he didn't know, but now he turns his safety over again to 40 or 50 other people. Well, it would be like a man—if he had done these things—who might get a job in a shooting gallery, holding a target in his teeth and making bets that he wouldn't get any of his teeth knocked out. To assume that that kind of story can be believed, that this jury can be made to swallow the yarn that he has got up in a meeting at Jack Shaw's house in the autumn of 1938 and said to assembled strangers there, of whom at least half were not members of the Communist Party, "I am a member of the Communist Party and I urge you to join!" In other words, "I, who testified in 1937, almost a year ago, before Commissioner Riley in New York that I am not and never have been a member of the Communist Party; I, for whose deportation a warrant has been issued in March of this year, the trial of which is set for January of this year—I am either such a complete fool and such a reckless defier [illegible] all chances of fate or I have such a strange and abiding faith in all you strangers whom I see here, that I tell you, you can go down to the Immigration Department and you can sell the information that I am about to give you."

You see, they got the story together and they had two people support it before it was disclosed or before it occurred to anybody, that [7814] a warrant was outstanding for Harry Bridges deportation at that time. In other words, the sorcerer's apprentice, as usual, slipped up in some necessary thing. He omitted a necessary ingredient. Or worse, he threw in one that spoiled the whole cake. To conceive that that happened.

And here is another little thing. Pass that up; I will confine myself now to the two matters: One, the disclosure or the proof adduced, not by us, but by the defendants, that from 1933 on Harry Bridges was constantly under surveillance as a suspected member of the Communist Party, or only a sympathizer with or an affiliate of the Communist Party (because as I say, that was the original charge), and being so, have sworn that he was not, with a warrant standing out against him, he is supposed to have made this speech in the Shaw house to a lot of strangers after having first signed an application and turned it over to other strangers to deliver him into whatever hands they would choose. And then he goes on and he carries this along to its logical conclusion. This sort of folly. Now going to the statement that meetings that were attended were Communist Party meetings, we have Michener, who hadn't known Bridges theretofore, and he attended meetings with him in 1940 and 1943, after two hearings on the deportation proceedings! So help me! Not only the other, but after two hearings. He meets a complete stranger, this man Michener, and sits down at a purely Communist meeting with him. The meetings that Bridges attended with Wilson, [7815] Michener, all of those people, were either not Communist meetings at all, but meetings that Communists might have been at, and other persons were, or, they were such meetings as Collett described, in which a labor leader, having the same objective as the Communist Party happened to have on that particular matter and at that particular time, met with them to decide upon a program to accomplish their mutual purposes. Because, again, it is incredible that, if any other intendment could be devised Harry Bridges was now, after two hearings, submitting himself to the mercy of Michener. How did he know Michener wasn't an agent? How did he know Michener wasn't a spy?

And the best of all, of course, are Messrs. Johnson and Crouch. Johnson attends a convention in New York in 1936. Attends a convention in New York in 1936:

> "Q. That man that you now say was Harry Bridges was a man you had never met before?

"A. No.

"Q. By any——

"A. By saying that, I had not met him before 1936.

"Q. And you never saw him since?

"A. No, I haven't seen him until I saw him in the courtroom.

"Q. In that meeting of which you have told us you were never personally, man to man, introduced to him? A. No. [7816]

"Q. Well, tell me this: Would there be any place where there would be a written record of the members elected to the national committee in that year?"

And this is also as to the number of persons who would know of Harry Bridges' reckless conduct in going to a convention of the Communist Party and being elected to the central committee there.

"A. Well, there possibly is, and I will tell you why I say that: Because at a meeting, at the convention they would have 28 or 30 women stenographers. They took down a stenographic record of every single remark made of every speaker at the convention. They would type up in copies of 5 on onionskin paper. After they are typed they are given—given to each speaker to correct or make any changes or modifications. After that they are turned in and they are retyped and they are—some copies are sent to—were sent to the Communist

International, and others to various Party commissions in Moscow. This—so—those are the copies that I can say that you can find the actual speakers, or you could possibly find the actual speeches that were made. As far as the general resolutions and parts of the summary that is finally edited, they may be published in some of the—in copies of The Communist, or some of the copies of the Daily Worker."

So you have 28 to 30 stenographers present taking down every [7817] word that is said at the convention.

"Q. Coming back to that closely guarded secret again, you say that stenographers were present during that convention?

"A. Yes, they always had them. They had them at national committee meetings, too.

"Q. There were stenographers present at this national committee meeting, is that true?

"A. That is correct.

"Q. About how many?

"A. Well, at the national committee meeting they would have possibly a half dozen stenographers, and they would have the typewriters in an anteroom, and they would take down the speeches stenographically."

The remarkable luck that enabled him, or the expectation of the remarkable luck that enabled Harry Bridges, to now carry himself through the signing of the application, which goes into the hands, so far as one can estimate, 20, 25 people, all strangers to him; that permits him to go to a meeting in a house and address the persons there and claim to be a Communist and ask them to join, and then go to trial on that exact charge three or four months afterwards and not have a single one of those people come in or be produced to testify to this bizarre conversation, has run its course to where he can now go to a convention of the Communist Party, attend it, be present with 25 or 30 stenographers taking down the speeches in one place, [7818] be elected to a national committee and have 10 or 12 stenographers taking the speeches down there, and sail safely through without that matter ever being discussed either in the hearing in 1938 or the hearing in 1941!

And Mr. Crouch. Look at the people who know and can testify that Bridges is a Communist.

> "* * * You told us this one part that Harry Bridges, being an alien, was subject to deportation. Those facts were known to the officers of the Communist Party. When did you first hear that subject discussed?
>
> "A. The first time I can recall hearing that subject discussed was in April, 1934, in a car between Denver, Colorado, and Cleveland, Ohio, at the time I first learned that Harry Bridges was a member of the Communist Party.
>
> "He stated that due—after discussing the value of Mr. Bridges as an asset, as a leader in the waterfront out here in California, that the Party would not be able to bring him forward as a member of the Party, because he

> was not native born, that—and his Party membership would have to be kept in the background and not known, but with this limitation, that he was a very promising source, and that George Mink in particular regarded him as a potential future leader for the Party."

So now we have Crouch, Harvey, George Mink—they all know about it. [7819]

> "Q. Wait. We are getting a little ahead. I will come into that discussion presently. I said when.
>
> "A. To the best of my recollection, during the latter part of 1934.
>
> "Q. What part of 1934?
>
> "A. During the fall.
>
> "Q. The fall of 1934, and I am going into the conversations presently, but now I want to find out who were the persons with whom you had the discussion in the fall of 1934 relating to the necessity of Mr. Bridges concealing his Communist Party membership so that he would not be deported as an alien. Who was present?" [7820]

He has already had the conversation in the spring of 1934, in April, with Harvey.

> "A. Jack Stachel.
>
> "Q. Where did that conversation take place?
>
> "A. In a meeting of the Central Committee in New York and at subsequent meetings of the trade union commissions connected with the Central Committee.

"Q. When did you next hear that same subject discussed? Now, I mean the probability or possibility of deportation if his membership in the Communist Party should be discovered?

"A. After this I heard it mentioned so frequently that I can not recall the persons or the places where it was talked about.

"Q. Or the sequence in time, I suppose?

"A. Pardon me?

"Q. Or the sequence in time?

"A. Increasing discussion in 1935 and 1936.

"Q. And to a great degree after 1936?

"A. Yes.

"Q. Into 1937, for instance?

"A. Continuous from that time on as long as I was in the party.

"Q. By increasing discussions in 1935 and 1936 do you mean that the danger of Mr. Bridges seemed to be increasing? [7821] Was that the general context of the conversation, or is it that you heard it mentioned by more people and more frequent? Which?

"A. I heard it mentioned by more people and more frequently due to the increasing prominence of Bridges as a trade union leader and as a Communist Party trade union leader."

And then he runs off a list of persons with whom he discussed the matter: in addition to John Harvey, George Michael, Jack Stachel, Jack Johnstone, Earl Browder, Rob Hall, Paul Schlipf and a dozen top leaders of the Communist Party and J. Peters.

Then he heard them all discussed by the delegates to the 1938 convention.

> "You were asked about the 1938 convention. You testified there was a meeting at which somebody came in and made suggestions. Browder came in with Stachel. Browder came in with Stachel and Peters and there was a meeting of this presidium. Were the results of that meeting reported?
>
> "A. I don't know. They were recorded at the time by Earl Browder, who was taking minutes of that meeting, and the results of it were subsequently read to the convention.
>
> "Q. You remember that, don't you?
>
> "A. Yes.
>
> "Q. All right. So Earl Browder now took minutes of the meeting in which the list of candidates for 1938 was [7822] discussed and those minutes were read to the convention, is that right? A. The Names were read.
>
> "Q. Now, the name apparently of Rossi was dropped around this time because you said, 'We were to use the name of Dorgan or Dargan or a name like that, which I hadn't heard previously on the Central Committee. This was while we were discussing the matter concerning Harry Bridges.' You remember that, don't you? A. I do."

And then Mr. Donohue asked:

> "Subsequent to this meeting were you in attendance upon the floor of the convention when the names which had been approved by the committee were up for approval on the

floor of the convention?" You answered: I was.

"Q. So the names of nominees were offered for approval on the floor of the convention, isn't that so?

"A. The persons nominated were also nominated on the floor of the convention.

"Q. So now the entire convention, consisting of the 700 or 750 persons when the man reading down the list said, 'The next person is a well-known labor leader,' the whole convention burst into stormy applause, is that right?

"A. In fact it was more than 750. It was over a thousand.

"Q. So that obviously stormy applause would indicate that [7823] the entire convention knew he was being referred to, isn't that right? A. Unquestionably.

"Q. So that this whole thousand people there knew at the time that the entire convention burst into stormy applause that the person whose name as a nominee on the Central Committee was Harry Bridges, is that right?

"A. I don't think there was a half of one per cent of the delegates who did not know that that was Harry Bridges. Practically all knew.

"Q. You all knew that? That was in May of 1938? A. Correct."

So if it had not gotten into ridiculous proportions by the time Harry Bridges was supposed to make the speech after the first story of the application, he is back at a convention in Cleveland or New York while a deportation proceeding is pending against him to deport him out of this country as an alien because he is an affiliate of or a member of the Communist Party. And so help me, he becomes a candidate for the Central Committee of that party, membership in which he is denying under oath, the trial of which is going to come on in a few months. He is nominated and elected at that convention and a thousand persons know all about it and go into stormy applause, and we are supposed to swallow that tale. That is the folly and the recklessness and the stupidity to which this able and intelligent [7824] man is supposed to have descended.

Well, they say, yes, but the thousand were blood brothers, you know. They trusted each other and they knew each other. Well, no such thing. We have the testimony of Ross that way back in 1934, four years before, they already knew FBI agents were being inserted into the Communist Party. We have the common sense to tell us that people were spying and exercising a surveillance upon that party, and we also have other statements that show there was no such camaraderie as must now be invented to sustain this tale, because Crouch goes on to give a description of the relation that existed between those people, and here is what he says: to illustrate that the persons in the Communist convention, who are now also supposed to share this great secret, were not closely amalgamated—and did anyone hear of such a secret? Was ever such a strange, bizarre secret concocted since the time the world began? A proceeding for Harry Bridges' deportation in 1938, another proceeding in 1941, a full dress proceedings in which the same forces with the same assiduity and the same corruption, too, that has been shown in this hearing, marshalled every bit of evidence they could to drive the poor man out of the country, and not one of all that thousand or 1200 people who knew that Harry Bridges was a member of the Communist Party and elected to its Central Committee came in or was produced, could be brought in to testify to that fact. When his best friends and his close associates were waiting for [7825] the opportunity to go out and sell their treachery against him, not one of one thousand or 1200 strangers came forward or was produced to testify to so important a fact as that. Why, I guess they will tell us now that they did not have one single agent, one representative of the Federal Bureau of Investigation present at the convention, either in 1936 or 1938. They probably will go to the extent of stultifying themselves and taking away the high standing that the Federal Bureau of Investigation has for diligence by saying there was nobody there who heard any such thing. And what was the close link between these people? He has been telling you how high in the offices of the Communist Party were Johnson and Crouch, what important persons they were, what ample opportunity they had to learn the things that they have narrated here. And here was how little they were closely connected with the other persons:

"Q. You were friendly, I suppose, with a great number of people who were high up in the Communist Party, is that right?

"A. That is correct.

"Q. Good friends? A. Yes.

"Q. Close friends? A. Some.

"Q. Intimate friends?

"A. With a few. [7826]

"Q. Trusted friends? A. With a few.

"Q. How many?

"A. The average Communist leader has relatively few who can be classed as intimate friends."

So that people who were there were not intimate friends. We are talking now about the people on the Central Committee. Let us take, say, this testimony:

"Q. Let us take, say, 35, because I don't remember whether it was 27 to 50. Take 35. How many of those 35 people would you say were intimate friends of yours?

"A. There were varying degrees of being intimate friends. Perhaps a half dozen might be described as being not far in error.

"Q. Then that half dozen, there was a mutual trust that existed between them, I take it, is that correct? A. Not necessarily.

"Q. Didn't you and this half dozen trust each other, become very friendly?

"A. Because I had been intimate friends with two different individuals does not necessarily imply that those two individuals were intimate friends of each other.

"Q. Would we say that maybe half of this committee, your relations with them were not very close at all. Let us put it this way. Some of them, I suppose, you had never met [7827] before they got on the Central Committee, is that right?

"A. (By Crouch): That is correct.

"Q. Then take the 700 or 750 people who were delegates to the convention. I take it you would only know a small percentage of them, would that be right?

"A. Of the 700 delegates to the 1936 convention, I probably knew about 200 personally.

"Q. Let us get this: You said at this meeting at which Mr. Bridges was nominated to the Central Committee that you as a district organizer was an ex officio member and was called into the Central Committee meetings and participated in the nominations, is that correct?

"A. That is correct.

"Q. About how many others beside yourself who were not members of the Central Committee had the same privilege? A. About a dozen.

"Q. So in addition to the committee itself there would be about a dozen district organizers and so forth, who were members, who were participating in this? A. Correct.

"Q. What I want to get is this: The list of names having been canceled by the nominations committee or selected by the politburo or whatever it was, was that read off to this presidium?

"A. That is correct. [7828]

"Q. And the presidium was not the Central Committee itself. It consisted of the organizers and persons like yourself who were not members of the Central Committee, is that right? A. Correct.

"Q. Again you stated here, just to refresh your recollection, didn't you vote for this slate of names on two occasions before the convention?

"A. I did on two occasions, in the presiding committee and in the final election.

"Q. You remember that is what took place?

"A. Yes.

"Q. So then the presidium voted on that list of names? A. Yes.

"Q. And then this list of names, which included Mr. Rossi, must have been explained to the presidium as meaning Harry Bridges?

"A. There was discussion in connection with it, in which the names Rossi and Bridges were used in the presidium.

"Q. You were told that Rossi was Bridges, isn't that right?

"A. There was reference to it, but that made it clear. I already knew it, so it wasn't necessary to explain it to me.

"Q. But the other people had to know it, too?

"A. It was made clear to everybody. [7829]

"Q. Then you went in before the convention and you voted on it again in the convention, didn't you?

"A. That is correct."

"You were then asked about the 1938 convention. You testified there was a meeting at which somebody came in and made suggestions. Browder came in with Stachel and Peters and there was a meeting at the Presidium."

Oh, I have read that already. The results of the meeting were recorded by the stenographers.

So that, according to Mr. Crouch, then, we have arrived at the point where the much-hunted and wary Mr. Bridges, at a time that he has a hearing on, a deportation proceeding, in which he is going to be deported, so far as he knows, not only if he is a member of the Communist Party but even if he is affiliated with the Communist Party, has not only freely and openly entered into an alliance with utter strangers to put his name in as a prospective member, have books issued to him and pay them dues, but turn his application over to the surveillance of casual volunteer workers who come in here, including God knows whom, but while the same deportation is proceeding, or the same deportation proceeding is pending, he allows himself to be known not only as a member but as elected to the Central Committee of that forbidden and outlawed party so far as he is concerned, so that over a thousand people know all about it. He personally confronts 35 or 40, 50 or 60 people, including nuts like [7830] Crouch, the lunatic fringe of the lunatic fringe. That is the story that we are supposed to believe. That is the story that we are supposed to swallow, and his luck continued to run so that he comes out five or six months afterwards. A trial is had with a prosecutor as diligent as the one who confronts us today, with the same triumvirate of searchers running around getting everybody they have, trying their best to get Bridges. And nobody turns up at all to disclose either the Shaw meeting, the convention in New York, the Central Committee, Bridges' appearance there or a word about it. Now, if that is not running your luck into such heights that it can be no longer accepted, I do not know what you carry that out.

There is Mr. Ross, a total stranger again. Harry Bridges said he did not attend any convention at Fresno. Ross said he did. Which is the likelier? He saw Harry Bridges, he said, at the conclusion of a Communist meeting in Fresno late in 1934 at which 60 or 70 persons were present. He saw him again at the meeting in Sokol Hall in the fall of 1945, at which 40 or 45 persons were present, and that Bridges was pointed out as a member of the Communist Party.

So here we have not only the other strangers who were present at Sokol Hall, but Ross, a total stranger to Harry Bridges, goes to a Communist convention and meets him there, meets another total stranger and goes on—there is a moving picture you might have seen called "The Invisible Man," which is the production of [7831] a book by H. G. Wells, in which this man finds some formula which, by drinking it, will enable him to become invisible. He has all of his faculties, his physical powers and so forth, but by some change of the pigment, the color of the blood or something else he becomes transparent. You can see through him. Unless Harry Bridges was such an invisible man, how in the name of common sense could he have gone through the proceeding these people say he did and still get up and assert under oath time and time again, "I am not a member of the Communist Party and I have never been a member of the Communist Party"?

I do not care how strong their story is. I do not care how much force or how much vigor they put in it. The story is incredible. It can not be believed. No such thing ever happened.

I will come later to a discussion of the fact and the proof that the government officers putting on this case knew that it did not happen. You know, unfortunately, ladies and gentlemen, sometimes a story, regardless of how incredible it may be, is still believed by people who want to believe it. [7832]

If people have in them certain malice, if they come to the position that, regardless of the proof, they are going to go along with the government officers, they are not going to take the statements of private persons or private lawyers against somebody appointed by a government agency—in other words, if they are going to come in and be dishonest, if they are going to come in and take a seat in a jurybox and say, "I am not going to give you a fair trial; I don't intend to give you a fair trial," then of course they will be found guilty. There is no use pointing out how wrong it is to them.

Do you think that 260 years ago is a long time ago? It isn't. Conceivably, a man living now could have a grandfather who lived 260 years ago. Human nature doesn't change greatly in that time. People are pretty much the same now as they were then.

Four thousand years prior to that in a book called "Ecclesiastes" an old prophet wrote:

> "Is there anything whereof it may be said, See, this is new? Behold, it hath all been of old

> times in the days that were before us and there is nothing new under the sun."

260 years ago in this country there was an assembly of jury people like yourselves, like ourselves. They came in and took an oath that they would not act upon prejudice or preconceptions, they would give a fair trial to the defendants just as they would to the prosecution. And in rapid succession they they went out [7833] and they sentenced 20 people, their townspeople, some of them their friends, to death by hanging. And here was the story that they did it on.

There are, you know, in existence transcripts of trials that are quite ancient. The trial of Joan of Arc was recorded in a type of shorthand and was used as the basis of the book by Mark Twain and subsequently as the play by George Bernard Shaw.

The trial that I am going to discuss with you was presided over by gentlemen bearing high names, whose names still rank high. One of them was an ancestor of Leverett Saltonstall, at present governor of Massachusetts. Another was the grandfather of Nathaniel Hawthorne, the American author. The 20 people, my friends, who went out and died on the gallows, were 20 people like we are: they had loved ones and they had dear ones, and they had tears to shed and they had hearts to break, and the tears were as bitter as we could shed and the hearts broke as badly as ours would break, and it made their children orphans just as ours would be orphans, and it would be as bitter to us as to them if such a thing would happen to us.

Here is the story that the jurors convicted them on:

"The following is the examination by Judge Hawthorne:

"Judge: 'Bridge Bishop, what do you say? You here stand charged with sundry acts of witchcraft made upon the bodies of Mercy Lewis and Ann Putnam and others.'

"Bishop: 'I am innocent. I know nothing of it. I have [7834] done no witchcraft.'

"Judge: (to the girls): 'Look upon this woman and see if this be the woman that you have seen hurting you.' (to Bishop) 'What do you say now that you see they charge you? Do you confess?'

"Bishop: 'I never hurt them in my life. I never see these persons before. I am as innocent as the child unborn.'

"Judge: 'Is not your coat cut?'

"Bishop: 'No.' (Whereupon the judge examined her coat and found that it was cut in two ways and Jonathan Walcott said that the sword that he struck at Bishop with was not naked but was within the scabbard but that the rent made in the coat was apparently made by the very same sword as that Mr. Walcott did use.')

"Judge (addressing Bishop): 'What contract have you made with the devil?'

"Bishop: 'I have made no contract with the devil. I never saw him in my life.'

"Mercy Lewis: 'Oh, Goody Bishop, did you not come to my house the last night and did you not tell me that you would torment me?'

"Judge: 'Tell the truth in this matter. How come this person is to be tormented and to charge you with doing it?'

"Bishop: 'I am not come here to say I am a witch and to take [7835] away my life.'

"Marshall Herrick: 'How ~~come~~ you into my bed chamber one morning and asked me whether I had any curtains to sell? She is by some of the afflicted persons charged with murder.'

"Judge: 'What do you say to these murders you are charged with?'

"Bishop: 'I am innocent. I know nothing of it.' (Thereupon Bridge Bishop lifted up her eyes and all the girls were greatly tormented.)

"William Stacey, age thirty-six, thereupon said: 'About fourteen years gone I had the smallpox and Bridget Bishop did visit me and profess a great love for me in my affliction. After I got well, Bridget Bishop got me to do some work for her for which she gave me three pence which seemed to me as if it had been good money, but I had not gone over three or four rods before I looked into my pocket where I put the money but could not find it.

" 'Sometime afterward I met the said Bishop in the street going to the mill. She asked me whether my father would grind her grist. I asked her why she asked me that and she answered: "Because folks count me a witch." Then I told her I knew my father would grind it. But being gone about six rods from the said Bishop suddenly my off wheel here sunk down into a hole upon plain ground and I was forced to get one to help me get out. Afterwards I went [7836] back to look for the hole where the wheel sunk in but could not find any hole.

" 'After that in the winter about midnight I felt something between my lips pressing hard against my teeth and it was very cold insomuch that it did wake me, and I got up and set upon my bed and at the same time I did see the said Bridget Bishop at the foot of the bed and it was as light as if it had been day. It was either the said Bishop or her shape she having then a black cat and a black hat and a red coat. And the said Bishop or her shape clapped her coat close to the legges and hopt upon the bed and about the room and then went out.

" 'Sometimes afterwards I met the said Bishop by Isaac Stone's hill and after I had passed by her my horse stood still with a small load going up the hill, and the cart fell down. Then I went to lift a bag of grain of about two bushels but could not budge it with all my might.

" 'I fully believe that the said Bishop was instrumental in the death of my daughter Priscilla about two years ago. The child was a likely, thriving child and suddenly screached out and so continued in this unusual manner for about a fortnight and so died in a lamentable manner.'

"Samuel Gray of Salem, age about forty years, said: 'About fourteen years ago I was going to bed one Lord's Day night and after I had been asleep sometime wakened up, and, [7837] looking up, saw the house light as if a candle were lighted in it and the door locked. Then I saw a woman standing between the cradle in the room and the bedside and something looked upon me so I did rise up in bed and the woman vanished. Then I went to the door and found it locked and then I looked out again and saw the same woman whom I had seen a little before in the room and she was in the same garb and I said to her, "In the name of God what do you come for?" Then she vanished so I locked the door again and went to bed and then I felt something come to my lips cold and thereupon I started and looked up and again I did see the same woman with something between her hands holding it before my mouth and the child in the cradle gave a great screach as if it were greatly hurt and she disappeared, and when I took the child I could not quiet it in some hours. From which time the child before was a very likely, thriving child it now pined away and was never well, although it lived some months in a sad condition and so dyed.

" 'Within a week I did see the same woman in the same garb and clothes and by her garb and countenance I do testify that it was the same woman that they now call Bridge Bishop, alias Oliver, of Salem.' "

I am not going to go on with this sad, terrible recounting, but the same kind of evidence was given by John Hale, age fifty-six; Sam Shaltoch, age forty-one; John Lauder of Salem, age [7838] thirty-two; John Blye, age fifty-seven; Richard Coman, age thirty-two; Sue Sheldon, age eighteen; John Cook, age eighteen; Elizabeth Black, age about thirty.

The verdict was guilty, with death by hanging.

None of the witnesses was ever proved to have committed perjury. None of the witnesses was ever shown to have said anything except what he formerly believed to be true.

After the mania had died away and the fear and terror that had assailed those people had vanished, all the jurors got together and assembled in the church and signed a confession and repentance and stated how they had been misled and how they would never again on earth do so wicked and bad a thing; and the judge who signed Bridget Bishop's death warrant used to get up in the Salem church every Sunday and cry out for forgiveness for the monstrous thing he had done. What good did it do? What tear did it wipe away or what life did it restore?

There was only one thing the jury should have gone upon: the story was incredible. They did not need to be pointed out that this one had lied or that one had an interest; they had only to realize that things like that do not happen in the ordinary affairs of mankind.

They were sworn as you are sworn to indulge the presumption of innocence and to resolve doubt in favor of the defendant, and the fault and the curse and the reproach of the people of Salem, the jury of Salem, is that they did not indulge the presumption. [7839] They refused to look upon this story as incredible because it had been presented by 14 or 15 witnesses put on there by the government.

I say, my friends, that I haven't deviated a whit from the conclusion I arrived at when I first heard only a bare outline of the facts of this case: that no sensible, no fair, no unbiased person would believe it. There isn't anybody that can separate himself from saying, "I am going to go along with the government; I am going to follow what the prosecutor tells me; I am not going to listen to these fellows like Hallinan and MacInnis; I am going to hang on to my little prejudices and my little spites; I am going to be a mean cheat and come in here and rob these people of their liberty; I am going to swallow the story no matter how incredible it is"—because it is an incredible story, and you can't believe it.

The Court: Ladies and gentlemen of the jury, we will take the afternoon recess. We will resume at 10 o'clock in the morning. The same admonition to you not to discuss the case under any conditions or circumstances.

(Thereupon an adjournment was taken until Wednesday, March 22, 1950, at 10 o'clock a.m.) [7840]

Wednesday, March 22, 1950, 10:00 o'Clock A.M.

The Clerk: The case of United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Mr. Mitchell has a report on the matter of the absent juror, Mr. O'Mahoney.

The Clerk: I have heard this morning through Dr. Modezley of the San Mateo Clinic that Juror No. 10, Mr. Edward O'Mahoney, is quite ill. The doctor advises that he will be unable to leave his bed until next week, and that he has had a number of shots, treatment, and strongly advises against his reappearance.

The Court: The juror made a very heroic effort to return here over the weekend, as we may recall, and the Court is inclined to accept the report of the doctor transmitted to Mr. Mitchell. Will counsel stipulate to his excusal?

Mr. Hallinan: I think it was kind of obvious the man was sick.

The Court: Is that agreeable, Mr. Hallinan?

Mr. Hallinan: Yes. We will accept that.

Mr. Donohue: Yes, Your Honor.

The Court: According to provisions of Section 24(c) of the Criminal Rules of Procedure, the first alternate, Mr. Wolfsohn, may be substituted in lieu of and in the place and stead of the ill juror absent, and the juror who is now unable to attend, Mr. O'Mahoney. [7841]

The Clerk: Mr. Morris Leslie Wolfsohn, alternate No. 1.

The Court: The juror has heretofore been sworn.

The Clerk: Yes, Your Honor. He now takes the seat of Juror No. 10.

The Court: You may proceed, Mr. Hallinan, if it is agreeable.

Mr. Hallinan: The task of reading excerpts from transcripts is a tedious one. It would be much easier to give a recital of our own interpretation of it, and in consonance with their well meaning, amiable criticisms of me from the beginning of the case up to the present time, my associates, friends and so forth point out that it gets extremely tiresome. It might even be something that would annoy the jurors, continued reading of such matters. However, I assume that the jurors have a different notion of their function here than that, and that, tedious as it may be, the entire trial is an ordeal. It is frequently tedious, and it is a burden upon the jurors, a burden that they sustain with the greatest dignity and equanimity because, while it is customary to flatter jurors and tell them what a divine, intelligent and good lot of people they are, as though one would pretend to read a person's character by surveying his face, yet I think anyone will have to concede that the jury, throughout the more than four months of the trial, has paid the greatest attention to everything that has been said. And while we do not want to distress the spectators by having them come [7842] down here to hear something exciting and then merely listen to a lot of meticulous appellations from the transcript, that we must do. Of course, the trouble is, I am afraid, a lot of the spectators came here all the way through hoping to see some upset in which I would be sent to jail for contempt of court, and while we have to disappoint them in that I am afraid we will also have to disappoint persons on this other issue, because I think it is necessary to go through these things.

After all these months persons forget and they overlook the significance of very important things that have been said.

One of the very serious matters in this trial depends upon the appearance here of the witnesses Johnson and Crouch, and the reason that it is so important, the significance that these people bear, is not that their own collapse removes out of the trial that much of the evidence, but that any critical person, any person who is examining the case from the standpoint of a judge required by his oath to question the integrity of the witnesses produced by the prosecution, and indeed the entire case produced by the prosecution, as well as the integrity of the witnesses produced by the defense, and indeed the entire case produced by the defense, must recognize that where an effort has been made to impose upon the jury or to put under the guise of fair testimony perjury, falsehood, fraud, that the whole case of the side producing such evidence becomes immediately suspect, immediately suspect, and unless something is put in, something [7843] strong, something big to wipe away any such impression, something which will carry conviction of its own weight despite the reflection cast upon it by that type of evidence, the case necessarily falls.

A jury can not say that where this defect has been exposed that other defects probably do not exist between the surface of the other witnesses who have been called here: The great defect in the prosecution's case—and I will go so far as to say, my friends, it is a rotten hole in their case, a hole that exposes the deadly, the whole terminal disease within the carcass of their case resides in the exposure of

If a gang of men are associated for some criminal activities, it is perfectly proper, often necessary, for the prosecution to use some of them as state's evidence. If all the statements that these men have made as to their previous nature and condition of character are true; if the Communist Party gives its members the instructions that they say that it gives them to commit perjury, and so forth; if they occupied and deserved all the epithets that they applied to themselves; if they are liars, perjurers, lived lives of fraud and deception, slimy, scummy, stinking inhabitants of a cesspool—suppose they are all of that, and it is still necessary in order to prove a case to put them on the stand, that is all right. Well, they have changed their outlook; they are testifying to a fact here. But what is the situation? When the side that produces those witnesses knows—knows—that after they left that party to whose association they ascribe all their infamy, that they then also testified under oath in subsequent matters, some occurring many years after they left the Party, what of them then? What suspicion should be directed against them and how careful and how cautious should the side that puts them on the stand be in presenting them as persons worthy of credence? And wouldn't it be the duty of that side to at least call to the attention of the persons upon whom this testimony is now proposed to be imposed the subsequent defects in the character and conduct of the people put on? [7845]

But, my friends, what argument can sustain or justify a side that puts such characters on the witness stand knowing that they are going to commit perjury in this identical case, knowing that the statements that such people are going to make on the witness stand are false, and when they utter perjuries upon the witness stand, then endeavor to hide and conceal it, to protect such witnesses from observation and search? What can be said about the integrity or reliability of the side that does all of those things? Because in the matters of Johnson and Crouch precisely and exactly those things were done.

You will remember that in the Un-American Activities Committee evidence that was used here to cross-examine some of these people, there crept by chance into the record disclosures that such men as Earl Browder, or whatever his name may be, appeared before that committee and, without any requirement of subpoena or being put under oath, mailed and transmitted to that committee the 1938 and 1940 and 1944 lists of the members of the Central Committee of the Communist Party. Those things were apparently of so little matter of concealment that the '44 one was printed, obviously for rather wide dissemination.

Crouch and Johnson on the witness stand ran over them and said, "Well, I don't remember this one; I don't remember this one; this one is probably a fictitious name." But it was obvious that at least a list of the members of that Central Committee was pretty easily available. **[7846]**

And I do not care what anybody's opinion may be on it. I am sold to the conviction that from the beginning of the activities of the Communist Party in this country back in 1925 or whenever it happened, up to the present day, the United States Government through the FBI knows everything about everybody who had any size or importance in that party; that they know the names and they know the personages and they know the descriptions and activities of every person who was ever a member of their Central Committee, every one of them; and they know, and they knew right from the start, that Harry Bridges, under the name of Dorgan or Rossi or Harvey or Canfield or anything else, was never a member of the Central Committe. And they knew that there was no credible evidence, suspicion or suggestion that should deserve the dignity of being placed before the jury to make that assertion.

Now, here is one of those little indicia that come out in a case of this kind and suddenly burst out like an illuminating flash to shed light on a whole dark conspiracy of concealment. This Manning Johnson was subpoenaed as a witness in 1941. He recalls, he says, the fact that Mr. Bridges was tried in 1941.

"Q. Were you subpoenaed at that time as a witness on behalf of the Government?

"A. Yes.

"Q. Did you appear as a witness in that case?

"A. No, I did not appear as a witness in that case. [7847]

"Q. In other words, you were subpoenaed in that case and the Government decided not to call you as a witness?

"A. I don't know what the Government decided, but I was never called as a witness in the case.

"Q. Having in mind your answer, Mr. Johnson, that you were subpoenaed in 1941 as a witness for the Government, although not actually called as a witness and you did not actually give testimony, I want to now ask you this question: Had you prior to that deportation case brought against Harry Bridges in 1941 on the ground that he was a member of the Communist Party, had you before that time made any statement to officers of the Government in which you used the name Harry Bridges in connection with the National Committee of the Communist Party?

"A. Naturally, before they served me, I think, with the subpoena, I was interviewed by a representative of the Department of Justice. I don't recall who it was at the present time, and I can't tell you exactly when it was."

They knew that that man was going to take the witness stand and give that testimony before they put him on here, because you know everything your witness is going to say. They knew that when he was giving that testimony and going to give that testimony, and after he gave that testimony he had lied about it. They sat here in court, these gentlemen charged with the protection of the defendants, paid by the defendants [7848] as well as by all of us to watch out for and guard their interests, and they allowed that fellow to go off the stand having said that without correcting or contradicting it, because, of course, he had never said to the Government in 1941 that Harry Bridges was a member of the Central Committee; or if he had, the Government knew that statement was false and could be immediately and easily refuted and there could be no proof of it. Because, can you conceive that where the Government was trying to prove that Harry Bridges only affiliated with the Communist Party, let alone being a member of it, and had done all the things that they have done in this case, just as bad and even worse, were attempting to get an unjust verdict against Harry Bridges in that case, would they have failed to put in the evidence then open and available to them by a witness high in the Communist Party under subpoena who had told them the fact, and was willing to testify to the fact? Would they have failed to have called to the attention of Judge Sears the allegation and contention that Harry Bridges had been elected three years before and five years before a member of the Central Committee of the very party affiliation with whom he was denying? Is it conceivable that that could have happened? Isn't it obvious now to all of us that when Johnson got on the witness stand and said, "I told these agents back in '41, these people connected with the Justice Department, that Harry Bridges was a member of the Central Committee of the Communist Party elected [7849] in '36 and '38," that he was lying; that he hadn't told them that story back in

1941, and that when he was making that statement up here these gentlemen knew he was lying? Or the other horn of the dilemma, whichever they choose: that if he did make that statement to them back in 1941, they knew he was lying then, and having made such investigation of the constituency of that committee that was elected within three years before, they knew that there was no possible chance of maintaining so palpable and so obvious a fable as that? So they knew that Johnson was committing perjury on the stand here, and they knew that he had never said any such thing as that. They also knew that he had lied under oath after he had evacuated the cesspool in which he had lived for all these years, because he went up to the Canwell Committee in Washington, D. C. and up there, with no cross-examination, no judge to restrain his testimony or to prevent him from putting in conclusions, nobody to check upon or contradict him—one of those committees that just hears what it wants to hear and rejects what it doesn't—under oath, and he is shown a picture of Harry Bridges having a cocktail with Molotov at the United Nations Assembly banquet in San Francisco. And he says, "Yes." He is shown it, and Mr. Johnson is asked:

> "Here is Exhibit 9 which was introduced here yesterday. I will ask you to observe this exhibit and see if you recognize any of the people there?" [7850]

To which Johnson replied, "Oh, yes, yes, yes. That is my old friend and comrade Harry Bridges."

"Did you so testify?

"A. Yes, that is right. If it is in the record, I so testified."

Now, he had already testified prior to that time in this hearing and before being confronted with that, that when he was at the convention in New York in 1936 he didn't meet Harry Bridges; he had never met him or seen him before, and he never saw or met him since until he had encountered him in this court. So when he said "my old friend" he was lying under oath, because he was trying—Anything you say is only an effort to convey your interror thoughts to another person. If you deceive that person by a flat lie, then everybody considers it a lie. But suppose the words that you use are only such as to convey to that person an impression different from what actually resides within your own mind, that is just as much a lie. When this fellow said, "Yes, yes, yes, my old friend Harry Bridges," what could any unbiased person conclude except that he had known Harry Bridges for a long time, that they were friends; that when he was discussing Harry Bridges he was discussing a man with whom he had at least some sort of reasonable acquaintance?

He is asked this question:

"Q. When you were giving your testimony what you wanted [7851] to do was deceive this Canwell Committee into believing that Harry Bridges had been a friend of yours, isn't that correct?"

A storm of objections from our friend over here. Overruled. And the man says, "No, I wasn't trying to deceive the committee; I just merely said it sarcastically."

> "Q. Sarcastically? A. Yes.
>
> "Q. Well, did you tell the Committee that you were saying it sarcastically?
>
> "A. Well, they could tell by the manner in which I said it that it was sarcastic."

Nothing was pointed out there. There in his discussions of Harry Bridges before the Canwell Committee he at first lied under oath to them by creating a background and a lying impression of what his relationship or his acquaintanceship with Harry Bridges was. And these gentlemen knew about it, because they had the Canwell Committee matters here, and they knew what he had testified to on that occasion.

He also said that before the Canwell Committee he had testified that he had attended two conventions of the Communist Party, one in Cleveland in 1934, and the other in New York in 1938. He doesn't mention to the Canwell Committee that Harry Bridges, who was his old friend and comrade, was also a member of the National Committee of the Communist Party. He is up [7852] there to earn his stipend—an honorable, professional witness, as counsel points out to us; a new and proper means of earning a livelihood. He knew he was up there to do all the damage he could to Communists, the Communist Party and to militant labor organizations that might be accused of Communism.

That is what he was there for. He was not up there just to tell a little story. Everybody knew what the general sketch was. What they wanted to do was get specific things particularly against the professors at the University of Washington. That is whom they were trying to get. And, my friends, alas—alas, that is whom they did get. That is whom they did get. And indeed—isn't this a curious little thing, too: I do not care where it is, if you are having a meeting of some Congressional board down in Tallahassee, Florida, or if you had them up in the tiptop of Scotland, and if you are inquiring about Communist infiltration in Pakistan, somebody would say to the witness, "Do you know Harry Bridges? Have you got anything about him?" It does not matter whether it is Mulholland back in New York City, the captain that Johnson said he first mentioned Harry Bridges to, or a committee in Washington investigating loyalty of their professors up there. Somebody had to say, "Have you something on Harry Bridges? Is there something we can transmit down to the gang who want to get him? What can you tell us about Harry Bridges?"

And knowing that he can say nothing about Harry Bridges to the Canwell Committee—"yes, yes, yes, my old friend and comrade Harry Bridges." Now, if he had in his mind that tremendously important fact that worst guarded of all secrets, that thing known to a couple of thousand people that Harry Bridges had been elected a member of the Central Committee of the Communist Party, [7853] wouldn't he have come out and said, "Yes, I know he was elected at such and such a convention of the Communist Party"? And furthermore, my friends, why did he say that he attended a Communist convention in Cleveland in 1934 and a Communist convention in New York in 1938 when he was in Washington and never mention that important Communist convention he says he attended in New York in 1936 in this court, which would have been useful to bolster this fable that Harry Bridges was elected to the Central Committee at that time? The omission of that convention is in itself a fraud and a deceit. Now, here is a strange thing that happened to Mr. Johnson, and talking about him—was it the "hit dog" or the "bit dog" yelps? The little homely apothegm that you picked up from Mr. McMillan?

By the way, when we preferred the charge or suggested that this case is to dirty for Frank Hennessy's office, it would be good policy to get McMillan to come in and sit around for an hour or two and take away some of that sting.

Well, Mr. Manning Johnson was a bit dog or a hit dog. You are not going to tie Mr. Manning Johnson up in any alibis. He has been burned on those, badly burned. When he was on the witness stand, they knew perfectly and completely and explicitly exactly on what day the Communist convention in New York in 1936 commenced, and the hour at which it commenced, and everything that had been done around there. I bet they could give you a list of the spittoons that were around the bar there. But [7854] Mr. Johnson is not committing himself to any such details. He says, "I will only say it was in the warm months of 1936, probably June or July." He didn't know. He hadn't been told that it was from June 25th to June 28th, 1936. He was not committing himself on any such deal as that. Why? Well, do you remember this, that Mr. Johnson, in order to pay his board bill and room bill to the lady who is not his wife, and a portion of whose flat he occupies in Harlem, had gone out to earn a few honest dolalrs in the Eisler case. And in the Eisler case, protected by the fact that he is a government witness, nothing could happen to him, he can say anything he wants. He can be detected. Might make him a little bit ashamed, might make him a little less apt tool, but nothing is going to happen to him, of course. If it happens too often he is going to destroy his utility as a trusted employee in this honorable profession of hired witness.

But aside from those things which, after all, are the risks of the man's business, and he is sort of new in it, a few years—and it is a kind of new profession in this country, too. You can't expect the pioneers in an enterprise of that kind to have the aptitude and the skill that future generations of them will have. A few years from now the professional witnesses that are produced here will defy the skill of a Daniel Webster. Might just as well put them on there and say they are hired witnesses and nobody is going to believe them. Just let them [7855] go off at that. But as far as trying to get any sort of entrapment or contradiction or tie them up in cross-examination, it won't be worth the doing.

But this young man deserves the credit of pioneering in a difficult occupation. He is breaking the ground for those who will come after him. So I am not criticizing him for that. But here is the unfortunate, poor Manning Johnson, who in the Eisler case said, "Yes, I met Mr. Eisler up near Niagara Falls"—and when you are talking of Communism, try to put them as close as you can to a foreign country because that invests them with the hatred, fear and suspicion that thieves naturally have for strangers and foreigners. If he is one of us, if he is part of our herd, then at least he is trustworthy. We know what he feels like. We know how he talks, and so forth. But if he happens to come from the other side of some sort of geographical line, he is suspect. That is inherent in man's nature, probably inherent in animal nature, too. The hatred will be saved for the stranger who lonely wanders in it.

In Latin the old Romans had the word "hostis" which had two meanings: an enemy, and it meant a stranger.

So we get Eisler up near the Canadian border—not that I know anything about Eisler, I hold no brief for him, know nothing about him except what I read in the papers—but he is up near the Canadian border, and Mr. Johnson sees him there and comes in and testifies. Mr. Johnson saw with Mr. Eisler, as part of [7856] this international conspiracy that he is now identifying, two well known Canadian Communist leaders, a man named Tim Buck and Carr. They were right with him. So here is the international conspiracy now in full flower, and Manning Johnson is Johnny-at-the-keyhole, sees the whole thing, comes down and testifies to it conclusively.

But lo and behold, to give the obverse of the medal of an alibi, the reverse of which was painted to you by Mr. Donohue, by one of those concatenations of circumstances that we can only ascribe to some sort of Beezlebub that has been picking on Mr. Johnson for a great number of years, and thwarting him by what he does, by the utmost of misfortunes, Buck and Carr at that particular time are in jail in Canada. They have been arrested in connection with some labor disturbance and they have been locked up in the jail, and there is the record, and you can't get away from it. Buck and Carr were not in the United States at that time at all. They could not have been. There was an alibi as tight and as clear—even tighter and clearer than the proof that Harry Bridges was in Stockton on June 27th. Whether it came from the flower of his own imagination—and I hope it did—I hope he possesses within himself those virtues—or whether it was suggested to him by others, which would be dishonest and therefore we trust has not occurred, Mr. Johnson got back on the witness stand and said, "I now want to withdraw that. That was a mistake. I do not identify the pictures that I am [7857] being shown now of Buck and Carr as being the men that I saw with Eisler, but the men that I saw with Eisler were introduced to me under the names of Buck and

Carr and were said to be these men, that is why I so testified."

Now, we won't inquire into the unreasoning of suggesting that persons who are members of the Communist Party and who are trying to work in some sort of conspiracy with each other, should tell a fellow like Johnson, who was also a member of the Communist Party and a member of the Central Committee, I think Mr. Donohue says, that these two men are the heads of the Communist Party in Canada, when they actually are not, but are two persons going around under assumed names of persons who are such members. Wouldn't anyone say, "Look here, who are these two birds? Who are they? Are they actually the leaders of the Communist Party in Canada? No, they are not. They are just masquerading under their names."

What kind of deal is that? In other words, these men up in Canada are going to be blamed for the misdeeds of these two fellows. Why should they take their names? How suspicious that sounds! My friends, in these times kick reason out of the window. What do we care? That is something the jury can hang their hat on if they want to. It is an explanation they can accept if they feel so inclined, and that is all we are concerned with.

Then he finds himself in another situation in which he [7858] displays a certain amount of heroism, though I suppose protected in the same way, and it also gives the reason why counsel should look with such contempt and hatred upon the term "alibi." The term "alibi" only means elsewhere and if one is accused of having committed a crime at a particular place and he can prove he was some other place, a thousand miles away, I do not see why that proof should be looked upon with any more suspicion or contempt than any other defense that there may be. In the case of Buck and Carr, for instance, it was conclusive, but there was a case in which it was not so conclusive, and Mr. Johnson rushed in to save the man who had been trapped by the alibi. He had an associate, intimate, named George Hewitt, and George Hewitt appeared with Manning Johnson before the Canwell Committee in Washington and he went to town on a certain professor Rader. That man, he says, attended a Communist school in which I was a teacher in the state of New York from this date to this date in 1938. Johnson does not testify to any such thing. He testifies to the principles of the Communist Party and to Harry Bridges being an old, old friend and comrade. "Yes, yes, yes," and matters of that kind, and as to how he has himself been a stinking, et cetera, et cetera. He does not say a thing about Professor Rader having attended a school in New York.

Professor Rader is kicked out of his job. Professor Rader does not like that and he has a little fight himself, so he went around and he ran over all his life as far as he could, [7859] and he kept certain memoranda, and so forth. He went down and he saw his dentist, and he saw his doctor. His doctor because his health had been bad at the time, and he had been confined to a hospital some time around that period, and lo and behold, during all the time he was supposed to have been attending the Communist convention in New York, Professor Rader was either in a hospital in Seattle, Washington or confined to his home and undergoing treatment by a doctor who had records of it, and at one point he had attended to some dental matters, and at other times he was reported as having given lessons in the school in Washington. The alibi was conclusive.

The gentlemen from Washington who were relieving the under-staffed, the under-manned Department of Justice in the State of Washington whisked Mr. Hewitt—was it you?—whisked Mr. Hewitt to the airport and fled the jurisdiction of the state, and the grand jury indicted Mr. Hewitt and issued extradition proceedings to bring him back from New York on the charge of perjury, and it came on for hearing before a magistrate in New York, and then for the first time Mr. Manning Johnson appeared in that court and testified on the extradition proceedings that the two had been present at the school in Washington at which Professor Rader had been taking lessons during the period of 1938, and in truth and in fact Hewitt's statements had not been true. He did not testify to that before the Canwell Committee in Washington because nobody had asked him, and the judge in New York taking, [7860] my friends—I hate to say, I won't say, I am not going to say—you can't persuade me to say a judge's court to be influenced by what he considers to be popular opinion and newspaper talk, but at any rate, this judge denied the extradition and the warrant and the indictment against Mr. Hewitt is still pending in the State of Washington and he dare not enter that state, and Manning Johnson dare not enter that state, but they do not hesitate for a minute to bring him out here or put him on the stand, and despite all their knowledge of his perfidy, his subtleness, how far he is willing to go, they endeavor to persuade you ladies and gentlemen to resolve your consciences and your judgments in so serious a matter as this upon the testimony of so complete and arrant a scoundrel.

With Mr. Crouch the same situation, almost identical, except he adds a bizarre touch or two to it. Now, when a person appears and tells you that he was a private in the United States Army, convicted of some crime and sentenced to twenty years in a military barracks, then that is commuted after he has served four or five years, that he took a trip to Europe and they made him a brigadier general in the tremendous Red Army of Soviet Russia, look at him and say, "What manner of man be this? Is this true or is this some sort of fantasy?"

But swallowing the story, if you are willing to do so, and employ him to perform the same offices as Mr. Johnson, he then tells you he wants an agent in the room next to him, an [7861] agent in the room on the other side of him, and an agent across the hall for his protection. I think that any critical person would say not only does this bird display delusions of grandeur, but he also has a delusion of persecution. Paul Crouch is obviously an insane man. An insane man will frequently put on appearances of sanity. That man is an insane man.

However, Mr. Crouch falls precisely into the category that Johnson does, apropos, or in face of the government. After he got out of the Communist Party, where he justifies himself for lying on the ground that he was so instructed and disciplined, he lied under oath before other boards of inquiry. After he had been washed white as snow, he still committed perjury under oath. And when he came in here and testified, these gentlemen knew that he had committed perjury under oath and they treated the jury in precisely the same way that they treated the Attorney General of the United States in this matter.

When they put Paul Crouch and Manning Johnson on the stand, then the least they should have done was say to the jury, "Now, I want to tell you this, ladies and gentlemen: these two men have committed perjury under oath after they left the Communist Party, and here it is; we are not going to conceal the thing. Now we are bound to watch out for everything, and theoretically it is of no interest to us whether there is a conviction or an acquittal." But they don't do that. They hide and conceal, and they protest when you try to worm the thing out of the [7862] fellow. Because Paul Crouch, as they also knew, was not telling the truth when he said Harry Bridges had been elected in 1936, and they knew that he had testified falsely under oath prior to that time.

Now, he was called before the Un-American Activities Committee on May 6, 1949, which was certainly a recent thing. And he goes ahead and for page after page he identifies persons as members of the Communist Party. Page after page. Earl Browder, Eisler, William Foster, Sam Darcy, J. Peters, and then all sorts of less well known people—Nassonov, Taylor, Walter Trumbull, Emanuel Levine, George Pershins, Joseph Gelders, Mr. Nixon, et cetera, et cetera, et cetera—right down the line until he had identified 78 members of the Communist Party. And then to almost every one of them he affixed a vignette, a description of the man and his activities in the party. And some of them ran into pretty large and close descriptions.

Mr. Mink. " 'Mink told me he had been a taxi driver on the waterfront in Philadelphia and that he had been spending his time on the waterfront, in which he was chiefly interested; his main interest was among seamen, and in his conversations with me he expressed very ambitious aims of having Communist organizations among seamen which would control the industry throughout the world.

> " 'In his personal habits Mink was anything but an attractive person. He was a very heavy drinker, very promiscuous [7863] in his relations with girls——' ——"

Pardon me, I didn't mean to say that.

> " '——and it was quite a shock to me, with my idealistic conceptions of the movement to

find one of the gangster characteristics like Mink rising to such top leadership.' "

Mr. Taylor:

" 'He was from the mining fields of Pennsylvania, from Wilkes-Barre if I remember correctly. He enlisted in 1929 for service in Panama and established civilian contacts in Panama, maintained correspondence through the underground channels which we established, served his enlistment without detection, and returned to the United States.' "

At that time an investigation, an indictment for perjury against Harry Bridges is even then pending, right in this court. Government agents were hot on the trail of anything that they might discover that would connect Harry Bridges with that. They are supposed to have been informed back in 1941 by Manning Johnson that Harry Bridges was elected a member of the Central Committee of the Communist Party in 1936.

Then after giving all this list, even when the committee was getting very tired of it, and after enlarging upon his description of each of the persons whose names he gave, he was finally asked the question that is always asked: "Did you know Harry Bridges directly or indirectly?" And what was his answer? "I knew Harry Bridges, I met him at public meetings." [7864] Now here is a man who says that he sat in a meeting of the Central Committee of the party back in 1936, saw Harry Bridges personally present, elected a member of that, introduced by Jack Stachel, described, make a little speech saying, "I have been very pleased with your proceedings," and then have Stachel advise the other members of the committee, including Mr. Crouch, "Now because of the danger to Mr. Bridges, we are sending him back to the West Coast and we are not going to present him to you any more." Knowing, pretending to know all that, his answer to the inquiry in May, 1949, of the Un-American Activities Committee man, "Did you know Harry Bridges directly or indirectly?", he says, "I knew Harry Bridges, having met him at public meetings." And then he gives his little vignette also. He exhausts what he knew about Harry Bridges: "I knew him through constant reports given by Bill Schneiderman, district organizer." And, "Schneidermann's reports were on the conference with Bridges regarding policies, tactics and organization steps to be carried through. Schneidermann conveyed to Bridges the decisions of the district bureau and reported to us Bridges' reactions to them. In some cases Bridges did not always agree, and if it was a minor matter the bureau usually gave in."

So in that inquiry he did not even claim that Harry Bridges was, so far as he knew, a member of the Communist Party. The most he was trying to infer there was that Harry Bridges carried out Communist Party policies at the dictation of William [7865] Schneidermann, and he never mentioned this great and important thing that he knew, and which would be so important not only to that inquiry but to this.

And the Government knew he had so testified falsely, and they also knew this, that he testified before the election board right down in Mr. Paisley's own state, Tennessee, as to the aims, purpose and interests of the Communist Party. He was asked this concerning his testimony: "Did you testify that the position——" Pardon me. Remember, he has said the reason he got out of the Communist Party was that it intended to overthrow the government by force and violence; that is when he got out of it, he could no longer lend himself to that atrocious thing.

"Q. Did you testify that the position and program of the Communist Party was that the Communist Party never did and never will hold to a program of forceable establishment of socialism against the will of the people?

"A. I introduced that into the record, but I don't recall testifying to that in my own words.

"Q. Now, at the time and place I have just mentioned, you also while under oath read the following, did you not, quoting from the constitution of the Communist Party, on page 4 of the constitution, unanimously adopted at the tenth national convention, May 27th, 1938: 'The Communist Party upholds the achievement of democracy, the right of life, liberty and the pursuing of happiness, to defend the [7866] United States Constitution against its reactionary enemies, who would destroy democracy and all popular liberties.'?

"A. I read that into the record, to the best of my recollection.

"Q. And you also read the following into the record, did you not, further quoting from Article X, Section 5, of the same constitution and bylaws appearing on page 20, also marked Government's Exhibit 15 in this case: 'Party members found to be advocates of terrorism and violence as a method of party procedure shall be summarily dismissed from positions of responsibility, expelled from the party and exposed before the general public.'?

"A. I believe I read that.

"Q. Was it your intention that the election board should understand your testimony in such a way as, in order that the election board would believe the Communist Party at that time did not advocate the overthrow of the government by force and violence?

"A. I hoped they would get that inference from the documents I submitted.

"Q. My question is, was it your intention in appearing there to so lead the election board to believe? A. Yes.

"Q. And the purpose and intent of your testimony was to lead the election board to believe that the Communist Party [7867] did not advocate the overthrow of the government by force and violence? A. Yes."

So that these gentlemen, when they put Crouch on, knew that he had testified falsely under oath before the election board in Tennessee, knew that he had either concealed from the Un-American Activities Committee in the very month that they were seeking to indict Harry Bridges, the fact that Harry Bridges wasn't a member of the Communist Party, let alone that he had ever been elected a member of its Central Committee. And they knew when they put him on here that he was going to tell a different story, that he was going to tell this jury a deliberate lie, that they knew to be false.

The Court: We will take the morning recess, ladies and gentlemen. The same admonition to you not to discuss the case.

(Recess.) [7868]

Mr. Hallinan: With relation to the avenue of escape that counsel pointed out Crouch had indulged in, in which he says that he didn't commit himself to the fact that that meeting was on June 27, 1936—although we will show you presently that they are so tied up in it that they can never get away from it—the use of the terms "to the best of my recollection" does not relieve a person from having proven that his statements are false, or mark him as a person who is telling the truth. In fact, it is a kind of childish device that persons use who are going to attempt to commit perjury and at the same time avoid any possible consequences that might arise from its detection.

Perjury consists in trying to convey a false impression to a court and jury. It doesn't matter what words you use or terms you employ, a person who is committing perjury cannot escape it by saying that his words are capable of a different construction. The jury is then given the testimony of such witness, and he makes the statement, "I intend to convey to the jury a certain impression on my part," and then proceeds to say, "As my recollection serves me," or "To the best of my memory." That doesn't avoid it. That always occurs and they always have that philosophical out. In going over the testimony of Paul Crouch you will find on direct examination he only used the term "to the best of my recollection" once in thirty pages, and in cross-examination, the minute he thought he might involve [7869] himself, he used the term "to the best of my recollection" a total of forty-nine times in thirty-nine pages, one and one-half times to a page, as I say, for the obvious purpose of not committing himself and as an avenue of escape in case of detection afterwards. But as soon as the pressure got a little warm he used the expression "to the best of my recollection," from pages 2679 to 2683, a total of four pages, eighteen times; as soon as he found himself being jammed, he wasn't going to commit himself any of those times. But for the things that he knew, had received the advice, instruction, care, nurture, comfort, society of the following gentlemen, paid for by the——

You know, when I paid my income tax the other day and I realized that a large part of it was going to Manning Johnson and Crouch, my stomach just turned over and I got a sick feeling in the pit of my stomach when I thought I had to take some of my hard-earned jack and turn it over to those guys to hand out in the fashion that we have seen displayed. But that is just an aside.

At any rate, Mr. Crouch had these people: Agents McCluskey, Meyers, Zimmer, Attorney Boyd, Agents Noto, Kaiser and three unknown people who surrounded his room. So that that one man, that one witness, in order to be fixed up and polished, instructed and educated for the purpose that he was here, to hold him in proper fettle, protect him, feed him—change his clothes, I guess—had nine highly paid employees of the Immigration [7870] Department of the United States Government, nine people, nine employees working on that one man, correcting what he said, going over his testimony, guarding him and taking care of him.

With regard to the witness Ross the exact same situation applies. Now, Ross had been some high functionary of the Communist Party. He had been named by the Un-American Activities Committee years back as having been not Lawrence Ross at all but a man named Rosenfeld and born in the Bronx. So they had at least a clue to the situation on that. He had been editor of the Western Worker. He said that on three or four occasions while he was in the Communist Party he had his fingerprints taken by the police. They knew all about that man. They knew where he was born. They knew what happened to him. They knew who he was. Now, the poor wretch is a weak man and a liar and a crook; he is no damned good. But all the time he was on the witness stand there I felt a certain sympathy and sorrow for him because he was testifying under compulsion, too. And here is the proof of it. They went down and they kissed and cajoled and seduced Rathborne and got him to add to what he had to say, and bribed and bought Schrimpf; they baby-sat for Schomaker, and sent the agent out with his wife shopping for her; they sat in his house, and Mr. Donohue brought him up in his car and went out and showered upon that humble place the full light of his benignity. They nurtured him and carried him on and on and [7871] on.

But what did they do to Ross? Mr. Barber went into Ross's office, where he was living under an assumed name, his identity concealed. He spoke to him, and Mr. Ross went to Barber's room that night and signed a statement to become a witness against Harry Bridges. Why? Mr. Barber went into Ross' and he threw down a paper that told him he was born in Poland, he came here under a particular name, he landed at a particular place, he could be kicked out of the country instanter. And Ross picked it up, and he read it, and he thought it over for the afternoon, and he went over to Barber's room that night and said, "All right; what do I have to do?" And he was told what he had to do. When he came out here he tried to earn his keep and he tried to earn his way. Having been compelled and driven to it in the first place, then he made virtue of the necessity and undoubtedly a profit from it. He became a hired witness, and he was going to be one thing or the other: He was going to continue on in this lurking way as long as he could, or he was going to be exposed, kicked out of his job, probably even kicked out of the country, because I doubt very much if there is any naturalization there either actual or by his father having been naturalized. I don't believe it is there at all. I don't believe his father has ever been naturalized. I will tell you why in a moment. He thought to himself, "Well, I have to go along with them; I have to do as I am told to do, so I might as well go the whole way, and I might as well profit [7872] from it; I might as well make some money out of it. I might as well insure myself. If I am going to be a liar and a traitor and a perjurer, there is no reason why I shouldn't take the King's gold for it." Then he came in here. When he got on the stand he lied, and they knew he was going to lie, and he lied all the way through and they knew he was lying all the way through. And they not only gold-bricked the jury by not disclosing that, but they endeavored by every assiduity to conceal it and protect him, and then in every fashion that they could, to foreclose cross-examination, to stop us from discovering who this man was or what manner of man he might be. [7873]

So Mr. Ross didn't tell the jury a great number of things that were afterwards revealed on cross-examination. Mr. MacInnis asked him, "In the year 1924 you worked as a seaman, did you not?"

"A. Yes, sir.

"Q. On the Luckenbach line?

"A. Yes, sir.

"Q. You did not inform the jury when you were asked under oath by the prosecutor to state your employments, did you?

"A. No, sir, that was a very brief period.

"Q. Did you work for Spencer, Colligan & Son Oil Refinery?

"A. Yes, I did for a short while.

"Q. Did you tell the jury that when you were questioned?

"A. I hadn't recalled it.

"Q. What did you do in 1928?

"A. That may have been the year in which I wrote propaganda stories for the election campaign of the Communist Party in the Daily Worker. It may have been. I am not sure.

"Q. Now, you did not tell the Court and jury about that, two days ago when the prosecutor asked you to tell what your prior employment was?"

Mr. Donohue objects and informs the witness that he was not asked that question.

"Q. Didn't you join the Communist Party in New York in August of 1927?" [7874]

Now, remember he has testified he joined the Communist Party in Los Angeles in 1932. He has some reason all the way through for concealing certain matters in connection with his testimony, and these people knew, because he had testified before a committee of theirs prior to this time, that he joined the Communist Party in New York in 1927. So when he said on the witness stand that he joined the Communist Party in 1932 they knew he was not telling the truth. Why didn't they say, "Now, aren't you mistaken? Let us inform the jury correctly. You actually joined in 1927?"

"Q. Didn't you join the Communist Party in New York in August of 1927?

"A. I think I did make out an application card and then dropped my membership."

Now, you will see how that is false.

"Q. Did you tell that to the Court and jury two days ago?

"Mr. Donohue: Oh, your Honor, I object, if your Honor please. When we examined this man we did not attempt to cover every detail of his life for twenty-four years, and I think the impression of the inference Mr. MacInnis is attempting to draw by this line of questioning is unfair. I object to the question.

"The Court: The objection is overruled.

"Mr. Donohue: I object again on the ground he has not been asked that question. [7875]

"Mr. MacInnis: I would like to bring out what is entirely the fault of the witness or your fault.

"Mr. Donohue: I will take the responsibility, Mr. MacInnis.

"Mr. MacInnis: Will you answer the question? Will you read it for the third time, please."

And the witness answered:

"I was not asked." He said he was not asked if he joined the Communist Party in 1927, though he had been asked when he did join it.

Now, how long was he in that party? This is the one where he signed the application and then dropped it.

"Well, possibly a year. I am not sure. 1928 part of 1929—I don't recall—it was a short period.

"Q. Now, about ten minutes ago, Mr. Ross, you told the Court and jury under oath that you made out an application blank but did nothing about it. Now you say you remained in for a year or more?

"A. That was a technical statement, Mr. MacInnis. I was in the Party technically. It meant nothing much to me. I didn't take the active part I took when I joined after having dropped out for several years in 1932.

"Q. When the prosecutor, who represents the Government of the United States in this court, asked you under oath to tell about your newspaper work in New York, why didn't you then [7876] tell about your work on the Daily Worker in New York?"

And here is his answer:

"Well, for one thing the Daily Worker is not a legitimate newspaper, as I saw it."

That is the reason he does not tell this jury, in answer to the question as to what newspaper work he had done, does not admit working on the Daily Worker for a couple of years because, he said, "The reason I didn't answer that was I did not consider it a legitimate newspaper."

Remember, my friends, what we are concerned with here is to discuss whether these people, Johnson and Crouch and this man, lied under oath in your presence and before you, not whether at other times and at other places they attempted to lie and to deceive other persons. What is important is whether they came into this court and also committed perjury in the identical matter before us.

> "Q. Didn't you think it formed part of the background of your employment as a paid functionary for the Communist Party?
>
> "A. I think my newspaper experience primarily, and secondarily, the fact that the personnel of the Communist Party at that time in Los Angeles was largely foreign-born. They wanted someone who could front for the Party openly."

In other words, he now comes out with the allegation to disarm and turn aside inquiry that he is not foreign-born, he [7877] is an American citizen, and when they heard him say he was elected to this office in Los Angeles because they wanted someone who wasn't foreign-born, they knew he was telling a lie. They knew then he was foreign-born.

Now, it becomes apparent from certain questions addressed by Mr. MacInnis that Lawrence Ross is not the person he professes to be. We did not know a single thing about Lawrence Ross. We assumed his name was Lawrence Ross and he was born where he said he was born, and we hadn't any information at all from the Communist Party, the Western Worker or anyone else until Mr. MacInnis asked the question about his graduation from the University of Kentucky, and when he could not remember anyone who had been a member of his class, we were astounded; and then for the first time we started making inquiries—that was Friday—and by Monday morning we knew all about Lawrence Ross. And they will pretend that, with the FBI behind them and investigating that man for years and years and years, they did not know what we were able to discover in three days. That is the kind of fable they are going to tell you here.

As soon as Lawrence Ross did not know anybody in his class in Kentucky University, Mr. MacInnis started to work to find out why he did not, because he surmised immediately he never had gone to Kentucky University, and why should he pretend to have done so under oath unless there was something he was trying to conceal? His imagination certainly outleaped mine, [7878] because he surmised the man was not as he represented himself but an entirely different character. His imagination covered what could not have been deduced from the mere answer. And what we actually thought was this, my friends: We made an inquiry at the University of Kentucky as to whether a man of that name had ever been registered there. Then we inquired at the high school and they said nobody of that name had ever been registered there either, but the principal gave us another piece of information. He said, "In this community 'Ross' is commonly a Negro name. There are several people named Ross in this community, all of whom are colored people, but no white people named Ross."

And we thought this: We were not even going to expose it. We were not going to bring it out. We thought Ross was a Negro who had been passing as a white man. That was a concept that we had received. And it was not until a very active, very diligent and very intelligent young man in the East proceeded further upon some cue that he had received that Ross had been called Rosenfeld and was born in the Bronx, to find out just who Ross was, and here is how he found it out: There is a big grammar school in the Bronx to which everybody of humble origin goes. It is in the poor section of the Bronx. And when he made inquiry there he found a man who had been a classmate of this man and knew that Lipman Rosenfeld had afterwards changed his name and masqueraded as Lawrence Ross, and what we [7879] found out by so simple a procedure as that, they did not know a single thing about it. But Lawrence Ross, as soon as he found himself confronted with the possibility of being unmasked, he started lying to this jury just as loudly as he could. He wants to get out of here and get out of the State, and when the Court is considerate, and properly so, of his situation, he almost became frantic, and we were further warned that there was something pending by the smallness of the circumstances that he now deems so important to allow him to get away. What, for instance, what great thing hung upon whether the Tennessee Cotton Grower was published at the right time and under the proper auspices? His protests on that excited further suspicion.

> "The Witness: Yes, I expected to be out of here by Wednesday. Then there is the pressure of my job, a special edition coming up. It is an annual forecast edition, which we are way behind on. It would be terribly inconvenient to stay over until Monday, almost would demand a suspense of the publication. But it would amount to a monetary loss to the paper if that edition didn't come out on time.
>
> "The Court: And this matter of a special edition goes under your control?
>
> "The Witness: Yes, sir, under my direction.
>
> "The Court: Have you written editorial comment, and so forth?
>
> "The Witness: I have written some, but a lot of it is [7880] gathered by contributions from other people, and it is my job to compile it, edit it, place it in the proper place in the paper. And the paper, incidentally, has already committed itself to a publication date—and advertising material, and has solicited advertising matter on the strength of that publication date."

Mr. MacInnis receives a telegram. All the telegram said was that there was no person by the name of Lawrence Ross ever registered in the University of Kentucky, and he handed it to the Court. Telegram handed by Mr. MacInnis.

> "Mr. MacInnis: I would be glad to show your Honor what I have."

Then the Court began to press Mr. Ross that he stay here.

"The Witness: I spoke to my employer in Memphis on the telephone Wednesday night. I told him then I had been on the stand for that day and probably would be off the next day. That was yesterday. He said, 'Take care of yourself. We need you here very badly. I am having to send out wires in order to get some material in that only you can get. I doubt if I can get it. And please start back as soon as you can, we need you here very badly.'

"The Court: Yes. Could you do this? Could you, as a matter of the request coming from the Court, return to your place of business with your family and then return here again for further cross-examination at a later [7881] date?

"The Witness: Well, that would be very difficult, for this reason, that beginning with this month, January, we have a series of special convention numbers. This month we have an annual forecast edition which is a rather bulky edition, which we get out every January. That is the edition I am referring to now. Then early in February we start a series of special convention numbers dealing with various segments of the trade, the cotton trade and industry. And from now until I should say June or May 30, I think is the last one, these are published periodically. They require my presence there."

So he not only was anxious to get out of the court but he was anxious that he do not return. In further pursuit of the problem of whether he was deceiving this jury, lying to this jury under oath as well as his previous false statements before other bodies, I want to call your attention to these few things, and it may be said, "All right, he said he had to conceal his identity. These matters were addressed to his identity and he concealed them." But he also lied about other things, and lied to this jury.

> "Q. (By Mr. MacInnis): When you were talking about making this statement, did you recall that you had told this jury under oath that you had stopped deceiving people, is that correct?
>
> "A. (By the witness): Yes, politically. That statement was [7882] made with reference to political deception.
>
> "Q. Do you remember you were asked these questions and gave these answers before the Congressional committee in 1934 under oath:
>
> " 'In what capacity did you say you acted for the Communist Party?
>
> " 'A. Secretary of the Communist Party in Los Angeles.
>
> " 'Q. How long have you been so acting?
>
> " 'A. As secretary for about six months.
>
> " 'Q. Were you a member of the Communist Party prior to that time? A. Yes.
>
> " 'How long?
>
> " 'A. I have been a member of the Party since 1927.' "

So that in the Congressional meeting in 1934 in Los Angeles he said, "I have been secretary of the Communist Party in Los Angeles for about six months and I have been a member of the Party since 1927." [7883]

"Q. You lied under oath, then?

"A. I was a Communist at that time.

"Q. And you did lie under oath?

"A. Yes, sir.

"Q. ——"

Now he goes on further and he talks about the Communist Party not advocating the overthrow of the government by force. He has denied in 1934 under oath that the Communist Party has any such intention or any such desire. He was asked the purposes and objectives of the Communist Party, and the answer is, "Yes, the object of the Communist Party is to organize the working classes for a struggle to better living conditions. And also, if the Communist Party has succeeded in winning the majority among the population of America to establish the right of that majority to rule itself for the working class government.

"Q. Do you advocate a change in the United States? A. I do.

"Q. What changes do you advocate?

"A. I advocate that the government be a working class government and that the parties of the government be run by agents of the working class for the good of the working class.

"Q. Do you advocate bringing about these changes by the use of force if necessary?

"A. Only if the organized minority opposes the will of the [7884] majority.

"Q. And do you feel that that condition exists at the present time?

"A. No, sir, it does not.

"Q. You do not then advocate the use of force and violence? A. No, sir."

Now:

"Q. Was that your statement?

"A. I think so. Something along those lines.

"Q. Were you telling the truth, then, or were you telling the truth here in this court?

"A. I was not telling the truth then. I did not reveal the entire program, purpose, belief and philosophy of the Communist Party.

"Q. Did those conversations——"

This is about discussions he had with Kidder, Kaiser and Kessler.

"——concern themselves with the lies that you had told on the witness stand?

"A. With the misstatements that I had made. I call them white lies."

Now, the lies that he told you ladies and gentlemen were white lies. The lies he told the committee in Los Angeles in 1934 were political lies. So he calls them white lies.

"Q. You call them white lies?

"A. Yes. I think a lie is a statement made with the intent [7885] both of deception and winning something for yourself to advance your own position. I have nothing to advance in concealing those facts.

"Q. What did you call the lies that you told in 1934, when you misstated the date that you entered the Communist Party, or when you lied about the use of force and violence, according to your present mood on that score?

"A. I should call those typical exemplary Communist lies.

"Q. What do you call the lie that you told this jury last week, when you said that you used to deceive when you were a member of the Communist Party, but that you had turned off that part of your life and you were no longer deceiving anybody?

"A. I would call that political deception. I was no longer deceiving anybody."

Now, he is taken over by Barber, to see a man who had been described by Dean Landis, the Dean of Harvard Law College, who had the first deportation hearing, as a perjurer and a pathological liar; a man named Miles G. Humphries, who had helped collect and collate evidence with Mr. Barber for that hearing. And he is asked what he did over the weekend, and after evading and cutting around as to where he went and what he did and so forth, he finally says he went to see a man over in Berkeley. Doesn't give his name, doesn't remember the name of his house, where he was or anything else. Finally, it is worked out of [7886] him:

> "Q. Whose house was it?
>
> "A. The house of a former member of the Communist Party here.
>
> "Q. Named what?
>
> "A. Miles G. Umphries."

And he left off the H so audibly and so obviously that it was just a laugh to the persons who knew just whom he meant. And then:

> "Q. Umphrey?
>
> "A. Yes, sir."

So that we wouldn't detect that. All right. Then he said that on Sunday morning he went to church. Mr. Kaiser took him to church.

> "I was trying to place my activities with reference to this case. Sunday morning I went to church."

He says, "That can be checked, I believe. I was seen there. I was recognized there."

Now, I asked Mr. MacInnis, I said, "Ask him who recognized him there. You are going to find out it was one of the jurors. Kaiser found out what church one of those jurors went to, and he took this bird there and sat him down beside him"; and Mr. MacInnis, for causes that he considers proper, forbore to ask the question. But if any of the jurors saw Mr. Ross, who probably has no religious affiliation at all, but if any, has some [7887] remnants of adherence to the Jewish faith—that he should go to a Christian Science church on a Sunday was part of a design to influence somebody. So if you happen to be the person who was a member of that congregation and saw that man in church, well, he said, "I was seen. I was recognized there." He was calling it to the attention of somebody on the jury, that he had been in that church. He was going to pretend even at that time he was a member of it, although he afterwards said no.

Now, we come to the question of his return to Tennessee and the matter of his wife driving slowly because if she drove rapidly, as she blacked out one time, he might never see her again. And if I will be permitted, we will discuss that in our next installment, and now allow ten minutes to permit the operator to change the reel.

The Court: We will take the recess this noon until 2:00 o'clock, ladies and gentlemen of the jury, and the same admonition to you. The Court intends to recess today at 3:00 o'clock by reason of matters confronting me here, so you may be guided accordingly. Return here at 2:00 o'clock and we will run until 3:00 o'clock this afternoon, counsel.

(Thereupon a recess was taken until 2:00 o'clock p.m.) [7888]

Wednesday, March 22, 1950—2:00 o'Clock

Mr. Hallinan: If Lawrence Ross had been only what we suspected or if he had been simply living in the manner that he has been to hide or conceal some matter personal to him or some cause of embarrassment or concern, even to him we would have extended the charity of keeping quiet about it. But we couldn't overlook the fact that the secret he was hiding and concealing, was precisely the thing that gave these men a handle upon him and that put them in a position where they could force him to do or say anything that they wanted him to say: That he wasn't an American citizen at all; that he wasn't born in this country; that he was born in Poland and had not emigrated here until he was a boy of some years; they say, "Well, he had a derivative citizenship from his father." We deny it. We don't believe it. We think it isn't so. We think that his father was never naturalized. We didn't even bother to inquire; we didn't go around in a negative attempt, because if they have a naturalization certificate, it would be right in here. There is something wrong about old Rosenstein's naturalization certificate, if he ever took it out at all. I would be willing to warrant that the man who confronted us on the witness stand is still a citizen of the Republic of Poland.

So we had to see then exactly what he was hiding and the purpose for which it was being done. Now, going along with the [7889] twistings and duplicities engaged in on the stand, he was asked this, as to the difficulties that he presented to the Court why he shouldn't be retained here; that his wife and children had to be gotten back specially; they had to be back the following Monday morning or something probably as disastrous as the failure to edit the Cotton Journal would have ensued. Then, presently, when he is held anyhow, and in inquiry, a close and diligent inquiry elicited, shows that his wife and children have returned. And he is asked:

"Q. Well, let's see what you said. The Court said this to you: 'Does your wife drive a car?' and your answer was: 'Not on the road very well, sir. She does some city driving.'

"The Court: I thought you might as a matter of expediency have her drive back and you stay here.

"The Witness: No, sir. I couldn't ask her to do that. I might never see her again.

"The Witness: That is correct.

"Q. (By Mr. MacInnis): But you nevertheless told us today that you decided, despite those apprehensions, to send her on?

"A. Yes, but she is not driving, Mr. MacInnis.

"Q. Oh, you told us this morning that your wife was driving.

"A. She is being driven. Let us put it that way."

Now we have this attempt to evade saying that one of the [7890] employees or agents of the Immigration Department was driving her, and Mr. MacInnis asked him:

"Q. Who is driving her?

"A. Perhaps the word should have been 'being driven' instead of 'driving.'

"Q. What is the name of the Immigration agent who is driving her?

"A. There is no Immigration agent driving her, Mr. MacInnis.

"Q. Who is driving her?

"A. There is a young woman driving her.

"Q. Who is that?

"A. I believe her name is Drum or Drumm, Drumm.

"Q. You say you believe her name is Drumm? A. I think so.

"Q. Have you met her?

"A. Pardon?

"Q. Have you met this person?

"A. Oh, yes.

"Q. Where? A. In San Francisco.

"Q. Who is she?

"A. She works in either a stenographic or clerical capacity in the office of the Immigration Service, I believe, or some government service." [7891]

So, finally, after a whole page of questioning that thing is out which he designs to conceal and keep from you. Well, then, he is asked, "Now what did you mean by saying that you instructed your wife to drive back slowly?" et cetera, et cetera.

"A. When I say she drove down to the south, I don't think it was a misstatement. I don't know how much of the driving she did. I merely didn't wish to trust her on the road alone since that unhappy accident when she blacked out at one time.

"Q. (By Mr. MacInnis): Now, you told His Honor and the jury this morning that you had told your wife to go ahead by very slow stages, didn't you?

"A. That is correct."

And I submit, ladies and gentlemen, that the ordinary and natural conclusion that one would have drawn from the fellow's testimony was that his wife was not a good driver, she drove a little in the city, on one occasion she had blacked out; that it was extremely perilous and hazardous for her to drive on the open road, but she had nevertheless elected to proceed and drive along, and that this woman, oppressed by the order requiring her husband to remain here, was slowly crawling back toward home driving her children.

"Q. When you said that you had told her to drive very slowly, you intended to convey the information that your [7892] wife was driving the car, and that hence the driving would have to be slow?"

A lot of objections by Mr. Donohue, but finally we get the answer:

"A. I talked to my wife before she left and I said, 'If you do any driving, please drive slowly. We aren't in any great rush. I want you to be very careful and let Mrs. Drumm do all the driving possible, and as I say, there is no rush, no hurry. Just take it easy and I will be happier about the whole thing.'" [7893]

And so unreliable is this gentleman that on the smallest matters he can't be trusted even to say the same thing a half an hour later:

> "Q. Did you ever disclose to your brother that you had changed your identity to the extent that you were claiming your birthplace to be the State of Kentucky?
>
> "A. I don't recall doing that. I don't believe I discussed it with him. Incidentally, he, too, adopted the name of Ross at the time of the naturalization."

Now, you understand that at the time of the naturalization of his father, then Lawrence Ross and his brother carried out the naturalization. In other words, they dropped the foreign name and they took a name that, while being English, would be called, let us say, American. That is what he did. At the time of the naturalization he changed all his foreign affiliations, including the change of his name, and his brother changed his name at the time of the naturalization. Then it develops that he doesn't know when, if at all, his father was naturalized. And if it was, it was at a very young age, when he was only a few years old. And Mr. MacInnis asks him this question:

> "Q. Did you tell the jury under oath yesterday that your brother changed his name at the time of the naturalization?
>
> "A. No, sir.
>
> "Q. You didn't?

> "A. I told the jury I believed that shortly after I [7894] changed my name—how soon after I don't know—my brother adopted the Americanization as to his name. But that statement was not made in connection with any naturalization proceedings."

Although he has stated a few pages before, "Incidentally, he too adopted the name of Ross at the time of the naturalization."

And what sort of man is brought in here to support this story, too? A man who abandons his wife, one little child a couple of years old and another one still unborn; never returns to them. That's in such difficulty because of his wife trying to force him to carry out not only the moral but legal obligations of supporting his children that she even invokes the use of the Communist Party officers to try to force him to support his little children. No further mention of it. They are not the two children that he took back, that his wife drove back home, because according to his statement, by this time those two children would be 18 and 15, respectively, and the two children that were taken back home were 14 and 12.

His father, whom he says must be well along in years, although he lives up in New York in the Bronx, he hasn't seen for 11 or 12 years. And he hasn't heard from him. And he hasn't seen or heard from his mother in the same length of time. And he got a letter from his brother in 1940 or 1941, and that is the last time that he heard anything about him. The poor old father, [7895] that brought him out here from Poland and got him his education, nurtured him, brought him up. And his mother, he walks out cold as a fish and never inquires about whether they are alive or well. He is ashamed of them, is ashamed of their foreign extraction, probably their foreign accent. And their humble, but honest, method of earning a living. This bird, this liar and perjurer rejects and turns his back upon them. They are not good enough for him. Then he walks out and abandons his poor wife, carrying an unborn child, and with a little infant depending upon her, and never goes near them and doesn't support them. Now, what the story is on the other children I am not even going to try to guess. He says he was divorced from his first wife in 1941.

That is the sort of a man that they are bringing in here and still continuing to justify, even after his exposure.

Now, here is some more of his specious and subtle contempt for the regard of anyone—as he didn't care about the mother that bore him or the father that cared for him, the wife whom he embraced or the children that he had by her. What does he care about what this jury thinks of him or what anyone else things of him? He wants to make a sort of showing up here. He plays with words, the type of lies he can tell—Communist lies, white lies, political lies, actual lies. And then the hypocrisy with which he gives his prepared and deliberate statement as to his turning over a new leaf between Friday afternoon when he [7896] saw he was going to be detected and Monday morning:

> "The problem I was faced with, Your Honor and the Court, was a very serious one in my life, perhaps the most serious I have ever faced. I had two alternatives, as I saw it, as I wrestled with myself in the wee small hours of the morning: Shall I still keep these facts from the government and from the Court, brazen it out, stick to my lies, in an effort to save my marriage and my standing in the community——"

No, "stick to my lies in order to save the standing of the men who have employed me and are paying me.

> "——or shall I purge myself once and for all, altogether, and place a clean breast of it? And this I have elected to do. It was to me a great decision, a very difficult decision. I believe, I am sure, I have made the correct decision. I asked for help in this decision, help of a higher judge than sits in this court, and I was struck by one proverb I have read, 'Commit thy works until the Lord and he shall establish thy thoughts.' I have done my best to do that. That is the statement."

All right.

> "Q. Mr. Ross, did you think that I did not know that you were the son of Bernard Rosenstein, who came from Poland in 1903?

"A. You see, the reason for the wrestling with my conscience, [7897] Mr. MacInnis, is because I suspected you did know."

Now, there is a pretty cynical knife put to the substance of this specious and wordy and oily and unctuous account that he has just given of himself.

"Q. Well, let me ask you this, then, Mr. Ross: When you importuned His Honor on last Friday afternoon to permit you to go home because the two children of your present marriage had to be back in school, and when you heard the government counsel insist that His Honor ought to allow you to go home, you knew then that these questions were being posed to you, didn't you?

"A. I certainly strongly suspected it.

"Q. Mr. Witness, when you were questioned about whether or not you ever attended the University of Kentucky and were forced to reply that you could not remember a single classmate at that school, you knew then that the investigation into your past would, if continued for a day, reveal the truth, didn't you?

"A. I certainly strongly suspected it.

"Q. That was your motivation when you told His Honor that you had to get back to your job in Memphis, Tennessee?

"A. That was part of the motivation, yes. The others were the facts I stated to the Court.

"Q. And that was the occasion when you

asked His Honor to [7898] be released back to your job, and when the prosecutor strongly urged His Honor to comply with your request?

"A. That should be a matter of record.

"Q. You recall it, don't you?

"A. It makes sense. It sounds logical."

So the gentleman acknowledges that his statements under oath to the Court for his reason for withdrawing from the case here at this time is something that constitutes a lie committed in the presence of this jury.

Well, I will get to this other point in a moment. But now, the purpose of our urging these things is because of the importance, not only from an evidentiary point of view, but as putting a new aspect and a new face on this entire case, of the fact that Harry Bridges was in Stockton, California, at a moment that Johnson and Crouch testified he was in New York City, and at a moment which their testimony placed, and which testimony was known to the prosecution to be false, and we will show you, if we haven't shown it already, that they knew it to be false.

Now, counsel deprecates the proof of this alibi—minimizes it, treats with contempt its importance—says, "Suppose he wasn't there. It is not contained in the indictment that he was in New York City or elected to the Central Committee either. And furthermore, these witnesses, this man Crouch, did not pin himself down to Saturday, because he said, 'So far as my recollection serves me.'" [7899]

That is one of those phrases, "if my recollection serves me right." So that is all he said—that is a sort of qualification, a qualified thing.

Now, they know, and they knew all along, precisely and exactly the day and the hour upon which the Central Committee of the Communist Party was elected in New York City in February, 1936. It has been demonstrated here, and we can show beyond a peradventure of a doubt, that it happened either (from their testimony) on Saturday afternoon or evening or on Sunday morning, June 27th or 28th, 1936. And they can not get away from it. That is pinned in so tightly they can not extricate themselves from it.

Counsel says also that we place great reliance, great store, upon that fact and circumstance. And we acknowledge that we do. The case up to that time was to us a most astounding one. We saw these people come on here one after the other and affirm the presence of Harry Bridges at meetings and activities and so forth, inconsistent with a man of ordinary sense and prudence. We supposed that as the case developed, as we would get a chance to put on evidence, we could show the jury the lack of force and cohesion in such evidence. But then along came Crouch and Johnson, and they put in this devastating testimony that on this particular time and at this particular place they saw Harry Bridges elected a member of the Central Committee of the Communist Party. And finally, my friends, the weight of that [7900] testimony began to press upon us so much that we were simply discouraged.

It was a terrible burden to get up against. How many of these people were coming in? How many lies would finally make a truth? How much argument would we have to have? Did we have the power or the ability or the talents or the force to be able to convince a jury that this was all part and parcel of the same scheme and it couldn't be true?

And then suddenly all argument was dispensed with. We weren't called upon to do that any more. Who could go back sixteen years and tell where he had been on a particular night? What supposition could we indulge in that any such miracle would spring up? And yet, spring up it did. Spring up it did, like some kind of electric sword that had been furnished to us to cut down these two liars; and in cutting them down, to cut through their whole fabric and their whole tissue of the story that they had invented here, to show that the whole structure was just a cobweb manufactured by the spiders of hate and fraud and corruption—to cut it all down, to send its light flashing down the corridors we had already traversed, and to send its light down into the future so that nothing further would dismay us. And our hearts were untightened and we cheered up and we thought, "Well, the miracle has happened. We are not forsaken of God." The miracle is evident. Here is no argument, here is a fact that they can't get away from. Here is something that ties them down and pins them down so they will never be able to [7901] retrieve their lost cause.

And the corollary of it happened to them. Immediately their whole structure collapsed. From then on nothing worked. The well oiled machine that had run with apparent smoothness with Schomaker, Schrimpf and the other little fellow suddenly began to tremble and shake and fall apart and throw bolts around and the pieces of it fell out and the engine failed. They had scarcely gotten rid of Johnson and Crouch when the entire debacle of Ross took the witness stand. And so far had they progressed on the road to the ruin of their case that they couldn't resist the temptation finally to put the utterly incomprehensible and unbelievable Rathborne on the stand. And thereby to strip away every pretense that it was anything but a fraud and a frameup; and let that man expose the skeleton of it to full and shameful view.

So certainly we put great value upon that Stockton alibi. Why, it was one of those things that happens only once in a lifetime, that you pray for and hope for and that rarely come. That there should be suddenly presented to us conclusive, indisputable, neutral, unquestionable proof that at the exact time and place that those two unmitigated scoundrels were testifying under the guidance of these people and with their knowledge to an utter and flagrant lie, that the man was in a separate, distant place three thousand miles away, and that fact they couldn't break down. [7902]

It reminded one of that spirit that has activated and encouraged a great many people in days of darkness, the spirit that James Russell Lowell breathed when he said, "Truth forever on the scaffold, wrong forever on the throne. Yet that scaffold sways the future and behind the dim unknown stands God, within the shadows, keeping watch above his own."

Because they are never going to get away from the proof of that Stockton alibi. Suddenly the three innocent men who were being accused of perjury were in the position where they could convict the witnesses that were accusing them of perjury. And however they may speak of the dates and however they may speak of the time, the evidence is conclusive. They can't get away from it. They will never get away from it.

If you wanted to find what happened on some ship that sailed around the Cape of Good Hope or the Horn a hundred years ago, you can find a log of that ship preserved and kept. The navigation department of the United States government has a log book of every ship that sailed since this country was founded. The log of every airplane is turned over to the Aeronautical Division of the United States Government. They can ~~tell you~~ the minute that every plane landed in the field at New York in the month of June, 1936. They can tell you the exact moment that every plane took off. They can tell you the moment that each plane left and arrived at the airport of San Francisco. And don't let them tell you they can't. [7903]

They claim that their man Johnson told them back in 1941 about this fact of Harry Bridges being at New York at the convention in 1936. At that time the proof was still easier for them to discover. In those days, you remember, if you traveled by plane, a close list of the passengers' names was kept. They could have found if he took a plane when he departed. They would know if he used a fictitious name, as they could tell by the handwriting he was the person. The enormous diligence that they have spent, so that seven, eight or nine agents have been working on one of their witnesses, will give you some sort of gauge as to how much energy they would put in on a thing like that, because that would finish the story. If Harry Bridges had been in New York in the month of June, 1936, he could not dare deny it.

Ask them to do this: Tell them to bring in the report of undercover agents T-17, K-36, O-54, who sat in at the convention of the Communist Party in the year 1936 and handed in an exact and close account of everything that had occurred there, including the date on which the persons were elected, the names of the persons, the descriptions, and what they say or any other figure that they used to designate such persons, and probably instead of a case of three they could give you twenty. Ask them to bring in the logs of the airplanes that landed in New York, and let us see whether it would have been within the time that ,they can allocate that Harry Bridges could possibly [7904] have been in the State of New York. But this is the date that they selected themselves, Saturday, June 27, 1936.

You know, it is awfully unfortunate that on that day Harry Bridges spoke at that Stockton meeting. I wonder if there could be any question in anybody's mind that he did attend the meeting at Stockton. Is there any reason why we should mistrust the record of the Stockton union on its expenditures, obviously written at the time it purports to be written, containing numerous other items, no alteration, change, erasure or anything of that kind? It is in the file of documents in evidence and you can read it. Then a totally neutral source, the Stockton Record, has a statement in there that Harry Bridges will address the Stockton union on the 27th of June, and Mr. Mahaffey urged this afternoon that the members all attend. And there is some significance in the term "urged this afternoon," because, remember this: The Stockton Record was an afternoon newspaper. Any of our friends of the Fourth Estate will tell us that an afternoon newspaper must have a deadline not later than eleven o'clock in the morning. So if Mr. Mahaffey urged "this afternoon" all members to attend, then he urged them not on Saturday afternoon but on Friday afternoon. That is the time that the statement was made up that was given to the Stockton paper. So he knew at least on Friday that Harry Bridges was going to address that meeting at Stockton.

Then we have Mahaffey's letter mailed a day or two after [7905] the meeting reciting that the meeting took place on June 27, that Harry Bridges spoke there, and he was invited to come back and speak at the Labor Day celebration. And that letter is published in its entirety, giving the date, in the Voice of the Federation. And then in a subsequent issue there is put down not only that he and Schmidt appeared there, but the substance and subject of Bridges' speech. And then, just like the incident itself, like the very happening, the very discovery of the fact that he was there, comes along the strange situation of these people who attended a society wedding there and saw him in a night club that evening, that they should be able to identify the fact that it was on that precise night of June 27 because the sister of one of the men had been married that night in Stockton, and here was the Stockton paper with the picture of the wedding party on June 27, 1936, and know that they went there in full dress, because they were ridiculed or scoffed at by some men who were present in the place.

That is another one of those miracles of chance. And those miracles of chance, my friends, only happen to people who are telling the truth. The truth is a terrible thing to be up against. You can run around, stamp it down, push it down, shove it down, and it is popping up behind you all over the place, and you can't suppress it. And here, while the inquiry is going on in this court and we are bringing down longshoremen and members of the union that they might claim were suspect, into our [7906] office comes a man of a totally different social and economic class from the ones we are putting on here and says, "Now, here, I have something that may be of value to you. My sister was married that day and some of the guests at the wedding went down to Mattioni's bar that night, and there they saw Harry Bridges, because they told us about it afterwards, and the only way I know it was that night is because that was the night my sister was married. I didn't go to the night club personally, but here are the names of some people who went down there."

And when we go down and get those people, when we go down and interview them, we find they have already been interviewed by the agents of the Immigration Department. In other words, they had discovered before we did the presence of the members of the wedding party in that night club and had interviewed them and had confirmed the fact that Harry Bridges was there.

So he says we make much out of it. Why, of course we make much out of it. We make the same thing out of it that the ancient Israelites would make when they found the manna spread upon the desert.

What are we going to do? Scorn the gift that God gave us? Scorn some proof of justice that has come down and has been handed to us like that to refute and destroy your case? You bet we put value upon it! And in order to refute it they would have to claim this: That the Stockton Record, Mahaffey, the union had been in some kind of conspiracy to advertise in advance that [7907] Harry Bridges was to speak there that night as though he knew he was going to be tried fourteen years later, and it had been claimed he was at another place in New York where he was actually going. They would have to claim that six or seven members of the union up there were perjurers and that they had altered their books to show it had not taken place. They would have to prove that the editor of the Voice of the Federation and the longshoremen had also been taken into this strange conspiracy and adventure and had misstated facts in their subsequent issue as to the happening of that meeting and Bridges' presence there. And they would have to claim that there was some falsification on the part of these people who had been members of the wedding party to go there and pretend that they had seen Harry Bridges at a place where he had not been, and even persons who wanted to believe that could not do it.

Now, the question arises, on what day of the year 1936 was the Central Committee of the Communist Party elected? And the answer from the mouths and the proof of their own witnesses is that it was on Saturday, June 27, 1936, or at the latest Sunday morning, June 28.

People are awfully unfortunate. I feel so sorry for poor Crouch and poor Johnson. They should have a better deal out of life. Do you know what they remind me of? A certain schnorrer, that is, a sort of professional beggar, went up to see Baron Rothschild one day asking for some financial assistance. As he [7908] made a good appearance, and as he wanted to get a reasonable gift from the

Baron, he pretended he occupied some position higher than he actually did.

He said to the Baron, "I am the most unfortunate of men. You know, I was a member of the great Vienna symphony orchestra. It broke up. I can't get any employment. It is hard to get employment."

The Baron said, "Is that so? What instrument did you play?"

The man said, "The bassoon."

"Is that so?" said the Baron. "Why, I love the bassoon. I have a fine instrument in my library. Come in and play something for me."

And the schnorrer said, "Oi Gewalt! Didn't I tell you what an unfortunate person I am? With all the instruments I could have named I had to say the bassoon!" [7909]

From the time that the persecution of Harry Bridges started up until the present time, or until Crouch and Johnson left the Communist Party, there were ten or twelve conventions all attended by several hundred people, and Oi, Gewalt! of all the dates that they could have selected they had to select the 27th of June, 1936. And if that isn't misfortune, I don't know what misfortune is.

Was it the 27th of June, 1936, that this election took place? Don't forget, my friends, that in the Western Worker, the Communist paper, there was recited in advance the holding of this convention; that the convention would start on the 25th of June, 1936; and it gave the agenda, that is, the things to be done day by day. On Wednesday this is to be done; Thursday this is to be done; Friday this is to be done; Saturday this is to be done, and then it said, "On Sunday there will be the election, the democratic election of a new Central Committee and a mass meeting in Madison Square Garden."

Lawrence Ross was the editor of that newspaper. Suppose we had nothing more than that, nothing but that alone, and you were asked now, ladies and gentlemen, given these newspapers, what day was the Central Committee of the Communist Party elected on in 1936? You would say, "Well, unless there is some proof to the contrary or something to disturb my conclusion, I will say it was elected on Sunday, June 28, 1936."

All right. We say, "Now, we will add to that conclusion [7910] this piece of proof: A subsequent issue, after the convention had closed, said this: On Monday these things were done; on Wednesday these things were done; Thursday these things were done, and on Friday these things were done. All recited, and the document or the information apparently having been sent out to the paper sometime between Friday night and Saturday morning, gave the rest of the convention prospectively. It said, "On Saturday there is to be a lecture by a certain man, and on Sunday a new Central Committee is to be elected. There is to be a mass meeting at Madison Square Garden on Sunday." We say now, Does this militate against your conclusion or does it add to it? You say, "Certainly it adds to it. In other words, unless there is further proof or something to show that the statement is false, I would conclude that this newspaper correctly recited what had taken place on Wednesday, Thursday and Friday, and as it does not show that the committee was elected on one of those days, and as it does say that the committee is to be elected on Sunday, I would assume now that the committee could not have been elected on any day except the ensuing Saturday or Sunday."

Well, we questioned Mr. Ross when he was on the witness stand as to the validity of the statements in that paper.

> "A. The Central Committee of the Party was elected at a closed session of the convention, not at Madison Square Garden. [7911]
>
> "Q. No, but it was elected upon Sunday, the last day of the convention?
>
> "A. I don't think so, no, sir.
>
> "Q. Do you think it was the day before?
>
> "A. All I can be certain of is, it was not the first day of the convention. It may have been at any business session after that first day.
>
> "Q. Well, now, on that point, would your memory be refreshed by any article upon the order of business in that convention?
>
> "A. I would read what you showed me, Mr. MacInnis, and——
>
> "Q. Well, would there have been any reason in the Western Worker, upon the issue I have just now shown you, to place a false date upon that part of the convention?
>
> "A. I wouldn't think so, no, sir."

Here is the man who is the editor of the paper in which this was published.

Showing him the paper now showing the agenda as it is going to be carried out:

> "Q. Now, isn't this true, Mr. Ross, that in numerical order the main points on the agenda of the convention of 1936 were as follows:
>
> " 'First, the fight against reaction, Fascism, war; the United Front; the presidential elections and the Farmer-Labor Party—reported by Earl Browder as [7912] General Secretary of the Communist Party' and that the second matter on the agenda was 'Party Organization, reported by F. Brown; the Problem of Forces, reported by Charles Krumbein'; that the next matter on the agenda was 'Organizing the Toiling Youth,' the reporter Gil Green; that the fourth item was 'The Struggle for Peace and the Peace Policy of the Soviet Union'; that the reporter was a man named Robert Minor; and that the fifth and second to the last item was the election of the Central Committee, and the last item, nominations of presidential ticket?
>
> "A. I followed your reading on these, Mr. MacInnis."

He was reading the newspaper.

> "You list them correctly as they are listed here in numerical order, but not necessarily chronological order as to the proceedings of the convention."

All right. So that is the agenda. That is what is going to be done. Then he is shown the paper, his own paper of which he is editor, recounting the order in which things were done.

Then Mr. MacInnis says:

> "Q. Now, all of those events, Wednesday, June 24, Thursday, June 25, and Friday, June 26, are reported as events which already took place"—that is, already having taken place at the time of the publication of the paper.
>
> "A. They are. [7913]
>
> "Q. Yes. Then having only two days left, Saturday, June 27, and Sunday, June 28, why, then, the article turns to the prospective or future tense, doesn't it?
>
> "A. Yes, it talks about the highlights of the——
>
> "Q. Yes. And it says that then all events up to Friday having been concluded, the highlight of the Saturday session"——

The importance of this answer: this man's newspaper in a later edition says, "the events of Wednesday, Thursday and Friday having been concluded, it says the highlight of the Saturday session was to be the report by Robert Minor on the fight for peace, and that the final session of the ninth convention on Saturday was to be held at Madison Square Garden and that on that day the National Committee of the Party was to be denmocratically elected?"

And Mr. Ross replies: "That is what this says."

Now, you will remember that he has already stated that there was no reason why that fact should be misrepresented in the paper that was shown to him.

Now, what about Mr. Johnson? I have excerpts taken verbatim from his testimony. These are some of the things that were sent to the grand jury and the Attorney General to get the witnesses indicted, but nothing has come of it.

> "Q. (By Mr. MacInnis): Mr. Johnson, concerning the occasion when you say Harry Bridges was presented to a group [7914] of fifty-odd people in 1936, did that occasion take place during the 1936 convention of the Communist Party?"

Let's mark this down. Here is the convention. The convention is included within those five days.

> "A. That closed session of the National Committee took place right after—shortly after the election of the National Committee. It was either before the convention adjourned or a day or so following.
>
> "Q. It would be within a matter of a day or two at most? A. Correct.
>
> "The Court: Are we settled on this matter? The proceedings commenced on the 24th of June?
>
> "Mr. Donohue: So I am informed, your Honor.
>
> "The Court: And they terminated on the 28th of June?
>
> "Mr. Donohue: So I am informed, your Honor.
>
> "Mr. Johnson, having established by agree-

ment between the prosecution and the defense that the 1936 convention of the Communist Party took place in New York between the dates of June 24 and June 28, I want to ask you now these questions: Do you recognize the paper just now shown you?

"The Witness: I accept the date as that the Government accepted or agreed upon."

Mr. Paul Crouch:

"To the best of my recollection"—a little avenue of escape—"I did not see the defendant Harry Bridges in [7915] '38 but I saw him very briefly in 1836 during the course of the convention and at a meeting of the New Central Committee which followed for the purpose of electing the Politburo of the Party."

Then he is shown this copy of the Western Worker, which a previous witness had said was edited by the Communist Party on the West Coast. The first issue shown was that of Thursday, June 25, 1936.

"Mr. Hallinan: It is not for the purpose of impeachment. It is just to fix these dates a little more specifically.

"Mr. Donohue: I thought we agreed yesterday on the dates of the convention."

Crouch:

"The convention ended on Sunday, June 28, with a meeting in Madison Square Garden where nominations were made for president and vice president. The convention was of five days' duration, opening on the previous Wednesday, June 24.

"My recollection is"—now he is shown the paper and he started to read the paper and he says, "I don't need this paper. My recollection is clear without reading this paper. My recollection is that on the opening day of the convention there was a report by Earl Browder, the general secretary of the Party, and immediately or shortly thereafter by Gilbert Green on the organization of the working [7916] class youth. The edition of the Western Worker for June 25 states: 'The nomination of the candidates will take place as monster mass meeting in Madison Square Garden in New York City.' On the next page it says, 'Historic Convention,' and gives the main points of the agenda of the convention as follows:

"1) The fight against reaction, fascism, war, United Fronts, the presidential elections and the farmer-labor party. Reporter, Earl Browder, General Secretary.

"2) Party organization. Reporter, F. Brown. Problems of forces. Reporter, Charles Krumbein.

"3) Organizing the toiling youth. Reporter, Gil Green.

"4) The circle for peace and the peace policy of the Soviet Union. Reporter, Robert Minor.

"5) Election of Central Committee.

"6) Nominations of presidential ticket."

Mr. Crouch continues:

"My recollection is that on the opening day of the convention there was a report by Earl Browder, the General Secretary of the Party, and immediately or shortly after by Gilbert Green on the organization of the working class youth and the Young Communist League. The newspaper reports that the Wednesday afternoon session heard the report of the Central Committee delivered by Earl Browder; [7917] that Gilbert Green, Secretary of the Young Communist League, reported Wednesday on the plight of the youth and then a report followed, also on Wednesday, apparently by Charles Krumbein—as I recall Krumbein's report, he reported on the cadres and organization of the forces in the Party, how to use personnel. Incidentally, in connection with this, I was a speaker in that discussion, on Negro sharecroppers from the South, farmers from the Middle West, the Farmer-Labor Party questions. Friday was devoted to a general discussion of the delegates, to the fullest discussion. As stated in this paper, the highlight of Saturday's session was to be a report by Robert Minor on the fight for peace.

"To the best of my recollection, the election of the Central Committee was held on Saturday."

Now, here where the agenda is set out it says that the election would be held either Saturday or Sunday, although it seems to say Sunday where the order in which the things to occur was set out in a subsequent edition of the paper where the order of things was set out as they are alleged to have occurred. Why should anyone suppose that the Central Committee was elected on any day except Sunday, June 28, with the possible exception that it could have been elected, as this man says, on Saturday, June 27?

> "The nomination of Earl Browder for president and [7918] James W. Ford for vice president of the United States was made at a public meeting held on Sunday, June 28, in Madison Square Garden."

There is a little reflection on the passing gallery: that the nomination of Earl Browder for president and James W. Ford for vice president of the United States was made on Sunday. That is only fourteen years ago. That a man who was a member of the Communist Party could run for president and vice president of the United States freely and without question.

> "The glory of Israel is fallen, O Jonathan, thou hast slain in the high places. How are the mighty fallen.
>
> "The election of the Central Committee was held, to the best of my recollection,"—avenue of escape—"on the previous day, Saturday, June 27."
>
> "The Central Committee was elected by the 700 to 750 delegates, to the best of my recollection, on Saturday, June 27."

Next page:

> "To the best of my recollection, an election of delegates to the Central Committee was held Saturday, June 27."

We did everything we could my friends to tie that meeting, to tie that election down to some exact date. Page 2665:

> "To the best of my recollection this was the last meeting of the convention as such. It was the last meeting [7919] at which the 700 delegates met as delegates before the formal session in Madison Square Garden. In other words, the election of the new Central Committee was the last official act of the delegates as delegates and the following day they took part in the formal public nomination which had already been previously decided as Foster and Ford at Madison Square Garden."

Page 2674:

> "An article in the Western Worker stated, 'The final session of the ninth convention Sunday was to be held in Madison Square Garden at a great mass meeting. At this session the Party's election platform is to be adopted and the candidates for President and Vice President nominated. A new National Committee of the Party was to be democratically elected.' "

Says Crouch:

> "That does not change my recollection of the procedure since that paragraph was trickily written to deceive the people by giving the im-

pression that the Communist central committees are democratically elected, which is far from the truth, and it does not change my recollection that the election of the Central Committee was on the day before the Madison Square Garden meeting."

Page 2678:

"The convention after its election of the new Central [7920] Committee, had no further business, except to also act as delegates at the public meeting at Madison Square Garden.

"The public meeting at Madison Square Garden was held either in the afternoon or evening, to the best of my recollection.

"I am quite certain it was not in the morning, but I cannot recall whether it was in the afternoon or evening."

Page 2679:

"I cannot specifically recall whether the meeting of the Central Committee to elect the Politburo was held Saturday night or Sunday morning, but to my best belief and recollection it was held Saturday night."

In other words, here was a statement that they first elected the Central Committee, and then that Central Committee remained to elect somebody within itself which they called the Politburo, a smaller number.

"To the best of my recollection, it was held prior to the Madison Square Garden meeting, so it would have to be either Saturday night or

> Sunday morning. It is humanly possible that I might be mistaken, because I remained in New York for not over two or three days after June 28 for the purpose of a series of conferences on various fields of party work. But my best recollection is it was held prior to it. I had only one meeting with the full Central [7921] Committee."

Now, you understand that what he is discussing is not the election of the Central Committee, which he has placed definitely at Saturday afternoon or Saturday evening, but the meeting of this Central Committee to elect the smaller Politburo from its own members. That, he says, might have been a day or two after Sunday, June 28th.

> "Using the Madison Square Garden meeting as the ending of the convention, then the meeting of the Central Committee would have been prior to the ending of the convention.
>
> "I stayed in New York a couple of days and had a series of conferences, various party meetings, trade union work, but I am nearly certain that the meeting with the newly elected Central Committee in which we elected the new Politburo was prior to the Madison Square Garden meeting and would have been either Saturday night or Sunday morning, to the best of my recollection." [7922]

And again, all of this goes now to not the election of the Central Committee, which he places definitely on Saturday night, but to the meeting of the Central Committee to elect the Politburo, page 2682:

> "After the Madison Square Garden meeting I did not have any meeting with the Central Committee, unless there is the element of possibility I may have been mistaken as to the date when we elected the Politburo. But aside from the date on which we elected the Politburo, I didn't have any meeting with the full Central Committee while I was in New York. I attended only one meeting with the full Central Committee after the convention was called to order, before I returned to North Carolina."

2682:

> "I saw Mr. Bridges briefly during the course of the convention as well as at this meeting which I testified."

Poor fellow! Look at what a mess he has gotten in. Having already committed himself to Saturday, June 27th, now he has got to account for some presence of Harry Bridges at an earlier date and flights back and forth that would rival Mr. Kaiser with Hancock, Krolek and all the others:

> "I saw Mr. Bridges previously during the course of the convention as well as at this meeting which I testified to, and to the best of my recollection in the early part of the convention. The convention started on Wednesday [7923] and it could have been Wednesday."

Say, by the way; just to show you how that Bridges earns his keep, here on Wednesday, June the 11th, he is attending an executive meeting at 11:00 a.m. in the morning, he gets off at 12:18 a.m.

on the following morning from another meeting that he continues on. That day he worked 13 hours and 18 minutes, not counting the time that he probably was in his office before the 11:00 session.

Now, page 2685:

> "If my answer serves me correct on the day we elected the new Politburo, the next time I saw Mr. Bridges——
>
> "If my memory is correct as to the date we elected the new Politburo, the next time I saw Mr. Bridges would have been on Saturday afternoon or Sunday morning."

And if that doesn't pin down the election of the Central Committee to Saturday, June 27th, or Sunday, June the 28th, then we haven't any powers of demonstrating anything.

And let me ask you this, my friends. Suppose that the reverse was being contended here. Suppose that Harry Bridges was being accused in this trial of having been in Stockton, California, on Saturday night, June 27, 1936, that that is what the prosecution was proving; and suppose we were trying to prove that instead of that, he was in New York attending a convention of the Communist Party. What chance would we have of establishing that fact? There wouldn't be a reasonable doubt nor a [7924] captious doubt nor any kind of a doubt.

Does your Honor want to take the recess at this time?

The Court: Yes, we will adjourn, ladies and gentlemen of the jury, until tomorrow morning at

10:00 o'clock. The same admonition to you, not to discuss the case under any conditions.

(Thereupon an adjournment was taken to tomorrow, Thursday, March 23, 1950, at 10:00 o'clock a.m.) [7925]

Thursday, March 23, 1950, 10:00 o'Clock A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. Hallinan: Your Honor, I certainly owe you an apology for the bad estimate of the time that I would consume in the argument. I had collected certain notes that were sort of sketchy, and I had no idea that they would run into the time, and far from adding anything to it, I have taken out and eliminated some, but I still have some little time to pursue, and I apologize for that. Of course, the jury will understand that where it has had a case running four months and such a mass of evidence and a great many witnesses that a lawyer feels, even though he might be mistaken, conscience bound to discuss the things that he thinks might be of importance so a jury might take them into consideration, and we have not and we will not exceed any records or run into any improprieties and I certainly will not labor any point unnecessarily or repeat anything.

A case that was tried here in California some few years ago, the Lamson case, a celebrated case in Palo Alto, is worthy of note. Edwin MacKenzie, the very able and brilliant defense attorney, argued the case and properly, for seven and a half days, and the Insull case in Chicago, the closing arguments took five weeks, though neither of the cases consumed as much time in the actual trial as this case has consumed, and I assure you [7926] I will speed it as rapidly as may be done.

To finish the discussion of this Stockton matter, there can be no question or reasonable question that Harry Bridges was not in New York City on Saturday, June 27th, or Sunday, June 28th. Now, we have to be perfectly fair with the jury and discuss the possibility of whether there may have been just a mistake in the date that the witnesses gave for the election of that Central Committee, although there certainly should not be any question about it further, and if there was a question, that under the rule of presumption of innocence, it should be resolved in favor of the defendants. However, let us assume that there was something erroneous in the date that they picked and that Harry Bridges went there another day. Then unless these records have been fabricated, unless somebody foresaw 14 years ago that there would be a trial of this thing and deliberately fabricated a lot of records, why, he could only have gone there at one particular time.

Now, these meetings of the S.F.M.F.P. D.C.2, those are meetings at which Mervyn Rathborne, their witness, was the secretary. He says himself, despite his desire to help, that these were correct minutes and they represented what was supposed was said. And the same thing happens when we get to Tuesday, June 30th. Rathborne is again secretary. There is no reason for assuming that the ILA minutes were not just as correctly kept. In fact, on the ILA meeting that was held on [7927] Wednesday, June 24th, the very paucity of the record would bear some evidence of its truth. The meeting started at 9:00 p.m. and ended at 9:15, because there was not a quorum present. If somebody were fabricating a record, he could go a thousand times better than that, and he could fabricate records that would cover every minute of every day. If these could be gotten by with, then more could be gotten by with. So the only possibility that would exist for Harry Bridges having been in New York City any time within that two weeks would be this. Now, you will remember that the air schedule of the companies gave the time by the clock from San Francisco to New York at 19 hours and from New York to return at 21 hours, but the gentleman who testified here said that the schedules at that time were completed approximately 95 per cent of the time; in other words, there were 5 per cent of the flights that were not completed at all. And he said, of course he did not mean that the ones that were completed were completed within the scheduled time. That is not what he was trying to convey. And Bridges himself said at that time from his remembrance of the year 1936, even into 1937 and 1938, it took from 24 to 28 hours to get from San Francisco to New York or to return. That must be approximately true because there would be available, as I say, logs and records of the air companies they could produce to contradict that, officers, flight captains, men who steered those ships and would know whether or not that were true. So I think that statement [7928] can be taken as being fairly well established, that it took 24 to 28 hours to make the trip.

But let us say everything worked exactly on schedule, that Harry Bridges on Wednesday night could have foreseen that there would not have been a quorum at the meeting because you will notice at the next meeting of the ILA, which took place on that night, took four hours, from 8:30 to 12:18 p.m. It took four hours for that meeting. So there is no reason why he should not have assumed that this would not take three or four hours. The only possibility of Harry Bridges making that trip to New York within that time would be this: If the schedule was exactly correct, if the planes landed and took off as per the schedules, if he knew that there was not going to be a quorum at the meeting on Wednesday night and the meeting would adjourn at 9:00, 9:15 or even 10:00 o'clock, that he might then have rushed to the airport in South San Francisco and caught the 11:00 o'clock plane out to New York. That plane would have landed him, according to the schedule now, in New York about 8:30 Thursday night.

Now, according to this statement, it would not have landed him in there until 1:00 or 2:00 o'clock in the morning. But according to the schedule, 8:30 Thursday night. He could then have attended the Communist convention Friday morning because he would have had to take the 4:00 o'clock plane out from Newark in order to be back in San Francisco by 11:00 o'clock [7929] on Saturday morning. So there is a possibility if that could have been done. However, it would involve such inconsistencies and such a ridiculous situation that no one should accept that because if he did occupy this position in the Communist Party that they pretend, and it was important that he go to New York and attend a convention and be elected to the Central Committee, then why should he be rushed back to a little local union in Stockton on Saturday night to address a meeting there when that meeting could have been held at any time, put off to some other date? And in addition to that, you would have to assume that all of the people who testified to the arrangements that were made on either Thursday or Friday—this old man Silk who said that on Thursday or Friday he had talked with Mahaffey on the telephone and Mahaffey asked him if he could get Bridges to come up on Saturday night. [7930]

And then he went to Bridges, and Bridges said he would call or come that Saturday, he couldn't come the next Saturday because it was running into the Fourth of July. But if they could arrange the meeting for Saturday, that Saturday, all right, he would go up there provided he could get transportation.

Silk and Mahaffey testify that Silk phoned back and said, "All right, we can bring him up on this coming Saturday." Silk says, "I don't know whether that was Thursday or Friday, but it was either one" Mahaffey says he believes it was Friday.

Then there is the testimony that Harry Bridges attended the San Francisco Labor Council meeting at 8:15 p.m. on Friday night. Christiansen says he saw him there. And the arrangements were then made for Christiansen to drive him up to Stockton.

It might not have happened. He might not have been there. But remember, in the 1941 hearing before Sears, Bridges testified that during that year he attended every meeting of the San Francisco Labor Council that was held, and we do have sufficient records to show that there was a meeting of the San Francisco Labor Council held that night from 8:15 to 9:05 p.m. It is unfortunate that the minutes of that meeting were among those that were soaked with water that got into the basement of the Labor Council and we aren't able to produce them. But the very fact that we made such diligent search to discover them, my friends, is proof that these people were telling the truth. Because when you [7931] are not telling the truth, you are not trying to find anything, you are not trying to pick up any records or you are not trying to let people know you are looking for any records. You try to conceal, you try to keep it quiet, say nothing about it, lest the record come up and destroy you.

Now, another small incident that would seem to add color to what Harry Bridges said, that in the 1938 meeting he stated that he had had a conversation with a lawyer named Aaron Sapiro in San Francisco; and we find in the minutes of the Maritime Federation of the Pacific that Sapiro addressed that union on the afternoon of Friday, June 26th. Now, Sapiro was a resident of Los Angeles and came up here specially for that. And while it is by no means conclusive, it is some evidence that it was probably on that day that he had the meeting with Sapiro. In addition to that, if you take their statement, or if you take the statement of their witness Johnson, that he told them back in 1941 that Harry Bridges was in New York at the Communist convention on Saturday, June 27th, they would emphatically and certainly at least have questioned Bridges about it on that hearing, to determine whether it was any basis for Johnson's statement. And at that time the records of the Labor Council were available. Things were still fresh. There were plenty of records that could have been gotten. And in particular, all the records of the aviation companies would then have been available, at least to the search of the government. [7932]

Moreover, we would have to consider that people like Mr. Silk, Mahaffey, other persons connected with this driving up north, Christiansen—that they all committed perjury and that the witnesses who admit they committed perjury and who are proved to have committed perjury in this case did not commit perjury. We have to take and say that we reverse the presumption of innocence, that we now will hold that not only ordinarily people, who haven't any profit to gain from this except that they might want to help a man who is associated with their union, or might generally think that it was an improper or persecutory case, that they came in and testified falsely on those details. But, that Johnson and Crouch, who by their own statements are trained perjurers and liars, who have been shown to have lied while they were in the Communist Party, after they got out of the Communist Party, who are proved to have lied in this court on the very matters involved here, that they are telling the truth, and that all the people that we produced were telling lies.

Now, as I say, if people adopt that attitude, then there is no use trying a case; then it is another decision upon passion and prejudice.

The question that arises, could he have gone to New York after the meeting on Saturday, June 27th? Well, that is obviously impossible, because that meeting, according to the statements and records introduced here, lasted for several hours, up until around 11:00 o'clock. It would be too late then to take [7933] a plane from San Francisco. The next plane that he could have taken would have been on Sunday. He would have had to fly back to New York, would arrive some time Monday morning, and he couldn't be back in time to attend the meeting at 8:10 p.m. on Monday evening again.

So that from any aspect, any possibility, it can't be said, it can't be suggested, that there was merely a mistake on the part of the witnesses in the time that they selected.

Furthermore, when people come in and testify under oath on matters involving the safety and the liberty of other people, what kind of attention can you pay to anything they say when the counsel who puts them on the stand has to argue that they were merely careless or uncertain in their testimony, that they may have been a few days off, some possibility of that kind.

And, as evidence, too, of the sincerity of the defense, and I think that we are entitled to the credit of having taken this attitude throughout the entire case. we didn't reserve the evidence of Harry Bridges' appearance in Stockton until we had nailed it down and tightened it and interviewed all the possible witnesses and checked every possibility of error. We didn't wait until we had put it in a position where they might not have been able to overturn it. We came right in, in the middle of the case, not waiting until our own defense went in, and presented a matter such as that while Crouch was still on the witness stand. We turned it over to the prosecution, turned over [7934] all the evidence upon which the proof of Harry Bridges' presence in Stockton was based: the newspaper item from the Stockton Record, the expenditure book of the union, the letter of Mr. Mahaffey to the Voice of the Federation, the article in the Voice of the Federation citing the meeting at that time and what had been said, the copy of The Longshoreman a few days after this, giving the exact date at which he and Schmidt had appeared on June 27th. We produced an affidavit from Mr. Christiansen as to the time—the arrangements that were made, the time that they started, how they drove up, the approximate time that they returned, the incident of staying over at his house.

Now, we knew it was true, we knew that. We knew that no matter what they did or what inquiry they made, they couldn't throw a reasonable question upon that proposition. They might find somebody who didn't remember the thing or they might indeed find somebody who would contradict it. But the overwhelming weight of proof was conclusive, and we didn't care what they did. We didn't even bother to go down and interview Mahaffey until after they had interviewed him. We went down there at Christmas time, several days after his letter had been handed over to them, and then for the first time we went out and spoke to Mahaffey and asked him if he remembered and could confirm the incident. Because if Mr. Mahaffey had come in and said, "No, it didn't happen," Mahaffey would have been impeached by his own letter. And there was no reason for us to suppose that any [7935] of those gentlemen would tell anything but the truth.

I went up to Stockton to confirm the matter myself after Mr. Norman Leonard had been up there, and in the meantime agents of the government had been up there and interviewed and talked to the men who were produced here on the witness stand. Now, what kind of concealment or what kind of fiction or what kind of invention is it when you turn it over to the opposing party, so we will be able to check the matter, so we will be able to inflict a terrible injury upon anyone who would have testified falsely in it—to hand over all that to him and say, "Now, here it is. Go ahead and investigate that?"

And I will say this, too, that we were a little naive in thinking that all we had to do was hand this matter over to counsel, give it to him, tell him to go ahead; then come in here and say to him. "Now, will you stipulate that Mr. Bridges was in Stockton on the night of June 27th," thinking that if it is thoroughly proved, if they haven't any proof to the contrary, let's save the bother of bringing in all these people and bringing in all these publications and carrying witnesses from Los Angeles and Stockton and so forth. What does Mr. Donohue say? He says, "If I were in Stockton and I saw him, I would stipulate. As I was not, I can not do it." Now, isn't that a fair and an adult way to meet a question of that kind! We suppose, "Well, he probably honestly believes it wasn't so. He probably has some people who will come in here and contradict what these [7936] people said." And we sat by with perfect confidence that no break could occur in that. You can't go up and have a meeting with several hundred people, advertised in the papers, recounted around, and the men go to a night club and drink together and so forth, and then have that disproved by the suggestion of one or two people that they don't remember the thing. What do we find? That not only have they not gotten anything to disprove this testimony, but unknown to us, they had discovered that there was a wedding that night and that certain people who attended the wedding had seen Harry Bridges in Mattioni's night club.

And before we even knew those facts, they had interviewed those witnesses and confirmed the fact that they had seen him that night. And they didn't come in and tell us that. It was a surprise when we ran into those people afterwards, by the man coming in off the street to tell us that he had some information that might be of help to us. And then to find out that one of the persons to whom he directed us down in San Jose had already been interviewed by agents of the Immigration Service.

They can't say, "Well, all right, we will dismiss that thing, we will throw that incident out. He wasn't in New York. Forget about what Johnson and Crouch said. He is not charged in the indictment with being in New York and it isn't a necessary part of the proof." Well, it isn't that easy. It isn't that simple. Because there is too much in it that shows a desire on the part of the agents who collected this information [7937] and who knew what was going on here, to conceal it from the jury, to hide the matter, to distort it, that when they knew that their witnesses had testified falsely, to continue to defend them, to argue for them, to try to get them out of the court and off the witness stand, and everything else, it throws over the whole case an aura of fraud, an aura of deceit. Even in a civil case, let alone a criminal case, a proof of fraud on the part of a party doesn't only go to that particular incident, it goes to the whole case. It goes to the entire case, and they can't excuse themselves merely by saying. "Well, we will throw out this matter, that was immaterial."

If somebody is trying to sell you a building and he makes certain representations concerning the building, and one of them is fraudulent—only one of them—and a material matter, it invalidates the entire contract. If you have signed the contract and paid him the money, you can go into court and say he defrauded you in this instance. You can say, "He said this, and that was a lie, and I am now showing it to be a lie." It is no defense for the person who perpetrated the fraud to say, "Well, yes, but that was not of any importance. All these other things I said were true, and undoubtedly you bought the building not upon this representation which was false, but upon these other representations, which were true." The court will say, "No, you can't say that. If that were not material, if it didn't enter into the inducement that you were trying to use to persuade [7938] this man to buy your property, why did you say it to him at all? So you will not now be heard to come in and say, 'I told him this and I now admit that it was false, but it wasn't material, it was a matter of no consequence, it couldn't possibly have induced him to buy the building.' "

The law will say, then, "Why did you say it to him?"

And similarly in this case: the general impression, everything that they tried to create, is that Harry Bridges is some sort of a high functionary of the Communist Party. They put on witnesses to create that atmosphere and bring it in so that although the jury might believe that Crouch and Johnson were lying about Bridges being at that meeting, still in the back of their minds there is a sort of an indistinct background that Harry Bridges was a functionary of the Communist Party. After three or four months, the jury might somewhat forget as to the facts, as to where that information came from, but the idea is there. And the idea was put there purposely. Those people were put on there purposely to create that impression and that illusion, and they can't come in now and say, "All right, all right, we are caught in this one; we tried to defraud you and we tried to cheat you, and we tried to get you to give an unjust verdict upon this. But we will forget that now. We will throw that all out and we will just proceed upon people who haven't been proved to have committed perjury, and they are sufficient."

Now, to that I would say, "Well, you fooled me once and [7939] shame on you; but fool me twice and shame on me. We have detected this thing and from now on every witness you put on the stand, before and after that, is suspect."

When we went down to Los Angeles and talked to Mr. Mahaffey, consulted other matters down there, Harry Bridges and I went out to one of the studios, and we were taken around by a young man and shown the marvels of that fantastic world that is embraced within a Hollywood studio. We were led along a street that contained houses in the style of the old Dutch houses of New York—little bricks and fluted roofs and so forth. But it was a modern street of houses with people going in and out of the buildings and typewriters clicking through the windows and voices being heard.

And then we turned a corner, we entered another street and this street too contained houses in the style and fashion of another age. We walked along, the streets were cobbled here. There were lampposts, trees growing. But there was something strange about this portion of that internal city. No birds sang in the trees, no sound of life emanated from within the houses, it was like one of those cities that are described in the Arabian Tales in which all the inhabitants have vanished or been turned to stone. There was something strange and eerie about it as we walked along for a full block and a half. And then we came to one of the houses where the front door was open and the explanation then became obvious. Directly behind the door, the open [7940] door, was a blank wall to which the door was affixed by lathing, plaster and wire.

It wasn't a city at all, it wasn't a street. It was a facade street, a fraud, a sham. An artistic fraud and a sham, but still that. It was a movie set, designed for the taking of a picture, and certainly such as to deceive anyone as to its reality.

Now, we didn't have to go back, my friends, and open the other doors that we had already passed to know that they too were part of a movie set, that they were a sham, a pretense and a fraud. We didn't have to go back, having now discovered by looking in through this open door, to see how shallow, how vague, how fictitious was the apparent reality of the edifices that we had already surveyed.

What are we to do here? We come along through their witnesses, every one of them suspect—suspect either of fraud or coercion—but not too thoroughly disclosed. And then presently the door is opened on Crouch, the door is opened on Johnson, the door is opened on Ross. Nothing behind them but lies and illusion. Are we then required to go back and open the door into Schomaker's mind and Schrimpf's heart, to find out if they too are telling lies? And when we progress a few steps further, must we go up the stairs and open the door that leads to Rathborne's disclosures, to show the shallowness and the pretense that is behind them? We shouldn't have to do it, but we can [7941] do it.

I said that there were four sentences that were put in this record by enemies of Harry Bridges that acted as anchors and indicia of the whole case of the prosecution. [7941-A]

One was Schomaker's statement: "It seems the best way you can destroy a man is to call him a Communist." That made a very great impression upon me.

Two is Ross's statement: "When you tell one lie, you have to tell a whole lot of other ones to cover up and explain it."

Three is Mr. Donohue's question to Father Meinecke: "Are you so naive as to believe that Harry Bridges, who has always testified publicly that he was not a member of the Communist Party, would disclose to you that he was?"

And fourth, the statement of Judge Sears in the 1941 trial: "If I were to believe that O'Neil was framed or his declaration falsified, I would look with suspicion on the entire case of the Government."

If their officer, if the man who was appointed at their behest to conduct that hearing, pointed out that the falsification of even one witness or the exercise of coercion upon him so that he was framed, he was put in a position where he had to deliver the testimony that he gave, that that judge would thereupon look upon all of the evidence presented with a different, critical and suspicious eye.

With regard to the possibility of coercion, now, there is a simple coincidence of situations amongst certain witnesses that were introduced here. In other words, they produced witnesses here who were by previous things that they had done, or even by the accident of their birth and circumstances, subject [7942] to coercion and pressure from the Department of Immigration. Schrimpf was an unnaturalized alien. He had been living in this country for a long time. He had been a member of the Communist Party. And the possibility of his being naturalized was extremely remote, but the possibility of his being deported out of the country was extremely near. He was a man whom they could use as much as they could use Ross, in any way they wanted, because he was not in a position to defend himself against them. He could have been put out of the country with scarcely a hearing. All the things that they say about Harry Bridges, multiplied by ten, they had against Schrimpf and he couldn't get out of it.

Now, take Krolek: the same thing. He was born in Canada. He is not himself a naturalized citizen. He said he derived his citizenship through his father, having become a citizen, and again there is a suspicious omission in the evidence. It seems to me they would have brought into court the proof of the naturalization of Krolek's father so the jury would see that there wasn't any such hold upon him, that he was in fact an American citizen. And there is also the possibility, my friends, that they might try to cancel his citizenship because of his subsequent joining of the Communist Party. There is a handle upon him by which they can twist him.

What about Mrs. Harris? Well, Mrs. Harris' husband is an alien, a naturalized alien. She said that both she and he he had [7943] been accused of being members of the Communist Party, although they were not. But she was an intimate of the Schomakers, and there is some little thought or suggestion that the charge that they were members of the Communist Party may have as much proof behind it as the charges against Harry Bridges. At any rate, her husband and her security were in some danger. The danger may not have been as great as they were persuaded to believe it was, but there was a handle upon that poor woman by which they could twist her. And with Ross it was conclusive.

Upon every one of those witnesses a great deal of time and numerous interviews were expended before they gave any statement. Rathborne was a whole year being petted and kissed by them before he finally surrendered. Schomaker visits back and forth, month after month after month. But Ross, the menacing Mr. Barber appears in his office in the afternoon and he goes to Barber's room at night and signs a statement. Why? A native of Poland. He has a derivative citizenship from his father, having been naturalized. Where is he? Or if it was a derivative citizenship, is he in a position to fight the Immigration Department of the United States to prove that he has a right to remain in the United States? Should he risk it? Why not go along with it?

Two other witnesses, Michener and Wilson. Now, Michener says that he did not sign the affidavit that Wilson was required to sign. Maybe he did not. Maybe he did not. It seems [7944] rather strange that the Government should be so careless in his case, that he should receive a job and an appointment without having to sign a form that Mr. Paisley has assured us everybody employed by the Government has to sign. Why was he made flesh and Wilson made fish? Why did Wilson around the same time have to sign that affidavit, meticulously filling out the information in it, but Michener did not? I do not believe it. It might be true, but I do not think so. I think the inference from the evidence would show that Michener signed the affidavit and did not admit that he had been convicted of bootlegging on two separate occasions and served terms in jail for it, and I think Michener did not admit that he was a member of the Communist Party, and the record that they brought forward, the first record, showed that certain papers were omitted. On its face it said that. After we protest that, then they send back and bring out some sort of dossier which says, "All right, here are all the papers." Now, what happened in the meantime? Why didn't they bring in the entire thing in the first instance? Who had to go over it? Who had to extract, who had to substitute? I don't know, and they may not have done it. They may not have done it. But it is extremely suspicious.

And Wilson—here he signs an affidavit that is false. He says that he had not been a member of the very organization that he is called in here to testify concerning his membership in. And what explanation does the gentleman give? He says, [7945] "Well, back when Wilson signed the affidavit the United States Government had not yet committed itself to the principle of the Communist Party to overthrow the Government by force and violence, so it was all right for him to say that:" And that may be specious in an argument to the jury, but suppose they showed this to Wilson and said, "Look, Wilson, you signed this and you are going to be indicted for perjury unless you come up and help us out in the Bridges case."

Wilson says, "Now, wait a minute. I was not asked if I was a member of the Communist Party. I was asked if I were a member of a party that intends to overthrow the Government by force and violence, and the Communist Party, so far as I knew, had no such intention."

And they say to him, "All right, you go on trial now for perjury. You just take that position and we will bring in Manning Johnson, Paul Crouch, and a lot of these boys that have been testifying as experts in these cases, and we will put them on the stand to prove that the Communist Party does intend to overthrow the Government by force and violence. Tough times for people being accused of being Communists, Mr. Wilson, tough times! You find yourself a lawyer now who can get up and hear and persuade a jury that the Communist Party did not intend to overthrow the Government by force and violence. Nobody has been able to do it yet, so let's see you try that."

What is Wilson going to do? What is Wilson going to do? [7946]

So, of the people that they produced here, the only ones, except the ones that they admit were hired, professional witnesses, Johnson and Crouch, earning their honest stipend, the only ones that they did not have something on so that they could make them say what they wanted them to say were Schomaker, Rathborne, Krolek and Hancock, the only four people that they did not have something on, that they could not make them say what they wanted them to say. Why, Krolek said—the little he said, "I don't know, he is one of the closed doors. Let him stay closed." [7947]

Why do we have to inquire, "Is your father an unnaturalized alien? Is your mother? Is your wife?" What have we got with him? He didn't say very much. Practically all that he had to say we concede without him appearing here. He said that Harry Bridges attended meetings; that there were Communists present. And maybe, so far as I know, everybody present was a Communist; I have no way of identifying whether a man is a Communist or not. So, there, except for those people, they had three people whom they had right where they wanted and could do what they wanted with them.

But wait! Wait a minute! What am I talking about? There I am thinking of the police beating confessions out of witnesses. You see, I have had such experience in inferior courts and courts of less dignity and dealt with bodies that did not have so much respect for the law as agents of the Federal Government, and I allowed myself, I am sorry to say, to think that they might act in the same way that inferior officers do.

But again, what am I talking about? Do they coerce? Do they force? Do they oppress? Is it possible that the FBI would exercise against some poor fellow whom they had in their power approximately the same kind of coercion that a police officer might do when he beats up a man with a loaded hose? Well, unfortunately, the proof that they do is contained in this record, and not out of the mouth of a defense witness but out of sworn testimony of one of their own witnesses; and [7948] not just a chance witness of whom it happened to be asked, but one of their present employees, active, diligent, who has assisted and aided in perpetrating this entire fraud, Mr. Mervyn Rathborne. And Mr. Mervyn Rathborne gives conclusive proof of what they do and what they are capable of, and the type of coercion that you might infer was exercised against some of these witnesses.

Kermit Krolek is his brother-in-law, and Kermit Krolek and he were friendly at the time that Krolek gave Rathborne a statement about what the FBI had done to him back in 1941 when they were trying to compel him by force and violence to testify falsely and under duress against Harry Bridges. And Rathborne wrote out what his brother-in-law had said to him and turned it over to the Bridges Defense Committee.

Now, get the significance of this: This document that he turned over to the Defense Committee was not for publication; it was not for propaganda purposes; it was a secret, confidential memorandum of a conversation that he had had with his own brother-in-law explaining what that brother-in-law situation, experience and position had been with regard to becoming a witness against Harry Bridges. It was a matter that on its face should be truthful, and which Rathborne stated under oath, if it has any value, was in fact truthful and was an exact statement of what Krolek had told him. By these devices we have been caused and forced to expose our hand and put them out in every [7949] instance and warn the witness in advance and to advise and console him as to what he would be confronted with. We had to admit that all we had was a carbon copy of it, but by the time we had to admit that we got considerable information from Rathborne that confirmed what was in that carbon copy, and even after that he had to consistently go along with it and say that that had happened. Here is his story, not ours, of what his brother-in-law told him as regards the validity of the memorandum:

> "Q. This memorandum was not for public examination or publication, was it?
>
> "A. Obviously such a memorandum of that kind on the face is not for public use.
>
> "Q. Were you telling the defense the truth?
>
> "A. Certainly; I was making a report. I say I reported to the defense, yes.
>
> "Q. And you didn't put anything in that memorandum that you gave the defense except what had actually been told you by Mr. Krolek, did you?
>
> "A. My report to the defense would to the best of my ability accurately reflect the proceedings between Mr. Krolek, his wife and myself at the particular time and as best as I could reflect them."

Now, reading from the report and questioning him on it:

> "Q. Now, did Mr. Krolek state to you that agents of the [7950] FBI had visited him at work and asked him to testify as a Government witness at the Bridges deportation hearing; that he had informed the FBI that in his opinion he had no evidence to offer which would be

of any value in the case; that he stated he also had told the FBI agents when they got in touch with him in November, 1940, and had given them the same answer and asked him why they were contacting him again; that a few days after the FBI agents has visited him at work, he was called by the FBI to an office located at 111 Sutter Street, San Francisco, which he stated is the local headquarters of the FBI; that at this meeting at 111 Sutter Street he was cross-questioned by the FBI and it was obvious that the FBI agents were attempting to intimidate him?

"A. Well, Mr. Hallinan, as I testified yesterday, my direct recollection of that conversation was that Esther and Charlie, or Mr. and Mrs. Krolek, complained bitterly to me about the treatment they had received at the hands of the FBI, alleged they had been intimidated and undue pressure put on them, and also that they had been hauled down to the FBI offices. That was my general summary recollection of the conversation that I had with them."

Now, ladies and gentlemen, as I say, that is the testimony of a Government witness, not of ours.

"Q. All right. Did the Kroleks tell you that these visits [7951] of the FBI had been repeated several times, that they had been called on at their home and at work?

"A. Well, it is my recollection that he said the FBI was bothering him or after him or pestering him or—definitely I have a recollection of words to that effect."

Now, I may suggest this: That if a person makes a memorandum of a conversation and you question him concerning that memorandum, it might not refresh his recollection and he might not remember from it the things that were said in it, but he would remember if something were put in there that he hadn't said; he would know immediately that the language that was being quoted to him was contrary to the spirit and purport of what had been told to him.

"Q. All right. But your recollection at the time this memorandum was written was better than it is now, isn't that right?

"A. Well, naturally.

"Q. And what you would have put in the memorandum would be nearer to the things that were told you than your independent recollection at this time, isn't that so?

"A. Why, certainly.

"Q. So if you put in the memorandum that Mr. Krolek told you that he had been taken to the FBI headquarters at 111 Sutter Street a number of times, that is probably what he told you, isn't that right? [7952]

"A. I wouldn't quarrel with it. I wouldn't —I mean, I am merely saying my recollection at this time is that I didn't know he was taken there a number of times. It seems to be that, to me, he was taken there once late at night.

"Q. All right. Do you remember that Mr. Krolek told you that he and his wife had twice been taken from their Belmont home to the FBI headquarters in San Francisco?

"A. I remember the discussion about being taken, and I think even late at night from his Belmont home, to the FBI headquarters; but again, my recollection is that it was once. But as I say, I won't quarrel with it.

"Q. All right. Do you remember now that Mr. Krolek told you that the FBI agents had really put extreme pressure on them to make statements that would be detrimental to Harry Bidges?

"A. I believe I testified to that yesterday.

"Q. Yes, you did.

"A. Before I saw the memorandum.

"Q. Yes. All right. Do you remember that both Mr. and Mrs. Krolek stated that they had been given the third degree by Mr. Delgurcio and approximately twelve FBI agents?

"A. Well, I have no recollection as to the number of twelve or as to Mr. Delgurcio. My recollection is several or a number." [7953]

Now, what was intended, my friends, when the FBI took that unfortunate man and his wife out of their home late at night, with every circumstance of uncertainty and terror, and took them up to a building in San Francisco, and several persons, probably twelve, sit around and exert upon them intimidation and undue pressure and seek to coerce them?

The Court: We will take the eleven o'clock recess, ladies and gentlemen of the jury. The same admonition not to discuss the case.

(Recess.) [7954]

Mr. Hallinan: Then continuing a few sentences more of this:

> "Q. Do you remember Mrs. Krolek stating that the FBI agents fired questions at her from all directions, that she became nervous and upset and started in to cry?
>
> "A. My recollection is that she became quite upset. Maybe she said that she became ill. I know at the time, one of the times I spoke to her or saw her, she was crying."

And:

> "A. I recall that he stated threats, intimidations and pressure was used on him.
>
> "Q. Now, did Mr. Krolek state to you that agents of the FBI had visited him at work and asked him to testify as a government witness at the Bridges deportation hearing?
>
> "A. I don't know if he used those exact words.
>
> "Q. I mean, the substance of it.
>
> "A. There was a conversation about that time along those lines.
>
> "Q. Did he tell you that he had informed the FBI that in his opinion he had no evidence to offer which would be of any value in the case, and that he told the FBI agents when they got in touch with him in November, 1940,

he had given them the same answer and asked why they were conducting the investigation? Did he tell you that?

"A. I don't have a clear independent recollection of the conversation. I know I had a meeting with Mr. Krolek in [7955] which he discussed that the FBI had contacted him, and what particularly sticks in my mind is both that he and his wife complained very bitterly about the treatment that he got from the FBI, the alleged intimidation.

"A. They claimed they were intimidated.

"Q. In what way?

"A. By being taken down to the FBI office late at night and being held there for some hours and questioned very sharply.

"Q. Threatened?

"A. Well, that was their statement, yes, sir.

"Q. And intimidated?

"A. That is what they said.

"Q. And Krolek was very frightened, wasn't he? A. Both of them were.

"Q. Let me ask you this, Mr. Rathborne. At any rate, Mr. Krolek stated to you that he had been very much terrified by this episode with the FBI, isn't that right?

"A. That is right.

"Q. All right. He testified that they did try to intimidate him and terrified him, isn't that right?

> "A. He didn't testify to that, he told me that."

Now, what did Mr. Rathborne advise his brother-in-law under the circumstances?

> "Q. Did he tell you that Mrs. Krolek was also supposed to [7956] have appeared at the same place that morning?"

In other words, he is subpoenaed to appear upon the hearing.

> "A. As I stated previously, I don't recall any discussion about his job. I just recall a discussion about generally he stated he was threatened, intimidated, coerced, pushed around and that is my general recollection of what he told me."

Now, that is the testimony that Rathborne was telling you ladies and gentlemen of the jury from this witness stand. Now, we are not reading out of any document that he signed some time ago or issued some time ago; it is what he testified here.

> "Q. Do you remember that Mr. and Mrs. Krolek told you this, or in substance this, that they had been taken down to FBI headquarters in San Francisco on the preceding Sunday night, severely grilled by FBI agents for approximately four hours, and that they had heard of the third degree but had never experienced it before, and that they were both in extremely nervous condition?

"A. That is substantially what I told you yesterday.

"Q. Is that substantially what they told you?

"A. That is the best of my recollection, yes.

"Q. Did he tell you Mrs. Krolek was also supposed to have appeared at the same place in the morning but because of extreme pressure on her by the FBI she had suffered a nervous relapse, was sick in bed and unable to appear; that [7957] Mr. Krolek told you before he was supposed to appear on the witness stand he informed the FBI that he would make any statements he thought necessary to protect himself and would in his testimony put in an appeal to the trial examiner against the persecutions, intimidations and methods used by the FBI in their attempts to force him and his wife to give false testimony against Bridges against their will? Did they tell you substantially that?

"A. I think—as a matter of fact, I advised him to do that, to do everything possible to refuse, not to testify.

"Q. And to notify the inspector that they had been put under pressure, third degreed, persecuted and intimidated, is that right?

"A. Yes."

Now, so true is the statement that the Kroleks gave Rathborne that he was able to tell his wife's sister and his brother-in-law, now, "If they put you on the witness stand before Sears, you will be under oath there; you just tell Sears what they did. You just tell him that they got you down there, third degreed you, and intimidated you, coerced you, threatened you and tried to get you to give false testimony against Harry Bridges."

The brother had been interviewed by up to possibly twelve agents. If that statement weren't true, then Rathborne would never advise his brother-in-law to get on the witness stand and swear it was true with twelve witnesses possibly [7958] confronting him to prove that it was not.

Of course, we are going to run into the same notion that once you accept employment by the government, you are above suspicion; that once you receive a paycheck from the United States Treasury which makes you part of the government, which makes you part of us, which makes any assault upon you a reflection upon ourselves, you are sacrosanct. Nothing should be said about you, all the faults to which flesh is heir fell away from you the minute you signed the document that made you a government employee. And from then on nothing should be said. And particularly if you happen to be a member of the FBI. This FBI, which protects us in a great many ways, which has its virtues and which has its faults—it is like Guizot says, that no man is entirely good or evil, that all persons are a mixture of the two forces. So that we see mankind proceeding at all times struggling in a division as to which one will have the preponderance. And it never goes to the extreme of the good or evil, it erects itself when it seems most likely to fall, but falters when its steps seem firmest." [7959]

If the FBI catches kidnapers and uncovers counterfeiters, and does all the things that a legitimate and good police force does, or if they detect spies or if they detect persons who are guilty of any kind of crime, well and good. But when, or as soon as, they step over into political fields and start coercing people to do a job of getting somebody, it is a totally different proposition, and I can just imagine the Vishinsky that Mr. Donohue proffers to hate and despise so much, as the coercer of confessions, leaning over and saying to an executive or a legal board in the Soviet Union, "Why, these scoundrels have the effrontery to attack the old OGPU," or the NKVD, or whatever initials they use to designate their secret police—the secret police that forms a regular mine of material for such funny books as John Schomaker delights himself with. Or we can imagine in Hitler's day, the chief prosecutor leaning across and saying to a jury trying people on a framed-up charge of burning the Reichstag, "Why, they even have the effrontery to attack the Gestapo, without which what would we be? Where would our safety be?"

That glorification and apoteosis of cops is a bad thing to allow ourselves to fall into. They are just human beings like everybody else. They are subject to the faults and failings of others. When they are sent out to do a job, they like to get it done. They have the same consciences that ordinary people have, and nobody is sacrosanct—I don't [7960] care who it is. The just man falls seven times a day, and nobody has a right to select any body of men and say, "These you shall say nothing about," especially when the charge that is leveled against them is that of having used intimidation, coercion, third degree, undue pressure, to procure false testimony against this very man who is on trial here—and coming not from the lips of any of our witnesses, but from the lips of their own witnesses.

Now, with Mr. Rathborne, proceeding to the other witnesses who appeared here. As I suggested, the genius, the guiding principle of Mr. Kaiser's life seems to be that he can do nothing right, that everything he does is all thumbs, done in such a clumsy, malappropriate way that even where we might be inclined to think possibly there is no fraud, fraud sticks its head up and wears, at least, the visage of fraud. Even the documents that are produced here, official documents, as soon as you look at them you think, "Well, what kind of a deal, what kind of a sell is this?"

Now, to start off with Rathborne, at the start; he appeared before the Grand Jury.

> "Q. How long were you in the grand jury room giving testimony?
>
> "A: I believe it was about—I believe about a few hours. Now, I am not—it might have been longer than that.
>
> "Q. And what part of the day was that? Evening, daytime, [7961] what?

"A. My recollection was, it was in the morning."

So he was in the grand jury room, now, in the morning for a few hours.

"Q. All right. Now, you testified (he said he was in there in the morning) for a couple of hours before the grand jury on the first occasion. How long did you testify on the second occasion?

"A. Rather a short period of time. I think maybe twenty or thirty minutes."

He said he had been before the grand jury once, until he appeared on the matter of the attorneys going down to investigate him. And then, when it was disclosed that he appeared on both the afternoon and the morning, he said, Well, the appearance in the morning was so short he hadn't counted it. He appeared for a few hours in the afternoon and then he appeared in the morning for twenty or thirty minutes. [7962]

And then Mr. Donohue furnishes us with the exact time that he was there:

"Mr. Donohue: Mr. Hallinan (he put a 'Mr.' on there), the record shows that Mr. Rathborne testified before a grand jury on the 11th of May at 2:00 o'clock, on the 12th of May at 10:00 o'clock——

"Mr. Hallinan: Pardon me. On May 11th?

"Mr. Donohue: At 2:00 p.m.

"Mr. Hallinan: May 12th?

"Mr. Donohue: 10:00 a.m.; June 1st, 3:25 p.m.; June 8th at 3:00 p.m."

In other words, the last appearances were such a short period of time Rathborne had even forgotten he had appeared there, hadn't even testified to them at all. Now, for this appearance he was not receiving anything except during the period of the grand jury testimony, and so forth, and so Rathborne is up there for, let us say, four hours the first afternoon, although he gives it an extra half hour the following day, four and a half hours, and then probably he appears two other times; 3:25 and 3:00 p.m. Let us say six hours altogether. And then they come out under pressure, after Mr. Paisley has told us, "We are not producing that; you ought to get out a subpoena. You subpoena us to bring in the records"; only under the compulsion of the Court this thing is finally brought in.

"Mervyn Rathborne, residing at Half Moon Bay, having been [7963] subpoenaed to appear before a special session of the grand jury on May 11th, 1945 —" he gets in there one day and stays there between two and four hours "—in pursuance of said subpoena did so appear and testify as an expert on the principles, policies, program, activities, teaching and philosophy of the Communist Party; that I will appear and give expert testimony giving the principles, policies, program, activities, teaching and philosophy of the Communist Party provided I am compensated at the rate of $37.50 for each day or fraction thereof that I am absent from my home in order to so appear and testify as an expert witness concerning the matters set forth, and provided further that in addition I shall receive travel expenses and per diem in lieu of subsistence at $6.00 under the standard government travel regulation."

Then we have a certificate of attendance of the witness, the officer who is supposed to protect the taxpayers and the treasury by filing a certificate that the services for which payment is made have actually been given, and this is signed by John F. Boyd, the real beginner, the real top man in all the persecutions of Harry Bridges.

> "I certify that Mervyn Rathborne appeared before the federal grand jury in connection with confidential investigation——"

Wait. I want to get the May 11th one. [7964] Well——

> '——confidential investigation file No. so-and-so on June 1st, 2nd, 3rd, 6th, 7th and 8th, 1949, and to the best of my knowledge and belief, based upon information which I have received from government officers, he left Half Moon Bay at 8:00 a.m. on June 1st, 2nd, 3rd, 6th, 7th and 8th, 1949. I further testify that to the best of my knowledge, based upon information obtained from the witness or from government officers who escorted the witness to the place of departure, that he left San Francisco at 8:00 p.m. on June 1, 2, 3, 6, 7 and 8, and in accordance with information obtained from the

carrier is due to arrive in Half Moon Bay, California, at 7:00 p.m. on June 1st, 2nd, 3rd, 6th, 7th and 8th. He left at 6:00 p.m."

Now, that covers the day that he testified so briefly that he did not even remember that he had testified at all.

Then here is the next one: Mervyn Rathborne makes the same sort of affidavit. He is an expert on the principles of the Communist Party. He is going to appear here and testify provided he receives $37.50 per day and $6.00 subsistence, and another certificate by Mr. Boyd that after all this investigation and questioning of officers he knows that on May 24, 25, 26, 28 and 31st the witness left Half Moon Bay and upon information obtained from the witness or from government agents who escorted him, he left San Francisco at 5:00 p.m., due to arrive at 7:00 p.m. at Half Moon Bay; and Mervyn Rathborne's certificate that [7965] he has to appear as a witness on May 11th, and he did appear and certify, and he has the intimate, detailed knowledge, and so forth, that will enable him to be this witness.

On May 11th he signs a similar affidavit, and we finally have affidavits from him saying that he left his home to appear as a witness before the grand jury on May 11th, 12th, 14th, 15th, 16th, 17th, 18th, 19th, 20th, 21st, 22nd, 23rd, on the 24th, 25th, 26th, 28th and 31st—you know, it is a kind of queer little thing they put in, too. They omit Sundays in making this compilation. They skip, for instance, the

13th, which I assume was a Sunday, and the 27th, which I assume was a Sunday, and then they go on: June 1st, 2nd, 3rd, omit the 4th and 5th, and the 7th and 8th, and it hits a total of $1,000!

Now, who do they think they are fooling? Who do they think they are fooling? If they are bribing Rathborne to come in before the grand jury for $1,000 and testify to certain facts, why don't they come out and say so? If they say, "All right, we think he has information that is of help and we have so checked and so forth, that we think certain of it is the truth, we have to get the information, he won't give it to us unless we pay him a thousand dollars, and we are paying him the thousand dollars?" All right, at least that is an honest approach to the thing. But to take and fix up and doctor up three separate documents so they will space out the witness fee as an expert, which he did not profess to be, saying here that after he went to sea again [7966] he read over a few of the classic Communist writings, and he is an expert at $37.50 a day, and you bring it up still further, $6.00 a day subsistence, his transportation to and from Half Moon Bay, and they figure it out and they cut it up until it comes to exactly a thousand dollars. And then they put in those documents. That is a fraud, that is a lie, that is a deceit on the treasury of the United States. Nobody is going to stand for Barber and Boyd handing this fellow a thousand dollars to come in and testify before the grand jury. He comes in and he testifies for four and five hours, and then they come in and hash up an account that they can turn into the United States Treasury so as to deceive and defraud the man who issued the warrants to pay him, as though he were a witness for those periods of time upon a matter requiring expert testimony. They start off with that man lying and deceiving, lying and deceiving not only the Attorney General of the United States when they did not disclose to him what kind of scoundrel he is, but then they lie to the Treasurer of the United States when they pretend to him that they are handing over to this fellow a thousand dollars to cover his expenses in coming back and forth, when what they are doing is handing him a thousand dollar bribe.

If we gave B. B. Jones $50, you would never hear the end of it. If we paid somebody's expenses over and above the exact amounts that the law permits for transportation from a point like Los Angeles, and so forth, they would be screaming, they would be [7967] running to the grand jury, and we would probably be indicted. And they come in here with a shabby, lying fraud like that against the officers that are superior to themselves, to get the Treasurer of the United States to pay out a thousand dollar bribe to Mervyn Rathborne under the pretense and belief that he is paying witness fees for a man who has actually put the time in as an expert witness before the grand jury.

Then what happens over and above that? Up to the present time Rathborne has received, in addition to this approximately $4,000 he said he had gotten $3,400 and some odd, which was dragged out of him as though it were their pet teeth, and he says, "I also have gotten a check since for $400 or $500. I don't remeber the amount." There is $4,000.

So what they have done is taken this poor, weak, drunken man and bribed him with $5,000 to come in here and testify to destroy Harry Bridges. It seems incredible and yet it is true. And they do the exact same thing, they doctored the thing up, and they had him go down to the Immigration Department and show himself there during the day to say, "I am working for this amount. I am working for that amount."

And Rathborne, for all his mental and moral deterioration, still had sagacity enough and cunning enough that he was able to use the information that he had or said he had like a magnet to extract the gold from him, ten per cent at a time, five per cent at a time, and he carried them along, led them [7968] along, dickered with them until the commodity he was able to vend commanded the price that he was asking, and then he turned it over. That is the kind of witness that they have the effrontery to put on the stand to try to convict these three men. Bribed with a $5,000 bribe, and futilely [7968-A] bribed!

Let me give you a bit of information, a little tip. There are two people that you cannot get to tell a story: One is a drunk and the other is a child, because they will always mix it up and spill it out, and the first thing you know they start telling the truth, it comes bubbling out, and you have it mixed with your story, and everything falls away under it. They should never have put Rathborne on the stand. They maneuvered, and Mr. Rathborne, who is in need of funds to this extent: He doesn't remember what he is getting; he thinks he is getting $30 a day. That is what he thought he was getting when he was appearing before the grand jury. "I believe," he says, "I got $30 a day." And he actually was getting $43.50 per day, and they go around and add $43.50 per day for 23 days and they got exactly $1000.

Rathborne is in the same position as Crouch and Johnson with respect to his reliability. All right; he was a liar when he was a member of the Communist Party. And by this time I suppose we can accept, at least as a sort of starting point or a concession—let us take it as being what we call at worst a pious fraud upon everybody—that the Communist Party maintains some kind of a school where they educate all Communists to tell lies regardless of what you would like to say, how moral, how decent a person may have been; you go to the school, some retired seaman gives you a three weeks' course in converting yourself into a liar, a perjurer, a fraud and a crook, and [7969] you come out of there those four things. So then you go and you commit perjury. Let us say it is done under the compulsion of this great moral force that has been exercised against them in the school. We will forget that, wipe that out. But then we have Rathborne, after he has ceased being a Communist and right in this court, committing deliberate, practiced and thought-out perjury. We have his testimony before the Dies Committee, and the Sorcerer's Apprentice run over it, all thumbs again, and their eyeglasses looking backwards, and they overlook three very essential things.

"Why did you lie before the Dies Committee?

"Well, the ubiquitous Roy Hudson—yes, we will blame it onto Roy Hudson; he told me to do it. When I came out here that wicked William Schneidermann prodded me into doing it. That is what I will say. I was subpoenaed; I had to go in and testify, so I told a lie under the guidance of those two men.

"Sometime," he says, "I believe in 1940, I was subpoenaed by the Dies Committee, the Un-American Activities Committee, which is a committee of Congress, to appear in Washington, D. C., at a hearing and testify there. I was subpoenaed," he says.

"Q. And you received a subpoena from a committee called the Dies Committee, is that right?

"A. I believe the proper name was the House Un-American [7970] Activities Committee.

"Q. That is a committee of the United States Congress, is that right?

"A. That is right."

So he went to Roy Hudson, and here is what he did:

"A. In connection with the appearance before the Dies Committee I consulted with Mr. Roy Hudson of New York"——

This is Mr. Donohue's examination, not cross-examination.

"——and advised him of the fact that I had been subpoenaed and that I was going to appear, that I had to appear under the subpoena.

"I discussed this at some length with Mr. Hudson. It was a very serious thing, and I asked what the justification was; why, if I was to carry out my responsibilities, I should put myself in this position. We had considerable discussion about it. I believe it lasted for a good part of an evening."

In other words, he didn't go in now and surrender his immortal soul to Mr. Hudson on any first impetus. It was "Pull Devil, pull baker" for Mr. Rathborne's integrity. Mr. Rathborne's good angel was telling him, "Don't you go in there and lie even though you are under subpoena," and Mr. Hudson, representing His Majesty from below, was hauling at him, "Go on and tell them, Merve; go on in and lie. You are under subpoena and you have got to go in." Mr. Rathborne discussed it for the [7971] greater part of an entire evening. It was a very serious thing, and furthermore, the subpoena that had been put upon Mr. Rathborne and the circumstances under which he now found himself were so far from being a matter of his own choice that it stole upon him like a thief in the night, he was taken by ambush and unawares.

"Q. Had you made any effort to avoid being subpoenaed?

"A. 'I had no knowledge," he said, "that I was to be subpoenaed."

"Q. Let me ask you, was the policy of the Communist Party to avoid such subpoena if possible?

"A. To my knowledge it was, yes, sir."

And then we had lurking in the background another one of those little pieces of proof, another one of those little druids that keep running around under the floor and pops up in the most unexpected places, and no diligence and no caution and no effort will suffice to stamp them out or keep them from emerging into the light. We had a press release sent out by Mr. Rathborne at the time he appeared before the Dies Un-American Activities Committee, which he had forgotten, and which Mr. Kaiser had obviously overlooked or did not remember, and this press release contained a telegram from Mr. Rathborne to the Dies Committee saying, "My union is being slandered before your committee by certain interested persons, and I demand the right to appear before you and refute these calumnies." He wasn't under subpoena to appear at all; he wasn't under [7972] any compulsion to appear; he had appeared there voluntarily. And we show the document to Mr. Donohue. And you may not remember, but I remember with a little of that malicious satisfaction which I am weak enough to acknowledge still constitutes a small, infinitesimally small, part of my nature, but I do have that bad, bad little thing still in me, and I sat there and I saw Mr. Donohue read and reread and reread that document and cogitate in his mind something like this: "What the hell has happened now?"

Shall we take the recess?

The Court: We will take the noon recess, ladies and gentlemen. We will resume at two o'clock this afternoon. The same admonition.

(Thereupon a recess was taken until 2:00 p.m. this date.) [7973]

Afternoon Session—Thursday, March 23, 1950

Mr. Hallinan: To finish off on Mr. Rathborne's credibility, not at another time, not while he was a member of the Communist Party or even in testimony thereafter, but right in this court, he goes on then when our friend here finally gets over his consternation at the revelation that his witness was not subpoenaed before the Dies Committee at all, wasn't there under any compulsion, didn't have to go to find out what he was going to say, but had sent a wire to the Committee asking to be heard and then had sent out a release including the wire. So, counsel having read the document at great length, Hallinan said to the witness:

"Q. This is the statement you issued to the press, is it not?

"A. I believe it is, yes, sir.

"Mr. Hallinan: Offer it in evidence as defendants' exhibit next in order."

Now, that would seem to be a pretty pertinent and material piece of evidence as to whether the witness was telling the truth about being subpoenaed or not, but up comes Mr. Donohue to champion him.

> "Mr. Donohue: I object, if your Honor please. I think it is time to start trying the defendants instead of the witness," etc., [7974] etc.
>
> "Mr. Hallinan: Then why do you object?
>
> "Mr. Donohue: You don't mind if I make an objection," and so forth. "I see no purpose, if your Honor please, in the statement this witness made to the press in the case involving the defendants Bridges, Schmidt and Robertson," and so forth.

He tries to keep away from the jury the fact that his witness is comitting perjury in this court, not in some other court. So the witness goes on. And, mind, we don't find fault with that. After all, one has a certain loyalty to the people he has, and even if you are highly respectable yourself and you employ the services of a gang of ruffians to do some job for you, the least you ought to do is to protect them. I don't blame you for that at all.

Then the witness continued:

> "Q. When you went before the Un-American Activities Committee, you didn't go in response to a subpoena, did you?
>
> "A. The record shows apparently I received a communication from that Committee, saying, as I recall it now—that is why I testified

a while ago I was notified by mail or in person —as I remember, I received a communication from the Committee saying that I would be heard at such and such a time.

"Q. In other words, here is what happened——"

Rathborne interrupted: [7975]

"I was in error in saying it was a subpoena if those facts are correct.

"Q. Obviously that is right. Don't mind that. In other words, what you did was this: You sent a wire to the Committee asking to be heard as stated in that wire, that is correct, isn't it?

"A. Well, from the document it appears that that is correct, yes.

"Q. You weren't under any compulsion to go there at all; you were going there voluntarily and giving those answers, weren't you?

"A. Apparently from the document here that was the case, yes. My recollection of that was in error; I thought I was subpoenaed to go there, but apparently I wasn't."

It doesn't matter. His recollection might have been in error as to whether he was subpoenaed to go there or not, but in this court he had used the fact that he was under subpoena and compulsion to go there as explaining why he had lied to the Committee as to his membership in the Communist Party. And finally:

"Q. And you weren't under any subpoena

or under any compulsion to go to this hearing, were you? A. Apparently not, no."

And he also tried to do a little fibbing, a little genteel fibbing to excuse his conduct and so forth with regard to that [7976] resolution passed by the World Federation of Trade Unions. Now, rightly or wrongly—let us say wrongly—those people, probably stung to fury and indignation at the thought that wrongly or rightly by them, I don't care, that Harry Bridges was just being again made a victim of the same type of unjust and unfair persecution that had been leveled against him for the past fifteen years, that they passed the resolution saying that if anybody takes the stand against Bridges and testifies falsely against him, we are going to blackball him from working on any ships. Now, that might be a wrong and wrongheaded and improper thing to do. But, after all, they conceived it was the right thing to do, and they went ahead and did it, since they haven't many other means by which they can protect their own. But this gentleman wanted to ring that in as being the reason why he was fixing a rate of pay for himself at 20 or 23 or 24 dollars a day, whatever it may be, and he said that he talked to Mr. Donohue in Washington, and that there was discussed the amount that he had been earning before he went to sea, or when he went to sea. And then he also said that he had fixed upon the WFTU matter as one of the reasons why he would have to get some employment in another capacity. So he was going to join the ranks of that new and wonderful profession which, as counsel says, "Of course they are professional witnesses"; he was going to join those ranks and march along to fame and prosperity with Manning Johnson and Paul Crouch. [7977]

And then to show that just as he had been put under compulsion by the Dies Committee to go down there and testify falsely under oath, now he is going to show he was put under compulsion by the WFTU to accept this employment and give up his work. So he says he had the discussion with Donohue, and then in the midst of it and as part of it, they come to the point where he had to hit upon some compensation and he said—and I am not going to read these out again—he said that there was discussed the WFTU resolution banning him from further employment on the ships. Now, after he got off the stand, he found out that the WFTU resolution had not been passed until a month or so after his conference with Donohue, and he found that out by having a talk with Kaiser, in which Kaiser phoned somebody and determined that. He came back on the witness stand and he did not reveal that he had been in error, let us say, on that point. He did not say, "Now, I want to correct an erroneous impression that was given here. I have found out in the meantime that the WFTU resolution was not passed until a month after I accepted the king's dollar from Mr. Donohue, and there was a mistake there." He waited and took the chance that it would not be discovered and nothing would be said, so the jury would have the impression that he was forced into this employment, and it develops then that he has not seen or heard or read anything about this matter in the papers until fully a month after he had left Mr. Donohue. He also said that when he was on [7978] the witness stand here testifying as to the conversations in Mr. Donohue's office, he then had the impression that the WFTU resolution had been passed. But, he says, after discussing the matter and discovering it had not, he did not intend to give that impression to the jury.

Of course, some objection has been made here to using devices, simple little tricks and devices to test the credibility of a witness. That is to find out whether the witness is willing to lie under oath. Now, that seems to me to be a pretty important thing. That is one of the things that you learn how to do, not only in the schooling that you get as a lawyer, but in the much harder school of the actual practice of a case. If a witness gets on the witness stand and shows a willingness to lie under oath, then that witness' credibility is certainly open to immediate challenge and suspicion, and counsel talks a great deal about devices, tricks and so forth, that were used to trap a witness. Well, since when has a witness been protected from having disclosed his willingness to lie under oath? Why, we have all been regaled from childhood with the stories of King Solomon threatening to divide the child to determine who was the true mother, and we have the stories of Daniel forcing the two perjured elders, who wanted to accuse Susannah of adultery, separating them and making each one answer separately under what type of tree this act had taken place, and one saying it was a walnut tree in one part of the garden, the other one saying it [7979] was a plane tree in another part of the garden. Their joint falsehood was established by it.

We are not, however, supposed to use any such method or devices on these people. We are supposed to go along and play a game with them, a little daring game with our clients' safety and liberty at stake. While they are cheating and while they are acting fraudulently, we are supposed to act according to some rules that are established by our opponents. If a witness shows a willingness to lie, that casts a doubt on all his testimony.

Now, here is Mr. Rathborne, asked about his conversation with Jean Murray:

> "Q. Did you have any discussion with her then about this case? A. No, sir.
>
> "Q. Did you have any conversation with her about your appearance before the grand jury or that you intended to appear before the grand jury? A. No, sir, I did not."

Now, he starts out to say that on that visit he made Jean Murray, the visit to her apartment, they were talking about social matters or something, and he is prepared and starts to deny that he talked to her at all about his testimony as a witness before the grand jury or anything about this case. So I asked him a simple little matter. I said, "Have you ever been [7980] dictographed yourself?" He said, "I don't know. You mean I have seen a doctograph machine, if that is what you mean."

> I said, "No, have you ever heard your own voice read off of one of them?
>
> "A. No, sir."

The change in expression and demeanor of the witness is striking. It should have been obvious to anyone. And he immediately then says, "What I discussed with her very largely, Mr. Hallinan, she wanted to know my reasons for either going or testifying or going to testify, and we discussed that. That was the main burden of the discussion."

Now, what kind of explanation and what kind of synthesis can they draw between these two statements: first, "Did you have any discussion with her then about this case?

> "A. No, sir.
>
> "Q. Did you have any kind of a conversation with her about your appearance before the grand jury that you intended to appear before the grand jury? A. No, sir, I did not."

The question about the dictograph, and immediately:

> "What I discussed with her very largely, Mr. Hallinan, she wanted to know my reasons for either going or testifying or going to testify. We discussed that. That was the main burden of the discussion."

So if Mr. Rathborne had not suspected suddenly that he [7981] might have been dictographed in that room of Miss Murray's, he was prepared to say they did not discuss the Bridges case at all, him being a witness or anything of that kind, that is quite obvious.

And then to show the tragedy of being on the wrong side, he afterwards concedes that the two girls went down to see him on December 15th and there, my friends, while we have had breaks that we could scarcely have suspected by diligence and by trying to discover and pull everything out into the open, we fell into evidence, and we came across matters that established the falsity of their witnesses; this is one of the lost opportunities. If we had only known that the two little amateur detectives contemplated going down and talking to Mr. Rathborne, that being after the case had started, we would have dictographed him. We would have had a wire recording in the automobile, and we would have a really fine fiasco on Mr. Rathborne. But, unfortunately, they went down without letting us know about it. That is on December 15th.

Nothing happens, nothing said. He squeals to Mr. Donohue about the girls having talked to him, and the story is invented. Then on December 20th the papers carry the story that Crouch and Johnson have been caught on the Stockton evidence, and that papers have been introduced showing that Harry Bridges could not possibly have been in New York on June 27th, 1936, and that we are accusing Crouch and Johnson of deliberate perjury in this [7982] court.

And then on December 27th the papers, according to Rathborne's testimony here, carried the story that we had sent photostats of all this proof we had to the Attorney General in Washington, to the foreman of the grand jury in San Francisco, to the District Attorney in San Francisco demanding the indictment of those two fellows for perjury. And two days afterwards—now, two days afterwards they procured the indictment of those two girls by that same grand jury. They bring Rathborne up alone, again hoodwink and goldbrick the grand jury, don't let them know he is a crook, a thief, a burglar and a perjurer. They do not give the two poor young women a chance to come in and convince the grand jury that that is not what happened. They simply return an indictment, and the reason they return the indictment was to try; to take the heat off of their two rogues and to do something in the meantime that would smear the defense. He also talked a little too freely when he was sending out releases to the papers. He put in one of the papers that the 1948 maritime strike was 80 per cent political and 20 per cent work and wages. Then he had to come in here and try to explain away, why it was no longer that, why it was not actually 80 per cent political, and what he meant by it, and a vague and circuitous discussion about what William Schneidermann had said three or four years ago about what the policy of the line of the Communist Party was at that time. [7983]

And then he could not explain why he told the Attorney General in 1948 that nothing should be done at that time, because it would make it look as though the strike was being reflected upon, and he can not reconcile that with the fact that the Attorney General said that at the time the indictments were returned against these gentlemen, that this would break the situation in Honolulu. He also gives a release to the papers that the reason he had broken with the Communist Party or Harry Bridges or I don't know what was on the third party issue. He was going to be a good Democrat now. He was going to throw a little wallop in the third party while he was about it. And then the record comes out that in the years 1936, 1938, 1942, 1945 and 1947 he had advocated a labor party, that he had advocated the formation of a third party. So he only has one little place in there in 1946, and he says, "Well, that third party that was formed in 1946, I was not in favor of that for the reason that it was not a grass roots party. It was a party whose formation was dictated from the higher levels." But when he started to determine whether he would get in the deal to destroy Harry Bridges, it was to the high brass of the CIO that he went. It was to Murray, Carey, Curran and Ray. It was not to the grass roots of men that he knew out here, the men who would suffer and the men who would lose by the ruin of their loss. The grass roots, the great Democrat was concerned that the only third party that he did not support was one that was derived from on [7984] high and not from a grass roots manner. So you have Mr. Rathborne on three or four occasions here deliberately committing perjury without the slightest notion, without the least bit of embarrassment when he is discovered, and he is presented to you as a witness whom you are to accept in determining what your verdict will be in this case.

Now, to come to some of these other people, and to come particularly to John Schomaker, who, after all, constitutes the major portion of their case, here is a man who has been all his life a nonentity, a failure, not blamable for it; he probably did the best he could with the materials that he had, but starting in from the time that they began to cultivate him, he was subjected to such pressure, such solicitation, such constant labor, education and assiduity by the agents of the Immigration Department as would invalidate any act that a person might make. If a person were to draw a will disposing of his fortune and give it to people other than the law elected as his heirs, and those heirs came in and contested it and showed that the person in whose favor the will was drawn had exercised one-half of the influence and domination that these agents executed upon John Schomaker, without any further testimony whatever, a jury would be justified in arriving at an inference that that will had been procured by undue influence and reject and throw it out entirely.

He starts in with the people that he met. He meets John [7985] Boyd. There was Mr. John Boyd and a stenographer and one other person. This is at a meeting in May, 1949. It could have been Mr. Kaiser, but John Boyd was there, a stenographer and one other person:

> "Do you know whether Mr. Kaiser was there?

"A. As I say, there was some other person. I can't say if it was Mr. Kaiser or not.

"Q. Now, had you met Boyd before?

"A. Prior to that?

"Q. Yes.

"A. I think yes. He came down to the house one time.

"Q. When?

"A. Oh, I think about two weeks prior to that."

Now, here is a man who is high in the national Immigration Department and he is going down and visiting Schomaker's house down in Menlo Park.

"Q. Let's see, how did that finally come about?

"A. I know I worked that day and I received a call the previous day, I think it was.

"Q. From whom?

"A. I think it was Jack McGowan.

"Q. And who is Jack McGowan?

"A. Well, he is an Immigration official. Just what his position is I don't know."

Now he has three people who were working on him at this time. Then he says he has spoken to Mr. McGowan before. [7986]

Then he says that he had spoken to Mr. McGowan before, Mr. McGowan had come down there, "on, I think, two previous occasions."

"Q. You say he came down on two previous occasions. When was the first time?

"A. Well, I would say it was around January.

"Q. Did he come down in the daytime or in the evening?

"A. No, he and Bruce Barber came down. It was in the evening after work."

So now you have got four in it.

"They stayed from eight to ten p.m."

Then his next meeting:

"A. Then later I saw Mr. Boyd again.

"Q. When did he come?

"A. Well, prior, about a week prior. It was on a Sunday, it was on a Sunday afternoon. Mr. Boyd and Mr. Kaiser and some other person came down.

"Q. Who?

"A. I can't recall. That third person is—I can't recall who that third person is.

"Q. All right. Prior to the time McGowan had come down to see you in January, whom had you spoken to connected with the Government on the investigation of this matter before you talked to McGowan in January?

"A. Well, we lived in McKenzie Drive. That is in north [7987] Palo Alto. And there was two fellows came down.

"Q. What were their names?

"A. I can recall one name. It was Phillips. But who the second person was, I cannot recall his name.

"Q. Did you hear his name?

"A. Well, they gave me their cards, yes."

So now you have got six people that have been talking to him.

"Q. What time did they get there?

"A. It was evening, after work.

"Q. What time would you say?

"A. Well, one of those guess deals where, around eight o'clock.

"Q. And what time did they leave?

"A. Oh, about ten o'clock, I imagine, or maybe a little earlier. They didn't stay too long."

That is Phillips and the unknown man.

"Q. Did you discuss the matter with them, anything concerning what you testified here?

"A. Oh, we just had a general conversation about G.I. housing and things of that kind."

Now, there are six of them, so here come a couple more:

"Q. Who else was there?

"A. Well, there was a secretary sitting there.

"Q. Anyone else?

"A. Several agents of the Immigration Service. [7988]

"Q. What were their names?

"A. I think Mr. Maxwell was there, and Mr. Woolley.

"Q. Woolley?

"A. I believe that is it. I am not certain about that, but phonetically it sounds like Woolley."

So now we are up to eight people that have interviewed him.

"A. Well, we went up to the thirteenth floor, the offices—they have offices in one end. That is the far end from the elevator. We walked down there.

"Q. Do you know whose office that was?

"A. Well, I assume it to be the Immigration Service's.

"Q. Did you see anything written on the door?

"A. No, I don't think there was a thing on the door, no writing, at least.

"Q. Had you ever been in that building before? A. I have, yes.

"Q. Several times? A. Several times.

"Q. Recently? A. Recently, yes.

"Q. Anybody else?

"A. And Mr. Wooley's wife and Mr. Gallagher's wife.

"Q. Did you talk to anybody in the meantime in that office besides your daughter?

"A. No, I talked to—she told me where she had been that [7989] day. I think Mrs. Wooley had taken her to the movies—Macy's, and saw Santa Claus at Macy's, and went up to—I think it was the Emporium, she said, and they rode on the merry-go-round and things up there.

"Q. Mrs. Wooley is the wife of one of the agents of the Immigration Department, is she?

"A. That is correct, and we discussed—general conversation with Mrs. Woolley and Mrs. Gallagher."

Then they went up to the Marines Building, and—

"A. Well, Kaiser and I went to the bathroom and he washed his hands and I washed my hands, and the agent went and washed his hands, and that was it.

"Q. Then what did you do?

"A. I put on my coat. We put on our coats and went upstairs to the barroom."

They are getting intimate.

"A. When we got there my wife—by the way, when we went into the lobby my wife—there was—this is—when my wife went to exchange her shoes at Macy's, this agent—he accompanied her to Macy's when she exchanged her shoes, and then he brought her to the Marines Memorial. We met her in the lobby. That is the way that deal worked out. And so when we arrived at Marines Memorial she was sitting in the lobby. So then when the stenographer and Mrs. Gallagher came in, then she accompanied them to the [7990] stenographer's room to freshen up, and we went up to Kaiser's room."

They went to the bar.

"Q. And how long did you stay there?

"A. Oh, we stayed there, had a few drinks, a couple of drinks; I would say we stayed there, oh, an hour.

"Q. Now, you stayed at the bar for about an hour, is that right?

"A. Well, that was a rough estimate, yes.

"Q. And who was present seated at the table now? There was Kaiser, yourself, the agent, your wife, and anybody else?

"A. Mrs. Gallagher.

"Q. Who was Mrs. Gallagher?

"A. She is the wife of George Gallagher, one of the prosecution attorneys.

"Q. And then where did you go?

"A. Well, we went then from there to—went back to the tenth floor to the dining room. In the meanwhile, Mrs. Gallagher excused herself and that left the four of us.

"Q. All right. And you had dinner there?

"A. We had—we did, yes.

"Q. Just the same people whom you have mentioned, less Mrs. Gallagher. And then how long were you at dinner?

"A. I think it was until—we stayed there until about [7991] nine o'clock.

"Q. And then where did you go?

"A. Well, my wife had dinner home and Mr. Kaiser and the agent left to pick up my daughter Susan to go home to Menlo Park, and I went up to the hotel, I mean, went up to the room, went back to the room and took a shower.

"Q. So Kaiser and the agent then picked up your daughter and took her down to Menlo Park, is that right?

"A. Well, they left with my wife and they went to pick up my daughter, Susan, yes.

"Q. They drove your wife and daughter back to Menlo Park?

"A. That is, they had to go and pick up my daughter first.

"Q. In this same Government car, I take it? Is that true?

"A. I didn't see the car. I don't know whether they flew down there or took a street-car or what. I don't know."

Then speaking of the room that he went to:

"Q. Is that the room you occupy now?

"A. Well, I sleep there, yes.

"Q. How long have you been staying there?

"A. Since—what is this, Wednesday—Monday night.

"Q. Is the room registered in your name?

"A. No, it is not. All I did, Mr. Kaiser had the room, rented it, and when I came in I just signed as a second party to the room.

"Q. What are they, twin beds in the [7992] room? A. Definitely, yes.

"Q. Does Kaiser occupy one of them at night?

"A. He occupies one and I occupy the other.

"Q. When you were first brought to San Francisco or came to San Francisco prior to your testimony here, what was the time immediately preceding your appearance here last Monday that you came to San Francisco?

"A. Well, there's this fellow, an agent that lives in Half Moon Bay, who came by about 20 minutes of 8 Monday morning.

"Q. What is his name?

"A. His first name is Larry, and I generally heard him referred to as Larry, and I don't recall his last name."

So now, including the gentlemen's wives, we have got up to ten, and now eleven agents that he is intimate with.

"Q. Now, when was it that this agent, Larry, drove you up? Was it on your return after Thanksgiving or your first appearance?

"A. Well, it was this Monday, last Monday.

"Q. That was the day before yesterday?

"Q. Now, did somebody drive you up on the preceding Monday?

"A. No, on the preceding Monday they drove me up on Sunday.

"Q. Who drove you up then?

"A. Well, I think Mr. Maxwell came down, came down and picked me up."

So now we are up to twelve. Then he goes on—McGowan phoned [7993] him in the morning to make the arrangements. He is taken to the Appraisers' room or building, and he meets McGowan and Kaiser. He is also up here on the preceding Friday, picked up by Maxwell upon a call from McGowan. He goes to dinner and stays at the

Marines Memorial hotel with Kaiser. All day Friday he is at the Appraisers' Building. He goes to lunch with Maxwell. At 2 p.m. he goes to the post office with Woolley and Maxwell. Then he takes on a few more people that he has discussions with.

"Q. Now, whom did you talk to on that occasion?

"A. I evidently talked to Mr. Paisley.

"Q. Anyone else? A. Mr. Donohue.

"Q. Anyone else? A. And Mr. Boyd.

"Q. Anyone else?

"A. I may have talked to other people in there, yes.

"Q. Who?

"A. Mr. Maxwell, I guess. We talked about football and things of that sort."

So now we have added to the twelve Mr. Paisley and Mr. Donohue. We have fourteen people.

Then Woolley drove him home, and on Sunday picked him up again. Then on the next occasion he sees Mr. McGowan.

"A. Mr. McGowan—let's see. There is an angle in there [7994] somewhere. It was about thirty days, I would say, I saw Mr. McGowan and Larry.

"Q. Who?

"A. The Larry I referred to before.

"Q. That was the agent who lives in Half Moon Bay whose last name you can't remember? A. That is right.

"Q. Where did you see them?

"A. They were at the Appraisers' Building.

"Q. What day of the week was that, do you know?

"A. It was in the latter part of the week. It was a Friday or Saturday.

"Q. How had you gotten to the Appraisers Building that day?

"A. I think—on that occasion I think that Mr. Maxwell came down and picked me up.

"Q. How long did you stay there?

"A. I stayed there quite late that night. It must have been midnight, I guess, before I got out.

"Q. Whom did you talk to there?

"A. I talked to Mr. McGowan.

"Q. Anyone else?

"A. Well, Larry was there.

"Q. Anyone else?

"A. There may have been a few more fellows there, but I don't distinctly recall [7995] them.

"Q. And you talked to McGowan and Larry from about—let us say six o'clock, the time you got up there, until twelve midnight?

"A. I would say it was six.

"Q. What time?

"A. We got there maybe about 7:30."

Then he had dinner with them, and then he is driven down again to Menlo Park.

Then sometime later he is back to sign the statemen—*honed* by McGowan, driven up by Maxwell or Larry—he doesn't know which—, driven home by Larry. The previous two nights he had also been at the Appraisers Building, and two or three weeks prior to that McGowan had driven him up. About October 1. And he stayed some 45 minutes and talked about housing.

And in order that Mr. Barber, whose diligence certainly deserves commendation, be not thought to have been neglectful on this occasion:

> "Q. And during the same period, what other agents, if any, or persons connected with the Immigration Department or the Government, did you see?
>
> "A. Mr. Barber came several times.
>
> "Q. How many times did Mr. Barber drop in to see you?
>
> "A. Well, I don't think it was over four. That is approximately four or five times, I would say. The only person he came there with was McGowan. Now, whether or not he [7996] came with Mr. Boyd, I can't recall. But generally the times I remember, he was always with Jack McGowan.
>
> "Q. Is McGowan a married man, so far as you know?
>
> "A. As far as I know, yes, he is.
>
> "Q. Did you meet his wife?
>
> "A. I have, yes.
>
> "Q. When?
>
> "A. Well, I think that they were out house-hunting and they dropped in one day.

"Q. Did she stay for the 45 minutes, too, that he stayed?

"A. Oh, no, they only stayed a few minutes on that particular day. They were looking at a house in the neighborhood there.

"Q. And you said that he stayed about 45 minutes. Do you change that now?

"A. That was a different occasion."

All right. Then he has another visit with these gentlemen:

"A. Well, my appearance before the grand jury, I am pretty sure was on a Wednesday. No, on a Tuesday, I think. And the previous Sunday Mr. Boyd came down with Mr. Kaiser."

He has lunch during the recess with McGowan and Kaiser and Maxwell. Boyd and Kaiser just dropped in and stayed about an hour. About thirty days prior to that, Barber and McGowan came down and stayed about three hours. Then he has shed upon him the effulgence of the golden visitor from the East; Mr. [7997] Donohue comes into his humble cot, this hodcarrier, in Menlo Park and sheds upon it the effulgence of his personality.

"Q. Now, who else did you see?

"A. Well, Mr. Barber, Mr. McGowan, Mr. Donohue, Mr. Boyd and Mr. Kaiser.

"Q. Who else?

"A. To the best of my recollection, that is all I saw at that time.

> "Q. Well, what other Government agents appeared? Did Mr. Maxwell?
>
> "A. If you want to consider Mr. Maxwell, yes, and Mr. Woolley and Larry. I can't recall his last name, but I don't think that they ever entered the house."

Now, as I suggested before, ladies and gentlemen of the jury, if this man is an honest witness, if he has a story to tell, has some statement to make, if he isn't bargaining or dickering with these people as to what price they will pay him, if he isn't being coached and taught and asked to say what these boys think will be of value to the prosecution, what in the name of all common sense is the purpose of these constant visits back and forth, driving a man around, acting as chauffeur to him, baby-sitting, taking his wife out to buy a pair of shoes, having the little women get together—Mr. Gallagher's wife, Mr. Wooley's wife, all the wives come in and take the Schomakers right into their social life, have dinner with them, go around [7998] with them, fawn upon them? What is the purpose of all that? Suppose that this unfortunate man was financially honest, that he never asked for nor received a bribe or a nickel in connection with this case, that he didn't want a cent and that he wasn't paid a cent; but he had some ambition for recognition, he had some social idea, something that he thought would glorify him in a social sense. Isn't that paying him a bribe, too, to take him and work him into their group, their temporary group—because when the case is over, not one of them will look at him? To take a man and dominate him, have an agent of the Government sleeping in the same room with him where he can keep reminding him of what he is to say, any suggestion, putting a little thing in here, subtracting a little thing in there, until finally he has this story that he wants him to tell. And under such a surveillance and such education and coaching as that, finally a fellow of this man's intellectuality wouldn't know whether the story he was finally telling was his own story or a story that had been given to him.

And I suggest, if this were a will contest, if he died and there were a will made in favor of Mr. Woolley or Mr. Kaiser, it wouldn't take his heirs ten minutes to break the will, because if no other testimony was introduced except this constant running back and forth between them and the constant domination of that man by the agents, any jury would infer that they had substituted their will for his and that the document that he [7999] had signed was not the true expression of his own intention but only a resumé and a rehash of what he had been told to say.

But, my friends, he is vulnerable and his whole testimony is vulnerable from an even more obvious point. Now, as I suggested originally, when a man takes the stand and shows an intention to deceive, then you have to distrust his entire testimony. And if the intention to deceive is with the connivance of either side, you have to distrust the side that puts him on. It is just as much a deception if a person pretends to remember something that he doesn't remember or can't remember as if he says something that is pure and clear invention, that he has made up at the time. And that is the defect in Schomaker's testimony. Schomaker got up here and he narrated a series of events that he doesn't remember, that he couldn't remember, and that in all probability never happened. He says first that he joined the Communist Party in 1931 and he left it in 1940—a period of nine years. He attended a meeting every day, at least, and on Saturdays and Sundays two or three meetings a day.

> "Q. Mr. Schomaker, during the period of your membership in the Communist Party, did you attend few or many Communist Party meetings?
>
> "A. (This is direct examination) My period in the Communist Party, I attended a meeting every day at least, and on Saturdays and Sundays two or three meetings a day." [8000]

365 days times 9 years is 3,285, plus the 52 weeks of Sundays and Saturdays, multiplied by 3, is 408. So, according to Schomaker, he attended in that time approximately 3,752 meetings. And lest it be thought that I am juggling with figures, I asked him these questions:

> "Q. You testified here that you, during your membership in the Communist Party, a period which extended from 1931 to 1939 or '40, had a meeting every day and that on Saturdays and Sundays two or three. Do you remember that testimony?

"A. Yes, that is more or less correct.

"Q. And as I say, you remained in the Communist Party from 1931 until 1939. That is approximately eight years, right?

"A. That is about it, yes.

"Q. So that as a quick calculation, you had about 3,752 meetings in the Communist Party in that period?

"A. About that many. There seem to be more than that, even. [8001]

"Then in addition to that, you were a member of the union and attended a great many union meetings, isn't that right?

"A. I tried to attend as many as I could, yes.

"Q. Now, how many did you attend?

"A. Well, they met—at one time they met every two weeks, but anyway, we will say they met every week, and I tried to attend all the meetings.

"Q. When did that start? When did you join the union? A. In October, 1933.

"Q. And you left it?

"A. In we will say 1945. You know what I mean, to cover all the years.

"Q. At least a period of ten years. So you were at 520 or more such meetings?"

When he confirms that: "Yes."

So he has got over 4,000 meetings that that man has attended from 1933 up to 1945—over 4,000 by his own calculation. Now, get this part of it:

"Q. Now, have you any memorandum that

you have prepared upon which you have based the testimony that you gave in this case?

"A. No, I haven't any memorandum.

"Q. Did you discuss with anybody what you were going to say?

"A. I discussed—I discussed with people the Bridges case, yes, but not what I was going to say. [8002]

"Q. Did you discuss with anybody what your testimony would be if you were called to the witness stand?

"A. It would be on the question of the Bridges case.

"Q. Did you discuss with any person the details of what you would testify to?

"A. Well, I discussed with them the questions of the meetings I had attended, and particular meetings, yes, I discussed it with them.

"Q. Were you shown any statement taken or given by yourself or by anybody else which contained the matters that you were going to testify on?

"A. Well, now, I may have been shown my statement, but I had never seen anyone else's statement; no, never.

"Q. What is the date of the statement you were shown?

"A. Well, I say it is possible it was when—I wasn't even shown my own statement, except,—wait a minute, except when I dictated it and then it was taken in shorthand, transposed,

> and I signed it, and I haven't seen it from that day to this."

Now, it is important to remember the statement that he made here: "that I may have been shown my statement, but I have never seen anyone else's statement; no, never."

Now, he is asked about the conversations with these various agents, and he says they came down and parked their car in front and they rang the bell. These are the conversations with [8003] Barber and McGowan.

> "And I went out to see who it was, and there were McGowan and Barber and they introduced themselves. And I said, 'Come in, gentlemen.' And they came in and sat down and we began to talk and discussed football. One thing and then another. Religious possibly.
>
> "Q. Religion?
>
> "A. We discussed religion, too.
>
> "Q. What was the discussion about religion?
>
> "A. Well, different things, different religious sects and so on, very casual and broad discussion.
>
> "Q. How did it happen that they discussed religious sects?
>
> "A. Well, you know how it is.
>
> "Q. Were you and they of the same religious sect?
>
> "A. I don't know what religion they are.
>
> "Q. Didn't they tell you?
>
> "A. No, they didn't.

"Q. Did you, or did they ask you what your religion was?

"A. They did not, no. It was one of those informal discussions.

"Q. How long did it last?

"A. It wasn't very long; it lasted about 10 or 15 minutes and they went out to leave, and they couldn't start their car."

And then on Phillips and the other man: [8004]

"Q. Did you discuss this matter with them, other than what you have testified to here?

"A. No, we just had, it was a general conversation about GI housing and so on.

"What attorney did you talk to on that occasion?

"A. I evidently talked to Mr. Paisley.

"Q. Anyone else? A. Mr. Donohue.

"Q. Anyone else? A. Mr. Boyd.

"Q. Anyone else?

"A. I may have talked to other people in there.

"Q. Who?

"A. Mr. Maxwell, I guess. We talked about football and things of that sort.

"Q. The meeting that took place, that lasted 45 minutes in which these gentlemen dropped down, at that time did you discuss anything that you knew about this matter or your possible testimony in a proceeding of this kind?

"A. I don't think I did, no. He was looking 1 r a place to live, that is, he thought he might want to move down the Peninsula, and since I moved around quite a bit in the building trades, I was giving him the benefit of what I might know of the situation in that community, and we discussed mainly housing. [8005]

"Did they ask you anything about Harry Bridges?"

This is a later time, page 1328.

"A. I know they asked me about my—if I was ever a member of the Communist Party. I remember that.

"Q. Did they ask you anything about Harry Bridges?

"A. That is what I am trying to recall. There were so many things discussed it was a general conversation. And whether or not they asked me about Harry Bridges, I couldn't answer that.

"Q. Now, that was some time in April 1948, you think, is that right?

"A. Oh, no, it was, I would say, in May or June of 1948."

"Q. You had never discussed with any other government agent except, let us say, back in 1940 or '41 when you were up to that office, the matter of Harry Bridges, is that right?

"A. Well, at that particular time I can't recall of any discussion I had with any government agent prior to that. I do not recall it at this particular time, no.

"Q. (By Mr. Hallinan): Prior to the time, then, that Mr. Phillips left his card in May or June, 1948, no government agent had called upon you in any connection, is that right?

"A. In any connection? That is pretty broad. I don't know. You have got to explain what a government agent is. Maybe some post-office—— [8006]

"Q. I don't mean that. I mean some person who came down to question you either about Communist affiliations of your own or anything connected with Harry Bridges, Henry Schmidt or Bob Robertson.

"A. As I say, I can not recall any at this particular time, no."

Talking about his conversation with Mr. Donohue:

"Did it relate to any testimony that you were going to give here today?

"A. No, I don't think it did. No, because he doesn't know what testimony I am going to give, I don't think, or no one else does."

Or no one else does.

He says that Mr. Donohue called down to see him at his home just shortly before his appearance here. He said that Mr. Donohue only stayed about ten minutes, left his wife out in the car. This is the conversation that he had with him at that time, page 1334, if you want to check it:

"Q. Did it relate to any testimony that you were going to give here today?

"A. No, I don't think it did. No, because he doesn't know what testimony I am going to give, I don't think, or no one else does.

"Q. You said originally in your cross-examination you didn't have any memorandum of these events. That you have [8007] testified to, is that right?

"A. Do you mean if I had any memorandum on my person?

"Q. Yes.

"A. Why, certainly I haven't.

"Q. And you did not have any memorandum that you had read, isn't that right?

"A. If there is any memorandum I have read?

"Q. Yes.

"A. Why, no, there isn't any memorandum I have read."

So now let us remember this: that this man in the matters that he narrates on the trial here, is testifying from his memory; he hasn't read any memorandum; he hasn't read any memorandum or statement of what any other witness was testifying to; he comes up here uncoached, telling the truth as it appears to himself. He isn't relying upon any memorandum or any statement of anyone else, nor the memorandum prepared by anyone else. And then let us look at the meticulous memory that he has, and then we will look at it with respect to what his actual memory is as disclosed by the record when he is not testifying upon something that has obviously been given to him as a story.

Shall we take the recess?

The Court: We will take the afternoon recess. The same admonition, ladies and gentlemen, not to discuss the case.

(Recess.) [8008]

Mr. Hallinan: Now, I conceive this to be tedious, but I still insist, if you will bear with me, you will see the force of the thing because it struck me very forcibly while Schomaker was testifying and that is why I persisted in advancing this. Here we have this man of limited intellect, who in his youth was, by his own terms, a hobo, a bum, bumming around the country, hod-carrier, attendant and gardner at the Veterans' hospital, and then he comes up on the waterfront and works as a stevedore for a while, a man of obvious small intellectual capacity, and he is coddled, nursed and worked on by these people. He attends in a period of eight or nine years 4,000 meetings. He has all sorts of other affiliations, connections and so forth, conversations, private and public. And then there are instances that he gives now as remembering happened in these terms, without the use of any memorandum, without anyone telling him what to say or having gone over his testimony or reviewing it with him, after talking to all these agents about GI housing, football, religion and other matters of that kind, without Mr. Donohue or anyone except for his statement, and he never read his statement again, he goes back now some 16 years, and he gives this kind of a meeting with Harry Bridges. He goes out of the house and he professes to give almost the exact language. He is asked by the gentlemen to give the conversation, tell him what happened at this meeting. He says he is introduced to Bridges and Bridges is introduced to him. [8009]

> "Well, Bridges says, 'What's doing?' and I answered, 'We are out here to get an article for the Waterfront Worker and to discuss with you the problems on the waterfront,' which we did, and the upshot of the meeting was——"

And then an objection.

> "A. Well, Bridges said it was time something was done to revitalize the ILA.
>
> "Q. And did you make any response to that?
>
> "A. That is the reason we are here, is to write an article for the Waterfront Worker to do just that, and the upshot of it was that Mr. Bridges agreed to write an article. Bridges said he would write an article.
>
> "Q. Was that the end of the visit and the end of the conversation?
>
> "A. Well, we discussed other things. That is, the general situation on the waterfront.
>
> "Q. Can you recall now anything that Mr. Bridges may have said with respect to the situation on the waterfront or anything you may have said to him or Mr. Mann may have said to him?
>
> "A. Well, as I explained, we discussed the situation, and as Bridges said, we needed to take some action to revitalize the ILA.
>
> "Q. What did Mr. Bridges say with respect to the conditions on the waterfront? [8010]

> "A. Well, that the action needed to be taken to overcome the leadership of the people who were elected officials of the ILA at that time."

Now, not only the conversation starts out with Bridges saying, "What's doing?," and he explains to him, "We represent the waterfront workers and we came out here to get a statement from you, and Bridges stated that the action needed to be taken to overcome the leadership of the people who were elected officials of the ILA at that time."

> "Mr. Donohue: Mr. Schomaker, have you exhausted your recollection of the conversation that was had among you three persons at Mr. Bridges' home?
>
> "A. Why, no, there was more to it than that.
>
> "Q. Will you state in your best manner what you do recall of that conversation?
>
> "A. Well, when the objection was raised to the officers of the ILA that something needed to be done, and it was not quite clear just what was needed to be done, whether to continue to make the fight in the ILA or to divert it to the MWUI and to make a fight in the MWUI, which was an industrial union comprising mostly seamen, we kicked that around for quite a while.
>
> "Mr. Donohue: What was stated by any of the persons present, Mr. Schomaker?
>
> "A. I think it was Mann who suggested we should run an [8011] article on the basis of having the men pay up, those who were delinquent in their dues in the ILA, that we should stress

> the fact that the members who were members of the ILA should pay up their dues and that those who were not members should join."

Now, if he is purporting to tell the jury that he recollects those conversations, those statements as having been made, then, of course, he is not telling the truth. He can not recollect them as having been made. And he tells the jury specifically it is his own recollection, and he is not telling them from any memorandum he has or any prepared statement that is given to ~~him~~, and here are trifling things he recalls as part of the first meeting he had with Harry Bridges: revitalizing the ILA, which, by the way, had been revitalized some six months or so before he even came on the waterfront, what position they should take with respect to the elected officers of the ILA, and that they should run an article urging the people to pay up their dues, and urging the other people who were not in it to join. He is that meticulous on this conversation that took place at that time.

And then going over to the conversation that he says took place at the time of this alleged signing up of Harry Bridges, and look how closely this is narrated, he puts in all the things that are supposed to constitute the facts leading up to the important matter that they had to have him say. He is asked about the conversation by Mr. Donohue. [8012]

> "A. Well, I remember the one there. The first thing Jones says is, 'How about buying coffee, Harry?' So a cup of coffee was only a nickel in those days, so he went and got three cups of coffee and we sat down."

Now, if that were recounted as having happened yesterday, there would be some sense and reasoning to tell it. Here he is telling you about something that happened 16 years ago. Jones says, "How about buying the coffee, Harry? So a cup of coffee was only a nickel in those days, so he went and got three cups of coffee and we sat down." So they brought the coffee back to the table and proceeded to discuss the situation on the 'front. That was what all stevedores did in those days—how lousy the conditions were and what things needed to be done in order to correct them. So in the course of the conversation Jones put the 64 dollar question to Mr. Bridges.

"Mr. Donohue: What was the question?

"A. Mr. Bridges,—the question was, 'When are you going to join the party, Harry?' since Bridges already had the application——"

Some objections.

"Q. What was Mr. Bridges' response to 'When are you going to join the party?'

"A. Well, Bridges acted kind of coy, you know, like he wanted to be coaxed a little bit.

"Q. What did he say, Mr. Schomaker?

"A. Well, his objection was, he said, 'What about the name?' and so Jones says, 'Well, that should be pretty easy to figure out, a name,' he says. 'Pick out any name, like T. J. Plant, for instance. That will be a good name.' So Bridges laughed and said, 'That would be a joke on Plant, wouldn't it, if I would get a party book in Plant's name and drop it in front of the Waterfront Employers down there and someone pick it up and let a little heat go on Plant for a change.'

"So he says, 'No, that wouldn't be a good name either.' So Jones says, 'The best thing to do it what is generally done, use a name that you are familiar with so you won't forget it, and I suggest that you use your mother's name.' So we discussed that, oh, on that basis for a while, then some guy called, came and called me outside for some reason, and I don't remember what, and I went out and stayed 15 or 20 minutes, and then as I was going back in, Jones was coming out.

"Q. Now, where did you and Mr. Jones go if you went together after you left this restaurant after you had this conversation?

"A. Well, we walked up Market Street.

"Q. And where did you go?

"A. To 37 Grove Street. He showed me an application of the Communist Party. This application blank was an orange [8014] card. It was about the same size card as the ordinary postcard, and on it was the insignia of the Communist Party of America. In the lefthand corner, I think, in that particular application it was, and it had some fine print which in a few sentences explained the aims of the Communist Party, and then it had the name of the applicant, the address, 'Are you a trade union member?,' the number of union workers employed in your plant, and then it had two blank spaces

> for sponsors, and then at the end it had the name of the applicant."

Now, if it were not sufficiently ridiculous, if it did not sufficiently show invention that there should be detailed and given to this fellow a resume of the conversation, including the suggestion that somebody go and buy a cup of coffee, look at this for meticulousness of detail:

> "Mr. Donohue: Now, where were you when you first saw the application that you have just described?"

And he is asking him now about an application that he described that was issued 16 years ago.

> "A. We were walking along Market Street and we were just opposite the Lincoln Hotel."

If it happened yesterday, it would be sufficiently remarkable that a thing like that should be remembered. [8015]

> "Q. And when you say 'we,' you refer to yourself and B. B. Jones?
>
> "A. B. B. Jones and myself.
>
> "Q. Did you observe any handwriting on this application which you have described?
>
> "A. Oh, I did, because Jones showed it to me."

And then:

> "Oh, it was the handwriting of H. R. Bridges."
>
> "Q. Can you tell us to the best your recollec-

tion at the time when you and Mr. Jones reached Communist Party headquarters?

"A. We walked up Market Street, since we didn't have any money—short of dough in those days, so we walked up. I imagine it took us about 45 minutes. We arrived at headquarters at 11:00 o'clock."

Sixteen years ago, and, my friends, there is a little lie inherent in that, too, because you will remember that he told about around that time of the strike, he had a Ford automobile and he was running messages back to Darcy from the waterfront people. But here, "We were short of money, didn't have any money—short of dough in those days, so we walked up. And we arrived at headquarters at about 11:00 o'clock."

"Q. Who was present at headquarters when you got there?

"A. We saw different people there. George Morris was there. He was the editor of the Western Worker. There was [8016] a little guy there who sold literature. I don't recall his name. But we went upstairs. They had a mezzanine floor. We went up on there, this mezzanine floor, into the office of Sam Darcy, who was the district organizer of District 13."

"Q. (By Mr. Donohue): Now, you have stated that you saw B. B. Jones turn over the application you have testified concerning to Mr. Sam Darcy?

"A. I did, yes.

> "Q. How long did you remain at the Communist Party headquarters on this occasion, Mr. Schomaker?
>
> "A. Oh, 45 minutes to an hour."

Just try to think back two or three or four years to something that was of importance to yourself—not to some other person, but a matter of great importance to yourself, some momentous thing in your career; and try to remember the incidents connected with it, the day it happened, frequently the year it happened! See how closely you can come. And here this man comes in, and without any previous refreshment of his recollection from any memorandum or anything else, without having kept any note of it, testifying from memory, he can tell you the exact conversation that took place when one of numerous persons whom he says signed applications for him in the Communist Party signed their applications. He can tell the exact exchange of language that took place, who said what, the location on Market Street that [8017] they were when the man showed him the card, the people that they met when they went into Communist Party headquarters, a man named George Morris and a little fellow who sold literature there. The fact that they arrived at 11:00 o'clock and the fact that they left there in 45 minutes. That remarkable feat of memory as detailed to you now is for the purpose of establishing the necessary element, the one concomitant that they have to have in order to make this a case at all. They had to give that man some kind of a circumstantial story that should be told, or it wouldn't stand up at all.

Now, let's take him to the other incident and see if this doesn't transgress all the limitations of probability. The Grants Pass meeting. And as you can see here, my friends,—Now, after all these months of testimony about union meetings, the struggle, the controversies, the fights, the terrible things that took place, how inconsequential is the language and the conversation and each particular little episode that constitutes the mosaic of the entire picture. And yet, listen to this about the Grants Pass meeting:

> "Well, Walter Lambert told us to proceed to Grants Pass and to be parked in the courthouse square at 12:00 o'clock noon."

This is in the year 1935, 15 years ago!

> "Walter Lambert told us to go to Grants Pass and to be parked in the courthouse square at 12:00 o'clock noon, and [8018] somebody would come along and direct us where to go.
>
> "Q. Will you tell us if you recall about what time of day you left San Francisco?
>
> "A. We left about, it was around 9:30. It was about 9:30 in the morning.
>
> "Q. How did you proceed to Grants Pass?
>
> "A. Well, I met Bridges at 11th and Mission Streets. There is a service station there. I was picked up and we proceeded to drive in a Ford, a V-8 Ford. It was a coach model with

only one door on each side, and we drove to Grants Pass, Oregon."

"Well, we pulled up into the courthouse square in Grants Pass and parked, and some fellow came along and said, just looked at us and said, 'Follow me.' And we followed him.

"Q. And where did you go?

"A. Well, we drove out of Grants Pass. It wasn't very far—two or three miles, I imagine, and we came to a—turned into a lane and parked the car at this farmhouse under a big tree, parked the car and stopped.

"Q. Did you meet any person or persons there?

"A. When we drove up there, there were two people underneath the tree."

"And so as we got out of the car, why, they walked over toward us."

A. Well, as I say, we pulled up to the lane and parked [8019] under this tree, and I got out on the right side and Mr. Bridges got out on the left and walked around the car. And Rappaport and Bert Nelson came toward us, and Rappaport, the first thing he said was, 'Well, you old wolf, I see you made it.' Every body laughed. I don't know, didn't know what he was supposed to make, but everybody laughed. And then Bridges said, 'Well, how's about the things in the Northwest?' 'Oh,' he says, 'everything is fine. Didn't we elect your district president of the ILA?' And he said, 'Yes,' he says, 'but the boys in Tacoma—,' —and Rappaport again says, 'yes, but the guys in Tacoma are not satisfied and they are making things kind of tough up here for us.' So then he says, 'Well, how about Bert here?,' he says, 'I don't think you have met Bert, one of our—he is section organizer of the waterfront in Seattle.' So he introduced Bert to myself and Bridges, and then we walked over to the—there was a chicken house there, and walked over into this chicken house, and we took a seat and began to discuss the business we came there for. [8020]

"Q. Can you relate to us . . . any portion of the discussion?

"A. Well, yes, the discussion was around the question of the termination of the waterfront agreement with the employers, and Rappaport particularly stressed the fact that the people in Tacoma, that is, the longshore group in Tacoma, were rather hostile to the way the election went. That was the first year that the rank and file had had a chance to vote for the district officials, and the result was that the old line officials were booted out, and the so-called progressive militants were put into office. And he says, 'I think they are going to cause considerable trouble when the agreements terminate, particularly among the seafaring crafts.' And we discussed the ways and means to bring the two, that is, the Northwest maritime groups, closer to the California and Southern California groups. And that was the extent of the discussion, was what needed to be done to do it. And the—well, that was the general text of the discussion along those lines."

"Q. About how long is your recollection of the duration of that meeting?

"A. Well, we left there in the early evening, I would say around four or 4:30."

Now, there is another example of close and meticulous recollection on a rather insignificant event that happened fifteen years ago. If this man had a memory like some sort of [8021] a machine that recorded everything down, it would be sufficiently astonishing that that record should be kept. But he isn't that sort of man at all. He hasn't a good memory. He has a very limited memory.

Now, he was interviewed by the FBI in 1940. Well, that is only ten years ago, five years closer to the position than we are now. He was taken to the FBI office and interviewed there, and he gave his statement, or he talked about that interview with Harry Bridges and the other people. Now, let's see how far he remembers the rest of the conversation with the FBI that took place in 1940, which would certainly be a graver and more serious episode in this man's life than a chance meeting where he went up to Grants Pass, to talk with two men, Nelson and Rappaport, about trivia connected with the union.

"You gave them a statement, then, didn't you? A. Gave who?

"Q. The FBI or the immigration agents or the Federal authorities investigating this matter.

"A. You mean O'Neil gave them a statement?"

The way he used to evade these things and put in these questions that would give him a chance to think out the answer to the preceding question!

"You.

"A. Certainly I did, absolutely.

"Q. When? [8022]

"A. I gave them two statements, I think.

"Q. When was the first one?

"A. The first one was, it was a shorter one I gave first.

"Q. It started a long time earlier than that. It was way back in 1940, wasn't it?

"A. Who, that I gave the statement——?

"Q. Yes. A. Not to my knowledge.

"Q. Weren't you interviewed by two agents named Cassidy and Lish in November, 1940?

"A. In November?

"Q. Yes.

"A. Well, I was interviewed by two fellows. It was 111 Sutter Street, but to my knowledge the statement was not taken. It was not visibly taken. Whether it was taken, now, is another question.

"Q. What place was that?

"A. I think it was 111 Sutter Street.

"Q. Yes, but I mean, what office, the office of what organization?

"A. Gee, you got me beat.

"Q. I beg your pardon?

"A. I say, that beats me. I don't recall seeing any notice on the door.

"Q. They questioned you then about your membership in the [8023] Communist Party, didn't they?

"A. Well, it was an extensive question, but what they meant or what they didn't mean—it is quite a while ago. I can't recall all the details.

"Q. And you told them you joined the Communist Party in 1934, didn't you?

"A. Gee, I don't recall. It has been quite a while. I don't remember what. I say, a statement wasn't taken, visibly taken. It might have been recorded, but there wasn't anything visible there.

"Q. Yes, but——

"A. I have been fooled a lot of times.

"Q. You told them you were signed a lot of times by George Morris, didn't you?

"A. As I say, I can't recall, but he is the guy who signed me up.

"Q. Didn't you tell them that?

"A. I may have and I may not have. I don't know.

"Q. Then they asked you if Harry Bridges was a member of the Communist Party and you told them you didn't know, isn't that right?

"A. That is very possible, yes.

"Q. No, isn't that so?

"A. I say, that is very possible.

"Q. Mr. Schomaker, anything is possible. It is so, isn't it? [8024]

"A. I wouldn't say so, no.

"Q. You wouldn't say so unless you were shown the document would you?

"A. That wouldn't prove anything, because those people didn't sit down and take a statement. If they took it, it was on the basis of a recording device, and I can't recall if I said yes or no. It is very possible that I said I don't know.

"Q. And then they gave you the statement, they put you under oath, didn't they?

"A. No, I can't recall being under any oath. I would be stupid if they put me under oath and not take any visible statement. I am not that stupid, I don't think. I am pretty dumb, but not that dumb."

Then he is asked about the recent—Now, here he has testified here in November and he is questioned as to a statement taken from him in May.

> "A. Well, one was taken in May and another was taken in—oh, three, four or six weeks ago."

Now he is, three, four to six weeks off in this matter. You remember that he couldn't recall in his conversations with Mr. Boyd if Mr. Kaiser was there or not.

"A. As I say, there was some other person there, and I can't recall if it was Kaiser or not.

"Q. Was it a man or a woman? [8025]

"A. It was a man, and as I say, I can't recall this third man. As I say, I don't remember the third person.

Which he had seen a few weeks ago.

"Q. What did he look like?

"A. Oh, an average guy. I can't——

"Q. Had you ever seen him before?

"A. I don't think I had, no.

"Q. How tall was he?

"A. Oh, he was the average size guy.

"Q. Did you learn his name?

"A. No, I didn't, no.

"Q. I see.

"A. Except later in the room when we got discussing this thing, why, each of them brought out a card and gave me their—I mean, showed me their card and their identification. But as I say, the third name slips my mind at this time.

"Q. You heard his name but you don't remember it now?

"A. That is possible, yes.

"Q. You did know it, though?

"A. Naturally. I knew that he was introduced, but I can't recall his name now."

He couldn't remember the name of the hotel that he was taken to, although he went there directly in a cab and he was in the hotel room for two and a half hours. [8026]

"Q. How long were you in that hotel?

> "A. Oh, I don't—it wasn't too long. It was, oh, I would say about two and a half hours."

Then he signed a statement.

> "Q. How many pages were in that document?
>
> "A. Well, there wasn't more than 15.
>
> "Q. Not more than 15?
>
> "A. I would say, well, maybe there was—maybe it was about, oh, about 22 I would say, to the——
>
> "Q. You don't know whether it was 15 or 22, is that right?
>
> "A. Well, it was between, around that number. Now, whether it was—I think it was around 22."

Now, these are things that happened in the same year that he is testifying in, not fifteen years before. He was questioned about a conversation that he had the night before. In other words, when he left, when he appeared here after having testified, he was asked the questions that he had, or, rather, the conversations that he had with these gentlemen the night before, and he couldn't remember what the conversation was. He said:

> "A. I would say we discussed the trial, yes, and the prosecution and the defense, in a general way."

But after trying to pick out for several pages what the conversation was, the most we could get is this kind of stuff:

> "Well, I said Hallinan is a smart guy, for

> instance, and I think Mr. Donohue said, 'No, I think Mr. MacInnis is [8027] smarter.' "

And that is the way it went. And we couldn't get any statement as to what had happened or what had been said on that particular occasion.

> "A. Now, Kaiser and . . . went in and got the key in the room, and then I went up to the——
>
> "Q. And you went up to the room with him?
>
> "A. Mrs. Kaiser, myself and this agent—I can't recall his name now. It is rather an odd name.
>
> "Q. Had you met this agent before?
>
> "A. Yes, I have, yes.
>
> "Q. How many times?
>
> "A. Oh, I wouldn't—I would say six times, but for the sake of argument, to avoid any arguing about, I——"

I said:

> "Well, we are not arguing about it." [8028]

But here within the preceding week he can't recall the name of an agent who was up in the room with him, had dinner with him, whom he had met six times.

He is asked about his relationship; that he went up to the bathroom and washed his hands, and then the agent who went with him went to wash his hands, and then they went upstairs to the barroom, and when he got there his wife had gone to exchange her shoes at Macy's, and this agent accompanied her when she exchanged her shoes, and then he walked over to the Marines Memorial with the man whose name he can't remember. He went to dinner for an hour. And Larry, the man who was driving him back and forth and who lived at Half Moon Bay, he met him five or six times, and he can't remember his last name, although Larry, whoever he may have been, has been driving him back and forth to San Francisco within the last few months preceding his testimony. That is the man with the magic memory that remembers the details of all these other events!

On the week preceding this, the week preceding his testimony here—he has tesified that some fifteen years ago he met Harry Bridges at an exact location, at a precise time, eleven o'clock, drove in a particular kind of automobile, landed in town at a particular spot, saw two men under a tree, they parked the car, Bridges got out and walked around the back of the car. He is asked:

> "Q. Did somebody drive you up here on this preceding Monday? [8029]
>
> "A. Not on the preceding Monday; they drove up on Sunday.
>
> "Q. Who drove you up?
>
> "A. Well, I think it was Mr. Maxwell came down and picked me up."

Then here is the precise thing he said five minutes before:

> "Q. All right. Now, when prior to Sunday had you seen any of these people?
>
> "A. Well, I was here the preceding Friday.

"Q. Well, before then you were up here in San Francisco the preceding Friday?

"A. That's right.

"Q. All right. Now, this is on Friday after Thanksgiving or the preceding Friday?

"A. That was the Friday preceding the Monday that I came up here."

And on the very next page he is asked:

"Q. Now, this was on Friday night?

"A. That's right. Wait a minute now. That wasn't on Friday; that was on Thursday night. I said I came home on Thursday after working.

"Q. No. I am pretty sure you said that was Friday.

"A. Well, you can't put words in my mouth. After all.——

"Q. Well, now——

"A. Just coasting along there.

"Q. Well, which is it, Thursday or Friday? [8030]

"A. Well,——

"Q. I don't care which.

"A. Maybe you don't, but I do. So I came home on Thursday."

So he denies then, although it was quite fresh in everyone's recollection, I think, that he had said he had come up here on the preceding Friday; that the officers came down and picked him up on Friday and drove him up here.

"A. Well, I was here the preceding Friday.

"Q. Then you were up here in San Francisco the preceding Friday?

"A. That's right."

And on the very next page:

"Q. That was on Friday night?

"A. That's right. Wait a minute now. That wasn't on Friday, that was on Thursday night. I said I came home on Thursday after working.

"Q. No. I am pretty sure you said that was Friday.

"A. Well, you can't put words in my mouth."

He wants to put up an argument and a fight, he is so sure. His mind retains so lightly that he doesn't remember that just a few minutes before he said it was Friday night that he had come up, and he wanted to say that the effort to say that it was Friday night was a trick to put words in his mouth.

Then on the night or two before his testimony he went to dinner with Kaiser and McGowan. [8031]

"A. On that night I think we went out to dinner.

"Q. Where?

"A. It was a restaurant near there; I have never been there before.

"Q. Just you three?

"A. No, I think there was some other person joined the party, but I don't remember who it was now. I can't recall him.

"Q. A man or a woman? A. A man.

"Q. What was his name?

"A. I say it is pretty vague. I didn't pay much attention.

"Q. How long were you at dinner?

"A. Oh, about an hour and a half, I guess.

"Q. How did you address this man?

"A. I don't think I addressed him.

"Q. Were you introduced to him?

"A. Yes, I think I knew him previously, but I didn't pay any attention to him."

And here is an incident that happened between the time that he first got on the witness stand and the time he was asked these questions. He had been out in the evening with Kaiser and McGowan and another man whom he thinks he had met previously; they sat at dinner for an hour and a half, and he had known the man's name, but he couldn't remember what it was. [8032]

"Q. Would you give us the names of all the persons who appeared at your home from the time you moved in August, 1948, until your appearance before the grand jury?

"A. You mean all the people——

"Q. Agents or officials of the government who appeared at your home.

"A. I thought you meant anyone who ever visited us. You mean the government people who came down there? That is what you mean, isn't it?

"Q. At least that is what I asked.

"A. Heh-heh-heh. That was Mr. Jack McGowan and Mr. Bruce Barber, Mr. John Boyd——

"Mr. Paisley: Shouldn't he be required,

your Honor, to ask if there were others. What is the use of sitting here and going over the same list? He has mentioned them a half dozen times.

"Mr. Hallinan: One thing, it helps test his memory. It gives a list of persons. If he repeats, there aren't so many that it will harm to repeat them again.

"The Witness: And Mr. Donohue, I think.

"Mr. Hallinan: Q. What is Mr. Donohue's first name?

"A. Gee, I really don't know.

"Q. Do you mean the attorney in court here now, or do you mean some official connected with the Immigration Department?

"A. He is the attorney who is sitting behind you, if my [8033] eyes don't deceive me.

"Q. That is Mr. F. Joseph Donohue. You do not know his first name?

"A. Mr. Donohue is all.

"Q. You did not know his name was F. Joseph? A. I did not, no, sir.

"Q: You didn't observe that in the papers or anything of that kind?

"A. There was no particular reason why I should."

Mr. Donohue has done him the courtesy and the kindness of forever immortalizing his home in Menlo Park. So that future generations will put a plaque up there, and his name was spread around in all the papers with glorious statements of the surprises he was going to spring on the defendants, and he had even designated Mr. Schomaker as his "Sunday punch." And yet Mr. Schomaker didn't even know what his first name was, or even if he had a first name. And he had even let himself forget that occasion to remember, the glorious memory when Mr. Donohue walked into the humble hod-carrier's hut, and so forth.

"Q. Was the grand jury session the first time you ever met Mr. Donohue?

"A. I think it was, yes."

And while that might some blow, Mr. Donohue, to your vanity, I trust that you have enough of it that you will survive. [8034]

The Court: We will take the afternoon adjournment. The same admonition to you not to discuss the case under any conditions, not to form or express an opinion until it is presented to you.

We will resume at 10:00 o'clock tomorrow morning.

(Thereupon an adjournment was taken to tomorrow, Friday, March 24, 1950, at 10:00 a.m.)

Friday, March 24, 1950, 10:00 o'Clock

The Clerk: The case of the United States v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Mr. Hallinan, am I correct in understanding that you will complete your argument during the course of the day?

Mr. Hallinan: I doubt it, Judge. I will complete it surely on Monday, but I am not sure that I can complete it today. I went over my notes and cut down a great deal to try to shorten it.

The Court: I was talking with Mr. Mitchell this morning in the light of our future cases, and he informed me of the likelihood that you would complete it today.

Mr. Hallinan: I don't think that I can do it. I will certainly complete it some time on Monday. I don't want to mislead the Court again; I have done it once to my chagrin, and I don't want to do it again. I will say that certainly on Monday I will have completed entirely.

Now, ladies and gentlemen, as I suggested before, if a witness takes the stand and tells a story he may or may not be telling the truth. The witness is up there and he tells his story. Then you are confronted with the problem of whether he is telling the truth. You search into what he has to say, search into the general nature of his testimony to discover [8035] whether it is true or not. But the only thing that you can get that will inform you is whether the witness has a willingness to lie under oath or not, under oath. Therefore a person can not trust him on the stand. Remembering all the time that if there is a reasonable doubt cast upon the testimony of that witness, his testimony, so far as the jury's duty is concerned, is destroyed, because as soon as it is subjected to a reasonable doubt, if you can't say whether you believe him or not or whether he is telling the truth or not, then that wit-authenticity or what is the credibility of a man like that?

And then he is asked this; he is asked, "It is possible that you might have had private conversations in which that was said?"

> "A. It is possible; I may have said it in conversations with individuals, yes, but I can't recall saying it in an open meeting, no. I say it is very possible in conversation, yes."

Now, if he were having a conversation, then there would be still a greater reason for assuming he was telling the truth. Suppose that we brought in people with whom he had had such a conversation that said, "Why, Schomaker told me in a private confidential conversation that Bridges was not a Communist and the people who have testified that he was were perjurers and liars." [8037] And then you say to Schomaker, "Did you say that to that man?", he would say, "Yes, I did."

> "What is you explanation?"
>
> "Well, I said it."

But the whole thing is that unless a thing is said under oath it hasn't any force.

He also states, in pursuing the conversation that he had with the FBI agents in 1940, not a thing of which he could remember:

> "Q. Weren't you interviewed by two agents named Cassidy and Lynch in November of 1940?"

And then he goes on in his usual evasion that it was on a particular subject, not remembering the man's name. "As I say, I can't recall." Et cetera, et cetera.

"Q. Then they asked you if Harry Bridges was a member of the Communist Party, and you told them you didn't know?

"A. That is very possible.

"Q. No; isn't it so?

"A. I said that is very possible."

So I say a person who has the disposition to tell stories when not under oath puts a doubt on what he says when he is under oath. [8038]

He testified to the conversation that took place at the Shaw house: I will presently explain to you why he included that. He included that because he was using what Mrs. Harris was going to say as one of the little anchors that he would fasten his own testimony onto and cover also as though that were some confirmation of his testimony instead of being the adoption of anything that came along that he could use. And as he was on the witness stand, it was first disclosed to him then, or he first had it brought to his recollection, that the Shaw meeting having occurred in the summer or in the fall of 1938, that in March in that year a warrant for Harry Bridges' deportation charging him with being a Communist or affiliated with them had been issued and was set for hearing for January, 1939. And then, it being pointed out how ridiculous it was that he should have gotten up in a meeting of 50 people, mostly strangers, half of whom were Communists, a great many of whom Schomaker didn't ness' testimony has no further weight in persuading the jury in so important a function as they have.

Schomaker, in addition to the matters that I have pointed out already, showed a willingness to lie either under oath or not under oath. As far as his statements he would make under oath, here is what he tells us:

> "Q. Now, did you ever say that anyone said that Harry Bridges is a Communist is a perjurer and a liar?
>
> "A. I couldn't—if you give me more of the speech and where it occurred—
>
> "Q. No, that one sentence. Didn't you use that once in addressing a meeting?
>
> "A. I wouldn't agree, I mean, admit that until I heard where it was."

In other words, now, he says that so far as he is concerned, he may have made that statement to other persons, not under oath [8036] of course, in a meeting, and now before he will admit that he made that statement, first he wants to be shown whether or not he is going to be confronted with a record proving that he didn't make that statement. Aside, whether he can be confronted with the record or not, isn't it important whether a person has discussed such matters outside of court? If he addressed meetings or meetings of friends of his, people with whom he was associated, fellow unionists, does that give him the right to get up and deceive them freely and say that people who testified that Bridges was a Communist were perjurers and liars? What is the *know, and publicly announce the very fact that would be essential to have him put out of the country, and also the fact that would, if he got on the stand in 1939 and denied that he had been a member of the Communist Party, bring about a conviction for perjury.

Schomaker, confronted with that, adopted toward it a flip attitude. He saw that he had been placed in a position, that he had now put himself in a position, in an unbelievable position, that couldn't be. Then he carried it along to a logical [8039] conclusion. I asked him questions like this:

> "Q. At the dinner at Mr. Shaw's, the party at Mr. Shaw's, didn't Mr. Bridges inform all the people present that if they would consult with Mr. Bonham, who had been investigating him for at least a year and a half, they could probably profit by handing out the information?"

He said—I said, "Now, isn't that what he said, Mr. Schomaker?

> "'A warrant is issued for my arrest, my deportation, coming on for trial in 1939. Bonham, the immigration inspector, has been chasing me now for years, dictographing me and trying to get something on me. You people can go down to Mr. Bonham, sell him this information that I am now handing over to you. A lot of people, a lot of strangers I don't know, but go on down, see Mr. Bonham, testify against me when the hearing comes up in January. You can make a profit of it.'"

I said, "Didn't he say that, Mr. Schomaker?"

Schomaker said:

"He may have, yes.

"Q. Are you sure he did say it?

"A. I am not absolutely positive, no.

"Q. But you think he did.

"A. I say it is very possible that he did make such a statement.

"Q. Your recollection now is that something was said that [8040] might have included that, is that right?

"A. It is very possible, yes."

In other words, that man has no more concern with whether he is under oath or not under oath. Now, those were false statements. He knew, of course, that no such statement could possibly have been made by Harry Bridges in the Shaw meeting, and he knew that the questions were being asked him in irony. And yet he says, "Yes, that might have been said, too. I don't recall, but it might have been said."

And then he comes to the point that caused so much concern and criticism, of a simple device for determining what his attitude is toward committing perjury. And believe me, my friends, I have never seen witnesses so protected by objections, hints from the prosecution, statements of the nature of the objections so that the witness is warned as to what his answer shall be in this case; and extracting from these people, these fellows, any sort of an admission or any sort of a clue was a very difficult task. If we had been given free rein with them, I don't think we would have had much difficulty at all in showing that he had no regard for an oath at all, that it meant nothing to him, that he testified falsely or he testified truthfully, just as his interest dictated.

I said:

> "Q. Now, did you ever testify under oath that you were not a member of the Communist Party? [8041]
>
> "A. Well, not that I can recall. I don't think I have ever been under oath many times before this.
>
> "Q. Have you ever testified under oath you were not a member of the Communist Party?"

He says:

> "Not that I can recall."

Now, a truthful man couldn't give that kind of an answer, because it would immediately occur to him, "Of course I didn't. I am a truthful man. If I were under oath and I were asked that question, I would have to say that I had been. So I couldn't have answered it that way," and he would say, "no." He would say, "I said no such thing. If you have a record down there that says, I didn't, that record is in error. There is something erroneous about it, or you are putting some construction on it. Of course I didn't testify to any such thing."

Let us ask this, my friends: Suppose Harry Bridges had been asked on the witness stand, "Now, Mr. Bridges, have you ever testified under oath that you were a member of the Communist

Party?" and he said, "Not that I can recall." That would finish the case; that would finish it. In other words, that would mean that he was showing right then and there a willingness and an intention to lie when it suited his purposes, and it would also reveal that he probably had been a member of the Communist Party.

But here this fellow goes on on the same point. He is questioned about a proceeding in which he appeared in court some [8042] few years before, and which I suppose he wouldn't remember entirely what he had said:

> "Q. Do you remember being asked this question, 'Are you a member of the Communist Party? A. Who? Me? No.'"

I asked him:

> "Q. Did you remember answering that question?"

He says:

> "A. That is very possible, but I don't recall.
> "Q. Did you say it?
> "A. I don't recall saying it in that words, no.
> "Q. What words did you use?
> "A. Well, I don't know."

So he now gives us the information that his morality, the type of man he is, is this: that if he were asked if he were a member of the Communist Party, under oath, at the time that was indicated, it is very possible that he would have answered under oath that he was not a member of the Communist Party. And the most he can say is, "It is very possible I gave that answer; I don't recall."

So he comes squarely under the designation that Rathborne affixes to their witnesses, that you can't tell whether they are telling the truth or not. You can't tell whether they are telling the truth while they were members of the Communist Party, and you don't know if they are telling the truth after they get out. [8043]

Then we arrive at two more points that will finish the consideration of Schomaker. Schomaker was willing to say anything that he was asked to say. He was willing to accept any story and tell it, so far as he could remember. So every little point, every witness whose arm they could twist or who was willing to say some small matter of no importance in and of itself, that was taken up and embraced and enlarged and given to Schomaker, and then Schomaker would confirm that same statement.

For instance, in the matter of the application of Harry Bridges before Judge Foley, it appeared that Agnes Bridges had at one time, after there was a divorce between her and Harry Bridges, given an affidavit saying that Harry Bridges had a Communist ticket, although she had previously given an affidavit to the opposite effect and had testified to the opposite effect in court. But with the resentment that women sometimes feel, and men, I suppose, when they are divorced, she then wanted to do her ex-husband some harm. How can that be used to help Schomaker? Well, he says, "The day that

Agnes Bridges fell out the window, Harry Bridges asked me to go up to his house and find his card before the snoopy reporters came around." In other words, he fitted that in. He fitted in anything—the Krolek meeting, the Hancock meeting; everything that he could do was fitted into Schomaker's testimony.

And then along came Mrs. Harris, and she gave some testimony [8044] that these gentlemen think is important for them, whereas the fact is it is very important for us. You know, Mr. Donohue's quotation of Shakespeare might be enlarged by that one from Henry VII:

> "Thrice armed is he that has his quarrel just.
> And he is naked though locked up in steel whose foul fraud is corrupt."

So anything that happens exposes the corruption and the falsity, and that is why we can hand over to them the information we have, let them canvass it and run it down. But they have to conceal everything from us. They bring in Mrs. Harris, who says she heard the statement by Harry Bridges in the Shaw house that "I am a member of the Communist Party," or "I am a Communist"— that is if. She was very much shocked and surprised, because she knew that the Government had been trying to prove that on Mr. Bridges, and she was just "flabbergasted" when he said the thing in public. Bridges says, "Of course I may have said on occasion, I undoubtedly have said things like 'If that is Communism, then I am a Communist; if getting people better wages and better hours and conditions is Communist principle, all right, we are all Communists, we all ought to be Communists.' " And he is talking at a meeting where there are some Communist functionaries being honored. A very ordinary sort of thing.

Mrs. Harris has this confused notion that he said, "Well, I am a Communist." She is very surprised he should say that. [8045]

Now, here is the destruction of that story, and here is the proof of what a fraud Schomaker is. Schomaker was a functionary of the Communist Party, and he attended that party. He would know that Harry Bridges was under deportation proceedings at that time. And if Mrs. Harris was flabbergasted, what would have been Mr. Schomaker's reaction? But Mr. Schomaker didn't remember that any such thing had ever been said. He didn't remember that that startling statement had been made.

Now, here is Mrs. Harris's testimony:

> "Yes, I asked, we were talking then from this story, we got talking about the Harry Bridges perjury investigation."

She has gone down to Schomaker's house, an old friend of his, and this will give you an illustration, too, of that fellow's treachery. She is an old friend of his, she goes down to his house and visits him. They have gone on trips, and so forth. Now, look what he did to that woman:

> "I asked, we were talking then from this story, we got to talking about the Harry Bridges

investigation. And I asked John if he remembered that incident, and he said he did.

"Q. I see.

"A. I was the one that brought it to his attention.

"Q. What was said about the Harry Bridges investigation?

"A. Well, I just don't remember. Only just that I asked John if he remembered that time that we were up there and that Harry made the talk and made the appeal for membership, and [8046] he recalled it.

"Q. And did he say that he was already being interviewed by people connected with the Immigration Department concerning this Bridges matter? A. No, he did not.

"Q. Did you know an investigation was on at that time relating to Harry Bridges?

"A. No.

"Q. Well, you said—

"A. I think that he probably knew there was.

"Q. Did he say he knew there was?

"A. No, he did not.

"Q. Well, did he tell you he had been speaking with immigration officers at that time?

"A. No, he did not.

"Q. Wasn't it he that suggested this party? Was it you that suggested it? Is that right?

"A. That's right, yes.

"Q. It wasn't Roza Schomaker?

"A. No, it was I that told him to remember it."

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It was I that told him to remember it.

"Q. Now, as a matter of fact, are you sure it was you that suggested the Shaw party to John Schomaker, or didn't he suggest it to you, which? [8047]

"A. It was I that recalled it to John's memory.

"Q. And up to that time he said he hadn't remembered it, is that correct?

"A. He didn't say anything. We didn't even discuss it until the time when I asked him if he remembered that incident and he said, 'Oh, yes.'

And then he ran to see his friends of the Immigration Service, and he tipped them off that that poor old woman had some sort of a confused notion that Harry Bridges had acknowledged in a public meeting that he was a Communist, and he didn't tell her that he was working with the Immigration Department. And when she had that conversation with him, she thought she was talking to a friend, who wasn't prepared to betray her. And they went up and caught her and took her and forced her to say this thing. How? Her husband is a naturalized alien. She says that while she was not a member of the Communist Party, and her husband was not a member of the Communist Party, both of them had often been accused of being members of the Communist Party. So that fellow took the poor old woman and heard the garbled sort of notion she had that Harry

Bridges had said something like that at Shaw's party, which he hadn't even remembered, and he turned the immigration authorities onto her and he embraced and made a part of his perjury the story that he knew they would compel her to tell. And that is the explanation of the Harris incident. That is how much force and validity it gives to their story and how much it supports Mr. Schomaker. [8048]

There is only one thing that has puzzled me about Schomaker's testimony. Why didn't he say that he saw Harry Bridges sign that application card? Why should he have that sort of bizarre incident that he was in the building with him drinking coffee, then somebody appeared and he went out, and he didn't see the card until B. B. Jones showed it to him on Market Street? Why didn't he say that? Obviously the man has no concern for the truth; he doesn't care anything about it. I will tell you what it is. This is my guess; you can make your own. He has testified somewhere in answer to a direct question:

> "Have you ever seen Harry Bridges sign an application card?
>
> "No, sir, I never did."

He probably did it before the grand jury. Didn't he? Can we have his testimony before the grand jury?

You mark my words, probably before the grand jury or some place under oath, Schomaker has testified that he didn't see Harry Bridges sign an application card, and what further proof they thought they were going to get about that came to naught, and afterwards they had to have an application card, so he had to have that done. And then, as he undoubtedly has testified somewhere, things were going to pop in the future to destroy them, that they would now have him change that. He had to invent that rather bizarre story of somebody coming in and he walking out and then B. B. Jones showing him the document.

. Have you that letter that Roza Schomaker wrote to B. B. [8049] Jones? It is on yellow paper.

Whether he thought that he could handle Jones, or that he could use him, or that he could keep him from testifying, or whether they thought we wouldn't want to call B. B. Jones because he had been a member of the Communist Party, he took the chance. He had to name somebody who showed it to him, and he took the chance of saying it was B. B. Jones. When the letter comes up, I will read it to you, but as I remember the contents of the letter, it was something like this: It is a letter addressed by Mrs. Schomaker, Roza Schomaker:

"Dear Bruce:"——

asks him to come down and it says,

"You and I have many things to talk about."

And then it's signed, "As ever; Roza."

Now, there is a certain intimacy in that letter. There is a certain significance about it. It isn't a letter: "Why don't you come down and have dinner with John and me?" and so forth. There is a certain hint or suggestion in it, either that B. B.

Jones at one time had some romantic interest in Roza Schomaker either before or after she was married, that she felt that she exercised some power or control over him It has a certain teasing quality. And then the phrase, "As ever, Roza." What does that mean? What is the significance of that? That letter is a well designed letter to induce a susceptible person to assume that there is some relationship upon which she can count [8050] on existing in the person that wrote that letter.

"Menlo Park.

"Hello, Ben: How have you been?"

Now here is a letter written after Schomaker has testified.

> "Since you have lots of time on your hands, how about dropping down? There is plenty we could talk about. As ever, Roza."

Now, that comes pretty close to being the letter of a person who has had a previous romantic relation with a person. I don't know Roza Schomaker and I don't want to impugn the honor of people I don't know. There is something against her she is married to John Schomaker. But when I saw that letter, I thought Bruce, or Ben, or whatever your name is, you just missed a badger game. If you had gone down to talk about the plenty that you and Roza had to talk about, Mr. Schomaker and Mr. Kaiser would probably have come striding from behind the curtains and have confronted you in flagrante delicto and then have twisted Mr. Jones' arm a bit. It may not be so. I may be so suspicious, a thing that I so lament has crept upon me, and when I think of my juvenile innocence, how I used to accept things on faith, it is really a shocking thing to see how far I have gone down. But even in that instance I have in my mind's eye a picture just of talking to a child.

I have another little matter that I think will demonstrate that Mr. John Schomaker was building up here a prepared story. [8051] He isn't man of high intellectuality. Don't think when I say he had been a hobo, a bum or a hod-carrier, that I think a hobo, a bum or a hod-carrier are people who are any worse than lawyers or bankers or judges or anyone else. But a person ordinarily would not entrust his safety so readily to a person of that type and disposition, and Harry Bridges would scarcely entrust his safety to a man who had followed the avocations or lack of avocations that Mr. Schomaker had.

Mr. Mr. Schomaker's memory for recent events, even those occurring fifteen minutes before, let alone the night before, is so vague and uncertain that I also have another picture in my mind. And that is William Kaiser planted in his twin bed alongside of John Schomaker, after propping John up with a pillow and getting his milk and crackers ready, putting some names on the wall:

"All right, now, John, remember T. J. Van Ermine, R. K. Pyle"—in other words, people who perished like the flowers of a decade ago.

"Now close your eyes. T. J. Van Ermine."

"T. J. Van Ermine."

"Now look again."

But the peculiar thing that causes Mr. Kaiser to overdo everything, to spoil, the peculiar perversity that causes Mr. Kaiser to overdo everything, to spoil everything is nowhere illustrated so vividly as in the strange coincidence which exists [8052] between Mr. Schomaker's recollection of persons present at four or five of these 4,000 meetings he has attended in that time and the recollection of other people whose stories he has embraced.

And then here is a thing——

Mr. Donohue: May I ask Your Honor: Is this document in evidence?

Mr. Hallinan: These are just charts like the 1936 one. All they do is contain the ten or twelve items and the events just as though I would have put them down on the blackboard. I will show you what they are. They just show the coincidence between the persons identified by one witness and the persons identified by another.

Mr. Donohue: They have never been marked for identification?

Mr. Hallinan: We will mark them for identification.

Mr. Donohue: They are not in evidence?

Mr. Hallinan: There is no reason they shouldn't be used. I tried to get the chart we used here to illustrate the Stockton episode in evidence. It was objected to, but it was ruled that it could be used as a reference——

The Court: I will say this, gentlemen: In aid of facilitating the argument, subject to check as to the verity of the information contained thereon, you may use the same in your argument. [8053]

Mr. Hallinan: Then here is the amazing part of it: With that same sort of infantile idea as that which motivates his pupil, Mr. Kaiser would always make certain little changes and alterations in the record of the persons, but always in such a way as to make one say, "Well, here is such an obvious attempt to escape the idea that they are telling a prepared story."

The first of the matters is the Santa Clara prune orchard. Just remember that Schomaker was testifying from recollection, without having any memoranda at any time to refresh his recollection and without having gone any memoranda or testimony of any other witness. The Santa Clara prune orchard!

> "Schomaker—the time was June, 1934.
>
> "Schrimpf: We won't say 1934; we will say within a month prior to the July strike of 1934."

That is a little transition that shows that they are both telling the same story.

> "Schomaker: Time, June 1934.
>
> "Schrimpf: Time within a month prior to the July strike in 1934, hence June, 1934."

Sixteen years ago. They are accurate within the month when they went down to the prune orchard, and by happy coincidence of recollection, they both place it in exactly the same month.

Present:

> "Schomaker: Walter Lambert.

"Schrimpf: Walter Lambert. [8054]
"Schomaker: Henry Schmidt.
"Schrimpf: Henry Schmidt.
"Schomaker: Harry Bridges.
"Schrimpf: Harry Bridges.
"Schomaker: Myself.
"Scrimpf: Schomaker.
"Schomaker: Henry Schrimpf.
"Henry Schrimpf: Myself."

And now we come to the real genius that is displayed in these things:

"Schomaker: Elmer Wheeler.
"Schrimpf: An unknown man"—not that he is Wheeler, but there is a man there whom he doesn't know.
"Schomaker: Earl Browder.
"Schrimpf: Earl Browder.
"Schomaker: Sam Darcy.
"Schrimpf: Sam Darcy.
"Schomaker: Minnie Carson.
"Scrimpf: Unknown woman.
"Schomaker: One other.
"Schrimpf: Norma Perry."

Now, if there isn't a coincidence of memory and if there isn't a coincidence of recollection and memory and if there isn't an obvious gilding up of the lily—the substitution of "unknown man" and "one other" for the persons that the other witness or [8055] the confederate knows is so obvious a story as to suggest and conclude immediately that the entire thing is an invention and a silly, infantile, childish invention.

Now, let us take the next one.

First meeting to discipline Perry:

Schomaker: The time is December, 1934, or January, 1935—fifteen years ago!

Schrimpf: The time is six weeks after the general strike which was in May, 1934.

Both of them: It was a Sunday morning.

Schomaker: It was a Sunday morning at 9:00 o'clock, that is when we had the meeting fifteen years ago.

Present:

Schomaker: Darcy.
Schrimpf: Darcy.
Schomaker: Perry.
Schrimpf: Perry.
Schomaker: Schomaker.
Schrimpf: Schomaker.
Schomaker: Bridges.
Schrimpf: Bridges.
Schomaker: Schmidt.
Schrimpf: Schmidt.
Schomaker: Mann.
Schrimpf: Mann. [8056]

Exactly and precisely the names of the persons and locations—fifteen years ago!

Place:

Schomaker: Mann's house on Germania Street.

Schrimpf: Mann's house.

Now, what sort of children did Mr. Kaiser think he was going to deal with when this matter came on before a jury? What did he think of the intelligence and the intellectual integrity of the jury that was to listen to that? All right; the San Diego apartment house. This is better. We are really getting a little more artistic. You see, we started in with Schomaker and Schrimpf, but by the time we get up to Hancock, there are a little more refinements, it isn't quite as crude a job. It is like the persons who will succeed them, you know will be better than they.

Here we have the San Diego apartment house, all without any notes or memoranda or other things to refresh their recollection:

"Schomaker: It was in September, 1935."

Hancock: It was the late part of the convention of 1935.

The time, acording to Hancock, was 4:00 or 5:00 o'clock.

Who was present?

Schomaker: Schomaker.

Hancock: Schomaker.

Schomaker: Bridges. [8057]

Hancock: Bridges.

Schomaker: Schmidt.

Hancock: Schmidt.

Schomaker: Jack Johnstone.

Hancock: Jack Johnstone.

Schomaker: Stanley Hancock.

Hancock: Stanley Hancock.

Schomaker: Emil Ratin.

Hancock: Rabin.

Now they change the "t" to a "b." That would deceive anybody; anybody would know it was truthful; that they were talking from memory without any notes.

Here is the beautiful part:

> Schomaker: Sailors named Harry McNeill and J. C. Clark.
>
> Hancock: Some members of the SUP—Sailors Union of the Pacific. He has got the sailors, too.

Then we have a little exchange.

> Schomaker: Walter Lambert.
>
> Hancock: Walter Lambert.

Schomaker puts in William Schneidermann. Hancock omits him.

Hancock says there were eight or ten people. Schomaker says "one, two, three, four, five, six, seven, eight, nine, ten." So as this man says one, two, three, four, five, six, seven, the sailors must be either two or three—eight or ten people. [8058] And that is another part of the magic memory of John Schomaker.

Now, how does he get along with the great Ross? Not badly. And here we have another little thing, and this is a vaudeville touch.

Schomaker, without any memoranda, says the time was the early fall of 1935. Ross won't go that far; he isn't going to be committed to any such definite date; it was in the fall of 1935, but whether it was the early part, the middle or the latter part, he isn't going to say. But big John and his magic memory supplies that it was the early fall of 1935.

Who was present?

Schomaker: Bill Schneidermann.
Ross: Bill Schneidermann.
Schomaker: John Schomaker.
Ross: John Schomaker.
Schomaker: Lawrence Ross.
Ross: Lawrence Ross.
Schomaker: Harry Bridges.
Ross: Harry Bridges.
Schomaker: Henry Schmidt.
Ross: Henry Schmidt.

And then here comes the change.

Schomaker: Bob Hanoff.
Ross: Elmer Hanoff. [8059]
Schomaker: Betty Gannett.

Ross omits Betty Gannett, but he supplies Oleta O'Connor and Elaine Black.

Now, the inquisitive mind of scientific nature will construct from this another conclusion that is only incidental. Betty Gannett, whom I have never seen, I take to be a very large woman; and Oleta O'Connor and Elaine Black, whom I have never seen, I take to be very small. Therefore in the principle of abstract justice that illuminates these people, if Schomaker is going to put in a large woman and Ross is going to omit her, he should put two small ones in her place, so that the principles of universal justice is once more satisfied.

And then we come to the Jack Shaw party which

Schomaker and Irene Harris attended. Again no notes, no memoranda, no refreshing of recollection by reading other persons' memoranda or testimony.

When did it happen?

Schomaker: The time was in the early fall of 1938.

Irene Harris: Between August and December of 1938.

That is a pretty fair coincidence; the early fall would be between August and December.

Number of persons present:

Schomaker: 30 to 40.

Harris: 30 to 35.

Who was present? [8060]

Schomaker: Jack Shaw.

Irene Harris: Jack Shaw.

Schomaker: John Schomaker.

Harris: John Schomaker.

Schomaker: Slim Malin.

Harris: Slim Malin.

Schomaker: Mrs. Malin.

Harris: Mrs. Malin.

Schomaker: Charles Waugerman.

Harris: Mr. Waugerman.

Schomaker: May Waugerman.

Harris: Mrs. Waugerman.

Schomaker: Bill Schneidermann.

Harris: Mr. Schneidermann. [8061]

And then, because we have everything so well established, let's not be too close. We will throw in a couple of alternates. So Schomaker has Henry

Schmidt and Walter Lambert, and Mrs. Harris says Peter Brown, Archie Brown and Mrs. Archie Brown. There is the only transition.

Now, if trying to put that over on people isn't an insult to their intellect, I don't know how far one has to go to insult the intelligence of jurors. To have that man get up there and give all this talk, under oath, as being without previous refreshment by any memoranda or testimony, without refreshing his recollection by other people's testimony—he can remember all those incidents and all those people! Lists were prepared and given to Hancock, Ross, Mrs. Harris, Krolek. They were told that those are the people that they are to name at these particular places. And then Schomaker memorized off those lists, with the little modifications that were suggested to give them a false appearance of truth, and then came up here and gave a prepared statement.

It would be just as though Kaiser, not under oath, and maliciously determining to get a conviction in this case at any cost, should be able to transfer some sort of astral body of himself onto the witness stand and say through its mouth the things that he wanted to say.

To make a resume of it, then, John Schomaker cannot be believed for any one of ten different reasons. And if one of [8062] them is sufficient to cast a reasonable doubt upon his credulity as a witness, his whole testimony goes, and their entire case goes, even if he hadn't been contradicted by

B. B. Jones, and even if he hadn't been contradicted by Harry Bridges.

First, here is a working man, a man of humble condition, a man of limited intellect, who went into the labor movement and thought that he was going to accomplish things beyond his capacity. Then frustrated, disgusted, vexed, he goes out of it. And as it is a frailty of human nature to not ascribe one's failures to oneself, he had to invent the lack of appreciation of his qualities and his talents by the men who had gone up beside him: Harry Bridges, Schmidt, Robertson and the others. They went up to office in these unions, while he could find no satisfaction but in getting out of them entirely. So he is a frustrated, disappointed, vexed man. And with that invention of a grievance against the people who didn't appreciate him, he is coddled, carried along by persons high in office—Boyd, a fairly high man in the United States Department of Immigration. He and his wife and children are introduced to social activities in company that they would not have experienced without this. According to the list that he gave, here are the people who talked to him, interviewed him, chauffeured him, baby-sat for him, shopped for his wife, and so forth. First, Boyd and an unknown man; McGowan, Barber, Kaiser, another [8063] unknown man, different from the first, Phillips, then a third unknown man; Maxwell, Woolley, Mrs. Woolley, Mr. Gallagher, Mrs. Gallagher, an agent with an odd name, Mrs. McGowan, Larry, Mr. Paisley, Mr. Donohue, Mrs. Donohue. Nineteen people. Nineteen people are used to seduce the allegiance of John Schomaker to this dark cause.

The second point of the resumé is that his story is inherently incredible, that a man who had had the simple occupations that he had appeared on the waterfront in 1933 could, within a month after his appearance, go up to Harry Bridges, an alien who by Schomaker's own admission at that time was under fear that if he joined the Communist Party he would be deported, and that very point was discussed at the time of the singing of the application, and he signs an application and hands it over to that man to take out and do with it as he will! And without having any reason for knowing whether the man is a Government agent, spy for the Industrial Association, or what he may be.

The third point is, he has shown his unreliability by testifying falsely under oath. He said that he came to the waterfront in October, 1933, although they had his record from the hospital—and they had gone over it, don't worry—showing that he came to the waterfront in November of 1933. He pushed it back a month so as to make it more credible that this occasion happened with Harry Bridges, that that took place. [8064] He pushes it back a month, and that is a lie under oath. Then he says that he had been, prior to this time, a member of the Hod Carriers Union in Santa Barbara, and we run into another one of those small and inexplicable facts that again come forward to assist the person who is telling the truth. By mere misfortune on his part, the very secretary who had been secretary of that union twenty-five years ago, when he was down there, is still alive, still the secretary, and still has his records, and has been so interested in the thing that he would have a recollection of the people who were members of his union—there being only a few over the period of years; and that he can come up and contradict him and show that he never was a member of the Hod Carriers Union. And they didn't bring Schomaker in to explain what that discrepancy was.

He lies about the formation of the Albion Hall group and the activation of the ILA. He says that he went to see Harry Bridges with messages from Sam Darcy when he first went down there, and the reactivating of the ILA and the forming of the Albion Hall group, and the thing that has destroyed this whole case, and what a fine fix we would be in if we didn't have them, were the records that have been preserved in the ordinary course of business by the unions. Schomaker, Schrimpf and Kaiser didn't stop to figure out that those records might be in existence, and they would have to be careful of what they said. So they got extremely reckless and committed themselves too far [8065] before they were contradicted by them.

The ILA had been reactivated, a strike had been had, the strike won and the ILA recognized by the Matson Company back in June of 1933, four or five months before Schomaker appeared on the scene. The Albion Hall group; the records were written out in longhand of the union, and they were handed over to these gentlemen subject to their inspection, showing that this Albion Hall group had been created even prior to that time.

He shows, as the fourth item, a willingness to lie on the very subject that he has discussed here, when he says that he may have said to persons in private conversations that anyone who said that Harry Bridges was a Communist was a liar and a perjurer; also that he may have said that to the immigration authorities, or the FBI in 1940.

He shows a willingness to lie under oath when he says in the hearing down before the police court that he cannot remember whether he testified falsely under oath that he was not a member of the Communist Party and says it is very possible, "I very well may have."

Why isn't he subject to the same suspicion with which Rathborne has vested all of the ex-Communists who have testified here? Isn't he also under the designation that they have put upon their own witnesses and the sworn proof that they have adduced, that they are trained liars and perjurers; who have had it ingrafted into their minds that it is perfectly all [8066] right to testify falsely under oath when it suits the purpose of the Communist Party, and who would then, in accordance with the ordinary dictates of human nature, think it perfectly proper to testify falsely under oath when their own interests were involved.

We have illustrated here the sixth episode, the sixth point—how he has told a prepared story given to him to tell on the pretense that he was telling it from memory without any previous refreshment. He has been shown to be the sort of man that he actually is by the episode of the unfortunate Irene Harris; that without disclosing to her that he was working with the immigration authorities to get rid of Harry Bridges, he engaged her, who was his friend and an intimate of his family, of old time, who had gone on trips with him, in a conversation about Harry Bridges—didn't disclose that he was a member or that he was working with the Government, heard her tell this incident in which she had been flabbergasted at the equivocal statement of Harry Bridges at a public meeting which she interpreted as being an admission that he was a Communist. He took it and embraced it himself and testified to it, and without her knowing it, put the officers on to her and told them where they could get another victim that they could work into a tool for the purposes of supporting this story.

He was undoubtedly trying to work some sort of a badger game on B. B. Jones, with the connivance of his wife. [8067]

And, tenth, he sat on that witness stand, and we tried by every means to extricate from him some statement as to the compensation he is receiving for his work here. And he evaded and he falsified and he said there was no definite arrangement and he had gotten, I think it was, a couple of hundred dollars that it may have been, or it may have been $100. And they sat here, knowing precisely and exactly what he had been paid, and they wouldn't tell us. They objected and they told us, "Get subpoenas out," and we knew what we could do toward finding out things that should be learned. And they hid and concealed what that man was getting, and the reason they hid and concealed it was this: the shock of learning what he was getting would be worse than any inference which the jury might draw from their refusal to disclose it. If they were paying Rathborne $5,000 for saying that he saw Harry Bridges at meetings at which Communists were present and never saying or claiming that he had any information that Harry Bridges was a member of the Communist Party, but only showing certain circumstances from which a jury could infer, if they so desired, that fact, how much are they paying John Schomaker to come up here and invent and put on the witness stand the necessary concomitant of their case without which they don't have any case—the three essential elements that they themselves have introduced here as requisite to forming membership in the Communist Party? How much did Schomaker wheedle out of them? What persuasions [8068] were exercised by the two schemers sitting across the table and bargaining back and forth for the price of his perjury? $10,000? $15,000? Take a guess. We won't find out until after this case is over, when there may be some kind of a congressional investigation as to just how much money was spent and why the immigration officials, Boyd and Barber, had to deceive and defraud the Treasury of the United States in order to get the payments made to Rathborne. Then for the first time we will find out how much John Schomaker is getting for his employment.

The Court: We will take the morning recess; the same admonition, ladies and gentlemen, not to discuss the case.

(Recess.) [8069]

Mr. Hallinan: Now, not to press the rest of the witnesses produced by the prosecution to an unreasonable extent, as far as Schrimpf is concerned, as soon as you find out that there is hostility between a defendant and a witness, the witness' testimony is suspect. Of course, the difficulty with ~~this~~ case is that they dig up everybody that they can over years of diligent application, enemies of Bridges, persons who are subject to a bribe, persons who have some ax to grind, tools of Phil Murray, Walter Reuther or some political or union enemy of Harry Bridges and put them on. Each one is disclosed in turn to be of no weight and no validity. But, as I say, they think the whole constitutes more than the sum of its parts, and by putting on one person after another who has no credibility at all, they finally build up some kind of gold brick that is credible.

Schrimpf, with the malice he has had and displayed toward Bridges for years, should be enough to invalidate him immediately. The circumstance that he, being an acknowledged member of the Communist Party, was admitted to citizenship without question although that fact was disclosed in 1943, at a time more dangerous, I think, than now, under the rules that they are establishing, no question made of him, the fact that in the same year he attains citizenship he becomes a walking boss at a salary of $600 a month, throws suspicion upon everything he has to say. And as far as his attitude toward Harry Bridges is concerned, while it is displayed in numerous instances, the [8070] outstanding one would be that in which he discussed the document that he signed, the paper that he sent around to criticize Harry Bridges and here briefly, reading from that:

> "Q. Now, I will ask you the question, when you said, 'lousy, slimy politicians,' did you mean Harry Bridges?
>
> "A. Not necessarily.
>
> "Q. Whom did you mean?
>
> "A. We have many officials.
>
> "Q. You have no idea whom you meant?
>
> "A. Oh, yes.
>
> "Q. Who?
>
> "A. Well, some of the officials."

Now, "lousy, slimy politicians" he publishes that in a newspaper and states publicly at a convention of the ILA.

> "Q. Could you tell me whom you mean by officers?
>
> "A. Well, in many ways I was attacked by Bridges, and I will make this for the record, that at one of our regular meetings in San Francisco he told the membership I was getting $10,000 a year from the shipowners.
>
> "Q. You had resentment against Harry

Bridges when he made that charge against you?

"A. On policy.

"Q. That was on policy only?

"A. That is right, strictly policy."

But strictly on policy, the body of Pete Canto was dug up [8071] enclosed in concrete from the marshes of New Jersey.

"Q. Well, now, may we have your answer to the question: When you use the phrase, 'lousy, slimy politician' part of that group?

"A. It applied to the politicians who went up and down the Coast, flying all over the country, and it could have applied to Harry Bridges. I mean it could have applied to Harry Bridges on some of those occasions.

"Q. You know you meant to imply Harry Bridges' name in that assertion, don't you?

"A. Yes, it could have been applied to Harry Bridges.

"Q. Let me see if I follow your remaining reasoning exactly, Mr. Schrimpf: You say when on July 29, 1937, you used the phrase, 'lousy, slimy politicians,' you could well have been referring to Harry Bridges because he had arisen on the floor and accused you of taking $10,000 from the employers?

"A. Well, I will say again, it is already in the record, he could have. He could have been the one referred to. He could have been one of those referred to in ~~the~~ statement.

"Q. But a moment ago, Mr. Schrimpf, you

told us that Harry Bridges accused you of taking $10,000 from the employers at some meeting after the 1937 convention. So what matter did you have in mind on July 29, 1937, when you referred to him as a lousy, slimy politician? [8072]

"A. Well, there were other happenings.

"Q. Such as what?

"A. Well, there were many instances which happened on the floor.

"Q. Can you tell us one or two?

"A. Yes, I can state another instance. At one time, and this was before the convention, it had reference to a man named Deal, whose name was brought in here, the Deal incident. Incidentally, he carried on strike-breaking after we were back to work, even to the extent of hiring gunmen to break the bargemen's strike in 1935. The bargemen still stayed on strike and he was considered by our union not very popular, a long ways from the type of man to be taken in or made a vice president. He was made a vice president by our international officers, and I criticized this policy and the rebuke was by Bridges: 'Well, he isn't as bad as the rats,' or 'no worse than the rats.' I don't know just the exact language—'that Schrimpf runs around with,' and such stuff as that."

When he went up to the convention in 1934 he had been already accused by Bridges of taking a $10,000 bribe for some purpose. Let us say it is not true, but at any rate he was accused of taking it.

And he went up there and raged against Bridges to the extent that he gets up on the floor and characterizes him as a lousy, stinking politician and so forth, knowing full well [8073] that everybody there at least knows whom he is referring to, and he publishes documents of that kind. And he has been accused, as I say, by Bridges of taking a $10,000 bribe and running around with rats. Isn't it strange that he should have been one of the two men who were taken, or, as he says, taken, he and Schomaker, to the Naturalization Department to have a talk with Bonham at that time, and isn't it inferentially to be believed that he and Schomaker went there purposely to disclose to Bonham anything of value which they might know? And isn't it also to be inferred that they did not have anything of value to tell because Harry Bridges was tried a year and a half afterwards, and here was man so bitter and so hateful of him, whom he could have justified himself by saying, "Well, he accused me of misdeeds and said things about me." And Schrimpf doesn't testify against Bridges in 1939 as to these meetings that he says Bridges was present at, and he doesn't testify in 1941 either. And it is only after he has received something, at least his citizenship, though he is an admitted Communist, and his citizenship, according to the forms introduced here, is to be denied to people who are Communists within ten years last past, or at least who were members of an organization which advocated the overthrow of the government by force and violence, and still he is admitted.

Now, we tried to go into that question, and what is the result? They sedulously avoided asking him anything about it so [8074] as to bar us.

Mr. MacInnis says on cross-examination: "You obtained your citizenship during the war when citizenship was rather difficult to obtain?

> "Mr. Paisley: Just a minute, Your Honor. That is not within the scope of the direct examination.
>
> "The Court: Sustained.
>
> "Mr. MacInnis: Pardon me, Your Honor. He mentioned on direct examination he was naturalized in the year 1934.
>
> "Mr. Paisley: I recollect no such testimony as that.
>
> "Mr. MacInnis: I will be glad to find it, Your Honor.
>
> "Mr. Paisley: I did not ask him about his naturalization."

In other words, they avoided that so as to prevent the defense from inquiring into whether there was any consideration for his testimony here based upon the naturalization, and that was submitted to the Court, a very narrow, a very unfair objection, that the mere fact that we could not inquire into that important matter was that he avoided asking it, carefully avoided asking on direct examination.

Mr. MacInnis again asked about his naturalization.

> "Q. You became a citizen, Mr. Schrimpf, in what month of 1943?
>
> "A. I believe it was May.

"Mr. Paisley: I think that is immaterial. That is not cross-examination of anything brought out on direct. [8075]

"Mr. MacInnis: It is preliminary.

"Mr. Paisley: I did not examine him as to when he became a citizen. It doesn't seem to me that it tends to impeach him or discredit him in any way. It is not within the scope of the direct examination.

"The Court: The objection is sustained.

"Mr. Paisley: Yes, Your Honor. It is not cross of anything brought out on direct examination. Therefore, it is not within the scope of his direct examination, and it has no tendency to impeach him or to discredit him."

And Mr. MacInnis spent some eighteen pages trying to find out if he could, something about Schrimpf's naturalization, and we haven't found out yet. [8076]

As far as Irene Harris is concerned, as I say, the woman obviously made some mistake as to what was said at a public meeting and built that into a sort of alarmist idea that occurred to her. It was seized by her pal and friend, Mr. Schomaker, handed over to his employers to use as a weapon to force her to say what they wanted her to say.

As far as her recollection—and I don't tend to go through the record and read it—she says, starting at page 1918 to 1948:

"Q. When did you see Roza Schomaker last?

"A. I saw her one day last week; it might have been Wednesday, but I am not sure."

Then she doesn't remember. Here she testified it might have been Wednesday, that she wasn't sure whether she went to the Appraisers Building before or after she visited the Schomakers; then she changes that to say that it was not last week, two weeks ago, that she went to visit Schomaker. And then I asked her this, whether she could tell, whether she could remember if it was as close as yesterday, and she said, "I can't, no."

And I'll bet that when she went down to the Schomakers she went down to say to them, "What have you done to me? Did you give this information to the authorities?" and Schomaker said, "Why, no, of course I didn't. I don't know how they found it out. They asked me about it, too. They came down here asking about it." That is why she went down there. [8077]

All right.

"Q. When did you go down to the place on Sansome Street?"

This is after she said she went down two weeks ago Wednesday; she went down in the meantime to the place of the Schomakers.

"Q. How long?

"A. Well, I just don't know what day it was.

"Q. Was it as much as a week later or a day later or what? A. I just don't know.

"Q. Well, can you tell me this: Was it as close as, say, yesterday or the day before yesterday? A. Well, I don't know."

Then she can't remember the name of the agents that talked to her, or if they brought her down on Thursday, the day before she testified.

She says a few days after she got the subpoena she went down to see the Schomakers. Then she produced a subpoena and the subpoena had been served upon her two days before her testimony here. She didn't compare any notes with Schomaker as to the people in the Shaw house.

> "Q. Now, nobody told you that Mr. Schomaker had named these people as being present at the Shaws' house, is that right?
>
> "A. I didn't know that Mr. Schomaker did name them.
>
> "Q. You didn't compare any notes on that subject with anybody? [8078]
>
> "A. None whatever.
>
> "Q. Is that right?
>
> "A. None whatsoever, no, sir."

Her husband was naturalized in 1940. She doesn't remember. I said:

> "Now, please give this your attention. See if you can't tell us from memory. You were questioned at the time your citizenship was restored as to whether or not you had ever been a member of the Communist Party, isn't that right?
>
> "A. I do not remember. I may have.
>
> "Q. Now, coming forward six months, when your husband was examined in your presence, he was asked if he had ever been a member of the Communist Party, wasn't he?

"A. I don't know.
"Q. You don't remember that?
"A. No, sir."

Here she is so accurate about a casual statement that she hears back in 1938 in the Shaws' house, and then in 1940 when she and her husband are naturalized, she doesn't remember if they were questioned about possible membership in the Communist Party. And here:

> "Oh, we in our auxiliary had little discussions, that would come up, Harry was accused of being a member and other people was. I had even myself been accused, but I [8079] wasn't, and the other ladies denied it, too. That was all there was."

So Irene Harris, with her husband, having been accused of being a member of the Communist Party—whether she was or was not, I don't know—is in a position to be delivered by Mr. Schomaker over to her enemies.

Now, Michener comes under a somewhat different category. He is one of the people who is connected with labor union officials who want to get rid of Harry Bridges, and his whole attitude on the stand was somewhat different from that which activated witnesses who were under compulsion. He was evasive; he told untruths; he went along with them, and he was assured and he knew that he didn't have to worry about that record of the affidavit coming forward. He could afford to bet a hat or a suit or an automobile that any affidavit that he signed which was false was not going to be produced here. Michener had the calm assurance that, whether he signed an affidavit or not, you weren't ever going to see it and we weren't ever going to see it.

And he was quite evasive about one little matter. He was asked where he went out in the evening when he came down here.

> "A. Oh, I went out to the San Francisco airport.
>
> "Q. Did you go there to meet somebody?
>
> "A. No, sir. [8080]
>
> "Q. About what time in the evening did you go out to the airport?
>
> "A. Oh, it was around seven o'clock or a little bit after.
>
> "Q. Who accompanied you there?
>
> "A. Mr. Kaiser."

Now, up to that point, he has gone out to the airport. We want to know what is doing, what is in the air, what is stirring up.

> "Q. Whom did you see out there?
>
> "A. Well, I saw quite a few people, sir. I mean, anyone particular individual you had in mind, I will be glad to testify as to that. I mean, who did I see out there—there were quite a few people, sir."

Very polite, very wise.

> "Q. We are to understand that after dinner you and Mr. Kaiser went out to the airport, is that right? A. That is right.
>
> "Q. About seven o'clock?
>
> "A. That's right.

"Q. To what particular part of the airport did you go?

"A. To the main lobby or station there at the airport.

"Q. You mean the place where passengers congregate or wait for planes?

"A. That's correct, sir.

"Q. And what did you do there? [8081]

"A. Well, I didn't say that Mr. Kaiser and I went out there alone, sir. We took a passenger out to the airport, sir.

"Q. Who was that?

"A. A man that testified here previous to myself testifying, a Mr. Lawrence Ross, Larry Ross."

He didn't want to let us know that he took Mr. Larry Ross out to the airport, and he hedged and he crawfished and he moved around as well as he could, until finally there wasn't any further way to get out of it, and then he admitted he was out there with Mr. Larry Ross.

Now, here is another little example of his evasions:

"Q. Did you ever work in Missoula, Montana?

"A. Not in Missoula proper, sir. I worked out of Missoula, Montana, at Bitterroot Valley for a logging camp there for a while, and also worked on numerous ranches up at the Bitterroot Valley, which is a short distance from Missoula, Motnana."

He knows, as soon as this question is asked, just as Mr. Donohue knew when questions were put to Ross about his attendance at the Kentucky University, that here was something that he wanted to cover up and conceal.

"Q. Who is Thomas Michener?

"A. Thomas Michener is a brother of mine. Thomas E. Michener, you are referring to? Thomas E. Michener? There was a [8082] Thomas Michener, an uncle of mine, also.

"Q. Did you ever go under the name of Lewis Kelly? A. No, sir.

"Q. You were never called that?

"A. No, sir.

"Q. That was never an alias of yours?

"A. Never an alias of mine.

"Q. Let me ask you this, Mr. Michener: A little while ago in answer to a question put to you, I think by his Honor, who had asked you for the reason, the background that you had in mind in not making up your mind to testify for the Government, your reply was that you reflected about the two previous Bridges cases and that you remembered the things that were brought out about the character of the witnesses who testified against Bridges in those cases, and you said you remembered the things you yourself had said about those witnesses, didn't you?

"A. I think the record is very clear on that, sir.

"Q. What reflection did you have about your own character? What did you think might be brought out against you if you testified here?

"A. What I thought would be brought out is what has already been brought out in the paper that I read last night, wherein it terms me as continuing the parade of stool pigeons that are appearing against Mr. Bridges. [8083]

"Q. Nothing else?

"A. That is what——

"The Court: That was in the People's World? A. Yes, sir.

"Q. (By Mr. MacInnis): Nothing else?

"A. Nothing else, sir.

"Q. You didn't think anything else concerning the background of your life might be brought out here to your discredit?

"A. I didn't think so; I really didn't, sir.

"Q. And you were never known as Lewis Kelly, Jr.?

"A. I am under oath, sir. I say I never was at any time.

"Q. Were you named in the District Court of the United States in and for the District of Montana in Case No. 6096 as Lewis H. Michener, Jr., also known as Lewis Kelly, Jr.——

"Mr. Paisley: Your Honor, he can ask him if he has ever been convicted of a felony, and I think that is as far as he can go. I do not think that you can discredit a witness by proving he used another name. The witness said he did not, but even if he had, that does not discredit a witness."

They knew that what we were trying to prove was that he was convicted of some bootlegging offenses, and that he wouldn't get a job with the Federal Government, he would not have been [8084] granted the job if he correctly answered two questions in his application: "Have you ever been convicted of any offense involving a penalty of more than a day or two," or whatever the time is.

2. "Have you ever been a member of an organization that advocates the overthrow of the Government by force?"

We knew that he must have lied on those matters or he wouldn't have gotten a Government job; so that he knew he would have to try to keep him from disclosing it. Mr. Paisley knew that he was convicted of these bootlegging charges and knew what we were driving at. He said:

> "Your Honor, he can ask him if he has ever been convicted of a felony, and I think that is as far as he can go. You cannot impeach a man by proving he used another name. The witness said he did not, but even if he had, that does not discredit a witness.
>
> "Mr. MacInnis: Well, your Honor, I have some information about this man; not all of it is complete.
>
> "The Court: Let us be careful and let us be specific.
>
> "Mr. MacInnis: I am going to stick to that one question at the present time as to whether he was named as Lewis Kelly, Jr.
>
> "Mr. Paisley: Well, now, your Honor——

"The Court: The witness has said that he was never known as William Kelly, Jr. [8085]

"Mr. MacInnis: Lewis Kelly, Jr.

"Mr. Paisley: Your Honor, Lewis Kelly, Jr., is what he asked.

"Q. (By the Court): At any time in your career? A. That is right.

"Mr. MacInnis: I will return to that, your Honor, when my information is supplemented.

"The Court: You say you have information about this man?

"Mr. MacInnis: Yes. Merely to show your Honor I did not ask the question idly, and reserving the right to return at a later stage to these questions, I will pass to your Honor the information that I just received."

So the cat is out of the bag. So Mr. Paisley is going to make a romance out of it.

"Mr. Paisley: Your Honor, if he wants to prove that the witness was convicted back in Prohibition days, back in 1932, almost twenty years ago, in a couple of liquor cases, we will stipulate to that. There are a lot of cases holding, your Honor, that type of testimony is not even admissible to discredit a witness.

"Mr. MacInnis: These boys are getting more gracious every day. Maybe there will be some things you can stipulate to in a few [8086] minutes."

So, knowing perfectly well what the purpose was, that we felt, believed that Michener, having taken a government job, had undoubtedly signed an affidavit identical to the one that George Wilson signed and that he wouldn't have gotten the job if he had admitted the bootlegging convictions and he wouldn't have gotten the job if he admitted the membership in the Communist Party, we assume that there was a handle upon Michener. There was a hold upon him. And we wanted to find out if that weren't so, because the jury is entitled to know if the witness is in such position that compulsion or coercion could be exercised upon him. And they did everything they could to conceal that fact.

He also went into an amazing discussion as to the manner in which a card had been issued to him in the Communist Party; so that it went back and forth between wives, parties, running over a course of years, until it was impossible to keep track of just exactly what had become of that card, in the various matrimonial difficulties that Mr. Michener found himself involved with.

But the outstanding one that shows duplicity on Michener's part and duplicity on Mr. Kaiser and another agent of the government's is that which relates to the card from the Hotel Shaw. Now, here's what they did. Since the Crouch and Johnson episode, they have been terrified of pinning down any witness to any one particular incident of time. So that we wouldn't come in with some incontestable proof that the defendants couldn't [8087] have been there at the time, or that they were in some other place. But before Johnson and Crouch fell apart on the stand, they had fixed definite times with the witnesses; in preparing their cases, they had fixed a definite time, for instance, for the meeting which Michener was going to testify to as having happened out in the Sunset District. And they had fixed a definite time as to the meeting that Rathborne and Wilson were to testify took place in the Hotel Governor. As soon as they saw the possibilities confronting them—the terrible possibility, the unspeakable possibility, the atrocious possibility—that the truth might be revealed, that the defendants weren't at those meetings, the awful thing that their case might be shown to not be a valid case, the awful opening that might be made in this courtroom through which the truth could walk; why, then, they dropped the cards and they hid the cards and they told the witnesses, "Don't pin yourselves down." That is proved by the experience with the Michener card.

Here is the predicament they got in. Michener had been in San Francisco in February, 1940, and—I have forgotten where this is.

Here is what they did. They testified that Michener had been at a meeting of the Communist Party some time in the year 1940 and that must necessarily have been in the fall of the year. [8088]

I have gotten myself rather confused on these dates. Might we take the recess, Your Honor, and I will consult this in the recess?

The Court: Yes, we will take the noon recess and resume at 2:00 o'clock, ladies and gentlemen of the jury. The same admonition to you not to discuss the case under any circumstances.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [8088-A]

Friday, March 24, 1950, 2:00 o'Clock P.M.

Mr. Hallinan: My confusion with regard to the documents that I had here in the Michener case was due to the fact that I had forgotten that we had substituted a photostatic copy, and I thought that the photostat was a duplicate of the original; but there are two exhibits here. It was to illustrate the frailty of human recollection that here is a point that I considered very important and had in mind for some time and made notes on, and worked up a little discussion about. Then I forgot about it. Now, if I had been born, if I had been so fortunate as to have been born with the memory of a John Schomaker, what a lawyer I would have been!

But this is the difficulty that they find themselves in with regard to these documents. This shows, my friends, the deception that runs through this whole thing. And it shows how Michener was taken in with it.

Now, I assume from Michener's testimony here, knowing nothing more about it, that at first he felt himself in some sort of a grip, with the affidavit that he had signed, whereby there was some sort of a handle, or some sort of a club held over him that would compel him so to testify. And so, of course, his evidence would have been of that limited sort that gives just all that is necessary to give.

But then he consulted with the Reuthers, with Reuther's [8089] brother, and he found now that far from being on the unpopular side as far as the persons in power, in the plan he was working on, if he went against Harry Bridges he was just like Rathborne, he was on the side that was popular. So he did come in and he did all he could to help out. And this is the peculiar little thing they did. They had this whole case down to days and hours and close, meticulous details. That is a good thing to do. That seems to show truth. In other words, if you have a document or a record to back up a series of witnesses, it gives a certain confirmation to what they say. But in this case, because they had the misfortune to have gone and let it be run by little Mickey Mouse, and because they were on the side of a fraud, it didn't work out. Then they found that every record they had, instead of confirming what the witness said, disputed what the witness said. And after they had gotten through with Crouch and Johnson, they found that the Sorcerers' Apprentice had chopped the broom up so much that it was running all over the place, and they weren't going to take any more chances of having any record come in and destroy a witness.

So they sunk the records that they had prepared and which they were going to use to bolster the witnesses. They sunk the record of Michener's visit to San Francisco in August—August 28, 1940. They had withdrawn this card from the files of the Shaw Hotel back in October of 1949, and then they returned it to the woman who ran the hotel, according to her statement, and [8090] told her to keep it in the safe. At any rate, whether that was a fact or whether they simply retained it in their files; the card was put in such place that the defense wouldn't get a chance to check it. The card was set aside. "I am going to use it in this trial to bolster Michener's testimony as to the meeting out in the Sunset District." And they were going to give a date to it, August 28, 1940.

All right, Mr. Michener gets on and after they have prepared the card, Crouch and Johnson blow up, on June 27, 1936. So there is going to be no more of that. So Mr. Michener, now, who has fixed his time for coming to San Francisco by his stay at the Shaw Hotel, is told not to pin himself down. And instead of putting it at August 28, he says some time in the fall he attended this meeting. Then we sent down and checked over the files of the Shaw Hotel to find what date he stayed there in August. Thinking we might show that there was something that militated against it. And behold, we don't find any record of Mr. Michener in the fall of 1938 or of 1940. The only thing we find is that he stayed there on February the 9th, 1940. Then we confront him with that on the stand. Now we say, "How can you explain that the only record we find there is of February 9, 1940?" and Mr. Paisley makes all kinds of objections; that that is no way to prove whether he was there or not, let him bring in the hotel people and produce their records—knowing all the time that they had a card of August 28, 1940. Well, [8091] we persisted in the matter. We said, "All right, we will do that and bring him in." And then they got concerned and worried about it, and the little mice started running all over the place to determine what they would do about the card that they had secreted. [8091-A]

And finally they decided to put the card in; that that is the lesser of the two evils. The man has said it was in the fall of 1940; he has been specific about it; he has named the people and even gives the subject, the distribution of funds of Labor's Non-Partisan League. Mr. Kaiser overlooked the fact or did not know the fact that the only money that had ever been in Labor's Non-Partisan League had been distributed two years before that in 1938 and there wasn't any money left to have furnished a fund. But at any rate, that was the subject of general inquiry, and they are going on with that subject. You have started out with a prejudice and you want something to hang your hat on to convict Harry Bridges. What do they care about whether a few details are right or wrong? They put Mr. Kessler on, and when he brought in the card I made this statement:

> "May I say this, your Honor: What he says is very true, and when they called the witness to the stand, while the witness' presence on the stand seemed to us of great importance as opening a doorway that we desired to open"—that is, I wanted to ask Kessler to show his interest about his communication with Mann and the efforts of the Immigration Department to extort evidence out of people by promising to cure their sick of cancer, and things like that that have been disclosed—"a little further

reflection illustrated the fact that when fraud and [8092] corruption are involved in a case, the slightest incident may open a door that you never suspected, and this little card that was put in so inadvertently now, if your Honor please, convicts the officers of the prosecution of fraud, corruption, deceit and concealment, and I will show you how in a moment."

And then we start in to question about what was done on this card. Now, that card was a matter of great moment to them, and that they were undetermined as to whether they would put it in or not put it in might be gathered from these matters. The card is discussed by Michener: "I talked to Mr. Wooley"—he make the same effort that Ross did about Humphries, to conceal the matter.

"Q. Who? A. Wooley.
"Q. How do you spell that?
"A. I couldn't tell you.
"Q. What is that?
"A. I couldn't tell you.
"Q. Wooley? A. Yes, sir.
"Q. W-u-e-l-l-i-e? Who else?
"A. Mr. Kaiser."

Now he is asked who he discussed it with. He says Wooley, then Mr. Kaiser. [8093]

"Q. Who else? A. Mr. Kaiser.
"Q. Anybody else? A. Mr. Barber.
"Q. Anybody else?
"A. That is all I can think of."

You have to work that out of him one name at a time.

> "Q. Did you have any conversation with any of these people concerning a card that you signed at the Hotel Shaw, the one that was shown to you, the one that was marked for identification?

And watch this evasion:

> "A. Do you mean at the noon hour?
>
> "Q. Yes. A. No, sir.
>
> "Q. Did you have a talk with anyone after the noon hour about this card?
>
> "A. No, sir.
>
> "Q. No discussion on the subject of this card at all, is that right?
>
> "A. No, it isn't right.
>
> "Q. Well, did you have a discussion with somebody about it?
>
> "A. Not during the noon hour.
>
> "Q. You said after the noon hour?
>
> "A. No, sir, not after the noon hour. [8094]
>
> "Q. When did you have conversation with him? A. This morning.
>
> "Q. What time?
>
> "A. Oh, I would say between 9:30 and quarter of ten somewhere.
>
> "Q. With whom did you have the talk then?
>
> "A. Mr. Kessler.
>
> "Q. Where? A. In this building.
>
> "Q. Between 9:30 and quarter of ten?
>
> "A. Approximately that time, I would say.

"Q. Did Mr. Kessler have the card with him? A. He did.

"Q. Where did the conversation take place?

"A. That took place in this building on the Fourth floor.

"Q. Who else was present?

"A. It really wasn't a conversation over it; he showed me the card.

"Q. Who was present?

"A. Mr. Kaiser, Mr. Wooley and Mr. Paisley."

And Mr. Kessler being briefly on the stand:

"Q. When did you first talk to Mr. Donohue about this card?

"A. I believe it was this morning. I know that it was.

"Q. Is that the first time you spoke to him about it? [8095] A. That is right.

"Q. Did you talk to any other attorney about the card between the time you got it and the present moment?

"A. I talked to Mr. Paisley and pretty much the same thing would apply.

"Q. When did you first talk to Mr. Paisley about it?

"A. I believe—it was approximately the same time that I talked to Mr. Donohue.

"Q. Was he with Mr. Donohue this morning at the time you showed Mr. Donohue the card?

"A. No, I don't think so. I think Mr. Paisley saw it just previous to that or just after.

"Q. How about Mr. Bruce Barber?

"A. Yes. I have.

"Q. Did you talk to Mr. Boyd about the card?

"A. I showed the card to Mr. Boyd this morning previous to showing it to Mr. Donohue and Mr. Paisley."

Now, why did Mr. Kessler have to go around and show this card to Kaiser, Barber, Mr. Donohue, Mr. Paisley, Boyd, Kaiser and Kessler? What was all the excitement about? Why did he have to go and consult them? Well, the whole thing was this: There was a discussion as to which would be the better thing to do now, to just keep the card out of evidence or to open the door to a charge that they were attempting to suppress the card and bring it in and take the chance of that. So they [8096] decided on, as I say, the lesser of the two evils and finally put the card in. And if it were only the witness that was engaged in this concealment, it would be bad enough, but it is obvious that they first procured the card, had Michener fixed to say that this was the date on which he had that meeting, and then, fearful that they would have some question on the card, suppressed it, and then when they found themselves in a worse fix, because the only registration card date was in February, they decided to pull it in again. And the fact that this card was involved in that meeting is shown by Mr. Kessler's testimony in which he said that he knew that the date of this matter, referring to the date of this card, referred to the meeting that Michener was testifying about. Kessler's testimony was:

> "Q. Now, did the report state the occasion on which Mr. Michener stayed at the Shaw Hotel? A. That's right.
>
> "Q. What occasion was that?
>
> "A. At the time he attended a Communist Party meeting in San Francisco.
>
> "Q. Now, have you made enough inquiry into that to determine that this is the Communist Party meeting that Mr. Michener said he attended in the Sunset district sometime in the fall of 1940?"

Then there is a running fire of objections by Mr. Donohue. Mr. Kessler finally answers, "I believe it was included in the [8097] report."

> "Q. In the report he had spoken of two meetings he had with Mr. Bridges which he said were Communist Party meetings, is that right?
>
> "A. No, I didn't say that. I say that the time he stayed at the Hotel Shaw referred to the same time that he had attended a Communist Party meeting in the Sunset district in San Francisco."

So they had to start out with the report which Mr. Kessler had read and in which this card was identified as establishing the time that Michener had attended a Communist Party meeting in San Francisco. Then he ran into a further difficulty. His memory is so good on some of these matters.

Mr. MacInnis asks him these questions—he said Mr. Kline drove up with him.

"Q. I suppose you stayed together when you were here in San Francisco?

"A. We did not stay together here, but we did stay together on the way up as a result of some motor trouble I had, we stayed together at a motel.

"Q. You went to the Shaw Hotel?

"A. That is correct, sir.

"Q. Did you stay there alone or with any other person? A. Stayed there alone."

Then it develops that on the card that he has is the name [8098] William Clark. He says he knows no William Clark and that undoubtedly the man who stayed there was Kline, who came up with him, and that if it was Kline he used the name of Clark; that that is the only explanation he can give and he now remembers that Clark must have stayed with him. He has a memory that some nine years ago, back in 1940, he attended a meeting at which everybody was, or at least was supposed to be, a member of the Communist Party, and that they discussed there the distribution of the funds of Labor's Non-Partisan League, some two years after they had all been distributed—a matter that would be of considerable triviality, as you may have gathered by a statement of the various union meetings and various conventions and matters of that kind he has attended, but to this intimate detail he adds:

"Q. Let me ask you this, Mr. Michener, in the room at the Shaw Hotel were there twin beds on the 26th of August, 1940?

"A. I wouldn't recall whether they were single beds or double beds. But I thought you had someone here from the hotel.

"Q. I asked you for the fact, and if you will just confine your answers to the questions, you will have difficulty enough. You don't remember, then, whether the person who slept in that room with you under the name of William Clark slept in the same bed with you, do you?" [8099]

And he answers, "No."

"Q. Well, there was some person slept in the same room with you, at any rate, was there not?

"A. That is my recollection. Yes."

He is so explicit on the matter of just what the subject was of discussion at a meeting in the Sunset district, but he cannot even say whether or not the man who came up with him slept in the same bed with him, or whether it was that man, or it might have been.

And he also testified that the card was never shown to him, which leads to the further conclusion that these gentlemen were reserving that card to determine just how they were going to use it, and that they could depend on the witness going along with them, because he says this:

"Q. So from the time you signed the card back in 1940 up until this morning you had never seen that card, is that right?

"A. That's right, sir.

"Q. You didn't see a photostat of it?

"A. No, sir.

"Q. This card was never shown to you by any person? A. That is what I said.

"Q. You hadn't seen it from the time you signed it until you saw it this morning?

"A. That is right. [8100]

"Q. You are sure of that?

"A. I am sure.

"Q. He asked you this morning if this was your signature, and that is all that was said, is that right? A. That is right.

"Q. Were these gentlemen present when he showed you that card?

"A. They were present, yes."

So now we have the rather remarkable situation that the card, having been mentioned by Mr. Michener, or his stay at the hotel having been mentioned by Michener in a report, and they having made an investigation and mentioned that there was a card which establishes the time that Michener was here, and Kessler having read that report and knowing that same circumstance to exist, never took the matter of that card up with Michener until after we had had the discussion with Michener as to whether or not the only time he had stayed here had not been back in February. And then he says they showed him the card. Now, either that is an additional fact bearing on his credibility, or else it shows a disposition for the prosecution to play fast and loose even with the witness it is bringing up here. [8101]

Now, to come to the last of their witnesses, Wilson, the testimony that Wilson gave was a matter of no consequence. He said that he attended a meeting at the Governor Hotel with Harry Bridges and that, so far as he knew, all the people there were Communists—no, he didn't say that. Withdraw that. Here is what he said. He was asked, "Was that a meeting of union labor people or was it a Communist meeting discussing union labor matters?"

He said it was a Communist meeting discussing union labor matters, and that is just his opinion and conclusion and would not have any weight at all. But even that small matter was extorted from this man. While they bring him back and say, "Were you threatened with the loss of your job?" "No."

> "Were you threatened that you would be prosecuted for perjury if you did not come up and testify against Harry Bridges?
>
> "No."

But they did not ask him if he had not had the conversation with Harry Bridges in this matter in which he told him he was under such pressure that while what he knew about Harry Bridges amounted to nothing, that he would have to go in and take the stand and say what he did know, and that Bridges told him, "All right, that is all right; go ahead. If that is all you know, that I attended a meeting or two, I don't care about that. Go ahead; protect yourself. Don't get yourself in that jam." They [8102] didn't ask Wilson if he didn't have that conversation. And it does not need any argument, it doesn't need any evidence to convince people who saw poor Wilson here on his first appearance that he was a man on the rap.

There used to be a little fellow who practiced law down in the police courts down in San Francisco named Jimmy Carroll. He was an ex-prize fighter and a strange but lovable little fellow and possessed of a great wit. One day I was down in the corridor and they brought in two men. The police were bringing them in. They probably had been in some sort of terrible auto accident. They had bandages around their heads, bloody spots, one man had his arm in a sling, another a crutch, and they were barely able to manipulate their way in. I said, "Gosh, Jimmy, I wonder what happened to them." Jimmy said, "They just gave a free and voluntary confession."

When they put Michener on the stand it was obvious he was a man on the rap. Now, supposing they said, "Now, look, Wilson, you are going in and make this statement about at least one meeting you attended with Bridges or we are going to indict you with perjury." Suppose they put him on the stand and said that to him. Then he might say, "Well, all right; I will tell you about those meetings. I will try to make them do something to take it back again." If they exposed the man with the rap on him and turned the screws in front of you, then am I supposed to go up and give an extra twist to make him take it back, and then [8103] they will give him still a further twist to make him make a retraction. Is that the way we are supposed to work the thing with a man who is obviously under force, under duress, who hates it, revolts against it, but can't do anything about it? But they wouldn't do such a thing to Mr. Wilson. Why, suggest that Mr. Barber would go down and put the screws on Mr. Wilson? No. Out of the mouth of their witness Rathborne came the tory of how they put the screws on Krolek, not out of anything that we have testified about. All they had on Krolek was that he was alien. He was born in Canada and had one of these derivative citizenships here. But they can go down to his home in Belmont in the dead of night, with every circumstance of oppression and terror, and bring him and his wife up three or four times to the FBI headquarters in San Francisco, question them, intimidate them, threaten them, coerce them, render the poor woman ill so she had to stay in bed, and make the man so frightened he was hiding when his brother-in-law went down to visit him—they could do that to him; what could they do to a man that they could send to the penitentiary for the exact same crime that they are now charging Harry Bridges with? If the statute of limitations has not run against Harry Bridges, it has not run against Wilson. In fact, his signature is later than the 1945 date. So they can take this document and say to Wilson, "Now, you come up here and do what you are told," and Wilson had enough resistance and enough spunk to give them only a minimum [8104] of what they required from him.

I say this, my friends: Under the circumstances you can't tell whether Wilson was telling the truth about that meeting or whether he was not shading or slanting the story in just the direction that they wanted it slanted. It is identically the same proposition as handing Rathborne $5,000. He may be telling the truth, but that $5,000 is an awfully strong argument that he is not. And similarly with this man, the club that they held over him and the willingness that they have shown to use the club is enough to cast doubt upon his testimony, too. To say and criticize us that we did not take the man and start in on a long cross-examination, bring up before him the statements he had made and the documents he had circulated as a member of the Harry Bridges Defense Committee, and demand whether or not he was lying then or lying now, confront him with anything we might be able to bring up—what is the use? What he said was nothing, and it was obvious he was saying it under compulsion. To go up and try to expose even the circumstances under which he acted would have been a discretion to intrude into something that does not do anyone any good to come to the realization of. You find out so many things in this trial in this court that one recoils a little from pressing these matters too far. Opening up a man's soul, descending into it, and finding the torments under which he is acting would be like Dante when he stood before the oak tree in the forest of Arno and regarded the door that opened [8105] into it, and when he opened that door and walked into it he descended into hell. Nobody wants to open up George Wilson's heart and trample around in it and thrust around in it to find why he was just weak enough to force him to say something and just strong enough so that they could not force him to say anything of importance.

Mr. Donohue indulges a device that is rather well known in rural communities. Of course these eastern lawyers think that everybody who lives west of Pittsburgh is a rube anyhow. But that device consists in this, of advising the jury to watch for the tricks of the defendant so they can get away with all manner of tricks themselves. Now, we have been castigated and criticized, and inquiry directed upon little tricks and devices that we used to try to determine if the witnesses produced by the prosecution were lying or had the instincts and character of liars. But these gentlemen go further than that: They trick the defendants, court, jury, witnesses—everybody, everybody. And calling the attention of the jury to the old juvenile devices that we have employed, it is like the barker who gets up at the fair and he says to the rubes assembled outside, "Now, there are a lot of pickpockets out here. Be careful." The rube instinctively feels in his hip pocket to find if his purse is there. The accomplice is watching for that, he comes up, slits the pocket open and takes the purse out and departs.

These gentlemen start out with telling this jury there is [8106] only one issue in this case, that the only thing of any concern is whether or not Harry Bridges committed perjury and these two men conspired with him to allow him to do so. That is all we are concerned about. All this matter about unions, political influence, controversies between union heads and Bridges' effort to get Harry Bridges—window-dressing, window-dressing; just invention of the defendant to distract the jury's mind away from the real issue.

Then they put Mr. Rathborne on the stand as a witness and as a part of the prosecution, because he is an employee of theirs.

It is a rule of law that the reason that a prosecution is instituted is of no weight in determining whether a person is guilty or not, providing, of course, that the members of the prosecution do not take the stand or the reason for the prosecution does not enter directly into the controversy.

Suppose a police officer is a personal enemy of yours, wants to do you a great injury. He catches you speeding one time and you were speeding. Now, the fact that he allowed everybody else to go by and arrested you, though dictated by his malice, has nothing to do with whether you were violating the law or not. But suppose there is a controversy between you and him now as to whether you were actually speeding. Then his motives and his malice enter into it as establishing his credibility as a witness, and Mr. Rathborne is taken right out of [8107] their camp and put on the witness stand to try to prop up the fallen structure that fell when the brothers Ross, Crouch and Johnson collapsed under it. Of course, all he did was sprawl across the ruins and involve them in still worse confusion.

But here is Mr. Rathborne's first connection with the case, and here is where the purity of their motives can not be questioned. He goes to see the Attorney General of the United States. Remember, now, all we are concerned with is whether Harry Bridges committed perjury in 1945 when he was admitted to citizenship. [8108]

> "He, the Attorney General, said they were making an investigation, and it was their opinion, that on the basis of, as far as the investiagtion had proceeded, it was the Government's opinion that Mr. Bridges was a Communist."
>
> Now, remember, not even " a member of the Communist Party," but "was a Communist."
>
> "——and that something should be done to remove his influence, because they figured it was dangerous to the country.
>
> "Q. Well, did he tell you also that they contemplated trying to get Mr. Bridges indicted for perjury?
>
> "A. No, sir, they did not.
>
> "Q. Didn't tell you that? A. No, sir.
>
> "Q. All right. And he told you also that they wanted to get Mr. Bridges out of the labor movement, is that right?
>
> "A. Well, he didn't, I don't recall he put it that way. He said they wanted to remove the influence of Mr. Bridges and other Communists."

Now, still not even "members of the Communist Party."

"Q. From the labor movement?

"A. From the labor ranks, yes.

"Q. All right. So Mr. Clark told you, then, that their information convinced them that Mr. Bridges was a Communist, he was detrimental or dangerous to the security of [8109] the country, that he wanted to get him out of the labor movement, is that right? Is that the substance? Is that substantially correct? Or they wanted to remove his influence from the labor movement? A. That is substantially correct."

Then he calls on Mr. Carey.

"Q. You told Mr. Carey that the matter you were interested in was this, substantially: that the Government was undertaking some sort of proceeding against Harry Bridges, accusing him of being a Communist and removing either him or his influence from the labor movement, is that correct?

"A. I related to Carey, as well as I could, the substance of Mr. Clark's conversation with me.

"Q. And that was substantially in the question I just asked you?

"A. Yes, that is right."

And then, not sufficiently satisfied with such high authority, he next goes to see Tommy Ray:

"Q. So you went first, then, to Tommy Ray to find out what would be his attitude toward you testifying against Harry Bridges, is that right?

"A. Well, more than that. The whole matter of his attitude and Joe's toward the degree of Communist infiltration, how effective it was, whether in their judgment it would be in fact a detrimental—a menace to the country [8110] in case of hostilities, and this whole situation was discussed with them.

"Q. But then you also discussed with them what their attitude would be toward you taking the stand and testifying against Harry Bridges, is that right? A. That is right.

"Q. And did Tommy Ray say it was all right with him? A. I believe he did.

"Q. Oh, now, what did Joe Curran say about helping get Harry Bridges? Didn't he say, 'Lie, steal, do anything you can to get him.'? A. No, he didn't.

"Q. What did he say?

"A. You know he wouldn't say that.

"Q. Well, let me ask you this.

"A. Joe and I were friends and I don't know.

"Q. Well, he gave the undertaking his blessing anyhow, didn't he?

"A. That is right."

So up to that time we have no word at all, nothing to indicate that Mr. Bridges is charged with being a member of the Communist Party. And this is back in July of 1948. We have nothing to indicate that it is believed that Mr. Bridges committed perjury. It is only that they say that Mr. Bridges is a Communist and they want to get him out of the labor movement. And Rathborne, [8111] who goes back there and consults the Attorney General, goes on then to consult the high brass of the CIO, to find out if he shall lend his strength and his help, now,—not to vindicating the majesty of the law or punishing perjury, but to getting Harry Bridges out of the labor movement. And of course having resolved to use the powers of the Department of Justice to get Harry Bridges out of the labor movement, it was only necessary to look around and find out what particular avenue could be used through which to build on. And finally, having digested and gone through the thing, and probably concluding that they couldn't get him through any administrative proceedings because their experiences in the past when Harry Bridges was in a much worse case, because that had been so disastrous; and they couldn't get away with anything before a court, so they determined that they would use what they conceived to be the miasma of hysteria that was sweeping the country to see if they couldn't get a jury to convict him of a criminal offense.

What criminal offense? It is like your enemy, the cop, stopping you at the curb; first he checks your driver's license and then he checks your registration certificate. Next is the amount of air in your tires, then whether your lights are working. Then whether your brakes are in good order, whether you parked too far from the curb; or any other thing that may occur to him. And if he can't find anything, having gone so far and having been determined that he is going to get you, and being [8112] that unjust, having the morality that is so unjust that he can set out to get you at any cost, my friends, it doesn't take much more to make up the story that will get you.

And this nonsense that Harry Bridges might be a detriment to the country or an unsafe element in the country. Who would that appeal to? Well, the same way. You are supposed to have hung your good sense up with your hat, and you are supposed to be guided by the propagandas and the statements in the papers about war, that we are all in some sort of terrible danger, and the most terrible thing that might happen to us, and if it weren't for certain employees of the United States Government, we might as well have vanished off the planet altogether. Then they are going to find something on that.

Now, here is where they are confronted with a difficulty. Today Mr. Bridges is a menace to the safety of the country, unsafe in the structure. He is one of the underpinnings that has been eaten by the termites and they want to replace him. Unsafe for the security of the country. But then the just persons say, "Well, now, wait a moment. Wait a moment. If you are saying that now, then you tell us why, back in 1941, when he was not only a menace to the country but a strong metallic prop, when he was being commended by officials all over the country and praised for the work he was doing to keep the ships moving and the cargoes being loaded, and when he was being commended by the State Legislature, when his union was getting E's from the Navy [8113] and praise from the officials, you were trying to get rid of him then. And then back in 1939 when it was neither the situation where he was a pillar of security or a weak link because of having his feet eaten up with termites, but it was purely neutral, there wasn't any world war, any hot war or cold war or anything else back in 1938—and you tried to get him out then. So, says you, "You sound to me a little like the wolf in Aesop's story where the little lamb was drinking at the stream and became terrified to observe a wolf was drinking beside her. And the wolf turned to her and he said, 'What do you mean by muddying the water that I am drinking?' The terrified little lamb said, 'Indeed, sir, that can not be for the water is flowing from you to me.' Well, the wolf said, 'Well, when I was around here last year, you called me a lot of tough names.' And the lamb said, 'That couldn't be, either, sir; I wasn't even born last year.' 'Well,' the wolf said, 'then it was your father.' And, leaping upon her, he devoured her. 'Alas,' said the lamb with its expiring breath, 'any excuse will serve a tyrant'."

And when these gentlemen come out and start to get Harry Bridges, they do it, too, with every circumstance of fear and violence that they can muster. They end up by making us about as afraid of them as we are of the Russian bogey.

Shall we take the recess, Your Honor?

The Court: Yes, we will take the recess, ladies and gentlemen of the jury. The same admonition to you.

(Recess.) **[8114]**

Mr. Hallinan: Here is the situation that the defendants are confronted with now when they run into this case. A grand jury hearing is had in the month of May, 1949. Witnesses are sneaked in, testify, are sneaked out and vanish. Nobody knows who they are, where they come from, what their identity is or the nature of any evidence they gave. An indictment is returned. In the State courts in the State of California if a person is indicted, on his first appearance in court for his arrangement the district attorney is required to furnish him a stenographic copy of all the proceedings before the grand jury, to give him a copy, a stenographic reproduction of all the testimony that was introduced against him before the grand jury. That certainly seems to be a very fair and decent thing. For some reason which I can't explain, because many of the rules of the Federal Court are fairer than the State courts, there isn't such a rule. So the defendant goes on trial without knowing a single word of what the evidence is against him, nothing except the bare charge contained in the indictment. He doesn't know who testified against him; it might have been his next-door neighbor; it might have been his brother; it might have been a total stranger whom he never heard of. He isn't given an opportunity to investigate it or determine. An over-conscientious public official might think that that is not entirely right and let the defendant or his attorney know generally what he is charged with. But here not one [8115] word is allowed to leak out. Even the releases that are given by the attorney and by the witnesses to the press are propaganda releases. They are not statements the witness testified to in the jury room; they are statements designed to justify the witness, to glorify and enlarge him, and to frighten or blacken the reputation of the defendants, that is all. But not one word could we learn as to what had been said by any single person in the jury room. And we could only guess at the identity from persons who went down there and sat in the anteroom to see if they could identify who came in, and they could only pick out one or two people. But concerning Crouch, Johnson and Ross, nobody could even surmise or know what kind of evidence they were going to give. And then what do we get? We are ridiculed, defied, scorned by the prosecution; statements are made in the newspaper, "We have some surprises for the defense," as if that were honorable, "We are going to surprise the defendants," as though that were fair; "We are not going to let them find out what our witnesses will testify to," as though that were the right way to treat another human being regardless of who he might be. And then they tell this to the defendants, "Why, you are not given a copy of the grand jury testimony. When the witness is discharged, you can go down to him lawfully and say to him, "Now, be fair; you testified in this case; we are not asking you to change anything. What was your testimony?

What was the nature of it?" What [8116] are we up against? They put their witnesses under a false and fraudulent oath not to reveal anything, an oath that the law does not permit them to put them under, and which the witness does not have to follow, he can morally ignore it. They put the witnesses under oath so the witnesses wouldn't have an excuse for refusing to tell the defense attorneys what they had testified to. For all we know, those persons may have testified to murders, to thieveries, to robberies, to anything. We had no way of knowing what they had to say.

The lawyers who preceded Mr. MacInnis and myself in the case, with justifiable diligence, went down to see men with whom they had been personally acquainted, whom they had never done anything wrong to and who had not done them any wrong, to see if they could coax them to tell what was the general nature of the charge being made against this man, what he was being confronted with, what preparation they could make for defense. What kind of a deal is it against you when the first thing you know about the evidence that is going to be introduced is when you come into court and hear it from the mouth of the witness and then you have to run around and find out what you can to destroy the witness' credibility or prove that he isn't telling the truth or something that will show that he is mistaken or that there is something wrong with him? What kind of a deal is that to hand a person?

And when the lawyers go down to interview Mr. Rathborne [8117] and Mr. Schomaker, they not only learn nothing, but they are immediately put at peril and an effort is made to frighten and intimidate them. A grand jury session is called to investigate their daring in going down to find out what their clients were confronted with so they can prepare some sort of defense to it—a thing the absence of which should be a reproach to them is treated as though they had done something disgraceful or shameful, and that is flaunted all over the public sheets as though it were some reflection on them, whereas the opposite should be the thing that should cause them to be blamed. Mr. Donohue comes out with this. Mr. Rathborne is asked:

> "Q. The statement you are talking about was not the Attorney General's, it was Mr. Donohue's: He sent to the Examiner this little gem: 'Donohue, taking his first official cognizance of the visit of Bridges' attorneys, George Andersen and Herbert Resner, with Government witness Mervyn Rathborne, last Saturday announced, "The United States Government is prepared with every resource at its command to detect quickly and to punish severely any person or persons who may interfere with in any manner or to any degree molest any of its witnesses who have given or may be called upon to give testimony." ' "

So here we have an announcement in the public press by the private attorney called to handle this case that the United States Government, meaning Messrs. Kaiser, Barber and Boyd, [8118] and now calling upon him as an auxiliary, is prepared with all the resources at its command to not only punish any person who—what? Who goes down and threatens a witness or offers to bribe a witness or does something criminal? No. Who interferes with or molests a witness. You are molesting a witness, I suppose, if you ring a bell; you are interfering with him if you stop him on the street and ask him what he has been doing. And was this an idle threat? No, not at all. When these two poor girls went down to their old friend to say to him, "Mervyn, why are you ruining yourself? Why are you taking this terrible position that you are taking, and why are you telling things that you know to be lies? Are you bought?" He is allowed to come up here before that same grand jury secretly, go in there and tell the story that he has told on the witness stand, and those two poor young women are not afforded an opportunity to go in and explain to the jury that it wasn't so, and it isn't pointed out to the jury that he is a liar, a fraud, a practiced perjurer and a reformed burglar. Now, the two poor girls are in the situation that the defendants find themselves here, facing a felony charge for having dared to molest or interfere with, quote "any of its witnesses who have given or may be called upon to give testimony." That is the situation that we find ourselves confronted with, and that is the atmosphere that is built up here.

Now, if Mr. Donohue had not gone out of his way to point [8119] out to the jury how tricky we are, perhaps we would pass up the opportunity to inquire whether Mr. Donohue might stoop to a little trick himself. Mr. Donohue is so secure and he has so little concern about what may happen or whether his vaunted word may be brought into question—and I don't bring it into question. Sure, Donohue is an honorable man; we have been told that many times. When Ross was on the witness stand, and he was asked about whether he could give us the names of any of his co-pupils or classmates in the University of Kentucky and he couldn't do it, or name any of his teachers, of course it became obvious to everyone that there was something wrong or that this man was concealing something for some purpose, and the situation was at once heightened in our camp that we were on the track of something that would prove this man wasn't what he pretended to be at all. We were not alone in that. With a perspicacity at least equal to our own, Mr. Donohue's instincts indicated to him the same circumstance. After Mr. Ross had been unmasked, Mr. Donohue made this statement to the Court, page 3651:

> "Of course, if your Honor pleases, we are not fools, and it was apparent to me when Lawrence Ross was on the stand on Friday afternoon and was unable to identify a single student in the University of Kentucky, that perhaps he might never have gone there, and for that reason at my direction on Friday afternoon the telegrams heretofore [8120] identified were sent."

So, having exculpated himself from the onus of folly,' I fear he may have taken upon himself a still worse burden, because after Mr. Ross testified last Friday afternoon that he did not know anybody at the University of Kentucky, and after Mr. MacInnis asked that the witness be held over because he had certain information which he wished to inquire into, here is what Mr. Donohue had to say:

> "Mr. MacInnis: Now, in respect of the further cross-examination of this witness, I have, as I intimated to your Honor this morning, some anticipated material. I cannot say what its length will be. I am sure I will have it by Monday morning. If your Honor would order this witness held over, we would appreciate it."

Now, by this time it is Friday afternoon and Ross has finished his testimony. So it wasn't anything that occurred after this time that apprised these gentlemen, who are "not fools," that Mr. Ross might be a fraud and a fake. And Mr. Donohue made this retort to Mr. MacInnis' request that the witness be held over:

> "Mr. Donohue: On that question, if your Honor pleases, this witness has stated that he came here by automobile with his wife and family. He has stated that he is the editor of a trade journal. He has been here available to the defense now for three days. The per diem which our Government allows witnesses will not maintain himself and his [8121] family. His children have to return to school. He

has to go back to his work. And I most respectfully say to your Honor that on other occasions counsel for the defense have asked that witnesses be held over until they get from some far, distant place some information which is pertinent, and it never seems to be. Now, I thoroughly agree with your Honor that witnesses should be subjected to a full and complete cross-examination, and as your Honor indicated this morning, that is a privilege which you have allowed to the defense and one which your Honor stated would be permitted to us at the proper time. In the light of that fact, and not attempting to be obstinate or stubborn about it, but in appreciation of the fact that even under the California Code, a witness is entitled to his discharge when reasonable opportunity has been afforded to examine him, and yet at the same time not to preclude any right which the defense may have to examine this witness further on some particular subject, I ask your Honor in the absence of the jury to ask Mr. MacInnis to state to your Honor exactly what he expects to prove on the material which he hopes he may get. And if your Honor in his sound judgment then feels that it is pertinent, proper cross-examination, at whatever sacrifice—and it will be great—I am sure the witness will remain. But otherwise, I don't think that under the circumstances he is here he should be asked [8122] to remain here from now until Monday morning on a statement of Mr. MacInnis that he hopes to get some material from some far-distant place without your Honor knowing or without counsel for the Government knowing what he expects to prove, if anything, by this [8122-A] material."

Now, that would be fairly innocuous if Mr. Donohue two or three days afterwards, it probably having slipped his mind that he had made such a sterling fight to help Ross get out of the chair, Ross having persuaded him with his argument, and they followed him with a bitter demand that he be allowed to go back so that the culture of the south not be blasted by the failure of the Memphis Cotton Grower to come out in its proper rotation, if Mr. Donohue had not disclosed that he and his associates, not being fools, suspected that their witness was about to fall apart. Now, what consistency can he make in his declamations to honorable conduct and his criticism of our tricks in the face of realizing that a disclosure is about to befall that will expose the witness with something he is not, for something other than he claimed to be, and he puts up this kind of argument to get out of the court. And if he cannot get him out of the court, at least make these fellows tell him what they have. What do they expect to prove? Put them in a different category from what we are in! "We do not have to disclose to the defendants the evidence that they are up against nor anything that was disclosed to the grand jury by our witnesses. If they try to find out we will indict them. We will put them in jail. But, Judge, make them tell us now what has he got? What is in the air? What do we have to look out for when he comes back here on Monday morning?"

That is the Brutus who is such an honorable man, so that he [8123] can talk about tricks. And there is another little thing that makes me think that they knew all along all about Mr. Ross in addition to the ordinary conclusion that we would arrive at from the nature of his activities, the fact that he had been arrested and fingerprinted, the fact that in the Un-American Activities record it showed that he was supposed to have been named Rosenfeld and born in the Bronx; so it seems to me they would have run that down. But here is a little thing that occurs also. Ross says he went and wrestled with his conscience Friday night, and then finding that Mr. MacInnis' inquisitive nature seemed to be on the side of his conscience, he yielded to it and decided to make a clean breast of the whole deception. But it was not until Saturday morning that he acquainted Mr. Bruce Barber with the turmoil that had been on in his heart and that he disclosed to him the difficulties he was then under. And then he says that on Monday morning Mr. Bruce Barber told him about his father's naturalization:

> "Q. Now, you told us yesterday that Mr. Barber gave you information about your father's immigration record?
>
> "A. That is correct.
>
> "Q. And that he told you the facts of your birth in Poland, your arrival in this country,

the fact you were a derivative citizen, and that that was based on your father's naturalization papers? A. Correct. [8124]

"Q. Now, what did he tell you about your father's naturalization? When did he tell you it took place and where?

"A. I don't recall that he told me.

"Q. Where?

"A. I think he said the year 1915 or possibly 1914, somewhere around there.

"Q. When was it that he conveyed this information to you?

"A. Yesterday morning before I came to court."

This is Tuesday morning that he is testifying, so on Monday morning, after Mr. Bruce Barber of the Immigration Department has been informed on Saturday that the man is not what he says he is, that he has missrepresented his name, his education, his relatives, all about him, over Saturday and Sunday, which one would ordinarily assume to be days on which public records were unavailable, he is able to procure and inform this witness that as a matter of fact he was born in Poland, as though the witness did not know it. Mr. Bruce Barber told him. Well, we have it:

> "You were born in Poland. Your father came to this country. He was naturalized in 1914 or 1915, and you have a derivative citizenship."

Now, where did Mr. Bruce Barber get that information? You know, one would think, if one were a person employed by the United States Government and occupying an important position, and accusations were being made against him day after day of [8125] fraud and conspiracy to engage in a felonious desire and design to put people in prison, that that man would get on the witness stand and tell you what he really did know about it. But Mr. Barber sees fit to sit here month after month being named by the witnesses who come here as having accompanied them on trips, the imputations and inferences being clear, obvious and direct that they were acting under coercion, pressure or bribery by the——

(A bell rang outside the courtroom.)

Is that a fire?

And—well, he does not see fit to take the stand and explain those things away. I would like to know how Mr. Barber found out, if he did find out, between Saturday afternoon and Monday morning all the secret of Mr. Ross' birth. Now, we learned from Friday afternoon to Monday morning a certain amount. Yes, we discovered who he was, his father and so forth. We did not know he was born in Poland. We thought he was born in The Bronx, too. They knew all about him at that time.

And then to show that Mr. Donohue was not alone in his desire to get Mr. Ross off the stand, to keep him from being questioned and to protect the matters of his identity, all the lawyers involved were apparently alert to the proposition was wrong with Lawrence Seton Ross. First we have Mr. McMillan:

"That has already been asked and answered, if Your Honor please.

"Mr. MacInnis: If the answer is a benign one, it won't [8126] hurt you gentlemen, I don't think.

"Mr. Donohue: Oh, no.

"Mr. Paisley: We have other things to do, Mr. MacInnis; so has the jury. Don't take up too much time.

"Mr. MacInnis: Oh, don't be hurt.

"Mr. Paisley: We want to get rid of this case some time.

"Q. (By Mr. MacInnis): What was your father's name? A. My what?

"Q. Your father's name.

"A. Sedon—S-e-d-o-n.

"Q. Sedon what? A. Ross.

"Q. Where did he live?

"A. He isn't living now, sir.

"Q. Where did he live?

"A. In Bell County.

"Q. What was his occupation?

"Mr. McMillan: Oh, may it please Your Honor——

"Mr. MacInnis: I have a purpose in this.

"Mr. McMillan: Haven't we gone far enough in cross-examination?

"Mr. MacInnis: I am not sure who this man is.

"The Court: I think, not only with respect to this witness, but many of the witnesses who have been produced in this case have been subjected to probably the most searching [8127] cross-examination of any case in which I have ever participated.

"Mr. McMillan: Yes."

But he misinterpreted what the Court was about to say, because the Court goes on:

"And I think that having gone this far, we might just as well go to the extent of finding out who his father was and his occupation. I will overrule the objection.

"Mr. McMillan: May it please Your Honor, the other day, very respectfully I asked Your Honor to lay some limitation upon the extent of this cross-examination, and really, as I said then, with becoming diffidence on my own judgment and out of all respect, it has really begun to get interminable, and I really don't want to personally sit here until the frost is on the pumpkin and the fodder is in the shock."

That is one of the little homely apothegms you may take back East with you that you picked up from Mr. McMillan.

Mr. Donohue: In what year did that take place?

Mr. Hallinan: That is 3420. Mr. Donohue hops in. Mr. MacInnis now wants to interrogate Mr. Ross a little more:

"Q. What was the date of your first marriage, Mr. Ross?

"Mr. Donohue: I think, if Your Honor

> please, that there are some personal privacies in a man's life to which he is entitled to guard even as a witness."

Now, the date that a man married is not such a shameful [8128] matter that you should hide it away from all eyes. I know women, and I suppose men are just as bad, conceal the date of their marriage lest they betray their age, but that is their only interest. The fact of their marriage they take to their credit.

> "Mr. MacInnis: This is coming to a point upon which he gave testimony at the instance of the prosecutor.
>
> "Mr. Donohue: Every objectionable question Mr. MacInnis covers by telling Your Honor he has a point. I haven't seen the point of any of them yet. Object to the question, if Your Honor please. It obviously has no bearing on any issue before this Court."

Then another question.

> "Mr. MacInnis: I have a very fixed purpose, Your Honor."

No, it is the same question.

> "Mr. Donohue: May I say, Your Honor, that this witness testified on direct examination with respect to many matters directly concerning these defendants. He has been under cross-examination now for a day, and the cross-examination consists of repeated efforts to pry into this man's personal life. Now, whether this man was married before and divorced

and the circumstances of that marriage and divorce can only be a purely collateral matter, and any answer which this witness has made to any question asked by Mr. MacInnis on that collateral matter, he is bound by it, he may not seek to impeach him on that question. And therefore I most respectfully say to Your Honor that [8129] there can be no legitimate purpose in attempting to break down the testimony of this witness against these defendants by attempting to pry into his personal and private life."

So Mr. Ross is protected from having his private life pried into by all the diligence that counsel can muster, and as he seemed to be the only person around here whose private life Mr. Donohue did not seem to be very intimately interested in and willing to explore, it seems to me that these gentlemen knew in advance that further inquiry into Mr. Ross' private life would be of great harm to the prosecution.

Now, how are you going to explain—and when you get up here I want you to do this as a kind of a special favor to me because of your kindly feeling. I want you to explain how, when you knew that Ross or suspected that Ross was somebody other than he was, did you then endeavor to have the Court excuse him and send him on his way or, at the very least, to compel the defense to disclose to you what he had to say. Or what we were inquiring about.

Now, here is what we call a minor or a second rate trick. This one does not arise to the dignity of that one. The wedding party at Stockton disclosed themselves to the defense, and before we get a chance to interview a gentleman named Mr. Sawyer, the Immigration Department has already interviewed him, and the witness says on the witness stand that when he went to Mattioni's he is not sure any longer whether he saw Harry Bridges there or [8130] whether he heard Harry Bridges had been there or was coming in the future. In other words, a very honest expression. He knew that in some way Bridges was connected with an appearance at Mattioni's but he could not remember any longer after this lapse of time, after fourteen years, whether he was still there, whether he had seen him, whether he had just heard he had been there or was coming there.

So on cross-examination Mr. Donohue says to him, "I take it, Mr. Sawyer, that the information that you gave the gentlemen from the Immigration Service was substantially as you have testified here today as to your recollection of the event?"

And the witness said, "Oh, no, I told him I thought I did see Bridges there."

Now, they had the report. He said, "I think I perhaps gave him a more definite impression that I had talked to Mr. Bridges."

So Mr. Donohue is going to be very "flahool" with his information—that is an Irish expression meaning generous. Mr. Sawyer says, "I do not know whether I saw Mr. Bridges there or not. I may have seen him there. It may be I heard he had been there or was coming."

Mr. Donohue has a report from the Immigration agent showing Mr. Sawyer said he did see Mr. Bridges there. So Mr. Sawyer can't resist saying, "Of course, that is the same thing you told the agent that you have told here." [8131]

And the witness says, "No, no, I told the agent that I had seen him."

So Mr. Donohue knew, when he asked that question, that the witness had said that he had seen Mr. Bridges.

And then here is another little one I would like you to explain if you will. This is a kind of cute little touch. When Schrimpf was on the stand and we were trying unsuccessfully to get the record on Schrimpf's naturalization—and, incidentally, we have never seen that document which the naturalization record mentions, to wit, the FBI report on Mr. Schrimpf in connection with the Bridges case. You take the exhibits to the jury room with you, and if you turn to the Schrimpf documents you will see a letter there from the FBI to the Immigration Department saying, "We have nothing except what is in your own records concerning Henry Schrimpf. We call your attention to letter dated so-and-so upon this witness' connection with the Harry Bridges case. You have a report on that matter."

But the report isn't there. That is taken out and removed. That probably would show what Schrimpf had told them back in 1937. But, anyhow, we are trying to find out what can be discovered as to how Mr. Schrimpf managed to get naturalized in 1943 after having been a member of the Communist Party, the exact same thing that is supposed now to invalidate the naturalization of Mr. Bridges, and Mr. Donohue says, when we say the hearing examiner is the proper person who should identify this matter, [8132] he says, "I must say to Your Honor, as long as counsel has raised the point that the hearing examiner from our records who conducted this hearing is no longer in the Immigration Service, and we have made every possible human effort since this matter came to our attention a day or two ago to locate him and bring him here, and we can't find him.

"The Court: Are you prepared to disclose his name?

"Mr. Donohue: His name is Houser.

"The Court: How long was he in the government service?

"Mr. Donohue: I will have to ask Mr. Boyd if he knows.

"Mr. Boyd: I am not prepared to answer, sir.

"Mr. Donohue: I can find that information for you.

"The Court: All right. At least his name is Houser.

"Mr. Donohue: We understood he was an attorney practicing law in Los Angeles. I called the Los Angeles office of the Immigration Service the day before yesterday and asked them to make every human effort to locate him, that I wanted to talk to him."

And no human effort that they made from that day to this enabled them to produce Mr. Houser as a witness. We had to go and expend the superhuman energy of calling up the State Bar and asking them for Mr. Houser's address before we were able to accomplish that difficult task of finding him and bringing him here.

I understand that Your Honor wishes to adjourn? [8133]

The Court: We will take the adjournment, ladies and gentlemen of the jury, now until Monday next.

Mr. Hallinan: I might say, Your Honor, I will easily be through before the close of Monday.

The Court: Monday next at 10:00 o'clock, and may I again admonish you not to discuss the case under any conditions or form an opinion on it until the matter is submitted to you, particularly not to discuss with any person any subject connected with the trial.

(Thereupon an adjournment was taken to Monday, March 27, 1950, at 10:00 [8133-A] o'clock a.m.)

Monday, March 27, 1950—10:00 o'Clock A.M.

(The following proceedings were had in chambers out of the presence of the jury:)

The Court: I called you gentlemen in this morning by reason of an advice I received from Ed Mitchell yesterday, and that, with one other matter that I had to take up, I thought deserved an informal discussion rather than matters of open discussion in court.

First, a report from Ed Mitchell concerning the illness of one of our jurors. What is it?

The Clerk: The illness of juror's wife. On Saturday, approximately 4:30 or some time around 4:00, Mr. Chipp, who is Juror No. 5 on the panel, the fifth from the right in the back row, Mr. Henry William Chipp, phoned me in a state of great upset and, in fact, between emotional outbursts of crying, said that his wife who had been in the hospital, had suddenly collapsed—that was the word he used—and that he was desperate and felt that he would not be able to appear at the trial this morning; that he had taken it up with the doctors, mentioned that there were three doctors present at the bedside of his wife in Herrick Hospital——

The Court: What is the name of the hospital?

The Clerk: Herrick Memorial Hospital in Berkeley, and that Dr. J. L. Wood, who was in charge of his wife's illness, [8134] and who had been his own physician, had suggested, in fact stated, that he should not attempt any further jury service and the doctor would like to have me call him.

I attempted to get him, and he was engaged, I presume at the hospital, and not available. I left my number and he called back and stated to me that Mrs. Chipp's condition was very puzzling and very serious; that he was a man of an intense emotional type; that he was nervous; he had been suffering under the strain of this jury service; that he had noticed that he had not reacted well; that he felt that he should not be requested, if it were possible, to give any more service, as he was quite undone over Mrs. Chipp's condition.

I called yesterday to see what the condition was and the condition was worse. I phoned this morning before I left home and found that an operation is being prepared for Mrs. Chipp, or they are trying to prepare her for surgery, which may be critical—not critical; the word was "fatal"; and that they had broken the news to Mr. Chipp to that effect.

The Court: He knows that?

The Clerk: Yes, they had told him that, I presume, in getting his permission to operate. And that is as far as any information I have in the matter.

The Court: What is the reaction of counsel to that, Mr. Hallinan?

Mr. Hallinan: Having just gone through something like that, [8135] I know what the man is up against; and if the wife dies, he would have to be excused anyway, so as far as we are concerned, I would make no objection.

Mr. Donohue: I would make no objection under those circumstances.

The Clerk: May I make this statement, Your Honor, in that regard?

The Court: I would say this, if you are perfectly content to take Mr. Mitchell's statement of the report of the doctor's talk—or if counsel would like to verify this——

Mr. Hallinan: I am perfectly willing to take his statement.

The Court: The doctors, the hospital, or either.

Mr. MacInnis: We would never question his statement.

Mr. Hallinan: He is one of the jurors that we wouldn't like to have leave, but if the situation is that, I don't think there is any question.

The Clerk: I have formerly stated the doctor's name and the hospital.

Mr. Hallinan: Who is the next alternate?

The Clerk: That would require that Alternate Joseph Batch, Alternate No. 2, replace Juror No. 5.

The Court: The second matter that I have in mind, gentlemen, is that it is my desire, in the light of the extensive arguments thus far on the part of Mr. Hallinan, if possible, to charge this jury no later than Friday of this week. [8136]

I have expressed myself that I full well realize the tremendous amount of evidentiary matter that has run through the mill here. At the same time I feel, after a rather careful analysis of the arguments engaged in thus far, both by the prosecution as well as Mr. Hallinan, that we could very well adhere to this rather definite program: Mr. Hallinan conclude his argument at noon today.

Mr. Hallinan: Judge, I would like if you will extend that until 3:00; that will be——

The Court: May I continue? I think we can work it out some way.

Mr. Hallinan: Very well.

The Court: I am thinking in some fluidity.

Mr. Hallinan: You have been fair on the time.

The Court: Let us see if we can work out some time under our time schedule; Mr. MacInnis could then take up at 12:00 o'clock and conclude——

The Clerk: Not at 12:00.

The Court: At 2:00, and conclude within a day and a half. That was his original proposition. "Or at the maximum a day and a half." And thereafter Mr. Donohue or the government close, permitting me to charge the jury Friday.

Now, I am not going to foreclose Mr. MacInnis. He has been waiting patiently, and he has much to say on behalf of his two clients. I feel, however, that a great deal of the groundwork, [8137] so far as an attack made upon the several witnesses, has already been engaged in by his co-counsel, Mr. Hallinan. I mean, he has laid the superstructure. The matter of conspiracy and the other matters that he desires to take up should be properly gone into. But I am not going to foreclose you. Maybe you gentlemen can work out the situation between yourselves. How do you feel about it?

Mr. Hallinan: Judge, I was going to suggest this: I went over my argument, what I had left, over the weekend, and if the recess were not too long this morning, and if we start on time and started at 2:00 o'clock, I could be finished by 3:00, and that would only be an hour more than the schedule you set. Then how long does the Government expect for rebuttal?

Mr. Donohue. A good bit will depend on how long Mr. MacInnis takes.

Mr. MacInnis: I would attempt to stay within the time set.

The Court: Will you gentlemen between yourselves and the defense counsel work out a schedule wherein and whereby I can charge this jury some time during the day Friday, as early as possible.

Mr. Hallinan: Suppose we are certain to be finished Friday morning some time—I mean Thursday morning, some time before noontime. That would only extend it an hour——

The Court: That only gives the Government——

Mr. Donohue: That doesn't give us any [8138] time.

The Court: That only gives the Government a day to close.

Mr. Hallinan: Oh, but——

The Court: Pardon me. If you conclude at 3:00 o'clock today, Mr. MacInnis may well conclude late tomorrow afternoon or Wednesday morning some time.

Mr. Donohue: If Mr. MacInnis will conclude by noon on Wednesday, Your Honor, Your Honor can charge the jury not later than Friday morning.

The Court: He may conclude before that.

Mr. Donohue: Or before.

The Court: Let us not crowd him to the point where he has to watch the clock, because, as I say, Mr. Hallinan has already had six days or six days and a half.

The Clerk: Five and a half.

Mr. Hallinan: Yes. If I do not argue after 3:00, I think we will be finished by noontime Wednesday, and suppose we make our own time.

The Court: Does that suit you, Mr. Donohue?

Mr. Donohue: Yes.

The Court: I don't want to send this jury out late Friday afternoon. I don't want to harangue them late in the afternoon. I would like it to go to them some time during Friday morning.

Mr. Donohue: You can do it Friday morning if the defense will finish by noon on Wednesday.

Mr. Hallinan: We will do that.

The Court: Is that understood?

Mr. Donohue: Yes. [8139]

The Clerk: The case of United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Mr. Mitchell has made a statement for the record and in chambers this morning concerning illness in the family of Mr. William Chipp, one of the jurors, No. 5. Without further comment on his part, I believe counsel on both sides have already stipulated that Mr. Chipp may be excused from further conduct as a juror in the trial of this case, and that the next alternate, Mr. Leon Batch, may serve in lieu of and in place and stead of Mr. Chipp. Is that a correct statement?

Mr. Hallinan: Yes.

Mr. Donohue: Yes, your Honor.

The Court: Is it so stipulated?

Mr. Donohue: So stipulated.

Mr. Hallinan: So stipulated.

The Clerk: Mr. Leon Joseph Batch, Juror No. 5.

The Court: Mr. Batch has been heretofore sworn as a juror?

The Clerk: Yes, your Honor.

The Court: You may proceed.

Mr. Hallinan: Now, to end up, ladies and gentlemen of the jury, about counsel warning you of tricks of the defense, being open, avowed and unconcealed efforts to trap perjurers, we have the last of the things that became so noticeable that [8140] they have trapped even our slow and inexpert attention, and that is a similar concealment of the Wilson hotel record. They concealed the Michener hotel record and produced it when it looked like Michener might be tied up in a knot, that the only record of his attendance here was in February, 1940. The Wilson hotel record they were not even going to do that with, but fortunately when we went through the records of the hotel the clerk notified us that one of the documents had been abstracted by the Immigration Service, and when we objected they very graciously came in, and for the first time, after holding it out for months, turned it in. But of course, if the clerk had not notified us, we would not know about it at all.

The clerk in the Shaw Hotel concealed the document for them, concealed it in their safe, and when we made a search of the records nothing was said about one of the documents being put in the safe, but the clerk at the Wilson hotel told us.

But as a trick to end all tricks, as the master trick, in the very first days of the trial the matters that have already been elucidated to you happened. We have all heard of the ancient device of the wolf telling the sheep to get rid of the dogs. But there is an improvement of that that has been manifest in this case. To let you in on some of the principles of our trade, lawyers do not accuse other lawyers of contempt of court and try to get them locked up in jail. In fact, it is considered trickery. If the Court takes exception to what [8141] a lawyer says, gets sore at him and wants to do something about it, the other lawyer, realizing the frailty of the other man, will get up and try to beg him off. But these gentlemen, instead of doing that, not only started the accusation, calling me a mad dog and trying to turn the court into a bawdy house—which we have not had explained yet—counsel probably will—and with all of those invidious appellations they get up and demand and beseech the Court in ringing tones to lock me up then and there and not to give me a stay of execution, to force Harry Bridges to go in the streets and byways, hire himself another lawyer, and come in and defend the case, advising him, in my presence, he is much better off if he did not have me as a lawyer—which might be true, but still is not playing the game according to the rules. Not that we take any exception to that. All right. They come in here and want to cut out one of the flock. They look at me as some old watch dog, standing around here, so they figure, "We will get Fido out of the way." They sidle up friendly-like, and the first thing you know it is, "Get 'em, Brother Paisley, catch 'em by the jug'lar vein! Brother Donohue, rip out his vitals!" And then Mr. McMillan bringing up the end, yapping and yelling, and I am standing around—"What is this all about?" As I say, I didn't mind it too much, but it surprised us to see what we were up against, that this was a new sort of case, and that it would not be tried on the usual formal basis we had been [8142] instructed to follow, but we have blackjacks and stabs in the back by the Marquis of Donohue. We did not want to follow that proceeding ourselves, but we were alerted to the things that happened as the matter progressed. As far as name-calling is concerned, let me suggest this: We have not uttered one single name or affixed one single appellation to these gentlemen who took the stand except the ones by which they designated themselves, and any statements about the activities of certain Government agents, including the glorified FBI, emanated from their witness Krolek in his description of what they had done to this wife and himself, plus one additional thing that we added, the statement of Harold Ickes, who, after all, was Secretary of the Interior under all of Franklin Roosevelt's regime and Secretary of the Interior for part of the time under the Truman regime.

We said originally here that a jury stands between the Government and a defendant, and the jury is really a weapon of the defense and not an arm of the prosecution, and that is its historic role. Now, to give you a sort of corollary of that, a few days ago, August 24, 1949, the Hon. William Lemke of North Dakota introduced in the House of Representatives a statement or document containing what he said would be an ideal platform for the Republican candidate for the next election, and among them he put this:

> "We demand that all branches of our Government again [8143] observe the Constitution, the Constitution that protects minorities and the unfortunate from persecution at the hands of a reckless bureaucracy. We pledge to the nation that we will undertake to rehabilitate the Federal courts so they will again function, not as a part of the Executive branch, but as an independent, coordinate branch of our Government. Political judges are incompatible with impartial justice."

Now, I do not know what he is referring to, and we do not assume that judges who are appointed are any different from judges who are elected, but that is the attitude taken by the Federal judges, the last one I enunciated, not what this gentleman says, may be borne out by this language. It was uttered in this district and one of these courts. Here is what the gentleman said: He said:

> "The Federal judge stands between the Government and the defendant. The Federal judge

> stands between the Government and the defendant. He must without fear and without favor protect the citizen against the excesses of the Government."

Now, that statement was made on July 18, 1946. It was made by Hon. Louis Goodman, who is one of the judges of the Federal Court in this district, and it was made in the ceremony of the induction into this office of Hon. George B. Harris.

Now, if that is the function of the judge who is, after [8144] all, appointed by the Executive Branch, if that is the duty that the judges feel is their duty, and so say publicly and so act, what about the jury that even in other lands and other places has had to stand not only between the Government and the defendant but between the judges and the defendant? So that the jury is really in the position that it should not be looking for something upon which to convict the defendants, but should be looking for something upon which to acquit the defendants, and they appear to a jury so constitutionally and traditionally fixed and built up a sordid mess of trickery, corruption, bribery and lies, perjury, bought witnesses and such intermingling of it that it is impossible to separate them, so that Schomaker's verifications of Irene Harris' statement, or Krolek's statement, and Hitchcock's, or whatever his name is—all of them are such that it is impossible to tell which one is lying, which is telling the truth, who prepared what. Rathborne's testimony is intricated and interlaced with that of the others.

Krolck's statement of what the FBI did to him reflects upon Wilson's testimony. And at every point, all the way through, the trail of the serpent is over them all. They are all smeared with the same thing.

There are frequently tried in these Federal courts cases under the United States Pure Food and Drug Act. That is an action against the commodity itself, not the owner, as to whether or not this is fit for human consumption, and if not, [8145] what will be done with it. Well, they bring out an exhibit, let us say a dozen cases of walnut meats, and they knock the cover off one of them and they see in one corner a number of maggots and in another place a cobweb. Now, they don't go and sift out what is good and what is bad and box up the good ones again and return them for human use. They take the whole mess and throw it into the fire. They send it to the incinerator without further inquiry because they assume some of the infection there has or may have spread throughout the entire mess. But what do these people do? They take this hamper full of bloody, slimy, stinking, scummy inhabitants of a cesspool, traitors, liars, perjurers, hired witnesses, they mix them up with tricks, fraud, concealments, and they expose this whole thing before the jury, and then they admit that so much of it is rotten and foul. But they are going to feel around and get something that you can handle.

"Now, here's a nut. There is no maggot on that. That's delicious. You may safely ingest that." That is the attitude that they are taking toward a jury that is supposed to look for the reason why of doing the defendant did this. Suppose they put some human charity, some human justice into their decision and not attempt to destroy people, but willing to accept inferences that will preserve and save them.

It might be said, too, "All right, granting each and everyone of these people is fragile, weak and rotten, doesn't the [8146] whole bunch of them together carry some evidence that Harry Bridges was a member of the Communist Party?" Well, certainly it does; certainly it does. It deepens a suspicion, possibly in inference, that what any one of them may be saying may be true. If they were on trial for perjury, it might be sufficient to assure their acquittal, that that may raise a reasonable inference that they are telling the truth. But that is going a devil of a way from that extreme over to the other extreme of saying there is not one reasonable doubt that they are telling the truth, and that is what they are required to prove in this case.

I am not going to waste time pointing out matters that would show Harry Bridges is not a member of the Communist Party, aside from his own testimony, B. B. Jones, Mrs. Teixiera and Mrs. Murray. What is the use of doing that if they have no case in the first place? We could suggest things like Schomaker running back and forth with messages from the Communist Party. If Bridges was a member of the Communist Party, why do they have to have a go-between to carry and deliver things to him? It looked, as suggested, that Darcy was a member of the Communist Party and not a member of the labor union; Bridges was a member of the labor union and not a member of the Communist Party; Schomaker was a member of both and transmitted messages to them, according to his own statement. Then we have Schrimpf's statement that Bridges supported Marlow against Schrimpf, [8147] an acknowledged Communist. We have this: William Schneidermann was admitted to citizenship although he was an acknowledged Communist. Therefore, a lawyer would assume that whether or not a person had been a member of the Communist Party or was still would not be material on an inquiry for citizenship, and if Harry Bridges had been a member of the Communist Party, the lawyer in a preliminary investigation would have instructed him not to answer the question as to whether he had ever been a member of the Communist Party. He would say, "Don't answer that. There may be something that will afterwards come back to smite you. If Judge Foley does not give you United States citizenship, we will go to the United States court, even go to the Supreme Court, and they will make no distinction between you and Schneidermann. You won't have to answer the question at all." That is what any careful lawyer would advise the client and wrestle with it for a year or so if necessary.

In addition there were other little matters. Schomaker was a member of the District Committee of the Communist Party. He never heard that Bridges was a member of the Central Committee, something they omitted to fix him up with. He never heard the name Dorgan or Rossi, neither did Michener. When Rathborne was expelled from the Communist Party, six months afterwards Bridges makes a laudatory speech for him and takes up a collection for him. Ross never met Bridges at the Communist headquarters during all the time he was out here, and as far as what he did for the Communist Party, here is a man who is [8148] within himself a great organizational genius. He is like those people, oh, Samuel Gompers, Andrew Carnegie, Lewis, in having the ability to organize people and inspire them to come together and get together with their own people. With all the years he is supposed to be connected with the Communist Party, and all the necessity of keeping himself under concealment, the danger he ran, his friends ran, what do they finally bring he did for the Communist Party? What was the purpose and use of having him in there at all? And here is the answer: In the 1941 convention in Oakland he read off a resolution prepared by Paul Crouch, a resolution that ten other people had put in before that. There is the only thing they say he did for the Communist Party. [8149]

However, they have another method; you might call it a negative basis. "He didn't come out and rap the Communists; he didn't come out and denounce them and say, 'Kick them out of the unions.' He didn't get up and make speeches against Russia, Vishinsky, the Soviet Union. Particularly, he sat down and talked with these people. Even on the witness stand he wouldn't speak against Communists. There is proof that he is a member of the Communist Party." It isn't proof at all. As a matter of fact, it is proof the other way. If Communists trained men as perjurers, trained them to deny their Communist association, then the proper procedure for Harry Bridges would be to get up on the witness stand and lie and denounce them and say, "I hate them. I said they are a lot of rats," and so forth. According to their own philosophy, that would be the proper thing to say. But he doesn't do it. Why doesn't he do it? Any of two or three reasons. First, when he was weak and the Communist Party had some little strength in the ownership of a paper for the dissemination of propaganda, in the waterfront strike of 1934, they lent it to him, and he was grateful for it. He is not an ingrate enough now to come in and repudiate them and denounce the people who were once his friends because they are objects of great assault.

And then there is another little feature: Some people—it is too bad that there are some of them,—some people have gained prominence by kicking the other guy when he was down. The [8150] Communist Party is smashed, broken, beaten to practically nothing; they are denounced in all the press. Every flag-waver and patrioteer has proved what a great patriot he is by telling what a lot of scoundrels the Communists are. But Harry Bridges, powerful though he is, is not going to stamp his foot in the face of the fellow who is down. He is just like the man in the story of William Butler Yeats. He tells of a man who was going to Glenmora. An Irishman was wrapping up his belongings in the taproom one night and some of his friends asked him where he was going. He said, "I am going to Glenmora." They said, "You mean you are going to Glenmora, God willing." He said, "I mean I am going to Glenmora." So God being wroth, reached down and turned him into a frog, picked him up and deposited him in a frog pond and there he lived for seven years. Then God relented, took him out, released him, restored him to his human form, and he went back to the inn and he searched for his belongings again to pack them up once again. And they said, "Where are you going?" and he said, "I am going to Glenmora." And they said, "You mean you are going to Glenmora, God willing." And he said, "I mean I am going to Glenmora, or back to the frog pond."

The Communist Party in the United States, according to the records that are put in here by their own testimony, ran between 50,000 at one low point and 90,000 at its highest point back in 1936, and according to the Attorney General, it had at most 70,000 people. It now amounts to practically nothing. In the [8151] elections when they were at their peak there were 258,000 registered voters in San Francisco. There were 140,000 registered Communists, an insignificant party, only one-half of one per cent of the population of this great powerful country. And a great many of them, of course, are women, and a great many, of course, are elderly people. And that is the organization that we are supposed to be so terrified about that are so insane with their ability to conquer that they are going to overthrow the government by force. Maybe they have that plan, I don't know. If they do, it is an extremely foolish thing. I don't think that this government is particularly afraid of any such thing or that this assault upon the Communist Party has ever really been made upon that ground, for this reason: there is an organization that has been flourishing in this country for many years called the Ku Klux Klan. It is avowedly lawless. It goes and it takes the law in its own hands, beats people, lynches people, burns fiery crosses, and terrifies whole sections of the country. According to their records, they had a million and a half members. That is twenty times the size of the Communist Party. We haven't had any attacks upon them.

Now, let us assume that there has been some proof that this Communist Party intends to overthrow the government by force. We have had some testimony to that effect in here. Ross testified they were. Crouch testified they were. But Ross testified in another hearing that they weren't, and Crouch testified in [8152] another hearing that they were not; that they had no such intention, said the only thing they intended was if they gained the vote of a majority of the people and then if the minority attempted to keep them from introducing socialism, they would have to resist that by force.

I have been wondering for a long time what kind of heroic, insane people Communists must be to have an insignificant party like that talk about overthrowing the United States Government.

I ran across a little story in a book called Natural History of Nonsense, in which a man dissects traditions and folk stories, in which he proved that the lemmings do not run down into the sea at all. He said one of the most easily refuted of this kind of stories is the one in which the dog escapes from a boxcar in Keokuk, Iowa, and two weeks afterward staggers sick and weary into the home of its owner in Oakland, California. He says the refutation of that story can be found by turning the pages of the newspaper to the want ads and reading the ads asking for the return of dogs who obviously could not find their way home from the next block.

Now, these fellows like Johnson and Crouch and other people of that same stable of government witnesses have been running around over this country for several years, Hawaii, New Orleans, San Francisco, and none of them has ever gotten a black eye. We older persons who went through the 1920's, the bootlegging days, will remember how a little handful of bootleggers kept [8153] the country in terror for years. If somebody took the witness stand and testified against them, he would be lucky if he got one foot on the floor of the courtroom before he was cut down with a fusilade of machine gun bullets.

Some of you remember the terror—I am afraid I used to assist them in Ireland—in the good old days when we tried to get rid of the English, how they gave an illustration of what a desperate and determined people will do; and in Israel, the last few years when a handful of determined Jews ran the English out of Israel.

Another thing that Johnson does say: the ordinary person, he says, in the outside Communist movement, the ordinary Communist wouldn't know that it was the intention of the inner steel core to overthrow the government by force. Well, I would like to see the day when the inner steel core would come out and hand a musket to a guy like B. B. Jones and say, "Come on, start marching on Washington." He would say, 'What is this all about? What the you trying to tell us? You had a peaceful method of introducing public ownership. Now you tell us you believe in the overthrow of government by force. We will use the gun on you." The puzzle is it isn't very difficult to reconcile a lot of people with that being true, the Communist Party having that position. Why is it so much the object of this campaign? Well, I think you don't have far to look. Within several years last past, there has been all over the world a great struggle [8154] now between the principles of private ownership and public ownership. The reflections of that struggle exist right here in the United States. There are many people that hold the government should own things; there are many people holding private ownership is the best. We do not have to determine the merits of the controversy.

The United States is far behind, or far ahead, whichever you want to call it, the European countries in such matters. France, for instance, owns not only its railroads and public utilities, but owns the Renault automobile factory and manufactures its own automobiles; it controls the coal and steel industries. Other manufacturing industries within the country. That is true of all the European countries. Of course, over there you see a greater degree of socialism and public ownership. But I was surprised some two or three years ago when Eamon Devalera was out here and made a little public speech. With all due respect to the Auld Sod, it certainly is a rather backward country. And he expressed surprise that the United States had not advanced as far even as Ireland in public ownership.

In this country there is only one state that controls its own power, that owns its own power. That is the state of Nebraska. And just here a few months ago the state of South Dakota passed an enabling law to enable it to buy its power companies because the example of Nebraska was so encouraging for public ownership that that was deemed a proper thing to do. [8155]

The campaign against public ownership, using certain stalking horses as diversions, has made such strides that the agitation for public ownership has decreased rather than increased.

In 1870 the first San Francisco charter was drawn and it contained the provision that one of the fundamental principles of San Francisco was that it would as soon as possible acquire all its public utilities including street railroads. The city of San Francisco now, after eighty years, owns the street railroads and the water distribution, but does not own its gas and electricity and continues to violate the Raker Act of Congress in selling the power that it gets from Hetch Hetchy to the Pacific Gas & Electric Company.

More astounding still, in 1910, William Randolph Hearst ran for mayor of New York on the Socialist ticket. But now there is a great agitation against these things.

The original Roosevelt—when the Democrats took power under Roosevelt, there was a great move toward public ownership—Tennessee Valley Authority, the Grand Coulee Dam; all these great public projects started in to collect the waters and save the power and the waters to be owned by the government. When Roosevelt went out, the trend started the other way, and, as I say, it is without criticism —I don't know nor care which is better, which is more efficient, but the Truman Administration obviously is anti-public ownership. There was eased out of the cabinet within a short time such stalwarts of public ownership as Rexford [8156] Tugwell, Henry Wallace and Harold Ickes. All of these plans stopped. All of the plans for public ownership stopped.

And just within the last week a cooperative housing bill for the government to lend money to persons of the middle income groups so that they could build their own houses was massacred in the United States Senate. Lest the camel should intrude its nose into the tent, the adocates of private ownership, the enemies of public ownership have moved against anything that reflected upon our national health program, or anything that looked like socialism or public housing, not that they were opposed so much to them, but they didn't want to get that principle started in government because they called it paternalistic.

If you go into any doctor's or dentist's office now, you will find heaps of pamphlets now telling you about what a fizzle the health plan is in England. I read one of them one day and was half amused, half ashamed. It advanced as the reason why the health plan in England is so bad that the number of doctors is insufficient to cover the people; that if you went into a doctor's office, you would find a hundred people in there and he has to attend to and you are going to be neglected, whereas with a private doctor he attended you right away. The astonishing part of it is what used to happen to the other 99 under the old system who had tumors and cancers and bacteria running around in their system. The answer is they did. All this is being addressed to you. Your security is involved, [8157] your health is involved, watch out for yourself. Pretty good argument. Unfortunately human nature is selfish; we look to Number One; we are concerned with our own injuries and not that some other poor devil could be cured by part of the care that is lavished upon us.

In this country—and I say again without criticism—90 per cent of the wealth of this country is owned by ten per cent of the population. That isn't bad. Forty years ago five per cent of the population owned that proportion. It is kind of working out a little bit with income taxes, inheritance taxes, and so forth; there is a greater distribution of wealth. But the ten per cent of the people didn't get that wealth by standing around and bleating, and they are not going to lose it, voluntarily or otherwise, without doing something about it.

You can't get up and in and of itself attack public ownership too much. You can't get up and say to people, "You are a lot of fools; you let me run your gas pipe for you; I will do much better than you. Get out of it; let me run it for you. If someone tells you you should own it, he is just a political fellow looking out for his own health." So there is a great campaign going on against public ownership, but not under the guise of being against public ownership, just as this is an assault upon Harry Bridges, but is not an attack upon Harry Bridges in the open until they came popping out like jacks in a box; when the high brass in the CIO want to get rid of a recalcitrant [8158] and insubordinate, through the means of the Immigration Department. The camouflage is put forth in a little different way. Here is how it goes: The "Communists are in favor of public ownership; the Communists point with pride and delight to the achievements of the Soviet Union in that respect; therefore the Communists are friends of the Soviet Union, and therefore anyone who is advocating any of these things the Soviet Union goes in for is a Communist and a friend of the Soviet Union. The Soviet Union is our great national enemy." They build that up by showing that the enemy is there and these people are transpiring together; that anyone who advocates any kind of social advancement is a socialist, therefore a Communist, therefore a friend of the Soviet Union, therefore a traitor, and therefore endangering your security. If you don't have public ownership and these projects that the Roosevelt Administration put in, these public works, you have unemployment and you have depression.

There is one answer to that. Keep the armament industries moving, build up and keep a big fleet and send arms and ammunitions all over the earth; sell them all over wherever they can be sold. And then we go and we build bases in Iran and Iraq and Greenland and Korea and all around the Soviet Union we have these military bases. Well, we are only doing it to protect ourselves; that is our first line of defense, and if Harry Bridges says this shouldn't be done, that we should stop antagonizing Russia, then he is a friend of Russia. After [8159] all, the government is only our employee, we put them in to carry out our wishes.

If your little boy is having a squabble with the McCoy kid next door and it is liable to lead to an open feud between you and that family, it won't do you any good for you to go over and tell old man McCoy to stop his kid from starting fights with your boy. You better get hold of your own kid and say, "I don't know what the trouble is, but you stop it, because I don't want to be boxing old man McCoy out here on the street corner some day."

Let me read you a little document that almost formed the basis of the foreign policy of this country, and you can gather yourself in a moment how close it came to being the foreign policy. If you will listen to it, first, then I will tell you who said it. It was said on March 8, 1949, two months before Harry Bridges was indicted.

> "So far as it is humanly possible to judge, the Soviet Government, under conditions now prevailing, does not contemplate the use of war as an instrument of its national policy. I do not know any responsible high official, military or civilian, in this government or any government, who believes that the Soviet State now plans conquest by open military aggression.
>
> "It can be assumed that the Soviet State would use their Red Army if its leaders felt that their homeland was [8160] imminently and seriously menaced. That is why in our statement on Soviet-American relations made two and one half years ago we (the churchmen) said that the United States should not seek military bases so close to the Soviet Union as to carry an offensive threat that is disportionate to the defensive value.
>
> "That is why our fellowship with the peoples of Western Europe and particularly of Scandinavia ought not to seem to bring the United

> States' military might directly to Russia's border.
>
> "It would indeed involve a high tribute to Soviet leaders to assume that under these circumstances they would exercise more self-control than would our people under comparable circumstances, as for example, if the Soviet Union had military arrangements with a country at our border."

That was published in the New York Herald Tribune on March 9, 1949. That was part of an important keynote address made by John Foster Dulles at the Federal Council of Churches of Christ meeting in Cleveland on March 8, 1949. And if Dewey had been elected in 1948 instead of Truman. John Foster Dulles would now be Secretary of State and that would be the keystone of the arch of American foreign policy. There is a reasoning man who knows what he is talking about, and a great many people feel that way. Whether they are right or not, they are entitled to [8161] feel that way. I wouldn't be so free as to suggest that solution if we did not have numerous historic parallels to illustrate and confirm it.

You know, originally all the radicals were Americans, and the ringing phrase, "All men are born free and equal," was more radical, more disconcerting and more shocking to say than any phrase that "people should own the means and instruments of production ad distribution" is now. That phrase emanated from the backwoods of America. went out over the whole world and was the thing that dropped kings off their thrones and made people all over the globe advance politically, socially and economically./ It stirred up the Irish to that terrible tragic struggle in 1789 that was led by Richard Brinsley Sheridan; that sent Kosciusko to his death; it toppled the rotten and corrupt French monarchy that had exploited and betrayed the people of France for centuries. Then it spread across into England itself, who could more easily be excited by the fires of freedom than their continental neighbors. In 1790 Pitt was prime minister of England and the Whigs were in power. They owned all the means of production, the factories throughout England. They had taken away some of the authority from the Tories, but they by no means intended to defeat the English peasantry. The working conditions in the English factories were notorious and terrible, and there was agitation for laws that would ameliorate the conditions. The [8162] Whigs were determined to prevent the passage of these laws. So they used the French Revolution first, then the Napoleonic wars, as a means of preventing that. The people who had been agitating for the French Revolution and people who were agitating for universal manhood suffrage were lumped with people who were agitating for the French Revolution. They were charged with sedition, being subverters of the peace and security of the nation; that they were conspiring to overthrow the British constitution.

Edmund Burke was the mouthpiece for Pitt. As they couldn't say anything against the English working man or the honest English peasant, or say that giving him a vote was something that would be doing a wrong thing, they popped over to France and took as a stalking horse to shoot at this working man that France was a cannibal island republic; a nation of murderers and atheists —atheistic France; they were plotting to come over to England and overthrow this country; those scoundrels who were agitating for universal manhood suffrage as a means of overthrowing our nation were just tools of France; they were getting ready to pour in in great numbers into England, and they would immediately be pending from the nearest lamppost. Indictments poured out. The best men were placed on trial. Thomas Paine was condemned in absentia. Muir and Morris Margarot and other men of worth and courage were persecuted. * * *

As Buckle says in his History of Civilization, the jurors [8163] were bribed, witnesses were suborned, perjury was purchased, judges appointed by the crown, directed verdicts against the defendants, insulted them and upbraided their counsel. Lawyers were afraid to go into court. A stable of hired witnesses similar to the Crouch-Johnson gang was maintained in London who went over the four nations of the kingdom testifying against these seditionists. The conduct of some of the judges has come down to us as examples to be avoided. For one, there was a Lord Brachtsfield, a Scotchman, who had so thick a burr he was hard to understand. When Thomas Muir was on trial for sedition for advocating that every man adult should be allowed to vote whether he owned $5,000 worth of property or not, he was arrested and tried for sedition. He wasn't even allowed a lawyer. He couldn't get a lawyer. They were terrified. In the course of his argument, he said, "After all, Christ himself was a reformer." Brachtsfield glowered down from the bench, "What good did it do him? He was hanged." Muir was sentenced to the Barbadoes, and the French sent a privateer to intercept the ship. George Washington, Benjamin Franklin and a number of other patriotic Americans, privately and secretly, plotted and outfitted a privateer in Boston, intercepted the French ship at the Barbadoes, rescued Muir, took him off and took him around the Horn and landed him on the shores of California.

There was Morris Margarot.

Brachtsfield asked him, "Have you counsel, mon?" "No." [8164]

"Do you want one appointed?" "No, but it might be an aid if you gave me an interpreter to help me understand what you are saying."

Finally, the tide was broken by one thing. The juries refused to convict. The evidence was the same, the judges were the same, the type of prosecution and the juries were the same. Finally the jurors said, "We are through with this," and the first turn in it was when a man named John Warren Took was acquitted in London. I always recall one story about him. George III, the king, asked him: "Do you play cards, Mr. Took?" "No, sir, I have no aptitude for cards," he said, "I could never tell the king from a knave."

But by these campaigns the great industrialists in England prevented universal manhood suffrage for forty years.

And the curious condition, the curious situation is that the people of the nation that inspired and fired all those people are now themselves frightened, conservative, and reactionary. That is a fable that is fed to our people.

We used to be the haven for the oppressed people of other nations. Priestley, discoverer of oxygen, a great chemist and one of the benefactors of the human race, finally made the mistake of sticking his nose into politics and he started to advocate universal manhood suffrage, addressed a meeting of the people.

Anatole France says: [8165]

Priestley was an example of that. The people started cat-calling, and reviling the man who was trying to help them. He escaped over the back fence, hurried home, wrecked his physics laboratory, rushed off to the seacoast and got on a boat, came to the United States and never again had anything to do with physics, chemistry or politics.

Now, we see people up here kind of surprised at Betty Teixeira. Her mother is a Daughter of the American Revolution. Ben Jones' grandfather fought in the Civil War. Here is an amazing little touch. That little Jane Murray, her mother is a Daughter of the American Revolution, and she wouldn't let us ask her that. She is ashamed of it. She is ashamed of it for the weirdest reason. It seems that that organization has a beautiful marble structure down in Washington, D. C., an auditorium. A couple of years ago the Daughters of the American Revolution would not allow that auditorium to be used by a singer named Marian Anderson because she is a Negro. So Jean Murray is ashamed of it.

But the quest for justice on the earth certainly leads one to strange abysses. [8166]

On her statement about the government and so forth, she is not alone in that. There is a wonderful man here in the United States, Theodore Parker, a Unitarian. He is a lance in the forefront of every cause for the advancement of humanity, the struggle for equality. He used to quote Plato's apothegm that justice is the interest of the strong. And he also pointed out that the government and the courts were being used by the persons in power.

And around this time another man, Brooks Adams, famous lawyer and writer, said that this country, having a strong anti-militaristic bias, the powerful and the wealthy used the courts as their Swiss Guards, their only concern being whether it was cheaper to bribe or to coerce. Parker's grandfather was the Captain John Parker who led the Minute Men at the Battle of Lexington. And Brooks Adams was the great grandson of John Adams, the second president of the United States.

There used to be an organization of people in this country, not too long ago, and they were called "subverters of the public peace, destroyers of the government, and overthrowers of our Constitution," the greatest Constitution that ever has been, and the highest example of man's intellectual achievement since the world began. They were claimed to be stirring up race and class hatred, that they had a lust for power, they were trying to interfere with the national distribution of things as God saw it, and with the relationship that people naturally bore to [8167] each other. One of them was taken out of his printing office, his presses were thrown into the Ohio River, and he was lynched in the State of Ohio—hanged by the neck until he was dead. Another of them was dragged through the streets of Boston by a mob with a rope around his neck, and reluctantly rescued by the police. Who were they? The Abolitionists. The people who a few years before the Civil War were advocating the abolition of salvery in the land of the free.

Shall we take the recess?

The Court: Yes, we will take the morning recess, ladies and gentlemen; the same admonition to you not to discuss the case.

(Recess). [8168]

Mr. Hallinan: Finally, and to finish this phase, the one man started the agitation that was most successful, and he was an old New England fellow who looked like a Baptist preacher—thin, gray hair and glasses, tall, shambling fellow. He started a newspaper called The Liberator, and his motto was, "I am not afraid, I am sincere, I will not retreat a single inch and I will be heard." His name was David Lloyd Garrison, and he was the man who was dragged through the streets of Boston with a rope around his neck.

But while he was being dragged through them, there was a young man watching this, a young man of aristocratic lineage—ruffles of lace at his throat, elegantly dressed, fine, handsome man—a young Boston lawyer. He surveyed this, and it exicted in him some concern and apprehension for what this meant. When he went to his home, he started to make a study of the background of all this controversy. His name was Wendell Phillips. He came to the realization that men were being enslaved for the economic benefit not only of those who owned them but the merchants in the north who dealt with them and were dependent upon the Southern slave traders. He started out on a campaign—a man of great courage and force and eloquence, so that someone said of him that when he spoke, the air seemed to be full of stars.

There were people who spoke against Wendell Phillips. One of them was Daniel Webster. When the United States Supreme [8169] Court held, in the Dred Scott decision, that ~~the~~ fugitive slave act was constitutional~~, that~~ if a man set his feet on free territory he was not free, he was but a chattel and could be returned, Garrison took a copy of the American Constitution out and burned it in the Boston Common and said, "If that is what it means, it is a pact with death and a covenant with Hell." They weren't being tied to any parchment or paper or written words.

But Daniel Webster got up and made a speech sustaining the decision and urging the people of the North to fall in with this matter.

But Ralph Waldo Emerson, the elegant, the erudite, the Plato of New England, described Daniel Webster and exposed all of his shallow brilliance in one terrible, cutting sentence that I won't repeat here, because despite the fact that it came from a man like Emerson, it contains a vulgarism that might cause the lady to stiffen again, as the gentleman tells me, and I will tell you what it was afterwards if you wish to know.

But Wendell Phillips carried on and was finally the driving force that led to such agitation that ultimately another old American, whose ancestor was one of the passengers on the original trip of the Mayflower, John Brown of Ossawatomie, gathered twenty-one other souls like himself and engaged in the fantastic and incredible adventure of seizing the Federal arsenal at Harpers Ferry and calling on the armed revolt. [8170] Something that he couldn't stand any more. And, of course, he failed, and after sufficient of his men had been killed, the remaining seven were captured. They were all hanged from the same gallows. It must have been a kind of bitter thing for old John Brown to look out there and see fronting him a handsome and elegant man, still in the uniform of a colonel of American cavalry, seated upon a great steed—the man who had led the attack that defeated him and his followers and led to their capture, and reflect that back there in the shambles of Harpers Ferry lay the dead bodies of two of his own sons. And the elegant man who was sitting out there in six years was to be cursed as a traitor, a rebel. He was Robert E. Lee. And the men of the North were marching to the tune of "John Brown's Body."

When that cause had been finished and laid away, Phillips had become an old man. And then they started up a new sort of agitation. That agitation which we call trade unionism. Something to alleviate, now, the condition of the white slaves. And a couple of the old abolitionists were together discussing it, and one of them said, "Well," he said, "I have burned out my life on these causes, and I haven't it in me any more." Phillips said to him, "Well, you are right. Go you in and sit by the fire," he said, "but I propose to go out in the brush." Those were Americans, not Russians or foreigners. And the background of all this agitation about the Constitution and its [8171] sacredness, and the flag waving, all that came from the money background of the people who profited in the institution of slavery.

And in our own times, I have read of fine women who went out and paraded in picket lines in front of the White House and were catcalled and stoned and thrown in jail. Susan B. Anthony, Carp Chapman Catt, Sylvia Tankhurst, in my youth were names of derision, infamy. Why? Because they were trying to emancipate from political serfdom half the people of the United States. In other words, they were advocating woman suffrage. And the opposition to them ran into this seditious line, too. Why? Why did anyone want to keep women from having suffrage? There was a good reason for that, too. The chief agitation came from the mill owners, who were afraid that if the women got the vote the first thing they would do would be to advocate the abolition of child labor in the United States. Well, they needn't have concerned themselves; women are constitutionally more conservative than men. They have had the vote now for a long time, and for fifty years a constitutional amendment against child labor has been kicking around in the State Legislatures in this country, and it hasn't any more chance of being passed now than it did when it was first enacted.

In all these matters, however, union matters, woman suffrage, the lamentable people are the free riders. You know, [8172] there are all kinds of people who accept the blessings, the advances that have been achieved, as something that they sort of fell into naturally, without any notion that those things were won for them by the sacrifices of other people, and who accept them not only without any gratitude and without any intention of doing something in their turn to benefit some other fellow, but even with a certain contempt for the people who fought and suffered to get them the exact things that they wanted. And many a proud banner has trailed in the dust of a beaten and stricken field, through the apathy of the people that the cause was being fought for.

I have known all sorts of people—well, we have the example here in picking the jury of the young bank clerk who was here. He has a certain contempt for labor unions. Violent; the strikes were unnecessary. If he had lived long enough in the past, he would have been working fourteen hours a day for $60 a month, six days a week. If it hadn't been for the fight and the struggle of dock workers and stevedores and streetcar men and fellows a little more violent than the people that sit at the desks.

And I have known young ladies, stenographers, getting a couple of hundred dollars a month and working five days a week, look with contempt upon a picket line of girls outside a store, girls who are trying to raise their wages. And they look with contempt upon a picket line outside a telephone exchange, not realizing that the five days that this young woman is working [8173] now and the $200 a month that she is getting, although she is not a member of a union and although she is a member of an unorganized group of workers, was actually won for her by the people who went out and suffered and starved and made themselves ridiculous and got themselves catcalled and imprisoned on the pavements in front of the retail stores and the telephone exchanges. All sorts of people that refuse to concede that they are members of the working class themselves. They are the sort of people who will favor Stanford to beat California because it sounds like the swanky thing to do. They are the free riders, the fellows who go along. And then when the advance guard is beaten and smashed, then that fellow starts wondering why his wages start being cut down, and he is educated out of making any resistance.

You know, something like that has happened to the British working people. The British working people were those who stood up first and foremost for the freedom and equality of mankind. The English working people were a wonderful race. The English people have fallen victim to the curse that is contained in those lines.

"Ill fares the land, to hasten ills a prey,
Where wealth accumulates and men decay;
Princes and lords may flourish or may fade;
A breath can make them, as a breath has made.
But a bold peasantry, their country's pride,
When once destroyed, can never be supplied."

In the 1790s to 1870s the leaders of the English Labor Party were arrested, indicted, sentenced to imprisonment and sent out to Van Diemen's Land, to Australia, New Zealand and places like that, with the result that the English labor class of today are smaller, weaker, and have not half the courage of the laboring classes in Australia and in New Zealand, who are big, strong men and tough men, and men of spirit and men who still fight for their rights. **[8174-A]**

And aside from what profit might stem to himself, there is a little poem written by a man who wrote while he was in jail, and he was called the Poet of the IWW. I suppose it is a bad thing even to mention such organizations in this court. Here is what he said. He said:

"Mourn not the dead who in the cool earth lie,
Dust unto dust,
Of calm, sweet earth that mothers all who die,
As all men must.
Mourn not your captain, comrades, who must
dwell,
Too strong to strive,
Within steelbound coffins
Of a well-buried life.
But rather mourn the pathetic throng,
The cowed, the meek,
Who see the world's great anguish and its wrong,
And dare not speak."

The conditions, let us say, 150 years ago of the working classes in industrial countries like England was such as to excite the horror of people today. I have a friend, a very, very fine man. He is a famous moving picture director—you know, handsome, talented and, might be expected, in his position he has been the objective of the solicitations for friendship of the wittiest, cleverest men and the affection of the most beautiful women in the world. His life is one of gaiety. He basked in this effulgence which was centered upon him and he enjoyed the fine things that he ate and the fine company that he kept, all the things that went with it—a man of fine character, but interested in the joys and happinesses of life. [8175]

A war came along and he became an officer in the United States Army. He was a lieutenant colonel. He was in charge of the photographic detail, and went right behind the spearheads of the Army to recount for posterity the achievements of their armies and the dramatic events that were happening.

One day his command stopped at a railroad siding. On two or three lines of railroads were those type of boxcars called gondolas, stretching off into the distance, and the men were gazing with horror into those cars. They were full of the wasted, emaciated bodies of dead men, women and children. The American Army had arrived at the gates of the concentration camp at Dachau. Anon, from the mass of poor humanity that was lying there, a groan would sometimes escape from someone not yet dead, or more terrible still, some form would rear itself briefly from the mass of cadavers and then fall back whence it had come. The army proceeded into the concentration camp. That man returned to the United States after the war was over and he took up his life where he had dropped it. He started in with the same people, in the same activities, but they no longer had, and they never have had since, any content of pleasure or contentment. He does not care about them any more. There has entered into him something of the tragic sense of life. I do not know how it has affected the members of this jury, but if people like Mr. MacInnis and myself, who thought we knew something about what went on, and I know from [8176] others who have been present here, this Bridges case has been a terrible awakening. It has brought to their minds something of the brutality of existence, something of the concept and recognition of man's inhumanity to man. The struggle for emancipation, the struggle to get some of the things that one would think everyone was entitled to. From whom do they come? Again from our witnesses? No.

Schomaker: A man had been killed by the speedup, the excessive loads. Do we have to recount again the shapeup? The degradation of men appearing in the wet, cold, at five o'clock in the morning, and the hungriest getting the jobs because they could afford it; they turned back the largest amount to the people employing them. Wages, $10 a week, sellout by the leaders of the workers, the police riding down and clubbing the men who were trying to correct those conditions, pumping tear-gas into their halls to drive out those who had been wounded; two men shot in the back and left dying on the pavement.

Schrimpf: The terrible conditions on the waterfront. A little vignette of his experience that illustrates it more than anything else, the insult from the straw boss, being driven from the dock, from the shelter of it out into the cold and the rain, and he stood and leaned against a boxcar and cried. "I cried."

And the victory? What did it give them? A sense of security. What did Robertson say they sought? A sense of security. [8177] Always a sense of security. How about what Hancock had to say? Arrested and imprisoned for turning the water on for people too poor to pay their bills; two workers shot in his vicinity; a group of agricultural workers assembled in a hall to discuss their grievances; suddenly they are surrounded by a band of men with black bands on their arms; armed with pickax handles and an armed deputy standing by to protect them. And he said, "I will never forget the sound of the crack of those pickax handles on the skulls of the people in the hall." Fifteen cents an hour they were paying those people. If a man worked ten hours a day, thirty days a month, he could make $45 a month to support himself and his children. He is arrested and imprisoned for his activities, not the vigilantes, and they come out and burn a cross and leave a box with a noose in it as an indication of what might happen to him. Up in Santa Rosa, he says, some of the strike leaders were taken out and tarred and feathered. Down where he was Grover Johnson, the son of Hiram Johnson, the ex-governor of the State, is taken out, beaten up on the steps of the courthouse, driven out into the desert, his shoes taken off, turned loose and his car run into the river. And they talk about trade unionism and what the workers do and all these things, how they have been gotten by peaceful evolution and by a recognition of mankind, what he owes his brother? Not at all. They have all been gotten in the same kind of struggle. [8178]

After the agitation for universal manhood suffrage had made such progress that something had to be done about the factory laws, the English Parliament appointed inspectors to view these matters. You should read some of the documents. The men tried to make them as statistical, cold and impersonal as possible, but they couldn't.

In the Welsh mines, says one of them—and you will find this not in any Communist literature but in a very interesting and amusing and exciting series of documents that I would recommend anyone to read by Justin McCarthy, a member of Parliament and a Tory, a great upholder of Queen Victoria,—he wrote a history called "The History of Our Own Times," and he gives the improvement of conditions of working people and he quotes some of the reports made by the English factory inspectors. For instance, that in the Welsh mines the veins of coal were small, so it was not deemed economically advisable to open passages that were too large; so the workmen, the women workers there would go down on their hands and knees, they had a strap around their neck running down to the middle, and then a chain running between their legs, which was attached to the little car, and they would creep through the passages on their hands and knees dragging the coal-laden car after them.

And they say of another incident, little children four, five and six years of age, are dragged from their squalid couches at five o'clock in the morning and sent to work ten or twelve **[8179]** hours a day in the Birmingham cotton mills. That was the thing that they were up against.

When we were in the first year of law school we received instruction upon criminal law, and among them was one of the issues that confront you ladies and gentlemen, the matter of conspiracy.

There was the celebrated case called the case of the six carpenters, and it was shown that where these six men had conspired together to commit an atrocious crime and that one of them had carried on the overt act that led to the consummation of this crime, but nevertheless the other four who participated with them and encouraged them were just as guilty as they were, and all six were sentenced to penal servitude for life, and the crime that they were committing was the formation of a labor union. That is less than one hundred years ago.

Gradually the agitation became such that there were changes made. People wrote terrible, bitter and biting things. There was one little poem and it had a line in it which said, "The golf course runs close by the mill, and almost every day the little children can look out and see the men at play."

Of course, those were other times, other places. Those conditions, I assume, scarcely deserve thought today. But then there are other little things of less importance. About six months ago I saw a photograph in a big, nationally distributed magazine, a very artistic thing. The photographer, while showing the whole scene, had concentrated his lens upon one [8180] little ~~central~~ object in it that gave a sort of touch of drama to it, and yet his camera had included a whole portion of a great city; and the object that he had focused his attention on was just a little child, a little child. And he was doing the strangest thing. He was sleeping. He was lying asleep, and he had chosen the strangest place for his nap. He was on the sidewalk, just off the curb of the street. There he lay with his hand on his face, and outside the limousines were going by with liveried chauffeurs delivering well-groomed men and magnificiently-gowned women to the great shops filled with luxuries and objects of adornment on the other side of the street. People were hurrying by, busy on their chase after wealth and power. Nobody noticed the little boy. The reason they didn't notice him was it was a very common sight; it was an everyday scene in the street. The world passed by. There was a little Chinese boy, about four, maybe five, years old, a beautiful little child, a little round face, and his long lashes made lovely crescents above the curve of his cheek. And it was kind of strange that nobody noticed that little boy. It was strange that everybody went by without paying attention to him, because all the time he was lying there, there was coming from him a strange sound, a sort of voiceless cry, a loud and bitter cry that soared above all the luxuries and all the scene of opulence and despair and ringing against the gates of [8181] Heaven demanding vengeance for the wrongs and injustices of life. Because he was not sleeping at all, my friends, he was dead. He was dead of starvation in the streets of Hong Kong.

Well, that is only one person, isn't it? My boys have a moving picture camera and a projector that shows lovely pictures upon the silver screen, and they were asking advice about documentary films that were available to them, and they produced a letter from the persons who edit Time and Life. Those magazines are run by Clare Booth Luce and her husband, extremely reactionary people. They are not talking for the benefit of the downtrodden and the oppressed. If you want to find out how much money is being spent in this country in the great fight against public ownership, in erecting stalking horses across the land—I had an experience the other day. I bought Newsletter, Reader's Digest and Time and started to read them. At least a third of them were devoted to tirades against public ownership, Communism, Communists, Russia, anything—the camel's nose is being kicked out of the tent as hard as it can be, and the people who were publishing those were not doing it out of any sense of public duty. The magazines were being paid for it. [8182]

Well, the United Nations Film Board hired the March of Time film organization to make a film for it. It is a 16mm. sound black and white, available for purchase or rental at $55 per print. At the March of Time, Forum Films, 369 Lexington Avenue, New York City. "The United Nations Film Board presents: "Battle for Bread." And then it says, "Produced by the March of Time under supervision of the United Nations with the cooperation of F.A.C." And here is the advertisement for it:

"Half the people of the world are starving—not starving to death—just plain starving. This is the United Nations' report on how the food and agriculture organization is beginning to solve the tremendous problem of doubling the world's output of food."

Half the people of the world are starving! Of course they are starving in India and China, poor places like that. They are ~~not~~ starving in the United States of America or in California.

On December the 11th, 1949, the San Francisco Examiner started the publication of a discussion of conditions in that same valley that Hancock testified to.

"Dr. J. J. Bocian, pathologist at Fresno Community Hospital, scribbled his autopsy report on the latest infant death in a San Joaquin Valley cotton camp.

"The body of this four and a half months old female child appears as that of one only two weeks old, with the [8183] skin markedly wrinkled due to weight loss * * *

"Malnutrition must be accepted as the final cause of death.

"His report caused no great stir, malnutrition being a term in common usage in the six cotton counties.

"This child died in a migrant labor camp at Huron in western Fresno County. She was the eleventh recorded 'malnutrition' victim in Fresno, Kings and Kern Counties this fall.

"A couple of the earlier deaths were attributed by the authorities to 'starvation,' but that term is in disfavor.

"These babies did not 'starve,' but poverty, ignorance and neglect left them 'imperfectly or improperly nourished,' in the midst of plenty * * *

"Whose problem is this?

"Many of the southern valley's 117,000 transient farm laborers are illiterate or semi-literate dustbowlers, Mexicans and negroes, incapable of caring for themselves."

In other words, at 15 cents an hour, they can't take care of themselves or their babies.

"These thousands of society's least well equipped eke out a hand-to-mouth existence most of the year and become public wards in the agricultural off-season."

Of course, my friends, except for the dustbowlers who are only [8184] Okies, we can relieve ourselves from any contact with those people or from projecting our own selves into it. Because after all, they are Mexicans and Negroes; they are people with more pigment in their skin than we have, and so they are of a different type. Those 11 little children that starved to death last fall in 1949 in San Joaquin Valley, the richest valley in the world, within easy distance of where we are sitting assembled here today, are only the children of migrant workers and dustbowlers. So who cares? What differences does it make? The little child that had gone down to four and a half pounds and looked like a child of two weeks old; who cares? Possibly she who held her darling little babe in her arms and watched it wither and perish before her eyes—but no one else.

"And by and by the baby died
And they buried it in the pauper's side of the yard.
Only the mother cried for the poor beggar babe

Who used to cling to her lonely breast and kiss
her cheek
Ere it sank to rest like a little bird in a happy
nest.
Poor little beggar babe!"

And one of the reasons it is out in the forefront now is that Governor Warren is running for reelection. And he came out with a brave fanfare, so that everyone must congratulate him. I saw the headline, "Warren Welcomes Communist Opposition." Why, that is a brave position for any politician to make; with 140 votes here in San Francisco, he might take the chance of [8185] sacrificing the entire bloc.

But his opponent, who happens to be a Roosevelt, says, "How much of the deaths of the 13 children that died last year in the San Joaquin Valley, Governor, will you acknowledge should be laid at the door of the government of the state of California?" and one of the newspapers who was supporting Governor Warren repudiated that. It came out with a document called "Foul ball in the first inning":

> "The charge of James Roosevelt, made recently at Santa Cruz, that the Republican administration in Sacramento was responsible for the starvation deaths of 13 children in San Joaquin Valley, was as blatant a piece of demagogery as we have encountered in years."

And then they go on to explain that Roosevelt had no right to say in the midst of a bumper crop that we find 13 children dying in San Joaquin Valley of starvation, in our fruitful interior valley. The paper says they didn't die of starvation, they died of "malnutrition." In other words, they didn't starve, but they died because they couldn't get enough to eat.

And down in that same section on March 16th, just this month, "Hungry Rabbit Killer Begins Jail Sentence":

> "Corcoran, March 16. An unemployed farm worker today began a 50-day jail sentence imposed when he shot a rabbit out of season so he could feed his hungry wife and child. Morris Hay, 26, of Corcoran, was given the [8186] jail sentence in lieu of a $100 fine he could not pay. The sentence was imposed by Justice of the Peace W. I. Nonhof."

And let's not forget this, that Franklin Delano Roosevelt said at one time that one-third of the people of the United States are inadequately fed, clothed and housed. In other words, one-third of our co-citizens are hungry and cold. And there are 3½ million people residing in this country over 65 years of age who have no income at all—wages, pensions, care, anything else.

Now, what has that to do with this case? Well, we don't want to send the boys back east with their carpetbags empty, so we might make a couple of suggestions to them.

Down in Tennessee about a fifth of the people vote. The state is overrun with pellagra, hookworm disease, poverty, ignorance, discrimination. It is against the law to teach the Darwinian theory of evolution there. I invite you, sir, to return to your own domain and see what you can do about it. It will be much more important than knowing these three fine men.

Up on the East Coast, sir, they have been concealing for a long time the Irish Catholic—I am ashamed to say it because I am an Irish Catholic—hooliganism and anti-Semitism, rampant in Boston. On Thursday, November 17, 1949, this item was carried over the country:

> "Lynn, Massachusetts. Larry Goldstein, 11, was beaten and kicked into a gutter by other boys because he is a Jew. Today his mother, Mrs. Sylvia Goldstein, invited someone [8187] to answer her son's question, 'Mama, why did my daddy have to die?' Larry's father died in combat November 20, 1944, with the Second Armored Infantry, 41st Division, fighting against Nazi Germany."

Here is an excerpt from Pravda?—saying, "Washington * * * disgrace to the nation." Surprised? No, it is not Russian, it is from the San Francisco Chronicle, a reprint of an article running in the Woman's Home Companion. It is dated Friday, January 20, 1950, and here is what it says:

> "Everybody knows that America is the world's finest democracy, but behind the beautiful facade of the nation's capitol lies squalor —bigotry—political slavery.

"Washington, the nation's capital, has hidden long enough beneath its glistening white facades as America's show window, democracy's living monument the world over. What is the capital city really like? Let's take a tour no sightseer ever took.

"We'll find slums so vile that Michigan's Senator Homer Ferguson, after he saw them, scrubbed his hands and said, 'But you can't scrub out your soul after sights like these.' We'll see men with trousers rolled up to avoid the vermin and women carrying sticks to protect them against rats. We'll find a city touted as the heart of democracy—with its one million people deprived of the right to vote. Worse, we'll find a dread lest democracy [8188] be turned loose in the District of Columbia and drive out special privilege.

"We'll find city hospital facilities so bad that doctors and nurses all but weep at what their patients suffer. At Gallinger, Washington's big city hospital, we'll see a man virtually rotting to death because facilities for his proper treatment are lacking. We'll find a Jim Crow town. In the citadel of democracy we'll see Americans barred from restaurants, hotels, movies, hospitals and schools because of the color of their skin. This is the lame-duck District of Columbia, governed by a Congress which is too busy pleasing the folks back home to give two hoots about a million voteless people on the Potomac.

"The District of Columbia contains more than a hundred thousand dwellings. Of these, reports the National Capital Housing Authority, forty-four thousand are substandard. Nearly half of the dwellings in the capital of the richest nation on earth do not meet civilized standards of safety, health and fitness for human habitation. 'In these squalid slums,' reports Dr. Leonard A. Scheele, surgeon general of the U. S. Public Health Service, 'the tuberculosis death rate is 99 per cent higher than for the rest of the population, the pneumonia rate 25 per cent higher.'

"Perhaps you have been to Washington. Perhaps, as I did, you regarded Washington as a city of beauty and [8189] inspiration. The illusion smashed abruptly for me. I was touring Washington in a police scout car. Suddenly it turned off one of the large open streets, nosed into an alleyway. 'Like going through a rathole, eh?' one officer joked. My eyes darted over rows of filthy, tumbledown shacks, with people swarming in and out of them; unpainted gray boards and sagging walls; a litter of garbage and bones, with scavenging dogs and cats and buzzing clouds of flies.

"It was the center of a city block, hollowed out to make a slum. You could walk around that block for days and never dream such a rotten inner core existed. 'But I had no idea Washington had slums like these,' I said. 'Nobody does. They're hidden,' replied the policeman. I came to know dozens of other rotten hollow cores of city blocks that look respectable on the outside. I found rats so abundant that I learned to flush them by tapping a stick ahead of me as I walked up dark, smelly stairways.

"Would you expect to find outhouses in Washington, D. C.—within sight of the Capitol? The courts and alleys are full of rows of ramshackle privies, some with slats broken out and doors that don't close, sitting in the garbage-cluttered backyards, emitting a horrible stench. The slum dwellings, occupied by Negroes mostly, have neither steam heat nor running water. Kerosene lamps and [8190] candles provide light; coal stoves provide heat—for those who can afford to buy coal. In the yards there are water spigots, one to half a dozen families. Some are cross-connected with toilet plumbing so that there is no telling when bacteria from the toilet wastes pour out in the drinking water.

"Senator Ferguson, during his tour of the slums, blurted in astonishment, 'Aren't there any health laws?' 'No, Senator, there is no modern plumbing and sanitation code in Washington. The Housing Authority drew one up ten years ago. It would have ruled these slums off the map. But for ten years the code has gathered dust in the District Commissioner's desks. Meanwhile, the district clinic must continue treating the babies who are brought in with festering red holes on their fingers and foreheads—rat bites.'

"Gallinger is Washington's only city hospital. It has fifteen hundred beds—for a city of one million.

It is forced to pack the pneumonia cases so close together they cross infect one another. 'We don't have enough anesthetists to keep our surgical services going,' reports Dr. Joseph Fazekas, chief of staff. 'Patients who need elective surgery just don't get it.' A doctor described the X-ray department as 'the worst equipped I've seen in any hospital.' Last August the American Medical [8191] Association refused to O. K. it for residency training.

"The hospital is so short of drugs that Dr. Fazekas must beg for handouts from the large drug companies. Nurses have impossible loads—up to sixty patients. One nurse said, 'We don't even know what's ailing some of the patients. We haven't time to find out.' The staff wants to change Gallinger's name to 'The Nation's Capital Hospital.' Why? 'Because that might shame somebody into doing something,' Dr. Fazekas explains."

Read the rest of it (handing to Mr. Donohue).

The Court: Ladies and gentlemen of the jury, at our brief conference in chambers this morning, Mr. Hallinan assured the Court, and I in turn assure the jury, that his argument and discussion will have been completed at 3:00 o'clock this afternoon. Thereafter, according to the time schedule we worked out, Mr. MacInnis will take up his argument on behalf of Mr. Robertson and Mr. Schmidt. Thereafter the government will close their arguments, according to the schedule we have worked out, and it is hoped and it is our expectation that the Court will charge this jury as to the law on

Friday morning next. I thought you would be interested in that general outline, to the end that you may be guided accordingly in your home life and your other matters. Thank you.

The same admonition to you.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [8192]

Afternoon Session—Monday, March 27, 1950

Mr. Hallinan: Now, what is the role, my friends, that Harry Bridges plays that parallels any of the incidents that we have discussed? Well, he has been the William Lloyd Garrison and the Wendell Phillips and the J. B. Priestley in the emancipation of the workers of the maritime trades on the Pacific Coast.

The conditions we have described exist because amelioration of them will cost somebody money. The conditions that existed in the past that were won by the sacrifices of men like Harry Bridges required those sacrifices because getting rid of them cost somebody money. The spear-head is the one that suffers.

We are told, relayed to us by Mr. Clark, that Harry Bridges is a bad influence among labor. Well, he is. He is. He has taken away from them their degradation, their willingness to be treated as they have been treated. He went down on the waterfront and he dried Henry Schrimpf's tears. He went around among those other men, degraded, mistreated as they were proved to be from the mouths of their own witnesses, and he raised them up to some human dignity, some belief and some pleasure out of life with the one word, "Organize." "Organize" has been the yeast, the ferment, the enzyme; not any strength in himself, but showing people how by their united strength they can do something to benefit themselves and gain some of the things that they are entitled to. [8193]

He has been one of the leaders in the struggle for equality. He was like Rienzi, a Roman going down into the forum saying, "Rouse ye, Romans; rouse yourselves! Why should Romans who ask for justice be answered by the lash?"

Of course, he will tell us these things would have come about anyhow. Well, they would not; they would not. Regardless of how you may feel, how moderate you may be yourself, protect the gadfly. There is no progress without it. The troublemaker, the fellow who is willing to go out and take the shafts and blows himself, is the necessary one. What is needed, you know, is the man who will rush into the breach while it is still not filled, who will plant the banner in there on the highest peak. When the fort has finally fallen, there are plenty who will rush in and take the banner from his dead hands and plant it on the highest point of the citadel.

What, my friends, is the answer? Mr. Donohue says he was looking for power; he wants power for himself. He started out by apparently professing to work for money, but when that is brought in, if your Honor please, and his pay envelope shows his pay received and his expenses, this man who is working fourteen and fifteen hours a day, he was getting less money than Schrimpf was as walking boss. So it had to be something else. It was power; he was looking for power.

When he was poor back in 1934 and could have gotten any bribe that he wanted, $50,000 he was offered and it would have [8194] been small, to throw the waterfront strike, he turned it down. What do you think he could have got from the Five Companies in Hawaii to break the strike in Hawaii?

Father Paul says that he advised him to return into the Church where he would have the backing of fifteen million Catholics in this country. He turned it down. He didn't want any outside interests. He didn't want it, be it the ACTU or any other organization that might require a splitting of loyalties to the union that he had helped build up, of which he was so proud and which he felt himself so much attached to.

Mr. Michener says that if he had abandoned what he calls his Communistic affiliation he could have had Phil Murray's place, and he turned it down.

And then he is supposed to have sold out his union to a little scattered, beaten minority of 70,000 people divided over these whole United States. For what? So he could associate with Manning Johnson and Paul Crouch? So he could sit opposite the table and work out details with John Schomaker and Mervyn Rathborne? For those people he is willing to sacrifice himself and to run the risks and take the chances that he has been taking? That is what he is supposed to be. That is the power that he is supposed to be seeking. Even if the Communist Party had the power sufficient to drive this man from his allegiance to the union, the Communist Party would still have all those finks supporting it, relying upon it. No. He wasn't looking for [8195] power. He wasn't looking for money. There just is something wrong with him. He has a defect in his nature, a defect in his character, a self-destructive defect, a defect that characterizes and plagues every man who feels within himself that he is his brother's keeper.

There is a medieval story of some woman who stood in the marketplace at Antwerp and watched her husband burn to death at the stake. And after his ashes had dried, she went and she took some of them, took them home and sewed them into a bag and tied it around the neck of their little son, and he kept that bag around his neck all his life. And whenever he passed by oppression or injustice his father's ashes burned him and he could not find surcease from the burning until he went out and did something about it.

And somebody sewed that kind of a bag around Harry Bridge's neck. I hope it was Katie Dorgan. I hope that the Irish haven't lost all the warmth and sympathy that we once had for mankind in general. [8196]

We need Harry Bridges. The world needs people like Harry Bridges. We need him right here in

California and in these United States. Perhaps if and when he is released from this burden, he can turn his eyes down to the disorganized people in the San Joaquin Valley, the richest valley in the world, where 13 children starved to death last year, and do something about it. Should we discourage him? It might be unpleasant. It might create violence. The black-banded vigilantes might be out again with the pickaxe handles. He knows something about how to handle those things. But we don't want violence, we don't want trouble! Well, it is hard to get by without it.

There is a story by Ariosto of a beautiful and beneficent fairy, who is condemned by some mysterious circumstance of her nature to spend a portion of her time in the guise of a hateful and venomous serpent. Those who sought to injure or destroy her while in this degraded condition were forever foreclosed from the benefits which she afterwards conferred. But to those who then recognizing her intrinsic goodness sought to protect her, she afterwards revealed herself in the beneficent and ethereal costume and form that was native to her; she followed them all their lives, showered them with blessings, made them fortunate in love and successful in war.

Such a spirit is that of human equality. At times it assumes hateful and venomous forms. It writhes, it hisses, it stings. But woe unto those who then seek to destroy and oppress [8197] it. And happy he who, realizing its essential goodness, protects it and deserves to share its blessings in the hour of its glory and triumph.

What he did, the sort of man he is, have been made manifest here. Then where is the prejudice against him? What does it stem from? Here after 15 years of diligent search, consulting God knows how many hundreds of people, and God knows how many rejected their offers and instructed them that they were on the wrong track with Harry Bridges, they are unable to dig up under bribery or coercion any but this small body of suspect men that they have brought up here.

Bob Robertson told you, and he could have been contradicted from the record, how the Lafollette Committee found that for a decade, powerful interests, powerful financial and industrial organizations, assisted by officers of the United States Government, had tried to destroy Harry Bridges, essentially, by building up a paid propaganda campaign of hate and vilification, accusing him of being a Communist; and that the newspapers had taken that up and spread it broadcast, so that it was untruthfully assumed by almost everybody that Harry Bridges was a Communist.

How could it fail? How could it fail that the suspicion and the belief would be engendered in people who innocently read those things? And how could it fail that persons of the caliber of Rathborne, Schomaker, people who were for sale [8198] to anyone and for any project, that they wouldn't see their way clear to take advantage of this and to build upon it the means of enriching themselves, as they have built it?

There hasn't been one word of credible evidence introduced here; and yet they go right ahead relying on the prejudice that has been created. They assume that people are like the little Jewish boy who, when his mother used to make a certain Yiddish dish called krepla, some kind of a little meat pie. The little fellow would get frightened and throw hysterics and go into a fit. So the woman took him to a psychiatrist. The psychiatrist suggested that she employ this device, that she have the little boy assist her in making this condiment without telling him what it was, and have him cook it, so that it was of his own manufacture. And then he would realize there was nothing harmful about it. So she got the little boy home and asked him if he wanted to help make something. He said yes, and they chopped the meat and the onions and spices and made the pastry, spread it out and put it in the oven, and she sat him down and said, "You read the funnybook and then don't let anyone open that oven, and you will see what is in there." So finally the dish was cooked and then the mother came in and she said, "Now, you look and see what it is." And she opened up the oven, and the little boy looked and said, "Oi, krepla!"

So it is the same way with Harry Bridges. Regardless of what the proof is, there are still people who will yell, "Oi, [8199] krepla!"

Now, you might be surprised, Mr. Donohue, to hear an Irishman knowing so many Jewish stories.

The explanation is rather a strange one. You see, while my immediate ancestors settled in Ireland and assumed the customs, the religion and even the names of the inhabitants, my remote ancestors were all Jews. I am descended in a direct line on both sides from Adam and Eve.

And finally, and ultimately, my friends, what is the crime that this man is accused of here? He comes in here, and it is pointed out the monstrous crime of which he is guilty. What is it? He wanted to be an American citizen! There is the bloody corpse, there is the outraged woman, child, the robbed people. That is it all. That's the heinous offense, that is the self-aggrandizement, that is the dishonesty and that is the corruption that Harry Bridges was guilty of. He wanted to be one of us. He had come over here, selecting this country of all those on the globe that he wanted to live on. The people whose spirit he most admired, the country he most admired. He wanted to be one of us. He wanted to be admitted to American citizenship, and that is the crime.

But it is said, he didn't want to be a patriotic American. He is trying to undermine our sacred institutions. Our sacred institutions—like the slums in Washington, the exploitation of men on the Pacific Maritime unions. He wanted to overthrow those excellent things. He is not a patriotic American. Why, [8200] there was so much patriotism going around here some time back, people military shoes and so forth, that I went home and broke out my old navy blues, with the firm intention of coming here in bell bottomed trousers. But the moths had done more to them than the termites have done to the underpinnings of Mr. Bridges, and I had to pass that up.

Patriotism. Samuel Johnson once said that patriotism is the last refuge of a scoundrel. All these people who got on the witness stand, like all the people in the past who have sent real patriots to the gallows and to the prison, called upon their patriotism to excuse their past villanies. Julius Stein, the art critic, who is a brother of that Gertrude Stein who used to write things like "A rose is a rose is a rose is a rose" in an essay discussing separating art from the people and not letting the mob mingle in with it and sully it, said that he had always discovered that those who spoke about the purity of art were like those who spoke about the sacredness of the flag, but loved neither the land nor the people.

There is a poem by Browning that you probably have all read, about Abou Ben Adhem, who woke one night and saw within his tent an angel writing upon a book of gold. He addressed the angel and said, "What is it you write?" And the specter said, "The name of those who love God." Abou said, "Am I one?" And he said, "No." "Well, at least, then," said the man, "write me as one who loves his fellow man." The angel wrote and [8201] vanished. The next night he reappeared with the tablet bearing the names of those who loved God, and lo, Ben Adhem's name led all the rest.

And some day when America starts to count her patriots, she isn't going to say, "How many times did you cry out, 'Fie, fie, Vishinsky,' or 'Let's go over and drop an atom bomb on those Russians.'" She is going to say, "What have you done for my children? What have you done for my poor and my outcast and my oppressed? What have you done for my starving and my homeless?" And then we will see how low down on the list Harry Bridges' name will fall.

Of course, there is this: His work in that direction is finished anyhow. You know, you have been told that pending right in this court, to go on after this case is finished, is a civil suit in equity, if you please,—"equity" is the term—to cancel his citizenship and deport him. We can't get any jury on that. There won't be any jury of American citizens trying that. That will be tried before a judge. I won't be here, of course. I won't be here. And I don't see how he can evade losing that suit. So if you don't like his policies and his principles and you want to get him out of here and you think that the work that he has done for the labor people of the Pacific Coast is something detrimental to the employers of America, why, you can console yourself that he won't be here much longer. They are going to do something like what they did [8202] with the English labor leaders. They will send him to Australia. They will send the American labor leader to Australia, too. And really, we hadn't expected that. We always looked upon Harry Bridges as part of the San Francisco scene. If you go out to some of these restaurants where they put pictures of people like Jimmy Rolph, et cetera, up on the walls, you generally find Harry Bridges' picture up there, too. You come to look at him with a sort of endearment, despite all of the aura of vilification that has been shed around him. [8202-A]

San Francisco has always been a city that has not been afraid of new ideas. It was not afraid of radicalism. We used to send people out of here to disseminate that kind of spirit throughout the rest of the nation. Mark Twain went out of San Francisco protesting bitterly against the injustices of mankind, but he did not know how to organize people. He did not know the answer to it. He only knew the question. His only answer would be the adoption of Schopenhauer's idea that the human race ought to finish itself. That was the only solution there was. And then there was Henry George, who went out of San Francisco with his single-tax philosophy and revolutionized the thinking of a generation, and with him there was a priest, Father McGlynn, who was unfrocked as a Catholic priest for his economic principles and afterwards restored to the grace of the Church and reinstated in his benefices. And we had Jack London, who also spread around a rough and virile curse upon all the things he saw about him, all the inequality, the injustices, but still knew not what to do except to write about it.

And I remember when I was a young fellow meeting old Father Peter York, an old man who came here from Ireland when he was a boy but brought Ireland with him. He never moved out except when he would move out to go down to the waterfront and lend his Leader in the same way the Communists lent the Western Worker as a propaganda agent and as a disseminator of [8203] information to the people of San Francisco as to what they were doing to their fellow men on the waterfront of San Francisco. So we have never been the sort of city that feared and dreaded the innovator, the radical, the man who asserted the dignity and quality of mankind.

One time there was a hare who was not unlike other animals of that type, but she had a certain speed and deftness that enabled her to evade the hounds and trap that took her companions, and finally she came to be marked as a difficult quarry and a hunt was organized to catch this animal and kill it. So the boys were sent out to beat the brush, dogs assembled, men and horses, and they started off on a day of sport to track down this foeman that was worthy of their efforts. They finally flushed the animal, started it off on a run. It cut, spun, and twisted as no hare had ever done before, and provided quite a few hours of relaxation and sport. Finally, exhausted and beaten, she ran into a clearing and into a barn, where a man was working. The hounds were right at her heels. She leaped into the man's arms and he beat the hounds off with a hook and closed the door and refused to open it. When they had gone away he took the animal out and set it on the ground. The hare rose and then bounded off to her home in the thicket. When she did, a warm glow suffused all the forest around and the little animals looked at each other in surprise and delight that mercy and justice had been accomplished by that tiny act. [8204]

But now the very fact that the hare had been successful put a new price upon her. Time went by, and new dogs were gathered, new horses, and the men equipped themselves with still fancier riding gear, and they started out to catch that hare once more, and they beat the bushes and they blew the horns, and they started her up and off she went. The dogs just missed her, wounding her, but taking no repose, she fled on and on. Her dexterity had been augmented, her speed enhanced, her courage, determination and resolution were better. But finally all escape was cut off but one. She dashed in the village and there was a house there, a big house, and there was a room where several old men were sitting. The hare darted in the door, leaped up and landed among those men. They got up, closed the door and barred out the pursuers. When they had gone, one of them gathered the hare up in his arms, hid the hare in his coat and went out to the country and let her loose again right near her own thicket where she lived. And when they did somewhere an angel laughed, a high, clear, silver laugh, that justice and mercy were still on the earth.

But now the hare had become something to conjure with. She was no longer an ordinary hare. She was a witch hare, a devil hare. Now it wasn't to be a day of sport; she must be caught, torn and exorcised. She could be seen off in the distance and was quite distinguishable now because one of her legs had almost been torn off and there was a great white scar [8205] along her side where the fangs of one of the dogs had missed her vitals. Now, this time every wilful boy and every scurvy mongrel was drawn out to reinforce the hunt. A fine fleet of hounds from a distant place was brought to participate in it, hounds of such speed and such dexterity and such cruelty that they could not miss, and a great hunt was beat up now, far worse than any of the others. The avenues of escape were cut off, traps set, barriers set, and men were stationed with clubs to see that she was confined within such runway as they chose. And the hare again cut, doubled and turned. She was black with foam, sweat, mud and dust. Nothing seemed to avail her. Her heart was pressed. She was panting with her last breath. The fine man was gone; there was no refuge there. The entrance to the room where the old men sat was closed, and she had no refuge. But finally down in the field she saw a group of just ordinary people, just ordinary people. They were not hunters, they were not judges, they were not magistrates. They were just ordinary people, and into them she leaped for safety.

Well, what about it, my friends? What about it? Are you any less the warm heart and protecting arms of America than Dean Landis was in 1939 or the Supreme Court was in 1941? What about it? Go along with these people—go along with them—

and when you write as bad a message as ever has been written in the annals of the United States of America there [8206] will be a cocktail party over in the Hawaiian Islands and a few rich people will smile to each other and congratulate themselves across their glasses, and back in the East a few racketeer labor leaders will rub their hands and clap each other on the back, and the Messrs. Boyd and Messrs. Barber and Messrs. Kaiser will say, "We got him at last!" And all over the world people will weep.

But if you come in with the verdict you should come in with, then up and down the Pacific Coast there will be a quarter of a million people who represent the 70,000 of labor unions that are affiliated under this certain banner, and their wives and children, and they will burst out of their doors with delight and excitement, and over the whole world the 70,000,000 people of the WFTU, the struggling people of many lands, will ring bells and dance in the street because America has reversed the tide, and they are satisfied it is not reactionary, and they are satisfied that it is not committed to the destruction of the people who had advanced the aims of its own common and ordinary people.

That is the problem, and that is what we are satisfied you won't fail us in.

The Court: We will take a short recess, ladies and gentlemen of the jury. The same admonition to you not to discuss the case under any circumstances or conditions.

Mr. MacInnis after this recess will talk to you and argue the matter on behalf of Mr. Robertson and Mr. Schmidt. We will take a short recess, with the same admonition.

(Recess.) [8207]

Argument on Behalf of Defendants Schmidt and Robertson

Mr. MacInnis: Citizens of the Jury: You may feel that everything has now been said that could possibly be said, so I will have to ask you to exert toward me all the patience that you can in the hope that I may say something that may prove of service to you in your deliberations in this case. That is the only purpose out of which the law permits argument by attorneys at the end of any lawsuit.

I don't think that a speech is worth making unless out of it the fragments of assistance to members of the jury can be found. In other words, I don't think a lawyer bestows any aid upon the jury or upon the cause which he represents if he merely stands before them and says, "Now, Mr. So-and-So said this, and you must believe him; and Mr. So-and-So added these words, and the sum total of all those words meant that you must believe us and return your verdict." I think that the job of a lawyer in a closing argument is to try to find for the jury some keys or some clues for the repositories of truth. A lawyer ought to be able to point out to the jury distinctions, signposts, guide marks by which the truth can be told from the false statements of other witnesses.

I find myself now embarking before you on a closing argument somewhat in the position of Mr. George Bernard Shaw when he made his first visit to America many years ago. I am told that [8208] a banquet was arranged for his honor at the old Waldorf-Astoria. All of the leading wits of the day were gathered to do him a kind of homage. He sat during the course of the evening at the speaker's table, and he listened to brilliant remarks largely made about himself, and finally the orator who was to precede him used such extravagances of expression that Mr. Shaw knew that he couldn't equal them. So when the applause and tumult was over, the chairman called upon Mr. Shaw. He said, "Mr. George Bernard Shaw will now give his address." Mr. Shaw did the right thing. He stood up and he said, "My address is Lamb's Club," and he sat down.

It might be more pleasing to you if I were to follow such an illustrious precedent, but I am going to try to go a little farther with you, because I think, strangely enough, there are matters which we can discuss back and forth, there are matters which you may be able to use to your benefit and ours at the conclusion of this case.

I will go back, if I may, to the time in which Mr. Hallinan and I were engaged as counsel for these three defendants. It isn't so many months ago. It was about three weeks before we assembled here on Novembr 14 for the start of this trial. I was very pleased to undertake the assignment in this case. It was an attractive cause; it was a challenge to any lawyer engaged in trial work. And I remember that when we met the three defendants, all of the encounter lived up to my expectations. But [8209] then I remember the following day when Mr. Hallinan had another conference with the three men, and he came back to our office with rather chilling news. He said, "This case is going to be more difficult than you think. Our clients are innocent." And we looked at each other with wild surprise; it was a novel experience for both of us.

And with that start we embarked on what has been for us a very terrifying education. When we came into this case we had the ordinary relationship of lawyers with clients. We had men whom we admired and in whose integrity we believed. I had met Mr. Bridges before. I had never met Mr. Robertson or Mr. Schmidt. But now we find ourselves at the end of almost five months not lawyers and clients any more; we find ourselves friends sitting together. And maybe this is a corny thing to say; maybe I shouldn't put it that way; maybe I shouldn't pretend to offer you an approach so personal as that. But the case has become a personal case. The bitterness that has surrounded the difficulties with adverse counsel has become a personal difficulty, and any difficulties that I encounter now in speaking about the case are probably difficulties which are personal to myself.

I am wondering whether I saw the case in the right light from the outset of our labors here. I think that now I am at least beginning to see a little light in the fog of confusion that first confronted my thinking. Oddly enough, I was able to [8210] retain a multitude of erroneous notions throughout this entire case, even while I listened and sometimes participated in the taking of evidence. It wasn't until I thrilled, along with yourselves, I trust, to the monumental remarks of Mr. Donohue in his opening argument, that the whole thing finally became clear to me.

Mr. Donohue accepted the prosecution of this case to save our country from a terrible menace. This must be true, because he told you so himself.

Now, I am at a loss to explain my own feelings when I recall the plight in which we might have found ourselves. I shudder. I was a total ingrate not to have appreciated Mr. Donohue sooner. Worse still, I was oblivious to the awful danger that beset our whole community. I was living in a kind of dream world. And after I listened to Mr. Donohue, of course I said to myself, "Who can fail to appreciate, who can fail to agree that America owes a tremendous debt to Mr. Donohue and men like himself—men of alertness; men of iron; men who, sacrificing all selfish interests, have come here to save us from a terrible fate?" America was in danger because of the labor situation in San Francisco, and Jiggs Donohue stepped into the breach. I wonder—I wonder how many of us recognized the peril upon whose brink we so thoughtlessly stood. Workers, employers, executives, even the Pacific Coast waterfront employers, according to their testimony in this case, were ignorant [8211] of the real but lurking danger behind the figure of Harry Bridges; and but for the bravery of Mr. Donohue and his cohorts whom you have seen here, who knows what might have happened by now?

As the ex-Attorney General, Mr. Tom Clark, whom Mr. Donohue so reveres, said in the summer of 1949: "Who knows what might have happened in Hawaii if we had not been able to obtain these indictments?"

So it is in that spirit that I embark upon a discussion of the case, not only from the perspective of Mr. Robertson and Mr. Schmidt, because you cannot abstract the case of any one of these defendants from the other; but in a spirit of looking with you at all that has been offered us here.

You may say to yourselves, "Why so much detailed adversion to historical analogy? Why all these stories about the past?" The special prosecutor, upon whom we can probably depend for a strictly literal approach in ~~this~~ case, will say, "Ladies and gentlemen, this is the Harry Bridges case; this isn't the Dreyfus case; this isn't the Salem witchcraft trials; this isn't any other historical phenomenon. I suggest that we stick to the alleged facts of the case at bar."

Now, in the ordinary criminal case that kind of advice might be well-intentioned enough, because in the ordinary criminal case the labors of the lawyers, the judge and the jury are centered around simple questions: The ordinary question in [8212] a criminal case of who did what to whom in a particular case. But a political case takes its nourishment, I think you will agree, out of a different atmosphere. A political case finds its genesis in a lot of things that require an examination into the culture of any particular era. And so it is that we offer you analogies. And I will say a few more things along that line, because we think that you can find in your own quest for a pattern of today some resemblance to the things that human beings who weren't unlike you or unlike me in the past did in their day and how they solved their problems.

Now, I think this: I think that few of us are able properly to assess the relationship of present historical events to each other. Now, certainly I cannot. I think we all puzzle over the hidden meanings of great international changes. We try to analyze the causes of these things; we try to fit them into their logical historical patterns. We try to reject obvious explanations. We try to exclude hypotheses which are based, for example, upon our own national pride or upon the seething hatreds of Central Europe or upon any other source which finds its flame kindled by emotion without passing through the more temperate spheres of our own minds. We do these things as best we can in any particular era. For instance, I ask you to look back at the events of the past twenty years. Let us look back at just a few of them. What did we think at the time? How did our opinions crystallize and become mature with the passage of [8213] a few years? It is easy to look back; it is easy to see how our own minds changed so many times upon given situations. I can remember—but I won't bore you too long with this kind of detail—I can remember when I was finishing high school back near the end of the Herbert Hoover regime. [8213-A] And I remember then the topics most ordinarily assigned for debate among us teenagers were two: one was "Resolved: that the United States should recognize Soviet Russia"; and the other topic was, "Resolved: that Mussolini has been a benefactor to Italy." Those were the two things that we discussed.

Now, these intrusions into world events took place in the classroom, you may be assured, without much venturing into statistical analysis. In the Russian question, those who upheld the negative side of the question inevitably pronounced in the language of the Hearst press that all Russians were atheists and that the doctrine of the divine right of kings demanded a return of the reins of government to the Czars. In the debates over Mussolini our point of view was just about as simple: the building of roads and schools, the encouragement of trade, received all the attention. None of us in those days had our eyes opened to the plights of great masses of people. These were the pre-Roosevelt days. The phrase "the common man" had not then been invented.

And in college years as many of us can recall, going back into that era, Hitler began to replace his Italian counterpart as a topic for discussion. I remember, as perhaps you do too, the wise and seasoned commentators who used to tell us, "what America needs is a little more discipline. Hitler has the right ticket. We ought to try it ourselves."

Japan? The Japanese were a quaint, faraway people. They [8214] wore flowing robes and they grew flowers, and they loved America very dearly. We didn't look any further.

Now, along that same time, while we were reading Latin essays with an occasional philosophic thought about the unemployment situation, there was another group of young men right here in San Francisco who were a lot more practical than we. Down on the waterfront the longshore workers of Harry Bridges were doing many things that were outside the ken of our own understanding. They were men who were young, as young as ourselves at least; but they had their fingers to a certain extent upon the pulse of the world, because every day they touched cargo that came to their hands from every port upon the Seven Seas.

We remember the many things that Harry Bridges and the longshore workers did while we were in school. They were boycotting, if you please, munitions, scrapiron marked for shipment to Italy. This action was highly subversive. Everyone knew that Ethiopia was peopled by savages and that Mussolini was bringing the light of Christianity to a dark and heathen world. We accepted the reaction of all the respectable members of the public. And they were doing other things a little later. They were refusing to handle German goods, when every decent person knew that Hitler was merely increasing his stronghold in order to protect us from the ravages of Communism. And a little later there were other scandals that developed. There was another [8215] scandal when the longshore union refused to handle the shipment of munitions to Japan. Why, this was an insulting act to a friendly nation. Everyone realized that. Department stores told their patrons that if there was a shortage of toys that Christmas, Harry Bridges and the longshore union would be responsible.

Always, always the longshore union committed the sin of being right at the wrong time. And so it was; we all had to change our minds many times back and forth, turning our attentions on international events much like spectators at a tennis match. "Recognize Soviet Russia," said Roosevelt. All right, we began to do business with Russia. "We love Rusia," said the administration. And it was "Hate Hitler" by 1938 when the country awakened at last to the Nazi peril. And in 1939 it was "Hate Russia" again. But in 1941 it was "Love Russia." And in 1944 it was "Beloved Russia." And then in 1946 it was "Suspect Russia." All over again, back to our beginnings.

In the thinking of our country there were all kinds of offshoots of the same kind of goverment directed thinking. They will be familiar to you as I recount them. "Brave little Finland"—how many of us remember that phrase? "Brave little Finland. She always paid her war debts." And then brave little Finland was on the side of the Nazi German government and we didn't say "Brave little Finland" any more. And there were other dramatic about-faces. Yugoslavia. Yugoslavia, for [8216] example, during the war; pent up admiration in America for Mihailovic was released in fulsome praises by a moving picture called "The Chetniks."

You probably saw that. And then over night a new word came from our State Department. There was a new figure arising, a man named Josip Broz. He later became known as the fabulous Tito. But overnight Tito became a hero, Mihailovic became a Nazi. And then at the end of the war there was another switch in our thinking. At this time Tito was ruler of Yugoslavia, Mihailovic was condemned to die by a Yugoslav court. And then we were told that we were wrong all the time, that Mihailovic was a hero and Tito was a tyrant.

Those things ought to be too closely ingrained in our memory for anyone to forget. And the proposition is this: within the sphere of our own national consciousness anyone who disagreed with any of the policies which I have just reviewed, or worse still, anyone who adopted them prematurely, became either a Communist or a Fascist; if he didn't think the right thing at the right time.

Here in this case men like Mr. Donohue, with such sincerity as you can best appraise—I won't put a character upon it—tell you without blushing, as he does, that his interest in this case stems from the patriotic notion that some cold war may turn into a shooting war. That, in his mind, is connected with the false charges against Harry Bridges. Well, without arguing whether or not that be true, it is obvious that today, at least, [8217] the briers of unseen trouble and worry touch the nerve ends of the whole world. Every nation, whether it be the United States, whether it is France, whether it is the resurgent Germany, whether it is Soviet Russia, The Netherlands—every country claims or pretends to claim that some miniscule minority within it, within the folds of that country, is attempting to overthrow it by force and violence. We see the same thing everywhere.

I am reminded of a French cartoon that was republished about three weeks ago in Time Magazine. Many of you may have seen it. The cartoon showed a scene in one of the central European countries, one of the countries which we call those behind the "iron curtain." And it showed a light playing upon the face of a prisoner who was sitting in a chair, and there was a prosecutor pointing his finger somewhat spookily at him, and the caption underneath said, "Are you now or have you ever been a believer in democracy?" And so it is. I think the picture is probably the same all over the world. Everywhere the majority pretends to have the same fear. Everywhere the majority in government seems to have the same ailment. Everywhere the same inquiries are being made. It is not restricted to democracies, it is not restricted to Communist countries.

In Spain you may have heard two or three weeks ago that the Duchess of Barcelona was arrested and placed in a cell because of the assumption in Spain that the monarchists are joining [8218] hands with the Communists to overthrow the existing Fascist government.

We come back almost to the apothegm of the ordinary criminal case: Who did what and to whom? It is very difficult to judge what we should do in international affairs.

So I don't know about my own perspective in this case, any more than I can tell you what my perspective would have been at any given time upon the quick-changing historical events that we have covered so briefly. Maybe I am too close to the picture of this case to speak clearly about it. Maybe the case is too big for my grasp. Maybe these men have become too much my friends. I think I could have told you last November what this case is about a lot more clearly than I can now. And starting out some time this afternoon, I would ask you just one indulgence: Hope with me that I can capture words of sufficient strength to speak to you properly about the meaning of this case.

I won't ask you to accept anything beause I say it is so. I won't ask you to believe that I am sincere because that is for you to determine; that isn't for me to say. We are hired, Mr. Hallinan and myself. We are hired to use our talents in support of the cause we represent. It is only incidental to say to you that we believe in that cause and that we believe in the people we represent. But don't take that statement merely because I make it. Look critically at every word that I say. Reject me [8219] if I misquote in any instance the record of evidence. Be suspicious of any approach that I offer you; because, as I say, we are partisan in this case. We have lived through too much of it. We think, maybe we perceive too much of it, but again, that is for you to determine in your deliberations. So I won't say, as our prosecutor grandly does, "I say to you with all the sincerity at my command that we have proved something," because if I said that, I would immediately fasten upon myself the same badge of suspicion that I at once accord to him. [8219-A]

I think, members of the jury, that I would do almost anything to win this case. That is one of the reasons why I ask you to listen to me critically and even suspiciously. If I could reach with such words as I may utter all twelve of you, if I could find in twelve persons a bulwark against the forces of what we know to be prejudice and oppression, of course I would rejoice in that most glorious kind of ending to this most execrable of prosecutions. But if my words could reach only one of you, and if I found in that one a bulwark against all that is false and unjust, still I would thank God for that kind of deliverance out of such solitary courage. That is the approach that I would like to bring to this case if I could.

It is very easy to stand before you and say, "This is a simple case, a very simple case. Read the language of the indictment. The indictment is couched in simple English. It is understandable, easy. There is nothing mysterious about what it connotes. That does not make this case a simple case, although there is one simple problem which, if you solve, will be the key to the whole case. They say that, and here perhaps divides the false from the true:

"Yea, and single aloof were the clue, could you but find it, to the treasure house and peradventure to the master, too."

In this case the simple problem which, if you solve it, will be the case and all, we say is this: What is the reason for the [8220] Bridges case? What underlies this prosecution? If you solve that, you have the answer. If you answer that question, you have answered really a compelling and fundamental question. I wish I could tell you precisely the causes for this prosecution of Harry Bridges.

Perjury—you will find that word in the indictment. You will find that word repeated. You will find the accusation that Mr. Bridges swore falsely when he said he was not a member of the Communist Party. But that won't answer your problem. Early in 1949, when Mr. F. Joseph Donohue came out to our city from Washington to conduct this case, he answered all questions about the Bridges prosecution in that manner. He said, "This is a simple case. It is a perjury prosecution. We are officers of the law. We are merely interested in this prosecution because the law has been violated." But when a little time passed, we who have been following the periodical accounts of our times will observe the line of Mr. Donohue underwent a sharp change because patriotism, that element which he deems essential to the conduct of this case, that sword which he feels he must grasp in his hand while speaking before you, came very definitely to his attention—patriotism. He began to say, "This prosecution is being held because of the domination of trade unions by Communists. That is the real reason we have embarked on this prosecution."

And we who tried to analyze statements of that ilk respond [8221] in this fashion: "Do you think that the government believes now, after the long history of the past, after the findings by its own officers, even the highest court of our land—do you think the government actually believes that Harry Bridges has ever been a member of the Communist Party?"

We do not have to answer that question by argument or by inquiry into the motives of the men who wear, at least temporarily, the mantle of United States government, because we see that question answered in a very practical way. Citizenship—that is the issue here—and yet Henry Schrimpf was given his citizenship in 1943 while our country was at war. Henry Schrimpf, who admits he belonged to the Communist Party. What does the prosecutor say in response to that matter? Well, he tells you this: He says, why, in 1943 the Communist Party had not been denounced as a subversive organization. And yet, for those of us who are following the history of this case, Harry Bridges was tried, his deportation was sought under the same statute in 1939 and 1941 under the same kind of language which said any person who belongs to or is affiliated with any organization advocating the overthrow of our government by force or violence must be deported. So the government had the same attitude upon the Communist Party in 1939 and in

1941, regardless of any pious assertion which the special prosecutor makes here now.

The Schneidermann case has been mentioned. William Schneidermann, one of the local leaders of the Communist Party, [8222] whose name has been mentioned, being invoked so many times by the special prosecutor, an open member of the Communist Party, received his citizenship over the protest of the government and was represented by the late Wendell Willkie. So Communism is not the answer. We have to proceed a little further. We have to look a little deeper. We have to try to find some answer that will suit this case. What that answer may be in its composite you will have to glean out of the long and terrible history to which you have listened now for almost five months. The position of Harry Bridges in the labor movement must be the answer in this case, to heal the sores of the ancient struggle with the employers, the fresher wounds out of the struggle for a living wage in the Hawaiian Islands, the everpresent shadow of the Immigration Department, the outcry of Mr. Tom Clark himself, the then Attorney General of the United States, who said last May, "We think the Hawaiian situation would be bettered with the return of this indictment."

There are many causes which we can look for in this prosecution: the intramural squeeze in the CIO, Mr. Philip Murray and Mr. Joseph Curran, whose blessing was given to the advocacy of Mervyn Rathborne; Philip Murray and Joseph Curran, left wing trade union leaders, who have taken upon themselves the badge of right wing, which they deem connotes some kind of respectability, so they align themselves with the corrupt little group of officers—Boyd, Barber and Kaiser—so that they could destroy [8223] one man.

Now, as I say, don't take that because I say it. Look to the facts of the case and see if you find any other reason. See if you do not find that that is the reason. Why destroy Harry Bridges? Because he has refused to be false to the members of his union. He has refused to sacrifice either their rights or their money, as he has told you, and there has been no denial here. He has refused to do anything that would involve him in the engagement of the devolutions of smug politics within the CIO. There is one conclusion about the interposition of the labor movement in this case, and it is this: In the labor movement in America there are two outlaws, members of the jury, whose existence, staunch, rugged, honest and unyielding, is like vitriol to men like Philip Murray and the sycophants who surround him. In the east it is John L. Lewis. Mr. Lewis is native-born. It is idle to call him a Communist. In the west it is Harry Bridges, and toward either of those two men any assertion that fits the time or marks the circumstance can be made because each must be removed from his particular sphere of influence.

Analyze the history of our times, the history of the last years in the labor movement, and ask yourselves if that conclusion is not correct. And so we say this is a labor case. Harry Bridges is on trial because he is a militant and uncompromising labor leader. We say that, and we ask you to believe it out of [8224] the evidence in this case. Reject it if you find our word to be false. If your inquiry as to whether or not this is a labor case, pure and simple, if your inquiry as to the reason that underlies this prosecution of Harry Bridges is unanswered, ask yourselves a further question: How short can our memories be, how far back in the passage of time is 1933, or in 1933 did we live on another planet which has whirled by us so long ago in the music of the spheres? In 1933 a lot of things were going on in America. A lot of things were going on on the waterfront. There was a job to be done. There was a job to be done with men. We did, and we worked, and that job had to be accomplished. We had a depression. I do not know whether we have forgotten that, but in 1933 when the curtain goes up upon the entrance of Harry Bridges into the sphere of activity which we are asked to scrutinize here, America too was upon the threshold of another emergence. We had gone through the depression. We looked forward with hope to the coming of Franklin Roosevelt. 1933. I have a little book. I guess it really is not a little book, it is a big book It was very popular for the last two years as a kind of Christmas present. It is a pictorial portrait of America from the end of the first war up to the beginning of the second World War. "I remember distinctly." And this book brings back very sharply a lot of things that are sometimes easy to forget, and it has a chart upon a page about estimated unemployment over the years. Each of these little men [8225] represents 600,000 persons, and drawing my finger down to the year 1933 there were 13,800,000 persons out of work. 13,800,000 persons.

On the waterfront—well, you have heard the details of the situation that pervaded the San Francisco waterfront, men who got $10 a week to support their wives and families, and into those conditions came Harry Bridges. I think that Harry Bridges made very definite contributions to lifting this part of America out of the throes of the great depression. I do not know whether anyone will challenge that statement, but someone has come here from afar, someone who, I do not suppose, claims he did anything in that distressing period of our national life to alleviate difficulties, strife and suffering, but that person comes here, and with a great facility he turns back the pages of history. He looks all the way back. He disregards the lines he does not want to read. He closes his eyes to the pictures which are unpleasant or which do not fit into the mosaic of his own thought, and he says, "You, Harry Bridges, back in 1933, you should have been a little more selective. You should have said, 'You, Mr. B. B. Jones, I can't help you. I can't assist you. You are a member of the Communist Party,' and 'You, Mr. Sam Darcy, I can't accept any help from you. Leave me alone. You are a member of the Communist Party.' "

Life is tough when the stakes are down. Life does not allow us to indulge in that kind of hindsight. Life does not [8226] allow us to engage in those refinements of thought which might be pleasing to the special prosecutor at this time. That was the life of 1933. . That was the depth out of which these men had to be elevated, and they were elevated by Mr. Harry Bridges who has been made to pay for it ever since.

If you want another thought, and I hope I can say these things without being too tedious upon the same subject, if you want another thought on whether there is movement against labor in America today, a kind of unseen, unspoken movement, the same kind of movement which cried out in dismay at social security, which cried out still louder against old age pensions, wages and hour laws for women, and the like, if you want a little look into whether or not this a labor case, whether or not there is a movement against labor in America, I will ask you to go back in your minds just about three weeks ago. On the East Coast there was being prosecuted a very stubborn strike on the part of the United Mine Workers. The mine workers themselves were brought to trial on a charge of criminal contempt before a federal court. The federal court heard the men and found they were not guilty. On the public pages of our press, when the verdict of acquittal from the mouth of that judge was announced, Senator Taft, Senator Robert Taft, announced that the government, the United States Government, whom he is expected to revere, the same as ourselves, he announced that the government had thrown the case. Senator Wayne

Morris announced if the federal [8227] courts were going to act in that fashion, he would at once propose legislation so that the government could take over the mines. Mr. Robert Taft, you will recall, is the gentleman whose name is borne upon the Taft-Hartley Law, the law which would today outlaw and do away with the hiring halls on the San Francisco waterfront. So ask yourselves, "Is there any movement against labor today and is this any part of that picture?"

If you embrace one thought on that subject, nothing else is necessary. Rathborne testified at great length in this case. He said he was offering you a quotation from Lenin when he said to you in all seriousness, "Trade unions are schools of Communism." Think over those words for just a moment. "Trade unions are schools of Communism." The witness who uttered that remark who conveyed to you that lofty aphorism, did so under the direction of the men who are conducting this case. "Trade unions are schools of Communism." Ask yourselves, Is there any movement against labor in America today? Why, that statement is of equal stature to what Mr. Bruce Barber purports to have told Rathborne on their first meeting, and I remember those words fairly vividly. What did Rathborne say? Barber introduced himself to him, had his first interview, and he said this. He said the Immigration Department is conducting an investigation about the infiltration of Communists into the labor movement. What authority does the Immigration Department have to investigate labor unions? What possible connections would the labor [8228] movement have with the Immigration Department as such?

We have one other little facet of the same picture. If you want to focus your eyes upon it for a moment, ask yourselves, "Has there been any labor-baiting in connection with the preparation of this case?" Or what would you call it? What did you call it when you heard the story of Rathborne going up to the hotel room of Mr. Donohue, the St. Francis here in San Francisco, and making a long distance call at Mr. Donohue's expense, so that he could unleash a publicity blast against the 1948 strike? Does that have some connection with this case? Did the prosecutor in the exercise of that duty of fairness about which he so zealously speaks consider that publicity directed against a particular strike formed some integral part of this case? If you ask yourselves those questions, I think you will be able to give yourselves the answer. We have reviewed the bugaboo of Communist charges and smears all over the country and we have Harry Bridges' explanation of his own situation with Philip Murray—the real reason behind the charge of Communist domination. [8229]

Is there any denial? Is any person brought here to say, "Why, no, Mr. Bridges has exaggerated, Mr. Bridges is dissimulating, Mr. Bridges is lying"? No person comes here to tell you that. No person utters one word of contradiction over the narrative given you by Harry Bridges about the genesis of this case, about the kind of quarrel, the political quarrel, in which he finds himself enmeshed between the group of Philip Murray on the one hand and the outstretched grasp of Mr. Joseph Curran on the other. Nobody denies it, but you are asked to reject it as fantastic merely because Harry Bridges, who has not been impeached in any particular, says that it is so.

And there is a mystery. There is a little mystery that cries out; that rises out of the pages of the indictment in this case about the progress of the trial, and it is this—and I think it is a mystery: Here is the Immigration Department. The Immigration Department has been trying to get rid of Harry Bridges for about sixteen years. So they finally get him indicted. He is facing a criminal charge for the first time in his life. And while he is indicted he comes before this court to ask a favor. He wants to ask if he can leave the continental limits, he is invited to go over to Marseilles to a convention. The Attorney General of the United States, in the person of Mr. Donohue, passes on the request. They say, "No, if we let him out of the country he might not come back." Well, you figure that one out; I can't. [8230]

And it is in a similar vein that I approach in this discussion some of the complaints that the Government counsel have offered you from time to time about the strain of the trial. They have said that we were impolite. Possibly we were. How about the defendants? How about Harry Harry Bridges, Henry Schmidt and Bob Robertson and their families? How about them? They have not been heard to make any complaint. I guess they have no voice to make a complaint. They are the defendants. Anything can be said that will pillory those men. Or are they, as the prosecutor tells you, without any evidence, I am sure, because I would like to see the evidence pointed out if it exists—are they vain—vain, egotistical Harry Bridges, a fake, a sham and a fraud? Those were the words of Mr. Donohue. Those were the words he chose to use while he told you that we had embarked upon a campaign of vilification against the Government of the United States.

And the other two men, who are they? Is that man surly, cold, cunning, ruthless Henry Schmidt? Or is that some extravagant notion conceived by the prosecutor out of the funny papers? "Surly, cold, cunning, ruthless Henry Schmidt." What acts of his would reflect that kind of character? What has been shown against Mr. Schmidt that might endorse the making by the prosecutor of that kind of remark? Well, he finds it easy. I guess he can say anything he wants. He said, "They vented their spleen on us; I will say what I will against them." So, it is "surly, [8231] cold, cunning, ruthless Henry Schmidt, hiding, if you please, behind the skirts of his daughter." That is another little touch that I would like to discuss with you after a while.

And Bob Robertson? Oh, he is a little kinder to Bob Robertson. He just says "dull, unimaginative Robertson, able to follow the line if you spell it out for him." Well, can you find, members of the jury, any segment of the evidence that would allow us to embrace that kind of conclusion about any of those men? Did the bitterest of their enemies accuse Harry Bridges of being a fake and a fraud? Did the accusers of Bob Robertson tell you that he was dull and unimaginative? Did those persons who offered their scattered and hectic impressions about Henry Schmidt tell you that he was surly, cold, cunning and ruthless? Or are those characteristics which so stand out in the man himself that a man of perspective, a man of feeling like F. Joseph Donohue can immediately ferret them out? You will have to answer those questions in dealing with the approach of the prosecution in this case, because it is their approach, and it isn't ours. It is what they say as to the kind of case they are trying here.

And there is another little matter that is, of course, not of commanding importance: whether Mr. Donohue is a special prosecutor, although I have myself indulged those words in dealing with him, I have repeated that phrase. Mr. Donohue, however, chose to tell you that he is a special prosecutor in this case [8232] for the easy reason that the United States Attorney's office in this jurisdiction is understaffed, undermanned and overworked. I think I heard him say that to you in the argument. I think that there has not been an hour in the progress of this trial in which there have not been four deputies of the United States Attorney's office sitting here in the courtroom, not an hour—men from that understaffed, overworked, undermanned organization. Well, as I say, that isn't of commanding importance. It is a reflection which you can weigh when you are thinking about the element of sincerity which you ought to ascribe to the motives of the special prosecutor.

I wonder—I wonder why there is such a feeling of bitterness in this case. I certainly feel it. I would be deceiving you if I told you otherwise. Why this ever-present, unhidden, hard-bitten feeling of bitterness? Maybe—maybe it stems out of our abandoned and malignant hearts. Maybe that is the source of it. Maybe it is because of the expectations that Mr. Hallinan and I have about our own personal fates in this case. Maybe that is what it is, but I don't think so. I don't think so. I have never seen anything like it before.

In the trial of civil cases in this community, all kinds of cases,—insurance cases, will contests, fraud cases,—there is a kind of camaraderie between the lawyers that you read about in books. In criminal cases here in San Francisco there is another kind of comradeship. You see it at the Hall of [8233] Justice every week. Why, I can remember last summer I was trying a case in the Hall of Justice before a visiting judge, and in some very minor matter the judge took me to task for saying something, and the deputy district attorney got to his feet immediately and defended his opponent; and a little later in the case the judge focused his scorn on the deputy district attorney, and I found myself getting up and arguing that the district attorney was perfectly correct in his approach.

This is San Francisco. This is a closely-knit little community. We work hard in the cases we try, but we work most of the time with friends. We try to work fairly, we try to work honorably, and we don't expect that the other side will stint its own efforts.

I can remember in the trial of a capital case against Mr. Pat Brown having dinner with Mr. Brown and his family in the course of the trial. You don't find that kind of bitterness here in San Francico. No, you don't find it except in a special case, and particularly this very special Harry Bridges prosecution.

You have heard some remarks by the special prosecutor telling you that the reputation of San Francisco for hospitality has not suffered because of our conduct toward him. [8234]

Hospitality, he says, should have been extended him. Hospitality! Now, really, I would like to go back again to the outset of this case.

It is very true, looking at this sleek gentleman, one finds it hard to say harsh things about him. To look at him, he is obviously a man of distinction, so loftily extolled by Lord Calvert. We look at him a little more closely; he appears to belong to one of those exclusive after-shave clubs that we see in the advertisements. He dons his glasses to read a piece of evidence. He obviously belongs to the Book-of-the-Month Club. He is a very fine man. You can see it at a glance.

So we looked toward him when we were on the threshold of the case. We said, "Welcome, fair stranger; what happy adventure brings you within the gates of our citadel?" And then the stranger answers; he says, "Alas, it is not a kindly errand. I have come here from Washington to obtain an indictment that will place three of your fellow citizens in a penitentiary. After the term of one of them is served, we will deport him from the country." So we say, "Well, we will not judge you too harshly. You are a public official. You are obviously obeying the orders of your superiors. We will not hold that against you." But then the stranger says, "Alas, that is not quite so either. I am a special prosecutor. I am a lawyer engaged in private practice. I accepted the post of prosecutor in the Harry [8235] Bridges case, I accepted the special appointment. But I want you to understand that I did so not because I am naturally cruel or heartless, but because I thought it was my patriotic duty to do so."

Well, with a little sadness that the thing should be so, we accept the approach of the special prosecutor. We watched him for a few weeks. We watched unfold the kind of "fairness" that he allocated to himself. And what did the fond exercise of those duties command that Mr. Donohue do? I will tell you more about it in the morning.

The Court: We will take the adjournment until ten o'clock in the morning, ladies and gentlemen, and the same admonition to you, not to discuss the case or converse with anybody on the subject of the trial.

(Thereupon an adjournment was taken until Tuesday, March 28, 1950, at 10:00 a.m.) [8236]

Tuesday, March 28, 1950, 10:00 o'Clock A.M.

The Clerk: Case of the United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: I am really just a little bit disappointed to see that Mr. Paisley is back with us this morning, because when he disappeared yesterday afternoon I had thought for just a moment that he had taken Mr. Hallinan's advice seriously and had gone back to combat the poll tax and the Ku Klux Klan in Tennessee. But I see he is right back at the same old stand this morning.

Now, members of the jury, going back, if we may, to the beginnings of this case, I want to approach you with another thought about the manner in which the facts of this case have unfolded themselves before you. All of the lawyers tell you that a case begins by the making of an opening statement. That is, the representatives of each side stand before you and each one tells you as fully as he chooses what it is that he plans to prove, what it is that he vouches for in support of his case. Now, I can not criticize the government for the type of opening statement that was offered you here, because that was the business of the men themselves. They either have the right to make a complete disclosure, or they have a right to make a fragmentary and skeleton statement, as they did.

So, after Mr. McMillan made a very sketchy opening statement [8237] in which he read to you the indictment and told you that the government would prove the facts alleged in the indictment, Mr.

Hallinan got to his feet and started to make an opening statement on behalf of the defense. I think that you all will recall that stormy day. Every word he said was beset by objections. When he offered the jury propositions which he told you that we would prove in this case, the prosecutors—not one, but all three of them at that time—Mr. Donohue, Mr. Paisley and Mr. McMillan—got to their feet, and they told His Honor that the statements Mr. Hallinan was making were fantastic, untrue and entirely outside the scope of the case. They told the Court that by the widest degree of imagination none of these matters could ever intrude themselves within the purview of this record.

Now, the trial judge came here, we must assume, like ourselves; he doesn't read the confidential files of either side in the case. The trial judge doesn't know the inner facts which will support any side in any particular matter. So when the prosecutors made those assertions to the judge, the judge sustained the objections.

Now, going back, I am going to offer you this proposition, and you tell me if it isn't so. Every word that Mr. Hallinan offered to prove, every proposition which was shouted down as "monstrous," as "fantastic," as an attack upon the dignity of these men who temporarily represent our government, every single proposition has come into this record not only without objection [8238] but without denial, on any single instance. So I will invite you to ask yourselves this question: What was the purpose of the prosecutors at the outset of this case? They had determined, apparently, not to reveal their own hand either to the Court or to the jury or the defense; so that each witness would be somewhat of a mystery. That, as I say, was their own business. But when the defense attempted, before there was a syllable of evidence uttered in this case, to take the same position and to tell you everything that was known about the movement of 16 years against Harry Bridges, well, you remember what happened. You remember the appeals that were made to the judge. You remember the criticism that was made at the temerity of defense counsel, who offered you those observations.

Now, what was it he said and what was it that was said to be untrue, fantastic, outside the scope of the case? I think it will not be amiss if I review some of those matters with you now. And I will mention the transcript pages so that these gentlemen can follow me if they wish and if there is something false in what I am now asserting before you, why, they can be very quick to offer corrections.

Mr. Hallinan, at the time the first major objection was made, told the jury that he would show the manner in which the CIO was formed out of the A. F. of L. on the issue of autonomy of unions, on the issue of democracy. Page 553 and page 554. Objections were made by the two prosecutors to that offer, made [8239] to the Court; and while they made those objections, they knew that their witness, Henry Schrimpf, the third witness to be called here, was already waiting to give identically that testimony.

Upon the next page Mr. Hallinan, attempting to unfold the story that he knew would be engraved in the record here, told you that he would show the manner in which the Maritime Federation of the Pacific was organized. Why, these men got to their feet and they said, "What has the Maritime Federation of the Pacific got to do with this case? It is fantastic, it is not within the sphere of this case." When they were uttering those words, John Schomaker was already crouching in the wings waiting to make his appearance here with the story that Harry Bridges had something to do with the Maritime Federation of the Pacific, and that the Maritime Federation of the Pacific was dominated in some way by the Communist Party. [8240]

These men who told the Court that these matters were untrue and had nothing to do with the case were already prepared to put on a case which they knew so well. And we can go on to every single topic that was mentioned by Mr. Hallinan at that time. He told the jury that the support of some officials of the United States Government even had been enlisted in this prosecution and drew a storm of protest. Do you think they did not know about the address made by Mr. Tom Clark in Milwaukee at the very time following the return of the indictments in this case? And on page 565, when Mr. Hallinan told the jury that he would show the extent of surveillance over Harry Bridges, going back to the year 1937, when people placed a dictograph in his hotel room in Portland, the same storm of protest, the same charges that those facts were fantastic and outside the scope of this case, when they knew that three of their witnesses were prepared to testify to that very matter—Mr. Schomaker, Mr. Krolek, Mr. Schrimpf. They were all present, they all revealed the same thing, but when Mr. Hallinan said it in the atmosphere that they desired most to create at the start of this case, it was fantastic, it was inflammatory, it was prejudicial to the Government; it was an assault upon the dignity of these people who put upon themselves the mantle of our Government in order to clothe themselves with some strength before you.

Mr. Hallinan told the jury in his opening statement, page [8241] 571, the objections following page by page to almost every paragraph that he uttered, said, "We will show you that Harry Bridges has been under almost constant surveillance since 1934, and that he never conceivably could have engaged in any of the activities which will be attributed to him in this case." And these men who objected to that statement, who said that was fantastic, that that was untrue, that that was trying to indict a whole nation, in the language of Mr. McMillan, those gentlemen knew all the while that they had prepared Messrs. Johnson, Crouch and Ross to give testimony here about an event that all of them knew had never taken place.

Now, this thought comes to me. I don't know. It has been suggested before. Johnson and Crouch testified that they saw Harry Bridges in June of 1936 at the Communist Party convention in New York. I think we all know that that was not so.

The witness who formed the third man in that trilogy of characters was Lawrence Ross. After Crouch and Johnson were unmasked by the showings here by documents and by the testimony of their witnesses, Ross took the stand and Ross told the jury, "Well, yes, I was back at the Communist Party convention in 1936 and I voted for Harry Bridges, but I did not see him at that convention."

Now, I suggest to you, members of the jury—I may be wrong, but I suggest very strongly to you that if Crouch and Johnson had not been unmasked, Mr. Ross would have given you the [8242] same kind of testimony. He would have gone that extra step. He would have said, "I saw my old friend and comrade Harry Bridges in New York; I heard him make that short speech of welcome and thanks. Yes, I saw him there." Just consider that. It is a fragment. It is a suspicion. But it is an inference that I think attaches itself to that particular piece of testimony.

Mr. Hallinan told the jury on page 571, away back in his opening statement, that Harry Bridges was spied upon and followed in 1941, that he himself had caught and exposed agents of the FBI who were tapping his hotel room. A storm of protest: "Untrue! Fantastic!" The testimony is now in the record before you. I have yet to hear a single denial on behalf of the Government. I have yet to hear a Government agent take the stand and say, "That is not true. It did not happen." Or even to say it did not happen that way. Those things are admitted in the record. And yet those were the things that were so prejudicial that it was said of Mr. Hallinan that he was preventing the decent and orderly execution of justice in this case. Well, I won't go on to all of the materials. Uniformly objections were made and uniformly objections were sustained upon the assertions of these men that the statements were false, fantastic, outside the scope of the case, something the jury would never be entitled to learn.

The most forbidden material in the entire case at the time [8243] of the opening statement was the mention of the fact that there were two previous hearings in which the same issue against Harry Bridges was tried. That was a terrible thing. That could not be said. The prosecutors unanimously objected to that statement. And yet before the first witness, Mr. Garner, Mr. Lloyd H. Garner, an official of the Government himself, had been on the stand for a half hour, those facts had popped into the testimony, the same issue, the same exculpation, the same charge by the Government against the same man, the same acquittal as in the previous charges. But the Government two days before had told the Court and jury that that fantastic issue could never find its way into the scope of the evidence in this case.

Mr. Hallinan said in the opening statement that he would show the jury that in the past the FBI had threatened and berated witnesses to get them to testify against Harry Bridges. The same three gentlemen were upon their feet; it was false, it was untrue, the FBI was not on trial. This was another case; this was the Immigration Department's case.

The FBI was not involved. That matter could never get inside the record in this case. And yet all the while they knew that their fifth witness, Mr. Krolek, was going to testify precisely to that. Mr. Krolek and Mr. Rathborne, who together gave you a very vivid account in their words, not ours, not adopting the biased adjectives I might use, not taking the aura of persecution that [8244] the defense might attribute to itself, not any gratuitous or self-serving adjectives of that kind, but Krolek and Rathborne, persons doing their best to help the Government. Rathborne, paid to help the Government, told you that the FBI had threatened and berated witnesses. But the important thing is this: these men told the Court and told you that that was so fantastic and so foreign to the issues in this case that it could not even be considered.

Manning Johnson was mentioned by name in the opening statement for the defense. Mr. McMillan got to his feet and said, "You can't mention names. We didn't mention any names in our opening statement. You do not know that we are going to produce such a man."

On page 576 Mr. Hallinan told the jury that people whom Harry Bridges had never seen before in his life would come here to tell you that he was elected a Communist Party official. Two of the prosecutors rose to their feet: "Fantastic! Untrue!" "How do they know that our witnesses never saw him before in his life?" And all the time they knew the story of Crouch, of Johnson and of Hancock and of Ross.

I need not recount those incidents over again, because I am sure your memories are at least as clear as mine. Mr. Hallinan told the jury that the Pacific Coast shipowners were no longer a part of the move to get rid of Harry Bridges. Another storm of protest: That could never intrude itself into the case; those [8245] were facts which could never be placed before the jury. He told the jury that the ILWU had attempted to organize the Hawaiian Islands and had drawn further malice upon themselves, the malice and hatred of the Big Five companies. These men who then rose to their feet and objected, who said that was false, fantastic, outside the scope of the case, already knew that Mr. Tom Clark himself, the official who appointed Mr. Donohue to the case, had made a public speech telling the world that these indictments against Bridges, Robertson and Schmidt would do a lot toward relieving the situation in Hawaii. But they told the jury and they told the Court that those things were false and outside the scope of the case.

The same objections were made, the same objections were sustained upon the asserted good faith of these men and the prosecution. When Mr. Hallinan told the jury that hired informers, people who would be paid for their work, would be brought here to testify on behalf of the Government, that was false, that was fantastic; that was a ridiculous assault upon the integrity of the Government. That was a typical Communist tactic, we were told. And yet what happened? Johnson, eighteen previous appearances in the same circuit—Johnson, who left here with our imprecations upon his head but with the blessings of the prosecution, who traveled down to Los Angeles and testified two weeks later in two more cases. Johnson, who appeared in other communities, according to his own statement, to [8246] testify against someone whom he had never met, and whose name he could not now remember. Crouch, testifying in four or five other cases. Ross, created out of the unknown. Rathborne, paid to come here. And yet those men made the objections, those men rose in the robes of their office, they arose and they said in effect to the Court and jury, "We are officers of the Federal Government. We are all together here, citizens of the Government, you, the judge appointed by our Government—we are here to assure you that these things will not take place here. This is the United States Government. We do not do things that way These men who accuse us, these men are saying things that are not true, these men are saying fantastic things in order to create an atmosphere of prejudice."

I wonder now, who do you think was telling the truth? Upon whose shoulders reposed the atmosphere of good faith? I wonder what we think about that,, and I wonder what explanation the special prosecutor will make when he has an opportunity to stand before you again and answer what has been said.

And yet it was because of Mr. Hallinan's insistence in making those statements, statements that he knew would come into this case, statements that he knew constituted our case, statements without which there would be no defense at all in this case, statements and facts which, if they were not intruded into this record, would deny to these men every right that any person is entitled to under our laws, and because he insisted [8247] on stating in his own good faith what he knew would be proved, these men demanded and they received his citation for contempt. It is not that I wish to parade what has been done to the lawyers in this case at all. That is not material to our present endeavors. But I want to suggest this: Ask yourselves this question: Did the situation taking place at the start of this trial, the objections, the allegations of falsity, the statements that the defense was fantastic and untrue—were those things done to create at the outset an atmosphere of prejudice in this case? Were those things done to convince you at the outset that the defense was merely trying to run wild, that the defense was going to flaunt law and order, that the defense was going to do anything just in order to make noise and confuse the issue? [8248]

I wonder if that is what these gentlemen had in mind, and I wonder if there was anything they could have had in mind in doing those things.

I can remember,—I remember it now with kind of a smile—the almost farcical grimness that they had succeeded in creating at the start of the evidence in this case. Remember Mr. Garner? He was on the stand first merely to identify one or two documents. He had in his hand, I think, the original application of Harry Bridges for citizenship and handed that to the special prosecutor. It was marked in evidence, and the special prosecutor walked forward a step in front of the jury and he said, "Ladies and gentlemen of the jury, I ask you to observe carefully the line at the bottom of this page, wherein there is mentioned the name of the mother of Harry Bridges. I ask you to observe carefully that her maiden name was Julia Dorgan." And when he said that, a silence fell over the courtroom. Julia Dorgan. His mother's name was Dorgan. The case was proved! And yet that was the atmosphere, literally.

After the difficulties inherent in the opening statement of Mr. Hallinan, after the stormy protests back and forth, the recriminations, the grimness of the case, almost anything could have been done. Almost anything could have been received. And when I look back upon the matters of that kind, I think, as I may have said yesterday, to myself, "I wonder what jurors feel when they come out here out of the real world in which they [8249] dwell, out of their homes, out of their businesses." Jurors come out of the real world, where real people do real things, and then they descend into the almost fictitious atmosphere of the courtroom where anything can be said, wherein the prosecution of a labor leader in a political trial, the special prosecutor can stand before the jury and attach some kind of vague and ephemeral credit to himself by saying, "My interest in this case is grave, in the event that the cold war turns into a shooting war." You don't see those things in real life. In real life, if people said things like that, you would laugh; but you don't laugh at men who wear the badges of officialdom. You have to credit them, at least at the outset, with all of the dignity that their office deserves. Now, that has been the trouble with the outset of this case.

Now, I want to make a few more reflections upon the same subject. Not only as concerns the argument of the prosecutor in this case, but as concerns the entire approach. I should like to have you ask this of yourselves: Was he trying to create an atmosphere of prejudice not connected with the evidence in this case, not attached to Harry Bridges, and not attached to the case itself in any legitimate way? Well, in his opening argument he says this. He says, "Mr. MacInnis has the Communist Party at his elbow." Well, I suppose it is my left elbow, because everything in this case has to do with the "left." Now, why did he say that? Did he have some legitimate [8250] purpose, or did he have some hope that words thus loosely spoken might attach themselves in some way and hamper the defense in its presentation? He says, "The hit dog yelps." He uses aphorisms like "boring from within." He has read those things somewhere. He speaks about meetings in chicken yards. He says this, a kind of remarkable thing, "Their defense is a Communist defense." Now, why does he says that? Well, the logic is apparent, and I suppose it is undeniable. Communists like Rathborne deny that they are Communists, so anybody who is accused of being a Communist and denies it is adopting a Communist Party defense!

But you ask yourselves: What was the reason for saying those things? Do materials like that aid you in determining whether or not there is any proof in this case to a moral certainty and beyond a reasonable doubt? He says Harry Bridges is more afraid of the Communist Party than he is of you or of the United States Government. Well, where is the proof of that? Harry Bridges, it certainly appeared to me, without commenting now upon the weight of his testimony, is nothing if not candid. There were all kinds of matters which he discussed here with the special prosecutor in which he could have given himself the edge by adopting just a modicum of hypocrisy; but he wouldn't do it. So in all justice to him, and without talking about the merits of this case, I say that that man is not afraid of anybody. He is not afraid of Mr. Donohue, he is not afraid of the [8251] Communist Party, he is not afraid of anything except anything that will deter him from speaking the truth and from going along in his own honest and ordinary way.

Now, you can either adopt that, or you can reject it; because that is reflection that I make, and of course you are not bound by anything that I might say.

The special prosecutor said to you, "How have we proved this case? Well, we have proved this case in a very good way. We have proved it out of the lips of Bridges' own pals." Bridges' own pals! Well, that rang pretty deeply when he said it. It sounded, well, as though, "How could you prove a case like this more closely than to bring the man's own pals into court?"

Well, who, may I ask, were the pals of Bridges who were brought here? Henry Schrimpf, who has hated Harry Bridges for years. Johnson and Crouch, whom he never saw before in his life. Ross, whom he saw about three times in 1934 and never thereafter. Hancock—another creature out of the darkness of another world. Hancock was never seen before by either Harry Bridges or Henry Schmidt, although Hancock mentioned both of those men. Michener—a man he saw six, eight, ten times in union business in the course of his life. But for the purposes of this case, for the atmosphere which he thinks must surround this prosecution to show how the truth was extracted of the people in a position to know, he tells you, "We produced here pals of Harry Bridges." Well, I don't think that is true. I don't think [8252] there is any evidence of that. Schomaker, back in 1934 and '5, lived next door to Harry Bridges. They were friends. Rathborne in a business way was close to Harry Bridges. Bridges was never to Rathborne's home, Rathborne was never to his. So where this assertion of "pals" comes into the case, I don't know—except I conclude that it is another assertion of the special prosecutor to foment a little more atmosphere in this case.

He says, "The defense tells you that we have brought here liars and scoundrels." "Well," he says, "what else could we do? You don't expect that we could bring here four pastors of the churches." I think those were the words he used. Well, we did; we brought here two pastors of churches to testify as to the good character of the defendants in this case.

He says this. He says, "We have to bring scoundrels and liars before you because this is a Communist case, and of course we know that all Communists are scoundrels and liars." He says, "We bring the scoundrels and liars before you, and we ask that you accept their word in a case against the presumption of innocence and against the doctrine of reasonable doubt."

Now, that is the astounding proposition that is offered you. Pals of Bridges! Well, there is a song that was made popular a year or so ago in that musical comedy, "South Pacific," and the words in it concern "an Enchanted Evening," and "Seeing a stranger across a crowded room." Well, in the enchanted [8253] mornings of this trial, when we have looked across the crowded room, sometimes at that door (indicating) we have heard the name of the stranger pronounced by the Clerk after the announcement of the prosecution, we have turned to each other, I have turned to Harry Bridges, Henry Schmidt, Bob Robertson, and said, "Who is that man?" "Well, never heard of him." Well, I said to myself, "Well, these men meet a lot of people in their lifetime; Harry Bridges has met thousands of people. He can be excused for forgetting a name. As soon as the man is in here, they will see his face, and maybe they will remember him." And so a figure walks into the room, a Stanley Hancock, let us say; they have never seen that man before in their lives. And yet five minutes go by up there. "Harry Bridges? Oh yes, I know Harry well. Oh, yes, I met him first in 1935. Let me see; who was there?" And the little list is given. Mr. Hallinan had the placards here the other day, word for word, identical with the list given by Mr. Schomaker.

How do they do it? I don't know. I can only tell you what I suspect. We can only tell you what we infer out of the evidence in this case. Pals of Harry Bridges! Ross, Hancock, Johnson, Crouch. I don't know what to say. I think everything has been said about those people that could possibly be said. Bridges is a character assassin, says the special prosecutor. He sought to destroy the reputation of a good man, Mr. Mervyn Rathborne! He told you that Rathborne was a burglar, a drunkard, [8254] an embezzler, and an unfaithful husband. Well, so he did, so he did. He did tell you those things. Rathborne took the stand; did you hear any denial by Mervyn Rathborne? Did you hear a syllable that would exculpate Mervyn Rathborne out of his own lips? Did he even create an issue? Did he as much as say, "That man hates me, naturally he is saying things about me. He is trying to build himself up in advance"? Not a word. Why? Because if Mervyn Rathborne had uttered one syllable in the defense of himself on any of those issues, a stream of other evidence would have come in here to corroborate those charges. Rathborne knew it, Mr. Donohue knew it, and much better, it was known by Mr. Barber, for a long time. They couldn't take a chance of having Mr. Rathborne make any denials about the things that were said about him.

And if that was Rathborne's character, who made him that way? We didn't make him that way by the words that we used. If he is a drunkard, we didn't make him that. If he has been a burglar, we didn't make him that. If he has been a liar, we didn't make him that. He was that way when he was discovered by these gentlemen. Whether they discovered him or whether he discovered them is something that we may discuss between ourselves a little later.

Who tried to conceal the background of Rathborne's life? Who protested vigorously about the intrusion into this record of the details of Rathborne's conviction of burglary? Who did? [8255] Mr. Donohue. Who went down and tried to have that record expunged on the 12th day of September of 1949, on the eve of this trial? Mr. Barber and his assistants. Who brought the probation officer up here to give you an explanation, which I think is highly suspicious? Mr. Donohue.

Now, I have asked Mr. Mitchell to find for me the records of the probation officer, and he has. He has brought me one of them here, and I think it will suffice, although there are others. Now, here is a little clue. Maybe this matter isn't worth discussing; maybe it doesn't matter one way or the other if a record has been fabricated. Maybe it doesn't matter if there is something peculiar about the records of the probation department in Los Angeles. In the overall picture it won't decide the case for us here. But here is a man—I have forgotten his name now—who came up here from Los Angeles, the probation officer. And he said this. He said, "When the Immigration man came to see me, I looked into my books and I discovered that the probation of Rathborne had been terminated in 1927." I think he gave a date of August of 1927. And, "I had that in mind," he says, "when I arranged to have a formal order made in court upon the 12th day of September of 1949."

Now, did he have that in mind? Well, the document that he prepared himself—I see his name here is Arthur W. Brayton—the document he prepared himself has upon it, "Expiration date, January 25, 1928." [8256]

In other words, the date that he accepted, in September of last year, when he went over into the Superior Court or sent his deputy over to obtain this so-called expungement, bore the original notation of the court, which said that the probation would expire upon January 25th of 1928.

Now, what did he tell you here? He told you here that he opened up this old record in the probation department and he found a notation, typed, not handwritten, in which probation was terminated some time in 1927. And he knew that all the time. His office deemed that the probation had then been terminated. They acted upon it. And when the Immigration man came in, why, they knew and they accepted the fact that back in 1927 it had been terminated. Well, now, if that were true, why would he put the original court date of

January 25, 1928, upon the document when he went over? Now, that may not be conclusive, it may not be. These are the conclusions of a very biased observer. It may be that we suspect these people of trickery where none exists. But it also may be that we receive other things with open hands where there is some trickery that we are not subtle enough to detect. So let me leave that thought with you for just a moment.

In short, in the argument or summations which he made before you, Mr. Donohue said, "The defense has engaged in a campaign of vilification against the Government of the United States." In other words, Mr. Donohue, Barber and [8257] Kaiser are elevated ~~now~~ into the position where any assault upon them is an assault upon the Government of the United States. Well, I don't think we see it that way. I don't think you ought to see it that way. We are the Government of the United States; you are the Government of the United States; the public is the Government of the United States—not this little segment of officialdom which has so shamefully lifted its head before us in this case.

But I want to ask you this question: Were all these things done at the outset in the trial of this case in order to create an atmosphere of prejudice? Well, prejudice is a funny word. I don't think that we have to fear any atmosphere of prejudice in this case, and I will tell you why. In the first place, I think it would be inconceivable that any person who can either serve on a jury or not serve, as he chooses, would take his seat harboring in his heart any secret prejudice against a man on trial for his liberty. I don't think people would do that. It would be pretty fantastic for me to adopt that kind of suggestion. So I don't fear the notion of prejudice.

There are other things, though; there are other states of mind. There are little things, subconscious things, innate things that characterize the thinking of all of us. Matters which do not amount to prejudice but which in the long run sometimes raise their heads in a macabre sort of way, and they influence our thoughts. Now, this is what I have in mind. How many of us have been to dinner parties with others, where all [8258] kinds of current events are discussed, and one man at the head of the table, after the coffee is being enjoyed at the end of dinner, will say, "Well, now, I want to tell you this. I have nothing at all against labor unions, nothing at all. I concede that labor unions are very necessary. They certainly were necessary twenty years ago, in the interest of all workers. But let me tell you, they are going too far now. Let me tell you what a certain labor union did to me."

In other words, having established first his own fairness by that kind of explanation, he cements the prejudice which lies deeply in his heart by unfolding it to others. It is the same as a man who says, in the same kind of gathering, "I want you to know that I have nothing at all against the

Jews, nothing at all. Nothing at all. But let me tell you what a certain Jew did to me."

The same approach, the protest of fairness and underneath it the unconscious appeal to whatever lingering prejudice exists in the heart of any person.

Last fall about three weeks before—maybe a little longer than that—this trial started—I think it was before we were engaged in the Harry Bridges case, but at least the Bridges case was a topic of great conversation—I went down with some friends to the Stanford-Michigan football game at Palo Alto. And after the game we rode down for some refreshments before starting the journey back to San Francisco, and seated next to me was a young man whom I knew very slightly, whom I had known over a period of years. [8259]

The Hawaiian strike had just been settled. That I think will fix the date in your minds, though I can't remember how many weeks it was before this trial, and the name of Harry Bridges was upon many tongues in this crowded place, and this fellow began to denounce Harry Bridges. He began to speak very bitterly to him. He began to say all the things we have heard so many times: "He is no good; he is a traitor to the labor movement. He has ruined the waterfront." And as I listened to them I said, "Do you know Harry Bridges? Have you ever met him?"

He said, "No, I don't know and I do not want to know him, but in my business I am in a position to know what he has done."

So I thought, "Well, this man must be a junior executive. Maybe he is an employer." I said, "What is your business?"

He said, "I am with the telephone company."

So I thought, "Well, he is probably an executive. He probably moves in different circles." I said, "What is your job?"

He told me he was in a rather humble position with the company, a very modest kind of job. I wondered to myself why this man was expressing sentiments of that kind.

I said, "How about yourself in the telephone company?" I said, "You are not a member of any union, of course, are you?"

He said, "No, I am not. I am glad to say I am not."

I said, "How is your salary set?" I said, "With all respect [8260] to the fine company for which you work, is your salary dependent upon the generosity of your employers?"

He said, "Oh, no, not at all. They give us the same salary that the union scale sets for other people in our capacity."

And then he realized what he said. He fell silent, and that was the end of the discussion.

Now, in matters of that kind these little arrant, elusive, fugitive thoughts, not amounting to prejudice but amounting to something that will create a dark and lingering doubt in our minds, often present themselves. It takes a little effort to dispel thoughts of that kind. Please make the effort in this case.

There is another subject, the subject introduced here by an odious phrase. At least the phrase was odious to Mr. Donohue. "Patriotic bunk," said Mr. Hallinan, and Mr. Donohue cries, "You are not supposed to say that patriotism can ever be bunk." Now, in this kind of case, of course, Mr. Hallinan should not have said; he should not have said "patriotic bunk." He should have adopted kind of pious assertions as used by Mr. Rathborne and Mr. Donohue, offering words to the Court and jury in the trend of our times, as these men see it—the man who carries a flag in his hand and makes a lot of noise is a patriot. A man who says he is a patriot and who endorses all of his activities by saying, "I see it this way because this is for the good of the country and I think this is my patriotic duty"—that man [8261] you must believe, no matter how shabby his intentions may be at the time he utters those words. The man who says, "Any minute we may have war, any minute an atomic bomb may be dropped upon us"—that man is a patriot. He is alert to the dangers that confront us.

But the man who says, "I do not see why we should have war with another country," that man is no patriot. We recognize him at once. He is a traitor. He is not alert to these dangers. And it is very easy to skip to the second thought. We are patriots, say the prosecutors; everything we say is directed toward the best interests of our country. The corollary is, hence, you must convict Harry Bridges. I think the words "patriotic bunk" need no real defense at all. If you are talking about patriotism, actions, as they always do, speak louder than words.

You have heard a lot about this radical organization, the ILWU, which is headed by Mr. Bridges, Mr. Robertson and Mr. Schmidt. Is the ILWU a patriotic organization? 30 per cent of the members of the ILWU were in the armed forces during the war. The entire assemblage of the balance of the union were engaged in work vital to the war effort at a time when those things counted. Nobody will deny that, nobody at all.

Democracy—we talk a lot about democracy. We say "democracy this, democracy that." Harry Bridges tells you his union is democratic. Well, let us not weigh the merits of his testimony [8262] at the moment. Let me tell you something that will come a little closer in an earthier way, in a more practical way, to finding a test as to whether or not the members of the ILWU are real patriots and real members of our community. More than half of the members of the ILWU are buying their own homes. We talk about free enterprise. We are trying to preserve free enterprise. Why, the ILWU, as an organized segment of our community, is a living symbol of free enterprise. Imagine more than half of a union, which at times has swelled in numbers to 85,000, more than half of those people are buying their own homes in this community. They are buying automobiles. They are sending their children to public schools, to parochial schools in this community. They are sending them to colleges. You see examples of that everywhere. Henry Schmidt and his daughter is one example of a person with a grown-up child. So the ILWU need not apologize to any other group of employees for its Americanism or for its participation in what we so fondly and so frequently call the American way of life, because the ILWU represents and is the American way of life.

I will say one more word upon a related subject before we recess, and that is this: The prosecutor can rise and tell you, "That is fine. Maybe they are buying their own homes with Moscow gold," possibly they will say. "Maybe they are buying cars, maybe they do have children. But they are radical. They are radical. They are a menace to our society, to your way [8263] of living."

Well, in a way they are; in a way they are. I will tell you how they are radical. I will tell you some of the things they have done. I will tell you two of them particularly—some of the things which lift them out of the category of an inert, unattentive, unthinking body of people and place them within the group of that alert people who insist on being, as you heard before, their brother's keepers. There is a group which is mentioned in the newspapers often these days, the FEPC, the Fair Employment Practices Commission. In the State of New York that commission exists according to law. In other States there are struggles to put such a movement into operation. The notion of the whole thing, of course, is to avoid discrimination, particularly against members of the Negro race. We are not talking now in support of or against the FEPC, but I will tell you what the ILWU has done. When the union emerged in 1934 as a strong organization, an organization which now at last could sit at the council table with employers and work out problems fairly and honestly, there was an ordinary situation of discrimination on the waterfront. Thousands of longshoremen went to the various restaurants around the Embarcadero for their daily meals. Many of those restaurants had the old stigma, the old kind of movement by which they would sometimes refuse to serve members of the Negro race. The longshoremen did this—nothing requiring violence, nothing we could call radical— [8264] they merely said, "Unless you serve these Negroes who are members of our union, we won't come back." They ended discrimination on the waterfront. They struck a great blow for the progress of civilization. But things like that are radical; things like that come back again and again.

The ILWU did another thing that people look at askance. Back in 1938 or 1939—we all remember those days when Hitler was in a resurgent state, when the Nazis and their exploits were the talk of the world, when the persecution of the Jews was something people preferred not to talk about, and we remember those days, but what happened here? There is a little organization called the Anti-Defamation League. It does its best in a small, modest, kind of innocuous way to stop persecution of minorities, such as the Jewish people. They try to do it in an educational way. They send out pamphlets to influence public thinking. But they are totally unequipped to handle a matter of great and immediate importance.

A few blocks from this courtroom California Hall has existed for many years. California Hall was the home of the Nazi Bund in San Francisco, and when Hitlerism was at its height, when people literally could speak of philosophy of Hitler out loud without being arrested or without even blushing, a convention of the Nazi Bund was slated to take place in the California Hall. The convention never took place. Do you know why? 10,000 longshoremen, wearing their white caps, marched [8265] up Polk Street, marched around California Hall. They stood there and looked around and the convention was called off. Those are the things for which people condemn the ILWU as radical.

The Court: We will take the morning recess, ladies and gentlemen. The same admonition to you.

(Recess.) [8265-A]

Mr. MacInnis: One of the instructions upon the law which the trial judge has indicated he will read to the jury at the end of the case is this, and concerns the motive of the prosecution:

> "The motive of the prosecution is not relevant to the ordinary criminal procedure. The material questions ordinarily are whether the defendant has committed the act or acts alleged and whether the act or acts constitute a crime. In the instant case the basic crime charged against the defendant Bridges is that

of perjury. Though a defendant in a criminal case may show by proper evidence the hostility, bias or interest of any witness, the motive of the prosecution in instituting the present criminal action is immaterial unless you believe that such alleged motive constitutes evidence establishing the innocence or guilt of the accused."

Now, that is a perfectly proper statement of the law. In other words, if Harry Bridges did commit perjury, if the three defendants did engage in some criminal conspiracy, it wouldn't matter at all how many people got together in order to foment this prosecution. It wouldn't matter if Philip Murray, Joseph Curran, Joseph Donohue, Mervyn Rathborne, any number of people, got together; it wouldn't matter what they did, it wouldn't matter what they said, it wouldn't matter what indirect or other intentions they might have. But we don't have that kind of situation [8266] here.

In this case with lies proved on behalf of the government witnesses, with falsity laid bare, with bribes to witnesses unfolded, not by our words or our charges, but by theirs, we have an entirely different picture. And if our search for the threads of the motives of those persons who have plotted against Harry Bridges leads us into high places, so much the worse. The motive in this case is inextricable from the case itself.

There is a graphic little example of motive in one of the exhibits which has been brought here. I have in mind a sheaf of vouchers sent to the Treasurer of the United States in reference to payments made to Mervyn Rathborne, and there is a little title upon each of these pages that tells a story, the story, a little more completely than my words could ever be, because it says, "Purchases and services." "A public voucher for purchases and services other than person." Purchases and services! If you want a label, if you want a label for the motive of the prosecution, look to the vouchers for some of the payments. Not all, some of the payments made to Mervyn Rathborne. You find the title, "Purchases and Services."

Mr. Hallinan suggested yesterday that some fraud was committed by the Immigration Department upon the Treasurer of the United States in procuring these payments. I wonder if that is so. I wonder if that is just another thing that we have made up.

If a public officer upon the other end of this voucher, [8267] paying out money, were to look, what would he find in explanation of the item? "For confidential services rendered." We turn to the next page: "For confidential services rendered." And then on the next page: "Confidential services rendered." That is as far as he would get. He would not get any farther.

Now, in this case, to say that we are engaged here in searching for the truth, sounds as though we may have embarked upon a rather easy undertaking, because the truth would always seem to be something obvious and readily discernible. But in the life of a case like this, often that assertion is not so. The truth is often furtive, fugitive, elusive, hidden; it is hidden not only behind the venality of men who produce witnesses here to give testimony, but the truth is hidden behind other things—the changing times, vast emotional trends, other matters that weld together by way of simulation the real and the unreal. An inquiry into why a case like this was ever brought is much like an inquiry into the causes of war. Historians do a pretty good job afterwards, after the war is over, of putting the facts together; although, of course, the historians of respective countries sometimes write the pages of history in different fashions.

Tolstoy once wrote an essay upon war in which he said that historians, by piecing together what nations did to others, who was the aggressor, who was the rightful defender, and so forth, do a very incomplete job, because those things are [8268] never the causes of war at all. Tolstoy said that war is like a disease whose virus descends upon the human race about once every generation. There is no reason behind it, there is no rhyme behind it. The virus which impels men to war merely descends. And as long as the virus lasts, men are impelled to kill, to conquer and to pillage. But then suddenly the virus goes away and peace comes.

Now, a case like this can only be explained by that kind of analogy. It can be explained by analogy because there are many antecedents for it in the pages of history. Many things. [8268-A]

I reread a couple of weeks ago a very interesting little work called "The History of Bigotry in America," by Gustavus Myers—not an ancient work at all. I think Mr. Myers died last year. He was a famous economist and historian in America. He wrote many interesting books which are used as texts in many of the universities of our country, and I find from reading the pages of works of that kind of false accusations against particular groups in our country. False accusations of particular people for foreign allegiances are nothing new. They are nothing new to this century at all, because to the fomenters of that kind of vicious and destructive attack every age in ages when our country is in danger. Every age is an age when the rules of evidence and the rules for the protection of human beings must be set aside in order to meet some immediate menace, which is generally a fiction. We see many of those things.

Here in California we remember Samuel F. B. Morse. I think our generation remembers him largely as the inventor of the electro-telegraph and of the Morse code. But to the persons of his own generation Morse was the vocalizer of fear. He was the vocalizer of propaganda. He was the archenemy and the devoted enemy of the Roman Catholic Church. Morse wrote a book which he called "Foreign Conspiracy Against the Liberties of the United States." He wrote that book about, I think, the year 1830 and it was not an idle book; it was not just a little book that passed unnoticed among the more important productions of the [8269] famous men at all, because in that book, engagingly enough, as well as in the newspaper articles that Morse wrote upon the same subject and in which millions of people all over America believed, he followed the same approach as the current solemn warnings that we receive daily about the infiltration of Communism into the trade unions.

Around 1830, as I say, Morse, having spent a couple of years in Europe, returned to warn the entire United States about the curse of Romanism. The Pope, he urged by argument and logic, had formed the Holy Alliance in Europe after the downfall of Napoleon for one purpose: so he could take over America by the infiltration of immigrants into the United States. In the propaganda of Mr. Morse the Vatican replaced the position of the Kremlin as the fountainhead of corruption. The Pope's agents in this kind of scheme—and they used the same phrases: infiltration, boring from within, immigrants coming to America with foreign ideologies—the Pope's agents were said to be the Jesuits, who in the description of Mr. Morse were men whose cunning and duplicity were know throughout the civilized world. Those matters were spread. They were believed. They spread through the East and the Middle West. The master plan was to capture control of the United States, said Mr. Morse, through the ballot box. Now, today, in an age which we believe to be an age of religious tolerance, we laugh down any assertion of that kind; we treat it with scorn. But in the day of Morse [8270] people believed those assertions—not fools, but good, sober, industrious, ordinary people. They believed them. They acted upon them. For forty years here in America the shadow of Samuel F. B. Morse hung like a figure of shame over the American political scene. Were these people ruffians who followed Morse? Not at all. Members of Congress introduced resolutions based upon Morse's book. Solemn clergymen denounced segments of our population. Newspapers took up the cry against the one group in our population. Political parties were formed. You have undoubtedly read about them in the pages of our American history. The Native American Party was formed as a direct consequence of Morse's first publication. The Native American Party had as its first platform the requirement that a person must live twenty-one years in the United States before he could apply for citizenship. The second platform was that public office was to be refused to members of the Catholic Church because they were devoted to a foreign ideology and owed a foreign allegiance.

Now, in 1835 the Native American Party which was formed polled 23,000 votes in the city of New York alone in one year. This was no isolated movement; this was no lunatic fringe. This was something that thinking people adopted as the truth.

In Philadelphia in the year 1844 a mob of the Native American Society walked into the Irish section of Philadelphia and commenced to burn down three blocks of houses. They burned [8271] down the homes of these people. They burned down the Catholic Church and the rectory. The fire department of Philadelphia summoned to the scene, stood by with the play of water in their hands, not daring to save from the conflagration the citadels of Roman Catholicism, but only to safeguard the adjacent property of the decent and respectable people who were not to have the same destruction heaped upon themselves. The police came, and the next day the papers told the story. The Native Americans had acted in self-defense. The Irish Catholics had insulted the flag. There was violence brought about by the Irish citizens, who had flagrantly leapt upon the Native Americans.

Well, that incident itself was not isolated. It may seem a long time ago, 1830—120 years ago. It is easy to say that people have not changed much, but we always consider that the happenings of another century are buried deeply in the pages of the past. I remember as a little example, oh, about six months ago at a party at the home of one of my neighbors I met a lady, a youngish kind of lady, too, but one who was the widow of Simon Bolivar Buckner. You probably all remember the exploits of General Buckner in the South Pacific in the last war. General Buckner was killed, I think, in the year 1944. But the history of that man and his family will demonstrate how quickly time can pass.

General Buckner had married this lady apparently late in his own life, because I think he was in his late seventies or [8272] approaching that sphere of existence when he died. And the father of Simon Bolivar Buckner, who was named after the famous South American liberator, Simon Bolivar, was also named Simon Bolivar Buckner and his father was a general in the Civil War. Between the two these men had skipped about two generations. The father married long after the Civil War and sired his son, I think, at the age of ninety, and between the two of them, the father and son, the passage of time that they encompassed went back to the days of the death of George Washington. So we do not live in a place where so much time has passed that we cannot turn back to any era and say a lot of things happened then. That was in the long ago when we were primitive. We can't do that.

To pursue the same story of the political parties dependant for their philosophy upon Samuel F. B. Morse, in 1852, after the election of Franklin Pierce to the presidency of the United States, there was formed a newer and more terrible organization. It was more terrible because its purposes were said to be secret, its movements were unknown. It operated under cover of darkness. It was called the Grand Council of the United States of America. But to historians who had written many times about this group they were called the Know Nothing Society. They received that name because they had a rule to the effect that whenever one of their members was questioned by any public official or any other person as to his activities, he was [8273] to say, "I know nothing about it." The policy of the Know Nothing Society went even further than that of the Native American Party because the Know Nothing Society gathered, I think, two million people into its fold and had as its prime objective the refusal to allow public office to any member of the Catholic faith and the refusal to allow any member of that faith to progress to a high position in business or civil life. So that party carried on for a period of time until we find that its engagements in public life parallel some of the things we read about in the newspapers today. We read now about charges and countercharges between the State Department and other departments of our government, about who was this, who was that, who was subversive, and so forth.

In 1854 President Franklin Pierce was bold enough to appoint a gentleman from Philadelphia, Mr. James Campbell, as Postmaster General of the United States. Campbell happened to be a Roman Catholic. In New York, in Philadelphia, in Boston, in Washington, all over the eastern seaboard, the Pope and President Pierce were together burned in effigy, riots ensued, literature was issued saying this was the final step, that the Pope had now gained a foothold in the United States of America. They said his agents, the Jesuits, would be taking over.

In Brooklyn in 1854 20,000 people crossed from Manhattan to listen to an orator, who was a member of the clergy himself, denounce the Irish Catholics, and so frenzied did they become [8274] that a riot took place in which ten of the Irish Catholics were killed in the streets.

In the same year as far west as St. Louis, in 1854, the Know Nothing Society circulated a report that in the Catholic college cathedral there were concealed arms and ammunition for the purpose of taking over the government by force and violence, and a 48-hour riot ensued, until finally the State militia was brought in to protect the persons who had done nothing wrong whatsoever. So we have seen in the pages of American history many counterparts of that which we look upon today. Scandals against minorities are nothing new. When we assemble here and listen to the simulated passion of a Manning Johnson as he prepared to denounce a supposed former associate, when we sit here and listen to the alcoholic fervor of a Mervyn Rathborne, coming here t invent an ugly fiction against his supposed former friend, we are not seeing anything new. The names are new, the faces are old, the stories are old, the philosophy is old. The stories they give are the best that their kind of money can buy. I think we have demonstrated that. We have demonstrated that in this case, that in many facets of its never-ending campaign of suspicion against the foreign-born, our vaunted Immigration Department has surpassed the Know Nothing Society of the 1840s, the Native American Society of the same period. [8275]

We see the same things inherent in their approach to this case. Do we have anything like that today? Well, I can say that I am reminded of a hundred examples.

Last spring, just about this time of year, maybe one or two weeks earlier, I had some business which took me to New York for ten days or two weeks, or thereabouts. While I was passing that great hotel, the Waldorf-Astoria, one day, I noted that surrounding it were large groups of men. They were wearing uniforms. They were not uniforms of the American Legion, they were uniforms of other groups whose names are foreign to the West Coast. The names of veterans' groups supposedly protecting our flag—protectors of our flag, repositories of patriotism in the East: These men carried flags, placards. They were walking up and down the entire block. I found upon inquiry that they were protesting the holding of a peace conference in the Waldorf-Astoria, in which representatives of the Soviet government were present. Well, that was all right, I guess. That was their business to protest that meeting if they wanted to. But I saw these people on the street many times as I passed by the same building. Sometimes a thousand of them gathered, sometimes less, sometimes more. Scattered here and there at intervals of maybe twenty yards would be fist fights, interference with passersby.

But the climax of hysteria, from my point of view, took place one day when the president of The Bronx drove up in his limousine to the hotel to attend a meeting of the Saints and [8276] Sinners Club. In New York, as you may recall, instead of the county system, the great metropolis is divided into boroughs. Each borough has its president. So this gentleman, the president of The Bronx, drove up to the hotel, and he was carrying a placard which he thought would get him through this picket line of persons who were carrying the American flag on the streets. The placard said, "I am Mr. Dennis McCarthy, the president of The Bronx. I am not violating your picket line, I am going to a meeting of the Saints and Sinners Club." So he and one of his aides got out of the limousine, and they smiled and they walked toward the crowd, and the crowd fell upon them with fists, and the president of The Bronx was taken over to the Emergency Hospital.

So there was quite a little disturbance about it, that this public official should be so mistreated when he was acting so innocently. But the leader of the veterans' groups, walking along the street, didn't see it that way. He knew that he was right, and he made a stern pronouncement to the police and to the public press. He said, "That man looked as though he was making fun of our picket line. What the people of America must realize is that there are much more important things than the rights of individuals. We are trying to save the world from Communism."

Not a thing happened after the assault upon the president of The Bronx. That is something that happened in the largest [8277] city in the world, the most enlightened city in the world, we are told, in the calendar year 1949.

We are not the only people who allow such things to go on. We are the same flesh, we have the same minds, we are exposed to the same culture, the same scientific progress, all over the world. In Europe there was the fateful trial last year of Cardinal Mindzenty. It reverberated through America. We still talk about it. There, in what we call a totalitarian regime, without the benefit of a trial by jury, a great cardinal was found guilty of treason. He was charged with the familiar offense of "plotting to overthrow the government by force and violence." Now, as Americans we immediately lean toward the theory that Cardinal Mindzenty was framed. We immediately embrace that because of the inherent respect that our generation has for the wearers of any religious cloth. We think of that at the outset and we see matters like that taking place in another part of the world, and we in our press denounce trials of that kind. We say they are not fair, we say they are gross and wanton injustices.

But while we say that, we ought to say this to ourselves: Is our vision so clear and so unerring that we can spot injustices upon the other side of the world, where we would close our eyes to it when we see it in our very midst? Is our vision so clear that we can speak freely, perfectly, truly, about the motivations behind the trial of Cardinal Mindzenty, as we think [8278] we can, and shall we at the same time close our eyes to a fraud and a frameup such as we have seen here? That is not the only incident. I am thinking of another man, Premier Nehru of India. He is now the titular head of, I think, 170 million people. He is one of the foremost anti-Communists among all the rulers of the world today. Yet a few years ago, when Nehru, along with his leader, Mahatma Gandhi, was speaking about the bleeding injustices of English domination of Indian soil, he was labeled a traitor and a radical. He was put in jail. Nehru, who is now the head of that government, was in jail for an aggregate for 16 years. And what was the charge? He was charged with being an alleged Communist. And he has told me that himself.

About three weeks ago the younger sister of the same man, Nehru, came to San Francisco and we had the pleasure of entertaining her. We sat down and talked about many things. In fact, we had Harry Bridges along, and we discussed many things that are of interest to people today. And that lady told us a very astounding story.

She is in the United States and has been for about a year now, with her husband, who is the editor of a great newspaper in New Delhi, and they are here to engage in a lecture tour. A few months ago the schedule called for their appearance in the enlightened city of Memphis, Tennessee. So the husband and wife arrived there, I think an afternoon ahead, according to what [8279] she told me. They had a little time on their hands, and after they made themselves comfortable in their hotel room, they called up the civic organization which had sponsored their speeches and asked if there were some way that they could be taken upon a tour of the vicinity. There was a little hesitation on the other end of the line, but finally the man said, "Well, yes, if you want to see our city and its environs, why, we will send around a car for you in about a half hour."

So in about half an hour the bell in their room rang and they were told to come downstairs. When they reached the lobby of the hotel, they were a little astonished to find that no one was waiting for them in the lobby. They hadn't thought of the pigment in their own skins at the time. They saw an automobile in front, and they walked out, and sure enough, there was a driver and there was a lady from the group. I don't know whether it was the Chamber of Commerce or some discussion club of the city, but they got into the car and they exchanged the amenities cheerfully enough, and they drove around. So after they had driven, oh, three or four blocks, there was a near collision with a car driven by a person of a different race. And the lady in the automobile remarked to Nehru's sister, whose name, by the way, is Hutheesing, "Well, that is the way those people do. You give them an automobile and see how they act." So she replied kind of calmly, "Well, don't you think we all drive a little badly at times? Don't you think we all make [8280] mistakes?" And she said, "No, not like those people." So she said again, "Well, you know we are not very far removed from being members of another race ourselves. Aren't you a little embarrassed to be seen with us?" And the lady said that which ended the discussion. She said, "Oh, nobody can see us here. We are in the automobile."

So they called off the lecture tour and they went on to another city.

Now, that cultured lady, received with applause, with dignity and with acclaim in every city of the United States, was herself placed in a cell as an alleged Communist for an aggregate of 14 months. And the other night when we were talking about things, we all smiled a little about the progress of politics, because now her big brother Nehru, is putting other people in jail because he thinks they are alleged Communists. And thus does the passage of time work its force upon human beings.

There are other analogies of which I could speak. I think that the point has been made clear. There was the incident of Robert Vogeler a few weeks ago—an American with whom we immediately sympathize; arrested and accused of being an American spy. I don't know whether he was or not. I don't know what the merits of the Vogeler case may be. But there was one little thing that stood out in all the reports—that is, the reports we saw in our press, and it was this: they said that Vogeler [8281] infuriated the police of this totalitarian country because he made fun of them. He exposed them to ridicule. You probably remember the articles. Mr. Vogeler put on a false beard, and he would run around a corner and reappear with the beard, and then he would duck into a doorway, and he would laugh at these agents who were following him. And they didn't think it was funny at all. They finally arrested him.

When I read those comments, I was a little mindful of Mr. Donohue who told us so grandly, "You can't make fun of the FBI." Whatever is the Court's pleasure, your Honor.

The Court: We will tage the noon recess, ladies and gentlemen, and resume at 2:00 o'clock this afternoon. The same admonition.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [8282]

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IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

Volume XVII
(Pages 7683 to 8213)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.—12-2-52

No. 12597

United States
Court of Appeals
For the Ninth Circuit.

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Transcript of Record

In 17 Volumes

Volume XVII
(Pages 7683 to 8213)

Appeals from the United States District Court,
Northern District of California,
Southern Division.

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

Afternoon Session—Tuesday, March 28, 1950

Mr. MacInnis: Now, I hope, and in fact I more than hope—I will finish this discussion within the time suggested by his Honor yesterday. The plan is to allow the prosecution to make such rebuttal as it chooses, beginning with the afternoon of tomorrow. And for this reason I may have to intrude just a little further upon your good nature, and upon the discretion of the Court, because it may be that I will have to ask his Honor to allow me to speak a little bit after four this afternoon. Now, I know that is a little inconvenient, but I think I would rather take the chance of causing you a momentary annoyance now than run what I think is a graver risk, of leaving out something that might find its echo in the ears of just one person. So if we reach that point, I will try not to go too far beyond four o'clock; but it may be a request that I will have to make.

I spoke with you this morning about a lot of other incidents taking place all over the world in which we dwell; upon the notion that people aren't very much different, according to the language they speak or according to the clothes they wear, but that all of us seem to be subject to the same change in cultures, the same scientific advances. We are subject to the same kind of emotional movements. But the one thing that distinguishes, from our point of view, everything that could be said about the trials taking place in Europe today, about whose [8283] results we are naturally very suspicious, is that here in America we have always had the right of trial by jury. Here in America twelve citizens are allowed to bulwark themselves around the accused in any criminal case, whether it is a political like this, whether it is a case surrounding an ordinary breach of the peace. Twelve citizens sit; and the evidence is supposed to filter through to them through a kind of veil. It is a veil that separates the real from the unreal, the true from the false. It is the veil of the presumption of innocence. And that is the way all evidence is supposed to be received. If there is a single doubt based upon reason, the trial judge will tell you upon Friday morning, it is your sworn duty to resolve that doubt in favor of the defense in this case.

But I think this—and this was the reason, largely, for the historical analogies that I offered you this morning: After what has been done in this case, after what we have heard, after the confessions we have listened to from the witness stand, after what we have seen, after the appearances of people who were brought here vouched for as repositories of the truth by these men who were chosen to prosecute the case, after we have seen what we have seen in this case, there isn't much criticism that we ought to be able to make about the mysterious trials of Europe. Hypnotism, sodium pentathol, secret drugs—how else, ask our press, can the mysterious confessions in the trials of Europe be explained? How else, indeed? Mihailovic, [8284] Cardinal Mindzenty, Robert Vogeler—convicted less than a month ago. I wonder. Are these sadistic psychiatric triumphs in a shadowy totalitarian world? Well, think again, to the things that have unfolded in this very room before our astounded ears. The flirtation with Schomaker and his quick and facile seduction; the invention of a purely fictitious person, the queerly psychotic man who gave his name as Paul Crouch; the harnessing of the maniacal, demon-possessed Manning Johnson. What are we to think of those things? What are we to think if we go a little further? Was there ever so clear a picture of cold perfidy etched before our eyes as the production here—I shouldn't say "the production," but I should say the corruption, complete, actual, unanswerable, of Mervyn Rathborne?

But no; those are things to which we have listened in this case. The minions of the Immigration Department—the pale and malicious Barber, Kaiser, the Kidders, the Kesslers, the MacAlexanders—all that crew who have so spent our money and yours—the millions of dollars, the hundreds of persons interviewed, prepared but never brought here. Their names crop up every now and then as fragments in the testimony. People confronted by Stanley Hancock. A man named Taylor, who testified before the Grand Jury in this case, but who was never brought back here. George Hewitt, the companion of Manning Johnson, who was brought here and testified before the Grand Jury and then returned to an insanity ward in Bellevue Hospital in [8285] New York. Many of those things. The hotels, the flights across the country. All of those shameful things to which we have listened. The things that show, so far as I am concerned, the possession, the control, the complete domination of human beings.

Barber and Kaiser. No, you can't draw an analogy between what they have done and the things we read about as having taken place in Central Europe; for their witnesses there is physical torture; they do not use drugs. No psychiatrist whispers sibilant words of hypnotic power into their ears. Not at all. This is America. Barber and Kaiser buy their witnesses with other commodities. Some with money, some with fear, some with power, some with destruction, as we have seen too many times here, of human souls. That is the picture that we have been confronted with in this case. I don't think any of us should delude ourselves about the vaunted integrity of the Immigration Department. In the statements made upon the witness stand by Mr. Krolek and his brother-in-law, Mr. Rathborne, you saw a very full picture of threats, of the attempts to procure false testimony, of intimidations by the FBI. Not out of our lips, but out of theirs. Out of the people upon whose credibility the prosecutors must vouch. Are we to assume that the Kaisers and the Barbers are any more gentle? Why should we? What are we to assume in this kind of case? [8286]

On December 20, as we have mentioned before, while we sat here, one day before the adjournment for the Christmas holiday, there was exposed the open perjury of Paul Crouch and Manning Johnson. We asked for their indictment. We thought all we had to do was to offer evidence, in the ordinary way. Well, one of the gentlemen sitting on the jury has had experience as a member of a grand jury. He knows how that body acts as a public organization of authority, receives evidence. Our evidence was not received in this case. But eight days later, when the furore was at its height, two young women found themselves in jail because they had dared to drive down to Half Moon Bay and talk to Mervyn Rathborne—Mervyn Rathborne, the pet; Mervyn Rathborne, flown to Washington twice, flown to talk to the Attorney General of the United States himself; his past background masked, unmentioned to the higher authorities. Rathborne, flown back to confer upon the preparation of the case with Mr. Donohue.

Now, that statement is a preamble to something else. In relation to what has been said by so many witnesses and in so many divergent ways about the Communist Party, about Communist influences, about the secret and subversive characteristics of the Communist Party, we had an indirect and a kind of circuitious reason for the production here of one witness, Mrs. Jean Murray. Now, Jean Murray is a real revolutionary. If you can conjure up in your own mind a person whose political ideas are far to the left of the Communist Party, that person is Jean [8287] Murray. Jean Murray was expelled from the Communist Party because of the kind of ideas she had—not only as she expressed here, but the kind of ideas that she probably carries in her heart. [8287-A]

So you saw, I think, at the end of her testimony a little segment of the way that unusual young lady really thinks and, believe me if the prosecutor had probed a little deeper, if he had asked her a few more questions on the same subject he might have encountered answers so inflammatory that anything we have ever heard about radicals would pale into innocuousness. The odor of powder and the sight of a fuse almost protruded from her handbag as she sat here before you. Jean Murray hates the Communist Party even more than Bruce Barber, but I suppose in an entirely different kind of way. Bruce Barber, of course, hates the Communist Party in a decent and respectable way. But if that eccentric young lady thought she was doing the Communist Party one iota of good by the testimony she was to give here, she would not have lifted a finger to come to the defense of Harry Bridges.

Now, it can be argued, presently it will be, if we can't believe confessed ex-Communists who testify here, what kind of standards of credibility can we adopt when we have a person on the stand who is far more revolutionary than even the Communists are alleged to be? Well, I think there exists within the small sphere of her own remarks certain clues by which all of us can follow through and find out whether Jean Murray is a proper repository for the truth or whether she is just irresponsible, radical, revolutionary, and a person whom we should discredit, outcast, throw away. I wonder, first of all, is she capable of [8288] deceit?

The ex-members of the Communist Party tell you that they are. So you have that thought which you must consider at the outset. But you must go a little further. Does she fall within the class of the confessed ex-Communists who have come here and told you that they went to schools to practice lying and deceit? Well, she does not. Does she assume some benign position here on the witness stand so we will be lulled into a feeling of security? Does she adopt some pleasant mental trend to influence you to go along and accept her story? She hardly does that. In the language of the people who have been brought here by the government, does she pretend some adherence to our capitalist morality so we won't see the lurking deceptions behind what she says? We need not examine her character very closely to find out that these things can not be true of Jean Murray. Why, you could control Jean Murray, you could tell her what to say just about as easily as you could tell Mr. Bruce B. Jones what to say, and you remember his appearance here. I will speak of him a little later. In the first place, Jean Murray came up here and would not even take the ordinary oath that witnesses take. She feels so strongly about all these notions of hers, which are certainly beyond the pale of ordinary thinking, but which are her right, to do her justice—she felt so strongly that she would not allow herself to be suspect even of believing in the ordinary expectations of a heaven and a hell. She would not do that. Now, we certainly would have been better [8289] pleased if she took the witness stand and concealed any ideas that would be offensive to the ordinary person. We certainly would have been much happier if she had not said those things. I knew she was going to do that. I knew she was going to take that position. But even the forewarning of my own knowledge was not sufficient. When she took the stand, when she stood here by the desk and said she refused to take the oath, I felt the same chill run over myself that I think most of you felt. Sydney Roger, the radio commentator who sits over there, spoke to me in the next recess. "There was a little hole opened in the floor but it was not quite big enough for you to jump into." That is the way I felt, even though I knew in advance what she was going to say. And that is the way it is. She concluded her testimony by saying some things which have caused the special prosecutor to refer to her, if I remember his words, and I think I do, as God-denying, America-hating Jean Murray. That is a very fulsome phrase. If you believe it, of course you must look with scorn upon this young lady. I suppose we must take the position of Voltaire whose words have already been mentioned to you. "I do not believe in what you say, but I will defend with my life your right to say it."

Jean Murray told Mr. Donohue that she thought he was corrupt, and she went so far as to use the word "government" after the adjective of "corrupt:" So that being enough, Mr. Donohue gently dropped her from the stand. [8290]

I wonder—I wonder if I ought to apologize for her. I wonder if I ought to explain "corrupt." Why, if this little gang, Barber and Kaiser who constitute our government, we had better start looking around. Mrs. Murray used the word "corrupt." I am not going to apologize for that. If Barber and Kaiser are our government, theirs is not a government for the common people, much as she said; theirs is not the government for the common corporation either; theirs is not the government for the common employer; theirs is not the government for anything else, but the things we have seen represented here are apologies: Mr. Donohue, presiding here as a kind of deacon of doubletalk, masking by the excellence of his own appearance Mr. Barber, the Colossus of Rhodes so far as we are concerned—corrupt.

After what we have seen in this courtroom—we have seen signs of corruption in the one branch of our government participating in this case, the Immigration Department—well, I do not have to tell you how terrifying an experience it has been for me. We have done a lot of talking about what we will do when this case is over. I do not know what to do, where to go. A vacation? How can you get things like this off your mind? It will take a long time to get over the things I have seen, and I thought I knew a lot about what was going on in the world. I thought I knew when the case started a few things. I probably know only a fraction of the things that have been going on in this sphere of endeavor even now. [8291]

The Immigration Department, the Barbers, the

Kaisers, the Kesslers, if you please—Mr. Kessler, who went to the home of a man whose wife was dying of cancer, told the husband that he would procure the services of the United States Cancer Institute for her if he would come in and testify against Harry Bridges. Kessler was on the witness stand. Sure, Harry Bridges testified to that. Nobody comes here to deny it. Kessler is on the stand. We ask him the question. Up to his feet comes the prosecutor: Beyond the scope of the case. You cannot inquire. Mr. Kessler is not even permitted to deny it. Now, if he could safely have denied that question, if he could have answered no to that question without fear of another prosecution for perjury against himself, do you think that Mr. Donohue would not have stayed his hand? Do you think he would not have withheld the objection which he so speedily made? I wonder. We see those people. And I think again of Johnson, Crouch, Ross and Rathborne. Do you think those people arrived at the stories they told here, the miraculous identity in the lists of names, unaided by the people who stand behind the lists of the government counsel here? Do you think that? When I look and regard, as you must have already, the amount of money paid over to Mervyn Rathborne in this case, I think it is a scandal. I think of the pittance in money that is paid to an ordinary, good, faithful public servant like Ed Mitchell, who sits here offering each side in any case his courtesy and diligence, then I think [8292] of the money paid to a man like Rathborne, a king's ransom, it is a scandal. How much of taxpayers' money do you think has been squandered on this case? How much money do you think has been paid out, money that we can never trace? Are there any pictures of the procurement of witnesses which have not been revealed to us by the government witnesses? Maybe there are. I have in mind the testimony of Rathborne revealing something we never would have found out otherwise. Schomaker, Schrimpf sitting there in the Immigration Department at their desks, working weeks after they left the witness stand. What are we to believe? That Schomaker and Schrimpf are merely acting as public-spirited citizens or is something present, does something underlie the situation that we did not find out about in time? I wonder that. Hotel bills everywhere. Kessler and his wife are assigned to live in a hotel at Half Moon Bay, just to be near Mervyn Rathborne. Telephone calls—no limit to them. Call George Wilson in Los Angeles, read him off a press release just because he is critical of the ILWU. It may whip up a little public opinion. How many agents, how many airplane trips across the country? How many witnesses brought here, kept, fed and then released without being produced? Do you think that is my imagination? Do you think I am just inviting your suspicion because we have a few germs of suspicion to work upon? Not at all. Sam Darcy, Tommy Ray, who has publicly called Rathborne a liar, a dozen people mentioned in the newspapers by the [8293] special prosecutor as being persons on tap here in San Francisco to testify before the grand jury. Schneidermann called by the prosecution before the grand jury, Paul Crouch's wife, a dozen different people. And how many hundreds of different people, if you please, have been followed, cajoled, talked to, confronted by people like Hancock, Rathborne, Schomaker and then abandoned and not brought here at all, remaining ever, so far as we are concerned, nameless, faceless, unknown monuments to the monstrous efforts of Barber and Kaiser?

There is a little poem that expresses very much the way I feel about this thing. It goes like this:

"God help that country where informers thrive,
Where slanders flourish and lies contrive,
Call truth by whispers and keep fraud alive.
God help that country by informers fed,
Where fear corrupts and where suspicions spread
By lies and libels even to the dead.
God help that country, cankered, deep in doubt
Where honored men by scandals turned about,
See honor murdered and will not speak out.
God help our country. But for you—for you,
brave hearts,
Strong spirits, humble, loyal, true, pretend—
Pretend they know not what they do."

I return again to another facet of the case brought here by the side upon whom the overwhelming burden of proof depends, [8294] the side which has produced the string of witnesses so many times described in their own words before you. Can they say with any strength, with any logic, with any adherence to common-sense, can they say, "This is really a simple case"? Forget—forget about the witnesses who lied. Forget about them. There is still enough in this record, in the testimony of other witnesses whom you may believe; people who are less sullied than they.

Shakespeare said in Richard III, "Just as the more fair a crystal is the sky, the uglier seem the clouds that in it lie." And thus it must be with any case brought here before citizens like yourselves by the government of the United States. Remember—how can we forget?—the side in this case which now assails three citizens, the side which comes here asking for a conviction out of unproved statements, out of innuendo, out of bought testimony, out of conceded lies, that side raises to itself a banner of the government of the United States. What are we to think? This is our government. This is the government of the United States, the government for all the people, including Philip Murray, F. Joseph Donohue, Jean Murray. It is everybody's government. The government of the United States, and I am sure I have read this in the law books somewhere, the government of the United States is not afflicted with the selfish interests of a private litigant. No bias or prejudice tinges the motives of the representatives of our government in [8295] a trial of law. The United States is no partisan in a bitter controversy. The government is as impartial as it is all-powerful. The government merely subpoenas witnesses who come here to speak the truth pursuant to their patriotic duty. I think that is the legend we have all been taught to believe. And can the government of the United States stand before you and say, "Well, part of our case collapsed. It went out the window with Johnson, Crouch and Ross. Let us just forget about those people. There are others to whom you can look, other people concerning whom the defense was not clever enough to offer more destructive cross-examination." [8296]

"Forget about the dark part of the case; look only to those things which are still somewhat in doubt, upon which argument must depend."

Now, did he say that? Mr. Donohue in his opening argument said, word for word, to you ladies and gentlemen—he said:

> "You may believe that Ross is a liar in all else that he says, but you must believe he is telling the truth when he speaks about Harry Bridges."

That is what he said, that you must believe that. I guess because he says so. You must believe that Ross is telling the truth, although he may have lied in everything else. He follows by the rhetorical question, "Would Ross have known whether Harry Bridges was a Communist in that period of time?" And this answer comes to my mind, "It was Ross who told the jury that Henry Schrimpf was a member of the Communist Party up to the end of the year 1937, so far as Ross knew. Ross hadn't been informed that these gentlemen had had Henry Schrimpf testify that he joined the Communist

Party in 1934 and got out in 1935." Ross's deceits cannot be abstracted, so that you can take one portion of his testimony and say, "Well, the poor fellow; for reasons best known to himself, he decided to forswear his family, create a new life for himself, invent the fiction of a Kentucky planter, but he is an honorable man and that was just a forgivable little sin with which he is charged." You can't do that, for this reason: The same pretended [8297] lack of memory touches, colors, permeates, everything that Ross said. When he was talking here about the things which these prosecutors say you must believe, events taking place in 1934, 1935, he was subjected to cross-examination. Cross-examination follows a very simple rule: One story is good until another is told. So what did Ross say? You might say, "Well, Mr. Ross, you went to this meeting. Where was it?" "I am sorry, sir, I can't remember that." "Well, where were you living at that time here in San Francisco?" Or, "You lived here for several years?" "I am sorry, sir, I can't remember that." "Well, Mr. Ross, do you remember on what street you lived here in San Francisco?" And these are certainly concerning matters which he gave testimony to. But, "I am sorry, I can't help you out on that. You see, I drew a blind down upon my memory. I drew a blind over all of my past life. I drew a blind; you mustn't press me too hard because I can't look inside that."

So Mr. Donohue says the same thing: You draw a blind over your search for the truth in this case.

You draw a blind over the presumption of innocence. You draw a blind and forget about the doctrine of reasonable doubt. Don't probe into the things that Ross has exposed as his own misdeeds. Think only of those staunch and affirmative statements which he brought here linking Harry Bridges with the charges of the indictment in this case.

Wouldn't that be a fine thing? It is like [8298] the attitude the Government has taken upon Messrs. Johnson and Crouch. Everybody agrees, the Government included, by stipulation, and that has been placed in the record, that the convention of the Communist Party in the year 1936 was held in New York between the dates of June 24 and June 28. That is an established fact. It is not based upon the Western Worker or any alleged Communist publication, but it is based upon the memory of Paul Crouch and upon the records of the New York Times. They were brought here into court, they certainly were authenticated. But the prosecutor isn't at all worried. He says, "Well, if it wasn't June 27, then it was some other day. The important thing is, they say they did see him there. That is all you have to look at. Give these poor men a break. They said that they were doing the best they could, under human limitations. Give them a break." And here is what he said, now—and gauge this, don't be led into any conclusion by what I might say. He says: "Now, Johnson and Crouch testified as they did, all right, but don't let the defense fool you. Don't let the defense fool you into thinking that that is important." He says, "Look at the indictment. You won't find a single word in the indictment about June 27 in New York." Well, that was a wonderful kind of answer to offer the jury! The indictment in this case, as in any other case, is a document charging persons with a criminal act under general and legal language. There is nothing in the indictment about [8299] John Schomaker, about 1933, about signing any application card; and the indictment doesn't pretend to be a recitation of evidence. But Mr. Donohue says to you, "There is no charge in the indictment that Harry Bridges was in New York in June, 1936, so that is surplusage—disregard it. The defense is trying to fool you." Well, I don't forget things that are said here very easily. I don't think you do either.

Mr. McMillan, who was with us here, you will recall, until the morning that Lawrence Ross was exposed,—he then departed from this case—made the offer of proof at the start of this case on the part of the Government. He didn't mince words, he didn't use language that was equivocal. He told you that he would prove that Harry Bridges was elected to the Central Committee, the ruling committee of the Communist Party, in 1936. He told you that, and that statement of his was the springboard for the evidence which has been brought here. So I think this: I think it ill behooves persons who are clothed even temporarily with the mantle of our Federal Government to come here and say this, "What if we were caught in a little perjury? What if we were? After all, this is a difficult case. It is hard to get people to testify against Harry Bridges. We have to depend upon scoundrels. You must allow us a little indulgence in those matters, because there are two or three witnesses who were not a hundred per cent exposed." [8300]

Now, if you think that that is an exaggerated proposition, I will ask you for just a minute to offer to yourselves the converse. Let's think about what would have happened, suppose any one of the defendants in this case or any witness whom we produced here had been caught in a lie such as the lies that characterized Johnson, Crouch and Ross,—forgetting Rathborne for the moment. Just ask yourselves for the moment, What would have been your thought? With what kind of eyes would you have looked upon the defendants? Would you have allowed the defense counsel to stand before you and say, "Well, what if we were caught in a little perjury? We still have the presumption of innocence to safeguard us." Why, you would look at us, and rightfully so, with eyes of scorn. You wouldn't let us get away with it, and I don't think you should let these gentlemen get away with any such thing either, in this case.

You know, maybe it is an aphorism to say that the perfect crime has never been committed. I think it is probably true. Men with great talents for perfidy spend a great portion of their lives trying to dope out ways to enrich themselves by various aspects of our law. Over a period of time there is no such thing as the perfect crime. People get caught. People are human. People relax their vigilance. And the astounding thing in this case is this: Sixteen years have passed, Harry Bridges is on trial for the third time; what is produced [8301] here against him, aside from the statement of persons whose credit is not worth the pages of the record upon which their statements are written? Has any document been produced? Would you think a man could lead the kind of double life ascribed to Harry Bridges over all these years, particularly leading a life with people whom we are to believe now were once his associates in a conspiracy, and have now turned against him? Could you lead that kind of life without leaving one document, one note, one memorandum, one kind of incriminating evidence, one speech in which his true feelings might have been uttered, one association which might have been brought here to damn him forever in your eyes? Sixteen years is a long time, ladies and gentlemen. Sixteen years is a long time indeed. But out of those sixteen years, what portion of this man's life has been painted before you upon the canvas of the record here? A minuscule portion of his life. What kind of taunts are hurled at him on cross-examination? "How many times have you seen Roy Hudson?" "How many times has William Schneidermann been to your office?" "How many times have you said this?" "Have you ever denounced Soviet Russia publicly?" Sixteen years! I think that a minuscule portion of that man's life has been presented to you. Certainly the Government does not have upon itself the burden of uncovering everything Harry Bridges did. They don't tell you of his meetings with bankers, they don't tell you of his meetings with judges, with Senators, with men high in public life. [8302] They don't tell you of the many constructive things that mark the progress of Harry Bridges from 1920, when he entered this country, up to today—thirty years later. They don't tell you those things. They take a little fragment of his life and they say this again, "Be like Lawrence Ross. Pull a little blind down over your eyes. Forget about what Harry Bridges did for this country in the years of the war. Forget the accolades of applause that the State Legislature poured upon his ears at the war's end. Forget the good things in his life. Forget the elevations that he has brought to humble people who were working for $10 a week. Forget all those things. Think only of this small fragment of his life. Look down at the corner of the canvas and say, 'Oh, it is very suspicious; where there is smoke there is fire. You met Roy Hudson, you speak to him, you speak to William Schneidermann, and that is a terrible name to conjure with. You speak to him when you meet him on the street. You do all these things; I think you are guilty!' "

Well, that is what we have had. That is the kind of testimony to which we have listened in this case.

Now, I don't want, of course,—for my own good—to put myself in the position of carping and criticizing and offering personal affronts to the prosecutor in this case. That hasn't been my reason at all for saying the things that I have about him.

I think that Mr. Donohue, if the [8303] circumstances permitted, would be almost as astonished as myself at the things presented to him in this case. I don't think he can do it now. I know he can't. He has got to follow through with what he has. But there are little telltale signs throughout the progress of the case, and I will call one to your attention that now comes to my mind.

You remember a couple of months ago Henry Schmidt was sitting on the witness stand. He was being cross-examined by Mr. Donohue. There had been some testimony given by Henry Schmidt about meeting Lawrence Ross. Henry Schmidt said that the only time he ever saw Lawrence Ross in his life was one time during the 1934 strike, that Ross and somebody else came down to the strike committee hall and offered the services of that newspaper, the Western Worker, to the strikers. He said that was the only time he saw him, and he assumed that the Ross who came here is the same Ross whom he saw then. Harry Bridges said much the same thing about his contact with Ross. So the prosecutor brings here about six copies of the Western Worker—six copies in which Lawrence Ross' name is mentioned. He brings the schedule of some little Party school in Los Angeles County, where Lawrence Ross was supposedly a member of the faculty, and he says, "Mr. Schmidt, now, do you see this? August, 1934. Lawrence Ross was down in Los Angeles then, wasn't he?" And "Do you see this? Here's an item in the Western Worker, December, 1934, stating that a couple of months hence [8304] Lawrence Ross is coming to San Francisco." He jumped all around the calendar of 1934, and he said, "Now, do you still say, Mr. Schmidt, that Lawrence Ross came up here to San Francisco in 1934 during the strike?" Well, shortly thereafter he finished his questions to Mr. Schmidt, and I had the opportunity to ask Mr. Schmidt some questions on redirect examination. So I had an article of the Western Worker, and on the very day on which the strike was running—an article showing that Lawrence Ross was coming to San Francisco and was going to be here that very week. I showed it to the special prosecutor, and I said, "How about it?" I said, "Is this another instance in which you have exerted every human effort, as you said before, to bring the jury the truth?" And the special prosecutor showed a little chagrin. It was one of those rare occasions, of course. And he said this, "No," he said, "I haven't. I present only what I am handed."

That may well be what has happened in this case. It may well be. I am not saying these things about him—and believe me, I am not retracting anything I said about him, either—in a pure spirit of acrimony. You know, the prosecutors and their personalities are not on trial in this case, although I think the prosecution itself is. "Lawyers," they say, "like scissors keen, cut not themselves, but what's between." And so let it be with the prosecutors in this case. Although I can't resist saying one more thing: If there was ever a symbol [8305] of a nearsighted approach to a case, it would be exemplified by that fine afternoon when the judge came out on the bench, the clerk rapped with the gavel, we all sat at attention, and Mr. Donohue walked up to the rostrum and started to propound a question to an empty witness chair. I remember that afternoon very vividly. I was puzzled for a moment; I thought maybe he had a phonograph record or something else that would serve his purpose just as well. But he was not abashed; he was not embarrassed. He said not a thing [8305-A] about it.

So when this worthy man says to you, "Don't let the defense fool you," I will invite you to indulge in a little reflection yourself. I do not think you will let me fool you. I do not think you will let Mr. Hallinan fool you. And I certainly do not think that you will allow this coterie of men to fool you in any degree. I do not have that anticipation. There is another test—of course, there are many—by which you can weigh the element of good faith in any lawsuit. It would be this: What side in the case tried to bring out the whole picture? What side tried to stop the mouth of the other by objections? What side offered to unveil everything, even out of the lips of hostile witnesses, persons paid to testify against us? What side, if you please, sat back to conceal tightly the pages of the past, letting in what they wanted, if there was some minuscule statement that would arise to the detriment of these three unhappy men, and closing the book if there were a volume of constructive testimony which might arise to their defense? Which side? I won't give you the answer to that. Your own recollections ought to serve you best.

There isn't much that one can say about a prosecutor—and again he is only a symbol of the case that has been brought here, he is only the figurehead. I do not speak of him as Mr. Donohue, a person. We are all what we represent in these cases. We are not what we are—at least he is not, I trust—we are not what we are in real life, I hope. I hope he is not that. If [8306] you want another symbol, it would be this: He is a man who stood before you. He is reading a document. The case in which he has engaged in many forays about international affairs. He has attempted to discuss world politics with Mr. Bridges. He comes upon the initials U.S.S.R. on a paper, and so he says two or three times, "The United States of Soviet Russia." Mr. Hallinan gets up and I suppose impolitely says, "If you are going to mention the name of some foreign name, I think you might at least give us the correct name." Mr. Donohue says, "What? Have I made some misstatement?" Mr. Hallinan said, "Haven't you heard? It is the Union of Soviet Socialist Republics," and Mr. Donohue said grandly—and this finishes anything I could ever say, "I am proud to say I do not have that familiarity with it." What can you do? I am speechless. There is nothing that can be added.

We are indebted, and again when I mentioned Mr. Donohue I mean the prosecutor in this case, not the person who sits here—we are indebted in San Francisco to this gentleman for many things that we had not seen for a long time. For many years we have not seen violence in labor affairs. For many years, even though there have been bitter strikes, they have been ironed out peacefully. And for the last two years the longshoremen have enjoyed what you have heard described here as the new look on the waterfront. But about a month ago a little thing happened, a little thing. The Teamsters of Dave Beck [8307] made a raid that you have possibly read about in the newspapers on the warehousemen of San Francisco, and we have seen things here that we have not had for many years—goons, hired thugs—I have been down with Bob Robertson once or twice in the noon hour when he has tried to carry on his own work along with his attendance on this case, and he has seen things that have not touched San Francisco for ten years. Do you think that it is pure coincidence that a raid of that kind, which happily now has been defeated—do you think it is pure coincidence that a raid of that kind took place while these three men who control the destinies of that union were sitting in a federal court on trial for their liberties? Do you think it is a coincidence that Mr. Boyd, who has come back to grace this room with his presence, received his appointment through the intercession of Mr. Dave Beck? That is in the testimony. I did not make it up. Do you think that is coincidence?

Well, there was another little coincidence that happened today, something for which we are grateful, something we did not decry. In the midst of this tumult, in the midst of all this concerted effort to get rid of Harry Bridges, Bob Robertson and Henry Schmidt, we have seen one side of their activities out of the lips of witnesses. We saw the employers from the waterfront who came here, who appeared as character witnesses, and are now labeled as liars for their pains. "They lied out of the profit motive," says Mr. Donohue. As I said [8308] before, actions speak louder than words. A little action took place today that speaks even louder than the words of praise heaped upon the character of Mr. Bridges by the waterfront employers, because today, with this case unsettled, the warehouse employers of San Francisco entered into a new three-year contract with Harry Bridges and the warehouse union. Now, if there could be anything that would be a demonstration of faith in the natures of these men, I can't think of anything that would top the happening of that incident. Actions speak louder than words.

There are one or two more thoughts that I will offer you before we recess, because there will be questions that you ought to ask yourselves. They would be these: In his assaults, wearing the robe as he does of special prosecutor, upon the integrity of Harry Bridges, does this gentleman take upon himself the burden of carrying on all the burdens of the employers of 1934? I think he does. I watched him. I listened to him as you did for several days, asking Harry Bridges questions taken out of propaganda releases that the employers used to put out in the more vitriolic days of 1934 and 1936. But is there another kind of malice connected with this prosecution? Is there any direct link between the case brought here and the activities of Philip Murray in the East? Ah! That would not be so merely because we say it, but we have to look just a little more deeply. What do we see? Who is the defender of Philip Murray in this courtroom? Who vouches for Philip Murray? [8309] Who stakes his integrity upon the honesty of Philip Murray? No person other than our stout fellow, Mr. Donohue. Mr. Donohue defends Murray, although there is not a syllable of denials placed in the record here concerning any charge made by Harry Bridges in this case.

There was another ironic touch that is worth maybe of being called to your attention. The prosecutor speaks with scorn about the Moscow purge trials of 1936. He refers to a man named Vishinsky as the master producer of perjury, the genius of the tortured confession. Now, I do not know anything about the Moscow trials. I do not know whether you do or not. I do not know what merits they have one way or the other. But I was a little interested when the prosecutor made the assertion. We only learn things out of curiosity. So I procured a little book, and this book purports to be a summary of the Moscow trials of 1936 in Russia. Now, I am not going to be guided by what I read. I am not going to say that the purge trials were just. They may have been the most perfidious prosecutions in the history of the world, as far as I know. All I do see in here is a certain pattern which I will call to your attention in a moment. It is a pattern that may cause you to smile, because in the Moscow trials of 1936 the government depended for its witnesses upon self-confessed members of the counter-revolution, who come into court, confessed their perfidy, and appeared to testify against so-called fellow conspirators, and I [8310] just wondered. I will show you one or two of the things. Mr. Donohue undoubtedly reads Russian.

Mr. Donohue: I have not seen that book introduced in evidence as part of the record and for that reason I am not familiar with it.

Mr. MacInnis: I will read you one little excerpt, and as you are reading it, bear this thought in mind and ask yourselves if this does not sound very much like Manning Johnson, who talked about Beezlebub, about filth, about deceit, about cesspools. I will read you just a fragment.

> "The witness Morgovsky says, 'In 1923 I became a Trotskyite. I took a despicable path, the path of deception of the party. But we must cross out past services. The past does not exist. The present cannot be crossed out. I am a counter-revolutionary. There is nothing in mitigation. I do not want that. I want to be believed that during the investigation and in court I told the whole truth. I want to depart from here without carrying any filth with me. Why did I take the counter-revolutionary path? My connection with Trotsky. That is what brought

> me to this. It is from that time on that I began to deceive the party, to deceive its leaders. I depart as a traitor to my party. All that I ask is that I be believed when I say that during the investigation I spat out all this vomit.'"

Now, if you think there is some little analogy between the [8311] utterances of this unknown man in another part of the world and the kind of confession you have listened to here, I turned to another page in the same book and I found something very astonishing. Of course, I could scarcely accuse an eminence like Mr. Donohue of copying the style of the inexorable Vishinsky, but nevertheless I heard Mr. Donohue in this courtroom refer to his opponent, Mr. Hallinan, very glowingly as a dog gone mad, and I open this book and I saw the closing paragraph of the prosecutor:

> "I demand that dogs gone mad should be shot, every one of them."

I will leave you for a few moments for the recess.

The Court: Mr. MacInnis, so you may be guided, I intend to adjourn at 4:00 o'clock, at the usual hour.

Mr. MacInnis: May I ask you this, Your Honor? Do you have any notion about the length of the recess now?

The Court: Mr. Mitchell generally allots a certain amount of time to permit the jurors to rest, for counsel to take a respite, and the press to enjoy themselves and the like. What have you in mind?

Mr. MacInnis: I think this: You might request

Mr. Mitchell to ask the members of the jury after they are in recess what their pleasure is. Whenever they feel like coming back, I will be glad to commence.

The Court: I thought we had agreed more or less formally [8312] yesterday in the light of the amount of time I had allotted, rather generously I thought, to the defense, we would have no encroachments, and so forth, and I was hopeful we would live up to it. Now, that is my feeling in the matter, Mr. MacInnis. I do not want to reflect on your allotment of time or on the general program you have delineated in your own mind. I realize those are matters that immediately concern a man individually. At the same time these arguments have been extensive. They have been of long duration, and if the jurors reflect as I do, I am sure they all anticipate Friday morning when I expect to charge them.

Having that in mind, if there are matters of vital importance, I feel tomorrow perhaps we might take a shorter noon hour or something of the kind. Four o'clock is a rather difficult time. These jurors have to go to their homes. There have been illnesses, colds.

Mr. Donohue: If Your Honor please, as long as we have time to burn down Catholic churches in Philadelphia, I think noon tomorrow is ample time for Mr. MacInnis to finish if he will stick to the record.

Mr. MacInnis: I thank the special prosecutor for his consideration, Your Honor, but I do not think you and I differ on this at all.

The Court: Could I ask you to do this? Let us go this afternoon until 4:00, recess and take up tomorrow morning. If [8313] you find at noon tomorrow you are crowded for time, I am sure the jurors and the court will agree to return earlier.

Mr. Donohue: If he needs any time tomorrow, I will give him some of my time, if Your Honor please.

Mr. MacInnis: My time is your time.

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition to you not to discuss the case.

(Recess.) [8313-A]

Mr. MacInnis: There is another question whose answer may be of some aid to you in your own deliberations on this case, and it is this: In the concept of these gentlemen, is there one rule for for the prosecution and another rule for the defense? It is all very well for us to prate about unfairness on the part of the prosecution, but we ought to be made to prove it, don't you think? On page 3579 Lawrence Ross was on the stand. I was demanding that the transcript of his testimony before the grand jury be produced. Mr. Donohue objected, and here is what he said:

> "I wish the rules of evidence permitted us to reveal the testimony before the grand jury. I wish I had the power and the law permitted it."

Sounds fine, doesn't it? In December these two women who were bold enough to go down to see Mervyn Rathborne were arrested. Every newspaper in San Francisco carried verbatim what Rathborne had testified to before the grand jury. Rathborne said, when quetsioned about his appearances in the early part of this case, "I had taken a sacred oath of secrecy." But when he was shown—because their purposes changed with the passage of time—when it became good propaganda to release grand jury testimony, Rathborne says, "Yes, I talked to Mr. Donohue about that. He said somebody must have let it out."

I think that is one rule for the prosecution and another for the defense. [8314]

We are told, and we were told upon many occasions when prosecution witnesses were being examined by us, that it was highly improper to attempt to prove anything by a newspaper. That was said in the instances of Schrimpf, Hancock, Crouch, Ross, with his own paper, and with Michener. But then, when Harry Bridges was on the stand under cross-examination by a Department prosecutor, anything in the Labor Herald, the People's World, the Seattle Times, the San Francisco Examiner, could be used against him. Anything, even the asserted quotations from President Truman. I think that is a different rule these gentlemen urge for themselves as opposed to us.

Mr. Donohue tells us that the greatest menace in America today is the threat of Communist infiltration. And yet his present superior, Mr. J. Howard McGrath, was here in San Francisco on February

20, almost the same day when Mr. Donohue uttered his historic remarks. Mr. McGrath said, "The threat of Communism has been defeated. The Communist Party is less numerically strong than it has been for two decades. The Communist Party reached its greatest strength during the Hoover depression."

Is that one rule, or is there something wrong between those assertions?

There is a childhood poem that goes:

"Boys flying kites pull in their white-winged
birds
But you can't do that when you are flying
words." [8315]
"Thoughts unexpressed may fall down dead
But God himself can't stop them once they
are said."

Now, so it is with contradictions in the testimony of the prosecution witnesses, which I deem to be irreconcilable with each other. And in speaking of those I will try not to intrude upon any of the ground which has already been covered by Mr. Hallinan.

Before the first witness, Lloyd Garner, assumed the stand, or before he had made more than one answer to any question, he left us with a complete answer to any identification testimony by persons claiming to have seen Harry Bridges once in their lives. He was asked if he could identify Mr. Robertson, and he walked confidently down from the witness stand and placed his hand upon the shoulder of Mr. Hallinan. I think that answers itself. You can judge what testimony of that kind is worth.

Yet the same Mr. Garner, in the end of 1949, when he appeared, pretended without either notes or records, telling us that he made no records—pretended to tell you word for word conversations and questions and answers which he claimed ensued between him, Mr. Robertson and Mr. Schmidt in the month of August, 1945. I won't comment upon it, I will only say that it is remarkable. It is remarkable, because Henry Schrimpf was naturalized in 1943, and by golly, nobody from the Immigration Department can remember any questions or answers put to him; and they stoutly protest against our right to inquire [8316] into whether or not anything was asked of him. So I ask you to puzzle over that little dilemma.

In each of the prosecutions brought in the past against Harry Bridges, there has been a kind of childish or ridiculous attempt to show some written application of Harry Bridges to the Communist Party. In the last case, the warrant of arrest against Harry Bridges, according to the testimony here, undenied, of course, was a bogus application card in the name of "Harry Dorgan." In the course of that trial the Government admitted that the card was bogus, that the signature was not that of Harry Bridges, that it had been purchased from some enemy of Harry Bridges. Those matters have already been described. But here they come back ten years later, and they compose a different kind of thing. Instead of the card, they offer you here the testimony of John Schomaker, telling you about an event that never took place. Well, I think that is something you can consider. I won't speak about Schomaker's story about reactivating the waterfront—something that took place four or five months before he ever arrived upon the waterfront, and I suggest to you very strongly that if there was any explanation for that apparent contradiction, Mr. Schomaker would have been brought back. If there were any explanation for the very minor defect in his testimony about being a member of the Hod Carriers Union in Santa Barbara, he would have been brought back here, to contradict the witness Ortega. And ff there [8317] any contradiction or any explanation, rather, even a minor one, which would have dispelled the force of the testimony of Mr. Bruce B. Jones, these gentlemen, who are at least diligent, would have brought him back.

Now, they can't say, "Well, he gave his testimony, he testified here for days and it stands on its own merits." They can't say, "We didn't want to take the poor man away from his job," because the job he had was down there at his desk at the Immigration Department. And Mervyn Rathborne, who appeared in the rebuttal period of this case, thus described Schomaker and Schrimpf, and neither of those men came back to utter any denial here concerning the testimony thus interposed against them.

It is a fundamental theory of law that uncontradicted testimony must be believed, and that is all there is to it.

I can say only one thing, and I will say it in the language of the law, and I think it is something that touches very deeply the fabric of the testimony of Schomaker, of Ross, of Rathborne, of Michener and of Schrimpf. This is not, again, something that I am saying; this is something which Judge Harris will read to you on Friday morning, and it is this:

> "If any witness produced before you has displayed what purports to be an almost exact memory for matters occurring in the past, and upon which he was questioned during his direct examination by the counsel producing [8318] such witness, but who has displayed an apparent lack of memory concerning incidents, dates, places and details when questioned as to more recent events upon cross-examination, it will be your duty to consider such apparent conflicts in the memory of such witness as bearing upon his credibility."

It is a very good statement of the law, and it is a statement that will be given to you, and I think it eliminates a lot of discussion that I might enter into now about various things said under various circumstances by different witnesses.

Henry Schrimpf. By the time he assumed the witness stand we had done quite a bit of research that was not available to us at the time John Schomaker appeared here. When Schomaker came we had embarked upon this trial with about three weeks of preparation. But by the time Schrimpf was on the stand, we had read a great many documents. So when Schrimpf attempted to corroborate Schomaker, with all of this talk about the 1934 strike being Communist-dominated, about the Communists telling others what to do, about the ends and achievements in the strike being Communist, why, then we had the documents. And of course, confronted with those, Mr. Schrimpf said, "No, the ends of the strike were pure fair trade union ends. The persons who voted in favor of the strike were non-Communists, well-known leaders of the trade unions here in San Francisco," and the like. I think we needn't discuss that further. [8319]

The citizenship of Henry Schrimpf is a matter, I think, so clearly ingrained as a mark of contradiction in some part of this case that I needn't explain that over again for you. There is a Federal statute which has been read into evidence which holds that a period of ten years must be encompassed in the contemplation of a man's life in his application for citizenship, and that he may not have belonged or have been affiliated with any organization advocating the overthrow of the Government by force during that period. Now, the special prosecutor has told you that that is unimportant. He has told you, moreover, that I deceived you in bringing up that matter in the first instance. I will ask you in a moment to review with me the language of the prosecutor, who questioned Mr. Schrimpf on his direct examination, and I will ask you to make this inquiry: Were they trying to conceal something from you and from us? Mr. Paisley was the prosecutor who conducted the examination of Henry Scrimpf. I was trying to find out what happened on his naturalization, in view of this open confession that he was a member of the Communist Party. And Mr. Paisley said this:

> "Mr. Paisley: It now appears that what counsel is seeking to get at is to ask the witness if he did not say to some immigration inspector under oath at some time that he had never been a member of the Communist Party. What that boils down to, your Honor, is this. He is contending [8320] that he can ask a witness, 'Did you not testify in some other proceeding falsely upon some other occasion?' I submit he can't do that."

The argument continued for many pages. I was attempting to find out what Schrimpf did sign and what he did say. And then we come up to page 1915. I was still questioning him. I said:

> "Mr. Schrimpf, you signed a document prepared in printed form by the United States Government, in which you were asked the question as to whether or not you had belonged within the past ten years to any subversive organization or to any organization having for its purpose the overthrow of the Government; and to that question under oath you answered, 'No,' isn't that correct? ✓
>
> "Mr. Paisley: Just a moment. Your Honor, I am amazed at the audacity of counsel. I object upon the same ground. It is irrelevant, it is not within the scope of the direct examination,

it has no tendency to impeach or discredit the witness.

"The Court: The objection is sustained."

The testimony of Johnson and Crouch certainly needs no embellishment by me. The effect of that testimony has been thoroughly discussed. I have this question alone that remains with me: Is it conceivable that no secret agent of our Government, no member of the FBI, was present at the Communist Party convention of 1936? And the answer to that is, It is not [8321] conceivable. It is not conceivable. Revelations of the past several years show that for twenty years the FBI, in the exercise of its proper duties, has known everything that went on behind the walls of the Communist Party. So this man Bridges, who stood and was inducted into office with tumultuous applause of 1,000 persons, with 28 stenographers taking notes, left no trace of that quick and rapid visit! I wonder. Mr. Hallinan read to the jury a little story out of the newspapers about members of the FBI who had joined the Communist Party in the exercise of their duty. It was a rather telling story. There is another story in the same variety that comes to my attention. It has an effect somewhat symbolic of the same thing.

There were two men, one an FBI agent who had infiltrated into the Communist Party, the other a member of the Communist Party who had infiltrated into the FBI. The two men found themselves at each other's side almost constantly. They were assigned to the same program by the FBI. They found themselves going to the same meetings at night. Eventually, and for different periods of time, they became roommates when they were on different assignments. Now, these men became highly suspicious of each other. Each began to wonder what the other was doing. And finally their suspicions excited to the utmost, one of the men went before the FBI and made a report asking for the expulsion of his friend; the other man went before the Communist Party and asked for the expulsion of the other man. Well, the two bodies deliberated upon the facts, and they couldn't come to [8322] any conclusion as to which one was telling the truth, because the thinking of the two men over the passage of years had become identical.

Well, of course, that really didn't happen. I made that up. But I think it is pretty much symbolic of the kind of thing that happens. Such things happen these days. It is the kind of thing lurking in the background of a case of this kind. And one appearing as I do, as a lawyer in this case, can say to you with great assurance, based upon common knowledge, that in every endeavor of any secret or subversive group, as we are told the Communist Party is, in every one of their endeavors there are people watching out for the interests of the public—employees of the FBI. I don't think those men have been lacking in diligence, and I think if there were any evidence of any kind, why, what would we do? What answer could we give in this case? If a man employed by the FBI had taken the stand here and told a story based upon his experiences over the years, what could we say? What attack could we make on his credibility? What answer could we make? You can see how all-powerful that testimony would be. But we don't have that here. We have other contradictions.

Earl Browder appears before the House Un-American Activities Committee, by sending them a document containing a list of the members of the Central Committee of the Communist Party for the very year under discussion in this case. Yet [8323] the prosecution witnesses tell us that no such document is ever preserved.

Johnson and Crouch are on the stand. Crouch is questioned. Various names are read out to him, names of persons on the Central Committee. He says, "Oh, those are fictitious names; I haven't heard of those people." Johnson comes back to the stand, Johnson knows those people, people whose names were read out. Which one is telling the truth? Each one claimed to be present at the meetings of the Central Committee of the Communist Party—Ross, Johnson and Crouch all say they were present at this meeting when the Central Committee of the Communist Party was elected. Johnson and Crouch saw Harry Bridges get to his feet and make a speech. Ross, who knew Bridges, at least by sight, over a period of years, didn't see Bridges at all. Now, you can't throw that testimony away by saying, "The important thing is they said they saw him." You can't do it.

The names that Harry Bridges used, according to Schomaker, were Dorgan; he never heard of the name of Rossi. According to Johnson, he used the name of Rossi, and he had never heard of the name of Dorgan. According to Crouch, he used Rossi, Dugan, Derkin and Dwinn. According to Michener, Michener never had heard of either Rossi or Dorgan. Rathborne, who is touted as the person most intimate with Harry Bridges, although that isn't so either, never heard of either Rossi or Dorgan, except as he read those charges in the newspaper. According to Johnson, [8324] according to Crouch and according to the opening statements of Mr. McMillan, made here at the start of the case, Harry Bridges was a high official of the Communist Party, a disciplined Communist, a member of the ruling body. Yet according to Michener, who went to a CIO convention where Bridges was present, Harry Bridges had descended so rapidly in the echelons of the Communist Party that he was only a rank-and-file man who took orders. Michener didn't even know the name of the ruling body of the Communist Party.

Johnson and Crouch told us that copies of the list of members of the Central Committee were neither kept nor published. Crouch told you that the only copy kept was forwarded to the NKVD in Soviet Russia. I asked Lawrence Ross the same question, and Ross said to me, "Are you joking?" Page 3385.

So I wonder at those things. So far as Ross is concerned, there is about one matter, I think only one, worthy of discussion at this time, and it is this: Do any of you remember the termination of Ross' testimony here? He had spent a morning exculpating the prosecution, telling us that nobody asked him anything about his past, that after examining his conscience—of course, after he knew that I was about to procure the information against him—that he went voluntarily to these men and made a confession. Then we come to this astounding remark, which I will now read to you. This is the end of his cross-examination: "So far as you know, Mr. Witness, if you hadn't made what you [8325] call this volunteer disclosure, these men were prepared to let you go ahead and stick to your story?" And the answer: "Yes, sir."

Possibly Mr. Donohue will explain that matter to you when the oportunity is given him to make his closing address.

Michener. He told the special prosecutor, Mr. Paisley, on direct examination, that he never had a Communist Party card, that he never possessed one, that one was never issued to him. On cross-examination he said, Well, his wife kept it for him. [8326] When he was probed a little further, it developed that there was hiatus of about three years before he married that particular wife. Then he brought in a new story which fitted the occasion. He said, "Well, before that time the Communist Party itself kept my card for me." I think we need not spend any more time on the further inconsistencies within the sphere of testimony of Michener.

Poor Michener, the special prosecutor says, poor Michener. He had to go back and work with his hands, he says, because he left the Communist Party. Is that borne out by the testimony? Michener himself told us here that he did not occupy any office in the union at the time he left the Communist Party. So I suggest that that inference, so glowingly offered you here, is not a true inference.

There is one question more. It is a question which Mr. Donohue pretends to find mysterious: He pretends to find something strange in it, because he repeats it again and again. He says this: Why didn't the defense cross-examine Wilson? Now, I suggest, very gently, that the one thing that we have demonstrated here is that we are not lacking in boldness. We refrained from cross-examining Wilson, says the special prosecutor, because we feared the disclosures that he might make. Now, in the first place, what did he say? He said this concerning Bridges: He said he was present at a meeting at the Governor Hotel at an unspecified date and that in his opinion [8327] that meeting was a meeting of Communists discussing trade union matters. Of Bob Robertson he said, "I have attended a Communist meeting with Mr. Robertson. I do not say where or when," although he added it was his impression that Robertson belonged to the same unit as himself. Concerning Henry Schmidt, he merely said, "I have attended a Communist meeting with Henry Schmidt," not naming the time or the place.

Now, we fear to cross-examine Wilson, says the special prosecutor. Here is the thought you are asked to accept. I do not ask you to accept any reasons I offer you now; I ask you to examine that inference. Here is what he says. He said Wilson had locked within his own heart a fund of information, terrible information, destructive information, information which would have driven these men to the wall. However, "I refrained from asking him those questions," says the special prosecutor, speaking of himself. "I wanted to let the defense bring those matters out themselves."

The one thing that we cannot accuse the special prosecutor of being derelict in is diligence. We do not make the charge of lack of diligence against Barber, against Kaiser, against any of these people, and I suggest, dramatic though it may have been to conjure and to nourish the thought that the defense might be discomfited by answers given on cross-examination, I would suggest that if there were anything of benefit which could have been exacted out of the lips of the witness Wilson, Mr. [8328] Donohue would have asked him the further questions. You have ingredients within the appearance of Wilson himself here. You have your own recollections of the manner in which he testified. You can weigh his testimony. Whatever the reason may have been, whatever the policy adopted by the defense, whether sound or unsound, whether we should have probed his testimony a little further, you can take it for granted that if there were anything else to which that man could have testified here, these gentlemen would not have been remiss in asking him those questions.

Rathborne—he tells you he was expelled from the Communist Party in June of 1947. Mr. Donohue told you that leaving the Communist Party was supposed to signalize the ruin of any member of a trade union. But six months after June of 1947, in November of that year, Harry Bridges took up a collection for Mervyn Rathborne. He praised him as a loyal trade unionist. Now, would that be the act of a fellow member of the Communist Party, a disciplined member of the Communist Party toward one who had been expelled for departing from principles of the Communist Party?

When Barber first interviewed Rathborne, the time was the spring of 1948. Barber told him then that he knew considerable about Rathborne's Communist Party activities. Rathborne tells us here that on the first trip upon which he accompanied Barber to the east, the time he visited Mr. Tom Clark, that he confessed [8329] to Barber that he had committed perjury before two bodies of our government. Well, that is not astounding to us. What is the point of that? The point is this: When Rathborne first mentioned his confessed perjury in the past, and Mr. Hallinan made some mention of the fact that the man might have been prosecuted, who rose to his feet with a different answer? Mr. F. Joseph Donohue. He got up before you and he said the reason Mr. Rathborne was not prosecuted was that the United States did not discover his acts of perjury until 1949. Does the testimony bear that out? You know the answers to those questions as well as I. When Rathborne was in the East—here is a little peek at the truth—the year 1937—that is the year when Harry Bridges was exalted to the highest pinnacle of glory inside the Communist Party—but in 1937 a Communist Party official says

Rathborne came to him and asked him if it would be possible for him to arrange a meeting with Harry Bridges—1937. We are asked to believe that Harry Bridges was elected to a two year term as a member of the Central Committee of the Communist Party that year. Rathborne says this: "In March or April, 1948, I did not warn or tell Harry Bridges that the agents were starting a new investigation because I had broken all of those associations when I left the Communist Party." He forgets that in November or December Bridges was the one who made toward Rathborne the gesture of friendship, the protests of loyalty that we have heard about here. [8330]

I think there is a little more that ought to be said about the credibility of the witnesses who have appeared to give testimony before you concerning the difficulties of these three men. I think there is a little more that can be said. I think that if we had interposed no defense at all in this case, the testimony of those witnesses standing alone would not be enough to convince anybody of the guilt of the defendants to a moral certainty and beyond a reasonable doubt. But there are still other tests that we can apply to this very fantastic case and I will come to those for such time as may still be allotted to me this evening.

We heard a lot, and we do hear a lot currently, about the doctrine of guilt by association. We tell each other that it is not continent with the American way of life to find any man guilty of anything by words, by connections, by anything falling short of legal proof, and yet how often do we ourselves fall victims to the same kind of easy thinking? How often do we convict our friends, our associates or the public figures who walk across our national horizons? How often do we do that by the kind of thinking that we call guilt by association? We start out with connections, we start out with statements of other persons. I have a few in mind which I would like to present to you now..

Now, here we have a statement which is, of course, subversive by its very nature. It is proved as subversive because the [8331] name of its author, Karl Marx, appears at the bottom, and here is the statement:

> "That the spirit of revoluntionary change, which has long been disturbing the nations of the world, should have passed beyond the sphere of politics and made its influence felt in the cognate sphere of practical economics is not surprising. The elements of the conflict now raging are unmistakable in the vast expansion of industrial pursuits," et cetera.
>
> "Some opportune remedy must be found quickly for the misery and wretchedness pressing so unjustly upon the majority of the working classes."

So we begin with those remarks. They are remarks, of course, which we must dismiss from our minds. They are remarks from literature which we may not embrace.

So we go a little further. We look at the Communist Manifesto itself:

> "A struggle is going on in all the nations of the civilized world between the oppressors and the oppressed of all countries, a struggle between the capitalist and the laborer."

There you have it, a class struggle, a class struggle about which we have heard so much, and worse still, we bring the words home to American life.

> "This country with its institutions belongs to the people [8332] who inhabit it. Whenever they grow weary of the existing government, they have the constitutional right of amending it or the revolutionary right to overthrow it."

Earl Browder.

And worse still, by the man mentioned so often by prosecutor Donohue, "Every great religious movement in this history of the world centered about the class struggle"—— a hersy uttered by Joseph Stalin.

But wait! What have we said? To whom have we ascribed these words of such prejudicial significance? We tear off the spurious author. Who made the long quotation? Pope Leo XIII, the labor encyclical about the turn of the century.

Did Earl Browder write the remarks I have attributed to him? They are pretty un-American. They were made by Abraham Lincoln in his inaugural address:

> "This country with its institutions belongs to the people who inhabit it. Whenever they grow weary of the existing government, they have

the constitutional right of amending it or the revolutionary right to overthrow it."

"The struggle between capital and labor"—— not the Communist Manifesto, the Preamble of the Constitution of the American Federation of Labor.

"But best of all—best of all—and I will give a little prize to the person who can guess the author of the last statement, "every great religious movement in the history of [8333] the world centered around the class struggle"—that is the worst heresy of all. F. Joseph Donohue! Page 2444 of the transcript.

The Court: Ladies and gentlemen of the jury, we take the adjournment until tomorrow at 10:00 o'clock. The same admonition to you not to discuss the case under any conditions.

(Thereupon a adjournment was taken to tomorrow, Wednesday, March 29, 1950, at 10:00 o'clock a.m.). [8333-A]

Wednesday, March 29, 1950, 10:00 A.M.

The Clerk: The case of the United States of America vs. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

Mr. MacInnis: You may have said to yourself as we departed from this room last evening, What was the purpose of displaying those four placards before you with the words of well-known people written upon them? First, a spurious authorship designated, then with the real author revealed. Now, a device, of course, is useless in the trial of a lawsuit unless it has some real purpose. Now, the purpose, as I see it, is this: The purpose is to scout the theory that we all have heard about, the theory of guilt by association. This afternoon the special prosecutor will have an opportunity to rise before you and offer some rebuttal to what we have said. If he takes up the transcript and reads any words of Harry Bridges, either in context or out of context, if he reads any passage to you and says, "Listen to this, ladies and gentlemen. I ask you, is this Communistic talk or is it not?" If he does that, I will just ask you, please, to remember the little quotations that were brought before you yesterday, the words of Abraham Lincoln couched above the signature of Earl Browder, the Communist Party Manifesto disguised in the language of the Pope's Encyclical. Very easy. It all depends on who you are and where you sit. If you are one person, if you are Senator Robert [8334] Taft, for instance, you can say the Truman administration is corrupt. Why, even Mr. Donohue wouldn't criticize Mr. Taft, because he is a real person. He is a Republican. The danger of Republicanism exists always upon the unsteady Democratic horizon. It is real, it is a danger, it is there. If you want a whipping boy, you must find some imaginary character.

So you can't pick out language from people who are beyond reproach, because they can say anything. And all I ask you is this, respectfully: If the special prosecutor reads to you anything that Harry Bridges said in that long running commentary on world affairs in which Mr. Donohue and Mr. Bridges engaged for several days, you just remember the words of Abraham Lincoln, of the constitution of the AFL, and even of that great and noble man, Mr. Donohue himself, whose quotation was read to you as we adjourned for the evening. The class struggle, decried, denounced, labeled as Communistic, but coming out the the lips of Mr. F. Joseph Donohue, and not out of context either. I invite him to read you the whole page of the transcript, if you think that the meaning of that sentence was changed in the slightest degree by myself.

A person who is beyond reproach, of course, can say things without inviting reproach. I have in mind one other quotation. Last fall when he conducted his unsuccessful campaign for the United States Senate out of the State of New York, Mr. John Foster Dulles said this to his assembled constituents. He [8335] said: "If the drift toward statism continues, we may as well follow the advice of Thomas Jefferson and revolt." Now, suppose Harry Bridges had said that. Suppose any of these other names which have passed so swiftly through the pages of the record had statements like that attributed to them. They would be damning statements. They would be terrible statements.

Under the theory of guilt by association, almost anything can happen. We have seen it happen in this case. We all went over to a hospital in the East Bay for the taking of testimony one afternoon about a month ago. Willie Christensen, one of the Stockton witnesses, spoke from a hospital bed. After his testimony was given, after it had been touched by the fires of cross-examination, and certainly not withered, what did this special prosecutor do? He looked at the man and he said, "When in 1946 did you visit Soviet Russia?" and the man said, "Who, me? I have never been to Soviet Russia." And very grandly Mr. Donohue said, "In that case, sir, I have no further questions." What was the import of that kind of approach, "When in 1946 did you visit Soviet Russia?" And to a man who had never been to that country in his life! [8336] And how awful it would have been if the man had visited that country. He would have been condemned in our eyes forever. That would have been the answer to all of this testimony. And similarly, "Did you subscribe to the People's World in 1944?"

To the Hon. Dewey Mead, a fine little man, a supervisor for, I think, 15 years in the City of San Francisco, a newspaper of 1938 is dug out; "Didn't you in 1938 say that the People's World was doing a good job and authorize the paper to utter that publication?" Built by association. Always the negative approach. Overlook always the volumes of positive and constructive testimony about the lives of these three men as you have seen them unfold.

Organizations declared subversive by that eminence, the Attorney General. Well, Mr. Donohue, of course, has shown himself to be a perfect example, I think, of that kind of thinking. I have a little document in my hand. It is 143 pages in length, and has approximately eight organizations listed upon every page. About thirty of the organizations begin with the word "American." The ordinary person who receives mailing advertisements, who gets pictures of little children, Jugoslav children, perhaps starving, and sends $5.00, finds himself on the subversive list of the Attorney General. A witness who takes the stand finds the questions put to him, "American Youth for Democracy—do you believe in that?" Or "American League for the Protection of the Foreign Born—did [8337] you believe in that?" Any question like that.

The most graphic, and I thought the most shocking example took place when a humble and obscure man of the cloth from Mill Valley, The Rev. Edward L. Peet, came over here. I had never heard of him before. I doubt if his name had ever reached your ears. Yet to that little man who had come out here but two years ago from another obscure pastorate in New England, there was put the question, "Are you the same Edward L. Peet whose name is listed in Appendix 9 of the Un-American Activities Reports for the year 1949 as one who signed a petition sponsoring the citizenship of William Schneidermann?" Now bold words, those! He asked the man if he knew if he were that person. So the question came to us, How would the man ever know? We tried to look up that volume and we find that there is no such volume released for public consumption. There is a volume listed as unpublished and confidential to the Department of Justice.

So this man who came here to give testimony in the spirit of fairness endorsed and talked about so much by Mr. Donohue was asked if he knew that his name was listed in a book which the prosecutor then knew that no member of the public could ever receive. Guilt by association. All you have to do is say the word "Schneidermann," say the word "Un-American," and you put a brand upon a citizen who has come here to tell the truth. Senator McCarthy, a Republican of Wisconsin, whose name is [8338] currently in the headlines, in his running fire of accusations against our State Department, did an astounding thing the other day. He said that Mrs. Dean Acheson, the wife of the Secretary of State, was of course suspect because she belonged to an organization called The Congress of American Women. When that lady protested and said that she had no idea that that organization was ever denounced by the Attorney General of the United States, Mr. McCarthy had a very good answer. He said this, "Why, everybody knows that organization is subversive. It was formed out of the League of Women Shoppers, and everybody knows that the League of Women Shoppers was instituted to lower prices. It is obviously subversive." How can they talk like that?

And so we proceed. I think I can't spend the time that I wished upon this subject, which I think touches so intimately all of the charges in this case, particularly all of the cross-examinations of witnesses produced here by the defense. I told you the other afternoon that in order to keep up with the regimented thinking suggested to us by Mr. Donohue we would have to be ready to make quick changes from time to time, without rhyme or reason, but directed at the instance of other people.

The Un-American Activities list, the list of organizations denounced as subversive, gives us a very good example of that kind of thinking, about the changing from time to time, because in 1947 if you sent $5.00 to an organization called The American League for the Independence of India, some gentleman in the role [8339] of Mr. Donohue would point the subversive finger at you. But in 1948 that would be perfectly all right, because then India's freedom was recognized by the world. In 1948 the same would be true of the infant democracy of Israel. In 1949 the list for 1948, which I have in my hand, shows that the American League to free Indonesia is subversive. Communist-dominated. But now the United States has recognized the independence of Indonesia, so that little group goes off the list.

It is not extravagant to say that people in high places have not blushed when they have changed their own thinking from time to time. During the war great; sincere and noble phrases were instituted, promulgated through the world by Franklin Delano Roosevelt. He told the world about the Four Freedoms and about the time of the Atlantic Pact. Predominant upon that list was freedom from want and freedom from fear. Just a month ago Admiral Standley, who latterly became our American ambassador to the Soviet Union, refused to unveil a statue in the city of San Diego because it contained upon its base the terrible phrase, "Freedom from Want and Freedom from Fear." Those words were all right to be said during the war, but with the passage of years, with the troubled times in which we live, with the terrible menace that now confronts us, with the weakness of our own nature, with our own readiness to succumb to the glittering bauble of Communism, freedom from want, freedom from fear are now Communist phrases. You can't use them any [8340] more.

I will say no more about the notion of guilt by association. I think the idea is not hard to grasp. It goes right back to one of the structural points in the testimony of the first witness who appeared here as the accuser of the three defendants, John Schomaker. They were connected with the Communist Party, Schomaker told you, because they received aid from the Communist Party—these members of the longshore union—during the great strike of 1934. Our memories need not be long in order to look for an example which will scout that theory utterly. Three weeks ago the United Mine Workers ended their strike. For several weeks the miners had clung to their stand against the exhortations of the federal government. Every newspaper in the country carried the line that the Communist Party was sending shipments of food and supplies to those men. It is the truth; they did. Did the men who received those shipments of food thus become members of the Communist Party? Did they become Communists because they gave the canned vegetables and meats to their families, who would otherwise have been in want? It all comes under the same category—guilt by association.

The time has come to abandon, I think, what we have called our own negative approach to this case. We have offered you the thought that standing alone, if we hadn't uttered a syllable of evidence in our own behalf, the case for the prosecution ought to topple by its own weight, because of the unworthiness [8341] of the witnesses who spoke here and the double unworthiness of the people who produced them.

Let's look at the case as a whole, in the light of the instructions which the Court will read to you upon the law. Let's see how we stand with the witnesses placed in juxtaposition against other witnesses. [8341-A]

Now, I have here a chart in which we have written the names of the principal witnesses who appeared in this case. We have omitted those people who came here merely to identify records or matters of that kind. On the one side of the list are Government witnesses, the witnesses who along with their own deficiencies must support under our law the burden of proof. On the other hand we have the defense witnesses, each one of those witnesses cloaked before you with the presumption of innocence.

Now, the presumption of innocence is not a mere literary aphorism; it is a real and vital safeguard. It is a command from the law itself telling you that the defendants are truly presumed to be innocent. They are encloaked with that presumption and they stand before you. When they take the stand and answer questions, to each answer, when you weigh its verity, you must say to yourselves, "He is presumed to be innocent." Now, I will give you a little example of the difference in the eyes of the law between defense testimony in a case of this kind and testimony adduced by men who appear here with the finger of accusation. Every witness is presumed to speak the truth when he comes here. Lloyd Garner was presumed to speak the truth. John Schomaker was presumed to speak the truth. And Henry Schrimpf, Johnson, Crouch, Ross, Michener, Wilson, Rathborne—they were all presumed to speak the truth.

There are many methods of judging the credibility of witnesses. [8342] Many methods. The Court will read those methods to you in his instructions. But where one presumption, that presumption that a witness speaks the truth, comes into conflict with the great and overweening presumption of innocence, the first presumption must yield. The presumption of innocence controls. If you are considering the testimony of any prosecution witness as opposed to any witness for the defense, the presumption of innocence in every case comes to the aid of the defense.

And I will give you one more thought, holding before you, if I may, again the list of prosecution witnesses. Read their names; recall their faces. Was there a solitary one in that list, was there one person, who was not caught in lies or who was not labeled with the stamp of coercion? Was there one person?

Then look at the other side. Look at the list of witnesses produced by the defense. Was any person produced here by the defense caught in a lie? Was he caught in a contradictory statement? Did any person produced here by the defense or any coterie of witnesses fall into the class of Johnson, Crouch and Ross? And yet those people, touched with every aspect of venality, are the people who must uphold the burden of proof. Not protected at all by any presumption of innocence. The people who stand here unscathed at the conclusion of the testimony are the people we brought here, the people whom the [8343] protection of the law does surround.

And with that in mind, I am going to speak to you a little bit about the affirmative facts of the defense. Some people may say, "It is all very easy for Harry Bridges, it is very easy to go down the middle; very easy to take kind of an easy and slick attitude and say, 'Oh, yes, yes, I went to meetings where there were Communists, yes. I admit those things.' In other words, taking the sting out of the accusation. 'I admit that I went to these places, but I was always acting as a trade unionist.' " That has been our position through the case. And the thing that proves it, to my mind—and I think it will appeal to yours as well—is this: There is not a single meeting testified to by any of the persons who come here to give testimony against the defense, not a single meeting in which so-called Communist Party politics are discussed. Every meeting in which you are told that Harry Bridges was present is a trade union meeting. Every meeting in which Bob Robertson's name is mentioned, Henry Schmidt's name is mentioned, has a trade union aspect. There is nothing at all in any of those meetings linking them with a purely Communist Party approach. And when people say, "Those were Communist meetings, because I say so," you can weigh that against the presumption of innocence and the position of the defense.

On membership in the Communist Party, I think this point has probably been covered well enough by now. You will all [8344] understand that we are not assembled here to determine the sympathies of Harry Bridges. We are not here to determine the secret harborings of his heart. We are not here to determine what his politics are. We are here to determine one simple fact upon which guilt or innocence must depend; and the Court will instruct you in this fashion:

> "To be a member of the Communist Party within the meaning of that term as used in the indictment, a person must be more than merely in sympathy with some or all of its aims. He must be more than merely willing to aid it in a casual or intermittent way. He must be more than merely willing to accept aid from it in furtherance of his own objectives or the objectives of his labor union. As a matter of law, such sympathies and/or activities, as I have just described, fall short of constituting affiliation with the Communist Party; and as a matter of law, even affiliation with the Communist Party falls short of constituting membership in the Communist Party."

I think that is very simple, very clear. It doesn't require any further explanation.

The special prosecutor spoke the truth when he told you that I would devote some time to a discussion of character testimony. I will, because I deem it important. In fact, I think it is kind of wonderful that at a time like this, with so much being said about people like Harry Bridges, Bob [8345] Robertson and Henry Schmidt, members of this community and of the State of California, of some of whom it can be said that their very existence depends upon public feeling, that persons in public life, like Dewey Mead, came here, risked their own reputations in order to tell you that these men were men of good moral character, that their reputation for truth, honesty and integrity was of the best. It would be very easy for any one of those persons to say, "Leave me out of this. I have an election coming up next year," or "Don't call me in; my employer wouldn't like it. Don't call me in; the board of directors of my corporation wouldn't like it." Very easy. We would certainly understand. But those people came here, and they gave testimony, which I am sure you can appraise. I am sure you can appraise it. Mr. Donohue read to you a passage out of a book. He said it was a law book, by some noted text writer, although he didn't offer us the name. He told you it was his notion, out of the pages of that book, it was very easy for a person who was committing the most heinous of crimes to enjoy an unimpeachable reputation in his own community. Well, that is very true. There have been all kinds of examples. There are many Bluebeards throughout the world. There are many people of that kind.

But Harry Bridges is a man who has been accused of the same thing for the past sixteen years, and no person came here as a character witness living in a kind of dream world, not [8346] knowing the accusations levied against Mr. Bridges or his companions, Mr. Robertson and Mr. Schmidt. Nobody came here in that situation. And so strong is character evidence in the eyes of the law, and in this I quote Mr. Donohue himself, that in a proper case evidence of good character of itself is enough to create a reasonable doubt, even if without such evidence no reasonable doubt would have been present. That is how highly the law regards the esteem in which a particular defendant is held in his own community.

You can consider the times in which we find ourselves. You can consider the atmosphere in which this case was nourished, and, considering all those things, I think the fact that we were able to bring here the people of fine caliber who did come here speaks for itself far more eloquently than I could possibly do. There was old Mr. Walther, the man who read the obituary over the grave of the two longshoremen who were killed in the 1934 strike. There was Robert Kenney, the former Attorney General of the State of California, himself—although I suppose he is outside the pale now, because in this little book of the Attorney General he has some connections that Mr. Donohue frowns upon.

Then we have the famous Dr. Eloesser, who has carried his talents for the protection of human beings all over the world, in every country of the world. To say that he is an ornament to San Francisco, as has been suggested before, is kind of [8347] an understatement.

We have Mr. Peet, a humble parishioner from Mill Valley. I don't think anyone will think ill of him.

We have Mr. Augustus Gaynor, the head of the Brotherhood of Railroad Clerks. I don't think there is anything wrong with that man.

We have Daniel Del Carlo, Frank Andrews, a member of the American Legion and of the ILWU alike. We have Dewey Mead, the supervisor here in San Francisco.

Now, some things that were kind of astounding took place after the character testimony was offered. We produced here Mr. Walter Buck. I think probably Mr. Buck's personal fortune, which I am told approaches a hundred million dollars, probably leaves him beyond the stigma of Communist domination. Walter Buck owns at this time a controlling interest in the Matson Steamship Company. The three men who are the representatives of all the waterfront employers of the Pacific Coast, Mr. Pearson, Mr. Hubert Brown, Mr. Kenneth Finnesey, came here and they were speaking not of some pal, not of some person in whose company they had been thrown for years, but of some person whom they knew because of fair dealings across the council table. They knew him in that fashion and they didn't know him otherwise.

But what are we told in this case? If you are a special representative of the Attorney General in this case, you don't [8348] have to weaken a witness by cross-examination. Of course, he doesn't use harsh words like we do. He doesn't yell "Liar" as we do every once in a while. Every time we yell "Liar," though, some witness has proved himself a liar on the witness stand. But men come here, respectable men of your community. They take the stand, they say that they know these men are of good character for truth, honesty and integrity. They depart, without anything being done to them by cross-examination, without being weakened. And what happens? This gentleman arises before you in one of those flipflops that we have heard attributed to the Communist Party, and he says the employers of the Pacific Coast came here motivated by fear—fear, fear of Harry Bridges, Henry Schmidt and Bob Robertson. Or, under the lash of Lou Goldblatt, the Pacific Coast Employers came here. Under the lash of Lou Goldblatt! Well, that's another example of guilt by association. I know Mr. Goldblatt; he is a fine young man. He has a house up on Ashbury Terrace here in San Francisco. He has three children. He has been cleared of the same kind of charges by an agency of the United States Government. He has been charged, like any other member of the ILWU, by people who seek to destroy that union. But here in court, where you can say anything and it is privileged, nobody can sue you for slander, a fine man like Mr. Goldblatt is spoken of in language like that—"under the lash of Lou Glodblatt"! [8349]

Walter Buck came here. I suppose his back was bent from the blows of the whip. And Mr. Pearson, the president of the Pacific Coast Employers' Association. And Hubert Brown and Kenneth Finnesey. I didn't see those men cringing under the sting of any lash—although I saw the signs of many an unseen lash, upon some of the prosecution witnesses who came here.

You can't put characterizations like that upon people unless there is something in the record to support it. And why did they come here? That is kind of a good one. They came here, says the special prosecutor, because they sold their integrity, and they came here out of the profit motive. In other words, these men who are accused of being Communistic have now departed from that field. They are now doing business for the profit motive! Well, I guess you can say anything if you want to blacken a person who comes here for the defense. Character assassinations! This gentleman told you that we had vented our spleen, to coin a phrase from Mr. Vishinsky and Mr. Donohue. We have vented our spleen upon the Government of the United States! Well, what was done by that kind of attack? Mr. Buck, Mr. Pearson, Mr. Brown, Mr. Finnesey—they sold their integrity, they came here under the lash of Lou Goldblatt, and they came here because of the profit motive. Well, we certainly aren't ashamed of the profit motive here in San Francisco.

I think we are all in business to engage in some profit. I think Harry Bridges is in business for profit. I think his [8350] union is in business for profit. And I certainly think that the shipowners of the San Francisco area are in business for profit.

And if we have reached an age, as we have now, where those men have forgotten about the strifes of the past and can sit down over a council table and resolve all their problems three years ahead, so that there is no trouble any more, I don't think we need the advice of people from Washington who can come here and say, "You shouldn't sit down at the table with those people. Are you getting soft? What is the matter with you? Don't you know you are being lashed into doing this?" I don't think it holds up. I don't think that was fair. I don't think it was clean. I don't think it was good. Maybe the special prosecutor will give you some explanation.

He told you that he had produced here as the accuser of the defendants' pals—pals of Harry Bridges. We produced one pal of Harry Bridges here, the only person whom the record shows to have had an intimate association with that man over the passage of years—Father Paul Meinecke. He was a pal of Harry Bridges. Two or three times a week for a period of six to seven years they met each other. They talked over their problems. They had dinner. They enjoyed the ordinary associations of friends. They knew each other well. And that man was brought here, and I would like to speak about that situation for a few minutes. [8351]

You know, of course, from your experience sitting in this case, that the orbit of character testimony is very narrow. In other words, a lawyer like myself, producing a witness to give character testimony, can only ask those questions in kind of formal language, such as is allowed by the law. You can say, "Do you know this man?", "How well do you know him?", "Do you know his reputation in the community for truth, honesty and integrity?", and "What is that reputation?" period, you are finished. So Father Paul Meinecke took the stand and he gave the same endorsement to Harry Bridges which you had heard from the lips of the men who had been brought here under the "lash" of Lou Goldblatt. He said that Harry Bridges' reputation for truth, honesty and integrity was good. He could then have departed from the witness stand. But for some reason the special prosecutor was chagrined. He chose to probe a little further. He chose to desperately attack the credibility of the priest. And as he went after him, by a thorough and I thought vicious cross-examination, the opinions deepened and words which we never could have produced, words which we never could have presented because they were far beyond the scope of character testimony, came into the record in this case. A pal of Harry Bridges, a man who knew him well. Not a man acquainted with such portions of his life as formally may be brought to your attention in this courtroom. Not a man like myself, knowing [8352] these people only in recent times. But a man knowing him during the years when these activities are supposed to have taken place.

Well, he says many things, in response to the prodding and the goading of Mr. Donohue. He says, "I know the man, I know his ideas. There is a great distinction, although some people are not aware of it, between militant trade unionism and Communism; there is a great difference." He says, "Mr. Donohue, as a Catholic priest, if I had the slightest notion that Harry Bridges was a Communist, I would not be here. If I had any suspicion whatsoever that he was, I would not be sitting here as his friend." And he says this; Mr. Donohue was still going after him: "Mr. Donohue: Would you answer the question, Father, as to whether or not during the many years that you knew and were a close friend of Harry Bridges, you ever heard him publicly utter a single word of criticism against the Communist Party?" And then the answer: "I didn't hear it with my own ears, but I remember one day when—probably a public fact; if the Court will pardon me, I will quote the statement. May I be forgiven for quoting it directly? I remember being told, 'See, see Harry Bridges is not a Communist.' "

And then:

> "I said, 'What convinced you?'
>
> "He said, 'Because he told'—I don't know who the name was at the time; he was the head of the Communist [8353] Party around in these parts—he said, 'Harry Bridges told him to go

> to hell.' And among ourselves we know you can't do that in a disciplined organization of the Communist Party."

Well, I suggest that a man like Father Meinecke, whose honesty I think is beyond dispute, whose opportunity to observe the subject of his discussion was boundless, is probably a little better qualified either than myself or than yourselves to judge what was the character of Harry Bridges during all of these years. And when he comes here and tells you that Harry Bridges was not a member of the Communist Party, was not even a Communist—when he tells you that he made tests, that he had the interest of a priest in the Catholic Church in stamping out Communism; when he tells you that, I think that is good enough for me.

But what is done to this quiet priest who answers the slurs of the prosecutor with, I think quiet humility? And I use the word "slurs" advisedly. The prosecutors says:

> "Father, are you a psychiatrist as well as a priest?"

And when that is answered, he says:

> "Are you also a lawyer as well as a psychiatrist?"

Father Paul Meinecke appeared as Harry Bridges' witness, and hence he is an outcast. Anything can be said to him and of him. The prosecutor sees an opening, a small hole in the witness' armor. The priest said that he had been interested in the [8354] labor movement. He jumps upon it and he says to the jury, "Undoubtedly he was sent away from San Francisco because of his labor activities." And that is immediately proved to be false. The priest denies it. There is no other proof.

And then something else happened. The trial judge enters into the cross-examination—the first and only time that it hapened in this case. He asks the priest about what conversations he had with me, the defense lawyer, and he comes to the climax:

> "Q. Have you been recently subjected to medical treatment, Father?"

Well, I don't want to be unjust to any person. The trial judge says that that was not his intention; in justice to him he offers this explanation:

> "Latterly, in my examination of Father Meinecke some mention was made by counsel concerning the asserted impropriety of a question on my part to the Father. I might say to you that that was not born of any desire on my part, nor was it designed to inquire into Father Meinecke's mental processes. Nor was it to reflect upon his integrity. The question was born and conceived out of a desire on my part to accord fairness to the witness, for the reason that mention was made during the course of this testimony that he left San Francisco for Nevada; an inference might be drawn from that departure that it had something to do [8355] with activities in trade unionism and the like.

> The Father on the witness stand volunteered that he asked to be transferred. I merely wanted to inquire, ladies and gentlemen, a very simple question, not born of curiosity on my part, but born of a desire to provide you with all the facts surrounding the Father, and it was to the end that I might inquire as to his health. Very many people have to leave large metropolitan areas to go to less burdensome parishes and that was the reason underlying my question."

Then we had more questions the next day by the special prosecutor. The inferences raised by the special prosecutor about the departure of Father Meinecke from San Francisco remained unproved. Balzac, in his novel Pere Goriot, has a line that to me is reminiscent of that simple man when he was here. It goes like this:

> "The humble and modest flowers that bloom in the valley perish, perhaps, when transplanted closer to the stars, to the regions where the storms gather and the sun is scorching."

I would like to invite you to ask yourselves this question about character testimony, because it is the whole answer. When any defendant in a criminal case puts on character testimony, he lays bare the facts of his whole life to interrogation, to inspection, to scrutiny by the other side. What developed, [8356] what monstrous thing ever rose out of the past to condemn the men who stand trial before you here? Nothing.

Another thing. Ordinarily the prosecution may not introduce any character testimony—that is, character testimony adverse to the defense. But when the defense itself takes the initiative and puts on character testimony, the door is opened, the prosecution may then bring in any person, an enemy, a public-spirited citizen, any person who knows the facts. They can bring in any person. Any person could have been brought here to tell you, "No, in my opinion these men are not of good moral character." They were able to produce nobody. In these times, which they say are troubled times, which they say are dangerous—nourished, as we say, in an atmosphere of propaganda and hatred against the defendants in this case, could one person be brought here? Did one person come here and take the stand and offer any refutation to the encomiums placed upon these three men by the character witnesses who came here? There wasn't one such person.

I am reminded of a story someone told me a few days ago about John L. Lewis, who, upon his side of the country, receives a lot of clods cast at him because of his activities on the part of the people who are members of his union. John L. Lewis came to Washington one day, got into an elevator in a large office building, started to go upward to his destination. Behind him in the crowded square car all kinds of people were [8357] talking, but above the mumble of ordinary voices he could hear a lady talking in the back, and she said, "That John L. Lewis! What he has done to this country. Oh, if I could ever get my hands on that John L. Lewis, if

I could meet him face to face, I would certainly tell him a thing or two."

So the elevator came to the tenth floor, and Mr. Lewis stepped aside to let the lady past him. And he himself got out at the same floor. And he found himself alone with the lady in the corridor. So he took off his hat and he said, "Madam, allow me to present myself. I am John L. Lewis. Do you have something to say to me?"

The lady fainted.

If I can call your attention to another segment of the defense, one which we have characterized as important, under the heading "The Stockton Witnesses," Walter Mahaffey, Mike Silk, Gerald McDonald, Louis Devonshire, James Shuffler, Frank Jaworski, Bart Woods, and William Christensen. I won't review what they said, because they weren't impeached. They weren't weakened, they weren't touched, by a cross-examiner who had all the forces of the Immigration Department, full interviews with each of these witnesses at his beck when he attempted to cross-examine them.

I will recall to you one little thing. Mahaffey on the stand. Kaiser came to see him. What did he say to Mahaffey? Was he threatening him? Was he using his badge of officialdom? [8358] Kaiser said to Mahaffey, "I will see you in jail." Is there any denial, any denial of that in this case? Was Kaiser brought forward to utter a denial? Not at all.

Mike Silk. You probably remember that gentleman. He has been a longshoreman in the San Pedro area for many years. The agents came to his house twice, he told you. And here is an interesting thing that maybe Mr. Donohue will explain to you as well. Kaiser and somebody else, some other agent, came to Mike Silk, and they wrote out a statement on a piece of paper, and they said, "Will you sign your name here?" and Mike Silk refused to sign. The prosecutor told us about that, not Mike Silk. The prosecutor says, "Didn't they hand you a paper and ask you to sign it, and didn't you say, 'Well, that may be true, but I am not signing anything?'" Well, where is that paper? And I wonder what kind of language was intruded into that paper as a trap for poor old Mike Silk. I wonder. And I wonder why the paper was not brought here by this gentleman in the ordinary exercise of his rights of cross-examination, why he didn't further his point by saying, "Well, now, isn't this the paper you were shown? Isn't this the truth? Isn't this the paper upon which you offered no objection?" No, there was something about that paper. It couldn't be brought here either. And Kaiser isn't put on the stand to explain that to us either.

Mr. Bruce B. Jones. Are we able to laugh him off? Are we able to shrug him off? Are we able to despise him? Well, [8359] you can remember that man and the strength of his testimony. We are not ashamed at all of the language he used in defending himself against the assaults of the special prosecutor. But I have in mind one other touch. One other fragment of his testimony, which I would like to epitomize for you again. Because when he said it, I think I felt the same emotions as you do. And here is what he said, more or less. He said:

> "That never happened. It never happened, that I went with John Schomaker to that restaurant and signed up Harry Bridges. And I will tell you why it never happened. That restaurant was Boyd's. It was named Boyd's down on the waterfront. Times was tough in 1933. Times was tough, Mr. Donohue. And I wouldn't have gone into Boyd's with two friends of mine; Harry Bridges and John Schomaker were my friends. And I will tell you why I wouldn't have gone into Boyd's with two men who were my friends, Mr. Donohue. I used to go into Boyd's myself—I used to get down on my knees and I used to wash the floors in Boyd's in exchange for my lunch. So I wouldn't have gone into Boyd's with any friends of mine, Mr. Donohue. No, Mr. Donohue, I got a little pride. Just a little pride."

And when he said that, maybe I am just more susceptible than the average person, but I had a tough time keeping back the tears, because he said that certainly without any urging from us. We didn't know he was going to offer that explanation. It came [8360] as much a surprise to us as it must have to you. And those words, when I heard them, rang pretty true.

Again, a case depends upon the integrity of the charges, upon the offer of proof that is made and upon the test: Did the side having the burden of proof meet that test? Robert McMillan stood before you at the start of this case. He told you that as regards Mr. Robertson, Mr. Schmidt and Mr. Bridges, he would show you a conspiracy; he would show you that they met together, that they agreed, that they had an understanding that each would testify falsely, that each would aid and abet Harry Bridges in his false procurement of citizenship. We have listened to all of the evidence in this case. Where is it? Where is the evidence of any meeting? Where is the evidence of any conspiracy? Where is the evidence of any secret understanding?

I can recall that matter best to you by telling you what the language of the law will be as it will be read to you by the trial judge on that point. Here is what he will tell you, much as I say now, because it is the state of the record in this case:

> "I instruct you that there has been no direct evidence presented in this courtroom that the defendants or any of them met together and agreed or conspired with each other or with any other persons to defraud the United States Government in any manner as alleged in the first [8361] count of the indictment. The only evidence of such a meeting together, agreement or conspiracy, is purely circumstantial, if it exists at all; and therefore the instructions I have just given you with respect to the standards which you must apply to circumstantial evidence are to govern you in your consider-

> ation of whatever evidence there is of the existence of the conspiracy which is alleged in the first count of the indictment."

What is the Court going to say to you about circumstantial evidence? He will say it very simply. He will say this:

> "If you find in this case that every circumstance relied upon as incriminating is equally compatible with the innocence of the defendants, then there has been a failure of proof necessary for the defendants' conviction, and your verdict must be Not Guilty."

And he will say this:

> "I instruct you that if the evdence in this case is susceptible of two conclusions or interpretations, each of which appears to you to be reasonable and one of which points to the guilt of the defendants and the other to their innocence, it is your duty under the law to adopt that interpretation which will admit of the defendants' innocence and reject that which points to their guilt."

And as regards Bob Robertson and Henry Schmidt, the Court will tell you this: [8362]

> "As concerns the defense offered on behalf of the defendants Schmidt and Robertson, of course the crucial question is whether or not there was any intent upon the part of either of these defendants to deceive and defraud the

> Government of the United States. The asserted good faith, the intent, the purpose and the motive of what was done by the defendants Schmidt and Robertson constitute the vital and important element of the whole case brought against them. Hence the jury may consider any material explanation of their motives and purposes in determining the character of their participation in the citizenship hearing of Harry Bridges."

After the recess, which I assume His Honor will call in a moment, I will explain to you those things which I feel establish beyond question the complete good faith of Bob Robertson and Henry Schmidt.

The Court: Ladies and gentlemen of the jury, we will take the morning recess. The same admonition to you, not to discuss the case under any conditions nor to form an opinion thereon.

(Recess.) [8363]

Mr. MacInnis: As I said before, what gauge for credibility can we adopt? What new standards for testing the truth can we invent if the special prosecutor can come here and say, without evidence, without testimony, without inference, without anything, that these character witnesses, all people of the San Francisco scene, are liars or perjurers; and if in the same breath they can say we are just venting our spleen when we apply the same label to people whose activities have taken place before your very eyes?

Bob Robertson and Henry Schmidt went to court with Harry Bridges on September 8th, I think, of 1945. He was their friend. They had believed in him for many years and he in them. They extolled his virtues. They believed he was fit to become one of us, to be a citizen of the United States. They believed that for a volume of reasons which have been unfolded to you on the witness stand. They knew him well. They knew of his militant trade unionism. They knew he was not a member of the Communist Party. In addition to their personal knowledge of the man, each one had read the decision of the Supreme Court of the United States, the highest tribunal in our land. Well, to what nadir of despair have we descended if a citizen can no longer depend upon the writings of the Supreme Court of the United States?

Mr. Donohue says upon this subject, "Many people might have been misled by the Supreme Court of the United States." Many [8364] people did not read that decision carefully. He said that in answer to an objection here. The good faith of Bob Robertson and Henry Schmidt. Well, I will tell you how strongly they feel about this case. On that morning, after the collapse of Johnson, Crouch and Ross, with the exposure of Michener, the brief appearance here of Wilson, when the prosecution so hastily rested its case, Bob Robertson and Henry Schmidt refused to allow me to advance a motion to the Court asking that they be dismissed from this case because of the paucity of the evidence. They refused to let me do it. They said this: "If anybody is guilty, we are all guilty. If that man did not have a right to become a citizen of this country, where he has conferred so many benefits upon so many people, we do not want to be let out of this case. We want to be in it, too."

You will have to judge the strength of the whole prosecution by the strength of the conspiracy charge against Bob Robertson and Henry Schmidt. When Bob Robertson walked over to the City Hall that morning in the fall of 1945, he did not know that his journey was being so long or that it would carry him to so many places. He did not know that his words of approval given to a fellow man, a fellow worker, a fine man and a friend, would result in later years in some other man rising before a group of people like you, calling him a Communist, dull, unimaginative Bob Robertson, a Communist. He participated, according to the language of the indictment in this case, in a foul conspiracy [8365] against the United States of America. I say, as I have said so many times, who is the United States? You or this gang of officers who have come here? Who has committed the foul conspiracy against you and against our country? The Johnsons, the Crouches, the Rosses, the Rathbornes, willing to lend their perjury to any request of people like Barber. But Bob Robertson and Henry Schmidt are accused of conspiracy. In dark places, unknown to you, secretly, mysteriously, they conferred and conspired. Well, it was a pretty quick conspiracy. Bob Robertson was standing out in the hall, the door opened, Garner—we will assume it was Garner—said, "This other man does not have proof of his citizenship with him. You will have to come back another day." And somebody said "How about you, Bob?" And Bob Robertson went in and said, "Yes, I believe that Harry Bridges is a proper person to be granted citizenship in this country." That was the overt act in the conspiracy. That was the beginning and the end. He placed himself then in the tentacles of the law. With no notes, no memorandum, with forty or fifty other persons processed through to citizenship the same day, Garner forgot the incident like anyone else, but brought here at the order of his superior, Bruce Barber, he remembered amazing things for repetition to you, Bob Robertson, the last minute conspirator.

Let us think for just a moment about Harry Bridges' situation in 1949, what he did and why it happened that these were [8366] the two men who went to court with him. In 1945, after the Supreme Court had so gloriously defended his right to stay in this country, had defended the pulse of his existence, Harry Bridges was sitting on top of the world. Politicians, people of prominence in the community, any person who would have desired, would have volunteered to go to court with him, whether for generous purposes or selfish purposes, but he could have had his pick. He said, "Well, I am going to pick a couple of the old trade unionists. I am going to pick Henry Schmidt and ask him to go with me. He was with me on the waterfront before 1933. And I am going to pick another man, Paul Schnurr, who was older than Henry Schmidt, now retired, but used to be secretary of the union. I am going to court with those old timers. I am not going to have other people."

They went to court. Robertson idled along as a guest and found himself enmeshed in the proceeding. But what was the heinous crime for whose accomplishment they conspired? That one man out of these three men wanted to be a citizen of the United States. These men who prate before you of the cold war, the shooting war, and their patriotic duty—this is not a spy case; this is not a case touching the security of our national government. This is a case of three men who went to court in 1945, gave ordinary and true testimony so that one of them could be received into citizenship in the United States. Well, I guess it is perfectly logical along the lines of the [8367] prosecutor's wit, to exclude from your scrutiny the decision of the Supreme Court of the United States. I guess it is just the thing he says. It is an inflammatory document, prejudicial, that would prejudice—indeed it would—the case for the prosecution in this case. So we do not have it in. Bridges—I think he spoke just as candidly before Judge Foley in 1945 as he spoke before you here. He certainly could have sweetened the phrasing of his testimony if he had done a little red-baiting himself, but Bridges is no red-baiter. Bridges does not say anything but the things he really thinks when he is on the stand before you, and if you want a little test of that, we go back to the old axiom, "Actions speak louder than words," the things that are proved by documents.

In the middle of the war when he received the bitter news that the Attorney General of the United States, despite the decision of the Appeal Board, had ordered his deportation from the country, what did he do? He dispatched a wire to Donald Nelson —I think he was head of the Manpower Commission at the time—the letter and wire is in evidence here—and he assured the Commission that there would be no slackening of work, that there would be no retaliation, that nothing would come of this bitter and monstrous decision. That is a little indication of the kind of man he is. We have seen him here in many moods. I have seen him in many moods on the outside. I have seen wasteful things about him. [8368]

Somebody said, "Harry, what are you going to do when this case is over?" He said, "Well, if it turns out all right, I would kind of like to get a new car." And that is hardly a Communistic thought, it seems to me. But this gentleman, the special prosecutor, speaks of all the defendants— Bridges with his heart of stone, a phrase conjured certainly not out of the pages of the record in this case—Robertson, dull, unimaginative. Well, I do not know just what he means by dull and unimaginative. Maybe I should not tell this about Bob Robertson, but we were over to his house for dinner a couple of Saturdays ago and we found that Bob Robertson is a kind of interior decorator. He made all the drapes in his house, in the living room and dining room, and I do not know whether he likes to have things like that circulated around, but he is obviously not an unimaginative man. I found something terrible when I visited his home, something that I am sure would interest people like Mr. William Kaiser. Down in the basement Bob Robertson has a veritable arsenal. He has guns, he has fishing rods and he is an officer of the Marin County Rod and Gun Club—very subversive. I have not looked to see whether it is on the Attorney General's list yet.

Henry Schmidt—surly you were told—surly, cold, cunning, ruthless Henry Schmidt, hiding behind the skirts of his daughter. I have seen that daughter, Louise Schmidt. I have seen her here every day, as you have. She works at the Crocker Bank. [8369] She gives up her lunch hour. I think she gets off about 11:15, and she rushes up here and goes back to work without very much lunch. She does that so she can be near her father. If that is hiding behind his daughter's skirts, I think it is pretty good. I would hide myself. I would pray that if the hour of necessity ever comes upon myself, I would be very pleased if my daughter and my sons would stand around me the way Louise Schmidt has stood here with her father. I do not think he is hiding behind her skirts. I do not think there is anything bad. I do not think there is anything bad that has been exposed about any of these people.

You are told concerning Rathborne that this burglary charge—forget it, the act of a foolish boy that happened so many years ago, so unfair to bring it up. But when Robertson was a boy, because he bought his way out of the navy, and the record is confused on that point, that must be brought to his eternal destruction. Well, the navy records themselves show that they had no desire to follow Mr. Robertson for prosecution. What would you expect in the background of a young man like Bob Robertson? Born in poverty, moving around in strife and unrest, the generation that felt most strongly the ravages of the depression—what do we find? What blemish is there upon his character? I find none, I find none in the record of this case. I find none at all. When he was flat on his back in the hospital, some stenographer took notations for his draft form, and they [8370] omitted the note about the three months in the navy. The only thing brought here, out of an examination of that man's entire life, innuendoes are brought against him. The special prosecutor, without the necessity of bringing proof before you, says, "Mr. Robertson, when you were in Chicago did you attend a meeting of the such-and-such a society to save Earl Browder?"

"No, I did not." This is Mr. Browder.

"Well, were you a member of such-and-such?"

"No, I was not."

"Did you go to a meeting with So-and-so?" naming three people whose names are entirely foreign to this case.

"Well," he says, "I did not." Where are those people? Where is the evidence? Innuendoes without proof, inferences to lead you along the same path, the happy path of guilt by association. I am proud to be here as a representative of a man like Bob Robertson.

In Chicago in 1943, the first half of 1944, but a rogue like Rathborne can sit here on the stand and tell you that Rathborne in December of 1943—Robertson, pardon me, I should say—was at a meeting of this committee called God's Committee of San Francisco. He says Wilson was at the same meeting, although Wilson does not tell us about that. All of the time Bob Robertson is living in Chicago. Now, you can't laugh that off by the analogy offered you by the special prosecutor, [8371] saying, "If I pay my utility bill in Washington by a check in San Francisco, would that prove I was in Washington?" Bob Robertson brought here every conceivable kind of documentary proof as to where he was, and do not think these men do not know where he was every day of every year. How easy it would be to puncture the bubble of an alibi of that kind. The owner of his apartment—we gave the address for the record. Do you think these people have not checked to see where he was? His address is contained on the stationery of the correspondence introduced in evidence here. Do you think these people do not know when he was there and when he was not there? Why, if he lied in the smallest degree, proof would be brought here to his utter and complete destruction, and no such proof has been brought here at all.

Henry Schmidt--what is said about Henry? Well, we begin with the witness Schrimpf, the hater of Henry Schmidt and Harry Bridges, and what does he say? He says one day Henry Schmidt came by and he tossed a card at me and he said, "You want to get wise and sign this," and he walked on. "I don't remember what I did with it. I may have turned it in."

There is the evidence against Henry Schmidt in this case. Is he weakened by cross-examination? Does he fall into the same role as the Johnsons, the Crouches, the Rosses and the Rathbornes? Has their complete investigation uncovered anything about the life of Henry Schmidt which can be brought here [8372] to his disgrace? Not a line. I have not heard anything.

"Were you a member of the Joint Anti-Fascist Committee?" he was asked. "Were you against the war in 1940?" That pictorial history book that I had here yesterday has a picture of people opposing war in 1940. They are sitting on a platform in Madison Square Garden in New York, and they begin with Senator Burton K. Wheeler; next to him is Kathleen Norris; next to her is Henry Ford; next to him is Charles Lindbergh, but when Henry Schmidt takes the stand here, he is asked, "Didn't you in 1940 call the war a war of oppression? Didn't you say America should stay out of war? Did you make a speech against war at Sadler Gate over at the University of California in 1939?" I guess it was unpatriotic to be against war in 1939. And to top the climax, to top ridiculousness added to travesty, he is asked this: "Mr. Schmidt, in 1943 did you vote in the local elections upon the same ticket endorsed by your union?" Henry said, "Why, yes, of course I did."

"Well, don't you see here that your union endorsed Oleta O'Connor Yates? She was a member of the Communist Party running for superivsor, wasn't she?"

Henry says, "Oh, yes," and we look at the rest of the list: Pat Brown, George Riley, George B. Harris. Henry says, "Oh, yes, we voted for all those people. They all came around and asked for our support." Guilt by association! We certainly do not condemn this gentleman because he was on that ticket and I [8373] do not think we should condemn Henry Schmidt either.

It has been truly said by the critics of Harry Bridges, many of whom have appeared here, that, of course, Harry Bridges is not the soul of the whole labor movement. Indeed, that is not true. The success of an outfit like the ILWU depends upon men, more men and more men still. Harry Bridges has done a fine job. I am not going to say more about him. But underneath Harry Bridges, there are men like Bob Robertson and Henry Schmidt, who have done many things that redound to their credit. Bob Robertson is the kind of man who has gone out into hostile states, into strange communities, places where union organizers get tarred and feathered. Robertson got a broken back and later a cracked skull, but he is not complaining about that. He is his brother's keeper, as we have heard so often. That is his crime, too. He is infected with the same kind of virus. He is his brother's keeper. He wants to see that all kinds of people get a chance to earn a living wage. And Henry Schmidt, in his quiet way, has led the same kind of life. Harry Bridges has directed many things and has been a source of inspiration to many men, but it was Henry Schmidt and not Harry Bridges who went over to the Hawaiian Islands, into the bulwarks of feudalism; it was Henry Schmidt who stayed in Hawaii against the charges of Communist domination. He was called the Red Czar from San Francisco. His request for negotiation at a council table was denounced as a Communistic tactic by the Big Five companies [8374] in Honolulu. And yet that man has survived the calumnies, the violence, the riots and he has had his reward no matter what happens in this case. He has had his reward. He has brought economic security in a real big way to about 100,000 people who never enjoyed it before.

How many of us can look ahead in our lives or can look back upon our lives and see that we have done or ever will do anything like that? I am very proud to be friends with men like Bob Robertson and Henry Schmidt.

At the start of this case, members of the jury, the special prosecutor boasted. He boasted of the new faces he would bring here in support of the same old tired charge: "Get Harry Bridges." He told you, he told the public at large, in many propaganda releases, "We will not use a single witness in this case who has appeared in either of the two previous cases against Harry Bridges."

Well, that was fine. That was good strategy. That was fine. It was fine to be mysterious. It was good not to let us know. But I say to that gentleman—he would do well, in contemplating the present trainees of the viper's nest. He would do well to regard, like and to look backwards through the year. He would do well to regard these devolutions of the years upon that other brave band of perjurers who sallied forth so gloriously in 1939 and 1941 when the world was young, and if he looks back, possibly he would regard their faces as symbolic of their [8375] characters. Possibly he would regard the fates of those persons as portending the fates of the ruined men whom he has seen fit to bring here. Two previous witnesses against Bridges were lawyers. One now stands disbarred in his home state of New York for bribing a witness. The other, the notorious Stanley Morgan Doyle, a friend of Mr. Boyd, faces a perjury charge in Helena, Montana, at the present time. Two of the witnesses died in Spain. One witness, released from the bondage of the penitentiary where he was serving a murder sentence, so that he could do his patriotic duty and testify, finds himself back now in his natural habitation. So let us look ahead just a little. What will be the fate of creatures like Johnson and Crouch when their roundelay of testifying for the government has run its gamut, along with the history which has inspired it? What will be their fate? To what degradation, to what oblivion; to what skid road will Mervyn Rathborne descend when his $125 a week is stopped and he no longer has the kindly Kessler to stand between him and the ravages of alcohol? I wonder. I wonder if he thinks about that. I wonder if it is of any importance in this case.

We have mentioned before what we conceive to be the wholly political character of this case. This is the only case that I can recall in this jurisdiction in which Hon. Frank Hennessy, United States Attorney, has not sat at the counsel table for the entire trial. There have been other special prosecutors, [8876] yes, assigned to cases for one reason or another, some because of political patronage, some because of particular skill, some for a variety of reasons, but always Frank Hennessy, representing his own office, has sat here through the trial. At the outset of this case a representative of Frank Hennessy, it is true, made his appearance, made an opening statement, participated in the taking of testimony—Robert McMillan. He disappeared from this case the very day that Lawrence Ross made his confession of lies before you. He disappeared from the case on that day. He has not returned except once, I believe, for a period of about a half hour. We say that, of course, this is a political case, fomented in Washington, where people are not familiar with the local scene in San Francisco. And what could prove that far better than people who have come in here to testify as character witnesses for the defense? Aren't they a little bit symbolic of the spirit of San Francisco, something I think these men do not know about, but they will stand before you and they will tell you it is only accident or coincidence that this case has taken its present form, that it is just an ordinary case, and that it does emanate from the office of Frank Hennessy, the United States Attorney for this district. And I wonder what they will do. I wonder if they will bring in Mr. McMillan to offer you his words in final argument. I make that suggestion very seriously, because the United States Attorney's office here is not dominated, of course, by Mr. Barber, Mr. [8377] Boyd and Mr. Kaiser. Word comes to us occasionally that machinations behind the scenes in this case, and even now as we sit here, pressure is being brought to bring that man, Mr. McMillan, in here, pressure from Washington, so he can add what dignity and respectability may attach itself to his own person to this case, and if he does that, these gentlemen will have paid you an even further compliment. They have paid you already the compliment of asking you to forget the perjury of their witnesses, to remember only that theirs is the patriotic cause. They will do you another compliment if they force Mr. McMillan to come before you. They will ask you to sit here, you who have listened to every syllable of evidence in this case. They will ask you to listen to advice from a gentleman who has departed from this scene about two months ago and who could not possibly be familiar with more than a quarter of the case. I do not know if they will do it. I know what they are trying to do.

Now, the special prosecutor tells you it was sickening, he said—I use the same word he adopted—it was sickening to hear Harry Bridges sit here in the witness stand and tell you about how he trapped the FBI in New York. That sickened this gentleman because Harry Bridges did not at the same time say, "God damn the NKVD," or something like that in the same breath, so he would make himself a patriot. I do not think the FBI merits any praise out of the activities that Harry Bridges relates because [8378] Mr. Donohue has not told you the whole story. Harry Bridges exposed six, eight, ten agents of the FBI in New York. He caught them. The FBI did not feel so proud of those men either, because the FBI discharged each and every one of the men who were caught in that situation.

And there is another little bit of proof that has not been brought out here. From that day to the present, particularly following the decision of the Supreme Court, which says a great deal about the FBI, the FBI has not touched this case, the FBI is not in this case now. No, Mr. Kaiser, Mr. Barber and the people to whose activities you have listened here, are the directors of the case.

The most heinous crimes in all history have left crimson with innocent blood not the hands of the openly depraved and the publicly wicked, but always the sacrosanct, the solemn hands of persons who commit their crimes wearing the robes of public office, sanctimoniously, hypocritically, I think even sadistically. You have seen many things like that in this case. There is always a special prosecutor at a given time, whether you call him Mr. Donohue or whether you call him Mr. Paisley. He arises in another era to condemn as Communists a person who is so bold as to say, "We should have a child labor law. There should be laws governing the labor and hours of women." And then he subsides when legislation of that kind becomes fixed and absolute in our economic life. There is always the same kind of man [8379] who stands up with the same charge. Social security in the days of Franklin Roosevelt used to be called terrible names. Old age pensions. And yet each of those pieces of legislation takes its place. The danger of Communism, the threshold of disaster—that is always the preaching of these self-appointed guardians of our public welfare. What kind of people are we? Are we so weak in our Americanism, are we so dissatisfied with the fine things that we have that we are going to weaken to any other kind of philosophy? Aren't we doing all right? Communism, the ILWU. Well, the ILWU has enjoyed for many years a modest kind of prosperity under the leadership of the three men who are defendants in this case. I do not remember the last statistics. I understand the average worker gets about $3,000 a year. And he is supposed to be interested in Communism, the workers in the ILWU, who buy their own homes, their own automobiles, have plumbing, have all the advantages of modern life. They are supposed to throw that aside for some mysterious reason like the reasons advanced in the subversive lists of the Attorney General.

Communism is supposed to, or we understand from the testimony here, to create chaos and unrest. That is what we are told by people like Johnson, Crouch and Rathborne. These men have devoted their lives to creating security for about 250,000 people on the Pacific Coast. About 100,000 people in the Hawaiian Islands. About 50,000 people in the Midwest. About 75,000 people in the ports of the Gulf. They are adopting [8380] chaos and unrest. You are asked to believe them.

The other morning in the corridor a gentleman of the press approached our special prosecutor and he said, "What approach are you going to take in your final argument in this case?" That gentleman replied, "The flag, my boy, the flag."

That is a serious thought. The prosecutor not only identifies himself with the government of the United States, which we are said to insult by our asaults upon witnesses, but he will go a little further in his appearance before you, and if he speaks of the flag, which we all revere, he will say this to you, "Whose flag is it? Is it your flag? Yes. Is it our flag? Yes. Is it the flag of Lexington and Concord? Yes. Is it the flag of freedom? Yes. Is it the flag of all the people?" And he will say, "Yes," to that, too.

And if any attempt to invoke the discordant notes of patriotism is offered you here, I have another little invention which I will call to your attention. This courtroom in which we sit is a modern room, comparatively speaking. It was finished in a period of time which we considered just a few years ago, but it was finished before the terrible details, the terrible philosophies of the second world war changed the thinking of every person in America, and if there is any attempt at false patriotism in this room, I will ask you to turn your eyes upward, turn your eyes to the ceiling in this room, and what do you see? The architect of another era was not ashamed to place [8381] upon the ceiling of this room the swastika and the Fascist mace. You see them both on the ceiling of this room, glowering and yet smiling fondly upon those who are adept in the bringing of frameups before persons like yourselves. Look at the ceiling if you want a picture of the past, the past that we rejected.. Look at the ceiling if you want to think of another era when other men made false requests, false callings upon the patriotism of those who listened to their words. We won't let symbols of that hated past destroy our concept of the American flag. I am sure we won't do that. We have a stake in this case. I have, you have, every member of the public has, and it is not our own stake. It is not just the stake of the men whose liberties hang in the balance—not that at all. It is a stake of another generation, the children of Harry Bridges, the children of Bob Robertson, the daughter of Henry Schmidt, my children, yours. We do not want cases like this to happen again. We do not want resurgences of the same kind of persecution, the same kind of appeals for mass injustices. We want to make this country saved for our own generation and for the next generation to come.

If these men could be convicted before you, many things would be lost, many things would be useless. The profession of which I am a member would become palid, useless, even destroyed, so far as I am concerned. Don't do it. Be firm in your own approach as citizens of this community. Be just. Look at the [8382] facts that have been revealed to you in this case, the terrible facts which must resound in your ears over these past months, and speak—speak to us as people have spoken before when people have listened before in the face of injustices and intolerance. Be courageous, as I know you will. Remember this: We are in San Francisco. We are not in New York, where the fog of hysteria surrounds every footstep of progress. We are not in Washington, a maelstrom of political intrigue. We are sitting here in San Francisco where the winds of freedom have always blown. Let us not do anything to change that.

The Court: Ladies and gentlemen of the jury, we will take the noon adjournment and resume at 2:00 o'clock this afternoon. The prosecution will then close the argument and we will proceed to the instructions in the schedule outlined. I again admonish you not to discuss the case under any conditions or circumstances.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [8383]

Afternoon Session, Wednesday, March 29, 1950

CLOSING ARGUMENT ON BEHALF OF GOVERNMENT

Mr. Donohue: May I proceed, your Honor?

The Court: Yes, sir.

~~Mr. Donohue:~~ If your Honor pleases, Ladies and Gentlemen of the Jury:

For the first time in a long life I don't know where to begin. But of one thing I can assure you, and that is that I do know when to end.

I feel a little bit as that little old lady, Mrs. Harris, said she felt that night at Jack Shaw's house when she heard Harry Bridges state that he was a member of the Communist Party, and after a recitation of what the Communist Party had done for the waterfront workers, he solicited the membership of those present who were not members. She said, "I was flabbergasted." And so am I. You have been subjected, and so have I, since shortly before noon on the 17th day of this month to a record of calumny, hate, scurrility and vulgarism such as has never shocked the ears of an American jury before; but such as will continue to assualt the sensitivities of decent people while the organization to which these three defendants belong is permitted to continue, like a cancerous growth, that will destroy every decent thing in American life. [8384]

There it is, all Hallinan and MacInnis (exhibiting transcript), save what MacInnis had to say this morning. Unbridled, undisciplined and not bound by any rule of decency.

I don't mind the fact that these two men go beyond the record to sing their discordant note of hate. But I do mind when they go beyond the record and state as facts, only because they state them, not because they were testified to under oath by any witness upon this stand, and state as facts things which are not only not true but which they know are untrue; and were stated, as I warned you, for the purpose of deceiving you.

A brief record of Hallinan and his use of the epithet. He must have had at his shoulder Webster's Unabridged, because there isn't a word of vilification or hate which he hasn't voiced here. Let's go down some of the witnesses.

John Schomaker, by Hallinan: Once "the laughing baboon"; once "the turncoat," once "the informer." Twice "the perjurer." Five times "the liar." Once "a juvenile with an infantile outlook." Once "a man with a limited and closed mind." Three times "a man shown unreliable by testifying falsely under oath." And once, "a man for sale for any project."

Paul Crouch, by Hallinan: "Perjury," 31 times; "nut," once; "being coached by Government agents," once; "an unmitigated scoundrel," once; "a professional beggar," once; "insane," four times; "fraud," two times; "liar," eight times.

Lawrence Ross, courtesy of Mr. Hallinan: "Perjurer," six times; "a hack," just as he called Mr. McMillan a hack, once; [8385] "a liar," sixteen times; "a crook," once; "no damn good"—fine language in an American court—quoting Mr. Hallinan, once; 'a traitor,'' twice; ''a deserter of his wife and family,'' twice.

Manning Johnson: ''A perjurer,'' eleven times; ''an unmitigated scoundrel,'' once; ''a professional beggar,'' once; ''a liar,'' ten times; ''a fraud,'' five times; ''a union-buster,'' once.

Mervyn Rathborne, by Hallinan: ''A perjurer,'' six times; ''a fellon,'' once; ''a burglar,'' twice; ''a liar,'' thirteen times; ''a fraud,'' once; ''coaching witnesses,'' once; ''accepting an alleged bribe,'' twice.

Henry Schrimpf: ''Bribed and bought,'' once; ''a liar,'' once.

The word ''perjurer,'' ''perjury,'' or some variation thereof used by Hallinan 71 times in his closing argument. The word ''suspect,'' ''suspicious,'' or ''suspected,'' forty times. And the word ''coerced,'' eighteen times.

What do you think, ladies and gentlemen of the jury, that Hallinan will say about you if you don't agree in your verdict with his views of this case? Then we may join company.

And Junior, who doesn't want to be outdone, this morning, and the words probably still echo in your ears, stated two deliberate falsehoods, wholly off the record—giving him no right to even make comment; but he said, No. 1, that in consequence of Mr. Bridges' game of hide-and-seek with the Federal Bureau of Investigation, that six, eight or ten FBI agents lost their jobs. Did you hear any testimony about that from the [8386] stand? Of course not.

But the mistake that Mr. Hallinan made and the mistake that Mr. MacInnis made was that they thought that Mr. Donohue would continue until after the case had gone to your hands, and sit here like a fool and be bound by a rule that says even though they go beyond the record, I may not answer. I shall answer. And I say that statement by Mr. MacInnis is false. And I say also, ladies and gentlemen of the jury, that the statement made by Mr. MacInnis this morning that pressure was being brought from Washington to cause Mr. McMillan to come here and make this closing argument is wholly a fraud and is false; and that Mr. MacInnis knew it. But he thought that I could be decent forever and listen to his calumnies and lies and not make answer. But I shan't, because the people of the United States have some rights in this prosecution.

It would be absurd to think that Mr. McMillan, who has been forced to be absent for more than two months, could come in here and make the closing argument. And it is a deliberate and intentional falsehood to say that anyone from Washington or any place else sought to exercise any pressure on Mr. McMillan to come into this courtroom for any purpose.

Now, amazingly enough, ladies and gentlemen of the jury, these two men who represent these three defendants have consistently said to you, "The Government doesn't have any case. We don't know why we are here. It is not worth our time to [8387] put on a defense." Yet, beginning on page 7603 of Volume 70 of the transcript, at 11:45 a.m. on the morning of March 17, Mr. Hallinan began. And for 604 pages, more than a hundred thousand words of testimony, you listened to Mr. Hallinan.

Let me read you, if I may, from Mr. Hallinan's opening sentence:

> "Mr. Hallinan: The only part, the only description that Mr. Donohue gave of me that I feel much concerned in correcting immediately is the statement that I am going to be tiresome and tedious because I will try to not be and not oppress the jury by saying a lot of unnecessary things."

And 604 pages and 100,000 or more words later, he finally came to a conclusion.

Let me read you one other significant statement by Mr. Hallinan, at the very outset, and from the very first page of his opening argument:

> "The problem that the jury is confronted with is to tell which of two sets of witnesses who are telling conflicting stories are telling the truth. That is the proposition. In other words, if all these witnesses that Mr. Donohue produced on the witness stand were telling the truth, then there isn't any questoon as to the effect that their testimony would bear; it would mean, of course, Mr. Bridges had been a member of the Communist Party; had testified falsely, and so forth and so on." Period. [8388]

I wouldn't even comment on the rather extraordinary length of the argument, the argument by Mr.

Hallinan, except that I cannot escape the impression that having told us about some other case here in California in which defense counsel argued the matter for seven and a half days, Mr. Hallinan's vanity inspired him to break that record. And believe me ladies and gentlemen of the jury, he would have done so, except that on Monday morning his Honor set a final limitation on all argument, Government and defense. It ran pretty much as I told you it would. It was essentially an attack on the prosecution. And those of us who constitute the prosecution. It was an attack upon every Government witness who testified; and, parenthetically, even the Los Angeles County probation officer didn't escape wholly unscathed.

It was an amazingly scaled-down and subdued reference to the so-called Stockton alibi, quite minor reference to the testimony of good character, and a complete silence, a complete silence, on any defense testimony, save for a brief reference by Mr. Hallinan to the witness B. B. Jones as "a weird character," and to Jean Murray yesterday, by Mr. MacInnis, as the near cause of his crawling through a hole in the floor, except that the hole wasn't quite large enough. And, of course, a resort at great length to the usual desperate defense reliance upon the presumption of innocence and the doctrine of reasonable doubt. [8389]

I must say, however, that those 604 pages of argument gave Mr. Hallinan an opportunity to display quite an affectation of learning while we waited for him to discuss the evidence in the Bridges case. He read or quoted liberally from Shakespeare, Dante, Macauley, Bertrand Russell, Theodore Dreiser, Emile Zola, Voltaire, Victor Hugo, Rostand, Goethe, Ariosto, Samuel Johnson, Browning, Brooks Adams, Aesop, and some others. And I am sure you recall his dramatization from Aesop of the wolf and the little lamb sharing the same little stream. And I cannot but pause to observe that Mr. Hallinan was badly miscast as the lamb.

This performance by Mr. Hallinan so inspired Junior that he recited a bit of poetry himself, and finally, to show us that he had a couple of books, one of them being a picture book, he brought those in, too.

At the outset, and before making specific reference to certain things stated by these two men, there are three propositions which I would like to make clear. They are there: No. 1, this is the first and not the third Bridges prosecution. No. 2, this prosecution had the full cooperation and support of Mr. Frank J. Hennessy, United States Attorney for this district. And No. 3, the attack made by Mr. Hallinan, Mr. MacInnis and their three defendants upon this prosecution is an attack made upon the Government of the United States.

Discussing these in turn, No. 1: This is the [8390] first and not the third Bridges prosecution. The deportation hearings which these men have consistently brought before your attention, despite the repeated statements by the Court that they were not our concern in this trial, and to which, despite these repeated rulings from the Court, counsel for these defendants have made such frequent reference, were administrative hearings held before an immigration examiner. In preliminary motions which were argued at great length in this prosecution, and before the start of this trial, it was determined by the Court as a matter of law that these hearings were no part of this prosecution, This trial, to the contrary, is upon a criminal indictment returned by a grand jury.

Let me interrupt for a moment to read you from Volume 70, page 7627, one of Mr. Hallinan's many attempts to misquote law and fact for the purpose of misleading you. And I read from the record the statement by Mr. Hallinan, page 7627:

> "Now, it is the obligation of the grand jury to return an indictment if there is a reasonable suspicion that a person has committed an offense. Now, a reasonable suspicion is not a very strong force, so a grand jury returns an indictment when sufficient evidence is introduced before it to raise a reasonable suspicion that a crime has been committed and to put the person who is charged upon his defense for that crime."

That is not the law. The law in the State [8391] of California, established by your Code, requires every grand jury to be charged in this brief language:

> "The grand jury ought to find an indictment when all the evidence before them, taken to-

gether, if unexplained and uncontradicted, would in their judgment warrant a conviction by a trial jury." [8391-A]

And so this trial is upon a criminal prosecution, upon an indictment returned by a grand jury, and as I have stated to you before and I repeat again, no witness who testified for the prosecution in this trial has ever testified against Mr. Bridges or his co-defendants before under any circumstance or at any time. It takes no knowledge of the law to understand that since none of the government's witnesses testified against Bridges in either the 1939 or the 1941 deportation hearing, that nothing said by Mr. Landis or by Mr. Sears, who conducted those two hearings, can be of any possible value to us here.

Number two: With no basis of fact from the testimony of any witness, and with no basis of fact otherwise, Mr. Hallinan and Mr. MacInnis have gone to great lengths to attempt to persuade you that the United States Attorney for this district, Mr. Frank J. Hennessy, was not in sympathy with this prosecution in the first place, and that in the second instance, at some time during the trial, the time being quite uncertain, Mr. Hennessy would have dismissed this prosecution. That is another fabrication out of whole cloth, wholly untrue, wholly false, and known by them to be false, but stated for the purpose of prejudicing this prosecution.

Now, the fact of the matter is that when I first came here last spring to present the evidence, much of which you have heard, to the grand jury, and after a discussion with Mr. Hennessy upon that subject, Mr. Hennessy assigned his senior [8392] assistant, Mr. McMillan, to assist me in the presentation of evidence to the grand jury, which Mr. McMillan did. The further fact is that subsequently he assigned Mr. McMillan to actively assist me in the conduct of this trial, which Mr. McMillan did, until such time, unfortunately, as the burden of trial so affected his health as to preclude his return to his active participation, and the final and complete answer to this bold attempt on their part to state an untruth is that the very indictment under which this trial was brought was signed by Mr. Frank J. Hennessy as United States Attorney for this district, and you are allowed to take this indictment into the jury room with you; and you will see his signature.

And yet these men, in the hope that we would fall into a trap and play the game, because we have played it until now, knowing that that argument on their part was improper because outside the record, they thought I would be stupid enough to follow the rule and not to answer it. I tell you, ladies and gentlemen of the jury, they know, because the indictment is available to them, they have copies which show the typed signature of Mr. Hennessy.

Now, number three, the attack made upon the prosecution of this case is an attack upon the government of the United States. The investigation, ladies and gentlemen of the jury, out of which this prosecution arose, was ordered by the Hon. Tom Clark, who was then the Attorney General of the United States, and who [8393] is now a Justice of the Supreme Court of the United States. Upon the completion of that investigation so ordered, and upon a study made of the same by the Attorney General of the United States, he then ordered that the evidence so obtained be presented to a grand jury in this district. For that purpose I was appointed as special assistant to the Attorney General.

Some time subsequent to the return of that indictment, and before the beginning of this trial, Mr. Clark was elevated by the President to the Supreme bench, and the Hon. J. Howard McGrath, twice governor of the State of Rhode Island, the former Solicitor General of the United States, and at the time of his appointment as Attorney General, a member of the United States Senate from the state of Rhode Island, was appointed the Attorney General. After a discussion with him, the new Attorney General of the United States, my appointment was renewed and I was sent here for the purpose of conducting this trial. This is not my prosecution. This is not the Department of Immigration's prosecution. This is not the case of Donohue and Paisley v. Hallinan and MacInnis. This is not the case of Boyd, Barber and Kaiser against, Bridges, Schmidt and Robertson. This is the case of the People of the United States against these defendants, brought in the name of the people of the United States under the authority of the Attorney General of the United States and the authority of the United States Attorney for this district. No indictment can be returned in this district except by [8394] the authority of the United States Attorney, the Frank J. Hennessy to whom they make reference.

This case is not being tried in a vacuum. A free press reports it all over the world. The charges made here by counsel for these defendants that I am a liar, and on one occasion within a very few minutes thereafter, doubled and redoubled, that I am a briber of witnesses, that I am a suborner of perjury, and that I am a concealer of evidence, an unlawful spender of public funds, has been carried by the press to every corner of the world, including the office of the Attorney General of the United States. More than that, Mr. Hallinan has told you that he has sent letters to Mr. Frank J. Hennessy, the United States Attorney for this district, and to the Attorney General of the United States, demanding the indictment of the witnesses whose alleged perjury he charged me with supporting. So there can be no doubt but that the Attorney General is fully advised as to what is taking place in this courtroom. I am only a hired hand. The Attorney General can remove me by a signature to a piece of paper. He or the United States Attorney, Mr. Frank Hennessy, could end this trial with a word. They have not done so. This is their prosecution, brought in your name, in the name of all of us, and I shall carry it on as their representative, one Hallinan or a thousand Hallinans to the contrary notwithstanding.

Personally, I pay little attention to their vulgarisms, not that this is not the first time in a long experience that I [8395] have ever been so castigated, but because I fully recognize that, despite their stated desire for a verdict by this jury, it was their real hope to either beat or goad me into some act or indiscretion that would justify them in one of their countless numbers of requests to this Court for a mistrial and withdraw this case from the consideration of this jury. My only concern is that you be not misled by their doubletalk, that their attack is wholly personal upon me, for in truth and in fact it is an attack upon you, upon the judge who presides here, and upon our whole judicial system. I only happen to be the immediate and convenient target.

Mr. Hallinan: If the Court please, I feel under the necessity at this time to assign that last statement as misconduct, and ask that the jury be instructed to ignore it. Counsel has no right when he and his allies are accused of personal fraud in saying we accuse this Court and this jury of anything of that kind. The accusations are directed directly against this little gang, and the Court does not mention nor the jury mention it. He has no right, after all, although he is only acting as a private lawyer and a special prosecutor—he is bound by the same rules as a public officer and he has no right to make a statement like that.

The Court: The objection is overruled. The assignment is denied.

Mr. Donohue: It is apparent, in the time within which I [8396] have told His Honor that I would conclude my argument, that I can not hope to answer even a fair percentage of the allegations made by Messrs. Hallinan and MacInnis in this voluminous record. I tried in the opening statement to adhere to that rule that argument must be combined to the evidence and to such comment as may be justifiably inferred therefrom. My opponents, as I have stated before, have completely disregarded that rule for the purpose of prejudicing me and my associate, Mr. Paisley, and thus and through us the case of the United States in your minds. For example, Mr. Hallinan read a long article from one of the local newspapers, the subject matter of which was slum conditions in Washington, D. C., where I happen to live, particular reference being made in that article to the conditions in which some of our colored residents live. He also read another article containing a story from the city where I was born, Lynn, Massachusetts, and in which I have not lived for 30 years. This story concerned a young Jewish boy whose father had given his life for us in the Battle of the Bulge, and who had been cruelly beaten by a gang of young ruffians. Why? There wasn't any testimony about that before this jury. Why do you suppose Mr. Hallinan took your time and mine to read it? It could scarcely be that I, the son of Irish immigrant parents, and of a minority religion, would countenance such conditions or condone such conduct. And for what reason, ask yourselves, did Mr. Hallinan refer to the prevelance of pellagra and the burning of [8397] fiery crosses in the state of Tennessee, which happens to be the native state of my associate, Mr. Paisley, unless it was his purpose to appeal to the basis of all human prejudice, in the hope of saving from their just punishment these Communist defendants? I shall do my best in the time established by His Honor, and I shan't ask for any more, to call your attention to just a few of the misstatements for the purpose of prejudicing the case of the United States in your mind, and I shall call these few instances to your attention in the hope that you will reserve yourselves the right to make final judgment as to whether the pattern which I shall develop has not permeated everything that they have said from beginning to end, and perhaps you will bear in mind that short quotation from Mark Twain in which he said, "A lie can circle the world while the truth is putting its shoes on."

Let me call your attention first to a very strange occurrence. Mr. Hallinan at the outset spent a great deal of our time whining and whimpering about his own contempt case, a matter which is no concern of yours and is no concern of mine, a matter wholly between Mr. Hallinan and His Honor. I call this a strange occurrence, because in order not to prejudice the rights of these defendants, the Court was very careful that these matters be heard in the absence of the jury, and they came only to your attention through Mr. Hallinan. His motive in calling it to your attention is probably best expressed by [8398] his associate, Mr. MacInnis——

Mr. Hallinan: Pardon me. I will have to make another assignment. I do not like to do it. I do not like to interrupt counsel, but the law requires, so the jury will understand, that if we do not make these exceptions at the time, the statements are uttered, we are held to have waived them. This matter was developed by counsel slyly and sneakily questioning the witness Robert Kenny on cross-examination as to his representation of me in a matter then pending before the Court, inferring that there was something, that there was more to my detriment than a mere contempt of court proceeding. It was necessary then in order to clear up any such allusion and pretense for us to develop what the exact thing was. That is how that came into the record, from his own questions of Mr. Kenny.

I also did not whine or complain about the Court's action in the matter or make any criticism, but I did certainly point out how this gentleman, who now says it was none of his business, came in and whipped up and induced the Court and tried to persuade the Court to remove me from the case at the time. We ask that the jury be instructed to ignore that statement now.

The Court: The objection is overruled; the assignment is denied. I might interrupt counsel momentarily to state that matters of contempt affecting counsel are not immediately before this jury and I should not care to discuss the matter at any length or at all. I do not perceive, however, that Mr. Donohue's [8399] remarks are the subject of misconduct.

Mr. Donohue: Mr. MacInnis, page 8220 of the record:

> "I think, members of the jury, that I would do almost anything to win this case."

That may explain Mr. Hallinan's parading of this circumstance before you. I am not surprised at Mr. Hallinan, having elected to tell you about it, whimpered and whined, because from his conduct here, it is apparent he has more of the canary in him than the eagle. Whatever may have been his purpose, one thing is certain and that is that you are not to consider the question of his contempt, and that you are not, to the slightest degree, permitted to influence or prejudice you for or against these defendants. I raise the question only because of the wholly false statements made by him, and just repeated, that we of the prosecution, Mr. McMillan, Mr. Paisley and I, invited the Court, to quote him, to a hatred and rage for him, cause the Court to hold him in contempt.

Mr. Hallinan: Just a minute. I have to make another exception there, Your Honor. I read out from the record just what this young man had to say, calling me a mad dog.

Mr. Donohue: Correct.

Mr. Hallinan: Mr. Paisely calling me a bawdyhouse or some such thing as that, the use of that kind of language, and then he says that was a false statement that was made, that they tried to whip up the Court. I also call to Your Honor's [8400] attention the fact that I read to the jury from the record that they demanded that Your Honor imprison me at once, remove me from the trial of this case, and force Mr. Bridges to go out some place and get another lawyer. Do you deny that, too, sir?

Mr. Donohue: No, and if you will just keep quiet long enough, Mr. Hallinan, I shall read from the record what was said, not what you said was said.

Mr. Hallinan: I take an exception.

The Court: The exception is denied.

Mr. Donohue: May we take the recess?

The Court: Members of the jury, we take the 3:00 o'clock recess. The same admonition to you not to discuss the case under any conditions.

(Recess.) [8401]

Mr. Donohue: May I proceed, your Honor?

The Court: Yes.

Mr. Donohue: I want to make it perfectly clear to you, so that my motive may in no wise be mistaken, that I am talking about this matter of contempt not at all for the purpose of discussing the merits or demerits of that proceeding, because I again repeat, it is not within your concern nor is it within mine. I am only discussing it for the reason that Mr. Hallinan, instead of standing on his two feet like a man and accepting the responsibility for his own misconduct, seeks to put the responsibility for his misconduct on the prosecution. He read you quite liberal interpretations, particularly from the point of view of time, what was said by Mr. Paisley and by myself. I want to read to you exactly what was said by Mr. Paisley, by myself, and what was said by Mr. McMillan, whose statement for some reason Mr. Hallinan eliminated from his discussion.

Now, Volume 7 of the record indicates that the holding in contempt took place on page 810 of the record, which I shall not read. But I shall go to page 841, after Mr. Hallinan's contempt matter had been determined by the Court, and here is the quotation from which Mr. Hallinan gave you a part, and made after the holding in contempt. I said to the Court, with respect to a motion that was under discussion:

> "The United States came into this court before your Honor on Monday of last week, after careful preparation, [8402] to prepare and present to your Honor and this jury the case of the United States of America v. Harry Bridges and others. We expected to present that case with dignity to the United States, carefully safeguarding the rights of these three defendants. And I most respectfully observe to your Honor that while the contemptible and contemptuous conduct of Mr. Hallinan, who has roamed this courtroom since Monday of last week like a mad dog, disregarding the rights of everyone, including your Honor—I say, if your Honor please, that the integrity of the courts of the United States require of your Honor at this time that action be taken that

> we not be subjected to this kind of conduct in the future."

And mark you, that is 41 pages in the record after the holding by this Court of Mr. Hallinan in contempt.

Now, with respect to a matter which arose shortly thereafter, and referring now to page 851 of the record, the following occurred:

> "The Court: Mr. McMillan, may I hear from you? I have great respect for your considered judgment, and your temperament.
>
> "Mr. McMillan: If it pleases the Court, I believe the orderly administration of justice and the proper respect to be shown to the Court far exceeds the Bridges case. I think it far more important that the integrity of our [8403] courts and the respect due our courts should be upheld. I see no reason at all for any stay of execution."

After interruption by Mr. Hallinan, Mr. McMillan continues:

> "Mr. McMillan: Because I believe that this thing will continue every day and we would just reach a stage sooner or later where we shall conclude we have just been putting off the evil day. That is what will take place. I am going to suggest to your Honor that this trial be recessed, we will say, until December 5, and that your Honor instruct Mr. Bridges that meanwhile he procure additional counsel to get

> prepared to proceed to trial on that date and also announce at this time that if he has not counsel then, that you notify Mr. MacInnis that you are going to assign him to act as counsel and instruct him to act as counsel."

Whereupon, after some more discussion by Mr. Hallinan and Mr. McMillan, the following:

> "The Court: Mr. Donohue, you represent the United States as a special prosecutor. May I have your view on this matter?
>
> "Mr. Donohue: If your Honor please, I do not concede that the removal of Mr. Hallinan from the representation of Mr. Bridges will operate to the detriment of Mr. Bridges. I quite definitely feel to the contrary. I concur thoroughly and wholly in what Mr. McMillan has said. I think we [8404] have a situation to meet; we must meet it now. I concur in one suggestion that your Honor adjourn this trial until the 5th day of December and at that time instruct Mr. Bridges to be here with counsel to continue the progress of this trial.
>
> "The Court: Mr. Paisley, may I address myself to you? You have participated in some rather outstanding trials," and so forth. "How do you feel toward the situation?
>
> "Mr. Paisley: Your Honor, I have never seen any such performance as this in my life. Your Honor has indicated that you have never seen any such contemptuous conduct in a courtroom. I dare say that no appellate court would

> ever receive such a record as this. Mr. Hallinan—I will not refer to him as counsel—I will not prostitute the word by using it in relation to this matter. He has desecrated this temple of justice."

Whereupon a typical Mr. Hallinan interruption, which I shall not read. And then Mr. Paisley continues:

> "Mr. Paisley: Your Honor, this is the temple of justice. He is trying to make this a bawdy house."

All after the finding in contempt.

Now, not satisfied with trying to pass the responsibility for his conduct onto either the prosecution or the Court, or both of us—if that wasn't enough—let me read Mr. Hallinan's remarks from page 7617, if you want to hear some pompous mummery: [8405]

> "And Mr. Paisley, with his delightful little remark, 'Your Honor, this is a temple of justice; he is trying to make this a bawdy house.' I have been busy in the preparation of the case, haven't had the opportunity to look up the exact significance of the term. I can't tell you what a bawdy house is; I have never been in one, but I have no doubt that Mr. Paisley will furnish you with an exact description."

Now, all anyone has to do if his instincts are correct is to look at Mr. Paisley to know that he is a gentleman, a man of kindly, clean, decent standards. Mr. Paisley doesn't have to apologize for having been born in the great State of Tennessee. Nor does he have to apologize for the fact that his tongue still has the soft slur of the South. Mr. Paisley has been with the Department of Justice for some time. Mr. Paisley is an exceedingly able lawyer. Mr. Paisley has tried with honor to himself and with distinction to the United States some of the most important cases of our times. He is poorly equipped for the kind of contest that suits Mr. Hallinan's temperament.

Fortunately, my skin is a little thicker. It just so happened, though it wouldn't make any difference to Hallinan, that Mrs. Paisley, the mother of two lovely children, one daughter married to an officer in the United States Navy, was sitting in the room when Mr. Hallinan made that remark. But don't be [8406] surprised. Mr. Hallinan sunk to the lowest depth of degradation to which a creature who calls himself a man can sink. And let me call it to your attention. [8406-A]

Page 8050 of the record, talking about a letter written by a woman who was not called to the stand by either side, and who therefore had no opportunity to defend herself against Hallinan's attack, here is what he said:

> "It is a letter addressed by Mrs. Schomaker, Roza Schomaker:
>
> " 'Dear Bruce:'

—asks him to come down and it says:

'you and I have many things to talk about.' "

about.' "

And then it is signed "As ever, Roza."

> "Now, there is a certain intimacy in that letter. There is a certain significance about it. It isn't a letter, 'Why don't you come down and have dinner with John and me?' and so forth. There is a certain hint or suggestion in it, either that B. B. Jones at one time had some romantic interest in Roza Schomaker either before or after she was married, that she felt she exercised some power or control over him. It has a certain teasing quality. And then the phrase, 'As ever, Roza.' What does that mean? What is the significance of that? That letter is a well designed letter to induce a suspectible person to assume that there is some relationship upon which he can count on existing in the person that wrote that letter."

I heard the same Hallinan cry crocodile tears one day [8407] because the child of Harry Bridges was subjected to an unfortunate circumstance where the children called after her, "Your father is a Communist," and I deeply and sincerely regret it. There is nothing more tragic than the hurt feelings of a child. But imagine the father who would put himself in the position where the statement can be called after his children, and the same Hallinan who shed crocodile tears over that child's injured feeling won't have any sympathy for the fine little boy and fine little girl of John and Roza Schomaker. It makes no difference to Hallinan and his gang that the children in the street quote Hallinan and say to Roza and John Schomaker's two children, "Your mother had an affair with B. B. Jones." What kind of a man can do that to a woman who can't defend herself?" It is a fortunate thing for Mr. Hallinan that John Schomaker was not within reach of the filthy mind or the dirty mouth that could voice that accusation at the time it was made, because John Schomaker, man and all man, who could sit back and laugh when Hallinan called him a hobo and a bum and say, "Yes, I could be called that in those days," there won't be any smile on John Schomaker's face when Hallinan is called to account for the slur on John Schomaker's wife and the mother of his children.

And so, ladies and gentlemen of the jury, as I turn tomorrow to some specific instances, again of the tortured truth and the stated lie, remember what Mr. Hallinan said of Mr. [8408] Paisley and what Mr. Hallinan would do to a defenseless woman, and as you listen to the contradictions of fact against lie, let me call your attention to Hallinan on Hallinan. I quote from the record at page 7625, and if you want an insight into Mr. Hallinan, if you want to know how much credence you can place in anything he says, let me read you his discription of himself. Page 7625:

> "You get into the place where you crawl off into a corner and curse the injustice of life, maybe take a kick at it once in a while if they come too close. That is about the position I have degenerated into."

Ladies and gentlemen of the jury, he does not know the depths of his own degeneration and degradation.

May we take the recess until tomorrow, if your Honor please?

The Court: Yes. We will take the adjournment, ladies and gentlemen of the jury, until ten o'clock tomorrow morning. The same admonition to you not to discuss the case under any conditions or form or express an opinion until the matter is submitted to you. Ten o'clock tomorrow morning.

(Thereupon an adjournment was taken until Thursday, March 30, 1950, at 10:00 a.m.) [8409]

Thursday, March 30, 1950, 10:00 o'clock A. M.

The Clerk: In the case of United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: You may proceed.

Mr. Donohue: May I proceed, Your Honor?

The Court: Yes.

Mr. Donohue: Ladies and gentlemen of the jury, I would like to turn to the record and call your attention to some of the statements made here by counsel, and then refer back to the record for the truth. Quoting Mr. MacInnis in Volume 77, pages 8239 and 8240:

> "Mr. Hallinan, at the time the first major objection was made, told the jury that he would show the manner in which the CIO was formed

> out of the A F of L on the issue of autonomy of unions, on the issue of democracy."

referring to pages 553 and 554, a portion of Mr. Hallinan's opening statement. He continued,

> "Objections were made by the two prosecutors to that offer made to the Court, and while they made those objections, they knew that their witness, Henry Schrimpf, the third witness to be called here, was already waiting to give identically that testimony, while said prosecutors knew that this witness, Schrimpf, would give that identical testimony." [8410]

It is a fact that when Mr. Hallinan made his opening statement and referred to the formation of the A.F.ofL. out of the CIO, we did object, because we took the view, and His Honor sustained us, that that was not a matter in issue on the question as to whether or not these defendants are guilty as charged. Now, the suggestion made by Mr. MacInnis was that though we objected, we were responsible later for introducing that evidence before this jury.

Let us turn to the record, and I quote from Volume 14, page 1657, the cross-examination of the witness Henry Schrimpf by Mr. MacInnis:

> "Q. (By Mr. MacInnis): Well, now, after the union which has been the ILA became the ILWU, even after it left the American Federation of Labor and joined the CIO, you were the leader of the opposition which sought to keep the union in the A.F.ofL., isn't that right?"

And so, ladies and gentlemen of the jury, we did object to the statement made by Mr. Hallinan in his opening statement, but we did not introduce that testimony after having made the original objection through the witness Henry Schrimpf. It was introduced by Mr. MacInnis on cross-examination. And before I forget it, and on the same theme, Mr. Hallinan and Mr. MacInnis went to some length to tell you ladies and gentlemen of the jury, that for the purpose of prejudicing these defendants before you, we of the prosecution introduced the theme of [8411] patriotism to appeal to your prejudice against these defendants, that we of the prosecution introduced the theme of the cold war, and the possibility it might eventually result in a shooting war, and that statement was made again by Mr. Hallinan and by Mr. MacInnis for the purpose of indicating that we did so to prejudice these defendants. The truth and the fact is so recent in your memory that you can not have forgotten the first word of testimony on that score which came from the lips of the witness Mervyn Rathborne. I knew what had happened when Mr. Rathborne went to Washington and talked to the then Attorney General, the Hon. Tom Clark, but I did not ask Mr. Rathborne if he had gone to Washington and talked with the Attorney General, and if, knowing that he had, what did the Attorney General say to him, because I knew what the answer must be. You will recall that it was Mr. Hallinan himself who said to Mr. Rathborne, "When you talked with the Attorney General of the

United States"—Strike that. Mr. Hallinan said, "When you talked to Clark in Washington, what did he say to you?"

The witness Rathborne told him what the Attorney General had said. And so again, and on the same point, I invite your attention to the fact that it was the defense and not the prosecution which introduced that theme into this record.

Now, let us look at another quotation. Mr. MacInnis alleged that the prosecution objected to Mr. Hallinan's opening statement concerning the alleged dictographing of Harry Bridges' [8412] hotel room in Portland in 1937, when the prosecution knew that their witness or witnesses, Schomaker, Krolek and Schrimpf, were prepared to testify to that matter. Quoting Mr. MacInnis, page 8241 of the record:

> "On page 565, referring to Mr. Hallinan's opening, when Mr. Hallinan told the jury that he would show the extent of our surveillance over Harry Bridges, going back to the year 1937, when people placed a dictograph in his hotel room in Portland, the same storm of protest, the same charges that those facts were fantastic and outside the scope of this case, when they knew that three of their witnesses were prepared to testify to that very matter, Mr. Schomaker, Mr. Krolek and Mr. Schrimpf."

Now, what is the fact? The fact is that when Mr. Hallinan stated to you in his opening statement that he would show that a dictograph was placed in Mr. Bridges' room in a hotel in Portland in 1937, we objected. The objection was sustained by the Court, and you may recall at that time I renewed to the Court a statement I had made to the Court theretofore, and that was that not one scintilla of evidence would be introduced in this prosecution which was obtained by dictographing or by wire-tapping. That promise I made then I have kept. Therefore, if Mr. Bridges' hotel room in a hotel in Portland were tapped, if his room were dictographed in 1937, and no evidence thereof was offered in this prosecution the statement was objectionable and [8413] His Honor sustained it. But in order to give the inference to you ladies and gentlemen of the jury that after having objected when Mr. Hallinan made the statement, we then offered that testimony in evidence, let me again turn to the record, and I turn now to Volume 10 and read you from line 20 to line 23 on page 1192. The witness was being examined by Mr. Hallinan.

> "Q. Now, you had something to do with the discovery of the Dictaphone in Mr. Bridges' room in 1937 in the Multnomah Hotel, didn't you? A. Well, I didn't discover it."

And again I say to you, it was not the prosecution, it was the defense which introduced that testimony, references to which we had objected to during the course of Mr. Hallinan's opening argument.

And the third reference, Mr. MacInnis also alleged that after we had made objection in Mr. Hallinan's opening statement to the effect that the issue in this trial was the same as the issue against

Harry Bridges in two previous hearings, that then having made that objection, we called our first witness, Mr. Lloyd Garner, concerning that very matter. Quoting again Mr. MacInnis from the record, at page 8244:

> "In the opening statement was the mention of the fact that there were two previous hearings in which the same issue against Harry Bridges was tried. That was a terrible thing. That could not be said. The prosecutors unanimously objected [8414] to that statement, and yet before the first witness, Mr. Garner, Mr. Lloyd H. Garner, an official of the government himself, had been on the stand for a half hour, those facts had popped into the testimony, the same issue, the same exculpation, the same charge by the government against the same man, the same acquittal as in the two previous charges, but the government two days before had told the Court and jury that the fantastic issue would never find its way into the scope of the evidence in this case."

What is the fact? The fact is that we did object in Mr. Hallinan's opening statement, and the fact, or the recitation of the alleged fact by him that in the two previous deportation hearings, the same issue as is being tried here was being then tried. We objected, number one, because that is not true; we objected, number two, because the Court had ruled as a matter of law that this jury, that this prosecution is not concerned with the prior deportation hearings. Now, if what Mr. MacInnis said, as I just read to you, is true, that in the face of our objection we then called Mr. Garner and put in evidence the very thing which we had objected in Mr. Hallinan's opening statement, he might well criticize us. Well, what is the fact? Let us look again at the record, and I refer now to Volume 5 of the record at page 626, and the witness on the stand is Mr. Lloyd Garner. And here is the question asked of him—not by me, not by Mr. Paisley—again asked of Mr. Garner by Mr. Hallinan. [8415]

> "Q. In other words, in this application, which the applicant Harry Renton Bridges presented to you, and which, as you say, you had in your possession, the day you talked to these three men, and asked the questions which you say are now engraved on your memory, so that you need not refresh your memory, you had this before you:
>
> " 'In 1938 I was arrested in Baltimore on a charge of being subject to deportation. My case was tried in 1939 at Angel Island before Dean James M. Landis. He found and held that the charges against me were untrue and recommended that the warrant of arrest be canceled,'—"

and so forth for another half a page.

That is the question of Mr. Garner by Mr. Hallinan. So in all fairness and justness, I ask you, Is it true, as Mr. MacInnis stated to you, that having objected to irrelevant and immaterial matter which Mr. Hallinan in his opening statement said he would prove, that we then turned around and introduced that very evidence before you ladies and gentlemen of the jury? It is not true, because the three instances I have given you—and I shall give you another one, one more—in each of those instances the matter to which we objected when the reference was made thereto by Mr. Hallinan in his opening was subsequently introduced by the defense. And here is the fourth. [8416]

It is alleged by Mr. MacInnis that when Mr. Hallinan in his opening statement said he would show to the jury that the FBI in the past had threatened and berated witnesses to get their testimony against Bridges, the prosecution objected. But then their witnesses, Krolek and Rathborne, testified to precisely the same thing. Now, let me quote from the record Mr. MacInnis' reference, and I quote now from the record of Mr. MacInnis' closing statement:

> "Mr. Hallinan said in the opening statement that he would show the jury that in the past the FBI had threatened and berated witnesses to get them to testify against Harry Bridges. The same three gentlemen were upon their feet. It was false, it was untrue, the FBI was not on trial, this was another case, this was the Immigration Department's case, the FBI was not involved, that matter could never get inside the record in this case. And yet all the while they knew that their fifth witness, Mr. Krolek, was going to testify precisely to that. Mr.

> Krolek and Mr. Rathborne, who together gave you a very vivid account in their words, and not ours, not adopting the biased adjectives I might use, not taking the aura of prosecution."

End of quote of Mr. MacInnis.

Let's look at the record—and I refer now to Volume 19, page 2232, to determine this issue of fact: Did the prosecution, having objected to the opening statement of Mr. Hallinan that he [8417] would show that the FBI used pressure, third-degree methods, berated witnesses, in order to obtain their testimony? We did object to that statement. Question: Did we, having objected, then introduce that very evidence before this jury?

Page 2232. The witness is Mr. Krolek, the examiner is Mr. Hallinan.

> "Q. Now, on April 23 were you taken to the FBI offices in San Francisco by agents, along with your wife?"

And there follows then a great number of questions and answers on that very subject. And I refer that again to you as a final proof of the fact that the matters to which we properly objected, when stated by Mr. Hallinan in his opening statement, were not then subsequently introduced in evidence by the prosecution. They were introduced by the defendants themselves in their own cross-examination of our witnesses. I did not ask Mr. Krolek a single question about his experience with the FBI, because I knew what both Mr. Hallinan and Mr.

MacInnis, each in his closing statement, has said to you ladies and gentlemen of the jury, that the Federal Bureau of Investigation is not a part of this case. There has not been a single word of testimony introduced in this prosecution by the Federal Bureau of Investigation.

As you undoubtedly know, both the Bureau of Immigration and Naturalization and the Federal Bureau of Investigation are divisions of the Department of Justice, and the Attorney [8418] General of the United States is in complete charge of both the Federal Bureau of Investigation and the Bureau of Immigration and Naturalization. They are sister services within the Department of Justice. Yet, knowing and publicly stating to you that the Federal Bureau of Investigation has not introduced any of the evidence in this prosecution, Mr. Hallinan and Mr. MacInnis went at some length to show that prior to the second deportation proceeding the Federal Bureau of Investigation used coercion on the witness Krolek in order to obtain testimony which he never gave before a public hearing.

Now, we objected. If the evidence that Mr. Hallinan or Mr. MacInnis offered tended to show that in any way Mr. Krolek was influenced by the Federal Bureau of Investigation or by anyone else, in his testimony in this trial, we would not have objected, because it would have been a perfectly proper inquiry. But it was introduced by Mr. Hallinan and Mr. MacInnis despite their assertion, which is true, that the Federal Bureau of Investigation did not produce any of the evidence that you have heard. It was produced by Mr. Hallinan and Mr. MacInnis for the purpose of prejudicing the prosecution.

Now, if you will recall, while we are on the subject, Mr. Krolek and Mr. Rathborne gave somewhat different interpretations of Mr. Krolek's experience with the Federal Bureau of Investigation back some eight, nine or ten years ago. You can well conclude as to the reasons for the differences in the [8419] version of Mr. Krolek's experience as stated by Mr. Rathborne, in contrast to that stated by Mr. Krolek. You know from the evidence that they were brothers-in-law, that they had married sisters. You knew from the evidence that at one time, when Rathborne was the secretary of the San Francisco local of the American Radio Telegraphists' Association, that Mr. Krolek was also secretary-treasurer of either the Portland or Seattle branch of the same union. You know that at one time both Mr. Rathborne and Mr. Krolek were members of the Communist Party. You know that Mr. Krolek's membership in the Communist Party encompassed a period of time of slightly more than a year. You know that at the time Mr. Krolek was interviewed by the Federal Bureau of Investigation, that Mr. Krolek had left the Communist Party and that at that very moment Mr. Rathborne was serving as chairman of the California State CIO Council for Bridges' defense, and that Rathborne, then an avowed Communist, then not considered by Mr.

Bridges a burglar or a drunkard or a perjurer, but a pal—you know because Mr. Rathborne told you, there was a contest "between the FBI and me for the services of Mr. Krolek." And you know, because Rathborne told you, that "I won."

And so I say to you, ladies and gentlemen of the jury, that in the four instances to which I have specifically directed your attention, the allegations are not true that we have adopted the inconsistent position of objecting to an offer of [8420] proof made in an opening statement and then introducing that very objectionable matter ourselves.

Let's look at another matter. Mr. MacInnis, in Volume 77 on pages 8323 and 8324, said this:

> "Earl Browder appears before the House Un-American Activities Committee by sending them a document containing a list of the members of the Central Committee of the Communist Party for the very year under discussion in this case. Yet the prosecution tells us that no such document is ever preserved. Johnson and Crouch are on the stand. Crouch is questioned. Various names are read out to him. Names of persons on the Central Committee. He says, 'Oh, those are fictitious names. I haven't heard of those people.' Johnson comes back to the stand. Johnson knows those people, people whose names were read out. Which one is telling the truth? Each one claimed to be present at the meetings of the Central Committee of the Communist Party. Ross, Johnson

> and Crouch—all say they were present at this meeting when the Central Committee of the Communist Party was elected. Johnson and Crouch saw Harry Bridges get to his feet and make a speech. Ross, who knew Bridges at least by sight over a period of years, didn't see Bridges at all. Now, you can't throw that testimony away by saying, 'The important thing is, they said they saw him.' You can't [8421] do it."

In the first place, ladies and gentlemen of the jury, the list which was furnished to the Congressional committee by Mr. Browder and which was identified at least here and handed to the two witnesses Crouch and Johnson to read, pertains not to the 1936 Central Committee of the Communist Party, but it pertains to the 1938 Central Committee of the Communist Party.

When the witness Johnson was recalled, and recalled at the request of Mr. Hallinan, Mr. MacInnis told you, and without equivocation, that the four names on that list, which Paul Crouch had said were fictitious names to cover the identity of persons who were members of the committee, whose identity the Communist Party did not wish to disclose, and that when Johnson was called, Johnson knew those four people. Let's turn to the record—and I quote from Volume 27, page 3112. The witness, recalled, is Manning Johnson. The examiner is Mr. Hallinan.

> "Q. Mr. Johnson, were you familiar with the persons who were members of the Central

> Committee of the Communist Party for the year 1938? A. Some of them.
>
> "Q. You attended a convention in 1938, did you not? A. Yes, I did.
>
> "Q. And voted for the members?
>
> "A. That's right.
>
> "Q. Did you ever know a man who was a colored preacher——" [8422]

Let me interrupt myself for a moment. Bear in mind that what Mr. Hallinan is trying to do is to show that the four names which Crouch, several weeks before, because it was before the Christmas recess—that the four names that Crouch had testified to some time before on that list were fictitious, were in fact not fictitious but were known persons, and he was attempting to show that through the witness Manning Johnson. Watch the way he does it.

> "Q. Did you ever know a man who was a colored preacher, had been a colored preacher from Chicago, named Ray Hansboro?
>
> "A. The name is familiar. I don't recall at present. The name is familiar.
>
> "Q. If my recollection serves me correctly (Mr. Hallinan), he had been a minister in Chicago, and then was a member of the National Committee, even after the year 1944. Here is a printed list for the year 1944, and down about in the middle of the second row you will find the name. Will you take a look at it?
>
> "A. Yes.

"Q. On the 1938 list also his name appears. Let me see if I can find it for you. Yes, they followed in alphabetical order. 'Gold, Green,' and then his name, Ray Hansboro. Do you remember anything about that?

"A. No, I don't recall anything about him. [8423]

"Q. Do you remember that he had been a minister in Chicago?

"A. That I don't know.

"Q. Do you remember if he was a colored man? A. I don't recall.

"Q. Do you recall that there was such a man at all?

"A. I recall the name. I have heard of it in Party circles at one time or another.

"Q. You remember he was at times a member of the National Committee of the Party?

"A. That I am not sure of.

"Q. There is another name that I notice here, Halland, H-a-l-l-a-n-d, Jasper Halland. Do you remember that name at all? And that occurs right under the Hansboro name, or above it.

"A. No, I never heard that name before.

"Q. Did you hear of a woman by the name of Rose Biltmore? A. Rose Biltmore?

"Q. Yes. Her name appears under a list called 'Candidates.'

"A. I don't know a Rose Biltmore.

"Q. Did you ever hear of a man named Harry Gwinn? A. No.

"Q. His name also appears among the candidates for the 1938 convention. The only name you remember of those mentioned is Ray Hansboro, is that correct?

"A. I heard that name before." [8424]

Now, ladies and gentlemen of the jury, you are the triers of the fact, and I ask you whether that record supports Mr. MacInnis' conclusion in this statement:

> "Johnson comes back to the stand. Johnson knows these people. People whose names were read out. And those names, the four names I just read to you, are the names which Mr. Paul Crouch stated were fictitious names, placed, as was their custom, upon a list submitted by Earl Browder for the purpose of concealing the real identity of persons whose identity it was to the interest of the Communist Party to conceal."

Let's look at another matter. Quoting Mr. Hallinan, volume 75 of the record, page 8046, Mr. Hallinan said this:

> "Here is the destruction of that story (speaking of Mrs. Irene Harris) and here is the proof of what a fraud Schomaker is. Schomaker was a functionary of the Communist Party, and he attended that party (talking about the party at Jack Shaw's house). He would know that Harry Bridges was under deportation proceedings at that time, and if Mrs. Harris was flabbergasted, what would have been Mr. Schomaker's reaction?"

A fair question. Mr. Hallinan continues:

> "But Mr. Schomaker didn't remember that any such thing had ever been said. He didn't remember that that startling statement had been made." [8425]

Let me read you from volume 9, page 1034, the testimony of Mr. John Schomaker, being cross-examined by Mr. Hallinan:

> "Q. Can you recall at this time anything that Mr. Bridges may have said on that subject?
>
> "A. (By John Schomaker): Well, he spoke about the international situation and the necessity of the workers joining a political party that would fight in the interest of the workers, particularly in view of the international situation that existed then, the rise of Fascism in the world and the threat of a new war (this being 1938), and he stated very emphatically that all workers who were interested in stopping these things should join the Communist Party, because he was a member of the Communist Party and he was there to fight such goings-on."

And then a question by Mr. Hallinan:

> "Q. And you heard Harry Bridges make that statement? A. I did, yes."

Not too important, but just one of those little digs; and when we amass a number of them together, I think you can see a complete picture. It is interesting to study the record and see the almost patent rivalry between Harry Bridges, even before he testified as a witness, seeking to destroy the witness Rathborne, and Vincent Hallinan seeking to destroy the witness John Schomaker.. The reasons are apparent. Mr. Hallinan himself concedes the importance of the testimony of John [8426] Schomaker.

No one knows, not even Hallinan, better than Bridges, how important the testimony of Rathborne is. Is there some significance, ladies and gentlemen, in the fact—and it is not so because I say it; you have a right to believe it to be so because you heard it from the sworn lips of the witness—is there any significance about the fact that in those crucial years from 1941 to 1945 when Mr. Bridges' deportation hearing was either actually in process or being subjected to review, in the fact that his two closest friends and the two most active in his defense were George Wilson, secretary of the Bridges Defense Committee, and Mervyn Rathborne, chairman of the California CIO Committee for Bridges' Defense, and both members of the Communist Party?

Do you think, ladies and gentlemen of the jury, that Harry Bridges, fighting desperately for the right to remain in this great country of ours, fighting it on the basis that he was not a member of the Communist Party, would have had two of the most prominent Communists in this community, one at his right and the other at his left hand? Does that reflect in some measure upon the present situation? Bridges, on his right hand the Communist Schmidt, on the ~~left hand~~ the Communist Robertson? The pattern has not changed.

Hallinan just could not get John Schomaker out of his blood. If you reread Hallinan's argument, he never finished the subject matter of John Schomaker, and he never will, because Hallinan [8427] will never get over the fact that this man, as he terms him derisively, of small intellect, and refers to the humble hod-carrier's hut, which I am supposed in some way to have glorified—believe me, ladies and gentlemen of the jury, I would much prefer the company of John Schomaker in what is not so humble a hod-carrier's hut, than I would the mansion which I assume is possessed by that witness who in some measure seems to be glorified by both Hallinan and MacInnis, Hallinan because he said he has ninety million dollars, which MacInnis raised to 100, Walter Buck. You do not measure a man—we do not—in terms of the amount of money he has collected. We measure a man in terms of his character, and as much as Hallinan would like to destroy Schomaker because, as he has stated to you, unless he has destroyed Schomaker, he has lost his case, he has another motive far more important to Hallinan than the verdict is to Mr. Bridges. It is a rancoring bitterness that arose out of the fact that the laughing baboon, as Hallinan saw fit to call him, bested him, beat him and battled him. As I told you in the opening statement, I was privileged to make at a time that seems so long ago, that Mr. Hallinan will never forgive John Schomaker because with all the skill at his command, with all the artifices, tricks and devices of which Hallinan is capable, at the end of a gruelling and exhaustive examination, Big John Schomaker sat at ease, and Hallinan turned away battered and bruised, and he will never forgive Schomaker for it, believe me. [8428] And there is only one answer to it: Schomaker told the truth, and the truth is its own defense, and all the skills of all the Hallinans in the world can never shake the witness who is armed with a conviction of righteousness, who is armed with a conviction that he is doing his duty and knows he is telling the truth. That is why Hallinan attacked Roza Schomaker, and that is why Hallinan, just as a little aside, Volume 72, page 7796, speaking of John Schomaker:

> "He joins the Marine Corps in July, 1922, and remains a member of the United States Marine Corps until his discharge in 1925. Now membership in a military organization in peacetime is not such as to recommend one as being an example of diligence and faithfulness and hard-working proclivities. There is nothing wrong with a person who does. But it is kind of a soft job that somebody takes who hasn't very much of a sense of responsibility."

But he forgets, ladies and gentlemen, and he forgot intentionally, that in Volume 6 at page 764 of the record, I asked Mr. Schomaker these few questions:

> "Q. And you continued a member of the ILWU until when?
>
> "A. Well, until the year 1943. I went into the Navy Seabees.
>
> "Q. In 1943? A. Yes.
>
> "Q. And how long did you remain in the naval service [8429] after you went in in 1943?
>
> "A. Well, I was discharged in June of 1945."

Mr. Donohue: May we take the recess at this time?

The Court: Ladies and gentlemen of the jury, we will take the morning recess. The same admonition to you not to discuss the case.

(Recess.)

Mr. Donohue: May I continue, if Your Honor please?

The Court: Yes.

Mr. Donohue: Again, if I may, and quoting from Volume 75 of the record, page 8064, Mr. Hallinan speaking:

> "The second point of the resume is that his story (speaking of John Schomaker) is inherently incredible, that a man who had had the simple occupations that he had had, and appeared on the waterfront in 1933 could, within a month after his appearance, go up to Harry Bridges, an alien, who by Schomaker's own

> admission at that time, was under fear that if he joined the Communist Party he would be deported, and that very point was discussed at the time of the signing of the application."

Let me read from the record what Schomaker said on that point.

> Question by Mr. Hallinan: "All right, now, when Mr. Bridges, at the time you say you got an application from the Communist Party for Mr. Bridges, you had discussions, I [8430] take it, with Mr. Bridges or had heard discussions in which it was pointed out that if he were known to be a member of the Communist Party he would be immediately deported; that is right, isn't it?
>
> "A. (By John Schomaker): Why, it is ridiculous."

Again with respect to the witness John Schomaker, page 8066 of the record, Mr. Hallinan:

> "The ILA had been reactivated, a strike had been had, the strike won, and the ILA recognized by the Matson Company back in June of 1933, four or five months before Schomaker appeared on the scene."

Now, in this instance, Mr. Hallinan is using the date of the Matson strike, which he places as June of 1933 as the focal point for his statement that certain things were done four or five months prior to the time that Schomaker arrived on the waterfront. Let us see when the Matson strike occurred.

Mr. Hallinan says in June of 1933. According to the record, the witness is Mr. Bridges, the question:

> "With regard to strikes, in the matter of strikes, the voting for, calling strikes and the concellation of strikes and settlement of them, did the membership vote on that?"

The question was asked by Mr. Hallinan. The answer is Mr. Bridges':

> "At that time, yes. At that time in the general sense of an official strike, yes, but the strike I am talking about, [8431] the Matson strike, which occurred in October of 1933, the early part of October, there was no vote taken on that."

If that is not sufficient to point to the fact that while June better served his purpose, October was the date of the strike, let me again quote from Volume 42 of the record, page 4500 on the direct examination, the examiner being Mr. MacInnis and the witness being defendant Henry Schmidt.

> "Q. I am sorry. Was there any event in the early fall of 1933 at which time the men renounced their membership in the blue book union?
>
> "A. (By Mr. Schmidt): There was a strike on the Matson docks. It was pretty well along in the year, a strike that was of short duration. I think it had to do with the dismissal of four or five men, and I do not recall whether they were dismissed because they had joined the new union or not. In any case, I recall they were

reinstated, and after they gave considerable more impetus to the organization of the new union.

"Q. I am going to show you a photostatic reproduction of the San Francisco News of October 10th, 1933, and of the San Francisco Chronicle of the following day, October 11th, and ask you if a reading of those documents can refresh your memory as to the date of the Matson strike of which you spoke.

"A. What was the dates of those [8432] papers?

"Q. The dates are shown on them.

"A. Mr. MacInnis, I don't see anything in the news relating to this Matson incident. Maybe it is in the Chronicle."

Question by His Honor:

"Q. Does that refresh your recollection?

"A. Yes, it does. The date was fairly late in the year 1933. It would be October 10th or 11th or thereabouts."

Now, on this question of Schomaker and when he came to the waterfront and whether or not in the short time he was there he may not have been in a position to have negotiated with his fellow comrade Bruce Jones the application in the Communist Party of Harry Bridges, Mr. Hallinan says in Volume 72 at page 7795, "Here is this man who drifts in from nowhere, starts working on the waterfront, and Bridges, with all this danger and all this suspicion hanging over him, danger and suspicion, by the way, long before he joined the Communist Party, hands over to that man his safety and his right to stay in this country."

Again, on page 7810, Mr. Hallinan:

> "How could he know that any of the people into whose custody this application would fall might not be the very people who were waiting for him, to use it as an instrument to destroy him?"

Quoting from Volume 7, page 819, line 2: The witness is Schomaker, the examiner, myself.

> "Q. Mr. Schomaker, did there come a time when you became [8433] a member of the Communist Party?
>
> "A. Well, there definitely came a time when I became a member of the Communist Party.
>
> "Q. Will you tell His Honor and the ladies and gentlemen of the jury from your best recollection what that time was.
>
> "A. Well, to the best of my recollection, it was the winter of 1931, that is, the fall, the early fall or winter of 1931."

And I pass from that point, ladies and gentlemen of the jury, to observe to you that while it may be true that in the latter part of 1933 or the early part of 1944, when John Schomaker and Bruce Jones solicited and received the signed application of Harry Bridges for membership in the Communist Party, it is true that at that time John Schomaker had not been long on the waterfront. The records introduced by the defendant show that he was initiated into the ILA on the 20th of November of 1933, he stating that he had worked several weeks to get enough money to file his application to join the union. But one thing, ladies and gentlemen, is certain: While John Schomaker may have been relatively new on the waterfront, he was no novice in the Communist Party. He had been a member of the Communist Party since the early fall or winter of 1931.

Now, to pass to another witness, quoting from Mr. Hallinan, Volume 73, pages 7853 and '54, talking about the witness Manning Johnson. Manning Johnson has been called a cobra, black hyena [8434] from hell, perjurer. Ladies and gentlemen of the jury, who says Manning Johnson is a perjurer? Hallinan. Manning Johnson is no child. You observed him on the stand. While it is true that Mr. MacInnis said he would prove that he had been convicted of a felony, as you know, that was not so. It developed that the person named in a telegram received by Mr. MacInnis was convicted of a misdemeanor, was a man dead since 1934. This man has never been convicted of any offense in his life. Manning Johnson, a former member of the Central Committee of the Communist Party, is a material aid to the government of the United States in identifying from his high position in the Communist Party, Communists as they scurry and run for cover. And as I told you ladies and gentlemen of the jury in my opening remarks, do not mistake the fact of the conviction or acquittal of Harry Bridges, Henry Schmidt and J. R. Robertson, is of minor importance to the Communist Party in comparison to the opportunity which this trial has offered and which Mr. Hallinan has accepted to destroy the ability of those persons upon whom the government of the United States must rely, because of their experience and position in the Communist Party, ever again to testify against the Communists.

Now, what evidence is there upon which Mr. Hallinan usurps to himself the right to call Manning Johnson the names he has called him in this courtroom? Manning Johnson never said that Harry Bridges was in New York on Saturday night, the 27th day [8435] of June. Then why call him a perjurer? I most respectfully say to you ladies and gentlemen of the jury, don't be misled by the purpose, so apparent here not only with Manning Johnson, but let me point to another, Mervyn Rathborne —Mervyn Rathborne, who told you and his testimony is uncontradicted, that he was a member of the top fraction of the Communist Party in the national councils of the CIO, who told you that he was a member of the top fraction of the Communist Party in the California CIO, and who told you that he was a member of the top fraction of the San Francisco CIO Council. Who better than Mervyn Rathborne, with his ten years of experience in the Communist Party—who better than Mervyn Rathborne, with the heights to which he has ascended in the American labor movement, is better qualified to drag these rats out of the holes into which they have been trying to scurry? And don't let Hallinan fool you into destroying him so that his word may never be taken again. [8436]

Examine, if you will, please, the record and ask yourselves, Is Manning Johnson, who has never testified in this trial that Harry Bridges was in New York on Saturday night, the 27th day of June, 1936, going to be destroyed just because Hallinan says that he was a perjurer? Now, let me read what Mr. Hallinan says with reference to Manning Johnson, talking about his appearance before a committee of your State Assembly, which, as Johnson told you, he was called before for one purpose: From his experience in the top echelon of the Communist Party, to tell that committee, so that committee can tell the people of California, the true nature and purposes of this subversive organization. Quote, Hallinan:

> "That is what he was there for. He was not there just to tell a little story. Everybody knows what the general sketch was. What they wanted to do was to get specific things, particularly against the professors at the University of Washington. That is whom they were trying to get. And, my friends, alas, alas, that is whom they did get. That is whom they did get. And indeed, isn't this a curious little thing, too? I do not care where it is, if you are having a meeting of some congressional board down in Tallahassee, Florida, or if you have them up in the tiptop of Scotland, and if you are inquiring into Communist infiltration in Pakhistan, somebody would say to the witness, 'Do you know

Harry Bridges? [8437] Have you got anything about him?' It does not matter whether it is Mulholland, back in New York, the captain that Johnson said he first mentioned Harry Bridges to, or a committee in Washington investigating loyalty of their professors up there. Somebody had to say, 'Have you something on Harry Bridges? Is there something we can transmit down to the gang who want to get him? What can you tell us about Harry Bridges?' And knowing that he can say nothing about Harry Bridges to the Canwell Committee, 'Yes, yes, yes, my old friend and comrade, Harry Bridges.' Now, if he had in his mind that tremendously important fact, that worst guarded of all secrets, that thing known to a couple of thousand people, that Harry Bridges had been elected a member of the Central Committee of the Communist Party, wouldn't he have come out and said, 'Yes, I know he was elected as such at such-and-such a convention of the Communist Party'?"

A fair inquiry—if he didn't know, as Mr. Hallinan did, what the record said. Let me quote from the record of Mr. Johnson's testimony before the Canwell Committee:

"Q. (By one of the Committee counsel): Mr. Johnson, here is Exhibit 9, which was introduced yesterday. I will ask you to observe this exhibit and see if you can recognize any of the people there.

> "A. (And here Mr. Hallinan paraphrases with fair accuracy [8438] the record): Oh, yes, yes. That is my old friend and comrade, Harry Bridges. And by the way, he is drinking a toast with Commissar Molotov. Well, well, well. He's in good company. He belongs there."

But that isn't as far as the inquiry went. Let's go a little further, to the next question:

> "Q. Let's develop that testimony a little bit. What makes you say that Mr. Bridges is a comrade? I surmise you are inferring he is a member of the Communist Party?"

Mark Johnson's answer:

> "A. Yes, Harry Bridges is a member of the Communist Party, and in my capacity as a member of the National Committee, I was—I'm in a position to state that"——

He is interrupted by the examiner, who says in the next following question:

> "Q. I think that is enough. Was Harry Bridges ever known under any name other than Harry Bridges?
>
> "A. He was known under the name of Rossi."

Now, Mr. Hallinan would have given you the impression that, having identified Harry Bridges in a picture with Molotov, he went no further. I cannot speculate as to what Manning Johnson would have said had he not been interrupted by the Committee examiner, but I will stand on the record when he said, "In my capacity as a member of the National Committee, I was—I'm in a position to state that——" and he is interrupted by the [8439] examiner, who says, "I think that is enough."

Now, Paul Crouch. Mr. Hallinan stated, page 7862 of volume 75, as follows:

> "However, Mr. Crouch falls precisely into the category that Johnson does, apropos or in face of the Government. After he got out of the Communist Party, where he justifies himself for lying on the ground that he was so instructed and disciplined, he lied under oath before other boards of inquiry. After he had been washed white as snow, he still committed perjury under oath. And when he came in here and testified, these gentlemen knew that he had committed perjury under oath and they treated the jury in precisely the same way that they treated the Attorney General of the United States in this matter."

Ladies and gentlemen of the jury, before turning to the record on that point, ask yourselves this question: What do you think Mr. Hallinan would have said about the witness Whittaker Chambers if he were defending Alger Hiss? Whittaker Chambers, who conceded that on seven occasions after he left the Communist Party, and with respect to matters concerning Alger Hiss, had testified fraudulently and falsely; when Mr. Hallinan can call Manning Johnson a perjurer on the assumption that you will believe it. And I read you literally and actually from the record in my opening statement the testimony of Manning Johnson, who never said that Harry Bridges was in New [8440] York City on Saturday, the 27th day of June.

Now, the record discloses that Paul Crouch left the Communist Party in the spring of 1942, and that the first time he ever gave testimony about the Communist Party was not until his appearance before a subcommittee of the House Committee on Un-American Activities on the 6th of May, 1949; that he appeared on the 14th of May, 1949, before a subcommittee of the United States Senate Judiciary Committee; that he appeared later in the month of May before an executive session of the House Un-American Activities Committee; and that other than these three appearances, in the month of May, 1949, he had never testified before any committee on any subject since he left the Communist Party.

Now, on what basis can Mr. Hallinan stand here before you and say that after having been washed white and after having left the Communist Party, Crouch testified falsely and that we knew it? You know that were there the slightest scintilla of truth in that allegation, they would have brought the records of the committee or committees before whom that perjury was committed, as they did in the instance of the perjurious testimony in 1934, while a member of the Communist Party, before a House subcommittee in Los Angeles of Lawrence Ross. And by the way, Rathborne, while a Communist in 1940 and 1941, before your State Tenney

Committee and before the House Committee on Un-American Activities. [8441]

Again Mr. Crouch. Mr. Hallinan, on page 7861, volume 75:

> "Now, when a person appears and tells you that he was a private in the United States Army, convicted of some crime and sentenced to twenty years (it was forty, as a matter of fact) in a military barracks, then that is commuted after he has served four or five years (he served less than three), that he took a trip to Europe and they made him a brigadier general in the tremendous Red Army of Soviet Russia; look at him and say, 'What manner of man be this? Is this true or is this some sort of fantasy?' "

Let's turn to the record, volume 24, page 2744, under cross-examination of Mr. Crouch:

> "Q. And as I remember, you were sentenced first to a 40-year term at hard labor, is that right?
>
> "A. I do not think it is in the record, but it is correct.
>
> "Q. And then that was afterwards commuted to three years, is that so?
>
> "A. That is correct.
>
> "Q. In that period, how long or how much thereof did you spend in Moscow?
>
> "A. I spent in Moscow and in other parts of the Soviet Union from just before Christmas of 1927 until the end of April, 1928—approximately four months. Not all of this time was spent in Moscow. Some of it was spent in other

cities. [8442] And also spent some time with the Red Army, as a representative of the Young Communists' International at the Budenny Division, station at Tambov, where I was made an honorary regimental commander of the Red Army, with the rank equal to that of colonel."

Shall we take the recess, if your Honor please?

The Court: We will take the noon recess until two o'clock, ladies and gentlemen. The same admonition, not to discuss the case under any condition.

(Thereupon a recess was taken until 2:00 p.m. this date.) [8443]

Afternoon Session, Thursday, March 30, 1950

Mr. Donohue: In the light of that somewhat unusual statement made by Mr. MacInnis to the effect that he would do anything to win this case, I call your attention for your determination to the explanation given by Mr. Hallinan for his failure to cross-examine the witness George Wilson, the executive secretary of the Bridges Defense Committee during those four crucial years from 1941 to 1945. Mr. Hallinan, in describing the apparent agony of soul that we can all understand was George Wilson's, forgot intentionally that he made a second appearance. But the thing that struck me most about Mr. Hallinan's explanation for his failure to cross-examine George Wilson in the light of his cross-examination of others was Mr. Hallinan's statement that he did not cross-examine George

Wilson out of a spirit of kindness. The kindness of Mr. Hallinan, ladies and gentlemen of the jury, is the kindness of the old lady who always warmed the water before she drowned the kittens.

There is one other matter concerning which I think I should say something to you. Mr. Hallinan sought to make you believe that the money that was paid by the Treasurer of the United States to Mervyn Rathborne for the period of time during which he appeared before the grand jury was paid first unlawfully and illegally and constituting a fraud upon the Treasurer [8444] of the United States by Mr. John Boyd, by trying to give you the impression that Mr. Boyd certified to those payments with respect only to the four occasions on which Mr. Rathborne physically appeared before the grand jury, neglecting to read the complete certification of Mr. Boyd, which reads as follows:

> "The certification mentioned in the first paragraph above includes dates on which the witness actually appeared before the grand jury and/or dates that the witness was absent from his home."

And if you recall—and they are in evidence here—the certification covers the following days and dates on which Mr. Rathborne was either physically in attendance before the grand jury or was actually here in San Francisco counseling and advising as an expert on the subject of Communism those who were presenting the matter to the grand jury. The dates contained in the certification here are May 11, 12, 14, 15, ~~16, 17, 18,~~ 19, 20, 21, 22, 23, 24, 25, 26, 28, 31, June 1, 2, 6, 7 and 8. Mr. Hallinan sought to persuade you to the opinion that these were not payments made under the statute for the statutory amount payable to expert witnesses, but that what actually had been paid Rathborne was a thousand-dollar bribe, and that the prosecution then fixed up the dates for the appearance of Mr. Rathborne before the grand jury so as to equal the amount of a thousand dollars. The amount actually paid by the marshal upon this certification was $1000.50, but to believe what Mr. [8445] Hallinan said you would have to believe that we knew that counsel then for Mr. Bridges, accompanied by others, was going down to Half Moon Bay to dissuade or persuade Mr. Rathborne from testifying or to learn the subject matter of his testimony, in consequence of which we later in June called him back before the grand jury in order to tell the grand jury of that experience.

Then to make it more complete, Mr. Hallinan said to you, volume 70, page 7607:

> "Now, you remember that she (referring to Betty Teixeira) said that Rathborne told her he had won a thousand dollars playing poker on the ship. She could not possibly have known at the time she testified here that the records of the marshal's office show that around that time Rathborne had received precisely $1000, so there is from outside some concomitant that sheds the light of truth on what the girl said."

Well, that sounds pretty logical except that it is not supported by the record. The records of the marshal's office in evidence here as defendants' Exhibit L-4 reveal that payments made to Mervyn Rathborne for his appearance before the grand jury began on May 11, 1949, and continued intermittently through June 8, 1949, aggregating, as I stated, the sum of $1000.50.

Now, let us turn back to volume 66 of the record at page 7235 and 7236, and see whether or not it was around that time that Betty Teixeira testified she saw Mervyn Rathborne with [8446] a thousand dollars which he said he had won in a game on a ship. These questions are asked by Mr. MacInnis:

> "Q. Toward the end of 1948, after the reelection of President Truman, did you have any meetings with Mervyn Rathborne?
>
> "A. Just immediately prior to the election I saw him at a Democratic luncheon. I think it was the Sunday before the election, and he looked a little better then. I asked him if he had gotten his financial troubles settled all right, and he said that he had, that he had gotten the loan on his house taken care of, and that he had won a great deal of money while at sea.
>
> "Q. Did he say how much he had won?
>
> "A. He said a thousand dollars he had won in cash."

That took place on the Sunday preceding the election of Mr. Truman, by her own statement, in November of 1948, and therefore it does not coincide with Mr. Hallinan's statement to you that her statement about the $1000 proves the bribe paid to Rathborne because it occurred at about the same time. It was at least six months prior to the first appearance of Mervyn Rathborne before the grand jury that Mrs. Teixeira testified that he told her that he had won a thousand dollars on the ship, and, of course, as you know from the record here, in November, 1948, this case had not yet reached the stage where it had even been presented in any fashion before a grand jury in this district. [8447]

There are many more matters which, if time permitted, I would like to direct your attention to. I must say, however, there I must hazard the risk that you, in your recollection of the testimony, will be able to point, even as I have here, to the difference between the unsworn statements of counsel and the record on the same subject; because I am not going to fall into the error of my opponents by spending all of the time allocated to me in finding fault with what they have said. I think I should say to you in the faith which I have in this prosecution that I should call to your attention again, even as I did in my own opening statement to you on the 16th day of this month, the factors which I think you should consider in arriving at your verdict.

I asked you this question at that time: Who said Harry Bridges was a member of the Communist Party? And I called off the roll: John Schomaker, Henry Schrimpf, Mrs. Irene Harris, Stanley Hancock, Charles Krolek, Paul Crouch, Manning Johnson, Lawrence Ross, Lewis Michener, Mervyn Rathborne and George Wilson.

And I asked you at that time: Who, on the other hand, has told you that Mr. Bridges was not a member of the Communist Party, who could have been in a position to know? And I call the roll as: Bruce B. Jones, Jean Murray and Harry Bridges.

Now, let me ask you the question: Who said Henry Schmidt was a member of the Communist Party? John Schomaker, Henry [8448] Schrimpf, Stanley Hancock, Mervyn Rathborne and George Wilson. And who said Henry Schmidt was not a member of the Communist Party? Henry Schmidt.

Who said J. R. Robertson was a member of the Communist Party? Mervyn Rathborne and George Wilson. And who said J. R. Robertson was not a member of the Communist Party? J. R. Robertson.

Now, it is for you and for you alone to determine two things: number one, what degree or what measure of credibility will you assign to the testimony of any witness who has testified before you? Your opportunity to observe the witness under examination, both direct and cross-examination, and the conclusion that you reach as to whether or not in the light of the reaction of that witness and the statements of that witness in relation to the statements made by other witnesses whose credibility you have accepted. It is your sole province to determine what degree of credibility shall attach to any witness, and that includes the defendants.

It is also your province and yours alone to determine when the point is reached where the evidence which you have heard has removed the presumption of innocence which attaches to these, as to all defendants, and has removed the reasonable doubt which attaches to these defendants, as to all defendants. And when you have determined from the degree of credibility which you attach or assign to the testimony of the witnesses [8449] that the proof of guilt has overcome the presumption of innocence, has overcome the doctrine of reasonable doubt, then of course, it is your province and your duty to return a verdict of guilty.

In so doing you have the sole right to reject the testimony in part or in whole of any witness or witnesses who has appeared before you. I believe His Honor will instruct you that where a jury finds that a witness has testified falsely about a material fact concerning which he may not well be mistaken, it is the liberty of the jury to disregard any or all of the testimony of that witness, or to accept such portions or parts of that testimony as they may deem credible. I say that to you for this reason: If you should still have a reasonable doubt in your mind to which these defendants are entitled to the benefit, on the question as to whether or not the witnesses Ross, Johnson and Crouch, testifying that Harry Bridges was elected a member of the Central Committee of the Communist Party in 1936, you have a right to reject any or all of the testimony of those witnesses. And I say to you in all earnestness, that if you do have a reasonable doubt on that part of the evidence, you must give the defendants the benefit of that doubt. And I say to you at the same time that a reasonabe doubt on that portion of the evidence can not affect your determination as to the guilt or innocence of these defendants on the testimony of all other witnesses, because, ladies and gentlemen of the jury, there are [8450] witnesses who have testified before you that all of the skill of the defense has left untouched, and their testimony unsullied. I shall refer to them as Mr. John Schomaker, Mrs. Irene Harris, Mr. Stanley Hancock, Mr. Charles Krolek, Mr. Lewis Michener, Mr. George Wilson and Mr. Mervyn Rathborne.

Now, let's take a look in a chronological way of how the evidence points to the inescapable conclusion that Harry Bridges has been a member of the Communist Party since that day testified to by John Schomaker, when they accepted his application in that restaurant here in your city. It is a peculiar thing about Mr. Bridges and all the testimony and all the statements you have heard about him; they always begin with the year 1933. How little has been said of Mr. Bridges prior to 1933. The beatification or canonization or deification, if you wish to call it, of Harry Bridges always begins in the year 1933, with Mr. Bridges' activity on the waterfront for the betterment of the conditions of his fellowman. Well, Mr. Bridges was on the waterfront from 1923 until 1933 as a member of a star gang, working as a longshoreman, and no one ever heard of him. But Mr. Bridges is perfectly willing to accept all the credit for all of the improvements in the social and economic conditions on your West Coast waterfront from the time when they first begin to talk about Harry Bridges, 1933.

Don't you think, ladies and gentlemen of the jury, that one other man might be entitled to a little bit of the credit [8451] so readily accepted and worn as a mantle by Mr. Bridges? Aren't the incidents of 1933 too close to your recollection and mine as to make it impossible to forget Franklin D. Roosevelt? Doesn't 1933 bring to your mind, as it does to mine, the beginnings by that typical American constitutional way of a social revolution in the United States? When, through the leadership and the inspiration of Mr. Roosevelt, with the support of the American people and the American Congress, the dignity of labor was recognized and the worth of a man compensated for, and all of the great social reforms which we have known in the last 17 years began to be unfolded. But Mr. Bridges wouldn't give Mr. Roosevelt any credit for that. Mr. Bridges will assume the credit himself.

Now, let's see how closely what has happened fits into the pattern of the evidence. Bridges, unknown in 1933; Bridges, who testified in the strike in 1934 that he was made the chairman of the strike committee because of his strike experience in New Orleans in 1921. An experience of a few days. But, as Mr. Bridges said, he brought with him his picket card that he had carried in the picket line and that was his experience. He wasn't the president of the ILA, now the ILWU, at that time. He was just a worker on the waterfront. But Bridges could talk, even back in 1933. And his cleverness and his cunning was well recognized, because just as John Schomaker told you, he was the frequent subject of discussion [8452] among the leaders of the Communist Party, including Sam Darcy, who were looking for a revolutionary with a gift of talk. And when he heard all the peaens of praise about the glibness of Bridges from John Schomaker and others, Darcy said, "Go down and get him," and Bridges said, or Schomaker said, "We went down and we got him."

Then came the 1934 strike. Bridges didn't need any help in the 1934 strike,—help in the sense of advice. He was an expert from the experience of a few days on the picket line in New Orleans. And he wouldn't recognize that Sam Darcy of the Communist Party or anyone else could give him advice, though he would accept their food and money. And we all know what the conditions in 1934 were, because the great social reform was only still in its formative stages, and we know that hunger and want and cold and depression were rampant. We know that the conditions were idea for sowing the seeds of a revolution, and don't forget, ladies and gentlemen of the jury, the San Francisco general strike of 1934 was the beginning of the revolution in this country. Else why do you suppose Earl Browder came from the heights of his position in the Communist Party in New York to meet in a prune orchard with the leaders of the revolution here? You heard Schrimpf testify after the general strike had ended and he and Darcy went back to New York, of the bitter tirade that Darcy received from Browder. He told you that Browder walked up and down the office like a caged lion, [8453] angry because the party here had not continued the

San Francisco general strike, which they hoped in those unfortunate days of want and suffering, would be the beginning of a wave of revolution that would sweep from the Pacific until it engulfed the Atlantic.

And then came the strike of 1936. But before that, the end of the 1934 strike, the Communist Party had made its deal with Harry Bridges. "To you, Bridges, the power; to us, the obedience." They not only had Harry Bridges but through him and his comrades they had his union, lock, stock and barrel, body and soul. But that wasn't enough. In the following year they started to reactivate or crawl into the Maritime Federation of the Pacific. The Communist Party wasn't satisfied with the control of the longshore union. It wanted control of the maritime industry, first of the Pacific Coast, then of the Gulf, when they sent Robertson and his crowd down to proselytize and organize for the Communist Party—and then to the East Coast.

Control of the maritime unions in the United States was the objective of the Communist Party, and they did get control of the Maritime Federation of the Pacific, with it local district No. 2 controlled by Bridges as president and Mervyn Rathborne as secretary.

But something went wrong in the Maritime Federation of the Pacific, and along came the CIO. And it looked like the ideal mass organization for the Communist Party to take over. And [8454] Bridges and his crowd of Communists scuttled for safety in the CIO—until it reached the point in 1939, in a national CIO convention in your own city, when John L. Lewis said, "No rising young Communist is going to get any place in the national CIO. I abolish the *volish* of West Coast director of the CIO. You, Mr. Bridges, from this point (he then holding that position) will be director of the CIO from the State of California."

And then came the '36 strike, and Bridges was right; he didn't need any advice from the Communist Party in 1936. He knew as much as anyone could know about how to conduct a strike. But the Communist Party had an interest in that strike as they have an interest in every strike—when it is going to begin, how long it is going to continue, where it is going to end and the courses it will take during its duration. And again, in exchange for the power which he wanted and they gave him, he gave his obedience. And Mr. Rathborne told you of the almost daily meetings between Schneidermann and/or Lambert, himself and Bridges in the house up on North Point Street, again with Bridges being chairman of the strike committee and Rathborne its secretary.

And it doesn't end there. You don't forget, in 1943, at the national CIO convention in Pittsburgh, Mr. Bridges, who as always when he gets in a corner and can't justify on any sound basis an act presented to him, says, "I made the decision, the decision to remove Phil Connally;" a Communist, the present [8455] editor of the Los Angeles Division of a Communist newspaper. He had just been elected president of the California CIO Council, but because the Communist Party were getting frightened in 1943 that the CIO would eradicate them entirely, decided they had better slow down, as Bridges said, and work from beneath and pay homage to the decisions of the top. And they decided to knuckle down and remove Phil Connally, recently elected, and replace him by a man named Thimmes. Bridges [8455-A] said, "I made the decision." And the witness named Lewis Michener appeared here and testified that he was present at a meeting of Communist Party members in the Bellview-Stratford Hotel in Philadelphia at which Roy Hudson, the national Trade Union Director of the Communist Party, told them the necessity and the reasons for the removal of Phil Connally, and Phil Connally was there present and so was Harry Bridges.

There has been a lot of talk, a lot of testimony about that meeting, but you have not heard from Mr. Connally, and I ask you, sir, if you were accused of being at that Communist Party meeting in the Bellview-Stratford Hotel and the subject of the meeting was Mr. Connally, would you bring him to testify for you? It is all right for Mr. Hallinan to say if Bridges went to any meetings, though he does not concede here that he did, they were meetings to discuss labor problems, and it might be that most or all of the people there were Communists, he was not; he was just there because of his labor interest. Do you think that that meeting in the Bellview-Stratford Hotel was a meeting for the purpose of discussing a labor problem? Don't you know that it was the local reaction in District 13 to a mandate from the Communist Party headquarters in New York handed down to the Communist Party members present at this meeting in the Bellview-Stratford Hotel? And so I most respectfully say to you if you go back to the very beginning when Harry Bridges was pulled from anonymity by the [8456] Communist Party in late 1933 or 1934 and review his rise in the light of the evidence which you have heard here, the conclusion is inescapable that Mr. Bridges is and has been since that incident testified to by John Schomaker a member of the Communist Party. No one, least of all I, would ask you to find a verdict of Guilty against any one of these three defendants upon the theory of guilt by association concerning which so much has been said by Mr. MacInnis. Sometimes clever lawyers use the term "guilt by association" when the fact of the matter is it is an association of the guilty. Now, when this pattern fits so closely into the evidence and is so closely wound about Mr. Bridges, I can see no way whereby any person can escape the inescapable conclusion of the membership of Mr. Bridges in the Communist Party. No one, certainly not I, looking to Mr. Bridges' testimony on certain subjects, would ask you to find on your oaths as American jurors that because during the period of the Nazi-Soviet peace pact from 1939 until 1940 that Bridges agreed with the then theory of the Communist Party that the war between Germany and the Allies was a materialistic war and not the concern of the United States, to find from that fact that Mr. Bridges was a member of the Communist Party. There were many people who undoubtedly believed, as Mr. Bridges stated his belief and believed so honestly and sincerely, and would have believed so whether it was or was not the position of the Communist Party; and [8457] so, too, I say to you that the mere fact that Mr. Bridges, after the Nazi attack on Soviet Russia, then went all out for the war, which then became a people's war, and for following Russia and the Allies, just as did the Communist Party—I wouldn't ask you on that kind of evidence to find Mr. Bridges guilty as a member of the Communist Party, because there were lots of people who did not know, and who did not care what the Communist Party view on that subject was. Nor would I, because Mr. Bridges as early as 1943 demanded a second front in Europe, even though we were not then prepared for that assault, and even though at that time the Communist Party was demanding a second front in Europe, I would not ask you to find Mr. Bridges guilty of being a member of the Communist Party on that fact alone, because there were lots of people who did not know or care what the view of the Communist Party was who were for a second front in Europe, and at the same time. Nor would I, because both the Communist Party and Mr. Bridges agreed in their opposition to the Marshall Plan, suggest to you that it would be fair to ask an American jury to find on that fact alone that Mr. Bridges was a member of the Communist Party, because there are lots of people who neither know nor care the views of the Communist Party on this subject who are also opposed to the Marshall Plan. Nor would I ask you, because of the views which Mr. Bridges has expressed with respect to the American position within the United Nations, not even though it may concur with the view [8458] of the Communist Party, to find Mr. Bridges guilty of being a member of the Communist Party on that fact alone, because there are likely others who also so agree with Mr. Bridges, not knowing and not caring whether their views happen to be in accord with the views of the Communist Party. Nor would I say, and you heard him over a long examination and cross-examination, that because in the ten days that he was on the stand Mr. Bridges had nothing but criticism for all the institutions that we recognize as American, that you should find from that fact alone that Mr. Bridges is a member of the Communist Party, because they too criticize our American institutions. Nor would I at the same time, because during that same period of time, although given countless opportunities, Mr. Bridges failed to criticize either the Communist Party or the Soviet Government, and ask you on that fact alone to find that Mr. Bridges is guilty as a member of the Communist Party, because there may be many persons and for many reasons in this country of ours, with its right of freedom of speech and freedom of thought, who may share his views.

But, ladies and gentlemen of the jury, when you add them all up, when you consider, and it has been made pretty evident here, Mr. Bridges' activities since the morning he signed his name to that little piece of paper in a restaurant on Market Street, which was carried by Bruce B. Jones and John Schomaker to Sam Darcy, every act of [8459] Harry Bridges is consistent with but one positive conclusion: membership in the Communist Party. And I most respectfully say to you that the evidence of the membership of Harry Bridges in the Communist Party as of the 17th day of September 1944, when he falsely swore to the contrary, that false swearing being the basis of this prosecution, that as of that day Mr. Bridges was and had been a member of the Communist Party, and the evidence shows it so overwhelmingly that there cannot be in the mind of one of you ladies or gentlemen a scintilla of doubt.

May we take the recess at this time, your Honor?

The Court: We will take the afternoon recess, ladies and gentlemen. The same admonition to you.

(Recess.) [8460]

Mr. Donohue: You are tired and I am tired, and I shall keep my contract. We shall finish at or about 4:00 o'clock.

If there be in the mind of one of you a lingering doubt as to the guilt of Harry Bridges, just consider for a moment his own conduct since this trial began. And I refer to one little incident which itself is more convincing that a sermon. Just at the time that John Schomaker was forging a chain of events which has never been broken, Harry Bridges went to the apartment of Jean Murray. Why? Was it to prove his innocence? Or was it for the reasons that subsequently developed to an attempt to close and silence the lips of the witness he feared, Mervyn Rathborne?

Let me read to you from page 7782 a very brief comment in the record by Mr. Hallinan, speaking of Bridges:

> "He can not even trust the wife with whom he resides. Can not trust anyone, literally, my friends. His brothers and sisters, his friends, his children, his associates, anyone."

We trust people, you and I. What is eating at Mr. Bridges' soul that makes it impossible for him to trust even those who are tied to him by the ties of flesh and blood? The answer is simple: His membership in the Communist Party, which he has sought, and well, to conceal over these many years.

Soon I can lay down my burden and you must assume yours. And I am sorry that I must disappoint Mr. MacInnis and that I shall not wave the flag. It isn't necessary. I wouldn't insult [8461] the intelligence of an American jury by engaging in an appeal to patriotism, which I did not interject, nor prejudice, of which I know none. Because this verdict must be an American verdict, based on intelligence, based on reason and understanding, and based on evidence. And as you meet to assume your portion of the responsibility for these proceedings, remember that on the small point as to whether or not John Schomaker in the few months after his discharge from the Marine Corps and after the earthquake in Santa Barbara, worked as a hod-carrier, that they brought a witness here to testify that John Schomaker didn't belong to the hod-carriers' union. And on the small point as to whether or not John Schomaker had any terminal leave when he left the veterans' administration in October of 1933, they brought here the keeper of the records.

A great deal of the testimony here, on the very important question of Bridges' membership in the Communist Party, arose out of a dispute between Mervyn Rathborne and Lou Goldblatt. And George Wilson and Mervyn Rathborne told you that the dispute was never settled until Schneidermann called a meeting of the Communist Party to solve the problem between his comrades and brothers. And not later than yesterday Mr. MacInnis said to you, "Lou Goldblatt is a fine young man. He owns a home up here on some street in San Francisco." But why didn't they bring him here? He is secretary-treasurer of Mr. Bridges' union, the man who put the lash on the shipowners, the man with [8462] whom they had luncheons before they came here to testify. Why isn't he here?

And if you were charged with membership in the Communist Party and the district organizer for this district for the last 14 years or more was your friend, Bill or Will Schneidermann, would you have brought him here? Do you suppose, when Mr. Bridges testified that he talked twice to Schneidermann about getting help for his defense, he didn't ask him, "Can't you come down as district organizer and tell this jury that I am not a member of the Communist Party? You know the extremes to which these people have gone in their defense. You remember the day when Mr. MacInnis made the to-do about "Where's Darcy and where does he live," and in your presence asked me for his address; and you saw me give it to him. But he is not here to testify.

You heard Mr. Bridges condemn a member of the Immigration Service on an allegation that he sought to obtain the testimony of a witness in exchange for a cure for cancer. Herman Mann—the same Herman Mann at whose house Henry Schrimpf and John Schomaker said Harry Bridges attended a Communist Party meeting to discipline Norma Perry. And I challenged Mr. Bridges then, "Bring him here." But he didn't testify.

And where is Walter Lambert and Archie Brown and Slim Connally and "my dear and intimate and longtime friend, Jack Shaw." [8463]

Ladies and gentlemen of the jury, when you go to the juryroom seek in your own conscience and in your own intelligence for the answer to those questions.

Now, I am not going to do like Mr. MacInnis did, on page 8220, when he said this to you:

> "If I could reach with such words as I may utter all twelve of you, if I could find in twelve persons a bulwark against the forces of what we know to be prejudice and oppression, of course I would rejoice in that most glorious kind of ending to this most execrable of prosecutions."

And listen to this:

> "But if my words could reach only one of you, and if I found in that one a bulwark

> against all that is false and unjust, still I would thank God for that kind of deliverance out of such solitary courage."

No, ladies and gentlemen of the jury, I have not lost faith in this prosecution. How much faith does Mr. McInnis express there in the cause he advocates when he seeks to appeal to one of you to hold out against the others? And that was all included in the same papagraph from which I read the opening sentence yesterday:

> "I think, members of the jury, I would do almost anything to win this case."

In asking that you bring in a fair and a just verdict, I am not going to follow the example of Mr. Hallinan who, when asking [8464] for a verdict, made this extraordinary statement:

> "But if you come in with the verdict you should come in with, then up and down the Pacific Coast there will be a quarter of a million people who represent the 70,000 of labor unions that are affiliated under this certain banner and their wives and children; and they will burst out of their doors with delight and excitement and over the whole world the 70,000,000 of the WFTU, the struggling people of many lands will ring bells and dance in the street, because America has reversed the tide and they are satisfied it is not reactionary and they are satisfied that it is not committed to the destruction of the people who would advance the aims of its own and ordinary people."

No, I am not going to ask you to please the World Federation of Trade Unions, the Communist-dominated and controlled organization of which Bridges heads the maritime division. Though only a few paragraphs before the one quoted, Bridges, Hallinan said, refused to join the ACTU at the instance of Father Paul, because he didn't want to sacrifice the independence of his union. Why didn't he want to join the ACTU? The two first initials spell the answer: One, because it was "American," and two, because it was "Catholic." But he didn't mind tying down his union to the obligation of the World Federation of Trade Unions which is Communist and atheist. No, ladies and gentlemen of the jury, I am not going to wave a flag. But don't let Mr. [8465] Hallinan fool you when he said in his closing argument, "These few pitiful people who constitute the Communist Party. What are they? 50,000—90,000, or 70,000." [8465-A]

There are enough. That is what Catholic Poland thought, and that is what the liberty-loving Czechs thought, and that is what the Bulgarians and the Hungarians and the Roumanians, the Esthonians, the Lithuanians and the Latvians thought. And where are they today? Mr. Hallinan concludes by saying, "All he wanted, the great crime, all he wanted was citizenship. He wanted to become one of us." Of course he did. The last bulwark against the red wave is this blessed land of ours. Where else could he serve his master better than in America? Of course he wanted citizenship. Of course he wanted to be one of us—to destroy us.

There isn't any sense, as I see it, in teaching children to pledge allegiance to that flag of the Republic of the United States when before they reach the age where they are able to defend it men like Bridges, Schmidt and Robertson would have destroyed it.

Mr. Bridges brags of his respect for the rank and file. Let us put him to the test. You ladies and gentlemen are the rank and file of America. Let your verdict be an American verdict. I do not know what Bridges' reaction to it will be, but I will accept it.

Thank you.

The Court: Ladies and gentlemen of the jury, the arguments have now been concluded on behalf of the prosecution as well as the defense counsel. In accordance with the indications [8466] that I have given to you heretofore, the Court will instruct the jury tomorrow morning at ten o'clock as to the law. I anticipate that the instructions will take approximately, let us say, an hour and a half.

We will take the recess at eleven, as usual, in the morning, and conclude the instructions in a half hour thereafter. Immediately thereupon, so you will know the procedure, counsel will have the right to accept or object to the instructions, and you then recess temporarily, mindful, of course, that the case is not finally submitted to you until I so advise you. You are then returned and the matter will then rest finally in your hands. So then we look forward to tomorrow morning at ten o'clock, with the same admonition to you not to discuss the case under any conditions or circumstances and not to converse with any person on any subject of the trial, not to form or express an opinion until the matter is submitted to you.

Thank you.

(Thereupon an adjournment was taken until Friday, March 31, 1950, at 10:00 a.m.) [8467]

Friday, March 31, 1950, 10:00 o'Clock A.M.

The Clerk: In the case of United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, on trial.

The Court: Is it stipulated, gentlemen, that the jurors are present?

Mr. Donohue: Yes, your Honor.

Mr. Hallinan: So stipulated.

The Court: I ask that stipulation only as a matter of course; in the light of the stipulation heretofore engaged in by counsel, it was unnecessary to repeat the same.

INSTRUCTIONS OF THE COURT

The Court: Ladies and gentlemen of the jury, this case commenced on the 14th day of November, 1949, before this Court and jury. However, before the formal opening of the trial I had occasion to pass on many preliminary legal matters and motions incident to the trial which occupied my attention in one form or another since an early date in September, 1949. Some of those motions and rules and orders and decisions have been referred to in the course of this trial. With the exception of intervening holidays, we have been engaged consistently in the actual trial. I am informed that this case is now considered the longest criminal trial in the history of this federal district. I said to you ladies and gentlemen of the jury at the very threshold [8468] of this case, when you were being examined on your qualifications as jurors, "We will be cloistered in a judicial atmosphere looking toward the grave responsibility of administering justice." I strove during the course of these many months to maintain a judicial atmosphere and composure to the end that your ultimate deliberations and the Court's rulings on the law might be engaged in without any rancor, ill will, prejudice or any other foreign thought or matter that might creep into your actual and ultimate findings.

This Court, and you as jurors, are the recipients and guardians of the great heritage. For more than 160 years the federal judiciary has functioned as an integral and independent branch of our government. Since these courts were established in 1789 they have been strong, component elements of the government. Throughout the years they have represented a bulwark in maintaining, defending and enunciating the principles of our democracy. I say to you that no greater privilege could be conferred upon any greater group than has been tendered to you and the jurors and alternates who, as a result of unfortunate illness, were unable to continue as jurors, and your corresponding loyalty and devotion, as evidenced throughout the many months of trial, represent a monumental accomplishment in the maintenance and preservation of these basic traditions of our federal courts.

The defendants on trial, Mr. Bridges, Mr. Schmidt and Mr. Robertson, are entitled to a fair and impartial trial. I say to [8469] you that from the Court's viewpoint this has been accomplished. The trial of the case in its essentials represents the painstaking study of the evidence in the light of judicial rules which are applicable, tested by reason and common sense. The determination of where the truth rests is your ultimate and principal concern. The probing, sifting and tedious screening involving evidentiary matter or matters are now at an end. I trust that you may be able to perceive the truth shimmering like gold in the crucibles of this trial, in the searching light of legal principles applicable.

The witnesses, as you have observed, were in sharp conflict. The defendants called the government's witnesses by various names and in various terms, that is, stool pigeon, liar, perjurer, renegade Communist and the like. The defendants deny that they were or are Communists. Mr. Robertson and Mr. Schmidt deny knowledge concerning Mr. Bridges' asserted membership in the Communist Party, and likewise deny such membership on their part.

On the issue of Mr. Bridges' asserted membership in the Communist Party, eleven witnesses have testified for the government: Messrs. Schomaker, Schrimpf, Hancock, Mrs. Harris, Mr. Krolek, Johnson, Crouch, Ross, Michener, Wilson and Rathborne. As opposed to the foregoing witnesses concerning the alleged membership in the Communist Party, Mr. Bridges, as well as the other defendants, the defendants have offered two witnesses other [8470] than themselves, that is, Bruce B. Jones and Mrs. Jean Murray. These, apart from the character witnesses offered by the defense.

It might be perceived in a case of this magnitude, immaterial issues have crept in which I will undertake, I hope, to clarify as we proceed with the instructions. You have exhibited great and abundant patience at all times as the testimony unfolded throughout these many, many past months. I realize the toll this case has taken upon your physical, mental and emotional welfare. As we draw near the closing stages and your ultimate deliberations, I ask you to accord the same patient, calm, and considered attitude.

It is my duty to instruct you on the law of this case. It is your duty as jurors to follow the law as given to you in these instructions and to apply the law thus given to you to the facts in the evidence before you. It is the duty of the jury to give uniform consideration to all of the instructions herein, to consider the whole and every part thereof together, and to accept such instructions as a correct statement of the law involved. On the other hand, I charge you that it is your exclusive province to determine the facts in this case and to consider the evidence for that purpose. You are the sole judge of the weight, effect and value of the evidence and of the credibility of the witnesses. As I stated, it is your duty to try the case as to the facts, upon the evidence introduced in this trial, and [8471] upon the law as given to you by the Court. The Court, however, has not attempted to embody all of the instructions or all of the law applicable to the case in one instruction or two instructions. Therefore, you must take all the instructions as a composite or as a whole, and in considering any one instruction you must construe it in the light and in harmony with every other instruction given, and in so construing and considering, apply the principles in it enunciated to all the evidence admitted on the trial.

As I have indicated, my exclusive function is to instruct you on the law, and I ask you not to permit, and you must not permit any notion of your own on any other matters referred to by counsel or on any matters referred to by counsel, to obscure the fact that you must apply the law as I have given it to you, as well as the legal pronouncements that I made during the course of the trial concerning various legal issues as they arose. The law does not permit jurors to be governed by conjecture, passion or prejudice, public opinion or public feeling.

From time to time during the course of the trial I deemed it appropriate to caution the jury on legal matters, and on certain occasions I have assumed to interrogate witnesses very briefly. Such conduct on the part of the Court is not only the right but the duty of a trial judge. It does not constitute an intrusion in the function of the jury, but is done for the purpose of seeing that justice is carried out. I have tried to [8472] remain impartial, dispassionate and judicial. I elieve I have done so.

During the course of the trial, the Court has been called upon to make comments in ruling upon objections of counsel and motions made by them. It has also occurred during the trial that the Court has been called upon to admonish and reprimand counsel in connection with the conduct of the trial of this case. The jury shall not draw any inference from any such remarks or comments or rulings of the Court that the Court was intending to convey to the jury in any manner whatever its view or opinion as to what the verdict or decision of the jury should be. Such comments as the Court may have made in that regard were only pursuant to the power and, indeed, the duty of the Court to supervise the trial of the case and to expedite it.

Allusions have been made by the defense to certain irrelevant and immaterial matters concerning the Immigration Department and its procedures and operations regarding matters, things and events other than the investigation and the prosecution of the case at bar. Many of such matters were sought to be elicited by the defense in questions asked and propounded, to which objections were properly sustained by the Court or motions to strike granted with respect to the purported questions. In view of the Court's action with regard to the same, you must ignore the contents of such question or questions and the implication or implications contained therein. This rule applies generally and [8473] equally to all questions to which objections have been sustained or motions to strike granted. You are not permitted to conjecture or surmise what the answer or answers might have been if the Court had not sustained the objections or the motions to strike. In short, the matter of ruling on all such procedural matters rests solely with the Court. That is exclusively my province and you are bound by the Court's rulings on such matters.

During the course of the trial, there have been various and repeated references made to the opinion of the Supreme Court in the case of Bridges v. Wixon. I have repeatedly held and rendered written opinions herein that the decision of the Supreme Court is not determinative of any legal or factual issue in the case at bar, and accordingly, I advise and instruct you. You are not to draw any inference or inferences with respect to the objections which I have sustained and the offer on the part of the defense to place the decision before you or to have its contents read to you. The admissibility of the opinion is a question of law for the Court. Members of the jury are bound by my determination.

Reference has been made to a civil complaint on file seeking to denaturalize the defendant Bridges, based upon alleged fraud on his part in gaining citizenship on the date or dates in question. I instruct you that the fact that there is now pending such civil complaint is in no wise to have any bearing [8474] upon your determination with respect to this criminal case.

You have listened to arguments by the various counsel. Counsel have a right, and indeed a duty, to argue the case to you. It is your duty to listen and to be attentive and to give respectful consideration to their arguments. However, in their comments upon the facts of the case, if you find there is any discrepancy between what they stated to you to be the facts of the case and the words that have come from the mouth or mouths of the witnesses, you must disregard, if there is such conflict, the statement as to fact made by the attorneys and consider only the evidence given by the witnesses in that regard. On the other hand, however, if counsel have stipulated or agreed to certain facts, you are to regard the facts as stipulated or agreed to by counsel as being conclusively proven.

In a trial by a jury in a federal court the judge is not a mere moderator, but is the governor of the trial for purposes of assuring its proper conduct and of determining questions of law. In charging the jury, the trial judge is not limited to instructions of an abstract sort. It is within his province, when he deems it necessary, to assist the jury in arriving at a just conclusion by explaining and commenting on the evidence, by drawing their attention to the particulars which he thinks are important. However, as I have pointed out to you on repeated occasions during the course of the trial, and I now repeat to you, you are the final arbiters of the fact or facts, and it is solely and exclusively your province to pass upon the credibility of the witnesses and the weight of the evidence. [8475]

There are certain well-defined rules which apply as to how you shall weigh and consider testimony. Many of them are such as these: First, you have the right to observe the witness upon the stand and to consider the impression he or she may make upon you with respect to telling the truth or telling a falsehood. You have a right to observe his or her demeanor, his attitude, whether he appears conscientiously to be stating to the best of his ability the truth, or whether he appears to be suppressing something or coloring his testimony in a manner not to reveal the truth. If the witness has the appearance of attempting to the best of his ability to tell the truth, and other circumstances tend to establish that situation, then you give full credit to his testimony. But if you are impressed that the witness is attempting to hide something or is not telling the whole truth, then you have the right to give only such consideration to his testimony as you may think it entitled to receive.

In considering these matters you are confined to the case itself. You are not entitled to go outside of and beyond those circumstances which this trial developed and make an assumption or reach conclusions with respect to the facts of the case, but you are bound, as you said in your answers to questions when being selected as jurors to try this case, solely upon the facts and the law as have been presented to you in this courtroom. **[8476]**

I admonished you not to read news articles bearing upon this controversy or to listen to radio news accounts or commentators concerning the trial, and now out of regard for an abundance of caution I charge you that you must not consider in your determination of the guilt or innocence of the defendants, in accordance with these instructions, anything that you may have read or heard other than that contained in the exhibits and the testimony recorded in this courtroom.

If any witness produced before you has displayed what purports to be an almost exact memory for matters occurring in the past, and upon which he was questioned during his direct examination by the counsel producing such testimony, but who displayed an apparent lack of memory concerning incidents, dates, places and details when questioned as to more recent events of equal importance upon cross-examination, it will be your duty to consider such apparent conflicts in the memory of such witness as may bear upon his credibility.

Generally with respect to the credibility of witnesses there are certain rules applicable. The credibility of a witness may be assailed by proof of prior acts or declarations which demonstrate hostility toward the party against whom such witness is called. A witness may be impeached by the party or parties against whom he was called, by contradictory evidence, or by evidence that such witness has made at other times statements inconsistent with his or her present testimony. A [8477] witness, however, is presumed to speak the truth. This presumption, however, may be repelled by the manner in which he testified, by the character of his testimony, or by evidence affecting his character for truth, honesty and integrity, or his motives, or by contradictory evidence, and the jury are the exclusive judges of the credibility of all of the witnesses.

If a witness is shown knowingly to have testified falsely on the trial touching any material matter, that is, any fact which tends to prove or disprove the defendants' guilt or innocence, the jury has the right to distrust such witness' testimony in other particulars, and in that case you are at liberty to reject the whole of the witness' testimony, except in so far as he has been corroborated by other credible evidence or by facts and circumstances proved on the trial.

If you should find that there are discrepancies or inconsistencies existing in the testimony of any witness or between the testimony of any witnesses, or if you should find yourselves disagreeing over various issues, real or apparent, you should then ascertain whether or not such discrepancies or inconsistencies or such points of difference affect the true issue in this case. Examine such discrepancies or inconsistencies and such disputed points and ask yourselves these questions: How does the decision of this or that or the other discrepancy or other matter in dispute affect the guilt or innocence of the [8478] defendants? Regardless of what may be the truth concerning such discrepancies or inconsistencies, ask yourselves the main question: Did or did not the defendants commit that charges or acts as alleged in the indictment? Is such discrepancy or such disputed point material to establish the main and material issue of fact as to the guilt or innocence of the defendants? If they are not material, if the decision of the same is not necessary to enable you to arrive at the guilt or innocence of the defendants, then such discrepancy or disputed points are immaterial and minor matters, and you should waste no further time in discussing or considering them.

The court has attempted to avoid any comment which might suggest its personal views on the weight of the evidence, the credibility of the witnesses, the inferences to be drawn or the importance of one phase or segment of the testimony as compared to another, and no comment made by the Court has been so intended.

The circumstance that I may mention some of the details concerning the evidence and omit others or discuss certain issues of fact and omit others must not be taken as an indication that one phase of the case is of more importance than another. It is for you alone to determine what evidence you will believe and what weight you will give to it in accordance with my instructions.

During the course of the trial I instructed the jury in [8479] substance as follows: In accordance with the rehabilitation section of the Penal Code of the State of California, Section 1203.4, the offense to which Mervyn Rathborne pleaded guilty many years ago has been expunged or erased from the records. The Legislature of the State of California has seen fit to incorporate such section in the codified law in order to assist in the rehabilitation process of one convicted of felonious conduct or entering a plea of guilty thereto. After the probationary period has expired a certificate in the trial court may be obtained expunging the record of any felonious conduct. Such a certificate has been received in this case on behalf of Mr. Mervyn Rathborne. The record shows that the prior criminal charge or charges against the witness Rathborne were dismissed in September, 1949, or August, 1926. Whatever date may be determined upon, I charge you as a matter of law that the witness may not be impeached as a result of any such prior conviction of felony.

You should look to the interest which the respective witnesses have in the trial or in its results. Where the witness or witnesses has or have a direct personal interest in the result of the trial, the temptation is strong to color, pervert or withhold the facts. The law permits the defendant at his own request to testify in his own behalf. The defendants have availed themselves of this privilege. Their testimony is before you and you must determine how far it is credible. The [8480] deep personal interest which they have in the result of the trial should be considered by the jury in weighing their evidence in determining how far or to what extent it is worthy of credit. The fact that one is a defendant does not condemn him as unworthy of belief, but at the same time it creates an interest greater than that of any other witness, and to that extent affects the quesion of credibility.

It is a familiar rule that the relations of a witness to the matter to be decided are legitimate subjects of consideration in respect to the weight to be given to his testimony.

I further instruct you that the defendants are not required to prove themselves innocent, for the reason that at the outset of the trial they are presumed to be innocent. This presumption of innocence remains with the defendants throughout the entire trial and it stands as a shield to protect them, unless the Government has proved to your minds, beyond a reasonable doubt, each and every essential element in each and every count of the indictment. I further instruct you that the burden of proof never shifts as to the defendants, for the reason that the defendants have entered a plea of Not Guilty, and that such plea puts in issue every material element in each and every count of the indictment. I further instruct you that it is your duty to reconcile the evidence in this case with the presumption of innocence.

The good character of a person accused of a crime when [8481] proven is itself a fact in the case. It is a circumstance tending in a greater or lesser degree to establish his innocence. It must be considered in connection with all the other facts and circumstances of the case and may be sufficient when so considered in itself to raise a reasonable doubt of the defendant's guilt. But if after a full consideration of all the evidence adduced the jury believes a defendant to be guilty of the crime charged, they should so find, notwithstanding evidence of good character.

I further instruct you that you must view with caution evidence of oral admissions or statements alleged to have been made by any of the defendants. I further instruct you that you are not bound to decide in conformity with the declarations of any numbers of witnesses which do not produce conviction in your minds against a less number or against a presumption or other evidence satisfying your minds.

In order to delineate to the jury what this case is about as to issues and background, I should point out clearly what it is not about. Reduced to its essentials, the asserted case against Harry Bridges as well as the two co-defendants, Messrs. Schmidt and Robertson, is not difficult to analyze from the evidentiary viewpoint. We are not concerned with the following issues that have crept in by insinuation and by indirection, but which may be regarded as immaterial:

First, neither the International Longshoremen's and [8482] Warehousemen's Union nor any other labor organization or association is on trial in this courtroom. The relative merit or demerit of the AFL as compared to the CIO is not a question for determination.

Asserted police brutality in connection with the 1934 waterfront strike as well as the asserted brutality of the deputy sheriffs and vigilantes in connection with strike incidents arising in the San Joaquin Valley and with respect to such other incidents referred to by the witnesses should not be taken by you as tending to prejudice the prosecution in this case, nor should any sympathy be extended to the defendants or either of them by and as a result of such activities. The said issue or issues is and are foreign to the case before this Court and this jury.

The defendants do not contend or assert that any evidentiary matter introduced by the Government in this case was obtained as a result of alleged wire-tapping by the Federal Bureau of Investigation. I further charge you that it is not your function to pass upon the merit or lack of merit of Communism or capitalism, public ownership or private ownership.

Prior deportation proceedings against Mr. Harry Bridges, held before the Bureau of Immigration Examiners, are in no way in issue in this case, nor are any court decisions which have been frequently mentioned relevant issues in this trial. The merit or demerit of any internal controversies between [8483] labor unions or labor leaders are not in dispute.

I think it might be a convenient time, if agreeable to the ladies and gentlemen of the jury, to take a short respite or recess, and I will take up the balance of the instructions shortly thereafter. The same admonition to you, however, not to discuss the case under any conditions.

(Recess.) [8483-A]

The Court: Ladies and gentlemen, before the brief respite at recess period, I discussed generally with you the immaterial issues, or the issues which I regarded as immaterial. As I have indicated, they crept into the trial in one form or another.

Now, I charge you to be careful and painstaking that the testimony on the subjects which I outlined and enumerated, and which I regarded as irrelevant, does not distract your attention from the main ~~issue or~~ issues, as defined in these instructions; or engender emotions and sympathy which may make it difficult for you to discern the real and primary underlying issues of this trial.

I charge you to approach your determinations fairly and calmly without prejudice for or against any party herein.

The rule for the exclusion of extraneous matters is most vital in the administration of justice. It is a rule not for the benefit of the Government of the United States. It is a rule for the benefit of defendants charged with the commission of criminal offenses, for, were jurors to be permitted to go into extraneous fields or, in fact, any trier of the fact to do that, no man's life or liberty would be safe. Therefore, it is that we require rigid adherence to the rule that the issues of a case, particularly a criminal case, must be confined to the evidentiary matters submitted in the courtroom.

The motive of the prosecution is not relevant to the ordinary criminal proceeding; the material questions ordinarily [8484] are whether the defendant has committed the act or acts alleged and whether the act or acts constitute a crime. In the instant case, the basic crime charge against the defendant, Mr. Bridges, is that of false swearing. Though a defendant in a criminal case may show by proper evidence the hostility, bias or interest of any witness, the motive of the prosecution in instituting the present criminal action is immaterial unless you believe that such alleged motive constitutes evidence establishing the innocence or guilt of the accused, or the defendants on trial.

Although the indictment has been referred to several times during the course of the trial and read to you at the outset by counsel, I feel that perhaps we should have a closing word about it.

I charge you that, stripped of legal verbiage, the indictment is a comparatively simple document. The first count or charge is concerned with an alleged conspiracy in that the defendants are charged with conspiring to defraud the government by having the defendant, Mr. Bridges, fraudulently petition for and obtain naturalization in the Superior Court of the State of California, by falsely representing to the Court that the defendant, Harry Renton Bridges, had never belonged to the Communist Party in the United States. In pursuance of the alleged conspiracy, the defendants allegedly performed the following overt acts:

(1) On June 23, 1945, the defendant, Bridges, filed a [8485] petition for naturalization;

(2) On August 8, 1945, the defendant, Bridges, and the defendants, Henry Schmidt and J. R. Robertson, appeared before a Naturalization Examiner of the United States and gave testimony with respect to the application for naturalization. Defendants Schmidt and Robertson signed as witnesses to the petition;

(3) On September 17, 1945, the defendants, Bridges, Schmidt and Robertson, appeared in the Superior Court of the State of California and gave testimony in support of the petition of defendant Bridges for naturalization.

So much for the first count, the so-called conspiracy count.

The second count is against the defendant, Harry Bridges, alone, and in substance, reads as follows: On the 17th day of September, 1945, in the Superior Court of the State of California, Hon. Thomas M. Foley presiding, Harry Renton Bridges took an oath to testify truly; defendant, Harry Renton Bridges, wilfully and knowingly made a false statement under oath on matters material to the issues of the Naturalization Proceeding when he answered the following questions in the negative:

Q. Do you now, or have you ever, belonged to the Communist Party in the United States?

A. I have not; I do not.

Allegedly Harry Renton Bridges, contrary to his oath and falsely, gave such answers knowing them to be false. In truth and in fact, the defendant Bridges belonged to and had been a [8486] member of the Communist Party from 1933 up to and including September 17, 1945, which was the date of the hearing.

The third count or charge in substance alleges a concert of action as to the two defendants, Henry Schmidt and J. R. Robertson, in that they aided and abetted the defendant, Bridges, in obtaining citizenship fraudulently by reason of false testimony offered. The charge in substance is as follows: On September 17, 1945, the defendants, Henry Schmidt and J. R. Robertson, assisted

Harry Renton Bridges to obtain a Certificate of Naturalization by fraudulent means in a naturalization proceeding before the Superior Court of the State of California at a time when the defendants knew that Harry Renton Bridges had been and was a member of the Communist Party in the United States from 1933 up to and including September 17, 1945. Such fraud consisted in giving false statements and making false representations before the Superior Court with respect to Harry Renton Bridges' membership or alleged membership in the Communist Party during the period in question.

As to the indictment, the formal charging paper, each of the defendants has entered a plea of not guilty, thus placing in issue each and every one of the material allegations embraced in the indictment.

I instructed you at the outset, when you were impaneled as jurors and I have occasion to repeat now, that the fact that an indictment has been returned against the defendant or [8487] defendants in this case by the grand jury constitutes no evidence whatsoever against the defendants.

The indictment in this case is merely a formal accusation. It is part of the machinery by which a criminal trial is conducted under our system of law.

To each of the charges in the indictment, which has been read to you, each of the defendants pleaded not guilty.

By their respective pleas of not guilty, the defendants put into issue every fact material to the accusations brought against them.

The burden is thus cast upon the government to prove the guilt of the defendants to a moral certainty and beyond a reasonable doubt.

In the absence of proof of such degree, the defendants are entitled to be acquitted.

Each count of the indictment alleges that "Harry Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including said 17th day of September, 1945."

The Court charges you that dates do not have to be proved precisely as alleged, it being sufficient if the allegations of the indictment and proof as to dates substantially correspond.

I further instruct you that the Government must prove to your minds, beyond all reasonable doubt, the truth of each and every essential element alleged in each and every count of the [8488] indictment and if, from all the evidence in this case, you are not convinced beyond all reasonable doubt of the truth of each and every essential element alleged in each and every count in the indictment, you must return a verdict of not guilty as to such count or counts in the indictment.

I instruct you that, if the evidence in this case is susceptible of two constructions or interpretations, each of which appears to you to be reasonable and one of which points to the guilt of the defendants and the other to their innocence, it is your duty, under the law, to adopt that interpretation which will admit of the defendants' innocence and reject that which points to their guilt.

I further charge you that if you are satisfied beyond a reasonable doubt that the defendants, or any of them, are guilty of the charges or any of them, as embraced in the indictment, then it is immaterial that defendants may have had some helpful, constructive or benign influence on or in the labor movement, or with respect to the waterfront problems or the issues affecting the working classes engaged in longshore or warehouse work. Conversely, you may not find the defendants, or any of them, guilty for the reason that you may believe that their influences or efforts were harmful in the foregoing particulars.

I wish to give you some general rules to aid you in determining the weight of the evidence and how you should judge the evidence. These are somewhat general rules that apply to all [8489] criminal trials in the federal courts. In the first place, it is your duty to approach the case and come to your decision without any sympathy, on the one hand, or prejudice, on the other. At the time you were impaneled as jurors, I told you that, by the filing of an indictment, no presumption arises as to the guilt of a defendant or defendants. I also told you that, to the contrary, it has always been a principle of our jurisprudence that every defendant is at all stages of a criminal proceeding presumed to be innocent, and that presumption continues the jury is convinced beyond a reasonable doubt of the guilt of the defendants. The burden of proving the guilt of the defendants in a criminal case is upon the prosecution, in this case the Government of the United States of America. That burden always rests with the government and it never shifts to the defendants. Each of the defendants in this case is entitled to the independent judgment of each juror. Even though the defendants are charged jointly in this indictment, nevertheless you must consider the case of each defendant separately, and each of you must give to each defendant your free and impartial and unbiased judgment.

In the trial of the case, it became necessary for both the prosecution and the defense to call upon persons with asserted knowledge of the facts to serve as witnesses. Neither side can control the background, the experience, the associations nor the antecedents of its witnesses. [8490]

In the course of the present trial, many terms have been used by counsel to characterize certain individuals on the witness stand. Such terms as labor spy, stool pigeon, liar, perjurer, reformed Communist, and confessed Communist have been applied to witnesses. In passing upon the credibility or lack of credibility of witnesses characterized by such terms of opprobrium, the jury shall apply the same standards that it utilized for evaluating the testimony of any other witness, in accordance with the instructions given to you herein.

The critical question underlying this case concerns itself with the credibility of witnesses. The defense claims that 11 of the government witnesses are either perjurers, liars, stool pigeons, paid informers, misinformed or badly mistaken. That is to say, the defense claims that all of these witnesses have falsified in one form or another as part and parcel of an alleged conspiracy existing between government agencies and the witnesses. By what rule or rules are you to judge the credibility of such witnesses, as well as the defendants themselves, and the witnesses offered on their behalf in this courtroom?

In order to evaluate the worth of the testimony that is presented to you, you may consider many factors: As I have already indicated, you may consider the circumstances under which the witness has testified, the demeanor or manner of the witness on the witness stand, his intelligence, the connection or relationship that he bears to the government or to the [8491] defense, the manner in which he might be affected by the verdict, the extent to which he is corroborated or contradicted by other evidence, if at all, and any matter that in your view reasonably, considering all the evidence, bears upon his credibility.

You may further recall that, during your impanelment as jurors, and more recently during the arguments, reference has been made to the doctrine of reasonable doubt. And you may further recall that I discussed with you in a very general way matters of intent, presumption of innocence and circumstantial evidence.

The term reasonable doubt means a doubt for which a good reason can be given, in the light of all the evidence. It means a doubt which is substantial and not merely shadowy. It does not mean a doubt which is merely capricious or speculative. Neither does it mean a doubt born of reluctance on the part of a juror to perform an unpleasant duty, or a doubt arising out of sympathy for a defendant or out of anything other than a candid consideration of all the evidence presented.

Without its being restated or repeated, you are to understand that the requirement that a defendant's guilt be shown beyond a reasonable doubt is to be considered in connection with and as accompanying all the instructions that are given to you.

Remember that the defendant or defendants are entitled to any reasonable doubt, as defined, that you may have in your [8492] minds; but at the same time also remember that if you have no such doubt, the government is entitled to a verdict.

In every crime, there must exist a union or joint operation of act and intent, and for a conviction both elements must be proven to a moral certainty and beyond a reasonable doubt. Such intent is merely the purpose or willingness to commit such act. It does not require a knowledge that such act is a violation of law.

The law says we have no power to ascertain the certain condition of a man's mind. The best we can do is to infer it more or less satisfactorily from his acts.

A person must be presumed to intend to do that which he voluntarily and wilfully does in fact do, and must also be presumed to intend all the natural, probable and usual consequences of his acts, and conduct.

As concerns the defense offered on behalf of the defendants Schmidt and Robertson, the crucial question is whether or not there was any intent upon the part of either of these defendants to deceive and defraud the Government of the United States.

The asserted good faith, the intent, the purpose and motive of what was done by the defendants Schmidt and Robertson constitute the vital and important element of the case brought against them. Hence the jury may consider any material explanation of their motives and purposes in determining the character of their participation in the citizenship hearing of the [8493] defendant Harry Bridges.

There are two classes of evidence recognized and admitted in courts of justice, upon either of which juries may lawfully find an accused guilty of crime. One is direct or positive testimony by an eye witness to the commission of the crime; and the other is proof in evidence of a chain of circumstances pointing toward the commission of the crime by the defendant and known as circumstantial evidence.

The law in regard to circumstantial evidence is this, briefly:

In order to justify a jury in finding a verdict of guilt based on circumstantial evidence, the facts and circumstances must not only be consistent with each other and with the guilt of the defendant, but they must be inconsistent with any reasonable theory of the defendants' innocence that can be predicated on the evidence and must show the defendants' guilt beyond a reasonable doubt.

In other words, not only must each fact relied upon to show guilt be proved beyond a reasonable doubt, but such fact must be consistent with all the other facts introduced in the chain of circumstances, and must further be inconsistent with any other rational conclusion than that of the guilt of the defendant or defendants.

In other words, in order to award a verdict of guilty based on circumstantial evidence, the jury must find that the facts [8494] and circumstances are consistent with the guilt of the defendants and no other reasonable conclusion but that of guilt can be drawn from the evidence.

If you find, in this case, that every circumstance relied upon as incriminating is equally compatible with the innocence of the defendants, then there has been a failure of the proof necessary for the defendants' conviction and your verdict must be not guilty.

As to the issue of Communism, although reference has been made by several witnesses in the course of the testimony in this trial to the asserted purpose or purposes of the Communist Party to overthrow the Government of the United States by force and violence, I instruct you it is not incumbent upon the Government in this case to prove that the Communist Party had or has such purpose or purposes, or was or is dedicated to such alleged violent ends.

In short, the issue on this phase before the Court and jury is simply this:

Was the defendant, Harry Bridges, at the time of the hearing before Hon. Thomas Foley, Judge of the Superior Court, a member of or had he in the past been, during the period of the time mentioned in the indictment, such member of the Communist Party, and did he swear falsely, as alleged in the indictment, at the said time and place, concerning such membership?

The aims, purposes and objectives of the Communist Party [8495] are not in issue under the indictment as framed, nor is it incumbent upon the Government to prove to a moral certainty and beyond a reasonable doubt that one of the asserted aims or purposes was to overthrow the government by force and violence.

That issue is entirely immaterial to any ultimate consideration under the evidence as to the guilt or innocence of Harry Bridges and co-defendants J. R. Robertson and Henry Schmidt.

From time to time, as you may recall, during the trial and the reception of evidence presented by the government, objections have been made to testimony concerning alleged activities of the Communist Party of its alleged members outside of the presence of the defendants in this case.

Upon the occasions the Court permitted such evidence to be introduced for purposes explanatory of the testimony of particular witnesses, but in each of such instances the Court instructed the jury that such testimony was in no wise binding upon the defendants in the case.

By such admonishment, the Court meant to inform the jury, and the Court now repeats, that the jury may not consider any of the evidence heretofore submitted concerning alleged activities of the Communist Party or of its alleged members taking place outside of the presence of the defendants in this case as tending to show the guilt of any defendant at bar as to the charges for which he stands accused.

You may consider such evidence only for the limited purposes [8496] indicated by the Court, but you must remember that such evidence may not be used by you in your deliberations in support of any finding of guilt, because such evidence is not binding upon the defendants.

Because of the nature of the evidence which has been received during the trial and because of the contentions made by the prosecution and by the defense with respect to the signficances and meanings of such evidence, it is necessary that I instruct you concerning the legal meaning of the phrase "membership in the Communist Party of the United States," as used in each of the three counts as embraced in the indictment. I instruct you concerning the distinction between membership in the Communist Party and certain other acts and conditions, or states of mind, which as a matter of law fall short of constituting membership in the Communist Party.

The law recognizes various legal relationships that may exist between an individual and an organization. I shall not attempt to enumerate all such possible relationships, but among them are such as association between a person and an organization, connections of a business, professional or other similar nature, affiliation and membership. Mere association between an individual and an organization does not constitute membership. The same is true of business, professional, social or other similar connections. A person may approve some or all of the aims or activities of an organition, yet this does not [8497] make him a member. Even sympathy for the program of an organization, or contributions of money do not create the legal status of membership.

The law also recognizes that active cooperation with an organization in its activities does not create the legal status of membership. I have also mentioned the legal relationship which the law designates as affiliation. Affiliation is defined as conduct of a person which indicates an adherence to or a furtherance of the purposes or objectives of an organization. Even affiliation, if you should find it to exist in this case, would not constitute the same legal status as membership, for the reason that membership refers to something more than, and different from affiliation. Therefore, even if you find that the defendant, Harry Renton Bridges, has established or maintained a relationship with the Communist Party of the United States, consisting of association, cooperation in its activities or objectives, or affiliation; but if you nevertheless are not convinced beyond a reasonable doubt and to a moral certainty from all the evidence that the defendant, Harry Renton Bridges, was ever a member of such Communist Party in the United States, then I instruct you that the answers given by the defendant, Harry Renton Bridges, in the naturalization proceedings would be truthful answers and the defendant would not be guilty thereby of false swearing as charged in the indictment.

In summary, then, adverting to the former instruction [8498] which I gave, to be a member of the Communist Party within the meaning of that term as used in the indictment, a person must be more than merely in sympathy with some or all of its aims; he must be more than merely willing to aid it in a casual or intermittent way; he must be more than merely willing to accept aid from it in furtherance of his own objectives or the objectives of his labor union. As a matter of law, such sympathies and/or activities as I have just described fall short of constituting affiliation with the Communist Party and as a matter of law even affiliation with the Communist Party falls short of constituting membership in the Communist Party.

If the evidence shows that the defendant Bridges cooperated at times with officers or members of the Communist Party with the view of advancing the cause of unionism, under our law such evidence alone is not sufficient to show actual membership by the defendant Mr. Bridges in the Communist

Party of the United States.

I charge you that whether or not the defendant, Bridges, was a member of the Communist Party is a question of fact which you are to determine from all the evidence. In reaching this determination you are to consider all the evidence offered by the respective parties bearing upon this issue.

Membership in the Communist Party may be established by direct as well as circumstantial evidence and by statements or admissions of a party whose membership is in question. [8499]

In this case the government has offered testimony to the effect that the defendant, Bridges, made application for membership, paid dues, and received certificates of membership or books evidencing membership, and that the defendant, Bridges, was elected to office in the Communist Party. Government witnesses have testified that the defendant, Bridges, on one occasion stated he was a member of the Communist Party and suggested that others join the Communist Party. Witnesses have also testified that the defendant, Bridges, was present and participated in meetings, the attendance at which was restricted to Communist Party members.

In determining whether or not the defendant, Bridges, was a member of the Communist Party, you should take into consideration the testimony offered by the government to establish membership, as well as the denials of membership and all other evidence offered by the defendant Bridges.

The primary question, therefore, for you to determine of a factual nature is, was the defendant, Harry Bridges, a member of the Communist Party at any time during the years embraced in the indictment.

If you answer this question in the affirmative, that is, that he was such a member, then it would be necessary for you to determine whether he swore falsely at the naturalization hearing before Hon. Thomas Foley, as more particularly alleged in the indictment. In this connection, the defendant, Bridges, has [8500] admitted herein that the following questions were put to him and that he answered them in the negative; that is, he denied the same:

"Have you been, or are you now, a member of the Communist Party?"

Mr. Bridges' answer was: "I have not; I am not."

The third consideration for determination as to the second count as it affects Mr. Bridges individually is concerned with the materiality of the questions asked and the answers given.

On the question of the materiality of the alleged perjurious testimony, I charge you that before you would be justified in finding the defendants guilty, you must be convinced beyond a reasonable doubt by the evidence presented in the case—

(1) That Harry Bridges did in fact apply for citizenship as alleged in the indictment;

(2) That Harry Bridges appeared before Judge Foley, as alleged, in the naturalization proceeding;

(3) That he was duly sworn, as alleged;

(4) That, after having been duly sworn, as alleged, he gave under oath the testimony as alleged, that is, that he was not a member of the Communist Party and had never been a member of the Communist Party;

(5) That the testimony so given was false;

(6) That Harry Bridges, at the time he so testified, knew of the falsity of his [8501] testimony; and

(7) That he gave the false testimony wilfully and with criminal intent to deceive.

On the question of materiality of the alleged false testimony, however, I further charge you that it is my duty, as the trial judge, to determine whether or not the alleged false testimony was material testimony in the naturalization proceeding before Judge Foley. I charge you, therefore, that if you find that Harry Bridges gave the answers as alleged in the indictment, then such answers were material answers in the naturalization proceeding.

To state it more briefly, whether or not the alleged false testimony was given in the circumstances alleged is a fact question for you to decide. Whether or not the alleged false testimony was material testimony is a law question for the Court to decide. I charge you that the alleged false testimony was material, and that if you find the false testimony was given as alleged, you are not to concern yourselves further with the question of materiality of the testimony.

I further instruct you that a statement upon which perjury may be assigned must have the following legal characteristics:

(1) It must be competent testimony;

(2) It must be material and relevant to the issue;

(3) It must be a declaration of fact, and not a conclusion of the witness;

(4) It must be such that it would properly influence the [8502] tribunal before which it was made, in its determination of the issue under investigation;

(5) It must be false;

(6) Its falsity must be known to the witness when made and must be wilfully and deliberately deposed to.

I instruct you further, ladies and gentlemen of the jury, that under the second count in the indictment, the evidence submitted by the government must be clear, convincing and direct. The guilt of the accused must be established beyond a reasonable doubt by the testimony of two independent witnesses or one witness and corroborating circumstances.

I further instruct you that two elements must enter into a determination that corroborative evidence is sufficient. The first element is that the evidence, if true, substantiates the testimony of a single witness who has sworn to the falsity of the alleged perjurious statement. The second element is that the corroborative evidence is trustworthy.

If either of the foregoing elements be lacking, no perjury will have been proved.

The defendants, Schmidt and Robertson, have been charged in the third count of the indictment with aiding and abetting the defendant, Bridges, to obtain his citizenship by fraudulent statements and representations pertaining to his alleged membership in the Communist Party. So that you may understand the meaning of the charge in this count, I shall attempt to explain [8503] the legal scope and significance of the term, "to aid or abet."

For one person to abet another person in the commission of a criminal offense, it simply means knowingly and with criminal intent to aid, promote, encourage or instigate, by act or counsel, or both act and counsel, the commission of such criminal offense.

With respect to conspiracy. The first count in the indictment embraces the so-called conspiracy count. If the defendants did not conspire to do the unlawful things which the first count of the indictment charges them with having conspired to do, they are not guilty of the offense thus charged against them.

I instruct you that a conspiracy is a partnership in criminal purposes.

(1) I instruct you that a conspiracy may also be defined as a combination of two or more persons, by concerted action, to accomplish a criminal or unlawful purpose, or some purpose not in itself criminal or unlawful by criminal or unlawful means.

(2) If the above elements are not found by you to be present in the case at bar, no conspiracy will have been proved and you must find the defendants not guilty as to the first count.

Expressed in another way, a conspiracy is an unlawful agreement entered into by two or more persons to commit a crime against the United States or to defraud the United States. To sustain a charge of conspiracy, it must be shown that one of the members of the conspiracy did some act commonly called an overt [8504] act, in furtherance of the object of the conspiracy. The overt act need not be criminal in nature if considered separately and apart from the conspiracy; it may be as innocent as the act of a man walking across the street or driving an automobile or using a telephone. But, if during the existence of the conspiracy, the overt act is done by one of the conspirators to effect the object of the conspiracy, the crime is complete and it is complete as to every party found by you to be a member of the conspiracy, no matter which one of the parties did the overt act.

The defendants, Schmidt and Robertson, are charged with entering into a conspiracy.

As in the case of any defendant accused of crime, every material allegation of the indictment must be proved before any verdict of guilt can be entertained.

If the jury finds that there is no evidence whatsoever concerning any conspiracy entered into between the defendants, Schmidt and Robertson, or between them or either of them with any other persons, the charges brought against these defendants must be rejected and a verdict of not guilty must be returned as to the first count.

In order to find the existence of a conspiracy, it is not necessary that you find that all these defendants met together and formed an express agreement, for probably when men enter into a plan of the character here charged, they do not expressly [8505] agree. Much, probably, is left to unexpressed understanding and it is not necessary that there should have been any time at which all met and with any formal expression of words agreed upon a plan or a conspiracy. They are usually entered into more or less secretly and carried out in a manner so as to leave as little proof or evidence for detection by anyone later. Rarely in conspiracies is there direct proof of the purposes and intentions of the parties; but direct proof is not indispensable. The object of a conspiracy and a defendant's connection with it may be partly or entirely revealed as shown by the facts and circumstances and the reasonable inferences and conclusions to be drawn from them. But every fact and every circumstance from which the inference is drawn and a conclusion based must be proved beyond a reasonable doubt.

If persons act together for a common purpose, and that purpose is the illegal act charged as the object to be accomplished and the acts of the parties so fit together as to show a common understanding or concert of action as to things to be done, that shows a conspiracy.

I instruct you that there has been no direct evidence presented in this courtroom that the defendants or any of them met together and agreed or conspired with each other or with any other persons to defraud the United States Government in any manner as alleged in the first count of the indictment. The only evidence of such a meeting together, agreement or [8506] conspiracy is purely circumstantial, if it exists at all, and therefore the instructions I have just given you with respect to the standards which you must apply to circumstantial evidence are to govern you in your consideration of whatever evidence there is of the existence of the conspiracy, or alleged conspiracy.

I think I should further charge you that all persons working together in the furtherance of a common design are members of the conspiracy, although the part anyone is to take is subordinate, or is to be executed at a remote distance. It is not necessary that each conspirator participate in each step or stage of the common, general design. One of them may do one thing, another may do a different thing. Some may take major parts, while the participation of others may be in a minor degree. The mere knowledge, acquiescence or approval of an unlawful act, without cooperation or agreement to cooperate, is not sufficient to constitute one a party to a conspiracy. It requires more than proof of a mere passive cognizance of a crime on the part of a defendant to sustain a charge of conspiracy to commit it. And you must find that the defendant did some act or made some agreement showing an intention to participate in some way in such conspiracy.

One who aids or abets a conspiracy after its formation, with understanding of its purpose, becomes a party to it. One who comes into a conspiracy after it has been formed, with [8507] knowledge of its existence, and with a purpose of forwarding its designs is equally as guilty as though he had participated in its original [8507-A] formation.

Since the defendants Schmidt and Robertson are charged with entering into a conspiracy to defraud the United States, the question of whether or not they possessed any criminal intent becomes material to the discussions of the jury.

In any crime, as the Court has heretofore explained, there must be a necessary union of act plus intent, and if one of these two elements be lacking, then no crime at all will have been proved.

There is nothing peculiarly different in the way a jury is to consider the proof in a criminal case from that by which men give their attention to any question depending upon evidence presented to them. You are expected to use your good sense, consider the evidence for the purposes only for which it has been admitted, and in the light of your knowledge of the natural tendencies and the propensities of human beings, resolve the facts according to deliberate and cautious judgment; and while remembering that the defendants are entitled to any reasonable doubt that may remain in your minds, remember as well that if no such doubt remains the government is entitled to a verdict.

I further instruct and charge you that the question ~~of pos~~sible punishment of the defendants, or any of them, in the event of conviction, is no concern of the jury and should not in any sense enter into or influence your deliberations. The duty of imposing sentence rests exclusively upon the Court. The function of the jury is to weigh the evidence in the case [8508] and determine the guilt or innocence solely upon the basis of such evidence.

Under your oaths as jurors you cannot allow a consideration of the punishment which may be inflicted upon the defendants, or either of them, if they are convicted, to influence your verdict in any way.

The indictment, as I have already enumerated, contains three counts.

Each count must be considered by you as a separate and several charge against the defendants and, according to such view as you may take of the evidence, you shall return a verdict of either Guilty or Not Guilty on each count.

Jurors are expected to agree upon a verdict where they can conscientiously do so; you are expected to consult with one another in the jury room and any juror should not hesitate to abandon his or her own view when convinced that it is erroneous.

Your verdict must be unanimous. That is, the twelve jurors must agree.

When you finally retire to your jury room to deliberate, you will select one of your number as foreman or forelady, as it may appear, and he or she will sign your verdict for you when it has been agreed upon, and he or she will represent you as your spokesman in the further conduct of this case in this court. [8509]

I further caution you that if it becomes necessary for the jury to communicate with the Court during its deliberations or upon its return to court respecting any matter connected with the trial of the case, the jury should not indicate to the Court in any manner how the jury stands numerically or otherwise upon the issue submitted to the jury. This caution the jury should observe at all times after the case is submitted to it and until the jury has reached a verdict.

Mr. Mitchell has prepared for your use forms of verdict, and you might, Mr. Mitchell, indicate the forms that we have prepared. I think they have been approved as to form by counsel, have they?

Mr. Hallinan: Yes.

Mr. Donohue: Yes, your Honor.

The Court: All right.

The Clerk: I have prepared three separate forms, or three separate verdicts, if your Honor please, which, after the title of the Court and the case and its number, read as follows, in the first instance:

> "We the jury find Harry Renton Bridges, the defendant at the bar, ... on the first count of the indictment, ... on the second count of the indictment."

With a place for the signature of the foreman.

And similarly in the second verdict:

> "We the jury find Henry Schmidt, the defendant at the [8510] bar, ... on the first count of the indictment and .... on the third count of the indictment."

Likewise as to the defendant Robertson:

> "We the jury find J. R. Robertson, the defendant at the bar, ... on the first count of the indictment, ... on the third count of the indictment."

With a place for the signature.

The Court: Thank you, Mr. Mitchell. Those forms are prepared, ladies and gentlemen, merely for your convenience.

Under the law I have now completed my formal instructions, and counsel for the government, as well as the defendants, have under the Rules of Criminal Procedure the right, the privilege and duty to make known to the Court any objections or exceptions they may have to the instructions, so that hereafter any objections or exceptions they may have, if necessary, may be preserved in the record. This procedure, of short duration, is engaged in in the absence of the jurors.

Now, there is one little procedural quirk here that I want to make known to you, so you will be thoroughly mindful of it. The case has not been finally submitted to you. When it is finally submitted to you, I shall advise you. In the interim, you are to take a brief recess, the alternate to join you, and I will hear counsel out on the objections and exceptions. You are not to converse about the case, you are not discuss the matter with any person or among yourselves, until it is finally [8511] submitted to you.

Mr. Mitchell, the jurors may now recess temporarily. The matter is not submitted to you. Bear in mind, until your return to this court, that fact. It is not submitted to you until formal deliverance is given to you of the case.

(Whereupon the jury retired from the courtroom, and the following occurred outside the presence of the jury:)

The Court: Is it stipulated, gentlemen, that the jurors are absent from the courtroom?

Mr. Donohue: Yes, your Honor.

Mr. Hallinan: Yes.

The Court: Under the rules, Rule 30 provides in part—I think counsel are mindful of the rule, but I may reiterate the same so there will be no misunderstanding:

> "No party may assign as error any portion of the charge or omission therefrom unless he objects thereto before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the grounds of his objection. Opportunity shall be given to make the objection out of the hearing of the jury."

Accordingly, in conformity with that rule, counsel for the government may now note any exception or objection they have.

Mr. Donohue: If your Honor pleases, the government takes neither exception to nor does it make any objection to any [8512] part of your Honor's charge.

The Court: Now, Mr. MacInnis, I appreciate that you will have some objections and exceptions on behalf of the defendants Robertson and Schmidt, and merely as a matter of routine procedure, the original numerical sequence,—and this applies equally to Mr. Hallinan,—may be had and devoted by you in connection with the exceptions or objections, as I will illustrate: "Proffered instruction No. 10, submitted by the defense," and then state your exception or objection. I merely wanted to clarify that.

Mr. Hallinan: And we have the stipulation already that objections made by one will apply to the others, so that it won't be necessary for me to repeat them.

The Court: Is that agreeable, Mr. Donohue?

Mr. Donohue: Yes, your Honor.

The Court: All right, the same stipulation, then, is engaged in at the present time.

Mr. MacInnis: Well, may the record now show that on behalf of all three defendants in this case the following objections are made and the following exceptions taken to the charge made to the jury by the trial judge. I will speak first of those instructions addressed to the jury voluntarily by the trial judge, as distinguished from those proposed by the respective counsel.

After speaking first of the background of the case and the [8513] reciprocal or divided duties of the judge and jury, the trial judge first told the jury that they should consider that eleven witnesses testified in effect that Harry Bridges had been a member of the Communist Party, whereas only two witnesses independently of the three defendants testified that he was not. We object to that instruction, and we take an exception to it, because it assumes as a matter of law some duty on the part of the defendants to negative that kind of testimony. It adopts the argument of the special prosecutor made to the jury in this case in which he said that there was some such duty, that, in other words, if there was a hundred people at a meeting alleged by some witness, the defendants should bring all those people here to negative the charge. And as a matter of law, the instruction disregarded the very well-known rule of law that it is the quality of the evidence and not the quantity of the evidence which must be scrutinized. It disregarded likewise the rule, although that rule is stated otherwise by the trial judge, that it is not the greater number of witnesses which will contribute to the weight of the evidence, but rather those witnesses whose testimony produces conviction in the minds of the average listener.

Now, the second objection made on behalf of the three defendants, the second exception which we take, was upon that instruction under which the trial judge informed the jury as to his motives in questioning certain witnesses who appeared [8514] here. That the trial judge has the right to question witnesses is undenied. That is a function of the trial judge. But in the charge to the jury the trial judge made a gratuitous and self-serving statement to the jury, informing them that his motive in asking certain questions was to see that justice is carried out. Now, it is my belief, as a matter of law, that where the trial judge asks questions to witnesses, as is his right, he subjects himself to the same rules that apply to any other person interrogating a witness. In other words, objections may be made to the questions of the trial judge, and just as the counsel in a case may not bind the jury by a declaration as to his motives in asking a question, neither may the trial judge.

We take exception and we make an objection to another instruction following the one just now mentioned, under whose words the trial judge told the jury that the various reprimands of counsel which had taken place in the course of the trial were, to quote the trial judge, "pursuant to the power and indeed the duty" of the trial judge. Now, we object to that instruction upon the ground that, whether that be true or false, it is hardly material to the labors of the jury in this case whether the counsel were correct or whether the trial court was correct upon any matter involving such a reprimand; and upon the further ground that it is obvious to us and must be obvious to the jury from the record that the only counsel receiving such [8515] reprimand were the two counsel for the defense, myself and Mr. Hallinan.

The Court followed that instruction by another instruction to which we enter an objection and take an exception. The Court told the jury that they must disregard certain allusions by the defense to certain irrelevant and immaterial matters concerning the Immigration Department. I make that citation in substantial language, not quoting the Court exactly. By such words the Court told the jury, without specifying what the material was, that they might well disregard all mention in the testimony of the activities of the Immigration Department in this case; and we would hold, as a matter of law, based upon the facts in this case, that the activities of the Immigration Department in procuring and paying witnesses who came here would obviously be relevant to the credibility of any witness who gave testimony.

We object and we except to that voluntary instruction as distinguished from a later instruction from which the trial judge covered the same material, in which he told the jury that it must, conjointly, disregard all references to the decision of the Supreme Court of the United States in the previous matter involving the affairs of Harry Bridges. By his words the trial judge fold the jury that the decision of the Supreme Court was not determinative of any issue in the case at bar, and the trial judge informed the jury at the same time that before we [8516] assembled here in the trial of the case, by previous motions argued before him he had definitely settled that matter. Now, we object upon the specific ground that the intrusion of the subject matter of the Supreme Court of the United States' decision into this trial came first of all upon matters never argued previously in the presence of the Court. One was the doctrine of res adjudicata; previously the doctrine of twice in jeopardy had been settled by appropriate ruling of the Court. We made no re-urging of that particular point. But we argued that the doctrine of res adjudicata, a thing once decided, the same parties and the same subject matter, determined that point. The second point upon which the Court informed the jury that the decision of the Supreme Court was not determinative of any issue involves the good faith of the defendants Robertson and Schmidt. The defendants Robertson and Schmidt each testified without objection, by appropriate question and answer, that among other factors bearing upon their knowledge and beliefs concerning Harry Bridges they had read the decision of the Supreme Court of the United States and had relied upon its contents. By that instruction the Court negatived the power of a later given instruction, by which he properly told the jury that the good faith and all of the activities of the defendants Robertson and Schmidt in relation to it might be considered.

We enter an objection—— [8517]

The Court: Counsel, if I may interrupt you, merely in aid of the record and so you may be specific, you offered three or four instructions on that point.

Mr. MacInnis: Yes.

The Court: And without referring to them by number, are those the instructions that I did not give? Whatever the numbers may be?

Mr. MacInnis: I am speaking now of the instructions given voluntarily by the Court in his own language before coming to the later instructions.

We object and we enter an exception to that instruction given in the Court's own language by which the Court, in informing the jury of the circumstances under which they might reject the testimony of a witness whose testimony in part at least was proven to be false, added the words, with great emphasis, "unless you find that the testimony was corroborated by other testimony or by facts and circumstances proved in the trial." The language of that instruction, as a matter of law, informed the jury that there were such other facts and circumstances, either corroborating or proving the verity of the particular material.

We object and we take exception to a further instruction given voluntarily by the Court upon the same subject matter, in which the Court told the jury that in considering discrepancies in the testimony of witnesses against the defendants, the paramount question always was, Did or did not the defendants [8518] commit the acts charged in the indictment? And substantially, the Court told the jury that if the discrepancies of themselves were not vital to the guilt or innocence of the defendant, to waste no further time upon them, that they are immaterial. The Court, by such language, disregarded the familiar rule that the credibility of a witness is always material to the issue, and by such language the Court invited the trial jury to disregard the ordinary rules for determining the credibility of a witness.

We object and we take exception to the instruction by which the trial court made reference to the asserted expungement of the felony record of the witness Mervyn Rathborne, and told the jury that it was bound as a matter of law to accept the view that the man was no longer guilty of a felony in the eyes of the law and could no longer be impeached by that route.

We object and we take exception to the language of the Court in the following instruction, by which he informed the trial jury in substance of and concerning the three defendants in this case, as follows, quoting the Court, "Temptation is strong to cover, withhold or pervert the facts," in relation to the defendants alone and not in relation to any other witness produced here. We object to that instruction as having no warrant, either in law or in fact.

We object to a further instruction given by the Court in which he told the trial jury that certain issues, which he [8519] later characterized as immaterial, had crept into the trial by insinuation and indirection; because that instruction had the further vice of striking from the case evidence not objected to evidence which came into the case by appropriate question and answer.

Now, we make a general objection and a general exception to the atmosphere of a series of instructions given by the trial court, voluntarily, not upon the request apparently of either counsel in this case, in which the trial judge told the jury that they must scrutinize in certain fashion the testimony of the defendants, but said not a word about such matters as the payments of money to Rathborne. Following that instruction, as a matter of emphasis, were the instructions that the motive of the prosecution is ordinarily not material to the case at bar.

The final objection and exception to those instructions given voluntarily by the Court is taken to that instruction by whose words the trial judge informed the jury that the defense, by great emphasis, had said concerning eleven of the Government witnesses that they were either perjurers, liars, stool pigeons, reformed Communists or misinformed, in substance. By such instruction the Court placed emphasis upon characterizations applied by defense counsel to witnesses in the course of cross-examination and argument; but the Court said not a word to the trial jury concerning the charges made by the [8520] prosecutor based on no evidence at all, that men of our community, such as Walter Buck and the three representatives of the shipping industry, Mr. Pearson, Mr. Brown and Mr. Finnesey were liars, that they had sold their integrity for the profit motive, that they had come here under the "lash of Lou

Goldblatt" to give false testimony. The Court did not mention that circumstance.

Now, I have some formal objections, which I can probably repeat more swiftly, to those instructions given as proposed by the respective counsel and upon the failure to give certain proposed instructions.

We object and except to instruction No. 1 as proposed by the government and read by the trial judge. In that instruction the trial judge, in discussing the doctrine of reasonable doubt, used this language, "neither does it mean a doubt born of reluctance on the part of a juror to perform an unpleasant duty, or a doubt arising out of sympathy for a defendant." We think that that language, as proposed by the prosecution and as endorsed by the trial court, negatives and frustrates the proper interpretation of the doctrine of reasonable doubt.

We object and except to the proposed instruction No. 5 offered by the prosecution and endorsed and read by the Court; particularly as it contains this language, referring to the nature of conspiracy and the kind of evidence ordinarily adduced in support of a charge of conspiracy, "for probably when men enter into a plan of the character here charged, they do not expressly agree. Much, probably, is left to unexpressed understanding. They are usually entered into more or less secretly and carried out in a manner so as to leave little proof of evidence or detection by anyone later. Rarely in conspiracies is there direct proof of the purposes and intentions of the parties." The objection to that instruction is upon the ground that there is no basis either in law or in fact for the giving of such an instruction; that it is a speculation which adopts what might well be an argument by the prosecution upon the circumstantial evidence introduced in the case.

We object and except to proposed instruction No. 10 of the prosecution, by whose language the Court in referring to the defendants emphasized to the jury concerning their testimony as follows, "But at the same time it creates an interest greater than that of any other witness, and to that extent affects the question of credibility." The Court by such instruction places undue emphasis upon the ordinary interest of a criminal defendant, and made no mention whatsoever of the matter of interest of the several witnesses produced here by the prosecution.

We make a formal objection and we take an exception to instruction No. 11 in its entirety; that is, instruction No. 11 of the prosecution, as read by the Court, in which the Court informed the trial jury that the question of materiality was [8522] one which the Court decided now, and upon which the jury was bound, upon ~~two bases: One~~, that there is authority for the fact that the question of materiality is one for the jury. The case of Loos v. The United States, in 49 Fed. (2d), coming out of this circuit, represents such a holding. And upon the further ground that under our law concerning materiality, the charge of membership in the Communist Paty is of itself not a material ground for denying citizenship, according to the Supreme Court of the United States.

We object and except to the reading of the prosecution's instruction No. 13, concerning the motive of the prosecution.

The Court: Pardon me, counsel. What was the number?

Mr. MacInnis: No. 13.

We make the same general objection to the proposed instruction No. 15 of the prosecution as read by the Court, upon the ground that there is no warrant under the evidence or the law for those statements.

We object to instruction No. 13, which I have already mentioned, upon the further ground that while in the instruction the Court summarizes the gist of the testimony given by certain prosecution witnesses, the Court makes no such summation of any evidence adduced by the defense, but merely refers to the denial by the defendants.

Now, as to the instructions proposed by the defense, we object and except as follows as to the failure to give certain [8523] instructions. First, as to the failure to give instructions Nos. 1, 2 and 3, upon the ground that the evidence and the law require that they should have been given.

We object, and upon the same ground, to the failure to give instruction No. 6; and we make a special objection and exception to the failure to read to the jury our instruction No. 7 concerning the factor of absence of motive to commit a crime upon the part of the accused, because it is well stated in our law that while absence of motive is itself not a complete defense to a charge of crime, absence of motive is a circumstance which a trial jury ought to consider, along with the other circumstances of the case.

We object to the failure to give instruction No. 11, although, as I might mention, I concede that that subject has been covered by other instructions given by the Court.

We object to the failure to give instruction No. 13 as proposed by the defense, because without such instruction the jury in this case would not be informed as to the presence or the value of the element of duress as assertedly used by the prosecution against any of its witnesses.

Now, we object generally, and we take exception, to the failure to read instructions Nos. 15 to 23 inclusive, upon the ground that they are a full compendium of the ordinary instructions generally read upon the subject of credibility of witnesses. [8524]

We make a general objection upon the Court's failure to read instructions 25, 26, 27 and 30, upon the ground of circumstantial evidence, recognizing as we make the particular objection that in many respects the materials were covered by other instructions given by the Court voluntarily.

Now, we object to the failure to read our proposed instruction No. 32, which has reference to the testimony of the witness Garner, who gave testimony supposedly without notes or memoranda upon an asserted oral conversation with the three defendants in this case several years after the alleged conversation was supposed to have taken place; upon the ground that there is a regulation of the Department of Immigration requiring all of such statements to be in writing, and that the jury should have been informed of that state of our law.

Now, we object to the failure to read instruction No. 38 to the jury, upon the ground of intent, upon the ground that that matter was not fully covered upon the other instructions addressed to that subject by the trial judge.

We object to the failure to read instruction No. 40, upon the ground that it is clearly our law that there cannot be an unlawful conspiracy to obtain that thing to which one is lawfully entitled. In this case the citizenship of Harry Renton Bridges.

We object to the failure to read instructions Nos. 43 to 48, inclusive, and instruction No. 50, upon the grounds heretofore stated, concerning the Court's informing the jury that [8525] they must disregard all mention of the decision of the Supreme Court of the United States. And we adopt the same grounds already urged.

We object to the failure to read instructions numbered 61 to 64, upon the same ground.

We object to the failure to read instruction No. 66, upon the ground that the law and the facts demanded that that instruction be given.

We object to the failure to read instruction No. 67, upon the subject of character testimony, upon the ground that, though the instructions adopted by the trial judge are proper in themselves, they do not entirely cover the particular matter.

We object and we except to the failure to read instructions 71 to 74, inclusive; 76 to 78, inclusive, and 84; upon the ground that those instructions deal with the presumption of innocence and the proper role of the various parties in this kind of litigation. We think that those instructions particularly should have been given, because of the emphasis placed by the trial judge at the start of his charge upon the fact that eleven witnesses were produced by the prosecution and that the defendants, additional to themselves, their character witnesses and the witnesses concerning the Stockton matter, had only two other witnesses, as a matter of fact.

We object lastly to the failure to read instructions 79 to 83, upon the ground that the issue of res adjudicata should [8526] properly have been intruded in all stages of the case.

The Court: May the record show, then, counsel for the government and counsel for the defense, that all exceptions and objections to the instructions have been noted herein? So stipulated?

Mr. Donohue: Yes, your Honor.

Mr. Hallinan: Yes.

Mr. MacInnis: Yes, your Honor.

The Court: You may return the jury.

(Whereupon the jury returned to their respective places in the jury box, and the following proceedings were had in their presence:)

The Court: Ladies and gentlemen of the jury, in accordance with the Rules of Criminal Procedure, such cases made and provided for, all objections and exceptions of counsel have been noted in the record. That procedural detail having been accomplished, we now proceed, Mr. Mitchell, to swear in the attaches, the marshal, the clerk and the matron.

(Whereupon the marshal, the clerk and the matron were duly sworn by the Court.)

The Court: I might state for the record that Mr. Mitchell has been sworn by reason of his familiarity with the exhibits in the case. I might state also parenthetically that all of the exhibits have been collected, and I think counsel should have an opportunity to examine all of them before any [8527] or all are permitted to go to the jury room—for the reason that I do not want included therein any matter marked for identification. And, Mr. Mitchell, I think, has prepared a list for the convenience of counsel in that respect.

In the event the jurors desire any one or all of the exhibits, they may promptly call for the same, and the exhibits at all times during the deliberations will be made available to you and to all of you.

The matter of the trial of The United States of America v. Mr. Bridges, Mr. Robertson and Mr. Schmidt, finally rests in your hands. The matter is submitted to you.

Coincident with my submission to you of this case, I now excuse the alternate juror. The rule provides that an alternate juror who does not replace a regular juror shall be discharged after the jury retires to consider its verdict. Accordingly, I excuse the alternate juror, with the admonition and suggestion, and direction, perhaps, that you would maintain a reasonable peace of mind if you reserve any comments upon your feelings in this case, particularly pending the deliberations of the jury. Thank you very much.

(Whereupon the alternate juror was excused.)

The Court: Mr. Mitchell, I respectfully suggest to the attaches of the court that the jurors as now composed, this trial jury of twelve persons, be taken to luncheon, and after a rest—it has been a long morning, somewhat burdensome in [8528] connection with legal matters—after a respite to return to the building and enter upon your deliberations. I understand that a bus or means of transportation has been provided for you, to the end that you will not have to walk from here to the Whitcomb Hotel and return through busy streets. The reason for that means of conveyance must be perfectly apparent to you. It is the desire of the Court to keep you removed from any possible incursion upon your deliberations, to the end that your deliberations be free of any external influences of any kind, character or description.

You heard the oath that I administered to the attachés of this court, as well as the marshal's office. You saw those attachés. They are to provide for your comforts, your wishes and your desires. No person is to talk to you about any matter under any considerations excepting in the specifications as I have outlined in the course of that oath. I ask you to heed that admonition carefully throughout all of your deliberations.

The matter now stands submitted.

(Whereupon the jury retired at 12:45 p.m. to enter upon the deliberation of the case at bar.)

(The following proceedings then occurred outside the presence of the jury:)

The Court: The alternate juror is not to join in the jury room. [8529]

The Clerk: No. I have informed her, your Honor.

The Court: The Court will now stand in recess.

(Thereupon a recess was taken, court to be reconvened as directed by the Court.) [8529-A]

Friday, March 31, 1950—9:15 A.M.

(The jury sent a message to the Court; whereupon the following proceedings took place in the courtroom in the absence of the jury:)

The Clerk: If your Honor please, the jury has made a request that they receive the instructions which your Honor delivered to them today.

The Court: Gentlemen, I have received from Mr. Sweeney what purports to be a true, correct and full transcript of the instructions of the Court, commencing at page 8468 of the transcript and continuing thereafter to and including 8512. At page 8512 it appears that Mr. MacInnis took up under the rule the exceptions of the defense, and those exceptions continue over to and including page 8527. I see no objection to acceding to the request, at least on the part of the Court, if agreeable to counsel and by stipulation, conditioned, however, that the subject matter of the exceptions or objections be deleted from the text of the instructions, for, as it appears, the exceptions or objections would not be a part and parcel of the formal instructions of the Court. May I have your views on this matter, gentlemen?

Mr. MacInnis: This is the entire instructions, Judge?

The Court: That is what they asked for, Mr. MacInnis.

Mr. MacInnis: I do not see any impropriety in granting it. [8530]

Mr. Donohue: We have no objection, if your Honor please.

The Court: Mr. Mitchell, may I ask you with the aid of counsel to examine this transcript. Bear in mind I have not had a chance to edit the same or look it over with any degree of critical comment. I assume it is in form usual with the transcript. They have been ordinarily very accurate. But I would suggest that you aid Mr. Mitchell in withdrawing the matters which I suggested, the matter of the exceptions and objections, to be sure that nothing goes in other than the instructions. So stipulated?

Mr. Donohue: Yes, your Honor.

Mr. MacInnis: Yes.

The Court: The record may show the stipulation, and in accordance, the order is made that the instructions of this Court, as reflected in the transcript, be given to the jury through Mr. Mitchell.

(Thereupon the jury was brought into the courtroom, and the instructions of the Court were read: Transcript, page 8468, line 14, to page 8512, line 5; and page 8527, line 10, to the end at page 8529-A.) [8531]

Saturday, April 1, 1950

(During the deliberations of the jury the following occurred in open court, outside the presence of the jury:)

The Court: Mr. Hallinan, Mr. Bridges is not in court.

Mr. Hallinan: No. He was ill last night, and I just sent to phone him. Of course, we didn't know about this. He should be here.

The Court: Yes, I think so. We have a question. Mr. Mitchell, will you read it into the record, please.

The Clerk: The request of the Court is as follows: "May we have Mr. Schomaker's testimony?"

Mr. Hallinan: Well, I think we could stipulate to let them have that, if they want it, if that is all it is.

The Court: The thought I had in mind, consistent with the practice that has been prevalent in these courts, is to have the testimony read in open court. That is, the cross-examination read by counsel for the defense and the direct by counsel for the Government.

Mr. Hallinan: It would take three days.

The Court: Well, let me have the views of counsel on that.

Mr. McMillan: Well, may it please your Honor, I would ask that the defendant Bridges be present if we can have him here.

Mr. Hallinan: Then as far as deciding upon the other [8532] matter, we might decide that.

The Court: I could not make any formal ruling, Mr. Hallinan, in the absence of the defendant.

Mr. McMillan: I ask the defendant Bridges be present before any further proceedings are had.

The Court: I think we might temporarily recess and find out the state of his health.

Mr. McMillan: Yes, your Honor.

Mr. Hallinan: I have sent to phone him now.

The Clerk: Mr. Bridges is here.

The Court: Here he is.

(The defendant Bridges entered the courtroom and assumed his position at counsel table.)

The Court: May I ask of the Government concerning this matter of reading the testimony, what is your view? I think the record is in much better condition and it is more satisfactory to the Court, in the light of the experiences that we have had in this court and other courts, to read the testimony in open court rather than have the testimony delivered to the jury.

Mr. Hallinan: We are agreeable to that.

The Court: Rather than have the testimony delivered to the jury in the jury room.

Mr. Donohue: It is agreeable to us, if your Honor pleases.

The Court: If I may be permitted to continue my discussion, [8533] I would suggest that we read the testimony, say at half-hour intervals, and then recess temporarily, and then continue, or take periods of forty-five minutes so that there will not be too much reading at one time and too much for the jury to assimilate at one time. Is that agreeable?

Mr. McMillan: Yes, it is, your Honor.

Mr. MacInnis: I wondered about this, Judge: It might be that the jury has in mind certain portions of the testimony which they would know, but which they might not be able to convey by appropriate questions to the Court. If they have the testimony with them in the jury room, they might much more speedily arrive at a determination on whatever point interests them in that testimony, because otherwise, if we embark upon your Honor's suggestion, which is obviously a convenient one, to take half-hour recesses, then the testimony of the witness, who was on the stand many days, would be doubled in its length in the reading.

The Court: Well, if the testimony is taken to the jury room, it will require someone to read the testimony to the twelve jurors in the jury room.

Mr. McMillan: It is possible, may it please your Honor, that the jury, as Mr. MacInnis has indicated, only wishes portions. However, there is nothing to indicate that in the request. It may be they want all of it. I think that could be determined easily enough by bringing the jury in here and [8534] finding out if they want the entire testimony or only portions of it read.

The Court: Would you call the jury, please.

Is it now stipulated that all the defendants are present, Mr. Hallinan?

Mr. Hallinan: Yes.

Mr. MacInnis: Yes.

(Whereupon the jury returned into the jury box at 10:23 a.m., and the following proceedings were had:)

The Court: Gentlemen, is it stipulated the jurors are present?

Mr. Hallinan: Yes, your Honor.

Mr. MacInnis: Yes, your Honor.

The Court: Ladies and gentlemen of the jury, you have conveyed through Mr. Mitchell to the Court a request for the testimony of Mr. Schomaker, Government witness. May I ask you whether you desire all of the testimony, direct and cross-examination, of Mr. Schomaker?

A Juror: Yes sir, we do.

The Court: Counsel, the jury expresses a desire to have the direct and cross-examination of Mr. Schomaker read. You may proceed.

I expressed to counsel the thought, and I think it will be agreeable to the jury, that we read or cause to be read about half an hour of the testimony at a time, or forty-five [8535] minutes, and then take a brief recess and return for additional reading. The transcipt is voluminous and may take a little time to read. But in accordance with the request, that will be done, both direct and cross-examination. I further suggest to counsel that probably on the direct examination, Government counsel conduct the reading of that phase.

Mr. Donohue: Yes, your Honor.

The Court: Cross-examination to be read by defense counsel, either Mr. Hallinan or Mr. MacInnis. We might go along as rapidly as we can, and if the reading is too rapid for you or for any of the jurors, express yourselves immediately and we will slow down the reading. I think it might be well to hasten the matter of the reading as much as possible, consistent with the clear understanding.

The Foreman: May I be heard on one more thing, sir?

The Court: Yes, sir.

The Foreman: I believe that the testimony regarding John Schomaker is the signing of the application card or obtaining the application card and the presence of B. B. Jones at that restaurant, and the cross-examination thereon, will suffice.

The Court: All right. You have a digest of the testimony, gentlemen?

Mr. Hallinan: Well, we have. We will have to go a block or two away to get it.

Mr. Donohue: We have sent for ours. [8536]

The Court: We might have the reporter, Mr. Mitchell, attend to the transcript and let us have the page. I had a recollection as to the page number, but I think you gentlemen can supply us the starting page in each instance.

Mr. Hallinan: Yes, we can find that quickly.

The Clerk: May I suggest a ten-minute recess, your Honor, so that we may get together on this and have the transcript?

The Court: Ladies and gentlemen, we might take a ten-minute recess, during which time we will arrange this matter.

Mr. Hallinan: It had better be fifteen or twenty, your Honor. I will have to get up to the ILWU headquarters and get the transcripts.

The Court: Very well. You will be called.

(Brief recess.)

The Court: Pardon me one moment. Will it be stipulated that the reporter—well, I think the best thing, perhaps, would be for you to transcribe the matter. Is that agreeable to you, Mr. Reporter?

The Reporter: Yes, your Honor.

The Court: I had thought we might stipulate that the matter to be read here might be considered as having been read into the record; but you had better transcribe it and go ahead.

You may proceed, then. And state for the record, please, the page number, the nature of the testimony, be it direct or cross, the person propounding the question, and the person [8537] giving the answers.

Mr. Donohue: Reading from volume 9 at page 990 of the record, and beginning on line 4, with the witness John Schomaker, the examiner myself:

> "Q. Did you and Mr. B. B. Jones ever meet with the defendant Harry Bridges when no other persons were a party to your conversation, the meeting taking place in the cooperative restaurant at Steuart and Market Streets in the City of San Francisco?

"Mr. Hallinan: I object to that as leading and suggestive and telling the witness what to say, your Honor. Here is the whole thing, the whole statement.

"The Court"——

Mr. Hallinan: Pardon me. I wonder if we might not omit the objections and rulings, and thus save time?

Mr. Donohue: Well, the only difficulty is that some are sustained and the answers stricken, and I'm afraid we might——

The Court: Well, proceed with the whole text, then, as it may appear; and the rulings on the objections, and whatever may have transpired.

Mr. Donohue: (Reading):

"The Court: Overruled.

"Q. (By Mr. Donohue): Will you answer the question?

"A. The question of the cooperative restaurant—if that is 1933, there was a restaurant on the corner of Steuart [8538] and Market, but it was not a cooperative restaurant, I don't think."

The Court: Pardon me. Ladies and gentlemen of the jury, is that perfectly audible to you, to everyone? Do you hear it all right?

The Foreman: Yes, your Honor.

The Court: Very well.

Mr. Donohue (continuing reading):

"Q. What is your best recollection of the name of the restaurant?

"A. I don't remember. It may have been

Boyd's Restaurant. I think the cooperative restaurant went into operation in the early part of 1934, but there was a series of restaurants from the corner of Steuart Street to the Embarcadero. Olson's Restaurant was in there at one time.

"Q. Did you ever meet in a restaurant on the corner of Steuart and Market Street in 1933? A. Lots of times I did.

"Mr. Hallinan: Just a minute. I object to this as leading and suggestive.

"Mr. Donohue: Would you mind if I finished the question?

"Mr. Hallinan: The witness has started to answer already. The witness answers so rapidly I have to make the objection so it won't go in at all.

"Mr. Donohue: I withdraw the [8539] question.

"The Court: The question is withdrawn.

"Q. (By Mr. Donohue): Did you meet Mr. Bridges and Mr. B. B. Jones in a restaurant on or near the corner of Steuart and Market Streets in the City of San Francisco?

"Mr. Hallinan: I will ask that the witness wait until an objection can be made before snapping out an answer. We object to that as leading and suggestive.

"The Court: Overruled.

"A. There is not a restaurant on the waterfront that I didn't meet with some member of the Communist Party, whether it was Jones or any other people.

"Mr. Hallinan: Just a moment. Ask that be stricken out as not responsive, if the Court please.

"The Court: The motion is granted.

"Q. (By Mr. Donohue): The question is whether you met in a restaurant with Mr. Bridges and Mr. Jones on a particular occasion.

"A. I did, yes.

"Q. What is your best recollection of where and when that meeting took place?

"A. Well, that meeting took place in—well, whether you call it fall or winter—November or December of 1933. So it must have been what you term the winter of 1933. And——

"Q. Yes?

"A. The occasion was that—— [8540]

"Q. You may not state the occasion, Mr. Schomaker, but you may state to his Honor and to the ladies and gentlemen of the jury what you said to Mr. Bridges or what Mr. B. B. Jones said to Mr. Bridges as to the reason for your meeting with him, if you recall it.

"Mr. Hallinan: If your Honor please, pardon me. I don't think that counsel has correctly enunciated to the witness what his rights and duties are. The witness' duties and rights are to answer questions. Now, counsel says to him, 'You may state to the jury so-and-so.' Now, that is not a question; it is a direction to the witness. I think a question should have been asked.

"The Court: Objection sustained.

"Q. (By Mr. Donohue): Mr. Schomaker, will you state to the jury and to his Honor what was said by either you or Mr. B. B. Jones to Mr. Bridges as to the purpose of your meeting with him.

"Mr. Hallinan: And pardon me; one other objection, your Honor. And might we have somewhat the same sort of agreement that we had before, that in view of the motion that was addressed to you by Mr. Cleary, we should propose an identical objection to each question, that all these matters are res adjudicata. Now, if it be understood that we make the objection that everything preceding the decision in 1945 is res adjudicata, I will not make that [8541] objection as to each separate question asked.

"The Court: Mr. Donohue, will you stipulate to counsel to the end that we have a clear, definite statement in the record?

"Mr. Donohue: Gladly, your Honor.

"Mr. Hallinan: Thank you.

"Q. (By Mr. Donohue): Do you recall the question, Mr. Schomaker?

"A. Well, I remember the one in there, the first thing Jones says, 'How about buying the coffee, Harry?' So, a cup of coffee was only a nickel in those days, so he went and got three cups of coffee and sat down.

"Mr. Hallinan: I think, you Honor, that 'a cup of coffee was only a nickel' should be stricken out, as it is a reminder of the sad conditions where we now exist, where it has gotten up to 15 cents a cup.

"Mr. Donohue: I think, if your Honor please, it was only a recitation of a historical fact; certainly wasn't prejudicial to either side.

"The Court: No one can be injured by a nickel cup of coffee.

"Mr. Donohue: I think not.

"The Court: All right.

"A. So they brought the coffee back to the table and proceeded to discuss the situation on the front. That was, [8542] all stevedores did that in those days, how lousy conditions were, and things that needed to be done to correct them. So when, in the course of the conversation, Jones put the $64 question to Mr. Bridges——

"Q. (By Mr. Donohue): What was the question he put to Mr. Bridges.

"A. The question was, 'When are you going to join the Party, Harry?' And since Bridges already had the application,——

"Mr. Hallinan: Just a moment. Ask that be stricken out, if your Honor please, as stating an opinion and conclusion and not responsive.

"Mr. Donohue: I have no objection to that going out.

"The Court: Yes, that last part may go out.

"Q. (By Mr. Donohue): With reference to an application, did you see an application, Mr. Schomaker, in the possession of Mr. Bridges?

"A. I know in those days we always packed three or four applications with us.

"Q. You didn't actually at that time see one in the possession of Mr. Bridges?

"A. No, but Jones had one.

"Q. You saw one in the possession of Mr. Jones?

"A. Oh, yes.

"Q. And did you have one yourself?

"A. Oh, yes, I had several. [8543]

"Q. Now, what was Mr. Bridges' response to the question of, 'When are you going to join the Party?'

"A. Well, Bridges acted kind of coy, you know, like he wanted to be coaxed a little bit. So,—

"Mr. Hallinan: Ask that be stricken out.

"Mr. Donohue: I have no objection, if your Honor please.

"The Court: Yes, it may go out.

"Q. (By Mr. Donohue): What did he, Mr. Schomaker, say?.

"A. Well, his objection was, he says, 'What about the name?' And so Jones said, 'Well, that should be pretty easy to figure out a name.' He says, 'Pick out any name, like T. J. Plant, for instance. That would be a good name.'

"So Bridges laughed, said, 'That would be a joke on Plant, wouldn't it, if I would get a Party book in Plant's name and drop it in front of the Waterfront Employers down there and let someone pick it up and let a little heat go on Plant for a change?' So, and then he says, 'No, that wouldn't be a good name, either.'

"So Jones said, 'The best thing to do is what is generally done; use a name that you are familiar with, so you won't forget it. And I would suggest you use your mother's name.'

"So we discussed that for, oh, on that basis for a while, and then some guy called in, came in and called me outside for some reason, I don't remember what, and I went [8544] out and stayed 15 or 20 minutes, and then as I was going back in, Jones was coming out.

"Q. Now, you may not state any conversation that was had between you and Mr. Jones while Mr. Bridges was absent, and I take it that when you met Mr. Jones coming out, Mr. Bridges was not with him? A. That's right.

"Q. Now, where did you and Mr. Jones go, if you went together, after you left this restaurant at the end of this conversation?

"A. Well, we walked up Market Street.

"Q. And where did you go?

"A. To 37 Grove.

"Q. And may I ask you what was at 37 Grove Street?

"Mr. Hallinan: Same objection, your Honor: it is calling for an opinion and conclusion of the witness and not the best evidence, incompetent, irrelevant and immaterial.

"The Court: Overruled.

"A. Well, 37 Grove Street was the editorial office of the Western Worker and the headquarters of the Communist Party of California and San Francisco.

"Q. (By Mr. Donohue): Now, while you were in transit from the restaurant where this conversation was had, and Communist Party Headquarters at 37 Grove Street, did Mr. Jones show you anything? [8545] A. He did, yes.

"Q. What was it?

"Mr. Hallinan: Just a moment. Object to that as calling for hearsay, not in the presence of the defendant. I understand the defendant was not present at any of this time.

"Mr. Donohue: This isn't hearsay, if your Honor please. I am not asking for conversation; I am asking the witness if he was exhibited or shown anything by the witness Jones. He certainly can describe the fact.

"The Court: He can state the fact if something was shown to him.

"Mr. Donohue: Yes.

"Mr. Hallinan: I think action, if your Honor please, is as much hearsay as words; in other words, showing a thing outside the presence of a party is as much making a statement as what was said. It is purely hearsay.

"The Court: The objection is overruled.

"A. He showed me an application of the Communist Party.

"Q. (By Mr. Donohue): And will you describe that application for his Honor and the members of the jury.

"Mr. Hallinan: Same objection, that it is hearsay, not binding on the defendant, words and acts that took place between this gentleman and Mr. B. B. Jones outside the presence of the defendant. [8546]

"The Court: Do you have subsequent testimony with respect to the same document, conversations with reference thereto between this witness, Jones and Bridges?

"Mr. Donohue: No, your Honor, but between this witness and Mr. Bridges.

"The Court: The objection is overruled.

"Q. (By Mr. Donohue): You may describe the document, his Honor has said, or the application, as you call it.

"A. This application blank was an orange card. It was about the same sized card as the ordinary postal card, and on it was the insignia of the Communist Party of America. In the left-hand corner, I think, in that particular application it was. And it had some fine print which, in a few sentences, explained the aims of the Communist Party. And then it had the name of the applicant, the address, 'Are you a trade union member?,' 'the number of workers employed in your plant,' the—Then it had two blank spaces for sponsors. And then at the end it had the name of the applicant.

"Mr. Hallinan: Pardon me, your Honor. I ask that all that be stricken out, and I have this further objection, if the Court please, that they have not proved the unavailability of that document, and what this witness is purporting to do now is give secondary evidence of its contents without the foundation laid of its unavailability. I ask the answer be stricken out. [8547]

"Mr. Donohue: We obviously cannot prove it is unavailable until we have first proven its existence, if your Honor please.

"Mr. Hallinan: Well, your Honor, they should try to prove that first. Now, if the card existed, there are means they could use for getting it or showing why it wasn't available, and this is putting in secondary evidence of the contents of a written instrument without first accounting for the fact that the written instrument is not available.

"The Court: The objection is overruled.

"Mr. Hallinan: May that objection precede the answer of the witness?

"The Court: Yes, sir.

"Q. (By Mr. Donohue): Have you stated as best you can recall it the nature of this piece of paper you have been describing?

"A. That's right; and on the reverse side it asked the—I think it also had a space there for the name that you were to use, your Party name.

"Q. At that time you were yourself a member of the Communist Party?

"Mr. Hallinan: Just a moment. The same objection has been made before, that it has been asked and answered, your Honor. [8548]

"The Court: Overruled.

"Mr. Donohue: I think it is proper at this time, if your Honor please.

"The Court: Overruled. He has answered it several times, Mr. Donohue.

"Mr. Donohue: I understand.

"Q. May I ask you, Mr. Schomaker, was the document which you have just described similar to the application blank for membership in the Communist Party which you had yourself signed on some prior occasion?

"Mr. Hallinan: Just a moment, sir. We make the objection that that is again calling for secondary evidence. Now, at least the application that this gentleman says that he has been handling around ought to be available, and there is no reason for introducing secondary evidence in that event. I object to it as calling for the opinion and conclusion of the witness.

"The Court: The objection is overruled.

"A. It was quite similar. Maybe there had had been a few minor changes made in the text of the application.

"Q. (By Mr. Donohue): Now, where were you when you first saw this application which you have just described?

"A. We were walking along Market Street and we were just opposite the Lincoln Hotel.

"Q. And when you say 'we' you refer to yourself and B. B. [8549] Jones?

"A. B. B. Jones and myself.

"Q. Did you observe any handwriting on this application which you have described?

"A. Oh, I did, because Jones showed it to me.

"Q. And what handwriting did you see?

"Mr. Hallinan: Now, just a moment. Same objection, if the Court please; calling for hearsay, opinion and conclusion of the witness, it is not the best evidence, and no reason is shown why secondary evidence should be introduced as to the contents of this document. No showing that the original is not available.

"The Court: Overruled.

"Q. (By Mr. Donohue): Will you answer the question.

"A. Oh, it was the handwriting of H. R. Bridges.

"Mr. Hallinan: Now, just a moment. Ask that be stricken out, if the Court please, and no foundation has been laid for that, and that is calling for an expert opinion.

"The Court: That answer may go out. Will you ask this witness questions that may be considered as foundation for his observation that the handwriting was that of Mr. Bridges?

"Mr. Donohue: But, if your Honor please, at this moment the witness has only stated that he saw in the handwriting of a H. R. Bridges. He has not yet said it was the [8550] handwriting of this defendant.

"The Court: All right; H. R. Bridges.

"Mr. Donohue: I expect to ask him whether he could identify it.

"The Court: I was incorrect. I thought he had made the observation it was Mr. Bridges'.

"Mr. Donohue: No, sir.

"Mr. Hallinan: That is what I thought he had said, too. In fact, I think that's——

"The Court: With that understanding, being in the record, it is stricken, then.

"Mr. Hallinan: Because, your Honor, you understood it correctly.

"The Court: That was my understanding, counsel.

"Mr. Hallinan: Yes.

"Q. (By Mr. Donohue): Mr. Schomaker, prior to the day about which you have been testifying, had you ever seen the defendant Harry Bridges write his name? A. I have, yes.

"Q. And on how many occasions would you say?

"A. Well,——

"Q. And under what circumstances?

"A. I have already said he submitted articles for the Waterfront Worker, written in longhand, which had to be typed first into a dummy and then later transposed onto a mimeograph sheet, or stencil. [8551]

"Q. And how often had you seen specimens of his handwriting?

"A. Well, I wouldn't specify whether they were a dozen or two dozen times, but it had been numerous times.

"Q. Had you observed anything unusual about the handwriting of the defendant Harry Bridges?

"Mr. Hallinan: Just a moment. Object to it as incompetent, irrelevant and immaterial, calling for a conclusion and on a matter that he has not been qualified to pass upon.

"The Court: I think so, counsel. I think it is asking for the unusual characteristics of a man's handwriting.

"Mr. Donohue: If your Honor please, I think the law is pretty well settled that any one of us is able to testify, having seen the handwriting of an individual, as to whether or not in our opinion a sample or type of his handwriting is or is not from our past experience the handwriting of that individual.

"The Court: Similar to.

"Mr. Donohue: And I think we are all—yes, your Honor, similar to. And I think we are all capable of stating whether or not in our layman's analysis of one's handwriting, there was any peculiarity in the formation of characters or any other peculiarity which comes to our attention. That is all I have to ask the witness. [8552]

"The Court: How many occasions prior to this particular occasion had this gentleman seen or observed the handwriting and the signature—particularly the signature—of Mr. Bridges?

"Mr. Donohue: Well, he has only testified as to the handwriting, your Honor. At least a dozen and perhaps two dozen times.

"Mr. Hallinan: Might I ask this, your Honor; I think this is something the Court is entitled to know now, with fairness:

"The Court: Yes.

"Mr. Hallinan: Is the prosecution in possession of this alleged document? Now, if they are, then it is the best evidence, and in good faith it should be produced.

"The Court: I cannot ask the prosecution whether they are presently in possession of it. I have to rule on these matters as they proceed.

"Mr. Hallinan: But then that would go to the good faith of such inquiry, your Honor, as to whether or not this man is qualified to make such a determination, whether he is also, in addition to being an expert hod carrier, an expert handwriting expert.

"Mr. Donohue: Are you questioning our good faith in asking the question?

"The Court: What was the last question? Will you read [8553] it back, Mr. Reporter.

"(Question read.)

"The Court: This goes to the general handwriting, the characteristics that may be present in Mr. Bridges' handwriting.

"Mr. Donohue: Correct, your Honor.

"The Court: And his opinion as a lay person with respect to those characteristics.

"Mr. Donohue: Yes, your Honor, and no further.

"The Court: The objection is overruled.

"Mr. Donohue: Will you answer the question.

"A. Well, whether I am an expert hod carrier, or what?

"The Court: No, no.

"Mr. Donohue: No.

"The Court: No, no. The last question, please, Mr. Reporter?

"(Question read.)

"The Court: You may answer that.

"A. Well, the handwriting of Mr. Bridges is very legible, for one thing, and he writes very large, and his capitals, capital letters, that is, are generally made with a flourish and his signature is generally written, the H stretches like an S, and he runs them all together, the H, R, B, are generally run without—run in one letter without taking his pencil off the paper or pen off the paper. [8554]

"Q. (By Mr. Donohue): Mr. Schomaker, when you testified shortly ago that on numerous occasions you had seen articles submitted to the Western

Worker in the handwriting of the defendant Harry Bridges, may I ask you now whether or not those articles were signed by Mr. Bridges?

"A. Well, they weren't articles for the Western Worker. The articles were for the Waterfront Worker.

"Q. I am sorry; the Waterfront Worker.

"A. No, I don't think they were signed, no.

"Q. Then on how many occasions have you actually seen Mr. Bridges sign his name or his name signed?

"A. Well, I have saw it when he had written resolutions either to be submitted to the local trade union—that is, the local meeting—or we had a group functioning in the Albion Hall, where numerous resolutions were submitted. And there I saw his signature.

"Q. His name was affixed to those resolutions?

"A. Yes, they were.

"Mr. Donohue: May we take our recess at this time?

"The Court: Yes. Ladies and gentlemen of the jury, we will take the morning recess and the same admonition to you as I have given in the past, not to discuss the case under any conditions nor to form or express an opinion until it is finally submitted to you. You may step down, Mr. Schomaker.

"(Recess.) [8555]

"The Court: You may proceed.

"Mr. Donohue: Mr. Schomaker, from your stated familiarity with the signature of the defendant Harry Bridges, are you able to tell us whether or not in your opinion the name H. R. Bridges which you saw in the application you have described was or was not in the handwriting of the defendant Harry Bridges?

"A. Definitely it was in the handwriting of Bridges.

"Mr. Hallinan: I ask that that be stricken out. That is not the question he was asked. He was asked whether or not in his opinion he could give an opinion. I ask that the answer go out.

"The Court: Yes.

"'Mr. Donohue (To the witness): The answer be either yes, you can give an opinion, or no, you can not give such an opinion.

"The Court: The answer may go out pending the preliminary question.

"Mr. Donohue: Yes.

"Q. Are you able to state, in your opinion, whether it was or was not the signature of the defendant Harry Bridges? Will you answer the question yes or no? A. Yes, it was.

"Mr. Hallinan: I ask that that go out.

"The Court: The 'yes' may stand. 'It was' may go out. [8556]

"Q. (By Mr. Donohue): In your opinion, whose signature was it that you saw on the application you have described to the Court and jury?

"Mr. Hallinan: I object to it, if the Court please, as calling for the opinion and conclusion of the witness, and not the best evidence, again attempting to prove a document which has not been explained by secondary evidence, and calling for the opinion and conclusion of the witness on a matter for which no proper foundation has been laid.

"The Court: The objection is overruled.

"A. In my opinion, it was the signature of that of Harry Bridges.

"Mr. Donohue: I am sorry. I didn't hear.

"The Witness: This interruption kind of confuses me. What is the question? In my opinion, was the signature that of Harry Bridges?

"Q. (By Mr. Donohue): Yes, the Court stated may give your opinion as to whether it was or was not the signature of Harry Bridges.

"A. In my opinion, it was Harry Bridges' signature.

"Q. Mr. Schomaker, when you and B. B. Jones went to Communist Party headquarters, did you see anything happen with respect to that application that you have described to the jury?

"Mr. Hallinan: Just a minute. We object to that, if [8557] the Court please, as res inter alios acta, matters done outside the presence of the defendant, not binding on the defendants, transactions between other persons, and hearsay.

"The Court: I will overrule the objection on the condition that you attempt to fix the date, the persons present, and the place with more particularity.

"Q. (By Mr. Donohue): What is your best recollection of the time at which the incident which you have described with respect to this application took place?

"A. Well, it was about 10:00 o'clock in the morning in the fall or winter, whatever you want to term it, of 1933.

"Q. In the City of San Francisco?

"A. In the City of San Francisco, County of San Francisco.

"Q. Can you tell us your best recollection of the time when you and Mr. Jones reached Communist Party headquarters?

"A. We walked up Market Street, since we didn't have any money—short of dough in those days, so we walked up. I imagine it took us about 45 minutes. We arrived at headquarters about 11:00 o'clock.

"Q. Who was present at headquarters whom you can now recall when you got there?

"A: We saw different people there. George Morris was there. He was the editor of the Western Worker. There was a little guy there who sold literature. I don't recall his name. But we went upstairs. They had a mezzanine floor. We [8558] went up on this mezzanine floor into the office of Sam Darcy, who was a district organizer of District 13.

"Mr. Hallinan: Just a minute. I ask that that be stricken out as stating the opinion and conclusion of the witness.

"The Court: In what particular?

"Mr. Hallinan: About Sam Darcy, what his occupation was.

"The Court: That may go out.

"Mr. Hallinan: He was just asked as to who were the people there. He can give the persons and then a description might be asked for.

"The Court: That is correct. Give the parties present.

"Q. (By Mr. Donohue): You say a man whom you have called Sam Darcy was there?

"A. Yes, Sam Darcy was there.

"Q. Will you tell his Honor and the ladies and gentlemen of the jury who Sam Darcy was? Now, don't answer until counsel has had an opportunity to object.

"Mr. Hallinan: I object to that for the same reason. Of course, it is very difficult to have to get up and object to every question. I am afraid the jury will get a bad impression. They will understand if I do not make these objections, I waive them.

"The Court: I will say to the jury at this [8559] juncture, Mr. Hallinan, if you desire, that counsel for the defendant is entitled to interpose objections to questions which in his opinion he believes to be incompetent, irrelevant and immaterial or hearsay. Those questions are addressed to the Court. I have ruled on them as you have observed. That is my function and my province exclusively. As I indicated to you, your province is to pass upon the facts, and as I further indicated, we work as a sort of team to that extent in channeling this evidence. Mr. Hallinan has urged these objections. It may well be —I am not saying that with particular reference to any phase of the testimony—if he did not urge the objections, he would be foreclosed hereafter from urging them in any reviewing court if the matter ever reaches such court; unless, of course, if counsel will stipulate with government counsel that an objection runs to a certain line of testimony. That procedure apparently could not be adopted here because the interrelation of the questions is such, I take it, he must interpose an objection. Is that satisfactory?

"Mr. Hallinan: Thank you, and where it has been possible to get a stipulation, I have done that, on two occasions, to save the annoyance.

"The Court: I say to you, ladies and gentlemen of the jury, not to be prejudiced in any sense at all by Mr. Hallinan's interposing these [8560] objections.

"Mr. Donohue: May I say, if the Court please, with respect to the pending objection and the instant question, the question being 'Mr. Schomaker, are you able to tell us who Mr. Sam Darcy was?'

"Mr. Hallinan: Pardon me. I hadn't finished the objection. I object, too, if the Court please, on the ground that it is not the best evidence. There is no reason why Mr. Sam Darcy can not be produced to testify himself, or no reason shown why records can not be produced to identify who he was. It is calling for an opinion and conclusion and not the best evidence.

"The Court: What particular bearing on this particular phase of the case has Mr. Darcy?

"Mr. Donohue: I may say, if your Honor please, to object to a question as to who Mr. Darcy was would be like, in my judgment, objecting to a police officer who might be on the stand being asked the question, 'Who is the chief of police?' Or if a man was sitting on the stand, and was member of Post

No. 1 of the San Francisco American Legion, objecting to the question, 'Who is the commander of your post?' It certainly is within his knowledge.

"The Court: Bear in mind, Mr. Donohue, both the Court and jury meet the impact of this evidence for the first time.

"Mr. Donohue: I quite understand it, but I never can [8561] develop who Mr. Darcy was if I am going to meet that objection to a question put to a witness who has qualified himself as the unit organizer and as a section organizer.

"The Court: Let us as a preliminary question ask the witness the length of time he has known Mr. Darcy, and so forth, so there is some foundation laid for this question to which Mr. Hallinan objects as his conclusion and without foundation.

"Mr. Hallinan: And might I suggest, your Honor, this in direct connection with what counsel said: Ordinarily a witness is put on the stand and a question, 'Who is the chief of police?', or 'Who is the head of your order?' is not a matter of great moment. Nobody cares. But where the great issue is who is the chief of police, or where that becomes a material matter—I might point out to your Honor that so important is a matter of that kind that after the 1906 fire in San Francisco, when Eugene Schmidts was sentenced to prison for accepting bribes, it was reversed on appeal because of the failure of the prosecution properly to prove that Eugene Schmidts was there in San Francisco. We can not take judicial notice of who else is of the government, officers of the city government, let alone from a witness who gets on the stand and sui spondi identifies people who are not directly related to the charge against the defendant.

"Q. (By Mr. Donohue): Mr. Schomaker, when did you first meet [8562] Mr. Sam Darcy?

"A. Well, it was in the depression of the '30's, 1930 or early 1931, I met Sam Darcy.

"Q. Where did you first meet him?

"Mr. Hallinan: I object to that as incompetent, irrelevant and immaterial, and not binding on the defendants, res inter alios acta.

"The Court: Overruled. The purpose of this line of evidence is to determine whether this witness had a capacity to identify him at the time and place in question more recently referred to in the evidence, and that is the reason and solely the reason for this background.

"Q. The Court has indicated that you may tell us where it was you first met Sam Darcy.

"A. Why, he was speaking at a meeting of the unemployed over on—in the California Hall. I think it is on Larkin Street. Anyway, it is the California Hall. Now, what street it is, I don't recall.

"Q. Now, from that time until 1930 or '31, when you first met Mr. Darcy, until the day in 1933 about which you have recently testified, how often did you see Mr. Sam Darcy?

"A. Well, I met him occasionally up to October, 1933, and then after 1933 up until the middle of or the end of '34, let's say—that is, 1933, October, November, to the end of 1934; that is, the fall of

1934, I saw him sometimes [8563] two and three times a day.

"Q. Now, in the interim between 1930 and '31, and October of 1933, when you saw Mr. Sam Darcy occasionally, where did you see him?

"Mr. Hallinan: Just a moment. Same objection, if the Court please.

"The Court: Overruled.

"A. Why, I saw him at 37 Grove Street in San Francisco.

"Q. (By Mr. Donohue): And at what part or place at 37 Grove Street, San Francisco, did you see him?

"Mr. Hallinan: The same objection again.

"The Court: Overruled.

"A. You mean in what part of the building was he?

"Q. (By Mr. Donohue): Yes.

"A. Oh, why, he had an office on the mezzanine floor at 37 Grove Street.

"Q. Well, what was at 37 Grove Street?

"A. Well, that was the——

"Mr. Hallinan: Just a moment. Object to that as having been already asked and answered.

"The Court: It has been, two or three times, sir.

'Q. (By Mr. Donohue): Now, in the interim between October of 1933 and some date which you gave us in 1934, when you say you saw Mr. Darcy sometimes twice a day, where was it that you had then seen him? [8564]

"Mr. Hallinan: Same objection, if the Court please.

"The Court: Overruled. You may answer.

"A. You mean where I met him in this time?

"Q. (By Mr. Donohue): Yes. Where would you meet him?

"A. Oh, at various places—at homes, at offices, and at 37 Grove Street, on the street, in restaurants.

"Q. And would you tell his Honor and the ladies and gentlemen of the jury the purpose of your meeting Mr. Darcy during this period of time?

"Mr. Hallinan: Now, there is a matter that is between other persons, not in the presence of the defendant, calling for hearsay, opinion and conclusion of the witness, asking him the purpose of his meetings.

"Mr. Donohue: If your Honor please, the purpose of this question, as your Honor has indicated to counsel, is not to bind either of the three defendants by the answer of a witness, but merely to qualify him as one capable of stating to your Honor and the ladies and gentlemen of the jury, in order to meet the objection of counsel, why it was he is able to tell us.

"The Court: All right. For that limited purpose, ladies and gentlemen, the evidence is elicited from this witness to show background for knowledge and recollections of events, to the end that he may answer, if he can, and identify a particular witness —by means of questions as [8565] to his occupation and identity. For that limited purpose the evidence may proceed, and for no other purpose.

"Q. (By Mr. Donohue): What was the purpose of the meetings that you had?

"Mr. Hallinan: Pardon me. Just a moment. I will ask that—I have to repeat the objection when he repeats the answer. Your Honor suggested to him——

"Mr. Donohue: Can't we stipulate that——

"Mr. Hallinan: And what he does is make the objection negligible by simply repeating the question. That requires me to repeat the objection.

"Mr. Donohue: In the economy of time, your Honor, may we not stipulate that it will be unnecessary for you to repeat the objection should I again repeat the question? It would save a great deal of time from asking the reporter to go back and read it.

"Mr. Hallinan: I think it would be better if counsel simply learned, if for the first time, the proper procedure in such matters instead of inventing a new form of stipulation that we must enter to accommodate him.

"Mr. Donohue: I shall be guided by your Honor's judgment in the matter.

"The Court: I think you should proceed, then, along this line. Counsel may object for continuity. You may proceed. [8566]

"Q. (By Mr. Donohue): Do you now recall the——

"The Court: If he is so advised.

"Q. (By Mr. Donohue): (Continuing): Do you now recall the question, Mr. Schomaker?

"A. What position Sam Darcy held?

"Q. No. The question——

"I will ask the reporter to read it.

"(Question read.)

"A. Well, Sam Darcy was the district organizer of the Communist Party, I was the section organizer.

"Mr. Hallinan: Just a moment. Ask that be stricken out as not responsive, if the Court please.

"The Court: The motion is granted; not responsive.

"Q. (By Mr. Donohue): Would you answer the question as to the purpose of the meetings which you had with Sam Darcy?

"Mr. Hallinan: Now, there we have fallen into the same vice, and I will have to repeat the objection again. It should be easy for counsel to have the Court direct the reporter to read the question, where an objection has been made and the Court has ruled upon it.

"The Witness: Why, to carry on Communist Party business.

"Mr. Donohue: Just a moment until his Honor rules, Mr. Schomaker.

"The Witness: Oh, pardon me.

"The Court: The objection is overruled. [8567]

"A. I met with Sam Darcy to carry on Communist Party business.

"Mr. Hallinan: We ask that be stricken out as stating an opinion and conclusion, hearsay and not binding on the defendants, if the Court please.

"Mr. Donohue: I think your Honor just told the jury it was not binding on the defendant.

"The Court: The motion is denied and the answer may stand. The jury, of course, is instructed, as I have indicated before, as to the limitations of the scope of this testimony, at this juncture.

"Q. (By Mr. Donohue): Now, I ask you the question, Mr. Schomaker, when you went to the Communist Party headquarters following the meeting between yourself, B. B. Jones and Harry Bridges, who was the Sam Darcy who you say was present at the Communist Party headquarters?

"Mr. Hallinan: Same objection, not binding on the defendant, hearsay, opinion and conclusion of the witness.

"The Court: Overruled.

"A. To turn in the application we received from Harry Bridges to join the Communist Party.

"Q. (By Mr. Donohue): And to whom was that application turned in?

"A. Turned in to Sam Darcy.

"Mr. Hallinan: Will your Honor instruct the witness to [8568] wait until——

"The Court: Yes. Mr. Schomaker, may I ask you, in the light of the objections which you have heard, not to answer the question until Mr. Hallinan has an opportunity to interpose the objection and I rule on it? If I sustain ~~it, of~~ course, your answer is not given. If I overrule it, you may answer.

"The Witness: I am sorry I answered it, your Honor.

"The Court: No reflection on you.

"Mr. Hallinan: I ask that the answer be stricken so I may make the objection.

"The Court: Yes, the answer may be stricken.

"Mr. Hallinan: We object to it as calling for the opinion and conclusion, not binding on the defendants, hearsay, not done in their presence; and no proper foundation laid; and furthermore, it is not the best evidence, in giving secondary evidence concerning a document, and its disposition, without explaining the inability to produce primary evidence.

"The Court: Overruled.

"Mr. Donohue: Would you repeat the question, please.

"(Question read.)

"A. It was turned in to Sam Darcy.

"Q. And who was Sam Darcy?

"Mr. Hallinan: Now, if your Honor please—pardon me. [8569] That has already been asked and answered.

"Mr. Donohue: No, it was not answered. I think the witness went over and answered something else.

"The Court: It went out of the record on a motion, Mr. Hallinan. I struck it out on one occasion.

"Mr. Hallinan: We object to that as calling for an opinion and conclusion and not the best evidence, that the records of the Party and Mr. Sam Darcy, or whoever it is alleged he may be, is the best evidence. This is stating an opinion and conclusion.

"Mr. Donohue: If your Honor please, with respect to that objection, this witness has heretofore testified that sometime early in 1930 or '31 he became a member of the Communist Party. He has testified that on various and varying days he was one time the unit organizer or a unit organizer for the Communist Party, that he was the agitation and propaganda director for the Communist Party, that he was at one time a section organizer for the Communist Party, that he was editor of a publication for the Communist Party, that he was a member of the executive committee of the district for the Communist Party. He has heretofore testified that he met Mr. Sam Darcy in 1930 or 1931, and saw him on frequent occasions at Communist Party headquarters, and on other occasions to discuss Communist Party business. I certainly suggest to your Honor that we have [8570] established a foundation to permit the witness to answer the question as to who Sam Darcy was in the light of the fact that your Honor has correctly and carefully instructed the jury that these statements on the part of this witness are not binding upon the defendants or any one of them, but are only purposed to state his qualifications to draw the conclusion as to who Sam Darcy was. Mr. Hallinan, reserving a right, which I am sure he will exercise, to cross-examine this witness completely to determine whether or not he was qualified, did in fact know who Sam Darcy was.

"The Court: Objection overruled.

"Mr. Donohue: Now would you repeat the question, Mr. Reporter.

"(Question read.)

"A. He was district organizer of the Communist Party of the United States of America for the State of California, District 13.

"Q. (By Mr. Donohue): Now, you have stated that you saw B. B. Jones turn over the application you have testified concerning, to Mr. Sam Darcy?

"A. I did, yes.

"Mr. Hallinan: Just a moment. Ask the answer be stricken out and object to that, your Honor. That is not a question; that is a statement, and leading and suggestive.

"Mr. Donohue: I have merely asked the witness if he [8571] has so testified as a preliminary to a further question, your Honor.

"Mr. Hallinan: It isn't proper to ask the witness——

"The Court: Objection sustained.

"Mr. Hallinan: And the answer may go out, your Honor?

"The Court: Yes.

"Q. (By Mr. Donohue): How long did you remain at the Communist Party headquarters on this occasion, Mr. Schomaker?

"A. Oh, 45 minutes or an hour.

"Q. Now, may I ask you whether or not——"

Mr. Hallinan: Pardon me. I think we are getting far afield from what the jury requested, because this testimony has now been read, it is complete not only as to the conversation concerning the jury's inquiry, but also the trip up Market Street, the turning over of the alleged card. Now they are going into a different subject altogether, that is, the putting out of books. I don't understand that was within the comprehension of what the jury requested.

Mr. Donohue: I had thought to read seven additional pages, however.

Mr. Hallinan: None of them are linked to the conversation. I don't care, but as far as I am concerned, we could read the whole thing. However, the jury didn't inquire about that.

The Court: Let's proceed and see what eventuates in the transcript. Is it all after the meeting, the alleged conversation? [8572]

Mr. Donohue: Yes, Your Honor,

The Court: All right; you may proceed.

Mr. Hallinan: Well, the next seven pages relate to the issuance of books, and it has nothing about the conversation with B. B. Jones.

The Court: The asserted membership books, you mean?

Mr. Hallinan: Yes, Your Honor.

The Court: You may proceed.

Mr. Donohue (continuing reading):

> "Q. Now, may I ask you whether or not, subsequent to the date you have been testifying about, you ever received from or delivered to Harry Bridges personally a membership card in the Communist Party?"

The Court: We might take a short recess, if agreeable to the jury.

Mr. Donohue: Except I might finish in ten minutes, probably, Your Honor. At the jury's convenience and Your Honor's convenience and direction, of course.

The Court: Would the jurors like a recess now or would you like to have Mr. Donohue continue?

The Foreman: I think continue, sir.

The Court: All right.

Mr. Donohue (continuing reading):

"Mr. Hallinan: Just a moment. Object to that as calling for an opinion and conclusion, if the Court please, as to [8573] its being a membership card in the Communist Party and calling for secondary evidence. No explanation made as to why primary evidence is not produced.

"The Court: Overruled.

"Q. (By Mr. Donohue): Do you remember the question?

"A. Have I ever delivered to Harry Bridges a Communist Party book? I have, yes.

"Q. Will you state to His Honor and the ladies and gentlemen of the jury the circumstances as to time, place, purpose and so forth, when you delivered such a book?

"A. Well, it happened in parallel situations; at the end of each year——

"Mr. Hallinan: Object to that, ask that be stricken.

"The Court: 'It happened in parallel situations' may go out.

"Q. (By Mr. Donohue): At the end of each year?

"A. At the end of each year the Communist Party calls for a turning in of all the books.

"Mr. Hallinan: Object to that as not responsive; ask it be stricken out.

"The Court: The motion is granted.

"Q. (By Mr. Donohue): Will you state with particularity what you——

"Mr. Hallinan: Pardon me. There is a pending question.

"The Court: There is a question before the witness.

"Mr. Donohue: I understood Your Honor granted the objection [8574] of counsel.

"The Court: No, the answer was not responsive. I granted a motion to strike.

"Mr. Donohue: Then I take it there is no question?

"The Court: He was speaking of parallel situations, practice and custom in the Communist Party. The question was a very direct question, calls for a direct answer. (To the Reporter): Would you read the question?

"(Record read.)

"The Court: Now you may answer.

"A. Well, in 1934 in the month of December the Communist Party asked——

"Mr. Hallinan: Just a moment. Object to that now. He is putting in something else, too. He can easily answer that question that was addressed to him.

"Mr. Donohue: Without reference to what the Communist Party did.

"Mr. Hallinan: Now, pardon me, Your Honor. I ask that counsel not direct the witness. There is a pending question, and as Your Honor has expressed it, there is a question that is simple and concise and calls for a direct answer. Let him tell us.

"The Court: Yes, sir. I think the question calls for a direct answer.

"A. Well, I got the time in there. I got December, 1935. [8575] And Harry Bridges gave me his Communist Party book——

"Mr. Hallinan: Just a moment, Your Honor. The question has been asked and answered.

"Mr. Donohue: The question has not been answered, if Your Honor please. I can understand why he objected to the answer, but it is the first time the question has been answered.

"The Court: You may continue, Mr. Witness.

"A. (Continuing): Well, it was in December of 1935 and Harry Bridges gave me his Communist Party book to be what they call 'controlled.' The old book would be turned in and the new book would be granted.

"Q. Now on the occasion in 1935 when Harry Bridges gave you his Communist book, did you give him anything in return?

"A. At that particular time, no.

"Q. Yes. Did you subsequently give him anything in return?

"A. Later, yes; subsequently means later. I did get it later, yes, give him a book later.

"Q. Will you say when it was, subsequent to December of 1931, and the circumstances under which you gave him something and describe that something.

"A. Well, it was December, 1935; and then next year it would be in January, the latter part of

January. No, it would be earlier than that; it would be about the middle of January, 1936, when I received the books from the Communist [8576] Party headquarters and gave them to each individual member.

"Q. And do you now state that in January of 1936 you gave such a book to the defendant Harry Bridges?

"Mr. Hallinan: Just a moment. Object to that as leading and suggestive, if the Court please.

"The Court: Overruled.

"A. Why, yes, I gave him a book.

"Q. (By Mr. Donohue): Can you recall where it was or where Mr. Bridges was when you gave him the Communist Party book in 1936?

"A. It was at a Communist Party meeting. that is, a unit meeting and the particular place I can't recall.

"Mr. Hallinan: Pardon me. Just a moment. Ask that that be stricken out, that it was a unit meeting, that it was a meeting of the Communist Party, as stating an opinion and conclusion and no proper foundation laid.

"The Court: Overruled.

"Q. (By Mr. Donohue): Mr. Schomaker, will you state for us whether this was the only instance in which you received from or gave to Harry Bridges a book or membership in the Communist Party?

"A. No, it was not the only instance.

"Q. Then will you state your best recollection of any other instance or instances?

"A. Well, the same procedure went on in '36 and—that is, [8577] the winter of '36—the old book turned in and the new one received in '37.

"Q. Now, will you state for us why it was that you turned in or you received from Mr. Bridges his old book and turned over to him a new book?

"Mr. Hallinan: Object to that as incompetent, irrelevant and immaterial; calling for an opinion and conclusion.

"Mr. Donohue: If Your Honor please,——

"The Court: Overruled. He might have answered it before in part with respect to certain proceedings. He may answer.

"A. I was the section organizer of the waterfront.

"Q. And was Mr. Bridges within your jurisdiction as a section organizer of the waterfront section of the Communist Party.

"A. He was in my jurisdiction, yes.

"Mr. Hallinan: Just a moment. Your Honor, the witness constantly—and the witness has shown an interest in the thing by the statement, 'Well, we got in the date anyhow.' Now, I think he is purposely trying to fill in with an answer before an objection can be gotten in. I will ask Your Honor to again instruct him to wait until an objection can be made.

"The Court: I will instruct the witness accordingly, Mr. Hallinan, and in addition, I will instruct the ladies and gentlemen of the jury that the observations made by counsel [8578] with respect to the admissibility of evidence may not be regarded by you as evidence in the case. I have already instructed you fully on that score. And the observation made by Mr. Hallinan with respect to what he got in—he, the witness, got in—and so forth are not to be considered by you as a reflection upon the witness at this particular time.

"Mr. Hallinan: No, pardon me, Your Honor; that is not what I said. I said that the witness said that. The witness said, 'Well, we got in the date anyhow.' Do you remember him making that remark?

"The Court: No, I don't

"Mr. Hallinan: Yes, he said, 'Well,'—he said, 'December 1935,' and then he said, 'Well, we got in the date anyhow.' I didn't—I am not saying that. I say he said that. And it shows, I think, and I suggest to the Court, his intention to try to assist the prosecution by answering it too quickly before an objection can be made.

"The Court: You may examine him on that.

"Mr. Donohue: I am only too happy to have the remark stricken, if Your Honor pleases, but I think Mr. Hallinan has tried too many——

"The Court: Where are we now, Mr. Donohue?

"Mr. Donohue: We are about to ask another question, if Your Honor pleases. [8579]

"The Court: All right.

"Q. (By Mr. Donohue): Mr. Schomaker, you have heretofore described the process by which upon the payment of dues by a member in the Communist Party, stamps are issued which are pasted by the member in a book——

"Mr. Hallinan: Pardon me, Your Honor,——

"Mr. Donohue: Would you let me finish the question, please?

"Mr. Hallinan: No, it is always held improper to recite to a witness a compendium of what he has already stated. Now, that is always held improper. It is leading and suggestive, making resumes and arguments in advance of the proper time, and there is no disability shown in this witness' part to be able to remember the events, and no necessity for resumes of this sort.

"The Court: The objection is sustained.

"Q. (By Mr. Donohue): Mr. Schomaker, did you ever see the defendant Harry Bridges pay his dues as a member in the Communist Party?

"Mr. Hallinan: Just a moment. That is certainly calling for an opinion and conclusion, if the Court please. He could be asked what was done and what he saw and what was said, but he is calling for a direct opinion and conclusion as to whether money passed, whether that constituted dues, for what purpose.

"The Court: The objection is overruled. [8580]

"A. I saw Mr. Harry Bridges on numerous times pay dues to the unit secretary for dues in the Communist Party."

The Court: Ladies and gentlemen of the jury, does that complete—Strike that. Does that complete the reading of the direct?

Mr. Donohue: Yes, if I understand correctly the jury's question and Your Honor's instructions, it does, if Your Honor please.

The Court: All right. We have arrived at 12:00 o'clock, and the plans, as I understand from Mr. Mitchell—he has handed me a short note—that the bus leaves at 12:00, more or less sharp, and that you will have your luncheon and then I suggest that you return here after the recess, the luncheon recess, for the reading of the cross-examination on that subject. Is that agreeable.

Mr. Hallinan: Surely.

The Court: All right. Pardon me. The lady has a question. Will you address it through the foreman?

A Juror: I wanted to address you through our foreman.

The Foreman: Yes, this one question. Quite surprised to come in here this morning. We thought we would have access to the volumes of testimony. We didn't realize, too, that we would have to come in here, and of course we were caught unprepared as to the, you know, the direct testimony as to this restaurant and the signing up of Harry Bridges, the alleged signing up. And are [8581] we to come in here for any more? Any more of the reading of the testimony? Or do we have it in our jury room?

The Court: Well, ordinarily the testimony is read in court to the jurors. If you specify the parts you desire or the general parts, and we try to select such parts.

Mr. Hallinan: We will stipulate to give them the entire transcript, if Your Honor please, so they can read any part of it. We have no objection.

The Foreman: Well, there will be parts of the various testimony that we will want read, we will want to see it, here or even read the cross-examination on it. We will only be interested in the pertinent points, however.

The Court: Well, would you like to take up the cross-examination of Mr. Schomaker on this phase, and after that we might determine as to your other requests.

The Foreman: That is fine.

The Court: If that is agreeable, all right. We will now recess for the noon period and return at your convenience. We will be available.

(Thereupon a recess was taken until 2:00 o'clock p.m.) [8582]

Saturday, April 1, 1950—2:00 o'Clock P.M.

Mr. Hallinan: As to the cross-examination on those subjects, I might say to the Court and jury, as indicating the time that would be consumed in it, that by selecting out the matters only that bear directly on this, it comprises sixteen pages. The original examination was 40 pages, so it is only a little over a third on those subjects.

Turning, then, to page 1101, line 21 (reading):

"Q. Do you remember yesterday testifying that you had a conversation, you, Mr. Bridges, Mr. B. B. Jones, about the terrible conditions on the waterfront, and, as you put it, the 'lousy conditions on the waterfront'?

"A. I recall that, yes.

"Q. You recall that you said that yesterday. Tell us what was said about that. Give us the whole conversation on that subject.

"A. I couldn't do it verbatim.

"Q. You do not have to do it verbatim. Do it as well as you can.

"A. As I said, as we went into the restaurant evidently on that particular morning Bridges at that time was working——

"Q. Pardon me. Will you please tell us what conversation you had on the subject I just discussed.

"A. I am trying to get a background. [8583]

"Q. We have a background.

"A. What I am trying to do—after all, you asked me a question. I can't snap it out of thin air. I have to get a background in my own mind first. Bridges was working with a gang on the Hawaiian docks. On that particular morning he evidently had a late start because he was in the restaurant when we walked in. Jones said to Harry, 'Harry, how about buying the coffee?'

"So Bridges proceeded to buy the coffee. As I say, it was a nickel a cup at that time. He could easily afford it. We got the coffee and we sat down and began to talk about conditions on the front, particularly about the case of a fellow who was killed—I think it was on the Encinal Terminals—a heavy load of canned goods. The winch fall carried away. He was underneath the load and it killed him, he and his brother were working together, and we were talking about that particular thing, that due to the excessive speed-up and the big loads, here was a guy whose life was sacrificed. And from that we discussed the other conditions, that something more—action needed to be taken and the officers of the ILA at that time were not doing enough to rectify these things.

"Q. What conditions did you talk about? What conditions were being complained of?

"A. Well, for instance, the selection of men to be picked [8584] for a job.

"Q. How was that worked?

"A. That was done on the basis of a shape-up where the boss picked his men."

Now, from there on it goes on to a discussion, if the Court please, about the conditions and so forth; that could or could not be construed as directly entering into the conversation, but I don't think that that is what the jury is interested in now. So then, moving over to page 1171:

"Q. You also testified that when Harry Bridges first signed an application with the Communist Party a book was issued to him under the name of Harry Dorgan, is that correct?

"A. That I testified that a book was issued to Harry Bridges under the name of Harry Dorgan?

"Q. Yes. A. That is correct.

"Q. Can you tell us what was the purpose of having the book issued under the name of Harry Dorgan?

"A. What was the purpose of it?

"Q. Yes.

"A. Well, it was one of the peculiar things that was the standing practices of the Communist Party, is that when you did sign up, you always signed under a fictitious name. The book was issued, rather, in a fictitious name. Now, [8585] just why, I never did quite understand that myself.

"Q. Was it always issued in a fictitious name?

"A. Well, possibly not always, no. But they always recommended that and urged that it should be done.

"Q. Was that for purposes of concealment?

"A. Yes, I imagine it would be. As I say, I imagined it would be, yes.

"Q. Well, now when you talked to Mr Bridges with B. B. Jones in the restaurant there was a discussion about what name he would use and a recommendation was made that he use his mother's maiden name, is that right?

"A. Well, I wouldn't say you would call it a recommendation; it was a suggestion, yes.

"Q. A suggestion. All right. And do you remember that at the time Mr. Bridges had difficulty in remembering what his mother's maiden name was?

"A. No, I don't recall it, no.

"Q. Well, now, don't you remember that he took a couple of pieces of paper that he had started out to write out, to out, what his mother's maiden name was, and he wrote Harvey on one piece of paper, then he wrote Canfield on another piece of paper. And he put those on one side. Then he wrote Dorgan on another piece of paper and Rossi on a fourth piece of paper and put those to one side. And then he tossed a coin to see which of the two piles he would select the [8586] name from. Do you remember that?

"A. No. That sounds to me like some guy had been smoking marijuana. That doesn't sound like Bridges to me.

"Q. Oh. Well, then, don't you remember

that the choice of the coin falling to the Rossi-Dorgan axis, that he then separated those names and tossed the coin again, postulating his choice upon the falling of the obverse uppermost on the Dorgan name, and that that is what in effect ensued. Do you remember that? A. Certainly not.

"Q. That never——

"A. That sounds like one of those things out of a dime detective story or something.

"Q. Yes. The whole thing does; it is nuts?"

And then moving over to 1403 to 1413, this relates to the handing in of the card, or the alleged handing in of a card to Mr. Darcy. (Reading):

"Q. (By Mr. Hallinan): Mr. Schomaker, you testified about a certain card that you say was signed by Harry Bridges some time back in 1933 in a restaurant at which you and B. B. Jones were present, and I think you said what, so far as you know, became of that card. What was done with the card, as far as you remember?

"A. You mean after it came in Jones' possession?

"Q. Yes. You told about walking up the street, and so [8587] forth. What was its final disposition, and so forth, so far as you observed?

"A. Well, we walked up Market Street——

"Q. No, you testified to that. You said you got to Communist headquarters and then something was done with the card. What was that?

"A. We entered 37 Grove Street. That was the address, 37 Grove Street.

"Q. What was done with the card?

"A. Well, we entered 37 Grove Street and went up onto the mezzanine floor and to the office of Sam Darcy.

"Q. And what was done with the card?

"A. Oh, then Jones trned it in to Sam Darcy.

"Q. Had you ever turned in similar cards before, cards of other persons?

"A. I had, yes.

"Q. How many, approximately?

"A. Well, it was a considerable number. Over a period of years it would run into a considerable number, yes.

"Q. As many as a hundred or two hundred?

"A. I would say, to be conservative, I would say 100.

"Q. Do you know what was done with those cards when they were turned in there? To whom were they turned in? Mr. Darcy? Withdraw that. Don't you remember that you testified it was given [8588] to some secretary or some girl there? A. I testified to that?

"Q. Yes. Wasn't that your testimony? Well, do you remember?

"A. I certainly do remember. Certainly I remember.

"Q. To whom was it handed?

"A. In this particular case Jones and I went into 37 Grove, went up on the mezzanine floor, and Jones, with a smile, gave the card to Samuel Darcy.

"Q. To Darcy himself?

"A. The district organizer of the Communist Party.

"Q. When did you get the book that you said bore the name Harry Dorgan on it?

"A. Well, every Saturday they had a meeting and the section organizers attended, and there they got—well, they had a meeting and they discussed the situations in the various sections——

"Q. That is not what I asked you. Will you confine your answers to the questions. I asked you, when did you get the book with 'Harry Dorgan' on it? When?

"A. Do you mean the exact date?

"Q. About. How long after you turned in this application that you talked about?

"A. I am just trying to give you the background.

"Q. Just approximately in time.

"A. Well, in the case of the Bridges book there was a peculiar [8589] incident about that, because it was——

"Q. I am coming to that later.

"Mr. Paisley: I think he can answer.

"Mr. Hallinan: Your Honor, that is not an answer to the question.

"The Court: Mr. Hallinan asked a specific question. I think he is entitled to an answer to it and any explanation the witness may make is quite all right, but he is entitled to an answer.

"Q. (By Mr. Hallinan): Was it a week after, a month after, or what was it that you got the Harry Dorgan book that you testified to?

"A. It was longer than the average time that would elapse to get an ordinary book, yes.

"Q. What was the average time?

"A. The average time would be, if you turned the application in on a Monday, why, that next Saturday the book would be issued.

"Q. Was there some sort of a meeting that would pass upon the application?

"A. That is correct. It was a membership—I think they referred to it as a membership committee or application committee, and any applicants that would apply to join the Communist Party had to be proposed by someone, and from there it would go to a membership committee, who would carry [8590] on an investigation as best as possible, and then the book would be issued if the person was considered safeworthy, and so forth—met the qualifications of being a Communist.

"Q. How many people were on the membership committee?

"A. I didn't have too much connection with the membership committee.

"Q. Approximately?

"A. I would say three or four persons.

"Q. Was this procedure that you have testified to the procedure in all cases of admission to the Communist Party you knew of?

"A. No, it was not. The Bridges case was an exceptional case.

"Q. So ordinarily this application would be submitted to three or four persons, is that right?

"A. Well, no, it would not be submitted.

"Q. I say ordinarily an application would be submitted to three or four persons?

"A. No, that is not correct. The way you pose the question is not correct. The persons who made the applications out, who recruited a certain person to join, for membership in the Communist Party, they turned the applications in to the unit organizer, and the unit organizer turned it over to the section organizer. The section organizer turned it in to 37 Grove Street, and later to 121 Haight Street, and there [8591] they had a membership committee which met and would carry on an investigation as best as possible of the proposed member. But in the Bridges instance it was entirely different.

"Q. I am asking about the ordinary one, not the Bridges one.

"A. I am telling you the ordinary one and I am telling you the exception.

"Q. We will come to that in a moment. So that ordinarily a membership application was delivered first to a unit organizer and by him to a section organizer and by him it was delivered or it was turned over to a membership committee to pass upon the application, is that right—ordinarily?

"A. That was the general rule, yes.

"Q. When the application was passed upon verbally, what was done with the application card?

"A. Well, I never saw the application card again.

"Q. Do you know what was done with it? Was it filed? Was it sent to some central headquarters, sent elsewhere, or what?

"A. As far as I know, it was filed for a certain length of time and then destroyed.

"Q. How long was it filed?

"A. That is something I can not answer. I don't know.

"Q. Would it be for several years?

"A. I don't know. I don't have the slightest idea. [8592]

"Q. Who had charge of the files in which they were contained?

"A. I was down on the waterfront as a section organizer and had no connection whatsoever with the filing or any of the office work that was carried on there at 37 Grove Street or 121 Haight Street. I have no conception whatsoever of what they did there.

"Q. In addition to Mr. Darcy at 37 Grove Street, were there other officials of the Communist Party who had their offices their and who functioned from that address? A. Well, yes, there was.

"Q. How many?

"A. I think that your conception of the Communist Party is so——

"Q. If you don't mind, we won't bother with my conception of the Communist Party. I asked you how many officials of the Communist Party in addition to Mr. Darcy performed their functions from

No. 37 Grove Street, that is, that they had offices there, had office space, or they came and went and did certain work in that building. How many?

"A. As I say, in those days the Communist Party was a vest-pocket organization.

"Q. How many?

"A. Well, the Western Worker had their offices there.

"Q. How many people were in the Western Worker? [8593]

"A. Well, they had the editor and they had the assistant editor.

"Q. Anyone else?

"A. Well, then the circulation manager—the circulation manager and the advertising manager was the same.

"Q. Who else?

"A. Then you had the trade union director.

"Q. Anyone else?

"A. And you had the membership director.

"Q. Anyone else?

"A. And you had the agitation and propaganda director.

"Q. All right. Who else?

"A. To the best of my recollection, there was more, but that is the best of my recollection.

"Q. Were there any stenographers working there?

"A. Well, yes. I thought you just wanted the directors of the Communist Party.

"Q. These are all the directors that you can remember, is that correct? A. That is correct.

"Q. You think there were some more, but you can't remember them, is that right?

"A. I say, to the best of my recollection that was the total of the functionaries of the Communist Party at the headquarters. [8594]

"Q. That would be, then, in addition to Mr. Darcy there were five other persons whom you remember? A. Yes, that is correct.

"Q. Were there office stenographers there?

"A. There was, yes.

"Q. How many?

"A. Mr. Darcy had a stenographer. She did other work, too, but, as I say, the Communist Party was a vest-pocket organization.

"Q. Any other stenographer?

"A. I don't know if you could classify them as stenographers or they doubled for other jobs, too.

"Q. How many? How many people were doing that kind of work, either stenographers or doubling in their jobs?

"A. That kind of work was mostly voluntary and if a person had a day off on their jobs they would come down and help out, so it would vary from day to day.

"Q. Would there be as many as ten or fifteen people who did that off and on?

"A. I wouldn't want to give a figure, because——

"Q. Well, roughly.

"A. As I say, I came to the office maybe once a day some days, maybe two or three times a day on other days. I was in and out. I didn't stick my nose in each office and check up on each person and what he was doing there. It didn't concern me. [8595]

"Q. There were people who would act as volunteer workers when they had a day or two off?

"A. That is right.

"Q. You do not know how many there may have been. There might have been as many as twenty or as few as five or six?

"A. It varied with the campaign that was under way. If there was a vigorous campaign under way there would be more. When things slacked off there would be less.

"Q. Was there any file clerk or anything like that?

"A. I wouldn't know whether there was or not.

"Q. When you had books issued for the numerous people you described, who gave you those books?

"A. As I say, we had meetings of the section organizers.

"Q. Let us forget that for a minute.

"A. I am trying to explain how the books were issued.

"Q. You said at the end of the year, for instance, you turned in the old books and had new books issued. To whom did you turn in the old books?

"A. That is what I am trying to explain if you will permit me.

"Q. What was the name of the person to whom you turned them in?

"A. There was a Kay McGee at one time.

"Q. What was her job there or her office?

"A. She generally was secretary to Sam Darcy, at times, I [8596] say. I think she was the director of the membership drives.

"Q. Then who were some of the other people who occupied that same position?

"A. Betty Gannett occupied the position of membership director.

"Q. Did you get some of the books from her or turn in some books to her on occasion?

"A. That is right.

"Q. Anybody else?

"A. It was mostly a woman, that is, generally a woman, and at this time those are the two people that stand out prominently that I remember.

"Q. But there may have been more, is that right?

"A. There may have been more, yes.

"Q. You do not know where in the office they filed these applications, is that right?

"A. Well, to be very frank, I don't think they filed them in that office.

"Q. Where did they send them?

"A. I haven't the slightest idea, For security reasons they didn't tell me what they were going to do with the confidential data they had.

"Q. You do not know where those applications were sent?

"A. It was no concern of myself at all. It was no concern of myself whatsoever." [8597]

Then there goes on a considerable amount of discussion about books and so forth, and then over to page 1419 to 1421. (Reading):

"Q. All right. Now, will you tell me this:

You said that Mr. Bridges' application, that there was something extraordinary about it, that they didn't go through, or the application did not go through, the ordinary channels. Is that roughly correct? A. That is correct.

"Q. And the reason for that, I take it, is that he was an alien and subject to deportation if he were known to be a member of the Communist Party, and hence his membership had to be kept concealed, is that right?

"A. Well, not only for those reasons, because every member, his membership was kept concealed. But in Bridges' case, extraordinary precautions were taken.

"Q. For that reason that I have just enunciated, is that right?

"A. Well, primarily, I guess you are correct on that."

I believe that will be all, your Honor.

The Court: That completes the reading of the request made.

I have worked this formula out in my mind since our discussion this morning: that in the light of the very lengthy record of testimony in this case, and in view of a rule which has obtained over the spread of many years, we would serve, I believe, this case more happily to have the testimony read in the courtroom, for fear that some possible error or claimed error [8598] might creep in. As illustrative: Many matters were heard outside the presence of the jury. It would mean dissecting the transcript in many instances. I can find no rule that would permit the Court to allow, at least in these federal courts, the delivery of the transcripts to the jurors for their independent perusal in the jury room.

I would suggest this, if agreeable to counsel and the jury: If the jurors, through the foreman, present in advance the name or identity of the witness or witnesses and specify a particular part or parts that they may desire, counsel and the Court will then undertake to satisfy the request by going over the transcript, allocating such parts as they believe are being requested, or might be the subject of request, and such portions will be read to you in open court.

Now, as a matter of expediency and in the light of the labors involved, the transcripts would have to be read in the jury room in one form or another by the foreman or some person chosen, to the jurors; and I believe it will serve a useful purpose to have the transcript read in open court or such part thereof that you may desire. It may be that our burdens will be decreased if, after a complete discussion as between the jurors, you indicate through the foreman in writing and through Mr. Mitchell to the Court, the name or names of the witness, then the Court, with counsel, will attempt to sift and analyze the same, so you will have the full impact of your request. [8599]

I have nothing further to say on the subject, unless you have, Mr. Foreman.

The Foreman: No, I think we are perfectly in accord with that. That will be fine.

The Court: Very well, you may then retire, if you desire, for further deliberation.

(Whereupon the jury retired for further deliberation at 2:30 o'clock p.m.)

(The following occurred outside the presence of the jury.)

The Court: If I may have a word with counsel? I might suggest that in the light of any further requests that we might either in court or in chambers, to suit your pleasure and convenience, and whatever the request may be as to the transcript, we may then go over the matters and disassociate from the text of the transcript such matters as may have occurred out of the presence of the jury. There were many matters which occurred. It might result in some degree of prejudice one way or the other, and I think we can analyze and refine the whole request to the end that they get the full burden of the transcript and from both sides.

Mr. Donohue: Very well, your Honor.

The Court: We will recess.

(Recess.)

(At 3:17 o'clock p.m., court was reconvened and the following proceedings were had outside the presence of the jury [8600] in open court:)

The Court: Counsel, Mr. Mitchell has a request from the jury which he will read into the record.

The Clerk: The request is as follows:

> "Mr. Mitchell, may we have read to us the B. B. Jones testimony on direct and cross-examination, re alleged meeting in restaurant with Mr. Bridges in company with Mr. Schomaker. Issue: alleged signing of application by Mr. Bridges into the Communist Party. This testimony may be read to us at the Court's convenience."

Signed: "Glenn Christensen."

And it is marked "3:05 p.m., 4/1/50."

The Court: I think we should attend to that immediately, gentlemen, if agreeable?

Mr. Donohue: Yes, your Honor.

The Court: The transcripts are available, Mr. Hallinan?

Mr. Hallinan: We will send to get them. It will take ten or fifteen minutes.

Mr. Donohue: We will have ours in a few minutes, your Honor.

Mr. Hallinan: We might use the same transcript.

The Court: Could it be possible in the light of your situation? Could you have some of the—well, you couldn't anticipate that. It is only a matter of ten or fifteen minutes?

Mr. Hallinan: We have told them to bring down the entire transcript and leave it here. We could use the same transcript, [8601] however.

Mr. Donohue: I will send for it at once and we may both use them.

The Court: There shouldn't be any difference on reading it. There wouldn't be any matter on interruptions in Mr. Jones' testimony.

Mr. Donohue: I don't think so.

The Court: If there be any matters, will you call my attention to them?

Mr. Donohue: Yes, your Honor.

The Court: All right, we will recess.

(Brief recess.)

(Whereupon at 3:48 p.m., court was reconvened, the jury assumed its position in the jury-box, and the following proceedings were had in open court:)

The Court: You may proceed, then, with the reading of the testimony of Bruce. B. Jones, in accordance with the suggestion made by the jury, Mr. Hallinan.

Mr. Hallinan: I understand that the jury is only interested in that part of Mr. Jones' testimony that related to the allegation of Schomaker that he helped him sign up Harry Bridges in the Communist Party, is that right?

The Foreman: Yes.

Mr. Hallinan: Well, then, starting at page 4182, line 23:

"Q. Let me ask you this: Do you know John Schomaker? [8602]

"A. Yes, I know John Schomaker, Mr. Hallinan.

"Q. How long have you known him?

"A. I met John Schomaker in the latter part of 1933. The place I met him at, if I remember correctly, was in the Marine Workers Industrial Union hall, which was located on the second floor of a building I think at 432 Market Street.

"Q. That was known as the MWIU, was it?

"A. Marine Workers Industrial Union.

"Q. Were you a member of that?

"A. I was.

"Q. Was Schomaker? Well, withdraw that. Now, I want to ask you this: Do you know Harry Bridges? A. Yes, sure.

"Q. When did you first meet Harry Bridges?

"A. The first time, Mr. Hallinan, I met Harry Bridges to talk to was when I was on a steamship called the Texan, which was in the third or fourth month of the year 1934. I was a member of the crew of that ship and Bridges was a longshoreman that had been loading the ships. There is a lapse of time or a brief lull between the longshoremen when they get their work done and between them getting off the ship and the seamen who are standing by, before the seamen take over battening down the hatches and like that. That is the first time that I had ever met Harry Bridges to have anything to say to him. [8603]

"Q. You say that was some time in 1934?

"A. I have a discharge, Mr. Hallinan, from the Government, it was the Coast Guard or the Steamboat Inspectors at that time, which says on it, if I remember correctly, it has the first letter is 4, and there is a line and 34; I think the middle is 3. I think it was the fourth month, they calculate it that way, or the day. It was in March or April, 1934.

"Q. Does that card show the name of the ship you sailed on?

"A. It shows my name, the name of the ship, and it shows my rating on the ship, and it shows that I deserted the ship in New York in 1934.

"Q. Is it by means of that card that you are able to place the first time you talked to Harry Bridges? A. Yes, that is correct.

"Q. In other words, you had seen him and spoken to him but had not had a conversation with him prior to that day?

"A. That is correct, Mr. Hallinan.

"Q. That would be about April, 1934, so far as your memory is refreshed by the document that you had? A. That is correct, yes.

"Q. Will you tell us what the nature of your conversation with him was at that time?

"A. I don't know. Harry was standing over there and smoking a pipe. They had just swung in the gear or something, [8604] and if I remember correct, he had ~~a piece of~~ rope in his hand and he said something about having a good voyage and do a good job.

"Q. At that time had you been designated by the Marine Workers or some organization to try to do something about the impending strike on the Pacific Coast?

"A. Well, Mr. Hallinan, it was two ways: I was involved in a transaction trying to get something to eat. I always had my book down there in the fink hall on top to try to get a ship. It was a question of trying to get something to eat and also help out my brother seamen and longshoremen, and under that category, that is when I shipped on that ship."

Your Honor, I might interrupt by saying that I suppose the time at which Mr. Jones met Mr. Bridges would be pertinent, as to whether he had met him in 1933. That is why I put in this part—although it finishes herein a few minutes.

(Continuing reading:)

"It was a question of trying to get something to eat and also help out my brother seamen and longshoremen, and under that category, that is when I shipped on that ship.

"Q. Let me ask you this: Did you in the month of December, 1933, or at any other time or at all, in company with John Schomaker or alone or under any circumstances or in the presence of anybody ever ask Harry Bridges or suggest to Harry Bridges or recommend to Harry Bridges that he join the [8605] Communist Party?

"A. I did not, Mr. Hallinan; at no time did I ever sign Harry Bridges up in the Communist Party, and at no time did I ever ask him to join the Communist Party.

"Q. Did you ever in the company of Schomaker ~~or by~~ yourself or in the company of any other person in a restaurant at Stewart and Market Street or at any place on the wide globe ever receive from Harry Bridges an application signed by him applying for membership in the Communist Party?

"A. I did not, Mr. Hallinan, and Schomaker is a ~~goddam liar when~~ he said that I did."

Then moving to 1945, there are two pages there:

"Q. I asked you a little while before, and then some discussion interrupted it, in addition to saying that you had signed or you had received a signed application card from Harry Bridges, Schomaker testified that in December, 1933, you and he had to walk up Market Street to 37 Grove Street, which he said took about 45 minutes because neither you nor he had the carfare. Do you know whether he was impoverished at that time?

"A. Well, there is one point—let's see. We were supposed to walk up there from a restaurant, Mr. Hallinan?

"Q. Yes.

"A. I will tell you a little story about that restaurant, Mr. Hallinan. That restaurant—I would never have went in [8606] that restaurant with Bridges or Schomaker because at different times I would go in that restaurant and work for a meal. That's right. I have been down on my hands and knees and scrubbed the border around the floors of that restaurant for something to eat, but I have a little pride, and I would never have went in that restaurant in the first place to talk over anything with Schomaker or Harry Bridges. And as far as walking up Market Street with John Schomaker and he said he was short of money, that is a lot of baloney because he was living with his family, Mr. Hallinan. I never saw him short of money or anything like that. I didn't see him flush, but he was eating three square meals a day and living with his family.

"Q. His wife was working for the Japanese Steamship Company, you say, at that time?

"A. That is what she told me, yes."

And then finally, on page 4198 and 4199, finishing the direct examination. This is in a conversation that he had with Schomaker, when he went down to see him after Schomaker had testified before the grand jury:

"Q. And will you tell us what the general nature of the conversation was then?

"A. Well, to the best of my recollection then, Mr. Hallinan, the general nature of the conversation was that George asked Schomaker if he cared to tell him what went on at the [8607] Grand Jury. That is the best of my recollection of it. Schomaker appeared very nervous and hedged and this, that and the other. About the only thing that I can remember, Mr. Hallinan, definitely out of that—out of that conversation that day was that Schomaker told George Andersen that he had told the Grand Jury that he didn't know whether Bridges was a Communist or not.

"Q. Now, we talked about the first meeting and the statement that I had here that was shown to you. A. Yes.

"Q. And as to the conversation that occurred in the first meeting. A. Yes.

"Q. You have read this recently for the purpose of refreshing your recollection, is that correct? A. Yes, one day last week.

"Mr. Hallinan: We will offer it in evidence. It is just the same thing. If you want to object, we don't care.

"Mr. Donohue: We object, if your Honor please.

"Mr. Hallinan: All right.

"Mr. Donohue: It is only self-serving.

"Mr. Hallinan: No, it isn't self-serving. It is just a statement.

"Q. Did Schomaker ever tell you that he was going to use your name in testimony as having been involved in obtaining [8608] a membership application signed by Harry Bridges in the Communist Party?

"A. No, he did not.

"Mr. Hallinan: That is all.

"Cross-Examination"

Mr. Donohue: In examining Mr. Jones, your Honor, concerning that visit that Mr. Hallinan just referred to at Schomaker's house——

Mr. Hallinan: Might I have the page?

Mr. Donohue: Page 4251, line 24. (Reading):

"Q. Referring now to the second visit you made to John Schomaker's home with Mr. George Andersen, Mr. Melin and the name of the third person who accompanied you was what? A. Charles Lampert.

"Q. Charles Lampert?

"A. That is right.

"Q. What time did you get to Schomaker's home?

"A. I would say it was in the mid-afternoon, Mr. Donohue.

"Q. Did you go inside the house?

"A. Not at first, no.

"Q. Later? A. Yes.

"Q. Was this the occasion on which Mr. Schomaker served you with pie and coffee?

"A. Yes, that is true. It is customary to do that. If [8609] anybody comes to my house, I feel insulted—I tell you that—and I just had another invitation, Mr. Donohue, to come down and see her a couple of days ago.

"Q. Did you accept it?

"A. No, I didn't because at that time her husband hadn't said a damn lie here in court about it.

"Q. You went the other two times without invitation, didn't you?

"A. Yes, without invitation the other two times, yes. It was a common understanding when I was in that area, I would go see them, and when they were down there, they would come and see me—when they were up in my area.

"Q. You knew when you went there Mr. Schomaker had already testified before the grand jury?

"A. When I went there the second time?

"Q. Yes. A. That is correct.

"Q. Didn't you go there for the purpose of trying to find out what he had said? A. No, no.

"Q. Let me ask you this: At this meeting at Mr. Schomaker's home, did you not hear George Andersen say to Mr. Schomaker, 'The reason we are here is to ask you to tell us what transpired before the grand jury.'?

"A. I can't recall whether I did that or not, Mr. Donohue. [8610]

"Q. And didn't you hear John Schomaker reply, 'Well, I can't divulge what happened there.'? Did that happen?

"A. I may have heard him and I may not have. He would have been hypocritical if he did; either that or he would have been lying the previous time because he sat down and told me what happened or what was supposed to have happened. He never said that to me the first time.

"Q. I will ask you if it is not a fact that George Andersen said, 'That is true, but will you answer one question: Did you say to the grand jury whether or not Harry Bridges was a Communist?'

Did you hear George Andersen ask you that question? A. I think I did, yes.

"Q. And did you hear John Schomaker make this reply: 'Well, I told them the truth. I said you can ask Melin or Ben the same question and they will answer the same way I answer it.'

"Did you hear him make that reply?

"A. If I remember correctly on that, Schomaker told George Andersen that he had not told the grand jury whether Bridges was a Communist or not, or he told him he was not. I think that is it. I am not sure.

"Q. Then you deny that John Schomaker just made the statement I just read to you?

"A. I didn't deny it, no. [8611]

"Q. Did he make that statement?

"A. I don't say he did, I don't say he didn't.

"Q. Let me ask you this, if it is not a fact——

"A. I am not sure the other one is a fact, Mr. Donohue.

"Q. Didn't John Schomaker then turn to each of the three of you, Melin, the man we have called Lampert——

"A. I don't call him that. That is what he calls himself.

"Q. ——and yourself—— A. Yes.

"Q. ——and ask each one of you in turn did you know the answer to that one, and didn't each one of you say, 'yes,' including you?

"A. No, that wasn't said, no, no.

"Q. And isn't it a fact that John Schomaker then turned to you and said 'You signed him up?'

"A. You are a liar for saying Schomaker said that.

"Q. I didn't ask you that.

"A. It isn't a fact.

"Q. I asked you if he made that statement.

"A. It isn't a fact. At no time at these previous meetings I went down with Schomaker did Schomaker tell me in the presence of these other people anything about signing Bridges up, and it struck me very sharply when it came out in the newspapers that he said that.

"Q. And isn't it a further fact that you said, 'The s.o.b. [8612] was hard to get dues out of.'?

"A. You are a liar for saying that here, and I never said that. You are a liar, Donohue, and Schomaker is, too.

"Mr. Donohue: That is all. No further questions.

"The Witness: You got that, Donohue? You are a liar and Schomaker is, too, and anybody is that ever said I signed Bridges up."

Mr. Hallinan: There are one or two other matters I think should be read in on the cross-examination and a little on redirect.

> "Q. (By Mr. Hallinan, reading): Mr. Jones, after you read Schomaker's statement"——

Mr. Donohue: What page?

Mr. Hallinan: 4255, following along just after what you read.

> "Q. (By Mr. Hallinan): Mr. Jones, after you read Schomaker's statement in the paper of what he was supposed to have said, that you had made these statements, did you publish some sort

of handbill to distribute to your friends on the waterfront denying these things, denying you had anything to do with signing Bridges up as a Communist?

"A. The chairman of the Defense Committee of Local 10 asked me if I wanted to make a statement and I says, 'Yes.' So after the union meeting that night, on a Wednesday night, we went and explained the thing. He put it on the waterfront. [8613] There was either a typographical error in it or else he misconstrued some of the things I said. I wanted to make that statement. I am familiar with it. I couldn't crash the court and get in here. I wanted to deny it before all the maritime workers and everybody else in the State of California, that Schomaker is a liar. That kind of put the finger on me for being a stool pigeon when he brought that out, and that was the whole conspiracy and the plot to the Department of Immigration when they think that. They were going to dynamite—have Schomaker come out with that idea, and they were going to dynamite, intimidate and scare Jones, scare him with the Gestapo or try to buy him off, like your agent Max Alexander asked me. He said, 'We'll take care of you.' That is your conspiracy and plot, to come out in the newspaper with that stuff and try to get me boxed in with your Gestapo and go along with what Schomaker said."

Now, turning back to page 4202 and 4203, and this is on cross-examination by Mr. Donohue. He asked him first about receiving a phone call from the defense committee and going down and talking to him. (Reading:)

"A. After receiving the phone call, Mr. Donohue, which happened to be a request to do something which I was fully intending to do whether I got the phone call or not, I proceeded to 150 Golden Gate. And I went in there and a clerk [8614] or stenographer showed me a copy of the transcript, I guess you call it, of Schomaker's statements up there, and I was involved in the transaction of reading that over when I think Mr. Hallinan and the attorneys and Bridges came into the room, and I think as they came into the room I was reading this over and explaining to the girl there that it was a lie. That is when I first met him.

"Q. When was that?

"A. That was on the day that Schomaker testified I did that.

"Q. How long did you stay there?

"A. I would say 30 minutes; approximately half an hour or something like that.

"Q. Did you talk with anyone other than Mr. Hallinan or Mr. MacInnis?

"A. On that particular time?

"Q. Yes.

"A. Not that I can remember, no.

"Q. When did you next talk to anyone about your testimony now?

"A. Well, let me see. When was that testimony given, Mr. Donohue?

"Q. Are you referring to the testimony of John Schomaker?

"A. You asked me—repeat your question again, please.

"Q. When did you next talk to anyone concerning your [8615] testimony here after the incident you have just discussed in which you said you talked to Mr. Hallinan and Mr. MacInnis at 150 Golden Gate Avenue?

"A. Well, I will answer—I will say that when that come out in the newspaper it created quite an uproar and there was all kinds of people asking me about it, rank and file longshoremen and all kinds of people, and anybody that asked me about it I told them; and I told anybody who would listen that what Schomaker said up here about me signing up Harry Bridges was a lie. I can't enumerate all the people. It would be half the waterfront, I guess."

Then on page 4209, on cross-examination again:

"Q. And it is a fact that you didn't go down and see Mr. Schomaker until after you had received your subpoena to appear before the grand jury?

"A. That is right. That is what I told the Court. I had nothing in common with him to go down and see him. He is a degenerated moron.

"Q. You didn't tell him that when you went down there? A. What?

"Q. You didn't tell him that?

"A. I didn't say the words degenerated moron, no, but I argued out every point he brought up about the East Coast and the Gulf and that area back there. He said that day that Harry Bridges was a fathead. [8616]

"Q. You didn't tell him that during this visit before or after you had coffee and cake with his wife in the kitchen?

"A. No; since he started involving me here, I have formulated, made up my mind that he is a degenerated moron. I was in the process of coming to that conclusion when he named me here. That guy even tried to write books and I have given him experiences of mine at sea during the war to help him try to write a book.

"Q. Mr. Jones, you didn't tell John Schomaker in the kitchen of his home when you ate his wife's cake and drank her coffee that he was a degenerated moron, did you?

"A. No, I didn't, but I blasted him on every point that he raised. I told him, I says, 'What are you sticking your snout in the waterfront for? You are not on the waterfront; you are down here carrying hod. If you have got something against Bridges or Schmidt, don't take it out on the rank and file.' That is what I told him. 'I am down there trying to make a living,' I says, 'and indirectly you are hitting me.'"

And then on page 4233, just two short excerpts to show the time that he says he first talked to Harry Bridges. On line 3:

"Q. When did you ship on the Texan?

"A. I shipped in San Francisco—I haven't got the discharge with me, but I think it was the fourth month of the year of 1934. [8617]

"Q. We agree, I think, that the fourth month is April?

"A. Yes, I will agree that the fourth month is April, but on this discharge it doesn't say April. It says '4,' it has got a dash, then I think '1' or '2,' and another dash, and then it has got '34.' Some people call the first part the month and some call it the day. I think maybe it is the day or the month, I don't know."

And then over on page 4234, line 12:

"A. When? Well, we—after we sailed from here, we went around through the Panama Canal, up the south Atlantic coast of the United States, stopped at a little place called Norfolk. We were there about in—one afternoon, I think, Mr. Donohue. I went ashore there and referred to a newspaper. We hadn't even got anything about the '34 strike. I picked up a newspaper. I saw in the paper where the West Coast longshoremen had gone on strike."

And then 4253 and 4256. Oh, I am sorry. I think you read that. Yes, that has been read.

The Court: Are there any other phases that you desire to take up on that particular matter, gentlemen?

Mr. Donohue: No, Your Honor.

The Court: We have concluded the reading. You may now retire, if you wish, to further deliberations.

(Whereupon the jury retired to deliberate further, at 4:12 o'clock p.m. Deliberations continued, the dinner hour [8618] excepted, until 9:00 o'clock p.m. when the jury retired to the Whitcomb Hotel for the night, further deliberations to be had tomorrow, Sunday, April 2, 1950, at 1:00 o'clock p.m.) [8618-A]

Sunday, April 2, 1950

(The jury deliberated from 1:00 to 5:00 o'clock p.m.) [8618-A]

Monday, April 3, 1950

(The jury returned to the courtroom at 10:30 o'clock a.m. and in the presence of the jury, the defendants and counsel for the respective parties, the following occurred:)

The Court: Would you read into the record the request made by the jury acting through their foreman?

The Clerk: If Your Honor please, the following message was received a few minutes ago from the jury: "May we have read to us Mr. Wilson's testimony in its entirety?" Signed by Glenn Christensen.

The Court: If agreeable to counsel, you may proceed with the same procedure as we adopted yesterday, the direct and cross-examination being read by respective counsel.

Mr. Donohue: Reading from the record of Friday morning, January 13th, the witness George Edward Haulfish Wilson, called on behalf of the United States, sworn; questions by myself.

"Q. Where do you live, Mr. Wilson?

"A. In Los Angeles.

"Q. And what is your business or occupation? A. I am a newspaper man.

"Q. By what newspaper are you now employed? A. Los Angeles Daily News.

"Q. How long have you lived in Los Angeles, Mr. Wilson?

"A. Since January 1, 1948—or June [8619] 1, 1948.

"Q. And where were you born?

"A. At Charlottesville, Virginia.

"Q. And did there come a time when your family left Virginia?

"A. Yes, I was about two years old.

"Q. And to what state did you go, Mr. Wilson? A. Montana.

"Q. And how long did you live in the State of Montana? A. Until 1934.

"Q. Can you briefly trace your educational or formal educational background in the State of Montana?

"A. I was educated in the public schools, went to the Kentucky Military Institute for one year, went to the University of Montana for approximately two years.

"Q. What was your major study?

"A. Journalism.

"Q. Upon leaving the University of Montana, what, generally, was your employment in the State of Montana?

"A. Newspaper work, entirely.

"Q. And when you came to San Francisco in 1934, would you state generally what your occupation was here until you went to Los Angeles?

"A. Newspaper work.

"Q. Did there come a time, Mr. Wilson, during your residence in San Francisco when you became active in the labor [8620] movement?

"A. There did.

"Q. And will you generally indicate the nature of your activity in the labor movement in San Francisco?

"A. Oh, it started with soon after I came to town, with the American Newspaper Guild, which I joined before I went to work. And after I had gone to work, in the Guild, and the Guild became affiliated with the A. F. of L., sir, I was a delegate to the A. F. of L. Labor Council here. When we were eventually thrown out of the Council, the CIO Council was organized and I became its president.

"Q. Am I correct in stating that you were the first president of the San Francisco CIO Council?

"Mr. Hallinan: I object to that as leading and suggestive, if the Court please.

"Q. (By Mr. Donohue): May I ask you, were you the first president of the San Francisco CIO Council?

"Mr. Hallinan: Same objection, if it please Your Honor, just repeating it.

"The Court: Overruled.

"A. I was.

"Q. (By Mr. Donohue): How long did you remain president of the San Francisco CIO Council?

"A. Until the winter of 1941, I believe.

"Q. Did there come a time, Mr. Wilson, and if so, where and [8621] when, that you became a member of the Communist Party? A. Yes.

"Q. Would you state your best recollection as to when it was?

"A. It was either in 1940 or 1941, I am not sure.

"Q. And where did you join?

"A. Well, I have talked with a man by the name of Walter Lambert——

"Mr. Hallinan: Just a moment. I object to this, if the Court please, as hearsay, not binding upon the defendants, not in their presence.

"Mr. Donohue: May I withdraw that question, if Your Honor pleases?

"The Court: All right.

"Mr. Donohue: And ask the question:

"Q. What were the circumstances under which you joined the Communist Party?

"Mr. Hallinan: If the Court please, object to it—res inter alia actae, matters done outside the presence of the defendants, hearsay, not binding upon them.

"Mr. Donohue: May I say, if Your Honor pleases, with respect to this question as with respect to a like objection made to similar questions heretofore that I believe this testimony is admissible not as binding upon the defendants, but as proof of the circumstances under which this witness [8622] did in fact become a member of the Communist Party.

"Mr. Hallinan: Well, where his membership in the Communist Party might also be a matter at issue, if the Court please, it could not be proved in that fashion; that is not the best evidence.

"The Court: The objection is overruled for the reason heretofore disclosed in the record by the Court, and the jury is again admonished, as I have admonished you in the past, that testimony with respect to the entrance of this witness into the Communist Party, and the surrounding circumstances and the incidents related thereto are not binding upon the defendant or either or any of them.

"A. Well, the circumstances, if I understand the question, were that I was asked to join and I joined.

"Q. Did you fill out an application for membership? A. No, I did not.

"Q. Did you receive a membership card?

"A. I later received a membership card.

"Q. Can you tell us from whom you received a card? A. No, I don't remember.

"Q. Did you pay dues as a member of the Communist Party? A. Occasionally, yes.

"Q. And over how long a period did you continue your membership in the Communist Party?

"A. Until the—I would say until the spring of 1945. [8623]

"Q. Was your membership in the Communist Party during that period wholly within the area of the City of San Francisco?

"A. I belonged to the party at no other place, if that is what you mean.

"Q. During the period of your membership in the Communist Party did you attend any meetings of the Communist Party?

"Mr. Hallinan: I object to this as calling for an opinion and conclusion and no proper foundation laid. The circumstances of the meetings might be detailed so the Court and jury could determine the nature of them.

"Mr. Donohue: I think, if Your Honor please, a person who has joined an organization is certainly qualified to testify as to whether he ever attended a meeting of that organization.

"Mr. Hallinan: We have heard that statement numerous times. I contend the foundation should be laid and the circumstances shown so the jury can determine that ultimate fact.

"Mr. Donohue: As Mr. Hallinan and Mr. MacInnis frequently say, if Your Honor please, this question is obviously purely preliminary to what will follow.

"The Court: Overruled.

"Mr. Donohue: Will you read the question?

"(Question read.)

"A. I did.

"Q. About how often, Mr. Wilson, would you say you attended [8624] meetings of the Communist Party?

"A. Oh, the group that I belonged to meet, I think it was, once a week, supposedly once a week. We did not meet that often.

"Q. May I ask you, sir, upon the receipt of your membership card, to which group were you assigned?

"A. It is my recollection that I was assigned to a special group known as a special committee.

"Q. Can you tell us where generally meetings of that group known as a special committee were held?

"A. At that time they were being held on Pierce Street.

"Q. By whom were you notified, if you can now recall, of the time and place of the meetings?

"A. We usually had—I will withdraw that. I was notified by numerous people. Nobody, I believe, had the job of telling us. The word was passed around.

"Q. The notification was not in writing?

"A. Oh, no.

"Q. And at these meetings which you attended, Mr. Wilson, did you know all of the persons who attended those meetings?

"A. Yes, I knew them all.

"Q. And did you know each of the persons who attended the meetings that you have described to be also members of the same committee or group of the Communist Party as yourself?

"Mr. Hallinan: Just a minute. I object to that, if your [8625] Honor please, as calling for an opinion and conclusion, and furthermore we have here a different situation. Now it is disclosed that this gentleman never filed any application. We should know what were the circumstances under which these other persons who are charged now or alleged to be members of it became members. In other words, we have had described heretofore a certain procedure for becoming a member of the Communist Party, and I submit it is obvious now the mere opinion of the witness that he is or is not a member of the Communist Party cannot be binding upon this jury. There was a procedure necessary for becoming such a member. Now there are certain people proposed to be identified as members, and how can the witness' impression or his opinion convey any authenticity?

"Mr. Donohue: While Mr. Hallinan's observation may be well taken as to the degree to which the statement of the witness may be accepted, it certainly cannot go as to its admissibility.

"The Court: This matter has been passed on by the Court in other instances, and perhaps under slightly different circumstances. I will overrule the objection. You may cross-examine on that subject.

"The Witness: Repeat the question.

"Mr. Donohue: Will you read the question, Mr. Reporter?

"(Question read.) [8626]

"A. No, I couldn't answer that question in the affirmative. Some of the meetings were attended by—only by people who were assigned to that committee. There were other meetings that other people came to who were not members of the committee.

"Q. During the time, Mr. Wilson, that you were a member of the Communist Party you were also active in the labor movement in the city of San Francisco? A. I was.

"Q. And during that period of time did you faithfully or otherwise attend meetings, the nature of which was purely a matter concerned with your duties in the labor movement and the persons who were present were persons who may or may not have been members of the Communist Party?

"Mr. Hallinan: I object to that, if the Court please, as complex, unintelligible, and not a proper question. He can ask what meetings were attended and what was the subject under discussion, but we should have each separate meeting so we can follow it.

"The Court: Can you understand the question, Mr. Wilson?

"The Witness: It is a little complex for me.

"Q. (By Mr. Donohue): Have you ever attended labor union meetings, the members present being known to you only as members of the labor group who were conducting that meeting?

"Mr. Hallinan: If the Court please, that sounds as [8627] unintelligible as the other. The proper method, if I may be permitted to interpose an objection—when we are cross-examining people numerous continued objections are interposed and we permit them to be finished. If the Court please, it seems to me the only proper method of doing this now is questions can be asked as to meetings and the persons who attended and the subjects under discussion. But to ask the witness a general wide question of that kind calls for an opinion and conclusion outside the scope of what the witness is permitted to testify to. There is no reason why there should be these short-cuts so as to make a group of all meetings and commit the witness to some such statement.

"Mr. Donohue: I appreciate the suggestion, if the Court please, from counsel.

"Mr. Hallinan: I am not making a suggestion, Your Honor, at all. I am making an objection to the Court.

"Mr. Donohue: I think, however, I should be permitted to ask the question.

"Mr. Hallinan: I certainly do not pretend to presume I can instruct counsel in anything, and I do not intend to do it.

"Mr. Donohue: I think I should be permitted to ask the question in my own way, and if the witness does not understand the question I think he can so state, and I will then reframe it. [8628]

"The Court: The witness may answer the question.

"Mr. Donohue: Will you read the question, Mr. Reporter?

"(Question read.)

"A. If I understand the question, it is if I attended labor meetings at which labor members attended. The answer is Yes, if that is the question.

"Q. Mr. Wilson, did you ever attend meetings of the Communist Party at which no person other than persons known to you to be members of the Communist Party were present?

"Mr. Hallinan: Just a minute. The same objection, if the Court please, no proper foundation as to who the persons were, what meetings were held, or the knowledge of the witness o. those persons. I submit that is calling for an opinion and conclusion and containing too many subjects in one general question.

"Mr. Donohue: It is again only a preliminary question, if Your Honor please.

"The Court: It is overruled, and as you proceed with the witness, may I suggest, Mr. Donohue, in connection with any given person identified, lay the foundation and elaborate thereon.

"Mr. Donohue: Yes, Your Honor. I must ask the preliminary question first.

"Will you read the question, Mr. Reporter?

"(Question read.) [8629]

"A. I did.

"Q. (By Mr. Donohue): Mr. Wilson, do you know the defendant Harry Bridges?

"A. I do.

"Q. Do you know the defendant Henry Schmidt?

"A. Yes.

"Q. Do you know the defendant J. R. Robertson? A. Yes.

"Q. Do you see them in the courtroom?

"A. Yes, I see them.

"Q. Will you indicate where they are?

"A. Well, Harry is sitting there leaning back. Henry is next to him, and Bob is over at the other end of the table.

"Q. I assume by 'Harry' you refer to Harry Bridges? A. I do.

"Q. By 'Henry' you refer to Henry Schmidt?

"A. Yes.

"Q. And by 'Bob' you refer to J. R. Robertson?

"A. That is right.

"Q. Did you ever attend a Communist Party meeting at which the defendant J. R. Robertson was also present?

"Mr. Hallinan: Just a minute. Same objection, if the Court please, no proper foundation laid.

"Mr. Donohue: Again it is a preliminary question.

"Mr. Hallinan: Pardon me. If I may be permitted to finish [8630] the objection. We make the objection, if the Court please, no proper foundation has been laid as to who were the persons present, and that meeting should be identified and the persons present first before any general characterization is placed upon it. It is calling for an opinion and conclusion on a non-expert matter.

"The Court: Overruled.

"(Question read.)

"A. Yes.

"Q. (By Mr. Donohue): And did you ever attend a Communist Party meeting at which Henry Schmidt was also present? A. Yes.

"Q. Can you tell us where and when it was that you attended a Communist Party meeting at which J. R. Robertson was also present?

"A. I attended several meetings with Robertson up at—in an apartment in North Beach, and my memory is that it was around in 1944, 1945.

"Q. Do you know, Mr. Wilson, to what unit of the Communist Party Mr. J. R. Robertson was assigned?

"Mr. Hallinan: Just a moment. Object to that, if the Court please. No foundation laid, calling for an opinion and conclusion of the witness.

"Mr. Donohue: If the objector will permit the question to be answered, I think the answer will answer the objection [8631] itself, if Your Honor pleases. If he doesn't know, obviously he can state so, that he doesn't know. If he does know——

"Mr. Hallinan: That isn't what he asked him.

"Mr. Donohue: I asked him if he knew.

"Mr. Hallinan: And it is assuming something not in evidence, that Mr. Robertson was ever in the Communist Party or ever assigned to any portion of it. A violent assumption on counsel's part—in fact, a trick question.

"Mr. Donohue: If Your Honor pleases, I ask that the—well, I will pass it. May I say, if Your Honor pleases, that the witness has already testified that he is a member or was a member of the Communist Party, assigned to a unit, that he attended weekly meetings of that unit. He has stated that he has attended a Communist Party meeting at which the defendant J. R. Robertson was present, has indicated his best recollection of the time and place. I think he is certainly qualified to answer the question, 'Do you know to what unit of the Communist Party Mr. J. R. Robertson belonged?'

"Mr. Hallinan: If the Court please, a great deal of foundation would have to be laid for that, as to what he knew about Mr. Robertson, whether Mr. Robertson was a member of the party, how he would know that, what applications were made and so forth. This is assuming something [8632] not in evidence. The witness has not said that Mr. Robertson was a member of the Communist Party nor assigned to any part of it. Only that he attended a meeting.

"The Court: Much of that subject matter is cross-examination. The witness has testified that he knew the defendant Robertson, that he attended meetings in a North Beach apartment with the defendant Robertson. Now he is asked as to a particular unit. I think the question is proper.

"Mr. Donohue: Would you read the question to the witness?

"The Court: You might answer that, Mr. Wilson, as to a particular unit, if any, to which Mr.

Robertson was attached, if he was attached to a particular unit.

"A. Well, it was my understanding he was attached to the same unit I was.

"Mr. Hallinan: Ask that be stricken out, if the Court please—'my understanding'—as stating an opinion and conclusion.

"Mr. Donohue: I think, if Your Honor pleases, again that it is a matter he may be cross-examined about.

"The Court: The motion is denied.

"Q. (By Mr. Donohue): Would you say, Mr. Wilson, that you attended one or more than one meeting of the Communist Party at which the defendant J. R. Robertson was present?

"A. More than one.

"Q. And with respect to the defendant Henry Schmidt, did [8633] you ever attend a meeting of the Communist Party at which Mr. Schmidt was present? A. I did.

"Q. And would you say that you attended one or more than one? A. More than one.

"Q. Do you know a man by the name of Mervyn Rathborne? A. I do.

"Q. Do you know a man by the name of William C. Schneidermann? A. I do.

"Q. Do you know a man who is referred to as 'Slim' Connolly? A. Yes.

"Q. Do you know a man by the name of Lou Goldblatt? A. Yes.

"Q. And you do know Harry Bridges?

"A. I do.

"Q. Did you ever attend a meeting with the persons named? A. I did.

"Q. If so, will you state the time and place?

"A. The place was in the Governor Hotel. The time I don't know.

"Q. What is your best recollection of the time, Mr. Wilson?

"A. Somewhere between 1942 and 1944. [8634]

"Q. Are you able to tell us in whose room at the Governor Hotel the meeting took place?

"A. I think Rathborne made the reservation.

"Q. And can you tell us first what was the subject matter under discussion at that meeting?

"A. Some difference of opinion between Rathborne and Goldblatt, as I recall.

"Q. Do you recall over what the difference of opinion was?

"Mr. Hallinan: I object to that, Your Honor. What should be done is to ask him to state what the conversation was, as nearly as the witness can remember.

"Mr. Donohue: If we can once find the subject matter, if Your Honor pleases, then I will ask him if he can recall what was said.

"Mr. Hallinan: If he can recall that subject matter, he might——

"The Court: Overruled. He may state the difference of opinion that existed as to the overall policies.

"Mr. Donohue: That is all I wanted to know, Your Honor.

"The Court: And then the detail, if he recalls the detail.

"A. The meeting—and I don't have a very good recollection of it, I mean, of what was discussed—was, as I recall, called by Rathborne to make a complaint against Goldblatt's interference in the State Council work.

"Q. Can you recall what was said by any one of the persons who were present, Mr. [8635] Wilson? A. I can not.

"Q. Would you enumerate for me the persons who were present?

"A. Bridges was there, Schneidermann, Rathborne, Goldblatt, Connolly and myself, sir, as I remember.

"Q. Can you tell us whether those were all of the person who were present?

"A. I don't recall any more.

"Q. And who was Mr. Schneidermann, if you know?

"Mr. Hallinan: Object to that, if the Court please, as calling for an opinion and conclusion; no proper foundation laid.

"The Court: Overruled.

"A. He was the state secretary, I believe, of the Communist Party.

"Q. And who was the man referred to as 'Slim' Connolly?

"A. He was the president at that time, I think, of the State CIO Council.

"Q. And who was the man described as Lou Goldblatt?

"A. He was secretary of the International Longshoremen & Warehousemen's Union.

"Q. And who was the man designated as Mervyn Rathborne?

"A. He was the secretary of the California CIO Council.

"Q. I ask you, Mr. Wilson, was this meeting a labor meeting or a meeting of a group of the Communist Party to discuss a [8636] labor problem?

"Mr. Hallinan: Just a moment, if the Court please. Now that is calling for an opinion and conclusion. The gentleman has already stated the persons present, the nature of the discussion, and there is no reason or no logic and no sanction for him now putting a designation upon it, no reason why the witness should be either required or permitted to put any designation on it at all. He has described the meeting, he has stated what the subject was, the persons was and where it took place. The jury and the Court can draw their own conclusions on it.

"Mr. Donohue: Once again I say to Your Honor here is a witness who was prominent in the——

"Mr. Hallinan: Now, I object to arguing that.

"The Court: Yes, I will overrule the objection. Objection overruled.

"Mr. Donohue: Would you read the question to the witness, please?

"(Question read.)

"A. It was a group of Communists discussing the labor problem.

"Mr. Donohue: I have no further questions of the witness.

"Cross-Examination

"Q. (By Mr. Hallinan): Now, Mr. Wilson, before you joined the Communist Party you had attended numerous meetings at which [8637] Communists were present, had you? A. I had.

"Q. And——

"A. I had attended several, yes.

"Q. I beg your pardon?

"A. I had attended——

"I guess what I should do, your Honor, would be to say that I don't understand the question in its form. I could answer it many ways; it is obvious I could answer it many ways.

"The Court: Well, Mr. Hallinan, will you reframe it?

"Mr. Hallinan: Yes, surely.

"Q. I say, before you joined the Communist Party at all, and while you were in the labor movement in San Francisco from 1934 to 1940 or 1941, I take it you attended meetings at which Communists were present, is that right? A: Oh, yes.

"Q. And did you attend meetings at which Communists were present at which you were the only non-Communist? A. I don't know.

"Q. In other words, there wouldn't be—there might be people there who would or would not be Communists, so far as you know, is that correct?

"A. That is correct.

"Q. And you say that you never filed or signed or filled out any application? [8638]

"A. That is the best of my recollection.

"Q. But some time a membership card was delivered to you? A. Yes.

"Q. Do you know how long after you—well, withdraw that. And you say that you occasionally paid dues to the party? A. That's right.

"Q. Now, with relation to meetings that were attended by you, that is, meetings of Communists, before you became a member of the party, with relation to what subjects were those meetings being held?

"A. Well, I attended one out at Civic Auditorium where Browder made a speech one time, I think. That was a meeting, a public meeting.

"Q. Did you attend private meetings also where they were present?

"A. There were meetings of—many labor meetings at which Communists were in attendance, purely labor meetings. I have attended social affairs at which Communists have been present.

"Q. Now, you say that you met Mr. Robertson at the meeting—at several meetings that were held at North Beach; is that right?

"A. That was my——

"Q. You never saw any Communist Party book that was ever issued to Mr. Robertson? [8639]

"A. No, I have never seen one.

"Q. You never saw any application ever signed by him? A. No, I did not.

"Q. Never saw him pay any dues?

"A. I don't think I ever saw him pay dues.

"Q. And the same answers as to Mr. Schmidt, is that correct? A. That is correct.

"Q. And the same answers as to Mr. Bridges, is that true? A. Right.

"Q. The meeting that you say was called at the Governor Hotel related to matters, you said, of the State Council work—that is, the CIO; is that right?

"A. Yes; Rathborne asked me to go to it. I went with him.

"Q. Where is the Governor Hotel?

"A. Oh, it is down—it is right around the corner from where the ILWU building is now. The little red streetcar comes down the street there, just a block back of Golden Gate Avenue. The street—I don't know what it is.

"Mr. Hallinan: I beg your pardon. I missed the last——

"The Court: Read the answer.

"The Witness: I don't recall the name of the street, your Honor, it is on.

"The Court: Mr. Hallinan, would you like to take a short recess? [8640]

"Mr. Hallinan: Yes.

"The Court: We will take a short recess, ladies and gentlemen of the jury, the morning recess. May I again admonish you not to discuss the case under any conditions, nor to form nor express an opinion on this matter until it is submitted to you. You may retire for the recess.

"(Recess.)

"Q. (By Mr. Hallinan): Mr. Wilson, after you—at any time in your career did you work for the United States Government? I mean, within recent years? A. I did.

"Q. When?

"A. From December, 1945, until the summer of 1947.

"Q. Was that a civil service job?

"A. It was.

"Mr. Hallinan: That is all. No further questions.

"Mr. Donohue: We have no further questions of the witness. May the witness be excused?"

(Page 7211, line 13, to page 7212, line 9:)

"Q. (By Mr. Donohue): Mr. Wilson, it has been testified here that when you heretofore appeared as a witness you did so under a threat by the United States that you were not to testify you would yourself be subjected to a prosecution? Is that true or false? [8641]

"A. Well, it is not true. I had committed no offense that I was aware of, and there was no threat of prosecution.

"Q. It has been testified here, Mr. Wilson, that you were told by one of your two employers that were you not to testify you would lose your position. Is that true or false? A. That is false.

"Q. When you testified here before, Mr. Wilson, was your testimony truthful? A. It was.

"Mr. Hallinan: I object to that as calling for the opinion and conclusion of the witness and ask the answer be stricken out.

"Mr. Donohue: I ask the question on the basis, if your Honor please, that it has been testified to by the defendants that the testimony Mr. Wilson gave was not true.

"The Court: The objection is overruled. Mr. Wilson, you may answer."

The Court: Does that complete the reading?

Mr. Hallinan: Yes.

The Clerk: If Your Honor please, may the record show that on yesterday, April 2nd, the jury asked that all the exhibits in evidence, both as to the United States and all the defendants, be given to them, and that I presented the matter to [8642] counsel for all parties, and that they stipulated that the same might be delivered to the jury, and they were so delivered.

Mr. Hallinan: That is so stipulated.

The Court: Is that stipulated?

Mr. Donohue: Yes, Your Honor.

The Court: Ladies and gentlemen, you may now retire for further deliberations, if you so desire.

(Thereupon, at 11:13 a.m., the jury retired again to deliberate upon its verdict.)

(The jury returned into court at 8:55 o'clock p.m., and the following proceedings were had:)

The Court: Mr. Mitchell, will you read the note received from the jurors?

The Clerk: If Your Honor please, the following communication was received from the jury:

"May we have a clarification of the Court's instructions in regards to the first count of the indictment?" Signed Glenn Christensen.

The Court: In response to the request on the part of the jurors through your foreman, may I first address myself to the first count itself as contained in the indictment.

The indictment, as already indicated to you, contains three counts. The first count charges the so-called conspiracy, the second count is one against Mr. Bridges alone, and the third [8643] count is the so-called aiding and abetting count.

Departing from the language and getting to the meat of the first count, it is provided that on the 23rd of June, 1945, and continuing thereafter until on or about the first of October, 1945, and for some time prior thereto, at the City and County of San Francisco, State of California, within this division and district, the defendants, Mr. Bridges, Henry Schmidt and Mr. Robertson, did conspire with each other and with other persons to the grand jury unknown, to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws in the manner following, to wit:

Now, we come to what is called the charging part of the indictment in so far as the first count is concerned, and this is the language:

By having said defendant Harry Renton Bridges fraudulently petition for and obtain naturalization in a naturalization proceeding in the Superior Court of the State of California in and for the

City and County of San Francisco by falsely and fraudulently stating and representing to the court in said proceeding that he, Harry Renton Bridges, had never belonged to the Communist Party in the United States; that said statement and representation was agreed to be made and made as aforesaid as said defendants and each of them at all times herein mentioned well knew were false and fraudulent in this: that the defendant Harry Renton Bridges had in truth and in fact belonged to [8644] and been a member of the Communist Party in the United States from the year 1933 up to and including the 17th day of September, 1945; that the statement and representation were material to the naturalization proceeding; that in pursuance of the conspiracy and during the existence thereof and in furtherance and to effect the object thereof, defendants did and performed the following overt acts:——

Now, as I indicated to you in the instructions which I gave to you with more particularization at the conclusion of the trial, an overt act may be a purely innocuous thing; it may be a perfectly simple thing—walking across the street or telephoning, a purely innocent act. An overt act, in the very nature of things, is not required to be a criminal act. As in the instances depicted in the indictment, the overt acts in and of themselves are statements of facts and events which transpired which ordinarily would not be regarded as criminal conduct.

The first overt act charged is that on the 23rd day of June, 1945, defendant Harry Bridges—and Mr. Bridges is named in particularization as Harry Renton Bridges, but I will refrain from using that and I will refer to him as Harry Bridges—filed at the office of the Immigration and Naturalization Service in the City and County of San Francisco, State of California, an application for a certificate of arrival and preliminary form for petition for naturalization. [8645]

Secondly, that on or about the 8th of August, 1945, the defendant Harry Bridges appeared before Lloyd Garner, a naturalization examiner of the United States at San Francisco, in the office of the County Clerk in and for the City and County of San Francisco, and gave testimony in the matter of the application of the defendant Bridges for naturalization.

Third: that on or about the 8th of August, 1945, defendant Henry Schmidt and defendant J. R. Robertson and each of them, at the office of the County Clerk in and for the City and County of San Francisco signed as witnesses a petition for naturalization in the case of the defendant Harry Bridges.

Fourth: that on or about the 17th day of September, 1945, the defendants Harry Bridges, Henry Schmidt and J. R. Robertson and each of them appeared in the Superior Court of the State of California in and for the City and County of San Francisco and gave testimony in support of the petition of the defendant Harry Renton Bridges for naturalization.

In so far as the overt acts are concerned there does not appear to be any material dispute in the evidence concerning the appearances and events depicted by the witnesses excepting, as I recall, Mr. Robrtson stated that he did not recall appearing before Mr. Garner. It was his testimony, and he so testified in cross-examination. He did recall, however, being at the final hearing. As to that matter, I will not assume to say whether or not he was there. It is a matter of your [8646] determination as to his credibility. The government contends he was there. Mr. Garner testifies that he was there. Mr. Robertson stated very frankly that he did not recall being there; that he recalled being at the final hearing.

So much for the particularization as to the indictment itself and the charging parts of the indictment. I shall hand Mr. Mitchell this indictment and it may be taken by the jurors to the jury room when they resume their deliberations for such perusal or consideration as it may deserve or they may wish to give it.

Now, adverting to the instructions again and retracing my steps:

First, what is a conspiracy? The crux of the offense charged in the first count of the indictment is conspiracy.

If the defendants did not conspire to do the unlawful things which the first count of the indictment charges them with having conspired to do, they are not guilty of the offense thus charged against them.

I instruct you that a conspiracy is a partnership in criminal purposes.

I instruct you that a conspiracy may also be defined as "a combination of two or more persons, by concerted action, to accomplish a criminal or unlawful purpose, or some purpose not in itself criminal or unlawful, by criminal or unlawful means."

If the above elements are not found by you to be present in [8647] the case at bar, no conspiracy will have been proved and you must find the defendants not guilty as to the first count.

Expressed in another way, a conspiracy is an unlawful agreement entered into by two or more persons to commit a crime against the United States, or to defraud the United States. To sustain a charge of conspiracy, it must be shown that one of the members of the conspiracy did some act, commonly called an overt act, in furtherance of the object of the conspiracy. The overt acts, as I have already mentioned, are set forth in the indictment, particularized as the first, second, third and fourth overt acts. The overt act need not be criminal in nature if considered separately and apart from the conspiracy; it may be as innocent as the act of a man walking across the street or driving an automobile or using a telephone. But, if during the existence of the conspiracy, the overt act is done by one of the conspirators to effect the the object of the conspiracy, the crime is complete, and it is complete as to every party found by you to be a member of the conspiracy, no matter which one of the parties did the overt act.

In order to find the existence of a conspiracy, it is not necessary that you find that all these defendants met together and formed an express agreement for probably when men enter into a plan of the character here charged, they do not expressly agree. Much probably is left to unexpressed understanding and it is not necessary that there should have been at any time at [8648] which all met and with any formal expression of words agreed upon a plan or conspiracy. They are usually entered into more or less secretly and carried out in a manner so as to leave as little proof or evidence for detection by anyone later. Rarely in conspiracies is there direct proof of the purposes and intentions of the parties; but direct proof is not indispensable. The object of a conspiracy and a defendant's connection with it may be partly or entirely revealed and shown by the facts and circumstances and the reasonable inferences and conclusions to be drawn from them. But every fact and every circumstance from which the inference is drawn and a conclusion based must be proved beyond a reasonable doubt.

If persons act together for a common purpose, and that purpose is the illegal act charged as the object to be accomplished, and the acts of the parties so fit together as to show a common understanding or concert of action as to things to be done, that shows a conspiracy.

I instruct you that there has been no direct evidence presented in this courtroom that the defendants or any of them met together and agreed or conspired with each other or with any other persons to defraud the United States Government in any manner as alleged in the first count of the indictment. The only evidence of such a meeting together, agreement or conspiracy is purely circumstantial, if it exists at all, and therefore the instructions I gave you with respect to the [8649] standards which you must apply to circumstantial evidence are to govern you in your consideration or whatever evidence there is of the existence of the alleged conspiracy.

I should further tell you, ladies and gentlemen, that all persons working together in the furtherance of a common design are members of the conspiracy, although the part anyone is to take is subordinate, or is to be executed at a remote distance. It is not necessary that each conspirator participate in each step or stage of the common general design. One of them may do one thing, another may do a different thing. Some may take major parts, while the participation of others may be in a minor degree. The mere knowledge, acquiescence or approval of an unlawful act, without cooperation, or agreement to cooperate, is not sufficient to constitute one a party to a conspiracy. It requires more than proof of a mere passive cognizance of a crime on the part of a defendant to sustain a charge of conspiracy to commit it. And you must find that the defendant did some act, or made some agreement showing an intention to participate in some way, in such conspiracy.

One who aids or abets a conspiracy, after its formation, with understanding of its purpose, becomes a party to it. One who comes into a conspiracy after it has been formed, with knowledge of its existence, and with a purpose of forwarding its designs, is equally as guilty as though he had participated in its original formation. [8650]

Since the defendants Mr. Schmidt and Mr. Robertson are charged with entering into a consipracy to defraud the United States, the question of whether or not they possessed any criminal intent becomes material to the discussions of the jury.

In any crime, as the Court has heretofore explained, there must be a necessary union of acts plus intent, and if one of these two elements be lacking, then no crime at all will have been proved.

That, I believe, may aid you, in the light of your request made, ladies and gentlemen of the jury. As I have indicated, you may take the indictment with you and return for further deliberations, if you wish.

The Foreman: We are very much satisfied by that, I know. Thank you.

(Thereupon the jury left the courtroom to continue their deliberations.) [8651]

Tuesday, April 4, 1950—11:50 A.M.

(During the deliberations of the jury in the case at bar, and at 11:50 o'clock a.m. this date, the jury returned into the courtroom and in the presence of the Court, jury, defendants and respective counsel, the following proceedings were had in open court:)

The Court: Ladies and gentlemen of the jury, have you reached a verdict?

The Foreman: Yes, your Honor, we have.

The Court: Mr. Christensen, would you present the verdict or forms of verdict to the Marshal.

(Whereupon forms of verdict were handed to the Marshal by the foreman, and handed thence to the Clerk and to the Court.)

The Court: Mr. Mitchell, will you read the verdicts.

The Clerk: Ladies and gentlemen of the jury, harken to your verdicts as they shall stand recorded.

"We the jury find Harry Renton Bridges, the defendant at the bar, guilty on the first count of the indictment, guilty on the second count of the indictment. Glenn Leo Christensen, Foreman."

"We the jury find J. R. Robertson, the defendant at the bar, guilty on the first count of the indictment, guilty on the third count of the indictment. Glen Leo Christensen, [8652] Foreman."

"We the jury find Henry Schmidt, the defendant at the bar, guilty on the first count of the indictment, guilty on the third count of the indictment. Glenn Leo Christensen, Foreman."

So say you all?

(The jurors indicated assent.)

The Court: One moment, please. Poll the jurors, please, on the behalf of the defendants.

The Clerk: Yick Kuen Wong, are the verdicts as read your verdict?

Mr. Wong: Yes.

The Clerk: Alfred Fletcher Buckman, are the verdicts your verdicts?

Mr. Buckman: It is.

The Clerk: Myrtle Murray?

Mrs. Murray: They are.

The Clerk: Curtis Schofield Gibbs?

Mr. Gibbs: Yes.

The Clerk: Leon Joseph Batch?

Mr. Batch: They are.

The Clerk: Anna Dagmar Lundgren?

Miss Lundgren: They are.

The Clerk: Charles Henry Williams?

Mr. Williams: They are.

The Clerk: Glenn Leo Christensen? [8653]

Mr. Christensen: Yes.

The Clerk: John Joseph Carey?

Mr. Carey: They are.

The Clerk: Morris Leslie Wolfsohn?

Mr. Wolfsohn: Yes.

The Clerk: Abbie Marian Stevenson?

Mrs. Stevenson: Yes, they are.

The Clerk: Mrs. Rae Strauss?

Mrs. Strauss: Yes, they are.

The Clerk: All jurors have replied in the affirmative, your Honor.

The Court: The verdicts and each of them may stand recorded.

Ladies and gentlemen of the jury, I desire to say a few words to you. Not only has this case been the longest criminal trial in the history of these courts, but in addition it has been the most bitterly contested; and the length of the contest has been reflected in your deliberations and in the fervor and devotion that you have attached to your duties. In terms of discharging your obligations as jurors, I desire you and each of you to know, as well as your diligent foreman, Mr. Glenn Christensen, that you have evidenced an intelligent appreciation of the facts in the light of the legal principles applicable. You have finally found the golden truth shimmering in the fiery crucibles of this trial. Your deliberations have been marked by [8654] painstaking effort and a consciousness of the defendants' rights, as well as the rights of the Government of these United States.

I say to you, you have exemplified the finest traditions of a jury under our Federal system, and on my own behalf and on behalf of the Government of the United States, I desire to thank you.

May I also give recognition to the splendid services rendered this Court and this jury by the United States Marshal, Mr. Roseen, his deputies and attaches; and in particular Mr. Kennedy and Mrs. Cole, who have ministered to your wants and needs during these many, many hours of travail, who undertook to guard your privacy.

Also, and in finality, to my loyal friend, the Clerk of this court, Ed Mitchell, I say that he has given unsparingly of his waning energies in these many, many months of trial. On behalf of this court, and I know of this jury, the attorneys, the press and the thousands of interested observers who have witnessed these trial proceedings, I say to Ed Mitchell that his devotion to the service of the United States shall ever be an inspiration to this court, as well as to the judges thereof and to the attaches.

In discharging you as jurors, may I make one final suggestion as, perhaps, an aid to your welfare and your comfort in the next ensuing days—and your peace of mind. May I say to you, and this is a passing suggestion only, that you constitute [8655] Mr. Christensen, your foreman, as your spokesman, to the end that he may act as your conduit in speaking on your behalf to the members of the press. Bear in mind that the gentlemen of the press represent every service in the United States, and in fairness to them, they will no doubt address you on the subject, and I think it will serve their interest as well as your own that someone act as a spokesman. I pass that on to you as a suggestion merely; mindful, of course, that I cannot bind your individual conducts once you are discharged here.

I need say no more. You are now discharged.

(Whereupon the jury was discharged and retired from the courtroom at 12 o'clock noon.)

The Court: With respect to the matters affecting the defendants, I might suggest, Mr. Hallinan and Mr. MacInnis, that we take a brief recess period so that hereafter you may make such motions with respect to bail and such other motions as may be applicable.

Mr. Hallinan: Very well.

The Court: Is that agreeable, Mr. Donohue?

Mr. Donohue: Yes, your Honor.

The Court: I think it will aid in the matter and facilitate the interests of the press and courtroom observers; we will therefore take a 15-minute recess, and thereafter hear such motions as may be advisable.

(Recess.) [8656]

The Court: Will counsel and the defendants please step forward.

(Whereupon the defendants and counsel arose and stood before the Court.)

The Court: May the record show that the defendants, Mr. Harry Bridges, Mr. Robertson and Mr. Schmidt, and represented by their respective counsel, Mr. MacInnis and Mr. Hallinan, are present before the Court. Do you have anything to say at this time, gentlemen, why judgment and sentence should not be pronounced against you?

Mr. Hallinan: Well, we wanted to interpose, if the Court please, a motion in arrest of judgment and a motion for a new trial, and it might be that if the Court would defer sentence until we could prepare the formal motions, it would be more satisfactory.

The Court: Is there any opposition to that suggestion?

Mr. McMillan: No opposition, may it please your Honor.

The Court: Well, I suggest, Mr. Mitchell, that we set the matter down within the five-day period. That would bring it over until when?

The Clerk: Today being the 4th, your Honor, on Monday next, April 10.

The Court: The matter may stand over regularly until Monday next—and the date, Mr. Mitchell, please?

The Clerk: April 10, if your Honor [8657] please.

The Court: April 10.

The Clerk: May I suggest at ten o'clock.

The Court: At ten o'clock. Is that agreeable?

Mr. Hallinan: Yes. And may the defendants remain on bail, the same bail that is now posted, pending——

The Court: What is the amount of bail?

Mr. Hallinan: I think it is $5000 each.

The Clerk: That is true, your Honor.

The Court: I have no objection on behalf of the Court. You have no objection, Mr. McMillan?

Mr. McMillan: Well, may it please your Honor, I desire to call your Honor's attention to some matters in that regard. Rule 32 of the Federal

Rules of Criminal Procedure provides: "Pending sentence the Court may commit the defendant or continue or alter the bail."

There is no suggestion on my part at all, may it please your Honor, that the defendants be remanded to the custody of the Marshal pending sentence. But I do suggest, however, that now that these defendants have been convicted the bail be altered; that is to say, that the bail be raised. And in that connection, may it please your Honor, by the verdict of this jury in this case the public knows now that the defendant Bridges has, during all the years charged in the indictment, secretly been a Communist, a member of the Communist Party, while a top labor union leader. Now, the evidence and the verdict from this [8658] jury shows to the public that the other defendants have been members of the Communist Party.

Now, may it please your Honor, the Government has had a very unfortunate experience—it is a matter of common knowledge—in the case of Gerhard Eisler. He fled this country. We know that today he is a top leader in the Russian zone in Germany of the Communist Party.

Now, your Honor, I call your attention to this: As a result of the conviction of Mr. Bridges in this case, automatically at the time of judgment and sentence, may it please your Honor, your Honor could order his citizenship canceled and thereupon appropriate proceedings would be brought for his deportation.

Now, I call your Honor's attention to those circumstances, and I respectfully submit that bail should be altered; that is, increased in this matter. I said that I made no suggestion that he should be committed or any of these defendants remanded to the custody of the Marshal, and the reason I have suggested that the bail should be altered is, I am satisfied that at the time judgment and sentence is made here, a notice of appeal will be filed, and very likely, because of important legal questions involved which arose prior to the trial of this case, on motions made before the trial, the question would come up as to whether or not substantial questions are presented for determination on appeal. And if they are substantial questions, [8659] your Honor or the Circuit Court of Appeals would admit the defendants during the pendency of the appeal to bail. Now, being satisfied that your Honor would, by reason of those questions arising before trial—I know of no substantial errors committed during the trial—grant bail. And if not, they would take the matter to the Circuit Court of Appeals and there ask that bail be granted.

So that is the reason I make this statement. It has been almost traditional in this court, may it please your Honor, that upon a plea of guilty or a conviction, the defendants are remanded to the custody of the Marshal. In most all cases, no matter how small they might be or how unimportant, that has been the usual practice, as I repeat, almost traditional with the judges here, to remand the defendants to the custody of the Marshal. But for the reasons which I have indicated, I have made no such suggestion, and I do not make that suggestion.

I submit the matter.

Mr. Hallinan: Might I suggest, your Honor, that Eisler was a temporary visitor in the United States, a native of Poland. Bob Robertson was born in the United States, he has a wife and two children, owns his own home in Mill Valley. Harry Bridges is a naturalized citizen. His wife is an American-born citizen, he has three American-born children. Henry Schmidt, while naturalized, has an American-born child, owns his own home. They are all substantial citizens here; they have no [8660] intention of fleeing or doing anything else except continuing the matter of law.

Mr. McMillan: It is not a question, may it please your Honor, of inability to post the bail. I recall that before this case came on for trial, on an application made by the defendant Bridges to go to Marseilles at a convention to be held there, he, through the union, was willing to post $100,000 bail.

Mr. Hallinan: We can post additional bail if necessary, but if it is unnecessary, why put them to that expense and difficulty of going and raising the bail? Of course,——

The Court: Well, Mr. MacInnis, may I hear from you on behalf of your clients?

Mr. MacInnis: Well, I think, your Honor, that there is no good reason at all to compel an increase in bail at this time. If, as has been suggested, bail can be procured upon appeal, why, the matter will come before the court's discretion then as to what bail should be. But for the interim of four or five days, to compel these men to go to additional hardship would seem to be intemperate, and I am suggesting it would not help either the Government or the defense in this case.

The Court: I am inclined to permit the defendants to remain at large; the amount of $5000 is now impounded as and for bail, at least during the interval when these matters are taken up with the Court, preliminary matters. I might be advised otherwise hereafter by and as a result of a showing to the Court. [8661] Some of the matters which you now present to the Court, Mr. McMillan, were taken up either with Judge Goodman or with Judge Roche at an earlier stage of the trial, with respect to an increase in bail, and there the Judge saw fit, as I recall the record, to permit the defendants to remain at large on the amount of bail then posted, to wit, $5000. And I would see no immediate reason imminent to persuade the Court at this juncture, at least, during the preliminary matters affecting the judgment and sentence, to alter the amounts. However, Mr. McMillan, I do not foreclose you from renewing the motion hereafter.

Mr. McMillan: The matters to which your Honor refers about Judge Goodman and Judge Roche, an application to increase the bail; the only application for increase of bail was in the case in which the defendant Bridges sought to go to France, outside the jurisdiction of this court. That is the only application that was made.

The Court: Well, I believe at least presently the ends of justice would be served by permitting the defendants to remain at large, and the amount of bail may stand without any alteration or increase thereof, at this juncture at least, Mr. McMillan.

Mr. Hallinan: Thank you.

The Court: Now the matters of motion in arrest of judgment and new trial may regularly stand over until Monday next, as [8662] indicated by the Clerk of the Court, until 10:00 o'clock a.m., at which time I will hear the matters.

The Clerk: April 10.

The Court: That is all with respect to the defendants. They may be seated.

Mr. Hallinan: Yes, your Honor.

The Court: Now I have several matters affecting counsel. I might ask counsel to permit me without interruption to say what I have to say, and hereafter, at the conclusion, you may interpose whatever legal motion you may desire, or any individual request on your own behalf, or either of your behalves. I suggest you remain seated counsel, if you wish.

I approach these matters affecting the attorneys with considerable diffidence and no amount of reservation. For when I deal with the attorneys, I deal with officers of this court. I desire to address myself briefly to Mr. Hallinan and Mr. MacInnis. And I say to you that from the beginning of this trial you have embarked upon a course of conduct designed and calculated to contemptuously provoke the Court in the hope that such provocation would lead the Court to commit error or plunge the case into a mistrial.

That such was your purpose has been entirely manifest to me. Such conduct is not alone an affront to the dignity of the Judiciary of the United States, it is an affront to the dignity, good name and honor of a great profession. I said to [8663] you, and I repeat, that members of the bar are officers of the court. My experience has demonstrated that a vast majority of lawyers, in and out of court, conduct themselves with propriety, integrity, dignity and honor.

Your assault on this Court cannot go unchallenged, and I am determined, so far as I am able, in my humble capacity, that such behavior as displayed by you shall not be repeated in other Federal courtrooms. America is justifiably proud of its judicial system, and anyone who attempts to degrade it or weaken it is working an injustice.

With regard to you, Mr. Hallinan, I retrace my steps momentarily to remind you that on the 22nd of November, 1949, the Court adjudged you guilty of criminal contempt, and thereafter regularly filed a certificate under the provisions of Rule 42(a) of the Rules of Criminal Procedure. Thereafter, upon the request of your client, Mr. Harry Bridges, I permitted you to remain as counsel in the case and granted a stay of execution until termination of the trial.

The consent of the Court was obtained upon the belief, reliance and understanding that there would not be a repetition of such conduct. Unfortunately, within a comparatively brief period you deliberately launched into a series of acts and conduct again resulting in criminal contempt, which I have more particularly found and specified in a certificate. During the course of the trial and since the first adjudication, you have, [8664] as a pattern of deliberate misconduct and in flagrant contempt of this Court, the dignity thereof and the respect due to it, sought to and did malign and abuse Government witnesses, attorneys and agents in a loud, contemptible manner. It is difficult to portray by written word your intonation, gestures and deportment, as well as the belligerent tone, mode and manner created. It is difficult to portray by the written word the loud language used by you and the contemptible language used by you, both in and out of the presence of the jury; all of which conduct was designed to bring into disrepute this Federal Court, as well as the judge thereof, charged with the administration of justice.

Accordingly, I specifically find that you, Vincent Hallinan, have been and you are now guilty of contemptuous conduct and misbehavior in the presence of the Court, in the particulars specified in the certificate which I have filed herein; thus obstructing the administration of justice. I therefore adjudge that you have been guilty of contempt of this Court for such conduct in the course of this judicial proceeding. It is adjudged that Mr. Vincent Hallinan is to serve six months in an institution to be designated by the United States Attorney

General or his authorized representative, said sentence, however, to run concurrently with the previous judgment and sentence heretofore regularly made and entered on or about the 22nd day of November, 1949.

I am advised that an appeal has been prosecuted and is now [8665] pending before the Court of Appeals with respect to the prior adjudication, and that that honorable Court has granted a stay. It would seem to me meet and proper, and in accordance with the ends of justice, therefore, to permit you, Mr. Hallinan, to remain at large with respect to the second adjudication which I have filed here and which I find herewith, upon your own recognizance.

With respect to——

Mr. Hallinan: Might I comment on that now, your Honor?

The Court: Yes.

Mr. Hallinan: You suggested that after——

The Court: Yes, you may make whatever legal motion you have.

Mr. Hallinan: Well, I wanted to file an affidavit to disqualify you from pronouncing the matter in the same form as the one that I have heretofore filed. Might that be considered as being filed prior to this adjudication?

The Court: Yes, sir.

Mr. Hallinan: And I might say, then, also, your Honor, I see that there is a considerable moderation in many of the things that you have said. I feel that in this case, as you have expressed yourself to the jury, a great deal of bitterness cam up and was reflected. I think, of course, one is a poor judge in his own cause; so a judge sitting on the bench thinks that certainly these passions and bitternesses do not reach to [8666] him and he is acting in an entirely judicious manner.

As far as I myself am concerned, I had no desire to procure a mistrial or anything of that kind. I was shocked at the verdict. I thought we were going to get a verdict of acquittal. I didn't think it was going to be possible for a conviction to be produced on the testimony that was adduced here. So the Court is mistaken in that.

I might say this: that in all the things that I did and said in this court, I was acting according to my best lights to properly protect the rights of my client. Your Honor must see the incongruity of supposing that a private lawyer, helpless, just alone by himself, coming in and for some purpose such as that affronting the power of the Court and the power of the representatives of the Government, for some purpose of doing mischief or making himself unpleasant or anything of that kind. Your Honor should realize, having practiced law yourself, the temptation that a lawyer is under to do exactly the contrary, to overlook what he thinks are errors of the Court, to keep quiet in the face of what he thinks to be erroneous and even tyrannical rulings of the Court, to bow to the powers of the representatives of the Government.

I can only say this, Judge, that Harry Bridges as he stood here with his two co-defendants, is a man with tremendous handicaps against him and against them. He has been maligned and prejudiced by newspaper articles, matters of that kind, [8667] for a great many years. He has had against him now special representatives and general representatives of large arms of the Government, and they have done all they could to procure a conviction.

To say that a private lawyer, then, got up and so conducted himself that his—well, let us say his—courage in attempting to defend his client could be construed by the Court into such a course of conduct as to put himself at loggerheads with the Judge, with the prosecuting department, with the whole Government, is to pay an unexpected and strange compliment, your Honor; and it certainly makes me feel that if this were the last case that I tried, the very words that you uttered here would make me realize and pass on to my children that at least my swan song was conducted in accordance with the highest traditions of a noble profession.

The Court: No response need be made on my behalf, for I stand on the trial record and the transcript of proceedings, with respect to any alleged or asserted bitterness that I may have been claimed to entertain.

With regard to James Martin MacInnis, this Court heretofore, and on the 28th day of February, 1950, regularly adjudged James Martin MacInnis guilty of contempt of this Court. The matter of judgment and sentence having been stayed and deferred until the completion and conclusion of the trial, and the trial having been concluded and terminated, now said James Martin [8668] MacInnis is sentenced to serve three months in an institution to be designated by the United States Attorney General or his authorized representative. Although, in my opinion, Mr. MacInnis' contemptuous conduct was just as studied and flagrant as that of Mr. Hallinan, nevertheless I feel he is entitled to a lesser sentence, for the reason that he appears to have been, to some extent at least, inspired by his senior colleague, Mr. Hallinan.

I hand to you, Mr. Mitchell, the original orders and documents, together with copies thereof, bearing upon the foregoing matters, for transmission to the Clerk's and Marshal's office, respecting Mr. Hallinan. The same order will prevail, that he may remain at large on his own recognizance pending whatever review he may desire to take from the adjudication of contempt.

Mr. MacInnis: I assume that I am invited to make a reply to the remarks of the Court as well.

The Court: Whatever legal response you may have.

Mr. MacInnis: Yes. Well, first of all, I suppose that the record may show the same motion which I have heretofore made, asking for the disqualification of yourself in passing upon any personal difficulty between this Court and me.

If this were not an atmosphere of grimness in which we now find ourselves, after what to me was a most astonishing verdict, I would be constrained to laugh—sitting, as I did, and listening to you tell us that we embarked upon a course of [8669] conduct calculated to provoke the Court into error that would in some way result in a mistrial, and telling me that my conduct was probably inspired by the contemptuous conduct of a greater degree as committed by my senior associate, Mr. Hallinan.

If I am invited to reply, as I feel I now am, I would like to point these things out. The matters in which the citation for contempt was issued against me grew out of the interrogation of the Court of a witness produced by the defense, Father Paul Meinecke, a priest of the Roman Catholic Church. We sat here, in fact the walls probably still echoed with the departure of Lawrence Ross, a Government witness who had confessed his own perjury. He received nothing but a benign smile from the prosecution, and not a word of reproof from the Court. But this simple priest, who said a word in favor of the defendant, Harry Bridges, was first put to a gruelling cross-examination by the prosecution. That was its right—it had the right to cross-examine witnesses. And then the Court turned on the witness. Your Honor mentioned gestures, words, looks in speaking of us. I have in mind your gestures and your words and your looks when you attacked that priest who testified here. Anything that I said I may have said in haste, but I said it in an effort to preserve a judicial atmosphere in this room.

When you speak of us further, generally, you speak of the two counsel for the defense as maligning and abusing Government witnesses and Government counsel. I have in mind that not a [8670] word of reproof passed your lips when the special prosecutor referred to the three defendants as "rats," not a word of reproof crossed your lips when he referred to Mr. Hallinan as a "goat"; apparently the special prosecutor was a person entitled to some greater protection within the purview of this sanctuary in which we now find ourselves.

Assaults upon the Court. I have one or two things I would like to say further, and then I will sit down. The course of conduct. I have been observing the course of conduct indulged in by the Court. It may be that I have deceived myself, it may be that I have been overanxious in this case; it may be that I am peculiarly susceptible, because of the biterness of this case, to arrive at conclusions which I might not otherwise embrace. I do not think so. I recall most vividly an occasion following the appearance upon this witness stand of the men Johnson and Crouch, those men who came here and said that Bridges was in New York upon a particular occasion—men who similarly left here without any word of reproof from the Court. Then a legal discussion came up as to whether or not a certain question could be asked of a prosecution witness. The witness was named Kessler; he was an agent of the Immigration Service. The examiner was Mr. Hallinan. He was attempting to cross-examine that witness upon his motives, and a dispute arose as to the propriety of the question, whereupon the Court took a recess, upon the asserted quest of some cases from our courts [8671] of last resort. The Court came back upon the bench, apparently with a prepared statement in his hand, and in referring to the argument over the testimony of the witness, said more or less as follows: "Your question, Mr. Hallinan, is reminiscent to the Court of a similar tactic engaged in by defense counsel in the case of Morton v. the United States, in which our court said"—And then you proceeded to read to the jury a disseration, saying that the defendants had no defense, that the guilt of the defendants was uncontradicted, that as a last desperate gesture, in effect, an attack was made upon the motive of the witness. And then when it was pointed out, your Honor turned to the jury and said, "Forgive the unfortunate language of the Court."

I say that it is ridiculous to claim that Mr. Hallinan and I embarked upon any studied course of conduct to provoke this Court into error. When I hear those words, I feel even more like a fool. I embarked upon our trial in this case with the hope that we would receive a fair trial in every particular, and I continued to believe that we were going to have a fair trial even after the episodes of the first few days. Even after that stormy day when Mr. Hallinan tried to make an opening statement and was continually interrupted by the Court and by the prosecution, I continued to argue, "Something has happened. If the Court thinks we are attacking him in some way, the Court's pride is involved. He is really not trying to hurt [8672] us." I believed that for awhile. I did.

Now when I hear that we embarked in this case in a studied effort to provoke this Court into error, I shudder at what must be the fate of people who, unlike ourselves, will not stand up and say what they think. That is all I have to say.

The Court: Mr. Mitchell, you may have the orders and certificates for transmission.

The Clerk: Yes, your Honor.

The Court: And with respect to your remarks, Mr. MacInnis, similarly I stand on the record of the trial in this case, without apology either to the attorneys or the defendants. The defendants have had a fair and impartial trial at my hands.

We may now stand in recess.

(Whereupon an adjournment was taken.)

Monday, April 10, 1950, 10:00 o'Clock A.M.

The Clerk: The case of the United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson.

Mr. Hallinan: At this time, if the Court please, I have a motion to make on behalf of the defendant Bridges, but we might as well have the same procedure that we had before: whatever is said on behalf of one defendant would be stipulated to be said on behalf of each. We will file separate motions at this time in arrest of judgment. I have here a motion in arrest of judgment on behalf of Harry Bridges. It moves the Court to arrest judgment for the reason the indictment does not constitute facts sufficient to state an offense against the United States.

I ask leave to file at this time a similar motion signed by Mr. MacInnis on behalf of the defendants Bob Robertson and Henry Schmidt. They are in the same precise language.

Those motions, if the Court please, are based upon points that have been raised before the Court preliminary to the trial, namely, that the indictment shows on its face that it is barred by the statute of limitations, and further, the indictment shows on its face that it does not constitute a public offense, an offense against the United States, principally for the reason that it does not constitute a fraud within the meaning of the statute. In other words, that the gist and content of the [8674] offense only is false swearing on a naturalization proceeding and should not have been brought in the form of a conspiracy to defraud the United States or in an effort to defraud the United States. That matter has been argued, I understand, at great length before you; you made a ruling upon it, and I will submit it upon the argument that has already been introduced.

We have at the same time, if the Court please, further motions. These are motions for a new trial. I will file the written motion, but I would like to state the effect of it orally for the record first. In this action, number, motion for a new trial, the defendant Harry Renton Bridges moves the Court to grant him a new trial for the following reasons:

"1. The Court erred in denying a directed verdict of acquittal.

"2. The verdict is contrary to the weight of the evidence.

"3. The verdict is not supported by substantial evidence.

"4. The Court erred in charging the jury and in refusing to charge the jury as requested.

"5. The defendant Harry Bridges was substantially prejudiced and deprived of a fair trial by reason of the following circumstances:

"A. Misconduct of Court.

"B. Misconduct of counsel for the United States.

"C. Fraud, corruption and bribery of witnesses by agents of the prosecution. [8675]

"6. The Court erred in denying the defendants' motion for a new trial.

"7. The Court erred in sustaining objections to the admissibility of evidence tendered by the defendants.

"8. The Court erred in admitting evidence tendered by the Government over the objection of defendant.

"9. The defendants' prosecution is barred by the operation of the statute of limitations."

I will ask that the written motion be filed and a similar motion in the identical language signed by Mr. McInnis filed on behalf of Mr. Robertson and Mr. Schmidt.

The Court: The several motions may be filed, Mr. Hallinan.

Mr. Hallinan: As the matters involved in the motion for directed verdict were included in the instructions that were refused by the Court, there is no need in going into that at this time, or that the verdict is contrary to the weight of the evidence.

The matter of the Court erring in charging the jurors and refusing to charge the jurors as requested has already been presented to the Court after the instructions had been given.

I might say at this time, if the Court please, that of course in discussing any errors of law, that is, the admissibility of evidence, the failure of the Court to sustain objections to evidence offered, excluding evidence offered by the defendants, the misconduct of counsel in court, that the weight, the sufficiency of the evidence, the strength of the case is all material. [8676] Now, we have a case here in which the evidence produced by the prosecution was so inherently weak, so inherently corrupt as to provide an inference that almost any sort of additional evidence, any sort of ruling by the Court, would probably have swayed the jury, and hence that any error becomes material, becomes of substantial weight.

The Court will remember that there was not a single witness that was produced here, or hardly a single witness who stated anything of any materiality who was not open to the strong implication, if not the acknowledged fact, that he was bribed, that he had committed perjury, that he was part of a conspiracy to destroy the defendants. The testimony of the witness Krolek as to the attendance at so-called Communist Party meetings of persons who were not Communists, but labor leaders, would effectively destroy the circumstantial evidence, his testimony, that of the witness Hancock, Schrimpf and even Rathborne, as to the presence of these defendants at certain meetings, because the presumption would have to be given to them, and the inference given to them that they attended not as members of any Communist Party, but merely as labor leaders having a similar interest to that of the other persons who were present.

It seems to me that one of the great vices in the whole case was permitting the witnesses for the prosecution to testify that certain meetings were Communist meetings or that all persons who attended them were Communists. People like Hancock, for [8677] instance. He identified seven or eight of ten persons he saw at a meeting. Some of them he did not know their names or know who they were. And yet he was permitted without any further foundation, without any further proof, to give a blanket identification of all the people there as being members of the Communist Party. It was a meeting of Communists.

Similarly, the witness Wilson, without any preparation, was simply allowed to say they were meetings of Communists discussing a labor problem. Such loose identification, such loose evidence in a case of this kind, is such as to cast great doubt upon the validity of everything those witnesses said in that connection. In other words, the inference and presumption would be all against the inference and presumption that the witnesses were allowed to give.

The Government started out in this case by contending all through the preliminary proceedings, if the Court will remember, if you review the proceedings before Judge Roche, that this was just another criminal case, that the defendants were accused of committing perjury, and that there was no political implication, there was nothing special about it, there wasn't any effort to get rid of Harry Bridges. It was not a continuation of the persecutions that had existed during the prior ten years, and the Court expressed an opinion in the same way. I noticed in some of the matters that appeared before you, Your Honor expressed an opinion the same way. In other words, it was a contention of the [8678] prosecution and it was imposed upon the Court that this was just another criminal case. A criminal case involving false swearing on a naturalization charge is a rather common thing, and while it is an offense against the laws of the United States, and so forth, I do not think in general it is considered as having a tremendously grave aspect. In charging in this motion for a new trial, misconduct of the Court, Your Honor understands that we are charging that as a legal and technical matter. In other words, we state that the conduct of the Court was such as to deprive the defendants of a fair trial. When we started out to show that there was a conspiracy of the witnesses and agents of the prosecution to procure the ruin of Harry Bidges, the Court became indignant at that contention. Your Honor expressed early in the trial the opinion and the feeling that any effort to prove any such conspiracy was preposterous, ridiculous, that there was no reasonable basis upon which such conspiracy could be alleged. Yet out of the mouths of the prosecution's own witnesses, particularly the witness Rathborne, we find conclusively established the beginning of the portion of the conspiracy that ended in this court when by his testimony, uncontradicted and not questioned, he was taken back by Mr. Bruce Barber to meet the Attorney General of the United States almost two years ago, that is to say, back in 1948, and according to his statement that officer stated to him, not that they had any intention of prosecuting Harry Bridges for some crime that he had committed, [8679] not that it was their contention that he had committed perjury upon his naturalization proceedings, and that they intended to move the court against him under the ordinary proceedings by which ordinary people are moved against, but only that they were convinced that Harry Bridges was—now, not a member of the Communist Party, but a Communist—that he was harmful to the labor movement, and that they desired to remove him from the labor movement.

There you have an outside, exterior cause assigned for the proceedings against Bridges that led him to this court. In other words, Your Honor, regardless of how one would like to close his eyes to the possibility and the probability that a series of political trials are under way in this country, here is designated at the start a political campaign, employing the courts to get rid of a man because, it is stated, his economic and political convictions are different from that of the officer who represents the administration. No other construction can be put upon it. In other words, the uncontradicted evidence and the sole evidence on that point in this case is that the officer of the government in charge of instituting this prosecution declared to a prospective witness for the government whom they were soliciting and whom they were endeavoring to bring into the campaign as follows—not that Harry Bridges has committed a crime, not that he has committed perjury or done any fraud in obtaining his naturalization—but only this: this [8680] man is a Communist. He is harmful to the labor movement and we desire to remove his influence from it. Nothing further than that.

The Court must concede that in taking that attitude the officer of the Government was entering into a wrongful campaign, that he had no right to attempt or endeavor or approve the employing of the courts of the United States to accomplish the political objective of removing from the labor movement or removing the influence of a man who differed with him in his political or his economic convictions. It is always a fact that when a person enters upon a wrongful campaign, when the very source of the entire proceeding is a wrongful one, a bad one, one that the officer has no right to employ, one that becomes in effect tyrannical, unconstitutional and illegal itself, then he is always willing to go the step further, or the people representing him or the people who then take up the campaign are always willing to go the step further to employ further illegal, unjust and unlawful means to accomplish that illegal and unlawful purpose. So the instant it becomes disclosed that a criminal trial is not a trial for a crime but it has become a political trial, then every witness who is put upon the stand should be looked upon with the gravest suspicion. The Court, the jury should inquire now whether or not this man who is on the witness stand swearing to tell the truth, is not part of an unjust campaign and procedure to do other than what appears to be done in [8681] the court and to accomplish a political motive. So that all witnesses, it being established that the origin of this case is a political and economic one, that every witness who takes the stand here should immediately become suspect and he should be suspect, Your Honor, before he takes the stand, and as soon as it is disclosed that is the purpose, as soon as witnesses are to be produced, one should look upon those witnesses with the gravest suspicion and one should suspect that the agents of the government who are putting him on the stand are not actuated by the motives that are supposed to actuate officers of the government who place witnesses upon the stand.

Now, what do we find next? That this conspiracy, so disclosed, to destroy Harry Bridges' influence in the labor movement had to be further implemented by consulting other people interested in that procedure. While it is not disclosed that the Attorney General consulted Murray, Carey, Ray or Curran, still the fact of Rathborne going to consult those four men raises the further suspicion of an involvement of those people, enemies of Harry Bridges, and at loggerheads with him in the labor movement, in the same conspiracy that we have here.

Now, what was the result? While we were satisfied that it was just a continuation of the original conspiracy to get Bridges, we did not know who were the identical persons involved or exactly what were the conversations or the things that had been said that resulted in bringing this case to the court. But [8682] we were satisfied that such was the fact. And, of course, it would be avoiding all the requirements of the duty of a lawyer not to call that matter to the attention of the Court and the jury and to show the jury and to show the Court the suspicion and the doubt that should attach to the credibility of any witness produced to bolster that.

This Court took the position that this conspiracy was preposterous, that it could not be a real basis for this prosecution, that it was so extremely unlikely that the Court set itself out to prejudge that portion of the case. Your Honor made up your mind early in the case that our attempt to show that every material circumstance was a sham, that it was not possible that such a fact existed. What you did in effect was abrogate and deny in advance the evidence that was afterwards introduced without contradiction of the facts that I have just narrated here, the circumstances that were stated and used to induce Rathborne to enter into this plan and this plot.

And then the case proceeded upon this basis, that the defendants by the Court were required to try the case on a purely criminal basis, as though it was just a contradistinction between witnesses produced by the prosecution and the defendants, but the prosecution were enabled and entitled to try it upon a political basis, and even to descend to trying it on a patriotic basis.

I think that you will not dispute the assertion that Your [8683] Honor made up your mind in advance, or at least during the making of the opening statement, that there could not be any such conspiracy as the defense was alleging and upon which it was relying as a background to display the real motives of the witnesses here. You so expressed yourself. I am not saying these matters in criticism, you will understand. I hope we have gotten above the point in a case as serious as this of personal bickering, charges or countercharges. What has been said will be said, and I only say this as I would if I had never encountered you before, never had talked to you before, and had no collision of any kind in or out of the courtroom. Your Honor made up his mind on that point, and I do not say made it up improperly. You probably had your sound reasons for feeling so. You probably had a trust in the officers who came in here and in the representations made to you by the attorneys who came from the east and proceeded with the preliminary matters in this case that it was just another case of some kind.

But then what is the duty of a lawyer confronted with the attitude that the Court was displaying? Does the Court take upon itself or arrogate to itself a sort of implacability where the Court will say, "Now, I am determined upon this point. Here is a point upon which I have made up my mind and I will not permit one more word to be said, I will not permit a pebble to be thrown into the placidity of these waters and to set up conflicting currents in it. Counsel will keep his mouth shut [8684] on that point. You shall not affront my dignity by questioning the validity of the conclusions I have arrived at." To merely state the problem is to refute it. You do not state that and no judge has stated that. It becomes the duty of the lawyer to attempt to persuade the Court to the falsity of his position. It becomes the duty of the lawyer to attempt to dissuade the Court from any such conviction and to persuade the Court to arrive at the conclusions that the counsel has himself, and I think you will agree with me upon that matter.

What was the Court's attitude, however? Right from the start of the case, Your Honor took an entirely different and even a hostile approach toward him. That would have been bad enough, but it could have been corrected when it was afterwards disclosed that exactly what I had predicted was going to happen in the case had indeed happened. When the statements that I had made of the nature of the evidence that would be brought here, personal animus of Harry Bridges, men who had been involved in bitter labor controversies with him, men who wished to get him out of the labor movement—when we showed afterwards that those were the types of people who had been brought here, when we showed afterwards there was an active conspiracy and that it was first proposed to get Harry Bridges out of the labor movement because the United States Attorney General or the people who induced him to believe it, felt that Harry Bridges was a bad influence in the labor movement, meaning that he was hostile to [8685] the policies of the existing administration, because that is all such things mean—then the Court should have changed his attitude. Then Your Honor should have come around to the position of at least being neutral on it.

The jury was out for four days. If we had had a fair and impartial trial—in other words, if the Court had not made up his mind on that point and then clung resolutely to the principle that the government was right, that its attorneys and agents were not trying to do anything bad or anything corrupt, and that the defendants were trying to mislead the jury by proving what was in fact proved, if your Honor had changed his position and at least had been neutral in it, I am satisfied we would still have had a verdict of acquittal. But with the weight of the Court's position clearly reflected in everything that was said or done in the case, with that plus the power of the government weighing against ordinary private lawyers and the defense, with the facilities that they had for procuring witnesses by paying enormous bribes, amounting in one case to $5,000, by the coercive pressure they were able to put against other witnesses, the attitude of the Court in this case is what turned the jury to a conviction. If your Honor had not at the start displayed the position that you have taken, or even after the case had developed, and showed what we predicted would develop, you had changed your attitude, and if you had taken only a neutral position—if you had not followed that high ecomium [8686] that Judge Goodman put upon the federal judiciary at the time of your induction as a federal judge that the federal judge stands as a guard between the defendants and the excesses of the government but only taken a purely neutral attitude—I am satisfied that there would not have been a conviction.

Your Honor has said on some occasions throughout the case that you considered the trial was fair and impartial, and that you considered that you had given the defendants a fair trial. Those things add little. In fact, they only heighten, when expressed in the presence of the jury, any injury that has already been done. You will concede yourself that even very bad judges, even notorious judges—the Jeffries, Braxforths, and the Hathornes of the past, expressed, where they had unfair trials, that they had given fair trials. And I have no doubt but those gentlemen even have felt in their own consciences that they had done their duty, at least by the state. But your Honor should review your own convictions, not only what you felt, what conclusions you arrived at, but the judgment that should be exercised about your own conduct in the light of what has happened in the entire case. In other words, you should not take the position of having adopted a certain attitude in the case, that you were right in that, irretrievably bound to it, and that anything we did to dispute it was something where we were acting falsely, corruptly, or were not observing a proper attitude toward the court, because that would be a small, mean attitude [8687] that you would take. I do not think that you would arrive at any position where you would say, "I might not have been wrong in the matter."

Let us take an early episode to show that this is not an afterthought, and this is something that is being said now in view of the consequence of the case, but to show what our attitude was right at the beginning and to show what the Court's attitude was on it. At the inception of the case, here are some of the statements the Court made, and I wouldn't raise them—I might raise them in a subsequent matter, but I wouldn't raise them now except, as I say, we have clearly shown a conspiracy. The word "conspiracy" might have an ugly sound, so let us say a plan or design on the part of the officer of the Department of Justice to get Harry Bridges out of the labor movement because he considered him detrimental to it. Let us suppose he is entirely honest in that belief. Let us grant he would be justified in believing that Harry Bridges, contrary to everything that has been shown here, could honestly be conceived to be a detriment to the labor movement. Still, that is using the courts as a political weapon, and that is a conspiracy to do exactly what we said was to be done. And yet, what did the Court say about that? At the very inception of the case, while the first witness produced by the government was on the stand, your Honor described the charge that there was a conspiracy as unbelievable, incredible, preposterous. You said it was preposterous to [8688] cross-examine the witness produced by the prosecution and attempt to show bias against Harry Bridges.

The Court: That was Mr. Garner?

Mr. Hallinan: Yes, that it was preposterous to show bias on the part of that witness. When they afterwards called the witness Kessler to the stand, the Court stopped us from showing or attempting to show an activity of the agents, of whom he was a member, of going out to the house of a prospective witness and offering the man to get his wife into a cancer clinic if he would come in and testify against Harry Bridges. In other words, your Honor not only held it was preposterous to attempt to show bias on the part of the first witness called by the prosecution, but later on, and almost at the end of the prosecution's case, you maintained that same attitude as to the prosecution's witnesses, as to the witness Kessler.

Here is some more of what the Court said. When I said that as fantastic as it may seem, such conspiracy existed, the Court seized upon the term "fantastic" and used it in the same sense as preposterous and unbelievable to hold that. It was incredible to contend that such conspiracy could be. And here are some of the things that the Court said. Now, in good faith we had the decision of the Supreme Court offered in evidence. We felt from the very inception that the decision of the Supreme Court was conclusive on the guilt of Henry Schmidt and Bob Robertson, that where they were accused of fraud, and where [8689] their intention at the time they took the stand and testified or at the time they vouched for Harry Bridges' right to be a citizen was in question, that they were entitled to rely upon that decision of the Supreme Court, and that that decision of the Supreme Court should be introduced in evidence. A long argument was made to you subsequently upon the admissibility of that. You ruled against it. But the decisions which were produced by the defense were at least strong, if they were not conclusive, or if they were not even persuasive, at least they were such as to lead a person of average intelligence, a lawyer of average practice, to the belief that they did sustain the right for the introduction of the document in evidence. But your Honor set out with the notion that any effort to introduce that document in evidence was some attempt on the part of the defense to impose upon the Court. We had in mind all the time this point, and we had in mind this conclusion, that the witness Garner could not have been telling the truth about his examination of the co-defendant, if he had read the Supreme Court decision, because he ordinarily would have come to the conclusion that the Supreme Court decision finished the matter and that the question as to whether Harry Bridges was a member of the Communist Party or not was concluded by that decision.

So we wanted to put the decision in evidence. Now, it may be said, and your Honor probably believes, and we concede that—we consider the language of the decision important in this [8690] case, and we did want to bring the language of the decision before this jury, we did want to bring the language of Justice Murphy before the jury—but if the decision was admissible for any purpose, we were under no obligation to cut out the parts that would be beneficial to us or be beneficial over and above the conclusion of the Court that Bridges was not a member of the Communist Party and leave all of that out. I concede we wanted to say to this jury something to this effect, that when Justice Murphy said that the record in this case would forever stand as a monument of man's inhumanity to man, and that for ten years private agencies associated with officers of the government had maintained a persecution of Harry Bridges in an attempt to have him removed from the government unjustly, wrongfully, and that the Constitution of the United States and the Supreme Court of the United States stood as a guard against such efforts, that we did want to read that to the jury, that we wanted to say to them something substantially like this, that Justice Murphy was no longer alive, that these words of his were uttered at a time when he had no reason for saying other than what he felt to be true, that we felt they were perpetual and they were eternal, that Justice Murphy was uttering these words in effect from the heaven to which he had attained, because if Jean Murray is wrong and there is a heaven and a hell, I would say that Frank Murphy went to that heaven, and I will say this, that we would also have been willing to argue that we would give [8691] the prosecution, in addition to Schomaker, Rathborne, Manning Johnson and Crouch, Benedict Arnold, Judas Iscariot, and a lot of other of the same ilk and take Frank Murphy's statement of what this case was really about.

But aside from that and above that, we were entitled to put in that decision both as refuting the contention of Garner's that he had asked such questions, which he must as a lawyer have felt were concluded by the decision of the Supreme Court, and, further, that the decision of the Supreme Court constituted in and of itself sufficient reason why the co-defendants should have felt justified in going before Garner and vouching for Harry Bridges' right to become an American citizen.

But forthwith, upon our offer of these matters, the Court started to ascribe to us some sort of malign and improper motive, and your Honor criticized and condemned my action stating to the jury in advance that we would show that the witnesses to be produced by the prosecution were precisely the kind of witnesses that the prosecution did in fact ultimately produce. There was nothing that was said in the opening statement that was not exceeded and multiplied by the infamy of the men who were produced on the witness stand by the prosecution. And your Honor condemned as an improper assault upon the subsequent credibility of the witnesses and as an attempt to prejudice the jury in advance against the witnesses and against the prosecution my statements in that behalf. But your Honor saw nothing wrong in [8692] prejudicing the jury in advance against the defense by characterizing the efforts that we were making to introduce this evidence as being in bad faith. In other words, your Honor started out by telling the jury, "These defense counsel are acting fraudulently. They are attempting to impose upon you. They have no right to do that." It was in effect telling the jury, "Be on guard against them." And that would have been all right, if you had not told them also, "Don't be on guard against the prosecution's witnesses."

Here are some of the things that were said in those connections. This is page 714 of the record. "Right here let us pause. How could that decision in any manner foreclose subsequent inquiry as we have at bar or subsequent inquiry by this witness in a naturalization proceeding? Pro forma questions are asked. Those formalities are engaged in, I would say, through routine process. That process is asked as a matter of routine, whether a man is a Communist, whether he has an intention to overthrow the government and the like."

In other words, the witness was now being stated to be telling the truth on the witness stand. In other words, he was removed from cross-examination and his credibility was taken as an established fact.

By the Court: "Yes, but if the witness did not ask those questions, I assume he would be derelict in his duty."

The argument might not have been a good one. This jury may [8693] have rejected it. But certainly we were entitled to contend to the jury that Garner, being a lawyer and reading the Supreme Court decision, and the Supreme Court decision being interpretable at least as a decision that Harry Bridges was not a member of the Communist Party, that the witness would not have asked him the questions. That is something that we should have been entitled to urge upon the jury.

Then the Court continues: You asked about Garner sardonically: "You assert that he is one of the 125?" That question is put in the presence of the jury.

The Court: 125?

Mr. Hallinan: The 125 witnesses who were witnesses in the preceding hearing that I said were part of the conspiracy.

The Court: None of those witnesses testified here.

Mr. Hallinan: Yes, but they had faded out just as though there had been another trial against Bridges. Rathborne, Schomaker, Johnson and Crouch were here testifying instead, but would that mean they had never been a part of this conspiracy? Your Honor says this:

"Now, what would it serve this case to pry into all of these prior matters, the determinations therein, legal, extrajudicial, or however it appear? It would not be binding upon the jury or the Court as a factual matter. Now, to say that this man, to paraphrase or adopt your reasoning, did not ask Messrs. Robertson and Schmidt whether or not they were Communists, and [8694] to say that the government did not include that reference in the indictment—perforce there was no reason to include it in the indictment as a matter of charging part—and it would probably be immaterial if the government did." Page 730.

I gave this explanation to the Court, in asking if this witness had participated in any wiretapping or dictographing of Harry Bridges. Now, the Court, I think, will concede that it is proper to know whether or not a witness has been part of an effort to gain illegal evidence against a party or at least the extent to which the witness participated in a legal though over-diligent effort to procure evidence against a party.

The Court: At this juncture you are mindful of the date when Mr. Garner first entered the proceedings?

Mr. Hallinan: Yes, your Honor, surely, but that is the whole trouble. You anticipated the entire case. You anticipated, and then when the evidence came in you did not change your attitude. I grant that. But, you see, we knew more about it than the Court did. Your Honor could not know that this kind of evidence was going to come in. But we knew it. We knew it was inherent in the case. What I am talking about now is not the Court's ruling on the matter, but the characterizations that were given the defense's efforts to prove the fact or ask the questions. Here is what your Honor said about this:—

The Court: In point of time, Mr. Hallinan, for the record, when do you claim Mr. Garner tapped the wires? 1932, 1933 or [8695] 1934?

Mr. Hallinan: I wanted to know if Mr. Garner was present in 1937 and 1941 when the wires were tapped. Mr. Garner said he entered the Immigration Service in 1941. I submit we are not foreclosed by that answer from finding out whether Mr. Garner was in some other branch of the government, if he was participating with the Immigration Department in some other activities, or whether, in fact, he did enter the Immigration Service in 1941. We were not foreclosed in that. The witness was not sacrosanct.

I said, "I want to know if this gentleman indulged in any illegal activity in connection with procuring a verdict in this case." Your Honor said, "You had it in a two-way thrust before."

Then Mr. Garner being asked if he had any knowledge or information concerning illegal wire-tapping in the two previous cases, Mr. Paisley says, "If your Honor please, if this is not contempt of court, I have never seen it in my career."

And the Court said, "The statement made by counsel may well be within the realm of his province to make. I shall not instruct the jury to disregard his statement. And I say to you, Mr. Hallinan, your persistent conduct along this line, studied as it appears to be, may well eventuate in the situation that counsel refers to."

There, as your Honor correctly says, "At what point was this question asked?" And it is true that the question was [8696] asked before the evidence which later developed of the dictograph thing of Harry Bridges came in. But the vice is in the Court taking an a priori position and saying to the counsel in advance, "You are trying to do something improper. You are not in a position to make any such charges, and you know perfectly well that there is going to be no such proof in this case." But then what is ten times worse, telling that to the jury and saying to the counsel, "Your attempts now to advance this may very well bring you into contempt of court at the very outset of the case." I think the burden of relieving ourselves from that odium could have been accomplished if the Court had afterwards changed that attitude and had said or done one thing throughout the case that showed a lack of hostility toward the defense. But your Honor unfortunately, whether it was my fault or what it may be, I don't know—let us concede it was entirely my fault, that I simply used improper tactics in the matter, my approach to the case was a faulty one, that I should have taken into consideration what your attitude might be and had a different approach on the thing—but at any rate, from the beginning to the end of the case, you maintained that same attitude of suspicion and hostility toward the defendants' case and you never did correct the impression that was made upon the jury by the remarks that were made even in the early part of the case.

I asked then, "Prior to the deportation proceedings, which were tried in 1939 before Dean M. Landis, did you personally [8697] have anything to do with installing a wire-tapping device in Harry Bridges' room in the Hotel Multnomah in Portland?" So there it was obvious we had evidence to that effect, and certainly it was perfectly pertinent to ask the witness if that was so or not. If we felt we could not put on any proof such as that, then there may be misconduct, but your Honor will remember I stated to the Court and jury that one of the things that would prove Harry Bridges had not gone through the actions and statements that were to be ascribed to him by these witnesses is that he knew from way back in 1933 he was under surveillance by the United States Department of Immigration, and he had discovered a dictograph on at least two occasions in 1939 in his room in the Multnomah Hotel and again in 1941, and though that may lack persuasive value, even though you may think the fact that he knew he was being dictographed, would not ordinarily prevent him from further activities in connection with the Communist Party and the Communists, still I contend it was a perfectly tenable argument and one that I was entitled to argue to the jury, and one that I think would weigh with them. But, no, you took that out in advance, and your Honor should have recognized from my opening statement and from this question that we did propose to introduce such evidence, and as a matter of fact, it was subsequently introduced in evidence without objection from the prosecution's own attorneys.

But what was said on it? [8698]

> "Mr. Paisley: To show how ridiculous or how uninformed or insincere the remarks of counsel are, I am told this witness did not come with the government until 1941.
>
> "Mr. Hallinan: Well, I don't know.
>
> "The Court: He so testified."

There we were again. The jury is being informed that I am bound by the statement of this witness that he came into the government's service in 1941.

Does Your Honor want to take a recess at this point?

The Court: We will take a short recess.

(Recess.)

Mr. Hallinan: I trust Your Honor does not think that I point out these matters from any improper motive or to annoy or vex you or anything like that. As I say, I hope we are above and beyond that matter. But ultimately, if this case goes on appeal, these will be very important matters that will have to be brought before an appellate court, and the trial court is at least entitled to have the matters pointed out.

The Court: Mr. Hallinan, I might interpolate that I have neither during the course of your more recent remarks nor at any time during the trial shown any attitude of annoyance on my part. At least I humbly feel I have not. Nor have I been vexatious. I have permitted lengthy arguments. I only advert to this because I feel perhaps we may be launched into the same situation we had at the very close of the trial, when we sought [8699] to place a limitation upon the then rather lengthy argument. I think we had extended into the fifth or sixth day. I called counsel into chambers. I asked if you could conclude your arguments that day, which, of course, you did. You said, "Mr. Hallinan: You have been very fair on the time."

Now, I never seek encomiums of praise nor do you, but at the same time I feel that we should have some definite lines of demarcation on our argument this morning. This is a motion for a new trial. I do not intend to retrace all the steps of this trial, nor do I intend to retrace the steps with respect to any contempt matter that may have followed in the wake of the trial either affecting you or Mr. MacInnis.

Mr. Hallinan: I did not intend to raise that.

The Court: I certainly will not foreclose you, Mr. Hallinan, within the bounds of the record and within the bounds of time, but we both realize——

Mr. Hallinan: I will not use an excessive time. As a matter of fact, it is relatively short and I think the major part of it is probably finished. But in going back to the original premise, Judge, here is my position on it. As I said before, one can not be blamed for adopting a particular attitude or outlook on a thing and even expressing himself so. In the original concept of the trial, during the opening statements, and so forth, I did not take exception or quarrel with the Court, because I realized it was a peculiar and a strange sort [8700] of case. In the three weeks I had been studying the case I was surprised and shocked at the developments that had come in through the case, and it was not likely the Court would be familiar with them. I did not even express any surprise that you took the attitude that you did. By my contention is that as the case progressed, I thought there was enough that came in here to convince the Court at least that the defendants were offering what they had offered in good faith, and that the thing should have been given to the jury without any coloration or any expression of opinion by the Court, and that that is where the gravest error came in. That is where the Court fell into grave error, and that is what deprived the defendants of a fair trial, because it is my firm belief that in view of the statements that the Court had made and continued to make throughout the case—in a diminished degree, yes, and with a great deal more neutrality as the case progressed, but still not correcting the original impressions, and still saying enough to make the jury believe that the Court did entertain its original notion of it, that that deprived the defendants of a fair trial.

To continue on these matters, if the Court please, because that was five months ago when some of these things took place, Your Honor stated that the remarks in my opening statement—and I now submit to you, Judge, that everything that was promised in the opening statement ultimately came in, everything that was promised in the opening statement was ultimately introduced, and [8701] a great deal of it by the direct action of the prosecution itself—you said, "In addition, Mr. Vincent Hallinan, by his studied, persistent and inflammatory course of conduct in flouting the authority and orders of the Court, has attempted to impair the effectiveness of this Court as an instrument of the judicial process; that he was wilfully attempting to evade the rulings and orders of the Court is manifest. Vincent Hallinan would, unless prevented by prompt and firm judicial action, run unbridled and roughshod in the further progress of this trial."

Quoting from page 775:

> "There is an anomaly apparent throughout the country today and exemplified perhaps in some of our more recent trials, in that those who cry so earnestly for protection under the mantle and cloak of our Constitution of the United States would at the same time destroy and seek to destroy every vestige of decency and judicial goodness and sanctity inherent in the federal judicial system."

Those last three statements were made outside the presence of the jury, and the Court did instruct the jury not to read any newspapers, but I submit it would be flying in the face of our ordinary experience with human nature to assume that twelve or fifteen persons from ordinary walks of life, suddenly projected into one of the most important and dramatic events that they had ever experienced, would have been so careful, so conscientious in observing the Court's rulings that they would not read [8702] the papers and learn those things, and as time went along, I think it is inconceivable and certainly unrealistic to assume that the jury did not know the characterizations that were made by the Court on these matters, and the charge of an improper attempt to bring in immaterial matters was then submitted by the instructions of the Court pointing out that immaterial matters had been brought in and instructing the jury to ignore them. They had been characterized before as what amounts to an attempt to defraud the jury.

The Court went on:

> "Vincent Hallinan was not making an opening statement, but was using it as a medium and sounding board for dragging in before the jury irrelevant, incompetent and inflammatory matter, with the studied and avowed purpose of prejudicing this prosecution."
>
> And you said, "I am satisfied, knowing how zealous Messrs. Gladstein, Andersen, Resner & Sawyer were in behalf of Mr. Bridges—I am satisfied that they are shoulder to shoulder with you."

Subsequently, and every time that the name of one of these gentlemen was mentioned, particularly Mr. Norman Leonard, either the Court or the prosecution would ordinarily call to the jury's attention that that gentleman was employed in or a member of the firm of Gladstein, Andersen, Resner & Sawyer, and it went along until it came to an amusing situation where Harry Bridges [8703] himself filled in the names as the prosecution started to enumerate them. But then in the closing argument counsel for the prosecution disclosed the purpose of having called this to the attention of the jury repeatedly by saying that the Gladstein who had represented Mr. Bridges in the preliminary proceedings was the same Mr. Gladstein who had represented the eleven Communists recently convicted in New York, so they could build that in, the assistance that firm was giving to our office, so that the jury would think someone who represented the eleven Communists in New York had done something improper.

The Court went on:

> "If such a conspiracy exists, it is one of the most fantastic defenses that I have had presented to me. This is not a matter in which the Supreme Court has anything to do. This matter has never been reviewed by the Supreme Court. The Supreme Court has never heard any of the witnesses. I am not bound by the assertions, by the pronouncements nor by the opinion of any member or members of the Supreme Court."

Then on page 779:

> "We were then trying to adjust ourselves in the light of Mr. Hallinan's rather broad, somewhat intemperate views of an opening statement."

The Court: Is this the certificate of contempt?

Mr. Hallinan: No, this is an excerpt from an affidavit [8704] made subsequently, but it contains excerpts from the record. It is not the certificate.

"We then settled down, hopefully expecting

> that some recognition would be given to the Court's orders, which I had so painstakingly and carefully prepared and made."

Here is a statement the Court made:

> "There is no question involved in this case of wire-tapping. I take it from assurances given to me on the motion to dismiss there will be no efforts made on the part of the government to introduce any evidence as to the result of any unlawful enterprise?"

Mr. Donohue then did get up and confirm to the Court they had no intention of introducing any statements obtained by wire-tapping. The Court was then binding not only yourself but the jury and the defense to the acceptance of Mr. Donohue's statement and the government's statement on preliminary proceedings that there would be no effort on the part of the government to introduce any evidence obtained as a result of any unlawful enterprise. I submit, Your Honor, that bribery of the witnesses is as much an unlawful enterprise as is wire-tapping, and that the obvious effort of the government agents to deceive the Treasury of the United States by pretending that the monies paid to Rathborne were for some other kind of services, instead of disclosing exactly what they were, constituted that an unlawful inducement and an unlawful enterprise. [8705]

Another matter that undoubtedly came before the jury and that was accentuated by subsequent references by Mr. Donohue to another lady who was mentioned here. I submit in trying a case we do not have to be overmeticulous in seeing that we do not offend the niceties and do not upset the sensitivities of the people who are involved. We had some information, and believed, that a certain woman would be brought into this case as a witness who had in fact been the mistress of a man who was a bitter enemy of Harry Bridges. If she had been produced, it would have been proper to show that. It might have been ill taste to disclose that exact thing, but we are entitled to show it. In making a statement the Court said this:

> "Reference is made to the alleged mistress of Harry Lundeberg. At this juncture Mr. Hallinan was stooping to an all-time low."

As I say, I feel satisfied the jury read these things.

The Court: This again was part of the certificate on contempt?

Mr. Hallinan: Yes, these are some of the comments you made.

The Court: Out of the presence of the jury and as part of the certificate.

Mr. Hallinan: That is right, but it shows Your Honor's attitude toward this thing. What we are disclosing now is what your attitude was throughout the case. I also suggest that [8706] those matters were read by the jury. This thing was recited in the papers. Then we have a letter from Schomaker's wife addressed to B. B: Jones. It might not be open to the interpretation that I put upon it that it was an effort to induce Jones to come down and see her, implying a certain friendliness or a certain romantic interest—I do not say there was anything that went on between them—I say this woman apparently felt she had some kind of hold upon Jones, and that letter was couched in such language that at least to my interpretation, showed that. It might not be so. It might not be open to that interpretation. But counsel, without criticism from the Court, was permitted to say that, by raising that inference, I had degenerated to a point as low as any creature that calls itself a man could degenerate. That is consistent with the statement of the Court, that by suggesting that some woman who was a prospective witness, a mistress of Lundeberg—as though people do not have mistresses—the Court's criticism of that that I was stooping to an all-time low was an encouragement to the prosecution to go ahead and make that sort of characterization upon a perfectly honest effort to give the jury my interpretation of the letter and what the Schomakers were up to with regard to Jones, as showing an unwholesome interest in the success of the prosecution in the case.

Your Honor said this:

> "You might well in the same breath condemn, indict, destroy, [8707] burn at the stake, any person in the City and County of San Francisco, by a bland statement.
>
> "Mr. Hallinan, am I entirely obtuse in the trial of this case? Or have we descended into another strata of judicial process?
>
> "You characterized wholesale all of these witnesses as perjurers, low people, characterized them with vile, vituperative terms. I do not know at the present time the identity of any

> witnesses about to be called for the United States Government, and I daresay that in large part you do not. Now, I think it highly unfair to this Court, indulgent as I have been with you, to continue on that line or that particular vein."

That is from one of the comments made in the course——

The Court: In the course of the certificate?

Mr. Hallinan: No, while it was mentioned in the certificate, it was in the course of the proceedings before that matter opened. That was said in the course of the opening statement. During one of the recesses Your Honor made the statements.

The Court: Again out of the presence of the jury.

Mr. Hallinan: Yes, but all published in the papers, and we have to be realistic in the matter. As I say again, I do not say you were not justified. I am not criticizing that. What I am saying is that the original attitude you adopted on it you [8708] maintained throughout the case, even when these suspicions you had of my good faith must have been refuted by the evidence which was introduced.

The Court: Pardon one interruption. I am not inclined to interrupt you. It is not your contention that I made any assertion concerning your conduct with respect to Mr. Schomaker's wife? I made no such assertion. I think Mr. Donohue said you had sunk to an all-time low in that instance.

Mr. Hallinan: He used language encouraged by Your Honor's conduct on a previous occasion.

The Court: Is it your logic, Mr. Hallinan, that in some fashion or through some chain of causation that is certainly not clear to me, a remark that I may have made in connection with I think the alleged mistress of Mr. Lundeberg had by some remote or in some remote manner become associated with the wife of Mr. Schomaker?

Mr. Hallinan: No, but it was certainly an invitation to counsel to hop on.

The Court: I can't follow your reasoning.

Mr. Hallinan: That may be. As I say, we may disagree. You might arrive at different conclusions from what I arrive at but that does not mean my conclusions, even if faulty, are not asserted in good faith. All the way through that was the charged assertion and the attitude of the Court.

The Court: Counsel, these statements were your statements [8709] —not my statements, not Mr. Donohue's statements, not Mr. Paisley's—they were your statements.

Mr. Hallinan: Yes, but what I am talking about is Your Honor's characterization of the statements.

To go again to Your Honor's attitude on the prosecution witnesses, you say:

> "This barrage had only died in its echoes off the walls and its reverberations through the courtroom when Mr. Lloyd Garner took the stand. A very significant mention of a date at the very threshold of his testimony, and this date may prove, and is, a focal point around which my comments hereafter hinge—mark you, for the record—from April, 1941, he was em-

> ployed in the San Francisco office of the Bureau of Immigration. There is a complete lack of good faith——"

So you take the point that Garner stated he came to the Immigration Department in 1941 as the hinge upon which all this proof of bad faith on my part in inquiring further of the man should depend.

> "There is a complete lack of good faith, fair dealing, on Mr. Hallinan's part in attempting to lug in or haul by the ears the Supreme Court decision or Mr. Landis' decision. . . . Questions addressed to the prior record would not be proper under any theory concerning Messrs. Robertson and Schmidt. So where is the good faith in asking the questions? [8710]
>
> "The same persistent theory, the same persistent apparent lack of good faith.
>
> "Bear in mind again, keep it ever present in mind, that Mr. Garner, on the testimony before the Court, first came into the government service in 1941."

And then on the examination of Mr. Garner:

> "Now the thread is drawn closely. Now the thread is woven. Now Mr. Hallinan's adroitness is being felt. He is completely dethroning this witness. He is stabbing him in the back."

And the stab in the back, according to the attitude Your Honor took, was made on my part in questioning Mr. Garner's good faith, and to question the time he was employed by the government, and to question his activities in the matter. What I am getting at is the Court adopted early that same attitude of questioning the good faith of the defense and kept it up throughout the case.

> "The questions, the manner, the deportment and the decorum represented a studied plan to destroy in advance the effectiveness and the asserted truthfulness of the witness."

We were not under any obligation to preserve the veracity and truthfulness of the witness. The prosecution's witness, because he was a government agent, was no more immune from having his veracity attacked than any other witness. And then, as I suggested, Your Honor took the same attitude towards Kessler, [8711] but we dropped the matter. As soon as you sustained the objection, we made no further effort to prove it.

> "Again I say for the record, and so that our mental equanimity may not be disturbed, that Mr. Lloyd Garner first came into the government service in April, 1941. Where is the good faith? Where are the dulcet tones of tying this man into an alleged conspiracy?
>
> "No one in this courtroom ventured to suggest that Mr. Garner did not come in the government service prior to that time."

Then you said this:

> "He questioned again Mr. Garner, driving him now, in the vernacular, with rights and lefts, trying to destroy him, to beat him to the ground, beat him over the head, stab him in the back.

> "Here is Mr. Lloyd Garner, the mild-mannered deputy, an administrative officer of the United States Government, whom Mr. Hallinan has translated into an alleged nefarious trafficker in installing dictographs in hotel rooms in New York City. Absurd, preposterous."

Now, other agents of the Immigration Department as good as Mr. Garner installed dictographs in the New York hotel. There was nothing absurd and preposterous in trying to determine if Mr. Garner had participated in it.

> "A persistent, studied continuity of conduct, not bordering [8712] on contempt, but contemptuous in every form and degree.
>
> "Mr. Hallinan, dissembling with the Court, seeking to justify a non-existent reason for his course of studied conduct, seeking to jettison the witness."

So that the Court entertained the notion now; as I say, that we were trying to deceive the jury and we were trying to deceive the Court, and having arrived at that conclusion, it would logically follow that the Court would then look with suspicion on everything we did, which I think in fact the Court did all through the case. You formed the notion that we were trying to do something improper, that the government was lily-white, that those agents would do nothing improper. Every question we put to their witnesses was looked upon as being something improper, construed as fraudulent on our part, and every attempt we made to show what the government was doing, that was acting fraudulently and you characterized it as an assault upon the government, improper and unfair.

In the matters that accompanied the contempt proceeding, on which, as I say, the jury was instructed not to read, Your Honor will remember that you not only characterized my conduct in the most invidious and harsh terms, about as harsh as a person could make them, and while they were outside the presence of the jury, and while the Court instructed the jury not to read them, it is incredible that the jury should not know them. But you also invited the three attorneys for the prosecution to [8713] participate in the matter, and in doing so, you used terms describing them, which, contrasted with the designations that you had affixed to me, would glorify them in the eyes of the jury and would lead the jury to believe that while what I would say was certainly fraudulent, certainly wrong, and they should pay no attention to them, that such gentlemen as the Court would call upon to reinforce its own judgment or give it advice in the matter, and whom you characterized by very good terms, should carry more conviction with them.

For instance, matters like this:

> "I am going to look to Mr. McMillan. I have always found him a very considerate, fine gentleman. I have seen him in the trial of criminal cases here when he has leaned over backwards to give defendants a fair and square

deal. Mr. Paisley, may I address myself to you?"

The Court: That was at the time I was trying to explore the suggestion of providing Mr. Bridges with counsel.

Mr. Hallinan: And I will say this in justice to you, that I think what you were inviting these gentlemen to do was to come in and act like gentlemen and make the suggestion that I be allowed to continue. I think that is what you had in mind, though they did not do it. But it is my belief that is what the Court had in mind, that you did not have the desire to deprive Mr. Bridges of my help, however insufficient it might be, and you did not desire to refuse me a stay of execution so I could [8714] proceed in the case, and it is my belief—you can affirm it or not as you wish—that what you wished to do was to afford these gentlemen the opportunity to participate with the Court in granting such extension. I do not know if that is what you had in mind, but I give you the credit of believing that that is what it was. I believe you were sufficiently magnanimous to both myself and Mr. Bridges and you did not wish at any part of the proceedings, even though you were at first wrought up and ordered me into custody immediately, it was not your intention to deprive him of the counsel who had some preparation in the case, that when you called upon these gentlemen to participate, they were not as magnanimous as you were, and instead of agreeing that that should be done, they took a contrary position and put you into what is good in the long run. They put you in the position of making that decision yourself, that you would not exercise that injustice against Mr. Bridges. But inviting them to participate in it, you stated things like this:

> "I am going to look to Mr. McMillan. I have always found him a very considerate, fine gentleman. I have seen him in the trial of criminal cases here when he has leaned over backwards to give defendants a fair and square deal. . . . Mr. Paisley, may I address myself to you? You have participated in some rather outstanding trials, including the United States v. May, the Congressman, the Garsson trials. I feel that you are a pretty temperate fellow. I have [8715] seen you in court here. We are dealing with a brother lawyer. In effect, we are all lawyers. How do you feel toward the situation?"

But even with the characterization that was given Mr. Paisley, he then got up and rejected Your Honor's invitation by saying that I was desecrating this temple into a bawdyhouse, and he would not refer to Mr. Hallinan as counsel, that he was not going to prostitute the term by using it in relation to this matter.

Other matters I culled from the transcript around this time. At page 793 I speak of Mr. Garner being employed in April, 1941:

> "Bearing that date in mind, we examined painstakingly, carefully, assiduously, the tran-

> script. What do we find? The same tactics, the same studied performance, the same desire to introduce irrelevant, incompetent and inflammatory matters before the jury."

And then I said, and it was only partly in jest, because we had not arrived at the place where I considered Mr. Donohue other than a gentleman—I said:

> "Mr. Donohue sits elegantly and urbanely by and Mr. McMillan makes the objection."

Certainly that was not a matter of any great force, and Your Honor said this, speaking of the word "urbanely," which, as I suggest, means only civilized or an inhabitant of a city and it [8716] certainly is not an invidious term:

> "Now you have stooped to the level of indulging in personalities at the expense of government counsel."
>
> "Mr. Hallinan had launched into a dissertation upon the deportation proceedings. I have not counted the number of times, but I dare say the record is replete with my rule that the deportation proceedings had no bearing in fact or in law upon this trial or any part thereof; and the record is replete with Mr. Hallinan's acquiescence as a matter of law. Yet we find his transgressions:" (Page 794.)

This bears out what I have said about the Court taking a wrongful view of our efforts in the case:

> "We now attempt—and I sought to find it, if I could, before reaching a determination—to

> find Mr. Hallinan's good faith. Good faith—with respect to his conduct in his asking the questions; because behind these matters and behind the pages of transcript, in making a determination of this character, we must perforce look for good faith or the absence of good faith. So I sought it, if it did exist."

And Your Honor professed to be unable to find it, any evidence of good faith. When Mr. MacInnis interposed some statement on it, you told him I was trying to make a shambles of the case. If that had ended there, then one would say, well, in the months that passed by the Court may have entertained a different notion on the matter. The Court may at least have [8717] thought that counsel was trying to do in good faith what he was improperly seeking to do. He might have been in error. He might have been wrong. He might have been stupid. But he was acting in good faith. The facts of the case as they developed I think bear that out. I think the background, the facts and circumstances that came in here were a necessary part of the case. But the Court, by stressing to the jury, the fact that matters had come in, and instructing the jury to ignore them, showed that the position of the Court was just the same as at the beginning.

As the witnesses progressed, the witness Crouch—and I am only selecting one or two instances here—the witness Crouch took the stand and I asked him, "Have you ever been in any institution for nervous or mental disorders?" I thought and I still think

Crouch is an insane man. I think his talk about his experience with the Russian army and I think his requirement that they have agents posted one, two, three around his room are at least some evidences of delusions of grandeur and persecution. I think the man's whole appearance and attitude is that of a man either insane or bordering closely upon insanity. I may be wrong. It might be bad taste if it were not so to inquire. But it was a proper question. We were entitled to ask it. The objection was made by Mr. Donohue. The objection was sustained.

The Court: Mr. Crouch answered the question.

Mr. Hallinan: No. Later at another period he was asked if [8718] he had received any treatment for insanity and he answered the question before the objection was made, but the Court sustained the objection then.

Michener was asked if he knew a Dr. Ernest Cohen, who is a psychiatrist in Beverly Hills, and then Michener was asked if he had been treated by Dr. Cohen for a mental illness in 1944. Objection was made and the Court sustained the objection, page 3914. It seems unfair to press a point that was pressed so far before, but it illustrates the attitude Your Honor took towards the defense of the case, and all I am trying to do is to persuade the Court to look into your own conclusions and your own mind on the matter and see if in effect and in fact you did not have from the start a non-judicious attitude toward the defense of the case and if you did not have and preserve through the case a prejudice and hostile attitude toward the defense. If I thought you were the sort of man it would be worthless to make that appeal to, I would not brother to make it, but I think it may be that Your Honor will conclude that you did in fact put the weight of your standing and your dignity, the dignity of the court itself with the jury, into the scales against the defense.

Here is an illustration to show how the Court's feeling ran on that matter. Having sustained the objection to the question asked of Crouch, having sustained the objection to the question asked of Michener, the Court itself asked Father [8719] Meinecke, page 4974, "Do you have difficulty, Father, with your memory or recollection under ordinary conditions?"

And another question or two later: "Have you recently been subjected to medical treatment?"

Then we made a motion for a mistrial on the matter and an objection to the questions. The Court may not have intended, and the Court stated afterwards it had no intention of questioning the mental caliber of Father Meinecke or his mental processes, but certainly that is the impression that we gathered and I think it is the impression that a jury would gather. Now, whether the harm was undone by the subsequent admonition of the Court is of academic importance at this time, but the attitude of the Court itself and those three witnesses shows a continuance of that hostility toward the defense which the Court unfortunately fell into at the inception of the case. It may be the Court's hostility towards the defense was due to my improper tactics upon the case and to my supposition that it was necessary to bring before the jury the background of the entire matters involving the previous efforts to deport Harry Bridges and the conspiracy we felt sure existed against him. It may be a different approach toward the matter would have put the Court in a different situation. But the question is not who was to blame; the question is, Did the Court have, throughout the case, a certain hostility or bias toward the defense, and was that so expressed as to result in the defendants [8720] procuring an unfair trial?

It is 12:00 o'clock.

The Court: I thought we might run a little longer.

Mr. Hallinan: I have some matters I would like to read. I would ask another hour to finish the matter.

The Court: Mr. MacInnis, do you have additional argument?

Mr. MacInnis: I would like approximately a half hour.

The Court: We will resume at 2:00 o'clock.

Mr. Hallinan: I will try to finish in shorter than that, but I do not want to mislead the Court.

(Thereupon an adjournment was taken to 2:00 o'clock p.m.) [8721]

Monday, April 10, 1950, 2:00 o'Clock P.M.

Mr. Hallinan: If Your Honor please, to complete this phase of the matter, and thereby practically all that I have to say on the motion, as I said, these are no afterthoughts of ours, because in the early part of the case, back on page 815, after the remarks that were read to the Court, there was this motion made:

> "Mr. Hallinan: I want to make another motion, Your Honor, and this one now relates to the case, and I think the slightest reflection will convince Your Honor of its force or validity. I now move to disqualify you from further participation in this case and to ask you either to declare a mistrial, or, better yet, substitute another judge . . ."

Now, this will help bear out our contention that we were not trying to get a mistrial, even when we thought that the Court was acting in a fashion beyond what it should have done. We did not ask for a mistrial, but that another judge be substituted. We had no opinion on the matter. And this was way back in the early part of the case, on page 815.

> ". . . because the statements you have made in reading out this document that you went through, or the record that you went through, having in it every intendment of vigor and intemperance, shows that you prejudged the case of the defendants. You have said that the attempt to show that a [8722] government witness was a part of the conspiracy, which is an essential part of the defendants'

case, is preposterous. You have characterized him as 'this quiet gentleman,' and you accept without question of the possibility of impeachment, his statement that he took no part in the case until 1941. You desire to preclude the defendant from establishing that that witness is capable of telling an untruth upon the stand. As far as other statements concerning whether or not a woman was the mistress of an enemy of M[illegible] Bridges, you called that 'descending to a new low.' How do you know if she was a mistress or not, the mistress of another man who is the enemy of Mr. Bridges? You have disqualified yourself upon the statements that you have read off this morning completely.

"If Your Honor will not do that, which you should do, now you have found a place where your duty is clear, you will concede, I think, that the defendants are entitled to be tried not only before a fair and impartial jury, but a fair and impartial judge. You are supposed to be a thirteenth juror here. You are not supposed to have your mind made up as to who is right or who is wrong or what witnesses are telling the truth or what witnesses are immune from impeachment or above impeachment merely because they are government witnesses. So I ask you now to disqualify yourself, to substitute another judge, or to declare a [8723] mistrial, and if the Court will not do it, then this afternoon

I will prepare and file a formal motion to that effect."

Which was done.

The Court: I made a statement in response to that, as I recall.

Mr. Hallinan: Yes, you made a statement that you had been fair and dispassionate in the matter. No, you just said, "The motions, all and singular, are denied." But you have stated throughout the case that you were fair and judicial in the matter.

However, I suggest, Your Honor, as I said before, that a person is not a good judge in his own cause, and that subconsciously we all feel certain hostilities and certain sentiments that we don't even admit to ourselves. That comes into a person's mind, and a person who wants to be entirely fair with himself will examine as to whether or not such unwanted matters may have crept into his feelings. Certainly you do not contend that you would be above the ordinary weaknesses to which flesh is heir, and that some bias or some prejudice might not have crept into Your Honor's mind, quite honestly, without any willingness to be unfair at all, but with the full intention of being entirely fair.

The Court: Mr. Hallinan, may I interrupt you? Do you recall on how many occasions you stated to the Court, either in the presence or absence of the jury, that I had been fair or [8724] was fair? Do you recall how many instances there were? I am not seeking encomiums of praise; I merely want the record to reflect the fact.

Mr. Hallinan: It happened on numerous occasions. It did happen on several ocasions. Now, may sions. It did happen on several occasions. Now, may rulings were entirely fair. But I can only recall one major ruling that this Court made which sustained an objection of the defendant or overruled an objection of the prosecution—only one major matter. In every other one you ruled against us. The major one that I have in mind is that on Crouch's testimony, where you permitted me to read in the entire speech that Mr. Bridges made in Oakland, which contained the resolution about which we were questioning Crouch. But on every other matter it was quite the contrary.

Now, I will say this also. Far from trying to procure a mistrial or trying to antagonize you, or trying to get you to feel any hostility to us, the least reflection should convince you how foolish that would be. We did endeavor from the start, and I endeavored from the start, to adopt toward you as amiable, as friendly and as conciliatory a manner as it was possible to do. I said things in the opening statement concerning you and regarding you that certainly were encomiums and reflected to your credit. I did nor said anything that I thought would antagonize you the slightest bit. I recognized immediately that you either had formed or were forming a prejudice against the case [8725] as we proposed to introduce it. I thought that I could rely upon your native fairness, because I have known you for many years and had reason to believe that your character is such that you wouldn't be unfair in a case. I thought that we could lead you to feel that at least you should open your mind to the defense that we were putting in. And we went along in that fashion.

It is only in the totality of it, in the final weight, that the Court's continuous attitude toward the defense, that the injury and the harm which was done is apparent.

As far as stating that you have been fair in the matters; yes, I did that on several occasions. Many of them, you merited it. Some of them I said in the hope of mollifying you—to be entirely frank with you.

Now, then, the matter continued on, and with witnesses like Manning Johnson, who are trained and clever, fellows who have been on the witness stand for many years, they have the device on cross-examination of answering a question and then immediately insisting upon the right to explain. Then under the guise of such explaining or under that subterfuge, they immediately launch out into tirades of hearsay, evidence that would be entirely inadmissible under any pretext, and thus get all these masses of hearsay evidence in—very damning to the defendants—statements of people in far distant places and at other times, claiming that Harry Bridges was a member of the [8726] Communist Party. Such things came in time after time, repeatedly, upon the pretext that they were explanations of the answers. On every occasion Your Honor gave the witness full scope to say that; you made no effort, even over the strenuous objections or in the light of the strenuous objections of counsel for the defendants to protect the defendants against such matters.

Now, without going into those and repeating them, I will read one more motion that was made at the conclusion of the testimony of Johnson: (Page 2566, Vol. 22)

> "Mr. Hallinan: Particularly with regard to the testimony of this witness and other witnesses on the matter of cross-examination, Your Honor, we have a motion to make.
>
> "The witnesses by the rulings of the Court have been so protected, shielded from examinations as to deprive the defendants of that necessary weapon, so that it has been in effect a matter that the defendants have been prevented from properly cross-examining the witnesses, and particularly this last witness, were allowed to make speeches and arguments, bringing in hearsay and inadmissible matters that could not have been introduced on direct examination. The defense attorneys have been constantly assailed, quarreled with, argued with by the witnesses, assailed by the prosecution, and when we turn for relief from the bench, far from procuring it, we are assailed by the bench. We have been constantly on the defensive defending ourselves. [8727] We have had to apologize, to make explanations on perfectly proper lines of cross-examination we have endeavored to open. Under the criticism of the Court, we have been required to abandon whole lines

of inquiry, to permit witnesses to leave the stand without being discredited by things that ordinarily tend to discredit them.

"Now, we know that the jury is fair and impartial, that it wants to give a fair and impartial hearing, but the jury is influenced and always is influenced in such matters by the attitude and demeanor of the Court. They look to the Court for fairness and impartiality, and they base their own judgment to a large extent upon what the Court says and does.

"Now, throughout the progress of the case, and especially the testimony of this witness, the situation has so deteriorated that it is obvious that it is no longer possible to obtain a fair and impartial decision of the case. The statements made by the Court to counsel on cross-examination, the protection that has been afforded the witnesses, the permission given the witnesses to make speeches, the witness seizing upon a pretext of explaining an answer that did not call for any answer, are such as necessarily prejudice the jury against the case of the defendants.

"Now, we have spent five weeks in trying the case and I dislike exceedingly to be driven into the situation that [8728] I am now required to adopt, that is, that we now move, if the Court please, that a mistrial be declared in this case, and that the case be remanded for retrial before another court and another jury."

In answer to that, Mr. Donohue said in part:

> "His plan or scheme is apparent. The United States has produced at least seven major witnesses in this prosecution. The testimony of these witnesses was not known and could not have been known by the defendants."

Now, there is quite a boast, too, Your Honor.

> "They now have the advantage of knowing a major portion of the United States Government's case. They are unhappy about it, and of course it is their hope that Your Honor would be misled by the unfair and untrue characterization of the conduct of the trial by Your Honor, as stated by Mr. MacInnis."

And then passing over some similar matters, which I replied to, saying that any statement made by Mr. Donohue,

> ". . . such as he just made, constitutes further grounds to support the motion that I made on the basis of the unfair and the untrue characterizations, the plan, scheme and so forth. Now, we have been anxious to finish this case in as calm and judicial a manner as possible."

And then, following that:

> "Mr. MacInnis—I will not speak for myself, although I must [8729] say that I have never come in for such criticism as I have heard in this matter—Mr. MacInnis has a high reputation for integrity, for ability, conducting his cases in a calm and dispassionate way. I think

> he showed it under great stress and difficulty throughout this trial, and yet——";

and now I call Your Honor's attention to this description of the sort of criticism and the attitude of the Court toward Mr. MacInnis is not an unjust one, that this is fairly merited:

> "——and yet there has been that same overlying menace by the Court. Questions which he asked, which if objectionable would ordinarily be disposed of by a mere suggestion of the Court that the question was not proper or sustaining an objection, or even going to the extreme of directing the jury to disregard it, have been characterized by the Court in the presence of the jury in terms that, to say the least, were not deserved. Mr. MacInnis has not made any strong effort to defend himself from the statements. The Court has constantly, even in passing by my situation, made statements that contained very thinly veiled threats, so that the net effect, if the Court please, is that the independent presentation of the case by officers of the Court, which we are, is so hampered and has been so hampered that it is my opinion at this time that it is no longer possible to obtain a fair and impartial trial in this case. We haven't any regard for these witnesses [8730] that counsel suggests. Under ordinary circumstances we would be inclined to treat the entire case that they have presented with the greatest contempt. But under the circumstances their

> statements, their actions, supported and bolstered by the attitude that the Court has adopted toward us, is such as to compel us, in the interests of our clients, to make the motion that I have addressed and to move for a mistrial."

Now, at the conclusion of the case and when the Court criticized me with the vigor that it did, it had occurred to me that the Court was in fact venting—humanly, but wrongly—a personal spite against me. The Court disclaims that. The Court says no, that no such thing has happened. Then what is the answer to it? Now, if the characterizations that the Court made were not directed against me personally, then were they directed against us as officers of the court? Were they directed against us as lawyers? The Court,—I feel sure,—and your own experience should bear me out in this—does not think that the dignity of courts is sustained by creating a subservient and truckling bar. That a court may be able to intimidate lawyers, particularly in cases of this kind, into relinquishing the rights of their clients, into adopting a timid or frightened attitude may be possible. I hope not. I hope it can not be done. I hope that the independence of the bar is superior to that. But if it should succeed in doing so, your Honor, it would reflect credit and it would reflect glory neither upon the bar nor upon the [8731] bench. I therefore feel sure that the Court can not be actuated by any desire to suppress the bar of this city or of this nation, to tell lawyers that anything that they say which disagrees with the bench's opinion or statements, or which flies contrary to opinion which the bench has created, should be adjudged contempt of court and that a lawyer should be punished or injured by that. I can not conceive that the Court should have that opinion.

Where does it come from, then? Does it come from a resolution upon the Court's part that, because the Court has been misled by the government into thinking that they have an open and shut case, an unanswerable case, there should be a conviction in the case? Does it stem not from any personal animus against a party nor even a desire to suppress attorneys as such, but from some dislike or hatred of the defendants or some previous conviction that they should be, or that a verdict should be returned against them?

After the verdict came in in this case, the Washington Post, which is a reactionary organ, published an editorial on Bridges' conviction; and I just want to read one sentence from it. It says: "From beginning to end, the Bridges case has placed a very severe strain upon traditional American concepts of justice."

Now, these men, your Honor,—Harry Bridges particularly—are accused of the crime of perjury, a crime that is committed [8732] a great many times in our courts; a crime that we do not attempt to condone or to deprecate. But that is all they are charged with. Yet it is obvious that not only was the government intent upon procuring, by fair means or foul, a conviction—but that the Court was leaning the full weight of its dignity and its prestige and its honor, on that side. Why? Why? What have we here? Professional criminals, making a living by preying upon the public? Have we holdup men or people that destroy the morale of the community? Not at all. We have three good men, three men that have devoted their lives toward bettering the conditions of their fellow men. That is the crime, that is the characterization, and that is the character they bear that should turn anyone against them! In other words, their virtue has become a fault and in a court where we see the commonest kinds of criminals, the worst kind of people having their rights sedulously protected by the court and by you as one of the judges—because you have that reputation for fairness in the ordinary criminal case, leaning over backwards, as you expressed it of Mr. McMillan, to see that they get a fair trial: Yet here we see these three men who have never done a bad or a vicious thing in their lives, but have devoted their time, their safety to bettering the condition of their fellowman—as high and exemplary a profession and ambition as one can devise. Yet against them the Court must lean its weight. Against those men this Court must put the stress of its own dignity, to the detriment [8733] of these men.

Now, they have been talking about it being an ordinary criminal case. Yet counsel did not stop himself from getting up here and talking about Communists, "rats scurrying to their holes," or pointing to the folds of the flag, making of it a political argument, an economic argument, in a case that they have been contending is only an ordinary criminal case. That they should take the folds of the flag, Your Honor, and plant it in the foul and rotten corruption that they heaped up in this court is descending to a new low. That they should take the folds of that banner and use it to mask and cover the imperfections, the obscenities of their case is descending to a new low. And I say to you, Judge Harris, that you should go out of your way now to examine whether or not your own conduct hasn't been such as to lend just a little impetus that was necessary to overturn the balance of justice and to bring in an unjust verdict against these men—and undo the matter at this time. I think that is the duty that this Court should perform at this time.

And I say this further, that it has now become apparent that in a political trial a lawyer runs risks even in entering a court. In contending against case of this kind, prepared as these are, where does he stop and what position now can he take where he can say, "I have gone far enough; my own safety and my own standing now prevent me from going further."? There isn't [8734] any place: He has to carry along as far as he can.

So, without taking any special impetus or without any special rancor for the Court, the situation is already sufficiently dangerous when the lawyer enters the court. As far as I am personally concerned, I say this. I have never represented clients whom I have been prouder to represent. I have never before in the trial of a case felt that I was performing the duty that is imposed upon lawyers theoretically and seldom carried out. I never felt before that I was observing that portion of the oath that we took when we were admitted to the bar, to never refuse for causes personal to ourselves the cause of the downtrodden and oppressed. I am very proud of representing these people. In all my contact with them, I have been unable to discover in any one of them any of those imperfections or blemishes which would seem to have impelled this Court to have given them less than the most meticulously fair trial, that was within the power of the Court to give. And I submit, your Honor, they did not receive a fair and impartial trial, and they are entitled to a new trial.

Mr. MacInnis: Well, Judge Harris, before speaking with you, as I will in a moment, about Mr. Robertson and Mr. Schmidt alone, abstracted as far as is possible from the companion case of Harry Bridges, I want to bring one technical matter to your attention because I think that if I fail to mention it now, the record may be silent upon a matter in which I thought I had [8735] made an adequate exception.

In making the objections to the instructions which the trial court read to the jury, I thought that I had taken the statutory exception to your failure to read our instructions Nos. 78-A, 78-B and 78-C. I thought I included them, but I see, in reading the record that there is no mention in it. Now, I can not swear that I did use those numerals. I thought that I did.

The Court: Well, I will examine the record, Mr. MacInnis, and whatever the fact is, the record may be maintained.

Mr. MacInnis: I think you will find they are not mentioned, according to the record. 78-A, 78-B and 78-C. I think the interest of justice would be served if exceptions were noted to the failure to read those instructions, because I fully meant and I think I did make exceptions to those particular failures.

The Court: You proposed four or five supplemental instructions.

Mr. MacInnis: Yes.

The Court: That was at the termination of the case. I did give one of the No. 78 group, or two of the 78 group, according to my recollection. I had better check the record, however.

Mr. MacInnis: Very well. Now, in speaking with you, so far as I am able, on behalf of the request for a new trial, a request that you reexamine the evidence, the evidence posed against Mr. Robertson and Mr. Schmidt, of course I can not know what the perspective of the trial court is at this time. I [8736] mean by that since last Tuesday, after the passage of those days when we heard the doomful words from the foreman of the jury, when we saw that all that we had denounced as loathsome, as conceived in badness, as foreign to the light of day, was embraced and even vindicated by the trial jury, we stood here shunned and shocked and stunned. Now, I don't know what your perspective has been in the interim.

I approach the matter today still not without hope. I think that there is a great deal of hope. We haven't lost confidence in the judicial system. We haven't lost confidence in the integrity of our case. We haven't lost confidence in the innocence of the three men whom we strove to represent here.

We have been very gratified—we have received hundreds of letters from various parts of the country commending ourselves. But at the same time, I am conscious, I have read in the papers that the trial judge has received bales of letters commending him on his conduct. So as I say, I can not know what your perspective is at this time, whether you review your actions in the same light as pervaded the case during the trial itself.

In saying to you that I have hope still, of course I have in mind that hope is one of the phenomena of human life. It abounds with us always. Without it we could not survive. Away from its aura even now persons like ourselves, Mr. Robertson, Mr. Schmidt and Mr. Bridges would be trapped forever in the toils of despair. They would have despair in themselves, they [8737] would have despair in the other humans in whom they reposed so great a faith. They would have despair in the terrible and perfidious recitals to which we have listened here and which have now found an echo in the verdict of a trial jury.

So as I say, we still cling to that slender bulwark that hope provides for us. And I say this to you: After the indescribable bitterness in the trial involving the emotions and even the hatreds of many people—myself, yourself and others— I am still going to try to approach the matter at hand, bearing at least a lingering hope.

The Court: Mr. MacInnis, so the record will be clear, when you ascribe any hatred to this Court, I wish the record to show that I deny any such assertions, that I had no bitterness, ill will, hatred or venom of any kind toward any man, lawyer or principal in this case. I say that for the record, so that my silence may not hereafter be regarded as acquiescence in your remarks.

Mr. MacInnis: Well, looking at the past in the record which has unfolded itself, I wish I could accept the statement of the Court. But I can not do so, in justice to myself or in justice to our clients. But, as I say, I am going to try to approach this matter with a lingering hope that you can put aside, if only for this afternoon, the feelings that we think were attached to your activities in this case. I hope you can do it. I think you can do it. I don't see any reason why you [8738] can't do it.

The charges against Bob Robertson and Henry Schmidt are framed in the lips of the indictment. They are charges there quickly read, but not so quickly understood. They are charged, and I say this in the light of all the evidence in this case, with conspiring at times and in places to the grand jurors unknown and with persons to the grand jurors unknown, to obstruct justice in the obtaining of citizenship for Harry Bridges, a man who is not entitled to that beneficence. Now, we heard in this case for the first time out of the lips of Mr. McMillan, the prosecutor who made a very short opening statement, that Henry Schmidt and Bob Robertson, were both charged with being members of the Communist Party. We heard it for the first time. Without that statement we had no knowledge that that was to be the charge in this case. And I want to refer you at once, particularly in the light of the comment which you made a few moments ago, to the attitude you assumed at the very start of this case —not toward Mr. Hallinan or Mr. Bridges, because Mr. Hallinan has presented that matter already today, but towards me and toward the two people whom I am sure you didn't know at all. You may have known Harry Bridges from public utterances, from his appearances in public life in San Francisco, but I think that to you, as well as to the jury and to the prosecutors, to the other members of the public, Mr. Robertson and Mr. Schmidt were two new faces, whom you may have passed without knowing. [8739]

Now, after Mr. Hallinan made an opening statement, we still had as a signpost for what we might expect in the evidence against Mr. Robertson and Mr. Schmidt only the bare and skeletonized statement by the prosecution. About one sentence was uttered. I think Mr. McMillan told the Court and the jury that he would show that Mr. Robertson and Mr. Schmidt were members of the Communist Party and that they knew Harry Bridges was a member of the Communist Party, and that in that capacity they entered into the conspiracy. So, after Mr. Hallinan finished his opening statement—certainly a statement which could well have been made because of our knowledge because of the previous Bridges deportation hearings—I arose before you and I told you that we still didn't know what the nature of the case would be against Mr. Robertson and Mr. Schmidt, that I would like to ask leave to reserve the opening statement on their behalf. Do you remember what your reply was? You turned to the jury with the same bitterness that we say characterized your demeanor with Mr. Hallinan, and you said this:

> "Mr. Hallinan knows the names of all the witnesses; Mr. MacInnis knows none of them."

Shrugged your shoulders. Now, examine your own conscience and recall whether or not you did precisely that. And recall what the motivation was when you said those words—whether you uttered those words in a spirit of judicial calm or whether you said those words out of some vexation, whether small or great. [8740] I think you will come to the same conclusion that I embrace.

Now, what shall be your attitude now? You may say to yourself, "If these men think so ill of men, if they think I am biased and unfair, why do they approach me now?" Well, if you approach our present entreaties much as we say you regarded our efforts during the trial, we might as well stand silent. But on the other hand, if you listen to us now in the same frame of mind that you must have possessed back in 1943, when you asked for and obtained the endorsement of Harry Bridges and the ILWU for your own reelection as municipal judge, I think then you would weigh our words, and I think you would pass upon them without any degree of impartiality. In those days when the world was young, back in 1943, Harry Bridges was under a deportation order. There was a finding of fact against him by an Immigration examiner. But you, along with many other high-minded people in this community, apparently refused to accept the verity of that decision until it was passed upon by the Supreme Court of the United States.

Now, the Supreme Court of the United States' decision is a matter which has come before you in all sorts of guises during the course of this proceeding. It came before you from the perspective of the law alone in the motions which preceded the impanelment of a jury here. It came before you by way of cross-examination of prosecution witnesses. It came before you as a substantive matter in the defense case. [8741]

I am convinced—and as my partner, Mr. Hallinan, said, I may be wrong just as he may be wrong in the conclusions that we have reached; perhaps we have reached them out of some of the same bitterness that we attribute to you, I don't know. But I have reached this conclusion: I think that you got the idea somewhere in the start of the case, and I have said this before in one of the legal arguments which we had over the admission of evidence, that we were going to try to bootleg the Supreme Court decision into evidence by hook or by crook, by one means or another; and making up your mind that that was a wrong thing to do, you decided that your decision was a final one and that no matter what the facet of approach might be, you were going to hold that the Supreme Court decision in the Harry Bridges case had no bearing either in law or in fact.

Now, the only matter concerning the decision of the Supreme Court, the only facet of the matter which I would mention to you now, is the substantive matter. Bob Robertson and Henry Schmidt gave testimony in this case. They were charged in the indictment with entering into a fraudulent conspiracy. By the very essence of that charge, their intent, the presence or absence of good faith, was a necessary ingredient in the whole picture. And what did they say to the Court and jury? Well, they both told the Court and jury that basically they believed that what they said was true at the time that Harry Bridges' application for citizenship was made, because they had known the [8742] man over the years and they had bolstered that opinion by reading the decision of the Supreme Court of the United States. I will read to you what Mr. Schmidt said, on page 4629 of the record. I think I was examining him, and I asked him what his reasons were for recommending Harry Bridges for citizenship.

He said:

> ". . . and, secondly, I had read the decision of the Supreme Court, and I thought, well, as long as the highest tribunal in the United States of America has made a decision with respect to this case, the matter is now settled for

> all time; and I had no hesitation to recommend this man for citizenship."

Then I asked him this question:

> "Q. Well, did you rely, in making the answers that you gave, upon all the matters which you have just now mentioned?"

And he said:

> "A. Yes; on the fact that I had read the decision and also because of my association with the man through the years."
>
> "Q. In other words, (I asked) you relied upon two things: Your own knowledge and association with Harry Bridges over the years, and secondly, your own reading of the opinion of the Supreme Court of the United States in the matter involving Bridges, is that correct?
>
> "A. Yes, and I thought that that was [8743] sufficient."

Then there was a legal objection when I offered to introduce the bulk of that opinion itself into evidence, and of course the Court will remember that the objection was sustained. I submitted to the Court at that time a memorandum of cases, a variety of cases, dealing with the substantive rights of defendants charged with various kinds of fraud against the United States of America, and the cases, in my opinion, were uniform. I have yet heard no one propose a case to the contrary of the proposition that where the good faith of any man charged with crime is in issue, he may offer to the Court and jury anything upon which he relies to show that good faith.

We made the same offer in the testimony of Bob Robertson. He said this, at page 5043:

> "A. Well, as I started to say, discussions with others, actions taken by organizations, studying the transcript of the various trials, particularly the Landis trial and the Sears trial, and all of the stages from the Sears trial up to the Supreme Court decision—all of these things had a bearing in making up my decision on this matter. * * * And finally, a decision of the United States Supreme Court came out. I studied that decision. I studied the majority decision and I studied the concurring decision, and I made up my mind then and there that President Bridges was not, had never been and was never affiliated with the Communist Party; and the Supreme Court of the United [8744] States is something that I think speaks with authority."

Now, that was the testimony upon which the element of good faith or bad faith must necessarily have depended. If the jurors inquired of themselves, forgetting all about the merits of the controversy over Harry Bridges, "I wonder, were these men honest? I wonder, were they sincere? I wonder, did they possess the requisites of good faith? I wonder if they are telling the truth when they said they relied, at least in part; upon the decision of the Supreme Court of the United States. What was that decision? What did it hold?"

Our mouths were stopped by the objections of the prosecution. Whenever we mentioned that document, the jurors were never permitted to read the document. In fact, when the argument was renewed, while the defendant Robertson was upon the witness stand, Mr. Donohue, the special prosecutor, made this very interesting observation when I proposed that the Supreme Court decision, for a new reason, had now become material to the case. He said this to you and to all of us. He said the fact that Mr. Robertson, along with many other misguided people, may have falsely interpreted the meaning of the United States Supreme Court decision is not material here. Ignorance of the law is no excuse. Now, that is the very point which the cases of our courts of last resort have decided—that even if a person who is charged with fraud relies falsely, relies to his own detriment, relies foolishly, relies without the logic of a trained [8745] lawyer, upon some document; if he relies upon that document in good faith, it is a complete defense to the charge.

Now, with that particular argument in mind, I wanted to ask you briefly to review with me the nature of the evidence against Henry Schmidt and Bob Robertson. I think this: the evidence against Henry Schmidt exceeded in quantity the evidence against Bob Robertson. It hardly exceeded it in quality. It was all evidence of the same sort. Henry Schmidt was mentioned in twelve separate instances by the testimony of various witnesses. I think it won't take very much time for me to review those.

On Page 1035 the witness Schomaker says that Henry Schmidt was present some time in the year 1938 at a party at the home of a man named Jack Shaw. That was the meeting in which Harry Bridges is supposed to have mentioned his own membership in the Communist Party.

At page 1046 he is mentioned as having various undescribed meetings with Communist Party members.

At page 1051, a settlement of the 1934 strike being effected, there is a discussion with men like Darcy mentioned. Darcy, whom Schmidt never knew. And then a later discussion in 1935 with Schneidermann, whom he has met twice in his life.

On page 1068 we were told that Henry Schmidt attended a meeting to discipline a woman called Norma Perry.

At page 1090 he is alleged to have been present at a meeting [8746] at Sokol Hall here in San Francisco, to hear William Schneidermann make some speech.

At page 1095 he is named as one of those persons present at a prune orchard meeting in the 1934 strike, said to be for the purpose of meeting Earl Browder.

On page 1498 Henry Schrimpf said that it was Henry Schmidt who handed him an application card to the Communist Party.

At page 1981 he is said to have been present at a meeting in the Sumner Apartments in San Diego in 1935. A man named Hancock, who saw Mr.

Schmidt that once, he says, and never thereafter, gave that testimony.

On page 2142 he is placed by the witness Krolek in the Venetian Square Apartments in Long Beach in May of 1936. And the same witness says a few pages later on that he saw Henry Schmidt inside of the office of William Schneidermann upon one morning in 1936.

At page 4010 the witness Wilson says that he attended more than one Communist Party meeting with Henry Schmidt. He doesn't describe the meetings nor tell us the place.

And lastly, the witness Rathborne makes one mention of Henry Schmidt, on page 6349. He said that Henry Schmidt was a member of some waterfront section committee of the Communist Party.

So far as Bob Robertson is concerned, there are three occasions in which he is mentioned in the evidence. At page 4009, [8747] the witness Wilson says that he attended, to quote him, "more than one Communist Party meeting with Bob Robertson." And he says that that was his understanding, that Bob Robertson was a member of the same unit as himself.

The witness Rathborne adds two references concerning Bob Robertson. On page 6332 he says that Robertson was a member of what he called "God's Committee," and on page 6420 he says, "I believe, but I am not certain that Bob Robertson was at a meeting held in December, 1943." That was the meeting which he said followed the CIO convention at Philadelphia, in which it was discussed that Mr.

Connally should be replaced by Mr. Thimmes. Of course, so far as that last meeting was concerned, the evidence was uncontradicted that Robertson was not in San Francisco during any period of time close to that particular month.

Now, in reviewing the evidence about these two men, I know of course that upon any matter of fact the verdict of a jury is ordinarily regarded as conclusive. The question that the Court must determine now is, what is the sum total of that evidence? Well, I think this: I think the evidence, whether it is slight or whether it is strong against Robertson and against Schmidt, is some circumstantial evidence of membership in the Communist Party. Now, that is not what they are charged with in this case. That is not the accusation which they came in here to defend. It has been made the illusory charge, as the case has progressed. But as a matter of law, I don't think you can look at the [8748] record in this case and find a scintilla of proof, even of a circumstantial nature, that either Bob Robertson or Henry Schmidt knew or should have known that Harry Bridges was at any time a member of the Communist Party. At least, I don't think any shred of circumstantial evidence to that effect can be found, sufficient to outweigh not only the presumption of innocence but the instruction on circumstantial evidence which the law demands be given in this case.

The jury was instructed that if the evidence is consistent with the theory of innocence as well as with the theory of guilt, that the benefit of the doubt must be given to the defense. Now, looking at the evidence, particularly against Robertson, in the light of the well known state of our law on circumstantial evidence, it is incredible to my mind that the verdict can be allowed to stand such as this. If the Court even believes that there was circumstantial evidence out of which it could probably be inferred that either of these men should have known about any alleged Communist Party membership on the part of Harry Bridges, we have this further question, as a matter of law: Would that knowledge cause them to realize and to state that Harry Bridges was unfit to become a citizen of the United States? The person whose name I can best cite to your Honor in that respect is Mr. Donohue. Mr. Donohue told the Court and jury in reference to a document which had been signed by George Wilson that as late as 1945 the Communist Party was not a proscribed [8749] organization, that it had not then been denounced as subversive by the Attorney General of the United States.

Henry Schrimpf. It would be idle, I think, to review the matters concerning his naturalization. Both Henry Schrimpf in 1943 and George Wilson in 1945, signed affidavits stating that they had never been members of any organization having for its end the overthrow of the government by force and violence. When we contended that those signatures made those men chargeable with perjury, the special prosecutor at once made reply that in those periods of time the Communist Party was not a proscribed organization. Well; if that is true, if we accept that statement as a matter of law, any knowledge that Bob Robertson and Henry Schmidt might have had at that time, that particular time, about Harry Bridges or any suspicion that they might have had, could not possibly as a matter of law have entered into their opinion of the fitness of Harry Bridges to become a citizen of the United States.

If we are speaking upon the premise that ignorance of the law is no excuse for anything that they might have said or done, why, we would have the further fact that in the year 1945 there was in existence another decision. I don't claim that these men have read the decision, and I don't think they have. It has not been brought into evidence in this case. It was, however, the law in the very case of William Schneidermann, that membership in the Communist Party did not disqualify any [8750] particular person from becoming a citizen of the United States.

Over and above all of those matters, where would we find conspiracy? Where would we find unlawful agreement? Robertson, coming in at the last minute to endorse the application for citizenship of a man he revered and admired. Robertson, who had walked over to the City Hall just as a matter of companionship and knew nothing about it. Robertson, to whom nobody had spoken. I can not, although I confess that my own eyes are perhaps biased—I can not, in examining this case, find any evidence that would link either Mr. Robertson or

Mr. Schmidt with the intendments of the indictment.

Now, much has been said about the prejudice that resulted against Harry Bridges. I think that the prejudice resulted in even greater degree against Mr. Robertson and Mr. Schmidt. They were private citizens, men whose names were not upon the lips of every member of the reading public. They were brought in here to stand trial in the shadow of Harry Bridges. There is one thought—it is a thought off the streets, it is not a thought based upon any legal document—that comes to my mind today. When I was given the opportunity last week of rising before you and taking exceptions to the charge which you had read to the jury, I commented that the atmosphere of the charge itself was one which cast a further bias upon the defense. I charged in making the objections that great emphasis had been placed upon those rules of law which ordinarily would seem to [8751] favor the prosecution, and that very little stress had been placed upon the ordinary safeguards which surround the defense. I find that very criticism corroborated by the writings in our current periodicals of today. The daily papers carry a story of an interview with the foreman of the trial jury. He said this, that matters involving the credibility of witnesses they regarded as immaterial, that the matters involving the character of testimony they regarded as immaterial. Of course, even if we had an affidavit from that gentleman, the affidavit of a trial juror could not be used to impeach the verdict. But it lends substance to the criticism we made at the time that you read your instructions to the jury.

If this case has been a political case against the defendant Harry Bridges, it has been a political case in even greater degree against Bob Robertson and Henry Schmidt. I can remember, in reading over some of the early transcripts in this matter—I don't recall at the moment whether the matter I have in mind was before you or before His Honor Judge Roche, but I remember, when the charge of a political case, or words to that effect, was made by those representing the defense, Mr. McMillan and Mr. Donohue rose and said to the Court, "Why, this is just a simple case of violation of law. There is nothing political about this case." Now, I ask you to contrast, if you will, that statement with the admitted state of affairs which brought Mervyn Rathborne back to Washington to meet the Attorney General of the United [8752] States, a meeting in which a discussion was had to the effect that some action must be taken to get rid of the influence of Harry Bridges in the labor movement. There was not a word about perjury, there was not a word about conspiracy with other people. Nothing of that kind was mentioned—except that some action of some kind must be taken. The vehicle had not yet been selected.

In 1932, when President Roosevelt was making his first great efforts to lift this country out of the morass of the depression, he said some words that have been repeated very often. He said, "We have nothing to fear except fear itself." In this case the defendants, to my notion, have not been convicted upon evidence, but they have been convicted out of fear; they have been convicted out of nameless and senseless kinds of fear, but a fear that was all-pervading in the course of this trial. And as I said the other day, if there is a price for perjury, if there is a bounty for lies, if there is a bonanza for perfidy in this case, we know where those accolades of applause will belong. We know from what we have seen in this case that the race is not to the swift, nor the battle to the strong.

I have one more thing that I would like to say to the Court. You will have to live the rest of your life with the decision in this case. You will have to live the rest of your life with your own conscience and what you have done. Bob Robertson and Henry Schmidt are two men who were singled out of [8753] private life because of their association with Harry Bridges. Let me recall this thought to your mind as a practical example. When the Supreme Court decision was handed down from Washington, when Bridges was joyful because at last he could achieve his ambition to become an American citizen, a citizen of the United States, there were many other people in those years at the very close of the war who rejoiced along with Harry Bridges. They were public-spirited citizens, wealthy citizens, employers, men of renown. Hundreds of people offered to become his sponsors, sponsoring witnesses, in his application for citizenship. Harry Bridges said, "No, I am going to have a couple of old-line trade unionists along with me."

He chose Henry Schmidt, who had been with him since the days of the strike of 1934 and prior to that, and he chose another man, Paul Schnurr—another man, an elderly man who had been in the union for many years. When Paul Schnurr failed to qualify for some technical reason before the Immigration or Naturalization examiner, Bob Robertson, who was at this time titular head of the Warehousemen's Union of the ILWU, was there, and Robertson stepped forward and said that he would be glad to endorse the citizenship and the application for citizenship of Harry Bridges.

Now, in that brief moment those men could not have known that in later years they would be charged with a criminal conspiracy. They could not know that every errant thought, every act, everything committed, every conference had by them in the [8754] course of trade union business, were later to be interpreted with the stamp of Communism and brought before a trial court and jury.

Mr. Hallinan has told you, as he told the jury, that these are good men, men of unblemished character. I wouldn't say that to you and ask you to accept that because I make the remark, because I think the evidence shows something far more eloquent. We produced character testimony on behalf of all three defendants. There was not a single person in this community who could arise with one word that would cast disrepute upon any of these three men. Moreover, in the cross-examination of the character witnesses, the whole lives of each of these three men were laid bare. What developed?

The Court knows the answer as well as I. If this is a matter for your conscience, and I am sure it is, I think you could rest a lot better satisfied in the performance of your duty if you regarded for just a few moments the kind of evidence against Bob Robertson in this case. As I say, the evidence against Henry Schmidt is a little greater in quantity, but certainly not better in quality.

Bob Robertson, upon three incidents in his life—undescribed incidents, incidents in which we are not even told who were present—has now been convicted of a felony. A man of whom you never heard, whom I never met until last fall, whose name was scarcely known to the public of San Francisco, finds himself now upon the brink of every kind of public forfeiture. [8755] Why? Because George Wilson said that it was his, to quote him, "understanding that Bob Robertson was a member of the same Communist Party unit as" himself—an opinion which was allowed to stand in the record over objection. Why, again? Because Mervyn Rathborne uttered two sentences about Mr. Robertson, called him a member of a group called "God's Committee" and said he was present at a meeting in San Francisco at the end of 1943. Upon those three incidents the trial jury was asked to believe, and it obviously did believe, that Bob Robertson entered into a conspiracy as described by the indictment in this case. I don't think you believe that Robertson entered into any such conspiracy. I don't think you believe that Schmidt did, either. I know they didn't. But as to those two men, I would ask you, forget the atmosphere of what I have said, forget the feelings that I have for you and that you have for me, whatever they may be; but just think about the evidence on Mr. Robertson and Mr. Schmidt and ask yourself this: Will you be content for the rest of your life to know that as a trial judge you allowed two men to be convicted of a crime of felony upon evidence of that sort? I ask you to do that.

The Court: We will take a short recess, at this time, if that is convenient?

Mr. Donohue: Yes.

The Court: We will take a fifteen minute recess.

(Recess.) [8756]

Mr. McMillan: May it please Your Honor, I shall be extremely brief. With reference to the motions made in arrest of judgment——

The Court: First, Mr. McMillan, may I ask you to address yourself to the suggestions made by Mr. MacInnis concerning the failure or asserted failure on his part to note exceptions in connection with certain proffered instructions, to wit, number 78-A, B and C submitted by the defendants? If in fact that situation should be noted in the record, I am perfectly willing that they reflect whatever the situation may be.

Mr. MacMillan: If exceptions were taken in the presence of the jury, that is, before the jury retired, or even while they were in retirement, the record discloses that those instructions were requested and exceptions were regularly taken, yes, Your Honor.

The Court: May I ask Mr. Donohue and Mr. McMillan to address themselves to the record, perhaps at the conclusion of the matters today, so a stipulation may be entered into, or in the absence of a stipulation the Court might make an order? I have not had an opportunity to go into the matter to the extent it may deserve, and I do want the full rights or the rights of the defendants to be preserved in all matters, but frankly, I have not had an opportunity to go into the record. I have asked my law clerk to do it, but I want confirmation of it.

Mr. McMillan: We shall be pleased to do that, Your Honor. [8757]

The Court: All right.

Mr. McMillan: In connection with the motion in arrest of judgment, all matters with the exception of one matter before this trial began were passed upon. Motions were made and they were considered and Your Honor decided those matters, every one of them, as shown by Your Honor's decision in United States v. Bridges and others, reported in 86 Fed. Sup., pages 922 to 931. Every one of them has been decided with the exception of one, and that is this: Counsel in the motion in arrest of judgment, one of the grounds given was that the Court erred in having denied their motions for a directed verdict. In the first place, under Rule 29, under the new Criminal Rules of Federal Procedure, motions for directed verdict are abolished and motions for judgment of acquittal shall be used in their places. Now, at no time was a motion for a judgment of acquittal made or, for that matter, a motion for a directed verdict. The only time it appears in an instruction, Your Honor, it was requested that Your Honor instruct the jury to find the defendants not guilty, but that is altogether different from a motion for judgment of acquittal or a motion for a directed verdict. The motion for a judgment of acquittal could have been made at the conclusion of the government's case in chief or at the conclusion of all the evidence in the case and in neither took place. Neither a motion for a judgment of acquittal or a motion for a directed verdict was made at either stage. [8758] with reference to the motions made for a new trial, may it please Your Honor, nothing occurs to me in any legal argument made that is worthy of a reply. All those matters, may it please Your Honor, were argued during the course of the trial. This trial consumed 81 days, and counsel, Mr. Hallinan, spoke for six days; Mr. MacInnis spoke for two days. Every one of those matters was covered during the trial. This was just another one of those paroxysms of scurrility, rancor and an attack made against Your Honor and it just represents—I was listening to Mr. Hallinan—it represents an effervescence of his spleen in an attack upon Your Honor, a clutter, as it were, an exhaustless clutter of indignities and rancor against Your Honor. He complains of your attitude as being non-judicial, the Court prejudged the case, made up its mind in advance, approached the case with hostility, suspicion and prejudice, and much to my surprise, there was much more blasting effect. For example, the Court leaned its full weight of authority and prestige upon the side of the government. That is simply amazing to me, may it please Your Honor, amazing! He made many such statements, sort of Sunday supplement stuff, I suppose, for publication; but all that went before. It seems he is still, as it were, writhing under this contempt case, still whimpering and whining about this contempt matter. This is not the case of United States v. Hallinan; it is the case of United States v. Bridges and others. The Hallinan case will come up in the Circuit [8759] Court of Appeals next Friday.

Now, may it please Your Honor, repeatedly during the trial of this case counsel has stated to Your Honor that this case was fairly and impartially tried. He thanked Your Honor. He conceded that here today. He speaks about the major decision. I do not believe there has ever been anything in this Federal Building like the wide latitude that Your Honor gave the defense upon their examination of the witnesses, over our objections on many occasions.

The Court: You objected very strenuously.

Mr. McMillan: I did, many times. I did object to the wide latitude and urged under Supreme Court decisions that Your Honor should confine it within reasonable limits. Your Honor said, "No, I am going to grant the widest latitude in this case. I am not going to allow any unbridled latitude." But, respectfully, I think Your Honor did on many, many occasions allow unbridled latitude in this case. I never saw an examination, again respectfully, take such wide course and go so far afield and travel all over creation upon the ground that they were testing the qualifications of the witnesses. At no time did Your Honor stop them.

He speaks of these matters not being afterthoughts. No, they are not afterthoughts. But I can not overlook the fact, as I say, that his real complaint seems to be his contempt matter, and it is an interesting thing to me. Mr. Hallinan [8760] stands here. He makes a sort of insidious, clever attack upon this court. But he is not by any means as clever as he thinks he is, Mr. Hallinan, by no means. He will rise to lofty thoughts at times, and he talks about Your Honor's fairness, your native fairness, and how he has been so amiable, friendly and conciliatory and all that. And then in quick transition he charges you with personal spite —these vicious, fraudulent charges he makes against Your Honor. Flying fishes can stay in the air for a while, but they soon have to splash back into water and return to their true element. Counsel rises loftily in the air. Nice things he says, and then he makes the transition.

Your Honor, this motion for a new trial is astonishing to me. What questions did he argue? What legal grounds are there in his motion for a new trial? Hasn't it been in the main nine-tenths of it a personal attack upon Your Honor? Wasn't that made all throughout the trial? And as he says, it is no afterthought. Let me read something that is very clever, very insidious, but thought to be very clever by counsel. Let me read this to Your Honor in his argument to the jury. Let me read this and you will see it is no afterthought and see who you think he has in mind when he says this to the jury. The point of the matter is that everything that has been taken up here the jury has considered. The attacks upon this Court, obliquely, clever, have been heard by the jury in this case. Let me read this to [8761] you, and in the light of what is said here today by Mr. Hallinan, by Mr. MacInnis, think of Mr. MacInnis standing here and admonishing this Court, standing here, and Your Honor having to live with this through the rest of your life. Consult your conscience, the admonitions of this young lawyer to a federal judge on the bench! To me it is execrable. Let me read this to you:

> "If there is any figure, any historic figure that is vested with the contempt of humanity, it is the unjust and biased judge, the judge who, elected or appointed to high office, sits upon the bench with his mind made up in advance"——

the very words he used here today—

> "as to what he is going to do in a particular case and how he is going to rule before he has heard the evidence, and then conducts himself in accordance with that resolution."

Did you hear that today, Your Honor?

> "From time immemorial, from the earliest writings of the Talmud, the Koran, the Bible, and from the tomes of ancient Asiatic countries, history and tradition have recorded the

> contempt and the hatred that mankind has felt for the unjust judge, the judge who acts upon prejudice and a bias, upon some motive or some consideration foreign and alien to what he has heard in the court."

That is what you heard today. The jury heard that and they have decided this case. In other words, they have had all this matter before them. It appears to me, Your Honor, that counsel [8762] just could not forego the opportunity on this occasion to strike one last blow at Your Honor for publication. I know nothing to add here. And I repeat, Your Honor gave them the widest latitude. Repeatedly he announced to you he had a fair and impartial trial. The jury considered this case, 81 days of trial. There is not a matter that I have brought to Your Honor's attention except with reference to the motion for a directed verdict that was not fairly considered by Your Honor and by the jury, and the verdict of the jury in this case was not guilty.

I have nothing further to add, may it please Your Honor.

The Court: Mr. McMillan, addressing yourself to Mr. MacInnis' argument concerning Messrs. Schmidt and Robertson, the two co-defendants, have you any observations to make in that connection?

Mr. McMillan: I have this observation to make: Mr. Robertson took the stand in this case, and after that testimony in came the testimony of Mr. Wilson, in came the testimony of Mr. Rathborne. Now, at the conclusion of the government's case in chief, I wondered why a motion was not made for a directed verdict. I have some doubts in my own mind. But having put him on the stand, and Mr. Wilson having testified and Mr. Rathborne, and in the face of no motion having been made for a directed verdict at the close of the government's case in chief, they were content to stand that way and had Mr. Robertson brought right in with a bang. That is the only observation I have to [8763] make about that.

Mr. Hallinan: I would like to say, Your Honor, that, of course, Mr. McMillan's argument is the same one he has made all through the case. In other words, in talking about regard for the Court, it is much more contemptuous of the Court to assume that the Court has such vanity that it would not change its mind under any circumstances, that is, you rule upon the point and that forecloses it. All throughout the case, whenever a point was raised, the great argument was, "It was raised before and the Court has decided it," and you would take to yourself some content of infallibility and never change your mind. That is the same point he makes here.

So far as the argument to the jury is concerned, and the matter of unjust judges, I assume many of the jurors had some sort of prejudice or bias before they came into the box. One of them frankly admitted he had. It was an argument to the jury that history has always condemned the unjust judge. They should not make of themselves unjust judges.

Now, on a motion for a new trial particularly, the trial judge is always on trial. That is an aphorism of the law. Then, at any rate, counsel is entitled to point out to the Court what his conduct was and what his attitude was and state whether or not in their opinion it constitutes fair or unfair treatment. To fall short of that is to neglect one's duty, and for the sake of currying favor with the Court or out of fear of neglecting [8764] one client's interests, I do not propose to do any such thing. Instead of arguing this very strong point Mr. MacInnis makes, Mr. McMillan gets up and meanly attempts to point out that the defendants' counsel neglected something—I suppose for the purpose of doing what he says we are trying to do, and that is to get some notice in the papers on the thing. What Mr. McMillan thinks is exactly what could be expected of a lawyer who devoted a large part of his original presence in this court in an attempt to have the person who was opposed to him put in jail for contempt of court and removed from the trial of the case.

Mr. McMillan: I never attempted to have you put in jail.

Mr. Hallinan: Yes, he endeavored to have me removed. Mr. McMillan has always been distinguished, at least so long as I have been able to learn, by his smallness and meanness. His advancing years apparently show no trend toward amelioration.

Mr. McMillan: Your Honor knows I made no attempt at any time to have him sent to jail. If anyone knows that, it is Your Honor. I concede as I grow older I do get meaner and smaller.

Mr. Hallinan: You did not start in very big.

Mr. McMillan: No. Others overtake themselves, too.

Mr. MacInnis: I will not pursue the point as to whether Mr. McMillan has grown meaner, but I want to offer you just a few words on the matter of Mr. Robertson. Mr. McMillan was not [8765] present in this courtroom continuously after the day of the exposure of Lawrence Ross. His absence was announced upon that day and he was not here.

The Court: There is one statement I believe that should be corrected in this record, so far as the Court is concerned, with respect to the alleged or asserted departure of Mr. McMillan from the province of this court. The express charge was made, if not the inference to the jury that Mr. McMillan departed in the light of the Ross situation and that he failed to return. I know, I feel reasonably satisfied that Mr. Hallinan knew and now knows, and I feel reasonably satisfied that likewise you know his departure was the result of serious illness. That was a matter of more or less current knowledge in and about the court, and I think that advice was given to the court. I say that only in fairness to the record and in fairness to Mr. McMillan.

Mr. MacInnis: I do not say a word to the contrary. What I say is that it is the day upon which he departed, and from that day he was not in attendance here. Now, what the reason may have been I am in no position to dispute with the Court. We certainly will accept the statement if that was the reason. But he was not here. So he rises before you now, when you make a request that he reply to the point made concerning the defendant Robertson, and he says we should have made a motion at the end of the prosecution's case, and that after that the testimony of [8766] Wilson and Rathborne came in. Of course, that is not wholly accurate. The testimony of Wilson was in the record as part of the government's case in chief. The testimony of Wilson upon page 4009 of the record contained at that time the only reference to Mr. Robertson in the case and that was one statement that he attended Communist Party meetings at which Bob Robertson was present. The prosecutor then asked the question, "Was that one meeting or more than one?" And he answered, "More than one," and he added one line saying, "It was my understanding he was attached to the same unit as myself."

Skipping that inaccuracy for a moment, we turn to the testimony of Rathborne, which I suppose is the testimony which Mr. McMillan refers to as putting Mr. Robertson in the case with a bang. There were two lines in the whole testimony of Mr. Rathborne concerning Bob Robertson. One is that he was a member of this group, this so-called God's Committee, which Your Honor will recall had reference to the years 1943 and 1944; it had no reference to the year in which the alleged conspiracy took place. And then there was the additional statement that at a meeting late in the year 1943 he thought—he said as best he could recall although he was not sure—that Bob Robertson was in attendance. That is the whole testimony. Now, whether or not it is arguable now between Your Honor and the various counsel that that evidence would be circumstantial evidence of membership in the Communist Party is not the problem which we face. The problem which we [8767] face is this: Is that evidence, those three isolated lines of testimony, is that evidence of the entry of Mr. Robertson into a conspiracy to defraud the United States? Is it evidence that he knowingly and wilfully aided Mr. Bridges in a fraud? I do not know how strongly I can state the proposition. I see no such evidence. There is no such evidence. We are bound by the facts of the case, and the only facts against Mr. Robertson are those which I have enumerated.

The Court: Mr. MacInnis, may I interrupt you? In presenting your arguments to the jury, did you not state to the jury that if one be guilty, all three defendants are guilty?

Mr. MacInnis: I think I may well have made that statement. Does Your Honor consider that we would be bound by that at this time?

The Court: No, I recall that was the theory espoused by you on the argument.

Mr. MacInnis: Indeed, I thought that was the case. Indeed I did. I thought from my own knowledge of the case, knowing all three men were innocent, I thought if any one of those men could be found guilty, that any person in the world could be found guilty of a felony. But now you sit here, despite all that has passed, as the thirteenth juror in the case. Was there substantial evidence, was there evidence which you in a case which you might try, sitting as the court alone without the interposition of any jury, was there evidence upon which you [8768] would find a man guilty? Were the seeds of any conspiracy present? Was any guilty knowledge shown? Was any connivance, was any meeting between the defendants shown? There is not a fragment of evidence that points to that. Of course, I said what Your Honor has just quoted, to the jury. I meant it and I mean it now. That has nothing to do with the legal argument which I address to you. I think there is no evidence at all concerning Mr. Robertson that would point to his guilt or that would justify any adverse finding of fact as to him on the question raised on Your Honor's own understanding of the record, which I am sure is as clear as my own.

The Court: Is the matter submitted?

Mr. Hallinan: Yes.

The Court: Is the matter submitted by the government?

Mr. McMillan: Yes.

The Court: Mr. Donohue?

Mr. Donohue: Yes.

The Court: The matter stands submitted. With respect to the several motions interposed by the defendants, the motions in arrest of judgment interposed on behalf of the defendant Harry Renton Bridges, Henry Schmidt and J. R. Robertson are and each of them is denied.

With respect to the motion for new trial interposed by the defendant Harry Renton Bridges, the said motion be and the same is hereby [8769] denied.

Similarly, with regard to the motion for a new trial interposed by the defendant Henry Schmidt, said motion be and the same is hereby denied.

Likewise, the motion for a new trial interposed by the defendant J. R. Robertson be and the same is hereby denied. Said motions, all and singular, are denied.

I might say that this marks the end of a long judicial journey, and looking back over the rather broad vistas of the case, it becomes increasingly clear to the Court that the evidence presented by the United States Government is convincing and direct that Harry Renton Bridges lied in the naturalization proceedings when he denied membership in the Communist Party. His guilt was established to a moral certainty and beyond a reasonable doubt by devastating and overwhelming testimony. Similarly was the guilt established of the co-defendants Mr. Henry Schmidt and Mr. J. R. Robertson, with respect to the several charges as embraced in the indictment. The jury addressed itself to the arguments made by Mr. MacInnis. The jurors heard the testimony of George Wilson and Mervyn Rathborne. They have passed upon that factual matter. There is no reason for this Court to set aside that mature finding. The evidence was credible, and with regard to Mr. George Wilson, the defendant or defendant's counsel did not see fit to cross-examine Mr. Wilson. The verdict was maturely arrived at by the jury after four days or four and a half days approximately of [8770] patient, painstaking and active deliberations, after four and a half months of trial, wherein countless witnesses were produced by the government as well as the defendants, after arguments upon every phase, facet and scintilla of the case, to the extent that Mr. Hallinan argued some six days or six and a half, and his colleague, Mr. MacInnis, a day and a half, in presenting their contentions and views to this jury.

I pause momentarily to advert to these considerations as demonstrative that the judicial process herein was not hurried, and full opportunity and scope was given to the defendants and to their counsel in providing and safeguarding every constitutional privilege and prerogative. The charge is made herein that the verdict was the result of hysteria or errors on the part of the Court, or that the verdict represents an oblique attack upon militant trade unionism or from some alleged external pressure exerted by the United States government or some department thereof. Those contentions represent distortions of fact, misconceptions and untruths. I say that the verdict and the verdicts herein are fair and just and each of them is fair and just. The verdicts will stand as a courageous decision on the part of an intelligent jury after a long, painstaking and impartial trial, and in my opinion, the verdict herein will serve as a lasting memorial that the integrity of the nationalization laws and the naturalization laws of these United States must be upheld. [8771]

By lying and defrauding the United States Government, Mr. Harry Bridges was granted a certificate of naturalization. He was aided and abetted in this respect by the two co-defendants, Mr. Robertson and Mr. Schmidt. Thus and in that fashion Harry Bridges had bestowed upon him the most priceless heritage known to man, citizenship in these United States. In my opinion, his conduct can not invoke either sympathy or consideration on my part. The jury has spoken. The mandate of the law is clear. And the dictates of justice demand that the verdicts be carried out. The verdicts herein have been handed to me by the Clerk of the Court. They were read at the conclusion of the trial. The jury was duly polled. With respect to Mr. Bridges, the jury fonnd, "We, the jury, find Harry Renton Bridges, the defendant at the bar, guilty on the first count of the indictment, guilty on the second count of the indictment; signed Glenn Lee Christensen, foreman."

Similarly, with regard to Mr. Henry Schmidt, the jury found, "We, the jury, find Henry Schmidt, the defendant at the bar, guilty on the first count of the indictment, guilty on the third count of the indictment."

Similarly, with respect to the defendant Mr. J. R. Robertson, the verdict reads, "We, the jury, find J. R. Robertson, the defendant at the bar, guilty on the first count of the indictment, guilty on the third count of the indictment."

Accordingly, the mandate of the law is to be carried out. [8772]

Mr. Bridges and Mr. Hallinan, may I ask you to arise?

(Mr. Bridges and Mr. Hallinan arose and stood at the lectern.)

The Court: All and singular of the motions having been denied, that is, the motion in arrest of judgment, the motion for a new trial with regard to the defendant Harry Renton Bridges, the Court is now prepared to pass judgment and sentence. Is there any reason to assign at this time why judgment and sentence should not be pronounced?

Mr. Hallinan: Yes, Your Honor, there is. As the Court has stated within its decision, this is no political case, this is no case in which there is any special pressure from any department of the United States Government. Therefore, Mr. Harry Bridges, a gentleman who has done nothing else, granting that he is guilty of this offense and that deserves any injury from the Court, a not unusual offense that happened five years before, we now move that he be granted probation.

The Court: The motion is denied.

Mr. Hallinan: We ask, Your Honor, that it be referred to the probation officer for a report.

The Court: The motion is denied.

Mr. Hallinan: Then we have no further suggestion.

The Court: Mr. Harry Renton Bridges, it is the judgment and sentence of the Court that you are hereby committed to the custody of the Attorney General of the United States and his [8773] authorized representative for imprisonment for a period of two years on the first count of the indictment.

Further, it is the judgment and sentence of the Court that the defendant Harry Renton Bridges is hereby committed to the custody of the Attorney General of the United States or his duly authorized representative for imprisonment for a period of five years on the second count of the indictment, the sentences and each of them to run concurrently. The defendant is remanded to custody.

Mr. Hallinan: We wish to file at this time, if the Court please, a notice of appeal.

The Court: One moment. Mr. Bridges, I merely wanted to indicate, not as part of the judgment or sentence, that I have not imposed a fine in this case. Ordinarily a fine might be indicated. If I felt a fine should be imposed, it might result in an assessment upon the rank and file and require them to pay it. I see no reason to add a burden to their already burdened situation.

Mr. Hallinan: Mr. Bridges has not the money himself.

The Court: No fine has been imposed, Mr. Bridges.

Mr. Hallinan: We have here a notice of appeal which requires me to fill in the sentence. Will Your Honor fix bail on the appeal? I think it will be conceded there are at least substantial grounds on which an appeal should be determined by the appellate court. We would ask that the bail remain the [8774] same as it is at present. I do not think there is any disposition on Mr. Bridges' part to avoid any sentence of the Court.

The Court: Government counsel, I should like to hear from you with respect to bail. Those are matters that are addressed to my discretion. At the same time I desire to have counsel's advice, if any, on the subject.

Mr. McMillan: If it please Your Honor, I have received instructions from the Attorney General to ask that the bail be increased in this matter and that it be submitted to Your Honor for appropriate fixing of the amount.

The Court: What is the suggestion as to bail, Mr. McMillan?

Mr. McMillan: As to the amount?

The Court: Yes.

Mr. McMillan: May it please Your Honor, I remember on one occasion when an application was made for the defendant Bridges to go to Marseilles to attend some international conference, it was suggested then that through the unions he could provide bail up to as high as $100,000.

Mr. Hallinan: I think that is incredible and impossible, Your Honor.

The Court: What was that amount?

Mr. McMillan: $100,000. I am not suggesting that amount.

The Court: I can't recall——

Mr. Hallinan: No such suggestion was ever made. It would be impossible for these men to get up that amount. With a bail [8775] suggestion of that kind, I suppose Your Honor would be expected to make it higher because such an enormous amount is mentioned, but the only purpose of bail is to insure the appearance of the defendant for sentence if the judgment should be affirmed.

Mr. McMillan: I am not asking Your Honor that the bail be fixed in the sum of $100,000. I am stating that for the reason that bail can be given in a higher amount.

Mr. Hallinan: No such bail as that was ever offered or suggested as an amount that could be raised.

Mr. McMillan: An application was made before His Honor Judge Roche. The written application is on file, in which it was suggested and offered that bail would be put up in the sum of $100,000.

Mr. Hallinan: Mr. Bridges says that the suggestion was that the government said if you let them go, they would fix the bail at $100,000.

The Court: I believe the ends of justice would be served in admitting the defendant Mr. Bridges to bail pending any appeal herein.

Mr. Hallinan: I will file the appeal, that is, the notice of appeal. It was necessary to write in the sentence.

The Court: I will set bail, then, in the amount of $25,000.

Mr. Hallinan: Very well, Your Honor.

The Court: With regard to the defendant Henry Schmidt, [8776] please, and counsel.

(Mr. Schmidt and Mr. MacInnis arose and stood at the lectern.)

The Court: Similarly, the motions for a new trial have been denied as to this defendant. The motion in arrest of judgment and all matters have been considered as offered and presented on his behalf. Have you any reason at this time, Mr. MacInnis, to assign why judgment and sentence should not be pronounced?

Mr. MacInnis: Yes. To paraphrase the Court's own words of a few moments ago, the only crime Henry Schmidt was that he lent his name in an appearance in court dedicated to bequeathing upon Harry Bridges that most priceless of human possessions, citizenship in the United States. That is his only crime, if it is a crime. We move that Mr. Schmidt be admitted to probation.

The Court: The motion is denied.

Mr. MacInnis: And we ask that the matter similarly be referred to the probation officer.

The Court: The motion is denied. Accordingly at this time it is the duty of the Court to pronounce judgment. It is the judgment and sentence of this Court that the defendant Henry Schmidt is hereby committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment for a period of two years on the first count of [8777] the indictment.

Further, with respect to the third count of the indictment under which he stands convicted, it is the judgment and sentence of this Court that the defendant Henry Schmidt is hereby committed to the custody of the Attorney General or his duly authorized representative for imprisonment for a similar term and period of two years, the sentences and each of them to run concurrently. That is all.

Mr. MacInnis: At this time I would like to file on behalf of Henry Schmidt a notice of appeal, asking for the right to fill in the sentence within the next few minutes. We ask that bail be set. If the Court can in its discretion, we ask that the bail now posted be allowed to remain in the same sum.

The Court: The bail is $5,000. The Court will alter and increase the same in the amount of $10,000, and accordingly the defendant Henry Schmidt is admitted to bail in said amount, and the amount may be incorporated in the order or orders of this court.

Mr. MacInnis: You mean by that $10,000, do you?

The Court: Yes. The defendant is remanded to custody.

Now, as to the defendant J. R. Robertson, sometimes known as Bob Robertson.

(Mr. Robertson and Mr. MacInnis stood at the lectern.)

The Court: I indicate also with respect to the defendant Mr. Robertson that all motions have been disposed of, the motion [8778] for a new trial denied, motion in arrest of judgment denied. Do you have any reason at this time to assign why judgment and sentence should not be pronounced against the defendant?

Mr. MacInnis: Yes. We interpose on behalf of the defendant Robertson a motion for probation.

The Court: The motion is denied.

Mr. MacInnis: And we make the same request that the matter be referred to the probation officer.

The Court: The motion is denied. Accordingly, it is the judgment and sentence of the Court that the defendant J. R. Robertson, sometimes known as Bob Robertson, is hereby committed to the custody of the Attorney General of the United States or his authorized representative for imprisonment for a period of two years on the first count of the indictment under which he stands convicted, and on the third count of the indictment it is the judgment and sentence of this Court that the defendant J. R. Robertson, sometimes known as Bob Robertson, be and is hereby committed to the custody of the Attorney General of the United States or his duly authorized representative for imprisonment for a like term of two years, the sentences and each of them to run and operate concurrently.

Mr. MacInnis: With the same request, we file a notice of appeal as to the defendant Robertson. We ask that bail, if that be possible, be allowed to remain the same in this case.

The Court: With respect to the matter of bail, the Court [8779] will alter the same to the extent that bail may be deposited on behalf of this defendant in the amount of $10,000. Accordingly, the defendant J. R. Robertson is admitted to bail pending appeal in said amount of $10,000, and the amount may be included in any subsequent order presented to the Court.

Mr. MacInnis: With respect to the order of the Court remanding the three defendants into custody, I may state that the defendants are ready at this time to post bail and we would like to be allowed to do so in any manner that is convenient to the Court.

The Court: The Court has no objection to any procedure that may be adopted in consonance with practice and through the United States Marshal's office.

Mr. MacInnis: I say that only in reference to the Court's order remanding to custody.

The Court: I have no alternative but to remand the defendants to custody under the judgment and sentence of the Court. The matter of bail is one you can proceed with.

Mr. MacInnis: We are ready to post the bail with the Clerk at once.

The Court: The Court has no objection to that.

Mr. MacInnis: May we have about a two-minute interruption? I will have the money.

The Court: I have no objection, Mr. McInnis. Mr. Mitchell will undertake to accommodate the

Clerk's office for the defendants [8780] and counsel.

Mr. Mitchell, may I return to you now for the record the three verdicts herein, the original indictment——

Mr. McMillan: May it please Your Honor, I have another matter to take up with the Court. Section 738-E of Title 8 of the United States Code, the Aliens and Nationality Code——

The Court: Mr. McMillan, may I suggest this to you? Counsel has requested a brief recess for the purpose of arranging bail and such other procedures as may be in keeping with my orders, and I think it would serve the ends of justice as well as the convenience of all to accord that privilege to them and hereafter, let us say within 15 or 20 minutes, I will hear such other motions as you may have.

Mr. MacInnis: I have cashier's checks, Your Honor, made out to the Clerk of the United States District Court in the amount of $30,000, which represents the difference between the amounts of money already posted and the total amounts of bail set by the Court, and if I may deposit these with Mr. Mitchell——

The Court: Whatever administrative or procedural matters have to be undertaken, I assign them to the care, custody and administration of Mr. Mitchell as well as the Chief Clerk of the Clerk, Mr. Calbreath. I will take a short recess.

(Recess.)

Mr. Hallinan: May I make a statement for the record, if Your Honor please: In the matter of posting the usual and [8781] customary forms of bond in this undertaking of the bail of the three defendants, the Commissioner is now, together with one of the counsel, Mr. Leonard, preparing such forms and will probably be some ten or fifteen minutes more before that is completed, and after talking with counsel, it is my suggestion that the matter be put over until tomorrow morning for hearing on this other motion.

The Court: What is this motion, Mr. McMillan?

Mr. McMillan: The motion that I have, so that counsel may be advised, is under Section 1, subdivision 1 of Section 746 of Title 8 of the United States Code dealing with aliens. Chapter 11 provides:

> "It is hereby made a felony for any alien or other person, whether an applicant for naturalization for citizenship or otherwise, and whether an employee of the government of the United States or not, (1) knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding or matter relating to or under or by virtue of any laws of the United States relating to naturalization and citizenship."

It was under that section, may it please Your Honor, that the defendant Bridges was charged with the second count of the indictment, which count he has been convicted under, and subdivision

E of Title 8, Section 38, Chapter 11 of the same code reads as follows: [8782]

> "When a person shall be convicted under this chapter of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside and declare void the final order admitting such person to citizenship and shall declare the certificate of naturalization of such person to be cancelled. Jurisdiction is hereby conferred upon courts having jurisdiction of the trial of such offense to make such adjudication."

I had prepared an order that I was going to submit to Your Honor, but now, as I understand it, the matter is going over until tomorrow morning. However, there is one matter I think we can take up at this time and that is with reference to the instructions mentioned by Mr. MacInnis. Apparently Mr. MacInnis intended to take exceptions to your Honor's failure to give instructions 78-A, 78-B and 78-C. On page 8526 of the reporter's transcript of testimony, we find this, Mr. MacInnis objecting:

> "We object and we except to the failure to read instructions 71 to 74, inclusive, 76 to 78, inclusive, and 84."

Now, fairly it would seem to me, Your Honor, when that objection was taken or exception, and it was inclusive of 78, that would be inclusive of 78-A, 78-B and 78-C, and consequently we are willing to stipulate as counsel requested with respect to those instructions, that they took exceptions to Your Honor not having given them. [8783]

The Court: The stipulation then may be entered of record and it may be deemed to have the same force and effect as if the exceptions were duly and regularly entered at the time allotted to counsel when the jury was in recess under the Rules of Criminal Procedure.

Mr. McMillan: We so stipulate.

The Court: I assume, however, you have opposition to entry of such an order?

Mr. Hallinan: Yes, Your Honor. In the first place, that is not the section under which he was convicted. There was two subdivisions, subdivision 1, which counsel read, and subdivision 2: "Knowingly to procure or attempt to procure the naturalization of any person contrary to the provisions of law," and that is not the section under which he was convicted, and that is the section that requires the denaturalization, and we can show from the legislative history that it accompanies that right along.

The Court: We have had a lengthy day. Let us have the matter stand over regularly until tomorrow at 10:00 o'clock.

Mr. Hallinan: Very well.

The Court: Have the matters of bail been completed?

The Clerk: They are in process now.

Mr. Hallinan: It will take about five or ten minutes more.

The Court: Would it be in order to keep the court open to the extent that there be no jurisdictional questions raised?

Mr. Hallinan: Very well. [8784]

The Court: I think that would be in order, for fear if the Court adjourns some question might be raised with respect to the custody of the defendants at this time. I am perfectly willing that the Court stand in recess until such time as all matters of bail be taken care of, and then when I am advised by representatives of the United States Attorney that appropriate amounts have been left in accordance with my orders, we may then have the record show the court regularly adjourns until tomorrow at 10:00 o'clock.

Mr. Hallinan: Very well.

The Court: So stipulated?

Mr. McMillan: That is agreeable.

The Clerk: May I make this one request of counsel? I am informed, Your Honor, during the last few days counsel for both sides have requested certain exhibits which are in evidence in their original form be withdrawn for the purpose of substituting photostats. May I ask that counsel wishing to have that done prepare forms of order setting forth the exact exhibits?

Mr. Hallinan: We have a stipulation here, if it is agreeable to counsel, to substitute photostats for those exhibits, and we will sign a similar one for you, if you wish to do that.

The Court: There being no further matters before the Court, we may then recess with the understanding that the Court will adjourn without the necessity of my resuming the bench at such time as Mr. Mitchell is advised that the bail has been deposited [8785] in the amounts and in accordance with the orders made by the Court.

(Thereupon a recess was taken until matters of bail were taken care of, after which an adjournment was taken to tomorrow, Tuesday, April 11, 1950, at 10:00 o'clock [8785-A] a.m.)

Tuesday, April 11, 1950—10:00 o'Clock A.M.

The Clerk: United States of America v. Harry Renton Bridges, Henry Schmidt and J. R. Robertson.

The Court: You may proceed, Mr. McMillan.

Mr. McMillan: May it please Your Honor, yesterday afternoon as a matter arising in connection with the conviction of the defendant Harry Renton Bridges, I called to Your Honor's attention the provisions of subdivision (e) of Section 738.

The Court: Pardon me just a moment until I find the section, please. Section (e)?

Mr. McMillan: Subdivision (e) of Section 738, Title 8, United States Code, Chapter 11.

The Court: All right, I have the section.

Mr. McMillan: That section provides as follows:

> "When a person shall be convicted under this chapter——"

I am emphasizing that, may it please Your Honor.

> "——of knowingly procuring naturalization in violation of law——"

that is an all-devouring phrase.

> "——the court in which such conviction is had shall thereupon revoke, set aside and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is hereby conferred on the courts having [8786] jurisdiction of the trial of such offense to make such adjudication."

It will be noted that the statute reads, "* * * the court in which such conviction is had * * *," contemplating, of course, Your Honor, that the court having knowledge of this matter, then the court will observe, "shall" do thus and so. That "shall" appears twice, indicating that it is mandatory.

Now, in this case, No. 32117-H of the records of this court, the defendant Harry Renton Bridges, by a verdict of the jury, was found guilty, and thereafter your Honor duly pronounced judgment and sentence, yesterday, sentencing the defendant Harry Renton Bridges to two years under the first count of the indictment, and five years under the second count, the sentences to run concurrently.

I wish to read certain portions of those two counts to Your Honor, and it will be seen from those two counts that the defendant knowingly procured naturalization in violation of law, in that he made these false statements. The first count reads, naming the three defendants:

> "——on the 23rd day of June, 1945, and continuing thereafter until on or about October 1st, 1945, and for some time prior thereto, the exact time being to the grand jurors unknown, at the City and County of San Francisco, State of California, within said division and district, did conspire with each other and with divers other persons to the grand jury [8787] unknown, to defraud the Unted States by impairing, obstructing and defeating the proper administration of its naturalization laws in the manner following, and to ~~wit,~~ by having said defendant Harry Renton Bridges fraudulently petition (that is, in furtherance of a procurement of naturalization) for and obtain naturalization in a naturalization proceeding in the Superior Court of the State of California in and for the City and County of San Francisco by falsely and fraudulently stating and representing to the said court in said proceeding No. 28152 in the records of said Superior Court, that he, said defendant Harry Renton Bridges, had never belonged to the Communist Party in the United States; that said statement and representation so agreed to be made and made as aforesaid, as said defendants and each of them at all times herein mentioned well knew, were false and fraudulent in this, that said defendant Harry Renton Bridges had in truth and in fact belonged to and been a

> member of the Communist Party of the United States from the year 1933 up to and including said 17th day of September, 1945; that said statement and representation were material to said naturalization proceeding——"

then follows a statement and allegations of the overt act.

Now, the second count charged a violation of Title 8, United States Code, Section 746, subdivision 1. It is now United States Code Section 1015, subdivision 1, Title 18: [8788]

> "* * * on the 17th day of September, 1945, at the City and County of San Francisco, State of California, in the Superior Court of the State of California, in and for the City and County of San Francisco, Hon. Thomas M. Foley, Superior Judge presiding, there came on for hearing a naturalization proceeding, No. 28152 in the records of said Superior Court, on the petition of defendant Harry Renton Bridges for naturalization under the Nationality Act of October 14, 1940; that defendant Harry Renton Bridges then and there was called and produced as a witness in said proceeding then on for hearing, and took an oath before said court that he, the said defendant, would testify truthfully in said proceeding, and said court then and there had competent authority to administer said oath and did administer it; that defendant Harry Renton Bridges did then and there wilfully and know-

> ingly make a false statement under oath in certain matters which were material to the issue of said proceeding then and there being heard, giving the following answers to questions asked, to wit, 'Q. Do you now, or have you ever belonged to the Communist Party in the United States? A. I have not; I do not'; that said answers, so stated and testified to by defendant Harry Renton Bridges were, and each of them was, as said defendant then and there knew, wilfully false and contrary to his said oath; and said defendant did not then and there believe said [8789] answers or any of them to be true; and that said answers were, and each of them was, then and there believed and known by him to be false; that in truth and in fact said defendant at the time of so testifying, belonged to and was a member of the Communist Party in the United States and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945; that said statement and testimony of said defendant and said answers given by him as aforesaid, were upon a material matter and were material in and to the issues of said proceeding."

I can not emphasize too strongly, may it please Your Honor, that the section I read to you said, "* * * convicted under this chapter * * *"; that is to say, of any violation under the chapter.

Now, we have prepared a proposed order revoking, setting aside and declaring void the final order admitting defendant Harry Renton Bridges to citizenship, a copy of which I am handing to counsel for consideration and use in replying, which proposed order, may it please Your Honor, reads as follows:

> "Order revoking, setting aside, and declaring void the final order admitting defendant Harry Renton Bridges to citizenship.
>
> "Defendant Harry Renton Bridges having procured naturalization on the 17th day of September, 1945, in the [8790] Superior Court of the State of California, in and for the City and County of San Francisco, in a naturalization proceeding numbered 28152 in the records of said Court; and
>
> "Said defendant Harry Renton Bridges having been convicted on the 4th day of April, 1950, in this Court in the above-entitled action of violating Section 88 of Title 18 of the United States Code (now 18 U.S.C., Section 371) in that said defendant Harry Renton Bridges did conspire with defendants Henry Schmidt and J. R. Robertson to defraud the United States by having said defendant Harry Renton Bridges fraudulently petition for and obtain naturalization by false and fraudulent statements and representations to said Superior Court of the State of California in said naturalization proceeding, and defendant

Harry Renton Bridges having also been convicted on said 4th day of April, 1950, in this Court in the above-entitled action of violating Section 746(1) of Title 8 of the United States Code (now 18 U.S.C., Section 1015(1)) by wilfully and knowingly making a false statement under oath in said naturalization proceeding before said Superior Court of the State of California; and defendants Henry Schmidt and J. R. Robertson having been convicted on said 4th day of April, 1950, in this Court in the above-entitled action of wilfully and knowingly encouraging, aiding, advising and assisting defendant Harry Renton Bridges, not then and there entitled thereto, to obtain, accept, and receive a certificate of naturalization which was to be procured, and was procured by fraud, to wit: By false and fraudulent [8791] statements and representations made in said naturalization proceeding before said Superior Court of the State of California;

"It Is Hereby Ordered, Adjudged, and Decreed that the final order of the Superior Court of the State of California, in and for the City and County of San Francisco, made and entered on the 17th day of September, 1945, admitting said defendant Harry Renton Bridges to citizenship, be, and the same is, revoked, set aside, and declared void.

"It Is Further Ordered that said defendant Harry Renton Bridges surrender up and deliver to the Clerk of this Court certificate of naturalization numbered 6405274, which said certificate was heretofore issued and delivered to said defendant Harry Renton Bridges as a result of the aforesaid order of said Superior Court of the State of California, admitting said defendant Harry Renton Bridges to citizenship, made and entered on the 17th day of September, 1945.

"It Is Further Ordered, Adjudged, and Decreed that said certificate of naturalization number 6405274 be, and the same is, canceled.

"It Is Further Ordered that the Clerk of this Court forward such canceled certificate number 6405274 to the Commissioner of Immigration and Naturalization, Washington, D. C., for final disposition and that the Clerk of this Court also forward therewith to the said Commissioner of Immigration [8792] and Naturalization a certified copy of this order.

"It Is Further Ordered that the Clerk of this Court transmit a certified copy of this order to the Superior Court of the State of California, in and for the City and County of San Francisco.

"......................

"United States District
Judge.

"Dated: April .., 1950."

I hand this to Your Honor for Your Honor's consideration. That form adopted, and I have taken it from, the language used in the case of

United States of America v. Olga Manzi, 26280-S of the records of this court. This order was made by His Honor Judge Walter C. Lindley, United States District Judge of Illinois, who was sitting here at the time. And upon a conviction in this case, the order was then and there made in the language which I have adopted for the submitted order.

I submit the matter, may it please Your Honor.

Mr. Hallinan: If the Court pleases, it is conceded, at least impliedly by Mr. McMillan's argument that Mr. Bridges was neither tried nor convicted under the section that he makes reference to, nor under the section to which the subdivision (e) of Section 738 has any reference to.

Now, if Your Honor will turn to Section 746, which is the section under which this indictment is placed, you will see that there are two subdivisions under subdivision (a). One is, "Knowingly to make a false statement under oath, either orally or [8793] in writing, in any case, proceeding or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship."

Not only in the language of the second count, but in the caption is the indictment stated under that subdivision. In other words, the subdivision says at the top, "Violation of Section 746(a) (1)," and then it says, "Knowingly to make a false statement under oath * * *"

Now, the second subdivision under which Mr. Bridges was not indicted and not tried is:

> "Knowingly to procure or attempt to procure—(a) the naturalization of any such person, contrary to the provisions of any law";

so you have two separate and distinct offenses. In other words, it would be an offense and a felony to make a false statement under oath in a naturalization proceeding, whether or not that was an attempt to procure or the procuring of citizenship.

All right. Then turning back to Section 738, subdivision (e), "when a person shall be convicted under this chapter of knowingly procuring naturalization * * *"

Now that finishes it. Not "of knowingly making a false statement under oath * * *" So obviously subdivision (e) applies only to section (2) of subdivision 746.

There would be some practical importance in that in this, that whether or not a false statement under oath procured the [8794] citizenship or attempted to procure the citizenship would then make it a material matter to be considered by the jury, and Your Honor will remember in this case, the materiality of the question was removed from the jury. In other words, whether if it was a false oath, its materiality would not be or might not be, or it could be argued, might not have been, of importance.

However, in looking at the history of these two sections, Your Honor will find this: There was a penal provision in the old nationality code which is carried into Title 18, which made it an offense under this language: "Knowingly to procure naturalization contrary to the provisions of law * * *" This is now found in this Section 746(2). In other words, the same language is repeated. And the first time this offense appears is in the statutes of March 3, 1903, and there were two subdivisions in that Section (2). Section 39 of that Act, which was the thirty-two statutes, twelve-twenty-two, provided in separate paragraphs as follows:

> "Any person who procures naturalization in violation of the provisions of this section shall be * * * and imprisoned * * * and the court in which such conviction is had shall thereupon adjudge and declare the order or decree and all certificates admitting such person to citizenship null and void."

So that in that section and in that subdivision any person who procured naturalization shall be fined and imprisoned, and [8795] the court shall declare his citizenship null and void.

Then the second paragraph provides as follows:

> "Any person who, in any naturalization proceeding, procures or gives false testimony as to any material fact, shall be fined and imprisoned."

So obviously the denaturalization only applied to the first paragraph.

So in the 1903 statute it is apparent that Congress put the additional penalty only on the violation of the first section.

Now, in the Act of June 29, 1906, which was enacted to provide for uniform rules to provide for the naturalization of aliens throughout the United States, and was the first act to provide for a civil denaturalization, this section 23 of the Act of 1906 took over the provisions of the Acts of 1903, and provided in separate paragraphs also as follows:

> "Any person who knowingly procures naturalization in violation of the provisions of this Act shall be fined and imprisoned and upon conviction the court in which said conviction is had shall thereupon adjudge and declare the final order admitting such person to citizenship void."

Then follows the second paragraph:

> "Any person who, in any naturalization proceeding, knowingly procures or gives false testimony as to any material fact, shall be fined and imprisoned."

So again the denaturalization only applies to the procuring [8796] of the citizenship.

Now, in the Nationality Code of 1940 these two classes have been considered and were carried over and put under separate titles, so that the second point, the second one, about making false statements, is now embraced in the general chapter relating to false and fraudulent statements. It is paragraph 1015:

> "Whoever knowingly makes any false statement under oath, in any case, proceeding or

> matter relating to or under, or by virtue of any law of the United States relating to naturalization, citizenship or registry of aliens";

then there are other paragraphs, and then:

> "Shall be fined * * * or imprisoned."

Then in a different heading, "nationality and citizenship," Section 1425, the first subdivision embraced:

> "Whoever knowingly procures or attempts to procure, contrary to law, the naturalization of any person, or documentary or other evidence of naturalization or of citizenship * * * shall be fined * * * or imprisoned * * *"

And still the provision that has been read off, 738(e), still applies:

> "When a person shall be convicted under this chapter of knowingly procuring naturalization * * *"

So there is an attempt now to impose a new penalty, to state, for instance—here is what the effect of it is: It is to state that, in effect (not actually, but in effect) Mr. [8797] Bridges was indicted and convicted of a violation of Subdivision (2) of Section 746, when he was in fact indicted and convicted of a violation of subdivision (1) of Section 746.

Where there is any question, if there should be a question (and I don't see how there can be one), then in a penal matter involving an additional and severe penalty of the nature indicated, the presumption would be in favor of the defendant and the construction would be against the imposition of the additional penalty. But I do not think that the Court has any jurisdiction to make the order that counsel suggests. As I say, it can be argued, you may argue that in effect it is arguable that the conviction under these two sections did show that Mr. Bridges procured his citizenship by fraud. But persons can not be tried, convicted and penalties assessed upon such constructions as that. It certainly can not be argued that he was indicted or tried under subdivision (1), which involves the additional penalty of denaturalization. So I submit that the Court has no jurisdiction.

The Court: Mr. McMillan, however, argues, Mr. Hallinan, that there are two controlling circumstances to be considered under subdivision (e), Section 738, as "when a person shall be convicted under this chapter—" which he contends is controlling— "knowingly procuring naturalization in violation of law * * *" a violation of law, to wit, "knowing to make a false statement under oath, either orally or in writing * * *" and so [8798] forth. As more particularly provided under subdivision (1) of Section 746. He argues that the effect of the false swearing and the concomitant elements led to the procuring of the naturalization.

Mr. Hallinan: I grant that, Your Honor, but that is not what he was tried and convicted under. Now, Your Honor will observe that in Section 746——

The Court: That, in sum and substance, is his overall argument.

Mr. Hallinan: Yes. Your Honor will notice that under subdivision 746 there are 34 subdivisions, under any one of which a person could be tried and convicted. But that is not to try and convict him of knowingly procuring the naturalization of a person contrary to the provisions of law. There are 34 separate subdivisions and the only one—they are all under the same chapter, but the only one that this subdivision (e) of Chapter 738 relates to, is when a person is convicted of knowingly procuring naturalization. In other words, when he is convicted of a violation of subdivision (2) of Section 746. That is what it amounts to.

The Court: Have you been able to find any adjudicated——

Mr. Hallinan: I could not find a single adjudicated case on it, although I searched to do so.

The Court: Mr. McMillan, have you anything on the subject in the nature of a case?

Mr. McMillan: Well, may it please Your Honor, most of these [8799] cases, on conviction the order was made and the matter was laid at rest there. There was a case, I think, during the war, before His Honor Judge Yankwich down in Los Angeles, in which a similar order was made. After an appeal had been taken and the case on appeal was reversed, of course that amounted to the reversal or the reinstatement of the citizenship.

The Court: May I ask you, apart from the propriety of the application, taking the order by and large and as proposed and submitted to this Court, the order is without any final effect until and unless the appellate process and procedure has been exhausted, isn't that true?

Mr. McMillan: I think otherwise, may it please Your Honor. I think this is a matter incident to the conviction. It is mandatory that the Court make this order. I grant you this, that if the case is reversed, the criminal case, it will of itself amount to a reinstatement; but otherwise, I think in its nature it is an independent proceeding. That is my view of it.

Now, in answer to Mr. Hallinan about——

The Court: Well, you disassociate the vitality with respect to this order as compared to the criminal matter, or do you regard this as an independent, isolated situation?

Mr. McMillan: I do.

The Court: When I say "this," I mean the order.

Mr. McMillan: Yes, Your Honor, I do. That is my view in the matter. As a practical thing, or what has taken place in [8800] cases, I just gave you on that was before His Honor Judge Yankwich, and in this district we have had these cases. But they were pleas of guilty, and upon conviction no appeal was taken. So I have no case that is a precedent here. I have this case where immediately upon conviction His Honor made that order which I call to your attention; because it would seem from the language of the statute that the judge, before trial was had, "shall" do thus and so, and it is a matter within his——

The Court: Another question. Let us assume the Court signs the order as proposed by the government. What, if any, right to appeal therefrom or to exhaust any review is available to defense counsel?

Mr. McMillan: I do not believe, and I can find nothing that indicates it is an appealable order. I suppose counsel will ask Your Honor to stay the proceeding, make some motion of that character until the determination of the appeal in the criminal case. But it is not an appealable order, in my judgment.

The Court: Well, let us assume that I sign the order.

Mr. McMillan: Yes.

The Court: Let us assume that counsel, Mr. Hallinan and Mr. MacInnis, jointly or severally ask the Court to stay the effect of the order which the Court would sign this order. Well, would that be regarded as a purposeless act at this time?

Mr. McMillan: No, if Your Honor made or signed the order [8801] staying the operation of that.

The Court: This order calls for the revocation, setting aside and declaring void the final order admitting Harry Bridges to citizenship. Now, it is all inclusive, all embracing, requiring production of, apparently, the certificate or paper evidencing naturalization to the Court or the Clerk, and impounding the same and delivering the certificate to the Commissioner of Immigration and Naturalization for final disposition.

Mr. McMillan: Yes.

Mr. Hallinan: I had this thought——

The Court: What does "final disposition" mean?

Mr. McMillan: It means a final cancellation.

The Court: Well, how could it be finally canceled? The vitality of the order must be dependent upon, in some wise, the effectiveness of the pending appeal, or an appeal that may well be pending hereafter.

Mr. McMillan: Well, may it please Your Honor, that is why that order is in form and why I think it is a matter that is an independent proceeding. It has really nothing to do with the appeal at all.

The Court: Well, I approach this matter, Mr. McMillan, with some reserve; for I feel that it is the first time since I have been in these courts that I have entertained an application of this character. There appears to be no adjudicated case or cases. I certainly should like an opportunity, in view of the [8802] sweeping character of the order, to give it more mature consideration than would be permitted by a hasty reading of the code and a comparison, because the Nationality Code has now been recodified, and as it stood in 1906 and thereafter, through its various channels, very often courts as well as lawyers are somewhat confused. Now, I would not like to make an improvident order in this case.

Mr. McMillan: Yes.

The Court: And I would not like to make an order that would not reflect maturity of thinking. I certainly will not reflect on you in preparing it and presenting it to the Court. I think you do it with full knowledge of your duty and in the light of what you believe the section to reveal or disclose. But at the same time I think in fairness to the Court, I should have an opportunity to make a more thorough examination of whatever cases may be pending on the subject.

Mr. McMillan: Well, Your Honor, I expressed the view——

The Court: Now may I ask you one further question? I think out loud as we exchange some of these things, some of the questions may be entirely irrelevant to our consideration from a legal viewpoint. There is a civil case pending, is there not?

Mr. McMillan: There is, Your Honor.

The Court: And would it be fair on my part to ask you what, if any, action is contemplated with respect to the civil suit? [8803]

Mr. McMillan: Well, that matter is now under consideration by the Attorney General.

The Court: Now, if the civil suit should be pressed in one form or another, what would be the effect of the order which I might presently sign?

Mr. McMillan: I doubt very much whether the civil suit would be pressed upon the signing of that order. I expressed the view, may it please Your Honor, that it was not an appealable order. And in connection with that, it occurred to me that it would be discretionary with Your Honor on a motion being made by counsel to stay the operation of that order until the determination of the appeal in the criminal case. That is just a suggestion on my part.

Could I suggest this, may it please Your Honor, that so far as the judgment of the Court in this matter is concerned, that it stand over, say, for about two weeks, and that we brief the matter?

The Court: Well, now, there is one further thought on that score. Appeals are about to be filed in this case.

Mr. Hallinan: Have been filed, Judge.

The Court: Or about to be filed. Late last evening in the exercise of what I believed to be a regard for the rights of the defendants, I saw fit to permit the arranging of bail during the twilight zone in the proceedings, and bail of course would not be set or could not be set unless there be an indication of [8804] an appeal. Accordingly, Mr. Hallinan and Mr. MacInnis proffered to the Clerk notices of appeal. I do not believe that presently those notices have been filed.

Now, proceeding from that point, if the notices of appeal individually and severally should be filed forthwith or within an hour or two hours, where is the jurisdiction of this Court to make and enter the order that you apply for?

Mr. McMillan: The jurisdiction is this, may it please Your Honor: I think this is an independent matter, and certainly if they haven't filed any notice of appeal——

The Court: Well, the Clerk has the notice, but—

(To the Clerk) Mr. Mitchell, have you the notices?

The Clerk: Yes, I have, Your Honor.

Mr. McMillan: Have they been filed? We have not been served with copies of them.

The Clerk: I may state this for the record, Your Honor. I take full responsibility for their not actually having been filed, because in the haste and some confusion of the posting of bail, counsel did not fill out on two of the applications the written portions required as to the sentences in each instance. I felt that they ought not to be filed unless they were complete. They would mean nothing filed as they were. I took that responsibility.

The Court: You might tender them to counsel.

Mr. Hallinan: Thank you very much. [8805]

The Court: Now, I am only thinking out loud again on the subject, to bring us to a procedural finality here.

Mr. McMillan: Yes. Well, then, may I have the record show, may it please Your Honor, that there was no appeal on file, or notice of appeal, at the time that we made the motion for this order.

The Court: Well, so far as the motion is concerned. I entertain it in the exercise of jurisdiction.

Mr. McMillan: Yes.

The Court: And I do not feel that there is any technical requirement that would prevent me from taking jurisdiction.

The next question is: Assuming Mr. Hallinan and Mr. MacInnis, after they have completed the phase of those notices and in due course file the notices of appeal; where is the jurisdiction of this Court to make the order which you now apply for?

Mr. McMillan: Because it is an independent proceeding arising out of this conviction. I don't think it is a matter that goes on appeal at all in connection with this matter on appeal. Not at all. The Court wouldn't pass upon the validity of that order.

Mr. Hallinan: Well, may I make this suggestion on that, then, if the Court please?

The Court: Yes.

Mr. Hallinan: Now, I don't suppose that there is any intention [8806] on the part of the government to do anything that would be, well, could be construed as treacherous, or to violate the rights of the defendants while the appeal was pending by taking some proceedings against Mr. Bridges based upon such order as is proposed here. Therefore, if that is not contemplated, if there is no reversal, the conviction becomes final, then there is plenty of time to come in with a motion of that kind.

I assumed from reading these matters that the subdivision under which the indictment was filed and the conviction resulted did not embrace the section, this subdivision (e), but if it is so, then it would seem to be that it should be construed upon a final conviction—that upon the conviction becoming final, that action should be taken. But there is no reason why the action should be taken now, even if it were justified under the construction of the two sections. That motion could be made at any time, after a conviction had become final, if it ever became final.

Mr. McMillan: Well, may it please Your Honor, we have no disturbance at all about what the result of this case will be on appeal. We believe the judgment will be affirmed. Now, here arises——

The Court: That is your viewpoint. That may well be the Court's viewpoint. But at the same time, a right of appeal is a substantial right, and the defendants have that right.

Mr. McMillan: In the criminal case. [8807]

The Court: Yes.

Mr. McMillan: May it please Your Honor, this is, however, an incident apart, independent from that matter.

Mr. Hallinan: I think not, because the section says, "where there has been a conviction * * *" So how can it be separate and apart from the criminal matter? Obviously it depends upon a criminal matter.

Mr. McMillan: As to the other matter, counsel has a way of using these ugly words, "assuming that there will be no treachery upon the part of the government." Why, I am simply calling Your Honor's attention to the matter of jurisdiction, that that wouldn't arise at all if this matter was filed, this motion made, before the notice of appeal was on file.

The Court: Counsel did not raise the point. Mr. Hallinan did not raise that point; I suggested it in the light of the fact that I do not want to find the Court in the labyrinth of mysticisms of the law. I want to proceed as orderly as I can. Now I raise it only in the sense that if the Court signs this order, in the light of a formal notice of appeal which had been filed formally, prior to the application, there might be a question raised herein. This order is apparently of moment to the government. It is of moment to the defense. I think we should treat it with the full dignity that it deserves.

Mr. McMillan: There is another point for consideration. There is a matter of jurisdiction, upon the affirmance of the [8808] judgment and sentence in this case, and the mandate comes down to this: Would not the Court have lost jurisdiction at that time to make this order suggested, in not making the order at this time?

Well, I can understand that they are perplexing questions, Your Honor, and I think that—and being in a way, so far as I am concerned, novel—since I have never had a case or know of no case like this in this district. I think it would be well for Your Honor to have each counsel, counsel on both sides, brief this matter.

The Court: May I address another question to you, Mr. McMillan? In connection with the civil suit which is pending, if the government offered in evidence in that suit a certified copy of the judgment of conviction which was had and obtained in this court before the jury, would not the effect of that proceeding be identical with the situation presented to the Court in the form of this order?

Mr. McMillan: I think not, Your Honor.

The Court: What is the distinction?

Mr. McMillan: They would have to produce evidence in a civil proceeding. It is an independent proceeding. And the degree of proof is altogether different in a civil proceeding than in a criminal proceeding.

The Court: I understand that, I understand that. Well, I should like some expression from Mr. Hallinan with respect to [8809] this matter of briefing. I do feel that——

Mr. Hallinan: We would be glad to file a brief.

The Court: I feel that a court should have an opportunity to proceed in a careful manner in light of any authorities that may exist. You may well find some authorities.

Mr. Hallinan: We would be glad to file a brief on it, because the history of the section, I thought, was pretty persuasive, and we may find something that would be an analogous to it. I might say on this matter that Mr. McMillan suggested, that if there were an affirmance of the verdict or of the judgment, then the Court would not have jurisdiction, that wouldn't be so because it has always been the rule that the Court at least has jurisdiction then for resentencing or modifying or carrying the sentence into effect, and as I say, this section depends upon a conviction in a criminal case. Certainly it goes right along with the verdict and judgment in the criminal case.

Mr. McMillan: I appreciate the importance of that question, Your Honor, and that is why I made the suggestion to Your Honor that counsel on both sides brief this matter. The matter might stand over until such time as agreeable with Your Honor —say for two weeks. I have no doubt, may it please

Your Honor, that if Your Honor signs that order, that counsel could make a motion that the operation of that order be stayed until the determination of the appeal in the criminal case.

The Court: I think apart from the motion of that character, [8810] as a matter of law, it would be stayed.

Mr. McMillan: I think not.

The Court: No?

Mr. McMillan: I am thinking about the case down in Los Angeles. True, we haven't any authority, but we may——

The Court: There might well be, in a conviction upon a plea of guilty, as was had in that case. But conviction, in the very nature of things, would contemplate a conviction with some degree of finality, I would think.

Mr. Hallinan: Particularly if that is not an appealable order, if he is correct in that.

The Court: Because the word "conviction" certainly implies finality, if, as Mr. Hallinan pointed out or the Court suggests, this is not an appealable order; because otherwise it would be quite apparent that the defendant at bar, Mr. Bridges, would be caught in the middle of the grinding forces.

Mr. Hallinan: Correct.

The Court: I think it deserves great consideration.

Mr. Hallinan: And certainly if the order should be finally entered, no harm would be done to the prosecution by waiting, under the circumstances, until a conviction did become final. That is, if they didn't care to proceed with the civil suit.

The Court: Well, what is the indication on the briefs, Mr. McMillan?

Mr. McMillan: Beg pardon? [8811]

The Court: What view do you take on the briefs, with regard to the time element?

Mr. McMillan: Well, Your Honor, of course I fly the flag of the Attorney General in these matters, and I will immediately submit it to the Attorney General for the Attorney General to overhaul the matter and send on his views. If I can do that, then he will give whatever authorities he has, and two weeks' time will be ample.

The Court: Two weeks.

Mr. Hallinan: Suppose we take ten days to answer.

The Court: Ten days to answer. And in the meantime, may the record show that the Court takes jurisdiction of the motion heretofore made for an order revoking, setting aside and declaring void the final order admitting defendant Harry Renton Bridges to citizenship. Said motion and application having been made prior to the filing herein of any notice or notices of appeal.

Mr. Hallinan: Very well, Your Honor.

The Clerk: Your Honor, may I suggest this——

The Court: Mr. McMillan, I will leave the original order as proposed with Mr. Mitchell. Will you please serve a copy of the proposed order on Mr. Hallinan so he may have the full text?

Mr. McMillan: I have already handed Mr. Hallinan a copy of the order at the time I handed it up to Your Honor. I wish we could get copies of those notices of appeal together with copies [8812] of the motion in arrest of judgment and also the motion for a new trial. We haven't any copies of those yet.

Mr. Hallinan: I will send you one immediately.

The Clerk: If Your Honor please, may the record show the government has 14 days, the defendants 10 days, to plead. The matter might be continued to May 9th for submission.

The Court: Very well. Are there any other matters? We will recess until 2:00 o'clock.

Certificate of Reporter

We, Official Reporters and Official Reporters pro tem, Certify that the foregoing transcript of 8813 pages is a true and correct transcript of the matter therein contained as reported by us and thereafter reduced to typewriting, to the best of our ability.

/s/ JOSEPH J. SWEENEY,

/s/ ELDON W. RICH,

/s/ W. A. FOSTER.

[Endorsed]: Filed April 13, 1950. [8813]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK TO RECORD ON APPEAL

I, C. W. Calbreath, Clerk of the United States District Court for the Northern District of California, do hereby certify that the foregoing and accompanying documents and exhibits, are the originals filed in this Court, or true and correct copies of orders entered on the minutes of this Court, in the above-entitled case, and that they constitute the Record on Appeal herein, to wit:

Indictment

Minute Order of June 16, 1949—Arraignment of Henry Schmidt, Plea of Not Guilty Entered by Each Defendant, Order Allowing Defendants to September 1, 1949, to File Motions for Bill of Particulars.

Motion of Henry Schmidt to Dismiss the Indictment and the First and Third Counts Thereof.

Motion of J. R. Robertson to Dismiss the Indictment and the First and Third Counts Thereof.

Motion of Harry Renton Bridges for a Bill of Particulars.

Motion of Henry Schmidt for a Bill of Particulars.

Motion of J. R. Robertson for a Bill of Particulars.

Motion of Harry Renton Bridges to Dismiss the Indictment Upon the Ground That the Grand Jury Which Returned the Indictment Was Not Selected According to Law, That Grand Jurors Were Disqualified, and Challenge to the Entire Grand Jury

Array, and to the Individual Members of the Grand Jury.

Motion of Henry Schmidt to Dismiss the Indictment Upon the Ground That the Grand Jury Which Returned the Indictment Was Not Selected According to Law, Etc.

Motion of J. R. Robertson to Dismiss the Indictment Upon the Ground That the Grand Jury Which Returned the Indictment Was Not Selected According to Law, Etc.

Demand for Voir Dire Hearing and Inquiry Into the Composition and Method of Selection of Grand Jury Array, and Legal Qualifications of Individual Grand Jurors.

Motion of Harry Renton Bridges for an Order of Examination, for an Order Permitting Inspection of Grand Jury Minutes, and for Other Appropriate Relief.

Motion of J. R. Robertson for an Order of Examination, for an Order Permitting Inspection of Grand Jury Minutes, and for Other Appropriate Relief.

Motion of Henry Schmidt for an Order of Examination, for an Order Permitting Inspection of Grand Jury Minutes, and for Other Appropriate Relief.

Affidavit of Harry Renton Bridges.

Affidavit of Henry Schmidt.

Affidavit of J. R. Robertson.

Affidavit of Herbert Resner.

Affidavit of Harold M. Sawyer.

Affidavit of Roy A. Pyle.

Affidavit of Frank Slaby.

Affidavit of Herbert Resner in Support of Motions of Defendants Bridges, Schmidt and Robertson to Dismiss the Indictment Upon the Ground That the Grand Jury Which Returned the Indictment Was Not Selected According to Law, That Grand Jurors Were Disqualified, and Challenge to the Entire Grand Jury Array, and to the Individual Members of the Grand Jury.

Answer of the United States to Defendants' Demand for Voir Dire Hearing and Inquiry Into the Composition and Method of Selection of Grand Jury Array, and Legal Qualifications of Individual Grand Jurors.

Answer of the United States to the Motions of Bridges, Schmidt and Robertson for an Order of Examination and for an Order Permitting Inspection of Grand Jury Minutes.

Answer of the United States to Motions of Bridges, Schmidt and Robertson for a Bill of Particulars.

Answer of the United States to the Motions of Bridges, Schmidt and Robertson to Dismiss the Indictment Upon the Grounds That the Grand Jury Was Not Qualified to Sit and That Individual Members Thereof Lacked Legal Qualifications.

Answer of United States to the Motions of Defendants Bridges, Schmidt and Robertson for an Order Dismissing the Indictment.

Substitution of Attorneys.

Minute Order of October 28, 1949—Order Denying Motion for Continuance of Trial Date.

Minute Order of November 22, 1949—Order Adjudging Vincent Hallinan Guilty of Contempt of Court, Sentence.

Motion to Vacate Order of Contempt—Re Vincent Hallinan.

Memorandum Opinion and Order Overruling Objections to Testimony of the Witness, John H. Schomaker.

Minute Order of November 28, 1949—Order Denying Defendants' Motions for Disqualification of Judge George B. Harris.

Withdrawal of Motion.

Motion and Affidavit and Statement of Disqualification of United States Judge George B. Harris.

Minute Order of February 3, 1950—Order Denying Motion of James Martin MacInnis to Disqualify Judge George B. Harris.

Instruction Re Deliberation of Jury on Sunday, April 2, 1950.

Verdict as to Harry Renton Bridges.

Verdict as to Henry Schmidt.

Verdict as to J. R. Robertson.

Motion in Arrest of Judgment—Harry Renton Bridges.

Motion in Arrest of Judgment—Henry Schmidt.

Motion in Arrest of Judgment—J. R. Robertson.

Motion for New Trial—Harry Renton Bridges.

Motion for New Trial—Henry Schmidt.

Motion for New Trial—J. R. Robertson.

Minute Order of April 10, 1950—Order Denying Motions for New Trial and in Arrest of Judgment; Sentence.

Judgment and Commitment of Harry Renton Bridges.

Judgment and Commitment of Henry Schmidt.

Judgment and Commitment of J. R. Robertson.

Notice of Appeal by Harry Renton Bridges.

Notice of Appeal by Henry Schmidt.

Notice of Appeal by J. R. Robertson.

Instructions to the Jury Submitted by Defense—"Not Given."

Instructions to the Jury Submitted by Prosecution—"Given."

Association of Attorneys.

Designation of Record on Appeal.

Statement of Points to Be Relied on.

Supplemental Statement of Points to Be Relied Upon.

Supplemental Designation of the Record on Appeal.

Order Extending Time to File Transcript of Record.

Plaintiff's Exhibits Nos. 1, 2, 3, 4, 6, 7, 8, 9, 10, 11, 24, 27, 28, 29, 37, 38, 39, 40, 41, 43 and 44.

Defendants' Exhibits Nos. A, L, R, S, T, E-1, L-1, M-1, N-1, O-1, Q-1, R-1, S-1, T-1, U-1, V-1, W-1, X-1, Y-1, Z-1, A-2, C-2, D-2, E-2, K-2, P-2, Q-2, T-2, V-2, W-2, X-2, Y-2, Z-2, C-3, F-3, I-3, J-3, K-3, L-3, M-3, N-3, O-3, P-3, Q-3, S-3, T-3, U-3, V-3, W-3, X-3, Z-3, A-4, B-4, G-4a, G-4b, G-4c, G-4d, G-4e, G-4f, G-4g, G-4h, G-4i, G-4j, G-4k. G-4l, G-4m, G-4n, G-4o, G-4p, G-4q, I-4, J-4, K-4, L-4, M-4 and N-4.

Reporter's Transcripts:

Vol. I—October 4, 5, 6, 1949—Motions to Dismiss, et al.

Vol. II—October 4, 5, 6, 1949—Motions to Dismiss, et al.

Testimony of Father Paul Meinecke—February 1, 1950.

Vol. 10—November 29, 1949.
Vol. 11—November 30, 1949.
Vol. 12—December 1, 1949.
Vol. 13—December 2, 1949.
Vol. 14—December 5, 1949.
Vol. 15—December 6, 1949.
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Vol. 35—January 13, 1950.
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Vol. 43—January 30, 1950.
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Vol. 60—February 28, 1950.
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Vol. 63—March 3, 1950.
Vol. 64—March 6, 1950.
Vol. 65—March 7, 1950.
Vol. 66—March 8, 1950.

Vol. 67—March 9, 1950.

Vol. 68—March 10, 1950.

Vol. 69—March 14 and 16, 1950.

Vol. 70—March 17, 1950.

Vol. 71—March 20, 1950.

Vol 72—March 21, 1950.

Vol. 73—March 22, 1950.

Vol. 74—March 23, 1950.

Vol. 75—March 24, 1950.

Vol. 76—March 27, 1950.

Vol. 77—March 28, 1950.

Vol. 78—March 29, 1950.

Vol. 79—March 30, 1950.

Vol. 80—March 31, 1950—Instructions to the Jury.

Vol. 81—March 31, 1950; April 1, 2 and 3, 1950—Deliberations of the Jury.

Vol. 82—April 4, 1950—Verdict.

Vol. 83—April 10 and 11, 1950—Motion.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said District Court this 26th day of June, A.D. 1950.

C. W. CALBREATH,
Clerk,

[Seal] By /s/ M. E. VAN BUREN,
Deputy Clerk.

[Endorsed] No. 12597. United States Court of Appeals for the Ninth Circuit. Harry Renton Bridges, Henry Schmidt and J. R. Robertson, Appellants, vs. United States of America, Appellee. Transcript of Record. Appeals from the United States District Court for the Northern District of California, Southern Division.

Filed July 6, 1950.

/s/ PAUL P. O'BRIEN,
Clerk of the United States Court of Appeals for the Ninth Circuit.

In the United States Court of Appeals
for the Ninth Circuit

No. 12,597, et al.

HARRY BRIDGES, et al.,
Appellants,
vs.
UNITED STATES OF AMERICA,
Appellee.

APPELLANTS' STATEMENT OF POINTS ON APPEAL

To the Honorable William E. Denman, Chief Judge, and to the Judges of the United States Court of Appeals for the Ninth Circuit:

Come now the appellants herein, and pursuant to Rule 19(6) of the Rules of the above-entitled Court respectfully state the points on which they intend to rely in this appeal, as follows:

I.

Appellants were substantially prejudiced and deprived of a fair trial by reason of the misconduct of the Court.

II.

Appellants were substantially prejudiced and deprived of a fair trial by reason of the misconduct of counsel for the Government.

III.

Appellants were substantially prejudiced and deprived of a fair trial by reason of the fraud, corruption and bribery of witnesses by agents of the prosecution.

IV.

The Court erred in denying a directed verdict of acquittal for the appellants and each of them.

V.

The verdict is contrary to the weight of the evidence.

VI.

The verdict is not supported by substantial evidence.

VII.

The court erred in charging the jury and in refusing to charge the jury as requested.

VIII.

The Court erred in denying appellants' motions for a mistrial.

IX.

The Court erred in sustaining objections to the admissibility of evidence tendered by appellants and each of them.

X.

The Court erred in admitting evidence tendered by the Government over the objections of appellants and each of them.

XI.

The Court erred in denying appellants' motions, and each of them, to dismiss the indictment:

(a) The return of the indictment and the bringing of the prosecution denied to the appellants, and particularly to appellant Harry Renton Bridges, the due process of law guaranteed by the First and Fifth Amendments to the Constitution of the United States.

(b) The prior proceedings were res judicata of the issues involved in this proceeding.

(c) The indictment failed to state facts sufficient to constitute an offense against the United States.

(d) The prosecution was barred by the operation of the statute of limitations.

(e) The question to which the alleged false answer was given was not material to the naturalization proceeding.

XII.

That commencing during the opening statement of Vincent Hallinan, attorney for the appellant Bridges, which opening statement followed immediately upon the opening statement of the prosecution, and continuing thereafter throughout the trial to and including the time when the jury returned their verdict, the trial judge repeatedly and persistently derided, disparaged, and derogated counsel for appellants, appellants themselves, the witnesses called by appellants, and the defenses which appellants interposed and sought to interpose, and during all such periods the said trial judge repeatedly and persistently praised, applauded, and complimented counsel for the prosecution, the agents of the Government who had participated in the preparation of the case against appellants, and witnesses who testified on behalf of the prosecution, with the result that appellants, and each of them, were denied a fair trial and a trial by jury as guaranteed by the Eighth Amendment to the Constitution of the United States, and were deprived of due process of law in violation of the Fifth Amendment of the Constitution of the United States.

XIII.

The Court below erred in its opinion, order and decree revoking appellant Bridges' citizenship.

Dated: September 25, 1950.

GLADSTEIN, ANDERSEN,
RESNER & LEONARD.
By /s/ NORMAN LEONARD,
Counsel for Appellants.

Receipt of Copy acknowledged.

[Endorsed]: Filed Sept. 25, 1950.

[Title of Court of Appeals and Cause.]

DESIGNATION OF RECORD TO BE PRINTED ON APPEAL

Come now the appellants above named and pursuant to the provisions of Rule 19(6) of the rules of the above-entitled Court, hereby designate the following as the portions of the record to be printed on appeal in the above-entitled cause:

1. Indictment.
2. Pleas of the defendants, docket entries of Thursday, June 16, 1949.
3. Motion of Harry Bridges to dismiss the indictment and the first and second counts thereof,

being the document marked No. 35, filed September 1, 1949.

4. Motion of Henry Schmidt to dismiss the indictment and the first and third counts thereof, being the document marked No. 36, filed September 1, 1949.

5. Affidavit of Harry Renton Bridges, being the document marked No. 46, filed September 1, 1949, together with the exhibits attached thereto, being Exhibit A, the affidavit of Harry Bridges dated August 29, 1941; Exhibit B, the affidavit of Leon Goodelman dated August 28, 1941, with three photostatic copies of the newspaper "PM" dated August 25, 26 and 28, 1941, attached thereto; Exhibit C, being the affidavit of Lawrence Kammett dated September 2, 1941; Exhibit D, being the affidavit of Virginia Gardner dated September 2, 1941; Exhibit E, being the affidavit of Carol King dated September 2, 1941; Exhibit F, being the application for certificate of arrival and preliminary form for petition for naturalization executed by Harry Renton Bridges on June 23, 1945; Exhibit G, being the petition for naturalization dated August 8, 1945; Exhibit H, being the reporter's transcript of the naturalization proceedings of Harry Bridges on September 17, 1945; and Exhibit I, being a photostatic copy of the "Milwaukee Journal" dated June 27, 1949.

6. Affidavit of Henry Schmidt, being document marked No. 47, filed September 1, 1949.

7. Affidavit of J. R. Robertson, being document marked No. 48, filed September 1, 1949.

8. Affidavit of Harold M. Sawyer, being document marked No. 50, filed September 1, 1949.

9. Memorandum opinion and order denying certain motions, being document marked No. 90, filed October 12, 1949.

10. Minute order of Tuesday, November 22, 1949, adjudging Vincent Hallinan guilty of contempt of court and sentencing him and ordering that his name be stricken from the roll of attorneys admitted to practice in the United States District Court.

11. Order of contempt and certificate, being document numbered 97, filed November 28, 1949.

12. Memorandum opinion and order overruling objections to testimony of the witness John H. Schomaker, being document marked No. 101, filed November 28, 1949.

13. Verdicts of the jury, being documents marked No. 173, 174 and 175, filed April 4, 1950.

14. Motions in arrest of judgment, being documents marked No. 179, 180 and 181, filed April 10, 1950.

15. Motions for a new trial, being documents marked No. 182, 183 and 184, filed April 10, 1950.

16. Minute entries of Monday, April 10, 1950, consisting of five unnumbered pages.

17. Judgments of conviction, being documents marked No. 184A, 184B and 184C, dated April 10, 1950.

18. Notice of appeal of Harry Renton Bridges, being document marked No. 186, dated April 10, 1950, and filed April 11, 1950.

19. Notice of appeal of Henry Schmidt, being

document marked No. 187, dated April 10, 1950, and filed April 11, 1950.

20. Notice of appeal of J. R. Robertson, being document marked No. 188, dated April 10, 1950, and filed April 11, 1950.

21. Instructions to the jury by defense, not given, consisting of defendants' proposed instructions Nos. 1, 2, 3, 6, 7, 11, 13, 15, 16, 18, 19, 20, 21, 22, 23, 25, 26, 27, 29, 30, 32, 33, 36, 37, 38, 40, 43, 44, 45, 46, 47, 48, 50. 52, 54, 56, 58, 59, 61, 62, 63, 64, 66, 66A, 66B, 66E, 67, 67A, 71, 72, 73, 74, 74A, 76, 78, 78A, 78B, 78C, 79, 80, 81, 82, 83 and 84, collectively the document marked No. 194, and filed April 12, 1950.

22. Instructions to the jury submitted by the defense, given, being defendants' proposed instructions No. 4, 5, 8, 9, 10, 12, 14, 24, 28, 31, 34, 35, 41, 42, 49, 55, 57, 60, 65, 66C, 66D, 68, 69, 70, 75 and 77, collectively being a continuation of the document marked No. 194, filed April 12, 1950.

23. Instructions to the jury by the prosecution, given, being prosecutions instructions Nos. 1, 2, 3, 4, 5, 8, 10, 11, 12, 13, 14, 15 and 16, collectively being the first section of the document marked No. 195, and filed April 12, 1950.

24. Designation of record on appeal, being document marked No. 279, filed April 24, 1950.

25. Statement of points to be relied on, being document marked No. 280, filed April 24, 1950.

26. Supplemental statement of points to be relied on, being document marked No. 282, filed May 3, 1950.

27. Supplemental designation of record on appeal, being document marked No. 283, filed May 3, 1950.

28. Order extending time to file transcript of record, being document marked No. 284, filed May 16, 1950.

29. Certificate of clerk to record on appeal, being an unnumbered document consisting of seven pages, dated June 26, 1950.

30. Stipulation of Counsel dated September 25, 1950.

31. Reporters Transcript 477 to conclusion on June 20, 1950.

GLADSTEIN, ANDERSEN,
RESNER & LEONARD.

By /s/ NORMAN LEONARD,

VINCENT HALLINAN,

JAMES MARTIN MACINNIS,

WILLIAM F. CLEARY,
Attorneys for Appellants.

Receipt of Copy acknowledged.

[Endorsed]: Filed Sept. 25, 1950.

[Title of Court of Appeals and Cause.]

AFFIDAVIT, STIPULATION AND ORDER

State of California,
City and County of San Francisco—ss.

William F. Cleary, being first duly sworn, deposes and says:

That he is one of the attorneys for appellants above named. That there are many and bulky printed and written exhibits and appendices in the record of the above-entitled cause, including newspaper articles, minutes of union meetings, reports of Government administrative agencies, and other bulky documents. That much of the relevant portions of said exhibits has been read into the record of this cause and will therefore be printed with the Reporter's Transcript of the record on appeal. That in the opinion of counsel proper and expeditious prosecution of this cause on appeal will not be best served by printing said exhibits as part of said record on appeal, but by permitting said exhibits to be considered and referred to by the Court and the parties hereto as though the same were actually printed and incorporated in the record on appeal. That the expense to appellants will be materially reduced by permitting this to be done, and that the record on appeal will be materially shortened.

Wherefore, appellants pray that the aboxe-entitled Court grant its permission that all of the exhibits and appendices in the said cause may be deemed part of the printed record herein and may be referred to by the Court and counsel for the parties hereto as though printed in said record.

/s/ WILLIAM F. CLEARY.

Subscribed and sworn to before me this 25th day of September, 1950.

[Seal] /s/ PAUL P. O'BRIEN,
Clerk, U. S. Court of Appeals
for the Ninth Circuit.

Stipulation

It Is Hereby Stipulated that an order to the above effect may be made.

Dated: September 25, 1950.

GLADSTEIN, ANDERSEN,
RESNER & LEONARD.

By /s/ NORMAN LEONARD,
Counsel for Appellants.

/s/ FRANK J. HENNESSY,
United States Attorney,
Counsel for Appellee.

By /s/ A. B. McMILLAN,
Asst. U. S. Attorney.

It Is So Ordered.

/s/ CLIFTON MATHEWS,
United States Circuit Judge.

/s/ WILLIAM HEALY,
United States Circuit Judge.

/s/ WALTER L. POPE,
United States Circuit Judge.

[Title of Court of Appeals and Cause.]

STIPULATION

It Is Hereby Stipulated by and between counsel for the respective parties hereto that on September 1, 1949, appellant J. R. Robertson filed in the United States District Court for the Northern District of California, Southern Division, a motion to dismiss the indictment and the first and third counts thereof in the identical words as the motion filed by appellant Henry Schmidt.

Dated: September 25, 1950.

GLADSTEIN, ANDERSEN,
RESNER & LEONARD.

By /s/ NORMAN LEONARD,
Attorneys for Appellants.

FRANK J. HENNESSY,
U. S. Attorney.

By /s/ R. B. McMILLAN,
Attorney for Appellee,
Asst. U. S. Atty.

[Endorsed]: Filed Sept. 27, 1950.

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JAN 14 1953
[illegible] Clerk

TRANSCRIPT OF RECORD
IN EIGHTEEN VOLUMES

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

Volume XVIII
(Pages 8215 to 8435)

PETITION FOR A WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

No. 12597

United States Court of Appeals

For the Ninth Circuit

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

Appeals from the United States District Court,
Northern District of California
Southern Division

Proceedings Had in the United States Court of Appeals for the Ninth Circuit

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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United States Court of Appeals
for the Ninth Circuit

Excerpt from Proceedings of Tuesday, March 18, 1952.

Before: Stephens, Bone and Pope,
Circuit Judges.

[Title of Cause.]

ORDER OF SUBMISSION

Ordered appeals herein argued by Messrs. Richard Gladstein, Norman Leonard and Vincent Hallinan, counsel for appellants, and by Mr. Robert B. McMillan, Assistant United States Attorney, counsel for appellee, and submitted to the court for consideration and decision.

United States Court of Appeals
for the Ninth Circuit

Excerpt from Proceedings of Saturday, September 6, 1952.

Before: Stephens, Bone and Pope,
Circuit Judges..

[Title of Cause.]

ORDER DIRECTING FILING OF OPINIONS AND FILING AND RECORDING OF JUDGMENT

Ordered that the typewritten opinions this day rendered by this court in above cause be forthwith filed by the clerk, and that a judgment be filed and recorded in the minutes of this court in accordance with the opinions rendered.

United States Court of Appeals
for the Ninth Circuit

No. 12,597

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

Sept. 6, 1952

Appeals from the United States District Court, Northern District of California, Southern Division

Before: Stephens, Bone, and Pope,
Circuit Judges.

Stephens, Circuit Judge.

OPINIONS AND CONCURRING OPINION

On the 25th day of May, 1949, a single indictment was returned by a United States Grand Jury charging Harry Renton Bridges, Henry Schmidt, and J. R. Robertson with the crime of conspiracy to fraudulently secure Bridges' naturalization (Count I; 18 U.S.C. [1946 ed.] §88, now 18 U.S.C. [1948 Rev.] §371): charging Bridges with the crime of knowingly making a false statement under oath relating to his naturalization proceedings (Count II; 8 U.S.C. [1946 ed.] §746[a](1), now 18 U.S.C. [1948 Rev.] §1015(a)); charging

Schmidt and Robertson each with the crime of fraudulently aiding and abetting an alien (Bridges) to procure naturalization (Count III; 8 U.S.C. [1946 ed.] §746(a)(5)). All of the charges contained in the indictment were submitted together to a jury which returned verdicts of guilty against each defendant as charged in each count; judgment and sentence followed; and each defendant appeals on numerous grounds as to each judgment.[1]

Count I.

Count I is laid under Title 18 U.S.C. [1946 ed.] §88, (now 18 U.S.C. [1948 Rev.] §371) in which Bridges, Schmidt and Robertson were charged with having conspired together to secure the naturalization of Bridges, an alien, by fraudulently representing that he had never belonged to the Communist Party of the United States. The applicable statute is as follows:

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[1] Bridges was sentenced to:
two years imprisonment on Count I of the indictment and five years on Count II of the indictment, commencing and running concurrently.
Schmidt was sentenced to:
two years imprisonment on Count I of the indictment and two years on Count III of the indictment, commencing and running concurrently.
Robertson was sentenced to:
two years imprisonment on Count I of the indictment and two years on Count III of the indictment, commencing and running concurrently.

> §88. "If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000, or imprisoned not more than two years, or both."

The text of the Count, together with the alleged overt acts, are set out in the margin.[2]

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[2] Count I: "The Grand Jury charges: That Harry Renton Bridges, Henry Schmidt, and J. R. Robertson (hereinafter called 'said defendants') on or about the 23rd day of June, 1945, and continuing thereafter until on or about October 1, 1945, and for some time prior thereto, the exact time being to the Grand Jury unknown, at the City and County of San Francisco, State of California, within said Division and District, did conspire with each other, and with divers other persons to the Grand Jury unknown, to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws, in the manner following, to wit: By having said defendant Harry Renton Bridges fraudulently petition for and obtain naturalization in a naturalization proceeding in the Superior Court of the State of California, in and for the City and County of San Francisco, by falsely and fraudulently stating and representing to the said Court in said proceeding numbered 28152 in the records of said Superior Court, that he, said defendant Harry Renton Bridges, had never belonged to the Communist Party in the United States; that said statement and representation so agreed to be made, and made, as aforesaid, as said defendants, and each of them at all times

Count II.

Count II is laid under Section 346 of the Nationality Act of 1940, c. 876, 54 Stat. 1137, 1163, Title 8 U.S.C. [1946 ed.] §746(a)(1), (now 18 U.S.C. [1948 Rev.] §1015(a)), in which Bridges, alone, is charged with having fraudulently made a false statement under oath in his naturalization proceedings in the Superior Court of California, as follows:

> Question by the Court to Mr. Bridges: "Do you now, or have you ever, belonged to the Communist Party of the United States?"
>
> Answer by Mr. Bridges: "I have not; I do not."

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herein mentioned well knew, were false and fraudulent in this, that said defendant Harry Renton Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including said 17th day of September, 1945; that said statement and representation were material to said naturalization proceeding.

"That in pursuance of such conspiracy, and during the existence thereof, and in furtherance, and to effect the objects thereof, said defendants, respectively, did and performed the following overt acts:

"1. On the 23rd day of June, 1945, defendant Harry Renton Bridges filed at the office of the Immigration and Naturalization Service, in the City of San Francisco, State of California, an application for a Certificate of Arrival and preliminary form for petition for naturalization.

"2. On or about the 8th day of August, 1945, said defendant Harry Renton Bridges appeared before Lloyd H. Garner, a Naturalization Examiner of the United States, at San Francisco, State

The applicable statute is as follows:

> 8 U.S.C. [1946 ed.] §746(a). It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—
>
> "(1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship."

The text of the Count II is set out in the margin.[3]

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of California, in the office of the County Clerk in and for the City and County of San Francisco, and gave testimony in the matter of the application of said defendant Harry Renton Bridges for naturalization.

"3. On or about the 8th day of August, 1945, said defendants Henry Schmidt and J. R. Robertson, and each of them, at the office of the County Clerk in and for the City and County of San Francisco, State of California, signed as witnesses a petition for naturalization in the case of defendant Harry Renton Bridges.

"4. On or about the 17th day of September, 1945, said defendants Harry Renton Bridges, Henry Schmidt, and J. R. Robertson, and each of them, appeared in the Superior Court of the State of California, in and for the City and County of San Francisco, and gave testimony in support of the petition of defendant Harry Renton Bridges for naturalization."

[3] Count II: "The Grand Jury further charges: That on the 17th day of September, 1945, at the City and County of San Francisco, State of Cali-

Count III.

Count III is laid under Section 346 of the Nationality Act of 1940, c. 876, 54 Stat. 1137, 1163, Title 8 U.S.C. [1946 ed.] §746(a)(5). In this Count Schmidt and Robertson are accused of knowingly encouraging, aiding, advising, and assisting Bridges to secure his naturalization through fraud. The applicable statute is as follows:

> 8 U.S.C. [1946 ed.] §746(a). "It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—— * * *
>
> "(5) To encourage, aid, advise, or assist any person not entitled thereto to obtain, ac-

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fornia, in the Superior Court of the State of California, in and for the City and County of San Francisco, Honorable Thomas M. Foley, Superior Judge, presiding, there came on for hearing a naturalization proceeding, numbered 28152 in the records of said Superior Court, on the petition of defendant Harry Renton Bridges for naturalization under the Nationality Act of October 14, 1940; that defendant Harry Renton Bridges then and there was called and produced as a witness in said proceeding then on for hearing, and took an oath before said Court that he, the said defendant, would testify truly in said proceeding, and said Court then and there had competent authority to administer said oath, and did administer it; that defendant Harry Renton Bridges did then and there wilfully and knowingly make a false statement under oath in certain matters which were material to the issues of said proceeding then and

> cept, or receive any certificate of arrival, declaration of intention, certificate of naturalization or certificate of citizenship, or other documentary evidence of naturalization or of citizenship——
>
> "(a) Knowing the same to have been procured by fraud; * * *."

The text of the Count is set out in the margin.[4]

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there being heard, giving the following answers to questions asked, to wit:

> " 'Q. Do you now, or have you ever, belonged to the Communist Party in the United States?
>
> " 'A. I have not; I do not.'

That said answers so stated and testified to by defendant Harry Renton Bridges were, and each of them was, as said defendant then and there knew, wilfully false and contrary to his said oath, and said defendant did not then and there believe said answers, or any of them, to be true, and the said answers were, and each of them was, then and there believed and known by him to be false.

"That in truth and in fact said defendant at the time of so testifying belonged to and was a member of the Communist Party in the United States, and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945.

"That said statement and testimony of said defendant, and said answers given by him as aforesaid, were upon a material matter, and were material in and to the issues of said proceeding."

[4] Count III: "The Grand Jury further charges: That said defendants, Henry Schmidt and J. R. Robertson, on or about the 17th day of September, 1945, at the City and County of San Francisco, State of California, within said Division and District, did wilfully and knowingly encourage, aid,

The Statute of Limitations

The acts which are the bases of the charges were performed within the period intervening between June 23 to October 1, 1945, and since the indictment was returned on May 25, 1949, the three year period provided by the general statute of limitations,[5] within which prosecutions could legally be

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advise and assist a person, to wit, Harry Renton Bridges, not then and there entitled thereto, to obtain, accept and receive a Certificate of Naturalization, which was to be procured, and was procured by fraud, as said defendants, and each of them, at all times herein mentioned well knew, said fraud consisting of false and fraudulent statements and representations made in a naturalization proceeding before the Superior Court of the State of California in and for the City and County of San Francisco, numbered 28152 in the records of said Superior Court, and said Harry Renton Bridges did not belong to the Communist Party in the United States and had never belonged to the Communist Party in the United States, whereas in truth and in fact said Harry Renton Bridges then and there, as said defendants Henry Schmidt and J. R. Robertson, and each of them, then and there well knew, belonged to and was a member of the Communist Party in the United States, and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945."

[5] Act of June 25, 1948, c. 645, 62 Stat. 828, Title 18 U.S.C. §3282:

Offenses Not Capital.

> "Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed."

instituted, had expired and the judgments must be reversed and the indictment dismissed if the prosecution is limited to such period.

The government thinks the prosecution is not so limited because the Congress, aware of the difficulty of prosecuting frauds committed against the government during wartime, enacted the so-called wartime Suspension Act[6] which provided that the three-year period would not begin to run until cessation of war hostilities had been officially proclaimed.

Appellants are of the opinion that neither one of the alleged offenses is a fraud against the government cognizable by the Suspension Act, and therefore institution of the prosecution for these offenses was not extended by it.

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[6] Act of June 25, 1948, c. 645, 62 Stat. 828, Title 18 U.S.C. §3287:

Wartime Suspension of Limitations.

> "When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress. * * *."

The first count of the indictment is under the substantive offense of conspiracy, and the second and third counts are offenses defined in the statute commonly referred to as the Nationality Act of 1940. The government is of the opinion that the statute of limitations of five years provided in the Nationality Act of 1940[7] applies to Counts II and III independently of the general statute of limitations, and the Suspension Act, while appellants claim that it does not apply and that the general statute of limitations of three years is the applicable limitation, we shall go immediately to the consideration of the latter problem.

The Saving Clause in the Repeal of Offenses Charged in Counts II and III

By Section 21 of the Act of June 25, 1946, revising the Criminal Code, Section 746(a)(1), (5) (Counts II and III), and Section 746(g) of Title 8 U.S.C., which prescribed five years as the statute of limitations for the crimes defined in Section 746, were repealed.[8]

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[7] Nationality Act of 1940, Section 346 (g), c. 876, 54 Stat. 1137, 1167, Title 8 U.S.C. §746 (g) [1946 ed.]: Statute of Limitations.

> "No person shall be prosecuted, tried, or punished for any crime arising under the provisions of this chapter unless the indictment is found or the information is filed within five years next after the commission of such crime."

The repealing Act provided that "any rights or liabilities" existing under the repealed sections were, however, preserved. This retention of "rights or liabilities" is generally referred to as the "Saving Clause." Whether such preservation included the five-year limitation on the initiating of prosecutions we shall consider. If not included, then the general limitation of three years was applicable and had run as to Counts II and III, as appellants claim, unless the Suspension Act tolled the beginning of the three years to the date of the cessation of war hostilities. If either the Saving Clause or the Suspension Act applies, Counts II and III were laid in time. If the Suspension Act applies to Count I, it was laid in time. The Saving Clause has no relation to Count I.

We have said that the repealing Act provided that any "rights or liabilities now existing under [the repealed sections] or parts thereof shall not be affected by this repeal." The offenses under Counts II and III (8 U.S.C. §746(a)(1) and (5), supra) were repealed and at the same time, by the same Act, the five-year statute of limitations (8

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[8] Section 21, Act of June 25, 1948, 62 Stat. 683, 862:

> "The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal."

U.S.C. §746(g), supra) applying specifically to the offenses defined in the same Act as that containing the five-year statute of limitations, was repealed.

We can see no other meaning as to what was done by the repealing Act with its preservation of existing rights and liabilities than that the government's "right" to prosecute and the appellants' "liability" to be prosecuted were expressly preserved, together with the rights and liabilities existing under the repealed five-year statute of limitations before its repeal.

We are, of course, aware that the second circuit has taken a different view of the problem in United States v. Obermeier, 1950, 2 Cir., 186 F.2d 243. In that case the court held that §746(a)(1), (the section under which our Count II is laid), was not repealed but was revised into Title 18 U.S.C. §1015(a). There are volumes written on the effect of revisions and repeals and, after considerable study, we find confusion perhaps worse confounded. As a matter of fact, the Congress used the following language in its repealing statute:

> "The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal." Section 21, Act of June 25, 1948, 62 Stat. 683, 862.)

The offense treated in Obermeier derives from the same section of the same statutes as the offense in our Count II. The offense treated in our Count III derives from another section of the same statute as also does the repealed five-year statute of limitations applying specifically to such offenses. All of these three sections of the statute were repealed by the same Act and are enumerated in the schedule.

We think as did the trial court in the instant case that Congress intended and used, apt language to that end, to retain the right to prosecute the offenses under which Counts II and III were laid within the time prescribed by the statute of defining them. It did not intend "a legislative pardon or amnesty" (United States vs. Obermeier, supra, at page 251) which would result if existing rights and liabilities under the statute of limitation set out in Title 8, U.S.C. §746(g) were not preserved.

Appellants suggest in their brief that the Saving Clause in section 21 was intended to apply only to charges already made with trials pending. Appellants are wrong.

The Supreme Court said in Yeaton vs. United States, 1809, 9 U.S. (5 Cranch.) 281, 283, "[I]t has long been settled, on general principles, that after the expiration or repeal of a law, no penalty can be enforced, nor punishment inflicted, for violations of the law committed while it was in force, unless some special provision be made for that purpose by statute." [Emphasis ours.] See also United States vs. Chambers, 1934, 291 U.S. 217, 223.

A special provision made by Congress need not, nor does it here, confine the content of what it saves to actions pending under the repealed statutes. 50

Am.Jur. §528; Coffin vs. Rich, 1858, 45 Me. 507, 71 Am.Dec. 559, 564.

There is good reason for the trial judge's statement in his opinion[9] that the Congressional intent was to preserve the status quo as to violation of and the prosecution for offenses which had been committed prior to the repeal. We think the wording of the Saving Clause is not ambiguous and, quoting Chief Justice Hughes' language in United States vs. Gilliland, 1941, 312 U.S. 86 at page 93, "[w]e see no reason why this apparent intention should be frustrated by construction.

The Applicability of the Wartime Suspension Act

The Wartime Suspension Act (62 Stat. 828) is cast in three numbered classes. The government views class (1), which suspends the running of the general limitation statute until proclamation of cessation of hostilities as to offenses "involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not * * * ," as covering frauds to obtain rights and privileges from the government or which obstruct the government or its agencies in the due execution of law. And pecuniary[9a] loss to

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[9] United States v. Bridges, 1949, 86 F. Supp. 922, 927.

[9a] For facility of expression in this opinion, we have expanded the meaning of the word "pecuniary" to include any and all property of value.

the government is not a necessary element. Classes (2) and (3) apply to frauds against the government or a government agency in specific instances which involve pecuniary loss to the government.

Appellants, opposing the government's view, seek to apply the rule of ejusdem generis to the Act and argue that since classes (2) and (3) refer to frauds of the same nature, class (1) is limited to frauds of the same nature. We pass this contention by quoting from United States vs. Gilliland, 1941, 312 U.S. 86, 93:

> " 'The rule of "ejusdem generis" is applied as an aid in ascertaining the intention of the legislature, not to subvert it when ascertained.' "

Appellants also argue that the legislative history supports the view that only pecuniary frauds were contemplated by the Congress. We think the government's view of the Act is supported by the face of the Act and that no ambiguity is present which requires reference to the legislative history. However, we think the history, some of which we set out in the margin,[10] does not support appellant's view.

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[10] House and Senate Reports (No. 2051, House Misc. Rep. III, and No. 1544, Senate Misc. Rep. IV, accompanying the bill which became the Act of August 24, 1942, 56 Stat. 747, and which, when amended in 1944 became the Act here considered) referred to the need for time "to investigate, discover, and gather evidence to prosecute frauds against the Government." It alluded to the gigantic war program, to the fact that "[h]uge sums of money" were "being expended for materials and

We shall proceed to look at the case authorities. But before doing so, it is well to have in mind that not every fraud against the government, whether inherently pecuniary or otherwise, comes within the effect of the Suspension Act. There are offenses for which specific statutes of limitation apply and there are offenses which encompass acts inherently fraudulent as to the government but in which the fraud is not an ingredient and need not be proved. The Suspension Act does not apply in such circumstances if the decisions relative to the provisos considered in Noveck, McElvain and Sharton, hereinafter cited, are to rule. See our note 15a.

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equipment," that these dealings would no doubt present opportunities for unscrupulous persons "to defraud the Government or some agency." These allusions suggest fraud causing pecuniary losses. On the other hand, the same report mentions the fact that "[t]he law-enforcement branch of the Government is also busily engaged in its many duties, including the enforcement of the espionage, sabotage, and other laws." This suggests that these agencies were currently too busy with war problems to be able to devote the time necessary to discover frauds against the Government, a condition which would be true of one character of fraud as another.

American Stevedores v. Porello, 1947, 330 U.S. 446, 451-2, demonstrates that when a statement made in Congress during the pendency of a bill mentions but one purpose to be served by an enactment of language broad enough to accomplish other purposes as well, it cannot be assumed, in the absence of express limitations in the enactment, that it was not intended to serve the other purposes as well.

It appears to us that the legislative history is too equivocal to be determinative here.

The Case Authorities

United States vs. Gottfried, 1948, 2 Cir., 165 F. 2d 360: Gottfried and others were involved in frauds to obtain more sugar than their legal ration. Gottfried and his corporation were indicted for making a fraudulent statement, and Gottfried and two others were indicted for conspiracy to defraud the government. The specific fraud alleged was that the government should be deprived of the services of one of its enforcement officers in order to accomplish the illegal purpose. No mention was made as to any pecuniary loss of the government. The court said in part, at page 368:

> "The argument [by appellants]—drawn from the Congressional debates—is that this language should be confined to frauds of those who contracted with the United States or supplied it with materials, and that it does not include interference even though fraudulent which results in no pecuniary loss. Textually, this reasoning has nothing to commend it, except so far as the word, 'fraud,' may imply pecuniary loss; and, whatever might be said as a new matter for so circumscribing that word, it has been the law, at least since 1910, that in the statute [§80, Title 18 U.S.C.A.] under which this indictment was drawn, 'fraud' includes any conduct 'calculated to obstruct or impair its' (the United States') 'efficiency and destroy the value of its operations and reports.' [Haas vs. Henkel, 1910, 216 U.S.

> 462, 479].[11] We see no reason for reading the words 'defrauding the United States' in the statute of limitations now in question less comprehensively; certainly there was not enough ground for that in the debates of Congress. Besides, the purpose of the amendment was not to let crimes pass unpunished which had been committed in the hurly-burly of war, an over-riding motive which perfectly fits the situation at bar."

We are in accord with these expressions.

Following World War I there was in effect a proviso to the statute of limitations which was to some extent the prototype of the Wartime Suspension Act. It is therefore useful to approach the scope of the present Act through decisions made under the former Act.

United States vs. Noveck, 1926, 271 U.S. 201: In this case the government was contending that the acts of defendant, the basis of the charge of perjury against him, were inherently fraudulent and therefore a proviso suspending the statute of limitations, was applicable. But the court held otherwise, giving the reason for its holding that fraud is not an ingredient of perjury, that perjury can be proved without proof of fraud, and that the proviso to the statute of limitations applies only to those cases in which fraud is an ingredient. The court went on to say that otherwise the same period of limtation would not apply to all offenses of perjury. Those in which the government was defrauded would be under the proviso and all others would be under the general statute of limitations.

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[11] The court in Gottfried was referring to the following found in Haas v. Henkel, 1910, 216 U.S. 462, 479:

"The statute is broad enough in its terms to include any conspiracy for the purpose of impairing, obstructing, or defeating the lawful function of any department of the government * * *. That it is not essential to charge or prove an actual financial or property loss to make a case under the statute has been more than once ruled [citing many cases]."

As we have already seen, the basic reason for the decision in United States vs. Noveck, supra, was that the proviso to the statute of limitations then in effect applied only to crimes in which fraud against the government or any agency thereof is an ingredient and is a necessary element of proof. That is, since the crime in Noveck was perjury, a crime which may be proved independently of or in the absence of fraud against the government, fraud against the government is an immaterial incident.

United States vs. McElvain, 1926, 272 U.S. 633: The indictment was laid under Criminal Code §37. (35 Stat. 1088-1096) and the charge was conspiracy to defraud the United States in respect of its income tax. The general statute of limitations (§1044) for criminal offenses was three years and under a proviso to it the period within which the indictment could be returned as to certain offenses was six years. The government claimed that the proviso was applicable to the charge laid, but the defense thought not. The trial court and the Supreme Court held that the general statute of limitations without the proviso was applicable. For clarity, we shall refer to the section, minus the proviso, as the "main part." Section 1044, complete with proviso, is quoted in note [12].

The opinion of the Supreme Court in United States vs. McElvain, supra, is not easy reading and has had various constructions. Without very careful study it mistakenly appears that an inconsistency or miscitation of statutory section has crept into it. The court, it will be observed, says at page 639:

> "The crime of conspiracy to commit an offense is distinct from the offense itself,"

meaning of course that conspiracy is one crime and the performance of the illegal acts planned or "involved" in the conspiracy constitutes another distinct or, according to the court, "substantive" crime.[13]

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[12] Rev. Stats. §1044: "No person shall be prosecuted, tried, or punished for any offense, not capital, except as provided in section 1046, unless the indictment is found, or the information is instituted, within three years next after such offense shall have been committed: Provided, however, That in offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes, the period of limitation shall be six years. This Act shall apply to acts, offenses, or transactions where the existing statute of limitations has not yet fully run, but this proviso shall not apply to acts, offenses, or transactions which are already barred by the provisions of existing laws." 42 Stat. 220; see also Title 18 U.S.C.A. §582 (1927 ed.).

The proviso cannot relate to any offense not within the terms of the main part of the statute because the proviso is an excepting clause to the rule or law laid down in the main part. Without the proviso, the main part of the statute by its terms covers every offense except capital offenses and offenses arising from the revenue laws. The excepting clause (the proviso) takes all offenses, covered by the main part which "involve" fraud against the United States or its agencies, out of the three-year limitation and fixes instead thereof a six-year limitation.

The case is dealing with an offense of conspiracy but, says the court (page 639),

> "The language of the proviso cannot reasonably be read to include all conspiracies as defined by §37 [because the proviso contains the words 'whether by conspiracy or not' which establishes that it is the substantive offense or the object of the conspiracy which determines the scope of the proviso]. * * * [O]bviously it [the proviso] would be limited to those [conspiracies] to commit the substantive offenses which it [the main part] covers"

or, in the language of the proviso, which it "involves." The substantive offense to the conspiracy charged in the McElvain case is not covered or involved in the main part but by specific language it is excluded therefrom. But no "distinct" offense of conspiracy is excluded from coverage of the main part. It follows that the offense charged is within the terms of the main part and not within the excepting part—the proviso. All the rest of the opinion is intended to explain the reasonableness of the decision and the evident intent of Congress but, unfortunately, rather acts to confuse. See note [13a].

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[13] See also Glasser v. United States, 1942, 315 U.S. 60, 66.

Under the doctrine of the McElvain case it is clear that since Count I of our case concerns conspiracy, the substantive offense of which is not excluded from the main part of the applicable statute of limitations, the proviso would apply.[14] The decision and opinion in United States v. McElvain, supra, is not authority for excluding our Count I from the Suspension Act.

United States v. Scharton, 1932, 285 U.S. 518: The statute of limitations with which Scharton was concerned was §1110(a) of the Revenue Act of 1926, applying specifically to offenses under the revenue laws. Differing from McElvain, the indictment was not for conspiracy, but for violating a "substantive"

[13a] The gist of counsel's argument, which the court approved, was (p. 636): "If the proviso in the amendment of §1044 does not include within its terms frauds existing under the Revenue Act, then necessarily such proviso does not include conspiracies to commit frauds on the Government under the Revenue Act."

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[14] See Miller v. United States, 1928, 24 F. 2d 353; Falter v. United States, 1928, 23 F. 2d 420.

revenue law and was within the main part of the applicable statute of limitations. There was a proviso to the applicable statute of limitations, §1110(a), similar to the proviso in McElvain, hence, under the McElvain reasoning the offense was not taken out of the main part. But the proviso was held not to apply because of the principle announced in United States v. Noveck, supra, that fraud against the United States or any agency thereof was not an ingredient of the offense charged. The court sought to find the intent of Congress and in doing so called attention to the fact that the proviso was an excepting clause and therefore was to be strictly construed. The section under which the charge is made, §1114(b), makes an attempt to evade any tax under the Revenue Act of 1926, an offense without the mention of fraud. "There are, however, numerous statutes expressly making intent to defraud an element of a specified offense against the revenue laws." United States v. Scharton, supra, at page 521. Hence, under the Noveck doctrine, the proviso applies only to offenses which encompass fraud as an ingredient.

The statute under which our Count II is laid, 8 U.S.C. §746(a)(1), has no specific mention of fraud and it can be argued from this fact that the Suspension Act would not be applicable thereto. However, we think the Suspension Act does apply for the reason we shall now set forth: The charge in Scharton was that the accused had made attempts to evade income taxes and the statutory offense, §1114(b), Revenue Act of 1926, made attempts to wilfully evade or defeat the tax, a felony. There is no specific mention of fraud in the statute defining the offense charged, and the proviso as we have seen is made applicable only to "offenses involving the defrauding or attempt to defraud the United States or any agency thereof," et cetera.

If the cited case must be construed to mean that "fraud" must be spelled out literally in the statute, then logically we must hold that the Suspension Act does not apply to Count II, for although fraud is specifically charged in the indictment, fraud is not specifically mentioned in the statute defining the offense under which the charge is laid.

We think we are not driven to this extreme conclusion. Noveck, McElvain, and Scharton do not foreclose the holding that where the very terms of a statutory offense require proof which necessarily involves fraud or attempted fraud against the United States or an agency thereof, and there is no special Act inconsistent therewith such as is found in McElvain and Scharton, the Suspension Act applies. After all, the Congress was enacting the Suspension Act to preserve the government's right to prosecute those who had tried, successfully or not, to defraud it during the war. It does not seem to be in harmony with Congressional intent nor does it seem otherwise necessary to construe the Noveck doctrine so strictly that it excepts the extension or suspension of statute of limitations from applying to acts which come directly under the offense and which cannot be committed without thereby committing fraud against the United States or an agency thereof. In the circumstances prosecutions under the same statutory offense could not be limited in one case to a certain period and to another period in another case—a strong point in Noveck. Both McElvain and Scharton were controlled by special statutes covering the revenue laws. The trial court held to the view we have suggested and the government adheres to it. We think it is supported by reason and therefore we are not constrained to broaden the Scharton holding to include the instant case. All we have said on this point is but a roundabout way of saying that fraud is an ingredient of the offense charged. Such in effect was the holding in Knauer v. United States, 1946, 328 U.S. 654. Hence, we hold that the Suspension Act applies to Count II of the indictment. We have already shown that the Saving Clause applies.

Since our Count III does specifically include fraud as an ingredient of the offense charged, it seems obvious that the Suspension Act applies and, for the reasons already given, the Saving Clause applies.

Marzani v. United States, 1948, (C.A., D. Columbia) 168 F. 2d 133: Appellant Marzani was indicted in 1947, tried, convicted, and sentenced for having made false and fraudulent statements in a matter within the jurisdiction of an agency of the United States government in violation of §80 of Title 18 U.S.C.A. (The False Claims Act). Factually, he was charged with having given false answers to questions as to whether he had ever been a member of the Communist Party, ever attended their meetings, etc. The general three-year statute of limitations had run before the indictment was returned and it would have to be dismissed unless the Suspension Act, hereinbefore considered, was effective. The court, after discussing Noveck, McElvain, Scharton, and Gilliland, supra, concluded that the Suspension Act did not apply to the False Claims Act. It gave as its reasons that the False Claims Act did not involve pecuniary frauds, whereas the Suspension Act applied only to offenses which involved pecuniary frauds against the government. We cannot agree with the reasoning in the Marzani opinion, nor consequently with the conclusions reached.

It is true that Gilliland held that the False Claims Act was not restricted to matters in which the government was defrauded in a pecuniary or financial sense. But, while each of the three cases—Noveck, McElvain, and Scharton—was a case involving pecuniary loss, none of these cases held that the proviso could be invoked only when the government had been defrauded in a pecuniary manner. The Suspension Act applies to every offense "involving fraud or attempted fraud against the United States." The word fraud as defined by the Supreme Court in Haas v. Henkel, 1910, 216 U.S. 462, 479, means the "impairing, obstructing or defeating [of] the lawful function of any department of Government." Gilliland reaffirmed Haas v. Henkel by holding that since Congress had removed the words "cheating and swindling" from the False Claims Act, Congress had in effect declared that a fraud need not be pecuniary in nature in order to be covered by the False Claims Act.[15] We therefore conclude that the Suspension Act applies to every offense involving fraud against the government whether pecuniary or not.

Appellants argue that since the Suspension Act applies to fraud "in any manner," whereas the conspiracy statute applies to fraud "in any manner or for any purpose," the two Acts refer to different types of frauds. In their argument they concede that the definition of fraud in the conspiracy statute applies both to pecuniary frauds and to frauds which obstruct the government in its lawful functions. However, they urge that the absence of the words "or for any purpose" in the reference to fraud in the Suspension Act confines the scope of that Act to pecuniary frauds. They rely upon the Cohn case (see our footnote 15, supra) for the conclusion reached. The Cohn case held that the term "fraud" in the False Claims Act, before its 1934 amendment, applied only to pecuniary frauds. However, a careful reading of the Cohn case, and the Gilliland case, shows that fraud in the Cohn case included those of a pecuniary nature only because it

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[15] In United States v. Cohn, 1926, 270 U.S. 339, the Supreme Court had held that since the False Claims Act, Criminal Code §35, 18 U.S.C.A. §80 (1927 ed.) as it then read, applied to false claims made "with the intent of cheating and swindling or defrauding the Government of the United States" [emphasis ours], it related only to pecuniary frauds.

However, §35 was amended June 18, 1934, 48 Stats. 996, by deleting the words "cheating and swindling."

(fraud) was coupled with the words "cheating and swindling." And that once the words "cheating and swindling" were deleted, the word fraud, standing alone and without any help from the phrase "for any purpose," was held to extend to all frauds whether pecuniary or not. United States v. Gilliland, 1941, 312 U.S. 86. See note [15a].

We conclude as follows:

Count I.

Since fraud against the United States or any agency thereof was an ingredient of the offense charged and such fraud was not required to be of a pecuniary nature (conspiring to obtain the naturalization of Bridges) the Wartime Suspension Act applies.

[15a] The foregoing discussion as to the application of the Suspension Act to the offenses involved in this case is under the assumption that the proviso to the statute of limitations covering frauds against the United States during the first World War is in all respects the prototype of the present Suspension Act, and that the Supreme Court decisions under the proviso apply as well to the Suspension Act. We think there is reason for a different view.

In the Noveck, McElvain and Scharton cases the Supreme Court was dealing with provisos added to specific limitation acts. In each case the court gave the proviso a strict construction. This was primarily because they were enacted as provisos. We think the fact that the Suspension Act is cast in a separate independent Act rather than as a proviso to the general statute of limitations and is cast in very inclusive language indicates that Congress intended to avoid the limitations written into the Noveck, McElvain and Scharton opinions.

Counts II and III.

Since fraud is an ingredient of each of the offenses charged (Count II, false swearing; and Count III, aiding Bridges to obtain naturalization illegally) and it is not required that the fraud be of a pecuniary nature, the Wartime Suspension Act applies. And since the "rights or liabilities" of the repealed sections of the Nationality Act of 1940 (one of which repealed sections is the special statute of limitations for offenses under the Nationality Act of 1940) are preserved, the Saving Clause applies.

We therefore conclude that the statute of limitations had not run against either count of the indictment when it was returned.

Res Judicata

The Executive Department of the government has long been concerned with Mr. Bridges. And we take note of that concern solely because it is claimed by the appellants that the actions taken against Bridges effect a legal bar to the instant prosecutions. Because of this important legal point, we turn to the prior proceedings against Bridges.

It is contended by appellants that, prior to the return of the indictment, it had been adjudicated that Bridges was not, at the time of his naturalization and that he never had been, a member of the Communist Party; and that it is a denial of due process of law under the Fifth Amendment to refuse to apply the doctrine of res judicata to this case.

We think it sufficient to quote briefly from the

Supreme Court opinion in Southern Pacific Co. v. United States, 1897, 168 U.S. 1, at page 48:

> "* * * a right, question or fact distinctly put in issue and directly determined by a court of competent jurisdiction, as a ground for recovery, cannot be disputed in a subsequent suit between the same parties or their privies; and even if the second suit is for a different cause of action, the right, question or fact once so determined must, as between the same parties or their privies, be taken as conclusively established, so long as the judgment in the first suit remains unmodified." [Emphasis ours.]

In 1938, the Secretary of Labor, then in charge of Immigration and related subjects, issued a warrant for the arrest and deportation of Bridges, an alien, charging that at the time he entered the United States he was a member of or affiliated with a defined class of aliens who advocated overthrow of the government by force and violence. Title 8 U.S.C. [1927 ed.] §137(c) and (g). Dean James N. Landis, acting as an official of the executive department of the government but not as an arm of the judicial department, heard the evidence and held that it established neither membership nor affiliation with the deportable class. The Secretary of Labor approved Dean Landis' report and dismissed the warrant.

We hold that the proceedings do not act as an estoppel to, nor res judicata of, the prosecutions in the present action, primarily because the cases which apply the rule of the Southern Pacific case, supra, do not extend the doctrine of estoppel by judgment beyond the findings of "a court of competent jurisdiction." Furthermore, the Supreme Court has specifically said that since an administrative board is an instrument of the executive power and not a court, the doctrine of res judicata cannot be applied to its decisions. Pearson v. Williams, 1906, 202 U.S. 281. An administrative decision does not preclude a subsequent administrative consideration of the identical matter, Mock Kee Song v. Cahill, 1938, 9 Cir., 94 F. 2d 975; Flynn v. Ward, 1938, 1 Cir., 95 F. 2d 742; therefore a decision of an executive agency cannot act as a bar to subsequent judicial proceedings.

Bridges v. Wixon

Bridges also cites his 1940 deportation hearing and the related Supreme Court decision in Bridges v. Wixon, 1945, 326 U.S. 135, as establishing that he was not a Communist at any time up to 1940, and that this issue in our case is res judicata. Of course, the issue in none of the former hearings was as to Bridges' being a Communist. Under the Smith Act[16] and under the applicable law in Schneiderman v. United States, 1943, 320 U.S. 118, an allegation that a person was a Communist was not per se an allegation of a crime, while the allegation that one conspired to destroy the government by force or violence stated a crime.

As for the administrative hearing, it would not be res judicata for the same reasons as assigned to the 1938 hearing before Dean Landis. Moreover, it would not appear that Bridges would want us to rely on the findings of Judge Sears (sitting as a hearing officer of the executive department) in the second administrative hearing, which were to the effect that Bridges had been both affiliated with and a member of the Communist Party, an organization which advocated the overthrow by force or violence of the government of the United States. Although Judge Sears' findings were reversed by the Board of Immigration Appeals, they were reinstated by the Attorney General. Regulations of the Immigration and Naturalization Service, 8 C.F.R. (1940 Supp.) §§90.3 and 90.12.

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[16] 54 Stat. 670, 671; Title 18 U.S.C. [1946 ed.] §§10, 11, now 18 U.S. C.A. [1948 Rev.] §2385.

However, the 1940 hearing and resulting arrest for deportation led to a decision of the Supreme Court in the case of Bridges v. Wixon, supra. But even though we assume that Bridges and the United States were parties to both the Wixon case and the present case, the doctrine of res judicata is not applicable unless the two cases have a common question or fact which has been "distinctly put in issue and directly determined." Southern Pacific Co. v. United States, supra. The issue of whether or not Bridges was a Communist, and therefore made a false statement when he denied such party membership, is thus reduced to a determination of whether or not Bridges v. Wixon, supra, actually held that Bridges had never been a Communist.

Comparison of Bridges v. Wixon and the Instant Case

In Bridges v. Wixon, supra, Bridges sued for a writ of habeas corpus to compel the Immigration Director to release him from custody. In the instant case Bridges is under indictment for conspiracy to defraud the United States by defeating the administration of its naturalization laws for making false statements under oath in a naturalization proceeding. The causes of action in the two cases are different. Therefore, the second cause of action is not barred by the judgment in the first. However, under the definition of res judicata given in the Southern Pacific case, certain facts, having once been determined in a final judgment, cannot be relitigated in any subsequent action between the same parties.

After careful study of the Supreme Court's opinion, we have reached the conclusion that Bridges v. Wixon, supra, did not decide that Bridges had never been a Communist. The Supreme Court stated in the majority opinion, at page 149, that the administrative agency gave too loose a meaning to the term "affiliation" as proscribed by Title 8 U.S.C. §137(c) and (e), and had also improperly received evidence of Bridges' membership in the Communist Party in the form of an unsigned statement purportedly made by one O'Neil who denied making the statement. The Supreme Court, therefore, concluded that the administrative decision approving an executive order to deport Bridges could not be sustained since it was not supported by substantial evidence.

The matter in court was habeas corpus, and the Communist issue was not in the case. The holding of the Supreme Court was as follows, at page 156:

> "Since Harry Bridges has been ordered deported on a misconstruction of the term 'affiliation' as used in the statute and by reason of an unfair hearing on the question of his membership in the Communist Party, his detention under the warrant is unlawful."

In other words, while the administrative decision to the effect that Bridges was a Communist and deportable, was overturned, there was no judicial determination that Bridges was not affiliated with nor a member of the Communist Party. Bridges v. Wixon, supra, goes no farther than to declare what was the proper administrative procedure to be followed. It did not reach, and there was no need for the decision in that case to reach, the question of whether or not Bridges actually was a Communist. Therefore, we conclude that Bridges v. Wixon, supra, is not res judicata to the case here on appeal.

The Bridges v. Wixon Opinion by the Supreme Court as Evidence

The Supreme Court opinion in Bridges v. Wixon, supra, was offered in evidence by appellants Schmidt and Robertson to show that they, having read the opinion, relied in part thereon in reaching the conclusion that Bridges was not a Communist. However, the opinion was excluded as immaterial and incompetent. Since it was not negatived in that case that Bridges was a Communist, the trial court did not err in excluding it from evidence offered on behalf of Schmidt and Robertson to show their state of mind. The case was of no probative value on the point of Schmidt's and Robertson's knowledge or lack thereof regarding Bridges' membership in the Communist Party, and because of the nature of the issue involved in the case and the narrow scope of the decision, its introduction into evidence could not have been explanatory of Schmidt's and Robertson's beliefs, but could only have served to confuse and mislead the jury. The trial judge's decision to exclude Bridges v. Wixon from evidence was well within the limits of due exercise of his discretion.

Double Jeopardy

The next point raised by Bridges on this appeal is the issue of double jeopardy. The Fifth Amendment of the United States Constitution states that no person shall be

> "* * * subject for the same offense to be twice put in jeopardy of life or limb. * * *."

It is in effect Bridges' contention that the two attempts which were made in the past to deport him as an undesirable alien in reality placed him in jeopardy of "life or limb," and consequently he is shielded by the Constitution from the present conviction for conspiracy to defraud the United States.

Bridges has not been subjected to double jeopardy. At no time during the deportation proceedings was Bridges subjected to peril of life or limb. He was detained solely for the purpose of deportation, not for punishment. Furthermore, the identity of "offenses," necessary for the invocation of the protection against double jeopardy, is lacking since conspiracy and the defrauding of the United States by making false statements to procure naturalization for one not entitled thereto, are distinct crimes which have no relevance to the deportation hearings. Cf. United States v. Williams, 1951, 341 U.S. 58, 62. For, as the Supreme Court said in Bugajewitz v. Adams, 1913, 228 U.S. 585, 591,

> "The determination [by an administrative body that an alien should be deported] by facts that might constitute a crime under local law is not a conviction of crime, nor is the deportation punishment; * * *."

See also Helvering v. Mitchell, 1938, 303 U.S. 391, 398, and footnote at page 399; Ex parte Bridges, 1943, 49 F. Supp. 292, reversed in Bridges v. Wixon, supra, on other grounds; United States v. Bridges, 1949, 86 F. Supp. 922, 928.

Of course, habeas corpus is not a criminal proceeding and a hearing for the writ or a decision upon such hearing cannot put a person in jeopardy. All that can come from a proceeding in habeas corpus of the type used in Bridges v. Wixon, is a determination upon the issue of the detention of a person.

Due Process

Bridges' contention that he has been denied due process of law by virtue alone of the several deportation proceedings and the present criminal indictment and conviction, is without merit. Whatever may be said as to the institution of the several proceedings, Mr. Bridges has been accorded every constitutional right in the instant case. The circumstance that phases of the former hearings and of this case are to some extent interrelated, afford no ground for the claim that due process had not been accorded each and every of the defendants-appellants.

Materiality

There was, at the time in suit, no statutory bar to any alien's naturalization on account of membership in the Communist Party,[17] and possessing such membership was not a crime. There was, however, a bar against naturalization of one who adhered to the belief that this government should be changed by force or violence, and such adherence was a legal ground for deportation. False denials of such membership at a naturalization proceedings were material. The Russian brand of Communism and works of Karl Marx and Lenin were well known and their teachings of the doctrine of overturning our government by force and violence was common knowledge. Had Bridges answered the court's question in the affirmative, the next line of questions which logically would have followed would have been as to whether Bridges believed in the violent overthrow of the government. From the answers received, the court would determine whether the applicant was devoted to the United States Constitution, and whether as a matter of fact and law Bridges qualified as a person entitled to citizenship.[18] The case of Schneiderman v. United States, 1943, 320 U. S. 118, is not in point.

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[17] But see Amendment to Nationality Code, 1950, 8 U.S.C.A. §705, 64 Stat. 1013, and the Immigration and Nationality Act of 1952, Act of June 26, 1952, c. 477, Public Law No. 414, §212(a)(28)(c).

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[18] Harisiades v. Shaughnessy, 1952, 342 U.S. 580, a recent Supreme Court case dealing with the deportation of aliens under the Alien Registration Act of 1940, 54 Stat. 670, 8 U.S.C.A. [1942 ed.] §137, settles to a certainty that the questions of the court, as to Communist membership, were material to the naturalization proceeding.

The Alien Registration Act of 1940 provides for the deportation of any aliens who "believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group that believes in, advises, advocates, or teaches: (1) the overthrow by force or violence of the Government of the United States or of all forms of law, * * *." 8 U.S.C.A. [1942 ed.] §137(c) and (g). The identical language is found in Title 8 U.S.C.A. [1942 ed.] §705(b) wherein the grounds for denying naturalization to an alien are set forth. Although Harisiades had been, but no longer was, a Communist, nevertheless he was ordered deported under the mandate of the Act. Therefore, if Bridges had confessed membership in the Communist Party at the time of his naturalization hearing, he too would have been subject to deportation. In view of the fact that Communist affiliation places an alien within the coverage of the Alien Registration Act, had Bridges spoken the truth at the naturalization hearing, it would have constituted good cause for the denial of the petition. For the statutory definition which makes an alien deportable also makes him ineligible for citizenship. 8 U.S.C.A. §§137(c) and 705(b).

The Third Count: Aid and Abet

Schmidt and Robertson present the theory that the third count of the indictment does not state an offense because there is nothing in the indictment which indicates that Bridges was not entitled to citizenship. The intent of the argument is that even if Schmidt and Robertson did aid and abet Bridges in his naturalization proceedings, the only fact alleged as disqualifying Bridges was that he was a member of the Communist Party, and that such membership was no offense, citing Schneiderman, supra. Hence, that there could have been no fraud.

The fallacy in this theory lies very close to the surface. It is true that as of the time in suit, membership in the Communist Party or being a Communist was not a crime. It was, however, a crime to commit a fraud against the United States or any agency thereof. Aiding and abetting an alien toward securing the great privilege of citizenship through misrepresentation of a fact, which could well be the basis of a refusal to grant it,[19] is well within the terms of the indictment. It is idle nonsense to argue that adherence to a plan of government as contradictory and inconsistent as Communism is to our plan of government would be an improper or inconsequential subject of inquiry in connection with a Naturalization proceeding.

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[19] See Harisiades v. Shaughnessy, our footnote 18 supra.

Father Meinecke

Father Meinecke was called as a defense character witness to testify regarding Bridges' reputation for truth, honesty, and integrity. The court took part in the examination of the witness, and the defendant contends that the nature of the questions asked by the court were so phrased as to discredit the testimony of the witnesses before the jury.

While the questions of the court might be subject to misunderstanding, that danger was cured by subsequent instructions to the jury.[20] Furthermore, as the Supreme Court said in Glasser v. United States, 1942, 315 U.S. 60, 83:

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[20] Record on Appeal, pages 4382-4387: "The Court: * * *. Ladies and gentlemen of the jury, * * *.

"Latterly, in my examination of Father Meinecke some mention was made by counsel concerning the asserted impropriety of a question on my part to the father. I might say to you that that was not born of any desire on my part, nor was it designed to inquire into Father Meinecke's mental processes. Nor was it to reflect upon his integrity. The question was born and conceived out of a desire on my part to accord fairness to the witness for the reason that mention was made during the course of this testimony that he left San Francisco for Nevada; an inference might be drawn from that departure that it had something to do with activities in trade unionism and the like. The father on the witness stand volunteered that he asked to be transferred. I merely wanted to inquire, ladies and gentlemen, a very simple question, not born of curiosity on my part, but born of a desire to provide you with all the facts surrounding the father, and it was to the end that I might inquire as to his health. Very many people have to leave large metropolitan areas to go to less burdensome parishes and that was the reason underlying my question."

> "Perhaps the court did not attain at all times that thoroughgoing impartiality which is the ideal [we intimate nothing of the kind here] but our examination of the record as a whole leads to the conclusion that the substantial rights of the petitioners were not affected. The trial was long and the incidents relied on by petitioners few. We must guard against the magnification on appeal of instances which were of little importance in their setting."

In any event, whether or not the court's conduct in regard to Father Meinecke constituted error, it was not so prejudicial as to warrant reversal. For Father Meinecke, in order to be a valid character witness, must testify as to the defendant's reputation in the community. Father Meinecke testified only as to his personal opinion, which is generally inadmissible. Wigmore on Evidence, 3rd ed., §1980. And in addition to Father Meinecke, there were eleven other character witnesses who testified in Bridges' behalf.[21]

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[21] The testimony of each character witness is found at the page number of the Record on Appeal cited after his name:

Frank M. Andrews (page 4699),
Stanley Bailey (page 4483),
Hubert Brown (page 4049),
Walter E. Buck (page 3921),
Daniel F. Del Carlo (page 4199),
Dr. Leo Eloesser (page 3839),
Kenneth H. Fennesey (page 4058),

Limit on Scope of Cross-Examination

In the course of the trial the government put Lawrence R. Kessler, an agent of the Bureau of Naturalization, on the witness stand for the purpose of identifying a hotel registration card which the government wished to have placed in evidence. The evidentiary value of the card was to show that Lewis Michener, Jr., another government witness, was in San Francisco in August, 1940, to attend a Communist Party meeting at which, he testified, Bridges was also present. On direct examination Kessler's testimony was confined to identifying the exhibit. Counsel for defendant Bridges sought to attack Kessler's credibility on cross-examination on the ground that the only purpose of Kessler's testimony was to bolster Michener's testimony. The court limited the scope of the cross-examination to matters pertaining to the card and precluded impeachment as it is within the discretion of the trial court to do. Glasser v. United States, 1942, 315 U.S. 60, 83; United States v. Fotopoulos, 1950, 9 Cir., 180 F. 2d 631, 640; Chevillard v. United States, 1946, 9 Cir., 155 F. 2d 929, 935; United States v. Toner, 1949, 3 Cir., 173 F. 2d 140, 144.

Counsel for defendant challenged the court's right to limit the scope of the cross-examination in this

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Augustin F. Gaynor (page 4207),
Robert W. Kenny (page 4258),
Dewey Mead (page 3998),
Oscar W. Pearson (page 4036),

all prominent men in their various vocations and professions.

instance. The court in reply read from a prepared memorandum on the point of law. And while reading the memorandum in the presence of the jury, the court quoted from Morton v. United States, 1932, 7 Cir., 60 F. 2d 696, 699, as follows [at page 3609 of the Record on Appeal]:

> "The battle continued, not to ascertain the truth, but in the evident hope that error might be injected into the record and ultimate conviction thereby avoided. But avoidance of a conviction upon uncontradicted evidence, establishing to a certainty the guilt of the accused, * * *."

The court prefaced its reading of the above passage from the Morton case with the statement addressed to defendant's counsel that

> "* * * the language used in this Morton case is somewhat reminiscent of your expectation or hope that some error might be created in the record."

Defendant labels the above-quoted language of the trial court as such flagrant prejudicial misconduct as to constitute reversible error. However, the court ordered the statements stricken from the record and in addition instructed the jury as follows:

> "During the course of the trial, the Court has been called upon to make comments in ruling upon objections of counsel and motions made by them. It has also occurred during the trial that the court has been called upon to admon-

> ish and reprimand counsel in connection with the conduct of the trial of this case. The jury shall not draw any inference from any such remarks or comments or rulings of the court that the court was intending to convey to the jury in any manner whatever its view or opinion as to what the verdict or decision of the jury should be. Such comments as the court may have made in that regard were only pursuant to the power and, indeed, the duty of the court to supervise the trial of the case and to expedite it."

It appears that the court recognized that the reading was in poor discretion and sufficiently admonished the jury to disregard it. The jury system would be faulty indeed if it must be held that jurors are so easily misled. There are few cases of long and tedious sessions with contentious counsel in which the judge has acted in true idealism. Moreover, since the criticism of counsel in connection with a technical point of evidence does not reflect upon the parties, the court's statement was not prejudicial to the defendants. Goldstein v. United States, 1933, 8 Cir., 63 F.2d 609, 612-614; Mansfield v. United States, 1935, 8 Cir., 76 F.2d 224, 231-323, cert. den. 296 U.S. 601. We see no reversible error here.

Instructions to the Jury

1. "Reasonable Doubt"

Appellant contend that certain of the instructions to the jury were plain error and seek a reversal of their conviction for that reason. The first of these concerns the court's definition of "reasonable doubt" as follows:

> "The term reasonable doubt means a doubt for which a good reason can be given, in the light of all the evidence." [Page 7885, Record on Appeal]

Appellants maintain that the instruction as quoted puts on them the burden of establishing a doubt. Appellants' analysis of the effect of the instruction is incorrect, especially when considered in connection with the succeeding part of the instruction:

> "It means a doubt which is substantial and not merely shadowy. It does not mean a doubt which is merely capricious or speculative. Neither does it mean a doubt born of reluctance on the part of a juror to perform an unpleasant duty, or a doubt arising out of sympathy for a defendant or out of anything other than a candid consideration of all the evidence presented."

Instructions may not be taken apart and a phrase here and a clause or even a sentence or a paragraph there used to find error. The criticized portion of the instruction, when read in its context, plainly informs the jury that "reasonable doubt" means no more or less than the plain meaning of those two words as used. Furthermore, while this instruction on reasonable doubt is not to be commended, it does not constitute reversible error.[22]

2. Credibility of Witnesses

Appellants charge error as to the instructions on credibility of witnesses. One part objected to is as follows:

> "If the witness has the appearance of attempting to the best of his ability to tell the truth, and other circumstances tend to establish that situation, then you give full credit to his testimony."

The court continued, and this portion of the instruction is not objected to:

> "But if you are impressed that the witness is attempting to hide something or is not telling the whole truth, then you have the right to give only such consideration to his testimony as you may think it entitled to receive."

This instruction is not unfavorable to appellants. It merely acts as emphasis to the obvious principle that because a witness testifies to a fact, a juror does not have to believe it. He should determine according to his best judgment in the circumstances.

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[22] Owens v. United States, 1904, 9 Cir., 130 F. 279; Griggs v. United States, 1908, 9 Cir., 158 F. 572; Louie Ding v. United States, 1917, 9 Cir., 246 F. 80; United States v. Woods, 1933, 2 Cir., 66 F. 2d 262, 265; Young v. Territory of Hawaii, 1947, 9 Cir., 160 F. 2d 289, cert. den. 331 U.S. 849; United States v. Farina, 1950, 2 Cir., 184 F.2d 18, cert. den. 340 U.S. 875.

Objection is also made to the further instruction on credibility to the effect that the jury should consider the interest which a witness, particularly the defendant, might have in the outcome of the trial. Such an instruction was neither improper nor prejudicial. Reagan v. United States, 1895, 157 U.S. 301, 311; Frederick v. United States, 1947, 9 Cir., 163 F.2d 536, 550, cert. den. 332 U.S. 775. Moreover, there was no objection to the credibility instruction as required by Rule 30, Federal Rules of Criminal Procedure, 18 U.S.C.A.

3. Discrepancies and Inconsistencies in Testimony.

Appellants claim error in the instruction on discrepancies or inconsistencies in the testimony of witnesses. In effect, the jury was told not to be misled by discrepancies of a minor nature or discrepancies in the testimony inmmaterial to the issue of the guilt or innocence of the defendants. The trial was long in time and hard fought throughout and much testimony in great detail was introduced. The instruction was intended to advise the jury, in their deliberations, not to leave the ultimate question of guilt or innocence for questions which, when resolved, would be of no help in their main problem. The instruction was not erroneous.

4. Conspiracy

Two instructions on conspiracy are assigned as error. The first instruction is to the effect that conspiracies need not be proved by direct evidence, and it was both necessary in order that the jury not be misled and well established at law. Nye &

Nissen v. United States, 1948, 9 Cir., 168 F.2d 846, 852, affirmed 336 U.S. 613; Blumenthal v. United States, 1946, 9 Cir., 158 F.2d 883, 889, affirmed 332 U.S. 539; United States v. Manton, 1938, 2 Cir., 107 F.2d 834, cert. den. 309 U.S. 664. The second instruction, on the degree of participation necessary to make a person a part of a conspiracy, was not unfavorable to the defendants. It was, in part, [page 7900, Record on Appeal]:

> "It requires more than proof of a mere passive cognizance of a crime on the part of a defendant to sustain a charge of conspiracy to commit it. And you must find that the defendant did some act or made some agreement showing an intention to participate in some way in such conspiracy."

We find no error here. Moreover, no objection was made to the second instruction on conspiracy under Rule 30, Federal Rules of Criminal Procedure, 18 U.S.C.A., or otherwise.

5. Judicial Comment on Evidence

Error is claimed because the court said a certain number of witnesses, naming them had testified on the issue of Bridges' membership in the Communist Party for the government, and a certain number for the defendant on the same issue, naming the witnesses. Neither in what was said nor from the context in which it was said, was there any suggestion that the number of witnesses should be taken into consideration rather than the effect on the jurors of their testimony. The very full instructions given the jury as to the presumption of innocence, the burden of the government, and the weight and credibility to be given to testimony of witnesses negative any idea that the jurors might have understood that the mere number of witnesses to any point of fact should rule over their judgment in reference to it. See Erie Railroad Co. v. Fritsch, 1934, 3 Cir., 72 F.2d 766, cert. den. 293 U.S. 620.

6. Bridges v. Wixon

That the trial court was correct in excluding from the jury any consideration of the decision of the Supreme Court in Bridges v. Wixon, supra, was fully discussed in this opinion ante. We add here only that the court did not err in charging the jury that no inference was to be drawn from the many references to that case which were made by the defense counsel during the trial.

7. Elements of Third Count of Indictment

We see no merit in appellants' contention that the court in its instructions misstated the elements of the offense charged against Schmidt and Robertson in the third count. The indictment was phrased within the provisions of Title 8 U.S.C. [1946 ed.] §746(a)(5)a. There was no reversible error in the court's explanation that the expression "to abet" means,

> "* * * knowingly and with criminal intent to aid, promote, encourage or instigate, by act or counsel, or both act and counsel, the commission of such criminal offense."

There was no objection to this instruction under Rule 30, Federal Rules of Criminal Procedure, 18 U.S.C.A., or otherwise.

8. Criminal Intent

As for the trial court's instructions on the intent necessary to convict defendants Schmidt and Robertson of any of the counts charged, they were favorable to the defendants. For while Schmidt and Robertson admitted aiding Bridges to obtain citizenship, the court charged that such aiding would not be a crime unless it was with an,

> "* * * intent upon the part of either of these defendants to deceive and defraud the Government of the United States."

9. Materiality

Appellants argue that the trial court's instruction that the false statements were material to the naturalization proceeding as a matter of law, was erroneous. The question of materiality is always for the court. Sinclair v. United States, 1929, 279 U.S. 263, 298; Travis v. United States, 1941, 10 Cir., 123 F.2d 268, 270. And that is also the rule in this circuit despite appellants' misconstruction of the holding in Luse v. United States, 1931, 9 Cir., 49 F.2d 241. For while it is true that in the Luse case this court said that what is material in a perjury case is a mixed question of fact and law, we also said that the question of fact is confined to what actually took place. Once it was determined what took place, the materiality of such facts to the issue was for the court alone. There was no error here.

Appellants are asserting that the evidence introduced at the trial does not support the verdicts returned by the jury. This claimed reversible error has been explored by each member of the court and the task of expressing the court's views on this subject has been assigned to Judge Pope. His treatment of our conclusions follows immediately.

Pope, C. J.:

We now proceed to state the reasons for the Court's conclusion that the evidence upon each count was sufficient to sustain the verdict.

As to the Second Count—The alleged false statement as to Communist Party membership.

The second count, by which Bridges was charged with knowingly making a false statement under oath, a statement that he did not and had not belonged to the Communist Party, is the key to the indictment. We consider the evidence upon that charge first.

The jury was instructed that in order to convict under this count it must find that there was proof, beyond a reasonable doubt, of Bridges' actual membership in the Communist Party; that "mere association between an individual and an organization does not constitute membership * * * A person may approve some or all of the aims or activities of an organization, yet this does not make him a member. Even sympathy for the program of an organization, or contributions of money do not create the legal status of membership * * * The law also recognizes that active cooperation with an organization in its activities does not create the legal status of membership * * *. Even affiliation, if you should find it to exist in this case, would not constitute the same legal status as membership, for the reason that membership refers to something more than, and different from affiliation."

This instruction had practical significance, for a very great volume of the testimony went no farther than to disclose that for a considerable period of time Bridges attended and participated in many Communist meetings, numbers of them "closed" meetings, that is, purportedly open to Communists only; that he presided at some of these meetings and that he frequently sought the advice and help of known Communist leaders and organizers, particularly in planning union activities and the strategy and tactics to be employed by his union during strikes. Similarly it was shown that he and his associates sought and made use of the Communist Party newspapers and printing establishments, and during the same time he frequently had occasion to give expression to opinions disclosing his close following of the Communist Party line. Ten of the Government witnesses who gave such testimony were themselves former Communists. Several of these were former longshoremen or engaged in related work, had been officials of unions in which Bridges had been active, and had been closely associated with him. Some had been engaged in editing Communist newspapers. Others of these witnesses had been organizers for the Communist Party who had devoted particular attention to forming Communist groups or "fractions" among labor unions, and particularly among the unions representing men employed along the waterfront.

The picture which these men drew was, in broad outline, that of a continued effort of representatives of the Communist Party to "infiltrate" the waterfront unions mainly by enlisting union leaders in the Party, and by placing Communist Party members in positions of influence in the unions. Beginning about 1933 there was a greatly increased drive for the organization of labor unions generally. The movement was stimulated, first by the National Recovery Act, and then by the Wagner Act. In 1934 a union known as the International Longshoremen's Association, which had been dormant for some time, was brought to life with the aid of the Communist Party. This union, known as ILA, called a strike. Bridges was chairman of its strike committee composed of some 50 members. The strike was a bitter one. The employers attempted to break it by opening the port, and violence ensued. Union strategy, it was testified, was first planned in closed meetings of Communist leaders, and Bridges and his committee carried into effect the plans thus formulated. In 1935 Sam Darcy, leader of the Communist Party's District 13,[1] conceived a plan to organize the Maritime Federation of the Pacific which united the maritime unions on the Pacific Coast. Its organization was promoted by Darcy, and to a lesser degree, by William Schneidermann, who succeeded Darcy. Bridges became president of the San Francisco council of that organization. That council became the joint strike committee for the San Francisco area during a strike which lasted from November, 1936, to February, 1937. In June, 1937, the Maritime Federation of the Pacific voted in favor of affiliation with the C.I.O. In July, Bridges attended a meeting of the National C.I.O. Maritime Committee in Washington, D.C. On the trip he, with the witness Rathborne, then president of the American Communications Association, and himself a Communist Party member,[2] went to New York to try to persuade the national president of ILA to go along on the affiliation with the C.I.O. Bridges and Rathborne, while in New York, visited the National Communist headquarters where they discussed the maritime setup in the C.I.O. with Stachel, Browder and Hudson, party functionaries, and reviewed what the policy of the C.I.O. maritime groups would be, and what the Communist Party policy was. In 1938, during the first constitutional convention of the C.I.O., held at Pittsburgh, Bridges attended a meeting in the William Penn Hotel composed of the members of the Communist Party who constituted the party's "top fraction" of the national C.I.O. Here was discussed the relations of the Party to the C.I.O., and also the possibility of securing the naming of one John Brophy as secretary-treasurer of the C.I.O.[3] Bridges attended other Communist meetings in connection with subsequent C.I.O. conventions.[4]

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[1] Comprising California, Nevada, and parts of Arizona. District 13 later included Hawaii.

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[2] Rathborne was later a member of the executive committee of the national C.I.O.

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[3] Rathborne described this discussion as follows: "The only other matter that I recall being discussed there, after I got my hair combed, was the matter of the election of officers of the newly formed CIO, and the fact that there was no dispute or discussion hardly on who the logical choice would be for president. That was John L. Lewis. However, there was some discussion on the secretaryship, and if I remember correctly, it was decided that the Communist forces at that convention should try to prevail upon Mr. Lewis to accept Mr. John Brophy as the secretary-treasurer of the CIO, and subsequently Mr. Brophy was not elected, incidentally."

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[4] The testimony was that at the 1939 C.I.O. convention at San Francisco, John L. Lewis made strong declarations against Communist influence and activity in the C.I.O. At the same convention he abolished the position of west coast director of the C.I.O., (held by Bridges) and ordered that the "present west coast director will be the California director, and I will appoint new directors for the rest of the area." Thereupon, at a Communist meeting held in the Whitcomb Hotel at San Francisco, attended by Schneidermann and others, Bridges advised against making any issue of his demotion, and advised an attitude of cooperation with John L. Lewis. His suggestion was that at the same time the Party's forces should be built stronger down below in the unions, so that, as Rathborne described his statement, "we can have a greater influence and be in a position to more effectively prevent Lewis and his henchmen from red-baiting and taking an anti-party position in the future."

At the 1941 convention Bridges read and intro-

When the various meetings at San Francisco, purportedly Communist Party meetings, and attended by Bridges, are taken into account, they add up to several score. They were described as held for two purposes: one, to plan a Communist-directed strategy of union activity; the other, to plan for the election of Communist members or

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duced a resolution, prepared for him by one Crouch, a Communist organizer, with the aid of William Schneidermann, which urged the then current Communist policy of all-out support of the administration program of aid to the democracies in the war effort.

Another witness, Michener, also a Communist, who had been chairman of the Los Angeles Industrial Union Council, attended the national C.I.O. convention at Philadelphia in 1943. He described a closed Communist Party meeting held during the convention and attended by Bridges and himself and other Communist Party members. At this meeting those present were informed by one Hudson, a so-called "top Communist," that Philip "Slim" Connolly, a Communist Party member who had but recently been elected California State President of the C.I.O., should resign and step down in favor of a non-Communist. The reason given for this proposal was that the Los Angeles Industrial Union Council, which was Communist controlled, had some members on the national C.I.O. pay roll, and that by making this concession as to Connolly, the Party would have a better chance to control those salaried positions. Michener and Bridges both opposed the proposal until Hudson pointed out that the decision had been made by the top leaders of the Communist Party at New York. Bridges and Michener then proceeded to make the arrangements to carry the decision into effect, and Connolly's resignation was secured.

sympathizers to various offices at union elections.[5]

Of course, under the instructions of the court, previously mentioned, Bridges' participation in these activities, taken alone, would fall short of proof of actual Communist Party membership. The only significance of such acts is what value they may have, circumstantially, as evidence of an opportunity, through frequent association, for Bridges actually to reach a decision to join the Party. One so situated would be more likely, as a matter of natural inclination, to join the group than would be the case of one having no such contacts.

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[5] The activities of what the witnesses called Communist Party units, or "fractions," in assuming leadship in the trade union movements with which Bridges was connected, were described in much detail. In general these activities would be recognized by the jury as making a likely pattern of behavior, and fitting into what has now become generally recognized as the shape of Communist missionary enterprise. "In the countries outside Russia the Communists have posed as the champions of the under-dog; they have espoused democratic programs; they have indeed purported to be the faithful advocates of the cause of every exploited race and class. To be sure, they have followed the zig-zag of the Party Line—condemning Hitler, then praising him, then condemning him again; calling Roosevelt a fascist and a warmonger and later praising him as a great leader. But somehow the Communists have by their adroit exploitation of propaganda defied logic and tried to use each of their positions to strengthen their reputation as a champion of the poor and oppressed." From a review of Sidney Lens' "The Counterfeit Revolution" by Justice William O. Douglas in "The Progressive," V. 16, No. 6, p. 30, June, 1952. See, also, the statement of Mr. Justice Jackson in Communications Assn. v. Douds, 339 U.S. at p. 430.

It is true that a number of the witnesses described some of these meetings which Bridges attended, and at some of which he presided, as "closed" Communist meetings. The logical fallacy in concluding from this that Bridges must therefore have been a Party member is that it assumes the truth of that which is sought to be proven. If, in fact, Bridges was not a Party member, his presence at such a meeting would mean no more than that he attended a meeting at which every other person present was a Party member.

Bridges himself made no effort to deny his frequent attendance at meetings attended by Communist Party members, or his acceptance of aid and assistance from the Party and its leaders, or his sympathy with many of its objectives.[6]

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[6] Bridges testified to the early efforts of himself and his associates to organize the waterfront workers, and in this connection told of the substandard working conditions which confronted the longshoremen, the inadequate pay, the lack of job security, the company-controlled unions, the unfair discriminations in respect to hiring, the "shape-up," the blacklists, the speedup, the system of "kickbacks" to bosses, required as a condition of employment. He said that it was to eliminate these and other claimed evils that the strikes were called, and that it required great effort on the part of the union leaders to hold the strikers together. In this situation, he and the other union leaders sought help wherever they could find it. He gladly accepted aid offered by the Communists. He said: "I am not going at this late stage to try to take away any

Bridges further stated that the union was offered the support of the Communist Party and of its paper "The Daily Worker" which printed a daily bulletin for the use of the union during its strikes. He and his associates accepted this offer of help.[7]

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of the credit they are entitled to, because they did contribute something towards helping the strike. We were grateful for it at that time; the men were grateful for it, and I just think it would be crawfishing and ingratitude to try to kiss it off now and say we never had anything to do with them, because they did help in the way I have said, not only with the helping to print the bulletin and with what financial donations as well as food donations they could get, as well as they—when we called upon all organizations, particularly labor organizations, to help us man the picket lines, the Communist Party responded to that call, too, and so did other parties, so did—not the Republican or Democratic Parties; they were darned conspicuous by their absence, but I mean the smaller minority political parties. I recall at that time there was the Proletariat Party around here, there was the Workers Party, the Socialist Workers Party; there were several. Most of those radical, left-wing parties, and they more or less vied with each other to try to prove to the longshoremen and the other strikers how much they were helping. And by and large, the role of all that was pretty much magnified, particularly, the role of the Communist Party was played up purposely by the shipowners and Industrial Association and the city departments, for a reason, and the reason was hysteria so that it was easier to break the strike under that smoke screen of hysteria."

[7] During the 1934 strike San Francisco had an anti-picketing ordinance in effect and the men on the union picket lines were charged by the police who attacked with clubs and tear gas. On July 5,

Bridges did deny being present at a few of the fifty or more meetings which various witnesses described with particularity, all of them Communist meetings. He denied the account of a meeting held at night in a prune orchard in Santa Clara County where a witness testified Bridges and others met Earl Browder. He denied that he attended a Communist convention at Fresno, and he denied attending near Grants Pass, Oregon, as to which some testimony was given. He made no effort to take issue as to numerous other meetings at which witnesses stated he was present, and which were described as Communist meetings.

The record also contains some evidence of the expression by Bridges from time to time of opinions on national and world affairs which are indicative of his sympathy with the Communist point of view. Such evidence, like the evidence of Bridges' attendance at meetings with Communist party members, would not in itself suffice to furnish

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1934, the 30,000 men on strike undertook to mass on the picket line and this was followed by an all-day battle with the police in which many persons were shot and two men were killed. Some of the wounded men were taken to 128 Haight Street, San Francisco, which was a Communist headquarters and which was used as a hospital as it was made available to the strikers. The battle led to the calling out of the National Guard, but the union and the Communist Party proceeded to hold a mass funeral for the two men who were killed, a feature of which was a parade up Market Street and a grave-side speech by Sam Darcy at the burial of the man who was a Communist.

the required proof of Communist party membership.[8]

The danger of attempting to prove any person to be a Communist by evidence of his expression of views which happen to coincide with the program of the Communist Party, is too well understood to require comment here. However, it cannot be said that the evidence thus far described, the evidence of continued association and cooperation with Communist groups and the evidence of apparent adherence to the Communist Party line, is, although inconclusive and insufficient in itself, wholly irrele-

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[8] In December, 1945, Bridge's union, the ILWU, called a one-day coastwise work stoppage for the purpose of propagandizing the hasty return of American troops from overseas. Bridges testified he did not know this was the Communist Party line, but said that he did not care, either then or now.

In an article written by him and published under date of November 14, 1947, Bridges said, "Thus stripped of all camouflage the Marshall Plan is a scheme to use money and food of the American people to purchase and turn over to Wall Street at practically no cost to the private interests, the basic industries and raw materials of Germany and all western European nations."

At a convention of the ILWU in San Francisco in April, 1947, a resolution was proposed which stated, among other things: "Communism is not an issue in the United States, nor are our economy, political democracy or civil liberties threatened by agents of the Soviet Union. The real threat stems directly from the greed and desire for imperialistic world control of American trusts and monopolies." Bridges, who was chairman of the meeting, made a long statement in support of the resolution in the course of which he said: "Communism is not a vant to the issue before the jury. For, as we shall shortly disclose, there was a substantial amount of evidence that Bridges in fact joined and became a member of the Communist Party. Obviously the likelihood of Bridges actually joining the party would be affected by the matters thus mentioned. If the Communist Party sought to plant seed which would result in a new member springing up, the success of the effort would depend a great deal on whether the seed fell upon fertile ground.

Schomaker, a former longshoreman, who had held numerous positions and offices in Bridges' union,

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form of government, it is a state of society, it is a system, and it is a system that holds that people cannot exploit other people for profit. It simply means you can't own a factory or a ship and do nothing and live on the fat of the land and clip coupons while somebody sweats and slaves for a living."

In 1948, when the ILWU and the Waterfront Employers Associati signed a contract, Bridges' union had demanded that the longshoremen would be under no obligation to serve any vessel or handle any cargo declared unfair by the World Federation of Trade Unions. In 1949 when the CIO withdrew from this World Federation of Trade Unions because it was a "communist-controlled organization," Bridges "bitterly opposed" this move by the CIO. At the trial and on cross-examination Bridges said of the CIO constitutional amendment adopted in November, 1949, prohibiting Communist Party members from serving as officers or members of the executive committee of the CIO: "But if you would ask me what I would term it, I would term it a racketeering, corrupt, crooked, cover up for a lot of dirty goings on, so that certain people could use a great organization like the CIO for their own personal political advancement."

and who had long been a close associate of Bridges, testified that he himself had been a Communist Party member since 1931. About Thanksgiving of 1933, Schomaker became editor of the "Waterfront Worker," a paper published by a group of longshoremen who were members of the Communist Party. Schomaker testified that on an occasion in November or December of that year he and one B. B. Jones, also a member of the Communist Party, met with Bridges and solicited the latter's membership in the Party. He testified that after considerable conversation, Bridges agreed to join, and after agreeing on a name which Bridges should assume as a member of the Party, Jones produced a printed application card. Schomaker temporarily left the room and after his return Jones exhibited the card to Schomaker who observed Bridges' signature thereon. Jones and Schomaker took the card to the Party headquarters at 37 Grove Street and turned the application over to Sam Darcy. Schomaker testified that on numerous occasions he saw Bridges pay his Communist Party dues to the unit secretary and that he had on occasion received Bridges' Communist Party book which was turned in to the Party headquarters at the end of each year so that a new book could be issued to "Harry Dorgan," which was Bridges' party name.

In the winter of 1935 Bridges and Schomaker were neighbors. Schomaker testified that on one evening during that year he saw a crowd in front of Bridges' home and that Bridges then told him that Bridges' wife had fallen out of the window and asked Schomaker to go to his house and get his Communist Party book "before the snooty reporters" got there.

There was also testimony that in August or September, 1938, Bridges made a talk at a meeting held at the home of one John Shaw in San Francisco which was attended by 30 to 35 people, including William Schneidermann, district organizer for the Communist Party, and other Communist Party members. Also attending were some persons who were not Communists. During the meeting, as it was described by a Mrs. Harris, a Government witness, Bridges made a speech. She testified: "He got up and talked about the conditions on the waterfront and how they were progressing and how the Communist people, Communist Party was helping, and that, and also about the editorials and writings in the People's World, and he made a plea for us that were there to become members of the Communist Party, and he also stated that he was a member of the Party, of the Communist Party * * * I was flabbergasted when I heard him say that, because he had been accused, and I had heard it denied. And when he made that statement, why, it made a very much impression on me." Substantially the same account of the affair was given by the Witness Schomaker, who was also present.

It is argued on behalf of appellants that the testimony respecting the recruitment of Bridges in the Communist Party in 1933, and the testimony concerning the speech made at the John Shaw residence, is inherently so improbable and so incredible that it must be discarded. The evidence as to the processing of the Bridges membership application was that it had to be submitted to a membership committee or group of persons for investigation and approval. It is pointed out that the claimed admission by Bridges in 1938 that he was himself a member of the Communist Party was made in the presence of a group of persons some of whom were not Communists and some of whom were unknown to Bridges. It is said that it is inconceivable that Bridges, who knew that the Immigration Bureau had for years been attempting to prove him a Communist and to deport him on that ground, would have laid himself open by making a public statement of that character before such an audience, or that he would have turned in an application in writing which, if it fell into the hands of a government agent, would put him at the mercy of those who had pursued him.

With respect to this contention, it must be observed that in 1933, when the application was said to have been signed, the series of efforts to prove Bridges a Communist had not yet begun. In 1938, at the time of the Shaw residence meeting, Bridges of course knew that the Immigration Bureau was after him. The question for the jury to determine was whether they would credit the testimony that the statement was in fact made. This would involve consideration not only of the reliability of the recollection of the witnesses and their general credibility, but a consideration of whether in the circumstances it could be believed that Bridges was so rash or so incautious as to make such a statement in those surroundings.

The question whether these events did or did not occur was typically one for the jury. In general this case presents no circumstances different from those which constantly appear where the testimony of witnesses is sharply in conflict. The special function of the jury, in our system, is to deal with such matters. No appellate judge is ever in a position to reconstruct for himself, from a printed record, the multitude of things which bring conviction to a juror's mind—the demeanor of the witness, his apparent candor or evasiveness, his assurance or hesitation, and even his facial expressions or the sound of his voice.

Even the cold record here discloses that at the trial, and in the presence of the very jury which was to determine whether he had or had not been a Communist Party member, Bridges was singularly lacking in caution, giving a demonstration which the jury might well consider more remarkable than the actions which Mrs. Harris testified "made a very much impression on me."[9]

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[9] The circumstance was this: Bridges was on the stand, and his conduct was observed for a good many days during the trial. He knew that the Government was attempting to prove that he was or had been a Communist Party member; he knew that the jury who were observing him were his judges, and yet he apparently overlooked no opportunity during the process of cross-examination to make speeches to the jury in what they must have understood was an effort to prove to them the soundness of views generally expressed by World

That Bridges entertained the views he volunteered in comparing the Chinese Revolution to the American Revolution, or which he expressed in respect to the Russian satellites, or in regard to Phil Murray's effort to oust Communist Party members from official positions in the CIO, is not what seems significant at this point. We do not regard the circumstance here related as of controlling importance. Without it, the question would still be one for the jury. But it is worthy of note that without any apparent effort to confine himself to answering briefly, and to the point, the questions put to him on cross-examination, Bridges went on at great

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Communism with respect to national and international affairs. Speaking of the Communist conquest of China he said to the jury: "I think the people have finally taken over and changed things, something like they did here in the United States in 1776. I think they have had a peoples' revolution down there, and if they are wrong, then the people of the United States were wrong in 1776."

Further in discoursing upon this subject Bridges stated: "We had the same thing occur after the American Revolution. Remember, after the American Revolution here in—17—this word 'revolution'—people seem to shy away from in these days. I didn't invent the word. But in the days of the American Revolution, like the French Revolution, America, the United States, went through the same thing. All the world was jumping on it and pointing out the Communists in the United States, meaning George Washington, Paine and others. The same thing was happening, and it will happen more and more. So our union can't bear any responsibility. And because we have advocated trade with China in the interests of getting more work for our longshoremen on the waterfront, who unless length with discourses which, we apprehend, must have caused the jury to wonder whether they were watching a man filled with missionary zeal for expounding the views commonly understood to make up the Communist Party line, or one who was supremely indifferent to whether he gave the jury the impression that if he was not a Communist Party member, he must at any rate be a fellow traveler. We connot say that in these circumstances a jury would be obliged to disregard as impossible or incredible the testimony of what Bridges said and did on the occasions described by these witnesses. Per-

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they get work, of course, they can't have a union, the union will fall apart, and maybe I will have to do something else, even myself,—that is not so much what I am thinking of—but it is as simple as that. The port here, the City of San Francisco, believe me, lives by its waterfront. That is a matter of simple economics. And the bulk of our trade, fifty per cent of the foreign trade that moves through the port of San Francisco was China trade. We have got to re-establish that trade, otherwise we can't have prosperity and employment here in the United States, particularly in the port of San Francisco, and a lot of people around here would be out of a job, and if people are out of work around here, our city, of course, will not have prosperous times and will not have security."

After he had volunteered his views about China, he was invited to express an opinion on the "rape of Poland" and the seizure of Baltic and Balkan countries by Russia. As for Poland, he said, "Here was a country where the government collapsed, and the way I looked at it, the country of Russia she took steps to prevent or to meet what eventually transpired, namely, she figured her country was to be invaded and she took certain steps." As for the haps a man who lacked caution when before the jury, was but acting in a similar manner at the John Shaw home in 1938.

There was other evidence which, if credited, would tend to show Bridges' actual membership in the Communist Party. Three witnesses testified that they attended the national convention of the Communist Party at New York in 1936, and that at that meeting Bridges was elected to the national committee of the Communist Party under the name of "Comrade Rossi." Two of these witnesses testified that he was reelected to the same committee at the national convention of the Party in 1938. There was no testimony that Bridges was present at the 1938 convention but two of the witnesses as

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other countries mentioned, he said, "I would say that there is more democracy in those countries now than before they were seized by the Soviets. Prior to that they were all dictatorships."

Explaining the position he had taken when he "fought bitterly" against a resolution calling for the resignation of executive board members who were unwilling to abide by the anti-Communist amendment to the C.I.O. constitution, he said: "The C.I.O. doesn't elect me to the executive board. My union elects me. I am instructed by my union that elects me and pays my wages to carry out certain policies to this board. I am the voice, the representative of my union on this C.I.O. board. You come in with a resolution now and say that unless I take orders from you, Mr. Murray, notwithstanding what my membership tells me, I am not eligible to serve on this board. I said, 'That is a violation of the CIO constitution, that is a phoney, it is a racket, and if you are going to carry through a policy like that, you are going to destroy CIO.' And that is what is happening to CIO toto the 1936 election testified that Bridges was present at that meeting. The third said he did not see Bridges there.

Of course, if Bridges in fact became a member of the governing body of the national Party this would permit an inference that he was a member of the Party. Considerable doubt is thrown on this aspect of the case by reason of the fact that it was established, apparently beyond controversy, that at the very time the 1936 convention was being held, Bridges was in Stockton, California, making a speech at a union meeting. If he was there he could not have been present at the 1936 convention, as two of the three witnesses said he was.

We do not feel called upon to speculate as to

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day; it is being destroyed because of those types of policies."

Bridges continued: "So I took this resolution, I came back, I called meetings of my own local union and I said, 'Listen, fellows,' I said, 'Look, here's the way the National CIO wants it. In order to get along with them, let's say we do this. Let's let Phil Murray appoint from the ILWU anyone he wants to represent the ILWU on the board, and let Bridges resign. And let us furthermore instruct the representatives of the ILWU on the CIO executive board that any time Murray says, "Vote yes," to vote yes; any time Murray says, "Vote no," vote no; any time Murray says, "Abstain," to abstain. Let them have that.' And my membership said, 'Look, Bridges, if that is the way you feel, if you carry out a program like that, we will get ourselves another president. We didn't elect you for a program like that. Now, if you haven't got the guts, if you haven't got enough in you to get in there and fight, we will find someone who will do the job for us.' ".

whether these two witnesses might have been mistaken as to his presence there, or whether the definite proof of Bridges' presence in Stockton conclusively demonstrates that the testimony relating to the 1936 convention, and perhaps, as to the 1938 convention, was false. We think, for the reasons we have previously mentioned, that there was sufficient other evidence to warrant the jury in finding that Bridges was in fact a member of the Communist Party.

Appellants contend that as a matter of law the evidence was insufficient to satisfy the rule that in perjury cases there must be at least the testimony of two independent witnesses or the testimony of one witness plus independent evidence which is inconsistent with the innocence of the defendant. Cf. Weiler v. United States, 323 U.S. 606. Appellants assert that the evidence that the sworn statement of Bridges was false does not measure up to the standards required by this rule.

The second count of the indictment is not based upon the general perjury statute but upon section 746 (a) (1) of the Nationality Act of 1940, now codified at 18 USCA 1015. We need not consider whether the two witness rule applies to a prosecution under this section. Cf. Todorow v. United States, (9 Cir.) 173 F. 2d 439, 443, c.d. 337 U.S. 925, for we think that, assuming that the same rule applies as in prosecutions for perjury, the rule was satisfied here.

The falsity of the statement made under oath was testified to by the witness Schomaker who told of the application for membership in the party and the subsequent payment of dues. Mrs. Harris, an independent witness, testified to Bridges' admission of party membership made by him at the public meeting at the Shaw residence. It is to be noted that this admission was made prior to the date of the alleged crime and there is authority to the effect that admissions so made do not require corroboration to the same extent as others. Warszower v. United States, 312 U.S. 342, 347. In any event, in this case, where the Government did not rest upon the uncorroborated testimony of one witness, but brought forward an accumulation of evidence, circumstantial and otherwise, which supplemented the direct evidence of joining the Party and the evidence of the 1938 admission, we think that the rule was fully satisfied. Maragon v. United States, (CADC) 187 F. 2d 79, c.d. 341 U.S. 932.

Appellants enumerate sundry reasons why they think we should hold that the evidence offered on behalf of the Government is unworthy of belief. Thus they point to the fact that some of the Government witnesses who admitted having been former Communists also admitted that on prior occasions when under oath and testifying before the un-American Activities Committee or the Tenney Investigating Committee of the California Legislature they had denied being members of the Party. The contention is that one who admits perjury on prior occasions, cannot be credited now.

Again it was developed that some of the Government witnesses had given testimony as Government witnesses in a large number of other cases involving issues similar to those in this case. It is said that such witnesses were professional witnesses as to Communist activities in various places and that hence they were not worthy of credit. Attention is called to the fact that a number of the Government witnesses were naturalized citizens and it is argued that since some of those witnesses had themselves obtained citizenship at a time when they themselves falsely denied Communist Party membership, they were subject to prosecution and hence subject to pressure on the part of Government agents who, it is asserted, held threats of such prosecution over the heads of these naturalized witnesses. Some witnesses received substantial sums of money on account of witness fees and expenses in connection with their attendance at the trial of this case. In the case of one witness not only he but his wife were paid witness fees covering a long period of time. It is argued that the sums thus paid were so substantial that it must be inferred that the recipients would be willing to testify to anything in order to maintain their positions as witnesses.

All of these matters were brought out on cross-examination and developed at great length during the trial. They were the subject of much argument by counsel for appellants at the time the case was argued to the jury and, of course, they are matters in respect to which the jury was the final judge. None of these circumstances would, as a matter of law, require us to throw out the testimony of these witnesses in its entirety.

As to the First Count—The alleged conspiracy.

We next proceed to the question of the sufficiency of the evidence as to the first count of the indictment.[10] This charges that Bridges, Schmidt and Robertson conspired to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws by having Bridges petition for and obtain naturalization by falsely and fraudulently stating and representing that Bridges had never belonged to the Communist Party; that in pursuance of the conspiracy the defendants did and performed four overt acts: 1, the filing by Bridges of his application for a certificate of arrival and preliminary form of petition for naturalization; 2, his appearance on the 8th day of August, 1945, before the naturalization examiner where he gave testimony in the matter of his application for naturalization; 3, the signing on the same day, by Schmidt and Robertson as witnesses, of the Bridges' petition for naturalization; and 4, the appearance of the three men named, on September 17, 1945, in the Superior Court, and their then testimony in support of Bridges' petition for naturalization.

It is contended that there is neither direct nor circumstantial evidence of any such conspiracy; that until June 18, 1945, when the Supreme Court in the case of Bridges v. Wixon, 326 U.S. 135, reversed the decision of this court, a warrant of deportation based on Bridges' alleged membership in or affiliation with the Communist Party was outstanding against him. This reversal was but five days prior to the filing of Bridges' application for citizenship on June 23, 1945. Hence, it is said, up to five days before the application was made, the warrant of deportation was a bar to Bridges' naturalization and therefore there could be no conspiracy up to that time because naturalization was then impossible. It is argued that there was nothing to show that either Bridges, Schmidt or Robertson had any reason to anticipate questions concerning Bridges' membership in the Communist Party at any time prior to the actual hearing on September 17, 1945, at which time the naturalization examiner was prompted to make the inquiry as to party membership because he had received, a few days previously, an affidavit of Bridges' estranged wife, from whom he was then obtaining a divorce, which stated that Bridges was a member of the Communist Party under the name of "Dorgan." It is contended that the mere fact that the question was then asked was insufficient to bring about a conspiracy to obtain naturalization through the unlawful giving of false answers to such a question.

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[10] In dealing with the first and third counts, under both of which Schmidt and Robertson were convicted, and on which they received sentences of equal length, to run concurrently, it must be borne in mind that if the evidence is sufficient to sustain conviction on either count, the sufficiency of the evidence on the other count need not be considered. Sinclair v. United States, 279 U.S. 263, 299."

It is true that the evidence of the alleged conspiracy was entirely circumstantial, as is almost invariably the case where conspiracy is charged.

There is evidence sufficient to show the existence of a long-standing and close association between Schmidt, Robertson and Bridges in two respects. In the first place all three were long and intimately associated as officers in the I.L.W.U. labor union. There was also evidence sufficient, if believed, to demonstrate that all three of them were associated as members of the Communist party. Not only was there very extensive evidence that Schmidt and Robertson, as well as Bridges, had attended many of the numerous Communist meetings to which reference has been made, but there was testimony that Schmidt had himself solicited the witness Henry Schrimpf to join the Communist Party, and had handed Schrimpf the membership card which he executed. It was testified that Robertson was a member of a top Communist fraction of the State C.I.O. consisting of Communist Party members who were members of the C.I.O. executive board, a group facetiously known in Communist circles as "God's Committee."

The jury could infer from the evidence that Schmidt and Robertson not only knew that Bridges was a Communist and a member of the Communist Party but that there had long existed a controversy between Bridges and the Government officials in charge of matters relating to citizenship and naturalization characterized by repeated attempts to deport Bridges on the ground of his alleged membership in or association with the Communist Party. Schmidt and Robertson therefore knew that if the fact of Bridges' membership in the Communist

Party were developed in the course of his naturalization proceedings, it would be fatal to his application. Both of these defendants testified that they knew of the handing down of the decision in the Wixon case[11] on June 18, 1945, and the testimony of both of these defendants discloses that they had the decision in that case very much in mind when they first proceeded to give testimony on Bridges' behalf and otherwise assist him in procuring his citizenship.[12]

The evidence warrants the inference that all of these defendants knew that now that the decision in the Wixon case had come down the day was about to arrive when Bridges could finally sew up his citizenship, and that Schmidt and Robertson were then proceeding to permit him to do so and that they did undertake to assist by testifying, falsely, that Bridges was not a member of the Communist Party.

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[11] The opinion in that case was not a part of the record, for it was excluded, as we have noted. What is here referred to is the fact that the case had been decided, and favorably to Bridges, matters which were in evidence.

[12] Thus Robertson testified in enumerating the bases for the answers he gave concerning Bridges at the citizenship hearing, that he had read transcripts of the Landis trial, the Sears trial, and of other investigations and then said: "And finally, a decision of the U. S. Supreme Court came out. I studied that decision. I studied the majority decision and I studied the concurring decision, and I made up my mind then and there that President Bridges was not, had never been, and was never affiliated with the Communist Party; and the Supreme Court of the United States is something that I think speaks with authority."

In the course of his answer to a similar question Schmidt testified: "Secondly, I had read the decision of the Supreme Court, and I thought well, as long as the highest tribunal in the United States of America has made a decision with respect to this case, the matter is now settled for all time; and I had no hesitation to recommend this man for citizenship."

Under these circumstances it is clear that there was sufficient evidence to warrant a conviction under the conspiracy count, and that the charge of a conspiracy was sufficiently proven.

As to the Third Count—The alleged aid and assistance by Schmidt and Robertson.

The evidence to which we have just referred sufficiently discloses that there was an abundance of proof to sustain the charge of the third count to the effect that Schmidt and Robertson did wilfully and knowingly encourage, aid, advise and assist a person, namely, Bridges, not then and there entitled thereto, to obtain, accept and receive a certificate of naturalization, which was to be procured and was procured by fraud, said fraud consisting of false and fraudulent statements made in a naturalization proceeding.

It is contended that there is no evidence that a certificate of naturalization was in fact issued. There was introduced in evidence a certified copy of the judgment of the Superior Court reciting that Bridges and other persons had complied with the naturalization laws and that each was entitled to be admitted to citizenship, and reciting that "It is hereby ordered that each of said petitioners be and is hereby ordered to become a citizen of the United States of America." There was no evidence that the clerk of that court performed his ministerial duty to issue and deliver to Bridges the certificate of naturalization described in §736 Title 8 USCA. We think that in view of the fact that the issuance of the certificate by the clerk is a mere ministerial act following the judgment, as soon as the judgment admitting Bridges to citizenship had been entered there had been accomplished all that was required "to obtain" a certificate of citizenship within the meaning of Title 8 §746 (a) (5) under which the third count was laid, and that in truth the certificate mentioned had then been "obtained." The argument that the evidence as to the third count is insufficient is without merit.

As stated in Glasser v. United States, 315 U.S. 60, 80, "It is not for us to weigh the evidence or to determine the credibility of witnesses. The verdict of a jury must be sustained if there is substantial evidence, taking the view most favorable to the Government, to support it. United States v. Manton, 107 F. 2d 834, 839, and cases cited. Participation in a criminal conspiracy need not be proved by direct evidence; a common purpose and plan may be inferred from a 'development and a collocation of circumstances.'" This court has followed the same rule. Henderson v. United States (9 cir.) 143 F. 2d 681, 682.

Generally, with respect to the jury's function in weighing testimony and determining the credibility of witnesses this court has said: "With regard to the foregoing testimony, as well as much of the other evidence discussed by the appellants, it should be borne in mind that the question of weight and credibility is for the jury and not for the court." Coplin v. United States (9 cir.) 88 F. 2d 652, 664. Accord: Pasadena Research Laboratories v. United States, (9 cir.) 169 F. 2d 375, 380. Tested by these rules, which this court has long followed, Craig v. United States, (9 cir.) 81 F. 2d 816, 827, c.d. 298 U.S. 690; Hemphill v. United States, (9 cir.) 120 F. 2d 115, c.d. 314 U.S. 627; Stillman v. United States, (9 cir.) 177 F. 2d 607, 616, the evidence here was sufficient to sustain the convictions on all counts.

Bone, C. J.:

I am in complete accord with all that has been said by my associates. Their exhaustive opinions reflect unanimous conclusions reached only after thorough discussion in conference and after independent consideration of all issues by each judge of this division of our court.

Judgments affirmed.

[Endorsed]: Opinions and Concurring Opinion. Filed Sept. 6, 1952. Paul P. O'Brien, Clerk.

United States Court of Appeals
for the Ninth Circuit

No. 12597

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Appellants,

vs.

UNITED STATES OF AMERICA,

Appellee.

JUDGMENT

Appeals from the United States District Court for the Northern District of California, Southern Division.

This Cause came on to be heard on the Transcript of the Record from the United States District Court for the Northern District of California, Southern Division, and was duly submitted.

On Consideration Whereof, It is now here ordered and adjudged by this Court, that the judgments of the said District Court in this Cause be, and each of them hereby is affirmed.

Filed and entered September 6, 1952.

Nos. 12,597 and 12,607

IN THE

United States Court of Appeals

For the Ninth Circuit

Harry Renton Bridges, Henry Schmidt,
and J. R. Robertson,
Appellants,
vs.
United States of America,
Appellee.

APPELLANTS' PETITION FOR REHEARING AND APPLICATION THAT PETITION FOR REHEARING BE HEARD EN BANC.

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Nos. 12,597 and 12,607

IN THE

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Appellants,

vs.

United States of America,
Appellee.

APPELLANTS' PETITION FOR REHEARING AND APPLICATION THAT PETITION FOR REHEARING BE HEARD EN BANC.

To the Honorable William Denman, Chief Judge, and to the Honorable Associate Judges of the United States Court of Appeals for the Ninth Circuit:

Come now appellants above-named and petition for a rehearing of the above-entitled cause and further apply for an order that said rehearing be heard *en banc*, and in support thereof respectfully allege as follows:

I.

No good purpose can be served by ignoring the obvious fact that from the moment this case began it was a *cause célèbre*—a great case; and that as such it made appeal to feelings and emotions which tend to distort judgment and to exercise the kind of hydraulic pressure before which even well-settled principles of law bend.[1]

It is appellants' contention in this petition that this case—because of this fact, because of the history of its principal figure and the union he has long headed, and because of the circumstances under which it was brought and prosecuted[2]—has been one of those "hard cases [which] make bad law",[3] about which so much has been written in the history and philosophy of American jurisprudence.

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[1] In the recent contempt case involving the United Mine Workers, Mr. Justice Rutledge said:

> "This case became a cause celebre the moment it began. No good purpose can be served by ignoring that obvious fact. But it cannot affect our judgment save only perhaps to steel us, if that were necessary, to the essential and accustomed behavior of judges. In all cases great or small this must be to render judgment evenly and dispassionately according to law, as each is given understanding to ascertain and apply it.
>
> "No man or group is above the law. *Nor is any beyond its protection.* These truths apply equally to the Government. When its power is exerted against the citizen or another in the nation's courts, those tribunals stand not as partisans, but as independent and impartial arbiters to see that the balance between power and right is held even. In discharging that high function the courts themselves, like the parties, are subject to the law's majestic limitations. We are not free to decide this case, or any, otherwise than as in conscience we are enabled to see what the law commands." (*United States v. United Mine Workers of America* (1947), 330 U.S. 258, 342-343.)

Long ago Mr. Justice Holmes said:

> "Great cases like hard cases make bad law. For great cases are called great, not by reason of their real importance in shaping the law of the future, but because of some accident of immediate overwhelming interest which appeals to the feelings and distorts the judgment. These immediate interests exercise a kind of hydraulic pressure which makes what previously was clear seem doubtful, and before which even well settled principles of law will bend." (*Northern Securities Co. v. United States* (1904), 193 U.S. 197, 400-401.)

It would be unrealistic to think that the usual, formal type of petition for rehearing addressed solely to the panel which heard this cause would or could result in any reconsideration of the points previously so exhaustively briefed and argued. Only a fresh consideration of the basic problems which this case presents, and a fixed and inexorable determination on the part of the Court to resist any "subversive erosion of the judicial process"[4] in this case could bring about a modification of the order of the panel which heard this case.

Because the judges who have heretofore sat have committed themselves in this cause as they have,[5] a rehearing, if it is to serve its function of reconsidering what has heretofore been done, must be undertaken by the entire Court. Furthermore, it is at least questionable whether this entire circuit ought to be committed to a conflict with other circuits and to a rejection of Supreme Court doctrine upon the basis of a decision made by a minority of its members.

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[2] The Attorney General who instituted the prosecution did so because "I think that the case against Bridges * * * has already been of some help in the Hawaii situation." (T.R. 73-76, 146) and because the Government was opposed to Bridges' "influence" in the labor movement (T.R. 6072-5).

[3] Stephens, J., in *Bridges v. Wixon* (1944, 9 Cir.), 144 F.2d 927, 938.

[4] Healy, J., in *Bridges v. United States* (1950, 9 Cir.), 184 F.2d 881, 887.

[5] Bone, J., said in his opinion:

> "I am in complete accord with all that has been said by my associates. Their exhaustive opinions reflect unanimous conclusions reached only after thorough discussion in conference and after independent consideration of all issues by each judge of this division of our court."

It will be the burden of this petition to demonstrate how the opinions of the judges of this particular panel not only disregarded the decisions of other Courts of Appeal,[6] but ignored applicable rules of law, precedents, judicial reasoning, and legislative history, in arriving at the result obtained.

Whether in fact there were present "hydraulic pressures" can only be a matter of conjecture; but that "well settled principles of law" appear to have bent under the impact of this case is fairly obvious.

II.

THE STATUTE OF LIMITATIONS.

A. The Saving Clause.

The question presented on this phase of the case arose as follows:

The second and third counts of the indictment are based upon sections of the Nationality Code of 1940. This code contained a five year statute of limitations. In 1948 (nine months before the indictment here was returned) the applicable sections of the 1940 code—both those dealing with the substantive crimes and that setting forth the five year statute of limitations—were repealed, and some of the sections dealing with the substantive offenses were re-enacted in the new Criminal Code along with a general three year statute of limitations. The repealing section of the 1948 law provided that "any right or liability now existing" under the repealed statutes should "not be affected" by the repeal.

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[6] Stephens, J., in his opinion, said:

(a) "We are of course aware that the Second Circuit has taken a different view of the problem in *United States v. Obermeier* (1950, 2 Cir.), 186 F.2d 243."

(b) "We cannot agree with the reasoning in the *Marzani* opinion [*Marzani v. United States* (1948, C.A. D.C.) 168 F.2d 133], nor consequently with the conclusions reached."

Does such a proviso respecting "rights or liabilities" apply to a period of limitations?

The panel which heard this case, contrary to every authority on the subject and without citing a single authority to support its views, held that the proviso had such an effect.

1. In so doing it ignored the fundamental distinction between substance and procedure which has existed in the law from time immemorial and the equally venerable rule that periods of limitation are matters affecting not the "right" but only the "remedy".

Almost one hundred years ago[7] the Supreme Court said, speaking of statutes of limitations:

> "They do not confer any right of action. They are enacted to restrict the period within which

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[7] For earlier cases on the point see *Bank of United States v. Donnally* (1834), 8 Pet. 361; *Brent v. Bank of Washington* (1836), 10 Pet. 596.

the right, otherwise unlimited, might be asserted." (*Riddlesbarger v. Hartford Insurance Co.* (1869), 7 Wall. 386.)

This view has been consistently followed to the present day:

Campbell v. Holt (1885), 115 U.S. 620;
Mattson v. Dept. of Labor (1934), 293 U.S. 151;
Order of Railroad Telegraphers v. Railway Express Agency (1944), 321 U.S. 342;
Chase Securities Corp. v. Donaldson (1945), 325 U.S. 304;
Holmberg v. Armbracht (1946), 327 U.S. 392;
Kavanagh v. Noble (1947), 332 U.S. 535;
Orr v. United States (1949, 2 Cir.), 174 F.2d 577.

Not only did this panel ignore these cases (it failed even to mention them or the doctrine which they exposit), but it ignored specific cases holding that a proviso in a repealing statute referring only to "rights" or to "liabilities" was not sufficient to preserve "procedural" as distinguished from "substantive" matters.

Great Northern Ry. Co. v. United States (1908), 208 U.S. 452;
Hertz v. Woodman (1910), 218 U.S. 205;
Hallowell v. Commons (1916), 239 U.S. 506.

These cases demonstrate without question (1) that statutes of limitations deal with remedies or matters of procedure; and (2) that saving clauses dealing with rights and liabilities have no effect upon such matters. From this it inevitably follows that such saving clauses have no effect upon statutes of limitations and do not operate to preserve pre-existing periods of limitation.

The panel did not even mention this point in its opinion.

Before this circuit is committed to such a conflict with the Supreme Court and the reasoning of the Supreme Court decisions, a rehearing should be granted *en banc* so that this point may be disposed of.

2. In holding that the proviso in question had the effect of preserving the repealed five year period of limitations, the panel ignored seventy-five years of legislative history, demonstrating that on at least four occasions Congress recognized that a clause saving the "rights or liabilities" existing under repealed statutes had no effect upon periods of limitation.

(a) The Revised Statutes of 1874 contained a clause (Section 13) providing that the repeal of any statute should not release or extinguish "any penalty, forfeiture, or liability" incurred thereunder, and another clause (Section 5598) providing that "all offenses committed and all penalties or forfeitures incurred" under any repealed statute might be prosecuted and punished as if the repeal had not been made. Despite these provisions Congress considered a separate section necessary to preserve statutes of limitations, for the Revised Statutes contained yet another clause (Section 5999) providing that *"all acts of limitation"* in any statute repealed prior to 1874 should not be affected thereby.

It is obvious that Congress did not consider acts of limitation saved either by the general saving clause (Section 13) which included the words "any liability" or by the specific saving clause (Section 5598) which included the words "all offenses"; it recognized that if it intended to save periods of limitation it must say so explicitly.

(b) In 1909, in enacting the Criminal Code, Congress, without repealing the aforesaid sections, included two additional sections dealing with this problem. Section 533 saved "all offenses committed, and all penalties, forfeitures or liabilities incurred", and Section 534 separately saved *"all acts of limitation"*, again illustrating Congress' understanding of the proper manner of preserving a pre-existing period of limitations.

(c) In 1933 Congress repealed as obsolete many sections of the Revised Statutes. It was at first proposed to repeal Section 5599, *supra*, but the Secretary of War and the Attorney General expressed the view that the repeal of that section might revive certain expired claims despite the fact that the proposed repealing statute saved rights and liabilities. The Secretary of War and the Attorney General were of the view that "since that proviso referred only to 'rights' and 'liabilities' and not to remedies which may be barred by limitations", it was necessary to retain the clause specifically saving *"all acts of limita-*

tion". Congress followed this advice and in order to save the period of limitations and not revive the barred claims, did not repeal Section 5599.

At the same time the Attorney General recommended that Section 5599 be rewritten so that it would preserve "all acts of limitation" not only with respect to statutes enacted prior to 1874 but with respect to those subsequently enacted. Congress did not accept, and has not yet accepted, this recommendation thereby demonstrating its intent—for whatever reason—to preserve all acts of limitation *only* with respect to statutes referred to in the Revised States of 1874.

(d) In 1947, *both* Section 13 and Section 5599, *supra,* were incorporated in the United States Code as 1 U.S.C.A. 109 and 110, showing again an understanding that specific language dealing with "limitations" is necessary to achieve the end sought and that the preservation of "rights and liabilities" is inadequate.

The panel which decided this cause ignored this seventy-five years of legislative history. It ignored the fact that only one year after Congress placed *both* Section 13 and Section 5599 in Title 1, it enacted the saving clause here under consideration without making any specific reference in that clause or elsewhere to acts of limitation. It hardly seems likely that hard upon the heels of seventy-five years of unbroken legislative history demonstrating the necessity for such specific reference, there would be a sudden reversal of policy without any statement or explanation that such a reversal was taking place.

The panel did not even mention any of these points in its opinion.

Before this circuit is committed to such a conflict with the obvious understanding of Congress, a rehearing should be granted so that these points may be disposed of.

3. In holding that the five year period of limitations is applicable to offenses arising under the Nationality Code, the panel ignored the notes of those who revised the code in 1948. Those "authoritative"[8] notes are not even mentioned in the panel's opinion. Those notes read as follows:

> "Section 582 of Title 18 * * * and Section 746(g) of Title 8 * * * were consolidated * * *
>
> "In the consolidation of these sections *the five year period of limitation for violations of the Nationality Code* provided for in said Section 746(g) of Title 8, * * * *is reduced to three years.* There seems no sound basis for considering three years adequate in the case of heinous felonies and gross frauds against the United States but inadequate for misuse of a passport or false statement to a naturalization examiner."

The panel did not even refer to the Revisers Notes in its opinion.

Before this circuit is committed to the proposition that the Revisers Notes may be ignored in applying and interpreting the provisions of the code, a rehearing should be granted so that this point may be disposed of.

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[8] *United States v. National City Lines* (1949), 337 U.S. 78, 81.

4. The panel which decided this cause was "aware that the Second Circuit had taken a different view of the problem." The opinion, however, gave no reason or authority for not following the view of the Second Circuit. It did not say that the "view" of the Second Circuit is erroneous.[9] Nor did it even analyze the opinion of the Second Circuit. There is no indication of an awareness that the Second Circuit engaged in a careful consideration of the distinction between substantive and procedural matters and that the Second Circuit considered carefully the legislative history of the various saving clauses. This failure to consider the underlying bases of the Second Circuit's "different view" leaves the impression that this panel has simply opposed its *ipse dixit* to the reasoning of the Second Circuit's opinion.

Before this circuit is committed to a conflict with the carefully reasoned and thoroughly documented opinion of a sister circuit, this petition for rehearing should be granted so that the points raised in the opinion of the sister circuit may be considered and, if possible, answered.

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[9] Four months earlier a panel of this Court consisting of Denman, C.J., and Orr and Pope, JJ., considered the same problem and said:

> "*United States v. Obermeier* * * * *is authority* for holding counts one to six [allegedly committed more than three years before the date of the indictment] barred." *Miranda v. United States* (1952, 9 Cir.), 196 F.2d 408.

5. Furthermore, this panel ignored the most recent legislative and executive recognition of the fact that since September 1, 1948, the five year period of limitations has not applied to crimes under the Nationality Code. The opinion did not mention the fact that on June 30, 1951, Public Law 65 of the 82nd Congress became effective. This law specifically fixed at ten years the period within which prosecutions could be maintained for certain offenses against the Nationality Code and for conspiracies to commit such offenses. In recommending this legislation the Secretary of State requested that the applicable period of limitations be changed "*from three years* to ten years". And in reporting upon this legislation the Judiciary Committees of both houses, in identical language, said:

> "In the codification of Title 18 * * * *effective September 1, 1948,* Section 582 of that title dealing with limitations on offenses other than capital, and Section 746(g) of Title 8 were consolidated, *with the result that violation of the penal provisions of the Nationality Act became subject to the general three year statute of limitations.*"
>
> (82d Cong., 1st Sess., H.R. 167, S.R. 384.)

The opinion did not consider the anomaly raised by this situation: On the one hand the United States Attorney argues that the period of limitations for offenses under the Nationality Code is five years, and on the other hand the Secretary of State and the Judiciary Committees of Congress recognize that it has been three years all along.

Before this circuit is committed to a decision which ignores the most recent expression of the executive and legislative branches of the Government on the issues involved, a rehearing should be granted so that the point may be disposed of.

6. Finally, the panel ignored the well settled rule of law that a statute of limitations is a statute of repose and that in the event of any question as to how it is to be interpreted—although from the foregoing it is clear that there can be no such question—it is to be interpreted and applied in favor of the accused.

United States v. Scharton (1932), 285 U.S. 518.

The panel also ignored the suggestion that, for the same basic reason, when there is doubt concerning the effect of a saving clause upon a criminal proceeding, the clause should be strictly construed in favor of the accused.

United States v. One Airplane (1927, D.C. Cal.), 23 F.2d 500.

Before this circuit is committed to a decision which so overrides the rights of the accused, contrary to the established law on the subject, this petition for rehearing should be granted so that the point may be disposed of.

The only cases referred to by the panel in the course of its discussion on this phase of the case have no relation to any of the issues involved. The question here presented is whether or not the preservation of a "right or liability" operates to preserve a pre-existing period of limitations. Cases like *Yeaton v. United States* (1809), 9 U.S. 281; *United States v. Chambers* (1934), 291 U.S. 217, and *Coffin v. Rich* (1858), 45 Me. 507, cited by the panel, do not deal with this problem and are not germane. Each one of these cases deal only with the problem of the effect of a repeal upon the "substantive" rights of litigants. The *Yeaton* case—a prize case—deals with the question of whether the repeal of a statute creating a cause of action destroyed the cause of action. The *Chambers* case deals with the question of whether the repeal of the 18th Amendment had any effect upon a pending prosecution for a violation of the National Prohibition Act. The *Coffin* case deals with the question of whether the repeal of a statute making stockholders liable for corporate debts had any effect upon the right of a corporation's judgment creditor to proceed against a stockholder.

Each of these cases is concerned only with the impact of the repeal upon the continued existence of the cause of action. None of them deals with a limitations problem and consequently none of them is authority for the proposition that a clause saving "rights or liabilities" has any effect upon a statute of limitations.[10]

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[10] As a matter of fact, what was said in *Coffin v. Rich* demonstrates the error of the panel's views:

> "The legislature has power to take away by statute what was given by statute except vested rights. And the right of the party when it exists by statute does not become vested until after judgment."

Here the Government had no "vested right" to prosecute for five years before September 1, 1948, and Congress had the power, Before this circuit is bound to a decision of this precise question upon the authority of an 1809 admiralty case and an 1858 state corporation law case, and in the absence of any apparent consideration of the Supreme Court cases dealing with the exact point at issue,[11] a rehearing should be granted so that these points may be disposed of.

B. The Wartime Suspension of Limitations Act.

The question presented on this phase of the case is: Does the statute providing for the suspension, while the United States is at war, of any statute of limitations applicable to offenses "involving fraud" against the United States apply to this case?

The panel which heard this case, contrary to the decision of two other circuits and of at least three Supreme Court cases, held that it did.

In so doing the panel had to hold (a) that "fraud" was "involved" in the offense of false swearing; and (b) that fraud of that type was embraced in the Suspension Act.

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which it exercised, to reduce the period of limitations to three years.

The losing party in *Coffin v. Rich* argued, as does the panel here, that the legislature could not have "intended" by repealing the earlier statute, to change the then-existing liability of members of corporations and that it must have intended to preserve such liabilities. But in the absence of a specific preservation (here there is no specific preservation of the period of limitations), the Court said:

> "Why they did not except such liability from the operation of the repealing act is not for us to say. Whether by design or mistake the effect is the same."

[11] *Supra*, pages 5-7.

1. In holding that "fraud" was involved in the case at bar, the panel relied upon *Knauer v. United States* (1946), 328 U.S. 654, a denaturalization case in which the false swearing involved related to the petitioner's oath of allegiance to this country and to his renunciation of his allegiance to the land of his birth. The panel ignored the pointed distinction made by the Court between falsity inherent in the oath and falsity relating to a question of fact.

> "We need not consider the extent to which a decree of naturalization may constitute an official determination of issues of fact * * * Those facts relate to the past, to behavior and conduct, *but the oath is in a different category.* It relates to a state of mind and is a promise of future conduct * * *
>
> "* * * *when an alien takes the oath with reservations* and does not in good faith foreswear loyalty and allegiance to the old country, the decree of naturalization is obtained by deceit. *The proceeding itself is then founded on fraud.*" (*Knauer v. United States, supra,* at 670, 671.)

The panel which decided this case not only ignored the distinction so clearly made in the *Knauer* case, but also ignored the decision of the Supreme Court in *Schwinn v. United States* (1940), 311 U.S. 616. That case involved a denaturalization proceeding based upon false testimony concerning the petitioner's period of residence; that is, the falsehood had to do with a question of fact. This Court (112 F.2d 74) affirmed the decree of denaturalization on the ground of "fraud". The Supreme Court granted certiorari and refused to affirm on the fraud point. Its entire opinion reads:

> "The petition for certiorari is granted. The judgment is affirmed on the *sole* ground that the certificate of citizenship was *illegally* procured."

That the Supreme Court should have granted certiorari and then specifically announced the basis upon which it affirmed demonstrates that in the view of the Supreme Court not every falsehood is *ipso facto* a fraud and underlines the point subsequently made in the *Knauer* case that falsehoods *with respect to the oath,* as distinguished from falsehoods with respect to matters of fact, may properly be regarded as "frauds".

Before this circuit is bound to a rule that *any* false statement *whatsoever* in a naturalization proceeding—as distinguished from falsity in the oath—is *ipso facto* a fraud, the petition for rehearing should be granted so that this point may be considered.

2. The decision of the panel squarely conflicts with the holding of the Second Circuit in *United States v. Obermeier,* that "Nothing in 8 U.S.C.A. Section 746(a)(1) * * * makes fraud an ingredient of the crime". (186 F.2d 243, 257.)

Possibly a *mere* conflict with another circuit is not sufficient to grant a petition for rehearing, but the panel apparently did not even recognize that it was in conflict with *Obermeier* on this point for it did not refer to this phase of the *Obermeier* opinion; it referred to its conflict with *Obermeier* only on the "saving clause" phase of the case.

Before this circuit enters into conflict with another circuit *sub silentio,* as it were, the petition for rehearing should be granted so that the basis of the conflict may be examined and the issue resolved.

3. The panel which decided this case never explained how denominating the crime here involved as a "fraud" resolved the issue. For even this very panel said:

> "* * * not every fraud against the Government, whether inherently pecuniary or otherwise, comes within the effect of the Suspension Act."

It must follow, therefore, that some "frauds" do come within the effect of the Suspension Act and some do not. Nowhere in its lengthy opinion does the panel state why a *naturalization* fraud is within, rather than without, the effect of that Act.

To settle this question, a rehearing should be granted.

The panel which decided this case ignored a recent Supreme Court decision which has pointed the way toward a delineation of those frauds which do, and those frauds which do not, come within the Suspension Act. *United States v. Smith* (1952), 342 U.S. 225, indicates that *frauds in situations not connected with the war effort are not within the Suspension Act.* There, Mr. Justice Clark, concurring, said:

> "Soon after the beginning of World War II Congress realized that it would be impossible for the Department of Justice currently to investigate and prosecute the large number of offenses *arising out of the war effort. Therefore* Congress

> suspended the running of the statute of limitations * * * It is clear that Congress intended to give the Department more time to apprehend, investigate and prosecute offenses occurring 'under the stress of present day events' of the war * * *
>
> "The present cases *had nothing to do with the war* or the reconversion thereafter * * *"

The panel did not apply these criteria to the case at bar. If it had, of course it would have had to hold that this case had nothing to do with the war, did not arise out of the war effort, and consequently was not covered by the Suspension Act.[12]

Even *United States v. Gottfried* (1948, 2 Cir.), 165 F.2d 360, upon which the panel relies, supports the view that only crimes arising out of "the hurly-burly of war" are embraced within the Suspension Act. That case involved the wartime rationing program and there would have been no offense but for the wartime legislation creating such a program. For that reason the Court said the Suspension Act "perfectly fits the situation at bar".[13] A violation of the naturalization statute does not "fit", either perfectly or imperfectly, into this picture and there is no authority for trying to force it to fit.

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[12] The reasoning of Mr. Justice Clark has recently been followed by Judge Oliver J. Carter in the Northern District of California: "Any consideration of the meaning of the plain language of the statute must assume that Congress intended to accomplish some sound objective by the language used. The Servicemen's Dependents Allowance Act of 1942, *the act under which the defendant is charged, was one which had its very reason for existence founded upon wartime conditions. The tremendous volume of claims made under the Act during wartime and the attendant investigation of fraudulent claims made thereunder* would have made it difficult if not impossible to successfully protect the Government's interest without an extension of the period of limitations * * * *Similar problems created by other wartime legislation* made it imperative that Congress extend the period of limitations on criminal prosecutions arising *out of such legislation* * * *" (*United States v. Showalter* (1952, D.C. Cal.), 103 F.Supp. 806, 809.)

Before this circuit adopts a decision which fails to explain why a naturalization fraud is within the scope of the Wartime Suspension Act, in the face of Supreme Court and other reasoning to the contrary, the petition for rehearing should be granted so that the point may be considered and disposed of.

4. The panel which decided this case admitted that its decision was contrary to the decision of the Court of Appeals for the District of Columbia in *Marzani v. United States* (1948, C.A., D.C.), 168 F.2d 133. All it said about this was:

> "We cannot agree with the reasoning in the *Marzani* opinion * * *"

Why it could not agree with the reasoning it never stated. As a matter of fact, it never stated the basis of the reasoning of the *Marzani* opinion.

Before this circuit is committed to a conflict with a decision of another circuit under these circumstances, particularly in the context of the entire argument on the Suspension Act phase of the case, the petition for rehearing should be granted so that the point may be disposed of.

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[13] That this is the significance of *Gottfried* is seen by the same Court's handling of that case in *Obermeier* (186 F.2d 243, 257, n. 64)—still another factor ignored by this panel.

5. Since the decision of this panel, there has been published in the latest Federal Reports a decision of the Court of Appeals for the Third Circuit to the effect that a "citizenship fraud" is not within the Suspension Act.

In *United States v. Anzalone* (1952, 3 Cir.), 197 F. 2d 714, a conviction for wilfully and falsely claiming American citizenship in violation of 18 USCA 911[14] was reversed.

> "There could be no question that on October 5, 1940, Anzalone represented that he was a citizen of the United States when he signed and filed a Pennsylvania voter's registration card. In this he swore that he was a citizen of the United States * * * But any indictment based on that offense was barred by the applicable statute of limitations by the end of 1943. Section 3282, Title 18, USC." (197 F.2d 714, at 715.)

If a false representation of American citizenship were a "fraud" within the Suspension Act, the Court of Appeals for the Third Circuit would have had to consider whether that Act tolled the normal three year statute of limitations.[15] But it never considered the point, nor did the Government urge it to do so,[16] for the simply obvious reason that such a "fraud" is manifestly not within the language or objectives of the Wartime Suspension Act. It apparently never occurred either to the Court or the prosecutors to urge such a claim. Only in this case has the Government put forth such a claim—and only in this case has it achieved success with that claim.

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[14] Section 911 derives from a subsection of 8 USCA [1940 ed.] 746, as do Counts II and III of the indictment here.

[15] The Suspension Act was originally passed in 1942 and if applicable in the *Anzalone* case would have permitted the prosecution. Compare *United States v. Smith* (1952), 342 U.S. 225, and *United States v. Showalter* (1952, D.C., Cal.), 103 F. Supp. 806.

[16] *United States v. Anzalone, supra*, at 715, and *United States v. Anzalone* (1951, W.D., Pa.), 100 F. Supp. 987, at 989, n. 6:

> "*Of course* the statute of limitations is a bar to the prosecution * * *"

In order to consider the effect of this most recent decision of the Court of Appeals for the Third Circuit upon the ruling in this case, the petition for rehearing should be granted.

6. The panel's treatment of the Supreme Court opinions which dealt with the World War I Suspension Act is so confused and lacking in clarity that for this reason alone the petition for rehearing must be granted.

The panel discussed *United States v. Noveck* (1926), 271 U.S. 201, and *United States v. Scharton* (1932), 285 U.S. 518, which held that fraud was not an ingredient either of perjury or false statements in tax "fraud" cases. In each case the Supreme Court held that fraud was not involved and the Suspension Act did not apply *because the statute creating the crime did not mention "fraud"*. The panel recognized that the statute under which Count II of the indictment here is laid similarly does not mention fraud and that "it can be argued from this fact that the Suspension Act would not be applicable hereto". The panel recognized also that "If the cited case[s] must be construed to mean that 'fraud' must be spelled out literally in the statute, then logically we must hold that the Suspension Act does not apply to Count II * * *"

Of course the cited cases cannot mean anything else, as appellants have urged all along, and the panel never said how else the cited cases may be "construed". Those cases specifically hold that as fraud is not mentioned in the statute and need not be proved; it is not an ingredient of the crime and the crime does not "involve" fraud. Therefore they refuse to apply the Suspension Act to the crime. The panel recognized that logically this conclusion must follow here too. But for some unexpressed reason it characterized this conclusion as "extreme" and refused to be "driven" to it.

Before this circuit is committed to a view that the logical following of Supreme Court decisions which might result in a dismissal of the indictments in this particular case is an "extreme conclusion", the entire Court should rehear this matter.

This is particularly so because of the "reasoning" employed to get around the decisions in the *Noveck* and *Scharton* cases—decisions, we repeat, wherein the Supreme Court said that since fraud was not mentioned in the charging statutes and was not required to be proved, it was not an element of the crime.

This panel said:

> "* * * there are offenses which encompass acts inherently fraudulent as to the Government but in which the fraud is not an ingredient and need not be proved."

In every case in which the Supreme Court has found that fraud is not an ingredient under the statutes creating the crimes, it has said that the offense does not "involve" fraud within the meaning of the Suspension Act. This panel, contrariwise, said that even though fraud is not an ingredient of the offense and "need not [even] be proved", somehow or other fraud may be "inherent" in the offense. This substitutes for objective statutory standards the personalized subjective whims and interpretations of any judge who feels that fraud is "inherent" in a particular case.

Before this circuit is committed to any such doctrine—a doctrine which would never let a litigant know whether or not fraud was "inherent" in his case until after some judge said so—the petition for rehearing should be granted and the entire matter reviewed by the full Court.

The panel not only refuses to follow the *Noveck* and *Scharton* opinions, but it also refuses to follow *United States v. McElvain* (1926), 272 U.S. 633, which involved a conspiracy to defraud the Government in respect of income tax. There the Supreme Court held that the general three year limitation rather than the special six year limitation set out in the Suspension Act was applicable. This appears to be a simple and square holding that even when the indictment is cast in the form of a *"conspiracy to defraud"*, the Court will look to the nature of the offense rather than to the form of the pleading to determine whether the

Suspension Act applies. But the panel did not see it that way:

> "The opinion of the Supreme Court in *United States v. McElvain, supra,* is not easy reading and has had various constructions."

Whether the opinion of the Supreme Court is or is not easy reading, and whether it is or is not easier reading than the opinion of this panel on the "fraud" point, is not the issue. If, indeed, *McElvain* has had various constructions, the panel might have been expected to cite some. However, it did not. The only "construction" contrary to the square holding of *McElvain,* that the form of the indictment does not change the result, is the decision of this panel in this case.

The fact of the matter is that *in every case* which involved an alleged false statement and in which the indictment was returned more than three years after the alleged crime, the Supreme Court has held that the indictment had to be dismissed. This is true of *McElvain, Noveck* and *Scharton,* and it made no difference how or in what manner the indictment was drawn. If those men could not be prosecuted for "defrauding" the Treasury, how can Bridges and his associates be prosecuted for this so-called "naturalization fraud"?

It is also true that neither *Obermeier* nor *Marzani* nor *Anzalone* could be prosecuted for alleged false statements they made at a date more than three years earlier than the return day of the indictment. If these men could not be prosecuted for statements substantially identical to the ones here alleged to have been made by Bridges, how it [illegible] that Bridges can be prosecuted in this case?

These questions need to be answered, and it is no answer that this panel simply "disagrees" with the other Courts.

Before this circuit is committed to a decision which is contrary to every precedent on the point and particularly because the decision is rendered in this case with its background and history, this petition for rehearing must be granted and the entire question examined by the full Court.

III.

RES JUDICATA AND RELATED PROBLEMS.

Because the prior proceedings against Bridges took place before administrative tribunals, the panel, citing *Pearson v. Williams* (1906), 202 U.S. 281, held that the doctrine of *res judicata* cannot be applied here. The panel ignored the fact that in the half century since the decision in the *Pearson* case, administrative law has taken tremendous steps forward and that the Supreme Court has adopted an entirely different view of the nature and dignity of administrative proceedings. Just six months ago the Supreme Court in *Far East Conference v. United States* (1952), 342 U.S. 570, reaffirmed the current approach to administrative proceedings by applying once again the philosophy expressed by Mr. Justice Stone in *United States v. Morgan* (1939), 307 U.S. 183, 191:

> "* * * court and agency are not to be regarded as wholly independent and unrelated instrumentalities of justice * * * Court and agency are the means adopted to attain the prescribed end * * * *Neither body* should repeat in this day the mistake made by the courts of law when equity was struggling for recognition as an ameliorating system of justice; neither can rightly be regarded by the other as an alien intruder to be tolerated if must be, but never to be encouraged or aided by the other in the attainment of the common aim."

The panel ignored the fact that this is not abstract doctrine; that, as a matter of fact, in cases decided long after *Pearson v. Williams*, the Supreme Court has held that administrative determinations do in fact constitute *res judicata*.

> *Keogh v. Chicago & Northwestern Ry. Co.* (1922), 260 U.S. 156;
>
> *United States ex rel. Girard v. Helvering* (1937), 301 U.S. 540.

The panel also ignored the fact that *Pearson v. Williams* involved only a "summary sort" of preliminary examination after which an alien was permitted to make only a conditional entry. It is not surprising that the Supreme Court in 1906 held that *such* an inquiry was not *res judicata* in a subsequent deportation proceeding. It is only to *that* extent that one administrative decision "does not preclude a subsequent administrative consideration."

But where, as here, there has been a full-dress administrative hearing, with the taking of testimony under oath, the examination and cross-examination of witnesses, and all of the rest of it, then the doctrine of the more recent cases of the Supreme Court cited above prevails.

Before this circuit permits to stand the bald statement of one of its panels that the doctrine of *res judicata* cannot be applied to administrative decisions, it should, in the face of the foregoing cases, grant the petition for rehearing so that the point may be reconsidered.

IV.

BRIDGES v. WIXON AS EVIDENCE.

The panel made a highly technical analysis of *Bridges v. Wixon* (1945), 326 U.S. 135, and concluded that the case did not "hold" that Bridges was not a Communist and that Robertson and Schmidt had no right to rely on the decision in that case when they appeared as witnesses for Bridges in his subsequent naturalization hearing.

This ruling ignored the long established doctrine that when "intent" is an issue, a defendant may negative his bad faith by evidence explaining his intent or understanding. Robertson and Schmidt had a right to show their good faith in the premises. They were not lawyers; and assuming that the technical analysis made by the panel in 1952 is the correct one, it is not to be imputed to them as of 1945 when the understanding generally was the Supreme Court had vindicated Bridges.[17]

This Court has held that evidence of reliance on an attorney's advice is admissible to show absence of criminal intent and has not analyzed that advice to see whether or not it was technically sound.

> *Hersch v. United States* (1934, 9 Cir.), 68 F. 2d 799;
>
> *C.I.T. Corporation v. United States* (1945, 9 Cir.), 150 F.2d 85.

This panel did not even mention these prior decisions of this Court in its consideration of this point.

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[17] Pope, J., in his opinion, quotes from the record:

> Robertson: "I studied that decision. I studied the majority decision and I studied the concurring decision and I made up my mind then and there that President Bridges was not, never had been and was never affiliated with the Communist Party; and the Supreme Court of the United States is something that I think speaks with authority."
>
> Schmidt: "* * * I had read the decision of the Supreme Court, and I thought, well, as long as the highest tribunal in the United States of America has made a decision with respect to this case, the matter is now settled for all time: and I had no hesitation to recommend this man for citizenship."

Interestingly enough, when it became necessary to bolster a weak circumstantial case respecting the conspiracy, Judge Pope relied upon Robertson's and Schmidt's "knowledge" of the decision in *Bridges v. Wixon* as a circumstance from which it could be inferred that they knew that "the day was about to come when Bridges could finally sew up his citizenship." Aside from the irony of having one judge reject the decision when its receipt might be helpful to the defendants and having another judge use it to their disadvantage, is the fact that if Robertson and Schmidt "knew" anything about *Bridges v. Wixon,* it was not what Judge Stephens now says that the case stands for but what they then understood it to stand for.

In fact it cites absolutely no authority whatsoever for its holding.[18]

Before this circuit permits such a departure from the normally accepted rules governing the admissibility of evidence in cases involving intent, the petition for rehearing should be granted so that the point can be determined in the light of the applicable authorities.

V.

THE OTHER ERRORS OF THE TRIAL COURT.

The panel admitted that on at least three other occasions the rulings of the trial Court were improper but said that each instance separately did not present sufficient grounds for reversal. In achieving this result, the panel (a) glossed over the seriousness of the incidents involved; and (b) ignored the rules laid down by the Supreme Court for the determination of what constitutes reversible error.

1. The Father Meinecke Incident.

The opinion of the panel glossed over the significance of what happened here by saying "The [trial] Court took part in the examination of the witness." Thus is concealed the fact that in so "taking part" the trial judge was the champion of the prosecution. The panel did not record that the trial judge had earlier refused to come to the aid of the defense with the observation that it was "not the province of a Court to examine the witness." It did not explain why, only after the cross-examination had failed to destroy the witness, it suddenly became the province of the Court to undertake to do so.

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[18] All the authority is contrary to this holding of the panel. See, *e.g.*, *Potter v. United States* (1894), 155 U.S. 483; *Harrison v. United States* (1912, 6 Cir.), 200 F. 662; *Buchanan v. United States* (1916, 8 Cir.), 233 F. 257; *Hyde v. United States* (1926, 4 Cir.), 15 F.2d 816; *Miller v. United States* (1941, 8 Cir.), 120 F.2d 968; *Haigler v. United States* (1949, 10 Cir.), 172 F.2d 986.

Secondly, the opinion never revealed the true effect of the questions put by the trial court; it stated only that such questions "might ~~be~~ subject to misunderstanding." If the questions were set forth it would be seen that the word "misunderstanding" was an understatement. Such questions, if asked by a prosecutor, would be error as an unjustified and unwarranted attempt to harass and humiliate a defense witness. When asked by a trial Court, which is supposed to maintain "thoroughgoing impartiality",[19] they cry aloud for reversal.

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[19] *Glasser v. United States* (1942), 315 U.S. 60, 83.

See *United States v. Brandt* (1952, 2 Cir.), 196 F.2d 653:

> "A trial judge conducting a case before a jury in the United States courts is more than a mere 'moderator' [citing cases], but he is decidedly not a 'prosecuting attorney.' United States v. Guertler (2 Cir.), 147 F.2d 796, cert. den. 325 U.S. 879 * * * Hunter v. United States (5 Cir.), 62 F.2d 217 * * * He may call witnesses on his own motion, adduce evidence and examine those who testify * * * but he nonetheless must remain the judge, impartial, judicious, and above all responsible for a courtroom atmosphere in which guilt or innocence may be soberly and fairly tested * * * He must therefore be on continual guard that the authority of the bench be not exploited toward a conviction he may privately think deserved or even required by the evidence. United States v. Minuse (2 Cir.) 114 F.2d 36; Martucci v. Brooklyn Children's Aid Society (2 Cir.) 140 F.2d 732; and United States v. Marzano (2 Cir.) 149 F.2d 923."

Thirdly, the panel said that the "danger" of a "misunderstanding" was cured by subsequent instructions to the jury. The fact of the matter is that the comments of the trial Court to which reference is made in the panel's opinion, were not "instructions" to the jury. At no time did the trial Court instruct the jury to disregard the questions or the inferences that might be drawn from them. On the contrary, it merely sought to *justify* what had been done and, if anything, compounded the evil.

To say that this incident alone was "not so prejudicial" as to warrant a reversal is to fly in the face of *Kotteakos v. United States* (1946), 328 U.S. 750, and other similar cases.

2. The Kessler Incident.

The panel in this instance not only affirmed what amounted to a denial of cross-examination of a Government witness but condoned a comment by the trial Court in the presence of the jury which admittedly "was in poor discretion" and which did not represent the "true idealism" with which a trial Court should act. This it did by again glossing over what happened and minimizing its significance, and by ignoring the rule of the *Kotteakos* and other cases.

(a) The panel did not state the facts which are necessary to an understanding of this incident. The record reveals that a witness named Michener had placed Bridges at an alleged Communist Party meeting in San Francisco and had fixed the time of that meeting in relation to a season of the year. He said that he had stayed at the Shaw Hotel in San Francisco at the time of the alleged meeting. The defense then produced a registration card from the Shaw Hotel dated approximately six months away from the time of the year that the witness had fixed. This was the only card that the defense found in the records of the Shaw Hotel for the year in question. It was in order to remove this cloud upon the testimony of its witness that the prosecution called Kessler to produce and identify another card corresponding more closely in time with the period originally fixed by Michener *with the explanation that the Government had procured and removed that card from the files of the Shaw Hotel some time earlier.*

These facts which point up the importance of the cross-examination of Kessler and the necessity for establishing when, why, under what circumstances, and at whose direction the card had been removed, are not even mentioned in the panel's opinion. The whole thing is glossed over by saying that on direct examination Kessler's testimony "was confined to identifying the exhibit."

Clearly it was the duty of defense counsel to determine what role, if any, the prosecutors had played in the removal and concealment of the card Kessler produced. Clearly it was the duty of the trial Court to permit a full investigation into the matter, particularly when the good faith of the prosecutors was in issue. That denial of cross-examination on this point deprived appellants of substantial rights and denied them of due process of law is clear from *Alford* *v. United States* (1931), 282 U.S. 687. This case, which is the leading case on the subject of a defendant's right to an unimpeded cross-examination, is not even mentioned by the panel in its opinion.

(b) In addition to preventing cross-examination improperly, the trial judge stated in the presence of the jury that defense counsel had an "expectation or hope that some error might be created in the record" in order to avoid an "ultimate conviction" based upon "uncontradicted evidence, establishing to a certainty the guilt of the accused."

For a trial judge to make such a comment during the course of a case is obviously flagrantly prejudicial error. To dismiss it by suggesting, as the panel does, that it was simply a matter of "poor discretion" is a shocking disregard of the rules laid down in the *Kotteakos* and other cases.

3. Reasonable Doubt.

The trial judge for the first time, so far as we have been able to find out, in the history of the United States District Courts or of any Court, instructed the jury that a reasonable doubt was a doubt "for which a *good* reason can be given." It seems obvious that if a defendant is entitled to an acquittal only if a "good reason" therefor can be given, the burden has been shifted from the prosecution to the defense, contrary to every precept of criminal justice.[20]

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[20] In *Bihn v. United States* (1946), 328 U.S. 633, a conviction was reversed, although the trial Court had given the standard instructions respecting burden of proof, presumption of innocence

Without suggesting why this analysis of the effect of the instruction is incorrect, the panel simply asserted that it is. The panel said that the balance of the instruction on reasonable doubt removed the danger suggested by appellants. But the balance of the instruction, while not as prejudicial as that portion under consideration, did not cure the evil for it never told the jury affirmatively what a reasonable doubt is. It told the jury what a reasonable doubt is *not*, and even the panel, taking the instruction as a whole, could only say that it "plainly informs the jury that 'reasonable doubt' means no more or less than the plain meaning of those two words as used." This, of course, is semantics.[21]

As a matter of fact, appellants would have been better off if the trial Court *had* said a reasonable doubt means a reasonable doubt. As it is, they had the burden of establishing to the jury that a reasonable doubt meant a "good" reasonable doubt.

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and reasonable doubt (the *standard instruction* on reasonable doubt was *not* given in the case at bar), because the Court also had said to the jury that it had to determine who did commit the crime in question. The Supreme Court recognized that this shifted the burden to the defendant in requiring her to establish her innocence by proving who was guilty of the crime and it said (at p. 637) that this "instruction sounds more like comment of a zealous prosecutor than instruction of a judge who has special responsibilities for assuring fair trials of those accused of crime."

[21] "A conviction ought not to rest upon an equivocal direction to the jury on a basic issue." (*Bollenbach v. United States* (1946), 326 U.S. 607.

See, also, *Kraus v. United States* (1946), 327 U.S. 614; *United States v. Negro* (1947, 2 Cir.), 164 F.2d 168; *McFarland v. United States* (1949, C.A., D.C.), 174 F.2d 538.

While the panel in effect admonished the trial Courts of this circuit that such an instruction should not be given (for it said this instruction "was not to be commended") it refused to apply this salutary admonition in the *Bridges* case.[22]

In refusing to reverse this conviction for this manifest error, the panel again departed from the doctrine laid down in the *Kotteakos* and other cases.

In *Kotteakos v. United States* (1946), 328 U.S. 750,[23] the Supreme Court considered the question of what constituted "reversible error" as distinguished from "harmless error".

> "* * * if one cannot say, with fair assurance, after pondering all that happened without stripping the erroneous action from the whole, that the judgment was not substantially swayed by the error, it is impossible to conclude that substantial rights were not affected."

Here the panel never applied this test. It never considered whether or not the erroneous action substantially swayed the judgment.

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[22] The authorities cited by the panel on this phase of the case do not support it. While under varying circumstances some of the cases—with substantial dissents—have held it was not reversible error to instruct that a reasonable doubt meant "a doubt for which a reason could be assigned" (and there is good authority to the contrary—*Pettine v. New Mexico* [1912, 8 Cir.], 201 F. 480), none of them have ever held that the reason to be assigned must be a "*good*" one.

[23] This case came hard upon the heels of the Supreme Court decisions in *Bollenbach v. United States* (1946), 326 U.S. 607; *Kraus v. United States* (1946), 327 U.S. 614, and *Bihn v. United States* (1946), 328 U.S. 633.

> "The inquiry cannot be merely whether there was enough to support the result, apart from the phase affected by the error. It is rather, even so, whether the error itself had substantial influence. If so, or if one is left in grave doubt, the conviction cannot stand."

The panel never made an inquiry such as is required by this rule. It never sought to ascertain whether the errors (here there were at least three of them) had substantial influence. We submit that they obviously had. But whether we are right or wrong, the panel did not even purport to meet the test required by the Supreme Court, and it certainly did not say that it was not "left in grave doubt" as a result of these errors.

The doctrine of the *Kotteakos* case has been followed consistently since it was first enunciated (*Fiswick v. United States* (1946), 329 U.S. 211; *Krulewitch v. United States* (1949), 336 U.S. 440; *United States v. Levi* [1949, 7 Cir.], 177 F.2d 833), and apparently was the law of this circuit until this decision, for in *Meeks v. United States* (1947, 9 Cir), 163 F.2d 598, a panel of this Court consisting of Chief Judge Denman and Judges Stephens and Orr reversed a conviction because of errors below despite the fact that there was "evidence strongly adverse to appellant which the jury may or may not have believed." Judge Denman, with the concurrence of his colleagues, said:

> "However, the Supreme Court does not permit an appellate court to speculate as to what wit-

> nesses the jury did believe or disbelieve. Indeed, in view of the fundamental character of these errors *we may not affirm, even if we are 'without doubt' of appellant's guilt.*''[24] (*Ibid.*, 602.)

Before this circuit is committed to an opinion which glosses over at least three errors of a substantial nature by minimizing the facts found in the record concerning them, which approves "misunderstanding", "poor discretion", and instructions which are "not to be commended", and which affirms a conviction on such a record without even considering the doctrine of the *Kotteakos*, *Bollenback*, *Kraus*, *Bihn* and *Krulewitch* cases, the petition for rehearing should be granted so that these points may be considered *en banc* for the future administration of criminal justice in this circuit.

VI.

THE OPINION ON THE EVIDENCE.

1. The panel ignored the recent decision of *United States v. Remington* (1951, 2 Cir.), 191 F.2d 246, to the effect that in a case involving membership in the Communist Party the trial judge must, in his charge, "single out such 'overt acts' as furnish a rational basis for inferring what the accused thought constituted membership", and that unless the jury believed the testimony as to such facts, they cannot find the accused guilty.

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[24] These are the Court's italics.

The panel recognized that the instructions here given to the effect that association, identity of views and so forth are not sufficient to constitute membership "had a practical significance" in this case, since "a very great volume of the testimony went no farther" than this and therefore "would fall short of proof of actual Communist Party membership." As "a very great volume of the testimony" was not competent to prove the charge,[25] the failure of the trial judge to instruct specifically on what *was* necessary to prove the charge was clear error.

The one instruction given on this subject compounded the error since it permitted the jury to find Communist Party membership "from all the evidence * * * direct as well as circumstantial" and thereby it undid what was sought to be attained in the earlier instruction and permitted a conviction upon testimony which "would not * * * suffice to furnish the required proof of Communist Party membership." Thus on the one hand the jury was told that evidence of association and so forth was not sufficient to make out a case, but on the other hand it was told that it could find Communist Party membership from "all the evidence".

The panel ignored the cases which have held that such conflicting instructions require a reversal.

Drossos v. United States (1924, 8 Cir.), 2 F. 2d 538;

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[25] Incidentally, "a very great volume" of the opinion, dealing as it does with such association and identity of views, is similarly irrelevant and whether or not the jury or the reviewing panel regarded Bridges as a "fellow traveler" is not germane.

McFarland v. United States (1949, C.A., D.C.), 174 F.2d 538;

United States v. Donelly (1950, 7 Cir.), 179 F. 2d 227.

To correct this error of the panel it is necessary that the petition for rehearing be granted.

2. The panel conceded that all of the evidence with respect to the alleged conspiracy was circumstantial.[26] But the panel ignored the well established rule that a conviction on circumstantial evidence cannot be sustained in the presence of any hypothesis of innocence. It did not even discuss a most significant bit of evidence which demonstrates that at least as to one appellant, a hypothesis of innocence is not only tenable but is absolutely required.

The record reveals, from the testimony of the very first prosecution witness, that appellant Robertson, without any prior arrangement or understanding, was called in as a witness for Bridges at the very last moment because of the inability of another person (Paul Schmur) to qualify. This circumstance gives to the rule respecting "hypothesis of innocence" a "practical effect" in this case which is ignored by the panel.

To correct this error of the panel the petition for rehearing should be granted.

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[26] We have already mentioned the inconsistency between Judge Stephens' affirmance of the trial Court's rejection of *Bridges v. Wixon* on the one hand, and Judge Pope's utilization of that decision as a "circumstance" which justified the verdict on this count.

VII.

THE REVOCATION OF CITIZENSHIP.

The panel misread the section under which the revocation order was entered. The panel failed to apply this section properly because it ignored its legislative history.

The section provides that upon conviction for "knowingly procuring naturalization in violation of law", revocation shall ensue. Since Bridges was not charged with that offense, but was charged with making a false statement in a naturalization proceeding, he cannot stand convicted for the offense upon which the revocation statute is based.

> "Conviction upon a charge not made would be a sheer denial of due process." (*DeJonge v. Oregon* [1937], 299 U.S. 353, 362.)

The statute is precise in defining the offense for which the added penalty of revocation is provided. The panel loosely transplants that penalty from one offense to another by saying, "All the elements of knowledge are present in the verdict of guilty." That is not the issue. The issue is: Did the verdict amount to a conviction of knowingly procuring naturalization in violation of law? The answer is obvious that it did not. It amounted at most to a conviction of making a false statement in a naturalization proceeding.

That there is a difference between the two is manifest from the legislative history. The Naturalization Act of March 3, 1903, 32 Stat. 1213, 1222, Section 39, contains separate sections dealing with the separate

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offenses and imposes the added penalty of revocation only for the offense of procuring naturalization in violation of law. This penalty is not imposed for the offense of giving false testimony in a naturalization proceeding.[27]

If the panel had examined the statute carefully and looked at its legislative history it would have seen that a conviction for false swearing is not a conviction for knowingly procuring naturalization in violation of law, and that while automatic revocation may follow a conviction for the latter offense, it is not proper here, where there has been a conviction only for the former.

In order that this error be rectified and that the naturalization laws be properly administered in this circuit, the petition for rehearing should be granted.

VIII.

CONCLUSION.

We have sought to demonstrate in this petition how the panel which decided this case departed from well established principles of law not only with respect to the application of the statute of limitations but with respect to the proper administration of criminal justice and with respect to a proper evaluation of the evidence. We believe that all of the points assigned are well taken and that any one of them requires the full Court to reconsider the action of the panel.

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[27] This distinction, with the limitation of the penalty to the one designated offense, is carried forward in the Naturalization Act of 1906 (34 Stat. 596, 603, Section 23) and in the Nationality Code of 1940 (8 U.S.C.A. [1940 ed.] 746[a]). The two offenses are now found in widely separated sections of the statute—one in Chapter 69 of Title 18 (18 U.S.C.A. 1425[a]), the other in Chapter 47 of Title 18 (18 U.S.C.A. 1015[a]).

To permit the judgment of the panel to stand will do a greater disservice to the administration of justice than it will do to the cause of these three appellants. By granting a rehearing in this case and overturning the judgment of the panel, the Court will demonstrate that Harry Bridges and his associates will receive the same treatment as all other persons at the hands of the American judiciary.

Dated, San Francisco, California,
October 3, 1952.

Respectfully submitted,
Gladstein, Andersen & Leonard,
Norman Leonard,
Attorneys for Appellants and Petitioners.

CERTIFICATE OF COUNSEL.

I hereby certify that I am of counsel for appellants and petitioners in the above entitled cause and that in my judgment the foregoing petition for rehearing and application that petition for rehearing be heard *en banc* is well founded in point of law as well as in fact and that said petition is not interposed for delay.

Dated, San Francisco, California,
October 3, 1952.

NORMAN LEONARD,
Of Counsel for Appellants and Petitioners.

[Title of Court of Appeals and Cause.]

Before: Stephens, Bone and Pope,
Circuit Judges.

ORDER OF AMENDMENT

For good cause our opinion in the above-entitled case which was filed September 6, 1952, is hereby ordered amended as follows, to wit:

Add a footnote numbered 2a after the word "oath" appearing in the fifth line from the top of page 3 of the printed slip sheet. Footnote 2a is to read as follows:

> "In reading the authorities which follow, it is necessary to keep in mind that Bridges was not charged with the crime of perjury but was charged with the separate offense of having fraudulently made a false statement under oath in his naturalization proceedings."

Strike from the opinion all which appears under the subtitle "The Saving Clause in the Repeal of Offenses Charged in Counts II and III" beginning on page 7 of the printed slip sheet, and substitute instead the following:

"On June 25, 1948, Title 18 of the United States Code, entitled 'Crimes and Criminal Procedure' was enacted and became effective law as of September 1, 1948 (Act of June 25, 1948, 62 Stat. 683). By the adoption of the code the criminal laws of the nation, so far as practical, were brought together in orderly manner through the method of simultaneous repeal and reenactment by Congress. By the new code the section of the Nationality Act of 1940 (Title 8 U.S.C.A. §746 (a) (1)) under which Count II of the indictment in suit was laid, was brought into the new code as §1015 (a) of Title 18, and in the same manner the section of the Nationality Act (Title 8 U.S.C.A. §746 (a) (5)) under which Count III of the indictment in suit was laid, was brought into the new code as §1425 of Title 18, with some change in phraseology not important in this case.

"However, the June 25, 1948, Act provided by §21 thereof the following:

> " 'The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.' [Emphasis ours.]

"The sections of the laws under which Counts II and III were laid are enumerated in the schedule. It is clear, therefore, that the laws under which the charges in this case were laid continued effectively until the then existing rights or liabilities were extinguished by the running of a statute of limitations or otherwise.

"The Nationality Act contained a section which provided for a five-year limitation (Title 8 U.S.C.A. §746 (g)), upon the institution of criminal proceedings for offenses defined therein. That section was included in the schedule of repealed sections but it was not carried over into the new code; instead an omnibus section of the new code included the limitation applicable to the offenses in suit. The section reads:

> "'§3282. Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed.' (Title 18 U.S.C.A., §3282, Act of June 25, 1948, c. 645, 62 Stat. 828.)

"It is apparent that if the five-year limitation in the old Nationality Act (Title 8 U.S.C.A. §746 (g)) remained effective through the provision in the repealing and reenacting Act, both Counts II and III were laid in time under it. It remained effective if the reservation of 'rights or liabilities' preserved the limitation, as well as the substantive offenses then existing, as to offenses which had been committed prior to the effective date of the new code. The trial court held that the limitation was preserved and the government supports the holding.

"Keeping in mind the remedial purpose of the revisors, and Congress, we think the Saving Clause cannot be given the broad effect claimed for it by the government. What was done, as we have said, was the transfer of laws relating to crime into one code of laws. The offenses charged in Counts II and III were so transferred, and in order that no doubt should arise as to their effective continuity from their original setting to the new one the Saving Clause was added. The revisors saw no reason for the period of five years for instituting prosecution for violation of the offenses defined in the Nationality Act and shorter periods for certain other offenses. Therefore, they did not move the five-year limitation section into the new code and did not continue it as law, as they did the sections defining the offenses under which Counts II and III were laid. Instead, they fixed the limitation period at three years through the operation of the omnibus section. Of course, statutes of limitations are at all times subject to change, though change never revives a right against which a limitation has entirely run.

"The legislation was skillfully drawn to prevent the nullification of prosecutions already begun by providing for continuity of the offenses through the revision and to prevent an effective amnesty as to violations more than three and less than five years old by postponing the effective date long enough for the government to act under the old five-year limitation.

"We hold that the statute of limitations of five years for violations of offenses under the Nationality Act yielded to the three-year provision as of the effective date of the revision.

"Appellants suggest in their brief that the revision, including the Saving Clause, was intended to apply only to prosecutions already instituted. The tenor of what we have already written shows that we disagree and the reasons for disagreement.

"Consistent with the purpose of the revision the revisors moved the Wartime Suspension Act, old Title 18 U.S.C. §590 (a), into the new code as §3287 of Title 18 U.S.C.A. We turn to the consideration of that statute and to whether it effected the suspension of the running of the three-year statute of limitations."

The opinion is further amended by adding to the paragraph beginning on page 16 and ending on page 17 of the printed slip sheet the following:

> "And the conclusions reached were based upon the court's own conclusions that the Noveck, McElvain and Scharton cases hold that the Suspension Act then in force did not apply to non-pecuniary frauds; hence the present Suspension Act does not. We have analyzed the cases referred to and we think the court's conclusions in Marzani on this point are not justified."

The opinion is further amended by striking the subheads "Count I" and "Counts II and III" and all that appears thereunder on pages 18 and 19 of the printed slip sheet and inserting instead the following:

> "Since fraud against the United States or any agency thereof was an ingredient of each one of the offenses charged and such fraud was not required to be of a pecuniary nature, the Wartime Suspension Act applies and the

statute of limitations had not entirely run against any count of the indictment when it was returned."

/s/ ALBERT LEE STEPHENS,
/s/ HOMER T. BONE,
/s/ WALTER L. POPE,
United States Circuit Judges.

United States Court of Appeals
for the Ninth Circuit

No. 12,597

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Appellants,
vs.
UNITED STATES OF AMERICA,
Appellee.

Sept. 6, 1952

Appeals from the United States District Court, Northern District of California, Southern Division

Before: Stephens, Bone, and Pope,
Circuit Judges.

Stephens, Circuit Judge.

OPINIONS AND CONCURRING OPINION

(As Amended Nov. 18, 1952)

On the 25th day of May, 1949, a single indictment was returned by a United States Grand Jury charging Harry Renton Bridges, Henry Schmidt, and J. R. Robertson with the crime of conspiracy to fraudulently secure Bridges' naturalization (Count I; 18 U.S.C. [1946 ed.] §88, now 18 U.S.C. [1948 Rev.] §371); charging Bridges with the crime of knowingly making a false statement under oath relating to his naturalization proceedings (Count II; 8 U.S.C. [1946 ed.] §746[a](1), now 18 U.S.C. [1948 Rev.] §1015(a)); charging Schmidt and Robertson each with the crime of fraudulently aiding and abetting an alien (Bridges) to procure naturalization (Count III; 8 U.S.C. [1946 ed.] §746(a)(5)). All of the charges contained in the indictment were submitted together to a jury which returned verdicts of guilty against each defendant as charged in each count; judgment and sentence followed; and each defendant appeals on numerous grounds as to each judgment.[1]

Count I.

Count I is laid under Title 18 U.S.C. [1946 ed.] §88, (now 18 U.S.C. [1948 Rev.] §371) in which

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[1] Bridges was sentenced to:
two years imprisonment on Count I of the indictment and five years on Count II of the indictment, commencing and running concurrently.

Schmidt was sentenced to:
two years imprisonment on Count I of the indictment and two years on Count III of the indictment, commencing and running concurrently.

Robertson was sentenced to:
two years imprisonment on Count I of the indictment and two years on Count III of the indictment, commencing and running concurrently.

Bridges, Schmidt and Robertson were charged with having conspired together to secure the naturalization of Bridges, an alien, by fraudulently representing that he had never belonged to the Communist Party of the United States. The applicable statute is as follows:

> §88. "If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000, or imprisoned not more than two years, or both."

The texts of the Count, and the alleged overt acts, are set out in the margin.[2]

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[2] Count I: "The Grand Jury charges: That Harry Renton Bridges, Henry Schmidt, and J. R. Robertson (hereinafter called 'said defendants') on or about the 23rd day of June, 1945, and continuing thereafter until on or about October 1, 1945, and for some time prior thereto, the exact time being to the Grand Jury unknown, at the City and County of San Francisco, State of California, within said Division and District, did conspire with each other, and with divers other persons to the Grand Jury unknown, to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws, in the manner following, to wit: By having said defendant Harry Renton Bridges fraudulently petition for and obtain naturalization in a naturalization proceeding in the Superior Court of the State of California, in and for the City and County of San Francisco, by

Count II.

Count II is laid under Section 346 of the Nationality Act of 1940, c. 876, 54 Stat. 1137, 1163, Title 8 U.S.C. [1946 ed.] §746(a)(1), (now 18 U.S.C. [1948 Rev.] §1015(a)), in which Bridges, alone, is charged with having fraudulently made a false

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falsely and fraudulently stating and representing to the said Court in said proceeding numbered 28152 in the records of said Superior Court, that he, said defendant Harry Renton Bridges, had never belonged to the Communist Party in the United States; that said statement and representation so agreed to be made, and made, as aforesaid, as said defendants, and each of them at all times herein mentioned well knew, were false and fraudulent in this, that said defendant Harry Renton Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including said 17th day of September, 1945; that said statement and representation were material to said naturalization proceeding.

"That in pursuance of such conspiracy, and during the existence thereof, and in furtherance, and to effect the objects thereof, said defendants, respectively, did and performed the following overt acts:

"1. On the 23rd day of June, 1945, defendant Harry Renton Bridges filed at the office of the Immigration and Naturalization Service, in the City of San Francisco, State of California, an application for a Certificate of Arrival and preliminary form for petition for naturalization.

"2. On or about the 8th day of August, 1945, said defendant Harry Renton Bridges appeared before Lloyd H. Garner, a Naturalization Examiner of the United States, at San Francisco, State of California, in the office of the County Clerk in and for the City and County of San Francisco, and gave testimony in the matter of the application of statement under oath[3] in his naturalization proceedings in the Superior Court of California, as follows:

> Question by the Court to Mr. Bridges: "Do you now, or have you ever, belonged to the Communist Party of the United States?"
>
> Answer by Mr. Bridges: "I have not; I do not."

The applicable statute is as follows:

> 8 U.S.C. [1946 ed.] §746(a). It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an em-

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said defendant Harry Renton Bridges for naturalization.

"3. On or about the 8th day of August, 1945, said defendants Henry Schmidt and J. R. Robertson, and each of them, at the office of the County Clerk in and for the City and County of San Francisco, State of California, signed as witnesses a petition for naturalization in the case of defendant Harry Renton Bridges.

"4. On or about the 17th day of September, 1945, said defendants Harry Renton Bridges, Henry Schmidt, and J. R. Robertson, and each of them, appeared in the Superior Court of the State of California, in and for the City and County of San Francisco, and gave testimony in support of the petition of defendant Harry Renton Bridges for naturalization."

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[3] In reading the authorities which follow, it is necessary to keep in mind that Bridges was not charged with the crime of perjury but was charged with the separate offense of having fraudulently made a false statement under oath in his naturalization proceedings.

ployee of the Government of the United States or not——

"(1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship."

The text of the Count II is set out in the margin.[4]

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[4] Count II: "The Grand Jury further charges: That on the 17th day of September, 1945, at the City and County of San Francisco, State of California, in the Superior Court of the State of California, in and for the City and County of San Francisco, Honorable Thomas M. Foley, Superior Judge, presiding, there came on for hearing a naturalization proceeding, numbered 28152 in the records of said Superior Court, on the petition of defendant Harry Renton Bridges for naturalization under the Nationality Act of October 14, 1940; that defendant Harry Renton Bridges then and there was called and produced as a witness in said proceeding then on for hearing, and took an oath before said Court that he, the said defendant, would testify truly in said proceeding, and said Court then and there had competent authority to administer said oath, and did administer it; that defendant Harry Renton Bridges did then and there wilfully and knowingly make a false statement under oath in certain matters which were material to the issues of said proceeding then and there being heard, giving the following answers to questions asked, to wit:

"'Q. Do you now, or have you ever, belonged to the Communist Party in the United States?

"'A. I have not; I do not.'

That said answers so stated and testified to by

Count III.

Count III is laid under Section 346 of the Nationality Act of 1940, c. 876, 54 Stat. 1137, 1163, Title 8 U.S.C. [1946 ed.] §746(a)(5). In this Count Schmidt and Robertson are accused of knowingly encouraging, aiding, advising, and assisting Bridges to secure his naturalization through fraud. The applicable statute is as follows:

> 8 U.S.C. [1946 ed.] §746(a). "It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not— * * *
>
> "(5) To encourage, aid, advise, or assist any person not entitled thereto to obtain, accept, or receive any certificate of arrival, declaration of intention, certificate of naturaliza-

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defendant Harry Renton Bridges were, and each of them was, as said defendant then and there knew, wilfully false and contrary to his said oath, and said defendant did not then and there believe said answers, or any of them, to be true, and the said answers were, and each of them was, then and there believed and known by him to be false.

"That in truth and in fact said defendant at the time of so testifying belonged to and was a member of the Communist Party in the United States, and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945.

"That said statement and testimony of said defendant, and said answers given by him as aforesaid, were upon a material matter, and were material in and to the issues of said proceeding."

tion or certificate of citizenship, or other documentary evidence of naturalization or of citizenship——

"(a) Knowing the same to have been procured by fraud; * * *."

The text of the Count is set out in the margin.[5]

The Statute of Limitations

The acts which are the bases of the charges were performed within the period intervening between

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[5] Count III: "The Grand Jury further charges: That said defendants Henry Schmidt and J. R. Robertson, on or about the 17th day of September, 1945, at the City and County of San Francisco, State of California, within said Division and District, did wilfully and knowingly encourage, aid, advise and assist a person, to wit, Harry Renton Bridges, not then and there entitled thereto, to obtain, accept and receive a Certificate of Naturalization, which was to be procured, and was procured by fraud, as said defendants, and each of them, at all times herein mentioned well knew, said fraud consisting of false and fraudulent statements and representations made in a naturalization proceeding before the Superior Court of the State of California in and for the City and County of San Francisco, numbered 28152 in the records of said Superior Court, and said Harry Renton Bridges did not belong to the Communist Party in the United States and had never belonged to the Communist Party in the United States, whereas in truth and in fact said Harry Renton Bridges then and there, as said defendants Henry Schmidt and J. R. Robertson, and each of them, then and there well knew, belonged to and was a member of the Communist Party in the United States, and had belonged to and been a member of said Communist Party in the United States from 1933 up to and including said 17th day of September, 1945."

June 23 to October 1, 1945, and since the indictment was returned on May 25, 1949, the three year period provided by the general statute of limitations,[6] within which prosecutions could legally be instituted, had expired and the judgments must be reversed and the indictment dismissed if the prosecution is limited to such period.

The government thinks the prosecution is not so limited because the Congress, aware of the difficulty of prosecuting frauds committed against the government during wartime, enacted the so-called wartime Suspension Act[7] which provided that the three-year period would not begin to run until cessation of war hostilities had been officially proclaimed.

Appellants are of the opinion that neither one of the alleged offenses is a fraud against the gov-

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[6] Act of June 25, 1948, c. 645, 62 Stat. 828, Title 18 U.S.C. §3282:
Offenses Not Capital.

> "Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed."

[7] Act of June 25, 1948, c. 645, 62 Stat. 828, Title 18 U.S.C. §3287:
Wartime Suspension of Limitations.

> "When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in connection with the acquisition, care, handling, custody, control or

ernment cognizable by the Suspension Act, and therefore institution of the prosecution for these offenses was not extended by it.

The first count of the indictment is under the substantive offense of conspiracy, and the second and third counts are offenses defined in the statute commonly referred to as the Nationality Act of 1940. The government is of the opinion that the statute of limitations of five years provided in the Nationality Act of 1940[8] applies to Counts II and III independently of the general statute of limitations, and the Suspension Act, while appellants claim that it does not apply and that the general statute of limitations of three years is the applica-

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> disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress. * * *."

[8] Nationality Act of 1940, Section 346 (g), c. 876, 54 Stat. 1137, 1167, Title 8 U.S.C. §746 (g) [1946 ed.]: Statute of Limitations.

> "No person shall be prosecuted, tried, or punished for any crime arising under the provisions of this chapter unless the indictment is found or the information is filed within five years next after the commission of such crime."

ble limitation, we shall go immediately to the consideration of the latter problem.

The Saving Clause in the Repeal of Offenses Charged in Counts II and III

On June 25, 1948, Title 18 of the United States Code, entitled "Crimes and Criminal Procedure" was enacted and became effective law as of September 1, 1948, (Act of June 25, 1948, 62 Stat. 683). By the adoption of the code the criminal laws of the nation, so far as practical, were brought together in orderly manner through the method of simultaneous repeal and reenactment by Congress. By the new code the section of the Nationality Act of 1940 (Title 8 U.S.C.A. §746(a)(1) under which Count II of the indictment in suit was laid, was brought into the new code as §1015(a) of Title 18, and in the same manner the section of the Nationality Act (Title 8 U.S.C.A. §746(a)(5)) under which Count III of the indictment in suit was laid, was brought into the new code as §1425 of Title 18, with some change in phraseology not important in this case.

However, the June 25, 1948, Act provided by §21 thereof the following:

> "The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal." [Emphasis ours.]

The sections of the laws under which Counts II and III were laid are enumerated in the schedule. It is clear, therefore, that the laws under which the charges in this case were laid continued effectively until the then existing rights or liabilities were extinguished by the running of a statute of limitations or otherwise.

The Nationality Act contained a section which provided for a five-year limitation, (Title 8 U.S.C.A. §746(g), upon the institution of criminal proceedings for offenses defined therein. That section was included in the schedule of repealed sections but it was not carried over into the new code; instead an omnibus section of the new code included the limitation applicable to the offenses in suit. The section reads:

> "§3282. Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed." (Title 18 U.S.C.A., §3282, Act of June 25, 1948, c. 645, 62 Stat. 828.)

It is apparent that if the five-year limitation in the old Nationality Act (Title 8 U.S.C.A. §746(g)) remained effective through the provision in the repealing and reenacting Act, both Counts II and III were laid in time under it. It remained effective if the reservation of "rights or liabilities" preserved the limitation, as well as the substantive offenses then existing, as to offenses which had been committed prior to the effective date of the new code. The trial court held that the limitation was preserved and the government supports the holding.

Keeping in mind the remedial purpose of the revisors, and Congress, we think the Saving Clause cannot be given the broad effect claimed for it by the government. What was done, as we have said, was the transfer of laws relating to crime into one code of laws. The offenses charged in Counts II and III were so transferred, and in order that no doubt should arise as to their effective continuity from their original setting to the new one the Saving Clause was added. The revisors saw no reason for the period of five years for instituting prosecution for violation of the offenses defined in the Nationality Act and shorter periods for certain other offenses. Therefore, they did not move the five-year limitation section into the new code and did not continue it as law, as they did the sections defining the offenses under which Counts II and III were laid. Instead, they fixed the limitation period at three years through the operation of the omnibus section. Of course, statutes of limitations are at all times subject to change, though change never revives a right against which a limitation has entirely run.

The legislation was skillfully drawn to prevent the nullification of prosecutions already begun by providing for continuity of the offenses through the revision and to prevent an effective amnesty as to violations more than three and less than five years old by postponing the effective date long enough for the government to act under the old five-year limitation.

We hold that the statute of limitations of five years for violations of offenses under the Nationality Act yielded to the three-year provision as of the effective date of the revision.

Appellants suggest in their brief that the revision, including the Saving Clause, was intended to apply only to prosecutions already instituted. The tenor of what we have already written shows that we disagree and the reasons for disagreement.

Consistent with the purpose of the revision the revisors moved the wartime Suspension Act, old Title 18 U.S.C. §590(a), into the new code as §3287 of Title 18 U.S.C.A. We turn to the consideration of that statute and to whether it effected the suspension of the running of the three-year statute of limitations.

The Applicability of the Wartime Suspension Act

The Wartime Suspension Act (62 Stat. 828) is cast in three numbered classes. The government views class (1), which suspends the running of the general limitation statute until proclamation of cessation of hostilities as to offenses "involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not * * * ," as covering frauds to obtain rights and privileges from the government or which obstruct the government or its agencies in the due execution of law. And pecuniary[9] loss to the government is not a necessary element. Classes (2) and (3) apply to frauds against the government or a government agency in specific instances which involve pecuniary loss to the government.

Appellants, opposing the government's view, seek to apply the rule of ejusdem generis to the Act and argue that since classes (2) and (3) refer to frauds of the same nature, class (1) is limited to frauds of the same nature. We pass this contention by quoting from United States vs. Gilliland, 1941, 312 U.S. 86, 93:

> "'The rule of "ejusdem generis" is applied as an aid in ascertaining the intention of the legislature, not to subvert it when ascertained.'"

Appellants also argue that the legislative history supports the view that only pecuniary frauds were contemplated by the Congress. We think the government's view of the Act is supported by the face of the Act and that no ambiguity is present which requires reference to the legislative history. However, we think the history, some of which we set out in the margin,[10] does not support appellant's view.

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[9] For facility of expression in this opinion, we have expanded the meaning of the word "pecuniary" to include any and all property of value.

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[10] House and Senate Reports (No. 2051, House Misc. Rep. III, and No. 1544, Senate Misc. Rep. IV, accompanying the bill which became the Act

We shall proceed to look at the case authorities. But before doing so, it is well to have in mind that not every fraud against the government, whether inherently pecuniary or otherwise, comes within the effect of the Suspension Act. There are offenses for which specific statutes of limitation apply and there are offenses which encompass acts inherently fraudulent as to the government but in which the

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of August 24, 1942, 56 Stat. 747, and which, when amended in 1944 became the Act here considered) referred to the need for time "to investigate, discover, and gather evidence to prosecute frauds against the Government." It alluded to the gigantic war program, to the fact that "[h]uge sums of money" were "being expended for materials and equipment," that these dealings would no doubt present opportunities for unscrupulous persons "to defraud the Government or some agency." These allusions suggest fraud causing pecuniary losses. On the other hand, the same report mentions the fact that "[t]he law-enforcement branch of the Government is also busily engaged in its many duties, including the enforcement of the espionage, sabotage, and other laws." This suggests that these agencies were currently too busy with war problems to be able to devote the time necessary to discover frauds against the Government, a condition which would be true of one character of fraud as another.

American Stevedores v. Porello, 1947, 330 U.S. 446, 451-2, demonstrates that when a statement made in Congress during the pendency of a bill mentions but one purpose to be served by an enactment of language broad enough to accomplish other purposes as well, it cannot be assumed, in the absence of express limitations in the enactment, that it was not intended to serve the other purposes as well.

It appears to us that the legislative history is too equivocal to be determinative here.

fraud is not an ingredient and need not be proved. The Suspension Act does not apply in such circumstances if the decisions relative to the provisos considered in Noveck, McElvain and Scharton, hereinafter cited, are to rule. See our note 15a.

The Case Authorities

United States vs. Gottfried, 1948, 2 Cir., 165 F. 2d 360: Gottfried and others were involved in frauds to obtain more sugar than their legal ration. Gottfried and his corporation were indicted for making a fraudulent statement, and Gottfried and two others were indicted for conspiracy to defraud the government. The specific fraud alleged was that the government should be deprived of the services of one of its enforcement officers in order to accomplish the illegal purpose. No mention was made as to any pecuniary loss of the government. The court said in part, at page 368:

> "The argument [by appellants]—drawn from the Congressional debates—is that this language should be confined to frauds of those who contracted with the United States or supplied it with materials, and that it does not include interference even though fraudulent which results in no pecuniary loss. Textually, this reasoning has nothing to commend it, except so far as the word, 'fraud,' may imply pecuniary loss; and, whatever might be said as a new matter for so circumscribing that word, it has been the law, at least since 1910, that in the statute [§80, Title 18 U.S.C.A.]

> under which this indictment was drawn, 'fraud' includes any conduct 'calculated to obstruct or impair its' (the United States') 'efficiency and destroy the value of its operations and reports.' [Haas vs. Henkel, 1910, 216 U.S. 462, 479].[11] We see no reason for reading the words 'defrauding the United States' in the statute of limitations now in question less comprehensively; certainly there was not enough ground for that in the debates of Congress. Besides, the purpose of the amendment was not to let crimes pass unpunished which had been committed in the hurly-burly of war, an over-riding motive which perfectly fits the situation at bar."

We are in accord with these expressions.

Following World War I there was in effect a proviso to the statute of limitations which was to some extent the prototype of the Wartime Suspension Act. It is therefore useful to approach the scope of the present Act through decisions made under the former Act.

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[11] The court in Gottfried was referring to the following found in Haas v. Henkel, 1910, 216 U.S. 462, 479:

"The statute is broad enough in its terms to include any conspiracy for the purpose of impairing, obstructing, or defeating the lawful function of any department of the government * * *. That it is not essential to charge or prove an actual financial or property loss to make a case under the statute has been more than once ruled [citing many cases]."

United States vs. Noveck, 1926, 271 U.S. 201: In this case the government was contending that the acts of defendant, the basis of the charge of perjury against him, were inherently fraudulent and therefore a proviso suspending the statute of limitations was applicable. But the court held otherwise, giving the reason for its holding that fraud is not an ingredient of perjury, that perjury can be proved without proof of fraud, and that the proviso to the statute of limitations applies only to those cases in which fraud is an ingredient. The court went on to say that otherwise the same period of limtation would not apply to all offenses of perjury. Those in which the government was defrauded would be under the proviso and all others would be under the general statute of limitations.

As we have already seen, the basic reason for the decision in United States vs. Noveck, supra, was that the proviso to the statute of limitations then in effect applied only to crimes in which fraud against the government or any agency thereof is an ingredient and is a necessary element of proof. That is, since the crime in Noveck was perjury, a crime which may be proved independently of or in the absence of fraud against the government, fraud against the government is an immaterial incident.

United States vs. McElvain, 1926, 272 U.S. 633: The indictment was laid under Criminal Code §37 (35 Stat. 1088-1096) and the charge was conspiracy to defraud the United States in respect of its income tax. The general statute of limitations (§1044) for criminal offenses was three years and under a proviso to it the period within which the indictment could be returned as to certain offenses was six years. The government claimed that the proviso was applicable to the charge laid, but the defense thought not. The trial court and the Supreme Court held that the general statute of limitations without the proviso was applicable. For clarity, we shall refer to the section, minus the proviso, as the "main part." Section 1044, complete with proviso, is quoted in note [12].

The opinion of the Supreme Court in United States vs. McElvain, supra, is not easy reading and has had various constructions. Without very careful study it mistakenly appears that an inconsistency or miscitation of statutory section has crept into it. The court, it will be observed, says at page 639:

> "The crime of conspiracy to commit an offense is distinct from the offense itself,"

meaning of course that conspiracy is one crime and the performance of the illegal acts planned or "involved" in the conspiracy constitutes another distinct or, according to the court, "substantial" crime.[13]

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[12] Rev. Stats. §1044: "No person shall be prosecuted, tried, or punished for any offense, not capital, except as provided in section 1046, unless the indictment is found, or the information is instituted, within three years next after such offense shall have been committed: Provided, however, That in offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes, the period of limitation shall be six years. This Act shall apply to acts, offenses, or transactions where

The proviso cannot relate to any offense not within the terms of the main part of the statute because the proviso is an excepting clause to the rule or law laid down in the main part. Without the proviso, the main part of the statute by its terms covers every offense except capital offenses and offenses arising from the revenue laws. The excepting clause (the proviso) takes all offenses, covered by the main part which "involve" fraud against the United States or its agencies, out of the three-year limitation and fixes instead thereof a six-year limitation.

The case is dealing with an offense of conspiracy but, says the court (page 639),

> "The language of the proviso cannot reasonably be read to include all conspiracies as defined by §37 [because the proviso contains the words 'whether by conspiracy or not' which establishes that it is the substantive offense or the object of the conspiracy which determines the scope of the proviso]. * * * [O]bviously it

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the existing statute of limitations has not yet fully run, but this proviso shall not apply to acts, offenses, or transactions which are already barred by the provisions of existing laws." 42 Stat. 220; see also Title 18 U.S.C.A. §582 (1927 ed.).

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[13] See also Glasser v. United States, 1942, 315 U.S. 60, 66.

> [the proviso] would be limited to those [conspiracies] to commit the substantive offenses which it [the main part] covers"

or, in the language of the proviso, which it "involves." The substantive offense to the conspiracy charged in the McElvain case is not covered or involved in the main part but by specific language it is excluded therefrom. But no "distinct" offense of conspiracy is excluded from coverage of the main part. It follows that the offense charged is within the terms of the main part and not within the excepting part—the proviso. All the rest of the opinion is intended to explain the reasonableness of the decision and the evident intent of Congress but, unfortunately, rather acts to confuse. See note [13a].

Under the doctrine of the McElvain case it is clear that since Count I of our case concerns conspiracy, the substantive offense of which is not excluded from the main part of the applicable statute of limitations, the proviso would apply.[14] The decision and opinion in United States v. McElvain, supra, is not authority for excluding our Count I from the Suspension Act.

[13a] The gist of counsel's argument, which the court approved, was (p. 636): "If the proviso in the amendment of §1044 does not include within its terms frauds existing under the Revenue Act, then necessarily such proviso does not include conspiracies to commit frauds on the Government under the Revenue Act."

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[14] See Miller v. United States, 1928, 24 F. 2d 353; Falter v. United States, 1928, 23 F. 2d 420.

United States v. Scharton, 1932, 285 U.S. 518: The statute of limitations with which Scharton was concerned was §1110(a) of the Revenue Act of 1926, applying specifically to offenses under the revenue laws. Differing from McElvain, the indictment was not for conspiracy, but for violating a "substantive" revenue law and was within the main part of the applicable statute of limitations. There was a proviso to the applicable statute of limitations, §1110(a), similar to the proviso in McElvain, hence, under the McElvain reasoning the offense was not taken out of the main part. But the proviso was held not to apply because of the principle announced in United States v. Noveck, supra, that fraud against the United States or any agency thereof was not an ingredient of the offense charged. The court sought to find the intent of Congress and in doing so called attention to the fact that the proviso was an excepting clause and therefore was to be strictly construed. The section under which the charge is made, §1114(b), makes an attempt to evade any tax under the Revenue Act of 1926, an offense without the mention of fraud. "There are, however, numerous statutes expressly making intent to defraud an element of a specified offense against the revenue laws." United States v. Scharton, supra, at page 521. Hence, under the Noveck doctrine, the proviso applies only to offenses which encompass fraud as an ingredient.

The statute under which our Count II is laid, 8 U.S.C. §746(a)(1), has no specific mention of fraud and it can be argued from this fact that the Suspension Act would not be applicable thereto. However, we think the Suspension Act does apply for the reason we shall now set forth. The charge in Scharton was that the accused had made attempts to evade income taxes and the statutory offense, §1114(b), Revenue Act of 1926, made attempts to wilfully evade or defeat the tax, a felony. There is no specific mention of fraud in the statute defining the offense charged, and the proviso as we have seen is made applicable only to "offenses involving the defrauding or attempt to defraud the United States or any agency thereof," et cetera.

If the cited case must be construed to mean that "fraud" must be spelled out literally in the statute, then logically we must hold that the Suspension Act does not apply to Count II, for although fraud is specifically charged in the indictment, fraud is not specifically mentioned in the statute defining the offense under which the charge is laid.

We think we are not driven to this extreme conclusion. Noveck, McElvain, and Scharton do not foreclose the holding that where the very terms of a statutory offense require proof which necessarily involves fraud or attempted fraud against the United States or an agency thereof, and there is no special Act inconsistent therewith such as is found in McElvain and Scharton, the Suspension Act applies. After all, the Congress was enacting the Suspension Act to preserve the government's right to prosecute those who had tried, successfully or not, to defraud it during the war. It does not seem to be in harmony with Congressional intent nor does it seem otherwise necessary to construe the Noveck doctrine so strictly that it excepts the extension or suspension of statute of limitations from applying to acts which come directly under the offense and which cannot be committed without thereby committing fraud against the United States or an agency thereof. In the circumstances prosecutions under the same statutory offense could not be limited in one case to a certain period and to another period in another case—a strong point in Noveck. Both McElvain and Scharton were controlled by special statutes covering the revenue laws. The trial court held to the view we have suggested and the government adheres to it. We think it is supported by reason and therefore we are not constrained to broaden the Scharton holding to include the instant case. All we have said on this point is but a roundabout way of saying that fraud is an ingredient of the offense charged. Such in effect was the holding in Knauer v. United States, 1946, 328 U.S. 654. Hence, we hold that the Suspension Act applies to Count II of the indictment. We have already shown that the Saving Clause applies.

Since our Count III does specifically include fraud as an ingredient of the offense charged, it seems obvious that the Suspension Act applies and, for the reasons already given, the Saving Clause applies.

Marzani v. United States, 1948, (C.A., D. Columbia) 168 F. 2d 133: Appellant Marzani was indicted in 1947, tried, convicted, and sentenced for having made false and fraudulent statements in a matter within the jurisdiction of an agency of the United States government in violation of §80 of Title 18 U.S.C.A. (The False Claims Act). Factually, he was charged with having given false answers to questions as to whether he had ever been a member of the Communist Party, ever attended their meetings, etc. The general three-year statute of limitations had run before the indictment was returned and it would have to be dismissed unless the Suspension Act, hereinbefore considered, was effective. The court, after discussing Noveck, McElvain, Scharton, and Gilliland, supra, concluded that the Suspension Act did not apply to the False Claims Act. It gave as its reasons that the False Claims Act did not involve pecuniary frauds, whereas the Suspension Act applied only to offenses which involved pecuniary frauds against the government. We cannot agree with the reasoning in the Marzani opinion, nor consequently with the conclusions reached. And the conclusions reached were based upon the court's own conclusions that the Noveck, McElvain and Scharton cases hold that the Suspension Act then in force did not apply to non-pecuniary frauds; hence the present Suspension Act does not. We have analyzed the cases referred to and we think the court's conclusions in Marzani on this point are not justified.

It is true that Gilliland held that the False Claims Act was not restricted to matters in which the government was defrauded in a pecuniary or financial sense. But, while each of the three cases—Noveck, McElvain, and Scharton—was a case involving pecuniary loss, none of these cases held that the proviso could be invoked only when the government had been defrauded in a pecuniary manner. The Suspension Act applies to every offense "involving fraud or attempted fraud against the United States." The word fraud as defined by the Supreme Court in Haas v. Henkel, 1910, 216 U.S. 462, 479, means the "impairing, obstructing or defeating [of] the lawful function of any department of Government." Gilliland reaffirmed Haas v. Henkel by holding that since Congress had removed the words "cheating and swindling" from the False Claims Act, Congress had in effect declared that a fraud need not be pecuniary in nature in order to be covered by the False Claims Act.[15] We therefore conclude that the Suspension Act applies to every offense involving fraud against the government whether pecuniary or not.

Appellants argue that since the Suspension Act applies to fraud "in any manner," whereas the conspiracy statute applies to fraud "in any manner or for any purpose," the two Acts refer to different types of frauds. In their argument they concede that the definition of fraud in the conspiracy statute applies both to pecuniary frauds and to frauds which obstruct the government in its lawful functions. However, they urge that the absence of the words "or for any purpose" in the reference to fraud in the Suspension Act confines the scope of that Act to pecuniary frauds. They rely upon the Cohn case (see our footnote 15, supra) for the conclusion reached. The Cohn case held that the term "fraud" in the False Claims Act, before its 1934 amendment, applied only to pecuniary frauds. However, a careful reading of the Cohn case, and the Gilliland case, shows that fraud in the Cohn case included those of a pecuniary nature only because it (fraud) was coupled with the words "cheating and swindling." And that once the words "cheating and swindling" were deleted, the word fraud, standing alone and without any help from the phrase "for any purpose," was held to extend to all frauds whether pecuniary or not. United States v. Gilliland, 1941, 312 U.S. 86. See note [15a].

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[15] In United States v. Cohn, 1926, 270 U.S. 339, the Supreme Court had held that since the False Claims Act, Criminal Code §35, 18 U.S.C.A. §80 (1927 ed.) as it then read, applied to false claims made "with the intent of cheating and swindling or defrauding the Government of the United States" [emphasis ours], it related only to pecuniary frauds. However, §35 was amended June 18, 1934, 48 Stats. 996, by deleting the words "cheating and swindling."

[15a] The foregoing discussion as to the application of the Suspension Act to the offenses involved in this case is under the assumption that the proviso to the statute of limitations covering frauds against the United States during the first World War is in all respects the prototype of the present Suspension Act, and that the Supreme Court decisions under the proviso apply as well to the Suspension Act. We think there is reason for a different view.

In the Noveck, McElvain and Scharton cases the Supreme Court was dealing with provisos added to specific limitation acts. In each case the court gave the proviso a strict construction. This was primarily because they were enacted as provisos. We think the fact that the Suspension Act is cast in a

We conclude as follows:

Since fraud against the United States or any agency thereof was an ingredient of each one of the offenses charged and such fraud was not required to be of a pecuniary nature, the Wartime Suspension Act applies and the statute of limitations had not entirely run against any count of the indictment when it was returned.

Res Judicata

The Executive Department of the government has long been concerned with Mr. Bridges. And we take note of that concern solely because it is claimed by the appellants that the actions taken against Bridges effect a legal bar to the instant prosecutions. Because of this important legal point, we turn to the prior proceedings against Bridges.

It is contended by appellants that, prior to the return of the indictment, it had been adjudicated that Bridges was not, at the time of his naturalization and that he never had been, a member of the Communist Party; and that it is a denial of due process of law under the Fifth Amendment to refuse to apply the doctrine of res judicata to this case.

We think it sufficient to quote briefly from the

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separate independent Act rather than as a proviso to the general statute of limitations and is cast in very inclusive language indicates that Congress intended to avoid the limitations written into the Noveck, McElvain and Scharton opinions.

Supreme Court opinion in Southern Pacific Co. v. United States, 1897, 168 U.S. 1, at page 48:

> "* * * a right, question or fact distinctly put in issue and directly determined by a court of competent jurisdiction, as a ground for recovery, cannot be disputed in a subsequent suit between the same parties or their privies; and even if the second suit is for a different cause of action, the right, question or fact once so determined must, as between the same parties or their privies, be taken as conclusively established, so long as the judgment in the first suit remains unmodified." [Emphasis ours.]

In 1938, the Secretary of Labor, then in charge of Immigration and related subjects, issued a warrant for the arrest and deportation of Bridges, an alien, charging that at the time he entered the United States he was a member of or affiliated with a defined class of aliens who advocated overthrow of the government by force and violence. Title 8 U.S.C. [1927 ed.] §137(c) and (g). Dean James N. Landis, acting as an official of the executive department of the government but not as an arm of the judicial department, heard the evidence and held that it established neither membership nor affiliation with the deportable class. The Secretary of Labor approved Dean Landis' report and dismissed the warrant.

We hold that the proceedings do not act as an estoppel to, nor res judicata of, the prosecutions in the present action, primarily because the cases which apply the rule of the Southern Pacific case, supra, do not extend the doctrine of estoppel by judgment beyond the findings of "a court of competent jurisdiction." Furthermore, the Supreme Court has specifically said that since an administrative board is an instrument of the executive power and not a court, the doctrine of res judicata cannot be applied to its decisions. Pearson v. Williams, 1906, 202 U.S. 281. An administrative decision does not preclude a subsequent administrative consideration of the identical matter, Mock Kee Song v. Cahill, 1938, 9 Cir., 94 F. 2d 975; Flynn v. Ward, 1938, 1 Cir., 95 F. 2d 742; therefore a decision of an executive agency cannot act as a bar to subsequent judicial proceedings.

Bridges v. Wixon

Bridges also cites his 1940 deportation hearing and the related Supreme Court decision in Bridges v. Wixon, 1945, 326 U.S. 135, as establishing that he was not a Communist at any time up to 1940, and that this issue in our case is res judicata. Of course, the issue in none of the former hearings was as to Bridges' being a Communist. Under the Smith Act[16] and under the applicable law in Schneiderman v. United States, 1943, 320 U.S. 118, an allegation that a person was a Communist was not per se an allegation of a crime, while the allegation that one conspired to destroy the government by force or violence stated a crime.

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[16] 54 Stat. 670, 671; Title 18 U.S.C. [1946 ed.] §§10, 11, now 18 U.S. C.A. [1948 Rev.] §2385.

As for the administrative hearing, it would not be res judicata for the same reasons as assigned to the 1938 hearing before Dean Landis. Moreover, it would not appear that Bridges would want us to rely on the findings of Judge Sears (sitting as a hearing officer of the executive department) in the second administrative hearing, which were to the effect that Bridges had been both affiliated with and a member of the Communist Party, an organization which advocated the overthrow by force or violence of the government of the United States. Although Judge Sears' findings were reversed by the Board of Immigration Appeals, they were reinstated by the Attorney General. Regulations of the Immigration and Naturalization Service, 8 C.F.R. (1940 Supp.) §§90.3 and 90.12.

However, the 1940 hearing and resulting arrest for deportation led to a decision of the Supreme Court in the case of Bridges v. Wixon, supra. But even though we assume that Bridges and the United States were parties to both the Wixon case and the present case, the doctrine of res judicata is not applicable unless the two cases have a common question or fact which has been "distinctly put in issue and directly determined." Southern Pacific Co. v. United States, supra. The issue of whether or not Bridges was a Communist, and therefore made a false statement when he denied such party membership, is thus reduced to a determination of whether or not Bridges v. Wixon, supra, actually held that Bridges had never been a Communist.

Comparison of Bridges v. Wixon and the Instant Case

In Bridges v. Wixon, supra, Bridges sued for a writ of habeas corpus to compel the Immigration Director to release him from custody. In the instant case Bridges is under indictment for conspiracy to defraud the United States by defeating the administration of its naturalization laws for making false statements under oath in a naturalization proceeding. The causes of action in the two cases are different. Therefore, the second cause of action is not barred by the judgment in the first. However, under the definition of res judicata given in the Southern Pacific case, certain facts, having once been determined in a final judgment, cannot be relitigated in any subsequent action between the same parties.

After careful study of the Supreme Court's opinion, we have reached the conclusion that Bridges v. Wixon, supra, did not decide that Bridges had never been a Communist. The Supreme Court stated in the majority opinion, at page 149, that the administrative agency gave too loose a meaning to the term "affiliation" as proscribed by Title 8 U.S.C. §137(c) and (e), and had also improperly received evidence of Bridges' membership in the Communist Party in the form of an unsigned statement purportedly made by one O'Neil who denied making the statement. The Supreme Court, therefore, concluded that the administrative decision approving an executive order to deport Bridges could not be sustained since it was not supported by substantial evidence.

The matter in court was habeas corpus, and the Communist issue was not in the case. The holding of the Supreme Court was as follows, at page 156:

> "Since Harry Bridges has been ordered deported on a misconstruction of the term 'affiliation' as used in the statute and by reason of an unfair hearing on the question of his membership in the Communist Party, his detention under the warrant is unlawful."

In other words, while the administrative decision to the effect that Bridges was a Communist and deportable, was overturned, there was no judicial determination that Bridges was not affiliated with nor a member of the Communist Party. Bridges v. Wixon, supra, goes no farther than to declare what was the proper administrative procedure to be followed. It did not reach, and there was no need for the decision in that case to reach, the question of whether or not Bridges actually was a Communist. Therefore, we conclude that Bridges v. Wixon, supra, is not res judicata to the case here on appeal.

The Bridges v. Wixon Opinion by the Supreme Court as Evidence

The Supreme Court opinion in Bridges v. Wixon, supra, was offered in evidence by appellants Schmidt and Robertson to show that they, having read the opinion, relied in part thereon in reaching the conclusion that Bridges was not a Communist. However, the opinion was excluded as immaterial and incompetent. Since it was not negatived in that case that Bridges was a Communist, the trial court did not err in excluding it from evidence offered on behalf of Schmidt and Robertson to show their state of mind. The case was of no probative value on the point of Schmidt's and Robertson's knowledge or lack thereof regarding Bridges' membership in the Communist Party, and because of the nature of the issue involved in the case and the narrow scope of the decision, its introduction into evidence could not have been explanatory of Schmidt's and Robertson's beliefs, but could only have served to confuse and mislead the jury. The trial judge's decision to exclude Bridges v. Wixon from evidence was well within the limits of due exercise of his discretion.

Double Jeopardy

The next point raised by Bridges on this appeal is the issue of double jeopardy. The Fifth Amendment of the United States Constitution states that no person shall be

> "* * * subject for the same offense to be twice put in jeopardy of life or limb. * * *."

It is in effect Bridges' contention that the two attempts which were made in the past to deport him as an undesirable alien in reality placed him in jeopardy of "life or limb," and consequently he is shielded by the Constitution from the present conviction for conspiracy to defraud the United States.

Bridges has not been subjected to double jeopardy. At no time during the deportation proceedings was Bridges subjected to peril of life or limb. He was detained solely for the purpose of deportation; not for punishment. Furthermore, the identity of "offenses," necessary for the invocation of the protection against double jeopardy, is lacking since conspiracy and the defrauding of the United States by making false statements to procure naturalization for one not entitled thereto, are distinct crimes which have no relevance to the deportation hearings. Cf. United States v. Williams, 1951, 341 U.S. 58, 62. For, as the Supreme Court said in Bugajewitz v. Adams, 1913, 228 U.S. 585, 591,

> "The determination [by an administrative body that an alien should be deported] by facts that might constitute a crime under local law is not a conviction of crime, nor is the deportation punishment; * * *."

See also Helvering v. Mitchell, 1938, 303 U.S. 391, 398, and footnote at page 399; Ex parte Bridges, 1943, 49 F. Supp. 292, reversed in Bridges v. Wixon, supra, on other grounds; United States v. Bridges, 1949, 86 F. Supp. 922, 928.

Of course, habeas corpus is not a criminal proceeding and a hearing for the writ or a decision upon such hearing cannot put a person in jeopardy. All that can come from a proceeding in habeas corpus of the type used in Bridges v. Wixon, is a determination upon the issue of the detention of a person.

Due Process

Bridges' contention that he has been denied due process of law by virtue alone of the several deportation proceedings and the present criminal indictment and conviction, is without merit. Whatever may be said as to the institution of the several proceedings, Mr. Bridges has been accorded every constitutional right in the instant case. The circumstance that phases of the former hearings and of this case are to some extent interrelated, afford no ground for the claim that due process had not been accorded each and every of the defendants-appellants.

Materiality

There was, at the time in suit, no statutory bar to any alien's naturalization on account of membership in the Communist Party,[17] and possessing such membership was not a crime. There was, however, a bar against naturalization of one who adhered to the belief that this government should be changed by force or violence, and such adherence was a legal ground for deportation. False denials of such membership at a naturalization proceedings were material. The Russian brand of Communism and works of Karl Marx and Lenin were well known and their teachings of the doctrine of overturning our government by force and violence was common knowledge. Had Bridges answered the court's question in the affirmative, the next line of questions which logically would have followed would have been as to whether Bridges believed in the violent overthrow of the government. From the answers received, the court would determine whether the applicant was devoted to the United States Constitution, and whether as a matter of fact and law Bridges qualified as a person entitled to citizenship.[18] The case of Schneiderman v. United States, 1943, 320 U. S. 118, is not in point.

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[17] But see Amendment to Nationality Code, 1950, 8 U.S.C.A. §705, 64 Stat. 1013, and the Immigration and Nationality Act of 1952, Act of June 26, 1952, c. 477, Public Law No. 414, §212(a)(28)(c).

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[18] Harisiades v. Shaughnessy, 1952, 342 U.S. 580, a recent Supreme Court case dealing with the deportation of aliens under the Alien Registration Act of 1940, 54 Stat. 670, 8 U.S.C.A. [1942 ed.] §137, settles to a certainty that the questions of the court, as to Communist membership, were material to the naturalization proceeding.

The Alien Registration Act of 1940 provides for the deportation of any aliens who "believe in, advise, advocate, or teach, or who are members of or affiliated with any organization, association, society, or group that believes in, advises, advocates, or teaches: (1) the overthrow by force or violence of the Government of the United States or of all forms of law; * * *." 8 U.S.C.A. [1942 ed.] §137(c) and (g). The identical language is found in Title 8 U.S.C.A. [1942 ed.] §705(b) wherein the grounds for denying naturalization to an alien are set forth. Although Harisiades had been, but no longer was, a Communist, nevertheless he was ordered deported under the mandate of the Act. Therefore, if Bridges had confessed membership in the Communist Party at the time of his naturalization hearing, he too would have been subject to deportation. In view of the fact that Communist affiliation places an alien within the coverage of the Alien Registration Act, had Bridges spoken the truth at the naturalization hearing, it would have constituted good cause for the denial of the petition. For the statutory definition which makes an alien deportable also makes him ineligible for citizenship. 8 U.S.C.A. §§137(c) and 705(b).

The Third Count: Aid and Abet

Schmidt and Robertson present the theory that the third count of the indictment does not state an offense because there is nothing in the indictment which indicates that Bridges was not entitled to citizenship. The intent of the argument is that even if Schmidt and Robertson did aid and abet Bridges in his naturalization proceedings, the only fact alleged as disqualifying Bridges was that he was a member of the Communist Party, and that such membership was no offense, citing Schneiderman, supra. Hence, that there could have been no fraud.

The fallacy in this theory lies very close to the surface. It is true that as of the time in suit, membership in the Communist Party or being a Communist was not a crime. It was, however, a crime to commit a fraud against the United States or any agency thereof. Aiding and abetting an alien toward securing the great privileges of citizenship through misrepresentation of a fact, which could well be the basis of a refusal to grant it,[19] is well within the terms of the indictment. It is idle nonsense to argue that adherence to a plan of government as contradictory and inconsistent as Communism is to our plan of government would be an improper or inconsequential subject of inquiry in connection with a Naturalization proceeding.

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[19] See Harisiades v. Shaughnessy, our footnote 18 supra.

Father Meinecke

Father Meinecke was called as a defense character witness to testify regarding Bridges' reputation for truth, honesty, and integrity. The court took part in the examination of the witness, and the defendant contends that the nature of the questions asked by the court were so phrased as to discredit the testimony of the witnesses before the jury.

While the questions of the court might be subject to misunderstanding, that danger was cured by subsequent instructions to the jury.[20] Furthermore, as the Supreme Court said in Glasser v. United States, 1942, 315 U.S. 60, 83:

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[20] Record on Appeal, pages 4382-4387: "The Court: * * *. Ladies and gentlemen of the jury, * * *.

"Latterly, in my examination of Father Meinecke some mention was made by counsel concerning the asserted impropriety of a question on my part to the father. I might say to you that that was not born of any desire on my part, nor was it designed to inquire into Father Meinecke's mental processes. Nor was it to reflect upon his integrity. The question was born and conceived out of a desire on my part to accord fairness to the witness for the reason that mention was made during the course of this testimony that he left San Francisco for Nevada; an inference might be drawn from that departure that it had something to do with activities in trade unionism and the like. The father on the witness stand volunteered that he asked to be transferred. I merely wanted to inquire, ladies and gentlemen, a very simple question, not born of curiosity on my part, but born of a desire to provide you with all the facts surrounding the father, and it was to the end that I might inquire as to his health. Very many people have to leave large metropolitan areas to go to less burdensome parishes and that was the reason underlying my question."

> "Perhaps the court did not attain at all times that thoroughgoing impartiality which is the ideal [we intimate nothing of the kind here] but our examination of the record as a whole leads to the conclusion that the substantial rights of the petitioners were not affected. The trial was long and the incidents relied on by petitioners few. We must guard against the magnification on appeal of instances which were of little importance in their setting."

In any event, whether or not the court's conduct in regard to Father Meinecke constituted error, it was not so prejudicial as to warrant reversal. For Father Meinecke, in order to be a valid character witness, must testify as to the defendant's reputation in the community. Father Meinecke testified only as to his personal opinion, which is generally inadmissible. Wigmore on Evidence, 3rd ed., §1980. And in addition to Father Meinecke, there were eleven other character witnesses who testified in Bridges' behalf.[21]

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[21] The testimony of each character witness is found at the page number of the Record on Appeal cited after his name:

Frank M. Andrews (page 4699),
Stanley Bailey (page 4483),
Hubert Brown (page 4049),
Walter E. Buck (page 3921),
Daniel F. Del Carlo (page 4199),
Dr. Leo Eloesser (page 3839),
Kenneth H. Finnesey (page 4058),

Limit on Scope of Cross-Examination

In the course of the trial the government put Lawrence R. Kessler, an agent of the Bureau of Naturalization, on the witness stand for the purpose of identifying a hotel registration card which the government wished to have placed in evidence. The evidentiary value of the card was to show that Lewis Michener, Jr., another government witness, was in San Francisco in August, 1940, to attend a Communist Party meeting at which, he testified, Bridges was also present. On direct examination Kessler's testimony was confined to identifying the exhibit. Counsel for defendant Bridges sought to attack Kessler's credibility on cross-examination on the ground that the only purpose of Kessler's testimony was to bolster Michener's testimony. The court limited the scope of the cross-examination to matters pertaining to the card and precluded impeachment as it is within the discretion of the trial court to do. Glasser v. United States, 1942, 315 U.S. 60, 83; United States v. Fotopoulos, 1950, 9 Cir., 180 F. 2d 631, 640; Chevillard v. United States, 1946, 9 Cir., 155 F. 2d 929, 935; United States v. Toner, 1949, 3 Cir., 173 F. 2d 140, 144.

Counsel for defendant challenged the court's right to limit the scope of the cross-examination in this

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Augustin F. Gaynor (page 4207),
Robert W. Kenny (page 4258),
Dewey Mead (page 3998),
Oscar W. Pearson (page 4036),
all prominent men in their various vocations and professions.

instance. The court in reply read from a prepared memorandum on the point of law. And while reading the memorandum in the presence of the jury, the court quoted from Morton v. United States, 1932, 7 Cir., 60 F. 2d 696, 699, as follows [at page 3609 of the Record on Appeal]:

> "The battle continued, not to ascertain the truth, but in the evident hope that error might be injected into the record and ultimate conviction thereby avoided. But avoidance of a conviction upon uncontradicted evidence, establishing to a certainty the guilt of the accused, * * *."

The court prefaced its reading of the above passage from the Morton case with the statement addressed to defendant's counsel that

> "* * * the language used in this Morton case is somewhat reminiscent of your expectation or hope that some error might be created in the record."

Defendant labels the above-quoted language of the trial court as such flagrant prejudicial misconduct as to constitute reversible error. However, the court ordered the statements stricken from the record and in addition instructed the jury as follows:

> "During the course of the trial, the Court has been called upon to make comments in ruling upon objections of counsel and motions made by them. It has also occurred during the trial that the court has been called upon to admon-

> ish and reprimand counsel in connection with the conduct of the trial of this case. The jury shall not draw any inference from any such remarks or comments or rulings of the court that the court was intending to convey to the jury in any manner whatever its view or opinion as to what the verdict or decision of the jury should be. Such comments as the court may have made in that regard were only pursuant to the power and, indeed, the duty of the court to supervise the trial of the case and to expedite it."

It appears that the court recognized that the reading was in poor discretion and sufficiently admonished the jury to disregard it. The jury system would be faulty indeed if it must be held that jurors are so easily misled. There are few cases of long and tedious sessions with contentious counsel in which the judge has acted in true idealism. Moreover, since the criticism of counsel in connection with a technical point of evidence does not reflect upon the parties, the court's statement was not prejudicial to the defendants. Goldstein v. United States, 1933, 8 Cir., 63 F.2d 609, 612-614; Mansfield v. United States, 1935, 8 Cir., 76 F.2d 224, 231-233, cert. den. 296 U.S. 601. We see no reversible error here.

Instructions to the Jury

1. "Reasonable Doubt"

Appellants contend that certain of the instructions to the jury were plain error and seek a reversal of their conviction for that reason. The first of these concerns the court's definition of "reasonable doubt" as follows:

> "The term reasonable doubt means a doubt for which a good reason can be given, in the light of all the evidence." [Page 7885, Record on Appeal]

Appellants maintain that the instruction as quoted puts on them the burden of establishing a doubt. Appellants' analysis of the effect of the instruction is incorrect, especially when considered in connection with the succeeding part of the instruction:

> "It means a doubt which is substantial and not merely shadowy. It does not mean a doubt which is merely capricious or speculative. Neither does it mean a doubt born of reluctance on the part of a juror to perform an unpleasant duty, or a doubt arising out of sympathy for a defendant or out of anything other than a candid consideration of all the evidence presented."

Instructions may not be taken apart and a phrase here and a clause or even a sentence or a paragraph there used to find error. The criticized portion of the instruction, when read in its context, plainly informs the jury that "reasonable doubt" means no more or less than the plain meaning of those two words as used. Furthermore, while this instruction on reasonable doubt is not to be commended, it does not constitute reversible error.[22]

2. Credibility of Witnesses

Appellants charge error as to the instructions on credibility of witnesses. One part objected to is as follows:

> "If the witness has the appearance of attempting to the best of his ability to tell the truth, and other circumstances tend to establish that situation, then you give full credit to his testimony."

The court continued, and this portion of the instruction is not objected to:

> "But if you are impressed that the witness ~~is~~ attempting to hide something or is not telling the whole truth, then you have the right to give only such consideration to his testimony as you may think it entitled to receive."

This instruction is not unfavorable to appellants. It merely acts as emphasis to the obvious principle that because a witness testifies to a fact, a juror does not have to believe it. He should determine according to his best judgment in the circumstances.

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[22] Owens v. United States, 1904, 9 Cir., 130 F. 279; Griggs v. United States, 1908, 9 Cir., 158 F. 572; Louie Ding v. United States, 1917, 9 Cir., 246 F. 80; United States v. Woods, 1933, 2 Cir., 66 F. 2d 262, 265; Young v. Territory of Hawaii, 1947, 9 Cir., 160 F. 2d 289, cert. den. 331 U.S. 849; United States v. Farina, 1950, 2 Cir., 184 F.2d 18, cert. den. 340 U.S. 875.

Objection is also made to the further instruction on credibility to the effect that the jury should consider the interest which a witness, particularly the defendant, might have in the outcome of the trial. Such an instruction was neither improper nor prejudicial. Reagan v. United States, 1895, 157 U.S. 301, 311; Frederick v. United States, 1947, 9 Cir., 163 F.2d 536, 550, cert. den. 332 U.S. 775. Moreover, there was no objection to the credibility instruction as required by Rule 30, Federal Rules of Criminal Procedure, 18 U.S.C.A.

3. Discrepancies and Inconsistencies in Testimony.

Appellants claim error in the instruction on discrepancies or inconsistencies in the testimony of witnesses. In effect, the jury was told not to be misled by discrepancies of a minor nature or discrepancies in the testimony inmmaterial to the issue of the guilt or innocence of the defendants. The trial was long in time and hard fought throughout and much testimony in great detail was introduced. The instruction was intended to advise the jury, in their deliberations, not to leave the ultimate question of guilt or innocence for questions which, when resolved, would be of no help in their main problem. The instruction was not erroneous.

4. Conspiracy

Two instructions on conspiracy are assigned as error. The first instruction is to the effect that conspiracies need not be proved by direct evidence, and it was both necessary in order that the jury not be misled and well established at law. Nye &

Nissen v. United States, 1948, 9 Cir., 168 F.2d 846, 852, affirmed 336 U.S. 613; Blumenthal v. United States, 1946, 9 Cir., 158 F.2d 883, 889, affirmed 332 U.S. 539; United States v. Manton, 1938, 2 Cir., 107 F.2d 834, cert. den. 309 U.S. 664. The second instruction, on the degree of participation necessary to make a person a part of a conspiracy, was not unfavorable to the defendants. It was, in part, [page 7900, Record on Appeal]:

> "It requires more than proof of a mere passive cognizance of a crime on the part of a defendant to sustain a charge of conspiracy to commit it. And you must find that the defendant did some act or made some agreement showing an intention to participate in some way in such conspiracy."

We find no error here. Moreover, no objection was made to the second instruction on conspiracy under Rule 30, Federal Rules of Criminal Procedure, 18 U.S.C.A., or otherwise.

5. Judicial Comment on Evidence

Error is claimed because the court said a certain number of witnesses, naming them, had testified on the issue of Bridges' membership in the Communist Party for the government, and a certain number for the defendant on the same issue, naming the witnesses. Neither in what was said nor from the context in which it was said, was there any suggestion that the number of witnesses should be taken into consideration rather than the effect on the jurors of their testimony. The very full instructions given the jury as to the presumption of innocence, the burden of the government, and the weight and credibility to be given to testimony of witnesses negative any idea that the jurors might have understood that the mere number of witnesses to any point of fact should rule over their judgment in reference to it. See **Erie Railroad Co. v. Fritsch, 1934, 3 Cir., 72 F.2d 766, cert. den. 293** U.S. 620.

6. Bridges v. Wixon

That the trial court was correct in excluding from the jury any consideration of the decision of the Supreme Court in Bridges v. Wixon, supra, was fully discussed in this opinion ante. We add here only that the court did not err in charging the jury that no inference was to be drawn from the many references to that case which were made by the defense counsel during the trial.

7. Elements of Third Count of Indictment

We see no merit in appellants' contention that the court in its instructions misstated the elements of the offense charged against Schmidt and Robertson in the third count. The indictment was phrased within the provisions of Title 8 U.S.C. [1946 ed.] §746(a)(5)a. There was no reversible error in the court's explanation that the expression "to abet" means,

> "* * * knowingly and with criminal intent to aid, promote, encourage or instigate, by act or counsel, or both act and counsel, the commission of such criminal offense."

There was no objection to this instruction under Rule 30, Federal Rules of Criminal Procedure, 18 U.S.C.A., or otherwise.

8. Criminal Intent

As for the trial court's instructions on the intent necessary to convict defendants Schmidt and Robertson of any of the counts charged, they were favorable to the defendants. For while Schmidt and Robertson admitted aiding Bridges to obtain citizenship, the court charged that such aiding would not be a crime unless it was with an,

> "* * * intent upon the part of either of these defendants to deceive and defraud the Government of the United States."

9. Materiality

Appellants argue that the trial court's instruction that the false statements were material to the naturalization proceeding as a matter of law, was erroneous. The question of materiality is always for the court. Sinclair v. United States, 1929, 279 U.S. 263, 298; Travis v. United States, 1941, 10 Cir., 123 F.2d 268, 270. And that is also the rule in this circuit despite appellants' misconstruction of the holding in Luse v. United States, 1931, 9 Cir., 49 F.2d 241. For while it is true that in the Luse case this court said that what is material in a perjury case is a mixed question of fact and law, we also said that the question of fact is confined to what actually took place. Once it was determined what took place, the materiality of such facts to the issue was for the court alone. There was no error here.

Appellants are asserting that the evidence introduced at the trial does not support the verdicts returned by the jury. This claimed reversible error has been explored by each member of the court and the task of expressing the court's views on this subject has been assigned to Judge Pope. His treatment of our conclusions follows immediately.

Pope, C. J.:

We now proceed to state the reasons for the Court's conclusion that the evidence upon each count was sufficient to sustain the verdict.

As to the Second Count—The alleged false statement as to Communist Party membership.

The second count, by which Bridges was charged with knowingly making a false statement under oath, a statement that he did not and had not belonged to the Communist Party, is the key to the indictment. We consider the evidence upon that charge first.

The jury was instructed that in order to convict under this count it must find that there was proof, beyond a reasonable doubt, of Bridges' actual membership in the Communist Party; that "mere association between an individual and an organization does not constitute membership * * * A person may approve some or all of the aims or activities of an organization, yet this does not make him a member. Even sympathy for the program of an organization, or contributions of money do not create the legal status of membership * * * The law also recognizes that active cooperation with an organization in its activities does not create the legal status of membership * * * Even affiliation, if you should find it to exist in this case, would not constitute the same legal status as membership, for the reason that membership refers to something more than, and different from affiliation."

This instruction had practical significance, for a very great volume of the testimony went no farther than to disclose that for a considerable period of time Bridges attended and participated in many Communist meetings, numbers of them "closed" meetings, that is, purportedly open to Communists only; that he presided at some of these meetings and that he frequently sought the advice and help of known Communist leaders and organizers, particularly in planning union activities and the strategy and tactics to be employed by his union during strikes. Similarly it was shown that he and his associates sought and made use of the Communist Party newspapers and printing establishments, and during the same time he frequently had occasion to give expression to opinions disclosing his close following of the Communist Party line. Ten of the Government witnesses who gave such testimony were themselves former Communists. Several of these were former longshoremen or engaged in related work, had been officials of unions in which Bridges had been active, and had been closely associated with him. Some had been engaged in editing Communist newspapers. Others of these witnesses had been organizers for the Communist Party who had devoted particular attention to forming Communist groups or "fractions" among labor unions, and particularly among the unions representing men employed along the waterfront.

The picture which these men drew was, in broad outline, that of a continued effort of representatives of the Communist Party to "infiltrate" the waterfront unions mainly by enlisting union leaders in the Party, and by placing Communist Party members in positions of influence in the unions. Beginning about 1933 there was a greatly increased drive for the organization of labor unions generally. The movement was stimulated, first by the National Recovery Act, and then by the Wagner Act. In 1934 a union known as the International Longshoremen's Association, which had been dormant for some time, was brought to life with the aid of the Communist Party. This union, known as ILA, called a strike. Bridges was chairman of its strike committee composed of some 50 members. The strike was a bitter one. The employers attempted to break it by opening the port, and violence ensued. Union strategy, it was testified, was first planned in closed meetings of Communist leaders, and Bridges and his committee carried into effect the plans thus formulated. In 1935 Sam Darcy, leader of the Communist Party's District 13,[1] conceived a plan to organize the Maritime Federation of the Pacific which united the maritime unions on the Pacific Coast. Its organization was promoted by Darcy, and to a lesser degree, by William Schneidermann, who succeeded Darcy. Bridges became president of the San Francisco council of that organization. That council became the joint strike committee for the San Francisco area during a strike which lasted from November, 1936, to February, 1937. In June, 1937, the Maritime Federation of the Pacific voted in favor of affiliation with the C.I.O. In July, Bridges attended a meeting of the National C.I.O. Maritime Committee in Washington, D.C. On the trip he, with the witness Rathborne, then president of the American Communications Association, and himself a Communist Party member,[2] went to New York to try to persuade the national president of ILA to go along on the affiliation with the C.I.O. Bridges and Rathborne, while in New York, visited the National Communist headquarters where they discussed the maritime setup in the C.I.O. with Stachel, Browder and Hudson, party functionaries, and reviewed what the policy of the C.I.O. maritime groups would be, and what the Communist Party policy was. In 1938, during the first constitutional convention of the C.I.O., held at Pittsburgh, Bridges attended a meeting in the William Penn Hotel composed of the members of the Communist Party who constituted the party's "top fraction" of the national C.I.O. Here was discussed the relations of the Party to the C.I.O., and also the possibility of securing the naming of one John Brophy as secretary-treasurer of the C.I.O.[3] Bridges attended other Communist meetings in connection with subsequent C.I.O. conventions.[4]

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[1] Comprising California, Nevada, and parts of Arizona. District 13 later included Hawaii.

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[2] Rathborne was later a member of the executive committee of the national C.I.O.

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[3] Rathborne described this discussion as follows: "The only other matter that I recall being discussed there, after I got my hair combed, was the matter of the election of officers of the newly formed CIO, and the fact that there was no dispute or discussion hardly on who the logical choice would be for president. That was John L. Lewis. However, there was some discussion on the secretaryship, and if I remember correctly, it was decided that the Communist forces at that convention should try to prevail upon Mr. Lewis to accept Mr. John Brophy as the secretary-treasurer of the CIO, and subsequently Mr. Brophy was not elected, incidentally."

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[4] The testimony was that at the 1939 C.I.O. convention at San Francisco, John L. Lewis made strong declarations against Communist influence and activity in the C.I.O. At the same convention he abolished the position of west coast director of the C.I.O., (held by Bridges) and ordered that the "present west coast director will be the California director, and I will appoint new directors for the rest of the area." Thereupon, at a Communist meeting held in the Whitcomb Hotel at San Francisco, attended by Schneidermann and others, Bridges advised against making any issue of his demotion, and advised an attitude of cooperation with John L. Lewis. His suggestion was that at the same time the Party's forces should be built stronger down below in the unions, so that, as Rathborne described his statement, "we can have a greater influence and be in a position to more effectively prevent Lewis and his henchmen from red-baiting and taking an anti-party position in the future."

At the 1941 convention Bridges read and intro-

When the various meetings at San Francisco, purportedly Communist Party meetings, and attended by Bridges, are taken into account, they add up to several score. They were described as held for two purposes: one, to plan a Communist-directed strategy of union activity; the other, to plan for the election of Communist members or

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duced a resolution, prepared for him by one Crouch, a Communist organizer, with the aid of William Schneidermann, which urged the then current Communist policy of all-out support of the administration program of aid to the democracies in the war effort.

Another witness, Michener, also a Communist, who had been chairman of the Los Angeles Industrial Union Council, attended the national C.I.O. convention at Philadelphia in 1943. He described a closed Communist Party meeting held during the convention and attended by Bridges and himself and other Communist Party members. At this meeting those present were informed by one Hudson, a so-called "top Communist" that Philip "Slim" Connolly, a Communist Party member who had but recently been elected California State President of the C.I.O., should resign and step down in favor of a non-Communist. The reason given for this proposal was that the Los Angeles Industrial Union Council, which was Communist controlled, had some members on the national C.I.O. pay roll, and that by making this concession as to Connolly, the Party would have a better chance to control those salaried positions. Michener and Bridges both opposed the proposal until Hudson pointed out that the decision had been made by the top leaders of the Communist Party at New York. Bridges and Michener then proceeded to make the arrangements to carry the decision into effect, and Connolly's resignation was secured.

sympathizers to various offices at union elections.[5]

Of course, under the instructions of the court, previously mentioned, Bridges' participation in these activities, taken alone, would fall short of proof of actual Communist Party membership. The only significance of such acts is what value they may have, circumstantially, as evidence of an opportunity, through frequent association, for Bridges actually to reach a decision to join the Party. One so situated would be more likely, as a matter of natural inclination, to join the group than would be the case of one having no such contacts.

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[5] The activities of what the witnesses called Communist Party units, or "fractions," in assuming leadership in the trade union movements with which Bridges was connected, were described in much detail. In general these activities would be recognized by the jury as making a likely pattern of behavior, and fitting into what has now become generally recognized as the shape of Communist missionary enterprise. "In the countries outside Russia the Communists have posed as the champions of the under-dog; they have espoused democratic programs; they have indeed purported to be the faithful advocates of the cause of every exploited race and class. To be sure, they have followed the zig-zag of the Party Line—condemning Hitler, then praising him, then condemning him again; calling Roosevelt a fascist and a warmonger and later praising him as a great leader. But somehow the Communists have by adroit exploitation of propaganda defied logic and tried to use each of their positions to strengthen their reputation as a champion of the poor and oppressed." From a review of Sidney Lens' "The Counterfeit Revolution" by Justice William O. Douglas in "The Progressive," V. 16, No. 6, p. 30, June, 1952. See, also, the statement of Mr. Justice Jackson in Communications Assn. v. Douds, 339 U.S. at p. 430.

It is true that a number of the witnesses described some of these meetings which Bridges attended, and at some of which he presided, as "closed" Communist meetings. The logical fallacy in concluding from this that Bridges must therefore have been a Party member is that it assumes the truth of that which is sought to be proven. If, in fact, Bridges was not a Party member, his presence at such a meeting would mean no more than that he attended a meeting at which every other person present was a Party member.

Bridges himself made no effort to deny his frequent attendance at meetings attended by Communist Party members, or his acceptance of aid and assistance from the Party and its leaders, or his sympathy with many of its objectives.[6]

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[6] Bridges testified to the early efforts of himself and his associates to organize the waterfront workers, and in this connection told of the substandard working conditions which confronted the longshoremen; the inadequate pay, the lack of job security, the company-controlled unions, the unfair discriminations in respect to hiring, the "shape-up," the blacklists, the speedup, the system of "kickbacks" to bosses, required as a condition to employment. He said that it was to eliminate these and other claimed evils that the strikes were called, and that it required great effort on the part of the union leaders to hold the strikers together. In this situation, he and the other union leaders sought help wherever they could find it. He gladly accepted aid offered by the Communists. He said: "I am not going at this late stage to try to take away any

Bridges further stated that the union was offered the support of the Communist Party and of its paper "The Daily Worker" which printed a daily bulletin for the use of the union during its strikes. He and his associates accepted this offer of help.[7]

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of the credit they are entitled to, because they did contribute something towards helping the strike. We were grateful for it at that time; the men were grateful for it, and I just think it would be crawfishing and ingratitude to try to kiss it off now and say we never had anything to do with them, because they did help in the way I have said, not only with the helping to print the bulletin and with what financial donations as well as food donations they could get, as well as they—when we called upon all organizations, particularly labor organizations, to help us man the picket lines, the Communist Party responded to that call, too, and so did other parties, so did—not the Republican or Democratic Parties; they were darned conspicuous by their absence, but I mean the smaller minority political parties. I recall at that time there was the Proletariat Party around here, there was the Workers Party, the Socialist Workers Party; there were several. Most of those radical, left-wing parties, and they more or less vied with each other to try to prove to the longshoremen and the other strikers how much they were helping. And by and large, the role of all that was pretty much magnified, particularly, the role of the Communist Party was played up purposely by the shipowners and Industrial Association and the city departments, for a reason, and the reason was hysteria so that it was easier to break the strike under that smoke screen of hysteria."

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[7] During the 1934 strike San Francisco had an anti-picketing ordinance in effect and the men on the union picket lines were charged by the police who attacked with clubs and tear gas. On July 5,

Bridges did deny being present at a few of the fifty or more meetings which various witnesses described with particularity, all of them Communist meetings. He denied the account of a meeting held at night in a prune orchard in Santa Clara County where a witness testified Bridges and others met Earl Browder. He denied that he attended a Communist convention at Fresno, and he denied attending a meeting near Grants Pass, Oregon, as to which some testimony was given. He made no effort to take issue as to numerous other meetings at which witnesses stated he was present, and which were described as Communist meetings.

The record also contains some evidence of the expression by Bridges from time to time of opinions on national and world affairs which are indicative of his sympathy with the Communist point of view. Such evidence, like the evidence of Bridges' attendance at meetings with Communist party members, would not in itself suffice to furnish

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1934, the 30,000 men on strike undertook to mass on the picket line and this was followed by an all-day battle with the police in which many persons were shot and two men were killed. Some of the wounded men were taken to 128 Haight Street, San Francisco, which was a Communist headquarters and which was used as a hospital as it was made available to the strikers. The battle led to the calling out of the National Guard, but the union and the Communist Party proceeded to hold a mass funeral for the two men who were killed, a feature of which was a parade up Market Street and a grave-side speech by Sam Darcy at the burial of the man who was a Communist.

the required proof of Communist party membership.[8]

The danger of attempting to prove any person to be a Communist by evidence of his expression of views which happen to coincide with the program of the Communist Party, is too well understood to require comment here. However, it cannot be said that the evidence thus far described, the evidence of continued association and cooperation with Communist groups and the evidence of apparent adherence to the Communist Party line, is, although inconclusive and insufficient in itself, wholly irrele-

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[8] In December, 1945, Bridge's union, the ILWU, called a one-day coastwise work stoppage for the purpose of propagandizing the hasty return of American troops from overseas. Bridges testified he did not know this was the Communist Party line, but said that he did not care, either then or now.

In an article written by him and published under date of November 14, 1947, Bridges said, "Thus stripped of all camouflage the Marshall Plan is a scheme to use money and food of the American people to purchase and turn over to Wall Street at practically no cost to the private interests, the basic industries and raw materials of Germany and all western European nations."

At a convention of the ILWU in San Francisco in April, 1947, a resolution was proposed which stated, among other things: "Communism is not an issue in the United States, nor are our economy, political democracy or civil liberties threatened by agents of the Soviet Union. The real threat stems directly from the greed and desire for imperialistic world control of American trusts and monopolies." Bridges, who was chairman of the meeting, made a long statement in support of the resolution in the course of which he said: "Communism is not a vant to the issue before the jury. For, as we shall shortly disclose, there was a substantial amount of evidence that Bridges in fact joined and became a member of the Communist Party. Obviously the likelihood of Bridges actually joining the party would be affected by the matters thus mentioned. If the Communist Party sought to plant seed which would result in a new member springing up, the success of the effort would depend a great deal on whether the seed fell upon fertile ground.

Schomaker, a former longshoreman, who had held numerous positions and offices in Bridges' union,

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form of government, it is a state of society, it is a system, and it is a system that holds that people cannot exploit other people for profit. It simply means you can't own a factory or a ship and do nothing and live on the fat of the land and clip coupons while somebody sweats and slaves for a living."

In 1948, when the ILWU and the Waterfront Employers Association signed a contract, Bridges' union had demanded that the longshoremen would be under no obligation to serve any vessel or handle any cargo declared unfair by the World Federation of Trade Unions. In 1949 when the CIO withdrew from this World Federation of Trade Unions because it was a "communist-controlled organization," Bridges "bitterly opposed" this move by the CIO. At the trial and on cross-examination Bridges said of the CIO constitutional amendment adopted in November, 1949, prohibiting Communist Party members from serving as officers or members of the executive committee of the CIO: "But if you would ask me what I would term it, I would term it a racketeering, corrupt, crooked, cover up for a lot of dirty goings on, so that certain people could use a great organization like the CIO for their own personal political advancement."

and who had long been a close associate of Bridges, testified that he himself had been a Communist Party member since 1931. About Thanksgiving of 1933, Schomaker became editor of the "Waterfront Worker," a paper published by a group of longshoremen who were members of the Communist Party. Schomaker testified that on an occasion in November or December of that year he and one B. B. Jones, also a member of the Communist Party, met with Bridges and solicited the latter's membership in the Party. He testified that after considerable conversation, Bridges agreed to join, and after agreeing on a name which Bridges should assume as a member of the Party, Jones produced a printed application card. Schomaker temporarily left the room and after his return Jones exhibited the card to Schomaker who observed Bridges' signature thereon. Jones and Schomaker took the card to the Party headquarters at 37 Grove Street and turned the application over to Sam Darcy. Schomaker testified that on numerous occasions he saw Bridges pay his Communist Party dues to the unit secretary and that he had on occasion received Bridges' Communist Party book which was turned in to the Party headquarters at the end of each year so that a new book could be issued to "Harry Dorgan," which was Bridges' party name.

In the winter of 1935 Bridges and Schomaker were neighbors. Schomaker testified that on one evening during that year he saw a crowd in front of Bridges' home and that Bridges then told him that Bridges' wife had fallen out of the window and asked Schomaker to go to his house and get his Communist Party book "before the snooty reporters" got there.

There was also testimony that in August or September, 1938, Bridges made a talk at a meeting held at the home of one John Shaw in San Francisco which was attended by 30 to 35 people, including William Schneidermann, district organizer for the Communist Party, and other Communist Party members. Also attending were some persons who were not Communists. During the meeting, as it was described by a Mrs. Harris, a Government witness, Bridges made a speech. She testified: "He got up and talked about the conditions on the waterfront and how they were progressing and how the Communist people, Communist Party was helping, and that, and also about the editorials and writings in the People's World, and he made a plea for us that were there to become members of the Communist Party, and he also stated that he was a member of the Party, of the Communist Party * * * I was flabbergasted when I heard him say that, because he had been accused, and I had heard it denied. And when he made that statement, why, it made a very much impression on me." Substantially the same account of the affair was given by the Witness Schomaker, who was also present.

It is argued on behalf of appellants that the testimony respecting the recruitment of Bridges in the Communist Party in 1933, and the testimony concerning the speech made at the John Shaw residence, is inherently so improbable and so incredible that it must be discarded. The evidence as to the processing of the Bridges membership application was that it had to be submitted to a membership committee or group of persons for investigation and approval. It is pointed out that the claimed admission by Bridges in 1938 that he was himself a member of the Communist Party was made in the presence of a group of persons some of whom were not Communists and some of whom were unknown to Bridges. It is said that it is inconceivable that Bridges, who knew that the Immigration Bureau had for years been attempting to prove him a Communist and to deport him on that ground, would have laid himself open by making a public statement of that character before such an audience, or that he would have turned in an application in writing which, if it fell into the hands of a government agent, would put him at the mercy of those who had pursued him.

With respect to this contention, it must be observed that in 1933, when the application was said to have been signed, the series of efforts to prove Bridges a Communist had not yet begun. In 1938, at the time of the Shaw residence meeting, Bridges of course knew that the Immigration Bureau was after him. The question for the jury to determine was whether they would credit the testimony that the statement was in fact made. This would involve consideration not only of the reliability of the recollection of the witnesses and their general credibility, but a consideration of whether in the circumstances it could be believed that Bridges was so rash or so incautious as to make such a statement in those surroundings.

The question whether these events did or did not occur was typically one for the jury. In general this case presents no circumstances different from those which constantly appear where the testimony of witnesses is sharply in conflict. The special function of the jury, in our system, is to deal with such matters. No appellate judge is ever in a position to reconstruct for himself, from a printed record, the multitude of things which bring conviction to a juror's mind—the demeanor of the witness, his apparent candor or evasiveness, his assurance or hesitation, and even his facial expressions or the sound of his voice.

Even the cold record here discloses that at the trial, and in the presence of the very jury which was to determine whether he had or had not been a Communist Party member, Bridges was singularly lacking in caution, giving a demonstration which the jury might well consider more remarkable than the actions which Mrs. Harris testified "made a very much impression on me."[9]

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[9] The circumstance was this: Bridges was on the stand, and his conduct was observed for a good many days during the trial. He knew that the Government was attempting to prove that he was or had been a Communist Party member; he knew that the jury who were observing him were his judges, and yet he apparently overlooked no opportunity during the process of cross-examination to make speeches to the jury in what they must have understood was an effort to prove to them the soundness of views generally expressed by World

That Bridges entertained the views he volunteered in comparing the Chinese Revolution to the American Revolution, or which he expressed in respect to the Russian satellites, or in regard to Phil Murray's effort to oust Communist Party members from official positions in the CIO, is not what seems significant at this point. We do not regard the circumstance here related as of controlling importance. Without it, the question would still be one for the jury. But it is worthy of note that without any apparent effort to confine himself to answering briefly, and to the point, the questions put to him on cross-examination, Bridges went on at great

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Communism with respect to national and international affairs. Speaking of the Communist conquest of China he said to the jury: "I think the people have finally taken over and changed things, something like they did here in the United States in 1776. I think they have had a peoples' revolution down there, and if they are wrong, then the people of the United States were wrong in 1776."

Further in discoursing upon this subject Bridges stated: "We had the same thing occur after the American Revolution. Remember, after the American Revolution here in—17—this word 'revolution' —people seem to shy away from in these days. I didn't invent the word. But in the days of the American Revolution, like the French Revolution, America, the United States, went through the same thing. All the world was jumping on it and pointing out the Communists in the United States, meaning George Washington, Paine and others. The same thing was happening, and it will happen more and more. So our union can't bear any responsibility. And because we have advocated trade with China in the interests of getting more work for our longshoremen on the waterfront, who unless length with discourses which, we apprehend, must have caused the jury to wonder whether they were watching a man filled with missionary zeal for expounding the views commonly understood to make up the Communist Party line, or one who was supremely indifferent to whether he gave the jury the impression that if he was not a Communist Party member, he must at any rate be a fellow traveler. We connot say that in these circumstances a jury would be obliged to disregard as impossible or incredible the testimony of what Bridges said and did on the occasions described by these witnesses. Per-

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they get work, of course, they can't have a union, the union will fall apart, and maybe I will have to do something else, even myself,—that is not so much what I am thinking of—but it is as simple as that. The port here, the City of San Francisco, believe me, lives by its waterfront. That is a matter of simple economics. And the bulk of our trade, fifty per cent of the foreign trade that moves through the port of San Francisco was China trade. We have got to re-establish that trade, otherwise we can't have prosperity and employment here in the United States, particularly in the port of San Francisco, and a lot of people around here would be out of a job, and if people are out of work around here, our city, of course, will not have prosperous times and will not have security."

After he had volunteered his views about China, he was invited to express an opinion on the "rape of Poland" and the seizure of Baltic and Balkan countries by Russia. As for Poland, he said, "Here was a country where the government collapsed, and the way I looked at it, the country of Russia she took steps to prevent or to meet what eventually transpired, namely, she figured her country was to be invaded and she took certain steps." As for the haps a man who lacked caution when before the jury, was but acting in a similar manner at the John Shaw home in 1938.

There was other evidence which, if credited, would tend to show Bridges' actual membership in the Communist Party. Three witnesses testified that they attended the national convention of the Communist Party at New York in 1936, and that at that meeting Bridges was elected to the national committee of the Communist Party under the name of "Comrade Rossi." Two of these witnesses testified that he was reelected to the same committee at the national convention of the Party in 1938. There was no testimony that Bridges was present at the 1938 convention but two of the three wit-

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other countries mentioned, he said, "I would say that there is more democracy in those countries now than before they were seized by the Soviets. Prior to that they were all dictatorships."

Explaining the position he had taken when he "fought bitterly" against a resolution calling for the resignation of executive board members who were unwilling to abide by the anti-Communist amendment to the C.I.O. constitution, he said: "The C.I.O. doesn't elect me to the executive board. My union elects me. I am instructed by my union that elects me and pays my wages to carry out certain policies to this board. I am the voice, the representative of my union on this C.I.O. board. You come in with a resolution now and say that unless I take orders from you, Mr. Murray, notwithstanding what my membership tells me, I am not eligible to serve on this board. I said, 'That is a violation of the CIO constitution, that is a phoney, it is a racket, and if you are going to carry through a policy like that, you are going to destroy CIO.' And that is what is happening to CIO to-nesses as to the 1936 election testified that Bridges was present at that meeting. The third said he did not see Bridges there.

Of course, if Bridges in fact became a member of the governing body of the national Party this would permit an inference that he was a member of the Party. Considerable doubt is thrown on this aspect of the case by reason of the fact that it was established, apparently beyond controversy, that at the very time the 1936 convention was being held, Bridges was in Stockton, California, making a speech at a union meeting. If he was there he could not have been present at the 1936 convention, as two of the three witnesses said he was.

We do not feel called upon to speculate as to

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day; it is being destroyed because of those types of policies."

Bridges continued: "So I took this resolution, I came back, I called meetings of my own local union and I said, 'Listen, fellows,' I said, 'Look, here's the way the National CIO wants it. In order to get along with them, let's say we do this. Let's let Phil Murray appoint from the ILWU anyone he wants to represent the ILWU on the board, and let Bridges resign. And let us furthermore instruct the representatives of the ILWU on the CIO executive board that any time Murray says, "Vote yes," to vote yes; any time Murray says, "Vote no," vote no; any time Murray says, "Abstain," to abstain. Let them have that.' And my membership said, 'Look, Bridges, if that is the way you feel, if you carry out a program like that, we will get ourselves another president. We didn't elect you for a program like that. Now, if you haven't got the guts, if you haven't got enough in you to get in there and fight, we will find someone who will do the job for us.' "

whether these two witnesses might have been mistaken as to his presence there, or whether the definite proof of Bridges' presence in Stockton conclusively demonstrates that the testimony relating to the 1936 convention, and perhaps, as to the 1938 convention, was false. We think, for the reasons we have previously mentioned, that there was sufficient other evidence to warrant the jury in finding that Bridges was in fact a member of the Communist Party.

Appellants contend that as a matter of law the evidence was insufficient to satisfy the rule that in perjury cases there must be at least the testimony of two independent witnesses or the testimony of one witness plus independent evidence which is inconsistent with the innocence of the defendant. Cf. Weiler v. United States, 323 U.S. 606. Appellants assert that the evidence that the sworn statement of Bridges was false does not measure up to the standards required by this rule.

The second count of the indictment is not based upon the general perjury statute but upon section 746 (a) (1) of the Nationality Act of 1940, now codified at 18 USCA 1015. We need not consider whether the two witness rule applies to a prosecution under this section. Cf. Todorow v. United States, (9 Cir.) 173 F. 2d 439, 443, c.d. 337 U.S. 925, for we think that, assuming that the same rule applies as in prosecutions for perjury, the rule was satisfied here.

The falsity of the statement made under oath was testified to by the witness Schomaker who told of the application for membership in the party and the subsequent payment of dues. Mrs. Harris, an independent witness, testified to Bridges' admission of party membership made by him at the public meeting at the Sha[illegible] residence. It is to be noted that this admission was made prior to the date of the alleged crime and there is authority to the effect that admissions so made do not require corroboration to the same extent as others. Warszower v. United States, 312 U.S. 342, 347. In any event, in this case, where the Government did not rest upon the uncorroborated testimony of one witness, but brought forward an accumulation of evidence, circumstantial and otherwise, which supplemented the direct evidence of joining the Party and the evidence of the 1938 admission, we think that the rule was fully satisfied. Maragon v. United States, (CADC) 187 F. 2d 78, c.d. 341 U.S. 932.

Appellants enumerate sundry reasons why they think we should hold that the evidence offered on behalf of the Government is unworthy of belief. Thus they point to the fact that some of the Government witnesses who admitted having been former Communists also admitted that on prior occasions when under oath and testifying before the un-American Activities Committee or the Tenney Investigating Committee of the California Legislature they had denied being members of the Party. The contention is that one who admits perjury on prior occasions, cannot be credited now.

Again it was developed that some of the Government witnesses had given testimony as Government witnesses in a large number of other cases involving issues similar to those in this case. It is said that such witnesses were professional witnesses as to Communist activities in various places and that hence they were not worthy of credit. Attention is called to the fact that a number of the Government witnesses were naturalized citizens and it is argued that since some of those witnesses had themselves obtained citizenship at a time when they themselves falsely denied Communist Party membership, they were subject to prosecution and hence subject to pressure on the part of Government agents who, it is asserted, held threats of such prosecution over the heads of these naturalized witnesses. Some witnesses received substantial sums of money on account of witness fees and expenses in connection with their attendance at the trial of this case. In the case of one witness not only he but his wife were paid witness fees covering a long period of time. It is argued that the sums thus paid were so substantial that it must be inferred that the recipients would be willing to testify to anything in order to maintain their positions as witnesses.

All of these matters were brought out on cross-examination and developed at great length during the trial. They were the subject of much argument by counsel for appellants at the time the case was argued to the jury and, of course, they are matters in respect to which the jury was the final judge. None of these circumstances would, as a matter of law, require us to throw out the testimony of these witnesses in its entirety.

As to the First Count—The alleged conspiracy.

We next proceed to the question of the sufficiency of the evidence as to the first count of the indictment.[10] This charges that Bridges, Schmidt and Robertson conspired to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws by having Bridges petition for and obtain naturalization by falsely and fraudulently stating and representing that Bridges had never belonged to the Communist Party; that in pursuance of the conspiracy the defendants did and performed four overt acts: 1, the filing by Bridges of his application for a certificate of arrival and preliminary form of petition for naturalization; 2, his appearance on the 8th day of August, 1945, before the naturalization examiner where he gave testimony in the matter of his application for naturalization; 3, the signing on the same day, by Schmidt and Robertson as witnesses, of the Bridges' petition for naturalization; and 4, the appearance of the three men named, on September 17, 1945, in the Superior Court, and their then testimony in support of Bridges' petition for naturalization.

It is contended that there is neither direct nor circumstantial evidence of any such conspiracy; that until June 18, 1945, when the Supreme Court in the case of Bridges v. Wixon, 326 U.S. 135, reversed the decision of this court, a warrant of deportation based on Bridges' alleged membership in or affiliation with the Communist Party was outstanding against him. This reversal was but five days prior to the filing of Bridges' application for citizenship on June 23, 1945. Hence, it is said, up to five days before the application was made, the warrant of deportation was a bar to Bridges' naturalization and therefore there could be no conspiracy up to that time because naturalization was then impossible. It is argued that there was nothing to show that either Bridges, Schmidt or Robertson had any reason to anticipate questions concerning Bridges' membership in the Communist Party at any time prior to the actual hearing on September 17, 1945, at which time the naturalization examiner was prompted to make the inquiry as to party membership because he had received, a few days previously, an affidavit of Bridges' estranged wife, from whom he was then obtaining a divorce, which stated that Bridges was a member of the Communist Party under the name of "Dorgan." It is contended that the mere fact that the question was then asked was insufficient to bring about a conspiracy to obtain naturalization through the unlawful giving of false answers to such a question.

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[10] In dealing with the first and third counts, under both of which Schmidt and Robertson were convicted, and on which they received sentences of equal length, to run concurrently, it must be borne in mind that if the evidence is sufficient to sustain conviction on either count, the sufficiency of the evidence on the other count need not be considered. Sinclair v. United States, 279 U.S. 263, 299.

It is true that the evidence of the alleged conspiracy was entirely circumstantial, as is almost invariably the case where conspiracy is charged.

There is evidence sufficient to show the existence of a long-standing and close association between Schmidt, Robertson and Bridges in two respects. In the first place all three were long and intimately associated as officers in the I.L.W.U. labor union. There was also evidence sufficient, if believed, to demonstrate that all three of them were associated as members of the Communist party. Not only was there very extensive evidence that Schmidt and Robertson, as well as Bridges, had attended many of the numerous Communist meetings to which reference has been made, but there was testimony that Schmidt had himself solicited the witness Henry Schrimpf to join the Communist Party, and had handed Schrimpf the membership card which he executed. It was testified that Robertson was a member of a top Communist fraction of the State C.I.O. consisting of Communist Party members who were members of the C.I.O. executive board, a group facetiously known in Communist circles as "God's Committee."

The jury could infer from the evidence that Schmidt and Robertson not only knew that Bridges was a Communist and a member of the Communist Party but that there had long existed a controversy between Bridges and the Government officials in charge of matters relating to citizenship and naturalization characterized by repeated attempts to deport Bridges on the ground of his alleged membership in or association with the Communist Party. Schmidt and Robertson therefore knew that if the fact of Bridges' membership in the Communist

Party were developed in the course of his naturalization proceedings, it would be fatal to his application. Both of these defendants testified that they knew of the handing down of the decision in the Wixon case[11] on June 18, 1945, and the testimony of both of these defendants discloses that they had the decision in that case very much in mind when they first proceeded to give testimony on Bridges' behalf and otherwise assist him in procuring his citizenship.[12]

The evidence warrants the inference that all of

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[11] The opinion in that case was not a part of the record, for it was excluded, as we have noted. What is here referred to is the fact that the case had been decided, and favorably to Bridges, matters which were in evidence.

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[12] Thus Robertson testified in enumerating the bases for the answers he gave concerning Bridges at the citizenship hearing, that he had read transcripts of the Landis trial, the Sears trial, and of other investigations and then said: "And finally, a decision of the U. S. Supreme Court came out. I studied that decision. I studied the majority decision and I studied the concurring decision, and I made up my mind then and there that President Bridges was not, had never been, and was never affiliated with the Communist Party; and the Supreme Court of the United States is something that I think speaks with authority."

In the course of his answer to a similar question Schmidt testified: "Secondly, I had read the decision of the Supreme Court, and I thought well, as long as the highest tribunal in the United States of America has made a decision with respect to this case, the matter is now settled for all time; and I had no hesitation to recommend this man for citizenship."

these defendants knew that now that the decision in the Wixon case had come down the day was about to arrive when Bridges could finally sew up his citizenship, and that Schmidt and Robertson were then proceeding to permit him to do so and that they did undertake to assist by testifying, falsely, that Bridges was not a member of the Communist Party.

Under these circumstances it is clear that there was sufficient evidence to warrant a conviction under the conspiracy count, and that the charge of a conspiracy was sufficiently proven.

As to the Third Count—The alleged aid and assistance by Schmidt and Robertson.

The evidence to which we have just referred sufficiently discloses that there was an abundance of proof to sustain the charge of the third count to the effect that Schmidt and Robertson did wilfully and knowingly encourage, aid, advise and assist a person, namely, Bridges, not then and there entitled thereto, to obtain, accept and receive a certificate of naturalization, which was to be procured and was procured by fraud, said fraud consisting of false and fraudulent statements made in a naturalization proceeding.

It is contended that there is no evidence that a certificate of naturalization was in fact issued. There was introduced in evidence a certified copy of the judgment of the Superior Court reciting that Bridges and other persons had complied with the naturalization laws and that each was entitled to be admitted to citizenship, and reciting that "It is hereby ordered that each of said petitioners be and is hereby ordered to become a citizen of the United States of America." There was no evidence that the clerk of that court performed his ministerial duty to issue and deliver to Bridges the certificate of naturalization described in §736 Title 8 USCA. We think that in view of the fact that the issuance of the certificate by the clerk is a mere ministerial act following the judgment, as soon as the judgment admitting Bridges to citizenship had been entered there had been accomplished all that was required "to obtain" a certificate of citizenship within the meaning of Title 8 §746 (a) (5) under which the third count was laid, and that in truth the certificate mentioned had then been "obtained." The argument that the evidence as to the third count is insufficient is without merit.

As stated in Glasser v. United States, 315 U.S. 60, 80, "It is not for us to weigh the evidence or to determine the credibility of witnesses. The verdict of a jury must be sustained if there is substantial evidence, taking the view most favorable to the Government, to support it. United States v. Manton, 107 F. 2d 834, 839, and cases cited. Participation in a criminal conspiracy need not be proved by direct evidence; a common purpose and plan may be inferred from a 'development and a collocation of circumstances.'" This court has followed the same rule. Henderson v. United States (9 cir.) 143 F. 2d 681, 682.

Generally, with respect to the jury's function in weighing testimony and determining the credibility of witnesses this court has said: "With regard to the foregoing testimony, as well as much of the other evidence discussed by the appellants, it should be borne in mind that the question of weight and credibility is for the jury and not for the court." Coplin v. United States (9 cir.) 88 F. 2d 652, 664. Accord: Pasadena Research Laboratories v. United States, (9 cir.) 169 F. 2d 375, 380. Tested by these rules, which this court has long followed, Craig v. United States, (9 cir.) 81 F. 2d 816, 827, c.d. 298 U.S. 690; Hemphill v. United States, (9 cir.) 120 F. 2d 115, c.d. 314 U.S. 627; Stillman v. United States, (9 cir.) 177 F. 2d 607, 616, the evidence here was sufficient to sustain the convictions on all counts.

Bone, C. J.:

I am in complete accord with all that has been said by my associates. Their exhaustive opinions reflect unanimous conclusions reached only after thorough discussion in conference and after independent consideration of all issues by each judge of this division of our court.

Judgments affirmed.

(Endorsed:) Opinions and Concurring Opinion. Filed September 6, 1952, as amended Nov. 18, 1952. Paul P. O'Brien, Clerk.

United States Court of Appeals
for the Ninth Circuit

Excerpt from Proceedings of Tuesday, November 18, 1952.

Before: Stephens, Bone and Pope,
Circuit Judges.

[Title of Cause.]

ORDER DENYING PETITION FOR REHEARING

Upon consideration of the petition of appellants, filed October 3, 1952, and within time allowed therefor by rule of court, for a rehearing of above cause, and application that petition for rehearing be heard en banc, and good cause therefor appearing, It Is Ordered that said petition for rehearing be, and hereby is denied.

United States Court of Appeals
for the Ninth Circuit

CERTIFICATE OF CLERK, U. S. COURT OF APPEALS FOR THE NINTH CIRCUIT, TO RECORD CERTIFIED UNDER RULE 38 OF THE REVISED RULES OF THE SUPREME COURT OF THE UNITED STATES.

I, Paul P. O'Brien, as Clerk of the United States Court of Appeals for the Ninth Circuit, do hereby certify the foregoing 18 volumes, containing 8,434 pages, numbered from and including 1 to and including 8,434, to be a full true and correct copy of the entire record excluding original exhibits of the above-entitled case in the said Court of Appeals, made pursuant to request of counsel for the appellants, and certified under Rule 38 of the Revised Rules of the Supreme Court of the United States, as the originals thereof remain on file and appear of record in my office.

Attest my hand and the seal of the said the United States Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 4th day of December, 1952.

[Seal] PAUL P. O'BRIEN,
Clerk.

[fols. 8437-8438] SUPREME COURT OF THE UNITED STATES
OCTOBER TERM, 1952

No. —

HENRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON, Petitioners,

vs.

UNITED STATES OF AMERICA

ORDER EXTENDING TIME TO FILE PETITION FOR WRIT OF CERTIORARI—November 28, 1952

Upon consideration of the application of counsel for petitioners,

It is ordered that the time for filing petition for writ of certiorari in the above-entitled cause be, and the same is hereby, extended to and including January 16, 1953.

Wm. O. Douglas, Associate Justice of the Supreme Court of the United States.

Dated this 28th day of November, 1952.

[fol. 8439] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1952

No. 548

[Title omitted]

ORDER ALLOWING CERTIORARI—Filed March 9, 1953

The petition herein for a writ of certiorari to the United States Court of Appeals for the Ninth Circuit is granted, limited to questions 1 and 2 presented by the petition for the writ.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

Mr. Justice Clark took no part in the consideration or decision of this application.

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FILED
JAN 14 1953
HAROLD B. WILLEY, Clerk

SUPPLEMENTAL TRANSCRIPT OF RECORD

Nos. 548-9, October Term, 1952

Bridges et al. vs. United States of America

Nos. 12597–12607

United States Court of Appeals

For the Ninth Circuit

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

and

HARRY RENTON BRIDGES,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee.

**Appeals from the United States District Court,
Northern District of California,
Southern Division**

**Proceedings Had in the United States Court of Appeals
for the Ninth Circuit**

Phillips & Van Orden Co., 870 Brannan Street, San Francisco, Calif.

Nos. 12,597 and 12,607

In the United States Court of Appeals
for the Ninth Circuit

No. 12,597

HARRY RENTON BRIDGES, J. R. ROBERTSON and HENRY SCHMIDT,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

No. 12,607

HARRY RENTON BRIDGES,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee.

APPLICATION FOR LEAVE TO FILE SUPPLEMENTAL PETITION FOR REHEARING, PRAYER THAT SUPPLEMENTAL PETITION FOR REHEARING BE HEARD EN BANC, AND THAT ORDER DENYING PETITION FOR REHEARING BE VACATED

GLADSTEIN, ANDERSEN & LEONARD,
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Table of Authorities Cited

Cases — Pages

Bradley Mining Company vs. Boice (1952, 9 Cir.), 198 F.2d 790 — 8444, 8450

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United States vs. Smith (1952), 342 U.S. 225 8449

Western Pacific Railroad Corporation vs. Western Pacific Railway Company (1952, 9 Cir.), 197 F.2d 994 8449

Wolcher vs. United States (Nov. 17, 1952, 9 Cir., No. 12,992), ...F.2d 8443, 8451, 8452

Statutes

Act of June 25, 1948, Section 21, 62 Stat. 683, 862 8443

Nos. 12,597 and 12,607

In the United States Court of Appeals
for the Ninth Circuit

No. 12,597

HARRY RENTON BRIDGES, J. R. ROBERTSON, and HENRY SCHMIDT,
Appellants,
vs.
UNITED STATES OF AMERICA,
Appellee.

No. 12,607

HARRY RENTON BRIDGES,
Appellant,
vs.
UNITED STATES OF AMERICA,
Appellee.

APPLICATION FOR LEAVE TO FILE SUPPLEMENTAL PETITION FOR REHEARING, PRAYER THAT SUPPLEMENTAL PETITION FOR REHEARING BE HEARD EN BANC, AND THAT ORDER DENYING PETITION FOR REHEARING BE VACATED

To the Honorable William Denman, Chief Judge, and to the Honorable Associate Judges of the United States Court of Appeals for the Ninth Circuit:

Come now appellants above named and hereby apply for leave to file this supplemental petition for rehearing in the above-entitled causes, pray that said supplemental petition be heard en banc, and pray that the order of this Court, dated November 18, 1950, denying appellants' petition for rehearing, be vacated, and in support thereof respectfully allege as follows:

I.

The Order of Amendment filed and entered herein on November 18, 1952, substantially modified the opinion filed and entered herein on September 6, 1952, and if appellants are to have the benefits intended by the rules permitting the filing of a petition for rehearing, they should be permitted to address such a petition to the amended or modified opinion.

II.

In their petition filed herein on October 3, 1952, appellants prayed, inter alia, that a rehearing be granted en banc. The order denying the petition for rehearing filed and entered herein on November 18, 1952, did not even rule upon this portion of appellants' petition for rehearing. Appellants are at least entitled to a ruling of the Court on an application made to it and their application that the petition for rehearing be heard en banc ought to have been passed upon and not simply ignored.

III.

On the day before the panel which heard this case denied the petition for rehearing, another panel of this Court decided another case in a substantially different way. While this panel refused to apply the rule of Kotteakos vs. United States (1946), 328 U.S. 750, to the case at bar, that rule was applied to another case by a panel consisting of Judges Healy, Orr and Pope who reversed a conviction because of technically erroneous rulings respecting the admission and exclusion of evidence (Wolcher vs. United States [Nov. 17, 1952, 9 Cir., No. 12,992], ... F.2d ......). None of the errors in that case was as serious or prejudicial as the errors here present.

Argument

I.

On September 6, 1952, Judges Stephens, Pope and Bone, "after thorough discussion in conference and after independent consideration of all issues,"[1] concluded that the saving clause in Section 21 of the Act of June 25, 1948, 62 Stat. 683, 862, "expressly preserved"[2] to the Government the right to prosecute appellants under the repealed five year statute of limitations.

On November 18, 1952, after apparently the same thorough discussion and independent consideration of all issues, the same three judges concluded that "the Saving Clause cannot be given the broad effect claimed for it by the government"[3] and specifically held "that the statute of limitations of five years for violations of offenses under the Nationality Act yielded to the three-year provision as of the effective date of the revision."[4]

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[1] Bridges, et al. vs. United States (Sept. 6, 1952, 9 Cir., No. 12,597, Slip Sheet p. 52), ...F.2d .....

[2] Ibid., p. 8.

[3] Ibid., Order of Amendment, November 18, 1952, Typewritten Order, p. 3.

Appellants, of course, do not quarrel with this modification of the Court's opinion since it reflects now for the first time a position which appellants have been urging for three and one-half years in this case. However, this complete reversal of views on this issue by the panel of judges deciding this case demonstrates the merit of appellants' contentions and supports appellants' argument that if all issues in this case, including the issue of the applicability of the Suspension Act, were submitted to the entire Court en banc, there is at least a reasonable basis for supposing that the result would be different.[5]

Furthermore, on the issue of the Suspension Act itself the thoroughly considered opinion of September 6, 1952, was subject to substantial modification although the panel still adhered to its original conclusion.

For the first time the panel in its amendment of November 18, 1952, suggests that the conclusions of the Court of Appeals for the District of Columbia in Marzani vs. United States (1948, C.A. D.C.), 168 F.2d 133, were based upon that Court's own conclusions that the Supreme Court cases[6] held that the Suspension Act did not apply to non-pecuniary frauds. In so doing the panel completely misreads the Marzani case. The Court in the Marzani opinion carefully analyzed the Government's contention that fraud was an "essential element" of false swearing.[7] It rejected that contention not upon the ground suggested by the panel in its presently modified opinion but upon the ground that the Suspension Act did not apply to that kind of fraud—even if it were fraud. Here is its language:

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[4] Ibid., p. 4.

[5] See Judge Pope's dissenting opinion in Bradley Mining Company vs. Boice (1952, 9 Cir.), 198 F.2d 790, 792.

> "The difficulty with the foregoing contention is that it ignores the plain rulings in Noveck and kindred cases. Those cases involved false statements, under oath. The offenses tendered to obstruct, by dishonest means, the operation of a department of the Government. The Court held that the Suspension Act (actually an identical

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[6] United States vs. Noveck (1926), 271 U.S. 201; United States vs. McElvain (1926), 272 U.S. 633; United States vs. Scharton (1932), 285 U.S. 518.

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[7] Incidentally, the panel's addition to its opinion of September 6, 1952, of a footnote now to be numbered 2a which recites that Bridges was not charged with perjury or with having made a false statement under oath (Typewritten Order, supra, note 3, p. 1), while it is another modification of the earlier opinion, does not in any way sustain the Court's conclusion because that is precisely what Marzani (supra), Obermeier (infra), and Anzalone (United States v. Anzalone [1952, 3 Cir.], 197 F.2d 714) were charged with, and that made no difference in the result in their cases.

> predecessor) does not apply *to such offenses.* So that even if the False Claims Act does involve the sort of fraud the Government says it does, the Suspension Act does not apply; the rulings in the Noveck and similar cases related to precisely *that same sort of fraud.* Despite the vigor and skill with which the Government's contention is pressed upon us by its counsel, we can see no escape from that conclusion. It follows that we are of opinion that the first nine counts of this indictment were barred by the statute of limitations, and the defendant's motion that they be dismissed should have been granted." (168 F. 2d at 137, emphasis supplied.)

The Court of Appeals for the District of Columbia is not the only Court with which this panel disagrees on the issue of the applicability of the Suspension Act. It also is in conflict with the Court of Appeals for the Second Circuit on this precise issue, a fact which was pointed out in appellants' petition for rehearing but which is not mentioned in the amendment of November 18, 1952. For in Obermeier v. United States (1950, 2 Cir.), 186 F. 2d 243, the Court of Appeals for the Second Circuit held not only that the saving clause did not sustain the prosecution,[8] but it also held that the Suspension Act could not save the prosecution because fraud was not inherent in the crime of false swearing in a naturalization proceeding.

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[8] A proposition with which this panel disagreed on September 6, 1952, but with which it apparently now agrees.

> "The government contends, however, that in any event the War Time Suspension of Limitations Act preserved its right to prosecute this action. That Act, so far as pertinent, is substantially the same as the Acts interpreted by the Supreme Court in United States v. Noveck, 271 U. S. 201, 46 S. Ct. 476, 70 L. Ed. 904,[9] United States v. McElvain, 272 U. S. 633, 47 S. Ct. 219, 71 L. Ed. 451,[10] and United States v. Scharton, 285 U. S. 518, 52 S. Ct. 416, 76 L. Ed. 917.[11] As so interpreted, it suspends a statute of limitations only when fraud or attempted fraud against the United States (or one of its agencies) 'is an ingredient under the statute defining the offense,' and does not, absent such a statutory definition, apply to perjury or false swearing even when the United States is directly interested.[12] Nothing in 8

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[9] Perjury in an income tax return. [Court's footnote.]

[10] False income tax return. [Court's footnote.]

[11] Attempt to evade taxes by falsely understating taxable income. [Court's footnote.]

[12] In U. S. v. Gilliland, 312 U. S. 86, 61 S. Ct. 518, 85 L. Ed. 598, the offense was so defined as to make fraud an ingredient. So, too, in Gottfried v. United States (2 Cir.), 165 F. 2d 360, as we there interpreted the statute creating the crime. See also Marzani v. United States, 83 U. S. App. D. C. 78, 168 F. 2d 133. [Court's footnote.]

> U.S.C.A. § 746(a)(1), under which defendant was indicted, makes fraud an ingredient of the crimes." (186 F. 2d at 256-257; emphasis supplied.)

The panel apparently did not even recognize that the Second Circuit held that fraud was not an ingredient of the crime charged in Count II of this very indictment.

Furthermore, the ambiguity manifest in the panel's thinking on the coverage of the Suspension Act has not been removed by the modification of November 18, 1952.

On the one hand the panel still says:

> "* * * it is well to have in mind that not every fraud against the government, whether inherently pecuniary or otherwise, comes within the effect of the Suspension Act."[13]

On the other hand, the panel still says:

> "We therefore conclude that the Suspension Act applies to every offense involving fraud against the government whether pecuniary or not."[14]

This leaves open the question of whether the Suspension Act does or does not apply to "every fraud" or "every offense involving fraud" against the Government. And it does not even touch the question of what kinds of "frauds" are, and what kinds are not, covered by the Suspension Act. No consideration is given the rationale of United States v. Smith (1952), 342 U. S. 225, which demonstrates that the Suspension Act is applicable not to all offenses involving fraud, but only to offenses "arising out of the war effort."

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[13] Slip Sheet, supra, note 1, page 11.

[14] Ibid, page 17.

Certainly, in view of the fact that the panel is in conflict with two other circuits, the fact that the first petition for rehearing resulted in a substantial modification of the panel's thinking on one phase of the case, and the fact that even now the panel's reasoning on the Suspension Act is ambiguous and contradictory, appellants' request that the case be reheard en banc should be granted.

II.

On October 3, 1952, appellants petitioned for a rehearing and made application that their petition for rehearing be heard en banc. This application has apparently not yet been ruled upon. The only orders entered on November 18, 1952, were orders amending the opinion of September 6, 1952, and orders denying appellants' petitions for rehearing. There was no order either granting or denying the application that the rehearing be heard en banc, nor was there even an order striking it as was done in Western Pacific Railroad Corporation v. Western Pacific Railway Company (1952, 9 Cir.), 197 F. 2d 994, 1012.

Appellants certainly are entitled to have a ruling upon an application which they make to the Court so that in the event they ultimately are required to proceed further in this cause they may have a record to present to the Supreme Court. Since the Supreme Court has granted certiorari in the Western Pacific case ([October 13, 1952], . . . U.S. . . . , 73 S. Ct. 28, 29), it is obvious that the question of appellants' right to petition for a rehearing en banc is an open one and one which the Supreme Court thinks is of sufficient importance to be reviewed by it. That right should not be foreclosed by this panel's ignoring the existence of such an application.

Furthermore, if the reasons assigned by Judge Pope in his dissenting opinion in the Bradley Mining case, supra, and the reasons assigned by both Judge Healy and Chief Judge Denman in their respective opinions in the Western Pacific case, supra, have any cogency at all, then it is clear that this is one case perhaps out of hundreds where a rehearing en banc should be granted. Not only is there the existence of conflicts with at least two other circuits on the question of the application of the Suspension Act; not only does the substantial modification of the panel's opinion of September 6, 1952, demonstrate a lack of cetrainty and clarity of the grounds upon which the judgment is now being affirmed, but on the very day before the petition for rehearing was denied, another panel of this Court reversed a conviction upon the basis of the Kotteakos rule, while the panel in this case refused to apply the Kotteakos rule here. The errors committed in the other case were certainly less substantial than those involved in this case. This brings us to our last point.

III.

In their petition for rehearing,[15] appellants, emphasizing the prejudicial character of the errors committed by the trial Court, urged this panel to apply to this case the rule of Kotteakos v. United States (1946), 328 U. S. 750, and to reverse the conviction because it could not be said that those errors, substantial as they were, had no effect upon the ultimate outcome. Neither in its original decision of September 6, 1952, nor in its Order of Amendment of November 18, 1952, did this panel so much as mention the Kotteakos case.

However, on November 17, 1952, a conviction for wilfully and knowingly attempting to defeat some $30,000 of income taxes by failure to report over-ceiling sales of liquor was reversed by a panel of Judges Healy, Orr and Pope. (Wolcher v. United States, supra.) That panel, relying on the Kotteakos case, reversed because no "proper foundation" was laid for certain documents which were received in evidence against the defendant, and because certain evidence which the defendant wished to offer to corroborate his testimony on the price of pinball machines was rejected.[16]

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[15] The point, of course, was made earlier in briefs and argument before the decision of September 6, 1952.

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[16] The evidence offered on behalf of Wolcher, the exclusion of which resulted in the reversal, consisted of a magazine called "Billboard." The evidence offered on behalf of Robertson and Schmidt, the exclusion of which did not result in reversal, consisted of a decision of the Supreme Court of the United States. The incongruity is manifest.

In the Wolcher case the errors were highly technical and certainly did not reflect any unfairness on the part of the trial judge. We do not say that Wolcher's conviction should not have been reversed. We do say that if Wolcher's conviction had to be reversed, then this conviction must a thousand times more so be reversed. For the errors here were not purely technical. They were serious errors and reflected upon the fairness of the trial accorded appellants. This panel itself has characterized the trial judge's conduct as "in poor discretion," as likely to lead to "misunderstanding," and as lacking in "that true idealism" which a trial Court should manifest. The instructions he gave were not to be "commended," said this panel.

If ever there was a case where the Kotteakos rule should apply, this is it. Yet on one day, one panel of this Court refuses to apply the Kotteakos rule in the case of three labor leaders, while on the day before another panel of this Court has no hesitancy in applying it in the case of a big liquor dealer and pinball operator.

Conclusion

Not only is it important that justice be done in this case, but it is important that justice appear to have been done.

If Wolcher is entitled to a new trial because a document was admitted against him without a "proper foundation," why is not Bridges entitled to a new trial because the trial judge told the jury, in effect, that there should be an "ultimate conviction" because of "uncontradicted evidence" establishing his guilt to "a certainty," and that they were to convict unless there was a "good reason" for not doing so? If Wolcher is entitled to a new trial because there was excluded from his defense the "Billboard" magazine, why are not Robertson and Schmidt entitled to a new trial because there was excluded from their defense the decision of the Supreme Court of the United States?

This case is replete not only with error, it is replete—to give the Government the benefit of the doubt—with very close questions of law. Why is it that every single question is resolved against these appellants?

If a labor leader and his associates are to receive an equality of treatment with a "pinball king," then the least these appellants are entitled to is a new trial.

May they not have these questions examined by the full Court?

Wherefore, appellants respectfully apply for leave to file this supplemental petition for rehearing, and pray that said petition be heard en banc, and pray that the order of November 18, 1952, denying their petition for rehearing be vacated.

Dated, San Francisco, California, November 25, 1952.

Respectfully submitted,

GLADSTEIN, ANDERSEN &
LEONARD,

NORMAN LEONARD,
Attorneys for Appellants.

Certificate of Counsel

I hereby certify that I am of counsel for appellants and petitioners in the above-entitled cause and that in my judgment the foregoing application for leave to file supplemental petition for rehearing, prayer that supplemental petition for rehearing be heard en banc, and that order denying petition for rehearing be vacated, is well founded in point of law as well as in fact and that said petition is not interposed for delay.

Dated, San Francisco, California, November 25, 1952.

NORMAN LEONARD,
Of Counsel for Appellants.

[Endorsed]: Received November 25, 1952, U.S.C.A.

[Endorsed]: Filed December 29, 1952, U.S.C.A.

United States Court of Appeals
for the Ninth Circuit

No. 12,597

Order

HARRY RENTON BRIDGES, J. R. ROBERTSON, AND HENRY SCHMIDT,
Appellants,

vs.

UNITED STATES OF AMERICA,
Appellee.

No. 12,607

Order

HARRY RENTON BRIDGES,
Appellant,

vs.

UNITED STATES OF AMERICA,
Appellee.

Dec. 29, 1952

Application for Leave to File, Etc.

Before: Stephens, Bone, and Pope,
Circuit Judges

PER CURIAM

Following our denial of the petition for rehearing in the above-entitled cases, there was received at the clerk's office a document entitled "Application for Leave to File Supplemental Petition for Rehearing, Prayer That Supplemental Petition for Rehearing be Heard En Banc, and that Order Denying Petition for Rehearing be Vacated." The instrument is addressed to all of the judges of the court and was lodged with the clerk's office after the time for filing a petition for rehearing had expired and after the appellants had obtained from the United States Supreme Court an extension of time within which to petition for the writ of certiorari. Copies of our opinion, amended opinion, original petition for rehearing, and the document above mentioned, have been distributed to each active member of the court.

A United States Court of Appeals consists of three circuit judges, and, in circuits having more than three judges, it consists of a "Division" of three judges. In exceptional circumstances it may consist of all the active members of the circuit sitting in banc. A "Division" court is no less a court than an "in banc" court.

In Western Pacific R. R. Corp. v. Western Pacific R. Co., 9 Cir., 1951, 197 F. 2d 1013, the members of this court had before it an application similar to the one we are now dealing with and in that case the Supreme Court has granted the writ of certiorari without specifying whether it will deal with the subject of in banc procedure. We reaffirm the view taken by us in the Western Pacific case, to wit, that the assignment of causes for hearing of appeals pending in our court is at all times and in all circumstances, save only as to disqualification of a judge, the exclusive right and duty of the whole court and that it is not a privilege of litigants to request that their cases be heard by any selected court sitting in division or sitting in banc. Whether the case will be reheard after decision, and, if reheard, by which particular judges, are matters entirely for the court itself.

However, it is manifestly desirable that the final disposition of the instant cases should not be complicated because of any disposition the Supreme Court may make of the Western Pacific case, or delayed awaiting decision in that case, and for these reasons, and these reasons alone, we proceed to state the basis for our ruling on the document presented for filing with the clerk.

Section 46(c) of Title 28, U.S.C.A. provides:

> "Cases and controversies shall be heard and determined by a court or division of not more than three judges, unless a hearing or rehearing before the court in banc is ordered by a majority of the circuit judges of the circuit who are in active service. A court in banc shall consist of all active judges of the circuit."

All of the members of the Division to which these cases were assigned, and to which they remain assigned, are of the opinion that the cases do not differ from the regular business of the court in any respect which would justify treatment different from that accorded other cases and, therefore, all of the members are opposed to any reassignment of them or of any phase pertinent to them. Since Chief Judge Denman has disqualified himself in each of the cases, it is manifest that a majority of the circuit—or four members thereof—have not and will not grant any petition for rehearing in banc in regard to them.

A moment's thought dispels the notion that petition for rehearing in banc after decision in Division should necessitate the convening of the whole court for its consideration. If such a petition must be considered by the court in banc, most, if not every, lawyer on the losing side of a case before a Division would feel it his duty to ask the whole court to take it over. No judge, required to pass on the question, would do so without knowing the case through the records and the briefs, and even then, he would not have the benefit of open conference that our oral argument amounts to. We are of the opinion that the statutory power given the court to grant rehearings was never meant to provide an appeal from Division to the Court In Banc, but was meant to provide power for the court itself to control its affairs. It seems reasonably certain that the provision of Section 46(c) (in banc hearings) is expressed in the negative for the purpose of affording the power we suggest and, at the same time, of avoiding undesirable results. The whole active membership of the court acts upon the original assignment, and, "unless" and "until" the assignment is changed, the assignment continues. No suggestion is made in the statute that litigants have any choice as to the individual judges who shall sit on their cases, or whether they shall be heard in Division or in banc.

We have considered the petition to file the document first hereinabove mentioned, and have considered the reasons therein as to why appellants think our order denying the petition for a rehearing should be vacated and a rehearing should be granted. Since we amended our opinion after the filing of the original petition for a rehearing we now order that the document lodged with the clerk be filed as a petition to the "Division" and as a second petition for rehearing, and as such it is denied. The motion to vacate our order denying the original petition for a rehearing is denied.

[Endorsed]: Opinion on Application for Leave to File, etc. Filed Dec. 29, 1952. Paul P. O'Brien, Clerk.

United States Court of Appeals
for the Ninth Circuit

Nos. 12597 and 12607

[Title of Causes.]

Excerpt from Proceedings of Monday, December 29, 1952.

Before: Stephens, Bone and Pope,
Circuit Judges

ORDER DIRECTING FILING OF APPLICATION, ETC., AND DENYING SECOND PETITION FOR A REHEARING, ETC.

By direction of the Court, It Is Ordered that the application for leave to file supplemental petition for rehearing, etc., received November 25, 1952, be filed as a second petition for rehearing of above causes.

Upon consideration of such second petition for a rehearing, and pursuant to the Per Curiam Opinion thereon this day filed;

It Is Further Ordered that said second petition for rehearing be, and hereby is denied.

It Is Further Ordered that the motion to vacate our order of Nov. 18, 1952, denying the original petition for rehearing be, and hereby is denied.

United States Court of Appeals
for the Ninth Circuit

CERTIFICATE OF CLERK, U. S. COURT OF APPEALS FOR THE NINTH CIRCUIT, TO SUPPLEMENTAL RECORD CERTIFIED UNDER RULE 38 OF THE REVISED RULES OF THE SUPREME COURT OF THE UNITED STATES

I, Paul P. O'Brien, as Clerk of the United States Court of Appeals for the Ninth Circuit, do hereby certify the foregoing 23 pages, numbered from and including 8437 to and including 8460, to be a full, true and correct copy of the supplemental record of the above-entitled case in the said Court of Appeals, made pursuant to request of counsel for the appellant, and certified under Rule 38 of the Revised Rules of the Supreme Court of the United States, as the originals thereof remain on file and appear of record in my office.

Attest my hand and the seal of the said the United States Court of Appeals for the Ninth Circuit, at the City of San Francisco, in the State of California, this 13th day of January, 1953.

[Seal]: PAUL P. O'BRIEN,
Clerk.

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT,
and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

TELFORD TAYLOR
New York, N. Y.

NORMAN LEONARD
San Francisco, Cal.

Counsel for Petitioners

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT, and J. R. ROBERTSON, *Petitioners*, *vs.* UNITED STATES OF AMERICA.	No. ......

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Petitioners, Harry Renton Bridges, Henry Schmidt, and J. R. Robertson, respectfully pray that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Ninth Circuit entered in the above-entitled case on September 6, 1952, as amended November 18, 1952.

OPINIONS BELOW

The opinion of the District Court for the Northern District of California (hereinafter referred to as the "trial court") denying motions to dismiss the indictment is reported at 86 F. Supp. 922; its opinion overruling objections to the introduction of certain evidence is reported at 87 F. Supp. 14; its opinion upon the revocation of bail for petitioner Bridges pending his appeal to the Court of Appeals is reported at 93 F. Supp. 989.[1] The opinion of the Court of

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[1] The opinion of the trial court rendered on the Government's motion to stay proceedings in a pending civil denaturalization suit is reported at 86 F. Supp. 931.

Appeals for the Ninth Circuit vacating and setting aside the order revoking the bail of petitioner Bridges is reported at 184 F. 2d 881. The amended opinion of the Court of Appeals for the Ninth Circuit affirming the judgment below has not yet been officially reported; it is printed at Tr. 8354-8433.

JURISDICTION

The judgment of the Court of Appeals was entered on September 6, 1952. The order of the Court of Appeals denying petitioners' timely petition for rehearing, and its amended opinion, were entered on November 18, 1952. On November 28, 1952, Mr. Justice Douglas entered an order extending the time for filing a petition for certiorari to January 16, 1953. The jurisdiction of this Court is invoked under 28 U. S. C. 1254(1).

QUESTIONS PRESENTED

The Circuit Court of Appeals for the Ninth Circuit affirmed a judgment of the District Court of the United States for the Northern District of California, entered upon jury verdicts under a three-count indictment, finding petitioner Bridges guilty of making a false statement in his naturalization proceeding, finding the other two petitioners guilty of participating in procuring Bridges' naturalization certificate by fraud, and finding all three petitioners guilty of conspiring to defraud the United States by having Bridges make the false statement. The alleged falsity of the statement, or the alleged fraud, under each count, turned upon whether petitioner Bridges had ever been a member of the Communist Party. The questions are:

(1) Whether, in view of prior adjudications (including the determination of this Court in *Bridges* v. *Wixon*, 326 U. S. 135), this proceeding is barred, in whole or in part, by the principles of *res judicata*, or estoppel, or the due process clause of the Fifth Amendment.

(2) Whether this proceeding is barred by the statute of limitations.

(3) Whether, in four particular and important respects, petitioners were denied a fair trial.

STATUTES INVOLVED

The relevant provisions of (a) 18 U. S. C. 371, on which Count I of the indictment is based; (b) 18 U. S. C. 1015(a), on which Count II is based, (c) 8 U. S. C. [1946 ed.] 746(a), on which Count III is based, (d) 18 U. S. C. 3282, the applicable statute of limitations, and (e) 18 U. S. C. 3287, the Wartime Suspension Act, are set forth in the Appendix, *infra*, pp. 24-25.

STATEMENT

Harry R. Bridges has resided continuously in the United States since 1920, when he entered legally as an immigrant seaman from Australia (Tr. 43). He was naturalized on September 17, 1945. His wife and his children are native-born American citizens. He is the President, and the other petitioners are or have been officers, of the International Longshoremen's and Warehousemen's Union.

From 1934 to 1945, Bridges was the subject of investigations and proceedings designed to deport him on the ground that he was or had been a member of the Communist Party. These were unsuccessful, and on June 23, 1945 (five days after the decision in *Bridges* v. *Wixon*, *supra*), Bridges filed at the San Francisco office of the Immigration and Naturalization Service his petition for naturalization. On August 8, 1945, he appeared before an examiner in connection with this petition; Schmidt and Robertson also appeared and witnessed the petition.[2]

On September 17, 1945, Bridges, with the same two witnesses, appeared in the Superior Court of the State of California, and testimony was taken in support of the petition. The witnesses testified that they were American citizens, that they had known Bridges for five years and knew him to be of good moral character; they vouched for his loyalty to the United States and recommended him to citizenship (Tr. 134-135).[3] Government counsel stated that the witnesses were satisfactory, and they were excused. Bridges was then examined. The following was among many questions to and answers by him (Tr. 138):

> "Q. Do you now or have you ever belonged to the Communist Party in the United States?
> A. I have not, I do not."

Thereafter, Government counsel stated that he had no further evidence and no objection to naturalization (Tr. 144).

On May 25, 1949, three years, eight months, and eight days after the naturalization decree, this indictment (Tr.

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[2] Robertson was called at the last minute in place of a prospective witness whose citizenship qualifications were not established to the satisfaction of the examiner (Tr. 459-461).

[3] It is not alleged in the indictment herein, nor did the Government offer any proof at the trial, that any of these statements were false.

3-8) was filed. The fraud charge in Count I was that Bridges' testimony was false, in that he allegedly had been a member of the Communist Party from 1933 to September 17, 1945. The overt acts alleged to ground the conspiracy were the several steps of the naturalization proceeding. Count II of the indictment alleged that the question put to petitioner was material and his falsehood willful. Count III charged that Schmidt and Robertson assisted Bridges to obtain a certificate of naturalization, knowing it to have been procured by fraud.

After the indictment was returned, Bridges moved its dismissal (Tr. 10-26) on grounds which included all the issues embraced in the first two questions presented here.[4] Petitioners Schmidt and Robertson moved to dismiss on such of the foregoing grounds as were applicable to them (Tr. 27-41, 8312). The motions to dismiss were denied. *United States* v. *Bridges*, 86 F. Supp. 922.

After a long trial, the jury returned verdicts of guilty against Bridges on Counts I and II of the indictment, and against Schmidt and Robertson on Counts I and III of the indictment (Tr. 220-222). Motions in arrest of judgment and for new trial were duly made (Tr. 223-228). All were denied (Tr. 229), and Bridges was sentenced to concurrent terms of two years on Count I and five years on Count II (Tr. 230, 235-236). Schmidt and Robertson were each sentenced to concurrent terms of two years on Counts I and III of the indictment (Tr. 231-234, 237-240).

Ten weeks later, the Government moved to revoke the order granting bail to Bridges, and to remand him to the custody of the Marshal. Over objection, and despite the Government's admission that the appeal presented substantial questions, Bridges was incarcerated in the San Francisco County Jail (93 F. Supp. 989). Three weeks later he was released by order of the Court of Appeals. *Bridges* v. *United States*, 184 F. 2d 881.

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[4] *Supra*, p. 3.

Appeals from the judgment of conviction were timely filed to the Court of Appeals for the Ninth Circuit, which affirmed it on September 6, 1952. A petition for rehearing was denied, on the basis of an amended opinion, on November 18, 1952. A supplemental petition, reiterating the request for a hearing before the Court of Appeals *en banc*, was denied with a further opinion on December 29, 1952.[5]

SPECIFICATION OF ERRORS TO BE URGED

The court below erred:

(1) In holding that the indictment was not barred, in whole or in part, by prior adjudications, under the principles of *res judicata* or estoppel, or under the Fifth Amendment.

(2) In holding that the indictment was not barred by the statute of limitations.

(3) In affirming the judgment of the trial court, and holding that petitioners were afforded a fair trial, despite erroneous and prejudicial rulings, questions and statements of the trial court as follows: (a) the trial court's exclusion from evidence of this Court's decision in *Bridges* v. *Wixon*, *supra*, (b) improper questions put to the defense witness Father Meinecke, and the trial court's subsequent comments

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[5] *Cf. Western Pacific R.R. Corp.* v. *Western Pacific R. Co.*, 197 F. 2d 994, 1013 (9th Cir.), cert. granted 344 U. S. 809, Docket Nos. 150 and 160.

on these questions, (c) the trial court's restriction of the scope of cross-examination of the Government witness Kessler, and its comments, in the presence of the jury, in support of this ruling, and (d) the trial court's instruction to the jury that a reasonable doubt is a doubt for which "a good reason can be given".

REASONS FOR GRANTING THE WRIT

1. *Prior Adjudications.* As the court below put it, with commendable understatement, "the Executive Department has long been concerned with Mr. Bridges" (Tr. 8382). This concern has been manifested in two exhaustive proceedings, prior to this one, in which it was sought to deport him on the basis of a charge of Communist membership or affiliation. Both of these prior efforts were unsuccessful; the first proceeding resulted in an administrative adjudication favorable to Bridges, and the second culminated in the decision of this Court in *Bridges* v. *Wixon, supra.*

Administrative investigations by the Immigration and Naturalization Service in 1934 and 1936 failed to establish Bridges' membership in or affiliation with the Communist Party (Tr. 47, 49). Nevertheless, in 1938 the Secretary of Labor issued a warrant for his deportation on such charges, and a full and lengthy (Tr. 53) hearing was held before a special examiner of the Immigration and Naturalization Service, the Honorable James M. Landis. On December 28, 1939, Dean Landis transmitted to the Secretary of Labor his findings that neither membership in nor affiliation with the Communist Party had been established. The Secretary of Labor approved this determination and cancelled the warrant (Tr. 55).

Thereafter, and consequent upon a statutory amendment making past as well as present membership in or affiliation with the Communist Party a ground for deportation, a new warrant for Bridges' deportation was issued by the Attorney-General in 1941 (Tr. 56-58).[6] Another exhaustive hearing (Tr. 59) was held before the Presiding Inspector (the Honorable Charles B. Sears). Judge Sears found that the evidence established affiliation and membership; the Board of Immigration Appeals found to the contrary, but the Attorney-General found in accordance with Judge Sears' decision, and ordered Bridges deported. Upon his arrest, Bridges sued out a writ of habeas corpus contesting the validity of the warrant. His writ was denied by the District Court (49 F. Supp. 292) and this decision was affirmed (two judges dissenting) by the Court of Appeals for the Ninth Circuit (144 F. 2d 927), but this Court reversed the judgments below, and Bridges was released.[7] He thereupon applied for and obtained naturalization.

The court below refused to give these two prior administrative and judicial determinations the effect of *res judicata* or estoppel. As to the first, it held that "since an administrative board is an instrument of the executive power and not a court, the doctrine of *res judicata* cannot be applied to its decisions" (Tr. 8384), relying on *Pearson* v. *Williams*, 202 U. S. 281. As to the second, it held that in *Bridges* v. *Wixon, supra,* "there was no judicial determination that Bridges was not affiliated with nor a member of the Communist Party" (Tr. 8387). Both holdings are erroneous; both are in conflict with applicable decisions of this Court and of other courts of appeals.

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[6] In the meantime, the Immigration and Naturalization Service had been transferred to the Department of Justice.

[7] The history of these proceedings is summarized in the opinion of this Court in *Bridges* v. *Wixon, supra,* at pages 139-40.

With respect to the effect of administrative determinations, *Pearson* v. *Williams, supra,* is not governing here. As the *Pearson* opinion carefully specified, the administrative decision there in question (made by a board of special inquiry of the Commissioner of Immigration) was a tentative and summary one.[8] The Board had no power to compel the attendance of witnesses, and was expected to "decide upon such evidence as is at hand or is readily accessible."[9] In this context, the court stated:[10] "Decisions of a similar type long have been recognized as decisions of the executive department and cannot constitute *res judicata* in a technical sense".

But an entirely different situation is presented when, as here, the administrative proceeding is plenary and of a quasi-judicial character. *Tait* v. *Western Maryland Ry. Co.,* 289 U. S. 620; *Sunshine Coal Co.* v. *Adkins,* 310 U. S. 381; *Louisville & Nashville R. R. Co.* v. *Ohio Valley Tie Co.,* 242 U. S. 288. The court below wrongly read *Pearson* v. *Williams, supra,* as a blanket holding that administrative determinations are not given the effect of *res judicata* or estoppel.[11] The courts of appeals are in plain conflict on this question. Thus, in the First and District of Columbia Circuits, the courts of appeals appear to have taken the same position as did the court below. *Cf. Flynn* v. *Ward*, 95 F. 2d 742, 743 (1st Cir.); *Churchill Tabernacle* v. *Federal Communications Commission*, 160 F. 2d 244, 246 (D. C. Cir.). But in the Seventh and Eighth Circuits, a more discriminating result has been reached in line with the decisions of this Court, under which plenary, quasi-judicial determinations are given effect as *res judicata* or by way of estoppel. *International Building Co.* v. *United States*, 199 F. 2d 12 (8th Cir.); *United States* v. *Willard Tablet Co.*, 141 F. 2d 141 (7th Cir.). And the record in the present case leaves no doubt that the proceedings before the special examiners were plenary, and as exhaustive as any court trial.[12]

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[8] The Board's function was to determine, at the moment of the alien's debarkation, whether he was entitled to land. As Justice Holmes remarked, under these circumstances "any inquiry necessarily must be of a very summary sort". *Pearson* v. *Williams, supra,* at p. 284.

[9] *Id.* at page 285.

[10] *Ibid.*

[11] The nature of the misconception below is manifested by the court's observation that Dean Landis was "acting as an official of the executive department of the Government but not as an arm of the judicial department . . ." (Tr. 8383). True, of course, but this applies to all administrative determinations, including those which are quasi-judicial, and the court's test would have subverted the decisions in the *Tait* and *Sunshine* cases, *supra.*

Turning to the second proceeding, the decision of this Court in *Bridges* v. *Wixon, supra*, is a judicial determination based upon an administrative record—i.e., the record of the proceedings before Judge Sears and the reviewing authorities of the Department of Justice. The court below refused to give effect to the decision, on the grounds that "The matter in court was habeas corpus, and the Communist issue was not in the case" (Tr. 8307), and that "there was no judicial determination" (Tr. 8387) that Bridges was not a Communist Party member.

But the lower court's reliance upon the form of the proceeding (habeas corpus) is in direct conflict with the law as declared by this Court and other circuit courts of appeals. Where the writ is granted, by a plenary determination on the merits, the decision is *res judicata* of the issues of fact and law necessarily involved in that result. See *Morse* v. *United States*, 267 U. S. 80, 85; *Collins* v. *Loisel*, 262 U. S. 426, 430; *Harris* v. *Biszkowicz*, 100 F. 2d 854 (8th Cir.); *United States* v. *Chung Shee*, 71 F. 277 (D. C. S. D. Cal.); *Ex Parte Reaves*, 121 F. 848 (D. C. Ala.)

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[12] Tr. 53-59. The proceedings were protracted, many witnesses were called and exhibits introduced, full argument was heard and briefs received, the factual and legal issues were earnestly contested, and findings and conclusions were made.

The remarkable statement of the court below (Tr. 8387) that "the Communist issue was not in" *Bridges* v. *Wixon*, *supra*, flies in the face of the opinions of this Court and the lower courts in that proceeding. Likewise, the petition for the writ of habeas corpus, and the Government's traverse, put in issue whether there was evidence to support Judge Sears' decision and the Attorney-General's warrant.[13] And this Court clearly held that the record contained no substantial evidence, in support of the charge of Communist Party membership, against Bridges. There is, therefore, a plain basis for application of the rule as stated in *Southern Pacific RR. Co.* v. *United States*, 168 U. S. 1, at p. 48 that ". . . a right, question or fact distinctly put in issue and directly determined by a court of competent jurisdiction, as a ground for recovery, cannot be disputed in a subsequent suit between the same parties or their privies . . .". In the present case the parties (the Federal Government and Bridges) are the same as in *Bridges* v. *Wixon*, *supra*, and the issue (whether Bridges was or was not a member of the Communist Party) is the same as in that case.[14]

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[13] See Record in *Bridges* v. *Wixon*, *supra*, p. 49.

Indeed, the court below conceded (Tr. 8386) that this Court in *Bridges* v. *Wixon*, held "that the administrative decision approving an executive order to deport Bridges could not be sustained since it was not supported by substantial evidence". This Court's judgment in *Bridges* v. *Wixon* was, therefore, far more than a mere finding of unfairness or other irregularity in the administrative proceeding, such as would require a new trial. Courts never decide issues of fact in the philosophic absolute, but only within the framework of the record. When a conviction, or other judicial decision adverse to an individual, is upset on review for lack of supporting evidence, and not merely for unfairness or other irregularity, the determination on review (unless the proceeding is resumed below) is judicially final and is available to the individual to be pleaded as *res judicata* or estoppel by judgment. The Government cannot repeatedly cast the dice in the hope that a new and distinct proceeding may turn up substantial evidence. *Cf.*

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[14] Below, the Government made some point that Bridges might be shown to have become a Communist *after* the earlier determinations. But this is of no avail to it, as the case did not go to the jury on that basis. The indictment charged, in each count, that Bridges was a member from 1933 to September 17, 1945. At the trial, defense counsel objected unsuccessfully to the introduction of evidence antedating the prior determinations (Tr. 736, 816-17, 87 F. Supp. 14), and unsuccessfully requested instructions to the jury to disregard evidence of membership prior to each significant date in the earlier proceedings (Tr. 293-96). Therefore, even if earlier evidence might have been held admissible to prove a state of facts continuing after the prior determinations, which we by no means concede, the case as it went to the jury was not limited to the question of membership subsequent to the prior determinations. And in fact the bulk of the evidence related to years preceding these determinations. See the opinion below on the evidence by Judge Pope (Tr. 8404-8433).

Sealfon v. *United States*, 332 U. S. 575; *United States* v. *Williams*, 341 U. S. 58, at 63.

We need not here be concerned with what the situation would have been had the Government, after the decision in *Bridges* v. *Wixon, supra,* endeavored to resume the administrative proceeding for Bridges' deportation, and to hold another administrative hearing on the same factual issues. *Cf. Bryan* v. *United States*, 338 U. S. 552. The Government did not do so, and it is bound here by *Bridges* v. *Wixon* and the issues of fact therein judicially resolved.

Furthermore, the Government thereafter did not oppose Bridges' naturalization, and did not appeal from the decree granting him citizenship. That decree, itself, is also *res judicata* of the issues of fact necessarily decided, including that of non-membership in the Communist Party.[15]

Administrative decisions in recent years have often assumed proportions momentous to individuals. Deportation proceedings are perhaps the plainest example. See *Bridges* v. *Wixon, supra,* at p. 147. Although the prior proceedings against Bridges were not technically criminal in character, they were certainly penal. *Ng Fung Ho* v. *United States*, 259 U. S. 276; *Wallis* v. *Tecchio*, 65 F. 2d 250 (5th Cir.); *Browne* v. *Zurbrick*, 45 F. 2d 931 (6th Cir). The Fifth Amendment forbids double jeopardy as to even a trifling criminal offense. Its guaranty of due process of law extends at least the basic protections of the Bill of Rights to all types of proceedings, whether or not known in 1789. Unless the constitutional guaranty against double jeopardy is "to be eroded away by a tide of plausible-appearing exceptions" (Justice Murphy in *Wade* v. *Hunter,* 336 U. S. 684, 694), it must be held applicable to cases such as the one at bar.

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[15] The question of the binding effect of a naturalization decree, as to past facts, was expressly left open in *Knauer* v. *United States*, 328 U. S. 654. However, the Court did restate (at p. 670), with apparent approval, the rule that "the issue of fraud can become *res judicata* in the judgment sought to be set aside", and sharply distinguished the issue of *state of mind* (involved in the *Knauer* case) from issues as to *past facts* (involved in this case), as to which (at p. 671) "opportunity exists for the examiner or the judge to determine if what the new citizen swore was true, was in fact false."

Under the decision below, the Government can follow one protracted and exhaustive proceeding with another. If that can be done, there will inevitably come a proceeding, whether it be the second or the seventh, when the Government may get the result it wants. The entire course of proceedings with respect to Bridges embodies repetitious charges based upon the same factual issue, disregard of the salutary policy of repose, and harassment of an individual on the same charge over the course of fifteen years or more. This cannot be squared either with rudimentary concepts of fair play, or with the Fifth Amendment. This Court should examine "the whole course of the proceedings in order to ascertain whether they offend those canons of decency and fairness which express the notions of justice of English-speaking peoples even toward those charged with the most heinous offenses." See *Adamson* v. *California,* 332 U. S. 46, 67-68. *Cf. Snyder* v. *Massachusetts,* 291 U. S. 97, 105; *Francis* v. *Resweber*, 329 U. S. 459, 469.

2. *Statute of limitations.* This proceeding was barred by the general federal statute of limitations (18 U. S. C. 3282) unless the Wartime Suspension of Limitations Act (18 U. S. C. 3287) is applicable.[16] The court below held

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[16] In its original opinion of September 6, 1952, the court below held that Counts II and III were also saved by the "rights and liabilities" clause in the Act of June 25, 1946, which repealed the five-year limitation previously applicable to the offenses charged in these counts (Tr. 8225-8229). In its amended opinion of November 18, 1952, the court below held to the contrary (Tr. 8364-8367).

the latter Act applicable, expressly recognizing (Tr. 8379) that its decision was in direct conflict with *Marzani* v. *United States*, 168 F. 2d 133 (D. C. Cir.), twice affirmed by an equally divided Court, 335 U. S. 895 and 336 U. S. 922.[17]

The Wartime Suspension Act suspended until three years after the termination of hostilities (proclaimed by the President December 31, 1946) the running of the statute of limitations applicable to offenses "involving fraud or attempted fraud against the United States or any agency thereof, whether by conspiracy or not."[18] This language is substantially identical with that contained in the similar statute enacted after World War I (November 17, 1921, c. 124, Sec. 1, 42 Stat. 220), which suspended the limitation on "any offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner."

By a series of unanimous decisions of this Court, it became the settled construction of the 1921 statute that it applied only where fraud was a necessary element of the statutory crime charged. *United States* v. *Noveck*, 271 U. S. 201; *United States* v. *McElvain*, 272 U. S. 633; *United States* v. *Scharton*, 285 U. S. 518. Even if the acts of which the defendants stood accused clearly involved fraud in a general sense, the 1921 Act was inapplicable unless the criminal statute explicitly made fraud an essential ingredient of guilt. Thus, in the *Noveck* case, an indictment for perjury was barred, even though it consisted of a false statement of income to defraud the government of tax revenues, because fraud was not a necessary element of the crime of perjury. In the *Scharton* case,[19] the court went further, and declared (285 U. S. at p. 522) that such statutes should be "liberally interpreted in favor of repose, and ought not to be extended by construction to embrace so-called frauds not so denominated by the statutes creating offenses."

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[17] The existence of the conflict was also recognized in *United States* v. *Skneer*, 194 F. 2d 598, 599 fn. 1 (3rd Cir.), and *Bridges* v. *United States*, 184 F. 2d 881, 883-84.

[18] Two other categories of offenses covered in the Wartime Suspension Act were concededly not applicable in this proceeding.

In the light of this interpretive history, Congress enacted the Suspension Act involved in this proceeding. The legislative history is barren of any evidence that Congress intended or attempted to undo or modify the rules of interpretation previously laid down by this Court, or in any way to expand the new statute's coverage. Furthermore, the House and Senate Committee reports strongly indicate that the legislative intent was to suspend the limitation on frauds of a pecuniary nature committed in connection with the war,[20] quite different from the offenses here charged.

The substantive offense with which petitioner Bridges is charged (Count II) is making a false statement in a naturalization proceeding. It is patent on the face of the statute that fraud is not an essential element of the statutory crime. The *Noveck* and *Scharton* cases are directly in point, and the Suspension Act does not apply. The decision below is plainly wrong, and is in conflict not only with *Marzani* v. *United States*, *supra*, but also with *United*

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[19] The *Scharton* case construed a proviso in the Revenue Act of 1926, Sec. 1110(a), similar in language to the 1921 statute.

[20] No. 2051, House Misc. Rep. III, and No. 1544, Sen. Misc. Rep. IV (77th Cong. 2d Sess.).

States v. *Obermeier*, 186 F. 2d 243 (2nd Cir.), wherein the Act was held inapplicable to a charge identical to the one herein question. As the Court of Appeals for the Second Circuit concluded, the Act applies[21]

> ". . . only when fraud or attempted fraud against the United States (or one of its agencies) 'is an ingredient under the statute defining the offense' and does not, absent such a statutory definition, apply to perjury or false swearing even when the United States is directly interested. Nothing in 8 U. S. C. § 746(a)(1),[21a] under which the defendant was indicted, makes fraud an ingredient of the crime."

The *Marzani* case held that the Suspension Act applies only to pecuniary frauds, and under this decision the Act is equally inapplicable to Counts I and III of this indictment, and they are barred. Other reasoning leads to the same result. Count I is cast in the language of conspiracy to defraud, but the acts alleged constitute only a conspiracy to have Bridges make a false statement in a naturalization proceeding. Similarly, Count III charges petitioners Robertson and Schmidt with assisting Bridges to obtain a Certificate of Naturalization, by means of a false statement. If fraud is not an essential element of the false statement, it can hardly be an element of the conspiracy or of the assistance. This reasoning was the basis of this Court's decision in the *McElvain* case, *supra*, where the defendant was indicted under the same statute on which Count I of the present indictment is based. The Court held that the earlier Suspension Act did not cover the conspiracy because the substantive offense, to which the conspiracy was directed, was not covered.[22]

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[21] *United States* v. *Obermeier*, *supra*, at page 257. The opinion of Judge Frank was concurred in by Judges Learned Hand and Swan.

[21a] Now 18 U. S. C. 1015 (a), on which Count II of this indictment is based.

The decision in the *Marzani* case also appears to have been confirmed by this Court's dictum in *United States* v. *Beacon Brass Co. Inc.*, 344 U. S. 43.[23] Indeed, the decision below, holding the Suspension Act applicable, is so bereft of support in precedent or logic that a district court in California has recently refused to follow it. *United States* v. *Grainger* (N. D. Cal.), decided December 5, 1952.[24]

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[22] *United States* v. *Gottfried,* 165 F. 2d 360 (2nd Cir.), heavily relied on by the court below, involved both conspiracy and the substantive offense of false statements made to the Office of Price Administration in connection with sugar rationing. The Suspension Act was held applicable, but the decision seems to have been doubted in the later *Obermeier* case in the same court (186 F. 2d at p. 257, footnote 64). Furthermore, the crime involved was more in the nature of a "wartime offense" to which the Suspension Act was thought peculiarly applicable. See, in this connection, the concurring opinion of Mr. Justice Clark in *United States* v. *Smith,* 342 U. S. 225, 230-31.

[23] Referring to the statute involved in the *Marzani* case (the False Claims Act), this Court, *per* Mr. Justice Minton, stated at 344 U. S. p. 45: "Obviously, at the times of the indictments here, the three-year limitation period, 18 U. S. C. (Supp. V) Sec. 3282, for violations of this statute had expired as to statements made in October 1945." See also *United States* v. *Anzalone,* 197 F. 2d 714 (3rd Cir.).

[24] As in the *Gottfried* case, *supra,* the defendants in the *Grainger* case were indicted under both the False Claims Act and the general conspiracy statute on which Count I of the indictment here is based. The district court (Lemmon, D. J.) held all counts barred and the Suspension Act inapplicable, on the basis of the *Scharton, Marzani* and *Beacon Brass* cases, *supra.* Referring to the opinion below in the present case, the court stated:

> ". . . It should be observed, however, that in its *Bridges* opinion, our appellate court did not evaluate the force of the word 'denominated' in the *Scharton* case; that in criticizing the 'conclusions' of the Court of Appeals for the District of Columbia in the *Marzani* case, *supra,* the Ninth Court of Appeals did not consider the fact that *Marzani* had twice been affirmed, though by a divided Supreme Court; and finally, our Court of Appeals apparently overlooked the *Beacon Brass* case, *supra*
>
> "This Court, therefore, must though reluctantly, disregard the holding in Bridges, and be guided by the Supreme Court's recent semaphores in *Scharton, Marzani,* and *Beacon Brass.*"

Finally, the question here at issue is an important one, as the Government earnestly maintains in its petition for allowance of an appeal to this Court in the *Grainger* case, *supra*.[25] Another question of construction of the Suspension Act has recently been brought before this Court by the Government's petition for certiorari in *United States* v. *Klinger*, 199 F. 2d 645 (2nd Cir.). All the observations therein with respect to the importance of the matter[26] are applicable to this case, and underline the desirability of settling the conflict created by the court below.

3. *Denial of Fair Trial.* A. The Court below affirmed the exclusion from evidence of this Court's opinion in *Bridges* v. *Wixon*, which Robertson and Schmidt had offered to support their vouching for Bridges in the naturalization proceedings. It said the opinion could not have been explanatory of their beliefs "because of the nature of the issue involved in the case and the narrow scope of the decision (Tr. 8388)". But these petitioners had the right to have the jury determine the reasonableness of their beliefs

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[25] See the matter under the heading "The Question is Substantial" in the Government's petition in that case, filed January 2, 1953 in the District Court for the Northern District of California. Therein the Government also concedes that the decision below in this case is in conflict with the *Marzani* and *Obermeier* cases, *supra*.

[26] See pages 7 to 8 of the Government's petition in No. 527. In the *Klinger* case, the question at issue is whether the *bar* of the statute is suspended until December 31, 1949, or whether the *running* does not begin until that day, creating in effect a six-year period. *Cf.* *United States* v. *Smith*, 342 U. S. 225. The Government's petition points out that there are well over one hundred prosecutions in which indictments have been filed but which have not yet been brought to trial, and that the Suspension Act has now become permanent legislation, so that definitive construction by this Court is desirable. *Cf.* Stern, *Denial of Certiorari Despite a Conflict*, 66 Harv. L. Rev. 465 (January, 1953), *passim*.

by an examination of the document upon which they claimed those beliefs were predicated. *Potter* v. *United States,* 155 U. S. 438; *Harrison* v. *United States,* 200 F. 662 (6th Cir.); *Buchanan* v. *United States.* 15 F. 2d 496 (8th Cir.); *Hersh* v. *United States,* 68 F. 2d 799 (9th Cir.); *Miller* v. *United States,* 120 F. 2d 968 (10th Cir.); *C. I. T. Corporation* v. *United States,* 150 F. 2d 85 (9th Cir.). The exclusion of this evidence was prejudicial error. *Cf. Kotteakos* v. *United States,* 328 U. S. 750.

B. Father Paul Meinecke, a Catholic priest, was called as a character witness by Bridges. At the conclusion of his examination by counsel, the trial court undertook an examination which tended to discredit the witness.[27] Questions were put which indicated that the witness was mentally unbalanced (Tr. 4380-1). The court below admitted that "the questions of the [trial] court might be subject to misunderstanding" (Tr. 8393), but went on to say that such a danger was cured by a subsequent instruction. In fact, no subsequent instruction to disregard the implications of the questions was given. Rather, the trial judge said he was seeking to provide the jury with "all the facts surrounding the Father" (Tr. 4387). This indicated that there were "facts" concerning the witness' mental health which the jury ought to consider, and if anything this compounded the evil. Similar conduct on the part of a trial judge has heretofore resulted in setting aside convictions. *United States* v. *Brandt,* 196 F. 2d 653 (2nd Cir.); *Williams* v.

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[27] Shortly prior to doing so the trial court had declined an invitation of defense counsel to assist in overcoming technical objections put by the prosecutor during the direct examination of this very witness with the observation that "It is not the province of the court to examine the witness" (Tr. 4369-70).

United States, 93 F. 2d 685 (9th Cir.); *cf. Kotteakos* v. *United States, supra.*

C. The trial court improperly limited cross-examination of Kessler, a key prosecution witness. An earlier witness had placed Bridges at an alleged Communist Party meeting, and had fixed the time as an occasion when he (the witness) had stopped at a specified hotel in San Francisco *"late in 1940"* (Tr. 3343). Subsequently, the Government asserted that this was the "only registration" of the witness at the hotel in question for the year 1940 (Tr. 3481). The defense thereupon produced a registration card dated in *February* 1940—the only one it found in the hotel records.

In order to remove this cloud upon its witness, the Government called Kessler, an employee of the Immigration and Naturalization Service, who produced another registration card dated in *August* 1940, with the explanation that the Government had earlier removed this card from the hotel files.

The trial court should have permitted an unhampered cross-examination of this Government employee to determine why and under what circumstances the second registration card had been removed.[28] However, disregarding this Court's decision in *Alford* v. *United States,* 282 U. S. 687, the trial court permitted no cross-examination on this point (Tr. 3580-3602). This was a prejudicial abuse of discretion which "cut off *in limine* all inquiry on a subject with respect to which the defense was entitled to a reasonable cross-examination". *Alford* v. *United States, supra,* at p. 694.

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[28] Earlier government witnesses who had fixed a precise date when they claimed to have seen Bridges in New York City at an alleged Communist meeting were confronted with documentary and other evidence which, as the court below recognized, established "apparently beyond controversy" (Tr. 8423) that he was three thousand miles away in California at that time. The caution thereafter exhibited by the Government in fixing precise dates was understandable.

In connection with this incident, the trial court made highly prejudicial observations in the presence of the jury.[29] The court below recognized this as being "in poor discretion" (Tr. 8397) and as not reflecting the "true idealism" with which a trial judge should act (Tr. 8397). But it is far more than that. Standing by itself, it would justify a reversal. Together with the other errors, it compels one. *Kotteakos* v. *United States, supra; Krulewitch* v. *United States,* 336 U. S. 440; *Kraus & Bros.* v. *United States,* 327 U. S. 614; *Fiswick* v. *United States,* 329 U. S. 211; *United States* v. *Levi,* 177 F. 2d 833 (7th Cir.); *Meeks* v. *United States,* 163 F. 2d 598 (9th Cir.); *Wolcher* v. *United States,* F. (2) (9th Cir.), decided November 17, 1952.

D. The trial judge told the jury that petitioners were entitled to acquittal if the Government failed to prove their guilt beyond a reasonable doubt, but also instructed that such a doubt was one "for which a good reason can be given" (Tr. 7885-6). This put upon petitioners the burden of satisfying the jury that there was a good reason for their acquittal. The court below itself recognized that such an instruction is "not to be commended" (Tr. 8399).

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[29] In the course of ruling upon the point, the trial judge said:

> "Then in Morton v. U. S. at 60 Fed. 2d 696, at 699. And the language used in this Morton case is somewhat reminiscent of your [addressing trial counsel] expectation or hope that some error might be created in the record. The Court said * * * 'The battle continued, not to ascertain the truth, but in the evident hope that error might be injected into the record and ultimate conviction thereby avoided. But avoidance of a conviction upon uncontradicted evidence, establishing to a certainty the guilt of the accused, . . .' and so forth."

The circuits are not in agreement on the reversibility of an instruction to the effect that a reasonable doubt means a doubt for which a reason can be assigned. *Cf. United States* v. *Farina,* 184 F. 2d 18 (2nd Cir.) (see especially Judge Frank's dissenting opinion at pp. 21-24); *Pettine* v. *Territory of New Mexico,* 201 F. 489 (8th Cir.). But never has it been suggested that not only must an affirmative reason be assigned to warrant an acquittal, but that the reason must be a "good" one. Standing alone this error would require reversal of the convictions. *Bihn* v. *United States,* 328 U. S. 633; *Bollenbach* v. *United States,* 326 U. S. 607. Compounded as it is with other errors of the trial court, the convictions cannot stand. *Cf. Kotteakos* v. *United States, supra,* and *Krulewitch* v. *United States, supra.*

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this petition for a writ of certiorari should be granted.

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Counsel for Petitioners.

January, 1953.

APPENDIX

18 U. S. C. Section 371:

"If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy; each of the parties to such conspiracy shall be fined not more than $10,000., or imprisoned not more than two years, or both."

18 U. S. C. Section 1015 (a):

"Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens * * * shall be fined not more than $5,000. or imprisoned not more than five years, or both."

8 U. S. C. (1946 ed.) Section 746 (a):

"It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise * * *

(5) To encourage, aid, advise, or assist any person not entitled thereto to obtain, accept, or receive any * * * certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or of citizenship—

a. Knowing the same to have been procured by fraud; or

b. Knowing the same to have been procured by the use or means of any false name or false

> statement given or made with intent to procure the issuance of such * * * certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or citizenship * * *"

18 U. S. C. Section 3282:

"Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed."

18 U. S. C. Section 3287:

"When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontracted, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.

Definitions of terms in section 103 of Title 41 shall apply to similar terms used in this section."

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No. 548

In the

Supreme Court of the United States

October Term, 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT
and J. R. ROBERTSON,
Petitioners,

v.

UNITED STATES OF AMERICA

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

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REPLY MEMORANDUM FOR THE PETITIONERS

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United States v. *Obermeier*, 186 F. 2d 243 (2nd Cir.) 2

IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT,
and J. R. ROBERTSON,
Petitioners,
v.
UNITED STATES OF AMERICA.

No. 548

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

REPLY MEMORANDUM FOR THE PETITIONERS

I

With respect to the question whether this prosecution is barred by the statute of limitations, the Government's memorandum (pp. 20-23) agrees that the decision below is in square conflict with *United States* v. *Obermeier*, 186 F. 2d 243 (2nd Cir.) and *Marzani* v. *United States*, 168 F. 2d 133 (D. C. Cir.), affirmed by an equally divided Court, 335 U. S. 895, and similarly reaffirmed, 336 U. S. 922. Recognizing this conflict, the Government's memorandum substantially concedes, and certainly does not contest (pp. 35-36) the issuance of a writ of certiorari to review this question.

The Government's statement (p. 22) that the conflict "relates to a matter of diminishing importance" is supported only by the suggestion that there are less (by some indeterminate amount) than the "over one hundred prosecutions", relied on by the Government in its pending petition for certiorari in No. 527, *United States* v. *Klinger,* 199 F. 2d 645 (2nd Cir.), that would be governed by the decision in the instant case.

Furthermore, the Government's memorandum in the instant case (pp. 23-26) challenges the holding of the court below that Counts 2 and 3 of the indictment were not preserved by a saving clause in the 1948 repealer of the previous five-year statute of limitations—a challenge which implicitly invites review by this Court.

Finally, we respectfully remind the Court that a Federal District Court *within the Ninth Circuit (United States* v. *Grainger,* decided December 5, 1952) has deliberately declined to follow the decision in the instant case by the Court of Appeals for the Ninth Circuit, and that the Government is seeking an appeal to this Court in the *Grainger* case.* We cannot believe that the Government would thinkingly contend that the *Grainger* case, wherein the Government did not prevail, should be reviewed on appeal by this Court, but that the instant case, wherein the same basic question was decided below adversely to petitioners, should not be reviewed by this Court on certiorari. Certainly such a forked position would lend itself readily to invidious inferences.

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*See the petition in No. 548 at pp. 18-19, and the Government's memorandum at p. 22, footnote 14.

II

It seems apparent, therefore, that a writ of certiorari should issue to review the question respecting the statute of limitations. Obviously, the principal purpose of the Government's memorandum is to limit the scope of the writ to this question, as the Government's memorandum (p. 36) expressly requests.

With all the earnestness at our command, we respectfully urge that such a limitation in the writ is unsupportable. The question whether this prosecution was barred by prior adjudications is one of the two basic questions in this case, fully equal in importance to the question with respect to the statute of limitations, as is apparent from the content of and emphasis given to this point in our petition (pp. 7-14).

Apart from the judicial effect of the naturalization decree itself, and the emasculation of Constitutional guaranties resulting from multiple and repetitious penal proceedings (both of which are substantial questions), it is clear that the issue as between the Government and petitioners revolves around the judicial effect of this Court's decision in *Bridges* v. *Wixon*, 326 U. S. 135. The nub of this issue is clearly reflected in the following extract from the Government's memorandum (pp. 14-15):

> ". . . At most, what was decided in the prior proceedings was that Bridges had not been shown to be a member of the Communist Party before 1940. The issue as of 1945 when Bridges swore that he was not a member, was, of course, not at all involved in those proceedings. Thus the Government did not attempt to re-litigate any issue actually decided in the deportation hearings.[8]

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[8] "To establish the falsity of the 1945 statement the Government did not rely on the evidence which had been introduced at the prior deportation hearings. All of the government's witnesses were new."

The flaw in the Government's argument is apparent from the extraordinary footnote. That the Government's witnesses against Bridges in the prior deportation hearings had all been discredited, so that the Government felt obliged to dredge up and rely upon an entirely new lot, is indeed interesting, but quite irrelevant to the point at issue. The question is not whether the prosecution's evidence came from new witnesses, but whether the issue which went to the jury was, in whole or in part, the same issue that had been litigated before. If, "what was decided in the prior proceedings was that Bridges had not been shown to be a member of the Communist Party before 1940", then obviously "the issue as of 1945", which alone should have gone to the jury, was whether Bridges was at any time a Communist after the decision in 1940 and before September 17, 1945 (the latest date specified in the indictment).

However, as we pointed out in our petition (p. 12, footnote 14), the indictment was not so limited, and the efforts of the defense to limit the evidence were unsuccessful. The Government's memorandum completely fails to meet this basic point. It is only necessary to read the Government's summary of its own evidence (pp. 4-10) to see that the great bulk relates to years prior to 1940. How the jury would have found had the issue been properly limited is, at best, entirely speculative.

We pass over without further comment the Government's labored efforts to explain away (p. 14) the conflict among the circuits created by the decision below with respect to the judicial effect of administrative or habeas corpus decisions. As for the Government's contention (p. 13) that *Bridges* v. *Wixon, supra,* merely held that the administrative hearing was "unfair", rather than that the evidence did not sustain the deportation order, we respectfully refer the Court to its opinion in *Bridges* v. *Wixon*, at p. 156 ("Since it was error to admit O'Neil's unsworn statements against Bridges, since they were so crucial to the findings of membership, and since that issue was so close, we are unable to say that the order of deportation may be sustained without them".), and to the conclusion of the court below (Tr. 8386) that this Court in *Bridges* v. *Wixon* held "that the administrative decision approving an Executive Order to deport Bridges could not be sustained since it was not supported by substantial evidence."

It is difficult, therefore, to find any reasonable basis for restricting the scope of the writ in the manner suggested by the Government. It seems clear that the case should in any event come before this Court to review the limitations question. Why should petitioners be foreclosed from presenting the important legal issues, vital to petitioners' rights as citizens under a government of law, which stem from the prior adjudications? The integrity and effect of this Court's own decision in *Bridges* v. *Wixon* are directly involved in this proceeding and there are, therefore, especially compelling reasons for this Court itself to pass upon these issues.

III

For the foregoing reasons, it is respectfully submitted that the writ of certiorari should not be limited in the manner suggested by the Government.

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Counsel for Petitioners.

February, 1953.

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No. 548

IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT
and J. R. ROBERTSON,
Petitioners,
v.
UNITED STATES OF AMERICA.

PETITION FOR ENLARGEMENT OF SCOPE OF REVIEW ON CERTIORARI

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Petitioners,

v.

UNITED STATES OF AMERICA.

PETITION FOR ENLARGEMENT OF SCOPE OF REVIEW ON CERTIORARI

Come now petitioners above-named and hereby apply for an order enlarging the scope of review as defined by the order of this Court granting certiorari on March 9, 1953.

1.

On January 14, 1953, petitioners filed a petition for a writ of certiorari to review a judgment of the United States Court of Appeals for the Ninth Circuit affirming judgments of conviction in the United States District Court for the Northern District of California. In said petition three questions were presented for review:

1. Whether, in view of prior adjudications (including the determination of this Court in *Bridges* v. *Wixon*,

326 U. S. 135), this proceeding is barred, in whole or in part, by the principles of *res judicata*, or estoppel, or the due process clause of the Fifth Amendment.

2. Whether this proceeding is barred by the statute of limitations.

3. Whether, in four particular and important respects, petitioners were denied a fair trial.

II.

On March 9, 1953, this Court made an order granting the writ limited, however, to Questions 1 and 2.

III.

Petitioners respectfully urge that the issues embraced under Question 3 are important and substantial questions which affect the administration of criminal justice in the courts of the United States, and, as more fully set out in the petition for certiorari (pp. 19-23), that the rulings of the court below are in conflict with the decisions of other courts of appeal and with the principles enunciated by this Court in *Kotteakos* v. *United States*, 328 U. S. 750; *Bollenbach* v. *United States*, 326 U. S. 607; and *Bihn* v. *United States*, 328 U. S. 633.

IV.

Apparently, under the rulings of this Court, the petitioners and this Court will be foreclosed from considering the issues raised under Question 3, unless this petition be filed:

For example, in *Dennis* v. *United States,* 341 U. S. 494 at 518, Mr. Justice Frankfurter pointed out "that no attempt was made to seek an enlargement of the range of questions" specified in the limited grant of certiorari in that case, and therefore "these alone are now open for our consideration". See also the dissenting opinion by Mr. Justice Black in that case, at page 581.

V.

Petitioners respectfully call the Court's attention to that portion of Question 3, as set forth in the petition (pp. 19-20), which deals with the exclusion from evidence, at the trial, of this Court's opinion in *Bridges* v. *Wixon,* 326 U. S. 135. It is apparent that this particular issue is closely related to the issues presented by Question 1 of the petition, relating to prior adjudications, including the determination by this Court in *Bridges* v. *Wixon, supra.* In view of this close relationship, petitioners respectfully urge that the Court should not be foreclosed from consideration of all aspects of the problem.

Wherefore, petitioners pray that the Court make an order enlarging the scope of review so that all questions presented by the petition for certiorari, particularly that relating to the exclusion from evidence of *Bridges* v. *Wixon,* may be considered.

Respectfully submitted,

TELFORD TAYLOR

NORMAN LEONARD

Counsel for Petitioners.

Certificate of Counsel

We hereby certify that the foregoing petition is presented in good faith and not for delay.

TELFORD TAYLOR
NORMAN LEONARD
Counsel for Petitioners.

March 21, 1953

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT,
and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

BRIEF FOR THE PETITIONERS

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT,
and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

No. 548

BRIEF FOR THE PETITIONERS

Opinions Below

The opinion of the District Court for the Northern District of California (hereinafter referred to as the "trial court") denying motions to dismiss the indictment is reported at 86 F. Supp. 922; its opinion overruling objections to the introduction of certain evidence is reported at 87 F. Supp. 14; its opinion upon the revocation of bail for petitioner Bridges pending his appeal to the Court of Appeals is reported at 93 F. Supp. 989.[1] The opinion of the Court of Appeals for the Ninth Circuit vacating and setting aside the order revoking the bail of petitioner Bridges is reported at 184 F. 2d 881. The amended opinion of the Court of

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[1] The opinion of the trial court rendered on the Government's motion to stay proceedings in a pending civil denaturalization suit is reported at 86 F. Supp. 931.

Appeals for the Ninth Circuit affirming the judgment below is reported at 199 F. 2d 811, and its additional opinion on supplemental petition for a rehearing en banc,[1a] at 201 F. 2d 254.

Jurisdiction

The judgment of the Court of Appeals was entered on September 6, 1952. The order of the Court of Appeals denying petitioners' petition for rehearing, and its amended opinion, were entered on November 18, 1952. On November 28, 1952, Mr. Justice Douglas entered an order extending the time for filing a petition for certiorari to January 16, 1953. The petition was filed January 14, 1953, and was granted March 9, 1953, limited, however, to questions 1 and 2 presented by the petition for the writ. The jurisdiction of this Court rests on 28 U. S. C. 1254(1). See also Fed. R. Crim. P. 37(b)(2) and 45(a).

Questions Presented

The Circuit Court of Appeals for the Ninth Circuit affirmed a judgment of the District Court of the United States for the Northern District of California, entered upon jury verdicts under a three-count indictment, finding petitioner Bridges guilty of making a false statement in his naturalization proceeding, finding petitioners Schmidt and Robertson guilty of participating in procuring Bridges' naturalization certificate knowing it to have been procured by fraud, and finding all three petitioners guilty of conspiring to defraud the United States by having Bridges make the false statement. The alleged falsity of the statement, or the alleged fraud, under each count, turned upon whether petitioner Bridges had ever been a member of the Communist Party. The questions are:

[1a] *Cf. Western Pacific RR. Corp. v. Western Pacific RR. Co.*, 21 L. W. 4297, April 6, 1953; *infra*, p. 11, n. 10a.

(1) Whether this proceeding is barred by the statute of limitations.

(2) Whether, in view of prior adjudications (including the determination of this Court in *Bridges* v. *Wixon*, 326 U. S. 135), this proceeding is barred, in whole or in part, by the principles of *res judicata*, or estoppel, or the due process clause of the Fifth Amendment.

STATUTES INVOLVED

The relevant provisions of (a) 18 U. S. C. 371, on which Count I of the indictment is based; (b) 18 U. S. C. 1015(a), on which Count II is based, (c) 8 U. S. C. [1946 ed.] 746(a) on which Count III is based, (d) 18 U. S. C. 3282, the applicable statute of limitations, (e) 18 U. S. C. 3287, the Wartime Suspension Act, and (f) other statutory provisions useful for the consideration of this case, are set forth in the Appendix, pp. 1-11.

STATEMENT

Harry R. Bridges has resided continuously in the United States since 1920, when he entered legally as an immigrant seaman from Australia (Tr. 43). He was naturalized September 17, 1945. His wife and children are native-born American citizens. He is the President, and the other petitioners are or have been officers, of the International Longshoremen's and Warehousemen's Union.

From 1934 to 1945, Bridges was the subject of investigations and proceedings designed to deport him on the ground that he was or had been a member of the Communist Party. An investigation of Bridges' alien status, undertaken in 1934 by the San Francisco District Director of Immigration and Naturalization working in conjunction with the San Francisco Police Department, resulted in a report by the District Director that the investigation had "failed to show that he [Bridges] is in any manner connected with the Communist Party, or any radical organization" (Tr. 47). Thereafter, the Commissioner of Immigration and Naturalization appointed three members of his staff to investigate charges against Bridges; their report, prepared in 1936, concluded (Tr. 49):

> "In short, whenever any legal ground for the deportation of Bridges has been brought to the attention of the Department of Labor, it has been investigated but, invariably, it has been found that he was in the clear, and that his status as an immigrant was entirely regular".

In 1937, the Department of Labor, by its then Solicitor (Gerard D. Reilly), conducted a further investigation, during the course of which Bridges was put under oath by the Solicitor and testified as follows (Tr. 49-50):

> "Q. Were you—or are you—a member of the Communist Party?
>
> "A. No."

In 1938, the Department of Labor issued a warrant for Bridges' arrest and deportation on the ground that his presence in the United States was in violation of the immigration laws, and a lengthy[2] hearing was held before a Trial Examiner specially appointed by the Secretary of Labor (Tr. 50-55). The charge in that proceeding was that Bridges "became and now is" a member of the Communist Party.[3] During the course of the hearing before the Trial Examiner, Bridges testified under oath as follows (Tr. 53):

> "Q. Are you now a member of the Communist Party?
> "A. No.
> "Q. Or have you at any other time in the past been a member of the Communist Party?
> "A. No."

At the conclusion of the hearing, the Trial Examiner (the Honorable James M. Landis) transmitted to the Secretary of Labor his findings and conclusions that "the evidence therefore establishes neither that Harry R. Bridges is a member of nor affiliated with the Communist Party of the

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[2] The taking of testimony occupied 45 days; 32 witnesses were called by the Government and 27 by Bridges; 274 exhibits were introduced by the Government and 136 by Bridges; the stenographic transcript of the hearing comprised 7724 pages, exclusive of the exhibits. Tr. 53; see also *In the Matter of Harry R. Bridges—Findings and Conclusions of the Trial Examiner* (U. S. Government Printing Office, 1939).

[3] More precisely, the charge, under the statute then in effect, was that Bridges "became and now is a member of an organization . . . that believes in, advises, advocates and teaches the overthrow by force and violence of the Government of the United States." However, in partial response to a request for a bill of particulars, the Government replied that the organization in question was the Communist Party of the United States of America. Tr. 51-53; see also *In the Matter of Harry R. Bridges, supra*, pp. 135-36. Other charges, not directly relevant here, related to "affiliation" with the Communist Party, and to the distribution of printed matter advocating the overthrow of the Government by force and violence.

United States of America."[4] The Secretary of Labor sustained the Trial Examiner's findings, cancelled the warrant of deportation, and dismissed the proceedings, on January 8, 1940.

Early in 1940, the House of Representatives passed a bill directing the Attorney General to take Bridges into custody and deport him "notwithstanding any other provisions of law". (H. R. 9766, 76th Cong., 3rd Sess.). The Attorney General, in a letter to the Senate Committee which was considering the bill, expressed the opinion that such special legislation, directed against an individual, would be unconstitutional (Sen. Rep. 2031, 76th Cong., 3rd Sess., p. 9), and the bill was not reported to the Senate. However, Congress thereupon proceeded to amend the statute to provide for deportation of any alien who was "at the time of entering the United States, or has been at any time thereafter" a member of or affiliated with an organization of the character attributed to the Communist Party in the Landis proceeding.[5] Although this statute was framed in general terms, it is apparent that the sponsor of the legislation in the House of Representatives had as his chief purpose the laying of a basis for further deportation proceedings against Bridges.[6]

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[4] Tr. 54-55; see also *In the Matter of Harry R. Bridges, supra*, pp. 132-134. The Trial Examiner's findings were submitted to the Secretary of Labor on December 28, 1939.

[5] Act of June 28, 1940, 54 Stat. 673, 8 U. S. C. 137. The year before, this Court had ruled that the statute then in force required present, rather than past, membership or affiliation as the basis for deportation. *Kessler v. Strecker*, 307 U. S. 22.

[6] On the floor of the House of Representatives, Congressman Hobbs declared "It is my joy to announce that this bill will do, in a perfectly legal and constitutional manner, what the bill specifically aimed at the deportation of Harry Bridges seeks to accomplish. This bill changes the law so that the Department of Justice should now have little trouble in deporting Harry Bridges and all others of similar ilk". 76 Cong. Rec. 9031.

Early in 1941, the Department of Justice[7] caused a new warrant for the arrest and deportation of Bridges to be issued, charging that Bridges "has been a member of or affiliated with" the Communist Party.[8] Another exhaustive hearing (Tr. 59) was held before the specially designated Presiding Inspector (the Honorable Charles B. Sears). The volume of evidence, both testimony and exhibits, was comparable to that in the Landis proceeding. On September 26, 1941, the Presiding Inspector submitted to the Attorney General his memorandum summarizing the evidence and his proposed findings of fact and conclusions of law, including findings that Bridges had been a member of and affiliated with the Communist Party. Accordingly, he recommended deportation.

The subsequent proceedings leading up to the decision of this Court in *Bridges* v. *Wixon*, 326 U. S. 135, are summarized in the opinion in that case (at 139-40):

> "The case was heard by the Board of Immigration Appeals which found that Harry Bridges had not been a member of or affiliated with either of those organizations* at any time after he entered this country. The Attorney General reviewed the decision of the Board and rendered an opinion in which he made findings in accordance with those proposed by

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[7] By that time, the Immigration and Naturalization Service had been transferred from the Department of Labor to the Department of Justice.

[8] The warrant was dated February 12, 1941. Like the earlier one, it specifically charged membership or affiliation with "an organization, association, society, or group that believes in, advises, advocates or teaches the overthrow by force and violence of the Government of the United States." However, the Government specified the Communist Party in its opening statement. Tr. 56-58; see also *In the Matter of Harry Renton Bridges*, Immigration and Naturalization Service, Department of Justice, File No. 55973/217.

> the inspector and ordered Harry Bridges to be deported. A warrant of deportation was issued. Harry Bridges surrendered himself to the custody of the respondent and challenged the legality of his detention by a petition for a writ of *habeas corpus* in the District Court for the Northern District of California. That court denied the petition and remanded petitioner to the custody of respondent. 49 F. Supp. 292. The Circuit Court of Appeals affirmed by a divided vote. 144 F. 2d 927, 944. The case is here on a petition for a writ of certiorari which we granted because of the serious character of the questions which are presented."

This Court reversed the judgment below,[9] and the writ of habeas corpus was granted. On June 23, 1945 (5 days after the decision), Bridges filed at the San Francisco office of the Immigration and Naturalization Service his preliminary form for a petition for naturalization. On August 8, 1945, he appeared before an examiner in connection with this petition; Schmidt and Robertson also appeared and witnessed the petition. Robertson was called at the last minute in place of a prospective witness whose citizenship qualifications were not established to the satisfaction of the examiner (Tr. 459-61).

On September 17, 1945, Bridges, with the same two witnesses, appeared in the Superior Court of the State of California, and testimony was taken in support of the petition. The witnesses testified that they were American citizens, that they had known Bridges for five years and knew him to be of good moral character; they vouched for his loyalty to the United States and recommended him to citizenship (Tr. 134-135). Government counsel stated that the witnesses were satisfactory, and they were excused. Bridges was then examined. Among the many questions to him was the same question that had been put in the prior administrative proceedings, to which the same answer was given (Tr. 138):

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[9] The grounds of the judgment of this Court are discussed *infra*, pp. 66-69.

> "Q. Do you now or have you ever belonged to the Communist Party in the United States?
>
> "A. I have not, I do not."

After further examination on the Communist issue, Government counsel stated that he had no further evidence and no objection to naturalization (Tr. 144), and Bridges was naturalized.

On May 25, 1949, three years, eight months, and eight days after the naturalization decree, this three-count indictment (Tr. 3-8) was filed. Count I charged the petitioners with conspiracy to defraud the United States, under Section 37 of the Criminal Code, 18 U. S. C. [1946 ed.] 88. The fraud charged was that Bridges' testimony was false (and known to the petitioners to be false), in that he allegedly had been a member of the Communist Party from 1933 to September 17, 1945. The overt acts alleged to ground the conspiracy were the several steps of the naturalization proceeding. Counts II and III of the indictment were brought under Section 346 of the Nationality Act of 1940, 8 U. S. C. 746. Count II charged Bridges with making a willfully false answer to the question with respect to Communist Party membership. Count III charged Schmidt and Robertson with assisting Bridges to obtain a certificate of naturalization, knowing it to have been procured by fraud.

After the indictment was returned, Bridges moved its dismissal (Tr. 10-26) on grounds which included all the issues embraced in the two questions presented here. Petitioners Schmidt and Robertson moved to dismiss on such of the foregoing grounds as were applicable to them (Tr. 27-41, 8312). The motions to dismiss were denied (86 F. Supp. 922).

After a long trial, the jury returned verdicts of guilty against Bridges on Counts I and II of the indictment, and against Schmidt and Robertson on Counts I and III of the indictment (Tr. 220-222). Motions in arrest of judgment and for new trial were duly made (Tr. 223-228). All were denied (Tr. 229), and Bridges was sentenced to concurrent terms of two years on Count I and five years on Count II (Tr. 230, 235-236). Schmidt and Robertson were each sentenced to concurrent terms of two years on Counts I and III of the indictment (Tr. 231-234, 237-240).

Ten weeks later, the Government moved to revoke the order granting bail to Bridges, and to remand him to the custody of the Marshal. Over objection, and despite the Government's admission that the appeal presented substantial questions, Bridges was incarcerated in the San Francisco County Jail (93 F. Supp. 989). Three weeks later, he was released by order of the Court of Appeals (184 F. 2d 881).[10]

Appeals from the judgment of conviction were filed to the Court of Appeals for the Ninth Circuit, which affirmed it on September 6, 1952. A petition for rehearing was denied, on the basis of an amended opinion, on November 18, 1952. A supplemental petition, reiterating the request for a hearing before the Court of Appeals *en banc*, was denied with a further opinion on December 29, 1952.[10a]

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[10] The grounds urged by the Government as a basis for the revocation of bail did not favorably impress the Court of Appeals, which declared that the courts should not be called upon to act as "instruments of executive expediency" or "mere instruments for carrying into effect the arbitrary will" of the executive branch. 184 F. 2d at 887.

In the petition for a writ of certiorari, the petitioners did not ask this Court to review such questions as whether or not there was sufficient evidence at the trial to sustain a conviction under the indictment. Nonetheless, in its memorandum on the petition, the Government saw fit to include (pp. 4-10) a lengthy summary of the evidence it adduced at the trial "to show that prior to, at the time of, and subsequent to, these naturalization proceedings, Bridges was in fact an active member of the Communist Party, known to be such by the other petitioners."

We are reluctant to assume that this one-sided summary was introduced into the Government's memorandum for purposes of psychological warfare. It is perhaps more reasonable, and certainly more charitable, to infer that the summary was included because of understandable worry that the failure, at two prior and protracted proceedings with two different sets of Government witnesses, to adduce sufficient evidence to support a finding that Bridges is or has ever been a Communist, might arouse curiosity as to the character and substance of the proof upon a third inquiry, with a third set of Government witnesses, into the same question.

Under the questions here and now open to review by this Court, we do not deem it appropriate to discuss the sufficiency of the evidence. However, in analyzing the question of, and the Government's arguments with respect to,[11] the legal effect of the prior adjudications of the membership charge, it is necessary to advert to the Government's evidence, and the several adjudicators' evaluations thereof, at each of the several proceedings.[12]

[10a] In *Western Pacific R. R. Corp.* v. *Western Pacific R. R. Co.*, 21 L. W. 4297, April 6, 1953, this Court remanded to the Court of Appeals for the Ninth Circuit causes in which an application for leave to be reheard en banc had been stricken. Substantially the same order was made by the division below in this case (201 F. 2d 254, 255; Tr. 8456) despite petitioners' prayer on two separate occasions that the rehearing be heard en banc (Tr. 8297-8347, 8437-8454, especially 8449).

[11] See the Government's memorandum on certiorari at pages 14-15, especially footnote 8.

SUMMARY OF ARGUMENT

I

THIS PROCEEDING IS BARRED BY THE GENERAL THREE-YEAR STATUTE OF LIMITATIONS.

A. The 1942 Wartime Suspension of Limitations Act is inapplicable. (1) Its 1921 predecessor, substantially identical, was repeatedly and unanimously interpreted by this Court as applying only to offenses wherein fraud was an essential element of the statutory crime. *United States* v. *Noveck*, 271 U. S. 201; *United States* v. *Scharton*, 285 U. S. 518.[13] This construction is in harmony with the statutory purpose to give the Department of Justice additional time to discover and gather evidence of frauds against the Government; if fraud need not be charged or proved, the basis of ~~the~~ suspension is removed. Following these decisions, Congress in 1942 re-enacted substantially the same language which had been thus construed. (2) The requirement of fraud as an essential element is equally applicable to conspiracy charges: the test is whether fraud is such an element of the offense which is the object of the conspiracy. *United States* v. *McElvain*, 272 U. S. 633; see *Braverman* v. *United States*, 317 U. S. 49, 55. (3) Independently of the foregoing, and as the legislative history shows, the Suspension Act is directed at *pecuniary* frauds. That is the "usual and primary sense" of the term "defrauding". *United States* v. *Cohn*, 270 U. S. 339. The 1921 suspension was never held applicable to non-pecuniary frauds, and it has been held that the 1942 Suspension Act is so limited. *Marzani* v. *United States*, 168 F. 2d 133 (D. C. Cir.), twice affirmed by an equally divided Court, 335 U. S. 895 and 336 U. S. 922. If not pecuniary, the fraud must be connected with the "hurly-burly of war". *United States* v. *Gottfried*, 165 F. 2d 360 (2d Cir.). (4) None of the counts of this indictment meets any of the foregoing requirements. Fraud is not an essential element of the offense of making a false statement in a naturalization proceeding. *United States* v. *Obermeier*, 186 F. 2d 243 (2d Cir.). Assuming that fraud was an incident or even the purpose of the false statement, that does not make it an essential element of the charge or proof, as is required by the *Noveck* and *Scharton* cases. The conspiracy count, therefore, stands on no better footing; so held in the *McElvain* case. Where Congress has seen fit to eliminate the requirement of fraud as the basis for suspension of the limitation, it has done so by specific legislation. *Braverman* v. *United States*, *supra*. Nor do any of the counts charge fraud which is either pecuniary or in any way related to the war emergency. (5) The Government's arguments for application of the Suspension Act have all been made before and rejected by this Court. (6) Furthermore, if the Suspension Act were to be given the scope for which the Government contends, the beneficial and established policy of repose underlying the general statute of limitations would be subverted. Relaxation of the requirement of fraud as an essential element, coupled with the Government's use of charges cast in the language of "conspiracy to defraud", would sweep a very large amount of the federal criminal jurisdiction within the Suspension Act.

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[12] *Infra*, p. 85. See also the Appendix to this brief, pp. 38-41.

B. Counts II and III are not saved under the former five-year statute of limitations for offenses under the Nationality Act, which was repealed in 1948. The court below, on rehearing, so decided unanimously, as did the Court of Appeals for the Second Circuit. *United States* v. *Obermeier, supra.* When Congress has desired to preserve the original period of limitations for offenses committed before a change in the period, it has made express provision to this effect. Therefore, the general language in the repealer preserving "rights or liabilities now existing" does not perpetuate the repealed statute of limitations. The cases cited by the Government are not in point, and the Government's position leads to the indefensible anomaly that prosecution for an offense committed on August 31, 1948 would not be barred until August, 1953, whereas an identical offense committed the *following* day would be barred in September, 1951.

II

THIS PROCEEDING IS BARRED BY PRIOR ADJUDICATIONS, UNDER THE PRINCIPLES OF *RES JUDICATA*, ESTOPPEL, AND THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT.

A. The Secretary of Labor's determination in January, 1940, that Bridges was not then a Communist, conclusively established that fact in this proceeding. The doctrine of estoppel by judgment is clearly governing. *Cromwell* v.

County of Sac, 94 U. S. 351; *Southern Pacific R. R. Co.* v. *United States*, 168 U. S. 1; *United States* v. *Balt. & Ohio R. R. Co.*, 229 U. S. 244. That doctrine is applicable to plenary, quasi-judicial decisions of administrative tribunals. *Sunshine Coal Co.* v. *Adkins*, 310 U. S. 381, and numerous other decisions of this Court and other courts. *Pearson* v. *Williams*, 202 U. S. 281, contains nothing to the contrary, and its reasoning supports our position. Since the Landis-Perkins decision conclusively established that Bridges was not a Communist in 1940, that factual issue was foreclosed at the trial on this indictment, and the evidence and issues should have been correspondingly limited. But the trial court refused so to limit the issue for the jury, and instructed the jury to disregard the prior determinations. This requires reversal of the judgments of conviction.

B. The second (Sears-Biddle) deportation proceeding, together with this Court's decision on review thereof by *habeas corpus*, conclusively established that Bridges had not been a Communist at any time prior to 1941 (the year of the Sears proceeding). *Bridges* v. *Wixon*, 326 U. S. 135. That case held that the due process requirement of some evidence, to support the administrative determination that Bridges was a Communist, had not been met. The issue of fact with respect to Bridges' membership prior to 1941 was thereby conclusively resolved in the negative. The cases cited under *A* above are all in point, as is also *Scalfon* v. *United States*, 332 U. S. 575; see *Collins* v. *Loisel*, 262 U. S. 426, 430. The Government itself treated the *Wixon* decision as final; it abandoned the deportation proceeding, released Bridges' bail, and did not oppose Bridges' naturalization. The factual issue at the trial should therefore have been limited to Bridges' alleged membership after 1941, but the trial court refused so to limit the evidence or the issue before the jury, and instructed the jury to disregard the prior determination. This requires reversal of the judgments of conviction.

C. The naturalization decree of September 17, 1945 conclusively determined between the parties that Bridges was not a Communist at any time during the entire period covered by the indictment. *Tutun* v. *United States,* 270 U. S. 568; *United States* v. *Throckmorton,* 98 U. S. 61. The question of Bridges' Communist membership was raised during the naturalization proceedings. It was a known issue which had been repeatedly and freshly litigated between the parties; the Government had been investigating the issue for many years theretofore. The present proceeding re-litigates, in the guise of a perjury indictment, the very issue adjudicated upon naturalization. *Chitwood* v. *United States,* 178 Fed. 442 (8th Cir.). The Government relies on *Knauer* v. *United States,* 328 U. S. 654, but that decision was expressly limited to a misrepresentation of present state of mind, not of past fact. Every consideration of judicial policy requires that the naturalization decree here be held conclusive. See *Hart Steel Co.* v. *Railroad Supply Co.,* 244 U. S. 294, 298-9; *Southern Pacific R. R. Co.* v. *United States,* 168 U. S. 1, 48. This requires reversal of the judgments and dismissal of the indictment.

D. The entire course of the several proceedings against Bridges, involving repetitious actions based on the same factual issue, and harassment of an individual on the same charge but in different proceedings over the course of many years, violates the due process clause of the Fifth Amendment. Under the decision below, the Government can follow one protracted and exhausting proceeding with another *ad* *nauseam* in order finally to get the result it wants. When this Court has allowed repeated criminal trials on the same charge, the trials have been in the same proceeding, and the decisions have rested on this circumstance. *Trono* v. *United States,* 199 U. S. 521; *Stroud* v. *United States,* 251 U. S. 15; *Palko* v. *Connecticut,* 302 U. S. 319; *Brock* v. *North Carolina,* 344 U. S. 424. In cases such as these there are strong statements in the opinions that the Government cannot repeatedly institute new proceedings on the same charge; see also Mr. Justice Holmes' dissenting opinion in *Kepner* v. *United States,* 195 U. S. 100, 134; Mr. Justice Frankfurter's concurring opinion in *United States ex rel. Marcus* v. *Hess,* 317 U. S. 537, 553; Chief Justice Vinson's dissent in *Brock* v. *North Carolina, supra,* at pages 429-440. Disregard of traditional principles and rudimentary concepts of fair play has led here to the perpetration of the very abuses which those concepts and principles are intended to prevent. What has been done here offends "those canons of decency and fairness which express the notions of justice of English-speaking peoples even toward those charged with the most heinous offenses." See *Adamson* v. *California,* 332 U. S. 46, 67-68 The judgments must therefore be reversed and the indictment dismissed.

CONCLUSION

After reviewing the case bit by bit, in conclusion it must be viewed as a whole. After examining the statute of limitations, the doctrine of *Res Judicata,* and the due process clause severally, the Court should recognize the impact of these principles as a whole, for they are not on related items but are based on common judicial policies of repose and fairness, and thus are components of a corpus. In conjunction, as well as severally, the Constitution, the statutes, and traditional principles of the common law require that the judgments below be reversed and the indictment dismissed.

ARGUMENT

I

THIS PROCEEDING IS BARRED BY THE STATUTE OF LIMITATIONS.

All the acts charged in each count of the indictment concededly occurred in 1945, more than three years before its filing in 1949. However, the Court below held that the running of the applicable three-year statute of limitations (18 U. S. C. 3282, Appendix p. 3) was suspended by the Wartime Suspension of Limitations Act (18 U. S. C. 3287, Appendix pp. 3-4). That act suspended until three years after the termination of hostilities[13] the running "of any statute of limitations applicable to any offense . . . involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not". The question, therefore, is whether the offenses charged in this indictment are within the ambit of the Suspension Act.[14]

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[13] The President proclaimed the termination of hostilities on December 31, 1946 (12 Fed. Reg. 1).

A. The Wartime Suspension of Limitations Act is not Applicable to the Offenses Charged in this Indictment.

The Suspension Act, insofar as it relates to "offenses involving fraud or attempted fraud against the United States,"[15] was enacted in 1942 (Act of August 24, 1942 c. 555, Sec. 1, 56 Stat 747). It is derived from, and substantially identical with, the comparable statute enacted after World War I (Act of November 17, 1921, c. 124, 42 Stat 220, Appendix pp. 4-5). That statute added a proviso to the general three-year statute of limitations (R. S. 1044), fixing a six-year period for "offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner."

By a series of unanimous decisions of this Court, and in accordance with the clear meaning and purpose of the statute, it became the settled construction of the 1921 act that it applied only where fraud was a necessary element of the crime charged. *United States* v. *Noveck*, 271 U. S. 201; *United States* v. *McElvain*, 272 U. S. 633; *United States* v. *Scharton*, 285 U. S. 518; see *Braverman* v. *United States*, 317 U. S. 49, 55. Furthermore, the legislative history of both the earlier and the present statutes, and their uniform construction by the lower federal courts, limit their application to frauds, which are pecuniary in nature, or arise out of what Judge Learned Hand has called "the hurly-burly of war". See *United States* v. *Gottfried*, 165 F. 2d 360, 368 (2d Cir.).

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[14] In its memorandum on certiorari, the Government also contended that a saving provision of the Act of June 25, 1948, revising Title 18 (Sec. 21, 62 Stat 683), preserved as to Counts II and III, the earlier five year Statute of Limitations (8 U.S.C. [1946 ed.] 746 g, Appendix pp. 2-3) applicable in 1945 to offenses against the naturalization laws. The Court below rejected the Government's contention, which also failed in *United States* v. *Obermeier*, 186 F. 2d 243 (2d Cir.), certiorari denied 340 U. S. 951. Against the contingency that the Government will continue to press this argument, the point is discussed *infra*, pp. 48-52.

[15] The two other categories of offenses covered in the Wartime Suspension Act are concededly not applicable in this proceeding.

None of the counts in this indictment meets any of these requirements. Apart from the decision below, there is, to our knowledge, no case in which the Suspension Act or its predecessor has been held applicable to offenses such as those charged against petitioners. The Government's arguments have been repeatedly and squarely rejected by this Court. Their acceptance now would extend the scope of the Suspension Act far beyond its wording and purpose, and would fairly obliterate the general three-year statute of limitations.

1. The Suspension Act is not applicable unless fraud is an essential element of the statutory crime charged.

The 1942 Suspension Act and its 1921 predecessor were enacted as exceptions, necessitated by extraordinary war-time circumstances, to the fixed policy of the law in favor of repose. As Mr. Justice Story put it in *Bell* v. *Morrison*, 1 Pet. 351, 360 (U. S., 1828): "A statute of limitations is a wise and beneficial law . . ." See also *Riddlesbarger* v. *Hartford Insurance Co.*, 7 Wall. 386, 390 (U. S., 1869); *Wood* v. *Carpenter*, 101 U. S. 135, 139 ("Statutes of limitations are vital to the welfare of society and are favored in the law.").

The Suspension Act, too, has an important policy, but it is not the policy of swallowing up limitations altogether, and it does not reach the offenses charged against the petitioners. The 1921 legislation was requested by the Attorney General in order to reach war frauds not yet uncovered (H. R. Rep. 365, 67th Cong., 1st Sess.). The similar purpose of the 1942 Suspension Act, as stated in both the House and Senate Committee reports (H. R. Rep. 2051 and Sen. Rep. 1544, 77th Cong., 2d Sess., Appendix pp. 11-17), is "to suspend any existing statute of limitations applicable to offenses involving the defrauding or attempt to defraud the United States or any agency thereof, for the period of the present war", and it was intended to "afford the Department of Justice sufficient time to investigate, discover, and gather evidence to prosecute frauds against the Government."

In the light of the wording and revealed purpose of the Suspension Act, therefore, it is apparent that it does not embrace any offense unless fraud is an essential element of the crime, which must be charged and proved. Since the purpose was to give the Department of Justice more time to discover frauds, and to assemble the evidence necessary to their proof, the Act does not apply to offenses where the Government is obliged neither to charge nor to prove fraud. Therefore, the decisions of this Court holding the Suspension Act inapplicable except to offenses wherein fraud is an essential element, are in accordance with both the letter and the purpose of the 1921 proviso, and are equally governing under the present Suspension Act.

It is to be remarked that neither the 1942 nor the 1921 acts undertook to suspend the statute of limitations with respect to offenses lacking fraud as an essential element, where fraud was nonetheless an incidental concomitant of the crime or even where the very purpose was fraudulent. Neither act attempts to cover false statements, in and of themselves, for this would have been beyond the Congressional purpose to give the Department of Justice more time to discover and prepare cases where the fraud had to be charged and proved.

Therefore, it was unanimously held in *United States* v. *Noveck,* 271 U. S. 201, that the 1921 statute did not cover an indictment for perjury for false swearing to an income tax return "for purposes of defrauding the United States." The defendant was thus charged with both a false statement and a clearly fraudulent purpose to deprive the Government of its lawful taxes. "But the alleged purpose to defraud the United States is not an element of the crime defined in Section 125 [perjury] on which the indictment is based." *United States* v. *Noveck, supra,* at 203. No more is fraud an element of the crime of making false statements in naturalization proceedings, the offense charged in Count II of the indictment in the present case.[16]

The holding of the *Noveck* case was reaffirmed in *United States* v. *Scharton,* 285 U. S. 518. The *Scharton* case construed a proviso in the Revenue Act of 1926, Section 1110(a), similar in language to the 1921 proviso. The defendant was charged with wilfully attempting to evade and defeat taxes by falsely understating his income. Despite the Government's emphasis on the obvious fraudulent purpose, this Court unanimously held that the offense charged did not fall under the proviso, and was barred by the three-year statute of limitations. Mr. Justice Roberts pointed out that there were numerous other provisions of the Revenue Laws which expressly made intent to defraud an element of the crime, but that such intent was not an element in Section 1114(b), under which the defendant was indicted. He declared (at 522) that statutes of limitations must be "liberally interpreted in favor of repose", and that the suspending proviso should not be "extended by construction to embrace so-called frauds not so denominated by the statutes creating offenses."

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[16] *Infra,* pp. 34-37.

Not only are the *Noveck* and *Scharton* decisions sound as a matter of first impression under the 1921 and 1926 provisos, and squarely applicable in construing the 1942 Wartime Suspension Act. They were, furthermore, "on the books" as the settled construction of those statutes at the time that Congress adopted their same language in the 1942 enactment. True, re-enactment after a decision, has not, in every case, been held conclusive of legislative intent to embody the judicial gloss. *Girouard* v. *United States*, 328 U. S. 61. But here all the factors which call for the customary application of the re-enactment doctrine are present. Not only in 1942, but twice in 1944 (when the second and third clauses of the Suspension Act were added), and again in 1948 (when there was a codification), Congress re-enacted the same language.[17]

Three times between 1944 and 1948, therefore, the 1942 re-enactment has been "repeated". *United States* v. *Wil-*

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[17] Clause (2) of the Suspension Act, covering offenses in connection with the handling of government property, comes from the Surplus Property Act, 58 Stat. 667. Clause (3), dealing with offenses arising out of government contracts, comes from the Contract Settlement Act of 1944, 58 Stat. 781. Both statutes re-enacted Clause (1) in language identical with that enacted in 1942, but changed the suspension date from June 30, 1945 to three years after the proclamation of the end of hostilities. The 1948 codification made purely grammatical changes; the words "defrauding or attempts to defraud" were replaced by "fraud or attempted fraud". See 18 U. S. C. 3287, Reviser's Note; H. R. Rep. No. 304, 80th Cong., 1st Session.

liams, 341 U. S. 70, 81. Here, as in *National Labor Relations Board* v. *Gullett Gin Co.,* 340 U. S. 361, the statute had been explicitly and repeatedly interpreted. As this Court stated in the *Gullett* case, *supra,* (at 366): "Under these circumstances it is a fair assumption that by reenacting without pertinent modification the provision with which we here deal, Congress accepted the construction placed thereon by the Board and approved by the courts."

The legislative history is equally compelling. In 1941, hearings were held by a House Sub-Committee on a bill to suspend the statute of limitations on all offenses punishable under Federal law. In opposing the bill, the Attorney General suggested that it be amended so as to apply only "to offenses involving frauds against the United States as was done in 1921 by the Act of November 17, 1921".[18] And this is just what was in fact done at the next session of Congress. Both the House and Senate reports on the 1942 statute relied heavily upon the committee report of 1921 (H. R. Rep. 365, 67th Cong. 1st Sess., Appendix, pp. 13, 16), and the same statutory language was adopted.[19]

Therefore, the wording and purpose of the Wartime Suspension Act and its legislative history all dictate the conclusion that it is to be construed in accordance with the decisions of this Court in the *Noveck* and *Scharton* cases. False statements are not sufficient to bring the Suspension Act into play: fraud must be an element of the statutory crime charged.

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[18] Hearings on H. R. 4916, 77th Cong., 1st Sess.; Appendix, pp. 19-20.

[19] The House did not accept a suggestion by Congresswoman Rankin (the sponsor of the 1941 bill) to expand the suspension so as to cover all Federal offenses. 88 Cong. Rec. 4759. In the Senate, Senator (now Mr. Justice) Burton, very briefly, called to his colleagues' attention that the 1942 statute was basically a re-enactment of the 1921 Act. 88 Cong. Rec. 6160; Appendix, p. 23.

2. If fraud is not an essential element of the offense charged, the Suspension Act is not made applicable by including in the indictment a charge of conspiracy to defraud the United States.

Both the 1942 and 1921 Acts are expressly applicable to fraudulent offenses "whether by conspiracy or not".[20] Section 37 of the Criminal Code, 18 U. S. C. [1946 ed.] 88 (now 18 U. S. C. [1948 ed.] 371) makes it unlawful for two or more persons to "conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose . . .". Count I of this indictment is laid under the second clause of the quoted language.

It is clear that where defrauding the United States is an essential element of the substantive offense, a conspiracy to commit that offense falls within the Suspension Act. *Miller* v. *United States*, 24 F. 2d 353 (2d Cir.); *Falter* v. *United States*, 23 F. 2d 420 (2d Cir.). However, if fraud is not an element of the offense, a charge of conspiracy to commit that offense, even though laid under the second clause of Section 37, stands on no different footing; neither is within the Suspension Act.

This conclusion is an obvious corollary of the principles already discussed. If there be a conspiracy to commit an offense of which fraud is not an element, the conspiracy alleged is properly lodged under the first clause of Section 37 covering conspiracies "to commit any offense against the United States". The allegation of fraud would be just as much surplusage in the conspiracy count as it would be in a substantive count. The Government need neither charge nor prove fraud in order to proceed under either Section 37 or the statute proscribing the offense which was the object of the conspiracy and, therefore, such an indictment would fall outside the purpose of the Suspension Act, for reasons already stated.[21] Equally it falls outside the Act's wording, which covers "any offense . . . involving fraud . . . whether by conspiracy or not", and thus clearly makes the nature of the offense itself the test of the Suspension Act's applicability to the conspiracy.[22]

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[20] It appears that, when the grammar was altered by the 1948 codification, the clause relating to conspiracy was left without the verb which was previously available by reference back.

In other words, the principles enunciated in the *Noveck* and *Scharton* cases are equally applicable to the offense "whether by conspiracy or not". No more was the Government's surplus allegation of fraudulent purpose in the *Noveck* case effective to bring the case within the suspension, no more is the framing of a conspiracy charge under the "fraud" clause of Section 37 effective for this purpose if the fraud is not an essential element of the offense. Had a second person been implicated with Mr. Noveck, a conspiracy count added to the indictment in that case would have done nothing to bring the suspension into play.

The foregoing reasoning is clearly supported by the decisions of this Court. In *United States* v. *McElvain*,

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[21] *Supra*; pp. 20-24.

[22] The court below came to this same conclusion. In discussing the statement in *United States* v. *McElvain*, 272 U. S. 633, 639 that "The language of the [1921] proviso cannot reasonably be read to include all conspiracies as defined by Section 37," Judge Stephens explained (199 F. 2d at 823) that this was "because the proviso contains the words 'whether by conspiracy or not' which establishes that it is the substantive offense or the object of the conspiracy which determines the scope of the proviso". The court below erroneously concluded that the substantive offense charged in Count II embodied fraud as an essential element; had it reached the correct conclusion on Count II, its own reasoning would thus have required the dismissal of Count I as well.

272 U. S. 633, the defendant was indicted under Section 37 for conspiracy to defraud the United States of taxes by filing false income tax returns. Offenses under the revenue laws were expressly excluded from the three-year statute of limitations to which the 1921 suspension was a proviso. This Court unanimously ruled that the suspending proviso did not cover conspiracies, even though charged as fraudulent under the second clause of Section 37, unless the substantive offense which was the object of the conspiracy was also covered; the indictment was therefore held to be barred. Mr. Justice Butler stated (at p. 639):

> "The language of the proviso cannot reasonably be read to include all conspiracies defined by Section 37. But if the proviso could be construed to include any conspiracies, obviously it would be limited to those to commit the substantive offenses which it covers."[23]

Following the decision in the *McElwain* and *Scharton* cases, Congress in 1932 amended the suspending proviso in the Revenue Act of 1926 (which had been construed in the *Scharton* case) by adding the following paragraph (47 Stat. 169, 228 [Sec. 1108 of Revenue Act of 1932]): "For offenses arising under Section 37 of the Criminal Code . . .

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[23] See also *In re Doyle*, 42 F. 2d 686 (S. D. N. Y.), at p. 691 (reversed as to other matters, *United States* v. *Doyle*, 47 F. 2d 1086 (2d Cir.)):

> "In view of the decision in the McElwain Case, I think that the statute of limitations applicable to a conspiracy to commit a federal crime depends on the statute applicable to the substantive offense which is the object of the conspiracy.
>
> "The rationale of such a holding is perfectly obvious, because, if it were otherwise, a prosecuting officer might, by making his indictment count in conspiracy, increase the statute of limitations, and, in effect, hold a defendant for a crime which had already been outlawed."

when the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof, the period of limitations shall also be six years". In *Braverman* v. *United States*, 317 U. S. 49 (1942), the defendants were convicted, under Section 37, of conspiracy to violate numerous provisions of the revenue laws covering tax evasion. This Court held that the indictment fell within the 1932 addition and, therefore, was not barred. Writing for a unanimous court, Chief Justice Stone reaffirmed the principles laid down in the *McElvain* and *Scharton* cases, and then observed (at 55): "To be within this last paragraph [the 1932 addition] it is not necessary that the conspiracy have as its object the commission of an offense in which defrauding or attempting to defraud the United States is an element." In other words, lacking the 1932 amendment, the indictment would clearly have been barred under the *McElvain* and *Scharton* decisions.

The committee reports and debate on the 1942 Suspension Act do not advert to its scope with respect to conspiracy. Here again, however, the principle of legislative re-enactment[24] is clearly applicable with respect to the *McElvain* decision. That decision made it clear, prior to the 1942 Act, that conspiracies did not come within the 1921 statute unless the offense, toward which the conspiracy was directed, was itself within the statutory suspension. The 1942 statute, by re-enacting language which had been so construed, should be interpreted in like manner.

Indeed, the basis for application of the re-enactment principle is greatly reinforced by the 1932 amendment to the Revenue Act proviso which was involved in the *Braverman* case. The conference report of the House on the 1932

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[24] See *supra*, pp. 23-24.

Revenue Act (H. R. Rep. 1492, 72nd Cong., 1st Sess., p. 29, Appendix pp. 17-18) expressly recognized that "The Supreme Court has recently held [in the *Scharton* case] that under existing laws the offense of attempting to defeat and evade income taxes does not necessarily involve the defrauding, or attempting to defraud the United States, fraud not being an essential ingredient of such offense. . . ." Thus there was legislative awareness of the judicial construction of the suspension, and Congress enacted language deliberately framed to remove the basis for that construction where, but only where, offenses against the revenue laws were involved. No such amendatory language was enacted in the 1942 Suspension Act, which therefore should be interpreted in line with the *Noveck, McElvain* and *Scharton* cases, with respect to conspiracy and substantive counts alike.

3. Independently of the foregoing, the Suspension Act is applicable only to frauds which are pecuniary in nature, or which arise out of and are connected with the War.

The Suspension Act is inapplicable to this indictment, for reasons quite independent of those above. The limited purpose of the Suspension Act, and the necessity of preventing its application from swallowing up the statute of limitations, have given rise to the rule that the Suspension Act covers only pecuniary frauds. Obviously, the offenses charged in this indictment are not of that character.

In *United States* v. *Cohn*, 270 U. S. 339, this Court, in construing the so-called "False Claims Act" (18 U. S. C. [old] 80) prior to its amendment in 1934 (48 Stat. 996), declared (at pp. 346-347) that the "usual and primary sense" of the word "defrauding" meant "cheating the Government out of property or money." This Court declined to give "defrauding" in that context its broader "secondary" meaning—"interfering with or obstructing . . . lawful governmental functions by deceitful and fraudulent means"—except as a result of the 1934 broadening amendment. *United States* v. *Gilliland*, 312 U. S. 86; *cf. Haas* v. *Henkel,* 216 U. S. 462.

The question is, therefore, whether there is anything in the context or legislative history of the Wartime Suspension Act which warrants interpreting the words "fraud or attempted fraud" other than in their "usual and primary sense" of pecuniary fraud. The answer is clearly in the negative. The language of the Suspension Act is narrower than that of Section 37 of the Criminal Code, which was broadly construed in *Haas* v. *Henkel, supra.*[25] The legislative history, as manifested in the House and Senate committee reports on the Suspension Act (Appendix, pp. 11-17), makes it clear that Congress had pecuniary frauds exclusively in mind. Immediately after stating the purpose of the legislation (to suspend the statute of limitations applicable to offenses involving the defrauding of the United States), the reports state: "Contracting for the United States is done through its various agencies, including the departments and independent establishments and Government-owned and Government-controlled corporations, and frauds against all of these agencies are intended to be embraced by the bill." After discussing the problems faced by the Department of Justice, and the need to give it more time to investigate and gather evidence of frauds against the Government, the reports state:

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[25] Section 37 of the Criminal Code (Appendix, p. 1) covers the defrauding of the United States "for any purpose", indicating that the purpose need not be pecuniary. This language is omitted from the 1942 Suspension Act, as well as from the 1921 and 1926 provisos.

> "The United States, however, is engaged in a gigantic war program. Huge sums of money are being expended for materials and equipment in order to carry on the war successfully. Although steps have been taken to prevent and to prosecute frauds against the Government, it is recognized that in the varied dealings opportunities will no doubt be presented for unscrupulous persons to defraud the Government or some agency. These frauds may be difficult to discover as is often true of this type of offense and many of them may not come to light for some time to come. The law-enforcement branch of the Government is also busily engaged in its many duties, including the enforcement of the espionage, sabotage, and other laws."

The legislative history of the statute (Act of December 27, 1927, c. 6, 45 Stat. 51) which repealed the 1921 suspending proviso is even clearer. The House Report (H. R. Rep. 16, 70th Cong., 1st Sess.) stated, "In 1921 the Attorney General represented that he was desirous of having further time to investigate alleged war frauds". The sponsor of the repealing legislation in the House, Mr. LaGuardia, stated on the floor (69 Cong. Rec. 842) that the 1921 suspending proviso 'was intended to apply only to war frauds . . . The war frauds are cleaned up by this time . . . If anyone has defrauded the Government in cases arising out of the war, if he has not already been indicted, there is not much chance of indicting him now."

In *Marzani* v. *United States*, 168 F. 2d 133 (D. C. Cir.), twice affirmed by an equally divided Court, 335 U. S. 895 and 336 U. S. 922, it was held that the 1942 Suspension Act "does not apply to offenses in which defrauding the United States in a pecuniary way is not an essential ingredient"

(168 F. 2d at 136), and therefore did not cover an indictment under the amended False Claims Act for making false statements to Government agencies with respect to Communist membership. The Court of Appeals thus rested its decision specifically upon the ground that the Suspension Act applies only to pecuniary frauds.[26] So far as we are aware, the question was never tested under the 1921 proviso. However, in every reported case in which the 1921 statute was held applicable, the fraud charged was clearly within the "usual and primary sense" defined in the *Cohn* case—*i.e.*, the purpose was to defraud the Government of money or property. *Miller* v. *United States*, 24 F. 2d 353 (2d Cir.); *Falter* v. *United States*, 23 F. 2d 420 (2d Cir.); *Weinhandler* v. *United States*, 20 F. 2d 359 (2d Cir.); *Bailey* v. *United States*, 13 F. 2d 325 (9th Cir.); *Evans* v. *United States*, 11 F. 2d 37 (4th Cir.).

Indeed, we know of only one decision under any of the suspension statutes embodying the language here in question where fraud in the "secondary sense" of the *Cohn* case has been held covered by the suspension. *United States* v. *Gottfried*, 165 F. 2d 360 (2d Cir.), certiorari denied, 333 U. S. 860. In that case, the defendants were indicted under the False Claims Act for false statements to the Office of Price Administration to circumvent wartime sugar rationing, and for conspiracy to defraud the United States by means of the false statements and the bribery of one of its officers. The court rejected the argument, based on the legislative history, that the Suspension Act should be confined to frauds involving pecuniary loss to the Government, observing, however, that (at 368) "the purpose of the amendment was not to let crimes pass unpunished which had been committed in the hurly-burly of war, an overriding motive which perfectly fits the situation at bar."

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[26] The court rested its decision on an analysis of the *Noveck*, *McElvain*, *Scharton* and *Gilliland* cases rather than on the legislative history of the Suspension Act.

The *Gottfried* case affords no basis for holding the Suspension Act applicable to the present case, since it is clear that the indictment here fails to meet Judge Hand's test of the "hurly-burly of war". There is, therefore, no need to determine here whether or not the *Gottfried* case, insofar as it departs from the *Marzani* requirement of *pecuniary* fraud, was rightly decided.[27] It may be argued that special wartime legislation such as price controls and food rationing—enacted and enforced as part of "the hurly-burly of war"[28]—are in that respect like wartime contracts and purchases. But such a result would provide no basis for holding the Suspension Act applicable here.

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[27] Judge Hand's opinion referred to the opinion in ***Haas*** *v. Henkel*, 216 U. S. 462, which held that Section 37 covers conduct "calculated to obstruct or impair" government operations (although footnote 20 of his opinion refers to the section of the U. S. Code embodying the False Claims Act rather than Section 37), and then states (p. 368): "We see no reason for reading the words 'defrauding the United States' in the statute of limitations now in question less comprehensively; certainly there was not enough ground for that in the debates of Congress". But it had already been stated in the *McElvain* case (272 U. S. at 639) that "The language of the [1921] proviso cannot reasonably be read to include all conspiracies defined by Section 37", and the language of the 1921 proviso was thereafter carried into the 1942 Suspension Act without significant change, *supra*, pp. 23-24, 28.

Furthermore, no question of limitations was presented by the conspiracy (Section 37) indictment in the *Gottfried* case. The indictment which was there asserted to be barred by limitations was one for the substantative offense of violating the False Claims Act. An earlier decision of the Court of Appeals for the Second Circuit held that fraud is not an essential element under the latter statute. *United States* v. *Tommasello*, 160 F. 2d 348 (2d Cir.), *infra*, p. 37. The authority of the *Gottfried* case seems to have been questioned in *United States* v. *Obermeier*, 186 F. 2d 243, 257 footnote 64 (2nd Cir.): "In *United States* v. *Gilliland*, 312 U. S. 86, the offense was so defined as to make fraud an ingredient. So, too, in *Gottfried* v. *United States*, 165 F. 2d 360 (2d Cir.) as we there interpreted the statute creating the crime". Judge Learned Hand was again on the bench in the *Obermeier* case, wherein the opinion was written by Judge Frank.

4. The Suspension Act does not apply to any of the counts of this indictment.

It must be apparent from what has been said so far that Counts I (conspiracy) and II (the substantive offense which was the object of the conspiracy) of this indictment[29] are barred by the statute of limitations unless the offense charged in Count II meets the requirements of the wording, purpose, and settled judicial construction of the Suspension Act. This is one of those instances where elaboration risks obscuring the obvious. The Suspension Act is so clearly inapplicable to Count II that the Court of Appeals for the Second Circuit (Judges Frank, Learned Hand and Swan), in a similar case under the identical statute (8 U. S. C. 746(a)(1)) on which Count II is based, disposed of the point in precisely three sentences.

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[28] Judge Hand speaks of crimes "committed in the hurly-burly of war", but it seems perfectly clear that he means crimes which are related to or part of the "hurly-burly" rather than all crimes committed *during* the "hurly-burly". For the very problem is to distinguish, with respect to the application of the Suspension Act, among all crimes committed *during* the "hurly-burly", and the phrase can therefore have meaning only with respect to crimes *arising out of* the "hurly-burly". See the concurring opinion of Mr. Justice Clark in *United States* v. *Smith*, 342 U. S. 225, 230-31; *United States* v. *Showalter*, 103 F. Supp. 806, 809 (N. D. Cal.). In *United States* v. *Mathues*, 27 F. 2d 137 (E. D. Pa.), speaking of the 1921 suspending proviso, the court stated (at 138): "Incidentally this was aimed at war frauds".

[29] The application of the Suspension Act to Count III is discussed *infra*, pp. 38-40.

In so doing, they said all that is necessary on the subject. *United States* v. *Obermeier,* 186 F. 2d 243, 256-57 (2d Cir.), certiorari denied 340 U. S. 951:

> "That [the Wartime Suspension] Act, so far as is pertinent, is substantially the same as the Acts interpreted by the Supreme Court in *United States* v. *Noveck, United States* v. *McElvain,* and *United States* v. *Scharton.* As so interpreted, it suspends a statute of limitations only when fraud or attempted fraud against the United States (or one of its agencies) 'is an ingredient under the statute defining the offense,' and does not, absent such a statutory definition, apply to perjury or false swearing, even when the United States is directly interested. Nothing in 8 U. S. C. A. Sec. 746(a)(1), under which defendant was indicted, makes fraud an ingredient of the crime."

We have no desire to belabor the point, but a brief summarization may be useful, in order to show that Count II meets neither of the requirements, each of which is independently necessary, for applicability of the Suspension Act.

(a) Fraud is not an element of the statutory crime charged. This is patent on the face of the statute. To charge and prove the offense, the Government need neither charge nor prove fraud. *United States* v. *Noveck, supra; United States* v. *Obermeier, supra; United States* v. *Anzalone,* 197 F. 2d 714 (3d Cir.); *United States* v. *Grainger,* N. D. Cal., December 5, 1952, probable jurisdiction noted, April 6, 1953, Docket No. 634. It need only prove that a false statement was knowingly made,[30] and any allegation or proof of fraud is surplusage. *Holmgren* v. *United States*, 156 Fed. 439 (9th Cir.). Assuming that fraud was an incident or even the purpose of the false statement, that is no more governing here than it was in the *Noveck* case. See *Falter* v. *United States*, 23 F. 2d 420, 426 (2d Cir.). Equally, it is clear that false statements can be knowingly made in naturalization proceedings without any intent to defraud the government. Finally, the statute does not "denominate" the crime as involving fraud. *United States* v. *Scharton, supra.*

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[30] And, by judicial construction, that the falsehood was material. *Rein* v. *United States,* 69 F. 2d 206 (3rd Cir.); *United States* v. *Bressi,* 208 Fed. 369 (W. D. Wash.).

(b) There is charged no intent to defraud the Government of property or money, within the "usual and primary sense" of the word "defraud". *United States* v. *Cohn, supra; Marzani* v. *United States, supra;* cf. *United States* v. *Beacon Brass Co. Inc.*, 344 U. S. 43.[31] The crime charged does not in any way "arise out of the war effort" and "had nothing to do with the war or the reconversion thereafter". See the opinion of Mr. Justice Clark, concurring, in *United States* v. *Smith*, 342 U. S. 225, 230-31. It is most certainly and totally unrelated to the "hurly-burly of war" described in the *Gottfried* case. The federal statutes relating to naturalization, including the criminal provisions, are permanent legislation unrelated to the war emergency.[32]

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[31] Referring to the statute involved in the *Marzani* case (the False Claims Act), this Court, *per* Mr. Justice Minton, stated in the *Beacon Brass* case (344 U. S. at 45): "Obviously, at the times of the indictments here, the three-year limitation period, 18 U. S. C. (Supp. V) Sec. 3282, for violations of this statute had expired as to statements made in October 1945."

[32] If it be deemed relevant, this very case is equally unrelated. The issue with respect to Bridges' membership in the Communist Party had been in the forefront of the Government's "awareness" since long before the war, and was in no sense a matter which the Department of Justice needed more time to discover. Accordingly, this is clearly the type of case which the Suspension Act was *not* intended to reach.

The rule that the offense of making false statements to the Government does not embody fraud as an essential element, unless the statute clearly so requires, is by no means confined to naturalization cases. *United States* v. *Tommasello,* 160 F. 2d 348 (2d Cir.); *Walker* v. *United States,* 192 F. 2d 47 (10th Cir.); *cf. Wesson* v. *United States,* 164 F. 2d 50 (8th Cir.). In the *Tommasello* case, the defendant was indicted for writing a false prescription for morphine "with intent to defraud the United States". The defendant pleaded lack of intent to defraud, but the court (speaking through Judge Augustus Hand) ruled (p. 350) that under the False Claims Act (18 U. S. C. 80) "it is only necessary to prove that the defendant made false statements or representations in his prescription in respect to the patient who was to use the morphine but it is not necessary to show that the United States was defrauded."

Finally, any other conclusion would be clearly contrary to Congressional intent. After this Court held in the *Scharton* case that the offense of evading or defeating income taxes did not involve the element of fraud and consequently lay outside the 1926 proviso to the Revenue Act, Congress showed that it knows how to carve out a specific area where the longer period of limitation shall apply, even though the fraud is not an element of the offense. The 1932 amendment to the Revenue Act was expressly intended to accomplish just that.[33] The Government is now asking this Court to construe the Suspension Act as if Congress had enacted a similar broadening amendment in the naturalization field.

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[33] The 1932 amendment extended the coverage of the six-year period both to the substantive offense of willfully defeating or evading taxes (*Scharton*) and to conspiracies under Section 37 having that offense as their object (*McElvain*). Appendix pp. 5-6.

Since Count II is clearly barred, so is Count I. Count I charges a conspiracy of which the offense stated in Count II is the object. If fraud is not an element of the false statement, it cannot be an element of the conspiracy. *United States* v. *McElvain, supra; Braverman* v. *United States, supra.*

The same reasoning applies to Count III, which charges petitioners Robertson and Schmidt, under 8 U. S. C. 746(a)(5)a, with aiding Bridges to obtain a certificate of naturalization, knowing it to have been procured by fraud. But Count III alleges only that the fraud consisted of the false statement charged in Count II and, as has been shown, fraud was not an element of the false statement offense. No more can it be an element of the "assisting" offense.

It is noteworthy that the clause on which Count III is based is immediately followed by 8 U. S. C. 746(a)(5)b, which covers certificates known to have been procured by means of a false statement. The careful distinction drawn by Congress between clauses a and b, incidentally, shows once again that when Congress wishes to distinguish between fraud and falsity,[34] it has no difficulty in finding appropriate language. But since the false statement offense (Count II) upon which this indictment rests does not embody the element of fraud, the Government cannot salvage it either by using the "fraud" clause of Section 37 in Count I or of 8 U. S. C. 746(a)(5) in Count III. Neither in Count I nor in Count III do the facts alleged carry us beyond falsity and into fraud, and neither count is covered by the Suspension Act.

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[34] This Court has equally carefully drawn the distinction. Compare *Knauer* v. *United States*, 328 U. S. 654 with *Schwinn* v. *United States*, 311 U. S. 616. In the latter case, the court below had held that a falsehood respecting a matter of fact was "fraud" within the meaning of the denaturalization statute (112 F. 2d 74). This Court on certiorari entered the following *per curiam* order: "The petition for writ of certiorari is granted. The judgment is affirmed on the sole ground that the certificate of citizenship was illegally procured". Since a denial of certiorari would have achieved the same practical result, and would have given no greater authority to the lower court's "fraud" holding, this Court's action in granting the writ and simultaneously specifying the ground of its affirmance seems to indicate a purpose to make it clear that a false statement as to a past fact does not necessarily involve the element of fraud.

In thus clinging to the mere presence of the word "fraud" in these statutes, the Government overlooks that the Suspension Act requires not the mere word but that the offense embrace fraud as an essential element.[35] And it is plain that the Government included the conspiracy count in this indictment solely to assist its struggle to bring the indictment within the Suspension Act. For the acts alleged in Count I as constituting a conspiracy, comprise only the acts alleged in the subsequent substantive counts, including the formal steps in the naturalization proceeding.[36] The hollow quality of the conspiracy charge is revealed by the fact that Robertson's participation was the wholly accidental result of the fact that one of the two prospective witnesses who accompanied Bridges to the naturalization proceeding could not satisfactorily establish his citizenship qualifications (Tr. 459-61). On such ephemeral footing the Government's effort to invoke the Suspension Act rests.

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[35] Compare *United States* v. *Champlin Refining Co.*, 341 U. S. 290, which found different meanings for the same phrase in various parts of the same statute.

[36] In *Bridges* v. *United States*, pending, Docket No. 549 (the companion case to the one at bar), the Government, at page 7 of its memorandum admits,

> "While this count charges a conspiracy to defraud the United States under 18 U. S. C. [1946 ed.] 88, which obviously is not part of the Nationality Act of 1940, nevertheless, the illegality of the conspiracy is predicated on a contravention of the statutory mandate of the Nationality Act. That Act prescribes the steps for obtaining naturalization in explicit terms."

Cf. Gebardi v. *United States*, 287 U. S. 112, 122: ". . . where it is impossible under any circumstances to commit the substantive offense without cooperative action, the preliminary agreement between the same parties to commit the offense is not an indictable conspiracy either at common law, [citing state cases] or under the federal statute [citing federal cases]." See also *United States* v. *Katz*, 271 U. S. 354; *United States* v. *Zeuli*, 137 F. 2d 845 (2d Cir.). In the present case, the naturalization laws required that Bridges' petition for naturalization be supported by two witnesses; the particular substantive offense alleged in Count II could not have been committed without meeting this preliminary requirement.

5. The arguments of the Government have all been previously rejected by this Court.

There is a nostalgic—one might even say shopworn—quality to the Government arguments made and accepted below, and re-offered here, for each of them has been made before and rejected by this Court. The arguments are, essentially, these:

(a) It is emphasized that Counts I and III are laid under statutes which contain the word "fraud" in the statement of the offense. "Manifestly," this meets the test of the Suspension Act, particularly because the *Noveck* case cited 271 U. S. at 204) Section 37 as an illustration of a statute to which the Suspension Act might be applicable (Government memorandum on certiorari, p. 18).

But in the *McElvain* case the indictment was brought under Section 37. The Government brief in that case quoted (at p. 15) the same sentence from the *Noveck* case, and the Government's argument consisted of the single sentence: "Section 37 is the section involved in this case." The *McElvain* case rejected this argument, and held explicitly that the Suspension Act does not reach all conspiracies covered by Section 37, even though the indictment utilizes the "fraud" language of that section.

(b). The second Government argument is that the vital word of the Suspension Act is "involved", from which it is said to follow that there need be no precise relationship between the fraud and the offense: "some relationship between the offense and the fraud will suffice" (Government brief below, p. 108). Twenty-five years ago, in the *Noveck* case, the Government constructed an elaborate argument based upon the word "involved", with several dictionary definitions (Government brief in the *Noveck* case, pp. 10-11). The argument failed there, as it must here.

(c) The central theme of the third Government argument is that the conduct charged against the defendants necessarily *results* in a fraud against the United States (Government brief below, p. 108). So, too, in the *Noveck* case, the Government argued that "the defrauding of the United States was the necessary and logical consequence of Noveck's perjury" (Government brief in the *Noveck* case, p. 12; see 271 U. S. at 203). And in the *Scharton* case, the Government argued that any attempt to evade taxes by craft or trickery was "fraud" because it deprived the Government of money (Government brief in the *Scharton* case, p. 8; see 285 U. S. at 520).

These arguments of "necessary consequence" failed, not because the assertions were not factually true, but because they were irrelevant. The issue was not whether fraud results from conduct, or is the purpose of conduct, but whether the fraud must be proved as a basis of criminal conviction for the conduct.

(d) Last comes the argument from *Haas* v. *Henkel*, 216 U. S. 462, a case having nothing to do with the Suspension Act, but holding that fraud in Section 37 covers any attempt to obstruct or defeat the lawful functions of the Government. Hence, runs the argument, "fraud" in the Suspension Act must be construed to cover all such attempts (Government brief below, pp. 113-114; memorandum on certiorari, p. 21).

But this argument was also relied on by the Government in the *Scharton* case (Government brief in the *Scharton* case, p. 7), and unsuccessfully. And this Court has repeatedly ruled that a conspiracy falls within the suspension acts only if the offense which is the object of the conspiracy lies within their scope.

6. If the Suspension Act were interpreted as is urged by the Government, the basic policies of both the statute of limitations and the Suspension Act would be subverted.

When Congress was considering the 1942 and 1921 legislation extending the statute of limitations, the basic problem it faced was how far it should go in making an exception to the beneficial and established policy of repose underlying the statute of limitations. The language which it adopted in the suspension acts, and the committee reports, indicate that Congress intended to draw a line which would give the Department of Justice additional leeway in circumstances where leeway is needed. Equally clearly, Congress intended to preserve the statute of limitations, and the policy of repose, except where the war emergency required their relaxation.

It is also to be noted that, whereas the 1921 Act was a proviso, intended to be temporary and in fact repealed in 1927 (45 Stat. 51), the 1942 Suspension Act (like the 1926 and 1932 amendments to the Revenue Act) is permanent legislation, and the 1942 Suspension Act comes into play, "When the United States is at war. . . ." Contrary to the suggestion of the court below,[37] this makes it all the more important that the 1942 Act be not applied so as to subvert the general statute of limitations.

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[37] 199 F. 2d at 825 footnote 15a: "We think the fact that the Suspension Act is cast in a separate independent Act rather than as a proviso to the general statute of limitations and is cast in very in-

In specific legislative fields where Congress has desired to broaden the scope of the suspension it has done so, as in the 1932 amendments to the Revenue Act.[38] Thus, in 1942 and upon the recommendation of the Secretaries of War and Navy and the Attorney General (Sen. Rep. 1592, 77th Cong., 2nd Sess.), Congress enacted a law (56 Stat. 781) suspending the statute of limitations with respect to anti-trust suits, both civil and criminal. But the Department of Justice never requested, and Congress has never enacted, legislation to broaden the effect of the Suspension Act as applied to the naturalization laws by eliminating fraud as a necessary element,[39] and the Government should not now ask this Court to do what Congress has neither done nor been asked to do.

It should also be borne in mind that the 1942 Act results in a *long* period of limitation—at a minimum the seven-year period from the effective date of the Act to December 31,

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clusive language indicates that Congress intended to avoid the limitations written into the Noveck, McElvain and Scharton opinions." But in fact (a) the 1942 language is no more inclusive than that of 1921, (b) there is literally nothing in the legislative history in support of the suggested broadening intention, and (c) the re-enactment of the identical language, following the judicial construction, clearly shows the contrary.

[38] *Supra,* p. 37.

[39] However, on June 30, 1951 the President approved, as Public Law 65 of the 82nd Cong., H. R. 2396, which fixed at 10 years the period of limitations for the naturalization offenses in 18 U. S. C. 1423 to 1428 and 1541 to 1544 inclusive, and conspiracies to commit these offenses. These sections do not include the one on which Count II of this indictment is based, but they do include the one upon which Count III is based (18 U. S. C. 1425).

1949—and an even longer period if the Government's current position, that the statute does not *start* to run until December 31, 1949, should prevail.[40] On that basis, and accepting the Government's argument that the now-repealed five-year statute of limitations for crimes under the Nationality Act is preserved for all offenses committed prior to September, 1948,[41] such offenses committed in 1942 could be made the subject of an indictment until December 31, 1954.[42] And, inasmuch as offenses under the revenue laws are not expressly excluded from the 1942 Suspension Act (whereas they were so excluded from the general statute of limitations to which the 1921 suspension, construed in the *McElvain* case, was a proviso), offenses under the revenue laws involving defrauding the Government, which are governed by a six-year statute of limitations (26 U. S. C. 3748), could be prosecuted until December 31, 1955—thirteen years after the 1942 Act, and *nine years* after the President's proclamation of the end of hostilities.

Another aspect of the Government's position in this case gives even greater cause for alarm. This is its effort to make the Suspension Act co-extensive with Section 37 of the Criminal Code. Since the decision in *Haas* v. *Henkel*, 216 U. S. 462, Section 37 has been given an everbroadening construction. See *Falter* v. *United States,* 23 F. 2d 420, 423-424 (2d Cir.). This Court had earlier declared that its reach transcends that of a conspiracy to defraud at common law. *United States* v. *Keitel,* 211 U. S. 370, 393. Section 37 has been said to reach any act which hampers or interferes with the United States in the successful execution of any policy established pursuant to law. *United States* v. *Soeder,* 10 F. Supp. 944 (W. D. Mo.); see also *Outlaw* v. *United States,* 81 F. 2d 805, 807 (5th Cir.); *Cendagarda* v. *United States,* 64 F. 2d 182 (10th Cir.); *cf. Biskind* v. *United States,* 281 Fed. 47 (6th Cir.) (conspiracy, for same conduct as the *Cendagarda* case held within "fraud clause" of Section 37, here held within its "offense against the United States" clause). Members of this Court and other federal judges have had occasion to comment on the "serious threat to fairness in our administration of justice" involved in the Government's growing and pervasive reliance on conspiracy charges. See the concurring opinion of Mr. Justice Jackson in *Krulewitch* v. *United States,* 336 U. S. 440, 445, in which are quoted earlier statements to the same effect by Chief Justice Taft and Judge Learned Hand.

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[40] See the Government's petition for certiorari in *United States* v. *Klinger*, Cert. granted, April 6, 1953, Docket No. 527, and the concurring opinion of Mr. Justice Clark in *United States* v. *Smith*, 342 U. S. 225, 230-31.

[41] See the Government's memorandum on certiorari in this case, pp. 23-26, and *infra*, pp. 48-52.

[42] If the ten-year period of Public Law 65 (*supra*, footnote 39) had been in effect at the time, prosecution for offenses within its coverage could be prosecuted until December 31, 1959.

In short, if this Court were now to depart from the solid ground of the *Noveck, McElvain,* and *Scharton* cases, the result would be to sweep a very large amount of the federal criminal jurisdiction, particularly where conspiracy is charged, under the Suspension Act. We mean this quite literally, and examination of the various categories of federal criminal cases bears out that conclusion. Under the position taken by the Government, it is hard to conceive that any of these categories[43] are outside the scope of the Suspension Act if any element of falsity can be alleged, or if a conspiracy count in the language of the "fraud clause" of Section 37 is included in the indictment.[44] See, for example, *United States v. Terranova,* 7 F. Supp. 989 (N. D. Cal.), holding that a conspiracy to pay less than prevailing wages was "fraud" within the meaning of Section 37. The Government's rationale enables it, by utilizing a conspiracy charge, to "increase the statute of limitations

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[43] See the breakdown into categories in Annual Report of the Director of the Administrative Office of the United States Courts (1952), pp. 96-97:

Criminal cases commenced in 86 districts for certain types of cases

Nature of Offense	1942	1948	1949	1950	1951	1952
Total	30,577	30,102	32,303	33,739	36,322	35,666
Transportation, etc., of stolen motor vehicles	1,876	3,189	2,834	2,772	2,556	3,106
Fraud and other theft	3,981	8,315	8,756	8,892	7,128	7,268
White slave traffic	441	264	190	233	227	229
Narcotics	1,945	1,502	1,578	2,172	1,982	1,873
Liquor, Internal Revenue	9,591	3,008	3,403	3,696	3,968	3,764
Food and Drug Act	371	429	356	363	365	269
Immigration laws	2,157	7,845	9,838	10,451	14,931	13,114
Juvenile delinquency	955	1,010	868	968	1,005	1,115
Migratory bird laws	620	501	745	525	498	483
National Defense laws:						
Selective Service Act—1940	3,356	459	185	164	22	11
Selective Service Act—1948	—	—	158	44	314	660
OPA-OHE, price and rent control	—	234	33	7	—	2
Defense Production Act of 1950	—	—	—	—	—	108
Alien registration	720	2	1	1	30	53
Kidnapping	19	27	21	23	23	34
All other	4,545	3,317	3,337	3,423	3,273	3,577

[44] Unless the defendant's conduct is open rather than covert. *Hammerschmidt v. United States,* 265 U. S. 182.

and, in effect, hold the defendant for crimes which already had been outlawed." (*In re Doyle,* 42 F. 2686 at 691).[45]

To avoid these excesses,[46] this Court and the lower federal courts have uniformly interpreted the Suspension Act so as to achieve the Congressional purpose without opening the door to wholesale evasion of the three-year statute of limitations. This case should not be made the occasion for departing from the sound principles enunciated by this Court through Mr. Justice Butler in the *Noveck* and *McElvain* cases, Mr. Justice Roberts in the *Scharton* case, and Chief Justice Stone in the *Braverman* case.

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[45] A sampling of cases in the Southern District of New York where the indictment contained a conspiracy count and where the proceedings against one or more of the defendants terminated in federal year 1951, reveals the breadth of the conspiracy "to defraud" language of the Criminal Code. Indictments laid in terms of conspiracy to defraud the United States included such diverse matters as perjury before a grand jury (*United States* v. *Brothman,* 133/106), forgery (*United States* v. *Campbell,* 133/270), and interfering with the administration of the revenue laws (*United States* v. *Comenetz,* 134/127). Other indictments involving violation of the liquor laws sometimes did (*United States* v. *Jaffe,* 133/334) and sometimes did not (*United States* v. *Tavolacci,* 134/301) contain the term "intent to defraud", although the violations were similar. Had there been a reason for so doing, many of the indictments phrased simply in terms of a conspiracy to violate specific penal provisions could have been rephrased in terms of conspiracy to defraud the United States, *e.g.* violations of the narcotics laws (*United States* v. *Kouchalakos,* 133/46), and unlawful use of passport (*United States* v. *Hinchliffe,* 135/40).

[46] The principle of the *Noveck, McElvain* and *Scharton* cases leaves ample leeway to the Government within the purposes of the Suspension Act. A necessarily hasty check of the Criminal Code discloses many sections involving the type of fraud envisaged in the Committee Reports on the 1942 Suspension Act; *e.g.,* possessing or using, with intent to defraud the United States, forged, altered or counterfeited contracts, deeds, powers of attorney, certificates, orders or other writings in order to obtain money from the United States (Secs. 495, 1002); altering, forging or counterfeiting contracting bonds, bids, contracts or public records with intent to defraud the United States (Sec. 494); making false entries, statements or reports to Federal credit or lending institutions with an intent to defraud the United States or its agencies (Sec. 1006); improperly delivering certificates, vouchers or receipts for military or naval property with an intent to defraud the United States (Sec. 1022); delivering insufficient money or property for military or naval services with an intent to defraud the United States (Sec. 1023); and the keeping or making of false entries or accounts by any employee of the United States with an intent to defraud (Sec. 2073).

In the light of its history, there is not the slightest reason why the Government should be allowed to bring this suit after the expiration of the normal period of limitations.[47] Baron Alderson observed in *Queen* v. *Robins,* 1 Cox C. C. 114 (1844), where the indictment followed the act by only 21 months, that "it is monstrous to put a man on his trial after such a lapse of time." There is here no lack of harmony between legal principles and general equities.

B. Counts II and III are Governed by the General Three-Year Statute of Limitations, and not by the Special Five-Year Statute of the Nationality Act, which was Repealed in 1948.

Below and in its memorandum on certiorari (pp. 23-26), the Government contended that Counts II and III[48] are governed, not by the general three-year statute of limitations, but by the five-year statute (8 U. S. C. [1946 ed.] 746(g), Appendix pp. 2-3) formerly incorporated in the Nationality Act.

The Act of June 25, 1948 (62 Stat. 683) which enacted the present Criminal Code (Title 18 U. S. C.) into positive law effective September 1, 1948, repealed this five-year statute and fixed the period of limitations at three years (18 U. S. C. 3282). Section 21 of the Act of June 25, 1948, *supra*, provided that "Any rights or liabilities now existing" under the repealed laws "shall not be affected by this repeal."

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[47] *Cf. United States* v. *Bethlehem Steel Corp.,* 315 U. S. 289, 308 wherein ("coming to this Court as it does more than twenty years after the ships were completed") it is implicit that the Government should not postpone, until long after a war is over, its enforcement activities.

[48] This argument has no application to Count I of the indictment.

The precise question is whether an indictment returned after September 1, 1948 (as was the indictment here) for a crime committed before that date is governed by the five-year or the three-year period.

The court below, after considering and reconsidering the Government's argument,[49] unanimously rejected it and held the three-year period applicable. 199 F. 2d at 819-820. The same contention was made by the Government, and unanimously rejected (by Judges Frank, Learned Hand and Swan) in *United States v. Obermeier*, 186 F. 2d 243 (2d Cir.)

Judge Frank's opinion in the *Obermeier* case (at pp. 250-256) contains a full review of the legislative history of the statutory provisions in question, and a careful analysis of the relevant principles with respect to repealers and saving clauses. There is no need to rehearse at length this history and analysis, which are so ably covered in his opinion. No court has approved the Government's position with respect to the Nationality Act, and there is little, if any, basis for it in decisions under other statutes.

Compelling evidence that the "saving clause" of the 1948 Act did not preserve the five-year statute of limitations beyond September 1, 1948 is found in well-established Congressional legislative practice. When Congress has desired to preserve the original period of limitations for offenses committed before a change in the period, it has made express provision to this effect. This has been true for at least seventy-five years, and may be seen by comparing Sections 13 and 5598 of the revised statutes of 1874 with Section 5599 thereof. Sections 13 and 5598 preserve, respectively, "any penalty, forfeiture, or liability" and "all offenses committed and all penalties or forfeitures". Section 5599, in contrast, expressly preserves "all acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures".[50]

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[49] In its original opinion of September 6th, the court accepted the argument (Tr. 8225-29).

In 1933, when the revised statutes were overhauled and obsolete sections repealed, Section 5599 was retained at the suggestion of the Secretary of War and the Attorney General, and for the specific reason that the concluding proviso of the repealing statute under consideration "refers only to 'rights' and 'liabilities' and not to remedies, recourse to which may be barred by limitations." See Sen. Rep. 1205, 72nd Cong., 2d Sess. Accordingly, if Congress had intended to preserve the five-year statute of limitations in the Nationality Act, "it would have been so easy to have said so". *Baltimore & P. R. R. Co.* v. *Grant,* 98 U. S. 398, 403.

Furthermore, the legislative history is squarely contrary to the Government's contention. This is borne out by the "authoritative" (*United States* v. *National City Lines,* 337 U. S. 78, 81) reviser's notes to 18 U. S. C. 3282 (the three-year statute of limitations) which, specifically referring to the five-year period (8 U. S. C. [1946 ed.] 746[g]), state that this period "is reduced to three years" since "there seemed no sound basis for considering three years adequate in the case of heinous felonies and gross frauds against the United States, but inadequate for misuse of a passport or false statement to a naturalization examiner."

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[50] The 1909 Criminal Code (35 Stat. 1159) contained similar distinct provisions, *e.g.*, sections 533 and 534.

The fact that the effective date of the repealing statute was postponed until September 1, 1948, shows, as the court below put it (199 F. 2d at 820), that "The legislation was skillfully drawn to prevent the nullification of prosecutions already begun by providing for continuity of the offenses through the revision and to prevent an effective amnesty as to violations more than three and less than five years old by postponing the effective date long enough for the government to act under the old five-year limitation."

Likewise, any other construction would result in the indefensible anomaly that a later offense would be barred sooner than an earlier one. For an offense committed on August 31, 1948, the statute would not run until August 31, 1953; for the identical offense committed on the very next day, prosecution would be barred on September 1, 1951.

The cases cited by the Government (memorandum on certiorari, p. 25) accomplish little or nothing in support of its contention.[51] The Government appears to lay some store by *De La Rama S. S. Co.* v. *United States*, 344 U. S. 386, a holding that the general savings clause (1 U. S. C. 109) preserved to a suitor the right to proceed in the district court with a civil case already begun there, despite the repeal of the War Risk Insurance Act. But this decision does not reach the problem here, inasmuch as it did not deal with a limitations problem but rather with a contention which, if accepted, would have divested the district court of jurisdiction. Furthermore, the language of the statute there in question was quite different from that of the saving clause here, and there the case had been commenced many years prior to the enactment of the repealer, which is not so here.

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[51] The authorities mentioned to support a contrary view are either civil cases (in which the doctrine of liberal construction in favor of repose has not the same force as in criminal cases), or do not involve periods of limitations, and they are all explicable upon other grounds.

In the present case, everything in the history of the statute of limitations and the savings clause demonstrates that it was Congress' intention to reduce the period of limitations to three years on and after September 1, 1948. Indictments brought subsequent to that date, as was the case here, are governed by the general three-year statute of limitations.

II

THIS PROCEEDING IS BARRED BY PRIOR ADJUDICATIONS UNDER THE PRINCIPLES OF RES JUDICATA, ESTOPPEL, AND THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT.

The primary and determinative factual issue raised by the indictment is whether or not Bridges had belonged to the Communist Party during the period covered by the indictment, 1933 to September 17, 1945.[52] This very issue was determined favorably to Bridges in the proceedings culminating in his naturalization on September 17, 1945. With respect to a shorter period of time, the same factual issue was the subject of the two administrative deportation proceedings against Bridges, the second of which was reviewed by this Court in *Bridges* v. *Wixon,* 326 U. S. 135 (1945).

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[52] There were, of course, other factual issues with respect to petitioners Schmidt and Robertson under Counts I and III, but these were dependent upon the primary issue of Count II

In the two prior proceedings the Government sought to prove its charge of Communist membership[53] by adducing evidence that Bridges had attended Communist meetings; had followed a position in trade union matters "parallel" to that of the Communist Party, had dealt with Communists in matters of union concern, and had admitted to membership in the Communist Party. The evidence in those proceedings—as indeed in this one—dealt primarily with events claimed to have transpired in the 1930's, most of it "clustered around" (*Knauer* v. *United States,* 328 U. S. 654, 660) the water-front strikes of 1934 and 1936.[54]

It is our position that the first administrative proceeding (before Mr. Landis and Secretary Perkins) determined for purposes of this proceeding that Bridges was not then a Communist, and that the second proceeding (before Judge Sears and Attorney-General Biddle), together with this Court's holding in the *Wixon* case, similarly determined that Bridges was not a Communist at any time between his entry into the United States (1920) and 1941 (the year of the Sears proceeding). Therefore, the factual issue with respect to membership prior to 1941 had been conclusively determined between the parties[55] (the Government and

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[53] *Supra,* p. 5.

[54] See Appendix, pp. 37-38.

[55] In *Cromwell* v. *County of Sac,* 94 U. S. 351, at 352-353, this Court set forth the distinction between "the effect of a judgment as a bar or estoppel against the prosecution of a second action upon the same claim or demand" (commonly referred to as the doctrine of *res judicata*), and "its effect as an estoppel in another action between the same parties upon a different claim or cause of action" (commonly called "collateral estoppel" or "estoppel by judgment"). As to the latter, the prior judgment concludes "those matters in issue or points controverted, upon the determination of which the finding or verdict was rendered." See also *Duchess of Kingston's Case,* 20 State Trials 537, 168 Eng. Rep. 175 (1776), in which Chief Justice De Grey sets out the same distinction.

Bridges), and should have been so treated upon the trial of this case. This requires reversal of the judgments of conviction because the trial court, over timely objection by the petitioners, refused to limit the evidence to the period after 1941 (and various other earlier dates specified in other objections, Tr. 736, 816-17, 87 F. Supp. 14), refused so to limit the issue which went to the jury (Tr. 293-96), affirmatively instructed the jury to disregard the earlier determinations (Tr. 7867-68, 7877), and excluded from evidence this Court's opinion in the *Wixon* case (Tr. 4226-27).

It is also our position that the naturalization decree of September 17, 1945 conclusively determined between the parties that Bridges was not a Communist at any time during the entire period covered by the indictment. This requires reversal of the judgment and dismissal of the indictment.

Finally, it is our position that the entire course of the several litigations against Bridges, involving, as it does, repetitious charges based on the same factual issue, and harassment of an individual on the same charge but in different proceedings over the course of fourteen years,

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(n. 55 cont.) Under the doctrine of these and other cases, the prior decisions with respect to the factual issue of Bridges' membership in the Communist Party would constitute a bar to this indictment by way of collateral estoppel rather than *res judicata*. However, the distinction in terminology is not always closely observed. See *United States* v. *Balt. & Ohio R. R. Co.*, 229 U. S. 244, 253, wherein an issue determined in an equity proceeding was "properly held to be *res judicata* as to the facts averred in" a subsequent criminal indictment involving the same issue.

There is no doubt that *res judicata* and *estoppel* are doctrines which apply in criminal as well as civil proceedings. *United States* v. *Oppenheimer*, 242 U. S. 85; *Regina* v. *Miles*, L. R. 24 Q. B. D. 43. And this is true even though the first adjudication be in a civil proceeding, and is pleaded in bar in a later criminal proceeding. *United States* v. *Balt. & Ohio R. R. Co., supra.*

cannot be squared with the rudiments of fair play, and is in violation of the due process clause of the Fifth Amendment. This likewise requires reversal of the judgment and dismissal of the indictment.

A. The Secretary of Labor's Determination in January, 1940 that Bridges was not a Communist Conclusively Established that Fact in this Proceeding.

On January 8, 1940, the Secretary of Labor approved the trial examiner's conclusion that the evidence failed to establish that Bridges was a member of or affiliated with the Communist Party, and dismissed the deportation proceeding (Tr. 55). It does not appear to be controverted that this determination, if made by a court, would have been conclusive in the present proceeding of the issues previously determined. The conclusive effect of the earlier proceeding would then present a routine example of collateral estoppel, and the earlier finding would "conclude those matters in issue which the verdict determined though the offenses be different". *Sealfon* v. *United States,* 332 U. S. 575, 578; *United States* v. *Balt. & Ohio R. R. Co.,* 229 U. S. 244; *Southern Pacific R. R. Co.* v. *United States,* 168 U. S. 1.

The court below decided (199 F. 2d at 826) and the Government contends (memorandum on certiorari, p. 14) that the Landis proceeding is not conclusive because the doctrine of *res judicata* is not applicable to deportation proceedings [illegible], more broadly, to decisions of administrative boards. The Government likewise argues that a determination of the factual issue of membership as of 1940 does not bear upon its determination as of 1945. Neither of these arguments is valid.

1. ***Res judicata*** **and estoppel in administrative proceedings.**

In denying the *res judicata* attributes of administrative determinations, the Government and the court below relied primarily on *Pearson* v. *Williams*, 202 U. S. 281 (1906), which held that a summary hearing and favorable ruling on an alien's right to enter did not bar a subsequent deportation order. But that case leads to no such broad conclusion as the Government seeks to draw; on the contrary, its reasoning tends rather to support the view that plenary, quasi-judicial determinations in deportation cases are judicially conclusive of what they decide.

The Government's position has been well described as the "all-or-none fallacy",[56] *i.e.*, the fallacy that because an administrative ruling lacking elements of judicial determination is not given the attributes of *res judicata*, no administrative decisions of whatever dignity should be so treated. However, as Mr Justice Holmes' opinion in the *Pearson* case carefully specified (202 U. S. at 284-285), the administrative decision there in question (made by a board of special inquiry of the Commissioner of Immigration) was a tentative and summary one.[57] The Board had no power to compel the attendance of witnesses, and was expected to "decide upon such evidence as is at hand or is readily accessible." In this context, the court stated: "Decisions of a similar type long have been recognized as decisions of the executive department, and cannot constitute *res judicata* in a technical sense".

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[56] Davis, *Administrative Law* (1951), p. 566.

[57] The Board's function was to determine, at the moment of the alien's debarkation, whether he was entitled to land. As Justice Holmes remarked, under these circumstances "any inquiry necessarily must be of a very summary sort". *Pearson* v. *Williams*, *supra*, at p. 284. See Davis, *op. cit.*, *supra*, at p. 566: "Immigration proceedings are often so hasty and summary that *res judicata* ought not to cut off opportunity to correct mistakes in the light of better understanding at a later time. Yet a slight degree of *res judicata* remains. Quite consistently with the Supreme Court's view [in the *Pearson* case], a circuit court of appeals has held that an alien should not be 'called upon again and again to prove his right to be and remain in the United States' ", citing *Choy Yuen Chan* v. *United States*, 30 F. 2d 516-517 (9th Cir.).

But an entirely different situation is presented when, as here, the administrative proceeding is plenary and of a quasi-judicial character. *Tait* v. *Western Maryland Ry. Co.*, 289 U. S. 620; *Sunshine Coal Co.* v. *Adkins*, 310 U. S. 381; *Louisville & Nashville R. R. Co.* v. *Ohio Valley Tie Co.*, 242 U. S. 288. The court below wrongly read the *Pearson* case as a blanket holding that administrative determinations are never given the effect of *res judicata* or estoppel.[58]

Furthermore, the *Pearson* case considered the effect to be given a ruling in an entry case, not a deportation proceeding involving (as here) an alien who had long resided in this country. Deportation cases are treated, for due process and other purposes, quite differently from exclusion cases.[59] Every subsequent decision applying the *Pearson* ruling has been reached in an entry or "unassimilated status" case; it has never until this time been asserted in order to overturn a quasi-judicial administrative determination with respect to the deportability of a resident alien. Over the course of years and under this Court's influence,[60] deportation procedure has developed a progressively more formal and judicial structure. See *Wong Yang Sung* v. *McGrath,* 339 U. S. 33, 48-49.

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[58] The nature of the misconception below is manifested by the court's observation that Dean Landis was "acting as an official of the executive department of the government but not as an arm of the judicial department . . .", 199 F. 2d at 826. True, of course, but this applies to all administrative determinations, including those which are quasi-judicial, and the court's test would have subverted the decisions in the *Tait* and *Sunshine* cases, *supra*.

[59] Compare *Kwong Hai Chew* v. *Colding*, 344 U. S. 590, which sharply restricted the Attorney-General's powers over resident aliens, with *Shaughnessy* v. *United States ex rel Mezei*, 21 L. W. 4242, March 16, 1953, which reached the opposite result with respect to identical powers applied to an entrance case.

As a part of this program, the administrative proceeding here in question was established. What resulted was an orderly and exhaustive hearing, resulting in a carefully deliberated finding. Had that order been made by the Tax Court, an administrative agency, it would have been *res judicata* for the year it covered. *Commissioner* v. *Sunnen,* 333 U. S. 591. Had it been made by the Court of Customs and Patent Appeals, an administrative agency, it would have been *res judicata,* at least as to the particular shipment involved. *United States* v. *Stone & Downer Co.,* 274 U. S. 225. Is this deliberate finding to be denied its consequence here because the agencies just mentioned have the word "Court" in their present titles, while Dean Landis was called a Trial Examiner and Madam Perkins was merely a Secretary? We submit that where a deportation decision as to a lawfully admitted and long-resident alien is based on exhaustive hearings, and results in a conclusion as to a past fact, that fact is conclusively determined. As the Attorney-General stated to the Senate Committee which was considering the 1940 bill to deport Bridges (Sen. Rep. 2031, 76th Cong., 3d Sess., Appendix pp. 22-23):

> "The extraordinary character of the bill upon its face is even more impressive viewed against its

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[60] Meanwhile, the Immigration Service was under pressure from outside critics to develop a procedure like that of the then Board of Tax Appeals, a Board which "neither initiates or prosecutes the cases which are brought before it but in effect sits as a court." 2 National Commission on Law Observance and Enforcement No. 5, May 27, 1931, pp. 160-61.

> background. This same alien has been accused, investigated, and tried at great length, and judgment has been rendered that he had not been proved guilty of the charges made against him. By this bill, the United States would deny faith and credit to its own duly conducted legal proceedings."

Indeed, the *Pearson* case has an affirmative rather than a negative impact on the question here. The court declared (202 U. S. at 285) that the administrative ruling was of a type long "recognized as decisions of the executive department" which "cannot constitute *res judicata* in a technical sense." In what sense, then, if not technical? None of the five cases cited[61] immediately following this statement involves any question of *res judicata* in its technical sense; but they reveal the opinion's meaning. They are cases holding that exclusion or deportation orders are not subject to *review* by the courts,[62] except to determine whether due process has been denied by unfairness or lack of any supporting evidence. This in fact subsequently occurred in the present case. *Bridges* v. *Wixon,* 326 U. S. 135.

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[61] *Ekin* v. *United States*, 142 U. S. 651; *Fong Yue Ting* v. *United States*, 146 U. S. 698, 713; *Lem Moon Sing* v. *United States*, 158 U. S. 538; *Fok Yung Yo* v. *United States*, 185 U. S. 296, 305; *Japanese Immigrant Case*, 189 U. S. 86, 98; *United States* v. *Ju Toy*, 198 U. S. 253, 263. The *Ekin* case, for example, re-affirms the right of *habeas corpus* to determine the lawfulness of an alien's restraint, while holding that Congress may give the final determination of factual issues to an executive officer who (p. 660) "is made the sole and exclusive judge of the existence of those facts, and no other tribunal, unless expressly authorized by law to do so, is at liberty to reëxamine or controvert the sufficiency of the evidence on which he acted."

[62] These cases were cited, therefore, with respect to the *second* order in the *Pearson* case, under which the aliens were to be deported, and which they were challenging. Mr. Justice Holmes, in other words, is saying that this second order is subject to only a limited review, and that the existence of the first and tentative order admitting the alien gave the courts no basis for interfering with the second order.

In other words, under the *Pearson* case, the Landis-Perkins determination was reviewable in the courts only on questions of due process. Now, the Government cannot turn the *Pearson* doctrine into a one-way street running in their chosen direction. Had the Landis-Perkins decision gone *against* Bridges, the Government certainly would have contended that it was subject to judicial review only as to due process; this, in fact, is just what the Government argued in the *Wixon* case (Government's brief in that case, pp. 18-23) and in *Heikkila* v. *Barber,* 21 L. W. 4249, 4250, March 16, 1953, in which this Court declared that "Congress had intended to make these administrative decisions non-reviewable to the fullest extent possible under the Constitution". But because the Landis-Perkins determination was that Bridges was *not* a Communist, the Government now claims the right to a broader judicial review (a review of factual questions),[63] by bringing an indictment for perjury.

If there are no decisions squarely establishing that a quasi-judicial determination in a deportation proceeding carries the attributes of *res judicata* and estops the parties from subsequently relitigating what has thus been determined, it is because never before, so far as we know, has the Government sought to overthrow such a determination by subsequent collateral attack. In other fields, however, there is abundant support for our position. Of course, quasi-legislative administrative actions, such as rate-making, are not *res judicata* any more than is an act of Congress.

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[63] More precisely, the same factual question except for the period of time covered, see *infra,* pp. 62-63.

Arizona Grocery v. *Atchison Ry.*, 284 U. S. 370. But that case clearly distinguishes quasi-judicial administrative decisions; the opinion states (at 389): "The rule of estoppel by judgment obviously applies only to bodies exercising judicial functions; it is manifestly inapplicable to legislative action." Nor are administrative decisions *res judicata* as to "continuing practices" such as were involved in *Federal Trade Commission* v. *Raladam Co.*, 316 U. S. 149.

The *res judicata* attributes of administrative decisions were recognized in the tax field in the *Sunnen* case and in the customs field by the *Stone & Downer* case, and there are many other decisions to the same effect. *United States* v. *Wildcat*, 244 U. S. 111; *Campbell* v. *Wadsworth*, 248 U. S. 169; *United States* v. *Atkins*, 260 U. S. 220 (all dealing with Indian Affairs); *Keogh* v. *Chicago and Northwestern Ry. Co.*, 260 U. S. 156 (Interstate Commerce Commission); *United States ex rel. Girard* v. *Helvering*, 301 U. S. 540 (Board of Tax Appeals); *International Building Co.* v. *United States*, 199 F. 2d 12 (8th Cir.) (Board of Tax Appeals); *United States* v. *Willard Tablet Co.*, 141 F. 2d 141 (7th Cir.) (Federal Trade Commission); *Lee* v. *Federal Trade Commission*, 113 F. 2d 583 (8th Cir.);[64] *cf.* *Hutton* v. *Ras Steam Shipping Co.*, 1 K. B. 834 (1907); *Mortimer* v. *The South Wales Ry. Co.*, 1 E. & E. 374 (Q. B. 1859); *Hoystod* v. *Commissioner of Taxation*, 42 T. L. R. 207 (Privy Council 1925); Spenser Bower, *Res Judicata* (1924), Ch. II, Sec. 1, No. 17. There is, in short, no basis in reason or precedent for denying that the Landis-Perkins decision conclusively determined the factual question which was there put in issue—to wit, whether or not Bridges was then a Communist.

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[64] The *Tait* and *Louisville* cases and the *Sunshine* case (*supra*, p. 57) recognized the *res judicata* attributes of decisions of the Interstate Commerce Commission and the Bituminous Coal Commission.

2. Because the Secretary of Labor's determination was not given effect in this proceeding, the judgment below must be reversed.

Apart from the *Pearson* case, the Government denies that the Landis-Perkins determination should be given effect in this proceeding because the indictment covers a different period of time. In its memorandum on certiorari (pp. 14-15), the Government states: "At most, what was decided in the prior proceedings was that Bridges had not been shown to be a member of the Communist Party before 1940. The issue as of 1945 when Bridges swore that he was not a member, was, of course, not at all involved in these proceedings. Thus the Government did not attempt to re-litigate any issue actually decided in the deportation hearings".

But part of the issue which went to the jury was the same issue that had been litigated before. If "what was decided in the prior proceedings was that Bridges had not been shown to be a member of the Communist Party before 1940", then obviously "the issue as of 1945", which alone should have gone to the jury, was whether Bridges was at any time a Communist after the decision in 1940 and before September 17, 1945 (the end of the period specified in the indictment).

However, the indictment was not so limited, and the efforts of the defense to limit the evidence and the issue for the jury were unsuccessful. The Government's memorandum completely fails to meet this basic point. As we have already pointed out (*supra*, p. 54), the court overruled objections to evidence bearing on the period prior to 1940, refused to limit the issue which went to the jury, and affirmatively instructed the jury to disregard the Landis-Perkins determination.

It is unnecessary to decide whether the Landis-Perkins determination relates only to the point of time at which it was made, or covers the preceding years.[65] Actually, none of the witnesses who appeared before Mr. Landis gave testimony relating to the time at which the hearing was held; for the most part their testimony covered the years 1934 to 1937,[66] and the Government relied on the presumption of a continuing state of facts to establish membership as of the time of the hearing. The theory of the Landis-Perkins finding, therefore, was that Bridges had not been shown to be a Communist during the years to which the testimony related, which destroyed the basis for the presumption.

But whether the decision reaches properly only to the time at which it was made, or covers the earlier years, makes no difference here. The trial court refused to give it effect even with respect to the time at which it was rendered, and this clearly requires reversal of the judgment of conviction.

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[65] The trial examiner's finding, approved by the Secretary of Labor, related, if read literally, only to the time at which the decision was made, in accordance with the language of the charge against Bridges. Mr. Landis' report did not advert expressly to this question, although, in discussing *Kessler* v. *Strecker,* 307 U. S. 22, he observed that: "The *Strecker* case left uncertain the particular time as of which the facts of membership, etc., have to be proved, though the inference derivable from the opinion is that the significant time is that of the issuance of the warrant of arrest." See *In the Matter of Harry R. Bridges—Findings and Conclusions of the Trial Examiner* (United States Government Printing Office, 1939) p. 6, n. 17.

[66] See Appendix, pp. 36-37. The testimony of Bridges himself, who was called as a witness by the Government and of the witness Humphreys, extended into the year 1938.

B. The Decision of this Court in *Bridges* v. *Wixon* Conclusively Established in this Proceeding that Bridges was not a Communist Prior to 1941.

On September 26, 1941, Presiding Inspector Sears submitted his memorandum and proposed findings, including the findings that Bridges had been a member of and affiliated with the Communist Party. As is set forth in this Court's opinion in *Bridges* v. *Wixon*, 326 U. S. 135, 139-140, the Board of Immigration Appeals found that Bridges had not been a member of or affiliated with the Communist Party, after which the Attorney General reviewed the Board's decision and made findings in accordance with those proposed by Judge Sears. Upon issuance of a deportation warrant, Bridges challenged the legality of his detention by *habeas corpus* and the proceedings on the writ culminated in the decision of this Court in the *Wixon* case. As a result of that decision the writ was granted, Bridges was released from bail, and the deportation proceeding was abandoned.

We contend that the decision in the *Wixon* case, on familiar principles, barred re-litigation of the issue of Communist membership prior to 1941. The Government contends (memorandum on certiorari, pp. 13-14) and the Court below agreed (199 F. 2d at 826-27) that the *Wixon* case held only that the administrative hearing was unfair, and did not reach the factual issue of membership. Likewise, the Government makes the same argument, with respect to the period of time involved, which has already been examined in connection with the Landis-Perkins decision (*supra*, pp. 62) with the additional contention (memorandum on certiorari, p. 15, footnote 8) that "To establish the falsity of the 1945 statement the Government did not rely [at the trial under this indictment] on the evidence which had been introduced at the prior deportation hearings. All of the Government witnesses were new." None of these arguments is valid.[67]

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[67] Other statements in the decision below in support of its holding that the *Wixon* case is of no effect in this proceeding seem not to warrant detailed analysis. (1) "The matter in court was habeas corpus, and the Communist issue was not in the case" (199 F. 2d at 827). The second clause of this sentence can only be characterized as extraordinary in view of the careful analysis, in both the majority and minority opinions of this Court in the *Wixon* case, of the question whether there was evidence to support the administrative finding (326 U. S., at 149-157, 166-178). As for the reference to *habeas corpus*, though it is well-settled that a judgment *refusing* to discharge a petitioner (though it may be persuasive) is not *res judicata* (*Salinger* v. *Loisel*, 265 U. S. 224, 230; *Waley* v. *Johnston*, 316 U. S. 101, 105), a judgment which does discharge a prisoner is *res judicata* at least as to "all the facts and circumstances which came" up in the original proceedings. *United States* v. *Chung Shee*, 76 Fed. 951, 956 (9th Cir.), affirming the more extended district court opinion, *id.*, 71 Fed. 277, 279 (S. D. Cal.), which in turn quotes the relevant portion of *Freeman on Judgments* for the distinction here made. *Chung Shee* is cited by this Court in *Collins* v. *Loisel*, 262 U. S. 426, 430, where the Court notes that a discharge on *habeas corpus* operates as *res judicata* of the issues of law and fact necessarily involved in that result. See *Harris* v. *Biszkowicz*, 100 F. 2d 854 (8th Cir.); *Ex parte Reaves*, 121 Fed. 848 (M. D. Ala.). And in *Heikkila* v. *Barber*, 21 L.W. 4249, March 16, 1953, this Court expressly stated that the reason for limiting an alien to the writ of *habeas corpus* was "to minimize opportunities for repetitious litigation and consequent delays. . . ."

(2) "Of course, the issue in none of the former hearings was as to Bridges' being a Communist. . . . an allegation that a person was a Communist was not per se an allegation of a crime, while the allegation that one conspired to destroy the Government by force or violence stated a crime" (199 F. 2d at 826-27). Of course, this is the sheerest legal fiction. Bridges was not charged before either Mr. Landis or Judge Sears with conspiring to destroy the Government by force and violence, but with being a member of the organization which advocated the violent overthrow of the Government. In each of the administrative proceedings, the Government specified that the organization in question was the Communist Party (*supra*, pp. 5, 7). Therefore, the precise issue in both administrative proceedings was whether or not Bridges was a member of the Communist Party.

1. *Bridges* v. *Wixon* held that there was no evidence to support the administrative conclusion that Bridges was a member of the Communist Party.

The Government's effort to rule the *Wixon* case out of the present proceeding is bottomed on the single circumstance that Judge Sears admitted, as substantive evidence against Bridges, hearsay evidence of an unsworn statement of one James D. O'Neil, and that both Judge Sears and the Attorney-General relied heavily on this evidence in reaching their conclusion that Bridges was a member of the Communist Party. In the *Wixon* case, this Court held that it was error to admit O'Neil's statement as substantive evidence. On that basis, the Court below said (199 F. 2d at 827) that the *Wixon* case "goes no farther than to declare what was the proper administrative procedure to be followed", and the Government contends (memorandum on certiorari, p. 13) that the case held only that the administrative hearing was "unfair".

But this reading of the *Wixon* case is wholly untenable in the light of the issue before this Court and the language of both majority and minority opinions. In the majority opinion (Mr. Justice Douglas) it was explicitly stated that a deportation order cannot be overturned on due process grounds "by showing that incompetent evidence was admitted and considered" (326 U. S. at 156, citing *Vajtauer* v. *Commissioner*, 273 U. S. 103, 106). Under the decisions of this Court, the issue in the *Wixon* case was whether there was evidence—sometimes described as "some" evidence, "any" evidence, or evidence "more than a scintilla, and not unbelievable on its face"—to support the Attorney-General's finding that Bridges was a Communist. *Tisi* v. *Tod*, 264 U. S. 131. That this was the issue before the Court was recognized in both the majority pinion (326 U. S. at 149: "In these *habeas corpus* proceedngs we do not review the evidence beyond ascertaining hat there is some evidence to support the deportation order", iting the *Vajtauer* case), and in the minority opinion of Chief Justice Stone (326 U. S. at 166, 170-171).

The history of the Sears-Biddle proceeding bears out hat the evidentiary question was determinative. Judge Sears, as was stated in the Attorney-General's decision, ejected much of the Government's evidence on membership s "untrustworthy, contradictory, or unreliable."[68] The Attorney-General relied primarily, if not exclusively, on he testimony of Harry Lundeberg and the unsworn statement of O'Neil.[69] When Bridges' petition for a writ of *habeas corpus* reached this Court, the primary point in both his and the Government's brief was whether there was sufficient evidence to support the administrative finding (Brief for petitioner in the *Wixon* case, pp. 29-65: brief for the Government therein, pp. 13-15, 18-93).[70]

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[68] *Harry Bridges before the Attorney-General in Deportation Proceedings* (U. S. Dept. of Justice, May 28, 1942), p. 18; Appendix, pp. 39-41.

[69] *Id.*, at pp. 18-24. As to seven other witnesses whose testimony was characterized by Judge Sears as "inconclusive, unreliable, or contradictory" (*Id.* at p. 25), the Attorney-General declared (*Id.* at p. 26) that "taken as a whole it cannot, because of its volume, be completely disregarded", but this seems to be stated with reference to "affiliation" rather than "membership."

[70] There were, of course, numerous other points involved. At each stage of the Sears-Biddle proceeding, Bridges pleaded the Landis-Perkins decision in bar as *res judicata.* Judge Sears rejected the argument because the evidence was presented by a new set of witnesses (*infra*, pp. 71-72), a greater period of time was covered by the charge, and on the *Pearson* case (*In the Matter of Harry Renton Bridges,* Immigration and Naturalization Service, Department of Justice, File No. 55973/217, Memorandum of Decision, at p. 17). The Board of Immigration Appeals discussed but, because of their finding that the evidence was insufficient, did not decide the point. The Attorney-General relied exclusively on *Pearson v. Williams,* 202 U. S. 281 (*Harry Bridges before the Attorney-General in Deportation Proceedings* (U. S. Government Printing Office, 1942) at p. 30). This Court, presumably because it disposed of the case on other grounds, did not advert to the *res judicata* question (326 U. S. at 156-157).

In this Court, therefore, the "membership" issue was whether the evidence of O'Neil and Lundeberg was sufficient to support the administrative finding. The dissenting justices thought Lundeberg's testimony alone sufficient (326 U. S. at 174). The majority opinion held O'Neil's statement incompetent (while recognizing that the administrative finding could not be overturned for that reason alone, 326 U. S. at 156), and that the finding of membership could not be sustained if O'Neil's statement was excluded from consideration.[71] The Court gave weight to the fact (326 U. S. at 156) that "the Board of Immigration Appeals significantly concluded that apart from O'Neil's unsworn statements the evidence of Bridges' membership was too flimsy to support a finding" and drew from this the conclusion that it would be "idle to consider what the Attorney-General might have ruled on the basis of the other evidence before him", citing, by comparison, *United States* v. *Dunton*, 291 Fed. 905 (S. D. N. Y.).

In the *Dunton* case, Judge Learned Hand held, in an exclusion case on *habeas corpus*, that the Secretary of Labor, reversing a board of special inquiry which voted to admit the alien, had improperly considered certain evidence not adduced before the board. Judge Hand granted the writ, saying (291 Fed. at 907):

> "It is idle to speculate upon what the board might have done if they had received it [the evidence im-

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[71] The Court noted (326 U. S. at 155) that the Attorney-General did not find that Lundeberg's testimony alone was sufficient (the dissenting justices disagreed with this interpretation), though the Court reserved the question of what conclusion it would have reached had the Attorney-General found that testimony alone sufficient. The Attorney-General's failure to find Lundeberg's testimony alone sufficient thus furnished additional support for this Court's parallel conclusion.

> properly considered by the Secretary] . . . there can be no question that without it there was no color for reversal, nothing but the most trivial inconsistencies."

Quite clearly, the citation of the *Dunton* case at that point in the Court's opinion means that, lacking the O'Neil statement, the Attorney-General had no evidence before him sufficient to warrant reversing the Board of Immigration Appeals or to support a finding that Bridges was a Communist.[72]

If there are any doubts about the conclusiveness of the *Wixon* case,[73] they certainly did not occur to the Government when the decision was handed down. No effort was made to resume the deportation proceeding;[74] no effort was made to adduce additional evidence to support the administrative finding, or to give the Attorney-General an opportunity to rule on the sufficiency of Lundeberg's testimony standing alone.[75] Bridges' bail was released and the Government appears to have treated the *Wixon* decision in all respects as a final and conclusive adjudication of the issue, as indeed it was.[76]

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[72] It is also to be noted that the court below, albeit inconsistently with their refusal to give effect to the *Wixon* case, stated (199 F. 2d at 827): "The Supreme Court, therefore, concluded that the administrative decision approving an executive order to deport Bridges could not be sustained since it was not supported by substantial evidence." Technically, as has been noted, the requirement in the *Wixon* case was not "substantial" but "some" evidence.

[73] "If the Court reverses the order, say, on the ground of lack of substantial evidence in the findings, then the *res judicata* effect probably ought to be the same as if the agency had held the other way on the issue in the first instance, with the added effect that the Court's holding is itself *res judicata* on the issue of substantial evidence, as well as on the other issues that might have been raised in the proceeding on judicial review." Davis, *Administrative Law* (1951), p. 611.

[74] Compare *Bryan* v. *United States*, 338 U. S. 552, wherein it was held (on a direct appeal from a criminal conviction, as distinguished from collateral review as in *habeas corpus*) that the circuit courts of appeal, when reversing a conviction for insufficient evidence, can either direct a new trial (even though the defendant's motion at trial for a directed verdict of acquittal was erroneously denied) or a judgment of acquittal. When the former course is followed, it "leaves the Government free to retry the case or to dismiss it if no additional evidence . . . be obtainable." See *Caringella* v. *United States*, 78 F. 2d 563, 567 (7th Cir.). If it be assumed that the rule of the *Bryan* case applies to the *Wixon* decision, the Government followed the latter course mentioned in the *Caringella* case.

2. Because the *Wixon* case was not given effect in this proceeding, the judgment below must be reversed.

Obviously the trial court's failure to restrict the issue for the jury to the period after 1941[77] was seriously prejudicial. The great bulk of the evidence introduced by the Government at the trial related to the same years of the mid-thirties that were covered by the witnesses called in the prior administrative proceedings (Appendix, pp. 36-37). The opinion of the court below (199 F. 2d at 834-45) contains an extensive review of the evidence. The evidence dealing with events subsequent to 1941 was such as (Appendix, pp. 41-43) "would not in itself suffice" to sustain the convictions (199 F. 2d 837, especially n. 8). Indeed, for this purpose, it is quite immaterial whether one adopts the time of the Landis-Perkins or the Sears-Biddle decision. And, as has been stated (*supra*, pp. 54, 62-63), the defendants made all possible motions to limit the evidence and restrict the issue for the jury as to each significant date in both administrative proceedings.

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[75] The administrative regulations of the Immigration and Naturalization Service are set out in the Appendix, pp. 27-31. These specifically gave the Board of Immigration Appeals the authority to re-open a case.

[76] Immediately thereafter, when Bridges applied for naturalization, the Government interposed no objection. *Infra*, p. 72. The question whether the *Wixon* case or the Landis-Perkins decision would have been *res judicata* in the naturalization proceedings on the issue of Communist membership and affiliation, therefore, did not arise.

[77] There may be some question whether the precise governing date should be February 12, 1941 (the date of the warrant involved in the Sears-Biddle proceeding), or September 26, 1941 (the date of the Sears report). See Mr. Landis' comment on this type of question, *supra*, p. 63, n. 65.

To support the notion that relitigation of the factual issue of Bridges' Communist membership prior to 1940 was permissible, the Government has said (memorandum on certiorari, p. 15, footnote 8) only that: "To establish the falsity of the 1945 statement the Government did not rely on the evidence which had been introduced at the prior deportation hearings. All of the Government's witnesses were new." What is the purpose of this remarkable statement? That the Government abandoned the witnesses discredited in the earlier proceedings (Appendix, pp. 38-41), and felt obliged to dredge up and rely upon an entirely new lot, is indeed interesting, but quite irrelevant to the point at issue. The question is not whether the prosecution's evidence came from new witnesses, but whether the issue which went to the jury was, in whole or in part, the same issue as had been litigated before. *Southern Pacific R. R. Co.* v. *United States*, 168 U. S. 1, 48; *Sealfon* v. *United States*, 332 U. S. 575, 578; *United States* v. *Balt. & Ohio R. R. Co.*, 229 U. S. 244.

Whatever the purpose of the Government's statement, the fact that the witnesses were new has no bearing on the legal issues of *res judicata* and estoppel which are here under consideration, as the Government itself earlier acknowledged in its brief submitted to this Court in the *Wixon* case, wherein it is stated (at p. 99): "Although we do not understand that diversity of the evidence presented in two proceedings on the same issue bars the principle of *res judicata,* it is worth remarking that no witnesses offered by the Government at the second hearing had testified at the first." With all respect, we suggest that it was no more worth so remarking at the time of the *Wixon* case than it is at present.

C. The Naturalization Decree of September 17, 1945 is *Res Judicata* of the Issues therein Determined, including that of Bridges' Alleged Communist Party Membership; Therefore the Judgment below must be Reversed and the Indictment Dismissed.

On June 23, 1945 (five days after the decision in the *Wixon* case), Bridges filed his preliminary form for a petition for naturalization. The subsequent steps leading up to his naturalization by decree of the California Superior Court have already been described (*supra,* pp. 8-9; Tr. 102-145). The Government interposed no objection to Bridges' naturalization (Tr. 144).

Bridges was expressly asked and expressly denied present or former membership (Tr. 138), and an affidavit charging him with membership was offered "for what it is worth" by the Government's representative (Tr. 139-142). In granting the decree, therefore, the naturalization court determined that Bridges was not and had not been a Communist.

The naturalization decree was *res judicata* of the very issue in the present criminal proceeding. *Chitwood* v. *United States*, 178 Fed. 442 (8th Cir.); see *Tutun* v. *United States,* 270 U. S. 568, 577; *Hart Steel Co.* v. *Railroad Supply Co.*, 244 U. S. 294, 298-9; *cf. United States* v. *Throckmorton,* 98 U. S. 61. The factual question in both cases was precisely the same. That a naturalization decree is a "case or controversy" in the judicial sense has long been settled, as is the corollary that such a decree is a final adjudication which must be accepted by other courts as complete evidence of its own validity, and carries the attributes of *res judicata*. As Chief Justice Marshall said in *Spratt* v. *Spratt*, 4 Pet. 393, 407-408 (U. S., 1831):

> "The various acts upon the subject submit the decision of the right of aliens to admission as citizens to courts of record. They are to receive testimony, to compare it with the law, and to judge on both law and fact. This judgment is entered on record as the judgment of the court. It seems to us, if it be in legal form, to close all inquiry, and, like every other judgment, to be complete evidence of its own validity.
>
> "The inconvenience which might arise from this principle has been pressed upon the court; but the inconvenience might be still greater if the opposite opinion be established."

In line with these views, Mr. Justice Brandeis held in the *Tutun* case, *supra* at 577:

> "The petitioner's claim is one arising under the Constitution and laws of the United States. The claim is presented to the court in such a form that the judicial power is capable of acting upon it. The proceeding is instituted and is conducted throughout according to the regular course of judicial procedure. The United States is always a possible adverse party. By § 11 of the Naturalization Act the full rights of a litigant are expressly reserved to it. . . . Its contentions are submitted to the court for adjudication. . . . The judgment entered, like other judgments of a court of record, is accepted as complete evidence of its own validity unless set aside. . . . It may not be

> collaterally attacked. . . . If a certificate is procured when the prescribed qualifications have no existence in fact, it may be cancelled by suit."

In *Knauer* v. *United States,* 328 U. S. 654, relied on by the Government as denying the *res judicata* attributes of a naturalization decree (memorandum on certiorari, pp. 15-16), the Government brought suit to cancel a naturalization certificate, in line with the last sentence quoted above from the ***Tutun*** case. The issue in the case was whether Knauer committed a fraud by taking a false oath of allegiance. Knauer pleaded the naturalization decree in bar as ***res judicata,*** and this Court's rejection of the plea[78] is the basis of the Government's contention that Bridges' naturalization decree was not conclusive of the issue here.

But the *Knauer* case does not even settle the question whether the decree here would be *res judicata* of the membership issue in a denaturalization proceeding against Bridges (as distinguished from the criminal charge here involved). For the *Knauer* decision was grounded narrowly on the fact that Knauer's oath of allegiance related "to a state of mind . . . and promise of future conduct" and not to "issues of fact", as here (328 U. S. at 670, 671):

> "It is said, however, that the issue of fraud may not be tried in this case. An analogy is sought to be drawn to those cases where relief against a prior

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[78] Other cases where the naturalization certificate has been cancelled have involved jurisdictional defects, as in *United States* v. *Ness,* 245 U. S. 319; *Johannessen* v. *United States,* 225 U. S. 227; *United States* v. *Ginsberg,* 243 U. S. 472. In the *Ness* case, the Court pointed out (at 325) that the naturalization decree "is, though clearly erroneous, conclusive even as against the United States if it entered an appearance" on evidentiary and procedural matters.

judgment, on the ground that perjured testimony was introduced at the trial, was denied. *United States* v. *Throckmorton*, 98 U. S. 61, 66 . . . But that rule goes no further than to say that the issue of fraud can become *res judicata* in the judgment sought to be set aside. We need not consider the extent to which a decree of naturalization may constitute a final determination of issues of fact, the establishment of which Congress has made conditions precedent to naturalization. Those facts relate to the past—to behavior and conduct. But the oath is in a different category. It relates to a state of mind and is a promise of future conduct. It is the final act by which an alien acquires the status of citizen. It requires forswearing of all allegiance in good faith and with no mental reservations. The oath being the final step, no evidence is heard at that time. It comes after the matters in issue have been resolved in favor of the applicant for citizenship. Hence, no opportunity exists for the examiner or the judge to determine if what the new citizen swore was true, was in fact false. Hence, the issue of fraud in the oath cannot become *res judicata* in the decree sought to be set aside. For fraud in the oath[79] was not in issue in the proceedings and neither was adjudicated nor could have been adjudicated."

The *Knauer* case, therefore, expressly reserved "the extent to which a decree of naturalization may constitute a final determination of issues of fact" in denaturalization proceedings. But the question so reserved is not the question here, and even if resolved favorably to the Government, would be of no avail to it here. For this is not a proceeding to cancel a certificate of naturalization; it is, *per contra,* a *collateral attack* on the naturalization decree by means of a criminal indictment for false swearing—the very kind of attack against the decree which, under the *Tutun* case, must be treated as a final adjudication, protected against collateral attack.[80] And here, the issue of Bridges' Communist membership, determined by the denaturalization decree, is the very issue on which the indictment for false swearing is based. *Chitwood* v. *United States, supra.* Furthermore, the Government has in fact instituted a proceeding to cancel Bridges' naturalization certificate, but that proceeding has been stayed, *at the Government's own request and over the petitioners' objection. United States* v. *Bridges,* 86 F. Supp. 931 (N. D. Cal.). The Government is now asking this Court to do precisely what the *Tutun* case said cannot be done. See also *United States* v. *Hamilton,* 157 Fed. 569 (C. C. S. D. N. Y.).

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[79] The Government's quotation of the balance of this sentence following the footnote (memorandum on certiorari, pp. 15-16) omitted the words "in the oath", which of course limit the meaning of the sentence and make it wholly inapplicable to the present case.

The Government complains (memorandum on certiorari, p. 15) that "It would indeed be an odd application of the principle of *res judicata* to bar the Government from protecting the integrity of its own proceedings on the ground that the final order in those proceedings precludes a further inquiry, criminal or otherwise, as to whether the legal proceedings had been abused". But the proper channel for such inquiry[81]—a suit to cancel the certificate—has been stopped by the Government's own act.

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[80] If "the issue of fraud can become *res judicata*" for purposes of a suit to cancel a certificate, *a fortiori* it can for purposes of collateral attack.

[81] In *Bindczyck* v. *Finucane,* 342 U. S. 76, a civil denaturalization case, Mr. Justice Frankfurter reviewed the naturalization statutes and their legislative history and concluded that civil denaturalization is the *exclusive* procedure for reaching fraudulent or illegal procurement of naturalization.

The vice of the Government's position, however, lies far deeper. Naturalization proceedings are not the Government's "own", as Mr. Justice Brandeis made clear in the *Tutun* case. And the policies underlying the principles of *res judicata* apply to litigation between a government and a private citizen as much as to suits between individuals. That principle rests not only on the general policy of repose and a realization that a proceeding, to set aside an earlier judgment fraudulently obtained, is it-

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(n. 81 cont.)

"In the light of this legislative history we cannot escape the conclusion that in its detailed provisions for revoking a naturalization because of fraud or illegal procurement not appearing on the face of the record, Congress formulated a self-contained, exclusive procedure. With a view to protecting the Government against fraud while safeguarding citizenship from abrogation except by a clearly defined procedure, Congress insisted on the detailed, explicit provision of Section 15. . . .

Between them, these two sections, Section 11 and Section 15, provided a complete and exclusive framework for safeguarding citizenship against unqualified applicants. Under the first, the Government was given ample opportunity to interpose objections prior to the order of naturalization. If proper account was not taken of the evidence, the Government had recourse to appeal for examination of the action of the naturalizing court on the record. . . . At the expiration of that time, if citizenship was granted, it was to be proof against attacks for fraud or illegal procurement based on evidence outside the record, except through the proceedings prescribed in Section 15. The congressional scheme, providing carefully for the representation of the Government's interest before the grant of citizenship and a detailed, safeguarded procedure for attacking the decree on evidence of fraud outside the record, covers the whole ground. Every national interest is thereby protected." (*Id.* at pp. 83-4)

The revocation in *Bindczyck* v. *Finucane* was held invalid for failure to utilize the statutory procedure of Section 15.

In *Bindczyck* this Court was dealing with an attempted revocation of naturalization on the ground that Bindczyck swore falsely concerning his loyalty to the United States. This, the Court said, was an issue to be established outside the record (342 U. S. at 85, n. 9). So to the question of whether Bridges swore falsely must be determined outside the record of his naturalization proceedings.

self no more immune to fraud than the earlier one. It also grows out of the courts' awareness that "the aid of judicial tribunals would not be invoked . . . if . . . conclusiveness did not attend the judgments of such tribunals." See *Southern Pacific R. R. Co.* v. *United States,* 168 U. S. 1, 49. The principle is thus based "on full and solid reason" (*Sperry's Case* [1591], 5 Co. 61, 77 Eng. Rep. 148), and "in the long run the ends of equity and strict justice both are served best by holding strictly to the rule. *Queen* v. *Hartington,* 4 El. & Bl. 780, 119 Eng. Rep. 288 (1855). And it is especially applicable to an adjuciation of naturalization, so that the decree granting citizenship shall be stable, like other judicial decrees, and not vulnerable to attack on grounds from which other judgments are immune, by accusations that false testimony was offered.

A glance at the naturalization laws and regulations shows the wisdom of this conclusion, and of the rule announced in the *Tutun* case. These are carefully drawn to afford the Government ample time to investigate the facts with respect to the alien's qualifications, and to challenge the naturalization petition if doubts are raised (Appendix, pp. 9-11, 31-35). The Government is allowed the fullest opportunity to oppose the application at the final hearing. If naturalization is granted over the Government's opposition, it may appeal, whether the decree be granted by a federal court (*Tutun* v. *United States, supra*), or a state court. *In re Clark,* 301 Pa. 321, 152 Atl. 192; *cf. In re Bogunovic,* 18 Cal. 2d 160, 114 Pac. 2d 581. As Mr. Justice Frankfurter stated in this Court's opinion in *Bindczyck* v. *Finucane,* 342 U. S. 76, 80-1:

> "To prevent fraud in a proceeding before a naturalization court, the Act devised a scheme of

> administrative oversight for the naturalization process. The Government was given the right to appear. . . . This right was fortified by requiring notice of the petition to the newly created Bureau of Immigration and Naturalization and a ninety day waiting period between the filing of the petition and the final hearing. . . . These were safeguards to enable verification by the Bureau of the facts alleged in the petition and investigation of the qualifications of the applicant for citizenship."

Surely it is difficult to conceive of a case in which the application of the *Tutun* rule is less likely to reach an unfair result than the present one. For nothing is clearer than that the Government had ample notice of the accusation that Bridges was a Communist. The issue was not of a concealed nature as in *Hazel-Atlas Co.* v. *Hartford Co.,* 322 U. S. 238; *cf. United States* v. *Throckmorton,* 98 U. S. 61. Despite its possession of the fruits of years of investigation, the Government made no effort to oppose his naturalization, took no appeal from the decree, and allowed the period of limitations to expire before attempting to re-open the issue —by way of collateral attack. This Court should follow "the general and well settled rule that a judgment, not set aside on appeal or otherwise, is equally effective as an estoppel upon the points decided, whether the decision be right or wrong." See *Reed* v. *Allen,* 286 U. S. 191, 201.

D. This Indictment is barred by the Due Process Clause of the Fifth Amendment.

The petitioner Bridges during the last fifteen years (1) has been subjected to an administrative trial in 1939 on the charge of membership in the Communist Party,[82] which terminated in his favor in 1940; (2) has been subjected to a second administrative trial in 1941 on the charge of past or present Communist membership which, after judicial review in this Court, terminated in his favor in 1945; (3) has established his non-membership in his naturalization proceeding in 1945; and (4) has been subjected since 1949 to a criminal trial for denying Communist membership, which has reached this Court in 1953.

The present indictment, which puts Bridges in jeopardy on the same issue which has thrice been determined in his favor, and which is the Government's third effort to punish him, by imprisonment or deportation, is barred under the due process clause of the Fifth Amendment.[83] If not double jeopardy in the technical sense,[84] the laying of this indictment nevertheless violated well-settled judicial principles of justice and fairness which are embodied in the due process clause. The Government cannot conduct its proceedings against an individual in such a manner as to offend "some principle of justice so rooted in the traditions and conscience of our people as to be ranked as fundamental". See *Snyder* v. *Massachusetts*, 291 U. S. 97, 105;

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[82] Prior to 1939, the same petitioner was subjected to a series of investigations of the charge that he was a member of the Communist Party. All of them failed to sustain the charge (*supra*, p. 4).

[83] If it is impossible for us to cite any judicial holding which squarely supports this proposition, it is because the factual situation is itself unprecedented; the Government is equally unable to cite any holding to the contrary.

[84] The technical requirements of double jeopardy as declared in the precedents may not be met here, inasmuch as the prior determinations were not made in criminal proceedings. Members of this Court have, however, indicated that the "double jeopardy" clause should not be so restricted in its application. See the dissenting opinion in *Wade* v. *Hunter*, 336 U. S. 684, 694.

Mr. Justice Frankfurter, concurring, in *Frances* v. *Resweber,* 329 U. S. 459, 469.

Administrative decisions in recent years have often assumed proportions as momentous to individuals as criminal prosecutions. Deportation proceedings are perhaps the plainest example. See *Bridges* v. *Wixon, supra,* at p. 147. Although the prior proceedings against Bridges were not technically criminal in character, they were certainly penal. *Ng Fung Ho.* v. *United States,* 259 U. S. 276; *Wallis* v. *Tecchio,* 65 F. 2d 250 (5th Cir.); *Browne* v. *Zurbrick,* 45 F. 2d 931 (6th Cir.). The Fifth Amendment forbids double jeopardy as to even a trifling criminal offense. Its broader guaranty of due process of law extends at least the basic protections of the judicial process to all types of proceedings, whether or not known in 1789.

Under the decision below, the Government can follow one protracted and exhausting proceeding with another. If that can be done, there will come a proceeding, whether it be the second or the seventh, when the Government may get the result it wants. The entire course of proceedings with respect to Bridges embodies repetitious charges based upon the same factual issue, disregard of the salutary policy of repose, and harassment of an individual on the same charge over the course of fifteen or more years. This cannot be squared either with rudimentary concepts of fair play, or with the Fifth Amendment. This Court should examine "the whole course of the proceedings in order to ascertain whether they offend those canons of decency and fairness which express the notions of justice of English-speaking peoples even toward those charged with the most heinous offenses." See *Adamson* v. *California,* 332 U. S. 46, 67-68.

In *United States* v. *Ball,* 163 U. S. 662, it was held that a *defendant* who had appealed from a conviction could not plead the conviction in bar against a second trial in the same proceeding. A contrary result was reached in *Kepner* v. *United States,* 195 U. S. 100, where, after an acquittal, the *state* secured a reversal of the judgment. In *Trono* v. *United States,* 199 U. S. 521, the distinction between these earlier cases was explained on the basis that the defendant, by appealing, "waives" his right to plead jeopardy. Mr. Justice Holmes dissented in the *Kepner* case (and, for the reasons set forth in his dissent, concurred in the result but not in the opinion in the *Trono* case), because, in his view (195 U. S. at 134) "a man cannot be said to be more than once in jeopardy in the same cause, however often he may be tried. . . . Everybody agrees that the principle (against double jeopardy) in its origin was a rule forbidding a trial in a new and independent case where a man already had been tried once". "Waiver", in his opinion, corresponded neither to the law nor to the psychology of defendants.

Since the *Trono* case, this Court has rendered a series of decisions restricting the scope of both the "double jeopardy" clause of the Fifth and the "due process" clauses of the Fifth and Fourteenth Amendments[85] as applied to successive trials in the same proceeding.[86] However during this sequence of decisions holding the double jeopardy and due process clauses inapplicable to successive trials *in the same proceeding*, there have been constant warnings that the doctrine of these cases by no means applies to situations where the defendant has been subjected to *multiple and repetitious proceedings*.

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[85] The distinction between the effect of the two clauses has been sharply drawn in criminal cases coming to this Court from the state courts, since the Fifth Amendment applies to the federal government but not to the states, and since the due process clause of the Fourteenth Amendment does not encompass the whole body of the Bill of Rights, or the entire reach of "double jeopardy". See, *e.g.*, *Palko* v. *Connecticut,* 302 U. S. 319.

[86] See *Stroud* v. *United States,* 251 U. S. 15, where a defendant, convicted of first degree murder without capital punishment, obtained a reversal of his conviction, and at the second trial was again convicted and sentenced to be hanged; *Palko* v. *Connecticut,* 302 U. S. 19, where after a conviction for second degree murder, the State

In *United States* v. *Oppenheimer*, 242 U. S. 85, a *new* indictment was brought on the same charge after an earlier one had been dismissed by virtue of an erroneous application of a statute of limitations. This Court held that, although there had been no double jeopardy, the second proceeding was barred by *res judicata*, which Mr. Justice Holmes (who had dissented in the much harsher circumstances of the *Kepner* case, on the ground that only a single proceeding was there involved) described (242 U. S. at 88) as "a fundamental principle of justice". Writing for a unanimous court, the Justice thus projected the distinction (earlier stated in his dissent in the *Kepner* case) between subjecting a defendant to multiple and repetitious charges, and carrying a single proceeding through to a final conclusion.

Precisely the same, fundamental distinction was drawn by Mr. Justice Cardozo in the *Palko* case (302 U. S. at 328): "The state is not attempting to wear the accused out

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appealed, obtained a reversal of the judgment and, at the second trial a conviction of first degree murder; *Bryan* v. *United States*, 338 U. S. 552, where after a criminal conviction was set aside on the defendant's appeal for insufficient evidence, the appellate court directed a new trial even though the defendant's motion for a verdict of acquittal had been erroneously denied; *Brock* v. *North Carolina*, 344 U. S. 424, where after the defendant was on trial and in jeopardy the State requested and was granted a mistrial and a continuance because prosecution witnesses had refused to testify on the grounds of self-incrimination, a second trial on the same indictment was held not to violate due process.

by a multitude of cases with accumulated trials. It asks no more than this, that the case against them shall go on until there shall be a trial free from the corrosion of substantial legal error". Five years later, in *United States ex rel Marcus* v. *Hess,* 317 U. S. 537, Mr. Justice Frankfurter, concurring stated (at 556): "If it be suggested that a succession of separate trials for the enforcement of a great number of criminal sanctions . . . might be a form of cruelty or oppression, the answer is that the Constitution itself has guarded against such an attempt 'to wear the accused out by a multitude of cases with accumulated trials' ".

Condemnation of multiple proceedings against an accused was most recently heard in this Court in *Brock* v. *North Carolina,* 344 U. S. 424, in both concurring and dissenting opinions. Chief Justice Vinson, dissenting, once again quoted (at 439) Justice Cardozo's opinion from the *Palko* case about "a multitude of cases with accumulated trials." He also thought it wrong that the door be opened to the discontinuance of a trial in order that the State (at 431) "might present a stronger case at some later trial". Mr. Justice Frankfurter, concurring, thought that the state court's conclusion that the mistrial was waranted should not be disturbed but stated (at 429): "A State falls short of its obligation when it callously subjects an individual to successive retrials on a charge on which he has been acquitted or prevents a trial from proceeding to a termination in favor of the accused merely in order to allow a prosecutor who has been incompetent or casual or even ineffective to see if he cannot do better a second time."

In the present case, the Government is seeking to do precisely what was condemned by Justice Cardozo in the *Palko* case, and by Chief Justice Vinson and Mr. Justice

Frankfurter in the *Brock* case. The Government has shifted from one statute to another, from one type of action to another, and one forum to another in order to see if it (344 U. S. at 429) "cannot do better a second time"—except that this is the fourth time. In the scale of due process, these things cannot be overlooked merely because the earlier proceedings were not technically criminal, and put Bridges in jeopardy of deportation rather than incarceration.

The disregard here of traditional principles and rudimentary conçepts of fair play has led to the perpetration of the very abuses which those principles and concepts are intended to prevent. Fifteen years ago, before Dean Landis, the Government produced witnesses, among whom, in the words of the adjudicator, were "a self-confessed liar"; one to whom "truth matters little"; "a weak-willed, characterless individual . . . . who in desperation was now pursuing new hypocritical tactics"; one whose testimony contained "amazing contradictions, and impossible situations" (Appendix, pp. 38-39). At the time of the Landis hearing, the events in question were relatively fresh, and the adjudicator found no evidence to sustain the charge against Bridges. The following year, when the issue was still relatively fresh, the Government again presented witnesses whose testimony was rejected by Judge Sears and the Attorney General "as being untrustworthy, contradictory, or unreliable". *Harry Bridges Before the Attorney General in Deportation Proceedings* (U. S. Government Printing Office, 1942) p. 18 (Appendix pp. 39-41). This Court held that the evidence not rejected in the administrative proceeding was insufficient to support the finding of membership. Nevertheless, in 1949, Bridges was faced with the problem of controverting the testimony of a wholly new set of witnesses, relating to events by then ten or more years in the past. Apart from the staling of the issue, the tactics of the Government in its efforts to collect evidence and procure witnesses have been indefensible at many stages of the proceeding.[87]

To hold this indictment barred by the due process clause is not, therefore, an abstract act of reverence to the Constitution. True, this indictment would still be barred under Constitutional principles, whether or not all of fifteen years had passed since the first proceeding, and whether or not all or any of these abuses had been perpetrated by the Government: Over 125 years ago, it was said in *Commonwealth* v. *Old*, 5 Litt. 137 (Kentucky, 1824): "That every person acquainted with the history of governments must know that state trials have been employed as a formidable engine in the hands of a dominant administration", and that preservation of the Constitutional safeguards is especially necessary "in a government like ours, so frequently subject to changes in popular feeling and sentiment . . .".[88] There have been several such changes in the years since 1939, but under the Constitution the judicial disposition of criminal accusations must be governed by other and more permanent standards.

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[87] Dean Landis found that an inmate of San Quentin Penitentiary had been solicited by a government official to give evidence against Bridges under the pressure of "withholding action that might release an assumedly innocent man (the inmate) from jail unless he produced certain testimony". *In the Matter of Harry R. Bridges, Findings and Conclusions of the Trial Examiner* (U. S. Government Printing Office, 1939), p. 73. Judge Sears found that Bridges' telephone wires had been unlawfully tapped by government agents while the proceeding was pending before him. *In the Matter of Harry Renton Bridges*, Immigration and Naturalization Service, Department of Justice, File No. 55973/217, Memorandum of Decision, pp. 182-185. At the trial in this very case, the Government produced witnesses who testified that Bridges had attended the National Convention of the Communist Party at New York City in 1936, although, as the court below found (199 F. 2d at 841): "it was established, apparently beyond controversy, that at the very time the 1936 Convention was being held, Bridges was in Stockton, California, making a speech at a union meeting."

CONCLUSION

A case such as this one, involving as it does a long history and numerous and diverse legal questions, is extremely susceptible to fragmentation. Separate examination of each of its many elements is, of course, necessary, for the composite cannot be grasped without weighing and analyzing the components. In this brief we have, perforce, reviewed the case bit by bit and question by question—the ~~several issues~~ arising out of the statute of limitations; the scope and effect of each of the prior adjudications; the impact of the due process clause, and the application of *res judicata* and estoppel.

We have discussed the statute of limitations, the principles of *res judicata*, and the due process clause separately because they have distinct characteristics, and the precedents are found in different, though overlapping, clusters. But they are all based on the same ancient but timely judicial safeguards; they are components of a *corpus*. Many different expressions have been used to identify this policy: repose, security against stale demands, stability of rights and liabilities once determined and of status once established, protection against repetitious litigations, and many others.

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[88] This language was quoted with approval by this Court in *Ex parte Lang*, 18 Wall. 163 at 170-171 (U. S., 1873).

The statute of limitations, for example, embodies not only a policy of repose but also, like *res judicata* and due process, of justice and fairness. As Mr. Justice Story said in *Bell* v. *Morrison*, 1 Pet. 351, 360 (U. S., 1828), a statute of limitations "has a manifest tendency to . . . suppress those prejudices which may rise up at a distance of time, and baffle every honest effort to counteract or overcome them." In default of limitations:

> "Parol evidence may be offered of confessions, (a species of evidence which, it has been often observed, it is hard to disprove, and easy to fabricate,) applicable to such remote times, as may leave no means to trace the nature, extent, or origin of the claim, and thus open the way to the most oppressive charges."

In this very case, the evidence thought by the court below most damaging to Bridges (199 F. 2d at 838-39) consisted of alleged admissions by him of Communist membership, said to have been made in 1935 and 1938, more than a decade before this indictment was brought. Charging a jury on an indictment laid only 21 months after the offense charged, Baron Alderson declared (*Queen* v. *Robins*, 1 Cox C. C. 114 (1844)):

> "It is monstrous to put a man on his trial after such a lapse of time. How can he account for his conduct so far back? If you accuse a man of a crime the next day, he may be enabled to bring forward his servants and family to say where he was and what he was about at the time; but if the charge be not preferred for a year or more, how can he clear himself? No man's life would be safe if such a prosecution were permitted."

In conclusion, therefore, the many facets of the case must be allowed to strike the mind in conjunction rather than disparately, for it is all one case. In asking this Court to affirm the judgment below, the Government is seeking to uphold an indictment and conviction that:—

(a) are based on strongly controverted testimony concerning events that took place 15 to 20 years ago:

(b) have rendered nugatory, and reached a result contrary to, carefully deliberated conclusions arrived at when the evidence was fresher;

(c) are barred by the statute of limitations unless the governing statutes be stretched to the breaking point and far beyond their settled judicial interpretation;

(d) are based on a retrial of a factual issue that had been thrice previously litigated between the parties, and cannot be sustained without undermining the basic and beneficial principles of *res judicata* and estoppel; and

(e) can be sustained only by reading out of the due process clause its protection against wearing out the accused "by a multitude of cases with accumulated trials" (*Palko* v. *Connecticut,* 302 U. S. at 328).

It is perhaps irrelevant to inquire what benefits the Government hopes will accrue if the charge against Bridges be now pressed home against him in the face of all these circumstances. But it is highly pertinent to inquire what the effect will be on the nature of the judicial process in America. In this case, there is ample reason to reverse the judgments of conviction under the applicable statutes and principles of law, without recourse to the Constitution. Nevertheless, we urge that

> ". . . it not be overlooked that due process of law is not for the sole benefit of an accused. It is the best insurance for the Government itself against those blunders which leave lasting stains on a system of justice . . ." (Mr. Justice Jackson, dissenting, in *Shaughnessy* v. *United States ex rel Mezei*, 21 L. W. 4242, March 16, 1953)

For the reasons stated, it is respectfully submitted that the judgment of the court below should be reversed.

April, 1953.

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In the

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT,
and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

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A. STATUTES

1. Count one of the indictment is based on 18 U. S. C. 371 which provides:

> "If two or more persons conspire either to commit any offense against the United States, or to defraud the United States, . . . in any manner or for any purpose, and one or more of such persons do any act to effect the object of the conspiracy, each shall be fined not more than $10,000 or imprisoned not more than five years, or both."

This statute is the same as Section 37 of the Criminal Code, 18 U. S. C. (1946 ed.) 88, in effect at the time the alleged offenses were committed.

2. Count two of the indictment is based on 18 U. S. C. 1015(a) which provides:

> "Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to; or under, or by virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens; * * *
>
> * * * * *
>
> Shall be fined not more than $5,000 or imprisoned not more than five years, or both."

Section 1015(a) of Title 18 (1948 ed.) repealed and superseded Section 346 (a)(1) of the Nationality Act of 1940, 8 U. S. C. (1946 ed.) 746 (a)(1) which provided:

> "(a) It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—

(1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virute of any law of the United States relating to naturalization or citizenship.'

3. Count three of the indictment is based on 8 U. S. C. (1946 ed.) 746 (a)(5) which provided:

"(a) It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—

(5) To encourage, aid, advise, or assist any person not entitled thereto to obtain, accept, or receive any * * * certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or of citizenship—

a. Knowing the same to have been procured by fraud; or

b. Knowing the same to have been procured by the use or means of any false name or false statement given or made with intent to procure the issuance of such * * * certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or citizenship * * *

* * * * *

(d) Any person violating any provision of subsection (a) of this section shall be fined not more than $5,000, or imprisoned not more than five years, or both."

4. Section (g) of 8 U. S. C. (1946 ed.) 746 in effect at the time the alleged offenses were committed provided that:

> "(g) No person shall be prosecuted, tried, or punished for any crime arising under the provisions of this Chapter unless the indictment is found or the information is filed within five years next after the commission of such crime."

On September 1, 1948, prior to the return of the indictment on May 25, 1949, the 1948 revision of Title 18, U. S. C., became effective. Section 21 of the Act revising Title 18 (June 25, 1948, 62 Stat. 683) provides:

> "The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Among the sections so repealed were 18 U. S. C. 746(a)(1), 746(a)(5) and 746(g), *supra.*

5. 18 U. S. C. 3282 provides:

> "Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed."

6. 18 U. S. C. 3287 provides:

> "When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, or (2) committed in

connection with the acquisition, care, handling, custody, control or disposition of any real or personal property of the United States, or (3) committed in connection with the negotiation, procurement, award, performance, payment for, interim financing, cancelation, or other termination or settlement, of any contract, subcontract, or purchase order which is connected with or related to the prosecution of the war, or with any disposition of termination inventory by any war contractor or Government agency, shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.

Definitions of terms in section 103 of Title 41 shall apply to similar terms used in this section."[1]

The Wartime Suspension of Limitation Act adopted language similar to that contained in a proviso added to the general three-year statute of limitations, R. S. 1044, by the Act of November 17, 1921, C. 124, 42 Stat. 220, which provided as follows:

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[1] This section appeared in substantially the same form at 18 U. S. C. 590 (a) before the 1948 revision. The present Wartime Suspension Act as originally passed in 1942, 56 Stat. 747, read as follows:

> "That the running of any existing statute of limitations applicable to the offense, involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes, shall be suspended until June 30, 1945, or until such earlier time as the Congress by concurrent resolution, or the President, may designate."

This Act was amended by the Contract Settlement Act of 1944, 58 Stat. 649, 667 and the Surplus Property Act of 1944, 58 Stat. 765, 781, which eliminated the phrase "now indictable under any existing statutes", added the clauses now numbered (2) and (3) of 18 U. S. C. 3287, and changed the suspension date from June 30, 1945, to three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.

No person shall be prosecuted, tried, or punished for any offense, not capital, except as provided in section 1046 [crimes under revenue laws or slave trade laws], unless the indictment is found, or the information is instituted, within three years next after such offense shall have been committed: *Provided, however,* That in offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes, the period of limitations shall be six years. This Act shall apply to acts, offenses, or transactions where the existing statute of limitations has not yet fully run, but this proviso shall not apply to acts, offenses, or transactions which are already barred by the provisions of existing laws.[2]

7. Section 1108 of the Revenue Act of 1932, 47 Stat. 169, 288 amended the Revenue Act of 1926 and provided:

> "That no person shall be prosecuted, tried, or punished, for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense, except that the period of limitation shall be six years—
>
> (1) for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner,
>
> (2) for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof, and

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[2] The proviso was eliminated from the section by the Act of December 27, 1927, c. 6, 45 Stat. 51. The Section now appears, with slight changes in phraseology, as 18 U. S. C. 3282.

> (3) for the offense of willfully aiding or assisting in, or procuring, counseling, or advising, the preparation or presentation under, or in connection with any matter arising under, the internal revenue laws, of a false or fraudulent return, affidavit, claim, or document (whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim, or document).
>
> For offenses arising under Section 37 of the Criminal Code, where the object of the conspiracy is to attempt in any manner to evade or defeat any tax or the payment thereof, the period of limitation shall also be six years. . . .

Section 1110 of the Revenue Act of 1926, 44 Stat. 9, 114 provided:

> "That no person shall be prosecuted, tried, or punished for any of the various offenses arising under the internal revenue laws of the United States unless the indictment is found or the information instituted within three years next after the commission of the offense: Provided, that for offenses involving the defrauding or attempting to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, the period of limitation shall be six years, but this proviso shall not apply to acts, offenses, or transactions which were barred by law at the time of the enactment of the Revenue Act of 1924. . . .

8. The relevant provisions of 8 U. S. C. 738(e) upon which the revocation of petitioner's citizenship was based are:

> "When a person shall be convicted under this chapter of knowingly procuring naturalization in

violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is hereby conferred to the courts having jurisdiction of the trial of such offense to make such adjudication."

9. The relevant provisions of the Nationality Code, 8 U. S. C. 705, at the time Bridges was admitted to naturalization in 1945 were:

> "No person shall hereafter be naturalized as a citizen of the United States—
>
> (a) Who advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that advises, advocates, or teaches opposition to all organized government; or
>
> (b) Who believes in, advises, advocates, or teaches, or who is a member of or affiliated with any organization, association, society, or group that believes in, advises, advocates, or teaches—
>
> (1) the overthrow by force or violence of the Government of the United States or of all forms of law; or
>
> * * * * *
>
> (c) Who writes, publishes, or causes to be written or published, or who knowingly circulates, distributes, prints, or displays, or knowingly causes to be circulated, distributed, printed, published, or displayed, or who knowingly has in his possession for the purpose of circulation, distribution, publication, or display any written or printed matter advising, advocating, or teaching

opposition to all organized government, or advising, advocating, or teaching—

(1) the overthrow by force or violence of the Government of the United States or all forms of law; or

* * * * *

(d) Who is a member of or affiliated with any organization, association, society, or group that writes, circulates, distributes, prints, publishes, or displays, or causes to be written, circulated, distributed, printed, published, or displayed, or that has in its possession for the purpose of circulation, distribution, publication, issue, or display, any written or printed matter of the character described in subdivision (c).

For the purpose of this section—

(1) the giving, loaning, or promising of money or anything of value to be used for the advising, advocacy or teaching of any doctrine above enumerated shall constitute the advising, advocacy, or teaching of such doctrine; and

(2) the giving, loaning, or promising of money or anything of value to any organization, association, society, or group of the character above described shall continue affiliation therewith; but nothing in this paragraph shall be taken as an exclusive definition of advising, advocacy, teaching or affiliation.

The provisions of this section shall be applicable to any applicant for naturalization who at any time within a period of ten years immediately preceding the filing of the petition for naturalization is, or has

> been, found to be within any of the clauses enumerated in this section, notwithstanding that at the time petition is filed he may not be included in such classes."

10. The relevant provisions of the Nationality Code in force at the time Bridges applied for naturalization in 1945, after providing for a declaration of intention (8 U. S. C. 731) and a petition for naturalization (8 U. S. C. 732) were:

> 8 U. S. C. 733. Hearing of petitions; preliminary hearings
>
> (a) The Commissioner or a Deputy Commissioner shall designate members of the Service to conduct preliminary hearings upon petitions for naturalization to any naturalization court and to make findings and recommendations thereon to such court. For such purposes any such designated examiner is hereby authorized to take testimony concerning any matter touching or in any way affecting the admissibility of any petitioner for naturalization, to subpoena witnesses, and to administer oaths, including the oath of the petitioner to the petitioner for naturalization and the oath of petitioner's witnesses.
>
> (b) The findings of any such designated examiner upon any such preliminary hearing shall be submitted to the court at the final hearing upon the petition with a recommendation that the petition be granted, or denied, or continued, with the reasons therefor. Such findings and recommendations shall be accompanied by duplicate lists containing the names of the petitioners, classified according to the character of the recommendations, and signed by the designated exam-

iner. The judge to whom such findings and recommendations are submitted shall, if he approve such recommendations, enter a written order with such exceptions as the judge may deem proper, by subscribing his name to each such list when corrected to conform to his conclusions upon such recommendations. One of such lists shall thereafter be filed permanently of record in such court and the duplicate list shall be sent by the clerk of such court to the Commissioner.

8 U. S. C. 734. Same; final hearings

(a) Every final hearing upon a petition for naturalization shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant; and, except as provided in subsection (b) of this section, the witnesses shall be examined under oath before the court and in the presence of the court.

(b) The requirement of subsection (a) of this section for the examination of the petitioner and witnesses under oath before the court and in the presence of the court shall not apply in any case where a designated examiner has conducted the preliminary hearing authorized by subsection (a) of section 733; except that the court may, in its discretion, and shall, upon demand of the petitioner, require the examination of the petitioner and the witnesses under oath before the court in the presence of the court.

(c) Except as otherwise specifically provided in this chapter, no final hearing shall be held on any petition for naturalization nor shall any person be naturalized nor shall any certificate of naturalization be issued by any court within thirty days after the filing of the petition for naturalization, nor within sixty days preceding the holding of any general election within the territorial jurisdiction of the naturalization court.

(d) The United States shall have the right to appear before any court in any naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of the petition concerning any matter touching or in any way affecting the petitioner's right to admission to citizenship, and shall have the right to call witnesses, produce evidence, and be heard in opposition to the granting of any petition in naturalization proceedings."

B. HOUSE AND SENATE REPORTS AND HEARINGS

1. The Wartime Suspension Act of 1942 was known in the 77th Congress, 2d Session as H. R. 6484 and was the subject of House of Representatives Report No. 2051 and Senate Report No. 1544. Both of these reports are here reproduced in toto:[3]

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[3] H. R. 8298, which became 42 Stat. 220, the bill amending Section 1044 of the Revised Statutes in 1921, was the subject of House of Representatives Report No. 365, 67th Congress, 1st Session. Most of this report is included in the reports on the 1942 Act, the omitted portion being a legal opinion on the right of Congress to extend the statute of limitations.

House of Representatives Report No. 2051
77th Congress, 2d Session

SUSPENDING STATUTE OF LIMITATIONS FOR FRAUDS AGAINST THE UNITED STATES

Mr. McLaughlin, from the Committee on the Judiciary, submitted the following

REPORT

(To accompany H. R. 6484)

The Committeee on the Judiciary, to whom was referred the bill (H. R. 6484) to suspend during the present war the running of statutes of limitations applicable to certain offenses, after careful consideration, report the bill favorably to the House with the recommendation that it do pass.

The purpose of the proposed legislation is to suspend any existing statute of limitations applicable to offenses involving the defrauding or attempts to defraud the United States or any agency thereof, for the period of the present war. Contracting for the United States is done through its various agencies, including the departments and independent establishments and Government-owned and Government-controlled corporations, and frauds against all of these agencies are intended to be embraced by the bill.

During the World War many frauds committed against the Government were not discovered until the 3-year statute of limitations had almost expired, and as stated in the committee report hereinafter referred to, many of the alleged offenses were barred from prosecution. The general criminal statute of limitations (Rev. Stats., sec. 1044) was amended on November 17, 1921, extending the period to 6 years in respect to offenses involving frauds against the United States (42 Stat. 220, U. S. C., title 18, sec. 582). This provision was repealed by the act of December 27, 1927 (45 Stat. 51).

In connection with the World War legislation of this character the committee report (H. Rept. 365, 67th Cong.) stated the following:

> The Department of Justice has been engaged in the investigation and is now engaged in the investigation of various alleged offenses, consisting largely of frauds against the Government which are claimed to have occurred during the war with Germany and since its conclusion. Many of these alleged offenses grew out of the contractual relation of the Government with various persons and corporations engaged in the furnishing of military and naval supplies of various kinds. Many of these transactions require the most minute investigation in order to ascertain the exact facts, and in every case a considerable period must elapse before such facts may be gathered from the files and other sources that the Department may know whether prosecutions are justified or not. In many cases months, and perhaps considerable longer periods, will be required for such investigations.
>
> Under the existing statute of limitations, above quoted, many of these alleged crimes are already barred, and in all such cases under the law no prosecutions can be had if any might be thought advisable. * * *

During normal times the present 3-year statute of limitations may afford the Department of Justice sufficient time to investigate, discover, and gather evidence to prosecute frauds against the Government. The United States, however, is engaged in a gigantic war program. Huge sums of money are being expended for materials and equipment in order to carry on the war.

successfully. Although steps have been taken to prevent and to prosecute frauds against the Government, it is recognized that in the varied dealings opportunities will no doubt be presented for unscrupulous persons to defraud the Government or some agency. These frauds may be difficult to discover as is often true of this type of offense and many of them may not come to light for some time to come. The law-enforcement branch of the Government is also busily engaged in its many duties, including the enforcement of the espionage, sabotage, and other laws.

Your committee is of the opinion that action should be taken at this time to extend the limitations statute so that frauds may be discovered and punished even after the termination of the present conflict, and to insure that the limitations statute will not operate, under the stress of present-day events, for the protection of those who would defraud or attempt to defraud the United States.

The proposed measure has been cleared with the Legislative Committee of the Department of Justice and with the Bureau of the Budget.

Calendar No. 1593

Senate Report No. 1544, 77th Congress, 2d Session

SUSPENDING DURING THE PRESENT WAR, THE RUNNING OF THE STATUTE OF LIMITATIONS APPLICABLE TO CERTAIN OFFENSES.

July 13, 1942.—Ordered to be printed.

Mr. Burton, from the Committee on the Judiciary, submitted the following

REPORT

(To accompany H. R. 6484)

The Committee on the Judiciary, to whom was referred the bill (H. R. 6484) to suspend during the present war the running of the statutes of limitations applicable to certain offenses, having considered the same, report the bill favorably to the Senate, with an amendment, with the recommendation that the bill, as amended, do pass. The amendment follows:

Page 1 line 7, strike out all after the word "suspended", and in line 8, strike out the following: "of the present war and for six months thereafter.", and insert in lieu thereof, "until June 30, 1945, or until such earlier time as the Congress by concurrent resolution, or the President, may designate."

The purpose of the proposed legislation is to suspend any existing statutes of limitations applicable to offenses involving the defrauding or attempts to defraud the United States or any agency thereof, for the period of the present war. Contracting for the United States is done through its various agencies, including the departments and independent establishments and Government-owned and Government-controlled corporations, and frauds against all of these agencies are intended to be embraced by the bill.

During the World War many frauds committed against the Government were not discovered until the 3-year statute of limitations had almost expired, and as stated in the committee report hereinafter referred to, many of the alleged offenses were barred from prosecution. The general criminal statute of limitations (Rev. Stats., sec. 1044) was amended on November 17, 1921, extending the period to 6 years in respect to offenses involving frauds against the United States (42 Stat.

220, U. S. C., title 18, sec. 582). This provision was repealed by the act of December 27, 1927 (45 Stat. 51).

In connection with the World War legislation of this character the committee report (H. Rept. 365, 67th Cong.), stated the following:

> The Department of Justice has been engaged in the investigation and is now engaged in the investigation of various alleged offenses, consisting largely of frauds against the Government which are claimed to have occurred during the war with Germany and since its conclusion. Many of these alleged offenses grew out of the contractual relation of the Government with various persons and corporations engaged in the furnishing of military and naval supplies of various kinds. Many of these transactions require the most minute investigation in order to ascertain the exact facts, and in every case a considerable period must elapse before such facts may be gathered from the files and other sources that the Department may know whether prosecutions are justified or not. In many cases months, and perhaps considerably longer periods, will be required for such investigations.
>
> Under the existing statute of limitations, above quoted, many of these alleged crimes are already barred, and in all such cases under the law no prosecutions can be had if any might be thought advisable. * * *.

During normal times the present 3-year statute of limitations may afford the Department of Justice sufficient time to investigate, discover, and gather evidence to prosecute frauds against the Government. The United States, however, is engaged in a gigantic war program. Huge sums of money are being expended for materials and equipment in order to carry on the war successfully. Although steps have been taken to prevent and to prosecute frauds against the Government, it is recognized that in the varied dealings opportunities will no doubt be presented for unscrupulous persons to defraud the Government or some agency. These frauds may be difficult to discover as is often true of this type of offense and many of them may not come to light for some time to come. The law-enforcement branch of the Government is also busily engaged in its many duties, including the enforcement of the espionage, sabotage, and other laws.

Your committee is of the opinion that action should be taken at this time to extend the limitations statute so that frauds may be discovered and punished even after the termination of the present conflict, and to insure that the limitations statute will not operate, under stress of the present-day events, for the protection of those who would defraud or attempt to defraud the United States.

The proposed measure has been cleared with the legislative committee of the Department of Justice and with the Bureau of the Budget.

2. Section 1108 of the Revenue Act of 1932, 47 Stat. 169, 288 is discussed at p. 29 of House of Representatives Report No. 1492, 72d Cong., 1st Sess. as follows (at p. 29):

> "Amendment No. 264: Under existing law, the limitation on prosecutions for offenses arising under the internal revenue laws is three years, except that in the case of offenses involving the defrauding or attempting to defraud the United States the period is six years. The Supreme Court has recently held that under existing law the offense of attempting to defeat and evade income taxes does not necessarily involve the defrauding or attempting to defraud the United States, fraud not being an essential ingredient of such offense, and that therefore the 13-year limitation period is applicable instead of the 6-year limitation period. This amendment prescribes

> a 6-year period in the case of the offense of willfully attempting in any manner to evade or defeat any income tax or the payment thereof on the offense of willfully aiding or assisting in the preparation or presentation of false claims, documents, or returns. A 6-year period is also prescribed in the case of conspiracy to attempt in any manner to evade or defeat any tax or the payment thereof. The 6-year period is made to apply as well to these offenses when committed by officers of the United States."

3. H. R. 6484, the Wartime Suspension Act was passed on August 24, 1942 by the 77th Cong., 2d Sess. In the 77th Cong., 1st Sess., H. R. 4916, a bill to suspend the running of the statute of limitations during wartime for any offense punishable under the laws of the United States, was introduced and hearings were held on November 26, 1941 by a subcommittee of the House of Representatives Committee on the Judiciary. The bill did not pass the House of Representatives.

Alexander Holtzoff, a special assistant to the Attorney General, appeared before the subcommittee representing the Department of Justice and recommended that the bill not be passed, since in his opinion, the emergency did not constitute a valid ground for repealing the Statute of Limitations on all crimes. At page 6 of the printed report of the hearings he says:

> ". . . Now, it is a fact that there is one type of crime as to which it might be desirable to extend the statute of limitations, and that is frauds against the Government. I think it would be very desirable if a bill such as was passed in 1921 were enacted at this time, namely, to extend the statute of limitations on crimes involving fraud against the Government, because that is really a matter which might be

> affected by the emergency, but I do not feel that we can say properly that the emergency conditions require the suspension of the statute of limitations on all crimes. . . . It would seem reasonable that the statute of limitations should be extended as to frauds against the Government, not indefinitely, but for some period of time. I think some period of time should be set, and if the 1921 act were reenacted, I think it would be a very helpful addition to our statute law. I suggest that the members of the Committee might care to consider amending this bill so as to embody in it the provisions that were contained in the 1920 (misprint, should read 1921) act."

Attached to the Transcript of Hearings is a letter from Attorney General Biddle to Congressman Sumners, Chairman of the Committee on the Judiciary dated November 29, 1941. The letter discusses H. R. 4916 and states as follows (at p. 8 of Hearings):

> "I am not aware of any reason why the existence of a state of war or a national emergency requires the extension of the statute of limitations in criminal cases other than those involving frauds against the United States.
>
> It should be observed, however, that during the World War many frauds committed against the Government were not discovered until the 3-year statute of limitations then in effect had almost expired. As a result, the general criminal statute of limitations (Rev. Stats., sec. 1044) was amended on November 17, 1921, by adding thereto a provision enlarging the statute of limitations to a period of 6 years in respect to offenses involving frauds against the United States (42 Stat. 220, U. S. C., title 18, sec. 582). This provision was repealed by the act of December 27, 1927 (45 Stat. 51). If the objective of the measure under consid-

> eration is to meet a situation similar to that mentioned above, it is suggested that the bill be amended either by enlarging the statute of limitations to a period of 6 years in respect to offenses involving frauds against the United States, as was done in 1921 by the Act of November 17, 1921, or by providing that in the case of fraud against the United States, the statute of limitations shall not begin to run until the fraud is discovered. A somewhat similar provision is found in the existing law relating to the offense of concealment of assets of a bankrupt estate (U. S. C., title II, sec. 52(d)).
>
> In view of the foregoing considerations, I am unable to recommend the enactment of the bill in its present form."

4. The bill repealing the 1921 Suspension Act was known in the 70th Congress, 1st Session, as S. 1397 and is the subject of House of Representatives Report No. 16, 70th Cong., 1st Sess. This report stated that the effect of the bill would be to return to the pre-1921 situation and that:

> "In 1921 the Attorney General represented that he was desirous of having further time to investigate alleged war frauds, and that owing to the nature of the investigations the statute of limitations might run before it would be possible to obtain indictments, and he therefore requested that the period of the statute of limitations applicable to conspiracy to defraud the Government of the United States should be extended from three years to six years. The Congress complied with the request and the limitation was extended from three to six years as to that particular class of offenses.
>
> The reasons for the above change have ceased to exist; that is, the Department of Justice announced

> some time ago that it did not propose to attempt any further prosecution of offenses of that character, that is to say, offenses giving rise to the statute. Moreover, the whole period of six years has now run against all offenses of that character and there is no longer any occasion for a six-year statute."

5. The law (56 Stat. 781) passed by the 77th Congress, 2nd Session which suspended until June 30, 1945 the running of the statute of limitations with respect to the anti-trust laws is the subject of Senate Report No. 1592, 77th Cong., 2nd Sess. Page 1 of this report states:

> "This committee had previously reported favorably the bill (H. R. 6848), to suspend the running of the statute of limitations applicable to frauds against the United States, which bill has been enacted into law, approved by the President and is Public Law No. 706. This bill (S. 2731) will accomplish the same purpose as to violations of the anti-trust laws, both civil and criminal."

Attached to this report is a letter from Secretaries Stimson, Forrestal and Biddle dated August 18, 1942 to the chairman of the Senate Committee on the Judiciary which stated that they were submitting a bill similar to H. R. 6848, the bill "which suspends the running of the statute of limitations applicable to frauds against the United States." They further stated that S. 2731 is "identical to H. R. 6484, except that, in lieu of providing for suspension of the statute of limitations with respect to frauds against the Government, the proposed bill provides for suspension of the statute of limitations in connection with anti-trust suits—a subject matter not covered by H. R. 6484".[4]

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[4] The House of Representatives report on S. 2731, H. R. Rep. No. 2480, 77th Cong., 2nd Sess., is the same as the Senate report.

6. A bill known as H. R. 9766 was introduced in the 76th Cong., 3d Sess. This bill provided that the Attorney General take into custody and forthwith deport Harry Bridges notwithstanding any provision of law. The House report on this bill is known as House of Representatives Report No. 2200, 76th Cong., 3d Sess. This bill passed the House of Representatives on June 13, 1940.

The bill was amended in Committee by the Senate by striking out the entire bill and substituting for it a bill directing the Attorney General to investigate Mr. Bridges, and if the investigation warranted, move to have Mr. Bridges deported in the manner provided by law. The Senate Committee report is Senate Report No. 2031, 76th Cong., 3d Sess. and is dated August 21, 1940.

The Senate report discusses the prior administrative hearings before Mr. Landis and concludes that these hearings were thorough and exhaustive and one in which the Government fully presented its case. The report points out that the Landis hearings lasted nine weeks, and consisted of 7724 pages of testimony and 274 exhibits; that the Government called 32 witnesses and, at P. 3, "The charge of indifference upon the part of Government employees is fully negatived by the severe castigation to which they were subjected in the findings of the Trial Examiner as to the extra-legal methods used by them in the procurement of evidence."

Attached to the report is a letter dated June 18, 1940 from the then Attorney General, Robert H. Jackson to Senator Russell, Chairman of the Committee on Immigration. This letter was in reply to a letter from Senator Russell requesting the Department of Justice's views on H. R. 9766. The Attorney General called for the bill's rejection and speaking of previous adjudications concerning Bridges said, at P. 9,

> "The extraordinary character of the bill upon its face is even more impressive viewed against its background. This same alien has been accused, investigated, and tried at great length, and judgment has been rendered that he had not been proved guilty of the charges made against him. By this bill the United States would deny faith and credit to its own duly conducted legal proceedings."

C. CONGRESSIONAL DEBATE

1. The debate on H. R. 6484, the Wartime Suspension Act of 1942, in the 77th Cong., 2d Sess. is found in 88 Cong. Rec. Senator Burton reporting the bill to the Senate says (at 88 Cong. Rec. 6160):

> "Mr. President, before the bill is passed I think I should state briefly that during the last war a number of frauds on the United States were not discovered until the statutes of limitations had about run. Therefore, it became clear that it would be advisable to suspend the running of these statutes of limitations in fraud cases, at least until June 30, 1945, or until such earlier time as the Congress by concurrent resolution, or the President, might designate. It is for that reason that the bill has been passed by the House and is presented to the Senate. I ask that it be passed."

In the House debate, Congresswoman Rankin urged that H. R. 4916, the bill suspending the statute of limitations for all offenses during wartime, which she had introduced a year before, be passed instead of this measure and she describes the 1921 Act and this act as follows (at 88 Cong. Rec. 4759-4760):

> "No doubt exists as to the power of Congress to enact this legislation. Shortly after the last World War, Congress discovered that because of circumstances very similar to those now in existence, a 3-year statute of limitations permitted numerous offenders to escape punishment. In order to preserve the right to prosecute wartime frauds to the fullest extent possible, Congress at that time extended the period of the statute of limitations on frauds against the United States from 3 to 6 years (42 Stat. 220). . . .
>
> The present bill (H. R. 6484) limits the offenses to those involving the defrauding or attempt to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes.
>
> May I suggest that the all-inclusive statement is more desirable at this time."

2. The Congressional debate on H. R. 8298, the 1921 Suspension Act, in the 67th Congress, 1st Session, is found in 61 Cong. Rec.

(a) House of Representatives, 61 Cong. Rec. 7060-7061.

> "P. 7060—Mr. Graham—This simply extends the limitation as to crimes against the United States for three years, so that from now on the limitation on crimes committed against the United States such as are defined in this act will be six years instead of three. It extends to no other kinds of crime. Those crimes are described in the proviso as 'offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by

conspiracy or not, and in any manner, and now indictable under any existing statutes', so that it will be seen that this bill deals with fraud largely.

* * * * *

P. 7061—Mr. Graham. . . . Many of the frauds which were committed in the closing up of war contracts occurred after the end of the war and may yet be prosecuted by the Department of Justice.

Mr. Tilson. . . . Suppose the Shipping Board, or any other large enterprise of the war, may find there has been a gross offense against the Government, there will be no remedy?

Mr. Graham—It is too late. During the period of the war, we will say, somebody made a fraudulent contract and robbed the Government of millions of dollars. I want to say to the gentleman, frankly, he can not be prosecuted. The statute of limitations will run against them and they are out. There are some few that can be reached by this, and in order to give the Department of Justice a little bit of a show to reach some of them that perhaps could be reached we desire to pass this legislation and give them a chance. . . . "

(b) Senate, 61 Cong. Rec. 7640.

"Mr. LaFollette: Mr. President, I sincerely hope that this bill will pass. . . .

I have been informed . . . that there are more than 2,000 cases connected with the Shipping Board where prosecutions would have been brought if the statute of limitations had not run against those offenses on last Saturday. . . . I repeat that I am informed that there are some 2,000 cases within the Shipping Board's organization where, upon the record, as shown by investigation, the parties were subject to prosecution under the section which this bill proposes to amend, and that the statute of limitations as to those cases expired on Saturday the 11th day of November.

* * * * *

Mr. Nelson . . .

I do not think there are as many cases of this nature as the Senator from Wisconsin has intimated. There may be a few. Most of the frauds will consist of attempts upon the part of men who have contracts pending, and are trying to settle them, to impose upon the Government by fraudulent practices; and I think most of the cases involved are cases that will be within this law if we pass it."

3. The Congressional debate on S. 1397, the bill repealing the 1921 Suspension Act, in the 70th Congress, 1st Session, is found at 69 Cong. Rec.

Senator Walsh introduced the bill in the Senate, and stated (69 Cong. Rec. 473):

> ". . . It will be recalled that prior to the year 1921 the statute of limitations as to all offenses against the United States not capital in character was three years. At that time the Attorney General represented that he was desirous of having further time to investigate alleged war frauds, that the facts were intricate and involved, and that possibly the statute of limitations might run before it would be possible to obtain indictments. He asked that the period of the statute of limitations applicable to conspiracies to defraud the Government of the United States should be extended from three years to six years. The Congress promptly responded and extended to six years the period of the statute as to that particular class of offenses.
>
> It is not purposed by the department, as announced some time ago, to attempt any further

> prosecutions of offenses of that character; that is to say, offenses giving rise to the statute. Moreover, the whole period of six years has now run against all offenses of that character and there is no longer any occasion for a six-year statute."

In the House the bill was introduced by Mr. LaGuardia. In describing the bill he stated (69 Cong. Rec. 842): ". . . That amendment (the 1921 Suspension Act) extended the time of the period of limitation and was intended to apply only to war frauds from three years to six years". . . . "The period of six years with reference to war cases has now passed. The war frauds are cleaned up by this time" . . . "If anyone has defrauded the Government in cases arising out of the war, if he has not already been indicted, there is not much chance of indicting him now".

In answer to an objection by Congressman Schafer that the amendment would prevent prosecution of certain persons involved in the Tea Pot Dome case where Mr. Schafer claimed that the conspiracy ran until 1924, and its purpose was to loot alien property, Mr. LaGuardia stated: "I do not believe the alien property cases come within the scope of the 1921 amendment".

D. ADMINISTRATIVE REGULATIONS

1. At the time of *Bridges'* warrant of arrest in the 2nd deportation action on February 12, 1941, the following regulations, among others, of the Immigration and Naturalization Service of the Department of Justice were in force:

> Sec. 150.5 *Custody of arrested aliens*—
>
> (a) *Release on bond or personal recognizance.* The amount of bond under which any alien may be

> released will be indicated in the warrant of arrest. When the officer in charge is satisfied that a bond in a lessor amount than that stated in the warrant will insure the alien's appearance when wanted, or that the alien may safely be released on his personal recognizance, or paroled to a responsible individual or organization, he is authorized, except as hereinafter provided, to release the alien on bond in an amount less than that set in the warrant but not less than $500, or upon the alien's personal recognizance, or upon parole to a responsible individual or organization, without first securing the approval of the Central Office. . . .[5] (8 Code Fed. Regs. Cum. Supp.)

2. At the time of the decision in *Bridges* v. *Wixon*, June 18, 1945, the regulations listed above were still in force, with minor changes, as well as these other pertinent regulations:

> Sec. 150.8 *Reopening hearings; departure in lieu of deportation; suspension of deportation*—(a) *Reopening the hearing.* At any time prior to the forwarding of the record of hearing to the Central Office, the officer in charge of the district may direct that a case be reopened for proper cause; and at any time prior to submission of the record to the Board of Immigration Appeals, the Central Office may direct a reopening

---

[5] Amended effective April 25, 1944 to read as follows: Sec. 150.5 *Custody of arrested aliens*—(a). *Release on bond or personal recognizance.* An alien arrested in deportation proceedings may, pending final disposition of his case and in the discretion of the officer in charge of the office having custody of the alien, be released under bond, or on his own personal recognizance, or on parole, unless specific instructions to the contrary covering individual aliens or classes of aliens shall have been issued by the Central Office. When release is directed by the officer in charge of the office having custody of the alien under conditions other than those stated in the warrant of arrest, such officer shall make immediate report thereof in writing to the Central Office giving the reasons for the action taken. . . . (8 Code Fed. Regs. 1944 Supp.)

thereof for proper cause. After the record has been submitted to the Board of Immigration Appeals, the case may only be reopened upon direction of the Board of Immigration Appeals. Requests by aliens, or their representatives, for a reopening of a hearing must be in writing and set forth the grounds for the application. . . . (8 Code Fed. Regs. Cum. Supp.)

Sec. 90.3 *Board of Immigration Appeals; powers.* (a) Subject to the provisions of Sec. 90.12, the Board of Immigration Appeals in behalf of the Attorney General shall have authority:

(1) To issue orders of deportation after proceedings in accordance with law and regulations; to order the cancellation of warrants of arrest issued in such proceedings; and in connection therewith to exercise such of the discretion conferred upon the Attorney General by law as is appropriate to the disposition of deportation proceedings; . . . (8 Code Fed. Regs. Cum. Supp.)

Sec. 90.12 *Board of Immigration Appeals; reference of cases to the Attorney General.* In any case in which a dissent has been recorded; in any case in which the Board shall certify that a question of difficulty is involved; in any case in which the Board orders the suspension of deportation pursuant to the provisions of section 19(c) of the Immigration Act of 1917, as amended, or in any case in which the Attorney General so directs, the Board of Immigration Appeals shall refer the case to the Attorney General for review of the Board's decision. . . . (8 Code Fed. Regs. Cum. Supp.)

3. On August 1, 1945, prior to Bridges' naturalization, Sections 90.3 and 90.12 of the Regulations were amended to read as follows (8 Code Fed. Regs. 1945 Supp.):

Sec. 90.3 *Board of Immigration Appeals; powers.* (a) Subject to the provisions of sec. 90.12, the Board of Immigration Appeals in behalf of the Attorney General shall have authority to consider and determine cases involving:

* * * * *

(2) Deportation proceedings, if the Commissioner has recommended deportation.

* * * * *

(b) If the Board's decision in any of the foregoing proceedings is contrary to the decision or recommendation of the Commissioner, on the Commissioner's request the case shall be certified to the Attorney General by the Board of Immigration Appeals for final decision. The Commissioner may in any case arising in exclusion, deportation or administrative fine proceedings, which in his opinion presents a problem of difficulty or policy, submit such cases to the Board of Immigration Appeals for decision and if review by the Attorney General in any such case is desired by the Commissioner, such case shall be submitted to the Board for consideration and certification to the Attorney General.

(c) The Board shall have jurisdiction to consider and decide any case or matter arising under the immigration and naturalization laws which the Attorney General specifically refers to the Board.

(d) In connection with the authority granted to the Board under this Section it shall be empowered to exercise such discretion and power conferred upon the Attorney General by law as is appropriate for the complete disposition of the proceeding, including but not limited to the power to grant permission to re-apply for admission after arrest and deportation or exclusion and deportation.

> Sec. 90.12—*Board of Immigration Appeals; reference of cases to Attorney General.* In any case in which a dissent has been recorded; in any case in which the Board shall certify that a question of difficulty is involved, or in any case in which the Attorney General so directs, the Board of Immigration Appeals shall refer the case to the Attorney General for review of the Board's decision. . . .

The other sections, set out above, Sec. 150.4(c), 150.5, and 150.8 remained in force unchanged, except for the change in Sec. 150.5 noted in footnote 5, *supra.*

4. The regulations of the Department of Justice in force during the time Bridges was processing his naturalization petition provided (8 Code Fed. Regs. Cum. Supp.):

> Sec. 352.1 *Attachment to Constitution and disposition toward United States.* No person shall acquire United States citizenship under the provisions of Chapter III of the Nationality Act of 1940 (except a person subject to the provisions of sections 313, 314, 317 (b), 322, or 323 thereof) unless such person shall have proved his attachment to the principles of the Constitution of the United States and his favorable disposition toward the good order and happiness of the United States for such period or periods as may be required in his particular case, and in the manner provided by Part 373.

> Sec. 352.2 *Investigation as to attachment and attitude.* The appropriate naturalization officer of the Service, before recommending any petitioner favorably to the court, shall satisfy himself that the petitioner has a fair knowledge of the fundamental principles of the Constitution of the United States, that he is, and has

been during the required period or periods, attached thereto, and that it is his intention to assume the duties and responsibilities of citizenship of the United States. The action of such officer at any hearing upon the petition shall be based upon the testimony of the petitioner and his witnesses; the attitude, behavior, and conduct of the petitioner over the required period or periods; the naturalization officer's examination as prescribed by § 356.3 of this chapter, and his independent investigation, and such other evidence as may be available.

Sec. 352.3 *Favorable attitude toward government of petitioner for naturalization for ten years.* No person (except a person subject to the provisions of section 313, 314, 317 (b), 322, or 323 of the Nationality Act of 1940) may be naturalized who is found to be, or, at any time within the period of ten years immediately preceding the filing of his petition for naturalization, to have been, within any of the classes of persons described in section 305 of said Act. The appropriate naturalization officer of the Service, before recommending any petitioner favorably to the court, shall make a general inquiry to determine whether there is any evidence that the petitioner belongs to any of the classes described in section 305 of the said Act. If there is such evidence, the burden shall be upon the petitioner to refute it and to show that he is qualified for naturalization under the Nationality Act of 1940.

Sec. 370.8 *Preliminary naturalization examinations; facts to be ascertained; manner of conducting and uniformity; limitation.* Wherever practicable, preliminary examinations of applicants for naturalization and their witnesses shall be made in person and under oath. The applicant and each witness shall be interviewed separately and apart from one another. The purpose of such examinations shall be to obtain accurate and material information bearing upon the applicant's admissibility to citizenship and the qualifications of the witnesses. Both the applicant and the witnesses shall be carefully interrogated to determine whether the applicant has complied with the jurisdictional requirements of law; is mentally and morally qualified for citizenship; is attached to the principles of the Constitution of the United States, and is well disposed to the good order and happiness of the United States. If the applicant has been arrested or charged with the violation of any law or ordinance, the facts shall be ascertained, including information as to whether conviction resulted and the nature and extent of any sentence which may have been imposed. Particular attention shall be given to ascertaining the applicant's complete marital history and the whereabouts of his or her spouse, if married, and minor children, if any. Questions to applicants and witnesses shall be repeated in different form and elaborated, if necessary, until the examining officer is satisfied that the person being interrogated fully understands them. The witnesses shall be questioned to develop not only their own credibility and competency but also the extent of their personal knowledge of the applicant's residence, good moral character, attachment to the principles of the Constitution of the United States, and other qualifications for citizenship. Search shall be made of appropriate court and other records and other available sources of information in establishing the qualifications of the applicant and witnesses. The examination shall be limited to inquiry concerning the applicant's residence, good moral character, understanding of and attachment to the fundamental principles of the Constitution of the United States, and his other qualifications to become a naturalized citizen, and shall be uniform throughout the United States.

Sec. 373.1 *Preliminary hearings under section 333 of the Nationality Act of 1940.* (a) Preliminary hearings conducted under section 333 of the Nationality Act of 1940 shall be open to the public. Wherever possible, a member of the Service other than the person who conducted the preliminary examination, shall serve as designated examiner. Preliminary hearings shall be conducted in person by the designated examiner, or officer, and the petitioner and his witnesses shall be present. The petitioner and witness shall first be duly sworn. The designated examiner shall have before him at the preliminary hearings the record of the preliminary examination in each case. He shall not, however, be limited to the information contained in such record but may use any material evidence of data received from any other source; and he may present and examine other witnesses than those produced by the petitioner.

* * * * *

(c) At the time the designated examiner or officer conducts the preliminary hearing of each petitioner he shall enter on Form N-476 the petition number, petitioner's name, and, upon completion of the examination, fill in the symbols indicating his findings and a brief notation of the reasons for any unfavorable finding. This docket shall be signed by him and shall be made available to the court whenever desired, and after the final hearing shall be filed of record in the field office.

(d) The designated examiner or officer shall prepare in triplicate his findings and recommendations for presentation to the court. . . . (petitions either) granted . . . continued . . . (or) denied. These findings and recommendations shall be signed by the officer in attendance at the final hearing and submitted to the judge of the court at or before the final hearing. After the final hearing has been held, an order of court shall be prepared in triplicate . . . for petitions . . . granted . . . continued . . . (or) denied. The original order of court shall be presented for signature to the judge who presided at the final hearing. . . . (8 Code Fed. Regs. 1944 Supp.)

Sec. 373.7 *Personal representation of Government at court hearings.* Wherever possible, final naturalization hearings shall be attended personally by naturalization examiners or other members of the Service authorized by the Commissioner. Representatives appearing in behalf of the United States may cross-examine the petitioner and the witnesses produced in support of the petition, and may call other witnesses and produce evidence concerning any matter affecting the petitioner's right to naturalization. In cases where it appears to be necessary, the naturalization officer shall have made a stenographic report of the testimony given in any naturalization proceeding.

E. COMPARISON OF THE CHARACTER OF THE GOVERNMENT'S EVIDENCE AND THE TIME TO

FIRST HEARING

Charges: "After he entered the United States he became and now is a member of or affiliated with an organization, association, society or group that believes in, advises, advocates and teaches the overthrow by force and violence of the government of the United States" (named as the Communist Party in government's bill of particulars).

Name of Govt. Witness	Type of Testimony Given*	Years to Which Testimony Relates
Milner	a, c, d, e	1935–6
Leech	a	1936
Sapiro	d, e	1936–7
Humphreys	a	1935–Aug. 1938
Leppold	f	1935–7
Stark	e	1935
Allen	a	1937
Howard	b, e, f	1936–7
Detrich	b, c, d, e, f	1933–6
Engstrom	a	1936–7
Davis	a, d	1935–6
Castor	a	1936
Mrs. Castor	a	1936
Mrs. Davis	a	1934
Marcus	a	1934
Kessler	a	1934
Mickleson	a	1934
Zanazzi	a	1934
Penaat	e	1934
Bridges (called as witness by Gov't)	c	Dec. 1932-1938

---

*Abbreviations used in these columns are as follows: a—alleged attendance by Bridges at Communist meetings; b—alleged admission by Bridges of Communist membership; c—associations of Bridges with Communists; d—alleged Communistic remarks by Bridges; e—hearsay statements concerning Bridges; f—Opinion evidence of witness.

SECOND HEARING

Charges: "After entering the United States h
member of or affiliated with an
association, society or group that
advises, advocates or teaches the o
force or violence of the governm
United States" (named as the Conn
in government's opening statements

Name of Govt. Witness	Type of Testimony Given*	Y Tes
Lundeberg	b	1
O'Neil	b, d	1
Barlow	d	1
Lovelace (Mr. & Mrs.)	c, f	1
McCuistion	c	1
Innis	c	1
Rushmore	d	1
Chase	d, e	1
Diner	a	1
Honig		1
Lawrence	a	1
Cannalonga	a	1
St. Clair	a, e	1
Wilmot	a, b, c	A
Thompson	a	1
Kelley	d	1
Bridges (Govt. introduced in evidence excerpts from Bridges' testimony at first proceeding)	c	1

VIDENCE AND THE TIME TO WHICH IT RELATES IN THE THREE PROCEEDINGS.

SECOND HEARING

er entering the United States he has been a
mber of or affiliated with an organization,
ciation, society or group that believes in,
ses, advocates or teaches the overthrow by
e or violence of the government of the
ted States" (named as the Communist Party
overnment's opening statements).

	Type of Testimony Given*	Years to Which Testimony Relates
	b	1935
	b, d	1937
	d	1935
Mrs.)	c, f	1935
	c	1936
	c	1936
	d	1935
	d, e	1937
	a	1934
	a	1936–7
	a	1934
	a	1936–7
	a, e	1935–6
	a, b, c	Apr. 1938
	a	1934–5
	d	1937
introduced erpts from ony at first	c	Dec. 1932–1938

THIS PROCEEDING

Charges: ". . . That said defendant, Harry Renton Bridges had in truth and in fact belonged to and been a member of the Communist Party in the United States from the year 1933 up to and including said 17th day of September, 1945".

Name of Govt. Witness	Type of Testimony Given*	Years to Which Testimony Relates
Shoemaker	a, b, c	Oct. 1933–1938
Schrimpf	a, c	1934–1935
Harris	b	1938
Ross	a, c, e	1934–1936
Johnson	a, c	1936, 1938
Hancock	a, c, e	1935
Krolek	a, c	1935–1937
Crouch	a, c, f	1934–1936 June 1938, 1941
Michener	a, c	1940, 1943
Wilson	a, c	1944–1945
Rathborne	a, c	1935–1945

F. EVALUATION OF GOVERNMENT WITNESSES IN THE LANDIS-PERKINS PROCEEDING

1. " . . . what is paraded as truth bears the unmistakable marks of falsehood". (In the Matter of Harry R. Bridges, Findings and Conclusions of the Trial Examiner, United States Printing Office, Washington, 1939, Letter of Transmittal, December 28, 1939).[6]

2. *Milner:*

   "A man who has no regard for an oath." (p. 17)

   "Milner can best be dismissed as a self-confessed liar, a man who has admittedly tried—once successfully—to make falsehood parade as truth". (p. 19)

3. *Leech:*

   "He lied in . . . in important respects". (p. 75)

4. *Sapiro:*

   " . . . truth matters little . . .", "inherent improbability". (p. 86)

5. *Humphreys:*

   " . . . a morass of prevarication". (Ibid., p. 89) "[a] tendency toward prevarication [that] was almost pathological." (p. 110)

6. *Engstrom:*

   " . . . left a convincing impression that he was not telling the truth". (p. 110)

"A weak-willed, characterless, individual . . . who in desperation was now pursuing hypocritical tactics". (p. 111)

7. *Allen:*

"sincerity . . . may well be doubted". (p. 96)

8. *Ida Castor:*

"Her testimony is both contradictory and meaningless". " . . . amazing contradictions and impossible situations". (p. 116)

G. EVALUATION OF GOVERNMENT WITNESSES IN THE SEARS-BIDDLE PROCEEDING

1. "*Diner* is not an impressive witness. His story . . . is not convincing". (*In the Matter of Harry Renton Bridges*, Immigration and Naturalization Service, Department of Justice, File No. 55973/217, Memorandum of Decision, September 26, 1941 (United States Government Printing Office, 1941), p. 140)

2. ". . . the testimony of *Cannalonga* is without value". (Ibid., p. 152)

3. *St. Clair:*

   "I am not impressed by it (his testimony . . . inherently improbable . . . violent bias". (Ibid., p. 154)

4. *Wilmot:*

   "Indefinite . . . self-contradictory". (Ibid., p. 155)

5. "I do not credit the testimony of *McQuiston* and *Innes* . . ." (Ibid., p. 132)

6. "I do not consider the testimony of *Rushmore* as establishing Bridges' membership in or affiliation with the Communist Party". (Ibid., p. 133)

7. "I find that the testimony of *Chase* and *Horn* falls short of establishing . . . Bridges' membership in the Communist Party". (Ibid., p. 137)

8. "The Presiding Inspector rejected the testimony of numerous witnesses presented to show membership. Independent analysis of their testimony convinces us that its rejection was more than justified". (*In re Harry Renton Bridges before the Board of Immigration Appeals in Deportation Proceedings,* January 3, 1942, pp. 5 to 6). Supporting this conclusion was an analysis of the testimony of the various witnesses, which was described, *inter alia*, in these terms: "Patent contradictions and extreme improbabilities", "complete unreliability", "tortuous convolutions", "worthless on its face", "that he lied freely is evident", "valueless", "strong elements of the improbable", "a mental state bordering on ego mania", "neither is

worthy of credence", "another discredited witness". (Ibid.)

H. COMPARISION OF TESTIMONY IN THIS CASE DEALING WITH EVENTS BEFORE AND AFTER 1941.

(a) The court below held that evidence of participation in "Communist meetings" "would fall short of proof of actual Communist Party membership" (199 F. 2d at 836). It also held that evidence of expressions of opinion indicative of sympathy with the Communist point of view "would not in itself suffice to furnish the required proof of Communist Party membership" (199 F. 2d at 837). There is no evidence dealing with events after 1938 which does not fall into one of these two categories.

The only evidence which falls outside these categories was evidence respecting an application for membership claimed to have been made in *1933* (Tr. 835-853), testimony about Communist Party dues payments and activities from *1933 to 1938* (Tr. 873-875, 1236-1237, 2862-2869), testimony about Communist Party membership books in *1935 to 1938* (Tr. 869-871) and an admission claimed to have been made in *1938* (Tr. 1697-1704).[7]

---

[7] There was testimony that Bridges was in New York in 1936 at a meeting of the National Committee of the Communist Party; which "if credited" would tend to show Bridges' actual membership in the Communist Party. But the court below said: "Considerable doubt is thrown on this aspect of the case by reason of the fact that it was established, apparently beyond controversy, that at the very time the 1936 convention was being held, Bridges was in Stockton, California, making a speech at a union meeting" (199 F. 2d at 841).

(b) The following is the only testimony dealing with Bridges in the period after September, 1941:

1. There was testimony that in October of 1941 Bridges read a resolution on the floor of a CIO Convention in California "in favor of the Communist policy" of "all-out support for the administration program of aid to the democracies in the war effort" (Government memorandum on certiorari, p. 9).

The Court below said:

> "The danger of attempting to prove any person to be a Communist by evidence of his expression of views which happened to coincide with the program of the Communist Party, is too well understood to require comment here". (199 F. 2d at 838)

2. In November of 1943, Bridges attended what was said to be a Communist meeting during the course of a CIO Convention in Philadelphia, at which it was decided to replace a Communist by a non-Communist, as President of the California State CIO (Tr. 3360-5).

The testifying witness "knew" that the other persons present at this meeting were Communists because "I have at various times attended Party meetings with the individuals mentioned" (Tr. 3355). This was one of the witnesses who testified that non-Communists participated in "Communist Party meetings" (Tr. 3444; see also Tr. 1964-5).

The court below said:

> "The logical fallacy in concluding from this that Bridges must therefore have been a Party member is that it assumes the truth of that which is

> sought to be proven. If, in fact, Bridges was not a Party member, his presence at such a meeting would mean no more than that he attended a meeting at which every other person present was a Party member" (199 F. 2d at 836).

3. Bridges attended a meeting "somewhere between 1942 and 1944" (Tr. 3649) with a group of his colleagues in the labor movement, and the Secretary of the Communist Party in California (Tr. 3651).

> "Q. I ask you, Mr. Wilson, was this meeting a labor meeting or a meeting of a group of the Communist Party to discuss a labor problem?
>
> * * * * *
>
> A. It was a group of Communists to discuss the labor problem (Tr. 3651-52).
>
> Q. Can you recall what was said by anyone of the persons who were present, Mr. Wilson?
>
> A. I can not" (Tr. 3650).

The court below recognized that such testimony "would fall short of proof of actual Communist Party membership . . . [and] would not in itself suffice to furnish the required proof of Communist Party membership" (199 F. 2d at 836-37).

4. There is testimony that after 1944 Bridges discussed the activities of what was said to be a Communist committee with Rathborne and Schneiderman (Government's memorandum on certiorari, page 10). Government witness Rathborne testified that Bridges was not a member of this committee (Tr. 5932).

5. There is testimony that, subsequent to September 17, 1945, Bridges, the other petitioners, their union publications, or persons with whom they were associated, expressed views on the Marshall Plan, the Civil War in China, the war in Korea, etc., which were claimed to "parallel" the Communist Party position. Such evidence was rejected by the court below, 199 F. 2d at 837, as not constituting proof of the charge made in the indictment.

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In the

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT,
and J. R. ROBERTSON,
Petitioners,
vs.
UNITED STATES OF AMERICA,
Respondent.

REPLY BRIEF FOR THE PETITIONERS

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT,
and J. R. ROBERTSON,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

No. 548

REPLY BRIEF FOR THE PETITIONERS

I

THE STATUTE OF LIMITATIONS

A. The Wartime Suspension Act.

The Government's entire brief on this point is bottomed on the erroneous and repeatedly rejected premise that because the indictment alleges *falsehoods*, it thereby charges *crimes of which fraud is a statutory element* within the ambit of the 1942 Wartime Suspension of Limitations Act. Apparently, the Government has absorbed nothing from *United States* v. *Noveck*, 271 U. S. 201, *United States* v. *McElvain*, 272 U. S. 633, *United States* v. *Scharton*, 285 U. S. 518 and *Braverman* v. *United States*, 317 U. S. 49, except a desperate itch to ignore them (as *Braverman*: not even cited in the Government's brief), reject them as erroneous (as *McElvain,* Gov. Br. 47-48), or attempt impossible distinctions (as *Noveck,* Gov. Br. 36-37).

Most significantly, our discussion (Pet. Br. 23-24, 27-29) of the consequences of re-enactment of the statutory language after, and with express Congressional awareness of, these decisions of this Court, is nowhere alluded to in the Government's brief, for the obvious reason that the Government is unable to formulate any effective reply.

We are obliged to reiterate that the Suspension Act is inapplicable to this indictment for two distinct and wholly *independent* reasons. First, because fraud is not an element of the crimes charged, within the rule laid down by this Court in the cases cited above. Second, because, even if fraud were such an element here, the indictment would still meet neither the requirement of "pecuniary" fraud specified in *Marzani* v. *United States,* 168 F. 2d 133 (D. C. Cir.), nor of fraud arising out of the war, as described in *United States* v. *Gottfried,* 165 F. 2d 360 (2d Cir.). We stress the separate and independent character of these requirements, neither of which this indictment meets, because the Government's brief at various points confusingly and erroneously implies or assumes that they are interdependent.[1]

Count II. As anticipated, the Government has indefatigably restated the argument, consistently rejected by this Court (Pet. Br. 41), that fraud must be regarded as an element of the offense charged in Count II because it is the purpose or consequence of the alleged false statement. Thus the Government declares: "To lie knowingly in a naturalization proceeding is to attempt to deceive the United States with respect to the grant of a very valuable right, namely, citizenship. . . . To attempt to gain such a benefit by deception clearly falls within the conventional notion of fraud" (Gov. Br. 30; see also 33).[2]

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[1] See, *e.g.,* page 35 of the Government's brief: "Petitioners assert that the type of fraud here involved, if it is fraud, is fraud in a secondary sense as that description was used in *United States* v. *Cohn,* 270 U. S. 339 (Pet. Br. 36)". This quotation occurs in the portion of the Government's brief dealing with fraud as an essential element of the crime charged, whereas our reference to the *Cohn case* (Pet. Br. 29-30, 36) is solely in connection with the separate and independent requirement that the fraud be pecuniary or connected with the war.

But on this reasoning, a falsehood told to deprive the Government of taxes justly due would equally be a fraud within the Suspension Act, whereas the *Noveck* and *Scharton* decisions held to the contrary. That the falsehoods there charged had a fraudulent purpose was deemed irrelevant, because the statutory crimes charged (perjury in *Noveck,* false income tax returns in *Scharton*) were punishable *irrespective* of the presence or absence of fraudulent purpose. Therefore, fraud was not an element of the crime, and neither the wording nor the purpose of the Suspension Act applied (Pet. Br. 20-26).

The very portion of the *Noveck* opinion (271 U. S. at 203) quoted by the Government (Gov. Br. 37) gives the key: ". . . the alleged purpose to defraud the United States is not an element of the crime defined in § 125, on which the indictment is based. That allegation does not affect the charge; it need not be proved and may be rejected as mere surplusage". So here "the alleged purpose to defraud" is not an element of the crime defined in Count II; an allegation of fraud would not affect the charge—indeed, Count

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[2] The Government here cites *Schwinn* v. *United States,* 112 F. 2d 74 (9th Cir.), but omits to note that this Court, in affirming that decision *per curiam,* 311 U. S. 616, carefully refrained from approving the lower court's reasoning that the false statement there involved was fraudulent (Pet. Br. 38, footnote 34).

II does not in fact charge fraud (Tr. 6-7); such an allegation did not have to be—and in fact was not—proved; and it would have been surplusage.

No wonder the Government, albeit shyly, invites this Court (Gov. Br. 31, footnote 12) to overrule the *Noveck* case.[3] No wonder, in seeking to discredit the concededly square holding in *United States* v. *Obermeier*, 186 F. 2d 243 (2d Cir.) that the Suspension Act does not apply to Count II (Gov. Br. 36), the Government attempts an utterly artificial limitation of the *Noveck* decision, unsupportable in the light of the subsequent *Scharton* case.[4]

The Government has endeavored (Gov. Br. 34) to draw from *Knauer* v. *United States*, 328 U. S. 654 an atmospheric inference that all false statements in naturalization proceedings are fraudulent. The effort is not only futile,[5] but in plain conflict with the contemporaneous and subsequent content of the naturalization laws. Thus the statutory provisions upon which Count III is based carefuly distinguished

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[3] The dangerous consequences of this suggestion, set forth in our brief (pp. 42-48), are not dealt with in the Government's brief.

[4] At p. 37 of its brief, the Government states: "Thus the [*Noveck*] case may well stand for the proposition that the United States is not, under Section 125, necessarily the defrauded party since the statute governs perjury generally and perjury occurs in suits not involving the United States". But the interpretation thus suggested is itself destroyed by the *Scharton* case, wherein the falsehood was charged under the Revenue Laws, and the United States was therefore "necessarily the defrauded party" under the statute upon which the indictment was based.

[5] The *Knauer* case involved not a false statement of past fact, but the *bona fides* of the oath of allegiance (Pet. Br. 74-75). More important, the question there (which did not touch the Suspension Act) was whether the *particular statement* had a fraudulent purpose. This has nothing to do with the question whether the statute on which Count II is based requires intent to defraud as an essential element of the offense of making a false statement. As has been shown (Pet. Br. 34-37) it does not: it covers all false statements in naturalization proceedings regardless of the presence or absence of fraudulent intent.

(Pet. Br. 38; Appendix 2) between naturalization "procured by fraud" and "procured by the use or means of any false name or false statement".

So, too, the Act of June 27, 1952, 66 Stat. 166, 8 U. S. C. 1101, *et seq.* (the McCarran-Walter Act) changed the statutory "basis for judicial revocation of naturalization from fraud and illegal procurement to procurement by concealment of a material fact or by wilful misrepresentation" (Sen. Rep. No. 1137, 82nd Cong., 2nd Sess., p. 45). This change was made on the basis of a previous report by the Senate Committee on the Judiciary which concluded (Sen. Rep. No. 1515, 81st Cong., 2nd Sess., p. 769): ". . . that this language will clear up the conflicts that have arisen in cases involving revocation because of fraud or illegality, and that 'concealment of a material fact or . . . wilful misrepresentation' is more easily proved than is an allegation of fraud or illegality."

Thus, both at the time the offenses here were alleged to be committed, and subsequently, the statutory language and legislative history demolish the Government's contention that all falsehoods in naturalization proceedings are fraudulent. For this reason and the others set forth in our brief (pp. 19-48), the *Obermeier* case is right, the decision below is wrong, and Count II is clearly barred by the statute of limitations.

Count I. The Government's brief (pp. 44-50) is a labored effort to bring Count I within the Suspension Act even though Count II is barred. Of course, Count I is cast in the language of conspiracy to defraud (Tr. 2-6), but it charges nothing but the allegedly false statement by Bridges which is the subject of Count II, plus the usual allegations of conspiracy "with each other" and overt acts (the formal steps in the naturalization proceeding) to ground a conspiracy count.

The Government admits (Gov. Br. 46) that petitioners could have been charged with conspiracy to commit an offense (to wit, the false statement) instead of conspiracy to defraud, in which event, concededly, the applicability of the Suspension Act to Count I would depend on its application to Count II. But the Government cannot show that Count I in fact charges anything more than a conspiracy to commit this offense. The "defrauding" language is simply wrapped around the charge of conspiracy to commit an offense, and adds nothing; it merely lays bare the Government's design to pull Count I into the Suspension Act by using "fraud words" which are surplusage.[6]

Wriggle as they may, the Government cannot escape the conclusion that if fraud is not an element of the offense charged in Count II, it cannot be an element of the conspiracy charged in Count I. Indeed, in an unguarded passage of their memorandum on certiorari (p. 7) in the companion case (*Bridges* v. *United States*, pending, No. 549), the Government categorically declares: ". . . the illegality of the conspiracy is predicated on a contravention of the statutory mandate of the Nationality Act."

As for the authorities, the Government complains (Gov. Br. 47): "The principal difficulty with briefing this part of the case is that the answer seems so obvious." But we need not commiserate with the Government, for it immediately appears that they arrive at the "obvious" answer only by asking this Court (Gov. Br. 48) to reject *United States* v. *McElvain*, 272 U. S. 633,[7] and by totally ignoring *Braverman* v. *United States*, 317 U. S. 49, and our entire argument based on legislative history and Congressional re-enactment (Pet. Br. 27-29).

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[6] The Government's feeble efforts (Gov. Br. 46) to claim that in Count I "The conspiracy to defraud was thus broader in terms than a mere conspiracy to make a false statement" is unsupported and illogical. Of course, Count I is broader than Count II because the elements of conspiracy (agreement and overt act) are added, but Count I requires only proof of conspiracy to make the false statement.

Count III. Here we have nothing to add to our brief[8] (pp. 38-39) other than to note that, once again, the Government (Gov. Br. 50-52) is clinging to the presence in the statute of the word "fraud", and overlooks that the Suspension Act requires not the mere word but that the offense embrace fraud as an essential element. Count III is cast in the language of fraud, but all that it in fact charges is that the petitioners Robertson and Schmidt assisted Bridges to obtain naturalization by means of allegedly false statement.

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[7] The Government declares (Gov. Br. 48) that the opinion in the *McElvain* case "seems to assume, contrary to the fact, that the indictment was for a conspiracy to commit an offense rather than conspiracy to defraud." But this Court was under no such misapprehension in the *McElvain* case. The very first sentence of Mr. Justice Butler's opinion (272 U. S. at 636) declares that the indictment there in question was "for conspiracy to defraud the United States in respect of its internal revenues."

[8] As we pointed out in our brief, the statute on which Count III is based (8 U. S. C. 746 (a)(5)) includes both clause a, covering certificates procured by fraud, and clause b, covering certificates procured by means of a false statement. Here, as in Count I, the Government has utilized the statutory language of the fraud clause, while alleging facts which would support only an indictment under the false statement clause. Therefore, the crime of "assisting" charged in Count III is no more within the Suspension Act than is Count II. *Cf. United States* v. *Tommasello*, 160 F. 2d 348, 350-51 (2d Cir.).

The effort to ascribe independent false statements to Schmidt and Robertson (Gov. Br. 51) is not only directly contrary to the entire theory upon which the case was tried below (cf. *De Jonge* v. *Oregon*, 229 U. S. 353; *Cole* v. *Arkansas*, 333 U. S. 196), but is inconsistent with the Government's admission that it is Bridges' answers "which form the basis for this prosecution" (Gov. Br. 86).

B. The Five-Year Period of Limitations Does Not Apply to the Offenses Charged in Counts II and III.

In our brief we urged that as a result of the legislative history surrounding the 1948 revision of the Criminal Code, of well recognized principles with respect to repealers and savings clauses, and of well-established Congressional legislative practice, the five-year statute of limitations formerly contained in Section 746(g) of Title 8 cannot be deemed to be "saved" by Section 21 of the 1948 recodification of the Criminal Code. That was both the conclusion and reasoning of the Second Circuit in *United States* v. *Obermeier*, 186 F. 2d 243 and of the court below (199 F. 2d 811, 819-820).

Despite its recognition that prior revisions have contained savings clauses which "in express language" saved periods of limitations, the Government contends that the marked departure from this legislative practice in Section 21 was "merely a change in style of draftsmanship" and should not be accorded the obvious weight which attaches to it. (Gov. Br. 54-57).

The Government has also emphasized the practical importance of a statute of limitations upon the exercise of a right or liability and has urged that even in the absence of express language dealing with limitations, a savings clause preserving "rights and liabilities" must be deemed to include it.[9]

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[9] It is, of course, almost universally recognized that statutes of limitations are to be classified as "procedural". "It is established in English and Scotch law that the Statute of Limitations is procedural. The same may be said in general of American Statutes of Limitation." 4 *Harvard Studies in the Conflict of Laws*, 248 (1940). See also

1. The language of Section 21 reflects much more than a change in style.

The suggestion that styles in draftsmanship have changed radically in recent years is hardly borne out by even a hasty examination of recent savings clauses. Just last year, for example, in the McCarran-Walter Act (Act of June 27, 1952, c. 477, Sec. 405, 66 Stat. 166), the Congress was most careful to specify that

> "Nothing contained in this Act . . . . shall be construed . . . . to affect any prosecution, suit, action, or proceedings, civil or criminal, brought, or any status, condition, right in process of acquisition, act, thing, liability, obligation or matter, civil or criminal, done or existing at the time this Act shall take effect; but as to all such prosecutions, suits, actions, proceedings, statutes, conditions, rights, acts, things, liabilities, obligations, or matters the statutes or parts of statutes repealed by this Act are, unless otherwise specifically provided herein, hereby continued in force and effect."[10]

British Linen Co. v. *Drummond*, 10 B. & C. 903 (K. B. 1830); *Don* v. *Lipmann*, 5 Cl. & F. 1 (H. L. 1837).

Indeed, the Government has conceded (Gov. Br. 52) that "an individual has no vested right in any specific statute of limitations . . .".

[10] See also Joint Resolution, November 4, 1939, Section 19, 54 Stat. 4, ("offenses . . . may be prosecuted and punished, and suits and procedures . . . may be commenced and prosecuted in the same manner and with the same effect as if such joint resolutions had not been repealed"); Act of August 13, 1946, c. 959, section 25, 60 Stat. 1049, ("existing provisions of law authorizing suits . . . and governing the conduct or determination of such suits shall continue to apply to any case heretofore or hereafter instituted hereunder . . ."); Act of August 10, 1949, c. 412, section 12 (g), 63 Stat. 579, ("shall . . . have the same effect as if this Act had not been enacted").

Even in the recent codifications, Congress evidently did not believe that the new "style" of saving just rights and liabilities was adequate; for when it wished to be certain of saving "procedural matters" it did so explicitly.[11]

The limited language used in Section 21 cannot be explained on stylistic grounds. It obviously reflects a conscious and knowing use of restricted language by the Congress to which effect must be given by this Court.

2. The effect of a savings clause preserving "rights and liabilities".

The Government urges that since limitations have an important impact upon the exercise of rights or liabilities, the period of limitations must be preserved under a statute saving rights and liabilities. *De La Rama Steamship Co.*

The Act of June 25, 1948, c. 648, 62 Stat. 1014, passed on the same day as Section 21, provided in Section 4 that "Nothing contained herein shall be construed to prevent the prosecution, punishment, mitigation, or other action, . . . as to any offense made punishable by the Articles of War committed prior to the date of this Act by any person subject to military law . . ."

[11] In the statutes codifying Titles 3 and 14 there appear, not only the provisions saving rights and liabilities, but a specific sections as follows:

> "The provisions of title 3, 'The President', set out in section 1 of this Act, shall be construed as a continuation of existing law and no loss of rights, interruption of jurisdiction, nor prejudice to matters pending on the effective date of this Act shall result from its enactment" (Act of June 25, 1948, c. 644, Section 2, 62 Stat. 672).
>
> "All orders, rules, and regulations of the Coast Guard in effect under provisions of law superseded or amended by this Act shall, to the extent they would have been authorized under this Act, remain in force and effect as the regulations and orders under the provisions of this Act and shall be administered and enforced under this Act as nearly as may be until specifically repealed, amended, or revised" (Act of August 4, 1949, c. 393, Section 4, 63 Stat. 495).

v. *United States,* 334 U. S. 386, upon which reliance is placed in this connection, does not support such a proposition.[12]

Apart from the distinctions between the case at bar and *De La Rama* to which we have already adverted,[13] there are other compelling factors which demonstrate that that case is inapposite.

Initially, it must be noted that the applicable savings clause in *De La Rama,* in addition to preserving the repealed rights and liabilities under the War Risk Insurance Act, provided that "such statute shall be treated as remaining in force for the purpose of sustaining any proper action . . . for the enforcement of such . . . . . liability."

The Court was not unaware of the fact that matters of "procedure" have direct and substantial effects upon "rights and liabilities", but it did not rest its decision on that basis. Rather, the Court relied upon the specific language of the savings clause above quoted and observed that the case demonstrated the importance "of saving the statute and not merely the liability." *Id.* at 339.

Section 21, of course, purports to preserve only "rights and liabilities."

Secondly in the *De La Rama* case the entire statute upon which the proceeding was based and out of which all of the rights and liabilities arose was repealed. There was not, as in the instant case, a mere recodification of the law which in no way changed the substantive provisions of the earlier statute.[14]

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[12] *United States* v. *Oppenheimer,* 242 U. S. 85, is also relied upon, but that case had nothing to do with a change in the period of limitations or with a savings clause.

[13] See Pet. Br. 51-52. Other cases relied upon by the Government can similarly be distinguished because the proceedings were *sub judice* at the time the law was changed or because a statute of limitations was in no way involved. *E.g., Hiatt* v. *Hilliard,* 180 F. 2d 453 (5th Cir.); *Lovely* v. *United States,* 175 F. 2d 312 (4th Cir.); *United States* v. *Kirby,* 176 F. 2d 101 (2d Cir.); *Quirk* v. *United States,* 161 F. 2d 138 (8th Cir.).

The opinion of this Court just last year in *Bruner* v. *United States*, 343 U. S. 112, points up this distinction between the *De La Rama* case and the instant proceeding. While the *Bruner* case was in litigation Congress amended the applicable statute to revoke the jurisdiction of district courts with respect to the matter there involved. This court held the amendment to be immediately effective and to apply to pending cases. The general savings clause was held inapplicable because no substantive rights or liabilities had been changed by the new legislation.

Thus in both the *Bruner* and *De La Rama* cases the same question was presented, i.e. whether the jurisdiction of a district court, with respect to a pending case, survived a repeal of the statute conferring jurisdiction. In both cases the "dollars-and-cents importance" of the question was presumably the same. The *Bruner* case held that jurisdiction did not survive because no substantative right or liability had been altered. The *De La Rama* case reached the opposite conclusion not because "jurisdiction" was itself "substantive," but because rights had been altered and the savings clause was worded in such a manner as to preserve the procedures formerly available for the enforcement of those rights.

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[14] In the *De La Rama* case the government reversed the position it had taken in the courts below and did not urge that the district court had lost jurisdiction as a result of the repeal of the War Risk Insurance Act. It was impressed by the fact that the repeal went both to substantative and procedural matters and was not simply a change in jurisdictional matters. It summarized this argument as follows:

> ". . . this Court has apparently drawn a distinction in general terms between substantative and jurisdictional provisions of repealed statutes, holding that the general savings statute applies to substantive rights.
>
> On the other hand, no decision of this Court holds that the general savings statute fails to preserve the jurisdictional provisions of a repealed statute where those provisions are an intrinsic part of the repealed statute and form an integral part of the machinery for enforcing the substantive liabilities preserved by the general savings statute. If such a distinction between statutes which are jurisdictional only and statutes which not only contain jurisdictional provisions but also create substantive liabilities should be held to be valid . . . it would follow that, in this case, the district court's jurisdiction was preserved." (Gov. Br. 5, 6.)

The 1948 codification of the Criminal Code, insofar as here relevant, was directed only to a change in the period of limitations. It did not eliminate the false statement provisions of section 746(a) of Title 8, but merely moved them to Title 18. It is thus clear that the instant case is more comparable to the *Bruner* decision.

3. Legislative history discloses an intent to make the new statute of limitations operative for all prosecutions commenced after its effective date.

If a period of limiations has not yet expired, Congress certainly may shorten or lengthen the period even with respect to causes of action already existing. Whether a change in the period of limitations applies to causes of action which have already arisen depends upon the language of the Act and Congressional intent. *Sohn* v. *Waterson,* 17 Wall. 596 (U. S., 1873).

In private litigation there is always present a constitutional question since a "retroactive" application of a statute of limitations may be a deprivation of property without due process of law. Thus in *Sohn,* the Court refused to follow the clear language of the act and apply the new provisions retroactively because to do so would destroy the property rights there involved and would raise serious constitutional questions.

In the instant case there is no such reason for departing from the plain meaning of the statutes.[15]

In *United States* v. *Lindsay,* 202 F. 2d 239 (1st Cir.), decided just two months ago, Judges Magruder, Woodbury and Hartigan, made this distinction very clear. They applied a new statute of limitations to a civil cause of action already accrued in favor of the Government even though they thereby cut off its ability to proceed since Congress clearly could, without constitutional objection, cut off such a right completely.

Even apart from the unambiguous wording of the statutes here, it is clear that there was an intent to make the new period of limitations operative on the effective date of the codification for all prosecutions commenced thereafter.

It has already been pointed out (Pet. Br. 49, 50) that for at least the past seventy-five years, whenever Congress has sought to preserve the original period of limitations with respect to offenses already committed at the time of a change in the period, it has made express provision to that effect. The importance of this legislative pattern cannot be minimized. In *Bruner* v. *United States, supra,* the Court found an intent on the part of Congress to exclude pending cases from the district courts as a result of the fact that in 1898 in dealing with a similar problem Congress had specifically included pending cases whereas in 1951 a similar reservation was not made! In the instant case, Congress has specifically dealt with the applicability of a change in the period of limitations to outstanding causes of action on numerous occasions since 1874 and as recently as 1947. (Pet. Br. 49-50; Gov. Br. 54-56; 1 U. S. C. 110.) The reasoning of the *Bruner* case therefore becomes even more compelling.[16]

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[15] Although it would have been clearly proper for Congress to cut off the right to prosecute completely, it carefully avoided such a result in this case (Pet. Br. 51).

An intent to make the change from five years to three years is also implicit from the fact that the reviser noted that there was no reason for having a five year period with respect to naturalization crimes and a shorter period for more heinous ones. The presence of a cogent reason for a change in the period of limitations is also reason for applying the change to causes of action which have already accrued as well as to those arising in the future. Thus, the so-called McCarran-Walter Act, *supra*, enlarged the period of limitations with respect to naturalization and passport crimes from three years to ten years. Under its reasoning in this case, the government would continue to be bound by the three year period for all crimes committed before the effective date of that Act, despite the strong reasons advanced for the extension of that period. Whether or not that is the position of the government, it is the necessary result of their reasoning here.

4. The authorities relied upon by the Government in no way discredit the decision in *United States* v. *Obermeier* or of the court below.

Both the court below and the Second Circuit have carefully considered and unanimously rejected the position here taken by the government. In an effort to avoid this result the government has cited numerous opinions of this and other courts. It is submitted that none of them is here controlling.

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[16] *Supra*, pp. 9-10; 14.

In *United States* v. *Oppenheimer,* 242 U. S. 85, the Court merely rejected the contention of the government that if an accused has successfully urged a plea in bar he has never been in jeopardy. *Id.* at 87. A decision based on any number of purely procedural matters may clearly become *res judicata*—the statute of limitations is no exception.

In *United States Fidelity & Guaranty Co.* v. *United States for the use of Struthers Wells Co.,* 209 U. S. 306 the very structure of the original and amending statutes demonstrated that Congress intended all of the provisions to apply prospectively. Of course, a demonstrable congressional intent[17] is of extreme importance in determining whether the new provisions apply to existing causes of action.

United States v. *St. Louis, San Francisco & Texas Ry. Co.,* 270 U. S. 1, dealt with a civil claim wherein the period of limitations was reduced. No congressional intent with respect to its application could be found.[18] As already pointed out in *Sohn* v. *Waterson, supra,* to apply the statute retroactively could cut off some claims completely and would therefore have raised serious constitutional questions. Although the Court did not so state, it apparently refused to presume such an unconstitutional intent. The other alternatives were to apply it prospectively or to start the new period running on the date the new act became effective. Presumably unable to find any reasonable basis for taking this latter view (which was the construction urged by the government), the Court gave the statute a prospective application.

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[17] *Supra,* pp. 14-15.

[18] "There is nothing in the language of Paragraph 3 of Section 16, or in any other provision of the Act, or in its history, which requires us to hold that the three year limitation applies, under any circumstances, to causes of action existing at the date of the Act." (*Ibid.,* 270 U. S. 1, 3.)

Hoiness v. *United States,* 335 U. S. 297, wherein the Court stated that the "policy" of a particular provision requiring courts to disregard niceties of form had been preserved upon the enactment of the Judicial Code, was not a criminal proceeding, did not involve the statute of limitations, and was in litigation long prior to the adoption of the Judicial Code.

The government's handling of *Great Northern Railway Co.* v. *United States,* 208 U. S. 452, is surprising. It has here described (Gov. Br. 64) *Great Northern* as not confining the general savings clause to substantive matters. Yet just a few months ago in its brief to this Court in *De La Rama,* it stated (pp. 12-13) "In *Great Northern Ry. Co.* v. *United States,* . . . the Court held that the general savings statute did not preserve the procedures and remedies of the Elkins Act of 1903 after that Act had been amended by the Hepburn Act of 1906." Although the position of the government may have changed in these months, the *Great Northern* case must still be given the interpretation placed on it by the Second Circuit in *Obermeier, supra,* and, indeed, by this Court in *Hertz* v. *Woodman,* 218 U. S. 205.

II

RES JUDICATA, ESTOPPEL AND DUE PROCESS

A. The Secretary of Labor's Decision

The Government concedes (Gov. Br. 78) that "The 1938 hearings did end in an administrative determination that, on the evidence presented, Bridges had not been shown to be a member of the Communist Party as of that time." However, the Government contends that this finding is of no effect in the present proceeding for two reasons: first, that the effect of the Secretary of Labor's finding on the factual issue in the present proceeding (Gov. Br. 79) "is not properly before this Court on the present review"; and second, that the Secretary's determination, being administrative in character, should be given no weight as *res judicata* or by way of estoppel in a subsequent judicial proceeding.

The first of these points is utterly ephemeral. We have contended, with respect both to the Landis-Perkins and the Sears-Biddle determinations, that the issue of Bridges' Communist membership in the present proceeding should have been limited to the period of time since those determinations were made. The Government now argues that this point is not open on certiorari, because (Gov. Br. 79): "The issue raised in the petition was whether the prosecution was barred and that is one of the two issues to which the grant of certiorari was specifically limited by order of this Court." But in fact the question stated in our petition (Petition for Certiorari, p. 3) was whether this proceeding was barred *in whole or in part*. The italicized words, carefully omitted from the Government's statement of the issue (Gov. Br. 79), were included in the question for the specific purpose of challenging the legality of re-litigating the issue of Bridges' Communist membership prior to the time of the administrative determination.[19] There is not the slightest warrant for the Government's contesting the reviewable status of this issue before this Court.

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[19] Our Petition (p. 12, footnote 14) and our Reply Memorandum (pp. 3-4) contained argument in support of our contention that the prior administrative determinations estopped the Government from re-litigating the question of Bridges' Communist membership prior to the administrative determinations.

Turning to the Government's second contention, it appears that their denial that a decision in a deportation proceeding is ever *res judicata*, or grounds for estoppel, is based on: (a) the description of deportation proceedings as "political", citing *Harisiades* v. *Shaughnessey,* 342 U. S. 580, 589; (b) the Attorney-General's later refusal to treat the Secretary's decision as binding (Gov. Br. 81); (c) want of mutuality (Gov. Br. 85); and (d) the fact that deportation is an "executive" or "administrative" function.

Only[20] the last of these reasons warrants attention here. As we have shown (Pet. Br. 56-62), numerous types of quasi-judicial administrative proceedings have been accorded the attributes of *res judicata* in later judicial proceedings, and the deportation proceedings here fall clearly within the quasi-judicial category.

The Government cites *Wilbur* v. *United States ex rel Kadrie,* 281 U. S. 206, in an effort to support its statement that "the finding of an examiner in a deportation proceeding is '. . . not a judgment pronounced in a judicial proceeding, but a ruling made by an executive officer in the exertion of administrative authority' " (Gov. Br. 83). But the wholly distinguishable *Wilbur* case not only has nothing to do with immigration or deportation proceedings; it rested upon an altered interpretation of law (not of fact) by the Solicitor of the Department of Interior, and upon the fact that the statute under which the Secretary's earlier determination was made did not make his prior determination "final" (see 281 U. S. at 217). Compare *United States* v. *Atkins*, 260 U. S. 220 and *United States* v. *Wildcat*, 244 U. S. 111 (Pet. Br. 61) where "final" orders involving Indian claims were held *res judicata*. Similarly, in the present case, the Secretary of Labor's determination in the deportation proceeding was "final" under the statute. *Heikkila* v. *Barber*, 345 U. S. 229.

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[20] The *Harisiades* case is in no way in point here, and the adjective "political" cannot properly mean much more than "executive" or "administrative". The Attorney-General's conclusion in *In re Harry Bridges before the Attorney-General in Deportation Proceedings* (May 28, 1942, p. 30) was not a departmental rule, and was summarily stated and based on an erroneous application of *Pearson* v. *Williams,* 202 U. S. 281. The argument of want of mutuality, long since discredited in the law of remedies (see Judge Cardozo's opinion in *Epstein* v. *Glucken,* 233 N. Y. 490; 135 N. E. 861), is frivolous indeed when the lack of mutuality is (as the Government here suggests) caused by a difference in the standard of proof as between civil and criminal proceedings. In any event, the point is quite settled by *United States* v. *Balt. & Ohio R. R. Co.,* 229 U. S. 244 (Pet. Br. 54, footnote 55).

B. *Bridges* v. *Wixon*.

We believe that the effect of *Bridges* v. *Wixon*, 326 U. S. 135, as an estoppel to relitigation of the issue of Bridges' Communist membership prior to 1941, is adequately covered in our brief (Pet. Br. 66-72). Nor, for the reasons stated above (pp. 18-19), is there any doubt that this question is properly before this Court for review.

We desire only to note with interest that the Government, after obstinately arguing (Gov. Br. 77) that the *Wixon* case cast no doubt on the sufficiency of "the evidence then available" to support a finding that Bridges was a Communist, promptly reverses itself and explains that Bridges' naturalization was not contested by the Government, only three months after the *Wixon* decision, because the hearing examiner had "ascertained that it had been determined that the Government did not have sufficient evidence at that time to show that Bridges was a member of the Communist Party". (Gov. Br. 86, footnote 36; Tr. 529). The Government's entire contention thus becomes well-nigh preposterous. It is perfectly clear from this circumstance as well as from the Government's abandonment of the deportation proceeding (Pet. Br. 69-70), that the *Wixon* decision was treated, by the Government and by all others concerned, as a finding that the evidence available, whether in 1941 or 1945, was insufficient to support a determination that Bridges was a member of the Communist Party.

C. The Naturalization Decree.

On this point, the Government opens with the argument (Gov. Br. 85-86) that "the Government did not litigate the issue of Bridges' Communist membership in the naturalization proceedings", and that, therefore, there was no determination by the naturalization court of the factual issue of membership. It is true that the Government did not "litigate" the issue in the sense of opposing Bridges' naturalization.

But the reasons for this failure, as set forth in the Government's brief (at pages 86-87, footnotes 36-37) are truly remarkable. One is given the impression that the hearing examiner (Mr. Lloyd H. Garner) was somehow caught unawares and unsuspecting of the issue, and totally unprepared to come forward with any evidence bearing on the matter. One would never guess, to read this portion of the Government's brief, that the Government's investigative machinery had then been at work for over a decade, and that two protracted administrative hearings, as well as the litigation o. *habeas corpus*, had preceded Bridges' application for citizenship. The reader is also led to believe that poor Mr. Garner was equipped only with "an affidavit

. . . by a former wife of Bridges, accusing him of being a Communist" which "had come into Garner's possession the morning of the hearing, and into the possession of the Department of Immigration and Naturalization the Friday before". Then, as the Government sadly observes, "aside from this document, Garner had no other evidence to present to the Court". What on earth had happened to the bushels of evidence previously accumulated and presented before Dean Landis and Judge Sears?

It is in this extraordinary context that one must assay the Government's contention (Gov. Br. 85, footnote 35) that it was not obliged to contest the membership issue in the naturalization proceeding, and was at liberty to preserve it for a later day in court. Whatever appeal this argument might have in a situation where the Government had been prevented, by lack of time or for other reasons, from making a full investigation of an applicant for naturalization, it is wholly unrealistic as applied to the actual situation now before this Court.

But the judicial finality of Bridges' naturalization decree does not, of course, rest on these particular circumstances, compelling as they are. For the Government's apparent conception of a naturalization proceeding, as determining only those issues which the Government actively contests, flies in the face of the purpose and structure of the naturalization laws, and is wholly lacking in judicial support. The Government's contention leads straight to the conclusion that *every* naturalization decree can be challenged, whether by revocation or collateral attack, on any issue except one which the Government has unsuccessfully contested in the naturalization proceeding itself. The far-reaching and unsound effects of such a result are manifest.

The law is clearly to the contrary. *Spratt* v. *Spratt*, 4 Pet. 393, 407-408 (U. S., 1831); *Tutun* v. *United States*, 270 U. S. 568, 577; *Bindczyck* v. *Finucane*, 342 U. S. 76, 80-81, 83-84.[21]

By no means do we mean to suggest that the extent to which a naturalization decree is *res judicata* is free from vexatious and unsettled questions. The Government's disposition (Gov. Br. 88) to regard our position as just too silly for serious consideration might be tempered by perusal of the Report of the Senate Committee on the Judiciary (Sen. Rep. No. 1515, 81st Cong., 2nd Sess., pp. 756-764), wherein it is stated (at p. 756) that the nature of the fraud which can be relied on as the basis for revocation and the scope of *res judicata* in naturalization proceedings are "the source of considerable confusion and conflict in the law."

These questions, and their pertinence to the present proceeding, cannot be settled by the generalities relied upon by the Government (Gov. Br. 88-89). As we have pointed out (Pet. Br. 72-79), the Government's standing to challenge the naturalization decree is here fatally weakened because it proceeded by collateral attack, rather than by revocation proceedings. *Bindczyck v. Finucane*, 342 U. S. 76. Even in revocation proceedings the Government's position would be doubtful enough. This was the very question reserved in the *Knauer* case (328 U. S. at 670-671). See also *Chitwood* v. *United States*, 178 Fed. 442 (8th Cir.). More fundamentally, their argument throughout overlooks that "the doctrine of *res judicata* does not depend upon whether or not the prior judgment was right. It rests upon the finality of judgments as a matter of public policy, to the end that controversies once decided shall remain in repose." *Rubens* v. *Ellis*, 202 F. 2d 415, 418 (5th Cir.).[22]

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[21] The Government also contends that the naturalization decree did not determine the issue of membership because (Gov. Br. 87) "it is by no means clear that mere membership would have been considered by the court at that time as a bar to naturalization." Having said this, the Government is then obliged to scramble rapidly (Gov. Br. 88, footnote 38) to avoid the inference that the question and answer with respect to membership were not material, since such an inference would destroy the entire basis of the indictment here in question. But it is apparent from the proceedings before the California Superior Court (Tr. 133-145), that the naturalization court did regard the issue of Communist membership as one which had to be determined (Pet. Br. 8-9, 72). See *Harisiades* v. *Shaughnessy*, 342 U. S. 580, 593-594: "During all the years since 1920 Congress has maintained a standing admonition to aliens, on pain of deportation, not to become members of any organization that advocates overthrow of the United States government by force and violence, a category repeatedly held to include the Communist Party . . . It [Congress] regarded the fact that an alien defied our laws to join the Communist Party as an indication that he had developed little comprehension of the principles and practice of representative government or else was unwilling to abide by them."

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[22] A word should be added here about the applicability of the *res judicata* and estoppel arguments to petitioners Robertson and Schmidt. As the Government points out (Gov. Br. 71, footnote 27), they were not parties to the prior proceedings, and Bridges alone can claim their conclusive effect. Plainly, however, Robertson and Schmidt were seriously prejudiced by the trial court's refusal to restrict the evidence to the period following the administrative proceedings, and the failure to dismiss the indictment against Bridges. Consequently, a reversal of Bridges' conviction or dismissal of his indictment will require reversal as well of Robertson's and Schmidt's convictions.

We also feel obliged to call to the Court's attention the possible bearing on this proceeding of *Western-Pacific R. R. Corp.* v. *Western Pacific R. R. Co.*, 345 U. S. , decided April 6, 1953. In our petition for certiorari, filed January 14, 1953, the pendency of the *Western Pacific* case before this Court was mentioned (at p. 6, footnote 5) in connection with the supplemental petition requesting a rehearing before the Court of Appeals *en banc* (see also Pet. Br. 2, footnote 1a, Pet. Br. 11, footnote 10a). The writ of certiorari granted by this Court does not cover this question, and the following circumstances are set out solely for the Court's information.

After the original decision of the division of the court below (Tr. 8215-8296), petitioners filed a "Petition for Rehearing and Application that Petition for Rehearing be Heard En Banc" (Tr. 8297-8347), in which it was urged that since the original decision conflicted with principles enunciated by this Court (Tr. 8300; 8324-8328) and

D. Due Process.

"Due process does not require that fraud and false swearing shall go unpunished", says the Government in conclusion (Gov. Br. 91). Of course this is true, but it is not the issue here. Due process does require that an accusation of false testimony shall not be used to subject an individual to trial on a factual issue previously and repeatedly determined in his favor in other proceedings. *Harisiades* v. *Shaughnessy*, 342 U. S. 580, extensively quoted by the Gov-

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the decisions of other courts of appeal (Tr. 8313; 8322; 8323-8324), the matter was properly one to be considered *en banc*.

After amending that portion of its opinion which dealt with the "savings clause" problem (*supra*, pp. 8-17), the court below denied the petition without ruling on the application that it be heard *en banc* (Tr. 8434). This failure to rule upon the application for a rehearing *en banc* followed the position taken some months earlier that "petitions, if any, for rehearing *en banc* in cases determined by three judges will be considered and disposed of by the latter as ordinary petitions for rehearing". *Western Pacific R. R. Corp.* v. *Western Pacific R. R. Co.*, 197 F. 2d 994, 1016 (9th Cir.).

Thereafter, petitioners filed an "Application for Leave to File Supplemental Petition for Rehearing, Prayer that Supplemental Petition for Rehearing be Heard En Banc, and that Order Denying Petition for Rehearing Be Vacated" (Tr. 8437-8454), which called attention to the fact that no order had ever been entered upon the application to be heard *en banc* (Tr. 8449-8450), and again urged that in view of the conflicts already mentioned, and other important points involved, including a possible intra-circuit conflict (Tr. 8451-8452), the case was appropriately one to be heard *en banc*.

The division, recognizing that this application was "similar" to the one involved in the *Western Pacific* case, reaffirmed "the view taken by us in the *Western Pacific* case" that "it is not a privilege of litigants to request that their cases be heard *en banc*" (Tr. 8456-8457; 201 F. 2d 254, 255). Because of the circumstance that the panel had amended its earlier opinion, it permitted the filing of the application; however, it specifically ordered it to be filed as a "petition to the 'Division'", and it treated it "as a second petition for rehearing" and "as such", denied it (Tr. 8459-8460; 201 F. 2d 254, 256), apparently without reaching the "merits of the *en banc* issue". *Western Pacific* case, *supra*.

ernment, has no bearing on the question here, nor may it be overlooked that Bridges is presently a citizen, not an alien. Beyond this, we rest on our brief (pp. 79-87).

III

CONCLUSION

The Government's brief is pregnant with the worry that statutes of limitations and the principle of *res judicata* may allow the guilty to escape punishment, and fraud to escape detection. "If one indulges in the fantasy that those who violate laws cold-bloodedly calculate that they will be safe if they can avoid prosecution for a particular statutory term . . ." (Gov. Br. 52). "It would indeed be an odd application of the principle of *res judicata* to bar a court from protecting the integrity of its own proceedings . . . (Gov. Br. 88).

But these principles have been developed to preserve, not to frustrate, the judicial process. It is difficult enough to resolve a contested issue of fact when the evidence is fresh; after the lapse of many years it is wiser not to authorize the attempt. A later judgment on the same issue is intrinsically no more reliable, and may well be less so, than an earlier one; it is wholly possible for perjured testimony to be imposed on a court in a proceeding to set aside an earlier one as fraudulent. All this we have already and, we think, compellingly explored (Pet. Br. 42-48, 78-81, 85-90), no matter how little reaction has been stimulated in the Government's brief.

For the reasons stated, it is respectfully submitted that the judgment of the court below should be reversed.

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No. 548

In the Supreme Court of the United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT AND J. R. ROBERTSON, PETITIONERS

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

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MEMORANDUM FOR THE UNITED STATES

OPINIONS BELOW

The opinion of the Court of Appeals, as amended on denial of rehearing (R. 8354-8433), is reported at 199 F. 2d 811. The opinion of the United States District Court for the Northern District of California denying a series of motions to dismiss the indictment (R. 10-41) is reported at 86 F. Supp. 922. The opinion of that court on the issue of *res judicata* raised during the trial is reported at 87 F. Supp. 14.[1]

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[1] See also opinions on revocation of bail after judgment. 93 F. Supp. 989, reversed, 184 F. 2d 881.

JURISDICTION

The judgment of the Court of Appeals was entered on September 6, 1952 (R. 8296). A petition for rehearing was denied on November 18, 1952 (R. 8434). On November 28, 1952, the time for filing a petition for a writ of certiorari was extended to January 16, 1953, by order of Mr. Justice Douglas. The petition was filed January 14, 1953. The jurisdiction of this Court is invoked under 28 U. S. C. 1254(1). See also Rules 37(b)(2) and 45(a), F. R. Crim. P.

QUESTIONS PRESENTED

1. Whether the fact that two previous attempts to deport an alien because of alleged communist activity had failed precludes a prosecution relating to false statements in his naturalization proceedings with respect to membership in the Communist Party.

2. Whether the prosecution is barred by the statute of limitations.

3. Whether reversible errors were committed during the trial.

STATUTES INVOLVED

The applicable statutes are set forth in the Appendix, *infra*, pp. 37-40.

STATEMENT

On May 25, 1949, an indictment in three counts was returned against the petitioners in the United States District Court for the Northern District of California. Count one charged all three petitioners with conspiracy to defraud the United States in the proper administration of its naturalization laws by fraudulently representing, in the proceedings for the naturalization of Harry Bridges, that he had never belonged to the Communist Party of the United States. The second count charged Bridges alone with the crime of knowingly making a false statement under oath relating to his naturalization proceedings, in violation of 8 U.S.C. (1946 ed.) 746 (a), now 18 U.S.C. 1015 (a). The third count charged the other petitioners with fraudulently aiding and abetting Bridges to procure naturalization in violation of 8 U.S.C. (1946 ed.) 746(a). (R. 3-8.) After a trial by jury, petitioners were found guilty on the counts in which they were named (R. 8036-8038) and sentenced as follows: Bridges to two years on count I and five years on count II, the sentences to run concurrently; each of the other petitioners to two years imprisonment on counts I and III, the sentences to run concurrently (R. 235-240). After judgment was entered, the citizenship of Bridges was revoked under Section 338 (e) of the Nationality Act of 1940, 8 U.S.C. (1946 ed.) 738 (e). On appeal the conviction was affirmed (R. 8296).

At the trial, the Government proved that at his naturalization hearing on September 17, 1945, Bridges was asked whether he did then or ever had belonged to the Communist Party of the United States, and whether he did then or had ever belonged to any organization that advocated the overthrow of the government by force and violence. He replied in the negative (Gov. Ex. 3, R. 480; R. 138-139). It was also shown that the other petitioners, who were witnesses for Bridges in connection with his application, had been individually questioned by a hearing examiner at a preliminary examination held on August 8, 1945; that each of them had denied that he himself was a member of the Communist Party and had stated that to his knowledge Bridges was not a member of the Communist Party (R. 457-459; 463-464). At the naturalization hearing, the witnesses testified that they vouched for the loyalty of Bridges to the United States (R. 134).

The lengthy evidence adduced by the Government at the trial was designed to show that prior to, at the time of, and subsequent to these naturalization proceedings, Bridges was in fact an active member of the Communist Party, known to be such by the other petitioners. Salient portions of that evidence may be summarized as follows:

A. *The Recruitment of Bridges into the Communist Party*

In 1933, there was a confused situation in the labor movement on the west coast waterfront, with different groups endeavoring to obtain dominance (R. 4101-4103; 4770-4775). The Communist Party decided to take an active part in the situation and to bolster an A. F. of L. union, the International Longshoreman's Association, hereinafter referred to as I. L. A. (R. 1247-1249). John Schomaker, a government witness and an admitted Communist (R. 674-687), testified that it was decided that Bridges was the best potential leader for the longshoremen's union (R. 887-888, 957, 1247-1249). At a meeting at Bridges' home in late October, 1933, they discussed revitalization of the I. L. A. (R. 732-736, 819-827).

Thereafter, Schomaker saw Bridges two or three times a week at his home, or another prearranged meeting place, and occasionally going or coming to the waterfront (R. 832-833).

One day during the winter of 1933, when Schomaker and a man named Jones[2] had met Bridges in a restaurant (R. 835-837), Jones asked Bridges, "When are you going to join the Party, Harry?" After some conversation, Schomaker left for 15 or 20 minutes. On his return, he joined Jones and they went to the headquarters of the San Francisco Communist Party. Jones showed Schomaker an application for membership in the Communist Party bearing the signature of Bridges which Schomaker recognized and could identify (R. 841-853). Jones turned in the application at headquarters (R. 863-864, 1224).

Schomaker testified that he saw Bridges on numerous occasions pay his Communist Party dues in accordance with normal Party practice to the unit secretary (R. 873-875).[3] In December, 1935, after Schomaker had become a section organizer of the waterfront section of the Communist Party (R. 871), Bridges gave Schomaker his Communist Party book to be "controlled." The practice was to turn in the old book and receive a new one. About the middle of January 1936, Schomaker gave new books to each Party member, including Bridges, at a Communist unit meeting (R. 869-870). Again in the winter of 1936, Schomaker received Bridges' old Communist Party book, and issued him a new one in January 1937 (R. 871).

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[2] Jones testified as a defense witness that he had been a member of the Communist Party since the middle of 1932 (R. 3811).

[3] In the Communist Party, the unit was the home base to which a member was assigned and paid dues (R. 5830). The chairman of the unit, known as a unit organizer, was contact man between the unit and the next higher echelon, the section (R. 683-684). The section organizer was in turn responsible to his district organizer (R. 727-728). In each region, the governing group was the District Committee. The district which included California was known as "District 13". Nationally the Party was governed by the Central or National Committee, of which a small policy-making group was known as the Politburo (R. 2409-24).

B. *The Participation of Bridges in other Communist Activities During the 1930's*

After the recruitment of Bridges into the Communist Party, he became a member of the District Committee, and of the Bureau, the executive committee of the District Committee (R. 1236-1237). Bridges and petitioner Schmidt were also members of the waterfront section of the Communist Party in San Francisco (R. 5858). Schomaker attended numerous Communist meetings at which Bridges and Schmidt were present (R. 895). The government witness Lawrence Ross, who was county organizer for San Francisco County (R. 2854), testified that he heard Bridges give a talk at a closed meeting restricted to leading Communist Party members about the situation on the waterfront as it concerned the Communist Party (R. 2862-2869, 2886-2887). Bridges and Schmidt attended closed Communist Party meetings at which persons stood at the door to recognize the Communist members as they entered (R. 921-935, 2871-2879).

Two government witnesses, John Schomaker and Irene Patti Harris, described a meeting held at the home of Jack Shaw on Pine Street early in the fall of 1938 at which Bridges gave a speech. Bridges made a plea for the persons present to become members of the Communist Party and told the group that he was a member (R. 1697-1704). Mrs. Harris testified (R. 1704):

> Yes. That made a very impression [sic]. I was flabbergasted when I heard him say that, because he had been accused, and I had heard it denied. And when he made that statement, why, it made a very much impression on me [sic].

See also R. 877-878.

C. *The Communist Central Committee*

Three witnesses, Paul Crouch, Manning Johnson and Lawrence Ross, described the election of Bridges at the 1936 Communist Convention in New York to what was then the Central Committee of the Communist Party. Bridges was elected under the name of "Harry Rossi."[4] (R. 2355-2357, 2892-2895.)

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[4] This alias of "Rossi," applied to Harry Bridges, grew out of the 1934 general strike in San Francisco (R. 2236-2237). At that time, Sam Darcy reported to a meeting of the National or Central Committee, giving a detailed account of the general strike in San Francisco. In this report, Sam Darcy mentioned that "Comrade Bridges" had wielded more power than Mayor Rossi in San Francisco. Jay Peters, as a result of that, thereupon affixed the alias of "Comrade Rossi" to Bridges. Thereafter, whenever reports were given on activities in California by the leading organizers, he was referred to as "Rossi". Under the name of Rossi, his name was put on the list of the 1936 convention (R. 2239-2240).

Manning Johnson, who had held a number of posts in the Party, was elected to the National Committee in 1936 (R. 2074-2075, 2080-2083). After his election, he met the other committee members, including Bridges, who went under the alias of "Rossi" (R. 2088). At one closed session, Stachel introduced Bridges to the National Committee, and Bridges received a big ovation (R. 2229, 2234). It was explained that Bridges henceforth would not be brought to meetings of the National Committee because of his strategic position in the labor movement on the Pacific coast, and because, if it became known that he was a member of the Communist Party, he would no longer be able to move and work in the Party interests (R. 2234).

Paul Crouch attended the 1938 national convention. The procedure at this time was different from that of 1936. Prior to the final election session, the Central Committee called a meeting of the district organizers, the editors, and a few top leaders of the Party, to discuss nominations and procedure at the convention. William Schneiderman proposed the name of Bridges, stating that while he was temperamental, he had made an important contribution. Schneiderman thought Bridges would contribute more on than off the Central Committee. At the end, Earl Browder, referring to Bridges, said "Comrade Derkin or Dargan" would be put on the Central Committee. Crouch voted for Bridges. At the convention, in reading the list of nominees, the speaker said, "The next person to go on the Central Committee is a well-known West Coast labor leader," but he did not mention Bridges' name. Crouch testified that "at that moment the entire convention burst into stormy applause" (R. 2358-2361).

D. *Other Communist Activity in the 1940's*

At the 1941 convention of the California State C. I. O., Crouch, who was then a member of the Bureau of District 13 (R. 2338), was told to see that Bridges carried out decisions of the Political Bureau of District 12, after June 22, 1941, when the Soviet Union was attacked by Germany. There had been a District Bureau meeting in Schneiderman's office on July 9, 1941, at which the policy of the Communist Party toward this issue was discussed, and also the reluctance of Bridges to go along with the Party line. Crouch had made a motion that if it became necessary to expel Bridges from the Party, this was not to be made public (R. 2723-2724, 2737). It was decided to prepare a resolution to be given by Bridges at the 1941 State C. I. O. convention to place him unequivocally on record in favor of the then Communist policy of full support for the allies (R. 2738-2739). The resolution that was given by Bridges at the convention (Gov. Ex. 8; see R. 2367-2368) was prepared by Crouch during the two weeks preceding the convention, at the instructions of District 13 and William Schneiderman (R. 2362-2371). The resolution read by Bridges on the floor of the convention urged all-out support of the administration program of aid to the democracies in the war effort (R. 2367-2368).

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After 1944, in San Francisco, there was organized a special committee known as "God's Committee" which consisted of local San Francisco Communists who were connected with the San Francisco C. I. O. Council. Among its members were Schneiderman, Rathborne, who was then secretary-treasurer of the California Council; government witness George Wilson, the secretary of the Bridges Victory Committee; and petitioner Robertson, an officer of the International Longshoremen's and Warehousemen's Union. On a number of occasions, Rathborne discussed the activities of this committee with Bridges and Schneiderman together (R. 3640, 5834, 5842-5843, 5930-5933).

The government witness George Wilson attended Communist meetings in 1944 and 1945 with petitioner Robertson, who was attached to the same Communist unit (R. 3647-3648). He also attended other meetings at which Bridges and Schmidt were present (R. 3649-3652).

ARGUMENT

1. Petitioners contend (Pet. 7-14) that the indictment instituting the present prosecution is barred under the principles of *res judicata*, estoppel, or the due process provision of the Fifth Amendment (Pet. 3, 7-14). This contention assumes that there was a previous adjudication of fact which precluded an examination into whether petitioner Bridges swore falsely when on September 17, 1945 he stated to the naturalization court that he did not then, and had never, belonged to

the Communist Party in the United States. To establish a prior adjudication of this issue, petitioners cite two deportation proceedings commenced in 1938 and 1940, against petitioner Bridges more particularly described in *Bridges* v. *Wixon*, 326 U. S. 135, 137.

The first proceeding was instituted in 1938 on the ground that Bridges, who was then an Australian alien, had been and then was a member of or affiliated with the Communist Party of the United States and that that Party advised and taught the overthrow by force of the Government of the United States. Under the statute then in force, past membership or past affiliation was insufficient for deportation, present affiliation being required. *Kessler* v. *Strecker*, 307 U. S. 22. A hearing was had before an examiner, James M. Landis, who concluded that the evidence established neither that Harry Bridges "is a member of nor affiliated with" the Communist Party of the United States. The Secretary of Labor sustained the examiner and dismissed the proceedings in January 1940.

By the Act of June 28, 1940,[5] Congress amended the statute to provide for deportation of any alien who was "at the time of entering the United States, or has been at any time thereafter," a member of or affiliated with an organization of the character attributed to the Communist Party in the first proceeding. A second deportation proceeding was instituted against Bridges under the amended statute on the ground that he had been a member of or affiliated with that organization. Another hearing was had before the inspector designated to conduct the hearings, Charles B. Sears, who found that the Communist Party of the United States was an organization of the character described in the statute, that the Marine Workers' Industrial Union was affiliated with the Communist Party and was an organization of the same character, and that after entering this country Harry Bridges had been affiliated with both organizations, and had been a member of the Communist Party. He recommended deportation. The case was heard by the Board of Immigration Appeals which found that Bridges had not been a member of or affiliated with either of those organizations at any time after he entered this country. The Attorney General reviewed the decision of the Board, and rendered an opinion in which he made findings in accordance with those proposed by the inspector and ordered Harry Bridges to be deported. Bridges, after surrendering himself to the custody of the District Director of the Immigration and Naturalization Service, challenged the legality of his detention by a petition for a writ of habeas corpus in the District Court for the Northern District of California. That Court denied the petition and remanded petitioner to the custody of the Director. *Ex parte Bridges*, 49 F. Supp. 292. The Court of Appeals for the Ninth Circuit affirmed the judgment of the trial court. *Bridges* v. *Wixon*, 144 F. 2d 927. This Court reversed the judgment below on two grounds, neither of which went to the merits of the deportation order. The first ground was that Judge Sears and the Attorney General had misconstrued the term "affiliation" as employed in the statute there involved; the second, that the hearing was unfair by virtue of the fact that certain unsworn statements of the government witness O'Neil were read into the record as substantive evidence, and not merely for the purposes of impeachment. *Bridges* v. *Wixon*, 326 U. S. 135, 156.

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[5] 40 Stat. 1012, 41 Stat. 1008, 54 Stat. 673, 8 U.S.C. 137.

The decision of this Court in *Bridges* v. *Wixon* was thus not a determination that Bridges was not a member of the Communist Party, nor even a determination that the evidence was insufficient to prove that he was a member of the Party.[6] It was merely a determination that the hearing at which he had been found to be a member of the Communist Party was not properly conducted, and therefore in legal effect no hearing at all. Manifestly, such a holding is not an adjudication of the facts which were in issue at that hearing.

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[6] Petitioners' statement that "this Court clearly held that the record contained no substantial evidence, in support of the charge of Communist Party membership, against Bridges" (Pet. 11) is even more clearly contrary to the specific language of the decision. After finding that certain evidence had been improperly received, this Court stated, 326 U. S. at 155-156:

> * * * Whether the finding would have been made on this record from the testimony of Lundeberg alone is wholly conjectural and highly speculative. Not only was Lundeberg admittedly hostile to Bridges. Not only did the Attorney General fail to rule that on the basis of Lundeberg's testimony alone Bridges had been a member of the party. But beyond that, the Board of Immigration Appeals significantly concluded that apart from O'Neil's unsworn statements the evidence of Bridges' membership was too flimsy to support a finding. It is thus idle to consider what the Attorney General might have ruled on the basis of the other evidence before him. Cf. *United States* v. *Dunton*, 291 F. 905, 907. The issue of membership was too close and too crucial to the case to admit of mere speculation. Since it was error to admit O'Neil's unsworn statements against Bridges, since they were so crucial to the findings of membership, and since that issue was so close, we are unable to say that the order of deportation may be sustained without them.

In any case, there is no room for the application of the principles of *res judicata,* even assuming that those principles, which have never been applied to deportation proceedings, pertain.[7] Manifestly the administration charge that Bridges was subject to deportation in 1938 and 1940 is not the same as the criminal charge that he conspired to defraud the United States, and made a false oath in his naturalization proceeding in 1945. Thus the doctrine of *res judicata* in the strict sense of binding the parties as to every issue which could have been raised is wholly inapposite. *Commissioner* v. *Sunnen,* 333 U. S. 591, 597-598.

Nor is petitioner aided by the principle of collateral estoppel which applies "only as to those matters in issue or points controverted, upon the determination of which the finding or verdict was rendered." *Commissioner* v. *Sunnen, supra,* and cases cited. At most, what was decided in the prior proceedings was that Bridges had not been shown to be a member of the Communist Party before

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[7] See *Pearson* v. *Williams,* 202 U. S. 281; *Flynn ex rel. Ham Loy Wong* v. *Ward,* 95 F. 2d 742 (C. A. 1); *Mock Kee Song* v. *Cahill,* 94 F. 2d 975, 977 (C. A. 9). Since, even on the assumption that *res judicata* applies to administrative determinations, there is no room for its application in the present case, the conflict which petitioners allege (Pet. 9-10) is not here involved.

1940. The issue as of 1945 when Bridges swore that he was not a member, was, of course, not at all involved in those proceedings. Thus the Government did not attempt to re-litigate any issue actually decided in the deportation hearings.[8] There was here less possibility of re-litigation of decided facts than was presented in *United States* v. *Williams*, 341 U. S. 58, where this Court found an acquittal of a substantive crime no bar to a conviction for perjury at the trial. See also dissenting opinion of Mr. Justice Douglas, *United States* v. *Williams*, 341 U. S. 70, at pp. 95-96.

Petitioners also contend (Pet. 13) that the decree naturalizing Bridges was itself conclusive of the fact "of non-membership in the Communist Party." But any finding that may be implicit in the Court's decree was induced by the very fraud which is now under attack in this proceeding. It would indeed be an odd application of the principle of *res judicata* to bar the Government from protecting the integrity of its own proceedings on the ground that the final order in those proceedings precludes a further inquiry, criminal or otherwise, as to whether the legal processes had been abused. There can be no question of the power of the courts to undo a decree which has been reached through fraud. *Knauer* v. *United States*, 328 U. S. 654; *cf. Hazel-Atlas Co.* v. *Hartford Co.*, 322 U. S. 238. The issue of fraud "* * * was not in issue in the proceedings and neither was adjudicated nor could have been adjudicated" (*Knauer* v. *United States*, 328 U. S. 654, 670-674). Just as the certificate of naturalization may be cancelled on a showing of fraud and illegality in its procurement, so the parallel criminal sanctions under the Nationality Act may be imposed for the perpetration of the same fraud, specifically for the false swearing in the case at bar. *Cf. Klapprott* v. *United States*, 335 U. S. 601, 610 (opinion of Mr. Justice Black).

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[8] To establish the falsity of the 1945 statement the Government did not rely on the evidence which had been introduced at the prior deportation hearings. All of the government's witnesses were new.

The argument that the present indictment, following the prior proceedings, violates the Fifth Amendment (Pet. 13-14) certainly cannot be sustained on the basis of double jeopardy. It is perfectly clear that the prior deportation proceedings were not penal in nature (*Fong Yue Ting* v. *United States*, 149 U. S. 698), and it is equally clear that even if the same conduct were involved in the two proceedings (an assumption contrary to the fact), the double-jeopardy prohibition does not apply to non-criminal sanctions (*Helvering* v. *Mitchell*, 303 U. S. 391). The general argument that repetitious proceedings against an individual on the same charge violate the Fifth Amendment (Pet. 14) is merely another method of stating the *res judicata* argument with constitutional overtones. The answer was given by this Court in *United States* v. *Williams*, 341 U. S. 58.

2. Petitioners contend that trial on an indictment returned in 1949 for offenses committed in 1945 was barred by the three-year statute of limitations (18 U. S. C. 3282, *infra*, p. 39) incorporated into the Criminal Code by the Act of June 25, 1948,

62 Stat. 683, 828. The Government contends, however, and both courts below held, that the Wartime Suspension of Limitations Act (18 U. S. C. (1948 rev.) 3287) suspended the running of the statute of limitations until December 31, 1949.[9] In addition, we believe that the saving provision of the Act of June 25, 1948, revising Title 18 (Section 21, 62 Stat. 862), preserved as to counts 2 and 3 the earlier five-year statute of limitations (8 U. S. C. 746 (g), *infra*, p. 38) applicable in 1945 to offenses against the naturalization laws.[10]

(a) *The Suspension Act is applicable:*

(1) *Fraud is a necessary element of each of the offenses charged.*—The pertinent provisions of the Suspension Act suspend the operation of the statute of limitations as to offenses "involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not * * *" (Appendix, *infra*, p. 39). We submit that all three counts of the indictment charge offenses which involve fraud against the United States.

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[9] The President proclaimed the cessation of hostilities on December 31, 1946 (12 F. R. 1).

[10] The trial court in denying a motion to dismiss the indictment based its holding in part on the applicablity of the five-year provision of 8 U. S. C. (1946 ed.) 746 (g), *infra*, p. 38). *United States v. Bridges*, 86 F. Supp. 922, 926-927. The Court of Appeals for the Ninth Circuit in a prior opinion upheld the district court, but on rehearing, reversed itself to hold that the savings clause preserved only the penal provisions 8 U. S. C. (1946 ed.) 746(a)(1), 746(a)(5)), and not the special five-year statute of limitations incorporated in the same section, 8 U. S. C. 746 (g). *Bridges* v. *United States*, 199 F. 2d 811, 819-820.

Count one charges a conspiracy to defraud the United States, a crime requiring proof of specific intent to defraud the United States. Cf. *Jordan* v. *De George*, 341 U. S. 223, 232; *Glasser* v. *United States*, 315 U. S. 60, 66-67; *Hammerschmidt* v. *United States*, 265 U. S. 182, 187; *United States* v. *Hirsch*, 100 U. S. 33, 35. Under the prototype of the present legislation, the 1921 proviso to R. S. 1044 (Appendix, *infra*, p. 40), this Court in *United States* v. *Noveck*, 271 U. S. 201, cited the conspiracy statute, R. S. 37, as an illustration of an offense (p. 204) "* * * in which defrauding or an attempt to defraud the United States is an ingredient under the statute defining the offense." See also *Miller* v. *United States*, 24 F. 2d 353, 360 (C.A. 2), certiorari denied, 276 U. S. 638; *Falter* v. *United States*, 23 F. 2d 420 (C.A. 2), certiorari denied, 277 U. S. 590.

The third count against petitioners Schmidt and Robertson was laid under Section 346(a)(5) of the Nationality Act (Appendix, *infra*, p. 38), which made it a felony to aid any person not entitled thereto to obtain a certificate of naturalization "knowing the same to have been procured by fraud * * *." Manifestly this involves fraud.

Only the statute involved in the second count against Bridges alone, making it a felony "knowingly to make a false statement under oath" in a naturalization proceeding (Section 346(a)(1) of the Nationality Act, Appendix, *infra*, p. 37) does not in terms use the word fraud. We submit, however, that fraud is clearly "involved" within the meaning of the Suspension Act.

This Court has long recognized that false swearing in a naturalization proceeding—invariably involving as it does a deceit directed at the United States through which the rights which attach to citizenship, and the documents evidencing those rights, are obtained—is a fraud against the United States. *Knauer* v. *United States*, 328 U. S. 654, 671-673; *United States* v. *Ness*, 245 U. S. 319, 324; see also *Del Guercio* v. *Pupko*, 160 F. 2d 799 (C.A. 9); *Schwinn* v. *United States*, 112 F. 2d 74 (C.A. 9), affirmed, 311 U. S. 616; *United States* v. *Saracino*, 43 F. 2d 76 (C.A. 3); *United States* v. *Choy Kum*, 91 F. Supp. 769 (N.D. Calif.). This provision is not like the general perjury statute, where the offense as defined may not necessarily involve the United States. Cf. *United States* v. *Noveck*, 271 U. S. 201. Here the false swearing must be in connection with obtaining a valuable right from the United States. An intent to defraud the United States may be inherent in statutory language although not spelled out in any set formula of words. *Weinhandler* v. *United States*, 20 F. 2d 359, 360-361 (C.A. 2), certiorari denied, 275 U. S. 554. The absurdity of giving controlling weight to the use of the word "fraud" as against the substance of the crime defined, is well illustrated by this case, for on such theory, the aiders and abettors could be prosecuted as in count 3, since Section 346(a)(5), *infra*, p. 38, used the word "fraud" but the principal could not.

(2) *Fraud, under the Suspension Act, does not import a propriety or pecuniary loss to the govern-*

ment.—Petitioners also urge that the Suspension Act applies only to crimes involving a pecuniary or proprietary loss to the government, relying on *Marzani* v. *United States*, 168 F. 2d 133 (C.A. D.C.), affirmed by an equally divided Court, 335 U. S. 895, and reaffirmed by an equally divided Court on reargument, 336 U. S. 922.[11] In that case the Court of Appeals reversed certain counts, not necessary to sustain the judgment, on the ground that the suspension provision was inapplicable to a prosecution under the False Claims Act, for falsely swearing to the Federal Bureau of Investigation, that the defendant had never been a member of the Communist Party. The court based its holding that the fraud contemplated by the Suspension Act must involve pecuniary or proprietary loss to the government because of the court's conception of *United States* v. *Noveck*, 271 U. S. 201; *United States* v. *McElvain*, 272 U. S. 633; and *United States* v. *Scharton*, 285 U. S. 518. None of these cases, however, supports the result reached. In the *Noveck* case, as we have pointed out (*supra*, p. 18), this Court referred specifically to the general conspiracy statute as an example of a statute in which fraud against the United States was an ingredient. It is significant that this particular statute should have been referred to because by the time the *Noveck* case was decided, the contention that there could be no conspiracy to defraud the United States without an aim to deprive it in a pecuniary or proprietary way had long been discarded. *Haas* v. *Henkel,* 216 U. S. 462; *Curley* v. *United States,* 130 Fed. 1 (C.A. 1), certiorari denied, 195 U. S. 628.[12]

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[11] Marzani's petition for a writ of certiorari to this Court did not raise the question of the suspension provision. The government argued, as independent grounds for affirmance of the judgment, that the counts reversed below had improperly been held not to fall within the Suspension Act, but, in the absence of an opinion by this Court it is impossible to tell whether this Court deemed that question properly before it.

(3) *The Conflict on the Applicability of the Suspension Act.*—Although, for the reasons set forth above, we believe the decision below is correct, it is in conflict with the decision of the Second Circuit in *United States* v. *Obermeier,*[13] 186 F. 2d 243, 256-257 (C.A. 2), certiorari denied, 340 U. S. 951, on the question whether Section 346(a)(1) of the Nationality Act, upon which the second count is based, defines a crime involving fraud within the meaning of the Suspension Act. It also conflicts in principle with the holding in *Marzani* v. *United States, supra,* that fraud against the United States

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[12] Petitioner's reliance upon this Court's recent decision in *United States* v. *Beacon Brass Co.*, 344 U.S. 43, is misplaced. In holding that the indictment there involved, alleging a willful attempt to evade taxes under Section 145(b) of the Internal Revenue Code—an attempt which was probably also a violation of former Section 35(a) of the Criminal Code—stated an offense within Section 145(b), this Court observed that the three-year statute of limitations applicable to offenses under Section 35(a) had run. 344 U.S. at p. 45. But the possibility that the statute had been tolled by the suspension statute was neither raised nor presented for decision in that case.

[13] The *Obermeier* case involved three counts, one of which was timely without regard to the Suspension Act. Since concurrent sentences had been imposed on all three counts, the holding of the Court of Appeals as to the Suspension Act affected only a $1,000 fine imposed in addition to the prison term on one of the counts held barred. This Court denied not only the Government's petition but also a petition by Obermeier with respect to the count on which his conviction was upheld.

within the meaning of the Suspension Act must involve pecuniary or proprietary loss.

The conflict relates to a matter of diminishing importance. In view of the proclamation of cessation of hostilities on December 31, 1946, the terminal date under the Suspension Act for the prosecution of offenses committed before that date and normally subject to the three-year statute of limitations was, in the government's view, December 31, 1952, and December 31, 1949, in the view taken by the Court of Appeals for the Second Circuit in *United States* v. *Klinger,* 199 F. 2d 645, petition for a writ of certiorari pending, No. 527. While we stated in the petition for certiorari in the *Klinger* case that there are over one hundred prosecutions which may be effected by the question there raised, that number represents all indictments for offenses considered covered by the Suspension Act which were returned between December 31, 1949 and December 31, 1952. Most of those involve offenses clearly falling within the terms of the Suspension Act, such as cases arising under the Surplus Property Act or cases clearly involving pecuniary fraud.[14] While we have no exact figures on the breakdown, we know of no other cases arising under the Nationality Act which would be affected by the conflict with the *Ober-*

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[14] As set forth in our Statement as to Jurisdiction, *United States* v. *Grainger,* this Term, involving a false claim as distinguished from a false statement under former Section 35(A) of the Criminal Code, is such a case. The statements under the heading, "The Question is Substantial," in the jurisdictional statement in that case, referred to by petitioners (Pet. 19), have reference to the merit of the issue raised, rather than to its importance.

meier decision.[15] The conflict with *Marzani* on the issue of the necessity of showing pecuniary fraud covers a broader field, but still far less than the total of one hundred cases referred to above.

(b). *The running of the five-year statute of limitations applicable to counts two and three of the indictment was preserved by a saving provision in its 1948 repealer.*

At the time of the commission of the crimes charged in counts two and three, the penal provisions of the Nationality Act were governed by a special 5-year statute of limitations (8 U. S. C. (1946 ed.) 746 (g), *infra,* p. 38) incorporated in the same Section of the Act which defined the various nationality crimes. If the 5-year limitations period controls the prosecution of offenses defined by 8 U.S.C. 746(a)(1), *infra,* p. 37, and 746(a)(5), *infra,* p. 38, the prosecution which was instituted by the filing of the indictment on May 25, 1949 was timely instituted as to these two counts.

Despite the decision of the court below (which reversed itself on this point on rehearing), and the opinion in *United States* v. *Obermeier,* 186 F. 2d 243 (C.A. 2) certiorari denied, 340 U. S. 951, the government's view is that the saving provisions in the repealer (Section 21 of the Act of June 25,

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[15] We contend, *infra,* that, despite the holding in *Obermeier* and in the decision below, the five-year limitations period of 8 U. S. C. (1946 ed.) 746(g) should be held applicable to a prosecution, such as this, for an offense under the Nationality Act which occurred prior to the revision of the Criminal Code in 1948.

1948, 62 Stat. 683) saved this special 5-year statute.

Section 21 provides in part:

> The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal. * * *. [Among the sections so repealed was the limitation provision of Section 346(g) of the Nationality Act of 1940, *supra.*]

The reasoning of the *Obermeier* opinion is that Congress intended to preserve the *status quo* only as to so-called "substantive" matter in the repealed Criminal Code and to discard the "procedural". On this premise, although Section 346(a)(1), and (a)(5) survive the repeal with respect to acts committed before the repealer in 1948, subsection (g) of the same Section, does not.

This artificial attempt to limit the saving provision of Section 21 to "substantive" matter destroys its obvious intent of preserving the *status quo* on earlier offenses. The process of simplifying and clarifying the law would be fairly painful if subsequently enacted provisions were constantly intermingling with the earlier provisions. The new provisions—particularly in a complete codification—establish their own independent structure and do not fit together with the contradictory earlier provisions. For this reason, it is normally appropriate to leave the earlier provisions as they stand applicable to cases antedating the change in the law, and simply to permit the passage of time to make their unsatisfactory details no longer relevant. This is particularly true as to a special statute of limitations such as Section 346(g) of the Nationality Act. For that reason, newly enacted statutes of limitations are construed to operate prospectively, absent some direction to the contrary. *United States* v. *St. Louis, San Francisco & Texas Ry. Co.*, 270 U. S. 1. *Fullerton-Krueger Lumber Co.* v. *Northern Pacific Ry. Co.*, 266 U. S. 435; *United States Fidelity & Guaranty Co.* v. *United States for the use of Struthers Wells Co.*, 209 U. S. 306.

Furthermore, the reasoning in *Obermeier*, on which petitioners rely, assumes the postulate that a statute of limitations is merely a procedural provision and therefore cannot be a "right or liability" within the meaning of the saving provision. We do not believe that the word "liability" includes only the bare language defining a particular offense. Section 21 has been given a broader meaning to include all matters which limit the punishment of a crime in any way. We believe such meaning was intended by Congress. Cf. *Hoiness* v. *United States*, 335 U. S. 297, 300-301; *Hiatt* v. *Hilliard*, 180 F. 2d 453 (C.A. 5); *United States* v. *Kirby*, 176 F. 2d 101 (C.A. 2); *Lovely* v. *United States*, 175 F. 2d 312 (C.A. 4), certiorari denied, 338 U. S. 834. The term liability was used not only to preserve the mere formal definitions of the crime, but also all of the elements which limit the punishment to which the defendants became liable on commission of the acts charged. *United States* v. *Reisinger,* 128 U. S. 398; *United States* v. *Ulrici,* 28 Fed. Cas. p. 328, No. 16,594, 3 Dillon 532, 534; *People* v. *Driessen,* 178 Mich. 118, 144 N. W. 526.

In a recent case this Court, dealing with a comparable issue arising under Section 13 of the Revised Statutes (1 U. S. C. 109), stated:

> * * * But where the object of Congress was to destroy rights in the future while saving those which have accrued, to strike down enforcing provisions that have special relation to the accrued right and as such are part and parcel of it, is to mutilate that right and hence to defeat rather than further the legislative purpose. * * *. [*De La Rama SS. Co.* v. *United States,* No. 368, this Term, decided February 2, 1953.]

Finally, even if the word liability saved only substantive liabilities, whatever that term means in the abstract, a statute limiting the time within which a defendant may be prosecuted "* * * goes to his liability as a matter of substantive law * * *". *United States* v. *Oppenheimer,* 242 U. S. 85; *United States ex rel. Hassell* v. *Mathues,* 27 F. 2d 137 (E. D. Pa.). There is no reasonable basis for relegating the provision which defines the time during which the United States may bring an action, and the defendant remains liable to prosecution, to the category of procedural matters which do not in any way limit rights and liabilities.

3. Petitioners make four arguments to show that

they have been unconstitutionally denied a fair trial.

(a) It is contended that the trial court erred in refusing to accept in evidence the Supreme Court's opinion in *Bridges* v. *Wixon,* 326 U. S. 135, apparently offered on the theory that the opinion justified petitioners Robertson and Schmidt in believing that Bridges was not a Communist. Both testified to this effect at the trial. Thus Schmidt testified (R. 4225-4226):

> Q. Well, Mr. Schmidt, in this case you are charged with entering into a fraudulent conspiracy to deceive our Government and to evade the laws of the United States. Will you tell us, please, what were your bases for making those answers as you gave them, and what were your reasons?
>
> A. Well, No. 1: My very long association through the years with Harry Bridges in our trade union activity, which came to mean that this man is engaged in the same sort of activity which I happen to be engaged in, which has as its objective to improve the standard of living of the workers, and I didn't think that that was a bad thing; and, secondly, I had read the decision of the Supreme Court, and I thought, well, as long as the highest tribunal in the United States of America has made a decision with respect to this case, the matter is now settled for all time; and I had no hesitation to recommend this man for citizenship.[16]

---

[16] See also Schmidt's testimony at R. 4617 to the effect that "I studied the majority decision and I studied the concurring decision, and I made up my mind then and there that President

Robertson testified substantially to the same effect at R. 4617-4618, 4624-4625.

Since, as pointed out above, the opinion in actuality did not pass on the factual issue as to whether Bridges was a member of the Communist Party, permitting the opinion to be read in evidence would hardly serve to bolster this testimony. Its exclusion could not therefore have been prejudicial to the petitioners. Certainly the admission of the opinion would have confused the jury and necessitated an attempt to explain its significance in relation to the jury's fact-finding function.

Moreover, the evidence shows that all three petitioners met together in Communist meetings after 1940, and that each knew that the other was a Communist (see, for example, R. 3646-3652). Robertson, besides being an officer of the International Longshoremen's and Warehousemen's Union, was a member of the special committee of the Communist Party in San Francisco known as "God's Committee" after 1944 (R. 5834, 5842, 5930-5931). Schmidt, who played a prominent part in various Communist meetings over decades, was a Communist Party member at least as early as May 1934 (R. 1312-1314). The Supreme Court's decision in *Bridges* v. *Wixon, supra,* obviously had no bearing on what these petitioners knew about the activities of Bridges in the Communist Party.

(b) Petitioners next contend that the trial court committed prejudicial error in addressing certain

---

Bridges was not, had never been, and was never affiliated with the Communist Party; and the Supreme Court of the United States is something that I think speaks with authority."

questions to the defense witness, Father Paul Meinecke, which they say tended to indicate that the priest was mentally unbalanced (R. 4380-4381), and in giving certain instructions to the jury with respect to these questions, which they say compounded the error (R. 4387).

Father Meinecke, a Catholic priest who had been stationed in San Francisco but subsequently transferred to a small town in Nevada, was called as a character witness for Bridges (R. 4352-4355). He testified that the reputation of Bridges for truth, honesty, and integrity "is of the best" but qualified this answer by saying that this was his "personal opinion" based on personal association (R. 4358). The Court questioned the witness as follows (R. 4380-4383):

> Q. Do you have difficulty, Father, with your memory or recollection under ordinary conditions?
>
> A. In Nevada there are no clocks and no calendars. We don't know one day from another, and it is easy for one to become careless about pegging dates, although I wasn't that way when I was here in San Francisco.
>
> Q. In San Francisco, Father, you were perfectly conversant and well oriented, weren't you, with respect to dates and the like?
>
> A. That's right.
>
> Q. Since you went to Nevada your orientation has become poor, has it?
>
> A. No; the years have sort of run together. I say a couple of years ago, and then I remember back, it was 15 years ago.

Q. Have you been recently subjected to medical treatment, Father?

At this point, there was violent protest from defense counsel.[17] The court instructed the jury as follows (R. 4382-4383):

> The Court: Ladies and gentlemen of the jury, I say to you at this stage of the case that the questions that I asked were asked in perfect propriety. Any question I addressed to the priest was born as a result of the examination conducted on direct and cross-examination. Mr. MacInnis invited me to query the priest. At that juncture I refrained from interrogating him.
>
> I say to you that the respect I have for the priest or any priest or any man of the cloth, be he Catholic, Protestant or any other faith or denomination, is not to be reflected upon by anything I asked this man. A witness coming into a court of law, ladies and gentlemen, subjects himself or herself to cross-examination, and when a person responds to direct questions, that person in the course of events is to be and should be subjected to cross-examination. I believe that the questions presented by Mr. Donohue to this priest were dignified and proper. I think that the questions I asked the priest were dignified and proper.

After defense counsel made a motion for a mistrial, the court gave a cautionary instruction which included the following (R. 4386-4387):

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[17] The outburst at this point was the basis of the conviction for contempt of one of defense counsel. See *MacInnis* v. *United States*, 191 F. 2d 157 (C.A. 9), certiorari denied, 342 U.S. 953.

Latterly, in my examination of Father Meinecke some mention was made by counsel concerning the asserted impropriety of a question on my part to the father. I might say to you that that was not born of any desire on my part, nor was it designed to inquire into Father Meinecke's mental processes. Nor was it to reflect upon his integrity. The question was born and conceived out of a desire on my part to accord fairness to the witness, for the reason that mention was made during the course of this testimony that he left San Francisco for Nevada; an inference might be drawn from that departure that it had something to to do with activities in trade unionism and the like. The father on the witness stand volunteered that he asked to be transferred. I merely wanted to inquire, ladies and gentlemen, a very simple question, not born of curiosity on my part, but born of a desire to provide you with all the facts surrounding the father, and it was to the end that I might inquire as to his health. Very many people have to leave large metropolitan areas to go to less burdensome parishes and that was the reason underlying my question.

On the redirect examination (R. 4476-4482), Father Meinecke was questioned by defense counsel as to his memory and his health (R. 4480-4482). The record thus refutes the contention that the court was guilty of prejudicial misconduct.

But even assuming that the court's conduct in regard to the witness, Father Meinecke, constituted error, it was not so prejudicial as to constitute grounds for reversal. As we have indicated, Father Meinecke testified only as to his personal opinion and not as to Bridges' reputation. *Cf.* Wigmore, *Evidence* (3d ed. 1940) § 1980. And in addition to Father Meinecke, there were eleven other character witnesses who testified in Bridges' behalf.

(c) Petitioners next contend that they were prejudiced by an erroneous and improper limitation on the cross-examination of Lawrence Kesler, whom they identified as a "key prosecution witness" (Pet. 21). It appears that Kesler was called to identify a hotel registration card introduced as Government's Exhibit 9, which was relevant to show that another Government witness, Michener, was in San Francisco at a particular time to attend a Communist Party meeting at which Michener had testified that Bridges was also present.

Kesler's direct examination related solely to identifying the card, and stating the circumstances in which he got it from the hotel (R. 3578-3580). His cross-examination also went fully into these circumstances (R. 3584-3598).

Defense counsel then attempted to broaden the inquiry to show the witness' purposes in testifying and to show that the prosecution had withheld the production of the card in order not to be embarrassed by pinning its showing of Bridges' whereabouts to definite dates, on which Bridges might have shown that he was elsewhere. Thus, defense counsel asked (R.3598):

Q. Mr. Kesler, have you the desire unjustly

> and contrary to the facts, to procure a conviction of the defendants in this case?

He stated this to be preliminary to questions designed to determine "this man's motive and interest right now" (R. 3598). He stated further, in defending this question (R. 3599):

> * * * this little card that was put in so inadvertently now, if your Honor please, convicts the officers of the prosecution of fraud, corruption, deceit and concealment, and I will show you how in a moment.

The defense theory apparently was that the failure of Michener, whose presence at the hotel was being shown by the card, to testify himself that he was present on that date, made appropriate and permissible defense cross-examination of Kesler to prove some kind of fraud, dishonesty, or trickery on the part of the prosecution.

But it is clear that these questions went beyond the scope of proper cross-examination. The reasons which might have caused Michener not to testify as to the visit in question to San Francisco are wholly unrelated to the question whether Kesler's testimony-in-chief was credible. The purpose of permitting attacks on credibility is to show that the testimony-in-chief should not be believed. The attacks on Kesler here involved could have had no such effect. The only significance of his testimony on direct was to identify an exhibit whose authenticity is not attacked. The petitioner's challenge to this witness, ostensibly an attack on his credibility, in fact was an attempt to show that somehow the prosecution was proceeding unfairly and, presumably thereby, to show by indirection that Kesler was not credible. It was surely not an abuse of discretion for the trial court to refuse to permit such cross-examination.

Limitation of cross-examination is peculiarly within the province of the trial court. *Glasser* v. *United States*, 315 U.S. 60, 83; *United States* v. *Fotopulos*, 180 F. 2d 631, 640 (C.A. 9); *Chevillard* v. *United States*, 155 F. 2d 929, 935 (C.A. 9). The extent to which collateral matters can be brought in to test credibility is especially subject to the discretion of the trial court. *United States* v. *Toner*, 173 F. 2d 140, 144 (C.A. 3). Patently, the attempt to bring in evidence as to the whole preparation of the Government's case, the witnesses interviewed, and all of the collateral matters incident to trial preparation, as petitioners here sought to do (R. 3605-7), far transcends any direct test of a particular witness' credibility, and the scope of the narrow issue developed through him on the direct examination.[18]

(d) Petitioners finally contend that prejudicial error was committed when the jury were told that a reasonable doubt was one "for which a good reason can be given" (R. 7885-7886). Their argument

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[18] An additional point is made by petitioners, although apparently not as an independent ground of review, that the trial court read certain language from another opinion which, they say, reflected on their counsel. Whatever the significance of the language was, the court advised the jury to disregard it as soon as it's possibly prejudicial effect was called to the court's attention (R. 3610

(Pet. 22-23) takes the language out of context. The whole passage is as follows:

> The term reasonable doubt means a doubt for which a good reason can be given, in light of all the evidence. It means a doubt which is substantial and not merely shadowy. It does not mean a doubt which is merely capricious or speculative. Neither does it mean a doubt born of reluctance on the part of a juror to perform an unpleasant duty, or a doubt arising out of sympathy for a defendant or out of anything other than a candid consideration of all the evidence presented.
>
> Without its being restated or repeated, you are to understand that the requirement that a defendant's guilt be shown beyond a reasonable doubt is to be considered in connection with and as accompanying all the instructions that are given to you.
>
> Remember that the defendant or defendants are entitled to any reasonable doubt, as defined, that you may have in your minds; but at the same time also remember that if you have no such doubt, the government is entitled to a verdict.

In context, it is plain that the definition of reasonable doubt is standard, complete, and fair. Cf. *United States* v. *Farina*, 184 F. 2d 18, 21 (C.A. 2), certiorari denied, 340 U.S. 875; *Young* v. *Territory of Hawaii*, 160 F. 2d 289 (C.A. 9), certiorari denied, 331 U.S. 849.

CONCLUSION

If the conflict on the suspension statute seems to this Court sufficiently important to necessitate review, then we respectfully submit that the grant of certiorari should be limited to the issue of whether the prosecution is barred by the statute of limitations.

Respectfully submitted,

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FEBRUARY 1953.

APPENDIX

1. Count one of the indictment is based on Section 37 of the Criminal Code, 18 U.S.C. [1946 ed.] 88, in effect at the time the offenses were committed (now 18 U.S.C. [1948 rev.] 371). It provided:

> If two or more persons conspire either to commit any offense against the United States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000, or imprisoned not more than two years, or both.

2. Counts two and three are based on Section 346 of the Nationality Act of 1940, c. 876, 54 Stat. 1137, 8 U.S.C. 746, which was in effect at the time of the offenses. It provided in pertinent part as follows:

> (a) It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—
>
> (1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship.[19]

* * * * *

---

[19] Repealed and superseded by 18 U.S.C. (1948 rev.) 1015(a):

"Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by

> (5) To encourage, aid, advise, or assist any person not entitled thereto to obtain, accept, or receive any certificate of arrival, declaration of intention, certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or of citizenship—
>
> a. Knowing the same to have been procured by fraud; * * *
>
> * * * * *
>
> (d) Any person violating any provision of subsection (a) of this section shall be fined not more than $5,000, or imprisoned not more than five years, or both.
>
> * * * * *
>
> (g) No person shall be prosecuted, tried, or punished for any crime arising under the provisions of this Act unless the indictment is found or the information is filed within five years next after the commission of such crime.

On September 1, 1948, prior to the return of the indictment on May 25, 1949, the 1948 revision of Title 18, U.S.C., became effective. Section 21 of the act revising Title 18 (June 25, 1948, 62 Stat. 683) provides:

> The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

---

virtue of any law of the United States relating to naturalization, citizenship, or registry of aliens; * * *

* * * * *

"Shall be fined not more than $5,000 or imprisoned not more than five years, or both."

Among the sections so repealed were Section 346(a)(1) and (a) (5) of the Nationality Act, *supra*, upon which counts two and three were based, and also subsection (g) of the same section, the special five-year limitation provision incorporated into that same section which also defines the various crimes under the Act.

4. Section 3282 of the 1948 revision of Title 18 provides:

> Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed.

5. 18 U.S.C. (1948 rev.) 3287 reads in part as follows:

> *Wartime suspension of limitations.* When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, * * * shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.[20]

The Wartime Suspension of Limitations Act adopted language similar to that contained in a proviso appended to R. S. 1044 by the Act of November 17, 1921, c. 124, 42 Stat. 220, which read as follows:

---

[20] The President proclaimed the termination of hostilities on December 31, 1946. 12 F.R. 1.

This section appeared in substantially the same form at 18 U.S.C. 590a before the 1948 revision.

> No person shall be prosecuted, tried, or punished for any offense, not capital, except as provided in section 1046 [crimes under revenue laws or slave trade laws], unless the indictment is found, or the information is instituted, within three years next after such offense shall have been committed: *Provided however, that in offenses involving the defrauding or attempts to defraud the United States or any agency thereof, whether by conspiracy or not, and in any manner, and now indictable under any existing statutes, the period of limitations shall be six years. This Act shall apply to acts, offenses, or transactions, where the existing statute of limitations has not yet fully run, but this proviso shall not apply to acts, offenses, or transactions which are already barred by the provisions of existing laws.* [Italics supplied.][21]

---

[21] The italicized language was placed in this section by the Act of November 17, 1921, *supra.* It was eliminated from the section by the Act of December 27, 1927, c. 6, 45 Stat. 51. The section without the italicized language now appears, with slight changes in phraseology, as 18 U.S.C. 3282.

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No. 548

In the Supreme Court of the United States

October Term, 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT AND J. R. ROBERTSON, *Petitioners*

v.

UNITED STATES OF AMERICA

On Petition For a Writ of Certiorari To The United States Court of Appeals For The Ninth Circuit

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MEMORANDUM FOR THE UNITED STATES IN OPPOSITION TO PETITIONERS' PETITION FOR ENLARGEMENT OF SCOPE OF REVIEW ON CERTIORARI

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Petitioners' application for enlargement of the scope of review on certiorari presents, as to Question 3 of the petition for a writ of certiorari, no new matter not already presented in the petition and answered in the Government's memorandum in reply thereto (pp. 26-35).

The only aspect of Question 3 to which petitioners specifically advert in their present application is the exclusion from evidence of this Court's opinion in *Bridges* v. *Wixon*, 326 U.S. 135. Petitioners now say that that point is related to the question of *res judicata* presented by Question 1 in the petition for a writ of certiorari. But that question is one of law, the solution of which does not call for submission of the opinion to the jury as part of the evidence in the case. Exclusion of the opinion as evidence, of course, does not prevent the courts from taking it into consideration in determining its effect as a prior adjudication, as the court below did. R. 838-7. It is to be observed that the offer as evidence for the jury was not based upon the theory of *res judicata* but for its bearing upon the witness' state of mind. R. 526-7, 4226-7, 4248-9.

Respectfully submitted,

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Acting Solicitor General

March 1953

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BRIEF FOR THE UNITED STATES

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Black's *Law Dictionary* (3d ed.), p. 813	33
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Davis, *Administrative Law*, pp. 563-613	82
12 Fed. Reg. 1	5, 26
1 Freeman, *Judgments* (5th ed., 1925), Sec. 407	72
H. Rep. 304, 80th Cong.	67
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H. Rep. No. 2051, 77th Cong., 2d Sess.	41

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Schopflocher, *The Doctrine of Res Judicata in Administrative Law*, 1942 Wisconsin Law Rev. 5–42, 198–235 82

Scott, *Collateral Estoppel by Judgment*, 56 Harv. L. Rev. 1, 5 85

S. Rep. No. 1544, 77th Cong., 2d Sess. 41

Webster's *New International Dictionary* (2d ed., 1934), 1003 33

In the Supreme Court of the United States

OCTOBER TERM, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT, AND
J. R. ROBERTSON, PETITIONERS

v.

UNITED STATES OF AMERICA

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*ON WRIT OF CERTIORARI TO THE UNITED STATES COURT
OF APPEALS FOR THE NINTH CIRCUIT*

BRIEF FOR THE UNITED STATES

OPINIONS BELOW

The opinion of the Court of Appeals, as amended on denial of rehearing (R. 8354–8433), is reported at 199 F. 2d 811. The opinion of the United States District Court for the Northern District of California denying a series of motions to dismiss the indictment (R. 10–41) is reported at 86 F. Supp. 922. The opinion of that court on the issue of *res judicata* raised during the trial is reported at 87 F. Supp. 14.[1]

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[1] See also opinions on revocation of bail after judgment. 93 F. Supp. 989, reversed, 184 F. 2d 881.

JURISDICTION

The judgment of the Court of Appeals was entered on September 6, 1952 (R. 8296). A petition for rehearing was denied on November 18, 1952 (R. 8434). On November 28, 1952, the time for filing a petition for a writ of certiorari was extended to January 16, 1953, by order of Mr. Justice Douglas. The petition was filed January 14, 1953 and granted on March 9, 1953 (R. 8437). The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1). See also Rules 37 (b) (2) and 45 (a), F. R. Crim. P.

QUESTIONS PRESENTED

1. Whether the fact that two previous attempts to deport an alien because of alleged communist activity have failed and that a court has entered a decree granting him naturalization precludes a prosecution relating to false statements in the alien's naturalization proceedings with respect to membership in the Communist Party.

2. Whether the prosecution is barred by the statute of limitations.

STATUTES INVOLVED

1. Count one of the indictment is based on Section 37 of the Criminal Code, 18 U. S. C. [1946 ed.] 88, in effect at the time the offenses were committed (now 18 U. S. C. [1948 rev.] 371). It provided:

> If two or more persons conspire either to commit any offense against the United

> States, or to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined not more than $10,000, or imprisoned not more than two years, or both.

2. Counts two and three are based on Section 346 of the Nationality Act of 1940, c. 876, 54 Stat. 1137, 8 U. S. C. 746, which was in effect at the time of the offenses. It provided in pertinent part as follows:

> (a) It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise, and whether an employee of the Government of the United States or not—
>
> (1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship.[2]
>
> * * * * *

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[2] Repealed and superseded by 18 U. S. C. (1948 rev.) 1015 (a):

> Whoever knowingly makes any false statement under oath, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization, citizenship or registry of aliens; * * *
>
> * * * * *
>
> Shall be fined not more than $5,000 or imprisoned not more than five years, or both.

> (5) To encourage, aid, advise, or assist any person not entitled thereto to obtain, accept, or receive any certificate of arrival, declaration of intention, certificate of naturalization, or certificate of citizenship or other documentary evidence of naturalization or of citizenship—
>
> a. Knowing the same to have been procured by fraud; * * *
>
> * * * * *
>
> (d) Any person violating any provision of subsection (a) of this section shall be fined not more than $5,000, or imprisoned not more than five years, or both.
>
> * * * * *
>
> (g) No person shall be prosecuted, tried, or punished for any crime arising under the provisions of this Act unless the indictment is found or the information is filed within five years next after the commission of such crime.

3. On September 1, 1948, prior to the return of the indictment on May 25, 1949, the 1948 revision of Title 18, U. S. C., became effective. Section 21 of the Act revising Title 18 (June 25, 1948, 62 Stat. 683) provides:

> The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.

Among the sections so repealed were Section 346 (a) (1) and (a) (5) of the Nationality Act, *supra,* upon which counts two and three were based, and also subsection (g) of the same section, the special five-year limitation provision incorporated into that same section which also defines the various crimes under the Act.

4. Section 3282 of the 1948 revision of Title 18 provides:

> Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted within three years next after such offense shall have been committed.

5. 18 U. S. C. (1948 rev.) 3287 reads in part as follows:

> *Wartime suspension of limitations.* When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud or attempted fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, * * * shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.[3]

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[3] The President proclaimed the termination of hostilities on December 31, 1946. 12 F. R. 1.

This section appeared in substantially the same form at 18 U. S. C. 590a before the 1948 revision.

STATEMENT

On May 25, 1949, an indictment in three counts was returned against the petitioners in the United States District Court for the Northern District of California. Count one charged all three petitioners with conspiracy to defraud the United States in the proper administration of its naturalization laws by having Harry Bridges fraudulently petition for and obtain naturalization and by fraudulently representing, in the proceedings for the naturalization of Bridges, that he had never belonged to the Communist Party of the United States. The second count charged Bridges alone with the crime of knowingly making a false statement under oath relating to his naturalization proceedings, in violation of 8 U. S. C. (1946 ed.) 746 (a), now 18 U. S. C. 1015 (a). The third count charged the other petitioners with fraudulently aiding, advising, and assisting Bridges to procure naturalization in violation of 8 U .S. C. (1946 ed.) 746 (a). (R. 3–8.) After a trial by jury, petitioners were found guilty on the counts in which they were named (R. 8036–8038) and sentenced as follows: Bridges to two years on count I and five years on count II, the sentences to run concurrently; each of the other petitioners to two years imprisonment on counts I and III, the sentences to run concurrently (R. 235–240). After judgment was entered, the citizenship of Bridges was revoked under Section

338 (e) of the Nationality Act of 1940, 8 U. S. C. (1946 ed.) 738 (e). On appeal the conviction was affirmed (R. 8296).

A. THE NATURALIZATION PROCEEDINGS

At the trial, the Government proved that on June 23, 1945, petitioner Bridges went to the office of the Immigration and Naturalization Service in San Francisco and there filed an application for a Certificate of Arrival and a Preliminary Form for Petition for Naturalization (R. 449–450, 469, Gov. Ex. 1). On his application form (Gov. Ex. 1) he indicated that the two prospective witnesses for his naturalization would be Paul Schnur and Henry Schmidt. In a discussion with petitioner Robertson and others in the Bridges defense committee office, Bridges had indicated that he was going to use these two men as his naturalization witnesses (R. 4651–4652).

Pursuant to written instructions to appear before an examiner for preliminary examination and to bring his witnesses, on August 8, 1945, Bridges appeared before the naturalization deputy, Garner (R. 451, 454). Petitioner Robertson accompanied Bridges, his attorney, and his proposed witnesses, and waited outside the hearing room (R. 462–463, 4606). After swearing Bridges in, Garner questioned him about various facts called for by the application form. Garner then called for his two naturalization witnesses. (R. 451–452, 461.)

Petitioner Schmidt was the first witness. He swore that he had known Bridges since about 1932 or 1933, that he saw him at least once a month or oftener in connection with their business, and that both he and Bridges were officers of the International Longshoremen's and Warehousemen's Union. On being asked if either he or Bridges was a Communist or a member of the Communist Party, Schmidt answered "no" to both questions. (R. 456–459, 468–469, 487–490, Gov. Ex. 2.)

Schmur was next sworn in but he was not acceptable as a witness because of lack of evidence of citizenship. At this juncture petitioner Robertson, who had accompanied Bridges to the hearing room, substituted as a witness for Bridges. He testified that he had known Bridges since about 1934, that both were ILWU officers and saw each other frequently, and that neither he nor Bridges was a member of the Communist Party. He also stated that in his opinion the applicant was qualified for citizenship, and was attached to the principles of the Constitution as required by law. (R. 459–464, Gov. Ex. 2.)

The petition was typed up in triplicate and signed by Bridges (R. 454, 455, 465). Petitioners Schmidt and Robertson signed the affidavit form on the reverse side of the petition and swore *inter alia*, that "I have personal knowledge that the petitioner is and during all such period [since

August 1, 1940] has been a person of good moral character, attached to the principles of the Constitution of the United States, and well disposed to the good order and happiness of the United States, and in my opinion the petitioner is in every way qualified to be admitted a citizen of the United States."

On September 17, 1945, Bridges appeared before Judge Thomas Foley of the Superior Court in San Francisco for the naturalization hearing. Henry Schmidt and J. R. Robertson were both present in court as qualifying witnesses (R. 465–466). The certified and authenticated copy of the naturalization hearing was received in evidence as Government Exhibit No. 3 (R. 480; see also R. 133–145). Appellants Robertson and Schmidt testified that they had known Bridges for five years or longer; that he was a resident of the county at that time; that they vouched for his loyalty to the United States. They recommended him as a person of good moral character and recommended him to the court for citizenship. (R. 134.) In addition to other questions, the following question was asked Bridges and he gave the following answer (R. 138; see also Gov. Ex. 3):

> Q. Do you now, or have you ever, belonged to the Communist Party in the United States?
>
> A. I have not, I do not.

That answer is the foundation for count 2 of the indictment.

The following questions and answers thereto by Bridges were also adduced (R. 138–139; see also Gov. Ex. 3):

> Q. Do you now, or have you ever, belonged to any organization that advocated the overthrow of the government by force or violence?
>
> A. No.
>
> * * * * *
>
> Q. (By Mr. Garner): Have you ever been known, or used, any other name at any time?
>
> A. No.

After Garner had concluded his questioning of the witnesses and Bridges, a judgment admitting him to citizenship was entered (R. 552–553). Both Schmidt and Robertson remained in the court room until the proceedings were concluded (R. 4332, 4657).

The lengthy evidence adduced by the Government shows that over a long period of time prior to the naturalization proceedings Bridges had in fact been an active member of the Communist Party and was known to have been such by petitioners Robertson and Schmidt. This evidence may be summarized as follows:

B. RECRUITMENT OF BRIDGES INTO THE COMMUNIST PARTY

In 1933, there was a confused situation in the labor movement on the west coast waterfront, with different groups endeavoring to obtain dominance (R. 4101–4103; 4770–4775). The Communist Party decided to take an active part in this situation and to bolster an A. F. L. union, the International Longshoremen's Association, hereinafter referred to as the I. L. A. (R. 1247–1249). John Schomaker, a Government witness, testified that Sam Darcy, the district organizer of the Communist Party for District 13, which included California, asked him and Herman Mann, a unit organizer, who would be best as a leader for the Longshoremen's union. It was decided that petitioner Bridges was the best potential leader (R. 887–888, 957, 1247–1249). Schomaker and Mann visited petitioner Bridges at his home in late October 1933, and they discussed the revitalization of the I. L. A. (R. 732–736, 819–827).

Thereafter, Schomaker saw petitioner Bridges two or three times a week at his home, or another pre-arranged meeting place and occasionally going to or coming from the waterfront (R. 832–833). Some of these meetings were at Communist Party Headquarters at 37 Grove Street in San Francisco (R. 962–963). Bruce B. Jones was present at some of the meetings Schomaker had with Bridges. Schomaker had known Jones since about 1931 and saw him at closed meetings of the Communist Party, *i. e.*, meetings restricted to members of the Communist Party. (R. 833–835.)[4]

One day during the winter of 1933, Schomaker and Jones had a meeting with Bridges in a restaurant in San Francisco (R. 835–837). On this occasion, Jones asked Bridges, "When are you going to join the Party, Harry?" Bridges said, "What about the name?" It was suggested that Bridges employ as a party name his mother's maiden name which was Dorgan (R. 469; see also R. 4717). After some conversation, Schomaker left the two other men for 15 or 20 minutes. (R. 839–841.) On his return, he joined Jones and they went to their headquarters of the San Francisco Communist Party. Jones showed Schomaker an application for membership in the Communist Party bearing the signature of Bridges which Schomaker recognized and could identify. (R. 841–853.) Jones and Schomaker arrived at 37 Grove Street and went into the office of Sam Darcy, the district organizer of District 13 (R. 853–854, 866.) Jones thereupon turned Bridges' application for membership in the Communist

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[4] Jones testified as a defense witness that he had been a member of the Communist Party since the middle of 1932 (R. 3811). He was also a member of the Marine Workers Industrial Union and met Schomaker at the MWIU Hall (R. 3811).

Party over to Sam Darcy (R. 863–864, 1224).

Schomaker testified that he saw Bridges on numerous occasions pay his Communist Party dues in accordance with the normal Party practice to the unit secretary[5] (R. 873–874). He saw him pay dues to Herman Mann, Norma Perry, and J. C. Clark, who were unit secretaries at various times (R. 874–875).

In December 1935, after Schomaker had become a section organizer of the waterfront section of the Communist Party (R. 871), Bridges gave Schomaker his Communist Party book to be "controlled." The practice was to turn in the old book and receive a new one. About the middle of January 1936, Schomaker gave new books to each Party member, including Bridges, at a Communist unit meeting (R. 869–870). Again in the winter of 1936, Schomaker received Bridges' old Communist Party book, and issued him a new one in January 1937 (R. 871).

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[5] In the Communist Party, the unit was the home base to which a member was assigned and paid dues (R. 5830). The chairman of the unit, known as a unit organizer, was contact man between the unit and the next higher echelon, the section (R. 683–684). The section organizer was in turn responsible to his district organizer (R. 727–728). In each region, the governing group was the District Committee. The district which included California was known as "District 13." Nationally the Party was governed by the Central or National Committee, of which a small policy-making group was known as the Politburo (R. 2409–2424).

In addition to units and sections, there were also "fractions" within each labor group which met as a Communist organization to discuss problems within the labor group in which the particular fraction functioned (R. 5900). A fraction meeting was held by Communist union members to plan an activity in a non-Communist meeting to follow (R. 1764). There were "Top Fractions" which existed in the San Francisco District Council of the Maritime Federation and in the California State C. I. O. as well as in the national union organizations (R. 5828–5829, 5834–5844, 5931).

Bridges' Communist Party book was made out in the name of "Harry Dorgan" (R. 885–886), Dorgan being his mother's maiden name. Dorgan thereafter became his Party name (R. 1236).

C. THE PARTICIPATION OF BRIDGES IN COMMUNIST ACTIVITIES DURING THE 1930'S

After the recruitment of Bridges into the Communist Party, he became a member of the District Committee, and of the Bureau, the executive committee of the District Committee (R. 1236–1237). Bridges and petitioner Schmidt were also members of the waterfront section of the Communist Party in San Francisco (R. 5858). Schomaker and other government witnesses attended numerous Communist meetings at which Bridges and Schmidt actively participated (R. 894–905, 910–935, 937–941, 950–951, 1006–1007, 1341–1363, 1763–1764, 1911–1928, 2890–2892, 5849–5858, 5888–5894). The Government witness Lawrence Ross, who was county organizer for San Francisco County (R. 2854), testified that he heard Bridges give a talk at a closed meeting restricted to leading Communist Party members about the situation on the waterfront as it concerned the Communist Party (R. 2862–2869, 2886–2887). Bridges and Schmidt attended closed Communist Party meetings at which persons stood at the door to recognize the Communist members as they entered (R. 921–935, 2871–2879).

Moreover, Bridges' relations with the Maritime Federation of the Pacific and the C. I. O. were not limited to their general meetings and activities; he also was active in Communist "fraction" meetings which planned Communist strategy to be infiltrated into their operations (R. 5847–5856, 5865–5871, 5888–5891).

Two government witnesses, John Schomaker and Irene Patti Harris, described a meeting held at the home of Jack Shaw on Pine Street early in the fall of 1938 at which Bridges gave a speech. Bridges made a plea for the persons present to become members of the Communist Party and told the group that he was a member (R. 1697–1704). Mrs. Harris testified (R. 1704):

> Yes. That made a very impression [sic]. I was flabbergasted when I heard him say that, because he had been accused, and I had heard it denied. And when he made that statement, why, it made a very much impression on me [sic].

Schomaker also testified that petitioner Bridges on this occasion spoke about the international situation and the necessity of the workers joining a political party that would fight in the interest of the workers, particularly in view of the rise of Fascism. Bridges "stated very emphatically that all workers who were interested in stopping these things should join the Communist Party, because he was a member of the Communist Party and he was there to fight such goings on" (R. 877–878).

D. THE COMMUNIST CENTRAL COMMITTEE

Three witnesses, Paul Crouch, Manning Johnson and Lawrence Ross, described the election of Bridges at the 1936 Communist Convention in New York to what was then the Central Committee of the Communist Party. Bridges was elected under the name of "Harry Rossi."[6] (R. 2080–2089, 2229–2233, 2355, 2351–2357, 2361, 2892–2895.)

Manning Johnson, who had held a number of posts in the Party, was elected to the National Committee in 1936 (R. 2074–2075, 2080–2083).[7]

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[6] This alias of "Rossi," applied to Harry Bridges, grew out of the 1934 general strike in San Francisco (R. 2236–2237). At that time, Sam Darcy reported to a meeting of the National or Central Committee, giving a detailed account of the general strike in San Francisco. In this report, Sam Darcy mentioned that "Comrade Bridges" had wielded more power than Mayor Rossi in San Francisco. Jay Peters, as a result of that, thereupon affixed the alias of "Comrade Rossi" to Bridges. Thereafter, whenever reports were given on activities in California by the leading organizers, he was referred to as "Rossi". Under the name of Rossi, his name was put on the list of the 1936 convention (R. 2239–2240).

[7] The National or Central Committee was comprised of the outstanding leaders in the Communist movement throughout the country, and its membership was selected on the basis of the particular district or type of industry from which

After his election, he met the other committee members, including Bridges, who went under the alias of "Rossi" (R. 2088). At one closed session, Stachel introduced Bridges to the National Committee, and Bridges received a big ovation (R. 2229, 2234). It was explained that Bridges henceforth would not be brought to meetings of the National Committee because of his strategic position in the labor movement on the Pacific coast, and because, if it became known that he was a member of the Communist Party, he would no longer be able to move and work in the Party interests (R. 2234). Paul Crouch testified this meeting of the new Central Committee was for the purpose of electing the Politburo of the Party (R. 2361).

Paul Crouch attended the 1938 national convention. The procedure at this time was different from that of 1936. Prior to the final election session, the Central Committee called a meeting of the district organizers, the editors, and a few top leaders of the Party, to discuss nominations and procedure at the convention. William Schneiderman proposed the name of Bridges, stating that while he was temperamental, he had made an important contribution. Schneiderman

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they came. The major emphasis was laid on persons from the basic or strategic or mass-production industries such as steel, mining, marine, packing, railroad and so forth. In 1936, there were about 50 members on the Committee. (R. 2078-2091.)

thought Bridges would contribute more on than off the Central Committee. At the end, Earl Browder, referring to Bridges, said "Comrade Derkin or Dargan" would be put on the Central Committee. Crouch voted for Bridges. At the convention, in reading the list of nominees, the speaker, Earl Browder, said, "The next person to go on the Central Committee is a well-known West Coast labor leader," but he did not mention Bridges' name. Crouch testified that "At that moment the entire convention burst into stormy applause". (R. 2358–2361.)

E. OTHER COMMUNIST ACTIVITY IN THE 1940'S

At the 1941 convention of the California State C. I. O., Crouch, who was then a member of the Bureau of District 13 (R. 2338), was told to see that Bridges carried out decisions of the Political Bureau of District 12, after June 22, 1941, when the Soviet Union was attacked by Germany. There had been a District Bureau meeting in Schneiderman's office on July 9, 1941, at which the policy of the Communist Party toward this issue was discussed, and also the reluctance of Bridges to go along with the Party line. Crouch had made a motion that if it became necessary to expel Bridges from the Party, this was not to be made public (R. 2723–2724, 2737). It was decided to prepare a resolution to be given by Bridges at the 1941 State C. I. O. convention to place him unequivocally on record in favor of the then Communist policy of full support for the allies (R. 2738–2739). The resolution that was given by Bridges at the convention (Gov. Ex. 8; see R. 2367–2368) was prepared by Crouch during the two weeks preceding the convention, at the instructions of District 13 and William Schneiderman (R. 2362–2371). The resolution read by Bridges on the floor of the convention urged all-out support of the administration program of aid to the democracies in the war effort (R. 2367–2368).

Another Communist meeting was held in Rathborne's room in a San Francisco hotel in the summer of 1943 in connection with the California C. I. O. Executive Committee Meeting. Besides Rathborne and Wilson, another government witness, Bridges; Schneiderman, the Secretary of District 13 of the Communist Party, and others attended. A dispute between Rathborne and the Secretary of the I. L. W. U. was discussed. Schneiderman warned both that there were channels within the Communist Party to settle such difficulties, and that they should "get in line and stay in line" or they would be subject to strict Party discipline. (R. 3650–3652, 5880–5887.)

After 1944, in San Francisco, there was organized a special committee known as "God's Committee" which consisted of local San Francisco Communists who were connected with the San Francisco C. I. O. Council. Among its members were Schneiderman, Rathborne, who was then secretary-treasurer of the California Council; government witness George Wilson, the secretary of the Bridges Victory Committee; and petitioner Robertson, an officer of the International Longshoremen's and Warehousemen's Union. On a number of occasions, Rathborne discussed the activities of this committee with Bridges and Schneiderman together. (R. 3640, 5834, 5842–5843, 5930–5933.)

The government witness George Wilson attended Communist meetings in 1944 and 1945 with petitioner Robertson, who was attached to the same Communist unit (R. 3647–3648). He also attended other meetings at which Bridges and Schmidt were present (R. 3649–3652).

SUMMARY OF ARGUMENT

I

With respect to petitioners' argument that the prosecution was barred by the three-year statute of limitations, it is the Government's position that the running of the statute was suspended by the Wartime Suspension of Limitations Act, and that apart from that Act the five-year limitation of the 1940 Nationality Act continued to apply by reason of the saving clause in the repeal section.

A. The Wartime Suspension Act applies to offenses involving fraud against the United States. This Court has interpreted the Act as applying only when the fraud is an essential element of the crime as defined in the statute. *United States* v. *Noveck,* 271 U. S. 201. There is no question that all three offenses here in issue involve fraud within the ordinary meaning of the term.

Count II contains the allegation that petitioner Bridges knowingly made a false statement under oath in a naturalization case. The heart of this offense is fraud, since it involves a deceit practiced on the Government in order to acquire a very valuable status. In *Knauer* v. *United States,* 328 U. S. 654, this Court, in a revocation of naturalization case, treated a false oath as fraud. Moreover, the Congressional intent to treat false statements in such cases as fraud is clear. The fact that pecuniary loss to the United States was not involved does not remove the offense from the scope of the Suspension Act. The purpose and legislative history of the Act show that it was intended to apply to frauds generally. The authority of *Marzani* v. *United States,* 168 F. 2d 133 (C. A. D. C.), affirmed by an equally divided Court, 335 U. S. 895, 336 U. S. 922, is outweighed by *Miller* v. *United States,* 24 F. 2d 353 (C. A. 2), certiorari denied, 276 U. S. 638, and *United States* v. *Gottfried,* 165 F. 2d 360 (C. A. 2), certiorari denied, 333 U. S. 860.

Count I charges a conspiracy to defraud the United States and is based on the statutory provision referring to "conspiracy to defraud," rather than "conspiracy to commit an offense."

Under the statute, this is a distinct and separate offense. *Glasser* v. *United States*, 315 U. S. 60. Obviously a conspiracy to defraud is an offense involving fraud. Quite independent of the false statement offense of Count II, Count I involves fraud against the United States and falls within the statute. In fact, the conspiracy statute was selected by this Court in the *Noveck* case as an example of an offense falling within the Suspension Act.

As to Count III, aiding and assisting in obtaining a naturalization certificate by fraud, it is equally apparent that an offense involving fraud against the United States is charged. Since an aider or abettor is by statute a principal, there can be no question based on the degree of involvement.

B. Under the Nationality Act of 1940, a five-year statute of limitations applied to offenses charged in Counts II and III. When the provisions establishing criminal liability were repealed at the time of the enactment of the new Criminal Code, Section 21 of the statute effecting the revision contained a saving clause preserving all "rights and liabilities" under existing law. It is our contention, contrary to the holding of the court below and of the Court of Appeals for the Second Circuit in *United States* v. *Obermeier*, 186 F. 2d 243, that this saving clause preserved the five-year statute as to the offenses here involved.

Generally speaking, it has been the practice of Congress to keep old limitation clauses when it enacted codifications. This makes for convenience and certainty. Moreover, statutes, including statutes of limitation, are customarily given a prospective interpretation. *United States* v. *St. Louis, San Francisco & Texas Ry. Co.*, 270 U. S. 1. The particular saving clause in this case, and other clauses using similar language, have been interpreted to preserve the effect of statutory provisions which were not substantive in character. Since this Court has held that statutes of limitation really affect "rights and liabilities" (*United States* v. *Oppenheimer*, 242 U. S. 85), it is only reasonable to assume that in the revision of the Criminal Code the revisers intended to preserve existing limitations.

II

The second issue on which this Court granted certiorari was whether the present prosecution was barred by reason of previous proceedings dealing with the same subject matter. Petitioners assert that two prior deportation proceedings in 1938 and 1941 and the 1945 naturalization decree bar the present prosecution for perjury under the principles of *res judicata*, estoppel, or due process of law.

A. As to the deportation proceedings, the only fact findings in the 1941 proceedings were those of the examiner, approved by the Attorney General, to the effect that the petitioner Bridges had been affiliated with, and a member of, the Communist Party, and was therefore subject to deportation. The deportation order was countermanded by this Court in a habeas corpus proceeding. *Bridges* v. *Wixon*, 326 U. S. 135. But the grounds for granting the writ were that the Attorney General had adopted an improper definition of affiliation, and that Bridges had been denied a fair hearing by reason of the introduction of incompetent testimony. Thus there are no findings in that proceeding which could serve as *res judicata* or estoppel in the present proceeding.

The 1938 deportation proceeding decided only that it had not been established that Bridges was a member of the Communist Party as of the time of the proceeding. That is clearly not a finding that in 1945 he was not and had never been a Communist. Since the critical issue in the 1938 case is not the issue here, there is no basis for an estoppel by judgment even if it be assumed that that principle is as applicable to administrative as to judicial proceedings. It has been held, however, that *res judicata* and estoppel do not apply to some classes of immigration proceedings (*Pearson* v. *Williams*, 202 U. S. 281); and in view of the nature of deportation cases there is sound basis for refusing to apply the rule here so as to bar a court or jury from re-examining a matter decided only administratively, particularly in view of the fact that the administrative agency involved does not apply the rule to successive proceedings before it.

B. As to the naturalization decree, the issue as to Bridges' Communist membership was not litigated in that proceeding, and was not decided by the court. Therefore, there is no room for collateral estoppel. *Commissioner* v. *Sunnen,* 333 U. S. 591. Moreover, the Government may not be precluded from prosecuting a witness for knowingly making a false statement because the perjury was successful and deceived the court before which it was perpetrated. Certainly the Government must be free to protect its own processes against fraud. *Knauer* v. *United States,* 328 U. S. 654.

C. As to the alleged violation of the Fifth Amendment resulting from successive proceedings, it should be pointed out that the second deportation proceeding resulted from a change in the substantive law. This Court has repeatedly held that Congress has full power to alter the law respecting the rights of aliens to remain here. *Harisiades* v. *Shaughnessy,* 342 U. S. 580. Following the second deportation proceeding, it was the petitioner, not the Government, who instituted the naturalization proceeding. If the petitioner gave false testimony in that proceeding (and the jury so found), certainly it was not only the right but the duty of the Government to bring him to trial. Here there is no double jeopardy, no repetitive trial of Bridges for the same offense. Nor is there any doctrine in American law which grants a witness a license to commit perjury. *Cf. United States* v. *Williams*, 341 U. S. 58, 62.

ARGUMENT

I

THE PROSECUTION IS NOT BARRED BY THE STATUTE OF LIMITATIONS

Petitioners' contention is that prosecution under all three counts of the indictment against them is barred by the three-year limitation provision of Section 3282 of the Criminal Code. 18 U. S. C. (Supp. V) 3282. Two different, and alternative, arguments are urged in opposition to this view. First, the Wartime Suspension of Limitations Act, 18 U. S. C. (Supp. V) 3287, suspended the running of the statute of limitations until December 31, 1949,[8] a date after the date of petitioners' indictment (May 25, 1949). Second, only as to counts II and III, the saving provision of the Act of June 25, 1948, revising Title 18, preserved the earlier five-year statute of limitations applicable to offenses under the nationality laws so that wholly apart from the Suspension Act the time did not expire until 1950.

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[8] The President proclaimed the cessation of hostilities on December 31, 1946 (12 Fed. Reg. 1).

A. THE SUSPENSION ACT IS APPLICABLE

The applicability of the Wartime Suspension of Limitations Act in this case depends on whether the offenses with which petitioners, Bridges, Robertson, and Schmidt are charged are offenses "involving fraud or attempted fraud against the United States."

In terms, the Act provides:

> When the United States is at war the running of any statute of limitations applicable to any offense (1) involving fraud against the United States or any agency thereof in any manner, whether by conspiracy or not, * * * shall be suspended until three years after the termination of hostilities as proclaimed by the President or by a concurrent resolution of Congress.

The first count of the indictment against petitioners charged them with conspiracy to defraud the United States by impairing, obstructing and defeating the proper administration of its naturalization laws; specifically, by having petitioner, Bridges, fraudulently petition for and obtain naturalization by falsely stating that he had never been a member of the Communist Party. It is based on Section 37 of the Criminal Code (18 U. S. C. [1946 ed.] 88), which provides, in relevant part, that "If two or more persons conspire * * * to defraud the United States in any manner or for any purpose, and one or more of such parties do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be fined * * *." *Supra*, pp. 2-3.

The second count of the indictment charged Bridges, alone, with having willfully and knowingly testified falsely under oath as a witness in his naturalization proceeding that he was not and had never been a member of the Communist Party. This count was based on Section 346 (a) (1) of the Nationality Act of 1940, 54 Stat. 1137, 1163, 8 U. S. C. [1946] 746 (a) (1), which made it a felony "for any alien or other person, whether an applicant for naturalization or citizenship, or otherwise * * * (1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship." *Supra*, p. 3.

The third count of the indictment charged that petitioners Schmidt and Robertson had willfully and knowingly encouraged, aided, advised and assisted Bridges to obtain, accept and receive a Certificate of Naturalization which was to be procured, and was procured by fraud, as these petitioners knew, which fraud consisted of false and fraudulent statements made by Bridges in his naturalization hearing to the effect that he had never been a member of the Communist Party. The count was based on Section 346 (a) (5) of the Nationality Act of 1940, 54 Stat. 1137, 1164, 8 U. S. C. [1946] 746 (a) (5), which made it a felony " * * To encourage, aid, advise or assist any person not entitled thereto to obtain, accept, or receive any certificate of arrival, declaration of intention, certificate of naturalization, or certificate of citizenship, or other documentary evidence of naturalization or citizenship—a. Knowing the same to have been procured by fraud * * *." *Supra*, p. 4.

The question is, whether these offenses involve fraud against the United States. As to the first count of the indictment, surely, an offense under a statute which requires the proof of a specific intent to defraud the United States involves fraud against the United States.[9] It involves fraud because it says so, and it involves fraud because the crime, conspiracy to defraud the United States, necessarily requires proof of acts which, without respect to labels, amounts to such a fraud.

It would seem just as clear that the third count of the indictment involves fraud. For there, the offense is under a statute which requires proof that the defendants aided, advised or assisted a fraud. The involvement is a shade less direct than under the conspiracy statute but it is nevertheless plain that the offense involves fraud against the United States. A specific intent to aid, advise, or assist another to defraud is by any reasonable standard a specific intent to defraud.

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[9] *United States* v. *Noveck*, 271 U. S. 201, moreover, states flatly that offenses under the general conspiracy statute "involve fraud" within the meaning of an earlier suspension provision. We shall discuss this case more fully later in this brief.

The offense charged in the second count, on analysis, also involves fraud. To lie knowingly in a naturalization proceeding is to attempt to deceive the United States with respect to the grant of a very valuable right, namely, citizenship. The fact that the end sought is a status, rather than money or proprietary gain, should make no difference.[10] To attempt to gain such a benefit by deception clearly falls within the conventional notion of fraud.

Nonetheless, the petitioners contend that the offenses here in question do not involve fraud within the meaning of the suspension provision. They assert that fraud is not involved (1) unless an intent to defraud is specifically required in the statute defining the offense and (2) unless a pecuniary or proprietary fraud (or the "hurly-burly of war") is involved (Pet. Br. 19–20). They urge that no such specific intent to defraud is involved in the second count of the indictment here and that Counts I and III must stand or fall with Count II (Pet. Br. 34). They also argue that no pecuniary or proprietary fraud, or war crime, is involved in any of the cases (Pet. Br. 29).

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[10] Deceit in the attainment of the marital status is generally referred to as fraud. See, *e. g.*, D. C. Code 30–103; *Stone* v. *Stone*, 136 F. 2d 761 (C. A. D. C.).

We shall not take issue here with petitioners' first point, that the fraud referred to in the Suspension Act must be found as an essential element in the offense as defined in the statute rather than as an element in the crime as alleged in the indictment. As petitioners point out (Pet. Br. 22–23), that is the clear holding of this Court in *United States* v. *Noveck*, 271 U. S. 201, and *United States* v. *Scharton*, 285 U. S. 518, under earlier suspension statutes.[11] The court below, as well as the courts of appeals in the District of Columbia and in the Second Circuit have found that this same rule is applicable to the 1942 Suspension Act. *Marzani* v. *United States*, 168 F. 2d 133 (C. A. D. C.), affirmed, 335 U. S. 895, 336 U. S. 922; *United States* v. *Obermeier*, 186 F. 2d 243 (C. A. 2), certiorari denied, 340 U. S. 951.[12]

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[11] This position is not so clear in *United States* v. *McElrain*, 272 U. S. 633, where the Court looked through the statutory offense (conspiracy to defraud the United States) to the nature of the particular offense (defeating the collection of a tax).

[12] Although we do not ask the Supreme Court to overrule its position in *Noveck*, it might be noted that it would be more consistent with the original intent of Congress to examine into whether the particular offense alleged in an indictment involves fraud, rather than to rely on the statutory definition of the offense, which of necessity is more general in its terms. It does not always make sense to make the suspension rest on the language of the statute. For example, many of the offenses previously defined in the Nationality Act of 1940 (8 U. S. C. 746) were codified in a single section in the Criminal Code (18 U. S. C. (Supp. V) 1425). The new section encompasses a group of offenses which are de-

1. *The Suspension Act is applicable to Count II of the indictment*

Without accepting petitioners' thesis that the applicability of the Suspension Act with respect to the conspiracy count (Count I), or the aiding and assisting count (Count III), is dependent upon its application to the substantive count (Count II), it may still be convenient to accept petitioners' order of presentation and discuss Count II first. Basically the petitioners present two arguments why the Suspension Act should not apply to Count II, namely (a) the statutory offense does not involve fraud and (b), even if it does involve fraud in a broad sense, it does not involve a pecuniary or war fraud which is necessary to bring the Suspension Act into play.

(*a*). *The offense of obtaining citizenship by means of a false statement involves fraud against the United States.* The offense here involved is defined in the statute as "knowingly to make a false statement under oath, either orally or in writing, in any case * * * relating to naturalization or citizenship" (*supra*, p. 3). In other words, it is made criminal to attempt to acquire citizenship on the basis of lies.

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fined by the term "contrary to law." Thus, under this particular section, some provisions previously specifically based on "frauds" are now swallowed up in the more general "contrary to law" provision. Under the rule established in the *Noreck* case, the suspension statute would no longer apply to these offenses.

Fraud is defined as "a false representation of a matter of fact * * * which deceives and is intended to deceive another * * *". Webster's *New International Dictionary* (2d ed., 1934) 1003.[13] The effect of false testimony in a naturalization case is to obtain or to attempt to obtain the benefits of citizenship to which a person is not entitled by means of deceit. The falsehoods not only interfere with the administration of the Nationality Act, but also result in the acquisition of a right to which the applicant is not entitled. Thus, such lies perpetrate a fraud against the United States. Cf. *Schwinn* v. *United States*, 112 F. 2d 74 (C. A. 9), affirmed, 311 U. S. 616; *United States* v. *Choy Kum*, 91 F. Supp. 769 (N. D. Calif.). The courts have consistently characterized falsehoods in proceedings under the naturalization laws as frauds. *Del Guercio* v. *Pupko*, 160 F. 2d 799 (C. A. 9); *Haruichi Yoshihara* v. *Carmichael*, 115 F. 2d 110 (C. A. 9); *United States ex rel. Lamp* v. *Corsi*, 61 F. 2d 964 (C. A. 2); *United States ex rel. Jankowski* v. *Shaughnessy*, 186 F. 2d 580 (C. A. 2); *Brenci* v. *United States*, 175 F. 2d 90 (C. A. 1).

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[13] Cf. *Knauer* v. *United States*, 328 U. S. 654, 657: "Fraud connotes perjury, falsification, concealment, misrepresentation." See also Black's *Law Dictionary* (3d ed.) p. 813: "Fraud consists of some deceitful practice or willful device, resorted to with intent to deprive another of his right, or in some manner to do him an injury."

Although this Court has not previously been called upon to analyze the nature of a false statement under the statutory provision here involved, it was called upon in *Knauer* v. *United States*, 328 U. S. 654, to appraise the nature of a false statement in a comparable situation. That case involved a proceeding under Section 338 of the Nationality Act of 1940 (8 U. S. C. (1946 ed.) 738) to revoke an order of naturalization on the ground of fraud, the fraud involved being the alleged false oath that the petitioner was attached to principles of the Constitution when he was in fact a thorough-going Nazi. The Court stated (328 U. S. at 671):

> Moreover, when an alien takes the oath with reservations or does not in good faith forswear loyalty and allegiance to the old country, the decree of naturalization is obtained by deceit. The proceeding itself is then founded on fraud. A fraud is perpetrated on the naturalization court.

See also *United States* v. *Saracino*, 43 F. 2d 76 (C. A. 3). If, for the purposes of denaturalization, a lie told in the course of naturalization proceedings constitutes a fraud against the United States, it is difficult to understand how a lie told in the proceedings is not a fraud within the meaning of the suspension provision. In each case, the emphasis is on the fact that the lie is for the purpose of obtaining benefits under the naturalization laws to which the witness, or the person for whom he lies, is not entitled.[14]

Petitioners assert that the type of fraud here involved, if it is fraud, is fraud in a secondary sense as that description was used in *United States* v. *Cohn,* 270 U. S. 339 (Pet. Br. 36). In this respect, petitioners apparently seek to classify the offense here with the type of frauds which have as their sole basis interference with or obstruction of lawful governmental functions. *Haas* v. *Henkel,* 216 U. S. 462; *United States* v. *Gilliland,* 312 U. S. 86; *Curley* v. *United States,* 130 Fed. 1 (C. A. 1), certiorari denied, 195 U. S. 628. While there is an element of interference with Government functions in this case, it is by no means necessary to rest it upon that ground, for here the offense consists in obtaining or seeking to obtain from the United States Government a right which is valuable beyond price. It would be strange indeed if the acquisition of United States citizenship was considered any less valuable, any less real, than a monetary advantage.

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[14] The fact that lies told in a citizenship proceeding should be considered frauds for purposes of denaturalization was made clear in the House Report in its comments dealing with cancellation on grounds of fraud where it was stated in H. Rep. 1789, 59th Cong., 1st Sess., p. 2:

> The conditions that have been revealed by special investigations of the frauds committed against the naturalization laws render wholly unnecessary any argument upon the necessity at this time of fully exercising all the authority in naturalization matters conferred by the Constitution upon Congress. * * * The worst and most glaring frauds have consisted in perjury, false impersonation, and the sale and use of false and counterfeit certificates of naturalization.

It must be conceded that the Court of Appeals for the Second Circuit has held that the particular offense alleged in Count II does not involve fraud. *United States* v. *Obermeier,* 186 F. 2d 243, certiorari denied, 340 U. S. 951. That Court's reference to "perjury or false swearing" as the gist of the offense (186 F. 2d at 257) may indicate that it misinterpreted *United States* v. *Noveck* as requiring a holding that fraud is not involved when the crime involves those elements.[15] It is true that the offense charged in *United States* v. *Noveck* was perjury under Section 125 of the Criminal Code, the general perjury section now codified in 18 U. S. C. 1621. It was charged in the particular case that the defendant had committed perjury by making false statements in his income tax return, "for the purpose of defrauding the United States." The Suspension of Limitations Act there involved was the 1921 statute, 42 Stat. 220, which was similar to the statute here involved. In a brief opinion this Court held that the prosecution was barred by the statute since the offense did not come within the provision relating to frauds against the United States because (271 U. S. at 203):

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[15] It is clear that this Court's recent observation in *United States* v. *Beacon Brass Co.,* 344 U. S. 43, 45, that the three-year statute of limitations was applicable to an indictment under former Section 35 (A) of the Criminal Code for a false statement made in an attempt to evade income taxes, was not a holding on that point. The point was neither raised nor presented for decision in that case.

> * * * the alleged purpose to defraud the United States is not an element of the crime defined in § 125, on which the indictment is based. That allegation does not affect the charge; it need not be proved and may be rejected as mere surplusage. * * * The construction of §§ 125 and 1044 contended for by the Government divides perjury ito two classes. It makes one include offenses having the elements specified in § 125 and the other to include those containing the further element of purpose to defraud the United States.

Thus the case may well stand for the proposition that the United States is not, under Section 125, necessarily the defrauded party since the statute covers perjury generally and perjury occurs in suits not involving the United States. The case does not hold that to give false testimony is not deceit or fraud.[16]

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[16] It is to be remarked that petitioners do not rely upon the fact that the statutory provision here involved (8 U. S. C. (1946 ed.) 746 (a) (1)) does not use the word "fraud". Presumably petitioners refrain from making this argument because of the adverse effect the converse of that argument would have on their claim that Counts I and III, where the offenses do use the word "fraud", are also not subject to the Suspension Act. It should be noted, however, that the district court in the Northern District of California, relying upon *United States* v. *Scharton*, 285 U. S. 518, recently held that the statute must refer to fraud against the United States

(*b*) *The Suspension of Limitations Act is not limited in application to pecuniary frauds or war frauds.* Petitioners devote an entire subsection of their brief to the proposition that the Suspension Act is limited in its application to frauds which are pecuniary in nature or which arise out of the war (Pet. Br. 29–34). In part, this argument is apparently based on the concept that the fraud in this case merely involves obstructing governmental functions as in *Haas* v. *Henkel*, 216 U. S. 462. As pointed out above, whether or not that type of activity is encompassed within the Suspension Act,[17] the fraud here

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"in so many words". *United States* v. *Grainger*, on appeal, No. 634, 635, and 636, this Term. We respectfully refer this Court to our brief in that case for a discussion of this aspect of the problem. It should suffice here merely to refer to the decision of the Court of Appeals for the Second Circuit in *Weinhandler* v. *United States*, 20 F. 2d 359, at 361, where that court held that the use of the precise words was not essential on the authority of *Grin* v. *Shine*, 187 U. S. 181, 189.

[17] There is an indication in the *Noveck* case that this Court construed fraud broadly enough to include the "secondary sense" referred to in *United States* v. *Cohn*, 270 U. S. 339. In *Noveck* this Court said (271 U. S. at 204):

> Its [the language of the statute] purpose is to apply the six year period to every case in which defrauding or an attempt to defraud the United States is an ingredient under the statute defining the offense. There are several such offenses. Section 37 affords an illustration.

The "Section 37" referred to was the conspiracy section of the Criminal Code (18 U. S. C. (1946 ed.) 88) and it was this very section which had been given the broad construction in *Haas* v. *Henkel*, 216 U. S. 462. The issue in that case was involved is far more closely related to the usual type of fraud which is involved in acquiring a valuable right through deceit.

The language of the Suspension Act in referring to "* * * any offense (1) involving fraud or attempted fraud against the United States or any agency thereof *in any manner*" seems designed to include all manner of frauds. And aside from the language of the section, its basic reason for being is opposed to the limited con-

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whether certain indictments charging defendants with conspiracy to defraud the United States in fact charged an offense against the United States. The indictments alleged that the defendants had agreed that one of them should give to the others certain Agriculture Department data in advance of publication. The Court held the indictment good, observing (216 U. S. at 479–480) that it was

> * * * not essential that such a conspiracy should contemplate a financial loss or that one shall result. The statute is broad enough in its terms to include any conspiracy for the purpose of impairing, obstructing or defeating the lawful function of any department of Government. Assuming, as we have, * * * that this statistical side of the Department of Agriculture is the exercise of a function within the purview of the Constitution, it must follow that any conspiracy which is calculated to obstruct or impair its efficiency and destroy the value of its operations and reports as fair, impartial and reasonably accurate, would be to defraud the United States by depriving it of its lawful right and duty of promulgating or diffusing the information so officially acquired in the way and at the time required by law or departmental regulation. That it is not essential to charge or prove an actual financial or property loss to make a case under the statute has been more than once ruled.

struction urged by petitioners. The singling out of cases involving fraud for suspension of the statute of limitations obviously stemmed from the fact that fraud might not be discovered until a considerable time after the offense had been committed. The very nature of fraud is that it is a concealed offense which must be sought out. That factor is involved, whether the spoils of the fraud be cash or privileges. There would be no logic in drafting a statute to protect the Government from the effects of deceptive behavior and then limiting it to those cases where the deception could be measured in terms of dollar amounts. Such an approach ignores the underlying policy against deceit.

Petitioners have exercised commendable zeal in assembling a considerable body of legislative history in an attempt to support their position. However, the volume of this legislative history is in startling contrast to its pertinency to the issue here involved. What the references in the brief proper (Pet. Br. 30–31) and the page upon page of materials in the appendix (Pet. Appendix, pp. 11–27) add up to is that the Congressional committees and speakers cited frauds in war contracts as examples of offenses which should not be allowed to escape punishment during the excitement of war. It is not strange that Congress should have seized upon war contracts as an example of the type of situation they wished to encompass within the suspension provision. But the mere selection of this example does not support the view that Congress intended to limit the statute to such cases. In fact, it is strange indeed that, if Congress had any such intent, it did not affirmatively express it. On the contrary both House and Senate Reports stated the objective of the Act in broad terms (H. Rep. No. 2051 and S. Rep. No. 1544, 77th Cong., 2d Sess.):

> During normal times the present 3-year statute of limitations may afford the Department of Justice sufficient time to investigate, discover, and gather evidence to prosecute frauds against the Government. The United States, however, is engaged in a gigantic war program. Huge sums of money are being expended for materials and equipment in order to carry on the war successfully. Although steps have been taken to prevent and to prosecute frauds against the Government, it is recognized that in the varied dealings opportunities will no doubt be presented for unscrupulous persons to defraud the Government or some agency. These frauds may be difficult to discover as is often true of this type of offense and many of them may not come to light for some time to come. The law-enforcement branch of the Government is also busily engaged in its many duties, including the enforcement of the espionage, sabotage, and other laws.

> Your committee is of the opinion that action should be taken at this time to extend the limitations statute so that frauds may be discovered and punished even after the termination of the present conflict, and to insure that the limitations statute will not operate, under the stress of present-day events, for the protection of those who would defraud or attempt to defraud the United States.[18]

Petitioners find support in *Marzani* v. *United States*, 168 F. 2d 133 (C. A. D. C.), affirmed, 335 U. S. 895, 336 U. S. 922. We urge that the case, in so far as it holds that the Suspension Act "does not apply to offenses in which defrauding the United States in a pecuniary way is not an essential ingredient," is in error and should not be followed.

As opposed to the holding in the *Marzani* case, there are two decisions of the Court of Appeals for the Second Circuit. The first of these is *Miller* v. *United States*, 24 F. 2d 353, certiorari denied, 276 U. S. 638, dealing with conspiracy to defraud the United States in the allowance of claims to property seized by the Alien Property Custodian. Although there was property involved in the case, the allegations dealt with fraud resulting from depriving the United States of its right to the disinterested and conscientious services of its agents. The court stated, at page 359:

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[18] No interference to the contrary can be drawn from Mrs. Rankin's failure to persuade Congress to adopt as a substitute for 3287 a provision suspending limitations provisions as to all crimes against the United States committed during the war. There is no inconsistency between hesitating to defer all prosecutions and singling out for special treatment crimes involving deception.

> The Attorney General and the Custodian had promised, under oath, to protect the rights of the government and to give it conscientious service. If the facts established a fraud, and the jury was so satisfied, and the government was deprived of any of these, there was dishonesty and false dealing, and it was cheated and defrauded.

The court then referred to this Court's opinion in *Hammerschmidt* v. *United States*, 265 U. S. 182, which gave a broad definition to fraud in connection with the construction of the False Claims Act.

The second case decided by the Second Circuit was *United States* v. *Gottfried*, 165 F. 2d 360, certiorari denied, 333 U. S. 860. In this case, the fraud involved was the obtaining through a false statement of a larger sugar ration than was permissible under the regulations of the Office of Price Administration. Funds and property of the United States were in no way involved. The petitioners attempt to distinguish that case from the present one on the grounds that the fraud involved was in the nature of a war fraud, and they seek for support in the opinion in Judge Hand's statement (165 F. 2d at 368) that he understood the purpose of the statute was "not to let crimes pass unpunished which had been committed in the hurly-burly of war * * *" (Pet. Br. 33). It is very apparent, not only from Judge Hand's words but from the context in which they were written, that he was referring to the time when the fraud occurred rather than the nature of the offense (Pet. Br. 33–34).[19] Nor can petitioners find any support for their position in the language of this Court in *United States* v. *Smith*, 342 U. S. 225, where all of the Justices, whether in the majority or in the dissent, treat the pertinency of the period of hostilities to the suspension statute as a time factor rather than as determining the nature of the offense.

As to Count II, therefore, it appears that the statutory offense involved is one which, by the terms of the statute, involves fraud against the United States and one which is subject to the Suspension of Limitations Act.

2. The Suspension Act is applicable to Count I

Count I of the indictment alleges an offense under the conspiracy section of the Criminal

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[19] See also *Danebo Lumber Co.* v. *Koutsky-Brennan-Vana Co.*, 182 F. 2d 489, 491 (C. A. 9), certiorari denied, 340 U. S. 830; *Furrow* v. *Koutsky-Brennan-Vana Co.*, 182 F. 2d 496, 499–500 (C. A. 9), certiorari denied, 340 U. S. 830, where conspiracies to violate O. P. A. regulations in blackmarketing transactions invoking lumber were referred to as frauds against the United States, the statute of limitations on which would be suspended.

Code, which presently is 18 U. S. C. 371 and was formerly Section 37 (18 U. S. C. (1946 ed.) 88). The conspiracy in Count I is alleged to be unlawful under the portion of the section which makes it illegal to conspire *"to defraud the United States."* It should be noted that the same section also makes it illegal to conspire "to commit any offense against the United States." These are two distinct crimes, one of which requires proof of some separate statutory offense which the conspirators have joined together to violate, whereas the other does not require references to any other statutory offense at all. In *Glasser* v. *United States,* 315 U. S. 60, 66–67, this Court said:

> It is unnecessary to explore the merits of the argument that the indictment is defective on the ground that it charges a conspiracy to commit a substantive offense requiring concerted action, namely, bribery, because, "The indictment does not charge as a substantive offense the giving or receiving of bribes; nor does it charge a conspiracy to give or accept bribes. It charges a conspiracy to * * * defraud the United States, the scheme of resorting to bribery being averred only to be a way of consummating the conspiracy and which, like the use of a gun to effect a conspiracy to murder, is purely ancillary to the substantive offense." *United States* v. *Manton,* 107 F. 2d 834, 839.

To make this distinction clear, the present petitioners could have been charged with conspiring to make false statements in a naturalization case in violation of Section 746 (a) (1) of the Nationality Act of 1940, in which case the offense would have constituted a conspiracy to commit another crime against the United States. Here, however, the defendants were charged with conspiring to defraud the United States by falsely applying for citizenship for one of their number and in connection therewith making false statements under oath. The conspiracy to defraud was thus broader in terms than a mere conspiracy to make a false statement.

The reason for spelling out at such length what seems to be obvious is that petitioners frequently fall into confusion in their brief and appear to be arguing that the conspiracy count constituted merely a conspiracy to commit the substantive offense charged in Count II (Pet. Br. 25, 34). Had this been the fact, it is obvious from the terms of the Suspension Act itself that the conspiracy count would have been subject to the Suspension Act only if the substantive offense, which was the basis of the conspiracy, involved fraud. It is, of course, our contention that Count II in this case does involve fraud; but it also is our position that Count I is quite independent of Count II, and that, even if it should be held that

Count II does not involve an offense the limitation on which is subject to suspension, nevertheless Count I is not barred by the statute of limitations.

The principal difficulty with briefing this part of the case is that the answer seems so obvious. Here is a statute which makes it a crime to "conspire * * * to defraud the United States in any manner," almost the identical words of the Suspension Act, "fraud * * * against the United States * * * in any manner, whether by conspiracy or not * * *." Here is an allegation in the indictment, which was proved on trial, that the defendants had conspired to defraud the United States. If the words of the statute were used to convey their ordinary and usual meaning, this case must fall within the statute. As a matter of fact, in *United States v. Noveck,* 271 U. S. 201, this Court cited as an example of a statute involving fraud the very conspiracy statute which is here involved. Petitioners would discount this reference by reason of the fact that in a later case, *United States* v. *McElvain,* 272 U. S. 633, the Court held that not all conspiracies involve fraud (Pet. Br. 40). But the Court may there have had reference to the fact that conspiracies to commit *offenses* which do not involve fraud are not subject to suspension. The case itself went on the ground that, since the three-year statute involved did not apply to internal revenue offenses, the suspension act was similarly inapplicable to conspiracies to commit such offenses. The opinion seems to assume, contrary to the fact, that the indictment was for a conspiracy to commit an offense rather than conspiracy to defraud. The court below, after careful analysis, found that the case was not authority for excluding Count I from the Suspension Act (R. 8374–8375).

On the other hand, conspiracies to defraud, rather than conspiracies to commit particular offenses, have been held to fall within the Suspension Act. The Court of Appeals for the Second Circuit, in holding that an indictment under the conspiracy provision was covered by the Suspension Act, stated in *United States* v. *Falter,* 23 F. 2d 420, 426, that:

> * * * the proviso [the 1921 suspension provision] applied to the case at bar admits of no question. * * * The fraud was neither an incident nor the purpose of the crime, as in *U. S.* v. *Noveck* * * *, nor an offense against the revenue laws, as in *U. S.* v. *McElvain* * * *. The conspiracy to defraud was the crime, and the crime consisted only in the fraudulent conspiracy.

In the following year, the same court held again that the suspension provision was applicable to a case arising under the general conspiracy statute. *Miller* v. *United States,* 24 F. 2d 353, 360. The court stated:

> A successful conspiracy, which defrauds the United States of its governmental rights or property, is an offense involving the defrauding of the United States, whether by conspiracy or not. *Hammerschmidt* v. *United States, supra; United States* v. *Owen et al.* (D. C.) 32 F. 534.

In addition, two recent Ninth Circuit decisions have stated that the wartime suspension provision is applicable to prevent the running of the statute of limitations against conspiracies to defraud the United States. See *Danebo Lumber Co.* v. *Koutsky-Brennan-Vana Co.*, 182 F. 2d 489, 491, certiorari denied, 340 U. S. 830; *Furrow* v. *Koutsky-Brennan-Vana Co.*, 182 F. 2d 496, 499–500, certiorari denied, 340 U. S. 830.[20]

Petitioners envisage an attempt by the Department of Justice to extend statutes of limitations generally by drafting indictments under the conspiracy count, rather than under the substantive law provisions of the Criminal Code (Pet. Br. 45). This overlooks the fact that nothing would be availed in this respect by charging conspiracies to commit substantive offenses, rather than the substantive offenses themselves, since it is recognized that the fraud in such cases must inhere in the substantive offense. And, so far as charging "conspiracies to defraud" are concerned, that offense, as is pointed out above, is quite separate and apart from the substantive offenses defined in the Criminal Code. See *Glasser* v. *United States*, 315 U. S. 60. If the Department of Justice charges conspiracies to defraud, it will be bound to support those charges by the evidence; if it does, there is every reason why the Suspension Act should apply. Thus the conspiracy statute does not, and cannot, present an avenue for extending statutes of limitations beyond the period intended by Congress.

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[20] In the *Danebo* case, the court stated:

> Here is a felonious conspiracy to defraud the United States under the then section 37 of the Criminal Code * * *. The blackmarketing of lumber is sought to be concealed by deceiving the O. P. A. officers in the performance of their duties created by this war-time legislation. On this conspiracy the statute of limitations apparently has not yet expired, its running being tolled for three years by the Act of August 24, 1942, 56 Stat. 747, 18 U. S. C. A. § 590a [now § 3287] as amended.

3. The Suspension Act is applicable to Count III of the indictment

The offense covered by Count III is aiding and assisting in obtaining a certificate of naturalization "knowing the same to have been procured by fraud." (8 U. S. C. (1946 ed.) 746 (a) (5).) As with Count I, petitioners assert that the application of the Suspension Act to this count must stand or fall upon its applicability to Count II (Pet. Br. 38). This is clearly without merit since here the statute involved does not even make any direct reference to the offense charged in Count II. As petitioners have so thoroughly demonstrated, it is the statutory offense, not the indictment, which determines the applicability of the Suspension Act (Pet. Br. 20–24). Count III clearly stands on its own base. Petitioners seek to tie this count to Count II by pointing out that the fraud involved in the particular indictment is the false statement on which Count II is based (Pet. Br. 38). But on examination of the indictment, it is immediately apparent that Count III deals with the false statements of petitioners Schmidt and Robertson, and not the false statements by Bridges (R. 7–8). It is therefore apparent that not even the same facts underlie the two counts.

The involvement of "fraud" against the United States when considered with relation to aiding and assisting is not specifically spelled out in the Suspension Act, as it is with conspiracy, but it is if anything a more direct involvement since an aider or abettor was under the Criminal Code then in effect, as now, considered a principal. 18 U. S. C. (1946 ed.) 550, now 18 U. S. C. (Supp. V) 2. Therefore, if the obtaining of a certificate of naturalization by fraud is a fraud against the United States, then aiding or abetting in doing so falls in the same category.

Thus our argument for the application of the Suspension Act to Count III combines all the arguments heretofore urged with respect to Counts II and I. It is the same type of offense, the same kind of fraud against the United States, that is involved in Count II, but in addition Congress has used in this case, as in the conspiracy statute, the very term "fraud."

It is true of course that statutes of limitations perform a very real service in the criminal law. But it is also true that an individual has no vested right in any specific statute of limitations and that Congress in 1942 had the perfect right to provide for suspension of limitations on crimes involving frauds until three years after the termination of hostilities. If one indulges in the fantasy that those who violate laws cold-bloodedly calculate that they will be safe if they can avoid prosecution for a particular statutory term, then one should equally assume that they add to the calculated risk the effect of suspension statutes during time of war. In this respect it should be noted that the Suspension Act was passed in 1942, and that the alleged fraudulent acts took place in 1945.

B. SECTION 21 OF THE ACT OF JUNE 25, 1948, REVISING THE CRIMINAL CODE, SAVED THE FIVE-YEAR STATUTE OF LIMITATIONS IN THE NATIONALITY ACT OF 1940 FOR OFFENSES HERE INVOLVED IN COUNTS II AND III

Section 346 of the Nationality Act of 1940 (subsections (a) (1) and (a) (5) of which form the basis, respectively, of the second and third counts of the present indictment) contained as subsection (g) the following limitations provision:

> (g) No person shall be prosecuted, tried, or punished for any crime arising under

> the provisions of this Act unless the indictment is found or the information is filed within five years next after the commission of such crime.

The Act of June 25, 1948, revising the Criminal Code, contained the following provisions:

> SEC. 21. The sections or parts thereof of the Revised Statutes or Statutes at Large enumerated in the following schedule are hereby repealed. [Section 346 was listed.] **Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.**

Thus during the period when the offenses occurred (June to September, 1945), there was a five-year statute of limitations. The statutory provisions covering both the offenses and the statute of limitations applicable thereto were repealed by the Act revising the Criminal Code, effective September 1, 1948, subject to a clause preserving existing "rights and liabilities." The indictments were found in 1949. The question is: Did the saving clause apply to subsection (g), the limitations provision, so that the five-year limitation continued to be applicable to offense perpetrated prior to September 1948?

The district court concluded that the period of limitations set out in Section 346 (g) defined the limits of petitioners' "liability" for the violations with which they were charged and therefore that this prosecution was saved by Section 21 (R. 165–166). The court of appeals, after first agreeing with this view (R. 8225–8229), amended its opinion to hold that the savings clause did not preserve liability under the repealed five-year limitations provision (R. 8364–8367). There are a number of reasons why we think the district court was right.

1. The basic purpose of the saving provision is to preserve the status quo on earlier offenses

It is a normal and proper practice in legislative revision to make provision for the preservation of rights and liabilities under repealed provisions. The purpose is obvious. The process of simplifying and clarifying the law would be extremely painful if subsequently enacted provisions were constantly intermingled with earlier provisions. The new provisions—particularly in a complete codification—contain their own pattern, which has no place in a medley of contradictory earlier provisions. For this reason, it is normally appropriate to leave the earlier provisions as they stand, and simply to permit the passage of time to make their unsatisfactory details no longer relevant.

In line with this policy, the prior revisions of the criminal laws of the United States have contained saving clauses which, in express language, saved prior statutes of limitations as to prior offenses.

Thus the Revised Statutes of 1874 contained two sections which read as follows:

> SEC. 5598. All offenses committed, and all penalties or forfeitures incurred under any statute embraced in said revision prior to said repeal, may be prosecuted and punished in the same manner and with the same effect, as if said repeal had not been made.
>
> SEC. 5599. All acts of limitation, whether applicable to civil causes and proceedings, or to the prosecution of offenses, or for the recovery of penalties or forfeitures, embraced in said revision and covered by said repeal, shall not be affected thereby, but all suits,, proceedings, or prosecutions, whether civil or criminal, for causes arising, or acts done or committed prior to said repeal, may be commenced and prosecuted within the same time as if said repeal had not been made.

Two sections with essentially the same phraseology were included in the 1909 revision of the Criminal Code as Sections 343 and 344 (35 Stat. 1159).

A similar purpose had appeared in more limited revisions. Thus, in the various revisions of the Nationality Act in 1906, 1918, and 1940, it was provided that, for the purpose of the prosecution of all crimes against the naturalization laws committed prior to the effective date of each such act, "the existing naturalization laws shall remain in full force and effect"[21] thus preserving provisions dealing with limitations. Section 4 (d) of the Act of February 10, 1939, 53 Stat. 1a, codifying Title 26 as the Internal Revenue Code, specifically saved prior limitation periods as to prior offenses.

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[21] 34 Stat. 603, Sec. 25; 40 Stat. 542, 547, Sec. 2; 54 Stat. 1137, 1168, Sec. 347.

The far more cryptic language of the 1948 revision gives rise to the problem in this case. The position taken by petitioners on the basis of the decision in *United States* v. *Obermeier,* 186 F. 2d 243 (C. A. 2), certiorari denied, 340 U. S. 951, holding that the Section 21 savings provision did not preserve the five-year limitation period of the Nationality Act as to offenses under that statute before the revision, is that the absence of a similar specific clause relating to limitations in the 1948 revision means that it was the intention of Congress to have the shorter period apply retrospectively. It is the Government's position that the change in language represents merely a change in style of draftsmanship and that there was no intent in the 1948 revision to depart radically from the pattern of prior revisions of keeping the *status quo* for prior offenses as to all matters which, in a practical sense, go to the "right" or the "liability."

There can be no doubt that a statute of limitations in a practical sense does go to the right or liability. As Justice Holmes said in *United States* v. *Oppenheimer*, 242 U. S. 85, 87, in rejecting the Government's contention that a judgment for defendant in a criminal case could not be *res judicata* if it was based on a statute of limitations, a judgment on that ground "goes to his liability as matter of substantive law and one judgment that he is free as matter of substantive law is as good as another. A plea of the statute of limitations is a plea to the merits." This is the practical meaning of "liability" and this is the way we think it was used in Section 21 of the 1948 act. Cf. *United States ex rel. Hassell* v. *Mathues*, 27 F. 2d 137 (E. D. Pa.); *People* v. *Driessen*, 178 Mich. 118, 114 N. W. 526.

2. Statutes of limitations are to be construed prospectively unless a contrary intent clearly appears

Because of the fact that there have generally been specific saving clauses as to statutes of limitations, there are few cases which on their facts relate directly to the specific factual situation here presented. Nevertheless, this Court has indicated the guideposts which would normally be applied in construing a general saving clause such as is here involved.

One such guidepost is the general rule, specifically applied to statutes of limitations, that legislation will be construed prospectively unless a contrary intent clearly appears. In *United States* v. *St. Louis, San Francisco & Texas Ry. Co.*, 270 U. S. 1, the Supreme Court, in holding that a statute of limitations did not bar a cause of action which had accrued before its enactment, said:

> That a statute shall not be given retroactive effect unless such construction is required by explicit language or by necessary implication is a rule of general application. It has been applied by this Court to statutes governing procedure, *United States Fidelity & Guaranty Co.* v. *United States*, 209 U. S. 306; and specifically to the limitation of actions under another section of Transportation Act, 1920. *Fullerton-Krueger Lumber Co.* v. *Northern Pacific Ry. Co.*, 266 U. S. 435. There is nothing in the language of paragraph 3 of § 16, or in any other provision of the Act, or in its history, which requires us to hold that the three-year limitation applies, under any circumstances, to causes of action existing at the date of the Act.

And in *United States Fidelity & Guaranty Co.* v. *United States for the use of Struthers Wells Co.*, 209 U. S. 306, where it was contended that an amendment to an act relating only to procedure necessarily takes effect upon causes of action existing when the statute was passed, this Court said (at pp. 316–317):

> * * * If the limitation as to the district in which the suit upon the bond could be brought were to be regarded as simply matter of procedure (which we do not assert), we still think it is not to be construed as applying retrospectively. As it is only a question of intention we are not prepared to hold that the section is prospective to

> its operation in regard to all its other provisions, but retrospective in the one instance, as to the district in which the suit is to be commenced. Even matters of procedure are not necessarily retrospective in their operation in a statute, and we see no reason for holding that this statute, of but one section, should be split up in its construction, and one portion of it made applicable to cases already existing and other portions applicable only to the future.

In *Russell* v. *United States,* 278 U. S. 181, in considering the time limitation for suits in the Revenue Act of 1924, this Court said (at p. 188):

> Paragraph (e), (2), of § 278 expressly directs that that section shall not affect any assessment made before June 2, 1924. Counsel for the United States maintain that to extend the time for bringing suit thereon does not "affect" an assessment within the meaning of the paragraph. We cannot agree. Some real force must be given to the words used—they were not employed without definite purpose. The rather obvious design, we think, was to deprive § 278 of any possible application to cases where assessment had been made prior to June 2, 1924.

These decisions make it clear, we think, that the distinction for constitutional purposes between "right" and "remedy" in order to determine whether a change impairs a vested right is a different concept from the distinction between "right and liabilities" and "procedure" in determining whether a change is prospective or retrospective. When interpreting the intent of Congress, and particularly saving clauses in general revisions, there may still be a difference between "rights and liabilities" and "procedure," but it is on a different basis from that involved in determining issues of constitutionality where the retrospective intent has clearly been shown.

There is a difference between "procedures" such as rules of evidence or order of proof, which may well be made applicable to cases already pending, and rules, however they are characterized, relating to time limitations on the institution of a prosecution. The presence or absence of the right to particular courtroom procedure, particular rules of evidence, particular rights to witnesses, have only an indirect effect on a person's ultimate liability.

The effect of a time limitation is quite otherwise. It applies or it does not. It is in this respect far more akin to provisions defining the elements of the crime. There is no basic difference on the conduct of the court, or in its impact on criminal administration, between a challenge to a conspiracy indictment on the ground that no intent to defraud is alleged and a challenge that the prosecution is barred by time. Cf. *United States* v. *Oppenheimer,* 242 U. S. 85. Limitations in a practical way truly "affect" the "right" and the "liability."

3. This Court and the Courts of Appeals have applied the language used in Section 21 to provisions other than those defining substantive rights

Beyond the application of general principles of retroactivity, the Government's view is also supported by judicial recognition of the applicability of language like that in Section 21 to preserve rights and liabilities under provisions which do not define substantive aspects of crimes. In *Hoiness* v. *United States*, 335 U. S. 297, this Court held that the "policy expressed * * * in R. S. § 954 * * *" was preserved by Section 39 of the act revising Title 28 (a saving clause identical with Section 21 with which we are here concerned). Yet Section 954, which provided that judgment on appeal should be given without respect to technical defects, could not by any standards be called a substantive "right" or "liability." The conclusion is clear, therefore, that this Court recognizes no such limitation on the language of the Section 21 saving provision.[22]

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[22] *Hoiness*, in detail, was as follows: A District Court had entered an order dismissing an admiralty suit for want of jurisdiction, directing that the respondents have costs, and directing the submission of findings of fact and conclusions of law in accordance with this order. A short time later, it entered an order incorporating findings and conclusions and again reciting that the libel was dismissed. An appeal was taken from the latter order. The Court of Appeals dismissed this appeal, holding that the first order was the final order and that the later decree was not appealable. The Supreme Court concluded that, since the appeal was taken to the Court of Appeals within three months of either order, it was timely;

In *De La Rama Steamship Co.* v. *United States*, 344 U. S. 386, this Court recently rejected a contention by the Government that, although Section 109 of Title I, the general saving statute, operated to save the liability of the United States under the War Risk Insurance Act, then repealed, nonetheless, the provisions of that Act giving jurisdiction over such claims to the District Courts was not saved, and that therefore recourse to the Court of Claims was necessary. The Court stated (at p. 390):

> * * * But where the object of Congress was to destroy rights in the future while saving those which have accrued, to strike

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that although the petition for appeal referred only to the second order, the "defect was of such a technical nature that the Court of Appeals should have disregarded it in accordance with the policy expressed by Congress in R. S. § 954, 28 U. S. C. (1946 ed.) § 777," which provided in part: "No summons, writ, declaration, return, process, judgment, or other proceedings in civil causes, in any court of the United States, shall be abated, arrested, quashed, or reversed for any defect or want of form; but such court shall proceed and give judgment according as the right of the cause and matter in law shall appear to it * * *."

The Court accepted the "policy" of this section to be to disregard niceties of form and to give judgment as the right of the cause should appear to it. The Court noted that after the dismissal of the appeal in the Court of Appeals, Section 954 was repealed by Section 39 of the act revising Title 28, which is identical with Section 21 of the act revising Title 18. But, it said, "the policy expressed in § 954 was preserved as respects cases pending at the time of the repeal, since the repealing statute provides that 'Any rights or liabilities now existing under such sections or parts thereof shall not be affected by this repeal.'" (335 U. S. at 300–301.)

> down enforcing provisions that have special relation to the accrued right and as such are part and parcel of it, is to mutilate that right and hence to defeat rather than further the legislative purpose. * * *

Thus, this Court has explicitly recognized the applicability of savings provisions in phraseology similar to that involved here, as to matters which are clearly not substantive rights or liabilities.

There are similar decisions in the Courts of Appeals. In *Hiatt* v. *Hilliard,* 180 F. 2d 453 (C. A. 5), the Court held that the method of computing time off for good behavior was governed by the statute in effect at the time the sentence was imposed, and that the prisoner was not entitled to have good time credited in accordance with the 1948 revision. Compare *Lovely* v. *United States,* 175 F. 2d 312 (C. A. 4), certiorari denied, 338 U. S. 834, holding that, where the punishment provision with respect to a crime was changed by the 1948 revision, Section 21 "saved" the earlier, more severe penalty as to an offense committed before the revision. See also *United States* v. *Kirby,* 176 F. 2d 101 (C. A. 2).

These recent decisions refute the proposition set forth in *United States* v. *Obermeier,* 186 F. 2d 243, 253 (C. A. 2), certiorari denied, 340 U. S. 951, that the decisions of this Court establish the proposition that Section 13 of the revised statutes, now 1 U. S. C. 109, "saves existing substantive rights and liabilities from repeal but does not preserve 'remedies' or 'procedure' prescribed in the repealed statute." If the cases ever established such a general proposition, they have in effect been overruled by the cases discussed above.[23]

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[23] In fact the cases cited established no such rule.

Great Northern Railway Co. v. *United States*, 208 U. S. 452, involved Section 10 of the Hepburn Act which provided that the amendments provided by that Act (relating to general procedure in cases for the Interstate Commerce Commission and means of enforcing its orders in the courts) should not affect causes then pending in the courts. The Court held that, since Section 10 spoke only of the *procedure* to be applied in pending cases, this evidenced no Congressional intent to cut off the right to prosecute for offenses committed prior to but prosecuted after enactment of the Hepburn Act. The right to prosecute, it held, was saved by the provisions of Section 13 of the Revised Statutes (now 1 U. S. C. 109). This is not the equivalent of saying that Section 13 had application only to substantive definitions of offenses.

Hertz v. *Woodman*, 218 U. S. 205, was cited merely because it said of the *Great Northern* case that the saving clause of the Hepburn Act applied only to "remedies and procedure," and therefore "not by implication in conflict with the general provision of Section 13, which saved penalties, forfeitures and liabilities" (at p. 218). But again this dictum is not the equivalent of saying that nothing which does not amount to a substantive definition of a crime can be considered a liability. The actual holding of the *Hertz* case was that a tax was imposed at the time of the death of a settler of a trust, so as to be saved by a repealing statute which preserved taxes theretofore imposed, even though, under the prior statute, the tax was not due and payable until one year from the date of death, by which time the repealing statute had become effective.

Hallowell v. *Commons*, 239 U. S. 506, held that an act withdrawing the jurisdiction of the United States Courts over certain Indian claims and restoring exclusive jurisdiction over those matters to the Secretary of Interior was to be

4. The language of the 1948 revision does not indicate a Congressional intent to have the statute of limitations operate retrospectively

As we have shown, under settled rules of statutory construction, and under the decisions of this Court, a saving clause which saved "rights and liabilities" as to prior offenses should, in the absence of a contrary intent, be construed to save limitations periods as to such prior offenses. The question thus comes down to whether the absence of a specific reference to limitations in the saving clause of the 1948 revision, in the light of the fact that specific clauses saving limitations were included in prior revisions, is such a clear indication of Congressional policy as to require departure from the general rules of construction.

The argument is that the initial enactment of Section 5599 dealing specifically with limitations, and the inclusion of a similar section in the 1909 revision of the Criminal Code, show that the general sections like R. S. 5598 were deemed in-

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applied retroactively. The opinion rests largely on the fact that the Court found such retroactive intent from the sweep of the language vesting authority in the Secretary a consideration which would be controlling as to any savings clause. The court did say that "the reference of the matter to the Secretary, unlike the changes with regard to suits upon bonds, takes away no substantive right but simply changes the tribunal that is to hear the case". But this amounts to no more than saying that the forum is not a matter which inures with the right, a conclusion with which this Court disagreed in the recent *De La Rama* case, *supra.*

sufficient to save limitations provisions. Hence, it is argued, the similar language of Section 21 must have similar effect.[24] We submit, however, that failure to follow the phraseology of earlier revisions has very little to do with the meaning of the 1948 revision. The customs of legislation have changed since 1874. Redundance is no longer thought necessary to insure that courts will properly give recognition to the obvious and straightforward meaning of words. The basic philosophy of the drafters of the 1948 revision was rather to simplify language and avoid redundancy. For example, the House Report on the bill which evolved into the 1948 revision stated (H. Rep. 304, 80th Cong., pp. 7, 8):

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[24] The *Obermeier* opinion also refers to the fact that in 1933, the general section was repealed as obsolete whereas 5599 was retained. This was because it was thought the repeal of the section which had specifically preserved the various limitations provisions which had barred civil war claims might open up the argument that there was no longer any period of limitations as to such claims. The Committee report on the section incorporated also the view expressed by Secretary of War Patrick J. Hurley that another provision, Section 3 of the 1933 act, was not adequate to assure the barring of civil war claims because that provision "refers only to 'rights' and 'liabilities' and not to remedies, recourse to which may be barred by limitation." See H. Rep. 1205, 72nd Cong., 2nd Sess. Out of an obvious abundance of caution, Congress retained Section 5599, codifying it as Section 110 of Title I. We submit, however, that in view of the far-fetched reasoning which gave rise to the initial fears, and the complexity which would have been involved in relying upon a 1933 act to save a repealed 1874 statute of limitations, this overabundance of caution can hardly be said to be an authoritative legal interpretation.

> By assigning to chapter 1 all general provisions and definitions it was possible to omit repetitive phrases common to many sections.
>
> * * * * *
>
> A clear and uniform style was an important aim of this revision. Verbose phrases were pruned, ambiguous terms rewritten, and archaic expressions eliminated. * * *

It is not likely that the revisers, working under such a philosophy, would use two sections to accomplish that which one could accomplish merely because other revisers had, in an excess of caution, resorted to redundance.[25]

It is difficult to believe that all three revisions in 1947 and 1948 (Titles 1, 18 and 28), by the use of the shortened phraseology that "rights or liabilities" under prior statutes should not be "affected," intended *sub silentio* radically to depart from the pattern of the prior revisions of keeping the *status quo* as to all matters which in a practical way do affect the rights and liabilities. The notes to the Revision of Title 18 do indicate an intention to make some changes. In this connection the revisers noted with respect to Section 3282 of the new code that they saw no reason for having a limitations period for offenses against the naturalization laws different from that for offenses generally. But this does not indicate that they expected or intended their change of the limitations period to operate retroactively. In this connection, it is significant that the revisers made no provision and no mention of any time period in which offenses, which would be barred by the shorter three-year period but which had as much as two years longer to run under the old statute, would be prosecuted. Petitioners argue that the fact that the revision was not effective until three months after it was passed indicates that the intention was to give the government a period during which to take care of such prosecutions. But the 1909 revision of the Criminal Code, approved March 9, 1909, was not made effective until January 1, 1910, and yet, as noted above, periods of limitations as to prior offenses were specifically preserved. Three months is a short period of time in which to compress two years.

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[25] It should be noted that Section 2 of the Act of July 30, 1947, 61 Stat. 633, 640, enacting Title I into positive law uses language identical to that of Sec. 21 of Title 18 to preserve "rights and liabilities." Yet the miscellaneous collection of statutory provisions assembled in the 1940 editio of Title I, to which this saving clause refers, cannot in any conventional sense be described as principally "substantive." Similarly as noted above the saving clause of Title 28 is identical with the statute here involved.

By the time of the 1948 Revision this Court had indicated in its decisions that the word "liability" in a saving clause should be applied in a simple, common-sense way. In *United States*

v. *Reisinger,* 128 U. S. 398, construing Section 13 of the Revised Statutes to subject a defendant to prosecution under a repealed statute, the Court indicated its notion of the scope of "liability" by the following language quoted from *United States* v. *Ulrici*, 28 Fed. Cas. p. 328, No. 16,594, 3 Dillon 532, 534 (128 U. S. at 403):

> * * * Moreover, any man using common language might say, and very properly, that Congress had subjected a party to a liability, and, if asked what liability, might reply, a liability to be imprisoned. This is a very general use of language, and surely it would not be understood as denoting a civil proceeding. I think, therefore, that this word "liability" is intended to cover every form of punishment to which a man subjects himself by violating the laws of the country.[26]

It had indicated in *Russell* v. *United States,* 278 U. S. 181 (see *supra,* p. 59) that the word "affect" in a savings clause related to the time of bringing suit. It had indicated in *United States Fidelity & Guaranty Co.* v. *United States,* 209 U. S. 306, 316–317 (see *supra*, pp. 58–59) that the use of a single section to deal with a wide variety of situations indicated a non-technical use of language, and that such a single section would not be interpreted to result in a medley of prospective and retroactive applications. It had indicated that it regarded the period of limitations on criminal offenses as going to the liability as a matter of substantive law. *United States* v. *Oppenheimer*, 242 U. S. 85 (see *supra*, pp. 56–57).

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[26] See also *Quirk* v. *United States*, 161 F. 2d 138, 143 (C. A. 8): "The function of a saving clause is to preserve something from immediate interference. *Knickerbocker Ice Co.* v. *Stewart*, 253 U. S. 149 * * *." Cf. *Stillman* v. *United States*, 177 F. 2d 607, 614 (C. A. 9).

In the light of all these decisions, revisers in 1947 and 1948 could well believe that a saving clause which provided briefly that "rights or liabilities" should not be "affected" was ample to accomplish the purpose of the more redundant language of previous revisions of preserving the *status quo* as to any matter which in a practical way affected the right or the liability under a prior statute.

If, instead of re-enacting the offenses created by the Nationality Act, the 1948 revision had repealed them completely, there is no doubt that Section 21, or in the alternative 1 U. S. C. 109 would have saved the liability to prosecution for offenses committed before the revision. And it certainly would not have been contended that the liability was saved without the limitations created by the statute which gave rise to the offense. We submit that the situation is no different because there has been a re-enactment instead of a repeal. The 1948 revision controls offenses committed after its effective date. For the period before that time, former rights and liabilities, with all the collateral aspects which in a practical sense affect those rights and liabilities, are controlled by the statutes in effect when the offense was committed.

In the light of the general principle that statutes of limitations will be construed prospectively unless a contrary intent is clearly shown; that "rights or liabilities" as used in a saving clause have been interpreted as referring to more basis definitions; that the period of limitations for a criminal offense does in a very practical way affect the liability, we submit that the statute of limitations as to Nationality Act offenses was a part of the "liability" which, under Section 21 of the Act of June 25, 1948, was not "affected" by the revision as to prior offenses. Hence the five-year period of limitations in effect when the acts which form the bases of Counts II and III were committed governs those counts of the instant indictment, and the prosecution thereon was not barred, irrespective of the scope of the Suspension Act.

II

THE INDICTMENT IS NOT BARRED AS TO PETITIONER BRIDGES UNDER THE PRINCIPLES OF RES JUDICATA, ESTOPPEL, OR THE DUE PROCESS PROVISION OF THE FIFTH AMENDMENT [27]

Petitioners contend that the indictment and conviction of Bridges are barred under the principles of *res judicata,* estoppel, or due process of law. Their argument is that two prior deportation proceedings, instituted in 1938 and 1941 respectively (the latter of which was before this Court in *Bridges* v. *Wixon,* 326 U. S. 135), represent binding adjudications of fact that Bridges was not in 1938, nor from the time of his entry until 1941, a member of the Communist Party, with the result that the government was precluded at this trial from offering any evidence to show that Bridges was a member of the Communist Party at those times (Pet. Br. 53). They further argue that the naturalization decree in 1945 was a binding adjudication that he was not a Communist up to the decree (Pet. Br. 54). It is the government's position that nothing in any of these proceedings is binding on the government on the issues involved in the present case and that the government was therefore free to offer at the trial any evidence which it had to show that Bridges in 1945 swore falsely when he stated under oath that he was not and had not been a member of the Communist Party.[28]

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[27] Although petitioners do not specifically acknowledge the limitation (but see Pet. Br. fn. 52), it is readily apparent that this issue arises only as to Bridges. Neither of the other two petitioners were parties to any of the prior pro-

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ceedings and may claim no advantage from either the doctrine of res judicata, or collateral estoppel. 1 Freeman, *Judgments* (5th ed. 1925) Sec. 407.

[28] The contention that the previous deportation hearings precluded the present criminal action under the doctrine of *res judicata,* was first raised by motion to dismiss the indictment (R. 11), which was denied by the trial court (86 F. Supp. 922, 928). During the trial, counsel for Bridges moved to limit any evidence of Bridges' membership in the

Before discussing each of the prior proceedings and the effect of the decision in each, it should be noted that there is no basis whatsoever for application in this case of the principles of double jeopardy or *res judicata* in the strict sense of binding parties as to causes of action which have been litigated. The double jeopardy clause of the constitution is violated only if there is a second trial for the identical offense. *United States* v. *Williams,* 341 U. S. 58; *Pinkerton* v. *United States,* 328 U. S. 640, 644. There has been no previous criminal prosecution against Bridges, and, even if a deportation proceeding could be likened to a criminal trial, it is obvious that a trial in 1939 and 1941 could hardly have involved the same offense as that stemming from an act committed in 1945. Similarly *res judicata* in the sense of binding the parties "not only as to every matter which was offered and received to sustain or defeat the claim or demand, but as to any other admissible matter which might have been offered

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Communist Party to the period from June 1945 to the time of the naturalization hearing in August 1945, contending that the decision of this Court in *Bridges* v. *Wixon*, on June 18, 1945, decided any question of Communist membership before that date (R. 736–818), although this Court had of course been concerned only with the legality of the detention under a 1941 deportation order. The trial court, in a memorandum opinion on this point (87 F. Supp. 14), ruled that this Court had not finally passed on the issue of Bridges' membership in the Communist Party, and observed that the evidence of Communist membership was not declared insufficient as a matter of law.

for that purpose" applies only to suits "involving the same cause of action". *Commissioner* v. *Sunnen,* 333 U. S. 591, 597. A criminal prosecution for swearing falsely is obviously not the same cause of action as that involved in proceedings to determine whether Bridges was deportable or in a proceeding to determine whether he should be naturalized.

Thus, aside from the contention that the very bringing of the prosecution violated due process, a contention we discuss *infra,* page 89, the "res judicata" issue in this case is actually one of the application of the principle known as collateral estoppel, which applies "only as to those matters in issue or points controverted, upon the determination of which the finding or verdict was rendered." *Commissioner* v. *Sunnen,* 333 U. S. 591, 597–598; see also *Federal Trade Commission* v. *Motion Picture Advertising Co.,* 344 U. S. 392, 397–398; *United States* v. *Williams,* 341 U. S. 58, 63. Neither in the deportation proceedings nor the naturalization action was the issue of Bridges' membership in the Communist Party actually determined so as to preclude the government from relitigating that issue as to any point in time.

A. THERE WAS NO FINAL BINDING ADJUDICATION OF FACT IN THE DEPORTATION PROCEEDINGS

The first deportation proceeding against Bridges was instituted in March 1938, on the ground that Bridges, an Australian national, was then a member of or affiliated with the Communist Party. Under the statute then in force, past membership or past affiliation was insufficient for deportation; the alien had to be found to be a member at the time the warrant issued. *Kessler* v. *Strecker,* 307 U. S. 22.[29] At the conclusion of the hearings, the examiner found that Bridges was neither a member of, nor affiliated with, the Communist Party. The Secretary of Labor sustained the examiner and dismissed the proceedings in January 1940.

By the Act of June 28, 1940,[30] Congress amended the statute to provide for deportation of any alien who was "at the time of entering the United States, or has been at any time thereafter," a member of or affiliated with an organization of the character attributed to the Communist Party in the first proceeding. A second deportation proceeding was instituted against Bridges in 1941 under the amended statute on the ground that he had been a member of or affiliated with that organization. Another hearing was had before the inspector designated to conduct the hearings who found that the Communist Party of the United States was an organization of the character described in the statute, that the Marine Workers' Industrial Union was affiliated with the Communist Party and was an organization of the same character, and that after entering this country Harry Bridges had been affiliated with both organizations, and had been a member of the Communist Party. He recommended deportation. The case was heard by the Board of Immigration Appeals which found that Bridges had not been a member of or affiliated with either of those organizations at any time after he entered this country. The Attorney General reversed the decision of the Board, and rendered an opinion in which he made findings in accordance with those proposed by the inspector and ordered Harry Bridges to be deported.

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[29] That decision was rendered before the hearings on the warrant against Bridges which were conducted from July to September 1939.

[30] 54 Stat. 673, 8 U. S. C. 137.

Bridges, after surrendering to the custody of the District Director of the Immigration and Naturalization Service, challenged the legality of his detention by a petition for a writ of habeas corpus in the District Court for the Northern District of California. That court denied the petition and remanded petitioner to the custody of the Director. *Ex parte Bridges,* 49 F. Supp. 292. The Court of Appeals for the Ninth Circuit affirmed the judgment of the trial court. *Bridges* v. *Wixon,* 144 F. 2d 927. This Court reversed the judgment below on two grounds, neither of which went to the merits of the deportation order. *Bridges* v. *Wixon,* 326 U. S. 135. The first ground was that the hearing examiner and the Attorney

General had misconstrued the term "affiliation" as employed in the statute; the second that the hearing was unfair by virtue of the fact that unsworn statements of the government witness O'Neil were considered, not merely for impeachment purposes, but as affirmative evidence. This Court specifically declined to pass upon whether the evidence in addition to that which it held improperly received would in itself have sustained the finding of membership in the Party, stating that "Whether the finding would have been made on this record from the testimony of Lundeberg alone is wholly conjectural and highly speculative." 326 U. S. at p. 155.

Thus the decision in *Bridges* v. *Wixon* and the proceeding which was there under review are not final adjudications of any issue of fact. The decision of this Court is not a determination that Bridges had not been a member of the Communist Party, nor even a determination that the evidence then available was not sufficient to prove that he had been a member of the party. It was merely a determination that the hearing at which he had been found as a fact to have been a member of the Communist Party had not been properly conducted, and therefore was, in legal effect, no hearing at all. Obviously, such a conclusion to a habeas corpus proceeding is not a binding determination of any issue of fact. A discharge on habeas corpus for jurisdictional defects at the trial does not preclude a re-trial of the issue of guilt. See *Collins* v. *Loisel,* 262 U. S. 426, 430; *Harris* v. *Biszkowicz,* 100 F. 2d 854, 856 (C. A. 8). In fact "no discharge by writ of *habeas corpus* will operate as a bar to further proceedings in the same cause, unless the inquiry on the petition for writ involves a full investigation into the merits of the case,—the guilt or innocence of the accused." *Morse* v. *United States,* 267 U. S. 80, 85. The net effect of this Court's decision in *Bridges* v. *Wixon* is that, for the purposes of collateral estoppel, the 1941 hearings are nonexistent.[31]

The 1938 hearings did end in an administrative determination that, on the evidence presented, Bridges had not been shown to be a member of the Communist Party as of that time. Clearly this could, at the very most, be binding on the issue of membership as of that particular time. *Kessler* v. *Strecker,* 307 U. S. 22. This petitioners concede (Pet. Br. 53). Certainly it was not essential to this proceeding to prove Communist membership as of that time in 1938. Bridges had sworn that he was at no time a member of the Communist Party (R. 138) and membership at any time before or after 1938 would have been sufficient to support the indictment. Therefore even if the prior finding is treated as the equivalent of an order by a court of competent jurisdiction, it would not be a bar to this proceeding.

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[31] Petitioners make a brave attempt to save their point by arguing that this Court's order in *Bridges* v. *Wixon* amounted to a finding that without O'Neil's testimony there was no evidence to sustain the order of deportation (Pet. Br. 66). But the reference in the opinion to the receipt of incompetent evidence not being by itself ground for granting *habeas corpus,* on which petitioners rely, was directly related to the fact that there was not merely the receipt of incompetent evidence, but the absence of a fair hearing. 326 U. S. at 156.

Petitioners now contend that certain evidence bearing upon membership at the particular time involved should have been excluded from the present trial and that the jury should have been instructed to accept the prior determination for the period to which it applied (Pet. Br. 54). While we shall point out that no error was committed in refusing to accept the prior findings as binding, we should not overlook the fact that the issue as now raised is not properly before this Court on the present review. The issue raised in the petition was whether the prosecution was barred and that is one of the two issues to which the grant of certiorari was specifically limited by order of this Court (R. 8437). It is quite a different question to appraise the effect of evidence which was admitted[32] and to examine the instruction to the jury. This was not undertaken by the court below and should not be considered here.

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[32] Even if excludible on the direct issue of membership in 1938, the evidence might have been admitted anyway to prove a continuing relationship which would support a finding of later membership.

We turn now to a consideration of whether, in any event, findings by the Secretary of Labor in a deportation proceeding should be held binding on the Government in a subsequent criminal trial. This Court has observed that "* * * the differences in origin and function between administrative bodies and courts 'preclude wholesale transplantation of the rules of procedure, trial, and review which have evolved from the history and experience of courts'." *Wallace Corp.* v. *National Labor Relations Board,* 323 U. S. 248, 253; *Federal Communications Commission* v. *Pottsville Broadcasting Co.,* 309 U. S. 134, 143. In the *Wallace Corporation* case the contention was made that the National Labor Board could not, after having reached a determination in one proceeding, reconsider the evidence to reach a different result in a second proceeding. This Court in rejecting this contention, said (*ibid.,* p. 253):

> We cannot, by incorporating the judicial concept of estoppel into its procedure, render the Board powerless to prevent an obvious frustration of the Act's purposes.

See also *United States* v. *Stone & Downer Co.,* 274 U. S. 225, where this Court refused to extend the rule of collateral estoppel to decisions of the Court of Customs Appeals on determinations of fact in duty classifications.[33] In that case the Court gave weight to the factor that the agency's own rules did not accord binding effect to prior findings. In this respect it should be noted that in the second deportation proceeding the Attorney General specifically refused to treat the prior proceeding as *res judicata,* stating that the doctrine was inapplicable. See ***In re Harry Bridges*** before the Attorney General in Deportation Proceedings (May 28, 1942, p. 30).

The lines which distinguish those administrative actions which are deemed conclusive from those which are not have never been precisely drawn.

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[33] Some lower courts have similarly refused to extend the rule of *res judicata* and collateral estoppel to administrative proceedings on similar grounds. *Churchill Tabernacle* v. *Federal Communications Commission*, 160 F. 2d 244, 246 (C. A. D. C.) (proceedings of the Federal Communications Commission); *Home Loan Bank Board* v. *Mallonee*, 196 F. 2d 336, 389 (C. A. 9) (proceedings of the Home Loan Bank Board); *Grandview Dairy* v. *Jones*, 157 F. 2d 5, 9 (C. A. 2), certiorari denied, 329 U. S. 787 (decision of War Food Administrator); *Spencer* v. *Railroad Retirement Board*, 166 F. 2d 342, 343 (C. A. 3); *United States* v. *La Societe Francaise De Bien. Mut.*, 152 F. 2d 243, 246 (C. A. 9), certiorari denied, 327 U. S. 793 (decision of Commissioner of Internal Revenue); *National Rifle Association of America* v. *Young*, 134 F. 2d 524 (C. A. D. C.) (D. C. Unemployment Compensation Board). It has been held that an administrative agency, charged with the protection of the public interest, is not even precluded from taking appropriate action to rectify past mistakes, much less from reexamining a new complaint based on new evidence. *National Labor Relations Board* v. *Baltimore T. Co.*, 140 F. 2d 51, 54–55 (C. A. 4), certiorari denied, 321 U. S. 795, and cases cited.

See Davis, *Administrative Law*, pp. 563–613; Schopflocher, *The Doctrine of Res Judicata in Administrative Law*, 1942 Wisconsin Law Rev. 5–42, 198–235. It is unnecessary to try to draw them here. For purposes of this case, it is sufficient to note that deportation hearings have never been considered to work an estoppel against proceedings of a similar character, and therefore *a fortiori* not against a criminal prosecution, *Wong Chow Gin* v. *Cahill*, 79 F. 2d 854, 857 (C. A. 9); *Flynn ex rel Ham Loy Wong* v. *Ward*, 95 F. 2d 742 (C. A. 1).[34] The political character of the issue, the executive nature of the proceeding and the public interest involved all lead to the conclusion that deportation hearings are the type of administrative action in which the judicial principles of *res judicata* and collateral estoppel have no place.

As this Court pointed out in *Harisiades* v. *Shaughnessy*, 342 U. S. at 589, "such matters [as the deportation of aliens] are so exclusively entrusted to the political branches of government as to be largely immune from judicial inquiry or interference." See also *Fong Yue Ting* v. *United States*, 149 U. S. 698, 731. The power to expel aliens may be exercised entirely through executive officers, and their findings are not subject to direct review in the courts. *Heikkila* v. *Barber,* 345 U. S. 229; *Carlson* v. *Landon,* 342 U. S. 524, 534. Since the deportation findings are not subject to judicial ratification they cannot constitute *stare decisis,* and have none of the other attributes of a judgment rendered by a court. The finding of an examiner in a deportation proceeding is "* * * not a judgment pronounced in a judicial proceeding, but a ruling made by an executive officer in the exertion of administrative authority," *Wilbur* v. *United States ex rel. Kadrie,* 281 U. S. 206, 217.

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[34] It should be noted that the three dissenting judges in *Bridges* v. *Wixon* thought the order of deportation after the 1941 hearings should be sustained against the contention in that case that the 1938 hearings were *res judicata* on the issue of membership in the Communist Party.

A far closer analogy to deportation proceedings than the proceedings of the United States Tax Court on which petitioners' argument is partly based (Pet. Br. 58) was before this Court in *Pearson* v. *Williams,* 202 U. S. 281, where this Court held that the decision of a Board of Special Inquiry to admit an alien, is not *res judicata* in a subsequent proceeding, and that the matter may be later reopened and the alien excluded on the same grounds as those which were passed upon in the first instance. This Court, speaking through Mr. Justice Holmes said (pp. 284–285):

> * * * The board is an instrument of the executive power, not a court. It is made up, as we have mentioned, of the immigant officials in the service, subordinates of the Commissioner of Immigration, whose duties are declared to be administrative by § 23.

> Decisions of a similar type long have been recognized as decisions of the executive department, and cannot constitute *res judicata* in a technical sense.

The authority to deport is a continuing one and is not terminated by its exercise on one occasion. Cogent reasons for deportation may be revealed by new evidence which was not passed on in a previous proceeding because of its unavailability. The important political function of determining the right of an alien to remain in the United States cannot be hampered by a prior determination on different evidence. Cf. *Wallace Corp.* v. *National Labor Relations Board, supra; Federal Trade Commission* v. *Raladam Co.,* 316 U. S. 149, 152.

If a decision rendered in a deportation proceeding is not *res judicata* in a subsequent proceeding of the same kind, it follows that such a determination is not *res judicata* in a later judicial proceeding, especially where new evidence is introduced. There is indeed considerable question whether any administrative action unreviewed by judicial authority is binding on a court. *Sekov Corp.* v. *United States,* 139 F. 2d 197 (C. A. 5); *Segal* v. *Travelers Insurance Co.,* 94 F. Supp. 123 (D. D. C.); *contra, United States* v. *Willard Tablet Co.,* 141 F. 2d 141 (C. A. 7). Certainly, we submit, it should not be binding in a criminal prosecution. The determination of issues of fact in a criminal case is a function for the jury. Clearly no decision by an administrative official against an alien could have binding effect in view of the different standard of proof required for conviction for a crime. On the theory that estoppel by judgment must be mutual (*Bigelow* v. *Old Dominion Copper Co.*, 225 U. S. 111, 127; *Keokuk and Western R. Co.* v. *Missouri*, 152 U. S. 301, 317), this alone would bar application of the principle of estoppel. But beyond that, we submit that no administrative decision should take away from a jury its function of determining guilt as well as innocence on the basis of any evidence relevant to the issue to be decided.

B. THE NATURALIZATION DECREE IN 1945 IS NOT CONCLUSIVE OF ANY ISSUES IN THE PRESENT PROCEEDING

Petitioners assert that the naturalization decree in 1945 conclusively determined that Bridges was not a Communist at any time during the entire period covered by the indictment (Pet. Br. 54). In order for this to be so, the issue as to whether Bridges was a Communist from 1933 to 1945 (the period covered by the indictment) must have been litigated in the naturalization proceeding and decided by the court in issuing the naturalization order. *Cromwell* v. *County of Sac*, 94 U. S. 351; *Commissioner* v. *Sunnen*, 333 U. S. 591, 598; Scott, *Collateral Estoppel by Judgment*, 56 Harv. L. Rev. 1, 5.[35] Neither of these conditions prevails.

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[35] If an issue is not contested in a particular case, a finding on it, even though necessary to the judgment, will not be

The record makes it abundantly clear that the Government did not litigate the issue of Bridges' Communist membership in the naturalization proceedings (R. 479, 492).[36] Aside from the questions addressed to Bridges himself as to his membership (R. 138), the answers to which form the basis for this prosecution, the Government made no further inquiry with respect to his membership in the Communist Party and did not seek to controvert his testimony.[37]

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binding in a later case. A party is not obligated to defend a position in the first case at the risk of abandoning it forever. For reasons wholly extraneous to the merits of his position he may wish not to contest the issue and he is not forced to do so at the risk of losing it. This is one of the differences between *res judicata* and collateral estoppel.

[36] Lloyd H. Garner, the hearing examiner who conducted the preliminary examination, and represented the Government in Bridges' naturalization proceeding, testified as a Government witness on the trial (R. 466–467). At the time of the preliminary examination he had recommended that an investigation be made of the loyalty and attachment to the Constitution of Bridges (R. 479, 491, 536). He heard nothing further from the investigation before the subsequent court hearing (R. 492).

At the time of the naturalization proceeding in court, he was instructed merely to present the facts to the court, and not to put in any objection to the petition for citizenship (R. 479, 492). He ascertained that it had been determined that the Government did not have sufficient evidence at that time to show that Bridges was a member of the Communist Party (R. 529).

[37] Garner did present "for what it [was] worth" an affidavit signed by a former wife of Bridges, accusing him of being

In the second place, the decree of naturalization itself cannot be interpreted as including a determination on the issue of membership in the Communist Party. Certainly it does not do so explicitly (R. 552–553), and there is no ground whatsoever for an assertion that there was an implicit finding of absence of membership. Nothing in the Nationality Act of 1940, which controlled at the time of the decree, specifically made naturalization dependent upon the absence of past membership in the Communist Party (8 U. S. C. (1946 ed.) 701–741). At most, the issue of membership might have been considered by the court as pertinent to the determination of whether the applicant was then, and had been for the five years preceding, attached to the principles of the Constitution (8 U. S. C. (1946 ed.) 707), and of whether he was, or during the past ten years had been, a member of an organization advocating the overthrow of the Government by force or violence (8 U. S. C. (1946 ed.) 705). But in view of this Court's recent decision in *Schneiderman* v. *United States*, 320 U. S. 118, it is by no means clear that mere membership would have been considered by the court at that time as a bar to naturalization. In any event, in view

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a Communist, which the court refused to admit in evidence (R. 139). This affidavit had come into Garner's possession the morning of the hearing, and into the possession of the Department of Immigration and Naturalization the Friday before (R. 514). Aside from this document, Garner had no other evidence to present to the court (R. 515).

of the time difference, petitioners' claim that the decree was a bar to the present prosecution is very clearly without support.[38]

In the third place, the Government cannot be precluded from a prosecution for knowingly making a false statement under oath by reason of the fact that the perjury was successful and deceived the court before which it was perpetrated. It would indeed be an odd application of the principle of *res judicata* to bar a court from protecting the integrity of its own proceedings on the ground that the final order in those proceedings precludes a further inquiry, criminal or otherwise, as to whether the legal processes had been abused. There can be no question of the power of the courts to undo a decree which has been reached through fraud. *Knauer* v. *United States*, 328 U. S. 654; *Maney* v. *United States*, 278 U. S. 17, 23; *Tutun* v. *United States*, 270 U. S. 568, 578; *Johannessen* v. *United States*, 225 U. S. 227, 240-241. See also *Hazel-Atlas Co.* v. *Hartford Co.*, 322 U. S. 238, 246. If, through misrepresentation or deceit, the applicant for naturalization conceals the true facts, and the naturalization court is thereby precluded from considering them, manifestly such issues are not merged in the naturalization decree. Certainly the issue of fraud could not in any sense be considered one of the "* * * matters in issue or points controverted, upon the determination of which the finding or verdict was rendered." *Commissioner* v. *Sunnen, supra* (333 U. S. 591, 598).

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[38] This does not mean that the question and answer involved in the present proceeding were not material. This issue was raised before the court below on appeal and disposed of briefly but cogently (R. 8390, 8391). It is not an issue here.

Just as the certificate of naturalization may be canceled on a showing of fraud and illegality in its procurement, so the parallel criminal sanctions under the Nationality Act may be imposed for the perpetration of the same fraud, specifically for the false swearing in the case at bar. Cf. *Klapprott* v. *United States,* 335 U. S. 601, 610 (opinion of Mr. Justice Black). The issue of fraud, specifically the false swearing by which the certificate of naturalization and the attendant rights of citizenship were obtained, is no more immune from examination in this criminal proceeding, than it would be in a separate cancelation proceeding. The decree of naturalization no more bars a prosecution for false swearing than an acquittal for a substantive offense bars a prosecution for perjury. Cf. *United States* v. *Williams,* 341 U. S. 58. Whenever a fraud on the court is discovered before the statute of limitations has run, such fraud can and should be prosecuted.

C. THE INDICTMENT WAS NOT BARRED BY THE FIFTH AMENDMENT

Petitioners argue that repetitious proceedings against an individual on the same charge violate the Fifth Amendment, so that the mere bringing of this prosecution violates due process. This is really another method of stating the *res judicata* argument with constitutional overtones. Clearly the doctrine of *res judicata* is not itself constitutional in nature, but is subject to modification to meet the needs of particular situations. Cf. *United States* v. *Stone & Downer Co.*, 274 U. S. 225. In any event, the argument has no relation to the facts of this case. As we have shown, the only time the truth of petitioner's 1945 oath was in issue was in this proceeding.

There has been no repetitious litigation in any sense. True, there were two deportation hearings, but the second was brought under a changed statute which broadened the basis of deportability from membership in a prescribed organization at a particular moment to membership at any time after entry. It has long been held that an alien has no vested right to remain in this country and that the rules for deportation may be changed. In *Harisiades* v. *Shaughnessy*, 342 U. S. 580, this Court stated at pp. 586–588:

> Under our law, the alien in several respects stands on an equal footing with citizens, but in others has never been conceded legal parity with the citizen. Most importantly, to protract this ambiguous status within the country is not his right but is a matter of permission and tolerance. The Government's power to terminate its hospitality has been asserted and sustained by this Court since the question first arose.

> * * * So long as the alien elects to continue the ambiguity of his allegiance his domicile here is held by a precarious tenure.
>
> That aliens remain vulnerable to expulsion after long residence is a practice that bristles with severities. But it is a weapon of defense and reprisal confirmed by international law as a power inherent in every sovereign state. Such is the traditional power of the Nation over the alien and we leave the law on the subject as we find it.

When the second deportation case terminated inconclusively, Bridges himself, not the Government, instituted the third "litigation," when he applied for naturalization. In that uncontested "litigation," he and the other petitioners swore falsely. It is absurd to argue that it is somehow unfair for the Government to seek to punish Bridges when it came into possession of facts which showed that the oath which he voluntarily took in 1945 was untrue and a fraud on the court. Clearly the Government can prosecute an individual each time he commits a crime separate and distinct from any other for which he has been tried. Clearly it can, in such proceeding, offer any evidence it has to prove such crime unless an issue has been adjudicated in such a way as to have acquired judicial finality irrespective of reality. Due process does not require that fraud and false swearing shall go unpunished. Cf. *United States* v. *Williams*, 341 U. S. 58, 62.

CONCLUSION

For the foregoing reasons the judgment of the Court of Appeals should be affirmed.

Respectfully submitted.

ROBERT L. STERN,
Acting Solicitor General.
WARREN OLNEY III,
Assistant Attorney General.
JOHN F. DAVIS,
Special Assistant to the Attorney General.
BEATRICE ROSENBERG,
CARL H. IMLAY,
JOHN R. WILKINS,
Attorneys.

APRIL 1953.

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In the

Supreme Court of the United States

October Term, 1952

No. 549

HARRY RENTON BRIDGES,
Petitioner,

vs.

UNITED STATES OF AMERICA.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Telford Taylor
New York, N. Y.

Norman Leonard
San Francisco, Cal.

Counsel for Petitioner

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IN THE

Supreme Court of the United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, *Petitioner,* *vs.* UNITED STATES OF AMERICA.	No. ......

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

Petitioner, Harry Renton Bridges, respectfully prays that a writ of certiorari issue to review a judgment of United States Court of Appeals for the Ninth Circuit entered in the above entitled case on September 6, 1952.

OPINIONS BELOW

The opinion of the District for the Northern District of California is reported at 90 F. Supp. 989. The opinion of the Court of Appeals for the Ninth Circuit affirming the judgment below has not yet been officially reported; it is printed at Tr. 22-25.

JURISDICTION

The judgment of The Court of Appeals was entered on September 6, 1952. The order of the Court of Appeals denying petitioner's timely petition for rehearing was entered on November 18, 1952. On December 9, 1952 Mr.

Justice Douglas of this Court entered an order extending the time for filing a petition for certiorari to and including January 16, 1953. The jurisdiction of this Court is invoked under 28 U. S. C. 1254 (1).

QUESTIONS PRESENTED

The Court of Appeals for the Ninth Circuit affirmed an order of the District Court for the Northern District of California revoking the citizenship of petitioner Bridges pursuant to 8 U. S. C. 738 (e) after his conviction for making a false statement in his naturalization proceeding.

There is this day being filed a petition for a writ of certiorari (No. 548) to review the affirmance of the judgment of conviction.

The questions presented here are:

1. Whether the conviction sought to be reviewed in that case should not be set aside and whether, therefore, the order here sought to be reviewed should not automatically fall with it.

2. Whether there was a lawful basis for the order of revocation since petitioner was not convicted of "knowingly procuring naturalization in violation of law" as is required by 8 U. S. C. 738 (e).

STATUTES INVOLVED

The relevant provisions of 8 U. S. C. 738 (e) upon which the revocation of petitioner's citizenship was based are:

> "When a person shall be convicted under this chapter of knowingly procuring naturalization in violation

of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is hereby conferred to the courts having jurisdiction of the trial of such offense to make such adjudication."

STATEMENT

Since, as indicated, the revocation order here sought to be reviewed arose out of and is dependent upon the conviction under review in No. 548 there is no need to restate the factual background of the cases. We respectfully refer the court to the statement contained in the petition in that case.

After the criminal conviction had been returned, the Government moved for, and succeeded in obtaining over the opposition of petitioner, an order from the trial court declaring petitioner's citizenship revoked and a decree revoking, setting aside and declaring void the order admitting him to citizenship. (Tr. 3, 8; 90 F. Supp. 989).

Appeals from these orders were timely filed to the Court of Appeals for the Ninth Circuit which affirmed them on September 6, 1952. A petition for rehearing was denied on November 18, 1952.

SPECIFICATION OF ERRORS TO BE URGED

The court below erred in affirming the trial court's revocation of petitioner's citizenship and in holding that petitioner had been convicted of knowingly procuring naturalization in violation of law.

REASONS FOR GRANTING THE WRIT

1. The petition for the writ in No. 546 shows the reasons why the conviction on a charge of making a false statement in the naturalization proceedings should be reversed and set aside. We respectfully refer the Court to the reasons for granting the writ set forth in that petition. The writ here should issue so that upon the disposition of that case appropriate orders may be made in this one.

2. Irrespective of the disposition of that case; there is an additional reason why the writ should be granted here.

Petitioner was not convicted of knowingly procuring naturalization in violation of law. Section 738(e) is a very carefully drafted statute. It does not provide that upon conviction for *any* violation of the nationality code citizenship may be revoked. On the contrary, it provides that revocation shall occur only upon conviction for "knowingly procuring naturalization in violation of law". These words are clearly words of limitation and must be strictly construed against the Government (*cf. Schneiderman* v. *United States,* 320 U. S. 118; *Baumgartner* v. *United States,* 322 U. S. 665, and *Klapprott* v. *United States,* 335 U. S. 601). If Congress had intended to authorize revocation for any violation of the Nationality Law, it would have not have inserted these words of limitation into Section 738(e).

Not only was petitioner not convicted of knowingly procuring naturalization in violation of law, he was not even charged with that offense. He was charged in the first count with conspiracy which is a separate offense and neither of the courts below predicated their holdings upon his conviction on the conspiracy count. He was charged in the second count with false swearing in a naturalization proceeding. That charge is a different one from the charge of knowingly procuring naturalization in violation of law.[1]

In order to sustain its order of revocation, the trial court held that the conviction for one offense "constitutes" a conviction for the other (Tr. 10). The court below did not even consider the issue (Tr. 25).

The two offenses are separate and distinct. Knowingly procuring citizenship in violation of law is now to be found in 18. U. S. C. 1425, which is contained in Chapter 69 of Title 18, a chapter dealing exclusively with matters relating to nationality and citizenship. False swearing in a naturalization proceeding is now to be found in 18 U. S. C. 1015(a) which is contained in Chapter 47 of Title 18, a chapter dealing generally with false swearing and fraudulent statements and not specifically with naturalization or nationality matters.

Not only are these two sections separate and distinct parts of the code at the present time but throughout their entire history they have been separate and distinct (*cf. United States* v. *Bruno,* 25 F. Supp. 793 (D. C. N. J.)) and the added punishment of automatic revocation has always been applied only to the offense of knowingly procuring naturalization in violation of law and not to the offense of false swearing in a naturalization proceeding.[2]

---

[1] The charge in the indictment did not depend upon the fact of procuring naturalization and was sustainable, irrespective of whether or not citizenship had been procured. *United States* v. *Bruno, infra.*

[2] Sec. 39 of the Act of March 3, 1903 (57 Cong. 2d Sess., Ch. 1012) (32 Stat. 1213, p. 22) provided

> "First: Any person who procures naturalization in violation of the provisions of this section shall be fined * * * and imprisoned * * * *and* the court in which such conviction is had

In 1938, for example, the two offenses were in separate codes, and even apart from the fact that automatic revocation followed upon conviction for illegal procurement and not for false swearing, they carried different criminal penalties. Thus, in *United States* v. *Bruno, supra,* the statutes are quoted which make it clear that the offense of illegal procurement was punished by a fine of not more than *$5,000* and imprisonment of not more than five years or both, while the offense of false swearing was punished by a fine of not more than *$1,000* and imprisonment for not more than five years. 25 F. Supp. 793 at p. 794.

In the foregoing case, the court said: "False procurement of naturalization and false swearing in a naturalization proceeding are entirely different. Under the view this court takes the defendant was guilty of an offense when he swore falsely in the naturalization proceeding. He committed another offense when he procured naturalization based upon his false swearing". *Ibid* at p. 794.

> shall thereupon adjudge and declare the order or decree and all certificates admitting such person to citizenship null and void."
>
> "Second: Any person who * * * in any naturalization proceeding procures or gives false testimony as to any material fact shall be fined * * * and imprisoned * * *"

Section 23 of the Act of June 29, 1906 (59th Cong., C. 3592) (34 Stat. 596, p. 603), provided as follows:

> "First: * * * Any person who knowingly procures naturalization in violation of the provisions of this Act shall be fined * * * and imprisoned * * * *and* upon conviction the court in which said conviction is had shall thereupon adjudge and declare the final order admitting such person to citizenship void."
>
> "Second: * * * Any person who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact shall be fined * * * and imprisoned * * *".

The Government might have, but it did not charge, petitioner with the offense of illegal procurement. It cannot now exact from him a penalty which attaches only to the uncharged offense. To impose a penalty for a crime not charged would be a "sheer denial of due process". (*Cf. De Jonge* v. *Oregon,* 299 U. S. 353 and *Cole* v. *Arkansas,* 333 U. S. 196).

CONCLUSION

For the foregoing reasons, it is respectfully submitted that this petition for a writ of certiorari should be granted.

TELFORD TAYLOR,
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NORMAN LEONARD,
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Counsel for Petitioner

January, 1953.

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No. 549

In the Supreme Court of the United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

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In the Supreme Court of the United States

OCTOBER TERM, 1952

No. 549

HARRY RENTON BRIDGES, PETITIONER

v.

UNITED STATES OF AMERICA

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

MEMORANDUM FOR THE UNITED STATES

OPINION BELOW

The opinion of the court below (R. 22) is reported at 199 F. 2d 845.

JURISDICTION

The judgment of the Court of Appeals was entered on September 6, 1952 (R. 26), and a petition for rehearing was denied on November 18, 1952 (R. 27). On December 9, 1952, Mr. Justice Douglas entered an order extending the time for filing a petition for a writ of certiorari to and including January 16, 1953. The petition was filed on January 14, 1953. The jurisdiction of this Court is invoked under 28 U.S.C. 1254(1).

QUESTION PRESENTED

Whether, assuming the lawfulness of a conviction of the petitioner for having made a false statement in his naturalization proceeding, the district court in which he was convicted had power, immediately after his conviction, to order his denaturalization, under 8 U.S.C. 738(e), as a person who had been convicted of "knowingly procuring naturalization in violation of law."

STATUTES INVOLVED

Section 338(e) of the Nationality Act of 1940, 54 Stat. 1158, 8 U.S.C. (1946 ed.) 738(e) provides:

> When a person shall be convicted under this Act of knowingly procuring naturalization in violation of law, the court in which such conviction is had shall thereupon revoke, set aside, and declare void the final order admitting such person to citizenship, and shall declare the certificate of naturalization of such person to be canceled. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

STATEMENT

At the time of the filing of the indictment against the petitioner Bridges, in the case now before this Court as No. 548,[1] a denaturalization proceeding was also instituted, pursuant to Section 338(a) of the Nationality Act of 1940, 8 U.S.C. 738(a). Action on this, however, was stayed pending the judgment of the trial court in the criminal proceeding (86 F. Supp. 931). After judgment against petitioner was entered in the criminal proceeding, government counsel filed a motion to revoke, set aside, and declare void the final order admitting petitioner to citizenship (R. 4). On June 16, 1950, a memorandum opinion and order were handed down (R. 3-7) relative to the denaturalization proceeding, and on June 20, 1950, a decree revoking, setting aside, and declaring void the final order admitting petitioner to citizenship (R. 8-12) was signed. The Court of Appeals affirmed the validity of the decree (R. 22).

---

[1] The facts stated in that petition are incorporated here by reference.

ARGUMENT

1. The Government's memorandum on the petition for certiorari in No. 548 sufficiently deals with the issues as to the validity of the criminal conviction on the basis of which the order of denaturalization was issued. If the writ should be granted in that case, it is submitted that this petition should be held without action until the disposition of that case on the merits and then disposed of appropriately.

2. Petitioner also contends that he was not convicted "of knowingly procuring naturalization in violation of law," and therefore that the condition

for revoking citizenship set forth in Section 338(e) of the Nationality Act of 1940, *supra*, p. 2, has not been satisfied. He argues that Section 338(e) refers only to a conviction of the specific charge of procuring naturalization in violation of law as set forth in Section 346(a)(2) of the Nationality Act, and not to a violation of any other of the penal provisions in connection with the procurement of citizenship such as Section 346(a)(1), for violation of which petitioner was convicted.[2]

This interpretation of Section 338(e) does violence to its obvious purpose. If Congress had intended Section 338(e) to apply only to a violation of one of the many penal provisions under Section 346, it would undoubtedly have so indicated. The comments on the proposed draft of this Act submitted to the House Committee (II Hearings before the House Committee on Immigration and Naturalization on H. R. 6127, superseded by H. R.

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[2] The pertinent parts of Section 346(a) (8 U. S. C. (1946 ed.) 746(a)) are:

> It is hereby made a felony for any alien or other person, whether an applicant for naturalization or citizenship; or otherwise, and whether an employee of the Government of the United States or not—
>
> (1) Knowingly to make a false statement under oath, either orally or in writing, in any case, proceeding, or matter relating to, or under, or by virtue of any law of the United States relating to naturalization or citizenship.
>
> (2) Knowingly to procure or attempt to procure—
>
> a. The naturalization of any such person, contrary to the provisions of any law; or
>
> b. Documentary or other evidence of naturalization or of citizenship of any such person, contrary to the provisions of any law.

9980, 76th Congress, 1st session, at p. 471) state as to Section 338:

> Proposed subsection (e) is a continuance of provisions now present in the naturalization statutes giving the Federal courts authority, as a part of criminal proceedings, to revoke the naturalization fraudulently procured and cancel the certificate of naturalization. * * *

This reveals the overriding policy of revoking the citizenship of anyone convicted under any of the penal provisions under circumstances which establish that naturalization was obtained either illegally or by fraud. It is specious to contend that a conviction of petitioner for false swearing in his naturalization hearing does not fully establish that he "knowingly procured naturalization in violation of law."

Section 338(e), moreover, is *in pari materia* with Section 338(a), which provides for a civil proceeding for the cancellation of naturalization on the ground of fraud or on the ground that such naturalization was illegally procured.[3] Section 338(a) covers any naturalization which was unauthorized by law (*Maney* v. *United States,* 278 U.S. 17) or which was procured through fraud or other illegal contrivance (*Johannessen* v. *United States,* 225 U.S. 227). See also *Knauer* v. *United States,* 328 U.S. 654, 672-673. It is apparent that Section 338(e) was intended to make unnecessary the civil suit provided for in Section 338(a) whenever it is established by a conviction in a criminal proceeding that the naturalization of the defendant was obtained by any fraudulent contrivance in violation of law. The same bases for denaturalization which obtain under Section 338(a) also obtain under Section 338(e). The difference between the two sections is procedural, not substantive.

---

[3] Section 338(a) (8 U. S. C. (1946 ed.) 738(a)) provides: "It shall be the duty of the United States district attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any court specified in subsection (a) of section 301 in the judicial district in which the naturalized citizen may reside at the time of bringing suit, for the purpose of revoking and setting aside the order admitting such person to citizenship and canceling the certificate of naturalization on the ground of fraud or on the ground that such order and certificate of naturalization were illegally procured."

Since the burden of proof is greater in a criminal proceeding in which the defendant has the benefit of a trial by jury, it is unreasonable to suppose that Congress intended to require a retrial of the issues in a civil proceeding when fraud in obtaining naturalization by the giving of false testimony in the naturalization proceeding has been proved beyond a reasonable doubt by a conviction in the criminal action. It is clear that an alien who knowingly testified falsely, with an obvious view to facilitating his naturalization, would, under Section 338(e), knowingly have procured such naturalization in violation of the Nationality Act.[4]

---

[4] The identical issue here involved was adverted to in *Klapprott* v. *United States*, 335 U. S. 601 (opinion of Mr. Justice Black) where it was said, at p. 610:

> 8 U. S. C. § 746 makes it a felony for applicants for naturalization or others to violate federal laws relating to

3. We believe also that petitioner's conviction on the conspiracy count of the indictment against him furnishes a basis for the revocation action. While this count charges a conspiracy to defraud the United States under 18 U. S. C. [1946 ed.] 88, which obviously is not part of the Nationality Act of 1940, nevertheless, the illegality of the conspiracy is predicated on a contravention of the statutory mandate of the Nationality Act. That Act prescribes the steps for obtaining naturalization in explicit terms. It was to subvert those explicit directions that the illegal combination in which petitioner participated was formed. It is sufficient to come within the provisions of Section 338(e) that the conviction establishes a crime the elements of which violate the express mandate of the Nationality Act for obtaining citizenship.

CONCLUSION

For the foregoing reasons, it is respectfuly submitted that the petition for a writ of certiorari be denied, unless the writ is granted in No. 548, in

---

naturalization. Had petitioner been found guilty of making the false oath here charged, he could have been convicted of and punished for a felony under this section. But he could have been convicted only after indictment and a jury trial at which he would have been present and represented by counsel. A conviction would have required a proof of guilt beyond a reasonable doubt, on testimony of witnesses given in the presence of the accused who would have had an opportunity to cross-examine the witnesses against him. In the event of such a conviction under required procedural safeguards, § 738 (e) authorizes courts to revoke citizenship and cancel naturalization certificates.

which case this petition should be held without action until final disposition of that case.

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WARREN OLNEY, III,
Assistant Attorney General.

BEATRICE ROSENBERG,
JOHN R. WILKINS,
Attorneys.

FEBRUARY, 1953.

MOTION FILED APR - 6 1953 SUPREME COURT, U.S.

IN THE

Supreme Court of the United States

October Term, 1952

No. 548

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE AND BRIEF.

WESTERN MECHANICS LOCAL 700, INTERNATIONAL UNION MINE, MILL AND SMELTER WORKERS OF LOS ANGELES, CALIFORNIA,

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IN THE

Supreme Court of the United States

October Term, 1952

No. ....

HARRY RENTON BRIDGES, HENRY SCHMIDT and J. R. ROBERTSON,

Petitioners,

vs.

UNITED STATES OF AMERICA,

Respondent.

MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE.

To the Honorable The Chief Justice of the United States and the Associate Justices of the Supreme Court of the United States:

Comes now Western Mechanics Local 700, International Union Mine, Mill and Smelter Workers of Los Angeles, California, and respectfully moves this Court, pursuant to Rule 27, paragraph 9 of the Rules of this Court, for leave to file the accompanying brief in this case as *amicus curiae*. The consent of the attorney for the petitioners herein to the filing of this brief has been obtained and filed with the Clerk of the Court. The consent of the attorney for the respondent was requested but was refused. The interests of Western Mechanics Local 700, International Union Mine, Mill and Smelter Workers of Los Angeles, California, and its reasons for asking leave to file a brief *amicus curiae*, are set forth below:

Movant is a trade union with 6,000 workers engaged in the warehousing industry and its members have watched with growing concern the almost 20-year persecution and harassment of Harry Renton Bridges. There is a strong feeling among its members that this "relentless crusade" against Bridges has been because he has given his trade union militant and inspired leadership. Movant and its members are concerned lest trade union leadership of that kind be regarded as the basis for criminal conduct.

Movant is also concerned about the singling out of Bridges and his associates for special treatment and application with respect to the laws governing the operation of the statute of limitations and with respect to the administration of criminal justice. It appears to movant and its members that not only has there been a relentless persecution of Bridges, but that in order to achieve the end sought, it has been necessary to apply the law to Bridges and his associates in a manner in which it has never been applied to any other person.

Because movant and its members believe that a cornerstone of American democracy is fair and equal treatment before the law to all persons, they are concerned about what has happened in this case and ask leave to file the attached brief so that this Court may have the benefit of their views.

Respectfully submitted,

WESTERN MECHANICS LOCAL 700, INTERNATIONAL UNION MINE, MILL AND SMELTER WORKERS OF LOS ANGELES, CALIFORNIA,

By JOHN W. PORTER,

Attorney for Moving Party.

IN THE

Supreme Court of the United States

October Term, 1952

No. ....

Harry Renton Bridges, Henry Schmidt and J. R. Robertson,

Petitioners,

vs.

United States of America,

Respondent.

Brief of Western Mechanics Local 700, International Union, Mine, Mill and Smelter Workers of Los Angeles, California, Amicus Curiae.

By leave of Court first had and obtained, Western Mechanics Local 700, International Union Mine, Mill and Smelter Workers of Los Angeles, California, herewith files the following brief as *amicus curiae* in the above-entitled cause and urges the Court that the petition for certiorari now prayed for by petitioners be granted.

I.

For almost twenty years now Harry Renton Bridges has been the object of a relentless crusade unique in the annals of American jurisprudence. That this crusade commenced with Bridges' emergence as an ~~outstanding~~ trade union leader in the great San Francisco strike of 1934, is of considerable concern to all who believe that a strong vigorous and militant trade union movement is an essential element of American democracy. That the chief instigators and moving figures of this crusade were either anti-labor elements or professional patrioteers, is also of concern to those who believe that such forces represent unhealthy elements in any democratic society.

Although the Court of Appeals for the Ninth Circuit made reference to the long history of proceedings against Bridges, it failed to appreciate their full significance. Contrary to the reasoning of many cases decided by this Court, it held that such a long continued series of persecutions did not deprive Bridges of due process of law. Mr. Justice Frankfurter has said that due process of law requires that there be no "brutal subjection of an individual to successive retrials." (*Louisiana v. Resweber,* 329 U. S. 459.) And the Court below, over twenty years ago, said that due process of law prohibited the government from requiring that one lawfully admitted be "called upon again and again to prove his right to remain."

Choy Yuen Chan v. United States, 30 F. 2d 516.

It would seem that by disregarding what has been done to Bridges for the last twenty years, the Court below ignored the fact that such a course of conduct "offend(ed) those canons of decency and fairness which express the notions of justice of English speaking people." (*Adamson v. California,* 332 U. S. 46.) The due process clause, protecting as it does, the "ultimate decency in a civilized society" (*ibid.,* at 61) should not permit what has been done here to go unchallenged. At the very least, it requires this Court to review the proceedings below to see whether or not they measure up to the standards which this Court has applied in so many other cases.

II.

Movant is also concerned with what appears to have been a discriminatory application of judicial principles to Bridges and his associates. This Court, and every other Circuit Court of Appeals which has had occasion to consider the question, has held that a perjurious or false statement, whether in connection with so-called "tax frauds" or "naturalization frauds" or "citizenship frauds" or "employment frauds" is not within the scope and effect of the Wartime Suspension Act. And in every single case but this one, an indictment or the counts thereof, based upon such a false statement made more than three years before the return day, has been dismissed.

United States v. Noveck, 271 U. S. 201;

United States v. McElvain, 272 U. S. 633;

United States v. Scharton, 285 U. S. 518;

United States v. Marzani, 168 F. 2d 133;

United States v. Obermeier, 186 F. 2d 243.

See also:

United States v. Anzalone, 197 F. 2d 714.

The Court below ignored these cases and applied a special rule to Bridges and his associates. Not only because this decision squarely conflicts with the decisions of this Court and those of other courts of appeals should this Court grant the petition for certiorari but also because such judicial discrimination against the petitioners is, as to them, a denial of due process of law. Compare this situation with *Yick Wo v. Hopkins*, 118 U. S. 356, where it was held that discrimination in the application of an otherwise valid statute constituted a denial of equal protection of the laws.

Furthermore, the Court below approved the trial court's application to this case, and this case alone, of an instruction that a reasonable doubt means a doubt for which "a good reason would be assigned." So far as we know, no court has ever approved such an instruction before. As a matter of fact, the Court of Appeals stated that such an instruction was not to be "commended." It did not consider how that instruction, together with other conduct of the trial court, such as an improper limitation of the right of cross-examination to the defendants, hostile and prejudicial comments by the trial judge during the course of the trial, and other similar matters, resulted in the kind of error which must require reversal.

Kotteakos v. United States, 326 U. S. 711.

For this radical departure from normal rules governing the administration of criminal law, and in order that the trial courts may be properly advised concerning their duties and obligations in criminal cases, this Court should grant the petition and rule upon the questions presented.

It appears significant to us that only in the case involving Bridges and his associates was such a wide departure from the normal rules condoned by an appellate court.

For the foregoing reasons, *amicus curiae* joins in the prayer of petitioners that the writ of certiorari be granted and the entire cause be reviewed by this Court.

Respectfully submitted,

WESTERN MECHANICS LOCAL 700, INTERNATIONAL UNION MINE, MILL AND SMELTER WORKERS OF LOS ANGELES, CALIFORNIA.

By JOHN W. PORTER,

Attorney for Amicus Curiae.

Service of the within and receipt of a copy thereof is hereby admitted this..................day of April, A. D. 1953.

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MOTION FILED APR 17 1953

In the Supreme Court
OF THE
United States

October Term, 1952

No. 548

Harry Renton Bridges, J. R. Robertson, and Henry Schmidt,
Petitioners,
vs.
United States of America,
Respondent.

MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE AND BRIEF OF INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (AND CERTAIN OF ITS AFFILIATED LOCALS) AS AMICUS CURIAE.

International Longshoremen's and Warehousemen's Union (and certain of its affiliated locals),
Amicus Curiae,
By Allan Brotsky,
240 Montgomery Street, San Francisco 4, California,
Attorney for Amicus Curiae.

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1952

No. 548

HARRY RENTON BRIDGES, J. R. ROBERTSON, and HENRY SCHMIDT,
Petitioners,

vs.

UNITED STATES OF AMERICA,
Respondent.

MOTION FOR LEAVE TO FILE BRIEF AS AMICUS CURIAE.

To the Honorable Fred M. Vinson, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States:

Comes now the International Longshoremen's and Warehousemen's Union[1] (hereinafter referred to as

---

[1] The following locals of the ILWU join in the presentation of this motion:

Local 16, Juneau, Alaska; Local 39, Seward, Alaska, Local 41, Juneau, Alaska; Local 62, Ketchikan, Alaska; Local 82, Seward, ILWU), and respectfully moves this Court, pursuant to Rule 27 (Paragraph 9), for leave to file the accompanying brief in this case as *amicus curiae*. The consent of the attorney for the petitioners herein to the filing of this brief has been obtained and filed with the Clerk of this Court. The consent of the attorney for the respondent was requested on April 13, 1953.

The interests of said ILWU and its locals, and its reasons for asking leave to file a brief *amicus curiae* are:

As stated in its motion for leave to file a brief as *amicus curiae* submitted while the above-entitled matter was pending on certiorari, ILWU is a trade union of approximately 70,000 members whose leading officers are the petitioners in the above-entitled matter. ILWU pointed out in said motion how for almost twenty years its members have watched with great

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Alaska; Local 87, Wrangell, Alaska; Local 97, Anchorage, Alaska; Local 1, Raymond, Wn.; Local 3, Seattle, Wn.; Local 4, Vancouver, Wn.; Local 7, Bellingham, Wn.; Local 9, Seattle, Wn.; Local 19, Seattle, Wn.; Local 21, Longview, Wn.; Local 23, Aberdeen, Wn.; Local 24, Aberdeen, Wn.; Local 32, Everett, Wn.; Local 37, Seattle, Wn.; Local 51, Port Gamble, Wn.; Local 8, Portland, Ore.; Local 12, North Bend, Ore.; Local 18, Astoria, Ore.; Local 31, Bandon, Ore.; Local 45, Rainier, Ore.; Local 48, Reedsport, Ore.; Local 50, Astoria, Ore.; Local 68, St. Helens, Ore.; Local 2, San Francisco, Calif.; Local 5, Petaluma, Calif.; Local 6, San Francisco, Calif.; Local 11, San Jose, Calif.; Local 13, Wilmington, Calif.; Local 14, Eureka, Calif.; Local 17, Broderick, Calif.; Local 26, Los Angeles, Calif.; Local 29, San Diego, Calif.; Local 33, San Pedro, Calif., Local 34, San Francisco, Calif.; Local 36, San Francisco, Calif.; Local 46, Port Hueneme, Calif.; Local 54, Stockton, Calif.; Local 63, Wilmington, Calif.; Local 91, San Francisco, Calif.; Wilmington, California Unit, Local 26; Fresno Compress & Warehouse Union, Pinedale, Calif.; Local 142, Honolulu, T.H.; Local 207, New Orleans, La.; Local 208, Chicago, Ill.; Local 209, Cleveland, Ohio; Local 222, Washington, D.C.; Kauai Labor Council, Honolulu, T.H.; Northern California District Council; ILWU Federated Auxiliaries; ILWU Ladies Auxiliary No. 5; ILWU Ladies Auxiliary No. 8; ILWU Ladies Auxiliary No. 1.

concern the prosecution and harassment of their President, Harry Renton Bridges, and more recently of their other officers who are also petitioners herein. The union noted the belief on the part of its members that these prosecutions arose out of the fact that these officers were giving to this segment of the labor movement militant and inspired leadership and the concern that such leadership should be the basis for criminal prosecutions. The union also noted its concern with what appeared to be an arbitrary and discriminatory application of legal principles to these petitioners and its suspicion that such unequal treatment was being accorded to them only because of the fact of such leadership.

Since filing the foregoing motion, ILWU has had an opportunity to peruse the memorandum which the prosecution filed in response to the petition for writ of certiorari. This memorandum suggests other reasons why ILWU should be permitted to file a brief *amicus curiae* in addition to those heretofore assigned.

It appears to ILWU that the government's approach to the whole problem of the persecution of these officers of the union is cynical and hypocritical; that in the memorandum, the government admits for the first time much of what the ILWU has said about this case ever since its inception and makes clear that the prosecution of these officers is a direct attack upon the interest and welfare of the 70,000 members of the union. It is in order to demonstrate these points and to set forth the union's position on them, particularly with respect to observations made in the government's memorandum, that leave to file this brief is now sought.

Dated, San Francisco, California,
April 15, 1953.

Respectfully submitted,
INTERNATIONAL LONGSHOREMEN'S AND
WAREHOUSEMEN'S UNION (and certain of its affiliated locals),
Amicus Curiae,
By ALLAN BROTSKY,
Attorney for Amicus Curiae.

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1952

No. 548

HARRY RENTON BRIDGES, J. R. ROBERTSON, and HENRY SCHMIDT,
Petitioners,
vs.
UNITED STATES OF AMERICA,
Respondent.

BRIEF OF INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (AND CERTAIN OF ITS AFFILIATED LOCALS) AS AMICUS CURIAE.

By leave of Court first had and obtained, International Longshoremen's and Warehousemen's Union (hereinafter referred to as ILWU), and certain of its affiliated locals named in the foregoing motion, herewith files the following brief *amicus curiae* in the above-entitled cause.

I.

This Court has issued a writ to review the question of whether prior proceedings against Harry Renton

Bridges, which culminated in *Bridges v. Wixon*, 326 U.S. 135, are a bar to this prosecution.

We take this to mean that this Court will be reviewing the history of those proceedings. Even a superficial examination of that history demonstrates that the "Bridges case" is part and parcel of the story of the efforts of Pacific Coast maritime workers to better the miserable conditions under which they worked prior to 1934. There is no history of Harry Bridges which is separate and apart from the history of trade union organization on the West Coast since 1934. Were it not for the fact that Bridges was a leading figure in the development of that trade unionism, there is no question but what there would be no case now pending in this Court.

A history of Bridges' leadership of this union amply demonstrates why the membership is concerned with his case. Prior to the 1934 strike longshoremen in San Francisco were earning 85¢ an hour, were required to "kick-back" to straw bosses for employment, had no health or safety codes to protect them against occupational hazards, had no job security, had no pension or welfare plans or any of the other benefits which they now enjoy. The wretchedness of their working conditions as well as the efforts of the present petitioners to alleviate them are a matter of record in both this Court and the court below.

In more recent years the same situation has obtained with respect to the workers in the Hawaiian Islands who have been organized by this union under the leadership of petitioners herein. These petitioners cannot be separated from their union nor can their union be separated from them.

It is more than ironic that at almost every critical juncture of the union's history—in its fight for improved wages, for the maintenance of its hiring halls, for the organization of the workers in Hawaii—a proceeding of one kind or another has been instituted against Bridges or its other officers. It has happened too often to be a mere coincidence.

The members of this union resist the notion that prosecutions should be undertaken in order to deprive them of leadership which they sorely need in their daily trade union struggles.

II.

ILWU is concerned by a suggestion in the government's memorandum that the prosecution of its officers is "a matter of diminishing importance."[7] It may be a matter of no importance to the government prosecutors who thus cynically sought to avoid review in this Court by suggesting to the Court that if they were permitted to "get away with" this prosecution despite the conflicting opinions of the Courts of Appeals in the Second Circuit and in the District of Columbia, there would be no further prosecutions of this kind; and that if they were only permitted to jail Bridges and his associates, no Court would again be called upon to accept their strained interpretation of the Suspension Act.

But it is a matter of great importance to the members of this union first, that they not be deprived of leaders who have given successful guidance in the economic struggles depicted above; and second, that no set of laws or judicial decision be twisted and distorted in order to achieve the incarceration of any persons—much less the leaders of a militant trade union.

The government in its memorandum has admitted to this Court for the first time in history of this case many things which this union has been saying about the case, things which the government did not admit to the Courts below. It now concedes that it has pressed this prosecution in the face of unanimous decisions of other Courts which would have declared it outlawed. It has thereby revealed that from the beginning its motive was not to obtain a correct ruling on the law (as it might have done had it pressed other cases to final decision), but to incarcerate these three petitioners irrespective of what the law was.

We do not believe that this Court will countenance the cynical approach to basic human freedom that such a position reveals, and we respectfully join with petitioners in praying that their convictions be reversed.

Dated, San Francisco, California,
April 15, 1953.

INTERNATIONAL LONGSHOREMEN'S AND
WAREHOUSEMEN'S UNION (and certain of its affiliated locals),
Amicus Curiae,

By ALLAN BROTSKY,
Attorney for Amicus Curiae.

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SUPREME COURT. U.S.

MOTION FILED JAN 23 1953

Nos. 548-549

In the Supreme Court
of the United States

OCTOBER TERM — 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT
and J. R. ROBERTSON,
Petitioners,
vs.
UNITED STATES OF AMERICA,
Respondent.

Motion for Leave to File a Brief as Amici Curiae

and

Brief of Local 8, International Longshoremen's and Warehousemen's Union of Portland, Oregon, Local 50, International Longshoremen's and Warehousemen's Union of Astoria, Oregon, Local 21, International Longshoremen's and Warehousemen's Union of Longview, Washington, Auxiliary of Local 12, International Longshoremen's and Warehousemen's Union of Coos Bay, Oregon, Auxiliary of Local 11, International Longshoremen's and Warehousemen's Union of Vancouver, Washington, as Amici Curiae

PETERSON & POZZI,
Attorneys at Law,
Equitable Building,
Portland 4, Oregon.

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In the Supreme Court
of the United States

OCTOBER TERM — 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT
and J. R. ROBERTSON;
Petitioners,
vs.
UNITED STATES OF AMERICA,
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TO THE HONORABLE THE CHIEF JUSTICE OF THE UNITED STATES AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE UNITED STATES:

Comes now Local 8, International Longshoremen's and Warehousemen's Union of Portland, Oregon, Local 50, International Longshoremen's and Warehousemen's

Union of Astoria, Oregon, Local 21, International Longshoremen's and Warehousemen's Union of Longview, Washington, Auxiliary of Local 12, International Longshoremen's and Warehousemen's Union of Coos Bay, Oregon, Auxiliary of Local 11, International Longshoremen's and Warehousemen's Union of Vancouver, Washington, and moves this Court pursuant to Rule 27, paragraph 9 of the Rules of Court, for leave to file the accompanying brief as amicus curiae. The consent of the attorney for the petitioners herein has been obtained and filed with the Clerk of the Court. The consent of the attorney for respondent was requested and denied by letter dated January 13, 1953.

The interests of said Local 8, International Longshoremen's and Warehousemen's Union of Portland, Oregon, Local 50, International Longshoremen's and Warehousemen's Union of Astoria, Oregon, Local 21, International Longshoremen's and Warehousemen's Union of Longview, Washington, Auxiliary of Local 12, International Longshoremen's and Warehousemen's Union of Vancouver, Washington, and their reasons for asking leave to file a brief as amicus curiae are as follows:

Movants are locals and auxiliary locals of the International Longshoremen's and Warehousemen's Union representing approximately 3,000 members of the longshore industry, and their members have a strong feeling that the persistent and relentless trials against Bridges have been solely because of his leadership in the International Longshoremen's and Warehousemen's Union.

Your petitioner is also concerned with the fact of the singling out of the petitioners in the within cause for special treatment and the application with respect to the laws governing the Statute of Limitations and criminal procedure. It appears that the laws have been given a completely different interpretation in so far as the within petitioners are concerned, than they have been given for any one else who has come within the said laws. It is the belief of these movants and their members then that the petitioners have not been afforded due process of law nor equal protection of the laws of these United States.

Respectfully submitted,

LOCAL 8, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF PORTLAND, OREGON,

LOCAL 50, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF ASTORIA, OREGON,

LOCAL 21, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF LONGVIEW, WASHINGTON,

AUXILIARY OF LOCAL 12, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF COOS BAY, OREGON,

AUXILIARY OF LOCAL 11, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF VANCOUVER, WASHINGTON,

By: ....

PETERSON AND POZZI,
Attorneys at Law,
413 Equitable Building,
Portland, Oregon.

In the Supreme Court
of the United States

OCTOBER TERM — 1952

HARRY RENTON BRIDGES, HENRY SCHMIDT
and J. R. ROBERTSON,
Petitioners,
vs.
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Brief of Local 8, International Longshoremen's and Warehousemen's Union of Portland, Oregon, Local 50, International Longshoremen's and Warehousemen's Union of Astoria, Oregon, Local 21, International Longshoremen's and Warehousemen's Union of Longview, Washington, Auxiliary of Local 12, International Longshoremen's and Warehousemen's Union of Coos Bay, Oregon, Auxiliary of Local 11, International Longshoremen's and Warehousemen's Union of Vancouver, Washington, as Amici Curiae

---

By leave of Court first had and obtained, Local 8, International Longshoremen's and Warehousemen's Union of Portland, Oregon, Local 50, International Longshoremen's and Warehousemen's Union of Astoria, Oregon, Local 21, International Longshoremen's and Warehousemen's Union of Longview, Washington, Auxiliary of Local 12, International Longshoremen's and Warehousemen's Union of Coos Bay, Oregon, Auxiliary of Local 11, International Longshoremen's and Warehousemen's Union of Vancouver, Washington, herewith file the following brief as amicus curiae in the above-entitled cause and urge the Court that the petition for certiorari now prayed for by petitioners be granted.

I.

For almost twenty years now Harry Renton Bridges has been the object of a relentless crusade unique in the annals of American jurisprudence. That this crusade commenced with Bridges' emergence as an outstanding trade union leader in the great San Francisco strike of 1934, is of considerable concern to all who believe that a strong vigorous and militant trade union movement is an essential element of American democracy. That the chief instigators and moving figures of this crusade were either anti-labor elements or professional patrioteers, is also of concern to those who believe that such forces represent unhealthy elements in any democratic society.

Although the Court of Appeals for the Ninth Circuit made reference to the long history of proceedings against Bridges, it failed to appreciate their full significance. Contrary to the reasoning of many cases decided by this Court, it held that such a long continued series of persecutions did not deprive Bridges of due process of law. Mr. Justice Frankfurter has said that due process of law requires that there be no "brutal subjection of an individual to successive retrials". *Louisiana v. Resweber,* 329

U. S. 459. And the Court below, over twenty years ago, said that due process of law prohibited the government from requiring that one lawfully admitted be "called upon again and again to prove his right to remain." *Choy Yuen Chan v. United States,* 30 F. 2d 516.

It would seem that by disregarding what has been done to Bridges for the last twenty years, the Court below ignored the fact that such a course of conduct "offend(ed) those canons of decency and fairness which express the notions of justice of English speaking peoples." *Adamson v. California,* 332 U.S. 46. The due process clause, protecting as it does, the "ultimate decency in a civilized society", (ibid. at 61) should not permit what has been done here to go unchallenged. At the very least, it requires this Court to review the proceedings below to see whether or not they measure up to the standards which this Court has applied in so many other cases.

II.

Movant is also concerned with what appears to have been a discriminatory application of judicial principles to Bridges and his associates. This Court, and every other Circuit Court of Appeals which has had occasion to consider the question, has held that a perjurious or false statement, whether in connection with so-called "tax frauds" or "naturalization frauds" or "citizenship frauds" or "employment frauds" is not within the scope and effect of the Wartime Suspension Act. And in every single case but this one, an indictment or the counts thereof, based upon such a false statement made more than three years before the return day, has been dismissed.

> *United States v. Noveck*, 271 U.S. 201.
> *United States v. McElvain*, 272 U.S. 633.
> *United States v. Scharton*, 285 U.S. 518.
> *United States v. Marzani*, 168 F. 2d 133.
> *United States v. Obermeier*, 186 F. 2d 243.

See also *United States v. Anzalone*, 197 F. 2d 714.

The Court below ignored these cases and applied a special rule to Bridges and his associates. Not only because this decision squarely conflicts with the decisions of this Court and those of other courts of appeals should this Court grant the petition for certiorari, but also because such judicial discrimination against the petitioners is, as to them, a denial of due process of law. Compare this situation with *Yick Wo v. Hopkins*, 118 U.S. 356, where it was held that discrimination in the application of an otherwise valid statute constituted a denial of equal protection of the laws.

Furtherfore, the Court below approved the trial court's application to this case, and this case alone, of an instruction that a reasonable doubt meant a doubt for which "a good reason could be assigned". So far as we know, no court has ever approved such an instruction before. As a matter of fact, the Court of Appeals stated that such an instruction was not to be "commended". It did not consider how that instruction together with other conduct of the trial court, such as an improper limitation of the right of cross examination to the defendants, hostile and prejudicial comments by the trial judge during the course of the trial, and other similar matters, resulted in the kind of error which must require reversal. *Kotteakos v. United States,* 326 U.S. 711.

For this radical departure from normal rules governing the administration of criminal law, and in order that the trial courts may be properly advised concerning their duties and obligations in criminal cases, this Court should grant the petition and rule upon the questions presented.

It appears significant to us that only in the case involving Bridges and his associates was such a wide departure from the normal rules condoned by an appellate court.

For the foregoing reasons, amicus curiae joins in the prayer of petitioners that the writ of certiorari be granted and the entire cause be reviewed by this Court.

Respectfully submitted,

LOCAL 8, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF PORTLAND, OREGON,

LOCAL 50, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF ASTORIA, OREGON,

LOCAL 21, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF LONGVIEW, WASHINGTON,

AUXILIARY OF LOCAL 12, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF COOS BAY, OREGON, AUXILIARY OF LOCAL 11, INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION OF VANCOUVER, WASHINGTON,

By: ....

Attorneys at Law,
413 Equitable Building,
Portland, Oregon.

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In the Supreme Court
OF THE
United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, J. R. ROBERTSON, and HENRY SCHMIDT,
Petitioners,
vs.
UNITED STATES OF AMERICA,
Respondent.
No. 548

HARRY RENTON BRIDGES,
Petitioner,
vs.
UNITED STATES OF AMERICA,
Respondent.
No. 549

MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE AND BRIEF OF INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (AND CERTAIN OF ITS AFFILIATED LOCALS) AS AMICUS CURIAE.

INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (and certain of its affiliated locals),
Amicus Curiae.

By ALLAN BROTSKY,
240 Montgomery Street, San Francisco 4, California,
Attorney for Amicus Curiae.

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HARRY RENTON BRIDGES, *Petitioner,*
vs.
UNITED STATES OF AMERICA, *Respondent.*
No. 549

MOTION FOR LEAVE TO FILE A BRIEF AS AMICUS CURIAE.

To the Honorable Fred M. Vinson, Chief Justice of the United States, and to the Honorable Associate Justices of the Supreme Court of the United States:

Comes now the International Longshoremen's and Warehousemen's Union[1] (hereinafter referred to as

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[1] The following locals of the ILWU join in the presentation of this motion: Local 15, Bellingham, Wn., Local 32, Everett, Wn., Local 23, Aberdeen, Wn., Local 24, Aberdeen, Wn., Local 7,

ILWU), and respectfully moves this Court, pursuant to Rule 27 (Paragraph 9), for leave to file the accompanying brief in this case as *amicus curiae*. The consent of the attorney for the petitioners herein to the filing of this brief has been obtained and filed with the Clerk of this Court. The consent of the attorney for the respondent was requested on January 27, 1953, but no reply has yet been received.

The interests of said ILWU and its locals, and its reasons for asking leave to file a brief *amicus curiae* are:

ILWU is a trade union of approximately seventy thousand members. These persons, more than most others, have watched with great concern the almost twenty-year persecution and harassment of their President, Harry Renton Bridges, and the more recent involvement therein of their other officers, J. R. Robertson and Henry Schmidt. There is a strong feeling among the members of this union that this "relentless crusade"[2] against Bridges arises out of the

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Bellingham, Wn., Local 4, Vancouver, Wn., Local 9, Seattle, Wn., Local 1, Raymond, Wn., Local 3, Seattle, Wn., Local 19, Seattle, Wn., Local 68, St. Helena, Ore., Local 48, Reedsport, Ore., Local 26, Los Angeles, Calif., Local 91, San Francisco, Calif., Local 13, Wilmington, Calif., Local 29, San Diego, Calif., Local 2, San Francisco, Calif., Local 17, Broderick, Calif., Local 6, San Francisco, Calif., Local 33, San Pedro, Calif., Local 11, San Jose, Calif., Local 10, San Francisco, Calif., Local 63, Wilmington, Calif., Local 36, San Francisco, Calif., Local 62, Ketchikan, Alaska, Local 85, Petersburg, Alaska, Local 30, Ketchikan, Alaska, Local 142, Honolulu, T.H., Local 207, New Orleans, La., and Local 209, Cleveland, Ohio.

A Motion for Leave to File a Brief Amicus Curiae and a Brief Amicus Curiae on behalf of certain other locals of the ILWU, to-wit: Local 8, Portland, Ore., Local 50, Astoria, Ore., Local 21, Longview, Wn., Auxiliary of Local 12, Coos Bay, Ore., and Auxiliary of Local 11, Vancouver, Wn., has already been submitted to the Court.

[2] Murphy, J., in *Bridges v. Wixon*, 326 U.S. 135, at 157.

fact that he has given to this trade union militant and inspired leadership. ILWU and its members are concerned that trade union leadership of this kind can be regarded as the basis for criminal conduct.

ILWU is also concerned about the singling out of Bridges and his associates for special treatment by the Court below, especially with respect to the laws governing the application of the statute of limitations and the administration of criminal justice. It appears to ILWU and its members that not only has there been a continuous persecution of Bridges throughout the years, but that in order to achieve the ends sought it has been necessary to apply the law to Bridges and his associates in a manner in which it has never been applied to any other persons.

Because ILWU and its members believe that a cornerstone of American democracy is fair and equal treatment under the law, it is concerned about what has happened in this case and therefore prays leave to file the attached brief.

Dated, San Francisco, California,
February 2, 1953.

Respectfully submitted,
International Longshoremen's and Warehousemen's Union (and certain of its affiliated locals),
Amicus Curiae.

By Allan Brotsky,
Attorney for Amicus Curiae.

In the Supreme Court
OF THE
United States

OCTOBER TERM, 1952

HARRY RENTON BRIDGES, J. R. ROBERTSON, and HENRY SCHMIDT, *Petitioners,* vs. UNITED STATES OF AMERICA, *Respondent.*	No. 548
HARRY RENTON BRIDGES, *Petitioner,* vs. UNITED STATES OF AMERICA, *Respondent.*	No. 549

BRIEF OF INTERNATIONAL LONGSHOREMEN'S AND WAREHOUSEMEN'S UNION (AND CERTAIN OF ITS AFFILIATED LOCALS) AS AMICUS CURIAE.

By leave of Court first had and obtained, International Longshoremen's and Warehousemen's Union (hereinafter referred to as ILWU), and certain of its affiliated locals named in the foregoing motion, herewith files the following brief *amicus curiae* in the above-entitled causes, and urges that the pending petitions for certiorari herein be granted.

I.

For almost twenty years now Harry Renton Bridges has been the object of a relentless crusade unique in the annals of American jurisprudence. That this crusade followed upon Bridges' emergence as an outstanding leader of Maritime labor in the great San Francisco strike of 1934 is of considerable concern to the members of the unions he there led. It must also be of concern to those who believe that strong and vigorous trade unionism is an essential element of American democracy and ought not to be the basis for governmental persecution. That the chief instigators and the moving figures of this crusade have been either anti-labor elements or professional patrioteers, is also of concern to those who believe that such forces represent unhealthy elements in any democratic society.

Although the Court of Appeals for the Ninth Circuit made reference to the long history of proceedings against Bridges, it failed to appreciate their full significance. Contrary to the reasoning of many cases decided by this Court, it held that such a long continued series of persecutions did not deprive Bridges of due process of law.

Mr. Justice Frankfurter has said that due process of law requires that there be no "brutal subjection of an individual to successive retrials". (*Louisiana v. Resweber*, 329 U.S. 459.) And the Court below itself, over twenty years ago, said that due process of law prohibited the Government from requiring that one lawfully admitted be "called upon again and again to prove his right to remain". (*Choy Yuen Chan v. United States,* 30 F. (2d) 516.)

It would seem that by failing to give any effect to what has been done to Bridges for the last twenty years, the Court below ignored the fact that such a course of conduct "offend[ed] those canons of decency and fairness which express the notions of justice of English speaking peoples." (*Adamson v. California,* 332 U.S. 46.) The due process clause, protecting as it does the "ultimate decency in a civilized society" (*ibid.* at 61), does not permit what has been done here to go unchallenged. At the very least, it requires this Court to review the proceedings below to see whether or not they measure up to the standards which this Court has applied in so many other cases.

II.

ILWU is also concerned with what appears to have been a discriminatory application of judicial principles to Bridges and his associates. This Court, and every Court of Appeals which has had occasion to consider the question, has held that a perjurious or false statement, whether in connection with so-called "tax frauds" or "naturalization frauds" or "citizenship frauds" or "employment frauds", is not within the scope and effect of the Wartime Suspension Act. (18 U.S.C. 3287.) And in every single case but this one, an indictment (or the counts

thereof) based upon such a false statement made more than three years before the return day, has been dismissed. *United States v. Noveck,* 271 U.S. 201; *United States v. McElvain,* 272 U.S. 633; *United States v. Scharton,* 285 U.S. 518; *Marzani v. United States* [D.C. Cir.], 168 F. (2d) 133, aff'd. 335 U.S. 895, 336 U.S. 922; *United States v. Obermeier* [2 Cir.], 186 F. (2d) 243, cert. den. 345 U.S. 951. *Cf. United States v. Beacon Brass Co., Inc.,* 344 U.S. 43; *United States v. Anzalone* [3 Cir.], 197 F. (2d) 714; *United States v. Grainger,* ......F. Supp. ...... [N.D. Calif., December 5, 1952].)

The Court below ignored these cases and applied a special rule to Bridges and his associates. This Court should grant the petitions for certiorari not only because the holding below conflicts with the decisions of this Court and of various Courts of Appeals, but also because such judicial discrimination against the petitioners is, as to them, a denial of due process of law. Compare this situation with *Yick Wo v. Hopkins,* 118 U.S. 356, where it was held that discrimination in the application of an otherwise valid statute constituted a denial of the equal protection of the laws.

III.

Furthermore, the Court below approved the trial Court's application to this case, and this case alone, of an instruction that a reasonable doubt meant a doubt for which "a good reason could be assigned". So far as we know, no Court has ever approved such an instruction before. As a matter of fact, the Court of Appeals stated that such an instruction was not to be "commended". It did not consider how that instruction, together with other conduct of the trial Court, such as an improper limitation of defense cross-examination, hostile and prejudicial comments by the trial judge during the course of the trial, and other similar matters, resulted in the kind of error which must require reversal. (*Kotteakos v. United States*, 326 U.S. 711.)

The Court below appears to have condoned errors which normally would require a reversal of the judgments of conviction. As a matter of fact, on the day before the Court below denied the petition for rehearing in this case, it decided another case in a manner inconsistent with its decision here. In *Wolcher v. United States* (9 Cir., November 17, 1952), ... F. (2d) ....., the Court below, relying upon the rationale of this Court in *Kotteakos v. United States*, supra, reversed a conviction because of the erroneous exclusion of documentary evidence offered to corroborate the defendant's testimony. In the case of these petitioners, however, the Court below failed to apply the *Kotteakos* rule to the selfsame error of excluding from evidence a decision of this very Court (*Bridges v. Wixon*, 326 U.S. 135), offered by petitioners to corroborate their testimony.

For this radical departure from normal rules governing the administration of criminal law, and in order that the trial Courts may be properly advised concerning their duties and obligations in criminal cases, this Court should grant the petition and rule upon the questions presented.

ILWU regards it as significant that only in a case involving Bridges and his associates was such a wide departure from the normal rules of criminal law condoned by an Appellate Court.

For the foregoing reasons, *amicus curiae* joins in the prayer of petitioners that the writ of certiorari be granted and the entire cause be reviewed by this Court.

Dated, San Francisco, California,
February 2, 1953.

International Longshoremen's and Warehousemen's Union (and certain of its affiliated locals),
Amicus Curiae.

By Allan Brotsky,
Attorney for Amicus Curiae.